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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 01–016–2]

Brucellosis in Cattle; State and Area Classifications; Oklahoma

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Oklahoma from Class A to Class Free. The interim rule was based on our determination that Oklahoma meets the standards for Class Free status. This interim rule relieved certain restrictions on the interstate movement of cattle from Oklahoma.

EFFECTIVE DATE: The interim rule became effective on April 20, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7708.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective April 20, 2001, and published in the **Federal Register** on April 26, 2001 (66 FR 20899–20900, Docket No. 01–016–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Oklahoma from the list of Class A States in paragraph (b) of § 78.41 and adding it to the list of Class Free States in paragraph (a) of that section.

Comments on the interim rule were required to be received on or before June 25, 2001. We did not receive any comments. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 66 FR 20899–20900 on April 26, 2000.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 24th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21929 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG83

List of Approved Spent Fuel Storage Casks: NAC–MPC Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC–MPC cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to Certificate of Compliance Number 1025. Amendment No. 1 will modify the present cask system design to permit a licensee to use an alternate fuel basket design with enlarged fuel tubes in corner locations; increase the operational time limits provided in the Technical Specifications (TS) for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; revise the canister surface contamination limits in TS to maintain worker dose as low as is reasonably achievable (ALARA); and revise some drawings to reflect changes identified during cask and component fabrication under a general license.

DATES: The final rule is effective November 13, 2001, unless significant adverse comments are received by October 1, 2001. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov*. You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; email CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. From this site, the

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public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML 011380038. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr@nrc.gov.

CoC No. 1025, the revised TS, and the underlying SER for Amendment No. 1, and the Environmental Assessment, are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email *jmm2@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, email jmm2@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that "[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPA states, in part, that "[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor."

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR part 72 entitled, "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72, entitled "Approval of Spent Fuel Storage Casks" containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on March 9, 2000 (65 FR 12444) that approved the NAC–MPC cask design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1025.

Discussion

On September 29, 2000, and as supplemented on October 5, 2000, March 16, 2001, April 6, 2001, and July 27, 2001, NAC International, Inc., submitted an application and associated Safety Analysis Report to the NRC to amend CoC No.1025 to permit a Part 72 general licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication. No other changes to the NAC–MPC cask system design were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that the requested changes do not reduce the safety margin. In addition, the NRC staff has determined that the changes do not pose any increased risk to public health and safety.

This direct final rule revises the NAC–MPC cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1025. The amendment consists of changes to TS 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10, and 3.2.2, as identified in the NRC staff's SER for Amendment No. 1.

The amended NAC–MPC cask system, when used in accordance with the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1025 is revised by adding the effective date of the initial certificate, and the effective date of Amendment Number 1. The CoC and the TS have been modified.

Procedural Background

This rule is limited to the changes contained in Amendment 1 to CoC No. 1025 and does not include other aspects of the NAC–MPC cask system design. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on November 13, 2001. However, if the NRC receives significant adverse comments by October 1, 2001, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the Federal Register. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change to the CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC would revise the NAC–MPC cask system design listed in § 72.214 (List of approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the Federal Register on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA) or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing" directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the NAC–MPC cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment will modify the present cask system design to permit a Part 72 licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email jmm2@nrc.gov.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On March 9, 2000 (65 FR 12444), the NRC subsequently issued an amendment to Part 72 that approved the NAC–MPC cask design by adding it to the list of NRC-approved cask designs in § 72.214. On September 29, 2000, and as supplemented on October 5, 2000, March 16, 2001, April 6, 2001, and July 27, 2001, NAC International, Inc., submitted an application and associated Safety Analysis Report to the NRC to amend CoC No.1025 to permit a Part 72 general licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication.

This direct final rule will revise the NAC–MPC cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1025. The amendment consists of changes to TS 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10, and 3.2.2, as identified in the NRC staff's SER for Amendment No. 1. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate the above described problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and NAC International, Inc. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

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Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1025 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1025.

Initial Certificate Effective Date: April 10, 2000.

Amendment Number 1 Effective Date: November 13, 2001.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC–MPC System).

Docket Number: 72–1025.

Certificate Expiration Date: April 10, 2020.

Model Number: NAC–MPC.

* * * * *

Dated at Rockville, Maryland, this 20th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–21934 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change In Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective August 21, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202)452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 3.25 percent to 3.0 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors noted that household demand has been sustained, but business profits and capital spending continue to weaken and growth abroad is slowing, weighing on the U.S. economy. The associated easing of pressures on labor and product markets is expected to keep inflation contained.

Although long-term prospects for productivity growth and the economy remain favorable, the FOMC continues to believe that against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	3.0	Aug. 21, 2001.
New York	3.0	Aug. 21, 2001.
Philadelphia	3.0	Aug. 21, 2001.
Cleveland	3.0	Aug. 23, 2001.
Richmond	3.0	Aug. 21, 2001.
Atlanta	3.0	Aug. 23, 2001.
Chicago	3.0	Aug. 21, 2001.
St. Louis	3.0	Aug. 23, 2001.
Minneapolis	3.0	Aug. 22, 2001.
Kansas City	3.0	Aug. 21, 2001.
Dallas	3.0	Aug. 21, 2001.
San Francisco	3.0	Aug. 21, 2001.

By order of the Board of Governors of the Federal Reserve System, August 27, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–21924 Filed 8–29–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–22–AD; Amendment 39–12425; AD 2001–17–33]

RIN 2120–AA64

Airworthiness Directives; Agusta Model AB412 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Agusta Model AB412 helicopters. This action prohibits use of the hoist until certain modifications are accomplished. This amendment is prompted by the loss of a hoist hook during flight due to an uncommanded firing of the cable cutter cartridge caused by wire chafing. The actions specified in this AD are intended to prevent wire chafing, inadvertent firing of the cable cutter cartridge, loss of a hoist hook and section of cable, impact with the main or tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective September 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before October 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–22–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The service information referenced in this AD may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model AB412 helicopters. ENAC advises that they have issued an AD that requires compliance with Agusta Alert Bollettino Tecnico 412–83, Revision A, dated December 29, 2000 (ABT). The ABT specifies, before further flight, removing the hoist cable cutter cartridge and subsequently inspecting/modifying the hoist cable cut harness. ENAC classified this ABT as mandatory and issued AD 2001–001, dated January 2, 2001, to ensure the continued airworthiness of these helicopters in Italy.

This helicopter model is manufactured in Italy and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilateral agreement, the ENAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the ENAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

We have identified an unsafe condition that is likely to exist or develop on other Agusta Model AB412 helicopters of the same type design registered in the United States. Therefore, this AD is being issued to prevent wire chafing, inadvertent firing of the cable cutter cartridge, loss of a hoist hook and section of cable, cable impact with the main or tail rotor, and subsequent loss of control of the helicopter. The actions must be accomplished in accordance with the ABT described previously.

None of the Model AB412 helicopters affected by this action are on the U.S. Register. All helicopters included in the applicability of this rule are currently operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these helicopters are imported and placed on the U.S. Register in the future.

Should an affected helicopter be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required actions, at an average labor rate of $60 per work hour.

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Required parts would be negligible because the materials are common stock. Based on these figures, the cost impact of this AD would be $120 per helicopter.

Since this AD action does not affect any helicopter that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–22–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that notice and prior public comment are unnecessary in promulgating this regulation; therefore, it can be issued immediately to correct an unsafe condition in aircraft since none of these model helicopters are registered in the United States. The FAA has also determined that this regulation is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–17–33 Agusta: Amendment 39–12425. Docket No. 2001–SW–22–AD.

Applicability: Model AB412 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent wire chafing, inadvertent firing of the cable cutter cartridge, loss of a hoist hook and section of cable, impact with the main or tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before operating the hoist or within 60 days, whichever occurs first, inspect and modify the wire harness in accordance with the Accomplishment Instructions of Agusta Alert Bollettino Tecnico 412–83, Revision A, dated December 29, 2000, which constitutes terminating action for the requirements of this AD. Hoist operations allowed by the note in the Accomplishment Instructions utilizing a manual cable cutter are not authorized.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter without any hoist operation to a location where the requirements of this AD can be accomplished.

(d) The inspection and modification shall be done in accordance with the Accomplishment Instructions (except the note is not required by this AD) of Alert Bollettino Technico 412–83, Revision A, dated December 29, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective September 14, 2001.

Note 3: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD 2001–001, dated January 2, 2001.

Issued in Fort Worth, Texas, on August 17, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–21748 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–47–AD; Amendment 39–12424; AD 2001–17–32]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Eurocopter France (ECF) Model AS350B, B1, B2, B3, BA, D, AS355E, F, F1, F2, and N helicopters. That AD requires inspecting certain versions of the tail rotor pitch change spider assembly (spider assembly) for the proper rotational torque, axial play, and any brinelling of the bearing. This AD requires identifying the spider assembly with index marks to detect bearing spacer rotation, visually checking to ensure that the index marks are aligned before the first flight of each day, and subsequently modifying the spider assembly. This AD also adds the ECF Model AS350D1 helicopters to the applicability. This AD is prompted by operator reports that the spider assembly bearing spacers are rotating. The actions specified by this AD are intended to detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Effective October 4, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 4, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 99–24–18, Amendment 39–11443 (64 FR 66762, November 30, 1999), which applies to ECF Model AS350B, B1, B2, B3, BA, D, D1, and AS355E, F, F1, F2, and N helicopters, was published in the **Federal Register** on May 22, 2001 (66 FR 28133). That action proposed the following:

- Within 10 hours time-in-service (TIS), install index marks on the spider assembly to detect any bearing spacer rotation;
- Before the first flight of each day, visually check to ensure that the index marks are aligned; and
- Within 25 hours TIS if bearing spacer rotation is detected or at the next 500 hours inspection if no bearing spacer rotation is detected, modify the spider assembly.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except for non-substantive editorial changes.

The FAA estimates that this AD will affect 514 helicopters of U.S. registry. It will take approximately 0.25 work hour per helicopter to identify each spider assembly with index marks and 6 work hours to modify the spider assembly. The average labor rate is $60 per work hour. Required parts will cost approximately $200 per helicopter. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $295,550, assuming that the index marks are installed on all helicopters and that the spider assembly is modified on all the helicopters.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11443 (64 FR 66762, November 30, 1999), and by adding a new airworthiness directive (AD), Amendment 39–12424, to read as follows:

2001–17–32 Eurocopter France: Amendment 39–12424. Docket No. 2000–SW–47–AD. Supersedes AD 99–24–18, Amendment 39–11443, Docket No. 99–SW–41–AD.

Applicability: AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N helicopters, with tail rotor pitch change spider assembly (spider assembly), part number (P/N) 350A33–2004–00, –01, –02, –03, –05, or 350A33–2009–00 or –01, installed, and which do not incorporate MOD 076554, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and

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subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), install identifying index marks on the spider assembly in accordance with (IAW) the Accomplishment Instructions, paragraph 2.B.1, of Eurocopter France Service Bulletin (SB) No. 05.00.33 for Model AS 350 series helicopters or 05.00.33 for Model AS 355 series helicopters. Both SB's are dated May 15, 2000.

(b) Before the first flight of each day, visually check that the index marks on the rotating plate and on the spacer are aligned. The visual check required by the AD may be performed by an owner/operator (pilot) but must be entered into the aircraft records showing compliance with paragraph (b) of this AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

Note 2: This AD allows a pilot to perform this check because it involves only a visual check of the index marks on the spider assembly and can be performed equally well by a pilot or a mechanic.

(c) At the following intervals, modify the spider assembly:

(1) If bearing spacer rotation is detected, within 25 hours TIS, IAW paragraph 2.B.4 of the applicable SB.

(2) If no bearing spacer rotation is detected, at the next 500-hour ("T") inspection, IAW paragraph 2.B.3 of the applicable SB.

(d) Modifying the bearing assembly with MOD 076554 constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(f) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The modifications shall be done in accordance with the Accomplishment Instructions, paragraphs 2.B.1, 2.B.3, and 2.B.4 of Eurocopter France Service Bulletin No. 05.00.33 for Model AS 350 series helicopters or 05.00.33 for Model AS 355 series helicopters. Both service bulletins are dated May 15, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on October 4, 2001.

Note 4: The subject of this proposal is addressed in Direction Generale de L'Aviation Civile (France) AD No.'s T2000–222–079(A) and T2000–223–059(A), both dated June 2, 2000.

Issued in Fort Worth, Texas, on August 17, 2001.

Eric Bries,

Acting Manoger, Rotorcraft Directorate, Aircraft Certificotion Service.

[FR Doc. 01–21747 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–163–AD; Amendment 39–12426; AD 2001–17–34]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that currently requires an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. That AD also requires modification of the electrical connectors, which terminates the inspection requirement. That action was prompted by reports of failures of the electrical connectors in the sidewall fluorescent lighting, which resulted in smoke or lighting interruption in the passenger cabin. This amendment expands the applicability of the existing AD to include additional airplanes. This amendment is intended to prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn-through and smoke and/or fire in the passenger cabin.

DATES: Effective October 4, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 4, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–19–09, amendment 39–9371 (60 FR 48639, September 20, 1995), which is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, was published in the **Federal Register** on June 5, 2001 (66 FR 30095). That action proposed to require an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. That action also proposed to require modification of the electrical connectors, terminating the inspection requirement. That action also proposed to expand the applicability of the existing AD to include additional airplanes.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

Two airplane operators state that they have previously accomplished the actions required by the proposed AD and, therefore, would not be affected by the proposed AD. A third operator states that it does not own or operate any of the equipment affected by the proposed AD and, therefore, has no comments to offer.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 970 Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 470 airplanes of U.S. registry will be affected by this AD, that it will take approximately between 24 and 31 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,199 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $1,240,330, and $1,437,730, or between $2,639, and $3,059 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9371 (60 FR 48639, September 20, 1995), and by adding a new airworthiness directive (AD), amendment 39–12426, to read as follows:

2001–17–34 McDonnell Douglas: Amendment 39–12426. Docket 2000–NM–163–AD. Supersedes AD 95–19–09, Amendment 39–9371.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

Note 2: Actions required by this AD that were done before the effective date of this AD per McDonnell Douglas MD–80 Service Bulletin 33–99, Revision 1, dated February 23, 1995; or Revision 02, dated December 15, 1995; are considered acceptable for compliance with the requirements of this AD.

To prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn-through and smoke and/or fire in the passenger cabin, accomplish the following:

General Visual Inspection

(a) Perform a general visual inspection to detect damage, burn marks, or black or brown discoloration caused by electrical arcing at electrical plugs, having part number (P/N) MS3126F–15P, and receptacles, having P/N MS3124E–15S, of the sidewall lighting in the passenger cabin, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000; at the applicable time indicated in Table 1 of this AD, below:

TABLE 1.—INSPECTION COMPLIANCE TIMES

Affected airplanes	Compliance time
(1) DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes, serial numbers 49614, 49626 through 49632 inclusive, 49668, and 49707.	Within 18 months after October 5, 1995 (the effective date of AD 95–19–09).
(2) Other than those airplanes identified in paragraph (a)(1) of this AD	Within 18 months after the effective date of this AD.

Note 3: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Corrective Action

(b) If any discrepancy is found during the inspection required by paragraph (a) of this AD, before further flight, replace the damaged connectors, pins, sockets, or wires with new parts, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000.

Modification

(c) At the applicable time indicated in Table 1 of this AD, modify the electrical connectors of the sidewall lighting in the passenger cabin, per Boeing Alert Service

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Bulletin MD80–33A099, Revision 03, dated January 27, 2000. Accomplishment of this modification constitutes compliance with the requirements of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions shall be done in accordance with Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on October 4, 2001.

Issued in Renton, Washington, on August 22, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21745 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–35–AD; Amendment 39–12421; AD 2001–17–30]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Pratt & Whitney JT9D–7R4 series turbofan engines. This amendment requires initial and repetitive fluorescent penetrant inspection (FPI) of the high pressure turbine (HPT) 1st stage disk aft lugs, and if the aft lug(s) are cracked, replacement of the HPT 1st stage disk and HPT 1st stage airseals. Also, for certain configuration HPT disk assemblies, this amendment requires replacement of the HPT 1st stage airseals with newly designed airseals at the next accessibility. This amendment is prompted by reports of cracks in HPT 1st stage disk firtrees and failure of firtree lugs. The actions specified by this AD are intended to prevent 1st stage HPT disk firtree fracture, which could result in an uncontained engine failure, and damage to the airplane.

DATES: Effective date October 4, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Pratt & Whitney JT9D–7R4 series turbofan engines was published in the **Federal Register** on February 27, 2001 (66 FR 12440). That action proposed to require initial and repetitive fluorescent penetrant inspection (FPI) of the high pressure turbine (HPT) 1st stage disk aft lugs, and if the aft lug(s) are cracked, replacement of the HPT 1st stage disk and HPT 1st stage airseals. Also, for certain configuration HPT disk assemblies, this action proposed to require replacement of the HPT 1st stage airseals with newly designed airseals at the next accessibility.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Clarifications Requested

One commenter addresses four issues:

- First, the commenter states that there is confusion regarding the phrase "before the latest of" which the commenter interprets to mean "whichever comes last." The commenter is correct. The phrase means whichever of the two cyclic limits occurs last.
- Secondly, the commenter states that clarification is needed for "initial F.P.I." because there is a difference between FPI as it is proposed in the NPRM and as it is described in applicable Pratt & Whitney service bulletins. The commenter wants to know if the standard SPOP84 full disk FPI inspection at HPT overhaul fulfills the requirements of the NPRM. It is the intent of this AD that the disk lug be inspected for cracks. The full disk FPI covers the requirement.
- Thirdly, the commenter states that the NPRM requires that airseal P/N 820121 must be installed on HPT part number (P/N) 787521 (powder metal disks) at the next hot section shop visit as described in Pratt & Whitney (PW) Service Bulletin (SB) JT9D–7R4–72–566. However, the commenter notes that the initial and repetitive inspection requirement of SB JT9D–7R4–72–567 remains unchanged. The commenter requests that the FAA delete the requirement to install the new airseals per SB JT9D–7R4–72–566. The FAA disagrees. The newer airseals offer a significant benefit in life over the older airseals. Though it is not stated explicitly in SB JT9D–7R4–72–567, there are no inspection limits for powder disks with the older sideplates, as it is assumed that they are all removed from service and replaced with the new sideplates per SB JT9D–7R4–72–566. Under this AD, there will be no requirement to inspect the older sideplates as they will be removed from service by paragraph (a) of this rule.

- Finally, this commenter and two others note that the compliance for airseal P/N 820121 installation is specified as "at the next hot section shop visit," which is further defined as "any time the HPT rotor is disassembled." However, SB JT9D–7R4–72–566 specifies installation at piece-part opportunity. The FAA agrees and paragraph (e) will be changed to "at disk piece-part opportunity."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Analysis

There are approximately 324 engines of the affected design in the worldwide fleet. The FAA estimates that 47 engines installed on aircraft of U.S. registry would be affected by this proposed AD. Although forced engine removals are not anticipated the first year as a result of this proposed action, a maximum of two removals will be assumed. It would take approximately 86 work hours per engine to accomplish the proposed actions, and the average labor rate is $60 per work hour. Based on these figures, the total labor cost impact of the proposed AD on U.S. operators the first year is estimated to be $24,520. Hardware costs the first year for HPT 1st stage airseals replaced by SB JT9D–7R4–72–566 are estimated to be $128,000, based on replacement costs of $147,110 per disk and $45,143 for sideplates, discounted for average ⅓ life lost at removal. Total combined labor and hardware costs for the first year are therefore estimated to be $140,000.

The following year, it is estimated that inspections will result in a maximum of three engines requiring forced replacement of the HPT 1st stage disk and HPT 1st stage airseals due to cracking. Due to these forced removals, approximately ⅓ of the disk life will be lost. The total combined hardware and labor cost is estimated to be approximately $210,000. The total cost impact of this proposal on U.S. operators in the first two years is expected to be approximately $350,000.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended adding a new airworthiness directive to read as follows:

2001–17–30 Pratt and Whitney: Amendment 39–12421. Docket 2000–NE–35–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. These engines are installed on, but not limited to, Boeing 747 and 767 series and Airbus A300 and A310 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless accomplished previously.

To prevent high pressure turbine (HPT) disk firtree fracture, which could result in an uncontained engine failure, and damage to the airplane, accomplish the following:

HPT 1st Stage Airseal Replacement

(a) For engines that incorporate HPT 1st stage disk assembly part number (P/N) 787521, replace HPT 1st stage airseals with P/N 820121 at the next disk piece-part opportunity. Information on replacement of the HPT 1st stage airseal is contained in PW service bulletin (SB) JT9D–7R4–72–566, dated May 26, 2000.

Fluorescent Penetrant Inspection (FPI)

(b) Perform fluorescent penetrant inspection of the HPT 1st stage disk aft lug fillet radius for cracks according to the following Table 1 of this AD:

TABLE 1

HPT 1st stage disk assembly	HPT 1st stage disk	Initial inspection	Repetitive inspection interval
(1) P/N 787521	P/N 825701 or P/N 827201	Before the latest of 4,000 CSN or 4,000 cycles since last HPT disk lug FPI (CSLI), or 500 CIS after the effective date of this AD.	Within 4,000 CSLI.
(2) P/N 797621	(i) P/N 829401 with air seals P/N's 797355, 796760, 803979, 797355–001 installed.	Before the latest of 5,000 CSN or CSLI, or 500 CIS after the effective date of this AD.	Within 4,000 CSLI.
	(ii) P/N 829401 with air seals P/N 820121 installed.	Before the latest of 5,000 CSN or 5,000 CSLI, or 500 CIS after the effective date of this AD.	Within 6,000 CSLI.

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Additional inspection information can be found in Paragraph 4 of the Accomplishment Instructions of PW SB JT9D–7R4–72–567, dated May 26, 2000.

(c) Replace any disks that have crack indications. Information on replacement of the disk is contained in PW SB JT9D–7R4–72–568, dated May 26, 2000.

Terminating Action

(d) Installation of HPT disk P/N 820321 with redesigned HPT 1st stage airseal P/N 820121 is considered terminating action to the initial and repetitive inspection requirements of paragraph (b) this AD. Information on installation of the HPT disk is contained in PW SB JT9D–7R4–72–568, dated May 26, 2000.

Definition

(e) For the purpose of this AD, at disk piece-part opportunity is defined as any time the 1st stage HPT rotor is disassembled.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Effective Date of this AD

(h) This amendment becomes effective on October 4, 2001.

Issued in Burlington, Massachusetts, on August 21, 2001.

Donald Plouffe,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–21893 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 206, 210, 216, and 218

RIN 1010–AC86

Solid Minerals Reporting Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is updating its solid minerals reporting regulations to implement our reengineered royalty compliance strategy. The new reporting requirements will provide the necessary information to timely verify that mineral revenues due the government are correctly paid in compliance with applicable laws, regulations, and lease terms. The new reporting requirements replace several existing information collections and decrease the reporting burden for solid mineral reporters.

EFFECTIVE DATE: This rule is effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Carol P. Shelby, Regulatory Specialist, Regulations and FOIA Team, Minerals Revenue Management, MMS, telephone (303) 231–3151, fax (303) 231–3385, or email Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this rule are Glenn W. Kepler, Sr., Cynthia Stuckey, and Herb Wincentsen, of Solid Minerals and Geothermal Compliance and Asset Management, Minerals Revenue Management, MMS, and Geoffrey Heath of the Office of the Solicitor, Department of the Interior.

I. Background

Beginning in 1996, MMS embarked on an initiative to reengineer its royalty compliance operations and develop a process to assure that royalties and other mineral revenues are properly paid in accordance with applicable laws, lease terms, and regulations. As a result of this initiative, we set a performance goal of assuring royalty compliance in the shortest time possible, but not more than 3 years from the due date of the payment, in contrast to our current 6-year audit-based compliance cycle. This goal led us to adopt a contemporaneous compliance strategy. The contemporaneous compliance strategy is designed to detect and resolve compliance issues in the early stages of the compliance cycle and target audits accordingly, rather than waiting for future regularly scheduled or random audits. Early detection and resolution of compliance discrepancies not only benefits MMS by improving correct payment, but also helps industry by reducing its exposure to underpayments and associated interest.

To accomplish our compliance strategy for solid minerals, we determined—with industry participation—the minimum data necessary to support our contemporaneous compliance program. Accordingly, on June 5, 2001, we published a proposed rule in the **Federal Register** (66 FR 30121) describing revisions to our solid minerals reporting requirements. This final rule adopts the proposed revisions with modifications, where appropriate, suggested in the public comments we received.

The new reporting requirements replace eight existing production and royalty forms with a single form (Form MMS–4430, Solid Minerals Production and Royalty Report) and three supplementary data collections (sales contracts, sales summaries, and facility reports). This information collection methodology allows us to integrate production and royalty information into our contemporaneous compliance and asset management activities and validate the correctness of revenue receipts in the early stages of the compliance cycle. This data collection minimizes industry's reporting burden by (1) collecting the information at the beginning of the compliance cycle, thereby eliminating industry's requirement to retrieve records from storage at some future date in response to audit requests, and (2) collecting the information in the same manner and format as prepared by industry during routine business processes.

II. Responses to Public Comments

Eight respondents commented on the proposed regulations during the 30-day public comment period that closed July 5, 2001. Those comments and our responses follow.

Mailing Addresses

Comment: Two companies and one industry trade association suggested that references to specific mailing addresses be deleted, because addresses are subject to change and could require a rule revision. They recommended that the final rule provide a reference to an Internet web site or a telephone number for the current mailing address.

MMS Response: We disagree with this comment. Lessees must submit reports and documents by prescribed filing deadlines. For reports and documents submitted in paper, it is important that there be no ambiguity regarding where to send them. Failure to provide a mailing or delivery address greatly increases the chance of disputes between lessees and MMS regarding whether submissions were timely. There is no reason or benefit to increasing the risk of such disputes when they are easily preventable.

In response to the comment that MMS's addresses may change, we include language in the final rule to the effect that MMS may publish a change of address in the **Federal Register**. This avoids the necessity of a later rulemaking procedure if the MMS office changes location.

Other Government Bureau Data Collection

Comment: A field office of a sister Interior bureau questioned whether our information collection rules would prevent it from also collecting lease and mine data.

MMS Response: Part of the intent of this rulemaking is to ease reporting burdens on industry by requesting the data once and consolidating the Government's information needs. MMS will provide access to data it collects to other government entities that also need the data to perform their verification and compliance duties so that other agencies may avoid seeking duplicate information.

Data Submission to Indian Tribes

Comment: One Indian tribe that participated in the Solid Minerals Operational Model expressed concern that under the new reporting requirements it will not timely receive mine data from MMS. The tribe recommends that the final rule require companies to send duplicate information directly to the tribe.

MMS Response: One purpose of the Operational Model was to test the effectiveness of new reporting forms and strategies. Companies participating in the model had to continue submitting Form MMS–4059 (SMOR–A) and Form MMS–2014 (Report of Sales and Royalty Remittance) for production information and royalty distribution purposes. During testing we became aware that the tribe had a longstanding agreement with the producer whereby the producer would also submit copies of the Forms MMS–4059 and MMS–2014 directly to the tribe. As part of the Operational Model, the participants agreed to test the concept of reducing the producer's reporting burden by having a single submission to MMS, which we would then copy and forward to the tribe. The tribe's delay in receiving timely reports from MMS was caused by our not having the necessary software installed on our computers to open the producer's reports. This prevented us from timely forwarding the submitted reports to the tribe. Our new web-based reporting system is designed so that the tribe and other authorized users will have immediate access to the reported information. Therefore, we believe the tribe will no longer need to receive reports directly from the producer.

Confidentiality

Comment: A field office of a sister Interior bureau commented that MMS may increase the risk of releasing confidential information by making reported information available to all that bureau's offices, rather than just the office of jurisdiction.

MMS Response: The MMS has extensive requirements for safeguarding the confidentiality of proprietary data. For example, effective September 6, 1991, MMS, the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA) executed a Tripartite Memorandum of Understanding (MOU). This MOU sets forth requirements for information sharing among the three bureaus. Under the MOU we provide the BLM and BIA access to our production and royalty data for their lease monitoring and compliance duties. The MOU has extensive requirements for safeguarding the confidentiality of proprietary data. These requirements are binding on the entire bureau, not just a single office within the bureau. Those other offices must operate under the same requirements as MMS when handling proprietary information. It is those offices' responsibility to maintain the confidentiality of proprietary mine information, regardless of the mine's location or a particular office's jurisdiction, in accordance with applicable law.

Comment: One industry association requested that the rule address how MMS will maintain the confidentiality of sensitive data submitted over the Internet.

MMS Response: Security controls for data reported on the Form MMS–4430, Solid Minerals Production and Royalty Report, as well as all data reported to MMS's new financial system, are being developed by our consulting firm. The consulting firm is creating a security plan following the protocols given in the National Institute of Standards and Technology (NIST) Special Publication 800–18, "Guide for Developing Security Plans for Information Technology Systems." Security, authentication, and identification (ID) for the Form MMS–4430 will be provided by an application known as *Brio*. Users must first log into *Brio* with a specific user identification and password before gaining access to Form MMS–4430. Two firewalls will be in place to prevent unauthorized users. Because Form MMS–4430 is web-based, it will use two servers to run the application. Both servers will use 128-bit Secure Socket Layer (SSL) encryption. By using SSL, not only are the passwords that are sent to the servers encrypted for secure authentication but all data transmitted to and from the servers is encrypted for protection. At the data level, each user logged into *Brio* will be associated with an MMS-assigned user ID. The user ID will determine what data an individual user can or cannot see on the Form MMS–4430. Lessees will only be able to create or view reports for mines and leases associated with their user ID and *Brio* logon ID combination.

Most reporters will submit supplementary data (sales summaries, and facility reports, and possibly sales contracts) by email to our electronic mail box at rubymailbox@mms.gov. MMS applies state-of-the-art anti-virus applications to assure that incoming data do not contain harmful virus applications. Access to the mailbox is limited to certain MMS employees who will download the information to internal data base systems. Only MMS and its authorized agents will have access to these systems. Additional safeguards for email transmissions are available, such as an encrypted zip file. We will work with individual firms to establish additional electronic safeguards as necessary.

Part 206—Product Valuation

Section 206.263 Contract Submission

Comment: Four commenters—two industry trade associations and two company representatives—objected to the removal of the confidentiality paragraph found at § 206.263(d). They believe a confidentiality section is needed in the final regulation to protect proprietary information from potential public release.

MMS Response: The proposed rule removed both §§ 206.263 and 206.462 because they duplicated our proposed reporting requirements. We note that most Federal leases contain language prohibiting release of proprietary information. For example, coal lease Form 3400–12, approved for use beginning in April 1984, provides in Section 6, "While this lease remains in effect, information obtained under this section [Documents, Evidence, and Inspection] shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552)." However, we agree that Part 210, Forms and Reports, should contain language reinforcing the confidentiality of reported information that is legally exempt from disclosure. Accordingly, in the final rule, we added a new § 210.206, titled "How will information submissions be kept confidential?" This new section encompasses the provisions of the former §§ 206.263 and 206.462.

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Part 210—Forms and Reports

Section 210.201 How Do I Submit Form MMS–4430, Solid Minerals Production and Royalty Report?

Comment: One industry trade association and two companies observed that a literal reading of proposed § 210.201(a)(1) would require a lessee to submit its royalty payment on the same day the Form MMS–4430 is submitted, even if the report is submitted in advance of the due date. They noted that this was a departure from current practice and questioned the intent of the rule.

MMS Response: We agree with this observation and did not intend to require the simultaneous submission of both Form MMS–4430 and payment if the Form MMS–4430 is submitted in advance of the deadline for reporting and payment. The payment and the report do not need to be submitted on the same day, but both must be submitted by the due date. For example, a lessee may choose to submit the Form MMS–4430 one week before the due date (the due date typically being the end of the month following the month of production and sale), but delay the payment until the actual due date. To clarify our intent in this section in the final rule, we deleted the phrase from the proposed rule "accompanied by all required royalty and rental payments (except for first year rentals)."

Comment: One company requested a definition of the phrase "electronic reporting service" appearing in § 210.201(c)(3).

MMS Response: An electronic reporting service is a company that provides electronic reporting services to other companies that may not have the resources to undertake electronic reporting themselves or that may wish to contract for that function.

Section 210.202 How Do I Submit Sales Summaries?

Comment: An industry trade association objected to the submission of purchaser names or identities required under § 210.202(a), arguing that such information is highly confidential and is not needed to monitor compliance or determine royalties due, except in the rare situation where the purchaser identity may be relevant to some issue during an audit.

MMS Response: Valuation of solid minerals production is predicated in part on whether the sales contract is arm's-length or non-arm's-length. MMS, not the lessee, is the final arbiter of whether any particular contract is an arm's-length contract. Moreover, MMS may need to obtain information directly from the purchaser and asking the lessee to identify the purchaser in every case would cause unnecessary delay in classifying the contract. Accordingly, purchaser identities are an integral component of the contract classification process. Identification of affiliate sales early in the compliance cycle enables expeditious resolution of valuation issues and improves the lessee's certainty that its royalties are properly paid under its lease terms, statutes, and regulations.

We believe the contemporaneous submission of purchaser names with the lessee's sales summary data, as opposed to collecting the same data years later during audit, is an improved process. The information is necessary for the reengineered contemporaneous compliance process to work. That process works to the lessee's benefit and may indicate that a later audit is not necessary.

Moreover, submission of purchaser names does not appear to give rise to confidentiality concerns separate from the submission of the sales summary data itself—which will be broken out by sales arrangement regardless of whether the purchasers' names are included in the document. MMS therefore respectfully disagrees with this comment.

Comment: One company and one industry trade association objected to the submission of separate sales summaries for each remote storage site when a lessee has five or fewer sites (§ 210.202(a)), arguing that such a requirement is needlessly burdensome.

MMS Response: Our new compliance and asset management process associates lease sales reported on the Form MMS–4430 with purchaser sales reported on the sales summary. For example, the Form MMS–4430 for a particular remote sales site will show total sales from that site allocated to the source leases, but will not show the prices and quantities sold to particular purchasers. The sales summary will show the individual sales to each purchaser, including price and quantity and other information. The contemporaneous compliance process, among other things, will compare and correlate the information shown on both reports.

For the contemporaneous compliance process to function efficiently, the sales summary must cover the same transactions as the Form MMS–4430. Thus, if an MMS–4430 is submitted for a remote sales site, the sales summary needs to be for that same site. If Forms MMS–4430 were separated by site but sales summaries were combined for all sites, the process of correlating the information becomes much more costly and time-consuming, undercutting the goal of the contemporaneous compliance approach.

MMS does not object if lessees submit their sales summaries for separate remote sites in one document rather than as separate documents. However, the single document must contain the same information, identified separately for each sales site, as the sales summaries submitted for separate sites; that is, purchaser name, quantity sold, quality data, price/proceeds received, allowances, etc. (see the table in § 210.202(a)(3)).

Comment: Two companies and one industry trade association found ambiguous the requirement to submit processing or washing costs and transportation costs on the monthly sales summary (§ 210.202(a)). They noted that the proposed rule provided no guidance regarding what cost information must be submitted and interpreted the rule to require calculation and submission of costs on a monthly basis pursuant to §§ 206.259 and 206.262. They believe this requirement would significantly increase industry's cost of compliance.

MMS Response: The purpose of capturing processing (including coal washing) and transportation allowances on the sales summary is to associate allowances with individual sales. The sales summary provides information about product sales at the purchaser level. As explained in the previous response, we associate certain data reported on Form MMS–4430 with data reported on the sales summary to run our compliance processes. Allowances on the Form MMS–4430 are reported at the lease level, while allowances reported on the sales summary are at the purchaser level. The sales summary is a company-generated record and not a standard form.

In our experience, companies express processing and transportation allowances as costs in their internal documents, either on a unit or gross basis. Therefore, we will accept allowance/cost information on the sales summary in whatever format the company uses. However, our acceptance of the allowance/cost information in the company's format on the sales summary does not constitute our approval of the allowance claimed on Form MMS–4430.

Lessees may report allowances on the sales summary using either actual costs, if known, or estimated costs. If the lessee reports estimated costs on the sales summary, then the lessee must true-up the claimed allowances on the Form MMS–4430 when actual costs

become available. Allowances (cost data) reported on the sales summary do not require true-up. In any event, coal allowances claimed on the Form MMS–4430 must be calculated in accordance with §§ 206.259 and 206.262. Allowances claimed for non-coal solid minerals must reflect actual, reasonable costs. All allowances claimed on the Form MMS–4430 are subject to review, audit, and adjustment. .

Comment: Two companies and one industry trade association objected to the submission of coal size data on the sales summary (§ 210.202(a)). They found the requirement redundant because coal size is given in sales contracts.

MMS Response: We agree with this comment and removed the requirement to report coal size in the final rule.

Comment: Two companies and one industry trade association objected to the requirement to submit sales summaries during months when there is no Federal or Indian lease production. They contend this requirement is unduly burdensome and unnecessary.

MMS Response: The proposed rule requires sales summaries (1) for all months when Federal or Indian production is sold, whether directly from a mine or from a stockpile, and (2) when any Federal or Indian production is commingled with production from State or fee lands and sold. It does not require lessees to submit a sales summary when State or fee production is the *only* production sold. To clarify our intent, in the final rule we added language to § 210.202(a) and (b) stating that a sales summary is not required when sales do not involve Federal or Indian production.

Section 210.203 How Do I Submit Sales Contracts?

Comment: Two companies and one industry trade association disagreed with the requirement to submit sales contracts and amendments on a quarterly basis (§ 210.203(b)(1)), particularly for multi-period contracts. They also argued that the rule was unclear regarding what was to be submitted and when the submission is due. They recommended changing the quarterly requirement to semi-annual and defining specific due dates.

MMS Response: We agree with the comment and changed the submission requirement to a semi-annual basis in the final rule (at the end of March and end of September of each year). We also added due dates for the submissions.

Comment: A trade association for the potash industry objected to the submission of sales contracts, stating that such submission will require disclosure of confidential information and is being imposed without a demonstrated need for the data at any point prior to audit.

MMS Response: Sales contracts are one of our fundamental compliance tools. They play a critical role in compliance verification by providing the necessary information to gauge the value of production on which royalties are due. MMS's performance goal is to complete our compliance work in 3 years or less from the due date of the royalty payment. Our strategy to accomplish this goal rests on our ability to acquire meaningful information to show that reported royalty payments are in compliance with statutes, lease terms, and regulations.

If we are unable to obtain timely the critical information necessary to support our compliance verification process, then we must revert to audit under longer timeframes to verify the correctness of royalty payments. Long-term audits increase the lessee's risk of underpayments and associated late payment interest.

Our experience gained in the Operational Model showed that industry participants welcomed the shortened compliance cycle and understood and accepted the tradeoff between a compressed compliance cycle and up-front data submissions necessary to accomplish that goal. While our new compliance process will not totally supplant audits, the process will target audits on a more selective basis. When they do occur, audits will be less burdensome on the lessee because we will already have much of the fundamental information otherwise requested in an audit.

Comment: Four coal producers and a potash industry trade association objected to changing the submission of sales contracts from an "as requested" basis to a regular quarterly basis. One coal producer and the potash industry trade association would rather make the contracts available only at the lessee's mine site or offices and only on an as-requested basis. These commenters believe that an automatic submission of such materials will raise the risk of compromising confidential, proprietary information.

MMS Response: Submission of sales contracts on a regular basis in the coal and metals industries is integral to the contemporaneous compliance strategy. Review of sales contracts is necessary to identify a number of royalty valuation issues (such as proceeds issues, production conditioning issues, affiliation issues, allowance issues, etc.) before an audit would bring those issues to light. As noted above, the final rule changes the requirement to submit sales contracts from quarterly to semi-annually.

The proposed rule included a requirement for potash, sodium, phosphate and other non-coal and non-metal producers to submit sales contracts when MMS requests them rather than quarterly. The reason for the difference is that the producers have a larger number of smaller customers to whom they sell on an invoice or other less formal basis without lengthy contract instruments. It appears that the potash trade association misunderstood the proposed rule. The proposal for the non-coal and non-metal producers is continued in the final rule. The MMS will require contracts to be submitted on an as-needed basis. Submission of contracts in the early stages of the compliance cycle is not fundamentally different from MMS requesting copies of the contracts at the time of an audit.

The MMS will not limit examination of those contracts to the producer's mine or office locations. The contracts submitted to MMS will have the same confidentiality protections provided by applicable law regardless of whether they are submitted regularly or only when MMS asks for them.

Comment: Four companies and one industry trade association found the requirement to submit "other documents that affect gross proceeds," contained in § 210.203(a), overly broad and ambiguous. They claim the requirement places an undue burden on the lessee to determine what documents must be submitted and increases their liability risk should they erroneously omit a document that MMS later identifies as necessary. They suggested MMS delete the phrase.

MMS Response: We agree the phrase "other documents that affect gross proceeds" is ambiguous. We therefore removed this phrase in the final rule. However, additional documentation relevant to gross proceeds likely will be needed in some instances. The provisions of § 210.205 provide MMS the necessary authority to request such information on an as-needed basis. Examples of additional data include, but are not limited to, requests for organization charts; contracts, letter agreements, or other communications that supplement or affect sales contracts or amendments; or any other document that affects gross proceeds.

Our experience from the Operational Model indicated that additional data requests were occasionally needed to resolve specific issues. Industry participants understood the need for additional information but asked that we specify the particular contract or

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issue. Industry participants told us that by narrowing our requests to a specific issue or contract their likelihood of sending incorrect documents or being non-responsive is substantially reduced.

Comment: Respondents also believe MMS understated the average reporting burden associated with contract submission.

MMS Response: We believe much of the concern regarding contract reporting burdens stems from ambiguity in the proposed rule. To clarify our intent, we have added language to the final rule (1) explaining that a multi-period contract does not need to be submitted more than once; (2) requesting "other documents affecting gross proceeds" on an as-needed basis; and (3) changing the contract submission frequency from quarterly to semi-annually. These three changes mitigate the lessee's reporting burden. However, we recognize that contract submission, even on a semi-annual basis, may take longer than originally estimated to account for the lessee's need to index all its contracts, and agree with the commenters that we underestimated the time that will be necessary for contract submission. Therefore, the estimated annual contract submission burden has been increased from 90 hours to 180 hours.

We note that the overall reporting burden for contract submission would be roughly equivalent regardless of whether the contracts are submitted semi-annually or during audit. Because semi-annual submission is more contemporaneous, we believe it will require less effort over time than searching for and retrieving multiple contracts during audit.

Section 210.204 How Do I Submit Facility Data?

Comment: Two companies and one industry trade association objected to the submission of facility data during months when there is no Federal or Indian lease production. They contend this requirement is unduly burdensome and unnecessary.

MMS Response: Producers must submit facility data for any month Federal or Indian production is stockpiled awaiting processing or is processed. Such production may have occurred at any time before the current reporting period. Until all Federal or Indian mine production is processed and no longer in stockpile inventory, facility reports must continue to show the production quantities in inventory. This does not constitute a new reporting burden because the same information was required on the old Form MMS–4060, Solid Minerals Facility Report, Part B. The difference is that now industry may supply its own internal report rather than completing a government form. Lessees do not have to submit facility data when they process no Federal or Indian production and have no such production stockpiled awaiting processing. We added language to § 210.204(a) in the final rule to clarify our intent.

Section 210.205 Will I Need To Submit Additional Documents or Evidence To MMS?

Comment: Three companies and one industry trade association believe this provision exceeds the data submission requirements in Federal and Indian lease terms. They contend that leases only require the lessee to provide access to and copying of those documents reasonably necessary to verify the lessee's compliance with lease terms and conditions.

MMS Response: Almost all Federal leases contain substantially identical language generally found under a section entitled "Documents, Evidence, and Inspection," which authorize MMS to require the lessee to produce all relevant information. For example, in lease Form 3400–12, this section states:

> At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.
>
> Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, works, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.
>
> Lessee shall allow lessor access to and copying of documents reasonably necessary to verify lessee compliance with lease terms and conditions of the lease.
>
> While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Substantially similar language is contained in virtually all Federal and Indian solid mineral leases. We believe this language authorizes the submission of data that is necessary to show that the lease is in compliance with lease terms, statutes, and regulations.

Furthermore, our experience gained from the Operational Model shows that industry cooperation in providing records expedites the compliance process. We believe this is in the mutual best interests of the lessees and MMS.

Part 216—Production Accounting

There were no comments on the proposed changes to part 216.

Part 218—Collection of Royalties and Rentals, Bonuses and Other Monies Due the Federal Government

There were no comments on the proposed changes to part 218.

III. Other Changes Between Proposed Rule and Final Rule

In addition to the changes discussed in part II above in response to the comments, we have made other changes in the final rule. These changes are discussed below:

Section 210.201 How Do I Submit Form MMS–4430, Solid Minerals Production and Royalty Report?

In § 210.201 of the final rule, we have made certain clarifying changes to eliminate ambiguities in the proposed rule. The new Form MMS–4430 replaces the functions of several existing reports for both royalty and production accounting. In paragraph (a), we clarify that lessees must submit a completed Form MMS–4430 for any of the following events:

(1) Production of all coal and other solid minerals from any Federal or Indian lease;

(2) Sale of any such mineral;

(3) Any such mineral held in stockpile or inventory; and

(4) Payment of rents (other than those for which you receive an MMS Courtesy Notice as defined in § 218.51(a)), minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations.

Any of these events, standing alone, triggers the obligation to file a Form MMS–4430. The proposed rule (at paragraph (b)) referred to having to file a Form MMS–4430 upon the occurrence of a "reportable action," with a few examples then given. A "reportable action" was not defined.

Thus, production without sale triggers the obligation to report, even though royalty may not be due until sale or disposition. Similarly, sale of minerals produced in an earlier period, without current production, triggers the reporting obligation. Likewise, simply holding stockpiled inventory without either production or sale triggers the reporting obligation; so does payment of rent, minimum royalty, and other financial obligations, even though there may be no production or sales.

The final rule does not refer to a "reportable action," because the actions or events that trigger the reporting obligation are itemized in the text of the rule.

We made corresponding changes in paragraph (b) regarding the timing of reports to cover the same actions and events itemized in paragraph (a). The final rule specifies that you must submit your Form MMS–4430 on or before the end of the month following the month in which you produce any solid mineral, sell any solid mineral, or hold any solid mineral production in stockpile or inventory, unless your lease terms specify a different frequency for royalty payment. (If your lease terms specify a different frequency, you must submit your Form MMS–4430 on or before the date on which you must pay royalty under the terms of the lease.)

The deadline for submitting reports of production, sales, or inventory contrasts with the deadline for reports accompanying payment of rents, minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations. For these payment events, you must submit the Form MMS–4430 on or before the date on which you must pay the obligation under the terms of the lease.

Section 210.201(c)(2) of the proposed rule provided an exception to the electronic reporting requirement in the event that you are reporting only "rent, minimum royalty, or other annual obligations" on the Form MMS–4430. The stated reason was that those obligations "are submitted with a Courtesy Notice as instructed in § 218.201(c)." However, § 218.201(c) of the proposed rule provided for a Courtesy Notice only for "a rental payment that is not reported on Form MMS–4430." The provision did not define which rental payments were to be made with a Form MMS–4430 and which were to be made with a Courtesy Notice.

Under current practice, MMS issues a Courtesy Notice to lessees whose leases are in pure rental status, that is, leases that are in a non-producing status. That practice may expand to certain other leases in the future as systems are changed as part of reengineering. For leases for which MMS issues a Courtesy Notice, filing a Form MMS–4430—whether in paper or electronic form—is not necessary. Consequently, in the final rule we have deleted the proposed paragraph (c)(2) and added the parenthetical clause "(other than those for which you receive from MMS a Courtesy Notice as defined in § 218.51(a) of this chapter)" after the word "rents" in paragraphs (a)(1)(iv) and (b)(3).

The discussion in the preceding paragraph applies only to rental payments, and does not apply to minimum royalty or other financial obligations.

If you must file a Form MMS–4430 with your rental payment—in other words, if your lease is not one for which MMS issues a Courtesy Notice—then you must report electronically unless you meet the exception in paragraph (c)(2) (that is, that you are a small business and do not have a computer, have no plans to purchase a computer, and do not have a contract with an electronic reporting service).

Section 210.202 How Do I Submit Sales Summaries?

In the table in paragraph (a)(3) prescribing the time frames and data elements for submitting sales summaries, the proposed rule required sodium and potassium lessees to submit purchaser names "as requested." This was an error, and should have read "monthly." We have changed that entry in the table to monthly in the final rule. MMS needs the specific identity of purchasers for reasons discussed above.

Section 210.204 How Do I Submit Facility Data?

In paragraph (a) of the proposed rule, we stated that facility data had to include the following minimum information: identification of your facility, mines served, input quantity, output quantity, and output quality or product grade. For solid minerals other than coal, input quality (ore grade) is also an important data factor. This was inadvertently omitted in the proposed rule. In the final rule, we have added wording to this paragraph requiring input quality information if requested by MMS.

Part 216—Production Accounting

The proposed rule contained various amendments to part 216 that were intended to be conforming amendments consistent with the proposed changes to part 210. As noted above, MMS received no comments on these proposed provisions. However, further examination has revealed that the proposed amendments were incorrect. In view of the incorporation of all production reporting functions within the Form MMS–4430 and the consequent coverage of these matters in the new §§ 210.200 through 210.206, it was unnecessary and duplicative to include provisions regarding production reporting in part 216. The final rule therefore includes amendments to the existing part 216 to remove references to solid minerals and remove coverage of solid minerals from that part.

IV. Procedural Matters

1. Summary Cost and Benefit Data

We have summarized below the economic impacts of this rule on the groups affected by our regulations: Industry, State and local governments, Indian tribes and allottees, and the Federal Government. All costs summarized below are associated with reporting changes. As stated previously, this rule does not affect the valuation—for royalty purposes—of Federal or Indian coal or other solid minerals. The cost and benefit information in this Item 1 of Procedural Matters is used as the basis for the Departmental certifications in Items 2–12.

A. Industry

The effect of the information collection changes in this proposed rulemaking would be a net savings of $168,400 per year for all solid minerals reporters, calculated as follows:

Cost—New Information Collection. There are about 200 solid mineral lessees who are required to report production and royalty information to us. Using the annual reporting burden experienced by the participants in the operational model, we estimate the annual cost of the new information collection proposed in this rulemaking to be $72,600, calculated as follows:

Form MMS–4430. The average reporting burden for completing Form MMS–4430 is 20 minutes per month. We estimate that all 200 solid minerals lessees will submit Form MMS–4430, and that this annual reporting burden will be 800 hours (200 lessees × ⅓ hour per month × 12 months).

Sales summaries. The average reporting burden for sales summaries is 15 minutes per month. We estimate that 120 lessees will submit sales summary data and that this annual reporting burden will be 360 hours (120 lessees × ¼ hour per month × 12 months).

Facility data. The average reporting burden for facility data is 15 minutes per month. We estimate that 30 lessees will submit facility data and that this annual reporting burden will be 90 hours (30 lessees × ¼ hour per month × 12 months).

Contracts and contract amendments. Contracts and contract amendments will be copied and sent to MMS. The average annual reporting burden for providing contracts and contract amendments to us is 2 hours per lessee. We estimate that 90 lessees (predominantly coal companies) will submit contracts and contract amendments. Consequently,

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the annual reporting burden is 180 hours (90 lessees × 2 hours per year).

Additional documents or evidence. Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence that supports our compliance and asset management responsibilities. We will request this additional information as we need it, not as a regular submission. We estimate that 10 percent of the 200 solid minerals lessees, or 20 lessees, will submit this additional information annually, and that each lessee will require 1 hour to submit this information for a total annual reporting burden of 20 hours.

Method of Payment. Each payment document associated with Form MMS–4430 (Electronic Funds Transfer or hard copy check) must be annotated with the lessee's customer identification and the customer document identification numbers. For each rental payment document not reported on Form MMS–4430, the lessee must include the MMS Courtesy Notice, when provided, or annotate the payment document with the customer identification number and Government-assigned lease number. This requirement will help MMS link payments with Form MMS–4430 submittals. We estimate all payors collectively will require 2 hours annually to report this identification information.

The annual reporting burden for all of these documents is summarized below:

Document name	Estimated hours to prepare and submit	Total cost = hrs. × $50/hr.
Form MMS–4430	800	$40,000
Sales Summaries	360	18,000
Facility Data	90	4,500
Contracts and Subsequent Amendments	180	9,000
Other Documents	20	1,000
Method of Payments	2	100
Total	1,452	72,600

Benefit—Eliminating Eight Existing Reports. MMS currently requires solid minerals reporters to submit eight separate forms:

1. Form MMS–4030, Payor Information Form (PIF), OMB Control Number 1010–0064. This form is used to establish and maintain the payor accounts required for processing Form MMS–2014. Estimated annual burden hours are 173.

2. Form MMS–2014, Report of Sales and Royalty Remittance, OMB Control Number 1010–0022. This form serves as the monthly report form on which payors report all royalty and lease-level transactions. Estimated annual burden hours for solid mineral payors are 1,884.

3. Form MMS–4050, Mine Information Form (MIF), OMB Control Number 1010–0063. This form is used to establish and maintain mine-level production reporting. Estimated annual burden hours for forms in paragraph 3 and paragraphs 4 through 8 below are 2,763.

4. Form MMS–4051, Facility and Measurement Information Form (FMIF), OMB Control Number 1010–0063. This form is used to establish and maintain facilities in the volume-tracking system including identifying key sales/transfer measurement points that are required to track production and identify all secondary processing and remote storage facilities.

5. Form MMS–4059–A, Solid Minerals Operations Report, Part A (SMOR–A), OMB Control Number 1010–0063. This form is used to identify, for a mine, the quantity and quality of all raw material produced from each Federal or Indian lease, specify the disposition of those raw materials including sales, transfers, and adjustments, and track raw material inventories.

6. Form MMS–4059–B, Solid Minerals Operations Report, Part B (SMOR–B), OMB Control Number 1010–0063. This form is used to allocate sales from a secondary processing or remote storage facility back to individual Federal or Indian leases within a mine.

7. Form MMS–4060–A, Solid Minerals Facility Report, Part A (SMFR–A), OMB Control Number 1010–0063. This form is used to provide detailed information on a secondary processing facility's inputs/outputs.

8. Form MMS–4060–B, Solid Minerals Facility Report, Part B (SMFR–B), OMB Control Number 1010–0063. This form is used to show a secondary processing or remote storage facility's raw material receipts, production, inventory, and disposition.

These eight forms would be replaced by Form MMS–4430 and other data submissions described in the cost section above. The combined annual burden that will be eliminated if these eight forms are no longer submitted by solid mineral reporters is 4,820 hours or a total cost of $241,000. The effect of replacing these eight forms with the new information collection (costing $72,600) would be an estimated savings of $168,400 per year.

Issues Affecting Small Businesses. Approximately 200 solid mineral reporters submit forms and other information to MMS, 91 percent of which are small businesses because they have 500 employees or less. As noted earlier, the effect of the information collection changes in this proposed rulemaking would be a net savings of $168,400 per year for all solid minerals reporters. We expect small businesses to benefit proportionately from the reduction in reporting burden.

Using the experience gained through the Operational Model, our reengineered initiative ensures that the information requested is the minimum necessary and places the least possible burden on industry. We have further provided two exceptions to the requirement to submit the Form MMS–4430 electronically to avoid placing undue burden on small businesses. You would not be required to report electronically if you report only annual obligations such as rent or minimum royalty. Further, you would not be required to report electronically if you are a small business, as defined by the U.S. Small Business Administration, and you have no computer and no plans to purchase a computer or contract with an electronic reporting service. For other data submissions, respondents including small businesses or other small entities would have the flexibility to submit information to us via hard copy or electronic submissions.

During late summer and fall of 2001, we plan to hold several seminars to explain the revised reporting requirements. We will encourage all solid mineral lessees to attend one of these seminars to familiarize themselves with the revised reporting requirements and to prepare to implement these requirements.

We will meet with each company's information technology staff to assist in setting up hardware and software configuration. We plan to provide the necessary electronic reporting software that will interface with our financial and production application systems. We will also cover the cost associated with the development and implementation of the reporting software. We will provide any initial software formatting or other assistance needed to get a company ready to comply with the new information collection proposed in this rule by October 1, 2001.

B. State and Local Governments

This rulemaking would not impose any additional costs on State or local governments.

C. Indian Tribes and Allottees

This rulemaking would not impose any additional costs on Indian tribes or allottees.

D. Federal Government

MMS is reengineering its financial and compliance processes to transform its function-based program to a process-centered organization. The new reengineered MMS will be highly integrated and positioned to provide royalty management services at less cost to the nation. Some of the more important goals for the reengineering initiative include cutting in half the time necessary to collect and verify mineral revenues, distributing revenue to States and Indian mineral owners within 1 business day, reducing industry reporting requirements, and modernizing our computer and software systems.

MMS expects significant reduction in annual operating costs of administration, accelerated cash flows through reductions in current business cycle times, and increased revenue through improved compliance coverage.

Although all benefits of this rulemaking cannot be quantified at this time, the Federal Government should see significant savings and far greater efficiencies.

The quantifiable costs and benefits of this proposed rulemaking to the Federal Government is a cost of $424,700 in the first two years after this rule is effective and a savings of $20,800 each year thereafter, as calculated below.

Benefit—Personnel. We estimate that Solid Minerals and Geothermal Compliance and Asset Management's 23 employees will allocate about 10 percent of their time to collect and analyze contracts, sales summaries, and facility data required by this rulemaking for a total cost of $239,200 (2.3 employees × 2,080 hours/year × $50/hour) annually. However, under current reporting processes, Solid Minerals and Geothermal Compliance and Asset Management allocates the equivalent of 2.5 employees annually to error correction. Under this rulemaking error correction is expected to be negligible. Therefore this rulemaking nets no additional personnel cost but rather a minimal savings of .2 employees or $20,800 (.2 employees × 2,080 hours/year × $50/hour) annually.

These employees will also resolve compliance issues using end-to-end processes that eliminate handoffs that would otherwise occur between functionally aligned units which also improves efficiencies.

This rule would allow substantial administrative dollar savings to MMS. Owing to the elimination of eight separate reporting forms under this proposed rule, MMS can utilize its solid minerals personnel more efficiently and effectively for verification of mineral revenues. Solid minerals personnel would review and process only one reporting form in place of eight existing reporting forms, which would result in associated reductions in error corrections, document handling issues, data entry problems, and time spent correcting those issues with industry personnel.

Cost—Computer software. MMS is also building a computer platform and associated database as the host for data collected. This computer platform, and associated cost to MMS, will involve data from the Onshore, Offshore, and Solid Minerals Operational Models and all exception processing and compliance activity. We estimate the cost for the solid minerals portion of the new computer system to be about $445,500 within the first and second years after implementation of this rule or $891,000 over 2 fiscal years ($891,000 divided by 2 = $445,500).

MMS has allocated the cost of its solid minerals portion of the new computer system in its reengineering budget requests. Accordingly, MMS will not need additional funds for computer systems as a result of the provisions proposed in this rulemaking.

2. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant adverse effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). For additional information on small business issues, see the cost and benefit data in item 1 of these Procedural Matters.

Your comments are important. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this rule, call 1–888–734–3247.

4. Small Business Regulatory Enforcement Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

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6. Takings (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

7. Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between the Federal and State governments or impose costs on States or localities.

8. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

The collections of information associated with this final rule were approved by OMB on August 8, 2001 (OMB Control Number 1010–0120, expiration date August 31, 2004). We published a proposed rule in the **Federal Register** on June 5, 2001 (66 FR 30121) in which we solicited comments on an information collection titled "Solid Minerals Reporting Requirements" (OMB Control Number 1010–0120). The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Two companies commented on this information collection. We responded to those comments in our information collection request to OMB on July 31, 2001, as follows:

Comment: Both companies support the proposed Form MMS–4430 and the proposed Internet submission. Both agreed that the replacement of eight reporting forms by Form MMS–4430 simplifies reporting.

Response: We appreciate the support for Form MS–4430. We reiterate here that this form is but one integral piece of information we propose to collect to perform our contemporaneous compliance and asset management process under our reengineered compliance strategy. This form alone does not provide the data necessary to achieve our compliance performance goal.

Comment: Both companies expressed concern that the proposed rule significantly changes the current rules and goes beyond lease term requirements. They note the proposed rule changes submission requirements from "upon request" to a "required" concept. They also note lease terms only require submission of information and documents that are "reasonably necessary" to verify lease compliance with terms and conditions of the lease.

Response: Current reporting requirements require the submission of up to eight forms. The proposed new reporting requirements include information currently collected on those eight forms. The major difference is that instead of submitting the information on a standard form, companies can submit the information in the format they prepare for their own internal use. Currently, we require contract submission during audit. Our reengineered compliance strategy requires collection of contracts earlier in our compliance process. The burden of contract submission is not a new requirement but merely a change in the timing of submissions.

Our reengineered compliance strategy requires the submission of all documents in this proposed information collection. We believe this is the minimum information reasonably necessary to support our contemporaneous compliance program and verify compliance with lease terms and conditions.

Comment: Both respondents believe the estimated burden for the collection of sales summaries is underestimated. One of the respondents believes the monthly inclusion of costs related to processing and transportation costs, which are currently calculated annually, will increase the burden significantly.

Response: Lessees may report allowances on the sales summary using either actual costs, if known, or estimated costs. If the lessee reports estimated costs on the sales summary, then he must true-up the claimed allowances on Form MMS–4430 when actual costs become available. Allowances (cost data) reported on the sales summary do not require true-up. In any event, coal allowances claimed on Form MMS 4430 must be calculated in accordance with 30 CFR §§ 206.259 and 206.262. Allowances claimed for non-coal solid minerals must reflect actual, reasonable costs. All allowances claimed on Form MMS–4430 are subject to review, audit, and adjustment.

We clarified this issue in the preamble to this final rule. We also reduced or deleted the requirement to submit coal size, clarified the need to submit summaries in months when no Federal or Indian production or sales occurs, and clarified when to submit summaries for facilities. In view of these changes, we believe our estimated burden is reasonable.

Comment: Both respondents believe the estimated burden for contract submissions is underestimated.

Response: We believe much of the concern regarding contract reporting burdens stems from ambiguity in the proposed rule. To clarify our intent, we have added language to this final rule (1) explaining that a multi-period contract does not need to be submitted more than once; (2) requesting "other documents affecting gross proceeds" on an as-needed basis; and (3) changing the contract submission frequency from quarterly to semi-annually. These three changes mitigate the lessee's reporting burden. However, we recognize that contract submission, even on a semi-annual basis, may take longer than originally estimated to account for the lessee's need to index all its contracts, and agree with the commenters that we underestimated the time that will be necessary for contract submission. Therefore, the estimated annual burden associated with contract submission has been increased from 90 hours to 180 hours.

We note that the overall reporting burden for contract submission would likely be the same regardless of whether the contracts are submitted semi-annually or during audit. Because semi-annual submission is more contemporaneous, we believe it will require less effort over time than searching for and retrieving multiple contracts during audit.

The MMS estimates that there are approximately 200 respondents. The frequency of response varies by section; however, we estimate the total annual burden is 1,452 hours. Based on $50 per hour, the hour burden cost to respondents is $72,600.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

11. Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, this rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

12. Energy Effects

In accordance with Executive Order 13211, this rule is not a significant regulatory action under Executive Order 12866 nor is it likely to have a significant adverse effect on the supply, distribution, or use of energy. As noted in Item 1 above, titled "Summary Cost and Benefit Data," we estimate this rule will save the solid minerals industry approximately $168,500 annually in reporting costs.

List of Subjects

30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 210

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 216

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: August 22, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For reasons set out in the preamble, 30 CFR parts 206, 210, 216, and 218 are amended as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for part 206 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

§ 206.251 [Amended]

2. In § 206.251, definition of "Netting," remove the word "MMS–2014" and add in its place the word "MMS–4430."

§ 206.254 [Amended]

3. Amend § 206.254 as follows:

a. Remove paragraph (a).

b. In paragraph (b), last sentence, remove the words "Report of Sales and Royalty Remittance, Form MMS–2014" and add in their place the words "Solid Minerals Production and Royalty Report, Form MMS–4430."

c. Remove the paragraph designation for paragraph (b).

§ 206.257 [Amended]

4. Amend § 206.257 as follows:

a. In paragraph (d)(3), second sentence, remove the title "Associate Director for Royalty Management" and add in its place "Associate Director for Minerals Revenue Management."

b. In paragraph (d)(3), last sentence, remove the word "MMS–2014" and add in its place the word "MMS–4430."

§ 206.259 [Amended]

5. In § 206.259, paragraphs (a)(1), (b)(1), (c)(1)(i), (c)(2)(i), (d)(1), (e)(1) and (e)(2), remove the word "MMS–2014" and add in its place the word "MMS–4430."

§ 206.262 [Amended]

6. In § 206.262, paragraphs (a)(1), (b)(1), (c)(1)(i), (c)(2)(i), (d)(1), (e)(1) [occurs twice] and (e)(2), remove the word "MMS–2014" and add in its place the word "MMS 4430."

§ 206.263 [Removed]

7. Remove § 206.263.

§ 206.453 [Amended]

8. Amend § 206.453 as follows:

a. Remove paragraph (a).

b. In paragraph (b), second sentence, remove the words "Report of Sales and Royalty Remittance, Form MMS–2014" and add in their place the words "Solid Minerals Production and Royalty Report, Form MMS–4430."

c. Remove the paragraph designation from paragraph (b).

§ 206.456 [Amended]

9. Amend § 206.456 as follows:

a. In paragraph (d)(3), second sentence, remove the title "Associate Director for Royalty Management" and add in its place the title "Associate Director for Minerals Revenue Management."

b. In paragraph (d)(3), last sentence, remove the word "MMS–2014" and add in its place the word "MMS–4430."

§ 206.458 [Amended]

10. Amend § 206.458 as follows:

a. In paragraphs (c)(1)(i) and (c)(2)(i), remove the words "Form MMS–2014, Report of Sales and Royalty Remittance" and add in their place the words "Form MMS–4430, Solid Minerals Production and Royalty Report" and remove the word "MMS–2014" and add in its place the word "MMS–4430."

b. In paragraphs (c)(4), (d)(1), (e)(1), and (e)(2), remove the word "MMS–2014" and add in its place the word "MMS–4430."

§ 206.461 [Amended]

11. Amend § 206.461 as follows:

a. In paragraphs (c)(1)(i) and (c)(2)(i), remove the words "Form MMS–2014, Report of Sales and Royalty Remittance," and add in their place the words "Form MMS–4430, Solid Minerals Production and Royalty Report."

b. In paragraphs (c)(4), (d)(1), (e)(1) and (e)(2), remove the word "MMS–2014" and add in its place the word "MMS–4430."

§ 206.462 [Removed]

12. Remove § 206.462.

PART 210—FORMS AND REPORTS

13. The authority citation for part 210 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

§ 210.10 [Amended]

14. Section 210.10 is amended as follows:

a. Wherever they appear in § 210.10, the words "Royalty Management Program" are removed and the words "Minerals Revenue Management" are added in their place.

b. The table in paragraph (a) is revised.

c. Paragraph (b)(2) is amended by removing the words "or MMS–4030" in the first sentence.

d. Paragraph (b)(3) is amended by removing the words "MMS–4059, MMS–4060," in the first sentence.

e. Paragraph (b)(6) is removed.

f. Paragraphs (b)(6) through (b)(8) are added.

g. Paragraphs (c)(4), (c)(11), and (c)(12) are removed.

h. Paragraphs (c)(5) through (c)(10) are redesignated as paragraphs (c)(4) through (c)(9).

i. Paragraphs (c)(13) through (c)(20) are redesignated as paragraphs (c)(10) through (c)(17).

j. Paragraphs (c)(18) through (c)(21) are added.

k. Paragraph (d) is revised.

The additions and revisions read as follows:

§ 210.10 Information collection.

(a) * * *

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Form No., name, and filing date	OMB No.
MMS–2014—Report of Sales and Royalty Remittance—Due by the end of first month following production month for royalty payment and for rentals no later than anniversary date of the lease	1010–0022
MMS–3160—Monthly Report of Operations—Due by the 15th day of the second month following the production month	1010–0040
MMS–4025—Oil and Gas Payor Information Form—Due 30 days after issuance of a new lease or change to an existing lease	1010–0033
MMS–4051—Facility and Measurement Information Form and Supplement—Due at the request of MMS during the initial conversion of the facility and measurement device operators	1010–0040
MMS–4053—First Purchaser Report—Due at the request of MMS	1010–0040
MMS–4054—Oil and Gas Operations Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4055—Gas Analysis Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4056—Gas Plant Operations Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4058—Production Allocation Schedule Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4070—Application of the Purchase of Royalty Oil—Due prior to the date of sale in accordance with the instructions in the Notice of Availability of Royalty Oil	1010–0042
MMS–4109—Gas Processing Allowance Summary Report—Initial report due within 3 months following the last day of the month for which an allowance is first claimed, unless a longer period is approved by MMS	1010–0075
MMS–4110—Oil Transportation Allowance Report—Initial report due within 3 months following the last day of the month for which an allowance is first claimed, unless a longer period is approved by MMS	1010–0061
MMS–4280—Application for Reward for Original Information—Due when a reward is claimed for information provided which may lead to the recovery of royalty or other payments owed to the United States	1010–0076
MMS–4292—Coal Washing Allowance Report—Due prior to or at the same time that the allowance is first reported on Form MMS–4430 and annually thereafter if the allowance does not change	1010–0074
MMS–4293—Coal Transportation Allowance Report—Due prior to or at the same time that the allowance is first reported on Form MMS–4430 and annually thereafter if the allowance does not change	1010–0074
MMS–4295—Gas Transportation Allowance Report—Initial report due within 3 months following the last day of month for which an allowance is first claimed unless a longer period is approved by MMS	1010–0075
MMS–4377—Stripper Royalty Rate Reduction Notification—Due for each 12-month qualifying period that a reduced royalty rate is granted by the Bureau of Land Management	1010–0090
MMS–4430—Solid Minerals Production and Royalty Report—Due by the end of the month following the month of production or sale and for other lease financial obligations no later than the payment date specified in your lease	1010–0120
Facility Data—Due monthly or as requested for specific solid mineral products and lease types; see § 210.204	1010–0120
Sales Contracts—Due semi-annually or as requested on certain solid mineral products and lease types; see § 210.203	1010–0120
Sales Summaries—Due monthly or as requested for specific solid mineral products and lease types; see § 210.202	1010–0120

* * * * *

(b) * * *

(6) If you are not reporting Form MMS–4430 electronically, you may request blank copies of the form by calling 1–888–201–6416. You must submit completed Forms MMS–4430 to the address given in § 210.201(c).

(7) If you are not reporting solid minerals sales contracts, sales summaries, and facility data electronically, you must submit paper copies to the address given in § 210.202(c).

(8) Reports for oil, gas, and geothermal leases sent by special courier or overnight mail (excluding U.S. Postal Service Express Mail) should be addressed to: Minerals Management Service, Minerals Revenue Management, Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225.

(c) * * *

(18) *MMS–4430*—Submitted monthly to report production from and royalty due on all Federal and Indian solid minerals leases (see § 210.201). MMS uses the data to distribute payments to appropriate recipients and to determine if lessees properly paid lease obligations. Public reporting burden is estimated to be 20 minutes per month per reporter. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(19) *Facility Data*—Submitted monthly by operators of wash plant, refining, ore concentration, or other processing facilities for specific solid minerals produced from specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.204). MMS uses the data to assure that Federal or Indian lease processed production (the output of process plants) is consistent with the input of raw production. Public reporting burden is estimated to be approximately 15 minutes per reporter per month to compile in-house formatted information and submit that information electronically. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(20) *Sales Contracts*—Submitted semi-annually by producers of specific solid mineral products on specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.203). MMS uses contracts, agreements and contract amendments for compliance purposes including, but not limited to, identifying valuation issues and establishing selling arrangement relationships. Public reporting burden is estimated to be 2 hours per reporter per year to compile and submit contracts and contract amendments. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(21) *Sales Summaries*—Submitted monthly by producers of specific solid minerals from specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.202). The MMS uses these data for compliance purposes including, but not limited to, assuring that sales volumes and values are properly attributed or allocated to Federal or Indian leases. Public reporting burden is estimated to be 15 minutes per month for each reporter to compile in-house formatted sales information and submit that information electronically. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(d) *Comments on burden estimates.* Send comments on the accuracy of this burden estimate or suggestions on reducing this burden to the Minerals Management Service, Attention: Information Collection Clearance Officer, (OMB Control Number 1010–0120 (insert appropriate OMB Control Number), Mail Stop 4230, 1849 C Street, NW, Washington, D.C. 20240. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

§§ 210.200–210.204 [Removed]

15. Remove §§ 210.200 through 210.204.

§§ 210.200–210.206 [Added]

16. Add §§ 210.200 through 210.206 to read as follows:

Subpart E—Solid Minerals, General

Sec.

210.200 What is the purpose of this subpart?
210.201 How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report?
210.202 How do I submit sales summaries?
210.203 How do I submit sales contracts?
210.204 How do I submit facility data?
210.205 Will I need to submit additional documents or evidence to MMS?
210.206 How will information submissions be kept confidential?

§ 210.200 What is the purpose of this subpart?

This subpart explains your reporting requirements if you produce coal or other solid minerals from Federal or Indian leases. Included are your requirements for reporting production, sales, and royalties.

§ 210.201 How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report?

(a) *What to submit.* (1) You must submit a completed Form MMS–4430 for—

(i) Production of all coal and other solid minerals from any Federal or Indian lease;

(ii) Sale of any such mineral;

(iii) Any such mineral held in stockpile or inventory; and

(iv) Payment of rents (other than those for which you receive from MMS a Courtesy Notice as defined in § 218.51(a) of this chapter), minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations.

(2) You must submit a completed Form MMS–4430 for any product you sell from a remote storage site. If you sell from five or fewer remote storage sites, you must report sales from each site on separate Forms MMS–4430. If you sell from more than five remote storage sites, you must total the data from all sites and report the summarized data on one Form MMS–4430.

(3) Instructions for completing and submitting Form MMS–4430 are available on our Internet reporting web site or you may contact us toll free at 1–888–201–6416.

(b) *When to submit.* (1) Unless your lease terms specify a different frequency for royalty payments, you must submit your Form MMS–4430 on or before the end of the month following the month in which you produce any solid mineral, sell any solid mineral, or hold any solid mineral production in stockpile or inventory. However, if the last day of the month falls on a weekend or holiday, your Form MMS–4430 is due on the next business day.

(2) If your lease terms specify a different frequency for royalty payment, then you must submit your Form MMS–4430 on or before the date on which you must pay royalty under the terms of the lease.

(3) You must submit your Form MMS–4430 for payment of rents (other than those for which you receive from MMS a Courtesy Notice as defined in § 218.51(a) of this chapter), minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations on or before the date on which you must pay those obligations under the terms of the lease.

(4) If the information on a previously reported Form MMS–4430 is no longer correct, you must submit a revised Form MMS–4430 by the last day of the month in which you learn that the previously reported information is no longer correct, except when the last day of the month falls on a weekend or holiday. If the last day of the month falls on a weekend or holiday, your revised Form MMS–4430 is due on the first business day of the following month.

(c) *How to submit.* (1) You must submit Form MMS–4430 electronically using our Internet reporting web site unless you meet the conditions in paragraph (c)(2). We will provide written instructions and a valid login and password before you begin reporting.

(2) You are not required to report electronically if you are a small business as defined by the U.S. Small Business Administration (13 CFR 121.201) and you have no computer, no plans to purchase a computer, and no contract with an electronic reporting service.

(3) If you do not report electronically, you must submit the completed Form MMS–4430 to us at one of the following addresses, unless MMS publishes notice in the **Federal Register** giving a different address:

(i) *For U.S. Postal Service regular mail or Express Mail:* Minerals Management Service, Minerals Revenue Management, P.O. Box 5760, Denver, Colorado 80217–5760; or

(ii) *For courier service or overnight mail (excluding Express Mail):* Minerals Management Service, Minerals Revenue Management, Building 85, Denver Federal Center, Room A–614, Denver, Colorado 80225.

§ 210.202 How do I submit sales summaries?

(a) *What to submit.* (1) You must submit sales summaries for all coal and other solid minerals produced from Federal and Indian leases and for any remote storage site from which you sell Federal or Indian solid minerals. You do not have to submit a sales summary for those months in which you do not sell any Federal or Indian production.

(2) If you sell from five or fewer remote storage sites, you must submit a sales summary for each site. If you sell from more than five remote storage sites, you may total the data from all sites and submit the summarized data as one sales summary. The details you report on the sales summary are for the same sales reported on Form MMS–4430.

(3) Use the following table to determine the time frames for submitting sales summaries and the data elements you must include. Your submitted sales summaries must include the following data but may be internally generated documents from your own records. You do not need to re-format them before submitting them to us:

Data element	Coal	Sodium/potassium	Western phosphate	Metals	All other leases with ad valorem royalty terms	All other leases with no ad valorem royalty terms
(i) Purchaser Name or Unique Identification.	Monthly	Monthly	Monthly	Monthly	Monthly	As Requested.
(ii) Sales Units	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly.
(iii) Gross Proceeds	Monthly	Monthly	Not Required	Monthly	Monthly	Not Required.
(iv) Processing or washing costs.	Monthly	Monthly	Not Required	Monthly	Monthly	Not Required.

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Data element	Coal	Sodium/potassium	Western phosphate	Metals	All other leases with ad valorem royalty terms	All other leases with no ad valorem royalty terms
(v) Transportation costs.	Monthly	Monthly	Not Required	Monthly	Monthly	Not Required.
(vi) Name of product type sold.	Not Required	Monthly	Not Required	Monthly	Monthly	As Requested.
(vii) Btu/lb	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(viii) Ash %	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(ix) Sulfur %	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(x) lbs SO2	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(xi) Moisture %	Monthly	Not Required	Monthly	Not Required	Not Required	Not Required.
(xii) By-product Units	Not Required	As Requested	Monthly	As Requested	As Requested	Not Required.
(xiii) P2O5 %	Not Required	Not Required	Monthly	Not Required	Not Required	Not Required.
(xiv) Size	Not Required	Not Required	Not Required	Not Required	As Requested	Not Required.
(xv) Net Smelter Return data.	Not Required	Not Required	Not Required	Monthly	Not Required	Not Required.
(xvi) Other Data e.g., Royalty Calculation Worksheet.	As Requested	Monthly	As Requested	As Requested	As Requested	As Requested.

(b) *When to submit.* (1) For leases with ad valorem royalty terms (that is, leases for which royalty is a percentage of the value of production), you must submit your sales summaries monthly at the same time you submit Form MMS–4430. You do not have to submit a sales summary for any month in which you did not sell Federal or Indian production.

(2) For leases with no ad valorem royalty terms (that is, leases in which the royalty due is not a function of the value of production, such as cents-per-ton or dollars-per-unit), you must submit monthly sales summaries only if we specifically request you to do so.

(c) *How to submit.* (1) You should provide the sales summary data via electronic mail where possible. We will provide instructions and the proper email address for these submissions.

(2) If you submit sales summaries by paper copy, mail them to one of the following addresses, unless MMS publishes notice in the **Federal Register** giving a different address:

(i) *For U.S. Postal Service regular mail or Express Mail:* Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 25165, MS 390G1, Denver, Colorado 80225–0165.

(ii) *For courier service or overnight mail (excluding Express Mail):* Minerals Management Service, Solid Minerals and Geothermal Compliance and Asset Management, 12600 West Colfax Avenue, Suite C–100, Lakewood, Colorado 80215.

§ 210.203 How do I submit sales contracts?

(a) *What to submit.* You must submit sales contracts, agreements, and contract amendments for the sale of all coal and other solid minerals produced from Federal and Indian leases with ad valorem royalty terms.

(b) *When to submit.* (1) For coal and metal production, you must submit the required documents semi-annually, no later than March 30 and September 30 of each year.

(2) For sodium, potassium, and phosphate production, and production from any other lease with ad valorem royalty terms, you must submit the required documents only if you are specifically requested to do so.

(c) *How to submit.* You must submit complete copies of the sales contracts and amendments to us at the applicable address given in § 210.202(c)(2), unless MMS publishes notice in the **Federal Register** giving a different address.

§ 210.204 How do I submit facility data?

(a) *What to submit.* (1) You must submit facility data if you operate a wash plant, refining, ore concentration, or other processing facility for any coal, sodium, potassium, metals, or other solid minerals produced from Federal or Indian leases with ad valorem royalty terms, regardless of whether the facility is located on or off the lease.

(2) You do not have to submit facility data for those months in which you do not process solid minerals produced from Federal or Indian leases and do not have any such minerals in stockpile inventory.

(3) You must include in your facility data all production processed in the facility from all properties, not just production from Federal and Indian leases.

(4) Facility data submissions must include the following minimum information:

(i) Identification of your facility;

(ii) Mines served;

(iii) Input quantity;

(iv) Input quality or ore grade (except for coal);

(v) Output quantity; and

(vi) Output quality or product grades.

(5) Your submitted facility data may be internally generated documents from your own records. You do not need to re-format them before submitting them to us.

(b) *When to submit.* You must submit your facility data monthly at the same time you submit your Form MMS–4430.

(c) *How to submit.* (1) You should provide the facility data via electronic mail where possible. We will provide instructions and the proper email address for these submissions before you begin reporting.

(2) If you submit facility data by paper copy, send it to the applicable address given in § 210.202(c)(2).

§ 210.205 Will I need to submit additional documents or evidence to MMS?

(a) Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence necessary to verify compliance with lease terms and conditions and applicable rules.

(b) We will request this additional information as we need it, not as a regular submission.

§ 210.206 How will information submissions be kept confidential?

Information submitted under this part that constitutes trade secrets or commercial and financial information that is identified as privileged or confidential, or that is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, shall not be available for public inspection or made public or disclosed without the consent of the lessee, except as otherwise provided by law or regulation.

PART 216—PRODUCTION ACCOUNTING

17. The authority citation for part 216 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

§ 216.2 [Amended]

18. In 216.2, first sentence, remove the phrase "oil, gas, or solid minerals" and add in its place "oil or gas."

§ 216.6 [Amended]

19. Amend § 216.6 as follows:

a. Remove the definition of "approved mining plan."

b. In the definition of "lease," remove the phrase "oil, gas, or solid minerals" and add in its place "oil or gas."

c. In the definition of "measurement device," remove the phrase "oil, gas, or solid minerals" and add in its place "oil or gas."

d. Remove the definition of "mine."

e. In the definition of "mineral leasing law," remove the phrase "oil, gas, or solid minerals" and add in its place "oil or gas."

f. In the definition of "operator," first sentence, remove the phrase "or solid minerals." In the second sentence, remove the phrase "oil, gas, or solid minerals" and add in its place "oil or gas."

g. In the definition of "Production Accounting and Auditing System," second sentence, remove the phrase "oil, gas, or solid minerals" and add in its place "oil and gas."

h. Remove the definition of "solid minerals."

§ 216.20 [Amended]

20. In § 216.20, remove the phrase "oil, gas, or solid minerals" and add in its place "oil and gas."

§ 216.40 [Amended]

21. In § 216.40, remove paragraph (d), and redesignate paragraphs (e) through (g) as paragraphs (d) through (f).

Subpart E—Solid Minerals, General [Reserved]

§§ 216.200–216.204 [Removed]

22. Remove §§ 216.200 through 216.204.

PART 218—COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

23. The authority citation for part 218 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 3335; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

§ 218.40 [Amended]

24. In § 218.40, revise paragraph (c) to read as follows:

§ 218.40 Assessments for incorrect or late reports and failure to report.

* * * * *

(c) For purposes of assessments discussed in this section, a report is defined as follows:

(1) For coal and other solid mineral leases, a report is each line on the Solid Minerals Production and Royalty Report, Form MMS–4430.

(2) For oil and gas and geothermal leases, a report is each line on the Report of Sales and Royalty Remittance, Form MMS–2014.

* * * * *

§ 218.51 [Amended]

25. Amend § 218.51 as follows:

a. In paragraphs (d)(2) and (d)(3), remove the name "Royalty Management Program" and add in its place the name "Minerals Revenue Management."

b. In paragraph (e), remove the name "Royalty Management Program" and add in its place the name "Minerals Revenue Management" and remove the room number "A–212" and add in its place "A–614."

§ 218.201 [Amended]

26. Revise § 218.201 to read as follows:

§ 218.201 Method of payment.

You must tender all payments in accordance with § 218.51, except as follows:

(a) For purposes of this section, *report* means the Solid Minerals Production and Royalty Report, Form MMS–4430, rather than the Form MMS–2014.

(b) For Form MMS–4430 payments, include both your customer identification and your customer document identification numbers on your payment document, rather than the information required under § 218.51(f)(1).

(c) For a rental payment that is not reported on Form MMS–4430, include the MMS Courtesy Notice when provided or write your customer identification number and Government-assigned lease number on the payment document, rather than the information required under § 218.51(f)(4)(iii).

§ 218.203 [Amended]

27. Amend § 218.203 as follows:

a. In paragraph (a), first sentence, remove the word "MMS–2014" and add in its place "MMS–4430."

b. In paragraph (b), second sentence, remove the words "pursuant to instructions in the "AFS Payor Handbook—Solid Minerals'."

c. In paragraph (b), remove the third sentence, "See 30 CFR 210.204." and add in its place the sentence "Call 1–888–201–6416 for instructions."

[FR Doc. 01–21638 Filed 8–29–01; 8:45 am]
BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

CGD09–01–116

RIN 2115–AA97

Safety Zones; Port Huron Tall Ship Celebration, St. Clair River, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing individual temporary moving safety zones around the sailing vessels *Norfolk Rebel, Cape Rose, Larinda, Highlander Sea, Pride of Baltimore II,* for the "Port Huron Parade of Tall Ships" on August 30, 2001. These safety zones are necessary to promote the safe navigation of vessels and the safety of life and property during the periods of heavy vessel traffic expected during this event. These safety zones are intended to restrict vessel traffic from a portion of Lake Huron and the St. Clair River.

DATES: This temporary final rule is effective from 5 p.m. until 7 p.m. on August 30, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–116 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave. Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave. Detroit, MI 48207. The telephone number is (313) 568–9558.

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SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary final rule is for the Port Huron tall ship visit to be held in Port Huron. There will be individual temporary moving safety zones around the sailing vessels, *Norfolk Rebel, Cape Rose, Larinda, Highlander Sea, Pride of Baltimore II*, which will be officially participating in the parade, to ensure the safety of passengers, crew, and spectators. The moving safety zones will encompass all waters 100 yards ahead, 100 yards behind, and 50 yards on either side of each of the tall ships.

These moving safety zones will be enforced from the north starting point at Lake Huron Cut Light #7, Light List number (LLN) 10065, in position 43°03′36″ N, 082°25′06″ W and continuing south to the Port Huron Terminal, in position 42°57′32″ N, 082°25′38″ W. These coordinates are based upon North American Datum 1983 (NAD 83).

These safety zones are necessary to control vessel movement and to ensure the safety of the public and vessels during the Tall Ships Parade of Sail occurring in a portion of Lake Huron and the St. Clair River. In order to minimize adverse impacts on commercial users of the affected waterway, we are enacting individual moving safety zones around each tall ship in lieu of a blanket safety zone for the entire U.S. portion of Lake Huron and the St. Clair River.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Detroit or his designated on-scene patrol representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port Detroit or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time, two hours, that vessels will be restricted from the zones, and therefore will cause only minor if any impacts to mariners.

Small Entities

Under the Regulatory Flexibility Act, (5 U.S.C. 601–612), we considered whether this rule would have a significant impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit or anchor in a portion of an activated safety zone.

These moving safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zones are only in effect from 5 p.m. until 7 p.m. and vessel traffic may safely pass outside the safety zones during the event. Before the effective period, we will issue maritime advisories widely available to users of Lake Huron and the St. Clair River by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the "Small Business Regulatory Enforcement Fairness Act", of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–993 is added to read as follows:

§ 165.T09–993 Safety Zones; Port Huron Tall Ship Celebration, St. Clair River, MI.

(a) *Location.* The Coast Guard will establish temporary moving safety zones that will encompass all waters 100 yards ahead, 100 yards behind, and 50 yards on either side of the sailing vessels, *Norfolk Rebel, Cape Rose, Larinda, Highlander Sea, Pride of Baltimore II*, which will be participating in the Port Huron Parade of Tall Ships. These individual temporary moving safety zones will ensure safe navigation of vessels officially participating in the parade. The moving safety zones will be enforced from the north starting point at Lake Huron Cut Light #7 (LLN 10065), in position 43°03′36″ N, 082°25′06″ W, and to the south, ending at Port Huron Terminal, in position 42°57′32″ N, 082°25′38″ W. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective time and date.* This section is effective 5 p.m. until 7 p.m. on August 30, 2001. The designated on-scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into the safety zones is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative.

Dated: August 24, 2001.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 01–21957 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: 010815207]

RIN 0651–AB41

Timing of National Stage Commencement in the United States for Patent Cooperation Treaty Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Temporary rule.

SUMMARY: The United States Patent and Trademark Office (Office) is amending the regulations to include the current statutory provisions that define when national stage commencement occurs in an application filed under the Patent Cooperation Treaty (PCT). The Office is making this change due to a possible change in the patent statute to provide that the time period for commencement of the national stage that is currently set forth by statute will be set forth in the regulations.

DATES: *Effective Date:* August 30, 2001 through June 3, 2002.

Applicability Date: The change to 37 CFR 1.491 applies to any international application pending before, on, or after August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Charles A. Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306–4145, or Boris Milef, Legal Examiner, Office of PCT Legal Administration, by telephone at (703) 308–3659, or by mail addressed to: Box PCT—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 308–6459, marked to the attention of Boris Milef.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 371(b) currently sets forth the time period for commencement of the national stage in an application filed under the PCT. Due to a possible statutory revision of 35 U.S.C. 371(b) to provide that the time period for commencement of the national stage will be set forth in the regulations, the Office is amending 37 CFR 1.491 (§ 1.491) such that the regulations set forth the current language of 35 U.S.C. 371(b) (as amended by Pub. L. 99–616, section 7(b), 100 Stat. 3485, 3485 (1986)) that defines when national stage commencement occurs. Certain U.S. statutes and regulations provide for requirements that are tied to the date of national stage "commencement" (e.g., the date of national stage

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commencement is relevant to the due date for the national fee, an oath or declaration, and any required translation of the international application or amendments under PCT Article 19 (35 U.S.C. 371(d)), and in determining whether patentees are entitled to a patent term adjustment pursuant to 35 U.S.C. 154(b)(1)(B) (37 CFR 1.702(b)). Therefore, it is important that the regulations provide for a date of commencement of the national stage as to the United States in advance of any statutory revision to 35 U.S.C. 371(b).

The Office will publish in the near future a notice proposing changes to the time period for claiming the benefit of a prior-filed application in an application filed under the PCT, and making other technical corrections to the rules of practice related to eighteen-month publication. The Office is also including the change to § 1.491 in this temporary rule in the notice of proposed rulemaking to be published in the near future. Comments on this change to § 1.491 may be submitted in response to that notice of proposed rulemaking, and the Office will take such comments into consideration before publishing a final rule resulting from the notice of proposed rulemaking.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.491: Section 1.491 is amended to define both commencement of the national stage and entry into the national stage. Because these two events (commencement of the national stage and entry into the national stage) may not take place at the same time, the Office is amending § 1.491 to clarify when each of these two events takes place. Section 1.491(a) specifically indicates that, subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a). Thus, § 1.491(a) merely incorporates the statutory language contained in 35 U.S.C. 371(b) (as amended by Pub. L. 99–616, section 7(b), 100 Stat. 3485, 3485 (1986)). Section 1.491(b) contains the provisions of former § 1.491, and provides that an international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

Classification

Administrative Procedure Act

This temporary rule simply amends § 1.491 to include the current provisions in 35 U.S.C. 371(b) that define when national stage commencement occurs in an application filed under the PCT. This amendment to § 1.491 does not change the current time limits for entering the national phase in the United States and does not alter any applicant's substantive rights. In addition, this amendment to § 1.491 is of an exigent nature because there is an impending change to 35 U.S.C. 371(b) that if enacted before the Office amends § 1.491 would result in a period of time during which the timing of national stage commencement in an application filed under the PCT would be undefined. Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A) (or any other law), and thirty-day advance publication is not required pursuant to 5 U.S.C. 553(d) (or any other law).

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), an initial regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. *See* 5 U.S.C. 603.

Executive Order 13132

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This temporary rule involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this temporary rule has been reviewed and previously approved by OMB under the control number 0651–0021. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this temporary rule do not affect the information collection requirements associated with the information collection under OMB control number 0651–0021.

The title, description and respondent description of the information collection is shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651–0021.

Title: Patent Cooperation Treaty.

Form Numbers: PCT/RO/101, ANNEX/134/144, PTO–1382, PCT/IPEA/401, PCT/IB/328.

Type of Review: Approved through December of 2003.

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.

Estimated Number of Respondents: 331,288.

Estimated Time Per Response: Between 15 minutes and 4 hours.

Estimated Total Annual Burden Hours: 401,083.

Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, D.C. 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.491 is revised to read as follows:

§ 1.491. National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

Dated: August 24, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–21879 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–7046–8]

Notice of Availability: Response Document Denying the Ethyl Corporation Petitions To Reconsider Three EPA Regulations: CAP 2000, Heavy Duty Gasoline, and OBD/IM

AGENCY: Environmental Protection Agency (EPA).

ACTION: Availability of EPA decision denying the Ethyl Corporation petitions to reconsider CAP 2000 regulation, heavy-duty gasoline regulation, and OBD/IM regulation.

SUMMARY: The Ethyl Corporation has submitted three petitions to the EPA Administrator to reconsider three separate Agency rulemakings. The first petition is regarding the compliance procedures for new motor vehicles known as "CAP 2000". 64 FR 23,906. The second petition pertains to emission standards and compliance procedures for new heavy-duty gasoline engines. 65 FR 59896. The third petition pertains to the use of on-board diagnostics for vehicle inspection and maintenance programs. 66 FR 18156.

The Petitioner's issues with the heavy-duty rule are identical to those of the CAP 2000 rule, and EPA agreed that its response would cover both regulations. Although the issue for the OBD/IM rule is different, EPA's response is included in accordance with a commitment to do so made in that rulemaking.

This Notice serves to announce the availability of EPA's decision to deny Ethyl's petition to reconsider all three petitions.

ADDRESSES: Copies of EPA's decision document are available from the EPA Air Docket under the following three Docket numbers: A–96–50 (CAP 2000), A–2000–16 (OBD/IM) and A–98–32 (Heavy-Duty Highway). The address for the EPA Air Docket is: U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. EPA's Air Docket makes materials related to the three regulations involved in the Ethyl Corporation petitions available for review at the above address (on the ground floor in Waterside Mall) from 8:00 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 260–7548 and by facsimile at (202) 260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2. You can also view or download a copy of the decision document via EPA's web site at the following address: *http://www.epa.gov/otaq/ld-hwy.htm#regs.*

FOR FURTHER INFORMATION CONTACT: Linda Hormes, Office of Mobile Sources, Vehicle Programs and Compliance Division, 2000 Traverwood, Ann Arbor, MI 48105. Phone: (734) 214–4502. Email: *lhormes@epa.gov.*

Dated: August 23, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–21932 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–00–7052]

RIN 2127–AI37

Anthropomorphic Test Devices; 12-Month-Old Child Dummy; Final Rule; Response to Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On March 31, 2000, NHTSA published a final rule adopting design and performance specifications for a new 12-month-old infant dummy. Four organizations filed petitions for reconsideration of this rule. In response to these petitions, this document makes several minor changes to the final rule, including: adding a channel frequency class specification if a rotary potentiometer is used for measuring head rotation; revising the impact probe specifications to include provisions for mounting suspension hardware if a cable system is used for impacts, adopt a lower minimum mass moment of inertia, and clarify the specification for free air resonant frequency; revising the material specifications in several drawings; and correcting several minor errors in these drawings, and in the Procedures for Assembly, Disassembly and Inspection (PADI) Document. This document also denies a request to add a provision for post-test calibration of the dummy.

DATES: The amendments made in this final rule are effective October 29, 2001. If you wish to submit a petition for reconsideration for this rule, your petition must be received by October 15, 2001.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Rm. 5220, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. The drawings and PADI will be available in the NHTSA Docket.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues, Stan Backaitis, Office of Crashworthiness Standards at 202–366–4912. For legal issues, Dion Casey, Office of the Chief Counsel, at 202–366–2992. Both can be reached by mail at the National Highway Traffic Safety

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Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2000, NHTSA published a final rule adopting design and performance specifications for a new 12-month-old infant dummy. (65 FR 17180). The specifications were added to 49 CFR part 572 as Subpart R.

The 12-month-old dummy was developed as a child restraint/air bag interaction dummy (hereinafter referred to as the CRABI 12-month dummy). It is needed to evaluate the effects of air bag deployment on children who are in rear-facing child restraints installed in the front passenger seat of vehicles. It also will provide useful information in a variety of crash environments to evaluate child safety.

Adopting the dummy is a step toward using it in the tests the agency conducts to determine compliance with NHTSA safety standards. The use of the CRABI 12-month dummy in NHTSA compliance tests is being addressed in separate rulemaking proceedings.

The CRABI 12-month dummy's specifications adopted in the final rule consist of a drawing package that shows the component parts, the subassemblies, and the assembly of the complete dummy. They also specify materials and material treatment processes for all the dummy's component parts, and specify the dummy's instrumentation and instrument installation methods. In addition, the specifications contain a manual specifying disassembly, inspection, and assembly procedures, and a dummy drawings list. These drawings and specifications ensure that the dummies will vary little from each other in their construction and are capable of consistent and repeatable responses in the impact environment.

The final rule also established impact performance criteria for the CRABI 12-month dummy. These criteria address head, neck, and thorax impact responses. The criteria serve as calibration checks and further assure the kinematic uniformity of the dummy and the absence of structural damage and functional deficiency from previous use.

Petitions

The agency received petitions for reconsideration of the final rule from Toyota Motor Corporation; the Alliance of Automobile Manufacturers (whose members are BMW Group, DaimlerChrysler, Fiat, Ford Motor Company, General Motors, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, Volkswagen, and Volvo); First Technology Safety Systems (FTSS—a manufacturer of crash test dummies); and Robert A. Denton, Inc. (a manufacturer of load cells used in crash test dummies).

Toyota and the Alliance requested that a post-test calibration of the dummy be included in the performance specifications. A post-test calibration is an assessment of whether the dummy conforms to NHTSA specifications after it has been used in a crash test. Toyota and the Alliance asserted that a post-test calibration is necessary to provide an objective check of the validity of the test dummy data acquired during the test, particularly if the crash test results in an apparent non-compliance. Toyota and the Alliance argued that without a post-test calibration, "neither a vehicle manufacturer nor a NHTSA test contractor can determine whether an apparent vehicle non-compliance is due to a test dummy anomaly during a test."

The remainder of the issues raised in the petitions are relatively minor. All of the issues are addressed in the Discussion and Analysis section below.

Discussion and Analysis

1. Post-Test Calibration

Toyota and the Alliance previously raised the issue of post-test calibration of dummies in their comments on NHTSA proposals to establish Hybrid III dummies for fifth percentile females (H–III5F), six-year-old children (H–III6C), and three-year-old children (H–III3C). Historically, NHTSA has required that the structural properties of a dummy satisfy the specifications set out in the applicable regulation in every respect both before and after its use in any test in a Federal motor vehicle safety standard. However, in the Notice of Proposed Rulemaking (NPRM) for the H–III5F dummy, the agency rejected a post-test dummy calibration provision for the following reasons:

> NHTSA is concerned that the post-test calibration requirement could handicap and delay its ability to resolve a potential vehicle or motor vehicle equipment test failure solely because the post-test dummy might have experienced a component failure and might no longer conform to all of the specifications. On several occasions during the past few years, a dummy has been damaged during a compliance test such that it could not satisfy all of the post-test calibration requirements. Yet the damage to the dummy did not affect its ability to accurately measure the performance requirements of the standard. The agency is also concerned that the interaction between the vehicle or equipment and the dummy could be directly responsible for the dummy's inability to meet calibration requirements. In such an instance, the failure of the test dummy should not preclude the agency from seeking compliance action. Thus, NHTSA has tentatively concluded that removal of the post-calibration requirement would be in the public interest, since it would permit the agency to proceed with a compliance investigation in those cases where the test data indicate that the dummy measurements were not markedly affected by the dummy damage or that some aspect of vehicle or equipment design was responsible for the dummy failure.
>
> (63 FR 46981, 46983, September 3, 1998).

The agency believes this reasoning remains valid. Further, in their comments on this rulemaking, the Alliance and Toyota have not produced any new information that would support the reversal of the decision not to include a post-test calibration provision. Thus, the agency is denying this part of the Alliance and Toyota petitions.

2. Instrumentation; Filter Classes; Neck Flexion/Extension Test Instrumentation

In the Part 572 language describing the CRABI 12-month dummy, NHTSA did not specify use of mechanical test fixtures, including potentiometers, to measure head rotation in the specified head-neck tests. The agency believes there are several methods of measuring this, and there is no reason why a specific method should limit the user's choice. The Alliance and FTSS recommended that the agency revise section 572.155(i)(2) to specify a channel class to provide guidance for those instances in which a rotary potentiometer is used to measure the amount of head rotation: (iv) Rotation potentiometer—Class 60.

In its petitions concerning the H–III5F and H–III6C final rules, the Alliance noted that industry users appear to have reached a consensus that the Society of Automotive Engineers (SAE) recommended practice J211 Channel Frequency Class (CFC) 60 specification is appropriate if a potentiometer is used to measure head rotation. In addition, the NHTSA Vehicle Research and Test Center (VRTC) used the CFC 60 to filter head rotation data measured by rotary potentiometers to establish the certification requirements for the dummies. VRTC review of raw data showed absence of high frequency signals which would obviate the need for a specification greater than CFC 60.

Consequently, the agency has no objections to specifying Channel Frequency Class 60 for this application if a rotary potentiometer is used for measuring head rotation. The agency is revising § 572.155(i)(2) to add the following: (iv) Rotary potentiometer response (if used)—CFC 60.

3. Impact Pendulum Characteristics

3.1 Probe Specification

The test probe specification in § 572.155(a) reads:

> The test probe for thoracic impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 622 kg-cm² (0.55 lbs-in-sec²) in yaw and pitch about the CG [center of gravity]. Up to ⅓ of the weight of the suspension cables and their attachments to the impact probe may be included in the calculation of mass, but such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 12.7 mm (0.5 in) thick, and have a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of 12.7 ± 0.25 mm (0.5 in ± 0.01 in). The probe's end opposite to the impact face must have provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe shall have a free air resonant frequency of not less than 1000 Hz.

The Alliance asserted that the provisions for concentricity and symmetry about the longitudinal axis are unrealistic since the pendulum is often fitted with velocity vanes or other hardware, causing asymmetry. As a result, the Alliance recommended revision of the probe specification to read, "The primary test probe, less any additional hardware, for [body region] impacts shall be of rigid metallic construction."

FTSS argued that the test probe specification is vague and overly restrictive. FTSS claimed that the test probe can be adequately specified by (1) the geometry of the contact area with the dummy, (2) the probe's mass, (3) the location of the center of gravity, and (4) the mass moment of inertia (MMI). FTSS also said that the addition of velocity vanes, cable attachment points, or other hardware will result in asymmetry and cause the center of gravity (CG) to be slightly offset from the geometrical center of the probe. FTSS concluded the maximum offset will not exceed 3.5 mm.

Accordingly, FTSS recommended that the first sentence of the test probe specification be replaced with: "The test probe should be of rigid metallic construction with the geometrical and inertial properties specified below. The probe center of gravity shall lie within 3.5 mm of the longitudinal axis passing through the center of the impacting face." FTSS also recommended that the sentence beginning "No concentric portions of the impact probe * * *" should be deleted.

NHTSA agrees with the Alliance that the test probe specification should include provisions for mounting suspension hardware if a cable system is used for impacts. However, the agency does not agree with FTSS that the possible CG offset from the longitudinal axis is either needed or should be specified. NHTSA believes the specifications in the final rule for MMI in pitch and yaw provide sufficient controls to assure stable kinematics during the probe's free flight and impact with the dummy.

Accordingly, the agency is revising § 572.155(a) and § 572.154(c) as specified in section 3.4 below.

3.2 Thoracic Impactor—Mass Moment of Inertia

Section 572.155(a) specifies that the thoracic impactor shall have "a minimum mass moment of inertia [MMI]of 622 kg-cm² (0.55 lbs-in-sec²) in yaw and pitch about the CG."

The Alliance stated that the MMI values for thorax impact probes used at a number of test laboratories fall below the minimum final rule requirement of 622 kg-cm². The Alliance claimed that its member companies have used different impactors with MMIs ranging from 164 to 1160 kg-cm² (measured) and 58.85 to 1017 kg-cm² (calculated). The Alliance also quoted NHTSA from the final rule establishing the Hybrid III fifth percentile female (H–III5F) dummy: "* * * the agency believes that, for the sake of consistency and simplicity, it would be best if all impact probes for dummy testing were of cylindrical design * * *" (65 FR 10965, March 1, 2000). According to the Alliance, this ideal cylindrical probe produces a MMI of 58.85 kg-cm², far below the minimum MMI specified in the final rule. The Alliance recommended that if this cylindrical probe represents the ideal impactor to NHTSA, and the agency insists on retaining the MMI specification, the agency should use the 58.85 kg-cm² value as the minimum MMI.

FTSS stated that in setting the minimum MMI, "it appears that NHTSA has used the measured values of the physical probes at it's [sic] own test laboratories without a tolerance and without an analysis of a minimum MMI that will ensure satisfactory performance." FTSS stated that "these numbers are arbitrary and have not been justified." The FTSS thorax probe has a yaw MMI of 199 kg-cm² and a pitch MMI of 201 kg-cm², both of which fall well below the minimum MMI specified in the final rule. FTSS stated that NHTSA has not presented any data to suggest that these probes do not provide satisfactory performance. FTSS claimed that the minimum MMI specification, as currently written, will force a re-design of the probe and obsolescence of existing probes without evidence that the design is inadequate. FTSS recommended that the MMI specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

NHTSA specified the impactor in generic terms in response to industry comments on the NPRMs for both the H–III6C and H–III5F dummies stating that the impactor needs to be generic in specification and that the users desire to make them from building blocks, essentially, an assembly of multiple pieces. The commentors also requested that NHTSA not specify the impactor by design. Any impactor that cannot be specified by design must be specified by engineering parameters, which are mass, stiffness, CG location, and MMI. As a result, the agency accepted the commentors' desire for a generic impactor and specified the impactor in engineering terms.

However, assembling impactors from multiple pieces may result in compositions with many forms and wide variations in the location of the CG, and the yaw and pitch MMI. These wide variations are evident in the Alliance's petition, in which it noted that its member companies have used different impactors with MMIs ranging from 164 to 1160 kg-cm² (measured) and 58.85 to 1017 kg-cm² (calculated).

To determine the effects on kinematics of low and high inertia impactors, the agency studied the kinematics of the impactor cited by the Alliance as having the lowest MMI and compared that with the kinematics of the NHTSA impactor having a much higher MMI. The evaluation revealed that the low inertia impactor experienced considerable motion instability. In contrast, the agency impactor with the MMI specified in the final rule exhibited very stable free flight kinematics. This experiment shows that the use of impactors with low MMIs could lead to unstable kinematics. Inasmuch as the response of the dummy in calibration tests is used as a measure of the dummy's repeatability and objectivity, it is important that the impact probe kinematics at and during the impact with the dummy not be a source of variability.

The Alliance petition contains a table with measured and calculated MMI

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values of impactors used by Alliance members. As noted above, the measured values range from 164 to 1160 kg-cm² while calculated values range from 58.85 to 1017 kg-cm². The agency believes that the measured MMI values reflect current industry practice, and, therefore, these are reasonably good grounds for their acceptance, particularly since the provisions in § 572.154(c) (5) and (6) deal with alignment and stability of the probe at the time of impact. In contrast, the agency believes that the calculated MMI values, which are considerably below the values currently used by the industry, have never been evaluated for stability.

Accordingly, the agency is accepting as the minimum MMI the low measured MMI of 164 kg-cm² cited by the Alliance, but not the low calculated MMI of 58.85 kg-cm². The agency is revising the MMI specification in § 572.155(a) to 164 kg-cm² (0.145 lb-in-sec²) in yaw and pitch about the CG of the probe. Since the FTSS thorax probe, with a yaw MMI value of 199 kg-cm² and a pitch MMI value of 201 kg-cm², would meet this specification, the agency is denying its request to hold the minimum MMI specification in abeyance for six months.

3.3 Free Air Resonant Frequency

Section 572.155(a) specifies that the thorax impact probe have a free air resonant frequency of not less than 1000 Hz.

The Alliance said that there are insufficient data to support the need for such a specification. Thus, the Alliance recommended that this specification be deleted until substantial data is available to justify the need for it.

FTSS disagreed with the free air resonant frequency specification. FTSS claimed that NHTSA established it without specifying the methods to measure the frequency or providing a rationale for the need of it. FTSS stated that it has analyzed the probe used in its calibration laboratories, and the results showed the first resonant modes of the probe are bending modes, which causes a lateral translation at the accelerometer location. FTSS noted that typical accelerometers have less than three percent cross-axis sensitivity, so if the probe's natural resonance were excited during a dummy test, the effect on the acceleration signal would be minimal. FTSS asserted that it may be more appropriate to specify a 1000 Hz resonant frequency limit in the sensitive axis of the accelerometer. FTSS recommended that the free air resonant frequency specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

Commentors on the H–III6C and H–III5F dummies expressed a desire for generic impactor specifications to allow users the freedom to design impactors in a variety of ways, including constructing them from building blocks. As a result, the agency developed a generic engineering specification and inserted it in the final rules for the H–III6C, H–III5F, and H–III3C dummies. The agency carried over this specification into the final rule for the CRABI 12-month dummy.

The resonant frequency specification is necessary for three reasons: (1) Because the intent of users is to build a non-defined shape and multiple piece impactor of unknown material, the natural resonance of the impactor is the only reliable indicator to assure that the impactor will be of sufficient structural rigidity and capable of repeatable response; (2) the specification will assure that a multiple piece impactor will not produce separate interactions between its constituent parts; and (3) the specification will assure that the mounting structure for the accelerometer is sufficiently rigid and will not affect the accelerometer readings.

Nevertheless, NHTSA agrees with the FTSS comment in principle that it would be more appropriate to clarify the current specification by adding a note indicating that the 1000 Hz minimum resonant frequency is limited to the direction of the sensitive axis of the accelerometer, rather than in any direction. The agency also agrees that the first mode of resonance is the bending mode of the probe about its longitudinal axis, and, therefore, the signal of an accelerometer with a low cross-axis sensitivity that is oriented in the longitudinal axis will be minimally affected.

NHTSA does not agree with the Alliance comment that the resonance specification is unnecessary. A multiple piece impact probe, if improperly constructed, may contain a series of resonances along its longitudinal axis. The 1000 Hz minimum specification would preclude a user from using such a probe.

Accordingly, the agency is denying the Alliance request to delete the free air resonant frequency specification, but is revising the last sentence in § 572.155(a) to read: "The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151." The agency is also adding to the Appendix of the PADI document a new section E that provides details on the procedure the agency uses for determining the free air resonant frequency of impact probes used for dummy calibration tests.

3.4 Conclusion

In view of the discussion above, the agency is revising § 572.155(a) to read as follows:

> The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.154(c)(7). The impactor shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 164 kg-cm² (0.145 lb-in-sec²) in yaw and pitch about the CG of the probe. One-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ±0.01 in) diameter face with an edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 101–103 mm (4–4.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.

The agency also is adding a paragraph (7) to § 572.154(c), to read as follows:

> No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. Load Cells—Materials

Load cell drawings SA572-S23, SA572-S24, and SA572-S25 specify that the load cells be made of "STEEL OR SIMILAR MATERIAL." Denton, seconded by the Alliance, noted that most of the existing load cells used for CRABI 12-month dummy applications are made primarily from aluminum. Denton recommended that this specification be removed from all load cell drawings.

FTSS stated that load cells are predominantly made of an aluminum alloy, and recommended that the material specification be changed to "ALUMINUM OR SIMILAR."

NHTSA does not agree with Denton's recommendation to remove the material specifications. The agency believes that it is necessary to consider and address the structural functions that the load cell must be capable of performing, such as sound interconnection between major body elements. Thus, the agency is denying Denton's request to remove the material specifications from the load cell drawings.

However, NHTSA does believe that specifying a particular load cell material may be too restrictive. The agency is aware that existing load cell constructions are based on metals with a high modulus of elasticity, such as aluminum and steel. As a result, instead of specifying one type of metal for a load cell, we are revising the load cell drawings to specify that the body of the load cell structure and provisions for its mounting, except for wires and their attachments, be made of metal or metal alloys. A general specification of "METAL CONSTRUCTION" will allow users to continue using existing load cells and permit load cell manufacturers to continue building load cells for the CRABI 12-month and other dummies. The agency believes that this general specification will provide for maximum latitude in load cell manufacturing.

Accordingly, the agency is revising the material specifications in load cell drawings SA572–S23, SA572–S24, and SA572–S25 to read:

> The load bearing structure of the load cell, including provisions for the load cell mounting, are of metal or metal alloys. Non-load bearing parts of the load cell, internally and/or externally, including wires and their attachments, may be made of any material providing they do not interfere with the performance of the load cell or the transmission of the load cell signals.

5. Drawings

Denton found several errors in load cell drawings SA572–S23, SA572–S24, and SA572–S25. FTSS found an additional error in load cell drawing SA572–S25.

5.1 Drawing SA572–S23

This drawing specifies 0.34 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be lowered to 0.34 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its NPRM comments that two notes were needed, one reading "weight includes portion of cable exiting load cell which is covered with shrink wrap," and another reading "specified weight does not include any cable or mounting hardware, except as noted." NHTSA did not include such notes in the drawing. Denton asserted that the additional eight inches of cable specified in the final rule weigh approximately 0.04 lb. Thus, Denton recommended that NHTSA either: (1) Change the drawing notes to indicate that cable is not included in the weight, or (2) change the weight specification to a maximum of 0.38 lb to account for the weight of the cable.

Denton also noted that the drawing has a dimension of 2.500/63.5 DIA for the main body of the load cell, and that this three decimal place dimension has a standard tolerance of ±0.005 inch. Denton claimed that existing load cells have not been made to comply with such a tight tolerance. Denton uses a two decimal place dimension with a standard tolerance of ±0.01 inch. Denton asserted that there are no clearance issues that require such a tight tolerance and requested that this dimension be changed to 2.50 with a standard tolerance of ± 0.01 inch so that existing load cells are not rendered obsolete.

Finally, Denton stated that the dimension from the center of the body of the load cell to the front of the flange is listed as 1.625/41.148 R. Denton noted that the 41.148 figure is incorrect because the metric equivalent of 1.625 inches is 41.275 millimeters.

NHTSA agrees with all three of Denton's recommendations. Accordingly, the agency is revising Drawing SA572–S23 to: (1) Change the weight specification from a maximum of 0.34 lb to 0.38 lb; (2) change the dimension for the main body of the load cell from 2.500 ± 0.005 inches to 2.50 ± 0.01 inches; and (3) correct the metric equivalent for 1.63 inches to 41.40 millimeters.[1]

5.2 Drawing SA572–S24

This drawing specifies 0.58 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. As with Drawing SA572–S23, NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be raised to a maximum of 0.58 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its comments on the NPRM that a note was needed stating "specified weight does not include any cable or mounting hardware, except as noted." NHTSA did not include such a note in the drawing. Denton asserted that the additional eight inches of cable specified by the drawing weigh approximately 0.02 lb. Thus, Denton recommended that NHTSA either: (1) Include a note with the drawing indicating that the cable is not included in the weight specification, or (2) change the weight specification to a maximum of 0.60 lb to account for the weight of the cable.

Denton also stated that the Fx capacity is listed as 1000 lbs/448 N. Denton noted that the 448 N figure is incorrect because 1000 lbs converts to 4448 N.

NHTSA agrees with both of Denton's recommendations. Accordingly, the agency is revising Drawing SA572–S24 to: (1) change the weight specification from a maximum of 0.58 lb to 0.60 lb, and (2) correct the conversion of 1000 lbs from 448 N to 4448 N.

5.3 Drawing SA572–S25

This drawing specifies 0.14 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. As with Drawings SA572–S23 and SA572–S24, NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be lowered to a maximum of 0.14 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its comments that a note was needed stating "specified weight does not include any cable or mounting hardware, except as noted." NHTSA did not include such a note in the drawing. Denton asserted that the additional eight inches of cable required by the drawing weigh approximately 0.02 lb. Thus, Denton recommended that NHTSA either: (1) include a note with the drawing indicating that the cable is not included in the weight specification, or (2) change the weight specification to a maximum of 0.16 lb to account for the weight of the cable.

Denton and FTSS also stated that the top dimension of the load cell is listed as D0.90/45.72. The commentors note that this is an error: the dimension

[1] Since the agency is changing the dimensions to two decimal places instead of three, the dimension from the center of the body of the load cell to the front of the flange is changing from 1.625 inches to 1.63 inches. The metric equivalent for 1.63 inches is 41.40 millimeters.

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should be listed as either R0.90/22.86 or D1.80/45.72.

Finally, FTSS noted that the drawing has an incorrect drawing number. It is listed as Drawing S572–S25. It should be Drawing SA572–S25.

NHTSA agrees with all of these recommendations. Accordingly, the agency is revising Drawing SA572–S25 to: (1) Change the weight specification from a maximum of 0.14 lb to 0.16 lb, (2) change the top dimension of the load cell from D0.90/45.72 to R0.90/22.86, and (3) correct the drawing number to SA572–S25.

6. Procedures for Assembly, Disassembly, and Inspection (PADI) Document

FTSS found several minor errors in the PADI document related to external dimensions and flesh repair procedures on Page 53, Table 4, External Dimensions: (1) the Dimension A Metric Specification should read 463.6 millimeters; (2) the Dimension S English Tolerance should read 0.20 inches; and (3) the Dimension S Metric Tolerance should read 5.1 millimeters.

FTSS also noted that the instructions in Appendix A, Flesh Repair, reference repair for vinyl materials. FTSS asserted that since the CRABI 12-month dummy is made primarily of urethane, the agency should insert the following paragraph after Paragraph 1:

> This dummy is made from urethane which is not easily repairable. Small cuts may be glued with contact cement and covered by smoothing with a soldering iron. Major cuts will require replacement or remolding.

NHTSA agrees with all of the FTSS recommendations. Accordingly, the agency is revising the text on Page 53, Table 4, External Dimensions, as follows: (1) Change the metric specification in Dimension A to read 463.6 millimeters; (2) change the English tolerance in Dimension S to read 0.20 inches; and (3) change the metric tolerance in Dimension S to read 5.1 millimeters. The agency also is inserting the following paragraph to Appendix A, Flesh Repair, after Paragraph 1:

> This dummy's urethane skin is not easily repairable. Small, superficial cuts may be glued with contact cement and covered by smoothing with a soldering iron. Major cuts require replacement of the part.

7. Drawing 921022–008, Head Accelerometer Mount

The agency is revising Drawing 921022–008 to specify the need for a notch 0.25 inches (6.35 mm) wide by 0.50 inches (12.7 mm) long at the rear of the accelerometer mount. No petitioners requested that NHTSA make this change. However, the agency discovered the need for a notch in the rear of the accelerometer mount during testing at the Vehicle Research and Test Center (VRTC). The notch is needed to provide clearance for the accelerometer leads coming out of the dummy's head. Without a notch, it is easy to cut the wires from the accelerometers when assembling the head. Several wires were damaged during testing at the VRTC, even with careful placement and knowledge that such damage can take place. The agency has discussed this change with the dummy manufacturers. They did not object to it.

Accordingly, the agency is revising Drawing 921022–008, Head Accelerometer Mount, to provide for a clearance notch 0.50 × 0.250 inch at the left rear corner of the base of the mount.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. This rule also is not considered to be significant under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

This document amends 49 CFR Part 572 by adding design and performance specifications for a new 12-month-old child dummy that the agency may later incorporate into Federal motor vehicle safety standards. This rule does not impose requirements on anyone. It simply establishes criteria for the 12-month-old CRABI dummy. The agency will use for compliance testing only those dummies that meet all of the criteria specified in this final rule. Vehicle and air bag manufacturers may be affected if the dummy is incorporated by reference into the advanced air bag rulemaking. Similarly, child restraint manufacturers may be affected if the dummy is incorporated into the child restraint system standard.

The cost of an uninstrumented 12-month-old dummy is approximately $19,000. Instrumentation would add from $15,000 to $43,000 to the cost, depending on the amount of instrumentation the user chooses to employ. Because the economic impacts of this rule are minimal, no further regulatory evaluation is necessary.

NHTSA also has determined that this rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. This rule has no such effects. In addition, the agency has concluded that this rule will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rule under the Regulatory Flexibility Act and certify that this rule will not have a significant economic impact on a substantial number of small entities. The rule does not impose or rescind any requirements. Further, its cost impacts on test devices (i.e., dummies) is minimal. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

C. National Environmental Policy Act

We have analyzed this rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

We have analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have determined that this rule does not have sufficient federalism implications to warrant consultation and the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid control number from the Office of Management and Budget (OMB). This rule does not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR part 1320.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The CRABI 12-month test dummy that is the subject of this document was developed under the auspices of the SAE. All relevant SAE standards were reviewed as part of the development process. The following voluntary consensus standards have been used in developing the dummy: SAE Recommended Practice J211, Rev. Mar 95 "Instrumentation for Impact Tests'; and SAE J1733 of 1994–12 "Sign Convention for Vehicle Crash Testing."

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, Federal requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule does not impose any unfunded mandates under the UMRA. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. Further, it will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Children

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined by E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental, health, or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to E.O. 13045 because it is not economically significant as defined by E.O. 12866.

J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings,

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paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this final rule.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, 49 CFR Part 572 is amended as follows:

PART 572—ANTHROPOMORPHIC TEST DUMMIES

1. The authority citation for part 572 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. In § 572.150, paragraphs (a)(1) introductory text and (a)(2) are revised to read as follows:

§ 572.150 Incorporation by reference.

(a) * * *

(1) A drawings and specifications package entitled "Parts List and Drawings, Subpart R, CRABI 12-Month-Old Infant Crash Test Dummy (CRABI–12, Alpha version) August 2001" and consisting of:

* * * * *

(2) A procedures manual entitled "Procedures for Assembly, Disassembly and Inspection (PADI) Subpart R, CRABI 12-Month-Old Infant Crash Test Dummy (CRABI–12, Alpha version) August 2001" incorporated by reference in § 572.155;

* * * * *

3. In § 572.154, paragraph (c)(7) is added to read as follows:

§ 572.154 Thorax assembly and test procedure.

* * * * *

(c) * * *

(7) No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. In § 572.155, paragraph (a) is revised and paragraph (i)(2)(iv) is added to read as follows:

§ 572.155 Test conditions and instrumentation.

(a) The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.154(c)(7). The impactor shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 164 kg-cm² (0.145 lb-in-sec²) in yaw and pitch about the CG of the probe. One-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 101–103 mm (4–4.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.

* * * * *

(i) * * *

(2) * * *

(iv) Rotation potentiometer response (if used)—CFC 60.

* * * * *

Issued: August 7, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01–21545 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010410087–1087–01; I.D. 031401B]

RIN 0648–AO07

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 14; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: On May 11, 2001, NMFS published final regulations implementing Framework 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP). One of the measures implemented in the final rule was the continuation of the Hudson Canyon South and Virginia Beach Area closures originally implemented in 1998 and extended through August 8, 2001, through an interim final rule published on February 9, 2001. In the final rule implementing Framework 14, NMFS intended to extend the Mid-Atlantic closures through February 28, 2003, to scallop fishing with the exception of those vessels participating in the Sea Scallop Area Access Program. However, NMFS inadvertently only amended the regulatory text, which then expired on August 8, 2001. This document corrects those errors.

DATES: Effective May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, 978–281–9280; fax 978–281–9135; e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1998, NMFS published an interim final rule (63 FR 15324) closing two Mid-Atlantic areas, the Hudson Canyon South and Virginia Beach Sea Scallop Closed Area, to scallop fishing to protect concentrations of juvenile scallops, to reduce fishing mortality, and to increase yield per recruit. The interim rule became effective from April 3, 1998, and was extended through March 26, 1999 (63 FR 51862, September 29, 1998). On March 29, 1999, NMFS published a final rule implementing Amendment 7 to the Atlantic Sea Scallop FMP. Under Amendment 7 and its implementing regulations, the two Mid-Atlantic area closures were extended through March 1, 2001. On February 9, 2001, NMFS issued an interim final rule extending the closures of the Mid-Atlantic closed areas on an interim basis for 180 days (i.e., August 8, 2001) or until such time that a controlled area access program for these two areas could be implemented through Framework 14 to the Atlantic Sea Scallop FMP, whichever came sooner. On May 1, 2001, NMFS published a final rule (66 FR 21639) implementing Framework 14. However, because this rule contained numerous errors, the document was reprinted in its entirety on May 11, 2001 (66 FR 24052). The final rule implementing Framework 14 became effective on May 1, 2001. That final rule amended portions of § 648.57, Closed and regulated areas. However, § 648.57 was scheduled to expire on August 8, 2001, and, therefore, the "amendments" to § 648.57 implemented under Framework 14 also inadvertently expired on August 8, 2001. NMFS is correcting amendatory instruction 6 of the final rule implementing Framework 14 by "adding" § 648.57 to 50 CFR part 648 and is publishing the regulatory text for this section in its entirety.

Need for Correction

As published, the final regulations published on May 11, 2001 (66 FR 24052) contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 23, 2001.

John Oliver

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is corrected as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 648.57 is added to read as follows:

§ 648.57 Closed and regulated areas.

(a) *Hudson Canyon Sea Scallop Access Area.* Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Hudson Canyon Sea Scallop Access Area, and no vessel may possess scallops in the Hudson Canyon Sea Scallop Access Area, unless such vessel is only transiting the area with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Hudson Canyon Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
H1	39 30′ N.	73 10′ W.
H2	39 30′ N.	72 30′ W.
H3	38 30′ N.	73 30′ W.
H4	38 40′ N.	73 50′ W.

(b) *Virginia Beach Sea Scallop Access Area.* Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Virginia Beach Sea Scallop Access Area, and no vessel may possess scallops in the Virginia Beach Sea Scallop Access Area, unless such vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Virginia Beach Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
V1	37 00′ N.	74 55′ W.
V2	37 00′ N.	74 35′ W.
V3	36 25′ N.	74 45′ W.
V4	36 25′ N.	74 55′ W.

[FR Doc. 01–21952 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1066–03; I.D. 082401D]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Massachusetts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure; commercial quota harvested for Massachusetts.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the Commonwealth of Massachusetts has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Massachusetts for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the Commonwealth of Massachusetts that the quota has been harvested, and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Massachusetts.

DATES: Effective 0001 hours, August 31, 2001, through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2001 calendar year was set equal to 10,747,535 lb (4,875,000 kg) (66 FR 16151, March 23, 2001). The percent allocated to vessels landing summer flounder in Massachusetts is 6.82046 percent, or 733,031 lb (332,497 kg). This allocation was adjusted due to an overage in 2000, as provided in § 648.100(e)(4), for a final allocation of 645,663 lb (292,868 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS then publishes notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional

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Administrator has determined, based upon dealer reports and other available information, that the Commonwealth of Massachusetts has attained its quota for 2001.

The regulations at § 648.4 (b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, August 31, 2001, further landings of summer flounder in Massachusetts by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, August 31, 2001, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in Massachusetts for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2001.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21951 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010108006–1198–03; I.D. 050101D]

RIN 0648–A097

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 14; Corrections

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Corrections to final rule for Amendment 14.

SUMMARY: This document corrects a section heading and a phrase in amendatory instruction 6 to the Amendment 14 final rule which was published on August 7, 2001. Amendment 14 creates a permit stacking program for limited entry permits with sablefish endorsements. This permit stacking program will lengthen the duration of the limited entry, fixed gear primary sablefish fishery. It is intended to increase safety in that fishery, to provide flexibility to participants, and to reduce capacity in the limited entry fixed gear fleet.

DATES: Effective August 2, 2001.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, NMFS,(206) 526–6140.

SUPPLEMENTARY INFORMATION:

Background

The final rule implementing Amendment 14 was published in the **Federal Register** on August 7, 2001, contained an incorrect heading for § 660.333 and an incorrect amendatory instruction section to § 660.334(d)(1). Paragraph (d)(1) was revised instead of (d)(1)introductory text. As a result of this action, the subordinate paragraphs were removed. This document corrects the instruction, and the subordinate paragraphs to § 660.334(d)(1) will be restored to the CFR.

Corrections

As published, the final rule FR Doc. 01–19769, August 7, 2001, (66 FR 41152), contains errors and needs to be corrected.

§ 660.333 Limited entry fishery—eligibility and registration.

1. On page 41158, in the first column, under § 660.333, the section heading is corrected to read as set forth above.

§ 660.334 [Corrected]

2. On page 41158, in the first column, in amendatory instruction 6, in the second line, the phrase "(d)(1)" is corrected to read "(d)(1) introductory text."

All other information previously published remains the same.

Dated: August 23, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21859 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–06; I.D. 082301C]

Fisheries of the Exclusive Economic Zone Off Alaska; Chiniak Gully Research Area for Vessels Using Trawl Gear

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is rescinding the trawl closure in the Chiniak Gully Research Area. This action is necessary to allow vessels using trawl gear to participate in directed fishing for groundfish in the Chiniak Gully Research Area after the completion of NMFS research on August 31, 2001.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2001 through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 679.

The Chiniak Gully Research Area was closed to vessels using trawl gear from August 1 to a date no later than September 20, 2001, under the Steller Sea Lion Protection Measures and 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 37167, July 17, 2001).

This closure was in support of a research project to evaluate the effect of commercial fishing activity on the prey availability of pollock to Steller sea lions.

NMFS has determined that as of August 31, 2001, the pollock research will be completed in the Chiniak Gully Research Area. Therefore, NMFS is rescinding the previous closure and is opening directed fishing for groundfish by vessels using trawl gear in the Chiniak Gully Research Area pursuant to 50 CFR 679.22(b)(6)(ii)(B).

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action in order to allow the participation of vessels using trawl gear in the Chiniak Gully Research Area constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion in order to allow the participation of vessels using trawl gear in the Chiniak Gully Research Area constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2001.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National marine Fisheries Service.

[FR Doc. 01–21949 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

VOL 66 ISS 169 AG 30 2001 UMI

Proposed Rules

Federal Register
Vol. 66, No. 169
Thursday, August 30, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG83

List of Approved Spent Fuel Storage Casks: NAC-MPC Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the NAC International, Inc., NAC-MPC cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 1 to the Certificate of Compliance. Amendment No. 1 would modify the present cask system design to permit a licensee to use an alternate fuel basket design with enlarged fuel tubes in corner locations; increase the operational time limits provided in the Technical Specifications (TS) for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; revise the canister surface contamination limits in TS to maintain worker dose as low as is reasonably achievable (ALARA); and revise some drawings to reflect changes identified during cask and component fabrication under a general license.

DATES: Comments on the proposed rule must be received on or before October 1, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov*. You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML 011380038. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, e-mail, jmm2@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment 1 to Certificate of Compliance Number (CoC No.) 1025 and does not include other aspects of the NAC-MPC cask system design. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Because NRC considers this action noncontroversial and routine, the proposed rule is being published concurrently with a direct final rule. The direct final rule will become effective on November 15, 2001. However, if the NRC receives significant adverse comments on the direct final rule by October 1, 2001, then the NRC will publish a document to withdraw the direct final rule. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change to the CoC or TS.

If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1025 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1025

Initial Certificate Effective Date: April 10, 2000

Amendment Number 1 Effective Date: November 13, 2001.

SAR Submitted by: NAC International

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC-MPC System)

Docket Number: 72–1025

Certificate Expiration Date: April 10, 2020

Model Number: NAC-MPC

* * * * *

Dated at Rockville, Maryland, this 20th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–21935 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. This proposal would require a one-time inspection of low pressure turbine (LPT) 5th stage disks for evidence of blend repairs and mechanical damage, and replacement based on the extent of those repairs and damage. This proposal is prompted by a report of a PW JT9D–7R4G2 turbofan engine that experienced an uncontained failure of the LPT 5th stage disk. The actions specified by the proposed AD are intended to prevent uncontained failure of the LPT 5th stage disk, due to incomplete blend repairs, resulting in in-flight shutdown and damage to the airplane.

DATES: Comments must be received by October 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No.2001–NE–16–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Office Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–16–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–16–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The FAA has received a report of an uncontained LPT 5th stage disk failure on a PW JT9D–7R4G2 turbofan engine that resulted in damage to the airplane and in-flight shutdown. The

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investigation into the cause of that failure revealed that the disk failure resulted from an incomplete blending of damage, previously caused by an LPT stage 4–5 tiebolt fracture. High-energy damage to the disk caused by a tiebolt fracture, if not completely removed by blending, may lead to disk cracking and fracture. Also, a review of the Engine Manual and the Standard Practices Operating Procedures for blending repairs indicates that these blending procedures may not ensure complete removal of all damaged material from the disks. This condition, if not corrected, could result in uncontained failure of the LPT 5th stage disk, due to incomplete blend repairs, resulting in in-flight shutdown and damage to the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of PW service bulletin (SB) JT9D–7R4–72–574, Revision 1, dated June 26, 2001. That SB describes procedures for a one-time visual inspection of all PW JT9D–7R4 series LPT 5th stage disks for evidence of blend repairs and damage from fractured tiebolts in the forward and aft web and bore area, and disk removal from service based on the extent of damage.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Pratt & Whitney JT9D–7R4 series turbofan engines of the same type design, the proposed AD would require a one-time visual inspection of PW JT9D–7R4 series LPT 5th stage disks for evidence of blend repairs in the forward and aft web and bore area. If a disk has any amount of blended or unblended damage in the web and bore area that was caused by a fractured tiebolt, or if a disk has five or more blended or unblended areas of damage by any cause, the disk must be removed from service. The actions would be required to be accomplished at the next separation of the LPT module from the engine after the effective date of this AD, in accordance with the service bulletin described previously.

Economic Impact

There are approximately 647 Pratt & Whitney (PW) JT9D–7R4 series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 151 engines installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately one work hour per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. A replacement disk would cost approximately $145,260 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $21,943,320.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 2001–NE–16–AD.

Applicability

This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT9D–7R4D, –7R4D1, –7R4E, –7R4E1, –7R4E4, –7R4G2, and 7R4H1 series turbofan engines with LPT 5th stage disks, part numbers (P/N's) 787905, 787905–001, and 798305 installed. These engines are installed on, but not limited to Airbus Industrie A300 and A310 series, and Boeing 747 and 767 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated at the next separation of the LPT module from the engine, unless already done.

To prevent uncontained failure of the low pressure turbine (LPT) 5th stage disk due to incomplete blend repairs, resulting in in-flight shutdown and damage to the airplane, do the following:

(a) Perform a one-time visual inspection for evidence of blend repairs of LPT 5th stage disks, P/N's 787905, 787905–001, and 798305 in accordance with the Accomplishment Instructions section of PW service bulletin (SB) JT9D–7R4–72–574, Revision 1, dated June 26, 2001.

(1) Remove from service those LPT 5th stage disks that were installed in engines that experienced a tiebolt fracture and are found with blended or unblended damage in the web and bore area, and replace with a serviceable part.

(2) Remove from service disks that have five or more blended or unblended damage areas by any cause, and replace with a serviceable part.

(b) After the effective date of this AD, do not install any LPT module that contains an LPT 5th stage disk, P/N 787905, 787905–001, or 798305 unless that disk has been inspected as specified in paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Issued in Burlington, Massachusetts, on August 22, 2001.

Donald Plouffe,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–21895 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[USCG–2001–10479]

Review of Boating Safety Regulations

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is conducting a comprehensive review of current boating safety regulations in three stages. These stages correspond with sequential meetings of the National Boating Safety Advisory Council (NBSAC). This document requests comments for the first stage, involving administrative requirements and fire and explosion prevention requirements for manufacturers and importers of recreational vessels. We will provide NBSAC members with a summary of the comments before the April 2002 meeting and will consider all relevant public comments and NBSAC recommendations in determining which regulations, if any, should be changed.

DATES: Comments and related material for the first stage of the review must reach the Docket Management Facility on or before October 29, 2001.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2001–10479), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the Web Site for the Office of Boating Safety, at *http://www.uscgboating.org* or at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0979 or by e-mail at *cperry@comdt.uscg.mil*. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Background and Purpose

NBSAC is an advisory committee created under 46 U.S.C. 13110(a). It advises the Coast Guard on substantive matters of boating safety. Its 21 members come from 3 segments of the boating community: The boating industry; State officials on boating safety; and representatives of national recreational boating organizations and the general public. NBSAC meets twice a year, in the spring and fall. The meetings are open to the public. Under 46 U.S.C. 4302(c)(4), the Coast Guard must consult NBSAC in the formulation of boating safety regulations.

Past Comprehensive Reviews

In 1981, 1986, 1992, and 1997, we conducted comprehensive reviews of our boating safety regulations in conjunction with a single NBSAC meeting. We asked NBSAC to determine whether the regulations were still necessary, beneficial, cost-effective, and consistent with current technology. These periodic reviews led NBSAC to make numerous recommendations to improve and update specific provisions in the regulations.

Current Comprehensive Review

We plan to conduct this review in three stages at sequential NBSAC meetings, starting in April 2002. We will publish notices in the future, requesting comments for the two remaining stages and announcing the specific date of each NBSAC meeting. Each stage will evaluate current boating safety regulations, but will not include any rules under development.

The *first review stage* will include administrative requirements for manufacturers and importers of recreational vessels (33 CFR part 179 and part 181, subparts B and C) and fire and explosion prevention requirements for manufacturers and importers of recreational vessels (33 CFR part 183, subparts I, J, and K). NBSAC will review these regulations and comments at its April 2002 meeting.

The *second review stage* will include requirements for manufacturers and importers of recreational vessels to prevent drownings (33 CFR part 183, subparts B, C, D, F, G, H, and L). NBSAC will review these regulations and comments at its October 2002 meeting.

The *third review stage* will include requirements for operators (33 CFR parts 95, 100, 173, 174, 175, 177 and 46 CFR part 25, subparts 25.30, 25.35 and 25.40, and part 58, subparts 58.03 and 58.10). NBSAC will review these regulations and comments at its April 2003.

You may find copies of the boating safety regulations at any public library that carries the United States Code of Federal Regulations. You may buy them from the Superintendent, Government Printing Office, telephone: 202–512–2250; facsimile: 202–512–1800. You may also access them on the Internet at URL address *http://www.gpo.gov/nara/cfr*.

Request for Comments

We encourage interested persons from all sectors of the boating community to participate in this first regulatory review stage by submitting comments and related material regarding any changes to the current boating safety regulations, including elimination or revocation of any requirements. If you submit comments, please include your name and address, identify the docket number for this notice (USCG–2001–10479) and give the reasons for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

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We are especially interested in responses to the following questions:

- Need—Is there still a need for the regulation? Is the problem that the regulation was originally intended to solve still a problem?
- Technical Accuracy—Has the regulation kept pace with the technological, economic, environmental, or other relevant conditions? Would any particular changes make it more effective in achieving its intended goal?
- Cost/Benefit—What are the costs, or other burdens or adverse effects, including impacts on use of energy, of the regulation? What are the benefits of the regulation in terms of personal safety or other values? Do the benefits outweigh the costs?
- Problems—Are there any problems or complaints in understanding or complying with the regulation?
- Alternative—Are there any nonregulatory ways to achieve the goal of the regulation at a lower cost, lower burden, or adverse effect?

We will summarize all comments received in response to this request during the comment period and will provide a copy of the summary to the NBSAC members for their consideration before the April 2002 meeting. We will consider all relevant comments in the formulation of any changes to the boating safety regulations that may result from this review stage.

Dated: August 22, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–21718 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 010126026]

RIN 0651–AB31

Electronic Submission of Applications for Registration and Other Documents

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking; Notice of hearing.

SUMMARY: The United States Patent and Trademark Office (Office) proposes to amend its rules to make electronic filing of trademark documents mandatory. Subject to certain exceptions for individuals either without access to the Trademark Electronic Application System (TEAS) or without the technical capability to use TEAS, and persons described in 15 U.S.C. 1126(b), all documents for which an electronic form is available in TEAS, will have to be filed through TEAS rather than through the mail or by hand delivery. In addition, the Office proposes to amend its rule concerning the use of U.S. Postal Service "Express Mail Post Office to Addressee" service, (Express Mail), to eliminate the filing of any document by Express Mail for which an electronic form is currently available in TEAS.

DATES: Comments must be received by October 29, 2001 to ensure consideration. A public hearing will be held at 10 a.m., October 12, 2001, in Room 911, Crystal Park 2, 2121 Crystal Drive, Arlington, VA. Submit requests to present oral testimony on or before October 5, 2001.

ADDRESSES: Mail comments to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513, attention Craig Morris; fax comments to (703) 872–9279, attention Craig Morris; or e-mail comments to tmefiling@uspto.gov. Copies of all comments will be available for public inspection in Suite 10B10, South Tower Building, 10th floor, 2900 Crystal Drive, Arlington, Virginia 22202–3513, from 8:30 a.m. until 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Craig Morris, Office of the Commissioner for Trademarks, (703) 308–8910, extension 136; or e-mail to tmefiling@uspto.gov.

SUPPLEMENTARY INFORMATION: The Office proposes to amend §§ 1.4, 1.10, 2.21, 2.56, 2.76, 2.88, 2.89, 2.161, 2.166, 2.167 and 2.168 to make electronic filing through the Trademark Electronic Application System (TEAS) mandatory. TEAS is a collection of electronic forms for commonly filed trademark documents. Each document can be easily completed by the trademark applicant or attorney and filed with the Office at the click of a button. The system is available at www.uspto.gov 24 hours a day, seven days a week, and can be used by anyone with NETSCAPE NAVIGATOR® (version 3.0 or higher) or MICROSOFT INTERNET EXPLORER® (Version 4.0 or higher). During the hours between 11:00 p.m. EST, Saturday and 6:00 a.m. EST, Sunday TEAS is available but credit card payments cannot be processed; therefore, no documents requiring fees can be filed during that time period. In addition, to file an initial application for a stylized or design mark, or if a specimen is being filed, the filer must be able to attach a black-and-white GIF or JPG image file.

The Office proposes to require electronic filing of all documents for which forms are currently available in TEAS: applications for registration of marks; amendments to allege use; statements of use; requests for extensions of time to file a statement of use; affidavits of continued use or excusable nonuse under 15 U.S.C. 1058 (§ 8 affidavits); affidavits of incontestability under 15 U.S.C. 1065 (§ 15 affidavits); combined affidavits under 15 U.S.C. 1058 and 1065 (§§ 8 and 15 affidavits) and combined filings under 15 U.S.C. 1058 and 1059 (combined §§ 8 and 9 filings). In the future, after appropriate notice, the Office may require the filing of other trademark-related documents when the appropriate electronic form is available in TEAS. There will be two exceptions to the requirement that trademark documents be filed electronically: first, if the *pro se* applicant or registrant, or an attorney for applicant or registrant, verifies in an affidavit or declaration under § 2.20 that he or she does not have access to TEAS or does not have the technical capability to use TEAS, the *pro se* applicant or registrant, or an attorney for applicant or registrant, will not be required to file its trademark documents using TEAS; and second, if the applicant or registrant is a person described in 15 U.S.C. 1126(b), then the applicant or registrant will not be required to file its trademark documents using TEAS.

A person described in 15 U.S.C. 1126(b) is a person who has citizenship, domicile or a real and effective industrial or commercial establishment in a country other than the United States and whose country of origin is a party to any convention or treaty relating to trademarks, trade or commercial names, or the repression of unfair competition, to which the United States is also a party, or extends reciprocal rights to nationals of the United States by law.

The number of trademark applications and other trademark documents filed in the Office has increased substantially in the last few years, and filings are expected to continue to increase dramatically in the next few years. The Office received over 295,000 trademark applications in fiscal year 1999 and over 375,000 applications in 2000—an increase each year of 27% over the prior year. In fiscal year 2001, filings are currently forecast to be 25% higher than 2000, which means the Office is likely to receive over 300,000 new applications and over 150,000 application and registration-related filings this year. Although the Office has made substantial changes in an attempt to keep up with the increased filings, the Office believes that it must make further changes in its business practices to ensure that every applicant and registrant receives a high level of customer service.

Currently, parties may file paper documents via mail or hand delivery, or file electronically using TEAS. It is now possible to file essentially all trademark-related documents electronically over the Internet, at *http://www.uspto.gov*.

The Office now maintains both paper files and electronic databases of critical application and registration data. Processing paper is extremely labor-intensive and subject to error and misfiling. A new application must undergo multiple steps before it is ready for examination, including fee processing, minimum filing requirement review, capture of data into automated databases, and paper file jacket assembly. In addition to processing new applications, the Office must sort through several thousand documents that are received on a daily basis. These documents must be delivered to the appropriate work unit, matched with the paper file, and entered into the file jacket and the automated systems.

To expedite processing of trademark documents and to improve the quality of data capture, the Office proposes to require that all trademark documents available in TEAS be filed electronically. Mandatory electronic filing will increase efficiency, improve the accuracy of the information in the Office's automated systems, and eliminate delays caused by mailing, manual data capture and paper processing. It will also result in fewer lost and misdirected papers. Electronic forms contain standardized data that is tagged to permit transfer into the Office's databases.

Better Service for Customers

Electronic filing benefits the public as well as the Office. TEAS is available for the filing of trademark documents 24 hours a day, seven days a week at *http://www.uspto.gov*. During the hours between 11:00 p.m. EST, Saturday and 6:00 a.m. EST, Sunday TEAS is available but credit card payments cannot be processed. Therefore, during that time period, documents that must be accompanied by a fee cannot be filed. When a document is filed electronically, the Office receives it within seconds after filing, and immediately issues a confirmation of filing via e-mail. This confirmation is evidence of filing should any question arise as to the filing date of the document. Under § 1.6(a)(4), trademark-related correspondence filed via TEAS is considered to have been filed on the date the Office receives the transmission, regardless of whether that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. Thus by using TEAS applicants, registrants and their attorneys can ensure a "date certain" for any filing made using TEAS. This benefit eliminates the need for the filing of applications by Express Mail.

Electronically filed applications are processed much faster than their paper counterparts. Filing receipts for TEAS applications are sent via e-mail the same day of filing, while filing receipts for paper applications are mailed about 14 days after filing; critical data concerning TEAS applications (*e.g.*, mark, goods and services, owner, etc.) are entered into the automated systems (and therefore made available to anyone searching Office records for conflicting marks) within 10 days, while data concerning paper applications are entered and made available to the public approximately 14–15 days after filing; and TEAS applications are received in the e-Commerce law offices and available for review in 20 days, while paper application files are assembled and delivered to law offices approximately 70 days after filing.

Continued increases in trademark application filings dictate that the Office change its business approach for serving the Office's customers. Electronic filing and communication allows us to provide more customers with better quality, using fewer resources. Electronic filing improves the quality and accuracy of the information that is submitted to and processed by the Office. Customers have greater assurance that the content of the electronic application is complete, because the information provided by the customer is loaded directly into the Office's automated systems. By requiring that everyone, with few exceptions, file electronically, all of the Office's customers will receive better service, because electronic filing provides a level of consistency, accuracy, and predictability that a paper-based process cannot.

The results of customer surveys clearly indicate that customers who file electronically are far more satisfied than customers who file paper applications. All of the Office's electronic customers stated that they were satisfied with the ease of access and use of the filing system and the time it took to receive a filing receipt, and 94 percent of the Office's electronic customers were satisfied with the accuracy of the filing receipt. Customers who filed paper applications were less satisfied: only 44 percent were satisfied with the accuracy of the filing receipt, and only 27 percent were satisfied with the time it took to receive it.

In their first annual report to the President, the Secretary of Commerce, and the Judiciary Committees of the United States Senate and House of Representatives, the Trademark Public Advisory Committee (TPAC) endorsed mandatory electronic filing for trademark applications. The TPAC concluded that the Office should take immediate steps to maximize the use of technology in fulfilling its mission by mandating electronic filing, to the extent allowed by law, and by replacing paper-based processes and information with electronic processes.

On December 17, 1999, the President issued a Memorandum, "Electronic Government," which called on Federal agencies to use information technology to ensure that the American people can easily access governmental services and information. The Government Paperwork Elimination Act (GPEA), Title XVII, §§ 1701—1710, Pub. L. 105–277, 112 Stat. 2681–749 (44 U.S.C. 3504), was signed into law on October 21, 1998. GPEA requires Federal agencies, by October 21, 2003, to provide individuals or entities that deal with agencies the option to submit information or transact with the agency electronically, and to maintain records electronically, when practicable. GPEA is an important tool to improve customer service and governmental efficiency through the use of information technology. This improvement involves transacting business electronically with Federal agencies and widespread use of the Internet and the World Wide Web and thus furthers the goals of the GPEA.

Discussion of Specific Rules Changed or Added

The Office proposes to add a new § 1.4(h), providing that if any form required to be filed under any provision of this section is available for filing using TEAS, the form must be filed electronically, unless § 2.22 applies.

The Office proposes to amend § 1.10(a) to prohibit the use of Express Mail for any correspondence for which an electronic form exists.

The Office proposes to amend § 2.21 to add a new subsection (a)(1), requiring that an application for registration of a mark be filed using TEAS to receive a filing date, unless § 2.22 applies. Applications filed on paper will be returned and not given a filing date, unless filed with an affidavit or declaration under § 2.20 that meets the

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requirement of § 2.22. The Office further proposes to redesignate §§ 2.21(a)(1) through (a)(5) as §§ 2.21(a)(2)(i) through (a)(2)(v).

The Office proposes to add new § 2.22 to provide two exceptions to the requirement that trademark documents be filed electronically: first, if the *pro se* applicant or registrant, or an attorney for applicant or registrant, verifies in an affidavit or declaration under § 2.20 that it does not have access to TEAS or does not have the technical capability to use TEAS, the *pro se* applicant or registrant, or an attorney for applicant or registrant, will not be required to file his or her trademark documents using TEAS; and second, if the applicant or registrant is a person described in 15 U.S.C. 1126(b), then the applicant or registrant will not be required to file its trademark documents using TEAS.

The Office proposes to revise § 2.76(b) to require that an amendment to allege use be filed using TEAS, unless § 2.22 applies.

The Office proposes to remove § 2.76(d), which now provides that the title "Amendment to allege use under § 2.76" should appear at the top of the first page of an amendment to allege use. This requirement is no longer necessary.

The Office proposes to redesignate § 2.76(e) as § 2.76(d), and to add a new § 2.76 (d)(1) to state that filing electronically is a minimum requirement that must be met before an amendment to allege use can be referred to an examining attorney for examination, unless § 2.22 applies.

The Office proposes to redesignate §§ 2.76(f) and (g) as §§ 2.76(e) and (f), and to revise them to update cross-references. The Office proposes to redesignate §§ 2.76(h) through (j) as §§ 2.76(g) through (i).

The Office proposes to revise § 2.88(b) to require that a statement of use be filed using TEAS, unless § 2.22 applies.

The Office proposes to remove § 2.88(d), which now provides that the title "Statement of use under § 2.88" should appear at the top of the first page of a statement of use. This requirement is no longer necessary.

The Office proposes to redesignate § 2.88(e) as § 2.88(d), and to add a new § 2.88(d)(1) to state that filing electronically is a minimum requirement that must be met before a statement of use can be referred to an examining attorney for examination, unless § 2.22 applies.

The Office proposes to redesignate §§ 2.88(f) and (g) as §§ 2.88(e) and (f), and to revise them to update cross-references. The Office proposes to redesignate §§ 2.88(h) through (l) as §§ 2.88(g) through (k).

The Office proposes to amend §§ 2.89(a) and (b) to require that a request for an extension of time to file a statement of use be filed using TEAS, unless § 2.22 applies.

The Office proposes to amend § 2.161 by redesignating paragraphs (a) through (h) as (b) through (i), adding a new paragraph (a) to require § 8 affidavits be filed using TEAS, unless § 2.22 applies, and to revise the redesignated § 2.161(f)(1) to update a cross-reference.

The Office proposes to amend § 2.166 to require that combined §§ 8 and 9 filings be filed using TEAS unless § 2.22 applies.

The Office proposes to redesignate §§ 2.167(a) through (g) as §§ 2.167(b) through (h), and to add a new § 2.167(a) to require that § 15 affidavits be filed using TEAS, unless § 2.22 applies.

The Office proposes to amend § 2.168(a) to require that §§ 8 and 15 affidavits be filed using TEAS, unless § 2.22 applies.

Rulemaking Requirements

The Office has determined that the proposed rule changes have no federalism implications affecting the relationship between the National Government and the State as outlined in Executive Order 12612.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration, that the proposed rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The rule will not significantly impact any businesses. As a result, an initial regulatory flexibility analysis was not prepared.

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). The proposed changes have been determined to be significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person is required to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. This rule contains collections of information requirements that have been approved by OMB under OMB Control Number 0651–0009. The public reporting burden for this collection of information is estimated to average as follows: seventeen minutes for applications to obtain registrations based on an intent to use the mark under 15 U.S.C. 1051(b), if completed using paper forms; fifteen minutes for applications based on 15 U.S.C. 1051(b), if completed using electronic forms; twenty-three minutes for applications to obtain registrations based on use of the mark in commerce under 15 U.S.C. 1051(a), if completed using paper forms; twenty-one minutes for applications to obtain registrations based on 15 U.S.C. 1051(a), if completed using electronic forms; twenty minutes for applications to obtain registrations based on an earlier-filed foreign application under 15 U.S.C. 1126(d), if completed using paper forms; nineteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(d), if completed using electronic forms; twenty minutes for applications to obtain registrations based on registration of a mark in a foreign applicant's country of origin under 15 U.S.C. 1126(e), if completed using paper forms; eighteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(e), if completed using electronic forms; thirteen minutes for allegations of use of the mark under §§ 2.76 and 2.88 if completed using paper forms; twelve minutes for allegations of use under §§ 2.76 and 2.88 if completed using electronic forms; ten minutes for requests for extensions of time to file statements of use under § 2.89 if completed using paper forms; nine minutes for requests for extensions of time to file statements of use if completed using electronic forms; eleven minutes for § 8 affidavits if completed using paper forms; ten minutes for § 8 affidavits if completed using electronic forms; fourteen minutes for combined §§ 8 and 9 filings if completed using paper forms; thirteen minutes for combined §§ 8 and 9 filings if completed using electronic forms; fourteen minutes for combined §§ 8 and 15 affidavits if completed using paper forms; thirteen minutes for combined §§ 8 and 15 affidavits if completed using electronic forms; eleven minutes for § 15 affidavits if completed using paper forms; and ten minutes for § 15 affidavits if completed using electronic forms. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202–3513 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: PTO Desk Officer).

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Trademarks.

37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 41, as amended, the Office proposes to amend parts 1 and 2 of title 37 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for part 1 continues to read as follows:

Authority: 35 U.S.C. 2, unless otherwise noted.

2. Amend § 1.4 to add a new paragraph (h), to read as follows:

§ 1.4 Nature of correspondence and signature requirements.

* * * * *

(h) If any form required to be filed under any provision of this section is available for filing using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), the form must be filed using TEAS, unless § 2.22 of this chapter applies.

3. Revise § 1.10(a) to read as follows:

§ 1.10 Filing of correspondence by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office), except for correspondence available for filing using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS.

* * * * *

PART 2—RULES APPLICABLE TO TRADEMARK CASES

4. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 2, unless otherwise noted.

5. Revise § 2.21(a) to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) The Office will grant a filing date to an application if:

(1) The application is filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies; and

(2) The application contains all of the following:

(i) The name of the applicant;

(ii) A name and address for correspondence;

(iii) A clear drawing of the mark;

(iv) A listing of the goods or services; and

(v) The filing fee for at least one class of goods or services, required by § 2.6.

* * * * *

6. Add § 2.22 to read as follows:

§ 2.22 Exceptions to mandatory electronic filing.

Notwithstanding any other provision of this section, filing through the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*) is not required in the following two cases:

(a) The pro se applicant or registrant, or an attorney for applicant or registrant, who verifies in an affidavit or declaration under § 2.20 that he or she does not have access to TEAS or does not have the technical capability to use TEAS, will not be required to file its trademark documents using TEAS. Such affidavit or declaration must accompany the relevant document.

(b) The applicant or registrant who is a person described in 15 U.S.C. 1126(b) will not be required to file its trademark documents using TEAS.

7. Amend § 2.76 by removing paragraph (d), revising paragraph (b) introductory text, redesignating paragraphs (e) through (j) as (d) through (i) and revising them to read as follows:

§ 2.76 Amendment to allege use.

(a) * * *

(b) The amendment to allege use must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies. A complete amendment to allege use must include:

* * * * *

(d) The Office will review a timely filed amendment to allege use to determine whether it meets the following minimum requirements:

(1) Is filed using TEAS, unless § 2.22 applies;

(2) Includes the fee for at least a single class, required by § 2.6;

(3) Includes one specimen of the mark as used in commerce; and

(4) Includes a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant that the mark is in use in commerce.

(e) A timely filed amendment to allege use that meets the minimum requirements specified in paragraph (d) of this section will be examined in accordance with §§ 2.61 through 2.69. If, as a result of the examination of the amendment to allege use, applicant is found not entitled to registration for any reason not previously stated, applicant will be so notified and advised of the reasons and of any formal requirements or refusals. The notification shall restate or incorporate by reference all unresolved refusals or requirements previously stated. The amendment to allege use may be amended in accordance with §§ 2.59 and 2.71 through 2.75. If the amendment to allege use is acceptable in all respects, the applicant will be notified of its acceptance. The filing of such an amendment shall not constitute a response to any outstanding action by the Trademark Examining Attorney.

(f) If the amendment to allege use is filed within the permitted time period but does not meet the minimum requirements specified in paragraph (d) of this section, applicant will be notified of the deficiency. The deficiency may be corrected if the mark has not been approved for publication. If an acceptable amendment to correct the deficiency is not filed prior to approval of the mark for publication, the amendment to allege use will not be examined on the merits.

(g) An amendment to allege use may be withdrawn for any reason prior to approval of a mark for publication.

(h) If the applicant does not file the amendment to allege use within a reasonable time after it is signed, the Office may require a substitute verification or declaration under § 2.20 stating that the mark is still in use in commerce.

(i) For the requirements for a multiple class application, see § 2.86.

8. Amend § 2.88 by removing paragraph (d), revising paragraph (b) introductory text, redesignating paragraphs (e) through (l) as (d) through (k) and revising them to read as follows.

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§ 2.88 Filing statement of use after notice of allowance.

(a) * * *

(b) The statement of use must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies. A complete statement of use must include:

* * * * *

(d) The Office will review a timely filed statement of use to determine whether it meets the following minimum requirements:

(1) Is filed using TEAS, unless § 2.22 applies;

(2) Includes the fee for at least a single class, required by § 2.6;

(3) Includes one specimen of the mark as used in commerce;

(4) Includes a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant that the mark is in use in commerce. If the verification or declaration is unsigned or signed by the wrong party, the applicant must submit a substitute verification on or before the statutory deadline for filing the statement of use.

(e) A timely filed statement of use that meets the minimum requirements specified in paragraph (d) of this section will be examined in accordance with §§ 2.61 through 2.69. If, as a result of the examination of the statement of use, applicant is found not entitled to registration, applicant will be notified and advised of the reasons and of any formal requirements or refusals. The statement of use may be amended in accordance with §§ 2.59 and 2.71 through 2.75. If the statement of use is acceptable in all respects, the applicant will be notified of its acceptance.

(f) If the statement of use does not meet the minimum requirements specified in paragraph (d) of this section, applicant will be notified of the deficiency. If the time permitted for applicant to file a statement of use has not expired, applicant may correct the deficiency. After the filing of a statement of use during a permitted time period for such filing, the applicant may not withdraw the statement to return to the previous status of awaiting submission of a statement of use, regardless of whether it complies with paragraph (d) of this section.

(g) The failure to timely file a statement of use that meets the minimum requirements specified in paragraph (d) of this section shall result in the abandonment of the application.

(h)(1) The goods or services specified in a statement of use must conform to those goods or services identified in the notice of allowance. An applicant may specify the goods or services by choosing the statement that "The applicant is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance;" or, if appropriate, choosing the statement that "The applicant is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance, except the goods and/or services listed below," and listing in the space provided the goods or services to be deleted.

(2) If any goods or services specified in the notice of allowance are omitted from the identification of goods or services in the statement of use, the Trademark Examining Attorney shall inquire about the discrepancy and permit the applicant to amend the statement of use to include any omitted goods or services, provided that the amendment is supported by a verification that the mark was in use in commerce, on or in connection with each of the goods or services sought to be included, prior to the expiration of the time allowed to applicant for filing a statement of use.

(3) The statement of use may be accompanied by a separate request to amend the identification of goods or services in the application, as stated in the notice of allowance, in accordance with § 2.71(b).

(i) The statement of use may be accompanied by a separate request to amend the drawing in the application, in accordance with §§ 2.51 and 2.72.

(j) If the statement of use is not filed within a reasonable time after the date it is signed, the Office may require a substitute verification or declaration under § 2.20 stating that the mark is still in use in commerce.

(k) For the requirements for a multiple class application, see § 2.86.

9. Amend § 2.89 by revising paragraphs (a) introductory text, (a)(1), (b) introductory text, and (b)(1) to read as follows:

§ 2.89 Extensions of time for filing a statement of use.

(a) The applicant may request a six-month extension of time to file the statement of use required by § 2.88. The extension request must be filed within six months of the mailing date of the notice of allowance under section 13(b)(2) of the Act, and must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies. The extension request must include the following:

(1) A request for an extension of time to file the statement of use;

* * * * *

(b) Before the expiration of the previously granted extension of time, the applicant may request further six-month extensions of time to file the statement of use. The extension request must be filed using TEAS unless § 2.22 applies, and must include the following:

(1) A request for an extension of time to file the statement of use;

* * * * *

10. Revise § 2.161 to read as follows:

§ 2.161 Requirements for a complete affidavit or declaration of continued use or excusable nonuse.

A complete affidavit or declaration under section 8 of the Act must:

(a) Be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies;

(b) Be filed by the owner within the period set forth in § 2.160(a);

(c) Include a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the owner, attesting to the continued use or excusable nonuse of the mark within the period set forth in section 8 of the Act. The verified statement must be executed on or after the beginning of the filing period specified in § 2.160(a). A person who is properly authorized to sign on behalf of the owner is:

(1) A person with legal authority to bind the owner; or

(2) A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the owner; or

(3) An attorney as defined in § 10.1(c) of this chapter who has an actual or implied written or verbal power of attorney from the owner.

(d) Include the registration number;

(e)(1) Include the fee required by § 2.6 for each class of goods or services that the affidavit or declaration covers;

(2) If the affidavit or declaration is filed during the grace period under section 8(c)(1) of the Act, include the late fee per class required by § 2.6;

(3) If at least one fee is submitted for a multi-class registration, but the class(es) to which the fee(s) should be applied are not specified, the Office will issue a notice requiring either the submission of additional fee(s) or an indication of the class(es) to which the original fee(s) should be applied. Additional fee(s) may be submitted if the requirements of § 2.164 are met. If the required fee(s) are not submitted and the class(es) to which the original fee(s) should be applied are not specified, the Office will presume that the fee(s) cover the classes in ascending order, beginning with the lowest numbered class;

(f)(1) Specify the goods or services for which the mark is in use in commerce, and/or the goods or services for which excusable nonuse is claimed under paragraph (g)(2) of this section;

(2) If the affidavit or declaration covers less than all the goods or services, or less than all the classes in the registration, specify the goods or services being deleted from the registration;

(g)(1) State that the registered mark is in use in commerce on or in connection with the goods or services in the registration; or

(2) If the registered mark is not in use in commerce on or in connection with all the goods or services in the registration, set forth the date when use of the mark in commerce stopped and the approximate date when use is expected to resume; and recite facts to show that nonuse as to those goods or services is due to special circumstances that excuse the nonuse and is not due to an intention to abandon the mark;

(h) Include a specimen showing current use of the mark for each class of goods or services, unless excusable nonuse is claimed under paragraph (g)(2) of this section. The specimen must:

(1) Show the mark as actually used on or in connection with the goods or in the sale or advertising of these services. A photocopy or other reproduction of the specimen showing the mark as actually used is acceptable. However, a photocopy that merely reproduces the registration certificate is not a proper specimen.

(2) Be flat and no larger than 8½ inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long, if not submitted electronically. If a specimen exceeds these size requirements (a "bulky specimen"), the Office will create a facsimile of the specimen that meets the requirements of the rule (i.e., is flat and no larger than 8½ inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long) and put it in the file wrapper;

(i) If the registrant is not domiciled in the United States, the registrant must list the name and address of a United States resident upon whom notices or process in proceedings affecting the registration may be served.

11. Revise § 2.166 to read as follows:

§ 2.166 Affidavit of continued use or excusable nonuse combined with renewal application.

An affidavit of declaration under section 8 of the Act and a renewal application under section 9 of the Act may be combined into a single document, provided that the document meets the requirements of both sections 8 and 9 of the Act. The combined document must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies.

12. Revise § 2.167 to read as follows:

§ 2.167 Affidavit or declaration under section 15.

The affidavit or declaration in accordance with § 2.20 provided by section 15 of the Act for acquiring incontestability for a mark registered on the Principal Register or a mark registered under the Act of 1881 or 1905 and published under section 12(c) of the Act (§ 2.153) must:

(a) Be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies;

(b) Be signed by the registrant;

(c) Identify the certificate of registration by the certificate number and date of registration;

(d) Recite the goods or services stated in the registration on or in connection with which the mark has been in continuous use in commerce for a period of five years after the date of registration or date of publication under section 12(c) of the Act, and is still in use in commerce;

(e) Specify that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register;

(f) Specify that there is no proceeding involving said rights pending in the Patent and Trademark Office or in a court and not finally disposed of;

(g) Be filed within one year after the expiration of any five-year period of continuous use following registration or publication under section 12(c). The registrant will be notified of the receipt of the affidavit or declaration.

(h) Include the required fee for each class to which the affidavit or declaration pertains in the registration. If no fee, or a fee insufficient to cover at least one class, is filed at an appropriate time, the affidavit or declaration will not be refused if the required fee(s) (See § 2.6) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office. If insufficient fees are included to cover all classes in the registration, the particular class or classes to which the affidavit or declaration pertains should be specified.

13. Amend § 2.168 by revising paragraph (a) to read as follows:

§ 2.168 Affidavit or declaration under section 15 combined with affidavit or declaration under section 8, or with renewal application.

(a) The affidavit or declaration filed under section 15 of the Act may also be used as the affidavit or declaration required by section 8, if the affidavit or declaration meets the requirements of both sections 8 and 15. The document must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies.

* * * * *

Dated: August 24, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–21878 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA117–4132; FRL–7047–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; One-Hour Ozone Attainment Demonstration Plan for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision submits an analysis and determination that there are no additional reasonably available control measures (RACM) available to advance the area's attainment date after adoption of all Clean Air Act (Act) required measures. On December 16, 1999, EPA proposed to approve, and to disapprove in the alternative, the attainment demonstration State implementation plan (SIP) for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area). The intended effect of this action is to propose approval of a reasonably

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available control measure (RACM) analysis submitted by the Commonwealth of Pennsylvania. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 1, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179. Or by e-mail at cripps.christopher@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

A. When did Pennsylvania submit the RACM analysis? On July 19, 2001, the Commonwealth of Pennsylvania (Pennsylvania) submitted the RACM analysis for the Philadelphia area as a SIP revision.

B. Did Pennsylvania submit any other revisions to or other material relevant to the attainment demonstration on July 19, 2001? On July 19, 2001, Pennsylvania also submitted revised motor vehicle emissions budgets for the Pennsylvania portion of the Philadelphia area that include the benefits of the Federal Tier 2/Sulfur rule, and a revised enforceable commitment to conduct a mid-course review. The revised budgets and revised enforceable commitment submitted on July 19, 2001 are the subject of a separate supplemental notice of proposed rulemaking published recently in the **Federal Register**.

II. Analysis of the Pennsylvania Submittal

A. What are the requirements for reasonably available control measures (RACM)? Section 172(c)(1) of the Act requires SIPs to contain reasonably available control measures (RACM) as necessary to provide for attainment. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). (See 57 FR 13498, 13560, April 16, 1992.) In that guidance, EPA indicates that potentially available control measures, which would not advance the attainment date for an area, would not be considered RACM under the Act. EPA concludes that a measure would not be reasonably available if it would not advance attainment. EPA's guidance also indicates that states should consider all potentially available measures to determine whether they are reasonably available for implementation in the area, including whether or not they would advance the attainment date. Further, the guidance calls for states to indicate in their SIP submittals whether measures considered are reasonably available or not, and if so the measures must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. The EPA also issued a recent memorandum on this topic, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html*.

B. How does this submission address the RACM requirement? The analysis submitted by the Commonwealth on July 19, 2001, as a supplement to its attainment demonstration SIP for the Philadelphia area, addresses the RACM requirement. The Commonwealth convened a stakeholders group (the Southeastern Pennsylvania Ozone Stakeholders Group) to examine a wide variety of potential stationary source and mobile source controls. The stationary/area source controls that were considered included the adoption of South Coast Air,Quality Management District/California Air Resources Board's (SCAQMD/CARB) limits for certain volatile organic compound (VOC) source categories that are more stringent than the already adopted control technique guideline (CTG) limits (e.g., fabric/paper, magnet wire, vinyl, miscellaneous metal parts, coil and metal furniture coating); limits on area source categories not covered by a CTG (e.g., adhesives, motor vehicle refinishing, surface/cleaning degreasing, underground storage tank vents); rule effectiveness improvements; wood furniture coating (Pennsylvania has a SIP-approved rule encompassing the reasonably available control technology limits recommended under the CTG; under consideration for the RACM analysis was expanding the applicability of those limits to sources smaller than those covered by the CTG); "beyond RACT" controls on major stationary sources of nitrogen oxides (NO_X); and other potential measures. The mobile source control measures considered included the national low emission vehicle program, accelerated replacement of older buses with cleaner buses, compressed natural gas (CNG) fueled buses, and emissions-based vehicle registration fees. Mobile source controls also included control measures aimed at reducing vehicle trips, travel or congestion via land use planning, traffic flow improvements (signalization, ramp metering, speed limit restriction enforcement), improved mass transit, expanded parking at rail stations, telecommuting, bicycle lanes or access improvements at rail stations, parking taxes/surcharge, and increased gasoline taxes or miles travel based fees. The Commonwealth considered an extensive list of potential control measures and chose measures for implementation which went beyond the Federally mandated controls, which were found to be cost effective and technologically feasible. From the list of measures considered, the rules and measures adopted and submitted by Pennsylvania, as analyzed and examined by the stakeholders group, are as follows:

(1) Pennsylvania has adopted, and EPA has SIP-approved, the Commonwealth's rule for vehicle refinishing. The rule includes VOC content limits for motor vehicle refinishing coatings, application standards and storage and housekeeping work practices. This rule goes beyond the Federal rule in content limits and application and work practices standards. Compliance with this rule was required in 2000.

(2) Pennsylvania has adopted, and EPA has SIP-approved, the Commonwealth's rule requiring the sale of vehicles under the national low-emission vehicle program.

(3) Pennsylvania has adopted, and EPA has SIP-approved, the Commonwealth's rule to implement Phase II NO_X controls under the Ozone Transport Commission's (OTC) Memorandum of Understanding (MOU). This rule established a fixed cap on ozone-season NO_X emissions from major point sources of NO_X. The rule grants each source a fixed number of NO_X allowances, applies state-wide, and requires compliance during the ozone season. The implementation of this rule commenced May 1, 1999 in the Commonwealth and reduces NO_X emissions both inside and outside the Philadelphia area.

(4) Pennsylvania has adopted and EPA has proposed approval of the Commonwealth's rule to implement the NO_X SIP call. We received no adverse comments on our proposed approval and expect to publish our final approval in the near future. The Pennsylvania rule requires compliance commencing with the start of the 2003 ozone season. (This measure was identified as Phase III control under the OTC MOU on NO_X control in the submittal because the evaluation occurred in 1996 well before the SIP call proposal.)

(5) Pennsylvania has also adopted rule effectiveness improvements for the implementation of regulations through the attainment year of 2005 for its portion of the Philadelphia area as part of its post 1996 Rate of Progress Plan which EPA has proposed or will shortly propose to approve in a separate rulemaking action in the **Federal Register**.

A large number of the considered measures have the potential to achieve benefits but are not considered to be cost effective, others have the potential for substantial widespread and long-term adverse impacts and one measure, a mandatory ban on residential lawn care activities on high ozone days, was considered infeasible due to the impracticability of effective enforcement. These are explained in further detail in the docket for this rulemaking.

The attainment demonstration for the Philadelphia area contains modeling using the urban airshed model (UAM) which demonstrates that the Philadelphia area cannot attain solely through reductions in the Philadelphia nonattainment area. The Philadelphia area relies on background reductions of transported ozone to attain the 1-hour ozone standard. EPA established in the NO_X SIP Call, promulgated on October 27, 1998 (63 FR 57356), the appropriate division of control responsibilities between the upwind and downwind States under the Act. In *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000), the court upheld the NO_X SIP Call on most issues, although a subsequent order of the court delays the implementation date to no later than May 31, 2004. EPA is moving forward to implement those portions of the rule that have been upheld, ensuring that most—if not all—of the emission reductions from the NO_X SIP Call assumed in the 1-hour ozone NAAQS attainment demonstration for the Philadelphia area will occur. EPA's modeling to determine the region-wide impacts of the NO_X SIP Call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away, and this analysis was upheld by the court. Also, on January 18, 2000 (65 FR 2674), EPA promulgated a final rule on petitions filed pursuant to section 126 of the Act by eight Northeastern States including Pennsylvania, that sought to mitigate interstate transport of NO_X emissions from a number of large electric generating units (EGUs) and large industrial boilers and turbines. Because the allocation of responsibility for transport was not made until late 1998 and early 2000, the prohibitions on upwind contributions under section 110(a)(2)(D) and section 126 could not be enforced prior to 2003 or 2004. The implementation of the control measures in states upwind of the Philadelphia area that are needed to eliminate the significant contribution of sources in those states—will not ripen until 2003 under the section 126 petitions or 2004 under the NO_X SIP call.

To demonstrate attainment of the one hour ozone standard, the UAM modeling required the Pennsylvania portion of the Philadelphia area to achieve emissions levels on the order of 428 tons per day of VOC emissions and 317 tons per day of NO_X. The ROP plan for 2005 is projected to get emissions levels down to 428 tons per day of VOC emissions and 310 tons per day of NO_X. The ROP plan does not consider the effects of the Federal Tier 2/Sulfur rule nor Pennsylvania's NO_X SIP call rule. These two programs will further reduce emissions in the area staring with the 2004 model year vehicles in the case of the Tier 2/Sulfur program and May 2003 for Pennsylvania's SIP call rule. Any potential reductions from the remaining potential RACM measures in aggregate are relatively small as documented in the docket compared to the ROP reductions (plus the additional benefits of Pennsylvania's SIP call rule and the Tier 2/Sulfur benefits) that will be reached by the 2005 attainment date.

Thus, EPA concludes that no additional measures could advance the attainment date for the Philadelphia area prior to full implementation of all upwind and local controls scheduled for implementation by 2005.

III. Opening of the Public Comment Period

The EPA is opening a comment period for 30 days to take comment on the Commonwealth's July 19, 2001 RACM submittal discussed above. EPA is proposing to approve Pennsylvania's SIP revision for RACM, which was submitted on July 19, 2001, as a supplement to its 1-hour attainment demonstration for the Philadelphia area. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

IV. Proposed Action

EPA is proposing to approve the RACM analysis submitted by the Commonwealth of Pennsylvania on July 19, 2001 as a supplement to its 1-hour attainment demonstration for the Philadelphia area.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or

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on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule regarding Pennsylvania's RACM analysis for the Philadelphia area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 24, 2001.

Judith M. Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–21926 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE034/045/055–1016; FRL–7047–4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Post 1996 Rate-of-Progress Plan for the Delaware Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area and Revisions Related to the Area's Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Delaware. These revisions establish the three (3) percent per year emission reduction rate-of-progress (ROP) requirement for the period from 1996 through 2005 for the Delaware portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area), namely Kent and New Castle Counties. In conjunction with the ROP plans, themselves, EPA is also proposing to approve Delaware's contingency measures for ROP. EPA is also proposing to approve two revised enforceable commitments submitted by Delaware in response to EPA's December 16, 1999 proposed rulemaking action to approve the Philadelphia area's attainment demonstration. This proposal serves to open a comment period on these proposed revisions to the attainment demonstration plan.

DATES: Written comments must be received on or before October 1, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182 or by e-mail at quinto.rose@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Clean Air Act Requirements

For severe ozone nonattainment areas, the Clean Air Act (the Act) requires states to submit a plan to the United States Environmental Protection Agency (EPA) to achieve a fifteen (15) percent net reduction by November 15, 1996 of actual anthropogenic (human-caused) volatile organic compound (VOC) emissions. In addition to the 15 percent reduction, the Act also requires states to submit SIP revisions that achieve actual VOC emission reductions of at least 3 percent per year averaged over each consecutive 3-year period beginning November 1996, until the severe area's applicable attainment date of 2005. These ROP emission reductions are based on the states' 1990 emission levels. The Act also provides for crediting of VOC emission reductions achieved in the 1990–1996 period to the Post-1996 ROP plan if they are in excess of 15 percent VOC reductions requirements, and substitution of any anthropogenic nitrogen oxides (NO_X) emission reductions, net of growth, occurring in the post-1990 period for the post-1996 VOC emission reduction requirements.

The SIP revision for the 1990–1996 reductions is termed the "15 Percent ROP plan," and the plans for an average 3 percent per year reduction over each 3-year period after 1996 are collectively termed the "Post-1996 ROP plan." The Post-1996 ROP plan for a severe area with an attainment date of 2005, has 3 milestone years, 1999, 2002 and 2005. To satisfy the Post-1996 Plan requirement, States generally developed separate plans for each 3 year period and refer to those plans as the1999 ROP plan, the 2002 ROP plan and the 2005 ROP plan.

For states within the Ozone Transport Region (OTR) with serious and above ozone nonattainment areas, a memorandum dated March 2, 1995, from Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, provides for a two-phased approach to the Post-1996 ROPs. Briefly, in Phase I, the states are required to develop a plan for the milestone year of 1999 which includes necessary control measures to achieve a 9 percent reduction of VOC and/or NO_X emissions between November 1996 and November 1999. In Phase II, the states are required to assess the regional and local control measures necessary to meet the rate-of-progress requirements through the attainment year and to achieve attainment. Thus severe ozone nonattainment areas such as the Philadelphia area, the Phase II plan needed to identify the measures needed to demonstrate ROP through the 2005 attainment year. States were to phase-in adoption of rules and implement measures to meet ROP beginning no later than 1999.

The Philadelphia nonattainment area is comprised of seven counties in New Jersey, five counties in Pennsylvania, two counties in Delaware and one county in Maryland. These jurisdictions made a collective decision that each would be responsible for producing ROP plans for its portion of the Philadelphia area using its 1990 baseline of emissions.

Section 172(c)(9) of the Act requires moderate and above ozone nonattainment areas to adopt contingency measures to be implemented should the area fail to achieve ROP or to attain by its attainment date. In addition, section 182(c)(9) of the Act requires serious and above areas to adopt contingency measures which would be implemented if the area fails to meet any applicable milestone.

Under EPA's transportation conformity rule, like an attainment plan, an ROP plan is referred to as a control strategy SIP (62 FR 43779). A control strategy SIP identifies and establishes the motor vehicle emissions budgets (MVEBs) to which an area's transportation improvement program and long range transportation plan must conform. Conformity to a control strategy SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standard.

On December 16, 1999, we published a notice of proposed rulemaking (NPR) proposing approval of the attainment demonstration SIP revision submitted by Delaware for the Philadelphia area (64 FR 70444). Our approval was contingent upon certain actions by Delaware for the Philadelphia area. These actions were: (1) Delaware had to adopt and submit an adequate motor vehicle emissions budgets including the benefits of the Federal Tier 2/Sulfur-in-Fuel rule (required because the Philadelphia area's attainment SIP includes the benefits of EPA's Tier 2/Sulfur-in-Fuel rule); and (2) Delaware had to adopt and submit enforceable commitments to do the following:

(a) Submit measures by October 31, 2001 for additional emission reductions as required in the attainment demonstration test as discussed in section I.C.5. of the December 16, 1999 proposed approval. For additional emission reduction measures developed through the regional process, the state must also submit an enforceable commitment for the additional measures and a backstop commitment to adopt and submit intrastate measures for the emission reductions in the event the regional process does not recommend measures that produce emission reductions.

(b) Submit a revised SIP and motor vehicle emissions budgets by October 31, 2001 if additional measures affect the motor vehicle emissions inventory.

(c) Submit a revised SIP and motor vehicle emissions budgets one year after MOBILE6 issued.

(d) Perform a mid-course review.

On December 16, 1999, EPA proposed approval of the attainment demonstrations for ten ozone nonattainment areas in the eastern United States (64 FR 70317). On July 28, 2000, we published a supplemental notice of proposed rulemaking (SNPR) on the attainment demonstration (65 FR 46383). In that SNPR, we clarified and expanded on two issues relating to the motor vehicle emissions budgets for the SIP revisions subject to all of these December 16, 1999 proposed actions. In the July 28, 2000 SNPR, we reopened the comment period to take comment on these two issues and to allow comment on any additional materials that were placed in the dockets for the proposed actions close to or after the initial comment period closed on February 14, 2000. For many of the areas, including the Philadelphia area, covered by the July 28, 2000 SNPR, additional information had been placed in the docket during or after the initial comment period concluded. In general, the SNPR identified these materials as consisting of motor vehicle emissions budgets, and revised or additional commitments or reaffirmations submitted by the States (65 FR at 46387, July 28, 2000).

On January 24, 2000 (prior to July 28, 2000 but during the original comment period), DNREC submitted revised motor vehicle emissions budgets that reflect the benefits from EPA's Tier 2/Sulfur rule and the enforceable commitments to: (1) Adopt control measures consistent with the reductions assumed in the attainment plan, and assume reductions in transported NO_X consistent with EPA's NO_X SIP Call; (2) adopt additional measures that can be adopted regionally such as in the OTR, or locally; and (3) conduct a mid-course review. The comment period established by the July 28, 2000 SNPR concluded on August 28, 2000.

As stated above, on January 24, 2000, Delaware submitted an addendum to its May 22, 1998 submittal of the Phase II attainment plan for the Philadelphia area that provided revised emission budgets for the on-road mobile source portion of the plan which reflect the benefits of the National Low Emission Vehicle program (NLEV), Heavy-Duty Diesel Engine (HDDE) rule, Reformulated Gasoline (RFG II) and the Tier 2/Low Sulfur rule. On May 31, 2000, EPA determined the attainment budgets to be adequate for transportation conformity purposes. That determination became effective on June 23, 2000 (65 FR 36440, June 8, 2000). As stated earlier, the submittal of January 24, 2000 also included the enforceable commitments.

As stated earlier, the attainment date for the Philadelphia area severe ozone nonattainment area is 2005. This rulemaking addresses the SIP revisions submitted by DNREC to satisfy the Post-1996 ROP requirements of the Act for the Delaware portion of the Philadelphia area, namely Kent and New Castle Counties. In this rulemaking, EPA is proposing to approve Delaware's plans demonstrating ROP through the 2005 attainment year. Also as part of this rulemaking, EPA is proposing to approve the contingency measures that were submitted with the Delaware ROP plans. EPA is also proposing to approve the two revised enforceable commitments that Delaware submitted in response to our December 16, 1999 proposed rulemaking.

II. Delaware State Implementation Plan Submittals

A. Rate-of-Progress Plans

All the aforementioned rate-of-progress emission reductions are to be from the state's 1990 emission levels. Delaware's 1990 Base Year Ozone Emission Inventory, which is an inventory of the 1990 actual VOC, NO_X, and CO emissions from all sources in Delaware (stationary, on-road mobile, off-road mobile, area and biogenic), was submitted to EPA as a SIP revision on May 27, 1994, and was approved on January 24, 1996 (61 FR 1838). Delaware's actual 1990 VOC and NO_X emissions are 196.52 tons per day (tpd) and 162.82 tpd, respectively. Since the ozone NAAQS attainment date for the Philadelphia area is 2005, Delaware is required to submit a 15 Percent ROP plan, and ROP plans for the three post-1996 milestone years, i.e., 1999, 2002, and 2005 for Kent and New Castle Counties. Delaware's 15 Percent ROP

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was submitted to EPA as a SIP revision in February 17, 1995. In this plan, Delaware showed that, by implementing necessary control measures, the required 15 percent VOC emission reduction could be successfully met by 1996. EPA fully approved Delaware's 15 Percent ROP on October 12, 1999 (64 FR 55139).

Delaware's 1999 ROP plan, the first post-1996 SIP revision developed according to the Phase I requirements set forth in the Nichols' memorandum, was submitted to EPA on December 29, 1997. On June 17, 1999, Delaware submitted amendments to the 1999 ROP plan. The Phase I plan contained the first 9 percent ROP demonstration for the 1999 milestone year, and enforceable commitments to address the first phase of the attainment plan. On May 22, 1998, Delaware submitted the Phase II attainment demonstration document for the Philadelphia area. EPA asked Delaware to submit additional technical information for the Phase II plan. Delaware submitted the Phase II supplement on October 8, 1998. In the May 22, 1998 submittal, Delaware made a commitment to submit a SIP revision to EPA before the end of 2000 to address the emission reductions for the post-1999 rate of progress milestone years up to the 2005 attainment date for the one hour ozone standard (*i.e.*, 2002, 2005). Delaware submitted its 2002 ROP plan on February 3, 2000 and amendments to that plan on December 20, 2000. Delaware submitted its 2005 ROP plan on December 20, 2000.

B. Amendments to the Attainment Demonstration

On December 20, 2000, Delaware submitted amendments to the enforceable commitments it previously had submitted as required by our December 16, 1999 proposed action. These amendments involve commitments made by Delaware to: (1) Submit by October 31, 2001, additional measures for additional emission reductions, and (2) revise the SIP and the motor vehicle emission budgets within a year of the release of MOBILE6. The commitments submitted on December 20, 2000 have been placed in docket for the attainment demonstration SIP. We are proposing to approve these revised enforceable commitments, which were submitted on December 20, 2000, as part of Delaware's attainment [3] demonstration SIP for the Philadelphia area. We are soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. EPA Evaluation of Delaware's Post 1996 ROP Submittals

A. Demonstrating Rate of Progress

Target Levels of VOC and NO_X Emissions

The first step in demonstrating ROP is to determine the target level of allowable emissions for each ROP milestone year. The target level of emissions represents the maximum amount of emissions that can be emitted in a nonattainment area in the given ROP milestone year, which in this case is 1999, 2002 or 2005. The Act allows states to substitute NO_X emission reductions for VOC emission reductions in Post-1996 ROP plans. The required ROP is demonstrated when the sum of all creditable VOC and NO_X emission reductions equal at least 3 percent per year grouped in three year periods (i.e., 1996–1999), or for a total of 9 percent. If a state wishes to substitute NO_X for VOC emission reductions, then a target level of emissions demonstrating a representative combined 9 percent emission reduction in VOC and NO_X emissions must be developed for that milestone year. The six steps involved in calculating the target level of emissions for the milestone years are described below.

(1) Develop the 1990 base year inventory for VOC and NO_X.

(2) Develop the 1990 baseline inventory. The baseline inventory is calculated by removing from the 1990 base year inventory: biogenic emissions, any emissions from the sources located outside of the nonattainment area, and the non-reactive perchloroethylene (PERC) emissions (for VOC inventory only). In addition, the 1990 baseline inventory for Delaware's portion the Philadelphia area has been amended due to switching from the MOBILE5a model to the MOBILE5b model.

(3) Develop the 1990 adjusted base year inventory. The 1990 adjusted baseline inventory excludes VOC and NO_X emissions reductions achieved by the Federal Motor Vehicle Program (FMVCP) and Reid Vapor Pressure (RVP) regulations promulgated prior to the enactment of the Act (Section 182 (b)(1)(D)).

(4) Calculate the fleet turnover correction term for the three year period. The fleet turnover correction is the difference between the FMVCP/RVP emission reductions calculated in step 3 and the previous milestone year's FMVCP/RVP emission reductions.

(5) Calculate the required VOC and NO_X emission reduction to demonstrate ROP for each consecutive three year milestone interval (multiply the adjusted base year inventory by 0.09).

(6) Calculate the target levels of VOC and NO_X emissions in each milestone years. The target levels in each milestone years are calculated by subtracting the required emission reductions (see step 5) and the fleet turnover corrections (see step 4) from the previous milestone year. One exception is the calculation of NO_X emission target for the 1999 milestone year. Because 1999 is the first milestone year with respect to NO_X emission reduction, the target calculation does not subtract the fleet turnover correction (EPA Guidance on the Post-1996 Rate of Progress Plan and Attainment Demonstration, February 1994).

Because Delaware used MOBILE5b in estimating the on-road mobile source emissions, the VOC and/or NO_X target levels for 1996, 1999 and 2002 have also been recalculated to account for the use of MOBILE5b. The calculations and results are summarized in Table 1. The VOC and NO_X emissions are in tons per day (tpd) in the peak ozone season (June 1 through August 31).

TABLE 1.—TARGET LEVELS OF VOC AND NO_X EMISSIONS (IN TPD) IN EACH MILESTONE YEAR

Description	Emissions	
	VOC	NO_X
1996 Target Level—VOC	115.79	
1990 Baseline Adjusted for 1999—NO_X		158.97
For the 1999 Milestone Year:		
Emission Reduction for Rate of Progress	2.08	11.84
Fleet Turnover Correction for 1996–1999	1.90	0.00
Target Level for 1999	111.81	147.13

TABLE 1.—TARGET LEVELS OF VOC AND NO_X EMISSIONS (IN TPD) IN EACH MILESTONE YEAR—Continued

Description	Emissions	
	VOC	NO_X
For the 2002 Milestone Year:		
Emission Reduction for Rate of Progress	11.16	0.98
Fleet Turnover Correction for 1999–2002	1.2	0.43
Target Level for 2002	99.45	145.72
For the 2005 Milestone Year:		
Emission Reduction for Rate of Progress	3.04	10.63
Fleet Turnover Correction for 2003–2005	0.63	0.16
Target Level for 2005	95.78	134.93

Growth Projections (1990–2005)

Section 182(c)(2) of the Act requires Delaware's two severe ozone nonattainment counties (Kent and New Castle Counties) to achieve a 3 percent per year emissions reduction averaged over each consecutive 3-year period after 1996, plus offsetting emission growth, until 2005, the year of attainment for the Philadelphia area. To determine the total amount of VOC and NO_X emissions reductions for 1999, 2002 and 2005 ROP, the emissions levels for the milestone years must be estimated. For this purpose, the growth factors are developed for various source categories of emissions based on economic indicators. The 1990 baseline emissions multiplied by these growth factors, and the resulting inventory is called the Current Control Projection Inventory. The current control projections are estimates of VOC and NO_X emissions that will occur in each milestone year, if no new emission control measures are implemented between 1990 and 2005. The differences between the milestone year current control projections and the milestone year target level of emissions are the total VOC and/or NO_X emissions that Delaware must plan to reduce in order to meet the VOC and/or NO_X reduction requirements for that milestone year. The required reductions are summarized in Table 2.

TABLE 2.—REQUIRED VOC AND NO_X EMISSION REDUCTION FOR EACH MILESTONE YEAR IN TPD

Description	1999		2002		2005	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Projected Uncontrolled Emissions	153.73	184.04	159.00	186.87	164.08	195.47
Target Level	111.81	147.13	99.45	145.71	95.78	134.93
Emissions Reductions Required	41.92	36.91	59.55	41.15	68.30	60.54

The methodologies used by Delaware to project emissions growth and EPA's evaluation are discussed in more detail in a Technical Support Document (TSD) prepared in support of this proposed rulemaking. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. We believe that the methodology employed in Delaware's ROP plans for selecting growth factors and applying them to the 1990 base year emissions inventory to estimate emissions growth in point, area, on-road mobile and off-road mobile sources is approvable.

Evaluation of Emission Control Measures

The ROP plan is to demonstrate how the state will reduce emissions 3 percent per year, grouped in three year intervals, through the area's attainment year. In general, reductions toward ROP requirements are creditable provided the control measures occurred after 1990 and are real, permanent, quantifiable, federally enforceable and they occurred by the applicable ROP milestone year. A detailed evaluation of each of the control measures implemented by Delaware can be found in the TSD prepared for this rulemaking. Table 3 below provides a summary of the control measures used by Delaware to achieve ROP in Kent and New Castle Counties. All control measures in the ROP demonstration have been adopted and fully implemented by the State of Delaware or are Federal measures being implemented nationally. All state control measures have been fully approved by EPA into the Delaware SIP and are permanent and enforceable. The mobile source control programs include the total amount of reductions associated with vehicle inspection and maintenance, Tier 1 motor vehicle emission standards, reformulated gasoline, the National Low Emissions Vehicle (NLEV) program, highway heavy duty diesel engine standards, and Tier 2 emission standards and low sulfur fuel standards. EPA's MOBILE5b emissions model was used to generate mobile source emission reductions.

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TABLE 3.—SUMMARY OF VOC AND NO_X EMISSION CONTROL MEASURES AND EMISSION REDUCTIONS FOR EACH MILESTONE YEAR IN TONS PER DAY

Control Measures	1999 Reductions		2002 Reductions		2005 Reductions	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point and Area Source Controls						
VOC RACT	7.63	.....	7.74	.....	8.52	.....
Non-CTG RACT	0.37	.....	0.38	.....	0.38	.....
NO_X RACT	.....	2.24	.....	2.32	.....	2.39
OTR Regional NO_X MOU	.....	28.91	.....	27.22	.....	.....
Federal NO_X SIP Call Regional Control	.....	.....	.....	.....	.....	32.93
Federal Benzene Waste Rule	1.72	.....	1.32	.....	1.32	.....
Sanitary Landfills	0.25	.....	0.35	.....	0.44	.....
Irreversible Process Changes	1.93	.....	1.96	.....	2.01	.....
Open Burning	7.67	1.53	7.83	1.56	7.81	1.59
Consumer Products	.....	.....	0.59	.....	0.59	.....
Architectural Coatings	.....	.....	1.34	.....	1.38	.....
Off-Road Mobile Source Controls						
Reformulated Fuel	0.52	.....	0.03	.....	0.03	.....
Small Spark Ignition Engines	1.78	−0.08	4.07	0.05	4.99	0.06
Compression Ignition Engines	0.00	1.12	0.73	2.82	1.07	4.38
Marine Engines	0.01	.....	1.02	−0.06	2.04	−0.11
Locomotives	.....	.....	.....	0.52	0.00	0.77
On-Road Mobile Source Controls						
FMVCP and RVP	18.12	2.14	19.93	2.53	.....	.....
Tier 1 Vehicle Emission Standards	1.42	3.41	4.28	5.95	.....	.....
Enhanced I/M	5.64	0.99	1.21	1.23	.....	.....
Reformulated Fuel	2.48	−0.17	5.88	−0.19	.....	.....
LEV Program	.....	.....	0.41	0.85	.....	.....
Heavy Duty Diesel Engines NLEV Program Tier 2 Emission Standards/Low Sulfur Fuel	.....	.....	.....	.....	0.70	3.61
Total On-Road Mobile source reductions	27.66	6.37	36.01	10.37	37.71	19.21
Total Reductions from All Controls	49.54	40.08	63.37	44.80	68.30	61.22

Milestone Year 1999: The control measures that Delaware plans to implement in order to meet the average 3 percent per year rate of progress for the milestone year 1999 are listed in Table 3 above. The VOC and NO_X emissions reductions for the nonattainment area are 49.54 and 40.08 tons per peak ozone season day (tpd), respectively. The VOC and NO_X reductions that are required by Delaware in order to meet the average 3 percent rate-of-progress requirement are 41.92 and 36.91 tons per peak ozone season day, respectively (refer to Table 2 above). Therefore, the control measures listed in Table 3 are adequate to meet the 3 percent per rate of progress requirement for the milestone year 1999.

Milestone Year 2002: The control measures that Delaware plans to implement to meet the average 3percent per year rate of progress requirement, plus offsetting the emission growth for the 1999–2002 period are listed in Table 3 above. The VOC and NO_X emissions reductions for the attainment area are 63.37 and 44.80 tpd, respectively. The VOC and NO_X reductions that are required by Delaware in order to meet the average 3 percent rate of progress requirement are 59.55 and 41.15 tpd, respectively (refer to Table 2 above). Therefore, the control measures in Table 3 are adequate to meet the average 3 percent per year rate of progress requirement, plus offsetting the emission growth for the 2000–2002 period.

Milestone Year 2005: The control measures that Delaware plans to implement to meet the average 3 percent per year rate of progress requirement, plus offsetting the emission growth for the 2003–2005 period are listed in Table 3 above. The VOC and NO_X emissions reductions for the attainment area are 68.30 and 61.22 tpd, respectively. The VOC and NO_X reductions that are required by Delaware in order to meet the average 3 percent rate-of-progress requirement are 68.30 and 60.54 tpd, respectively (refer to Table 2 above). Therefore, the control measures in Table 3 are adequate to meet the average 3 percent per year rate of progress requirement, plus offsetting the emission growth for the 2003–2005 period.

Summary of Delaware's Post-1996 ROP Demonstration

Delaware's ROP demonstration is summarized in Table 4 below. The table shows that the projected control strategy inventories are less than or equal to the target level established for each milestone year. Therefore the ROP plans demonstrate that emissions have been reduced by a minimum of 9 percent, net of growth, for each milestone year.

TABLE 4.—DELAWARE POST 1996 ROP DEMONSTRATION IN TPD

	1999 VOC	1999 NO_X	2002 VOC	2002 NO_X	2005 VOC	2005 NO_X
Projected Uncontrolled Emissions (Table 2)	153.73	184.04	159.00	186.87	164.08	195.47
Reductions From Creditable Emission Control Measures (Table 3)	49.54	40.08	63.37	44.80	68.30	61.22
Emissions Level Obtained (Uncontrolled Emissions minus Emission reductions)	104.19	143.96	95.63	142.07	95.78	134.25
Projected Target Levels (Table 1)	111.81	147.13	99.45	145.72	95.78	134.93
Surplus Emission Reductions (Target Levels Minus Emissions Obtained)	7.62	3.17	3.82	3.65	0.00	0.68

B. Motor Vehicle Emissions Budgets (MVEBs)

Under EPA's transportation conformity rule, a ROP plan is referred to as a control strategy SIP (62 FR 43779). A control strategy SIP identifies and establishes the MVEBs to which an area's transportation improvement program and long range transportation plan must conform. Conformity to a control strategy SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standard. The budgets for the Delaware ozone nonattainment area are shown in Table 5 below.

TABLE 5.—MOTOR VEHICLE EMISSION BUDGETS FOR DELAWARE ROP PLANS IN TPD

Milestone Year	VOC		NO_X	
	Kent County	New Castle County	Kent County	New Castle County
1999	7.55	22.49	11.17	29.41
2002	6.30	18.44	9.81	27.29
2005	4.84	14.76	7.90	22.92

The 1999 on-road motor vehicle emission budgets were determined adequate for transportation conformity determinations in a April 29, 1999 letter from EPA Region III to DNREC (64 FR 31217, June 10, 1999). Both the 2002 and 2005 budgets were determined adequate for transportation conformity determinations on April 5, 2001. That determination became effective May 2, 2001 (66 FR 19769, April 7, 2001). By proposing approval of Delaware's Post-1996 ROP plans, EPA is also proposing to approve these motor vehicle emission budgets established in the Post-1996 ROP plan SIPs.

C. Contingency Measures

Section 172(c)(9) of the Act requires moderate and above ozone nonattainment areas to adopt contingency measures that would be implemented should the area fail to achieve ROP or to attain by its attainment date. In addition, section 182(c)(9) of the Act requires serious and above areas to adopt contingency measures which would be implemented if the area fails to meet any applicable milestone. EPA issued a guidance, "Early Implementation of Contingency Measures for Ozone and Carbon Monoxide Nonattainment Areas, August 13, 1993," that allows states to implement their contingency measures early. However, contingency measures that are implemented early cannot also be used to meet ROP. EPA does not believe it is logical to penalize areas that are taking extra steps to implement contingency measures early, nor should states be required to backfill for the early activation of contingency measures.

In its ROP plans, Delaware outlines its approach for using already implemented control measures for contingency purposes. The EPA encourages the early implementation of required control measures and of contingency measures as a means of guarding against failure to meet a milestone or to attain. Delaware's plans show an adequate amount of emission reductions have occurred beyond those required for ROP, and therefore, any surplus emission reductions can be considered as early implementation of contingency measures. Surplus emission reductions associated with control measures that are not required in the nonattainment area by the Act can be used for contingency purposes. Delaware has adopted several measures which are available for consideration as the early implementation of contingency measures, including implementing an annual inspection schedule for the Stage II Vapor Recovery Systems, open burning control in New Castle County, a combination of controls on various sources in the peak ozone season, as well as through improvement of rule effectiveness for the regional NO_X emission control rule. Therefore, EPA believes the requirements of the Act with regard to providing contingency measures should the area fail to achieve ROP, have been satisfied for the Delaware ozone nonattainment area.

IV. Proposed Action

EPA is proposing to approve the Post-1996 ROP plans for milestone years 1999, 2002 and 2005 for the Delaware portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area submitted on December 29, 1997, June 17, 1999, February 3, 2000, and December 20, 2000. EPA is also proposing to approve the contingency plans for failure to meet ROP in the Delaware portion of the Philadelphia severe ozone nonattainment area (Kent and New Castle Counties), submitted in conjunction with the ROP demonstrations. EPA is also proposing to approve the revised enforceable commitments made to the attainment plan for the Philadelphia area submitted by DNREC on December 20, 2000 to adopt additional measures to strengthen the attainment demonstration, and to revise the plan and its motor vehicle emissions budgets using MOBILE6

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within one year after that model is issued. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed rule to approve the Delaware Post-1996 ROP plans does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, and Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 24, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–21925 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY51–225; FRL–7047–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 23, 1999, the New York State Department of Environmental Conservation (NYSDEC) submitted a request to EPA to redesignate the New York portion of the New York-Northern New Jersey-Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. In today's action, EPA is proposing to approve this request from the State of New York because it meets the redesignation requirements set forth in the Clean Air Act. In addition, EPA is proposing to approve the New York CO maintenance plan because it provides for continued maintenance of the CO NAAQS.

EPA is also proposing to approve the New York CO attainment demonstration that was submitted by NYSDEC on November 15, 1992. This would provide for full approval of the New York State Implementation Plan (SIP) for CO.

Finally, EPA is proposing approval of New York's revision of the Downtown Brooklyn Master Plan component of the CO attainment demonstration. This removes several transportation control measures from the SIP that have been demonstrated as no longer necessary to attain and maintain the NAAQS for CO. The intended effect of this action is to approve a plan that demonstrates that the CO standard has been attained and will continue to be attained.

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the State submittal and EPA's Technical support document are available for public inspection during normal business hours, by appointment, at the following addresses:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

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1. What is required by the Clean Air Act and how does it apply to New York?
2. What was included in New York's submittal and does it meet the Clean Air Act requirements?
3. What are EPA's findings?
4. What are EPA's Conclusions?
5. Administrative requirements

1. What Is Required by the Clean Air Act and How Does It Apply to New York?

Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions.

Section 107(d)(3)(E) of the CAA identifies five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

a. The area must have attained the applicable NAAQS.

b. The area must have a fully approved SIP under section 110(k) of the CAA.

c. The air quality improvement must be permanent and enforceable.

d. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

e. The area must meet all applicable requirements under section 110 and Part D of the CAA.

The New York portion of the New York-Northern New Jersey-Long Island CO nonattainment area is classified as a moderate 2 area (i.e., the CO design value of 12.8–16.4 parts per million, or ppm). The entire non-attainment area is part of the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA). The New York portion of the non-attainment area consists of the Counties of Bronx, Kings, New York, Queens, Richmond, Nassau, and Westchester (referred to in this document as the New York City metropolitan area, or NYCMA). The remainder of New York State is in attainment for CO.

This area was designated nonattainment for CO under the provisions of sections 186 and 187 of the CAA. Because the area had a design value of 13.5 ppm based on 1988 and 1989 data, the area was classified moderate 2. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.333.) This design value was based on ambient CO data recorded in Kings County, New York. For moderate 2 CO nonattainment areas, the CAA required that air quality attain the National Ambient Air Quality Standard (NAAQS) by December 31, 1995. On April 24, 1996, the State of New Jersey submitted a request for a one year extension of the attainment date to December 31, 1996 as allowed for in the CAA. On July 31, 1996 and June 27, 1996, the States of New York and Connecticut respectively submitted letters to EPA concurring with New Jersey's request. EPA granted the request for a one year extension to December 31, 1996 in a November 5, 1996 **Federal Register** document. The three States had applied for this extension since there was an exceedance of the CO NAAQS in the CMSA in 1994. This extension was granted pursuant to section 186(a)(4).

2. What Was Included in New York's Submittal and Does It Meet the Clean Air Act Requirements?

In an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on August 30, 1999, the State of New York submitted a CO redesignation request and maintenance plan for the New York portion of the CO nonattainment area.

On March 22, 2000, New York submitted a related SIP revision which requested removal of a number of transportation control Measures (TCMs) from the SIP because these measures have been demonstrated to no longer be necessary to provide for attainment and maintenance of the CO standard. This proposed revision is contained in a document entitled "Update to the Downtown Brooklyn Master Plan Component of the Carbon Monoxide Attainment Demonstration."

Public hearings were held on September 7, 1999 for the CO redesignation request and on September 9, 1999 for the Downtown Brooklyn Master Plan SIP revision.

New York is requesting the removal of two sets of transportation control measures (TCMs). Three of these TCMs were identified in the November 15, 1992 CO attainment demonstration and 11 from the Downtown Brooklyn Master Plan (DBMP). NYSDEC has provided demonstration sufficient to warrant their removal from the SIP.

While EPA's approval of the November 15, 1992 CO attainment demonstration did not include removal of these TCMs, NYSDEC's modeling analysis demonstrates attainment of the NAAQS without relying on the emissions reductions associated with these TCMs. The proposed CO redesignation request demonstrates attainment and maintenance of the CO NAAQS without these TCMs, so their removal from the NYCMA CO SIP is approvable.

NYSDEC presents intersection analyses to determine if there is a continued need for the 11 unimplemented TCMs from the DBMP. The analyses followed the general procedures and methodologies consistent with the 1992 NYCMA CO SIP, with the exception of using EPA receptor guidance rather than New York City Environmental Quality Review (CEQR) and using the CAL3QHCR dispersion model. The Updated DBMP demonstrated attainment and maintenance of the CO NAAQS without these TCMs, so their removal from the NYCMA CO SIP is approvable.

The following is a brief description of how the State has fulfilled each of the CAA redesignation requirements.

a. The Area Must Have Attained the Applicable NAAQS

New York's CO monitoring data shows that from calendar year 1992 through calendar year 1999, no violations of the CO NAAQS have occurred. A violation occurs when more than one exceedance of the standard occurs at the same CO monitor during a calendar year.

In addition, in order to demonstrate attainment of the CO NAAQS, the data must be quality-assured and not show a violation of the standard for the last two consecutive years. New York's CO data has been quality assured and shows no more than one exceedance of the NAAQS per year over the most recent two complete years of data (1999 and 2000).

Therefore, EPA finds that the New York portion of the CMSA has met the first statutory criterion for attainment of the CO NAAQS (40 CFR 50.9 and appendix C).

Furthermore, air quality data for the remainder of the CMSA shows that the entire nonattainment area has met the CO NAAQS from 1995 to the present.

b. The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

New York's August 30, 1999 CO SIP revision is fully approved by EPA as meeting all the requirements of section 110(a)(2)(I) of the CAA, including the requirements of Part D (relating to nonattainment), which were due prior to the date of New York's redesignation request. The 1990 CAA required that nonattainment areas meet specific new requirements depending on the severity of the nonattainment classification. Requirements for New York include an attainment demonstration, forecast of vehicle miles traveled, the preparation of a 1990 emission inventory with periodic updates, the development of contingency measures, implementation of an enhanced inspection and

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maintenance (I/M) program, and adherence to the conformity rules.

Previously Approved Requirements

New York's vehicle miles traveled forecast, emissions inventory, and contingency measures were approved on July 25, 1996 (61 FR 38594) as part of the New York CO SIP.

New York's attainment demonstration would have been approved in an earlier notice except that it relied on credit from the New York enhanced motor vehicle inspection and maintenance (I/M) program. New York's analysis demonstrated that all of the modeled intersections attained the 8-hour carbon monoxide standard of 9 ppm. Since air quality values at the most congested intersections was determined to not exceed the standard, New York has demonstrated that the entire area will be in attainment for CO. New York used appropriate modeling techniques and modeling inputs in its demonstration.

New York's enhanced I/M program was implemented in November 1997. After the State successfully demonstrated how much emissions reduction credit the program deserves, EPA published a final approval of the enhanced I/M program on May 7, 2001 (66 FR 22922).

EPA is proposing to approve the attainment demonstration at this time.

Conformity

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (see 40 CFR 51.390) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment, or that are subject to an EPA approved maintenance plan, EPA has decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA.

EPA's decision is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to adopt the transportation conformity rules even after redesignation and would risk sanctions for failure to do so. Unlike most requirements of section 110 and part D, which are linked to the nonattainment status of the area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require performance of conformity analyses in the absence of approved state rules. Therefore, a delay in approving State rules does not relieve an area from the obligation to implement conformity requirements. Specifically, New York submitted adopted transportation conformity regulations on August 12, 1998. However, on March 2, 1999 the U.S. Court of Appeals for the D.C. Circuit struck down five provisions of the federal transportation conformity regulation (EDF v. EPA, 167 F.3d 641—D.C. Cir. 1999). Having preceded the court's decision, New York State includes all five of these provisions in its adopted State regulation as presented in Table 1.

TABLE 1

Description of the provision	Relevant section of the Federal Transportation Conformity Regulation (40 CFR Part 93)	Relevant section of the New York State Transportation Conformity Regulation (6NYCRR Part 240)
Allowed emission budgets in submitted SIPs to become adequate for conformity purposes either by a letter from EPA making such a finding or automatically 45 days after the SIP was submitted.	93.118(e)(1)	240.19(e)(1).
Allowed areas 120 days after disapproval of a submitted control strategy SIP before the start of a conformity freeze.	93.120(a)(2)	240.21(a)(2).
Allowed states to quantify a safety margin based on excess emission reduction from stationary or area sources and to incorporate this safety margin into the transportation conformity budget.	93.124(b)	240.25(b).
Allowed projects that had completed the NEPA process and had been subject to a conformity determination to continue during a lapse.	93.102(c)(1)	240.3(c)(1).
Allowed non-federally funded projects to continue during a conformity lapse.	93.121(a)(1)	240.22(a)(1).

Because New York State's transportation conformity regulation contains these five provisions, EPA cannot proceed with an approval of the State's regulation at this time.

Nevertheless, areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules, if State rules are not yet approved. Accordingly, EPA believes it is appropriate to evaluate New York's redesignation request independent of the status of the State's conformity regulation.

Part D New Source Review Requirements

Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols, entitled "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," EPA is not requiring full approval of a Part D NSR program by New York as a prerequisite to redesignation to attainment. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully approved Part D NSR program so long as the program is not relied upon for maintenance. New York has not relied on a NSR program to maintain air quality within the CO standard. Moreover, because the New York portion of the CO nonattainment area is being redesignated to attainment by this action, New York's Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources of CO.

c. The Air Quality Improvement Must Be Permanent and Enforceable

New York has implemented a number of measures to control motor vehicle CO emissions. Emission reductions achieved through the implementation of these control measures are enforceable. These measures include the Federal Motor Vehicle Control Program, Federal reformulated gasoline regulation, and New York's pre-1990 modifications to its inspection and maintenance (I/M) program.

The State of New York has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed New York to attain the NAAQS since 1992.

d. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is approving the State of New York's maintenance plan because EPA finds that New York's submittal meets the requirements of section 175A.

1996 Attainment Year Inventory

Section 172(c)(3) and 187(a)(1) of the CAA requires that CO plan provisions include a comprehensive, accurate, and current emission inventory from all sources of relevant pollutants in the nonattainment area. In addition, page 8, section 5a of the September 4, 1992 memorandum from John Calcagni, former Director, Air Quality Management Division, to EPA Regional Air Division Directors entitled "Procedures for Processing Requests to Redesignate Areas to Attainment," requires States to "develop an attainment inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. This inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include emissions during the time period associated with the monitoring data showing attainment."

On November 23, 1999, New York submitted its CO redesignation request and maintenance plan to EPA. On March 22, 2000, New York submitted its update to the New York State Implementation Plan for Carbon Monoxide, entitled "Update to the Downtown Brooklyn Master Plan Component of the Carbon Monoxide Attainment Demonstration." Finally, on May 25, 2001, New York submitted its Final Proposed Revision for redesignating the New York CO nonattainment area to attainment of the CO standard.

New York included the requisite inventory in the CO SIP. The base year for the inventory was 1996, uslng a three-month CO season of December 1996 through February 1997. The inventory covers the seven counties in the NYCMA.

The 1996 emissions inventory is also classified as the attainment year inventory for the CO redesignation plan. The calendar year 1996 inventory can be considered representative of attainment conditions because the NAAQS were not violated during 1996. The inventory included peak average wintertime daily emissions from stationary point, stationary area, off-highway mobile, and highway mobile sources of CO. These emission estimates were prepared in accordance with EPA guidance. EPA is approving the CO emissions inventory for the entire NYCMA CO nonattainment area.

Demonstration of Maintenance-Projected Inventories

New York estimates that total CO emissions will decrease from 4,510.7 tons per day in the 1996 base year to 3,539 tons per day in 2012. Such a reduction in CO emissions clearly supports the State's contention that the CO NAAQS will be maintained into the foreseeable future. These projected inventories were prepared in accordance with EPA guidance. The projections in Table 2 show that future CO emissions are expected to be below the level of emissions in the base year after the benefits of the Federal Motor Vehicle Control Program, reformulated gasoline and pre-1996 basic I/M program are taken into consideration. These improvements are expected to occur despite the fact that New York took into account the effects of growth due to economic activities and population changes on stationary and off-highway sources.

TABLE 2.—1996 BASE YEAR AND PROJECTED 2000, 2007 AND 2012 CARBON MONOXIDE EMISSION INVENTORIES WITH POST-1996 CONTROLS

[Tons/Peak Winter Season Day]

NYCMA nonattainment area by source category	1996 CO emission inventory (tons per day)	2000 projected CO emission inventory (tons per day)	2007 projected CO emission inventory (tons per day)	2012 projected CO emission inventory (tons per day)
Point	86.20	91	99	106
Area	699.50	708	720	735
Off-Highway Mobile	219	232	254	267
Highway Mobile	3506	2860	2381	2431
Total	4510.70	3891	3454	3539

Transportation Conformity Budgets

The submittal included transportation conformity budgets based on the control strategies, growth projections and assumptions used in the attainment demonstration and maintenance plans for the CO nonattainment area. Table 3 presents the 2000, 2007 and 2012 carbon monoxide transportation conformity budgets in tons of CO per winter day. These budgets are consistent with the State's emission baseline and projected inventories for highway mobile sources. EPA announced its findings that the budgets are adequate for transportation conformity purposes on March 27, 2000 (65 FR 16196). EPA is now proposing to approve these budgets.

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TABLE 3.—CARBON MONOXIDE TRANSPORTATION CONFORMITY BUDGETS

[Tons of CO/winter day]

Year	CO (tons/winter day)
2000	2860
2007	2381
2012	2431

Monitoring Network

New York has committed to continue to operate its existing air monitoring network and quality assurance program in accordance with 40 CFR part 58 to ensure the development of complete and accurate emission inventory and air monitoring data.

Verification of Continued Attainment

Continued attainment of the CO NAAQS in New York depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has projected CO emissions out to 2012 with interim years of 2000 and 2007. The State has also committed to track actual vehicle miles traveled (VMT) on an annual basis as part of the demonstration that growth above and beyond that predicted will not result in a change of attainment determination. This tracking process will be used along with the latest EPA emission model to ensure that the 1996 baseline attainment emissions are not exceeded.

In addition to tracking changes in VMT, New York will use a process based on planned development to identify areas at risk of exceeding the CO standard. This process will rely on information collected by the New York City Departments of City Planning, the New York City Department of Transportation, the New York State Department of Transportation, or other agencies that undertake major investment studies associated with transportation projects. Additionally, the New York State Department of Environmental Conservation is to be informed by New York City of any planned commercial developments larger than 300,000 square feet. Any project(s) that meets the State's criteria will be considered an area at potential risk for violating the CO standard and would be required to mitigate any projected violations of the NAAQS.

Finally, the State previously identified the Long Island City and Downtown Brooklyn Business Districts as areas at risk of violating the CO standard because in the 1992 attainment demonstration these areas showed the potential for future exceedance of the CO standard. However, that attainment demonstration did not take credit for the benefits of the now implemented enhanced motor vehicle I/M program. With these credits, the State has demonstrated that these areas would not exceed the CO standard in the future. Accordingly, New York's request to remove the DBMP TCMs from the SIP is approved.

EPA is proposing to approve New York State's plans for verifying continued attainment of the CO standard and for identifying areas at risk of exceeding the CO standard.

Contingency Plan

The level of CO emissions in New York will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, it is possible that the ambient air pollutant concentrations exceed or violate the NAAQS based upon some unforeseeable condition. In order to meet this challenge, the CAA requires states to develop contingency measures to offset these conditions. New York has committed to use its winter-time Reid Vapor Pressure (RVP) regulation as its contingency measure. New York State's Subpart 225–3 "Fuel Composition and Use—Volatile Motor Fuel" permits the commissioner to set a winter RVP level for gasoline if such a level is necessary for air quality purposes. This regulation was adopted on June 30, 1993 and was approved by EPA in 61 FR 38594 as part of New York's 1992 CO SIP.

e. The Area Must Meet All Applicable Requirements Under Section 110 and Part D of the CAA

In section 2.b. of this document EPA sets forth the basis for its conclusion that New York has a fully approved SIP which meets the applicable requirements of section 110 and Part D of the CAA. EPA notes that section 110 also requires that states include in their SIPs, where applicable, oxygenated gasoline programs. The oxygenated fuels program was removed from the New York SIP because the entire CMSA, including the New York portion, was attaining the CO NAAQS. (See 65 FR 20909 (April 19, 2000)). Since oxygenated fuel was removed from the SIP because it was no longer required, its removal does not pose a problem for the redesignation of the New York portion of the CMSA from nonattainment to attainment for the CO NAAQS.

3. What Are EPA's Findings?

EPA has determined that the information received from the NYSDEC constitutes complete redesignation requests under the general completeness criteria of 40 CFR part 51, appendix V, sections 2.1 and 2.2.

Additionally, the New York redesignation request meets the five requirements of section 107(d)(3)(E), noted earlier.

4. What Are EPA's Conclusions?

EPA is proposing to approve New York's request for redesignating the New York portion of the New York Northern New Jersey-Long Island CO nonattainment area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also proposing to approve the New York CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, EPA is proposing to approve the New York CO attainment demonstration that was submitted on November 15, 1992. Finally, EPA is proposing to approve the removal from the SIP of the 3 TCMs identified in the November 15, 1992 CO attainment demonstration and the 11 TCMs from the DBMP.

5. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

Authority: 42.U.S.C. 7401 *et seq.*

Dated: August 20, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–21933 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–7045–6]

RIN 2040–AD08

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Ambient Water; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under section 304(h) of the Clean Water Act (CWA), by adding several analytical test procedures for enumerating the bacteria, Escherichia coli (E. coli) and enterococci, and the protozoans, Cryptosporidium and Giardia, in ambient water to the list of Agency-approved methods.

This proposal would make available a suite of Most Probable Number (MPN) (i.e. multiple-tube, multiple-well) and membrane filter (MF) methods for enumerating E. coli and enteroccoci bacteria in ambient water. Both culture-based and enzyme-substrate techniques are included. Some test methods are also applicable to total coliform determinations when these are the preliminary or concurrent steps for E. coli enumeration. Similarly, this document proposes new methods for detecting Cryptosporidium and Giardia in ambient water. Regulators may use these test procedures to assess Cryptosporidium and Giardia concentrations in ambient waters.

DATES: Comments must be postmarked, delivered by hand, or electronically mailed on or before October 29, 2001. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. Eastern Time (ET) on October 29, 2001.

ADDRESSES: Send written comments on the proposed rule to "Part 136 Biological Methods" Comment Clerk (W–99–14); Water Docket (4101); U. S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries should be delivered to: EPA's Water Docket at 401 M Street, SW., East Tower Basement (Room EB 57), Washington, DC 20460. If you wish to hand-deliver your comments, please call (202) 260–3027 between 9 a.m. and 4 p.m., Monday through Friday, excluding Federal holidays, to obtain the room location for the Docket. Comments also may be submitted electronically to: *OW-Docket@epa.gov.*

FOR FURTHER INFORMATION CONTACT: For regulatory information regarding this proposal, contact Maria Gomez-Taylor, Ph.D.; Engineering and Analysis Division (4303); Office of Science and Technology; Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 260–1639.

For technical information regarding analytical methods proposed in today's rule, contact Robin Oshiro; Office of Science and Technology (4304); Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 260–7278.

SUPPLEMENTARY INFORMATION:

Potentially Affected/Regulated Entities

EPA Regions, as well as States, Territories, and Tribes are authorized to implement the water quality standards program and the National Pollutant Discharge Elimination System (NPDES) program, and to issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act (CWA). In doing so, permitting authorities, including authorized States, Territories, and Tribes, make discretionary choices when writing permits, including the selection of pollutants to be measured and monitoring requirements. If EPA has "approved" (i.e., promulgated through rulemaking) standardized testing procedures for a given pollutant, the permit must specify one of the approved testing procedures or an approved alternate test procedure. Although EPA proposes to include test methods for four biological pollutants in section 136.3, it recommends their use only for ambient water quality monitoring. EPA does not propose to approve these test methods for effluent matrices.

EPA has developed ambient water quality criteria for E. coli and enteroccoci bacteria and is considering criteria for Cryptosporidium and Giardia. The States, Territories, and Tribes may adopt these criteria into their water quality standards and may issue water quality-based permits that require monitoring for these pollutants in ambient waters. Therefore, discharges with water quality-based permits could be affected by the standardization of testing procedures in this rulemaking in instances where the permitting

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authority requires that such permits incorporate ambient water monitoring. EPA does not require inclusion of ambient water monitoring for NPDES permits. In addition, when a State, Territory, or authorized Tribe provides certification of Federal licenses under the CWA section 401, and when such certification requires measurement of waste constituents specified in 40 CFR 136, then such measurements must be in accordance with approved testing procedures if such procedures are available. 40 CFR 136.1(c). Categories and entities that ultimately may be affected/regulated include:

Category	Examples of potentially affected/regulated entities
Regional, State, and Territorial Governments and Indian Tribes.	States, Territories, and Tribes authorized to administer the water quality standards programs; States, Territories, and Tribes providing certification under Clean Water Act section 401; Governmental permittees.
Municipalities	Publicly-owned treatment works with water quality-based permits.
Industry	Industrial facilities with water quality-based permits.

This table is not intended to be exhaustive, but rather provides guidance for readers regarding entities likely to be affected/regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected/regulated by this action. Other types of entities not listed in the table also could be affected/regulated. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section.

Record and Commenting Procedures

The record for this rulemaking has been established under docket number W–99–14. A copy of the supporting documents cited in this proposal are available for review at EPA's Water Docket. The record is available for inspection from 9 a.m. to 4 p.m. EST, Monday through Friday, excluding Federal holidays at EPA's Water Docket, 401 M Street SW., East Tower Basement (Room EB 57), Washington, DC 20460. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

Commenters are requested to submit any references cited in their comments. Commenters also are requested to submit an original and three copies of their written comments and enclosures, and to clearly identify the specific pollutant and method to which the comment applies. Commenters that want a confirmed receipt of their comments should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

Electronic comments must be submitted as a Word Perfect for Windows 5/6/7/8 file or an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on disks in Word Perfect 5/6/7/8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. All electronic comments must be identified by docket number. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

Information on Internet Access

This **Federal Register** document has been placed on the Internet for public review and downloading at the following location: http//www.epa.gov/fedrgstr.

Availability and Sources for Methods

Copies of analytical methods published by EPA are available for a nominal cost through the National Technical Information Service (NTIS); U.S. Department of Commerce; 5285 Port Royal Road; Springfield, VA 22161, or call (800) 553–6847. Copies of the EPA methods cited in this proposal may be obtained from Robin Oshiro; Office of Science and Technology (4304); Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 260–7278. Copies of several of the EPA methods cited in this proposal may also be downloaded from the EPA Office of Research and Development; National Exposure Research Laboratory (NERL)-Cincinnati Microbiology home page at www.epa.gov/microbes/. Copies of published journal articles for selected EPA methods are available in the public domain. All other methods must be obtained from the publisher. Publishers (with contact information) for all methods are included in the References section of today's rule. Copies of all methods are also available in the public record for this proposal.

Outline of Preamble

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I. Statutory Authority

Today's proposal is pursuant to the authority of sections 303(c), 304(a), 304(h) and 501(a) of the Clean Water Act (CWA), 33 U.S.C. 1313(c), 1314(a), 1314(h), 1361(a) (the "Act"). Section 303(c) of the Act establishes the basis for the current water quality standards program. This section requires EPA to review and approve or disapprove State-adopted water quality standards. Section 304(a) of the Act requires the EPA Administrator to conduct non-regulatory scientific assessments of ecological and public health effects to support the development of water quality criteria associated with specific ambient water uses. When these criteria are adopted as State water quality standards under section 303, they become the enforceable maximum acceptable levels of pollutants in ambient waters. Section 304(h) of the Act requires the EPA Administrator to "promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit applications pursuant to section 402 of this Act." Section 501(a) of the Act authorizes the Administrator to "prescribe such regulations as are necessary to carry out this function under this Act."

II. Regulatory Background

To fulfill the CWA's mandate to maintain "fishable and swimmable" waters, EPA is required to develop ambient water quality criteria based on a scientific assessment of the relationship between pollutant concentrations and environmental and human health effects. Ambient water refers to any fresh, marine, or estuarine surface water used for recreation; propagation of fish, shellfish, or wildlife; agriculture; industry; navigation; or as source water for drinking water facilities. These ambient water quality criteria become enforceable water quality standards when adopted by State, Territorial, Tribal, and local governments implementing a water-quality based approach to pollution control. For bacterial pollution in ambient water, EPA has developed bacteriological ambient water quality criteria recommendations for E. coli in freshwater and enterococci in freshwater and marine waters (51 FR 8012, March 7, 1986). There are a number of zoonotic diseases of concern to humans (diseases transferred from animals to humans) if recreational or other waters are contaminated with fecal material from non-human animal species. E. coli species are a subset of the coliform bacteria group that is part of the normal intestinal flora of humans and animals and is, therefore, a direct indicator of fecal contamination from these sources in water. Enterococci, which include Enterococcus faecalis and Enterococcus faecium, are enteric bacteria used to indicate fecal contamination and the possible presence of pathogens, in water. Based on previous EPA guidance, total and fecal coliform bacteria currently have been included in many water quality standards as indicators of bacterial contamination (USEPA, 1976). However, more recent epidemiological studies described in Ambient Water Quality Criteria for Bacteria—1986 (USEPA, 1986a), indicate that E. coli and enterococci show a direct correlation with swimming-associated gastrointestinal illness rates, while fecal coliforms do not. As the concentration of E. coli and/or enterococci increase(s), the illness rates also increase. These indicators are used as part of the bacterial water quality criteria and standards to enhance the protection of human health and the environment.

In addition to bacterial pollution, EPA is concerned about waterborne parasites and has developed test methods for Cryptosporidium and Giardia. These waterborne parasites are responsible for cases of severe and widespread human illness when present in drinking water supplies as a result of contamination of source waters. To support future regulation of these organisms in drinking water, the Safe Drinking Water Act Amendments of 1996 required the EPA to evaluate the risk to public health associated with Cryptosporidium and Giardia contamination. To implement these requirements, EPA plans to assess Cryptosporidium and Giardia occurrence in freshwater surface water bodies. Because one of the designated uses of some ambient waters may include the use of the waterbody as a drinking water source, EPA may develop ambient water quality criteria for Cryptosporidium and Giardia in the future. EPA plans to use the test methods discussed in this notice to support these assessments. By doing so, EPA desires to promote consistency on the methods used for these assessments to ensure that the data collected are of good quality and comparable. EPA also wishes to make these methods available for use by the States and for general use for risk assessments.

In today's notice, EPA is proposing test methods for E. coli, enterococci, Cryptosporidium, and Giardia. Proposal of the bacterial methods supports the use of E. coli and enterococci as indicators in place of the total and fecal coliform indicators in State, Territorial, Tribal, and local water quality-based monitoring programs. Proposal of test methods for Cryptosporidium and Giardia supports the use of these methods in evaluating surface water occurrence of these organisms and the associated watershed vulnerability levels of concern for waterbodies designated as potential drinking water sources under the water quality standards program. EPA proposes to approve the use of test methods for E. coli, enterococci, Cryptosporidium, and Giardia for ambient water quality monitoring only. Although EPA believes that these methods are appropriate for ambient water quality monitoring, the Agency has not determined that these methods are acceptable for application to other matrices.

This proposal was initiated in response to national directives that seek to improve and assist in State, Territorial, Tribal, and local implementation of water quality standards, ambient water monitoring programs, and public notification programs to reduce public health risks posed by biological pollutants in ambient water. The primary initiatives that served as impetus for today's proposal include the Beaches Environmental Assessment Closure and Health (BEACH) Program; the Beach Action Plan (EPA–600–R–98–079); the Beach Watch Program; the Beaches Environmental Monitoring for Public Access and Community Tracking (EMPACT) Program; and the Water Quality Criteria and Standards Plan. Additionally, this rule is expected to satisfy requests by State, Territorial, Tribal, and local governments, regulated entities, and environmental laboratories that EPA publish analytical test procedures for enumerating E. coli, enterococci, Cryptosporidium, and Giardia in ambient water that were evaluated through interlaboratory validation or extensive intralaboratory comparison with previously approved methods.

III. Explanation of Today's Action

A. Methods for Bacterial Pollutants

This proposal would make available a suite of Most Probable Number (MPN) (i.e., multiple-tube, multiple-well), and membrane filter (MF) methods for enumerating (i.e., determining organism density) E. coli and enteroccoci in ambient water as part of State, Territorial, Tribal, and local water quality monitoring programs. Multiple-tube, multiple-well, and MF formats include culture and enzyme-substrate techniques. Culture methods use lactose fermentation (E. coli), presence of turbidity (enterococci), colony formation, or color to detect the target organism. Enzyme-substrate tests use chromogenic (e.g., indoxyl-β-D-glucuronide) or fluorogenic (e.g., 4-methylumbelliferyl-β-D-glucuronide, [MUG]) substrates that react with specific enzymes (generally, β-glucuronidase in E. coli and β-glucosidase in enterococci) to produce color changes or fluorescence to detect the target organism. The methods included in this proposal were developed by EPA, voluntary consensus standards bodies (VCSBs) (i.e., American Public Health Association [APHA], American Water Works Association [AWWA], and Water Environment Foundation [WEF] who jointly publish Standard Methods for the Examination of Water and Wastewater, referred to as "Standard Methods;'American Society for Testing and Materials [ASTM]; Association of Official Analytical Chemists International [AOAC]), and commercial vendors with methods submitted to the EPA Office of Water (OW) Alternate Test Procedure (ATP) process. For several procedures, an EPA method, VCSB method, and/or a commercially available method (submitted to the ATP program) are proposed.

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Although there are several methods (not yet approved by EPA) that are applicable to simultaneous determination of total coliform and E. coli, EPA is proposing to approve methods for analysis of E. coli only. EPA made this choice because at present there are no EPA-approved methods for E. coli, whereas EPA-approved methods are already available for the determination of total coliform. There is a request for comment on the expansion of today's rule to include total coliforms in Section III.A.5. Several of the total coliform test methods (or selected procedural steps) have already been approved by EPA (see Table IA at 40 CFR 136.3) or have been proposed for approval for the Clean Water Act or Safe Drinking Water Act compliance monitoring programs (66 FR 3526, January 16, 2001).

Proposed methods were selected based on data generated by EPA laboratories, submissions to the ATP program and VCSBs, published peer-reviewed journal articles, and/or publicly available study reports that indicate their applicability to quantitative analysis of the target organisms in ambient water. Since data were generated in multiple studies using different method versions and different statistical analyses, the test procedures in today's rule must be evaluated against the end-users' needs based on data quality objectives. End-users should compare any new proposed alternate method with the relevant EPA-recommended method(s) before adopting it for that matrix to ensure that the proposed method generates data of comparable quality. EPA-recommended methods for matrices in which they were tested are summarized in Tables 3 and 5. A media acronym table is provided in Section V. Full citations for methods and data reports are provided in the References section and are included in the docket for today's proposed rulemaking. At the time of final rulemaking, EPA plans to issue a draft protocol for determining the comparability of alternative test methods to those promulgated in the final rule. In addition, EPA will issue draft guidance on acceptable characteristics of methods for determining equivalency (e.g., acceptable range of false positives/false negatives). There is a request for comment in Section III.A.5 inviting suggestions on acceptable characteristics of methods and on method comparability criteria to support the equivalency testing protocol.

1. Most Probable Number (MPN) and Membrane Filtration (MF) Methods

In Most Probable Number tests, the number of tubes/wells producing a positive reaction provides an estimate of the original, undiluted density (i.e., concentration) of target organisms in the sample. This estimate of target organisms, based on probability formulas, is termed the Most Probable Number. MPN tests can be conducted in multiple-tube fermentation (MTF), multiple-tube enzyme substrate, or multiple-well enzyme substrate formats. In multiple-tube tests, serial dilutions may be used to obtain estimates over a range of concentrations, with replicate tubes analyzed at each ten-fold dilution/volume. The numbers of replicate tubes and sample dilutions/volumes are selected based on the expected quality of the water sample. Generally, for non-potable water samples, five replicate tubes at a minimum of three dilutions/volumes are used. Tubes are incubated, and positive results are reported and confirmed. Positive results are determined under specified conditions by the presence of acid and/or the production of gas using MTF tests, or by color change or fluorescence using enzyme substrate tests. Tests also may be conducted in a multiple-well format to determine MPN, using commercially prepared substrate media, multiple-well trays, and MPN tables provided by the manufacturer. Target organism density is estimated by comparing the number of positive tubes or wells with MPN tables. The MPN tables relate the number of positive tubes or wells to an estimate of the mean target organism density based on probability formulas. Results in both types of tests are generally reported as MPN per 100 mL.

The multiple-tube fermentation methodology is useful for detecting low concentrations of organisms (<100/100 mL), particularly in samples containing heavy particulate matter, toxic compounds (e.g. metals), or injured or stressed organisms. Multiple-tube tests are applicable to freshwater, estuarine, and marine ambient waters. Since MPN tables assume a Poisson distribution, samples must be adequately shaken to break up any clumps and provide even distribution of bacteria. If the sample is not gently shaken, the MPN value may underestimate the actual bacterial density. The overall precision of each multiple-tube test depends on the number of tubes used and sample dilutions/volumes tested. Unless a large number of tubes are used (five tubes per dilution/volume or more), the precision of multiple-tube tests can be very poor. Precision is improved when the results from several samples from the same sampling event are processed, estimated separately, and then mathematically combined using the geometric mean. Further background information on multiple-tube tests is available in the 20th Edition of Standard Methods for the Examination of Water and Wastewater (APHA, 1998).

Membrane filtration is a direct-plating method in which sample dilutions/volumes are filtered through 0.45 µm membrane filters that are subsequently transferred to petri plates containing selective primary isolation agar or an absorbent pad saturated with selective broth. A second substrate medium is used in two-step MF procedures to confirm and/or differentiate the target organisms. The total sample volume to be analyzed may be distributed among multiple filters and diluted as needed, based on the anticipated water sample type, quality, and character (e.g., organism density, turbidity). The goal is to obtain plates with counts within the acceptable counting range of the method. The acceptable counting range of membrane filter tests depends on the specific analytical technique and the target organism under study. Plates are incubated and target colonies are counted. A percentage of the target colonies may then be verified as specified by the method. Target colonies are detected by observing the presence of colonies that meet a specific morphology, color, or fluorescence under specified conditions. Colonies may be counted with the aid of a fluorescent light, magnifying lens or dissecting microscope, or long-wavelength (366-nm) ultraviolet (UV) light source. Results generally are reported as colony-forming units (CFU) per 100 mL. Organism density is determined by dividing the number of target CFU by the volume (mL) of undiluted sample that is filtered and multiplying by 100. If verification steps are performed, the initial target colony count is adjusted based upon the percentage of positively verified colonies and reported as a "verified count per 100 mL" (APHA, 1998).

Membrane filtration is applicable to most freshwater, estuarine, and marine ambient waters, with limitations where an underestimation of organism density is likely: water samples with high turbidity, toxic compounds, or large numbers of non-coliform (background) bacteria, and organisms damaged by chlorine or toxic compounds. To minimize these interferences, replicates of smaller sample dilutions/volumes may be filtered and the results combined. When the MF method has not been used previously on an individual water type, parallel tests should be conducted with a MTF to demonstrate applicability, lack of interferences, and at least comparable recovery. For example, colonies from samples containing high-background levels or stressed organisms should be verified. If the MTF results are consistently higher than those obtained in MF tests, or there is an indication of suboptimal recovery, use an appropriate recovery enhancement technique and demonstrate that the recovery enhancement technique is comparable to MTF. Further background information on MF tests is available in Standard Methods for the Examination of Water and Wastewater (APHA,1998).

A statistical comparison of results obtained by the multiple-tube and MF methods showed that the MF method is more precise in enumerating target organisms than the MPN test, but differences in recovery were generally not statistically significant. However, based on susceptibility to interferences, MF tests may underestimate the number of viable bacteria, and the MPN method may overestimate the concentration because of the built-in positive bias of the method (Thomas, 1955). Tables with 95% confidence limits are available for both methods, based on the assumption that bacteria exhibit a Poisson distribution. Because of susceptibility of some MF tests to interferences, verification of some MF results with multiple-tube tests is critical. Additionally, some MPN tests require confirmation tests because of the false positive/false negative rates of the particular media. In general, although numerical results may not be identical, data from each method yield similar water quality information based on performance.

2. Selection of Proposed Methods

A variety of methods for E. coli and enteroccoci are being proposed in today's rule because a range of techniques are routinely used for different applications by regulatory authorities, permitees, laboratories, researchers, and others. The methods presented have been evaluated based on different study designs and statistical analyses. The variety of waters subject to monitoring, the selection of an appropriate method, number of tubes, sample dilutions/volumes, and other analytical design decisions may be made based on the available information on the type, quality, character, consistency of results, anticipated target organism density, and designated use of the water to be monitored.

3. Methods for E. coli

EPA is proposing several methods for enumerating E. coli in ambient water. Brief descriptions of the proposed multiple-tube, multiple-well, and MF methods are provided. Method performance data is summarized in Table 3.

In Table 1, methods in the same row use the same technique, but are published by different entities. For example, ONPG–MUG is published in the "Standard Methods" manual and in the Association of Official Analytical Chemists (AOAC) manual, and is also available as a commercial product. Voluntary Consensus Standards (VCS) Methods are those developed or adopted by domestic and international voluntary consensus standard bodies. The American Public Health Association (APHA), American Water Works Association (AWWA), and Water Environment Foundation (WEF) jointly publish methods approved by a methods approval program in Standard Methods for the Examination of Water and Wastewater ("Standard Methods"). The American Society for Testing and Materials (ASTM) are methods that have met the requirements of the ASTM methods approval program. The Association of Official Analytical Chemists also publishes methods that have met the requirements of the AOAC methods approval program. EPA methods are those that have been developed by the US EPA.

TABLE 1.—PROPOSED METHODS FOR E. COLI ENUMERATION [1,2]

Technique	Method [1,2]	EPA method	VCS methods			Commercial example
			Standard methods	ASTM	AOAC	
Most Probable Number (MPN).	LTB→EC–MUG		9221B.1/ 9221F		991.15	Colilert® [3,5]
	ONPG–MUG		9223B			
	ONPG–MUG		9223B			Colilert-18® [3,6]
	CPRG–MUG		9223B			Colisure™ [3,5]
Membrane Filter (MF)	mENDO→NA–MUG		9222B/9222G			
	LES–ENDO→NA–MUG		9222B/9222G			
	mFC→NA–MUG		9222D/9222G			
	mTEC agar	1103.1	9213D	D5392–93		
	Modified mTEC agar	Modified 1103.1				
	MI agar	EPA–600–R–013 [7]				
	m-ColiBlue24 broth					m-ColiBlue24 [4,5]

[1] A media acronym table is provided in Section V.
[2] Tests must be conducted in a format that provides organism enumeration.
[3] Manufactured by IDEXX.
[4] Manufactured by Hach Company.
[5] Method currently approved for determining presence/absence of total coliform and E. coli in drinking water.
[6] Acceptable version of method approved as a drinking water ATP.
[7] Membrane Filter Method for the Simultaneous Detection of Total Coliforms and Escherichia coli in Drinking Water.

Most Probable Number Tests for *E. coli*

a. LTB→EC–MUG (Standard Methods 9221B.1/9221F)

The multiple-tube fermentation method for enumerating E. coli in water uses multiple-tubes and dilutions/volumes in a two-step procedure to determine E. coli concentrations (APHA, 1998). In the first step, or "presumptive phase," a series of tubes containing lauryl tryptose broth (LTB) are inoculated with undiluted samples and/or dilutions/volumes of the samples and mixed. Inoculated tubes are incubated for 24 ± 2 h at 35 ± 0.5 °C. Each tube then is swirled gently and examined for growth (i.e., turbidity) and

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production of gas in the inner Durham tube. If there is no growth or gas, tubes are re-incubated for 24 ± 2 h at 35 ± 0.5 °C and re-examined. Production of growth and gas within 48 ± 3 h constitutes a positive presumptive test for coliforms, which include E. coli.

After enrichment in the presumptive medium, positive tubes are subjected to a second step for enumeration of E. coli. Presumptive tubes are agitated, and growth is transferred using a sterile loop or applicator stick to tubes containing EC broth supplemented with 4-methylumbelliferyl-β-D-glucuronide (MUG). Inoculated tubes are incubated at 44.5 ± 0.2 °C for 24 ± 2 h in a water bath. All tubes exhibiting growth and gas production are examined for bright blue fluorescence under long-wavelength UV light (366-nm) indicating a positive test for E. coli. The density of E. coli in MPN/100 mL is then calculated from the number of positive EC–MUG tubes, using MPN tables or formulas.

b. ONPG–MUG (Standard Methods 9223B, AOAC 991.15, Colilert®, Colilert-18®, and Autoanalysis Colilert)

ONPG–MUG tests are chromogenic/fluorogenic enzyme substrate tests for the simultaneous determination of total coliforms and E. coli in water. These tests use commercially available media containing the chromogenic substrate ortho-nitrophenyl-β-D-galactopyranoside (ONPG), to detect total coliforms and the fluorogenic substrate 4-methylumbelliferyl-β-D-glucuronide (MUG), to detect E. coli. All tests must be conducted in a format that provides quantitative results for ambient water. Colilert-18® should be used for testing marine waters with a minimum of a 10-fold dilution with sterile freshwater. Media formulations are available in disposable tubes for the multiple-tube procedure or packets for the multiple-well procedure. Appropriate preweighed portions of media for mixing and dispensing into multiple-tubes and wells are also available. The use of commercially prepared media is required for quality assurance and uniformity.

For the multiple-tube procedure, a well-mixed sample and/or sample dilution/volume is added to tubes containing predispensed media. Tubes are then capped and mixed vigorously to dissolve the media. Alternatively, this procedure can be performed by adding appropriate amounts of substrate media to a bulk diluted sample (with appropriate dilutions for enumeration), then mixing and dispensing into multiple-tubes. The number of tubes, and number of dilutions/volumes are determined based on the type, quality, and character of the water sample. A multiple-well procedure may be performed with sterilized disposable packets. The commercially available Quanti-Tray® or Quanti-Tray®/2000 multiple-well tests uses Colilert® or Colilert-18® media to determine E. coli (IDEXX, 1999b,c). In these tests, the packet containing media is added to a 100-mL sample (with appropriate dilutions for enumeration). The sample is then mixed and poured into the tray. A tray sealer separates the sample into 51 wells (Quanti-Tray) or 96 wells (Quanti-tray/2000) and seals the package which is subsequently incubated at 35 ± 0.5 °C for 18 h when using Colilert-18® or 24 h when using Colilert®. If the response is questionable after the specified incubation period, the sample is incubated for up to an additional 4 h at 35 ± 0.5 °C for both Colilert® tests.

After the appropriate incubation period, each tube or well is compared to the reference color "comparator" provided with the media. If the sample has a yellow color greater or equal to the comparator, the presence of total coliforms is verified, and the tube or well is then checked for fluorescence under long-wavelength UV light (366-nm). The presence of fluorescence greater than or equal to the comparator is a positive test for E. coli. If water samples contain humic acid or colored substances, inoculated tubes or wells should also be compared to a sample water blank. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer.

c. CPRG–MUG (Standard Methods 9223B, Colisure™)

CPRG–MUG is a chromogenic/fluorogenic enzyme substrate test for the simultaneous determination of total coliforms and E. coli in water. These tests use a commercially available medium containing the chromogenic substrate chlorophenol red-β-D-galactopyranoside (CPRG) to detect total coliforms, and the fluorogen MUG to detect E. coli. The sample is incubated for 24 ± 2 h at 35 ± 0.5 °C. If results are negative after 24 h, the sample is incubated up to an additional 4 h before calculating results. If the sample has changed from a yellow color to a red or magenta color, the presence of total coliforms is verified and the tube or well is then checked for fluorescence. The presence of blue fluorescence under a long-wavelength UV light (366-nm) is a positive test for E. coli. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer. Colisure™ is a commercially available format of this method and uses the same quantitative formats (multiple-tube and multiple-well) available for the Colilert® tests. Colisure™ is subject to the same interferences and procedural cautions listed for the Colilert® tests.

Membrane Filter (MF) Tests for *E. coli*

a. mEndo, LES–Endo, or mFC followed by transfer to NA–MUG media (Standard Methods 9222B/9222G or 9222D/9222G)

These membrane filter methods for enumerating E. coli are two-step incubation procedures (APHA, 1998). First, a sample is filtered through a 0.45 µm filter, then the filter is placed on a pad saturated with mEndo broth or a plate containing mEndo or LES–Endo agar and incubated for 23 ± 1 h at 35 ± 0.5 °C. Pink to red colonies with a metallic (golden-green) sheen on the filter are considered to be total coliforms. If initial determination of fecal coliforms is desired or non-potable water samples are analyzed, mFC media can be substituted for mEndo/LES–Endo. Following initial isolation of total coliforms (or fecal coliforms), the filter is transferred to nutrient agar containing 4-methylumbelliferyl-β-D-glucuronide (NA–MUG) and incubated for 4 h at 35 ± 0.5 °C. Sheen colonies on mEndo that fluoresce under a long-wavelength UV light (366-nm) are positive for E. coli.

b. mTEC Agar (EPA Method 1103.1, Standard Methods 9212D, ASTM D5392–93)

The mTEC agar method is a two-step procedure that provides a direct count of E. coli in water based on the development of colonies on the surface of a membrane filter when placed on a selective nutrient and substrate media (USEPA, 1985a). This method originally was developed by EPA to monitor the quality of recreational water. This method was also used in health studies to develop the bacteriological ambient water quality criteria for E. coli. In this method, a water sample is filtered through a 0.45µm; membrane filter, the filter is placed on mTEC agar (a selective primary isolation medium), and the plate is incubated first at 35 ± 0.5 °C for 2 h to resuscitate injured or stressed bacteria and then at 44.5 ± 0.2 °C for 23 ± 1 h in a water bath. Following incubation, the filter is transferred to a filter pad saturated with urea substrate medium. After 15 minutes, all yellow or yellow-brown colonies (occasionally yellow-green) are counted as positive for E. coli using a fluorescent lamp and either a magnifying lens or a stereoscopic microscope.

c. Modified mTEC Agar (Modified EPA Method 1103.1)

The modified mTEC agar method is a single-step MF procedure that provides a direct count of E. coli in water based on the development of colonies on the surface of a filter when placed on selective modified mTEC media (USEPA, 2000a). This is a modification of the standard mTEC media that eliminates bromcresol purple and bromphenol red from the medium, adds the chromogen 5-bromo-6-chloro-3-indoyl-β-D-glucuronide (Magenta Gluc), and eliminates the transfer of the filter to a second substrate medium. In this method, a water sample is filtered through a 0.45µm membrane filter, the filter is placed on modified mTEC agar, incubated at 35 ± 0.5 °C for 2 h to resuscitate injured or stressed bacteria, and then incubated for 23 ± 1 h in a 44.5 ± 0.2 °C water bath. Following incubation, all red or magenta colonies are counted as E. coli.

d. MI Agar

The MI agar method is a single-step procedure used to simultaneously enumerate total coliforms and E. coli (Brenner, 1993). In this EPA-developed method, a water sample is filtered through a 0.45µm membrane filter, the filter is placed on an MI agar plate, and the medium is incubated at 35 ± 0.5 °C for 24 h. As with NA–MUG and modified mTEC, the MI agar MF procedure is based on the ability of E. coli to produce the enzyme β-glucuronidase, which hydrolyzes Indoxyl-β-D-glucuronide (IBDG) to form a blue color (indigo). E. coli colonies exhibit a blue color and may also be fluorescent under a long-wavelength UV light (366-nm). If desired, the plates can also be observed under long-wavelength UV light (366-nm) for the presence of fluorescent total coliform species. Because the blue color from the breakdown of IBDG can mask fluorescence, non-fluorescent blue colonies are included in the total coliform count. Water samples with high turbidity can clog the membrane filter, interfering with filtration and potentially interfering with the identification of target colonies. However, E. coli colonies on MI agar can be counted on plates from waters containing high particulate or background/non-coliform concentrations, chlorine-stressed organisms or nutrient-deprived organisms, temperature-sensitive E. coli, and/or anaerogenic strains that may not be recovered by other multiple-tube or membrane filter tests.

e. m-ColiBlue24 Broth

This broth method is a single-step MF test for enumerating total coliforms and E. coli. As with NA–MUG, modified mTEC, and MI media, the selective identification of E. coli is based on the detection of the β-glucuronidase enzyme. The test medium includes the chromogen 5-bromo-4-chloro-3-indoxyl-β-D-glucuronide (BCIG or X-Gluc). The chromogen BCIG is hydrolyzed by β-glucuronidase, releasing an insoluble indoxyl salt that produces blue colonies. M-ColiBlue24 broth is a commercially available format of this method and contains a nutritive lactose-based medium containing inhibitors to eliminate the growth of non-coliforms. With m-ColiBlue24 broth, a water sample is filtered through a 0.45µm membrane filter, and the filter is transferred to a plate containing an absorbent pad saturated with m-ColiBlue24 broth. The filter is incubated at 35 ± 0.5 °C for 24 h and examined for colony growth (Hach, 1999). The presence of E. coli is indicated by blue colonies.

TABLE 2.—ANALYTES DETECTED BY PROPOSED MEDIA

Technique	Media	Total coliform [1]	Fecal coliform [1]	E. coli
Most Probable Number (MPN)	LTB→EC–MUG	X [2]		X
	ONPG–MUG	X		X
	CPRG–MUG	X		X
	mFC→NA–MUG		X	X
	mENDO→NA–MUG	X		X
	LES–ENDO→NA–MUG	X		X
Membrane Filter (MF)	mTEC			X
	Modified mTEC			X
	MI	X		X
	m-ColiBlue24 broth	X		X

[1] Detection of total coliform or fecal coliform are included because their detection may be preliminary steps required for E. coli enumeration and are part of the E. coli method.
[2] LTB is the presumptive test for total coliforms. It is necessary to transfer sample to BGLB for confirmation to determine total coliform density.

Method Comparison Studies

To confirm the applicability and comparability of results obtained with individual methods, parallel quantitative comparison tests with multiple-tube or MF tests, and positive and negative control tests should be conducted for each site-specific sample in accordance with analytical quality control procedures in Standard Methods for the Examination of Water and Wastewater. Performance data for E. coli multiple-tube, multiple-well, and MF methods are provided in Table 3.

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TABLE 3.—STUDY COMPARISONS OF E. COLI PROPOSED METHODS

Methods compared or tested	Water type(s) tested	Study design/number of samples	Results[1]	Reference(s)[2]
MI agar compared to mEndo→NA–MUG and/or mTEC agar.	Wastewater, spiked drinking water, and non-potable water.	Two single laboratory studies (23 samples and 51 samples) and an interlaboratory study (19 labs, 6 samples each).	• Overall differences not statistically significant • MI agar: Specificity 95.7%; • MI agar: False Positive (FP) = 4.3%; • MI agar: False Negative (FN) = 4.3%	Brenner, 1993. Brenner, 1996a. Brenner, 1996b.
Colilert® compared to multiple-tube fermentation and membrane filtration.	Surface water	.....	• No significant difference in recovery of E. coli • Correlation Coefficient (r) for Colilert® ranged from 0.706 to 0.89	Cowburn, 1994. Edberg, 1988. Edberg, 1989. Ellgas, undated. Fricker, 1995. Fricker, 1996a. Palmer, 1993. Edberg, 1990.
Colilert® compared to LTB→EC–MUG.	Surface water	47 split samples	Colilert® found to be equally sensitive to LTB→EC–MUG	
mTEC agar compared to modified mTEC agar.	Surface water	Single-laboratory, 43 split-samples.	• E. coli recovery rates were not statistically different • mTEC agar: FP = 6%; FN = 5% • modified mTEC agar: FP = 0%; FN = 4%	EPA, 1999b.
mTEC agar compared to modified mTEC agar, MI agar, and Colilert®.	Beach water (recreational).	70 samples from three Lake Erie beaches.	• No statistically significant difference between MI agar and mTEC agar. Statistically significant differences between modified mTEC agar and/or Colilert and standard method • Modified mTEC agar: r = 0.966*; FP = 0%*; FN = 11%* • Mi agar: r = 0.983*; FP = 3%*; FN = 4%* • Colilert: r = 0.946*; FP = 5%*; FN = 9%* • *Based on reference method (mTEC agar)	Francy, 1999.
m-ColiBlue24 broth, mEndo→NA–MUG, and mTEC agar.	Surface water, non-chlorinated wastewater, wastewater spiked drinking water, finished drinking water.	19 surface water samples, 3 non-chlorinated wastewaters, 2 wastewater spiked drinking water, and 1 finished drinking water.	• Overall agreement with the reference methods was 98.8% for m-ColiBlue24 broth and 92.1% for mTEC agar m-ColiBlue24 broth: FP = 2.5%; FN = 0%; Sensitivity = 100%; Specificity = 97.7%	Grant, 1997.
Colilert®, Colilert-18®, and mTEC agar.	Fresh recreational water	204 (Colilert®) samples and 193 (Colilert-18®) samples.	• No statistically significant difference between test results • r = 0.905 and 0.921 respectively	IDEXX, 1999d. IDEXX, 1999e.
Colilert®, most probable number, and membrane filtration.	Marine water, seawater spiked with sewage effluent.	22 laboratories using 13 common samples plus 2 external QC samples.	All three techniques provided comparable results on marine samples	Noble, 1999.
Colilert-18® and membrane filtration.	Untreated surface water	6 rivers draining into drinking water reservoirs.	• Both techniques provided comparable results	Ostensvik, 2000.
Colisure™ compared to EC–MUG (multiple-tube fermentation) and method for detection of chlorine-injured E. coli.	Primary effluent	21 samples from 7 different geographical locations and 31 samples from 6 different locations (for detection of chlorine-injured E. coli).	• Colisure™: FP = 4.3%; FN = 2.4% • Detection of chlorine-injured E. coli: Colisure ™ had an average of 1.76 times more E. coli-positive results after 28 hours than the standard method	59 FR 35891, 1994.

[1] Methods of determining false positive and false negative rates were not standardized for all comparison studies.
[2] Complete reference information is provided in Section VI.

4. Methods for Enterococci

EPA is proposing several methods for enumerating enterococci in water. Brief descriptions of the proposed MPN and MF methods are provided below. In Table 4, methods in the same horizontal row use the same technique, but are published by different entities.

TABLE 4.—PROPOSED METHODS FOR ENTEROCOCCI ENUMERATION.[1, 2]

Methodology	Method[3]	EPA method	VCS method[4]			Commercial example
			Standard Methods	ASTM	AOAC	
Most Probable Number (MPN)	Azide dextrose/PSE/BHI		9230B			Enterolert™
	MUG media			D6503–99		
Membrane Filter (MF)	mE→EIA agar	1106.1	9230C	D5259–92		
	mEI agar	1600				

[1] Complete reference information is provided in Section VI.
[2] A media acronym table is provided in Section V.
[3] Tests must be conducted in a format that provides organism enumeration.
[4] Manufactured by IDEXX.

Most Probable Number (MPN) Tests for Enterococci

a. Azide Dextrose/PSE/BHI (Standard Methods 9230B)

The Azide Dextrose/PSE/BHI technique for enumerating enterococci in water uses multiple-tubes and dilutions/volumes in a three-step procedure (presumptive fecal streptococcus, confirmed fecal streptococcus, and enterococcus) to determine enterococci concentrations (APHA, 1998). In the presumptive phase, multiple-tubes containing azide dextrose are inoculated with sample and mixed with the broth by gentle agitation. Inoculated tubes are incubated for 24 ± 2 h at 35°C ± 0.5 °C. Each tube then is swirled and examined for turbidity. If turbidity is absent, tubes are incubated for an additional 24 h and re-examined. Production of turbidity within 48 ± 3 h constitutes a positive presumptive reaction for fecal streptococci.

After enrichment during the presumptive phase, positive azide dextrose tubes are subjected to a confirmation step for fecal streptococci. A portion of growth from each positive azide dextrose tube is streaked on Pfizer selective Enterococcus (PSE) agar using a sterile loop. Inverted plates are incubated at 35 °C ± 0.5 °C for 24 ± 2 h and observed for the presence of brownish-black colonies with a brown halo. Such colonies are confirmed as fecal streptococci.

Target colonies from the PSE medium can be transferred to a tube of brain-heart infusion (BHI) broth and incubated at 45 °C ± 0.5 °C for 48 h. Simultaneously, these colonies can be transferred to BHI broth containing 6.5% NaCl and incubated at 35 °C ± 0.5 °C for 48 h. Growth at both 45 °C in BHI medium and in BHI medium containing 6.5% NaCl at 35 °C is indicative of the Enterococcus bacterial group. The concentration in MPN/100 mL is then calculated from the number of positive 6.5% NaCl broth tubes using MPN tables or formulas.

b. 4-methylumbelliferyl-β-D-glucoside (MUG) Medium (ASTM D6503–99, Enterolert™)

This method utilizes a medium contaning the fluorogenic substrate 4-methylumbelliferyl-β-D-glucoside (MUG) to determine enterococci concentrations. Enterolert™ is a commercially available test that utilizes this substrate test for the determination of enterococci in water (IDEXX, 1999f). Enterolert™ tests are incubated for 24 h at 41 ± 0.5 °C and may use the same quantitative formats available for the Colilert® tests, cited earlier in Section III–A. After incubation, the presence of blue/white fluorescence is a positive result for enterococci. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer. Enterolert™ is subject to the same interferences and cautions listed for the Colilert® tests. In addition, marine water samples must be diluted at least tenfold with sterile, non-buffered freshwater (Enterolert™ is already buffered).

Membrane Filter (MF) Tests for Enterococci

a. mE→EIA Agar (EPA 1106.1, Standard Methods 9230C, ASTM D5259–92)

The mEI agar method is a two-step MF procedure that provides a direct count of bacteria in water, based on the development of colonies on the surface of a membrane filter when placed on a selective nutrient medium (USEPA, 1985b). A water sample is filtered through a 0.45μm membrane filter, and the filter is placed on a plate containing selective mE agar. After the plate is incubated at 41 ± 0.5 °C for 48 h, the filter is transferred to an Esculin iron agar (EIA) plate and incubated at 41 ± 0.5 °C for 20–30 min. After incubation, all pink to red colonies on mE agar that form a black or reddish-brown precipitate on the underside of the filter when placed on EIA are counted as enterococci. Organism density is reported as enterococci per 100 mL.

b. mEI Agar (EPA Method 1600)

The mEI agar method is a single-step MF procedure that provides a direct count of bacteria in water, based on the development of colonies on the surface of a filter when placed on selective mEI agar (USEPA, 1997). This medium, a modification of the mE agar in EPA Method 1106.1, contains a reduced amount of 2-3-5-triphenyltetrazolium chloride, and an added chromogen, Indoxyl-β-D-glucoside. The transfer of the filter to EIA is eliminated, thereby providing results within 24 h. In this method, a water sample is filtered, and the filter is placed on mEI agar and incubated at 41 ± 0.5 °C for 24 h. Following incubation, all colonies with a blue halo, regardless of colony color, are counted as enterococci. Results are reported as enterococci per 100 mL.

Method Comparison Studies

To confirm the applicability and comparability of results obtained with individual methods, parallel quantitative comparison tests with multiple-tube or MF tests, and positive and negative control tests should be conducted for each site-specific sample in accordance with analytical quality control procedures in Standard Methods for the Examination of Water and Wastewater. Performance data for enterococci multiple-tube, multiple-well, and MF methods are provided in Table 5.

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TABLE 5.—STUDY COMPARISONS OF ENTEROCOCCI PROPOSED METHODS

Methods compared or tested	Water type(s) tested	Study design/Number of samples	Results [1]	Reference(s) [2]
Enterolert™ compared to mE→EIA agar.	Recreational bathing water, tidal lagoons, water from marinas, untreated effluents, and marine water from stormwater-drainage sites.	343 samples	• Data indicated a strong linear correlation (r = 0.927) and no significant difference between the two methods (p = 0.39). • Enterolert™: False Positive (FP) = 2.4%; False Negative (FN) = 0.3%; Sensitivity = 99.8%; Specificity = 97.0%.	Abbott, 1998.
Enterolert™ compared to mE→EIA agar.	Marine and freshwater recreational bathing samples.	138 samples Connecticut Department of Public Health.	• When analyzing the entire sample population, there were no significant differences between the two methods. • Results classified by sample type (freshwater v. marine) showed a greater difference between the two methods. • Enterolert™ FP = 5.1%; FN = 0.4%.	Budnick, 1996.
Enterolert™ compared to mE→EIA agar.	Drinking water, freshwater, marine water, and untreated effluents.	821 samples	• Correlation coefficient (r) of 0.91 between the two methods. • Enterolert™: FP = 4.9%; FN = 0.6%.	Chen, 1996.
Enterolert™ compared to mE→EIA agar.	River water (323), partially treated effluent (516), treated effluents (620), and finished drinking water (1012).	2471 samples Thames Water Utilities	• r = 0.91 • Overall Enterolert™ detected enterococci in more samples and had fewer false positives, but these differences were not statistically significant. • Enterolert™: FP = 4.5% • mE-EIA: FP = 6.2%	Fricker, 1996.
mE→EIA agar compared to mEI agar.	Freshwater and marine water.	176 samples (including 44 duplicates). Single-laboratory study EPA Region 1	• No significant difference between the two methods. • mE→EIA agar: FP = 4%; FN = 8%; RPD= 38.7%. • mEI agar: FP = 2%; FN = 7%; RPD = 45.2%.	Liebman, 1999.
mE→EIA agar compared to mEI agar.	Surface water, non-chlorinated primary effluent, chlorinated secondary effluent, and marine waters.	Single-laboratory study Samples analyzed in duplicate	• No significant difference between the two methods. • mEI agar: FP = 6%; FN = 6.5%	Messer, 1998.
Azide Dextrose/PSE/BHI, mE→EIA agar, and Enterolert™.	Marine water, seawater spiked with sewage effluent.	22 laboratories using 13 common samples plus 2 external QC samples.	• Methods provide comparable results. • Average difference among methods was less than 6%.	Noble, 1999.
Azide Dextrose/PSE/BHI, mE→EIA agar, mEI agar, and Enterolert™.	Seawater samples from randomly selected sites.	7 labs performed side-by-side analyses on approximately 280 samples.	• Idexx vs. Standard Method: r = 0.1; correspondence = 88%*. • mEI agar vs. Standard Method: r = 0.9 correspondence = 99%. • mEI agar vs. Enterolert™: r = 0.89 correspondence = 97%. • Enterolert™ produced concentrations above the State threshold while standard methods produced results below for all samples with contradictory results.	Noble, 2000a.
mE→EIA agar, mEI agar, and Enterolert™.	Seawater samples from 79 randomly selected sites (31 open beach sites and 48 sites within 100 meters of a freshwater outlet).	6 labs performed side-by-side split sample analyses on approximately 48 samples.	• Enterolert™" vs. mEI agar: r = 0.93. • Enterolert™ vs. mE→EIA agar: r = 0.94.	Noble, 2000b.

[1] Methods of determining false positive and false negative rates were not standardized for all comparison studies.
[2] Complete reference information is provided in Section VI.

5. Request for Comment and Available Data

EPA requests public comments on the proposed methods for the bacterial indicators of fecal contamination. EPA invites comments on the technical merit, applicability, and implementation of the proposed *E. coli* and *enterococci* methods for ambient water monitoring. EPA also requests public comments on whether E. coli methods that are also applicable to total coliforms should be approved for determination of total coliforms in the final rule. Commenters should specify the method and bacteria/organisms to which the comment applies. EPA encourages commenters to provide copies of supporting data or references cited in comments. EPA also requests public comments on acceptable characteristics of these test methods for specific matrix applications, on comparability criteria to determine equivalency of alternative test methods, supporting data, and examples of any available alternative equivalency testing protocols. Additionally, EPA requests comments on any other applicable methods for analyzing *E. coli* and *enterococci* in ambient water not included in today's proposal. Method descriptions and supporting data may be submitted for additional test procedures that are applicable to enumerating these bacteria in ambient water.

B. Methods for Protozoa

EPA developed and validated two methods for determination of protozoan concentrations in ambient waters to support ongoing voluntary monitoring of ambient waters used as source waters for drinking water treatment plants. EPA validated Method 1622 for the determination of *Cryptosporidium* in ambient water in August 1998 and issued a validated draft method in January 1999. EPA validated Method 1623 for the simultaneous determination of *Cryptosporidium* and *Giardia* in ambient water in February 1999 and issued a validated draft method in April 1999. Methods 1622 and 1623 were revised and updated as a result of revised quality control criteria and the development of equivalent filters for use with the methods (USEPA, 2001c). The updates to Method 1622 (EPA–821–R–01–026) and Method 1623 (EPA–821–R–01–025) are proposed in today's rule.

1. Cryptosporidium and Giardia

Discussions of Methods 1622 and 1623 are combined for today's rule since all use essentially the same methodology: filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine presumptive concentrations, and confirmation through vital dye staining and differential interference contrast (DIC) microscopy for the detection of *Cryptosporidium* oocysts and *Giardia* cysts.

A 10- to 50-L volume of water is filtered and the oocysts, cysts, and extraneous materials are retained on the filter. Elution of the materials on the filter is accomplished with an aqueous buffered salt and detergent solution. The oocysts and cysts are concentrated through centrifugation, and the supernatant fluid is aspirated. Oocysts and cysts are captured by the attachment of magnetic beads conjugated to anti-*Cryptosporidium* and anti-*Giardia* antibodies. The oocysts and cysts are magnetically separated from the extraneous materials, and the extraneous materials are discarded. The magnetic beads are then detached from the oocysts and cysts. The oocysts and cysts are prepared on well slides and stained with fluorescently-labeled monoclonal antibodies and 4′,6-diamidino-2-phenylindole (DAPI). The stained sample is examined using fluorescence and differential interference contrast (DIC) microscopy. Qualitative analysis is performed by carefully scanning each slide well for objects that have the size, shape, and fluorescence characteristics of *Cryptosporidium* oocysts or *Giardia* cysts. Potential oocysts or cysts are confirmed through DAPI staining characteristics and DIC microscopy. Oocysts and cysts are identified when the size, shape, color, and morphology agree with specified criteria and examples in a photographic library. Quantitative analysis is performed by counting the total number of objects confirmed as oocysts or cysts on the slide.

The Method 1622 interlaboratory validation study (EPA–821–R–01–027) was conducted in August 1998 and involved 12 laboratories that analyzed spiked reagent water and raw surface water samples. Eleven laboratories participated in the Method 1623 interlaboratory validation study (EPA–821–R–028) conducted in 1999. Both the interlaboratory validation studies for Methods 1622 and 1623 followed the same approach for preparing spiked suspensions for single-blind test samples. The *Cryptosporidium* results obtained during the Method 1623 study were not statistically different from the *Cryptosporidium* results obtained during the Method 1622 interlaboratory validation study.

2. Request for Comment and Available Data

EPA requests public comments on the proposed methods for the protozoan pollutants. EPA invites comments on the technical merit, applicability, and implementation of the proposed *Cryptosporidium* and *Giardia* methods for ambient water monitoring. Commenters should specify the method and pollutant to which the comment specifies. EPA encourages commenters to provide copies of supporting data or references cited in comments. Additionally, EPA requests comments on any other applicable methods for analyzing for *Cryptosporidium* and *Giardia* in ambient water not included in today's proposal. Method descriptions and supporting data may be submitted for additional test procedures that are applicable to enumerating these protozoa in water.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, [58 FR 51735; (October 4, 1993)], the Agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof.

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L.

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104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, Tribal, and local governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for the notification of potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, Tribal, or local governments or the private sector that may result in expenditures of $100 million or more in any one year. This rule makes available testing procedures for E. coli, enterococci, Cryptosporidium, and Giardia that may be used by a State, Territorial, Tribal or local authority for compliance with water quality standards or ambient monitoring requirements when testing is otherwise required by these regulatory authorities. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed below, under the Regulatory Flexibility Act, the economic impact on small entities is anticipated to be small. It would not significantly affect them because any incremental costs incurred are small and it would not uniquely affect them because it would affect entities of all sizes depending upon whether testing for these bacteria or protozoa is otherwise required by a regulatory authority. Further, monitoring for small entities is generally expected to be less frequent than monitoring for larger entities. Thus, today's rule is not subject to the requirements of sections 203 of UMRA.

C. Regulatory Flexibility Act (RFA),as amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration definition of small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less that 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed regulation would approve testing procedures for the measurement of E. coli and enterococci bacteria, and Cryptosporidium and Giardia protozoa in ambient water. EPA anticipates that the methods will be used by State regulatory authorities for evaluating attainment of water quality standards or ambient monitoring requirements. EPA NPDES regulations do not require monitoring of ambient water conditions in NPDES permits. In a few instances, ambient water monitoring requirements may be included in an EPA-issued permit where site-specific circumstances warrant. EPA regulations do, require NPDES permittees to use EPA-approved test methods for all monitoring data reported to the Agency (40 CFR 122.21). Consequently, to the extent that an NPDES permit requires monitoring and reporting of ambient water for E. coli, enterococci, Cryptosporidium, or Giardia (and NPDES regulations require the use of EPA-approved methods for all monitoring), EPA approval of these test methods arguably may impose costs on NPDES permit holders, including small entities. EPA is unaware, however, of any EPA-issued NPDES permits that currently require monitoring of ambient water for such pollutants. Hence, EPA does not expect approval of these methods to impose any additional costs as a result of their applicability to EPA-issued permits. As noted above, EPA's NPDES regulations do not require monitoring of ambient water conditions. Consequently, to the extent that a State requires such monitoring, those requirements are imposed under State, rather than federal, authority. Because States have the discretion *not* to require such monitoring, any increased costs to small entities arising from use of the methods proposed for approval by EPA today that are imposed as a result of State law are not attributable to this regulation.

Nonetheless, EPA evaluated these potential costs to determine whether EPA approval of the methods will have a significant impact on a substantial number of small entities. As previously noted, States may require ambient water monitoring to evaluate attainment of water quality standards. A few States currently require NPDES permit holders to monitor ambient water. Thus, some NPDES permittees are already testing ambient water for these parameters. Hence, the impact of using EPA-approved methods for such dischargers may represent little or no increased burden.

The small entities that might be affected by this rule include small governmental jurisdictions that have publically-owned treatment works (POTWs) and small businesses with water quality-based discharge permits. EPA looked first at the potential cost of the E. coli and enterococci methods proposed today. EPA conducted a survey of State, municipal, and commercial laboratories that routinely conduct bacterial analysis of water to compare the incremental analytical costs for existing total and fecal coliform methods already employed by many water quality monitoring programs with the methods proposed here. The mean analytical costs for total and fecal coliform were $22 ($15–48) and $21 ($15–$35), respectively. The mean analytical costs for E. coli and enterococci were $22 ($10–$35) and $32 ($25–$50), respectively. The similarity of costs for total and fecal coliform versus E. coli and enterococci methods is expected since the analytical procedures used to determine these pollutants generally employ similar techniques, media, equipment, and require comparable laboratory time and effort to complete analysis. Some States are already using the proposed test methods for E. coli and enterococci in State ambient water quality monitoring programs (indeed, EPA is proposing to approve consensus methods for enumerating E. coli and enterococci in ambient waters. See section IV.E, below) and thus this rule would formalize current practice in those States. Furthermore, EPA expects that any modest potential increase in costs for enterococci analyses will be reduced once the proposed methods are broadly implemented by environmental laboratories and State water quality monitoring programs.

Next, EPA looked at the costs for testing for Cryptosporidium and Giardia. The range in cost for Methods 1622 and 1623 analysis of Cryptosporidium and Giardia is between $400–$500 for each method. As stated in section IV.E. below, EPA is not aware of any other acceptable test methods currently available for monitoring these pollutants. Methods 1622 and 1623 have been previously used for monitoring of various drinking water plant source waters to establish a national estimate of Cryptosporidium and Giardia occurrence. Because of the relatively high costs, EPA does not anticipate that these test methods will be used for daily or ongoing monitoring, but may be used program-specific occurrence assessments.

The purpose of this rule is only to make these methods available to States, Tribal and municipalities that may want to use them for ambient water monitoring. As noted above, the costs associated with Cryptosporidium and Giardia analysis would not be a Federally-mandated cost, but rather would flow from a State's adoption of ambient monitoring requirements. The inclusion of these test methods in section 136.3 is intended to make these test methods available to States and others for use in water quality monitoring programs. EPA is not establishing any compliance monitoring requirements for these pollutants.

D. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule proposes to make available new test methods for E. coli, enterococci, Cryptosporidium and Giardia for use in ambient water monitoring programs but EPA would not require the use of these test methods.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the EPA decides not to use available and applicable voluntary consensus standards. This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. EPA's search of the technical literature revealed several consensus methods appropriate for enumerating E. coli and enterococci in ambient waters. Accordingly, methods for E. coli and enterococci published by Standard Methods for the Examination of Water and Wastewater, ASTM, and AOAC are included in this proposal and are listed in Table IA at the end of this notice (see footnotes 4,10, and 11, respectively, for the complete citations). No voluntary consensus standards were found for Cryptosporidium or Giardia. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards for enumerating E. coli, enterococci, Cryptosporidium, and Giardia in ambient waters, and to explain why such standards should be used in this regulation.

F. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it is neither economically significant as defined in Executive Order 12866, nor does it concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal

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governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule makes available test methods that may be used by a regulatory authority to demonstrate compliance with ambient water quality monitoring or water quality standards. However, Federal regulations do not require the use of these test methods. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

H. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule makes new analytical methods available for conducting analysis of ambient water for enumeration of E.coli, enterococci, Cryptosporidium, or Giardia. EPA does not, however, propose to require use of these methods under this rule. Thus, Executive Order 13132 does not apply to this rule.

Although Section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with representatives of State and local governments in developing the proposed regulation. In fact, it was State representatives who requested that EPA include test methods for these biological pollutants in section 136.3 because they want to use EPA-approved test methods for ambient water monitoring. EPA is proposing this action in response to these requests. EPA included a number of test methods currently being used by States for these pollutants in today's proposed rulemaking. No significant concerns were raised about these methods.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA ans State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action."

We have not prepared a Statement of Energy Effects for this proposed rule because this rule is not a significant energy action, as defined in Executive Order 13211. This is not a significant regulatory action under Executive Order 12866, and it does not have a significant adverse effect on the supply, distribution, or use of energy.

V. Media Acronyms

BHI—brain-heart infusion agar
BGLB—brilliant green lactose bile broth
CPRG—chlorophenol red-β-D-galactopyranoside
DAPI—4′,6-diamidino-2-phenylindole
DIC—differential interference contrast
EC—E. coli
EIA—esculin iron agar
LES-Endo—Lawrence Experimental Station—Endo Agar
LTB—lauryl tryptose broth
mEI—membrane-Enterococcus iron agar
mFC—membrane-Fecal coliform agar
mTEC—membrane-Thermotolerant E. coli agar
MUG—4-methylumbelliferyl-β-D-glucuronide
NA—nutrient agar
ONPG—ortho-nitorphenyl-β-D-galactopyranoside
PSE—Pfizer selective Enterococcus agar

VI. References

Abbott, S., et al. 1998. "Evaluation of Enterolert for the Enumeration of Enterococci in the Marine Environment." New Zealand Journal of Marine and Freshwater Research. 32:505–513.

AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417.

APHA. 1998. Standard Methods for the Examination of Water and Wastewater. 20th Edition. American Public Health Association. 1015 15th Street, NW, Washington, DC 20005.

ASTM. 2000. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. ASTM. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

Brenner, K.P., et al. 1993. "New Medium for the Simultaneous Detection of Total Coliforms and Escherichia coli in Water." Applied and Environmental Microbiology. 59:3534–3544.

Brenner, K.P., et al.1996a. "Comparison of the Recoveries of Escherichia coli and Total Coliforms from Drinking Water by the MI Agar Method and the U.S. Environmental Protection Agency-Approved Membrane Filter Method." Applied and Environmental Microbiology. 62:203–208.

Brenner, K.P., et al. 1996b. "Interlaboratory Evaluation of MI Agar and the U.S. Environmental Protection Agency-Approved Membrane Filter Method for the Recovery of Total Coliforms and Escherichia coli from Drinking Water." Journal of Microbiological Methods. 67:111–119.

Budnick, G.E., et al. 1996. "Evaluation of Enterolert for Enumeration of Enterococci in Recreational Waters." Applied and Environmental Microbiology. 62:3881–3884.

Chen, C.M.., et al. 1996. "Enterolert—A Rapid Method for Detection of Enterococci spp." In: ASM abstracts, no. Q448. 96th American Society of Microbiology general meeting. New Orleans. 464 p.

Cowburn, J.K., et al. 1994. A Preliminary Study of the use of Colilert® for Water Quality Monitoring. Lett. Appl. Microbiol. 19:50–52.

Edberg, S.C., et al. 1990. "Enumeration of Total Coliforms and Escherichia coli from Source Water by Defined Substrate Technology." Applied and Environmental Microbiology. 56(2):366–369.

Edberg, S.C., et al. 1989. "National Field Evaluation of a Defined Substrate

Method for the Simultaneous Detection of Total Coliforms and Escherichia coli from Drinking Water: Comparison with Presence/Absence Techniques." Applied and Environmental Microbiology. 55: 1003–1008.

Edberg, S.C., et al. 1988. "National Field Evaluation of a Defined Substrate Method for the Simultaneous Enumeration of Total Coliforms and Escherichia coli from Drinking Water: Comparison with Standard Multiple-tube Fermentation Method." Applied and Environmental Microbiology. 54:1595–1601.

Ellgas, W.M., et al. Undated. "Evaluation of Autoanalysis Colilert® In Wastewater."

Francy, D.S., et al. 2000. "Comparison of Methods for Determining Escherichia coli Concentrations in Recreational Waters." Water Research. 34:2770–2778.

Fricker, E.J., et al. 1996a. "Use of Two Presence/Absence Systems for the Detection of E. coli and Coliforms from Water." Water Research. 30:2226–2228.

Fricker, E.J., et al. 1996b. "Use of Defined Substrate Technology and a Novel Procedure for Estimating the Numbers of Enterococci in Water." Journal of Microbiological Methods. 27: 207–210.

Fricker, E.J., et al. 1995. "Quantitative Procedures for the Detection of E. coli, Coliforms, and Enterococci in Water using Quanti-Tray and Enterolert." p. 2031–2036. In Proceedings of the Water Quality Technology Conference, New Orleans. American Water Works Association, Denver, CO.

Grant, M.A. 1997. "A New Membrane Filtration Medium for Simultaneous Detection and Enumeration of Escherichia coli and Total Coliforms." Applied and Environmental Microbiology. 63:3526–3530.

Hach Company, Inc. 1999. m-ColiBlue24 Method is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

Hach Company, Inc. 1998. "Comparability Study Using The Protocol for Alternate Test Procedures for Microbiology in Compliance With Drinking Water Regulations—m-ColiBlue 24, Membrane Filter Method For Isolation of Total Coliforms and E. coli in Finished Water." Morehead State University Water Testing Laboratory. Dr. Ted Pass II.

IDEXX Laboratories, Inc. 1999a. Description of Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, Colisure™, and Enterolert™ methods may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

IDEXX Laboratories, Inc. 1999b. "Quanti-Tray™: A Simple Method for Quantitation of Bacterial Density in Liquid Samples."

IDEXX Laboratories, Inc. 1999c. "Quanti-Tray/2000™: Detection and Enumeration of Bacteria from High Bacterial Density Liquid Samples Without Dilution."

IDEXX Laboratories, Inc. 1999d. Recreational Water Study, State of Illinois.

IDEXX Laboratories, Inc. 1999e. Recreational Water Study, Oakland County Health Department, Pontiac, Michigan.

Levin, M.A., et al. 1975. "Membrane Filter Technique for Enumeration of Enterococci in Marine Waters." Applied Microbiology. 30:66–71.

Liebman, M. 1999. "Short Summary of Statistical Results Comparing the New Methods 1600 vs. the Standard Method for Enterococci." EPA Region 1 Draft Report.

Messer, J.W., et al. 1998. "A Rapid, Specific Membrane Filtration Procedure for Enumeration of Enterococci in Recreational Water." Applied and Environmental Microbiology. 64:678–680.

Noble, R.T., et al. 1999. Southern California Bight 1998 Regional Monitoring Program: Summer Shoreline Microbiology. Southern California Coastal Water Research Project Authority. Westminster, CA.

Noble, R.T., et al. 2000a. Southern California Bight 1998 Regional Monitoring Program: Winter Shoreline Microbiology. Southern California Coastal Water Research Project Project. Westminster, CA.

Noble, R.T., et al. 2000b. Southern California Bight Regional Monitoring Program: Storm Event Shoreline Microbiology. Southern California Coastal Water Research Project Project. Westminster, CA.

Ostensvik, O. 2000. "Coliform Bacteria and Escherichia coli in Norwegian Drinking Water Sources—Comparison of Methods Based on the Fermentation of Lactose and Methods Based on the Activity of Specific Enzymes." In Proceedings of the Water Quality Technology Conference, Salt Lake City. American Water Works Association. Denver, CO.

Palmer, C.J. et al. 1993. "Evaluation of Colilert-marine Water for Detection of Total Coliforms and Escherichia coli in the Marine Environment." Applied and Environmental Microbiology. 59:786–790.

Thomas, H.A., et al. 1955. "Estimation of Coliform Density by the Membrane Filter and the Fermentation Tube Methods." American Journal of Public Health. 45(11): 1431–1437.

USEPA. 2001a. Method 1622: Cryptosporidium in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–026.

USEPA. 2001b. Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–025.

USEPA. 2001c. Implementation and Results of the Information Collection Rule Supplemental Surveys. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA 815–R–01–003.

USEPA. 2001d. Interlaboratory Validation Study Results for Cryptosporidium Precision and Recovery for U.S. EPA Method 1622. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–027.

USEPA. 2001e. Results of the Interlaboratory Method Validation Study for Determination of Cryptosporidium and Giardia Using U.S. EPA Method 1623. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–028.

USEPA. 2000a. Improved Enumeration Methods for the Recreational Water Quality Indicators: Enterococci and Escherichia coli. U.S. Environmental Protection Agency. Office of Science and Technology. Washington, DC. EPA/821/R–91/004.

USEPA. 2000b. Membrane Filter Method for the Simultaneous Detection of Total Coliforms and Escherichia coli in Drinking Water. U.S. Environmental Protection Agency, Office of Research and Development, Cincinnati, OH. EPA 600–R–00–013.

USEPA. 1999a. Action Plan for Beaches and Recreational Waters. U.S. Environmental Protection Agency. Office of Research and Development. Office of Water. EPA/600/R–98/079.

USEPA. 1999b. "A Modified mTEC Medium for Monitoring Recreational Waters." Presented at American Society for Microbiology Annual Meeting, Miami Beach, FL. May 1997.

USEPA. 1998. Clean Water Action Plan: Restoring and Protecting America's Waters. U.S. Environmental Protection Agency and U.S. Department of Agriculture. February 14, 1998. EPA–840–R–98–001.

USEPA. 1997. Method 1600: Membrane Filter Test Method for Enterococci in Water. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–97–004.

USEPA. 1986a. Ambient Water Quality Criteria for Bacteria—1986. Office of Water Regulations and Standards Division. Washington, DC. EPA–440–5–84–002.

USEPA. 1986b. Memo from T.H. Ericksen, HERL, Microbiology Branch to Participants in the EMSL–HERL Study for the Interlaboratory Testing of mE and mTEC Media for the Enumeration of Enterococci and E. coli. Four data summary tables attached.

USEPA. 1985a. "Test Method 1103.1: Escherichia coli In Water By The Membrane Filter Procedure" Included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.

USEPA. 1985b. "Test Method 1106.1: Enterococci In Water By The Membrane Filter Procedure" Included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental

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Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.
USEPA. 1976. "Quality Criteria for Water." U.S. Environmental Protection Agency. Washington, DC. EPA–600–3–76–079.

List of Subjects in 40 CFR Part 136

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 23, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

1. The authority citation for Part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

2. Section 136.3 is amended:

a. In paragraph (a) by revising Table IA.

b. By revising paragraphs (b)(10) and (b)(11), adding and reserving paragraphs (b)(44) to (b)(50), and adding paragraphs (b)(51) through (b)(60).

c. In paragraph (e) by revising the entries in Table II for Table IA and adding a new footnote 17.

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
Bacteria:							
1. Coliform (fecal), number per 100 mL.	Most Probable Number (MPN), 5 tube. 3 dilution, or Membrane filter (MF) [2], single step.	p.132 [3]	9221C E [4]				
		p. 124 [3]	9222D [4]			B–0050–85 [5]	
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or. MF, single step [6]	p. 132 [3]	9221C E [4]				
		p. 124 [3]	9222D [4].				
3. Coliform (total), number per 100 mL	MPN, 5 tube, 3 dilution, or. MF [2], single step or two step.	p. 114 [3]	9221B [4]				
		p. 108 [3]	9222B [4]			B–0025–85 [5]	
4. Coliform (total), in presence of chlorine, number per 100 mL	MPN, 5 tube, 3 dilution, or. MF2 with enrichment	p. 114 [3]	9221B [4]				
		p. 111 [3]	9222(B+B.5c) [4].				
5. E. coli, number per 100 mL [29]	MPN [7,9,15]		9221B.1/ 9221F [4,12,14].				
			9223B [4,13]		[11] 991.15		Colilert® [13,18] Colilert-® [13,16,18] Colisure™ [13,17,18]
	MF [2,6,7,8,9]		9222B/ 9222G [4,20].				
		1103.1 [21] 1103.1M [22]. MI agar [23].	921D [4]	53592–93 [10]			
							mColiBlue24 [19]
6. Fecal streptococci, number per 100 mL	MPN, 5 tube, 3 dilution, mf [2], or Plate count	p. 139 [3]	9230B [4]				
		p. 136 [3]	9230C [4]			B–0055–85 [5]	
		p. 143 [3]					
7. Enterococci, number per 100 mL [29]	MPN [7,9]		9230B [4].				
				D6503–99 [10]			
	MF [2,6,7,8,9]	1106.1 [25]	9230C [4]	D5259–92 [10]			Enterolert™ [13,24]
		1600 [26]					
	Plate count	p. 14 [33]					
Protozoa:							
8. Cryptosporidium [29]	Filtration/IMS/FA	1622 [27] 1623 [28]					
9. Giardia [29]	Filtration/IMS/FA	1623 [28]					
Aquatic Toxicity:							

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
10. Toxicity, acute, fresh water organisms, LC50, percent effluent.	Daphnia, Ceriodaphnia, Fathead Minnow, Rainbow Trout, Brook Trout, or Bannerfish Shiner mortality.	Sec. 9 [30].					
11. Toxicity, acute, estuarine and marine organisms, LC50, percent effluent.	Mysid, Sheepshead Minnow, or Menidia spp. mortality.	Sec. 9 [30].					
12. Toxicity, chronic, fresh water organisms, NOEC or IC25, percent effluent.	Fathead minnow larval survival and growth.	1000.0 [31]					
		1001.0 [31]					
	Fathead minnow embryo-larval survival and teratogenicity.	1002.0 [31]					
	Ceriodaphnia survival and reproduction.						
	Selenastrum growth.	1000.0 [32].					
13. Toxicity, chronic, estuarine and marine organisms, NOEC or IC25, percent effluent.	Sheepshead minnow larval survival and growth.	1004.0 [31]					
		1005.0 [32]					
	Sheepshead minnow embryo-larval survival and teratogenicity.	1006.0 [32]					
		1007.0 [32]					
	Menidia beryllina larval survival and growth.	1008.0 [32]					
	Mysidopsis bahia survival, growth, and fecundity.	1009.0 [32]					
	Arbacia punctulata fertilization.						
	Champia parvula reproduction 1004.032.						

Notes to Table IA:

[1] The method must be specified when results are reported.

[2] A 0.45 µm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. EPA/600/8–78/017.

[4] APHA. 1998, 1995, 1992. Standard Methods for the Examination of Water and Wastewater. American Public Health Association. 20th, 19th, and 18th Editions. Amer. Publ. Hlth. Assoc., Washington, DC.

[5] USGS. 1989. U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples, U.S. Geological Survey, U.S. Department of Interior, Reston, Virginia.

[6] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[7] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[8] When the MF method has not been used previously to test ambient waters with high turbidity, large number of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[9] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[10] ASTM. 2000, 1999, 1998. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. ASTM. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[11] AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417.

[12] The multiple-tube fermentation test is used in 9221B.1. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[13] These tests are collectively known as defined enzyme substrate tests, where a substrate is used to detect the enzyme β-glucuronidase produced by E. coli.

[14] After prior enrichment in a presumptive medium for total coliform using 9221B.1, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F. Commercially available EC-MUG media or EC media supplemented in the laboratory with 50 µg/mL of MUG may be used.

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[15] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® and Colisure™ tests may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray® 2000, and the MPN calculated from the table provided by the manufacturer.

[16] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and E. coli that provides results within 18 h of incubation at 35 °C rather than the 24 h required for the Colilert® test and is recommended for marine water samples.

[17] Colisure® must be incubated for 28 h before examining the results. If an examination of the results at 28 h is not convenient, then results may be examined at any time between 28 h and 48 h.

[18] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, and Colisure™ may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[19] A description of the mColiBlue24 test is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

[20] Subject total coliform positive samples determined by 9222B or other membrane filter procedure to 9222G using NA-MUG media.

[21] USEPA. 1985. Test Method 1103.1: Escherichia coli In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.

[22] USEPA. 2000. Improved Enumeration Methods for the Recreational Water Quality Indicators: Enterococci and Escherichia coli. U.S. Environmental Protection Agency. Office of Science and Technology. Washington, DC. EPA/821/R–91/004.

[23] Preparation and use of MI agar with a standard membrane filter procedure is set forth in the article, Brenner et al. 1993. "New Medium for the Simultaneous Detection of Total Coliform and Escherichia coli in Water." Appl. Environ. Microbiol. 59:3534–3544 and electronic document. EPA–600–R–00–013.

[24] A description of the Enterolert® test may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[25] USEPA. 1985. Test Method 1106.1: Enterococci In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.

[26] USEPA. 1997. Method 1600: Membrane Filter Test Method for Enterococci in Water. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–97–004.

[27] Method 1622 uses filtration, concentration, immunomagnetic separation of oocysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the detection of Cryptosporidium.

[28] Method 1623 uses filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the simultaneous detection of Cryptosporidium and Giardia oocysts and cysts.

[29] Recommended for enumeration of target organism in ambient water only. Applicability to other matrices must be demonstrated.

[30] USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4–90/027F.

[31] USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Third Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4–91/002.

[32] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Second Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4–91/003. These methods do not apply to marine waters of the Pacific Ocean.

* * * * *

(b) * * *

(10) Annual Book of ASTM Standards, Water, and Environmental Technology, Section 11, Volumes 11.01 and 11.02, 1994, 1999, and 2000 in 40 CFR 136.3, Table IA.

(11) AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417. Table IA.

* * * * *

(51) IDEXX Laboratories, Inc. 1999. Description of Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, Colisure™, and Enterolert™ methods are available from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. Table IA, Notes 18 and 24.

(52) Hach Company, Inc. 1999. m-ColiBlue24 Method is available from Hach Company, 100 Dayton Ave., Ames, IA 50010. Table IA, Note 19.

(53) USEPA. 1985. Test Method 1103.1: Escherichia coli In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076. Table IA, Note 21.

(54) USEPA. 1985. Test Method 1106.1: Enterococci In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076. Table IA, Note 25.

(55) USEPA. 2000. "Improved Enumeration Methods for the Recreational Water Quality Indicators: Enterococci and Escherichia coli." U.S. Environmental Protection Agency, Office of Science and Technology, Washington, DC. EPA/821/R–91/004. Table IA, Note 22.

(56) Brenner et al. 1993. "New Medium for the Simultaneous Detection of Total Coliform and Escherichia coli in Water." Appl. Environ. Microbiol. 59:3534–3544. Table IA, Note 23.

(57) USEPA 2000. "Membrane Filter Method for the Simultaneous Detection of Total Coliforms and Escherichia coli in Drinking Water." February 2000. U.S. Environmental Protection Agency, Office of Research and Development, Cincinnati, OH 45268. EPA 600–R–00–013. Table IA, Note 23.

(58) USEPA. 1997. "Method 1600: Membrane Filter Test Method for Enterococci in Water." U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–97–004. Table IA, Note 26.

(59) USEPA. 2001. "Method 1622: Cryptosporidium in Water by Filtration/IMS/FA." U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–01–026. Table IA, Note 27.

(60) USEPA. 2001. "Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA." U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–01–025. Table IA, Note 28.

* * * * *

(e) * * *

TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4] (in hours)
Table IA—Bacteria Tests:			
1–5 Coliform, total, fecal, and E. coli	PP, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5]	6
6 Fecal streptococci	PP, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5]	6
7 Enterococci	PP, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5]	6

TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES—Continued

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4] (in hours)
Table IA—Protozoa Tests:			
8 Cryptosporidium	LDPE	0–8 °C	[17] 72
9 Giardia	LDPE	0–8 °C	[17] 72
Table IA—Aquatic Toxicity Tests:			
10–13 Toxicity, acute and chronic	P, G	Cool, 4 °C [16]	36

* * * * * * *

[1] Polyethylene (P) or glass (G). For bacteria, plastic sample containers must be made of sterilizable materials (polypropylene [PP] or other autoclavable plastic). For protozoa, plastic sample containers must be made of low-density polyethylene (LDPE).

[2] Sample preservation should be performed immediately upon sample collection. For composite chemical samples, each aliquot should be preserved at the time of collection. When use of an automated sampler makes it impossible to preserve each aliquot, then chemical samples may be preserved by maintaining at 4 °C until compositing and sample splitting is completed.

[3] When any sample is to be shipped by common carrier or sent through the United States Mails, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirements of Table II, the Office of Hazardous Materials, Transportation Bureau, Department of Transportation, has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater); Nitric acid (HNO_3) in water solutions of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions of concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analyses and still be considered valid. Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under § 136.3(e). Some samples may not be stable for the maximum time period given in the table. A permittee or monitoring laboratory is obligated to hold the samples for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. See § 136.3(e) for details. The term "analyze immediately" usually means within 15 minutes or less of sample collection.

[5] Should only be used in the presence of residual chlorine.

* * * * * * *

[16] Sufficient ice should be placed with the samples in the shipping container to ensure that ice is still present when samples arrive at the laboratory. However, even if ice is present when the samples arrive, it is necessary to immediately measure the temperature of the samples and confirm that the 4 °C temperature maximum has not been exceeded. In the isolated cases where it can be documented that this holding temperature can not be met, the permittee can be given the option of on-site testing or can request a variance. The request for a variance should include supportive data which show that the toxicity of the effluent samples is not reduced because of the increased holding temperature.

[17] Holding time is calculated from time of sample collection to the completion of centrifugation.

* * * * *

[FR Doc. 01–21813 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG10

Endangered and Threatened Wildlife and Plants; Proposed Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: On May 22, 2001, the U.S. Fish and Wildlife Service adopted special regulations governing take of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*). This notice proposes to amend those regulations, which provide exemption from take provisions under section 9 of the Endangered Species Act for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, and perfected water rights. This action would provide exemption from the section 9 take prohibitions for certain noxious weed control and ditch maintenance activities. We believe this action would provide further relief for landowners while ensuring conservation of the Preble's meadow jumping mouse.

DATES: Comments must be received on or before October 1, 2001 to receive consideration.

ADDRESSES: Comments concerning this proposal should be sent to LeRoy Carlson, Field Supervisor, Colorado Field Office, Ecological Services, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: LeRoy W. Carlson at the above address or telephone 303/275–2370.

SUPPLEMENTARY INFORMATION:

Background

The final rule listing the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (Preble's) as a threatened species under the Endangered Species Act (Act) of 1973 (16 U.S.C. 1531 *et seq.*) was published in the **Federal Register** on May 13, 1998 (63 FR 26517). Section 9 of the Act prohibits take of endangered wildlife. The Act defines take to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. However, the Act also provides for the authorization of take and exceptions to the take prohibitions. Take of listed species by non-Federal property owners can be permitted through the process set forth in section 10 of the Act. For federally funded or permitted activities, take of listed species may be allowed through the consultation process of section 7 of the Act. We, the Fish and Wildlife Service, have issued regulations (50 CFR 17.31) that generally apply to threatened wildlife the prohibitions that section 9 of the Act establishes with respect to endangered wildlife. Our regulations for threatened wildlife also provide that a "special rule" under section 4(d) of the Act can be tailored for a particular threatened species. In that case, the general regulations for some section 9 prohibitions do not apply to that species, and the special rule contains the prohibitions (and exemptions) necessary and appropriate to conserve that species.

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On December 3, 1998, we proposed a section 4(d) rule (63 FR 66777) to define conditions under which certain activities that could result in incidental take of Preble's would be exempt from the section 9 take prohibitions. We held two public meetings, at which 129 people attended. We also received 614 comment letters. On May 22, 2001, we published a final rule (66 FR 28125) adopting certain portions of this proposal. Some comments received on the proposed rule suggested additional exemptions to promote conservation of the Preble's. After consideration of these comments, we are now proposing to amend the section 4(d) rule to add special provisions providing exemptions from section 9 prohibitions for certain weed control and ditch maintenance activities.

Provisions of the Proposed Rule

Term

We propose that the special regulations contained in this amendment be applicable for a period not to exceed 36 months from May 22, 2001, the date the final special rule became effective, in order to be consistent with the 36-month timeframe of the May 22, 2001, final section 4(d) rule, (*i.e.*, May 22, 2001, to May 22, 2004). We expect that, during this time period, comprehensive Habitat Conservation Plans for the Preble's will be developed and a recovery plan and other conservation efforts for the Preble's will be completed.

Additional Exemptions

We propose that the activities discussed below, which may result in incidental take of Preble's, would be exempted from the section 9 take prohibitions. "Incidental take" refers to taking that is otherwise prohibited, if such taking is incidental to, and not the purpose of, an otherwise lawful activity, and is consistent with exceptions provided in this special rule. Take not exempted by this proposed rule and not otherwise authorized under the Act may be referred to the appropriate authorities for civil enforcement or criminal prosecution.

a. *Noxious weed control activities*—Comments on the proposed section 4(d) rule of December 3, 1998, included a request to consider a rangewide exemption for control of noxious weeds. The comments stressed that laws in both Colorado and Wyoming require control of noxious weeds and that such control is compatible with Preble's conservation. We propose to amend the final 4(d) rule by including a rangewide exemption for noxious weed control, with appropriate limitations designed to prevent eradication of entire plant communities in the course of controlling weeds. We believe that this exemption will facilitate conservation of the Preble's, because noxious weeds are displacing desirable natural vegetation on which the Preble's depends for survival.

b. *Ongoing ditch maintenance activities*—In the December 3, 1998, proposed rule, we stated that we considered adopting a rangewide exemption for periodic maintenance of existing water supply ditches, but chose not to do so because ditches support occupied and potential Preble's habitat. We received a large number of comments on this decision, many supporting a rangewide exemption and arguing that current maintenance practices have resulted in viable habitat for the Preble's.

In response to these comments, we have elected to propose a limited exemption for customary ditch maintenance activities that are designed to protect and enhance Preble's habitat. This proposed exemption builds upon the guidance provided in a January 31, 2001, "To Whom It May Concern Letter" (Letter), which was originally issued by us on March 11, 1999, and reissued on February 1, 2000, and January 31, 2001, and which was our initial response to these comments. While the Letter specifically describes activities throughout the range of the Preble's that we believe would not constitute take under section 9 of the Act, this proposed amendment to the 4(d) rule specifies certain activities that may result in take and grants exemption from such take.

Our intent is to allow normal and customary maintenance activities that will result only in temporary or limited disturbance of Preble's habitat, and that will result in only minimal take of Preble's. We intend for this exemption to apply only to manmade ditches and not to alteration of habitat along naturally occurring streams and watercourses.

We believe that a limited exemption is necessary, not only to provide relief to those who must maintain active ditches, but to assure that currently existing Preble's habitat along ditches remains functionally intact and viable. Should limited ditch maintenance not be allowed to continue, we face the possibility that these ditches would no longer be capable of conveying water and any habitat dependent on this water would degrade over time and eventually be lost. Maintenance of these ditches, as defined by this proposed rule, is necessary to maintain future conservation options for the Preble's.

Therefore, we propose to exempt from the section 9 take prohibitions, limited maintenance activities on water conveyance ditches throughout the range of the Preble's. We believe that providing exemption from take for all ditch maintenance activities would be imprudent because—(a) some areas contain many ditches known or thought to be occupied by Preble's, (b) the stability of many local Preble's populations is uncertain, (c) the importance of ditch habitat to Preble's populations in many areas is not completely known, and (d) some occupied ditches may serve as important population refugia and travel corridors connecting populations.

We propose exemptions from the take prohibitions of section 9 of the Act for the following ditch maintenance activities, if the Best Management Practices described below are followed.

1. Normal and customary ditch maintenance activities that result in the annual loss of no more than ¼ mile of riparian shrub habitat within any one linear mile of ditch within any calender year. Riparian shrub habitat is defined as vegetation dominated by plants that generally have more than one woody stem that measures less than 2 inches in diameter and are typically less than 10 feet in height at maturity, put on new growth each season, and have a bushy appearance. Examples of shrubs include, but are not limited to, willow, snowberry, wild plum, and alder.

2. Included in 1. above is the burning of ditches that results in the annual loss of no more than ¼ mile of riparian shrub habitat within any one linear mile of ditch within any calendar year and is conducted out-of-season (see "Best Management Practices").

Best Management Practices

Avoiding impacts to shrubs—Persons engaged in ditch maintenance activities must, to the maximum extent practicable, avoid impacts to shrub vegetation. For example, if it is possible to access the ditch for maintenance or repair activities from an area containing no shrubs, then damage to adjacent shrub vegetation must be avoided.

Disposition of debris—Persons engaged in placing or sidecasting silt and debris removed during ditch cleaning, vegetation or mulch from mowing/cutting, or other material from ditch maintenance must, to the maximum extent practicable, avoid shrub habitat, and at no time disturb more than ¼ mile of riparian shrub habitat within any one linear mile of ditch within any calendar year.

Timing of work—To the maximum extent practicable, all ditch maintenance will be carried out during the Preble's hibernation season, November through April. Any maintenance activities carried out during the Preble's active season, May through October, will be conducted during daylight hours only.

This exemption includes maintenance of roads used to access ditches and related infrastructure. These maintenance activities are limited to the historic footprint associated with the infrastructure and access roads. Examples of activities that are covered by the exemption include the following activities, each limited to the destruction of ¼ mile of riparian shrub habitat within one linear mile of ditch within any calendar year:

a. *Clearing trash, debris, vegetation, and silt by either physical, mechanical, chemical, or burning procedures*—Examples include mowing or cutting grasses and weeds, removal of silt and debris from the ditch below the high-water line, and control of shrubs that could result in ditch leakage.

b. *Reconstruction, reinforcement, repair, or replacement of existing infrastructure with components of substantially similar materials and design*—Examples include replacement of a damaged headgate, grading or filling areas susceptible to ditch failure, patchwork on a concrete ditch liner, or replacement of failed culvert with a new culvert of the same design and material.

The following maintenance activities are *not* exempted from the take provisions of section 9 of the Act:

a. *Replacement of existing infrastructure with components of substantially different materials and design*—such as replacing an existing gravel access road with a permanently paved road.

b. *Construction of new infrastructure or the movement of existing infrastructure to new locations*—Examples include redrilling a well in a new location, building a new access road, change in the location of a diversion structure or installation of new diversion works where none previously existed.

Comments

These additional exemptions are proposed in response to comments received during the public review on the December 3, 1998, 4(d) rule proposal. Water rights owners argued that lack of an exemption for periodic maintenance of existing ditches conflicted with the exemption for existing uses of perfected water rights, because ditch maintenance is an intrinsic part of exercising a perfected water right. In addition, respondents noted that ditch maintenance is required by State law in both Wyoming and Colorado. Failure to adequately maintain water conveyance structures can result in fines, penalties, and liability for damage to property caused by ditch failures. Finally, respondents noted that prohibition of ditch maintenance could subsequently result in curtailment or cessation of water diversions. This situation in turn could result in forfeiture or abandonment of water rights under State law.

By exempting limited periodic maintenance activities on existing water supply ditches, this proposed amendment facilitates consistency among the rangewide exemptions. Where appropriate, permits can be issued under section 10 of the Act to allow incidental take of Preble's for activities not proposed to be exempted through this rule.

Some respondents believed that any exemption should include maintenance of water supply wells, water measurement devices, dams, other infrastructure, and associated roads.

The proposed amendment includes a limited exemption for maintenance of roads used to access existing ditches and related infrastructure provided that these activities do not exceed the maximum allowable loss of riparian shrub habitat in any calendar year. This exemption covers only maintenance and replacement of dams or infrastructure directly related to, and used in, the operation of ditches. An exemption also applies to activities covered in § 17.40 (l)(2)(v) of the final rule relating to *existing* uses of water associated with the exercise of perfected water rights. Any person contemplating dam or infrastructure work not covered by either of these two exemptions should consult with us when the maintenance procedure has the potential to take Preble's.

Several respondents requested rangewide exemptions for maintenance of other types of water-related infrastructure. The suggested exemptions included maintenance of sewer lines; wastewater treatment and conveyance facilities; and stormwater collection, conveyance, and treatment facilities.

We elected not to propose an exemption for these types of water-related infrastructure. These systems typically incorporate extensive pipeline systems that either cross Preble's habitat, or are installed along stream corridors that provide Preble's habitat. Activities to maintain this infrastructure can create large areas of surface disturbance within or near Preble's habitat that could temporarily or permanently prevent occupation of habitat or migration from one Preble's habitat area to an adjacent Preble's habitat area.

Owners and operators of stormwater and wastewater systems will be required to consult with us when their maintenance activities have the potential to result in take of Preble's. We will work with wastewater and stormwater system owners and operators to develop maintenance procedures that minimize and mitigate take of Preble's when maintenance activities occur within Preble's habitat.

Comments Solicited

The Service invites comments on this proposed rule. Comments should be forwarded to the Field Supervisor, Colorado Field Office (see **ADDRESSES** section). While our normal practice is to solicit comments on proposed rules for 60 days, we believe a 30-day comment period is sufficient in this case because we have already received public comments regarding the substance of this proposed rule.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping or order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to Office of Regulatory Affairs, Department of Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You also may e-mail the comments to *Exsec@ios.doi.gov.*

Required Determinations

A Record of Compliance was prepared for the May 22, 2001, final rule that exempted from the take prohibitions listed in section 9 of the Act, the four activities of rodent control, ongoing agricultural activities, landscaping, and

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ongoing use of existing water rights. A Record of Compliance certifies that a rulemaking action complies with the various statutory, Executive Order, and Department Manual requirements applicable to rulemaking. Amendment of the May 22, 2001, rule to include the two additional exemptions proposed herein, noxious weed control and ongoing ditch maintenance, does not add any significant elements to this Record of Compliance.

Without this proposed special rule, noxious weed control or ongoing ditch maintenance activities that may result in take of Preble's would not be exempted from the take prohibitions. This rule would allow certain affected landowners to engage in certain noxious weed control and ditch maintenance activities that may result in take of Preble's. Without this rule, anyone engaging in those activities would need to seek an authorization from us through an incidental take permit under section 10(a) or an incidental take statement under section 7(a)(2) of the Act. This process takes time and can involve an economic cost. The rule would allow these landowners to avoid the costs associated with abstaining from conducting these activities or with seeking an incidental take permit from us. These economic benefits, while important, do not rise to the level of "significant" under the following required determinations.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget has determined that this rule is not a significant regulatory action. This rule would not have an annual economic impact of more than $100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. This rule would reduce the regulatory burden of the listing of the Preble's meadow jumping mouse under the Act as a threatened species by providing certain exemptions to the section 9 take prohibitions that currently apply throughout the Preble's range. These exemptions would reduce the economic costs of the listing; therefore, the economic effect of the rule would benefit landowners and the economy. This effect does not rise to the level of "significant" under Executive Order 12866.

This rule will not create inconsistencies with other Federal agencies' actions. Other Federal agencies would be mostly unaffected by this proposed rule.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Because this rule would allow landowners to continue otherwise prohibited activities without first obtaining individual authorization, the rule's impacts on affected landowners would be positive.

This rule will not raise novel legal or policy issues. We have previously promulgated section 4(d) rules for other species, including the special rule for the Preble's pertaining to rodent control, ongoing agricultural activities, landscaping, and activities associated with water rights. This rule would simply add exempted activities to that rule.

Regulatory Flexibility Act

We have determined that this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required, and a Small Entity Compliance Guide is not required. This rule would reduce the regulatory burden of the listing of the Preble's as a threatened species. Without this proposed rule and the final special rule, all of the take prohibitions listed in section 9 of the Act would apply throughout the range of the Preble's. This rule would allow certain affected landowners to engage in noxious weed control and ditch maintenance activities that may result in take of Preble's. This rule would enable these landowners to avoid the costs associated with abstaining from conducting these activities to avoid take of Preble's or seeking incidental take permits from us.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule would not have an annual effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. As described above, this rule would reduce regulatory burdens on affected entities, who are mostly agricultural producers.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications. By reducing the regulatory burden placed on affected landowners resulting from the listing of the Preble's as a threatened species, this rule would reduce the likelihood of potential takings. Affected landowners would have more freedom to pursue activities (i.e., noxious weed control and ditch maintenance) that may result in taking of Preble's without first obtaining individual authorization.

Federalism

In accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Currently, the State of Colorado, the Service, and various local governmental entities in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans that will provide the foundation upon which to build a lasting, effective, and efficient conservation program for the Preble's. Because we anticipate beneficial impacts of such collaborative conservation efforts, we are proposing that this rule would be applicable only during the 36-month timeframe of the final special rule.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

Paperwork Reduction Act

We have examined this proposed rule under the Paperwork Reduction Act of 1995 and found it to contain no requests for information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The National Environmental Policy Act analysis has been conducted. An Environmental Assessment was prepared for the final special rule. The additional exemptions covered in this proposed rule were included in this analysis.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951) and E.O. 13175, we have evaluated possible effects on federally recognized Indian Tribes. We have determined that, because no Indian trust resources occur within the range of the Preble's, this rule would have no effects on federally recognized Indian Tribes.

Executive Order 13211

We have evaluated this proposed rule in accordance with E.O. 13211 and have determined that this rule would have no effects on energy supply, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service proposes to amend 50 CFR part 17, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.40 by adding paragraph (l)(2)(vi) and (l)(2)(vii) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(l) Preble's meadow jumping mouse (*Zapus hudsonius preblei*).

* * * * *

(2) * * *

(vi) *Noxious weed control.* Preble's meadow jumping mice may be taken incidental to noxious weed control as long as the weed control:

(A) Is implemented pursuant to the undesirable plant management plan adopted by the applicable county or municipal government;

(B) Is implemented in consultation with the weed control officer designated by the applicable county or municipal government;

(C) Utilizes the best available methods of integrated management as prescribed in the local undesirable plant management plan; and

(D) Follows herbicide application guidelines as prescribed by herbicide manufacturers and Federal law.

(vii) *Ditch maintenance activities.* Preble's meadow jumping mice may be taken incidental to normal and customary ditch maintenance activities only if the activities:

(A) Result in the annual loss of no more than ¼ mile of riparian shrub habitat per linear mile of ditch, including burning of ditches that results in the annual loss of no more than ¼ mile of riparian shrub habitat per linear mile of ditch.

(B) Are performed within the historic footprint of the surface disturbance associated with ditches and related infrastructure, and

(C) Follow the Best Management Practices described in paragraphs (1)(2)(vii)(C)(*1*) through (*3*) of this section.

(*1*) Persons engaged in ditch maintenance activities must avoid, to the maximum extent practicable, impacts to shrub vegetation. For example, if accessing the ditch for maintenance or repair activities from an area containing no shrubs is not possible, then damage to adjacent shrub vegetation must be avoided.

(*2*) Persons engaged in placement or sidecasting of silt and debris removed during ditch cleaning, vegetation or mulch from mowing or cutting, and other material from ditch maintenance must, to the maximum extent practicable, avoid shrub habitat and at no time disturb more than ¼ mile of riparian shrub habitat per linear mile of ditch within any calendar year.

(*3*) To the maximum extent practicable, all ditch maintenance activities will be carried out during the Preble's hibernation season, November through April.

(D) All ditch maintenance activities carried out during the Preble's active season, May through October, will be conducted during daylight hours only.

(E) Ditch maintenance activities that would result in permanent or long-term loss of potential habitat, including replacement of existing infrastructure with components of substantially different materials and design, such as replacement of open ditches with pipeline or concrete-lined ditches, replacement of an existing gravel access road with a permanently paved road, or replacement of an earthen diversion structure with a rip-rap and concrete structure, and construction of new infrastructure or the movement of existing infrastructure to new locations, such as realignment of a ditch, building a new access road, or installation of new diversion works where none previously existed, would not be considered normal and customary.

* * * * *

Dated: August 8, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–21680 Filed 8–29–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[I.D. 080601E]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for an exempted fishing permit (EFP); request for comments.

SUMMARY: NMFS announces receipt of an application for an EFP from the California Department of Fish and Game. The EFP application applies to vessels with valid California state delivery permits fishing for chilipepper rockfish with small footrope trawl gear south of 40°10′ N. lat. If awarded, the EFP would allow federally managed groundfish species to be landed in excess of cumulative trip limits and a portion of the chilipepper rockfish caught to be sold for profit, providing the vessels carry state-sponsored observers. Observers would collect data that are otherwise not available. This EFP proposal is intended to promote the objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing data that can be used to enhance management of the groundfish fishery.

DATES: Comments must be received by October 1, 2001.

ADDRESSES: Copies of the EFP application are available from Becky Renko Northwest Region, NMFS, 7600

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Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Becky Renko 206–526–6140.

SUPPLEMENTARY INFORMATION: This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350.

At the June 2001 Pacific Fishery Management Council (Council) meeting, the State of California presented NMFS with an EFP application. The primary purpose of the exempted fishing activity would be to measure bycatch rates of bocaccio and other rockfish species associated with the small footrope chilipepper trawl fishery in Federal waters south of 40°10′ N. lat. Fishing for chilipepper rockfish, which is an abundant and commercially important species off California, is constrained south of 40O10′ N. lat. by efforts to rebuild bocaccio, an overfished rockfish species. Fishers believe that the small footrope trawl fishery for chilipepper rockfish can be prosecuted with a much lower rockfish bycatch rate than is currently assumed.

If issued, this EFP will allow participating vessels to retain and sell for profit, chilipepper rockfish up to 25,000 lbs (11.34 mt) per month. Once a vessel has harvested a specified portion of its bocaccio trip limit, it may no longer fish for and land chilipepper rockfish. All other incidentally caught species would also continue to be counted against the individual vessel's cumulative trip limits. Vessels fishing under the EFP would be required to retain all rockfish (*Sebastes* and *Sebastolobus*). Proceeds from the sale of rockfish that are in excess of each vessel's trip limits will be forfeited to the State of California. Requiring the retention of all rockfish is expected to provide information to evaluate the broader application of a full retention program in the groundfish fleet. Observer data collected during this project are expected to benefit the management of the groundfish fishery by: (1) providing information on catch rates of incidentally caught species, including bocaccio rockfish, by fishing location, (2) allowing for the collection of biological data that is otherwise not available from landed catch, and (3) providing data that can be used to evaluate the full retention of rockfish as a management measure. If the EFP is issued, approximately 30 vessels would be eligible to participate under this EFP because of their historic participation in this fishery. Up to five vessels may operate under this permit at any one time. The fishing periods identified in the EFP are proposed for May through September, 2002.

In accordance with regulations at 50 CFR 600.745 and 660.306 (f), NMFS has determined that the proposal warrants further consideration and consulted with the Council. The Council considered the EFP application during its June 11-15, 2001, meeting and recommended that NMFS issue the EFP. A copy of the application is available for review from NMFS (see **ADDRESSES**). Regulations issued under the Magnuson-Stevens Fishery Conservation and Managmeent Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs. Based on the outcome of this EFP, this action may lead to further rulemaking.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 24, 2001.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21950 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 169

Thursday, August 30, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the rice variety designated "Bolivar" is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to the Texas A&M University System of College Station, Texas, an exclusive license to this variety.

DATES: Comments must be received on or before November 28, 2001.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5257.

SUPPLEMENTARY INFORMATION: The Federal Government's intellectual property rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Michael D. Ruff,

Assistant Administrator.

[FR Doc. 01–21983 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–009–3]

Wildlife Services; Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to oral rabies vaccination programs in several States. The environmental assessment analyzes the potential environmental effects of the continuation and expansion of the Agency's involvement in programs to stop the spread of certain wildlife-borne rabies strains in the States of New York, Ohio, Texas, Vermont, and West Virginia, and examines similar efforts that may be conducted in New Hampshire, Pennsylvania, Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. The environmental assessment provides a basis for our conclusion that the implementation of these oral rabies vaccination programs will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: To obtain copies of the environmental assessment and finding of no significant impact, contact Elizabeth Harris, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; phone (301) 734–7921, fax (301) 734–5157, or e-mail: elizabeth.harris@aphis.usda.gov.

You may also read the environmental assessment and finding of no significant impact in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Martin Mendoza, Jr., Director, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; phone (301) 734–7921.

SUPPLEMENTARY INFORMATION:

Background

The Wildlife Services (WS) program in the Animal and Plant Health Inspection Service (APHIS) cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that APHIS–WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

On December 7, 2000, a notice was published in the **Federal Register** (65 FR 76606–76607, Docket No. 00–045–1) in which the Secretary of Agriculture declared an emergency and transferred funds from the Commodity Credit Corporation to APHIS–WS for the continuation and expansion of oral rabies vaccination (ORV) programs to address rabies in the States of Ohio, New York, Vermont, Texas, and West Virginia.

On March 7, 2001, we published a notice in the **Federal Register** (66 FR 13697–13700, Docket No. 01–009–1) to solicit public involvement in the planning of a proposed cooperative program to stop the spread of rabies in the States of New York, Ohio, Texas, Vermont, and West Virginia. The notice also stated that a small portion of northeastern New Hampshire and the western counties in Pennsylvania that border Ohio could also be included in these control efforts, and discussed the possibility of APHIS–WS cooperating in

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smaller-scale ORV projects in the States of Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. The March 2001 notice contained detailed information about the history of the problems with raccoon rabies in eastern States and with gray fox and coyote rabies in Texas, along with information about previous and ongoing efforts using ORV baits in programs to prevent the spread of the rabies strains of concern.

Subsequently, on May 17, 2001, we published in the **Federal Register** (66 FR 27489, Docket No. 01–009–2) a notice in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental effects of the ORV programs described in our March 2001 notice. We solicited comments on the EA for 30 days ending on June 18, 2001. We received one comment by that date. The comment was from an animal protection organization and supported APHIS' efforts toward limiting or eradicating rabies in wildlife populations. The commenter did not, however, support the use of lethal monitoring methods or local depopulation as part of an ORV program.

In this document, we are advising the public of APHIS' record of decision and finding of no significant impact (FONSI) regarding the use of oral vaccination to control specific rabies virus variants in raccoons, gray foxes, and coyotes in the United States. This decision will allow APHIS–WS to purchase and distribute ORV baits, monitor the effectiveness of the ORV programs, and participate in implementing contingency plans that may involve the reduction of a limited number of local target species populations through lethal means (i.e., the preferred alternative identified in the EA). The decision is based upon the final EA, which reflects our review and consideration of the comments received from the public in response to our March 2001 and May 2001 notices and information gathered during planning/scoping meetings with State health departments, other State and local agencies, the Ontario Ministry of Natural Resources, and the Centers for Disease Control and Prevention.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 24th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21928 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–093–9]

Scrapie Eradication Uniform Methods and Rules; Reopening and Extension of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are reopening and extending the comment period for a notice seeking public comments on the draft Scrapie Eradication Uniform Methods and Rules. This action will allow interested persons additional time to prepare and submit comments.

DATES: We invite you to comment on the draft Scrapie Eradication Uniform Methods and Rules. We will consider all comments on Docket 97–093–7 that we receive by September 20, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 97–093–7, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 97–093–7.

You may read any comments that we receive on Docket No. 97–093–7 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

You may request a copy of the draft Scrapie Eradication Uniform Methods and Rules by writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. The document is also available on the Internet at *http://www.aphis.usda.gov/vs/scrapie*, and we may post revised versions to this website for additional comment in the future.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, National Scrapie Program Coordinator, National Animal Health Programs Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION: Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, administers regulations at 9 CFR part 79 that restrict the interstate movement of certain sheep and goats. APHIS also has regulations at 9 CFR part 54 that describe a voluntary scrapie control program.

On April 20, 2001, we published a notice in the **Federal Register** (66 FR 20231, Docket No. 97–093–7) soliciting comments on the draft Scrapie Eradication Uniform Methods and Rules (UM&R). The UM&R is a set of proposed cooperative procedures and standards to aid in the control and eradication of scrapie. The legal requirements for interstate movement of sheep and goats due to scrapie are contained in title 9 of the Code of Federal Regulations. The Scrapie Eradication UM&R provides guidance to the States regarding the minimum standards necessary for a State to participate in the national eradication program.

Comments on the UM&R were originally required to be received on or before June 19, 2001. On June 27, 2001, we published a notice in the **Federal Register** (66 FR 34143, Docket No. 97–093–8) reopening and extending the comment period until August 20, 2001. We are reopening and extending the comment period on Docket No. 97–093–7 again, until September 20, 2001. This action will allow interested persons additional time to prepare and submit comments.

Comments received before September 20, 2001, will be reviewed and considered before another draft is put out for review by States, industry, and the public. APHIS will continue to accept comments on the UM&R on an ongoing basis and will open it for revision at least annually, as indicated in the introduction to the UM&R. Additional input may be provided directly to the national scrapie program coordinator at any time, at the address

given above under "For Further Information Contact:".

Authority: 21 U.S.C. 111–113, 114, 114a, 115, 117, 120, 121, 123–126, and 134a–134h; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 24th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21927 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–34–U

ARCTIC RESEARCH COMMISSION

Arctic Research Commission Meeting

August 20, 2001.

Notice is hereby given that the U.S. Arctic Research Commission will hold its 62nd Meeting in Anchorage, AK on September 10 and 11, 2001. The Business Session open to the public will convene at 9 a.m. Monday, September 10, in the Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the Minutes of the 61st Meeting.

(3) Reports from Congressional Liaisons.

(4) Agency Reports.

The focus of the Meeting will be reports and updates on programs and research projects affecting the U.S. Arctic. Presentations include a review of the research needs for civil infrastructure in Alaska.

The Business Session will reconvene at 9 a.m. Tuesday, September 10. An Executive Session will follow adjournment of the Business Session.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters must inform the Commission in advance of those needs.

Contact Person for More Information: Dr. Garrett W. Brass, Executive Director, Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

Garrett W. Brass,

Executive Director.

[FR Doc. 01–21881 Filed 8–29–01; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Annual Trade Report.

Form Number(s): SA–42, SA–42A.

Agency Approval Number: 0607–0195.

Type of Request: Revision of a currently approved collection.

Burden: 2,364 hours.

Number of Respondents: 6,000.

Avg. Hours Per Response: 24 minutes.

Needs and Uses: The Annual Trade Survey (ATS) is the official source of annual sales, inventory, inventory valuation methods, purchases, cost of goods sold, and gross margin estimates for merchant wholesalers in the United States. The ATS provides annual wholesale data needed to improve the accuracy of personal consumption estimates and inventory adjustments in the gross domestic product (GDP) accounts and for benchmarking results of the Monthly Wholesale Trade Survey. The ATS has fulfilled these important and recurring data needs since its inception in 1978. The estimates compiled from this survey provide valuable information for economic policy decisions by the government and are widely used by private businesses, trade organizations, professional associations, and other business research and analysis organizations. This request is for the clearance of two similar report forms, the SA–42 and SA–42A, used to collect data in this survey using the North American Industry Classification System (NAICS). Previously, these report forms were numbered B–450 and B–451 on the old Standard Industrial Classification (SIC) basis. The move to NAICS represents a change in classification to some companies, but not a change in the questions asked on our forms. Both forms request similar data items but different forms are needed to accommodate both large and small firms. The survey report forms are used to collect both total and e-commerce sales, purchases, year-end inventory, inventory valuation methods, and legal form of organization from merchant wholesale firms.

Affected Public: Businesses or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 24, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–21885 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[I.D. 082701A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Billfish Certificate of Eligibility.

Form Number(s): None.

OMB Approval Number: 064–0216.

Type of Request: Regular submission.

Burden Hours: 43.

Number of Respondents: 350.

Average Hours Per Response :20 minutes to complete a certificate, 2 minutes for recordkeeping.

Needs and Uses: Persons are the first receivers of billfish are required to complete a Certificate of Eligibility as a condition for domestic trade of fresh or frozen billfish. Dealers or processors who subsequently receive or possess billfish must retain a copy of the Certificate while processing the billfish. The purpose of the requirement is to ensure that Atlantic billfish are retained as a recreational resources, and that any billfish entering the commercial trade have not been harvested in the Atlantic Ocean management unit.

Affected Public: Business and other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of

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Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–21953 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 062701C]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Monthly Cold Storage Report.

Form Number(s): NOAA Form 88–16.

OMB Approval Number: 0648–0015.

Type of Request: Regular submission.

Burden Hours: 165.

Number of Respondents: 103.

Average Hours Per Response: 8 minutes.

Needs and Uses: Information is collected from cold storage warehouses on a voluntary basis about the quantity of fish and shellfish held in cold storage. The data are used by industry for planning and by Fishery Management Councils and the National Marine Fisheries Service for fishery management and development purposes.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–21956 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062701B]

Proposed Information Collection; Comment Request; Gear-Marking Requirements in Antarctic Waters

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before October 29, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin Tuttle, F/ST3, Room 12643, SSMC–3, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2282, ext. 199).

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. vessels participating in Antarctic fisheries must mark their fishing gear with the vessel's official identification number, Federal permit or tag number, or another approved form of identification. The information on the gear is used for enforcement of fishery regulations.

II. Method of Collection

Identification information is displayed on fishing gear.

III. Data

OMB Number: 0648–0367.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals.

Estimated Number of Respondents: 1.

Estimated Time Per Response: 5 minutes to mark buoys or floats, 2 minutes to mark traps, pots, or trawl gear.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost to Public: $300.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–21954 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062401A]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Snapper Grouper Committee, Habitat Committee, Controlled Access Committee, Scientific and Statistical Selection Committee, Information and Education Committee, Advisory Panel Selection Committee and a joint meeting of the Executive and Finance Committees. Public comment periods will be held during some of the meetings. There will also be a full Council Session.

DATES: The meetings will be held in September 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: These meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 1–800–334–6660 or 843–571–1000.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366; fax: (843) 769–4520; email: kim.iverson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Meeting Dates

September 17, 2001, from 1:30 p.m. until 5:30 p.m. and September 18, 2001, from 8:30 a.m. until 10:30 a.m., Snapper Grouper Committee Meeting.

The Snapper Grouper Committee will meet to review and comment on the following:

Proposed actions for Amendment 13 to the Snapper Grouper Fishery Management Plan (FMP) including permit transfers, snowy grouper and golden tilefish management, prohibition of the sale of mutton snapper in May and June, review of stock status for speckled hind and warsaw grouper and evaluation of current regulations, spawning site closures and other measures. The Committee will also review recommendations from the Marine Protected Area Committee regarding possible sites for marine protected areas and other recommendations.

September 18, 2001, from 10:30 a.m. until 12 noon, Scientific and Statistical Selection Committee Meeting.

The Scientific and Statistical Selection Committee will meet in a closed session to review candidates for appointment to the Scientific and Statistical Committee and develop recommendations.

September 18, 2001, from 1:30 p.m. until 3:30 p.m., Information and Education Committee Meeting.

The Information and Education Committee will meet to review current materials, projects and activities; develop goals and objectives, and identify needs related to public outreach.

September 18, 2001, from 3:30 p.m. until 5:30 p.m., Habitat Committee Meeting.

The Habitat Committee will meet to review the status of the Sargassum FMP, review recommendations from the Habitat Advisory Panel, evaluate allowing rock shrimp trawling in or near the Oculina Habitat Areas of Particular Concern (HAPC) by vessels with Vessel Monitoring Systems and address Ecosystem FMP issues.

September 19, 2001, from 8:30 a.m. until 12 noon, Controlled Access Committee Meeting.

The Controlled Access Committee will meet to review comments on the Draft Environmental Impact Statement (DEIS) regarding Amendment 5 to the Shrimp FMP addressing controlled access for the rock shrimp fishery. The Committee will review and approve changes to the document and make recommendations for submission to the Secretary of Commerce. The Controlled Access Committee will also review the Qualitative Vessel Capacity Report from NMFS.

September 19, 2001, from 1:30 p.m. until 3:30 p.m., Advisory Panel Selection Committee Meeting.

The Advisory Panel Selection Committee will meet in a closed session to review membership applications and develop recommendations.

September 19, 2001, from 3:30 p.m. until 5:30 p.m., Joint Executive Committee and Finance Committee Meeting.

The Executive and Finance Committees will meet to review and approve the Council's Calendar Year (CY) 2001 activities schedule, budget and Operations Plan. In addition, the Committees will discuss the Council's Atlantic Coast Cooperative Statistic Program (ACCSP) funding request and review the status of the Magnuson-Stevens Fishery Conservation and Management Act reauthorization.

September 20, 2001, from 8:30 a.m. until 6:00 p.m., Council Session.

From 8:30 a.m. – 8:45 a.m., the Council will have a Call to Order, introductions and roll call adoption of the agenda, and approval of the June 2001 meeting minutes.

From 8:45 a.m. – 9:45 a.m., the Council will hold a Public Scoping Meeting on: (1) Coral framework action to establish additional HAPC and (2) development of a comprehensive FMP amendment addressing permit renewal timeframes, operator permits, a consolidated controlled access system and the Atlantic Coast Cooperative Statistics Program's permits and reporting. Documents regarding these issues are available from the Council office (see **ADDRESSES**).

From 9:45 a.m. – 10:45 a.m., Beginning at 9:45 a.m., the Council will hold a Public Comment Meeting on Amendment 5 to the Shrimp FMP (rock shrimp limited access). Following the public comment period, the Council will hear a report from the Controlled Access Committee and approve Amendment 5 for submission to the Secretary of Commerce. Documents regarding these issues are available from the Council office (see **ADDRESSES**).

From 10:45 a.m. – 12 noon and 1:30 p.m. – 2:15 p.m., the Council will hear a report from the Marine Protected Area Committee regarding marine protected area sites to be included in an options paper for Amendment 14 to the Snapper Grouper FMP.

From 2:15 p.m. – 2:45 p.m., the Council will hear a report from the Snapper Grouper Committee and approve a list of actions for the Snapper Grouper FMP Amendment 13 draft public hearing document.

From 2:45 p.m.– 3:00 p.m., the Council will hear a report from the Scientific and Statistical Selection Committee and appoint new members to the SSC.

From 3:00 p.m. – 3:15 p.m., the Council will hear a report from the Advisory Panel Selection Committee and appoint new members to the advisory panels.

From 3:15 p.m. – 3:30 p.m., the Council will hear a report from the Information and Education Committee.

From 3:30 p.m. – 3:45 p.m., the Council will hear a report from the Habitat Committee.

From 3:45 p.m. – 4:15 p.m., the Council will hear a report from the joint Executive and Finance Committees and approve the Council's CY 2002 Activities Schedule, Budget and Operations Plan.

From 4:15 p.m. – 4:45 p.m., the Council will hear a report on the status of NMFS Southeast Fisheries Science Center activities.

From 4:45 p.m. – 5:00 p.m., the Council will hear a report on Final Guidelines for Economic Analysis.

From 5:00 p.m. – 5:15 p.m., the Council will hear status reports from NMFS on the Golden Crab Amendment 3, Dolphin Emergency Rule request, the Dolphin Wahoo DEIS, and allowable gear rule change request. The Council will also hear NMFS status reports on landing for Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, snowy grouper and

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golden tilefish, wreckfish, greater amberjack and south Atlantic octocorals.

From 5:15 p.m. – 6:00 p.m., the Council will hear Agency and Liaison Reports, discuss other business and upcoming meetings.

Copies of documents are available from Kim Iverson (see **FOR FURTHER INFORMATION CONTACT**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 11, 2001.

Dated: August 24, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21955 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 20 September 2001 at the National Building Museum, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Please note that the design for an addition to the Corcoran Gallery is the first item on the agenda to be presented at 10 am in the first floor auditorium of the National Building Museum. The remainder of the agenda will be reviewed in the Commission's conference room, Suite 312.

Draft agendas are available to the public one week prior to the meeting. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200.

Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 24 August 2001.

Charles H. Atherton,

Secretary.

[FR Doc. 01–21941 Filed 8–29–01; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

August 24, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66972, published on November 8, 2000.

William Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 24, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on August 30, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Specific limits	
237	559,607 dozen.
239pt. [2]	2,390,650 kilograms.
331/631	3,638,294 dozen pairs.
334/634	403,906 dozen.
335/635	557,478 dozen.
338	7,398,802 dozen.
339	2,053,762 dozen.
359–C/659–C [3]	2,034,439 kilograms.
638/639	178,701 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
William Dulka,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–21884 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–DR–S

CONSUMER PRODUCT SAFETY COMMISSION

Poison Prevention Packaging; Notice of Stay of Enforcement for Lidoderm® Patch

AGENCY: Consumer Product Safety Commission.

ACTION: Stay of enforcement.

SUMMARY: This notice announces the Commission's decision to stay enforcement of special packaging requirements for the orphan drug, Lidoderm®. The Commission will stay enforcement under the conditions stated at the end of this notice.

DATES: The stay will be effective on August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Geri Smith, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0608, extension 1160.

SUPPLEMENTARY INFORMATION:

A. Background

Under the Poison Prevention Packaging Act ("PPPA"), the Commission has the authority to require special packaging for drugs (as well as certain other household products) if it finds that child resistant ("CR") packaging is necessary to protect children from serious personal injury or illness from handling using or ingesting the drug and that CR packaging is technically feasible, practicable and appropriate. 15 U.S.C. 1472(a). In 1995, the Commission issued a rule requiring CR packaging for lidocaine products with more than 5 milligrams (mg) of lidocaine in a single package. 16 CFR 1700.14 (a)(23).

Lidoderm® is a dermal patch that contains lidocaine. Each Lidoderm® patch contains 700 mg lidocaine. Lidoderm® is marketed in the form of five patches inside a non-CR resealable foil envelope to maintain the integrity of the product. One non-CR carton of Lidoderm® contains six envelopes (each envelope contains five patches) for a total of 30 patches per carton.

In May 1999, Commission staff discovered that Lidoderm® was being packaged in non-CR packaging and notified the distributor, Endo Pharmaceuticals Inc. ("Endo") of the special packaging requirement for lidocaine products. To comply with the PPPA, the immediate container for a product that requires special packaging must be CR. Thus, for Lidoderm® patches, each patch must be packaged in an individual CR pouch or a single resealable CR pouch must contain all of the patches (i.e., no carton and no foil envelope, only a resealable CR pouch). At Endo's request, the Commission granted Endo a temporary stay of enforcement on May 15, 2000, on the condition that Endo provide pharmacists with an outer CR package to dispense the product while it was developing a plan and timeline to package each patch in a CR pouch.

On August 14, 2000, Endo petitioned the Commission for a partial exemption for Lidoderm® from special packaging requirements stating that "it is not practicable to market each Lidoderm® patch in a child-resistant envelope." The petitioner argues that to do so is cost prohibitive and would force it to discontinue production of Lidoderm®. Endo asks for an exemption so that it may replace the non-CR carton with the CR pouch so that the six envelopes (5 patches per envelope) are marketed in the CR pouch, not in the non-CR carton.

B. The Product

Lidoderm® is a lidocaine-containing dermal patch available only by prescription. It is manufactured by Teikoku Seiyaku, Co., Ltd., a Japanese company, and the only manufacturer the Food and Drug Administration ("FDA") has approved to manufacture Lidoderm®. Endo is the only distributor the FDA has approved for Lidoderm®. The FDA designated Lidoderm® as an orphan drug on October 24, 1995 and approved it for marketing on March 19, 1999. Endo started marketing Lidoderm® on September 15, 1999. Orphan drugs are intended for rare diseases affecting less than 200,000 people or affecting more than 200,000, but for which there is no expectation that the costs of drug development will be recovered from sales. The Orphan Drug Act encourages the development of orphan drugs, through economic incentives such as tax credits for clinical research and seven years of marketing exclusivity.

Lidoderm® is prescribed to treat post-herpetic neuralgia ("PHN"), a rare, chronic condition that results from nerve injury caused by shingles. Shingles occurs following reactivation of the herpes zoster virus (the same virus responsible for chickenpox) and is characterized by painful fluid-filled skin blisters. PHN is more common in the elderly. Approximately 10% of all patients with shingles develop PHN. Endo estimates that about 200,000 Americans have PHN. There is no cure for PHN, and treatment is aimed at controlling the pain by various methods including drug therapy (e.g., analgesics, antidepressants, topical anesthetics, and anticonvulsants), acupuncture, and nerve block.

Each carton of Lidoderm® contains 30 patches packaged in six resealable foil envelopes with five patches per envelope. Neither the carton nor the individual envelopes are CR. Currently, Endo is including a CR reclosable pouch large enough for the six envelopes in each carton. Each Lidoderm® patch is 22 square inches (10 cm x 14 cm) and contains 700 mg of lidocaine. The amount of lidocaine systemically absorbed from Lidoderm® depends on both the duration of exposure and the surface area of skin covered. The recommended dose is up to three patches at one time only once for up to 12 hours in a 24-hour period. Patches may be cut into smaller sizes prior to removal of the release liner. The petitioner did not provide data related to the stability of the lidocaine in a cut or used patch, but instructions on the product envelope advise that the patch adhesive contains water and will dry out if the package is left open.

According to the petition, Lidoderm® is unlike other patch systems in that the lidocaine in Lidoderm® is not contained in a reservoir, but is embedded in the patch adhesive. Therefore, the patch releases a low level of lidocaine into the skin over a long time period ensuring that it produces analgesia (pain reduction) rather than anesthesia (numbness). Since only a small percentage (3% ± 2%) of lidocaine is absorbed dermally from the Lidoderm® patch when used therapeutically, about 95% of the lidocaine will remain in a used patch. Endo states that the lidocaine is less accessible from this patch system than from other formulations (such as, creams and liquids) and that a child would need to chew or suck on the patch for some time before any lidocaine would be absorbed through the mouth or swallowed. However, there are no oral absorption data indicating the extent of oral exposure necessary for a child to absorb a toxic dose. Endo provides a warning with the product to store and dispose of Lidoderm® out of the reach of children and pets.

C. Endo's Request

In its petition, Endo asks essentially that the temporary stay of enforcement granted by the Commission on May 15, 2000, be made a permanent exemption from special packaging requirements. Endo argues that full compliance with the PPPA, which requires that the immediate container of a lidocaine-containing drug be CR, would be cost-prohibitive. Endo maintains that the costs of new equipment, plant re-engineering, and testing for FDA approval are prohibitive and would

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force them to discontinue marketing Lidoderm®. Teikoku estimates a large total cost for the changes required to place each patch in a CR pouch. This includes the cost of: (1) New envelope processing machines; (2) producing three FDA submission batches; (3) extended specification compliance testing on all three batches; (4) accelerated stability testing; and (5) real-time stability testing. The petitioner maintains that "manufacturing and packaging one patch per envelope would result in a significant increase in the cost of manufacturing Lidoderm® because there would be significant increases in the amount of labor and materials."

Endo also argues that it would take much longer than the current packaging method to produce an equivalent amount of Lidoderm® in individual CR pouches. Endo states that this change in the production schedule for Lidoderm® is an "undue burden" for Teikoku because it would affect Teikoku's production of other products. Teikoku is unwilling to allow another manufacturer to take over production because the manufacturing process for Lidoderm® is proprietary. CPSC has not been able to verify the accuracy of Endo's cost estimates. However, Endo maintains that it will discontinue production of Lidoderm® if forced to place each patch in CR packaging. If that were to happen, Lidoderm® would no longer be a therapeutic option for PHN patients.

D. PPPA Requirements for an Exemption

The Commission's regulations provide for a company or other interested persons to submit a petition requesting an exemption from PPPA requirements. 16 CFR part 1702. Those rules require a petitioner to provide a justification for the exemption based on one or more of the following grounds: (1) Special packaging is not necessary to protect children from serious injury or illness from the substance; (2) special packaging is not technologically feasible, practicable, or appropriate for the substance; and/or (3) special packaging is incompatible with the substance. 16 CFR 1702.7. Similarly, the Commission's rules provide that if the Commission finds that a petitioner has presented "reasonable grounds" for an exemption, it shall publish a proposed amendment exempting that substance from special packaging requirements.

"Reasonable grounds" are:

Information and data sufficient to support the conclusion that:

(a) The degree or nature of the hazard to children in the availability of the substance, by reason of its packaging, is such that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the substance, or

(b) Special packaging is not technically feasible, practicable, or appropriate for the substance, or

(c) Special packaging is incompatible with the particular substance.

16 CFR 1702.17.

In its petition, Endo states as its justification that "it is not practicable to market each Lidoderm® patch in a child-resistant envelope." Endo argues that the high cost and practicable difficulties, discussed above, of packaging each individual Lidoderm® patch in a CR container justify an exemption.

Endo states that there have been no reports of adverse events or accidental exposures of Lidoderm® to children. Although Endo states that Lidoderm® does not present the same degree of poisoning risk to children as other lidocaine products, Endo does not argue and does not provide any data indicating that the lidocaine in Lidoderm® patches is not toxic to children. Thus, Endo does not seem to be relying on lack of toxicity to children as a justification for an exemption.

Legislative history of the PPPA indicates that the term "practicability" means that "special packaging meeting the standard would be susceptible to modern mass-production and assembly-line techniques." S. Rep. 845 91st Cong., 2d Sess 10 (1970). Endo does not argue that Lidoderm® cannot be produced with CR packaging that complies with the PPPA. Rather, Endo asserts that such packaging would be so costly that it could not continue to market Lidoderm®. Thus, the Commission cannot make the requisite finding that CR packaging would not be practicable for Lidoderm® that would justify an exemption under the Commission's regulations.

E. Stay of Enforcement

Endo has, however, presented information indicating the need for the orphan drug Lidoderm®, the prohibitive cost involved in CR packaging for each Lidoderm® patch, the limited market for the product, and the protection for children that would be provided by packaging Lidoderm® patches in an outer CR package. The Commission finds that these circumstances justify the stay of enforcement. The stay will be issued with the following conditions:

1. Endo Pharmaceuticals must, as stated in section IV of the petition, "replace the outer carton for Lidoderm® with a CR reclosable pouch containing six resealable foil envelopes (5 patches per envelope)" with instructions to pharmacists that they must dispense Lidoderm® envelopes in the outer pouch. Moreover, additional outer CR pouches must be provided to pharmacists upon request in order to accommodate prescriptions of less than a full package of 30 patches.

2. The outer CR package must bear a prominent and conspicuous label stating the following:

"WARNING:

New and used patches could harm small children if chewed or swallowed. Envelopes in this package are NOT child resistant. You MUST keep envelopes inside this child-resistant package with the zipper closed. Keep new and used patches out of the reach of children."

3. The envelopes containing the five Lidoderm® patches (the immediate packaging) must continue to bear the warning label "Package not child resistant. Keep used and unused patches out of the reach of children."

4. Lidoderm® must remain designated by the FDA as an orphan drug indicated solely for the treatment of PHN. If Endo obtains orphan drug status for Lidoderm® for the treatment of any other condition, Endo shall direct to the Commission's Office of Compliance, a request for a determination of whether the terms of this stay shall apply to the product.

5. Lidoderm® must be manufactured only by Teikoku Seiyaku Co., Ltd, at its present location in Japan under the current material operating conditions and procedures described in Section V of the petition. Any questions related to changes in such operating conditions or procedures can be directed to the Commission's Office of Compliance.

6. Endo Pharmaceuticals must (1) notify the Commission's Directorate for Health Sciences within five business days of becoming aware of any poisonings or other exposures (i.e., physical contact) to the patches by children under 5 years old; and (2) purchase American Association of Poison Control Center data for Lidoderm® once a year and submit it to the Commission's Directorate for Health Sciences.

7. Endo must report annually to the Office of Compliance confirming that the conditions upon which the stay has been granted remain in effect. Additionally, Endo must notify the Office of Compliance 30 days in advance of any change that materially affects its compliance with any provision of the stay.

Dated: August 24, 2001.

Todd Stevenson,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 01–21880 Filed 8–29–01; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants To Support the Martin Luther King, Jr. Service Day Initiative; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Notice; correction.

SUMMARY: The Corporation for National and Community Service published a document in the **Federal Register** of August 7, 2001, concerning grants to support service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. on January 21, 2002. The document contained an incorrect telephone number.

FOR FURTHER INFORMATION CONTACT: For further information, contact Rhonda Taylor, (202) 606–5000, ext. 282. You may request this notice in an alternative format for the visually impaired by calling (202) 606–5000, ext. 262. The Corporation's T.D.D. number is (202) 565–2799 and is operational between the hours of 9 a.m. and 5 p.m. local time in Washington, DC.

Correction

In the **Federal Register** of August 7, 2001, in FR Doc. 01–19682, on page 41207, correct the telephone number for the Corporation's office in North Carolina to read "(919) 856–4731".

Dated: August 24, 2001.

Rhonda Taylor,

Associate Director, Office of Public Liaison, Coordinator of National Service Programs.

[FR Doc. 01–21903 Filed 8–29–01; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0024]

Federal Acquisition Regulation; Submission for OMB Review; Buy American Act—Balance of Payments Program Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0024).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Buy American Certificate. A request for public comments was published at 66 FR 37215, July 17, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 1, 2001.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Buy American Act requires that only domestic end products be acquired for public use unless specifically authorized by statute or regulation, provided that the cost of the domestic products is reasonable. The Balance of Payments Program, unless specifically exempted by statute or regulation, the Government gives preferences to the acquisition of domestic end products or services, provided that the cost of the domestic items is reasonable. The Balance of Payments Program differs from the Buy American Act in that it applies to acquisitions for use outside the United States.

The Buy American Act—Balance of Payments Program Certificate collects data for both the Buy American Act and Balance of Payments Program. At one time, there was a separate certificate to collect information on the Balance of Payments Program (9000–0023) and the Buy American Act (9000–0024). Since the last renewal, the two certificates have been combined to collect the data for both. Therefore, two separate information collections (9000–0023 and 9000–0024) are no longer needed. Information collection 9000–0023, expires on September 30, 2001, and will not be renewed. Information collection 9000–0024 collects data for both the Buy American Act and the Balance of Payments Program.

B. Annual Reporting Burden

Respondents: 3,906.
Responses Per Respondent: 15.
Total Responses: 58,590.
Hours Per Response: .167.
Total Burden Hours: 9,785.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0024, Buy American Act—Balance of Payments Program Certificate, in all correspondence.

Dated: August 24, 2001.

Gloria Sochon,

Acting Director, Acquisition Policy Division.

[FR Doc. 01–21913 Filed 8–29–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Crystal Thomas, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New

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Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address CAThomas@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 24, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.

Title: Lender's Request for Payment of Interest and Special Allowance.

Frequency: Quarterly, Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 17,200

Burden Hours: 41,925

Abstract: The Lender's Interest and Special Allowance Request (Form 799) is used by approximately 4,300 lenders participating in the Title IV, PART B loan programs. The ED Form 799 is used to pay interest and special allowance to holders of the Part B loans; and to capture quarterly data from lender's loan portfolio for financial and budgetary projections.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–21901 Filed 8–29–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Crystal Thomas, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address CAThomas@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 24, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Federal PLUS Loan Program Application Documents.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit; Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 100,000.

Burden Hours: 50,000.

Abstract: This application form and promissory note is the means by which a parent borrower applies for a Federal PLUS Loan and promises to repay the loan, and a school, lender, and guaranty agency certifies the parent borrower's eligibility to receive a PLUS loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–21902 Filed 8–29–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Site Recommendation Consideration; Suggested Topics for Public Comment Process

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of suggested topics for public comment.

SUMMARY: The Department of Energy (the Department) provides suggested topics for public consideration regarding the possible recommendation by the Secretary of Energy to the President of the Yucca Mountain Site in Nevada for development as a spent nuclear fuel and high-level nuclear waste geologic repository, pursuant to Section 114(a)(1) of the Nuclear Waste Policy Act of 1982, as amended (NWPA).

DATES: As announced previously in the **Federal Register** (66 FR 43850–43851), written comments on the Secretary's consideration of Yucca Mountain for a potential site recommendation to the President will be accepted for consideration if received by September 20, 2001. Comments received after September 20, 2001, will be considered to the extent practicable.

ADDRESSES: Written comments should be addressed to Carol Hanlon, U.S. Department of Energy, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, or provided by electronic mail to *YMP_SR@ymp.gov*. Written comments should be identified on the outside of the envelope, and on the comments themselves, with the designation: A Possible Site Recommendation for Yucca Mountain. Comments can also be submitted by facsimile to 1–800–967–0739.

Copies of any written comments, and documents referenced in this notice may be inspected and photocopied in the Department's Freedom of Information Act Reading Room located at the Yucca Mountain Science Center, 4101B Meadows Lane, Las Vegas, Nevada, (702) 295–1312, between the hours of 10:00 a.m. and 6:00 p.m. Tuesday through Friday, and 10:00 a.m. and 4:00 p.m. on Saturday, except for Federal holidays. Documents referenced in this notice may be found on the Internet at *http://www.ymp.gov* and at *http://www.rw.doe.gov*.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, 1–800–967–3477.

SUPPLEMENTARY INFORMATION: On May 7, 2001, the Department announced in the **Federal Register** (66 FR 23013–23016) the initiation of a public comment period on the Secretary's consideration of the Yucca Mountain site for recommendation as a spent nuclear fuel and high-level waste repository. In conjunction with the initiation of the comment period, the Department issued a report, the Yucca Mountain Science and Engineering Report (YMS&ER), summarizing the scientific and technical information compiled by the Department to date outlining the preliminary design and performance attributes of a potential geologic repository at the Yucca Mountain site. This report was provided to inform the public and facilitate public comment and review on the technical and scientific information and analyses forming the basis for the Department's consideration of a possible site recommendation.

On August 21, 2001, the Department announced in the **Federal Register** (66 FR 43850–43851) the issuance of another report, the Preliminary Site Suitability Evaluation (PSSE), that also is intended to inform the public and facilitate public review and comment on a possible site recommendation. The PSSE contains a preliminary evaluation of the suitability of the Yucca Mountain site for development as a geologic repository based on the Department's proposed site suitability regulations, to be codified as 10 CFR part 963. The preliminary evaluation described in the PSSE is based on information contained in the YMS&ER, supplemented by the most recent available technical information. The Department also announced in that notice the scheduling of public hearings, pursuant to Section 114 (a)(1) of the NWPA, and the date for the closure of the public comment period (September 20, 2001).

Over the next several months, the Secretary will carefully consider a large body of scientific documents, as well as the views of the public, in determining whether to recommend to the President that the Yucca Mountain site be developed as a repository for spent nuclear fuel and high level radioactive waste. In order to encourage and facilitate public participation in that process, the Department has sent the attached letter to a list of governmental officials and members of the public whose interest in commenting the Department has anticipated. The letter contains a list of suggested topics for public comment. The list is not intended to be comprehensive. Nor is it intended to inhibit the public from commenting on any other relevant technical, policy or other issue related to a possible recommendation of the site. The Department is publishing the attached letter today so that members of the public who do not receive an actual copy will have the opportunity to add their comments in response to the suggested topics.

Issued in Washington, D.C. on August 27, 2001.

Ronald A. Milner,

Chief Operating Officer, Office of Civilian Radioactive Waste Management.

Attachment

Dear _____

Over the next several months the Secretary of Energy will carefully consider a large body of scientific documents, as well as the views of the public, and decide whether or not to recommend to the President that Yucca Mountain be developed to serve as our repository for spent nuclear fuel and high level radioactive waste. As you probably know, on August 21, 2001, the Department of Energy (Department) published a **Federal Register** notice (66 FR 43850) which scheduled public hearings and announced a closing date of September 20, 2001 for public comments on this possible recommendation by the Secretary. Your comments in response to this notice would be very much appreciated.

The Nuclear Waste Policy Act, as amended (the Act), establishes the Federal responsibility for the final disposition of spent nuclear fuel and high level radioactive waste in the United States. This responsibility includes 50 years of defense legacy wastes that have resulted from the development of nuclear weapons, spent fuel that has provided power for the United States Navy, spent fuel from the Nation's university research reactors, and spent fuel from the Nation's civilian reactors, which provide approximately twenty percent of our domestic electricity supply.

The Department has spent 20 years and over $6.7 billion studying various means to fulfill the Federal responsibility. Since 1987, at the direction of the Act, the Department has been required to focus exclusively on the Yucca Mountain site. The result of this effort is contained within the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department. The PSSE and these other supporting technical documents are available on the Internet (*http://ymp.gov*), or may be requested by telephone (1–800–967–3477).

The Secretary's recommendation regarding the Yucca Mountain site is an important intermediate step in the decades-long process for siting and developing a repository. If the Secretary determines that the scientific evaluation of the site indicates the site is suitable for development of a repository, he may then submit a recommendation for site development to the President. If the

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President accepts the Secretary's positive recommendation, he would recommend the site as qualified for application for a construction license from the Nuclear Regulatory Commission (NRC). The State of Nevada would then have the opportunity to submit a disapproval notice. If it does so, Congress would have to pass a law approving the President's recommendation in order for it to take effect. If the President's recommendation does take effect, the Department would then prepare and submit a construction license application to NRC.

It is important to note that, following a possible Presidential recommendation and prior to either the construction of or use of a repository, numerous additional steps must be satisfied. These steps include consideration of the Presidential recommendation by the State of Nevada and possibly the United States Congress. In addition, construction of a facility and receipt of waste requires the issuance of a construction license and a license to possess nuclear material, respectively, by the NRC after a rigorous review process with public involvement.

In providing comments to the Department, there are a number of topics regarding which your views and comments would be appreciated. An outline of these topics is attached for your use. The Department also values any other comments you believe would be relevant to its consideration. Your participation on this critical issue is important and helpful. Thank you for your assistance.

Sincerely,
Lake H. Barrett,
Acting Director, Office of Civilian Radioactive Waste Management.

Suggested Topics for Public Comment on Yucca Mountain

- Please provide your views concerning whether the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department provide an adequate basis for finding that the Yucca Mountain site is suitable for development of a repository. If you believe that certain aspects of the PSSE are inadequate, please detail the basis for this belief and indicate how the documentation might be made adequate with respect to these aspects.
- If the Secretary determines that the scientific analysis indicates that the Yucca Mountain site is likely to meet the applicable radiation protection standards established by the Environmental Protection Agency and Nuclear Regulatory Commission, do you believe that the Secretary should proceed to recommend the site to the President at this time? If not, please explain.
- Are there any reasons that you believe should prevent the President from concluding that the Yucca Mountain site is qualified for the preparation and submission of a construction license application to the Nuclear Regulatory Commission?
- If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what mechanism should be utilized to meet the Department's legal obligation to begin accepting spent nuclear fuel and high level radioactive waste?
- If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what measures should the Nation consider for assuring safe disposal of spent nuclear fuel and high level radioactive waste?
- Please provide any other comments concerning any relevant aspect of the Yucca Mountain site for use as a repository, or that are otherwise relevant to the consideration of a possible recommendation by the Secretary.

[FR Doc. 01–21961 Filed 8–27–01; 4:47 pm]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 01–29: Division of Nuclear Physics Outstanding Junior Investigator Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of Nuclear Physics of the Office of Science (SC), U.S. Department of Energy, invites grant applications for support under the Outstanding Junior Investigator Program in nuclear physics. The purpose of this program is to support the development of individual research programs of outstanding scientists early in their careers. Applications should be from tenure-track faculty who are currently involved in experimental or theoretical nuclear physics research, and should be submitted through a U.S. academic institution.

DATES: To permit timely consideration of awards in fiscal year 2002, formal applications submitted in response to this notice should be received by November 13, 2001.

ADDRESSES: Applications referencing Program Notice 01–29 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 01–29. The above address must be used when submitting applications by U.S. Postal Service Express Mail, any other commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted. Although it is not required, it would be helpful for each applicant to submit twelve copies of their application, due to the anticipated number of reviewers.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis G. Kovar, Director, Division of Nuclear Physics, SC–23, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–3613. Fax: (301) 903–3833. E-Mail: dennis.kovar@science.doe.gov

SUPPLEMENTARY INFORMATION: This is the third year of an Outstanding Junior Investigator Program in Nuclear Physics. A principal goal of this program is to identify exceptionally talented nuclear physicists early in their careers and to facilitate the development of their research programs. The proposed research is expected to make an important contribution to the vigor of the U.S. Nuclear Physics program.

The DOE expects to make several awards in FY 2002; four awards were made in FY 2001. The actual number of awards will be determined by the number of excellent applications and the total amount of funds available for this program. It is anticipated that a total of up to $250,000 will be available in FY 2002 for funding the program, subject to availability of appropriated funds, and that awards would be for three to five year terms. At the end of the initial term these grants may be renewed, subject to appropriate external peer review at the time of renewal, as long as the recipient's tenure status is unchanged.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following criteria, listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources;
4. Reasonableness and appropriateness of the proposed budget.

Additional criteria which will be considered: future promise of the investigator, and the resources and interest of the sponsoring institution.

General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to the latest version of SC's Application Guide is possible via the Internet at the following web site address: *http://www.sc.doe.gov/production/grants/grants.html*. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, D.C. on August 21, 2001.

John Rodney Clark,
Associate Director of Science for Resource Management.

[FR Doc. 01–21916 Filed 8–29–01; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 01–30: Outstanding Junior Investigator Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of High Energy Physics of the Office of Science (SC), U.S. Department of Energy, hereby announces its interest in receiving grant applications for support under its Outstanding Junior Investigator (OJI) Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical high energy physics or accelerator physics research, and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of individual research programs of outstanding scientists early in their careers. Awards made under this program will help to maintain the vitality of university research and assure continued excellence in the teaching of physics.

DATES: To permit timely consideration for award in Fiscal Year 2002, formal applications submitted in response to this notice should be received before November 1, 2001.

ADDRESSES: Completed formal applications referencing Program Notice 01–30 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 01–30. The above address must also be used when submitting applications by U.S. Postal Service Express Mail, any other commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted. Due to the anticipated number of reviewers, it would be helpful for each applicant to submit an additional four copies of the application.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Mandula, Division of High Energy Physics, SC–221 (GTN), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4829. E-Mail: jeffrey.mandula@science.doe.gov.

SUPPLEMENTARY INFORMATION: The Outstanding Junior Investigator program was started in 1978 by the Department of Energy's Office of Energy Research. A principal goal of this program is to identify exceptionally talented new high energy physicists early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is therefore restricted to non-tenured investigators who are conducting experimental or theoretical high energy physics or accelerator physics research. Since its debut, the program has initiated support for between five and ten new Outstanding Junior Investigators each year. The program has been very successful and contributes importantly to the vigor of the U.S. High Energy Physics program. Applicants should request support under this notice for normal research project costs as required to conduct their proposed research activities. The full range of activities currently supported by the Division of High Energy Physics is eligible for support under this program.

The DOE expects to make five to ten grant awards in Fiscal Year 2002, to meet the objectives of this program. It is anticipated that approximately $500,000 will be available in Fiscal Year 2002, subject to availability of appropriated funds. In the past, awards have averaged $50,000 per year, with the number of awards determined by the number of excellent applications and the total funds available for this program. Multiple year funding of grant awards is expected, including renewal beyond the initial project period, as long as the recipient's tenure status is unchanged. Funding will be provided on an annual basis subject to availability of funds.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR 605.10(d):

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to the application guide and required forms is available on the World Wide Web at: *http://www.science.doe.gov/production/grants/grants.html*. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC on August 22, 2001.

John Rodney Clark,
Associate Director of Science for Resource Management.

[FR Doc. 01–21917 Filed 8–29–01; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Petroleum Industry of the Future

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of Availability of Solicitation.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is seeking applications for cost shared research and development of technologies which will reduce energy consumption, reduce environmental impacts and enhance economic competitiveness of the domestic petroleum industry. The research is to address priorities identified by the petroleum refining industry in the Technology Roadmap for the Petroleum Industry (URL: *http://www.oit.doe.gov/petroleum/pdfs/petroleumroadmap.pdf*).

DATES: The deadline for receipt of applications is 5:00 p.m. EST on October 31, 2001.

ADDRESSES: The formal solicitation document will be disseminated electronically as Solicitation Number DE–PS07–01ID14211, Petroleum Industry of the Future, through the Industry Interactive Procurement System (IIPS) located at the following URL: *http://e-center.doe.gov*. IIPS provides the medium for disseminating solicitations, receiving financial

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assistance applications and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their company into a legally binding contract/agreement and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS "User Guide for Contractors" can be obtained by going to the IIPS Homepage at the following URL: *http://e-center.doe.gov* and then clicking on the "Help" button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS—HelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Carol Van Lente, Contract Specialist, at *vanlencl@id.doe.gov*.

SUPPLEMENTARY INFORMATION: The statutory authority for this program is the Federal Non-Nuclear Energy Research & Development Act of 1974 (P.L. 93–577). Approximately $1,000,000 in federal funds is expected to be available to totally fund the first year of selected research efforts. DOE anticipates making at least two awards each with a duration of three years or less.

Issued in Idaho Falls on August 22, 2001.

R. J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–21918 Filed 8–29–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–281–000, et al.]

Fremont Energy Center LLC, et al.; Electric Rate and Corporate Regulation Filings

August 22, 2001.

Take notice that the following filings have been made with the Commission:

1. Fremont Energy Center LLC

[Docket No. EG01–281–000]

Take notice that on August 17, 2001, Fremont Energy Center, LLC (Fremont) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Fremont, a Delaware limited liability company, proposes to own and operate a 554 MW natural gas-fired, combined cycle, power generation facility, located in Fremont, Ohio. Fremont will sell the output at wholesale to Calpine Energy Services, L.P., and other purchasers.

Comment date: September 12, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. PJM Interconnection, L.L.C.

[Docket No. ER01–1936–002]

Take notice that on August 17, 2001, PJM Interconnection, L.L.C. (PJM) supplemented its July 27, 2001 compliance filing in order to replace Third Revised Sheet No. 207A with Substitute Third Revised Sheet No. 207A to the PJM Open Access Transmission Tariff in order to correct a typographical error.

Copies of this filing have been served on all parties, as well as on all PJM Members, and the state electric regulatory commissions in the PJM control area.

Comment date: September 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Edison Company

[Docket No. ER01–2864–000]

Take notice that on August 17, 2001, Commonwealth Edison Company (ComEd) submitted for filing four Short-Term Firm Point-To-Point Transmission Service Agreements between ComEd and Ameren Energy, Inc. on behalf of Union Electric Company d/b/a AmerenUE, Ameren Energy Marketing Company and Ameren Energy Generating Company (Ameren), Exelon Generation Company, LLC (Exelon), AES NewEnergy, Inc. (AES NewEnergy), and Coral Power, L.L.C. (Coral), three Non-Firm Point-To-Point Transmission Service Agreements between ComEd and Ameren, Exelon and AES NewEnergy, and one executed Network Service Agreement and associated Network Operating Agreement between ComEd and AES NewEnergy under the terms of ComEd's Open Access Transmission Tariff (OATT). ComEd asks that the executed Short-Term Firm Point-To-Point Transmission Service Agreement between ComEd and Coral supersede and be substituted for the unexecuted Short-Term Firm Point-To-Point Transmission Service Agreement with Coral that was previously filed on July 17, 1998 in Docket No. ER98–3779–000 and accepted for filing by the Commission on May 28, 1998.

ComEd also submitted for filing an updated Index of Customers reflecting the name change for current customer Axia Energy, LP renamed Entergy-Koch Trading, L.P. (Entergy-Koch). A copy of this filing has been sent to Ameren, Exelon, AES NewEnergy, Coral and Entergy-Koch.

ComEd requests an effective date of July 19, 2001, and accordingly requests waiver of the Commission's notice requirements.

Comment date: September 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Southwest Power Pool, Inc.

[Docket No. ER01–2867–000]

Take notice that on August 17, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing two service agreements for Firm Point-to-Point Transmission Service and Loss Compensation Service with Higginsville Municipal Utilities (Transmission Customer). SPP requests an effective date of August 9, 2001 for these service agreements.

A copy of this filing was served on the Transmission Customer.

Comment date: September 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER01–2885–000]

Take notice that on August 16, 2001, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements with PPL EnergyPlus, LLC, under the terms of PNM's Open Access Transmission Tariff. One agreement is for non-firm point-to-point transmission service and one agreement is for short-term firm point-to-point transmission service. PNM requests the date of execution as the effective date for the agreements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to PPL EnergyPlus, LLC, and to the New Mexico Public Regulation Commission.

Comment date: September 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–21896 Filed 8–29–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–141–000, et al.]

Progress Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 24, 2001.

Take notice that the following filings have been made with the Commission:

1. Progress Energy, Inc.

[Docket No. EC01–141–000]

Take notice that on August 16, 2001, Progress Energy, Inc., on behalf of Carolina Power & Light Company, Progress Genco Ventures, LLC, Progress Energy Ventures, Inc., Richmond County Power, LLC, Monroe Power Company, Effingham County Power, LLC, MPC Generating, LLC, Newco, and Rowan County Power, LLC (collectively, Applicants) tendered for filing an application requesting all necessary authorizations under Section 203 of the Federal Power Act, 16 U.S.C. 824b (1996), to engage in a corporate reorganization.

Comment date: September 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Maine Electric Power Company

[Docket No. ER01–2889–000]

Please take notice that on August 21, 2001, Maine Electric Power Company (MEPCO) tendered for filing the assignment of a service agreement for Long-Term Firm Point-to-Point transmission service, originally entered into with FPL Energy Power Marketing, Inc., to Aroostook Valley Electric Company. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented, Original Service Agreement No. 201.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Ameren Energy, Inc. on behalf of Union Electric Company d/b/a AmerenUE, Ameren Energy Marketing Company and Ameren Energy Generating Company

[Docket No. ER01–2890–000]

Take notice that on August 21, 2001, Ameren Energy, Inc. (Ameren Energy), on behalf of Union Electric Company d/b/a AmerenUE, Ameren Energy Market Company, and Ameren Energy Generating Company (collectively, the Ameren Parties), pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d, and the market rate authority granted to the Ameren Parties, submitted for filing umbrella power sales service agreements under the Ameren Parties' market rate authorizations. Ameren Energy seeks Commission acceptance of these service agreements effective July 22, 2001.

Copies of this filing were served on the public utilities commissions of Illinois and Missouri.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Unitil Power Corp.

[Docket No. ER01–2892–000]

Take notice that on August 21, 2001, Unitil Power Corp. (UPC) tendered for filing a service agreement between UPC and Reading Municipal Lighting Department for service under UPC's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2460–000. UPC requests an effective date of August 10, 2001 for the service agreement with Reading Municipal Lighting Department

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. El Paso Electric Company

[Docket No. ER01–2893–000]

Take notice that on August 21, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Conoco Inc. for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. El Paso states that this filing is in accordance with Part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. El Paso Electric Company

[Docket No. ER01–2894–000]

Take notice that on August 21, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Conoco Inc. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. El Paso states that this filing is in accordance with Part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Energy Corporation

[Docket No. ER01–2896–000]

Take notice that on August 21, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Coral Power, L.L.C. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER01–2897–000]

Take notice that on August 21, 2001 Commonwealth Edison Company (ComEd) submitted for filing a Firm Point-To-Point Transmission Service Agreement (Service Agreement) between ComEd and Exelon Generation Company, LLC (Exelon) under the terms of ComEd's Open Access Transmission Tariff (OATT). A copy of this filing was served on Exelon.

ComEd requests an effective date of July 1, 2001 to coincide with the first day of service to Exelon under this Service Agreement.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

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9. Pennsylvania Electric Company

[Docket No. ER01–2898–000]

Take notice that on August 21, 2001, Pennsylvania Electric Company (doing business as GPU Energy) submitted for filing a Generation Facility Interconnection Agreement between Pennsylvania Electric Company d/b/a GPU Energy and Northern Tier Solid Waste Authority.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Energy Corporation

[Docket No. ER01–2899–000]

Take notice that on August 21, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Conectiv Energy Supply, Inc. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER01–2900–000]

Take notice that Northeast Utilities Service Company (NUSCO) on August 21, 2001, tendered for filing, Service Agreement to provide Firm Point-To-Point Transmission Service to Pontook Operating Limited Partnership under the NU System Companies' Open Access Transmission Service Tariff No. 9. NUSCO state that a copy has been mailed to Pontook Operating Limited Partnership.

NUSCO requests that the Service Agreement become effective September 15, 2001.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Consumers Energy Company

[Docket No. ER01–2901–000]

Take notice that on August 21, 2001 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with DTE Energy Trading, Inc. (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of August 3, 2001. Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Brownsville Power I, L.L.C., Caledonia Power I, L.L.C., Cinergy Capital & Trading, Inc., CinCapPIC, LLC, CinPeak Resources, LLC, Littlebrook Funding, L.L.C.

[Docket No. EC01–143–000]

Take notice that on August 20, 2001, Cinergy Capital & Trading, Inc., Brownsville Power I, L.L.C., Caledonia Power I, L.L.C., CinCapPIC, LLC, CinPeak Resources, LLC, and Littlebrook Funding, L.L.C. (collectively, Applicants) tendered for filing an application requesting all necessary authorizations under Section 203 of the Federal Power Act, for a transfer of jurisdictional facilities to facilitate financing and investment arrangements.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Calpine Construction Finance Company, L.P. South Point Energy Center, LLC

[Docket No. EC01–144–000]

Take notice that on August 20, 2001, Calpine Construction Finance Company, L.P. and South Point Energy Center, LLC filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with a sale and lease financing transaction involving the South Point Energy Center, a 530-MW natural gas-fired, combined cycle generating facility being constructed near Bullhead City, Arizona. The jurisdictional facilities being transferred include the 230 kV interconnection facilities and a long-term power marketing agreement. The application includes a request for privileged treatment of information.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Energy Corporation

[Docket No. ER01–2895–000]

Take notice that on August 21, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Western Resources, Inc. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR Part 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–21922 Filed 8–29–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–142–000, et al.]

UtiliCorp United Inc., et al. Electric Rate and Corporate Regulation Filings

August 23, 2001.

Take notice that the following filings have been made with the Commission:

1. UtiliCorp United Inc.

[Docket No. EC01–142–000]

Take notice that on August 20, 2001, UtiliCorp United Inc. (UtiliCorp) filed with the Federal Energy Regulatory Commission (Commission) an application for approval of the transfer of operational control over the transmission facilities of its Missouri

Public Service, St. Joseph Light and Power and WestPlains Energy-Kansas divisions to the Midwest Independent System Operator, Inc. pursuant to section 203 of the Federal Power Act and section 33 of the Commission's regulations.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Company

[Docket No. ER01–1771–004]

Take notice that on August 20, 2001, Idaho Power Company (Idaho Power) tendered for filing a Refund Report detailing the calculation of the refund credited on June 10, 2001 by Idaho Power to the City of Oakland, California, acting by and through its Board of Port Commissioners (Port of Oakland), for revenues collected under a Power Sales Agreement between Idaho Power and Port of Oakland, dated December 28, 2000, for the period January 1, 2001 through June 10, 2001.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Summersville Hydroelectric Project

[Docket No. ER01–2438–000]

Take notice that on August 20, 2001, Gauley River Power Partners, L.P., on behalf of itself, the City of Summersville, West Virginia and Noah Corp. have filed the entire revised Rate Schedule No. 1 of the Summersville Hydroelectric Project in compliance with the Commission's August 8, 2001 order in this proceeding.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Tampa Electric Company

[Docket Nos. ER01–2831–000]

Take notice that on August 13, 2001, Tampa Electric Company (Tampa Electric) filed a notice of cancellation of its service agreement with NP Energy Inc. (NP Energy) for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric amended its filing on August 23, 2001.

Tampa Electric proposes that the cancellation of the service agreement be made effective on August 13, 2001, and therefore requests waiver of the Commission's notice requirement.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER01–2863–000]

Take notice that on August 20, 2001, Southern Company Services, Inc. (SCS), on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies), tendered for filing a Notice of Cancellation of rate schedules.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER01–2865–000]

Take notice that on August 20, 2001, Idaho Power Company filed a Generation Interconnection and Operating Agreement, between Idaho Power Company and Watts United Power LLC, under its open access transmission tariff in the above-captioned proceeding.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Central Maine Power Company

[Docket No. ER01–2866–000]

Take notice that on August 20, 2001, Central Maine Power Company (CMP) tendered for filing a service agreement for Umbrella Non-Firm Point-to-Point Transmission Service entered into with Boralex Stratton Energy, Inc. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated as CMP—FERC Electric Tariff, Fifth Revised, Volume No. 3, Original Service Agreement No. 200.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company Kentucky Utilities Company

[Docket No. ER01–2868–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Calpine Energy Services, LP. (Calpine) This agreement allows Calpine to take firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas And Electric Company Kentucky Utilities Company

[Docket No. ER01–2869–000

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Exelon Generation Company, LLC (Exelon) This agreement allows Exelon to take non-firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas And Electric Company; Kentucky Utilities Company

[Docket No. ER01–2870–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Exelon Generation Company LLC. (Exelon) This agreement allows Exelon to take firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas And Electric Company; Kentucky Utilities Company

[Docket No. ER01–2871–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Calpine Energy Services, LP. (Calpine) This agreement allows Calpine to take non-firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas And Electric Company; Kentucky Utilities Company

[Docket No. ER01–2872–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed unilateral Service Sales Agreement between Companies and Calpine Energy Services, LP under the Companies' Rate Schedule MBSS.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER01–2873–000]

Take notice that on August 20, 2001, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc., tendered for filing an amended and restated Interconnection and Operating Agreement with Duke Energy Southaven (Duke Southaven), and an updated Generator Imbalance Agreement with Duke Southaven.

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Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. El Paso Electric Company

[Docket No. ER01–2874–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with the City of Burbank for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. El Paso Electric Company

[Docket No. ER01–2875–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Calpine Energy Services, L.P. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. El Paso Electric Company

[Docket No. ER01–2876–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with PPL EnergyPlus, LLC for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. El Paso Electric Company

[Docket No. ER01–2877–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Morgan Stanley Capital Group, Inc. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. El Paso Electric Company

[Docket No. ER01–2878–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Morgan Stanley Capital Group, Inc. for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. El Paso Electric Company

[Docket No. ER01–2879–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Calpine Energy Services, L.P. for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. El Paso Electric Company

[Docket No. ER01–2880–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with PPL EnergyPlus, LLC for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. El Paso Electric Company

[Docket No. ER01–2881–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with the City of Burbank for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Connecticut Light and Power Company

[Docket No. ER01–2882–000]

Take notice that on August 20, 2001 Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P), filed an executed Interconnection Agreement between CL&P and Capitol District Energy Center Cogeneration Associates (CDECCA) that establishes the terms for the continued interconnection of CDECCA's 56 MW generating facility located in Hartford, Connecticut to CL&P.

NUSCO states that a copy of this filing has been mailed to Capitol District Energy Center Cogeneration Associates.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. West Texas Utilities Company

[Docket No. ER01–2883–000]

Take notice that on August 20, 2001, West Texas Utilities Company (WTU) submitted for filing a service agreements establishing Taylor Electric Cooperative, Inc. (Taylor) as a customer under WTU's Coordination Sales and Reassignment of Transmission Rights Tariff, FERC Electric Tariff, First Revised Volume No. 8. WTU has requested an effective date of July 20, 2001 for the agreement with Taylor and, accordingly, seeks waiver of the Commission's notice requirements.

WTU has served a copy of the filing on Taylor and on the Public Utilities Commission of Texas.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Virginia Electric and Power Company

[Docket No. ER01–2884–000]

Take notice that on August 20, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing Notices of Termination of Service Agreements with Michigan Companies (Consumers Power Company and The Detroit Edison Company) for Non-Firm Point-To-Point and (Consumers Energy Company and The Detroit Edison Company for Firm Point-To-Point Transmission Service designated respectively as First Revised Service Nos. 46 and 184 under FERC Electric Tariff, Second Revised Volume No. 5. Dominion Virginia Power respectfully requests an effective date of October 19, 2001.

Copies of the filing were served upon Consumers Energy Company, Detroit Edison, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. California Independent System Operator Corporation

[Docket No. ER01–2886–000]

Take notice that on August 20, 2001, the California Independent System Operator Corporation (ISO) tendered for filing a Letter Agreement between the ISO and Bonneville Power Administration (BPA) in the above-captioned docket. The purpose of the Letter Agreement is to provide the terms for mutually beneficial power exchanges between the ISO and BPA.

The ISO states that this filing has been served on BPA and the California Public Utilities Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. South Point Energy Center, LLC

[Docket No. ER01–2887–000]

Take notice that on August 20, 2001, South Point Energy Center, LLC, (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant proposes to lease and operate a 560-megawatt electric generation facility located in Mojave County, Arizona.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Jersey Central Power and Light Company

[Docket No. ER01–2888–000]

Take notice that on August 20, 2001, Jersey Central Power and Light Company (doing business and referred to as GPU Energy) submitted for filing a Generation Facility Transmission Interconnection Agreement between GPU Energy and Ocean Peaking Power, L.P.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Entergy Services, Inc.

[Docket No. ER01–2891–000]

Take notice that on August 21, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a short-term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Minnesota Power.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–21921 Filed 8–29–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Management Official Interlocks.

OMB Number: 3064–0118.

Annual Burden: Estimated annual number of respondents: 5; Estimated time per response: 4 hours; Total annual burden hours: 20 hours.

Expiration Date of OMB Clearance: October 31, 2001.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before October 1, 2001 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The collection is associated with the FDIC's Management Official Interlocks regulation, 12 CFR part 348, which implements the Depository Institution Management Interlocks Act (DIMA).

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DIMA generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies but allows the FDIC to grant exemptions in appropriate circumstances.

Dated: August 23, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–21945 Filed 8–29–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 200063–022.

Title: NYSA–ILA Tonnage Assessment Agreement.

Parties: New York Shipping Association, Inc.

International Longshoremen's Association, AFL–CIO.

Synopsis: The amendment reduces certain assessment rates in the Puerto Rican trade.

Agreement No.: 201068–002.

Title: Marine Terminal Operators of New Orleans Discussion Agreement.

Parties: Ceres Gulf, Inc.

Empire Stevedoring (Louisiana), Inc.

P&O Ports Louisiana, Inc.

Stevedoring Services of America, Inc.

Universal Maritime Service Corp.

Synopsis: The amendment adds Coastal Cargo Co., Inc., and Pacorini USA, Inc., as agreement parties.

Agreement No.: 201110–003.

Title: Oakland/Hanjin Non-Exclusive Preferential Assignment Agreement.

Parties: Port of Oakland

Hanjin Shipping Company, Ltd.

Synopsis: The amendment provides for, among other things, the purchase of certain equipment by the port, further modifications to facility improvements, and the fixing of the "Term Commencement Date" of the basic agreement.

By Order of the Federal Maritime Commission.

Dated: August 24, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–21864 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4428F.
Name: A A Shipping LLC.
Address: 15675 South Hawthorne Blvd., #A, Lawndale, CA 90260.
Date Revoked: July 15, 2001.
Reason: Failed to maintain a valid bond.

License Number: 13733N.
Name: All-Connections Express (U.S.A.) Inc.
Address: 463 Littlefield Avenue, S. San Francisco, CA 94080.
Date Revoked: July 21, 2001.
Reason: Failed to maintain a valid bond.

License Number: 15980N.
Name: American Gateway, Inc.
Address: 1850 NW 84th Avenue, Suite 108, Miami, FL 33126.
Date Revoked: July 4, 2001.
Reason: Failed to maintain a valid bond.

License Number: 6082N.
Name: Brennan International Transport, Incorporated.
Address: 2665 E. Del Amo Blvd., Rancho Dominguez, CA 90221.
Date Revoked: July 11, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16125N.
Name: Bulk Connection, Inc.
Address: 15 Allen Street, Mystic, CT 06355.
Date Revoked: June 22, 2001.
Reason: Failed to maintain a valid bond.

License Number: 14140N.
Name: Cargo Network International, Inc.
Address: One Cross Island Plaza, Suite 103, Rosedale, NY 11422.
Date Revoked: July 13, 2001.
Reason: Failed to maintain a valid bond.

License Number: 17101N.
Name: Cargocare Logistics, Ltd.
Address: 34 Harvest Lane, Stonebridge, Burlington, NJ 08016.
Date Revoked: July 27, 2001.
Reason: Surrendered license voluntarily.

License Number: 3994F and 3994N.
Name: Corexport Corporation dba Core Marine Carriers.
Address: 7031 Albert Pick Road, Suite 102, Greensboro, NC 27409.
Date Revoked: February 18, 2001 and April 20, 2001.
Reason: Failed to maintain valid bonds.

License Number: 4561NF.
Name: Crossbar, Inc.
Address: 2012 E. Phelps, Suite A1, Springfield, MO 65802.
Date Revoked: June 16, 2001.
Reason: Failed to maintain valid bonds.

License Number: 14995N.
Name: Daniel Hyung Keun Cho dba Transtech Worldwide Line.
Address: 1487 W. 178th Street, 3rd FL., Gardena, CA 90248.
Date Revoked: June 21, 2001.
Reason: Failed to maintain a valid bond.

License Number: 14642N.
Name: Freight IFS, Inc.
Address: 335 Richert Drive, Wood Dale, IL 60191.
Date Revoked: July 4, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16441NF.
Name: Freightex, Inc. dba Freightex Marine.
Address: 1404 North Belt East, Suite 130, Houston, TX 77032.
Date Revoked: July 13, 2001.
Reason: Failed to maintain valid bonds.

License Number: 17056NF.
Name: From2.Com, Inc.
Address: 8100 Oak Lane, Suite 200, Miami Lakes, FL 33016.
Date Revoked: July 25, 2001.
Reason: Failed to maintain valid bonds.

License Number: 3731F.
Name: Global Freight Inc.
Address: 147–27 175th Street, Jamaica, NY 11434.
Date Revoked: July 12, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16049F.
Name: International Cargo Transporters, Inc.
Address: 2550 72nd Avenue, Suite 109, Miami, FL 33122.
Date Revoked: June 21, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4055N.
Name: International Cargo Services, Inc.
Address: 139 Mitchell Avenue, Suite 107, So. San Francisco, CA 94080.
Date Revoked: June 28, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16061F.
Name: Jo-yu A. Wu dba Opus One USA.
Address: 1754 40th Avenue, San Francisco, CA 94122.
Date Revoked: June 18, 2001.
Reason: Surrendered license voluntarily.

License Number: 3413N and 3413F.
Name: Lift Forwarders, Inc.
Address: 19480 Southwest 118th Avenue, Tualatin, OR 97062–8008.
Date Revoked: June 1, 2001 and July 25, 2001.
Reason: Failed to maintain valid bonds.

License Number: 1868F.
Name: Marcelo V. Castro dba Universal Forwarders.
Address: 113 W. Grand Avenue, El Segundo, CA 90245.
Date Revoked: July 5, 2001.
Reason: Failed to maintain a valid bond.

License Number: 11179N.
Name: Mercator Shipping, Ltd. dba Flamingo Line.
Address: 11825 NW 100th Road, Suite 5, Miami, FL 33178.
Date Revoked: June 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 17270N.
Name: Neutral Line (U.S.A.) Inc.
Address: 8600 NW 53rd Terrace, Suite 123, Miami, FL 33166.
Date Revoked: July 8, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4105F.
Name: Overseas Mahanm Inc.
Address: 24 Lillian Lane, Plainview, NY 11803–5613.
Date Revoked: July 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4196NF.
Name: Pan Atlantic Carriers Services, Inc.
Address: 2150 NW 70th Avenue, Miami, FL 33122.
Date Revoked: June 20, 2001.
Reason: Failed to maintain valid bonds.

License Number: 17146N.
Name: Relotrans International, Inc.
Address: 16 Bonnievale Drive, Bedford, MA 01730.
Date Revoked: July 27, 2001.
Reason: Failed to maintain a valid bond.

License Number: 12256N.
Name: Single Source Transportation, Inc.
Address: 26986 Trolley Industrial Drive, P.O. Box 130, Taylor, MI 48180.
Date Revoked: July 23, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16987F.
Name: TAT International, Inc.
Address: 41–79 Main Street, Flushing, NY 11355.
Date Revoked: June 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4577F.
Name: Transtar Shipping, Inc.
Address: 405 Victory Avenue, Suite D, So. San Francisco, CA 94080.
Date Revoked: July 27, 2001.
Reason: Failed to maintain a valid bond.

License Number: 14698N.
Name: Trivex Inc. dba Luxor Ocean Line.
Address: 167–43 148th Avenue, Jamaica, NY 11434.
Date Revoked: May 29, 2001.
Reason: Surrendered license voluntarily.

License Number: 16633N.
Name: Uniship, Inc.
Address: 320 Pine Avenue, Suite 400, Long Beach, CA 90802.
Date Revoked: July 4, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4195F.
Name: Westrans Air Express (USA) Inc.
Address: 220 W. Ivy Avenue, Inglewood, CA 90302.
Date Revoked: July 3, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4052F.
Name: Xonex International, Inc. dba Xonex International.
Address: 20 E. Commons Boulevard, New Castle, DE 19720.
Date Revoked: June 22, 2001.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–21867 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

CTM International, Inc., 145–43 226th Street, Springfield Gardens, NY 11413. Officers: Teresa Serkes, President (Qualifying Individual)

Yicheng Jet-Sea Logistics Inc., 1641 W. Main Street, Suite 420, Alhambra, CA 91801. Officers: Julie Ho, Vice President (Qualifying Individual), Zhou Ya Qing, President

Atlantic Cargo Line dba A.C.L., 10101 SW 8th Terrace, Miami, FL 33174. Officer: Eduardo Prado, President (Qualifying Individual)

Sino-America Express, Inc., 13523 Tobinn Manor Drive (P.O. BOX 1495), Cypress, TX 77429. Officers: Chen Ling, Vice President (Qualifying Individual), Hao Hui Hu, Director/President

E-Trans Logistic Services, Inc., 11222 S. La Cienega Blvd., Suite 268, Inglewood, CA 90304. Officers: Wei Po Wang, President/CEO (Qualifying Individual), Tai Hung Yang, Vice President

Universal Shipping, Inc., 675 Brea Canyon Road, Suite 12A, Walnut, CA 91789. Officers: Karim Suleiman, Chairman/CFO (Qualifying Individual), Sherley Eddy Hans, President

Alpa International Group, Inc., 11701 NW, 102nd Road, Suite 9, Medley, FL 33178. Officers: Reinaldo Rodriguez, Director (Qualifying Individual), Patricia Craig, President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Monetti Distributors, Inc., 6806 N.W. 84th Avenue, Miami, FL 33126. Officer: Francesco Monetti, President (Qualifying Individual)

Quantum Logistics, Inc., 14509 E. 33rd Place Suite H, Aurora, CO 80011. Officers: Peter J. Michalczyk, Import Manager (Qualifying Individual), Chris Munson, CAO

Impex of Doral Logistics, Inc., 7275 N.W. 87th Avenue, Miami, FL 33166.

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Officers: Carmen Kattan, Secretary (Qualifying Individual), Joseph M. Simko, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Trans Global Logistics, Inc., 100 Eagle Ridge Road, Midland City, AL 36350. Officers: Jeffrey F. Coleman, President (Qualifying Individual), William L. Brakefield, Director

A.L.S. Cargo Inc. dba Above & Beyond Cargo, 136 W. 73rd Street, Suite 3, New York, NY 10023. Officer: Elvis Soler, President (Qualifying Individual)

Dated: August 24, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–21866 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
4594F	Paramount Transportation Systems, Inc., 1350 Grand Avenue, San Marcos, CA 92069	June 16, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–21865 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 13, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. J. Vernon Johnson, Kaplan, Louisiana; to retain voting shares of Coastal Commerce Bancshares, Inc., Kaplan, Louisiana, and thereby indirectly retain voting shares of Kaplan State Bank, Kaplan, Louisiana.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Warren A. Armstrong, La Grange, Texas; Ted L. Bellmont, Houston, Texas; Max Baranowski, La Grange, Texas; Harvey R. Bohot, La Grange, Texas; Alfred H. Cordes, Jr., Houston, Texas; Charline Cordes, Houston, Texas; Fritz E. Finke and Aliene Maria Finke, Round Top, Texas; Aliene Maria Finke, Round Top, Texas; Leerie R. Giese, La Grange, Texas; William M. McBroom, M.D., La Grange, Texas; Joe Alfred Mihatsch, Jr., La Grange, Texas; Joseph Alfred Mihatsch, III, La Grange, Texas; Linda Ann Mihatsch, La Grange, Texas; Robert J. Svrcek and Carol J. Svrcek, La Grange, Texas; Jay Dee Tobias, La Grange, Texas; James E. Zapalac, La Grange, Texas; James E. Zapalac and Sheron A. Zapalac, La Grange, Texas; all acting in concert, to retain voting shares and to acquire additional voting shares of La Grange Bancshares, Inc., LaGrange, Texas, and thereby indirectly control voting shares of Colorado Valley Bank, LaGrange, Texas.

Board of Governors of the Federal Reserve System, August 24, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21874 Filed 8–29–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 24, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. United Bancshares, Inc., New Orleans, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of United Bank and Trust, New Orleans, Louisiana.

Board of Governors of the Federal Reserve System, August 24, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21875 Filed 8–29–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 9 a.m., September 10, 2001.

PLACE: National Finance Center, TANO Building, Conference Room 7, 13800 Old Gentilly Road, New Orleans, Louisiana.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the August 13, 2001, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of FY 2001 budget and projected expenditures, approval of FY 2002 proposed budget, and review of FY 2003 budget estimate.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: August 28, 2001.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 01–22021 Filed 8–28–01; 2:47 pm]

BILLING CODE 6760–01–M

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of a Standard Form by the Office of Personnel Management (OPM)

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled SF SF 1150A, Transfer of Leave Records for Leave Recipient Covered by the Voluntary Leave Transfer Program since they no longer prescribe any standard data elements when a current leave recipient transfers to another employing agency without a break in service. Each agency needs to set their own policy on how this process is handled. OPM developed their own form which they are happy to share with you but is NOT for mandatory use. You can obtain a copy of this form from the internet (Address: *http://www.opm.gov/forms*).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective August 30, 2001.

Dated: August 23, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–21914 Filed 8–29–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–58]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of the Graduate Certificate Program—New—National Center for HIV, STD, and TB Prevention (NCHSTP), the Centers for Disease Control and Prevention (CDC). The National Center for HIV, STD and TB, CDC proposes to collect data to evaluate the Graduate Certificate Program (GCP). From July 1997 through January 2001, NCHSTP Prevention Support Office administered the GCP which funded 130 CDC public health professionals and 130 state and local public health professionals to attend a distance learning program that consisted of approximately one-half of the requirements of a graduate-level degree. The purpose of the proposed project is to evaluate the process, impact, and outcome measures of the GCP that were described in the original Request for Proposal (RFP). CDC is looking to establish perceived or measurable benefits of the program, as well as to evaluate the effectiveness of the distance-based education approach.

The data collected will be used to determine the effectiveness of the distance-based training approach, and to provide recommendations for developing similar training strategies in the future.

Data will be collected through an attitudinal survey that will be available in both paper and electronic copies. The survey will be administered to 520 respondents (approximately 260 state and local public health professionals (130 participants and 130 nonparticipants) and 260 supervisors (130 supervisors of participants and 130 supervisors of nonparticipants). It is estimated that it will take respondents approximately 20 minutes to complete the survey. There are no costs to respondents.

Respondents	No. of respondents	No. of responses per respondent	Average burden/response (in hours)	Total burden (in hours)
State and Local Public Health Professionals	520	1	20/60	173
Total	.....	.....	.....	173

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Dated: August 21, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–21741 Filed 8–29–01; 8:45am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Public Meeting to Review and Re-evaluate Safe Airborne Exposure Limits (AELs) of Chemical Agent Sulfur Mustard (HD).

Time and Dates: 8 am–5 pm, September 11, 2001. 8 am–12 pm, September 12, 2001.

Place: Sheraton Colony Square Hotel, 188 14th Street NE at Peachtree Street, Atlanta, Georgia, 30361, Tel: (404) 892–6000 or (800) 422–7895.

Status: Open to the public, limited only by space available. The meeting room accommodates approximately 50 people.

Background: The chemical warfare material agent HD is no longer manufactured in the United States; however, it is currently stored at seven locations in the continental United States by the Department of Defense (DOD). Public Law 99–145 (50 U.S.C. 1521) mandates that these stockpiled lethal chemical agents be destroyed. In 1970, Public Law 91–121 and Pubic Law 91–441 (50 U.S.C. 1521) mandated that the Department of Health and Human Services must review DOD plans for disposing of the munitions and make recommendations to protect human health. In 1987, CDC requested public comment on recommendations for protecting human health and the environment against potential adverse effects of long-term exposure to low doses of agents G, GB, VX, mustard (H, HD, T) and lewisite (L). CDC incorporated the public comments and in 1988 recommended control limits for airborne exposures to agents G, GB, VX, H, HD, T and L for protection of workers involved in the demilitarization process and for the general public living in areas adjacent to demilitarization facilities. The U.S. Army adopted these control limits into policy in 1990. CDC held a public meeting in August, 2000 to re-evaluate the limits for agents G, GB, and VX based on newly developed risk models and any updated scientific data. CDC will soon publish its final recommendations for these levels in the **Federal Register**. As a follow-up to the August, 2000 public meeting, CDC will host a meeting this September to discuss how to conduct a similar re-evaluation of the exposure limits for agent HD in a demilitarization operational setting.

Purpose: The purpose of this meeting is to review the AELs set for HD, based on CDC's 1988 recommendations and to determine any modifications required to update these limits to reflect current findings. Based on newly available scientific studies and data, CDC will engage HD agent experts and the public in an evaluation of the current limits and recommend updated limits based on the public comments. To facilitate the public dialogue, CDC will provide a forum for general public interaction and serve as a vehicle for members of the public to provide their individual concerns.

Matters to be Discussed: Agenda items include (1) presentation of newly available scientific studies and data, (2) panel discussion by HD agent specialists, (3) recommended modifications to existing levels based on panel comments, and (4) collect public comments. There will be time for public input, questions, and comments.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Sascha Beck, Chemical Demilitarization Branch, Division of Emergency and Environmental Health Services, NCEH, CDC, 4770 Buford Highway, NE (F–16), Atlanta, Georgia, 30341–3724, telephone 770/488–4078, fax 770/488–4127.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 23, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–21910 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Centers for Disease Control and Prevention (CDC) Announces the Following Meetings

Name: Regional Meetings on STD and HIV Prevention Needs of Men Who Have Sex With Men (MSM).

Times and Dates:

8:30 a.m.–5:30 p.m., September 24, 2001
8:30 a.m.–5:30 p.m., September 25, 2001

Place: Southern Region Meeting, Radisson Hotel New Orleans, New Orleans, LA, 1500 Canal Street, New Orleans, LA 70112, Phone: 504–522–4500

Times and Dates:

8:30 a.m.–5:30 p.m., October 30, 2001
8:30 a.m.–5:30 p.m., October 31, 2001

Place: Midwestern Region Meeting, Holiday Inn Chicago City Centre, 300 East Ohio Street, Chicago, IL 60611, Phone: 312–787–6100

Times and Dates:

8:30 a.m.–5:30 p.m., November 26, 2001
8:30 a.m.–5:30 p.m., November 27, 2001

Place: Western Region Meeting, University of Southern California, Davidson Executive Conference Center, Los Angeles, CA 90089, Phone: 213–740–5956

Times and Dates:

8:30 a.m.–5:30 p.m., December 11, 2001
8:30 a.m.–5:30 p.m., December 12, 2001

Place: Eastern Region Meeting, New York Marriott Brooklyn, 333 Adams Street, Brooklyn, NY 11201, Phone: 718–246–7000 ext. 6519

Status: Open to the public, but limited by the space available. The meeting rooms accommodate approximately 200 people. Registration is free, but required. Forms can be obtained by emailing *cmotamed@aed.org*. Reservations can be made directly with the hotel. There is a not a specific conference room block. For information on hotels in Los Angeles, CA, contact cmotamed@aed.org.

Purpose: To bring representatives from state and local government, community based STD and HIV prevention programs and MSM community members together to review epidemiological STD, HIV, and Hepatitis A and B trends among MSM populations, review effective behavioral interventions for MSM populations and to strategize on how to address the future STD and HIV prevention needs of MSM.

Matters To Be Discussed: Agenda items include plenary presentations, interactive small group breakout sessions, and discussion groups in which participants will learn new information, acquire skills, and work together to develop action plans for their jurisdictions.

CONTACT PERSON FOR MORE INFORMATION: Charles Collins, National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, 1600 Clifton Rd., NE, M/S E–40, Atlanta, GA 30333, telephone 404–639–0966.

Cathy Motamed, AED Center for Community-Based Health Strategies, 1825 Connecticut Ave., NW, Washington, DC 20009, telephone 202–884–8929, email *cmotamed@aed.org*.

The Director, Management and Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 24, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21907 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–3:00 p.m., September 21, 2001.

Place: The Washington Court, 525 New Jersey Avenue, NW, Washington, DC 20001–1527.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH is charged with providing advice to the Director, NIOSH on NIOSH research programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters To Be Discussed: Agenda items include a report from the Acting Director of NIOSH; Report from the BSC Beryllium Subcommittee; Update on NIOSH Health Care Worker Activities; Update on NIOSH Surveillance Efforts; Closing Report.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Roger Rosa, Ph.D., Executive Secretary, BSC, NIOSH, Centers for Disease Control and Prevention, 200 Independence Avenue, SW., Room 715H, Washington, DC 20201, telephone: 202/205–7856, fax: 202/260–4464, e-mail: rrr2@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 24, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21908 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates:

8:30 a.m.–4:45 p.m., September 20, 2001.
8:30 a.m.–12 noon, September 21, 2001.

Place: Radisson Hotel Charleston, 170 Lockwood Drive, Charleston, South Carolina 29403, telephone (843) 723–3000, fax (843) 723–0276.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include an update from the National

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Institute for Occupational Safety and Health (NIOSH); a presentation on toxicity of heavy metals and radionuclides; an update on screening methods for Savannah River Site production workers; and status reports from the SRSHES working groups on Epidemiologic Data, Scenario Screening, and Phase II—Community Summary.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Paul G. Renard, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, N.E. (E–39), Atlanta, GA 30333, telephone 404/498–1800, fax 404/498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: August 21, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21909 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10043]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Evaluation of the BadgerCare Medicaid Demonstration; *Form No.:* CMS–10043 (OMB# 0938–NEW); *Use:* The subject surveys are components of the CMS evaluation of the Wisconsin BadgerCare Section 1115 Medicaid demonstration and Title XXI (SCHIP) program. The goals of the evaluation are to assess the effectiveness of BadgerCare in reducing the number of Wisconsin residents who lack health insurance, increasing participation of eligible children in the SCHIP program, and supporting families making transitions from welfare to work. Other specific features of BadgerCare will be examined as well, including the State's outreach efforts and policy of charging premiums to selected families. Findings from the study will help to inform CMS policy regarding Medicaid demonstrations and SCHIP, and will help states in designing similar health insurance programs; *Frequency:* Other: One time; *Affected Public:* Individuals or Households; *Number of Respondents:* 5,680; *Total Annual Responses:* 5,680; *Total Annual Hours:* 1,914.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 14, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–21942 Filed 8–29–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–224]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Collection of Managed Care Data Using the Uniform Institutional Providers Form (CMS–1450/UB–92) and Supporting Statute Section 1853(a)(3) of the Balanced Budget Act of 1997; *Form No.:* CMS–R–224 (OMB No. 0938–0711); *Use:* Section 1853(a)(3) of the Balanced Budget Act (BBA) requires Medicare+Choice organizations, as well as eligible organizations with risk-sharing contracts under section 1876, to submit encounter data. Data regarding inpatient hospital services are required for periods beginning on or after July 1, 1997. These data may be collected starting January 1, 1998. Other data (as the Secretary deems necessary) may be required beginning July 1, 1998.

The BBA also requires the Secretary to implement a risk adjustment methodology that accounts for variation in per capita costs based on health status. This payment method must be implemented no later than January 1, 2000. The encounter data are necessary to implement a risk adjustment methodology.

CMS continues to require hospital inpatient encounter data from Medicare+Choice organizations to develop and implement a risk adjustment payment methodology as required by the Balanced Budget Act of 1997.

Frequency: Monthly; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal government; *Number of Respondents:* 211; *Total Annual Responses:* 1,353,500; *Total Annual Hours:* 6,533.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 1, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–21943 Filed 8–29–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: September 5, 2001.

Time: 1:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric H. Brown, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6075 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0815, browne@ncrr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Science Education Partnership Award.

Date: September 19, 2001.

Time: 3:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sybil A. Wellstood, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, Room 6018, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, (301) 435–0814, wellstoods@ncrr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21900 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: October 10, 2001.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate contract proposals.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHD)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21897 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special

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Emphasis Panel, Review of Conference Grants (R13s).

Date: October 3, 2001.

Time: 10:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: October 3, 2001.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 T W Alexander Dr., Bldg. 4401, Rm EC–122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21898 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.

Date: September 24–25, 2001.

Open: September 24, 2001, 8:30 AM to 3 PM.

Agenda: Clinical Research Discussion.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 10, Bethesda, MD 20892.

Closed: September 25, 2001, 9:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 10, Bethesda, MD 20892.

Contact Person: Dushanka V. Kleinman, DDS, Deputy Director, National Institute of Dental & Craniofacial Res., National Institutes of Health, 9000 Rockville Pike, 31/2C39, Bethesda, MD 20892, (301) 496–9469.

Information is also available on the Institute's/Center's home page: www.nidcr.nih.gov/discover/nadrc/index.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21899 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–63]

Notice of Submission of Proposed Information Collection to OMB; An Assessment of Third-Party Economic Development Loans Funded Through HUD's Community Planning and Development Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 1, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: An assessment of Third-Party Economic Development Loans Funded Through HUD's Community Planning and Development Programs.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need For The Information and Its Proposed Use: This study will assess the third-party loans under all the CPD programs directed toward economic development: the Community Development Block Grant program, Section 108; and the Economic Development Initiative. The programs will be described; the size and quality of their loan portfolios will be assessed; and their success measured by a variety of criteria. Special attention will be given to the local use of the Section 108 program; reasons for its use; their experience; and the results of Section 108 projects.

Respondents: Business or other for-profit, State, Local or Tribal Government.

Frequency of Submission: One time only.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	1,595		1		0.41		661

Total Estimated Burden Hours: 661.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 23, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–21876 Filed 8–29–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Application Notice Describing the Areas of Interest and Establishing the Closing Date for Receipt for Applications Under the Education Component of the National Cooperative Geologic Mapping Program (EDMAP) for Fiscal Year 2002

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Applications are invited for research projects under EDMAP. This program is a component of the National Geologic Mapping Program which is designed to produce information on areas of scientific, social or economic welfare in the United States. Funding is to support Masters and Doctoral Students during geological field mapping. Cooperative agreement awards will be on an equal cost-sharing basis; matched with funds from non-Federal sources.

Application may be submitted by colleges and universities with accredited masters and doctoral programs in Geoscience or related departments only.

ADDRESSES: The program announcement is expected to be available on or about August 27, 2001. You may obtain a copy of Announcement No. 20HQPA0004 from the USGS Contracts and Grant Information Site at *http://www.usgs.gov/contracts/EDMPAS/index.html* or by writing to Sherri Newman, U.S. Geological Survey, Office of Acquisition and Grants—Mail Stop 205G, 12201 Sunrise Valley Drive, Reston, Virginia 20192, or by fax (703) 648–7901.

DATES: The closing date for receipt of applications will be on or about October 23, 2001. The actual closing date will be specified in Announcement No. 02HQPQ0004.

FOR FURTHER INFORMATION CONTACT: Peter Lyttle, Educational Component of the National Cooperative Geologic Mapping Program—U.S. Geological Survey, Mail Stop 908, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Telephone (703) 648–6943.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in the National Geologic Mapping Reauthorization Act of 1999, Public Law 106–148. The Office of Management and Budget Catalog of Federal Domestic Assistance Number is 15.810.

Dated: August 16, 2001.

Patricia P. Dunham,

Acting Chief, Office of Administrative Policy and Services.

[FR Doc. 01–21862 Filed 8–29–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 910–01–1430–HN LRTN]

Notice of Availability and Protest Period for the Proposed Planning Analysis To Acquire Land in Fairfax County, Virginia by the Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability and Protest Period for the Proposed Planning Analysis to acquire land; correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** on Monday, August 6, 2001, concerning Notice of Availability and Protest Period for the Proposed Planning Analysis to acquire land on Meadowood Farm in Fairfax County, Virginia. This correction amends the Notice of Availability to specify September 6, 2001, as the deadline for filing protests.

FOR FURTHER INFORMATION CONTACT: Horace Traylor at (703) 440–1509.

Correction: In the **Federal Register** of August 6, 2001, in FR Doc. 01–19549, appearing on page 41033, in the third column, correct the second paragraph to read:

DATES: The Proposed Plan, EA, and FONSI can be reviewed Mondays through Fridays, from 8 a.m. to 4 p.m., at the BLM's Eastern States Office, 7450 Boston Boulevard in Springfield, Virginia 22153, or by visiting the website at *www.es.blm.gov*. Protests to the Proposed Plan must be postmarked on or before September 6, 2001.

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Dated: August 9, 2001.
Walt Rewinski,
Acting State Director, BLM, Eastern States.
[FR Doc. 01–21960 Filed 8–29–01: 8:45 am]
BILLING CODE 4310–GJ–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–921 (Final)]

Folding Gift Boxes From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–921 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of folding gift boxes, covered by statistical reporting numbers 4819.20.00.40 and 4819.50.40.60 of the Harmonized Tariff Schedule of the United States.[1]

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as folding gift boxes. Folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. The boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. Excluded from the scope of this investigation are folding gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. Also excluded are folding gift boxes for which no side of the box, when assembled, is at least 9 inches in length. Folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The term folding gift boxes includes folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separete pieces. Folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The subject merchandise also excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers). Also excluded are folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard. Imports of the subject folding gift boxes are covered by statistical reporting numbers 4819.20.00.40 and 4819.50.40.60 of the Harmonized Tariff Schedule of the United States.

EFFECTIVE DATE: August 6, 2001.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON-LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of folding gift boxes from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on February 20, 2001, by counsel on behalf of Simkins Industries, Inc., New Haven, CT, and Field Container Company, L.P., Elk Grove Village, IL (the Commission was subsequently notified that the producer is Harvard Folding Box Company, Inc., Lynn, MA, not Simkins).

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on October 31, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on November 15, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 7, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 9, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 7, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 23, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 23, 2001. On December 7, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 11, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: August 23, 2001.

By order of the Commission.
Donna R. Koehnke,
Secretary.
[FR Doc. 01–21863 Filed 8–29–01; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "BLS Occupational Safety and Health Statistics Federal/State Cooperative Agreement Application Package." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 29, 2001.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has delegated to the BLS the authority to collect, compile, and analyze statistical data on work-related injuries and illnesses. The Cooperative Agreement is designed to allow the BLS to ensure conformance with program objectives. The BLS has full authority over the financial operations of the statistical program. The BLS requires financial reporting that will produce the information that is needed to monitor the financial activities of the BLS Occupational Safety and Health Statistics grantees.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

Continued collection of grantee financial information is necessary to maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics, as authorized by the Occupational Safety and Health Act of 1970 (Pub. L. 91–596). The burden estimates are based on actual experience of grantees completing the forms.

Public comments on the accuracy of the burden estimates, as well as suggestions for reducing the burden, are encouraged. Signatures that certify the authenticity of the information will continue to be required.

Type of review: Revision of a currently approved collection.
Agency: Bureau of Labor Statistics.
Title: BLS/OSHS Federal/State Cooperative Agreement (Application Package).
OMB Number: 1220–0149.
Affected Public: State Governments.

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Form	Total respondents	Frequency	Average burden		Estimated total burden (hours)
			Per response (hours)	Annually (hours)	
BLS–OSHS1	57	Annually	2	2	114
BLS–OSHS2	57	Quarterly	1	4	228
Totals	57		3	6	342

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 13th day of August, 2001.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–21904 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Census of Fatal Occupational Injuries." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before October 29, 2001.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics (BLS) was delegated responsibility by the Secretary of Labor for implementing Section 24(a) of the Occupational Safety and Health Act of 1970. This section states that "the Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses * * *"

Prior to the implementation of the Census of Fatal Occupational Injuries (CFOI), the BLS generated estimates of occupational fatalities for private sector employers from a sample survey of about 280,000 establishments. Studies showed that occupational fatalities were underreported in those estimates as well as those compiled by regulatory, vital statistics, and workers' compensation systems. Estimates varied widely between 3,000 and 10,000 annually. In addition, information needed to develop prevention strategies were often missing from these earlier programs.

In the late 1980s, the National Academy of Sciences study, *Counting Injuries and Illnesses in the Workplace*, and the report, *Keystone National Policy Dialogue on Work-Related Illness and Injury Recordkeeping*, emphasized the need for the BLS to compile a complete roster of work-related fatalities because of concern over the accuracy of using a sample survey to estimate the incidence of occupational fatalities. These studies also recommended the use of all available data sources to compile detailed information for fatality prevention efforts.

The BLS tested the feasibility of collecting fatality data in this manner in 1989 and 1990. The resulting CFOI was implemented in 32 States in 1991. National data covering all 50 States and the District of Columbia were compiled and published for 1992–2000, approximately eight months after each calendar year.

The CFOI compiles comprehensive, accurate, and timely information on work-injury fatalities needed to develop effective prevention strategies. The system collects information concerning the incident, demographic information on the deceased, and characteristics of the employer.

Data are used to:

—develop employee safety training programs;

—develop and assess the effectiveness of safety standards;

—conduct research for developing prevention strategies; and

—compare fatalities between States.

In addition, States use the data to publish State reports, to identify State-specific hazards, to allocate resources for promoting safety in the workplace, and to evaluate the quality of work life in the State.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

In 2000, 5,915 workers lost their lives as a result of injuries received on the job. This official systematic, verifiable count mutes controversy over the various counts from different sources. The CFOI count has been adopted by the National Safety Council and other organizations as the sole source of a comprehensive count of fatal work injuries for the U.S. If this information were not collected, the confusion over the number and patterns in fatal occupational injuries would continue, thus hampering prevention efforts. By providing timely occupational fatality data, the CFOI program provides safety and health managers the information necessary to respond to emerging workplace hazards.

In 2000, the BLS Washington staff responded to over 600 requests for CFOI data from various organizations. (This figure excludes requests received by the States for State-specific data.) In addition, the BLS Website averaged about 1,900 users per month.

Washington staff also responded to numerous requests from safety organizations for staff members to participate in safety conferences and seminars. The CFOI research file, made available to safety and health groups, is being used by 40 organizations to conduct studies on specific topics, such as protective equipment use, forklift injuries, tractor-trailer tipovers, powerline electrocutions, homicides, construction industry falls, highway construction, and logging and forestry fatalities. (A current list of research articles and reports that include CFOI data can be found in the BLS Report 954, dated August 2001, Appendix G. Copies of this report are available upon request.)

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Census of Fatal Occupational Injuries.

OMB Number: 1220–0133.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Form	Total respondents	Total responses	Estimated time per response (minutes)	Estimated total burden hours
BLS CFOI–1	2,500	2,500	20	833
Source Documents	165	25,000	10	4,167
Totals	2,665	27,500	11	5,000

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 24th day of August 2001.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–21905 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0241 (2001)]

Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request to decrease the total burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified by regulations on "Steel Erection." These regulations contain information-collection requirements that: Notify designated parties, especially steel erectors, that building materials, components, steel structures, and fall-protection equipment are safe for specific uses; and ensure that employees exposed to fall hazards receive specified training in the recognition and control of fall hazards. Based on its assessment of the paperwork requirements contained in the regulations, the Agency estimates that the total burden hours decreased compared to its previous burden-hour estimate. Under this Notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to decrease the burden hours imposed by the existing paperwork requirements.

DATES: Submit written comments on or before October 29, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0241 (2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Martinez, Directorate of Policy, Office of Regulatory Analysis, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 693–1953. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by 29 CFR part 1926, subpart R is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) [44 U.S.C. 3506(c)(2)(A)]. This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The following provisions of 29 CFR part 1926, subpart R (the "Subpart") contain paperwork requirements:

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§§ 1926.752(a)(1) and (a)(2); 1926.753(c)(5) and (e)(2); 1926.757(a)(4), (a)(7), (a)(9), and (e)(4)(i); 1926.758(g); 1926.760(e) and (e)(1); 1926.761; and paragraph (c)(4)(ii) of Appendix G. These provisions ensure that: Designated parties, especially steel erectors, receive notice that building materials, components, steel structures, and fall-protection equipment are safe for specific uses; and employees exposed to fall hazards receive the required training in the recognition and control of fall hazards. These paperwork requirements provide a direct and efficient means for controlling contractors and steel erectors to inform others (e.g., employees) of steel-erection hazards and their control, thereby preventing death and serious injury by ensuring that structural steel members remain stable and that employees use fall protection correctly.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection -transmission techniques.

III. Proposed Actions

OSHA is requesting a decrease in the existing burden-hour estimate for, as well as an extension of OMB approval of, the paperwork requirements specified by the Subpart. In this regard, the Agency is requesting to reduce the current burden-hour estimate from 79,228 hours to 30,786 hours, a total decrease of 48,442 hours. This decrease occurred largely because OSHA removed the burden hours for employers to develop a certification record of the pre-shift inspection of hoisting equipment; this requirement is not in the final subpart. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirement.

Title: 29 CFR part 1926, subpart R ("Steel Erection").

OMB Number: 1218–0241.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 20,781 [1].

Frequency of Response: Varies from one occurrence per project for most of the paperwork requirements, to 10 occurrences per project for an employer to have a qualified rigger determine that it is safer to hoist and place purlins and single joists using deactivated safety latches on hooks than allowing the latches to remain activated.

Average Time per Response: Varies from one minute for a controlling contractor to inform a steel erector to leave fall protection at the jobsite, to three hours for controlling contractors to obtain approval from the project structural engineer of record before modifying anchor bolts.

Estimated Total Burden Hours: 30,786.

Estimated Cost (Operation and Maintenance): $0.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on August 27, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–21958 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–26–M

[1] OSHA assumes one controlling contractor and one steel erector per project.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0067(2001)]

Underground Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request to increase the total burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified by the Underground Construction Standard (§ 1926.800).[1] This standard contains information-collection requirements for posting warning signs and notices, certifying inspection records for hoists, and developing and maintaining records for air-quality tests.

DATES: Submit written comments on or before October 29, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0067(2001), OSHA, U.S. Department of labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Martinez, Directorate of Policy, Office of Regulatory Analysis, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1953. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the Underground Construction Standard is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html* and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and

[1] Based on its assessment of the paperwork requirements contained in this standard, the Agency estimates that the total burden hours increased compared to its previous burden-hour estimate. Under this Notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to increase the burden hours imposed by the existing paperwork requirements.

OSHA's estimate of the information-collection burden is correct.

Posting warning signs or notices. Seven paragraphs in the Underground Construction Standard ("the Standard") require employers to post warning signs or notices during underground construction; these paragraphs are (b)(3), (i)(3), (j)(1)(vi)(A), (m)(2)(ii), (o)(2), (q)(11), and (t)(1)(iv)(B). The warning signs and notices required by these paragraphs enable employers to effectively alert employees to the presence of hazards or potential hazards at the job site, thereby preventing employee exposure to hazards or potential hazards associated with underground construction that could kill or seriously injure them.

Certifying inspection records for hoists. Paragraph (t)(xxi) of the Standard requires employers to inspect and load test hoists when they install them, and at least annually thereafter, they must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes specified information, and maintain the most recent certification record until they complete the construction project.

Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems identified during the inspection. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other employees who work near the equipment. In addition, these records provide the most efficient means for OSHA compliance officers to determine that an employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

Developing and maintaining records for air-quality tests. Paragraph (j)(3) of the Standard mandates that employers develop records for air-quality tests performed under paragraph (j), including air-quality tests required by paragraphs (j)(1)(ii)(A) through (j)(1)(iii)(A), (j)(1)(iii)(B), (j)(1)(iii)(C), (j)(1)(iii)(D), (j)(1)(iv), (j)(1)(v)(A), (j)(1)(v)(B), and (j)(2)(i) through (j)(2)(v). Paragraph (j) also requires that air-quality records include specified information, and that employers maintain the records until the underground-construction project is complete; they must also make the records available to OSHA compliance officers on request.

Maintaining records of air-quality tests allows employers to document atmospheric hazards, and to ascertain the effectiveness of controls (especially ventilation) and implement additional controls if necessary. Accordingly, these requirements prevent serious injury and death to employees who work on underground-construction projects. In addition, these records provide an efficient means for employees to evaluate the accuracy and effectiveness of an employer's exposure-reduction program, and for OSHA compliance officers to determine that employers performed the required tests and implemented appropriate controls.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

In addition, the Agency is seeking comments addressing similar issues with regard to the paperwork requirements contained in the paragraphs listed below; OSHA plans to include the paperwork requirements specified by these paragraphs in the final ICR for § 1926.800. Accordingly, the Agency requests comments on the following issues for each of these paragraphs: Whether the paperwork requirement specified by the paragraph is necessary for the proper performance of the Agency's functions, including whether the information is useful; estimates of the burden (time and costs) of the paperwork requirement; the quality, utility, and clarity of the information collected; and ways to minimize the burden on employers who must comply (for example, by using automated or other technological information-collection and -transmission techniques).

- (c)—Maintain a check-in/check-out procedure.
- (d)—Instruct employees to recognize and avoid hazards.
- (e)(1)—Inform oncoming shifts of hazards.
- (e)(2)—Employers must establish and maintain direct communications with other employers.
- (j)(1)(v)(C)—Inform employees when hydrogen sulfide concentrations exceed 10 ppm.
- (q)(6)—Warn employees on jumbo decks whenever drilling is about to begin.
- (t)(iii)—Assign load and speed ratings to hoists used for both personnel and material hoisting.

III. Proposed Actions

OSHA is requesting an increase in the existing burden-hour estimate for, as well as an extension of OMB approval of, the paperwork requirements specified by the Standard. In this regard, the Agency is requesting to increase the current burden-hour estimate from 8,357 hours to 57,479 hours, a total increase of 49,122 hours. This increase largely occurred because OSHA increased the estimated number of air-quality tests conducted and the frequency for calibrating air-quality testing monitors. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirement.

Title: Underground Construction.

OMB Number: 1218–0067.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 323.

Frequency of Response: Varies from recording air-quality tests twice per shift to posting a warning sign or notice once every two years.

Average Time per Response: Varies from 30 seconds to read and record air-quality test results to one hour to inspect, load test, and complete and maintain a certification record for a hoist.

Estimated Total Burden Hours: 57,479.

Estimated Cost (Operation and Maintenance): $117,000.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of

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Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC, on August 27, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–21959 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–100]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing on a nonexclusive basis.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: John Kusmiss, Patent Counsel, NASA Management Office—JPL, 4800 Oak Grove Drive, Mail Stop 180801, Pasadena, CA 91109; telephone (818) 354–7770.

U.S. Patent No. 5,850,538: Priority Queues for Computer Simulations;

U.S. Patent No. 5,794,005: Synchronous Parallel Emulation and Discrete Event Simulation System With Self-Contained Simulation Objects and Active Event Objects;

U.S. Patent No. 5,781,762: Parallel Proximity Detection for Computer Simulations;

U.S. Patent No. 5,652,871: Parallel Proximity Detection for Computer Simulation;

NASA Case No. NPO–18414–4–CU: Synchronous Parallel System for Emulation and Discrete Event Simulation.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21868 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–101]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: James McGroary, Patent Counsel, Marshall Space Flight Center, Code LS01, Huntsville, AL 35812; telephone (256) 544–0013, fax (256) 544–0258.

NASA Case No. MFS–31464–1: Multi-Layer Identification Label Using Stacked Identification Symbols

NASA Case No. MFS–31546–1: High Precision Grids For Neutron, Hard X-Ray, And Gamma-Ray Imaging Systems

NASA Case No. MFS–31565–1: Phase Modulator With Terahertz Optical Bandwidth Formed By Multi-Layered Dielectric Stack

NASA Case No. MFS–31584–1: Hypergolic Ignitor Assembly;

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21869 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–102]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Edward Fein, Patent Counsel, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696; telephone (281) 483–4871, fax (281) 244–8452.

NASA Case No. MSC–22839–1: Locating Concealed Objects Using Special Signatures;

NASA Case No. MSC–22953–2: Method And Apparatus For Reducing The Vulnerability Of Latches To Single Event Upsets;

NASA Case No. MSC–22953–3: Method And Apparatus For Reducing The Vulnerability Of Latches To Single Event Upsets;

NASA Case No. MSC–22970–2: Solar Powered Refrigeration System;

NASA Case No. MSC–22970–3: Solar Powered Refrigeration System;

NASA Case No. MSC–23092–1: Advanced, Large Volume, Highly Loaded, Hybrid Inflatable Pressure Vessel;

NASA Case No. MSC–23228–1: Distributed Antenna System And Method;

NASA Case No. MSC–23314–1: Flexshield;

NASA Case No. MSC–23320–1: Patial Light Modulators For Full Cross-Connections In Optical Networks.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21870 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–103]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: John Kusmiss, Patent Counsel, NASA Management Office-JPL, 4800 Oak Grove Drive, Mail Stop 180-801, Pasadena, CA 91109; telephone (818) 354–7770.

NASA Case No. NPO–19855–1: Carbon Dioxide Absorption Heat Pump;

NASA Case No. NPO–20148–2: Protective Fullerene (C60) Packaging System For Microelectromechanical Systems Applications;

NASA Case No. SSC–00124–1: Radiant Temperature Nulling Radiometer.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21871 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–104]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The invention listed below is assigned to the National Aeronautics and Space Administration, has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Diana Cox, Patent Counsel, Goddard Space Flight Center, Mail Code 710.1, Greenbelt, MD 20771; telephone (301) 286–7351, fax (301) 286–9512.

NASA Case No. GSC–14305–1: Method For Implementation Of Recursive Hierarchical Segmentation On Parallel Computers.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21872 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–105]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Counsel, Glenn Research Center at Lewis Field, Mail Code 500–118, Cleveland, Ohio 44135; telephone (216) 433–8855, fax (216) 433–6790.

NASA Case No. LEW–16636–2: Reduced Toxicity Fuel Satellite Propulsion System Including Catalytic Decomposing Element With Hydrogen Peroxide;

NASA Case No. LEW–16636–3: Reduced Toxicity Fuel Satellite Propulsion System Including Fuel Cell Reformer With Alcohols;

NASA Case No. LEW–16636–4: Reduced Toxicity Fuel Satellite Propulsion System Including Plasmatron;

NASA Case No. LEW–16636–5: Reduced Toxicity Fuel Satellite Propulsion System Including Axial Thruster And ACS Thruster Combination;

NASA Case No. LEW–16988–1: Magnetohydrodynamic Power Extraction And Flow Conditioning In A Gas Turbine Inlet;

NASA Case No. LEW–17111–1: Planar Particle Imaging And Doppler Velocimetry (PPIDV);

NASA Case No. LEW–17133–1: High Performance Polymers From The Diels-Alder Trapping Of Photochemically Generated Intermediates.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21873 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 15, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and

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whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Office of the Inspector General (N1–16–00–3, 20 items, 18 temporary items). Case files and related records pertaining to investigations, audits and evaluations, and inspections. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of significant investigative case files and audit/evaluation final reports are proposed for permanent retention.

2. Department of Agriculture, Farm Service Agency (N1–145–00–1, 10 items, 8 temporary items). Records relating to audits and to investigations of alleged fraud, abuse, irregularities, or violations of law, including reports, working papers, correspondence, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of significant investigation case files and audits are proposed for permanent retention.

3. Department of the Army, Agency-wide (N1–AU–00–13, 14 items, 14 temporary items). Records relating to the management of the Army National Guard and Army Reserve, training, and the use of military forces during natural disasters and other domestic emergencies. Included are records relating to such matters as reserve unit attendance, ROTC scholarship applications, class schedules, training plans and reports, and reports on domestic emergency operations. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

4. Department of the Army, Agency-wide (N1–AU–00–27, 51 items, 51 temporary items). Records relating to climatic, hydrologic, and topographic services, environmental quality, real estate, construction, engineering and design, and Corps of Engineer activities involving such matters as project operations, regulatory functions, water resource policies, and contracting. Included are such records as meteorological observations, map indices and corrections, real estate record cards, construction bid abstracts, community shelter progress reports, reservoir use permits, plant rate computations, civilian uniform records, non-action construction permits, wreck and obstruction files, flood plain management studies, sales contract registers, and wage rate pre-determinations. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of the Army, Agency-wide (N1–AU–00–28, 38 items, 38 temporary items). Records relating to the management of medical services and to nuclear and chemical weapons and materiel. Included are such records as patient property slips, hospital menus, pharmacy issues, hospital inspection reports, dental worksheets, bed availability files, medical statistics and feeder reports, and veterinary clinic reports. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of the Army, Agency-wide (N1–AU–00–41, 18 items, 18 temporary items). Records relating to administrative matters, including planning and budgeting, legislative liaison, and inspections. Included are such records as office personnel registers, duty rosters, lower echelon operating budgets, comments on proposed legislation made by offices not having chief responsibility for providing agency comments, and inspection files. Also included are test procedures and plans relating to the U.S. Army Joint Interface Test Force Joint Interoperability for Tactical Command and Control. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of the Army, Agency-wide (N1–AU–01–22, 31 items, 31 temporary items). Records relating to research, development, and acquisition, including such matters as new equipment training, R&D procurement, field experiment controls, test schedules, unfunded study files, and industry-to-industry briefings. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–5, 11 items, 11 temporary items). Electronic input files, scanned images, data files, and electronic copies of records created using electronic mail and word processing. Records are created by scanning and retrieval systems in connection with the initial processing of patent applications. The recordkeeping copies of these records are maintained in paper form in patent case files, which were previously approved for permanent retention.

9. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–8, 10 items, 10 temporary items). Electronic copies of records created using electronic mail and word processing that relate to case files maintained by the Office of Enrollment and Discipline. Files pertain to such matters as registered attorneys, data sheets on registrants, closed complaints, and unsuccessful applications. This schedule also increases the retention period for the recordkeeping copies of complaint files, which were previously approved for disposal.

10. Department of Education, Child Care Subsidy Program (N1–441–01–2, 4 items, 4 temporary items). Records used for determining eligibility for government-subsidized childcare, including financial and income data, acceptance letters, denial letters,

verification forms, and electronic copies of documents created using electronic mail and word processing.

11. Department of the Navy, Agency-wide (N1–NU–01–2, 2 items, 2 temporary items). Incident reports and incident complaint reports received by the Naval Criminal Investigative Service. This schedule reduces the retention period for records predating 1988, which were previously approved for disposal.

12. Department of State, Bureau of Human Resources (N1–59–00–15, 9 items, 9 temporary items). Subject files relating to Foreign and Civil Service employee grievance policies and procedures, individual Foreign Service grievance case files, administrative subject files, and an electronic system used to track grievance case files. Also included are electronic copies of documents created using electronic mail and word processing.

13. Department of State, Bureau of Human Resources (N1–59–00–16, 18 items, 18 temporary items). Records relating to the retirement of Foreign Service Officers and Civil Service employees, including case files, subject files, and lists of retirees. Also included are electronic copies of documents created using electronic mail and word processing.

14. Department of State, Under Secretary for Arms Control and International Security (N1–59–01–7, 15 items, 9 temporary items). Appointment books, calendars, and logs. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject, country, and chronological files as well as speeches and testimony, periodic reports, and advisory board files.

15. Department of State, Bureau of Arms Control (N1–59–01–11, 24 items, 15 temporary items). Periodic reports, chronological files, and official outgoing correspondence maintained by lower level offices, non-substantive subject files, files of interagency committees for which the bureau is not the chair or secretariat, and extra copies of information reports. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as periodic reports, chronological files, and official outgoing correspondence files maintained at high bureau levels, files relating to treaty negotiation and implementation, and files of interagency committees for which the bureau is chair or serves as the secretariat.

16. Department of the Treasury, Bureau of the Public Debt (N1–53–01–8, 8 items, 8 temporary items). Records of the Director's Office, Division of Program Administration, relating to the processing and servicing of bearer, registered, and other bond payments. Files consist of an electronic database and the related outputs and documentation.

17. Environmental Protection Agency, Office of Research and Development (N1–412–01–1, 8 items, 5 temporary items). Records associated with the Integrated Risk Information System (IRIS), which provides health assessment information on chemical substances tested and verified by the agency. Included are background materials, public submissions, confidential business information, and electronic copies of documents created using electronic mail and word processing. Records proposed for permanent retention include recordkeeping copies of IRIS case files, master data files, and the related documentation.

18. Federal Labor Relations Authority, Office of the Executive Director (N1–480–01–2, 6 items, 5 temporary items). Records of the 1997 Customer Survey including completed questionnaires and subject files dealing with the development and administration of the survey. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention is the recordkeeping copy of the final report and the executive summary.

19. Maritime Administration, Associate Administrator for Shipbuilding and Ship Operations (N1–357–01–1, 3 items, 3 temporary items). Ship Managers Operations Claims Files, also known as Seamen's Claims, which consist of information obtained from claimants seeking compensation for death, injury, or illness suffered while employed on vessels under contract with the United States. Records include medical information, financial records, statements of witnesses, correspondence, and exhibits. Also included are electronic copies of documents created using electronic mail and word processing.

20. National Credit Union Administration, Office of Public and Congressional Affairs (N1–413–01–2, 17 items, 9 temporary items). Uncaptioned photographic prints, negatives, contact sheets, and slides, agency telephone directories, and publication planning files. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as Congressional testimony, captioned photographic prints and negatives documenting significant agency events, posters, news releases, biographical files of high-level agency officials, and agency publications.

21. National Credit Union Administration, Office of Corporate Credit Unions (N1–413–01–3, 17 items, 15 temporary items). General correspondence, examination reports and related work papers, audit reports, records relating to requests by credit unions for expanded authorities, reading files, and Century Date Conversion (Y2K) files. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of Credit Union History Files and agency training materials and course manuals.

22. National Credit Union Administration, Office of the Executive Director (N1–413–01–4, 2 items, 2 temporary items). Monthly reports detailing office operations and activities at headquarters and in regional offices. Also included are electronic copies of documents created using electronic mail and word processing.

23. National Credit Union Administration, Office of Credit Union Development (N1–413–01–5, 2 items, 1 temporary item). Electronic copies of records created using electronic mail and word processing that relate to the Community Development Revolving Loan Fund. Recordkeeping copies of these files are proposed for permanent retention.

24. Tennessee Valley Authority, Education, Training, and Diversity (N1–142–00–2, 4 items, 3 temporary items). Administrative records relating to strategic performance business meetings and conferences. Records relate to such matters as conference arrangements, room reservations, and procurement of refreshments. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of meeting minutes, agendas, presentations, and statistical summaries.

25. Tennessee Valley Authority, Education, Training, and Diversity (N1–142–01–1, 4 items, 3 temporary items). Routine administrative records relating to equal opportunity, diversity, and minority economic development. Included are records relating to conference arrangements, procurement contracts, travel records, and reference and background materials. Also included are electronic copies of documents created using electronic mail

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and word processing. Proposed for permanent retention are recordkeeping copies of correspondence of the vice-president for minority affairs.

26. Tennessee Valley Authority, Power Resources and Operations Planning (N1–142–01–2, 10 items, 7 temporary items). Records relating to not-for-profit electric cooperatives and to planning for the generation of environmentally sound energy. Included are publications background materials and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of publications and project case files.

Dated: August 24, 2001.

Michael J. Kurtz,

Assistant Archivist for Records Services, Washington, DC.

[FR Doc. 01–21923 Filed 8–29–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Amergen Energy Company, LLC; Three Mile Island Nuclear Station, Unit 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from 10 CFR Part 50, Appendix G, and 10 CFR 50.61, for Facility Operating License No. DPR–50, issued to AmerGen Energy Company, LLC (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1), located in Dauphin County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from application of specific requirements of 10 CFR part 50, Appendix G, for TMI–1 and allow instead the use of American Society of Mechanical Engineers (ASME) Code Cases N–588 and N–640. In addition, the proposal would exempt the licensee from application of specific requirements of 10 CFR 50.61 for TMI–1 and allow instead the use of the master curve approach for determining the initial reference temperature value for weld metal WF–70.

The proposed action is in accordance with the licensee's application dated March 29, 2001, as supplemented by letters dated June 27 and July 24, 2001.

The Need for the Proposed Action

The proposed action is needed in order to address the use of alternative methods used in the development of amendments to the TMI–1 Technical Specification reactor pressure vessel pressure-temperature (P-T) limit curves. These alternative methods include (1) Code Case N–588, which permits the use of circumferentially oriented flaws in circumferential welds for development of the P-T limits; (2) Code Case N–640, which permits application of the lower bound static initiation fracture toughness value equation as the basis for establishing the P-T curves in lieu of using the lower bound crack arrest fracture toughness value equation; and (3) the master curve approach, which is an alternative to Paragraph NB–2331 of the ASME Code (used in 10 CFR 50.61(a)(5)) to define $RT_{NDT(U)}$, the reference temperature for unirradiated reactor vessel material.

The staff has determined that, pursuant to 10 CFR 50.12.(a)(2)(ii), the underlying purpose of the regulation to protect the integrity of the reactor coolant pressure boundary will continue to be served with the implementation of the Code Cases.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes, as set forth below, that there are no significant environmental impacts associated with the use of the alternative analysis methods to support the revision of the reactor pressure vessel P-T limit curves.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for TMI–1 dated December 1972.

Agencies and Persons Consulted

On August 1, 2001, the staff consulted with the Pennsylvania State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 29, 2001, as supplemented by letters dated June 27 and July 24, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at pdr@nrc.gov.

Dated at Rockville, Maryland, this 24th day of August 2001.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21939 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370]

Duke Energy Corporation; McGuire Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Duke Energy Corporation (DEC), for operation of the McGuire Nuclear Station, Units 1 and 2, Facility Operating License (FOLs) Nos. NPF–9 and NPF–17, respectively, located in Mecklenberg County, North Carolina. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the Facility Operating Licenses for McGuire Nuclear Station, Units 1 and 2, by (a) deleting the license conditions that have been fulfilled by actions that have been completed or are imposed by other regulatory requirements, (b) changing the license conditions that have been superseded by the current plant status, and (c) incorporating other administrative changes. This includes the following license conditions; for Unit 1: 1.H Environmental Protection Plan, 2.C(1) Maximum Power Level, 2.C(3) Initial Test Program, 2.C(4) Fire Protection Program, 2.C(5) Compliance with Regulatory Guide 1.97, 2.C(6) Steam Generator Inspection, 2.C(7) Environmental Qualification, 2.C(8) Radioactive Waste Treatment System, 2.C(9) Piping System Reanalysis, 2.C(10) Category I Masonry Walls, 2.C(11) NUREG–0737 Conditions for "Fuel Loading and Low Power Testing", "Full Power Requirements", "NRC Actions" and "Dated Requirements", 2.C(12) Steam Generator Design Modification, 2.C(13) Additional Conditions, 2.D Exemptions from Appendix G to 10 CFR part 50, 2.E Security and Safeguards Plans, 2.F Deleted by prior amendment, 2.G Reporting of Violations, 2.H Notification of Accident, Appendix C: Additional Conditions. For Unit 2: 1.H Environmental Protection Plan, 2.C(1) Maximum Power Level, 2.C(4) Thermal Sleeves, 2.C(5) Model D–3 Steam Generator, 2.C(6) Environmental Qualification, 2.C(7) Fire Protection, 2.C(8) Heavy Loads, 2.C(9) Initial Test Program, 2.C(10) NUREG–0737 Conditions, items (a)–(f), 2.C(11) Protection of the Environment, 2.C(12) Reactor Trip breakers, 2.C(13) Additional Conditions, Table 1: Reactor Trip Breakers and Reactor Trip Bypass Breakers, 2.D Exemptions from Appendix G to 10 CFR Part 50, 2.E Security and Safeguards Plans, 2.F Reporting of Violations, 2.G Notification of Accident, 2.J Storage of Oconee spent fuel assemblies, Attachment 1: Pre-operational Tests, Appendix D: Additional Conditions.

The proposed action is in accordance with DEC's application for an amendment dated June 13, 2000.

The Need for the Proposed Action

When the FOLs, NPF–9 and NPF–17, were issued to the licensee, the NRC staff deemed certain issues essential to safety and/or essential to meeting certain regulatory interests. These issues were imposed as license conditions in the FOLs. Since the units were licensed to operate in the 1980s, most of these license conditions have been fulfilled. For the license conditions that have been fulfilled, DEC proposes to have them deleted from the FOLs.

The licensee also proposed to make changes to correct administrative errors such as words inadvertently omitted, documents erroneously cited, etc.

The proposed amendments involve administrative changes to the FOLs only. No actual plant equipment, regulatory requirements, operating practices, or analyses are affected by these proposed amendments. This would eliminate unnecessary license conditions from the Facility Operating Licenses.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the amendments are granted. No changes will be made to the design and licensing bases, and applicable procedures at the two units at McGuire Nuclear Station will remain the same. Other than the administrative changes, no other changes will be made to the FOLs, including the Technical Specifications.

The staff has concluded that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Accordingly, the NRC concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. The proposed action does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the NRC concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the McGuire Nuclear Station, Units 1 and 2, dated April 1976 and Addendum dated January 1981.

Agencies and Persons Contacted

In accordance with its stated policy, on January 10, 2001, the staff consulted with the North Carolina State official, Jonny James of the Bureau of Radiological Health, North Carolina Department of Health and Environmental Control, regarding the environmental impact of the proposed amendments. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to the proposed action, see the licensee's letter dated June 13, 2000. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference

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staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 23rd day of August 2001.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21937 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–237]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of 10 CFR 50.55a(g)(6)(ii)(B), "Expedited Examination of Containment," for Facility Operating License No. DPR–19, issued to Exelon Generation Company, LLC (Exelon, or the licensee) for operation of the Dresden Nuclear Power Station, Unit 2, located in Grundy County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The licensee has requested a schedular exemption for Dresden Nuclear Power Station (DNPS), Unit 2, for implementation of inservice examinations of the containment prior to September 9, 2001, as required by 10 CFR 50.55a(g)(6)(ii)(B), "Expedited Examination of Containment." This schedular exemption is requested to extend the implementation date by a maximum of 90 days to allow completion of first period examinations during the next refueling outage for Unit 2, D2R17, currently scheduled to begin in October 2001.

The proposed action is in accordance with the licensee's application dated December 8, 2000, as supplemented by letter dated February 2, 2001.

The Need for the Proposed Action

The proposed schedular exemption is needed to prevent a forced shutdown of Dresden Nuclear Power Station, Unit 2. 10 CFR 50.55a(g)(6)(ii)(B) requires that licensees of all operating nuclear power plants shall implement the inservice examinations for the first period of the first inspection interval specified in ASME Subsection IWE of the 1992 Edition with the 1992 Addenda in conjunction with the modifications specified in 10 CFR 50.55a(b)(2)(ix) by September 9, 2001. The last opportunity to complete the first period containment examinations was during the last refueling outage, D2R16, completed on October 27, 1999. During that outage, the licensee made good faith efforts to complete the necessary inservice examinations. However, the licensee has subsequently determined that a number of examinations must be re-performed. Without the requested schedular exemption, the licensee would be forced to shut down the facility in order to complete the inservice examinations required by regulation.

Areas accessible for inspection during normal operation will be completed by September 9, 2001. However, the next available opportunity to perform all the remaining containment examinations is the next refueling outage, which is scheduled to begin in October 2001. Previous Unit 2 containment inspections have not identified any areas of containment degradation that could impact the structural integrity of containment. A general visual examination of accessible surface areas was performed during the D2R16 refueling outage. The general visual examination was preformed in accordance with the ASME B&PV Code Section XI, 1992 Edition with 1992 Addenda and included accessible surface areas of the containment structure and containment penetrations. The requested 90-day extension is of relatively short duration that would not permit a significant increase in any degradation that has developed since the previous general visual examination performed during D2R16.

If a separate outage were required to perform containment inspections in accordance with the current inspection implementation date, DNPS, Unit 2, would be subject to undue hardships or other costs that result from lost generation. Therefore, an extension of the September 9, 2001, implementation date is requested.

10 CFR 50.12 permits the Nuclear Regulatory Commission to grant exemptions which are authorized by law, will not present undue risk to the health and safety of the public, and are consistent with the common defense and security, provided that special circumstances are present. Pursuant to 10 CFR 51.12 (a)(2), the Commission believes that special circumstances exist in that the requested schedular extension is required to prevent the forced shutdown of DNPS, Unit 2. Preparations for a refueling outage are proceeding based on a scheduled shutdown in October 2001. A separate outage would present undue hardship and costs due to lost generation and increased radiological exposure to DNPS personnel. The requested exemption will only provide temporary relief from the applicable regulation and does not jeopardize the health and safety of the public.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there are no significant adverse environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological environmental impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Dresden Nuclear Power Station, Units 2 and 3, dated November 1973.

Agencies and Persons Consulted

On July 24, 2001, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 8, 2000, as supplemented by letter dated February 2, 2001. Documents may be examined, and/or copied for a fee, a the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 22nd day of August 2001.

For the Nuclear Regulatory Commission.

S. Singh Bajwa,

Project Director, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21936 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27433]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 24, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 18, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 18, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy East Corporation, et al. (70–9875)

Energy East Corporation ("Energy East"), a registered holding company, and its public utility subsidiary, New York State Electric & Gas Company ("NYSEG"), both located in Albany, New York 12212–2904 (together, "Applicants"), have filed a declaration under section 12(d) and rules 44 and 54 of the Act.

Applicants propose that NYSEG sell its eighteen percent interest in the Nine Mile Point Unit No. 2 nuclear generating station ("NPM2") ("Assets"),[1] located in Scriba, New York, to Constellation Nuclear, LLC ("CNLLC"), a subsidiary of Constellation Energy Group, Inc. ("CEGI"), a nonaffiliate. Upon closing, CNLLC will transfer the Assets to Nine Mile Point Nuclear Station, LLC ("NMPNS"), a wholly owned subsidiary company of CNLLC.[2] NYSEG is divesting all of its generating assets in accordance with the New York state electric restructuring law.

NYSEG is a regulated public utility company engaged in transmitting and distributing electricity and transporting, storing and distributing natural gas. NYSEG generates electricity from its eighteen percent share of NMP2 and from its several hydroelectric stations. NYSEG provides delivery services to approximately 824,000 electricity customers and 248,000 natural gas customers. NYSEG's service territory is in the central, eastern and western parts of New York, has an area of approximately 20,000 square miles and a population of 2,500,000.

CEGI is a diversified energy company and an exempt holding company under section 3(a)(1) of the act by rule 2 of the Act. CNLLC is a direct, wholly owned subsidiary of CEGI. CNLLC, which is the parent of NMPNS, is the party to each of the other transaction documents. CNLLC will transfer its rights and obligations under some or all of the transaction documents to NMPNS prior to purchasing the Assets. NMPNS will own the Assets upon closing.

NYSEG's interest in NMP2 will be sold for a total of approximately $128 million under an asset purchase agreement ("APA") entered into by NYSEG and CNLLC on December 11, 2000. Under the APA, CNLLC will pay fifty percent of the purchase price to NYSEG at closing and the remaining balance annually for five years in equal installments. The sale price and the purchaser of the Assets were determined by an auction process managed by J.P. Morgan and Navigant Consulting, Inc. As part of the APA, NYSEG and CNLLC also entered into a power purchase agreement ("PPA") and a revenue sharing agreement ("RSA") on December 11, 2000.

The PPA provides that NYSEG will purchase 16.2 percent of the capacity and energy from NMP2 at certain prices set forth in the PPA. The PPA's terms take effect on the closing date of the transaction and continue for ten years. After completion of the PPA's ten-year term, NMPNS, as CNLLC's assignee, will pay NYSEG eighty percent of the amount by which actual market prices exceed a schedule of floor prices as set forth in the RSA. To the extent floor prices exceed actual prices, eighty percent of the negative differences will be credited against future payment obligations under the RSA. Under no circumstances will NYSEG be required to make payments under the RSA.

[1] Assets include: (a) Real property, buildings and improvements; (b) all spent nuclear fuel, high-level waste, low-level waste, source and by product material at the site, and fuel-related inventory; (c) all machinery, equipment, such as computer hardware and software and communications equipment, vehicles, tools, spare parts, fixtures, furniture and furnishings and other personal property relating to or used in the ordinary course of business to operate the facilities, other than property used primarily as part of the transmission assets, or that is otherwise excluded from the sale; (d) the material agreements, listed on schedules to the APA and other non-material contracts; (e) all transferable permits; (f) all books, operating records and other documents relating to the facilities (subject to the right of NYSEG to retain copies of same for its use) other than general ledger accounting records; and (g) all unexpired, transferable warranties and guarantees from third parties with respect to any item of real property or personal property constituting part of the purchased assets.

[2] NMPNS was formed by CNLLC to hold the Assets.

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GPU, Inc. et al. (70–9885)

GPU, Inc. ("GPU"), a registered public-utility holding company, 300 Madison Avenue, Morristown, New Jersey 07960, and Jersey Central Power & Light Company ("JCP&L"), a public-utility subsidiary of GPU, 2800 Pottsville Pike, Reading, Pennsylvania 19605, have filed an application-declaration with the Commission under sections 6(a), 7, 9(a), 10, 12(f), and 13(b) of the Act and rules 54, 90 and 91 under the Act.

New Jersey's Electric Discount and Energy Competition Act, P.L. 1999, c. 23 (N.J.S.A. 48:3–49 *et seq.*) ("Competition Act") introduced competition into the New Jersey electric generation market. Under the Competition Act, utilities were required to submit restructing plans to the New Jersey Board of Public Utilities ("BPU") that included their claims of stranded costs. In July of 1997, JCP&L filed its restructing plan with the Board. The restructuring plan was the subject of extensive hearings and negotiations, and a settlement was reached and approved by the BPU by a summary order dated May 24, 1999 and a detailed final decision and order dated March 7, 2001 (collectively, "BPU Orders"). In the BPU Orders, the BPU identified up to $400 million in recoverable JCP&L stranded costs and $20 million in associated transaction costs (collectively, "Stranded Costs"). The Competition Act facilitates restructuring by empowering the BPU to authorize a requesting utility to issue transition bonds, directly or indirectly, to recover and/or finance a portion of its stranded costs and to assist in achieving compliance with the rate reduction requirements of the Competition Act.[3] The Stranded Costs identified and approved by the BPU will be recovered from distribution utility customers, through a non-bypassable market transition charge.

Applicants request authority for GPU and JCP&L to acquire, indirectly and directly, respectively, all of the common equity interests in a new company ("SPE") to be organized for the sole purpose of issuing and selling transition bonds. JCP&L will capitalize the SPE through direct contribution of capital in an amount equal to at least 5% of the total principal amount of the transition bonds.

Applicants also request authority for the SPE to issue and sell up to an aggregate amount of $420 million in transition bonds through December 31, 2002 ("Authorization Period"). The transition bonds would be debt securities of the SPE, not of the State of New Jersey or JCP&L. The interest rate on the proposed bonds would not exceed 300 basis points over the applicable U.S. mid-market swap benchmark, and all of the bonds would mature within seventeen years.

Applicants request authority for the SPE to, through the Authorization Period, enter into interest rate swaps or other derivative products (collectively, "Derivative Transactions").[4] Derivative Transactions would be used to convert all or a portion of the transition bonds bearing a floating interest rate ("Floating Rate Transition Bonds") to fixed rate obligations. The SPE would enter into Derivative Transactions with counterparties whose senior debt ratings, or the senior debt ratings of the parent companies of the counterparties, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors Service, Inc., or Fitch IBCA, Duff & Phelps ("Authorized Counterparties"). The notional amount of the swaps and the expected average life of the swaps would not exceed that of the underlying Floating Rate Transition Bonds.

Applicants also request authority for JCP&L to enter into hedging transactions through the Authorization Period with respect to anticipatory debt issuances ("Anticipatory Hedges"), including: (1) A forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap ("Forward Sale"); (2) a purchase of put options on U.S. Treasury Obligations ("Put Options Purchase"); (3) a Put Options Purchase in combination with a sale of call options on U.S. Treasury obligations ("Zero Cost Collars"); (4) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (5) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges. JCP&L would enter into Anticipatory Hedges with Authorized Counterparties. Anticipatory Hedges would be executed on-exchange ("On-Exchange Trades") with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade, the opening of over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. All open positions under Anticipatory Hedges would be closed on or prior to the date of the issuance of the transition bonds. JCP&L would comply with existing and future financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions, and all Anticipatory Hedges would qualify for hedge accounting treatment under generally accepted accounting principles.

Further, Applicants request authority for JCP&L to enter into a service agreement ("Service Agreement") with the SPE that may not comply with the at-cost requirements of section 13(b) of the Act and rules 90 and 91 under the Act. The Service Agreement provides for the utility to service the transition bonds revenue stream by, among other things, billing customers and making collections on behalf of the SPE, and obtaining from the BPU periodic adjustments to the TBC that allow for payment of all debt service and full recovery of the authorized amounts.[5] For its services, JCP&L will receive a fee and be reimbursed for certain of its expenses. The fee, set an amount equal to a fixed percentage of the initial principal amount of the transition bonds, is approximately $400,000 per year. Applicants state that the proposed fee—which approximates the fee that the SPE would have had to pay a nonaffiliate to provide these services—is designed to enhance the credit rating of the transition bonds and strengthens their position that the SPE is a "bankruptcy remote" assignee.

Applicants state that none of the proposed transactions will affect the pending merger of GPU and FirstEnergy Corp., a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21887 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[3] The Competition Act required electric utilities to reduce their rates by at least ten percent by July 31, 2002, as compared to rates in effect on April 30, 1997.

[4] Derivative Transactions would include interest rate caps, interest rate floors and interest rate collars.

[5] Applicants expect that the Servicing Agreement will remain in effect until the legal final maturity of the transition bonds, which will be no later than seventeen years after the date they are issued.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25137; 812–11764]

Salomon Smith Barney Inc., et al.; Notice of Application

August 24, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission")

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

SUMMARY OF APPLICATION: Applicants Salmon Smith Barney Inc. (the "Sponsor"), The Country Fund Opportunity Trust (the "CountryFund Trust") and unit investment trusts "UITs") organized in the future and sponsored by the Sponsor (together with the CountryFund Trust, The "Trusts," and series of the Trusts, "Trust Series") request an order (a) under section 12(d)(1)(J) of the Act to permit Trust Series to offer and sell to the public units ("Units") with a sales load that exceeds the limit in section 12(d)(1)(F)(ii) of the Act; (b) under sections 6(c) and 17(b) from section 17(a) of the Act to permit the Trust Series to invest in affiliated registered investment companies within the limits of section 12(d)(1)(F) of the Act; and (c) under section 6(c) of the Act from sections 14(a) and 19(b) of the Act to permit Units to be publicly offered without requiring the Sponsor to take for its own account or place with others $100,000 worth of Units, and to permit the Trusts to distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt.

FILING DATES: The application was filed on August 27, 1999 and amended on August 20, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC ordres a hearing Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 18, 2001 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington DC, 20549–0609; Applicants, c/o Salomon Smith Barney Inc., 7 World Trades Center, 40th Floor, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Julia Kim Gilmer, Senior Counsel, at (202) 942–0528 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NY., Washington, DC, 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. The Country Fund is registered under the Act as UIT. The Sponsor, a borker-dealer registered under the Securities Exchange Act of 1934, is the sponsor for the Trust Series. Each Trust Seriess will be organized under a trust indenture among thee Sponor, a banking insitution or trust company as trust (the "Trustee") and an evaluator. Pursuant to the trust indenture, the Sponsor will deposit into each Trust Series shares of existing registered investment companies ("Funds"), or contracts and monies for the purchase of sharesss of the Funds. Each of the Funds will be a closed-end investment company, an open-end investment company or a UIT.

2. The purpose of each Trust Series is to provide retail investors an investment with a professionally selected asset allocation model or investment theme based upon the Sponsor's assessment of the overall economic climate and financial markets, and the opportunity for income and/or capital appreciation through a diversified fixed portfolio of Funds professionally selected by the Sponsor from the total population of available Funds within the various market sectors of the Sponsor's asset allocation model or consistent with the enunciated investment theme. Applicants anticipate that certain of the Funds selected may be advised and/or distributed by the Sponsor or one of its affiliates ("Affiliated Funds"). Applicants anticipate that most of the Funds selected will be unaffiliated with the Sponsor ("Unaffiliated Funds"). Applicants state that the Trusts' investments in Affiliated Funds and Unaffiliated Funds will comply with section 12(d)(1)(F) in all respects except for the sales load restriction of section 12(d)(1)(F)(ii).

3. The only Funds that will be eligible for inclusion in a Trust Series are either no load Funds or Funds which, although they offer shares with a front-end sales charge, agree to waive any otherwise applicable front-end sales load with respect to all shares sold or deposited in any Trust Series. Shares of each of the Funds (except closed-end Funds), therefore, will be sold for deposit into any Trust Series at net asset value. Shares of closed-ends Funds will be purchased by a Trust Series at market prices. Investors in the Trust Series ("Unitholders") will pay a specified sales load to the Sponsor in connection with the purchase of their Units.

4. No evaluation fee will be charged with respect to determining the value of the Fund's shares that comprise the Trusts' portfolio. The Trustee will receive service fees under a rule 12b–1 plan from the Funds to compensate it for providing servicing and sub-accounting functions with respect to Fund shares held by a Trust Series. The Trustee will reduce its regular fee to a Trust directly by the fees it receives from the Funds and rebate any excess fees it receives to the Trusts. Any fees so rebated will be utilized by the Trusts to absorb other bona fide trust expenses. To the extent that these fees exceed the total Trust expenses, the excess will be distributed along with other income earned by the Trusts.

Applicants' Legal Analysis

Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if those securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if the securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets.

2. Section 12(d)(1)(F) of the Act provides that section 12(d)(1) does not apply to an acquiring company if the company and its affiliates own no more than 3% of an acquired company's total outstanding securities, provided that the acquiring company does not impose a sales load of more than 1.5%. In addition, the section provides that no acquired company may be obligated to honor any acquiring company redemption request in excess of 1% of the acquired company's securities during any period of less than 30 days, and the acquiring company must vote its acquired company shares either in accordance with instructions from its shareholders or in the same proportion as all other shareholders of the acquired company.

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3. The Trust Series will invest in Affiliated and Unaffiliated Funds in reliance on section 12(d)(1)(F) of the Act. If the requested relief is granted, the Trust Series will offer Units to the public with a sales load that exceeds the 1.5% limit in section 12(d)(1)(F)(ii).

4. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors.

5. Applicants have agreed, as a condition to the requested relief, that any sales charges and/or service fees with respect to Units of a Trust Series will not exceed the limits set forth in rule 2830 of the NASD Conduct Rules applicable to a fund of funds. Applicants believe that it is appropriate to apply the NASD's rule to the proposed arrangement instead of the sales load limitation in section 12(d)(1)(F) because the proposed limit would cap the aggregate sales charges of the Units and the Funds. Applicants assert that the NASD's rule more accurately reflect today's regulatory environment with respect to the methods by which investment companies finance sales expenses.

6. Applicants state that, with respect to shares of closed-end Funds held by a Trust Series, no front-end sales load, contingent deferred sales charges, rule 12b-1 fees, or other distribution fees or redemption fees will be charged. Applicants state that although the Trust Series likely will incur brokerage commissions in connection with its market purchases of shares of closed-end Funds, these commissions will not differ from commissions otherwise incurred in connection with the purchase of sale of comparable portfolio securities.

7. Applicants also agree, as a condition to the requested relief, that no Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

Section 17(a) of the Act

1. With regard to the Trust Series' investments in Affiliated Funds, applicants request relief from section 17(a) of the Act under sections 6(c) and 17(b). Section 17(a) of the Act generally prohibits an affiliated person, or an affiliated person of an affiliated person, of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: (a) Any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company. Applicants submit that the Trust Series and Affiliated Funds may be deemed to be affiliated persons of one another by virtue of being under common control of the Sponsor. Applicants state that purchases and redemptions of shares of the Affiliated Funds by a Trust Series could be deemed to be principal transactions between affiliated persons under section 17(a).

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act provides that the SEC will exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicants state that shares of Affiliated Funds will be sold to the Trusts at net asset value, or, in the case of closed-end Funds, at market prices. As a result, applicants believe that the proposed terms and conditions of the Trusts' transactions in Affiliated Fund shares, including the consideration to be paid or received, will be reasonable and fair and will not involve overreaching on the part of any person involved. Furthermore, applicants believe that the proposed transactions will be consistent with the policies of the Trusts as recited in their registration statements.

Section 14(a) of the Act

1. Section 14(a) of the Act requires in substance that an investment company have $100,000 of net worth prior to making a public offering. Applicants believe that each Trust Series will comply with this requirement because the Sponsor will deposit substantially more than $100,000 of Fund shares in each Trust Series. Applicants assert, however, that a Trust Series would not satisfy section 14(a) because of the Sponsor's intention to sell all of the Units.

2. Rule 14a–3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in "eligible trust securities," as defined in the rule. Applicants submit that the Trusts cannot rely on the rule because Fund shares are not eligible trust securities. Consequently, applicants seek an exemption under section 6(c) from the net worth requirement of section 14(a). Applicants state that the Trusts and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Trusts will not restrict their portfolio investments to "eligible trust securities."

Section 19(b) of the Act

1. Section 19(b) of the Act and rule 19b–1 under the Act provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b–1(c), under certain circumstances, excepts a UIT investing in "eligible trust securities" (as defined in rule 14a–3) from the requirements of rule 19b–1. Because the Trusts do not limit their investments to "eligible trust securities," the Trusts do not qualify for the exemption in paragraph (c) of rule 19b–1. Therefore, applicants request an exemption under section 6(c) from section 19(b) and rule 19b–1 to the extent necessary to permit capital gains earned in connection with the redemption and sale of Fund shares to be distributed to Unitholders along with the Trusts' regular distributions. Applicants state that, in all other respects, the Trusts will comply with section 19(b) and rule 19b–1. Applicants assert that the abuses that section 19(b) and rule 19b–1 were designed to prevent do not arise with regard to the Trusts. Applicants state that any gains from the redemption or sale of Fund shares would be triggered by the need to meet Trust expenses or by requests to redeem Units, events over which the Sponsor and the Trusts have no control.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Each Trust Series will comply with section 12(d)(1)(F) in all respects except for the sales load limitation of section 12(d)(1)(F)(ii).

2. Any sales charges and/or service fees (as those terms are defined in NASD Conduct Rule 2830) charged with respect to Units of a Trust will not exceed limits set forth in NASD Conduct Rule 2830 applicable to a fund of funds (as defined in NASD Conduct Rule 2830).

3. No Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. The Trusts and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Trusts will not restrict their portfolio investments to "eligible trust securities."

5. No Trust Series will terminate within thirty days of the termination of any other Trust Series that holds shares of one or more common Funds.

6. The prospectus of each Trust Series and any sales literature or advertising that mentions the existence of an in-kind distribution option will disclose that Unitholders who elect to receive Fund shares will incur any applicable rule 12b–1 fees.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21888 Filed 8–29–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25136; 812–12270]

ARK Funds, et al.; Notice of Application

August 24, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (the "Act") for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY: The requested order would permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in affiliated money market funds.

Applicants: The ARK Funds, and each existing and futures registered open-end management investment company for which Allied Investment Advisers ("AIA"), or any existing or future persons controlling, controlled by, or under common control with AIA (together with AIA, the "Advisers") serves as an investment adviser (collectively, with ARK Funds, the "Investment Companies"), all existing and future series of the Investment Companies (the "Funds"), and the Advisers.

Filing Dates: The application was filed on September 25, 2000 and amended on August 23, 2001.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 18, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Ark Funds, One Freedom Valley Drive, Oaks, PA, 19456. AIA, 100 E. Pratt Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Julia Kim Gilmer, Senior Counsel, at (202) 942–0528, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The ARK Funds, a Massachusetts business trust, is registered under the Act as an open-end management investment company and currently consists of thirty Funds. Nine of the Funds hold themselves out as money market funds and comply with rule 2a–7 under the Act (together with any other funds money market Funds subject to rule 2a–7, "Money Market Funds").[1]

2. Each Fund has, or may have, cash held by its custodian ("Uninvested Cash"). Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities, dividend payments, or money received from investors. Certain funds also may participate in a securities lending program under which the Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans are continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash ("Cash Collateral" and together with Uninvested Cash, "Cash Balances").

3. Applicants request relief to permit each Fund to use Cash Balances to purchase shares of one or more Money Market Funds (such Funds, including Money Market Funds that purchase shares of other Money Market Funds, are referred to as "Investing Funds"), and the Money Market Funds to sell their shares to, and redeem their shares from, the Investing Funds. Investment of Cash Balances in shares of Money Market Funds will be made only if permitted by the Investment Fund's investment restrictions and to the extent consistent with the investment restrictions and policies set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions will result in ready liquidity, greater returns, increased diversity of holdings and reduce transaction costs, risk of counterparty default, and the market risk associated with direct purchases of short-term obligations.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such

[1] Each existing registered open-end management investment company that currently intends to rely on the order is named as an applicant. Any other existing or future registered open-end management investment company that subsequently relies on the order will do so only in accordance with the terms and conditions of the application.

[2] Applicants also request that the order extend to any entity or entities that result from a reorganization of AIA into another jurisdiction or a change in type of business organization.

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securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act authorizes the Commission to exempt any person, security or transaction (or classes thereof) from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption from the provisions of sections 12(d)(1)(A) and (B) to the extent necessary to permit each Investing Fund to invest Cash Balances in the Money Market Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Money Market Fund through threat of redemption. Applicants also represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. ("NASD") Conduct Rules) or, if such shares are subject to any such fees in the future, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. Applicants state that if a Money Market Fund offers more than one class of securities, each Investing Fund will invest only in the class with the lowest expense ration at the time of the investment. Before the next meeting of the Funds' board of trustees (the "Board") is held for the purpose of voting on an advisory contract, the Board, including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees") shall consider to what extent, if any, the advisory fees charged to each Investing Fund by the Adviser should be reduced to account for reduced services in a Money Market Fund. Applicants represent that no Money Market Fund whose shares are held by an Investing Fund will acquire securities of an other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(30 of the Act defines an "affiliated person" of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding voting securities of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that the Investing Funds may be deemed to be under common control, and therefore affiliated persons of each other, because the Investing Funds have a common investment adviser or because their investment advisers may be under common control. In addition, applicants submit that the Advisers may hold more than 5% of the outstanding shares of certain Funds and that under these circumstances, the Funds may be deemed to be affiliated persons of one another. Accordingly, applicants state that the sale of Money Market Fund shares to the Investing Funds, and the redemption of such shares, would be prohibited under section 17(a).

5. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policies of each registered investment company involved, and with the general purposes of the Act. Section 6(c) of the Act provides, in part, that the Commission may exempt any person , security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act if, and to the extent that such exemption is necessary or appropriate in the public interest and is consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of Money Market Fund shares by the Investing Funds satisfies the standards in sections 17(b) and 6(c) of the Act. Applicants note that shares of the Money Market Funds will be purchased and redeemed by the Investing Funds at their net asset value, the same consideration paid and received for these shares by any other shareholder in the same class of the Money Market Fund. The Investing Funds will retain their ability to invest their Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if the Adviser believes that the Investing Funds can obtain a higher rate of return, or for any other reason. Applicants also state that each Money Market Fund will maintain the right to discontinue selling shares to any of the Investing Funds if the Trustees of the Money Market Fund determine that such sales would adversely affect the Money Market Fund's portfolio management and operations.

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless the Commission has issued an order authorizing the arrangement. Applicants state that each Investing Fund (by purchasing shares of the Money Market Funds), the Advisers (by managing the assets of the Investing Funds invested in the Money Market Funds), and each Money Market Fund (by selling shares to and redeeming them from the Investing Funds) might be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

8. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission will consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicant submit that the proposed transactions meet these standards because the investments by the Investing Funds in shares of the Money Market Funds will be on the same basis and will be indistinguishable from any other shareholder account maintained by the same class of the Money Market Funds, and the transactions will be consistent with the Act.

Applicants' Conditions

Applicant agree that any order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Before the next meeting of the Board is held for the purpose of voting on an advisory contract under section 15 of the Act, the Board, including a majority of the Independent Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fee charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Money Market Funds. In connection with this consideration, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Funds. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the consideration relating to fees referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Investing Fund, each Money Market Fund, and any future Fund that may rely on the order shall be advised by an Adviser.

6. No Money Market Fund, the shares of which are held by an Investing Fund, shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in the Securities Lending Program, a majority of its Board, including a majority of the Independent Trustees, will approve the Fund's participation in a Securities Lending Program. Such Trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21889 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44745; File No. SR–DTC–2001–03]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to Making Foreign Securities Eligible for Depository Services

August 24, 2001.

On February 23, 2001, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–2001–03) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on May 10, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The purpose of the filing is provide DTC and NSCC participants who are presently using NSCC's clearing services with respect to foreign securities the use, if applicable, of depository services at DTC for these securities. These securities are generally foreign ordinary equities that have been assigned security numbers (CINS) and NASD symbols to automate comparison process. Most trades in foreign ordinary shares that are executed between two U.S. broker-dealers are forwarded to NASD's automated confirmation transaction (ACT) system and are submitted as locked-in trades to NSCC.

Today, through the NSCC's Foreign Securities Comparison and Netting (FSCN) system, foreign securities are compared and netted on a bilateral basis in a standardized and automated fashion processed through NSCC's over-the-counter system. Receive and deliver instructions are automatically generated by NSCC and are distributed to participants on the morning after comparison, which expedites the settlement process for non-U.S. equity transaction. Trades are netted on a participant-to-participant basis reducing the number of deliveries for settlement in the local market. NSCC does not currently and will not under the proposed rule change, guarantee the ultimate settlement of these transactions or the clearance cash adjustment.

Given the increase in activity over the last few years, U.S. broker-dealers have become concerned about the number of potential risk and operational issues the current process creates, such as the lack of straight through processing ("STP") from the point of trade to settlement. It is DTC's plan to enhance the settlement part of the process and to deliver an automated approach to complete the STP process from trade to settlement. In doing so, many operational issues will be minimized or eliminated.

Today, there is a separation between the physical movement of these securities and the money settlement of the trades (*i.e.*, there is no delivery versus payment ("DVP") as is true for U.S. trades). The delivery of the securities occurs in the foreign location and then some time later the payment is made in the U.S.

Currently, trades in these foreign securities executed in the U.S. must settle in the local market without the benefit of any DTC's infrasture. Therefore, U.S. based broker-dealer who trade in foreign securities in the U.S. must set up correspondent relationships in the local market. Additionally, each broker-dealers must deal separately with the inherent inefficiencies, such as large time-zone differences, in this structure. Also, the need to set up such correspondent relationships puts smaller broker-dealers at disadvantage because many smaller broker-dealers do not have the resources or trading volumes to justify such relationships and therefore must enlist a large broker-dealer to perform such services for its

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 44260 (May 4, 2001), 66 FR 23956.

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clients. As a result, trading costs for the underlying investors are increased.

DTC's plan is to open a custodial account in a local market with an agent bank or central securities depository ("CSD") (collectively "custodian") that will hold shares on DTC's behalf.[3] DTC's participants will be able to communicate with DTC with respect to foreign securities as they do today with respect to currently eligible U.S. securities. Due to differences in local market practice from that in the U.S., the eligibility procedures for foreign securities will likely differ from those currently used by DTC. However, participants will be made aware of this fact and of the eligibility criteria and procedures. These securities will be "tagged" in DTC's system in order for DTC participants to readily identify them.

DTC's first such link will be with Citibank N.A., Hong Kong Branch, acting as DTC's custodian. Through the custodian, a participant would move overseas inventory from its current custodian into DTC's account at DTC's foreign custodian. Upon notification from its custodian that the foreign securities are being held in its account, DTC would update the participant's securities position at DTC. Once the position is on DTC's books and records, the participant will be able to move the position by book-entry DVP if desired. In addition, other activity, such as automated customer account transfer services and stock loan, that are currently available for U.S. securities would also be available for foreign securities once they are made DTC eligible.

The DTC Risk Management Committee is responsible for the review and monitoring of this service. The committee will use the same due diligence template for the establishment of custodial arrangements that it uses on all "outward bound" links with foreign CSDs.

The principal benefits that will attend DTC's making these foreign securities eligible for certain depository services are: (1) Connecting the delivery to the settlement on a DVP basis; (2) accelerated speed of settlement of cross-border transactions in these foreign securities; (3) eliminating most physical movements of these foreign securities; (4) reducing costs and risks to DTC participants; and (5) making these services available to a large number of U.S. entities (*i.e.*, DTC participants and their clients and customers).

[3] DTC's first custodial account will be with Citibank N.A., Hong Kong Branch. DTC will submit a proposed rule change under Section 19(b)(2) before establishing any new link with any foreign custodian.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in DTC's custody or control or for which it is responsible. The rule change allows DTC and NSCC participants currently using NSCC's FSCN system the use of depository services at DTC for foreign securities. Making foreign securities eligible for depository services enables broker-dealers to move these positions by book-entry movement and thereby eliminates the inefficiencies and risks associated with the physical movement of security positions. DTC's proposal also allows its participants to settle these trades on a DVP basis instead of the more risky method currently in place where the movement of securities and the payment of money is not necessarily closely related in time. Therefore, the Commission finds that the rule change in making available risk reductions and efficiencies to DTC's participants is done so in a manner consistent with DTC's safeguarding obligations and therefore is consistent with section 17(b)(3)(F) of the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2001–03) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21919 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44744; File No. SR–Phlx–2001–80]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Adopting a Monthly Fee for Trading Post Space That Includes a Kiosk

August 24, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its schedule of dues, fees, and charges to adopt a fee of $375 per month for trading post space that includes a kiosk,[3] which will be imposed on the users of such kiosks, namely specialists.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A kiosk is an open, flat surface that contains computer terminals and allows the specialists to face the trading crowd. Generally, post space is space on the Exchange's trading floor for specialists.

[4] Currently, the fee for trading post space totals $250. According to the Phlx, with respect to specialists at trading posts with a kiosk, the $375 fee would replace the $250 fee for trading post space. Telephone conversation between Edith Hallahan, First Vice President and Deputy General Counsel, Phlx, and Deborah Flynn, Assistant Director, Division of Market Regulation, Commission, on August 23, 2001.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's schedule of dues, fees, and charges to include a fee for trading post space that includes a kiosk.

During the past few years, at a considerable cost to the Exchange, the Exchange has constructed kiosks on its options trading floor to facilitate specialist interaction with the trading crowd by allowing them to directly face the trading crowd.[5] The proposed fee would help to offset the expense incurred in constructing these kiosks.

The proposed fee will be implemented beginning September 1, 2001.[6] In the case of a newly constructed kiosk, the fee will commence in the first full calendar month after construction is completed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, in that it is an equitable allocation of reasonable fees among the Exchange's members because the members who pay the additional amount for the kiosks incur the benefit of using the kiosks.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder.[10] Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–80 and should be submitted by September 20, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21890 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[5] The decision to construct a kiosk at a particular post is solely within the Exchange's discretion.

[6] This fee is eligible for the monthly credit of up to $1,000 to be applied against certain fees, dues, and charges and other amounts owed to the Exchange by certain members. *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (SR–Phlx–2001–49).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44742; File No. SR–Phlx–2001–77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend Exchange Rule 625, Trading Floor Training, Equity Floor Procedure Advice F–30, and Options Floor Procedure Advice F–30

August 23, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on August 9, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 625 ("Trading Floor Training"), Equity Floor Procedure Advice F–30, and Options Floor Procedure Advice F–30 (collectively referred to as "Advice F–30")[3] to allow the Exchange to require from time to time its members and their respective personnel to attend mandatory training sessions related to conduct, health and safety on the Exchange's equity and options trading floors (collectively referred to as "trading floor"). The Phlx also proposes to amend the fine schedule in Equity Floor Procedure Advice F–30 so that it is consistent with the fine schedule in the corresponding Options Floor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Advice F–30 and the accompanying fine schedules are part of the Exchange's minor rule violation and reporting plan ("minor rule plan"). The Exchange's minor rule plan, codified in Phlx Rule 970 ("Floor Procedure Advices: Violations, Penalties, and Procedures") contains floor procedure advices with accompanying fine schedules such that a minor rule violation and reporting plan citation could be issued. Rule 19d–1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting. 17 CFR 240.19d–1(c)(2). Rule 19d–1(c)(1) under the Act requires prompt filing with the Commission of any final disciplinary actions. 17 CFR 2401.19d–1(c)(1). However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

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Procedure Advice.[4] The text of the proposed rule change is available at the Office of the Secretary, the Phlx and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Phlx Rule 625 ("Trading Floor Training") and Advice F–30 to allow the Exchange to require from time to time its members and their respective personnel to attend mandatory training sessions related to conduct, health and safety on the Exchange's trading floor. The Phlx also proposes to amend the fine schedule in Equity Floor Procedure Advice F–30 so that it is consistent with the fine schedule in the corresponding Options Floor Procedure Advice.[5]

In 1999, the Exchange adopted Phlx Rule 625 and Advice F–30, which relate to trading floor training. Phlx Rule 625 and Advice F–30 currently focus primarily on instructing members and their respective personnel on changes in automated systems or new technology that is utilized by the Exchange.

The Phlx believes that the proposed amendment would allow the Exchange also to require its members and their respective personnel to attend mandatory training sessions related to conduct, health and safety on the Exchange's trading floor.

The Phlx believes that conducting training sessions related to conduct, health and safety on the trading floor should promote a safer work environment and inform its members and their respective personnel of important issues related to the Exchange's trading floor. The Phlx is cognizant of the time demands that are placed on its members, and therefore intends to provide notice and schedule such training sessions only as it deems necessary and appropriate.

Additionally, the Phlx proposes to amend the fine schedule for Equity Floor Procedure Advice F–30 to make it consistent with the corresponding fine schedule in Options Floor Procedure Advice F–30.

2. Statutory Basis

The Phlx believes that the proposal is consistent with section 6 of the Act,[6] in general, and section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. In addition, the Phlx believes that the proposal is consistent with section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members by conforming the fine schedules that appear in Advice F–30.

Moreover, the Phlx believes that mandatory training for equity and options floor members is consistent with the provisions of section 6(c)(3)(B) of the Act,[9] which makes it the responsibility of an exchange to prescribe standards of training, experience, and competence for persons associated with self-regulatory organization members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Phlx has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx.

All submissions should refer to File No. SR–Phlx–2001–77 and should be submitted by September 20, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21891 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[4] The fine schedule applicable to Options Floor Procedure Advice F–30 was recently amended. *See* Securities Exchange Act Release No. 44537 (July 11, 2001), 66 FR 37511 (July 18, 2001) (order approving SR–Phlx–2001–36).

[5] The Phlx Fine Schedule allows for a fine to be implemented on a three-year running calendar basis. The term "three-year running calendar basis" means that the Exchange will impose sanctions on a three-year running cycle, by which a violation of the training requirements which occurs within three years of the first violation of the training requirements, will be treated as a second occurrence, and any subsequent violation within three years of the previous violation of the training requirements will be subject to the next highest sanction specified in the Fine Schedule.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(c)(3)(B).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3360]

State of Florida

Martin County and the contiguous counties of Okeechobee, Palm Beach and St. Lucie in the State of Florida constitute a disaster area due to damages caused by heavy rainfall and flooding from Tropical Storm Barry that began on August 2, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 22, 2001 and for economic injury until the close of business on May 21, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office; One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

For Physical Damage

Homeowners With Credit Available Elsewhere—6.625%
Homeowners Without Credit Available Elsewhere—3.312%
Businesses With Credit Available Elsewhere—8.000%
Businesses and Non-Profit Organizations Without Credit Available Elsewhere—4.000%
Others (Including Non-Profit Organizations) With Credit Available Elsewhere—7.125%

For Economic Injury

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere—4.000%

The number assigned to this disaster for physical damage is 336011 and for economic injury the number assigned is 9M3900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 21, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–21912 Filed 8–29–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Centers Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting at 9 a.m. est on Thursday, Sept. 13, 2001 in the Windsor Room of the Hyatt Regency Hotel, 300 Reunion Boulevard, Dallas, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. Anyone wishing to make an oral presentation to the Board must contact Ellen Thrasher, Designated Federal Officer, in writing by letter or fax no later than September 4, 2001, in order to be put on the agenda. Ellen Thrasher, Deputy Associate Administrator, U.S. Small Business Administration, Office of Small Business Development Centers, 409 Third Street, SW., 4th Floor, Washington, DC 20416 phone (202) 205–6766 fax (202) 205–7727.

Steve Tupper,

SBA Committee Management Officer.

[FR Doc. 01–21911 Filed 8–29–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB): Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503.

(SSA): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. *Statement Regarding Students' School Attendance—0960–0113.* Form SSA–2434 is used by the Social Security Administration to determine student entitlement status of the children of coal miners, children of their widows or the brothers of deceased miners eligible for Black Lung benefits. This form collects information from students about to attain age 18, for the express purpose of evaluating their continuing eligibility for program benefits under the Federal Mine Safety Act of 1977. The respondents are entitled black lung children of coal miner's or their widow, or the brother of deceased black lung coal miners.

Number of Respondents: 50.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 8 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. *Employee Identification Statement—0960–0473.* The information collected on Form SSA–4156 is needed in scrambled earnings situations when two or more individuals have used the same social security number (SSN), or when an employer (or employers) have reported earnings for two or more employees under the same SSN. The information on the form is used to help identify the individual (and the SSN) to whom the earnings belong. The respondents are employers who have reported erroneous wages.

Number of Respondents: 4,750.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 792 hours.

2. *Plan for Achieving Self-Support—0960–0559.* The information on form SSA–545 is collected by SSA when a Supplemental Security Income (SSI) applicant/recipient desires to use available income and resources to obtain education and/or training in order to become self-supportive. The information is used to evaluate the recipient's plan for achieving self-support to determine whether the plan may be approved under the provisions of the SSI program. The respondents are SSI applicants/recipients who are blind or disabled.

Number of Respondents: 7,000.

Frequency of Response: 1.

Average Burden Per Response: 2 hours.

Estimated Average Burden: 14,000 hours.

3. *Electronic Death Registration Survey—0960–0625.* Section 205(r) requires the Social Security Administration (SSA) to enter into

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agreements with States to obtain death records. Sections 202(a)(1)–(h)(1) require SSA to terminate Retirement, Survivors and Disability benefits upon the death of the beneficiary. This survey will measure the States' readiness to implement electronic death registration processes, which will result in SSA getting death information more timely and accurately to terminate benefits as required by law. The respondents are State Vital Records Directors.

Number of Respondents: 55.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 28 hours.

4. *Request for a Deceased Individual's Social Security Record, SSA–711; You Can Make Your Payment by Credit Card for a Deceased Individual's Social Security Record, SSA–714—0960–NEW.* Form SSA–711 is used by SSA to fulfill requests from members of the public who apply for a microprint of the SS–5, Application for Social Security Card, for a deceased individual. SSA provides this information in response to a request from an individual conducting genealogical research. The information collected on Form SSA–714 is used by SSA to process credit card payments from members of the public who request a microprint of the SS–5 in conjunction with the service provided by the Agency through the SSA–711. Respondents to the SSA–711 and 714 are members of the public who request a microprint of the SS–5 of a deceased individual for genealogical research.

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–711	320,000	1	7	37,333
SSA–714	50,000	1	7	5,833
Total burden hours				43,166

5. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988–TEST; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3987–TEST—0960–NEW.*

Background

The Social Security Act mandates periodic redeterminations of the non-medical factors that relate to the SSI recipients' continuing eligibility for SSI payments. Recent SSA studies have indicated that as many as ⅔ of all scheduled redeterminations completed, with the assistance of a SSA employee, did not result in any change in circumstances that affected payment. Therefore, SSA will conduct a limited test to determine whether a less intrusive and labor intensive redetermination process could result in significant operational savings and a decrease in recipient inconvenience, while timely obtaining the accurate data needed to determine continuing eligibility through the process.

The Collection

A limited test of forms SSA–3988–TEST and SSA–3987–TEST will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988–TEST and SSA–3987–TEST are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The test objectives are to determine the public's ability to understand and accurately complete the test forms. The respondents are recipients of SSI benefits or their representatives.

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–3988–TEST	13,600	1	20	4,533
SSA–3987–TEST	2,400	1	20	800
Total burden hours				5,333

6. *Request for the Correction of Earning Records—0960–0029.* Form SSA–7008 is used by individual wage earners to request SSA's review, and if necessary, correction of the Agency's master record of their earnings. The respondents are individuals who question SSA's record of their earnings.

Number of Respondents: 375,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 62,500 hours.

7. *Statement of Agricultural Employer (Years prior to 1988); Statement of Agricultural Employer (1988 and Later)—0960–0036.* The information on Forms SSA–1002 and SSA–1003 is used by the Social Security Administration (SSA) to resolve discrepancies when farm workers have alleged that their employers did not report their wages or reported them incorrectly. The respondents are agricultural employers.

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–1002	75,000	1	10	12,500
SSA–1003	50,000	1	30	25,000
Total burden hours				37,500

Dated: August 24, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–21861 Filed 8–29–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3759]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: School Connectivity Project for Southeast Europe

SUMMARY: The Youth Programs Division, Office of Citizen Exchanges, of the Bureau of Educational and Cultural Affairs announces an open competition for the School Connectivity Project for Southeast Europe. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to expand the educational opportunities available to secondary school students in Southeast Europe by providing access to the Internet and training them in its use for the purpose of generating a cross-border dialogue among youth in Southeast Europe and the United States. The Southeast European countries involved will be Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Macedonia, and Romania. Serbia, Montenegro, and Kosovo may be added at a later date, pending available funding. The initial amount of the award will be $915,000.

Program Information

Overview

The School Connectivity Project for Southeast Europe will promote e-education in this region under the framework of the electronic Southeast Europe (e-SEE) Stability Pact initiative. This initiative aims to develop the digital economy in SEE and focus on creating an enabling Information Technology (IT) environment, promoting greater transparency among governments and fostering the use of IT in education. The project has also been designed to respond to the important need to introduce the youth of this region to a broad range of ideas about civil society while enhancing the use of IT. Secondary school students and teachers need to focus on areas that promote reconciliation and mutual understanding. The Internet can provide a wealth of information about democratic societies and a vital forum for the exchange of views within the region and with students and teachers in the United States. Through this program, secondary schools will be able to incorporate cross-border discussions on several key themes into their curricular offerings and to improve general education with Internet resources and access to information under the guidance of specially trained teachers.

The goals of this program are:

(1) To enhance the use of the Internet in secondary schools while promoting inter-ethnic dialogue among schools in different countries of Southeast Europe through projects exploring a common theme;

(2) To engage American and Southeast European schools in multi-partite linkages to expand the dialogue, promote mutual understanding, and benefit from the expertise of others;

(3) To support youth in their communications with each other and to facilitate their joint project work; and

(4) To generate personal and institutional ties among students, educators, and their schools across borders.

The main components of this program are as follows:

- Recruiting and selecting secondary schools across Southeast Europe (SEE) and in the United States in a competitive, transparent process. Schools without Internet connections and those that are outside the capital cities shall be given priority.
- Selecting U.S. schools for participation in international dialogue.
- Providing access to the Internet to the SEE schools, including making sites suitable for a computer center, installing hardware and cabling, and ensuring connectivity.
- Providing training for faculty in the selected schools on the use of the Internet for research and discussion and on the development of projects on common themes. These faculty members will in turn provide training to teachers and students in their schools.
- Matching students and teachers at SEE with their counterparts within the region, with U.S. schools, and possibly schools from other Western countries.
- Facilitating joint telecurriculum projects among the students on the themes of shared history and culture. Project staff would help teachers and youth select topics, facilitate action planning and evaluative processes for their projects, provide guidance, help them hone research skills, and assist with the development of a final product for widespread dissemination.
- Setting up and maintaining an on-line vehicle for disseminating information and encouraging interaction with the administrator.
- Providing regional seminars for participating youth. Seminars will allow for face-to-face discussion of the project content, will enable them to take a more active role in designing on-line projects for their schools, will further their training in the use of the Internet, and will train teens on peer teaching techniques.

Guidelines

This grant should begin on or about December 1, 2001, subject to availability of funds. The grant period should be 24 months. A general timetable is outlined in the Project Objectives, Goals, and Implementation (POGI) document of this solicitation.

The number of schools that can be included in this project will be depend on the technological capacity of the schools selected through the open competition. Some schools may have quite a few computers available for student use, many with Internet access. Other schools may have few, if any, computers and what they have may need upgrading. Other international donor programs in Southeast Europe have equipped some schools with computers and Internet access; those schools are welcome to participate in the training and telecurriculum projects of this program. This variation in technological capability will affect not only the connectivity phase of the project, but also the on-line discussion and project phase, as faculty and students will vary widely in their technological expertise. Applicants should propose carefully considered

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plans for accommodating these differences, in both their proposal narratives and their budgets. Upon request, the Bureau will provide prospective applicants with a May 2001 assessment of telecommunications in each of the participating Southeast European countries.

The grant recipient organization will need to have the capacity to work in countries throughout Southeast Europe through its own network of offices, through partnering organizations or institutions, or through a subgrant to another organization. The Bureau welcomes proposals that present a plan for partnering or for subgrants, though the party responsible for coordination, oversight, and accountability must be clear.

The award will be subject to the availability of FY–2001 SEED funding. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and availability of funds. Please refer to Solicitation Package for further information.

Budget Guidelines

The Bureau expects to provide an initial assistance award of $915,000 to one organization to support the program and administrative costs required to implement this program. Organizations with less than four years of experience in conducting international exchange programs are not eligible for this competition.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets.

Applicants should provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Administrative costs, including indirect rates, should be kept to a minimum and cost-shared as possible. The Bureau encourages applicants to provide maximum levels of cost-sharing and funding from private sources in support of its programs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–02–19.

FOR FURTHER INFORMATION CONTACT: The Youth Programs Division, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone (202) 619–6299; fax (202) 619–5311; e-mail address: clantz@pd.state.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Carolyn Lantz on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download A Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/RFGPs. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m., Washington, DC time, on *Wednesday, October 31, 2001.* Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent to:

U.S. Department of State SA–44 Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–02–19, Program Management, ECA–IIP/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. Applicants may also include a version in Microsoft Word. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * * to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation. The funding authority for the program is provided through Support for East European Democracy (SEED) legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: August 22, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–21799 Filed 8–29–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Barron and Polk Counties, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to prepare and Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for transportation improvements in the United States Highway (USH) 8 corridor between the junction of State Trunk Highway (STH) 35 north and USH 53, in Polk and Barron Counties, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Garcia, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin, 53719–2814; telephone: (608) 829–7513. You may also contact Ms. Carol Cutshall, Director, Bureau of Environmental, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965; telephone: (608) 266–9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register** home page at *http://www.nara.gov/fedreg* and the Government Printing Officers' database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare a Draft Environmental Impact Statement (EIS) on a proposal to study the long term safety, operational and capacity improvements on an approximately 40 mile (65 kilometer) section of USH 8 between the junction of STH 35 north and USH 53, in Polk and Barron Counties, Wisconsin. The EIS will evaluate the social, economic and environmental impacts of alternatives, including: (1) No Build—this alternative assumes the continue use of existing facilities with the maintenance necessary to ensure their use, (2) Improvements Within the Existing Highway Corridor—this alternative would evaluate improve traffic handling capabilities and safety by either geometric improvements and passing lanes or a four-lane facility on the existing corridor, and (3) Improvements on New Location—this alternative would provide corridor alignments that bypass the communities of Range, Turtle Lake, Poskin, Almena and Barron as well as interchanges for bypasses of Turtle Lake and Barron. All alternatives will examine improvements to pedestrian, bicycle, and snowmobile facilities.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private agencies, organizations, and citizens who have expressed, or are known to have an interest in this proposal. A project advisory committee comprised of Federal and State agencies, local officials, environmental, and other community interests will be established to provide input during development and refinement of alternatives and impact evaluation activities. Public meeting and other forms will be held to solicit comments from citizens and interest groups. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. Agencies having an interest in or jurisdiction regarding the proposed action will be contacted through interagency coordination meetings and mailing.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the address provided in the caption **FOR FURTHER INFORMATION CONTACT.**

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Gonstruction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Authority: 23 U.S.C. 315; 49 CFR 1.48

Issued on: August 21, 2001.

Peter M. Garcia,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 01–21944 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34083]

CSX Transportation, Inc.—Trackage Rights Exemption—Canadian National Railway Company, Grand Trunk Western Railroad Incorporated, and St. Clair Tunnel Company

Canadian National Railway Company (CN) and its subsidiaries, Grand Trunk Western Railroad Incorporated (GTW) and St. Clair Tunnel Company (St. Clair), have agreed to grant trackage rights to CSX Transportation, Inc. (CSXT) as follows: (1) over GTW's Tappen Interlocking, at Port Huron, MI, between milepost 332.3 and milepost 334.20; (2) over St. Clair's tracks between milepost 61.14 and milepost 59.98, via the Sarnia Tunnel; and (3) over CN's tracks between milepost 61.69 and milepost 61.14, in Port Huron, between milepost 59.98 and milepost 58.90, at Sarnia, Ontario, and thence northwesterly over CN's Port Edward

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Spur, Sarnia, between milepost 59.20=0.0 and milepost 1.41 to a connection with CSXT's track at Sarnia, a total distance of approximately 6.3 miles.

The transaction is scheduled to be consummated on August 27, 2001. The trackage rights will allow CSXT to achieve greater operating efficiencies by allowing it to reach its lines in Sarnia.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34083 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Natalie S. Rosenberg, Esq., CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: August 23, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–21947 Filed 8–29–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34085]

Keokuk Junction Railway Co.—Acquisition and Operation Exemption—West End of Toledo, Peoria and Western Railway Corporation

Keokuk Junction Railway Co. (KJRY), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 98 miles of rail line owned by the Toledo, Peoria and Western Railway Corporation (TP&W). The line to be acquired and operated extends between milepost 108.0 near East Peoria, IL, and milepost 206.0L, near Lomax, IL, including trackage rights over (1) Union Pacific Railroad Company between Hollis milepost 119.28 and Iowa Junction milepost 113.9, and (2) the Peoria and Pekin Union Railway Company between Iowa Junction milepost 113.9 and milepost 109.49. KJRY states that it has exercised an option it held with TP&W to buy the assets referenced in this proceeding. KJRY further states that it has also tendered to TP&W a check to satisfy its payment for these assets. Although KJRY has not yet reached a written agreement with TP&W for this transaction, KJRY anticipates that one will ultimately be entered into between it and TP&W. KJRY certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier.

The transaction was scheduled to be consummated on or shortly after August 22, 2001, the effective date of the exemption.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time.[1] The filing of a petition to revoke does not automatically stay the transaction.[2]

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34085, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on William A. Mullins, Esq., Troutman Sanders LLP, 401 Ninth Street, NW, Suite 1000, Washington, DC 20004.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: August 24, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–21946 Filed 8–29–01; 8:45 am]

BILLING CODE 4915–00–P

[1] On August 20, 2001, SF&L Railway, Inc. filed a petition to reject the notice of exemption and TP&W filed a petition to reject and revoke the notice. These petitions will be addressed and resolved in a subsequent decision to be issued by the Board.

[2] TP&W also filed a petition on August 20, 2001, to stay the effectiveness of this exemption pending consideration of its petition to reject or revoke. The petition for stay was denied by the Board in *Keokuk Junction Railway Co.—Acquisition and Operation Exemption—Toledo, Peoria and Western Railway Corporation*, STB Finance Docket No. 34085 (STB served Aug. 23, 2001). That decision indicated that TP&W's petition to stay was filed on August 21, 2001, although it was actually filed on August 20, 2001.

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Market Room within the Department of the Treasury is soliciting comments concerning Revisions to Foreign Currency Forms FC–1 (OMB No. 1505–0012) Weekly Consolidated Foreign Currency Report of Major Market Participants, FC–2 (OMB No. 1505–0010) Monthly Consolidated Foreign Currency Report of Major Market Participants, and FC–3 (OMB No. 1505–0014) Quarterly Consolidated Foreign Currency Report. The reports are mandatory.

DATES: Written comments should be received on or before October 29, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Director, Market Room, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 2405, Washington, DC 20220, Telephone (202) 622–2650.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms(s) and instructions should be directed to Director, Market Room, Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 2405, Washington, DC 20220, Telephone (202) 622–2650, Fax 622–2021.

SUPPLEMENTARY INFORMATION:

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–1.

OMB Number: 1505–0012.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–2.

OMB Number: 1505–0010.

Title: Quarterly Consolidated Foreign Currency Report, Foreign Currency Form FC–3.

OMB Number: 1505–0014.

Abstract: Foreign Currency Forms FC–1, FC–2, and FC–3 are required by Public Law 93–110 (31 U.S.C. 5313 and 5321 (a)(3)), which directs the Secretary of the Treasury to prescribe regulations reports on foreign currency transactions conducted by a United States person or foreign person controlled by a United States person. The regulations governing forms FC–1, FC–2, and FC–3 are contained in Title 31 part 128 of the Code of Federal Regulations (31 CFR part 128) which were published in the **Federal Register** on November 2, 1993.

Current Actions: The proposed revisions in the forms and instructions are promoted by the replacement of the Germany mark by the hard Euro currency on January 1, 2002.

Type of Review: Revisions.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents:

Foreign Currency Form FC–1: 35 respondents
Foreign Currency Form FC–2: 35 respondents
Foreign Currency Form FC–3: 66 respondents

Estimated Time Per Respondent:

Foreign Currency Form FC–1: One (1) hour per respondent per response.
Foreign Currency Form FC–2: Four (4) hours per respondent per response.
Foreign Currency Form FC–3: Eight (8) hours per respondent per response.

Estimated Total Annual Burden: Hours:

Foreign Currency Form FC–1: 1,820 hours, based on 52 reporting periods per years.
Foreign Currency Form FC–2: 1,680 hours, based on 12 reporting period per year.
Foreign Currency Form FC–3: 2,112 hours, based on 4 reporting periods per year.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (1) Whether Foreign Currency Forms FC–1, FC–2, and FC–3 are necessary for the proper performance of the functions of the Department of the Treasury, including whether the information has practical uses; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Timothy D. DuLaney,

Director, Market Room, U.S. Department of the Treasury.

[FR Doc. 01–21882 Filed 8–29–01; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 24, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 1, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1266.

Form Number: IRS Form 8829.

Type of Review: Extension.

Title: Expenses for Business Use of Your Home.

Description: Internal Revenue Code (IRC) section 280A limits the deduction for business use of a home to the gross income from the business use minus certain business deductions. Amounts not allowed due to the limitations can be carried over to the following year. Form 8829 is used to verify that the deduction is properly figured.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeeper: 4,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—52 min.
Learning about the law or the form—8 min.
Preparing the form—1 hr., 16 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually

Estimated Total Reporting/Recordkeeping Burden: 10,400,000 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–21940 Filed 8–29–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Privacy Act of 1974, as Amended

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, The Bureau of Alcohol, Tobacco and Firearms is publishing its inventory of Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the Bureau of Alcohol, Tobacco and Firearms (ATF) has completed a review of its Privacy Act systems of records notices to identify minor changes to those notices.

A purpose(s) statement has been added to the following system notices: ATF .001-Administrative Record System; ATF .002-Correspondence Record System, and ATF .007-Personnel Record System. In addition, language has been added under "storage" to ATF .001 and ATF .002-Correspondence Record System to reflect the use of electronic media.

The data elements enumerated under "categories of records" in ATF .008-Regulatory Enforcement Record System, and ATF .009-Technical and Scientific Services Record System have been updated to include additional elements which fall within the scope of the existing categories.

Under "safeguards" language has been added to each ATF system notices to reflect that records maintained in electronic format are password protected.

Other changes throughout the document are editorial in nature and

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consist principally of changes to system locations and system manager addresses.

The following system of records has been removed from ATF's inventory of Privacy Act systems: ATF .005-Freedom of Information Requests (Published December 3, 1999, at 64 FR 67966), and ATF .006-Internal Security Record System (Published December 14, 2000, at 65 FR 78261).

The systems notices are reprinted in their entirety following the Table of Contents.

Systems Covered by This Notice: This notice covers all systems of records adopted by ATF up to June 29, 2001.

Dated: August 20, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

ATF .001—Administrative Record System
ATF .002—Correspondence Record System
ATF .003—Criminal Investigation Report System
ATF .007—Personnel Record System
ATF .008—Regulatory Enforcement Record System
ATF .009—Technical and Scientific Services Record System

Bureau of Alcohol, Tobacco and Firearms (ATF)

Treasury/ATF .001

SYSTEM NAME:

Administrative Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present employees of the Bureau of ATF. (2) Former employees of the Bureau of ATF. (3) Claimants against the Bureau of ATF.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Accident Report—vehicle; (2) Fatality reports; (3) Injury reports; (4) Chief Counsel and District Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Federal Claims Collection Act. (2) Federal Property and Administration Services Act of 1949, as amended. (3) Federal Tort Claims Act. (4) Military Personnel and Civilian Claim Act. (5) Occupational Safety and Health Act of 1970. (6) Small Claims Act. (7) 5 U.S.C. 1302, 3301, 3302.

PURPOSE:

The purpose of this system is to resolve claims submitted to the Bureau of Alcohol, Tobacco and Firearms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative matter; (3) appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) unions recognized as exclusive bargaining representatives in accordance with provisions contained in the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records are also stored in electronic media.

RETRIEVABILITY:

Records are retrievable by name of individual.

SAFEGUARDS:

Direct access restricted to personnel in Department of the Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis or where "a right to access" is established, and to others upon verification of the substance and propriety of the request. Stored in lockable metal file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules Numbers 1 through 23 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms records control schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Management/Chief Financial Officer, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Requests may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

(1) Administrative records. (2) Claimants. (3) Doctors. (4) Employee records. (5) Fiscal records. (6) Former employees of the Bureau of ATF. (7) Former employers. (8) General Services Administration. (9) Individuals who have information relevant to claims. (10) Inspections records. (11) Internal Investigation reports. (12) Police reports. (13) Present employees of the Bureau of ATF. (14) Supervisors. (15) Witnesses. (16) Insurance companies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/ATF .002

SYSTEM NAME:

Correspondence Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who correspond with the Bureau requesting information relating to Bureau personnel. (2) Persons who correspond with the Bureau requesting information relating to Bureau activities. (3) Persons who correspond with the Bureau requesting rulings, interpretations, or technical and scientific matters of a general nature. (4) Persons who correspond with others and whose correspondence is referred to ATF for response. (5) Persons referred to in correspondence with the Bureau. (6) Authors and publishers of technical and scientific matters relating to Bureau activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with individuals who contact the Bureau requesting information relating to Bureau personnel and/or activities, Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 11222.

PURPOSE:

The purpose of this system is to respond to inquiries from the public and Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative, fiscal or personnel matter; (3) appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Records are also stored in electronic media.

RETRIEVABILITY:

Records are retrieved by name, subject matter and date of correspondence.

SAFEGUARDS:

Transmitted to routine users on a "need to know" basis. Stored in lockable file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 20 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Liaison and Public Information, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Requests may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Requests may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Appeals may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

Persons who correspond with the Bureau on general, technical or scientific matters.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/ATF .003

SYSTEM NAME:

Criminal Investigation Report System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Criminal offenders or alleged criminal offenders acting alone or in concert with other individuals and suspects who have been or are under investigation for a violation or suspected violation of laws enforced by the Bureau. (2) Criminal offenders or alleged criminal offenders acting alone or in concert with individuals who have been referred to the Bureau of Alcohol, Tobacco and Firearms by other law enforcement agencies, governmental units and the general public. (3) Informants. (4) Persons who come to the attention of the Bureau in the conduct of criminal investigations. (5) Persons who have been convicted of a crime punishable by imprisonment for a term exceeding one year and who have applied for relief from disabilities under Federal law with respect to the

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acquisition, receipt, transfer, shipment, or possession of firearms and explosives and whose disability was incurred by reason of such conviction. (6) Victims of crimes. (7) Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports identifiable to an individual compiled at various stages of the process of enforcement of criminal laws from arrest or indictment through release from supervision; (d) Records compiled and maintained by the Bureau as generally described in (a), (b), and (c) above including the following: (1) Abandoned property reports. (2) ATF Criminal Investigation Reports. (3) ATF referrals to foreign, Federal, state, and local law enforcement agencies. (4) Chief and Regional Counsel opinions. (5) Contemporaneous investigative notes. (6) Criminal investigatory correspondence from and to foreign, Federal, state and local law enforcement agencies. (7) Criminal intelligence information on individuals suspected to be violating ATF laws and regulations. (8) Documentary proof of defendant's criminal record, identity, or lack of registration of N.F.A. (as amended) firearm(s). (9) FBI Criminal Record Reports. (10) Fingerprints and palmprints. (11) Fugitive arrest warrants. (12) Handwriting exemplars. (13) Index cards, violation and reputation. (14) Illicit liquor and raw material surveys. (15) Laboratory reports of evidence analysis. (16) Memoranda of expected testimony of witnesses. (17) Organized crime members violating or suspected of violating ATF laws. (18) Parole and pardon reports. (19) Personal histories (address, employment, social security number, financial background, physical description, etc.). (20) Photographs. (21) Purchase of evidence records. (22) Records of electronic surveillance by ATF. (23) Records received in response to summons and subpoenas. (24) Reliefs from disability. (25) Reports of interview with witnesses. (26) Search warrants and affidavits for search warrants. (27) Seized property reports. (28) Significant criminals, armed and dangerous, firearms, explosives and liquor. (29) Special agent's daily activity diary (accessible by date only). (30) State and local law enforcement criminal investigative reports. (31) Statements of defendants. (32) Statements of witnesses. (33) Summons and subpoenas issued pursuant to criminal investigations. (34) Voice prints. (35) Wagering tax suspected violators. (36) Warning and demand letters. (37) Criminal violation reports (a formal report compiling all or portions of the foregoing for prosecutive purposes).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. Chapters 35 and 40; (2) 26 U.S.C. Chapters 51 and 52; (3) 26 U.S.C. Chapter 53, as amended; (4) 26 U.S.C. Chapters 61 through 80, as amended; (5) 27 U.S.C. Chapter 8, as amended (Federal Alcohol Administration Act); (6) 18 U.S.C. Chapter 40; (7) 18 U.S.C. Chapter 44; (8) 18 U.S.C. Chapter 59; (9) 18 U.S.C. App. 1201–1203 (Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title III of the Gun Control Act of 1968); (10) 22 U.S.C. section 414, (Mutual Security Act of 1954, as amended); (11) 5 U.S.C. sections 901 and 903, 5 U.S.C. App. (Reorganization Plan of 1950), Treasury Order 221, 5 U.S.C. section 301.

PURPOSE(S):

The purpose of this system is to suppress traffic in illicit untaxpaid distilled spirits; to enforce the Federal laws relating to the illegal possession and use of firearms, destructive devices, explosives, explosive materials; and to assist Federal, state, local and foreign law enforcement agencies in reducing crime and violence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) Employees of other government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (3) appropriate Federal, state, local and foreign agencies for the purpose of enforcing and investigating administrative, civil or criminal laws relating to the hiring or retention of an employee; issuance of security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) INTERPOL and similar criminal intelligence gathering organizations for the purpose of identifying and suppressing the activities of international and national criminals and terrorists; (6) appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) insurance companies making determinations regarding claims in cases that the Bureau has conducted or is conducting an arson investigation; (8) a congressional office in response to an inquiry of the individual to whom the record pertains; (9) unions recognized as exclusive bargaining representatives in accordance with provisions contained in the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored in electronic media.

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, unique identifier, investigation number, serial number of firearm, or a combination of any of these; plus date and geographical location of incident giving rise to investigation.

SAFEGUARDS:

Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 23 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records on tape or on-line mass storage are disposed of by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Firearms Explosive & Arson; Assistant Director, Alcohol and Tobacco; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

RECORD SOURCE CATEGORIES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(I).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (j)(2). See 31 CFR 1.36.

Treasury/ATF .007

SYSTEM NAME:

Personnel Record System-Treasury/ ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present Employees of the Bureau of ATF. (2) Former Employees of the Bureau of ATF. (3) Applicants for employment with ATF.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Allotment and Dues. (2) Annual Tax Reports. (3) Applicants for employment. (4) Applications for reassignment. (5) Awards, honors, and fellowship records. (6) Classification appeal records. (7) Death claim records. (8) Educational history. (9) Employee indebtedness records. (10) Employees qualified as Grievance Examiners. (11) Employee Suggestions. (12) Employee history. (13) Employee relations case file. (14) Equal employment opportunity records. (15) Health maintenance records. (16) Insurance records. (17) Military history. (18) Occupational injuries, disabilities, and Worker's Compensation Records. (19) Official personnel folder. (20) Outside employment and identification numbers, business or professional records. (21) Outside employment. (22) Outside financial interests. (23) Overtime and/or Premium Pay records. (24) Performance evaluation records. (25) Personal history. (26) Position description records. (27) Promotion/ Selection Certificates Records. (28) Property custody records. (29) Retirement records. (30) Records of security clearance. (31) Statement of career goals. (32) Supervisory or managerial potential records. (33) Temporary assignments and details. (34) Time application reports and records. (35) Training record. (36) U.S. Savings Bond participation records. (37) Upward mobility applications. (38) Vehicle accidents. (39) Withholding tax records. (40) Work schedule records. (41) Chief Counsel and Regional Counsel memoranda and opinions. (42) Government passport records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. Chapter 29, Subchapter II. (2) 5 U.S.C. Chapters 31 and 33. (3) 5 U.S.C. Chapter 43. (4) 5 U.S.C. Chapter 45. (5) 5 U.S.C. Chapter 51. (6) 5 U.S.C. Chapter 55, subchapter III. (7) 5 U.S.C. Chapter 61. (8) 5 U.S.C. Chapter 75. (9) 5 U.S.C. Chapter 83. (10) 5 U.S.C. Section 301; 31 C.F.R. 2.28; 5 C.F.R. 550.122, 550.183. (11) 5 U.S.C. 4503. (12) 5 U.S.C. Section 5101–5115. (13) 5 U.S.C. Section 7151–7154. (14) 5 U.S.C. Section 7901. (15) Public Law 92–261 (Equal Employment Act of 1972). (16) Public Law 93–579. (Federal Employees Compensation Act). (17) Occupational Safety and Health Act of 1970. (18) Executive Order 10561. (19) Executive Order 11222. (20) Executive Order 11478. (21) Executive Order 11491.

PURPOSE:

The purpose of this system is to provide the basic source of factual data about a person's Federal employment while in the service of the Bureau of Alcohol, Tobacco and Firearms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to:

(1) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to a personal matter; (3) appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil, or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) unions recognized as exclusive bargaining representatives in accordance with provisions contained in the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored in electronic media.

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, employee identification number, or a combination of any of these four.

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SAFEGUARDS:

Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis or where "a right to access" is established, and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 23 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Science and Technology; Assistant Director, Liaison and Public Information; and Assistant Director, Management/Chief Financial Officer, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

(1) Administrative Records. (2) Applicants for employment with the Bureau. (3) Acquaintances. (4) Business and professional associates. (5) Creditors. (6) Criminal records. (7) Educational Institutions attended. (8) Employee records. (9) Equal Employment Opportunity Commission. (10) Financial institutions. (11) Fiscal records. (12) Former employees. (13) Former employers. (14) Inspection records. (15) Internal investigation reports. (16) Internal Revenue Service. (17) Military records. (18) Outside employers. (19) Physicians. (20) Police reports. (21) Position classification specialists. (22) Psychiatrists. (23) References. (24) Supervisors. (25) Training officers. (26) Unions, accredited. (27) Office of Personnel Management. (28) Witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (k)(5). See 31 CFR 1.36.

Treasury/ATF .008

SYSTEM NAME:

Regulatory Enforcement Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. Components of this system of records are also geographically dispersed throughout ATF's district and field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been issued permits or licenses, have filed applications with ATF, or have registered with ATF including:

(a) Alcohol licensees; (b) Claimants for refund, abatement, credit, allowance or drawback of excise or special occupational taxes; (c) Federal Firearms Licenses (d) Collectors of firearms or ammunition; (e) Importers of firearms or ammunition, and (f) Users of explosive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigative material compiled for law enforcement purposes which may consist of the following: (1) Abstracts of offers in compromise. (2) Administrative law judge decisions. (3) Assessment records: (a) notices of proposed assessments. (b) notices of shortages or losses. (c) notices to IRS to assess taxes. (d) recommendation for assessments. (4) Claim records: (a) claims. (b) letters of claim rejection. (c) sample reports. (d) supporting data. (e) vouchers and schedules of payment. (5) Comments on proposed rulemakings. (6) Complaints from third parties. (7) Correspondence concerning records in this system and related matters. (8) Financial statements. (9) Inspection and investigation reports. (10) Joint demands on principals and sureties for payment of excise tax liabilities. (11) Letters of reprimand. (12) Lists of permittees and licensees. (13) Lists of officers, directors and principal stockholders. (14) Mailing lists and addressograph plates. (15) Notices of delinquent reports. (16) Offers in compromise. (17) Operation records: (a) operating reports. (b) reports of required inventories. (c) reports of thefts or losses of firearms-who maintains records. (d) reports of thefts of explosive materials-who maintains records. (e) transaction records. (f) transaction reports. (18) Orders of revocation, suspension or annulment of permits or licenses. (19) District and Chief Counsel opinions and memoranda. (20) Reports of violations. (21) Permit status records. (22) Qualifying records: (a) access authorizations. (b) advertisement records. (c) applications. (d) bonds. (e) business histories. (f) criminal records. (g) diagrams of premises. (h) educational histories. (I) employment histories. (j) environmental records. (k) financial data. (l) formula approvals. (m) label approvals. (n) licenses. (o) notices. (p) permits. (q) personal references. (r) plant profiles. (s) plant capacities. (t) plats and plans. (u) registrations. (v) sample reports. (w) signature authorities. (x) special permissions and authorizations. (y) statements of process. (23) Show cause orders. (24) Tax records: (a) control cards relating to periodic payment and prepayment of taxes. (b) excise and special tax returns. (c) notices of tax discrepancy or adjustment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. 5172. (2) 26 U.S.C. 5271(b)(1). (3) 26 U.S.C. 5356. (4) 26 U.S.C. 5401. (5) 26 U.S.C. 5417. (6) 26 U.S.C. 5502(b). (7) 26 U.S.C. 5511(3). (8) 26 U.S.C. 5521(a). (9) 26 U.S.C. 5179(a). (10) 22 U.S.C. 204(c). (11) 26 U.S.C. 5105. (12) 26 U.S.C. 5275. (13) 26 U.S.C. 5301(b). (14) 26 U.S.C. 5132. (15) 26 U.S.C. 5042(a)(2). (16) 26 U.S.C. 7011. (17) 26 U.S.C. 5712. (18) 18 U.S.C. 923(a). (19) 18 U.S.C. 923(b). (20) 18 U.S.C. 843(a). (21) 22 U.S.C. 414. (22) 26 U.S.C. 4401(a). (23) 26 U.S.C. 6001. (24) 26 U.S.C. 6011(a). (25) 26 U.S.C. 5001. (26) 26 U.S.C. 5021-5023. (27) 26 U.S.C. 5041. (28) 26 U.S.C. 5051. (29) 26 U.S.C. 6201. (30) 26 U.S.C. 5008. (31) 26 U.S.C. 5044. (32) 26 U.S.C. 5056. (33) 26 U.S.C. 5705. (34) 26 U.S.C. 6423(b). (35) 26 U.S.C. 5009(a). (36) 26 U.S.C. 5006(a). (37) 26 U.S.C. 5055. (38) 26 U.S.C. 5062(c). (39) 26 U.S.C. 5106. (40) 26 U.S.C. 5131(c). (41) 26 U.S.C. 5064. (42) 26 U.S.C. 7122. (43) 27 U.S.C. 207. (44) 18 U.S.C. 843(d). (45) 18 U.S.C. 923(f). (46) 27 U.S.C. 204(e). (47) 26 U.S.C. 5312(a). (48) 26 U.S.C. 5042(a)(3). (49) Reorganization Act of 1949, 5 U.S.C. Sections 901 et seq.; Revenue Act of 1951, Section 616; Treasury Department Order 221 (37 F.R. 11696, dated June 19, 1972). (50) 5 U.S.C. 301. (51) 26 U.S.C. 5181.

PURPOSE(S):

The purpose of this system is to determine suitability, eligibility or qualifications of individuals who are engaged or propose to engage in activities regulated by ATF; achieve compliance with laws under ATF's jurisdiction; assure full collection of revenue due from legal industries; eliminate commercial bribery, consumer deception and other improper trade practices in the distilled spirits, beer and wine industries; interact with Federal, state and local governmental agencies in the resolution of problems relating to industrial development, revenue protection, public health, ecology, and other areas of joint jurisdictional concern. When a criminal investigation results in a compilation of information contained in this system of records, the information shall be transferred to the Treasury ATF—Criminal Investigation Report System and shall become part of that system for all purposes of the Privacy Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) Employees of other governmental agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party to the extent necessary to collect or verify information pertinent to the Bureau's decision to grant, deny or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by the Bureau; (3) appropriate Federal, state, local or foreign agencies for the purpose of enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) INTERPOL and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion or crimes; (6) foreign governments in accordance with formal or informal international agreements; (7) appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (8) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in filing cabinets and in electronic media.

RETRIEVABILITY:

Records are retrievable by name, permit or license number, by document locator number, or by employer identification number (EIN).

SAFEGUARDS:

Direct access restricted to personnel in the Department of Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis and others upon verification of the substance and propriety of the request. Stored in file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 20 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Firearms Explosive & Arson; Assistant Director, Alcohol and Tobacco; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

(1) Acquaintances. (2) Bureau Personnel. (3) Business and Professional Associates. (4) Creditors. (5) Criminal Records. (6) Financial Institutions. (7) Former Employers. (8) Internal Revenue Service. (9) Military Records. (10) Physicians. (11) Psychiatrists. (12) References. (13) Police Reports. (14) Witnesses. (15) Federal Law Enforcement Agencies. (16) State Law Enforcement Agencies. (17) Local Law Enforcement Agencies. (18) State Regulatory Agencies. (19) Federal Regulatory Agencies. (20) Local Regulatory Agencies. (21) Chief Counsel's Opinions. (22) Regional Counsel's Opinions. (23) Chief Counsel's Memoranda. (24) Regional Counsel's Memoranda. (25) Field Investigation Reports. (26) Third Parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (k)(2). See 31 CFR 1.36.

Treasury/ATF .009

SYSTEM NAME:

Technical and Scientific Services Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Pennsylvania Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants to register firearms under the National Firearms Act. (2) Applicants for surplus military firearms under the Director of Civilian Marksmanship Program. (3) Importers of implements of war as defined under the Mutual Security Act of 1954 and the Arms Export Control Act of 1976. (4) Licensed importers registered under the Mutual Security Act of 1954 and the

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Arms Export Control Act of 1976. (5) Manufacturers of National Firearms Act who are exempt from payment of Special (Occupational) tax provisions. (6) Non-Bureau chemists certified to make analysis of alcoholic beverages. (7) Persons involved in explosives tagging and detection program. (8) Registered owners of National Firearms Act firearms. (9) Special (Occupational) taxpayers as defined under Title II of the Gun Control Act of 1968. (10) Victims of explosives. (11) Individuals involved in Government funded research projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Alterations of registered National Firearms Act firearms. (2) Applications for surplus military firearms. (3) Applications to register firearms and destructive devices under the National Firearms Act. (4) Applications to import articles on the United States Munitions list. (5) Blueprints. (6) Certifications of payment of Special (occupational) tax payments. (7) Changes of address for owner of firearms registered under the National Firearms Act. (8) Claims for erroneous Special (Occupational) taxes payments. (9) Descriptions of Inventions. (10) Delinquency notices regarding proof of importation of National Firearms Act Firearms. (11) Explosive reports. (12) Non-Bureau chemists' statements of qualification. (13) Patent information. (14) Registrations of firearms and destructive devices under the National Firearms Act. (15) Registration of war trophy firearms. (16) Requests and authorizations for temporary movement and/or temporary storage of National Firearms Act firearms. (17) Technical and scientific data. (18) Transaction records concerning National Firearms Act firearms. (19) Trade secrets. (20) United States Government contracts to manufacturers of National Firearms Act firearms. (21) Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 18 U.S.C. Chapter 40; (2) 18 U.S.C. Chapter 44; (3) 18 U.S.C. Section 3056; (4) 26 U.S.C. Sections 6001(a), 5001, 5008, 5009(a), 5006(a), 5021–5023, 5041, 5042(a)(2), 5051, 5053, 5056, 5062(c), 5705, 6201, 6423(b), 5105, 5106, 5131(c), 5132, 5172, 5172(b)(1), 5275, 5301(b), 5356, 5401, 5417, 5502(b), 5511(3), 5521(a), 5179(a), 5712, 7011; (5) 27 U.S.C. Sections 204(c); (6) 26 U.S.C. Chapter 35; (7) Executive Order 10973, as amended by Executive Order 11432.

PURPOSE(S):

The purpose of this system is to provide technical and scientific support and expertise to Criminal and Regulatory Enforcement activities of the Bureau; to other Federal, state, local and foreign law enforcement agencies; and to industries involved in activities regulated by the Bureau. When a criminal investigation results in a compilation of information contained in this system, the information so compiled shall be transferred to the ATF Criminal Investigation Report System and shall become a part of that system for all purposes of the Privacy Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to:

(1) Employees of other governmental agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party to the extent necessary to collect or verify information pertinent to the Bureau's decision to grant, deny or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by the Bureau; (3) appropriate Federal, state, local or foreign agencies, for the purpose of enforcing administrative, civil, criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) INTERPOL and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion or crimes; (6) foreign governments in accordance with formal or informal international agreements; (7) appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (8) insurance companies making determinations regarding claims in cases that the Bureau has conducted or is conducting in an arson investigation; (9) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders and in electronic media.

RETRIEVABILITY:

Records are retrievable by name, by unique identifier, control number, serial number of National Firearms Act firearms.

SAFEGUARDS:

Stored in file cabinets locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 20 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records stored on tape discs or on-line mass storage are disposed of by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Firearms Explosive & Arson; Assistant Director, Alcohol and Tobacco; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

See "Record access procedures" above.

RECORD SOURCE CATEGORIES:

(1) Individuals. (2) Companies. (3) Corporations. (4) Firearms Licensees. (5) Explosive Licensees. (6) Explosive Permittees. (7) Bureau personnel. (8) Federal law enforcement agencies. (9) State law enforcement agencies. (10) Local law enforcement agencies. (11) Foreign law enforcement agencies. (12) Federal Regulatory agencies. (13) State Regulatory agencies. (14) Local Regulatory agencies. (15) Non-Bureau Chemists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (k)(2). See 31 CFR 1.36.

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August 30, 2001

Part II

Commodity Futures Trading Commission

17 CFR Part 41

Securities and Exchange Commission

17 CFR Part 240

Cash Settlement and Regulatory Halt Requirements for Security Futures Products; Proposed Rule

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB86

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44743; File No. S7–15–01]

RIN 3235–AI24

Cash Settlement and Regulatory Halt Requirements for Security Futures Products

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Joint Proposed Rule.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (collectively "Commissions") are proposing new rules under the Commodity Exchange Act ("CEA") and the Securities Exchange Act of 1934 ("Exchange Act") generally to provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish a final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product. The rules proposed today would set forth more specifically how the exchange's or association's rules can satisfy the statutory provisions of the Commodity Futures Modernization Act of 2000 ("CFMA").

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments should be sent to both agencies at the addresses listed below.

CFTC: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to *secretary@cftc.gov*. Reference should be made to "Cash Settlement and Regulatory Halt Requirements for Security Futures Products."

SEC: All comments concerning the rule proposal should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7–15–01; this file number should be included on the subject line if e-mail is used. Comment letters will be available for public inspection and copying in the SEC's public reference room at the same address. Electronically submitted comment letters will be posted on the SEC's Internet web site (*http://www.sec.gov*). The SEC does not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only the information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

CFTC: Richard A. Shilts, Acting Director, at (202) 418–5275; and Thomas M. Leahy, Jr., Financial Instruments Unit Chief, at (202) 418–5278, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. E-mail: (RShilts@cftc.gov) or (TLeahy@cftc.gov).

SEC: Alton Harvey, Office Head, at (202) 942–4167; Terri Evans, Special Counsel, at (202) 942–4162; Michael Gaw, Special Counsel, at (202) 942–0158; and Cyndi Nguyen, Attorney, at (202) 942–4163, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION:

The Commissions today are requesting public comment on proposed Rule 41.1,[1] 41.25(a)(2),[2] and 41.25(b)[3] under the CEA and proposed Rule 6h–1 under the Exchange Act,[4] that generally provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish (i) a final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (ii) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product.

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I. Executive Summary

The CFMA[5] authorizes the trading of futures on individual stocks and narrow-based security indexes, and puts, calls, straddles, options, or privileges thereon (collectively, "security futures products").[6] The CFMA defines security futures products as "securities" under the Exchange Act,[7] the Securities Act of 1933,[8] the Investment Company Act of 1940,[9] and the Investment Advisers Act of 1940,[10] and as contracts of sale for future delivery of a single security or of a narrow-based security index or options thereon under the CEA.[11] Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures products provides the SEC and the CFTC with joint jurisdiction.

Under the Exchange Act, it is unlawful for any person to effect transactions in security futures products that are not listed on a national securities exchange[12] or on a national securities association registered pursuant to Section 15A(a) of the Exchange Act.[13] In addition, Section 6(h)(2) of the Exchange Act[14] provides that such an exchange or association may trade only those security futures products that conform with listing standards filed by the exchange or association with the SEC under Section 19(b) of the Exchange Act[15] and that meet certain criteria specified in Section 2(a)(1)(D)(i) of the CEA[16] and the standards and conditions enumerated in Section 6(h)(3) of the Exchange Act.[17] In particular, the CEA and the Exchange Act stipulate that the listing standards of an exchange or association trading security futures products shall, among other things, require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security or option thereon.[18] In addition, listing standards must require that the market on which the security futures product trades has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[19] The rule proposed today would set forth more specifically how the exchange's or association's rules can satisfy these statutory provisions.[20]

A. Settlement Prices for Cash-Settled Security Futures Products

In the mid-1980s, the closing-price settlement procedures used by cash-settled stock index futures and options[21] often severely strained the liquidity of the securities markets and raised concerns that such liquidity constraints could provide opportunities for manipulative or abusive trading practices. Consequently, markets trading the most actively traded futures contracts and many stock index option contracts moved to opening-price settlement procedures. To avert similar liquidity constraints and to minimize opportunities for manipulative and abusive trading practices, the Commissions preliminarily believe that cash-settled security futures products should be required to use opening-price settlement procedures. Moreover, the Commissions preliminarily believe that opening-price settlement procedures are consistent with the provisions of Section 2(a)(1)(D)(i)(VII) of the CEA[22] and Section 6(h)(3)(H) of the Exchange Act,[23] because they would permit a national securities exchange or a national securities association registered pursuant to Section 15A(a) of the Exchange Act[24] to trade only security futures products that conform to listing standards that, among other things, require that trading in a security futures product not be readily susceptible to manipulation of the price of such product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.[25] Accordingly, proposed SEC Rule 6h–1(b) and CFTC Rule 41.25(b)(1) would require that the final settlement price of a cash-settled security futures product based on a single security fairly reflect the opening price of the underlying security. Similarly, proposed SEC Rule 6h–1(c) and CFTC Rule 41.25(b)(2) would require that the final settlement price of a cash-settled security futures product based on a narrow-based security index fairly reflect the opening prices in the index's underlying

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[1] Proposed 17 CFR 41.1, hereinafter referred to as proposed CFTC Rule 41.1.

[2] Proposed 17 CFR 41.25(a)(2), hereinafter referred to as proposed CFTC Rule 41.25(a)(2).

[3] Proposed 17 CFR 41.25(b), hereinafter referred to as proposed CFTC Rule 41.25(b).

[4] Proposed 17 CFR 240.6h–1, hereinafter referred to as proposed SEC Rule 6h–1.

[5] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[6] However, no person may offer to enter into, enter into, or confirm the execution of any option on a security future for at least three years after the enactment of the CFMA. *See* Section 2(a)(1)(D)(iii) of the CEA, 7 U.S.C. 2(a)(1)(D)(iii); Section 6(h)(6) of the Exchange Act, 15 U.S.C. 78f(h)(6).

[7] *See* Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

[8] *See* Section 2(a)(1) of the Securities Act of 1933, 15 U.S.C. 77b(a)(1).

[9] *See* Section 2(a)(36) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(36).

[10] *See* Section 202(a)(18) of the Investment Advisers Act of 1940, 15 U.S.C. 80b–2(a)(18).

[11] *See* Section 1a(31) of the CEA, 7 U.S.C. 1a(31).

[12] Section 6(g) of the Exchange Act, 15 U.S.C. 78f(g), allows a designated contract market under Section 5 of the CEA, 7 U.S.C. 7, or a registered derivatives transaction execution facility under Section 5a of the CEA, 7 U.S.C. 7a, to register as a national securities exchange solely for the purpose of trading security futures products ("Security Futures Product Exchange"). *See* Securities Exchange Act Release No. 44692 (August 13, 2001), 66 FR 43721 (August 20, 2001) (adopting, in part, requirements for designated contract markets and registered derivatives transaction execution facilities to register as national securities exchanges). By definition, the phrase "national securities exchange" encompasses these notice-registered entities. For simplicity, this rulemaking will refer to national securities exchanges and national securities associations. But it should be noted that the CFTC's rules govern designated contract markets and registered derivatives transaction execution facilities, and therefore, the rule proposed today by the CFTC contains language that differs from the rest of this proposed rulemaking.

[13] U.S.C. 78o–3(a). *See* Section 6(h)(1) of the Exchange Act, 15 U.S.C. 78f(h)(1). It should be noted that in an earlier release, the SEC stated its belief that Section 6(h)(1) is designed to ensure that a regulated national securities exchange or national securities association establish terms for security futures products and standards for the selection of underlying securities, consistent with the Exchange Act's listing standard requirements. *See* Securities Exchange Act Release No. 44434 (June 15, 2001), 66 FR 33283 (June 21, 2001) (order approving the Options Clearing Corporation's ("OCC") proposed rule change allowing it to clear transactions in security futures products effected on any national securities exchange or association registered under Section 6(a) or 15A(a) of the Exchange Act or any designated contract market that is registered as a national securities exchange under Section 6(g) of the Exchange Act). Further, the SEC stated its belief that, as long as the security futures products satisfy these requirements and the coordinated surveillance and trading halt protections in Section 6(h)(5), they need not be cleared by OCC or any other specific clearing organization. *Id.*

[14] 15 U.S.C. 78f(h)(2).

[15] 15 U.S.C. 78s(b).

[16] 7 U.S.C. 2(a)(1)(D)(i).

[17] 15 U.S.C. 78f(h)(3).

[18] *See* Section 2(a)(1)(D)(i)(VII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII); Section 6(h)(3)(H) of the Exchange Act, 15 U.S.C. 78f(h)(3)(H).

[19] *See* Section 2(a)(1)(D)(i)(X) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(X); Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K).

[20] Section 9(b) of the Exchange Act states in part that "[i]t shall be unlawful for any person to effect, by use of any facility of a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors (1) any transaction in connection with any security whereby any party to such transaction acquires * * * any security futures product on the security; or (2) any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any * * * such security futures product; or (3) any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any * * * such security futures product with relation to such security." 15 U.S.C. 78i(b). In addition, Section 9(h)(1) of the Exchange Act states that "[i]t shall be unlawful for any person * * * to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof." The SEC believes that the proposed rule is necessary in the public interest, for the protection of investors, and the maintenance of fair and orderly markets.

[21] Index products are cash-settled, not physically settled.

[22] 7 U.S.C. 2(a)(1)(D)(i)(VII).

[23] 15 U.S.C. 78f(h)(3)(H).

[24] 15 U.S.C. 78o–3(a).

[25] *See* proposed SEC Rule 6h–1(f) and proposed CFTC Rule 41.25(b)(3), and *infra* discussion at Section II.B, Settlement Prices for Cash-Settled Security Futures Products.

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securities. The Commissions also are proposing that they may grant exemptions to national securities exchanges or national securities associations from such requirements.

B. Regulatory Halts

The securities markets have long-established procedures that require cross-market trading halts in an equity security, related equity securities, and related options whenever the market trading and listing the equity security ("listing market") imposes a regulatory halt in that security.[26] The most common type of regulatory halt is one that prevents trading in an equity security for a short time (usually less than an hour) while material news about the security's issuer is disseminated to investors. The markets coordinate cross-market "news pending" regulatory halts to promote investor protection and fair and orderly markets.[27]

The Commissions believe, therefore, that it would be appropriate for news pending cross-market halt procedures to apply to security futures products. The Commissions also believe that the application of these procedures to security futures products is necessary to satisfy the provisions of Section 2(a)(1)(D)(i)(X) of the CEA[28] and Section 6(h)(3)(K) of the Exchange Act,[29] which permit a national securities exchange or a national securities association registered pursuant to Section 15A(a) of the Exchange Act[30] to trade only security futures products that conform to listing standards that, among other things, require procedures to "coordinate" trading halts between the listing market for the underlying security and other markets that trade the underlying security or any related security. The definition of "regulatory halt" set forth in proposed SEC Rule 6h–1(a)(3) and CFTC Rule 41.1(l) would include a delay, halt, or suspension of trading of a security by the listing market as a result of pending news.[31] Proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would require that trading on a security futures product based on a single security be halted at all times that such a news pending regulatory halt has been instituted by the listing market for the underlying security.

The other type of regulatory halt currently used by the securities markets involves "circuit breaker" procedures.[32] Since October 1988, the stock, options, and index futures markets have had in place circuit breaker procedures that would impose brief cross-market trading halts at predetermined thresholds during a severe market decline. The coordinated cross-market trading halts provided by circuit breaker procedures are designed to operate only during significant market declines and to substitute orderly, pre-planned halts for the *ad hoc* and destabilizing halts that can occur when market liquidity is exhausted. The circuit breakers also protect investors and the markets by providing opportunities for markets and market participants to assess market conditions and potential systemic stress during a historic market decline.[33] In approving the original circuit breakers proposed by the securities markets, the SEC noted that the circuit breakers were not an attempt to prevent markets from reaching new price levels, but an effort by the securities and futures markets to arrive at a coordinated means to address potentially destabilizing market volatility of the severity of the October 1987 market break.[34]

For these same reasons, the Commissions believe that it is important to require the application of cross-market circuit breaker regulatory halt procedures to security futures products. Moreover, the Commissions believe that such a requirement is necessary to satisfy the requirements of Section 2(a)(1)(D)(i)(X) of the CEA[35] and Section 6(h)(3)(K) of the Exchange Act.[36] If cross-market circuit breaker regulatory halt procedures were not applied to the security futures products, such a failure would undermine the use of a trading halt in the underlying securities. The definition of "regulatory halt" set forth in proposed SEC Rule 6h–1(a)(3) and CFTC Rule 41.1(l), therefore, would include a delay, halt, or suspension of trading of a security by the listing market as a result of the operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on the listing market. Proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would require that trading on a security futures product based on a single security be halted at all times that such a circuit breaker regulatory halt has been instituted by the listing market for the underlying security.

Index futures and options also have been subject to the markets' circuit breaker procedures since their adoption in 1988.[37] In view of the broad-based indexes underlying current futures and options, however, these products generally have not been subject to news pending regulatory halts in the underlying securities. Nevertheless, the Commissions believe that, under some circumstances, trading should be halted in a security futures product based on a narrow-based security index when a substantial portion of the underlying securities is halted due to circuit breaker or news pending regulatory halts. Proposed SEC Rule 6h–1(e) and CFTC Rule 41.25(a)(2)(ii), therefore, would require that trading on a security futures product based on a narrow-based security index be halted at all times that news pending or circuit breaker regulatory halts have been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.[38]

II. Discussion of Proposed Rulemaking

Before a national securities exchange or national securities association lists or trades security futures products, it is required to file, pursuant to Section 19(b) of the Exchange Act,[39] a proposed rule change with the SEC establishing listing standards that comply with Section 6(h)(3) of the Exchange Act.[40] Generally, a national securities exchange registered under Section 6(a) of the Exchange Act[41] or a national securities association registered under Section 15A(a) of the Exchange Act[42] must file proposed rule changes with the SEC pursuant to Section 19(b)(1) of the Exchange Act[43] for notice, comment, and SEC approval, prior to implementation, unless the rule is otherwise permitted to become effective pursuant to Section 19(b)(3) of the Exchange Act.[44] A Security Futures Product Exchange[45] or a national securities association registered under Section 15A(k) of the Exchange Act[46] must generally submit, pursuant to Section 19(b)(7) of the Exchange Act,[47] proposed rule changes relating to certain enumerated matters, including listing standards.

A. Staff Interpretive Guidance

Section 2(a)(1)(D)(i) of the CEA and Section 6(h)(3) of the Exchange Act enumerate the standards and conditions that these listing standards must meet.[48] The rule being proposed today would identify certain requirements that the Commissions believe are necessary to satisfy these provisions. Because national securities exchanges and national securities associations may desire to begin trading security futures products prior to the Commissions taking final action on the proposed rule, the SEC staff believes that a proposed rule change filed by a national securities exchange registered under Section 6(a) of the Exchange Act[49] or a national securities association registered pursuant to Section 15A(a) of the Exchange Act[50] regarding listing standards for security futures products would satisfy, in part, the criteria enumerated in Section 6(h)(3)(H) and (K) of the Exchange Act[51] if such listing standards conformed to the proposed rule. Therefore, until such time as the SEC acts on proposed SEC Rule 6h–1, if those proposed listing standards are consistent with proposed SEC Rule 6h–1, the SEC staff would recommend to the SEC that it approve proposed rules to establish listing standards filed by national securities exchanges and national securities associations and would not recommend to the SEC that it abrogate proposed rules to establish listing standards filed by Security Futures Product Exchanges.[52] If, after receiving comment on their proposal, the Commissions determine to adopt a rule that is different from that proposed today, or to not adopt a rule, exchanges and associations would be free, or may be required, to propose changes to their listing standards.

B. Settlement Prices for Cash-Settled Security Futures Products

1. Prior Problems With Closing-Price Settlement Procedures

All currently traded index futures and options are cash-settled. When stock index futures and options began trading in the mid-1980s, virtually all of these products used closing-price settlement procedures. Closing-price settlement procedures in index futures and options generally base the index settlement price on the execution prices from the last regular session trades in the underlying securities. The cash settlement provisions of stock index futures and options contracts facilitated the growth of sizeable index arbitrage activities by firms and professional traders and made it relatively easy for arbitrageurs to buy or sell the underlying stocks at or near the market close on expiration Fridays[53] in order to "unwind" arbitrage-related positions. Because of cash settlement, the amount of cash received by an arbitrageur by selling long positions (or the amount of cash paid out to buy or cover short positions) in underlying stocks at the close on expiration Friday would exactly match the amount of cash that would have to be paid out to cover short positions (or received from the sale of long positions) in the expiring index futures or options.

These types of unwinding programs at the close on expiration Fridays often severely strained the liquidity of the securities markets. Because unwinding programs sometimes consisted of large sell (or buy) orders in individual securities, the securities markets often found it extremely difficult to solicit sufficient buy or sell interest to absorb the expiration-related programs within the limited time permitted to establish closing prices shortly after 4:00 p.m. (Eastern). It was not uncommon, therefore, for stock specialists to have to drop share prices sharply at the close to establish sufficient buy-side interest to draw in matching buy orders or to raise prices sharply at the close to establish sufficient sell-side interest to draw in matching sell orders.[54] The time constraints faced by specialists to establish closing prices that would reflect an equilibrium between buy and sell interest resulted in sharp price movements in the indexes underlying the futures or options. In addition, regulators and self-regulators were concerned that the liquidity constraints faced by the securities markets to accommodate expiration-related buy or sell programs at the market close on expiration Fridays could exacerbate ongoing market swings during an expiration and could provide opportunities for entities to anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.[55]

To reduce such expiration-related strains on market liquidity, the Chicago Mercantile Exchange ("CME") in 1987 switched from closing-price settlement procedures to opening-price settlement procedures for certain stock index futures. The CME's products included

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[26] Cross-market halts are not required for non-regulatory halts, such as when one market halts trading because of an imbalance of buy and sell orders in a particular security or when trading is disrupted on one market due to a problem in its systems or on its trading floor.

[27] *See, e.g., infra* note and accompanying text.

[28] 7 U.S.C. 2(a)(1)(D)(i)(X).

[29] 15 U.S.C. 78f(h)(3)(K).

[30] 15 U.S.C. 78*o*–3(a).

[31] Under the proposed rule, a pending news regulatory halt includes halts that are the result of a determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue. *See* proposed SEC Rule 6h–1(a)(3) and proposed CFTC Rule 41.1(l).

[32] *See infra* notes 77 and 78 and accompanying text.

[33] *See* Circuit Breaker Report by the Staff of the President's Working Group on Financial Markets dated August 18, 1998 ("Circuit Breaker Report").

[34] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988).

[35] 7 U.S.C. 2(a)(1)(D)(i)(X).

[36] 15 U.S.C. 78f(h)(3)(K).

[37] *See* Circuit Breaker Report, *supra* note.

[38] For a further discussion of the 30 percent threshold, *see infra* discussion at Section II.C.2(b), Trading Halt Coordination in Narrow-Based Security Index Futures.

[39] 15 U.S.C. 78s(b).

[40] 15 U.S.C. 78f(h)(3).

[41] 15 U.S.C. 78f(a).

[42] 15 U.S.C. 78*o*–3(a).

[43] 15 U.S.C. 78s(b)(1).

[44] 15 U.S.C. 78s(b)(3).

[45] *See supra* note 12.

[46] 15 U.S.C. 78*o*–3(k).

[47] 15 U.S.C. 78s(b)(7).

[48] Section 2(a)(1)(D)(i) of the CEA, 7 U.S.C. 2(a)(1)(D)(i); Section 6(h)(3) of the Exchange Act, 15 U.S.C. 78f(h)(3).

[49] 15 U.S.C. 78f(a).

[50] 15 U.S.C. 78*o*–3(a).

[51] 15 U.S.C. 78f(h)(3)(H) and (K).

[52] *See supra* note 12.

[53] The term "expiration Fridays" refers to the third Friday of each month that marks the expiration date for that month's individual stock options, stock index options, and stock index futures contracts. On the expiration date, options and futures contracts cease to exist. Some stock index futures and options expire on a quarterly basis, with their expiration Friday occurring on the third Friday of the last month of the quarter (March, June, September, and December).

[54] Steep discounts (premiums) were necessary in part because traders who bought (sold) stocks to offset unwinding programs had to maintain their newly acquired long (short) positions over the weekend—during which time, they were subject to considerable market risk

[55] The liquidity constraints faced by the securities markets due to unwinding programs used in closing-price settlement procedures were discussed by the SEC staff in its report on the market decline on November 15, 1991. *See* SEC Division of Market Regulation, *Trading Analysis of November 15, 1991* (October 1992) ("*Trading Analysis of November 15, 1991*"). With respect to concerns regarding manipulation, the Commissions note that the Intermarket Surveillance Group ("ISG") was created under the auspices of the SEC in 1981 as a forum to ensure that national securities exchanges and national securities associations adequately share surveillance information and coordinate inquiries and investigations designed to address potential intermarket manipulations and trading abuses. All national securities exchanges and national securities associations are full members of the ISG. Full members routinely share a great deal of surveillance and investigatory information, and the SEC believes that this framework has proven to be an essential mechanism to ensure that there is adequate information sharing and investigatory coordination for potential intermarket manipulations and trading abuses.

Since 1987, several futures exchanges and non-U.S. exchanges and associations have been affiliate members of the ISG. Affiliate members are required to share information on a more limited basis with the ISG. To fulfill the requirement of the CEA and Exchange Act that listing standards of exchanges and associations trading security futures products "require procedures be in place for coordinated surveillance among the markets on which the security futures product is traded, any market on which the security underlying the security futures product is traded, and any other markets on which any related security is traded to detect manipulation and insider trading," the Commissions believe that it is essential that all such exchanges and associations be full members of the ISG. In view of the essential role that the ISG plays, the Commissions also believe that the ISG should grant full memberships to all national securities exchanges and national securities associations registered pursuant to Section 15A(a) of the Exchange Act trading securities futures products, including Security Futures Product Exchanges, upon a good-faith showing that the entities meet the criteria for full membership.

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the industry's most actively traded index futures contract, which was based on the Standard & Poor's 500 Stock Index ("SPX Futures").[56] Because SPX Futures were employed in the vast majority of index arbitrage trading programs at that time, the adoption of opening-price settlement procedures for these contracts had a significant effect on unwinding programs in the securities markets on SPX Futures' quarterly expirations.

Most other market participants began moving to opening-price settlement procedures for stock index options contracts. For example, the New York Stock Exchange ("NYSE") and the Chicago Board Options Exchange ("CBOE") implemented opening-price settlement procedures for certain index options in 1987.[57] Other exchanges adopted similar procedure[58] for some of their index options.[59] Exchanges also incorporated opening-price settlement requirements as part of their listing criteria for index options.[60]

Opening-price settlement procedures offered several features that facilitated the ability of the securities markets to handle expiration-related unwinding programs. For example, the NYSE was able to use its existing electronic order-routing systems and electronic specialist books to process and match incoming unwinding stock orders before the opening of the regular trading session at 9:30 a.m. (Eastern). Specialists could then utilize long-standing procedures to disseminate price indications in an orderly manner before index component stocks opened for trading. Moreover, smaller price discounts or premiums were needed to draw in orders to offset unwinding programs because traders who entered the offsetting orders understood that they would have the remainder of the trading session to trade out of any long or short positions acquired at the opening. As a result, it appears that the widespread adoption of opening-price settlement procedures in index futures and options has served to mitigate the liquidity strains that had previously been experienced in the securities markets on expirations.

2. Requirements for Security Futures Products Using Cash Settlement

In view of the experience gained with settlements in cash-settled stock index futures and options in the 1980s and in light of the potential for manipulation of the underlying securities markets, the Commissions preliminarily believe that it would be prudent, at the outset of trading in these products, to require exchanges specifying cash settlement in lieu of physical delivery for security futures products to use a final settlement price that fairly reflects the opening price of the underlying security or securities as the basis for cash settling positions at contract expiration.[61]

a. Single-Stock Futures

Proposed SEC Rule 6h-1(b) and CFTC Rule 41.25(b)(1) would require that the final settlement price of a cash-settled security futures product based on a single security fairly reflect the opening price of the underlying security.[62] While the emphasis in the proposed rule is on cash settlements based on the opening price(s), the Commissions' proposal would leave national securities exchanges and national securities associations trading security futures products with some flexibility in adopting rules that determine how the opening price is defined for this purpose. For example, under the proposed rule, a national securities exchange or national securities association could define the opening price for a single-stock future as the trade-weighted average price of the underlying security during the first few minutes of trading of a regular trading session. Alternatively, the opening price for a security futures product could be defined as the price reported for the first trade in that security at the beginning of the regular trading session.

Proposed SEC Rule 6h-1(b) and CFTC Rule 41.25(b)(1) also would require that, if an opening price for an underlying security is not readily available, the final settlement price of the overlying cash-settled security futures product must fairly reflect the price of the underlying security during its most recent regular trading session. The Commissions believe that, if the opening price for the underlying security is not readily available, a price derived from the most recent regular trading session of that security would be an appropriate substitute.[63] Again, the Commissions' proposal would provide national securities exchanges and national securities associations with some discretion to implement this general rule without dictating how the settlement price for a security futures product is derived. For example, while one national securities exchange or national securities association may decide to establish rules that would use the closing price from the most recent regular trading session if an opening price for a security underlying a security futures product is not readily available, another exchange or association could establish rules that would use a trade-weighted average over some portion of that session in such circumstances.

The Commissions do not believe at present that national securities exchanges and national securities associations should trade security futures products that settle at prices established by other than the most recent regular trading session. The Commissions believe that the final settlement price for a cash-settled single-stock future should reasonably reflect the opening price of the underlying security or, if that is not readily available, a price fairly reflective of the price in a liquid market for the underlying security. The Commissions believe that a price derived from the regular trading session of the national securities exchange or national securities association that lists the underlying security would have the greatest likelihood of reflecting the most reasonable price for that security, unlike a price generated from an extended trading hours session.

b. Narrow-Based Security Index Futures

Proposed SEC Rule 6h-1(c) and CFTC Rule 41.25(b)(2) would require, absent an exemption, national securities exchanges and national securities associations to establish that the final settlement price of a cash-settled narrow-based security index future reflect the opening prices of the underlying securities. As with single-stock futures, the Commissions are proposing that, if prices for one or more underlying securities were not readily available, the settlement prices for those securities would be derived from their most recent regular trading session. For the securities that did open normally, the settlement prices would be their respective opening prices.

c. Exemption

Proposed paragraph (f) of SEC Rule 6h-1 and paragraph (b)(3) of CFTC Rule 41.25 would permit the Commissions to grant a national securities exchange or national securities association an exemption from the above requirements.[64] The SEC would grant such an exception, either conditionally or unconditionally, if it were necessary or appropriate in the public interest, and consistent with the protection of investors.[65] The CFTC would grant such an exemption if the CFTC determines that it would be consistent with the public interest, the protection of investors, and otherwise furthers the provisions of the CEA.[66]

d. Request for Comments Relating to Final Settlement Prices

The Commissions welcome comment on all aspects of the proposed rule as they relate to final settlement prices for cash-settled security futures products, including the following matters:

Q1. Commenters are requested to submit their views on whether cash-settled security futures products should be permitted to trade with closing-price settlement procedures. If so, commenters are asked to provide policy arguments in support of their views.

Q2. If commenters believe that cash-settled security futures products should be permitted to settle at the closing price, what characteristics of security futures products would justify a determination that the liquidity pressures on the underlying securities market, associated with closing-price settlement procedures in index futures, would not present opportunities for manipulative activities in security futures products and their underlying securities?

Q3. Are there any additional safeguards that would be appropriate for security futures product cash settlement procedures to ensure that the anti-manipulation mandates in Section 2(a)(1)(D)(i)(VII) of the CEA and Section 6(h)(3)(H) of the Exchange Act are satisfied?

Q4. Would any additional safeguards for cash settlement procedures for security futures products be appropriate to promote the maintenance of fair and orderly markets under the Exchange Act?

Q5. In view of the use of opening-price settlement procedures in most actively traded index futures, what characteristics of security futures products and the manner in which they trade would indicate that opening-price settlement procedures would be inappropriate or unworkable for security futures products?

Q6. Should the proposed rule provide national securities exchanges or national securities associations any additional flexibility to determine settlement prices when the regular session opening prices are not readily available in one or more of the underlying securities?

Q7. Should the proposed rule require the use of only closing prices from the most recent trading session when regular session opening prices are not readily available in one or more of the underlying securities?

C. Regulatory Halts

1. Background

Generally, there are two types of regulatory halts used in the equity and options markets: news pending halts and circuit breaker halts. News pending halts are designed to protect the interests of current and potential shareholders by facilitating the orderly dissemination of potentially market moving information and the discovery of fair and reasonable prices for securities based on new information. A news pending halt benefits current and potential shareholders by halting all trading in the securities until there has been an opportunity for the information to be disseminated to the public. It also helps to ensure public confidence in the market and promotes the integrity of the marketplace by giving the public an opportunity to evaluate information in making investment decisions. Circuit breakers are brief, coordinated cross-market trading halts used by the major stock, options, and index futures markets to mitigate systemic stress when a severe one-day market drop of historic proportions prevents the financial markets from operating in an orderly manner.[67]

a. News Pending Halts

Currently, national securities exchanges and national securities associations may impose brief trading halts in specific securities pending the release of material information that would reasonably be expected to affect the prices of those securities.[68] Trading

[56] The New York Futures Exchange also shifted its stock index futures to opening-price settlement procedures in 1987.

[57] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992); *see, e.g.*, Securities Exchange Act Release No. 24367 (April 17, 1987), 52 FR 13890 (April 27, 1987) (approving CBOE proposal to list an option on an index that settled based on the opening prices of component securities); Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (approving CBOE proposal to, among other things, phase out all index options on the Standard & Poor's 500 Stock Index using closing-price settlement procedures); Securities Exchange Act Release No. 24276 (March 27, 1987), 52 FR 10836 (April 3, 1987) (permitting NYSE to base settlement on opening prices for options on two indices); Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23474 (June 22, 1988) (approving NYSE proposal to, among other things, provide for opening-price settlement of stock index options).

[58] *See, e.g.*, Securities Exchange Act Release No. 26653 (March 21, 1989), 54 FR 12705 (March 28, 1989) (approving the American Stock Exchange's ("Amex") proposal for options on an index using settlement based on opening prices); Securities Exchange Release No. 31330 (October 16, 1992), 57 FR 48408 (October 23, 1992) (approving Amex's proposal to, among other things, phase out certain options where the settlement value upon expiration is based on the closing prices of component securities); Securities Exchange Act Release No. 36236 (September 14, 1995), 60 FR 49031 (September 21, 1995) (approving Pacific Stock Exchange ("PCX") proposal to revise the terms of certain options contracts from closing-price settlement to opening-price settlement); Securities Exchange Act Release No. 35131 (December 20, 1994), 59 FR 66990 (December 28, 1994) (giving immediate effectiveness to a Philadelphia Stock Exchange's ("Phlx") proposal regarding options on an index using settlements based on opening prices and satisfying generic listing criteria).

[59] Some index options, such as CBOE's options contracts based on the Standard & Poor's 100 Stock Index ("OEX options") retained closing-price settlement procedures. CBOE believed that these settlement procedures were appropriate for OEX options because these contracts were used primarily by retail investors and were not actively used in the types of index arbitrage unwinding programs that had strained the liquidity of the securities market at the close on expirations.

[60] *See* Amex Rule 901C, Commentary .02(c) (listing requirements for stock industry index groups pursuant to SEC Rule 19b-4(e)); CBOE Rule 24.2(b)(1) (listing criteria for narrow-based security index options under SEC Rule 19b-4(e)); PCX Rule 7.3(b)(1) (listing criteria for narrow-based security index options); Phlx Rule 1009A(b)(1) (listing criteria for narrow-based security index options pursuant to SEC Rule 19b-4(e)); *see also* Commentary to Phlx Rule 1000A(b)(8) ("For any series of index options first opened after March 30, 1987, the Exchange may, in its discretion, provide that the calculation of the final index settlement value of any index on which options are traded at the Exchange will be determined by reference to the prices of the constituent stocks at a time other than the close of trading on the last trading day before expiration").

[61] *See* proposed SEC Rule 6h-1(b) and (c) and proposed CFTC Rule 41.25(b).

[62] Proposed SEC Rule 6h-1(a)(1) and CFTC Rule 41.1(j) would define "opening price" as the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security. Proposed SEC Rule 6h-1(a)(2) and CFTC Rule 41.1(k) would define the "regular trading session" of a security as the normal hours for business of a national securities exchange or national securities association that lists the security.

[63] Although proposed SEC Rule 6h-1(b) and (c) and CFTC Rule 41.25(b)(1) and (b)(2) would not define when an opening price would not be "readily available," national securities exchanges and national securities associations would have to establish, as part of their listing standards, rules that interpret this term. The Commissions' overriding concern is that settlement prices for cash-settled security futures products be established in a fair and predictable manner.

[64] *See* proposed SEC Rule 6h-1(f), and proposed CFTC Rule 41.25(b)(3).

[65] *See* Section 36 of the Exchange Act, 15 U.S.C. 78mm. In granting the SEC broad exemptive authority in Section 36, Congress intended to incorporate flexibility into the Exchange Act regulatory scheme to reflect a rapidly changing marketplace. *See* H.R. Rep. No. 104–622 (1996).

[66] Section 8a(5) of the CEA allows the CFTC to make and promulgate such rules and regulations as, in the judgment of the CFTC, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. 7 U.S.C. 12a(5). The CFTC believes that granting an exemption to the use of opening prices for cash settlement is consistent with Section 8a(5) of the CEA, so long as the exemption is consistent with the public interest, the protection of investors, and otherwise furthers the provisions of the CEA.

[67] *See* Circuit Breaker Report, *supra* note 33.

[68] *See, e.g.*, Amex, Listing Standards, Policies and Requirements, Section 402(b); Boston Stock Exchange ("BSE") Rules of the Board of Governors, Supplement to Chapter XXVII, Section 4; National

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halts give investors an opportunity to learn of and react to material news. The NYSE and Amex, for example, follow procedures for regulatory halts contained in the Consolidated Tape Association Plan ("CTA Plan").[69] Under the CTA Plan, a regulatory halt occurs whenever the listing market (termed the "primary market") for any eligible security, in the exercise of its regulatory functions, halts or suspends trading in the security because the primary market has determined (i) that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or (ii) that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue.[70] The Commissions preliminarily believe that it may be appropriate to include this definition of a news pending regulatory halt under the proposed rule[71] because the exchanges already have experience in applying the requirement. When a regulatory trading halt is initiated by the primary market for a security, the regional exchanges and Nasdaq Intermarket also halt trading in the security, and the options exchanges halt trading in related options. The options exchanges also halt trading in an equity option when the underlying security has ceased trading.[72]

The options markets also have in place rules regarding trading halts on index options.[73] Several of the options markets will halt trading when, for example, a certain fixed percentage of the index halts trading or when it is appropriate in the interests of a fair and orderly market and to protect investors. For example, trading on the PCX in any index option is halted whenever trading in underlying securities whose weighted value represents more than 20 percent of the value of a broad-based index or 10 percent of the value of other indices is halted.[74]

b. Circuit Breaker Halts

The Commissions approved various exchanges' circuit breaker proposals in response to the October 1987 market break to permit these brief, coordinated cross-market halts to provide opportunities during a severe market decline to reestablish an equilibrium between buying and selling interests in an orderly fashion, and help to ensure that market participants have a reasonable opportunity to become aware of, and respond to, significant price movements.[75] The coordinated cross-market trading halts provided by circuit breaker procedures are designed to operate only during significant market declines and to substitute orderly, pre-planned halts for the *ad hoc* and destabilizing halts which can occur when market liquidity is exhausted.[76] Currently, all stock exchanges and the NASD have rules or policies to implement coordinated circuit breaker halts.[77] The options markets also have rules applying circuit breakers.[78] Finally, the index futures exchanges have adopted circuit breaker halt procedures in conjunction with their price limit rules[79] for index products.[80]

The current circuit breaker procedures call for cross-market trading halts when the Dow Jones Industrial Average ("DJIA") declines by 10 percent, 20 percent, and 30 percent from the previous day's closing value. At the beginning of each quarter, the markets use the average closing value of the DJIA for the previous month to establish specific point-decline triggers for the quarter.[81] Specifically, a one-hour cross-market halt will be implemented if the DJIA declines by 10 percent prior to 2 p.m., and a one-half hour halt will be implemented if the DJIA declines by 10 percent between 2 p.m. and 2:30 p.m.[82] If the DJIA declines by 10 percent at or after 2:30 p.m., trading generally will not halt when the 10 percent level is reached. If the DJIA declines 20 percent prior to 1 p.m., trading will halt for two hours; trading will halt for one hour if the DJIA declines 20 percent between 1 p.m. and 2 p.m.; and trading will halt for the remainder of the day if a 20 percent decline occurs at or after 2 p.m. If the DJIA declines 30 percent at any time, trading will halt for the remainder of the day.

2. Trading Halt Coordination in Security Futures Products

As discussed above, Section 2(a)(1)(D)(i)(X) of the CEA[83] and Section 6(h)(3)(K) of the Exchange Act[84] provide that listing standards for security futures products must require procedures to "coordinate" trading halts between the market that trades the security futures product, the market that lists and trades the underlying security, and other markets on which any related security is traded. Proposed SEC Rule 6h–1 and CFTC Rule 41.25(a)(2) would help assure such coordination, as well as preserve the investor protection and market integrity provisions of regulatory halt procedures in the securities markets.

a. Trading Halt Coordination in Single-Stock Futures

Specifically, proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would require national securities exchanges and national securities associations to halt trading in a single-stock future while a regulatory halt has been implemented by the listing market for the underlying security.[85]The halt in the security futures product market would have to occur during the same time as a regulatory halt instituted on the listing market. Thus, if the listing market halted trading in a security for 30 minutes, the security futures product market could not institute a halt and then reopen trading in the security futures product after two minutes. The Commissions believe that the purpose of halting trading in the underlying security would be frustrated if market participants could circumvent this halt by trading during the halt in the related security futures product.[86]

b. Trading Halt Coordination in Narrow-Based Security Index Futures

Proposed SEC Rule 6h–1(e) and CFTC Rule 41.25(a)(2)(ii) would also require national securities exchanges and national securities associations to halt trading under certain circumstances in a security futures product based on a narrow-based security index. Although broad-based security indices have large numbers of component securities, so that it is extremely unlikely that news pending regulatory halts would be imposed simultaneously in securities representing a significant portion of any index, this may not be the case with all narrow-based security indexes. Accordingly, the proposal would require trading to be halted in a narrow-based security index futures product when securities representing 30 percent or more of the market capitalization of the narrow-based security index[87]are subject to a regulatory halt.[88]

The Commissions do not believe that trading of a security futures product based on a narrow-based security index should necessarily be halted because a trading halt has been instituted for only one, low-weighted component security. However, regulatory halts of components could affect a sufficiently large portion of an index to make continued trading of the security futures product a means to improperly circumvent regulatory halts in the underlying securities. For example, if a security futures product is based on a narrow-based security index consisting of two stocks and regulatory halts have been imposed by the listing market in one of the component stocks for pending news, the halt would be undermined if trading continued in the security futures product, because the security represents a substantial portion of the index value. Under these circumstances, the Commissions do not believe that trading halt procedures would be coordinated, as contemplated by Sectiou 2(a)(1)(D)(i)(X) of the CEA[89] and Section 6(h)(3)(K) of the Exchange Act,[90] if the security futures product continued to trade while investors were precluded from trading the underlying securities. Moreover, the SEC believes that continued trading in the security futures product under these circumstances could undercut key provisions in the securities laws designed to protect investors and promote the fair and orderly operation of the markets.

The Commissions preliminarily believe that the 30 percent threshold is appropriate because it appears to be sufficiently large to avoid imposing trading halts in security futures products unnecessarily when halts have been implemented in a few isolated underlying securities. In addition, the Commissions believe that the proposed 30 percent threshold is consistent with the definition of "narrow-based security index" under the CEA and the Exchange Act.[91] In general, indexes in which a component security is more than 30 percent of an index's weighting are considered narrow-based and, therefore, futures on such indexes are "securities." This 30 percent threshold represents, in part, a determination by Congress as to when an index becomes so highly concentrated in one security that trading in a future on that index becomes a surrogate for trading in the underlying security. For this reason, the Commissions preliminarily believe that when trading is halted in a component security or securities of an index that represent 30 percent or more of that index's weighting, trading should also be halted in the futures overlying that index.

c. Request for Comments Relating to Trading Halts

The Commissions welcome comment on all aspects of the proposed rule as it relates to trading halts for security futures products, including the following matters:

Q8. Do commenters believe that there are circumstances in which permitting a single stock futures product to trade while the underlying security is subject to a regulatory halt in the listing market would be consistent with the mandate

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Association of Securities Dealers ("NASD") Rule 4120; and NYSE Listed Company Manual, Sections 202.06 and 202.07.

[69] *See* Securities Exchange Act Release No. 41315 (April 20, 199), 64 FR 23142 (April 29, 1999) (noting that the NYSE follows the CTA Plan when instituting a regulatory halt); and Securities Exchange Act Release No. 41877 (September 14, 1999), 64 FR 51566 (September 23, 1999) (noting that Amex follows the CTA Plan when instituting a regulatory halt); *see also* CTA Plan (Second Restatement), Section XI(a). The CTA Plan is a joint industry plan that governs the consolidated transaction reporting system, and each of the participants agrees to comply with the provisions of the plan. Recognizing the importance of disseminating information with respect to trading halts in certain securities, the CTA Plan imposes notification obligations upon the primary market whenever a regulatory halt occurs.

[70] *See* CTA Plan (Second Restatement), Section XI(a). For example, an event that may qualify under this standard and call for a regulatory halt is when it is unclear whether a security continues to meet the listing standards of the market on which the security is listed.

[71] *See* proposed SEC Rule 6h–1(a)(3) and proposed CFTC Rule 41.1(1).

[72] The rules of the options exchanges generally provide for halts in options whenever it is appropriate in the interests of a far and orderly market and to protect investors. *See* Amex Rule 918(b); CBOE Rule 6.3(a) and .04 of the Interpretations and Policies of CBOE Rule 6.3; International Securities Exchange ("ISE") Rule 702; PCX Rule 6.6S(a); and Phlx Rule 1047(b).

[73] *See* Amex Rule 918C(b)(3); CBOE Rule 24.7; PCX Rule 7.11; and Phlx Rule 1047A(c).

[74] *See* PCX Rule 7.11. Similarly, under Phlx Rule 1047A(c), trading in any index option may be halted whenever trading on the primary market in underlying securities representing more than 10 percent of the current index value is halted or suspended, and there is approval from two floor officials and the concurrence of a market regulation officer. *See* Phlx Rule 1047A(c).

[75] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (Amex, CBOE, NASD, NYSE).

[76] *See* Circuit Breaker Report, *supro* note 33.

[77] *See* Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (order approving proposals by Amex, BSE, Chicago Stock Exchange ("CHX"), NASD, NYSE, and Phlx). *See also* Amex Rule 117; BSE, Rules of the Board of Governors, Section 34A; CHX Rule 10A; Cincinnati Stock Exchange ("CSE") Rule 12.11; NYSE Rule 80B; PCX Rule 4.22 (a), (b), and (c); and Phlx Rule 133. CSE Rule 12.11 gives the chairman or the president of the CSE the power to suspend trading whenever he or she believes that such suspension would be in the public interest, which has been interpreted as requiring the CSE, as a matter of policy, to halt trading in all equities traded on the CSE in conjunction with halted trading at all other U.S. equity and equity-related markets. *See* Securities Exchange Act Release No. 26440 (January 10, 1989), 54 FR 1830 (January 17, 1989). The NASD also recognizes the risks imposed on any single market that remains open while all other U.S. markets have halted trading in response to extraordinary price movements, and maintains a market closing policy to halt, upon SEC request, all domestic trading in both securities listed on the Nasdaq Stock Market and all equity and equity-related securities trading in the over-the-counter market should other major securities markets initiate market-wide trading halts in response to extraordinary market conditions. *See* NASD Rule 4120; NASD IM–4120–4. The SEC notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the NYSE and other equity markets have suspended trading. *See* Securities Exchange Act Release No. 39582 (January 26, 1998), 63 FR 5408 (February 2, 1998).

[78] *See* Amex Rule 950 (applying Amex Rule 117, Trading Halts Due to Extraordinary Market Volatility, to options transactions); CBOE Rule 6.3B; ISE Rule 703; PCX Rule 4.22 (which applies to options contracts through Rules 6.1(a) and (e)); and Phlx Rule 133.

[79] A price limit, in itself, does not halt trading in the futures, but prohibits trading at prices below the pre-set limit during a price decline. Intraday price limits are removed at pre-set times during the trading session, such as ten minutes after the thresholds are reached or at 3:30 p.m., whichever is earlier. Daily price limits remain in effect for the entire trading session. Specific price limits are set for each stock index futures contract. There are no price limits for U.S. stock index options, equity options, or stocks.

[80] *See, e.g.*, CME Rule 4002.I. The CME will implement a circuit breaker trading halt in SPX Futures if the 10 percent circuit breaker halt has been imposed in the securities markets and the futures are "locked" at their 10 percent price limit. Trading will not reopen in SPX Futures until the circuit breaker halt has been lifted in the securities markets and trading has resumed in stocks comprising at least 50 percent of the index capitalization. The CME will implement another circuit breaker trading halt in SPX Futures if the 20 percent circuit breaker halt has been imposed in the securities markets and the futures are locked at their 20 percent price limit. Once again, trading will not reopen in SPX Futures until the circuit breaker halt has been lifted in the securities markets and trading has resumed in stocks comprising at least 50 percent of the index capitalization.

[81] *See* Circuit Breaker Report, *supro* note , p. 2.

[82] *See, e.g.*, NYSE Rule 80b.

[83] 7 U.S.C. 2(a)(1)(D)(i)(X).

[84] 15 U.S.C. 78f(h)(3)(K).

[85] Proposed SEC Rule 6h–1(a)(3) and CFTC Rule 41.1(l) would define "regulatory halt" as a delay, halt, or suspension in the trading of a security that is instituted by the national securities exchange or national securities association that lists the security, as a result of: (i) pending news, or (ii) the operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

[86] The trading halt provisions of proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would not be exclusive. The proposed rule is not designed to preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[87] The Commissions jointly proposed rules to establish the method of determining the market capitalization of a narrow-based security index. *See* Securities Exchange Act Release No. 44288 (May 10, 2001), 66 FR 27560 (May 17, 2001).

[88] As with proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i), the trading halt provisions of proposed SEC Rule 6h–1(e) and CFTC Rule 41.25(a)(2)(ii) would not be exclusive. The proposed rule is not designed to preclude a market trading security futures products based on narrow-based security indexes from halting trading at a threshold of less than 30% of the market capitalization of the index or for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[89] 7 U.S.C. 2(a)(1)(D)(i)(X).

[90] 15 U.S.C. 78f(h)(3)(K).

[91] *See* Section 3(a)(55) of the Exchange Act, 15 U.S.C. 78c(a)(55), and Section 1a(25) of the CEA, 7 U.S.C. 1a(25). The Commissions jointly proposed rules to establish the method of determining the market capitalization of a narrow-based security index. *See supra* note 87.

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in Section 2(a)(1)(D)(i)(X) of the CEA [92] and Section 6(h)(3)(K) of the Exchange Act,[93] requiring a national securities exchange or national securities association on which security futures products trade to have procedures to coordinate trading halts with the listing market of the underlying security?

Q9.If a regulatory halt is in place for securities representing 30 percent or more of a narrow-based security index's capitalization, do commenters believe that there are circumstances in which permitting a security futures product based on such an index to trade would be consistent with the mandate in Section 2(a)(1)(D)(i)(X) of the CEA [94] and Section 6(h)(3)(K) of the Exchange Act,[95] requiring a national securities exchange or national securities association on which security futures products trade to have procedures to coordinate trading halts with the listing market of the underlying security? Do commenters recommend using a higher or lower threshold percentage of an index's capitalization before an index future must halt trading?

Q10. If so, would trading halts in securities representing a larger percentage of the index capitalization warrant a halt in the overlying narrow-based security index future? For example, would halts in underlying securities representing 50 percent [96] of the index capitalization warrant a halt in trading the narrow-based security index future?

Q11. If continued trading in security futures products were permitted even if halts had been instituted for most or all of the underlying securities, would this put additional price pressure on the underlying security or securities when reopenings are attempted after the halts were lifted? How would this promote the maintenance of fair and orderly markets under the Exchange Act?

Q12. Is the proposed definition of "regulatory halt" sufficient to address all instances in which trading in security futures products should halt when trading is unavailable in the underlying security?

Q13. Do commenters believe that the Commissions should apply a standard, other than a percentage threshold of an index's capitalization, in determining whether a trading halt is appropriate for a narrow-based security index?

[92] 7 U.S.C. 2(a)(1)(D)(i)(X).

[93] 15 U.S.C. 78f(h)(3)(K).

[94] 7 U.S.C. 2(a)(1)(D)(i)(X).

[95] 15 U.S.C. 78f(h)(3)(K).

[96] The Commissions note that, following a circuit breaker trading halt in SPX Futures on the CME, trading would not reopen until the circuit breaker halt has been lifted in the securities markets, and trading has resumed in stocks comprising at least 50 percent of the index capitalization. *See supra* note 80.

III. Request for Comments

The Commissions solicit comments on all aspects of proposed CFTC Rule 41.25(a)(2) and 41.25(b) under the CEA and proposed SEC Rule 6h–1 under the Exchange Act. In addition to the questions posed above, commenters are welcome to offer their views on any other matter raised by the proposed rule.

IV. Paperwork Reduction Act

CFTC: The Paperwork Reduction Act ("PRA") of 1995 (44 U.S.C. 3501 *et seq.*) imposes certain requirements on federal agencies (including the CFTC) in connection with their conducting or sponsoring any collection of information as defined by the PRA. This proposed rulemaking contains information collection requirements within the meaning of the PRA. The CFTC has submitted a copy of this part to the Office of Management and Budget ("OMB") for its review in accordance with 44 U.S.C. 3507(d).

Collection of Information: Part 41, Relating to Security Futures Products, OMB Control Number 3038–XXXX.

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number. The CFTC is currently requesting a control number for this information collection from OMB.

As noted above, the CFMA lifted the ban on trading single stock and narrow-based stock index futures and established a framework for the joint regulation of these products by the CFTC and the SEC. In addition, the CFMA amended the CEA and the Exchange Act by adding a definition of "narrow-based security index," which establishes an objective test of whether a security index is narrow-based.[97] Futures contracts on security indexes that meet the statutory definition are jointly regulated by the CFTC and the SEC. Futures contracts on indexes that do not meet the statutory definition remain under the sole jurisdiction of the CFTC.

The effect of proposed CFTC Rule 41.25(a)(2) and 41.25(b) will be to increase the burden previously submitted to OMB by 68 hours resulting from the preparation of materials to be filed with the CFTC in connection with the listing of security futures products by designated contract markets and registered derivatives transaction execution facilities.

[97] *See* Section 1a(25)(A) of the CEA, 7 U.S.C. 1a(25)(A); Section 3(a)(55)(B) of the Exchange Act, 15 U.S.C. 77c(a)(55)(B).

The estimated burden of proposed CFTC Rule 41.25(a)(2) and 41.25(b) was calculated as follows:

Estimated number of respondents: 17.
Total annual responses: 850.
Estimated average number of hours per response: .08.
Estimated total number of hours of annual burden: 68.

This annual reporting burden represents an increase of 68 hours as a result of the proposed new rule.

It should be noted that proposed CFTC Rule 41.25(a)(2) and 41.25(b) is part of a larger proposed rulemaking that will require designated contract markets and registered derivatives transaction execution facilities to certify that they meet the listing standards criteria of part 41. Specifically, proposed CFTC Rule 41.23 will require that before these boards of trade list a new security futures product for trading, they certify that they comply with a number of listing standards set forth in proposed CFTC Rule 41.22, as well as the additional conditions for trading set forth in proposed CFTC Rule 41.25. In a previous notice of proposed rules, the CFTC estimated that the burden of each submission under proposed CFTC Rule 41.23 would be approximately one (1) hour. The extra burden imposed on designated contract markets and registered derivatives transaction execution facilities in certifying that they meet the criteria of proposed CFTC Rule 41.25(a)(2) and 41.25(b) should be minimal, since this certification will be a part of a larger certification. Nevertheless, the CFTC estimates that the additional burden imposed by this rule will create a burden of no more than .08 hours (approximately five (5) minutes) per response.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The CFTC considers comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the CFTC, including whether the information will have a practical use;
- Evaluating the accuracy of the CFTC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the CFTC on the proposed regulation. Copies of the information collection submission to OMB are available from the CFTC from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

SEC: Certain provisions of the proposed rule contain "collection of information requirements" within the meaning of the PRA.[98] Accordingly, the SEC submitted the collection of information requirements to the OMB for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The SEC is revising the collection of information titled "Rule 19b–4 and Form 19b–4," OMB Control No. 3235–0045. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Exchange Act, as amended by the CFMA, provides that a national securities exchange or national securities association may trade security futures products only if the listing standards for such products conform with the requirements set forth in Section 6(h)(3) of the Exchange Act.[99] These listing standards must, among other things, require that: (1) trading in security futures products not be readily susceptible to price manipulation,[100] and (2) the exchange or association on which the security futures product is traded has in place procedures to coordinate trading halts with the market listing the security or securities underlying the security futures product.[101] To further these statutory mandates, the SEC is proposing SEC Rule 6h–1, which would provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish: (1) A final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities rather than the closing price, on the grounds that settlement based on the closing price creates greater volatility and more opportunity for price manipulation; and (2) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product.

The SEC anticipates that national securities exchanges and national securities associations that wish to trade security futures products would file with the SEC proposed rule changes, pursuant to Section 19(b) of the Exchange Act,[102] to establish listing standards that are consistent with the requirements set forth in Section 6(h)(3) of the Exchange Act.[103] The SEC would review the proposed rule changes submitted by national securities exchanges and national securities associations in the manner prescribed by Section 19(b) of the Exchange Act.[104] In addition, the SEC would publish these proposed rule changes to afford the public an opportunity to comment on the listing standards adopted by exchanges and associations with respect to security futures products. The SEC estimates that there would be 17 respondents to the proposed rule: 9 currently registered national securities exchanges, 1 national securities association (the NASD) that operates a securities market (Nasdaq), and an estimated 7 futures markets that are expected to register as Security Futures Product Exchanges. The information collected pursuant to proposed SEC Rule 6h–1 would not be kept confidential and would be publicly available.

The SEC estimates the paperwork burden for each respondent, to comply with proposed SEC Rule 6h–1 would be 10 hours of legal work at $128/hour,[105] for a total cost of $1280 per respondent. The SEC estimates that the total burden on all respondents would be 170 hours (10 hours/response × 17 respondents × 1 response/respondent), for a total cost of $21,760 ($1280/response × 17 respondents × 1 response/respondent). These burdens would be incurred on a one-time basis and would not recur.

As set forth in SEC Rule 17a–1,[106] a national securities exchange or national securities association is required to retain records of the collection of information for at least five years, the first two years in an easily accessible place. However, Rule 17a–1 requires a Security Futures Product Exchange to retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[107]

Pursuant to 44 U.S.C. 3506(c)(2)(B), the SEC solicits comments to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information would have practical utility;

(2) Evaluate the accuracy of the SEC's estimate of the burden of the proposed collections of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements proposed above should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (2) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–0609, with reference to File No. S7–15–01.

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The SEC has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the SEC

[98] 44 U.S.C. 3501 *et seq.*

[99] 15 U.S.C. 78f(h)(3).

[100] *See* 15 U.S.C. 78f(h)(3)(H).

[101] *See* 15 U.S.C. 78f(b)(3)(K).

[102] 15 U.S.C. 78s(b).

[103] 15 U.S.C. 78f(h)(3).

[104] 15 U.S.C. 78s(b).

[105] The estimated rate of $128 per hour is derived from the SIA Management and Professional Earnings, Table 107 (Attorney, New York), and includes a 35 percent differential for bonus, overhead, and other expenses.

[106] 17 CFR 240.17a–1.

[107] *See* 15 U.S.C. 78q(b)(4)(B).

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with regard to these collections of information should be in writing, refer to File No. S7–15–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 5th Street, NW, Washington, DC 20549.

V. Costs and Benefits of the Proposed Rulemaking

CFTC: Section 15 of the CEA requires the CFTC to consider the costs and benefits of its action before issuing a new regulation.[108] The CFTC understands that, by its terms, section 15 does not require the CFTC to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Nor does it require that each proposed rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, section 15 simply requires the CFTC to "consider the costs and benefits" of its action.

Section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the CFTC could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rule constitutes one part of a package of related rule provisions. The rule provides guidance and establishes procedures for trading facilities in order to facilitate compliance with governing laws related to security futures products.

The CFTC has considered the costs and benefits of the proposed rule as a totality, in light of the specific areas of concern identified in section 15. The proposed rule should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets or on the risk management practices of trading facilities or others. The proposed rule also should have no material effect on the protection of market participants and the public and should not impact the efficiency and competition of the markets.

Accordingly, the CFTC has determined to propose the rule discussed above. The CFTC invites public comment on the application of the cost-benefit provision of section 15 of the CEA in regard to the proposed rule. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposed rule.

SEC: The CFMA [109] authorizes the trading of futures on individual stocks and narrow-based security indexes, and puts, calls, straddles, options, or privileges thereon (collectively, "security futures products").[110] The CFMA requires, among other things, that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security or option thereon.[111] In addition, listing standards must require that the market on which the security futures product trades has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[112]

Accordingly, the SEC is proposing new SEC Rule 6h–1 under the Exchange Act generally to provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish (1) a final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (2) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product.[113]

Specifically, proposed SEC Rule 6h–1(a) would provide the definitions of the terms "opening price," "regular trading session," and "regulatory halt." [114] Proposed SEC Rule 6h–1(b) would require that the settlement price of a cash-settled security futures product based on a single security fairly reflect the opening price of the underlying security.[115] Similarly, proposed SEC Rule 6h–1(c) would require that the settlement price of a cash-settled security futures product based on a narrow-based security index fairly reflect the opening prices in the index's underlying securities.[116] Furthermore, the SEC is proposing SEC Rule 6h–1(d) to require that trading on a security futures product based on a single security be halted at all times that a regulatory halt has been instituted by the listing market due to pending news or the operation of circuit breaker procedures for the underlying security.[117] Likewise, proposed SEC Rule 6h–1(e) would require that trading of a security futures product based on a narrow-based security index be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.[118]

The SEC is considering the costs and benefits of proposed SEC Rule 6h–1 and requests comment on all aspects of this cost-benefit analysis, including identification of additional costs or benefits of the proposed rule. The SEC encourages commenters to identify, discuss, analyze, and supply relevant data concerning the proposed rule.

A. Benefits of Proposed SEC Rule 6h–1 Under the Exchange Act

Proposed SEC Rule 6h–1(a) would define the terms "opening price," "regular trading session," and "regulatory halt," and, therefore, the SEC preliminarily believes that there would be no costs imposed on the respondents arising from proposed SEC Rule 6h–1(a). However, in providing the definitions of the relevant terms, the SEC preliminarily believes that proposed SEC Rule 6h–1(a) should benefit respondents by providing legal certainty to respondents when complying with the rule.

The SEC also preliminarily believes that the provisions for cash-settled security futures products under proposed SEC Rule 6h–1(b) and (c) is necessary to minimize opportunities for intermarket manipulations and to promote the fair and orderly operation

[108] 7 U.S.C. 19.

[109] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[110] However, no person may offer to enter into, enter into, or confirm the execution of any option on a security future for at least three years after the enactment of the CFMA. *See* Section 2(a)(1)(D)(iii) of the CEA, 7 U.S.C. 2(a)(1)(D)(iii); Section 6(h)(6) of the Exchange Act, 15 U.S.C. 78f(h)(6).

[111] *See* Section 2(a)(1)(D)(i)(VII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII); Section 6(h)(3)(H) of the Exchange Act, 15 U.S.C. 78f(h)(3)(H).

[112] *See* Section 2(a)(1)(D)(i)(X) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(X); Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K).

[113] Proposed SEC Rule 6h–1.

[114] Proposed SEC Rule 6h–1(a).

[115] Proposed SEC Rule 6h–1(b).

[116] Proposed SEC Rule 6h–1(c).

[117] Proposed SEC Rule 6h–1(d).

[118] Proposed SEC Rule 6h–1(e).

of the securities markets. In particular, opening-price settlement procedures appear to be necessary to satisfy the provisions of Section 2(a)(1)(D)(i)(VII) of the CEA [119] and Section 6(h)(3)(H) of the Exchange Act [120] that listing standards for security futures products must require that trading in a security futures product not be readily susceptible to manipulation of the price of such product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.

Furthermore, the SEC preliminarily believes that using opening-price settlement procedures should avoid the problems caused by arbitrageurs unwinding large arbitrage-related positions at the market close on expiration Fridays that would severely strain the liquidity of the securities markets. Closing-price settlement procedures often made it extremely difficult for the securities markets to solicit sufficient buy or sell interest to match up with the expiration-related programs that often created buy or sell imbalances within the limited time permitted to establish closing prices shortly after 4:00 p.m. (Eastern). Therefore, it was not uncommon for stock specialists to drop share prices sharply at the close in order to provide sufficient discounts to draw in matching buy orders or raise prices sharply at the close to provide sufficient premiums to draw in matching sell orders. Furthermore, closing-price settlement procedures imposed time constraints on specialists to establish closing prices that would result in an equilibrium between buy and sell interest, which in turn produced sharp price movements in the indexes underlying the index futures or options contracts. In addition, the SEC preliminarily believes that the liquidity constraints associated with expiration-related buy or sell programs at the close on expiration Fridays would aggravate ongoing market swings during an expiration and provide opportunities for entities to anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.[121]

The SEC preliminarily believes that proposed SEC Rule 6h–1(b) and (c), which require opening-price settlement procedures for cash-settled security futures products, should facilitate the ability of the securities markets to handle expiration-related unwinding programs and should mitigate the liquidity strains that had previously been experienced in the securities markets on expirations. It is likely that smaller price discounts or premiums will be needed to draw in orders to offset unwinding programs since traders who enter the offsetting orders will have the remainder of the trading session to trade out of any long or short positions acquired at the opening.

Furthermore, the SEC preliminarily believes that the language of the proposed rule will provide national securities exchanges and national securities associations with flexibility in establishing the procedures for determining the opening price at which to settle for a particular security futures product. For instance, a national securities exchange or a national securities association would be free to define the opening price as a trade-weighted average price of the underlying security during the first few minutes of trading of a regular trading session or the price reported for the first trade in the underlying security at the beginning of the regular trading session. In addition, proposed SEC Rule 6h–1(b) and (c) also would require that, if an opening price for an underlying security is not readily available, the settlement price of the overlying cash-settled security futures product or the cash-settled narrow-based security index future must fairly reflect the price of the underlying security or securities during its most recent regular trading session. Again, the proposal would provide national securities exchanges and national securities associations with some discretion to implement this general rule without dictating how the settlement price is derived for a security futures product.

Further, the SEC believes that the exemption provided for in proposed SEC Rule 6h–1(f), which allows the SEC to provide exemptions from this section,[122] would provide national securities exchanges and national securities associations with sufficient flexibility to use a price outside of the opening price for cash settled security futures products. Accordingly, proposed SEC Rule 6h–1(f) would benefit national securities exchanges and national securities associations by providing them with flexibility in responding to changing market conditions, as well as provide the SEC with continued oversight over the respondents by granting an exemption when it is necessary or appropriate in the public interest and is consistent with the protection of investors.

Proposed SEC Rule 6h–1(d) and (e) would require trading to be halted on security futures products at all times that a regulatory halt has been instituted for the underlying security or for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index. The proposal would help preserve the investor protection and market integrity provisions of regulatory halt procedures in the securities markets. The SEC preliminarily believes that the close relationship between the underlying security or securities and the pricing of the overlying security futures product generally justifies a regulatory halt of the security futures product at all times that a regulatory halt has been instituted for the underlying security or securities.[123]

With respect to regulatory halts due to pending news, proposed SEC Rule 6h–1(d) and (e) would benefit current and potential shareholders by providing an opportunity for material information about the underlying security or securities to be disseminated to the public. Pending news development may have a significant effect on trading, and the SEC believes that all investors should have an opportunity to learn of and react to material information in order to make informed investment judgments.[124] Accordingly, such news pending regulatory halts would foster public confidence in the market and promote the integrity of the market place. Furthermore, the SEC preliminarily believes that requiring an exchange or association to halt trading on a security futures product at all times that a regulatory halt has been instituted for the underlying security or securities should contribute to the maintenance of an efficient market.

[119] 7 U.S.C. 2(a)(1)(D)(i)(VII).

[120] 15 U.S.C. 78f(h)(3)(H).

[121] The liquidity constraints faced by the securities markets due to unwinding programs used in closing-price settlement procedures were discussed by the SEC staff in its report on the market decline on November 15, 1991. *See Trading Analysis of November 15, 1991, supra* note 55.

[122] The SEC may grant an exemption, either unconditionally or on specified terms and conditions, from using an opening price settlement for cash settled security futures products if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors. *See* Section 36 of the Exchange Act, 15 U.S.C. 78mm.

[123] The trading halt provisions of proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would not be exclusive. The proposed rule is not designed to preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[124] *See* Securities Exchange Act Release No. 32890 (September 14, 1993), 58 FR 48916 (September 20, 1993).

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In addition, the SEC preliminarily believes that instituting a regulatory halt in the trading of security futures product due to the operation of circuit breakers would further protect investors and the markets by mitigating potential systemic stress during a historic market decline and allow for the reestablishment of an equilibrium between buying and selling interests in an orderly fashion. The SEC generally believes that pre-determined, coordinated, cross-market operations of circuit breakers would effectively address market declines that threaten to result in ad hoc and potentially destabilizing market closings. The SEC preliminarily believes that the circuit breakers levels are sufficiently broad enough to be triggered only on rare occasions and represent a reasonable means to protect the nation's financial markets and participants from rapid market declines.[125] Circuit breaker procedures would also help to ensure that market participants had a reasonable opportunity to become aware of, and respond to, significant price movements.

With respect to narrow-based security indexes, the SEC believes that trading should necessarily be halted when a trading halt has been instituted for a sufficiently large portion of an index in order to prevent continued trading of the security futures product from becoming a means to improperly circumvent regulatory halts in the underlying securities. If trading in only one component security is halted, continued trading in a security index future in which such a security represents a substantial portion of the index value could also undermine the trading halt in the underlying security. The SEC preliminarily believes that trading halt procedures also would not be coordinated, as contemplated by Section 2(a)(1)(D)(i)(X) of the CEA[126] and Section 6(h)(3)(K) of the Exchange Act,[127] if the security futures product continued to trade while investors were precluded from trading some or all of the underlying securities. Moreover, the SEC preliminarily believes that continued trading in the security futures product under these circumstances would undercut key provisions in the securities laws designed to protect investors and promote the fair and orderly operation of the markets. Accordingly, the SEC believes that a general practice whereby trading is halted for the security futures product when investors lack access to current pricing information in the primary market for the underlying security should contribute to the maintenance of fair and orderly markets. Therefore, proposed SEC Rule 6h–1(e) would require a trading halt in the security futures product overlying the index when trading is halted in a component security or securities of an index that represents 30 percent or more of the index's weighting. Moreover, the SEC believes that this coordination of trading halts, as contemplated by proposed SEC Rule 6h–1(d) and (e), would generally benefit investors and the market by providing less opportunity for abuse and manipulation.

Proposed SEC Rule 6h–1(d) and (e) also would further increase investor confidence in the stability of the markets by assuring investors and the public that the national securities exchanges and national securities associations trading security futures product are reasonably equipped to handle market demand and pending material news.

Furthermore, in order to be effective, circuit breakers have to be coordinated across stock, stock index futures, and options markets in order to prevent intermarket problems of the kind experienced in October 1987.[128] Since the markets currently coordinate regulatory halts between the listing market for the underlying security and other markets that trade the underlying security or any related security in order to promote investor protection and fair and orderly markets, proposed SEC Rule 6h–1(d) and (e) would help ensure such coordination and effectiveness through the use of regulatory halts in the markets trading security futures products.

The SEC also preliminarily believes that the proposed rule will provide all market participants a clear guideline of when regulatory halts are to be observed for trading in the security futures products.

[125] *See* Securities Exchange Act Release No. 27370 (October 23, 1989), 54 FR 43881 (October 27, 1989).

[126] 7 U.S.C. 2(e)(1)(D)(i)(X).

[127] 15 U.S.C. 78f(h)(3)(K).

[128] In response to the events of October 19, 1987, when the Dow Jones Industrial Average ("DJIA") sustained a one-day decline of 508 points (22.6%), the nation's securities and futures markets in 1988 adopted rules that provide for coordinated, cross-market trading halts in all equity and equity-derivative markets following specified declines in the DJIA. *See* Circuit Breaker Report, *supra* note. *See also* Securities Exchange Act Release No. 38080 (December 23, 1996), 61 FR 69126 (December 31, 1996) (citing the SEC's desire to have coordinated mechanisms across these markets to deal with potential volatility that may develop during periods of extreme downward volatility).

B. Costs of Proposed SEC Rule 6h–1 under the Exchange Act

The SEC estimates that there would be 17 respondents to the proposed rule: 9 currently registered national securities exchanges, 1 national securities association (the NASD) that operates a securities market (Nasdaq), and an estimated 7 futures markets that are expected to register as Security Futures Product Exchanges.

National securities exchanges and national securities associations may file proposed rule changes pursuant to Section 19(b) of the Exchange Act[129] to implement proposed SEC Rule 6h–1.[130] However, the SEC notes that even in the absence of proposed SEC Rule 6h–1, pursuant to the CFMA, to trade security futures products, each of the respondents would have to file one or more proposed rule changes to adopt listing standards for security futures products.

Under Rule 17a–1 of the Exchange Act,[131] a national securities exchange or national securities association is required to retain records of the collection of information for at least 5 years, with the first 2 years in an easily accessible place. However, Rule 17a–1 requires a Security Futures Product Exchange to retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[132] As discussed above, the SEC also does not believe that the collection of information required by proposed SEC Rule 6h–1 would result in any additional clerical work or miscellaneous clerical expenses since these clerical burdens would be incurred even in the absence of proposed SEC Rule 6h–1[133] and are actually due to the statutory requirement. The SEC preliminarily believes that respondents would not incur any additional capital or start-up costs, nor any additional operational or maintenance costs to comply with the collection of information requirements under proposed SEC Rule 6h–1.[134]

In addition, proposed SEC Rule 6h–1 would require respondents that chose to trade these products to develop a system for determining the settlement price of a cash-settled security futures product

[129] 15 U.S.C. 78s(b).

[130] The SEC has adopted Rule 19b–7, which would direct Security Futures Product Exchanges to file proposed rule changes on Form 19b–7. *See* Securities Exchange Act Release No. 44692, *supra* note 12.

[131] 17 CFR 240.17a–1.

[132] *See* 15 U.S.C. 78q(b)(4)(B).

[133] *See* Paperwork Reduction Act discussion at Section IV.

[134] *Id.*

to fairly reflect the opening price of the underlying security. However, because respondents to the proposed rule currently have systems in place to determine opening prices, the SEC preliminarily believes that respondents complying with the settlement provisions of proposed SEC Rule 6h–1 would only incur minimal operational or maintenance costs to reconfigure their current settlement procedures to fairly reflect the opening price of the underlying security.

Finally, the SEC preliminarily believes that national securities exchanges and national securities associations would incur operational costs in developing a system to monitor when other markets have instituted a regulatory halt for an underlying security of the security futures product in order to comply with proposed SEC Rule 6h–1(b) and (c). However, the SEC notes that 9 of the estimated 17 respondents are already required to provide notification of regulatory halts since they are participants of the Consolidated Tape Association Plan ("CTA Plan")[135] and thus, should already have systems in place to monitor each other of regulatory halts being instituted. The SEC also estimates that each of the remaining respondents will have to develop a similar system to monitor when regulatory halts have been instituted by the primary market of the underlying security. The SEC requests comments on the number of respondents who will actually have to develop a monitoring and notification system and the estimated costs in developing such a system.

C. Request for Comments

The SEC requests data to quantify the costs and benefits above. The SEC seeks estimates of these costs and benefits, as well as any costs and benefits not already described, which may result from the adoption of this proposed rule.

The SEC requests comment on the estimate of the number of respondents that would be affected by proposed SEC Rule 6h–1 and the costs and benefits associated with complying with the proposed rule. The SEC specifically requests comments on the operational and maintenance costs associated with the proposal and whether these costs would be significant. Commenters should provide analysis and empirical data to support their views on the costs and benefits associated with the proposal.

[135] The CTA Plan is a joint Industry plan that governs the consolidated transaction reporting system. Parties to the CTA Plan are as follows: the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc. *See* CTA Plan (Second Restatement), Section III (a).

VI. Consideration of the Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

SEC: Section 3(f) of the Exchange Act[136] requires the SEC, whenever it is engaged in rulemaking, and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Exchange Act[137] requires the SEC, when promulgating rules under the Exchange Act, to consider the impact any such rules would have on competition. Section 23(a)(2) of the Exchange Act further provides that the SEC may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The SEC has considered the proposed rule in light of the standards set forth in Sections 3(f) and 23(a)(2) of the Exchange Act.[138]

A. Settlement Prices for Cash-Settled Security Futures Products

1. Effects on Competition

Proposed SEC Rule 6h–1(b) and (c) would require national securities exchanges and national securities associations that trade security futures products to trade cash-settled security futures products only if the final settlement price for each cash-settled security futures products fairly reflects the opening price for the underlying security or securities. If adopted, the proposal may affect competition, as national securities exchanges and national securities associations would not be able to choose between using opening prices and closing prices for settlement of cash-settled security futures products. However, as discussed above, the SEC preliminarily believes that the benefits to be gained by such restriction justify any potential costs, and that any such restriction is appropriate in furtherance of the purposes of the Exchange Act, particularly the purpose of reducing market volatility and the opportunities for market manipulation. The SEC solicits comment on the impact on competition of the proposed rule regarding settlement prices for cash-settled security futures products.

2. Effects on Efficiency and Capital Formation

The SEC preliminarily believes that, as addressed above, the proposal regarding settlement prices for cash-settled security futures products would reduce market volatility and opportunities for market manipulation of security futures products and would ultimately improve efficiency and capital formation by strengthening investors' confidence in the market for these products. Commenters are invited to submit comments on the effect of the proposed rule regarding settlement prices for cash-settled security futures products on efficiency and capital formation.

B. Trading Halts for Security Futures Products

1. Effects on Competition

The SEC acknowledges that the proposed rule establishing a criteria for trading halts for security futures products could impose a burden on competition, because national securities exchanges and national securities associations that trade a security futures product would not be permitted to act as a surrogate market for an underlying security or securities when such security or securities are subject to a regulatory halt on the listing market. However, as discussed more fully above, the SEC preliminarily believes that any burden on competition as a result of a trading halt is appropriate in furtherance of the purposes of the Exchange Act. The SEC solicits comment on the impact on competition of the proposed rule regarding trading halts for security futures products.

2. Effects on Efficiency and Capital Formation

The SEC preliminarily believes that the proposal regarding trading halts for security futures products, which would require national securities exchanges and national securities associations to halt trading in security futures products when trading is halted in the underlying security or securities, will ultimately improve efficiency and capital formation by creating a fairer and more orderly marketplace. Commenters are invited to submit comments on the effect of the proposed rule regarding trading halts for security futures products on efficiency and capital formation.

[136] 15 U.S.C. 78c(f).

[137] 15 U.S.C. 78w(a)(2).

[138] 15 U.S.C. 78c(f) and 78w(a)(2). The CFTC is not required to evaluate proposed rules under these standards.

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For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the SEC also is requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. Commentators should provide empirical data to support their views.

VII. Regulatory Flexibility Act

CFTC: The Regulatory Flexibility Act ("RFA") requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[139] The rule adopted herein would affect designated contract markets and registered derivatives transaction execution facilities. The CFTC has previously established certain definitions of "small entities" to be used in evaluating the impact of its rules on small entities in accordance with the RFA.[140] In its previous determinations, the CFTC has concluded that contract markets are not small entities for the purpose of the RFA.[141] The CFTC has also recently proposed determining that the other trading facilities subject to its jurisdiction, for reasons similar to those applicable to contract markets, would not be small entities for purposes of the RFA.[142]

Accordingly, the CFTC does not expect the rule, as proposed herein, to have a significant economic impact on a substantial number of small entities. Therefore, the Acting Chairman, on behalf of the CFTC, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments will not have a significant economic impact on a substantial number of small entities. The CFTC invites the public to comment on the finding that this proposed rule would not have a significant economic impact on a substantial number of small entities.

SEC: Section 3(a) of the RFA[143] requires the SEC to undertake an initial regulatory flexibility analysis of the proposed rules on small entities unless the SEC certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[144] Proposed SEC Rule 6h–1 would require national security exchanges and national security associations trading security futures products to trade cash-settled security futures products only if the final settlement price for each cash-settled security futures product fairly reflects the opening price of the underlying security or securities, and to halt in trading in any security futures product when a regulatory halt is instituted for the underlying security or securities of the security futures product. There are nine currently registered national securities exchanges, one national securities association, and seven futures markets that are likely to register as Security Futures Product Exchanges, all of which would be subject to the proposed rule and none of which are small entities. The SEC has certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

A copy of the certification is attached as Appendix A.

VIII. Statutory Basis and Text of Proposed Rule

List of Subjects

17 CFR Part 41

Security futures products, Trading halts and Settlement provisions.

17 CFR Part 240

Securities.

Commodity Futures Trading Commission

17 CFR Chapter I

The CFTC has authority to propose these rules pursuant to sections 2(a)(1)(D)(i)(VII), 2(a)(1)(D)(i)(X), and 8a(5) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII), 2(a)(1)(D)(i)(X), and 12a(5).

In accordance with the foregoing, Title 17, Chapter I of the Code of Federal Regulations is proposed to be amended by amending Part 41 as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 is revised to read as follows:

Authority: 7 U.S.C. 1a(25), 2(a), 6j, 7a–2(c) and 12a(5).

2. Section 41.1 is amended by adding paragraphs (j), (k) and (l) to read as follows:

§ 41.1 Definitions.

For purposes of this part:

* * * * *

(j) *Opening price* means the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security.

(k) *Regular trading session* of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(l) *Regulatory halt* means a delay, halt, or suspension in the trading of a security, that is instituted by the national securities exchange or national securities association that lists the security, as a result of:

(1) A determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue; or

(2) The operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

3. Section 41.25, as proposed on July 20, 2001, 66 FR 37932, is further proposed to be amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 41.25 Additional conditions for trading for security futures products.

(a) *Common provisions.* * * *

(2) *Regulatory Trading Halts.* The rules of a designated contract market or registered derivatives transaction execution facility that lists or trades one or more security futures products must include the following provisions:

(i) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security; and

(ii) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.

* * * * *

(b) *Special requirements for cash-settled contracts.* For cash-settled security futures products, the cash-settlement price must be reliable and acceptable, be reflective of prices in the underlying securities market and be not readily susceptible to manipulation.

(1) The final settlement price of a cash-settled security futures product based on a single security shall fairly reflect the opening price of the underlying security. If an opening price for the underlying security is not readily available, the final settlement price of the security futures product shall fairly reflect the price of the underlying security during its most recent regular trading session; and (1) The final settlement price of a cash-settled security futures product based on a narrow-based security index shall fairly reflect the opening prices of the underlying securities. If an opening price for one or more underlying securities is not readily available, the final settlement price of the narrow-based security index future shall, for the underlying securities for which opening prices are not readily available, fairly reflect the prices of those underlying securities during their most recent regular trading session. (2) The Commission may exempt from the provisions of paragraphs (b)(1) and (b)(2) of this section, either unconditionally or on specified terms and conditions, any designated contract market or registered derivatives transaction execution facility, when the Commission determines that an exemption is consistent with the public interest, the protection of investors, and otherwise furthers the purposes of the Act.

* * * * *

Issued in Washington, DC on August 24, 2001 by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary.

Securities and Exchange Commission

17 CFR Chapter II

The SEC is proposing the rules pursuant to its authority under Exchange Act Sections 6, 9, 15A, 19, 23(a), and 36, 15 U.S.C. 78f, 78i, 78*o*–3, 78s, 78w(a), and 78mm.

In accordance with the foregoing, Title 17, Chapter II, part 240 of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78o–3, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.6h–1 is added to read as follows:

§ 240.6h–1 Settlement and regulatory halt requirements for security futures products.

(a) For the purposes of this section:

(1) *Opening price* means the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security.

(2) *Regular trading session* of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(3) *Regulatory halt* means a delay, halt, or suspension in the trading of a security, that is instituted by the national securities exchange or national securities association that lists the security, as a result of:

(i) A determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue; or

(ii) The operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

(b) The final settlement price of a cash-settled security futures product based on a single security shall fairly reflect the opening price of the underlying security. If an opening price for the underlying security is not readily available, the final settlement price of the security futures product shall fairly reflect the price of the underlying security during its most recent regular trading session.

(c) The final settlement price of a cash-settled security futures product based on a narrow-based security index shall fairly reflect the opening prices of the underlying securities. If an opening price for one or more underlying securities is not readily available, the final settlement price of the narrow-based security index future shall, for the underlying securities for which opening prices are not readily available, fairly reflect the prices of those underlying securities during their most recent regular trading session.

(d) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security.

(e) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.

(f) The Commission may exempt from the provisions of paragraphs (b) and (c) of this section, either unconditionally or on specified terms and conditions, any national securities exchange or national securities association if the Commission determines that such exemption is necessary or appropriate in the public interest, and consistent with the protection of investors.

By the Securities and Exchange Commission.[145]

Dated: August 24, 2001.

Margaret H. McFarland,

Deputy Secretary.

Appendix A

Note: Appendix A to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Act Certification

The Securities and Exchange Commission ("Commission") hereby certifies pursuant to 5 U.S.C. 605(b) that proposed Rule 6h–1 under the Securities Exchange Act of 1934 ("Exchange Act"), which generally would provide that the listing standards of national security exchanges and national security associations trading security futures products establish (i) a settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (ii) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product, would not, if adopted, have a significant economic impact on a substantial number of small entities. Proposed Rule 6h–1 under the Exchange Act likely would apply to nine currently registered national securities exchanges, one national securities association, and an estimated seven futures markets that are expected to register as Security Futures Product Exchanges, none of which is a small entity for the purpose of the Regulatory Flexibility Act. Accordingly, proposed Rule 6h–1, if adopted, would not have a significant economic impact on a substantial number of small entities.

By the Commission.

Dated: August 24, 2001.

Jonathan G. Katz,

Secretary.

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[139] 5 U.S.C. 601 *et seq.*

[140] *See* 47 FR 18618–21 (April 30, 1982).

[141] *See id.* at 18819 (discussing contract markets).

[142] *See* 66 FR 14262, 14268 (March 9, 2001).

[143] 5 U.S.C. 603(a).

[144] 5 U.S.C. 605(b).

[145] Chairman Pitt did not participate in this matter.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 968/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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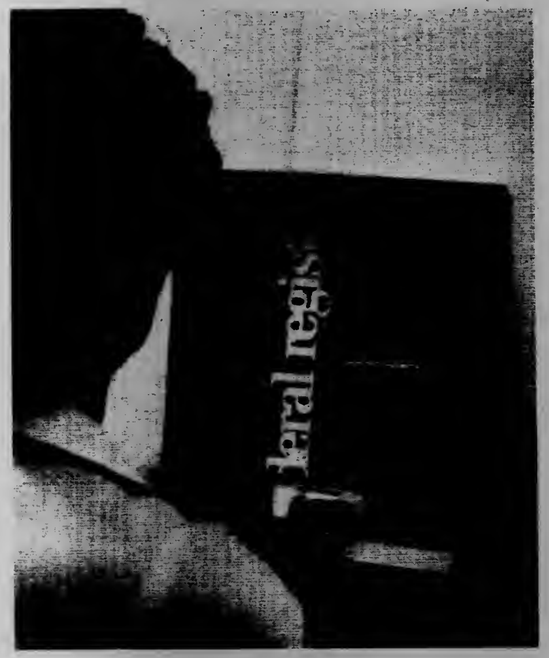
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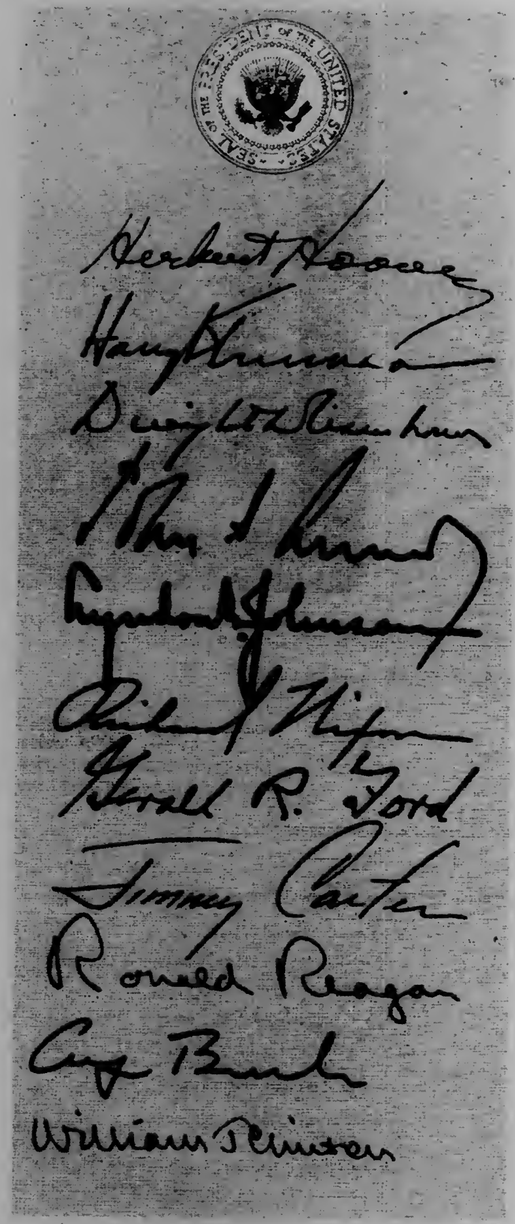
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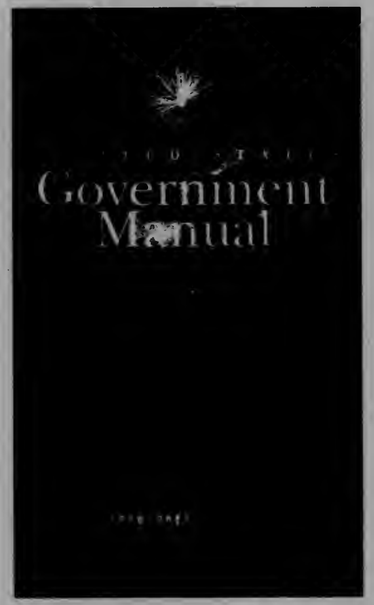
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00–119–2]

Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products; Phytosanitary Certificates: Delay of Effective Date

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Policy statement; delay of effective date.

SUMMARY: We are delaying by 120 days the planned effective date for a policy to enforce an existing requirement that a phytosanitary certificate of inspection accompany restricted articles, other than certain greenhouse-grown plants from Canada, that are offered for importation into the United States under our foreign quarantine regulations for nursery stock, plants, roots, bulbs, seeds, and other plant products. This action will allow affected parties additional time in making necessary preparations to comply with this requirement.

DATES: The effective date of the Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products; Phytosanitary Certificates policy statement, published in the **Federal Register** on July 23, 2001 (66 FR 38137–38139, Docket No. 00–119–1) is delayed for 120 days, from September 21, 2001, to a new effective date of January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, CITES and Plant Inspection Station Coordinator, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation into the United States of certain plants and plant products to prevent the introduction of plant pests into the United States. The regulations contained in "Subpart Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37–14 (referred to below as the regulations), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation. Paragraph (a) of § 319.37–4 of the regulations requires that any restricted article offered for importation into the United States, other than certain greenhouse-grown plants from Canada, be accompanied by a phytosanitary certificate of inspection (phytosanitary certificate).

On July 23, 2001, we published in the **Federal Register** (66 FR 38137–38139, Docket No. 00–119–1) a policy statement advising the public of our decision to begin enforcing on a consistent basis an existing requirement in § 319.37–4(a) of the regulations that a phytosanitary certificate of inspection accompany restricted articles, other than certain greenhouse-grown plants from Canada, that are offered for importation into the United States under our foreign quarantine regulations for nursery stock, plants, roots, bulbs, seeds, and other plant products. We notified the public that we intended to begin routinely enforcing this requirement effective September 21, 2001.

Several parties, including one official national plant protection organization, have requested that we delay the effective date to allow them and other parties affected by this change in policy additional time in making preparations to comply with this requirement. In response to these requests, we are delaying the effective date for an additional 120 days beyond the previously announced date of September 21, 2001.

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 27th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22032 Filed 8–30–01; 8:45 am]
BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–27–AD; Amendment 39–12423; AD 2001–17–31]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 2100 Turboprop and AE 3007 Turbofan Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) AE 2100 turboprop and AE 3007 turbofan series engines. This amendment requires a one-time acid etch inspection of the 2nd stage high pressure turbine (HPT) wheel for evidence of damaged material indicating that a higher probability of cracking in future service exists. If the etch inspection reveals damage, this AD requires replacement of the turbine wheel with a serviceable part. This amendment is prompted by a report of a 2nd stage HPT wheel that was returned from the field with cracks in the aft bore face. The actions specified by this AD are intended to detect and prevent early development of cracks due to low cycle fatigue of the 2nd stage HPT wheel in the aft bore face that can lead to wheel failure, power loss, and possible damage to the airplane.

DATES: Effective date October 5, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 5, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Rolls-Royce Corporation, P.O. Box

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420, Indianapolis, IN 46206–0420; telephone: (888) 255–4766. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7870, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) AE 2100 and AE 3007 series engines was published in the **Federal Register** on December 12, 2000 (65 FR 77528). That action proposed to require a one-time acid etch inspection of the 2nd stage HPT wheel for cracks. If the wheel is cracked, this AD would require replacement of the turbine wheel with a serviceable part in accordance with Rolls-Royce Alert Service Bulletins (ASB's): AE 2100A–A–72–234, Revision 2, dated October 13, 2000; or AE 2100C–A–72–183, Revision 2, dated October 13, 2000; AE 2100D3–A–72–179, Revision, 2, dated October 13, 2000; AE 3007A–A–72–179, Revision 2, dated October 17, 2000; and AE 3007C–A–72–153, Revision 2, dated October 17, 2000, that describe the procedures for examining the turbine wheel for damage using the one-time acid etch procedure. Since the NPRM was published, Rolls-Royce has issued Revision 3, dated June 19, 2001, to all five ASB's because they were revised from level 2 to level 3 to align them with changes agreed to by the FAA as a result of comments made to the NPRM. also included in this amendment are the different types of engines that were omitted from the NPRM.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Remove Part Number

The manufacturer requests that turbine wheel part number (P/N) 23069438 be removed from the AD. As a result of testing, it was discovered that the 1/10,000 minimum crack initiation life is greater than the Chapter 5 life limit for the AE 3007A1, A1/1, A1/2, A1/3, and A3 and within 100 cycles of the Chapter 5 life for the AE 3007A1P.

The FAA agrees. The manufacturer completed a comprehensive program to quantify the impact on fatigue capability of Udimet 720 material damaged by improper tool contact in the same manner as discussed for turbine wheel P/N 23050912 in the proposed rule. Program results demonstrated that shot peening during manufacturing greatly increases the crack initiation life of a wheel containing the damage, thus decreasing the likelihood of failure from a crack resulting from that damage. The analysis of damaged wheels discussed in the proposed AD did not take into consideration wheels that were shot peened during manufacture. Thus, the applicability of the AD has been changed to reflect that the AD does not apply to engines with turbine wheel P/N 23069438 installed.

Change Inspection Compliance Times

The manufacturer also states that Table 2. should be changed to reflect increased inspection times for the engines having turbine wheel P/N 23069592 with serial number up to (SN) MM183060. as follows:

1. AE 3007A prior to 12,800 cycles.
2. AE 3007C prior to 12,800 cycles.
3. AE 2100A prior to 16,800 cycles.
4. AE 2100C prior to 16,800 cycles.
5. AE 2100D3 prior to 14,100 cycles.

The FAA agrees that the change is justified because wheel P/N's 23069438 and 23069592 are both shot peened during manufacturing. The effects of shot peening were not considered in the writing of the proposed rule. However, P/N 23069592, unlike P/N 23069438, did not have a minimum crack initiation life greater than it's chapter 5 life limit. Table 2 has been changed accordingly.

Change Definition of Serviceable Part

The manufacturer also requests that the definition of a serviceable part in paragraph (e) be changed to reflect that an acid etch inspection does not reveal cracks, but reveals damage that may indicate a higher probability that a crack will initiate.

The FAA agrees and the definition has been changed. The FAA has also made a similar change to the discussion in the preamble to this final rule.

Table 2 Correction

Finally, the manufacturer asks that Table 2 be corrected as there is a typographical error in column (2); part number 233064473 should be 23064473.

The FAA agrees and the change has been made.

The FAA has also corrected the applicability to reflect that the AD applies to AE2100A and AE2100C engines that have turbine wheels with P/N's other than 23050912 installed, as indicated in Table 2 of the proposed rule. Also, P/N's 23070672 and 23070675 were inadvertently left out of the original service bulletins and have been added to Table 2, row 4.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Impact

Since the issuance of the NPRM, engine models AE 3007A1 series and AE 3007A3 have been removed from this proposed amendment and this AD no loner applies to the EMB–135 aircraft. As a result, there are now approximately 833 engines of the affected design in the worldwide fleet. The FAA estimates that approximately 280 engines installed on airplanes of US registry would be affected by this proposed AD. The FAA estimates that disassembly to perform the acid etch inspection and reassembly will take approximately 130 work hours, which includes teardown to the HPT, inspection and reassembly, and that the average labor rate is $60 per work hour. Labor costs to perform the disassembly and reassembly are $7,800, and a test stand run will cost about $5,000, for a total cost of $12,800 per engine to conduct the acid etch inspection. Based on these figures, the FAA estimates that the total cost impact of performing the acid etch inspection on US operators will be $3,584,000. If a wheel must be replaced, the cost of a replacement wheel is $18,000, and it will take an additional 30 work hours to replace the wheel, at $60 per work hour. Therefore, the total cost of parts and labor for replacing the wheel will total $19,800 per wheel. If all wheels needed to be replaced, the total cost impact of the proposed AD on U.S. operators would be $5,544,000. The FAA estimates, however, that not all wheels will need replacement and that some labor costs required to accomplish the requirements of this proposed AD may be reimbursed by the manufacturer, thus reducing the total cost impact of the proposed AD on US operators.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–17–31 Rolls-Royce Corporation: Amendment 39–12423. Docket No. 2000–NE–27–AD.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) models AE 2100A and AE 2100C turboprop engines with high pressure turbine (HPT) wheel part number (P/N) 23050912 installed; AE 2100A turboprop engine with turbine wheel P/N 23063462 serial number (SN) MM14062 installed; AE 2100A, AE 2100C, AE 2100D3 turboprop and AE 3007A, and AE 3007C turbofan engines with 2nd stage HPT wheels with SN's before MM183060. These engines are installed on but not limited to Embraer EMB–145, Cessna 750, SAAB 2000, and Industi Pesawat Terbang Nusantara (IPTN) N–250 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To detect and prevent early development of cracks due to low cycle fatigue of the 2nd stage HPT wheel in the aft bore face that can lead to wheel failure, power loss, and possible damage to the airplane, do the following:

One-time Inspection

(a) Perform a one-time acid etch inspection to the 2nd stage high pressure turbine wheel in accordance with the Accomplishment Instructions contained in the following Rolls-Royce Alert Service Bulletins:

TABLE 1.—APPLICABLE ALERT SERVICE BULLETINS

AE models	Rolls-Royce service bulletin
AE 2100A	AE 2100A–A–72–234, Revision 2, dated October 13, 2000 or Revision 3, dated June 19, 2001.
AE 2100C	AE 2100C–A–72–183, Revision 2, dated October 13, 2000 or Revision 3, dated June 19, 2001.
AE 2100D3	AE 2100D3–A–72–179, Revision 2, dated October 13, 2000 or Revision 3, dated June 19, 2001.
AE 3007A	AE 3007A–A–72–179, Revision 2, dated October 17, 2000 or Revision 3, dated June 19, 2001.
AE 3007C	AE 3007C–A–72–153, Revision 2, dated October 17, 2000 or Revision 3, dated June 19, 2001.

(b) Perform these inspections according to the following compliance times:

TABLE 2.—INSPECTION COMPLIANCE TIMES

Models	With turbine wheel	Mandatory
(1) AE 2100A, AE2100C	23050912	Before 4,800 cycles since new (CSN).
(2) AE 2100A	23063462–S/N MM14062	Before 4,800 CSN.
(3) AE2100D3	23050912	Before 3,200 CSN.
(4) All other AE 2100A, AE 2100C and AE2100D3.	23063462, 23064822, 23070673, 23065892, 23069116, 23064473, 23064474, 23068072, 23070672 and 23070675 with S/N's MM183060 and before.	At next shop visit.
(5) All AE 3007A, and AE 3007C	23063462, 23065892, 23069116 with S/N MM183060 and before.	At next shop visit.
(6) All AE 3007A and AE 3007C	23069592 with S/N MM183060 and before	At next exposure but not to exceed 12,800 CSN.
(7) All AE 2100A and 23069592 AE 2100C	23069592 with S/N MM183060 and before	Next exposure but not to exceed 16,800 CSN.
(8) All 2100D3	23069592 with S/N MM183060 and before	At next exposure but not to exceed 14,100 CSN.

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(c) If damage is discovered, replace the turbine wheel with a serviceable part.

Definitions

(d) The next shop visit is defined as whenever the engine is removed and sent to a maintenance center for inspection or repair.

(e) A serviceable part is defined as any applicable turbine wheel with a serial number greater than MM183060, or a wheel with a serial number MM183060 or lower that has undergone an acid etch inspection with no indication of damage.

(f) After the effective date of this AD, do not install any 2nd-stage gas-generator turbine wheel listed in Table 2 of this AD, unless it has been inspected as specified in paragraph (a).

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

Special Flight Permits

(h) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Documents That Have Been Incorporated by Reference

(i) The inspection must be done in accordance with the following Rolls-Royce Corporation Alert Service Bulletins:

Document No.	Pages	Revision	Date
ASB AE 2100A–A–72–234	All	2	October 13, 2000.
ASBAE 2100C–A–72–183	All	2	October 13, 2000.
ASB AE 2100D3–A–72–179	All	2	October 13, 2000.
Total Pages: 13			
ASB AE 2100A–A–72–234	All	3	June 19, 2001.
ASBAE 2100C–A–72–183	All	3	June 19, 2001.
ASB AE 2100D3–A–72–179	All	3	June 19, 2001.
Total Pages: 13			
ASB AE 3007A–A–72–179	All	2	October 17, 2000.
ASB AE 3007C–A–72–153	All	2	October 17, 2000.
Total Pages: 12			
ASB AE 3007A–A–72–179	All	3	June 19, 2001.
ASB AE 3007C–A–72–153	All	3	June 19, 2001.
Total Pages: 12			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206–0420; telephone: (888) 255–4766 . Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date of This AD

(j) This amendment becomes effective on October 5, 2001.

Issued in Burlington, Massachusetts, on August 21, 2001.

Donald Plouffe,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–21894 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–145]

RIN 2115–AA97

Safety Zone; Old Lyme Fireworks Display, Old Lyme, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located in Long Island Sound off Old Lyme, CT. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Long Island Sound.

DATES: This rule is effective from 8:45 p.m. on September 1, 2001, until 10 p.m. on September 2, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–145) and are available for inspection or copying at Coast Guard Group/Marine Safety Office, 120 Woodward Ave., New Haven, CT 06512, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MSTC C. D. Stubblefield, Office Supervisor, Coast Guard Group/MSO Long Island Sound (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. An NPRM was considered unnecessary because the fireworks display is a local event which will have minimal impact on the waterway. The zone is only in effect for 1 hour 15 minutes and vessels can be given permission to transit the zone during all but about 30 minutes of this time. Vessels may transit around the zone at all times. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. We did not receive sufficient advance notice of the fireworks display to allow an NPRM. The fireworks

display is a local event; for the reasons previously stated, it has minimal impact on the waterway. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public for the hazards associated with this fireworks display.

Background and Purpose

The Coast Guard received an application to hold a fireworks program on the waters of Long Island Sound off Old Lyme, CT. This regulation establishes a safety zone in all waters of Long Island Sound within a 600 foot radius of the fireworks barge in approximate position 41°42′00″ N, 072°39′52″ W (NAD 1983). The safety zone will be enforced from 8:45 p.m. until 10 p.m. on September 1, 2001. In the event of inclement weather, this rule will be enforced during the same time period on September 2, 2001 instead.

The safety zone prevents vessels from transiting a portion of Long Island Sound and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit around the zone during this event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit around the zone during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and the Captain of the Port Long Island Sound Standing Orders for 6-inch mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Long Island Sound during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. It is a local event with minimal impact on the waterway, vessels may still transit around the zone during the event, the zone is only in effect for 1 hour 15 minutes and vessels can be given permission to transit the zone except for about 30 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via Local Notice to Mariners and Marine Information Broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer Chris Stubblefield, in the Command Center at Coast Guard Group/Marine Safety Office Long Island Sound, CT, at (203) 468–4428.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That

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Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From 8:45 p.m. on September 1, 2001, until 10 p.m. on September 2, 2001, add temporary § 165.T01–145 to read as follows:

§ 165.T01–145 Safety Zone: Old Lyme Fireworks Display, Old Lyme, CT.

(a) *Location*. The following area is a safety zone: All waters of Long Island Sound within a 600 foot radius of the fireworks barge in approximate position 41°42′00″ N, 072°39′52″ W (NAD 1983).

(b) *Enforcement times and dates*. This section will be enforced from 8:45 p.m. until 10 p.m. on September 1, 2001. In the event of inclement weather, this section will be enforced during the same times on September 2, 2001 instead.

(c) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 23, 2001.

J.J. Coccia,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 01–22052 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–133]

RIN 2115–AA97

Safety Zone; Ackerman Engagement Fireworks Display, Westhampton Beach, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located in the Atlantic Ocean off Westhampton Beach, NY. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Atlantic Ocean.

DATES: This rule is effective from 9:15 p.m. on September 2, 2001, until 10:30 p.m. on September 3, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–133) and are available for inspection or copying at Coast Guard Group/Marine Safety Office, 120 Woodward Ave., New Haven, CT 06512, between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MSTC C. D. Stubblefield, Office Supervisor, Coast Guard Group/MSO Long Island Sound (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. An NPRM was considered unnecessary because the fireworks display is a local event which will have minimal impact on the waterway. The zone is only in effect for 1 hour and 15 minutes and vessels can be given permission to transit the zone during all but about 30 minutes of this time. Vessels may transit around the zone at all times. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. We did not receive sufficient advance notice of the fireworks display to allow an NPRM. The fireworks display is a local event; for the reasons previously stated, it has minimal impact on the waterway. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to close a portion of the waterway and protect the maritime public for the hazards associated with this fireworks display.

Background and Purpose

The Coast Guard received an application to hold a fireworks program on the waters of the Atlantic Ocean off Westhampton Beach, NY. This regulation establishes a safety zone in all waters of the Atlantic Ocean within a 1200-foot radius of the fireworks barge in approximate position 40°47′30″ N, 072°38′30″ W (NAD 1983). The safety zone will be enforced from 9:15 p.m. until 10:30 p.m. on September 2, 2001. In the event of inclement weather, this rule will be enforced during the same hours on September 3, 2001 instead.

The safety zone prevents vessels from transiting a portion of the Atlantic Ocean and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit around the zone during this event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit around the zone during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and the Captain of the Port Long Island Sound Standing Orders for 12-inch mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Atlantic Ocean during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. It is a local event with minimal impact on the waterway, vessels may still transit around the zone during the event, the zone is only in effect for 1 hour and 15 minutes and vessels can be given permission to transit the zone except for about 30 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via Local Notice to Mariners and Marine Information Broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer Chris Stubblefield, in the Command Center at Coast Guard Group/Marine Safety Office Long Island Sound, CT, at (203) 468–4428.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From 9:15 p.m. on September 2, 2001, through 10:30 p.m. on September 3, 2001, add temporary § 165.T01–133 to read as follows:

§ 165.T01–133 Safety Zone: Ackerman Engagement Fireworks Display, Westhampton Beach, NY.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean within a 1200-foot radius of the fireworks barge in approximate position 40°47′30″ N, 072°38′30″ W (NAD 1983).

(b) *Enforcement times and dates.* This section will be enforced from 9:15 p.m. until 10:30 p.m. on September 2, 2001. In the event of inclement weather, this section will be enforced during the same hours on September 3, 2001 instead.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 23, 2001.

J.J. Coccia,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 01–22053 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4118a; FRL–7045–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Nine Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 9 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 15, 2001 without further notice, unless EPA receives adverse written comment by October 1, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melik Spain at (215) 814–2299, the EPA Region III address above or by e-mail at spain.melik@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTG's.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) Certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status in the Philadelphia area. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. On August 10, 2001, EPA signed the final rulemaking and expects it to be published in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to the 9 of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals and operating permits) which impose VOC and/or NO_X RACT requirements for each source. These sources are all located in the Philadelphia area. The table below identifies the sources and the individual plan approvals (PAs) and operating permits (OPs) which are the subject of this rulemaking. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan Approval (PA #) Operating Permit (OP #)	Source type	"Major source" pollutant
1. Jefferson Smurfit Corporation and Container Corporation of America.	Philadelphia	PA–51–1566	Industrial Boilers	NO_X
2. Maritank Philadelphia, Inc	Philadelphia	PA–51–5013	Bulk Storage	VOC/NO_X
3. Moyer Packing Company	Montgomery	OP–46–0001	Industrial Boilers	NO_X
4. PECO Energy Company	Bucks	OP–09–0077	Synthetic Gas Combustion	NO_X
5. Exelon Generation Company—Schuylkill Generating Station.	Philadelphia	PA–51–4904	Utility	VOC/NO_X
6. Exelon Generation Company—Delaware Generating Station.	Philadelphia	PA–51–4901	Utility	VOC/NO_X
7. Philadelphia Gas Works, Richmond Plant.	Philadelphia	PA–51–4922	Utility	NO_X
8. SPS Technologies	Montgomery	OP–46–0032	Metal Machining	VOC/NO_X
9. Tullytown Resource Recovery Facility (Waste Management of PA, Inc.).	Bucks	OP–09–0024	Landfill	VOC/NO_X

A. Jefferson Smurfit Corporation and Container Corporation of America

Jefferson Smurfit Corporation and Container Corporation of America (JSC) owns and operates a box board manufacturing facility in Philadelphia, Pennsylvania. This source is a major NO_X emitting facility. The facility is not a major source of VOC. There are 2 boilers (Boilers No. 1 and No. 2) in operation at the facility that are affected by the Commonwealth's NO_X RACT requirements of 25 Pa Code 129.92. Boilers No. 1 and 2 have heat capacities of 240 million British thermal units per hour (MMBtu/hr) and 225 MMBtu/hr, respectively. Both of the boilers burn pulverized coal as their primary fuel, and No. 6 fuel oil and natural gas as backup fuels. To establish NO_X RACT, the Philadelphia Air Management Services (AMS) issued PA–51–1566 to JSC. PADEP submitted it to EPA as a SIP revision on behalf of AMS. AMS determined that NO_X RACT for JSC's Boilers No.1 and No. 2 is compliance with the Commonwealth's presumptive NO_X RACT requirements of 25 Pa Code 129.93(b)(1), which requires the installation and operation of low NO_X burners (LNB) with separate overfire air for coal fired combustion, rated at or above 100 MMBtu/hr. PA–51–1566 requires these boilers to use LNB with separate overfire air when burning No. 6 fuel and natural gas. PA–51–1566 imposes NO_X emission limits that are never to exceed 0.50 pounds per MMBtu (lbs/MMBtu), per 30-day rolling average when burning coal, 0.30 lbs/MMBtu when burning No. 6 oil or 0.20 lbs/MMBtu when burning natural gas for both boilers combined. PA–51–1566 also requires the installation and maintenance of a continuous emissions

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monitoring system (CEMS). JSC must keep all records containing data and calculations necessary to determine compliance with the RACT requirements of 25 Pa Code 129.91-129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

B. Maritank Philadelphia, Inc.

Maritank Philadelphia, Incorporated (Maritank) is a liquid storage facility located in Philadelphia, Pennsylvania. To establish VOC and NO_X RACT, AMS issued PA–51–5013, and PADEP submitted it to EPA as a SIP revision. The majority of the process units at this facility are subject to the Commonwealth's presumptive VOC and/or NO_X RACT regulations of 25 Pa Code 129.51–129.72 and 129.91–129.95. The facility stores and distributes petroleum products. These products are loaded and unloaded from barge to storage tanks and trucks. Maritank also conducts barge cleaning activities to remove residual material from the empty barges. VOC emissions from the barge cleaning plant vacuuming operations are controlled with a vacuuming incinerator. This incinerator along with a boiler rated at 7 MMBtu/hr will comply with the NO_X RACT requirements of 25 Pa Code 129.93(c)(1). Maritank has one other boiler with a capacity of 30 MMBtu/hr, which is subject to the NO_X RACT requirements of 25 Pa Code 129.93(c)(2)–(5). The fugitive VOC emissions from the truck loading rack are collected and controlled via a vapor incinerator. AMS determined that VOC RACT for Maritank's fugitive emissions is the implementation of a visual leak detection and repair (LDAR) program for all pumps, valves, and flanges at the facility. Maritank also conducts shore tank cleaning activities to remove residual material from its tanks. The residual products contained within the washwater produced in the washing of the tanks is separated and recovered by a washwater treatment system. The washwater treatment system treats its waste water with 2 separate oil/water separators coupled with carbon absorption. PA–51–5013 requires that their 5 recovery tanks be connected to the current vapor collection system. The PA specifies that gasoline loading at the dock transfer station must be discontinued. Maritank is required to keep records containing details of inspections and repairs and other data necessary to determine compliance with the RACT requirements of 25 Pa Code 129.91–129.94 and PA–51–5013. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

C. Moyer Packing Company

Moyer Packing Company, Incorporated (Moyer) operates a rendering facility in Montgomery County, Pennsylvania. Moyer generates steam using 2 Keeler boilers that are rated at 56.4 MMBtu/hr each. The Keeler boilers fire No. 6 fuel oil. These boilers' potential emissions classify Moyer as a major stationary source of NO_X emissions, and therefore subject to the Commonwealth's NO_X RACT requirements of 25 Pa Code 129.92. The boilers were the only sources at this facility subject to case-by-case NO_X RACT. Moyer is not a major emitter of VOCs. PADEP issued OP–46–0001 and submitted it as a revision to the SIP. OP 46–0001 imposes a NO_X emission limit of 0.37 lbs/MMBtu for each of the 2 Keeler boilers as NO_X RACT. The boilers will be tuned to operate using low excess oxygen and will be operated in accordance with the manufacturer's specifications and with good engineering and air pollution control practices. Moyer is required to keep records of fuel usage, NO_X emissions, and data sufficient to determine compliance with the conditions of the OP. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

D. PECO Energy Company

The PECO Energy Company (PECO) produces power using 2 turbines at their Pennsbury Power Production Plant located in Bucks County, Pennsylvania. The 2 turbines are fueled by landfill gas. The landfill gas is generated by the decomposition of refuse at the adjacent landfill owned and operated by the Geological Reclamation Operations and Waste Systems, Incorporated (GROWS). Approximately 90% of the landfill gas produced at the landfill is collected by GROWS and is sent offsite through a pipeline. The majority of the gas is used as fuel for PECO's turbines. The PADEP issued OP–09–0077 to impose RACT for these turbines. The 2 landfill gas-fired turbines are rated at 42 MMBtu/hr each. OP–09–0077 requires the turbines meet a minimum destruction efficiency of 98% (by weight) of the landfill gas collected, and a 20 parts per million by volume (ppmv) VOC emissions limit, measured on a dry basis as hexane at 3% oxygen. The NO_X emissions expressed as nitrogen dioxide will never exceed 42 ppmv at 15% oxygen measured on a dry basis for the 2 turbines. OP–09–0077 specifies that the landfill gas will be analyzed by an on-line process gas chromatograph to determine its nitrogen content. The OP requires that PECO perform annual tune-ups on the turbines in accordance with 25 Pa Code 129.93. OP–09–0077 requires PECO to keep records containing data that is sufficient to determine compliance with the RACT requirements of 25 Pa Code 129.91–129.92. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

E. Exelon Generation Company—Schuylkill Generating Station

The Exelon Generation Company—Schuylkill Station (Exelon, formerly known as PECO Energy) is an electric utility located in Philadelphia, Pennsylvania. The Schuylkill Generating Station operates one tangentially-fired Combustion Engineering utility boiler rated at 1658 MMBtu/hr, firing No. 6 oil. This boiler has a net electric output capacity of 166 megawatts (MW), based on summer peak output, and a 175 MW winter peak output. The facility also operates one Pratt & Whitney model FT4A8 combustion turbine and one Pratt & Whitney model FT4A9 combustion turbine. Both combustion turbines burn No. 2 oil and have nominal outputs of 15.5 MW and 17.5 MW, respectively. To establish NO_X RACT, AMS issued PA–51–4904 to Exelon, and PADEP submitted it to EPA as a SIP revision. PA–51–4904 imposes NO_X emissions limits of 0.31 lbs NO_X per MMBtu and an annual limit of 673 tpy. PA–51–4904 limits the capacity of each turbine to less than 5%. The annual NO_X emissions limit and the 5% limit on the operating capacity must be met on a rolling monthly basis over every consecutive 12 month period. PA–51–4904 also requires an annual adjustment on the combustion process as required by 25 Pa Code 129.93(b)(2)–(5). PA–51–4904 requires Exelon's peaking unit to comply with the parametric monitoring system (PEMS) requirements in accordance with 40 CFR part 75, Appendix E. These requirements quantify the NO_X emissions in lbs of NO_X/MMBtu and the NO_X emissions mass flow rate to demonstrate compliance with the annual emissions rate established as a part of NO_X RACT for the utility boiler. PA–51–4904 also requires Exelon keep records containing data that is sufficient to determine compliance with the RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

F. Exelon Generation Company—Delaware Generating Station

Exelon's Delaware Generating Station is an electric utility located in Philadelphia, Pennsylvania. This facility operates 2 Babcock and Wilcox boilers (identified as units No. 71 and No. 81) which burn No. 6 oil and have nominal outputs of 126 MW and 124 MW, respectively, based on summer peak output capacity levels. Each boiler has a net electrical winter peak output capacity of 128 MW. This facility also operates one Babcock and Wilcox auxiliary boiler rated at 42 MMBtu/hr, which burns No. 2 oil and No. 6 oil, 3 Pratt & Whitney model FT4A8 combustion turbines rated at 15.5 MW and one model FT4A9 combustion turbine rated 17.5 MW. The combustion turbines burn No. 2 oil. To establish NO_X RACT, AMS issued PA–51–4901 to Exelon, and PADEP submitted it to EPA as a SIP revision. PA–51–4901 imposes a NO_X emissions limit of 645 tpy for boiler No. 71 and 595 tpy for boiler No. 81. The annual limits must be met on a rolling monthly basis over every consecutive 12 month period. PA–51–4901 also imposes short-term NO_X emission limits of 0.43 lbs/MMBtu and 0.42 lbs/MMBtu on a 30 day rolling average for Boilers No. 71 and No. 81, respectively. Additionally, Boilers No. 71 and 81 will operate under limited capacity values of 548 MMBtu/hr and 570 MMBtu/hr, respectively. The PA limits the capacity of each turbine to less than 5%. The capacity factor limit must be met on a rolling monthly basis over every consecutive 12 month period. NO_X RACT for the boilers at Exelon's Delaware Generating Station include an annual adjustment on the combustion process as required by 25 Pa Code 129.93(b)(2)–(5). The auxiliary boiler and the turbines will comply with the presumptive RACT found in 25 Pa Code § 129.93(b)–(c). PA–51–4901 also requires Exelon's peaking units to comply with the PEMS requirements in accordance with 40 CFR part 75, Appendix E. These requirements quantify the NO_X emissions in lbs of NO_X/MMBtu and the NO_X emissions mass flow rate to demonstrate compliance with the annual emissions rates established as a part of NO_X RACT for these boilers. PA–51–4901 also requires Exelon keep records of data sufficient to determine compliance with the RACT requirements of 25 Pa Code 129.91–129.94 and PA–51–4901. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

G. Philadelphia Gas Works, Richmond Plant

Philadelphia Gas Works (PGW) is a municipally owned gas distribution company located in Philadelphia, Pennsylvania. The PGW Richmond Plant liquefies natural gas during the summer months for storage and distribution during the winter months. The liquefaction process involves pre-treatment and compression of a gas into a liquid. This facility uses 4 natural gas fired internal combustion (IC) engines to drive the ethylene and propane refrigeration compressors. These engines are 2-stroke, spark ignited, Clark HLA–8 units that have been converted to turbocharged units rated at 2,350 horsepower. The PGW Richmond Plant is a major NO_X emitting facility. The facility is not a major source of VOCs. The AMS issued PA–51–4922 to PGW and PADEP submitted it to EPA as a SIP revision. AMS imposes NO_X RACT on PGW's 4 IC engines in PA–51–4922. The engines must be retrofitted with new high energy ignition systems and AFR controls, along with an enhanced turbocharged air system and new fuel valves. PA–51–4922 imposes annual limits on natural gas consumption of 570 million cubic feet (MMCF) for the 4 IC engines. The annual fuel consumption limits must be met on a rolling monthly basis over every consecutive 12 month period. The NO_X emissions limits for each of these 4 units is 5 grams per brake horsepower-hour, 25.9 pounds per hour (lbs/hr), and 320 tons per 12 consecutive month rolling period. The use of sophisticated ignition systems results in precise setting of engine timing. The use of timing controls lowers NO_X emissions by lowering the time interval that exhaust gases are exposed to high temperatures. Controlling the air-to-fuel ratio provides a cleaner burning, lean fuel mixture. The turbochargers provide the air for leaner operation, while the new high flow fuel valves ensure an improved air-to-fuel mixing in the cylinder for a leaner burn which improves combustion stability and efficiency. PA–51–4922 requires PGW to conduct a performance test on the engines once every 5 years to demonstrate compliance with RACT. PA–51–4922 requires PGW to keep records of data sufficient to determine compliance with the RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

H. SPS Technologies

SPS Technologies, Incorporated (SPS) manufactures high strength bolts, nuts and screws, and various other precision components for commercial and military aircrafts, jet engines and Space Shuttles. SPS' manufacturing operations involve machining activities, metal parts electroplating, cleaning, degreasing, and heat treating of finished metal products. SPS' machining operations and bucket cleaning activities emit fugitive VOCs and are the only VOC sources at this facility subject to case-by-case RACT. The NO_X sources in use at this facility are all subject to SIP-approved presumptive NO_X RACT regulations. Fugitive VOC emissions from the machining operations come from mist generated while using VOC-containing lubricants. Oil must be used in these processes to lubricate the interface between the machining tools and the metal surfaces. The facility uses 71 buckets containing kerosene to dip clean metal parts during manufacturing and inspection. These buckets are a source of fugitive emissions and were also subject to a top-down VOC RACT analysis. OP–46–0032 establishes emission limits for these cleaning activities requiring that VOC must never exceed 3.0 lbs/hr, 15 pounds per day, or 2.7 tpy. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

I. Tullytown Resource Recovery Facility (Waste Management of PA Inc.)

Waste Management of Pennsylvania, Incorporated owns and operates an active landfill called Tullytown Resource Recovery Facility (TRRF) located in Bucks County, Pennsylvania. The waste deposited at this site undergoes anaerobic degradation and produces gaseous VOC emissions. The landfill uses an enclosed flare to control these VOC emissions. The flare is a secondary source of NO_X emissions. PADEP issued OP–09–0024 to TRRF. The OP defines RACT as collection of the landfill gas and destruction using an enclosed flare. The collection efficiency must be 90% or greater. The flare must

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be operated at a destruction efficiency of 98%. The VOC emissions from the enclosed flare must be limited to 0.84 lbs/hr and 3.69 tpy. NO_X emissions from the enclosed flare must be limited to 8.87 lbs/hr and 38.85 tpy. All annual limits must be met on a rolling monthly basis over every consecutive 12 month period. The flow rate of landfill gas to the flare will never exceed 3250 scfm. The flare must be operated at a minimum of 1500 degrees F for a minimum residence time of 0.3 seconds. The flare shall be operated to minimize NO_X production while maximizing the VOC destruction. TRRF is required to keep all records of annual inspections, adjustments and cleanings performed on the fuel-burning equipment. These records must provide sufficient data for compliance to be determined in accordance with 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving Pennsylvania's RACT SIP submittals because AMS and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. They have also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for 9 major sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 15, 2001 without further notice unless EPA receives adverse comment by October 1, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 304 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for nine named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from 9 individual sources located in the Philadelphia ozone nonattainment area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 21, 2001.

Abraham Ferdas,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(184) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(184) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT, for sources located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals and operating permits on April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001.

(B) Plan approvals (PA), or Operating Permits (OP) issued to the following sources:

(*1*) Jefferson Smurfit Corporation and Container Corporation of America, PA–51–1566, for PLID 1566, effective April 10, 1995.

(*2*) Maritank Philadelphia, Inc., PA–51–5013, for PLID 5013, effective December 28, 1995.

(*3*) Moyer Packing Company, OP–46–0001, effective March 15, 1996, except for the expiration date.

(*4*) Tullytown Resource Recovery Facility (Waste Management of PA, Inc.), OP–09–0024, effective July 14, 1997, except for the expiration date.

(*5*) SPS Technologies, OP–46–0032, effective October 30, 1997, except for the expiration date.

(*6*) PECO Energy Company, OP–09–0077, effective December 19, 1997, except for the expiration date.

(*7*) Philadelphia Gas Works, Richmond Plant, PA–51–4922, effective July 27, 1999, except for condition 1.A. 10—17, inclusive, condition 2.E., 2.F., 2.G., and condition 8.

(*8*) Exelon Generation Company—Delaware Generating Station, PA–51–4901, effective July 11, 2001.

(*9*) Exelon Generation Company—Schuylkill Generating Station, PA–51–4904, effective July 11, 2001.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(184) (i)(B) of this section.

[FR Doc. 01–22006 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4140a; FRL–7046–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 8 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 15, 2001 without further notice, unless EPA receives adverse written comment by October 1, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melik Spain at (215) 814–2299, the EPA Region III address above or by e-mail at spain.melik@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control

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technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status in the Philadelphia area. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On May 2, 1996, June 10, 1996, January 21, 1997, April 9, 1999, August 9, 2000, and March 23, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to 8 of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals and operating permits which impose VOC and/or NO_X RACT requirements for each source. These 8 sources are all located in the Philadelphia area. The table below identifies the sources and the individual plan approvals (PAs) and operating permits (OPs) which are the subject of this rulemaking. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #), operating permit (OP #), plant identification number (PLID #)	Source type	"Major source" pollutant
1. Brown Printing Company	Montgomery	OP–46–0018A	Printing	VOC
2. Cardone Industries	Philadelphia	PA–51–3887	Degreasing	VOC
3. Cardone Industries	Philadelphia	PA–51–2237	Degreasing	VOC
4. Naval Surface Warfare Center—Carderock Division.	Philadelphia	PA–51–9724	Research and Development	NO_X/VOC
5. SUN CHEMICALS—General Printing Ink Division.	Philadelphia	PA–51–2052	Ink Manufacturer	VOC
6. Sunoco Chemicals—Frankford Plant	Philadelphia	PA–51–1551	Synthetic Organic Chemicals	NO_X/VOC
7. U.S. Steel Group/USX Corporation	Bucks	OP–09–0006	Steel Mill	NO_X/VOC

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES—Continued

Source	County	Plan approval (PA #), operating permit (OP #), plant identification number (PLID #)	Source type	"Major source" pollutant
8. Wheelabrator Falls, Incorporated	Bucks	OP–09–0013	Waste Recovery	NO_X

A. Brown Printing Company

Brown Printing Company (Brown) is a printing facility that produces business and trade magazines and special interest consumer publications in Montgomery County, Pennsylvania. The VOC requirements for the 8 ink jet printers at this facility have been imposed by PADEP in OP–46–0018A. OP–46–0018A requires that all process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices. The facility's potential to emit has been restricted to an annual VOC emissions limit of 12.4 tpy. The annual limit must be met on a rolling monthly basis over every consecutive 12 month period. OP–46–0018A requires Brown to keep monthly records containing data and information necessary to demonstrate compliance with the annual VOC limit.

B. Cardone Industries

Cardone Industries (Cardone) is a automobile parts manufacturing facility located on Rising Sun Avenue in Philadelphia, Pennsylvania. Cardone's Rising Sun location employs combustion equipment, spray booths, and degreasers. Cardone is a major VOC emitting facility subject to the requirements of 25 Pa Code 129.91–129.95. The Philadelphia Air Management Services (AMS) issued PA–51–3887 to Cardone to impose RACT. The PADEP submitted PA–51–3887 to EPA as a SIP revision on behalf of AMS. PA–51–3887 specifies that the architectural coatings used at this facility will comply with Air Management Regulation V, Section VIII. The solvent used in Cardone's cold degreasing operations will be recovered and stored. Cardone will use a non-contact condenser on the solvent reprocessing and storage vents to control VOC emissions. PA–51–3887 also specifies that Cardone must keep records containing data sufficient for a compliance determination in accordance with the VOC RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

C. Cardone Industries

Cardone is a automobile parts manufacturing facility located on Chew Street in Philadelphia, Pennsylvania. Cardone's Chew Street location employs combustion equipment and degreasers. Various automobile parts are dipped, soaked, and agitated in the cold degreasing tanks. Cardone is a major VOC source and is subject to the requirements of 25 Pa Code 129.91–129.95. The Philadelphia AMS issued PA–51–2237 to Cardone to control VOCs. The PADEP submitted PA–51–2237 to EPA as a SIP revision on behalf of AMS. PA–51–2237 requires improved operations and work practice standards to control VOC emissions. PA–51–2237 requires that solvent laden rags be stored in closed top containers. Additionally, drip pans located under drain plugs must be removed promptly, and tank lids must be modified to promote ease of use. PA–51–2237 specifies that Cardone must keep records containing data sufficient for a compliance determination in accordance with the VOC RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

D. Naval Surface Warfare Center—Caderock Division

The Naval Surface Warfare Center (NSWC) is a Naval research and development facility located in Philadelphia, Pennsylvania. NSWC's test center houses a number of combustion sources including, boilers, generators, diesel engines, gas turbines, and a number of small VOC sources. The combustion sources at this facility are used to test and evaluate shipboard equipment. Hence, the operation of these sources is intermittent. PA–51–9724 was issued to NSWC to reduce VOC and NO_X emissions. PA–51–9724 restricts the operating capacity for the 2 boilers rated at 317 and 384 MMBtu/hr, respectively, to no more than 30%. PA–51–9724 limits the 2 boilers rated at 244 MMBtu/hr to an annual fuel consumption limit of 5 million gallons per rolling 12 consecutive month period. The remaining boilers, emergency generators and diesel engines at this facility are subject to the Commonwealth's SIP-approved presumptive NO_X RACT requirements. PA–51–9724 requires NSWC to keep records containing the details of all combustion sources fuel consumption, the operating hours of the emergency generators, details of maintenance programs, and details of periodic source testing or predictive monitoring used to determine NO_X emissions from the boilers. These records will be collected and retained in compliance with the RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

E. Sunoco Chemicals, Frankford Plant

Sunoco Chemicals, Incorporated (Sunoco), formerly AlliedSignal, operates a synthetic organic manufacturing plant in the Frankford section of Philadelphia, Pennsylvania. The plant produces acetone, phenol, and alpha methyl styrene through the oxidation of cumene. Sunoco's operations are subject to New Source Performance Standards (NSPS), MACT standards, and Pennsylvania's SIP-approved VOC RACT regulations for synthetic organic chemical manufacturing. The PADEP's submittal of plan PA–51–1551 requests EPA to incorporate into the SIP those VOC and NO_X RACT requirements of the PA that pertain only to the combustion sources, barge loading, storage tanks, rail car cleaning and wastewater facility operations at the plant. Sunoco's Frankford plant is a major source of VOC and NO_X. PA–51–1551 requires the installation of internal floating roofs on the 2 storage tanks (VT–609 and VT–610) which are not subject to 40 CFR subpart K, NSPS standards or the Commonwealth's SIP-approved RACT standards found at 25 Pa Code 129.56–129.57. The VOC emissions from the

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wastewater facility at this plant are controlled by air stripping and thermal oxidation. The thermal oxidizer has a required destruction efficiency of 95 percent or greater. The rail car cleaning activities must not exceed 2.7 tpy. This annual limit must be met on a rolling monthly basis over every consecutive 12 month period. The barge loading operations are limited to loading of phenol, which has a vapor pressure of 1.5 pounds per square inch at 20 degrees Celsius. This vapor pressure exempts Sunoco from having to install additional control technology to this process. Sunoco uses 4 boilers (Boilers 1–4) to produce heat and steam for the various process stages in their synthetic organic chemical manufacturing. The boilers burn No. 6 fuel oil, waste phenol residue, and natural gas. PA 51–1551 requires Sunoco to burn natural gas and waste phenol residue during the period of May 1st through September 30th in boilers No. 1 and No. 2 which are both rated at a maximum heat input of 260 MMBtu/hr. The NO_X emissions rate for both of these boilers must never exceed 0.35 lbs of NO_X/MMBtu. Boiler No. 3, rated at 381 MMBtu/hr, operates with low NO_X burners (LNB). The emissions rate for boiler No. 3 must never exceed 0.3 lbs of NO_X/MMBtu. Boilers No. 1–3 are also subject to annual combustion tuning in accordance with 25 Pa Code 129.93(b). PA 51–1551 specifies that Sunoco must keep records of data sufficient for a compliance determination in accordance with the VOC and NO_X RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

F. SUN Chemical—General Printing Ink Division

SUN Chemical Corporation (SUN) manufactures and distributes solvent and water-based commercial inks from their general ink printing division in Philadelphia, Pennsylvania. This facility's potential emissions make it a major source of VOCs. The AMS issued PA 51–2052 to SUN and PADEP submitted it to EPA as a SIP revision. The VOC emitting processes are those which involve the blending and dispersion of solvents and pigments. There are no chemical reactions taking place at this facility. Storage tanks are used to store and transfer raw materials. The AMS has imposed improved operating standards to reduce VOC emissions from SUN's vessels and mixers. The specific work practice standards required under PA 51–2052 include: (1) The use of lids on all mixing tanks that use VOC–containing solvents; (2) Covers on all storage vessels containing VOCs when not in use; (3) Monthly inspections and record-keeping requirements; and (4) The use of vapor control lines when delivery tank trucks are equipped with a vapor return line connection. PA–51–2052 imposes recordkeeping and reporting requirements consistent with 25 Pa Code 129.91–129.94. These records must provide sufficient data to calculate compliance and must include solvent usage and fuel consumption files. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

G. U.S. Steel Group/USX Corporation

U.S. Steel Group/USX Corporation (USX), operates a steel finishing plant in Bucks County, Pennsylvania. USX's Fairless Works Plant uses batch and continuous annealing furnaces as well as galvanizing and electrolytic tinning line furnaces. The furnaces are used to heat and process steel coils into flat-rolled steel and corrosion resistant sheets. The furnaces fire natural gas and their emissions contribute to USX being a major source of NO_X emissions. There are 2 cold rolling mills and a double cold reduction mill that use rolling oils which release VOC emissions in the lubricating and cooling of steel strips. The PADEP issued OP–09–0006 to USX. The OP limits the VOC content of the rolling oils and corrosion inhibitors to less than 5% by weight. The continuous annealing furnace and galvanizing line furnace must undergo annual adjustments or tune-ups on the combustion units in compliance with 25 Pa Code 129.93(b)(2). OP–09–0006 requires USX to operate these units using operating practices to minimize their NO_X emissions. Likewise, the remainder of the furnaces at this facility must be maintained and operated in accordance with the manufacturer's specifications. OP 09–0006 specifies that USX must keep records containing sufficient data and calculations to demonstrate compliance with the NO_X and VOC RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

H. Wheelabrator Falls, Inc.

Wheelabrator Falls, Incorporated (WFI) is a municipal waste resource recovery facility located in Bucks County, Pennsylvania. WFI operates 2 waterwall, steam generator municipal waste combustors. Each combustor has a nominal rating of 750 tons per day of municipal waste. WFI was issued a plan approval on May 29, 1992 which established the best available control technology (BACT) available for the 2 combustors. The PADEP issued OP–09–0013 to WFI in accordance with 25 Pa Code 127.450. The Commonwealth's 25 Pa Code 129.93(c)(7) establishes presumptive RACT for sources subject to BACT for NO_X as installation, operation and maintenance of the sources and their associated control devices in accordance with the manufacturers' specifications. WFI's NO_X emissions are controlled using selective non-catalytic reduction. OP–09–0013 imposes a NO_X limit (expressed as NO_2) of 180 parts per million (by volume) and 102.6 pounds per hour, based on a 24 hour daily average, corrected to 7% oxygen for each combustor. The maximum input to each unit is limited to 325 MMBtu/hr and 800 tons per day of waste. Compliance with the emission limits for the combustors must be documented by a continuous emissions monitoring system. WFI must comply with 25 Pa Code 129.93(c) for the smaller NO_X emitting sources present at the facility. OP–09–0013 imposes an annual VOC limit of 24.46 tpy, and a annual NO_X limit of 899 tpy for the entire facility. The annual limits must be met on a rolling monthly basis over every consecutive 12 month period. OP–09–0013 requires WFI to keep records to document maintenance and calibration of the air pollution control equipment. OP–09–0013 also requires WFI to keep records of the quantities of all solid waste combusted at the facility. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving Pennsylvania's RACT SIP submittals because the AMS and PADEP established and imposed these requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. They have also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for 8 major sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 15, 2001 without further notice unless EPA receives adverse comment by October 1, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 8 named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from 8 individual sources located in the Philadelphia area of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 22, 2001.

Abraham Ferdas,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(174) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(174) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and/or NO_X RACT for sources

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located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on May 2, 1996, June 10, 1996, January 21, 1997, April 9, 1999, August 9, 2000, and two submittals on March 23, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals and operating permits, on May 2, 1996; June 10, 1996, January 21, 1997, April 9, 1999, August 9, 2000, and two letters on March 23, 2001.

(B) Plan approvals (PA), Operating permits (OP) issued to the following sources:

(*1*) Cardone Industries, PA–51–3887, for PLID 3887, effective May 29, 1995.

(*2*) Cardone Industries, PA–51–2237, for PLID 2237, effective May 29, 1995.

(*3*) Naval Surface Warfare Center—Carderock Division, PA–51–9724, for PLID 9724, effective December 27, 1997.

(*4*) Wheelabrator Falls, Inc., OP–09–0013, effective January 11, 1996 (as amended May 17, 1996).

(*5*) U.S. Steel Group/USX Corporation, OP–09–0006, effective April 8, 1999, except for the expiration date.

(*6*) Brown Printing Company, OP–46–0018A, effective May 17, 2000, except for the expiration date and condition 12.

(*7*) SUN CHEMICAL—General Printing Ink Division, PA–51–2052, for PLID 2052, effective July 14, 2000.

(*8*) Sunoco Chemicals, Frankford Plant, PA–51–1551, for PLID 1551, effective July 27, 1999, except for conditions 1.A.(2)–(4), 1.A.(6), 1.A.(8); conditions 1.B.(1), 1.B.(3)–(6); the last sentence of condition 2.A.; conditions 2.B.–D.; 2.G., the last sentence of 2.H., 2.I.; and condition 7.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(174)(i)(B) of this section.

[FR Doc. 01–22004 Filed 8–30–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4148a; FRL–7046–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Three Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for three major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 15, 2001 without further notice, unless EPA receives adverse written comment by October 1, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melik Spain at (215) 814–2299, the EPA Region III address above or by e-mail at spain.melik@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT

under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrate that emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status in the Philadelphia area . Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Approval of a case by case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On April 20, 1999, June 28, 2000, and August 8, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to three of those sources. The Commonwealth's submittals consist of plan approvals and operating permits which impose VOC and/or NO_X RACT requirements for each source. These three sources are all located in the Philadelphia area. A summary of the VOC and/or NO_X RACT determinations for each source is provided below.

A. Exelon Generation Company—Richmond Generating Station

Exelon Generation Company (Exelon), formerly PECO Energy Company, is a power plant located in Philadelphia, Pennsylvania. Exelon is a major NO_X emitting facility. The Philadelphia Air Management Services (AMS) issued a plan approval, PA–51–4903, to impose NO_X RACT for the 2 General Electric Frame 7B turbines in operation at Exelon's Richmond Generating Station. The PADEP submitted PA–51–4903 to EPA, as a SIP revision, on behalf of AMS. These 2 turbines each burn No. 2 oil. Both turbines have nominal outputs of 66 megawatts (MW). PA–51–4903 imposes NO_X RACT on Exelon's 2 turbines as a restriction on the operating capacity of each combustion turbine to less than 15% capacity. The capacity factor limitation will be met on a monthly rolling basis over every 12 consecutive month period. PA–51–4903 requires Exelon to operate these turbines in accordance with the manufacturer's specifications. PA–51–4903 also limits each combustion turbine NO_X emissions to 0.7 pounds or less of NO_X per million British thermal units (lbs of NO_X/MMBtu). Exelon must collect and keep records detailing the daily fuel usage, net power generation, and NO_X emissions data, to demonstrate compliance with the NO_X RACT requirements of 25 Pa Code sections 129.91—129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices. Federal approval of this RACT determination for Exelon in no way relieves that source from applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

B. FPL Energy MH 50, L.P.

FPL Energy MH 50, L.P., (FPL) is a power plant located in Delaware County, Pennsylvania. FPL is a major NO_X emitting facility. PADEP issued PA–23–0084 to impose NO_X RACT for the Brown Boveri 51.77 MW combustion turbine in operation at FPL's Marcus Hook plant. This turbine was previously owned and operated by Sunoco, Incorporated (R&M). The Brown Boveri combustion turbine, Model No. GT8, burns natural gas and reformer gas. PA–23–0084 imposes NO_X emission limits on FPL's turbine of 45 parts per million (ppm) when firing natural gas, and a 67 ppm NO_X limit when firing reformer gas. The ppm limits will be met on an hourly basis, corrected to 15% oxygen on a dry basis. PA–23–0084 also establishes an annual NO_X emissions limit of 463 tpy. The annual limit must be met every month over any 12 consecutive month period. PA–23–0084 requires FPL to operate a continuous emissions monitoring system (CEMS) at the combustion turbine exhaust stack. Operation of CEMS must be in accordance with the requirements of 25 Pa Code Chapter 123 or Chapter 139. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

C. Waste Management Disposal Services of Pennsylvania, Inc. (Pottstown Landfill)

The Pottstown Landfill is a solid municipal waste landfill owned and operated by Waste Management Disposal Services of Pennsylvania, Incorporated. The landfill is located in Montgomery County, Pennsylvania. The landfill itself is a major VOC emitting source and the associated combustion equipment used as VOC control technology for the landfill gas are responsible for the Pottstown Landfill being a major source NO_X. PADEP issued Pottstown Landfill OP–46–0033

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to establish VOC and NO_X RACT for the landfill, the flare, and 2 turbines in operation at the facility. OP–46–0033 imposes a minimum collection efficiency of 90% or greater for the landfill gas. The collection system must be designed to minimize off-site migration of the subsurface gas. An enclosed flare is to be used to burn landfill gas.

OP–46–0033 limits the flow rate of the landfill gas to the enclosed flare to 3475 square cubic feet per minute. In addition, OP–46–0033 specifies that the enclosed flare will be operated to minimize VOC emissions from the landfill gas taken in from the collection system such that it achieves a destruction efficiency of 98%, by weight. The OP also limits the enclosed flare outlet concentration to 20 ppm by volume (ppmv), NonMethane Organic Compound (NMOC), measured on a dry basis as hexane at 3% oxygen. OP–46–0033 limits the VOC emissions from the enclosed flare to 1.21 pounds per hour (lbs/hr) and 5.29 tpy. Emissions of NO_X from the enclosed flare will be limited to 18.48 lbs/hr and 80.85 tpy. The NMOC emissions rate and VOC emissions rate must be calculated using procedures specified in 40 CFR 60.754 (and as it may be subsequently amended). The flow rate of landfill gas to the enclosed flare will be recorded continuously. The 2 landfill gas fired turbines are each rated at 42 MMBtu per hour. OP–46–0033 specifies that these 2 turbines burn onsite landfill gas only and that they be operated to reduce VOC emissions from the landfill at a minimum efficiency of 99%, by weight. The emissions of NO_X, expressed as nitrogen dioxide, for each of the turbines as specified in OP–46–0033, must never exceed 42 ppmv at 15% oxygen, measured on a dry basis. OP–46–0033 limits the VOC emissions from each of the turbines to 0.48 lbs/hr and 2.09 tpy. Emissions of NO_X from each of the turbines is also limited to 42 ppmv at 15% oxygen on a dry basis, 4.75 lbs/hr, and 20.9 tpy. The annual limits established in OP–46–0033 must be met on a rolling monthly basis over every consecutive 12 month period. OP–46–0033 requires Pottstown Landfill to monitor the pressure of the enclosed flare and report events of unanticipated positive pressure. OP–46–0033 also imposes on the Pottstown Landfill, bi-monthly leak monitoring, detection and repair program. The landfill gas used as fuel for the turbines subject to OP–46–0033 must be monitored daily. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving Pennsylvania's RACT SIP submittals because AMS and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. They have also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for 3 major of sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 15, 2001, without further notice unless EPA receives adverse comment by October 1, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 3 named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from 3 individual sources in the Philadelphia area of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 22, 2001.

Abraham Ferdas,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(182) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(182) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT, for three sources located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on April 20, 1999, June 28, 2000, and August 8, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals and operating permits on April 20, 1999, June 28, 2000, and August 8, 2001.

(B) Plan approvals (PA), Operating permits (OP) issued to the following sources:

(*1*) Waste Management Disposal Services of Pennsylvania, Inc. (Pottstown Landfill), OP–46–0033, effective April 20, 1999.

(*2*) FPL Energy MH 50, L.P., PA–23–0084, effective July 26, 1999, except for the expiration date.

(*3*) Exelon Generation Company—Richmond Generating Station, PA–51–4903, effective July 11, 2001.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(182)(i)(B) of this section.

[FR Doc. 01–22002 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NC–T5–2001–02; FRL–7047–2]

Clean Air Act Final Full Approval of Operating Permit Programs; North Carolina, Mecklenburg County, and Western North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: EPA is promulgating full approval of the operating permit programs of the North Carolina Department of Environment and Natural Resources, the Mecklenburg County Department of Environmental Protection, and the Western North Carolina Regional Air Quality Agency. These programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On November 15, 1995, EPA granted interim approval to the North Carolina, Mecklenburg County, and Western North Carolina operating permit programs. These agencies revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on June 12, 2001, EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the North Carolina, Mecklenburg County, and Western North Carolina operating permit programs.

EFFECTIVE DATE: October 1, 2001.

ADDRESSES: Copies of the North Carolina, Mecklenburg County, and Western North Carolina submittals and other supporting documentation used in developing the final full approval are available for inspection during normal business hours at EPA, Air & Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Interested persons wanting to examine these documents, which are contained in EPA docket number NC–T5–2001–01, should make an appointment at least 48 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kim Pierce, EPA Region 4, at (404) 562–9124 or pierce.kim@epa.gov/.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?

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Why is EPA taking this action?
What is involved in this final action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO_X.

Why Is EPA Taking This Action?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the North Carolina, Mecklenburg County, and Western North Carolina programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to these programs in a rulemaking (60 FR 57357) published on November 15, 1995. The interim approval notice described the conditions that had to be met in order for the North Carolina, Mecklenburg County, and Western North Carolina programs to receive full approval. Interim approval of these programs expires on December 1, 2001.

What Is Involved in This Final Action?

The North Carolina Department of Environment and Natural Resources, the Mecklenburg County Department of Environmental Protection, and the Western North Carolina Regional Air Quality Agency have fulfilled the conditions of the interim approval granted on November 15, 1995. On June 12, 2001, EPA published a notice in the **Federal Register** (see 66 FR 31575) proposing full approval of the North Carolina, Mecklenburg County, and Western North Carolina title V operating permit programs, and proposing approval of other program revisions. Since EPA did not receive any comments on the proposal, this action promulgates final full approval of the North Carolina, Mecklenburg County, and Western North Carolina programs and final approval of the other program changes described in the proposal.

Administrative Requirements

A. Docket

Copies of the North Carolina, Mecklenburg County, and Western North Carolina submittals and other supporting documentation used in developing the final full approval are contained in docket files maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

This rule does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

E. Executive Order 13175

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000).

F. Executive Order 13211

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

H. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

J. Paperwork Reduction Act

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 22, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by adding paragraphs (a)(2), (c)(2), and (d)(2) in the entry for North Carolina to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

North Carolina

* * * * *

(a) * * *

(2) North Carolina Department of Environment and Natural Resources submitted program revisions on March 23, 1995, August 16, 1996, March 19, 1997, July 29, 1998, November 15, 1999, January 21, 2000, June 14, 2000, and August 28, 2000. The rule revisions contained in the March 23, 1995, March 19, 1997, January 21, 2000, and August 28, 2000 submittals adequately addressed the conditions of the interim approval which would expire on December 1, 2001. The State is hereby granted final full approval effective on October 1, 2001.

* * * * *

(c) * * *

(2) Mecklenburg County Department of Environmental Protection submitted program revisions on October 11, 1999, November 2, 1999, December 8, 1999, December 28, 1999, and July 26, 2000. The rule revisions contained in the October 11, 1999, December 8, 1999, December 28, 1999, and July 26, 2000 submittals adequately addressed the conditions of the interim approval which would expire on December 1, 2001. Mecklenburg County is hereby granted final full approval effective on October 1, 2001.

* * * * *

(d) * * *

(2) Western North Carolina Regional Air Quality Agency submitted program revisions on January 23, 1997, September 29, 1999, November 10, 1999, January 5, 2000, and August 17, 2000. The rule revisions contained in the January 23, 1997, January 5, 2000, and August 17, 2000 submittals adequately addressed the conditions of the interim approval which would expire on December 1, 2001. Western North Carolina is hereby granted final full approval effective on October 1, 2001.

* * * * *

[FR Doc. 01–22018 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 72

RIN 0920–AA02

Requirements for Facilities Transferring or Receiving Select Agents

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: CDC administers regulations that govern the transfer of certain biological agents and toxins ("select agents"). These regulations require entities that transfer or receive select agents to register with CDC and comply with biosafety standards contained in the Third Edition of the CDC/NIH publication "Biosafety in Microbiological and Biomedical Laboratories ("BMBL")." On October 28, 1999, CDC published a Notice of Proposed Rulemaking ("NPRM") seeking both to revise the biosafety standards facilities must follow when handling select agents and to provide new biosecurity standards for such facilities. These new standards are contained in the Fourth Edition of BMBL, which the NPRM proposed to incorporate by reference, thereby replacing the Third Edition. No comments were received in response to this proposal. CDC is therefore amending its regulations to incorporate the Fourth Edition.

DATES: Effective date is January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Laboratory Registration/Select Agent Transfer (LR/SAT) Program, Office of Health and Safety, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., MS-A13, Atlanta, GA 30333; telephone (404) 639–4418; LR/SAT Program website at *http://www.cdc.gov/od/ohs/lrsat.htm.*

SUPPLEMENTARY INFORMATION:

Background

"The Antiterrorism and Effective Death Penalty Act of 1996," Pub. L. 104–132,[42 U.S.C. § 262 note) enacted on April 24, 1996, established new provisions to regulate the transfer of certain biological agents and toxins (i.e., select agents), and required HHS to issue rules to implement these provisions. The final rule was published in the **Federal Register** on October 24, 1996 (61 FR 551990–01) and became effective April 15, 1997. To comply with the final rule, commercial suppliers of select agents, as well as government agencies, universities, research institutions, and private companies that transfer these agents, must register with the Centers for Disease Control and Prevention (CDC). Prior to transferring or receiving a select agent listed in Appendix A of 42 CFR part 72, the facility must be equipped and capable of handling the covered agent at Biosafety Level (BSL) 2, 3, or 4, depending on the agent. The requirements for BSL 2, 3, or 4 operations are contained in the CDC/NIH publication "Biosafety in Microbiological and Biomedical Laboratories" (BMBL), and are currently incorporated by reference in the Third Edition. In May, 1999, the Fourth Edition of the BMBL was published. The Fourth Edition revises some of the biosafety standards contained in the Third Edition as a result of a number of events (e.g. emerging and re-emerging infectious diseases, laboratory associated infections and advances in facility design and construction). The Fourth Edition also contains biosecurity standards, which have not been included in previous editions of the BMBL. These biosecurity provisions are intended to assure that registered entities take measures to prevent unauthorized use of agents and/or use of agents by unqualified persons. These measures are also designed to protect against theft of these agents thereby decreasing the likelihood that the agents may be used for nefarious purposes.

On October 28, 1999, CDC published a Notice of Proposed Rulemaking (NPRM) seeking to replace the Third Edition of the BMBL with the recently published Fourth Edition (64 FR 58022). No comments were received in response to this proposed revision. This final rule therefore incorporates by reference the Fourth Edition.

Effective January 1, 2002, all facilities subject to 42 CFR section 72.6 are required to comply with the biosafety and biosecurity standards contained in the Fourth Edition. Facilities currently registered with CDC are therefore required to comply with the Fourth Edition as of January 1, 2002, but are not required to "re-register" until their registration expires as indicated on their current registration certificate.

To assist facilities seeking registration, CDC has developed a new application form that contains the Fourth Edition requirements. CDC will use this form when registering all facilities after publication of this Final Rule. Facilities that register using the new form may continue to operate in accordance with the Third Edition of the BMBL until January 1, 2002.

Because a large number of current registrations expire before January 1, 2002, facilities whose registration expires between the publication date of this final rule and January 1, 2002 must submit applications no later than October 1, 2001, in order to allow the Laboratory Registration/Select Agent Transfer Program office time to process the applications.

CDC will mail revised applications to all facilities that express an interest. The revised application is also available on the LR/SAT Program website at *http://www.cdc.gov/od/ohs/lrsat.htm.* Questions about this Final Rule and requests for application packages should be faxed to CDC, Office of Health and Safety (404–639–0880) or sent by e-mail (lrsat@cdc.gov). All applications for registration of facilities under this regulation should be mailed to: Centers for Disease Control and Prevention, Office of Health and Safety, Laboratory Registration/Select Agent Transfer Program, 1600 Clifton Road, MS A–13, Atlanta, Georgia 30333.

Analysis of Impacts

Under the Paperwork Reduction Act of 1995, a Federal agency shall not conduct or sponsor a collection of information from ten or more persons other than Federal employees unless the agency has submitted a Standard Form 83, Clearance Request, and Notice of Action, to the Director of the Office of Management and Budget (OMB), and the Director has approved the proposed collection of information. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection entitled 'Importation of Etiological Agents and Packaging and Handling of Infectious Substances and Select Agents' and has assigned OMB control number 0920–0199. For further information on this information collection contact Anne O'Connor, CDC Assistant Reports Clearance Officer, Centers for Disease Control and Prevention, Office of Program Planning and Evaluation, 1600 Clifton Road, MS D–24, Atlanta, Georgia 30333, (404) 639–7090.

The Unfunded Mandates Reform Act of 1995, in sections 202 and 205, requires Federal agencies to prepare several analytic statements before proposing a rule that may result in expenditures of $100 million by State, local, and tribal governments, or by the private sector in any one year. CDC addressed these concerns in the NPRM published on October 28, 1999—Packaging and Handling of Infectious Substances and Select Agents (42 CFR part 72). Because a final rule resulting from this proposal would not result in expenditures of this magnitude, such statements are not necessary.

The Regulatory Flexibility Act requires Federal agencies to prepare a regulatory flexibility analysis of the potential impact of the proposed rule on small entities and permits agency heads to certify that a proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. CDC also addressed these concerns in the NPRM published on October 28, 1999—Packaging and Handling of Infectious Substances and Select Agents (42 CFR part 72). CDC requested comments on the economic burden from a number of small entities. It also requested recommendations on other possible less burdensome approaches. No comments were received.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that this rule does not have implications for federalism.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

This rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulation Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order.

Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (*5 U.S.C. 801 et seq.*), the Department will report to Congress promulgation of this rule prior to its effective date. The report will state that the Department has concluded that this rule is not a "major rule" because it is not likely to result in an annual effect on the economy of $100 million or more.

List of Subjects in 42 CFR Part 72

Biologic, Incorporation by reference, Packaging and containers, Transportation.

Text of the Rule

For the reasons stated in the preamble, part 72 is amended as follows:

PART 72—[AMENDED]

1. The authority section for part 72 continues to read as follows:

Authority: 42 U.S.C. 264, 271; 31 U.S.C. 9701; 18 U.S.C. 3559, 3571; 42 U.S.C. 262 note.

2. Amend § 72.6 by revising paragraphs (a)(5) and (c)(1) to read as follows:

§ 72.6 Additional requirements for facilities transferring or receiving select agents.

(a) * * *

(5) The biosafety standards and requirements for BSL–2, 3, and 4 operations are contained in the CDC/NIH publication, "Biosafety in Microbiological and Biomedical Laboratories," Fourth Edition, May 1999 which is hereby incorporated by reference. The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR part 51 the incorporation by reference of the above publication. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Copies may be inspected at the Centers for Disease Control and Prevention, 1600 Clifton Road, Mail Stop A–13 Atlanta, Georgia, or at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC. The manual is also available on the CDC web site at *www.cdc.gov/od/ohs/biosfty/bmbl4/bmbl4toc.htm.*

* * * * *

(c) * * *

(1) the Secretary may authorize a state agency or private entity to register facilities under paragraph (a) of this section, if the Secretary determines that the registering entity's criteria for determining the biosafety standards for facilities handling select agents are consistent with the requirements contained in the CDC/NIH publication "Biosafety in Microbiological and Biomedical Laboratories," Fourth Edition.

* * * * *

Dated: August 16, 2001.

Jeffrey Koplan,

Director, Centers for Disease Control and Prevention.

Dated: August 29, 2001.

Tommy G. Thompson,

Secretary, Department of Health and Human Services.

[FR Doc. 01–22128 Filed 8–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 356

[Docket No. MARAD–2001–10518]

RIN 2133–AB45

Eligibility of U.S.-Flag Vessels of 100 Feet or Greater in Registered Length To Obtain a Fishery Endorsement to the Vessel's Documentation

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Interim final rule and request for comments.

SUMMARY: The Maritime Administration ("MARAD," "we," "our," or "us") is publishing this interim final rule amending our regulations implementing the new U.S. citizenship requirements set forth in the American Fisheries Act of 1998 ("AFA"). MARAD's regulation,

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at 46 CFR Part 356, contains the substantive requirements mandated by the AFA and procedural requirements established by MARAD for administration of the AFA. We are promulgating an amendment which provides us with the ability to waive any procedural requirement, if there is good cause to do so and the waiver would not be inconsistent with the AFA and the intent of this part. The waiver provision is effective upon publication, but we are inviting comments on the provision.

DATES: The effective date of this final rule is August 31, 2001. Submit comments on or before October 1, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001– . Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of transportation, 400 7th St., SW. Washington, D.C. 20590–0001. You may send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Citizenship Approval Officer, Maritime Administration, MAR–222 Room 7228, 400 7th Street, SW, Washington, DC 20590. Telephone: (202) 366–5320.

SUPPLEMENTARY INFORMATION: The AFA imposes new citizenship requirements for the owners of vessels of 100 feet or greater in registered length which hold a fishery endorsement or for which a fishery endorsement is sought and for entities holding a preferred ship mortgage on such vessels. We are required by the AFA to "rigorously" scrutinize any transfer of ownership and control over fishing vessels, fish processing vessels and fish tender vessels. In so doing, we must pay particular attention to leases, charters, financing arrangements, mortgages, and other documents to determine if they constitute an impermissible conveyance of control to persons not eligible to own a vessel with a fishery endorsement.

MARAD's detailed regulations, 46 CFR Part 356, were published in the **Federal Register** on July 19, 2000 (65 FR 44860), following notice and opportunity for submission of comments. The new citizenship requirements become effective on October 1, 2001. Vessel owners were directed to submit citizenship affidavits and other documents to us by June 1, 2001. We have provided information on the new requirements on MARAD's web site, http:/marad.dot.gov/afa.html, mailed information to owners of fishing industry vessels and conducted briefings open to the public.

Nevertheless, because the new regulations apply for the first time to a population of individuals who have not yet had the opportunity to communicate or work with MARAD, we are concerned that we may face circumstances in which issues that were not anticipated by us or the public can not be resolved in the short period of time before October 1, 2001. In addition, some confusion may arise for the public because the U.S. Coast Guard will administer the AFA's citizenship requirements with regard to vessels under 100 feet in registered length under its own procedures. Our concerns are based on actual contacts between MARAD staff and the public that have brought to our attention the potential for certain inequitable results that could stem from the implementation of the regulations if MARAD does not have the ability to waive certain procedural requirements. We expect to review about 500 affidavits along with underlying articles of incorporation, bylaws, charters, management agreements, sales agreements and other documents.

In the course of reviewing this large number of complicated business arrangements it has become apparent that circumstances will arise, often not the fault of the vessel owner, that prevent us from making a complete citizenship finding by October 1, 2001. Our regulations provide the opportunity for the applicant to work with us to resolve matters prior to issuing a determination whether the applicant qualifies as a U.S. citizen. However, the AFA rule would cause the vessel owner's fishery endorsement to be deemed invalid on October 1, 2001. Thus, there will be times when a waiver of our procedures will be appropriate to avoid this result. Accordingly, MARAD is promulgating this amendment to 46 CFR Part 356, which allows us to waive procedural provisions of the rule not mandated by the AFA. The waiver provision would not be applicable to the substantive requirements set out in the AFA and the rule. In addition, any waiver must be supported by good cause shown.

We expect to issue decisions by October 1, 2001, on the bulk of the citizenship applications that we have received; however, the waiver provision will provide MARAD with the necessary flexibility to ensure that vessel owners do not suffer harsh consequences such as the loss of their ability to fish or the loss of the vessel's fishery endorsement if MARAD is unable to make a citizenship determination by that date. Vessel owners are advised that we intend to process citizenship affidavits as expeditiously as possible and that the waiver provision is not intended to provide a mechanism that can be used by vessel owners to circumvent the requirements of the American Fisheries Act or to delay its implementation. Accordingly, we expect to complete decisions on any remaining applications by December 31, 2001.

The waiver provision will be effective as an interim measure immediately upon publication so that it will be in place before October 1, 2001, the date when MARAD must determine the U.S. citizenship status of 500–700 vessel owners and operators. The need to fairly administer the new and intricate requirements of the AFA within the stringent time constraints fully supports a finding of good cause, under the Administrative Procedure Act, 5 U.S.C. § 553(b) and (d), that the interim final rule should be effective upon publication and that prior notice and opportunity for public comment is not practicable and would not be in the public interest. However, we will consider public comment on the waiver provision before making the provision a permanent final rule.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review)

After discussing compliance requirements with interested vessel owners, operators and mortgagees, we became aware of a need to have a waiver provision in the AFA regulations so that non-material discrepancies in a vessel's documentation would not arbitrarily cause a vessel owner to lose their fishery endorsement. The waiver provision will not entail any cost to vessel owners, mortgagees, charterers, or other parties regulated by 46 CFR part 356.

This final rule is not a significant regulatory action under § 3(f) of Executive Order 12866. Consequently, it was not reviewed by the Office of Management and Budget. The economic impact, if any, should be minimal; therefore, no further analysis is necessary. This proposed rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation, 44 FR 11034 (February 26, 1979) as it merely allows waiver of administrative and procedural requirements.

Federalism

We analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 ("Federalism") and have determined that it does not have sufficient federalism implications to warrant consultation with State and local officials. The regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

Executive Order 13175

MARAD does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires us to consider whether our proposals will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under § 3 of the Small Business Act (15 U.S.C. 632). This rulemaking may reasonably be expected to affect small businesses or entities that currently own documented fishing vessels, fish processing vessels, or fish tender vessels, that have financed such vessels, or that are engaging in the fisheries of the United States with such vessels. The Small Business Administration defines businesses within the fishing industry that have annual receipts of $3 million or less as small businesses, 13 CFR 121.201. We do not believe that there will be any cost to small business entities to comply with this interim final rule. Therefore, MARAD certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact Statement

We have analyzed this rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order 600–1, "Procedures for Considering Environmental Impacts," 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this rulemaking is not required. This rulemaking involves administrative and procedural regulations that clearly have no environmental impact.

Paperwork Reduction Act

This rulemaking does not establish any new requirement for the collection of information.

Unfunded Mandates Reform Act of 1995

This final rule will not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This proposed rule is the least burdensome alternative that achieves the objective of the rule.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 356

Citizenship and naturalization, Fishery endorsement, Fishing vessels, Mortgages, Mortgage trustee, Penalties, Preferred mortgages, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, MARAD amends 46 CFR Part 356 as follows:

PART 356—REQUIREMENTS FOR VESSELS OF 100 FEET OR GREATER IN REGISTERED LENGTH TO OBTAIN A FISHERY ENDORSEMENT TO THE VESSEL'S DOCUMENTATION

1. The authority citation for 46 CFR Part 356 continues to read as follows:

Authority: 46 App. U.S.C. § 12102; Public Law 105–277, Division C, Title II, Subtitle I, § 203 (46 App. U.S.C. 12102 note), § 210(e), and § 213(g), 112 Stat. 2681; 46 CFR 1.66.

2. Amend 46 CFR Part 356 by adding a new § 356.2 to read as follows:

§ 356.2 Waivers.

In special circumstances and for good cause shown, we may waive the procedures prescribed in this part, provided the waiver is consistent with the requirements of the AFA and with the intent of this part.

Dated: August 28, 2001.

By Order of the Acting Deputy Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–22039 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–81–P

VOL 66 ISS 170 AG 31 2001 UMI

Proposed Rules

Federal Register
Vol. 66, No. 170
Friday, August 31, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–149–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require an inspection of the aft galley power feeder wire assembly for riding, chafing, and damage located above the main cabin, left side, overwing ceiling panels; and follow-on actions. This action is necessary to prevent damage to the electrical wire insulation of the aft galley power feeder wires, electrical arcing, and potential smoke and/or fire. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 15, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–149–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: George Y. Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–149–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that the aft galley power feeder wires were found to be riding on the main cabin ceiling supports located in the overwing area. This condition, if not corrected, could result in damage to the electrical wire insulation, electrical arcing, and potential smoke and/or fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A046, Revision 02, dated March 26, 2001, which describes procedures for a one-time general visual inspection of the aft galley power feeder wire assembly for riding, chafing, and damage located above the main cabin, left side, overwing ceiling panels; and follow-on actions. The follow-on actions include repair of any damage on the outer cable jacket or primary insulation, installation of a splice on the power feeder cable to remove damage, installation of sleeving over the affected area, and a functional test of the galley equipment, as applicable. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 26 Model MD–90–30 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 17 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $1,020, or $60 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $2,040, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–149–AD.

Applicability: Model MD–90–30 series airplanes, certificated in any category; as identified in McDonnell Douglas Alert Service Bulletin MD90–24A046, Revision 02, dated March 26, 2001.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the electrical wire insulation of the aft galley power feeder wires, electrical arcing, and potential smoke and/or fire, accomplish the following:

Inspection and Follow-On Actions

(a) Within 90 days after the effective date of this AD, do a one-time general visual inspection of the aft galley power feeder wire assembly for riding, chafing, and damage located above the main cabin, left side, overwing ceiling panels-particularly near the ends of the ceiling supports-in accordance with the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD90–24A046, Revision 02, dated March 26, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Condition 1: Damage to Outer Cable Jacket or Primary Insulation

(1) If any damage to the outer cable jacket or the primary insulation is found, prior to further flight, repair the scuffed jacket or insulation; and modify the galley power feeder cable installation by installing sleeving over the wire assembly per the alert service bulletin.

Condition 2: Damage to Power Feeder Cable Conductor

(2) If any damage to the power feeder cable conductor is found, prior to further flight, repair the damaged cable by installing a splice at the damaged location; modify the galley power feeder cable installation by installing sleeving over the wire assembly; and do a functional test of the galley equipment; per the alert service bulletin.

Condition 3: No Damage

(3) If no damage is found, prior to further flight, modify the galley power feeder cable installation by installing sleeving over the wire assembly; per the alert service bulletin.

Note 3: Accomplishment of the actions required by this AD per McDonnell Douglas Alert Service Bulletin MD90–24A046, dated July 31, 1997; or Revision 01, dated February 16, 1998; is acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on August 24, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21973 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–P

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–71–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This proposal would require replacement of the trigger spring of the slide bar on each of the passenger doors with a new, stronger trigger spring. This action is necessary to prevent corrosion of the trigger spring on the slide bar of the passenger doors, which could result in incorrect locking of the slide bar and, during deployment of the escape slide, lead to a delay in evacuating passengers in an emergency. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 1, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket Number 2001–NM–71–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamra Elkins, Aerospace Engineer, International Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, telephone (425) 227–2669, fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–71–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes. The DGAC advises that, during deployment tests of the escape slide, in two cases the slide bar detached from the door sill and the escape slide failed to inflate. It was found that the carbon-steel trigger spring was ruptured due to severe corrosion. The function of the trigger spring is to hold the trigger in a certain position to mechanically secure the telescopic slide bar in the extended position. If the trigger spring ruptures, the slide bar may be unlocked and then held in an extended position only by two internal springs. This condition, if not corrected, could result in incorrect locking of the slide bar and, during deployment of the escape slide, lead to a delay in evacuating passengers in an emergency.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999, which describes procedures for replacement of the carbon-steel slide bar trigger spring with a stainless steel spring. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–063(B), dated February 21, 2001, in order to assure the continued airworthiness of these airplanes in France.

Difference Between Proposed Rule and Service Bulletin

Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999, specifies that Airbus Service Bulletin A320–52–1068 is to be accomplished concurrently. However, French airworthiness directive 2001–063(B), dated February 21, 2001, provides that simultaneous (or concurrent) accomplishment of Airbus Service Bulletin A320–52–1068 is not required. Similarly, this proposed rule would not require concurrent accomplishment of Airbus Service Bulletin A320–52–1068.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 152 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts will be provided at no charge by the manufacturer. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $72,960, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2001–NM–71–AD.

Applicability: Model A319, A320, and A321 series airplanes, all serial numbers having received Airbus Modification 20234 (installation of telescopic girt bar for slide raft) or Airbus Service Bulletin A320–25–1055 without Airbus Modification 28212 in production or Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999, in service; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the trigger spring on the slide bar of the forward and aft passenger doors, which could result in incorrect locking of the slide bar during deployment of the escape slide and lead to a delay in evacuating passengers in an emergency, accomplish the following:

Replacement

(a) Within 18 months of the effective date of this AD or within 30 months from the date of manufacture of the airplane, whichever occurs later: Replace the carbon-steel trigger spring having part number (P/N) D5211046420000 on each of the forward and aft passenger doors with a stainless steel trigger spring having P/N D52110464200, in accordance with Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999.

Spares

(b) As of the effective date of this AD, no person shall install a carbon-steel trigger spring having P/N D5211046420000, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–063(B), dated February 21, 2001.

Issued in Renton, Washington, on August 24, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21974 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–28–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A330 series

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airplanes. This proposal would require removal of the shear pins that keep the rear fixed panels on the center landing gear closed and installation of new solid shear pins. This action is prompted by mandatory continuing airworthiness information from a foreign airworthiness authority. This action is necessary to prevent the shear pins on the rear fixed panels of the center landing gear from failing, which could result in loss of the panels during flight with consequent injury to people on the ground. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 1, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–28–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–28–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–28–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–28–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330 series airplanes. The DGAC advises that several occurrences have been reported of failure of the shear pins which keep the rear fixed panels on the center landing gear closed. The failure is due to high vibratory fatigue stresses. This condition, if not corrected, could result in damage to or loss of a panel during flight with consequent injury to people on the ground.

Explanation of Relevant Service Information

Airbus Industrie has issued Service Bulletin A330–52–3058, dated April 7, 2000, which describes procedures for replacing the shear pins of the rear fixed panels of the center landing gear with new solid pins of the same material. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–042(B), dated January 24, 2001, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no charge. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $120, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2001–NM–28–AD.

Applicability: Model A330–202, –223, –243, –301, –321, –322, –323, –341, –342, and –343 series airplanes on which Airbus Modification 47707 has not been incorporated, or Airbus Service Bulletin A330–52–3058, dated April 7, 2000, has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the shear pins on the rear fixed panels of the center landing gear from failing, which could result in loss of the panels during flight with consequent injury to people on the ground, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD: Remove the shear pins that keep the rear fixed panels of the center landing gear closed and install solid shear pins, in accordance with Airbus Service Bulletin A330–52–3058, dated April 7, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–042(B), dated January 24, 2001.

Issued in Renton, Washington, on August 24, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21975 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 4118b; FRL–7045–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Nine Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for 9 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 1, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency,

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Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melik Spain at (215) 814–2299, the EPA Region III address above or by e-mail at *spain.melik@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 21, 2001.

Abraham Ferdas,

Acting Regional Administrator, Region III.

[FR Doc. 01–22007 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 4140b; FRL–7046–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for 8 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 1, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melik Spain at (215) 814–2299, the EPA Region III address above or by e-mail at spain.melik@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 22, 2001.

Abraham Ferdas,

Acting Regional Administrator, Region III.

[FR Doc. 01–22005 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4148b; FRL–7046–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Three Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for three major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 1, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melik Spain at (215) 814–2299, the EPA Region III address above or by e-mail at *spain.melik@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 22, 2001.

Abraham Ferdas,

Acting Regional Administrator, Region III.

[FR Doc. 01–22003 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1852 and 1872

Broad Agency Announcements

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This is a proposed rule to amend the NASA FAR Supplement (NFS) to require consideration of safety and risk-based acquisition management (RBAM) in NASA's broad agency announcements (BAAs). Two types of BAAs used by NASA include the Announcement of Opportunity (AO) and the NASA Research Announcement (NRA).

DATES: Comments should be submitted on or before October 30, 2001.

ADDRESSES: Interested parties should submit written comments to Rex T. Elliott, NASA Headquarters, Office of Procurement, Analysis Division (Code HC), Washington, DC 20546. Comments may also be submitted by e-mail to *relliott@hq.nasa.gov*.

FOR FURTHER INFORMATION CONTACT: Rex Elliott, NASA, Office of Procurement, Analysis Division (Code HC), (202) 358–4418, or e-mail: *relliott@hq.nasa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

NASA recently made several changes to the NFS to address safety and RBAM in the acquisition planning processes for negotiated procurements. This proposed rule would make corresponding changes to the proposal preparation and evaluation processes for NRAs and AOs, allowing NASA to consider safety and RBAM as part of the proposal selection done under NASA's broad agency announcements. This change will ensure consistency in the way safety and RBAM are treated in all NASA acquisitions.

B. Regulatory Flexibility Act

NASA certifies that this proposed rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because it does not impose new requirements. Rather it focuses attention on safety and risk management which are inherent in any resultant effort under AO's and NRA's.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the NFS do not impose any record keeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 1852 and 1872

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1852 and 1872 are proposed to be amended as follows:

1. The authority citation for 48 CFR 1852 and 1872 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Amend the clause at section 1852.235–72 by revising the month and year of the clause, redesignating paragraph (c)(11)(ii) as (c)(11)(iii), and adding a new paragraph (c)(11)(ii) to read as follows:

1852.235–72 Instructions for Responding to NASA Research Announcements.

* * * * *

INSTRUCTIONS FOR RESPONDING TO NASA RESEARCH ANNOUNCEMENTS (XXXX)

* * * * *

(c) * * *

(11) * * *

(ii) Identify and discuss risk factors and issues throughout the proposal where they are relevant, and your approach to managing these risks.

* * * * *

PART 1872—ACQUISITION OF INVESTIGATIONS

3. Amend paragraph (b) of section 1872.303 by adding the words "Office of Safety and Mission Assurance," immediately after "Office of General Counsel,".

4. Amend section 1872.307 by adding the following sentence at the end of paragraph (b) to read as follows:

1872.307 Guidelines for proposal preparation.

* * * The investigator shall be required to identify and discuss risk factors and issues throughout the proposal where they are relevant, and describe the investigator's approach to managing these risks.

5. Amend section 1872.402 by redesignating paragraph (b)(7) as (b)(8), and adding a new paragraph (b)(7) to read as follows:

1872.402 Criteria for evaluation.

* * * * *

(b) * * *

(7) The proposed approach to managing risk (e.g. level of technology maturity being applied or developed, technical complexity, performance specifications and tolerances, delivery schedule, etc.).

* * * * *

6. Amend section 1872.705 by redesignating paragraphs II, III, IV, V, VI, VII, VIII and IX as III, IV, V, VI, VII, VIII, IX, and X respectively, and adding a new paragraph II to read as follows:

1872.705 Format of Announcement of Opportunity (AO).

* * * * *

II. NASA's Safety Priority.

Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including NASA employees

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working under NASA instruments), and
(4) high-value equipment and property.

* * * * *

[FR Doc. 01–21994 Filed 8–30–01; 8:45 am]
BILLING CODE 7510–01–P

Notices

Federal Register
Vol. 66, No. 170
Friday, August 31, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–085–7]

Aquaculture; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: We are issuing this notice to inform the aquaculture industries, interested parties, and the general public that a public meeting will be held to discuss how and to what extent the Animal and Plant Health Inspection Service should regulate aquatic species and to discuss any other issues concerning possible regulation of aquaculture by the Agency. This notice also invites written comments on these issues.

DATES: The public meeting will be held on October 4, 2001, from 1:30 p.m. to 4 p.m. We will consider written comments that we receive on or before February 1, 2002.

ADDRESSES: The public meeting will be held at the University of Arkansas at Pine Bluff, 1890 Extension Building, Spruce and Oliver Streets, Pine Bluff, AR.

Please send four copies of your written comments (an original and three copies) to: Docket No. 98–085–7, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–085–7.

You may read any written comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For more information on the public meeting, contact Dr. Otis Miller, Jr., National Aquaculture Coordinator, Planning, Certification, and Monitoring, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231, (301) 734–6188.

For information regarding aquaculture activities at the University of Arkansas at Pine Bluff, call Dr. Carole Engle, Director of Aquaculture/Fisheries Center, University of Arkansas at Pine Bluff, (870) 543–8537.

SUPPLEMENTARY INFORMATION: On May 4, 1999, the Animal and Plant Health Inspection Service (APHIS) published an advance notice of proposed rulemaking (ANPR) titled "Aquaculture: Farm-Raised Fin Fish" in the **Federal Register** (64 FR 23795–23796, Docket No. 98–085–1). We published this ANPR after receiving petitions [1] asking us to regulate aquaculture in various ways. Many petitioners asked us to define farmed aquatic animals as livestock. In general, the petitioners seemed to be interested in receiving the same services that domestic producers of livestock receive for animals moving in interstate and foreign commerce. However, based on the petitions alone, it was difficult for us to determine what segments of the industry want services and exactly what services they want. It was also difficult to determine the objectives sought by the petitioners who were requesting Federal regulation. We published the ANPR in an attempt to clarify the industry's needs, the nature of the services sought, and the concerns the petitioners had with regard to such regulations.

We received 55 comments [2] in response to the ANPR. A majority of the commenters supported the idea of APHIS regulation of cultured fin fish. Unfortunately, the commenters generally did not clearly distinguish between fin fish raised for food and ornamental fin fish. Commenters who wanted regulation were, however, very clear that they want programs to prevent and control disease and to support increased commerce, both domestic and export.

The commenters also suggested that any rulemaking initiated by APHIS be a negotiated rulemaking. In negotiated rulemaking, industry representatives and other interested persons meet with APHIS officials and draft proposed regulations together. The proposed regulations are then published for public comment. Negotiated rulemaking is designed to ensure that all interested persons are involved together from the start in the development of regulations.

Unfortunately, negotiated rulemaking is not suitable for all situations. It works well when there is a small number of interested parties and the parties are easy to identify. This is not the case with aquaculture. Because the aquaculture industry is large and diverse, we would have difficulty identifying everyone who should be represented in a negotiated rulemaking. In addition, many parties outside aquaculture would have a substantial interest in such a rulemaking. In our view, the number of people who would need to participate in a negotiated rulemaking would be too large and would suggest that negotiated rulemaking is not appropriate. Furthermore, a negotiated rulemaking would be expensive, and APHIS does not have adequate funds. Therefore, we have concluded that it would not be appropriate to pursue an aquaculture negotiated rulemaking.

However, we have not decided whether to pursue aquaculture rulemaking by other means. Before we make that decision, we want to have as much information as possible from all interested persons, and we want to provide you with as much opportunity

[1] All the petitions we received are a part of the rulemaking record for Docket No. 98–085–1. You may read the petitions in our reading room. See the **ADDRESSES** section of this documents for the location and hours of the reading room.

[2] All the comments we received are a part of the rulemaking record for Docket No. 98–085–1. You may read the comments in our reading room. See the **ADDRESSES** section of this document for the location and hours of the reading room.

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as possible to discuss with us and inform us regarding the relevant issues.

Therefore, we are holding a series of public meetings. Public meetings allow all interested parties—industry representatives, producers, consumers, and others—to present their views and to exchange information among themselves and with APHIS.

There are no set agendas for the meetings. Any issues and concerns related to aquaculture and possible APHIS regulatory action can be discussed. However, we would like more information on three specific issues. These are issues that the people and organizations who commented on our ANPR either did not address or were unclear about. Specifically, if APHIS does propose regulations: (1) Should our program be mandatory or voluntary; (2) should we cover shell fish; and (3) should we cover ornamental fin fish?

Information elicited at the meetings could result in a new APHIS regulatory program or in changes to aquaculture-related services currently provided by APHIS.

We have scheduled this public meeting for Thursday, October 4, 2001, at the University of Arkansas at Pine Bluff, Pine Bluff, AR. If you wish to speak at the meeting, please register in advance by calling the Regulatory Analysis and Development voice mail at (301) 734–4339. Leave a message with your name, telephone number, organization, if any, and an estimate of the time you need to speak. On the day of the meeting, you may also register from 1 to 1:30 p.m. at the meeting site. Starting with the advance registrants, we will call speakers in the order in which they registered.

The meeting will begin at 1:30 p.m. and is scheduled to end at 4 p.m. We may end the meeting early if all the registered speakers have had a chance to speak and if no one else wants to speak. We may also extend the meeting or limit the time allowed for each speaker, if necessary, so all interested persons have an opportunity to participate.

An APHIS representative will preside at the meeting. The meeting will be recorded. We encourage speakers to present written statements, though it is not required. If you choose to present a written statement, please provide the chairperson with a copy. The complete record, including the transcript and all written comments, will be available to the public.

This meeting is part of our series of public meetings. The first public meeting was held on January 25, 2001, in Lake Buena Vista, FL. The second public meeting was held on February 16, 2001, in Hebron, KY. The third public meeting was held on April 5, 2001, in Machias, ME, and the fourth public meeting was held on June 8, 2001, in Twin Falls, ID. Recently, we announced three other meetings: Washington (September 19, 2001, in conjunction with the joint meeting of the Pacific Coast Shellfish Growers Association and the National Shellfish Association/Pacific Coast Section Conference); Pennsylvania (October 9, 2001, in conjunction with the annual meetings of the Pennsylvania Aquaculture Advisory Committee and the Pennsylvania Aquaculture Association); and Mississippi (October 10, 2001, in conjunction with the annual Board meeting of the Catfish Farmers of America). On July 27, 2001, we published a notice in the **Federal Register** (66 FR 39134–39136, Docket No. 98–085–6) announcing the dates, times, and locations of these three meetings. Transcripts of the proceedings of each meeting are available, as we receive them, on the Internet at www.aphis.usda.gov/ppd/rad/aquaculture.html.

Additionally, to provide interested persons with as much opportunity as possible to inform us of relevant issues, we are accepting written comments mailed to the address listed at the beginning of this document under **ADDRESSES.**

Done in Washington, DC, this 28th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22033 Filed 8–30–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–024N]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of meeting; request for comments.

SUMMARY: The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will meet September 17–20, 2001. The meeting is open to the public. The committee will discuss *Salmonella* performance standards in meat and poultry products; *Escherichia coli* O157:H7 in blade-tenderized, non-intact beef; review Codex Alimentarius Commission Draft Guidelines for the Validation of Food Hygiene Control Measures; introduce the evaluation of hot holding temperatures; and the scientific basis for establishing safety-based "use by" date labeling for refrigerated, ready-to-eat foods.

FSIS will finalize an agenda describing the specific charges to the Committee on or before the meeting date and post it to its internet web page.

DATES: Subcommittees will meet on Monday, September 17, 2001, beginning at 8:30 a.m., and again on September 18 and 19, 2001; the full Committee will meet in plenary session on September 19–20, 2001.

ADDRESSES: The meeting will be held at the Capital Hilton, 1001 16th & K Street, NW., Washington, DC 20005. Send an original and two copies of comments to the Food Safety and Inspection Service Docket Room: Docket #01–024N, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250. Comments may also be sent by facsimile (202) 205–0381. The comments and the official transcript of the meeting, when it becomes available, will be kept in the FSIS Docket Room at the above address.

FOR FURTHER INFORMATION CONTACT: Persons interested in making a presentation, submitting technical papers, or providing comments should contact Ms. Karen Thomas (202) 690–6620, Fax (202) 690–6634, e-mail address: *karen.thomas@dcqexs1.hqnet.usda.gov*, or mailing address: Food Safety and Inspection Service, Department of Agriculture, Office of Public Health and Science, Aerospace Center, Room 333, 1400 Independence Avenue, SW., Washington, DC 20250–3700. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Thomas, by September 3, 2001.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established in April 1988, in response to a recommendation in a 1985 report of the National Academy of Sciences Committee on Food Protection, Subcommittee on Microbiological Criteria, "An Evaluation of the Role of Microbiological Criteria for Foods." The Charter for the NACMCF is available for viewing on the FSIS internet web page at *http://www.fsis.usda.gov/OA/programs/nacmcf_chart.htm.*

The NACMCF provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services on public health issues relative to the safety and wholesomeness of the U.S. food supply including development of microbiological criteria and review and evaluation of epidemiological and risk assessment data and methodologies for assessing microbiological hazards in foods. The Committee also provides advice to the Centers for Disease Control and Prevention and the Departments of Commerce and Defense. Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, FSIS, is the Committee Chair, and Janice F. Oliver, Deputy Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, is the Co-Chair.

At the September 17–20, 2001, meeting announced in this document, the Committee will

- Discuss *Salmonella* performance standards in meat and poultry products;
- Discuss *Escherichia coli* O157:H7 in blade-tenderized, non-intact beef;
- Review Codex Alimentarius Commission Draft Guidelines for the Validation of Food Hygiene Control Measures;
- Introduce the evaluation of hot holding temperatures; and
- Introduce the scientific basis for establishing safety-based "use by" date labeling for refrigerated, ready-to-eat foods.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Thomas J. Billy,

Administrator.

[FR Doc. 01–21982 Filed 8–30–01; 8:45 am]

BILLING CODE 3410–DM–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 1, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, Arlington, VA 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740

SUPPLEMENTARY INFORMATION: On March 2, April 13, June 15, June 29, July 13, 2001 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 F.R.13041, 19136, 32598, 36741, 34611, 34612) of proposed additions to the Procurement List.

The following comments pertain to Microfilming, U.S. Bureau of the Census, Washington, D.C. Comments were received from a microfilming corporation. The commenter raised several issues in objecting to the Committee's proposal to add this microfilming service for the Bureau of the Census to the Procurement List.

The commenter first questioned the Committee's certification that the proposed addition to the Procurement List will not have a significant impact on a substantial number of small entities.

The commenter indicated that the proposed addition would have a severe impact on small business entities in the computer output archival microfilm industry. The commenter also indicated that this Procurement List addition would set a precedent for other Government microfilm conversion projects in the future.

The commenter did not provide any information to indicate how many small business entities would be affected by this Procurement List addition. Without this information, the Committee cannot conclude that a substantial number of small business entities would be adversely affected. Any negative impact would probably be countered by the positive impact on the two small nonprofit entities that will be performing the service. The Committee is required to conduct a separate rulemaking proceeding, including an adverse impact determination, for each Procurement List addition, so this addition cannot be a precedent for later additions.

The commenter also indicated that a fair market price for the microfilming service may only be determined by a competitive procurement. The Committee believes that its fair market pricing procedures, which include price negotiations between the Bureau of the Census and the producing nonprofit agencies, will result in a fair market price that will represent a best value to the Government.

The commenter questioned the capability of the nonprofit agencies to perform the service, noting that time is of the essence because of potential deterioration of the magnetic media in which the census information is being stored. The nonprofit agencies have been found technically capable of performing the service, and the Bureau of the Census has accepted this finding.

The commenter, in questioning the Committee's certification that the proposed Procurement List addition would not result in additional reporting, recordkeeping, or compliance requirements for entities other than the producing nonprofit agencies, asked the Committee to conduct a study of the relative merits of the commenter's microfilming method and the other commercially available microfilming process. The Committee does not think such a study is necessary to support the addition of this service to the Procurement List, as it will provide no information needed to support the Committee's determination that the service is suitable for addition to the Procurement List that would justify the cost and delay which a study would entail. Finally, the commenter asked the Committee to consider an alternative approach by expanding the Committee's program to include for-profit entities as employers of people with severe disabilities. To the extent this alternative would involve for-profit entities as program participants, it is prohibited by the Committee's statute, which limits participation to nonprofit agencies. However, these nonprofit agencies are encouraged to subcontract with for-profit entities to obtain goods and services that do not create work for

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people with severe disabilities. In this situation, the designated nonprofit agencies have communicated with the commenter as a possible subcontractor on this or other projects to be added to the Procurement List. Consequently, the Committee believes that it is complying with the commenter's alternative approach to the extent it is permitted to do so.

The following material pertains to all of the items being added to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodities

Custom Planners & Accessory Kit
7510–00–NIB–0565
7510–00–NIB–0566
7510–00–NIB–0567
7510–00–NIB–0568
7510–00–NIB–0569
7510–00–NIB–0570
7510–00–NIB–0571
7510–00–NIB–0572
7510–00–NIB–0573
7510–00–NIB–0574
7510–00–NIB–0575
7510–00–NIB–0576
7510–00–NIB–0577
7510–00–NIB–0578

Services

Janitorial/Custodial, Minnesota Valley National Wildlife Refuge, Visitors Center, Bloomington, MN
Janitorial/Custodial, U.S. Fish & Wildlife Service, Santa Ana National Wildlife Refuge, Alamo, TX
Janitorial/Grounds Maintenance, U.S. Border Patrol Sector Headquarters, El Paso, TX
U.S. Border Patrol Station One, El Paso, TX
U.S. Border Patrol, Ysleta Border Patrol Station, El Paso, TX
U.S. Border Patrol, Ysleta Traffic Checkpoint, Highway 62/108, El Paso, TX
Laundry Service, Fort Lee, Fort Lee, VA
Mailing Services, Department of Energy, Argonne National Laboratory, Argonne, IL
Microfilming, U.S. Bureau of the Census, Washington, DC

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–22036 Filed 8–30–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a commodity and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before October 1, 2001.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, 1421 Jefferson Davis Highway, Suite 10800, Arlington, VA 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each commodity or service will be required to procure the commodity or service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and service to the Government.

2. The action will result in authorizing small entities to furnish the commodity and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and service are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Milk, Non-Fat Dry, Instantized
8910–00–NSH–0002
NPA: CW Resources, Inc., New Britain, Connecticut
Knox County Association for Retarded Citizens, Inc., Vincennes, Indiana
Advocacy and Resources Corp. (ARC), Cookeville, Tennessee
Transylvania Vocational Services, Inc., Brevard, North Carolina
Government Agency: Department of Agriculture

Services

Facilities Management
Television Audio Support Activity (TASA), McClellan AFB, CA
NPA: PRIDE Industries, Roseville, California
Government Agency: Department of the Air Force

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–22037 Filed 8–30–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Prior Notification of Exports Under License Exception AGR

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 30, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230, or via e-mail at mclayton@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION

I. Abstract

Section 906 of the TSRA requires that exports of agricultural commodities, medicine or medical devices to Cuba or to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism, or to any other entity in such a country, are made pursuant to one-year licenses issued by the U.S. Government, while further providing that the requirements of one-year licenses shall be no more restrictive than license exceptions administered by the Department of Commerce, except that procedures shall be in place to deny licenses for exports to any entity within such country promoting international terrorism. To meet the requirements of TSRA, BXA is imposing a prior notification procedure under new License Exception Agricultural Commodities (AGR). Exports and certain reexports of agricultural commodities will be authorized under License Exception AGR to Cuba.

II. Method of Collection

Submitted on forms.

III. Data

OMB Number: 0694–0123.
Form Number: BXA–748P.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 250.
Estimated Time Per Response: 52–57 minutes per response.
Estimated Total Annual Burden Hours: 926 hours.
Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: August 27, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–21992 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

National Defense Authorization Act

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 30, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230, or via e-mail at *mclayton@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Department of Commerce, Room 6883, 14th & Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required as the result of the amending of the Export Administration Regulations (15 CFR parts 730–799) (EAR) by revising the (EAR) requirements for exports and reexports contained in Sections 1211–1215 of the National Defense Authorization Act (NDAA) for fiscal year 1998 (P.L. 105–85, 111 Stat. 1629), signed by the President on November 18, 1997. There is one component of this information collection authorization, a *post-shipment report* on the export of high performance computers, as well as exports of items used to enhance previously exported or reexported computers, to Tier 3 countries, where the CTP is greater than 85,000 MTOPS for commodities shipped on or after March 20, 2001. (For commodities shipped prior to that date, lower reporting thresholds apply, per 15 CFR parts 740.7 and 742.12.) Exporters are required to provide a written report to BXA no later than the last day of the month following the month in which the export takes place. To simplify this process, BXA is developing an electronic form that will incorporate the relevant data elements and replace the written report, thereby standardizing the data format for the applicant, and enabling the use of information technology in the processing of the data.

II. Method of Collection

Submitted on forms.

III. Data

OMB Number: 0694–0107.
Form Number: BXA 742R, BXA 742S.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 5.
Estimated Time Per Response: 15 minutes per response.
Estimated Total Annual Burden Hours: 6 hours.

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Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. In addition, the public is encouraged to provide suggestions on how to reduce and/or consolidate the current frequency of reporting.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: August 27, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–21993 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–862]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended Final Determination of Antidumping Duty Investigation.

EFFECTIVE DATE: August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Alex Villanueva, Marlene Hewitt or James Doyle, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0193, (202) 482–6412, (202) 482–1385 or (202) 482–0159, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Scope of the Investigation

For purposes of this investigation, the product covered is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries.

The foundry coke products subject to this investigation were classifiable under subheading 2704.00.00.10 (as of Jan 1, 2000) and are currently classifiable under subheading 2704.00.00.11 (as of July 1, 2000) of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Amendment to the Final Determination

On July 23, 2001, the Department determined that foundry coke from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Tariff Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Foundry Coke from the People's Republic of China*, 66 FR 39487 (July 31, 2001).

On July 30, 2001, respondents, CITIC Trading Co., Ltd. ("CITIC"), Shanxi Dajin International (Group) Co., Ltd. ("Dajin"), Minmetals Townlord Technology Co. ("Minmetals"), and Sinochem International Co., Ltd. ("Sinochem") timely filed an allegation that the Department made ministerial errors in the final determination. On August 6, 2001, petitioners, ABC Coke, Citizens Gas and Coke Utility, Erie Coke Corporation, Sloss Industries Corporation, and Tonawanda Coke Corporation, timely filed comments in rebuttal to respondents' alleged errors.

Comment 1: Respondents collectively argue that the Department verified, and the respondents correctly reported, the freight distance from the factory to the port. Respondents argue that it is clear that the rail schedule submitted by respondents (See Respondents' May 1, 2001 Submission at Exhibit 6) established the rail rates for specific distances on a per metric ton basis, not on a per metric ton per kilometer basis, as the Department has used to calculate margins for all respondents. Respondents conclude that the Department erred, by first, using an incorrect transportation distance to select the appropriate rail rate, notwithstanding the fact that the rail schedule from the Indian Railway Conference Association contains specific rates for different ranges of transportation distances; and, second, by multiplying the incorrectly selected rail rate by the distances of the transport. Respondents allege that the Department's current methodology grossly overstates the freight by the factor of the distance used and should be corrected to reach an accurate margin calculation for each of the respondents. Respondents argue that the Department should revise its normal value programs to reflect the correct freight by basing its calculation on the Indian Railway Conference Association rate schedule for the appropriate (and accurate) supplier distance that was submitted and verified as part of the record.

Respondents claim that in the normal value programs, the Department universally used a freight distance of 741–750 kilometers to calculate freight for the transport of coking coal from the suppliers to the producers. Respondents argue that the Department should revise its normal value programs to reflect the correct freight using the rail schedule from the Indian Railway Conference Association.

Petitioners assert that the Department correctly calculated freight rates and achieved the correct result because the Department applied the rate on a per kilometer basis.

Department's Position: We agree with petitioners in part and respondents in part. The rail schedule does establish rail rates for specific distance ranges on a per metric ton basis. In the rail freight calculation, the Department used the rail rate that corresponded to the distance from the coke manufacturer to the nearest port. The Department did not use the rate corresponding to the distance between the suppliers of coal and the producer. Because the distance range used by the Department is greater, the corresponding rate per ton is also greater. However, the Department divided the rate by the largest number of kilometers in the distance range used.

We agree with respondents that we should have used the rail rates per ton that corresponded to the distance between the suppliers of coal and the producer. We have revised the margin calculation program using the appropriate rail rate, and divided it by the correct number of kilometers. We have also corrected another clerical error that relates to the calculation for rail freight in CITIC's and Sinochem's margin program.

We disagree with respondents' claim that multiplying the average freight rate per ton per kilometer by the kilometer transport distance applicable to the suppliers of coal to the producer represents a ministerial error because respondents are in effect requesting the Department to alter its calculation formula, which is clearly a substantive matter, not a ministerial error issue. As the Department may only make corrections to ministerial errors at this point in the proceeding, we did not make the requested change.

Respondents are incorrect that we used a rate based on 741–750 kilometers. The surrogate value exhibit for freight misidentified the rail rate used in the final determination. The exhibit indicates that the rate is based on the rate for 741–750 kilometers; however, the rail rate used in the freight calculation was based on the rate for the distance from the factory to the port.

We also note that contrary to respondents' assertions, this issue regarding rail rates does not apply to all respondents as Dajin and Minmetals did not report rail as the means of transport for any of their inputs.

Comment 2: CITIC, Minmetals and Sinochem argue that the Department continued to use the same freight distance that was used in the preliminary determination to calculate domestic inland freight. They argue that the Department should correct the margin calculation program and use the correct freight distance that was verified on March 19, 2001. Petitioners did not comment on this issue.

Department's Position: We agree with CITIC, Minmetals and Sinochem. We have revised the margin calculation program for CITIC to calculate domestic inland freight based on the correct freight distance.

Dajin

Comment 3: Dajin argues that the Department's final determination used the highest normal value calculated in the preliminary determination as the adverse facts available rate for those producers identified as "missing suppliers." Dajin argues that the Department should use the highest calculated normal value from the amended final determination for those suppliers identified as "missing suppliers."

Petitioners disagree with Dajin's assertion that the Department should use the highest final calculated normal value as adverse facts available for "missing suppliers." Petitioners argue that the Department should continue to use the adverse facts available rate used in the final determination, but calculated at the preliminary determination, for the "missing suppliers" because the application of the highest final calculated normal value may permit non-responding suppliers to benefit from lack of cooperation in this investigation.

Department's Position: We agree with Dajin and have applied as adverse facts available, the highest normal value calculated in the amended final determination. We have revised the margin calculation to reflect this correction.

Comment 4: Dajin argues that the Department used the incorrect gross unit price for the sales reported by Dajin. Dajin argues that the Department should correct the margin calculation for Dajin to reflect the correct U.S. prices that were verified. Petitioners had no comment regarding this issue.

Department's Position: We disagree with Dajin. Dajin's allegation rests on our not using all of its originally reported figures for gross unit price. However, some of these gross unit prices were found to be inaccurate based on our findings at verification. Therefore, as explained in the Analysis Memorandum, we modified gross unit price for certain sales based on the results of verification. *Analysis for the Final Determination of Foundry Coke from the People's Republic of China: Shanxi Dajin International (Group) Company* (July 23, 2001) at pp. 2–3. For other sale(s), we used the originally reported gross unit price found to be accurate as a result of verification. Therefore, we will not make the changes to gross unit price as urged by respondents.

Sinochem

Comment 5: Sinochem argues that it believes that the Department used an incorrect distance to calculate the surrogate value for rail, and has applied a unit cost for rail transport for Sinochem's supplier which is different from that found in the normal value program. Sinochem states that the Department should correct the margin program for Sinochem to reflect the correct unit value for rail transport for Sinochem's supplier. Petitioners argue that the Department used the correct unit value that it calculated based on the Department's calculation for each kilometer as the average railway freight rate in the normal value program.

Department's Position: We agree with petitioners and disagree with Sinochem. We released an inaccurate draft calculation sheet for freight. We have corrected the calculation sheet and will release it to all parties. We note that there was no change to the final margin resulting from this issue because the correct number was used in the final calculation.

Comment 6: Sinochem argues that the Department, in its cost calculation for Sinochem's supplier, used an incorrect value as the unit cost of igniting coal. Sinochem states that the Department has revised the coal input value for purposes of the final determination and should use this new value in the margin program to reflect the correct unit cost for igniting coal for Sinochem's supplier. Petitioners had no comment regarding this issue.

Department's Position: After a review of respondent's allegation, we agree with Sinochem and have corrected our margin calculation to reflect the corrected coal input value for igniting coal.

We are amending the final determination of the antidumping duty investigation of Foundry Coke from the PRC to reflect the correction of the above-cited ministerial errors. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted average margin percent	Revised weighted average margin percent
CITIC	78.03	51.43
Minmetals	76.19	75.58
Dajin	109.85	101.62
Sinochem	163.73	105.91
All Others Rate	214.89	214.89

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the United States Customs Service ("Customs") to continue suspending liquidation on all imports of the subject merchandise from the PRC. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our amended final determination.

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This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 24, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–21969 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–820, A–533–823, and A–834–807]

Silicomanganese from Kazakhstan, India and Venezuela; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determinations in antidumping duty investigations.

SUMMARY: The Department of Commerce ("the Department") is postponing the preliminary determinations in the antidumping duty investigations of silicomanganese from Kazakhstan, India, and Venezuela from September 13, 2001 until no later than October 15, 2001. This postponement is made pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jean Kemp (Kazakhstan), at (202) 482–4037, Sally Gannon (India), at (202) 482–0162, and Robert James (Venezuela), at (202) 482–0649, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Postponement of Due Date for Preliminary Determinations

On April 26, 2001, the Department initiated antidumping duty investigations of imports of silicomanganese from Kazakhstan, India, and Venezuela. The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. *See* 66 FR 22209 (May 3, 2001). Currently, the preliminary determinations in these investigations are due on September 13, 2001.

On July 16, 2001, petitioners alleged, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, that critical circumstances exist with respect to imports of silicomanganese from India. On June 28, 2001 and July 5, 2001, respondent Transnational Company Kazchrome ("Kazchrome") in the Kazakh silicomanganese investigation and the Government of Kazakhstan, respectively, requested revocation, effective January 1, 2000, of Kazakhstan's non-market economy status under section 771(18) of the Act and graduation to a market economy. Also, on July 12, 2001, Kazchrome requested that the Department make a determination that the silicomanganese industry in Kazakhstan operates as a market-oriented industry.

On August 17, 2001, petitioners made a timely request pursuant to 19 CFR 351.205(e) for a 30-day postponement, pursuant to section 733(c)(1)(A) of the Act. Petitioners stated that a postponement of the preliminary determinations is necessary in order to allow the Department to conduct more thorough investigations and to issue preliminary determinations based on a more complete record.

Under section 733(c)(1)(A) of the Act, if the petitioner makes a timely request for an extension of the period within which the preliminary determination must be made under subsection (b)(1), then the Department may postpone making the preliminary determination under subsection (b)(1) until not later than the 190th day after the date on which the administering authority initiates an investigation. Therefore, in accordance with petitioners' request for a postponement, the Department is postponing the preliminary determinations in these investigations for 30 days. Because the 30th day falls on a non-business day, these preliminary determinations will be due no later than October 15, 2001.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: August 24, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–21970 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Yale University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 01–016. *Applicant:* Yale University, New Haven, CT 06520–8202. Instrument: (2) High Pressure Presses, Models TRY10ES and Drickamer Cell. *Manufacturer:* Okaya & Co., Ltd., Japan. *Intended Use:* See notice at 66 FR 39490, July 31, 2001. *Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) a revolving Drickamer cell with pressures to 30 GPa, temperature to 2000° K and rotational rate from 0.00001 to 0.01 rpm and (2) a sliding guide block type multi-anvil apparatus capable of 1000 ton pressure. A university research laboratory advised August 24, 2001 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–22067 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[C–508–605]

Industrial Phosphoric Acid From Israel: Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and final partial rescission of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on industrial phosphoric acid from Israel for the period January 1, 1999 through December 31, 1999. For information on the net subsidy for each reviewed company, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section. Interested parties are invited to comment on these preliminary results. *See Public Comment* section of this notice.

EFFECTIVE DATE: August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Dana Mermelstein, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3964 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1987, the Department published in the **Federal Register** (52 FR 31057) the countervailing duty order on industrial phosphoric acid from Israel. On August 16, 2000, the Department published a notice of "Opportunity to Request Administrative Review" (65 FR 49962) of this countervailing duty order. We received a timely request for review, and we initiated the review, covering the period January 1, 1999 through December 31, 1999, on October 2, 2000 (65 FR 58733). In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Rotem-Amfert Negev Ltd. (Rotem).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations are to 19 CFR part 351 (2000).

Scope of the Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and U.S. Customs Service purposes. The written description of the scope remains dispositive.

Subsidies Valuation Information

Period of Review

The period for which we are measuring subsidies is calendar year 1999.

Allocation Period

In *British Steel plc.* v. *United States*, 879 F.Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against the allocation period methodology for non-recurring subsidies that the Department had employed for the past decade, as it was articulated in the General Issues Appendix appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37225 (July 9, 1993) (GIA). In accordance with the Court's decision, on remand, the Department determined that the most reasonable method of deriving the allocation period for nonrecurring subsides is a company-specific average useful life (AUL). This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc.* v. *United States*, 929 F.Supp 426, 439 (CIT 1996) (*British Steel II*).

However, in administrative reviews in which the Department examines non-recurring subsidies received prior to the POR which have been countervailed based on an allocation period established in an earlier segment of the proceeding, it is not practicable to reallocate those subsidies over a different period of time. When a countervailing duty rate in earlier segments of a proceeding was calculated based on a certain allocation period and resulted in a certain benefit stream, redefining the allocation period in later segments of the proceeding would entail taking the original grant amount and creating an entirely new benefit stream for that grant. (*See, e.g., Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997)).

In this administrative review, the Department is considering non-recurring subsidies previously allocated in earlier administrative reviews under the old practice, non-recurring subsidies also previously allocated in recent administrative reviews under the new practice, and non-recurring subsidies received during the POR to which the current countervailing duty regulations apply. Under these circumstances, and as discussed below, the Department is using different allocation periods depending upon the date of receipt of the non-recurring subsidy. For non-recurring subsidies received prior to the 1995 administrative review (the first review for which the Department implemented the *British Steel I* decision), the Department is using the original allocation period of 10 years. For non-recurring subsidies received since 1995, Rotem has submitted in each subsequent administrative review, including this one, AUL calculations based on depreciation and values of productive assets reported in its financial statements. In accordance with the Department's practice, we derived Rotem's company-specific AUL for each respective administrative review since 1995, by dividing the aggregate of the annual average gross book values of the firm's depreciable productive fixed assets by the firm's aggregated annual charge to depreciation for a 10-year period. In the current review, this methodology has resulted in an AUL of 23 years. Pursuant to section 351.524(d)(2) of the Department's regulations, this company-specific AUL rebuts the presumptive use of the IRS tables. Therefore, for the purposes of these preliminary results, non-recurring subsidies received during the POR will be allocated over 23 years.

Privatization

Israel Chemicals Limited (ICL), the parent company which owns 100 percent of Rotem's shares, was partially privatized in 1992, 1993, 1994, 1995, 1997 and 1998. In this administrative review, the Government of Israel (GOI) and Rotem reported that additional shares of ICL were sold in 1999. We have previously determined that the partial privatization of ICL represents a partial privatization of each of the

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companies in which ICL holds an ownership interest. *See Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel*, 61 FR 53351, 53352 (October 11, 1996) (*1994 Final Results*). In this review and prior reviews of this order, the Department found that Rotem and/or its predecessor, Negev Phosphates Ltd., received non-recurring countervailable subsidies prior to these partial privatizations.

On December 4, 2000, the Department announced a new privatization approach in a remand determination following the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC) in *Delverde Srl* v. *United States*, 202 F.3d 1360, 1365 (Fed. Cir. 2000), *reh'g en banc denied* (June 20, 2000) (*Delverde III*). The Department applied this new approach in the final results of the prior administrative review of this order. *See Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel*, 66 FR 15839 (March 21, 2001) (*1998 Final Results*). Under this approach, the first requirement is to determine whether the person to which the subsidies were given is, in fact, distinct from the person that produced the subject merchandise exported to the United States. If the two persons are distinct, the original subsidies may not be attributed to the new producer/exporter. The Department would, however, consider whether any subsidy had been bestowed upon that producer/exporter as a result of the change-in-ownership transaction. On the other hand, if the original subsidy recipient and the current producer/exporter are considered to be the same person, that person benefits from the original subsidies, and its exports are subject to countervailing duties to offset those subsidies. In other words, we will determine that a "financial contribution" and a "benefit" have been received by the "person" that is the firm under investigation or review. Assuming that the original subsidy had not been fully amortized under the Department's normal allocation methodology as of the period of review (POR), the Department would then continue to countervail the remaining benefits of that subsidy.

In making the "person" determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor holds itself out as the continuation of the previous enterprise, as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. No single factor will necessarily provide a dispositive indication of any change in the entity under analysis. Instead, the Department will generally consider the post-sale entity to be the same person as the pre-sale entity if, based on the totality of the factors considered, we determine that the entity in question can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

Using the approach described above, we have analyzed the information provided by the GOI and Rotem to determine whether the subsidies received by Rotem continued to benefit Rotem during the POR. By applying this approach to the facts and circumstances of the instant countervailing duty administrative review of industrial phosphoric acid from Israel and the relevant privatization of ICL and its subsidiary, Rotem, we find that the pre-sale and post-sale entities are not distinct persons. Specifically, Rotem still maintains its plants and uses the same production facilities to manufacture and sell the same products; continues to rely on the same suppliers and customer base; and employs largely the same personnel and management. *See* the Department's June 13, 2001, letter to Rotem (with attached Change in Ownership Analysis Memorandum from the 1998 administrative review) and the *1998 Final Results* and accompanying Decision Memorandum (section entitled Change in Ownership), for a complete discussion of our analysis of ICL's and Rotem's privatization. Therefore, we determine that the subsidies provided to Rotem, prior to the privatization of ICL, continue to benefit Rotem after ICL's privatization.

Grant Benefit Calculations

To calculate the benefit for the POR, we followed the same methodology used in the final results of prior administrative reviews. We converted Rotem's shekel-denominated grants into U.S. dollars, using the exchange rate in effect on the dates the grants were received. We then applied the grant methodology to determine the benefit for the POR. *See e.g., Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Review*, 63 FR 13626, 13633 (March 20, 1998) (*1995 Final Results*).

As a result of our privatization approach and our determination that Rotem continues to benefit from subsidies received prior to the privatization of ICL, the non-recurring subsidies allocated over time in the instant and previous administrative reviews are no longer reduced by the pass-through percentages calculated under our old repayment methodology. Therefore, the full value of the benefit allocable to the 1999 POR from non-recurring subsidies is being used to calculate Rotem's net subsidy rate.

Discount Rates

We considered Rotem's cost of long-term borrowing in U.S. dollars as reported in the company's financial statements for use as the discount rate used to allocate the countervailable benefit over time. However, this information includes Rotem's borrowing from its parent company, ICL, and thus does not provide an appropriate discount rate. Therefore, we have turned to ICL's cost of long-term borrowing in U.S. dollars in each year from 1984 through 1999 as the most appropriate discount rate. ICL's interest rates are shown in the notes to the company's financial statements, public documents which are in the record of this review. *See Comment 9* in the *1995 Final Results*.

Analysis of Programs

I. Programs Conferring Subsidies

A. Encouragement of Capital Investments Law (ECIL)

The ECIL program is designed to encourage the distribution of the population throughout Israel, to create new sources of employment, to aid the absorption of immigrants, and to develop the economy's production capacity. To be eligible for benefits under the ECIL, including investment grants, capital grants, accelerated depreciation, reduced tax rates, and certain loans, applicants must obtain approved enterprise status. Investment grants cover a percentage of the cost of the approved investment, and the amount of the grant depends on the geographic location of eligible enterprises. For purposes of the ECIL program, Israel is divided into three zones; Development Zones A and B, and the Central Zone. In *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid From Israel*, 52 FR 25447 (July 7, 1987) (*IPA Investigation*), the Department found the ECIL grant program to be de jure specific because the program limits the availability of grants to enterprises located only in Development Zones A and B. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of this determination.

Rotem is located in Development Zone A, and received ECIL investment and capital grants in disbursements over a period of years for several projects. In past reviews, we have treated these grants as non-recurring. The guidelines set forth in section 351.524 of Department's regulations support finding these grants to be non-recurring. As explained in the "Allocation Period" section above, for grants that have been allocated in prior administrative reviews, we are continuing to use the allocation period assigned to these grants. For grants received during the POR, we have used the AUL calculated by Rotem in this review. To calculate the benefit for the POR, we followed the same methodology used in the final results of the 1995 administrative review, as indicated in the "Grant Benefit Calculations" section above.

In prior reviews of this order, we applied the methodology described in our proposed countervailing duty regulations when determining whether to allocate non-recurring grants over time or expense them in the year of receipt ("the 0.5 percent test"). Accordingly, grant disbursements exceeding 0.5 percent of a company's sales in the year of receipt were allocated over time while grants below or equal to 0.5 percent of sales were countervailed in full ("expensed") in the year of receipt (*see* Countervailing Duties (Proposed Rules), 54 FR 23366, 23384 (section 355.49(a)(3)) (May 31, 1989)). However, section 351.524 (b)(2) of our current regulations directs us to conduct the 0.5 percent test based on the company's sales in the year of authorization rather than the year of receipt. Where possible, we applied this new regulation; however, we did not redo the 0.5 percent test for disbursements received prior to the POR because we had already calculated a benefit stream for those disbursements in prior administrative reviews.

Pursuant to section 351.504(c) of our regulations, we used our standard grant methodology as noted above in the "Grant Benefit Calculations" section to calculate the countervailable subsidy from ECIL grants. We allocated some of these grants over time because they met the 0.5 percent test, as described above, and expensed others in the POR that did not pass this test.

To calculate the total subsidy in the POR, we first summed the grant amounts allocated to 1999: To derive the subsidy rates, as discussed in the *1995 Final Results*, we attributed ECIL grants that were tied to a particular facility over the sales of the product produced by that facility plus sales of all products into which that product may be incorporated. The Department's practice is to countervail the value of the subsidies at the time they are provided to the company without regard to their actual use by that same company or their effect on its subsequent performance. *See* section 771(5)(C) of the Act which states that the Department "is not required to consider the effect of the subsidy in determining whether a subsidy exists." *See* also section 351.525 of the Department's regulations on attribution of subsidy to a product. Accordingly, we attributed ECIL grants to Rotem's phosphate rock mines to total sales; we attributed grants to Rotem's green acid facility to total sales minus direct sales of phosphate rock; and, finally, we attributed grants to Rotem's IPA facilities to sales of IPA, MKP, fertilizers, and "IPA-Akonomika" and MKP–HCL (by-products of IPA production which contribute to Rotem's sales revenue). We summed the rates obtained on this basis, and preliminarily determine the net countervailable subsidy from ECIL grants to be 4.57 percent *ad valorem* for the POR.

B. Infrastructure Grant Program

During the 1999 review period, Rotem received an infrastructure grant to initiate and establish industrial areas in a certain geographical zone. Rotem previously received grants under this program during the 1996, 1997 and 1998 PORs. In the 1996 administrative review, the Department determined that infrastructure grants were specifically provided to Rotem, and that they conferred a benefit. *See Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Review*, 63 FR 13626, 13633 (March 20, 1998). No new information or evidence of changed circumstances has been submitted to warrant reconsideration.

In past reviews, we determined these grants to be "non-recurring." The guidelines set forth in section 351.524 of the Department's regulations support finding these grants to be non-recurring. Therefore, we calculated the benefit under this program using the methodology for non-recurring grants noted above in the "Grant Benefit Calculations" section. On this basis, we preliminarily determine the net subsidy from this program to be 0.21 percent *ad valorem* for the POR.

C. Encouragement of Industrial Research and Development Grants (EIRD)

During the 1999 review period, Rotem received five EIRD disbursements. Among these disbursements, two were tied to research unrelated to IPA or any of its inputs. *See* section 351.525(b)(5) of the Department's countervailing duty regulations concerning the attribution of subsidies. In this review, we preliminarily determine that the three remaining disbursements received by Rotem were tied to research related to the production of IPA. Rotem previously received grants under this program for research related to IPA or its inputs during the 1995 and 1996 PORs. In the *1995 Final Results*, we determined that EIRD grants were specifically provided to Rotem, and that they conferred a benefit. Therefore, we calculated the benefit under this program using the methodology for non-recurring grants noted above in the "Grant Benefit Calculations" section. On this basis, we preliminarily determine the net subsidy from this program to be 0.02 percent ad valorem for the POR.

II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that the producer and/or exporter of the subject merchandise did not apply for or receive benefits under these programs during the POR:

A. Environmental Grant Program
B. Reduced Tax Rates under ECIL
C. ECIL Section 24 loans
D. Dividends and Interest Tax Benefits under Section 46 of the ECIL
E. ECIL Preferential Accelerated Depreciation

III. Other Program Examined

Labor Training Grant

In its questionnaire response, Rotem reported that it had received a very small labor training grant as payment for hiring and training conducted in a prior period. In previous administrative reviews, we have found that this program was not used (*see, e.g., 1994 Final Results* and *1996 Final Results*). Under section 351.524 of the Department's regulations, grants for worker training are normally considered recurring and are expensed in the year of receipt. For purposes of this administrative review, we expensed this labor training grant and have found that any subsidy which could be calculated for this program would be so small (significantly less than 0.005 percent ad valorem) that there would be no impact on the overall subsidy rate. Accordingly, because there would be no impact on the overall subsidy rate in the instant review, we do not consider it necessary to address the issue of specificity for purposes of this administrative review and have not further considered this program. *See Final Results of*

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Countervailing Duty Administrative Review: Live Swine from Canada, 63 FR 2210, 2211 (January 14, 1998) (regarding the Department's methodology in calculating the de minimis rate).

Preliminary Results of Review

In accordance with 19 CFR 351.213(b), we calculated an individual subsidy rate for the producer/exporter subject to this administrative review. For the period January 1, 1999 through December 31, 1999, we preliminarily determine the net subsidy for Rotem to be 4.80 percent ad valorem. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated above.

As a result of the International Trade Commission's determination that revocation of this countervailing duty order would not likely lead to continuation or recurrence of material injury to an industry in the United States in the reasonably foreseeable future, the Department, pursuant to section 751(d)(2) of the Act, revoked the countervailing duty order on IPA from Israel. *See Revocation Countervailing Duty Order: Industrial Phosphoric Acid from Israel*, 65 FR 114 (June 13, 2000). Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), the effective date of revocation was January 1, 2000. Accordingly, the Department has instructed Customs to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000. The Department, however, will complete this instant administrative review of subject merchandise entered during 1999, prior to the effective date of revocation.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Normally, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than ten days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief. These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: August 24, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22066 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082001C]

Bottlenose Dolphin Take Reduction Team Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Take Reduction Team for Western North Atlantic coastal bottlenose dolphins (BDTRT) will hold its first meeting to develop a take reduction plan as described in the Marine Mammal Protection Act (MMPA). Input will be sought from the BDTRT on a peer review process for all data related to stock structure, abundance, and human-caused mortality and serious injury rates. The BDTRT will focus on reducing bycatch in the following fisheries: Mid-Atlantic coastal gillnet, North Carolina inshore gillnet, Southeast Atlantic gillnet, Southeastern U.S. Atlantic shark gillnet, Atlantic blue crab trap/pot, Mid-Atlantic haul/beach seine, North Carolina long haul seine, North Carolina roe mullet stop net, and Virginia pound net.

DATES: The meeting will be held on September 12, 2001, starting at 9 a.m. and continue on September 13, 2001, starting at 8:30 a.m.

ADDRESSES: The BDTRT meeting will be held at the Sheraton International Hotel Baltimore Washington International (BWI) Airport, 7032 Elm Road, Baltimore, MD 21240; Phone: (410) 859–3300; Fax: (410) 859–0565.

FOR FURTHER INFORMATION CONTACT: Kathy Wang, Southeast Region, 727–570–5312, or Emily Hanson, Office of Protected Resources, 301–713–2322, x101.

SUPPLEMENTARY INFORMATION: Section 117 of the MMPA requires that NMFS complete stock assessment reports for all marine mammal stocks within U.S. waters. Each draft stock assessment report, based on the best scientific information available, shall, among other things, categorize the status of the stock as one that either has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population or is a strategic stock, with a description of the reasons therefore. In addition, each report shall estimate the potential biological removal (PBR) level for the stock, describing the information used to calculate it, including the recovery factor.

The MMPA defines a strategic stock as a marine mammal stock: (1) for which the level of direct human-caused mortality exceeds the PBR level; (2) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 (ESA) within the foreseeable future; or, (3) which is listed as a threatened or endangered species under the ESA or is designated as depleted under the MMPA.

The MMPA defines a stock as depleted if that species or population is below its optimum sustainable population or if it is a species or population stock that is listed as endangered or threatened under the ESA.

The MMPA defines the PBR level to mean the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable

population. The PBR level is the product of the following factors: the minimum population estimate of the stock; one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size; and, a recovery factor of between 0.1 and 1.0.

The MMPA defines optimum sustainable population to mean, with respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

The Western North Atlantic stock of coastal bottlenose dolphins is designated as strategic under the MMPA because the direct human-caused mortality exceeds the PBR level. The fisheries that interact with this stock are listed later in this document. This stock is also designated as depleted under the MMPA.

Section 118 (f) of the MMPA requires the Secretary of Commerce (Secretary) to develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a Category I or II commercial fishery. Based on section 118 (c) of the MMPA, 50 CFR 229.2 defines a Category I fishery as a commercial fishery that causes frequent incidental mortality and serious injury to marine mammals and a Category II fishery as a commercial fishery that causes occasional incidental mortality and serious injury to marine mammals.

The immediate goal of a take reduction plan for a strategic stock is to reduce, within 6 months of plan implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the PBR level established for that stock under section 117 of the MMPA. The long-term goal of the plan is to reduce, within 5 years of plan implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans.

As explained under section 118 (f)(7) of the MMPA, where human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the PBR level established under section 117 for such stock and such stock interacts with Category I or II fisheries, the following procedures shall apply in the development of the take reduction plan for the stock:

(A) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary. Such draft take reduction plan shall be developed by consensus. In the event that consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and the minority.

(B) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the **Federal Register** the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period not to exceed 90 days. In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the **Federal Register** a proposed take reduction plan and implementing regulations, for public review and comment during a period not to exceed 90 days.

(C) Not later than 90 days after the close of the comment period, the Secretary shall issue a final take reduction plan and implementing regulations.

(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary deems are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of the plan have been met.

(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

Section 118 (f)(6)(C) states that members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species.

The MMPA further specifies that members of a take reduction team shall include representatives of Federal agencies, each coastal state which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests. Members of take reduction teams serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

NMFS, through a letter dated September 27, 2001, has asked the following individuals to be members of the BDTRT: Mike Baker, Florida Gillnet Representative; Dave Beresoff, North Carolina Gillnet and Crab Pot Representative; Tina Berger, Atlantic States Marine Fisheries Commission; Paul Biermann, North Carolina Gillnet Representative; David Cupka, South Carolina Wildlife and Marine Resources; Joseph DeAlteris, University of Rhode Island, Fisheries Center; Martin Dunson, Florida Crab Pot Representative; Lewis Gillingham, Virginia Marine Resources Commission; Doug Guthrie, North Carolina Stop Net Representative; Bruce Halgren, New Jersey Division of Fish and Wildlife; Emily Hanson, NMFS Office of Protected Resources; Chris Hickman, Long Haul Seine Fishery Representative; Fulton Love, Georgia Shad Gillnet Representative; Richard Luedtke, New Jersey Gillnet Representative; Rick Marks, New Jersey Gillnet and Haul Seine Representative; Dave Martin, Maryland Gillnet Representative; Bill McLellan, University of North Carolina at Wilmington; Ken Moran, South Carolina Shad Gillnet Representative; Fentress Munden, North Carolina Division of Marine Fisheries; Robert Munson, New Jersey Gillnet, Crab Pot and Pound Net Representative; Peter Nickson, Virginia Gillnet, Beach Seine, Crab Pot, and Pound Net Representative; Kerry

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O'Malley, South Atlantic Fishery Management Council; William Outten, Maryland Department of Natural Resources; Mike Peele, North Carolina Beach Seine, Pound Net, and Gillnet Representative; Carl Poppell, Georgia Crab Pot Representative; Tim Ragen, Marine Mammal Commission; Andy Read, Duke University Marine Laboratory; John Reynolds III, Marine Mammal Commission; Jerry Schill, North Carolina commercial fisheries representative; Richard Seagraves, Mid-Atlantic Fishery Management Council; Larry Simns, Maryland Crab Pot Representative; Ann Spellman, Florida Fish and Wildlife Conservation Commission; Lee Spence, Delaware Division of Fish and Wildlife; Mark Swingle, Virginia Marine Science Museum; Leonard Voss, Delaware Gillnet and Crab Pot Representative; Chris Walker, Virginia Gillnet Representative; Kathy Wang, NMFS Southeast Regional Office; Rob West, North Carolina Gillnet, Pound Net, and Crab Pot Representative; A.D. Willis, North Carolina Recreational Crab Pot and Gillnet Representative; David Woolman, South Carolina Crab Pot Representative; Nina Young, The Ocean Conservancy; Sharon Young, The Humane Society of the United States; Chris Zeman, American Oceans Campaign; Barb Zoodsma, Georgia Coastal Resources, Georgia Department of Natural Resources. The BDTRT will be facilitated by Hans Neuhauser and Jim Feldt, Georgia Environmental Policy Institute.

Section 118 (f)(6)(A)(ii) of the MMPA requires NMFS to publish the full geographic range of the marine mammal stock for which a take reduction team is being convened and list all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

Western North Atlantic coastal bottlenose dolphins range seasonally as far north as Long Island, NY and as far south as central Florida. Multiple stocks of Western North Atlantic coastal bottlenose dolphins exist, and include year-round residents, seasonal residents, and migratory groups. In addition to the coastal bottlenose dolphins, a distinct, offshore ecotype also exists. Research is underway to improve data about the stock structure of coastal bottlenose dolphins and to define the offshore range of coastal bottlenose dolphins.

Western North Atlantic coastal bottlenose dolphins are known to interact with the following Category II commercial fisheries: Mid-Atlantic coastal gillnet, North Carolina inshore gillnet, Southeast Atlantic gillnet, Southeastern U.S. Atlantic shark gillnet, Atlantic blue crab trap/pot, Mid-Atlantic haul/beach seine, North Carolina long haul seine, North Carolina roe mullet stop net, and Virginia pound net. Additional commercial fisheries, classified as Category III fisheries, are known to rarely cause incidental mortality and serious injury to Western North Atlantic coastal bottlenose dolphins. These fisheries are identified in the 2001 List of Fisheries (66 FR 42780, August 15, 2001). Interactions between Western North Atlantic coastal bottlenose dolphins and recreational fisheries have also been documented.

NMFS fully intends to conduct the BDTRT process in a way that provides for national consistency yet accommodates the unique regional needs and characteristics of the team. The data and analysis used to support the BDTRT will go through an external peer-review process, be reviewed by NMFS' Scientific Review Groups, and be made available for public review and comment as a Stock Assessment Report. Take Reduction Teams are not subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings are open to the public.

Dated: August 27, 2001.

Ann D. Terbush,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–22071 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062401B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Capacity Committee in September, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Tuesday, September 18, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Capacity Committee will discuss proposals for reducing latent effort and changing permit transfer restrictions in the Northeast Multispecies Fishery. The committee will consider Groundfish Advisory Panel comments on the proposals from their August 16, 2001 Advisory Panel meeting. The Council has directed the Committee to make recommendations on revising and combining these proposals for possible inclusion in Amendment 13 to the Multispecies Fishery Management Plan. The Committee will not make final decisions about the choice of alternatives, but will report its recommendations to the Council and the Council's Groundfish Oversight Committee.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 24, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22068 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062401C]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (NPFMC) will hold an essential fish habitat (EFH) committee meeting to review NMFS draft summary of EFH scoping comments, to identify significant issues and preliminary alternatives, and to determine staffing needs.

DATES: The EFH committee will meet at 12:30 p.m. to 5:30 p.m. on Tuesday, September 18, 2001, and at 8 a.m. to 5 p.m. on Wednesday, September 19, 2001.

ADDRESSES: The committee will meet in Sitka, AK, at the Northern Southeast Regional Aquaculture Association (NSRAA), 1308 Sawmill Creek Road, in the conference room.

Questions should be addressed to NMFS, Habitat Conservation Division, ATTN: Cindy Hartmann, 709 West 9th , Suite 461, P.O. Box 21668, Juneau, AK 99802–1668.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann, NMFS, (907) 586–7585, e-mail: Cindy.Hartmann@noaa.gov; or Cathy Coon, NPFMC, (907) 271–2809, e-mail: Cathy.Coon@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The NPFMC's EFH committee was formally established by the NPFMC's acting executive director in May 2001. The committee was established in response to the need to prepare a supplemental environmental impact statement (SEIS) for the EFH fishery management plan amendments. For further information about the SEIS, see the notice of intent to prepare an SEIS published in the Proposed Rules section of the **Federal Register** (66 FR 30396, June 6, 2001).

The function of the EFH Committee is to serve as a steering committee for the EFH EIS process. The Committee's overarching goal is to facilitate input by the industry, conservation community, Council, and general public to the EFH EIS process. More specifically, the Committee will assist in identifying: (1) The "significant issues" used to develop and evaluate proposed alternatives; (2) The alternatives for describing, identifying, and protecting EFH; (3) The means of determining possible fishery impacts on habitat; (4) and Interpreting existing information for development and analysis of alternatives; (5) The alternatives for mitigating fishing gear impacts on habitat; (6) Alternative criteria and approaches that could be used to designate and manage HAPC areas; and (7) Identify and prioritize future research needs. Additionally, the committee will assist the agency with appointing and working with technical teams. This will be the third meeting of the EFH Committee. Prior meetings were held May 30 and August 13 and 14, 2001.

Agenda items for this meeting include:

1. Discussion of NMFS preliminary draft scoping report;
2. Committee recommendations to the NPFMC on significant issues;
3. Discussion of technical teams and their composition; and
4. EFH Committee tasks, timetable and next meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cindy.Hartmann, (907) 586–7235, at least 5 working days prior to the meeting date.

Dated: August 24, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22069 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082401E]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a scientific research/enhancement permit (1346).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a research/enhancement permit from Mr. Thomas McCormick, of Channel Islands Marine Resource Institute (CIMRI).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on October 1, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated here. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (phone:301–713–1401).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov)

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under Section 10 (a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS

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regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this document should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Document

The following species are covered in this notice:

Mollusks

White Abalone (*Haliotis sorenseni*)

New Applications Received

Application 1346

The applicant requests a 5–year permit to maintain captively bred white abalone for scientific research and enhancement at the CIMRI Hatchery. Research Activities include feeding studies, propagation studies and studies identified as goals for the long term recovery of the white abalone.

Dated: August 27, 2001.

Kellie Carter,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–22070 Filed 8–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

DEPARTMENT OF ENERGY

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

DEPARTMENT OF THE INTERIOR

Geological Survey

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

NUCLEAR REGULATORY COMMISSION

[Docket No. A–2001–16; FRL–7042–4]

Draft Multi-Agency Radiological Laboratory Analytical Protocols Manual

AGENCY: Department of Defense, Department of Energy, Environmental Protection Agency, Food and Drug Administration, U.S. Geological Survey, National Institute of Standards and Technology, and the Nuclear Regulatory Commission.

ACTION: Notice of availability with request for public comment.

SUMMARY: The Department of Defense (DoD), Department of Energy (DOE), Environmental Protection Agency (EPA), Food and Drug Administration (FDA), U.S. Geological Survey (USGS), National Institute of Standards and Technology (NIST), and the Nuclear Regulatory Commission (NRC) are announcing for public comment the availability of a draft document, entitled the "Multi-Agency Radiological Laboratory Analytical Protocols" (MARLAP) Manual. MARLAP provides guidance for the planning, implementation and assessment phases of those projects which require laboratory analysis of radionuclides. The guidance is intended for project planners, managers and laboratory personnel. The MARLAP, when finalized, will be a multi-agency consensus document. The agencies are seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing the document is received. The agencies will review public comments received on the draft MARLAP as well as comments from a concurrent, independent, scientific peer review. Suggested changes will be incorporated, where appropriate, in response to those comments.

DATES: Comments received by December 15, 2001 will be considered. Comments received after that date will be considered if it is practical to do so, but no assurance can be given for consideration of late comments.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the following website *http://www.eml.doe.gov/marlap/*. Comments may also be submitted to *either* the U.S. Environmental Protection Agency, ATTN: Air and Radiation Docket, Mail Stop 6102, Docket Number A–2001–16, Room M1500, First Floor Waterside Mall, 401 M Street, SW., Washington, DC 20460 or to the Chief, Rules and Directives Branch, Division of Administrative Services, Mail Stop T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. All comments received will be reviewed by the entire MARLAP Workgroup. Copies of the draft MARLAP manual and all comments received may be examined or copied for a fee at the EPA Docket Room M1500, Docket Number A–2001–16, First Floor Waterside Mall, 401 M Street, SW., Washington, DC 20460; and the NRC Public Document Room, at U.S. Nuclear Regulatory Commission, Public Document Room, Washington, DC 20555. The EPA docket may be inspected from 8 am to 4 pm, Monday through Friday, excluding Federal holidays, in Room M1500 at the address above. The document is also available through the National Technical Information Service (NTIS). The NTIS document number is PB2001–106745, and the NTIS Sales Desk can be reached between 8:30 a.m. and 6 p.m., Eastern time, Monday through Friday at 1–800–553–6847; TDD (hearing impaired only) at (703) 487–4639.

FOR FURTHER INFORMATION CONTACT: Any of the following points of contact for each agency for technical information: EPA: John Griggs, U.S. Environmental Protection Agency, Office of Radiation and Indoor Air, NAREL, 540 South Morris Avenue, Montgomery, AL 36115–2601, Phone Number: (334)270–3450, Email: *griggs.john@epamail.epa.gov;* Eric Reynolds, U.S. Environmental Protection Agency, Office of Emergency and Remedial Response, Phone Number: (703)603–9928, Email: *reynolds.eric@epamail.epa.gov,* DoD: Air Force: Dale Thomas, Detachment 1, Human Systems Center/OEBA, 2402 E. Drive, Brooks AFB, TX 78235–5114, Phone Number: (210)536–5816, Email: *dale.thomas@brooks.af.mil;* Army: Ronald Swatski, U.S. Army, Center for Health Promotion and Preventive Medicine, Attn: MCHB–TS–LRD, 5158 Blackhawk Road APG, MD 21010–5403, Phone Number: (410)436–3983, Email: *ronald.swatski@amedd.army.mil;* Navy: Captain David Farrand, Navy Sea Systems Command, SEA04N (CDR Farrand), 2531 Jefferson Davis Highway, Arlington, VA 22241–5260; Army Corps of Engineers: Jan Dunker, U.S. Army Corps of Engineers, (Attn: CENWO–HX–C), 12565 West Center Road, Omaha, NE 68144–3869, Phone Number: (402)697–2566, Email: *jan.w.dunker@usace.army.mil;* DOE: Mary Verwolf, U.S. Department of Energy, National Analytical Management Program, MS4149, 850 Energy Drive, Idaho Falls, ID 83402, Phone Number: (208)526–7001, Email: *verwolmc@id.doe.gov;* Emile Boulos, U.S. Department of Energy, Office of Environmental Policy and Assistance, Air, Water and Radiation Division (EH–412), Room 3G–089, 1000 Independence Avenue, SW, Washington, DC 20585, Phone Number: (202)586–1306, Email: *emile.boulos@eh.doe.gov;* NRC: Rateb (Boby) Abu Eid, U.S. Nuclear Regulatory Commission, Mail Stop T–7J10, Washington, DC 20555, Phone Number: (301)415–5811, Email: *bae@nrc.gov;* NIST: Kenneth Inn, National Institute of Standards and Technology, Building 245, Room C114, MS 8462, Gaithersburg, MD 20899–8462, Phone Number: (301)975–5541, Email: *kenneth.inn@nist.gov;* USGS: Ann Mullin, U.S. Geological Survey, National Water Quality Lab, P.O. Box 25046, Denver Federal Center, Bldg. 95 Ent E3, Mail Stop 407, Denver, CO 80225–0046, Phone Number: (303)236–3480, Email: *ahmullin@usgs.gov;* FDA: Edmond Baratta, U.S. Food and Drug Administration, Winchester Engineering and Analytical Center, 109 Holton Street, Winchester, MA 01890, Phone Number: (781)729–5700 (x728), Email: *ebaratta@ora.fda.gov.*

SUPPLEMENTARY INFORMATION: The MARLAP provides guidance for the planning, implementation and assessment phases of those projects which require the laboratory analysis of radionuclides. This guidance is intended for project planners, managers and laboratory personnel. The manual's basic goal is to provide guidance to ensure that radioanalytical laboratory data will meet a project's or program's data requirements and needs. The document uses a performance-based approach and will support a wide range of data collection activities including site characterization and cleanup; compliance demonstration; decommissioning of nuclear facilities; remedial and removal actions; environmental monitoring; and waste management activities. The MARLAP, when finalized, will be a multi-agency consensus document. MARLAP was developed collaboratively over the past five years by the technical staffs of seven Federal agencies. State participation in the development of the manual involved contributions from representatives from the Commonwealth of Kentucky and the State of California. Contractors to the DOE, EPA, and NRC, and members of the public have been present during the open meetings of the MARLAP work group.

Although Federal agency personnel are involved in the preparation of this document, the manual does not represent the official position of any participating agency at this time. An earlier draft of the document has been reviewed within the Federal agencies. The public review is a necessary step in the development of a final multi-agency consensus document. The document will also receive formal technical peer review. The draft has not been approved by the participating agencies for use in part or in whole and should not be used, cited, or quoted except for the purposes of providing comments as requested. In addition to providing comments on individual chapters and appendices, reviewers are also requested to address the following questions listed below while reviewing the MARLAP manual.

(1) Is the performance-based approach used in MARLAP for the planning, implementation and assessment phases of projects technically sound and is the approach reasonable in terms of ease of implementation by project managers and laboratories? Does the approach effectively link the three phases of a project and is the guidance on quality control appropriate and supportive of a performance-based approach?

(2) Is the guidance on laboratory operations in the Part II chapters technically accurate and useful?

(3) Are the concepts covered under measurement statistics, specifically measurement uncertainty, detection and quantification capability, presented accurately and appropriately?

(4) Is the information understandable and presented in logical sequence? How can the presentation of material be modified to improve the manual?

(5) Does the MARLAP manual provide benefits that are not currently available through other approaches? What are the costs associated with implementing the guidance in MARLAP in comparison with currently available alternatives?

Commentors are encouraged to use the website listed in the **ADDRESSES** section of this notice for their review. The website has detailed instructions on how to submit comments and has several features that should aid the review process.

Written comments may also be submitted. Commentors are encouraged to submit their written comments using the same general approach described in the website, http://www.eml.doe.gov/marlap/. Comments should be accompanied by supporting bases, rationale, or data. To ensure efficient and complete comment resolution, commentors are requested to reference the page number and the line number of the MARLAP to which the comment applies. All comments received will be reviewed by the MARLAP Workgroup.

For the Department of Defense, dated this 16th day of August, 2001.

Patrick J. Meehan, Jr.,

Acting Assistant Deputy Under Secretary of Defense (Environment).

For the Department of Energy, dated this 23rd day of July, 2001.

Raymond P. Berube,

Deputy Assistant Secretary for Environment.

For the Department of Energy, dated this 6th day of August, 2001.

Randal S. Scott,

Director, Office of Safety, Health and Security, Office of Environmental Management.

For the Environmental Protection Agency, dated this 20th day of July, 2001.

Mary U. Kruger,

Acting Director, Office of Radiation and Indoor Air.

For the Environmental Protection Agency, dated this 28th day of July, 2001.

Larry G. Reed,

Acting Director, Office of Emergency and Remedial Response.

For the Food and Drug Administration, dated this 26th day of July, 2001.

Michael C. Olson,

Director, Division of Field Science, Office of Regulatory Affairs.

For the U.S. Geological Survey, dated this 1st day of August, 2001.

Robert M. Hirsch,

Associate Director for Water, U.S. Geological Survey.

For the National Institute of Standards and Technology, dated this 17th day of July, 2001.

Bert M. Coursey,

Chief, Ionizing Radiation Division.

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For the Nuclear Regulatory Commission, dated this 8th day of August, 2001.

John T. Greeves,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–22017 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On August 27, 2001, a 30-day notice inviting comment from the public was published for the School Renovation, Individuals with Disabilities Education Act (IDEA), and Technology Grant Application in the **Federal Register** (Volume 66, Number 166) dated August 27, 2001. The abstract for this notice was printed incorrectly. The abstract for the information collection should read as follows:.

ED will use the information collected through this application to award grants to approximately 52 State educational agencies that will conduct competitive grant processes to award subgrants to eligible local educational agencies. The information will also be used to describe to the Congress and the public how these grants are being used.

The Leader, Regulatory Information Management, Office of the Chief Information Officer, hereby issues a correction notice on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Karen_F._Lee@OMB.EOP.GOV.

Requests for copies of the proposed information collection request may be accessed from http://edicsweb.ed.gov, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651 or should be electronically mailed to the internet address OCIO_RIMG@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Kathy Axt at her internet address Kathy.Axt@ed.gov.

Dated: August 27, 2001.

John Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

[FR Doc. 01–21988 Filed 8–30–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen–F.–Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 27, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review:

Title: Survey on Internet Access in U.S. Public Schools, Fall 2001 (KA).

Frequency: One Time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,200

Burden Hours: 400

Abstract: The FRSS survey on Internet Access in U.S. Public Schools will provide important information to the Department of Education and school districts in their roles to provide leadership for school access to the Internet. The Department has tracked access to the Internet and other advanced telecommunications in public schools since 1994 and updated information is needed regarding current levels of connectivity and usage for public elementary and secondary schools as well as trend data comparing levels of access and usage with previously obtained data.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–21989 Filed 8–30–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.229A]

Office of Postsecondary Education; Language Resource Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The Language Resource Centers Program provides assistance to establish, strengthen and operate centers that serve as resources for improving the nation's capacity for teaching and learning foreign languages.

Eligible Applicants: Institutions of higher education and combinations of institutions of higher education.

Applications Available: September 10, 2001.

Deadline for Transmittal of Applications: November 5, 2001.

Estimated Available Funds: The Administration has requested $3,240,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications at this time to allow enough time to complete the grant process before the end of the fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $200,000–$400,000.

Estimated Average Size of Awards: $360,000 per year.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 85, 86, 97, 98 and 99. (b) The regulations for this program in 34 CFR parts 655 and 669.

For Applications and Further Information Contact: Jose L. Martinez or G. Edward McDermott, Language Resource Centers Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street NW, Suite 600, Washington, DC 20006–8521. Mr. Martinez's telephone number is (202) 502–7635. Mr. McDermott's telephone number is (202) 502–7636. Mr. Martinez and Mr. McDermott may be reached by email at: *jose.martinez@ed.gov; ed.mcdermott@ed.gov*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under *For Applications and Further Information Contact.*

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting those persons. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 1123.

Dated: August 28, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–22075 Filed 8–30–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package to the Office of Management and Budget (0MB) for extension under the Paperwork Reduction Act of 1995 (P.L. 104–13).

The package covers the collection of information concerning annual applications from the owners of qualified renewable energy generation facilities for the consideration of renewable energy production incentive payments. This information is used by the Department to determine if the applicant's facility qualifies for these payments and to determine the amount of net electricity produced for State that qualifies for these payments. This information is critical to ensure the Government has sufficient information to ensure the proper use of public funds for these incentive payments.

DATES: Comments must be filed on or before October 1, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–7318. (Also, please notify the DOE contact listed in this notice:)

ADDRESSES: Address comments to DOE Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), Room 10102, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503. (Comments should also be addressed to the Records Management Division, Office of the Chief Information Officer, at the address listed below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Susan L. Frey, Director, Records Management Division, Office of Records and Business Management (SO–312), U.S. Department of Energy, Germantown, MD 20874–1290, and/or Lawrence Mansueti, Office of Power Technologies (EE–l 0), Department of Energy, Washington, DC 20585, (202) 586–2588.

SUPPLEMENTARY INFORMATION: The package contains the following information:

(1) *Current OMB control number:* 1910–0068; (2) *Package Title:* Renewable Energy Production Incentives; (3) *Summary:* A three-year extension is requested, because this information is critical to ensure that the Government has sufficient information to ensure the proper use of public funds for these incentive payments; (4) *Purpose:* To provide required information to receive consideration for payment for qualified renewable energy electricity produced in the prior fiscal year; (5) *Type of Respondents:* State, municipal, county, and non-profit electric cooperative owners of qualified renewable energy generation facilities that produce electricity for sale; (6) *estimated number of responses;* (7) estimated total burden hours, including record keeping hours, required to provide the information; (8) purpose; and (9) number of collections.

Package Title: Renewable Energy Production Incentives.

Current 0MB No.: 1910–0068.

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Type of Respondents: State, municipal, county, and non-profit electric cooperative owners of qualified renewable energy generation facilities that produce electricity for sale.

Estimated Total Burden Hours: 450.

Statutory Authority: Paperwork Reduction Act of 1995, P.L. No 104–13, 44 U.S.C. 3507 (g) and (h).

Issued in Washington, DC, on August 24, 2001.

Susan L. Frey,

Director, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 01–22009 Filed 8–30–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–282–000, et al.]

Energy Azteca X, S. de R.L. de C.V., et al.; Electric Rate and Corporate Regulation Filings

August 27, 2001.

Take notice that the following filings have been made with the Commission:

1. Energía Azteca X, S. de R.L. de C.V.

[Docket No. EG01–282–000]

Take notice that on August 23, 2001, Energia Azteca X, S. de R.L. de C.V. (Applicant), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant proposes to own or operate, or both own and operate, an electric generating facility with a capacity of approximately 750 megawatts (along with certain appurtenant interconnected transmission facilities and an adjacent sewage treatment plant to supply water to the facility), located just outside the city of Mexicali in the state of Baja California, Mexico. All output from the facility will be sold by Applicant at wholesale.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

2. Intergen Aztec Energy III, B.V.

[Docket No. EG01–283–000]

Take notice that on August 23, 2001, InterGen Aztec Energy III, B.V. (Applicant), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant proposes to own or operate, or both own and operate, natural gas-fired electric generation facilities with an aggregate capacity of approximately 1,060 megawatts (along with certain appurtenant interconnected transmission facilities and an adjacent sewage treatment plant to supply water to the facilities), located near the city of Mexicali in the state of Baja California, Mexico. All output from the facilities will be sold exclusively at wholesale.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

3. Energia de Baja California, S. de R.L. de C.V.

[Docket No. EG01–284–000]

Take notice that on August 23, 2001, Energia de Baja California, S. de R.L. de C.V. (Applicant), filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant will own or operate, or both own and operate, an electric generation facility with a capacity of approximately 310 megawatts (along with certain appurtenant interconnected transmission facilities and an adjacent sewage treatment plant) located near the city of Mexicali in the state of Baja California. All output from the facility will be sold exclusively by Applicant at wholesale.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

4. Carolina Power & Light Company

[Docket No. ER01–2301–001]

Take notice that on August 22, 2001, Carolina Power & Light Company (CP&L) filed an amendment in the above-captioned proceeding. By the amendment, CP&L proposes to: (1) Establish a separate market-based rate tariff identical to that filed on June 14, 2001 in this proceeding (the EEI Tariff); and (2) revise its existing market-based rate tariff (the Non-EEI Tariff). In addition, CP&L requests that nine service agreements that CP&L has filed be accepted and redesignated under its EEI Tariff. The nine customers for these service agreements include Aquila Energy Marketing Corporation, Washington Gas Energy Services, Inc., Dynegy Power Marketing, Inc., CMS Marketing, Services and Trading Company, Ameren Energy, Inc., American Electric Power Service Corporation, Williams Energy Marketing & Trading Company, Axia Energy, LP and Enron Power Marketing, LLC.

Copies of the filing were served upon the official service list in this proceeding, CP&L's market-based rates customers, the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–2902–000]

Take notice that on August 22, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), submitted a Notice of Cancellation of Service Agreement No. 123 with Engage Energy US, L.P., a customer under Allegheny Power's Open Access Transmission Service Tariff. Allegheny Power has requested a waiver of notice to allow the cancellation to be effective August 8, 2001.

Copies of this filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Tenaska Gateway Partners, Ltd.

[Docket No. ER01–2903–000]

Take notice that on August 22, 2001, Tenaska Gateway Partners, Ltd., 1044 North 115 Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Gateway), filed with the Federal Energy Regulatory Commission the Power Purchase Agreement between Tenaska Gateway and Coral Power, L.L.C. and Coral Energy, L.P. (jointly "Coral") dated as of August 20, 1999 (PPA). The filing is made pursuant to Tenaska Gateway's authority to sell power at market-based rates under its Market-Based Rate Tariff, Rate Schedule FERC No. 1, Original Volume No. 1, approved by the Commission on July 14, 1999 in Docket No. ER99–2992–000.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Xcel Energy Services Inc.

[Docket No. ER01–2905–000]

Take notice that on August 22, 2001, Xcel Energy Services Inc., on behalf of Public Service Company of Colorado (PSCo), submitted for filing an interconnection agreement between PSCo and Plains End, LLC.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. American Electric Power Service Corporation

[Docket No. ER01–2906–000]

Take notice that on August 22, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing executed ERCOT Ancillary Services Agreements for Calpine Energy Services, L.P., as agent for Calpine Construction Finance Company, L.P. and for Calpine Energy Services, L.P., as Designated Agent for Magic Valley Electric Cooperative, Inc., Both of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service on and after July 23, 2001.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER01–2907–000]

Take notice that on August 22, 2001, Cinergy Services, Inc. on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC) submits for filing an executed service agreement between COC and The Detroit Edison Company (Detroit) replacing the unexecuted service agreement filed on May 8, 1997 under Docket No. ER97–2922–000 per COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

COC is requesting an effective date of May 9, 1997 and the same Rate Designation as per the original filing.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER01–2908–000]

Take notice that on August 22, 2001, Cinergy Services, Inc. on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC) submits for filing an executed service agreement between COC and Wabash Valley Power Association (WVPA) replacing the unexecuted service agreement filed on October 25, 1997 under Docket No. ER98–847–000 per COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

COC is requesting an effective date of October 29, 1997 and the same Rate Designation as per the original filing.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER01–2909–000]

Take notice that on August 22, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Notice of Name Change from Coastal Merchant Energy, L.P. to El Paso Merchant Energy, L.P. Cinergy respectfully requests waiver of notice to permit the Notice of Name Change to be made effective as of the date of the Notice of Name Change.

A copy of the filing was served upon El Paso Merchant Energy, L.P.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER01–2910–000]

Take notice that on August 22, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Notice of Name Change from FirstEnergy Trading & Marketing Inc. to FirstEnergy Services Corp. Cinergy respectfully requests waiver of notice to permit the Notice of Name Change to be made effective as of the date of the Notice of Name Change.

A copy of the filing was served upon FirstEnergy Services Corp.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER01–2911–000]

Take notice that on August 22, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and The Detroit Edison Company (Detroit). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. IDACORP Energy, LP

[Docket No. ER01–2912–000]

Take notice that on August 22, 2001, IDACORP Energy LP is refiling its Notice of Succession. In addition, IDACORP Energy is filing its newly adopted tariff and service agreement containing designations consistent with Commission regulations.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–21979 Filed 8–30–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1971–073–ID]

Idaho Power Company; Notice of Application for Amendment of License To Delete Non-Jurisdictional Transmission Facilities, and Soliciting Comments, Motions To Intervene, and Protests

August 27, 2001.

a. *Type of Filing:* Amendment of license to delete the 23.1-mile-long Paddock-Ontario Transmission Line from the license.

b. *Project No.:* 1971–073.

c. *Date Filed:* May 29, 2001.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Hells Canyon.

f. *Location:* The project is located on the Snake River, in Baker County, Oregon, and Adams County, Idaho, and the Paddock-Ontario Transmission Line is located in Washington County, Idaho, to near town of Ontario, Oregon.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r), Section 4.201 of the Commission's Regulations.

h. *Applicant Contact:* Robert W. Stahman, Vice President, Secretary, and General Counsel, Idaho Power Company, 1221 West Idaho St., P.O. Box 70, Boise, ID 83707, (208) 388–2676; and Lee S. Sherline, Leighton and Sherline, 8211 Chivalry Road, Annandale, VA 22003–1337.

i. *FERC Contact:* William Guey-Lee, (202) 219–2808, or william.gueylee@ferc.fed.us.

j. *Deadline and filing comments, motions to intervene or protests:* September 27, 2001.

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of project:* The applicant requests that the license for the Hells Canyon Project No. 1971 be amended to delete the 23.1-mile-long Paddock-Ontario transmission line from the license because it no longer serves as a primary transmission line and would continue to exist even if it were not guaranteed by FERC license.

l. *Location of the Filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Response Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–21980 Filed 8–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

August 27, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2503–064.

c. *Date Filed:* August 15, 2001.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Keowee-Toxaway Hydroelectric Project.

f. *Location:* On Lake Keowee at the Keowee Falls RV Park, Oconee County, South Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Joe Hall, Duke Energy Company, P.O. Box 1006, Charlotte, NC 28201–1006. Phone: (704) 382–8576

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at (202) 208–2266.

j. *Deadline for filing comments and/or motions:* September 27, 2001.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the project number (2503–064) on any comments or motions filed.

k. *Description of Proposal:* Duke Energy Corporation proposes to grant a lease for 0.64 acres of project property to Keowee Falls RV Park for a proposed commercial residential facility having three cluster docks with six boat docking locations on each dock for a total of 18 boat docking slips and one concrete boat ramp to provide access to the reservoir for the individuals leasing campsites at the Keowee Falls RV Park. The cluster docks will consist of steel angle iron with plastic floatation devices under the metal. The decking of the docks will be pressure treated face boards. The boat ramp will consist of six-inch thick concrete slabs with steel bars for strength and durability. The overall measurement of the ramp will be 12 feet by 48 feet and will be composed of eight sections, each six feet in length. No dredging will be required for the construction of these facilities.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comment:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–21981 Filed 8–30–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Floodplain/Wetland Statement for the Interconnection of the Sundance Energy Project with the Western Area Power Administration's Liberty-Coolidge 230-kilovolt Transmission Line (DOE/EIS–0322)

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of record of decision.

SUMMARY: PPL Sundance Energy, LLC, (Sundance) applied for an interconnection and transmission service from the Western Area Power Administration (Western) for the Sundance Energy Project, Pinal County, Arizona. To accommodate the request, Western has decided to upgrade and add to its transmission system in order to incorporate the new generation into the system. This Record of Decision (ROD) and Statement of Findings have been prepared in accordance with Council on Environmental Quality regulations for implementing the National Environmental Policy Act (NEPA) (40 CFR parts 1500–1508), Department of Energy (DOE) Procedures for Implementing NEPA (10 CFR part 1021), and DOE's Compliance with Floodplain/Wetland Review Requirements (10 CFR part 1022). Western's decision for its action considered the environmental ramifications of the Sundance Project. Western has determined that no significant environmental impacts would result from construction, operation, and maintenance of the Sundance Energy Project, the natural gas pipelines, the approximately 7 miles of new high-voltage transmission lines, or from the upgrade of approximately 5 miles of the Liberty-Coolidge 230-kilovolt (kV) and Coolidge Signal 115-kV Transmission Lines.

DATES: Western will take no action within floodplains until the completion of a 15-day public review period, ending September 17, 2001.

ADDRESSES: Written comments on Western's Floodplain Statement of Findings should be addressed to Mr. John Holt, Environment Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005; fax (602) 352–2630, email holt@wapa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. John Holt, Environment Manager, at the above address or by phone (602) 352–2592.

SUPPLEMENTARY INFORMATION: Western is the lead Federal agency under NEPA for the Sundance Energy Project. No Federal, State, or Tribal organizations requested cooperator status. Western has decided to enter into interconnection agreements with Sundance, and to construct, operate, and maintain transmission system additions to provide the interconnection with its transmission system. The transmission system additions selected as part of the Proposed Action addressed in the Environmental Impact Statement (EIS) include a new 230-kV bay at Western's existing Coolidge Substation, an upgrade of the existing Coolidge-Signal 115-kV #2 Transmission Line to 230-kV, and an expansion of the existing Signal Substation. Western also selected new single- and double-circuit 230-kV transmission line additions as described under Alternative 3 in the EIS. Alternative 3 was selected over the Proposed Action transmission system additions and two transmission line alternatives because it would have less impact on agricultural activities. The selected transmission line would involve the construction of one new double-circuit 230-kV transmission line and one new single-circuit 230-kV transmission line, both heading north from the western edge of the powerplant towards Western's existing Liberty-Coolidge 230-kV Transmission Line. As the new transmission lines reach the South Side Canal, they would run northeast until they meet the Liberty-Coolidge 230-kV Transmission Line. The west circuit of the new double-circuit 230-kV transmission line would interconnect with Western's existing Liberty-Coolidge 230-kV Transmission Line, heading west to Liberty. The east circuit of the new double-circuit 230-kV transmission line would join the new single-circuit 230-kV transmission line and become a new double-circuit 230-kV transmission line on Western's existing Liberty-Coolidge 230-kV Transmission Line right-of-way, heading east towards Coolidge. The north circuit of this new double-circuit 230-kV transmission line would interconnect to the existing Liberty-Coolidge 230-kV Transmission Line and continue on the existing alignment north and then east to Coolidge. The south circuit of this new double-circuit 230-kV transmission line would become a single-circuit

transmission line and continue east until it meets Western's existing Coolidge-Signal 115-kV #2 Transmission Line. The new 230-kV transmission line would combine with Western's existing Coolidge-Signal 115-kV #2 Transmission Line as a new double-circuit transmission line, heading north and east along the Coolidge-Signal 115-kV #2 Transmission Line alignment into Coolidge Substation.

This decision is based on a review of the environmental impacts of the project as addressed in the Draft and Final EIS, a review of all comments received during the 30-day waiting period after issuance of the Final EIS, and Western's abilities to continue to meet its current contractual obligations and customer needs, and maintain regional transmission reliability with the interconnection.

The Sundance Energy Project EIS (Draft issued March 2001, Final issued June 2001) addresses the effects of constructing and operating a nominal 540-megawatt, natural gas-fired, simple cycle, electrical generation peaking plant south of Coolidge, Arizona, in rural Pinal County. PPL Sundance Energy, LLC, owns the property on which it will build the powerplant. The project will include the construction of a natural gas transmission system for supplying fuel to the plant site, and a water transmission system for inlet air cooling, emission control, and on-site use. Western has no decision regarding these components of the project. Western did take into account the environmental ramifications of the whole project as addressed in the EIS in making its decision.

Alternatives Considered

No Action

Under the no action alternative, Western would not grant an interconnection to its system. Without the ability to interconnect with Western's system, the proposed project and appurtenant facilities would not be built. Existing environmental conditions would not change, although there may be adverse economic impacts due to the absence of needed electricity to meet peak energy demands. The No Action Alternative would result in slightly fewer overall environmental impacts, however, it was not selected because it would not meet the needs defined in the Sundance Energy Project EIS. The No Action Alternative would not have allowed Western to meet its obligations defined by its own Open Access Transmission Tariff, which was implemented to meet the intent of the Federal Energy Regulatory Commission (FERC) order to open transmission line access (FERC Order Nos. 888 and 888–A).

Facility

Western dismissed from full analysis alternative sites to the generating facility. The State of Arizona Corporation Commission has jurisdiction over siting of powerplants and made no suggestion regarding alternative sites or systems during their siting process. Western has no decision regarding the siting of the generating facility.

Gas Pipeline

There were no pipeline alternatives addressed in the EIS. Western has no decision regarding the proposed gas supply for the project.

High Voltage Transmission Lines

Three routing alternatives, in addition to the proposed action, were evaluated. The proposed action addressed in the EIS would be a "loop-in-loop-out" from the existing Liberty-Coolidge 230-kV line to the Sundance facility. This would involve a double circuit 230-kV line due north out of the plant site, approximately 8 miles up Tweedy Road to the interconnection with Western's existing Liberty-Coolidge 230-kV line. The proposed action would also include building a new 230-kV transmission line from the Sundance facility to an expanded Signal Substation, 1.5 miles east of the Sundance facility, and upgrading the existing Coolidge-ED2 115-kV line to 230-kV from the Signal Substation to the Coolidge Substation. The proposed action was not selected due to higher impacts on agricultural activities compared to the selected alternative.

Alternative 1

Alternative 1 would be identical to the proposed action with one new double-circuit 230-kV transmission line and one new single-circuit 230-kV transmission line. Alternative 1 would have all three circuits going north from the powerplant towards Western's existing Liberty-Coolidge 230-kV Transmission Line. The one new single-circuit 230-kV transmission line would follow the same alignment as the double circuit to the intersection of the Liberty-Coolidge line with Western's existing Coolidge-ED2 115-kV Transmission Line, where it would follow that route into the Coolidge Substation. This alternative was not selected due to higher impacts on agricultural activities.

Alternative 2

Alternative 2 would be identical to Alternative 1 except that the new single-circuit 230-kV transmission line would follow the same alignment until it crosses Western's existing Coolidge-ED2 115-kV #1 Transmission Line. The new single-circuit 230-kV transmission line would continue east until it meets Western's existing Coolidge-Signal 115-kV #2 Transmission Line. The new single-circuit 230-kV transmission line alignment then heads north and east adjacent to the Coolidge-Signal 115-kV #2 Transmission Line into Coolidge Substation. This alternative was not selected due to higher impacts on agricultural activities.

Comments Received During the Waiting Period

Three comment letters were received on the final EIS. Two comment letters stated that the change in air pollution control technology to Selective Catalytic Reduction (SCR) following issuance of the draft EIS required a supplement to the draft to allow the public to comment. The change to SCR technology was based on EPA Region IX and Pinal Country Air Quality Control District permit requirements. Western recognizes the concerns expressed by the commentors regarding ammonia transportation, storage, and use. Western will require the Sundance Energy Project to develop and implement an emergency response plan in accordance with State and local regulations.

The Environmental Protection Agency, Region IX (EPA), expressed concern over potential human health effects through the long-term use of Central Arizona Project (CAP) water mixed with waste water for irrigating crops. There is little potential for environmental or human health effects from the use of reclaimed waste water for irrigation. The only potential vector for the waste water to affect human health is the irrigation of food crops. The water would be used to irrigate alfalfa, Bermuda grass, cotton, and barley. Barley has the potential to be used in products for human consumption, and alfalfa could be fed to livestock ultimately consumed by humans. As shown in the Final EIS in Table 4–17, the waste water would be blended with CAP water to approximate the water quality in existing on-site ground water wells, currently used to irrigate the same lands where the blended waste water would be applied. Therefore, the potential to affect human health would be approximately the same as the current and past irrigation practices on the site and within the general area of Pinal County. For the reasons discussed above, and the fact that the waste water would be blended and stored in a lined pond prior to its discharge as irrigation water, the potential vectors for environmental effects would be limited. The liner would be designed to eliminate effects to ground water. There are no surface waters in the area other than the canals from which the CAP water would be extracted. There are no aquatic resources in the area and the ponds would be fenced to exclude wildlife. Waterfowl can land on the pond but the constituency of the water will not differ materially from that of local irrigation ponds, canals, effluent lakes, or other bodies of water currently available to them. Sundance Energy will be required to monitor the quality of waste water as part of the Arizona Department of Environmental Quality (ADEQ) Water Reuse Permit. The monitoring plan will ensure that waste water matches existing groundwater quality, thus minimizing potential adverse human health and environmental effects. If concentrations of any constituents approach levels known to be chronically toxic to wildlife, the sampling frequency will be increased to at least quarterly. Weekly observations of bird use at the ponds will be recorded, and the area around the pond would be monitored for wildlife mortalities. If concentrations of any constituents reach acutely toxic levels and the extended bird use of the ponds is high or substantial wildlife mortalities are recorded, Sundance will implement measures to reduce the toxicity by removing the toxic sediments or reducing wildlife use through exclusion or distraction devices.

EPA requested actual flow rates and chemical constituents of reclaimed water and waste water. The Draft EIS indicates that less than 1 million gallons per year of regeneration waste water will be produced and the constituents of that were listed in Table 4–17 in the Draft EIS and updated in Table 4–17 of the Final EIS.

Additionally, EPA requested the status of the various State water permits. The Aquifer Protection Permit Application and Wastewater Reuse Permit Application are currently being developed to submit to the Arizona Department of Environmental Quality. The Sundance Energy Project would not be operated without these permits. Both applications will be submitted in mid-August 2001. Sundance Energy would be required to monitor the quality of the wastewater as a part of the Reuse Permit.

EPA commented on the potential for wildlife to accumulate wastewater constituents, which is addressed above. Briefly, the waste water would be blended, if necessary, in order to bring all constituent levels to the level of existing available water. There would be no additional accumulation of heavy metals or trace elements beyond that which currently exists in the region. However, both the Arizona Department of Fish and Game and the U.S. Fish and Wildlife Service received copies of and had opportunities to review the Draft and Final EIS. Information on the toxicity of any of the constituents in the water can be found at or http://www.pwrc.usgs.gov/new/chrback.htm or http://www.oehha.org/cal_ecotox/.

EPA asked the status of consultations with the U.S. Army Corps of Engineers (COE) and the ADEQ regarding crossing of "Waters of the United States" with the transmission lines and pipelines. Any wetland disturbance that would occur as a result of pipeline or transmission line construction would be covered under Nationwide Permit 12. The EIS describes three potential gas interconnections: two onsite and one that would require the construction of a 14-mile pipeline offsite. It is currently anticipated that the two on-site interconnections would be sufficient to provide an adequate gas supply to the project and, if so, the off-site pipeline may not be needed. Therefore, permitting by COE for this pipeline has not been initiated and would be initiated only at such time that it is certain that it is needed for the project and a detailed pipeline design is developed as is required for the notification to the COE. Similarly, notification to the COE for the transmission lines would be submitted as detailed designs for them are completed. They are anticipated to affect wetlands or waters of the United States because the lines would not be designed to span all canals, mapped floodplains, or other wet areas.

EPA recommended the project commit to working with the local community and concerned public regarding an emergency response plan and measures. The Sundance Energy Project has already initiated contact with the Eleven Mile Corner School. Additionally, Sundance Energy would be working with the State and Pinal County to develop emergency response plans as required by the types and amounts of chemicals used and stored on the Project site. Western will ensure that a Spill Control and Countermeasure Plan is developed in accordance with applicable Federal, State, and local regulations and that an emergency response plan is developed.

EPA expressed concerns regarding noise levels that would be experienced by nine residences relatively close to the Project. Sundance Energy has completed the rezoning for the project and has received its industrial use permit from Pinal County. The project is currently working with Pinal County on local building and site issues. Currently, Pinal County has indicated that a berm would not be needed for visual or noise screening. Western will ensure that local noise ordinances are met.

EPA requested information regarding the Arizona Corporation Commission's (Commission) powerplant siting process. Generally, the Commission requires submitting an Application for a Certificate of Environmental Compatibility (ACEC). The ACEC requires the applicant to provide descriptions of the facilities it intends to develop, along with environmental information on air quality, biological, cultural, and recreational resources. Public meetings are held by the Arizona Power Plant and Line Siting Committee to recommend to the Commission whether or not to issue the Certificates. The Commission then holds public hearings to make its final determination. PPL Sundance Energy, LLC, has received a Certificate of Environmental Compatibility from the Commission. Through the Arizona power plant siting process, information was provided regarding other site options that were considered and evaluated by Sundance Energy. When siting a gas-fired powerplant, proximity to available gas and transmission are important for minimizing both costs and environmental impacts. In the case of Sundance Energy, the transmission interconnection point was the Coolidge Substation, and the nearest available gas was located at the two lines where the current site for the project is located. Therefore, the project could be located at the Coolidge Substation, on the existing pipelines, or some reasonable location between them. Sites at or near the Coolidge Substation were considered but were dismissed because of costs, proximity to the Gila River floodplain, proximity to the Casa Grande National Monument, proximity to the Gila River Indian Reservation, and increased potential for impacts to cultural resources. Sites between the two were dismissed because of proximity to the National Monument, the town of Coolidge, and other residential areas.

EPA requested a detailed description of the different alternatives developed for the high-voltage transmission line

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routes. These are detailed in Table S–1 in both the Draft and Final EIS. Briefly, the alternative selected as the environmentally preferred alternative, although slightly longer, impacts less agricultural land and has less potential to adversely affect local transportation. Transmission line routing options were all developed to try to utilize existing rights-of-way (canals, roads, pipelines, and transmission lines) and field lines to minimize establishing new rights-of-way that were not necessary and/or avoid needlessly traversing the middle of properties. The Proposed Action and Alternatives 1 and 2 were developed to take advantage of those various routing opportunities between the Project site and the Coolidge Substation. Alternative 3 was developed in direct response to comments from local landowners and the Arizona power plant and transmission line siting committee in order to mitigate concerns they had about the effects that the other transmission line alternatives would have on their continued use of their property. Alternative 3 was selected.

Mitigation Measures

All measures addressed in the EIS to minimize adverse impacts from the transmission system additions have been adopted. Table 2–4 in the Draft EIS lists the standard mitigative measures that are part of Western's proposed action. These would be used for the transmission line additions. Some of the measures include restricting vehicular traffic to existing access roads or public roads, recontouring and reseeding disturbed areas, environmental awareness training for all construction and supervisory personnel, and mitigation of radio and television interference generated by transmission lines. Additionally, Spill Prevention Control and Countermeasure (SPCC) plans for modified facilities will be reviewed to ensure new equipment is addressed.

In addition, Western will ensure that PPL Sundance Energy, LLC, implements the following measures:

1. Detailed emergency response plan and SPCC plans that meet Federal, State, and local requirements.
2. Implement conditions of individual or nationwide 404 permits if needed for new pipeline construction across waters of the United States.
3. Conduct pre-construction surveys along the new pipeline route to ensure impacts to special status species do not occur.

A Mitigation Action Plan with annual reporting requirements will be developed for the project to comply with DOE regulations found at 10 CFR part 1021.33 and made available to the public.

Western is the lead Federal agency for compliance with Section 106 of the National Historic Preservation Act for all components of the project. All archaeological and traditional cultural properties determined significant in consultation with the Arizona State Historic Preservation Officer and interested tribes will be avoided. If they are somehow not avoided, a mitigation plan will be developed in consultation with the State Historic Preservation Officer and the interested tribes. Cultural resource monitoring, if needed, will take place during construction of new high voltage transmission lines and pipelines.

Western is also the lead for compliance with Section 7 of the Endangered Species Act. A biological assessment was prepared and submitted to the U.S. Fish and Wildlife Service (Service) with a determination that the project could affect but not adversely affect any candidate, proposed, or listed species. This Record of Decision is being issued based on verbal concurrence from the Service on Western's determination and written concurrence is expected soon. Additionally, during informal consultation, the Service requested, and Western has agreed, if the 14-mile long pipeline is built, the crossing of the Santa Cruz Wash would be enhanced for the cactus ferruginous pygmy owl. The enhancement will include planting mesquite trees on either side of the pipelines to facilitate emigration of the owl.

Floodplain and Wetlands Statement of Findings

Construction of the Sundance Energy Project would not alter the natural drainage patterns on site. The immediately surrounding area is primarily agricultural and contains irrigation canals, which will move water around and away from the facility. No floodplain classifications for the site and surrounding area have been mapped. The storm water flows will be retained on site in constructed basins to minimize sheet flows.

The new gas pipeline would cross portions of the 100-year flood zone of the Santa Cruz Wash but is not anticipated to affect the floodplain. The ground surface would remain relatively unchanged from pre-development conditions.

All transmission system alternatives, including the selected transmission line alternative and the upgrade of the Coolidge-Signal line, would traverse the 100-year flood zone of McClellan Wash near Coolidge. A large portion of the floodplain is spanned by the existing transmission facility. It would not be practical to use existing transmission line structures and rights-of-way without going through the floodplain. No new transmission structures are expected to be placed in the floodplain. Instead, work would be confined to existing structures, resulting in short-term, temporary disturbances to the floodplain. If, after final project design, additional new structures are needed in the floodplain, they will be designed to conform to applicable Federal, State, and local floodplain protection standards.

A portion of the facility gets inundated during heavy rain events. A wetland delineation study was performed on the site and found none of the criteria needed to identify a wetland (i.e., soils, hydrology, and vegetation) existed. No wetlands would be affected by the proposed action.

Dated: August 20, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01–22008 Filed 8–30–01; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7047–1]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Assessment of EPA Compliance Assistance Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (MB) for renewal: Assessment of EPA Compliance Assistance Projects 1860.01. The ICR describes the nature of the information collection, the expected burden and cost to collect the information, and the actual collection instruments. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 1, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1860.01 to the following addresses: Lynn Vendinello, EPA MC 2222A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR or technical questions contact Ms. Lynn Vendinello at EPA by phone at (202) 564–7066, by facsimile (202) 564–0031, or by email at *vendinello.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are businesses and other members of the regulated community, technical assistance providers that receive or access EPA compliance assistance tools, regulating agencies, and state/local committees that are recipients of required compliance reports. Technical assistance providers are comprised of such groups as: state pollution prevention programs, state small business assistance programs, small business development centers. The request for information from these affected entities will be voluntary.

Title: Information Collection Request for Assessment of EPA Compliance Assistance Projects, EPA ICR Number 1860.01.

Abstract: The Environmental Protection Agency (EPA) is seeking reapproval for a three year generic clearance from Office of Management and Budget (OMB) to determine how well EPA compliance assistance tools and services meet customers needs and to determine the relevant outcomes. This will be a voluntary collection of information to gauge customer satisfaction with the compliance assistance projects, and measure any resulting changes in awareness and understanding, and in limited cases behavioral change and environmental and human health impacts. EPA proposes to use assessment surveys to provide the Agency with feedback on the compliance assistance documents, onsite visits, telephone assistance, Web sites, and compliance assistance seminars and workshops delivered by Headquarters and Regional compliance assistance programs to the regulated community This feedback will provide EPA with the necessary information for improving the quality and delivery of compliance assistance tools and services.

This ICR will only provide anecdotal data for the purpose of informing EPA of the outcomes of compliance assistance tools, and customer satisfaction with those tools. All assessments undertaken under this ICR will adhere to certain conditions to ensure that data is collected and used appropriately. The information collection is voluntary, and will be limited to non-sensitive data concerning the quality of compliance assistance activities. The data resulting from this ICR's assessment activities will not be treated as statistical and will not be used to make broad generalizations to the overall population. The Office of Compliance (OC) attempts to perform such evaluations will be undertaken under a separate ICR so that the public is allowed adequate public comment period on our proposed methodology. This process does not involve fact-finding for the purposes of regulatory development or enforcement.

By seeking a generic clearance of assistance assessments, EPA will have the flexibility it requires to expeditiously gather the views of EPA customers to determine how well the bulk of EPA compliance assistance tools and services meet customers needs and how to improve them. In FY 2000 alone, EPA conducted over 1300 workshops and trainings, over 2700 on-site visits and developed 140 compliance assistance tools. The generic clearance will facilitate the coordinated review and approval of surveys that solicit opinions from EPA customers on a voluntary basis. Every effort will be made to improve response rates to assessment surveys, and maximize the efficiency of data collection.

To ensure the proper use of the data from the surveys, OC will place the following conditions on the way the ICR is used:

- After compliance assistance is delivered, EPA will follow up on the quality of the assistance and the associated outcomes. During the compliance assistance activity, EPA should communicate how it intends to follow-up (*e.g.*, phone, letter, email) and when.
- True behavioral changes will only be considered when they can be directly measured through on-site revisits, self-certifications or other direct observations. Behavioral changes expressed through surveys, training evaluations, and Internet questionnaires will be considered as indications of behavioral change.
- No use of comment cards as they often have low response rates.
- To ensure high response rates, all follow-up mail/email surveys must use the Dillman Tailored Design Method. Staff using phone surveys can also send out a postcard letting attendees know that EPA will be calling.

Compliance assistance activity	Allowed survey method (in order of preference)	Measure
Phone Calls/Hotlines	As part of assistance call	Awareness, Understanding, Customer satisfaction.
	Follow-up call	Awareness and understanding.
	Mail/email follow-up survey	Customer satisfaction.
Workshops/Trainings	Pre/post test	Awareness, Understanding.
	On-Site Post Workshop/Training Evaluation	Awareness, Understanding, Customer satisfaction.
	Phone survey (if fewer than 50 participants).	
	Mail/email follow up (if more than 50 participants).	
Web Sites	Online survey (with promotion of the survey via email).	Awareness, Understanding, Customer satisfaction.
Tools (e.g., manuals)	Mail/email survey	Awareness Understanding, Customer satisfaction.
Onsite visits	Onsite revisits	Awareness, Understanding, Behavioral change, Environmental and human health improvements, Customer satisfaction.
	Phone survey.	
	Mail/email survey.	

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EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

It is estimated that approximately 24,823 entities may voluntarily complete and return a compliance assistance activity or tool assessment survey on an annual basis. EPA estimates that participating entities may need to spend between five to twenty minutes to complete either the compliance assistance product, seminar/workshop; onsite visit; telephone assistance/hotline; or Internet web site assessment survey. EPA estimates 3,564 hours annually or 8.64 minutes per respondent may be spent to provide EPA with the data. This burden hour estimate translates to a cost of $9.89 per facility that voluntarily completes the survey and a total cost to the regulated community of $733,861 over the three years covered by the ICR. The costs were calculated based on $32.68 per hour employment expense rate, plus a $110 overhead for a total labor cost of $68.63 (based on labor rates obtained form the United States of Commerce, Bureau of Labor Statistics, May 2001, Employer Costs for Employment Compensation, Table 10: White Collar, Professional and Technical).

Respondents/Affected Entities: 74,470.

Estimated Number of Respondents: 74,470.

Frequency of Response: one time.

Estimated Total Annual Hour Burden: 3,564 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $244,620.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1860.01 in any correspondence.

Dated: August 23, 2001.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. 01–22019 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6621–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements.

Filed August 20, 2001 Through August 24, 2001.

Pursuant to 40 CFR 1506.9.

EIS No. 010321, Draft EIS, FHW, MD, MD–97 Brookeville Project Improvements and Preservation, South of Gold Mine Road to North of Holliday Drive, Funding and US Army Corps of Engineers Section 10 and 404 Permits Issuance, Montgomery County, MD, Due: October 22, 2001, Contact: Francine Shaw-Whitson (410) 962–4342.

EIS No. 010323, Draft Supplement, NOA, AK, Steller Sea Lion Protection Measures in the Alaska Groundfish Fisheries, Fishery Management Plans for Groundfish of the Gulf of Alaska and the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, AK, Due: October 15, 2001, Contact: James W. Balsiger (907) 586–7221.

EIS No. 010324, Draft EIS, FHW, TN, KY, Corridor 18/Interstate 69 Proposed Improvements from the U.S. 412/U.S. 51 Interchange to the U.S. 51 Fulton Bypass/Purchase Parkway Interchange, Dyer and Obion Counties, TN and Fulton County, KY, Due: October 15, 2001, Contact: Charles Boyd (615) 781–5770.

EIS No. 010325, Final EIS, FHW, NM, Paseo del Volcon Corridor, Acquisition of Right-of-Way and Construction of Roadway, from the Intersection of I–40 to Intersection of NM–44 near the Town of Bernalillo, Bernalillo and Sandoval Counties, NM, Due: October 01, 2001, Contact: Gregory D. Rawlings (505) 820–2027.

EIS No. 010326, Draft EIS, APH, PROGRAMMATIC–EIS Rangeland Grasshopper and Mormon Cricket Suppression Program, Authorization, Funding and Implementation in 17 Western States, AZ, CA, CO. ID, KS, MT, NB, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY, Due: October 15, 2001, Contact: Charles L. Brown (301) 734–8247. This document is available on the Internet at: http://www.aphis.usda.gov/ppd/es/ppqdocs.html.

EIS No. 010327, Draft EIS, FHW, NB, Antelope Valley Study Improvements in three major issues: Stormwater Management, Transportation, Community Revitalization, City of Lincoln, University of Nebraska-Lincoln, and the Lower Platter South Natural Resources District, Major Investment Study, Lancaster County, NE, Due: October 15, 2001, Contact: Edward Kosola (402) 437–5973.

EIS No. 010328, Final EIS, TVA, TN, Addition of Electric Generation Baseload Capacity, Proposes to Construct a Natural Gas Fired Combined Cycle Power Plant, Franklin County, TN, Due: October 01, 2001, Contact: Bruce Yeager (865) 632–8051.

EIS No. 010329, Final EIS, AFS, ID, Middle Fork Weiser River Watershed Project, Implementation of Vegetation Restoration, Landscape Fire Pattern and Watershed Restoration Objectives, Payette National Forest, Council Ranger District, Adams County, ID, Due: October 01, 2001, Contact: Faye Krueger (208) 253–0100.

This document is available on the Internet at: www.fs.fed.us/r4/payette/main.html

Dated: August 28, 2001.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–22063 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6621–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (97 FR 27647).

Draft EISs

ERP No. D–NPS–J65346–WY Rating LO, Devil's Tower National Monument General Management Plan, Implementation, Crook County, WY.

Summary: EPA had no objections to the preferred alternative.

ERP No. D–USA–G11040–TX Rating EC2, Programmatic EIS—Fort Sam Houston, Camp Bullis, and Canyon Lake Recreation Area Master Plan, Implementing Revisions to the Existing 1988 Land Use Plan, City of San Antonio, TX.

Summary: EPA expressed environmental concerns and requested additional information in the areas of alternatives analysis, wetland impacts, floodplains, wildlife habitat, prime farmland soils, and mitigation.

Final EISs

ERP No. F–AFS–J65336–MT, Lolo National Forest, Big Game Winter Range and Burned Area Management, Restoration, Prevention and Cooperation, Implementation, Missoula, Lake, Mineral, Sanders, Granite, Powell, Lewis and Clark, Flathead and Ravalli Counties, MT.

Summary: EPA expressed lack of objections. The preferred alternative includes adequate mitigation and controls for invasive weeds and forage improvement on 21 big game ranges and areas burned in year 2000 wildfires.

ERP No. F–AFS–L65358–ID, Starbucky Restoration Project, Implementation of Vegetative Treatment, Road Construction and Watershed Improvements, Nez Perce National Forest, Red River Ranger District, Idaho County, ID.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FRC–E08021–00, Florida Gas Transmission (FGT) Phase V Expansion Project, FGT Natural Gas Pipeline and Associated Above Ground Facilities, Construction and Operation, Approvals and Permit Issuance, several counties of FL, AL and MS.

Summary: EPA has remaining concerns with the proposed project concerning air quality, water quality, noise, cumulative impacts and safety. EPA requests that the prospective FERC ROD address these concerns.

ERP No. F–MMS–E02011–00, Eastern Planning Area Outer Continental Shelf Oil and Gas Lease Sale 181 (December 2001), Gulf of Mexico, Offshore Marine Environment and Coastal Counties/Parishes of LA, MI, AL and northwestern FL.

Summary: EPA continues to be concerned about cumulative impacts of oil and gas activity in the Gulf, although the revised lease sale area has been reduced by 25–30% of the original proposal.

ERP No. F–NRS–D28013–WV, Upper Tygart Valley River Watershed Plan, Water Supply Project, Approval and Funding, Randolph and Pocahontas Counties, WV.

Summary: EPA had no objection to the proposed action.

ERP No. FA–DOE–A22088–SC, Savannah River Site Salt Processing Alternatives, Evaluation for Separating High-Activity and Low-Activity Fractions of Liquid High-Level Radioactive Waste and Potential Environmental Impacts of Alternatives to the In-Tank-Precipitation Process (ITP), Aiken and Barnwell Counties, SC.

Summary: EPA expressed environmental concerns relating to the disposal of secondary waste streams.

Dated: August 28, 2001.

B. Katherine Biggs,

Associate Division Director, NEPA, Office of Federal Activities.

[FR Doc. 01–22064 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00734; FRL–6797–8]

Workshop Series on Bt Corn Insect Resistance Management Framework Development; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold the third and fourth workshops in a series focusing on Bt corn insect resistance management (IRM). Workshops will involve small expert groups (about 15 people). These four workshops are designed to provide EPA with information on the following general topics: (1) Pest simulation model design and validation, (2) resistance monitoring and detection design and validation, (3) insect resistance management strategies and refuge validation, and (4) remedial action strategies. Information from these workshops will be used to assist the Agency in the design and evaluation of effective insect resistance management strategies for Bt corn. EPA will provide a publically-available workshop report after all four workshops have been concluded.

DATES: The third workshop on insect resistance management strategies and refuge validation will be held on September 10–11, 2001, from 8 a.m. to 5 p.m. The fourth workshop will focus on remedial action strategies and will be held October 29–30, 2001, from 8 a.m. to 5 p.m. Requests for participation in the meeting must be received on or before September 4, 2001, for the third workshop on September 10–11, 2001, and October 22, 2001, for the fourth workshop on October 29–30, 2001.

ADDRESSES: The meeting will be held at EPA, Crystal Station, Room A, 2800 Crystal Drive, Arlington, VA 22202. Space is limited. Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your request must identify docket control number OPP–00734 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Glaser; National Risk Management Research Laboratory, Environmental Protection Agency, 26 W. King Dr., Cincinnati, OH 45268; telephone number: (513) 569–7568; fax number: (513) 487–2511; e-mail address: glaser.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to: Registrants and users of Bt corn under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as well as non-users of Bt corn and the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person

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listed under FOR FURTHER INFORMATION CONTACT.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the **Federal Register**-Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about the Office of Research and Development workshops on Bt corn IRM, go directly to the Home Page for Biopesticides at: http://www.epa.gov/pesticides/biopesticides, and select "ORDworkshops."

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–00734. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the ORD Workshops on Bt Corn IRM, including any information claimed as Confidential Business Information (CBI). This administraive record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before September 4, 2001, for the third workshop on September 10th and 11th and October 22, 2001, for the fourth workshop on October 29th and 30th. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00734, in the subject line on the first page of your request.

1. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your request electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00734. You may also file a request online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Bt corn.

Dated: August 17, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–22023 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[WH–FRL–7046–9]

U.S. EPA Notice of Public Meeting on the Draft Strategy for Waterborne Microbial Disease

AGENCY: Environmental Protection Agency (EPA).

ACTION: This action announces a public meeting on the draft Strategy for Waterborne Microbial Disease.

SUMMARY: The Environmental Protection Agency (EPA) is holding a meeting on September 18, 2001, to present to interested parties the draft Strategy for Waterborne Microbial Disease. The draft Strategy explains suggested approaches to reducing microbial pollution of the Nation's waters. Interested parties will have an opportunity to comment on the approaches listed in the draft Strategy at this meeting. In addition interested parties may provide written comments on the draft strategy.

DATES: The public meeting concerning the draft Strategy for Waterborne Microbial Disease will be held September 18, 2001, from 8 a.m. to 5 p.m. EST. Written comments on the draft strategy will be accepted until October 19, 2001.

ADDRESSES: The meeting will be held at the Hilton Crystal City Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia, in the Roanoke conference room. Sciences, Inc. (an EPA contractor) will provide logistical support for the meeting. Written comments should be sent to Ms. Harriet McCollum at Sciences, Inc., 1800 Diagonal Road, Suite 500, Alexandria, VA 23314; phone (703)684–0123; fax (703) 684–2223, or email at *hmccollum@sciences.com.*

FURTHER INFORMATION CONTACT: For information about the meeting, please contact Ms. Harriet McCollum at Sciences, Inc., 1800 Diagonal Road, Suite 500, Alexandria, VA 23314; phone (703) 684–0123; fax (703) 684–2223, or email at *hmccollum@sciences.com.*

Approximately 100 seats will be available on a first-come, first serve basis. On-site registration for the meeting will begin at 8 a.m., EST. Members of the public wishing to attend the meeting may pre-register by phone by contacting Ms. McCollum by September 10, 2001. Those registered by September 10, 2001 will receive background materials prior to the meeting.

For information concerning the Draft Strategy for Waterborne Microbial Disease, or a copy of the draft Strategy please, contact Lisa Almodovar, at the U. S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, (MC–4304), Washington, DC 20460; phone; (202) 260–1310, fax: (202) 260–1036 or email at *almodovar.lisa@epa.gov.* Copies of the draft Strategy are available on EPA's Internet at *www.epa.gov/ost/criteria/microbialdraft.pdf.*

SUPPLEMENTARY INFORMATION: EPA, States, local governments and the private sector have made significant strides in reducing water pollution. Much of this progress is the result of controls on pollution from industries and sewage treatment facilities. Despite this progress, States report that about 30% of the waters they assess do not meet clean water goals. Today, water pollution problems are caused by a wide range of diffuse sources (e.g., pollutant runoff from agricultural lands, stormwater flows from cities, inadequate sewage treatment, and seepage into ground water). Many of these sources contribute microbial contaminants to waterbodies and this contamination impairs the use of waters for recreational, fishing, and shellfish growing purposes and limits use of waters as a source of drinking water.

In response to growing evidence of significant microbial contamination of waters, the Office of Water has prepared a draft Strategy for Waterborne Microbial Disease. This draft Strategy describes the microbial water pollution problem and identifies four areas of concern as the primary focus of efforts to reduce water pollution and threats to public health.

EPA seeks public comment on all aspects of the draft Strategy. Examples of questions that might be addressed by the public include:

(1) Does the draft Strategy appropriately describe the water pollution problem and public health risk posed by microbial contamination?

(2) The draft Strategy emphasizes four areas of concern. Are these four areas appropriate as the focus of the draft Strategy? If not, which other areas of concern should be addressed and why?

(3) Are the actions identified to strengthen water pollution control programs appropriate? What other actions should be considered?

EPA will produce a report that will summarize the meeting as well as capture all comments and suggestions. Submitted written comments will also be included in the document. Comments must be submitted to Ms. Harriet McCollum at Sciences, Inc., 1800 Diagonal Road, Suite 500, Alexandria, VA 23314; phone (703) 684–0123; fax (703) 684–2223, or email at *hmccollum@sciences.com*, by October 19, 2001.

Dated: August 15, 2001.

Jeanette Wiltse,

Acting Director, Office of Science and Technology.

[FR Doc. 01–22020 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30506; FRL–6760–5]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30506, must be received on or before October 1, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30506 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Linda Hollis, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8712; e-mail address: hollis.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 3110 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under FOR FURTHER INFORMATION CONTACT.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30506. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30506 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

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2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30506. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received an application as follows to register a pesticide product containing an active ingredient not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

A. Products Containing Active Ingredients Not Included in Any Previously Registered Products

File Symbol: 73176-R. Applicant: AgriVir, LLC 1625 K Street, NW., Suite 1000, Washington, DC 20006. Product name: Nut GuardV/Fruit GuardV. Product type: Biological pesticide. Active ingredient: Indian Meal Moth Granulosis Virus and larval parts on milled wheat bran carrier at 96.4. Proposed classification/Use: for use on dried fruit, in shell and shelled nuts, for crack and crevice treatment of processing, packing and storage areas.

List of Subjects

Environmental protection, Pesticides and pest.

Dated:August 17, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–22022 Filed 8–30–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1040;FRL–6797–6]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–1040, must be received on or before October 1, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1040 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7704; e-mail address:giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1040. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1040 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1040. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 16, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Bayer Corporation

0F6121

Summary of Petitions

EPA has received a pesticide petition (0F6121) from Bayer Corporation, 8400 Hawthorne Road, P. O. Box 4913, Kansas City, MO 64121–0013 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part

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180 by establishing a tolerance for residues of trifloxystrobin in or on the raw agricultural commodity barley grain at 0.05 parts per million (ppm), straw at 0.05 ppm, barley hay at 0.2 ppm, citrus fruits group at 0.3 ppm, citrus oil at 7.0 ppm, corn forage at 0.05 ppm, corn stover at 7.0 ppm, aspirated grain fractions at 0.1 ppm, popcorn grain at 0.05 ppm, popcorn stover at 7.0 ppm, pecans at 0.05 ppm, rice grain at 3.5 ppm, rice straw at 7.5 ppm, stone fruits crops group at 2.0 ppm, and poultry (fat, kidney, liver, meat by-products, meats at 0.5 ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Residue metabolism.* The metabolism of trifloxystrobin in plants (cucumbers, apples, wheat, sugar beets and peanuts) is well understood. Identified metabolic pathways are substantially similar in plants and animals (goat, rat and hen). EPA has determined that trifloxystrobin parent and its metabolite CGA–321113 are the residue of concern for tolerance setting purposes.

2. *Analytical method.* A practical analytical methodology for detecting and measuring levels of trifloxystrobin in or on raw agricultural commodities has been submitted. The limit of detection (LOD) for each analyte of this method is 0.08 ng injected, and the limit of quantitation (LOQ) is 0.02 ppm. The method is based on crop specific cleanup procedures and determination by gas chromatography with nitrogen-phosphorous detection.

3. *Magnitude of residues.* Residue trials were performed for trifloxystrobin on a full geography of Citrus Fruit Crop Group (with oranges, lemons and grapefruit as representative citrus fruit crops), field corn. popcorn, and rice as representative crops from the cereal grain group, pecans, and Stone Fruits Crop Group (with peaches, plums, tart and sweet cherries as representative stone fruit crops). A study was conducted on indicator crops to assay for secondary residues in rotational crops. A three-level ruminant and poultry study was completed to determine the rate of transfer of residues of trifloxystrobin from residues in animal feed to ruminant and poultry commodities.

B. Toxicological Profile

1. *Acute Toxicity.* Studies conducted with the technical material of trifloxystrobin:

- Rat acute oral toxicity study with a LD_{50} >5,000 mg/kg
- Mouse acute oral toxicity study with a LD_{50} >5,000 mg/kg
- Rabbit acute dermal toxicity study with a LD_{50} >2,000 mg/kg
- Rat acute dermal toxicity study with a LD_{50} >2,000 mg/kg
- Rat acute inhalation toxicity study with a LC_{50} >4.65 mg/L
- Rabbit eye irritation study showing slight irritation (Category III)
- Rabbit dermal irritation study showing slight irritation (Category IV)
- Guinea pig dermal sensitization study with Buehler's method showing negative findings
- Guinea pig dermal sensitization study with the Maximization method showing some positive findings

2. *Genotoxicity.* No genotoxic activity is expected of trifloxystrobin under *in vivo* or physiological conditions. The compound has been tested for its potential to induce gene mutation and chromosomal changes in five different test systems. The only positive finding was seen in the *in vitro* test system (Chinese hamster V79 cells) as a slight increase in mutant frequency at a very narrow range (250 – 278 µg/ml) of cytotoxic and precipitating concentrations (compound solubility in water was reported to be 0.61 µg/ml; precipitation was visually noted in culture medium at 150 µg/ml). The chemical was found to be non-mutagenic in the *in vivo* system or all other *in vitro* systems. Consequently, the limited gene mutation activity in the V79 cell line is considered a nonspecific effect under non-physiological *in vitro* conditions and not indicative of a real mutagenic hazard.

3. *Reproductive and developmental toxicity.* FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database on trifloxystrobin relative to pre- and post-natal effects for children is complete.

In assessing the potential for additional sensitivity of infants and children to residues of trifloxystrobin, data were considered from teratogenicity studies in the rat and the rabbit and a 2-generation reproduction studies in the rat. The teratogenicity studies were designed to evaluate adverse effects on the developing embryo as a result of chemical exposure during the period of organogenesis. Reproduction studies provide information on effects from chemical exposure on the reproductive capability of mating animals and systemic and developmental toxicity from *in-utero* exposure.

In the rat teratology study, reductions in body weight gain and food consumption were observed in the dam at ≥100 mg/kg. No teratogenic effects or any other effects were seen on pregnancy or fetal parameters except for the increased incidence of enlarged thymus, which is a type of variation, at 1,000 mg/kg. The developmental NOAEL was 100 mg/kg.

In the rabbit teratology study, body weight loss and dramatically reduced food consumption were observed in the dam at ≥2,050 mg/kg. No teratogenic effects or any other effects were seen on pregnancy or fetal parameters except for the increase in skeletal anomaly of fused sternebrae-3 and -4 at the top dose level of 500 mg/kg. This finding is regarded as a marginal effect on skeletal development that could have resulted from the 40–50% lower food intake during treatment at this dose level. The developmental NOAEL was 250 mg/kg.

In the 2-generation rate reproduction study, body weight gain and food consumption decreased at ≥750 ppm, especially in females during lactation. Consequently, the reduced pup weight gain during lactation (≥750 ppm) and the slight delay in eye opening (1,500 ppm) are judged to be a secondary effect of maternal toxicity. No other fetal effects or any reproductive changes were noted. The low developmental NOAEL, 50 ppm (5 mg/kg), seen in this study was probably due to the lack of intermediate dose levels between 50 and 750 ppm. Based on an evaluation of the dose-response relationship for pup weight at 750 ppm and 1,500 ppm, the NOAEL should have already been nearly ten-fold higher if such a dose was available.

Based on all these teratology and reproduction studies, the lowest NOAEL for developmental toxicity is 5 mg/kg while the lowest NOAEL in the subchronic and chronic studies is 2.5 mg/kg/day (from the rat chronic study). Therefore, no additional sensitivity for infants and children to trifloxystrobin is suggested by the database.

4. *Subchronic toxicity.* In subchronic studies, several mortality related changes were reported for the top dose in dogs (500 mg/kg) and rats (800 mg/kg). At these dose levels, excessive toxicity has resulted in body weight loss and mortality with the associated and nonspecific changes in several organs

(such as atrophy in the thymus, pancreas, bone morrow, lymph node, and spleen) which are not considered specific target organs for the test compound. In the dog, specific effects were limited to hepatocellular hypertrophy at ≥150 mg/kg and hyperplasia of the epithelium of the gall bladder at 500 mg/kg. Target organ effects in the rat were noted as hepatocellular hypertrophy (≥200 mg/kg) and the related liver weight increase (≥50 mg/kg). In the mouse, target organ effects included single cell necrosis (≥300 mg/kg) and hypertrophy (1,050 mg/kg) in the liver and extramedullary hematopoiesis (≥300 mg/kg) and hemosiderosis in the spleen (1,050 mg/kg).

In general, definitive target organ toxicity, mostly in the liver, was seen at high feeding levels of over 100 mg/kg for an extended treatment period. At LOAEL, no serious toxicity was observed other than mostly non-specific effects including a reduction in body weight and food consumption or liver hypertrophy.

5. *Chronic toxicity.* The liver appears to be a major primary target organ based on the chronic studies conducted in mice, rats, and dogs. It was identified as a target organ in both the mouse and the dog studies with trifloxystrobin. However, no liver effect was seen in the chronic rat study which produced the lowest NOAEL of 2.5 mg/kg based on reduced body weight gain and food consumption seen at higher dose levels.

The compound did not cause any treatment-related increase in general tumor incidence, any elevated incidence of rare tumors, or shortened time to the development of palpable or rapidly lethal tumors in the 18–month mouse and the 24–month rat studies. Dosages in both studies were sufficient for identifying a cancer risk. In the absence of carcinogenicity, a Reference Dose approach is appropriate for quantitation of human risks.

6. *Animal metabolism.* Trifloxystrobin is moderately absorbed from the gastrointestinal tract of rats and is rapidly distributed. Subsequent to a single oral dose, the half life of elimination is about 2 days and excretion is primarily via bile. Trifloxystrobin is extensively metabolized by the rat into about 35 metabolites, but the primary actions are on the methyl ester (hydrolysis into an acid), the methoxyimino group (O-demethylation), and the methyl side chain (oxidation to a primary alcohol). Metabolism is dose dependent as it was almost complete at low doses but only about 60% complete at high doses.

In the goat, elimination of orally administered trifloxystrobin is primarily via the feces. The major residues were the parent compound and the acid metabolite (CGA–321113) plus its conjugates. In the hen, trifloxystrobin is found as the major compound in tissues and in the excreta, but hydroxylation of the trifluormethyl-phenyl moiety and other transformations, including methyl ester hydrolysis and demethylation of the methoxyimino group, are also seen. In conclusion, the major pathways of metabolism in the rat, goat, and hen are the same.

7. *Metabolite toxicology.* Metabolism of trifloxystrobin has been well characterized in plants, soil, and animals. In plants and soil, photolytically induced isomerization results in a few minor metabolites not seen in the rat; however, most of the applied materials remained as parent compound as shown in the apple and cucumber studies. All quantitatively major plant and/or soil metabolites were also seen in the rat. The toxicity of the major acid metabolite, CGA–321113 (formed by hydrolysis of the methyl ester), has been evaluated in cultured rat hepatocytes and found to be 20-times less cytoxic than the parent compound. Additional toxicity studies were conducted for several minor metabolites seen uniquely in plants and/or soil. The studies indicate that these metabolites, including CGA–357261, CGA–373466, and NOA–414412, are not mutagenic to bacteria and are of low acute toxicity (LD_{50} >2,000 mg/kg). In conclusion, the metabolism and toxicity profiles support the use of an analytical enforcement method that accounts for parent trifloxystrobin.

8. *Endocrine disruption.* CGA–279202 does not belong to a class of chemicals known for having adverse effects on the endocrine system. Developmental toxicity studies in rats and rabbits and reproduction study in rats gave no indication that CGA–279202 might have any effects on endocrine function related to development and reproduction. The subchronic and chronic studies also showed no evidence of a long-term effect related to the endocrine system.

i. *Dietary exposure*— a. *Food.* Acute and chronic dietary exposure assessments were performed on the crops that are the subject of this petition using field trial residue values on the citrus and stone fruit crop groups, corn, rice, barley, and pecans. In addition, established uses on sugar beets, almonds, fruiting vegetable (crop group), pome fruit (crop group), cucurbits (crop group), bananas, grapes, peanuts, potatoes, hops, and wheat were included in the assessment. All residues were generated from field trials conducted with a minimum pre-harvest interval and maximum application rate. In addition, if market share data were available, residues were adjusted for the percent crop treated. The residues in processed potatoes, sugar beets (molasses), tomatoes, oranges (juice), apples (juice), corn, rice, wheat fractions, peanuts, and grapes (juice) were adjusted using experimentally determined processing factors generated from processing studies. For all other processed fractions, USDA default processing factors were utilized. Residues in animal commodities were calculated from theoretical dietary burden calculations and transfers factors obtained from livestock and poultry feeding studies. Assessments were conducted utilizing the Dietary Exposure Evaluation Model (DEEM®) from Novigen Sciences and the 1994–96 Continuing Survey of Food Intake by Individuals (CSFII). Acute exposure for the U.S. population and all population subgroups were compared to an acute reference dose (aRfD) of 2.5 mg/kg/day based on a developmental no-observable adverse effect level (NOAEL) in rabbits and a 100–fold uncertainty factor. Although this endpoint is applicable to females only in the strictest sense, the developmental NOAEL was used for all populations due to the lack of a suitable toxicological endpoint. Chronic exposure was compared to a chronic RfD of 0.05 mg/kg/day based on a chronic study in dogs and a 100–fold uncertainty factor. Both acute and chronic toxicological endpoints were taken from the final pesticide tolerance rule for trifloxystrobin published in the **Federal Register** of September 27, 1999 (OPP–300922; FRL–6382–5).

Both acute and chronic exposure was minimal in all population subgroups. The acute results were obtained from a probabilistic, 1,000–iteration Monte Carlo assessment. Acute exposure was expressed at the 99.9th percentile of exposure and ranged from 0.17% to 0.08% of the aRfD with non-nursing infants (less than 1 year old) as the most sensitive population subgroup (0.80% of the RfD). The chronic exposure assessment was conducted by taking the mean field trial residue values and comparing to average daily consumption values. Chronic exposure ranged from 0.2% to 1.2% of the chronic RfD and the most sensitive population was non-nursing infants (less than 1 year old).

b. *Drinking water—Estimated surface water concentration.* The generic expected environmental concentration (GENEEC) estimated surface water

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concentrations for trifloxystrobin uses contributed little to the ever exposure. These estimated concentrations were not adjusted for the estimated market share of percentage of use area. The highest day–56 expected environmental concentration (EEC) value was 0.27 parts per billion (ppb) provided by the established trifloxystrobin turf use. According to the EPA "OPP's Interim Approach for Addressing Drinking Water Exposure," the average day–56 value is divided by three when correcting for overestimation of the GENEEC model. The EPA has accepted that the average day–56 EEC value is divided by six in the case when the product is applied to turf and accounts for the effects of grass/turf in decreasing runoff (EPA, 1998. EPA–730–F97–2, PB97–137806, page 15). This division by six was used to calculate the potential exposure via surface water from the trifloxystrobin turf application, 0.27 ppb/6=0.045 ppb.

Estimated ground water concentrations. The SCI-GROW estimated ground water concentrations for trifloxystrobin uses also contributed little to the overall exposure. The estimated concentrations were not adjusted for the estimated market share or percentage of use area. In each use scenario, the concentration of trifloxystrobin in ground water was predicted to be below 1 part per trillion. The highest estimated concentration of trifloxystrobin in the ground water was 0.000859 ppb provided by the trifloxystrobin turf use.

c. *Drinking water levels of concern—Acute exposure.* Based on the EPA's "Interim Guidance for Conducting Drinking Water Exposure and Risk Assessments" document (drafted 12/2/97), acute drinking water levels of comparison ($DWLOC_{acute}$) were calculated for trifloxystrobin. The lowest acceptable Margin of Exposure (MOE) for any pesticide is 100. This value was used in the DWLOC calculations. Based on this analysis, the maximum estimated trifloxystrobin surface water at Peak Day-0 (2.54 ppb) and ground water (0.000859 ppb) concentrations, human drinking water exposures do not exceed the calculated acute DWLOC values (µg/L:24,8000 to 87,325). Therefore, acute human drinking water exposures to trifloxystrobin from the existing and newly proposed uses would not exceed the exposure allowable by the risk cup. From the acute dietary exposure analysis provided for the trifloxystrobin dietary assessment, the acute drinking water levels of comparison ($DWLOC_{acute}$) were calculated for CGA–32113. Based on this analysis, the maximum estimated CGA–32114 in surface water at Peak Day-0 (38.73 ppb) and in ground water (4.944316 ppb) concentrations, human drinking water exposures do not exceed the calculated acute DWLOC values (µg/L:24800 to 87150). Therefore, acute human drinking water exposures to CGA–32114 from the existing and newly proposed trifloxystrobin uses would not exceed the exposure allowable by the risk cup.

Chronic exposure. The chronic drinking water levels of comparison ($DWLOC_{chronic}$) were calculated for trifloxystrobin. The maximum estimated trifloxystrobin surface water (0.09 ppb) and ground water (0.000859 ppb) concentrations do not exceed the calculated chronic DWLOC values (µg/L:494 to 1747). Therefore, chronic human drinking water exposures to the existing and newly proposed trifloxystrobin uses would not exceed the exposure allowable by the risk cup. From the chronic dietary exposure analysis provided for the trifloxystrobin dietary assessment, the chronic drinking water levels of comparison ($DWLOC_{chronic}$) were calculated for CGA–32113. Based on this analysis, the maximum estimated CGA–32113 in surface water at Day 56/3 (12.24 ppb) and in ground water (0.989 ppb) concentrations, human drinking water exposures do not exceed the calculated chronic DWLOC values (µg/L:494 to 1,745). Therefore, chronic human drinking water exposures to the existing and newly proposed trifloxystrobin uses would not exceed the exposure allowable by the risk cup.

ii. *Non-dietary exposure.* Non-dietary exposure to trifloxystrobin is considered negligible as the chemical is intended primarily for commercial and agricultural use. Post-application re-entry exposure to homeowners from professional use on residential ornamentals is considered negligible. For workers handling this chemical, acceptable margins of exposure (in the range of thousands) have been obtained for both acute and chronic scenarios.

D. Cumulative Effects

Consideration of a common mechanism of toxicity is not appropriate at this time since there is no information to indicate that toxic effects produced by trifloxystrobin would be cumulative with those of any other types of chemicals. Furthermore, the oximinoacetate is a new type of fungicide and no compound in this general chemical class currently has a significant market share. Consequently, aggregate risk is the only potential exposure to trifloxystrobin.

E. Safety Determination

1. *U.S. population.* To calculate acute aggregate risk, high-end exposures from food and drinking water sources are compared to the acute population adjusted dose (aPAD). Exposure to trifloxystrobin residues and the free form of its acid metabolite, CGA–321113 in food will occupy <1% of the aPAD for females 13+ years old (nursing). Acute dietary risk was calculated for females 13+ years old because the endpoint upon which the aPAD is based is on developmental effects. Estimated drinking water levels were calculated using drinking water models (SCI-GROW and GENEEC), and the values are considered overestimates due to the conservative assumptions built into the models. Estimated concentrations of trifloxystrobin residues in surface and ground water are lower than EPA's DWLOCs. Therefore, it is not expected that acute aggregate risk to trifloxystrobin residues from acute food and drinking water sources will exceed EPA's level of concern for acute aggregate risk.

Chronic exposure to residues of trifloxystrobin and the free form of its acid metabolite, CGA–321113, in food will occupy less than 0.5% of the chronic population adjusted dose (cPAD) for adult population subgroups (females 13+/nursing) and no more than 2.0% of the cPAD for infant/children subgroups (highest subgroup: non-nursing infants). Estimated concentrations of trifloxystrobin residues in surface and ground water are lower than EPA's DWLOCS. Estimated drinking water levels were calculated using drinking water models, and the values are considered overestimates due to the conservative assumptions built into the models. EPA has previously determined chronic residential exposure of trifloxystrobin is not expected. The established and pending uses of trifloxystrobin when combined in a chronic aggregate risk assessment for food, water and residential sources will not exceed EPA's level of concern for chronic aggregate risk.

Bayer concludes that there is a reasonable certainty that no harm will result from aggregate exposure to trifloxystrobin residue.

2. *Infants and children.* On June 21, 1999, the EPA FQPA Safety Factor Committee determined the 10x safety factor for the protection of infants and children should be removed for trifloxystrobin. The Committee's rationale for removing the FQPA Safety Factor is as follows:

i. The trifloxystrobin toxicology database is complete for FQPA assessment.

ii. There is no indication of increased susceptibility of rat or rabbits to trifloxystrobin.

In the developmental and reproductive toxicity studies, effects in the fetuses/offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

Using the same exposure assumptions as employed for the determination in the general population, it has been calculated that the percent of the RfD that will be utilized by aggregate exposure to residues of trifloxystrobin is <2.0% for non-nursing infants (<1 year old)(the most impacted sub-population). Therefore, based on the completeness and reliability of the toxicity data base and the conservative exposure assessment, Bayer concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to trifloxystrobin residues.

F. International Tolerances

No Codex MRLs have been established for residues of trifloxystrobin.

[FR Doc. 01–22025 Filed 8–30–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1041; FRL–6796–1]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1041, must be received on or before October 1, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1041 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5697; e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1041. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1041 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1013. Electronic comments

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may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 21, 2001.

Donald R. Stubbs, Acting

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Gowan Company and Interregional Research Project # 4

PP 0F6169, 1F6229 and 0E6206

This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities. EPA has received pesticide petitions (PP 0F6169 and 1F6229) from Gowan Company, Yuma, AZ, 85364, and (PP 0E6206) from the Interregional Research Project #4, 681 U.S. Highway No.1 South, North New Brunswick, NJ 08902–3390, proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the herbicide halosulfuron-methyl (methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino) carbonyl aminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate) in or on the fruiting vegetables (excluding cucurbits) Crop Group 8 at 0.05 parts per million (ppm) (PP 0F6169), asparagus at 0.8 ppm (PP 1F6229), and the melon subgroup Subgroup 9A at 0.1 ppm. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of halosulfuron-methyl as well as the nature of the residues in plants is adequately understood for purposes of these tolerances. Metabolism studies were conducted in three crops, viz.; field corn, sugarcane and soybeans. Metabolism depends on the mode of application. Preemergent applications result in rapid soil degradation of halosulfuron-methyl followed by crop uptake of the resulting pyrazole moiety. The pyrimidine ring binds tightly to soil and is eventually converted to carbon dioxide by microbial degradation. In postemergent applications, little metabolism and translocation take place resulting in unmetabolized parent compound as the major residue on the directly treated foliar surfaces. Very low residue levels of the metabolite 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid (3-CSA) are found in the grain.

2. *Analytical method.* A practical analytical method, gas chromatography with a nitrogen specific detector (TSD) which detects and measures residues of halosulfuron-methyl, is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. This enforcement method has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual (PAM II). It has undergone independent laboratory validation and validation at the Beltsville laboratory. An Analytical Chemistry section of the EPA concluded that the method is adequate for enforcement. The analytical method is also available for analyzing meat by-products, which also underwent successful independent laboratory and Beltsville laboratory validations.

3. *Magnitude of residues.* In asparagus residue studies, the magnitude of the residues found in the raw agricultural commodity (RAC) was less than 0.8 ppm using an analytical method with limit of quantitation (LOQ) of 0.05 ppm; residues in cantaloupe were less than 0.1 ppm. In tomato and pepper residue studies, there were no quantifiable residues found in the RACs. There were also no detectable residues at a LOQ of 0.05 ppm found in tomato processed commodities at treatment rates of more than 2 times the maximum recommended rate per season.

B. Toxicological Profile

1. *Acute toxicity.* Acute toxicological studies placed the technical-grade halosulfuron-methyl in Toxicity Category III. A 90–day feeding study in rats resulted in a lowest observed adverse effect level (LOAEL) of 497 milligrams/kilograms/day (mg/kg/day) in males and 640 mg/kg/day in females, and a no observed adverse effect level (NOAEL) of 116 mg/kg/day in males and 147 mg/kg/day in females.

2. *Genotoxicity.* Bacterial/mammalian microsomal mutagenicity assays were performed and found not to be mutagenic. Two mutagenicity studies were performed to test gene mutation and found to produce no chromosomal aberrations or gene mutations in cultured Chinese hamster ovary cells. An *in vivo* mouse micronucleus assay did not cause a significant increase in the frequency of micronucleated polychromatic erythrocytes in bone marrow cells. A mutagenicity study was performed on rats and found not to induce unscheduled DNA synthesis in primary rat hepatocytes.

3. *Reproductive and developmental toxicity.* A developmental toxicity study in rats resulted in a developmental LOAEL of 750 mg/kg/day, based on decreases in mean litter size and fetal body weight, and increases in resorptions, resorptions/dam, post-implantation loss and in fetal and litter incidences of soft tissue and skeletal variations, and a developmental NOAEL of 250 mg/kg/day. Maternal LOAEL was 750 mg/kg/day based on increased incidence of clinical observations, reduced body weight gains, and reduced food consumption and food efficiency. The maternal NOAEL was 250 mg/kg/day.

A developmental toxicity study in rabbits resulted in a developmental LOAEL of 150 mg/kg/day, based on decreased mean litter size and increases in resorptions, resorptions/dam and post-implantation loss, and a developmental NOAEL of 50 mg/kg/day. The maternal LOAEL was 150 mg/kg/day based on reduced body weight gain and reduced food consumption and food efficiency. The maternal NOAEL was 50 mg/kg/day.

A dietary 2–generation reproduction study in rats resulted in parental toxicity at 223.2 mg/kg/day in males and 261.4 mg/kg/day in females in the form of decreased body weights, decreased body weight gains, and reduced food consumption during the premating period. Very light effects were noted in body weight of the offspring at this dose. This effect was considered to be developmental toxicity (developmental delay) rather than a reproductive effect. No effects were noted on reproductive or other developmental toxicity parameters. The systemic/ developmental toxicity LOAEL was 223.2 mg/kg/day in males and 261.4 mg/kg/day in females; the systemic/developmental toxicity NOAEL was 50.4 mg/kg/day in males and 58.7 mg/kg/day in females. The reproductive LOAEL was greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females; the reproductive NOAEL was equal to or greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females.

4. *Subchronic toxicity.* A 21–day dermal toxicity study in rats resulted in a NOAEL of 100 mg/kg/day in males and greater than 1,000 mg/kg/day in females. The only treatment-related effect was a decrease in body weight gain of the 1,000 mg/kg/day group in males.

5. *Chronic toxicity.* A 1–year chronic oral study in dogs resulted in a LOAEL of 40 mg/kg/day based on decreased weight gain and a NOAEL of 10 mg/kg/day for systemic toxicity. A 78–week carcinogenicity study was performed on mice. Males in the 971.6 mg/kg/day group had decreased body weight gains and an increased incidence of microconcretion/mineralization in the testis and epididymis. No treatment-related effects were noted in females. Based on these results, a LOAEL of 971.9 mg/kg/day was established in males and NOAELs of 410 mg/kg/day in males and 1,214.6 mg/kg/day in females were established. The study showed no evidence of carcinogenicity. A combined chronic toxicity/ carcinogenicity study in rats resulted in a LOAEL of 225.2 mg/kg/day in males and 138.6 mg/kg/day in females based on decreased body weight gains, and a NOAEL of 108.3 mg/kg/day in males and 56.3 mg/kg/day in females. The study showed no evidence of carcinogenicity.

6. *Animal metabolism.* EPA stated that the nature of the residue in ruminants was determined to be adequately understood. In the tissues and milk of goats, the major extractable residue was the unmetabolized parent compound. Based on the low residues of the parent compound in corn grain and the low transfer of residues in the metabolism study, tolerances on poultry products were not required. In the rat metabolism study, parent compound was absorbed rapidly but incompletely. Excretion was relatively rapid at all doses tested with majority of radioactivity eliminated in the urine and feces by 72 hours. Fecal elimination of parent was apparently the result of unabsorbed parent.

7. *Metabolite toxicology.* The toxicology studies listed below were conducted with the 3–CSA metabolite. Based on the toxicological data of the 3–CSA metabolite, EPA concluded that it has lower toxicity compared to the parent compound and that it should not be included in the tolerance expression. The residue of concern is the parent compound only.

i. A 90–day rat feeding study resulted in a LOAEL in males of >20,000 ppm and a NOAEL of 20,000 ppm (1,400 mg/kg/day). In females, the LOAEL is 10,000 ppm (772.8 mg/kg/day) based on decreased body weight gains and a NOAEL of 1,000 ppm (75.8 mg/kg/day).

ii. A developmental toxicity resulted in a LOAEL for maternal toxicity of 1,000 mg/kg/day based on the absence of systemic toxicity, a NOAEL of 1,000 mg/kg/day. The developmental LOAEL is >1,000 mg/kg/day and the NOAEL is 1,000 mg/kg/day

iii. The microbial reverse gene mutation did not produce any mutagenic effect while the mammalian cell gene mutation/Chinese hamster ovary cells did not show a clear evidence of mutagenic effect in the Chinese hamster ovary cells.

iv. The mouse micronucleus assay did not show any clastogenic or aneugenic effect.

8. *Endocrine disruption.* No specific tests have been conducted with halosulfuron-methyl to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity tests, i.e., teratology and multi-generation reproduction studies, which would suggest that halosulfuron-methyl produces effects characteristic of the disruption of the estrogenic hormone.

C. Aggregate Exposure

1. *Dietary exposure.* Tolerances have been established (40 CFR 180.479) for residues of halosulfuron-methyl in or on a variety of plant and animal RACs including field corn, grain sorghum (milo), sweet corn (kernel + cobs with husks removed), pop corn grain, sugarcane cane, tree nuts nutmeat, pistachio nuts nutmeat, cotton undelinted seed, and rice grain at 0.05 ppm; squash/cucumber subcrop group 9B at 0.5 ppm; and secondary tolerances in meat and meat by-products at 0.1 ppm (cattle, goats, hogs, horses, and sheep). Additional tolerances are being requested by Gowan for fruiting vegetables (except cucurbits) crop group

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8 at 0.05 ppm and asparagus at 0.8 ppm, and by IR-4 for the melon subcrop group 9A at 0.1 ppm.

Food—a. Acute exposure. The acute Reference Dose (aRfD) for halosulfuron-methyl is 0.5 mg/kg/day. For purposes of assessing the potential dietary exposure from food under existing and proposed tolerances, aggregate exposure is based on the Theoretical Maximum Residue Contribution (TMRC) which is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. The calculated TMRC value using the 99.9th percentile consumption data was 0.006 mg/kg body weight/day for the general U.S. population. This value utilizes only 1.2% of the aRfD for all established and proposed tolerances for halosulfuron-methyl. TMRC is obtained by multiplying the tolerance levels for each commodity by the daily consumption of the food forms of that commodity eaten by the U.S. population and various population subgroups. In conducting this exposure assessment, conservative assumptions were made, e.g., 100% of all commodities will contain halosulfuron-methyl residues and those residues would be at the level of their respective tolerances. This results in a large overestimate of human exposure. Food consumption data from DEEM software (Novigen Sciences, Inc.) were used in the calculation. Field corn and sorghum forage and fodder are fed to animals, thus exposure of humans to residues from these commodities might result if such residues are transferred to meat, milk, poultry or eggs. However, based on the results of animal metabolism and the amount of halosulfuron-methyl expected in animal feeds, it can be concluded that there is no reasonable expectation that residues of halosulfuron-methyl will exceed existing tolerances in meat.

b. *Chronic exposure.* The chronic Reference Dose (cRfD) is 0.1 mg/kg/day. The calculated TMRC value using 99.9th percentile consumption data was 0.000779 mg/kg body weight/day for children 1–6 years, the most exposed subpopulation group. This value utilizes only 0.8% of the CRfD for all established and proposed tolerances for halosulfuron-methyl.

c. *Short-term and intermediate-term exposure.* The short-term NOAEL for females 13 + years and infants and children is 50 mg/kg/day. Comparing the NOAEL with the chronic food exposure from DEEM analysis of 0.00042 mg/kg/day for females 13+ and 0.00090 mg/kg/day for infants and children results in food MOEs of 119,000 and 55,600, respectively. The intermediate-term NOAEL is 10 mg/kg/day, comparing the NOAEL with the chronic food exposure from DEEM analysis of 0.00090 mg/kg/day for children (1–6 years old) results in a food MOE of 11,100.

d. *Chronic risk-carcinogenic.* Halosulfuron-methyl has been classified as a Group E chemical based upon the lack of evidence of carcinogenicity in mice and rats, and has been classified as a not likely human carcinogen.

e. *Drinking water.* There is no Maximum Contaminant Level (MCL) established for residues of halosulfuron-methyl. It is not listed for MCL development or drinking water monitoring under the Safe Drinking Water Act nor is it a target of EPA's National Survey of Wells for Pesticides. Gowan and IR-4 are not aware of any halosulfuron-methyl detections in any wells, ponds, lakes or streams resulting from its use in the United States. The estimated drinking water environmental concentrations (DWEC) in ground water (acute and chronic) is 0.008 µg/L. The estimated DWECs (acute and chronic) for surface water are 4.3 µg/L and 1.1 µg/L, respectively. These estimates are based on a maximum application rate of 0.063 lbs active per acre which may be applied twice per season.

f. *Acute exposure and risk.* Acute drinking water levels of concern (DWLOCs) have been calculated for exposure to halosulfuron-methyl in drinking water for the relevant population subgroups of females 13+ years and infants and children. The acute DWLOC is 15,000 µg/L for females 13+ years and 5,000 µg/L for infants and children. The calculated DWLOCs are significantly higher than the DWECs for ground water (0.008 µg/L) and surface water (4.3 µg/L).

g. *Chronic exposure and risk.* Chronic DWLOCs have been calculated for exposure to halosulfuron-methyl in drinking water for the U.S. population (48 states) and the relevant subgroups of females 13+ years and infants and children. The chronic DWLOC is 3,500 µg/L for the U.S. population, 3,000 µg/L for females 13+ years, and 1,000 µg/L for infants and children. The calculated DWLOCs are significantly higher than the DWECs for ground water (0.008 µg/L) and surface water (1.1 µg/L).

h. *Short and intermediate term exposure and risk.* Short-term and intermediate-term DWLOCs have been calculated for exposure to halosulfuron-methyl in drinking water for the relevant population subgroups. The short-term DWLOC is 10,000 µg/L for females 13+ years and 3,700 µg/L for infants and children. The intermediate-term DWLOC is 590 µg/L for adult males, 57 µg/L for females 13+ years, and 160 µg/L for infants and children. The calculated intermediate-term DWLOCs are significantly higher than the chronic DWECs for surface water (1.1 µg/L). The calculated short-term DWLOCs are significantly higher than the acute DWECs for ground water (0.008 µg/L) and surface water (4.3 µg/L).

i. *Conclusion.* EPA has concluded that potential levels of halosulfuron-methyl in soil and water do not appear to have significant toxicological effects on humans or animals and presents a negligible risk. Based on the very low level of mammalian toxicity, lack of other toxicological concerns and low use rates, there is reasonable certainty that no harm will result from exposure to halosulfuron-methyl via drinking water sources.

2. *Non-dietary exposure.* Halosulfuron-methyl is labeled for use on commercial and residential turf and other non-crop sites. For residential applicators, short-term and intermediate-term exposure may occur. Chronic exposure (>6 months of continuous exposure) are not expected.

i. *Acute exposure and risk.* There is potential for exposure to halosulfuron-methyl by homeowner. However, since endpoints for acute dermal or inhalation were not identified, the use of halosulfuron-methyl on residential non-food sites is not expected to pose an unacceptable acute risk.

ii. *Chronic exposure and risk.* Chronic exposures for residential use of halosulfuron-methyl are not expected and a chronic non-deitary endpoint was not identified, therefore, the use on residential non-food sites is not expected to pose an unacceptable chronic risk.

iii. *Short-term and intermediate-term exposure and risk.*re is potential for short-term or intermediate-term dermal exposure to residential handlers, therefore residential exposure assessments were conducted to assess the following post-application exposure scenarios: (a) Dermal exposure to residues on turf; (b) children's incidental non-dietary ingestion of residues on residential lawn from hand-to-mouth transfer; and (c) children's ingestion of pesticide-treated turfgrass.

The short-term dermal MOE for residential handlers is 4,200 which is significantly greater than the minimum acceptable MOE of 100.

The short-term dermal MOE for exposure from treated lawns for adult males, adult females, and children are 390, 330, and 420, respectively, which are significantly greater than the

minimum acceptable MOE of 100. The intermediate-term dermal MOE for exposure from treated lawns for adult males, adult females, and children are 120, 100, and 130, respectively, which are significantly greater than the minimum acceptable MOE of 100. Therefore the use of halosulfuron-methyl on residential non-food sites is not expected to pose an unacceptable short-term or intermediate-term risk.

The short-term and intermediate- term oral MOE for hand-to-mouth transfer for children are 4,900 and 1,500, respectively, which are significantly greater than the minimum acceptable MOE of 100. Therefore, the use of halosulfuron-methyl on residential non-food sites is not expected to pose an unacceptable short-term or intermediate-term risk.

The short-term and intermediate-term oral MOE for incidental ingestion by children are 210,000 and 66,000, respectively, which are significantly greater than the minimum acceptable MOE of 100. Therefore, the use on residential non-food sites is not expected to pose an unacceptable short-term or intermediate- term risk.

D. Cumulative Effects

Halosulfuron-methyl belongs to the sulfonyl urea class of chemistry. The mode of action of halosulfuron-methyl is the inhibition of the plant enzyme aceto lactase synthetase (ALS), which is essential for the production of required amino acid in plants. Although other registered sulfonyl ureas may have similar herbicidal mode of action, there is no information available to suggest that these compounds exhibit a similar toxicity profile in the mammalian system that would be cumulative with halosulfuron-methyl. Thus, consideration of a common mechanism of toxicity is not appropriate at this time. Gowan is considering only the potential risks of halosulfuron-methyl in its aggregate exposure assessment.

E. Safety Determination

1. *U.S. population—i. Acute risk.* Aggregate exposure risk includes exposure from food and water. The risk from acute "food only" exposure is less than 2.9% of the RfD for all population groups which is less than the EPA's level of concern. The lowest DWLOC calculated was 5,000 µg/L for infants and children. The calculated DWLOC for females (13+ years) was 15,000 µg/L. For both subgroups, the DWLOC is significantly higher than the DWEC for acute ground water (0.008 g/L) and surface water (4.3 µg/L), therefore, the risk from aggregate exposure to halosulfuron-methyl residues from all anticipated dietary exposure routes does not pose appreciable risks to human health.

ii. *Chronic risk.* Aggregate chronic exposure to halosulfuron-methyl from "food only" utilizes less than 1% of the RfD for the most sensitive subgroup, children (1–6 years). The lowest DWLOC calculated was 1,000 µg/L for infants and children which is significantly higher than the DWEC for chronic ground water (0.008 g/L) and surface water (1.1 µg/L). Therefore, the aggregate risk from chronic exposure to halosulfuron-methyl residues from all anticipated dietary exposures does not pose appreciable risks to human health.

iii. *Short-term and intermediate-term risk.*

a. Short-term aggregate exposure takes into account chronic dietary food and water plus short-term residential exposure. For halosulfuron-methyl, the EPA has determined that it is appropriate to aggregate exposure via oral exposure route (food and water) with those via oral and dermal exposure routes from residential uses. The MOEs for "food only" and residential exposure routes are 13,859 and 310 for females 13+ years. Short-term DWLOC for females 13+ is 10,000 mu;g/L which is substantially higher than the DWEC for acute surface water (4.3 µg/L). The food only and residential (oral and dermal) MOEs are well above the acceptable short-term aggregate MOE of 100. Therefore, exposure to halosulfuron-methyl residues resulting from current and proposed uses does not pose a short-term aggregate risk.

b. Intermediate-term aggregate exposure takes into account chronic dietary food and water plus intermediate-term residential exposure. The MOEs for "food only" and residential exposure routes are 24,000 and 120 for adult males, and 23,800 and 100 for females 13+ years. The intermediate-term DWLOCs are 590 µg/L and 57 µg/L, respectively, for adult males and females 13+. Intermediate-term DWLOCs are substancially higher than the DWEC for chronic surface water (1.1 µg/L). The food only and residential (dermal) MOEs are above the acceptable short-term aggregate MOE of 100. Therefore, exposure to halosulfuron-methyl residues resulting from current and proposed uses does not pose a intermediate-term aggregate risk.

c. Aggregate cancer risk. Halosulfuron-methyl has been classified as a Group E chemical based upon the lack of evidence of carcinogenicity in mice and rats, and has been classified as a not likely human carcinogen.

d. Conclusion. Based upon these risk assessments, Gowan concluded that there is a reasonable certainty that no harm will result from aggregate exposure to halosulfuron-methyl residues resulting from current and proposed uses.

2. *Infants and children.—i. Safety factor.* FFDCA section 408 provides that EPA may apply an additional safety factor (up to 10) in the case of threshold effects for infants and children to account for pre-natal and post-natal toxicity and the completeness of the data base. Except for the pending request for a developmental neurotoxicity study, the toxicity data base is complete for halosulfuron-methyl. Based upon reliable toxicity data, the use of an additional 10x safety factor is not warranted. Dietary assessments do not indicate a level of concern for potential risks to infants and children based upon the low use rates of halosulfuron-methyl and that the results of field and animal RAC studies conclude that detectable residues are not expected in human foods.

ii. *Acute risk.* The acute RfD was determined to be 0.5 mg/kg/day based upon the developmental rabbit study. The percent of the RfD occupied is 2.9% for the most sensitive population subgroup, nursing infants (<1 year). The drinking water level of comparison (DWLOC) for acute exposure for infants and children is 5,000 µg/L and is significantly greater than the maximum concentration of halosulfuron-methyl in drinking water (0.008 µg/L in ground water and 4.3 µg/L in surface water).

iii. *Chronic risk.* The chronic RfD was determined to be 0.1 mg/kg/day based upon the chronic dog study. The percent of RfD occupied is 0.9% for the most sensitive subgroup, children (1–6 years old). The DWLOC for chronic exposure for infants and children is 1,000 µg/L and is significantly greater than the maximum concentration of halosulfuron-methyl in drinking water (0.008 µg/L in ground water and 1.1 µg/L in surface water).

iv. *Short-term and intermediate-term risk.* An aggregate exposure estimate and risk assessment was calculated for post-application exposure to halosulfuron-methyl from treated lawns. Short-term MOEs for food, residential oral, and residential dermal are 55,600, 4,900, and 420, respectively, for infants and children. Intermediate-term MOEs for food, residential oral, and residential dermal are 11,100, 1,500, and 130, respectively, for children and infants. The short-term and intermediate-term DWLOCs for infants and children were 3,700 and 160 mu;g/L, respectively, which are substancially higher than the

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DWECs for acute surface water (4.3 µg/L) and chronic surface water (1.1 µg/L).

v. *Conclusion.* Therefore, based on complete and reliable toxicity data and the conservative exposure assessment, Gowan concludes that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to halosulfuron-methyl residues with respect to the proposed new uses.

F. International Tolerances

Maximum residue levels have not been established for residues of halosulfuron-methyl on any food or feed crop by the Codex Alimentarius Commission.

[FR Doc. 01–22024 Filed 8–30–01; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Minority Health

AGENCY: Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice is given of the third meeting.

The Advisory Committee on Minority Health will meet on Thursday, September 20, 2001 from 9 a.m. to 5 p.m., and Friday, September 21, 2001, from 8:30 a.m.–3 p.m. The meeting will be held at the Holiday Inn Georgetown, Mirage I Room, 2101 Wisconsin Avenue, NW., Washington, DC.

The Advisory Committee will discuss racial and ethnic disparities in health, as well as, other related issues.

The meeting is open to the public. There will be an opportunity for public comment which will be limited to five minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least two business days prior to the meeting.

For further information, please contact Ms. Patricia Norris, Office of Minority Health, Rockwall II Building, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852. Phone: 301–443–5084 Fax: 301–594–0767.

Dated: August 23, 2001.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 01–21976 Filed 8–30–01; 8:45 am]
BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Publication of the Executive Summary of the report, "Ethical and Policy Issues in Research Involving Research Participants", by the National Bioethics Advisory Commission (NBAC)

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The functions of NBAC are as follows:

(a) Provide advice and make recommendations to the National Science and Technology Council and to other appropriate government entities regarding the following matters:

(1) The appropriateness of departmental, agency or other governmental programs, policies, assignments, missions, guidelines, and regulations as they relate to bioethical issues arising from research on human biology and behavior; and

(2) applications, including the clinical applications, of that research.

(b) Identify broad principles to govern the ethical conduct of research, citing specific projects only as illustrations for such principles.

(c) Shall not be responsible for the review and approval of specific projects.

(d) In addition to responding to requests for advice and recommendations from the National Science and Technology Council, NBAC also may accept suggestions of issues for consideration from both the Congress and the public. NBAC may also identify other bioethical issues for the purpose of providing advice and recommendations, subject to the approval of the National Science and Technology Council. The members of NBAC are as follows:

Harold T. Shapiro, Ph.D., Chair
Patricia Backlar
Arturo Brito, M.D.
Alexander Morgan Capron, LL.B.
Eric J. Cassell, M.D., M.A.C.P.
R. Alta Charo, J.D.
James F. Childress, Ph.D.
David R. Cox, M.D., Ph.D.
Rhetaugh G. Dumas, Ph.D., R.N.
Laurie M. Flynn*
Carol W. Greider, Ph.D.
Steven H. Holtzman
Bernard Lo, M.D.
Lawrence H. Miike, M.D., J.D.
Thomas H. Murray, Ph.D.
William C. Oldaker, LL.B.
Diane Scott-Jones, Ph.D.

*Resigned on May 10, 2001

Ethical and Policy Issues in Research Involving Human Participants; Summary

Protecting Research Participants—A Time for Change

Introduction

Protecting the rights and welfare of those who volunteer to participate in research is a fundamental tenet of ethical research. A great deal of progress has been made in recent decades in changing the culture of research to incorporate more fully this ethical responsibility into protocol design and implementation. In the 1960s and 1970s, a series of scandals concerning social science research and medical research conducted with the sick and the illiterate underlined the need to systematically and rigorously protect individuals in research (Beecher 1966; Faden and Beauchamp 1986; Jones 1981; Katz 1972; Tuskegee Syphilis Study Ad Hoc Advisory Panel 1973). However, the resulting system of protections that evolved out of these rising concerns—although an improvement over past practices—is no longer sufficient. It is a patchwork arrangement associated with the receipt of federal research funding or the regulatory review and approval of new drugs and devices. In addition, it depends on the voluntary cooperation of investigators, research institutions, and professional societies across a wide array of research disciplines. Increasingly, the current system is being viewed as uneven in its ability to simultaneously protect the rights and welfare of research participants and promote ethically responsible research.

Research involving human participants has become a vast academic and commercial activity, but this country's system for the protection of human participants has not kept pace with that growth. On the one hand, the system is too narrow in scope to protect all participants, while on the other hand, it is often so unnecessarily bureaucratic that it stifles responsible research. Although some reforms by particular federal agencies and professional societies are under way,[1] it will take the efforts of both the executive and legislative branches of government to put in place a streamlined, effective, responsive, and comprehensive system that achieves the protection of all human participants and encourages ethically responsible research.

Clearly, scientific investigation has extended and enhanced the quality of life and increased our understanding of ourselves, our relationships with others, and the natural world. It is one of the foundations of our society's material, intellectual, and social progress. For many citizens, scientific discoveries have alleviated the suffering caused by disease or disability. Nonetheless, the prospect of gaining such valuable scientific knowledge need not and should not be pursued at the expense of human rights or human dignity. In the words of philosopher Hans Jonas, "progress is an optional goal, not an unconditional commitment, and . . . its tempo . . . compulsive as it may become, has nothing sacred about it" (Jonas 1969, 245).

Since the 1974 formation of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research and the activities in the early 1980s of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, American leaders have consistently tried to enhance the protections for human research participants. The research community has, in large part, supported the two essential protections for human participants: independent review of research to assess risks and potential benefits and an opportunity for people to voluntarily and knowledgeably decide whether to participate in a particular research protocol.

The charter of the National Bioethics Advisory Commission (NBAC), a presidential commission created in 1995, makes clear the Commission's focus: "As a first priority, NBAC shall direct its attention to consideration of protection of the rights and welfare of human research subjects." In our first five years, we focused on several issues concerning research involving human participants, issuing five reports and numerous recommendations that, when viewed as a whole, reflect our evolving appreciation of the numerous and complex challenges facing the implementation and oversight of any system of protections.[2] The concerns and recommendations addressed in these reports reflect our dual commitment to ensuring the protection of those who volunteer for research while supporting the continued advance of science and understanding of the human condition. This report views the oversight system as a whole, provides a rationale for change, and offers an interrelated set of recommendations to improve the protection of human participants and enable the oversight system to operate more efficiently.

Respecting Research Participants

Whether testing a new medical treatment, interviewing people about their personal habits, studying how people think and feel, or observing how they live within groups, research seeks to learn something new about the human condition. Unfortunately, history has also demonstrated that researchers sometimes treat participants not as persons but as mere objects of study. As Jonas observed: "Experimentation was originally sanctioned by natural science. There it is performed on inanimate objects, and this raises no moral questions. But as soon as animate, feeling beings become the subject of experiment * * * this innocence of the search for knowledge is lost and questions of conscience arise" (Jonas 1969, 219).

How, then, should people be studied? For over half a century, since the revelations of medical torture under the guise of medical experimentation were described at the Nuremberg Trials,[3] it has been agreed that people should participate in research only when the study addresses important questions, its risks are justifiable, and an individual's participation is voluntary and informed.

The principles underlying the Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research (Belmont Report) (National Commission 1979) have served for over 20 years as a leading source of guidance regarding the ethical standards that should govern research with human participants in the United States. The Belmont Report emphasized that research must respect the autonomy of participants, must be fair in both conception and implementation, and must maximize potential benefits while minimizing possible harms. The report's recommendations provided a coherent rationale for the federal policies and rules that created the current U.S. system of decentralized, independent research review coupled with some degree of federal oversight. But although the Belmont Report is rightly hailed as a key source of guidance on informed consent, assessment of risk, and the injustice of placing individuals (and groups) in situations of vulnerability, the principles the report espouses and the regulations adopted as federal policy 20 years ago have often fallen short in achieving their overarching goal of protecting human research participants. Moreover, since the Belmont Report was published, additional concerns have arisen that require much-needed attention today.

Ensuring Independent Review of Risks and Potential Benefits

A central protection for research participants is the guarantee that someone other than the investigator will assess the risks of the proposed research. No one should participate in research unless independent review concludes that the risks are reasonable in relation to the potential benefits. In the United States, the Institutional Review Board, or IRB, has been the principal structure responsible for conducting such reviews.

Independent review of research is essential because it improves the likelihood that decisions are made free from inappropriate influences that could distort the central task of evaluating risks and potential benefits. Certainly, reviewers should not have a financial interest in the work, but social factors may be just as crucial. Reviewers may feel constrained because they are examining the work of their colleagues or their supervisors, and they should not participate in protocol review unless they are able to separate these concerns from their task. All reviewers who themselves are members of the research community should recognize that their familiarity with research and (perhaps) their predilection to support research are factors that could distort their judgment.

Truly independent and sensitive review requires more involvement of individuals drawn from the ranks of potential research participants or those who can adequately represent the interests of potential research participants.

A critical purpose of independent review is to ensure that risks are reasonable in relation to potential personal and societal benefits. This is a precondition to offering people the opportunity to volunteer, since informed consent alone cannot justify enrollment. When reviewed for risks and potential benefits, research studies must be evaluated in their entirety. Studies often include different components, however, and the risks and potential benefits of each should also be examined separately, lest the possibility of great benefit or monetary enticement in one component cause potential participants or IRBs to minimize or overlook risk in another. No matter what potential benefit is offered to individual participants or society at large, the possibility of benefit from one element of a study should not be used to justify otherwise unacceptable elements.

In our view, IRBs should appreciate that for some components of a study, participants might incur risks with no personal potential benefit, for example, when a nondiagnostic survey is included among the components of a psychotherapy protocol or when placebos are given to some participants in a drug trial. For these elements, there

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should be some limitation on the amount of social and physical risk that can be imposed, regardless of the participants' willingness to participate or the monetary (or other) enticement being offered. Further, the possibility of some benefit from one element of a study should not be used to justify otherwise unacceptable elements of research whose potential benefits, if any, accrue, solely to society at large. If aspects of a study present unacceptable risks, protocols should not be approved until these elements are eliminated. If removing the risky component would impair the study as a whole, then the entire study should be redesigned so that each of its elements presents risks that are reasonable in relation to potential benefits.

Other parts of studies can obscure risks, such as when standard medical interventions are compared in a patient population, leading some participants and researchers to discount the risks because they are associated with known therapies. It is essential that participants and investigators not be led to believe that participating in research is tantamount to being in a traditional therapeutic relationship. Regardless of whether there is the possibility or even the likelihood of direct benefit from participation in research, such participation still alters the relationship between a professional and the participant by introducing another loyalty beyond that to the participant, to wit, loyalty to doing good science. It is too often forgotten that even though the researchers may consider participants' interests to be important, they also have a serious, and perhaps conflicting, obligation to science.

Years of experience with the current system of independent review have demonstrated that there are enduring questions about how to arrive at such impartial judgments and how to go about deciding when potential benefits justify risks that are incurred solely by participants or the community from which they come. In recent years, increasing strains on the system have undermined the practice of independent review. IRBs are over-burdened by the volume of research coming before them, a strain that is compounded by concerns about training of IRB members and possible conflicts of interest. In addition, the constantly changing nature of research challenges existing notions about what constitutes risks and potential benefits.

Because IRBs are so central to the current oversight system, they need better guidance on how to review and monitor research, how to assess potential benefits to research participants and their communities, and how to distinguish among levels of risk. This report provides such guidance in the following areas: determining the type of review necessary for minimal risk research; ensuring that research participants are able to make voluntary decisions and are appropriately informed prior to giving consent; providing adequate protections for privacy and confidentiality; identifying appropriate measures needed when participants are susceptible to coercion or are otherwise placed in vulnerable situations; and monitoring ongoing research. In addition, the report recommends that IRB members and staff complete educational and certification programs on research ethics before being permitted to review research studies.

Obtaining Voluntary Informed Consent

Even when risks are reasonable, however, no one should participate in research without giving voluntary informed consent (except in the case of an appropriate authorized representative or a waiver). Investigators must make appropriate disclosures and ensure that participants have a good understanding of the information and their choices, not only at the time of enrollment, but throughout the research. Engaging in this process is one of the best ways researchers can demonstrate their concern and respect for those they aim to enroll in a study. It also serves as the best means for those who do not wish to participate to protect themselves.[4]

Recommendations from our previous reports are reinforced in this report, which emphasizes the process of providing information and ensuring comprehension rather than the form of documentation of the decision to give consent. Both the information and the way it is conveyed—while meeting full disclosure requirements—must be tailored to meet the needs of the participants in the particular research context. In addition, documentation requirements must be adapted for varying research settings, and the criteria for deciding when informed consent is not necessary must be clarified so that participants—rights and welfare are not endangered.

The decision to participate in research must not only be informed, it must be voluntary. Even when risks are reasonable and informed consent is obtained, it may nonetheless be wrong to solicit certain people as participants. Those who are not fully capable of resisting the request to become participants—such as prisoners and other institutionalized or otherwise vulnerable persons—should not be enrolled in studies merely because they are easily accessible or convenient. This historic emphasis on protecting people from being exploited as research participants, however, has failed to anticipate a time when, at least for some areas of medical research, people would be demanding to be included in certain studies because they might provide the only opportunity for receiving medical care for life-threatening diseases.

Making Research Inclusive While Protecting Individuals Categorized as Vulnerable

Vulnerable individuals need additional protection in research. Although certain individuals and populations are more vulnerable as human participants than others, people whose circumstances render them vulnerable should not be arbitrarily excluded from research for this reason alone. This includes those viewed as more open to harm (e.g., children), more subject to coercion (e.g., institutionalized persons), more "complicated" (e.g., women, who are considered more biologically complicated than men), or more inconvenient (e.g., women with small children, who are viewed as less reliable research participants due to conflicting demands on time). Calling competent people intrinsically "vulnerable" can be both insulting and misleading. It is not their gender or other group designation that exposes them to injury or coercion, but rather their situation that can be exploited by ethically unacceptable research. That is, it is their circumstances, which are situational, that create the vulnerability. At other times it is the intrinsic characteristics of the person—for example, children or those with certain mental or developmental disorders—that make them generally vulnerable in the research setting.

The response, whenever possible, should not be to exclude people from research, but instead to change the research design so that it does not create situations in which people are unnecessarily harmed. To do otherwise is to risk developing knowledge that helps only a subset of the population. To the extent that the results are not generalizable, the potential societal benefits that justify doing the research are attenuated. Research participants must be treated equally and with respect. Whenever possible, research should be designed to encourage the participation of all groups while protecting their rights and welfare.

To accomplish this, we recommend that rather than focusing primarily on

categorizing groups as vulnerable, investigators and IRBs should also recognize and avoid situations that create susceptibility to harm or coercion. Such situations may be as varied as patients being recruited by their own physicians; sick and desperate patients seeking enrollment in clinical trials; participants being recruited by those who teach or employ them; or studies involving participants with any characteristic that may make them less likely to receive care and respect from others (e.g., convicted criminals or intravenous drug users). In these circumstances, rather than excluding whole groups of people, researchers should design studies that reduce the risk of exploitation, whether by using a different method of recruitment, by using a recruiter who shares the participants' characteristics, or by some other technique. This is not always easy. It requires researchers to consider carefully their research design and the potential pool of participants. At times, it will mean anticipating that otherwise seemingly benign situations may become more complex because a particular participant or group of participants will be unusually susceptible to harm or manipulation in this situation. At other times, the nature of the vulnerability may require using a different research design. Ethical research does not avoid complexity. Rather, it acknowledges the full range and realities of the human condition.

Compensating for Harms

Despite all these precautions, however, some research participants might be harmed. Participants who are harmed as a direct result of research should be cared for and compensated. This is simple justice. The fact that they offered to participate in no way alters the view that mere decency calls for us to take care of these volunteers. Unfortunately, this is a greater challenge than it might appear. For those who endure harm while participating in research, it is often very difficult to separate injuries traceable to the research from those that stem from the underlying disease or social condition being studied. For others, appropriate care and compensation would be far beyond the means of the researchers, their sponsors, and their institutions. Two decades ago, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research called for pilot studies of compensation programs—a recommendation that was not pursued. It is time to reconsider the need for some type of compensation program and to explore the possible mechanisms that could be used were one to be adopted. Regardless of individual motives, research participants are providing a service for society, and justice requires that they be treated with great respect and receive appropriate care for any related injuries. It should always be remembered that it is a privilege for any researcher to involve human participants in his or her research.

Establishing a Comprehensive, Effective, and Streamlined System

In the United States, government regulations, professional guidelines, and the general principles highlighted in the Belmont Report (1979) form the basis of the current system of protections. In the earliest stages of adoption, the federal regulations were fragmented and confusing. Even today, they apply to most—but not all—research funded or conducted by the federal government, but have inconsistent and sometimes no direct application to research funded or conducted by state governments, foundations, or industry. They apply to medical drugs and devices and vaccines approved for interstate sale, but not to some medical innovations that would remain wholly within state borders. And they apply to other research only when the investigators and their institutions volunteer to abide by the rules.

A comprehensive and effective oversight system is essential to uniformly protect the rights and welfare of participants while permitting ethically and scientifically responsible research to proceed without undue delay. A fundamental flaw in the current oversight system is the ethically indefensible difference in the protection afforded participants in federally sponsored research and those in privately sponsored research that falls outside the jurisdiction of the Food and Drug Administration (FDA). As a result, people have been subjected to experimentation without their knowledge or informed consent in fields as diverse as plastic surgery, psychology, and infertility treatment. This is wrong. Participants should be protected from avoidable harm, whether the research is publicly or privately financed. We have repeated this assertion throughout our deliberations, and recommendations in this regard appear in four previous reports (NBAC 1997; NBAC 1999a; NBAC 1999b; NBAC 2001).

In this report, we recommend that the protections of an oversight system extend to the entire private sector for both domestic and international research. A credible, effective oversight system must apply to all research, and all people are entitled to the dignity that comes with freely and knowingly choosing whether to participate in research, as well as to protection from undue research risks. This is consistent with our 1997 resolution that no one should be enrolled in research absent the twin protections of independent review and voluntary informed consent.

Even when current protections apply, the interpretation of the federal regulations can vary unpredictably, depending on which federal agency oversees the research. Even the most basic, common elements of the federal rules took a decade to develop into regulations, because there was no single authority within the government to facilitate and demand cooperation and consistency. There still is no such single authority.[5] This has slowed the diffusion of basic protections and made it almost impossible to develop consistent interpretations of the basic protections or those relevant to especially problematic research, such as studies involving children or the decisionally impaired. Nor has there been a unified response to emerging areas of research, such as large-scale work on medical records and social science databases or on stored human biological materials.

Today's research protection system cannot react quickly to new developments. Efforts to develop rules for special situations, such as research on those who can no longer make decisions for themselves, have languished for decades in the face of bureaucratic hurdles, and there is no reason to believe that efforts to oversee other emerging research areas will be any more efficient. In addition, the current system leaves people vulnerable to new, virtually uncontrolled experimentation in emerging fields, such as some aspects of reproductive medicine and genetic research.

Indeed, some areas of research are not only uncontrolled, they are almost invisible. In an information age, poor management of research using medical records, human tissue, or personal interview data could lead to employment and insurance discrimination, social stigmatization, or even criminal prosecution.[6] The privacy and confidentiality concerns raised by this research are real, but the federal response has often been illusory. There is almost no guidance and certainly no coordination on these topics. The time has come to have a single source of guidance for these emerging areas, one that would be better positioned to effect change across all divisions of the government and private sector, as well

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as to facilitate development of specialized review bodies, as needed.

In this report we propose a new independent oversight office that would have clear authority over all other segments of the federal government and extend protections to the entire private sector for both domestic and international research. A single office would decide how to introduce consistency or reforms, and only that office would develop mechanisms to provide specialized review when needed. We recognize the challenges to such a proposal. For example, an independent office might lack the political support accorded an existing cabinet-level department. Although assigning one department, such as the Department of Health and Human Services (DHHS), the role of "first among equals" would allow it to advocate forcefully for uniform rules across the government, without special provisions it would not have the authority to require other departments to comply, nor is it certain to escape the temptation to develop rules premised on a traditional, biomedical model rather than the wider range of research to be covered.

Federal research protections should be uniform across all government agencies, academe, and the private sector, but they should be flexible enough to be applied in widely different research settings or to emerging areas of research. Furthermore, any central coordinating body should be open to public input, have significant political or legal authority over research involving human participants—whether in the public or private sector—and have the support of the executive and legislative branches of government.

Education as the Key to Promoting Local Responsibility

Currently, federal protections depend on a decentralized oversight system involving IRBs, institutions, investigators, sponsors, and participants. We endorse the spirit and intent of this approach, specifically its contention that the ethical obligation to protect participants lies first with researchers, their sponsors, and the IRBs that review their research. Protecting research participants is a duty that researchers, research institutions, and sponsors cannot delegate completely to others or to the government. In addition, merely adhering to a set of rules and regulations does not fulfill this duty. Rather, it is accomplished by acting within a culture of concern and respect for research participants.

It is unrealistic to think that ethical obligations can be fully met without guidance and resources. To help researchers and IRBs fulfill their responsibilities, the federal government should promote the development of education, certification, and accreditation systems that apply to all researchers, all IRB members and staff, and all institutions. These tools should help researchers craft and IRBs review studies that pose few problems and to know when their work requires special oversight. Today, investigators and IRBs are rightly confused over issues as basic as which areas of inquiry should be reviewed and who constitutes a human participant.

Education is the foundation of the oversight system and is essential to protecting research participants. In all of our reports, we have highlighted the need to educate all those involved in research with human participants, including the public, investigators, IRB members, institutions, and federal agencies. In Cloning Human Beings (1997), we recommended federal support of public education in biomedical sciences that increasingly affect our cultural values. In Research Involving Persons with Mental Disorders That May Affect Decisionmaking Capacity (1998), we called for practice guidelines and ethics education on special concerns regarding this population. In Ethical and Policy Issues in International Research: Clinical Trials in Developing Countries (2001), we recommended measures to help developing countries build their capacity for designing and conducting clinical trials, for reviewing the ethics and science of proposed research, and for using research results after a trial is completed.

In this report, we again acknowledge the inadequacy of educational programs on research ethics in the United States. This deficiency begins at the highest level within the federal oversight system and extends to the local level at individual institutions. We recommend that investigators and IRB members and staff successfully complete educational programs on research ethics and become certified before they perform or review research, that research ethics be taught to the next generation of scientists, and that research ethics be included in continuing education programs.

Clarifying the Scope of Oversight

Many areas of scientific inquiry are "research," and many of these involve human participants, but only some need federal oversight, while others might be better regulated through professional ethics, social custom, or other state and federal law. For example, certain types of surveys and interviews are considered research, but they can be well managed to avoid harms without federal oversight, as the risks are few and participants are well situated to decide for themselves whether to participate. On the other hand, certain studies of medical records, databases, and discarded surgical tissue are often perceived as something other than human research, even when the information retrieved is traceable to an identifiable person. Such research does need oversight to avoid putting people at risk of identity disclosure or discrimination without their knowledge. Federal policies should clearly identify the kinds of research that are subject to review and the types of research participants to whom protections should apply. When research poses significant risks or when its risks are imposed on participants without their knowledge, it clearly requires oversight. However, meaningless or overly rigid oversight engenders disdain on the part of researchers, creates an impossible and pointless workload for IRBs, and deters ethically sound research from going forward.

Ensuring That the Level of Review Corresponds to the Level of Risk

Even within areas of research that need oversight, many individual studies will involve little or no risk to participants. Although current federal policies allow for some distinction between research involving minimal risk and research involving more than minimal risk, the distinction operates mostly in terms of how the research will be reviewed—that is, how procedures are to be followed. But the distinction should be based on how the research is pursued, how the participants are treated, and how the work is monitored over time. Overall, the emphasis should be on knowing how to protect participants rather than on knowing how to navigate research regulations. Instead of focusing so much on the period during which a research design is reviewed, oversight should also include an ongoing system of education and certification that helps researchers to anticipate and minimize research risks. Oversight should also make it easier for researchers to collaborate with their colleagues here and abroad without the burden of redundant reviews. Research review and monitoring should be intensified as the risk and complexity of the research increase and at all times should emphasize protecting participants rather than following rigid rules. In addition, the review process should facilitate rather than hinder collaborative research among institutions and across national boundaries, provided that participants are protected.

Providing Resources for the Oversight System

Creating a system that protects the rights and welfare of participants and facilitates responsible research demands political and financial support from the federal government as well as the presence of a central coordinating body to provide guidance and oversee education and accreditation efforts. The oversight system should be adequately funded at all levels to ensure that research continues in a manner that demonstrates respect and concern for the interests of research participants.

Summary of Recommendations

This report proposes 30 recommendations for changing the oversight system at the national and local levels to ensure that all research participants receive the appropriate protections. The adoption of these recommendations, which are directed at all who are involved in the research enterprise, will not only lead to better protection for the participants of research, but will also serve to promote ethically sound research while reducing unnecessary bureaucratic burdens. Achieving these goals will, in turn, restore the respect of investigators for the system used to oversee research, support the public's trust in the research enterprise, and enhance public enthusiasm for all research involving human beings.

Scope and Structure of the Oversight System

The entitlements due to all research participants of a prior independent review of risks and potential benefits and the opportunity to exercise voluntary informed consent are the most basic and essential protections for all research participants. However, not all research participants receive these entitlements and not all are protected by the existing oversight system. The commitment to protect participants should not be voluntary, nor should requirements be in place for only some human research. Extending current protections to all research, whether publicly or privately funded, and making uniform all federal regulations and guidance cannot be accomplished within the current oversight system, in which no entity has the authority to act on behalf of all research participants. Thus, to facilitate the extension of the same protections to all humans participating in research, a unified, comprehensive federal policy promulgated and interpreted by a single office is needed.

Recommendation 2.1: The federal oversight system should protect the rights and welfare of human research participants by requiring 1) independent review of risks and potential benefits and 2) voluntary informed consent. Protection should be available to participants in both publicly and privately sponsored research. Federal legislation should be enacted to provide such protection.

Recommendation 2.2: To ensure the protection of the rights and welfare of all research participants, federal legislation should be enacted to create a single, independent federal office, the National Office for Human Research Oversight (NOHRO), to lead and coordinate the oversight system. This office should be responsible for policy development, regulatory reform (see Recommendation 2.3), research review and monitoring, research ethics education, and enforcement.

Recommendation 2.3: A unified, comprehensive federal policy embodied in a single set of regulations and guidance should be created that would apply to all types of research involving human participants (see Recommendation 2.2).

Determining whether particular research activities involving human participants should be subject to a federal oversight system has been a source of confusion for some time. No regulatory definition of covered research can be provided that has the sensitivity and specificity required to ensure that all research activities that include human participants that should be subject to oversight are always included and all activities that should be excluded from oversight protections are always excluded. Clarification and interpretation of the definition of what constitutes research involving human participants will invariably be required if the oversight system is to work effectively and efficiently. Moreover, there will always be cases over which experts disagree about the research status of a particular activity. One of the important leadership roles the proposed oversight office should fulfill is that of providing guidance on determining whether an activity is research involving human participants and is therefore subject to oversight.

Recommendation 2.4: Federal policy should cover research involving human participants that entails systematic collection or analysis of data with the intent to generate new knowledge. Research should be considered to involve human participants when individuals (1) are exposed to manipulations, interventions, observations, or other types of interactions with investigators or (2) are identifiable through research using biological materials, medical and other records, or databases. Federal policy also should identify those research activities that are not subject to federal oversight and outline a procedure for determining whether a particular study is or is not covered by the oversight system.

The proposed federal office should initiate a process in which representatives from various disciplines and professions (e.g., social science, humanities, business, public health, and health services) contribute to the development of the definition and the list of research activities subject to the oversight system.

Level of Review

Although the definition of research involving human participants should be applied to all disciplines, the risks differ both qualitatively and quantitatively across the spectrum of research. Therefore, the oversight system should ensure that all covered research is subject to basic protections such as a process of informed consent with the exceptions of the specified conditions for which these protections can be waived, including protection of privacy and confidentiality and minimization of risks. Because the proposed oversight system may include more research activities, it is more critical than ever that review mechanisms and criteria for various types of research are suited to the nature of the research and the likely risks involved. More specific guidance is needed for review of different types of research, including appropriate review criteria and IRB composition. For example, procedures other than full board review could be used for minimal risk research, and national level reviews could supplement local IRB review of research involving novel or controversial ethical issues.

Recommendation 2.5: Federal policy should require research ethics review that is commensurate with the nature and level of risk involved. Standards and procedures for review should distinguish between research that poses minimal risk and research that poses more than minimal risk. Minimal risk should be defined as the probability and magnitude of harms that are normally encountered in the daily lives of the general population (see Recommendation 4.2). In addition, the federal government should facilitate the creation of special, supplementary review bodies for research that involves novel or controversial ethical issues.

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Education, Certification, and Accreditation

Protecting the rights and welfare of research participants is the major ethical obligation of all parties involved in the oversight system, and to provide these protections, all parties must be able to demonstrate competence in research ethics that is, conducting, reviewing, or overseeing research involving human participants in an ethically sound manner. Such competence entails not only being knowledgeable about relevant research ethics issues and federal policies, but also being able to identify, disclose, and manage conflicting interests for institutions, investigators, or IRBs. Finally, the oversight system must include a sufficiently robust monitoring process to provide remedies for lapses by institutions, IRBs, and investigators.

Recommendation 3.1: All institutions and sponsors engaged in research involving human participants should provide educational programs in research ethics to appropriate institutional officials, investigators, Institutional Review Board members, and Institutional Review Board staff. Among other issues, these programs should emphasize the obligations of institutions, sponsors, Institutional Review Boards, and investigators to protect the rights and welfare of participants. Colleges and universities should include research ethics in curricula related to research methods, and professional societies should include research ethics in their continuing education programs.

Recommendation 3.2: The federal government, in partnership with academic and professional societies, should enhance research ethics education related to protecting human research participants and stimulate the development of innovative educational programs. Professional societies should be consulted so that educational programs are designed to meet the needs of all who conduct and review research.

Educating all parties in research ethics and human participant protections is effective only when it results in the necessary competence for designing and conducting ethically sound research, including analyzing, interpreting, and disseminating results in an ethically sound manner. Such competence, however, cannot be assumed to follow from exposure to an educational course or program. As the complexion of research continues to change and as technology advances, new and challenging ethical dilemmas will emerge. And, as more people become involved in research as investigators or in roles that are specifically related to oversight, it becomes increasingly important for all parties to be able to demonstrate competence in the ethics of research involving human participants.

Although accreditation and certification do not always guarantee the desired outcomes, these programs, which generally involve experts and peers developing a set of standards that represents a consensus of best practices, can be helpful in improving performance. Therefore, the choice of standards for these programs and the criteria for evaluating whether an institution has met them are critically important. Accreditation and certification programs should emphasize providing education and assuring that appropriate protections are in place, while avoiding excessively bureaucratic procedures.

Recommendation 3.3: All investigators, Institutional Review Board members, and Institutional Review Board staff should be certified prior to conducting or reviewing research involving human participants. Certification requirements should be appropriate to their roles and to the area of research. The federal government should encourage organizations, sponsors, and institutions to develop certification programs and mechanisms to evaluate their effectiveness. Federal policy should set standards for determining whether institutions and sponsors have an effective process of certification in place.

Recommendation 3.4: Sponsors, institutions, and independent Institutional Review Boards should be accredited in order to conduct or review research involving human participants. Accreditation should be premised upon demonstrated competency in core areas through accreditation programs that are approved by the federal government.

Assessing and Monitoring Compliance

Assessing institutional, IRB, and investigator compliance can help to ensure that standards are being followed consistently. Current mechanisms for assessment include assurances of compliance issued by DHHS and several other federal departments, site inspections of IRBs conducted by FDA, other types of site inspections for participant protection, and institutional audits. In addition, some institutions have established ongoing mechanisms for assessing investigator compliance with regulations. However, institutions vary considerably in their efforts and abilities to monitor investigator compliance, from those that have no monitoring programs to those that conduct random audits. Assessing the behavior of investigators is an important part of protecting research participants and should be taken seriously as a responsibility of each institution. Investigators, IRBs, and institutions should discuss the many practical issues involved in monitoring investigators as they conduct their research studies and provide input into the regulatory process.

Recommendation 3.5: The process for assuring compliance with federal policy should be modified to reduce any unnecessary burden on institutions conducting research and to register institutions and Institutional Review Boards with the federal government. The assurance process should not be duplicative of accreditation programs for institutions (see Recommendation 3.4).

Recommendation 3.6: Institutions should develop internal mechanisms to ensure Institutional Review Board compliance and investigator compliance with regulations, guidance, and institutional procedures. Mechanisms should be put in place for reporting noncompliance to all relevant parties.

Managing Conflicts of Interest

A research setting that involves human participants necessarily creates a conflict of interest for investigators who seek to develop or revise knowledge by enrolling individuals in research protocols to obtain that knowledge. Overzealous pursuit of scientific results could lead to harm if, for example, investigators design research studies that pose unacceptable risks to participants, enroll participants who should not be enrolled, or continue studies even when results suggest they should have been modified or halted. Conflicts of interest can also exist for IRB members or the institutions in which the research will be conducted. Thus, it is important to address prospectively the potentially harmful effects on participants that conflicts of interest might cause.

Organizations, particularly academic institutions, should become more actively involved in managing investigators' and IRB members' conflicts of interest and increase their efforts for self-regulation in this arena. IRB review of research studies is one method for identifying and dealing with conflicts of interest that might face investigators. By having IRBs review research studies prospectively and follow an IRB-approved protocol, investigators and IRBs together can manage conflict between the investigators' desire to advance scientific knowledge and to protect the rights and welfare of research participants. Financial and other obvious conflicts for IRB members, such as collaboration in a research study, are often less difficult to identify and manage than some of the more subtle and pervasive conflicts. Guidance should be developed to assist IRBs in identifying various types of conflict.

Recommendation 3.7: Federal policy should define institutional, Institutional Review Board, and investigator conflicts of interest, and guidance should be issued to ensure that the rights and welfare of research participants are protected.

Recommendation 3.8: Sponsors and institutions should develop policies and mechanisms to identify and manage all types of institutional, Institutional Review Board, and investigator conflicts of interest. In particular, all relevant conflicts of interest should be disclosed to participants. Policies also should describe specific types of prohibited relationships.

IRB Membership

Appropriate composition of IRB membership ensures that research studies are reviewed with the utmost regard for protecting the rights and welfare of research participants. Current federal regulations require that each IRB have "at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution" (45 CFR 46.107(d); 21 CFR 56.107(d)). The regulations also require that each IRB include "at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas." Some have raised the concern of whether only 1 unaffiliated member on an IRB is sufficient to avoid institutional influence, especially when IRBs have 15 to 21 members on average. In addition, unaffiliated members do not have to be present for an IRB to conduct review and approve research studies. Thus, IRBs can approve research with only institutional representation present as long as a nonscientist and a quorum are also present. IRBs should strive to complement their membership by having clearly recognizable members who are unaffiliated with the institutions, members who are nonscientists, and members who represent the perspectives of participants. However, it is difficult to require that IRBs increase the presence and participation of more unaffiliated members to reduce the influence of institutional interests on IRB decisionmaking, because finding them can be difficult. Currently, there are no rules or guidance that describe criteria for meeting the definition of an unaffiliated member, that specify how long such members should serve, or that provide guidance regarding under what circumstances they may be removed or what payment should be provided. Institutions should be careful to select unaffiliated members who are truly separated from the institution, except for their role on the IRB. Procedures for the selection and removal of unaffiliated members should be established in a way that empowers the independent voices of those members. In addition, providing reasonable payment to IRB members who are otherwise unaffiliated with the institution can be a valuable way to strengthen these members' role.

Recommendation 3.9: Federal policy should establish standards and criteria for the selection of Institutional Review Board members. The distribution of Institutional Review Board members with relevant expertise and experience should be commensurate with the types of research reviewed by the Institutional Review Board (see Recommendation 3.10).

Recommendation 3.10: Institutional Review Boards should include members who represent the perspectives of participants, members who are unaffiliated with the institution, and members whose primary concerns are in nonscientific areas. An individual can fulfill one, two, or all three of these categories. For the purposes of both overall membership and quorum determinations 1) these persons should collectively represent at least 25 percent of the Institutional Review Board membership and 2) members from all of these categories should be represented each time an Institutional Review Board meets (see Recommendation 3.9).

Guidance for Assessing Risks and Potential Benefits

In addition to protecting the rights and welfare of research participants, it is equally important to protect them from avoidable harm. Thus, an IRB's assessment of the risks and potential benefits of research is central to determining whether a research study is ethically acceptable. Yet, this assessment can be a difficult one to make, as there are no clear criteria for IRBs to use in judging whether the risks of research are reasonable in terms of what might be gained by the individual or society. IRBs should be able to identify whether a clear and direct benefit to society or the research participants might result from participating in the study. However, IRBs should be cautious in classifying procedures as offering the prospect of direct benefit. In fact, if it is not clear that a procedure also offers the prospect of direct benefit, IRBs should treat the procedure as one solely designed to answer the research question(s). A major advantage of this approach is that it avoids justifying the risks of procedures that are designed solely to answer the research question(s) based on the likelihood that another procedure in the protocol would provide a benefit.

Recommendation 4.1: An analysis of the risks and potential benefits of study components should be applied to all types of covered research (see Recommendation 2.4). In general, each component of a study should be evaluated separately, and its risks should be both reasonable in themselves as well as justified by the potential benefits to society or the participants. Potential benefits from one component of a study should not be used to justify risks posed by a separate component of a study.

Minimal Risk

Determining whether a study poses more than minimal risk is a central ethical and procedural function of the IRB. The definition of minimal risk in federal regulations (45 CFR 46.102(i); 21 CFR 56.102(i)) provides an ambiguous standard by which risks involved in a research study are compared to those encountered in daily life. However, it is unclear whether this applies to those risks found in the daily lives of healthy individuals or those of individuals who belong to the group targeted by the research. If it refers to the individuals to be involved in the research, then the same intervention could be classified as minimal risk or greater than minimal risk, depending on the health status of those participants and their particular experiences. According to this understanding, the standard for minimal risk is a relative one.

This report recommends that IRBs use a standard related to the risks of daily life that are familiar to the general population for determining whether the level of risk is minimal or more than minimal, rather than using a standard that refers to the risks encountered by particular persons or groups. These common risks would include, for example, driving to work, crossing the street, getting a blood test, or answering questions over the telephone. Thus, research would involve no more than minimal risk when it is judged that the level of risk is no greater than that encountered in the daily lives of the general population.

Recommendation 4.2: Federal policy should distinguish between research

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studies that pose minimal risk and those that pose more than minimal risk (see Recommendation 2.5). Minimal risk should be defined as the probability and magnitude of harms that are normally encountered in the daily lives of the general population. If a study that would normally be considered minimal risk for the general population nonetheless poses higher risk for any prospective participants, then the Institutional Review Board should approve the study only if it has determined that appropriate protections are in place for all prospective participants.

Evaluating Vulnerability

All segments of society should have the opportunity to participate in research, if they wish to do so and if they are considered to be appropriate participants for a given protocol. However, some individuals may need additional protections before they can fully participate in the research study; otherwise they might be more susceptible to coercion or exploitation. Individuals might be considered vulnerable within the research context because of intrinsic characteristics (e.g., they are children or have mental illness or retardation) or because of the situation in which they find themselves (e.g., they are impoverished, unemployed, or incarcerated). Recognizing various types of vulnerability and providing adequate safeguards can prove challenging for IRBs.

Appropriate and specific safeguards should be established to protect persons who are categorized as vulnerable. Once safeguards are established, investigators should not exclude persons categorized as vulnerable from research involving greater than minimal risk because this would deprive them of whatever potential direct benefits they might receive from the research and deprive their communities and society from the benefit of the knowledge such research might generate.

Recommendation 4.3: Federal policy should promote the inclusion of all segments of society in research. Guidance should be developed on how to identify and avoid situations that render some participants or groups vulnerable to harm or coercion. Sponsors and investigators should design research that incorporates appropriate safeguards to protect all prospective participants.

Emphasizing the Informed Consent Process

Rather than focusing on the ethical standard of informed consent and what is entailed in the process of obtaining informed consent, IRBs and investigators have followed the lead of the federal regulations and have tended to focus on the disclosures found in the consent form. However, from an ethics perspective, the informed consent process, not the form of its documentation, is the critical communication link between the prospective participant and the investigator throughout a study, beginning when the investigator initially approaches the participant. Informed consent should be an active process through which both parties share information and during which the participant at any time can freely decide whether to withdraw from or continue to participate in the research. It is time to place the emphasis on the process of informed consent to ensure that information is fully disclosed, that competent participants fully understand the research in order to make informed choices, and that decisions to participate or not are always made voluntarily.

Recommendation 5.1: Federal policy should emphasize the process of informed consent rather than the form of its documentation and should ensure that competent participants have given their voluntary informed consent. Guidance should be issued about how to provide appropriate information to prospective research participants, how to promote prospective participants' comprehension of such information, and how to ensure that participants continue to make informed and voluntary decisions throughout their involvement in the research.

Waiver of Informed Consent

Obtaining voluntary informed consent should not be a requirement for every research study. In fact, waiving the informed consent process is justifiable in research studies that include no interaction between investigators and participants, such as in studies using existing identifiable data (e.g., studies of records) and in studies in which risks generally are not physical. In these kinds of research, risks are likely to arise from the acquisition, use, or dissemination of information resulting from the study and are likely to involve threats to privacy and breaches in confidentiality. The criteria for waiving informed consent in such instances should be revised, so that if such studies have protections in place for both privacy and confidentiality, IRBs may waive the requirement for informed consent.

Recommendation 5.2: Federal policy should permit Institutional Review Boards in certain, limited situations (e.g., some studies using existing identifiable data or some observational studies) to waive informed consent requirements if all of the following criteria are met:

(a) All components of the study involve minimal risk or any component involving more than minimal risk must also offer the prospect of direct benefit to participants;

(b) The waiver is not otherwise prohibited by state, federal, or international law;

(c) There is an adequate plan to protect the confidentiality of the data;

(d) There is an adequate plan for contacting participants with information derived from the research, should the need arise; and

(e) In analyzing risks and potential benefits, the Institutional Review Board specifically determines that the benefits from the knowledge to be gained from the research study outweigh any dignitary harm associated with not seeking informed consent.

Documentation of Informed Consent

Although the federal regulations may have been intended to reflect a legal standard for documentation of informed consent, NBAC is aware of no case law in which a signed, written consent form is required. To fulfill the substantive ethical standard of informed consent, depending on the type of research proposed, it may be more appropriate to use other forms of documentation, such as audiotape, videotape, witnesses, or telephone calls to participants verifying informed consent and participation in the research study.

Recommendation 5.3: Federal policy should require investigators to document that they have obtained voluntary informed consent, but should be flexible with respect to the form of such documentation. Especially when individuals can easily refuse or discontinue participation, or when signed forms might threaten confidentiality, Institutional Review Boards should permit investigators to use other means of verifying that informed consent has been obtained.

Protecting Privacy and Confidentiality

Privacy and confidentiality are complex and poorly understood concepts in the context of some research. Privacy refers to the ways and circumstances under which investigators access information from participants. Because privacy concerns vary by type and context of research and the culture and individual circumstances of participants, investigators should be well informed and mindful of the cultural norms of the participants. In addition, investigators should be aware of the various research procedures and methods that can be used to respect privacy. Needed is a clear, comprehensive regulatory definition of privacy along with guidance for protecting privacy in various types of research.

Like privacy concerns, concerns about confidentiality vary by the type and context of the research. No one set of procedures can be developed to protect confidentiality in all research contexts. Thus, IRBs and investigators must tailor confidentiality protections to the specific circumstances and methods used in each specific research study. Further, IRBs and investigators are encouraged to consider the use of strong confidentiality protections, which can also reduce some of the violations associated with privacy. A clear, comprehensive definition of confidentiality is needed, along with guidance for protecting confidentiality in various types of research.

Recommendation 5.4: Federal policy should be developed and mechanisms should be provided to enable investigators and institutions to reduce threats to privacy and breaches of confidentiality. The feasibility of additional mechanisms should be examined to strengthen confidentiality protections in research studies.

Monitoring of Ongoing Research

Continual review and monitoring of research that is in progress is a critical element of the oversight system. Such review is necessary to ensure that emerging data or evidence have not altered the risks/potential benefits assessment so that risks are no longer reasonable. In addition, mechanisms are needed to monitor adverse events, unanticipated problems, and changes to the protocol. IRBs can do a better job in this area with the appropriate guidance and some restructuring of the review and monitoring process.

Currently, the requirement of continuing review is overly broad. The frequency and need for continuing review vary depending on the nature of research, with some protocols not requiring continuing review. In research involving high or unknown risks, the first few trials of a new intervention may substantially affect what is known about the risks and potential benefits of that intervention. Even if the knowledge does not warrant changes in study design, it may warrant changes in the information presented to prospective and enrolled participants.

On the other hand, the ethics issues and participant protections necessary in minimal risk research are unlikely to be affected by developments from within or outside the research—for example, research involving the use of existing data or research that will no longer involve contact with participants because it is in the data analysis phase.

Continuing review of such research should not be required because it is unlikely to provide any additional protection to research participants and merely increases the burden of IRBs. However, because minimal risk research does involve some risk, IRBs may choose to require continuing review. In these cases, other types of monitoring may be more appropriate, such as assessing investigator compliance with the approved protocol or reporting of protocol changes and unanticipated problems. Clarifying the nature of the continuing review requirements would allow IRBs to better focus their efforts on reviewing riskier research and would increase protections for participants where they are most needed.

Recommendation 6.1: Federal policy should describe how sponsors, institutions, and investigators should monitor ongoing research.

Recommendation 6.2: Federal policy should describe clearly the requirements for continuing Institutional Review Board review of ongoing research. Continuing review should not be required for research studies involving minimal risk, research involving the use of existing data, or research that is in the data analysis phase when there is no additional contact with participants. When continuing review is not required, other mechanisms should be in place for ensuring compliance of investigators and for reporting protocol changes or unanticipated problems encountered in the research.

Recommendation 6.3: Federal policy should clarify when changes in research design or context require review and new approval by an Institutional Review Board.

Adverse Event Reporting

Assessing adverse events reports can be a major burden for IRBs and investigators because of the high volume and ambiguous nature of such events and the complexity of the pertinent regulatory requirements. Investigators have reported frustration in attempting to understand what constitutes an adverse event, the required reporting times, and to whom adverse events should be reported. The regulations need to be simplified, and one set of regulations should be available for safety monitoring. Regulations and guidance should be written so that investigators and sponsors understand what constitutes an adverse event, what type of event must be reported within what time period, and to whom it should be reported. In addition, regulations and guidance should be clear regarding whose responsibility it is to analyze and evaluate adverse event reports and should describe the required communication and coordination channels for these reports among IRBs and safety monitoring entities, such as Data Safety Monitoring Boards, investigators, sponsors, and federal agencies.

Recommendation 6.4: The federal government should create a uniform system for reporting and evaluating adverse events occurring in research, especially in multi-site research. The reporting and evaluation responsibilities of investigators, sponsors, Institutional Review Boards, Data Safety Monitoring Boards, and federal agencies should be clear and efficient. The primary concern of the reporting system should be to protect current and prospective research participants.

Review of Cooperative or Multi-Site Research Studies

One of the greatest burdens on IRBs and investigators is the review of multi-site studies. Requiring multiple institutions to review the same protocol is unnecessarily taxing and provides no additional protection to participants. In addition, such review poses problems in the initial stages of review as well as in the continual review and monitoring stages and is especially problematic in the evaluation of adverse events in clinical research. Innovative and creative alternative mechanisms and processes for reviewing protocols in multi-site research are needed. To allow for such projects and to support a change in the current system toward a more flexible review system, federal policy should be clear about the functions that must be performed, but be less restrictive about who performs each function.

Recommendation 6.5: For multi-site research, federal policy should permit central or lead Institutional Review Board review, provided that participants' rights and welfare are rigorously protected.

Compensation for Research-Related Injuries

Participants who volunteer to be in a research study and are harmed as a direct result of that study should be cared for and compensated. However, no adequate database exists that describes the number of injuries or illnesses that are suffered by research

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participants, the proportion of these illnesses or injuries that are caused by the research, and the medical treatment and rehabilitation expenses that are subsequently borne by the participants. It may be argued that regardless of the magnitude of the problem, the costs of research injuries should never be borne by participants. If individuals are injured by research participation, those who benefit from the research (e.g., institutions and sponsors) bear some obligation to compensate those who risked and suffered injury on their behalf. At this time, injured research participants alone bear both the cost of lost health and the expense of medical care, unless they have adequate health insurance or successfully pursue legal action to gain compensation from the specific individuals or organizations that were involved in conducting the research.

A comprehensive system of oversight of human research should include a mechanism to compensate participants for medical and rehabilitative costs resulting from research-related injuries.

Recommendation 6.6: The federal government should study the issue of research-related injuries to determine if there is a need for a compensation program. If needed, the federal government should implement the recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (1982) to conduct a pilot study to evaluate possible program mechanisms.

The Need for Resources

Adopting the recommendations made in this report will generate additional costs for institutions, sponsors, and the federal government (through the establishment of a new federal oversight office). Sponsors of research, whether public or private, should work together with institutions carrying out the research to make the necessary funds available.

Recommendation 7.1: The proposed oversight system should have adequate resources to ensure its effectiveness and ultimate success in protecting research participants and promoting research:

(a) Funds should be appropriated to carry out the functions of the proposed federal oversight office as outlined in this report.

(b) Federal appropriations for research programs should include a separate allocation for oversight activities related to the protection of human participants.

(c) Institutions should be permitted to request funding for Institutional Review Boards and other oversight activities.

(d) Federal agencies, other sponsors, and institutions should make additional funds available for oversight activities.

Future Research

This report raises many questions about ethical issues that cannot be answered because of insufficient or nonexistent empirical evidence. Current thinking about ethical issues in research—such as analysis of risks and potential benefits, informed consent, privacy and confidentiality, and vulnerability—would greatly benefit from additional research. Deserving of more study, for example, are questions regarding the development of effective approaches for assessing cognitive capacity, for evaluating what participants want to know about research, and for determining how to ascertain best practices for seeking informed consent. Clearer and more effective guidance could be developed from a stronger knowledge base. In general, understanding the ethical conduct of research would be advanced by increased interdisciplinary discussion that would include biomedical and social scientists, lawyers, and historians.

Recommendation 7.2: The federal government, in partnership with academic institutions and professional societies, should facilitate discussion about emerging human research protection issues and develop a research agenda that addresses issues related to research ethics.

Notes

1. For example, the Office for Human Research Protections is implementing a new process by which institutions assure future compliance with human participant protections. The Institute of Medicine has recently issued a report on accreditation standards for IRBs (IOM 2001). Public Responsibility in Medicine and Research has established training programs and has co-founded a new organization, the Association for the Accreditation of Human Research Protection Programs.

2. To date, NBAC has issued five reports: Cloning Human Beings (NBAC 1997), Research Involving Persons with Mental Disorders That May Affect Decisionmaking Capacity (NBAC 1998), Ethical Issues in Human Stem Cell Research (NBAC 1999a), Research Involving Human Biological Materials: Ethical Issues and Policy Guidance (NBAC 1999b), and Ethical and Policy Issues in International Research: Clinical Trials in Developing Countries (NBAC 2001).

3. United States v. Karl Brandt et al., Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law 10. Nuremberg, October 1946—April 1949. Volumes I–II. Washington, DC: U.S. Government Printing Office.

4. There are, of course, some circumstances in which consent cannot be obtained and in which an overly rigid adherence to this principle would preclude research that is either benign or potentially needed by the participant him or herself. Thus, NBAC endorses the current exceptions for research that is of minimal risk to participants and for potentially beneficial research in emergency settings where no better alternative for the participants exists. NBAC also urges attention to emerging areas of record, database, and tissue bank research in which consent serves only as a sign of respect and in which alternative ways to respect participants do exist (NBAC 1999b; 21 CFR 50.24). In a previous report, the Commission made recommendations regarding persons who lack decisionmaking capacity and from whom informed consent cannot be obtained (NBAC 1998).

5. Porter, J., Testimony before NBAC. November 23, 1997. Bethesda, Maryland. See McCarthy, C.R., "Reflections on the Organizational Locus of the Office for Protection from Research Risks." This background paper was prepared for NBAC and is available in Volume II of this report.

6. See Goldman, J., and A. Choy, "Privacy and Confidentiality in Health Research" and Sieber, J., "Privacy and Confidentiality: As Related to Human Research in Social and Behavioral Science." These background papers were prepared for NBAC and are available in Volume II of this report. See also Ferguson v. City of Charleston 121 S. Ct. 1281. (2001).

References

Beecher, H.K. 1966. "Ethics and Clinical Research." New England Journal of Medicine 274(24):1354–1360.

Faden, R.R., and T.L. Beauchamp. 1986. A History and Theory of Informed Consent. New York: Oxford University Press.

Institute of Medicine (IOM). 2001. Preserving Public Trust: Accreditation and Human Research Participant Protection Programs. Washington, DC: National Academy Press.

Jonas, H. 1969. "Philosophical Reflections on Experimenting with Human Subjects." Daedalus 98:219–247.

Jones, J.H. 1981. Bad Blood: The Tuskegee Syphilis Experiment. New York: The Free Press.

Katz, J. 1972. Experimentation with Human Beings. New York: Russell Sage Foundation.

National Bioethics Advisory Commission (NBAC). 1997. Cloning Human Beings. 2 vols. Rockville, MD: U.S. Government Printing Office.

———. 1998. Research Involving Persons with Mental Disorders That May Affect Decisionmaking Capacity. 2 vols. Rockville, MD: U.S. Government Printing Office.

———. 1999a. Ethical Issues in Human Stem Cell Research. 3 vols. Rockville, MD: U.S. Government Printing Office.

———. 1999b. Research Involving Human Biological Materials: Ethical Issues and Policy Guidance. 2 vols. Rockville, MD: U.S. Government Printing Office.

———. 2001. Ethical and Policy Issues in International Research: Clinical Trials in Developing Countries. 2 vols. Bethesda, MD: U.S. Government Printing Office.

National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (National Commission). 1979. Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research. Washington, DC: U.S. Government Printing Office.

Tuskegee Syphilis Study Ad Hoc Advisory Panel. 1973. Final Report. Washington, DC: U.S. Department of Health, Education, and Welfare.

FOR FURTHER INFORMATION ABOUT THE REPORT CONTACT: Marjorie A. Speers, Ph.D., Acting Executive Director, National Bioethics Advisory Commission, or to obtain copies of the report contact the NBAC office at 6705 Rockledge Drive, Suite 700, Bethesda, Maryland 20892–7979, telephone number (301) 402–4242, fax number (301) 480–6900. Copies may also be obtained through the NBAC website: www.bioethics.gov.

Dated: August 27, 2001.

Glen D. Drew,

Acting Executive Director, National Bioethics Advisory Commission

[FR Doc. 01–22038 Filed 8–30–01; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–59]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Preventive Health and Health Services Block Grant, Annual Application and Reports (OMB #0920–0106)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC). In 1994, OMB approved the collection of information provided in the grant applications and annual reports for the Preventive Health and Health Services (PHHS) Block Grant (OMB #0920–0106). This approval expires on November 30, 2001. CDC is requesting OMB clearance for this legislatively mandated information collection until November 30, 2004. The request is to approve the development and adherence to *Healthy People 2010*, the Nation's Health Objectives which was released the Spring of 2000. The PHHS block grant is mandated according to section 1904 to adhere to the Healthy People framework, therefore, the current application and report format was restructured to coincide with 2010.

This information collected through the applications from the official State health agencies is required from section 1905 of the Public Health Service Act. There is a slight change in the proposed information collection from previous years. The changes include more program specific information and the relationship of block funded activities to program strategy. The information collected from the annual reports is required by section 1906. The development of a PHHS block grant web page with data web links from existing federal databases will be used to coincide with the collection of uniform data for the annual report. The availability to collect data through internet accessibility will allow for a more streamlined and efficient use of data processing by the states and will reduce the states burden of duplicate reporting on outcome and risk factor data. The cost to respondents is estimated at $25 per burden hour, a total cost to respondents of $106,750.

Respondents	No. of respondents	No. of responses/ respondent	Average burden per response (in hours)	Total burden (in hours)
Application	61	1	30	1830
Report	61	1	40	2440
Total				4270

Dated: August 23, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–21997 Filed 8–30–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–46–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

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Proposed Project

Report of Verified Cases of Tuberculosis (RVCT) OMB No. 0920–0026—Extension—The National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC) proposes to continue data collection for the Report of Verified Case of Tuberculosis (RVCT). This request is for a 1-year extension of clearance. To accomplish the CDC goal of eliminating tuberculosis (TB) in the United States, CDC maintains the national TB surveillance system. The system, initiated in 1953, has been modified several times to better monitor and respond to changes in TB morbidity. The most recent modification was implemented in 1993 when the RVCT was expanded in response to the TB epidemic of the late 1980s and early 1990s and incorporated into a CDC software for electronic reporting of TB case reports to CDC. The expanded system improved the ability of CDC to monitor important aspects of TB epidemiology in the United States, including drug resistance, TB risk factors, including HIV coinfection, and treatment. The timely system also enabled CDC to monitor the recovery of the nation from the resurgence and identify that current TB epidemiology supports the renewed national goal of elimination. To measure progress in achieving this goal, as well as continue to monitor TB trends and potential TB outbreaks, identify high risk populations for TB, and gauge program performance, CDC proposes to extend use of the RVCT.

Data are collected by 60 Reporting Areas (the 50 states, the District of Columbia, New York City, Puerto Rico, and 7 jurisdictions in the Pacific and Caribbean) using the RVCT. An RVCT is completed for each reported TB case and contains demographic, clinical, and laboratory information. A comprehensive software package, the Tuberculosis Information Management System (TIMS) is used for RVCT data entry and electronic transmission of TB case reports to CDC. TIMS provides reports, query functions, and export functions to assist in analysis of the data. CDC publishes an annual report summarizing national TB statistics and also periodically conducts special analyses for publication in peer-reviewed scientific journals to further describe and interpret national TB data. These data assist public health officials and policy makers in program planning, evaluation, and resource allocation. Reporting Areas also review and analyze their RVCT data to monitor local TB trends, evaluate program success, and assist in focusing resources to eliminate TB.

No other federal agency collects this type of national TB data. In addition to providing technical assistance for use of the RVCT, CDC also provides Reporting Areas with technical support for the TIMS software. The total annual burden for this data collection is 8,338 hours.

Respondents	Number of respondents	Average responses/respondent	Average burden per response (in hours)
State & Local Health Departments	60	277.92	30/60

Dated: August 24, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–21996 Filed 8–30–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02009]

National Program To Promote Diabetes Education Strategies in Minority Communities: The National Diabetes Education Program; Notice of Availability Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for "National Program to Promote Diabetes Education Strategies in Minority Communities: The National Diabetes Education program." This program addresses the "Healthy People 2010" focus area of Diabetes.

The purpose of the program is to support National Diabetes Education Program activities that strengthen the capacity of national and regional minority organizations (NMOs/RMOs) to reduce the disproportionate burden of diabetes among high-risk populations (e.g. Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native). These awards will enable NMOs/RMOs to reach their targeted populations with culturally and linguistically appropriate intervention strategies through trusted and valued community-based intervention approaches and delivery channels.

B. Eligible Applicants

Assistance will be provided to national organizations that are private health, education or social service organizations (professional or voluntary); qualify as a non-profit 501(c)3 entity; have affiliate offices or local, state, or regional membership constituencies in five or more geographically distinct communities with a high concentration of the targeted population, and have the capacity and experience to assist their affiliate offices, chapters, and member constituencies. Geographically distinct communities may be located in different states. Affiliate offices and local, state, or regional membership constituencies may NOT apply in lieu of or on behalf of their parent national office. However, this does not exclude affiliates from assisting with the development of the application.

Note: Title 2 of the United States Code, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

Tax-Exempt Status

For those applicants applying as a private non-profit organization, proof of tax-exempt status must be provided with the application. Tax-exempt status is determined by the Internal Revenue Service (IRS) Code, Section 501(c)(3). Any of the following is acceptable evidence:

1. A reference to the organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.

2. A copy of a currently valid Internal Revenue Service Tax exemption certificate.

3. A statement from a state taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.

4. A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization.

C. Availability of Funds

Approximately $3,000,000 is available in FY 2002 to fund approximately six to eight awards. It is expected that the average award will be $375,000, ranging from $300,000 to $500,000. It is expected that the awards will begin on or about December 1, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may not be expended for the purchase or lease of land or buildings, construction of facilities, renovation of existing space, or the delivery of clinical and therapeutic services. The purchase of equipment is discouraged but will be considered for approval if justified on the basis of being essential to the program and not available from any other source.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Implement strategies for delivering diabetes education messages to targeted populations using a variety of culturally effective community-based approaches and channels.

b. Establish coalitions and partnerships that capitalize on the momentum of ongoing diabetes education efforts.

c. Develop strategies that strengthens health care providers' capacity to competently provide culturally and linguistically appropriate diabetes education and support to diverse racial and ethnic minority populations.

d. Develop program activities that are consistent with acceptable standards for conducting diabetes education programs.

e. Develop an action plan for engaging affiliates, chapters, and Community-Based Organization (CBO) partners to:

(1) Develop and implement creative new community-based intervention strategies designed to improve the knowledge, attitude, skills, and behaviors related to the prevention, early detection, and control of diabetes complications using linguistically and culturally appropriate materials and messages.

(2) establish community-based diabetes coalitions among local organizations that serve the targeted population and actively engage members to identify community needs and resources, using community mobilization models such as Diabetes Today and Planned Approach to Community Health (PATCH).

(3) describe the activities that will be conducted to ensure that proposed activities will work synergistically with existing effective diabetes interventions and strategies.

(4) disseminate user-friendly diabetes education and local diabetes health care resource materials, as well as utilize existing diabetes awareness messages and strategies that are culturally and linguistically appropriate for the targeted population, based on current science.

(5) improve the capacity of the local health care providers to competently provide culturally and linguistically appropriate diabetes information, education, and support to the targeted population through provider training on cultural sensitivity relative to diabetes and other appropriate awareness activities.

(6) collaborate with other programs in the community working with the targeted population, such as the Diabetes Control Programs (DCPs) and the Racial Ethnic Approaches to Community Health (REACH) Projects and other appropriate organizations.

(7) develop a well-designed evaluation plan to monitor progress and measure accomplishments of activities and strategies utilized by the applicant and partner CBOs.

(8) disseminate pertinent program information to appropriate partner organizations and other appropriate agencies and partners at the national, regional, State and local levels.

(9) respond to public inquiries regarding project activities as appropriate.

2. CDC Activities

a. provide periodic updates of national activities related to the control of diabetes in targeted populations.

b. assist in identifying and developing culturally and linguistically appropriate diabetes educational materials for community-based programs that reach the target populations.

c. provide programmatic consultation and guidance related to the development, implementation, evaluation, and dissemination of proposed program activities.

d. collaborate with recipients in the development and dissemination of information.

e. provide technical assistance related to coordination of activities between recipient and other national and community programs.

E. Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 75 double-spaced pages, printed on one side, with one inch margins, and unreduced font. Program definitions and information that can be helpful in completing the application are attached.

1. Background and Need

a. Describe the problem(s) being addressed by the national/regional organization's proposed activities.

b. Describe the need for the proposed activities in the geographical area(s) within which the activities will be implemented.

c. Describe the characteristics of the targeted population relative to their racial and ethnic diversity and knowledge, attitudes, beliefs, and health practices relative to diabetes.

2. Capacity

a. Describe the organization's mission, structure and function to include the following:

(1) Type of constituency; Latino population, Asian-American health providers, and other appropriate populations.

(2) Number of constituents and affiliates.

(3) Location of constituents and affiliates.

(4) How constituents and affiliates work with organization decision makers.

(5) Methods of routine communication with constituents and members.

(6) Description of how this infrastructure will be used to support successful implementation of the proposed program activities.

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b. Describe organization's past and present diabetes awareness and education activities. Explain how existing effective diabetes messages will be integrated and how the proposed program activities will expand rather than duplicate present activities.

c. Describe organization's past and present experience and abilities to work on diabetes with affiliates, chapters, or CBOs.

d. Describe past and present collaborative partnerships with public and private sector organizations that serve or have established linkages in the targeted population. Include evidence of collaborations with partners and describe how these partnerships can be used to support the successful implementation of the proposed program activities.

e. Describe the nature and extent of constituent support for past and present organizational activities related to awareness and education activities for the control of diabetes or describe how constituent support will be secured for the proposed program activities.

f. Provide a copy of a letter of commitment from the organization's Board President or appropriate designee, acknowledging their support of the applicant's activities and organization. The letter should address the organization's support and commitment to develop a plan and policy that will be adopted by affiliates, chapters, related-membership organizations, and CBO partners. If a diabetes control policy and plan already exists within the national/regional organization's office, it should be submitted in lieu of a letter of commitment.

g. Provide evidence of national/regional minority organization status as evidence by:

1. Percentage of persons on the governing board that are members of racial or ethnic minority populations.

2. Describe past experience serving racial and ethnic minority populations through its offices, affiliates, or participating minority organizations at the national/regional level for at least 12 months before submission of the application.

3. Objectives

a. Describe the three-year (long-term) specific, measurable, time-phased objectives for the program consistent with the purpose of this program announcement and recipient activities.

b. Describe specific, measurable, time-phased objectives for each budget year (short-term).

4. Program Activities

a. Describe the affiliates, chapters, or types of Community-based organizations that will be involved in the implementation of proposed program activities.

b. Describe the specific activities that will be undertaken to achieve each of the program's objectives during the first year consistent with the recipient activities.

c. Briefly describe the activities planned for budget years two and three.

5. Project Management

a. Submit a work plan that outlines the main implementation steps and activities to be completed by recipient and affiliates, chapters, or partner CBOs by specified targeted dates to achieve the objectives for the budget year. Identify the persons or positions responsible for carrying out the activities.

b. Describe each proposed position for this program that will support this work plan by job title, function, general duties, and the responsibilities of the position. Describe the qualifications for the project coordinator position in terms of education, experience and desired skills. Include the level of effort and allocation of time for each project activity by staff position. Minimal staffing should include a full-time project coordinator and one program assistant.

6. Program Evaluation Plan

Identify methods for attaining measurable, time-phased short and long-term objectives. Identify methods for accomplishing program activities, and monitoring program quality. The evaluation plan should include qualitative and quantitative data collection and assessment methods. As appropriate, this plan should include baseline data for the proposed objectives or the methods that will be used to establish the baseline data; the minimum data to be collected to evaluate the achievement of proposed program objectives; and the systems for collecting and analyzing the data. Data to be reported will be dependent upon the proposed program objectives and activities, however, examples of potential data include, but are not limited to the following:

a. The number of individuals expected to be reached in the targeted population and the plan for evaluating the number actually reached.

b. Information about the national and local health organizations and providers reached and populations served.

c. Number and types of community activities implemented (when, where, and how activities are conducted).

d. Information on the change in knowledge, attitudes, and self-management and/or care utilization practices among people with diabetes.

e. Information on the number of affiliates, chapters, organizations, coalitions and partnerships that are participating in program activities and how activities complement national education efforts.

7. Budget and Narrative Justification

Provide a detailed line-item budget and justification for all operating expenses consistent with the proposed objectives and activities. Provide precise information regarding the purpose of each budget item and provide itemized calculations when appropriate.

Applicants should budget for the following costs:

Out-of-State Travel: Participation in CDC-sponsored training workshops and meetings essential for effective implementation of the diabetes control program. Travel funds should be budgeted for the following meetings:

a. Two persons to attend the CDC Diabetes Translation Conference (3 days) held during the Spring of 2002.

b. One person to attend 1–2 NDEP work group meetings related to program development during 2002 (2 days each meeting).

8. Attachments

Provide these attachments:

1. An organizational chart and one page résumés of current and proposed staff. Include one page job descriptions of proposed staff.

2. A list of applicant's constituents by regional, State, and local organization(s) or a description of each CBO partner.

3. Evidence of collaboration with other organizations that serve the same targeted populations. Include Memorandums of Agreement and letters of support.

4. A description of funding from other sources to conduct similar activities:

a. Describe how funds requested under this announcement will be used differently or in ways that will expand on the funds already received, applied for, or being received.

b. Identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

c. Written statement that the funds being requested will not duplicate or supplant funds received from any other sources.

5. Proof of eligibility (see paragraph D, Eligible Applicants).

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: <http://forms.pcs.gov.>

On or before October 26, 2001, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group.

(Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 Points)

Extent to which the applicant demonstrates an understanding of the program's purpose and objectives and describes the target population's characteristics, diabetes burden and needs of the targeted population, and justify the need for the proposed activities.

2. Capacity (20 Points)

Extent to which the applicant describes:

a. The capacity of the applicant's infrastructure to support successful implementation of the proposed program activities in the targeted population.

b. Applicant's relationship with target population.

Note: A primary or direct relationship is most desirous. Secondary relationships that are limited to fund-raising or philanthropy are less desirous.

c. The success of the applicant's past and present experiences in working with the targeted population, conducting diabetes awareness and education activities, collaborating with public and private sector partners and the potential contribution of these experiences to the success of the proposed program activities.

d. The success of the applicant in generating constituent support for past and present organizational activities and the likelihood that strong support can be secured for the proposed program activities.

e. The reach of affiliates and chapters, national and regional organizations, and number of state or jurisdictions covered.

f. Degree to which there is minority representation in the governance of the organization. A minimum of 51 percent of board members from racial or ethnic minority populations is most desirous.

3. Objectives (15 Points)

Extent to which the proposed objectives are specific, time-related, measurable, appropriate for the targeted audience, and consistent with the stated purpose of this program announcement.

4. Program Activities (25 Points)

Extent to which proposed activities are appropriate for the targeted population achievable and that implementation will lead accomplishment of the proposed objectives within the project period.

5. Project Management (20 Points)

(a) Extent to which the work plan outlined is adequate to implement the program within the time-lines described by the positions and individuals identified.

(b) Extent to which the proposed personnel time allocation is sufficient to accomplish the program activities.

6. Program Evaluation Plan (10 Points)

Extent to which the applicant describes an evaluation plan for monitoring the program's progress, quality, and accomplishments relative to achieving the objectives and completing the proposed program activities within the project period.

7. Budget and Justification (Not Scored)

Extent to which the budget is reasonable and consistent with the purpose of the program announcement and proposed objectives and activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Semiannual progress reports;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement in the application kit.

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2010

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

AR–21 Small, Minority, Women-Owned Businesses

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301(a) and 317(k)(2) [42 U.S.C. 241(a) and 247b (k)(2)] of the Public Health Service Act, as amended. Applicable program regulations are found in 45 CFR Part 74.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address http://www.cdc.gov. Click on "funding," then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Nealean Austin, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention, Program Announcement 02009, 2920 Brandywine Road, Room 3000, MS–E18, Atlanta, GA 30341–4146, Telephone number: 770–488–2745, Email address: nea1@cdc.gov.

For program technical assistance, contact: Catherine Beartusk, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, MS-K–10, Atlanta, GA 30341, Telephone number: 770–488–6031, Email address: kpb4@cdc.gov.

Dated: August 27, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21998 Filed 8–30–01; 8:45 am]

BILLING CODE 4163–18–P

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Study Team for the Los Alamos Historical Document Retrieval and Assessment Project

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting.

Name: Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

Time and Date: 5 p.m.–7 p.m., September 25, 2001.

Place: Radisson Santa Fe Hotel (Board Room), 750 N. St. Francis Drive, Santa Fe, NM 87501, telephone 505–992–5800.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with Department of Energy (DOE) and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) is given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992 between the ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This Study Team is charged with locating, evaluating, cataloguing, and copying documents that contain information about historical chemical or radionuclide releases from facilities at the Los Alamos National Laboratory since its inception. The purposes of this meeting are to review the goals, methods, and schedule of the project, discuss progress to date, provide a forum for community interaction, and serve as a vehicle for members of the public to express concerns and provide advice to CDC.

Matters To Be Discussed: Agenda items include an update from the National Center for Environmental Health (NCEH) and its contractor regarding the information-gathering project that is underway. This will include discussion of the extent to which access to classified documents has been restored, limitations still in place, and the second draft of the project's historical operations and releases report, which will be issued in September. There will be time for public input, questions, and comments. All agenda items are subject to change as priorities dictate.

For Further Information Contact: Paul G. Renard, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, Building 6, Room T–027, Executive Park Drive (E–39), Atlanta, GA 30329, telephone 404–498–1817, fax 404–498–1811.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: August 27, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21999 Filed 8–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10028]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* State Health Insurance Assistance Program (SHIP) Client Contact Form; *Form No.:* HCFA–10028 (OMB# 0938–NEW); *Use:* The State Health Insurance Assistance Program (SHIP) Client Contact Form will be completed by SHIP counselors at each counseling event to collect SHIP performance data, which will then be accumulated and analyzed to measure performance; *Frequency:* Semi-annually, Annually; *Affected Public:* State, local, or tribal gov.; *Number of Respondents:* 53; *Total Annual Responses:* 265; *Total Annual Hours:* 132.5. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Wendy Taylor, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 15, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–21977 Filed 8–30–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–6401]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection. Negative Case Action (NCA) Process/ Annual Report.

Form No.: CMS–6401 (OMB# 0938–0300).

Use: CMS uses the NCA process to determine the accuracy of ineligible determinations focusing on the reason(s) for denial or the termination of assistance. The results of NCA reviews are used by the States and the Federal government to identify problem areas and plan corrective action initiatives to eliminate error causing situations.

Frequency: Annually.

Affected Public: State, local or tribal gov.

Number of Respondents: 51.

Total Annual Responses: 51.

Total Annual Hours: 6770.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 16, 2001.

John P. Burke, III,

CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–21978 Filed; 8–30–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1195–N]

Medicare Program; September 17, 2001, Meeting of the Practicing Physicians Advisory Council

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council. This meeting is open to the public.

DATES: The meeting is scheduled for September 17, 2001, from 8:30 a.m. until 5 p.m. e.d.t.

ADDRESSES: The meeting will be held in Room 800, 8th Floor, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Paul Rudolf, M.D., J.D., Executive Director, Practicing Physicians Advisory Council, Room 435–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 690–7874. News media representatives should contact the CMS Press Office, (202) 690–6145. Please refer to the CMS Advisory Committees Information Line (1–877–449–5659 toll free)/(410–786–9379 local) or the Internet (http://www.access.gpo.gov/nara/index.html) for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION:

The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for Medicare and Medicaid Services not later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare or Medicaid in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before the end of the 2-year term.

The Council held its first meeting on May 11, 1992.

The current members are: Jerold M. Aronson, M.D.; Richard Bronfman, D.P.M.; Joseph Heyman, M.D.; Sandral Hullett, M.D.; Stephen A. Imbeau, M.D.; Angelyn L. Moultrie, D.O.; Derrick K. Latos, M.D. (Pending re-appointment); Dale Lervick, O.D.; Sandra B. Reed, M.D.; Amilu Rothhammer, M.D.; Victor Vela, M.D.; Kenneth M. Viste, Jr., M.D.; and Douglas L. Wood, M.D. The Council Chairperson and three seats on the Council are pending selection.

Council members will be updated on the earlier recommendations.

The agenda will provide for discussion and comment on the following topics:

- Update-Physician Regulatory Issues Team (PRIT) including a discussion of the Medicare and You 2002 Physician Insert, the Clinical Environment Appraisal Program, and the Physicians Issues Project.
- Discussion of the Participating Physicians Fact Sheet.
- Update-Evaluation and Management Documentation Guidelines.

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• Documentation Requirements for Teaching Physicians

• Advanced Beneficiary Notice (provider education materials/carrier instructions).

For additional information and clarification on the topics listed, call the contact person in the "For Further Information Contact" section of this notice.

Individual physicians or medical organizations that represent physicians wishing to make 5-minute oral presentations on agenda issues should contact the Executive Director by 12 noon, *September 7, 2001*, to be scheduled. Testimony is limited to listed agenda issues only. The number of oral presentations may be limited by the time available. A written copy of the presenter's oral remarks should be submitted to the Executive Director no later than 12 noon, *September 7, 2001*, for distribution to Council members for review prior to the meeting. Physicians and organizations not scheduled to speak may also submit written comments to the Executive Director and Council members. The meeting is open to the public, but attendance is limited to the space available. Individuals requiring sign language interpretation for the hearing impaired or other special accommodation should contact John Lanigan at (202) 690–7418 at least 10 days before the meeting.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 C.F.R. part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 28, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare and Medicaid Services.

[FR Doc. 01–22065 Filed 8–30–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0581]

Agency Information Collection Activities; Announcement of OMB Approval; Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 11, 2001 (66 FR 31146), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0472. The approval expires on August 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: August 24, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22012 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0231]

Agency Information Collection Activities; Proposed Collection; Comment Request; Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period on a proposed collection of certain information by the agency until October 15, 2001. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice is reopening the comment period for a data collection effort to solicit comments on reporting and recordkeeping requirements obligating holders of approved new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) to submit information on adverse drug reactions, lack of effectiveness, and product defects.

DATES: Submit written or electronic comments on the collection of information by October 15, 2001.

ADDRESSES: Submit electronic comments on the collection of information via the internet at: http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 29, 2001 (66 FR 29141), FDA published a notice soliciting comments on reporting and recordkeeping requirements associated with 21 CFR part 510. To give interested persons additional time to submit comments on the proposed data collection, the agency is reopening the comment period until October 15, 2001.

Interested persons may submit to the Dockets Management Branch (address above) written comments by October 15, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–21967 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0153]

Agency Information Collection Activities; Announcement of OMB Approval; Voluntary Registration of Cosmetic Product Establishments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Voluntary Registration of Cosmetic Product Establishments" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 29, 2001 (66 FR 34685), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0027. The approval expires on August 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: August 24, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–21964 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0607]

Agency Information Collection Activities; Announcement of OMB Approval; General Requirements for Blood, Blood Components, and Blood Derivatives; Donor Notification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "General Requirements for Blood, Blood Components, and Blood Derivatives; Donor Notification" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 29, 2001 (66 FR 34685), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0216. The approval expires on August 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: August 24, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–21966 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0069]

Agency Information Collection Activities; Announcement of OMB Approval; Information From U.S. Processors That Export to the European Community

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Information From U.S. Processors That Export to the European Community" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 2001 (66 FR 30218), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control

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number. OMB has now approved the information collection and has assigned OMB control number 0910–0320. The approval expires on August 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: August 24, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22011 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0249]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Consumer and Producer Surveys on Economic Issues

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by October 1, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Consumer and Producer Surveys on Economic Issues

Under section 903(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)), FDA is authorized to conduct research relating to regulated articles and to collect information relating to responsibilities of the agency. Executive Order 12866, the Regulatory Flexibility Act (RFA), and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) direct Federal agencies to conduct regulatory impact analysis, and to consider flexible regulatory approaches. In order to perform the mandatory analysis it is often necessary to survey: (1) Regulated producers to determine existing practices and the changes in those practices likely under various policy options, (2) both consumers and manufacturers to explore attitudes towards policy proposals, and (3) industry experts to solicit expert opinions. FDA is seeking OMB clearance to conduct future surveys to implement Executive Order 12866, RFA, and SBREFA. Participation in the surveys will be voluntary. This request covers regulated entities, such as food processors, dietary supplement manufacturers, health professionals or other experts, and consumers.

FDA will use the information gathered from these surveys to identify current business practices, expert opinion, and consumer or manufacturer attitudes towards existing or proposed policy. FDA projects approximately 2 to 6 surveys per year, with a sample of between 10 and 1,000 respondents each for mail and telephone surveys, and a sample of up to 3,000 respondents for cable or Internet surveys.

In the **Federal Register** of June 15, 2001 (66 FR 32625), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the upper bound burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Type of Survey	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Mail questionnaire	1,000	1	1,000	3	3,000
Phone survey	1,000	1	1,000	0.5	500
Internet or cable survey	3,000	1	3,000	1	3,000
Total					6,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on the expected number of respondents necessary to obtain a statistically significant stratification of the average to large size industries—including small business entities covered by FDA regulations—and consumers of regulated products.

Dated: August 24, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22010 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Clinical Chemistry and Clinical Toxicology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Clinical Chemistry and Clinical Toxicology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 24, 2001, from 8:30 a.m. to 5 p.m.

Location: Hilton DC North—Gaithersburg, Salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD.

Contact: Veronica J. Calvin, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1243, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12514. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will provide advice and recommendations on the types of data and/or labeling needed in premarket notification (510(k)) submissions for glucose test systems to address problems associated with using blood samples from alternate sites, such as the forearm, upper arm, thigh, calf, or base of the thumb. Background information, including the agenda and questions for the committee, will be available to the public on September 21, 2001, on the Internet at http://www.fda.gov/cdrh/panelmtg.html.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 12, 2001. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12 noon and 3 p.m. and 3:30 p.m. on September 24, 2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 12, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 22, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–21963 Filed 8–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 2001.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: September 10, 2001; 9:00 a.m.–6:00 p.m.; September 11, 2001; 9:00 a.m.–5:30 p.m.

Place: The Doubletree Hotel Park Terrace on Embassy Row, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

The meeting is open to the public.

Agenda items will include, but not be limited to: Welcome; plenary discussion of community-based and interdisciplinary education Committee goals for fiscal year (FY) 2002; guidance provided on an ad hoc basis by Federal program staff from the Division of Interdisciplinary, Community-Based Programs (DICP) and the Division of Medicine and Dentistry (DMD), Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA).

Meeting content will be based on the Committee's charge under Section 756 of the Public Health Service Act, including but not limited to the planning and scheduling of Committee goals for FY 2002.

Public comment will be permitted before lunch and at the end of the Committee meeting on September 10, 2001. Oral presentations will be limited to five minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Mr. Leo Wermers, Principal Staff Liaison, Division of Interdisciplinary, Community-Based Programs, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of Interdisciplinary, Community-Based Programs will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel Park Terrace on Embassy Row, Washington, DC on September 10, 2001. These persons will be allocated time as the Committee meeting agenda permits.

Anyone requiring information regarding the Committee should contact Mr. Wermers, Division of Interdisciplinary, Community-Based Programs, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1648.

Dated: August 28, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–22013 Filed 8–30–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Individual National Research Service Award Application and Related Forms

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of Extramural Research, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 5, 2001, page 18097 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revisesd, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Individual National Research Service Award Application and Related Forms. *Type of Information Colelction Request:* Revision, OMB 0925–0002, Expiration Date 11/30/01. *Form Numbers:* PHS 416–1, 416–9, 416–5, 416–7, 6031, 6031–1. *Need and Use of Information Collection:* The PHS 416–1 and 416–9 are used by individuals to apply for direct research training support. Awards are made to individual applicants for specified training proposals in biomedical and behavioral research, slected as a result of a national competition. The other related forms (PHS 416–5, 416–7, 6031, 6031–1) are used by these individuals to activate, terminate, and provide for payback of a National Research Service Award. *Frequency of Response:* Applicants may submit applciations for published receipt dates. If awarded, annual progress is reported. Related forms are used at activation, termination, and to provide for payback of a National Research Service Award. *Affected Public:* Individuals or households: Business or other for profit, Not-for-profit institutions; Federal Government; and State, Local or Tribal Government. *Type Respondents:* Adult scientific trainees and professionals. The annual reporting burden is as follows: *Estimated Number of Respondents:*

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29,748; *Estimated Number of Responses per Respondent:* 1.0834; *Average Burden Hours Per Response:* 2.658; and *Estimated Total Annual Burden Hours Requested:* 85,679. The annnualized cost to respondents is estimated at $1,985,472 (Using a $35 physician/professor average hourly wage rate, and a $12 trainee average hourly wage rate.) There are no Capital Costs to report. The annual Operating and Maintenance Costs to report are $148,740.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic mechanical, or other technological collection techniques or other forms of ifnormation technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the esitmated public burden and associated repsonse time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Jan Heffernan, Division of Grants Policy, Office of Policy for Extramural Research Administration, NIH, Rockledge 1 Building, Room 1196, 6705 Rockledge Drive, Bethesda, MD 20892–7974. or call non-toll-free number (301) 435–0940, or E-mail your request, including your address to: *Heffernj@OD.NIH.GOV*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before October 1, 2001.

Dated: August 21, 2001.

Carol Tippery,

Acting Director, OPERA, NIH.

[FR Doc. 01–21986 Filed 8–30–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel.

Date: August 30, 2001.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIGMS, Office of Scientific Review, Natcher Building, Room 1AS–13, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Helen R. Sunshine, PhD, Chief, Office of Scientific Review, National Institute of General Medical Sciences, NIH, Natcher Building, Room 1AS–13, Bethesda, MD 20892, 301–594–2881.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: August 24, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21985 Filed 8–30–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Meeting of the Advisory Committee on Alternative Toxicological Methods

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Toxicology Program (NTP) Advisory Committee on Alternative Toxicological Methods, U.S. Public Health Service. The meeting will be held from 9:00 a.m. to adjournment on September 25, 2001 in the Rodbell Auditorium, Rall Building, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, North Carolina. The meeting is open to the public and time is allotted during the meeting for the public to present comments to the Committee and NTP staff on agenda topics. Attendance is limited only by the space available. Individuals who plan to attend and need special assistance are asked to notify the Executive Secretary in advance of the meeting.

Background

Under authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services has established an Advisory Committee on Alternative Toxicological Methods (the Committee). The Committee provides advice to the NTP on the activities and priorities of the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (the Center) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and on ways to foster partnership activities and productive interactions among all stakeholders. The Committee is composed of knowledgeable representatives drawn from academia, industry, public interest organizations, and may include representation from state and federal agencies and the international community, as appropriate [**Federal Register:** September 15, 1997 (Volume 62, Number 178, Page 48290)].

Agenda

The September 25th meeting is open to the public from 9:00 AM to adjournment with attendance limited only by the space available. A draft agenda with tentative schedule is provided below. Primary agenda topics include updates on recent NTP Center and ICCVAM activities and areas for future priorities and activities.

A detailed agenda with meeting schedule and the Committee roster will be available prior to the meeting on the Center's web site (http://iccvam.niehs.nih.gov) or by contacting the NTP Executive Secretary, Dr. Mary S. Wolfe (National Toxicology Program, P. O. Box 12233, 111 T.W. Alexander Drive, A3–07, NIEHS, Research Triangle Park, North Carolina 27709, telephone: 919–541–3971 and FAX: 919–541–0295). Following the meeting, summary minutes will be posted on the Center's web site (http://iccvam.niehs.nih.gov, see ACATM) or can be obtained by contacting the Executive Secretary. The minutes for past committee meetings are also available on the web.

Public Comment Encouraged

Public input at the meeting is invited and time is set aside for the presentation of public comments on any agenda topic. At least seven minutes will be allotted to each speaker, and if time permits, may be extended to ten minutes. Persons registering to make oral comments are asked to provide their name, affiliation, mailing address, telephone, FAX, e-mail, and sponsoring organization (if any). Each organization is allowed one time slot per agenda topic. To facilitate planning for the meeting, persons interested in providing formal oral comments are asked to notify the Executive Secretary at the address given above. Persons registering to make oral comments are asked, if possible, to provide a copy of their statement to the Executive Secretary by September 19, to enable review by the Committee and NTP staff prior to the meeting. Individuals will also be able to register to give oral comments on-site at the meeting. However, if registering on-site and reading from written text, please bring 25 copies of the statement for distribution to the Committee and NTP staff and to supplement the record.

Persons may also submit written comments in lieu of making oral comments. Written comments should be sent to the Executive Secretary and should be received by September 19, 2001 to enable review by the Committee and NTP staff, as well as to supplement the record. Persons submitting written comments should include with the document their name, affiliation, mailing address, telephone, FAX, e-mail, and sponsoring organization (if any).

Dated: August 23, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

Draft Agenda (8/18/01)—National Toxicology Program Advisory Committee on Alternative Toxicological Methods

September 25, 2001

9:00 am—Call to Order and Introductions

Updates
- NTP
- NTP Center and ICCVAM Updates

Guidance Document on Using In Vitro Data to Estimate In Vivo Starting Doses for Acute Toxicity (ACTION)
- Public Comments

Report of the International Workshop on In Vitro Methods for Assessing Acute Systemic Toxicity
- Public Comments

12:30 pm—Lunch

1:30 pm

Toxicogenomics as An Alternative Toxicological Test Method: Priorities for Validation and Applications and Their Validation
- Public Comments

NIEHS Extramural SBIR Contracts for Test Method Development and Validation

Other Issues
- International Validation Issues
- Agenda Topics for Next Meeting
- Other Topics

Public Comments

4:30 pm—Adjourn

[FR Doc. 01–21987 Filed 8–30–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Center for Mental Health Services (CMS) National Advisory Council in September 2001.

A portion of the meeting will be open and will include a roll call, general announcements, and discussion about consumer affairs and consumer technical assistance centers, the grant application process, the New Freedom initiative, children and systems of care, financing trends and public mental health services, and the recently released supplement on culture, race and ethnicity to the Surgeon General's Report on mental health.

Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities please notify the contact listed below.

The meeting will also include the review, discussion, and evaluation of grant applications. Therefore a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(3), (4) and (6) and 5 U.S.C. App. 2. and 10 (d).

A summary of the meeting and a roster of Council members may be obtained from Ms. Eileen Pensinger, Executive Secretary, CMHS, Room 17C–27, Parklawn Building, Rockville, Maryland 20857, telephone (301) 443–4823.

Committee Name: CMHS National Advisory Council.

Meeting Date: September 6–7, 2001.

Place: The Double Tree Hotel, 1750 Rockville Pike, Rockville, Maryland.

Type:

Closed: September 6, 2001—8:30 a.m.–12:00 p.m.

Open: September 6, 2001—1:00 p.m.–5:00 p.m.

Open: September 7, 2001—8:30 a.m.–4:00 p.m.

Contact: Eileen S. Pensinger, M.Ed., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 17C–27, Rockville, Maryland 20857, Telephone: (301) 443–4823 and FAX (301) 443–4865.

This notice is being published less than 15 days prior to the meeting due to the urgent need to met timing limitations imposed by the review and funding cycle.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–21968 Filed 8–30–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Department of Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

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MEETING DATE AND TIME: Friday, September 14, 2001 Time 1:30 p.m. to 4 p.m.

ADDRESSES: The No. 9 Mine, Wash Shanty, Anthracite Coal Museum, Dock Street, Lansford, PA 18232.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988 and extended through Public Law 105–355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 10 E. Church Street, Room A–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: August 27, 2001.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 01–22000 Filed 8–30–01; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Request for Public Comments on Extension of Existing Information Collection Submitted to OMB for Review Under the Paperwork Reduction Act

A request extending the information collection described below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)). Copies of the proposed collection may be obtained by contacting the Bureau's clearance officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore comments on the proposal should be made within 30 days to assure maximum consideration. Comments and suggestions should be made directly to the Desk Officer for the Interior Department, Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; and to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureaus, including whether the information will have practical utility;

2. the accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:

3. the quality, utility, and clarity of the information to be collected; and

4. how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: User Survey for National Biological Information Infrastructure (NBII).

OMB Approval No: 1028–0069.

Summary: The collection of information referred herein applies to a voluntary survey that allows visitors to the NBII World-Wide Web site (*www.nbii.gov*) the opportunity to provide feedback on the utility and effectiveness of the NBII operation and contents in meeting their needs.

Estimated Completion Time: 3 minutes.

Estimated Annual Number of Respondents: 3000.

Frequency: Once.

Estimated Annual Burden Hours: 150 hours.

Affected Public: Public and private, individuals and institutions.

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313, or go to the Website *http://www.nbii.gov.*

Dated: August 17, 2001.

Gladys A. Cotter,

Acting Associate Director for Biology.

[FR Doc. 01–21995 Filed 8–30–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EQ–01–24 1A]

Information Collections Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On December 11, 2000, the BLM published a notice in the **Federal Register** (65 FR 77386) requesting comments on this proposed collection. The comment period ended on February 9, 2001. The BLM received no comments from the public in response to that notice. You may obtain copies of the proposed collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0009), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Land Use Application and Permit (43 CFR 2920).

OMB Approval Number: 1004–0009.

Bureau Form Number: 2920–1.

Abstract: The Bureau of Land Management uses the information to allow State and local governments and private citizens to use, occupy, or develop the public lands under certain conditions. BLM may authorize land uses for agriculture development, residential uses, recreation concessions and business, industrial and commercial uses.

Frequency: Once.

Description of Respondents: Individuals, State and local governments and private citizens.

Estimated Completion Time: Varies from 1 to 120 hours.

Annual Responses: 641.

Cost Recovery Fee Per Response: Could average 0 to $500 (depending on cost recovery fees for processing similar applications, applications that result in a rental that is greater than $250 annually, and the schedule at 43 CFR 2808.3–1.) There is no filing fee.

Annual Burden Hours: 3,140.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: August 23, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Office.

[FR Doc. 01–22031 Filed 8–30–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0074).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR), titled "Coal Washing and Transportation Allowances" (Forms MMS–4292 and MMS–4293). We are also soliciting comments from the public on this ICR.

DATES: Submit written comments on or before October 1, 2001.

ADDRESSES: Submit written comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0074), 725 17th Street, NW., Washington, DC 20503. Also, submit copies of your written comments to Carol Shelby, Regulatory Specialist, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, Colorado 80225. If you use an overnight courier service, MMS's courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also submit your comments at our email address mrm.comments@mms.gov. Include the title of the information collection and the OMB control number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151 or FAX (303) 231–3385.

FOR FURTHER INFORMATION CONTACT: Carol Shelby, Regulatory Specialist, telephone (303) 231–3151, FAX (303) 231–3385, email Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION:

Title: Coal Washing and Transportation Allowances.

OMB Control Number: 1010–0074.

Bureau Form Number: Forms MMS–4292 and MMS–4293.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS; for collecting royalties from lessees who produce minerals; and for distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions for the Secretary.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of coal from Indian lands, that company or individual agrees to pay the Indian tribe or allottee a share (royalty) of the value received from production from the leased lands. Royalty rates are specified in the lease instrument. To determine whether the amount of royalty tendered represents the proper royalty due, it is first necessary to establish the proper value of the coal that is being sold or otherwise disposed of in some other manner, as well as the proper costs associated with allowable deductions.

The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data that is reported to private and public mineral interest owners and are generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties that are computed and paid are appropriate.

The product valuation and allowance determination process is essential to assure that Indians receive payment on the proper value of the minerals removed from tribal and allottee land. To determine whether the amount of royalty tendered represents the proper royalty due, it is necessary to establish the proper value of the coal sold, or otherwise disposed of. Of equal importance is the proper determination of costs associated with the allowable deductions from the value of coal.

Under certain circumstances, a lessee may be authorized to deduct certain costs in the calculation of royalties due. An allowance may be granted from royalties to compensate the lessee for the reasonable actual cost of washing the royalty portion of the coal. Also, when the sales point is not in the immediate vicinity of a lease or mine area, an allowance may be granted to compensate the lessee for the reasonable actual cost of transporting the royalty portion of the coal to a sales point not on the lease or mine area. We have developed forms for industry use when reporting or applying for a coal washing or transportation allowance.

Submission of the information in this collection (Forms MMS–4292 and MMS–4293) is necessary when claiming a coal washing or transportation allowance on an Indian lease. MMS is requesting OMB approval for minor revisions necessary to make Forms MMS–4292 and MMS–4293 compatible with our reengineered financial and compliance systems. Proprietary information that is submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: Annually.

Estimated Number and Description of Respondents: 1 Indian lessee.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 4 hours. In estimating the burden, we assumed that respondents perform certain functions, such as records maintenance, in the normal course of their business activities. These functions are considered usual and customary and

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therefore are not listed in the following estimate even though records maintenance is an MMS regulatory requirement. The following chart lists the components of the burden estimate.

Citation	Reporting requirement	Burden hour per response	Annual number of responses	Annual burden hour
§ 206.458 (a)(1), (b)(1), (c)(1)(i) & (iii), (c)(2)(i) & (iii).	Arm's-length contracts. However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4292, Coal Washing Allowance Report * * * Non-arm's-length or no contract. However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4292 * * * Arm's-length contracts. * * * the lessee shall submit page one of the initial Form MMS–4292 prior to, or at the same time, as the washing allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Report of Sales and Royalty Remittance * * * After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4292 * * * Non-arm's-length or no contract. * * * the lessee shall submit an initial Form MMS–4292 prior to, or at the same time as, the washing allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance * * * For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4292 containing the actual costs for the previous reporting period. If coal washing is continuing, the lessee shall include on Form MMS–4292 its estimated costs for the next calendar year.	2	1	2
§ 206.461 (a)(1), (b)(1), (c)(1)(i) & (iii), (c)(2)(i) & (iii).	Arm's-Sales contracts. However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4293, Coal Transportation Allowance Report * * * Non-arm's-length or no contract. However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4293 * * * Arm's-length contracts. * * * the lessee shall submit page one of the initial Form MMS–4293 prior to, or at the same time as, the transportation allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Reports of Sales and Royalty Remittance * * * After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4293 * * * Non-arm's-length or no contract. * * * the lessee shall submit an initial Form MMS–4293 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance * * * For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4293 containing the actual costs for the previous reporting period.	2	1	2
Total		4	2	4

Estimated Annual Reporting and Recordkeeping "Non-hour Cost" Burden: We have identified no "non-hour cost" burden.

Comments: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Before submitting an ICR to OMB, PRA section 3506(c)(2)(A), requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with public consultation requirements, on November 9, 2000, we published a **Federal Register** notice (65 FR 67399) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We did not receive any comments. We have posted a copy of the ICR at our Internet web site *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm*. We will also provide a copy of the ICR to you without charge upon request.

If you wish to comment in response to this notice, send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive your comments by October 1, 2001. The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public Comment Policy: We will post all comments received in response to this notice on our Internet web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm* for public review. We also make copies of these comments, including names and home addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado.

Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, telephone (202) 208–7744.

Dated: August 9, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–22076 Filed 8–30–01; 8:45 am]

BILLING CODE 4310–MR–W

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: Minerals Management Service (MMS), in accordance with Federal Regulations that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by MMS for proposed oil and gas activities on the Gulf of Mexico OCS during the period 4/24/01 to 7/13/01.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at the number below. Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF.

SUPPLEMENTARY INFORMATION: MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

This table lists all proposals for which the Gulf of Mexico OCS Region prepared a FONSI during the period 04/24/01 to 07/13/01.

Activity/operator	Location	Date
Chevron U.S.A., Inc., Development Activity/Pipline Activity, SEA Nos. S–5552, P–13269 and P–13270.	Voisca Knoll Area; Blocks 206, 207, and 251; Leases OCS–G 10926, 13980 and 10930; 30.3 miles off the coast of Alabama.	05/24/01
Chevron U.S.A. Production Co. Development Activity/Pipeline Activity, SEA Nos. N–6899 and P–13170 through P–13177.	Green Canyon Area; Blocks 236 and 237; Leases OCS–G 15562 and 15563; 91 miles south of Terrebonne Parish, Louisiana.	05/02/01
Kerr-McGee Oil and Gas Corp., Development Activity, SEA NO. N–07045.	East Breaks Area, Blocks 602 and 646, 117.5 miles off the coast of Texas.	07/13/01
Gulfstream Natural Gas System, L.L.C., Pipeline Activity, SEA No. P–12373 (G–21459).	Right of Way, OCS–G 21459, From the coastline of Coden, Alabama to the coastline of Port Manatee, Florida, Incorporate Route modifications in Florida middle ground and St. Petersburg areas.	06/01/01
Shell Offshore, Inc., Structure Removal Activity, SEA No. ES/SR 01–008A.	Brazos Area, Block A–19, Lease OCS–G 03936, 36 miles southeast of Matagorda County, Texas and 91 miles southwest of Galveston.	06/05/01
Chevron U.S.A. Inc., Structure Removal Activity, SEA No. ES/SR 01–019A.	South Timbalier Area, Block 69, Lease OCS–G 16422, 27 miles southwest of Fourchon, Louisiana and 18 miles south of Terrebonne Parish, Louisiana.	06/29/01
Ocean Energy, Inc., Structure Removal Activity, SEA No. ES/SR 01–124A.	Mustang Island Area; Block 828; Lease OCS–G 06004; 29 miles east of Nueces County, Texas, 134 miles southeast of Freeport, Texas.	06/27/01
BP America, Inc., Structure Removal Activity, SEA No. ES/SR 01–024.	Mustang Island Area; Block 788; Lease OCS–G 15704; 26 miles southeast of Harbor Island, Texas and 24 miles southeast of Nueces County, Texas.	04/24/01
Dominion Exploration and Production, Structure Removal Activity, SEA No. ES/SR 01–025.	High Island Area (South Addition), Block A570, Lease OCS–G 02390, 175 miles southwest of Intracoastal City, Louisiana and 100 southeast of Galveston County, Texas.	04/24/01
Murphy Exploration and Production Company, Structure Removal Activity, SEA No. ES/SR 01–026.	Ship Shoal Area, Block 134, Lease OCS–G 05201, 40 miles southwest of Cocodrie, Louisiana and 21 miles south-southwest of Terrebonne Parish, Louisiana.	04/25/01
Coastal Oil & Gas Corporation Structure Removal Activity, SEA No. ES/SR 01–027.	Viosca Knoll Area, Block 123, Lease OCS–G 14591, 23 miles south of Baldwin County, Alabama.	04/27/01
Samedan Oil Corporation, Structure Removal Activity, SEA No. ES/SR 01–028.	Eugene Island Area, Block 208, Lease OCS–G 00576, 86 miles southeast of Intracoastal City, Louisiana and 41 miles south-southwest of Terrebonne Parish, Louisiana.	05/03/01
Devon Energy Production Company, L.P., Structure Removal Activity, SEA Nos. ES/SR 01–029, 01–030, 01–031, 01–032 and 01–033.	High Island Area, East and South Addition, Block A325; East Cameron Area, Block 215; West Cameron (South Addition) Area, Block 553; South Marsh Island Area, Blocks 48 and 23; Leases OCS–G 02416, 12839, 04410, 00786 and 00778; 42 to 145 miles off Louisiana coast and 105 miles off Texas coast.	05/23/01

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Activity/operator	Location	Date
Blue Dolphin Exploration Company, Structure Removal Activity, SEA Nos. ES/SR 01–034, 01–035, 01–036 and 01–037.	Galveston Area; Blocks 296 and 288; Leases OCS–G 00714; 34 to 35 miles east-southeast of Surfside, Texas and 26 to 27 miles southeast of Galveston County, Texas.	05/23/01
Devon Energy Production Company, L.P., Structure Removal Activity, SEA No. ES/SR 01–039.	South Marsh Island Area, Block 23, Lease OCS–G 778, 64 miles south-southeast of Intracoastal City, Louisiana and 42 miles south-southwest of Iberia Parish, Louisiana.	05/23/01
Pioneer Natural Resources USA, Inc, Structure Removal Activity, SEA Nos. ES/SR 01–040 and 01–041.	South Marsh Island (South Addition) Area, Block 155, Lease OCS–G 04110, 89 miles south of Iberia Parish, Louisiana and 110 miles south-southeast of Intracoastal City, Louisiana.	06/01/01
Samedan Oil Corporation, Structure Removal Activity, SEA Nos. ES/SR 01–042, 01–043, 01–044 and 01–045.	South Timbalier Area, Block 192; Main Pass Area, Block 95 and 89; OCSG 04463, 05242 and 06804; 38 miles south of Terrebonne Parish, Louisiana and 45 miles south of Jackson County, Mississippi.	05/25/01
Walter Oil & Gas Corporation, Structure Removal Activity, SEA Nos. ES/SR 01–046 and 01–047.	Ship Shoal Area, Block 160; Eugene Island Area, Block 78; Leases OCS–G 5547 and 11940; 52 to 76 miles off southwest and west of Fourchon, Louisiana and 14 to 25 miles south and southwest of Terrebonne Parish.	05/23/01
RME Petroleum Company, Structure Removal Activity, SEA Nos. ES/SR 01–048 and 01–049.	Eugene Island Area, Block 70; Ship Shoal Area, Block 204; Leases OCS–G 10719 and 01520; 22 to 81 miles off the Louisiana coast.	06/01/01
RME Petroleum Company, Structure Removal Activity, SEA No. ES/SR 01–050.	Eugene Island Area, Block 118, Lease OCS–G 15242, 23 miles southeast of Terrebonne Parish, Louisiana and 53 miles southeast of Morgan City, Louisiana.	06/01/01
Amerada Hess Corporation, Structure Removal Activity, SEA No. 01–051.	South Timbalier (South Addition) Area, Block 225, Lease OCS–G 05224, 46 miles south of LaFourche Parish, Louisiana and 206 miles southeast of Cameron, Louisiana.	06/11/01
Exxon Mobil Production, Structure Removal Activity, SEA Nos. ES/SR 01–052 and 01–053.	Ship Shoal Area, Block 86; West Delta Area, Block 31; Leases OCS–G 03580 and 00016; 7 to 68 miles off the Louisiana coast.	06/11/01
Tri-Union Development Corporation, Structure Removal Activity, SEA No. ES/SR 01–054.	Brazos Area, Block 476, Lease OCS–G 112374, 12 miles southeast of Matagorda County, Texas and 86 miles southwest of Galveston, Texas.	06/11/01
Shell Exploration & Production Company, Structure Removal Activity, SEA Nos. ES/SR 01–055 and 01–056.	High Island Area, Block A6, Sabine Pass Area, Block 40; Leases OCS–G 04734 and 04745; 13 to 34 miles south and south-southeast of Jefferson County, Texas and 35 to 63 miles southwest of Cameron, Louisiana.	07/12/01
Westport Resources Corporation, Structure Removal Activity, SEA Nos. ES/SR 01–057.	West Cameron Area, Block 181, Lease OCS–G 01971, 28 miles south-southwest of Cameron Parish, Louisiana and 30 miles south-southeast of Cameron, Louisiana.	06/27/01
NCX Company, Inc. Structure Removal Activity, SEA No. ES/SR 01–058.	East Cameron Area, Block 213, Lease OCS–G 04781, 82 miles southeast of Cameron, Louisiana and 62 miles south of Cameron Parish, Louisiana.	06/27/01

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact MMS at the address or telephone in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: July 27, 2001.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 01–21972 Filed 8–30–01; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–404 (Final) and 731–TA–898 and 905 (Final)]

Hot Rolled Steel Products From Argentina and South Africa

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Argentina of hot rolled steel products, provided for in subheadings 7208.10.15, 7208.10.30. 7208.10.60, 7208.25.30, 7208.25.60, 7208.26.00, 7208.27.00, 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7208.90.00, 7211. 14.00, 7211.19.15, 7211.19.20, 7211.19.30, 7211.19.45, 7211.19.60, and 7211.19.75,[2] of the Harmonized Tariff Schedule of the United States (HTS), that have been found by the Department of Commerce to be subsidized by the Government of Argentina and sold in the United States at less than fair value (LTFV).

The Commission also determines, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from South Africa of hot rolled steel products, provided for in the HTS subheadings listed above, that have been found by the Department of Commerce to be sold in the United States at LTFV.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Certain hot-rolled flat-rolled carbon-quality steel covered by these investigations, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel, may also enter under the following tariff numbers: 7225.11.00, 7225.19.00, 7225.30.30, 7225.30.70, 7225.40.70, 7225.99.00, 7226.11.10, 7226.11.90, 7226.19.10, 7226.19.90, 7226.91.50, 7226.91.70, 7226.91.80, and 7226.99.00. Subject merchandise may also enter under 7210.70.30, 7210.90.90, 7211.14.00, 7212.40.10, 7212.40.50, and 7212.50.00.

Background

The Commission instituted these investigations effective November 13, 2000, following receipt of a petition filed with the Commission and Commerce on behalf of Bethlehem Steel Corp.; Gallatin Steel Co.; IPSCO Steel, Inc.; LTV Steel Co., Inc., National Steel Corp.; Nucor Corp.; Steel Dynamics, Inc.; U.S. Steel Group of USX Corp.; Weirton Steel Corp; and the labor union representing the organized workers at Weirton Steel Corp. known as the Independent Steelworkers Union. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of hot rolled steel products from Argentina were being subsidized and sold at LTFV within the meaning of sections 703(b) and 733(b) of the Act (19 U.S.C. 1671b(b) and 1673b(b)) and that imports of hot rolled steel products from South Africa were being sold at LTFV within the meaning of section 733(b) of the Act. Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 10, 2001 (66 FR 23950). The hearing was held in Washington, DC, on July 17, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on August 27, 2001. The views of the Commission are contained in USITC Publication 3446 (August 2001), entitled Hot Rolled steel Products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine: Investigations Nos. 701–TA–404–408 (Final) and 731–TA–898–908 (Final).

By order of the Commission.

Issued: August 28, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22030 Filed 8–30–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2162–01; AG Order No. 2504–2001]

RIN 1115–AE26

Extension of the Designation of Burundi Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The designation of Burundi under the Temporary Protected Status (TPS) program will expire on November 2, 2001. This notice extends the Attorney General's designation of Burundi under the TPS program for 12 months until November 2, 2002, and sets forth procedures necessary for nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) with TPS to re-register for the additional 12-month period. Eligible nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) may re-register for TPS and an extension of employment authorization. Re-registration is limited to persons who (1) registered during the initial registration period, which ended on November 3, 1998, registered during the re-designation registration period, which ended on November 2, 2000, or registered after that date under the late initial registration provisions; and (2) timely re-registered under each of any subsequent extensions. Nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

EFFECTIVE DATES: The extension of the TPS designation for Burundi is effective November 2, 2001, and will remain in effect until November 2, 2002. The 90-day re-registration period begins August 31, 2001, and will remain in effect until November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Rebecca K. Peters, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Attorney General Have To Extend the Designation of Burundi Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that, at least 60 days before the end of a designation or extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine that the foreign state no longer meets the conditions for designation, the period of designation is extended automatically for 6 months pursuant to section 244(b)(3)(C) of the Act, although the Attorney General may exercise his discretion to extend the designation for a period of 12 or 18 months. 8 U.S.C. 1254a(b)(3)(C). With respect to Burundi, such an extension makes TPS available only to persons who have been continuously physically present since November 9, 1999, and have continuously resided in the United States since November 9, 1999.

Why Did the Attorney General Decide To Extend the TPS Designation for Burundi?

On November 4, 1997, the Attorney General designated Burundi under the TPS program for a period of 12 months. 62 FR 59735. The Attorney General has since extended the TPS designation two times and redesignated Burundi once after determining that the conditions warranting such designation continued to be met each time. *See* 65 FR 67404 (Nov. 9, 2000) (extension); 64 FR 61123 (Nov. 9, 1999) (extension and redesignation); 63 FR 59334 (Nov. 3, 1998) (extension).

Since the date of the last extension, the Departments of Justice and State have continued to review conditions in Burundi. The review has resulted in a consensus that a further 12-month extension is warranted. The State Department reports that the armed conflict within Burundi persists: "While negotiations yielded a framework for a peace in August 2000, no cease-fire is in effect and there are currently no negotiations between the government and rebel leaders. Ethnic violence and divisions over the distribution of power continue." Recommendation for Extension of Temporary Protected Status, INS/DOS Consultation for Burundi (July 12, 2001). Recent failed coup attempts by Tutsi military officers underscore the tenuousness of the situation. *Id.* The State Department also reports that one effect of the peace process in the Democratic Republic of

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the Congo (DRC) has been to push rebel groups from the DRC into Burundi, further destabilizing the latter. *Id.* Unpredictable rebel attacks and government counter-attacks are prevalent, and serious human rights abuses continue to be committed by both sides. *Id.* The State Department concludes that "Burundi is insecure throughout, and the prospects for a cease-fire in the near future are uncertain." *Id.*

Based on this review, the Attorney General finds that the conditions that prompted designation of Burundi under the TPS program continue to be met. 8 U.S.C. 1254a(b)(3)(A). The Attorney General concludes that the TPS designation for Burundi should be extended for a period of 12 months. 8 U.S.C. 1254a(b)(3)(C). There is an ongoing armed conflict within Burundi, and due to such conflict, requiring the return of aliens who are nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) would pose a serious threat to their personal safety. 8 U.S.C.1254a(b)(1)(A). Furthermore, there exist extraordinary and temporary conditions in Burundi that prevent nationals of Burundi (and aliens having no nationality who last habitually resided in Burundi) from returning home in safety. 8 U.S.C. 1254a(b)(1)(C). Finally, permitting nationals of Burundi to remain temporarily in the United States is not contrary to the national interest of the United States. 8 U.S.C. 1254a(b)(1). On the basis of these findings, the Attorney General concludes that the TPS designation for Burundi should be extended for an additional 12-month period. 8 U.S.C 1254a(b)(3)(C).

If I Currently Have TPS, How Do I Re-Register for an Extension?

If you have already been granted TPS through the Burundi TPS program, your TPS will expire on November 2, 2001. Persons previously granted TPS under the Burundi program may apply for an extension by filing (1) the Form I–821, Application for Temporary Protected Status, without the fee, (2) the Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches × 1½ inches). To determine whether you must submit the one hundred dollar ($100) filing fee with the Form I–765, see the chart below. Children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted must pay the twenty-five dollar ($25) fingerprint fee upon their next application for extension.

Submit the re-registration package to the Immigration and Naturalization Service (Service) district office that has jurisdiction over your place of residence during the 90-day re-registration period that begins August 31, 2001, and will remain in effect until November 29, 2001.

If	Then
You are applying for employment authorization through November 2, 2002.	You must complete and file: (1) Form I–765, Application for Employment Authorization, with the $100 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–765, with no filing fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, and (2) Form I–765, with no fee.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not necessarily affect disposition of a separate TPS application, though grounds for denying one form of relief may serve as the basis for denying TPS as well. For example, a person who has been convicted of a particularly serious crime is ineligible for both asylum and TPS. 8 U.S.C. 1158(b)(2); 8 U.S.C. 1254a(c)(2)(B).

Does This Extension Allow Nationals of Burundi (or Aliens Having No Nationality Who Last Habitually Resided in Burundi) Who Entered the United States After November 9, 1999, To File for TPS?

No. This is a notice of an extension of the TPS designation for Burundi, not a notice of redesignation of Burundi under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States and, thus, does not expand TPS availability to include nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who have not been continuously physically present in, and have not continuously resided in, the United States since November 9, 1999.

Is Late Initial Registration Possible?

Yes. Some persons may be eligible for late initial registration under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of Burundi (or an alien who has no nationality and who last habitually resided in Burundi);

(2) Have been continuously physically present in the United States since November 9, 1999;

(3) Have continuously resided in the United States since November 9, 1999; and,

(4) Be both admissible as an immigrant, except as otherwise provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that, during the redesignation registration period from November 9, 1999 through November 2, 2000, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant. 8 CFR 244.2(f)(2).

An applicant for late initial registration must register no later than 60 days from the expiration or termination of the conditions described above. 8 CFR 244.2(g).

Notice of Extension of Designation of Burundi Under the TPS Program

By the authority vested in me as Attorney General under sections 244(b)(1), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of Burundi for TPS continue to be met. 8 U.S.C. 1254a(b)(3)(A). Accordingly, I order as follows:

(1) The designation of Burundi under section 244(b) of the Act is extended for an additional 12-month period from November 2, 2001 to November 2, 2002. 8 U.S.C. 1254a(b)(3)(C).

(2) I estimate that there are approximately 1,000 nationals of Burundi (or aliens who have no nationality and who last habitually resided in Burundi) who have been granted TPS and who are eligible for re-registration.

(3) In order to be eligible for TPS during the period from November 2, 2001 through November 2, 2002, a national of Burundi (or an alien who has no nationality and who last habitually resided in Burundi) who has already received a grant of TPS under the Burundi TPS designation must re-register for TPS by filing (1) The new Form I–821, Application for Temporary Protected Status, (2) the Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches × 1½ inches) within the 90-day period beginning on August 31, 2001 and ending on November 29, 2001. There is no fee for a Form I–821 filed as part of the re-registration application. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file the Form I–765 along with the Form I–821, but is not required to submit the fee. The twenty-five dollar ($25) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS. 8 CFR 244.17(c). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2(f)(2).

(4) At least 60 days before this extension terminates on November 2, 2002, the Attorney General will review the designation of Burundi under the TPS program and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. 8 U.S.C. 1254a(b)(3)(A).

(5) Information concerning the Burundi TPS program will be available at local Service offices upon publication of this notice and on the Service website at *http://www.ins.usdoj.gov*.

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–22131 Filed 8–29–01; 2:56 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2164–01; AG Order No. 2505–2001]

RIN 1115–AE26

Extension of the Designation of Sierra Leone Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The designation of Sierra Leone under the Temporary Protected Status (TPS) program will expire on November 2, 2001. This notice extends the Attorney General's designation of Sierra Leone under the TPS program for 12 months until November 2, 2002, and sets forth procedures necessary for nationals of Sierra Leone (or aliens having no nationality who last habitually resided in Sierra Leone) with TPS to re-register for the additional 12-month period. Eligible nationals of Sierra Leone (or aliens having no nationality who last habitually resided in Sierra Leone) may re-register for TPS and an extension of employment authorization. Re-registration is limited to persons who (1) registered during the initial registration period, which ended on November 3, 1998, registered during the re-designation registration period, which ended on November 2, 2000, or registered after that date under the late initial registration provisions; and (2) timely re-registered under each of any subsequent extensions. Nationals of Sierra Leone (or aliens having no nationality who last habitually resided in Sierra Leone) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

EFFECTIVE DATES: The extension of the TPS designation for Sierra Leone is effective November 2, 2001, and will remain in effect until November 2, 2002. The 90-day re-registration period begins August 31, 2001, and will remain in effect until November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Rebecca K. Peters, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Attorney General Have To Extend the Designation of Sierra Leone Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that, at least 60 days before the end of a designation or extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine that the foreign state no longer meets the conditions for designation, the period of designation is extended automatically for 6 months pursuant to section 244(b)(3)(C) of the Act, although the Attorney General may exercise his discretion to extend the designation for a period of 12 or 18 months. 8 U.S.C. 1254a(b)(3)(C). With respect to Sierra Leone, such an extension makes TPS available only to persons who have been continuously physically present since November 9, 1999, and have continuously resided in the United States since November 9, 1999.

Why Did the Attorney General Decide To Extend the TPS Designation for Sierra Leone?

On November 4, 1997, the Attorney General designated Sierra Leone under the TPS program for a period of 12 months. 62 FR 59736. The Attorney General has since extended the TPS designation two times and redesignated Sierra Leone once after determining that the conditions warranting such designation continued to be met each time. See 65 FR 67405 (Nov. 9, 2000) (extension); 64 FR 61125 (Nov. 9, 1999) (extension and redesignation); 63 FR 59336 (Nov. 3, 1998) (extension).

Since the date of the last extension, the Departments of Justice and State have continued to review conditions in Sierra Leone. The review has resulted in a consensus that a further 12-month extension is warranted. The State Department reports that the armed conflict within Sierra Leone persists: "Though characterized by a tenuous ceasefire, and with many combatants entering a disarmament and demobilization program, conflicts and battles between competing elements and factions continue to occur, often causing casualties and deaths among the civilian population." Recommendation for Extension of Temporary Protected Status, INS/DOS Consultation for Sierra Leone (July 12, 2001). The United Nations (UN) peacekeeping operation, United Nations Mission in Sierra Leone, is gradually extending its deployment, but many areas of the country are

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without effective civil control. *Id.* The State Department also referred to a May 23, 2001 statement by UN Secretary General Kofi Annan, in which he cautioned that conditions for promoting return of refugees from neighboring countries did not exist since portions of Sierra Leone remain in the hands of the Revolutionary United Front and beyond the reach of humanitarian aid organizations. *Id.*

Based on this review, the Attorney General finds that the conditions that prompted designation of Sierra Leone under the TPS program continue to be met. 8 U.S.C.1254a(b)(3)(A). The Attorney General concludes that the TPS designation for Sierra Leone should be extended for a period of 12 months. 8 U.S.C. 1254a(b)(3)(C). There is an ongoing armed conflict within Sierra Leone and, due to such conflict, requiring the return of aliens who are nationals of Sierra Leone (or aliens having no nationality who last habitually resided in Sierra Leone) would pose a serious threat to their personal safety. 8 U.S.C. 1254a(b)(1)(A). Furthermore, there exist extraordinary and temporary conditions in Sierra Leone that prevent nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) from returning home in safety. 8 U.S.C. 1254a(b)(1)(C). Finally, permitting nationals of Sierra Leone to remain temporarily in the United States is not contrary to the national interest of the United States. 8 U.S.C. 1254a(b)(1). On the basis of these findings, the Attorney General concludes that the TPS designation for Sierra Leone should be extended for an additional 12-month period. 8 U.S.C. 1254a(b)(3)(C).

If I Currently Have TPS, How Do I Re-Register for an Extension?

If you have already been granted TPS through the Sierra Leone TPS program, your TPS will expire on November 2, 2001. Persons previously granted TPS under the Sierra Leone program may apply for an extension by filing (1) the Form I–821, Application for Temporary Protected Status, without the fee, (2) the Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches x 1½ inches). To determine whether you must submit the one hundred dollar ($100) filing fee with the Form I–765, see the chart below. Children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted must pay the twenty-five dollar ($25) fingerprint fee upon their next application for extension.

Submit the re-registration package to the Immigration and Naturalization Service (Service) district office that has jurisdiction over your place of residence during the 90-day re-registration period that begins August 31, 2001, and will remain in effect until November 29, 2001.

If	Then
You are applying for employment authorization through November 2, 2002.	You must complete and file: (1) Form I–765, Application for Employment Authorization, with the $100 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–765, with no filing fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, and (2) Form I–765, with no fee.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not necessarily affect disposition of a separate TPS application, though grounds for denying one form of relief may serve as the basis for denying TPS as well. For example, a person who has been convicted of a particularly serious crime is ineligible for both asylum and TPS. 8 U.S.C. 1158(b)(2); 8 U.S.C.1254a(c)(2)(B).

Does This Extension Allow Nationals of Sierra Leone (or Aliens Having No Nationality Who Last Habitually Resided in Sierra Leone) Who Entered the United States After November 9, 1999, To File for TPS?

No. This is a notice of an extension of the TPS designation for Sierra Leone, not a notice of redesignation of Sierra Leone under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States and, thus, does not expand TPS availability to include nationals of Sierra Leone (or aliens having no nationality who last habitually resided in Sierra Leone) who have not been continuously physically present in, and have not continuously resided in, the United States since November 9, 1999.

Is Late Initial Registration Possible?

Yes. Some persons may be eligible for late initial registration under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of Sierra Leone (or an alien who has no nationality and who last habitually resided in Sierra Leone);

(2) Have been continuously physically present in the United States since November 9, 1999;

(3) Have continuously resided in the United States since November 9, 1999; and,

(4) Be both admissible as an immigrant, except as otherwise provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that, during the redesignation registration period from November 9, 1999 through November 2, 2000, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant. 8 CFR 244.2(f)(2).

An applicant for late initial registration must register no later than 60 days from the expiration or termination of the conditions described above. 8 CFR 244.2(g).

Notice of Extension of Designation of Sierra Leone Under the TPS Program

By the authority vested in me as Attorney General under sections 244(b)(1), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of Sierra Leone for TPS continue to be met. 8 U.S.C.1254a(b)(3)(A). Accordingly, I order as follows:

(1) The designation of Sierra Leone under section 244(b) of the Act is extended for an additional 12-month period from November 2, 2001 through November 2, 2002. 8 U.S.C. 1254a(b)(3)(C).

(2) I estimate that there are approximately 6,102 nationals of Sierra Leone (or aliens who have no nationality and who last habitually resided in Sierra Leone) who have been granted TPS and who are eligible for re-registration.

(3) In order to be eligible for TPS during the period from November 2, 2001 through November 2, 2002, a national of Sierra Leone (or an alien who has no nationality and who last habitually resided in Sierra Leone) who has already received a grant of TPS under the Sierra Leone TPS designation must re-register for TPS by filing (1) the new Form I–821, Application for Temporary Protected Status, (2) the Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches × 1½ inches), within the 90-day period beginning on August 31, 2001 and ending on November 29, 2001. There is no fee for a Form I–821 filed as part of the re-registration application. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file the Form I–765 along with the Form I–821, but is not required to submit the fee. The twenty-five dollar ($25) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS. 8 CFR 244.17(c). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2(f)(2).

(4) At least 60 days before this extension terminates on November 2, 2002, the Attorney General will review the designation of Sierra Leone under the TPS program and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register**. 8 U.S.C. 1254a(b)(3)(A).

(5) Information concerning the Sierra Leone TPS program will be available at local Service offices upon publication of this notice and on the Service website at *http://www.ins.usdoj.gov.*

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–22132 Filed 8–29–01; 2:56 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF JUSTICE

Immigratin and Naturalization Service

[INS No. 2163–0901; AG Order No. 2503–092001]

RIN 1115–09AE26

Extension of the Designation of Sudan Under the Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The designation of Sudan under the Temporary Protected Status (TPS) program will expire on November 2, 2001. This notice extends the Attorney General's designation of Sudan under the TPS program for 12 months until November 2, 2002, and sets forth procedures necessary for nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) with TPS to re-register for the additional 12-month period. Eligible nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) may re-register for TPS and an extension of employment authorization. Re-registration is limited to persons who (1) registered during the initial registration period, which ended on November 3, 1998, registered during the redesignation registration period, which ended on November 2, 2000, or registered after that date under the late initial registration provisions; and (2) timely re-registered under each of any subsequent extensions. Nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

EFFECTIVE DATES: The extension of the TPS designation for Sudan is effective November 2, 2001, and will remain in effect until November 2, 2002. The 90-day re-registration period begins August 31, 2001, and will remain in effect until November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Rebecca K. Peters, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–094754.

SUPPLEMENTARY INFORMATION:WHAT AUTHORITY DOES THE ATTORNEY GENERAL HAVE TO EXTEND THE DESIGNATION OF SUDAN UNDER THE TPS PROGRAM? Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that at least 60 days before the end of a designation or extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine that the foreign state no longer meets the conditions for designation, the period of designation is extended automatically for 6 months pursuant to section 244(b)(3)(C) of the Act, although the Attorney General may exercise his discretion to extend the designation for a period of 12 or 18 months. 8 U.S.C. 1254a(b)(3)(C). With respect to Sudan, such an extension makes TPS available only to persons who have been continuously physically present since November 9, 1999, and have continuously resided in the United States since November 9, 1999.

Why Did the Attorney General Decide To Extend the TPS Designation for Sudan?

On November 4, 1997, the Attorney General designated Sudan under the TPS program for a period of 12 months. 62 FR 59737. The Attorney General has since extended the TPS designation two times and redesignated Sudan once after determining that the conditions warranting such designation continued to be met each time. See 65 FR 67407 (Nov. 9, 2000) (extension); 64 FR 61128 (Nov. 9, 1999) (extension and redesignation), 63 FR 59337 (Nov. 3, 1998) (extension).

Since the date of the last extension, the Departments of Justice and State have continued to review conditions in Sudan. The review has resulted in a consensus that a further 12-month extension is warranted. The State Department reports that: "Civil war continues in Sudan and has reportedly worsened in the past year, with increased fighting and bombings * * *. The 1998 cease-fire is now long defunct, and the [Government of Sudan] has reportedly indiscriminately bombed overwhelmingly civilian populations on an almost weekly basis. There have been substantial human rights abuses by both Government and rebel forces." Recommendation for Temporary Protected Status, INS/DOS Consultation for Sudan (July 12, 2001). This has caused extensive displacement of populations. *Id.* The State Department indicates that: "Insecurity and forced population relocations have destroyed most of the indigenous trading and production systems. The risk of famine continues as fighting impedes relief efforts." *Id.*

Based on this review, the Attorney General finds that the conditions that prompted designation of Sudan under the TPS program continue to be met. 8 U.S.C. 1254a(b)(3)(A). There is an

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ongoing armed conflict within Sudan and, due to such conflict, requiring the return of aliens who are nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) would pose a serious threat to their personal safety. 8 U.S.C. 1254a(b)(3)(A). Furthermore, there exist extraordinary and temporary conditions in Sudan that prevent nationals of Sudan (and aliens having no nationality who last habitually resided in Sudan) from returning home in safety. 8 U.S.C. 1254a(b)(1)(C). Finally, permitting nationals of Sudan to remain temporarily in the United States is not contrary to the national interest or the United States. 8 U.S.C. 1254a(b)(1). On the basis of these findings, the Attorney General concludes that the TPS designation for Sudan should be extended for a period of 12 months.

If I Currently have TPS, How Do I Re-Register for an Extension?

If you have already been granted TPS through the Sudan TPS program, your TPS will expire on November 2, 2001. Persons previously granted TPS under the Sudan program may apply for an extension by filing (1) the Form I–821, Application for Temporary Protection Status, without the fee, (2) the Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches x 1½ inches). To determine whether you must submit the one hundred dollar ($100) filing fee with the Form I–765, see the chart below. Children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted must pay the twenty-five dollar ($25) fingerprint fee upon their next application for extension.

Submit the re-registration package to the Immigration and Naturalization Service (Service) district office that has jurisdiction over your place of residence during the 90-day re-registration period that begins August 31, 2001 and will remain in effect until November 29, 2001.

If	Then
You are applying for employment authorization through November 2, 2002.	You must complete and file: (1) Form I–765, Application for Employment Authorization, with the $100 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–765, with no filing fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, and (2) Form I–765, with no fee.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not necessarily affect disposition of a separate TPS application, though grounds for denying one form of relief may serve as the basis for denying TPS as well. For example, a person who has been convicted of a particularly serious crime is ineligible for both asylum and TPS. 8 U.S.C. 1158(b)(2); 8 U.S.C. 1254a(c)(2)(B).

Does This Extension Allow Nationals of Sudan (or Aliens Having no Nationality Who Last Habitually Resided in Sudan) Who Entered the United States After November 9, 1999, To File for TPS?

No. This is a notice of an extension of the TPS designation for Sudan, not a notice of redesignation of Sudan under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States and, thus, does not expand TPS availability to include nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who have not been continuously physically present in, and have not continuously resided in, the United States since November 9, 1999.

Is Late Registration Possible?

Yes. Some persons may be eligible for late initial registration under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

(1) Be a national of Sudan (or an alien who has no nationality and who last habitually resided in Sudan);

(2) Have been continuously physically present in the United States since November 9, 1999;

(3) Have continuously resided in the United States since November 9, 1999; and

(4) Be both admissible as an immigrant, except as otherwise provided under section 244(c)(2)(A) of the Act, and also not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that, during the redesignation registration period from November 9, 1999, through November 2, 2000, he or she:

(1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status; asylum, voluntary departure, or any relief from removal of status pending or subject to further review or appeal;

(3) Was a parolee or had a pending request for reparole; or

(4) Was the spouse or child of an alien currently eligible to be a TPS registrant. 8 CFR 244.2(f)(2).

An applicant for late initial registration must register no later than 60 days from the expiration or termination of the conditions described above. 8 CFR 244.2(g).

Notice of Extension of Designation of Sudan Under the TPS Program.

By the authority vested in me as Attorney General under sections 244(b)(1), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of Sudan for TPS continue to be met. 8 U.S.C. 1254a(b)(3)(A). Accordingly, I order as follows:

(1) The designation of Sudan under section 244(b) of the Act is extended for an additional 12-month period from November 2, 2001 through November 2, 2002. 8 U.S.C. 1254a(b)(3)(C).

(2) I estimate that there are approximately 1,903 nationals of Sudan (or aliens who have no nationality and who last habitually resided in Sudan) who have been granted TPS and who are eligible for re-registration.

(3) In order to be eligible for TPS during the period from November 2, 2001 to November 2, 2002, a national of Sudan (or an alien who has nationality and who last habitually resided in Sudan) who has already received a grant of TPS under the Sudan TPS designation must re-register for TPS by filing (1) the new Form I–821, Application for Temporary Protected Status, (2) the Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches x 1½ inches), within the 90-day period beginning on August 31, 2001 and ending on November 29, 2001. There is no fee for a Form I–821 filed as part of the re-registration application. If the applicant requests employment authorization, he or she must submit one hundred dollars ($100) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file the Form I–765 along with the Form I–821, but is not required to submit the fee. The twenty-five dollar ($25) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS. 8 CFR 244.17(c). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2(f)(2).

(4) At least 60 days before this extension terminates on November 2, 2002, the Attorney General will review the designation of Sudan under the TPS program and determine whether the conditions for designation continue to be met. 8 U.S.C. 1254a(b)(3)(A). Notice of that determination, including the basis for the determination, will be published in the **Federal Register** 8 U.S.C. 1254a(b)(3)(A).

(5) Information concerning the Sudan TPS program will be available at local Service offices upon publication of this notice and on the Service website at *http://www.ins.usdoj.gov.*

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–22130 Filed 8–29–01; 2:56 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division: Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. TN010046. See TN010005.

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State Dates of publication in the **Federal Register** are n parentheses following the decisions being modified.

Volume I

New Jersey
NJ010001 (Mar. 2, 2001)

Volume II

None

Volume III

Tennessee
TN010005 (Mar. 2, 2001)
TN010013 (Mar. 2, 2001)
TN010023 (Mar. 2, 2001)
TN010032 (Mar. 2, 2001)
TN010050 (Mar. 2, 2001)
TN010055 (Mar. 2, 2001)
TN010058 (Mar. 2, 2001)

Volume IV

None

Volume V

Iowa
IA010004 (Mar. 2, 2001)

Volume IV

Idaho
D010001 (Mar. 2, 2001)
D010002 (Mar. 2, 2001)
Montana
MT010005 (Mar. 2, 2001)
MT010006 (Mar. 2, 2001)
MT010007 (Mar. 2, 2001)
MT010008 (Mar. 2, 2001)
MT010033 (Mar. 2, 2001)
MT010035 (Mar. 2, 2001)
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WA010003 (Mar. 2, 2001)
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Volume VII

California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010004 (Mar. 2, 2001)
CA010009 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010029 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
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CA010036 (Mar. 2, 2001)
CA010037 (Mar. 2, 2001)
CA010038 (Mar. 2, 2001)
CA010039 (Mar. 2, 2001)
CA010040 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and Related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arrang[illegible] by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, This 23rd day of August 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–21781 Filed 8–30–01; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before October 1, 2001 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on June 8, 2001 (66 FR 30954 and 30955). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

OMB number: 3095–0035.
Agency form number: None.
Type of review: Regular.
Affected public: Business or other for-profit, not-for-profit institutions, Federal government.
Estimated number of respondents: 5.
Estimated time per response: 3 hours.
Frequency of response: On occasion.
Estimated total annual burden hours: 15 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.71(e). Respondents are organizations that want to make paper-to-paper copies of archival holdings with their personal copiers. NARA uses the information to determine whether the request meets the criteria in 36 CFR 1254.71(e) and to schedule the limited space available.

Dated: August 27, 2001.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 01–21971 Filed 8–30–01; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–003 and 50–247]

In the Matter of Consolidated Edison Company of New York, Inc. (Indian Point Nuclear Generating Unit Nos. 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I.

The Consolidated Edison Company of New York, Inc., (Con Edison) is the holder of Facility Operating License No. DPR–5, for the Indian Point Nuclear Generating Unit No. 1 (IP1), and Facility Operating License No. DPR–26, for the Indian Point Nuclear Generating Unit No. 2 (IP2). The licenses authorize Con Edison to possess and maintain IP1 and to possess, use, and operate IP2 at steady-state power levels not in excess of 3071.4 megawatts thermal. The IP1 and 2 facilities, which are owned by Con Edison, are located in Westchester County, New York.

II.

Under cover of a letter dated December 12, 2000, Con Edison, Entergy Nuclear Indian Point 2, LLC (Entergy Nuclear IP2) and Entergy Nuclear Operations, Inc., (ENO) submitted an application requesting approval of a transfer of the above licenses to Entergy Nuclear IP2, the proposed owner of IP1 and IP2, and to ENO, the proposed entity to maintain IP1 and operate IP2, and approval of conforming amendments to the licenses to reflect the transfer. The application was supplemented by letters dated April 12, 2001, from Con Edison and April 16, May 24, June 6, and June 8, 2001, from Entergy Nuclear IP2 and ENO. The application and supplements are collectively referred to herein as the application, unless otherwise noted.

According to the application, Entergy Nuclear IP2 would assume title to both facilities following approval of the proposed license transfers, and ENO would become responsible for the maintenance of IP1 and operation and maintenance of IP2.

Entergy Nuclear IP2, a Delaware limited liability company, is an indirect wholly owned subsidiary of Entergy Corporation, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3. ENO, a Delaware corporation, is an indirect wholly owned subsidiary of Entergy Corporation, and a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2.

The conforming amendments would remove the current licensee from the facility operating licenses and would add Entergy Nuclear IP2 and ENO in its place, as appropriate. In addition, other administrative changes to the licenses would be made to reflect the filing of the application and subject license transfers.

Approval of the transfer of the facility operating licenses and the conforming license amendments was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the request for approval and an opportunity to request a hearing or to submit written comments was published in the **Federal Register** on January 29, 2001 (66 FR 8122). Pursuant to the notice, the Commission received hearing requests dated February 20, 2001, from the Citizens Awareness Network, Inc., and jointly from the Town of Cortlandt Manor, New York, and the Hendrick Hudson School District. These requests are currently pending before the Commission. No written comments as alternatives to hearing requests were submitted.

Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the U.S. Nuclear Regulatory Commission (NRC) staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of the staff's action shall be promptly transmitted to the Presiding Officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. After reviewing the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Entergy Nuclear IP2 and ENO are qualified to be the holders of the licenses to the extent proposed in the application, and that the transfer of the licenses to Entergy Nuclear IP2 and ENO is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facilities will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by the staff's safety evaluation dated August 27, 2001.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, *It Is Hereby Ordered*, That the transfer of the licenses, as described herein and in the application, to Entergy Nuclear IP2 and ENO is approved, subject to the following conditions:

1. Before the completion of the transfer of the IP1 and IP2 licenses, Entergy Nuclear IP2 and ENO shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that they have obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

2. On the closing date of the transfer of the licenses, Con Edison shall transfer to Entergy Nuclear IP2 all of the accumulated decommissioning trust funds for IP1 and IP2 and such additional funds to be deposited in the decommissioning trusts for IP1 and IP2 such that the total amount transferred is no less than $430,000,000. Furthermore, Entergy Nuclear IP2 shall either (a) establish a provisional trust for decommissioning funding assurance for IP1 and IP2 in an amount no less than $25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than $25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP1 and IP2 by the combination of the decommissioning trusts and the provisional trust or surety bond at the time of transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75. The decommissioning trusts, provisional trust, and surety bond shall be subject to or be consistent with the following requirements, as applicable:

(a) Decommissioning Trusts

(i) The decommissioning trust agreement must be in a form acceptable to the NRC.

(ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.

(iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.

(iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days

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prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

(v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(b) Provisional Trust

(i) The provisional trust agreement must be in a form acceptable to the NRC.

(ii) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.

(iii) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

(iv) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

(v) The appropriate section of the provisional trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(vi) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP1 and IP2 as defined by the NRC in its regulations and issuances, and as provided in the IP1 and IP2 licenses and any amendments thereto.

(c) Surety Bond

(i) The surety bond agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.

(ii) The surety company providing any surety bond obtained to comply with this Order shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of *Circular 570* and shall have a coverage limit sufficient to cover the amount of the surety bond.

(iii) Entergy Nuclear IP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that Entergy Nuclear IP2 defaults on its funding obligations for the decommissioning of IP1 or IP2. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.

(iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

3. Entergy Nuclear IP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application and the requirements of this Order, and consistent with the safety evaluation supporting this Order.

4. Entergy Nuclear IP2 and ENO shall take no action to cause Entergy Global Investments, Inc., or Entergy International Ltd. LLC or their parent companies to void, cancel, or modify the $55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

5. After receipt of all required approvals of the transfer of IP1 and IP2, Con Edison shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by August 27, 2002, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

It Is Further Ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application submitted under cover letter dated December 12, 2000, and supplements dated April 12, 2001, submitted by Con Edison, and dated April 16, 2001, May 24, June 6, and June 8, 2001, submitted by Entergy Nuclear IP2 and ENO, and the safety evaluation dated August 27, 2001, which are available for public inspection at the NRC's Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and are accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 27th day of August 2001.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22026 Filed 8–30–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Exelon Generation Company, LLC (Exelon): Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR–44 and DPR–56 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering an application for the renewal of Operating License Nos. DPR–44 and DPR–56, which authorize Exelon Generation Company, LLC (Exelon) to operate Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, at 3458 megawatts thermal. The renewed licenses would authorize the applicant to operate PBAPS Units 2 and 3 for an additional 20 years beyond the period

specified in the current licenses. The current operating licenses for PBAPS Units 2 and 3 expire on August 8, 2013, and July 2, 2014, respectively.

Exelon submitted an application on July 2, 2001, to renew the operating licenses for PBAPS Units 2 and 3. A Notice of Receipt of Application, "Exelon Generation Company, LLC (Exelon), Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Receipt of Application for Renewal of Facility Operating License Nos. DPR–44, and DPR–56 for an Additional 20-Year Period," was published in the **Federal Register** on July 25, 2001 (66 FR 38753).

The Commission's staff has determined that Exelon has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket Nos. 50–277 and 50–278, for Operating License Nos. DPR–44 and DPR–56, respectively, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants" (May 1996). Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

By October 1, 2001, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licenses in accordance with the provisions of 10 CFR 2.714. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, 11555 Rockville Pike (first floor) Rockville, Maryland, and on the NRC Web site at *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed by the above date, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 54 and 51, renew the licenses without further notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 54 and 51. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the board up to 15 days before the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855–2738, by the above date. A copy of the request for a hearing and the petition to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. James A. Hutton, Director-Licensing, Exelon Corporation,

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200 Exelon Way, Kennett Square, PA 19348.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon of the NRC's Web page at *http://www.nrc.gov*.

A copy of the application to renew the operating licenses for PBAPS Units 2 and 3 is available for public inspection at the Commission's Public Document Room, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855–2738, and on the NRC's Web page at *http://www.nrc.gov*. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

The staff has also verified that copies of the license renewal application for the PBAPS, Units 2 and 3 are also available to local residents at the Harford County Public Library, in Whiteford, Maryland, and the Collinsville Community Library, in Brogue, Pennsylvania.

Dated at Rockville, Maryland, this the 24th day of August 2001.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Chief, License Renewal and Standardization Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21938 Filed 8–30–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 1, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to Renewed Facility Operating License No. DPR–51, issued to Entergy Operations, Inc. (the licensee), for operation of Arkansas Nuclear One, Unit 1, (ANO–1) located in Pope County, Arkansas.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would revise the existing, or current, Technical Specifications (CTS) for ANO–1 in their entirety, based on the guidance provided in NUREG–1430, "Standard Technical Specifications, Babcock and Wilcox Plants," and in the NRC's regulations, including 10 CFR 50.36, "Technical specifications."

The proposed amendment is in accordance with the licensee's application dated January 28, 2000, as supplemented by letters dated August 9 and September 28, 2000, and February 6, March 19, May 1, and August 23, 2001.

The Need for the Proposed Action

It has been recognized that nuclear safety in all nuclear power plants would benefit from an improvement and standardization of plant Technical Specifications (TS). The " Interim Policy Statement on Technical Specification Improvements for Nuclear Power Plants," (52 FR 3788) contained proposed criteria for defining the scope of TS. Later, the NRC's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132), incorporated lessons learned since publication of the interim policy statement and formed the basis for revisions to 10 CFR 50.36. In 1995, the NRC published a Final Rule amending 10 CFR 50.36 (60 FR 36953) in which the NRC codified criteria for determining the content of TS. To facilitate the development of standard TS for nuclear power reactors, each power reactor vendor owners' group (OG) and the NRC staff developed standard TS. For ANO–1, the Improved Standard Technical Specifications (ISTS) are in NUREG–1430. This document forms part of the basis for the proposed ANO–1 Improved Technical Specifications (ITS) conversion.

Description of the Proposed Change

The proposed changes to the CTS are based on NUREG–1430 and on guidance provided by the NRC in its Final Policy Statement and subsequent revision to 10 CFR 50.36. The objective of the changes is to completely rewrite, reformat, and streamline the CTS (i.e., to convert the CTS to the ITS). Emphasis is placed on human factors principles to improve clarity and understanding of the TS. The Bases section of the ITS has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1430, portions of the CTS were also used as the basis for the development of the ANO–1 ITS.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocation changes, more restrictive changes, and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation, and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering, and rewording process reflects the attributes of NUREG–1430 and does not involve technical changes to the existing TS. The proposed changes include: (a) providing the appropriate numbers, etc., for NUREG–1430 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant); (b) identifying plant-specific wording for system names, etc.; and (c) changing NUREG–1430 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocation changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in TS. Current TS requirements that do not satisfy or fall within any of the four criteria specified in the NRC's policy statement may be relocated to appropriate licensee-controlled documents. The requirements and surveillances for these affected structures, systems, components, or variables would be relocated from the TS to administratively controlled documents such as the quality assurance program, the Final Safety Analysis Report, the ITS BASES, the Technical Requirements Manual, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual (ODCM), the Inservice Testing Program, or other licensee-controlled documents. Changes made to these documents would be made pursuant to 10 CFR 50.59, "Changes, tests, and experiments," or other appropriate control mechanisms, and may, within the prescribed limits, be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are often addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes to the TS will not, in and of themselves, impose any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, or components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG–1430 that the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant "less restrictive" requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TS may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the OGs' comments on the ISTS. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1430, thus providing a basis for these revised TS, or, if relaxation of the requirements in the CTS is warranted, based on the justification provided by the licensee.

These administrative, relocation, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are different from the requirements in both the CTS and the ISTS (NUREG–1430). These proposed beyond-scope issues to the ITS conversion are as follows:

1. ITS Limiting Condition for Operation (LCO) 3.2.3, "Axial Power Imbalance Operating Limits"—Completion time for power reduction if axial power imbalance not restored to within limits changed to 4 hours from value in NUREG–1430 (2 hours).

2. ITS LCO 3.2.4, "Quadrant Power Tilt (QPT)"—Revised the completion time for several actions for circumstances where QPT exceeds limits specified in the COLR.

3. ITS LCO 3.4.8, "RCS [Reactor Coolant System] Loops, MODE 5, Loops Not Filled"—Added a required action to suspend operations involving reduction in RCS water volume if required decay heat removal (DHR) loops were not operable or required DHR loop not in operation.

4. ITS LCO 3.4.11, "Low Temperature Overpressure Protection (LTOP) System"—Adopted some of the NUREG–1430 required actions and surveillance requirements which are more restrictive than CTS but did not adopt all NUREG–1430 requirements.

5. ITS LCO 3.5.2, "ECCS [Emergency Core Cooling System]—Operating"—Added a shutdown requirement for a condition where less than 100 percent of the ECCS flow equivalent to a single operable train is available.

6. ITS LCO 3.7.1, "Main Steam Safety Valves (MSSVs)"—Reformatted to replace figure in NUREG–1430 with a table providing limitations for operation with more than one inoperable MSSV per steam generator.

7. ITS LCO 3.4.13, "RCS Operational LEAKAGE"—Modified surveillance requirement to specify that the surveillance is not required until after the plant is at or near operating pressure.

8. ITS Administrative Controls 5.5.1, "Offsite Dose Calculation Manual (ODCM)"—Reference reports by name only instead of NUREG–1430 convention of including report name and associated TS.

9. ITS Administrative Controls 5.2.2, "Unit Staff"—Reference to specific operator staffing requirements is replaced with a reference to the applicable regulation.

10. ITS LCO 3.6.3, "Reactor Building Isolation Valves"—Surveillance requirement in NUREG -1430 not adopted for reactor building purge valves since ANO–1 does not have resilient seated valves.

11. ITS LCO 3.6.4, "Reactor Building Pressure"—Lower limit on reactor building pressure increased to a more restrictive value to be consistent with ECCS analyses and Bases statements in NUREG–1430.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed conversion of the CTS to the ITS for ANO–1, including the beyond-scope issues discussed above. Changes which are administrative in nature have no effect on the technical content of the TS. The increased clarity and understanding these changes bring to the TS are expected to improve the operators control of ANO–1 in normal and accident conditions.

Relocation of requirements from the CTS to other licensee-controlled documents does not change the substance of these provisions requirements themselves. Future changes to these provisions may then be made by the licensee under 10 CFR 50.59 and other NRC-approved control mechanisms which will ensure continued adequate control of their substance. All such relocations would be consistent with the guidelines of NUREG–1430 and 10 CFR 50.36.

Changes involving more restrictive requirements enhance plant safety.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit, or to place an unnecessary burden on the licensee, their removal from the TS is justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic action, or of agreements reached during discussions with the OG, and found to be acceptable for the plant. Generic relaxations contained in NUREG–1430 have been reviewed by the NRC staff and found to be acceptable.

The proposed amendment will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. The changes will not create any new or unreviewed environmental impacts that were not considered in the Final Environmental Statement (FES) related to the operation of ANO–1,

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dated February 9, 1973, and the Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding the Arkansas Nuclear One, Unit 1 (NUREG 1437-Supplement 3) published in April 2001. Therefore, there are no significant radiological environmental impacts associated with the proposed amendment.

With regard to potential non-radiological impacts, the proposed amendment does not have a potential to affect any historic sites. It involves features located entirely within the restricted area for the plant defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. It does not increase any discharge limit for the plant. Therefore, there are no significant non-radiological environmental impacts associated with the proposed amendment.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed amendment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the licensee's application would result in no change in current environmental impacts of ANO–1 operations, but it would prevent the safety benefits to the plant from the conversion to the ITS. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources that those previously considered in the FES or Supplement 3 to NUREG–1437 for ANO–1.

Agencies and Persons Consulted

In accordance with its stated policy, on July 31, 2001, the staff consulted with the Arkansas State official, B. Bevill of the Arkansas Department of Health, regarding the environmental impact of the proposed amendment. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the NRC concludes that the proposed amendment will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated January 28, 2000, as supplemented by letters dated August 9 and September 28, 2000, and February 6, March 19, May 1, and August 23, 2001. Documents may be examined, and/or copied for a fee, at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, http://www.nrc.gov/NRC/ADAMS/index.html. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 27th day of August, 2001.

Dated at Rockville, Maryland, this 27th day of August 2001.

For the Nuclear Regulatory Commission.

Robert A. Gramm,

Chief, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22027 Filed 8–30–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27434]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 27, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 21, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declaration(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order is issued in the matter. After September 21, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Connecticut Light and Power Company (70–9905)

The Connecticut Light and Power Company ("CL&P"), a wholly owned electric utility subsidiary of Northeast Utilities ("NU"), a public utility holding company, and CL&P Receivables Corporation ("CRC"), a wholly-owned special purpose subsidiary of CL&P, both located at 107 Selden Street, Berlin, Connecticut 06037–5457, have filed a declaration under section 12(c) and rules 46 and 54 of the Act.

By order dated September 29, 1997 (HCAR No. 26761) ("1997 Order"), the Commission authorized CL&P to engage in five transactions in connection with its receivables program ("Program"). Under the 1997 Order, authority was granted for (i) CL&P to organize CRC, (ii) CRC to issue shares of common stock, (iii) CL&P to acquire shares of CRC common stock, (iv) CL&P to make, directly and indirectly, initial and general equity contributions to CRC, and (v) CRC to pay dividends to CL&P from time to time out of capital to achieve the optimum balance of capital to achieve economic efficiency. Transactions (i) through (iv) (with respect to initial equity contributions) have been undertaken and by their nature are permanent, while (v) by its nature is an ongoing process as the Program moves forward. The Program was scheduled to expire on July 11, 2001 and was suspended on that date. In order to extend the Program beyond July 11, 2001, CL&P is now seeking authority to continue the actions set forth in (v) above, and any other aspect of the proposed transactions for which approval may be necessary, through July 8, 2004, the proposed date of expiration of the extended Program.

The Programs consists of two agreements. As extended to July 8, 2004, the Program will continue in place with the same provisions set present. The principal features of the Program are as follows: under the first agreement, between CL&P and CRC ("Company Agreement"), CL&P sells or transfers as equity contributions from time to time all eligible categories of its billed and unbilled accounts received ("Receivables") and related assets ("Related Assets") to CRC. The purchase price paid by CRC for any Receivables and Related Assets takes into account historical loss statistics on CL&P's receivables pool and the purchaser's ("Purchaser") cost of funds. Under the second agreement ("CRC Agreement"), CRC sells fractional undivided interests ("Receivable Interests") in the Receivables to the Purchaser from time to time.

The availability of Receivables and Related Assets varies from time to time in accordance with electric energy use by CL&P's customers. As a result of this and certain other factors, the funds CRC has available to make a purchase at any time may not match the cost of Receivables and Related Assets available. The Program includes certain mechanisms to accommodate this mismatch. When the amount of Receivables and Related Assets originated by CL&P exceeds the amount of cash CRC has available, either CRC will make the purchase and owe the balance of the purchase price to CL&P on a deferred basis (the unpaid portion will accrue interest or the purchase price will involve a discount to reflect the deferral), or CL&P will make a capital contribution to CRC in the form of the Receivables and Related Assets for which CRC lacks purchase price funds at that time. Conversely, if CRC develops a substantial cash balance (due to collections of previously transferred Receivables exceeding the balance of newly created Receivable available for purchase), CRC will likely dividend the excess cash to CL&P. These dividends may represent a return of previous capital contributions of CL&P to CRC. Through these mechanisms, CRC does not itself retain substantial cash balances at any time and substantially all cash realized from the collection of the Receivables (net of the costs of the program and any reductions in the outstanding balance of Receivable Interests) is made available to CL&P.

CL&P and CRC will continue to be obligated to reimburse the Purchaser and its agent ("Agent") for various costs and expenses associated with the Company Agreement and the CRC Agreement upon extension of the Program. CRC will also continue to be required to pay to the Agent certain fees for services in connection with these agreements.

CL&P is working with the parties to the agreements to extend the Program through July 8, 2004. CRC may, following written notice to the Agent, terminate in whole or reduce in part the unused portion of its purchase limit in accordance with the terms and conditions of the CRC Agreement. The CRC Agreement allows the Purchaser to assign all of its rights and obligations under the CRC Agreement (including its Receivable Interests and the obligation to fund Receivable Interests) to other persons. However, any such assignments will not change the nature of the obligations of CL&P or CRC under the Company Agreement and the CRC Agreement.

As described in the declaration, CL&P intefids that the above-described transactions will continue to accelerate the receipt of cash collections from accounts receivable in order to meet its short term cash needs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22014 Filed 8–30–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25140; File No. 812–12470]

United of Omaha Life Insurance Company, et al

August 24, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from the provisions of Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order of exemption pursuant to Section 6(c) of the Act to the extent necessary to permit the recapture, under specified circumstances, of credits applied to purchase payments made under certain flexible premium variable annuity contracts that the Companies (defined below) will issue through the Accounts (the "Policies"), as well as other policies that the Companies may issue in the future through their existing or future separate accounts ("Other Accounts") that are substantially similar to the Policies in all material respects ("Future Policies"). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. ("NASD") member broker-dealer controlling or controlled, by or under common control or affiliated with MOIS (defined below), whether existing or created in the future, that serves as distributor or principal underwriter for the Policies or Future Policies ("Affiliated Broker-Dealers").

APPLICANTS: United of Omaha Life Insurance Company ("United"), Companion Life Insurance Company ("Companion," together with United, the "Companies"), United of Omaha Separate Account C, Companion Life Separate Account C (together with United of Omaha Separate Account C, the "Accounts"), and Mutual of Omaha Investor Services, Inc. ("MOIS").

FILING DATE: The application was filed on March 5, 2001 and amended and restated on April 27, 2001, August 20, 2001 and August 23, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on September 18, 2001, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, *in care of* Michael E. Huss, Esq., Senior Counsel, United of Omaha Life Insurance Company, Mutual of Omaha Plaza, Omaha, NE 68175.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or Keith E. Carpenter, Branch Chief, Division of Investment Management, Office of Insurance Products, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch at 450 Fifth Street, NW., Washington, DC 20549–0102 [tel. (202) 942–8090].

Applicants' Representations

1. United is a stock life insurance company organized under the laws of the State of Nebraska in 1926. It is authorized to sell life insurance and annuities in all states (except New York) and the District of Columbia. United is a wholly owned subsidiary of Mutual of Omaha Insurance Company ("Mutual"),

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a mutual life insurance company organized under the laws of the State of Nebraska.

2. Companion is a stock life insurance company organized under the laws of the State of New York. It is authorized to sell life insurance and annuities in Connecticut, New Jersey and New York. Companion is a direct subsidiary of United and an indirect subsidiary of Mutual.

3. United of Omaha Separate Account C was established on December 1, 1993 as a separate account under Nebraska law for the purpose of funding variable annuity policies issued by United. It is a segregated asset account of United and is registered with the Commission as a unit investment trust under the Act.

4. Companion Life Separate Account C was established on February 18, 1994 as a separate account under New York law for the purpose of funding variable annuity policies issued by Companion. It is a segregated asset account of Companion and is registered with the Commission as a unit investment trust under the Act.

5. MOIS is the principal underwriter of the Policies. MOIS is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the NASD. The Policies are sold by registered representatives of broker-dealers that have entered into distribution agreements with MOIS, and by registered representatives of MOIS. MOIS is an indirect wholly owned subsidiary of Mutual.

6. The minimum initial purchase payment is $10,000. A Policy owner may make additional purchase payments of at least $500 at any time ($100 if the purchase payment is made by an electronic funds transfer). Additional purchase payments may be made at any time until the Policy anniversary following the Policy owner's 95th birthday.

7. Policy owners can elect an enhanced credit rider to the Policy. If elected, this rider will add the Enhanced Credit, which is equal to the following percentage of purchase payments made during the first seven Policy years.

Policy year of purchase payment	Percentage of purchase payment
1	4
2	3.5
3	3
4	2.5
5	2
6	1.5
7	1
8+	0

8. The Companies will allocate Enhanced Credits pro rata among the fixed and variable investment options available under the Policy in the same ratio as the related purchase payment is allocated. The Companies will fund Enhanced Credits from their general account assets.

9. The annual charge for the enhanced credit rider is .50% of the Policy owner's total accumulation value in the variable and fixed accounts of the Policy. The Companies assess the charge daily on the assets in the investment options to which a Policy owner's purchase payments are allocated. The Companies will discontinue deducting the charge eight years from the date the Policy is issued.

10. The enhanced credit rider can only be elected on the Policy application, and cannot be elected after the Policy is issued. Once the enhanced credit rider is elected, it cannot be cancelled, and will only terminate (i) at the end of the first eight Policy years or (ii) the date the Policy terminates.

11. The Enhanced Credit will be recaptured if the Policy owner exercises the free look provision available under the Policy. In addition, unless prohibited by state low, all or part of the Enhanced Credit will be recaptured if the Policy owner makes a cash surrender or a partial withdrawal in excess of the annual 10% free withdrawal amount during the first seven Policy years. The 10% free withdrawal provision allows a Policy owner to withdraw up to 10% annually of the accumulation value of the Policy without a withdrawal charge or interest adjustment being assessed. The amount of the bonus forfeited will equal the amount of the bonus, multiplied by the amount of the cash surrender or partial withdrawal in excess of the 10% free withdrawal amount, divided by the sum of all purchase payments made under the Policy, multiplied by the percentage of the Enhanced Credit which is not vested. Enhanced Credits that are not vested will be recaptured according to the following schedule:

Policy year	Percentage of enhanced credit recaptured
1	100
2	100
3	75
4	75
5	50
6	50
7	25

12. The amount of any account value, step-up value or roll-up value death benefit will not include any Enhanced Credits given within the twelve months prior to the date of a Policy owner's death.

13. Regardless of whether or not the Enhanced Credit is recaptured, all gains attributable to such Enhanced Credit are part of the Policy owner's Policy value and will not be recaptured.

14. Policy owners can elect to receive a renewal credit to the accumulation value of their Policy at any time after the end of the eighth Policy year and at the end of each renewal credit period thereafter. A renewal credit period is a five-year term that begins on the day a Policy owner elects to receive a renewal credit. The Companies will allocate the renewal credit pro rata among the fixed and variable investment options available under the Policy in same ratio as accumulation value of the Policy is allocated. The Companies will fund the renewal credit from their general account assets.

15. There is no charge for the renewal credit and the Companies will not recapture the renewal credit.

16. The free look period is the 10-day period (or longer if required by state law) during which a Policy owner may return a Policy after it has been delivered and receive a full refund of the Policy accumulation value, less any Enhanced Credits applied. Unless the law requires that the full amount of the purchase payment be refunded, less any withdrawals, the Policy owner bears the investment risk from the time of purchase until he or she returns the Policy and the refund amount may be more or less than the purchase payment the Policy owner made. The Enhanced Credit will be recaptured if the free look provision is exercised.

17. A Policy owner may make withdrawals from the Policy before annuitization. The minimum withdrawal amount is $500. If the enhanced credit rider is elected, any withdrawal in excess of the annual 10% free withdrawal amount during the first seven Policy years will be subject to the recapture of some or all Enhanced Credits applied to the Policy and also may be subject to withdrawal charges and interest adjustments.

18. The withdrawal charge applied to a partial withdrawal or cash surrender will be the applicable withdrawal charge percentage listed below, subject to a maximum of 9% of the sum of all purchases made by the Policy owner. The withdrawal charge percentages for the first eight Policy years are as follows:

Policy year	Percentage of amount withdrawn
1	8
2	8
3	8
4	7
5	7
6	6
7	6
8	5

The withdrawal charges for all Policy years following the eighth Policy year will be 5% during any renewal credit period (which is the five-year term following the date the Policy owner elects to receive the renewal credit). Otherwise, no withdrawal charge is applicable after the eighth Policy year.

19. The interest adjustment may be applied to a cash surrender or partial withdrawal from the Policy's 5-Year Fixed Account or 8-Year Fixed Accounts for amounts in excess of the annual 10% free withdrawal amount. This adjustment is intended to adjust the interest received in these accounts to a market rate of interest. The adjustment will never result in a credited interest rate that will yield less than 3% per annum.

20. Withdrawal charges and interest adjustments will no longer apply as of the first policy anniversary following the annuitant's 90th birthday. In addition, the withdrawal charges and interest adjustments do not apply to (a) any death benefit received under the Policy, (b) when the waiver of withdrawal charges provision of the Policy is exercised and (c) in certain other very limited circumstances set forth in the Policy.

21. The Policy provides for a basic death benefit. An enhanced death benefit is also available. Any Enhanced Credits to the Policy given within the twelve months prior to the date of a Policy owner's death will be recaptured when the death benefit is based on account value, step-up value or roll-up value. However, the accumulation value of the Policy will reflect all gains and losses attributed to all Enhanced Credits to the Policy, including those recaptured.

22. Owners of the Policies may allocate their purchase payments among thirty-one variable investment options and four fixed investment options. Each sub-account of the Accounts is a variable investment option that will invest in shares of a corresponding portfolio of The Alger American Fund, Deutsche Asset Management VIT Funds, Federated Insurance Series, Fidelity Variable Insurance Products Fund, MFS Variable Insurance Trust, Morgan Stanley Universal Institutional Funds, Inc., Pioneer Variable Contracts Trust, Scudder Variable Life Investment Fund, T. Rowe Price Equity Series, Inc., T. Rowe Price Fixed Income Series, Inc. and T. Rowe Price International Series, Inc. or other investment companies.

23. The Companies, at a later day, may decide to create additional subaccounts to invest in any additional funding media as may now or in the future be available. The Companies, from time to time, also may combine or eliminate subaccounts or transfer assets to and from subaccounts.

24. The Policy provides for a death benefit, enhanced death benefit options, annuity benefits and annuity payout options, as well as transfer privileges, dollar cost averaging, asset allocation and other features. In addition to the withdrawal charge and interest adjustment discussed above, the Policy has the following charges: (a) For Policies that have an accumulation value of less than $100,000, an administrative expense charge equal to .15% per annum of the Policy's investment in the subaccounts, deducted on a daily basis; (b) an annual policy fee of $40 for Policies that have an accumulation value of less than $50,000; (c) a mortality and expense risk charge equal to 1.25% per annum of Policy's accumulation value, deducted on a daily basis; (d) a transfer fee of $20 for each transfer after twelve transfers made during a Policy year; (e) if elected, the charge for the enhanced credit rider which is equal to 0.50% per annum of accumulation value of the Policy, deducted on a daily basis for the first eight Policy years; (f) if elected, the charge for the enhanced death benefit rider which is equal to 0.30% per annum of the accumulation value in the subaccounts, deduced on a daily basis; and (g) any applicable state premium tax. In addition, assets invested in the subaccounts are charged with the annual operating expenses of the underlying portfolios.

Applicants' Legal Analysis and Condition

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants request that the Commission pursuant to Section 6(c) of the Act grant the exemptions requested below with respect to the Policy and any Future Policies issued by the Companies, funded by the Accounts or Other Accounts, and underwritten or distributed by MOIS or Affiliated Broker-Dealers. Applicants undertake that Future Policies will be substantially similar to the Policies in all material respects. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants seek exemptions pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to the extent deemed necessary to permit the Companies to recapture that portion of an Enhanced Credit which is not vested, as described above, in the following instances: (a) When a Policy owner exercises the Policy's free look provision; (b) when a Policy owner makes a cash surrender or a withdrawal in excess of the annual 10% free withdrawal amount within the first seven Policy years; and (c) any Enhanced Credits received within twelve months of the date of death of a Policy owner when the death benefit is based on account value, step-up value or roll-up value.

4. Applicants represent that it is not administratively feasible to track an Enhanced Credit in the Accounts after the Enhanced Credit is applied. Accordingly, the asset-based charges applicable to the Accounts will be assessed against the entire amount held in the Accounts, including the Enhanced Credit, during the free look period and the recapture period. As a result during such periods, the aggregate asset-based charges assessed against a Policy owner's accumulation value, which includes all assets in the sub-accounts and the fixed accounts, including any Enhanced Credit, will be higher than those that would be charged if the Policy owner's accumulation value did not include the Enhanced Credit.

5. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2)(A) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32)

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defines "redeemable security" as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof.

6. Applicants assert that the recapture of an Enhanced Credit in the circumstances set forth above would not deprive a Policy owner of his or her proportionate share of the issuer's current net assets. According to the Applicants, a Policy owner's interest in an Enhanced Credit allocated to his or her Policy value upon receipt of a purchase payment made during the seven years of the Policy is not fully vested until the end of the seventh Policy year. Unless and until the full amount of an Enhanced Credit is vested, the Companies retain at least a partial right and interest in the Enhanced Credit, although not in the earnings attributable to that amount. Thus, when the Companies recapture an Enhanced Credit, they are merely retrieving their own assets and the Policy owner has not been deprived of a proportionate share of the applicable Accounts' assets because his or her interest in the Enhanced Credit has not vested.

7. In addition, Applicants assert that permitting a Policy owner to retain an Enhanced Credit under a Policy upon the exercise of the free look provision would not only be unfair, but would also encourage individuals to purchase a Policy, with no intention of keeping it, and return it for a quick profit. Furthermore, the recapture of Enhanced Credits applied to purchase payments made within the first seven Policy years is designed to provide the Companies with a measure of protection against anti-selection. The anti-selection risk is that a Policy owner could collect the Enhanced Credit and then cancel the Policy soon thereafter, thereby leaving the Companies little time to recover the cost of the Enhanced Credit. As noted earlier, the amounts recaptured equal the Enhanced Credits provided by the Companies from their general account assets, and any gain would remain a part of the Policy owner's accumulation value.

8. For the foregoing reasons, Applicants submit that the provisions for recapture of Enhanced Credits under the Policies and Future Policies do not violate Sections 2(a)(32) and 27(i)(2)(A) of the Act. The application of an Enhanced Credit to purchase payments made under the Policies should not raise any questions as to the Companies' compliance with the provisions of Section 27(i). However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Enhanced Credit under the circumstances described in this application without the loss of relief from Section 27 provided by Section 27(i).

9. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c–1 under the Act prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

10. The Companies' recapture of an Enhanced Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current accumulation unit value of the Accounts. Applicants contend, however, that the recapture of the Enhanced Credit does not violate Section 22(c) or Rule 22c–1.

11. Applicants argue that the recapture of the Enhanced Credit does not involve either of the problems that Rule 22c–1 was intended to eliminate or reduce, namely (a) the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or repurchase at a price above it, and (b) other unfair results, including speculative trading practices. These problems were the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing allowed investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding mutual fund shares.

12. Applicants state that the proposed recapture of the Enhanced Credit does not pose such a threat of dilution. To effect a recapture of an Enhanced Credit, the Companies will redeem interests in a Policy at a price determined on the basis of the current accumulation unit value(s) of the sub-account(s) to which the Policy owner's accumulation value is allocated. The amount recaptured will never exceed the amount of the Enhanced Credit paid out of the Companies' general account assets. Although the Policy owner will be entitled to retain any investment gain attributable to the Enhanced Credit, the amount of that gain will be determined on the basis of the current accumulation unit values of the applicable subaccounts. Thus, no dilution will occur upon the recapture of the Enhanced Credit. Applicants also state that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Enhanced Credit.

13. Applicants submit that because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Enhanced Credit, Rule 22c–1 and Section 22(c) should not apply to any Enhanced Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the Enhanced Credit under the Policies and Future Policies.

14. Applicants represent that the Companies will offer the renewal credit subject to the following conditions:

a. *Election Letter.* In connection with the renewal credit, the Companies will send a letter (the "Letter") that prominently discloses in concise plain English that (a) the renewal credit is most suitable for Policy owners who expect to continue their Policies for five or more years, and (b) if he Policy is surrendered or if accumulation value is withdrawn during the five-year renewal credit period, then the Policy owner may be worse off in certain circumstances than if the or she had not elected the renewal credit. The Letter will disclose exactly how a Policy owner who surrenders a Policy or makes a withdrawal during the renewal credit period could be worse off as a result of poor separate account investment performance than if he or she had not elected the renewal credit.

b. *Written Election.* The Companies will send the Letter directly to Policy owners eligible to elect the renewal credit and elections to receive the renewal credit will only be effective upon receipt by the Companies of an election signed by the Policy owner on a duplicate copy of the Letter. The Companies will distribute such duplicate Letters with election signature forms along with the Letter. If the Letter is more than two pages in length, the Companies will use a separate document to obtain the Policy owner's elections of the renewal credit, which document will prominently disclose in concise plain English the statements required in condition 1 above.

c. *Records.* The Companies will maintain the following separately identifiable records in an easily accessible place for review by the Commission staff: (a) copies of any form of the Letter and any other written materials or scripts for presentations by representatives regarding the renewal credit, including the dates used, (b) records showing the number and percentage (on a calendar quarter basis) of eligible Policy owners that elect the renewal credit, (c) records showing the name and Policy number of each Policy owner who elects a renewal credit, the amount of the Policy owner's accumulation value at the time the renewal credit is elected, the amount of the renewal credit, the Policy owner's name, address, telephone number and date of birth, the date the Policy owner signed the Letter or election form, the signed Letters or separate documents that reflect the Policy owner's election of the renewal credit, and where a commission (or other compensation) is paid to a registered representative on or after the date of the election of the renewal credit, the amount of the commission (or other compensation), and the name of any sales representative involved with the solicitation of the election of the renewal credit or who receives any compensation in connection with the Policy after the date of the election of the renewal credit and her or his CRD number, firm affiliation, telephone number, and branch office address, (d) records of persistency information for Policies whose Policy owners have elected the renewal credit, including the date(s) of any subsequent surrender or withdrawal of accumulation value and the amount of any withdrawal charge, and (e) logs recording any Policy owner complaints about the renewal credit, state insurance department inquiries about the same, or litigation, arbitration or other proceedings regarding the renewal credit. The logs will include the date of the complaint (or of commencement of any proceeding), the name and address of the person making the complaint or commencing the proceeding, the nature of the complaint or proceeding and the persons involved in the complaint or proceeding. The forgoing records will be retained for the longer of: (1) six years after the later of their creation or their last use, or (2) two years after the end of the relevant renewal credit period.

15. Applicants request an order pursuant to Section 6(c) for an exemption from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to the extent deemed necessary to permit the Companies to recapture Enhanced Credits as described herein. Applicants represent that the Enhanced Credit will be attractive to and in the interest of investors because it will permit Policy owners to put from 104% to 101% of each of their purchase payments in the first seven years of the Policy to work for them in the selected investment options. In addition, the Policy owners will retain any earnings attributable to the Enhanced Credit, as well as the principal amount of the Enhanced Credit once vested.

16. Applicants further submit that the recapture of any Enhanced Credit only applies in relation to the risk of anti-selection against the Companies. Anti-selection can generally be described as a risk that Policy owners obtain an undue advantage. This undue advantage is based on elements of fairness to the Companies and the actuarial and other factors taken into account in designing the Policies and Future Policies. The Companies provide the Enhanced Credit from their general account assets on a guaranteed basis. Thus, they undertake a financial obligation that contemplates the retention of the Policies and Future Policies by their owners over an extended period, consistent with the long-term nature of retirement planning. The Companies generally expect to recover their costs, including Enhanced Credits, over an anticipated duration while a Policy or Future Policy is in force. The right to recapture Enhanced Credits applied to purchase payments made within the first seven Policy years protects the Companies against the risk that a Policy owner will purchase a Policy or Future Policy or make larger or additional payments with the intent to hold the Policy or Future Policy for speculative purposes or for a short period of time.

17. With respect to refunds paid upon the return of a Policy or Future Policy within the free look period, Applicants assert that the amount payable by the Companies must be reduced by the amount of the Enhanced Credit. Otherwise, investors, purchase a Policy or Future Policy for the sole purpose of exercising the free look provision and making a quick profit equal to 4% of their investment.

18. Applicants submit that their request for an order that applies to the Accounts and any Other Accounts established by the Companies, in connection with the issuance of the Policies and Future Policies, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Having Applicants file additional applications would impair Applicants' ability to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby.

19. Applicants undertake that Future Policies funded by the Accounts or by Other Accounts, which seek to rely on the order issued pursuant to this application, will be substantially similar to the Policies in all material respects.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22015 Filed 8–30–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44735; File No. SR–MSRB–2001–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G–14

August 22, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 17, 2001, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–2001–06). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB has filed with the SEC a proposed rule change to institute an informational service (the "Service") that would provide a Daily Comprehensive Report. The transaction information on the Daily Comprehensive Report would come from reports made to the Board by brokers, dealers and municipal securities dealers ("dealers") under its rule G–14, which governs reports of sales or purchases. This rule currently requires dealers to report essentially all inter-dealer and customer transactions in municipal securities to the Board by midnight of trade date.

The proposed Daily Comprehensive Report ("Report") would provide the details of municipal securities transactions effected during a single day. Each day's report would include the transactions effected two weeks previously. The proposed Report would be available by a subscription service. On each business day, the Report would be available electronically to subscribers by File Transfer Protocol (FTP) via the Internet. The subscription fee would be $2,000 per year.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Board has a long-standing policy to increase price transparency in the municipal securities market, with the ultimate goal of disseminating comprehensive and contemporaneous pricing data. Since 1995, the Board has expanded the scope of the public transparency reports in several steps. Each step has provided industry participants and the public successfully more information about the market.[3]

In May, 2001, the Board announced its plan to begin reporting trades in "real time" by mid-2003.[4] The implementation of real-time trade reporting is being coordinated with the industry's schedule for migration to an environment of same-day settlement of securities transactions. To attain real-time reporting the Board intends in the future to file an amendment to rule G–14 to require dealers to report their trades within 15 minutes of the time they are effected.

As its next step to increase transparency, the Board is now proposing to disseminate a Daily Comprehensive Report. The proposed Report, to be made available each day, would contain details of all municipal securities transactions that were effected during the day two weeks earlier. Data about each trade on the proposed Report would be similar to that on the current monthly Comprehensive Transaction Report. For each trade, the proposed Report would show the trade date, the CUSIP number of the issue traded, a short issue description, the par value traded, the time of trade reported by the dealer, the price of the transaction, and the dealer-reported yield of the transaction, if any. Each transaction would be categorized as: a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade.

Description of Proposed Service

The proposed Service would make the Daily Comprehensive Report available each day to subscribers. Subscribers would access the Report via the Internet and would download copies from the Board's computer using a password-protected FTP account. The Board plans to make a single day's data available to prospective users without charge, so that they may determine whether they wish to subscribe.

The Board is establishing a fee for an annual subscription to the Service of $2,000. The proposed annual fee is structured approximately to defray the Board's costs for production of daily data sets, operation of telecommunications lines, and subscription maintenance.[5]

2. Basis

The Board believes the proposed rule change is consistent with section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. * * *

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it applies equally to all dealers in municipal securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the MSRB consents, the Commission will:

[3] The MSRB's Report summarizing prices for issues that are frequently traded on the inter-dealer market began operation in 1995; in 1998, dealer-customer prices were added in a second summary report; in January 2000, a report with details of trades in frequently traded issues was added; and in October 2000, a comprehensive report, covering all transactions effected during the previous month, began operation. *See* Securities Exchange Act Release No. 43426 (October 10, 2000), 65 FR 61367 (October 27, 2000).

[4] *See* "Real-Time Reporting of Municipal Securities Transactions," *MSRB Reports*, Vol. 21, No. 2 (July 2001) at 31–36.

[5] The subscription fee for the current monthly report is also $2,000 annually. Subscribers to the monthly report who prefer the fresher data of the proposed Daily Comprehensive Report will have the option to switch subscriptions to the latter.

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–2001–06 and should be submitted by September 21, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22016 Filed 8–30–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3361]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on August 16, 2001, I find that Floyd, Knott, Letcher, Perry and Pike Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms and flooding that occurred on July 27, 2001 and continued through August 21, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 15, 2001 and for economic injury until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Kentucky may be filed until the specified date at the above location: Breathitt, Clay, Harlan, Johnson, Leslie, Magoffin, Martin and Owsley; Buchanan, Dickenson and Wise counties in the Commonwealth of Virginia; and Mingo county in the State of West Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336111. For economic injury the number is 9M4000 for Kentucky; 9M4100 for Virginia; and 9M4200 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 24, 2001.

S. George Camp,

Acting Associate Administrator For Disaster Assistance.

[FR Doc. 01–21991 Filed 8–30–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3348]

State of Louisiana; Amendment #5

In accordance with a notice received from the Federal Emergency Management Agency, dated August 24, 2001, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to September 21, 2001.

All other information remains the same, *i.e.*, the deadline for filing applications for loans for economic injury is March 11, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 27, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–21990 Filed 8–30–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3362]

State of Tennessee

As a result of the President's major disaster declaration on August 16, 2001, I find that Carter, Cocke, Greene, Johnson, Unicoi and Washington Counties in the State of Tennessee constitute a disaster area due to damages caused by severe storms and flooding that occurred on July 27, 2001 and continued through August 22, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 15, 2001 and for economic injury until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Tennessee may be filed until the specified date at the above location: Hamblen, Hawkins, Jefferson, Sevier and Sullivan; Ashe, Avery, Haywood, Madison, Mitchell, Swain, Watauga and Yancey counties in the State of North Carolina; Grayson and Washington counties in the Commonwealth of Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336211. For economic injury the number is 9M4300

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for Tennessee; 9M4400 for North Carolina; and 9M4500 for Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 27, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–22054 Filed 8–30–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3760]

60-Day Notice of Proposed Information Collection: Department of State Form DS–1950, Application for Employment (OMB Control Number 1400–0007)

ACTION: 60-day notice of proposed information collection.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular.

Originating Office: Bureau of Human Resources, HR/REE/REC.

Title of Information Collection: Department of State Application for Employment.

Frequency: Four application periods per year.

Form Number: DS–1950.

Respondents: U.S. citizens seeking entry into the Department of State Foreign Service and individuals, Sophomore through Graduate level college and university students, seeking participation in the Department's student programs.

Estimated Number of Respondents: 25,000..

Average Hours Per Response: ½ hour per response per part.

Total Estimated Burden: 14,500.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Mr. Richard M. Esper, U.S. Department of State, Recruitment Division, 5th Floor, 2401 E Street, N.W., Washington, DC 20522. He may be reached on 202–261–8888.

Dated: July 3, 2001.

Ruben Torres,

Executive Director, Bureau of Human Resources, Department of State.

[FR Doc. 01–22055 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice 3763]

Culturally Significant Objects Imported for Exhibition Determinations: "Alberto Giacometti"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit "Alberto Giacometti," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at The Museum of Modern Art, New York, NY, from on or about October 10, 2001, to on or about January 8, 2002, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: August 24, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22058 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3764]

Culturally Significant Objects Imported for Exhibition Determinations: "Frans Snyders' Fishmonger's Shop"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, et seq.), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the object to be exhibited "Frans Snyders' Fishmonger's Shop," imported from abroad for the temporary exhibition without profit within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit object at the Russian Ambassador's residence in Washington, DC from on or about September 11, 2001, and at The Museum of Fine Arts, Houston, TX from on or about September 1, 2001 to on or about March 31, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: August 27, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22059 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3765]

Culturally Significant Objects Imported for Exhibition Determinations: "Pearls"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Pearls," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the American Museum of Natural History, New York, NY from on or about October 13, 2001 to on or about April 15, 2002, the Field Museum, Chicago, IL from on or about June 28, 2002 to on or about January 15, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 27, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22060 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3761]

Culturally Significant Objects Imported for Exhibition Determinations: "Power and Glory: Medici Portraits From the Uffizi"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit "Power and Glory: Medici Portraits from the Uffizi," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Pennsylvania Academy of the Fine Arts, Philadelphia, PA, from on or about September 15, 2001, to on or about December 9, 2001, and possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 24, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22056 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3762]

Culturally Significant Objects Imported for Exhibition Determinations: "Spirit of an Age: Nineteenth Century Paintings From the Nationalgalerie, Berlin"

AGENCY: Department of State.

ACTION: Notice: Correction.

SUMMARY: On May 8, 2001, notice was published on pages 23309–23310 of the **Federal Register** (Volume 66, Number 89) by the Department of State pursuant to Public Notice 3653 relating to the exhibit "Spirit of an Age: Nineteenth Century Paintings from the Nationalgalerie, Berlin." The referenced Notice is hereby corrected to reflect the fact that three works presently in the exhibition at the National Gallery of Art, Washington, DC, will go on to be exhibited at the Metropolitan Museum of Art, New York, NY, as part of another exhibition. Here is replacement language for the May 8, 2001 **Federal Register** Notice: replace ", is in the national interest." with "and the display of three of these exhibit objects at the Metropolitan Museum of Art, New York, NY; from on or about September 11, 2001, to on or about November 11, 2001, is in the national interest. The exhibition or display of these three objects [1. The Solitary Tree (a.k.a. The Morning), 1822; 2. Moonrise over the Sea (a.k.a. The Evening, 1822, and 3. Man and Woman Contemplating the Moon, ca. 1824.] will be part of the Metropolitan Museum of Art's 'Caspar David Friedrich: Moonwatchers' exhibition." The **Federal Register** Notice for the remaining objects from abroad for "Caspar David Friedrich: Moonwatchers" was published on July 9, 2001, by the Department of State pursuant to Public Notice 3717 (Page 35823, Volume 66, Number 131).

FOR FURTHER INFORMATION CONTACT: For further information, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: August 27, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22057 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3766]

Culturally Significant Objects Imported for Exhibition Determinations: "The Look: Images of Glamour and Style (Photographs by Horst and Hoyningen-Huene)"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "The Look:

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Images of Glamour and Style (Photographs by Horst and Hoyningen-Huene)," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Boston, MA from on or about October 21, 2001 to on or about January 6, 2002 and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–5997). The address is U.S. Department of State, SA–44, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: August 27, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22061 Filed 8–30–01; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Botswana has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Botswana qualify for the textile and apparel benefits provided under the AGOA.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: James Roth, Deputy Director for African Affairs, Office of the United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106–200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as "beneficiary sub-Saharan African countries," provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2000), the President designated Botswana as a "beneficiary sub-Saharan African country." Proclamation 7350 delegated to the United States Trade Representative (USTR) the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Botswana has taken, I have determined that Botswana has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting "Botswana" in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act*, 66 FR 7837 (2001).

Peter F. Algeier,

Acting United States Trade Representative.

[FR Doc. 01–22062 Filed 8–30–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program, Williams Gateway Airport, Mesa, AZ

AGENCY: Federal Aviation Administration, Transportation.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Williams Gateway Airport Authority, Mesa, Arizona, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and Title 14, Code of Federal Regulations, Part 150 (FAR part 150). These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On May 2, 2000, the FAA determined that the noise exposure maps submitted by the Williams Gateway Airport Authority under FAR part 150 were in compliance with applicable requirements. On August 17, 2001, the Acting Associate Administrator for Airports approved the Williams Gateway Airport Noise Compatibility Program. Twenty of the twenty-three program measures have been approved. Seven measures were approved as voluntary measures, thirteen measures were approved outright, two measures were disapproved pending the submission of additional information and one measure was disapproved for the purposes of part 150.

EFFECTIVE DATE: The effective date of the FAA's approval of the Williams Gateway Airport Noise Compatibility Program is August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Armstrong, Airport Planner, Airports Division, AWP–611.1, Federal Aviation Administration, Western-Pacific Region. Mailing address: P.O. Box 92007, Los Angeles, California 90009–2007. Telephone: (310) 725–3614. Street address: 15000 Aviation Boulevard, Hawthorne, California 90261. Documents reflecting this FAA action may be reviewed at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for the Williams Gateway Airport, effective August 17, 2001. Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a Noise Exposure Map, may submit to the FAA, a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with FAR part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in FAR part 150 and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and a FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division office in Hawthorne, California.

The Williams Gateway Airport authority submitted the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from February 1999 through December 2000 to the FAA on December 16, 1999. The Williams Gateway Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on May 2, 2000. Notice of this determination was published in the Federal Register on May 15, 2000.

The Williams Gateway Airport study contains a proposed Noise Compatibility Program comprised of actions designed for implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in Section 104(b) of the Act. The FAA began its review of the program on February 20, 2001 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-three proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Acting Associate Administrator for Airports approved the overall program effective August 17, 2001.

Twenty of the twenty-three program measures have been approved. The following seven measures were approved as voluntary measures: Continue Calm Wind Runway 30 L/C/R Use Program; Continue using Runway 12R–30L for Light Piston Aircraft and Runways 12C/L–30C/R for Large Turbojet Aircraft Operations; Continue to Encourage use of NBAA [National Business Aviation Association] Noise Abatement Procedures; Continue to Promote use of AOPA [Aircraft Owner and Pilots Association] Noise Awareness Steps by light single and twin-engine aircraft; Continue to Promote the Departure Procedure for the AANG [Arizona Air National Guard] 161st Air Refueling Wing KC–135 Aircraft and Aircraft less than 12,500 pounds; Develop Helicopter Reporting Points and Arrival and Departure Routes; and, Request Aircraft Using Runway 12R–30L Traffic Pattern To Remain East of the Southern Pacific Railroad. The following thirteen measures were approved outright: Support 161st Air Refueling Wing of the Arizona Air National Guard's efforts to re-engine KC–135 Aircraft; Update General Plans to Reflect the "Land Use Planning Scenario" noise contours and Airport Planning Area as a basis for noise compatibility Planning; Retain compatible land use designations for undeveloped land within the Airport Planning Area; Develop a new mixed-use category that does not allow residential within the planned mixed-use areas inside the planning scenario's 60–DNL boundary and immediately north of the airport; Establish noise compatibility guidelines for the review of development projects within the "planning scenario" 60 DNL noise contour; Encourage rezoning areas within the "Planning Scenario" noise contours and Airport Planning Area (APA) to Match the Compatible land use designations in the general plans; Amend Airport Over flight Zoning Ordinance, reflect planning scenario noise contours and Airport Planning Area (APA), require fair disclosure covenants and amend sound insulation standards; Amend subdivision regulations to require recording of fair disclosure covenants and granting of avigation easements in Airport Planning Area; Amend building codes to add sound insulation standards supporting the Airport Planning Area (APA) over flight zoning requirements; Maintain and update the system for receiving, analyzing, and responding to noise complaints and community outreach; Acquire noise monitors; Review Noise Compatibility Plan implementation; and, Update Noise Exposure Maps and Noise Compatibility Program. The following Two measures were disapproved pending the submission of additional information: Install PAPI–4 Lighting on Runway 12R–30L; and, Encourage Use of AC 91.53A Noise Abatement Departure Procedures by Air Carrier Jets. The following measure was disapproved for the purposes of Part 150: Relocate Instrument Landing System to Runway 30R.

These determinations are set forth in detail in a Record of Approval endorsed by the Acting Associate Administrator for Airports on August 17, 2001. The

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Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the Williams Gateway Airport Authority, Mesa, Arizona.

Issued in Hawthorne, California, on August 23, 2001.

Herman C. Bliss,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 01–22046 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of availability of Final Environmental Impact Statement for the Chicago Terminal Airspace Project

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: The Federal Aviation Administration (FAA), Great Lakes Region, is issuing this notice to advise the public of the availability of the Final Environmental Impact Statement (FEIS) for the Chicago Terminal Airspace Project (CTAP).

FOR FURTHER INFORMATION CONTACT: Ms. Annette Davis, Federal Aviation Administration, Great Lakes Region, Air Traffic Division, 2300 East Devon Avenue, Des Plaines, Illinois, 60018, (847)–294–8091.

SUPPLEMENTARY INFORMATION: The proposed CTAP changes could affect flights to and from airports within the Chicago region. The project is not associated with any airport development projects and does not require construction of any physical facilities. The changes proposed by CTAP are designed to improve traffic flows and reduce airborne and ground delays. They would enhance safety and efficiency by maximizing controller flexibility and simplifying operations for pilots. CTAP has the potential to enhance air quality by reducing en route mileage. As disclosed in the FEIS, CTAP would not result in significant adverse impacts to any resource category.

Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act set forth that no decision on a proposed action shall be made by a Federal agency until 30 days after the Environmental Protection Agency publishes, in the **Federal Register**, a notice that the FEIS has been filed with them.

The FAA will assess and consider any written correspondence it receives on the CTAP FEIS until close of business, Tuesday, October 9, 2001. Late received correspondence will be considered to the extent feasible. This document will be available during normal business hours at the following locations.:

State of Illinois

Bensenville Public Library 200 S. Church Rd. Bensenville, IL 60106

Des Plaines Public Library 841 Graceland Ave. Des Plaines, IL 60016

Eisenhower Public Library 4652 N. Olcott Ave. Harwood Heights, IL 60656

Elk Grove Village Public Library, 1001 Wellington Ave., Elk Grove Village, IL 60007

Elmhurst Public Library, 211 Prospect Ave., Elmhurst, IL 60126

Franklin Park Public Library, 10311 Grand Ave., Franklin Park, IL 60131

Garfield Ridge Branch Library, 6348 South Archer Ave., Chicago, IL 60638

Harold Washington Library, 400 South State St., 5th Floor, Chicago, IL 60605

Mount Prospect Public Library, 10 S. Emerson St., Mount Prospect, IL 60056

Northlake Public Library, 231 N. Wolf Rd., Northlake, IL 60164

Oriole Park Branch Library, 5201 N. Oketo Ave., Chicago, IL 60656

Park Ridge Public Library, 20 S. Prospect Ave., Park Ridge, IL 60068

Schiller Park Public Library, 4200 Old River Rd., Schiller Park, IL 60176

State of Indiana

Lake County Public Library, 1919 W. 81st Ave., Merrillville, IN 46410–5382

State of Wisconsin

Milwaukee Central Public Library, 814 W. Wisconsin Ave., Milwaukee, WI 53233

Oak Creek Public Library, 8620 S. Howell Ave., Oak Creek, WI 53154

Information is also available on the Internet at the web site address *http://www.faa.gov/ctap.html.*

Issued in Des Plaines, Illinois, on August 23, 2001.

Denis C. Burke,

Manager, Airspace Branch, Air Traffic Division, Great Lakes Region.

[FR Doc. 01–22051 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement: Juneau International Airport, Juneau AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Intent.

SUMMARY: The Federal Aviation Administration announces incorporation of a new major proposed action into the Environmental Impact Statement (EIS) assessing implementation of projects proposed at the Juneau International Airport.

RESPONSIBLE OFFICIAL: Patricia A. Sullivan, Environmental Specialist, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue, #14, Anchorage, AK 99513.

WRITTEN COMMENTS: Ken Wallace, Project Manager, SWCA, Inc., 230 South 500 East, Suite 380, Salt Lake City, UT 84102. E-mail: *kwallace@swca.com.*

FOR FURTHER INFORMATION CONTACT: Cathryn Collis, Compliance and Process Coordinator, SWCA, 230 South 500 East, Suite 380, Salt Lake City, UT 84102. Phone (801) 322–4307. E-mail: *ccollis@swca.com*

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration published a Notice of Intent on June 1, 2001 to prepare and consider an EIS for implementation of proposed projects at the Juneau International Airport. Major projects proposed to be assessed in the EIS include: creation of additional Runway Safety Area (RSA) centered about the runway that is 500 feet wide by the length of the runway plus 1,000 feet beyond each runway end; installation of a Medium Approach Lighting System with Rails (MALSR) to improve the approach to Runway 26; construction of a Snow Removal Equipment Building to provide needed storage space for the snow removal fleet; and construction of additional Aviation Development Areas to provide adequate facilities to accommodate the growing demand and tourism needs of helicopters and fixed wing aircraft. A supplemental NOI was subsequently published on August 20, 2001, extending the public scoping comment period through September 30, 2001, and announced that the EIS would also evaluate a proposed new fuel tank farm access road.

Juneau International Airport has identified a number of habitat modification proposals and wildlife management activities to reduce and control wildlife hazards to aircraft. FAA has reviewed these actions and determined that the pending Wildlife Hazard Management Plan should be evaluated as a major proposed action in the EIS. FAA will continue to accept written comments concerning the scope of the EIS through September 30, 2001. Comments may be submitted in writing to the address identified in **FOR FURTHER INFORMATION CONTACT** or through the comment submittal form found on the project web site at *www.jnu-eis.org.* An additional public scoping meeting will be held in Juneau on September 18, 2001 at the Vocational Training and Resource Center, 3239 Hospital Drive, Juneau, Alaska from 5:00 pm to 9:00 pm.

Issued in Anchorage, Alaska on August 21, 2001.

David S. Stelling,

Acting Manager, Airports Division, AAL–600, Alaskan Region.

[FR Doc. 01–22049 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

Notice of Opportunity for Public Comment on Surplus Property Release at Grenada Municipal Airport, Grenada, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the City of Grenada to waive the requirement that a 10.04-acre parcel of surplus property, located at the Grenada Municipal Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to The Honorable J. Mike Hyneman, Mayor of Grenada, Mississippi at the following address: P.O. Box 310, Grenada, MS 38902–0310.

FOR FURTHER INFORMATION CONTACT: David Shumate, Program Manger, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9882. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by City of Grenada, MS to release 10.04 acres of surplus property at the Grenada Municipal Airport. The property will be purchased by Averitt Express which is a trucking company and used as a distribution terminal for their company. The property fronts Air Industrial Park Road and is located in the industrial park where simular businesses exist. The net proceeds from the sale of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the City of Grenada, Mississippi.

Issued in Jackson, Mississippi, on August 6, 2001.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 01–22048 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 198: Next Generation Air/Ground Communications System (NEXCOM)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 198 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 198: Next Generation Air/Ground Communications System (NEXCOM).

DATES: The meeting will be held on September 19–20, 2001, starting at 9:00 am.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, Suite 805, Washington, DC. 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street NW, Suite 805, Washington, DC. 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 198 meeting. The agenda will include:

- September 19:
- Opening Plenary Session (Welcome and Introductory Remarks, Review Minutes of Previous Meeting, Introduction of Working Group Chairs and Secretaries)
- Plenary Review of Comments and Concurrence Inputs for Principles of Operations Document.
- September 20:
- Continuation of Plenary Review of Principles of Operations Document
- Review Changes to Terms of Reference
- Closing Plenary Session (Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 22, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–22050 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Capital City Airport, Lansing, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Capital City Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation

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Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. The application may be reviewed in person at this location.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas W. Schmidt, A.A.E., Executive Director, Capital City Airport at the following address: Capital City Airport, 4100 Capital City boulevard, Lansing, Michigan 48906.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Capital City Airport under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (734–487–7282). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Capital City Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 3, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Capital City Airport was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, not later than November 28, 2001.

The following is a brief overview of the application.

PFC application number: 01–04–C–00– LAN.

Level of the proposed PFC: $4.50.

Proposed charge effective date: July 1, 2005.

Proposed charge expiration date: July 30, 2011.

Total estimated PFC revenue: $8,913,046.00.

Brief description of proposed projects:

Impose and Use: Replace Multi User Flight Information Display System, Replace Security Access Control System, Overlay Taxiway C and End of Runway 24, Reconstruct Terminal Apron, Master Plan/Part 150 Update, Relocate Rental Car Lot, National Pollutant Discharge Elimination System Permit-Mitigation Phases II and III, PFC Consultation Fees, Replace Baggage Claim Equipment, Baggage Claim Expansion.

Impose Only: Reconstruct Taxiway Fillets, Gate Expansion, Purchase and Install Ground Level Loading Bridges.

Class or classes of air carriers which the public agency has requested to be required to collect PFCs: non-scheduled part 135 and air taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Capital City Airport, 23810 Airpark Boulevard, Suite 113, Calumet, Michigan 49913.

Issued in Des Plaines, Illinois, on August 17, 2001.

Gary E. Nielsen,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–22044 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cherry Capital Airport, Traverse City, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cherry Capital Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road Belleville, Michigan 48111. The application may be reviewed in person at this location.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Stephen R. Cassens, Airport Director, Cherry Capital Airport at the following address: Cherry Capital Airport, 1330 Airport Access Road, Traverse City, Michigan 48686.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Cherry Capital Airport under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (734–487–7282). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cherry Capital Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 3, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Cherry Capital Airport was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than November 29, 2001.

The following is a brief overview of the application.

PFC application number: 01–02–C–00–TVC.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2017.

Proposed charge expiration date: September 2, 2017.

Total estimated PFC revenue: $420,019.00.

Brief description of proposed projects:

Use Only: Design and Construct New Airline Terminal Building, Ramp for New Terminal, Taxiway to New Terminal.

Impose and Use: Pavement Sensor System, Terminal Expansion Connector Taxiway, High Intensity Runway Lights Runway 10/28, Terminal Apron Lighting, Snow Removal Equipment Procurement, Taxiway "D", Tie-Down Apron, Taxi Streets, Retention Ponds, Expand Equipment Storage Building, Deer Control Fence, Airfield Signs, Taxiway to West Hangar, Master Plan, Bituminous Overlay Taxiway "A", "B", and "J", Holding Apron Runway End 28, Security Fencing, Power Gates, Screen Wall and Blast Deflector, Expansion of Airline Terminal, Rehabilitate South East General Aviation Apron and Airline Loading Bridge, Friction Testing Vehicle Procurement, Jet Bridge for Regional Carrier, Rest Room Addition in Airline Terminal, Beacon Relocation, Preliminary New Terminal Development. Class or classes of air carriers which the public agency has requested to be required to collect PFCs: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Cherry Capital Airport, 1330 Airport Access Road, Traverse City, MI 49686.

Issued in Des Plaines, Illinois, on August 17, 2001.

Gary E. Nielsen,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–22045 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC approvals and disapprovals. In July 2001, there were 15 applications approved. This notice also includes information on one application, approved in May 2001, inadvertently left off the May 2001 notice. Additionally, 27 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Monroe County Board of County Commissioners, Key West, Florida.

Application Number: 01–05–C–00–EYW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $1,631,431.

Earliest Charge Effective Date: August 1, 2001.

Estimated Charge Expiration Date: April 1, 2004.

Class of Air Carriers Not Required To Collect PFC's:

Non scheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Key West International Airport (EYW).

Brief Description of Projects Approved for Collection and Use at EYW:

—PFC application and administration.

—Construct general aviation aprons (phases 1 and 2).

—Runway safety area study.

—Terminal modifications.

—Install standby generator.

—Update master plan and airport layout plan.

—Environmental mitigation runway 9.

—Rehabilitate airport beacon tower and replace beacon.

—T-Hangar taxiway development.

—Construct general aviation aircraft apron.

—Runway 9/27 runway protection zone and runway safety area clearing.

—Sealcoat air carrier and general aviation apron.

—Acquire runway protection zone land—runway 27.

Brief Description of Projects Approved for Collection at EYW and Use at Marathon Airport:

—Install precision approach path indicators, runway 7/25.

—Mark runway 7/25.

—Update master plan and airport layout plan.

—Construct T-Hangar taxiways.

—Construct aircraft parking apron.

—Construct aircraft rescue and firefighting building.

—Runway safety area study.

Decision Date: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew J. Thys, Orlando Airports District Office, (407) 812–6331, ext. 21.

Public Agency: Melbourne Airport authority, Melbourne, Florida.

Application Number: 01–05–C–00–MLB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $1,193,528.

Earliest Charge Effective-Date: September 1, 2001.

Estimated Charge Expiration Date: April 1, 2003.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Melbourne International Airport.

Brief Description of Projects Approved for Collection and Use:

—Extend runway 9R/27L.

—Interior service road, phase 1.

—Acquire aircraft loading bridge.

—Wetland inventory and mitigation plan.

—Environmental permitting.

—Acquire flight information display.

—Auxiliary departure lounge.

Decision Date: July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Armando L. Rovira, Orlando airports District Office, (407) 812–6331, ext. 31.

Public Agency: City of Chico, California.

Application Number: 01–04–C–00–CIC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $536,747.

Earliest Charge Effective Date: November 1, 2001.

Estimated Charge Expiration Date: September 1, 2006.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

—Access road and drainage facilities between Fortress Street and aircraft parking apron development including complete engineering design and construction.

—Rehabilitate underground electrical duct and cable system—electrical vault to terminal to air traffic control tower to apron edge.

—Runway 13L/31R pavement rehabilitation.

—Fortress Street overlay and reconstruction.

—Commercial road development—road construction and gate controls—Boeing Avenue, Convair Court, Fairchild Court, Lockheed Court, Piper Court, and Alley Road.

—New airfield sweeper.

—Replace airfield guidance signs and noise abatement signs.

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—Overlay runway 13R/31L, overlay taxiway B, D, E, and F between parallel runways.
—Expand T-Hanger area taxiway and connect T-Hanger Taxiway to taxiway A.
—Acquire insulation suits for aircraft rescue and firefighting personnel.
—Airport master plan study.
—Infield grading.
—Extend security fence ditch crossings.
—Improve emergence access and service road to west side of airport.
—Installation of automated weather observation system.
Decision Date: July 3, 2001.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Walker Field Airport Authority, Grand Junction, Colorado.
Application Number: 01–04–00–GJT.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in this Decision: $1,730,000.
Earliest Charge Effective Date: April 1, 2003.
Estimated Charge Expiration Date: March 1, 2008.
Class of Air Carriers Not Required To Collect PFC's: None.
Brief Description of Projects Approved for Collection and Use:
—Runway 4/22 runway end identification lights.
—Electrical vault replacement.
Brief Description of Projects Approved for Collection:
—Air carrier ramp expansion.
—Expand terminal building boarding area/concourses/loading bridges.
Decision Date: July 10, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Yakima Air Terminal Board, Yakima, Washington.
Application Number: 01–06–U–00–YKM.
Application Type: Use PFC revenue.
PFC Level: $3.00.
Total PFC Revenue To Be Used in This Decision: $182,313.
Charge Effective Date: June 1, 2000.
Charge Expiration Date: August 1, 2002.
Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.
Brief Description of Project Approved for Use:
—Construct west perimeter access/aircraft rescue and firefighting road.
Decision Date: July 10, 2001.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: Tweed-New Haven Airport Authority, New Haven, Connecticut.
Application Number: 01–02–C–00–HVN.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in this Decision: $1,963,265.
Earliest Charge Effective Date: October 1, 2001.
Estimated Charge Expiration Date: November 1, 2007.
Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators, nonscheduled/on-demand air carriers.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Tweed-New Haven Airport.
Brief Description of Projects Approved for Collection and Use:
—Aircraft rescue and firefighting building.
—Permitting—runway 2/20 safety areas.
—Master plan update.
—Reconstruction of a portion of runway 14.32.
—Snow removal equipment.
—Terminal apron glycol recovery system study.
—Obstruction removal: phase 1 (analysis).
Brief Description of Projects Approved for Collection:
—Runway protection zone land acquisition.
—Design and construction of runway 2/20 safety areas and extension of taxiway B.
—Perimeter security fencing.
—Rehabilitation of runway 2/20.
Decision Date: July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Bloomington Normal Airport Authority, Bloomington, Illinois.
Application Number: 01–04–C–00–BMI.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in this Decision: $1,161,019.
Earliest Charge Effective Date: October 1, 2017.
Estimated Charge Expiration Date: June 1, 2018.
Class of Air Carriers Not Required To Collect PFC's:
—Nonscheduled/on-demand operators filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Central Illinois Regional Airport.
Brief Description of Projects Approved for Collection and Use:
—PFC program development.
—Apron and taxiways—new terminal building.
—Passenger loading bridges—new terminal building.
Decision Date: July 16, 2001.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Chicago Airports District Office, (847) 294–7195.

Public Agency: Tri-State Airport Authority, Huntington, West Virginia.
Application Number: 01–04–C–00–HTS.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in this Decision: $451,906.
Earliest Charge Effective Date: April 1, 2002.
Estimated Charge Expiration Date: December 1, 2004.
Classes of Air Carriers Not Required To Collect PFC's:
(1) Nonscheduled/on-demand air carriers; and (2) large charter certificated route air carriers.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Tri-State Airport.
Brief Description of Projects Approved for Collection and Use:
—Preparation of PFC application.
—Wildlife/security fencing.
—Reconstruction of taxiway A.
—Airport master plan update.
—Terminal improvements.
—Wildlife hazard assessment.
—Design and rehabilitate runway 12/30.
Decision Date: July 16, 2001.

FOR INFORMATION CONTACT: Larry Clark, Beckley Airports Field Office, (304) 252–6216.

Public Agency: City of Cody, Wyoming.
Application Number: 01–03–C–00–COD.
Application Type: Impose and use a PFC.
PFC level: $4.50.
Total PFC Revenue Approved in this Decision: $294,000.

Earliest Charge Effective Date: March 1, 2002.
Estimated Charge Expiration Date: March 1, 2004.
Class of Air Carriers Not Required To Collect PFC's: Non-scheduled, on-demand air carriers filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Yellowstone Regional Airport.
Brief Description of Projects Approved for Collection and Use:
—Acquisition of airfield equipment.
—Ramp expansion.
Brief Description of Projects Approved for Use:
—Encasement of irrigation canal.
—Relocation/reconstruction of parallel taxiway.
Decision Date: July 16, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: City of San Jose, California.
Application Number: 01–12–C–00–SJC.
Application Type: Impose and use a PFC.
PFC level: $4.50.
Total PFC Revenue Approved in this Decision: $9,407,000.
Earliest Charge Effective Date: February 1, 2008.
Estimated Charge Expiration Date: September 1, 2008.
Class of Air Carriers Not Required To Collect PFC's:
—Nonscheduled/on-demand air carriers filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at San Jose International Airport.
Brief Description of Project Approved for Collection and Use:
—Runway 12R/30L extension.
Brief Description of Project Approved for Use:
—Runway 12R/30L reconstruction.
Decision Date: July 20, 2001.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: County of Houghton, Hancock, Michigan.
Application Number: 01–08–C–00–CMX.
Application Type: Impose and use a PFC.
PFC level: $3.00.
Total PFC Revenue Approved in this Decision: $254,644.
Earliest Charge Effective Date: August 1, 2001.
Estimated Charge Expiration Date: October 1, 2005.
Class of Air Carriers Not Required To Collect PFC's: None.
Brief Description of Projects Approved for Collection and Use:
—PFC application preparation.
—Rehabilitate runway 13/31 and relocate high intensity runway lights.
Decision Date: July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Arlene Draper, Detroit Airports District Office, (734) 487–7282.

Public Agency: City of Lewiston and Nez Perce County, Lewiston, Idaho.
Application Number: 01–03–C–00–LWS.
Application Type: Impose and use a PFC.
PFC level: $4.50.
Total PFC Revenue Approved in this Decision: $1,171,746.
Earliest Charge Effective Date: October 1, 2006.
Estimated Charge Expiration Date: July 1, 2016.
Class of Air Carriers Not Required To Collect PFC's:
—Nonscheduled air taxi/commercial operators utilizing aircraft having a seating capacity of less than 20 passengers.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Lewiston-Nez Perce County Regional Airport.
Brief Description of Projects Approved for Collection and Use:
—Security perimeter fencing.
—Reconstruct a portion of taxiway B, rehabilitate a portion of taxiways A and B.
—Airport signing project.
—Procurement of aircraft rescue and firefighting truck and equipment.
—Master plan.
—Reconstruct taxiway B, phase II and construction of taxiway M.
—Acquisition of a passenger lift device.
—Reconstruct taxiway B, phase II, and rehabilitation of terminal ramp.
—Construction of midfield taxiway and rehabilitation of runway 11/29.
—Security gates.
—Precision approach path indicator installation on runways 11/29 and 8/26.
—Construct safety area for runway 8 approach and Part 77 obstruction removal.
Decision Date: July 24, 2001.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: County of Delta, Escanaba, Michigan.
Application Number: 01–06–C–00–ESC.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in this Decision: $117,900.
Earliest Charge Effective Date: October 1, 2001.
Estimated Charge Expiration Date: April 1, 2003.
Class of Air Carriers Not Required To Collect PFC's: Air taxis/charters.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 2 percent of the total annual enplanements at Delta County Airport.
Brief Description of Projects Approved for Collection and Use:
—Construct and light (medium intensity taxiway lights) north/south parallel taxiway.
—Design for rehabilitation of runway 9/27.
—Wildlife management plan.
Brief Description of Project Approved for Collection: Construct runway safety area for runway 9.
Decision Date: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Arlene Draper, Detroit Airports District Office, (734) 487–7282.

Public Agency: Monterey Peninsula Airport District, Monterey, California.
Application Number: 01–07–C–00–MRY.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in this Decision: $381,935.
Earliest Charge Effective Date: October 1, 2001.
Estimated Charge Expiration Date: March 1, 2002.
Class of Air Carriers Not Required To Collect PFC's: Unscheduled Part 135 air taxi operators.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Monterey Peninsula Airport.
Brief Description of Projects Approved for Collection and Use:
—Acquire aircraft rescue and firefighting equipment.

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—Modify aircraft rescue and firefighting vehicle cooling system.
—Lower obstruction to runway 10R obstacle free zone.
—Reconstruct portion of entrance road to north side.
—Purchase runway sweeper.
—Soundproofing, phases 6 and 7.
—Replace terminal fire doors.
—Realign and improve Sky Park-Fred Kane Drive extension.
—Environmental impact report/environmental assessment for Sky Park Drive extension to north side of airport.
Decision Date: July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: San Francisco Airport Commission, San Francisco.
Application Number: 01–01–C–00–SFO.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in this Decision: $112,738,745.
Earliest Charge Effective Date: October 1, 2001.
Estimated Charge Expiration Date: June 1, 2003.
Class of Air Carriers Not Required To Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at San Francisco International Airport.
Brief Description of Project Approved for Collection and Use:
—Project development costs associated with the reconfiguration of runways.
Decision Date: July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Allegheny County Airport Authority, Pittsburgh, Pennsylvania.
Application Number: 01–01–C–00–PIT.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in this Decision: $119,803,191.
Earliest Charge Effective Date: October 1, 2001.
Estimated Charge Expiration Date: October 1, 2006.
Class of Air Carriers Not Required To Collect PFC's: Non-scheduled, on-demand air carriers filing FAA Form 1800–31.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Pittsburgh International Airport.
Brief Description of Projects Approved for Collection and Use:
—Runway 10L rehabilitation and safety area improvements.
—Expand and upgrade deicing facilities.
—Install non-exclusive baggage devices.
—Residential sound insulation, phases 5 and 6.
—Taxiways F and P rehabilitation.
—Relocate runway 10R/28L electrical field vault.
—Install runway 14/32 lighting and miscellaneous airfield lighting.
—Asphalt/concrete rehabilitation program—taxiways, aprons, aircraft rescue and firefighting road.
—Asphalt/concrete rehabilitation program—terminal roadway.
—Master plan update.
—Acquire snow removal equipment.
—Acquire aircraft rescue and firefighting equipment.
—Acquire Part 107 police equipment.
—Acquire Part 139 airfield equipment.
—Construct Part 139 command center, phase 1.
—Command center and equipment, phase 2.
—Relocation of taxiway E—design.
—Replace airfield sand/chemical storage dome.
—Install midfield heating, ventilation, and air conditioning uninterrupted power supply.
—Construct moving walkway, concourse D.
—Mineral Estates condemnation program.
—Install public roadway signage.
—Install walkway canopies.
—Install public information center.
—Acquire airfield driving training simulator.
—Environmental assessment mitigation.
—Upgrade and expand surface sensor system.
—Improve fire system pumphouse facilities and systems.
—Competition plan.
—PFC application development.
Brief Description of Projects Approved for Collection:
—Widen taxiway Y.
—Construct snow removal equipment storage building.
—Improve runway safety areas for runways 10L/28R and 10R/28L.
—Replace security fence.
Decision Date: July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sullivan, Harrisburg Airports District Office (717) 730–2832.

AMENDMENTS TO PFC APPROVALS

Amendment No., City, State	Amendment approved date	Original approved Net PFC revenue	Amended approved Net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
*97–02–C–03–DSM Des Moines, IA	05/18/01	$9,786,654	$9,874,583	06/01/02	05/01/02
*98–03–C–02–DSM Des Moines, IA	05/18/01	7,766,744	7,899,744	03/01/05	05/01/04
*99–04–C–01–DSM Des Moines, IA	05/18/01	1,850,000	1,850,000	03/01/06	11/01/04
*00–05–C–01–DSM Des Moines, IA	05/18/01	1,150,000	1,150,000	11/01/06	03/01/05
*98–02–C–01–TXK Texarkana, AR	06/22/01	412,532	412,532	05/01/03	08/01/04
99–06–C–02–SJC San Jose, CA	07/06/01	23,598,000	36,880,000	11/01/02	04/01/03
00–01–C–01–FHR Friday Harbor, WA	07/12/01	NA	NA	11/01/05	11/01/05
96–03–C–01–MEI Meridian, MS	07/16/01	250,620	250,620	06/01/00	06/01/00
97–04–C–02–MEI Meridian, MS	07/16/01	45,000	32,904	12/01/00	10/01/00
98–04–C–01–SEA Seattle, WA	07/16/01	808,157,000	756,657,000	01/01/23	03/01/20
*92–01–C–05–DTW Detroit, MI	07/17/01	1,604,483,000	1,604,483,000	10/01/29	05/01/18
93–01–C–12–ORD Chicago, IL	07/18/01	1,011,764,738	1,225,873,994	04/01/16	10/01/18
95–03–C–05–ORD Chicago, IL	07/18/01	NA	NA	04/01/16	10/01/18
96–05–C–06–ORD Chicago, IL	07/18/01	441,595,749	457,714,130	04/01/16	10/01/18
98–07–C–02–ORD Chicago, IL	07/18/01	52,903,281	54,825,408	04/01/16	10/01/18
01–12–C–01–ORD Chicago, IL	07/18/01	1,486,284,358	1,594,827,790	04/01/16	10/01/18

AMENDMENTS TO PFC APPROVALS—Continued

Amendment No., City, State	Amendment approved date	Original approved Net PFC revenue	Amended approved Net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
**01–11–C–00–SJC San Jose, CA	07/19/01	123,736,491	NA	02/01/08	NA
*97–01–C–01–GPZ Grand Rapids, MN	07/19/01	1,297,059	1,297,059	05/01/31	07/01/21
*93–01–C–01–FNT Flint, MI	07/20/01	32,296,450	31,865,870	09/01/30	01/01/18
97–01–C–02–OKC Oklahoma City, OK	07/20/01	10,121,875	9,259,698	06/01/99	03/01/99
**01–08–C–00–PDX Portland, OR	07/20/01	551,029,000	NA	05/01/16	NA
*95–03–C–02–SEA Seattle, WA	07/23/01	288,930,000	288,930,000	01/01/04	03/01/03
*99–03–C–01–PSC Pasco, WA	07/24/01	740,000	740,000	12/01/03	12/01/02
*93–01–I–01–ALW Walla Walla, WA	07/26/01	1,187,280	3,745,775	11/01/14	10/01/19
97–02–U–01–ALW Walla Walla, WA	07/26/01	NA	NA	11/01/14	10/01/19
*95–01–C–01–MCW Mason City, IA	07/27/01	302,790	302,790	08/01/01	04/01/03
*98–02–C–01–ACT Waco, TX	07/31/01	2,081,400	2,081,400	06/01/03	12/01/08

Notes: 1. The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Des Moines, IA this change is effective on August 1, 2001. For Mason City, IA, Detroit, MI, Flint, MI, Grand Rapids, MN, Portland, OR, Waco, TX, Pasco, WA, Seattle, WA, and Walla Walla, WA, this change is effective on October 1, 2001.
2. The amendments denoted by a double asterisk (**) are amendments which result in a new Record of Decision being issued to consolidate two or more prior Records in order to achieve a uniform PFC level.

Issued in Washington, DC on August 27, 2001.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 01–22043 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application 01–01–C–00–SHD To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Shenandoah Valley Regional Airport, Staunton, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Shenandoah Valley Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, New York 11434–4809.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Gregory Campbell, Airport Manager at the following address: Shenandoah Valley Regional Airport, Post Office Box 125, Weyers Cave, VA 24486–0125.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Shenandoah Valley Regional Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Eleanor Schifflin, PFC Program Manager, Regional Office, 1 Aviation Plaza, Jamaica, New York, (718) 553–3354. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Shenandoah Valley Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 14, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Shenandoah Valley Regional Airport Commission was substantially complete within the requirements of section 158.23 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 13, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–01–C–00–SHD.
Level of the proposed PFC: $3.00.
Proposed charge effective date: January 1, 2002.
Proposed charge expiration date: January 1, 2006.
Total estimated PFC revenue: $207,875.
Brief description of proposed project(s):
—Develop PFC Program/Application
—Install MITLs, Airfield Guidance Signs, PAPI
—Design and Construct Apron Expansion
—Design and Rehabilitate General Aviation Apron
—Design and Construct Runway Safety Area—R/W 5
—Acquisition of Snow Removal and Friction Testing Equipment
—Update Airport Layout Plan
—Install Stand-By Emergency Generator
Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Unscheduled Part 135 Air Taxi/Commercial operators and Unscheduled Part 121 Charter operators both classes for hire to the general public.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: 1 Aviation Plaza, Airports Division, AEA–610, Jamaica, New York, 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Shenandoah Valley Regional Airport Commission.

Issued in Jamaica, New York on August 24, 2001.

Thomas Felix,

Manager, Planning & Programming, Airports Division, Eastern Region.

[FR Doc. 01–22042 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Victoria Regional Airport, Victoria, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Victoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Patrick Rhodes, Manager of Victoria Regional Airport at the following address: Airport Manager, Victoria Regional Airport, 609 Foster Field Drive, Victoria, TX 77904.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Victoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 15, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 7, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January 1, 2002.

Proposed charge expiration date: March 1, 2004.

Total estimated PFC revenue: $182,356.

PFC application number: 01–03–C–00–VCT.

Brief description of proposed project(s):

Projects to Impose and Use PFC's;

1. Acquire 1500-gallon ARFF Vehicle.
2. Acquire Runway Sweeper.
3. Update Airport Master Plan.
4. Overlay Runways 12L/30R and 17/35.

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Victoria Regional Airport.

Issued in Fort Worth, Texas on August 16, 2001.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 01–22047 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Agency Information Collection Activities: Submission for OMB Review

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for review and approval. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 16, 2001 (66 FR 15316). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by October 1, 2001.

ADDRESSES: You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

SUPPLEMENTARY INFORMATION:

Title: Indian Reservation Roads, Program Administration Survey.

OMB Control Number: 2125–0565 (Expiration Date: November 30, 2001).

Abstract: The FHWA and the Bureau of Indian Affairs (BIA) jointly administer the Indian Reservation Roads (IRR) Program. Surveys are conducted of federally recognized tribes to provide feedback regarding their satisfaction with the IRR Program. The collected information is used by the FHWA and the BIA to improve the administration of the IRR program. This survey gathers information from the tribes to assess: (1) overall levels of understanding of the IRR program; (2) involvement in the IRR program; and (3) satisfaction with the IRR program administration and accomplishments. In addition, the survey allows tribes to propose recommendations for improving the operation and administration of the IRR program.

Respondents: Approximately 562 federally recognized tribes.

Estimated Total Annual Burden: It is estimated that each response requires 30 minutes. The surveys are conducted approximately every 2 years (281 biannual burden hours); 141 annual burden hours.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sparrow, 202–366–9483, Department of Transportation, Federal Highway Administration, Federal Lands Highway Core Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: August 28, 2001.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 01–22040 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Greene, Christian and Lawrence Counties, Missouri

AGENCY: Federal Highway Administration (FHWA)

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for improvements to the U.S. 60 highway corridor in Greene, Christian, and Lawrence Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Casey, Environmental Projects Engineer, FHWA Division Office, 209 Adams Street, Jefferson City, MO 65101; Telephone: (573) 638–2601 or Mr. Henry Hungerbeeler, Director, Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri, 65102; Telephone (573) 721–2551.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), will prepare an EIS on a proposed project to improve the transportation system in Greene, Christian and Lawrence Counties, Missouri.

This proposal is being considered to address existing and future transportation demand on U.S. 60, to address safety issues along existing U.S. 60, and to preserve land for future transportation improvements. Alternatives under consideration include: (1) no build; (2) improving the existing facility; (3) mass transit; (4) Transportation System Management; and (5) off-alignment build alternatives. The proposed project will likely include transportation improvements or transportation corridor preservation on an approximate 20-mile portion of U.S. 60 between the James River Freeway in Greene County, Missouri and a point along U.S. 60 just southwest of Marionville in Lawrence County, Missouri.

A project advisory committee comprised of federal and state agencies, local officials, and those with environmental and other community interests will be established to provide input during development and refinement of alternatives and corridor reservation activities. A series of public meetings and other public involvement activities will be held to engage the regional community in the decision making process. In addition, a public hearing will be held to present the findings of the draft EIS. The draft EIS will be available for public and agency review and comment prior to the public hearing. Agencies having an interest in or jurisdiction regarding the proposed action will be contacted through interagency coordination meetings and mailings. Those who have previously expressed, or are known to have interest in the proposal will receive ample opportunity to comment and provide input.

To ensure that the full range of issues related to this proposed action are addressed and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or MoDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program)

Issued on: August 22, 2001.

Peggy J. Casey.

Environmental Projects Engineer, Jefferson City.

[FR Doc. 01–22029 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Humboldt County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed Route 101 project in Humboldt County in the Cities of Eureka and Arcata, and vicinity.

FOR FURTHER INFORMATION CONTACT: R.C. Slovensky, Acting Program Delivery Team Leader, North, Federal Highway Administration, 980 Ninth Street, Suite 400, Sacramento, CA 95814–2724, telephone (916) 498–5774. Kim Floyd, California Department of Transportation Project Manager, P.O. Box 3700, Eureka, CA 95502–3700, telephone (707) 441–5739.

SUPPLEMENTARY INFORMATION: Route 101 is part of the National Highway System and is a principal arterial route. The route is often referred to as the "lifeline of the North Coast" since it is the north coast's most important interregional route, serving as the connector to the Santa Rosa/San Francisco metropolitan areas to the south and the State of Oregon to the north. It is heavily used for the transportation of intercity/interstate commerce as well as being the principal route to many north coast recreational areas including State and National parks, rivers, ocean fishing, and beach areas. North of San Francisco, it is the second most heavily traveled non-freeway segment on Route 101 within California.

The proposed project limits extend from the intersection of State Route 255 in City of Eureka to the State Route 255 interchange in the City of Arcata along the Route 101 corridor from KP 127.5 to KP 138.1 (PM 79.2 to PM 85.8) in Humboldt County. The existing Route 101 corridor within these limits consists of two one-way arterials, a four-lane expressway, and a four-lane freeway.

The proposed Eureka-Arcata Corridor Improvement Project consists of the following:

1. Construct an interchange at Route 101 and Indianola Road;
2. Within existing expressway segments, all median crossings would be closed;
3. All existing at-grade access would be restricted to right-turn on/off movements only;

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4. Acceleration and deceleration lanes would be lengthened at all access locations if needed;

5. The median width could be reduced.

In addition to the proposed project and No-Build Alternative, alternatives, including upgrade to freeway, that will meet the project purpose and need will be evaluated during the EIS process. Alternatives with substantially higher cost or with extensive environmental impacts will be considered infeasible and not be considered for further study.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A scoping meeting is scheduled from 5 to 8 pm on September 20, 2001 at the Eureka Public Marina Wharfinger Building #1 Marina Way, in Eureka, CA.

Public notice will be given of the time and place of the scoping meeting. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestion are invited from all interested parties. The views of agencies which may have knowledge about historic resources potentially affected by the proposal or interest in the effects of the proposal on historic properties are specifically solicited. Comments or question concerning this proposed action and the EIS should be directed to the FHWA at the address provided above by October 30, 2001.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation Federal programs and activities apply to this program.

Issued on: August 13, 2001.

R. Clayton Slovensky,

Acting Program Delivery Team Leader, North Sacramento, California.

[FR Doc. 01–22028 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10507]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel RAVEN.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 1, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10507. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: RAVEN. Owner: Alexander Mann.

(2) Size, capacity and tonnage of vessel. According to the applicant: "37.8′ LOA; 20.7′ Beam; 3.1′ Draft; 20 Gross Tons (Certificate of Documentation U.S.C.G.); 16 Net Tons (Certificate of Documentation U.S.C.G.)"

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "The intended use for this sailing vessel is to provide 3 hour to five-day sightseeing charters* * * for twelve or fewer passengers." "Operating from the Florida coast, including the Florida Keys, and Gulf of Mexico coastline."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1996. Place of construction: France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "We would like to begin operating in Marco Island Florida. The population triples in the winter and demand appears to be excellent (one of the corporations operating an inspected vessel added an additional craft). Approval of this waiver will have minimal impact on other operators because of the very large market available. This vessel would be the only owner-operated sailboat in the area. We are dedicated to providing customers with an intimate and fun adventure in the beautiful waters and atmosphere, which surrounds the Ten Thousand, Islands. Our 38-foot cruising catamaran is equipped to provide great hospitality and the capacity to tailor every trip to the needs of our passengers. We are able to offer Eco-trips in the backwaters and are determined to provide the most personal sailing experience on the Gulf of Mexico."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "This vessel will have only a positive impact on U.S. shipyards. The vessel will be upgraded and maintained by U.S. yards."

Dated: August 27, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–21984 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–472 (Sub–No. 1X)]

Dakota Rail, Inc.—Abandonment Exemption—in McLeod, Carver, and Hennepin Counties, MN

On August 13, 2001, Dakota Rail, Inc. (Dakota Rail), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its entire rail line from milepost 24.6, near Wayzata, to the end of the line at milepost 68.5, in Hutchinson, a distance of approximately 43.9 miles, in McLeod, Carver, and Hennepin Counties, MN. The line traverses U.S. Postal Service Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391, and includes the stations of Wayzata at milepost 24.6, Crystal Bay at milepost 27.5, Minnetonka Beach at milepost 29.0, Spring Park at milepost 30.6, Mound at milepost 32.5, St. Bonifacius at milepost 37.0, Mayer at milepost 45.0, New Germany at milepost 48.7, Lester Prairie at milepost 52.5, Silver Lake at milepost 60.2, and Hutchinson at milepost 68.5.

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 (offer of financial assistance (OFA) procedures) and 49 U.S.C. 10905 (public use conditions). In support, Dakota Rail contends that the exemption from these provisions is necessary to avoid delay in the sale of Dakota Rail's stock to McKnight Rail Road, L.L.C. (McKnight),[1] and the anticipated donation by McKnight of portions of the line to various localities. In addition, Dakota Rail states that the town of Mound, located at milepost 32.5, intends to use a portion of the line for highway construction and that this road project would be delayed, if not thwarted, by the OFA process in a case where there is no overriding public need here for continued rail service.

[1] According to Dakota Rail, McKnight is to be formed Illinois Limited Liability Corporation that is the acquisition vehicle for MidAmerica Development & Management Corporation and ELM Investments, L.L.C.

These requests will be addressed in the final decision.

The line does contain federally granted rights-of-way. Any documentation in Dakota Rail's possession will be made available promptly to those requesting it.

In this proceeding, Dakota Rail is proposing to abandon a line that constitutes its entire rail system. When issuing abandonment authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. *See Northampton and Bath R. Co.—Abandonment*, 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in *Northampton* are present, no labor protective conditions will be imposed.

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 30, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 20, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–472 (Sub–No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Louis E. Gitomer, 1455 F Street, NW., Suite 225, Washington, DC 20005. Replies to the Dakota Rail petition are due on or before September 20, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: August 24, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–21948 Filed 8–30–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Reporting the Causes of Airline Cancellations and Delays

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the BTS invites the general public, industry and other governmental parties to comment on air carriers voluntarily reporting on the causes of cancellations and delays of domestic scheduled passenger flights. The voluntary data submission would be used to identify specific problem areas within the national aviation system. By classifying causes of delays into four categories and causes of cancellations into three categories, the Department of Transportation (DOT) would be able to readily identify problem areas within the air transport system. With this knowledge, the DOT should be able to address the airline delays and cancellations within its control.

The DOT is in the process of submitting an emergency request to OMB to allow BTS to collect the voluntary causal data. BTS estimates that participating air carriers will be ready to begin voluntary reporting in early November, thus BTS is seeking

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OMB emergency approval rather than the normal approval process established in 5 CFR Part 1320.

The participating air carriers regard their causal data as confidential, proprietary business information; and have agreed to voluntarily submit the data on the condition that the Federal government use the data for internal purposes and not published or released the data to the general public. In addition, the air carriers expressed concerns that, at least initially, there would be technical difficulties with the new voluntary reporting system which could affect the accuracy of the resulting information. While BTS believes that reports on causal data will eventually be useful to airline consumers, this information must be is accurate and reliable. Thus, BTS has agreed to treat the air carriers' voluntary casual data as confidential business information. In order to gather public comment on a delay and cancellation reporting system, BTS is drafting a notice of proposed rulemaking (NPRM) that will propose the framework for a reporting system. Once the NPRM becomes a final rule, BTS intends release and publish causal data.

DATES: Written comments should be submitted by October 1, 2001.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, FAX NO. 366–3383 or EMAIL *bernard.stankus@bts.gov*.

Comments: Comments should identify the OMB # 2138–NEW. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–NEW. The postcard will be date/time stamped and returned.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–NEW

Title: Reporting the Causes of Airline Cancellations and Delays.

Form No.: BTS Form 234.

Type Of Review: New collection.

Respondents: Large certificated air carriers that account for at least 1 percent of the domestic scheduled passenger revenues.

Number of Respondents: 10.

Programming Burden Per Respondent: 15 hours.

Total Burden: 150 hours.

Needs and Uses:

Identifying and Reducing Traffic Delays

The DOT would use the causal data collected and processed by BTS to pinpoint and analyze air traffic delays and cancellations that occur under DOT's control. Currently, BTS can identify which flights are delayed or cancelled but, not the cause of the delay or cancellation. By eliminating the delays and cancellations that are caused by extreme weather, the air carrier or by the late arrival of an aircraft of a previous flight, the DOT would be able to focus its attention to solving problem areas within its control.

Reporting Burden for Voluntary Reporting

One of the reporting carriers, that participated in BTS' pilot program on causal data, estimated that it took from 10 to 15 hours to reprogram its reporting system. Once this reprogramming effort was completed, the carrier stated that there was little, if any, additional reporting burden required to submit the monthly on-time reports.

Ashish Sen,

Director, Bureau of Transportation Statistics.

[FR Doc. 01–22041 Filed 8–30–01; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–106–91]

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–106–91 (TD 8563), State Housing Credit Ceiling and Other Rules Relating to the Low-Income Housing Credit (§ 1.42–14).

DATES: Written comments should be received on or before October 30, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: State Housing Credit Ceiling and Other Rules Relating to the Low-Income Housing Credit.

OMB Number: 1545–1423.

Regulation Project Number: PS–106–91.

Abstract: The regulation concerns the low-income housing credit under section 42 of the Internal Revenue Code. The regulation provides rules relating to the order in which housing credit dollar amounts are allocated from each State's housing credit ceiling under section 42(h)(3)(C) and the determination of which States qualify to receive credit from a national pool of credit under section 42(h)(3)(D). The regulation affects State and local housing credit agencies and taxpayers receiving credit allocations, and provides them with guidance for complying with section 42.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, individuals or households, and state, local or tribal governments.

Estimated Number of Respondents: 110.

Estimated Time Per Respondent: 2 hours, 30 minutes.

Estimated Total Annual Burden Hours: 275.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–22074 Filed 8–30–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Agreement

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Computer Matching Program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer program matching records from the VA Compensation, Pension, Education and Rehabilitation (CP&E) Records, VA Personnel and Accounting Integrated Data (PAID), VA Patient Treatment File (PTF), and VA National Patient Care (NPC).

The purpose of the match is to identify any employees receiving pension benefits, unemployability benefits, or medical treatment for non-service connected conditions. VA Office of Inspector General will use this information to initiate an independent verification process to determine eligibility and entitlement to these VA benefits.

Records To Be Matched

The records involved in the match are: VA system of records Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22) first published at 41 FR 9294 dated March 3, 1976, and last amended at 65 FR 37605 dated June 15, 2000, with other amendments as cited therein; VA system of records Patient Medical Records-VA (24VA136) first published at 40 FR 38095 dated August 26, 1975, and last amended at 63 FR 7196 dated February 12, 1998, with other amendments as cited therein; and VA system of records Personnel and Accounting System-VA (27VA047) first published at 40 FR 38095 dated August 26, 1975, and last amended at 65 FR 44097 dated July 17, 2000, and with other amendments as cited therein.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

DATES: The match will start no sooner than 30 days after publication in the **Federal Register** and end not more than 18 months after the agreement is properly implemented by VA. The VA Data Integrity Board (DIB) may extend this match for 12 months provided the Agency certifies to the DIB within three months of the ending date of the original match that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may submit written comments to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Tom Phelps (52CO), Project Manager, Central Office Operations Division, Office of the Inspector General, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–4553.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and OMB.

Approved: August 13, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–22073 Filed 8–30–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office

Government Owned Inventions Available for Licensing

AGENCY: Research and Development Office, Veterans Affairs.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Veterans Affairs, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Mindy Aisen, MD, Department of Veterans Affairs, Director Technology Transfer Program, Research and Development Office, 810 Vermont Avenue, NW, Washington, DC 20420; fax: 202–275–7228; e-mail at mindy.aisen@mail.va.gov.

Any request for information should include the number and title for the revelant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

The inventions available for licensing are:

09/241,987 "Methods for identifying a Preferred Liver Transplant Donor".

09/546,860 "A Novel Solution for the Ex-Vivo Preservation of Cardiovascular Tissue."

09/570,454 "Isolation and Characterization of Epidermal Growth Factor-Related Protein."

09/595,875 "Antagonism of Immunostimulatory CpG-Oligonucleotides by 4-Aminoquinolines and Other Weak Bases."

09/746,555 "N-Terminal D(-) - Pencillamine Peptides as Aldehyde Sequestration Agents."

09/793,533 "Method and Compound for Antagonizing Inhibition Effects of Alcohol on Cell Adhesion."

09/867,521 "Isolation and Characterization of a Rat Epidermal Growth Factor-Related Protein."

Dated: August 27, 2001.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 01–22072 Filed 8–30–01; 8:45 am]

BILLING CODE 8320–01–P

VOL 66 ISS 170 AG 31 2001 UMI

Corrections

Federal Register
Vol. 66, No. 170
Friday, August 31, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal Plant and Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97-083-5]

RIN 0579-AA90

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

Correction

In rule document 01-20693, beginning on page 43964, in the issue of Tuesday, August 21, 2001, make the following correction:

On page 43964, in the first column, under the heading **SUMMARY:**, in the last line, "February 18, 2002" should read "February 19, 2002".

[FR Doc. C1-20693 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1755

RIN 0572-AB41

Telecommunications System Construction Contract and Specifications

Correction

In rule document 01-20120 beginning on page 43310, in the issue of Friday, August 17, 2001, make the following correction:

§ 1755.97 [Corrected]

On page 43314, in the table, under the heading "Date last issued", in the second line, "9/12/01" should read "9/17/01".

[FR Doc. C1-20120 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-829]

Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision

Correction

In notice document 01-19779, appearing on page 41550, in the issue of Wednesday, August 8, 2001, make the following correction:

In the first column, under the heading **EFFECTIVE DATE:**, " August 7, 2001." should read "August 8, 2001."

[FR Doc. C1-19779 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Proposed Buy American Act Exception for Commercial U.S.-Made End Products

Correction

In notice document 01-19915 beginning on page 41561 in the issue of Wednesday, August 8, 2001, make the following corrections:

1. On page 41561, in the third column, the subject heading should be set forth above.

2. On page 41562, in the first column, in the eighth line, in the **SUPPLEMENTARY INFORMATION:** section, "supplies in mind" should read "supplies mined".

3. On the same page, in the second column, in the 27th line, "create" should read "creates".

[FR Doc. C1-19915 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); The Revised Draft Up-and-Down Procedure for Assessing Acute Oral Toxicity: Notice of Availability and Request for Public Comments

Correction

In notice document 01-15770 beginning on page 33550, in the issue of Friday, June 22, 2001, make the following corrections:

1. On page 33550, in the third column, in the fifth and sixth line from the bottom of the first paragraph, under the heading

Availability of Revised Draft UDP Documents

the Web site address "http://iccvam.niehs.nih.gov/methods/updocs/udprpt/udp_ciprop.htm " should read " http://iccvam.niehs.nih.gov/methods/udpdocs/udprpt/udp_ciprop.htm".

2. On page 33551, in the first column, in the fourth line, the Web site address "http://iccvam.niehs.nih.gov/methods/updocs/udprpt/udp_ciprop.htm" should read "http://iccvam.niehs.nih.gov/methods/udpdocs/udprpt/udp_ciprop.htm".

3. On the same page, in the same column, in the first full paragraph, beginning in the eleventh line, the Web site address "http://iccvam.niehs.nih.gov/methods/udpdoc/udprpt/udp_ciprop.htm " should read "http://iccvam.niehs.nih.gov/methods/udpdocs/udprpt/udp_ciprop.htm ".

[FR Doc. C1-15770 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Correction

In notice document 01-19946 appearing on page 41914, in the issue of Thursday, August 9, 2001, make the following corrections:

In the first column, under the heading *Summary of Proposal(s):*, "*(7) Estimated annual number of responses:* 3000." should read "*(7) Estimated annual number of respondents:* 30." and "*(8) Total annual responses:* 0." should read "*(8) Total annual responses:* 3,000."

[FR Doc. C1-19946 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2000-8210]

Agency Information Collection Activities Under OMB Review: OMB Control No. 2126-0011 (Commercial Driver Licensing and Test Standards)

Correction

In notice document 01-21719 beginning on page 45361, in the issue of Tuesday, August 28, 2001, make the following correction:

On page 45361, in the first column, under the heading **DATES:**, in the second line, "August 27, 2001." should read "September 27, 2001."

[FR Doc. C1-21719 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AK64

Diseases Specific to Radiation-Exposed Veterans

Correction

In proposed rule document 01-19916 beginning on page 41483 in the issue of Wednesday, August 8, 2001, make the following correction:

On page 41483, in the third column, in the first complete paragraph, the third line from the bottom, "No no presumption" should read "no presumption".

[FR Doc. C1-19916 Filed 8-30-01; 8:45 am]

BILLING CODE 1505-01-D

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Federal Register

Friday,
August 31, 2001

Part II

General Services Administration

41 CFR Part 301
Federal Travel Regulation; Maximum Per Diem Rates; Final Rule

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GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 97]

RIN 3090–AH44

Federal Travel Regulation; Maximum Per Diem Rates

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: An analysis of lodging and meal cost survey data reveals that the listing of maximum per diem rates for locations within the continental United States (CONUS) should be updated to provide for the reimbursement of Federal employees' expenses covered by per diem. This final rule increases/decreases the maximum lodging amounts in certain existing per diem localities, adds new per diem localities, and removes a number of previously designated per diem localities. In an effort to improve the ability of the per diem rates to meet the lodging demands of Federal travelers to high cost travel locations, the General Services Administration (GSA) has integrated the contracting mechanism of the new Federal Premier Lodging Program (FPLP) into the per diem rate-setting process. The FPLP will enhance the Government's ability to better meet its overall room night demand and allow travelers to find lodging close to where they need to conduct business.

DATES: This final rule is effective October 1, 2001, and applies for travel performed on or after October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Joddy Garner, Office of Governmentwide Policy, Travel Management Policy Division, at 202 501–1538.

SUPPLEMENTARY INFORMATION:

A. Background

After an analysis of additional data, GSA has determined that current lodging and meals and incidental expenses (M&IE) allowances for certain localities do not adequately reflect the cost of lodging in those areas. To provide adequate per diem reimbursement for Federal employee travel to those areas, the maximum per diem allowances are changed. Properties in high cost travel areas are under no obligation to provide lodging to Federal travelers at the per diem rate. Thus, GSA established the FPLP to contract directly with properties in high cost travel markets to make available a set number of rooms to Federal travelers at contract rates. For the FPLP destinations, those rates will become effective pending contractual awards. (A listing of the FPLP destinations will follow the per diem rates listing).

In addition, GSA has received notice of the Winter Olympics taking place in Salt Lake City, Utah. Effective January 15 through February 28, 2002, the lodging peak-season rate for Park City, Utah, of $169 will apply to the counties of Weber, Davis, Salt Lake, Summit, and Utah to provide for the reimbursement of Federal employees' expenses covered by the per diem.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Chapter 301

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, 41 CFR chapter 301 is amended as follows:

1. Appendix A to chapter 301 is revised to read as follows:

Appendix A to Chapter 301—Prescribed Maximum Per Diem Rates for CONUS

The maximum rates listed below are prescribed under part 301–11 of this chapter for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States). The amounts shown in column (a) are the maximums that will be reimbursed for lodging expenses excluding taxes. The M&IE rates shown in column (b) are fixed amounts allowed for meals and incidental expenses covered by per diem. The per diem payment calculated in accordance with part 301–11 of this chapter for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c). Seasonal rates apply during the periods indicated. It is the policy of the Government, as reflected in the Hotel Motel Fire Safety Act of 1990 (Pub. L. 101–391, September 25, 1990 as amended by Pub. L. 105–85, November 18, 1997), referred to as "the Act" in this paragraph, to save lives and protect property by promoting fire safety in hotels, motels, and all places of public accommodation affecting commerce. In furtherance of the Act's goals, employees are encouraged to stay in a facility which is fire-safe, i.e., an approved accommodation, when commercial lodging is required. Lodgings that meet the Government requirements are listed on the U.S. Fire Administration's Internet site at *http://www.usfa.fema.gov/hotel/index.cfm.*

Per diem locality:		Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2, 3]					
CONUS, Standard rate:		55		30		85
(Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation subsistence allowances. See parts 302-2, 302-4, and 302-5 of this subtitle.)						
ALABAMA						
Birmingham	Jefferson	59		38		97
Decatur	Morgan	69		30		99
Gulf Shores	Baldwin					
(May 15-September 4)		101		34		135
(September 5-May 14)		64		34		98
Huntsville	Madison	70		38		108
Montgomery	Montgomery	61		38		99
ARIZONA						
Casa Grande	Pinal					
(January 1-April 30)		80		34		114
(May 1-December 31)		65		34		99
Chinle	Apache					
(May 1-October 31)		98		34		132
(November 1-April 30)		55		34		89
Flagstaff	All points in Coconino County not covered under Grand Canyon per diem area					
(May 1-October 31)		67		34		101
(November 1-April 30)		55		34		89
Grand Canyon	All points in the Grand Canyon National Park and Kaibab National Forest within Coconino County					
(May 1-October 21)		106		42		148
(October 22 –April 30)		94		42		136
Kayenta	Navajo					
(April 15-October 15)		98		30		128
(October 16-April 14)		65		30		95
Phoenix/Scottsdale	Maricopa					
(January 1-April 15)		107		42		149
(April 16-May 31)		79		42		121
(June 1-August 31)		59		42		101
(September 1-December 31)		90		42		132
Tucson	Pima County; Davis-Monthan AFB					
(January 1-April 15)		85		38		123
(April 16-December 31)		58		38		96
Yuma	Yuma	68		34		102
ARKANSAS						
Hot Springs	Garland	60		30		90

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Little Rock	Pulaski	72		34		106
CALIFORNIA						
Clearlake	Lake					
(May 5-September 30)		85		30		115
(October 1-May 4)		69		30		99
Contra Costa County	Contra Costa	108		42		150
Death Valley	Inyo	60		46		106
Kern County	Kern County	68		38		106
Los Angeles	Los Angeles; Orange and Ventura Counties; Edwards AFB; Naval Weapons Center and Ordinance Test Station, China Lake (see Santa Monica)	99		46		145
Mammoth Lakes	Mono	70		46		116
Marin County	Marin	108		42		150
Merced	Merced	62		30		92
Modesto	Stanislaus	60		34		94
Monterey	Monterey					
(May 1-October 31)		94		42		136
(November 1-April 30)		75		42		117
Napa	Napa					
(April 1-November 15)		125		42		167
(November 16-March 31)		110		42		152
Oakhurst	Madera					
(May 1-September 30)		79		38		117
(October 1-April 30)		55		38		93
Oakland	Alameda	118		38		156
Ontario/Barstow/Victorville	San Bernardino	84		38		122
Palm Springs	Riverside					
(January 1-May 31)		129		42		171
(June 1-December 31)		84		42		126
Point Arena/Gualala	Mendocino	109		38		147
Sacramento	Sacramento	79		42		121
San Diego	San Diego	99		46		145
San Francisco	San Francisco	159		46		205
San Luis Obispo	San Luis Obispo	79		38		117
San Mateo/Redwood City	San Mateo	134		42		176
Santa Barbara	Santa Barbara	114		38		152
Santa Cruz	Santa Cruz	108		42		150
Santa Monica	City limits of Santa Monica (see Los Angeles)					
(June 1-September 30)		125		38		163
(October 1-May 31)		109		38		147
Santa Rosa	Sonoma	89		42		131
Solano County	Solano; Travis Air Force Base	79		42		121
South Lake Tahoe	El Dorado (see also Stateline, NV)					
(June 1-August 31)		97		42		139
(September 1-May 31)		84		42		126
Sunnyvale/Palo Alto/San Jose	Santa Clara	150		46		196
Tahoe City	Placer	145		42		187
Truckee	Nevada					
(June 15-September 30)		81		42		123

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
(October 1-June 14)		63		42		105
Visalia	Tulare	69		38		107
West Sacramento	Yolo	69		30		99
Yosemite National Park	Mariposa					
(May 1-September 30)		114		46		160
(October 1-April 30)		82		46		128
COLORADO						
Aspen	Pitkin					
(January 1-April 30)		145		46		191
(May 1-December 31)		89		46		135
Boulder	Boulder	93		42		135
Colorado Springs	El Paso					
(May 15-September 15)		73		38		111
(September 16-May 14)		59		38		97
Cortez	Montezuma	69		34		103
Crested Butte	City limits of Crested Butte (see Gunnison County)					
(November 15-April 15)		97		42		139
(April 16-June 15)		58		42		100
(June 16-November 14)		71		42		113
Denver	Denver, Adams, and Arapahoe	112		42		154
Durango	La Plata					
(May 15-September 30)		99		38		137
(October 1-May 14)		70		38		108
Fort Collins	Larimer (except Loveland)	76		34		110
Glenwood Springs	Garfield					
(May 15-October 15)		95		30		125
(October 16-May 14)		55		30		85
Gunnison	Gunnison (except Crested Butte)					
(May 15-September 30)		70		34		104
(October 1-May 14)		55		34		89
Jefferson County	Jefferson	94		34		128
Loveland	City limits of Loveland (see Larimer County)	69		30		99
Montrose	Montrose	69		34		103
Pueblo	Pueblo					
(June 1-September 30)		72		34		106
(October 1-May 31)		58		34		92
Silverthorne/Keystone	Summit	170		38		208
Steamboat Springs	Routt	59		38		97
Telluride	San Miguel					
(December 20-September 30)		147		46		193
(October 1-December 19)		85		46		131
Trinidad	Las Animas	62		30		92
Vail	Eagle					
(December 1-March 31)		200		46		246
(April 1-November 30)		105		46		151
CONNECTICUT						
Bridgeport/Danbury	Fairfield	109		38		147

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Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Hartford	Hartford	120		42		162
Lakeville/Salisbury	Litchfield	95		38		133
Middlesex County	Middlesex	78		30		108
New Haven	New Haven	87		38		125
New London/Groton	New London					
(May 1-October 31)		107		34		141
(November 1-April 30)		79		34		113
Putnam/Danielson	Windham	56		30		86
DELAWARE						
Dover	Kent					
(May 25-September 4)		75		34		109
(September 5-May 24)		64		34		98
Lewes	Sussex	120		42		162
Wilmington	New Castle					
(April 1-September 30)		109		34		143
(October 1-March 31)		99		34		133
DISTRICT OF COLUMBIA						
Washington, DC (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax, in Virginia; and the counties of Montgomery and Prince George's in Maryland). (See also Maryland and Virginia.)		119		46		165
FLORIDA						
Altamonte Springs	Seminole	71		38		109
Bradenton	Manatee					
(January 1-April 30)		65		30		95
(May 1-December 31)		55		30		85
Cocoa Beach	Brevard	105		34		139
Daytona Beach	Volusia					
(February 1-August 31)		90		38		128
(September 1-January 31)		69		38		107
Fort Lauderdale	Broward					
(December 15-April 30)		100		42		142
(May 1-December 14)		69		42		111
Fort Myers	Lee					
(January 15-April 15)		70		42		112
(April 16-January 14)		55		42		97
Fort Pierce	Saint Lucie					
(December 15-April 30)		70		46		116
(May 1-December 14)		55		46		101
Fort Walton Beach	Okaloosa					
(May 1-October 31)		110		38		148
(November 1-April 30)		80		38		118
Gainesville	Alachua	61		34		95
Gulf Breeze	Santa Rosa					
(May 1-September 30)		115		38		153
(October 1-April 30)		59		38		97
Jacksonville/Mayport	Duval; Mayport Naval Station	65		34		99
Key West	Monroe					
(January 1-April 30)		180		46		226
(May 1-December 31)		109		46		155
Kissimmee	Osceola					
(February 1-April 30)		77		34		111
(May 1-January 31)		64		34		98
Lakeland	Polk	71		34		105
Leesburg	Lake					
(November 1-April 15)		68		30		98
(April 16-October 31)		55		30		85
Miami	Dade					
(January 1-April 15)		89		42		131
(April 16-December 31)		75		42		117
Naples	Collier					
(December 16-April 15)		109		38		147
(April 16-December 15)		69		38		107
Ocala	Marion	59		30		89
Orlando	Orange	95		42		137
Palm Beach (also the cities of Boca Raton, Delray Beach , Jupiter, Palm Beach Gardens, Palm Beach Shores, Singer Island and West Palm Beach)	Palm Beach					
(January 1-April 30)		129		46		175
(May 1-December 31)		70		46		116
Panama City	Bay	74		38		112
Pensacola	Escambia	60		30		90
Punta Gorda	Charlotte					
(December 15-April 15)		75		38		113
(April 16-December 14)		55		38		93
Sarasota	Sarasota					
(January 1-April 30)		80		38		118
(May 1-December 31)		70		38		108
Sebring	Highlands	64		30		94
St. Augustine	St. Johns	65		38		103
Stuart	Martin	57		38		95
Tallahassee	Leon	65		34		99
Tampa/St. Petersburg	Pinellas and Hillsborough					
(January 1-April 30)		105		38		143
(May 1-December 31)		89		38		127
Vero Beach	Indian River					
(December 15-April 15)		99		38		137
(April 16-December 14))		59		38		97
GEORGIA						
Albany	Dougherty	57		34		91
Athens	Clarke	69		34		103

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Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Atlanta	Fulton and Gwinnett	93		38		131
Clayton County	Clayton	64		30		94
Cobb County	Cobb	78		34		112
Columbus	Muscogee	63		34		97
Conyers	Rockdale	69		34		103
DeKalb County	DeKalb	78		34		112
Savannah	Chatham	71		38		109
IDAHO						
Boise	Ada	61		38		99
Coeur d'Alene	Kootenai	56		34		90
Ketchum	Blaine (except Sun Valley)					
(May 1-November 30)		84		42		126
(December 1-April 30)		74		42		116
McCall	Valley	62		38		100
Sun Valley	City limits of Sun Valley (see Blaine County)	149		42		191
ILLINOIS						
Aurora	Kane (except Elgin)	66		30		96
Chicago	Cook and Lake	155		46		201
Du Page County	Du Page	89		38		127
Elgin	City limits of Elgin (see Kane County)	60		30		90
Rockford	Winnebago	60		30		90
INDIANA						
Carmel	Hamilton	65		38		103
Ft. Wayne	Allen	58		30		88
Indianapolis	Marion County; Fort Benjamin Harrison	70		42		112
Lafayette	Tippecanoe	59		30		89
Michigan City	La Porte	65		34		99
Nashville	Brown					
(April 1-November 15)		75		38		113
(November 16-March 31)		59		38		97
South Bend	St. Joseph	61		34		95
Valparaiso/Burlington Beach	Porter	89		34		123
IOWA						
Cedar Rapids	Linn	60		34		94
Des Moines	Polk	67		34		101
KANSAS						
Kansas City/Overland Park	Wyandotte and Johnson	85		38		123
Wichita	Sedgwick	59		38		97
KENTUCKY						
Covington	Kenton	80		38		118
Lexington	Fayette	65		30		95
Louisville	Jefferson	69		38		107
LOUISIANA						
Baton Rouge	East Baton Rouge Parish	78		38		116

Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Gonzales	Ascension Parish	59		34		93
Lake Charles	Calcasieu Parish	70		34		104
New Orleans/St. Bernard	Orleans, St. Bernard, Plaquemine and Jefferson Parishes					
(January 1-May 31)		139		42		181
(June 1-December 31)		89		42		131
Shreveport/Bossier City	Caddo	60		38		98
Slidell	St. Tammany	65		30		95
St. Francisville	West Feliciana	75		38		113
MAINE						
Bar Harbor	Hancock					
(June 15-October 15)		110		38		148
(October 16-June 14)		89		38		127
Bath	Sagadahoc					
(May 1-October 31)		61		34		95
(November 1-April 30)		55		34		89
Kennebunk/Kittery/Sanford	York					
(June 15-October 31)		129		38		167
(November 1-June 14)		69		38		107
Portland	Cumberland					
(July 1-October 31)		119		38		157
(November 1-June 30)		79		38		117
Rockport	Knox					
(July 1-August 26)		87		42		129
(August 27-June 30)		55		42		97
Wiscasset	Lincoln					
(July 1-October 31)		99		38		137
(November 1-June 30)		72		38		110
MARYLAND						
(For the counties of Montgomery and Prince George's, see District of Columbia.)						
Annapolis	Anne Arundel	90		42		132
Baltimore	Baltimore	110		42		152
Columbia	Howard	110		42		152
Frederick	Frederick	65		30		95
Grasonville	Queen Annes	75		38		113
Harford County	Harford County	104		38		142
Lexington Park/ Leonardtown/Lusby	St. Marys and Calvert	66		34		100
Ocean City	Worcester					
(June 15-October 31)		144		46		190
(November 1-June 14)		59		46		105
St. Michaels	Talbot	100		42		142
MASSACHUSETTS						
Andover	Essex	109		38		147
Boston	Suffolk	159		46		205
Cambridge	Middlesex (except Lowell)	159		46		205

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Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Falmouth	City limits of Falmouth					
(June 1-September 30)		105		38		143
(October 1-May 31)		70		38		108
Hyannis	Barnstable	94		38		132
Lowell	City limits of Lowell (except Cambridge) (see Middlesex County)	99		34		133
Martha's Vineyard	Dukes					
(June 1-October 15)		150		46		196
(October 16-May 31)		85		46		131
Nantucket	Nantucket					
(June 15-October 15)		150		46		196
(October 16-June 14)		75		46		121
New Bedford	City limits of New Bedford (see Bristol County)					
(May 15-October 15)		75		34		109
(October 16-May 14)		65		34		99
Northampton	Hampshire	72		34		106
Pittsfield	Berkshire	65		38		103
Plymouth	Plymouth					
(June 15-October 15)		119		34		153
(October 16-June 14)		99		34		133
Quincy	Norfolk	74		38		112
Springfield	Hampden	99		34		133
Taunton	Bristol (except New Bedford)	74		30		104
Worcester	Worcester	79		34		113
MICHIGAN						
Ann Arbor	Washtenaw	75		38		113
Berrien County	Berrien	59		30		89
Charlevoix	Charlevoix					
(June 1-August 31)		105		38		143
(September 1-May 31)		59		38		97
Detroit	Wayne	109		46		155
East Lansing/Lansing	Ingham	65		38		103
Frankenmuth	Saginaw	69		34		103
Frankfort	Benzie	62		34		96
Gaylord	Otsego	65		38		103
Grand Rapids	Kent	62		34		96
Holland	Ottawa	60		34		94
Leland	Leelanau	75		34		109
Mackinac Island	Mackinac	165		46		211
Midland	Midland	72		34		106
Mount Pleasant	Isabella	65		34		99
Muskegon	Muskegon					
(May 1-August 31)		79		30		109
(September 1-April 30)		59		30		89
Ontonagon	Ontonagon	65		30		95
Petoskey	Emmet					
(June 1-October 31)		65		38		103
(November 1- May 31)		55		38		93
Pontiac/Troy	Oakland	94		38		132

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Auburn Hills	Bay	94		38		132
Sault Ste Marie	Chippewa					
(May 15-October 15)		63		34		97
(October 16-May 14)		55		34		89
South Haven	Van Buren	76		34		110
Traverse City	Grand Traverse	125		42		167
Warren	Macomb	79		34		113
MINNESOTA						
Anoka County	Anoka y	65		34		99
Dakota County	Dakota	80		34		114
Duluth	St. Louis					
(June 1-October 31)		85		42		127
(November 1-May 31)		56		42		98
Minneapolis/St. Paul	Hennepin County and Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), and Ramsey County	95		46		141
Rochester	Olmsted	73		34		107
MISSISSIPPI						
Bay St. Louis	Hancock					
(April 1-October 31)		69		38		107
(November 1-March 31)		55		38		93
Biloxi/Gulfport	Harrison	72		38		110
Robinsonville	Tunica	59		34		93
MISSOURI						
Branson	Taney					
(April 1-December 31)		62		34		96
(January 1-March 31)		55		34		89
Hannibal	Marion	57		30		87
Jefferson City	Cole	60		30		90
Kansas City	Jackson, Clay and Kansas City International Airport	85		42		127
Osage Beach	Camden	89		30		119
Platte	Platte (except Kansas City International Airport)	61		34		95
Springfield	Greene	63		30		93
St. Louis	St. Louis and St. Charles	90		46		136
MONTANA						
Big Sky	Gallatin (except West Yellowstone)	125		46		171
Polson/Kalispell	Lake and Flathead					
(June 1-September 15)		64		30		94
(September 16-May 31)		55		30		85
West Yellowstone	City limits of West Yellowstone (see Gallatin County)					
(June 1-September 30)		92		34		126
(October 1-May 31)		55		34		89

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Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
NEBRASKA						
Omaha	Douglas	63		38		101
NEVADA						
Incline Village/Crystal Bay	City limits of Incline Village and Crystal Bay					
(May 15-September 15)		99		38		137
(September 16-May 14)		79		38		117
Las Vegas	Clark County; Nellis AFB	79		38		117
Stateline	Douglas (see also South Lake Tahoe, CA)	129		42		171
NEW HAMPSHIRE						
Concord	Merrimack					
(May 1-October 31)		68		34		102
(November 1-April 30)		58		34		92
Conway	Carroll	89		38		127
Durham	Strafford	89		30		119
Hanover/Sullivan County	Grafton and Sullivan	95		42		137
Laconia	Belknap	73		34		107
Manchester	Hillsborough	89		34		123
Newington	Rockingham County; Pease AFB (except Portsmouth)					
(July 1-October 31)		81		42		123
(November 1-June 30)		65		42		107
Portsmouth	City limits of Portsmouth (see Rockingham County)					
(January 1-October 15)		85		42		127
(October 16-December 31)		69		42		111
NEW JERSEY						
Atlantic City	Atlantic					
(June 1-November 30)		149		42		191
(December 1-May 31)		109		42		151
Cape May	Cape May (except Ocean City)					
(June 1- November 30)		155		42		197
(December 1 - May 31)		95		42		137
Cherry Hill/Camden/ Moorestown	Camden and Burlington	74		42		116
Eatontown	Monmouth County; Fort Monmouth; (except Freehold)	84		38		122
Edison	Middlesex (except Piscataway)	169		30		199
Flemington	Hunterdon	80		34		114
Freehold	City limits of Freehold (see Monmouth County)	85		34		119
Millville	Cumberland	58		30		88
Newark	Essex, Bergen, Hudson and Passaic	125		42		167
Ocean City	City limits of Ocean City (see Cape May County)					
(June 15-September 15)		215		38		253
(September 16-June 14)		80		38		118
Parsippany/Picatinney Arsenal/Dover	Morris	114		38		152
Piscataway/Belle Mead	Somerset, and City limits of Piscataway	144		38		182

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Princeton/Trenton	Mercer	139		42		181
Tom's River	Ocean					
(May 15-September 15)		89		38		127
(September 16-May 14)		79		38		117
Union County	Union	107		38		145
NEW MEXICO						
Albuquerque	Bernalillo	65		38		103
Cloudcroft	Otero					
(June 1-October 31)		74		30		104
(November 1-May 31)		65		30		95
Los Alamos	Los Alamos	71		34		105
Santa Fe	Santa Fe	99		46		145
Taos	Taos	75		34		109
NEW YORK						
Albany	Albany	96		42		138
The Bronx/Brooklyn/Queens	The boroughs of The Bronx, Brooklyn and Queens	170		46		216
Buffalo	Erie	78		42		120
Glens Falls	Warren					
(June 1-September 30)		74		34		108
(October 1-May 31)		55		34		89
Ithaca	Tompkins	69		34		103
Kingston	Ulster	79		38		117
Lake Placid	Essex					
(June 15-October 15)		86		38		124
(October 16-June 14)		59		38		97
Manhattan	The borough of Manhattan	198		46		244
Nassau County/Great Neck	Nasssau	190		42		232
Niagara Falls	Niagara					
(May 1-October 31)		89		34		123
(November 1-April 30)		55		34		89
Nyack/Palisades	Rockland					
(April 1-September 30)		67		38		105
(October 1-March 31)		57		38		95
Owego	Tioga	73		30		103
Poughkeepsie	Dutchess	74		38		112
Rochester	Monroe	83		42		125
Saratoga Springs	Saratoga					
(July 1-October 31)		95		38		133
(November 1-June 30)		75		38		113
Staten Island	Richmond	120		42		162
Suffolk County	Suffolk	149		38		187
Syracuse	Onondaga	70		34		104
Tarrytown	Westchester (except White Plains)	114		42		156
Waterloo/Romulus	Seneca					
(June 15-September 15)		89		34		123
(September 16-June 14)		69		34		103
Watkins Glen	Schuyler	59		34		93
West Point	Orange	121		34		155

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
White Plains	City limits of White Plains (see Westchester County)	165		42		207
NORTH CAROLINA						
Atlantic Beach	Carteret					
(June 1-August 31)		64		30		94
(September 1-May 31)		55		30		85
Chapel Hill	Orange	80		38		118
Charlotte	Mecklenburg	71		38		109
Cherokee	Swain					
(April 1-October 31)		62		30		92
(November 1-March 31)		55		30		85
Fayetteville	Cumberland	63		34		97
Greensboro	Guilford	87		38		125
Kill Devil	Dare					
(May 1-September 30)		114		38		152
(October 1-February 28)		75		38		113
(March 1-April 30)		55		38		93
New Bern/Havelock	Craven	62		34		96
Raleigh	Wake	74		38		112
Research Triangle Park/Durham	Durham	85		42		127
Wilmington	New Hanover					
(April 1-September 15)		65		34		99
(September 16-March 31)		58		34		92
Winston-Salem	Forsyth	64		38		102
NORTH DAKOTA (See footnote 5)						
OHIO						
Akron	Summit	72		38		110
Bellevue	Huron	72		30		102
Cambridge	Guernsey	60		34		94
Cincinnati	Hamilton and Warren	69		46		115
Cleveland	Cuyahoga	86		42		128
Columbus	Franklin	75		38		113
Dayton	Montgomery, Wright-Patterson AFB	65		30		95
Fairborn	Greene	66		34		100
Geneva	Ashtabula	59		34		93
Hamilton	Butler	59		34		93
Lancaster	Fairfield	66		30		96
Port Clinton/Oak Harbor	Ottawa					
(June 1-September 5)		95		34		129
(September 6-May 31)		69		34		103
Sandusky	Erie					
(May 1-September 5)		85		38		123
(September 6-April 30)		55		38		93
Toledo	Lucas	69		30		99
OKLAHOMA						

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Oklahoma City	Oklahoma	65		38		103
OREGON						
Ashland	Jackson	59		42		101
Beaverton	Washington	59		38		97
Bend	Deschutes					
(June 1-September 30)		69		38		107
(October 1-May 31)		59		38		97
Clackamas	Clackamas	66		34		100
Crater Lake	Klamath	74		38		112
Eugene	Lane (except Florence)	62		38		100
Florence	City limits of Florence (see Lane County)	80		34		114
Gold Beach	Curry	58		30		88
Lincoln City/Newport	Lincoln	65		34		99
Portland	Multnomah	77		38		115
Seaside	Clatsop					
(July 1-August 31)		79		34		113
(September 1-June 30)		59		34		93
PENNSYLVANIA						
Allentown	Lehigh	62		30		92
Chester/Radnor/Essington	Delaware (except Wayne)	75		34		109
Easton	Northampton	69		34		103
Erie	Erie	65		30		95
Gettysburg	Adams					
(May 1-October 31)		82		34		116
(November 1-April 30)		55		34		89
Harrisburg	Daulphin (except Hershey)	79		42		121
Hershey	City limits of Hershey (see Daulphin County)					
(June 1-September 15)		125		42		167
(September 16-May 31)		55		42		97
King of Prussia/Ft. Washington/Bala Cynwyd	Montgomery					
(April 1-November 30)		119		42		161
(December 1-March 31)		99		42		141
Lancaster	Lancaster					
(May 1-October 31)		70		38		108
(November 1-April 30)		60		38		98
Malvern/Downington/Valley Forge	Chester	83		38		121
Mechanicsburg	Cumberland	74		34		108
Philadelphia	Philadelphia	118		46		164
Pittsburgh	Allegheny	79		46		125
Reading	Berks	75		38		113
Scranton	Lackawanna	60		30		90
Warminster	Bucks County; Naval Air Development Center	75		42		117
Wayne	City limits of Wayne (see Delaware County)	100		42		142
RHODE ISLAND						
East Greenwich	Kent County; Naval Construction Battalion Center, Davisville	79		38		117
Newport	Newport					

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(April 1-December 31)		111		42		153
(January 1-March 31)		79		42		121
North Kingstown	Washington	89		30		119
Providence	Providence	89		42		131
SOUTH CAROLINA						
Aiken	Aiken	65		30		95
Charleston/Berkeley County	Charleston and Berkeley	99		42		141
Columbia	Richland	65		30		95
Greenville	Greenville	65		38		103
Hilton Head	Beaufort					
(March 15-September 30)		95		42		137
(October 1-March 14)		75		42		117
Myrtle Beach	Horry County; Myrtle Beach AFB					
(March 1-November 30)		99		42		141
(December 1-February 28)		59		42		101
SOUTH DAKOTA						
Custer	Custer					
(June 15-August 19)		70		30		100
(August 20-June 14)		55		30		85
Hot Springs	Fall River					
(June 15-October 15)		108		30		138
(October 16-June 14)		79		30		109
Rapid City	Pennington					
(May 15-September 30)		99		34		133
(October 1-May 14)		55		34		89
Sturgis	Mead					
(June 15-August 15)		79		30		109
(August 16-June 14)		55		30		85
TENNESSEE						
Alcoa/Townsend	Blount	63		34		97
Gatlinburg	Sevier					
(May 1-October 31)		78		38		116
(November 1-April 30)		70		38		108
Memphis	Shelby	70		38		108
Murfreesboro	Rutherford	57		30		87
Nashville	Davidson	82		42		124
Williamson County	Williamson	60		30		90
TEXAS						
Amarillo	Potter	57		30		87
Arlington	Tarrant	77		34		111
Austin	Travis	80		38		118
Bryan	Brazos (except College Station)	60		30		90
College Station	City limits of College Station (see Brazos County)	69		34		103
Corpus Christi	Nueces	59		38		97
Dallas	Dallas	89		46		135
El Paso	El Paso	78		38		116

Per diem locality: Key city[1]	County and/or other defined location [2, 3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Fort Davis	Jeff Davis	68		30		98
Fort Worth	City limits of Fort Worth	94		38		132
Galveston	Galveston	76		42		118
Granbury	Hood	60		30		90
Houston	Harris County; L.B. Johnson Space Center and Ellington AFB.	73		42		115
Killeen	Bell	59		30		89
Laredo	Webb	70		30		100
McAllen	Hidalgo	70		34		104
Plano	Collin	70		34		104
San Antonio	Bexar	91		42		133
South Padre Island	Cameron					
(March 1-August 15)		91		38		129
(August 16-February 28)		70		38		108
Waco	McLennan	57		30		87
UTAH						
Bullfrog	Garfield	73		30		103
Cedar City	Iron	59		34		93
Moab	Grand					
(March 15-October 31)		90		34		124
(November 1-March 14)		55		34		89
Ogden/Layton/Davis County	Weber and Davis					
(January 15-February 28)		169		34		203
(March 1-January 14)		69		34		103
Park City	Summit					
(December 15-March 31)		169		46		215
(April 1-December 14)		79		46		125
Provo	Utah					
(January 15-February 28)		169		38		207
(March 1-October 31)		69		38		107
(November 1-January 14)		60		38		98
Salt Lake City	Salt Lake and Dugway Proving Ground and Tooele Army Depot					
(January 15-February 28)		169		42		211
(March 1-January 14)		75		42		117
VERMONT						
Burlington/St. Albans	Chittenden and Franklin	89		38		127
Manchester	Bennington	68		42		110
Middlebury	Addison	68		38		106
Montpelier	Washington	62		30		92
White River Junction	Windsor					
(September 15-October 31)		90		34		124
(November 1-September 14)		55		34		89
VIRGINIA						
(For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia.)						
Charlottesville*		60		42		102

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Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Colonial Heights*		77		30		107
Lynchburg*		64		38		102
Manassas/Woodbridge	Prince William	84		34		118
Richmond*	Chesterfield and Henrico Counties, also Defense Supply Center	77		38		115
Roanoke*		59		34		93
Virginia Beach*	Virginia Beach (also Norfolk, Portsmouth and Chesapeake)*					
(April 1-October 31)		109		38		147
(November 1-March 31)		55		38		93
Wallops Island	Accomack					
(June 1-September 5)		89		34		123
(September 6-May 31)		69		34		103
Williamsburg*	Williamsburg (also Hampton, Newport News, York County, Naval Weapons Station, Yorktown)*					
(April 1-October 31)		99		38		137
(November 1-March 31)		59		38		97
Wintergreen	Nelson	125		46		171
*Denotes independent cities.						
WASHINGTON						
Anacortes	Skagit and Island	64		38		102
Bremerton	Kitsap	61		34		95
Everett	Snohomish (except Lynnwood)	59		38		97
Friday Harbor	San Juan					
(May 1-September 30)		95		42		137
(October 1-April 30)		65		42		107
Lynnwood	City limits of Lynnwood (see Snohomish County)	89		34		123
Ocean Shores	Grays Harbor					
(April 1-September 30)		82		38		120
(October 1-March 31)		55		38		93
Olympia/Tumwater	Thurston	58		38		96
Port Angeles	City limits of Port Angeles (see Clallam County)	65		38		103
Port Townsend	Jefferson	79		34		113
Seattle	King	109		46		155
Sequim	Clallam (except Port Angeles)					
(June 29 -September 1)		62		34		96
(September 2 -June 28)		55		34		89
Spokane	Spokane	63		38		101
WEST VIRGINIA						
Berkeley Springs	Morgan	69		34		103
Charleston	Kanawha	78		38		116
Martinsburg/Hedgesville	Berkeley	59		30		89
Morgantown	Monongalia	66		34		100
Shepherdstown	Jefferson	79		38		117
Wheeling	Ohio	71		34		105

Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
WISCONSIN						
Brookfield	Waukesha	66		38		104
Green Bay	Brown	59		34		93
Lake Geneva	Walworth					
(June 1-September 4)		85		38		123
(September 5-May 31)		66		38		104
Madison	Dane	62		38		100
Milwaukee	Milwaukee	95		42		137
Racine	Racine	80		30		110
Sheboygan	Sheboygan	59		30		89
Sturgeon Bay	Door					
(May 15-October 15)		81		34		115
(October 16-May 14)		56		34		90
Wisconsin Dells	Columbia					
(June 1-September 30)		85		38		123
(October 1-May 31)		55		38		93
WYOMING						
Cody	Park					
(May 15-October 15)		98		30		128
(October 16-May 14)		55		30		85
Jackson	Teton					
(November 1-September 15)		115		42		157
(September 16-October 31)		69		42		111

[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties (unless otherwise listed separately)."

[3] When a military installation or Government-related facility (whether or not specifically named) is located partially within more than one city or county boundary, the applicable per diem rate for the entire installation or facility is the higher of the two rates which apply to the cities and/or counties, even though part(s) of such activities may be located outside the defined per diem locality.

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be reviewed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Office of Governmentwide Policy, Attn: Travel Management Policy Division (MTT), Washington, DC 20405. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the location.

[5] The standard CONUS rate of $85 ($55 for lodging and $30 for M&IE) applies to all per diem localities in the State of North Dakota.

Note: Recognizing that all locations are not incorporated cities, the term "city limits" has been used as a general phrase to denote the commonly recognized local boundaries of the location cited.

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Attachment A to Appendix A of Chapter 301

The FY 2002 per diem rate will not change until FPLP contracts are active in the following locations:

Huntsville, AL
Montgomery, AL
Phoenix/Scottsdale, AZ
Sierra Vista, AZ
Tucson, AZ
Los Angeles, CA
Monterey, CA
Sacramento, CA
San Diego, CA
San Francisco, CA
Colorado Springs, CO
Washington, DC Metropolitan Area
Jacksonville/Mayport, FL
Miami, FL
Tampa/St. Petersburg, FL
Atlanta, GA
Cobb County, GA
Dekalb County, GA
Savannah, GA
Indianapolis, IN
Kansas City/Overland Park, KS
New Orleans, LA
Annapolis, MD
Baltimore, MD
Columbia, MD
Harford County, MD
Lexington Park/Leonardtown/Lusby, MD
Detroit, MI
Minneapolis/St. Paul, MN
Albuquerque, NM
Cincinnati, OH
Columbus, OH
Oklahoma City, OK
Portland, OR
Harrisburg, PA
Philadelphia, PA
Pittsburgh, PA
Charleston, SC
Memphis, TN
Arlington, TX
Austin, TX
Dallas, TX
El Paso, TX
Ft. Worth, TX
Houston, TX
Killeen, TX
San Antonio, TX
Salt Lake City, UT (will change only for the Olympics)
Richmond, VA
Virginia Beach, VA
Seattle, WA

Dated: August 23, 2001.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 01–21808 Filed 8–30–01; 8:45 am]

BILLING CODE 6820–34–P



Federal Register

Friday,
August 31, 2001

Part III

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

VOL 66 ISS 170 AG 31 2001 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: **AIR FORCE:** Ms. Barbara Jenkins, Air Force Real Estate Agency, Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; **ENERGY:** Mr. Tom Knox, Department of Energy, Office of Engineering & Construction Management, CR–80, Washington, DC 20585; (202) 586–8715; **NAVY:** Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; **VA:** Mr. Anatolij Kushnir, Director, Asset & Enterprise Development Service, 181B, Department of Veterans Affairs, 811 Vermont Avenue, NW., Room 419, Lafayette Bldg., Washington, DC 20420; (202) 565–5941; (These are not toll-free numbers).

Dated: August 24, 2001.

Mark R. Johnston,

Deputy Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program, Federal Register Report for 8/31/01

Suitable/Available Properties

Buildings (by State)

California

Bldg. 604
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010237
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 605
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010238
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 611
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010239
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 612
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010240
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 613
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010241
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 614
Point Arena Air Force Station
Co: Mendocino CA 95648–5000
Landholding Agency: Air Force
Property Number: 18199010242
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 615
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010243
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 616
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010244
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 617
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010245
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing

Bldg. 618
Point Arena Air Force Station
Co: Mendorino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010246
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing; needs rehab.

Colorado

Bldg. 964
Former Lowry AFB
Denver Co: CO 80220-Landholding Agency: Air Force
Property Number: 18199930016
Status: Unutilized
Comment: 14,495 sq. ft., local land use controls, most recent use—child care/kitchen facility

Idaho

Bldg. CF603
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200020004
Status: Excess
Comment: 15,005 sq ft. cinder block, presence of asbestos/lead paint, major rehab, off-site use only

CPP657, CPP669, CPP686
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200110001
Status: Excess
Comment: 8000 sq. ft., bldgs. connected, possible asbestos/lead paint, most recent use—offices, off-site use only

Indiana

Bldg. 105, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230006
Status: Excess
Comment: 310 sq. ft., 1 story stone structure, no sanitary or heating facilities, Natl Register of Historic Places

Bldg. 140, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230007
Status: Excess
Comment: 60 sq. ft., concrete block bldg., most recent use—trash house

Bldg. 7
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810001
Status: Underutilized
Comment: 16,864 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 10
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810002
Status: Underutilized
Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 11
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810003
Status: Underutilized
Comment: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 18
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810004
Status: Underutilized
Comment: 13,802 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 25
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953–
Landholding Agency: VA
Property Number: 97199810005
Status: Unutilized
Comment: 32,892 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Massachusetts

Bldg. 001
Air Natl Guard Station 50 Skyline Drive
Worcester Co: MA 01605–2898
Landholding Agency: Air Force
Property Number: 18199940001
Status: Excess
Comment: 37,557 sq. ft., most recent use—shops/vehicle maintenance

Bldg. 002
Air Natl Guard Station
50 Skyline Drive
Worcester Co: MA 01605–2898
Landholding Agency: Air Force
Property Number: 18199940002
Status: Excess
Comment: 5,580 sq. ft., most recent use—office/shops

Bldg. 003
Air Natl Guard Station
50 Skyline Drive
Worcester Co: MA 01605–2898
Landholding Agency: Air Force
Property Number: 18199940003
Status: Excess
Comment: 3,840 sq. ft., most recent use—warehouse

Bldg. 004
Air Natl Guard Station 50 Skyline Drive
Worcester Co: MA 01605–2898
Landholding Agency: Air Force
Property Number: 18199940004
Status: Excess
Comment: 225 sq. ft., most recent use—shop

Bldg. 005
Air Natl Guard Station
50 Skyline Drive
Worcester Co: MA 01605–2898
Landholding Agency: Air Force
Property Number: 18199940005
Status: Excess
Comment: 8000 sq. ft., most recent use—warehouse

New Mexico

Bldgs. 847, 6600
Kirtland AFB
Albuquerque Co: Bernalilo NM 87185–
Landholding Agency: Energy
Property Number: 41200020021
Status: Excess
Comment: 4053 sq. ft. & 1501 sq. ft., needs rehab, presence of asbestos, off-site use only

New York

Bldg. 1452 & 297 acres
AVA Test Annex
Town of Ava Co: Oneida NY 13303–
Landholding Agency: Air Force
Property Number: 18199920030
Status: Unutilized
Comment: 11,000 sq. ft. on 297 acres (67 acres of wetland), most recent use—electronic research testing, presence of asbestos/lead paint

Bldg. 1453
AVA Test Annex
Town of Ava Co: Oneida NY 13303–
Landholding Agency: Air Force
Property Number: 18199920031
Status: Unutilized
Comment: 266 sq. ft., most recent use—generator bldg., presence of asbestos

Bldg. 1454
AVA Test Annex
Town of Ava Co: Oneida NY 13303–
Landholding Agency: Air Force
Property Number: 18199920032
Status: Unutilized
Comment: 53 sq. ft., most recent use—switch station, presence of asbestos

Lockport Comm. Facility
Shawnee Road
Lockport Co: Niagara NY
Landholding Agency: Air Force
Property Number: 18200040004
Status: Excess
Comment: 2 concrete block bldgs., (415 & 2929 sq. ft.) on 7.68 acres

Pennsylvania

Bldg. 25—VA Medical Center
Delafield Road
Pittsburgh Co: Allegheny PA 15215–

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Landholding Agency: VA
Property Number: 97199210001
Status: Unutilized
Comment: 133 sq. ft., one story brick guard house, needs rehab

Bldg. 3, VAMC 1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding Agency: VA
Property Number: 97199230012
Status: Underutilized
Comment: portion of bldg. (4046 sq. ft.), most recent use—storage, second floor—lacks elevator access

South Dakota

West Communications Annex
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199340051
Status: Unutilized
Comment: 2 bldgs. on 2.37 acres, remote area, lacks infrastructure, road hazardous during winter storms, most recent use—industrial storage

Wisconsin

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 97199010056
Status: Underutilized
Comment: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

LAND (by State)

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 97199010053
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped

California

Land
4150 Clement Street
San Francisco Co: San Francisco CA 94121–
Landholding Agency: VA
Property Number: 97199240001
Status: Underutilized
Comment: 4 acres; landslide area

Iowa

40.66 acres
VA Medical Center 1515 West Pleasant St.
Knoxville Co: Marion IA 50138–
Landholding Agency: VA
Property Number: 97199740002
Status: Unutilized
Comment: golf course, easement requirements

Maryland

VA Medical Center 9500 North Point Road
Fort Howard Co: Baltimore MD 21052–
Landholding Agency: VA
Property Number: 97199010020
Status: Underutilized
Comment: Approx. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

Nebraska

Hastings Radar Bomb Scoring
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199810027
Status: Unutilized
Comment: 11 acres

Texas

Land
Olin E. Teague Veterans Center 1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 97199010079
Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 97199010054
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities

Suitable/Unavailable Properties

BUILDINGS (by State)

Colorado

Bldg. 9023
U.S. Air Force Academy
Colorado Springs Co: El Paso CO 80814–2400
Landholding Agency: Air Force
Property Number: 18199730010
Status: Underutilized
Comment: 4112 sq. ft., most recent use—preschool

Bldg. 9027
U.S. Air Force Academy
Colorado Springs Co: El Paso CO 80814–2400
Landholding Agency: Air Force
Property Number: 18199730011
Status: Underutilized
Comment: 4112 sq. ft., most recent use—child care center

Idaho

Bldg. 224
Mountain Home Air Force
Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199840008
Status: Unutilized
Comment: 1890 sq. ft., no plumbing facilities, possible asbestos/ lead paint, most recent use—office

Bldg. CFA–613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comment: 1219 sq. ft., most recent use—sleeping quarters, presence of asbestos, off-site use only

Indiana

Bldg. 24, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230005
Status: Underutilized
Comment: 4135 sq. ft. 2-story wood structure, needs minor rehab, no sanitary or heating facilities, presence of asbestos, Natl Register of Historic Places

Iowa

Bldg. 00669
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 18199310002
Status: Unutilized
Comment: 1113 sq. ft., 1-story concrete block bldg., contamination clean-up in process

Maine

Dow Pines Rec Site
Great Pond Co: Hancock ME 04408–
Landholding Agency: Air Force
Property Number: 18200040005
Status: Excess
Comment: 12 bldgs. totaling 19012 sq. ft. on approx. 376 acres, (5 cabins, bathhouse, rec bldg, lodges)

Montana

VA MT Healthcare 210 S. Winchester
Miles City Co: Custer MT 59301–
Landholding Agency: VA
Property Number: 97200030001
Status: Underutilized
Comment: 18 buildings, total sq. ft. = 123,851, presence of asbestos, most recent use—clinic/office/food production

New Hampshire

Bldg. 127
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 18199320057
Status: Excess
Comment: 698 sq. ft., 1-story, concrete and metal frame, possible asbestos, access restrictions, most recent use—storage

Wisconsin

Bldg. 2
VA Medical Center 5000 West National Ave.
Milwaukee WI 53295–
Landholding Agency: VA
Property Number: 97199830002
Status: Underutilized
Comment: 133,730 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage

LAND (by State)

Iowa

38 acres
VA Medical Center 1515 West Pleasant St.
Knoxville Co: Marion IA 50138–
Landholding Agency: VA
Property Number: 97199740001
Status: Unutilized
Comment: golf course

Michigan

VA Medical Center 5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016–
Landholding Agency: VA
Property Number: 97199010015
Status: Underutilized
Comment: 20 acres, used as exercise trails and storage areas, potential utilities.

New York

VA Medical Center
Fort Hill Avenue
Canandaigua Co: Ontario NY 14424–
Landholding Agency: VA
Property Number: 97199010017
Status: Underutilized
Comment: 27.5 acres, used for school ballfield and parking, existing utilities easements, portion leased.

Pennsylvania

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001–
Landholding Agency: VA
Property Number: 97199010016
Status: Underutilized
Comment: Approx. 9.29 acres, used for patient recreation, potential utilities.

Land No. 645
VA. Medical Center
Highland Drive
Pittsburgh Co: Allegheny PA 15206—Location:
Between Campania and Wiltsie Streets.
Landholding Agency: VA
Property Number: 97199010080
Status: Unutilized
Comment: 90.3 acres, heavily wooded, property includes dump area and numerous site storm drain outfalls.

Land—34.16 acres
VA Medical Center 1400 Black Horse Hill Road
Coatesville Co: Chester PA 19320–
Landholding Agency: VA
Property Number: 97199340001
Status: Underutilized
Comment: 34.16 acres, open field, most recent use—recreation/buffer

Suitable/To Be Excessed

Buildings (by State)

New York

Bldg. 1
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530048
Status: Excess
Comment: 4955 sq. ft., 2 story concrete block, needs rehab, most recent use—administration

Bldg. 2
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530049
Status: Excess
Comment: 1476 sq. ft., 1 story concrete block, needs rehab, most recent use—repair shop

Bldg. 6
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530050
Status: Excess
Comment: 2466 sq. ft., 1 story concrete block, needs rehab, most recent use—repair shop

Bldg. 11
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530051
Status: Excess
Comment: 1750 sq. ft., 1 story wood frame, needs rehab, most recent use—storage

Bldg. 8
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530052
Status: Excess
Comment: 1812 sq. ft., 1 story concrete block, needs rehab, most recent use—repair shop communications

Bldg. 14
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530053
Status: Excess
Comment: 156 sq. ft., 1 story wood frame, most recent use—vehicle fuel station

Bldg. 30
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530054
Status: Excess
Comment: 3649 sq. ft., 1 story, needs rehab, most recent use—assembly hall

Bldg. 31
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530055
Status: Excess
Comment: 8252 sq. ft., 1 story concrete block, most recent use—storage

Bldg. 32
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530056
Status: Excess
Comment: 1627 sq. ft., 1 story concrete block, most recent use—storage

South Carolina

5 Bldgs.
Charleston AFB Annex Housing
N. Charleston SC 29404–4827
Location: 101 Vector Ave., 112, 114, 116, 118 Intercept Ave.
Landholding Agency: Air Force
Property Number: 18199830035
Status: Unutilized
Comment: 1433 sq. ft. + 345 sq. ft. carport, lead base paint/exterior most recent use—residential

1 Bldg.
Charleston AFB Annex Housing
N. Charleston SC 29404–4827
Location: 102 Vector Ave.
Landholding Agency: Air Force
Property Number: 18199830036
Status: Unutilized
Comment: 1545 sq. ft. + 345 sq. ft. carport, lead base paint/exterior most recent use—residential

1 Bldg.
Charleston AFB Annex Housing
N. Charleston SC 29404–4827
Location: 103 Vector Ave.
Landholding Agency: Air Force
Property Number: 18199830037
Status: Unutilized
Comment: 1445 sq. ft. + 346 sq. ft. carport, lead base paint/exterior most recent use—residential

18 Bldg.
Charleston AFB Annex Housing
N. Charleston SC 29404–4827
Location: 104–107 Vector Ave., 108–111, 113, 115, 117, 119 Intercept Ave., 120–122 Radar Ave.
Landholding Agency: Air Force
Property Number: 18199830038
Status: Unutilized
Comment: 1265 sq. ft. + 353 sq. ft. carport, lead base paint/exterior most recent use—residential

LAND (by State)

New York

14.90 Acres
Hancock Field
Syracuse Co: Onandaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199530057
Status: Excess
Comment: Fenced in compound, most recent use—Air Natl. Guard Communication & Electronics Group

Unsuitable Properties

BUILDINGS (by State)

Alabama

Bldg. 7
VA Medical Center
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 97199730001
Status: Underutilized
Reason: Secured Area

Bldg. 8
VA Medical Center
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 97199730002
Status: Underutilized
Reason: Secured Area

Alaska

Bldg. 203
Tin City Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010296
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area

Bldg. 165
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010298
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area

Bldg. 150
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010299

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Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 130
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010300
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 306
King Salmon Airport
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010301
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 11–230
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010303
Status: Unutilized
Reasons: Contamination, Secured Area
Bldg. 63–320
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010307
Status: Unutilized
Reasons: Contamination, Secured Area
Bldg. 103
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010309
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 110
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010310
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 112
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010311
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 113
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010312
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 114
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010313
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area
Bldg. 115
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010314
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 118
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010315
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1018
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010317
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1025
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010318
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1055
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010319
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 107
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010320
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 115
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010321
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 113
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010322
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 150
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010323
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 152
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010324
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 301
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010325
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1001
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010326
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1003
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010327
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1055
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFb Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010328
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1056
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010329
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 103
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010330
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 104
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010331
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 105
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010332
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 110
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010333
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 114
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010334
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 202
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010335
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 204
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010336
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 205
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010337
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1001
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010338
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 1015
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010339
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Contamination, Secured Area.
Bldg. 50
Cold Bay Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010433
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Isolated and remote; Arctic environment.
Bldg. 1548, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420001
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1568, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420002
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1570, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420003
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1700, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420004
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1832, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420005
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1842, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420006
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1844, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199420007
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration.
Bldg. 1853, Galena Airport
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199440011
Status: Unutilized
Reasons: Floodway, Secured Area.
Bldg. 142
Tin City Long Range Radar Site
Wales Co: Nome AK
Landholding Agency: Air Force
Property Number: 18199520013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.
Bldg. 110
Tin City Long Range Radar Site
Wales Co: Nome AK
Landholding Agency: Air Force
Property Number: 18199520014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration.
Bldg. 646
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 18199520015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 2541
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 18199520016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1770
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 18199520017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1770
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 18199520018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1772
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 18199520019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1774
Galena Airport
Galena Co: Yukon AK
Landholding Agency: Air Force
Property Number: 18199520020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg.

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Bldg. 1
Lonely Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 18199520024
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2
Lonely Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 18199520025
Status: Unutilized
Reasons: Not accessible by road, Extensive deterioration

Bldg. 12
Lonely Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 18199520026
Status: Unutilized
Reasons: Not accessible by road, Extensive deterioration

Bldg. 1
Wainwright Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 18199520027
Status: Unutilized
Reasons: Not accessible by road, Extensive deterioration

Bldg. 2
Wainwright Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 18199520028
Status: Unutilized
Reasons: Not accessible by road, Extensive deterioration

Bldg. 3
Wainwright Dewline Site
Fairbanks Co: Fairbanks NS AK
Landholding Agency: Air Force
Property Number: 18199520029
Status: Unutilized
Reasons: Not accessible by road, Extensive deterioration

Bldg. 3045
Tatalina Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 18
Lonely Dewline Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 23
Lonely Dewline Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1015
Kotzebue Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1
Flaxman Island DEW Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3
Flaxman Island DEW Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 4100
Cape Romanzof Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 200
Cape Newenham Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2166
Cape Newenham Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530011
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5500
Cape Newenham Long Range Radar Site
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 8
Barter Island
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 75
Barter Island
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 86
Barter Island
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3060
Barter Island
Elmendorf AFB AK 99506–4420
Landholding Agency: Air Force
Property Number: 18199530016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 11–330
Elmendorf Air Force Base
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199530017
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 32–126
Elmendorf Air Force Base
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199530023
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 21–737
Elmendorf Air Force Base
Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199540001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 52–651
Elmendorf AFB
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199740004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 132
Tin City Long Range Radar Site
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199810003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 1001, 211
Murphy Dome AF Station
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199810004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1551
Galena Airport
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199810030
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 1771
Galena Airport
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199820001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 34–570
Elmendorf AFB
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199840018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 649
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 18199840019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 114
Indian Mountain Long Range Radar Site
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199840020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 34–636
Elmendorf AFB
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199840021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Within airport runway clear zone Secured Area, Extensive deterioration

Bldg. 34–638
Elmendorf AFB
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199840022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Extensive deterioration

Bldg. 140
Cape Lisburne Long Range Radar Site
Elmendorf AFB AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199840023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 145
Cape Lisburne Long Range Radar Site
Elmendorf AFB AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199840024
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 310
Cape Lisburne Long Range Radar Site
Elmendorf AFB AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199840025
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 27
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 30
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840027
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 42
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840028
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 212
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840029
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 213
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 223
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840031
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 452
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840032
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 502
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840033
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 503
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840034
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 522
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840035
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 587
Eareckson Air Station

Elmendorf AFB
Anchorage AK 99506–3240
Landholding Agency: Air Force
Property Number: 18199830008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 3
Oliktok Long Range Radar Site
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199840010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 8
Oliktok Long Range Radar Site
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199840011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 19
Lonely Short Range Radar Site
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199840012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 20
Lonely Short Range Radar Site
Elmendorf AFB AK 99506–2270
Landholding Agency: Air Force
Property Number: 18199840013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 338
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 18199840014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 560
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 18199840015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 612
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency Air Force
Property Number: 18199840016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 618
King Salmon Airport
Naknek Co: Bristol Bay AK
Landholding Agency: Air Force
Property Number: 18199840017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 643
King Salmon Airport
Naknek Co: Bristol Bay AK

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Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840036
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 588
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840037
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 598
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840038
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 605
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840039
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 613
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840040
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 614
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 615
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840042
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 616
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840043
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 617
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840044
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 624
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840045
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 700
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840046
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 718
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840047
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 727
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840048
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 731
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840049
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 751
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840050
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 753
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840051
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1001
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840052
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1005
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840053
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1010
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840054
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1025
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840055
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1030
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840056
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3016
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840057
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3062
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840058
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3063
Eareckson Air Station
Shemya Island AK
Landholding Agency: Air Force
Property Number: 18199840059
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 32–189
Elmendorf Air Force Base
Anchorage Co: AK 99506–3230
Landholding Agency: Air Force
Property Number: 18199920001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area, Extensive deterioration

Bldg. 4893
Elmendorf AFB
Elmendorf AFB Co: AK 99506-Landholding Agency: Air Force
Property Number: 18199930001
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 4905
Elmendorf AFB
Elmendorf AFB Co: AK 99506-Landholding Agency: Air Force
Property Number: 18199930002
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. 4913
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18199930003
Status: Unutilized

Reasons: Within airport runway clear zone Secured Area

Bldg. 5887
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18199930004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 10449
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18199930005
Status: Unutilized
Reason: Secured Area

Bldg. 12759
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18199930006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 4305
Elmendorf AFB
Anchorage Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200030001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 15379
Elmendorf AFB
Anchorage Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200030004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 15526
Elmendorf AFB
Anchorage Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200030005
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. 15534
Elmendorf AFB
Anchorage Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200030006
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. 20174
Elmendorf AFB
Anchorage Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200030009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 10549
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area Extensive deterioration

Bldg. 11634
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 14545
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120003
Status: Unutilized
Reason: Secured Area

Bldg. 16504
Elmendorf AFB
Elmendorf AFB Co: AK 99506–
Landholding Agency: Air Force
Property Number: 18200120004
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area

Arizona

Facility 90002
Holbrook Radar Site
Holbrook Co: Navajo AZ 86025–
Landholding Agency: Air Force
Property Number: 18199340049
Status: Unutilized
Reason: Within airport runway clear zone

California

Bldg. 707 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 18199010193
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 575 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 18199010195
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 502 63 ABG/DE
Norton Air Force Base
Lorton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 18199010196
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 23 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Number: 18199010197
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 100
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010233
Status: Unutilized
Reason: Secured Area

Bldg. 101
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010234
Status: Underutilized
Reason: Secured Area

Bldg. 116
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010235
Status: Unutilized
Reason: Secured Area

Bldg. 202
Point Arena Air Force Station
(See County) Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Number: 18199010236
Status: Unutilized
Reason: Secured Area

Bldg. 201
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 18199010546
Status: Unutilized
Reason: Secured Area

Bldg. 202
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 18199010547
Status: Unutilized
Reason: Secured Area

Bldg. 203
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 18199010548
Status: Unutilized
Reason: Secured Area

Bldg. 204
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 18199010549
Status: Unutilized
Reason: Secured Area

Bldg. 1823
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Hwy 1, Hwy 246, Coast Road, PT Sal Rd., Miguelito CYN
Landholding Agency: Air Force

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Property Number: 18199130360
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area
Bldg. 16104, Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Hwy 1, Hwy 246; Coast Rd., Pt Sal Rd.; Miguelito Cyn
Landholding Agency: Air Force
Property Number: 18199230020
Status: Underutilized
Reason: Secured Area
Bldg. 5428, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199310015
Status: Unutilized
Reason: Secured Area
Bldg. 7304, Vandenberg AFB
Vandenberg Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199310030
Status: Unutilized
Reason: Secured Area
Bldg. 8215
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199330016
Status: Unutilized
Reason: Secured Area
Bldg. 1988
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199340003
Status: Unutilized
Reasons: Electrical Power Generator Bldg., Secured Area
Bldg. 1324
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199340006
Status: Unutilized
Reason: Secured Area
Bldg. 1341
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199340007
Status: Unutilized
Reason: Secured Area
Bldg. 1955
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199340008
Status: Unutilized
Reason: Secured Area
Bldg. 16164
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199340028
Status: Unutilized
Reason: Secured Area
Bldg. 422
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530029
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 431
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 470
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530031
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 480
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530032
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 6606
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530037
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 10717
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 10722
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199530043
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 13003
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199620031
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 13222
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199620032
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 815
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630040
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1850
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1853
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630042
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1856
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630043
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1865
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630044
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1874
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630045
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1875
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630046
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1877
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630047
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1879
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630048
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1885
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630049
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 1898
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630050
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 06445
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630052
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 21160
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199630055
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 06437
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199710014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 10715
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199710016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 00879
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 01630
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 01797
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 01830
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 01852
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 11345
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 14019
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720022
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 14026
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199720023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 22300
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199730002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 08412
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199740006
Status: Unutilized
Reason: Secured Area
Bldg. 11153
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199740007
Status: Unutilized
Reason: Secured Area
Bldgs. 2–11, 20–21
Edwards AFB
P-Area Housing
Edwards AFB Co: Kern CA 93524–
Landholding Agency: Air Force
Property Number: 18199810029
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1681
Vandenberg AFB
Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199820003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 01839
Vandenberg AFB
Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199820004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 06519
Vandenberg AFB
Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199820005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 06526
Vandenberg AFB
Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199820006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 11167
Vandenberg AFB
Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199820007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 11168
Vandenberg AFB
Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18199820008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 13024
Vandenberg AFB

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Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200030010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 6436
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200040001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 10600
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200120005
Status: Unutilized
Reason: Secured Area

Bldg. 10605
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200120006
Status: Unutilized
Reason: Secured Area

Bldg. 16109
Vandenberg AFB
Santa Barbara Co: CA 93437–
Landholding Agency: Air Force
Property Number: 18200120007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 00884
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200130001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 13607
Vandenberg AFB
Vandenberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200130002
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldg. 00910
"Blue Barn"—Falcon Air Force Base
Falcon Co: El Paso CO 80912–
Landholding Agency: Air Force
Property Number: 18199530046
Status: Underutilized
Reason: Secured Area

Bldg. 9214
U.S. Air Force Academy
Colorado Springs Co: El Paso CO 80814–2400
Landholding Agency: Air Force
Property Number: 18199730012
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. 8412
Air Force Academy
El Paso Co: CO 80840–2400
Landholding Agency: Air Force
Property Number: 18200120008
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 440
Buckley AFB
Aurora Co: Arapahoe CO 80011–
Landholding Agency: Air Force
Property Number: 18200130003
Status: Unutilized
Reason: Secured Area

Bldg. 441
Buckley AFB
Aurora Co: Arapahoe CO 80011–
Landholding Agency: Air Force
Property Number: 18200130004
Status: Unutilized
Reason: Secured Area

Bldg. 34
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540001
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 35
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540002
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 36
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540003
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 2
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610039
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 7
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610040
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 31–A
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610041
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 33
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610042
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 727
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 729
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 779
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 780
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 780A
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 780B
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 782
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 783
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 784(A–D)
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 785
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 786
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 787(A–D)
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 875
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 880
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 886
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 308A
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 788
Rocky Flats Env. Tech. site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910017
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 888
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 714 A/B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930021
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 717
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930022
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 770
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930023
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930024
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930025
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771C
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930026
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 772–772A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930027
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 773
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930028
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 774
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930029
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 776
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010001
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 777
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 778
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Structure 712–712A
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Structure 713–713A
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Structure 771 TUN
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Structure 776A–781
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200010007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 111, 111B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200030001
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 125
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120001
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 333
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 762
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 762A
Rocky Flats Env. Tech Site

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Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 792
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 792A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41200120006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Connecticut

Bldg. 13
Bradley International Airport
East Granby Co: Hartford CT 06026–9309
Landholding Agency: Air Force
Property Number: 18199640002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 10
Bradley International Airport
East Granby Co: Hartford CT 06026–9309
Landholding Agency: Air Force
Property Number: 18199640003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 5
Bradley International Airport
East Granby Co: Hartford CT 06026–9309
Landholding Agency: Air Force
Property Number: 18199640004
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Bldg. 4
Bradley International Airport
East Granby Co: Hartford CT 06026–9309
Landholding Agency: Air Force
Property Number: 18199640005
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Bldgs. 25 and 26
Prospect Hill Road
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199440003
Status: Excess
Reason: Secured Area
9 Bldgs.
Knolls Atomic Power Lab, Windsor Site
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199540004
Status: Excess
Reason: Secured Area
Bldg. 8, Windsor Site
Knolls Atomic Power Lab
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199830006
Status: Unutilized
Reason: Extensive deterioration

Florida

Bldg. 575
Patrick Air Force Base
Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199320004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Extensive Deterioration, Secured Area
Bldg. 921
Patrick Air Force Base
Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199430002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
23 Family Housing
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825–Location: Include Bldgs: 448, 451 thru 470, 472 and 474
Landholding Agency: Air Force
Property Number: 18199520006
Status: Excess
Reason: Within airport runway clear zone
Bldg. 240
MacDill Auxiliary Airfield No. 1
Avon Park Co: Polk FL 33825–
Landholding Agency: Air Force
Property Number: 18199520007
Status: Excess
Reason: Extensive deterioration
Bldg. 307
Patrick Air Force Base
Patrick AFB Co: Brevard FL
Landholding Agency: Air Force
Property Number: 18199710022
Status: Unutilized
Reason: Secured Area
Bldg. 315
Patrick Air Force Base
Patrick AFB Co: Brevard FL
Landholding Agency: Air Force
Property Number: 18199710023
Status: Unutilized
Reason: Secured Area
Bldg. 317
Patrick Air Force Base
Patrick AFB Co: Brevard FL
Landholding Agency: Air Force
Property Number: 18199710024
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 318
Patrick Air Force Base
Patrick AFB Co: Brevard FL
Landholding Agency: Air Force
Property Number: 18199710025
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Facility No. 10831
Cape Canaveral Air Station
Cape Canaveral AS Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199710033
Status: Unutilized
Reason: Secured Area
Facility No. 15500
Cape Canaveral Air Station
Cape Canaveral AS Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199710034
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Facility No. 70662
Cape Canaveral Air Station
Cape Canaveral AS Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199710037
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Facility No. 72920
Cape Canaveral Air Station
Cape Canaveral AS Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199710038
Status: Unutilized
Reason: Secured Area
Bldg. 895, Eglin AFB
Eglin AFB Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199710045
Status: Unutilized
Reason: Extensive deterioration
Bldg. 744
Eglin AFB
Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199820009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 3008
Eglin AFB
Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199820010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 3010
Eglin AFB
Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199820011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 12709
Eglin AFB
Co: Okaloosa FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199820012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 08807
Cape Canaveral Air Station
Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199820013
Status: Unutilized
Reason: Secured Area
Facility 44608
Cape Canaveral Air Station
Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18199830006
Status: Unutilized

Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 12577
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910001
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 12576
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910002
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 12534
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910003
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 12533
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910004
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 12528
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910005
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 9281
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910006
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 9280
Eglin AFB
Santa Rosa Island
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910007
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 609
Eglin AFB
Okaloosa Co: FL 32542–5133
Landholding Agency: Air Force
Property Number: 18199910008
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Facility 1737
Cape Canaveral Air Station
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18199920002
Status: Underutilized
Reason: Secured Area
Bldg. 1704
Eglin AFB
Eglin AFB Co: Okaloosa FL 32542–
Landholding Agency: Air Force
Property Number: 18199930007
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Facility 90330
Cape Canaveral Air Station
Cape Canaveral Co: Brevard FL 32907–
Landholding Agency: Air Force
Property Number: 18199940008
Status: Unutilized
Reason: Secured Area
Bldg. 72905
Cape Canaveral AFS
Brevard Co: FL 32907–
Landholding Agency: Air Force
Property Number: 18200020006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 935
Patrick AFB
Patrick AFB Co: Brevard FL 32925–
Landholding Agency: Air Force
Property Number: 18200030011
Status: Unutilized
Reason: Secured Area
Facility 990
Patrick AFB
Patrick AFB Co: FL 32925–
Landholding Agency: Air Force
Property Number: 18200030012
Status: Unutilized
Reason: Secured Area
Bldg. 146
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130070
Status: Underutilized
Reason: Secured Area
Bldg. 679
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130071
Status: Underutilized
Reason: Secured Area
Bldg. 680
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130072
Status: Unutilized
Reason: Secured Area
Bldg. 743
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130073
Status: Unutilized
Reason: Secured Area
Bldg. 782
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130074
Status: Underutilized
Reason: Secured Area
Bldg. 782A
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130075
Status: Unutilized
Reason: Secured Area
Bldg. 1082
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130076
Status: Underutilized
Reason: Secured Area
Bldg. 1536
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130077
Status: Unutilized
Reason: Secured Area
Bldg. 1567
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130078
Status: Unutilized
Reason: Secured Area
Bldg. 1735
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130079
Status: Underutilized
Reason: Secured Area
Bldg. 1813
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130080
Status: Unutilized
Reason: Secured Area
Bldg. 2666
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130081
Status: Unutilized
Reason: Secured Area
Bldg. 3278
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130082
Status: Unutilized
Reason: Secured Area
Reason: Secured Area
Bldg. 3378
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130083
Status: Unutilized
Reason: Secured Area
Bldg. 3589
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200130084
Status: Underutilized

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Reason: Secured Area

Georgia

Bldgs. 1180–1185
Robins AFB
Warner Robins Co: GA 31098–2207
Landholding Agency: Air Force
Property Number: 18200010005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 274
Robins AFB
Warner Robins Co: GA
Landholding Agency: Air Force
Property Number: 18200130005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 311
Robins AFB
Warner Robins Co: GA
Landholding Agency: Air Force
Property Number: 18200130006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 930
Robins AFB
Warner Robins Co: GA
Landholding Agency: Air Force
Property Number: 18200130007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2071
Robins AFB
Warner Robins Co: GA
Landholding Agency: Air Force
Property Number: 18200130008
Status: Unutilized
Reason: Extensive deterioration

Guam

Andersen South
Andersen Admin. Annex
360 housing units & a commercial structure
Mangilao GU 96923–
Landholding Agency: Air Force
Property Number: 18199840009
Status: Underutilized
Reason: Secured Area

Idaho

Bldg 1012
Mountain Home Air Force Base
7th Avenue
(See County) Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199030004
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 923
Mountain Home Air Force Base
7th Avenue
(See County) Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199030005
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 604
Mountain Home Air Force Base
Pine Street
(See County) Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199030006
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 229
Mt. Home Air Force Base
1st Avenue and A Street
Mt. Home AFB Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199040857
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone

Bldg. 4403
Mountain Home Air Force Base
Mountain Home Co: Elmore ID 83647–
Landholding Agency: Air Force
Property Number: 18199520008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 101
Mountain Home Air Force
Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199840001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 105
Mountain Home Air Force
Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number: 18199840002
Status: Unutilized
Reason: Extensive deterioration

Bldg. PBF–621
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610001
Status: Unutilized
Reason: Secured Area

Bldg. CPP–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reason: Secured Area

Bldg. CPP–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610004
Status: Unutilized
Reason: Secured Area

Bldg. CPP–650
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610005
Status: Unutilized
Reason: Secured Area

Bldg. CPP–608
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610006
Status: Unutilized
Reason: Secured Area

Bldg. TAN–660
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610007
Status: Unutilized
Reason: Secured Area

Bldg. TAN–636
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610008
Status: Unutilized
Reason: Secured Area

Bldg. TAN–609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610009
Status: Unutilized
Reason: Secured Area

Bldg. TAN–670
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610010
Status: Unutilized
Reason: Secured Area

Bldg. TAN–661
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610011
Status: Unutilized
Reason: Secured Area

Bldg. TAN–657
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610012
Status: Unutilized
Reason: Secured Area

Bldg. TRA–669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reason: Secured Area

Bldg. TAN–637
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610014
Status: Unutilized
Reason: Secured Area

Bldg. TAN–635
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610015
Status: Unutilized
Reason: Secured Area

Bldg. TAN–638
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610016
Status: Unutilized
Reason: Secured Area

Bldg. TAN–651
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610017
Status: Unutilized
Reason: Secured Area

Bldg. TRA–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF–616
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610020
Status: Unutilized
Reason: Secured Area

Bldg. PBF–617
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610021
Status: Unutilized
Reason: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF–624
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610023
Status: Unutilized
Reason: Secured Area

Bldg. PBF–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF–629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized
Reason: Secured Area

Bldg. PBF–604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF–616
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610020
Status: Unutilized
Reason: Secured Area

Bldg. PBF–617
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610021
Status: Unutilized
Reason: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF–624
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610023
Status: Unutilized
Reason: Secured Area

Bldg. PBF–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF–629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized
Reason: Secured Area

Bldg. PBF–604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

TAN 602, 631, 663, 702, 724
Idaho Natl Engineering & Environmental Lab
Test Area North
Scovile Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199830002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

8 Bldgs.
Idaho Natl Engineering & Environmental Lab
Test Reactor North
Scovile Co: Butte ID 83415–
Location: TRA 643, 644, 655, 660, 704–706, 755
Landholding Agency: Energy
Property Number: 41199830003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Indiana

Bldg. 21, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230001
Status: Excess
Reason: Extensive deterioration

Bldg. 22, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230002
Status: Excess
Reason: Extensive deterioration

Bldg. 62, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 97199230003
Status: Excess
Reason: Extensive deterioration

Iowa

Bldg. 00671
Sioux Gateway Airport
Sioux Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 18199310009
Status: Unutilized
Reason: Fuel pump station

Bldg. 00736
Sioux Gateway Airport
Sioux Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 18199310010
Status: Unutilized
Reason: Pump station

Kansas

Bldg. 2703
Forbes Field
Topeka KS
Landholding Agency: Air Force
Property Number: 18199820018
Status: Unutilized
Reason: Extensive deterioration

Louisiana

Bldg. 3477
Barksdale Air Force Base
Davis Avenue
Barksdale AFB Co: Bossier LA 71110–5000
Landholding Agency: Air Force
Property Number: 18199140015
Status: Unutilized
Reason: Secured Area

Weeks Island Facility
New Iberia Co: Iberia Parish LA 70560–
Landholding Agency: Energy
Property Number: 41199610038
Status: Underutilized
Reason: Secured Area

Maryland

Bldg. 3542
Andrews AFB
Andrews AFB MD 20652–25177
Landholding Agency: Air Force
Property Number: 18199810010
Status: Unutilized
Reason: Secured Area

Bldg. 3543
Andrews AFB
Andrews AFB MD 20652–25177
Landholding Agency: Air Force
Property Number: 18199810011
Status: Unutilized
Reason: Secured Area

Bldg. 1226
Andrews AFB
Camp Springs Co: Prince George's MD 20762–
Landholding Agency: Air Force
Property Number: 18200040002
Status: Unutilized
Reason: Secured Area

Bldg. 3781
Andrews AFB
Andrews AFB Co: Princes George's MD 20762–
Landholding Agency: Air Force
Property Number: 18200130009
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 3782
Andrews AFB
Andrews AFB Co: Princes George's MD 20762–
Landholding Agency: Air Force
Property Number: 18200130010
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 3783–1, 3783–2
Andrews AFB
Andrews AFB Co: Princes George's MD 20762–
Landholding Agency: Air Force
Property Number: 18200130011
Status: Excess
Reasons: Secured Area, Extensive deterioration

Massachusetts

Bldg. 110
Otis Air National Guard
Otis Co: MA 02542–5028
Landholding Agency: Air Force
Property Number: 18199940009
Status: Unutilized
Reason: Secured Area

Westview Street Wells
Lexington Co: MA 02173–
Landholding Agency: VA
Property Number: 97199920001
Status: Unutilized
Reason: Extensive deterioration

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Michigan
Bldg. 71
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010810
Status: Excess
Reason: Sewage treatment and disposal facility
Bldg. 99 (WATER WELL)
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010831
Status: Excess
Reason: Water well
Bldg. 100 (WATER WELL)
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010832
Status: Excess
Reason: Water well
Bldg. 118
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010875
Status: Excess
Reason: Gasoline Station
Bldg. 120
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010876
Status: Excess
Reason: Gasoline Station
Bldg. 166
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010877
Status: Excess
Reason: Pump lift station
Bldg. 168
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010878
Status: Excess
Reason: Gasoline station
Bldg. 69
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010889
Status: Excess
Reason: Sewer pump facility
Bldg. 2
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 18199010890
Status: Excess
Reason: Water pump station
Facility 20
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 21
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 30
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 98
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 103
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 116
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 129
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 152
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 156
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 181
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 509
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 562
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 573
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630013
Status: Unutilized
Reason: Secured Area
Facility 801
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 827
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 832
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 833
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1005
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630018
Status: Unutilized
Reason: Secured Area
Facility 1012
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630019
Status: Unutilized
Reason: Secured Area
Facility 1017
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630020
Status: Unutilized
Reason: Secured Area
Facility 1025

Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630021
Status: Unutilized
Reason: Secured Area
Facility 1031
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630022
Status: Unutilized
Reason: Secured Area
Facility 1041
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1445
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1514
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630025
Status: Unutilized
Reason: Secured Area
Facility 1575
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1576
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1578
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630028
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1580
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1582
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630030
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1583
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630031
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1584
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630032
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 1585
Selfridge AFB
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199630033
Status: Unutilized
Reason: Secured Area
Facilities 246, 248, 252–254
Selfridge Air National Guard
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199710039
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
7 Facilities
Selfridge Air National Guard
#240, 242, 244, 245, 247, 250, 251
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199710040
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facilities 237, 238
Selfridge Air National Guard
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199710041
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
5 Facilities
Selfridge Air National Guard
#228, 230, 232, 234, 236
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199710042
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 114
Selfridge Air National Guard
Mt. Clemens Co: Macomb MI 48045–5295
Landholding Agency: Air Force
Property Number: 18199710043
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 114
Alpena CRTC
Alpena Co: MI 49707–
Landholding Agency: Air Force
Property Number: 18199930009
Status: Unutilized
Reason: Secured Area
Bldg. 318
Alpena CRTC
Alpena Co: MI 49707–
Landholding Agency: Air Force
Property Number: 18199930010
Status: Unutilized
Reason: Secured Area

Mississippi
Bldg. 6, Boiler Plant
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 97199410001
Status: Unutilized
Reason: Floodway
Bldg. 67
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 97199410008
Status: Unutilized
Reason: Extensive deterioration
Bldg. 68
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 97199410009
Status: Unutilized
Reason: Extensive deterioration

Montana
Bldg. 23
Great Falls ANG Station
Great Falls Co: Cascade MT 59404–
Landholding Agency: Air Force
Property Number: 18199720030
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 24
Great Falls ANG Station
Great Falls Co: Cascade MT 59404–
Landholding Agency: Air Force
Property Number: 18199720031
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 35
Great Falls ANG Station
Great Falls Co: Cascade MT 59404–
Landholding Agency: Air Force
Property Number: 18199720033
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 22
Great Falls IAP
Great Falls Co: Cascade MT 59404–5570
Landholding Agency: Air Force
Property Number: 18199820019
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 1881
Malmstrom AFB
Malmstrom AFB Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 18200130012
Status: Unutilized
Reason: Secured Area

Nebraska
Offutt Communications Annex-#3
Offutt Air Force Base

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Scribner Co: Dodge NE 68031–
Landholding Agency: Air Force
Property Number: 18199210006
Status: Unutilized
Reason: Former sewage lagoon

Bldg. 637
Lincoln Municipal Airport
2301 West Adams
Lincoln Co: Lancaster NE 68524–
Landholding Agency: Air Force
Property Number: 18199230021
Status: Unutilized
Reason: Extensive deterioration

Bldg. 639
Lincoln Municipal Airport
2301 West Adams
Lincoln Co: Lancaster NE 68524–
Landholding Agency: Air Force
Property Number: 18199230022
Status: Unutilized
Reason: Extensive deterioration

Bldg. 31
Offutt Air Force Base
Sac Boulevard
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199240007
Status: Unutilized
Reason: Secured Area

Bldg. 311
Offutt Air Force Base
Nelson Drive
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199240008
Status: Unutilized
Reason: Secured Area

Bldg. 401
Offutt Air Force Base
Custer Drive
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199240009
Status: Unutilized
Reason: Secured Area

Bldg. 416
Offutt Air Force Base
Sherman Turnpike
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199240010
Status: Unutilized
Reason: Secured Area

Bldg. 417
Offutt Air Force Base
Sherman Turnpike
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199240011
Status: Unutilized
Reason: Secured Area

Bldg. 545
Offutt Air Force Base
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199240012
Status: Unutilized
Reason: Secured Area

Bldg. 21
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320058
Status: Excess
Reason: Generator

Bldg. 4, Hastings Family Hsg.
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320059
Status: Excess
Reason: Contamination

Bldg. 500
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320060
Status: Excess
Reason: Contamination

Bldg. 502
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320061
Status: Excess
Reason: Contamination

Bldg. 504
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320062
Status: Excess
Reason: Contamination

Bldg. 506
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320063
Status: Excess
Reason: Contamination

Bldg. 507
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320064
Status: Excess
Reason: Contamination

Bldg. 509
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320065
Status: Excess
Reason: Contamination

Bldg. 511
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320066
Status: Excess
Reason: Contamination

Bldg. 512
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320067
Status: Excess
Reason: Contamination

Bldg. 515
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320068
Status: Excess
Reason: Contamination

Bldg. 517
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320069
Status: Excess
Reason: Contamination

Bldg. 519
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320070
Status: Excess
Reason: Contamination

Bldg. 521
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320071
Status: Excess
Reason: Contamination

Bldg. 523
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320072
Status: Excess
Reason: Contamination

Bldg. 525
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320073
Status: Excess
Reason: Contamination

Bldg. 526
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320074
Status: Excess
Reason: Contamination

Bldg. 529
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320075
Status: Excess
Reason: Contamination

Bldg. 531
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320076
Status: Excess
Reason: Contamination

Bldg. 533
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320077
Status: Excess
Reason: Contamination

Bldg. 534
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320078
Status: Excess
Reason: Contamination

Bldg. 536
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320079
Status: Excess
Reason: Contamination

Bldg. 538
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320080
Status: Excess
Reason: Contamination

Bldg. 541
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320081
Status: Excess
Reason: Contamination

Bldg. 542
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320082
Status: Excess
Reason: Contamination

Bldg. 544
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320083
Status: Excess
Reason: Contamination

Bldg. 546
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320084
Status: Excess
Reason: Contamination

Bldg. 549
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320085
Status: Excess
Reason: Contamination

Bldg. 550
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320086
Status: Excess
Reason: Contamination

Bldg. 552
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320087
Status: Excess
Reason: Contamination

Bldg. 553
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320088
Status: Excess
Reason: Contamination

Bldg. 555
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320089
Status: Excess
Reason: Contamination

Bldg. 557
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320090
Status: Excess
Reason: Contamination

Bldg. 558
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320091
Status: Excess
Reason: Contamination

Bldg. 560
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320092
Status: Excess
Reason: Contamination

27 Detached Garages
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320093
Status: Excess
Reason: Contamination

Bldg. 17
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320094
Status: Excess
Reason: Contamination

Bldg. 16
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320095
Status: Excess
Reason: Contamination

Bldg. 18
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320096
Status: Excess
Reason: Contamination

Bldg. 6
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320097
Status: Excess
Reason: Contamination

Bldg. 547
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320098
Status: Excess
Reason: Contamination

Bldg. 604
Hastings Family Housing
Hastings Radar Bomb Scoring Site
Hastings Co: Adams NE 68901–
Landholding Agency: Air Force
Property Number: 18199320099
Status: Excess
Reason: Contamination

Bldg. 686
Offutt Air Force Base
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199510021
Status: Unutilized
Reason: Secured Area

Bldg. 439
Offutt Air Force Base
Offutt Co: Sarpy NE 68113–
Landholding Agency: Air Force
Property Number: 18199510022
Status: Unutilized
Reason: Secured Area

Bldg. 606
NE Air National Guard
Lincoln Co: Lancaster NE 68524–1888
Landholding Agency: Air Force
Property Number: 18199720028
Status: Underutilized
Reasons: Floodway, Secured Area

Bldg. 675
NE Air National Guard
Lincoln Co: Lancaster NE 68524–1888
Landholding Agency: Air Force
Property Number: 18199720029
Status: Unutilized
Reasons: Floodway, Secured Area

New Hampshire

Bldg. 117
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 18199920008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 129
New Boston Air Force Station
Amherst Co: Hillsborough NH 03031–1514
Landholding Agency: Air Force
Property Number: 18199920009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

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Facility 5210
Newington POL DFS
Newington Co: Rockingham NH 03801–
Landholding Agency: Air Force
Property Number: 18199920010
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
Bldg. 155
Pease Air National Guard
Newington Co: Rockingham NH 03803–
Landholding Agency: Air Force
Property Number: 18199930011
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Bldg. 124
New Boston Air Force Station
New Boston Co: Hilsboro NH 03070–5125
Landholding Agency: Air Force
Property Number: 18200030013
Status: Unutilized
Reason: Secured Area
Bldg. 125
New Boston Air Force Station
New Boston Co: Hilsboro NH 03070–5125
Landholding Agency: Air Force
Property Number: 18200030014
Status: Unutilized
Reason: Secured Area

New Mexico

Bldg. 831
833 CSG/DEER
Holloman AFB Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199130333
Status: Unutilized
Reason: Secured Area
Bldg. 21
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240032
Status: Unutilized
Reason: Secured Area
Bldg. 98
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240034
Status: Unutilized
Reason: Secured Area
Bldg. 324
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240035
Status: Unutilized
Reason: Secured Area
Bldg. 598
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240036
Status: Unutilized
Reason: Secured Area
Bldg. 801
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240037
Status: Unutilized
Reason: Secured Area
Bldg. 802
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240038
Status: Unutilized
Reason: Secured Area
Bldg. 1095
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240039
Status: Unutilized
Reason: Secured Area
Bldg. 1096
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240040
Status: Unutilized
Reason: Secured Area
Facility 321
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240041
Status: Unutilized
Reason: Secured Area
Facility 75115
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240042
Status: Unutilized
Reason: Secured Area
Bldg. 874
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199320041
Status: Unutilized
Reasons: Extensive Deterioration, Secured Area
Bldg. 1258
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199320042
Status: Unutilized
Reasons: Extensive Deterioration, Secured Area
Bldg. 134
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430014
Status: Unutilized
Reason: Secured Area
Bldg. 640
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430015
Status: Unutilized
Reason: Secured Area
Bldg. 703
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430016
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area
Bldg. 813
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430017
Status: Unutilized
Reason: Secured Area
Bldg. 821
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430018
Status: Unutilized
Reason: Secured Area
Bldg. 829
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430019
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area
Bldg. 867
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430020
Status: Unutilized
Reason: Secured Area
Bldg. 884
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430021
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area
Bldg. 886
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430022
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area
Bldg. 908
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199430023
Status: Unutilized
Reason: Secured Area
Bldg. 599
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199510001
Status: Unutilized
Reason: Secured Area
Bldg. 600
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199510002
Status: Unutilized
Reason: Secured Area
Bldg. 599
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199610007
Status: Unutilized
Reason: Secured Area
Bldg. 600
Holloman AFB
Co: Otero NM 88330–

Landholding Agency: Air Force
Property Number: 18199610008
Status: Unutilized
Reason: Secured Area
Bldg. 995
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199610009
Status: Unutilized
Reason: Secured Area
Bldg. 1257
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199740012
Status: Unutilized
Reason: Secured Area
Bldg. 332
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199740013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 205
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199740014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 1089
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199830009
Status: Unutilized
Reason: Secured Area
Bldg. 2149
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199830010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 2151
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199830011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 2176
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199830012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 2178
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199830013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 197
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200040003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 1021
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200110001
Status: Unutilized
Reason: Secured Area
Bldg. 1025
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200110002
Status: Unutilized
Reason: Secured Area
Bldg. 571
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200130013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 1029
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200130014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 1191
Holloman AFB
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200130015
Status: Unutilized
Reason: Secured Area
Bldgs. 9252, 9268
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41199430002
Status: Unutilized
Reason: Extensive deterioration
Tech Area II
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87105–
Landholding Agency: Energy
Property Number: 41199630004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 1, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 2, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 24, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 26, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 86, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 88, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 89, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 2, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810008
Status: Underutilized
Reason: Secured Area
Bldg. 5, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810011
Status: Unutilized
Reason: Secured Area
Bldg. 21, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810012
Status: Unutilized
Reason: Secured Area
Bldg. 116, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810013
Status: Unutilized
Reason: Secured Area
Bldg. 212, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy

Property Number: 41199810014
Status: Unutilized
Reason: Secured Area
Bldg. 228, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810015
Status: Unutilized
Reason: Secured Area
Bldg. 286, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810016
Status: Unutilized
Reason: Secured Area
Bldg. 63, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
Bldg. 515, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 516, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 517, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 518, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 519, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 520, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 18, TA–16
Los Alamos National Lab
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199840001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 31
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 4, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930004
Status: Unutilized
Reason: Secured Area
Bldg. 50, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930005
Status: Unutilized
Reason: Secured Area
Bldg. 88, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930006
Status: Unutilized
Reason: Secured Area
Bldg. 89, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930007
Status: Unutilized
Reason: Secured Area
Bldg. 21, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940001
Status: Unutilized
Reason: Secured Area
Bldg. 57, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940002
Status: Unutilized
Reason: Secured Area
Bldg. 28, TA–8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940003
Status: Unutilized
Reason: Secured Area
Bldg. 38, TA–14
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 8, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 9, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reason: Secured Area
Bldg. 22, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940007
Status: Unutilized
Reason: Secured Area
Bldg. 141, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reason: Secured Area
Bldg. 44, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940009
Status: Unutilized
Reason: Secured Area
Bldg. 2, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 5, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 186, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 188, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 254, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 44, TA–36
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940015
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 45, TA–36
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 19, TA–40
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 43, TA–40
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940018
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 258, TA–46
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–2, Bldg. 1
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010008
Status: Unutilized
Reason: Secured Area
TA–2, Bldg. 44
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–3, Bldg. 208
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–6, Bldg. 1
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–6, Bldg. 2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–6, Bldg. 3
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–6, Bldg. 5
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–6, Bldg. 6
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010015
Status: Unutilized
Reason: Secured Area
TA–6, Bldg. 7
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010016
Status: Unutilized
Reason: Secured Area
TA–6, Bldg. 8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
TA–6, Bldg. 9
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010018
Status: Unutilized
Reason: Secured Area
TA–14, Bldg. 5
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010019
Status: Unutilized
Reason: Secured Area
TA–21, Bldg. 150
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010020
Status: Unutilized
Reason: Secured Area
Bldg. 149, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010024
Status: Unutilized
Reason: Secured Area
Bldg. 312, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010025
Status: Unutilized
Reason: Secured Area
Bldg. 313, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010026
Status: Unutilized
Reason: Secured Area
Bldg. 314, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010027
Status: Unutilized
Reason: Secured Area
Bldg. 315, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010028
Status: Unutilized
Reason: Secured Area
Bldg. 1, TA–8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010029
Status: Unutilized
Reason: Secured Area
Bldg. 2, TA–8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 3, TA–8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 51, TA–9
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020002
Status: Unutilized
Reason: Secured Area
Bldg. 30, TA–14
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020003
Status: Unutilized
Reason: Secured Area
Bldg. 16, TA–3
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020009
Status: Unutilized

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Reason: Secured Area
Bldg. 339, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020010
Status: Unutilized
Reason: Secured Area
Bldg. 340, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020011
Status: Unutilized
Reason: Secured Area
Bldg. 341, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020012
Status: Unutilized
Reason: Secured Area
Bldg. 342, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020013
Status: Unutilized
Reason: Secured Area
Bldg. 343, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020014
Status: Unutilized
Reason: Secured Area
Bldg. 345, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020015
Status: Unutilized
Reason: Secured Area
Bldg. 16, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020016
Status: Unutilized
Reason: Secured Area
Bldg. 48, TA–55
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020017
Status: Unutilized
Reason: Secured Area
Bldg. 125, TA–55
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020018
Status: Unutilized
Reason: Secured Area
Bldg. 162, TA–55
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020019
Status: Unutilized
Reason: Secured Area
Bldg. 22, TA–33
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020022
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 23, TA–49
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020023
Status: Unutilized
Reason: Secured Area
Bldg. 37, TA–53
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020024
Status: Unutilized
Reason: Secured Area
Bldg. 121, TA–49
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200020025
Status: Unutilized
Reason: Secured Area
Bldg. 30, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200040001
Status: Unutilized
Reason: Secured Area
Bldg. 152 TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200040002
Status: Unutilized
Reason: Secured Area
Bldg. 105, TA–3
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200120007
Status: Excess
Reason: Secured Area
Bldg. 452, TA–3
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200120008
Status: Excess
Reason: Secured Area

New York

Bldg. 626 (Pin: RVKQ)
Niagara Falls International Airport
914th Tactical Airlift Group
Niagara Falls Co: Niagara NY 14303–5000
Landholding Agency: Air Force
Property Number: 18199010075
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 272
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18199140022
Status: Excess
Reason: Secured Area
Bldg. 888
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18199140023
Status: Excess
Reason: Secured Area
Facility 814, Griffiss AFB
NE of Weapons Storage Area
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18199230001
Status: Excess
Reasons: Within airport runway clear zone, Secured Area
Facility 808, Griffiss AFB
Perimeter Road
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18199230002
Status: Excess
Reasons: Within airport runway clear zone, Secured Area
Facility 807, Griffiss AFB
Perimeter Road
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 18199230003
Status: Excess
Reasons: Within airport runway clear zone, Secured Area
Facility 126
Griffiss Air Force Base
Hanger Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240020
Status: Unutilized
Reason: Secured Area
Facility 127
Griffiss Air Force Base
Hanger Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240021
Status: Unutilized
Reason: Secured Area
Facility 135
Griffiss Air Force Base
Hanger Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240022
Status: Unutilized
Reason: Secured Area
Facility 137
Griffiss Air Force Base
Otis Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240023
Status: Unutilized
Reason: Secured Area
Facility 138
Griffiss Air Force Base
Otis Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240024
Status: Unutilized
Reason: Secured Area
Facility 173
Griffiss Air Force Base
Selfridge Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force

Property Number: 18199240025
Status: Unutilized
Reason: Secured Area
Facility 261
Griffiss Air Force Base
McDill Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240026
Status: Unutilized
Reason: Secured Area
Facility 308
Griffiss Air Force Base 205 Chanute Street
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240027
Status: Unutilized
Reason: Secured Area
Facility 1200
Griffiss Air Force Base
Donaldson Road
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199240028
Status: Unutilized
Reason: Secured Area
Facility 841
Griffiss Air Force Base
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Number: 18199330097
Status: Unutilized
Reason: Secured Area
Bldg. 740
Niagara Falls Air Force Reserve
Niagara Falls Co: Niagara NY 14304–5001
Landholding Agency: Air Force
Property Number: 18199720026
Status: Unutilized
Reasons: Within airport runway clear zone, Floodway, Secured Area
Bldg. 629
Hancock Field
Syracuse Co: Onondaga NY 13211–
Landholding Agency: Air Force
Property Number: 18199730006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 514
Niagara Falls ARS
Niagara Falls Co: Niagara NY 14304–5001
Landholding Agency: Air Force
Property Number: 18199810024
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 614
Niagara Falls AFR
Niagara Falls Co: Niagara NY 14305–5001
Landholding Agency: Air Force
Property Number: 18199830014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 722
Niagara Falls AFR
Niagara Falls Co: Niagara NY 14305–5001
Landholding Agency: Air Force
Property Number: 18199830015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 750
Niagara Falls AFR
Niagara Falls Co: Niagara NY 14305–5001
Landholding Agency: Air Force
Property Number: 18199830016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Bldg. 751
Niagara Falls AFR
Niagara Falls Co: Niagara NY 14305–5001
Landholding Agency: Air Force
Property Number: 18199830017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration
Facility 1200
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920011
Status: Unutilized
Reason: No public access
Facility 1202
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920012
Status: Unutilized
Reason: No public access
Facility 1203
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920013
Status: Unutilized
Reason: No public access
Facility 1204
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920014
Status: Unutilized
Reason: No public access
Facility 1206
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920016
Status: Unutilized
Reason: No public access
Facility 1207
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920017
Status: Unutilized
Reason: No public access
Facility 1208
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920018
Status: Unutilized
Reason: No public access
Facility 1209
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920019
Status: Unutilized
Reason: No public access
Facility 1210
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920020
Status: Unutilized
Reason: No public access
Facility 1259
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920021
Status: Unutilized
Reason: No public access
Facility 1260
Verona Test Annex
Town of Verona Co: Oneida NY 13478–
Landholding Agency: Air Force
Property Number: 18199920022
Status: Unutilized
Reason: No public access
Bldg. 577
Brookhaven National Lab
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41199940022
Status: Excess
Reason: Extensive deterioration
Bldg. AT–1
Knolls Atomic Power Lab
Niskayuna Co: Schenectady NY 12301–
Landholding Agency: Energy
Property Number: 41200010022
Status: Excess
Reason: Secured Area
Bldg. AT–1
Knolls Atomic Power Lab
Niskayuna Co: Schenectady NY 12301–
Landholding Agency: Energy
Property Number: 41200020020
Status: Unutilized
Reason: Secured Area

North Carolina

Bldg. 4230—Youth Center
Cannon Ave.
Goldsboro Co: Wayne NC 27531–5005
Landholding Agency: Air Force
Property Number: 18199120233
Status: Underutilized
Reason: Secured Area
Bldg. 607, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2890
Landholding Agency: Air Force
Property Number: 18199330041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 910, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 18199420022
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 912, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003
Landholding Agency: Air Force
Property Number: 18199420023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 914, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–2003

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Landholding Agency: Air Force
Property Number: 18199420024
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 633, Pope Air Force Base
Fayetteville Co: Cumberland NC 28308–
Landholding Agency: Air Force
Property Number: 18199540019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9
VA Medical Center
1100 Tunnel Road
Asheville Co: Buncombe NC 28805–
Landholding Agency: VA
Property Number: 97199010008
Status: Unutilized
Reason: Extensive deterioration

North Dakota

Bldg. 422
Minot Air Force Base
Minot Co: Ward ND 58705–
Landholding Agency: Air Force
Property Number: 18199010724
Status: Underutilized
Reason: Secured Area

Bldg. 50
Fortuna Air Force Station
Extreme northwestern corner of North Dakota
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 18199310107
Status: Excess
Reason: Garbage incinerator

Bldg. 119
Minot Air Force Base
Minot Co: Ward ND 58701–
Landholding Agency: Air Force
Property Number: 18199320034
Status: Unutilized
Reason: Secured Area

Bldg. 526
Minot Air Force Base
Minot Co: Ward ND 58701–
Landholding Agency: Air Force
Property Number: 18199320038
Status: Unutilized
Reason: Secured Area

B–B–548Shp
Grand Forks AFB
Emerado Co: Grand Forks ND 58205–
Landholding Agency: Air Force
Property Number: 18200110003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 548
Grand Forks AFB
Grand Forks AFB Co: ND 58205–
Landholding Agency: Air Force
Property Number: 18200120009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Ohio

14 Bldgs.
Area B, Wright-Patterson AFB
Co: Montgomery OH 45433–
Location: 6036, 38, 42, 44, 45, 49, 54, 64, 65, 69, 75
Landholding Agency: Air Force
Property Number: 18199820030
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 6104, 08, 09
Area B, Wright-Patterson AFB
Co: Montgomery OH 45433–
Landholding Agency:Air Force
Property Number: 18199820044
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 522
Youngstown Air Reserve
Vienna Co: Trumbull OH 44473–0910
Landholding Agency: Air Force
Property Number: 18200010007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 77
Fernald Environmental Management Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199840003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 82A
Fernald Environmental Mgmt Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 16
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930016
Status: Unutilized
Reason: Secured Area

Bldg. 22B
Fernald Env. Mgmt. Proj.
Hamilton Co: OH 45013–9402
Landholding Agency: Energy
Property Number: 41200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 28A
Fernald Env. Mgmt. Proj.
Hamilton Co: OH 45013–9402
Landholding Agency: Energy
Property Number: 41200020027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 28B
Fernald Env. Mgmt. Proj.
Hamilton Co: OH 45013–9402
Landholding Agency: Energy
Property Number: 41200020028–
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 53A
Fernald Env. Mgmt. Project
Fernald Co: Hamilton OH 45013–9402
Landholding Agency: Energy
Property Number: 41200120009
Status: Excess
Reason: Secured Area

Bldg. 116
VA Medical Center
Dayton Co: Montgomery OH 45428–
Landholding Agency: VA
Property Number: 97199920002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 402
VA Medical Center
Dayton Co: Montgomery OH 45428–
Landholding Agency: VA
Property Number: 97199920004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 105
VA Medical Center
Dayton Co: Montgomery OH 45428–
Landholding Agency: VA
Property Number: 97199920005
Status: Unutilized
Reason: Extensive deterioration

Oklahoma

Bldg. 010
Tulsa IAP Base
Tulsa OK 74115–1699
Landholding Agency: Air Force
Property Number: 18199820031
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 305
Tulsa IAP Base
Tulsa OK 74115–1699
Landholding Agency: Air Force
Property Number: 18199820032
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Pennsylvania

Z-Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reason: Extensive deterioration

South Dakota

Bldg. 88470
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199340033
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 7506
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199340037
Status: Unutilized
Reason: Secured Area

Bldg. 111
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199730007
Status: Unutilized
Reason: Secured Area

Bldg. 7504
Ellsworth AFB
Co: Meade SD 57706–
Landholding Agency: Air Force

Property Number: 18199820034
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 7239
Ellsworth AFB
Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199820036
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 1102
Ellsworth AFB
Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199820037
Status: Unutilized
Reason: Secured Area

Bldg. 88307
Ellsworth AFB
Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199820038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 88320
Ellsworth AFB
Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18199820039
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

5 Bldgs.
Ellsworth Air Force Base
6926, 6928, 6929, 6930, 6931
Ellsworth AFB Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18199920025
Status: Unutilized
Reason: Secured Area

Bldg. 8001
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 18199920026
Status: Unutilized
Reason: Secured Area

Bldg. 805
Ellsworth AFB
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18200110004
Status: Unutilized
Reason: Secured Area

Bldg. 7140
Ellsworth AFB
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18200110005
Status: Unutilized
Reason: Secured Area

Bldg. 7426
Ellsworth AFB
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18200110006
Status: Unutilized
Reason: Secured Area

Bldg. 12880
Ellsworth AFB
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18200110007
Status: Unutilized
Reason: Secured Area

Bldg. 88512
Ellsworth AFB
Ellsworth AFB Co: Meade SD 57706–
Landholding Agency: Air Force
Property Number: 18200110008
Status: Unutilized
Reason: Secured Area

Sundance Nuclear Reactor Site
Ellsworth AFB
Warren Peak Co: Crook SD 57706–
Landholding Agency: Air Force
Property Number: 18200110009
Status: Unutilized
Reason: Secured Area

Tennessee

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199720001
Status: Excess
Reason: Extensive deterioration

Bldgs. 9714–3, 9714–4, 9983–AY
Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reason: Secured Area

5 Bldgs.
K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9825
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810027
Status: Unutilized
Reason: Secured Area

Bldg. 3026
Oak Ridge Natl Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199830001
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 3505
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199940020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

9 Bldgs.
E. Tennessee Tech Park
Oak Ridge Co: Roane TN 37831–
Location: K–1001, K–1301, K–1302, K–1303, K–1404, K–1405–6, K–1407, K–1408A, K–1413
Landholding Agency: Energy
Property Number: 41200010023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9723–16
National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200120010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Texas

Facility 16
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130085
Status: Excess
Reason: Extensive deterioration

Facility 23
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130086
Status: Excess
Reason: Extensive deterioration

Facility 32
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130087
Status: Excess
Reason: Extensive deterioration

Facility 52A
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130088
Status: Excess
Reason: Extensive deterioration

Facility 52B
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130089
Status: Excess
Reason: Extensive deterioration

Facility 52C
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130090
Status: Excess
Reason: Extensive deterioration

Facility 52D
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy

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Property Number: 77200130091
Status: Excess
Reason: Extensive deterioration
Facility 52E
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130092
Status: Excess
Reason: Extensive deterioration
Facility 168
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130093
Status: Excess
Reason: Extensive deterioration
Facility 306
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130094
Status: Excess
Reason: Extensive deterioration
Facility 330
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130095
Status: Excess
Reason: Extensive deterioration
Facility 372
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130096
Status: Excess
Reason: Extensive deterioration
Facility 383
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130097
Status: Excess
Reason: Extensive deterioration
Facility 1233
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130098
Status: Excess
Reason: Extensive deterioration
Facility 3589
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130099
Status: Excess
Reason: Extensive deterioration
Bldg. 1298
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200130100
Status: Excess
Reason: Extensive deterioration

Utah

Bldg. 789
Hill Air Force Base
(See County) Co: Davis UT 84056–
Landholding Agency: Air Force
Property Number: 18199040859
Status: Unutilized
Reasons: Within airport runway clear zone, Secured Area

Vermont

Facility 100
Burlington IAP
Burlington Co: Chittenden VT 05403–5872
Landholding Agency: Air Force
Property Number: 18199730008
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
Facility 110
Burlington IAP
Burlington Co: Chittenden VT 05403–5872
Landholding Agency: Air Force
Property Number: 18200030016
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Virginia

Bldg. 417
Camp Pendleton
Virginia Beach VA 23451–
Landholding Agency: Air Force
Property Number: 18199710003
Status: Unutilized
Reason: Extensive deterioration
Bldg. 418
Camp Pendleton
Virginia Beach VA 23451–
Landholding Agency: Air Force
Property Number: 18199710004
Status: Unutilized
Reason: Extensive deterioration
Bldg. 116
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200130101
Status: Unutilized
Reason: Extensive deterioration
Family Housing Units
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200130102
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. 100, Geiger Heights
Grove and Hallet Streets
Fairchild AFB Co: Spokane WA 99204–
Landholding Agency: Air Force
Property Number: 18199210004
Status: Unutilized
Reason: Extensive deterioration
Bldg. 2000
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 18199310058
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Facility 2450
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 18199310065
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Bldg. 1, Waste Annex
West of Craig Road
Co: Spokane WA 99022–
Landholding Agency: Air Force
Property Number: 18199320043
Status: Unutilized
Reason: Secured Area

Wyoming

Bldg. 31
F. E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005–
Landholding Agency: Air Force
Property Number: 18199010198
Status: Unutilized
Reason: Secured Area
Bldg. 284
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005–
Landholding Agency: Air Force
Property Number: 18199010201
Status: Unutilized
Reason: Secured Area
Bldg. 385
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005–
Landholding Agency: Air Force
Property Number: 18199010202
Status: Unutilized
Reason: Secured Area
Bldg. 919
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 18199930015
Status: Unutilized
Reason: Secured Area
Bldg. 39
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–2788
Landholding Agency: Air Force
Property Number: 18200110010
Status: Unutilized
Reason: Secured Area
Bldg. 400
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–2788
Landholding Agency: Air Force
Property Number: 18200110011
Status: Unutilized
Reason: Secured Area
Bldg. 2110
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 18200120010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 607
F.E. Warren AFB
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 18200130016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Land (by State)

Alaska

Campion Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000

Landholding Agency: Air Force
Property Number: 18199010430
Status: Unutilized
Reasons: Isolated area, Not accessible by road, isolated and remote area; Arctic environ
Lake Louise Recreation
21 CSG–DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010431
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Isolated and remote area; Arctic coast
Nikolski Radio Relay Site
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 18199010432
Status: Unutilized
Reasons: Isolated area, Not accessible by road, Isolated and remote area; Arctic coast

Arizona

58 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313–
Landholding Agency: VA
Property Number: 97190630001
Status: Unutilized
Reason: Floodway
20 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313–
Landholding Agency: VA
Property Number: 97190630002
Status: Underutilized
Reason: Floodway

Florida

Land
MacDill Air Force Base
6601 S. Manhattan Avenue
Tampa Co: Hillsborough FL 33608–
Landholding Agency: Air Force
Property Number: 18199030003
Status: Excess
Reason: Floodway
Wildlife Sanctuary,
VAMC 10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 97199230004
Status: Underutilized
Reason: Inaccessible

Maryland

Land
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges MD 20613–
Landholding Agency: Air Force
Property Number: 18199010263
Status: Unutilized
Reason: Secured Area

Minnesota

3.85 acres (Area #2)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303–
Landholding Agency: VA
Property Number: 97199740004
Status: Unutilized
Reason: landlocked
7.48 acres (Area #1)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303–
Landholding Agency: VA
Property Number: 97199740005
Status: Underutilized
Reason: Secured Area

New Mexico

Facility 75100
Holloman Air Force Base
Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18199240043
Status: Unutilized
Reason: Secured Area

New York

Tract 1
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010011
Status: Unutilized
Reason: Secured Area
Tract 2
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010012
Status: Underutilized
Reason: Secured Area
Tract 3
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010013
Status: Underutilized
Reason: Secured Area
Tract 4
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 97199010014
Status: Unutilized
Reason: Secured Area

North Carolina

0.52 acres
Summerall TACAN Annex
Seymour Johnson AFB
Wayne Co: NC 27530–
Landholding Agency: Air Force
Property Number: 18200020008
Status: Unutilized
Reason: Within airport runway clear zone
1.84 acres
Neuse Middle Marker Annex
Seymour Johnson AFB
Wayne Co: NC 27531–
Landholding Agency: Air Force
Property Number: 18200120011
Status: Unutilized
Reasons: Floodway inaccessible

North Dakota

0.23 acres
Minot Middle Marker Annex
Co: Ward ND 58705–
Landholding Agency: Air Force
Property Number: 18199810001
Status: Unutilized
Reason: Within airport runway clear zone

South Dakota

Badlands Bomb Range
60 miles southeast of Rapid City, SD
1½ miles south of Highway 44
Co: Shannon SD
Landholding Agency: Air Force
Property Number: 18199210003
Status: Unutilized
Reason: Secured Area

Utah

10.24 acres
Southern Utah Communication Site
Salt Lake UT
Landholding Agency: Air Force
Property Number: 18199810002
Status: Unutilized
Reason: inaccessible

Washington

Fairchild AFB
SE corner of base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 18199010137
Status: Unutilized
Reason: Secured Area
Fairchild AFB
Fairchild AFB Co: Spokane WA 99011–
Location: NW corner of base
Landholding Agency: Air Force
Property Number: 18199010138
Status: Unutilized
Reason: Secured Area

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Part IV

General Services Administration

Federal Supply Service

Standard Tender of Service; Notice

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GENERAL SERVICES ADMINISTRATION

Federal Supply Service

Standard Tender of Service

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of issuance of the GSA Standard Tender of Service for comment.

SUMMARY: The General Services Administration (GSA), in compliance with 41 U.S.C. 418b, is publishing the GSA Standard Tender of Service (STOS) that establishes a uniform basis for buying freight transportation. GSA's solicitation and acceptance of freight rates and charges provides highly competitive pricing, which in certain cases includes the solicitation and acceptance of rates specific to an individual agency that accommodate that agency's particular traffic characteristics. GSA's Federal customer agencies benefit from the STOS which leverages the Government's buying power to provide agencies standardized cost effective transportation services. All submitted comments will be considered prior to reissuing the STOS. Publication in the **Federal Register** of the reissued STOS will effectively cancel the current STOS and all its supplements.

DATES: Please submit your comments by October 30, 2001.

ADDRESSES: Mail comments to the General Services Administration, Travel and Transportation Management Division (FBL), Washington, DC 20406, Attn: STOS **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Clara Pate, Transportation Programs Branch by phone at 703–305–7967 or by e-mail at *clara.pate@gsa.gov.*

Dated: August 23, 2001.

Tauna T. Delmonico,

Director, Travel and Transportation Management Division.

GSA Standard Tender of Service (STOS)

Part 1—General Freight Tender of Service

Edition 1–F—General Services Administration, Federal Supply Service, Freight Program Management Office (6FBX), 1500 E. Bannister Rd., Kansas City, MO 64131

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Section 1—General

Item 1–1 Scope of the Tender of Service (TOS)

A. CONSIST OF THE GSA STANDARD TENDER OF SERVICE (STOS):

• Part 1 The GSA General Freight Tender of Service No. 1–F (GSA TOS No. 1–F);

• Part 2 The GSA National Rules Tender No. 100–D (GSA No. 100–D); and

• Part 3 The GSA Baseline Rate Publication No. 1000–D (GSA No. 1000–D).

B. GENERAL: Hereinafter, GSA or the other Government agencies participating in the TOS will be referred to as participating agencies. Agencies not participating in the TOS will be referred to as non-participating agencies. The term "agency" will refer to both participating and non-participating agencies. This TOS provides terms and conditions for the transportation and all related services within CONUS for GSA or the other Government agencies participating in the TOS and those non-participating agencies meeting the conditions of Item 1–3. This TOS is applicable to all tenders filed with the TOS participating agencies.

Carriers will not be required to furnish the services for the items specified in Item 60 Specialized Services Of The GSA National Rules Tender No. 100–D (GSA No. 100–D), unless provided in their tender.

C. DESCRIPTION OF FREIGHT: The property to be moved under this TOS consists of a variety of commodities to be used by Government agencies or authorized contractors for the Government and will be generally described as freight-all-kinds (FAK) except Class A and B explosives, hazardous wastes, and radioactive articles requiring a hazardous material label. It is further required that all carriers participating in the TOS possess the required insurance and authority to transport hazardous materials other than those restricted herein.

D. CARRIER LIABILITY: Notwithstanding any provision of 41 CFR part 102–118, property transported under provisions of this TOS shall be valued at full value.

E. FREIGHT EXCLUDED: Excluded from the scope of this TOS are shipments that can be more advantageously or economically moved via parcel post or small package carrier; shipments of Class A and Class B explosives; hazardous wastes; radioactive articles requiring a hazardous material label; uncrated used household goods; shipments that the Government may elect to move in Government vehicles; and freight subject to specific agency programs or contracts, (e.g. Guaranteed Freight Programs or local drayage contracts.)

F. HAZARDOUS MATERIAL AUTHORITY: Any Government agency shipping hazardous materials requires carriers participating in this STOS to maintain a "satisfactory" safety rating from the Department of Transportation (DOT). If a carrier receives a "conditional" or "unsatisfactory" safety rating from DOT, the carrier will be placed in nonuse status until documentary evidence is furnished to the office placing the carrier in nonuse that such rating has been upgraded by DOT to "satisfactory".

Item 1–2 Participating Government Agencies

A. General: Participating agencies include GSA's Federal Supply Service and those agencies identified in the applicable Request for Offers (RFO) distributed by the Freight Program Management Office (6FBX), Kansas City, MO or another GSA Travel and Transportation Management Zone Office.

B. Rights of Participating Agencies:

1. Participating agencies are entitled to issue their own RFOs referencing the terms and conditions of the GSA Tender of Service No. 1–F, the GSA National Rules Tender No. 100–D, and the GSA Baseline Rate Publication No. 1000–D, supplements thereto and reissues thereof; and

2. Participating agencies are entitled to accept rate offers submitted by those carriers approved in accordance with Item 2–2 which reference the terms and conditions of the GSA Tender of Service No. 1–F, the GSA National Rules Tender No. 100–D, and the GSA Baseline Rate Publication No. 1000–D, supplements thereto and reissues thereof.

ITEM 1–3 NON-PARTICIPATING AGENCIES: Agencies not meeting the requirements of a participating agency identified in Item 1–2, A., above, may only utilize those rate offers submitted and accepted in accordance with the STOS Participation Filing Instructions issued by the Freight Program Management Office (6FBX), Kansas City, MO. Any other reference to any part of the STOS with regards to the solicitation of rate offers or the acceptance of a rate offer based on the GSA Tender of Service NO. 1–F, the GSA National Rules Tender No. 100–D, or the GSA Baseline Rate Publication No. 1000–D, supplements thereto and reissues thereof, by a non-participating agency is prohibited.

ITEM 1–4 REVISING TOS PROVISIONS AND METHOD OF CANCELING ORIGINAL OR REVISED PAGES: This TOS will be revised by the Freight Program Management Office (6FBX), Kansas City, MO, through publication of the changes on GSA's WorldWide Web Page (http://www.kc.gsa.gov/fsstt), the issuance of page revisions (original or revised), or the reissuance of the document on an "as needed" basis.

A. TOS Page Revisions: Reserved

B. Reissuing the TOS: Reserved.

ITEM 1–5 UNINTENTIONALLY ACCEPTED TENDER RULE: Tenders that are unintentionally accepted and distributed for use, which are later found not to be in compliance with the TOS, are subject to immediate removal by the tender accepting agency. The carrier will be notified when tenders are removed under these circumstances and will be advised the basis for their removal. Even though a tender was unintentionally accepted, such tender may be used until it is canceled by the carrier.

ITEM 1–6 LAWFUL PERFORMANCE, OPERATING AUTHORITY, AND INSURANCE. All service shall be performed in accordance with applicable Federal, State, and local laws and regulations. Common motor carriers or brokers, freight forwarders, rail carriers, shippers agents, or shippers associations shall possess the required carrier or Interstate Commerce Commission (ICC) broker operating authority and maintain cargo as well as public liability insurance as required by Federal, State, and local regulatory agencies.

ITEM 1–7 ACCEPTANCE OF THE TOS. The acceptance of this TOS is a prerequisite for any motor common carrier, broker, freight forwarder, rail carrier, shippers agent, or shippers association desiring to be considered for the transportation of Government property shipped by a participating agency.

The terms and conditions in this TOS are applicable to all interlining carriers.

Any reference to carriers in this TOS, unless otherwise stated, also applies to motor common carriers, brokers licensed to transport general commodity freight, freight forwarders, rail carriers, shippers agents, or shippers associations. The conditions of the TOS are in addition to all service provisions of any applicable tender or tariff (including the GSA National Rules Tender No. 100–D) under which a shipment may be routed, except where these conditions may be in conflict with applicable Federal, State, and local laws and regulations.

If a conflict exists between the provisions of the TOS and the provisions named in the GSA National Rules Tender No. 100–D, the provisions of this TOS will apply.

The acceptance of the GSA TOS by a carrier shall be accomplished as specified in SECTION 2 of this document.

ITEM 1–8 BASIS FOR DETERMINING APPLICABLE DISTANCE: Unless otherwise authorized or such as provided for in ITEM 180 Circuitous Routing Of Hazardous Material Shipments in the GSA No. 100–D, all tenders shall be predicated on the shortest route distance determined from the applicable ALK Technologies, Inc 5-digit Zip Code automated mileage system, regardless of the distance actually traveled by the carrier.

ITEM 1–9 METRIC CONVERSION: The weights and measurements expressed in this STOS are being changed to indicate both metric measurements.

Please see Section 11 for the Metric Conversion Table.

ITEM 1–10 APPLICATION OF THE TERMS AND CONDITIONS OF THE GOVERNMENT BILL OF LADING (GBL): The terms and conditions governing acceptance and use of Government Bills of Lading (GBLs) as cited in CFR 101–41.302–3 apply to all shipments handled pursuant to this Standard Tender of Service (STOS) as follows:

A. In no case shall prepayment of charges be demanded by the carrier nor collection be made from the consignee. The GBL, property certified and attached to an SF 1113, Public Voucher for Transportation Charges, shall be presented to the paying office indicated in the "Bill Charges To" section on the face of the GBL for payment to:

1. The last carrier or forwarder in privity with the contract of carriage as evidenced by the covering GBL;

2. A participating carrier or forwarder in privity with the contract of carriage as evidenced by the covering GBL when the bill is submitted with a waiver accomplished by the last carrier (as described in paragraph [a][1] of this section in favor of the billing carrier;

3. A carrier (as described in paragraph [a][1] of this section) or its properly designated warehouse agent billing in the name of the carrier as authorized in 101–41.309–2 dealing with certification of shipments in storage; or

4. An agent of the carrier or forwarder (as described in paragraph [a][1] or [2] of this section): Provided, the bill is submitted in the name of the principal. The agent's mailing address may be shown on those bills, and the checks, drawn in the name of the principal, may be mailed to the agent.

B. The GBL is subject to the same rules and conditions as govern shipments made on the usual

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commercial forms unless otherwise specifically provided or stated herein.

C. The shipment made on the GBL shall take a rate no higher than that chargeable had the shipment been made on the uniform straight bill of lading, uniform express receipt, or any other form provided for commercial shipments.

D. No charge shall be made by any carrier for the execution and presentation of a GBL in manner and form as provided in this subpart 101–41.3.

E. The shipment is made at the restricted or limited valuation specified in the tariff or classification or established under section 13712 of the Interstate Commerce Commission (ICC) Termination Act of 1995 (49 U.S.C. 13712), formerly section 10721 of the Interstate Commerce Act, or to another equivalent contract, arrangement, or exemption from regulation at or under which the lowest rate is available, unless otherwise indicated on the face of the GBL.

F. Receipt for the shipment is subject to the consignee's annotation of loss, damage, or shrinkage on the delivering carrier's documents and the consignee's copy of the same documents. When loss of damage is not discovered until after delivery of shipment and receipt therefor, the consignee shall promptly notify, preferably by telephone, the nearest office of the last delivery carrier and extend to the carrier the privilege of examining the shipment.

G. In case of loss, damage, or shrinkage in transit, the rules and conditions governing commercial shipments, as they relate to the period within which notice thereof shall be given the carrier or to the period within which claim therefor shall be made or suit instituted, shall not apply. Deletion of this item will be considered valid only with the written concurrence of the Government official responsible for making the shipment.

H. Carrier's rights to shipping charges are not affected by facts set out in the issuing office section of the GBL.

I. The nondiscrimination clauses contained in section 202 of Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor are incorporated by reference in the GBL.

Section 2—Participation

ITEM 2–1 GENERAL: Participation in the GSA Standard Tender Of Service (STOS) General Freight Traffic Management Program is open to any carrier possessing the operating authority and insurance required in ITEM 1–6 of this TOS and who has met the approval requirements identified in Item 2–2, below.

ITEM 2–2 APPROVAL TO PARTICIPATE: In order for a carrier to become eligible to transport traffic under this TOS, it must meet the approval requirements identified below. The applicable approval documentation must be mailed to: General Services Administration, Freight Program Management Office (6FBX), 1500 East Bannister Road, Kansas City, MO 64131 3088. Questions relating to the approval requirements may be directed to (816) 823–3646 or e-mail at internet reg6.transportation@gsa.gov.

A. Approval Requirements for Common Carriers and Rail Carriers

Common carriers and rail carriers must submit the following documentation to the address contained in Item 2–2 in order to meet the approval requirements for participation:

One (1) signed copy of the Carrier Certification of Eligibility for Submission of Rate Tenders for Transportation (See Section 15—Forms). Even if the firm already has a copy of this form on file with a GSA Travel and Transportation Management Zone Office or the Freight Program Management Office (6FBX), Kansas City, MO, the firm must re-submit the form to the address contained in Item 2–2 in order to meet the carrier approval requirements;

One (1) copy of the firm's operating authority issued by the Interstate Commerce Commission (ICC). This copy of the firm's operating authority must be provided in accordance with MC 107 and/or the Motor Carrier Act of 1980;

One (1) copy of the firm's Standard Carrier Alpha Code (SCAC) assignment letter from the National Motor Freight Traffic Association (NMFTA); and

One (1) signed copy of the Trading Partner Agreement (See Section 15—Forms). Once the firm has met all of the established approval requirements for participation, GSA will return to the firm a signed copy of the Trading Partner Agreement.

B. Approval Requirements for Freight Forwarders

Freight forwarders must submit the following documentation to the address contained in Item 2–2 in order to meet the approval requirements for participation:

One (1) statement identifying the firm as a freight forwarder. As freight forwarders are not required to possess operating authority from the Interstate Commerce Commission (ICC) to act as a freight forwarder, we need this statement identifying the firm as a freight forwarder so that the appropriate approval requirements are applied to the firm. This statement will eliminate any confusion as to the possibility of the firm being a common carrier, rail carrier, broker, or shipper agent/ Intermodal Marketing Company that has not met the approval requirement of submitting to us a copy of its operating authority and/or broker's license;

One (1) signed copy of the Carrier Certification of Eligibility for Submission of Rate Tenders for Transportation (See Section 15—Forms). Even if the firm already has a copy of this form on file with a GSA Travel and Transportation Management Zone Office or the Freight Program Management Office (6FBX), Kansas City, MO, the firm must re-submit the form to the address contained in Item 2–2 in order to meet the carrier approval requirements;

One (1) copy of the firm's Standard Carrier Alpha Code (SCAC) assignment letter from the National Motor Freight Traffic Association (NMFTA);

One (1) copy of the surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements which have been provided to and are on file with the ICC and/or documentation from the ICC that the required documentation is on file with the ICC and that it meets the minimum security amounts as defined in 49 CFR part 387; and

One (1) signed copy of the Trading Partner Agreement (See Section 15—Forms). Once the firm has met all of the established approval requirements for participation, GSA will return to the firm a signed copy of the Trading Partner Agreement.

C. Approval Requirements for Brokers and Their Underlying Carriers

Brokers must submit the following documentation to the address contained in Item 2–2 for themselves and for each of their underlying carriers which they represent in order for brokers and their underlying carriers to meet the approval requirements for participation:

Information Required of Broker for Approval:

One (1) copy of the firm's broker's license issued by the Interstate Commerce Commission (ICC);

One (1) copy of the broker's Standard Carrier Alpha Code (SCAC) assignment letter from the National Motor Freight Traffic Association (NMFTA); and

One (1) signed copy of the Trading Partner Agreement (See Section 15—Forms). Once the firm has met all of the established approval requirements for participation, GSA will return to the broker a signed copy of the Trading Partner Agreement.

Information Required To Be Submitted by Each of the Broker's Underlying Carriers for Approval:

If the underlying carrier is a common carrier or a rail carrier, it must meet the approval requirements identified in Item 2–2.A.;

If the underlying carrier is a freight forwarder, it must meet the approval requirements identified in Item 2–2.B.

It is suggested that each of a broker's underlying carriers send the required approval documentation to the broker. Once the broker has received the proper approval documentation from its underlying carriers, it should then forward the information to the address contained in Item 2–2. However, the broker's underlying carriers may submit the required approval documentation directly to the address contained in Item 2–2.

When rates are submitted and it is determined that an underlying carrier has been included that has not met the approval requirements, that unapproved, underlying carrier will be rejected and will not be approved to participate in the movement of Government freight. Please be aware, however, that the entire rate offer will not be rejected, only the underlying carrier(s) who has not met the approval requirements will be found unacceptable.

D. Approval Requirements for Shipper Agents/Intermodal Marketing Companies and Their Underlying Carriers

Shipper agents/Intermodal Marketing Companies must submit the following documentation to the address contained in Item 2–2 for themselves and for each of their underlying carriers which they represent in order for shipper agents/ Intermodal Marketing Companies and their underlying carriers to meet the approval requirements for participation:

Information Required of Shipper Agent/Intermodal Marketing Company:

One (1) statement identifying the firm as a shipper agent/Intermodal Marketing Company. As shipper agents/Intermodal Marketing Companies are not required to possess operating authority and/or a license from the Interstate Commerce Commission (ICC) to act as a shipper agent/Intermodal Marketing Company, we need this statement identifying the firm as a shipper agent/Intermodal Marketing Company so that the appropriate approval requirements are applied to the firm. This statement will eliminate any confusion as to the possibility of the firm being a common carrier, rail carrier, freight forwarder, or broker that has not met the approval requirement of submitting to us a copy of its operating authority and/or broker's license;

One (1) copy of the shipper agent's/ Intermodal Marketing Company's "Certificate of Insurance" which provides for notice of termination or cancellation be provided thirty (30) days prior thereto to the General Services Administration's (GSA) Freight Program Management Office (6FBX), Kansas City, MO (see Item 2–2 for address);

One (1) copy of the shipper agent's/ Intermodal Marketing Company's Standard Carrier Alpha Code (SCAC) assignment letter from the National Motor Freight Traffic Association (NMFTA); and

One (1) signed copy of the Trading Partner Agreement (See Section 15—Forms). Once the shipper agent/ Intermodal Marketing Company has met all of the established approval requirements for participation, GSA will return to the firm a signed copy of the Trading Partner Agreement.

Information Required To Be Submitted by Each of the Shipper Agent's/Intermodal Marketing Company's Underlying Carriers for Approval:

If the underlying carrier is a common carrier or a rail carrier, it must meet the approval requirements identified in Item 2–2.A.;

If the underlying carrier is a freight forwarder, it must meet the approval requirements identified in Item 2–2.B.

It is suggested that each of a shipper agent's/Intermodal Marketing Company's underlying carriers send the required approval documentation to the shipper agent/Intermodal Marketing Company. Once the shipper agent/ Intermodal Marketing Company has received the proper approval documentation from its underlying carriers, it should then forward the information to the address contained in Item 2–2. However, the shipper agent's/ Intermodal Marketing Company's underlying carriers may submit the required approval documentation directly to the address contained in Item 2–2.

When rates are submitted and it is determined that an underlying carrier has been included that has not met the approval requirements, that unapproved, underlying carrier will be rejected and will not be approved to participate in the movement of Government freight. Please be aware, however, that the entire rate offer will not be rejected, only the underlying carrier(s) who has not met the approval requirements will be found unacceptable.

E. Approval Requirements for Rate Filing Service Providers

Rate filing service providers (firms which offer to those approved to participate the service of transmitting to GSA, via the File Transfer Protocol (FTP) of the Internet (I–FTP), rate offers in accordance with applicable Request for Offers), must submit the following documentation to the address contained in Item 2–2 in order to meet the approval requirements for participation:

One (1) signed copy of the Trading Partner Agreement (See Section 15—Forms). Once the firm has met all of the established approval requirements for participation, GSA will return to the firm a signed copy of the Trading Partner Agreement.

Section 3—Offers of Service

Item 3–1 Solicitation of Rate Offers: Any participating agency as defined in Item 1–2.A. may solicit rate offers referencing the STOS from carriers approved in accordance with Item 2–2. The participating agency will make the determination if the rate offer(s) is to be submitted electronically or non-electronically

Item 3–2 Submission of Rate Offers:

A. Submission of Electronic Rate Offers: When a participating agency has determined that rate offers must be submitted electronically, those rate offers must be submitted electronically in accordance with the electronic filing instructions established by the Freight Program Management Office (6FBX), Kansas City, MO. All accepted electronic rate offers will be made available to GSA's Office of Transportation Audits.

1. Items in the GSA No. 100–D that Contain Rates or Charges: The following Items from the GSA National Rules Tender No. 100–D are all the Items that contain rates or charges. Carriers must indicate in their electronic rate offer either one percentage for all of these Items or separate percentages for each.

Item 40 Prelodging
Item 100 Arbitrary Applicable On Import Or Export Traffic Picked Up At Or Delivered To Steamship Wharves Or Docks
Item 200 Chassis—Obtaining Of
Item 250 Customs Or In Bond Freight
Item 300 Delivery Of Freight Bill Prior To Delivery Of Shipment
Item 325 Detention—Vehicles With Power Units

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Item 350 Detention—Vehicles Without Power Units
Item 400 Diversion—Motor To Air Transportation
Item 425 Hydraulic Lift Gate Service
Item 450 Fork Lift Service
*Item 475 Exclusive Use And Control Of Vehicle
**Item 480 Expedited Service
Item 500 Export Or Import Shipment Requirements At The U.S.—Canadian Border
Item 525 Extra Labor—Loading Or Unloading
Item 550 Handling Freight At Positions Not Immediately Adjacent To Vehicle
Item 600 Loading Or Unloading—Waterborne Traffic—Port Of Baltimore, MD
Item 625 Marking Or Tagging Freight—Changing Marking Or Tags
Item 675 Single Shipment Charge
Item 725 Notification Charge
Item 775 Overdimension Freight
Item 776 Overweight Freight
Item 825 Permits, Special
Item 850 Pickup Or Delivery Service
Item 855 Pickup Or Delivery Service—At Private Residences
Item 860 Pickup Or Delivery Service—Sundays Or Holidays
Item 865 Pickup Or Delivery Service—Saturday Or After 5 P.M. On Normal Business Days
Item 870 Pickups Or Deliveries—Additional
Item 875 Pickups Or Delivery Service—New York Harbor And Port Newark, NJ
Item 925 Reconsignment Or Diversion
Item 950 Redelivery
**Item 1010 Sorting Or Segregating Service And Charges
**Item 1025 Services—Signature And Tally Record Service (STR)
**Item 1030 Services—Constant Surveillance Service (CSS)
**Item 1035 Services—Dual Driver Protective Service (DDPS)
**Item 1040 Services—Dual Driver Service
Item 1050 Special Service—Security Check By Consignor
Item 1075 Stopoffs—To Complete Loading Or For Partial Unloading, Paragraphs (B) And (F)
Item 1100 Storage
Item 1175 Transfer Of Lading
Item 1225 Vehicle Or Shipper Requested Doubles Trailer Furnished But Not Used
Item 1250 Weight—Verification
Item 1275 Weights—Gross Weight—Charges On Gross Weight

*Only applicable to the stated charge in ITEM 475, Section 2, Paragraph (6)(b).
**Percentages are not required for these ITEMS. Please see ITEM 60 Specialized Services in the GSA No. 100–D.

B. Submission of Non-Electronic Rate Offers: When a participating agency has determined that rate offers must be submitted non-electronically, the participating agency will provide the appropriate filing instructions.

Item 3–3 Time of Filing:

A. Electronic Rate Offers: The time period(s) during which an electronic rate offer may be submitted will be identified by the participating agency requesting the submission of electronic rate offers. Requests for electronic rate offers made by GSA will automatically be distributed to all carriers approved to participate in accordance with Item 2–2. Requests for electronic rate offers made by other participating agencies will be distributed per the discretion of the requesting participating agency.

B. Non-Electronic Rate Offers: The time period(s) during which a non-electronic rate offer may be submitted will be identified by the participating agency requesting the submission of non-electronic rate offers. Requests for non-electronic rate offers made by GSA will automatically be distributed to all carriers approved to participate in accordance with Item 2–2. Requests for non-electronic rate offers made by other participating agencies will be distributed per the discretion of the requesting participating agency.

Item 3–4 Non-Alternation Tender Acceptance Policy.

A. Unless specifically requested, TOS participating agencies will not accept electronic or non-electronic rate offers from carriers which contain a non-alternating provision.

B. Where a shipment involves both a non-DOD government agency participating in this TOS and a DOD agency, the applicable tender will be that of the Bill of Lading issuing office.

Section 4—Statement of Work

Item 4–1 Performance of Service: Carriers accepting shipments offered under this TOS shall establish effective service controls for the prompt and complete performance of all ordered origin, line-haul, and destination services. Origin services shall include timely and appropriate equipment delivery, loading, stacking and required transit time. Destination services shall include delivery notification, delivery, unloading, pallet and debris removal

Item 4–2 Services To Be Provided: Carriers participating in this TOS shall provide the following:

A. Adequate terminal facilities at origin to effectively service the agency shipping facility.

B. Adequate facilities at destination to effectively service the receiving activity/customer.

C. Pickup and delivery pursuant to the standards set forth in this TOS.

D. Equipment deemed necessary by the agency shipping facility traffic manager to perform service as outlined in this TOS to include temperature protection for commodities requiring temperature control. Equipment found unsuitable for freight loading shall be rejected.

E. Lowest overall transportation cost to the U.S. Government commensurate with satisfactory service.

F. Equipment spotting in accordance with the consignor or consignee's instructions.

G. Loading as directed by the consignor.

H. Exclusive use of equipment, when requested and annotated on the bill of lading.

I. Accessorial and special services, as requested or annotated on the bill of lading.

J. Prompt inspection of damaged material.

K. Settlement of all claims for loss or damage attributable to carrier liability within 120 days (41 CFR 102–117.195.)

L. Protection from elements and securing of the loads.

M. Transportation of hazardous materials other than Class A & B explosives; hazardous wastes; and radioactive articles requiring a hazardous material label in accordance with Title 49 of the Code of Federal Regulations (49 CFR).

N. Inside pickup or delivery, when requested and annotated on the bill of lading.

O. All services (e.g., spotting of trailers, assisting in the loading of freight into conveyance, and reporting to the agency shipping facility at the requested time), as requested by the designated agency shipping facility representatives, for shipments tendered. (Unwarranted refusal or selective acceptance of cargo is prohibited.)

P. Continuous control of shipments. When requested by either a representative of the consignor or consignee, the carrier shall monitor and trace shipments to ensure prompt completion of all required service as well as giving status and location of a shipment within 24 hours of the request.

Q. Prior notification of delivery be in accordance with bill of lading instructions and without charge, except where the bill of lading instructions specifically requires prior notification of delivery be made 24 hours or more prior to delivery.

R. Proof of delivery (copy of signed, dated delivery receipt) for any shipment that the GBL issuing officer (or designee) determines is needed to verify the carrier's delivery certification on the GBL.

S. Return of shipment service. In the event a carrier is required to return a shipment to the original shipping location as ordered by the agency or designated official, the carrier will assess the line-haul rate applicable to the original outbound movement or the applicable tender rate, whichever is lower. The carrier shall obtain the necessary amendment or documentation from the party ordering the additional movement.

T. Hand-delivery of envelopes containing shipping documents to the consignee when such envelopes are tendered with the shipment.

Item 4–3 Completion of Service: Service performed under this TOS is deemed complete when delivery and other destination services have been furnished. Carrier service can be accomplished by either direct or interline service. When jointline rates are offered, the tender submitting carrier shall ensure that any interline carrier(s) transports the shipment at the original offered discounted rate or charge and provides all services as specified in the TOS

Item 4–4 Prompt Notification of Undelivered Freight: When a shipment cannot be delivered because of the consignee's inability or refusal to receive or accept the shipment, carriers shall (except for shipments originated by GSA) notify the applicable agency shipping facility traffic manager/contact point and request additional handling or forwarding instructions from both the consignee and the consignor

For GSA originated shipments, carriers shall request additional handling or forwarding instructions from either the GSA National Customer Service Center (6FR) (NCSC), 1500 East Bannister Road, Kansas City, MO 64131–3088 (1–800–488–3111) (FAX 816–926–6952) or the consignor.

Item 4–5 Rules and Accessorial Charges: Shipments transported under this TOS shall be subject to the rules and accessorial charges published in the applicable GSA National Rules Tender No. 100—D. No carrier independent actions (carriers' rules or accessorial tariffs) or bureau published tariffs deviating from the GSA National Rules Tender No. 100–D are acceptable.

Item 4–6 Special Services Ordered by the Consignor: Only special or accessorial services annotated on the GBL by the consignor or provided for by an amendment to the GBL are authorized and will be paid by the agency

Item 4–7 Department of Transportation (DOT) Emergency Response Guidebook: Each carrier that is subject to this TOS that picks up or transports a hazardous material shipment shall maintain emergency response information as specified in 49 CFR part 107 in the same manner as prescribed for shipping papers. The carrier shall have in its possession a copy of the current Department of Transportation (DOT) Emergency Response Guidebook when picking up, transporting, or delivering a shipment of hazardous material. This information must be immediately accessible to a transport vehicle operator or crew in the event of an incident involving a hazardous material

Item 4–8 Tracing Shipments: Requests by the Government to have a shipment traced shall be made through either the origin carrier's centralized tracing system, if such a system is available, or its origin terminal. Upon request, the origin carrier shall trace the shipment through its entire system (including any interlining carriers), and provide the requester (or third party as directed) a reply through the same communication media as the request, or through the media directed in the request. When a carrier offers the Government direct access to their mechanized tracing system and the requester elects to use it, the carrier will, when required by the requester, trace the system through any interlining system, and provide a reply as above

Section 5—Performance Requirements

Item 5–1 Transit Time

A. This provision applies to all agencies as identified in Item 1–2.A and Item 1–3 and the General Services Administration (GSA) Distribution Centers, GSA Customer Supply Centers, GSA Forward Supply Points, and direct deliveries from the National Industries For The Blind (NIB), National Industries For The Severely Handicapped (NISH).

All minimum charge (MC), less than truckload (LTL), and truckload (TL) shipments.

(1) Delivery Time.

(a) Carriers shall be required to deliver all shipments within the following time standards:

DISTANCE KILOMETERS (HIGHWAY MILES) FROM AGENCY SHIPPING FACILITY

From	To	Required Delivery Service
1.61 kilometers (1 mile)	482.79 kilometers (300 miles)	2 Days
484.40 kilometers (301 miles)	804.65 kilometers (500 miles)	3 Days
806.26 kilometers (501 miles)	1,609.3 kilometers (1,000 miles)	4 Days
1,610.91 kilometers (1,001 miles)	2,413.95 kilometers (1,500 miles)	5 Days

DISTANCE KILOMETERS (HIGHWAY MILES) FROM AGENCY SHIPPING FACILITY

From	To	Required Delivery Service
2,415.56 kilometers (1,501 miles)	3,218.6 kilometers (2,000 miles)	7 Days
3,220.2 kilometers (2,001 miles)	and over	9 Days

(2) Method of Measuring Transit Time.

(a) Start of Transit Time.

(i) Minimum Charge (MC) and Less Than Truckload (LTL) Shipments:

Transit time begins the next business day after the shipment is signed for by the originating carrier and ends at the time the shipment is delivered (or made available for delivery) to the receiving activity (destination).

(ii) Truckload (TL) Shipments:

Transit time begins the same business day the shipment is signed for by the

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originating carrier and ends at the time the shipment is delivered (or made available for delivery) to the receiving activity (destination). In instances where a shipment is signed for by the originating carrier on a Saturday, Sunday, or holiday the transit time will not begin until the NEXT BUSINESS DAY.

(b) Computation of Transit Time.

(i) Transit time for Minimum Charge (MC), Less Than Truckload (LTL), and Truckload (TL) shipments is measured in business days, excluding Saturday, Sunday, and holidays as set forth in ITEM 30 Definition Of Terms, (2) Legal Holidays in the GSA National Rules Tender No. 100–D herein.

(ii) Unless the agency or the customer requests and authorizes delivery on Saturdays, Sundays, or holidays (as set forth in ITEM 30 Definition Of Terms, (2) Legal Holidays in the GSA National Rules Tender No. 100–D herein), carriers shall not be required to deliver shipments on these days. Carriers shall not be penalized if they refuse to voluntarily make Saturday, Sunday, or holiday delivery.

B. General Services Administration (GSA) Routed Shipments To Alaska and Hawaii,

All minimum charge (MC), less than truckload (LTL), and truckload (TL) shipments.

(1) Delivery Time.

(a) Carriers shall be required to deliver all shipments within the following time standards:

(i) Are computed from the port of embarkation (POE) named by GSA.

(ii) For shipments destined to Hawaii, the POE can either be Oakland, CA or Los Angeles, CA.

(A) Carriers shall deliver GSA routed shipments from one of the specified West Coast Ports to all customer locations in Hawaii within 8 calendar days.

(iii) For shipments destined to Alaska, the POE is Seattle, WA.

(A) Carriers shall deliver all GSA routed shipments from Seattle, WA to all customer locations in Anchorage, AK within 7 calendar days.

(B) Carriers shall deliver all GSA routed shipments from Seattle, WA to all customers in Alaska locations other than Anchorage, AK within 12 calendar days.

(2) Method of Measuring Transit Time.

(a) Start of Transit Time.

(i) minimum charge (MC), less than truckload (LTL), and truckload (TL) shipments:

Transit time begins from the POE scheduled sailing date and ends at the time the shipment is delivered (or made available for delivery) to the receiving activity (destination).

(b) Computation of Transit Time.

(i) Transit time is measured in calendar days, including Saturday, Sunday, and holidays as set forth in ITEM 30 Definition Of Terms, (2) Legal Holidays in the GSA National Rules Tender No. 100–D herein.

(ii) Unless the agency or the customer requests and authorizes delivery on Saturdays, Sundays, or holidays (as set forth in ITEM 30 Definition Of Terms, (2) Legal Holidays in the GSA National Rules Tender No. 100–D herein), carriers shall not be required to deliver shipments on these days. Carriers shall not be penalized if they refuse to voluntarily make Saturday, Sunday, or holiday delivery.

Item 5–2 Pickup

A. General: Carrier pickup service shall include arriving on time for pickup, and with the type and quantity of equipment ordered by the shipper. The shipper may inspect the carrier's equipment upon arrival and, if determined unsuitable for freight loading, reject the equipment.

B. Ordering Equipment: When ordering equipment or requesting a pickup date, carriers will receive advance notice. Unless an abnormal amount or type of equipment is requested, carriers will be notified in the afternoon prior to the day the equipment is needed. However, in some circumstances, carriers may be required to perform same day pickup service. Carriers will not be penalized if they are unable to provide this "special" same day pickup service.

C. Method of Measurement: Pickup service will be measured using agency shipping facility dispatcher records indicating the requested time and date of pickup and carrier sign-in registers indicating carrier date and time of arrival. Unless a carrier requested and received, from the agency shipping facility ordering official, permission to delay the pickup date or time, measurement of efficient pickup service will be based only on the agency shipping facility dispatch records.

Item 5–3 Loss or Damage

A. General: Loss or damage claims attributable to the carrier's performance must be acknowledged and settled in accordance with the provisions of 49 CFR part 1005.

B. Method of Measurement: In all instances, loss or damage claim settlements will be applied to the ORIGIN carrier performance of service using reports, records, and history files compiled by the agency. These reports, records, and history files will include for each participating carrier, the number of shipments it handled as well as the number of claims settled against it.

C. Aggregation of Claims: A participating agency may aggregate claims to be filed against an individual carrier into a single filing. Such an aggregate filing will be construed as an individual filing of each claim and the participating agency will indicate on the aggregate filing the individual claimed amount, together with supporting documentation, for each included claim. The carrier against which an aggregate filing is made shall settle each claim as if it were filed independently. In order for a participating agency to take advantage of this Item 5–3.C, the participating agency must notify the carrier in writing of its intent to utilize the provisions of this Item 5–3.C.

Item 5–4 Unusual Incidents: Except for shipments originated with GSA, carriers shall attempt to provide a report in writing to the GBL issuing officer any event of major significance which produces substantial loss, damage, or delay to a shipment(s) such as theft or seizure of cargo, strikes, embargoes, fires, or other similar incidents, not later than the first working day after such incident.

For shipments originated by GSA, carriers shall attempt to report the required information not later than the first working day after such incident to the consignor and the GSA National Customer Service Center (6FR) (NCSC), 1500 East Bannister Road, Kansas City, MO 64131–3088 (1–800–488–3111) (FAX 816–926–6952).

The initial written report shall include the following information and be followed up by a detailed written assessment of the loss or damage, and delays encountered and final disposition of the property:

A. Type of incident;

B. Location of incident;

C. Description of any hazardous cargo;

D. GBL Number and date issued;

E. GBL issuing office;

F. Origin;

G. Destination;

H. Date shipment received by carrier;

I. If applicable, required delivery date;

J. Date and time of incident;

K. Estimated amount of loss and extent of damage;

L. Current status of shipment(s), including new estimated time of arrival (ETA); and

M. Location of shipment(s), if applicable.

Item 5–5 All Others: This category includes the evaluation of all other services that carriers may be requested to provide, such as the ability to provide accessorial and special services as required, documented customer complaint(s), adherence in observing Federal, State, local, and agency shipping facility regulations, and unwarranted refusal of shipments. (Selective acceptance of shipments is prohibited)

Item 5–6 Other Elements: All other service elements requiring carrier response and action due to a deficiency in performance must be responded to by the carrier within 10 days of receipt of an agency notice of such a deficiency. The carrier response must include a plan to correct the deficiency. The elements of service described herein generally refer to specific operational factors affecting the timely, efficient and cost-effective movement of agency freight. There are, however, other elements which will be considered in determining the overall performance of a carrier and the ability and fitness of a carrier to provide service to agencies. These elements are of such importance that one violation will render subject carrier to possible placement in temporary nonuse status These elements include, but are not limited to:

A. Willful violations of tenders or tariffs;

B. Failure to pay just debts so as to subject Government shipments to possible frustration, unlawful seizure, or detention;

C. Failure to maintain proper insurance coverage;

D. Operating without legal authority; and

E. Failure to have in its possession a current copy of the DOT Emergency Response Guidebook when picking up or transporting a shipment of hazardous material.

Item 5–7 Request for a Waiver of Requirements of the TOS or GBL

A. When Granted and by Whom: The GBL Issuing Officer, the agency shipping facility Traffic Manager or the agency servicing office representative, for an individual shipment, may waive one or more of the requirements in this TOS or of the GBL in whole or in part because of the incompatibility of such requirements with the prevailing circumstances. An affected carrier may submit the waiver request verbally to the GBL issuing officer; however, the request must be confirmed in writing by the carrier to the GBL issuing officer within one day of the initial request.

B. Confirmation of Waiver: If the GBL issuing officer or designee determines that a waiver is justified, he/she will issue a waiver in writing, by amending the GBL and distributing copies of the amendment, including a copy to the carrier, within 48 hours after receiving the carrier's request.

Item 5–8 Astray Freight: In the event that freight is separated from the carrier's freight bill or bill of lading, the following procedures will apply:

A. When the carrier is able to determine the consignee, either from the markings on the freight or from the shipping documentation affixed to or contained within the freight, the carrier will promptly deliver the freight to the consignee.

B. When the consignee cannot be determined from the markings on the freight or shipping documents, but the carrier is able to determine that the property belongs to a specific Government agency, then the carrier will contact the nearest installation of that agency for disposition instructions.

For GSA originated shipments, the carrier shall contact the GSA National Customer Service Center (6FR) (NCSC), 1500 East Bannister Road, Kansas City, MO 64131–3088 (1–800–488–3111) (FAX 816–926–6952) for disposition instructions.

C. When specific agency ownership cannot be determined for astray freight which is identifiable Government property, the carrier will contact the nearest Government installation for disposition instructions

Section 6—Service Performance Standards

Item 6–1 Carrier Performance Reviews

A. Documenting Carrier Performance.

Carrier performance data will be obtained from a variety of sources, including, but not limited to the following:

(1) Complaints (both written and oral) submitted by an agency transportation officer, GBL Issuing Officer, agency official, agency shipping facility operating personnel, or consignee;

(2) Reports obtained or formulated from carrier pickup records, history files, finance payment records, and agency discrepancy computer runs; and

(3) Serious incident reports.

Item 6–2 Carrier Evaluation

A. Carrier performance of all shipments tendered shall be evaluated monthly using the service standards established in this ITEM herein. Four categories will be analyzed.

A carrier will be issued a warning letter and may be placed in a temporary nonuse status based on deficiencies in any individual category.

B. Service Standard Table:

CATEGORIES

Ranking	Transit time (percent)	Pickup (percent)	Loss and damage (percent)	All others (percent)
	1	2	3	4
Excellent	100–98	100–99	100–99	100–99
Very Good	97–96	98–97	98–97	98–97
Satisfactory	95–94	96–94	96–95	96–95
Unsatisfactory	Below 94	Below 94	Below 95	Below 95

C. If transportation costs are equal, maximum use will be made of carriers whose ranking for all categories are excellent.

D. Carrier performance that is determined to be "unsatisfactory" for one or more categories will result in the issuance of a warning letter by the respective agency servicing office or his or her designee. The carrier will be advised that its service for one or more categories is "unsatisfactory" and that if service for that category(ies) fails to improve, the carrier will be subject to placement in temporary nonuse status.

E. Carrier performance that is determined to be "unsatisfactory" for one or more of the categories will result in notification by the agency servicing office or designee that action is being initiated to place it in a temporary nonuse status in accordance with the nonuse procedures set forth in Section 8—Temporary Nonuse, Debarment, And Suspension.

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Section 7—Inspection

Item 7–1 General: Authorized representatives of the GBL Issuing Office shall have the right to inspect carrier facilities (local carriers equipment, terminals, stations, or warehouses) and to inspect the performance of services (loading, pickup, delivery, and any other services performed or being performed by the carrier) in connection with any shipment handled under the provisions of this TOS.

A. An authorized representative of the GBL Issuing Office shall include personnel of the agency shipping facility.

B. Representatives may inspect the performance of services at the agency shipping facility, at the carrier terminal facilities, or at consignee receiving facilities during regular office hours or at any time work is being performed.

Item 7–2 Corrective Action: When authorized representatives of the GBL Issuing Office determine that facilities, equipment, or services do not meet the terms, conditions or specifications prescribed by this TOS, the carrier or its agent shall cooperate fully to promptly correct the deficiency by taking appropriate action at no additional cost to the Government.

Item 7–3 Facilities: The carrier must furnish Government representatives with free access and reasonable facilities and assistance to accomplish their inspection.

Section 8—Temporary Nonuse, Debarment, and Suspension

Item 8–1 Basis and Time Period: Carriers may be placed in temporary nonuse by an agency shipping facility manager or tender servicing office for a period not exceeding 90 days if the terms or conditions of this TOS are not met or for any cause(s) listed in 41 CFR 102–117.290 for debarment or suspension status, respectively.

When there is a sufficient basis to initiate temporary nonuse action against a carrier, the carrier will be notified by certified mail, return receipt requested, of the following:

A. The effective dates of the proposed temporary nonuse;

B. The extent or scope of the proposed temporary nonuse, including the specific transportation facilities to which the period of exclusion will be applicable;

C. The facts relied on to support the specified cause(s) for temporary nonuse;

D. Upon receipt of the initiating officer's notice of proposed temporary nonuse, the carrier will be given a period of 7 calendar days during which it may submit in person, in writing, or through a representative, rebuttal information and arguments opposing the temporary nonuse;

E. The initiating officer has a period of 5 working days to evaluate a carrier's rebuttal information, any opposing arguments and render a decision;

F. The availability of an appeal of the initiating officer's decision to a reviewing official, provided the request for review is received within 5 work days of receipt of the transportation officer's decision;

G. The corrective action required by the carrier to be removed from temporary nonuse; and

H. Carrier failure to correct the cause(s) for temporary nonuse will result in an additional nonuse period of 30 calendar days during which the case will be referred to the agency's debarring official for appropriate action.

Section 9—Report Requirements

Item 9–1 General Services Administration (GSA).

A. Distribution Centers.

Carriers transporting GSA Distribution Center (DC) shipments are required to submit the following reports to the agency servicing office or designee:

(1) A previous month's report of DC shipments within twenty (20) calendar days of the month following the end of the month being reported. The report shall be in GBL number sequence and include:

(a) Pickup date of each shipment;

(b) weight of each shipment;

(c) the date each shipment was delivered or offered for delivery; and

(d) the shipment city and state destination.

If the shipment was offered for delivery and not immediately accepted, carriers, upon request, shall provide the requesting GSA official with the name of the consignee's representative who authorized the scheduled delivery date, and if applicable, any consignee-assigned carrier control number.

(2) Each month, the DC traffic manager or designee, or the GSA office that services the DC may request by random selection, Proof of Deliveries. The carrier, within 30 days from the date of the request, at no additional cost, must provide proof of not more than 5 percent of the total deliveries through submission of legible hard copy Proof of Deliveries (signed and dated delivery receipt) to the requesting office.

B. All Other Traffic.

To be specified in future TOS supplements.

Item 9–2 Other Agencies as Identified in the Applicable Request for Offers (RFO).

A. General: Carriers transporting shipments subject to a GSA Shipment Surcharge as identified in Section 10 are required to submit shipment reports to the Freight Program Management Office (FPMO), Kansas City, MO, unless otherwise stated, in accordance with this Item 9–2.

1. Applicability. Only those shipments which are subject to the GSA Shipment Surcharge as identified in Section 10 will be included in the shipment reports. Shipments required to be reported will be those shipments for which the applicable participating agency issues the GBL. Reports MUST be furnished to the FPMO on a calendar, quarter basis by electronic filing and must include all applicable shipments that were delivered during the reported quarter. Shipments reported in the previous quarter should not be reported again in the next quarter even though they may be billed in another quarter than delivered.

2. Timeframe. The electronic submission of the required shipment reports MUST be in accordance with the following table. Submission of the shipment reports will correspond with the submission of the GSA Shipment Surcharge as outlined in Item 10–1.D. (Table).

Shipments delivered between	Shipment report due to GSA by
January 1 and March 31	June 1.
April 1 and June 30	September 1.
July 1 and September 30	December 1.
October 1 and December 31.	March 1.

3. Failure to submit reports. The failure to submit the shipment report in two consecutive quarters and/or three of four quarters will result in the withdrawal of a carrier's rates and/or subsequent revocation of its approval in GSA's Freight Management Program. Carriers with accepted rate offers on file for shipments subject to a GSA Shipment Surcharge as identified in Section 10 are required to submit a report even if a shipment was not delivered during the quarter.

B. Filing Requirements.

1. Hard Copy Reports. Hard copy (paper) reports will not be accepted.

2. Electronic Media Reports. Reports must be submitted electronically.

3. Content of Shipment Report. Identified below are the major report elements that will be required to be provided as part of the shipment reports:

(a) Standard Carrier Alpha Code (SCAC);
(b) Identifying Quarter;
(c) Federal Agency User ID;
(d) GBL Number;
(e) Origin State;
(f) Origin State Zip Code;
(g) Destination State;
(h) Destination State Zip Code;
(i) Pickup Date;
(j) Delivery Date;
(k) Transit Time;
(l) Actual Weight;
(m) Actual Mileage;
(n) Amount Billed for Linehaul Transportation and Accessorial Services Only;
(o) Total Amount Billed; and
(p) Taxpayer Identification Number (TIN).

4. Format requirements. To be provided prior to August 1, 1997, to all carriers approved in accordance with Item 2–2 for shipment reports due September 1, 1997.

5. Report Submission Instructions: To be provided prior to August 1, 1997, to all carriers approved in accordance with Item 2–2 for shipment reports due September 1, 1997.

Section 10—Payment of Charges

Item 10–1 General Services Administration (GSA) Shipment Surcharge

A. Incorporation of Section 10 in a Request for Offers (RFO): Publication of this Section 10 in a RFO distributed by a participating agency shall be construed as incorporation of the terms and conditions of this Section 10 effective on the date of the publication of the RFO. The terms and conditions of this Section 10 WILL NOT apply if this Section 10 IS NOT specifically incorporated into a RFO.

B. Amount of GSA Shipment Surcharge: A charge equal to 4% of the total amount billed for linehaul and accessorial services will be applicable to each Government Bill of Lading (GBL) issued which references a rate offer that was accepted in accordance with a RFO that incorporated this Section 10.

C. Billing: The GSA Shipment Surcharge MAY NOT be shown as a separate, chargeable line item on the carrier's Public Voucher for Transportation Charges.

D. Remittance to GSA: GSA Shipment Surcharges collected in accordance with this Section 10 MUST BE remitted to GSA on the basis of shipments delivered according to the table below:

Shipments delivered between	Shipment shipment charge due to GSA by:
January 1 and March 31	June 1.
April 1 and June 30	September 1.
July 1 and September 30	December 1.
October 1 and December 31.	March 1.

E. Verification of Applicable GSA Shipment Surcharge Owed: As stated in Section 9, Item 9–2, carriers hauling shipments subject to a GSA Shipment Surcharge will be required to submit a shipment report to the Freight Program Management Office (FPMO), Kansas City, MO, unless otherwise stated, identifying the number of shipments delivered during the appropriate timeframes identified in Item 10–1.D., above. This carrier provided shipment report will be verified per a shipment report submitted by the appropriate agency(ies). In the case of a discrepancy between the carrier submitted shipment report and the agency submitted shipment report, GSA will rely on the information provided in the agency submitted shipment report for the calculation of money owed to GSA from the carrier unless the carrier can provide evidence that the agency submitted shipment report is incorrect.

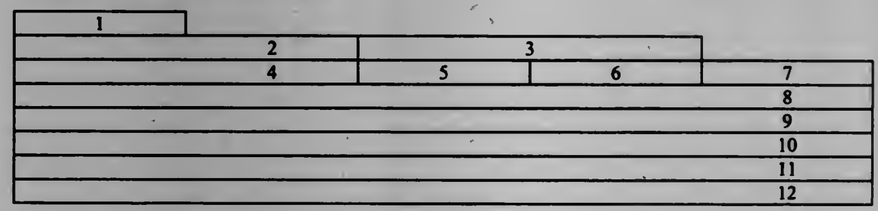
F. Method of Payment: The remittance of the GSA Shipment Surcharge may be transmitted either by check or by electronic funds transfer in accordance with the requirements identified below:

(1) By Check: Make checks payable to "GSA–GL474.2(User ID)"; e.g., GSA–GL474.2AAAAA", and mail to General Services Administration, Accounts Receivable, P.O. Box 73221, Chicago, IL 60673.

Note: Carrier assigned User IDs will be provided prior to May 1, 1997, to all carriers approved in accordance with Item 2–2.

(2) By Electronic Funds Transfer: Payments that are submitted by electronic funds transfer should be submitted in accordance with the format identified below:

Sample Funds Transfer Message Format



EXPLANATION OF REFERENCES

Ref	Name	GSA Required Fill	Explanation
(1)	Priority Code		Provided by the sending bank. Note: Some Federal Reserve district banks may not require this item.
(2)	Treasury Department Code.	021030004	The nine-digit identifier is the routing symbol of the United States Treasury. This item is a constant and is required for all funds transfer messages note to the United States Treasury.
(3)	Type Code		The type code will be provided by the bank.
(4)	Sending Bank Code		The nine-digit sending bank code will be provided by the sending bank.
(5)	Class Code		The class code may be provided by the sending bank at its option (if permitted by the Federal Reserve district bank).

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EXPLANATION OF REFERENCES—Continued

Ref	Name	GSA Required Fill	Explanation
(6)	Reference Number		The reference number may be inserted by the sending bank to identify the transaction.
(7)	Amount		The amount will include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the depositor.
(8)	Sending Bank Name ...		The telegraphic abbreviation which corresponds to item (4) will be provided by the sending bank.
(9)	Treasury Department Name.	TREAS NYC/(47000016) GSA	This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The item is comprised of a rigidly formatted, nonvariable sequence of 15 characters as shown.
(10)	Information	GSA DOS SHIPMENT SURCHARGE	This item identifies the purpose of payment.
(11)	Information	GSA–GL474.2	This item identifies the account in GSA.
(12)	Information	PAYMENT FOR (User ID)	This identifies the carrier making the payment. Note: For (User ID), carrier assigned User IDs will be provided prior to May 1, 1997, to all carriers approved in accordance with Item 2–2.

Example

02			
021030004	10		
011000390		0650	$1,500.00
FIRST BOS			
TREAS NYC/(47000016)GSA			
GSA DOS SHIPMENT SURCHARGE			
GSA-GL474.2			
PAYMENT FOR AAAAA			

G. Failure To Submit Remittance: Failure to submit remittance of the applicable GSA Shipment Surcharge as required by this Section 10 will result in the immediate revocation of approval in GSA's Freight Management Program.

Section 11—Metric Conversion Table

U.S. MEASUREMENT TO METRIC MEASUREMENT

Length

Symbol	When you know	Multiply by	To find	Symbol
in	inches	2.54	centimeters	cm
ft	feet	30.48	centimeters	cm
ft	feet	0.3048	meters	m
yd	yards	0.9144	meters	m
mi	miles	1.6093	kilometers	km

MASS

[Weight]

Symbol	When you know	Multiply by	To find	Symbol
oz	ounces	28.35	grams	g
lb	pounds	0.4536	kilograms	kg
t	short ton (2,000 lb.)	0.9072	metric ton	t

VOLUME

Symbol	When you know	Multiply by	To find	Symbol
pt	pints	0.473	liters	L
qt	quarts	0.946	liters	L
gal	gallons	3.785	liters	L

Note: To convert U.S. customary units to metric units, multiply by the conversion factor. To convert metric to U.S. customary units, divide by the conversion factor.

Sections 12 Through 14

Reserved Section 15-Forms

Carrier Certification Statement

Carrier certification of eligibility for the award of contracts for transportation.

A. By submitting this rate tender, the carrier certifies that:

(1) Neither the carrier, nor any of its subsidiaries, officers, directors, principal owners, or principal employees is currently suspended, debarred,) or in receipt of a notice of proposed debarment from any Federal agency as a result of a civil judgment or criminal conviction or for any cause from GSA), or has been placed in temporary nonuse status by GSA for the routes covered by this tender as of the date that this rate tender is offered.

(2) The carrier is not a corporation, partnership, sole proprietorship or any other business entity which has been formed or organized following the suspension or debarment of, a subsidiary, officer, director, principal owner, or principal employee thereof (or from such an entity formed after receipt of a notice of proposed debarment).

B. The following definitions are applicable to this certification:

(1) A subsidiary is a business entity whose management decisions are influenced by the carrier through legal or equitable ownership of a controlling interest in the firm's stock, assets, or otherwise.

(2) A principal owner is an individual or company which owns a controlling interest in the carrier's stock, or an individual who can control, or substantially influence, the carrier's management, through the ownership interest of family members or close associates.

(3) A principal employee is a person(s) acting in a managerial or supervisory capacity (including consultants and business advisors) who is able to direct, or substantially influence, the carrier's performance of its obligations under its contracts for transportation with the Federal Government.

C. The knowledge of the person who executes this certification is not required to exceed the knowledge which that person can reasonably be expected to possess, following inquiry, regarding the suspended or debarred status of the parties defined in (B), above.

D. THE CARRIER HAS A CONTINUING OBLIGATION TO INFORM THE GSA OFFICE TO WHICH THIS RATE TENDER IS SUBMITTED OF ANY CHANGE IN CIRCUMSTANCES WHICH RESULTS IN ITS INELIGIBILITY FOR THE RECEIPT OF CONTRACTS FOR TRANSPORTATION.

E. An erroneous certification of eligibility or failure to notify the GSA transportation zone office receiving this tender of a change in eligibility, may result in a recommendation for administrative action against the carrier. Additionally, false statements to an agency of the Federal Government are subject to criminal prosecution pursuant to 18 USC 1001, as well as possible civil penalties.

_____

Company Name

Signature and Title of Authorized Official

_____

Date

CARRIER CONTACT

Name: _____

Title: _____

Address: _____

City/State: _____

Telephone No: _____

General Services Administration—Basic Transportation Trading Partner Agreement

Applicability: Check the box below which represents the activity of your firm under this Trading Partner Agreement:

☐ Freight Common Carrier (All paragraphs, except Paragraph 4, of this agreement will apply and are binding).

☐ Household Goods Common Carrier (All paragraphs, except Paragraphs 3 and 5G, of this agreement will apply and are binding)

☐ Freight Freight Forwarder (All paragraphs, except Paragraph 4, of this agreement will apply and are binding)

☐ Household Goods Freight Forwarder (All paragraphs, except Paragraphs 3 and 5G, of this agreement will apply and are binding)

☐ Freight Broker (All paragraphs, except Paragraphs 4 and 5G, of this agreement will apply and are binding)

☐ Freight Shipper Agent/Intermodal Marketing Company (All paragraphs, except Paragraphs 4 and 5G, of this agreement will apply and are binding)

☐ Rate Filing Service Provider (All paragraphs, except Paragraph 5G, of this agreement will apply and are binding)

1. Introduction

This agreement prescribes the general procedures and polices to be followed when Electronic Commerce (EC) is used for transmitting and receiving requests for offers, rate tenders, or other business information in lieu of creating one or more paper documents normally associated with conducting business with the General Services Administration.

The General Services Administration (GSA or the agency) will transmit and receive using the File Transfer Protocol (FTP) of the Internet network (I–FTP) such transaction sets (documents) as it chooses and as established by the governing tender of service or the request for offers. These transaction sets will be transmitted to those firms, organizations, agencies, or other entities (trading partners) recognized by GSA that agree to accept such documents and to be bound by the terms and conditions contained in those documents, this agreement, and any applicable tender of service.

2. Purpose

This agreement is to ensure that all EC obligations are legally binding on all trading partners. Further, the use of any electronic equivalent of a standard business document referenced in Paragraphs 3 and 4 will be deemed an acceptable business practice and that no trading partner will challenge the admissibility of the electronic information in evidence, except in circumstances in which an analogous paper document could be challenged.

3. Freight Reference

This agreement, in addition to the terms and conditions stated in Paragraph 5, is subject to the terms and conditions of the following documents:

- GSA Freight Traffic Management Program Standard Tender of Service
- Optional Form 280
- GSA Freight Traffic Management Program Request for Offers

4. Household Goods Reference

This agreement, in addition to the terms and conditions stated in Paragraph 5, is subject to the terms and conditions of the following documents:

- GSA Centralized Household Goods Traffic Management Program Tender of Service
- Optional Form 280
- GSA Centralized Household Goods Traffic Management Program Request for Offers

5. Terms and Conditions

(A) GSA will place electronic documents in a publicly accessible

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directory on GSA's FTP server (KCFTP.GSA.GOV, pub/ARFRS or pub/CHAMP) and when warranted in the directory of a confirmed trading partner (trading partner/<SCAC>), either directory hereinafter referred to as directory. It will receive documents from confirmed trading partners in each confirmed trading partner's directory via I–FTP. Receipt by the trading partner is considered to occur when the document is placed in either the public directory or the trading partner's directory, as the case may be.

(B) GSA will bear the costs of maintaining the GSA FTP server and the costs of placing documents issued by GSA in the appropriate directory on the GSA FTP server, and the costs of managing documents put on the GSA FTP server by its trading partners. The agency's trading partners are responsible for all costs associated with getting documents from or putting documents on the GSA FTP server.

(C) When the transmissions are submissions of rate tenders, the submitting firm must have first met all applicable approval requirements set out in the applicable, governing Tender of Service.

(D) GSA will be responsible for the accuracy of documents issued by it and placed in the GSA FTP server directory. GSA will not be responsible for errors occurring in documents put on the GSA FTP server, nor will GSA be responsible for errors occurring in documents gotten from the GSA FTP server.

(E) GSA will not be responsible for any damages incurred by a trading partner as a result of missing or delayed transmissions when the problem is not with or caused by GSA or the agency's FTP server.

(F) Any document placed in a directory maintained on the GSA FTP server is to be considered a valid and authentic document backed by the same guarantees of legitimacy as are found in a paper transaction. Likewise, any document from a trading partner put into a directory on the GSA FTP server will be considered a valid and authentic document backed by the same guarantees of legitimacy as are found in a paper transaction.

(G) The carrier/freight forwarder party to this agreement authorizes GSA on the carrier's/freight forwarder's behalf to offer the electronic rate file to the Interstate Commerce Commission in satisfaction of the requirements of Section 10721(b)(2).

(H) In the event a carrier/freight forwarder uses a broker, shipper agent/Intermodal Marketing Company, or filing service to file its rates with GSA, documents submitted on behalf of the carrier/freight forwarder shall be accepted as though submitted by the carrier/freight forwarder and in accordance with the terms and conditions of the trading partner agreement between the carrier/freight forwarder and GSA. The use of a broker, shipper agent/Intermodal Marketing Company, or filing service does not relieve the carrier/freight forwarder of any of its rights or obligations under the terms of this agreement, including the maintenance of a valid trading partner agreement with GSA.

6. Force Majeure

None of the parties in this agreement will be liable for failure to properly conduct EC in the event of war, accident, riot, fire, flood, epidemic, power outage, labor dispute, act of God, act of public enemy, malfunction or inappropriate design of hardware or software, or any other cause beyond such party's control. If standard business cannot be conducted by EC, GSA will, at its discretion, return to a paper based system.

7. Effective Date

The effective date of this agreement will be the latest of the date(s) shown on the signature page of this document.

8. Agreement Review

This agreement will be effective on a continuing basis, except as provided in Paragraph 9, below; provided, however, that GSA may from time to time make such changes to the agreement as are necessary, and the trading partner may request review of the agreement at any time.

9. Termination

(A) In the event that GSA terminates a firm's participation in the GSA Freight Traffic Management Program and/or the GSA Centralized Household Goods Traffic Management Program, this agreement shall be considered terminated as of the date notice is given to a firm of its participation termination.

(B) In the event that a firm terminates its participation in the GSA Freight Traffic Management Program and/or the GSA Centralized Household Goods Traffic Management Program, this agreement shall be considered terminated as of the date notice of such termination is received by the GSA.

(C) Except as provided above, this agreement may be terminated by either GSA or its trading partner, effective 30 days after receipt of written notice by either party. Termination will have no effect on transactions occurring prior to the effective date of termination.

10. Whole Agreement

This agreement and all addenda constitute the entire agreement between the parties. No changes in terms and conditions of this agreement shall be effective unless approved and signed by both parties. At the inception of this agreement, Addendum/Addenda (is) (are) not applicable. As the parties develop and implement additional EC capabilities, addenda may be incorporated into this agreement. Each addendum will be signed and dated by both parties. The latest date contained on the signature page will be the effective date of the addenda. The addendum will be appended to this agreement.

Representing the Carrier

Name and Signature

Title

Firm

Mailing Address

City, State, Zip

Telephone

Fax

Internet E-mail

Electronic Commerce Contact

Telephone

Fax

Internet E-mail

Date

Representing the General Services Administration

W. P. Hobson
Nome and Signature

Manager, Automated Rate Filing and Retrieval System (ARFARS)
Title
Federal Supply Service
Firm
1500 East Bannister Road
Street Address
Kansas City, MO 64131
City, State, Zip
816–823–3646
Telephone
816–823–3656
Fax
william.hobson@gsa.gov
Internet E-mail
Robyn Bennett
Electronic Commerce Contact
816–823–3646
Telephone
816–823–3656
Fax
robyn.bennett@gsa.gov
Internet E-mail

Date
Trading Partner Agreement Number
(TO BE COMPLETED BY GSA)

General Services Administration—General Freight Tender Of Service No. 1–F

Letter Of Intent

Carrier Agreement—To Abide By the Terms and Conditions of the General Services Administration Standard Tender of Service (STOS), General Freight Traffic Management Program

Please accept our request to participate in the General Services Administration (GSA) STANDARD TENDER OF SERVICE (STOS) General Freight Traffic Management Program. Only one LETTER OF INTENT should be submitted to each participating Government agency office with the first tender filing, regardless of the number of tenders submitted.

I certify that I have read and will comply with all the provisions contained in the GSA Standard Tender of Service (STOS) GSA General Freight Tender of Service No. 1–F, the GSA National Rules Tender No. 100–D, and the GSA Baseline Rate Publication No. 1000–D, effective May 1, 1996. I further certify that the undersigned company has the operating authority and insurance as required by Item 1–5 and SECTION 2, of the GSA General Freight Tender of Service No. 1–F.

Company Name

Signature and Title of Authorized Official

Date

Carrier Contact:

Name:
Title:
Address:
Area Code: ( ) Telephone No:

Sections 16 Through 20 Reserved

General Services Administration, National Rules Tender

No. 100–D (GSA No. 100–D)

Providing Rules And Baseline Charges for Accessorial and Terminal Services

For Governing Publications, See ITEM 10.

This tender applies on both Intrastate and Interstate traffic.

General Services Administration, Federal Supply Service, Transportation Management (6FBX), Kansas City, Missouri 64131.

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800 Payment Of Charges
825 Permits, Special
850 Pickup Or Delivery Service
855 Pickup Or Delivery Service—At Private Residences
860 Pickup Or Delivery Service—Sundays Or Holidays
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885 Property Of Unusual Value Or Unsafe To Transport
900 Protective Service
925 Reconsignment Or Diversion
950 Redelivery
1000 Sealing Of Equipment
1005 Sealed Closed Van Service
1010 Sorting Or Segregating Service And Charges
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Section 1—General Tender Application

Item 5 Purpose, Explanation, and Application

Section 1. Purpose

The purpose of this General Services Administration (GSA) NATIONAL RULES TENDER No. 100–D (GSA No. 100–D) is to articulate the transportation service needs of the participating Government agencies listed in ITEM 1–1A of the General Services Administration (GSA) GENERAL FREIGHT TENDER OF SERVICE No. 1–F (GSA TOS No. 1–F) herein, for the movement of freight traffic and to assist in GSA's effort in implementing the standardization necessary to achieve a fully automated system for rating and routing Government freight shipments.

Section 2. Explanation

The baseline rates and charges, rules, and other provisions contained in this tender have been constructed by GSA and are above some bureau levels, and for the same provisions below other bureau levels.

Section 3. Application

Where reference is made to the GSA NATIONAL RULES TENDER No. 100–D (GSA No. 100–D) in a carrier's tender or rate agreement, the rules and accessorial charges contained in this publication will govern the freight services of the carrier's tender, and will apply from, to, or between those points which are

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specified in the individual tender. This is not in any way to be construed as a setting of rates, rules or charges by GSA. **CARRIERS' TENDERS CANNOT BE MADE SUBJECT TO ANY OTHER PUBLICATION FOR APPLICATION OF THE RATES OR CHARGES THEREIN.** If any carrier or bureau published line-haul, rules or terminal services tariff is shown in a tender, the tender will be rejected and returned to the carrier.

The publications listed in Item 10 governing publications herein, form part of the rules publication and will not need to be listed in block 16 of the individual tenders.

Title	Kind of tariff	Tariff No.	ICC No.
National Motor Freight Traffic Association, Inc., Agent.	National Motor Freight Classification (Rules Only).	100–V	ICC NMF 100–V
	Directory Of Standard Multi-Modal Carrier And Tariff Agents Codes (SCAC and STAC).	101–K	ICC NMF 101–K
ALK Technologies, Inc. automated mileage system.	ALK Technologies, Inc. 5-digit zip code 15, as amended		
National Railroad Freight Committee, Agent.	Uniform Freight Classification (Rules Only)	6000–K	ICC UFC 6000–K

Item 10 Governing Publications

This tender is governed, except as otherwise provided herein, by the following described tariffs or specifications, by supplements or loose-leaf page amendments thereto, or by successive issues or reissues thereof:

Item 20 Revising Tender Provisions and Method of Canceling Original or Revised Pages

This TOS will be revised by the Freight Program Management Office (6FBX), Kansas City, MO through publication of the changes on GSA's WorldWide Web Page (http://www.kc.gsa.gov/fsstt), the issuance of page revisions (original or revised), or the reissuance of the document on an "as needed" basis.

A. TOS Page Revisions: Reserved

B. Reissuing the TOS: Reserved

Item 30 Definition of Terms

(1) Business Hours and Days:

(a) Business Hours: The term "BUSINESS HOURS", is defined as 7:00 a.m. to 5:00 p.m.

(b) Business Days: The term "BUSINESS DAYS", is defined as Monday through Friday, except legal holidays (as shown in ITEM 30 DEFINITION OF TERMS, (2) LEGAL HOLIDAYS herein).

(2) Legal Holidays:

New Year's Day
Martin Luther King's Birthday
Washington's Birthday (Presidents' Day)
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day

and any other day designated as a holiday by Federal statute or Executive Order.

(3) Shipment: A "SHIPMENT", consists of a lot of freight tendered to a carrier by one consignor at one place at one time for delivery to one consignee at one place on one bill of lading.

(4) Vehicle: Wherever the term "VEHICLE", is used, the term will have reference to a truck, trailer, or container exceeding 10.67 meters (thirty-five [35] feet) in length; or two (2) trailers or containers, each of which does not exceed 10.67 meters (thirty-five [35] feet) in length propelled or drawn by a single power unit or transported on one flat car.

(5) Doubles Trailer: The term "DOUBLES TRAILER", means a trailer or container not exceeding 10.67 meters (thirty-five [35] feet) in length.

(6) Rates: (a) Less Than Truckload (LTL):

"LESS THAN TRUCKLOAD" (LTL) rates, are those rates which are based on a percentage of the less than 226.8 kilograms (L5C—less than 500 pounds) through 4,536 kilograms but less than 9,072 kilograms (10M—10,000 pounds but less than 20,000 pounds) rates shown in Section B, Item 100, of the GSA Baseline Rate Publication No. 1000–D. These rates may be applied on shipments weighing 9,072 kilograms (20,000 pounds) or more.

(b) Truckload (TL): "TRUCKLOAD" (TL) rates, are those rates which are based on cents-per-1.6093 kilometers (cents-per-mile) charge per vehicle, or a percentage of the 9,072 kilograms but less than 13,608 kilograms (20M—20,000 pounds but less than 30,000 pounds), 13,608 kilograms but less than 18,144 kilograms (30M—30,000 pounds but less than 40,000 pounds), and 18,144 kilograms and over (40M—40,000 pounds and over) rates shown in SECTION B, ITEM 100, of the GSA BASELINE RATE PUBLICATION No. 1000–D.

(7) Conus: "CONUS", is defined as all points within the contiguous United States, including the District of Columbia (DC), (excluding Alaska and Hawaii).

(8) Import or Import Traffic: The term "IMPORT" or "IMPORT TRAFFIC", except as otherwise specifically provided, shall be understood as meaning any traffic having a prior movement from a foreign country.

(9) Export or Export Traffic: The term "EXPORT" or "EXPORT TRAFFIC", except as otherwise specifically provided, shall be understood as meaning any traffic having a subsequent movement to a foreign country.

(10) Equipment: Except as otherwise provided, the term "EQUIPMENT", means any type of conveyance, regardless of size.

(11) Carrier: When the term "CARRIER", is used, in the GSA No. 100–D, unless otherwise stated, it shall apply to motor common carriers, brokers, freight forwarders, rail carriers, shippers agents, or shippers associations.

(12) And: The word "AND", is used to join numbers, words, phrases, etc., between which it appears.

(13) Or: The word "OR", allows for alternation or use of either one or more of the numbers, words, phrases, etc., between which it appears.

(14) Closed Van: Except as otherwise provided, the term "CLOSED VAN", means any type of equipment that is fully enclosed on four sides with doors.

(15) Sealed Closed VAn: Except as otherwise provided, the term "SEALED CLOSED VAN", means any type of equipment that is fully enclosed on four sides with doors that are sealed.

(16) Subject to Note and See Note:

(a) Subject to Note:

The term "SUBJECT TO NOTE", when used in the title of an ITEM in SECTION 2 herein, means that the NOTE indicated applies to the entire ITEM.

(b) See Note: The term "SEE NOTE", when used in the title of an ITEM in SECTION 2 herein, means that the referenced NOTE applies only where indicated, not to the entire ITEM.

Item 35 Disposition of Fractions

A. Fractions of a cent resulting from the application of a carrier's independently-established percentages of the baseline rates and minimum charges shown in the GSA NATIONAL RULES TENDER No. 100–D will be disposed of as follows:

1. Fractions of less than one-half of one cent will be omitted; and

2. Fractions of one-half of one cent or greater will be increased to the next whole cent.

B. Fractions of a cent resulting from the application of a carrier's independently-established rates will be disposed of as follows:

1. Fractions of less than one-half of one cent will be omitted; and

2. Fractions of one-half of one cent or greater will be increased to the next whole cent.

Item 40 Prelodging

(1) When prelodging of shipping documents is required by the consignee, the following definition will apply:

A. Prelodging: Prelodging is the hand delivery, telephonic or FAX of shipping documents by the delivering carrier 24 hours or more prior to delivery of a shipment or shipments to a location designated by the consignee. When required, the carrier shall deliver the shipping documents in accordance with the consignee's instructions.

(2) Invoices submitted for payment of prelodge charges will be cross referenced as to bill of lading (Government Bill of Lading (GBL) or commercial bill of lading [CBL]) number(s), carrier's pro number(s), permit number(s), manifest number(s), delivery equipment number(s), and the date the prelodge service was provided.

(3) Charges: Where the bill of lading is annotated that prelodging is required, the charge for hand delivery prelodging shall be $50.00 per delivery equipment. The charge for telephonic or FAX prelodging shall be $25.00 per delivery equipment.

Item 50 Doubles Trailer Furnished for Loading

A doubles trailer as defined in ITEM 30 DEFINITION OF TERMS herein may be furnished by the carrier for a vehicle as defined in ITEM 30, except as otherwise provided, at 60 percent of the applicable Truckload (TL) or vehicle rate or charge published herein or in the carrier's individual tender.

Item 55 Equipment Requested for Loading

When the shipper orders a specific type or size of equipment, and the carrier holds itself out to provide such equipment in its tender, the carrier shall be responsible for providing it. If equipment other than that requested by the shipper is provided to load a shipment, it shall be furnished at the carrier's own convenience and without any additional cost to the Government. The transportation charges shall be assessed on the basis of the equipment ordered by the shipper, unless charges on the equipment that was furnished are lower.

Item 60 Specialized Services

Unless otherwise provided in an individual tender, carriers will NOT be required to furnish the specialized services contained in the following ITEMs of this tender herein:

Item 480 Expedited Service

Item 900 Protective Service

Item 1010 Sorting or Segregating Service and Charges

Item 1025 Services—Signature and Tally Record Service (STR)

Item 1030 Services—Constant Surveillance Service (CSS)

Item 1035 Services—Dual Driver Protective Service (DDPS)

Item 1040 Services—Dual Driver

Item 65 Equipment Furnished for Loading

Except as otherwise provided, where a carrier's individual tender rates apply on specific types of equipment, the carrier shall be responsible for furnishing it. If equipment other than that specified in the individual tender is provided to load a shipment, it shall be furnished at the carrier's own convenience and without any additional cost to the Government.

Item 70 Metric Conversion

The weights and measurements expressed in the STOS are being changed to indicate both metric and U.S. equivalent non-metric measurements.

Please see APPENDIX D in the GSA TOS No. 1–F for the Metric Conversion Table.

Item 75 Services Not Otherwise Specified

When a carrier performs services that are required for normal movement of freight shipments and such services are not identified in the GSA NATIONAL RULES TENDER No. 100–D (GSA No. 100–D), the charges for these services will be negotiated between the responsible agency office and the carrier.

Section 2—General Rules and Specific Pickup/Delivery Charges

Item 100 Arbitrary Applicable on Import or Export Traffic Picked Up at or Delivered to Steamship Wharves or Docks. (Subject to Notes 1 and 2. Also, See Note 3)

Shipments having a prior or subsequent movement by water, to or from a foreign country picked up at or delivered to docks or piers at ports named in Note 3 below, shall be subject to an additional charge of 45 cents per 45.36 kilograms (per 100 pounds), with a minimum charge of $5.00 per shipment, computed on the actual weight picked up or delivered. Such charge will be in addition to all other rates or charges applicable to the shipment.

Note 1: This ITEM does not apply on shipments moving in steamship cargo containers, 6.10 meters (20 feet) or over in length.

Note 2: Applicable also at warehouses, container yards or container freight stations when such warehouses, container yards or container freight stations are located on port property on or immediately adjacent to the dock at which transfer from ocean carrier is made.

Note 3: Alameda, CA,
Bellingham, WA,
Compton, CA,
E. San Pedro, CA,
Redwood City, CA,
Richmond, CA,
Sacramento, CA,
San Diego, CA,
Everett, WA,
Long Beach, CA,
Los Angeles, CA,
Los Angeles Harbor, CA,
Longview, WA,
Martinez, CA,
Norfolk, VA,
Oakland, CA,
Olympia, WA,
Port Hueneme, CA,
Portland, OR,
San Francisco, CA,
San Pedro, CA,
Seattle, WA,
Tacoma, WA,
Terminal Island, CA,
Vancouver, BC,
West Sacramento, CA,
Wilmington, CA,

Item 125 Arrival Notice and Undelivered Freight. (Subject to Note 1)

Arrival Notice:

(1) The actual tender of delivery at the consignee's place constitutes the notice of the arrival of a shipment except that for shipments consigned to private residences, as defined in ITEM 850 PICKUP OR DELIVERY SERVICE herein, all notice of arrival shall be given in the manner described in paragraph (2) of this ITEM, unless prior

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delivery arrangements have been noted by the consignor on the bill of lading.

(2) If the shipment is not actually tendered for delivery, notice of arrival will be given at shipment destination to the consignee not later than the next business day following the arrival of the shipment; and:

(a) The notice will be given by telephone or FAX, if convenient and practicable; otherwise by mail or telegraph. The notice, however transmitted, will specify the bill of lading number, point of origin, consignor, commodity(s) and the weight of shipment.

(b) If the consignee's address is unknown to the carrier, the notice will be mailed to the consignee at the post office serving the point of destination shown on the bill of lading.

(c) In the case of notification by mail, the notice will be deemed to have been given (that is, received by the addressee) at 7:00 a.m. on the first business day after it was mailed.

Undelivered Freight:

(1) If freight cannot be delivered because of the consignee's refusal or inability to accept it, or because the carrier cannot locate the consignee, or if the freight cannot be transported because of an error or omission on the part of the consignor, the carrier will make a diligent effort to promptly notify the shipping activity that the freight is in storage, and the reason therefor.

For GSA controlled shipments, the carrier shall notify the consignor or the GSA National Customer Service Center (6FR) (NCSC), 1500 East Bannister Road, Kansas City, MO 64131–3088 (1–800–488–3111) (FAX 816–926–6952). After proper notification is given, the carrier will request additional handling or forwarding instructions from either the consignee or the consignor, and for GSA shipments, the NCSC.

(2) Undelivered shipments will be subject to applicable storage (see ITEM 1100 STORAGE herein) or detention charges (see ITEM 325 DETENTION—VEHICLES WITH POWER UNITS and ITEM 350 DETENTION—VEHICLES WITHOUT POWER UNITS herein).

(3) On undelivered shipments, disposition instructions issued prior to tender of delivery, will not be accepted as authority to reship or return a shipment or to limit storage liability.

Note 1: When notice of arrival or a notice of undelivered freight is transmitted by telegram, the charges of the telegram will be assessed against the shipment in addition to all other applicable charges.

Item 130 Bill of Lading—Commercial

Carrier will furnish commercial bill of lading sets required by the Government without any additional charge. The bill of lading sets can consist of any number of copies.

Item 150 Bill of Lading—Corrected (Subject to Note 1)

(1) Corrected bills of lading, or other written instructions from the consignor to change the freight charge collection status from "COLLECT" to "PREPAID", may be accepted only if received by the origin carrier within a period of 30 days from the date of the initial bill of lading.

(2) Corrected bills of lading or other written instructions to change the freight collection status from "PREPAID" to "COLLECT" will not be accepted once the shipment has been delivered.

(3) A corrected bill of lading or other written instructions to change the original transportation contract from "PREPAID" to "COLLECT" will not be accepted if Section 7 (non-recourse clause) of the corrected bill of lading has been signed by the consignor.

Note 1: Not applicable to GBLs or to a commercial bill of lading converted to a GBL.

Item 175 Bulk Freight

The rates, rules and other provisions of this tender or in tenders made subject to this tender, do not apply on shipments in bulk, in tank, bin, or hopper type equipment.

Item 180 Circuitous Routings of Hazardous Material Shipments (Subject to Notes 1 and 2.)

If a carrier is required by Federal, State, local, municipal, or other regulatory bodies governing the transportation of hazardous materials shipments to travel a route of greater distance than the shortline distance computed under the governing mileage guide, the greater distance shall apply.

Note 1: Applies only when the bill of lading is annotated with appropriate hazardous material placard requirements.

Note 2: The actual route of movement and mileage computation for each highway traveled must be documented and submitted with the Public Voucher SF 1113 for payment.

Item 200 Chassis—Obtaining of (Subject to Notes 1 and 2)

When it becomes necessary for the carrier to obtain a chassis for the movement of a container at a location site other than at the place where the container is located, a charge of $58.65 will be assessed for each chassis obtained. This charge will be in addition to all other applicable charges incidental to the movement of containers.

The provisions of this ITEM do not obligate the carrier to obtain a chassis.

Note 1: The term "CHASSIS" as used in this ITEM means the underframe work or undercarriage with mounted wheels or dollies used in the transportation of containers.

Note 2: The term "CONTAINER" as used in this ITEM means an ocean container, of not less than 5.79 meters (19 feet) in length, which is designed for the movement of cargo by water carrier.

Item 225 Rates From or to Points in Alaska, Hawaii, or Points Outside Conus

Where there is no through tender rate applicable from or to points in Alaska, Hawaii, or points outside CONUS, the carrier's individual tender may be used to construct a combination of rates or charges from or to the point where the shipment either leaves or enters CONUS.

This ITEM supersedes the provisions contained in BLOCK 19, of the OPTIONAL FORM 280, UNIFORM TENDER OF RATES AND/OR CHARGES FOR TRANSPORTATION SERVICES.

Item 250 Customs or in Bond Freight (See Note 1)

(1) Shipments moving under United States Customs Bond for US Customs Clearance at a point in the United States or delivery by carrier are required to be made under U.S. Customs supervision. Such shipments will be assessed a charge of 77 cents per 45.36 kilograms (per 100 pounds) subject to a minimum charge of $46.92 and a maximum charge of $103.19 per shipment or per vehicle, if more than one vehicle is required to transport the shipment (Subject to Note 1.) Such charges shall be in addition to all other applicable charges.

(2) Line-haul charges on shipments requiring U.S. Customs Clearance at a point other than the final destination will be assessed on the basis of rates and charges applicable from point of origin to the point of U.S. Customs Clearance, plus the rates and charges applicable from the point of U.S. Customs Clearance to the final destination except no beyond line-haul charges will apply when the final destination is located within the commercial zone of the point of U.S. Customs Clearance and is subject to the same line-haul rate as the point of U.S. Customs Clearance.

(3) Freight moving in bond may not be included in the same shipment on the same bill of lading and shipping order with freight not moving in bond.

(4) Shipments while moving under United States Customs Bond will not be accorded stopping in transit or split pickup or split delivery privileges.

(5) Shipments waiting U.S. Customs Clearance will be subject to the applicable detention charges (see ITEM 325 DETENTION—VEHICLES WITH POWER UNITS and ITEM 350 DETENTION—VEHICLES WITHOUT POWER UNITS herein) or storage charges (see ITEM 1100 STORAGE herein). Detention charges, if any, will be assessed against the party responsible for line-haul charges. For the purpose of applying storage rules and charges in connection with shipments moving under United States Customs Bond, notification to the Deputy Collector of Customs that a shipment is available for customs inspection will constitute tender of shipment for delivery.

(6) Each Immediate Transportation Permit issued for movement of an in bond shipment will be considered as a separate shipment, and must be accompanied by one bill of lading and shipping order. The provisions of this paragraph will not apply to truckload shipments moving in bond between steamship company piers or wharves or when such shipments are delivered to a U.S. Customs Bonded Warehouse.

(7) When necessary for carriers to purchase and apply "HIGH SECURITY RED IN-BOND SEALS" for shipments moving under United States Customs Bond, a charge of $25.57 per seal will be assessed. The carrier will not be responsible for equipment or tools necessary for removal of the "HIGH SECURITY RED IN-BOND SEALS."

Note 1: On shipments of Alcoholic Liquors, the charges in paragraph (1) will not apply when consigned to a U.S. Customs Bonded Warehouse and carrier is not requested to clear shipment through U.S. Customs. The following certification must be shown on the bill of lading:

"THIS IS TO CERTIFY THAT CARRIER IS NOT REQUIRED TO CLEAR SHIPMENT THROUGH U.S. CUSTOMS WHILE IN HIS POSSESSION."

Item 300 Delivery of Freight Bill Prior to Delivery of Shipment

(1) When consignor or consignee requests delivery of the freight bill(s) prior to delivery of the shipment, a charge of $50.00 per delivery equipment will be assessed the party requesting the service. The charge will not apply when ITEM 40 PRELODGING herein is requested or required by the shipper or the consignee.

(2) Invoices submitted for this charge will be cross referenced as to the bill of lading number(s) (Government Bill of Lading [GBL] or commercial bill of lading [CBL]), carrier's pro number(s), permit number(s), manifest number(s), delivery equipment number(s), and the date the service was provided.

ITEM 325 Detention—Vehicles With Power Units

(1) Except as otherwise provided herein, when, due to no disability, fault or negligence on the part of the carrier, the loading or unloading of freight at or on the premises of consignor or consignee, or at a place designated by consignor or consignee for the receipt or delivery of freight is delayed, the following rules shall govern:

A. If the loading or unloading of freight is delayed beyond the free time during normal business hours described in ITEM 30 DEFINITION OF TERMS herein, the charge shown in sub paragraph 1 below per vehicle for each 15 minutes or fraction thereof, will be made for the time consumed for such delay: 1. $10.25

B. Free time for loading or unloading of freight will be allowed as follows:

Weight in kilograms (pounds) per vehicle	Free time in minutes per vehicle
0 to 4,535.55 kilograms (9,999 pounds)	120
4,536 kilograms (10,000 pounds) but less than 9,072 kilograms (20,000 pounds)	180
9,072 kilograms (20,000 pounds) but less than 12,700.8 kilograms (28,000 pounds)	240
12,700.8 kilograms (28,000 pounds) but less than 16,329.6 kilograms (36,000 pounds)	300
16,329.6 kilograms (36,000 pounds) but less than 19,958.4 kilograms (44,000 pounds)	360
19,958.4 kilograms (44,000 pounds) or more	420

C. Time consumed in loading or unloading freight shall be computed from time of arrival until departure of the vehicle, including waiting time reaching or leaving loading or unloading location. In computing free time, actual weight loaded on or unloaded from vehicle and not billed weight shall govern the computation of free time.

D. The consignor or consignee will stamp or mark the delivery receipt with time of arrival and departure, or provide a certified statement verifying this time for computation of charges and presentation by the carrier for payment.

E. Time consumed by detention of carrier's vehicle beyond the free time on the premises of consignor or consignee between 5:00 p.m. and 7 a.m. Monday through Friday, except legal holidays stated in ITEM 30 DEFINITION OF TERMS herein, will be charged for at the rate shown in sub paragraph 1 below per vehicle for each 15 minutes of delay or fraction thereof: 1. $17.49

F. Detention charges applicable for Saturdays, Sundays and legal holidays, stated in Item 30 Definition of Terms herein, will be computed at the rate shown in sub paragraph 1 below per vehicle for each 15 minutes of delay or fraction thereof after the first 15 minutes: 1. $16.18

G. In the case of multiple shipments received from one shipper or delivered to one consignee at one time in one vehicle, free time will be computed on the aggregated weight of the multiple shipments received or delivered. Where either a single shipment or such multiple shipments exceed the capacity of one vehicle, free time for each vehicle will be computed separately.

H. Detention time shall be certified and paid by the activity where the detention occurs.

Item 350 Detention—Vehicles Without Power Units. (Subject to Notes 1 and 2)

DETENTION—VEHICLES WITHOUT POWER UNITS—SPOTTING OR DROPPING TRAILERS—(See Notes 1 and 2 below.)

This ITEM applies when the carrier's vehicles without power units are delayed or detained on the premises of the consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit, subject to the following provisions:

Note 1: This ITEM will not apply whenever a mutual agreement has been made between the carrier and shipper whereby empty vehicles are spotted at shippers' facilities for the purpose of maintaining "TRAILER POOLS."

Note 2: For the purposes of this ITEM the terms "SPOTTING" and "DROPPING" are considered to be synonymous and are used interchangeably, and is defined as follows:

"SPOTTING" means the placing of a trailer at a specific site designated by

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the consignor, consignee, or other party designated by them, detaching the trailer, and leaving the trailer in full possession of consignor, consignee or other designated party unattended by carrier's employee and unaccompanied by power unit. The carrier will not move the trailer until such time as it has received notification pursuant to paragraph [1] below that the trailer is ready for pickup at any site on premises.

The consignor, consignee, or other designated party may shift the spotted trailer with its own power units at its own expense and risk for the purpose of loading or unloading. Empty trailers placed at the premises of consignor without specific request are not spotted until the carrier receives a consignor's request and places a trailer for spotting. The movement of the trailer from the consignor's premises to the specific site for spotting shall be the obligation of the carrier, and free time shall accrue as provided in paragraph [1] below.

Except as otherwise provided herein, when, due to no disability, fault or negligence on the part of the carrier, the loading or unloading of freight at or on the premises of consignor or consignee, or at a place designated by consignor or consignee for the receipt or delivery of freight is delayed, the following rules shall govern:

[1] (A) Commencement of Spotting and Free Time:

(1) Spotted trailers will be allowed 24 consecutive hours of free time for loading or unloading.

For trailers spotted for unloading, such time shall commence at the time of placement of the trailer at the site designated by the consignee, or other party designated by the consignee. For trailers spotted for loading, such time shall commence when the trailer is spotted at the site specifically designated by the consignor or a party designated by the consignor.

(2) When any portion of the 24-hour free time extends into a Saturday, Sunday, or legal holiday (as stated in Item 30 Definition of Terms herein), the computation of time for such portion shall resume at 12:01 a.m. on the next day which is neither a Saturday, Sunday, or legal holiday.

(3) Free time shall not begin on a Saturday, Sunday, or legal holiday (as stated in ITEM 30 DEFINITION OF TERMS herein), but at 7 a.m. on the next day which is neither a Saturday, Sunday, or legal holiday.

(4) When a trailer is both unloaded and reloaded, each transaction will be treated independently of the other, except that when unloading is completed, free time for loading shall not begin until free time for unloading has elapsed.

[1] (B) Termination of Spotting and Notification:

(1) The consignor, consignee, or other party designated by them shall notify the carrier when loading or unloading has been completed and the trailer is available for pickup. The trailer will be deemed to be spotted and detention charges will accrue until such time as the carrier receives notification. Notification by telephone if convenient and practical, otherwise by telegraph or mail, shall be given by the consignor, consignee, or other party designated by them at their own expense, to the carrier or other party designated by the carrier for the purpose of advising such carrier or other party that the spotted trailer has been loaded or unloaded and is ready for pickup. If notification is by telephone, carrier may require written confirmation.

(2) When a spotted trailer is changed to a vehicle with power at the request of the consignor, consignee, or other party designated by them, the free time and detention charges will be applied as follows:

(i) If the change is requested and made before the expiration of free time for a spotted trailer, free time will cease immediately at the time the request is made, and detention charges for the vehicles with power will immediately commence with no further free time allowed.

(ii) If the change is requested and made after the expiration of free time for a spotted trailer, free time and detention charges will be computed on the basis of a spotted trailer up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for a vehicle with power with no further free time allowed.

[1] (C) Prearranged Scheduling:

(1) Subject to the provisions of Item 375 Prearranged Scheduling of Vehicle Arrival for Loading or Unloading herein, and upon reasonable request of the consignor, consignee, or others designated by them, the carrier will, without additional charge, enter into a prearranged schedule for the arrival of trailers for spotting.

(2) If the carrier's vehicle arrives later than the scheduled time, time shall begin to run from actual time spotting commences.

(3) If the carrier's vehicle arrives prior to scheduled time, time shall begin to run from the scheduled time or actual time loading or unloading commences whichever is earlier.

[2] (A) General Detention Charges:

After the expiration of free time as provided in paragraph [1] of this ITEM, charges for detaining a trailer will be assessed as follows:

Charges

(1) For each of the first and second 24-hour periods or fractions thereof (Saturdays, Sundays, and holidays excepted) $27.00

(2) For each of the third and fourth 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted) $37.00

(3) For the fifth and each succeeding 24-hour period or fraction thereof (Saturday, Sundays, and holidays included) $53.00

[2] (B) Delay in Trailer Pickup Charge:

Additional charges will not be allowed for picking up trailers spotted under this ITEM when such pickup can be performed within 120 minutes after arrival of the driver and power unit at the premises of the consignor, consignee, or other party designated by them. When a delay of more than 120 minutes is encountered, detention charges for vehicles with power will commence from the time of arrival as specified in ITEM 325 DETENTION—VEHICLES WITH POWER UNITS herein.

[2] (C) Strike Interference Charge:

When, because of a strike of its employees, it is impossible for the consignor, consignee, or other party designated by them to make available for movement by the carrier any partially loaded, or empty trailers detained on their premises, a detention charge of $26.00 per day or fraction thereof, pertrailer will be made following expiration of free time. Saturdays, Sundays, and holidays shall be included after the 4th day of charges.

[2] (D) Detention Time Shall Be Certified and Paid By the Activity Where the Detention Occurs.

Item 375 Prearranged Scheduling of Vehicle Arrival for Loading or Unloading. (Subject to Notes 1, 2, and 3)

Upon reasonable request of the consignor, consignee or others designated by them and subject to the provisions contained herein, carriers will, without additional charge, prearrange schedules for arrival of vehicles, for loading or unloading shipments.

Note 1: Request for prearranged scheduling may be oral or in writing.

Note 2: Prearranged schedules for arrival of vehicle for loading or unloading may be on a one-time or continuous basis mutually agreeable to all parties. Continuous prearranged scheduling agreements may be terminated by any party to the agreement on not less than 24 hours notice prior to the effective date of such cancellation.

Note 3: The scheduled time for arrival of vehicle for unloading should be prior to the time storage charges would begin to accrue. If arrival for unloading is not so scheduled, storage charges will be assessed as provided in ITEM 1100 STORAGE herein.

Item 400 Diversion—Motor to Air Transportation.

When any carrier receives instructions to divert a shipment at any point from motor to air transportation, the following provisions apply:

(1) The shipment will be charged for on the basis of the combination of rates or charges applicable from the origin point to the diversion point and the air transportation charges from the diversion point to the destination point.

(2) A charge of $21.08 per hour, or fraction thereof, per man, subject to a minimum charge of $31.75 will be made for all time and men required in unloading and reloading the line-haul vehicle to accomplish such diversion.

(3) A charge of $4.85 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $31.75 will be made for delivery service to the air transportation terminal.

Item 425 Hydraulic Lift Gate Service

Where the carrier is required or requested to employ hydraulic lifting or lowering devices to accomplish pickup or delivery of the goods to or from carrier's equipment , an additional charge of $1.37 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $40.92 or a maximum charge of $102.10 will be assessed upon the actual weight of the shipment or shipments for which such service is rendered, at one time.

The carrier is not obligated to perform such service when suitable equipment with such devices and operators are not available. Service will only be rendered at such locations as are safe and accessible to the equipment.

Item 450 Fork Lift Service. (Subject to Note 1)

On shipments that require a fork-lift service and the consignor or the consignee does not furnish this service, the carrier will endeavor to arrange for such fork-lift service and will charge $31.18 per half hour or fraction thereof, for each fork-lift used. Such fork-lift service shall be subject to a minimum charge of $44.56 per shipment.

When fork-lift service is used on import or export traffic at wharves or docks, the provisions of this item shall apply regardless of the weight or size of the articles.

Note 1: Charges shall be computed from the start of the actual use of fork-lift equipment in loading or unloading the shipment, as the case may be, and to run until the actual use of the fork-lift is terminated.

Item 475 Exclusive Use and Control of Vehicle. (Subject to Notes 1 and 2)

Section 1: Control of Vehicle

Except as provided in SECTION 2 EXCLUSIVE USE OF VEHICLE of this ITEM, a shipment will not be entitled to the exclusive use of the vehicle in which it is to be transported. The carrier has control of the vehicle or doubles trailer with the unrestricted right to:

(1) Select the vehicle for the transportation of a shipment.

(2) Transfer the shipment to another vehicle.

(3) Load other freight on the same vehicle.

(4) Remove locks and seals applied to the vehicle.

Section 2: Exclusive Use of Vehicle

When the exclusive use of a vehicle is provided by the carrier at the request of consignor or consignee, the following provisions will apply:

(1) Charges will apply to each vehicle used to transport the shipment.

(2) The request must be given in writing and placed on the bill of lading and shipping order.

(3) When the bill of lading contains a notation that prohibits the breaking of locks or seals or the co-loading of additional freight, such instructions will be considered as a written request for exclusive use service.

(4) The vehicle will be devoted exclusively to the transportation of the shipment without the breaking of locks or seals, except as provided in paragraph (5) of this ITEM.

(5) In the event a lock or seal has been removed from a vehicle, the carrier will immediately notify the consignee and consignor and re-lock or re-seal the vehicle and will notate the accompanying papers with the new lock or seal number and the reason for removal of the original lock or seal.

(6) Where exclusive use of vehicle service is requested and provided, such service will be subject to a minimum charge for each vehicle used of either:

(a) 9,072 kilograms (20,000 pounds) at the highest rate derived from the carrier's applicable tender;

(b) Where charges are computed on the basis of cents-per-1.6093 kilometers (cents-per-mile) per vehicle used, by adding 30 cents-per-1.6093 kilometers (cents-per-mile) to the individual distance tender rate (excludes a per vehicle minimum charge);

(c) Where a carrier's individual tender is predicated on a charge or minimum charge per vehicle used, at the charge named therein;

(d) When a doubles trailer(s) is furnished by the carrier for loading a shipment, except as otherwise provided, the charge will be 60 percent of the applicable vehicle rate or charge as determined in paragraph 6 (a), (b), or (c) above of this ITEM, for the doubles trailer furnished (not subject to Item 50 Doubles Trailer Furnished for Loading herein);

Two (2) doubles trailers will be considered as one vehicle, as defined in ITEM 30 DEFINITION OF TERMS herein, and the minimum charge as determined in paragraph 6 (a), (b), or (c) above of this ITEM, shall apply to each set of (two [2]) doubles trailers furnished for loading the shipment;

(e) When a shipper specifically requests the pickup carrier to furnish one (1) or more doubles trailers and the bill of lading is so annotated, the charge for that doubles trailer shall be that as provided in paragraph 6 (a), (b), or (c) above of this ITEM. For the purposes of a shipper requested doubles trailer in this ITEM, the definition of a vehicle in Item 30 Definition of Terms (4) herein, will not apply; or

(f) When the exclusive use of a vehicle has been requested and provided by a carrier, in accordance with the requirements of this section, the applicable charges herein must be paid to the carrier.

(7) Charges are to be paid or guaranteed by the party requesting the service and the non-recourse stipulation on the bill of lading may not be executed. (This paragraph is not applicable on shipments moving on GBL's or commercial bills of lading converted to a GBL.)

(8) When the request for exclusive use of vehicle is made by the consignor or consignee after shipment has been receipted for and is in possession of the carrier, the carrier will, if possible, intercept the shipment and convert it to exclusive use of vehicle service over as much of the route as possible. The party making the request must guarantee all charges for the requested service and confirm the request in writing. Such written verification will be preserved by the carrier and be considered as part of the bill of lading contract. Charges will be assessed as provided in paragraph (6) of this ITEM between the point of origin and point of destination.

Note 1: The provisions of this ITEM will not apply in connection with Items 870 Pickups or Deliveries—Additional and Item 1075 Stopoffs—To Complete Loading or for Partial Unloading herein.

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Note 2: Request for exclusive use does not entitle the consignor or consignee to require that only one doubles trailer be connected per power unit.

Item 480 Expedited Service

The notation "TP" (TRANSPORTATION PRIORITY), "RDD" (REQUIRED DELIVERY DATE), "DDD" (DESIRED DELIVERY DATE) or any other similar notation placed on the bill of lading will not in itself be construed as a request for expedited service. These notations, even when shown with a specific date, are for administrative purposes only and shall not be considered a request for expedited service. (For applicability see Item 60 Specialized Services herein.)

When requested by the consignor or consignee, carriers shall provide expedited service, subject to the following:

1. Expedited service is the immediate dispatch of a shipment in continuous line-haul service within legal parameters, to meet a particular delivery schedule of the consignor or consignee.
2. The bill of lading must be annotated: "EXPEDITED SERVICE REQUESTED."
3. The charge for expedited service will be 35 cents-per 1.6093 kilometers (cents-per-mile). When an extra driver is requested, additional charges under Item 1040 Services—Dual Driver Service herein will apply. The minimum charge for Expedited Service provided in this ITEM will be $50.00. Additional charges under Item 1040 Services—Dual Driver Service herein will apply.

Item 500 Export or Import Shipment Requirements at the U.S.-Canadian Border. (See Note 1)

Shipments must be accompanied by all papers necessary to comply with the requirements of governmental authorities.

Shipper must furnish all invoices, documentary evidence and declarations including duties, fees and other charges which may be imposed or assessed against the property transported. Carrier will in no way be responsible for delays to the goods transported, nor for goods held by any government for any reason whatsoever. Where all necessary requirements of such authorities are not complied with, and, through no fault of the carrier, expenses are incurred for telephone, telegraph, storage, handling, transfer or other expenses incident to failure to comply with such requirements, such expenses may be advanced by the carrier, and shall become a charge to the goods, and delivery will not be made until such charges are paid or guaranteed by shipper or consignee.

When shipments must be held by the carrier pending compliance of custom's regulations by the shipper or his representative, a charge will be made for the service required on the part of the carrier, as follows:

UNLOADING, HANDLING, AND LOADING:

76 cents per 45.36 kilograms (per 100 pounds) with a minimum charge of $4.50.

STORAGE:

57 cents per 45.36 kilograms (per 100 pounds) per day subject to a minimum charge of $3.04 per shipment per calendar day, but in no case less than $10.72 per shipment. Fractions of a day will be considered as one day.

In computing storage charges, time will begin 48 hours after the first 5:00 p.m. on the day rejection of entry is received by the carrier from the custom's broker. (See Note 1.)

Note 1: For the purpose of this rule, the custom's broker will be deemed to be the agent of the shipper or the consignee.

Item 525 Extra Labor—Loading or Unloading. (See Notes 1 and 2)

When requested by the consignor or consignee, extra labor will be furnished by the carrier for loading or unloading. At each location where extra labor is used, the charge therefor will be as follows:

Days-hours	Per man per hour or fraction thereof	Minimum charge per man
During normal business hours as defined in Item 30 Definition of Terms herein:	$34.07	$34.07
After normal business hours as defined in Item 30 herein:	51.24	51.24
Saturdays, Sundays and legal holidays:	59.16	280.86

Time shall be computed from the time the extra labor arrives at the place of pickup or delivery until loading or unloading is completed. This charge will be in addition to all other charges and will be assessed against the consignor (Subject to Note 1) if the extra labor is used for loading and against the consignee (Subject to Note 2) if the extra labor is used for unloading.

Extra labor will not be furnished unless requested by consignor or consignee.

Carrier's records must be maintained and kept available at all times and must show as to each vehicle containing shipments on which extra labor is used:

(1) Name and address of consignor and consignee at whose place of business freight is loaded or unloaded.

(2) Identification of the equipment tendered for loading or unloading.

(3) Number of extra men used and the number of hours which such men were used.

The provisions of this ITEM do not obligate the carrier to furnish extra labor, if such labor is not available at the point of loading or unloading.

Note 1: Consignor, as used in this ITEM, means the party from whom the carrier received the shipment, or any part thereof, for transportation at point of origin or any stop-off point, whether he be the original consignor, or warehouseman or connecting air, motor, rail, or water carrier with whom the carrier does not maintain joint through rates or other person to whom the bill of lading is issued.

Note 2: Consignee, as used in this ITEM, means the party to whom the carrier is required, by the bill of lading or other instructions, to deliver the shipment or any part thereof, at destination or any stop-off points, whether he be the ultimate consignee or warehouseman or connecting air, motor, rail, or water carrier with whom the carrier does not maintain joint through rates or other person designated on the bill of lading.

Item 550 Handling Freight at Positions Not Immediately Adjacent to Vehicle

When requested on the bill of lading, and carrier's operating conditions permit, the carrier may move shipments or portions of shipments from or to positions beyond the immediately adjacent loading or unloading positions defined in Item 850 Pickup or Delivery Service herein.

Service under this ITEM will be provided to floors above or below the level accessible to carrier's vehicle only when elevator or escalator service is available and labor, when necessary to operate same, is provided without cost to the carrier.

Service provided under this ITEM will be assessed a charge of $2.93 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $23.90 per shipment and a maximum charge of $367.61 per shipment or $367.61 per vehicle, if more than one vehicle is used to transport the shipment. When shipments are accorded split pickup, split delivery or stopped in transit for partial loading or unloading, the minimum and maximum charges will apply to each stop separately wherever the service is performed.

The charges provided in this ITEM will be in addition to all other lawful charges and unless the bill of lading is specifically endorsed to show prepayment of these charges, they will be collected from the party requesting such service, except such charges for shipment moving on GBLs or a commercial bill of lading to be converted to a GBL, will be collected from the U.S. Government.

Item 575 Impracticable Operations

Pickup or delivery service will not be performed by the carrier at any site from or to which it is impracticable to operate vehicles because of:

(1) The condition of roads, streets, driveways, alleys or approaches thereto.

(2) Inadequate loading or unloading facilities.

(3) Riots, acts of God, the public enemy, the authority of law, the existence of violence, or such possible disturbances as tending to create reasonable apprehension of danger or persons or property.

Item 600 Loading or Unloading—Waterborne Traffic—Port of Baltimore, MD. (See Notes 1, 2, and 3)

Except as otherwise provided, rates and charges in tenders governed by this tender applying from or to the Port of Baltimore on waterborne traffic do not include loading or unloading of the motor carrier equipment or other services normally incidental to the handling of waterborne traffic.

Waterborne traffic will be subject to the following charges, which include loading or unloading charges of longshoremen and stevedores, and will be in addition to all other charges applicable to the shipment, and will include services normally incidental to the handling of waterborne traffic:

Place	Charge per 45.36 kilograms (per 100 pounds)
Maryland Port Administration at:	
Dundalk Marine Terminal	194 cents (Subject of Note 1).
	97 cents (Subject to Note 2).
	75 cents (Subject of Note 3).
Locust Point Marine Terminal	199 cents (Subject of Note 1).
	97 cents (Subject to Note 2).
Terminal Shipping Corporation, Pier-1, Clinton Street	98 cents (Subject of Note 1).
	97 cents (Subject of Note 2).
	75 cents (Subject of Note 3).
Sea-Land Service at Seagirt Terminal, Pier 15	207 cents (Subject to Note 1).
	97 cents (Subject to Note 2).
	75 cents (Subject of Note 3).
Western Maryland Railway Company Port Covington Marine Terminal	$49.87 (Subject of Note 1).
	$49.87 (Subject of Note 2).
	$32.29 (Subject of Note 3).
Points and Places Not Shown Above	
All Points and Places Above Will Be Subject to a Minimum Charge per Shipment of	

Shipments consigned to one consignee at one port may, upon arrival or prior to arrival at carrier's terminal serving the port, be divided into separate shipments for delivery to piers, docks, pier terminals, transit sheds, or wharves. Such shipments shall be assessed charges based on a combination of charges applicable to and from the port city involved.

The revised billing shall be sent to and be paid by the party requesting this service. This service will not be given if delivery has been made according to original billing.

Charges named herein will not apply when shipment(s) is delivered in equipment without transfer of the lading to ocean carrier. The receipt of the equipment by the ocean carriers shall terminate the motor carrier's delivery service and liability. Charges named herein will not apply when shipment(s) is received in equipment without transfer of the lading from the ocean carriers. The receipt of the equipment by the motor carrier shall constitute the beginning of the motor carrier's service and liability.

All charges in this ITEM applying on export shipments must be prepaid. (Not applicable to GBL or a commercial bill of lading converted to a GBL shipment.)

When the consignor or consignee or its representative or agent makes arrangements directly with the terminal operator of the piers, docks, pier terminals, transit sheds, or wharves for payment of the pier charges of said operators, the charges in this ITEM will not apply. The following notation must appear:

"ARRANGEMENT MADE WITH PIER OPERATOR TO BILL SHIPPER OR CONSIGNEE DIRECTLY FOR PIER LOADING OR UNLOADING CHARGES."

When freight cannot be loaded or unloaded by the terminal operator by means of this labor or fork-lift or hi-lo equipment, but requires "RIGGING OR SPECIAL EQUIPMENT", the carrier will advance the charges of the terminal operator necessary to effectuate loading or unloading of the carrier's equipment. All charges so advanced shall be in addition to those named herein and shall be collected from the shipper or consignee, its agent or representative.

"RIGGING OR SPECIAL EQUIPMENT", consists of mechanical handling devices, winches, cranes, jacks, blocks and falls, chain falls, or other special equipment commonly used in the hoisting, handling or placing the freight in position. "RIGGING OR SPECIAL EQUIPMENT", does not include hand trucks, fork-lifts, or hi-lo equipment.

Note 1: Equipment Loading or Unloading (Full Service): Equipment loading or unloading shall mean the service of moving cargo from a place of rest on the pier, elevating the cargo on the equipment and stowing of the cargo in the equipment or removing cargo from the body of the equipment to a place of rest designated by the Terminal, but shall not include special stowage, sorting or grading of, or otherwise selecting the cargo for the convenience of the carrier or the consignee. The scrvice shall include loading on consignee's pallets. The loading and stowing of cargo in the equipment or the unloading of cargo from the equipment shall be under the supervision of the driver of the equipment.

Note 2: Partial Equpment Loading or Unloading (Tailgate Service): Partial

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equipment loading or unloading, commonly called tailgate service, shall mean the service which is performed when packaged cargo other than pre-palletized or skidded cargo can be loaded onto or unloaded from the tailgate of the equipment by use of an operator and a machine. If additional labor is required for this operation, the full service loading or unloading charge, as provided for in Note 1 above, will be applicable. This provision shall not be construed as compelling the Terminal to provide pallets.

Note 3: Pre-Palletized or Skidded Cargo Loading or Unloading: Pre-palletized or skidded cargo is cargo which is pre-palletized or skidded to the satisfaction of the Terminal Operator and which is situated on the pier or on the equipment so that it can be loaded into equipment or unloaded from the equipment by the insertion of the Terminal's fork-lift blades under the pallet, or skid without any necessity of shifting the cargo prior to such insertion. If the cargo is not so situated, the full service loading or unloading charges, as provided for in Note 1 above, will be applicable.

Item 625 Marking or Tagging Freight—Changing Marking or Tags

At the request of the shipper or consignee, a carrier will change or alter, according to instructions, the marking or tags on any packages or pieces of freight subject to a charge of $1.38 per package or piece of freight on which the marking or tag is changed or altered, subject to a minimum charge of $23.14 per shipment.

All charges accruing under the provisions of this ITEM must be either paid by the party requesting the service or guaranteed to the satisfaction of the carrier before the service will be performed. Charges for shipment moving on GBLs or a commercial bill of lading converted to a GBL will be collected from the U.S. Government.

Item 650 Maximum Charges

Section 1

Except as otherwise provided herein, the charge for any shipment from and to the same points, via the same route of movement shall not be greater than the charge for a greater quantity of the same commodity in the same shipping form and subject to the same packing provisions at the rate and weight applicable to such greater quantity of freight.

Section 2

Where the carrier's individual tender provides rates or charges based on cents-per-1.6093 kilometers (cents-per-mile) per vehicle used, charge per vehicle used or cents per 45.36 kilograms (cents per hundred weight (cwt)) rates in the same or in separate individual tenders, charges shall be the lowest that can be computed, either by use of the applicable cents per 45.36 kilograms (cents per hundred weight [cwt]) rate at the actual weight or minimum weight or by use of the cents-per-1.6093 kilometers (cents-per-mile) per vehicle used rate, or the charge per vehicle used.

Item 675 Single Shipment Charge

(1) A single shipment of less than 226.8 kilograms (500 pounds) picked up at one time and place unaccompanied by any other shipment of any description from the same pickup site will be subject to a charge of $8.50 per shipment in addition to all other lawfully applicable charges. The carrier's driver will write or stamp: "SINGLE SHIPMENT", "S/S", "SINGLE SHPT.", "SS", "ONLY SHIPMENT", or "ONE SHIPMENT", on all bill of lading copies when such shipments are tendered.

(2) If a lower total charge results from rating the shipment as 226.8 kilograms (500 pounds), the provisions of paragraph (1), above, will not apply.

Item 700 Minimum Charge—Capacity Loads. (Subject to Notes 1 and 2.)

(1) When any shipment is tendered to the carrier and occupies the full visible capacity of *one vehicle*, as defined in ITEM 30 DEFINITION OF TERMS (4) herein, the minimum charge for that quantity of freight loaded in or on each vehicle shall be either:

(a) Where rates are offered on a cents per 45.36 kilograms (cents per hundred weight) basis, the highest minimum weight and corresponding rate thereto, but not less than 9,072 kilograms (20,000 pounds) at the lowest rate derived from the carrier's applicable tender; or

(b) Where the carrier's individual tender is based on a cents-per-1.6093 kilometers (cents-per-mile) per vehicle used rate, a charge or minimum charge per vehicle used, at the rate or charge named therein.

(2) When a shipment is tendered which cannot be loaded in or on *one vehicle*, the following will apply:

(a) Each vehicle loaded to capacity will be subject to the minimum charge as provided in paragraph (1) of this ITEM herein.

(b) When the minimum charge in paragraph (1) of this ITEM herein is applicable to any vehicle in the tender, the charge for that portion of the shipment loaded into or on the last vehicle (not loaded to capacity) will be rated as a separate shipment.

(c) Where the otherwise applicable charge exceeds the minimum charge as provided in paragraph (1) of this ITEM herein, on each vehicle loaded to capacity, the actual weight loaded into or on the last vehicle (not loaded to capacity) will be charged for on the basis of the same rate applying to the capacity loaded vehicle(s).

(3) When the carrier furnishes one (1) or more doubles trailer:

(a) *That is requested by the shipper and the Bill of Lading is so annotated:*

(i) The minimum charge for each doubles trailer loaded to capacity shall be determined as provided in paragraph 1 (a) or (b) of this ITEM herein.

(ii) The charge for any portion of a shipment that does not fill the last doubles trailer to capacity will be rated as a separate shipment.

(iii) For the purposes of a shipper requested doubles trailers in paragraph (3)(a) of this ITEM, the definition of a vehicle in Item 30 Definition of Terms (4) herein will not apply.

(b) *That is not requested by the shipper and the Bill of Lading is not so annotated:*

(i) One (1) doubles trailer:

(A) The minimum charge for each doubles trailer, except as otherwise provided, that is loaded to capacity, shall be 60 percent of the applicable rate or charge as determined in paragraph (1) (a) or (b) of this ITEM herein.

(B) For the purposes of a doubles trailer in paragraph (3)(b)(i) of this ITEM, the definition of a doubles trailer in Item 30 Definition of Terms (5) herein, will apply.

(C) This ITEM subpart (3)(b)(i), will not be subject to Item 50 Doubles Trailer Furnished for Loading herein.

(ii) Two (2) doubles trailers:

(A) For the purposes of paragraph (3)(b)(ii) of this ITEM, two (2) doubles trailers will be considered as one vehicle, as defined in Item 30 Definition of Terms (4) herein.

(B) The minimum charge for two (2) doubles trailers that are furnished and loaded to capacity will be the minimum charge as determined in paragraph 1 (a) or (b) of this ITEM herein, and shall apply to each set of (two [2]) doubles trailers furnished for loading the shipment.

(C) The portion of a shipment that does not fill the last doubles trailer to capacity shall be rated or charged for as a separate shipment and will be subject to Item 50 Doubles Trailer Furnished for Loading herein.

Note 1: The terms: "OCCUPIES THE FULL VISIBLE CAPACITY", "LOADED TO CAPACITY", or "CAPACITY LOAD", refers to the extent each vehicle or doubles trailer is loaded and means:

(a) That quantity of freight which, in the manner loaded so fills a vehicle that no additional articles in the shipping form tendered identical in size to the largest article in the shipment can be loaded in or on the vehicle; or

(b) That maximum quantity of freight that can be legally loaded in or on a vehicle because of the weight or size limitations of State or regulatory bodies.

Note 2: The bills of lading, freight bills or other papers accompanying the shipment shall indicate the number of vehicles loaded to capacity, used by the carrier to transport the shipment, and shall also indicate if any additional vehicles carrying less than capacity load was furnished. In the event an additional vehicle carrying less than a capacity load is furnished, the weight of the portion of the shipment loaded into such vehicle shall also be shown.

Item 725 Notification Charge

Except as otherwise provided, when the bill of lading is specifically annotated that the delivering carrier is to notify the consignee or any other party 24 hours or more prior to delivery by any means whatsoever, the charge for this service will be $10.00 dollars. Only one notification charge may be assessed on multiple shipments picked up on the same day from the same consignor, with the same bill of lading notification instructions, for delivery to the same consignee.

Item 775 Overdimension Freight

Shipments containing one or more articles which measure(s) in excess of 13.72 meters (45 feet) in length, 2.59 meters (8 feet 6 inches) in width, or 2.74 meters (9 feet) in height from the bed of the equipment, after loaded, shall be subject to a minimum weight of 13,608 kilograms (30,000 pounds) per vehicle used.

Distance for the determination of charges shall be the shortest distance from origin to destination via the route of movement over which the shipment is required to move.

Any shipment containing an article as described above shall be subject to the following additional charges:

Article size in meters (feet and inches)				Charge in cents-per-1.6093 kilometers (cents-per-mile)		
Over		Not over		Length	Width	Height (from trailerbed)
Meters	Feet and inches	Meters	Feet and inches			
2.59	(8'6")	2.74	(9'0")	.....	15	.....
2.74	(9'0")	3.05	(10'0")	.....	20	20
3.05	(10'0")	3.35	(11'0")	.....	30	30
3.35	(11'0")	3.66	(12'0")	.....	40	40
3.66	(12'0")	and over		.....	80	60
13.72	(45'0")	14.63	(48'0")	10	.....	.....
14.63	(48'0")	16.67	(55'0")	20	.....	.....
16.67	(55'0")	and over	40			

When the equipment contains more than one type of oversize cargo (overwidth, overheight, or overlength), the dimension providing the highest charge applicable thereto, shall apply, subject to a minimum charge of $138.53 per vehicle.

Item 776 Overweight Freight

Any shipment containing an article that weighs in excess of 20,865.6 kilograms (46,000 pounds) and requires overweight permits will be subject to an additional charge of 30 cents-per-1.6093 kilometers (cents-per-mile).

Item 785 Packaging or Packing Provisions

Shipments will be packaged or packed and labeled in accordance with the National Motor Freight Classification and the Uniform Freight Classification as shown in Item 10 Governing Publications herein. All packaging or packing for hazardous materials shall be in compliance with the hazardous materials regulations contained in Title 49 of the Code of Federal Regulations, (49 CFR).

Item 800 Payment of Charges

All rates, charges, or other amounts are stated as U.S. currency and all rates, charges, or other amounts are payable in lawful money of the U.S.

Item 825 Permits, Special

Except as otherwise provided in this tender, the published rates or charges do not include tolls, fees, or charges levied by the Highway Department of States, cities or municipalities for special permits, flagman, bridge, ferry, highway, tunnel, escort service or other public charge of a like nature required because of a shipment of explosives or because of the unusual size, shape or weight of a shipment. All such charges shall be in addition to all other applicable charges plus a service charge of $18.00 per permit for the securing of the special permits.

Item 850 Pickup or Delivery Service. (Subject to Note 5. Also, See Notes 1 through 4)

Except as otherwise provided, rates in tenders making reference to this tender include one pickup and loading and one delivery and unloading or one tender for delivery of a shipment at one site by the carrier during normal business hours, as stated in Item 30 Definition of Terms herein, subject to the provisions indicated below:

(1) Placement of Equipment for Loading:

At the request of the consignor, the carrier will furnish and place equipment at the loading site designated by the consignor to pick up a shipment, there, tendered for transportation.

(2) Placement of Equipment for Unloading:

The delivery of a shipment by the carrier to the place of delivery specified on the bill of lading will include the placing of equipment at the delivery site designated by the consignee.

(3) Loading by Carrier:

Freight tendered for loading shall be so situated by the consignor as to be directly accessible to the equipment or it shall be immediately adjacent to a parking space suitable for carrier to place its equipment for loading (See Note 1). Loading includes stowing and counting of the freight in or on the carrier's equipment. (See Item 550 Handling Freight at Positions Not Immediately Adjacent to Vehicle herein.)

The carrier will furnish only one man per equipment for loading, be he the driver, helper or any other carrier employee or its designated agent except as provided in Item 525 Extra Labor—Loading or Unloading herein.

(4) Unloading by Carrier:

Freight will be unloaded at the delivery site immediately adjacent to the delivery equipment (See Note 1). Unloading includes the counting and removal of the freight from the carrier's equipment. (See Item 550 Handling

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Freight at Positions Not Immediately Adjacent to Vehicle herein.)

The carrier will furnish only one man per equipment for unloading, be he the driver, helper, or any other carrier employee or its designated agent except as provided in Item 525 Extra Labor—Loading or Unloading herein.

(5) Restrictions on Loading or Unloading by Carrier: (Subject to Note 2.)

Loading or unloading service does not include assembling, packing, unpacking, dismantling, inspecting, sorting or segregating freight *EXCEPT* as provided in paragraphs (a), (b), and (c) below:

(a) When a shipment is tendered to the carrier in lots according to size brand, flavor or other characteristics and is so identified on the bill of lading or accompanying papers, normal delivery service includes delivery of the shipment to the consignee in the same manner, including the placement of such sorted or segregated lots on the platform, dock, conveyor, pallet, dolly, buggy, or similar device provided by the consignee for the receipt of freight within or adjacent to the equipment without additional charge to the extent such service is performed within the free time period allowed by the applicable detention provisions. If delivery is not completed within the allowable free time, carrier will continue to unload the vehicle subject to the following detention charges. A charge of 24 cents per package or 40 cents per 45.36 kilograms (per 100 pounds), whichever is greater, will be assessed for sorting or segregating by marks, brands, sizes, flavors or other distinguishing characteristics *EXCEPT* as provided in paragraph (b). Such charges will be assessed against the person requesting or requiring this service and are in addition to applicable detention charges.

(b) No sorting or segregating charge will be made when the only service performed is a count necessary to determine the extent and identity of shortages or overages as may have been ascertained by carrier's employee.

(c) Loading or unloading service does not include furnishing by the carrier of rigging or special loading or unloading equipment such as platform carts (other than two-wheeled hand trucks), winches, cranes, jacks, blocks or falls, chain falls or other special equipment used in hoisting, lowering, or placing freight in position. When such equipment is used in loading or unloading, the consignor or the consignee, as the case may be, shall furnish same and the necessary labor to operate such equipment at its expense and shall also assume responsibility for safe loading or unloading, except carrier's employee may use hand trucks or four-wheeled hand carts and hand or electrically operated pallet jacks (non-riding type) when furnished by the consignor or consignee.

(6) Loading by Consignor or Unloading by Consignee:

The consignor or consignee may elect to waive the loading or unloading of freight by the carrier as provided in this ITEM by performing at his own expense the loading or unloading of the shipment on or from the carrier's equipment.

(7) More Than One Loading or Unloading Site or Relocation of Equipment:

Upon request of the consignor or consignee, pickup or delivery service as defined in this ITEM may be performed at more than one loading or unloading site within the continuous plant property or premises of the consignor or consignee requesting this service. An equipment transfer charge of $17.20 will be assessed for each transfer of the equipment from one loading or unloading site to another.

(8) Heavy or Bulky Freight-Loading or Unloading: (Subject to Note 3.)

When freight (per package or piece) in a single container, or secured to pallets, platforms or lift truck skids, or in any other authorized form of shipment:

(a) Weighs 49.90 kilograms (110 pounds) or less: The carrier will perform the loading or unloading.

(b) Weighs more than 49.90 kilograms (110 pounds), but less than 226.8 kilograms (500 pounds):

(1) The carrier will perform the loading or unloading when the consignor or consignee provides a dock, platform or ramp directly accessible to the carrier's equipment. Not applicable when the freight exceeds 2.44 meters (8 feet) in its greatest dimension or exceeds 1.22 meters (4 feet) in each of its greatest and intermediate dimensions (see paragraph (b) (2) and (d)). Where the consignor or consignee does not provide a dock, platform or ramp, the truck driver, on request, will assist the consignor or consignee in loading or unloading.

(2) The carrier will perform the loading or unloading where the consignor or consignee provides a dock, platform or ramp directly accessible to the carrier's equipment if such freight: (1) exceeds 2.44 meters (8 feet) but does not exceed 6.71 meters (22 feet) in its greatest dimension and does not exceed 60.96 centimeters (2 feet) in its intermediate dimension; or (2) if it does not exceed 3.05 meters (10 feet) in its greatest dimension and does not exceed 1.52 meters (5 feet) in its intermediate dimension and does not exceed 30.48 centimeters (1 foot) in its least dimension. Where the consignor or consignee does not provide a dock, platform or ramp, the truck driver, on request, will assist the consignor or consignee in loading or unloading.

(c) Weighs 226.8 kilograms (500 pounds) or more:

The consignor will perform the loading and the consignee will perform the unloading. On request of consignor or consignee, the truck driver will assist the consignor or the consignee in loading or unloading.

(d) Exceeds 2.44 meters (8 feet) in its greatest dimension or exceeds 1.22 meters (4 feet) in each its greatest or intermediate dimension:

The consignor will perform the loading and the consignee will perform the unloading. On request of consignor or consignee, the truck driver will assist the consignor or the consignee in loading or unloading. The provisions of this paragraph will not apply to the extent provisions are published in paragraph (b)(2) of this ITEM herein.

(9) Delivery at Private Residences: (Subject to Note 4.)

(a) Before attempting delivery to private residences, the carrier must reach agreement with the consignee or consignor regarding the date and time (approximate) of such delivery. This arrangement for delivery may be accomplished through a notation by the consignor on the bill of lading, or by oral or written arrangement between the carrier and the consignee. In any case, some mutually agreed upon arrangement for delivery must be made before tender of delivery is initially attempted.

(b) If the carrier complies with the conditions described in paragraph (a) above, and, through the fault of the consignee, the carrier is unable to tender delivery as scheduled, a charge of $6.80 to cover the service described in paragraph (a) above, for the additional costs of renotification and arrangement for redelivery will be assessed. The requirements of paragraph (a), above, regarding prior arrangements for tender of delivery are similarly applicable when redelivery is necessary.

(c) Charges provided in paragraph (b), above, if accrued, will be in addition to all other lawful charges. Unless the bill of lading is specifically endorsed to show prepayment of these charges, they will be collected from the consignee, except charges on shipments moving on GBLs or commercial bills of lading converted to GBLs will be collected from the U.S. Government.

Note 1: Freight shall be deemed to be immediately adjacent to a space suitable for carrier to place its equipment for loading or unloading if separated therefrom only by an intervening public sidewalk.

If a parking space suitable for the carrier to place its equipment for loading or unloading is occupied or city ordinance prevents it use, the nearest available parking space may be used.

When two or more shipments are placed by the shipper as close as practicable to a parking space suitable for carrier to place its equipment for loading, all such shipments will be considered as immediately adjacent thereto even though the shipment or shipments that were closest to such parking space were picked up first by the same or different motor carrier.

When the shipper assigns to two or more carriers designated spaces in the shipping room or loading platform where outgoing freight will be placed by the shipper for pickup by the designated carriers and all of such assigned spaces are as close as practicable to a parking space suitable for the carrier to place its equipment for loading, all such assigned and designated spaces will be considered immediately adjacent to such parking space.

Note 2: The provisions of paragraph (5) of this ITEM will not allow for the opening of packages or unitized shipments, including shrink wrapped or banded freight on pallets or skids.

Note 3: Loading by definition in paragraph (8) of this ITEM includes stowing and counting of the freight in or on the carrier's equipment. Unloading by definition in paragraph (8) of this ITEM includes the counting and removing of freight from the position in which it is transported in or on the carrier's equipment.

Note 4: The term "PRIVATE RESIDENCES", also includes apartments, churches, schools, camps and other such locations not generally recognized as commercial locations and shall apply to the entire premises, except will not apply to that portion of the premises where commercial or business activity is conducted that involves the sale of services, products or merchandise to the walk-in public during normal business hours.

Note 5: For other than normal business hours pickup or delivery service, see Item 860 Pickup or Delivery Service—Sundays or Holidays and Item 865 Pickup or Delivery Service—Saturday or After 5 P.M. on Normal Business Days herein.

Item 855 Pickup or Delivery Service—at Private Residences. (Subject to Note 2. Also, See Note 1.)

(1) Except as provided in paragraph (2) below of this ITEM, shipments picked up at or delivered to private residences (See Note 1) or camps (other than Military) will be assessed a charge of $2.94 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $23.48 per shipment and a maximum charge of $129.15 per shipment or $129.15 per vehicle if more than one vehicle is used to transport the shipment (Subject to Note 2).

(2) Shipments consisting wholly or in part of new or used household goods as defined in 49 CFR part 375 picked up at or delivered to private residences (See Note 1) or camps (other than Military) will be assessed a charge of $2.94 per 45.36 kilograms (per 100 pounds), subject to a minimum charge per shipment as follows:

Weight of shipment in kilograms (pounds)	Minimum charge (per shipment)
Less than 22.68 kilograms (50 pounds)	$29.35
22.68 kilograms (50 pounds) through 44.91 kilograms (99 pounds)	39.92
45.36 kilograms (100 pounds) through 90.27 kilograms (199 pounds)	45.79
90.72 kilograms (200 pounds) through 135.63 kilograms (299 pounds)	52.84
136.08 kilograms (300 pounds) through 180.99 kilograms (399 pounds)	57.54
181.44 kilograms (400 pounds through 226.35 kilograms (499 pounds)	62.22
226.8 kilograms (500 pounds) and over	66.92

(3) Service under this ITEM will be provided to floors above or below the level accessible to carrier's vehicle only when elevator or escalator service is available, and labor when necessary to operate same is provided without cost to the carrier.

(4) The charges provided in this ITEM apply separately for pickup and separately for delivery and are in addition to all other lawful charges. Unless the bill of lading is specifically endorsed to show prepayment of these charges they will be collected from the party whose location requires such service, except such charges for shipments moving on GBLs or a commercial bill of lading converted to a GBL will be collected from the U.S. Government.

Note 1: The term "PRIVATE RESIDENCE", shall apply to the entire premises on which a dwelling for living is located, except will not apply to the portion of the premises where commercial or business activity is conducted that involves the sale of merchandise or services to the walk-in public during normal business hours.

Note 2: If more than one shipment is picked up at one time and place at a private residence or camp (other than Military), the minimum and maximum charges published in this ITEM shall apply per pickup rather than per shipment as presently indicated.

Item 860 Pickup or Delivery Service—Sundays or Holidays

(1) When consignor or consignee requests carrier to pickup or deliver freight on Sundays or holidays, such service will be subject to a charge of $39.64 per man hour, or fraction thereof, subject to a minimum charge $237.84 per man per day. Such charge shall be in addition to all other applicable charges.

(2) Time shall be computed upon notification by the driver to the responsible representative of the consignor or consignee that the vehicle or vehicles are available for loading or unloading at premises of consignor or consignee and shall end upon completion of loading or unloading and receipt by driver of signed bill of lading or receipt for delivery.

(3) Consignor or consignee may request carrier to place or pickup an empty vehicle(s) (vehicles without power units) on Sundays or holidays even though the actual pickup or delivery of freight may occur on a day other than Sunday or holidays. The charge for this service will be $150.00 per vehicle subject to a maximum of $397.12 per man day or fraction thereof.

(4) The provisions of this ITEM shall not be construed as obligating the carrier to furnish pickup or delivery service on Sundays or holidays.

(5) Charges must be either paid by the party requesting the service or guaranteed to the satisfaction of the carrier before pickup or delivery will be made. Shipments moving on GBLs or a commercial bill of lading converted to a GBL will be collected from the U.S. Government.

Item 865 Pickup or Delivery Service—Saturday or After 5 P.M. on Normal Business Days. (See Notes 1 through 4)

When consignor or consignee requests a carrier to pickup or deliver freight on Saturdays or after 5 p.m. on normal business days, such service (See Notes 1 and 4) will be subject to a minimum charge of $39.64 per man per hour, or

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fraction thereof, subject to a minimum charge $158.56 per man per day (See Notes 2 and 3). Such charge shall be in addition to all other applicable charges.

Note 1: The provisions of this ITEM shall not be construed as obligating the carrier to furnish pickup or delivery service on Saturdays or after 5 p.m. on normal business days.

Note 2: Time shall be computed upon notification by the driver to the responsible representative of the consignor or consignee that the equipment is available for loading or unloading at premises of consignor or consignee and shall end upon completion of loading or unloading and receipt by driver of signed bill of lading or receipt for delivery, as the case may be.

Note 3: Charges must be either paid by the party requesting the service or guaranteed to the satisfaction of the carrier before pickup or delivery will be made. Charges for shipments moving on GBLs or commercial bill of lading converted to a GBL will be collected from the U.S. Government.

Note 4: The charges in the item will not be applicable when loading or unloading of carrier equipment after 5 p.m. on normal business days:

1. Is not specifically requested after 5 p.m.: or
2. The service starts before and extends beyond 5 p.m.

Item 870 Pickups or Deliveries—Additional. (See Notes 1 and 2)

Deliveries (Split Deliveries): Except as otherwise provided in this tender, and subject to Note 1 below, on shipments weighing not less than 4,536 kilograms (10,000 pounds) (or on which charges for a weight of not less than 4,536 kilograms [10,000 pounds] are assessed or on which charges are computed at a rate of cents-per-1.6093 kilometers [cents-per-mile) per vehicle used or charge per vehicle used), moving from one consignor, on one bill of lading, and on which charges are based on the through rate from the point of origin to the point of destination, one or more extra deliveries will be made at any point the shipment is stopped under the stop in transit provisions, or at final destination, and an additional charge of $75.00 will be made for each such extra delivery.

Pickups (Split Pickups): Except as otherwise provided in this tender, and subject to Note 2 below, on shipments weighing not less than 4,536 kilograms (10,000 pounds) (or on which charges for a weight of not less than 4,536 kilograms [10,000 pounds] are assessed or on which charges are computed at a rate of cents-per-1.6093 kilometers [cents-per-mile) per vehicle used or charge per vehicle used), moving on one bill of lading to one consignee, and on which charges are based on the through rate from the point of origin to the point of destination, one or more extra pickups will be made at origin or destination, and an additional charge of $75.00 will be made for such pickup.

Note 1: The bill of lading shall designate the parties and points at which extra deliveries are to be made and the designation of the articles to be delivered to each.

Note 2: The bill of lading shall designate the point or points at which the extra pickups are to be made and the designation of the articles to be picked up at each.

Item 875 Pickup or Delivery Service—New York Harbor and Port Newark, NJ. (Subject to Notes 1 and 2)

The pickup and delivery service defined in ITEM 850 will not be provided at steamship piers or warehouses located in New York Harbor or Port Newark, NJ as described below:

Hudson River, New York Side, Battery to 135th Street.

New Jersey Side, New National Storage Docks, Communipaw, NJ, to and including Fort Lee Ferry, NJ.

East River and Harlem River, New York Side, Battery to Jerome Avenue Bridge (Harlem River), including Harlem River Side of Ward's and Randall's Islands.

BROOKLYN SIDE OR WAREHOUSES, From Port Cove, Astoria, Long Island, to and including 69th Street, South Brooklyn (Bay Ridge), including Newton, Dutch Kills and Wale Creek, and points in Wallabout Canal and to Hamilton Avenue Bridge, Gowanus Canal, Port of Embarkation, and the Military Ocean Terminal, Brooklyn, NY.

NEW YORK BAY, NEW YORK SIDE, Points on North and East Shore of Richmond (Staten Island) between Bridge Creek (Arlington) and Clifton (Hyland Boulevard), both inclusive, and including Shooter's Island.

NEW JERSEY SIDE, Points on the New Jersey Shore of New York Bay, and points on the Kill Van Kull between National Storage Docks, Communipaw, NJ, and Avenue C., Bayonne, NJ, opposite Port Richmond, including U.S. Naval Supply Depot and Military Ocean Terminal, Bayonne, NJ. G & B Packing, 8 Hook Road, Bayonne, NJ.

NEWARK BAY, From Trumbull Street to Dalancy Street. Port Authority Terminal at Elizabeth; or Port Newark.

Pickup or delivery service will be performed at such points at the following charges, subject to the minimum and maximum charges as indicated and charges must be prepaid or guaranteed by the shipper or if shipped on a GBL or a commercial bill of lading converted to a GBL, collected from the U.S. Government:

Weight of shipment in kilograms (pounds)	Charge in cents per 45.36 kilograms (per 100 pounds)	Minimum charge per shipment	Maximum charge per shipment
Less than 2,268 kilograms (5,000 pounds)	$6.33	$45.43	$142.56
2,268 kilograms (5,000 pounds) through 4,535.55 kilograms (9,999 pounds)	2.96	.....	223.57
4,536 kilograms (10,000 pounds) or over	1.50	223.57	

Note 1: Rates and charges published in this ITEM do not apply when shipments are delivered in equipment without transfer of the lading to ocean carriers. The receipt of the equipment by the ocean carriers shall terminate the motor carrier's delivery service and liability. Rates and charges named in this ITEM do not apply when shipments are received in equipment without transfer of the lading from ocean carriers. The receipt of the equipment by the motor carrier shall constitute the beginning of the motor carrier's service and liability.

Note 2: Rate and charges published in this ITEM do not apply at the following sheds or buildings: 102 Marsh Street, Port Newark, NJ; 191, 193, 194, 195, 195–E, 195–F, 197, 200, 201, 202, 261, 262, 263–A, 263–B, 263–C, 263–D, 264, 265, 266, 267, 268, 305, Port Newark, NJ; American Eagle Warehouse or Express Forwarding Warehouse, Port Newark, NJ; Amerilli Export Service Warehouse 9, foot of 12th Street, Jersey City, NJ; Atlantic Distribution Center Warehouse, 202 Port of Jersey Blvd., Jersey City, NJ; Greenpoint Terminal Warehouse, Jersey City, NJ; Pouch Terminals, Inc. at 1 Edgewater Street, Clifton, Staten Island, NY; and Wilson American Company Warehouse, Jersey City, NJ.

Item 885 Property of Unusual Value or Unsafe to Transport.

Carriers are not required to accept articles of unusual value or freight that is unsafe to transport that may cause damage to other goods or to their equipment without adequate consideration or compensation.

Item 900 Protective Service.

Except as otherwise specifically provided in connection with individual rates or charges, commodities which, due to their perishable nature, require protection from heat or cold will be accepted and accorded such protection at the rates or charges provided in this tender or in tenders made subject to this tender and without additional charges for such protection, subject to suitable equipment being available. (For applicability see ITEM 60 SPECIALIZED SERVICES herein.)

Item 925 Reconsignment or Diversion. (See Notes 1 through 11)

(1) Definitions of Reconsignment or Diversion:

For the purpose of this rule, the terms, "RECONSIGNMENT" or "DIVERSION", are considered to be synonymous and the use of either will be considered to mean:

(a) A change in the name of the consignor or consignee.

(b) A change in the place of delivery within original destination point.

(c) A change in the destination point.

(d) Relinquishment of shipment at the point of origin (Subject to Note 1).

(e) Instructions received by the originating carrier prior to receipt of shipment (Subject to Note 2).

(2) Conditions:

(a) Requests for reconsignment must be made in writing or confirmed in writing. The carrier must be satisfied that the party making the request has the authority to do so. Conditional or qualified requests will not be accepted. Carrier will not accept disposition instructions printed on the bill of lading, shipping order, shipping label or container as authority to reship, return, or reconsign a shipment.

(b) Carrier will make diligent efforts to execute a request for reconsignment, but will not be responsible if such service is not effected.

(c) All charges applicable to the shipment whether accrued or accruing must be paid or guaranteed to the satisfaction of the carrier before reconsignment will be made. Charges for shipments moving on GBL's or commercial bill of lading's converted to GBLs will be collected from the U.S. Government.

(d) Only entire shipments, not portions of shipments, may be reconsigned.

(e) Marking or tagging (Subject to Note 3).

(f) Reconsignment will not be permitted on "in bond shipments."

(g) With the exception of Note 1, a charge for reconsignment is an additional charge to all other applicable rates or charges.

(3) Charges:

Reconsignment as defined in paragraph (1) above of this ITEM will be subject to the following:

If reconsignment results in a charge	In the name of the consignor or consignee with no change in place of delivery	In the place of delivery within original Destination point (subject to notes 4, 5, and 6)	In the destination points (subject to notes 7, 9, 10, and 11)
And reconsignment Occurs (Subject to Note 8).	The Charge Will Be		
Prior to Tender of Delivery ..	$18.11 per shipment	Except as provided for in Note 5, $18.11 per shipment.	The published rate from origin to the reconsignment point plus the published rate from the reconsignment point to the new destination. The charges will be no less than the published through rate from the original point of origin to the ultimate destination.
After Tender of Delivery	$18.11 per shipment	Except as provided for in Note 5, a charge of $2.42 per 45.36 kilograms (per 10 pounds) subject to the minimum charge of $22.19 per shipment and a maximum charge of $322.60 per shipment or $322.60 per vehicle if more than one vehicle is used to transport the shipment.	The published rate from origin to the reconsignment point plus the published rate from the original point to the new destination. The charges will be no less than the published through rate from the original point of origin to the ultimate destination.

Note 1: Where a request is made by the shipper, before a shipment has left the carrier's terminal at a point of origin (includes points and places located within the commercial zone as defined by the Interstate Commerce Commission in Title 49 of the Code of Federal Regulations (49 CFR), part 1048—Commercial Zones) for return of a shipment to the original place of shipment, or delivery thereof to another carrier at point of origin, or relinquish possession thereof to the shipper or to another carrier at the carrier's terminal and such service is performed, the shipment will be subject to a charge of $2.42 per 45.36 kilograms (per 100 pounds) with a minimum charge of $22.19 per shipment and a maximum charge of $322.60 per shipment or $322.60 per vehicle if more than one vehicle is used to transport the shipment.

Note 2: Upon instructions received by the originating carrier prior to receipt of shipment at point of origin accompanied by a through bill of lading covering the shipment, the carrier will accept the shipment when tendered by the party in possession of the shipment, issue a receipt therefor (not a bill of lading) to the party tendering the shipment and then execute the bill of lading. Such shipment will be subject to a charge of $18.11 per shipment.

Note 3: Shipments handled under the provisions of this ITEM which require marking or tagging in order to comply with the provisions of ITEM 625 MARKING OR TAGGING FREIGHT—CHANGING MARKING OR TAGS herein, or when the carrier is specifically requested to do so by the consignor or consignee, will be marked or tagged by the carrier at the charges as provided in ITEM 625 herein.

Note 4: Charges also apply for reconsignment to points and places outside of the original destination point, provided such areas are located within the commercial zone as defined by the Interstate Commerce Commission in Title 49 of the Code of Federal Regulations (49 CFR), part 1048—Commercial Zones.

Note 5: When a request is received to reconsign a shipment to another site within the same continuous plant property and the request is received prior to tender of delivery, a reconsignment charge of $18.11 per

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shipment will be assessed. When the request is received after tender of delivery the reconsignment charge will be $52.89 per shipment or $52.89 per vehicle if more than one vehicle is used to transport the shipment.

Note 6: All shipments for export not directly consigned at origin to an export pier dock, pier terminal, transit shed or wharf will be subject to the charges provided in this ITEM. The provisions of paragraph (2) of this ITEM will not apply.

Note 7: Includes points and places other than those defined in Note 6.

Note 8: The provisions governing reconsignment, "PRIOR TO TENDER OF DELIVERY", will only apply when carrier receives the request for reconsignment:

(a) Before shipment has been loaded on a delivery vehicle (in cases where shipment is transferred to a city delivery vehicle for delivery); or

(b) Before shipment has been dispatched for delivery (in cases where shipment is not transferred to a city vehicle for delivery.)

Note 9: If the change in destination point is requested and furnished by the carrier, the charge will be $18.11 per shipment in addition to the applicable tender or tariff rate, whichever is applicable, from the point of origin to the new destination point.

Note 10: When the consignor or consignee or its agent elects to accept the shipment at the carrier's terminal located at the reconsignment point, the charges will be assessed on the basis of $1.60 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $18.11 and a maximum charge of $201.69 per shipment or $201.69 per vehicle if more than one vehicle is used to transport the shipment.

Note 11: The reconsignment rate is not subject to the provisions of BLOCK 19, of the OPTIONAL FORM 280, UNIFORM TENDER OF RATES AND/OR CHARGES FOR TRANSPORTATION SERVICES.

Item 950 Redelivery

When a shipment is tendered for delivery and, through no fault of the carrier, such delivery cannot be accomplished, no further tender will be made except upon request. Additional tenders and final delivery will be subject to the following provisions:

(1) If one or more additional tenders, or final delivery of the shipments are made at consignee's place, a charge of $2.34 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $12.67 and a maximum charge of $310.02 per shipment or $310.02 per vehicle if more than one vehicle is used to transport the shipment will be made for each such tender and for the final delivery.

(2) If, in lieu of final delivery at consignee's place, consignee elects to accept delivery of the shipment at carrier's premises, a charge of $1.99 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $10.50 and a maximum charge of $238.62 will be made.

(3) All charges accruing under the provisions of this rule must be paid or guaranteed to the satisfaction of the carrier by the party or parties requesting redelivery before the shipment is redelivered. Charges for shipments moving on GBL's or a commercial bill of lading converted to a GBL will be collected from the U.S. Government.

(4) In all instances a charge for redelivery is in addition to all other applicable rates or charges.

Item 1000 Sealing of Equipment

Except as otherwise specifically provided, shippers and receivers of freight will not be accorded the exclusive use of carrier's equipment. Carriers may, at their option and convenience, load and transport the freight of various shippers and receivers in the same equipment. And, except as provided in ITEM 475 EXCLUSIVE USE AND CONTROL OF VEHICLE and ITEM 1005 SEALED CLOSED VAN SERVICE herein, carriers, at their option and convenience, for the purposes of so loading, co-mingling and transporting the shipments of various shippers and receivers in the same equipment, may remove the seals or locks from their equipment which have been applied by shippers, receivers, or owners of the property transported or to be transported.

Item 1005 Sealed Closed Van Service

A. All equipment requested under this ITEM will be Sealed Closed Vans, as defined in ITEM 30 DEFINITION OF TERMS herein. The seals on the equipment are not to be broken.

B. The shipper will load the carriers equipment and provide a piece count. When this occurs, the carrier is released from liability for shortages.

C. The bill of lading must be annotated:

"ITEM 1005, SEALED CLOSED VAN SERVICE REQUESTED. THE PROVISIONS AND CHARGES CONTAINED IN ITEM 475 EXCLUSIVE USE OF VEHICLE, WILL NOT APPLY."

D. When the bill of lading is annotated, as provided in paragraph C above, the transportation charges will be subject to the following Truckload (TL) rates or charges:

1. Where the carrier's individual tender is predicated on a cents-per-1.6093 kilometers (cents-per-mile) per vehicle using a distance scale or matrix format at the rate or minimum charge named therein; or

2. Where the carrier's individual tender Less Than Truckload (LTL) rates are predicated upon the GSA Baseline Rate Publication No. 1000–D, shipments shall be rated with a minimum weight of 9,072 kilograms (20,000 pounds), at the highest applicable Less Than Truckload (LTL) rate.

3. Where the carrier's individual tender Truckload (TL) rates are predicated upon the GSA Baseline Rate Publication No. 1000–D and the shipment weight loaded into the van is less than 9,072 kilograms (20,000 pounds), the shipment shall be rated as 9,072 kilograms (20,000 pounds) at the applicable 9,072 kilograms (20,000 pounds) rate; or

4. Where the carrier's individual tender Truckload (TL) rates are predicated upon the GSA Baseline Rate Publication No. 1000–D and the shipment weight loaded into the van is more than 9,072 kilograms (20,000 pounds), the rate applicable to the shipment weight will apply.

E. The provisions and charges contained in ITEM 475 EXCLUSIVE USE AND CONTROL OF VEHICLE herein, will not apply.

F. If the equipment arrives at the destination with the same seals which were applied on the equipment at origin not intact, the following will apply:

1. Restoration of carrier liability for shortages will be applicable; and

2. The transportation charges for the shipment weight loaded into the van will be subject to (a) or (b) below, whichever results in the lowest total charge:

(a) The applicable Truckload (TL) rate or charge determined in paragraph D above; or

(b) The applicable Less Than Truckload (LTL) rate, determined as follows:

(1) The carrier's individual tender Less Than Truckload (LTL) rate; or

(2) If the carrier's individual tender does not provide for Less Than Truckload (LTL) rates, the rate will be 100% of the applicable Less Than Truckload (LTL) rate in the GSA Baseline Rate Publication No. 1000–D.

Item 1010 Sorting or Segregating Service and Charges

A. For the purposes of this ITEM, the services of sorting or segregating are defined as practices which require all articles in a shipment(s) tendered by the consignor to the carrier for a specific route, be presented or loaded without regard to shipment integrity. (For applicability see ITEM 60 SPECIALIZED SERVICES herein.)

B. Carrier will sort or segregate for each consignee before offering for delivery.

C. When sorting or segregating service is required or requested by the consignor, it shall be so noted on the Government Bill of Lading:

"ITEM 1010, SORTING OR SEGREGATING REQUIRED."

D. When sorting or segregating service is required and performed by the carrier, the carrier shall be paid a charge of 60 cents per 45.36 kilograms (cents per hundredweight) for all shipment weight subject to a minimum charge of $5.00 with a maximum charge of $180.00 per shipment.

Item 1025 Services—Signature and Tally Record Service (STR)

Carrier shall provide Signature and Tally Record Service (STR) upon request of the consignor, subject to the following definition, requirements and charges:

(1) DEFINITIONS:

Signature and Tally Record Service (STR) is a service designed to provide continuous responsibility for the custody of shipments in transit. It requires a signature and tally record from each person responsible for the proper handling of the shipment at specified stages of its transit from origin to destination. (For applicability see ITEM 60 SPECIALIZED SERVICES herein.)

(2) REQUIREMENTS:

A. The shipper or his agent must place and sign the following annotation on the bill of lading:

"SIGNATURE AND TALLY RECORD REQUESTED. DD FORM 1907 FURNISHED TO CARRIER.

DATE___SIGNATURE___TITLE___"

B. The Signature and Tally Record (DD Form 1907), is provided by the shipper, will be used as follows:

(1) When STR is requested by the shipper and the signature and tally record is furnished, carrier or his agent will require each person responsible for the shipment, such as the terminal manager, pickup, delivery and road drivers, and dock foreman, to personally sign the signature and tally record and will secure signature in the space provided on the form from the consignee or his agent upon delivery.

(2) Driver(s) are required to sign the Signature and Tally Record (DD Form 1907) when they assume initial responsibility for the shipment.

(3) In terminal areas, the equipment containing the STR shipment must be under the control of the last person signing the DD Form 1907.

(4) When STR is used with Dual Driver Protective Service (DDPS), Armed Guard Surveillance (AG), and Protective Security Service (PSS), both drivers are required to sign when they assume responsibility for the shipment.

C. Tracing: Carrier must be able to trace a shipment in less than 24 hours upon request.

(3) CHARGES:

In addition to all rates and charges for transportation, shipments on which STR is provided at shipper's request will be subject to a charge of $28.22 per shipment.

(4) A SEPARATE CHARGE FOR SIGNATURE TALLY RECORD SERVICE WILL NOT BE BILLED WHEN A HIGHER PROTECTIVE SECURITY SERVICE IS CHARGED, WHICH INCLUDES THE REQUIREMENT OF A SIGNATURE TALLY RECORD.

Item 1030 Services—Constant Surveillance Service (CSS). (See Note 1)

Constant Surveillance Service (CSS) will be provided by the carrier upon request of the shipper, subject to the following definition, requirements and charges:

1. Definition and Requirements.

CSS is a Service That Provides the Following:

A. Continuous responsibility for constant surveillance and custody of shipments in transit. Such attendance and surveillance shall prevent all inspections (except those performed by Governmental enforcement agencies in their line of duty), tampering, pilfering, or sabotage, including, insofar as humanly possible, all manner of unusual circumstances, such as wreck, delay, flood, or violent disturbance. (For applicability see Item 60 Specialized Services herein.)

B. For the purposes of CSS, unless otherwise stated herein, when not being driven, equipment must be attended at all times by a qualified representative of the carrier. Equipment is "attended" when the person responsible for the shipment is in the equipment, awake, not in a sleeper berth or is within 30.48 meters (100 feet) of the equipment and has the equipment within constant and unobstructed view. A qualified representative is a person employed by the carrier or the terminal involved in handling of shipments and who is designated by the carrier/terminal to attend the equipment, and who is aware of the sensitivity of material moving under CSS, and who is knowledgeable of the safety, security and emergency procedures that must be followed, and is authorized and has the means and capability to move the equipment.

C. For brief stops en route, the carrier will ensure that the equipment or shipment is attended.

D. When circumstances require lengthy stops en route, carriers will ensure that the equipment is parked only at a carrier terminal, a state or local approved safe haven as defined in Title 49 of the Code of Federal Regulations (49 CFR). When equipment is parked in a carrier terminal or at an approved state or local safe haven, a qualified carrier or terminal representative must keep the shipment in full view and stay within 30.48 meters (100 feet) of the equipment or shipment at all times, or the shipment must be secured in an adequately lighted area that is surrounded by at least a 1.83 meters (6 foot) chain link fence and is continuously patrolled by a representative of the carrier or terminal and is under the general observation of a qualified carrier or terminal representative at all times. As an alternative, a shipment may be placed in a security cage. (See Note 1.)

E. The trailer or conveyance containing the material upon which CSS is requested must always be connected with a power unit (tractor) during shipment except when stopped at an activity for loading or unloading; at a carrier terminal for servicing; at a carrier-designated point where the driver maintains continuous surveillance over the shipment while disconnected; at a state or local safe haven location which meets the terminal security standards of paragraph 1(D); or, in emergencies, at a safe haven or refuge location.

F. The carrier must be able to trace a shipment in less than 24 hours.

G. The carrier or his agent will notify the consignee by telephone if shipment cannot reach consignee within 24 hours of the agreed upon desired delivery date.

H. Driver ID requirements. The carrier must insure drivers employed to handle sensitive shipments requiring CSS carry a valid driver's license and a medical qualification card, employee record card or similar documents, one of which must contain the driver's photograph. From the documents provided, shippers must be able to verify the driver's affiliation with the origin carrier named on the bill of lading.

I. Single line-haul preferred.

J. No trip lease.

K. The maintenance of a Signature and Tally Record (DD Form 1907) by the carrier is an integral part of CSS. Both the shipper and the carrier shall comply with the requirements of SIGNATURE AND TALLY RECORD SERVICE on all shipments for which CSS is requested and provided.

L. The driver(s) moving shipments on which CSS is requested, will be instructed by the carrier on how to obtain safe haven/refuge, state and local law enforcement assistance, and actions

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to take to comply with the requirements listed in paragraph 1 A through 1 K above.

M. The tractor moving a CSS shipment must be equipped with a working mobile communications unit, such as a citizens band (CB) radio unit or a mobile telephone unit, capable of contacting state/local law enforcement personnel for the purpose of seeking assistance, and both drivers must be capable of using the unit to make the contact.

2. Annotation:

When CSS is required for a shipment, the shipper shall notify the carrier in advance of the requirement, and annotate on the bill of lading:

"CONSTANT SURVEILLANCE SERVICE REQUESTED. SIGNATURE AND TALLY RECORD (DD FORM 1907) FURNISHED TO CARRIER."

3. Charges:

In addition to all rates and charges for transportation, shipments for which CSS is provided by the carrier at shipper's request will be subject to a charge of 35 cents-per-1.6093 kilometers (cents-per-mile) which includes constant and specific surveillance, and the maintenance of a signature and tally record.

On shipments moving in excess of 804.65 kilometers (500 miles), an additional charge of 05 cents-per-1.6093 kilometers (cents-per-mile) for each 804.65 kilometers (500 mile) increment will apply, except when the shipper requests an extra driver under ITEM 1040 SERVICES—DUAL DRIVER SERVICE herein.

4. BASIS FOR DETERMINING APPLICABLE DISTANCE:

Unless otherwise specifically authorized or such as provided for in ITEM 180 CIRCUITOUS ROUTING OF HAZARDOUS MATERIAL SHIPMENTS herein, the applicable distance shall be predicated on the shortest route distance determined from the applicable Household Goods Carriers' Bureau Mileage Guide(s) as shown in ITEM 10 GOVERNING PUBLICATIONS herein, regardless of the distance actually traveled by the carrier.

Note 1: Security Cage Standards:

General: Security cages will be fabricated from commercial steel grating panels. Walls, doors, floors and ceiling must provide protection equivalent to the steel grating to preclude forced entry. Doors must have approved padlocks (equivalent to American 200 series) and hasp systems and connecting hardware must be welded or otherwise secured to deter unauthorized entry.

Walls: Constructed of structural steel angle and expanded steel grating. Building walls also may be used which provide equivalent security to form side(s). (Examples: Double-course reinforced or filled concrete block.)

Floors: Made of asphalt or reinforced concrete or wood if reinforced with steel floor plating.

Ceiling: Same material as wall or floor. Minimum height—2.44 meters (8 feet). Frame—metal Hinges—Welded hinge pins. Locks—security locks and hasps equivalent to American 200 series.

Connecting Devices: Welded, peened, or otherwise installed so as to deter unauthorized entry.

Windows/Openings: Expanded steel grating, anchored in the metal frame, secured in same manner as door.

Alternative: As an alternative to a security cage, a CONEX, dromedary, or similar heavy container which is sealed and locked with an approved lock (equivalent to American 200 series) may be used in buildings which are locked, guarded, or alarmed. In lieu of locking the containers, they may be placed with doors against each other or against a substantive building wall.

ITEM 1035 Services—Dual Driver Protective Service (DDPS). (See Note 1)

Dual Driver Protective Service (DDPS) will be provided by the carrier upon request of the shipper, subject to the following definition, requirements and charges:

1. Definition and Requirements.

DDPS is a Service That Provides the Following:

A. Continuous responsibility, attendance and surveillance of shipment through the use of two (dual) qualified drivers and includes the maintenance of a Signature and Tally Record (DD Form 1907). Such attendance and surveillance shall prevent all inspections (except those performed by governmental enforcement agencies in their line of duty), tampering, pilfering, or sabotage, including, insofar as humanly possible, all manner of unusual circumstances, such as wreck, delay, flood, or violent disturbances. (For applicability see ITEM 60 SPECIALIZED SERVICES herein.)

B. For the purposes of DDPS, unless otherwise stated herein, when not being driven, equipment must be attended at all times by a qualified representative of the carrier. Equipment is "attended" when the person responsible for the shipment is in the equipment, awake, not in a sleeper berth or is within 3.05 meters (10 feet) of the equipment and has the equipment within constant and unobstructed view. A qualified representative is a person employed by the carrier or the terminal involved in handling of shipments and who is designated by the carrier/terminal to attend the equipment, and who is aware of the sensitivity of material moving under DDPS, and who is knowledgeable of the safety, security and emergency procedures that must be followed, and is authorized and has the means and capability to move the equipment.

C. For brief stops en route, the carrier will ensure that the equipment or shipment is attended.

D. When circumstances require lengthy stops en route, carriers will ensure that the equipment is parked only at a carrier terminal, a state or local approved safe haven as defined in Title 49 of the Code of Federal Regulations, (49 CFR). When equipment is parked in a carrier terminal or at an approved state or local safe haven, a qualified carrier or terminal representative must keep the shipment in view and stay within 3.05 meters (10 feet) of the equipment or shipment at all times, or the shipment must be secured in an adequately lighted area that is surrounded by a least a 1.83 meters (6 foot) chain link fence and is continuously patrolled by a representative of the carrier or terminal and is under the general observation of a qualified carrier or terminal representative at all times. As an alternative, a shipment may be placed in a security cage. (See Note 1.)

E. The maintenance of a Signature and Tally Record by the carrier is an integral part of DDPS. Both the shipper and the carrier shall comply with the requirements of SIGNATURE AND TALLY RECORD SERVICE on all shipments for which DDPS is requested and provided. (NOTE: Both drivers are required to sign the Signature and Tally Record (DD Form 1907) when they assume initial responsibility for the shipment.)

F. Single line-haul.

G. No trip lease authorized.

H. The equipment conveying the shipment upon which DDPS is requested must remain connected with the power unit (tractor) during shipment except when stopped at a activity/contractor for loading or unloading; at a carrier terminal for servicing; at a carrier-designated point where the driver(s) maintain continuous attendance and surveillance over the shipment while disconnected; at a state or local safe haven location which meets the terminal security standards of paragraph D of this ITEM; or, in emergencies, at a safe haven or refuge location.

I. Driver ID requirements. The carrier must insure drivers employed to handle sensitive shipments requiring DDPS carry a valid driver's license and a medical qualification card, employee record card or similar documents, one of which must contain the driver's photograph. From the documents provided, shippers must be able to verify the driver's affiliation with the carrier named on the bill of lading.

J. The tractor moving a DDPS shipment must be equipped with a working mobile communications unit, such as a citizens band (CB) radio or a mobile telephone unit, capable of contacting state/local law enforcement personnel for the purpose of seeking assistance, and both drivers must be capable of using the unit to make the contact.

K. The carrier must be able to trace a shipment in less than 24 hours.

L. The carrier or his agent will notify the consignee by telephone if shipment cannot reach consignee within 24 hours of the agreed upon desired delivery date.

M. The drivers moving shipments on which DDPS is requested, will be instructed by the carrier on how to obtain safe haven/refuge, state and local law enforcement assistance, and actions to take to comply with the requirements listed in paragraphs 1A through 1L above.

2. ANNOTATION:

When DDPS is required for a shipment, the shipper shall notify the carrier in advance of the requirement, and annotate on the bill of lading:

"DUAL DRIVER PROTECTIVE SERVICE REQUESTED. SIGNATURE AND TALLY RECORD (DD FORM 1907) FURNISHED TO CARRIER."

3. CHARGES:

In addition to all rates and charges for transportation, shipments for which DDPS is provided by the carrier at the shipper's request will be subject to a charge of 85 cents-per-1.6093 kilometers (cents-per-mile), subject to a minimum charge of $146.76. These charges include the maintenance of a Signature and Tally Record, furnishing of dual drivers, providing CB or a working mobile communications unit in the tractor, and all other provisions/requirements shown in paragraph 1A through 1M above.

4. BASIS FOR DETERMINING APPLICABLE DISTANCE:

Unless otherwise specifically authorized or such as provided for in ITEM 180 CIRCUITOUS ROUTING OF HAZARDOUS MATERIAL SHIPMENTS herein, the applicable distance shall be predicated on the shortest route distance determined from the applicable Household Goods Carriers' Bureau Mileage Guide(s) as shown in ITEM 10 GOVERNING PUBLICATIONS herein, regardless of the distance actually traveled by the carrier.

Note 1: SECURITY CAGE STANDARDS:

General: Security cages will be fabricated from commercial steel grating panels. Walls, doors, floors and ceilings must provide protection equivalent to the steel grating to preclude forced entry. Doors must have approved padlocks (equivalent to American 200 series) and hasp systems and connecting hardware must be welded or otherwise secured to deter unauthorized entry.

Walls: Constructed of structural steel angle and expanded steel grating. Building walls also may be used which provide equivalent security to form side(s). Example: Double-course reinforced or filled concrete block.)

Floors: Made of asphalt or reinforced concrete or wood, if reinforced with steel floor plating.

Ceiling: Same material as wall or floor. Minimum height—2.44 meters (8 feet). Frame—metal. Hinges—Welded hinge pins. Locks—Security locks and hasps equivalent to American 200 series.

Connecting device: Welded, peened, or otherwise installed so as deter unauthorized entry.

Windows/Openings: Expanded steel grating, anchored in the metal frame, secured in same manner as door.

Alternative: As an alternative to a security cage, a CONEX, dromedary, or similar heavy container which is sealed and locked with an approved lock (equivalent to American 200 series) may be used in buildings which are locked, guarded or alarmed. In lieu of locking the containers, they may be placed with doors against each other or against a substantive building wall.

Item 1040 Services—Dual Driver Service

When requested by shipper and so indicated on the bill of lading or in writing, an extra driver will be furnished for an additional charge of 35 cents-per-1.6093 kilometers (cents-per-mile). Such charge shall apply in addition to the transportation and all other applicable charges and is to be assessed on the basis of the distance applicable from origin to destination on the shipment involved. (For applicability see ITEM 60 SPECIALIZED SERVICES herein.)

Item 1050 Special Service—Security Check by Consignor

When at the request of the consignor, before the vehicle has left the consignor's premises, a loaded vehicle is required to be unloaded, audited and reloaded, or is recalled back to the consignor's loading dock for the purpose of unloading, auditing and reloading of the shipment or shipments previously tendered to the carrier, a charge per vehicle of $9.56 per each fifteen minutes or fraction thereof (minimum charge $38.39), shall apply for this service. The time will begin when the driver is notified that the vehicle is to be recalled and will end when the reloaded vehicle is released to the carrier.

The driver shall not be required to assist in the unloading, auditing or reloading of the trailer except when necessary to account for the freight.

Item 1075 Stopoffs—To Complete Loading or For Partial Unloading. (Subject to Notes 1 through 4)

Except as otherwise provided in this tender, shipments upon which charges are based on a cents-per-1.6093 kilometers (cents-per-mile) per vehicle used rate, charge or minimum charge per vehicle used, or on a weight of 4,536 kilograms (10,000 pounds) or more, may be stopped in transit at not to exceed four points, between the point of origin and the point of final destination for the purpose of either partial loading or unloading (but not both at the same point), providing that the stopoff point, or points, are intermediate to the point of final destination via the route over which the rate to such final destination applies, subject to the provisions of paragraphs (A), (B), (C), (D), (E), and (F) below.

(A) The bill of lading shall show at what point, or points, the shipment is to be stopped off for partial loading or partial unloading, the name and address of the party to receive or to load the freight at such stopoff point, and a description of that part of the shipment to be loaded or unloaded at the stopoff point or points. There shall be no substitutions of other freight for that loaded at the original point of origin, or for any part of the shipment loaded at an intermediate stopoff point. A shipment stopped for partial unloading shall not be stopped subsequently for partial loading.

(B) The charge for each stopoff in transit for partial loading or partial unloading shall be $75.00 per stop in addition to all other applicable charges.

(C) When linehaul rates or charges are based on weight only, e.g., cents per 45.36 kilograms (cents per hundredweight), or charge per vehicle (excluding charges based on graduated distance scales or a minimum charge where rates are based on distance and weight), the charges shall be based on the total actual weight or minimum weight, whichever is greater, or charge per vehicle, from the point of origin to final destination, subject to the excess charge in paragraph F below, for out-of-route distance.

(D) When linehaul rates or charges are based on both weights and distance (e.g., percentage of the baseline rates in the GSA No. 1000–D), the charges shall

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be based on the actual weight or minimum weight, whichever is greater, and the short-route distance from point of origin via the stop-off point(s) to final destination.

(E) When linehaul rates or charges are based on distance, e.g., cents-per-1.6093 kilometers (cents-per-mile) per vehicle used, or charge based on graduated distance scales, the charges shall be based on the short-route distance from point of origin via the stop-off point(s) to final destination.

(F) When linehaul charges are determined under paragraph C above (or by any other rates or charges based on other than distance or weight and distance), and the short-route distance from point of origin via the stop-off point(s) exceeds the direct short-route distance from origin to final destination, all excess distance will be subject to a rate of 155 cents-per-1.6093 kilometers (cents-per-mile), in addition to all other transportation charges.

Note 1: Shipments moving under the provisions of this ITEM must have all charges prepaid by the shipper, or if shipped on a GBL or commercial bill of lading that is converted to a GBL, charges will be collected from the U.S. Government.

Note 2: For the carrier's convenience, any portion of the shipment may be picked up, transported or delivered, in separate trucks. All portions of the shipment need not be transported through the stopoff point or points.

Note 3: The provisions of this ITEM do not apply on freight moving under the provisions of ITEM 475 EXCLUSIVE USE AND CONTROL OF VEHICLE herein.

Note 4: On shipments involving joint-line transportation, stop-off privileges apply only when the entire shipment is delivered to one connecting carrier or, if stop-off has already been accorded, when the entire remaining portion of the shipment is delivered to one connecting carrier.

Item 1100 Storage

Freight held in the carrier's possession by reason of an act or an omission of the consignor, consignee or owner, or for customs clearance or inspection (see ITEM 250 CUSTOMS OR IN BOND FREIGHT herein), and through no fault of the carrier, will be considered stored, and subject to the following provisions:

(1) Storage charges on freight awaiting line-haul transportation at origin will begin at 7 a.m., the day after freight is received by the carrier.

(2) When the consignor or consignee instructs the carrier to hold a shipment at a point intermediate to the destination and await further instructions for diversion, reconsignment, etc., storage charges will begin at 7 a.m., the day after the carrier is notified and the shipment is placed in storage.

(3) Storage charges on undelivered freight will begin at 7 a.m., the first business day after arrival of the shipment at destination, and notice of arrival as provided in ITEM 125 ARRIVAL NOTICE AND UNDELIVERED FREIGHT herein, has been given, except no charges under this ITEM will be made when actual tender of delivery is made within 24 hours after such notice of arrival has been given.

(4) Storage charges on freight stored in the carrier's possession, other than that provided for in paragraph (5), will be subject to the following minimum and maximum charges:

Minimum Charges

For each 45.36 kilograms (100 pounds) or fraction thereof per 24 hours or fraction thereof—$ 0.65

Minimum storage charge per day—$3.36

Minimum storage charge per shipment—$16.81

MAXIMUM CHARGES (per shipment or per vehicle if more than one vehicle is used to transport the shipment)

For the first 24 hours or fraction thereof—$47.01

For the second 24 hours or fraction thereof—$62.74

For the third and each succeeding 24 hours or fraction thereof—$93.84

(5) Storage charges under this ITEM will end when carrier is enabled to deliver or transport the freight as a result of action by the consignee, consignor, owner, or customs official.

(6) Storage charges under this ITEM will not apply on the day the carrier places the freight in a public warehouse. When the carrier does place the freight in a public warehouse, a charge of $1.89 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $15.32 and a maximum charge of $280.05 per shipment or $280.05 per vehicle, if more than one vehicle is used to transport the shipment, will be assessed.

(7) Storage time shall be certified and paid by the authorizing activity responsible for the storage. Charges for this service shall only be submitted to the authorizing activity.

Item 1125 Substituted Service—Rail for Motor

Unless the shipper directs that the rail carrier service shall not be performed, the motor carrier may, at its option, substitute rail service for their actual services via highways for which such motor carriers have lawful operating rights as common carriers via motor vehicle. If a carrier substitutes rail for motor service, the motor carrier will be responsible for any and all expenses included by using the substituted service as well as preparing or loading the trailer for flat car service.

Item 1150 Telegrams or Telephone Messages—Charges for

Charges for telegrams or telephone messages from shippers or consignees, or their agents or representatives, relative to routing or other services in connection with shipments of freight, will not be assumed by the carrier, excepting that when such toll is upon answer to telegram or telephone message initiated by the carrier, relating to the traffic of the shipper or consignee, it will be assumed by the carrier.

Item 1175 Transfer of Lading

(1) For shipments weighing 4,536 kilograms (10,000 pounds) or more that cannot be picked up with the vehicle to be used in transporting the shipment over the highway, and the carrier is required to render pickup service with a different vehicle, such shipments will be subject to the charges in paragraph (4) below in addition to all other applicable charges. These charges will be collected from the consignor. If the shipment moved on a GBL or a commercial bill of lading converted to a GBL, charges will be collected from the U.S. Government.

(2) When shipments weighing 4,536 kilograms (10,000 pounds) or more cannot be delivered with the vehicle used in transporting the shipment over the highway, the carrier will notify the consignee of this fact in the manner provided in ITEM 125 ARRIVAL NOTICE AND UNDELIVERED FREIGHT herein. If the consignee requests the carrier to render delivery service with a different vehicle, such shipments will be subject to the charges in paragraph (4) below, in addition to redelivery charges when performed, and all other applicable charges. Unless the bill of lading is specifically endorsed to show prepayment of these charges, they will be collected from the consignee. If the shipment moved on a GBL or a commercial bill of lading converted to a GBL, charges will be collected from the U.S. Government.

(3) When consignor or consignee requests that shipments weighing 4,536 kilograms (10,000 pounds) or more be picked up or delivered on a vehicle other than the vehicle used in transporting the shipment over the highway, the charges in paragraph (4) below will apply. Unless the bill of lading is specifically endorsed to show prepayment of these charges, they will

be collected from the party requesting the service. If the shipment moved on a GBL or a commercial bill of lading converted to a GBL, charges will be collected from the U.S. Government.

(4) The charge for the weight of the lading shall be $1.32 per 45.36 kilograms (per 100 pounds), subject to a minimum charge of $185.27 per vehicle for each transfer.

Item 1225 Vehicle or Shipper Requested Doubles Trailer Furnished but Not Used

(1) When the carrier, upon shipper's request, furnishes a vehicle or shipper requested doubles trailer for loading of a shipment and through no fault of its own the shipper cancels the ordered vehicle or shipper requested doubles trailer, the charge for each vehicle or shipper requested doubles trailer ordered and subsequently canceled shall be:

(a) On shipments weighing less than 4,536 kilograms (10,000 pounds):

(i) A charge of $50.00.

(b) On shipments weighing 4,536 kilograms (10,000 pounds) or more and shipments, regardless of weight, that occupy the full visible capacity of one vehicle or shipper requested doubles trailer:

(i) A charge of 100 cents-per-1.6093 kilometers (cents-per-mile) for each vehicle or shipper requested doubles trailer furnished and not used will be assessed from point of dispatch or the carriers nearest terminal, whichever is closer, to the scheduled loading point, subject to a minimum charge of $75.00 and a maximum charge of $250.00 per vehicle or shipper requested doubles trailer not used. If the mileage charge produces the larger charge, the carrier will identify the location from which the vehicle or shipper requested doubles trailer was dispatched.

(2) These charges will not apply when a vehicle or shipper requested doubles trailer is rejected by the shipper under ITEM 4–2 D QUALIFYING REQUIREMENTS of the GSA GENERAL FREIGHT TENDER OF SERVICE No. 1–F herein, or when notice of cancellation is received by the carrier prior to actual dispatch of the vehicle or shipper requested doubles trailer from the point of dispatch or the carriers nearest terminal, whichever is closer.

(3) When the carrier submits a claim for collection of charges under this ITEM the claim shall be supported by a written statement from the ordering activity certifying that the vehicle or shipper requested doubles trailer was ordered and not used.

(4) When the pickup carrier is inbound with a loaded vehicle or shipper requested doubles trailer, which is scheduled for outbound loading from the same location, and the shipper cancels the loading of the vehicle or shipper requested doubles trailer, no charge will be assessed under this ITEM.

Item 1250 Weight—Verification

(1) Upon request by either the consignor or consignee, the carrier will reweigh any shipment or vehicle(s) on carrier scales and if error is determined, will correct the billed weight accordingly. Such reweigh request will only be made while shipment is in the custody of the carrier. If no error is determined or if error is less than 5 percent of the billed weight, a charge of $18.46 per shipment or per vehicle, if more than one vehicle is used to transport the shipment, will be made for each. Such charge(s) is to be paid by the party requesting the service.

(2) When carrier is requested to secure a certified public scale weight for any shipment or vehicle(s), a charge of $32.88 will be made by the carrier for each reweighing obtained in addition to the fee assessed the carrier for use of the certified public scale. Such charge(s) is to be paid by the party requesting the service.

(3) If requested by the consignor or consignee to weigh a vehicle both empty and loaded, the above charge in (1) or (2), as the case may be, will be made for each separate weighing.

Item 1275 Weights—Gross Weight—Charges on Gross Weights. (See Notes 1 and 2)

(1) Unless otherwise provided, charges shall be computed on gross weight, excluding the weight of any temporary blocking, flooring, or lining, racks, standards, strips, stakes, or similar bracing, dunnage or supports not constituting a shipping carrier, container or packages, or a part of the vehicle, when such materials do not exceed 3 percent of the total weight of the shipment. The weight of such materials in excess of 3 percent of the total weight of the shipment will be charged for at the lowest rate applicable on any article in the shipment.

(2) Subject to Notes 1 and 2, when freight weighing 9,072 kilograms (20,000 pounds) or more is prepared for shipment in conformity with packing requirements, and, in addition, is loaded on pallets, platforms or skids, with or without standing sides or ends, but without tops, no charge will be made for the transportation of the pallets, platforms or skids, provided the shipper specifies the weight of the pallets, platforms or skids on the bill of lading.

(3) The destination weights, as ascertained at the smelter, will govern the assessment of freight charges upon shipments of ores or ore concentrates. Shipments of ores and ore concentrates may be sampled at destination or public sampler enroute.

(4) Any temporary blocking, flooring or lining, racks, standards, strips, stakes, or similar bracing, dunnage or supports not constituting a shipping carrier, container or package, or a part of the vehicle, when required to protect or make shipments secure for transportation must be furnished and installed by the shipper, except that upon request of shipper such materials will be furnished or installed by the carrier subject to the following provisions:

(a) When materials are furnished by the carrier, the cost thereof will be paid by the shipper upon presentation of an invoice from a supplier independent of the carrier covering such materials used on the involved shipment.

(b) The labor charge for installation of shipper or carrier furnished material will be $24.30 per hour or fraction thereof, for each man.

(c) Charges in this ITEM will not apply when extra blocking and bracing materials are used by motor and rail carriers to secure loads for trailer on flatcar substituted service as shown in ITEM 1125 SUBSTITUTED SERVICE—RAIL FOR MOTOR herein.

Note 1: When material, not a part of the pallet, platform or skid, is used to protect top of lading, or to secure the load to the pallet, platform or skid, allowance will be made for the weight of the pallet, platform or skid, but not for the weight of such material.

Note 2: The weight of the pallets, platforms or skids may not exceed 3 percent of the weight of that portion of the shipment loaded on such pallets, platforms or skids. Any weight of pallets, platform or skids in excess of 3 percent of the weight of that portion of the shipment loaded on such pallets, platforms or skids will be subject to the rates applicable to the commodity loaded on such pallets, platforms or skids.

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General Services Administration—Baseline Rate Publication

No. 1000–D (GSA No. 1000–D)

Containing Baseline Rates And Minimum Charges For The Movement Of Civilian Agency Freight Shipments This Tender Applies On Both Intrastate And Interstate Traffic

General Services Administration, Federal Supply Service, Transportation Management Branch (6FBX), Kansas City, Missouri 64131

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Section B—Table of Baseline Rates and Minimum Charges

100 Table Of Baseline Rates And Minimum Charges

Section A—General Application and Instructions

Item 1 Purpose and Application

Purpose. This General Services Administration (GSA) BASELINE RATE PUBLICATION No. 1000–D (GSA No. 1000–D) is designed to afford carriers a simple method of expressing and filing Freight-All-Kinds (FAK) rate tender(s) for the civilian agencies of the U.S. Government. Its purpose is to provide the standardization necessary to achieve a fully automated system for rating and routing traffic, without requiring substantive changes in the manner in which rates for this traffic have traditionally been stated.

Application. The baseline rates and minimum charges contained in this publication shall serve as a basis for carriers to submit actual rates and charges for Minimum Charge (MC), Less Than Truckload (LTL), or Truckload (TL) shipments from, to, or between all points in CONUS.

Governing Rules. Rates and charges offered to a civilian agency using this publication will be subject to the rules, accessorial services, and accessorial charges contained in General Services Administration (GSA) NATIONAL RULES TENDER No. 100–D (GSA No. 100–D) and supplements or reissues thereto.

GSA Baseline Rates and Minimum Charges. The rates and charges shown in this publication were established at a baseline level above, below, or equal to motor tariff bureau class 50 rates as of January 1, 1989. These rates and charges were subsequently realigned on April 1, 1990, and increased by 13.6 percent on September 1, 1993. This is not in any way to be construed as the setting of rates or charges by GSA. Carriers must independently establish their own levels of Minimum Charge (MC), Less Than Truckload (LTL), or Truckload (TL) rates only by utilizing a percentage above, below, or equal to the level of baseline rates and minimum charges shown in SECTION B, ITEM 100 TABLE OF BASELINE RATES AND MINIMUM CHARGES of this publication.

Application of General Rate Increases. The baseline rates and charges contained in this publication will be adjusted on an as needed basis.

Item 10 Revising Publication Provisions and Method of Canceling Original or Revised Pages

This TOS will be revised by the Freight Program Management Office (6FBX), Kansas City, MO through publication of the changes on GSA's WorldWide Web Page (http://www.kc.gsa.gov/fsstt), the issuance of page revisions (original or revised), or the reissuance of the document on an "as needed" basis.

A. TOS Page Revisions: Reserved

B. Reissuing the TOS: Reserved

Item 20 Disposition of Fractions

Fractions of a cent resulting from the application of a carrier's independently-established percentage(s) of the baseline rates and minimum charges shown in SECTION B of this publication, shall be disposed of as follows:

A. Fractions of less than one-half of one cent shall be omitted; and

B. Fractions of one-half of one cent or greater shall be increased to the next whole cent.

Item 30 Explanation of GSA Baseline Rates and Minimum Charges

The rates in SECTION B, ITEM 100, TABLE OF BASELINE RATES AND MINIMUM CHARGES herein are shown in cents per 45.36 kilograms (cents per hundredweight [cwt]). The minimum charges in SECTION B herein are shown in dollars and cents.

Item 40 Distance Base—Explanation and Application

Each distance base (kilometers [miles]) established in conjunction with the distance table of rates contained in SECTION B, ITEM 100, TABLE OF BASELINE RATES AND MINIMUM CHARGES herein shall apply to all distances within the grouping (*i.e.*, 162.54 kilometers [101 miles] through and including 193.12 kilometers [120 miles]). All distances shall be computed by use of the applicable Household Goods Carriers' Bureau Mileage Guide(s) as shown in ITEM 10 GOVERNING PUBLICATIONS in the GSA NATIONAL RULES TENDER No. 100–D herein, or supplements or reissues thereto or any combination of both guides.

Item 50 Metric Conversion

The weights and measurements expressed in this publication are being changed to indicate both metric and U.S. equivalent non-metric measurements.

Section B—Table of Baseline Rates and Minimum Charges

Item 100 Table of Baseline Rates and Minimum Charges

The following table identifies the minimum weight columns used in the distance table of rates in this ITEM. The metric weight equivalents in kilograms are listed first with the customary weight shown in parenthesis. This ITEM also shows the distance expressed in kilometers and miles (one mile equals 1.6093 kilometers).

DEFINITION OF MINIMUM WEIGHT COLUMNS IN THIS SECTION

Minimum weight columns	Definition
—MC	Minimum Charge—Applies per shipment.
226.8 kilograms—L5C	less than 226.8 kilograms (500 pounds).
226.8 kilograms—5C	226.8 kilograms (500 pounds) but less than 453.6 kilograms (1,000 pounds).
453.6 kilograms—1M	453.6 kilograms (1,000 pounds) but less than 907.2 kilograms (2,000 pounds).
907.2 kilograms—2M	907.2 kilograms (2,000 pounds) but less than 2,268 kilograms (5,000 pounds).
2,268 kilograms—5M	2,268 kilograms (5,000 pounds) but less than 4,536 kilograms (10,000 pounds).
4,536 kilograms—10M	4,536 kilograms (10,000 pounds) but less than 9,072 kilograms (20,000 pounds).

DEFINITION OF MINIMUM WEIGHT COLUMNS IN THIS SECTION—Continued

Minimum weight columns	Definition
9,072 kilograms—20M	9,072 kilograms (20,000 pounds) but less than 13,608 kilograms kilograms (30,000 pounds)
13,608 kilograms—30M	13,608 kilograms (30,000 pounds) but less than 18,144 kilograms (40,000 pounds)
18,144 kilograms—40M	18,144 kilograms (40,000 pounds) and over

ITEM 100 TABLE OF BASELINE RATES AND MINIMUM

Rates are expressed in cents per hundredweight [cwt] (cents per 45.36 kilograms)

Distance Base			Minimum Weight (Kilograms)								
			Less Than Truckload (LTL)						Truckload		
Kilometers	Mileage	Minimum Charge	L5C 226.8	5C 226.8	1M 453.6	2M 907.2	5M 2,268	10M 4,536	20M 9,072	30M 13,608	40M 18,144
0.00-16.09	0-10	$54.44	1004	872	678	612	554	524	344	289	236
17.70-32.19	11-20	$54.46	1031	887	685	619	559	528	348	293	241
33.80-48.28	21-30	$54.48	1060	902	692	626	563	533	351	300	248
49.89-64.37	31-40	$54.51	1089	917	699	633	568	537	357	307	252
65.98-80.47	41-50	$54.52	1122	932	707	640	573	542	365	312	257
82.07-96.56	51-60	$54.53	1155	945	716	646	578	546	376	323	266
98.17-112.65	61-70	$54.54	1189	960	730	653	583	551	386	332	275
114.26-128.74	71-80	$54.55	1226	976	751	660	588	556	398	341	282
130.35-144.84	81-90	$54.55	1261	992	771	669	593	560	408	351	290
146.45-160.93	91-100	$54.58	1293	1008	795	688	598	565	419	360	299
162.54-193.12	101-120	$54.65	1339	1031	822	708	607	573	431	370	308
194.73-225.30	121-140	$54.74	1392	1064	862	749	621	583	442	381	317
226.91-257.49	141-160	$54.85	1443	1117	907	791	635	592	453	390	325
259.10-289.67	161-180	$55.06	1497	1180	942	824	651	601	465	401	334
291.28-321.86	181-200	$55.47	1555	1246	978	861	666	612	476	410	343
323.47-362.09	201-225	$55.75	1599	1309	1028	907	688	630	490	423	353
363.70-402.33	226-250	$56.24	1686	1362	1088	950	720	655	507	435	367
403.93-442.56	251-275	$57.04	1766	1415	1147	997	750	683	525	453	381
444.17-482.79	276-300	$57.14	1824	1454	1223	1024	778	707	542	468	394
484.40-523.02	301-325	$57.92	1889	1515	1266	1058	795	737	559	484	408
524.63-563.26	326-350	$58.49	1918	1562	1279	1072	812	753	575	495	418
564.86-603.49	351-375	$59.15	1949	1609	1315	1094	840	780	591	509	431
605.10-643.72	376-400	$59.96	1979	1640	1345	1117	866	800	605	524	443
645.33-683.95	401-425	$60.34	1993	1657	1364	1168	886	812	623	536	454
685.56-724.19	426-450	$60.78	2039	1676	1384	1205	907	837	635	550	465
725.79-764.42	451-475	$61.16	2055	1718	1411	1242	949	864	651	565	478
766.03-804.65	476-500	$61.57	2071	1759	1457	1263	976	879	665	576	488
806.26-844.88	501-525	$62.11	2108	1799	1479	1278	995	887	679	588	499
846.49-885.12	526-550	$62.45	2144	1829	1497	1294	1008	894	694	602	511
886.72-925.35	551-575	$62.59	2177	1848	1512	1311	1013	900	710	616	524
926.96-965.58	576-600	$63.17	2208	1879	1534	1329	1028	904	726	628	534
967.19-1005.81	601-625	$64.24	2240	1921	1562	1348	1049	908	741	641	546
1007.42-1046.05	626-650	$64.29	2272	1963	1597	1365	1068	912	755	654	557
1047.65-1086.28	651-675	$65.39	2305	2005	1640	1381	1088	929	771	667	568
1087.89-1126.51	676-700	$65.42	2331	2039	1678	1404	1112	949	790	682	582
1128.12-1166.74	701-725	$66.47	2353	2068	1711	1432	1139	971	809	699	595
1168.35-1206.98	726-750	$66.48	2373	2096	1744	1461	1167	995	828	716	611
1208.58-1247.21	751-775	$67.57	2394	2120	1770	1485	1193	1017	846	733	624
1248.82-1287.44	776-800	$68.69	2413	2141	1789	1504	1217	1038	864	749	637
1289.05-1327.67	801-825	$69.82	2432	2162	1810	1523	1244	1061	884	765	652
1329.28-1367.91	826-850	$70.94	2473	2183	1829	1543	1268	1080	902	779	665
1369.51-1408.14	851-875	$71.06	2517	2204	1851	1562	1292	1101	920	794	677
1409.75-1448.37	876-900	$72.23	2561	2225	1872	1581	1314	1120	936	810	690
1449.98-1488.60	901-925	$73.41	2605	2246	1894	1601	1338	1142	954	825	702
1490.21-1528.84	926-950	$73.54	2650	2267	1915	1627	1363	1161	971	840	715

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Kilometers	Mileage	Minimum Charge	L5C 226.8	5C 226.8	1M 453.6	2M 907.2	5M 2,268	10M 4,536	20M 9,072	30M 13,608	40M 18,144
1530.44-1569.07	951-975	$74.73	2695	2291	1938	1655	1386	1181	989	855	728
1570.68-1609.30	976-1000	$75.93	2740	2317	1963	1681	1411	1202	1006	870	742
1610.91-1689.77	1001-1050	$76.18	2788	2358	1996	1711	1437	1222	1026	887	755
1691.37-1770.23	1051-1100	$77.51	2837	2406	2036	1741	1464	1247	1046	904	771
1771.84-1850.70	1101-1150	$78.80	2881	2448	2073	1771	1493	1271	1067	922	787
1852.30-1931.16	1151-1200	$80.05	2931	2500	2113	1802	1520	1294	1086	941	803
1932.77-2011.63	1201-1520	$81.24	2987	2565	2157	1832	1551	1317	1105	957	818
2013.23-2092.09	1251-1300	$82.45	3040	2615	2200	1869	1579	1340	1127	975	834
2093.70-2172.56	1301-1350	$83.68	3090	2653	2242	1905	1603	1363	1146	993	850
2174.16-2253.02	1351-1400	$84.90	3140	2688	2282	1939	1629	1389	1167	1011	867
2254.63-2333.49	1401-1450	$86.12	3190	2722	2322	1972	1656	1415	1188	1029	884
2335.09-2413.95	1451-1500	$87.29	3243	2755	2361	2005	1684	1440	1209	1047	900
2415.56-2494.42	1501-1550	$88.43	3317	2788	2400	2039	1711	1464	1228	1066	916
2496.02-2574.88	1551-1600	$89.57	3398	2821	2439	2073	1739	1485	1248	1083	933
2576.49-2655.35	1601-1650	$89.72	3472	2854	2478	2106	1772	1504	1269	1101	949
2656.95-2735.81	1651-1700	$90.95	3548	2885	2516	2138	1804	1522	1289	1119	972
2737.42-2816.28	1701-1750	$91.20	3624	2916	2554	2166	1837	1542	1310	1138	1000
2817.88-2896.74	1751-1800	$92.56	3668	2640	2590	2195	1868	1560	1330	1155	1027
2898.35-2977.21	1801-1850	$92.94	3681	2976	2628	2221	1897	1580	1352	1175	1053
2978.81-3057.67	1851-1900	$94.23	3728	3024	2664	2247	1926	1605	1376	1195	1078
3059.28-3138.14	1901-1950	$94.38	3812	3079	2699	2271	1954	1632	1401	1218	1103
3139.74-3218.60	1951-2000	$95.66	3867	3141	2734	2314	1980	1664	1430	1244	1126
3220.21-3379.53	2001-2100	$97.24	3902	3204	2785	2361	2019	1699	1462	1271	1154
3381.14-3540.46	2101-2200	$98.68	4040	3269	2854	2412	2066	1736	1495	1300	1192
3542.07-3701.39	2201-2300	$99.99	4176	3335	2921	2463	2110	1773	1530	1331	1233
3703.00-3862.32	2301-2400	$101.17	4250	3399	2988	2516	2158	1812	1564	1361	1262
3863.93-4023.25	2401-2500	$102.49	4332	3482	3055	2571	2208	1853	1601	1393	1302
4024.86-4184.18	2501-2600	$103.64	4413	3564	3126	2630	2260	1894	1637	1423	1331
4185.79-4345.11	2601-2700	$104.78	4494	3650	3193	2687	2307	1936	1673	1454	1362
4346.72-4506.04	2701-2800	$106.02	4604	3733	3259	2742	2354	1977	1707	1485	1392
4507.65-4666.97	2801-2900	$107.59	4704	3809	3324	2800	2400	2018	1743	1515	1420
4668.58-4827.90	2901-3000	$109.18	4816	3887	3392	2859	2450	2061	1780	1548	1452
4829.51-4988.83	3001-3100	$111.17	4878	3975	3461	2918	2507	2104	1816	1580	1485
4990.44-5149.76	3101-3200	$112.86	5038	4049	3533	2980	2557	2147	1855	1613	1515
5151.37-5310.69	3201-3300	$116.41	5206	4200	3608	3041	2612	2191	1894	1646	1544
5312.30-5471.62	3301-3400	$117.38	5322	4312	3682	3102	2664	2233	1931	1680	1573
5473.23-5632.55	3401-3500	$118.36	5438	4425	3756	3164	2716	2278	1971	1713	1603
5634.16-5793.48	3501-3600	$119.34	5554	4537	3829	3227	2768	2323	2011	1748	1632
5795.09-5954.41	3601-3700	$120.31	5670	4650	3903	3291	2821	2369	2050	1782	1662
5956.02-6115.34	3701-3800	$121.29	5786	4762	3977	3355	2873	2413	2090	1818	1692
6116.95-OVER	3801-OVER	$122.31	5914	4889	4059	3419	2931	2459	2132	1854	1723

[FR Doc. 01-21915 Filed 8-30-01; 8:45 am]
BILLING CODE 6820-24-P



Federal Register

Friday,
August 31, 2001

Part V

Environmental Protection Agency

40 CFR Parts 3, 51, et al.
Establishment of Electronic Reporting: Electronic Records; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 3, 51, 60, 63, 70, 123, 142, 145, 162, 233, 257, 258, 271, 281, 403, 501, 745 and 763

[FRL–7045–5]

RIN 2025–AA07

Establishment of Electronic Reporting; Electronic Records

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to allow electronic reporting to EPA by permitting the use of electronic document receiving systems to receive electronic documents in satisfaction of certain document submission requirements in EPA's regulations. The proposal also sets forth the conditions under which EPA will allow an electronic record to satisfy federal environmental recordkeeping requirements in EPA's regulations. In addition, under today's proposal, States and tribes will be able to seek EPA approval to accept electronic documents or allow the maintenance of electronic records to satisfy reporting and recordkeeping requirements under authorized or delegated environmental programs that they administer. The proposal includes criteria against which a State's or tribe's electronic document receiving system will be evaluated before EPA can approve changes to the authorized program to allow electronic reporting. Similarly, the proposal includes criteria against which EPA will evaluate a State's or tribe's provisions for electronic recordkeeping.

Under today's proposal, electronic document submission or electronic recordkeeping will be totally voluntary; EPA will not require the submission of electronic documents or maintenance of electronic records in lieu of paper documents or records. EPA will only begin to accept direct submission of an electronic document once EPA has provided public notice that its electronic document receiving system is prepared to receive the document in electronic form. Similarly, EPA will only begin to allow electronic records to satisfy a specific EPA recordkeeping requirement once EPA has provided public notice stating that electronic records will satisfy the identified requirement.

DATES: In order to be considered, comments must be received on or before November 29, 2001. Comments provided electronically will be considered timely if they are submitted by 11:59 p.m. (Eastern time) November 29, 2001.

ADDRESSES: Comments should be addressed to the United States Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, (Mail Code 2201A), Attn: Docket Number EC–2000–007, 1200 Pennsylvania Avenue NW., Washington, DC, 20460. Commenters are also requested to submit an original and 3 copies of their written comments as well as an original and 3 copies of any attachments, enclosures, or other documents referenced in the comments. Commenters who would like EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand by November 29, 2001. No facsimiles (faxes) will be accepted. Public comments and supporting materials are available for viewing in the Enforcement and Compliance Docket and Information Center, located at 1200 Pennsylvania Avenue, NW., (Ariel Rios Building), 2nd Floor, Room 2213, Washington, DC 20460. The documents are available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (202) 564–2614 or (202) 564–2119. The public may copy a maximum of 266 pages from any regulatory document at no cost. Additional copies cost $0.15 per page. The rule and some supporting materials are also available electronically on the Internet for public review, using a *www* browser type, at *http://www.epa.gov/*.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: *docket.oeca@epa.gov*. Electronic comments must be submitted as an ASCII, WordPerfect 5.1/6.1/8 format file and avoid the use of special characters or any form of encryption. Comments in electronic format should also be identified by the docket number EC–2000–007. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) November 29, 2001.

FOR FURTHER INFORMATION CONTACT: For general information on this proposed rule, contact the docket above. For more detailed information on specific aspects of this rulemaking, contact David Schwarz (2823), Office of Environmental Information, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 260–2710, *schwarz.david@epa.gov*, or Evi Huffer (2823), Office of Environmental Information, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 260–8791, *huffer.evi@epa.gov*.

SUPPLEMENTARY INFORMATION: Affected Entities. This rule will potentially affect State and local governments which have been authorized or which seek authorization to administer a federal environmental program under Title 40 of the Code of Federal Regulations. The rule will also potentially affect private parties subject to any requirements in Title 40 of the Code of Federal Regulations that a document be created, submitted, or retained. Affected Entities include:

Category	Examples of affected entities
Local government	Publicly Owned Treatment Works, owners and operators of treatment works treating domestic sewage, local and regional air boards, local and regional waste management authorities, municipal and other drinking water authorities.
Private	Industry owners and operators, waste transporters, privately owned treatment works or other treatment works treating domestic sewage, privately owned water works, small businesses of various kinds, sponsors such as laboratories that submit or initiate/support studies, and testing facilities that both initiate and conducts studies.
State government	States or Tribes that manage any federal environmental programs authorized/approved by EPA under Title 40 of the Code of Federal Regulations.
Federal government	Federally owned treatment works and industrial dischargers; federal facilities subject to hazardous waste regulation.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware can potentially be affected by this action. Other types of entities not listed in the table can also be affected. Note that while this proposal will affect entities involved with hazardous waste management, it does not apply to the Hazardous Waste Manifest, which EPA is addressing in a separate electronic reporting rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Information in the preamble is organized as follows:

I. Overview
A. Why does the Agency want to allow electronic reporting and record-keeping?
B. What will the proposed regulations do?
II. Background
A. What is EPA's current electronic reporting policy?
B. How will today's proposal change EPA's current electronic reporting policy?
C. Why is EPA proposing these changes in electronic reporting policy?
D. What is EPA's approach to electronic record-keeping?
E. What information is EPA seeking about electronic reporting and record-keeping proposals?
F. How were stakeholders consulted in developing today's proposal?
III. Scope of Today's Proposal
A. Who may submit electronic documents and maintain electronic records?
B. How does today's proposal relate to the new E-SIGN legislation?
C. Which documents can be filed electronically?
D. Which records can be maintained electronically?
E. How will today's proposal implement electronic reporting and record-keeping?
IV. The Requirements in Today's Proposal
A. What are the proposed requirements for electronic reporting to EPA?
B. What requirements must electronically maintained records satisfy?
1. General approach.
2. EPA's proposed criteria for electronic record-retention systems.
3. Electronic records associated with electronic signatures.
4. The relation of these requirements to Food and Drug Administration (FDA) criteria under 21 CFR part 11.
5. Storage media issues.
6. Additional options.
C. What is the process that EPA will use to certify State systems as functionally equivalent to the CDX?
D. What criteria are EPA proposing that State electronic report receiving systems must satisfy?
1. General system-security requirements.
2. Electronic signature method.
3. Submitter registration process.
4. Electronic signature/certification scenario.
5. Transaction record.
6. System archives.
E. What are the costs and benefits associated with today's proposal?
V. The Central Data Exchange (CDX)
A. What is EPA's concept of the CDX?
B. What are the CDX building blocks?
1. Public key infrastructure (PKI)-based digital signatures.
2. The CDX registration process.
3. The CDX architecture.
4. Electronic data interchange (EDI) standards.
5. The transaction environment.
VI. Regulatory Requirements
A. Executive Order 12866
B. Executive Order 13132
C. Paperwork Reduction Act
D. Regulatory Flexibility Act
E. Unfunded Mandates Reform Act
F. National Technology Transfer and Advancement Act
G. Executive Order 13045
H. Executive Order 13175
I. Executive Order 13211 (Energy Effects)

I. Overview

A. Why Does the Agency Want To Allow Electronic Reporting and Record-Keeping?

More than ten years ago, EPA published a notice entitled: "Electronic Reporting at EPA: Policy on Electronic Reporting," (FRL–3815–4) announcing the goal of making electronic reporting available under EPA regulatory programs. We gave as reasons for this goal our expectation that enabling the submission and storage of electronic documents in lieu of paper documents can:

- Reduce the cost for both sender and recipient,
- Improve data quality by automating quality control functions and eliminating rekeying, and
- Greatly improve the speed and ease with which the data can be accessed by all who needed to use it.

Electronic reporting and record-keeping have a strong mandate in federal policy and law. As stated in the March, 1996, Reinventing Environmental Information Report, electronic reporting supports the President's overall regulatory re-invention goals of reducing the burden of compliance and streamlining regulatory reporting. In addition, the Government Paperwork Elimination Act (GPEA) of 1998, Public Law 105–277, requires that agencies be prepared to allow electronic reporting and recordkeeping under their regulatory programs by October 21, 2003. Given the enormous strides in data transfer and management technologies since 1990—particularly in connection with the Internet—replacing paper with electronic data transfer now promises increased productivity across almost all facets of business and government.

B. What Will the Proposed Regulations Do?

The proposed rule will remove existing regulatory obstacles to electronic reporting and record-keeping across a broad spectrum of EPA programs, and establish requirements to assure that electronic documents and electronic records are—for all purposes—as valid and authentic as their paper counterparts. These proposed requirements will apply to regulated entities that choose to submit electronic documents and/or keep electronic records, and under today's proposal, the choice of using electronic rather than paper for future reports and records will remain purely voluntary. Today's proposal will not amend compliance requirements under existing regulations and statutes and will not affect whether a document must be created, submitted, or retained under the existing provisions of Title 40 of the Code of Federal Regulations. Similarly, today's proposal will not affect the period of required record-retention, whether the stored electronic document must be signed, who is entitled to receive copies of the record, the number of copies that must be maintained, or any other requirements imposed by the underlying EPA, State, tribal or local program regulations. Public access to environmental compliance information will not be adversely affected by today's proposal. Electronic reporting and record-keeping provisions in this proposal will provide for continued public access to electronic documents equivalent to that provided for paper records under existing law.

For purposes of this proposal, EPA is using the term "electronic reporting" in a sense that excludes submission of a report via magnetic media, for example via diskette, compact disk, or tape; we are also excluding transmission via hard copy facsimile or "fax". Likewise, our use of the term "electronic document" throughout this Notice refers exclusively to documents that are transmitted via a telecommunications network, excluding hard copy facsimile. However, this proposal's exclusion of magnetic media submissions in no way indicates EPA's rejection of this technology as a valid approach to paperless reporting; we believe that in many cases magnetic media submission fulfills the goals of the Government Paperwork Elimination Act (GPEA). Many EPA programs have successfully used magnetic media submissions to implement their regulatory reporting,

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including Hazardous Waste, Toxic Release Inventory, and Pesticide Registration. EPA expects these magnetic media approaches to paperless reporting to continue, and nothing in today's proposal should be understood to proscribe them.

For regulated entities that choose to submit electronic documents directly to EPA, today's proposal will require that these documents be submitted to a centralized Agency-wide electronic document receiving system, called the 'Central Data Exchange' (CDX), or to alternative systems designated by the Administrator. Regulated entities that wish to submit electronic documents directly to EPA will satisfy the requirements in today's proposal by successfully submitting their reports to the CDX. While we do not intend to codify any of the details of how CDX operates or how it is constructed, EPA does solicit comments on the characteristics of the CDX and the submission scenarios described in this preamble. In addition, the CDX design specifications will be included as a part of this rulemaking docket. For regulated entities that choose to keep records electronically, today's proposal requires the adoption of best practices for electronic records management. Importantly, today's proposal will not authorize the conversion of existing paper documents to an electronic format for record-retention purposes because no mechanism currently exists that can be relied upon in all cases to preserve the forensic data in an existing paper document when it is converted to an electronic form. However, today's proposal does not prohibit such conversions at the Administrator's discretion on a case-by-case basis.

Many facilities do not submit documents directly to EPA, but rather to States, tribes or local governments that are approved, authorized or delegated to administer a federal environmental program on EPA's behalf or to administer a state environmental program in lieu of the federal regulatory program in that State. We will refer to these as "authorized State and tribal programs." This proposal will allow for EPA approval of changes to authorized State and tribal programs to provide for electronic reporting, and EPA approval will be based largely on an assessment of the State's or tribe's "electronic document receiving system" that will be used to implement the electronic reporting provisions. For this purpose, today's proposal includes detailed criteria that EPA will use to determine that an electronic document receiving system is acceptable. These criteria address such issues as system security, the approach to electronic signature and certification, chain-of-custody and archiving, including provisions that address how a State, tribe or local government manages electronic records that are directly associated with its electronic document receiving system, as well as certain data transfers between this system and regulated entities. Beyond this, today's proposal does not address State, tribal or local government electronic recordkeeping or data transfers carried out to administer their authorized programs. Today's proposal does not address any data transfers between EPA and States or tribes as a part of administrative arrangements to share data. Finally, it is worth noting that EPA can approve changes to authorized State or tribal programs that involve the use of CDX to receive data submissions from their regulated communities. CDX has been designed with the goal of fully satisfying the criteria that this proposal specifies for assessing State or tribal electronic document receiving systems; similarly, EPA will ensure that other systems the Administrator designates to receive electronic submissions will satisfy the criteria as well. In view of this, EPA is exploring opportunities to leverage CDX resources for use by States, tribes and local environmental agencies.

Similarly, many facilities maintain records to satisfy the requirements of authorized State and tribal programs. This proposal will also allow for EPA approval of changes to authorized State and tribal programs to provide for electronic record-keeping. EPA approval in this case will be based on a determination that the State's or tribe's program will require best practices for electronic records management, corresponding to EPA's provisions for electronic records maintained to satisfy EPA recordkeeping requirements.

For both document submission and record-keeping, the point of the proposed requirements is primarily to ensure that the authenticity and integrity of these documents and records are preserved as they are created, submitted, and/or maintained electronically, so that they continue to provide strong evidence of what was intended by the individuals who created and/or signed and certified them. Among other things, today's proposal is intended to ensure that the federal laws regarding the falsification of information submitted to the government still apply to any and all electronic transactions, and that fraudulent electronic submissions or record-keeping can be prosecuted to the fullest extent of the law. In establishing clear requirements for electronic reporting systems and electronic records, this proposed rule will help to minimize fraud by assuring that the responsible individuals can be readily identified.

While today's proposal will remove regulatory obstacles to electronic reporting and record-keeping, EPA will make electronic submission available as an option for specific reports or other documents only as the systems become available to receive them. Similarly, EPA will make electronic recordkeeping available as an option for specific record-keeping requirements only as programs become ready to adopt this change. In the case of electronic reporting, EPA plans to move aggressively toward implementation of CDX for high volume environmental reports submitted directly to EPA. EPA will publish announcements in the **Federal Register** as CDX and other systems become available for particular environmental reports and as programs become ready to make electronic recordkeeping an option. These points are discussed in more detail in Section III.C and D of this Preamble. To implement electronic reporting and recordkeeping under authorized State and tribal programs, EPA also plans to work with interested States and tribes to approve the necessary program changes as quickly and expeditiously as possible.

II. Background

A. What Is EPA's Current Electronic Reporting Policy?

On September 4, 1996, EPA published a document entitled "Notice of Agency's General Policy for Accepting Filing of Environmental Reports via Electronic Data Interchange (EDI)" (61 FR 46684) (hereinafter referred to as "the 1996 Policy"), where "EDI" generally refers to the transmission, in a standard syntax, of unambiguous information between computers of organizations that may be completely external to each other (61 FR at 46685). This notice announced our basic policy for accepting electronically submitted environmental reports, and its scope was intended to include any regulatory, compliance, or informational (voluntary) reporting to EPA via EDI.

In the context of EDI, the "syntax" of the computer-to-computer transmissions may be thought of as the structure or format of the transmitted data files. And, "format" here refers to such things as the ordering and labeling of the individual elements of data, the symbol used to separate elements, the way that related elements are grouped together, and so on. For example, for a file consisting of people's names, a simple

format specification might be that (i) the elements occur in order: first-name, middle-name, last-name; (ii) the elements are labeled, respectively, "F", "M", and "L"; (iii) each group of first, middle and last names is separated by a semi-colon; and (iv) there is a comma between any two elements in a group.

For purposes of the 1996 policy, the standard transmission formats used by EPA were to be based on the EDI standards developed and maintained by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12. By linking our approach to the ANSI X12 standards, we hoped to take advantage of the robust ANSI-based EDI infrastructure already in place for commercial transactions, including a wide array of commercial off-the-shelf (COTS) software packages and communications network services, and a growing industry community of EDI experts available both to EPA and to the regulated community. At the time EPA was writing this policy, ANSI-based EDI was arguably the dominant mode of electronic commerce across almost all business sectors, from aerospace to wood products, at least in the United States. EDI was also widely used in the Federal Government, most notably at the Department of Defense, but also, increasingly, at other agencies, including the Social Security Administration, the General Services Administration, the Department of Transportation, the Health Care and Finance Administration, and the Department of Housing and Urban Development, and the Department of Health and Human Services.

However, as the 1996 policy made clear, no specific EPA reporting requirement can be satisfied via EDI until the Agency develops the corresponding program-specific implementation guidance (61 FR 46686). This guidance generally needs to do at least three things. First, it needs to address such procedural matters as the interactions with the communications network (for EDI purposes, usually stipulated as a controlled-access, "value-added network" or "VAN"), schedule for submissions and acknowledgments, transaction records to be maintained, and so on. Second, it needs to stipulate the specific ANSI X12 standard transmission formats—referred to as "transaction sets"—to be used for the specified reports. This stipulation is essential, since ANSI provides hundreds of different transaction sets, each corresponding to a distinct type of commercial document, *e.g.* invoices, purchase orders, shipping notices, product specifications, reports of test results, and so on. Third, the guidance also needs to say how the stipulated transactions sets are to be interpreted. X12 transaction sets are generally designed to be somewhat generic—they typically leave a number of their components as "optional", and use data-element specifications that are open to multiple interpretations. (For a more detailed explanation of EDI and these implementation guidance documents, see section V.B.4 of this preamble.)

Given a public notice that the applicable implementation guidance is ready, the September, 1996, policy allows facilities to submit required reports electronically using EDI once they enter into a Terms and Conditions Agreement (TCA) with the Agency (61 FR 46685). Where the report in question requires a responsible individual at a facility to certify to the truthfulness of the submitted data, the TCA must provide for the use of a Personal Identification Number (PIN) as a form of electronic signature. Under the policy, the individual entering into the TCA is required to use a PIN assigned by EPA for this purpose (61 FR 46685). Finally, under the TCA, the facility is required to adhere to security and audit requirements as described in the notice (61 FR 46687).

Finally, the 1996 policy also explained that the various programs may require additional security procedures on a program-by-program basis (61 FR 46684). Such procedures may be covered in the program-specific implementation guidance, or can be provided through rule-making.

B. How Would Today's Proposal Change EPA's Current Electronic Reporting Policy?

For practical purposes, the most important changes that today's proposal makes to current policy is in our technical approach to electronic reporting. Generally, we propose to greatly broaden the options available for electronic submission of data. For example, while we will continue to support data transfer via standards-based EDI (as explained in section V.B.4 of this preamble), we will also provide options involving user-friendly "smart" electronic forms to be filled out on-line, on the Internet, or downloaded for completion off-line at the user's personal computer. In addition, we propose to support data transfers through the Internet, via email, or via on-line interactions with Web sites, in a variety of common application-based formats, such as those output by spreadsheet packages. In terms of electronic signature technology, while we may continue to allow PIN-based approaches, our plan is to emphasize digital signatures based on "public key infrastructure" (PKI) certificates, given the increasing support for—and acceptance of—PKI for commercial purposes. (For an explanation of PKI, see Section V.B.1 of this preamble.) And, we plan to consider and allow for other signature technologies as they become viable for our applications.

This proposal also represents some important changes in EPA's regulatory strategy as well. To begin with, we are proposing to abandon any attempt to use regulations or formal policies to place technology-specific or procedural requirements on regulated entities submitting electronic documents. In place of the technology-specific/procedural provisions, our regulation will require that electronic submissions be made to designated EPA systems, or to State, tribal or local government systems that are determined to satisfy a certain set of function-based criteria. Thus, as a rulemaking, today's proposal will govern electronic reporting by placing requirements on the systems that receive the electronic documents—rather than on the regulated entities submitting them—and by specifying these requirement in terms of technology-neutral functionality.

This new regulatory strategy does not mean that we are proposing to abandon any control over how electronic documents are submitted. We are proposing instead to require the use of the "Central Data Exchange" (CDX) system or other EPA designated systems for submissions to EPA. While the rule may be technology-neutral, CDX itself will incorporate a suite of very specific technologies, including digital signatures based on "public key infrastructure" (PKI) certificates, described in detail below. In addition, while the rule itself will not require more than the use of CDX for electronic submissions to EPA, using CDX will—as a practical matter—impose a very well-determined set of requirements on the reporting process for those who choose electronic submission instead of paper when reporting directly to EPA. Section V of this preamble will describe these requirements in some detail.

These changes in strategy are significant. They represent a decision that the mechanics of electronically submitting data should not be reflected in specific regulatory provisions. In addition, these changes give EPA the flexibility to adapt our electronic reporting systems to evolving technologies without having to amend our regulations with each technological innovation. That is, CDX or other

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designated systems can be changed as appropriate, so long as they continue to satisfy the function-based criteria that the rule establishes. In general, we believe that this strategy will enable EPA, the States and tribes to offer regulated companies a very user-friendly approach to electronic reporting that can be tailored to the level of automation they wish to achieve, and can incorporate improved technologies as they become available without the delay associated with rulemaking.

C. Why Is EPA Proposing These Changes in Electronic Reporting Policy?

EPA is proposing these changes for three reasons. First, and most important, the technology environment has changed substantially since the September, 1996, policy was written. Web-based electronic commerce and Public Key Infrastructure (PKI) provide two obvious examples. While both were available and in use for some purposes in 1996, they had not yet achieved the level of acceptance and use that they enjoy today. We could not have anticipated in1996 that this evolution would occur as rapidly as it has. Clearly, these developments require that we extend our approach to electronic reporting beyond EDI and PINs. In addition, they teach us that it is generally unwise to base regulatory requirements on the existing information technology environment or on assumptions about the speed and direction of technological evolution.

Second, we believe that technology-specific provisions would, of necessity, be very complex and unwieldy. The resulting regulation would likely place unacceptable burdens on regulated entities trying to understand and comply with it, and might also be difficult for EPA to administer and enforce.

Third, and finally, an electronic reporting architecture that makes a centralized EPA, State or tribal system the platform for such functions as electronic signature/certification is now quite viable—and quite consistent with the standard practices of Web-based electronic commerce. In many ways, regulated entities' electronic transactions with the "Central Data Exchange" (CDX) will be similar to doing business with an on-line travel agency, book store, or brokerage, and with a similar client-server architecture. Given the state of technology five years ago, we could not have considered this approach in the September, 1996, policy.

D. What Is EPA's Approach to Electronic Record-Keeping?

Today's proposal sets forth the criteria under which the Agency considers electronic records to be trustworthy, reliable, and generally equivalent to paper records in satisfying regulatory requirements. The intended effect of this proposed rule is to permit use of electronic technologies in a manner that is consistent with EPA's overall mission and that preserves the integrity of the Agency's enforcement activities.

E. What Information Is EPA Seeking About Electronic Reporting and Record-Keeping Proposals?

In proposing to allow regulated entities to submit electronic documents and maintain electronic records, EPA has, at least, the following three goals:

- To reduce the cost and burden of data transfer and maintenance for all parties to the data exchanges;
- To improve the data—and the various business processes associated with its use—in ways that may not be reflected directly in cost-reductions, e.g. through improvements in data quality, and the speed and convenience with which data may be transferred and used; and
- To maintain or improve the level of corporate and individual responsibility and accountability for electronic reports and records that currently exists in the paper environment.

EPA is seeking comment and information on how well today's proposed regulatory provisions and the associated Central Data Exchange infrastructure will serve to fulfill these three goals. Concerning the first—addressing cost and burden—EPA is particularly interested in and seeks comment on whether today's proposal will make electronic reporting and record-keeping a practical and attractive option for smaller regulated entities, especially small businesses. Concerning the second—addressing the data and the associated business process—we are especially interested in comments on how our proposed approach to electronic reporting and record-keeping will affect third parties, for example State and local agencies that may collect and/or use the data in implementing EPA programs as well as members of the public who have an interest in the data as concerned citizens.

Concerning our third goal, it is essential that we continue to ensure sufficient personal and corporate responsibility and accountability in the submission of electronic reports and the maintenance of electronic records; otherwise we place at risk the continuing viability of self-monitoring and self-reporting that provides the framework for compliance under most of our environmental programs. Therefore, EPA is especially interested in any concerns or issues that commenters may wish to raise about the effect that moving from paper to the electronic medium may have on this compliance structure—as well as assessments of the approaches EPA is proposing to address these concerns.

F. How Were Stakeholders Consulted in Developing Today's Proposal?

Today's proposal reflects more than eight years of interaction with stakeholders—including State and local governments, industry groups, the legal community, environmental non-government organizations, ANSI ASC X12 sub-committees, and other federal agencies. Many of our most significant interactions involved electronic reporting pilot projects conducted with State agency partners, including the States of Pennsylvania, New York, Arizona, and several others. In addition, over a two-year period beginning in May, 1997, EPA worked together with approximately 35 States on the State Electronic Commerce/Electronic Data Interchange Steering Committee (SEES) convened by the National Governors' Association (NGA) Center for Best Practices (CBP). The product of the SEES effort was a document entitled, "A State Guide for Electronic Reporting of Environmental Data," available in the docket for this rulemaking, along with reports on some of the more recent state/EPA electronic reporting pilots. Information on SEES is also available at: *www.nga.org/CBP/Activities/EnviroReporting.asp*. Today's proposal has benefitted greatly from the SEES discussions, and EPA believes that the proposal is generally consistent with the SEES "State Guide".

Beginning in June, 1999, EPA also sponsored a series of conferences and meetings with the explicit purpose of seeking stakeholder advice on today's rulemaking. These included:

- The Symposium on Legal Implications of Environmental Electronic Reporting, June 23–25, 1999, convened by the Environmental Law Institute;
- Two NGA-convened State meetings, held in Cleveland, April 11–12, 2000, and in Phoenix, June 1–2, 2000; and
- Two public meetings, held in Chicago, June 6, 2000, and in Washington, D.C., July 11, 2000.

Reports of these conferences and meetings are also available in the rulemaking docket.

III. Scope of Today's Proposal

A. Who May Submit Electronic Documents and Maintain Electronic Records?

Any regulated company or other entity that submits documents addressed by today's proposal (see section III.B., below) directly to EPA can submit them electronically as soon as EPA announces that the Central Data Exchange or a designated alternative system is ready to receive these reports. Any regulated company or other entity that maintains records addressed by today's proposal (see section III.C., below) under EPA regulations can store them in an electronic form subject to the proposed criteria for electronic record-keeping as soon as EPA announces that the specified records may be kept electronically. As noted in section I.B of this preamble, the rule will not authorize the conversion of existing paper records to an electronic format. Regulated companies or other entities that submit documents or maintain records under authorized State or tribal programs may submit or maintain them electronically as soon as EPA approves the changes to the authorized programs that are necessary to implement the State's or tribe's provisions for electronic reporting or recordkeeping.

Under today's proposal, the entities that can use electronic reporting and record-keeping will not be required to do so; they can still use the medium of paper for document submissions and records if they choose. Nonetheless, nothing in this proposal will prohibit State, tribal or local authorities from requiring electronic reporting or record-keeping under applicable State, tribal and local law.

B. How Does Today's Proposal Relate to the New E–SIGN Legislation?

The environmental reports and records that are the subject of this rule are generally not subject to the recently enacted "Electronic Signatures in Global and National Commerce Act of 2000" ("E–SIGN" or "the Act"), Public Law 106–229, because most of these governmentally-mandated documents are not amongst the "transactions" to which E–SIGN applies. However, the EPA has authority to permit electronic reporting under the statutes it administers and under the Government Paperwork Elimination Act (GPEA) of 1998, Public Law 105–277, *http://ec.fed.gove/gpedoc.htm*. E–SIGN, establishes the legal equivalence between: (1) Contracts written on paper and contracts in electronic form; (2) pen-and-ink signatures and electronic signatures; and (3) other legally-required written documents (termed "records" in the statute) and the same information in electronic form. As a general rule, if parties to a transaction in interstate commerce choose to use electronic signatures and records, E–SIGN grants legal recognition to those methods. E–SIGN provides that no contract, signature, or record relating to such a transaction shall be denied legal effect *solely* because it is in electronic form, nor may such a document be denied legal effect *solely* because an electronic signature or record was used in its formation. GPEA also provides such language for government filings covered by this rule and provides similar legal validity for associated electronic signatures. When E–SIGN takes effect on October 1, 2000, statutes or agency rules containing paper-based requirements that might otherwise deny effect to electronic signatures and records in consumer, commercial or business transactions between two or more parties will be superseded. E–SIGN does, however, permit federal and State agencies to set technology-neutral standards and formats for the submission and retention of electronic documents.

E–SIGN applies broadly to commercial, consumer, and business transactions in or affecting interstate or foreign commerce, including transactions regulated by both federal and State government. However, the conferees who drafted this legislation specifically excluded "governmental transactions" from the definition of transactions that are subject to E–SIGN; accordingly, E–SIGN does not cover transactions that are uniquely governmental, such as the transmission of a compliance report to a federal or State agency. Nonetheless, E–SIGN does cover documents that are created in a commercial, consumer, or business transaction, even if those documents are also submitted to a governmental agency or retained by the regulated community for governmental purposes. For example, an insurance contract that is commemorated in an electronic document will be covered by the provisions of E–SIGN, even if EPA or an authorized State requires that the policy-holder maintain proof of insurance as part of a federal or State environmental program. In order to ensure that these documents will meet governmental needs, the Act permits the government to set technology-neutral standards and formats for such records. In order that governmental agencies have time to promulgate these standards and formats, E–SIGN has a delayed effective date for its record-retention provisions of March 1, 2001. If a federal or State regulatory agency has proposed a standard or format for document retention by March 1, 2001, the Act will take effect with respect to those records on June 1, 2001.

C. Which Documents Could Be Filed Electronically?

With the exception of the Hazardous Waste Manifest (which EPA is addressing in a separate electronic reporting rule), today's proposal addresses document submissions required by or permitted under any EPA or authorized State, tribal or local program governed by EPA's regulations in Title 40 of the Code of Federal Regulations (CFR). Nonetheless, EPA will need time to develop the hardware and software components required for each individual type of document. Similarly, EPA will need time to evaluate State, tribal, and local electronic document receiving systems to ensure that they meet the criteria articulated in today's proposal. Accordingly, once this rule takes effect, documents subject to this rule submitted directly to EPA can only be submitted electronically after EPA announces in the **Federal Register** that the Central Data Exchange (CDX) or an alternative system is ready to receive them. Documents subject to this rule submitted under an authorized State or tribal program can only be submitted electronically once EPA has approved the necessary changes to the authorized program.

Both in developing the CDX, and in approving changes to authorized State and tribal programs related to electronic reporting, EPA plans to give priority to receipt of the relatively high volume environmental compliance reports that do not involve the submission of confidential business information (CBI). EPA believes that receipt of electronically transmitted CBI requires considerably stronger security measures than the initial version of CDX may be able to support, including provisions for encryption. While EPA does plan to enhance CDX to accommodate CBI, we will first want to gain experience implementing CDX in the non-CBI arena and also take the time to explore CBI security issues with companies that submit confidential data. EPA seeks comments and advice on priorities for electronic reporting implementation. EPA also seeks comments on this proposal's global approach, and whether specific exclusions should be added to the rule.

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D. Which Records Can Be Maintained Electronically and Which Can Not?

Today's proposal addresses records that EPA or authorized State, tribal or local programs require regulated entities to maintain under any of the environmental programs governed by Title 40 of the CFR or related State, tribal and local laws and regulations. Nonetheless, individual EPA programs may need additional time to consider more specific provisions for administering the maintenance of electronic records under their regulations. Similarly, EPA will need time to evaluate State, tribal, and local programs' provisions for administering electronic records maintenance to ensure that such records will meet the criteria articulated in today's proposal.

Accordingly, once this rule takes effect, any records subject to this rule submitted directly to EPA can only be maintained electronically after EPA announces in the **Federal Register** that EPA is ready to allow electronic records maintenance to satisfy the specified record-keeping requirements. Records subject to this rule maintained under an authorized State or tribal program can only be maintained electronically once EPA has approved the necessary changes to the authorized program. For electronic records specified in such **Federal Register** announcements or authorized program changes, they can be maintained in lieu of paper records so long as they meet the requirements in this proposal, unless paper records are specifically required in regulations promulgated on or after promulgation of this final rule. However, today's proposal will not apply to paper records that are already in existence—whether these are maintained under EPA programs or under authorized State, tribal or local programs—and will not provide that any of these paper records can be converted to an electronic format. In addition, today's proposal does not address contracts, grants, or financial management regulations contained in Title 48 of the CFR. EPA is addressing such procurement-related activities separately. Accordingly, today's proposal does not apply to records maintained under these Title 48 regulations, whether this record-keeping was administered by EPA or by a State, tribal or local program under EPA authorization.

E. How Would Today's Proposal Implement Electronic Reporting and Record-Keeping?

EPA proposes our overall policy and requirements for electronic reporting and record-keeping as a new 40 CFR part 3, which consists of four (4) Subparts. Subpart A provides that any reporting requirement in Title 40 can be satisfied with an electronic submission to EPA that meets certain conditions (specified in Subpart B) once EPA publishes a notice that electronic document submission is available for this requirement. Similarly, Subpart A provides that any record-keeping requirement in Title 40 can be satisfied with electronic records that meet certain conditions (specified in Subpart C) once EPA publishes a notice that electronic record-keeping is available for this requirement. Subpart A also provides that electronic reporting and record-keeping can be made available under EPA-authorized State, tribal or local environmental programs as soon as EPA approves the necessary changes to these authorized programs (in accordance with Subpart D). In addition, subpart A makes clear: (1) That electronic document submission or record-keeping, while permissible under the terms of this part, will not be required; and (2) that this regulation will confer no right or privilege to submit data electronically and will not obligate EPA or State, tribal or local agencies to accept electronic data except as provided under this regulation.

Subpart B sets forth the general requirements for acceptable electronic documents submitted to EPA. It provides that electronic documents must be submitted either to EPA's Central Data Exchange (CDX) or other EPA designated systems. It also includes general requirements for electronic signatures. Subpart C sets forth requirements that regulated entities must satisfy if they wish to maintain their electronic records in satisfaction of EPA record-keeping requirements. Finally, subpart D sets forth the process and criteria for EPA approval of changes to authorized State, tribal and local environmental programs to allow electronic document submissions or record-keeping to satisfy requirements under these programs. With respect to electronic document submissions, subpart D includes detailed criteria for acceptable State, tribal or local agency electronic document receiving systems against which EPA will assess authorized program implementations of electronic reporting.

The table below describes the applicability of each of these proposed new subparts.

Subpart	Applicability
A. General Provisions	Companies and other entities regulated under Title 40 of the Code of Federal Regulations, and State, tribal and local agencies with electronic document receiving systems used to receive documents under their authorized programs.
B. Electronic Reporting to EPA	Companies and other entities regulated under Title 40 of the Code of Federal Regulations.
C. Electronic Record-keeping under EPA Programs.	Companies and other entities regulated under Title 40 of the Code of Federal Regulations.
D. Approval of Electronic Reporting and Record-keeping under State Programs.	State, tribal and local agencies with electronic document receiving systems or electronic record-keeping programs for which EPA approval is required.

Given the proposed provisions of Subpart A, a regulated entity wishing to determine whether electronic reporting or record-keeping was available under some specific regulation will have to verify that EPA has published a **Federal Register** notice announcing their availability and will have to locate any additional provisions or instructions governing the electronic option for the particular reporting or record-keeping requirements. EPA seeks comments on whether the new Part 3 should include specific cross-references to such announcements and instructions to the extent that these are codified elsewhere in Title 40. The cross references could be organized by CFR subparts of Title 40, and could provide a simple listing of program-specific regulations for which EPA has implemented electronic reporting or record-keeping under the provisions of today's proposal. EPA invites suggestions on the most helpful cross-referencing scheme.

IV. The Requirements in Today's Proposal

A. What Are the Proposed Requirements for Electronic Reporting to EPA?

Today's proposal specifies just two requirements for electronic reporting to

EPA. First, electronic documents must be submitted to an appropriate EPA electronic document receiving system; generally this will be EPA's Central Data Exchange (CDX), although EPA can also designate additional systems for the receipt of electronic documents. Second, where an electronic document must bear a signature under existing regulations or guidance, it must be signed (by the person authorized to sign under the current applicable provision) with an electronic signature that can be validated using the appropriate EPA electronic document receiving system. The proposal stipulates that the electronic signature will make the person who signs the document responsible, or bound, or obligated to the same extent as he or she would be signing the corresponding paper document by hand. Only electronic submissions that meet these two requirements will be recognized as satisfying a federal environmental reporting requirement, although failure to satisfy these requirements will not preclude EPA from bringing an enforcement action based on the submission.

It should be noted that the second requirement, concerning signatures, will apply only where the document would have to bear a signature were it to be submitted on paper, either because this is stipulated in regulations or guidance, or because a signature is required to complete the paper form. Today's proposal is not intended to require additional signatures on documents when they are migrated from paper to electronic submission. The EPA electronic document receiving system will indicate to the submitter whether a signature is required to complete submission of an electronic document—although the presence or absence of this indication will not affect whether or not a signature is required for a document to have legal effect.

Beyond these two requirements, the proposed rule does not specify any required hardware or software. Accordingly, the proposed rule text does not include any detail about CDX per se or about what will be required of regulated entities who wish to use it. Nonetheless, in publishing today's proposal, one of EPA's goals is to share our plans for the CDX and to invite comments on the technical approaches that it represents. Therefore, section V, below, explains the details of CDX as it is currently planned—including CDX technical approaches to satisfying our proposed functional criteria, and what use of CDX to submit electronic documents will require of the users. We are also including the draft CDX design specifications in the docket for today's proposed rule. In reviewing these materials, however, the reader should bear in mind that the details of CDX that they specify have not been finalized, and may be affected by the comments received on today's proposal. In the preamble to the notice of final rulemaking for today's proposal, EPA will describe the details of CDX as it will actually be implemented, and will highlight any significant changes from the design as described in this proposal.

Of course, even after the current CDX design is finalized and implemented, the system may change—to take advantage of opportunities offered by evolving technologies, as well as to correct any deficiencies that operational experience reveals. Our proposed regulatory strategy—avoiding the codification of technology-specific/procedural provisions—is meant to accommodate such changes without requiring that we amend our regulations. Nonetheless, EPA recognizes that such changes can be disruptive to regulated entities that participate in electronic reporting; therefore, we are adding provisions that commit EPA to provide adequate public notice where a contemplated change may have this impact. In general, we foresee four kinds of cases:

- Major changes that can be disruptive to regulated entities; these will likely affect the kinds of hardware or software required to submit electronic reports—examples may include required changes to the file formats CDX will accept, or to the required electronic signature technology, but will not generally include optional upgrades to software, the provision of additional formatting (or other technical) options, or changes to CDX that simply reflect changes to the regulatory reporting requirements that the system is supporting;
- Minor changes that will likely not be disruptive; these will affect the user interface but without affecting the hardware or software required to submit electronic reports—examples may include changes to screen layouts, or sequencing of user prompts;
- Transparent changes that will affect CDX operation without any apparent change in interaction with submitters—an example may be a change to the CDX archiving process; and
- Emergency changes necessary to protect the security or operational integrity of CDX—an example may be an upgrade to the system firewall protection.

Our approach will then be to provide public notice and seek comment on major changes at least a year in advance of contemplated implementation. For minor changes we will provide public notice at least 60 days in advance of implementation. For transparent changes and emergency changes we will make decisions on whether and when to provide public notice on a case-by-case basis. EPA seeks comment on this approach, including the kinds of cases we distinguish and the proposed time-frames for notice. We are especially interested in views on the appropriateness of the time-frame for notice of major changes—and specifically on whether a shorter time-frame, e.g. 9 months or 6 months, would provide adequate notice while giving EPA greater flexibility to make timely responses to changes in the technological environment. We also seek comment on the more general question of whether it is in the best interests of EPA and our regulated entities to codify these public notice provisions at all, or whether they may place at risk our ability to be sufficiently responsive to the changing needs of our user community. We are also interested in the question of whether the different kinds of cases are or can be defined with sufficient precision to form the basis for workable regulatory provisions, and we welcome any suggestions for alternative regulatory language.

B. What Requirements Must Electronically Maintained Records Satisfy?

1. *General Approach.* In today's proposed rule, EPA is proposing a set of criteria that will have to be met by regulated entities that maintain electronic records in lieu of paper records, to satisfy record-keeping requirements under EPA regulations in Title 40 of the CFR. The proposed criteria address the minimal functional capabilities that an electronic record-retention system must possess in order for an electronic record or document to meet a federal environmental record-keeping requirement. Regulated entities that use electronic systems to create, modify, maintain, or transmit electronic records will need to employ procedures and controls designed to meet the minimum criteria in today's rule. These criteria are designed to insure that electronic records are trustworthy and reliable, available to EPA and other agencies and their authorized representatives in accordance with applicable federal law, and admissible as evidence in a court of law to the same extent as a corresponding paper record.

2. *EPA's Proposed Criteria for Electronic Record-Retention Systems.* In general, EPA believes that for electronic records to be trustworthy and reliable,

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their corresponding electronic record-retention system must: (1) Generate and maintain accurate and complete copies of records and documents in a form that does not allow alteration of the record without detection; (2) ensure that records are not altered throughout the records' retention period; (3) produce accurate and complete copies of an electronic record and render these copies readily available, in both human readable and electronic form as required by predicate regulations, throughout the entire retention period; (4) ensure that any record bearing an electronic signature contains the name of the signatory, the date and time of signature, and any information that explains the meaning affixed to the signature; (5) protect electronic signatures so that any signature that has been affixed to a record cannot be detached, copied, or otherwise compromised; (6) use secure, computer-generated, time-stamped audit trails to automatically record the date and time of operator entries and actions that create, modify, or delete electronic records; (An audit trail is an important element of any acceptable electronic record, for it provides an electronic record of key entries and actions to a record throughout its life cycle. Such audit trail documentation needs to be retained for a period at least as long as that required for the subject electronic records. Audit trail documentation also needs to be available for agency review.) (7) ensure that records are searchable and retrievable for reference and secondary uses, including inspections, audits, legal proceedings, third party disclosures, as required by predicate regulations, throughout the entire retention period; (8) archive electronic records in an electronic form that preserves the context, metadata, and audit trail; (Depending on the record retention period required in predicate regulations, regulated entities must insure that the complete records, including the related metadata, can be maintained in secure and accessible form on the preexisting system or migrated to a new system, as needed, throughout the required retention period.) and (9) make computer systems (including hardware and software), controls, and attendant documentation readily available for agency inspection. EPA believes that where these 9 criteria are met, records required to be maintained under EPA regulations, can be kept electronically, including where they involve or incorporate signatures.

3. *Electronic Records with Electronic Signatures.* Where electronic records involve or incorporate electronic signatures meeting the requirements under Subpart C of this proposal, EPA will consider the electronic signatures to be equivalent to hand-written signatures. EPA believes the criteria described in paragraph B.2. above address the conditions for cases of electronic records involving signatures, such as: first, a signed electronic record must contain information associated with the signing that clearly indicates the name of the signer, the date and time when the electronic record was signed, and, the meaning associated with the signature (such as review, approval, responsibility, authorship, etc.); second, electronic signatures must be linked to their respective electronic records to ensure that the signatures cannot be excised, copied or otherwise transferred so as to falsify an electronic record by ordinary means; third, this information will be subject to the same controls as those for electronic records and must be included as part of any human readable form of the electronic record (such as electronic display or printout). EPA seeks comment on whether these criteria are appropriate and whether—taken together with the general criteria—they are sufficient to ensure that signatures associated with records fulfill their purpose. EPA also seeks comment on whether these criteria are appropriate for the maintenance of electronic records containing digital signatures. (For an explanation of digital signatures, and their role in CDX, see Section V.B.1 of this preamble.) The special issues involved in maintaining digitally signed records are discussed in Section IV.D.6 of this preamble—in connection with archiving requirements for electronic document receiving systems—and EPA is interested in views on whether these issues need to be more explicitly addressed by the criteria for electronic record-retention systems discussed here, especially the criterion provided in § 3.100(5), which addresses the maintenance of the electronic signature as a part of the electronic record. EPA seeks comment on whether this provision should be expanded to accommodate some of possible procedures for archiving digital signatures referred to at the end of Section IV.D.6.

4. *The Relation of These Requirements to Food and Drug Administration (FDA) Criteria.* The criteria set forth in today's proposed rule—both the general and those specific to records with associated signatures—are intended to be consistent with criteria set forth for electronic document systems in other relevant regulations, such as FDA's criteria in 21 CFR part 11. EPA seeks comment on whether today's proposed requirements achieve this consistency, and whether this consistency is an appropriate goal for this rulemaking.

5. *Storage Media Issues.* Given the fast-paced evolution of technology, it is realistic to expect that electronic records will be transferred from one media format to another during the required period of record retention. While EPA allows for such transfers in today's propose rule, any such transfer must occur in a fashion that ensures that the entire electronic record is preserved without modification. As noted earlier, the electronic record will include not only the electronic document itself, but also the required information regarding time of receipt, date of receipt, etc. Any method of migrating electronic records from one electronic storage medium to another that fails to meet this criterion will not produce records that meet federal environmental record-retention requirements. For example, a CD–ROM version of a record originally stored on electromagnetic tape will not satisfy federal record-keeping requirements unless the method for transferring the record from one medium to the other employs error-checking software to ensure that the data is completely and faithfully transcribed. EPA seeks comment on whether this criterion is sufficient to ensure that the integrity and authenticity of the electronic record is maintained throughout its required record retention period.

6. *Additional Options.* In addition to the criteria discussed above, EPA is currently evaluating the need for additional controls for electronic records under this rule. Over the course of the next five (5) months, EPA plans to conduct additional analysis, and based on the results of this analysis and the public comments received on the electronic record provisions contained in today's proposal, EPA may determine that additional provisions are required for electronic records. If such a determination is made, prior to proposal of the final rule, EPA will publish a supplemental notice detailing any additional electronic record provisions to be included in the final rule. We realize that the electronic records criteria in today's rule are not as detailed as that contained in FDA's 21 CFR part 11 and seeks comments on whether our proposed criteria are sufficient to ensure the authenticity, integrity, and non-repudiation of electronic records maintained by regulated facilities in fulfillment of their compliance obligations. EPA is considering whether or not to include additional provisions found in the FDA regulations in our final rule. Such provisions could include the following: (1) Establishment and implementation of written policies that limit system access to authorized individuals, as well as the use of authority checks to ensure that only authorized individuals can use the system, electronically sign a document, access the operation or computer system input or output device, alter a record, or perform the operation at hand; (2) establishment and implementation of written policies that hold individuals accountable and responsible for actions initiated under their electronic signatures, in order to deter record and signature falsification; (3) use of device (*e.g.*, terminal) checks to determine the validity of the source of data input or operational instruction; (4) use of additional measures such as document encryption and use of appropriate digital signature standards to ensure, record authenticity, integrity, and non-repudiation; (5) routine and documented validation of systems to ensure accuracy, reliability, consistent intended performance, and the ability to discern invalid or altered records; (6) establishment and implementation of written policies governing education and training of personal and certification that persons who develop, maintain, or use electronic record signature systems have the education, training, and experience to perform their assigned tasks. EPA is also seeking comment on the general feasibility of converting existing paper documents—including litigation-sensitive records—to electronic documents, as well as comments on the strengths and weakness of existing technologies available for this purpose.

C. What Is the Process That EPA Will Use To Approve Changes To Authorized State and Tribal Programs Related to Electronic Reporting and Record-Keeping?

EPA expects that States, tribes and local agencies that administer EPA-authorized environmental programs will wish to implement electronic reporting and recordkeeping at least as quickly and extensively as EPA. Therefore, in overseeing these programs, EPA wishes to balance multiple objectives of minimizing administrative burden on States, providing State flexibility for varying State approaches, and ensuring that State systems are robust enough to meet the demands of a strong enforcement capability. EPA considered several options for meeting these needs, including program-by-program approval processes—in each case under applicable EPA program-specific regulations—State self-certifications, and a centralized approval process. This proposal provides for State flexibility by specifying performance criteria rather than requiring specific technologies, and balances other objectives though use of a hybrid process for approving changes to authorized State and tribal programs.

Under this process, EPA will provide a single set of substantive performance criteria, listed in today's proposal, that will apply to any authorized program where EPA determines that electronic reporting and record-keeping will involve substantive changes to the program that will require EPA approval. Today's proposal contains language that would make compliance with these Part 3 criteria an element of all authorized State, tribal, or local programs that wish to accept electronic reports or allow electronic recordkeeping, although the language does not change the procedural requirements for modifications to any of these program. This means, for example, that a State planning to institute electronic reporting for an authorized program will have to meet the normal EPA approval requirements for that program—whether the approval sought is for a single program or for an electronic document receiving system that would support multiple authorized, delegated, or approved environmental programs. In the case where multiple programs will be affected, the State will still need to seek modification of each such program under existing program approval or revision procedures; however, EPA expects that it will evaluate such multiple applications in a single internal review. Moreover, EPA solicits comment on whether another approach should be taken to State and tribal program modification or revision for electronic reporting or record-keeping.

Alternatively, State, tribal or local agencies may wish to rely on third-party systems to receive reports on their behalf, where these systems are operated or owned by commercial or not-for-profit organizations. Today's proposal will allow this on the condition that the electronic document receiving system employed by the State, tribal or local agency satisfy the substantive performance criteria that we specify, and authorization approvals are obtained where necessary.

D. What Criteria Are EPA Proposing That State Electronic Report Receiving Systems Must Satisfy?

In today's proposed rule, EPA is providing a set of criteria that will have to be met by any system that is used to receive electronic documents submitted to satisfy electronic document submission requirements under any EPA-authorized State, tribal, or local environmental program. The proposed criteria address the functional capabilities that EPA believes a State's, tribe's or local government's "electronic document receiving system" must have if it is to ensure the authenticity and non-repudiation of these electronic documents. EPA has developed these criteria to ensure that any electronic document has the same legal dependability as its paper counterparts. EPA does not intend to imply that information or documents derived from electronic reporting or record-keeping systems that do not meet all of EPA's criteria, or from transactions that were not in compliance with all applicable requirements and agreements, could not be introduced as evidence at trial, would not constitute admissions, or would not constitute records required by, or used for compliance with, applicable statutes (*e.g.*, Clean Water Act section 309(c)(4), Resource Conservation and Recovery Act section 3008(d)(3)). EPA's criteria are intended to result in systems and records that will provide the best evidence for use by plaintiffs and prosecutors in enforcement actions, and to facilitate the success of such enforcement actions.

These criteria are designed to ensure any electronic document used as evidence in the course of prosecuting an environmental crime or civil violation will have the same or better evidentiary value as its paper equivalent. For example, the criteria are designed to ensure that in prosecuting the crime of deliberate falsification of compliance data, the identity of the person who signed a falsified document can be established beyond a reasonable doubt. One of the criteria, entitled "Validity of Data," and proposed in section 3.2000(b), addresses this standard directly. In general, a system that is used to receive electronic documents must be capable of reliably generating proof for use in private litigation, enforcement proceedings, and criminal proceedings in which the standard for conviction is proof beyond a reasonable doubt that the electronic document was actually submitted by the signatory and that the data it contains was not submitted in error.

To satisfy this general criterion, an electronic document receiving system must establish: (1) That an electronic document was sent (or not sent), (2) when the document was sent, (3) by whom the document was sent, including both individual and the identity of any entity the individual is authorized to represent, (4) when the

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document was received, (5) that the document was not altered from the time it was sent to the time it was received, and (6) the contents of the document sent. In addition the electronic document receiving system must store and be able to retrieve every electronic document without alteration to its content or loss or the information regarding time of transmission, receipt, and authorship. The remaining, more specific criteria have been developed to meet these goals, while at the same time taking account of what can reasonably be expected of the various types of electronic reporting technologies currently available.

It should be noted that many of these criteria will not apply, or not apply in full, where the electronic document receiving system will not be used to receive documents bearing signatures or documents used in litigation or enforcement proceedings. Generally, documents not requiring signature are less likely to play a role in criminal prosecutions; therefore, the criterion that refers to "Validity of Data" might not apply to systems that receive such documents. In addition, the specifications of "electronic signature method," and "electronic signature/certification scenario" will be inapplicable, along with any provision connected with "system security requirements," "registration process," "transaction record," and "system archives" that refers to signature. EPA invites comment on the exclusion of these criteria in cases where systems will not receive signed documents or documents used in litigation or enforcement and criminal proceedings. EPA will consider the possibility of developing a set of criteria explicitly addressing electronic document receiving systems that will not receive electronically signed documents if it appears that States, tribes or local governments want to implement such systems for their authorized environmental programs. Such systems might be appropriate, for example, in the cases where agencies wished to accept electronic submissions of data but continued to require that associated certification statements be signed and submitted on paper. EPA invites comment on whether it would be worth developing the alternative set of criteria for systems that exclude electronic signatures.

1. *General System-Security Requirements.* Proposed section 3.2000(a) requires every system used to receive electronic documents to (1) have robust protections against unauthorized access to the system; (2) have robust protections against the unauthorized use of any electronic signature on documents received; (3) provide for the detection of unauthorized access or attempted access to the system and unauthorized use or attempted use of any electronic signature on documents received; (4) provide safeguards to prevent the modification of an electronic report once an electronic signature has been affixed; (5) ensure that every electronic record is protected from modification or deletion; (6) provide safeguards to ensure that the system clock is accurate and protected from tampering or other compromise; and (7) provide safeguards to prevent any other corruption or compromise of the system.

We believe each of the seven proposed requirements is important to maintain the overall security of an electronic document receiving system. We seek comment on whether—taken together—they are sufficient to ensure that the system can maintain the integrity and authenticity of the electronic documents it receives and maintains.

2. *Electronic Signature Method.* To support the goals articulated under proposed section 3.2000(b) as the "Validity of Data" criterion, proposed section 3.2000(c) stipulates that an electronic document receiving system must validate only those electronic signatures that are created by a method that (1) Involves a registration process that identifies the bearer of an electronic signature; (2) includes all elements of an adequate signature/certification scenario (described in paragraph 4, below); (3) provides safeguards to prevent excise, modification, or appropriation of an affixed electronic signature; (4) provides safeguards to prevent use of an electronic signature by anyone other than the individual to whom it has been issued; and (5) ensures that it is impossible to modify an electronic document without detection once the electronic signature has been affixed. This last proposed requirement is sometimes expressed by saying that the signature must be "bound" to the contents of the report. We seek comment on whether these conditions are appropriate, and whether—taken together—they suffice to ensure that electronic signatures affixed to electronic documents will have the same or better evidentiary value as handwritten signatures on paper documents for purposes of prosecuting an environmental crime or civil violation.

3. *Submitter Registration Process.* In order to link a digital signature to the bearer of that signature, proposed section 3.2000(d) requires that an electronic document receiving system validate only those electronic signatures that are established through a process which registers identified individuals both as system users and as signature holders. EPA also proposes to require that an individual may not complete this registration process without first executing an agreement with the administering agency to properly use and protect the electronic signature.

Of course, the registration process must also establish the identity of the registering individual and any entity that the individual is authorized to represent. Given the general "Validity of Data" criterion under section 3.2000(b), the process must establish the registrant's identity with information that will be sufficient to prove that this individual was the signature holder for purposes of private litigation, enforcement proceedings, and criminal proceedings. This requires at least that the registrant provide evidence of identity which can be verified by information sources that are independent of this individual and the regulated entity with which he or she is associated.

As noted above, the rule requires that a registrant sign an agreement to properly use and protect his or her electronic signature. EPA proposes that the terms in any such agreement include, at a minimum, a commitment to: (1) Protect the electronic signature from unauthorized use; (2) be as legally-bound by use of the electronic signature as by hand-written signature; (3) where the signature device is based on a secret, *e.g.*, a code, to maintain the secrecy of the electronic signature device; (4) immediately report any evidence that the electronic signature has been compromised; and (5) where the assistance of third parties may be required to protect a signature from unauthorized use—such as the assistance of system administrators in ensuring computer security, to secure such assistance. EPA believes that this agreement is important to ensure that the holder of an electronic signature understands how to properly use and protect the electronic signature. It is also important to ensure that the signature holder understand the legal effect of affixing the electronic signature to an electronic document. A proof that an individual's registered electronic signature was affixed to a document will establish a permissive inference that the individual who was issued that signature affixed the signature and did so with the intent to sign the document. To achieve these goals, EPA believes that the signature agreement should

consist of at least the following language:

"In accepting the electronic signature issued by [specify name of issuing agency or organization] to sign electronic documents submitted to [specify the name of the electronic document receiving system] on behalf of [specify the name of regulated entity the signature-holder represents], I, [name of electronic signature holder],

(1) Agree to protect the signature from use by anyone except me, and to confirm system security with third parties where necessary. Specifically, I agree to [specify procedures appropriate to the form of electronic signature, for example, to maintain the secrecy of the code where the signature is based on a secret code];

(2) Understand and agree that I will be held as legally bound, obligated, or responsible by my use of my electronic signature as I would be using my hand-written signature, and that legal action can be taken against me based on my use of my electronic signature in submitting an electronic document to [specify the name of the receiving agency];

(3) Agree never to delegate the use of my electronic signature or make my signature available for use by anyone else;

(4) Understand that whenever I electronically sign and submit an electronic document to [specify the name of the electronic document receiving system], acknowledgments and a copy of my submission as received will be made available to me;

(5) Agree to review the acknowledgments and copies of documents I electronically sign and submit to [specify the name of the electronic document receiving system];

(6) Agree to report to [specify the agency or organization to be reported to], within twenty-four (24) hours of discovery, any evidence of the loss, theft, or other compromise of any component of my electronic signature;

(7) Agree to report to [specify the agency or organization to be reported to], within twenty-four (24) hours of discovery, any evidence of discrepancy between an electronic document I have signed and submitted and what [specify the name of the electronic document receiving system] has received from me;

(8) Agree to notify [specify the agency or organization to be reported to] if I cease to represent [specify the name of regulated entity the signature-holder represents] as signatory of that organization's electronic submissions to [specify the name of the electronic document receiving system] as soon as this change in relationship occurs and to sign a surrender certification at that time."

In addition, given the importance of this agreement, EPA is also proposing that the registration process require that the agreement be renewed periodically, with the Administrator to determine the frequency of and the exact terms of the renewal statement, as well as whether a wet ink signature will be required. In making these determinations, EPA is proposing that the Administrator ensure that electronic reporting meets the overall goals of security and validity of data—articulated under proposed sections 3.2000(a) and 3.2000(b)—while taking into account the importance of keeping EPA practices consistent with marketplace standards for issuance and use of electronic signature devices in commerce. Given that both the technologies and marketplace practices surrounding electronic signatures are still evolving rapidly, EPA believes that the Administrator may need to revisit these determinations more than once, the proposed provision for these renewal agreements is intended to provide this flexibility.

In terms of frequency of renewal, likely candidates for the Administrator to consider are once every two years or three years, but he or she may certainly set a longer renewal cycle (either in general or with regard to a particular State, tribal or local government system) if less frequent renewal better corresponds to marketplace standards and can be determined to still meet security and validity of data goals. EPA seeks comment on the various alternatives for renewal frequency—including one year and longer than three years—considering both marketplace standards and the goals of security and validity of data. EPA also seeks comment on whether any of the candidate renewal cycles would raise any administrative issues for State, tribal or local governments, and whether the Administrator's ability to revisit this determination—with the implied potential for a change in system requirements—poses any problems for systems planning or management.

Concerning the terms of the renewal agreement, EPA believes that in the interest of supporting the goals of security and validity of data, the Administrator is likely to require the holder of the electronic signature to attest to compliance with the terms of the prior agreement since the time it was signed. To accomplish this, the Administrator may require that the signature-holder sign a statement that consists of at least the following:

"In continuing to use the electronic signature issued by [specify name of issuing agency or organization] to sign electronic documents submitted to [specify the name of the electronic document receiving system] on behalf of [specify the name of regulated entity the signature-holder represents], I, [name of electronic signature holder] continue to,

(1) Agree to protect the signature from use by anyone except me, specifically, to [specify procedures appropriate to the form of electronic signature, for example, to maintain the secrecy of the code where the signature is based on a secret code];

(2) Understand and agree that I will be held as legally bound, obligated, or responsible by my use of my electronic signature as I would be by using my hand-written signature, and that legal action can be taken against me based on my use of my electronic signature in submitting an electronic document to [specify the name of the receiving agency];

(3) Agree never to delegate the use of my electronic signature or make my signature available for use by anyone else;

(4) Understand that whenever I electronically sign and submit an electronic document to [specify the name of the electronic document receiving system], acknowledgments and a copy of my submission as received will be made available to me;

(5) Agree to review the acknowledgments and copies of documents I electronically sign and submit to [specify the name of the electronic document receiving system];

(6) Agree to report to [specify the agency or organization to be reported to], within twenty-four (24) hours of discovery, any evidence of the loss, theft, or other compromise of any component of my electronic signature;

(7) Agree to report to [specify the agency or organization to be reported to], within twenty-four (24) hours of discovery, any evidence of discrepancy between an electronic document I have signed and submitted and what [specify the name of the electronic document receiving system] has received from me;

(8) Agree to notify [specify the agency or organization to be reported to] if I cease to represent [specify the name of regulated entity the signature-holder represents] as signatory of that organization's electronic submissions to [specify the name of the electronic document receiving system] as soon as this change in relationship occurs and to sign a surrender certification at that time.

"Moreover, I certify that I have complied with the terms of the signature registration agreement I signed on [insert date of prior agreement], and

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since that date I have reviewed, signed and submitted all the electronic documents submitted with my electronic signature to [specify the name of the electronic document receiving system] on behalf of [specify the name of regulated entity the signature-holder represents]."

EPA seeks comment on all of these proposed registration agreement and renewal statement provisions, including the proposed provision for administrative determination of the frequency and terms of the renewal agreements. Given the purpose of these agreements and renewal statements, EPA is particularly interested in comment on whether all of them are necessary, particularly considering requirements for the on-screen certification described under Electronic Signature/Certification, in the next section of this preamble (Section IV.D.4). To the extent that all these agreements and renewals are necessary, EPA also seeks comment on whether the specific language suggested for each provision is adequate or necessary. It should be noted that EPA is currently not proposing to codify the specific language for these certifications and statements in the rule, and EPA seeks comments on the question of codification. It should also be noted that the proposed rule specifies that the signature agreement be signed on paper or in other media that EPA may designate. While EPA will initially require signature agreements to be signed on paper—and the Administrator may initially require this of renewals as well—EPA has the flexibility to allow electronic signatures in the future, as circumstances may warrant, and when EPA believes that electronic signatures can effectively substitute for hand-written signatures on paper for these electronic signature agreements and renewals. EPA seeks comment on whether any or all of these agreements and statements should be signed on paper.

EPA also seeks comment on a possible additional certification statement, required to be signed when a signature holder surrenders the signature for whatever reason—e.g., change of jobs or retirement—although this requirement is not included as a provision in today's proposal. In this surrender certification, the signature holder would be required to truthfully attest to compliance with the terms of the agreement since the most recent agreement was signed. If such a requirement is added, then EPA believes that the surrender certification signed by the signature holder should consist of at least the following:

"I certify that, since the time that I was first issued the electronic signature by [specify name of issuing agency or organization] to sign electronic documents submitted to [specify the name of the electronic document receiving system] on behalf of [specify the name of regulated entity the signature-holder represents], I have complied with the terms of agreement to which I then subscribed, and specifically that I have:

(1) Protected the signature from use by anyone except me. Specifically, I have [specify procedures appropriate to the form of electronic signature, for example, maintained the secrecy of the code where the signature is based on a secret code];

(2) Understood that I am held as legally bound, obligated, or responsible by my use of my electronic signature as I would be using my hand-written signature and that legal action can be taken against me based on my use of my electronic signature in submitting an electronic document to [specify the name of the receiving agency];

(3) Never delegated the use of my electronic signature or made my signature available for use by anyone else;

(4) Understood that whenever I electronically signed and submitted an electronic document to [specify the name of the electronic document receiving system], acknowledgments and a copy of my submission as received were made available to me;

(5) Reviewed the acknowledgments and copies of documents I electronically signed and submitted to [specify the name of the electronic document receiving system];

(6) Reported to [specify the agency or organization to be reported to], within twenty-four (24) hours of discovery, if I ever had any evidence of the loss, theft, or other compromise of any component of my electronic signature;

(7) Reported to [specify the agency or organization to be reported to], within twenty-four (24) hours of discovery, if I ever had any evidence of discrepancy between an electronic document I signed and submitted and what [specify the name of the electronic document receiving system] had received from me.

"Moreover, I certify that I have complied with the terms of the signature registration agreement I signed on [insert date of the agreement signed when electronic signature was first issued], and since that date I have reviewed, signed and submitted all the electronic documents submitted with my electronic signature to [specify the name of the electronic document receiving system] on behalf of [specify the name of regulated entity the signature-holder represents]."

Finally, EPA also solicits comment on whether some other mechanism is needed, in lieu of the registration agreement, to ensure that holders of electronic signatures properly use and protect their signatures. Specifically, EPA seeks comment on the possible alternative of adding a provision paralleling 21 CFR section 11.100(c)(2) (under the Food and Drug Administration's electronic signature rule) requiring that signature holders, upon request, "provide additional certification or testimony that a specific electronic signature is the legally binding equivalent of the signer's handwritten signature." EPA seeks comment on whether codifying such a provision would provide a better method of ensuring the proper use and protection of signatures than the agreements, renewals and related certification statements that we are currently proposing.

EPA also proposes to require that an electronic document receiving system have a mechanism to automatically revoke an electronic signature whenever 1) there is any evidence the submitter has violated the registration agreement; 2) there is any evidence the electronic signature has been compromised; or 3) there is notification from an entity that the holder of an electronic signature previously authorized to represent that entity is no longer authorized to represent the entity. Revocation of a signature would not necessarily mean that the signature holder cannot be held accountable for previous uses of that signature, but it might lead the agency involved to require that particular materials be resubmitted. EPA seeks comment on whether there are other circumstances that should result in automatic invalidation of an electronic signature.

It should be added that EPA proposes to require registration of any individual who submits electronic documents to an electronic document receiving system on behalf of an entity, regardless of whether the individual is issued an electronic signature, because EPA believes that registration strengthens system security and data integrity. Accordingly, the registration process for an individual who is not being issued an electronic signature will simply omit the signature-specific requirements. EPA seeks comment on this more general registration requirement.

4. *Electronic Signature/Certification Scenario.* In order for electronic document receiving systems to provide the same functionality as existing paper-based systems, the act of affixing an

electronic signature to an electronic document must have the same meaning and legal effect as signing a paper document. In some instances, a signature indicates an intent to be bound to the commitments made in a document and constitutes an assertion that contents of the document are both truthful and accurate. In order to ensure that an electronic signature has the same meaning as its handwritten, paper counterpart, proposed section 3.2000(e) would require that an electronic document receiving system validate only those electronic signatures that are generated or affixed to an electronic document using a "signature/certification scenario" that ensures that the signatory understands and intends the legal consequence of affixing an electronic signature to an electronic document. This feature of an electronic document receiving system is important to ensure that each signed electronic document it receives can be used in civil and criminal enforcement, including cases against the holder of the electronic signature as signer of the electronic document.

EPA proposes to require than an electronic document receiving system must validate only electronic signatures that have been affixed after: (1) The submitter has scrolled through on-screen pages that present all the data to be certified in a familiar, human-readable format (§ 3.2000(e)(1)(i)); (2) the screen displays a certification statement that is similar or identical to the certifying language required on the corresponding paper submissions of the report, this display occurring just above the place on the screen where the submitter is prompted to initiate the signing process (§ 3.2000(e)(1)(ii)); and (3) the submitter has seen a warning—prominently displayed together with the certification statement described in (2)—that by initiating the signing process the submitter agrees that he or she is using the signature in compliance with the signature agreement that was signed when the signature device was issued (§ 3.2000(e)(1)(ii)).

The point of the first proposed condition is to ensure that the submitter reviews that data being submitted as a part of the signing process. Accordingly, an acceptable system must display the data in a format that clearly associates each data element with the name or label of the corresponding data field and also allow the submitter to carefully review all the data without time constraint. The point of the third proposed condition is to make certain the submitter fully understands that by activating the signature, he or she is taking a step with the same legal implications as signing and sending a report on paper. EPA is proposing this condition because of many environmental programs under which signing and certifying a false report—whether on paper or electronically—may subject the signatory to criminal prosecution. At least for those cases where the "click of a mouse" may create the potential for criminal liability, then, EPA believes it is important to ensure that the submitter understands what the consequences of the act might be. For this purpose, EPA believes that this warning statement should consist of at least the following:

"WARNING: By signing this report, you agree that you are [name of authorized signature holder], have protected the security of your electronic signature as required by the electronic signature agreement which you signed on [date of most recent signing], and are otherwise using your electronic signature in accordance with that agreement."

—Although we are not proposing to codify this language in the rule. EPA seeks comments on whether this language should be codified, and, more generally, on whether the three conditions to be satisfied prior to signing are necessary and sufficient to establish that the signature was affixed with the requisite intent.

EPA also seeks comment on three alternative versions of this third proposed condition that would replace the "together with a prominently displayed warning. * * *." language of (§ 3.2000(e)(1)(ii)] with a separate provision to be inserted just before (§ 3.2000(e)(1)(ii)). The simplest version would read:

"The signatory attests to compliance with an electronic signature agreement that is presented on-screen, refers to the signatory by name, and includes an acknowledgment that the signatory is the authorized registrant to whom the signature was issued; and * * *".

A more robust version would read:

"The signatory attests to a statement that he or she is the authorized registrant—referred to by name—to whom the signature was issued, has taken reasonable steps to protect the signature, and does not have any reason to think that the signature has been used by anyone else; and * * *".

The most robust version would read:

"The signatory attests to compliance with an electronic signature agreement that is presented on-screen, refers to the signatory by name, and includes an acknowledgment that the signatory is the authorized registrant to whom the signature was issued, has not in the past authorized any other person to sign on his or her behalf, has not at any time compromised the electronic signature, has reviewed all automatic acknowledgments for past submissions as described in paragraph (e)(2) of this section, and has no evidence that the signatory's electronic signature or any other feature of the electronic submission mechanism has been compromised; and * * *"

Corresponding to the three versions of the proposed regulatory provision, the suggested (but not proposed to be codified) language would be, starting with the simplest:

"(1) I, [name of signatory], am the authorized holder of the electronic signature I am about to use;

(2) I understand and agree that I will be held as legally bound, obligated, or responsible by my use of my electronic signature as I would by using my hand-written signature."

next, the more robust:

"(1) I, [name of signatory], am the authorized holder of the electronic signature I am about to use;

(2) I have taken reasonable steps to protect my signature;

(3) To the best of my knowledge, my signature has never been used by anyone else."

and, finally, the most robust:

"(1) I, [name of signatory], am the authorized holder of the electronic signature I am about to use;

(2) I have taken reasonable steps to protect my signature;

(3) To the best of my knowledge, my signature has never been used by anyone else;

(4) I have no other evidence that any component of my electronic signature has been lost, stolen or compromised in any way;

(5) I have reviewed all the acknowledgments and copies of my previous submissions to [specify the name of the electronic document receiving system]."

EPA seeks comment on the appropriateness of these variant alternatives to the proposed 'warning' provision—and their corresponding suggested statements—for purposes of establishing the intent with which the signature was applied, helping to show that the signatory was in fact the authorized signature holder, and preventing signature compromise or repudiation. EPA is especially interested in the question of whether any of these provisions might tend to discourage regulated entities from choosing to submit environmental reports electronically. EPA is also interested in comments on the need for

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any version of this 'warning' provision in view of the certifications provided in conjunction with the renewals of signature agreement discussed in the preceding section of this preamble (Section IV.D.3).

In addition, we are proposing that, once the electronic signature is affixed, and the electronic document submitted, the signature/certification scenario must include two responses from the electronic document receiving system. The first is simply an automatic acknowledgment that the report has been received and any affixed electronic signature validated, with the time and date of receipt. The purpose of this acknowledgment is, at least in part, to alert the registered holder of an electronic signature if someone has appropriated the registered electronic signature and used it to submit spurious electronic documents. As noted above, the registered holder of the electronic signature will not be allowed to sign another electronic document once aware that it has been compromised.

EPA also proposes to require that the automatic acknowledgment be sent to an address that does not share the same access control—for example, that is not protected by the same passwords or confidential log-in procedures—as the system from which the electronic report was signed and sent. The intent of this requirement is to frustrate unauthorized use of an electronic signature without detection. To elude detection, the intruder will have to compromise not only the signature protections, but also the additional system's access controls. The additional address could be electronic or could be a United States Postal Service address. In any event, the feature of the electronic document receiving system should aid in the detection of compromised electronic signatures and reduce the frequency and strength of false claims that an electronic signature has been appropriated without the knowledge of the registered holder of the electronic signature.

The second response is what we are calling the 'copy of record', also automatically created and made available to the submitter. The copy of record must include the complete electronic document that was submitted. The copy of record must be complete in the sense that it must accurately associate all of the information provided by the submitter with the descriptions or labeling of the information being requested. In addition, to be complete, the copy of record must include all the warnings, instructions and certification statements presented to the submitter as a part of the signature/certification scenario. Finally, this copy of record must: (1) Be viewable on-screen in a human-readable format that makes clear the association between each of the information elements provided by the submitter and the descriptions or labels in terms of which these elements were requested; (2) include the date and time of receipt; and (3) be signed with a secure, immutable agency electronic signature that is "bound" to this electronic document. As the name would suggest, the copy of record must be archived by the agency system, made available to the submitter for viewing and downloading, and protected from unauthorized access.

The proposed copy of record requirement is intended to detect spurious or compromised submissions, enabling timely disavowal of unintended submissions and reducing the frequency and strength of claims that an electronic document has been modified in transmission or unintentionally submitted. Under the signature/certification scenario in today's proposed rule, the copy of record will be—strictly speaking—made available to the registered holder of the electronic signature. If the signature has somehow been compromised—or if the data is somehow different from what was intended to be submitted—this copy of record, together with the acknowledgments discussed above, will give the signature-holder an opportunity to alert the agency to the compromise of his/her signature and/or his/her data. This proposed requirement is also intended to protect the agency from attempts to falsely repudiate a submission.

EPA seeks comment on whether the number and type of responses from the electronic document receiving system adequately address the issue of spurious or compromised submissions. Specifically, we seek comment on the requirements placed on the automatic acknowledgments. In addition, we are interested in views on whether it will be generally feasible for electronic document receiving systems to create copies of record with all the attributes we are proposing that they have, and whether all of these attributes are necessary for the copy of record to fulfill its intended purpose.

5. *Transaction Record.* To help settle potential disputes over whether certain submissions were made, when they were made, what they contained, or who made them, an electronic document receiving system must create a transaction record for every submission of an electronic document. EPA will require that this record be created automatically, and include the precise routing of the signed electronic document from the submitter's computer to the receiving system and the copy of record described above. In addition, based on the receiving system's clock, this transaction record must include the precise date and time of: (1) The initial receipt of the reported data; (2) the receipt of the submitter's signed certification of the data (where this step is subsequent to the initial data transfer); (3) the sending of the acknowledgment notice; and (4) the creation of the copy of record. These details may be regarded as providing the "chain of custody" for the submitted report, and help to establish its authenticity. EPA seeks comment on whether this transaction record specification is sufficiently robust to provide for "chain of custody".

6. *System Archives.* EPA also proposes to require that electronic document receiving systems maintain the contents of the transaction record described above—including the copy of record—for as long as they may be needed for enforcement or other programmatic purposes. In addition we are also proposing that the system must maintain records that show, for any given electronic submission not only what information was displayed to the user during the submission process—including the instructions, prompts, data labels, etc. captured in the copy of record—but also how this information was displayed, including the sequencing, functioning and overall appearance of these interface elements. The reason is that it may be difficult to interpret what some of the submission's data elements mean if we do not know the context within which they were provided—*e.g.*, to what on-screen display or query a "yes" was responding. Depending on exactly how the signing process is implemented, at least some of this interface information may be captured within the scope of what is bound by the signature, e.g., if the signature is applied to the entire content of the screens that are reviewed by the signatory during the signature/certification scenario. To whatever extent this occurs, the archiving of the "copy of record" would contribute to this archiving of the interface.

The system must maintain the archived records in a way that can be shown to have preserved them without any modification since the time they were created; the system must be able to make these records available to users in a timely way as they are needed. EPA seeks comments on these archiving criteria, and especially on whether there are any issues raised by the need to maintain the copy of record—which includes electronic signatures—over long periods of time. Of particular concern are copies of record that include digital signatures, as they will for electronic submissions received by the Central Data Exchange (CDX). (For an explanation of digital signatures, and their role in CDX, see Section V.B.1 of this preamble.) Ideally, the system will preserve digital signatures in a form which allows them to be validated at any point during the life of the archived records that contain them; this is the standard implied by § 3.2000(g)(2)(i) that requires the copies of record to be preserved "in their entirety" for the life of the archive. However, EPA realizes that this ideal may be difficult to implement in practice for several reasons, including:

- The sensitivity of digital signatures to very minimal (and unavoidable) deterioration of the magnetic medium in which the records are stored—so that they no longer can be validated, even though the records remain usable in every other way;
- The possible software dependence of the validation process—so that, as the archives' systems environment evolves over long periods of time, it may become increasingly difficult to operate the validation software designed to work with the archived signatures; and
- The dependence of validation on the accessibility of a public key infrastructure (PKI) certificate that was valid when the digital signature was created—so that, over time, it may become increasingly difficult to determine the keys and identifying information associated with the signature.

EPA seeks comments on these and related difficulties that may stand in the way of validating archived digital signatures, and we welcome any advice on how these might be overcome. If these difficulties cannot be overcome, or overcome only at great expense, then EPA would seek to revise § 3.2000(g)(2), by specifying alternatives to maintenance of the original signature and its validation as archived that would still allow users to demonstrate both the validity of the signature and the integrity of the record as a true picture of the data as it was signed. A possible approach might involve an archivists' wet-ink-on-paper certification that the digital signature was valid at the time the record was placed in the archive, together with appropriate measures to preserve the record unchanged. On another approach, the archivist might digitally resign the document at certain intervals, adding appropriate certifications about the validity of the original (or previous) signature on the document. EPA also seeks comment on such alternative approaches.

E. What Are the Costs and Benefits Associated With Today's Proposal?

EPA estimates that today's proposal could result in an average annual reduction in reporting and record-keeping costs for those information collections identified as potentially benefitting from offering an electronic reporting option. Based on this analysis, EPA estimates that CROMERRR could result in an average annual reduction in burden of $52.3 million per year for those facilities reporting, $1.2 million per year for EPA, and $1.24 million for each of the 30 states that were assumed to implement programs over the eight years of the analysis. For details of this study, see the technical background document, Cross Media Electronic Reporting and Recordkeeping Rule Cost Benefit Analysis in the Docket for today's proposal. EPA requests comment on whether the underlying assumptions and the methods used in the cost benefit analysis provide a realistic estimate of the costs and benefits associated with electronic reporting and recordkeeping.

1. *Scope and Method.* The purposes of the analysis was to estimate the labor hour and total cost effects (either savings or increases) attributable to each of the major elements of the CROMERRR proposal and to assess, qualitatively, the environmental implications. The major elements include: the use of modern electronic technologies for the production, completion, signing, transmitting, and recording without the use of paper copies. Within the assessment of technologies we chose three forms of electronic reporting (web forms, EDI, and XML) that EPA's CDX plans to support. For those entities using web forms, the costs of reporting to EPA electronically would be negligible, as EPA intends to provide the web forms and signature capabilities needed. In the latter two approaches (EDI and XML), EPA anticipates additional up-front cost will be incurred by regulated entities to establish EDI or XML file generation capabilities, but the savings will be larger over time, as these entities can more fully automate their reporting to EPA.

In the course of establishing projected estimates of costs and savings of electronic reporting and recordkeeping, EPA had to establish a baseline of current costs. The current costs of paper-based reporting to EPA and States delegated the authority to manage an EPA reporting program were based on an extensive assessment of EPA's official information collection request (ICR) submissions that would be subject to the CROMERRR rule, as well as more detailed cost estimates performed on major EPA systems. In performing the analysis, over 50 ICRs were extensively reviewed and approximately 70 other ICRs were more summarily reviewed. A list of the ICRs, and the approach used to analyze them, are contained in Appendix A of EPA's Cross Media Electronic Reporting and Recordkeeping Rule Cost Benefit Analysis. In the course of analyzing the ICR costs, reporting costs were broken into discrete functional areas (such as data entry, mailing, reconciliation, archiving and program management) and were analyzed for costs.

In addition to the ICR analysis, EPA performed analysis of the general costs and benefits of electronic reporting experienced by commercial and government agencies, as described in the EPA Electronic Reporting Benefit/Cost Justification Report (June 30, 1999). EPA also conducted in-depth analyses of business processes and associated costs for several major EPA programs. These analyses include analyses for Toxic Release Inventory (TRI), National Pollutant Discharge Elimination System (NPDES), Public Water Supply System (PWSS) and selected Clean Air Act reports. In addition, EPA, in conjunction with State partners in the Arizona Department of Environmental Quality (ADEQ) and the Texas Natural Resources Conservation Commission (TNRCC), conducted assessments of the potential impacts and opportunities presented by environmental electronic reporting on their EPA-delegated state programs and affected regulated entities. These programmatic and state analyses are available in the CROMERRR docket. EPA also reviewed similar analyses performed for other EPA electronic reporting efforts, such as the proposed Hazardous Waste Manifest Automation Rule. EPA invites comments on the approach used for conducting the analysis and on the list of ICRs analyzed—whether this list encompasses the spectrum of EPA requirements impacted by CROMERRR and what additional information collections, if any, should be incorporated into further analysis.

Based on the combined review of the functional areas (including data entry, mailing, reconciliation, archiving and program management) of individual ICRs, EPA identified general trends in the relative distribution of costs for each of the categories. Using the analyses conducted under the more in-depth studies performed, EPA was able to

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estimate the impacts of electronic reporting on each of the functional areas (including data entry, mailing, reconciliation, archiving and program management). For instance, by offering facilities the electronic submission as an alternative to printing and mailing the paper submissions, the percentage of costs attributed to "mailing" could be eliminated. Using this logic, EPA added the relative percentages of reductions in each of these functional areas, and determined that a general reduction of 11 percent in the overall cost of reporting could be achieved through web-based submissions, and that a 25 percent reduction could be achieved for those facilities that implement EDI or XML based exchanges.

EPA is also considering a second series of analyses, using an alternative form of calculating the costs and savings to the Agency. In performing this alternative analysis EPA would still break the costs for a program report into discrete functional areas (i.e., data entry, mailing, etc.), however the estimates of reduction would use "absolute" values instead of percentages. As an example, EPA program X has identified that the mailing of form B requires 10 minutes per submission. The costs for facilities choosing to submit electronically would take into account the elimination of mailing, and the costs for electronic reporting under that program would be reduced by 10 minutes for each submission. The advantage of this approach is that it offers potentially greater accuracy for estimating costs for each reporting program. A disadvantage is where the functional activity, such as program management, is only partially impacted by electronic reporting, determining an "absolute" value could involve arbitrary judgement calls on a program by program basis. EPA requests comment on ways to improve an analysis of this type as well as suggestions for other approaches that may better identify the potential costs and benefits of the proposed electronic reporting and recordkeeping rule.

As discussed further below, two sets of regulatory cost reduction (savings) estimates were projected—one for web based submissions and one for EDI/XML—based on a range of alternate assumptions regarding the national adoption rates for automation options. In both cases, it was assumed that 77 percent of all reports would be prepared, transmitted, and recorded electronically at full implementation. The implementation rates of facilities, however, will vary depending on the degree to which the facility implements electronic reporting for environmental requirements directly with EPA or with State regulatory agencies managing EPA-delegated/authorized environmental programs. The rates are also affected by the method (Web, EDI, or XML) the facility chooses to use in reporting to EPA or the delegated State agency. The table below describes the implementation rates for facilities under the scenarios described. The table also presents the current "As-Is" rates of paper or diskette exchange and the impacts of electronic reporting on these rates over an eight year period.

FACILITY IMPLEMENTATION RATES BY REPORTING METHOD

[In percentages]

Reporting method	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07
As-is:								
Delegated	100	100	95	89	81	73	64	56
Non-delegated	100	100	96	66	50	45	36	28
Mixed delegation	100	100	96	77	66	59	50	42
Web:	0	0	0	0	0	0	0	0
Delegated	0	0	4	8	12	18	24	30
Non-delegated	0	0	3	25	32	37	42	48
Mixed delegation	0	0	3	17	22	27	33	39
EDI:	0	0	0	0	0	0	0	0
Delegated	0	0	1	2	2	3	4	5
Non-delegated	0	0	1	4	6	6	7	8
Mixed delegation	0	0	1	3	4	5	6	6
XML:	0	0	0	0	0	0	0	0
Delegated	0	0	0	2	4	6	8	10
Non-delegated	0	0	0	4	12	12	14	16
Mixed delegation	0	0	0	3	8	9	11	13

Recordkeeping rates are not presented in the table above. However, it was also assumed that a very low number of facilities (0.5 percent) of the current regulated entities, would elect to acquire new electronic recordkeeping systems to implement the CROMERRR recordkeeping option. EPA is seeking comments on the implementation rates for reporting and recordkeeping as described in this proposed rule.

For EPA, the average annual cost to implement and operate electronic reporting and record-keeping is $25.8 million, and the average annual cost savings compared to equivalent paper-based systems is $1.2 million. The average annual cost to implement an electronic reporting system is $1.1 million for each state, and $1,273 for each facility. The net average annual cost savings of electronic reporting compared to an equivalent paper-based submission is $1.24 million for each state, and $1,140 for each facility. The total average annual costs of implementing and reporting electronically for all facilities is $3,420 million, which presents a net average annual savings for all facilities of $52.3 million over current paper-based reporting. The average annual cost to implement a new electronic record keeping system is $40,000 for each facility, and the net average annual cost savings for operating the electronic record keeping system is $23,080.

These costs are based on FY 2000 dollars and include a 7.0 % annual discount rate. Therefore, our estimates indicate that implementation of electronic reporting will result in a net burden reduction for all participants, but facilities may not find it cost-effective to develop an electronic records system unless it addresses both EPA and non-EPA business purposes. The table below summarizes the total cost of the current "as is" paper system and the future "to be" electronic reporting and record-keeping costs over the next eight (8) years for EPA, States, and regulated entities. In preparing this analysis, EPA chose to be conservative in assigning implementation rates and used technology costs based on the current year.

SUMMARY AS-IS VERSUS TO-BE COSTS AND CUMULATIVE SAVINGS ($M)

[In FY 2000 Dollars]

Cost	FY00	FY01	FY02	FY03	FY04	FY05	FY06	FY07
As-Is costs:								
Facilities	3,863.0	3,883.7	3,775.0	3,669.2	3,566.1	3,444.1	3,369.2	3,274.7
States	58.7	59.0	57.4	55.8	54.2	52.7	51.2	49.8
EPA	25.8	26.9	26.9	27.1	27.2	27.4	27.5	27.6
To-Be costs:								
Facilities	3,863.0	3883.7	3,771.3	3,629.4	3,520.8	3,357.7	3,278.7	3,197.8
States	58.7	59.0	42.3	40.1	38.4	37.5	36.2	35.0
EPA	28.4	30.7	42.3	26.9	21.5	19.6	19.3	18.4
Difference	(2.6)	(3.9)	3.5	55.6	66.8	109.3	113.8	101.0

It should be stressed that the facility cost and cost-savings estimates that these totals represent are averages per facility, and these averages cannot be translated into costs/cost-savings per report submitted electronically. The cost-related effects of introducing electronic reporting for a particular report may depend on circumstances that are unique to the data being reported, and these specifics are not reflected in the per facility averages. Accordingly, while the facility cost and cost-savings estimates are based in part on considering the ICRs that are likely to be affected by the proposed rule, the resulting cost/cost-savings numbers cannot be used 'in reverse' to calculate cost and burden reductions associated with introducing electronic reporting for any individual ICR.

In addition, the actual costs and cost-savings for implementing facilities will vary widely depending on the electronic submission approach. Companies choosing to submit using web forms will have much lower initial investment costs, but will receive less savings than companies that choose to automate their systems to generate EDI or XML file submissions to EPA. In the latter case, EPA assumes that costs associated with the implementation of EDI or XML will result from companies configuring existing XML or EDI software to EPA prescribed formats, and companies will tend not to invest in EDI hardware or software for the singular purpose of submitting data to EPA. If the electronic commerce industry trends continue, the costs of implementing technologies will decline and the number of facilities and states implementing electronic reporting will increase, thereby increasing the overall net benefits of the rule. EPA is also continuing to research electronic record-keeping options that will improve the cost effectiveness of electronic record-keeping while meeting federal enforcement requirements. EPA is seeking comment from reviewers on alternative record keeping approaches and on EPA's assumption that facilities choosing to submit data via XML or EDI to EPA will not acquire new hardware or software.

2. *Qualitative Implications.* In addition to the cost savings identified through implementation of this proposal, EPA also has identified a number of qualitative benefits through implementation of an electronic system. These qualitative benefits of electronic reporting include: enhanced quality of data received and entered into our systems, faster public access to data submitted to EPA, better tracking of compliance submissions by industry and government agencies, and opportunities for re-engineering current paper processes. EPA's Cross Media Electronic Reporting and Record-keeping Rule Cost Benefit Analysis describes the qualitative aspects in more detail.

V. The Central Data Exchange (CDX)

A. What Is EPA's Concept of the CDX?

EPA's Office of Environmental Information (OEI) is currently developing the specifications for a 'central data exchange' that will serve as EPA's primary gateway for electronic documents received by EPA. As noted in section I.B of this preamble, CDX is being designed with the goal of fully satisfying the criteria that this proposal specifies for assessing State or tribal electronic document receiving systems; similarly, EPA will ensure that other systems the Administrator designates to receive electronic submissions satisfy the criteria as well. With respect to the electronic document submission process and criteria addressed by today's proposal, we intend CDX functions to include:

- Access management—allowing or denying an entity access to CDX;
- Data interchange—accepting and returning data via various of file transfer mechanisms;
- Signature/certification management—providing devices and required scenarios for individuals to sign and certify what they submit;
- Submitter and data authentication—assuring that electronic signatures are valid and data is uncorrupted;
- Transaction logging—providing date, time, and source information for data received to establish "chain of custody";
- Acknowledgment and provision of copy of record—providing the submitter with confirmations of the data received;
- Archiving—placing files received and transmission logs into secure, long-term storage;
- Error-checking—flagging obvious errors in documents and document transactions, including duplicate documents and unauthorized submissions;
- Translation and forwarding—converting submitted documents into formats that will load to EPA databases, and forwarding them to the appropriate systems;
- Outreach—providing education and other customer services (such as user manuals, help desk) to CDX users.

The idea is to eventually provide—to the greatest extent possible—one way and one place for the regulated community to exchange electronic documents with EPA. States may also choose to use CDX as a gateway for electronic data submissions from their regulated community, as a cost-effective alternative to building their own system. EPA is exploring opportunities to leverage CDX resources for use by authorized/approved state programs. CDX may also provide the platform for State-EPA data exchanges that

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implement administrative arrangements for data sharing. However, as with the provisions of the proposed rule, the features and functions of CDX described in this Section will generally be inapplicable to these State-EPA exchanges.

With respect to EPA's electronic transactions with regulated entities, our hope is that the uniformity of process and technology that CDX provides will help both EPA and regulated entities realize economies of scale from their investments in data exchange technologies. This is not to say that use of CDX to submit electronic documents will necessarily involve substantial investment; it will require little more of a submitter than access to a computer with a browser and an Internet connection. However, for organizations that have invested heavily in the computerized management of their environmental data, CDX is also being designed to support substantial automation of the data transfer processes. In addition, EPA hopes that CDX's centralization of data exchange will eventually provide the platform for greater integration or consolidation of environmental reporting.

B. What Are the CDX Building Blocks?

To support its various functions, we are designing CDX to incorporate a number of key building blocks, including:

- Digital signatures based on public key infrastructure (PKI),
- A process for registering users and managing their access to the CDX,
- A characteristic systems architecture,
- Electronic data interchange (EDI) standards, and
- A characteristic environment in which electronic reporting transactions will be conducted.

These building blocks—as explained in detail in the following sections—are meant to ensure that CDX can perform the functions of an electronic document receiving system under the proposed rule. EPA believes that these building blocks, taken together, will satisfy the criteria in today's proposal for electronic document receiving systems, but seeks comment on this general question.

1. Public Key Infrastructure (PKI)-Based Digital Signatures

PKI-based digital signatures are the product of two concepts:

- "Asymmetric" cryptography, and
- An institutional framework for "certifying" the identity of a signature-holder, provided by PKI.

Taking these in order, "asymmetric" cryptography is based on a mathematical relationship that exists between certain pairs of numbers, for example number A and number B, such that

- If A is used to encrypt some message, B and only B can decipher it, and
- If B deciphers the message, it can only have been encrypted with A.

For purposes of a digital signature, then, A and B are uniquely assigned to individual X. (How this works is described below, in connection with explaining the "institutional framework" provided by PKI.) One of the numbers, say A, submitter X shares with no-one. This is X's "private key". The other, B, is X's "public key", and X shares B with anyone to whom X wishes to send a message—X may even publish B together with information that identifies him/her as X.

Given his two keys, X then signs an electronic document as follows: (1) X uses a standard formula or algorithm to produce a number uniquely related to the content of the electronic document. This is referred to as the "message digest" or "hash" of the document. (2) X uses A, the private key, to encrypt this hash; this encrypted hash is X's digital signature, and it is unique both to X and to the particular message it signs. (3) X attaches this digital signature to his/her message (which is otherwise not encrypted), and sends it.

When Y gets X's message, Y validates X's signature by: (1) Deriving the hash of the message, using the same standard algorithm that X used; (2) deciphering X's digital signature, using X's public key, B; and (3) comparing the hash Y derived (in step1) with the deciphered signature. The two numbers—the derived hash and the deciphered signature—should agree. If (and only if) they do, then Y knows both that the signature was produced using A (which belongs to X), and that the message has not changed since X signed it.

Because the digital signature is specific to the particular document, and is unique in each case, to say that X is a "signature-holder" in this context is to refer to A and B, the private/public key-pair. The A/B key-pair does belong to X and plays the same role in each of the many digital signatures X may create through the process described above. Accordingly, it is this key-pair—rather than the individual signatures they are used to create—that is associated with the process of certifying a signature-holder's identity that is provided by PKI.

Turning to this, PKI is a way of reliably establishing and maintaining the identity of the individual associated with a given key-pair used in producing digital signatures. This protocol involves the issuance of a "PKI certificate" by a "trusted" "certificate authority" (CA). The CA is "trusted" in the sense that it operates in conformance with an appropriate certificate policy, and has demonstrated this conformance through its operations across a wide range of electronic commerce applications.

Issuing a certificate for individual X typically involves the following steps: (1) X applies to the CA for a certificate; (2) the CA requests various pieces of personal information from X, and/or notarized verifications of X's personal information, and/or X to appear in person, to provide the CA with the bases for "proving" X's identity; (3) the CA provides X with a way to generate his unique key pair; (4) the CA conducts the "identity proofing" process—matching what X has provided against information about X in various commercial databases, official documents, etc.; (5) when the "identify proofing" is successfully completed, the CA creates a "certificate" for X that incorporates his public key, along with various pieces of identifying information about X; (6) the CA digitally signs the certificate to certify its authenticity, and makes it available to users through directory services. Some of these steps—especially the "identity proofing" process—may vary considerably, depending on requirements for security/certainty and the policies and practices of the particular CA. In the approach that EPA is currently planning, certificate issuance will be incorporated into a broader CDX registration process. The discussion of registration in the next section will include some of the proposed specifics of "identity proofing" and related steps for CDX purposes.

The use of PKI-based digital signatures is itself supported by a very robust infrastructure of electronic commerce tools and practices, private- and public-sector policies and standards, as well as a very large and growing body of theoretical research into the mathematical foundations for this approach. Within the federal government, the importance of PKI is recognized not only by the ACES initiative (discussed below), but also by a standing "Federal PKI Steering Committee" with the mandate to promote and coordinate the adoption of PKI-based digital signatures for a broad range of applications across all federal

agencies. In addition, federal agencies may rely on security and PKI technical requirements published in the Federal Information Processing Standards (FIPS) developed by the National Institute of Standards and Technology, available at *http://csrc.nist.gov/fips/*.

2. The CDX Registration Process

Under the system EPA is designing, to submit electronic documents to EPA you must first register with CDX, and—at least at the outset—registration will be by invitation from EPA. Generally, as CDX is readied to receive a specified report, EPA will extend registration invitations to all individuals who currently submit that report to EPA on behalf of their organizations, and are identified as having this responsibility in EPA's Facility Registry System (FRS) database. If you have this responsibility but do not receive an invitation, you will have the opportunity to notify EPA and put yourself on our invitation list. However, if you submit the specified report to a State, tribal or local agency, you will not receive a CDX invitation, since your reporting transaction would be with that agency's electronic document receiving system, and not with CDX.

If you decide to accept an invitation to report electronically, you will go through a registration process that involves three steps:

- Invitation and verification,
- Certificate issuance, and
- Access and agreement.

Taking these in order, EPA will initiate the process by sending you a letter, through the United States Postal Service. The letter will indicate the opportunity to report electronically, provide a CDX web-site address and access code, and invite you to start the registration process by logging on to the CDX site and verifying your name, address, organizational affiliation and area of reporting responsibility as posted on that site. This verification session will conclude by providing you with the web-site address for the Certificate Authority (CA) that will take you through step 2 of the process.

Of course, you may not have the responsibilities that the CDX site indicates. That is, you may not be the individual who signs and submits the environmental reports the site specifies on behalf of your company. In that case, you will be invited to indicate the individual(s) who do(es) have these responsibilities, and that will conclude your own interaction with CDX. EPA will then update FRS, and issue new invitation letter(s) to the correct individual(s). Assuming you are the correct individual, step 1 may in some cases involve EPA asking for a letter from a responsible company official, on company letterhead, confirming that you have the responsibility to the sign and submit the environmental reports in question. Finally, as a part of step 1 you may also be prompted to nominate one or two individuals as "alternate" submitters, to receive their own invitations to register and, via step 2, to obtain their own PKI certificates. EPA is considering this provision for "alternates" so that there will always be someone at the facility available to sign electronic submissions with their own private key, in case you— as the primary submitter—are unavailable during a period when a document is due. EPA seeks comment on the value of the confirming letter, and of providing for these "alternates", and on whether these would impose any unacceptable costs or burdens on regulated entities.

Moving on to step 2, certificate issuance will largely be in the hands of the certificate authority (CA). EPA's current plan is to secure CA services through the General Service Administration's (GSA) Access Certificates for Electronic Services (ACES) program. Under ACES, EPA will contract with one of the ACES vendors to issue and manage certificates for individuals wishing to submit electronic reports to CDX. More information on ACES is available at the ACES website: *www.gsa.gov/aces*.

Assuming the ACES approach, then, issuance of your certificate will consist of a sequence of events similar to the following:

- You log onto the ACES CA's web-site, using the address provided at the end of step 1, and the access code provided in the initial invitation letter;
- You provide personal and business information that may include some of the following items—your name, home address, e-mail address, social security number, telephone number, credit card number, driver's license information, employer's address, common name of your employer, legal company name of your employer, name and telephone number of your direct manager, and name and telephone number of a human resource contact;
- During this initial ACES CA session, the CA will also enable you to generate—on your own computer—a public and private key pair, and your public key would automatically be included in your certificate request;
- The CA will use your personal and business information to conduct the identity-proofing process; this takes approximately three days;
- After the CA validates your identity, you will receive a letter via the US Postal Service notifying you that your certificate is ready; notification will include a PIN for access to the certificate retrieval website;
- You may be asked to return to the ACES CA web site to confirm the receipt of your certificate and acknowledge that you have read and agree to abide by the conditions of your new EPA-sponsored certificate;
- You will download the certificate to your browser, the CA notifies CDX that you have received your certificate, and CDX initiates step 3.

Under the ACES approach, the personal information you supply for purposes of "identity proofing" must include at least three items, and at least one of these must be something assigned to you based on an in-person identity verification process, e.g. a passport number or driver's license number. In addition, because your identity as an official of a regulated company is central to your relationship with EPA, the "identity proofing" performed by the CA may also include verification of your company's identity, including address, legal name, names of directors and officers, and current operating status. EPA seeks comment on any aspect of this "identity proofing" approach, and specifically on the need to have the CA collect the personal and business information listed above, as well as any comment on the ACES certificate issuance process as a whole.

It is worth stressing that the items of personal information selected for "identity proofing" will be submitted to the CA, and not to EPA, and this personal information will not be available to or maintained by EPA. However, some basic personal information—specifically, your name, your contact information (email address, phone/fax/mobile/pager numbers), your mailing address and your organizational role (*e.g.*, consultant, environmental manager, etc.) may be submitted to (or verified as correct by) EPA as a part of step 1 of the registration process, preceding ACES certificate issuance. Step 1 may also involve EPA's collecting or verifying some of the business-related items that can also be associated ACES "identity proofing"—specifically, your employer's address, common name of your employer, legal company name of your employer, name and telephone number of your direct manager—plus, possibly, the following additional items of information: facility name and address, EPA program reporting area (*e.g.* Hazardous Waste, NPDES, etc.), EPA program or permit identification number, and preferred

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method of electronic reporting (e.g., web form, EDI, etc.). EPA seeks comment on the need to collect/verify these items of personal and business-related information as a part of step 1 of the registration process.

In step 3, CDX will create a system account for you, including a controlled-access mailbox, sending you by regular mail the password and user identification code to gain access to your account. When you initially use these to access your account, you will be instructed to download any client desktop software from CDX that may serve to support the digital signing of your electronic submissions. You will conclude the registration process by printing out and signing on paper a registration agreement included with the downloaded software. The agreement will affirm your understanding that, among other things:

- Digital signature/certification has the full legal force of a corresponding signature created with wet ink on paper;
- You must protect the access to your CDX mailbox, to your client CDX desktop, and to the private key used to create your digital signature;
- You must never delegate the use of your private key, or provide anyone else access to it in any other way;
- You must immediately notify EPA if you have any reason to suspect that your CDX mailbox, CDX-supplied client software, or private key has been compromised

The full agreement would conform closely to the text suggested in subsection IV.D.3 of this preamble.

Upon receiving this agreement, with wet-ink-on-paper signature, CDX will recognize you as a fully-registered and authorized user. As proposed in today's rule, CDX will require a process for you to renew your registration, probably once every two years, although—corresponding to the discussion in Section IV.D.3 of this preamble—EPA seeks comment on less frequent renewals, for example, at intervals of 3, 4, or 5 years. This will include certifying that you have complied with the terms of your initial registration agreement, and, in particular, that you have not in any way compromised or delegated access to your private key, to your private CDX account, or to your CDX client software, and that you have no other evidence that any of these items have been compromised. Again, the full text of this agreement would conform closely to the text suggested for agreement renewal in Section IV.D.3 of this preamble. This certification will probably be printed out by your desktop software, require a wet-ink-on-paper signature, and be submitted through the United States Postal Service. Failure to submit this certification would terminate your access to CDX, and could lead EPA to require supplemental certification of previous submissions. The EPA is seeking comment on this proposed approach to registration renewal, the requirement that the agreement be renewed, and the frequency of the renewal. We are also seeking comment on whether it could be accomplished via an electronic submission rather than on paper.

3. The CDX Architecture

In designing the CDX architecture, EPA has been guided by three goals:

- Flexibility in exchanging data—that is, the ability to support a number of different data exchange mechanisms, including batch file transfers in various formats, web-based file uploads, as well as on-line data entry;
- Uniformity in signing/certifying submissions—that is, providing for a uniform way for individuals to sign and certify their electronic documents, no matter how the data they contain was transferred; and
- Adequate security for all aspects of CDX operation—that is, the assurance that authorized users of CDX, including EPA, retain control over the CDX operations for which they are responsible.

The goal of flexibility arises from knowledge that the organizations that might want to submit electronic documents to CDX apply information technology to environmental management many different ways. At the one extreme may be large companies that have correspondingly large quantities of data to submit—data that they maintain in databases and would prefer transfer in as automated a mode as possible. At the other extreme are small businesses that may be equipped to enter their data into some sort of user-friendly 'smart' form—on-line or off-line—but would not otherwise computerize their environmental data. And, in the middle, are organizations that may use relatively simple database or spreadsheet tools for their environmental data, but are not prepared to automate a data transfer process. In designing CDX, EPA in trying to accommodate all of these varying levels of computerization—providing organizations with modes of data transfer that fit their capabilities while allowing them to take advantage of whatever level of data capture and automation they have already achieved.

While organizations may differ considerably in how they want and are able to transfer data, there needs to be a consistent approach for the responsible company official's review and certification—by signing—to the truth and accuracy of the data transferred. In all cases this will be accomplished by a human interaction with the medium in which the data is displayed, and some human action to create the signature in that medium. For any case that calls for a signature, CDX will always provide the same uniform set of procedures for reviewing the data and creating the signature.

The CDX will also be designed to provide the requisite system security. Obviously, the CDX must involve protection for the data that CDX receives and maintains from any unwanted intrusion or tampering. It must also protect the data as it travels from the submitter to the CDX. The system security must also include elements that ensure that the signature/certification process is not compromised. For example, CDX must provide certificate holders with a way to secure their private key and to control access to any messages that confirm or respond to submissions, so that they can be assured that no spurious transactions with CDX will be conducted using their electronic signature.

To achieve these goals, EPA is planning to base CDX implementation on client-server architecture. This means that CDX will manage the transactions with submitters through a computer operated by EPA that interacts with computers at the submitter's site. To provide for the desired flexibility, the EPA server is being designed to accept data via a variety of transfer mechanisms in variety of formats, ranging from Internet File Transfer Protocol (FTP) submissions of spread-sheet files to standards-based electronic data interchange (EDI) transmissions via private value-added network (VAN). These file formats and transfer protocols will be discussed below.

To ensure a uniform signature/certification process, CDX would provide the computers from which it accepts electronic documents (otherwise known as "client" personal computers (PCs)) with copy-protected and password-protected client software that will support the digital signing of your electronic documents. You will be prompted to download and install this software once you complete the registration/certification process, and access your password-protected mailbox on the CDX server. (You would also be given a detailed user's guide, which will provide step-by-step instructions on download and installation.).

To operate this CDX client software, and interact with the CDX server, your PC system will have to have: Internet

access; at least a 486 processor (with Pentium recommended); 2 to 5 MB of available hard-drive space to install program software; access to a printer; and Microsoft Windows 95, 98 or NT 4.0. Given the planned use of digital signature certificates, your system will also be required to run one of the following Web browsers: Internet Explorer 4.01, Internet Explorer 5.0, Netscape 3–4.05, Netscape 4, or subsequent versions of these browsers. In addition, you should have backup capability of some form (e.g. tape system, off-line disk storage, or access to a separate network server.); an effective backup program provides protection against system malfunctions and ensures that you can retain a copy of your submissions as required by EPA regulations. EPA seeks comment on whether these system requirements impose unacceptable costs or burdens on regulated entities, and whether additional processors and operating systems should be accommodated.

Concerning protection of the server, CDX will be designed to incorporate "firewall" security, in addition to the usual system security provisions to control physical access to the system and prohibit unauthorized internal access. Very generally, a "firewall" is software that controls the flow of data files between a system and a network to which it is connected, to ensure (among other things) that only files from recognized and safe sources are allowed to enter. As transmissions flow through the CDX firewall, for example, they will be automatically virus-scanned, and the system would not attempt to process a file that contains a suspected virus. (If a virus is detected, the submitter would be notified and asked to resubmit the report.) The server will also be protected with intrusion detection software that alerts the system operators to suspected attempts to penetrate or "hack" the system. The system operators will use the logging capability of the firewall and the intrusion detection system to monitor the health and status of the system and respond to unauthorized efforts to use or modify the system. In terms of protecting the system clock, CDX will be configured so that changes to the clock can only be made under a single user ID and password, and the server will be placed in a locked rack so that an unauthorized person cannot use a reboot sequence to change the clock settings. In addition, the system clock will be synchronized with the atomic clock at least once a day to ensure that the system time is extremely accurate.

Once a submission passes through the firewall, CDX will initiate the first of several processes that, among other things, will create a robust archive of the original submission, including:

- The submission files in their entirety, exactly as they were sent, including any enveloping/addressing/routing/date-time information. These will be captured and archived upon receipt by CDX, immediately after a successful virus scan; archiving will include a digital signing of the files by EPA to ensure file integrity;
- The electronic document as it was signed with its submitter digital signature affixed; these will be captured after the digital signatures are verified, and will include data generated by the verification process;
- The electronic document as it was signed, with the verified digital signature affixed, the date and time of receipt and EPA's digital signature of the entire content; this will constitute the "copy of record"
- The submission acknowledgments sent back to the submitter with EPA signatures, including the data and time these are transmitted.

If, at a later date, there is a question about the file that was received, the EPA can use this sequence of archived files to verify that no changes have been made to the original input from the submitter. Of course, we believe the fact that these archived files are digitally signed will make it impossible for any of these files to be modified without detection. As noted earlier, a digital signature is a function of the "message digest" or "hash" of the document or file it is used to sign. Any modification to the file would change its "hash"—which will be different for each variation of the file—and this would automatically invalidate the signature. A change in even a single character of a file or document would invalidate its digital signature, and would trigger an error warning when processed by the CDX server.

In terms of archive storage, the CDX will archive to multiple formats: hard disk, tape, and optical media. This use of multiple formats is designed to ensure that degradation of one format would not jeopardize EPA's long-term storage capability for submitted data. The CDX archives will be written out to an online disk system when they are first created. They will be copied to an off-line disk system and also backed up to magnetic tape every day, with full backups to tape on a weekly basis. The schedule for backup to optical media—and the requirements for rapidity of retrieval—have not yet been decided, and EPA welcomes any suggestions in this area. The optical media archiving is intended to provide for long-term storage, extending to periods of 20–50 years.

Finally, CDX will also provide security for data exchanges. To protect client-server transactions, including the report submission and transmission of acknowledgments, CDX will use a protocol that encrypts the files being exchanged between a "client" PC and the CDX server while these files travel through the network. In addition, the private key, as already noted, will be password protected; it will also provide separate password protection of access to the private key that generates the digital signature. To further protect a user's account from theft or spurious use by an intruder across a company network, current planning calls for the CDX client software to be "localized" to the particular PC on which it is installed—preventing access to this software installed on a particular PC from other PCs connected to it via a network. It is worth adding that, when the private key is created—in connection with the registration process—this can be done in a way that prohibits its export. If this option is invoked, the private key can never be moved—whether to a floppy or to another computer—so if a signature-holder had to move to another machine, the existing public/private key pair assigned to this individual will have to be abandoned, and he or she will have to apply for a new certificate. While EPA is not currently planning to require this option, we are seeking comment both on whether it would involve too much burden for users and on whether the option is necessary to protect the private key from compromise.

4. Electronic Data Interchange (EDI) Standards

As discussed in section IIA, above, EPA has, historically, based its approach to electronic reporting on EDI standards, specifically those developed and maintained under ANSI ASC X12. Today's proposal represents a departure from this approach, in that the regulatory language itself does not specify any particular data formats or transaction set standards. In addition, as already noted, the system that EPA is proposing to use in implementing electronic reporting—the 'Central Data Exchange'—will not specify ANSI X12 standards as the only syntax for automated transfers of compliance data. Nonetheless, the EDI standards on which we have relied in the past will still serve to define many of the data sets that we expect CDX to accept from our submitters.

There are two reasons for this. The first is simply that a significant minority

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of very large company submitters conduct their electronic commerce using ANSI-based EDI; we want to be able to accommodate these companies and allow them to conduct their transactions with CDX using the same infrastructure they use in commerce. The second reason, is generally that ANSI standards continue to provide a precise, well-documented and widely-recognized way of describing the structure of electronic transactions—including the elements of data involved and how they are related to each other. By providing this clarity, these standards-based descriptions facilitate the implementation of an electronic transfer even where ANSI X12 is replaced by another format for the data files—that is, another way of ordering, grouping, labeling and separating the elements of data. In addition, many of the commercial off-the-shell (COTS) electronic commerce products can translate X12 syntax into other formats, such as "extended mark-up language" (XML).

CDX will make EDI available for many, if not all, of the reports and other documents it is set up to receive. Beyond issues of configuring the CDX server software to recognize and process EDI-formatted files, implementation of EDI is largely a matter of developing the implementation guidance for each of the environmental reports to be supported. As noted in Section II.A of this preamble, the implementation guidance does three things. First, it addresses such procedural matters as: interactions with the communications network (which, under current plans, can be a 'value-added network' or 'VAN', but can also be the Internet), schedule for submissions and acknowledgments, transaction records to be maintained, and so on. Second, it stipulates the specific ANSI X12 standard file transmission formats—that is, "transaction sets"—to be used for the specified reports. Third, the guidance specifies how the stipulated transaction sets being used are to be interpreted as they are applied to the environmental report in question.

As noted in Section II.A, X12 transaction sets are generic in the sense that they typically leave a number of their components as 'optional', and use data-element specifications that are open to multiple interpretations. Therefore the implementation guidance must, at the very least, establish the correlation between the generic data elements and the specific data elements in the EPA report that would be put into this format—in essence, this is to specify which data field in the EPA report goes where in the transaction set format. This is sometimes described as mapping the generic transaction set to the particular set of data elements it will serve to format. The result of this "mapping" process is often referred to as the "implementation convention" (IC) of the transaction set for the report or document in question. Accordingly, each EPA program-specific implementation guidance will include the applicable ICs.

EPA has written and codified ICs for many of the Agency's major compliance reports, and several more are under development. These ICs have been (or will be) approved as a 'Federal Implementation Convention'. This approval process, which involves public notice and comment, is managed by the Federal Electronic Data Interchange Standards Management Coordinating Committee (FESMCC), under the Federal Information Processing Standard Publication (FIPS PUB) 161–2, entitled "Electronic Data Interchange." All approved Federal IC's are registered with the National Institute of Standards and Technology (NIST). The NIST registry, now including 863E, is posted at: *http://snad.ncsl.nist.gov/fededi/*. Whenever EPA intends to upgrade to a new version or release of the ANSI X12 standards, or in any other way modify the applicable IC, EPA will give notice of its intent in the **Federal Register** and will establish a conversion date. Affected regulated entities will then have a minimum of sixty (60) calendar days from the conversion date to conform to the modified IC; EPA will discontinue support of the previous version of the IC no sooner than ninety (90) calendar days after the conversion date.

The full list of currently approved ICs is:

- 863E—Report of Test Results (Discharge Monitoring Report): This IC is available in *PDF, RTF, ASCII, SEF* formats for Version 4010 from *http://snad.ncsl.nist.gov/dartg/edi/4010-ic.html*
- The 863S—Report of Test Results (Safe Drinking Water) IC is currently in the FESMCC approval process. When approved, it will be available in *PDF, RTF, ASCII, SEF* formats for Version 4010.

In addition, ANSI ASC X12 has recently approved a new transaction set specifically developed by EPA to support environmental reporting, the 179. The 179 consolidates several EPA reports into a single transaction set. The 179 can convey a Discharge Monitoring Report, Hazardous Waste Report, Toxic Release Inventory report, the Air Emission Inventory report, or Risk Management Plan. The 179 was published initially in the ANSI ASC Version 4031. The ICs for the 179 are being developed and will coordinated through the FESMCC process and published on the NIST web site after approval.

5. The Transaction Environment

As explained in earlier sections, CDX would allow submitters to transmit data either through automated file transfer, or via on-screen "smart forms" provided as a part of the downloaded "desktop". In either case, however, the signature/certification "scenario"—that is, the series of steps surrounding the digital signing of the report—will be the same, consisting of:

- A data review sequence,
- The signature process, and
- An acknowledgment sequence.

These steps will largely be governed by operation of the CDX software, and the interaction of the client PC with the CDX server.

Taking these in order, data review will take place online, with the CDX server providing the transmitted data for submitter review in a format that is easily read and understood, possibly with a visual layout similar to the applicable paper form (if there is one). The server will present the data one screen at a time—downloaded to the client browser—and it will not allow the submitter to initiate the signing process until the last screen has appeared. The review sequence will end when the submitter clicks a button at the bottom of the last data screen to initiate signature.

Once initiated, the signature process will first display the certification statement, certifying to the truth of the data to be submitted, and also including a warning that by initiating the signing process the submitter agrees that he or she is using the signature in compliance with the signature agreement that was signed when the signature device was issued. The exact content and wording of the first of these statements will be consistent with the language suggested for this purpose in sub-section IV.D.4 of this preamble. In any event, the submitter will be prompted to click agreement with this statement, after which the submitter will be prompted to enter his or her password launching the digital signature process. The digital signature will be created by using the submitter's private key to encrypt a 'hash' of all the elements of the screens the submitter has reviewed—including screen layout, data field labels, data elements, and certification statements. Once the signature is created and affixed, the signed report will be immediately transmitted to the server.

Transmission to the server will initiate the acknowledgment sequence. Upon receipt of the transmission, CDX will automatically create an acknowledgment that includes the date and time of receipt. This acknowledgment will be posted to the submitter's password-protected mailbox on the server, and/or to a submitter-specified email address. In addition, the server will also create a "copy of record" of the submission, by applying an EPA digital signature to the entire file received, including the submitter's digital signature. EPA will count this "copy of record" as the "original" of the submission for all legal purposes, and will maintain this electronic document in the CDX archive. As currently planned, this "copy of record" will be placed in the submitter's password-protected mailbox on the server. When the submitter next logs into CDX, the first screen he or she sees will present the list of copies of record (and acknowledgments, unless these are sent by email) that currently await submitter review; the submitter will be able to download and archive these documents. Of course, the submitter will be encouraged to review these copies of record to confirm that they correspond with what he or she intended to submit, and to notify EPA immediately in the case of any discrepancy.

In our design of this three-part scenario (data review, signature process, and acknowledgment), our major goals have been to make CDX simple, intuitive and easy for submitters to use, while—at the same time—ensuring that a submitter knows and understands what he or she is certifying, the meaning of affixing a digital signature to the electronic document, what has happened, and what EPA considers to be the document that was submitted. EPA seeks comment on the appropriateness of these goals and whether more or less should be designed into CDX to ensure that it meets these goals.

VI. Regulatory Requirements

A. Executive Order 12866

"Pursuant to the terms of Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this rule is a "significant regulatory action" because it raises novel legal and /or policy issues. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule would not require States to accept electronic reports. The effect of this rule would be to provide additional regulatory flexibility to States because States could choose to accept electronic data in satisfaction of EPA reporting requirements. Authorized States that did choose to accept electronic reports under this rule would incur expenses initially in developing systems or modifying existing systems to meet the criteria in this rule. However, the Cost/Benefit analysis associated with this proposed rule, summarized in section IV.E of this preamble, estimates that States' overall cost savings from implementing electronic reporting will more than compensate for these initial expenses. Additionally, EPA believes that even in the absence of this proposed rule, States' implementing electronic reporting on their own initiative would generally choose to meet the criteria that this rule proposes. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State and local officials in developing this rule.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2002.02) and a copy may be obtained from Sandy Farmer by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by email at *farmer.sandy@epamail.epa.gov*, or by calling (202) 260–2740. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*.

The proposed rule would allow reporting entities to voluntarily submit reports and other information electronically, thereby streamlining and expediting the process for reporting. It will also allow facilities to maintain electronic records for information/data currently required by regulation or statute to be maintained by the regulated entity onsite. EPA is proposing this rule on cross-media electronic reporting and record-keeping, in part, under the authority of the Government Paperwork Elimination Act, Public Law 105–277, which amends the PRA.

The CROMERRR ICR primarily covers the registration information which will be collected from individuals wishing to submit electronic reports on behalf of a regulated entity and will be used to establish the identity of that individual and the regulated entity he or she will represent. It also covers activities incidental to electronic reporting. Submission of reports in an electronic format will be voluntary.

The total annual reporting and record-keeping burden this ICR estimates for all facilities is 874,853 hours, which includes the tasks of collecting data, managing the system, and keeping records. A more detailed description of these activities includes the following: registering with EPA or State electronic document receiving systems, including invitation, verification, certificate issuance, and access and agreement; renewing registration with the electronic document receiving system once every two years; activities related to maintaining the electronic signature, including renewing the signature

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certificate, reporting loss, theft, or other compromise of any component of an electronic signature, and surrender of electronic signature; and facility electronic record-keeping, including generating and maintaining complete e-records and documents. It is expected that tasks associated with system registration will take an average of one (1) hour per registrant/entity and the estimated number of likely respondents is 324,370. For the first year, there will be start-up and annual operation and maintenance (O&M) costs. Costs for the following two years will only involve annual O&M, based on the assumption that the registration will be valid for three years. Total annual start-up costs are estimated at $10,700,000.00 and annual O&M costs are estimated at $5,100,123.96.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 31, 2001, a comment to OMB is best assured of having its full effect if OMB receives it by October 1, 2001. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, provides that, whenever an agency promulgates a proposed rule under section 553 of the Administrative Procedures Act, after being required by that section or any other law to publish a general notice of rulemaking, the agency generally must prepare an initial regulatory flexibility analysis (IRFA). The agency must prepare a Final Regulatory Flexibility Analysis (FRFA) for a final rule unless the head of the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

Today's rule is not subject to the RFA because electronic reporting and record-keeping is voluntary and will only apply to those States and tribes that seek EPA approval to allow electronic reporting and record-keeping under their authorized programs and to regulated entities that seek to maintain records or transmit compliance reports electronically to EPA or authorized/approved States or tribes. These changes will reduce the burden on all affected entities, including small businesses. Accordingly, this rule is certified as having no Significant economic impact on a substantial number of small businesses. Respondent burden is the burden placed upon each individual reporting entity involved in set up, configuration and implementation of electronic submission of environmental compliance reports. Regulated entities will find that the initial set up process requires some expenditure of time and resources, but in the long run, this process will reduce the time spent on submissions each year. The Cost/Benefit analysis associated with this proposed rule, summarized in section IV.E, estimates that electronic reporting and record-keeping, when fully implemented, will reduce regulated facility compliance cost by more than $300 million per year. The Administrator therefore certifies, pursuant to section 605(b) of the RFA, that this rule will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small-government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The Agency has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. Today's rule provides additional flexibility to the States in complying with current regulatory requirements and reduces the burden on affected governments. Thus, today's rule is not subject to the requirements in sections 202 and 205 of the UMRA.

The Agency has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and thus this rule is not subject to the requirements in section 203 of UMRA. This rule will not significantly affect small governments because it provides additional flexibility in complying with pre-existing regulatory requirements.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves information technology standards for electronic formats and for electronic signatures. EPA is exploring a number of standards-based approaches to Web forms, including electronic data exchange formats based upon the American National Standards Institute (ANSI) Accredited Standards Committee's (ASC) X12 for Electronic Data Interchange or EDI. EPA is also proposing Internet data exchange formats based on the Extensible Mark-up Language (XML) specifications developed by the World Wide Web Consortium (W3C). The World Wide Web Consortium, however, is not a voluntary consensus standards body within the meaning of the NTTAA, and EPA could not identify an applicable consensus standard for creating and transmitting data using XML. Therefore, EPA has decided to propose an XML data exchange format, referred to as a document type definition for Internet transmissions as an alternative to the ANSI ASC X12 formats that are customarily transmitted across Value Added Networks. It is possible that the ANSI ASC X12 standards body will develop standards for XML document definitions in the future, and EPA will monitor this situation as we develop a final rulemaking.

G. Executive Order 13045

The Executive order, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) "economically significant" as defined under Executive Order 12866 and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. EPA interprets the Executive Order 13045 as encompassing only those regulatory actions that are risk-based or health-based, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation.

This rule is not subject to Executive Order 13045 because it is not an economically significant action as defined by Executive Order 12866 and it does not involve decisions regarding environmental health or safety risks. This rule develops technical procedures for the voluntary submission of environmental compliance data electronically.

H. Executive Order 13175

Executive Order 13175, entitled, "A Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The proposed rule would not require Indian tribes to accept electronic reports. The effect of this rule would be to provide additional regulatory flexibility to Indian tribes because tribes could choose to accept electronic data in satisfaction of EPA reporting requirements. Authorized tribal programs that did choose to accept electronic reports under this rule would incur expenses initially in developing systems or modifying existing systems to meet the criteria in this rule. However, the Cost/Benefit analysis associated with this proposed rule, summarized in section IV.E of this preamble, estimates that tribes' overall cost savings from implementing electronic reporting will more than compensate for these initial expenses. Additionally, EPA believes that even in the absence of this proposed rule, Indian tribes' implementing electronic reporting on their own initiative would generally choose to meet the criteria that this rule proposes. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

I. Executive Order 13211 (Energy Effects)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. EPA has concluded that this rule is not likely to have any adverse energy effects.

List of Subjects

40 CFR Part 3

Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds, Electronic Reporting and recordkeeping requirements, electronic reports, electronic records.

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Electronic Reporting and recordkeeping requirements, electronic reports, electronic records.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Electronic Reporting and recordkeeping

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requirements, Electronic reports, Electronic records.

40 CFR Part 123

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records.

40 CFR Part 142

Environmental protection, Administrative practice and procedure, Chemicals, Indians-lands, Radiation protection, Reporting and recordkeeping requirements, Water supply, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 145

Environmental protection, Confidential business information, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water supply, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records.

40 CFR Part 162

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements, Pesticides and pests, State registration of pesticide products, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 233

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records.

40 CFR Part 257

Environmental protection, Waste treatment and disposal, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and record-keeping requirements, Water pollution control, Water supply, Electronic Reporting and recordkeeping requirements, Electronic reports, Electronic records.

40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous substances, Insurance, Intergovernmental relations, Oil pollution, Reporting and recordkeeping requirements, Surety bonds, Water pollution control, Water supply, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records.

40 CFR Part 403

Environmental protection, Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 501

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Sewage disposal, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records.

40 CFR Part 745

Environmental protection, Hazardous substances, Lead poisoning, Reporting and recordkeeping requirements, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

40 CFR Part 763

Environmental protection, Administrative practice and procedure, Toxic substances, Asbestos, Hazardous substances, Imports, Reporting and recordkeeping requirements, Electronic Reporting and record-keeping requirements, Electronic reports, Electronic records, Intergovernmental relations.

Dated: August 23, 2001.

Christine Todd Whitman,

Administrator.

Therefore, it is proposed that title 40 chapter I of the Code of Federal Regulations be amended by adding a new part 3, and revising parts 51, 60, 63, 70, 123, 142, 145, 162, 233, 257, 258, 271, 281, 403, 501, 745, and 763 to read as follows:

PART 3—[NEW] ELECTRONIC REPORTING; ELECTRONIC RECORDS

Subpart A—General Provisions

Sec.

3.1 Scope.
3.2 Implementation.
3.3 Definitions.
3.4 [Reserved]

Subpart B—Electronic Reporting to EPA

3.10 What are the requirements for acceptable electronic documents?
3.20 How will EPA provide notice of changes to the Central Data Exchange?
3.30 [Reserved]

Subpart C—Electronic Record-keeping Under EPA Programs

3.100 What are the requirements for acceptable electronic records?
3.200 [Reserved]

Subpart D—Electronic Reporting and Record-keeping Under EPA-Approved State Programs

3.1000 How are authorized State, tribal or local environmental programs modified to allow electronic reporting?.
3.2000 What are the criteria for acceptable electronic document receiving systems?
3.3000 How are authorized State, tribal or local environmental programs modified to allow electronic record-keeping?
3.4000 [Reserved]

Authority: 7 U.S.C. 136 to 136y; 15 U.S.C. 2601 to 2692; 33 U.S.C. 1251 to 1387; 33 U.S.C. 1401 to 1445; 33 U.S.C. 2701 to 2761; 42 U.S.C. 300f to 300j–26; 42 U.S.C. 6901–6992k; 42 U.S.C. 7401 to 7671q; 42 U.S.C. 9601 to 9675; 42 U.S.C. 11001 to 11050; 15 U.S.C. 7001; 44 U.S.C. 3504 to 3506.

Subpart A—General Provisions

§ 3.1 Scope.

What Is Covered by This Part?

(a) This part sets forth the conditions under which EPA will accept the submission of electronic reports and other electronic documents, as well as the maintenance of electronic records, by regulated entities, as satisfying requirements under this Title to submit reports or other documents, or to keep records. This part also sets forth the standards and process for EPA approval of changes to authorized State, tribal, and local environmental programs to allow electronic report or document submission or electronic record maintenance in satisfaction of requirements under such authorized programs. This part does not require submission of electronic reports or documents or electronic recordkeeping in lieu of paper. This part confers no right or privilege to submit or maintain data electronically and does not obligate EPA, or State, tribal or local agencies to accept electronic data.

(b) Subpart C of this part applies to records in electronic form that are created, modified, maintained, archived, retrieved, or transmitted by regulated entities under any recordkeeping requirements under this Title. However, Subpart C of this part does not provide for the conversion of existing paper documents or records into electronic form. Subpart C of this part also does not apply to the Agency's recordkeeping requirements set forth in regulations governing contracts, grants, and financial management programs.

§ 3.2 Implementation.

What Requirements May Be Satisfied by Electronic Reporting and Electronic Recordkeeping?

(a) *Electronic reporting to EPA.* Any requirement in this Title that a document be created and transmitted or otherwise provided to EPA may be satisfied with an electronic document, in lieu of a paper document, provided that:

(1) The electronic document satisfies the requirements of § 3.10; and

(2) EPA has published a notice in the **Federal Register** announcing that EPA is prepared to receive in electronic form documents required or permitted by the named Part or Subpart of this Title.

(b) *Electronic recordkeeping under EPA programs.* Except as provided under paragraph (d) of this section or excluded under § 3.1(b), any requirement in this Title that a record be maintained may be satisfied by maintaining an electronic record, in lieu of a paper record provided that:

(1) The electronic record satisfies the requirements of § 3.100; and

(2) EPA has published a notice in the **Federal Register** announcing that EPA is prepared to recognize electronic records under the named Part or Subpart of this Title.

(c) *Electronic reporting and recordkeeping under an EPA-authorized State, tribal, or local environmental program.* Except as provided under paragraph (d) of this section, any requirement under authorized State, tribal, or local environmental programs that reports or documents be submitted or records be maintained may be satisfied with electronic report or document submission, or with electronic record maintenance, respectively, provided that: EPA has approved, in accordance with Subpart D of this part, the changes to the authorized State, tribal, or local environmental program to allow the electronic report or document submission or the electronic record maintenance in satisfaction of the authorized program requirement.

(d) *Limitation on the use of electronic records under EPA programs and EPA-authorized State, tribal, or local environmental programs.* Electronic records that meet the requirements of this Part may be used in lieu of paper records unless paper records are specifically required by other provisions in this Title that take effect on or after [date of promulgation of this regulation].

§ 3.3 Definitions.

What definitions are applicable to this part? The definitions set forth in this section apply when used in this part.

Acknowledgment means a confirmation of document receipt.

Administrator means the Administrator of the Environmental Protection Agency.

Agency means the Environmental Protection Agency or a State, tribal, local or other federal agency that administers a federal environmental program under this Title.

Agency electronic signature means an electronic signature of an individual who is authorized to sign an electronic document on an agency's behalf.

Authorized State, Tribal, or local environmental program means an environmental program which EPA has approved, authorized, or delegated to a State, tribe or local government to administer under a federal environmental program.

Communicate means to successfully and accurately convey a document, data, or information from one entity to another.

Electronic document means a document that is submitted to an agency or third-party as an electronic record, and communicated via a telecommunications network. For purposes of this part, electronic document excludes documents submitted on such magnetic media as diskettes, compact disks or tapes; it also excludes facsimiles.

Electronic document receiving system means any set of apparatus, procedures, software, records or documentation used to receive documents communicated to it via a telecommunications network.

Electronic record means any combination of text, graphics, data, audio, pictorial, or other information represented in digital form that is created, modified, maintained, archived, retrieved or distributed by a computer system.

Electronic record-retention system means any set of apparatus, procedures, software, records or documentation used to retain exact electronic copies of electronic records and electronic documents.

Electronic submission mechanism means any set of apparatus, procedures, software, records or documentation used to communicate an electronic document to an electronic document receiving system.

Electronic signature means any electronic record that is incorporated into (or appended to) an electronic document for the purpose of expressing the same meaning and intention that an individual's handwritten signature would express if affixed in the same relation to the document's content presented on paper.

Electronic signature device means a code or other mechanism that is used to create electronic signatures. Where the device is used to create an individual's electronic signature, then the code or mechanism must uniquely belong to or be associated with or assigned to that individual. Where the device is used to create an organization's electronic signature, then the code or mechanism must uniquely belong to or be associated with or assigned to that organization.

EPA means the United States Environmental Protection Agency.

Handwritten signature means the scripted name or legal mark of an individual, handwritten by that individual with a writing or marking instrument such as a pen or stylus and executed or adopted with the present intention to authenticate a writing in a permanent form. The physical instance of the scripted name or mark so created constitutes the handwritten signature. The scripted name or legal mark, while conventionally applied to paper, may also be applied to other hard media.

Metadata means data that describes the properties of other data or collections of data (*e.g.*, a database); with respect to a database or file containing data, metadata could include information about the database's structure, the date and time that data was created or added or changed, definitions of the data elements, descriptions of the accuracy of the data, etc.

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Receive means to successfully acquire electronic documents in a format that can be processed by the receiving system.

Regulated entity means any entity that maintains records or submits documents to EPA to satisfy requirements under this Title, or that maintains records or submits documents to a State, tribal, or local agency to satisfy requirements under programs authorized under this Title. A State, tribal, or local agency or tribe may be a regulated entity where it maintains records or submits documents to satisfy requirements that apply to it under this Title (including regulations governing authorized State, tribal, or local programs); a State, tribal, or local agency will not be a regulated entity where it maintains records or submits documents exclusively for other purposes, for example as a part of administrative arrangements between States and EPA to share data.

Submit means to communicate a document so that it is received by the intended recipient.

Third-party system means an electronic document receiving system that is owned or operated by an entity that is neither a submitter of the electronic documents the system receives nor an agency to which these electronic documents are submitted.

§ 3.4 [Reserved]

Subpart B—Electronic Reporting to EPA

§ 3.10 What are the requirements for acceptable electronic documents?

(a) An electronic document will satisfy a federal environmental reporting requirement or otherwise substitute for a paper submission permitted or required under this Title only if:

(1) The electronic document is submitted to an electronic document receiving system as provided under paragraph (b) of this section, and

(2) The electronic document bears valid electronic signatures, as provided in paragraphs (c), (d) and (e) of this section, to the same extent that the paper submission for which it substitutes would bear handwritten signatures.

(b) Electronic documents submitted to EPA to satisfy a federal environmental reporting requirement or otherwise substitute for a paper submission permitted or required by a federal environmental program must be submitted to either:

(1) EPA's Central Data Exchange; or

(2) Another EPA electronic document receiving system that the Administrator may designate for the receipt of specified submissions.

(c) An electronic signature is valid if and only if:

(1) The electronic signature is created by a person who is authorized to sign the document, with an electronic signature device that this person is authorized to use; and

(2) The electronic signature meets the validation requirements of the electronic document receiving system to which it is submitted.

(d) A valid electronic signature on any electronic document submitted to satisfy a federal or federally authorized State, tribal or local government environmental reporting requirement legally binds or obligates the signatory, or makes the signatory responsible, to the same extent as the signatory's handwritten signature on a paper document submitted to satisfy the same federal or federally authorized environmental reporting requirement.

(e) Proof that an individual's electronic signature was affixed to an electronic document is evidence, and may suffice to establish, that the individual who was issued that signature affixed the signature and did so with the intent to sign the electronic document to give it effect.

§ 3.20 How will EPA provide notice of changes to the Central Data Exchange?

(a) Except as provided under paragraph (b) of this section, whenever EPA plans to change Central Data Exchange hardware or software in ways that would affect the submission process:

(1) Where the equipment, software or services needed to submit electronic reports to the Central Data Exchange would be changed, EPA will provide public notice and seek comment on the proposed change at least a year in advance of the proposed implementation data;

(2) Otherwise, EPA will provide public notice at least sixty (60) days in advance of implementation.

(b) Any change which the Administrator determines is needed to ensure the security and integrity of the Central Data Exchange is exempt from the provisions of paragraph (a) of this section. However, to the extent consistent with ensuring the security and integrity of the system, EPA will provide public notice of any change to the Central Data Exchange made under the authority expressly reserved by this subsection.

§ 3.30 [Reserved]

Subpart C—Electronic Recordkeeping under EPA Programs

§ 3.100 What are the requirements for acceptable electronic records?

(a) An electronic record or electronic document will satisfy a recordkeeping requirement of an EPA-administered federal environmental program under this Title only if it is generated and maintained by an acceptable electronic record-retention system as specified under this subsection. For purposes of maintaining electronic records that satisfy recordkeeping requirements under this Title, an acceptable electronic record-retention system must:

(1) Generate and maintain accurate and complete electronic records and electronic documents in a form that may not be altered without detection;

(2) Maintain all electronic records and electronic documents without alteration for the entirety of the required period of record retention;

(3) Produce accurate and complete copies of any electronic record or electronic document and render these copies readily available, in both human readable and electronic form, for on-site inspection and off-site review, for the entirety of the required period of record retention;

(4) Provide that any electronic record or electronic document bearing an electronic signature contain the name of the signatory, the date and time of signature, and any information that explains the meaning of the affixed signature;

(5) Prevent an electronic signature that has been affixed to an electronic record or electronic document from being detached, copied, or otherwise compromised;

(6) Use secure, computer-generated, time-stamped audit trails that automatically record the date and time of operator entries and actions that create, modify, or delete electronic records or documents;

(7) Ensure that record changes do not obscure previously recorded information and that audit trail documentation is retained for a period at least as long as that required for the subject electronic records or electronic documents to be available for agency review;

(8) Ensure that electronic records and electronic documents are searchable and retrievable for reference and secondary uses, including inspections, audits, legal proceedings, third party disclosures, as required by applicable regulations, for the entirety of the required period of record retention;

(9) Archive electronic records and documents in an electronic form which preserves the context, meta data, and audit trail, and, if required, must ensure that:

(i) Complete records can be transferred to a new system;

(ii) Related meta data can be transferred to a new system;

(iii) Functionality necessary for use of records can be reproduced in new system; and

(b) Computer systems (including hardware and software), controls, and attendant documentation maintained under this Part must be readily available for, and subject to, agency inspection.

(c) Where electronic records bear electronic signatures that meet the requirements in paragraphs (a)(4) and (a)(5) of this section, EPA will consider the electronic signatures to be equivalent to full handwritten signatures, initials, and other general signings as required by federal or federally authorized State, tribal or local government environmental regulations, unless specifically excepted by regulations(s) effective on or after [date of promulgation of this regulation].

§ 3.200 [Reserved]

Subpart D—Electronic Reporting and Recordkeeping Under EPA-Approved State Programs

§ 3.1000 How are authorized State, tribal or local environmental programs modified to allow electronic reporting?

(a) State, tribes, or local environmental programs that wish to receive electronic reports or documents in satisfaction of requirements under such programs must revise or modify the EPA-approved State, tribal, or local environmental program to ensure that it meets the requirements of this part. The State, tribe, or local government must use existing State, tribal, or local environmental program procedures in making these program revisions or modifications.

(b) In order for EPA to approve a program revision under paragraph (a) of this section the State, tribe, or local government must demonstrate that electronic reporting under this program will:

(1) Use an acceptable electronic document receiving system as specified under § 3.2000;

(2) Require that any electronic report or document must bear valid electronic signatures, as provided in § 3.10(c), (d) and (e), to the same extent that the paper submission for which it substitutes would bear handwritten signatures under the State, tribal, or local environmental program.

§ 3.2000 What are the criteria for acceptable electronic document receiving systems?

An electronic document receiving system that is acceptable for purposes of receiving electronic reports or documents submitted under provisions of an authorized State, tribal or local environmental program must meet all of the following requirements:

(a) *General system-security.* An acceptable electronic document receiving system must:

(1) Have strong and effective protections against unauthorized access to the system;

(2) Have strong and effective protections against the unauthorized use of any electronic signature on electronic documents submitted or received;

(3) Provide for the detection of unauthorized access or attempted access to the system and unauthorized use or attempted use of any electronic signature on electronic documents submitted or received;

(4) Prevent the modification of an electronic document once an electronic signature has been affixed;

(5) Ensure that the electronic documents and other files necessary to meet the requirements under paragraphs (f) and (g) of this section are protected from modification or deletion;

(6) Ensure that the system clock is accurate and protected from tampering or other compromise; and

(7) Have strong and effective protections against any other foreseeable corruption or compromise of the system.

(b) *Validity of data.* An acceptable electronic document receiving system must generate data sufficient to prove, in private litigation, civil enforcement proceedings, and criminal proceedings, that:

(1) The electronic document was not altered in transmission or at any time after receipt; and

(2) The electronic document was submitted knowingly and not by accident; and

(3) In the case of documents requiring the signature of an individual, that the document was actually submitted by the authorized signature holder and not some other person.

(c) *Electronic signature method.* By virtue of its presence as a part of an electronic document submitted or received, an electronic signature must uniquely identify the particular individual who has used it to sign an electronic document or otherwise certify to the truth or accuracy of the document contents; therefore, an acceptable electronic document receiving system must only validate electronic signatures created with a method that:

(1) Meets the registration requirements of paragraph (d) of this section;

(2) Meets the signature/certification requirements of paragraph (e) of this section;

(3) Prevents an electronic signature from being excised, modified, or copied for re-use without detection once it has been affixed to an electronic document by the authorized individual;

(4) Provides protection against the use of a specific electronic signature by unauthorized individuals;

(5) Ensures that it is impossible to modify an electronic document without detection once the electronic signature has been affixed.

(d) *Submitter registration process.* An acceptable electronic document receiving system must require that anyone who submits an electronic document to the system first register with the agency to which the document is to be submitted. The registration process must establish the identities of both the registrant, who is the prospective submitter, and any entity that the registrant is authorized to represent, and must establish that the registrant is authorized to submit the document in question for the entity being represented. In addition, where the documents to be received will require signature, the registration process must:

(1) Establish the registrant's identity, and the registrant's relation to any entity for which the registrant will submit electronic documents, with evidence that can be verified by information sources that are independent of the registrant and the entity or entities in question and that would be sufficient to identify the registrant as the signature holder for purposes of supporting litigation consistent with paragraph (b) of this section;

(2) Establish and document a unique correlation between the registrant and the code or device that will constitute or create the electronic signature of the registrant as a submitter;

(3) Require that the registrant sign on paper, or in such other manner or medium as the Administrator in his or her discretion may determine as appropriate for a category of electronic reports, an electronic signature agreement specifying at a minimum that the registrant agrees to:

(i) Protect the electronic signature from unauthorized use, and follow any procedures specified by the agency for this purpose;

(ii) Be held as legally bound, obligated, or responsible by use of the assigned electronic signature as by hand-written signature;

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(iii) Where the signature method is based on a secret code or key, maintain the confidentiality of each component of the electronic signature;

(iv) In any case, never to delegate the use of the electronic signature, or in any other way intentionally provide access to its use, to any other individual for any reason; and

(v) Report to the entity specified in the electronic signature agreement, within twenty-four hours of discovery, any evidence of the loss, theft, or other compromise of any component of an electronic signature;

(4) Provide for the automatic and immediate revocation of an electronic signature in the event of:

(i) Any actual or apparent violation of the electronic signature agreement;

(ii) Any evidence that the signature has been compromised, whether or not this is reported by the registrant to whom the signature was issued; or

(iii) Notification from an entity that the registrant is no longer authorized by the entity to submit electronic documents on its behalf;

(5) Require that the registrant periodically renew his or her electronic signature agreement, under terms that the Administrator determines provide adequate assurance that the criteria of paragraphs (a) and (b) of this section are met, taking into account both applicable contractual provisions and industry standards for renewal or re-issuance of signature codes or devices.

(e) *Electronic signature/certification scenario.* An acceptable electronic document receiving system that may be used to accept electronic documents bearing an electronic signature must:

(1) Not allow an electronic signature to be affixed to the electronic document until:

(i) The signatory has been provided an opportunity to review all of the data to be transmitted in an on-screen visual format that clearly associates the descriptions or labeling of the information being requested with the signatory's response and which format is identical or nearly identical to the visual format in which a corresponding paper document would be submitted; and

(ii) A certification statement that is identical to that which would be required for a paper submission of the document appears on-screen in an easily-read format immediately above a prompt to affix the certifying signature, together with a prominently displayed warning that by affixing the signature the signatory is agreeing that he or she is the authorized signature holder—referred to by name—has protected the security of the signature as required by the electronic signature agreement signed under paragraph (d)(3) of this section and is otherwise using the signature in compliance with the electronic signature agreement;

(2) Automatically respond to the receipt of an electronic document with transmission of an electronic acknowledgment that:

(i) States that the signed electronic document has been received, clearly identifies the electronic document received, indicates how the signatory may view and download a copy of the electronic document received from a read-only source, and states the date and time of receipt; and

(ii) Is sent to an address whose access is controlled by password, codes or other mechanisms that are different than the controls used to gain access to the system used to sign/certify and send the electronic document;

(3) Automatically creates an electronic "copy of record" of the submitted report that includes all the warnings, instructions and certification statements presented to the signatory during the signature/certification scenario as described under paragraph (e)(1) of this section, and that:

(i) Can be viewed by the signatory, in its entirety, on-screen in a human-readable format that clearly and accurately associates all of the information provided by the signatory with the descriptions or labeling of the information that was requested;

(ii) Includes the date and time of receipt stated in the electronic acknowledgment required by paragraph (e)(2) of this section;

(iii) Has an agency electronic signature affixed that satisfies the requirements for electronic signature method under paragraphs (c)(3), (c)(4), and (c)(5) of this section;

(iv) Is archived by the system in compliance with requirements paragraph (g) of this section;

(v) Is made available to the submitter for viewing and down-loading; and

(vi) Is protected from a unauthorized access.

(f) *Transaction Record.* An acceptable electronic document receiving system must create a transaction record for each received electronic document that includes:

(1) The precise routing of the electronic report from the submitter's computer to the electronic document receiving system;

(2) The precise date and time (based on the system clock) of:

(i) Initial receipt of the electronic document;

(ii) Sending of electronic acknowledgment under paragraph (e)(2) of this section;

(iii) Copy of record created under paragraph (e)(3) of this section;

(3) Copy of record as specified under paragraph (e)(3) of this section.

(g) *System archives.* An acceptable electronic document receiving system must:

(1) Maintain:

(i) The transaction records specified under paragraph (f) of this section, and

(ii) Records of the system on-screen interface displayed to a user under paragraph (e) of this section that can be correlated to the submission of any particular report (including instructions, prompts, warnings, data formats and labels, as well as the sequencing and functioning of these elements);

(2) Maintain the records specified under paragraph (g)(1) of this section for at least the same length of time as would be required for a paper document that corresponds to the received electronic document, and in a way that:

(i) Can be demonstrated to have preserved them in their entirety without alteration since the time of their creation; and

(ii) Provides access to these records in a timely manner that meets the needs of their authorized users.

§ 3.3000 How are authorized State, tribal or local environmental programs modified to allow electronic recordkeeping?

(a) State, tribes, or local environmental programs that wish to allow the maintenance of electronic records or documents in satisfaction of requirements under such programs must revise or modify the EPA-approved State, tribal, or local environmental program to ensure that it meets the requirements of this part. The State, tribe, or local government must use existing State, tribal or local environmental program procedures in making these program revisions or modifications.

(b) In order for EPA to approve a program revision under paragraph (a) of this section the State, tribe, or local government must demonstrate that records maintained electronically under this program will satisfy the requirements under § 3.100 of this part.

§ 3.4000 [Reserved]

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.286 is added to Subpart O of this part to read as follows:

§ 51.286 Electronic reporting.

States that wish to receive electronic documents or allow electronic recordkeeping must revise the State Implementation Plan to satisfy the requirements of 40 CFR part 3—(Electronic reporting).

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401–7601.

2. Section 60.7 is amended by revising introductory text in paragraph (a) to read as follows:

§ 60.7 Notification and recordkeeping.

(a) Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification consistent with the requirements of 40 CFR part 3—(Electronic reporting), as follows:

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 63.6 is amended by adding a new paragraph (k) to read as follows:

§ 63.6 Compliance with standards and maintenance requirements.

* * * * *

(k) Electronic documents and recordkeeping. Submission of electronic documents and retention of electronic records shall comply with the requirements of 40 CFR part 3—(Electronic reporting).

PART 70—STATE OPERATING PERMIT PROGRAMS

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Section 70.1 is amended by adding a new paragraph (f) to read as follows:

§ 70.1 Program overview.

* * * * *

(f) States that choose to receive electronic documents or allow electronic recordkeeping must satisfy the requirements of 40 CFR part 3—(Electronic reporting) in their program.

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.25 is amended by revising paragraphs (a)(44) and (a)(45), and adding a new paragraph (a)(46) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(44) Section 122.35 (As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?);

(45) Section 122.36 (As an operator of a regulated small MS4, what happens if I don't comply with the application or permit requirements in §§ 122.33 through 122.35?); and

(46) For States that wish to receive electronic documents or allow electronic recordkeeping, 40 CFR part 3—(Electronic reporting).

* * * * *

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 142.10 is amended by adding paragraph (h) to read as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(h) Has adopted regulations consistent with 40 CFR part 3—(Electronic reporting) if the State receives electronic documents or allows electronic recordkeeping.

PART 145—REQUIREMENTS FOR STATE PROGRAMS

1. The authority citation for part 145 continues to read as follows:

Authority: 42 U.S.C. 300f *et. seq.*

2. Section 145.11 is amended by revising paragraphs (a)(30), (a)(31), (a)(32), and adding paragraph (a)(33) to read as follows:

§ 145.11 Requirements for permitting.

(a) * * *

(30) Section 124.12(a)—(Public hearings);

(31) Section 124.17(a) and (c)—(Response to comments);

(32) Section 144.88—(What are the additional requirements?); and

(33) For States that wish to receive electronic documents or allow electronic recordkeeping, 40 CFR part 3—(Electronic reporting).

* * * * *

PART 162—STATE REGISTRATION OF PESTICIDE PRODUCTS

1. The authority citation for part 162 continues to read as follows:

Authority: U.S.C. 136v, 136w.

2. Section 162.153 is amended by adding a new paragraph (a)(6) to read as follows:

(a) * * *

(6) *Electronic reporting and Recordkeeping under State Registration of Pesticide Products.* States that choose to receive electronic documents or allow electronic records under the regulations pertaining to State registration of pesticides to meet special local needs, must ensure that the requirements of 40 CFR part 3—(Electronic reporting) are satisfied by their State registration program.

* * * * *

PART 233—404 STATE PROGRAM REGULATIONS

1. The authority citation for part 233 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. A new § 233.39 is added to Subpart D of this part to read as follows:

§ 233.39 Electronic Reporting and Recordkeeping.

States that choose to receive electronic documents or allow electronic recordkeeping must include the requirements of 40 CFR part 3—(Electronic reporting) in their State program.

PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

1. The authority citation for part 257 continues to read as follows:

Authority: 42 U.S.C. 6907(a)(3), 6912(a)(1), 6944(a) and 6949(c), 33 U.S.C. 1345(d) and (e).

2. Section 257.30 is amended by adding a new paragraph (d) to read as follows:

§ 257.30 Recordkeeping requirements.

* * * * *

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(d) The Director of an approved State program may receive electronic documents or allow electronic recordkeeping only if the State program includes the requirements of 40 CFR part 3—(Electronic reporting).

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

1. The authority citation for part 258 continues to read as follows:

Authority: 33 U.S.C. 1345 (d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c) and 6949a(c).

2. Section 258.29 is amended by adding a new paragraph (d) to read as follows:

§ 258.29 Recordkeeping requirements.

* * * * *

(d) The Director of an approved State program may receive electronic documents or allow electronic recordkeeping only if the State program includes the requirements of 40 CFR part 3—(Electronic reporting).

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912 and 6926.

2. Section 271.10 is amended by revising paragraph (d) to read as follows:

§ 271.10 Requirements for generators of hazardous waste.

* * * * *

(b) The State shall have authority to require and shall require all generators to comply with reporting and recordkeeping requirements equivalent to those under 40 CFR 262.40 and 262.41. States must require that generators keep these records at least 3 years. States that choose to receive electronic documents or allow electronic recordkeeping must include the requirements of 40 CFR part 3—(Electronic reporting) in their Program (except that States that choose to receive electronic manifests and/or permit the use of electronic manifests must comply with paragraph (f) of this section).

* * * * *

2. Section 271.12 is amended by revising paragraph (h) to read as follows:

§ 271.12 Requirements for hazardous waste management facilities.

* * * * *

(h) Inspections, monitoring, recordkeeping, and reporting. States that choose to receive electronic documents or allow electronic recordkeeping must include the requirements of 40 CFR part 3—(Electronic reporting) in their Program (except that States that choose to receive electronic manifests and/or permit the use of electronic manifests must comply with paragraph (i) of this section);

* * * * *

PART 281—APPROVAL OF STATE UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 281 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991 (c), (d), (e), (g).

(2) Section 281.40 is amended by revising paragraph (d) to read as follows:

§ 281.40 Requirements for compliance monitoring program and authority.

* * * * *

(d) State programs must have procedures for receipt, evaluation, retention and investigation of records and reports required of owners or operators and must provide for enforcement of failure to submit these records and reports. States that choose to receive electronic documents or allow electronic recordkeeping must include the requirements of 40 CFR part 3—(Electronic reporting) in their State program.

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for part 403 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 403.8 is amended by adding a new paragraph (g) to read as follows:

§ 403.8 Pretreatment Program Requirements: Development and implementation by POTW.

* * * * *

(g) A POTW pretreatment program may receive electronic documents or allow electronic recordkeeping only if the POTW pretreatment program includes the requirements of 40 CFR part 3—(Electronic reporting).

2. Section 403.12 is amended by adding a new paragraph (q) to read as follows:

§ 403.12.40 Reporting requirements for POTW's and industrial users.

* * * * *

(q) The Control Authority may receive electronic documents or allow electronic recordkeeping only in compliance with the requirements of 40 CFR part 3—(Electronic reporting).

PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

1. The authority citation for part 501 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 501.15 is amended by adding a new paragraph (a)(4) to read as follows:

§ 501.15 Requirements for permitting.

(a) * * *

(4) Information requirements: All treatment works treating domestic sewage shall submit to the Director within the time frames established in paragraph (d)(1)(ii) of this section the information listed in (i)–(xii) of this paragraph. The Director of an approved State program may receive electronic documents or allow electronic recordkeeping only if the State program includes the requirements of 40 CFR part 3—(Electronic reporting).

* * * * *

PART 745—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

1. The authority citation for part 745 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2681–2692 and 42 U.S.C. 4852d.

2. Section 745.327 is amended by adding a new paragraph (f) to read as follows:

§ 745.327 State or Indian Tribal lead-based paint compliance and enforcement programs.

* * * * *

(f) *Electronic reporting and Recordkeeping under State or Indian Tribal programs.* States and Tribes that choose to receive electronic documents or allow electronic records under the authorized State or Indian Trial lead-based paint program, must ensure that the requirements of 40 CFR part 3—(Electronic reporting) are satisfied in their lead-based paint program.

PART 763—ABSESTOS

1. The authority citation for part 763 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607(c), 2643, and 2646.

2. Section 763.98 is amended by revising paragraphs (a)(1), (b)(3), and (d)(3) to read as follows:

§ 763.98 Waiver; delegation to State.

(a) *General.* (1) Upon request from a State Governor and after notice and comment and an opportunity for a public hearing in accordance with paragraphs (b) and (c) of this section, EPA may waive some or all of the requirements of this subpart E if the State has established and is implementing or intends to implement a program of asbestos inspection and management that contains requirements that are at least as stringent as the requirements of this subpart. In addition, if the State chooses to receive electronic documents or allow electronic recordkeeping, the State program must include, at a minimum, the requirements of 40 CFR part 3—(Electronic reporting).

* * * * *

(b) * * *

(3) Detailed reasons, supporting papers, and the rationale for concluding that the State's asbestos inspection and management program provisions for which the request is made are at least as stringent as the requirements of Subpart E of this part, and that, if the State chooses to receive electronic documents or allow electronic Recordkeeping, the State program includes, at a minimum, the requirements of 40 CFR part 3—(Electronic reporting).

* * * * *

(d) * * *

(3) The State has an enforcement mechanism to allow it to implement the program described in the waiver request and any electronic reporting and recordkeeping requirements are at least as stringent as 40 CFR part 3—(Electronic reporting).

* * * * *

3. In part 763, paragraph I, of appendix C to subpart E of this part is amended to add a new subparagraph (I) to read as follows:

Appendix C to Subpart E—Asbestos Model Accreditation Plan

I. Asbestos Model Accreditation Plan for States

* * * * *

(I) Electronic Reporting and Recordkeeping

States that choose to receive electronic documents or allow electronic recordkeeping must include, at a minimum, the requirements of 40 CFR part 3—(Electronic reporting) in their programs.

[FR Doc. 01–21810 Filed 8–30–01; 8:45 am]

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Federal Register

Friday,
August 31, 2001

Part VI

Department of the Interior

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Adult Education Annual Report Form OMB #1076–0120 requires renewal. The proposed information collection requirement, with no appreciable changes, will be submitted after the comment period to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before October 30, 2001.

ADDRESSES: Comments are to be mailed or hand delivered to William Mehojah, Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C St., NW, Mail Stop Room 3512–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Garry Martin, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 3512, Washington, DC 20240; 202–208–3478.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need for adult education programs in accordance with 25 CFR 46, Subpart A, Sections 46.20 and 46.30.

II. Method of Collection

The Adult Education Program regulations under 25 CFR 46, Subpart A, contain the program requirements which govern the program. Information collected from the contractors will be used for administrative planning, setting short- and long-term goals, and analyzing and monitoring the use of funds.

III. Data

Title of the collection of information: Bureau of Indian Affairs Adult Education Program Annual Report Form. OMB Number: 1076–0120; Expiration Date: August 31, 2001.

Type of review: Renewal of a currently approved information collection.

Summary of the collection of information: The collection of information provides pertinent data concerning the adult education programs.

Description of the need for the information and proposed use of the information: Submission of this information is necessary to assess the need for adult education programs. The information is needed for the utilization and management of program resources to provide education opportunities for adult American Indians and Alaska Natives to complete high school requirements, and to gain new skills and knowledge for individual student self-enhancement.

The information collected with the annual report will be used by the Bureau or tribally-controlled programs for fiscal accountability and appropriate direct services documentation. The results of the data are used for administrative planning.

Affected entities: Tribal adult education contractors.

Estimated number of respondents: 70. Respondents are tribal adult education program administrators.

Proposed frequency of responses: Annually.

Burden: The estimate of total annual reporting and record keeping burden that will result from the collection of information: Reporting 4 hours per response × 70 respondents = 280 hours.

Estimated annual costs: $5,040.00 (4 hours × 70 × $18.00 = salary dollars). Cost for record keeping, auditing, is part of their costs for administering this program under Tribal Priority Allocation activity of the tribal budget

IV. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection. They also will become a matter of public record.

All written comments will be available for public inspection in Room 3543 of the Main Interior Building, 1849 C Street, NW, Washington, DC from 9 a.m. until 3 p.m., Monday through Friday, excluding legal holidays.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget control number.

Dated: June 20, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–22001 Filed 8–30–01; 8:45 am]

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Federal Register

Friday,
August 31, 2001

Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2001–02 Early Season; Final Rule

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AH–79

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2001–02 Early Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special early season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 1, 2001.

ADDRESSES: You may inspect comments received, if any, on the proposed special hunting regulations and tribal proposals during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. You should send communications regarding the documents to: Director (FWS/MBM), U.S. Fish and Wildlife Service, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1714).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 14, 2001, **Federal Register** (66 FR 42712), we proposed special migratory bird hunting regulations for the 2001–02 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by non-tribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10—September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the April 30, 2001, **Federal Register** (66 FR 21298), we requested that tribes desiring special hunting regulations in the 2001–02 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) steps that would be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Late-season hunting will be addressed in late-September. As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Status of Populations

In the July 24, 2001 **Federal Register**, we reviewed the status for various populations for which early seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey and population status reports for blue-wing teal, Canada goose populations hunted in September seasons, sea ducks, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons. As a result of these status reports, we have responded by proposing Flyway frameworks that are essentially the same as those of last season for the 2001–02 waterfowl hunting season (July 24, 2001, **Federal Register**, 66 FR 38494). The tribal seasons established below are commensurate with the population status.

Comments and Issues Concerning Tribal Proposals

For the 2001–02 migratory bird hunting season, we proposed regulations for 29 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 21 tribes have proposals with early seasons. Comments and revised proposals received to date are addressed in the following section. The comment period for the proposed rule, published on August 14, 2001, closed on August 24, 2001. Because of the necessary brief comment period, we will respond to any comments received on the proposed rule and/or these late-season regulations not responded to herein in the September late-season final rule.

We received one comment regarding the notice of intent published on April 30, 2001, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members. The Michigan Department of Natural Resources commented on the establishment of tribal regulations on 1836 Treaty areas. Michigan believed it was premature of the Service to establish waterfowl regulations in areas covered by the 1835 Treaty until such time as the issue of 1836 Treaty hunting rights are affirmed by a court of competent jurisdiction.

Service Response

Our position is that the Federal Government does recognize the Treaty of 1836 as reserving to the affected tribes or bands hunting rights in the ceded territory. Further, the Federal courts have already confirmed the retention of reserved fishing rights in the territory ceded by the Treaty of 1836 in *United States* v. *Michigan*, 471 F.Supp. 192 (W.D. Mich. 1979), *remanded*, 623 F.2d 448 (6th Cir. 1980), *order modified*, 653 F.2d 277 (6th Cir. 1981), *cert. denied*, 454 U.S. 1124 (1981). That case and cases dealing with other treaty cessions, such as *Lac Courte Oreilles* v. *Wisconsin* (i.e., both the 1837 and the 1842 Treaties), provide persuasive precedent for the belief that hunting as well as fishing rights were reserved by the tribes in the Treaty of 1836. We have not altered our position on this matter.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from us at the address indicated under the caption **ADDRESSES.** In addition, an August 1985 Environmental Assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the same address.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *" Consequently, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. Our biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBM, at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request.

Executive Order (E.O.) 12866

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and have been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under E.O. 12866.

Energy Effects—E.O. 13211

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1) and this rule will be effective immediately.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 9/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned control number 1018–0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not "significantly or uniquely" affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this proposed rule is

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not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship with Tribes

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) Executive Order 13175 and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the April 30, 2001, request for proposals and the August 14, 2001, proposed rule, we have consulted with all the tribes affected by this rule.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

We therefore find that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), we prescribe final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j, Pub L. 106–108.

Note: The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature).

2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Non-tribal Hunters)

Doves

Season Dates: Open September 1, close September 15, 2001; then open November 16, 2001, close January 13, 2002.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-tribal Hunters)

Sandhill Cranes

Season Dates: Open September 15, close October 21, 2001.

Daily Bag Limit: Three sandhill cranes.

Permits: Each person participating in the sandhill crane season must have a valid Federal sandhill crane hunting permit in their possession while hunting.

General Conditions: The possession limit is twice the daily bag limit. The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and non-tribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(c) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

All seasons in Minnesota, 1854 Treaty Zone:

Ducks and Mergansers

Season Dates: Open September 15, close December 2, 2001.

Daily Bag Limit for Ducks: 18 ducks, including no more than 12 mallards (only 6 of which may be hens), 3 black ducks, 9 scaup, 6 wood ducks; 6 redheads, 3 pintails and 3 canvasbacks.

Daily Bag Limit for Mergansers: 15 mergansers, including no more than 3 hooded merganser.

Geese (All species)

Season Dates: Open September 1, close December 17, 2001.

Daily Bag Limit: 12 geese.

Coots and Common Moorhens (Gallinule)

Season Dates: Open September 15, close December 2, 2001.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Open September 1, close December 2, 2001.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate. There is no possession limit.

Common Snipe and Woodcock

Season Dates: Open September 1, close December 2, 2001.

Daily Bag Limit: Eight snipe and three woodcock.

General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(d) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

All seasons in Michigan, 1836 Treaty Zone:

Ducks

Season Dates: Open September 15, 2001, close January 15, 2002.

Daily Bag Limit: 12 ducks, which may include no more than 2 pintail, 2 canvasback, 3 black ducks, 1 hooded merganser, 3 wood ducks, 3 redheads, and 6 mallards (only 3 of which may be hens).

Canada Geese

Season Dates: Open September 1, close November 30, 2001, and open January 1, 2002, close February 8, 2002.

Daily Bag Limit: Five geese.

Other Geese (white-fronted geese, snow geese, and brant)

Season Dates: Open September 20, close November 30, 2001.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1, close November 14, 2001.

Daily Bag Limit: Five rails, five snipe, and five woodcock.

Mourning Doves

Season Dates: Open September 1, close November 14, 2001.

Daily Bag Limit: Ten mourning doves.

General Conditions

A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(e) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Ducks

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 2, 2001.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 2, 2001.

Daily Bag Limit: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

Mergansers: All Ceded Areas.

Season Dates: Begin September 15 and end December 2, 2001.

Daily Bag Limit: Five mergansers.

Geese: All Ceded Areas.

Season Dates: Begin September 1 and end December 2, 2001. In addition, any portion of the ceded territory which is open to State-licensed hunters for goose hunting after December 1 shall also be open concurrently for tribal members.

Daily Bag Limit: 10 geese in aggregate.

Other Migratory Birds: All Ceded Areas except where noted below

A. Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 15 and end December 2, 2001.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Sora and Virginia Rails

Season Dates: Begin September 15 and end December 2, 2001.

Daily Bag Limit: 25 sora and Virginia rails singly, or in the aggregate.

Possession Limit: 25.

C. Common Snipe

Season Dates: Begin September 15 and end December 2, 2001.

Daily Bag Limit: Eight common snipe.

D. Woodcock

Season Dates: Begin September 4 and end December 2, 2001.

Daily Bag Limit: Five woodcock.

E. Mourning Doves: 1837 and 1842 Ceded Territories

Season Dates: Begin September 1 and end October 30, 2001.

Daily Bag Limit: Fifteen mourning doves.

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General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin* (Voigt) and *Mille Lacs Band* v. *State of Minnesota* cases. The respective Chapter 10 of these Model Codes regulate territory migratory bird hunting. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR Part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Particular regulations of note include:

A. Nontoxic shot will be required for all waterfowl hunting.

B. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

C. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds that are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

D. The tribe proposes that the baiting restrictions included in the respective sections 10.05 (2)(h) of the model ceded territory conservation codes be amended to include language which parallels that in place for non-tribal members as published in 64 FR 29804, June 3, 1999.

E. They also propose to remove the shell limit restrictions included in the respective sections 10.05(2)(b) of the model ceded territory conservation codes.

5. Michigan—Duck Blinds and Decoys. Tribal members hunting in Michigan will comply with tribal codes that contain provisions that parallel applicable Michigan laws concerning duck blinds and/or decoys.

(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters).

Non-tribal Hunters on Reservation

Geese

Season Dates: Open September 1, 2001, close September 15, 2001.

Daily Bag and Possession Limits: 5 and 10, respectively.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open September 15, 2001, close January 31, 2002.

Daily Bag Limit: 7 ducks, including no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads. The season on canvasbacks is closed, except one canvasback may be included in the daily bag for 38 consecutive days within the Pacific Flyway duck season.

Geese

Season Dates: Open September 1, close January 31, 2002.

Daily Bag Limit: 3 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(g) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only)

Ducks

Season Dates: Open September 15, close December 31, 2001.

Daily Bag Limits: 10 birds.

Geese

Season Dates: Open September 1, close December 31, 2001.

Daily Bag Limits: 10 geese.

General

Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Non-toxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited.

(h) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

Canada Geese

Season Dates: Open September 1, close September 15, 2001 early season, then open September 16, close December 2, 2001 regular season, and open February 2, close February 17, 2002 late season.

Daily Bag Limits: Five geese in the early and late seasons and two geese in the regular portion of the season.

White-fronted Geese, Snow Geese, Blue Geese, and Brant

Season Dates: Open September 16, close December 2, 2001.

Daily Bag and Limits: 10 geese which could include no more than 2 white-fronted geese and 2 two brant.

Rails, Snipe, and Woodcock

Season Dates: Open September 15, close November 14, 2001.

Daily Bag Limit: 25 rails, 8 snipe, and 3 woodcock.

General

A. All tribal members will be required to obtain a valid tribal resource card and 2001–02 hunting license.

B. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

(2) Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallels state regulations.

(3) Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

D. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

(i) The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only)

Ducks

Season Dates: Open September 20, 2001, close January 20, 2002.

Daily Bag Limits: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 wood ducks, 1 pintail, 1 hooded merganser, and 1 canvasback.

Canada Geese

Season Dates: Open September 1, 2001, close January 20, 2002.

Daily Bag and Possession Limits: Five geese.

Sora Rails, Snipe, and Woodcock

Season Dates: Open September 1, close November 14, 2001.

Daily Bag Limit: Five rails, five snipe, and five woodcock.

General

Possession limits are twice the daily bag limits.

(j) Makah Indian Tribe, Neah Bay, Washington (Tribal Members)

Ducks and Coots

Season Dates: Open September 15, 2001 close January 13, 2002.

Daily Bag Limit: Seven ducks including no more than one canvasback and one Redhead.

Geese

Season Dates: Open September 8, 2001 close January 13, 2002.

Daily Bag Limit: Four.

General

All other Federal regulations contained in 50 CFR part 20 would apply. The following restrictions are also proposed by the tribe: (1) As per Makah Ordinace 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area; (2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl; (3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within one mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation; (4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited; (5) Steel or bismuth shot only for waterfowl is allowed, the use of lead shot is prohibited; (6) The use of dogs is permitted to hunt waterfowl.

(k) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers).

Band-tailed Pigeons

Season Dates: Open September 1, close September 30, 2001.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 30, 2001.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions

Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(l) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only).

Geese

Season Dates: Open September 1, close November 16, open November 26, close December 31, 2001.

Daily Bag and Limits: Three Canada geese. Hunters will be issued three tribal tags for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. A season quota of 150 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 1, close November 12, 2001.

Daily Bag and Possession Limits: 5 and 10 woodcock, respectively.

General Conditions

The tribe proposes shooting hours be one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe must comply to all State of Wisconsin regulations. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Indian hunters would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

(m) Point No Point Treaty Tribes, Kingston, Washington (Tribal Members Only).

Ducks and Mergansers

Season Dates: Open September 15, 2001, close February 28, 2002.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintails, one canvasback, one harlequin, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 2001, close February 28, 2002.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on Aleutian Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 15, 2001, close February 28, 2002.

Daily Bag and Possession Limits: Two brant. Possession limit is twice the daily bag limit.

Coots

Season Dates: Open September 15, 2001, close February 28, 2002.

Daily Bag Limits: 25 coots.

Mourning Doves

Season Dates: Open September 1, 2001, close January 15, 2002.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 15, 2001, close January 15, 2002.

Daily Bag and Possession Limits: 10 and 20 snipe, respectively.

Band-tailed Pigeon

Season Dates: Open September 1, 2001, close January 15, 2002.

Daily Bag and Possession Limits: 5 and 10, respectively.

General Conditions

All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the respective tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office.

(n) Seminole Tribe of Florida, Big Cypress Seminole Reservation, Clewiston, Florida (Tribal Members and Non-tribal Hunters)

Mourning Dove

Season Dates: September 16, 2001, through January 20, 2002.

Daily Bag Limit: 12.

General Conditions

Hunting is on Sundays only. All other Federal regulations contained in 50 CFR part 20 apply.

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(o) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

Ducks

Season Dates: Open September 15, 2001, close January 15, 2002.

Daily Bag and Possession Limits: Five ducks, including no more than one canvasback. The season on harlequin ducks is closed. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 2001, close January 15, 2002.

Daily Bag and Possession Limits: Four geese, and may include no more than two snow geese and one dusky Canada goose. The season on Aleutian and Cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 15, close December 31, 2001.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 15, 2001, close January 15, 2002.

Daily Bag Limits: 25 coots.

Snipe

Season Dates: Open September 15, 2001, and close January 15, 2002.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeons

Season Dates: Open September 1, close December 31, 2001.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

General Conditions

All tribal hunters must obtain a Tribal Hunting Tag and Permit from the tribe's Natural Resources Department and must have the permit, along with the member's treaty enrollment card, on his or her person while hunting. Shooting hours are one-half hour before sunrise to one-half hour after sunset and steel shot is required for all migratory bird hunting. Other special regulations are available at the tribal office in Shelton, Washington.

(p) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only)

Ducks (Including Coots and Mergansers)

Season Dates: Open September 15, 2001, and close February 1, 2002.

Daily Bag and Possession Limits: 6 and 12 ducks, respectively per species for all species except that bag and possession limits may include no more than 2 female mallards, 1 pintail, 4 scaup, 2 redheads. The season on canvasbacks is closed, except one canvasback may be included in the daily bag for 38 consecutive days within the Pacific Flyway duck season.

Geese

Season Dates: Open September 15, 2001, and close February 1, 2002.

Daily Bag and Possession Limits: 6 and 12 geese, respectively; except that the bag limits may not include more than 2 brant and 1 cackling Canada goose. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting of 365 ducks and 365 geese.

Snipe

Season Dates: Open September 15, 2001, through February 1, 2002.

Daily Bag and Possession Limits: 8 and 16, respectively.

General Conditions

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the tribe. Nontribal hunters 16 years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face of the stamp. Other tribal regulations apply, and may be obtained at the tribal office in Marysville, Washington.

(q) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)

Mourning Dove

Season Dates: Open September 1, end December 31, 2001.

Daily Bag Limit: 12 mourning dove.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR.

(r) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

Geese

Season Dates: Open September 15, 2001 and close September 22, 2001, and open November 3, 2001, close February 23, 2002.

Daily Bag and Possession Limits: 5 Canada geese during the first period, 3 during the second, and 15 snow geese.

General Conditions

Shooting hours are one-half hour before sunrise to sunset. Non-toxic shot is required. Tribal members will observe all basic Federal migratory bird hunting regulations contained in 50 CFR.

(s) White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only)

Ducks and Mergansers

Season Dates: Open September 15, close December 16, 2001.

Daily Bag Limit for Ducks: 10 ducks, including no more than 2 mallards and 2 canvasback.

Daily Bag Limit for Mergansers: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1, close December 16, 2001.

Daily Bag Limit: Five geese.

Coots

Season Dates: Open September 15, close December 16, 2001.

Daily Bag Limit: 20 coots.

Sora and Virginia Rails

Season Dates: Open September 8, close December 31, 2001.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe and Woodcock

Season Dates: Open September 8, close December 31, 2001.

Daily Bag Limit: 10 snipe and 10 woodcock.

Mourning Dove

Season Dates: Open September 8, close December 31, 2001.

Daily Bag Limit: 25 doves.

General Conditions

Shooting hours are one-half hour before sunrise to one-half hour after sunset. Non-toxic shot is required.

(t) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters).

Band-tailed Pigeons

Season Dates: Open September 5, close September 19, 2001.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves

Season Dates: Open September 5, close September 19, 2001.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions

All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

Dated: August 27, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22034 Filed 8–30–01; 8:45 am]

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Part VIII

Department of Energy

Office of Civilian Radioactive Waste Management; Site Recommendation Consideration Hearings; Yucca Mountain; Notice

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DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Site Recommendation Consideration Hearings; Yucca Mountain—Announcement of Changes in Public Hearing for September 5, 2001

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of expanded public hearing and site changes.

SUMMARY: The Department of Energy (the Department) announces an expansion of the public hearing on September 5, 2001, on the possible recommendation of the Yucca Mountain Site in Nevada for development as a spent nuclear fuel and high-level radioactive waste geologic repository. The Department previously announced that a hearing would take place in Las Vegas, Nevada, on September 5, 2001. The Department now is announcing the expansion of this hearing to include sites in Carson City, Elko and Reno, Nevada. All four of these sites will be linked by videoconferencing. In addition, the Department is announcing a change in the location of the Las Vegas site.

DATES: The hearing will take place on September 5, 2001, starting at 6 pm through 9 pm, as announced previously in the **Federal Register** (66 FR 43850–43851).

ADDRESSES:

Las Vegas: Department of Energy, Nevada Operations Office, Great Basin Room, 2332 Energy Way, North Las Vegas, Nevada 89193–8518, (On the west side of Losee Road between Cheyenne and Lake Mead); 5 pm–9 pm Poster Session; 6 pm–9 pm—Hearing. This is a new location for the Las Vegas hearing.

Carson City: Nevada State Legislative Building, Room #1214, 401 South Carson Street, Carson City, Nevada; 6 pm–9 pm—Hearing.

Elko: Elko Convention and Visitors Authority, 700 Moren Way, Elko, Nevada; 6 pm–9 pm—Hearing.

Reno: Desert Research Institute, Conference Rooms A/B, 2215 Raggio Parkway, Reno, Nevada; 6 pm–9 pm—Hearing.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, 1–800–967–3477.

SUPPLEMENTARY INFORMATION: On May 7, 2001, the Department announced in the **Federal Register** (66 FR 23013–23016) the initiation of a public comment period on the Secretary's consideration of the Yucca Mountain site for recommendation as a spent nuclear fuel and high-level radioactive waste repository. In conjunction with the initiation of the comment period, the Department issued a report, the Yucca Mountain Science and Engineering Report (YMS&ER), summarizing the scientific and technical information compiled by the Department to date outlining the preliminary design and performance attributes of a potential geologic repository at the Yucca Mountain site. This report was provided to inform the public and facilitate public comment and review on the technical and scientific information and analyses forming the basis for the Department's consideration of a possible site recommendation.

On August 21, 2001, the Department announced in the **Federal Register** (66 FR 43850–43851) the issuance of another report, the Preliminary Site Suitability Evaluation (PSSE), that also is intended to inform the public and facilitate public review and comment on a possible site recommendation. The PSSE contains a preliminary evaluation of the suitability of the Yucca Mountain site for development as a geologic repository based on the Department's proposed site suitability regulations, to be codified as 10 CFR part 963. The preliminary evaluation described in the PSSE is based on information contained in the YMS&ER, supplemented by the most recent available technical information. Also, in the August 21 **Federal Register** Notice, the Department announced the scheduling of public hearings, in Las Vegas, Nevada on September 5, 2001, in Armagosa Valley on September 12, 2001, and in Pahrump, Nevada on September 13, 2001.

To provide greater accessability to the public hearings process within the State of Nevada, the Department has decided to expand the previously announced September 5th public hearing in Las Vegas to include three other cities in Nevada: Carson City, Elko and Reno. The public is invited to participate in the September 5th hearing at any of these sites by presenting oral views. All four of these sites will be linked by video conferencing. In the event that a video link fails during the hearing, there will be a Federal official and a court reporter present at each site to accept public comments for the record. This hearing will be informal, and the Department will use a facilitator in an effort to ensure it is fair and productive.

The Department was notified on August 28, that the previously announced Las Vegas site for the September 5th hearing would not be available to the Department. Since that site is no longer available to the Department, the Las Vegas site of the September 5th hearing has been changed to the Great Basin Room at the Department of Energy, Nevada Operations Office, 2332 Energy Way, North Las Vegas, Nevada 89193–8518. This facility is found on the west side of Losee Road between Cheyenne and Lake Mead.

The Department does not currently anticipate further changes in time or location. However, those planning to attend the September 5th hearing at any of the four sites may want to check the Yucca Mountain web site at *www.ymp.gov* or call 1–800–967–3477 to confirm times and locations.

Issued in Washington, DC on August 30, 2001.

Ronald A. Milner,

Chief Operating Officer, Office of Civilian Radioactive Waste Management.

[FR Doc. 01–22243 Filed 8–30–01; 1:18 pm]

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

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H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)
H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)
H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)
H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)
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40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

Last List August 21, 2001

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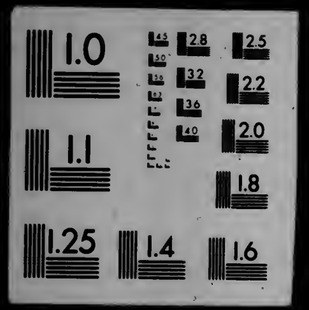
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 00–017–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine by removing and adding commuted traveltime allowances for travel between various locations in California, New York, and Wisconsin. Commuted traveltime allowances are the periods of time required for Plant Protection and Quarantine employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Plant Protection and Quarantine employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Smith, Senior Operations Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8415.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal products, or other commodities intended for importation into, or exportation from, the United States.

When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duties.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in California, New York, and Wisconsin. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedures with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, we are amending 7 CFR part 354 as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.3.

2. Section 354.2 is amended by removing or adding in the table, in alphabetical order, under California, New York, and Wisconsin, the following entries to read as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
[Remove]			
California:			
Antioc	San Jose		5
Benecia	San Jose		4
Crockett	San Jose		4
March AFB	Riverside		1
Martinez	San Jose		4
Moss Beach Landing	San Jose		6
Norton AFB	Riverside		1
Oakland	San Jose		3½
Pittsburg	San Jose		5
Richmond	San Jose		4
San Francisco International Airport	San Jose		3
Stockton	Travis AFB		3
Vallejo	San Jose		4½
Wisconsin:			
Milwaukee		2	
[Add]			
California:			
Bakersfield	Shafter	1	
Beale AFB	Sacramento		4
Edwards AFB	Ontario		4
Fresno	Shafter		5
Fresno	Stockton		5
Hanford	Shafter		5

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
Lemoore	Shafter		5
Mather Airfield	Sacramento	3	
McClellan AFB	Sacramento	3	
Merced/Atwater (Old Castle AFB)	Stockton		3
Monterey	San Jose		5
Moss Beach Landing	San Jose		4
Palm Springs International Airport	Ontario		4
Port Hueneme	Port Hueneme	1	
Port Hueneme	Shafter		7
Sacramento International Airport	Sacramento	3	
Sacramento Seaport	Sacramento	2	
San Bernardino International Airport (Old Norton AFB)	Ontario		2
San Francisco	San Jose		4
San Jose	Sacramento		5
San Jose	Stockton		5
San Luis Obispo Seaport	Port Hueneme		5
Santa Barbara Airport	Port Hueneme		2
Southern California International Airport (Old George AFB).	Ontario		3
Stockton	Sacramento		3
New York:			
Alexandria Bay	Oneida		5
Corning	Avoca	2	
Corning	Big Flats	1	
Farmingdale	Westhampton Beach	3	
Islip	Westhampton Beach	2	
Oswego	Canandaigua	4	
Oswego	Oneida	3	
Rochester	Avoca	3	

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area: Within	Metropolitan area: Outside
Rochester	Canandaigua	3	
Rochester	Oneida	3	
Rochester	Rochester	1	
Rochester	Westhampton Beach	3	
Rochester	Williamsville	1	
Rochester	Wurtsboro	3	
Rochester	Wurtsboro	3	
Rochester	Wurtsboro	3

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COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
. . .	. . .		.
Rochester	Canandaigua	2	
. . .	. . .		.
Syracuse	Canandaigua	3	
Syracuse	Oneida	2	
. . .	. . .		.
Watertown	Oneida		4
Westhampton ANG	Westhampton	1	
. . .	. . .		.
Wisconsin:			
. . .	. . .		.
Milwaukee		1	
Milwaukee	Madison		4½
. . .	. . .		.

Done in Washington, DC, this 28th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22135 Filed 8–31–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–27–AD; Amendment 39–12431; AD 2001–18–05]

RIN 2120–AA64

Airworthiness Directives; Goodyear Tire and Rubber Company Flight Eagle Tires, 34X9.25–16 18PR 210MPH, Part Number 348F83–2

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Goodyear Tire and Rubber Company (Goodyear) Flight Eagle tires, 34X9.25–16 18PR 210MPH, Part Number (P/N) 348F83–2, that are installed on aircraft. This AD requires you to inspect these tires to determine if they are within a certain serial number range and replace any tires within this serial number range. This AD is the result of several instances of main landing gear (MLG) tire tread separations on Gulfstream aircraft. The actions specified by this AD are intended to remove these tires from service to prevent the potential of these tires experiencing tread separations during operation. These tread separations could result in structural damage to the aircraft, including damage to the flaps, engine nacelles, and wheel wells.

DATES: This AD becomes effective on September 24, 2001.

The FAA must receive any comments on this rule on or before October 12, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–27–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Goodyear Global Aviation Tires, Global Product Support, 1144 East Market Street, Akron, Ohio 44316–0001; telephone: (330) 796–3293; facsimile: (330) 796–6535; or Gulfstream Aerospace Corporation, 500 Gulfstream Road, P.O. Box 2206, Savannah, Georgia 31402–2206, as applicable. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-CE-27-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Roy Boffo, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294–7564; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received reports of four incidents of main landing gear (MLG) tire tread separations on Gulfstream aircraft. Two of these incidents occurred during takeoff, and the other two are being investigated.

Goodyear has identified a batch of Flight Eagle tires, 34X9.25–16 18PR 210MPH, Part Number (P/N) 348F83–2, that are susceptible to the tire tread separations. The serial numbers of this batch are 0168xxxx through 0185xxxx. This consists of approximately 300 tires.

These tires are installed on, but not limited to, the following aircraft:

Type certificate holder	Models	Serial numbers
Gulfstream Aerospace Corporation	GII, GIIB, and GIII	All serial numbers.
Gulfstream Aerospace Corporation	GIV	Serial numbers 1000 through 1213, except for serial number 1183.
The Boeing Company	720 and 720B	All serial numbers.

What Are the Consequences if the Condition Is Not Corrected?

Tire tread separations, if not prevented, could result in structural damage to the aircraft. This includes damage to the flaps, engine nacelles, and wheel wells.

Is There Service Information That Applies to This Subject?

Goodyear has issued Service Bulletin GY SB 2001–32–006, dated July 28, 2001. In addition, Gulfstream Aerospace Corporation has issued Alert Customer Bulletins #28 (GII/GIIB), #14 (GIII), and #28 (GIV), all dated July 31, 2001.

These bulletins provide information that relates to removing the affected tires from service.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the subject above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on type design aircraft equipped with certain Goodyear Flight Eagle tires, 34X9.25–16 18PR 210MPH, P/N 348F83–2, serial numbers 0168xxxx through 0185xxxx;

—These tires should be removed from service; and

—AD action should be taken in order to correct this unsafe condition

What Would This AD Require?

This AD requires you to inspect all of these tires to determine if they are within the affected serial number range and replace any tires within this serial number range.

Will I Have the Opportunity to Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in structural damage to the aircraft, including damage to the flaps, engine nacelles, and wheel wells, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, we invite your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

We are reviewing the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–27–AD." We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–18–05 Goodyear Tire and Rubber Company: Amendment 39–12431; Docket No. 2001–CE–27–AD.

(a) *What aircraft are affected by this AD?* This AD applies to aircraft equipped with any Goodyear Flight Eagle tire, 34X9.25–16 18PR 210MPH, Part Number (P/N) 348F83–2. The following is a list of aircraft where these tires could be installed. This is not a comprehensive list and aircraft not on this list that have the tires installed through field approval or other methods are still affected by this AD:

Type certificate holder	Models	Serial numbers
Gulfstream Aerospace Corporation	GII, GIIB, and GIII	All serial numbers.

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Type certificate holder	Models	Serial numbers
Gulfstream Aerospace Corporation	GIV	Serial numbers 1000 through 1213, except for serial number 1183.
The Boeing Company	720 and 720B	All serial numbers.

(b) *Who must comply with this AD?* Anyone who wishes to operate any aircraft that is equipped with one or more of the above-referenced Goodyear Flight Eagle tires must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to remove these tires from service to prevent the potential of these tires experiencing tread separations during operation. These tread separations could result in structural damage to the aircraft, including damage to the flaps, engine nacelles, and wheel wells.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Action	Compliance time	Procedures
(1) Inspect all Goodyear Flight Eagle tires, 34X9.25–16 18PR 210MPH, P/N 348F83–2, to determine if any are within the serial number range of 0168xxxx through 0185xxxx.	Within the next 10 hours time-in-service (TIS) after September 24, 2001 (the effective date of this AD).	Goodyear Service Bulletin GY SB 2001–32–006, dated July 28, 2001, and Gulfstream Aerospace Corporation Alert Customer Bulletins #28 (GII/GIIB), #14 (GIII), and #28 (GIV), all dated July 31, 2001, contain information that relates to this subject.
(2) Replace any tire found within the serial number range referenced in paragraph (d)(1) of this AD with an FAA-approved tire that is not Goodyear Flight Eagle, 34X9.25–16 18 PR 210 MPH, P/N 348F83–2, serial number 0168xxxx through 0185xxxx.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	Goodyear Service Bulletin GY SB 2001–32–006, dated July 28, 2001, and Gulfstream Aerospace Corporation Alert Customer Bulletins #28 (GII/GIIB), #14 (GIII), and #28 (GIV), all dated July 31, 2001, contain information that relates to this subject.
(3) Do not install, on any airplane, a Goodyear Flight Eagle tire, 34X9.25–16 18 PR 210MPH, P/N 348F83–2, that is within the serial number range of 0168xxxx through 0185xxxx.	As of September 24, 2001 (the effective date of this AD).	Not Applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Chicago Aircraft Certification Office, approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note: This AD applies to any aircraft with a tire installed as identified in paragraph (a) of this AD, regardless of whether the aircraft has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Roy Boffo, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294–7564; facsimile: (847) 294–7834.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Goodyear Global Aviation Tires, Global Product Support, 1144 East Market Street, Akron, Ohio 44316-0001; telephone: (330) 796–3293; facsimile: (330) 796–6535; or Gulfstream Aerospace Corporation, 500 Gulfstream Road, P.O. Box 2206, Savannah, Georgia 31402–2206, as applicable. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *When does this amendment become effective?* This amendment becomes effective on September 24, 2001.

Issued in Kansas City, Missouri, on August 27, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22083 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–12]

Establishment of Class E Airspace at Van Nuys Airport; Van Nuys, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule that establishes a Class E Surface Area at Van Nuys Airport in Van Nuys, CA.

EFFECTIVE DATE: 0901 UTC November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division, Airspace Branch, AWP–520.11, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 13, 2001 (66 FR 36700). The FAA uses the direct rulemaking procedure for a non-controversial rule when FAA believes that there will be no adverse public comment. This direct final rule advised the public that adverse comments were not anticipated, and that unless written adverse comments or written notice of intent to submit such adverse comments, were received within the comment period, the regulation would become effective on November 1, 2001. No adverse comments were received. Thus, this notice confirms that direct final rule will become effective on that date.

Issued in Los Angeles, California, on August 20, 2001.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–22154 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 148

[T.D. 01–61]

RIN 1515–AC90

Change in Flat Rate of Duty on Articles Imported for Personal or Household Use or as Bona Fide Gifts

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect a provision of the Tariff Suspension and Trade Act of 2000 which sets forth a staged reduction of the flat rate of duty on articles imported for personal or household use or as bona fide gifts.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Ralph L. Hackney, Passenger Programs, Office of Field Operations; telephone (202) 927–2931.

SUPPLEMENTARY INFORMATION:

Background

Persons entering the United States with noncommercial importations of limited value, *i.e.*, articles for personal or household use or as bona fide gifts not imported for sale nor for the account of another person and valued in the aggregate at not over $ 1,000 fair retail value in the country of acquisition, are assessed a flat rate of duty on the articles, provided the person claiming the tariff benefit(s) has not received such benefit(s) within the 30 days immediately preceding the present arrival. Depending on how and from where the articles are imported, the entry may be made under either or both subheadings 9816.00.20 and 9816.00.40 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

A particular flat rate of duty under HTSUS subheading 9816.00.20 is applicable to articles (exclusive of duty-free articles and articles acquired in American Samoa, Guam or the Virgin Islands of the United States) that accompany a person arriving in the United States. A different particular flat rate of duty is applicable under HTSUS subheading 9816.00.40 to articles imported by or for the account of a person (whether or not accompanying the person) who arrives directly or indirectly from American Samoa, Guam or the Virgin Islands of the United States if the articles were acquired in those insular possessions as an incident of the person's physical presence.

While a person can use both subheadings for entering goods during one arrival in the United States, it is noted that the person may enter goods under HTSUS subheading 9816.00.40 only if the imported goods are acquired in the insular possessions as an incident of the traveler's physical presence there.

Prior to January 1, 2000, the flat rates of duty were 10 percent of the fair retail value for articles entered under HTSUS subheading 9816.00.20 and 5 percent of the fair retail value for articles entered under HTSUS subheading 9816.00.40.

On November 9, 2000, the President signed into law the Tariff Suspension and Trade Act of 2000 (Pub.L. 106–476, 114 Stat. 2101, 19 U.S.C. 1200 note). Section 1455 of this Act amended the tariff provisions at HTSUS subheadings 9816.00.20 and 9816.00.40 to provide for staged reductions of the flat-duty rates. Section 1455 amended HTSUS subheading 9816.00.20 to provide that effective January 1, 2000, the 10 percent flat-duty rate is reduced to 5 percent; that effective January 1, 2001, the 5 percent flat-duty rate is reduced to 4 percent; and that effective January 1, 2002, the 4 percent flat-duty rate is reduced to 3 percent. Section 1455 amended HTSUS subheading 9816.00.40 to provide that effective January 1, 2000, the 5 percent flat-duty rate is reduced to 3 percent; that effective January 1, 2001, the 3 percent flat-duty rate is reduced to 2 percent; and that effective January 1, 2002, the 2 percent flat-duty rate is reduced to 1.5 percent.

The flat rates of duty of HTSUS subheadings 9816.00.20 and 9816.00.40 are reflected and explained in §§ 148.101 and 148.102, Customs Regulations (19 CFR 148.101 and 148.102). These regulations now provide out-dated flat duty percentage rates. Accordingly, these regulations need to be revised to reflect these staged reductions of the flat-duty rates.

It is noted that these regulatory provisions pertain not only to the three insular possessions expressly provided for in the tariff provisions discussed above—American Samoa, Guam, and the Virgin Islands of the United States; they also pertain to the Commonwealth of the Northern Mariana Islands. This is because, pursuant to section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (Pub.L. 94–241, 90 Stat. 263, 270), goods imported from the Commonwealth of the Northern Mariana Islands are entitled to the same tariff treatment as imports from Guam. See, § 7.2(a) of the Customs Regulations (19 CFR 7.2(a)).

In this document, Customs is revising §§ 148.101 and 148.102 to conform the Customs Regulations to section 1455 of the Tariff Suspension and Trade Act of 2000.

Section 148.102(a) is amended to provide that the rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

Section 148.102(b) is amended to provide that the rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

The parenthetical reference to Canada is removed from § 148.102(a); and § 148.102(c) is removed. These changes are made because the U.S.-Canada Free-Trade Agreement Implementation Act has been suspended. All originating goods from Canada are now duty-free pursuant to the North American Free Trade Agreement.

In addition, § 148.101 is amended by revising the two examples of the application of the flat rate of duty to reflect the staged reductions.

Inapplicability of Public Notice and Comment Requirement and Delayed Effective Date Requirement

Because this rule conforms the regulations to reflect new statutory requirements that confer a benefit in the form of lower duty rates, it has been determined, pursuant to 5 U.S.C. 553(b)(B), that notice and public procedure are unnecessary and contrary to the public interest. For the same reasons, a delayed effective date is not

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required, pursuant to 5 U.S.C. 553(d)(1) and (d)(3).

The Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

List of Subjects for 19 CFR Part 148

Customs duties and inspection, Declarations, Reporting and recordkeeping requirements, Trade agreements (North American Free Trade Agreement).

Amendments to the Regulations

For the reasons stated in the preamble, part 148 of the Customs Regulations (19 CFR part 148) is amended as set forth below:

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 continues to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 22, Harmonized Tariff Schedule of the United States);

* * * * *

2. In § 148.101, the reference in the first sentence of Example 1 to "$1,050" is removed and the reference "$1,950" is added in its place; and the tables in Examples 1 and 2 are revised, respectively, to read as follows:

§ 148.101 Applicability.

* * * * *

Example 1: * * *

	Fair retail value	Duty
(a) The $400 personal exemption	$400	.....
(b) Articles which carry a free rate of duty	100	.....
(c) The $1,000 flat rate of duty allowance calculated at:	1,000	.....
4 percent (effective 01/01/01 through 12/31/01)	.....	$40
3 percent (effective from 01/01/02)	.....	30
(d) Balance of articles subject to duty at rates other than flat rate	[1] 450	([1])
Total	[1] 1,950	([1])

[1] The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

Example 2: * * *

	Fair retail value	Duty
(a) The $1,200 personal exemptions for residents returning from the U.S. Virgin Islands are grouped for a total of	$2,400	.....
(b) Articles which carry a free rate of duty	100	.....
(c) The $1,000 flat rate of duty allowance calculated at:	2,000	.....
2 percent (effective 01/01/01 through 12/31/01)	.....	$40
1.5 percent (effective from 01/01/02)	.....	30
(d) Balance of articles subject to duty at rates other than flat rate	[1] 400	([1])
Total	[1] 4,900	([1])

[1] The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

3. Section 148.102 is revised to read as follows:

§ 148.102 Flat rate of duty.

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

Charles W. Winwood,

Acting Commissioner of Customs.

Approved: August 29, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–22112 Filed 8–31–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–121]

RIN 2115–AA97

Safety Zone; Algoma Shanty Days 2001, Algoma Harbor, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Algoma Harbor for the Algoma Shanty Days 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of Algoma Harbor, Algoma, Wisconsin.

DATES: This temporary rule is effective from 8:30 p.m. until 9:30 p.m. (CST) on September 29, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–121] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The subsequent permit application, after the original date was rained out, did not allow sufficient time for the publication of an NPRM followed by a temporary final rule effective 30 days after publication. Due to inclement weather during the originally scheduled date, the event organizer rescheduled the fireworks to occur a month after the expected date. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

This Safety Zone is established to safeguard the public from the hazards associated with the launching of fireworks on the Algoma Harbor, Algoma, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on September 29, 2001, from 8:30 p.m. until 9:30 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 560-foot radius with its center in approximate position 44°36.22′ N, 087° 25.55′ W, off Algoma's south breakwall. The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents. These coordinates are based upon North American Datum 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the south breakwall in Algoma's inner and outer harbor from 8:30 p.m. until 9:30 p.m. (CST) on September 29, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only one hour and twenty minutes on one day and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Algoma Harbor.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee. (See **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–995 is added to read as follows:

§ 165.T09–995 Safety Zone: Algoma Harbor, Algoma, Wisconsin.

(a) *Location.* The safety zone will encompass all waters bounded by the arc of a circle with a 560-foot radius with its center in approximate position 44° 36.22′ N, 087° 25.55′ W, located off the southernmost part of the Algoma breakwall (NAD 83).

(b) *Effective times and dates.* From 8:30 p.m. until 9:30 p.m. on September 29, 2001.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely affect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: August 22, 2001.

M. R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port, Milwaukee, Milwaukee, Wisconsin.

[FR Doc. 01–22082 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–28–1–7537, FRL–7049–1]

Approval and Promulgation of Implementation Plans; Texas; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule to approve the Vehicle Miles Traveled Offset State Implementation Plan for the Houston/Galveston Ozone Nonattainment area. In the direct final rule published on July 10, 2001 (66 FR 35903), we stated that if we received adverse comment by August 9, 2001, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on July 10, 2001 (66 FR 35920). EPA will not institute a second comment period on this action.

DATES: The direct final rule published July 10, 2001, at 66 FR 35903 is withdrawn as of September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Bill Deese, Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Phone (214) 665–7253.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by Reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 24, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

Accordingly, the amendment to the table in § 52.2270(e) which added the entry for Vehicle Miles Traveled Offset Plan for the Houston/Galveston Ozone nonattainment area is withdrawn as of September 4, 2001.

[FR Doc. 01–22133 Filed 8–31–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7048–8]

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Amendment to the List 2 Rule and Partial Delay of Reporting of Monitoring Results

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the U.S. Environmental Protection Agency to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. In fulfillment of this requirement, EPA published Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for public water systems on September 17, 1999 (64 FR 50556), March 2, 2000 (65 FR 11372) and January 11, 2001 (66 FR 2273), which included lists of contaminants for which monitoring was required or would be required in the future. EPA is taking direct final action to correct an omission in the January 11, 2001, List 2 UCMR concerning laboratory certification. This correction will automatically approve laboratories of public water systems, that are certified to conduct compliance monitoring using Method 515.3, to also use Method 515.4 for UCMR analyses. Additionally, EPA is delaying requirements for the electronic reporting of unregulated contaminant monitoring results until its electronic reporting system is ready to accept data. The January 11, 2001, List 2 UCMR requires certain public water systems to start reporting the results of their unregulated contaminant monitoring to EPA electronically by July 1, 2001. This rule notifies such public water systems that the electronic reporting system that EPA is developing to accept monitoring data is not ready and that EPA is removing the reporting requirement until it is available. This action does not delay or suspend the implementation of any of the requirements of the Unregulated Contaminant Monitoring Regulations for sample collection and analysis on the previously established schedule.

DATES: This rule is effective on November 5, 2001, without further notice, unless EPA receives adverse comment by October 4, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. For judicial review purposes, this final rule is promulgated as of 1 p.m. ET on September 18, 2001 as provided in 40 CFR 23.7.

ADDRESSES: Please send an original and three copies of your comments and enclosures (including references) to docket number W–00–01–III, Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Ave., NW Washington, DC 20460. Hand deliveries should be delivered to EPA's Water Docket at 401 M. St., Room EB57, Washington, DC. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to *ow-docket@epamail.epa.gov*. Electronic comments must be submitted as a Word Perfect (WP) WP5.1, WP6.1 or WP8 file or as an ASCII file, avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number W–00–01–III. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this rule may be filed online at many Federal Depository Libraries.

The record for this rulemaking has been established under docket number W–00–01–III and includes supporting documentation as well as printed, paper versions of electronic comments. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M, Washington, DC. For access to docket materials, please call 202/260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Charles Job (202–260–7084) or Jeffrey Bryan (202–260–4934), Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC–4607), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. General information about UCMR may be obtained from the EPA Safe Drinking Water Hotline at (800) 426–4791. The Hotline operates Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. ET.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

The regulated entities are public water systems. All large community and non-transient non-community water systems serving more than 10,000 persons are required to monitor under the UCMR. A community water system (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. Non-transient non-community water system (NTNCWS) means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year. Only a national representative sample of community and non-transient non-community systems serving 10,000 or fewer persons are required to monitor under the UCMR. Transient non-community systems (i.e., systems that do not regularly serve at least 25 of the same persons over six months per year) are not required to monitor. States, Territories, and Tribes, with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act, sometimes conduct analyses to measure for contaminants in water samples and are regulated by this action. Categories and entities potentially regulated by this action include the following:

Category	Examples of potentially regulated entities	NAICS
State, Territorial and Tribal Governments.	States, Territories, and Tribes that analyze water samples on behalf of public water systems required to conduct such analysis; States, Territories, and Tribes that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware of that could potentially be

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regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Purpose of this Action

The purpose of this action is to correct an omission in the revised Unregulated Contaminant Monitoring Regulation (UCMR) and to delay the requirement to electronically report to EPA until EPA's electronic reporting system is ready to receive data. The revised UCMR was published in the **Federal Register** on September 17, 1999 (64 FR 50556), and supplemented on March 2, 2000 (65 FR 11372) and January 11, 2001 (66 FR 2273).

At § 141.40 (a)(5)(ii)(G)(1), EPA intended to provide automatic certification to laboratories of public water systems that are already certified to use EPA Method 515.3 to also use EPA Method 515.4 for unregulated contaminant monitoring analysis. Four analytical methods have been previously approved for the analysis of dimethyltetrachloroterephthalate acid (DCPA) degradates in UCMR monitoring. Three of these methods, EPA Methods 515.1, 515.2, and 515.3 are currently approved for drinking water compliance monitoring. A regulation has not yet been promulgated to approve EPA Method 515.4 for drinking water compliance monitoring. Since all other UCMR methods are currently approved for compliance monitoring, EPA stated in the January 11, 2001 UCMR preamble that laboratories certified to conduct compliance monitoring using these methods are automatically approved to conduct UCMR analysis using Method 515.4. The January 11, 2001 UCMR promulgated Method 515.4 for UCMR monitoring but failed to specify how laboratories would be certified to conduct analysis using Method 515.4.

As discussed in the January 11, 2001 UCMR, EPA developed a revised version of EPA Method 515.3, titled EPA Method 515.4, which includes a wash step following hydrolysis. Method 515.4 was developed to eliminate the need for laboratories using Method 515.3 to reanalyze positive samples. Since Method 515.4 is procedurally the same as Method 515.3 except for the addition of a wash step, EPA is adding a sentence approving laboratories use of Method 515.4 if they are currently certified to perform compliance monitoring using Method 515.3.

In addition, EPA is also amending the January 11, 2001, UCMR to delay reporting of unregulated contaminant monitoring data to EPA until EPA's electronic reporting system is ready to receive the data. Section 141.35(c) of the January 11, 2001, UCMR requires the following reporting from public water systems subject to UCMR monitoring:

> (c) *When must I report monitoring results?* You must report the results of unregulated contaminant monitoring within thirty (30) days following the month in which you received the results from the laboratory. EPA will conduct its quality control review of the data for sixty (60) days after you report the data, which will also allow for quality control review by systems and States. After the quality control review, EPA will place the data in the national drinking water contaminant occurrence database at the time of the next database update. *Exception: Reporting of monitoring results to EPA received by public water systems prior to June 30, 2001, must occur between July 1 and September 30, 2001.* (Italics added.)

Public water systems must report these monitoring results to EPA electronically, as required in § 141.35(e).

EPA was not able to have its electronic reporting system ready for reporting by July 1, 2001, as originally planned. Establishing a new information system for these results was more complex than EPA anticipated. The complexities of establishing a new information system for monitoring data that provides Internet based reporting include: use of a modern computer language not previously used by EPA information systems in a complex reporting structure; new reporting arrangements from laboratories directly to EPA, with electronic approval capability for public water systems and viewing rights for States and EPA; a new data exchange portal (EPA's Central Data Exchange—CDX); new security checks through CDX with subsequent testing; and, development of appropriate user guidance.

Therefore, the affected regulated public water systems will not be able to comply with the requirements for reporting of unregulated contaminant monitoring results to EPA because the electronic reporting system is not operational. EPA, in this action, is delaying the current UCMR requirement to electronically report to the EPA. EPA anticipates that the electronic reporting system will be ready in two to three months. As soon as EPA knows for sure when the electronic reporting system will be available, EPA will undertake a rulemaking to specify the new electronic data submission date for data collected since January 1, 2001.

EPA reiterates that this rule does not suspend the implementation of any of the Unregulated Contaminant Monitoring Regulations for sample collection and analysis on the previously established schedules.

II. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is not "economically significant" under Executive Order 12866, nor does it concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The rule imposes no additional enforceable duty on any State, local or Tribal governments or the private sector. This rule does not change the costs to State, local, or Tribal governments as estimated in the final revisions to the Unregulated Contaminant Monitoring Rule (64 FR 50556, September 17, 1999; 65 FR 11372, March 2, 2000; and 66 FR 2273, January 11, 2001) because the rule approves laboratories for monitoring with EPA Method 515.4, and delays reporting of results to EPA until EPA's electronic reporting system is ready to accept data. The lab approval will not incur any additional costs to laboratories, and instead allows for an additional method to be used when analyzing for DCPA acid degradates. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the same reason, EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule makes minor revisions to the Unregulated Contaminant Monitoring Rule. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to response to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

E. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice-and-comment rulemaking requirement under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small government jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities for the agency" after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. secs. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with the Small Business Administration's (SBA's) Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's rule on small entities, EPA considered small entities to be public water systems serving 10,000 or fewer persons. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. In accordance with the RFA requirements, EPA proposed using this alternative definition for all three categories of small entities in the **Federal Register**, (63 FR 7620, February 13, 1998) requested public comment, consulted with SBA regarding the alternative definition as it relates to small businesses, and expressed its intention to use the alternative definition for all future drinking water regulations in the Consumer Confidence Reports regulation (63 FR 44511, August 19, 1998). As stated in that final rule, the alternative definition would be applied to this regulation as well.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule makes two minor revisions to the January 11, 2001 UCMR and imposes no additional enforceable duty on any State, local or Tribal governments or the private sector. It merely approves laboratories to conduct UCMR monitoring using EPA Method 515.4, and delays reporting of results to EPA until the EPA electronic reporting system is ready to accept data. The lab approval revision will not increase laboratory costs. It allows for an additional method to be used when analyzing for DCPA acid degradates.

F. National Technology Transfer and Advancement Act

Section 12 (d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus

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standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA's use of voluntary consensus standards in the UCMR program and approval of Method 515.4 was addressed in the September 1999 and January 2001 rulemakings (64 FR 50608 and 66 FR 2298). This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Executive Order 12898—Environmental Justice Strategy

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's rule makes two minor changes to the January 11, 2001 UCMR, and does not alter the regulatory impact of those regulations.

H. Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule makes two minor changes to the January 11, 2001 UCMR, approving laboratories currently certified to conduct analyses using EPA Method 515.3 to use EPA Method 515.4 for UCMR analysis, and delaying reporting of results to EPA until the EPA electronic reporting system is ready to accept data. There is no cost to State and local governments, and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule.

I. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's rule makes minor changes to the January 11, 2001 UCMR. Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action."

This rule is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

K. Administrative Procedure Act

EPA is publishing this rule without prior proposal because it views this as a noncontroversial amendment and anticipates no adverse comment. EPA does not anticipate adverse comment because this rule provides labs with another Method to perform analyses at no cost to them, as well as delays the need for applicable public water systems to report monitoring data, again, at no cost to the public water systems. However, in the "Proposed Rule" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for the correction to the Unregulated Contaminant Monitoring Regulation for Public Water Systems if adverse comments are filed. This rule will be effective on November 5, 2001 without further notice unless EPA receives adverse comment by October 4, 2001. If EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. § 804(2). This rule will be effective on November 5, 2001.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indian lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: August 28, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–l, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.35 is amended by revising the last sentence in paragraph (c) to read as follows:

§ 141.35 Reporting of unregulated contaminant monitoring results.

* * * * *

(c) * * * Exception: Reporting of monitoring results to EPA is not required until EPA's electronic reporting system is operational; EPA will provide notice of applicable reporting deadlines in a future rulemaking.

* * * * *

3. Section 141.40 is amended by adding a sentence to the end of paragraph (a)(5)(ii)(G)(*1*) to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *
(5) * * *
(ii) * * *
(G) * * *
(*1*) * * * Laboratories certified under § 141.28 for compliance analysis using EPA Method 515.3 are automatically approved to conduct UCMR analysis using EPA Method 515.4.

* * * * *

[FR Doc. 01–22114 Filed 8–29–01; 2:33 pm]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 96

Tobacco Regulation and Maintenance of Effort Reporting Requirements for Substance Abuse Prevention and Treatment Block Grant Applicants

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Interim final rule.

SUMMARY: This interim final rule clarifies that States may no longer obtain extensions to submit the maintenance of effort (MOE) information required under section 1930(c) of the Public Health Service (PHS) Act; separates the annual report required under section 1926(b)(2)(B) (hereinafter referred to as the Synar report), of that Act, from the Substance Abuse Prevention and Treatment (SAPT) Block Grant application; and establishes a deadline for submission of the Synar report of no later than December 31 of the fiscal year for which a State is applying for a grant.

DATES: *Effective Date:* September 4, 2001.

Comment Date: The Secretary is requesting written comments which must be received on or before November 5, 2001.

ADDRESSES: Written comments on this interim final rule must be sent to David Robbins, Acting Director, Division of State and Community Systems Development, Center for Substance Abuse Prevention (CSAP), Rockwall II Building, 9th Floor, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David Robbins, telephone no. (301) 443–0369.

SUPPLEMENTARY INFORMATION: States are required under sections 1930(c) and 1932(a)(5) of the PHS Act and 45 CFR 96.122(d) to submit to the Secretary maintenance of effort information regarding State expenditures. The required MOE information must be sufficient to make a determination of whether the principal agency for substance abuse services maintained aggregate State expenditures for these activities at a level not less than the average level of such State expenditures for the two year period preceding the fiscal year for which the State is applying for a grant. The MOE information is required, by statute, to be submitted as a part of the SAPT Block Grant application.

In SAMHSA's recent reauthorization, Pub. L. 106–310 (Oct. 17, 2000), Congress established a receipt date for the SAPT Block Grant application of October 1 of the fiscal year for which a State is seeking Federal funds. Previously, the SAPT Block Grant application due date was established by regulation and the States were permitted by regulation to receive an extension allowing them to submit the MOE information no later than December 31. See former 45 CFR 96.122(d). However, because the statute now requires States to submit their SAPT Block Grant applications by October 1 and there is no authority for the Secretary to extend the deadline for submission of the MOE information, this rule clarifies that States must submit such information by October 1 and may no longer obtain extensions of that deadline. This clarification is merely a technical change to make the regulation consistent with what is explicitly required by statute.

With regard to the Synar report, States are required under section 1926(b)(2)(B) of the PHS Act and 45 CFR 96.130(e) to annually submit to the Secretary a report describing, among other things, their efforts to enforce youth tobacco access laws and success during the previous fiscal year for which the State is applying for a grant. The Synar report is currently required, by regulation only, to be submitted as part of the SAPT Block Grant application.

As mentioned above, in SAMHSA's recent reauthorization, Congress established a receipt date for the SAPT Block Grant application of October 1 of the fiscal year for which a State is seeking Federal funds. Previously, by regulation, the States were permitted to receive an extension allowing them to submit the Synar report by no later than December 31. See 45 CFR 96.122(d).

A number of States informed SAMHSA that they required additional time beyond October 1 to complete their Synar reports and would not be able to meet the statutory due date of October 1; thus would be in jeopardy of losing their SAPT Block Grant funding.

Many States need the later due date for the Synar report because they rely on youth to perform a central function in the work required for compliance with the program; that is, these youth attempt to buy, under adult supervision, tobacco products from tobacco outlets to determine retailer compliance with State laws. These youth inspectors are only available to many of the States during the summer school recess. Without a rule change, States have essentially one month to collate data, complete data analysis and report on the results by the new October 1 SAPT Block Grant application deadline. Providing States the opportunity to continue to submit their Synar reports as late as December 31 ensures that all States will have the necessary time to meet the Synar reporting requirements, thus enabling them to receive their SAPT Block Grant funds.

Because of the burden on States, the Department is changing the rule to separate the Synar report from the SAPT Block Grant application and to require that the Synar report be submitted no later than December 31 of the Federal

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fiscal year for which a State is seeking funds.

Although the annual report is not required as a matter of law to be part of the SAPT Block Grant application (see section 1932 of the PHS Act), the statute does require that the SAPT Block Grant application contain each funding agreement required by the law. Further, before making a grant to a State, the Secretary must make a determination of compliance with section 1926 of the PHS Act. See sections 1926(c) and 1932(a)(2) of the PHS Act. Therefore, the rule is also being changed, first, to require an assurance, as part of the SAPT Block Grant application, that the State will submit the annual Synar report as required by the rule. Second, it is being changed to make it clear that an award will not be made without the Synar report, since the rule requires that retailer noncompliance rates be considered in determining State compliance with section 1926 of the PHS Act and its implementing regulations. See 45 CFR 96.130(h).

As to issuing an interim final rule, it is the Department's view that good cause exists to show that notice and comment are impracticable, unnecessary, and contrary to the public interest, 5 U.S.C. 553(b)(B). There is insufficient time before the SAPT Block Grant applications are due for fiscal year 2002 (October 1, 2001) to solicit public comment and to respond to such comment prior to that date. Not only is seeking comment prior to finalizing the rule impracticable in light of the time constraints, but States are in jeopardy of not being awarded their SAPT Block Grants if they do not submit by October 1 the required application which, without this rule change, must include the Synar report. Given that the SAPT Block Grant is the largest source of Federal funds for substance abuse prevention and treatment services, jeopardizing these funds to allow for public comment is contrary to the public interest.

Further, at this time, public comment is not necessary given the technical nature of this rule change. As indicated above, the clarification regarding the MOE report simply makes the regulation consistent with the recent change in statute. With respect to the Synar report, requiring that report to be submitted by December 31 of the fiscal year for which the State is applying for a grant does not substantively change the previous requirement on the States regarding the due date for the Synar report. In fact, public comment was solicited last year when SAMHSA changed the rule to require that the States submit their SAPT Block Grant applications (including the Synar report) by October 1 and provide the States the opportunity for extensions to December 31 to submit the Synar reports. See 65 FR 5474 (Feb. 4, 2000); 65 FR 45305 (July 21, 2000). Also, more recently, SAMHSA has received comments from the States about the impact of the October 1 deadline on their ability to complete and report on the Synar requirements through numerous sources (e.g., the annual conference of the National Association of State Alcohol and Drug Abuse Directors, June 2001). All commenters supported allowing the States additional time to submit their Synar reports.

For similar reasons, this regulation is effective immediately. Delaying the effective date for a period of thirty days is impracticable, unnecessary and contrary to the public interest.

Although the rule is being published as an interim final rule and is effective immediately, the Secretary is providing an opportunity for public comment. The Secretary will consider any comments and, after such consideration, make any necessary amendments in a final rule.

Economic Impact

This rule does not have cost implications for the economy of $100 million, nor does this interim final rule otherwise meet the criteria for a major rule under Executive Order 12866. Therefore, this interim final rule does not require a regulation impact analysis. Further, this regulation will not have a significant impact on substantial numbers of small entities, and consequently does not require regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

Federalism Impact

The Secretary has analyzed this interim final rule in accordance with Executive Order 13132, which requires Federal agencies to carefully examine actions to determine if they contain policies that have federalism implications or that pre-empt State law. Because this interim final rule simply separates out the Synar report, while continuing its previous due date, it does not preempt any State law and there should be little, if any, impact on federalism concerns.

Regulatory Evaluation

This interim final rule is not a significant regulatory action under section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under section 6(a)(3) of that Order and thus has been exempted from review by the Office of Management and Budget under that Order.

Paperwork Reduction Act of 1995

The changes to the annual "Synar report" and the annual Substance Abuse Prevention and Treatment Block Grant (SAPT BG) application for Fiscal Years 2002–2004 have been approved by the Office of Management and Budget (OMB) under control number 0930–0222 (for the Synar report) and 0930–0080 (for the SAPT BG application). The information collection language and the recordkeeping requirements associated with the regulations for the SAPT BG are approved by OMB under control number 0930–0163.

The changed forms for both the Synar report and the SAPT BG application for FY 2002–2004, as approved by OMB, have already been sent to the States prior to publication of this rule in order to allow sufficient time for proper reporting.

Lists of Subjects in 45 CFR Part 96

Alcohol abuse, Alcoholism, Drug abuse, Tobacco.

Approved: August 27, 2001.

Tommy G. Thompson,

Secretary.

For the reasons set out in the preamble, Part 96 of Title 45 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart L of Part 96 continues to read as follows:

Authority: 42 U.S.C. 330x-21 to 330x-35 and 300x-51 to 330x-64.

2. Section 96.122 is amended as follows:

a. By revising paragraphs (d) and (f)(6) to read as set forth below; and

b. By removing paragraph (g)(21) and redesignating paragraphs (g)(22) and (g)(23) as paragraphs (g)(21) and (g)(22).

The revised text reads as follows:

§ 96.122 Application content and procedures.

* * * * *

(d) The State shall submit the application for a block grant by the date prescribed by law. The annual report required under § 96.130(e) is not required to be submitted as part of the application, but must be submitted no later than December 31 of the fiscal year for which the State is seeking a grant. Grant awards will not be made without the report required under § 96.130(e).

* * * * *

(f) * * *

(6) For the first applicable fiscal year for which the State is applying for a grant, a copy of the statute enacting the law as described in § 96.130(b) and, for subsequent fiscal years for which the State is applying for a grant, any amendment to the law described in § 96.130(b).

* * * * *

3. Section 96.123(a)(5) is revised to read as follows:

§ 96.123 Assurances.

(a) * * *

(5) The State has a law in effect making it illegal to sell or distribute tobacco products to minors as provided in § 96.130(b), will conduct annual, unannounced inspections as prescribed in § 96.130, will enforce such law in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18, and will submit an annual report as required under § 96.122(d) and § 96.130(e);

* * * * *

4. Section 96.130(e), introductory text is revised to read as follows:

§ 96.130(e) State law regarding sale of tobacco products to individuals under age of 18.

* * * * *

(e) As provided by § 96.122(d), the State shall annually submit to the Secretary a report which shall include the following:

* * * * *

[FR Doc. 01–22129 Filed 8–31–01; 8:45 am]

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Proposed Rules

Federal Register
Vol. 66, No. 171
Tuesday, September 4, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–010–1]

Change in Disease Status of Japan With Regard to Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to add Japan to the list of regions that are considered free of rinderpest and foot-and-mouth disease. We are taking this action because we have determined that Japan is now free of foot-and-mouth disease. We are also proposing to add Japan to the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or foot-and-mouth disease-affected countries. These actions would update the disease status of Japan with regard to foot-and-mouth disease while continuing to protect the United States from an introduction of rinderpest and foot-and-mouth disease by providing additional requirements for any meat and meat products imported into the United States from Japan.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–010–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–010–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various diseases, including rinderpest, foot- and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other parts of the world not listed. Section 94.11 of the regulations lists regions of the world that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On March 8, 2000, a suspected outbreak of FMD was detected in Japan, and on March 27, 2000, Japan's Ministry of Agriculture notified us with confirmation of the FMD diagnosis. In an interim rule effective on March 8, 2000, and affirmed on July 14, 2000, we amended the regulations in § 94.1(a)(2) by removing Japan from the list of regions that have been declared free of rinderpest and FMD. (Although Japan continues to be free of rinderpest, § 94.1(a)(2) lists regions that are declared free of both rinderpest and FMD.) Additionally, in that interim rule, we removed Japan from the list in § 94.11 of countries that are declared to be free of these diseases, but that are still subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. As a result of that action, the importation into the United States of any ruminant or swine or any fresh (chilled or frozen) meat of any ruminant or swine that left Japan on or after March 8, 2000, was prohibited or restricted.

Prior to the March 2000 outbreak of FMD, Japan had not had a case of FMD since the early 1900's. In response to the March 2000 outbreak of FMD, Japan undertook intensive efforts to eradicate the disease. Japan's last FMD-affected premises was depopulated on May 15, 2000. According to international disease standards set by the Office International des Epizooties, when FMD occurs in a country that was previously free of the disease, that country can regain its FMD-free status 3 months after the last case.

Therefore, because at least 3 months have elapsed since Japan's last FMD case, we have determined that Japan meets our requirements for being recognized as free of FMD. To update Japan's disease status regarding FMD, we are proposing to add Japan to the list in § 94.1(a)(2) of regions that are considered free of rinderpest and FMD.

This proposed action would relieve certain restrictions due to FMD and rinderpest on the importation into the United States of certain live animals and animal products from Japan. However, because Japan has certain trade practices regarding animals and animal products that are less restrictive than are acceptable for importation into the United States, the importation of meat and other products from ruminants and swine into the United States from Japan would continue to be subject to certain restrictions.

Specifically, we are proposing to add Japan to the list in § 94.11(a) of regions declared free of rinderpest and FMD but that are subject to special restrictions on the importation of their meat and other animal products into the United States. The regions listed in § 94.11(a) are subject to these special restrictions because they: (1) Supplement their national meat supply by importing fresh (chilled or frozen) meat of ruminants or

swine from regions that are designated in § 94.1(a) as regions where rinderpest or FMD exists, (2) have a common land border with regions where rinderpest or FMD exists, or (3) import ruminants or swine from regions where rinderpest or FMD exists under conditions less restrictive than would be acceptable for importation into the United States.

Japan imports live ruminants and swine from regions not recognized as free of rinderpest or FMD under conditions less restrictive than would be acceptable for importation into the United States. As a result, there is some risk that the meat and other animal products produced by Japan could be commingled with the fresh (chilled or frozen) meat of animals from a region in which rinderpest and FMD exist and present an undue risk of introducing rinderpest or FMD into the United States if imported without restriction.

Under § 94.11, meat and other animal products of ruminants and swine, including ship stores, airplane meals, and baggage containing these meat or animal products, may not be imported into the United States except in accordance with § 94.11 and the applicable requirements of the USDA's Food Safety and Inspection Service at 9 CFR chapter III.

Section 94.11 generally requires that the meat and other animal products of ruminants and swine be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by an additional certificate; issued by a full-time salaried veterinary official of the national government of the exporting region, assuring that the meat or other animal products have not been commingled with or exposed to meat or other animal products originating in, imported from, transported through, or that have otherwise been in a region where rinderpest or FMD exists.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are proposing to amend the regulations to add Japan to the list of regions that are considered free of rinderpest and FMD. We are taking this action because we have determined that Japan is now free of FMD. We are also proposing to add Japan to the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected countries. These actions would update the disease status of Japan with regard to FMD while continuing to protect the United States from an introduction of rinderpest and FMD by providing additional requirements for any meat and meat products imported into the United States from Japan.

The following analysis addresses the economic effect of this proposed rule on small entities, as required by the Regulatory Flexibility Act.

The livestock industry plays a significant role in the U.S. economy. According to the National Agricultural Statistics Service, in 2000, the total number of cattle and calves in the United States was approximately 98.05 million, valued at approximately $67.01 billion. U.S. operations with cattle numbered 1,115,650 in 1997, the last year for which census data are available. More than 99 percent of these cattle operations had gross receipts of less than $750,000, which qualifies them as small entities according to the standards set by the Small Business Administration.

The U.S. livestock industry also plays an important role in international trade. U.S. competitiveness in international markets relies significantly upon this country's reputation for producing high-quality, disease-free animals and animal products. Maintaining these favorable trade conditions depends, in part, on continued aggressive efforts to prevent any threat of FMD introduction into the United States. A single outbreak of FMD anywhere in the United States would close our major export markets for livestock and livestock products overnight. Most exports of meat, animals, and animal byproducts would be stopped until the disease was completely eradicated.

In 1999, the total earnings from U.S. exports of live cattle, swine, beef and veal, pork, and dairy products to the rest of the world were approximately $4.80 billion. Additionally, the export of other animals and animal products and byproducts generated approximately $5.64 billion in sales for the United States. Consequently, an outbreak of FMD could result in the potential loss of export sales in the billions of dollars as well as other costs to those involved in the U.S. livestock industry.

Because we would declare Japan to be free of FMD but subject to the restrictions of § 94.11 due to its trading relationships with rinderpest- or FMD-affected regions, this proposed rule would produce economic benefits by continuing to protect against the introduction of rinderpest and FMD into the United States. Import values of dairy products, red meat, and red meat products represented less than 0.01 percent of the overall value of U.S. imports from Japan in 1999. Since Japan is not a significant source, and is not expected to become a significant source, of these products for the U.S. market, this proposed rule, if adopted, would not have a noticeable effect on producer, wholesale, or consumer prices in the United States. Therefore, we expect that there would be very little or no effect on U.S. entities, large or small, as a result of this proposed rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are proposing to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) would be amended by adding, in alphabetical order, the word "Japan,".

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§ 94.11 [Amended]

3. In § 94.11, paragraph (a), the first sentence would be amended by adding, in alphabetical order, the word "Japan,".

Done in Washington, DC, this 28th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22134 Filed 8–31–01; 8:45 am]

BILLING CODE 3410–34–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 20, and 50

RIN 3150–AG56

Releasing Part of a Power Reactor Site or Facility for Unrestricted Use Before the NRC Approves the License Termination Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to standardize the process for allowing a power reactor licensee to release part of its facility or site for unrestricted use before the NRC approves the license termination plan (LTP). This type of release is termed a "partial site release." The proposed rule would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release and provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its LTP to the NRC. Also the proposed rule would clarify that the radiological criteria for unrestricted use apply to a partial site release.

DATES: The comment period expires on November 19, 2001. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You also may provide comments via the NRC's interactive rulemaking Website (http://ruleforum.llnl.gov). This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher, (301) 415–5905, e-mail: *cag@nrc.gov*.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room), *www.nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. W. Mike Ripley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1112; or by Internet electronic mail to wmr@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Compliance with the decommissioning and license termination rules of 10 CFR parts 20, and 50 ensures adequate protection to the public and the environment from any radioactivity remaining in the facility and site when the reactor license is terminated. The NRC staff makes its determination that the licensee has met the license termination criteria using information submitted by the licensee in its LTP and final radiation survey. The LTP is not required until 2 years before the anticipated date of license termination. The license termination radiation survey is not required until after the licensee completes its decontamination activities. These requirements were based on the NRC's anticipation that reactor licensees would permanently cease operations and then perform the decommissioning and license termination of the site as one large project. However, in 1999, a licensee informed the staff that it intended to sell parts of its facility and site before it permanently ceased operations. It was not clear whether NRC approval was required for the sale. As a result, the staff was faced with the need to evaluate the adequacy of the licensee's proposed action before the licensee was required to submit the information required by the LTP and the final radiation survey.

In evaluating the staff's response to the proposed sale of parts of the licensee's facility and site, a number of actions specific to the case were taken to ensure that the property would meet the radiological release criteria for unrestricted use of 10 CFR part 20, subpart E.

However, the NRC recognized that the current regulations in 10 CFR part 50 do not address the release of part of a reactor facility or site for unrestricted use, or require a licensee to obtain NRC approval of a partial site release. Thus, there is not a specific requirement to meet the release criteria under 10 CFR part 20, subpart E, for a partial site release. The NRC also noted that for purposes of Subpart E, the boundary of a site is defined in 10 CFR 20.1003 as "that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee." One could argue as a consequence of this definition that the "site," which is licensed under 10 CFR part 50 and is subject to the license termination and decommissioning requirements of 10 CFR 50.82 and 10 CFR part 20, subpart E, can be changed by selling the property.

The purpose of the License Termination Rule (LTR) (61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997) and 10 CFR 50.82 is to ensure that the residual radioactivity for the licensed activity is within the criteria of the LTR. To avoid licensees taking a piecemeal approach to license termination, the LTP must consider the entire site as defined in the original license, along with subsequent modifications to the site boundary, to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E, at the time the license is terminated. Therefore, the purpose of the LTR is to consider the whole site for application of the release criteria. That is, any site area controlled during the term of the license must be considered. The proposed rule would clarify this purpose and not establish new policies or standards. Although no further surveys of previously released areas are anticipated, the dose assessment in the LTP must account for possible dose contributions associated with previously released areas in order to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E, (0.25 mSv/yr [25 mrem/yr] reduced to as low as reasonably achievable [ALARA]) at the time the license is terminated. The proposed requirement that licensees maintain records of property line changes and the radiological conditions of partial site releases ensures that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to assist licensees in

identifying and accounting for these potential dose contributions is currently being developed, and will be available before publishing the final rule.

The proposed rule would, therefore, provide adequate assurance that residual radioactivity from licensed activities that remains in areas released for unrestricted use will meet the radiological criteria for license termination. It should increase public confidence in decisions to release parts of reactor sites and make more efficient use of NRC and licensee resources.

The NRC staff has obtained preliminary input from stakeholders at several public workshops. The suggested approach to handling requests for partial site release for unrestricted use was presented to the attendees for comment. Utility and nuclear industry representatives indicated that licensees need a method to allow them to release parts of a site before NRC approves the LTP. Utility representatives stated that formal NRC action would be desirable to provide finality and legal closure after part of a reactor site or facility is released. Although there were no negative comments received from representatives of public interest groups attending the workshops, a number of questions were raised on the implementation of the proposed rule. These questions have been addressed below, or added to the Issues for Public Comment section in order to solicit further public comment. Depending on the comments received on this proposed rule, the NRC may hold additional workshops or other public meetings before issuance of the final rule in order to solicit further stakeholder input.

Discussion of Proposed Rule

The strategy for developing the proposed rule is to narrow its applicability to power reactor licensees to be responsive to current industry needs while also protecting the health and safety of the public. A separate rulemaking would be needed to address the wide variety of materials sites, many of which are technically more complex from a decommissioning perspective than reactor sites, to provide a uniform and consistent agency approach to partial site release. The proposed rule would require NRC approval for a partial site release at a reactor site before NRC approval of the licensee's LTP.

The approval process by which the property is released depends on the potential for residual radioactivity from plant operations remaining in the area to be released. First, for proposed release areas classified as *non-impacted* and, therefore, having no reasonable potential for residual radioactivity, the licensee would be allowed to submit a letter request for approval of the release containing specific information for NRC approval. In these cases, as there is no reasonable potential for residual radioactivity, NRC would approve the release of the property by letter upon determining that the licensee has otherwise met the criteria of the proposed rule and no change to a license or technical specifications description of the site is necessary. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG–1575, Revision 1, "Multi-agency Radiation Survey and Site Investigation Manual (MARSSIM)." NRC would generally not perform radiological surveys and sampling of a non-impacted area. However, should NRC determine surveys and sampling were needed, such would be done as part of NRC's inspection process. Second, for areas classified as impacted and, therefore, having some potential for residual radioactivity, the licensee would submit the required information in the form of a license amendment for NRC approval. The proposed amendment also would include the licensee's demonstration of compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Regulatory guidance for performing this demonstration is contained in NUREG–1727, "NMSS Decommissioning Standard Review Plan." In both cases, public participation requirements and additional recordkeeping would be addressed.

This approval approach is a departure from that presented to the Commission in the NRC staff's rulemaking plan (SECY–00–0023, February 2, 2000). At that time, it was thought that if a licensee could demonstrate that the radioactivity associated with any residual material remaining after remediation of impacted areas was no longer distinguishable from the background radioactivity, the approval could be treated in the same manner as a non-impacted area, and the release area could be approved by letter as opposed to a license amendment. However, in light of the variability in background and the limitation of survey instruments, the approach would require the definition of some minimum dose or concentration above mean background against which to compare survey results. Because the NRC has not established such value, the NRC is no longer considering the use of background as a release criterion. The proposed release area's classification as either impacted or non-impacted will determine whether the release may be approved by letter, or whether a license amendment is required. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG–1575, Revision 1.

Subpart K of 10 CFR Part 20 provides in § 20.2002 that a licensee may request NRC approval of a proposed disposal method that is not otherwise authorized by NRC regulations. Some have argued that a partial site release should be covered by § 20.2002; however, a partial site release leaving residual radioactivity at a site that meets the release criteria for unrestricted use of 10 CFR 20.1402 is not considered a disposal. In any case, the proposed rule, if adopted, would authorize partial site releases, thereby removing the argument that a partial site release is within the scope of § 20.2002. Additionally, any disposals made under § 20.2002 on those portions of the site proposed for release will be considered impacted areas.

In contrast to the license termination process, the proposed rule does not require a license amendment to release property for unrestricted use in all cases. The NRC believes this difference is justified for the following reasons. First, the license termination process was created to deal with the facility or site as a whole, which inevitably involves handling residual radioactivity, such as that found in plant systems. The proposed rule preserves the license amendment approach for those cases in which the potential exists for residual radioactivity and requires that the area meets the radiological criteria for unrestricted use. Second, for cases in which the change does not adversely affect reactor safety and it is demonstrated that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity, a license amendment is not required to adequately protect public health and safety. The proposed rule with its clearly defined criteria would be sufficient. The NRC's oversight role is to ensure that the licensee meets the criteria.

The proposed rule would amend 10 CFR Part 2 to provide an opportunity for a Subpart L hearing on the amendment. The hearing, if conducted, must be completed before the property is released for use. However, for cases where it is demonstrated that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity, a license amendment is not required by the proposed rulemaking. A review of a licensee's proposed partial site release in such cases is essentially a compliance review

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to determine if the release would otherwise meet the defined criteria of the regulation. Assuming the partial site release does not result in a change to an existing license, the approval of the partial site release under these circumstances does not require a license amendment (see *Cleveland Electric Illuminating, et al.* (Perry Nuclear Power Plant, Unit 1), CLI–96–13, 44 NRC 315, 328 (1996)). In these cases, the required public meeting held before the release approval is granted will serve as a forum for public comments on the proposed release.

In some cases, a reactor or site-specific Independent Spent Fuel Storage Installation (ISFSI) license may contain license conditions or Technical Specifications that define the site boundary in detail, such as a site map. In these cases (because the site boundary would change), a reactor licensee would be required to submit a license amendment application for a partial site release regardless of the potential for residual radioactivity in the area to be released. However, under current regulations, a licensee could amend its license to remove the definition of site boundary, without reference to a partial site release, and then proceed to perform the release, without obtaining NRC approval. The proposed rule would require NRC approval for a partial site release regardless of the amount of detail defining the site in the operating license.

The proposed rule provides for public participation. The NRC would notice receipt of a licensee's proposal for a partial site release, regardless of the potential for residual radioactivity, and make it available for public comment. In addition to the opportunity for a hearing on a license amendment, the NRC also would hold a public meeting in the vicinity of the site to discuss the licensee's request for approval or license amendment application, as applicable, and obtain comments before approving the release.

Members of the public have expressed concern that a licensee could use a series of partial site releases to avoid applying the criteria of the license termination rule. Members of the public are concerned that the lack of specific regulation for partial site releases could result in inconsistent application of safety standards and insufficient regulatory oversight of licensee actions. They also note that the public participation requirements of the license termination rule do not specifically apply to a partial site release. The proposed rule would address these concerns.

The proposed rule would not provide for a partial site release under restricted conditions, nor has any reactor licensee expressed interest in releasing property for restricted use.

The proposed rule would apply only to cases in which a reactor licensee intends to perform a partial site release before the NRC approves its LTP. When an LTP is submitted, a licensee can propose releasing its site in stages if it so desires. The NRC staff will evaluate the licensee's plan and approve it, if it is adequate, by license amendment. Once the LTP is approved, there is no longer any need for a separate regulatory mechanism for partial site releases.

In addition, the provisions of the "timeliness in decommissioning" rule for materials facilities in 10 CFR 30.36, 40.42, 70.38, and 72.54 do not apply to a partial site release at a power reactor site. These rules were issued to avoid long periods of delay in decommissioning materials facilities following cessation of operations. Unlike reactor facilities, where a period of safe storage can result in reduced occupational radiation exposure for decommissioning, materials facilities do not always realize much dose reduction benefit from an extended period of storage.

Sections 30.36, 40.42, 70.38, and 72.54 require decommissioning to begin within 24 months of cessation of principal activities, even if only a part of the site is not used, and whether or not a licensee declares an end to operations. In contrast, 10 CFR 50.82, the license termination rule for reactors, requires a licensee to certify the permanent cessation of operations before the decommissioning time clock starts. A reactor licensee has the option to begin decommissioning at any time following the submittal of certain certifications and reports, as long as decommissioning is completed within 60 years following permanent shutdown. This option allows for a period of safe storage that results in reduced occupational exposure.

The partial site release proposed rule would make the following changes to 10 CFR part 50:

- Add a new section, separate from the license termination process of § 50.82, to address the release of part of a reactor facility or site for unrestricted use before the LTP is approved.
- Specify criteria for the licensee to fulfill to obtain NRC approval of a partial site release.
- Allow a written request for release approval and not require a license amendment for releases of property if the licensee demonstrates that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity in the area to be released. The release would be approved if all the proposed criteria are met.
- Require a license amendment that contains the licensee's demonstration of compliance with the radiological criteria for unrestricted use (0.25 mSv/yr [25 mrem/yr] and ALARA) for releases of property in which the area is classified as impacted and, therefore, a reasonable potential for residual radioactivity in the area to be released exists.
- Revise the LTP requirements to account for property that was released before a licensee received approval of its LTP.
- Require the NRC to hold a public meeting to inform the public of the partial site release request and receive public comments before acting on the request.
- Require additional recordkeeping of the acquisition and disposition of property included in the site.
- Add supporting definitions of key terms.

The partial site release proposed rule would make the following changes to 10 CFR part 20:

- Include releasing part of a facility or site for unrestricted use within the scope of the radiological criteria for license termination.
- Include releasing part of a facility or site for unrestricted use within the scope of the criteria by which the NRC may require additional cleanup on receiving new information following the release.

The partial site release rulemaking would make the following change to 10 CFR part 2:

- Provide for informal hearings in accordance with Subpart L for amendments associated with partial site releases.

Section-by-Section Analysis

10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings"

Informal hearing procedures are specified in 10 CFR part 2, subpart L. Section 2.1201(a)(1) applies to materials licenses under parts 30, 40, and 70. Section 2.1201(a)(3) applies to requests for a hearing for amendments to a part 50 license for licensees that have certified permanent cessation of operations and permanent removal of fuel from the reactor and permanently removed fuel from the part 50 facility. It applies to decommissioning reactors that have either removed spent fuel from the site, or have placed it in an independent spent fuel storage installation licensed under part 72.

The NRC believes that conditions in a part of a reactor facility or site released for unrestricted use are equivalent to the conditions specified in § 2.1201(a)(3). The proposed amendment underlying the hearing request would principally address the transfer of land, and not reactor operations. The issues would also be similar to the materials licensing issues that are currently subject to subpart L under § 2.1201(a)(1).

An amendment to 10 CFR part 2, subpart L, is required to permit use of these informal hearing procedures for amendments associated with partial site releases at nuclear power reactors. It should be noted that the proposed rule does not provide for license amendments to authorize partial site releases where there is no reasonable potential for residual radioactivity in the area to be released. As there are no license amendments in these cases, there are no corresponding opportunities for hearings. However, public meetings will be noticed in these cases to obtain comments before NRC action on the release.

10 CFR Part 20, "Standards for Protection Against Radiation"

In 10 CFR part 20, the NRC provides standards for protection against radiation. These standards are applicable to reactor licensees as long as they hold a license. The subparts relevant to the partial site release issue are Subpart D ("Radiation Dose Limits for Individual Members of the Public") and Subpart E ("Radiological Criteria for License Termination").

10 CFR Part 20, Subpart D, "Radiation Dose Limits for Individual Members of the Public"

The radiation dose limits specified in 10 CFR part 20, subpart D, set the annual limit for an individual member of the public at 1.0 mSv/yr (100 mrem/yr). However, there are a number of more stringent dose standards applicable to power reactor licensees that must also be considered. These standards include the Environmental Protection Agency (EPA) environmental radiation standard incorporated in § 20.1301(d), the Subpart D compliance standards in § 20.1302(b), the radiological effluent release objectives to maintain effluents ALARA in Appendix I to 10 CFR part 50, and any dose standards which may be established by special license conditions.

A licensee performing a partial site release must continue to comply with the public dose limits and standards as they pertain to the area remaining under the license. In addition, the licensee must comply with the public dose limits for effluents, etc., entering the released portion of the site. As a practical matter, a licensee must demonstrate that moving its site boundary closer to the operating facility would not result in a dose to a member of the public that exceeds these criteria. If residual radioactivity exists in the area to be released for unrestricted use, the dose caused by the release must be considered along with that from the licensee's facility, as well as, for the case of the EPA's standard incorporated in § 20.1301(d), that from any other uranium fuel cycle operation in the area, for example a facility licensed under 10 CFR part 72, to determine compliance with the above standards. As a consequence, a partial site release for unrestricted use that contains residual radioactivity may have to meet a standard lower than the radiological criteria of 10 CFR part 20, subpart E, discussed below because the combined dose from the partial site release and the dose from these other sources must meet the public dose limits and standards described above.

10 CFR Part 20, Subpart E, "Radiological Criteria for License Termination"

The scope of subpart E applies to decommissioning reactor facilities. However, as currently written, it does not specifically apply to operating reactors. The reactor remains "operating" until a licensee submits the certifications of permanent cessation of operations specified in § 50.82(a)(1), when it begins "decommissioning."

Radiological criteria for license termination contained in 10 CFR part 20, subpart E, limit radiation exposure to the "average member of the critical group." The limit applicable to release for unrestricted use is 0.25 mSv/yr (25 mrem/yr) total effective dose equivalent (TEDE), with additional reductions consistent with the ALARA principle. The determination of ALARA in these cases explicitly requires balancing reduction in radiation risk with the increase from other health and safety risks resulting from the work done to decontaminate a site, such as adverse health impacts from transportation accidents that might occur if larger amounts of waste soil are shipped for disposal. The standard applies to doses resulting from "residual radioactivity distinguishable from background radiation" and includes dose from groundwater sources of drinking water. The standard for unrestricted use in 10 CFR part 20, subpart E, does not include dose from effluents or direct radiation from continuing operations. However, as noted in the above section on public dose limits, the dose from these sources must be considered when demonstrating compliance with the radiological release criteria.

Section 20.1401(c) limits additional cleanup following the NRC's termination of the license. Additional cleanup would only be required if new information reveals that the requirements of subpart E were not met and a significant threat to public health and safety remains from residual radioactivity. Similarly, the proposed rule would include the portions of the site released for unrestricted use within the scope of the criteria by which the Commission may require additional cleanup on the basis of new information received following the release.

The proposed rulemaking is intended to apply subpart E to power reactor licensees, both operating and decommissioning, that have not received approval of the LTP. Because an LTP is required for license termination under restricted conditions (§ 20.1403(d)) or alternate criteria (§ 20.1404(a)(4)), only the "unrestricted use" option would be available to licensees for a partial site release before receiving approval of the LTP.

The proposed rule would not require an analysis to demonstrate that the area to be released meets the criteria of § 20.1402 for cases in which the licensee is able to demonstrate that there is no reasonable potential for residual radioactivity in the area to be released. In these cases, compliance with § 20.1402 is demonstrated by providing documentation of an evaluation of the site to identify areas of potential or known sources of radioactive material that concludes that the area is non-impacted and there is, therefore, no reasonable potential for residual radioactivity. Acceptable guidance describing the performance of this demonstration is contained in NUREG–1575, Revision 1.

For areas classified as impacted, the proposed rule would require a license amendment that includes a demonstration of compliance with § 20.1402 for the area that is released for unrestricted use. Guidance for performing this classification is contained in NUREG–1727. This guidance can be used to support a license amendment request for partial site release.

An amendment to part 20, subpart E, that revises § 20.1401(a) and § 20.1401(c) would add the release of part of a facility or site for unrestricted

use to the provisions and scope of 10 CFR part 20, subpart E.

10 CFR 50.2, "Definitions"

The NRC issued technical guidance after the decommissioning rules of § 50.82 were amended in 1996. Those documents included NUREG–1575 which defined terms (historical site assessment, impacted, and non-impacted) that are critical to implementing the amended regulations. In order for a licensee to adequately demonstrate compliance with the radiological criteria for license termination in 10 CFR part 20, subpart E, the licensee must evaluate its site to identify areas of potential or known sources of radioactive material and classify those areas according to the potential for radioactive contamination. The evaluation is known as a *historical site assessment*. The historical site assessment is an investigation to collect information describing a site's complete history from the start of site activities to the present time. Information collected will typically include site files, monitoring data, and event investigations, as well as interviews with current or previous employees to collect firsthand information. The assessment results in classifying areas according to the potential for containing residual radioactivity. Areas that have no reasonable potential for residual radioactivity in excess of natural background or fallout levels are classified as *non-impacted areas*. Areas with some potential for residual radioactivity in excess of natural background or fallout levels are classified as *impacted areas*. Further discussion regarding the meaning and use of these terms is contained in NUREG–1575.

An amendment to § 50.2 would add the definitions for "Historical Site Assessment," "Impacted Areas," and "Non-impacted Areas."

10 CFR 50.75, "Reporting and Recordkeeping for Decommissioning Planning"

In § 50.75(c), the NRC defines the amount of financial assurance required for decommissioning power reactors. There is no provision to adjust the amount to account for the costs of a partial site release. One point of view argues that a partial site release would reduce the cost of decommissioning for the remainder of the site. However, the NRC does not recommend reducing the required amount for the following reasons. Costs incurred for purposes other than reduction of residual radioactivity to permit release of the property and termination of the license are not included in the amount required for decommissioning financial assurance. A partial site release may incur costs that do not fit the definition of decommissioning. Therefore, an evaluation of the costs would be necessary to determine what adjustment, if any, was appropriate. In addition, the cost of a partial site release is expected to be a small fraction of the cost of decommissioning. Such a small adjustment can be considered within the uncertainty range of the amount specified in § 50.75(c) and does not provide a compelling reason to undertake the technical justification of adding a generically applicable adjustment factor to the requirement.

In § 50.75(g), the NRC requires keeping records of information important to decommissioning. Currently, there are three categories of information required: (1) Spills resulting in significant contamination after cleanup; (2) as-built drawings of structures and equipment in restricted areas; and (3) cost estimates and funding methods. Information on structures and land that were included as part of the site is also important to decommissioning in order to ensure that the dose effects from partial releases are adequately accounted for when the license is terminated.

Records relevant to decommissioning must be retained until the license is terminated. The proposed rule would require a licensee to identify its facility and site, as defined in the original license, to include a map, and to record any additions to or deletions from the site since original licensing, along with records of the radiological conditions of any partial site releases. These records will ensure that potential dose contributions associated with partial site releases can be adequately considered at the time of any subsequent partial releases and at the time of license termination. The proposed recordkeeping is made effective when the rule becomes effective.

The purpose of the License Termination Rule (LTR) (61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997) and 10 CFR 50.82 is to ensure that any residual radioactivity associated with licensed activity is within the radiological release requirements of 10 CFR part 20, subpart E, at the time the license is terminated. Although not previously codified, the requirement to maintain records of the entire site as defined in the original license, along with subsequent modifications to the site boundary, clarifies the intent of the LTR and is necessary to ensure that potential dose contributions from the entire area can be adequately considered in demonstrating compliance with the release criteria. The proposed recordkeeping, therefore, applies to all licensees, including those who modify the site boundary by releasing a part of their site prior to NRC approval of their LTP. It is expected that licensees are already maintaining property records in order to comply with the LTR at the time of license termination and, therefore, the proposed recordkeeping does not establish new policies, standards, or requirements not already inherent to compliance with the radiological release criteria of the LTR.

10 CFR 50.82, "Termination of License"

Section 50.82(a)(9) requires the submittal of an application for license termination that includes an LTP. Section 50.82(a)(11) requires that the NRC make a determination that the final survey and associated documentation provided by a licensee demonstrate that the site is suitable for release at the time the license is terminated. These sections codify the NRC's views that (1) certain information is required to evaluate the adequacy of a licensee's compliance with the radiological criteria for license termination in 10 CFR part 20, subpart E, and (2) the license termination criteria are applicable to the entire site. However, because the LTP is not required until 2 years before the anticipated date of license termination, a licensee may perform a partial site release before it submits the necessary information. The information required when the LTP is submitted refers to the "site." It is not clear that a licensee could be required to include the areas released because they no longer are part of the "site." The NRC is concerned that a licensee could adopt partial site release as a piecemeal approach to relinquish responsibility for a part of its site without going through the license termination process and without ensuring that the release criteria of 10 CFR part 20, subpart E, are met.

A new paragraph, § 50.82(a)(9)(ii)(H), would include the identification of parts of the site released for unrestricted use before approval of the LTP with the information listed in the LTP.

An amendment to § 50.82(a)(11)(ii) would require that the final radiation survey and associated LTP documentation, demonstrating that the site is suitable for release in accordance with the criteria in 10 CFR part 20, subpart E, include any parts released for use before approval of the LTP. Although no further surveys of previously released areas are anticipated, the dose assessment in the LTP must account for possible dose contributions associated with previous releases in order to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E (0.25 mSv/yr [25 mrem/yr] reduced to ALARA) at the time the license is terminated. The proposed requirement that records of property line changes and the radiological conditions of partial site releases be maintained by licensees would ensure that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to assist licensees in identifying and accounting for these potential dose contributions is currently being developed.

10 CFR 50.83, "Release of Part of a Facility or Site for Unrestricted Use"

The proposed rule would add a new § 50.83, separate from the current decommissioning and license termination rules, that identifies the criteria and regulatory framework for power reactor licensees that seek to release part of a facility or site for unrestricted use at any time before receiving approval of an LTP.

The proposed rule would require NRC approval for a partial site release. The approval process by which the property is released would depend on the potential for residual radioactivity from plant operations remaining in the area to be released. First, for proposed release areas classified as non-impacted and, therefore, having no reasonable potential for residual radioactivity, the licensee would be allowed to submit a letter request for approval of the release containing specific information for NRC approval. Because there is no reasonable potential for residual radioactivity in these cases, NRC would approve the release of the property by letter after determining that the licensee has met the criteria of the proposed rule. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG–1575, Revision 1. NRC would generally not perform radiological surveys and sampling of a non-impacted area. However, should NRC determine surveys and sampling were needed, such would be done as part of NRC's inspection process. Second, for areas classified as impacted and, therefore, that do have some potential for residual radioactivity, the licensee would submit the required information in the form of a license amendment for NRC approval. The proposed amendment also would include the licensee's demonstration of compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Regulatory guidance for performing this demonstration is contained in NUREG–1727.

Licensees may find it beneficial to review their survey plans and design with the NRC staff before performing the surveys. As warranted, NRC will conduct parallel and/or confirmatory radiation surveys and sampling to ensure that the licensee's conclusions are adequate.

The proposed rule is intended to apply 10 CFR part 20, subpart E, to reactor licensees that have not received approval of the LTP. Because an LTP is required for license termination under restricted conditions (§ 20.1403(d)) or alternate criteria (§ 20.1404(a)(4)), only the "unrestricted use" option would be available to licensees for a partial site release before receiving approval of the LTP.

The proposed rule also would require a licensee to evaluate the effect of releasing the property to ensure that it would continue to comply with all other applicable statutory and regulatory requirements that may be impacted by the release of property and changes to the site boundary. This would include, for example, regulations in 10 CFR parts 20, 50, 72, and 100. In those instances involving license amendments, licensees also would be required to provide a supplement to the existing environmental report to address the planned release. This requirement is similar to the requirement of 10 CFR 50.82(a)(9)(ii)(G).

The proposed rule provides for public participation. The NRC will notice receipt of a licensee's proposal for a partial site release, regardless of the amount of residual radioactivity involved, and make it available for public comment. The NRC also will hold a public meeting in the vicinity of the site to discuss the licensee's release approval request or license amendment application, as applicable.

Issues for Public Comment

The NRC encourages comments concerning the content, level of detail specified, and the implementation of the proposed amendments. Suggestions or alternatives other than those described in this document and estimates of cost for implementation are encouraged. The NRC is particularly interested in receiving comments on the following issues related to this proposed rule:

1. Are there rulemaking alternatives to this proposed rule that were not considered in the regulatory analysis for this proposed rule?
2. Are the proposed definitions in § 50.2 clear?
3. Is public involvement adequately considered?
4. Should the license amendment process be required for all partial site release approvals, regardless of whether the site has been classified as non-impacted?
5. Does the proposed rule make it adequately clear that when performing partial site releases and when releasing the entire site at license termination, licensees must consider potential dose contributions from previous partial releases in demonstrating compliance with the radiological release criteria?
6. Is there reason to limit the size or number of partial site releases?
7. Are there other potential impacts on continued operation or decommissioning activities as a result of partial site releases that should specifically be considered in the rule?

Referenced Documents

Copies of NUREG–1575, NUREG–1727, and SECY–00–0023 may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. These documents are also accessible on the NRC Web site at *www.nrc.gov*.

Plain Language

The Presidential memorandum dated June 1, 1998, entitled "Plain Language in Government Writing" directed that the Government's writing be in plain language. This memorandum was published on June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in this proposed rule to improve readability of the existing language of those provisions being revised. These types of changes are not discussed further in this document. The NRC requests comment on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** heading.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standard bodies unless the use of such a standard is inconsistent with applicable law or is otherwise impractical. In this proposed rule, the NRC proposes to standardize the process for allowing a licensee to release part of its reactor facility or site for unrestricted use before NRC approves the LTP. This proposed rule would not

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constitute the establishment of a standard that establishes generally applicable requirements, and the use of a voluntary consensus standard is not applicable.

Finding of No Significant Environmental Impact: Availability

The Commission has determined that under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51 that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required,

There are no significant radiological environmental impacts associated with the proposed action. The proposed action does not involve non-radiological plant effluents and has no other environmental impact. Therefore, NRC expects that no significant environmental impact would result from the proposed rule.

The determination of the environmental assessment is that there would be no significant offsite impact to the public from this action. However, the general public should note that the NRC is seeking public participation. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

The burden to the public for this information collection is estimated to average 582 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at *bjs1@nrc.gov;* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by October 4, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The Commission requests public comment on the regulatory analysis. Comments on the analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. This proposed rule would affect only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in 10 CFR 2.810.

Backfit Analysis

The NRC has determined that the backfit rule does not apply to this proposed rule; therefore, a backfit analysis is not required for this proposed rule because it does not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

The proposed rule would clarify the application of the radiological criteria of the license termination rule (LTR) [62 FR 39091 (July 21, 1997)] for partial site release and the relationship between partial site release and decommissioning of a site under 10 CFR 50.82. A backfit analysis was not required for the LTR because it did not involve reactor operations, and it was not required for 10 CFR 50.82 because that rule was imposed to ensure adequate protection of the public health and safety. Because a backfit analysis was not required for either the LTR or for 10 CFR 50.82, it does not appear that it would be needed for this rulemaking action.

Additionally, the purpose of the LTR and 10 CFR 50.82 is to ensure that the residual radioactivity from the licensed activity is within the criteria of the LTR. The LTR requires that any previously approved onsite disposals be reconsidered in determining releases under the LTR. As to previously approved offsite releases, Section F.2.3. of the Statement of Considerations for the final LTR describes a limited grandfathering of previously approved partial site releases. The NRC stated that guidance would be issued on how licensees should address previously released portions of licensed sites. Consequently, while a previously approved partial site release meeting the LTR criteria would not need to be reconsidered, absent new information in accordance with 10 CFR 20.1401(c), it was not the intent of the rule that interaction from the previously released residual radiation be excluded from consideration in the release decision for the remaining portions of the site. To read the LTR as not requiring the radiation interactions from the previously released site to be considered in making release determinations on the remaining site would permit a licensee to release a site that would otherwise not meet the LTR criteria by releasing the site by segments, each one below the criteria of the LTR. Such an approach would defeat the intent of the LTR to consider all the residual radioactivity from the licensed activity in meeting the LTR criteria. This rulemaking would clarify the intent of the LTR and not establish new policies or standards.

Accordingly, the proposed rule's provisions do not constitute a backfit and a backfit analysis need not be performed. However, the staff has prepared a regulatory analysis that identifies the benefits and costs of the proposed rule and evaluates other options for addressing the identified issues. As such, the regulatory analysis constitutes a "disciplined approach" for evaluating the merits of the proposed rule and is consistent with the underlying intent of the backfit rule.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear material, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 2, 20, and 50.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs.161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat.1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133), and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.1201, paragraph (a)(4) is added to read as follows:

§ 2.1201 Scope of subpart.

(a) * * *

(4) The amendment of a part 50 license to release part of a power reactor facility or site for unrestricted use in accordance with § 50.83. Subpart L hearings for the partial site release plan, if conducted, must be complete before the property is released for use.

* * * * *

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

3. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

4. In § 20.1401, paragraphs (a) and (c) are revised to read as follows:

§ 20.1401 General provisions and scope.

(a) The criteria in this subpart apply to the decommissioning of facilities licensed under parts 30, 40, 50, 60, 61, 70, and 72 of this chapter, and release of part of a facility or site for unrestricted use in accordance with § 50.83 of this chapter, as well as other facilities subject to the Commission's jurisdiction under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended. For high-level and low-level waste disposal facilities (10 CFR parts 60 and 61), the criteria apply only to ancillary surface facilities that support radioactive waste disposal activities. The criteria do not apply to uranium and thorium recovery facilities already subject to appendix A to 10 CFR part 40 or to uranium solution extraction facilities.

* * * * *

(c) After a site has been decommissioned and the license terminated in accordance with the criteria in this subpart, or after part of a facility or site has been released for unrestricted use in accordance with § 50.83 of this chapter and in accordance with the criteria in this subpart, the Commission will require additional cleanup only if based on new information, it determines that the criteria of this subpart were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec.

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122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. Section 50.2 is amended by adding "Historical site assessment," "Impacted areas," and "Non-impacted areas" in alphabetical order to read as follows:

§ 50.2 Definitions.

* * * * *

Historical site assessment means the identification of potential, likely, or known sources of radioactive material and radioactive contamination based on existing or derived information for the purpose of classifying a facility or site, or parts thereof, as impacted or non-impacted.

Impacted areas mean the areas with some reasonable potential for residual radioactivity in excess of natural background or fallout levels.

* * * * *

Non-impacted areas mean the areas with no reasonable potential for residual radioactivity in excess of natural background or fallout levels.

* * * * *

7. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.36b, 50.44, 50.46, 50.47, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.62, 50.63, 50.64, 50.65, 50.66, 50.68, 50.71, 50.72, 50.74, 50.75, 50.80, 50.82, 50.83, 50.90, 50.91, 50.120, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, R, and S to this part.

* * * * *

8. In § 50.75, paragraph (g)(4) is added to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(g) * * *

(4) Licensees shall maintain property records containing the following information:

(i) Records of the site boundary, as originally licensed, which must include a site map;

(ii) Records of any acquisition or use of property outside the originally licensed site boundary for the purpose of receiving, possessing, or using licensed materials;

(iii) The licensed activities carried out on the acquired or used property; and

(iv) Records of the disposition of any property recorded in paragraphs (g)(4)(i) or (g)(4)(ii) of this section, the historical site assessment performed for the disposition, radiation surveys performed to support release of the property, submittals to the NRC made in accordance with § 50.83, and the methods employed to ensure that the property met the radiological criteria of 10 CFR part 20, subpart E, at the time the property was released.

9. In § 50.82, paragraph (a)(9)(ii)(H) is added and paragraph (a)(11)(ii) is revised to read as follows:

§ 50.82 Termination of license.

* * * * *

(a) * * *

(9) * * *

(ii) * * *

(H) Identification of parts, if any, of the facility or site that were released for use before approval of the license termination plan.

* * * * *

(11) * * *

(ii) The final radiation survey and associated documentation demonstrate that the facility and site, including any parts released for use before approval of the license termination plan, are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E.

* * * * *

10. A new § 50.83 is added to read as follows:

§ 50.83 Release of part of a power reactor facility or site for unrestricted use.

(a) Prior written NRC approval is required to release part of a facility or site for unrestricted use at any time before receiving approval of a license termination plan. Section 50.75 specifies recordkeeping requirements associated with partial release. Nuclear power reactor licensees seeking NRC approval shall—

(1) Evaluate the effect of releasing the property to ensure that—

(i) The dose to individual members of the public from the portion of the facility or site remaining under the license does not exceed the limits of 10 CFR part 20, subpart D;

(ii) There is no reduction in the effectiveness of emergency planning or physical security;

(iii) Effluent releases remain within license conditions;

(iv) The environmental monitoring program and offsite dose calculation manual are revised to account for the changes;

(v) The siting criteria of 10 CFR part 100 continue to be met; and

(vi) All other applicable statutory and regulatory requirements continue to be met.

(2) Perform a historical site assessment of the part of the facility or site to be released; and

(3) Perform surveys adequate to demonstrate compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402 for impacted areas.

(b) For release of non-impacted areas, the licensee may submit a written request for NRC approval of the release if a license amendment is not otherwise required. The request submittal must include—

(1) The results of the evaluations performed in accordance with § 50.59 and paragraphs (a)(1) and (a)(2) of this section;

(2) A description of the part of the facility or site to be released;

(3) The schedule for release of the property; and

(4) A discussion that provides the reasons for concluding that the environmental impacts associated with the licensee's proposed release of the property will be bounded by appropriate previously issued environmental impact statements.

(c) After receiving an approval request from the licensee for the release of a non-impacted area, the NRC shall—

(1) Determine whether the licensee has adequately evaluated the effect of releasing the property as required by paragraph (a)(1) of this section;

(2) Determine whether the licensee's historical site assessment is adequate; and

(3) Upon determining that the licensee's submittal is adequate, inform the licensee in writing that the release is approved.

(d) For release of impacted areas, the licensee shall submit an application for amendment of its license for the release of the property. The application must include—

(1) The information specified in paragraphs (b)(1) through (3) of this section;

(2) The methods used for and results obtained from the radiation surveys required to demonstrate compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402; and

(3) A supplement to the environmental report, pursuant to § 51.53, describing any new information or significant environmental change associated with the licensee's proposed release of the property.

(e) After receiving a license amendment application from the licensee for the release of an impacted area, the NRC shall—

(1) Determine whether the licensee has adequately evaluated the effect of releasing the property as required by paragraph (a)(1) of this section;

(2) Determine whether the licensee's historical site assessment is adequate;

(3) Determine whether the licensee's radiation survey for an impacted area is adequate; and

(4) Upon determining that the licensee's submittal is adequate, approve the licensee's amendment application.

(f) The NRC shall notice receipt of the release approval request or license amendment application and make the approval request or license amendment application available for public comment. Before acting on an approval request or license amendment application submitted in accordance with this section, the NRC shall conduct a public meeting in the vicinity of the licensee's facility for the purpose of obtaining public comments on the proposed release of a part of the facility or site. The NRC shall publish a document in the **Federal Register** and in a forum, such as local newspapers, which is readily accessible to individuals in the vicinity of the site, announcing the date, time, and location of the meeting, along with a brief description of the purpose of the meeting.

Dated at Rockville, Maryland, this 28th day of August, 2001.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 01–22139 Filed 8–31–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–129–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes. This proposal would require installation of a backup pressure regulating valve on the oil pump of the propeller control unit (PCU) on both engines. This action is necessary to prevent a build-up of oil pressure in the oil pump of the PCU should the existing valve fail. Such failure of the pressure regulating valve could lead to oil leaks, fracture of the pump, inability to maintain engine oil pressure, and inability to feather the propeller, with consequent reduced controllability of the aircraft. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–129–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–129–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James Delisio, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 256–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–129–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–129–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–100, –200, and –300 series airplanes. The TCCA advises that there have been two incidents of oil leaks from the oil pump on the propeller control unit (PCU), due to a failure of the existing pressure regulating valve in the fully closed (highest possible pressure) position. Such failure could lead to a build-up of oil pressure in the oil pump of the PCU, resulting in oil leaks, fracture of the pump body, inability to maintain engine oil pressure, and inability to feather the propeller, with consequent reduced controllability of the aircraft.

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Explanation of Relevant Service Information

Bombardier has issued Service Bulletin 8–61–31, dated October 17, 2000, which describes procedures for installation of a backup pressure regulating valve on the oil pump of the PCU. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2001–12, dated March 2, 2001, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 191 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,019 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $217,549, or $1,139 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 2001–NM–129–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes, serial numbers 003 through 554 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a build-up of oil pressure in the oil pump of the propeller control unit, should the existing valve fail, which could lead to oil leaks, fracture of the pump, inability to maintain engine oil pressure, and inability to feather the propeller, with consequent reduced controllability of the aircraft, accomplish the following:

Installation

(a) Within 24 months after the effective date of this AD or at the next scheduled shop visit, whichever occurs first, install a backup pressure regulating valve in the oil pump in the propeller control unit on each engine, in accordance with Bombardier Service Bulletin 8–61–31, dated October 17, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–12, dated March 2, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22088 Filed 8–31–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–124–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–200, 747–300, and 747SR Series Airplanes Powered by General Electric CF6–45/50 or Pratt & Whitney JT9D–70 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747–100, 747–200, 747–300, and 747SR series airplanes powered by General Electric CF6–45/50 or Pratt & Whitney JT9D–70 series engines, that currently requires a detailed visual inspection of the outboard diagonal brace for heat damage and cracking; and follow-on repetitive inspections and corrective actions, if necessary. This action proposes to require accomplishment of the previously optional replacement of any existing sealant with heat-resistant sealant as terminating action for the repetitive inspections required by this AD. This proposal is prompted by reports of heat damage to the forward end of the diagonal brace after accomplishment of a previous strut and wing modification. The actions specified by the proposed AD are intended to prevent heat damage to the diagonal brace, which could cause cracking, fracture, and possible loss of the diagonal brace load path and consequent separation of the strut and engine from the airplane.

DATES: Comments must be received by October 19, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–124–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–124–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–124–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–124–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On June 4, 2001, the FAA issued AD 2001–12–05, amendment 39–12260 (66 FR 31527, June 12, 2001), applicable to certain Boeing Model 747–100, 747–200, 747–300, and 747SR series airplanes powered by General Electric CF6–45/50 or Pratt & Whitney JT9D–70 series engines, to require a detailed visual inspection of the outboard diagonal brace for heat damage and cracking; and follow-on repetitive inspections and corrective actions, if necessary. That action was prompted by reports of heat damage to the forward end of the diagonal brace after accomplishment of the modification of the nacelle strut and wing structure per AD 95–13–07, amendment 39–9287 (60 FR 33336, June 28, 1995).

Actions Since Issuance of Previous Rule

In the preamble to AD 2001–12–05, the FAA specified that the actions required by that AD were considered "interim action" and that the FAA was considering further rulemaking action to supersede that AD to require removal of the existing sealant and replacement with heat-resistant sealant, which would constitute terminating action for the repetitive inspections required by that AD action. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

The FAA has determined that long-term continued operational safety will be better ensured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed corrective actions are consistent with these considerations.

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Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2001–12–05 to continue to require a detailed visual inspection of the outboard diagonal brace for heat damage and cracking; and follow-on repetitive inspections and corrective actions, if necessary. This proposal would also require replacing any existing sealant with heat-resistant sealant, and either replacing or repairing the diagonal brace, if necessary, which constitutes terminating action for the repetitive inspections required by this proposed AD.

Difference Between the Proposed Rule and Service Bulletin

Operators should note that the service bulletin specifies that the diagonal brace may either be replaced per the service bulletin, or the manufacturer may be contacted for possible alternative rework (repair) instructions. However, paragraph (c)(2)(ii) of this proposed AD specifies that the repair be accomplished per a method approved by the Manager, Seattle Aircraft Certification Office, FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Cost Impact

There are approximately 145 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 39 airplanes of U.S. registry would be affected by this proposed AD.

The repetitive inspections that are currently required by AD 2001–12–05 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $2,340 per airplane, per inspection cycle.

The terminating action that is proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $100 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD is estimated to be $8,580, or $220 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–12260 (66 FR 31527, June 12, 2001), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 2001–NM–124–AD. Supersedes AD 2001–12–05, Amendment 39–12260.

Applicability: Model 747–100, 747–200, 747–300, and 747SR series airplanes; certificated in any category; powered by General Electric CF6–45/50 series engines, or Pratt & Whitney JT9D–70 series engines.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent heat damage to the diagonal brace, which could cause cracking or fracture of the diagonal brace, and possible loss of the diagonal brace load path and consequent separation of the strut and engine from the airplane, accomplish the following:

Restatement of Certain Requirements of AD 2000–12–05

Verification

(a) Within 90 days after June 27, 2001 (the effective date of AD 2001–12–05), do the actions required by paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) If an operator's maintenance records verify that, during the accomplishment of AD 95–13–07, amendment 39–9287, the seal backup plates were restored and BMS 5–63 high-temperature sealant was used in that restoration, no further action is required by this AD.

(2) If an operator's maintenance records do not verify that the actions specified in paragraph (a)(1) of this AD were accomplished, do the actions required by paragraph (b) of this AD.

Inspections and Corrective Actions

(b) Within 90 days after June 27, 2001, do the inspections and applicable corrective actions specified by paragraphs (b)(1) and (b)(2) of this AD per the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2208, dated March 29, 2001. Thereafter, repeat the inspections at intervals not to exceed 6 months, until accomplishment of paragraph (c) of this AD.

Outboard Strut Diagonal Brace

(1) Do a detailed visual inspection of the forward 20 inches of the outboard strut diagonal brace, including all areas of the forward clevis lugs and brace body, for signs of heat damage or cracks, per Part 1 of the Accomplishment Instructions of the service bulletin.

(i) If no sign of heat damage or cracking is found, repeat the detailed visual inspection at intervals not to exceed 6 months per the service bulletin, until accomplishment of paragraph (c) of this AD.

(ii) If any primer discoloration is found, before further flight, do a non-destructive test (NDT) inspection of the area to determine if the diagonal brace has heat damage per Part 1 of the Accomplishment Instructions of the service bulletin.

(A) If no heat damage is found during the NDT inspection, and no cracking is found during the detailed visual inspection, repeat the detailed visual inspection specified by paragraph (b)(1) of this AD at intervals not to exceed 6 months.

(B) If any heat damage is found during the NDT inspection, or any cracking is found during the detailed visual inspection, before further flight, do the actions specified in paragraph (c)(2) of this AD. Thereafter, repeat the detailed visual inspection specified by paragraph (b)(1) of this AD at intervals not to exceed 6 months.

Firewall Openings of the Strut Aft Bulkhead

(2) Do a detailed visual inspection of the firewall openings of the strut aft bulkhead to verify installation of seal backup plates and condition of the sealant application per Part 1 of the Accomplishment Instructions of the service bulletin.

(i) If no discrepancy (including damaged or missing seal backup plates, or damaged or missing sealant) is found, repeat the detailed visual inspection specified by paragraph (b)(1) of this AD at intervals not to exceed 6 months.

(ii) If the seal backup plates are not installed, before further flight, install the seal backup plates and apply heat-resistant sealant, BMS 5–63, per Part 2 of the Accomplishment Instructions of the service bulletin. Accomplishment of this action terminates the repetitive inspections required by this AD.

(iii) If the seal backup plates are installed, but the sealant application is damaged or missing, before further flight, remove any existing sealant and apply heat-resistant sealant, BMS 5–63, per Part 3 of the Accomplishment Instructions of the service bulletin. Accomplishment of this action terminates the repetitive inspections required by this AD.

Note 2: Because it is difficult to distinguish between BMS 5–95 and BMS 5–63 sealants, removal and replacement of the existing sealant is required to ensure that the correct heat-resistant sealant, BMS 5–63, is used.

New Requirements of This AD

Terminating Action and Corrective Action

(c) Within 18 months after the effective date of this AD: Do the action specified by paragraph (c)(1), (c)(2), or (c)(3) of this AD, as applicable. Accomplishment of the applicable action constitutes terminating action for the repetitive inspections required by this AD.

(1) Following the inspections required by paragraphs (b)(1) and (b)(2) of this AD, if no cracking or heat damage is found during those inspections, and the seal backup plates are installed, before further flight, remove any existing sealant and apply heat-resistant sealant BMS 5–63, per Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2208, dated March 29, 2001.

(2) If any sign of heat damage or cracking is found during the inspections required by paragraph (b) of this AD, before further flight, do the actions specified by either paragraph (c)(2)(i) or (c)(2)(ii) of this AD.

(i) Replace the diagonal brace per Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2208, dated March 29, 2001;

(ii) Repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(3) If the seal back-up plates are not installed, before further flight, install the seal backup plates and apply heat-resistant sealant BMS 5–63, per Part 2 of the Accomplishment Instructions of the service bulletin.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22089 Filed 8–31–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–413–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that currently requires a one-time ultrasonic inspection to detect disbonding of the skin attachments at the stringers and spars of the vertical stabilizer, and repair, if necessary. For certain airplanes, that AD also requires prior or concurrent modification of the vertical stabilizer to ensure proper reinforcement of its attachment to the skin. This action would require ultrasonic inspections of the subject area, and repair, as necessary. It would also require installation of fasteners to reinforce the bonds to the skin, which would terminate the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are necessary to prevent failure of the bonds of the vertical stabilizer spar boxes to the skin, which could lead to reduced structural integrity of the spar boxes.

DATES: Comments must be received by October 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–413–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–413–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must

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be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–413–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–413–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On June 2, 2000, the FAA issued AD 2000–11–27, amendment 39–11776 (65 FR 37029, June 13, 2000), applicable to certain Airbus Model A319, A320, and A321 series airplanes, to require a one-time ultrasonic inspection to detect disbonding of the skin attachments at the stringers and spars of the vertical stabilizer, and repair, if necessary. For certain airplanes, that AD also requires prior or concurrent modification of the vertical stabilizer to ensure proper reinforcement of its attachment to the skin. That AD was prompted by reports received from the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, of localized failure of bonds of the spars and stringers on several vertical stabilizer spar boxes to the skin. The failure resulted from contamination of the bonding surface during the production process. The requirements of that AD are intended to detect and correct disbonding of the vertical stabilizer structure, which could result in reduced structural integrity of the spar boxes of the vertical stabilizer.

In the preamble of AD 2000–11–27, the FAA indicated that the actions required by that AD were considered to be interim action. Airbus had advised that it was then developing a program of repetitive inspections to address the localized disbonding. The FAA indicated that it might consider additional rulemaking once the repetitive inspection program had been developed, approved, and made available.

Since the issuance of AD 2000–11–27, Airbus has developed a program for repetitive ultrasonic inspections of the bonds between the spars and stringers of the vertical stabilizer spar boxes and the skin. Airbus has also developed a program for installation of fasteners to reinforce the bond of the vertical stabilizers to the skin, which terminates the repetitive ultrasonic inspections. Airbus has incorporated these programs into the service bulletins described below.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–55A1027, Revision 02, dated February 13, 2001, which describes procedures for repetitive ultrasonic inspections of the spars and stringers of the vertical stabilizer spar box for failure of the bonds to the skin; and procedures for repair of localized areas of disbonding.

Airbus has also issued Service Bulletin A320–55–1028, Revision 03, dated November 2, 2000, which describes procedures for installation of fasteners to reinforce those areas where the bond between the spars and stringers of the vertical stabilizer spar box and the skin are susceptible to failure. This installation terminates the repetitive inspections of the vertical stabilizer spar box.

Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified both service bulletins as mandatory and issued French airworthiness directive 2000–520–159(B), dated December 13, 2000, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 2000–11–27 to require repetitive ultrasonic inspection to detect disbonding of the skin attachments at the stringers and spars of the vertical stabilizer; and repair, if necessary. For certain airplanes, the proposed AD would continue to require prior or concurrent modification of the vertical stabilizer to ensure proper reinforcement of its attachment to the skin. The proposed AD would also require installation of fasteners to reinforce the bonds to the skin, which would constitute terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

There are approximately 23 airplanes of U.S. registry that would be affected by this proposed AD.

The repetitive inspections that are proposed in this AD would take approximately 3 to 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the airplane manufacturer at no cost to operators. Based on these figures, the cost impact on U.S. operators of the repetitive inspections proposed in this AD is estimated to be $4,140 to $9,660, or $180 to $420 per airplane, per inspection cycle.

The installation of fasteners proposed in this AD would take approximately 5 to 480 work hours per airplane to accomplish, depending upon the configuration of the airplane, at an average labor rate of $60 per work hour. Required parts would be provided by the airplane manufacturer at no cost to operators. Based on these figures, the cost impact on U.S. operators of the modification proposed in this AD is estimated to be $6,900 to $662,400, or $300 to $28,800 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of the proposed AD, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11776 (65 FR 37029, June 13, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 2000–NM–413–AD. Supersedes AD 2000–11–27, Amendment 39–11776.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; as listed in Airbus Service Bulletin A320–55A1027, dated May 13, 2000; Revision 01, dated August 1, 2000; or Revision 02, dated February 13, 2001, except those airplanes which have incorporated Modification No. 30432K6788, in accordance with Airbus Service Bulletin A320–55–1028, Revision 03, dated November 2, 2000.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the bonds of the vertical stabilizer spar box to the skin, which could lead to reduced structural integrity of the spar box, accomplish the following:

Restatement of Requirements of AD 2000–11–27

Ultrasonic Inspection

(a) Within 60 days after June 28, 2000 (the effective date of AD 2000–11–27, amendment 39–11776): Perform a one-time ultrasonic inspection to detect disbonding (damage) of the skin attachments the stringers and spars of the vertical stabilizer, left- and right-hand sides, in accordance with Airbus Service Bulletin A320–55A1027, dated May 13, 2000; Revision 01, dated August 1, 2000; or Revision 02, dated February 13, 2001.

Modification (for Certain Airplanes)

(b) For airplanes with manufacturer's serial numbers listed in paragraph B of the Planning Information of Airbus Service Bulletin A320–55A1027, dated May 13, 2000; Revision 01, dated August 1, 2000; or Revision 02, dated February 13, 2001: Prior to or concurrent with the ultrasonic inspection required by paragraph (a) of this AD, modify the vertical stabilizer to ensure proper reinforcement of the structure/skin attachments, in accordance with Airbus Service Bulletin A320–55–1026, Revision 01, dated May 20, 1999.

New Requirements of Proposed AD

Repetitive Inspections and Repair, If Necessary

(c) Within 1,100 flight cycles from the previous inspection performed in accordance with paragraph (a) of this AD, or 60 days after the effective date of this AD, whichever occurs later: Perform an ultrasonic inspection to detect disbonding of the skin attachment at the spars and the stringers of the vertical stabilizer spar box, in accordance with Airbus Service Bulletin A320–55A1027, dated May 13, 2000; Revision 01, dated August 1, 2000; or Revision 02, dated February 13, 2001.

(d) If no damage is detected, or if only a single area of damage is found and it is less than or equal to an area of 300 square millimeters (mm^2) during any ultrasonic inspection required by this AD, repeat the ultrasonic inspection thereafter at intervals not to exceed 1,100 flight cycles.

(e) If any damage is detected and the area of damage found is greater than 300 mm^2, or if multiple damage is found on one specific component (stringer/spar attachment) during any ultrasonic inspection required by this AD, prior to further flight, accomplish applicable repairs in accordance with Airbus Service Bulletin A320–55A1027, dated May 13, 2000; Revision 01, dated August 1, 2000; or 02, dated February 13, 2001. Repeat the ultrasonic inspection thereafter at intervals not to exceed 1,100 flight cycles.

Modification

(f) Within 5 years after the date of manufacture of the airplane: Install fasteners to reinforce the attachment between the skin panel and areas of the vertical stabilizer affected by disbonding, in accordance with Airbus Service Bulletin A320–55–1028, Revision 03, dated November 2, 2000. Accomplishment of the installation terminates the repetitive inspections required by paragraph (c) of this AD.

Alternative Methods of Compliance

(g)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA.

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Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–11–27, amendment 39–11776, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–520–159(B), dated December 13, 2000.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate Aircraft, Certification Service.

[FR Doc. 01–22090 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–411–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 series airplanes. This proposal would require installing new anti-swivel plates and weights on the engine fan cowl door latches. This action is necessary to prevent separation of the fan cowl door from the airplane in flight, which could result in damage to the airplane and hazards to persons or property on the ground. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–411–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–411–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000–NM–411–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–411–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 series airplanes. The DGAC advises that there have been several incidents in which the fan cowl door on a International Aero Engine Model V2500 engine separated from the airplane during takeoff because the door was not fully latched prior to dispatch. This condition, if not corrected, could result in damage to the airplane and hazards to persons or property on the ground.

Explanation of Relevant Service Information

International Aero Engines (the engine manufacturer) has issued Service Bulletin V2500–NAC–71–0256, dated June 23, 1999. The service bulletin describes procedures for installing new anti-swivel plates and weights on the latches on the engine fan cowl door. With this installation, any latch not fully engaged will hang down and be more visible to maintenance crew personnel. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2000–444–156(B), dated October 31, 2000, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 145 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost of required parts would be minimal. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $43,500, or $300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2000–NM–411–AD.

Applicability: Model A319–131 and –132; A320–231, –232, and –233; and A321–131 and –231 series airplanes; certificated in any category; except those on which Airbus production Modification 21948/P6222 or 24259/P6222 has been incorporated.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine fan cowl door from the airplane in flight, which could result in damage to the airplane and hazards to persons or property on the ground, accomplish the following:

Installation

(a) Within 18 months after the effective date of this AD, install new anti-swivel plates and weights on all engine fan cowl door latches, in accordance with International Aero Engines Service Bulletin V2500–NAC–71–0256, dated June 23, 1999.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–444–156(B), dated October 31, 2000.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22091 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–394–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. For certain airplanes, this proposal would require a one-time inspection or a review of the maintenance records of the airplane to determine if a particular control rod barrel for the aileron tabs is installed, and follow-on repetitive inspections for cracking of the control rod barrels and replacement of the control rod barrels with new barrels, if necessary. Such replacement would terminate the repetitive inspections. For all airplanes, this proposal would prohibit installation of a certain control rod barrel for the aileron tabs. This action is necessary to prevent the disconnection of an aileron tab, which could lead to severe airframe vibrations; consequent damage to the aileron tab, aileron, and wing; and loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 19, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–394–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–394–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James Blilie, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2131; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–394–AD." The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–394–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that a control rod barrel for the aileron tabs was found broken in half on a Boeing Model 737–500 series airplane. An examination of the broken control rod barrel revealed incorrect machining of an internal thread relief groove during manufacturing, which resulted in extremely thin walls on the control rod barrel. Investigation has revealed that this condition may exist in an entire lot of parts. This condition, if not corrected, could result in disconnection of an aileron tab, which could lead to severe airframe vibrations; consequent damage to the aileron tab, aileron, and wing; and loss of controllability of the airplane.

Though the broken control rod barrel was found on a Model 737–500 series airplane, the same control rod barrels may be installed on certain other Model 737–100, –200, –200C, –300, and –400 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999, which describes procedures for a one-time inspection to determine whether the control rod barrels of the aileron tabs are from the affected lot, and follow-on repetitive inspections for cracking of the control rod barrels and replacement of the control rod barrels with new control rod barrels, if necessary. The procedures involve inspecting for a control rod barrel with part number 69–60083–1, which is accomplished by determining the color of the control rod barrels. (Control rod barrels installed on airplanes between line numbers 1 through 3110 inclusive were painted white. Control rod barrels installed on airplanes with line numbers 3111 and subsequent were painted gray.) For white control rod barrels, the service bulletin describes procedures for follow-on repetitive detailed visual inspections for cracking of the control rod barrels, and replacement of the control rod barrels with new control rod barrels. Replacement of white-colored control rod barrels with new control rod barrels eliminates the need for the repetitive inspections. If any cracked control rod barrel is found, all control rod barrels must be replaced at the same time because, as stated above, the discrepancy may exist in the entire lot of parts. The service bulletin specifies that all control rod barrels having part number 69–60083–1 (which are painted white) must eventually be replaced, regardless of whether they are cracked or not. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions

specified in the service bulletin described previously, except as discussed below under the heading "Difference Between Proposed Rule and Service Bulletin." In lieu of the inspection for control rod barrels with a certain part number by determining the color of the control rod barrels, which is described in the service bulletin, the FAA has determined that a review of the maintenance records of the airplane to determine if a particular part number of control rod barrel is installed is acceptable for compliance with this proposed AD. The proposed AD also would require that operators report findings of discrepant barrels to the Boeing Certification Management Office.

Difference Between Proposed Rule and Service Bulletin

This proposed rule differs from the service bulletin in that it would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The service bulletin lists only Model 737–100, –200, –200C, –300, –400, and –500 series airplanes having line numbers 1 through 3110 inclusive. The airplane manufacturer delivered airplanes having line numbers 3111 and subsequent with control rod barrels for the aileron tabs having a different part number than the ones subject to this AD. However, the FAA has determined that it is possible that a control rod barrel subject to this AD could be installed after the effective date of this AD on an airplane after line number 3110, Thus, it is necessary to make the requirements of this AD applicable to all Model 737–100, –200, –200C, –300, –400, and –500 series airplanes.

Cost Impact

There are approximately 2,900 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,250 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection to determine the color of the control rod barrels for the aileron tabs or the proposed review of maintenance records, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $75,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

If subject control rod barrels are installed, it would take approximately 1 work hour to accomplish the proposed follow-on inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed follow-on inspection is estimated to be $60 per airplane, per inspection cycle.

If subject control rod barrels are installed, it would take approximately 2 work hours to replace each control rod barrel, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed replacement is estimated to be $120 per airplane. Up to four control rod barrels (two for each aileron) may need to be replaced on each airplane.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–394–AD.

Applicability: All Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a disconnected aileron tab, which could lead to severe airframe vibrations; consequent damage to the aileron tab, aileron, and wing; and loss of controllability of the airplane; accomplish the following:

One-Time Inspection

(a) Within 3,200 flight hours after the effective date of this AD, do paragraph (a)(1) or (a)(2) of this AD.

(1) Do a one-time general visual inspection to determine whether an aileron tab control rod barrel having part number 69–60083–1 is installed by determining the color of the control rod barrels, according to Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999. No further action is required by this AD for gray-colored control rod barrels. If any white-colored control rod barrel with part number 69–60083–1 is installed, or if the color or part number of any control rod barrel cannot be determined, do paragraph (b) of this AD.

(2) Review the maintenance records for the airplane to determine whether an aileron tab control rod barrel having part number 69–60083–1 is installed. If no control rod barrel with that part number is installed, no further action is required by this AD. If any control rod barrel with that part number is installed, do paragraph (b) of this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-

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light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Follow-On Actions: Repetitive Inspections and Replacement

(b) For airplanes that have a control rod barrel for the aileron tabs having part number 69–60083–1 or a control rod barrel on which the color or part number cannot be determined: Within 3,200 flight hours after the effective date of this AD, do a detailed visual inspection for cracking of the affected control rod barrels according to Boeing Special Attention Service Bulletin 737–27–1223, dated October 21, 1999.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If no cracking is found, repeat the inspection for cracking at least every 3,200 flight cycles, AND, within 20,000 flight cycles after the effective date of this AD, replace all affected control rod barrels for the aileron tabs with new or reworked control rod barrels, according to the service bulletin. Such replacement terminates the repetitive inspections.

(2) If any cracking is found, before further flight, replace all control rod barrels with new or reworked control rod barrels, according to the service bulletin.

Note 4: If any control rod barrel for the aileron tab is cracked, all affected control rod barrels on the airplane must be replaced at the same time because the discrepancy may exist in the entire lot of parts.

Reporting Requirement

(c) If any cracked control rod barrel for the aileron tabs is found during the inspections required by paragraph (b) of this AD, report findings to the FAA Certification Management Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 10 days after performing the inspection required by paragraph (b) of this AD.

(2) For airplanes on which the inspection has been accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Spares

(d) For all airplanes: As of the effective date of this AD, no person may install a control rod barrel for the aileron tab having part number 69–60083–1 on any airplane.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22092 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 96–5 CARP DSTRA]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

SUMMARY: The Copyright Office is extending the period to file comments to proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act.

DATES: Comments and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding are due no later than September 19, 2001.

ADDRESSES: An original and five copies of any comment and Notice of Intent to Participate shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: On July 23, 2001, the Copyright Office published a notice of proposed rulemaking seeking comments on proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act. 66 FR 38226 (July 23, 2001). Comments on the proposed terms and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding, the purpose of which would be to adopt terms governing the RIAA collective in its handling of royalty fees collected from the subscription services, were due on August 22, 2001.

On August 22, 2001, The American Federation of Musicians of the United States and Canada ("AFM") and The American Federation of Television and Radio Artists ("AFTRA") filed a request for an extension of the filing date for comments until September 19, 2001. The Office is granting this request and is extending the deadline for filing comments to September 19, 2001. Parties who have previously filed comments may supplement those comments or withdraw those comments and resubmit them in accordance with the extended deadline for filing comments.

Dated: August 29, 2001.

David O. Carson,

General Counsel.

[FR Doc. 01–22150 Filed 8–31–01; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7048–9]

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Amendment to the List 2 Rule and Partial Delay of Reporting of Monitoring Results

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the U.S. Environmental Protection Agency to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. In fulfillment of this requirement, EPA published Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for public water systems on September 17, 1999 (64 FR 50556), March 2, 2000 (65 FR 11372) and January 11, 2001 (66 FR 2273), which included lists of contaminants for which monitoring was required or would be required in the future. EPA is proposing to correct an omission in the January 11, 2001, List 2 UCMR concerning laboratory certification. This correction will automatically approve laboratories of public water systems, that are certified to conduct compliance monitoring using Method 515.3, to also use Method 515.4 for UCMR analyses. Additionally, EPA is delaying requirements for the electronic reporting of unregulated contaminant monitoring results until its electronic reporting system is ready to accept data. The January 11, 2001, List 2 UCMR requires certain public water systems to start reporting the results of their unregulated contaminant monitoring to EPA electronically by July 1, 2001. This proposed rule notifies such public water systems that the electronic reporting system that EPA is developing to accept monitoring data is not ready, and that EPA is removing the reporting requirement until it is available. This action does not delay or suspend the implementation of any of the requirements of the Unregulated Contaminant Monitoring Regulations for sample collection and analysis on the previously established schedule.

DATES: Comments must be received in writing by October 4, 2001.

ADDRESSES: Please send an original and three copies of your comments and enclosures (including references) to docket number W–00–01–III, Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand deliveries should be delivered to EPA's Water Docket at 401 M. St., SW., Room EB57, Washington, DC. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to *ow-docket@epamail.epa.gov*. Electronic comments must be submitted as a Word Perfect (WP), WP5.1, WP6.1 or WP8 file or as an ASCII file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number W–00–01–III. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

The record for this proposed rulemaking has been established under docket number W–00–01–III and includes supporting documentation as well as printed, paper versions of electronic comments. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M., Washington, DC. For access to docket materials, please call 202/260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Charles Job (202–260–7084) or Jeffrey Bryan (202–260–4934), Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC–4607), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. General information about UCMR may be obtained from the EPA Safe Drinking Water Hotline at (800) 426–4791. The Hotline operates Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. ET.

SUPPLEMENTARY INFORMATION: EPA is proposing to approve revisions to the January 11, 2001, UCMR for Public Water Systems. In the "Rules and Regulations" section of today's **Federal Register**, EPA is approving revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems as a direct final rule without prior proposal because EPA views these as noncontroversial revisions and anticipates no adverse comment. EPA has explained our reasons for this approval in the preamble to the direct final rule. If EPA receives no adverse comment, it will not take further action on this proposed rule. If EPA receives adverse comment, the Agency will withdraw the direct final rule and it will not take effect. EPA would then address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the direct final rule titled "Unregulated Contaminant Monitoring Regulation for Public Water Systems; Amendment to the List 2 Rule and Partial Delay of Reporting of Monitoring Results" that is located in the "Rules and Regulations" section of this **Federal Register** publication. For the various statutes and executive orders that require findings for rulemaking, EPA incorporates the findings from the direct final rule into this companion proposal for the purpose of providing public notice and opportunity for comment.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indian lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: August 28, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–22115 Filed 8–29–01; 2:33 pm]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH07

Endangered and Threatened Wildlife and Plants; Notice of Availability of Draft Economic Analysis, Reopening of Comment Period, and Notice of Public Hearing for the Proposed Critical Habitat Determination for the San Bernardino Kangaroo Rat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of draft economic analysis, reopening of public comment period, and notice of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis for the proposed determination of critical habitat for the San Bernardino kangaroo rat (*Dipodomys merriami*

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parvus) and the reopening of the public comment period for the proposed determination to allow all interested parties to submit written comments on the proposal and on the draft economic analysis. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule. Additionally, we are announcing that public hearings will be held on our proposal.

DATES: The original public comment period on the critical habitat proposal closed on February 6, 2001. The public comment period is reopened, and we will accept comments until October 4, 2001. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action. The public hearing will be held on Thursday, September 20, 2001, from 1:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 8:00 p.m. in San Bernardino, California.

ADDRESSES: The public hearing will be held at the Radisson Hotel San Bernardino, 295 North E Street, San Bernardino, California. Copies of the draft economic analysis and proposed critical habitat determination are available on the Internet at http://carlsbad.fws.gov or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California, 92008. Written comments should be sent to the Field Supervisor. You may also send comments by electronic mail (e-mail) to fw1cfwo_sbkr@fws.gov. Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include "Attn: San Bernardino kangaroo rat" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760–431–9440. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office, at the above address.

FOR FURTHER INFORMATION CONTACT: Mark A. Elvin, Carlsbad Fish and Wildlife Office, at the above address (telephone 760–431–9440; facsimile 760–431–9624).

SUPPLEMENTARY INFORMATION:

Background

The San Bernardino kangaroo rat (*Dipodomys merriami parvus*), a member of the family Heteromyidae, is one of 19 recognized subspecies of Merriam's kangaroo rat (*D. merriami*), a widespread species distributed throughout arid regions of the western United States and northwestern Mexico (Hall and Kelson 1959, Williams *et al.* 1993). The San Bernardino kangaroo rat is considerably darker and smaller than either of the other two subspecies of Merriam's kangaroo rat that occur in southern California, *D. merriami merriami* and *D. merriami collinus*. It is the only kangaroo rat with four toes on each of its hind feet and the body color is pale yellow with a heavy overwash of dusky brown. The tail stripes are medium to dark brown and the foot pads and tail hairs are dark brown. The flanks and cheeks of the subspecies are dusky (Lidicker 1960).

San Bernardino kangaroo rats are typically found on alluvial fans (relatively flat or gently sloping masses of loose rock, gravel, and sand deposited by a stream as it flows into a valley or upon a plain), flood plains, along washes, in adjacent upland areas containing appropriate physical and vegetative characteristics (McKernan 1997), and in areas with historic braided channels (McKernan *in litt.* 1999). These areas consist of sand, loam, sandy loam, or gravelly soils (McKernan 1993, Braden and McKernan 2000) that are associated with alluvial processes (i.e., the deposition of clay, silt, sand, gravel, or similar material by running water such as rivers and streams; debris flows). These soils allow kangaroo rats to dig simple, shallow burrow systems (McKernan 1997), and typically support alluvial sage scrub and chaparral vegetation.

The historical range of this species extends from the San Bernardino Valley in San Bernardino County to the Menifee Valley in Riverside County (Hall and Kelson 1959, Lidicker 1960). At the time the Service listed the species under the Endangered Species Act (Act), we estimated that the historical range encompassed approximately 130,587 hectares (ha) (326,467 acres (ac)) (U.S. Fish and Wildlife Service unpubl. GIS maps, 1998; in 63 FR 51005). This estimation was based on the distribution of suitable soils and museum collections of this species. Recent studies indicate that the species occupies a wider range of soil and vegetation types than previously thought (Braden and McKernan 2000), which suggests that the species' historical range may have been larger than we estimated at the time of listing.

The San Bernardino kangaroo rat was emergency listed as endangered on January 27, 1998; concurrently, a proposal to make provisions of the emergency listing permanent also was published (63 FR 3835 and 63 FR 3877). On September 24, 1998, we published a final rule determining the San Bernardino kangaroo rat to be an endangered species (63 FR 51005). On December 8, 2000, we published a rule proposing critical habitat for the San Bernardino kangaroo rat (65 FR 77178). We proposed designation of approximately 22,423 ha (55,408 ac) as critical habitat for the San Bernardino kangaroo rat pursuant to the Act. Proposed critical habitat is in southern San Bernardino and western Riverside Counities, California, as described in the proposed rule.

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for the San Bernardino kangaroo rat and comments received during the previous comment period, we have prepared a draft economic analysis of the proposed critical habitat designation, which is available at the above Internet and mailing address.

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 et seq.) requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from the San Bernardino International Airport Authority, the Service will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the hearing will be published in newspapers concurrently with this **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) The reasons why any habitat should or should not be determined to

be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh. any threats to the species due to designation;

(2) Specific information on the amount and distribution of the San Bernardino kangaroo rat habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and

(5) Economic and other values associated with designating critical habitat for the San Bernardino kangaroo rat, such as those derived from non-consumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, "existence values," and reductions in administrative costs).

Reopening of the comment period will enable the Service to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on October 4, 2001. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Public Hearing

A public hearing on the proposed determination of critical habitat for the San Bernardino kangaroo rat is scheduled to be held on Thursday, September 20, 2001, from 1:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 8:00 p.m. at Radisson Hotel San Bernardino, 295 North E Street, San Bernardino, California. Please contact the Carlsbad Fish and Wildlife Office at the above address with any questions concerning this public hearing.

Public Comment Solicited

We have reopened the comment period at this time in order to accept the best and most current scientific and commercial data available regarding the proposed critical habitat determination for the San Bernardino kangaroo rat and the draft economic analysis of proposed critical habitat determination. Previously submitted written comments on this critical habitat proposal need not be resubmitted. The current comment period on this proposal closes on October 4, 2001. Written comments should be submitted to the Carlsbad Fish and Wildlife Office in the **ADDRESSES** section.

Author

The primary author of this notice is Mark A. Elvin (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Steve Thompson,

Acting Manager, California/Nevada Operations Office, Region 1.

[FR Doc. 01–21405 Filed 8–31–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 171
Tuesday, September 4, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01-01-S1]

Designation for the Cairo (IL), Louisiana, and North Carolina Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act): Cairo Grain Inspection Agency, Inc. (Cairo); Louisiana Department of Agriculture and Forestry (Louisiana); and North Carolina Department of Agriculture (North Carolina).

EFFECTIVE DATE: October 1, 2001.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, S.W., Washington, DC 20250-3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202-720-8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 8, 2001, **Federal Register** (66 FR 13874), GIPSA asked persons interested in providing official services in the geographic areas assigned to the official agencies named above to submit an application for designation. Applications were due by March 31, 2001.

Cairo, Louisiana, and North Carolina were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for comments on them.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act and, according to Section 7(f)(l)(B), determined that Cairo, Louisiana, and North Carolina are able to provide official services in the geographic areas specified in the March 8, 2001, **Federal Register**, for which they applied.

Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start—end
Cairo	Cairo, IL; 618-734-0689	10/01/2001-09/30/2004
Louisiana	Baton Rouge, LA; 225-922-1341; Additional Service Locations: Jonesville, Oak Grove, Opelousas, and Pineville, LA.	10/01/2001-09/30/2004
North Carolina	Raleigh, NC; 919-733-7576; Additional Service Location: Fayetteville, NC.	10/01/2001-09/30/2004

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: August 16, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01-21930 Filed 8-31-01; 8:45 am]

BILLING CODE 3410-EN-P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01-03-A]

Opportunity for Designation in the Barton (KY), Central Illinois (IL), North Dakota (ND) and Plainview (TX) Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in March 2002. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

J. W. Barton Grain Inspection Service, Inc. (Barton);
Central Illinois Grain Inspection, Inc. (Central Illinois);
North Dakota Grain Inspection Service, Inc. (North Dakota); and
Plainview Grain Inspection and Weighing Service, Inc. (Plainview).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before October 1, 2001.

ADDRESSES: Submit applications and comments to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW., Washington, DC 20250-3604; FAX 202-690-2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at Room 1647-S, 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202-720-8525, e-mail *janhart@gipsadc.usda.gov.*

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act.

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Barton	Owenboro, KY	06/01/1999	03/31/2002
Central Illinois	Bloomington, IL	06/01/1999	03/31/2002
North Dakota	Fargo, ND	07/01/1999	03/31/2002
Plainview	Plainview, TX	07/01/1999	03/31/2002

a. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Indiana, Kentucky, and Tennessee, is assigned to Barton:

In Indiana:

Clark, Crawford, Floyd, Harrison, Jackson, Jennings, Jefferson, Lawrence, Martin, Orange, Perry, Scott, Spencer, and Washington Counties.

In Kentucky:

Bounded on the North by the northern Daviess, Hancock, Breckinridge, Meade, Hardin, Jefferson, Oldham, Trimble, and Carroll County lines;

Bounded on the East by the eastern Carroll, Henry, Franklin, Scott, Fayette, Jessamine, Woodford, Anderson, Nelson, Larue, Hart, Barren, and Allen County lines;

Bounded on the South by the southern Allen and Simpson County lines; and

Bounded on the West by the western Simpson and Warren County lines; the southern Butler and Muhlenberg County lines; the Muhlenberg County line west to the Western Kentucky Parkway; the Western Kentucky Parkway west to State Route 109; State Route 109 north to State Route 814; State Route 814 north to U.S. Route Alternate 41; U.S. Route Alternate 41 north to the Webster County line; the northern Webster County line; the western McLean and Daviess County lines.

In Tennessee:

Bounded on the North by the northern Tennessee State line from Sumner County east;

Bounded on the East by the eastern Tennessee State line southwest;

Bounded on the South by the southern Tennessee State line west to the western Giles County line; and

Bounded on the West by the western Giles, Maury, and Williamson County lines North; the northern Williamson County line east; the western Rutherford, Wilson, and Sumner County lines north.

b. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Central Illinois:

Bounded on the North by State Route 18 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line east to State Route 47;

Bounded on the East by State Route 47 south to State Route 116; State Route 116 west to Pontiac, which intersects with a straight line running north and south through Arrowsmith to the southern McLean County line;

Bounded on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to the Logan County line; the western Logan County line; the southern Tazewell County line; and

Bounded on the West by the western Tazewell County line; the western Peoria County line north to Interstate 74; Interstate 74 southeast to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

Central Illinois' assigned geographic area does not include the following grain elevator inside Central Illinois' area which has been and will continue to be serviced by the following official agency: Springfield Grain Inspection, Inc.: East Lincoln Farmers Grain Co., Lincoln, Logan County, Illinois.

c. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Illinois and North Dakota, is assigned to North Dakota:

In Illinois:

Bounded on the East by the eastern Cumberland County line; the eastern Jasper County line south to State Route 33; State Route 33 east-southeast to the Indiana-Illinois State line; the Indiana-Illinois State line south to the southern Gallatin County line;

Bounded on the South by the southern Gallatin, Saline, and Williamson County lines; the southern Jackson County line west to U.S. Route 51; U.S. Route 51 north to State Route 13; State Route 13 northwest to State Route 149; State Route 149 west to State Route 3; State Route 3 northwest to State Route 51; State Route 51 south to the Mississippi River; and

Bounded on the West by the Mississippi River north to the northern Calhoun County line;

Bounded on the North by the northern and eastern Calhoun County lines; the northern and eastern Jersey County lines; the northern Madison County line; the western Montgomery County line north to a point on this line that intersects with a straight line, from the junction of State Route 111 and the northern Macoupin County line to the junction of Interstate 55 and State Route 16 (in Montgomery County); from this point southeast along the straight line to the junction of Interstate 55 and State Route 16; State Route 16 east-northeast to a point approximately 1 mile northeast of Irving; a straight line from this point to the northern Fayette County line; the northern Fayette, Effingham, and Cumberland County lines.

In North Dakota:

Bounded on the North by the northern Steele County line from State Route 32 east; the eastern Steele County line south to State Route 200; State Route 200 east-southeast to the State line;

Bounded on the East by the eastern North Dakota State line;

Bounded on the South by the southern North Dakota State line west to State Route 1; and

Bounded on the West by State Route 1 north to Interstate 94; Interstate 94 east to the Soo Railroad line; the Soo Railroad line northwest to State Route 1; State Route 1 north to State Route 200; State Route 200 east to State Route 45; State Route 45 north to State Route 32; State Route 32 north.

North Dakota's assigned geographic area does not include the following grain elevators inside North Dakota's area which have been and will continue to be serviced by the following official agency: Grain Inspection, Inc.: Norway Spur, and Oakes Grain, both in Oakes, Dickey County, North Dakota.

d. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Texas, is assigned to Plainview:

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Bounded on the North by the northern Deaf Smith County line east to U.S. Route 385; U.S. Route 385 south to FM 1062; FM 1062 east to State Route 217; State Route 217 east to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River southeast to the Briscoe County line; the northern Briscoe County line; the northern Hall County line east to U.S. Route 287;

Bounded on the East by U.S. Route 287 southeast to the eastern Hall County line; the eastern Hall, Motley, Dickens, Kent, Scurry, and Mitchell County lines;

Bounded on the South by the southern Mitchell, Howard, Martin, and Andrews County lines; and

Bounded on the West by the western Andrews, Gaines, and Yoakum County lines; the northern Yoakum and Terry county lines; the western Lubbock County line; the western Hale County line north to FM 37; FM 37 west to U.S. Route 84; U.S. Route 84 northwest to FM 303; FM 303 north to U.S. Route 70; U.S. Route 70 west to the Lamb County line; the western and northern Lamb County lines; the western Castro County line; the southern Deaf Smith County line west to State Route 214; State Route 214 north to the northern Deaf Smith County line.

2. Opportunity for Designation

Interested persons, including Barton, Central Illinois, North Dakota, and Plainview, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning April 1, 2002, and ending March 31, 2005. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

3. Request for Comments

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the Columbus, Farwell, and Northeast Indiana official agencies. Commenters are encouraged to submit pertinent data concerning these official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: August 16, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–21931 Filed 8–31–01; 8:45 am]

BILLING CODE 3410–EN–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: September 11, 2001; 11:15 a.m.–5 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: August 23, 2001.

Carol Booker,

Legal Counsel.

[FR Doc. 01–22270 Filed 8–30–01; 2:21 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Meeting Cancellation

Federal Register citation of previous announcement: 66 FR 44595, August 24, 2001.

Previously announced time of meeting: 10:30 a.m., September 10, 2001.

Dated: August 30, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–22215 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on September 12, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Opening remarks and introductions.
2. Presentation of papers or comments by the public.
3. Election of Chairman.

Closed Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that the public forward the materials prior to the meeting to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BXA Ms: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 12, 2001, pursuant to section 10(d) of the Federal Advisory Committee act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call (202) 482–2583.

Dated: August 30, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–22216 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2000) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review: Not later than the last day of September 2001, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period
Antidumping duty proceedings	
Canada: New Steel Rail, Except Light Rail, A–122–804	9/1/00–8/31/01
Germany: Large Newspaper Printing Presses and Components Thereof, A–428–821	9/1/00–8/31/01
Italy: Stainless Steel Wire Rod, A–475–820	9/1/00–8/31/01
Japan:	
Flat Panel Displays, A–588–817	9/1/00–8/31/01
Large Newspaper Printing Presses and Components Thereof, A–588–837	9/1/00–8/31/01
Stainless Steel Wire Rod, A–588–843	9/1/00–8/31/01
Republic of Korea: Stainless Steel Wire Rod, A–580–829	9/1/00–8/31/01
Spain: Stainless Steel Wire Rod, A–469–807	9/1/00–8/31/01
Sweden: Stainless Steel Wire Rod, A–401–806	9/1/00–8/31/01
Taiwan: Stainless Steel Wire Rod, A–583–828	9/1/00–8/31/01
The People's Republic of China:	
Freshwater Crawfish Tail Meat, A–570–848	9/1/00–8/31/01
Greige Polyester/Cotton Printcloth, A–570–101	9/1/00–8/31/01
Countervailing duty proceedings:	
Canada: New Steel Rail, Except Light Rail, C–122–805	1/1/00–12/31/00
Italy: Stainless Steel Wire Rod, C–475–821	1/1/00–12/31/00
Suspension Agreements	
None	

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of September 2001. If the Department does not receive, by the last

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day of September 2001, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 27, 2001.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, AD/CVD Enforcement.

[FR Doc. 01–22145 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–823]

Certain Cut-to-Length Carbon Steel Plate From Canada: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from Clayson Steel Inc. (Clayson), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate (CTL plate) from Canada. This review covers one manufacturer/exporter of CTL plate, Clayson, for the period August 1, 1999 through December 31, 1999.

We have preliminarily determined that sales have been made below normal value (NV) by the company subject to this review. See "Preliminary Results of Review" section below for the company-specific rate. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) and the NV.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley at (202) 482–0666 or Julio Fernandez at (202) 482–0190, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (April 1999).

Background

The Department published in the **Federal Register** antidumping duty orders on certain corrosion-resistant carbon steel flat products (CORE) and CTL plate from Canada on August 19, 1993. *See Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 44162 (August 19, 1993). The Department received timely requests from interested parties to conduct administrative reviews for the August 1, 1999 through July 31, 2000 period, pursuant to section 351.213(b) of the Department's regulations. On September 26, 2000, we initiated an administrative review of three manufacturers/exporters of CTL plate: Stelco Inc. (Stelco), Clayson, and Gerdau MRM Steel (MRM).

On December 8, 2000, the Department revoked the antidumping duty order on CTL plate from Canada, effective January 1, 2000, pursuant to a determination by the U.S. International Trade Commission (ITC) under section 751(c) of the Act. *See Revocation of Antidumping and Countervailing Duty Orders on Certain Carbon Steel Products From Canada, Germany, Korea, the Netherlands, and Sweden*, 65 FR 78467 (December 15, 2000) (*Revocation Notice*). As a result of the revocation of this order, the period of review (POR) for the seventh administrative review of CTL plate is shortened to the period from August 1, 1999 through December 31, 1999.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 1, 2001, the Department published a notice of extension of the time limit for the preliminary results in this review to August 31, 2001. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review*, 66 FR 12924 (March 1, 2001).

On May 8, 2001, MRM withdrew its request for a review of CTL plate. The petitioner withdrew its request for an administrative review of CTL plate with respect to Stelco and MRM, the only producers of CTL plate for which it had requested a review, on December 13, 2000, and on May 11, 2001, respectively. On July 27, 2001, the Department rescinded, in part, the antidumping duty administrative review of CTL plate, due to the withdrawal of requests for review by the interested parties. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Rescission in Part and in Whole of Antidumping Duty Administrative Reviews*, 66 FR 39145 (July 27, 2001).

The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of Review

CTL plate includes hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this review is grade X–70 plate. Also excluded is cut-to-length carbon steel plate meeting the following criteria: (1) 100% dry steel plates, virgin steel, no scrap content (free of Cobalt-60 and other radioactive nuclides); (2) .290 inches maximum thickness, plus 0.0, minus .030 inches; (3) 48.00 inch wide, plus .05, minus 0.0 inches; (4) 10 foot lengths, plus 0.5, minus 0.0 inches; (5) flatness, plus/minus 0.5 inch over 10 feet; (6) AISI 1006; (7) tension leveled; (8) pickled and oiled; and (9) carbon content, 0.03 to 0.08 (maximum).

The HTSUS item numbers are provided for convenience and U.S. Customs Service (Customs) purposes. The written description remains dispositive of the scope of this review.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent that are covered by the description in the "Scope of Review" section above and sold in the home market during the POR to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. After conducting a sales-below-cost test, we had exact matches remaining between products sold in the U.S. and the home market for all U.S. sales, and, therefore, did not have to resort to constructed value (CV) or difference in merchandise (DIFMER) adjustments.

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the EP to NV, as described in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transaction prices.

United States Price

Clayson had no constructed export price (CEP) sales. The Department calculated EP for Clayson based on packed, delivered prices to customers in the United States. Pursuant to section 772(c)(2)(A) of the Act, we made deductions from the U.S. gross unit price for U.S. movement expenses (i.e., U.S. brokerage and duty expenses, and inland freight).

We determined invoice date was the proper measurement of date of sale for Clayson's transactions, pursuant to both the commercial realities of Clayson's home market and U.S. sales during the POR and the Department's preference for invoice date, as articulated in section 351.401(i) of the Department's regulations.

Normal Value

The Department determines the viability of the home market and the comparison market by comparing the aggregate quantity of home market and U.S. sales. Section 351.404(b)(2) of the Department's regulations states that if "the aggregate quantity * * * of the foreign like product sold by an exporter or producer in a country is 5 percent or more of the aggregate quantity * * * of its sales of the subject merchandise to the United States" then it has a viable home market for the subject merchandise. 19 CFR 351.404(b)(2) (defining "sufficient quantity"). We have determined that Clayson has a viable home market pursuant to this provision. Moreover, there is no evidence on the record supporting a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade (LOT) as the U.S. sale.

Clayson made no home market sales to affiliated parties. Home market prices were based on the packed, delivered prices to purchasers in the home market. We made deductions from the home market price for an early payment discount, home market direct selling expenses (i.e., credit expenses), home market movement expenses (i.e., inland freight), and home market packing expenses in accordance with 773(a)(6)(B) of the Act. Furthermore, we added to the home market price amounts for U.S. direct selling expenses (i.e., credit expenses) and U.S. packing expenses in accordance with 773(a)(6)(A) of the Act.

As discussed above, pursuant to both the commercial realities of Clayson's home market and U.S. sales during the POR and the Department's regulatory preference for invoice date, the Department determined that the date of sale for Clayson's transactions was best reflected in the date of invoice.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as U.S. sales. In both the home market and the United States, Clayson reported one LOT and one distribution system, with one class of customer, original equipment manufacturers (OEMs), in both the home and U.S. markets. We compared the selling functions performed at the home market LOT with those performed at the U.S. LOT and found them to be substantially similar.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period August 1, 1999 through December 31, 1999 to be as follows:

Manufacturer/Exporter: Clayson.
Margin Percentage: 1.37%.

The Department will disclose to the parties to the proceeding calculations performed in connection with these preliminary results of review within ten days after the date of public announcement, or, if there is no public announcement, within five days after the date of publication of these preliminary results of review.

Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication or the first business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after publication. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing of case briefs. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we will calculate importer-specific ad valorem duty assessment rates. This rate will be assessed uniformly on all entries of each particular importer made during the POR.

As noted above, as a result of a sunset review by the ITC, the Department has revoked the antidumping duty order for CTL plate from Canada, effective January 1, 2000. *See Revocation Notice.* Therefore, we have instructed Customs to terminate suspension of liquidation

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for all entries of CTL plate made on or after January 1, 2000, and further calculation of antidumping cash deposit requirements for this merchandise is no longer necessary.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review is being conducted and the notice published in accordance with sections 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 777(i)(1) of the Act (19 U.S.C 1677f(i)(1)).

Dated: August 24, 2001.

Richard W. Moreland,

Acting Assistant Secretary.

[FR Doc. 01–22147 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–580–839

Polyester Staple Fiber from Korea; Notice of Extension of Time Limit for Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the first administrative review of the antidumping duty order on polyester staple fiber from Korea. The period of review is November 8, 1999 through April 30, 2001. This extension is made pursuant to Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("the Act").

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1778.

SUPPLEMENTAL INFORMATION: The Department is considering how best to address the review requests in this proceeding given our limited resources. Therefore, the Department finds it is not practicable to complete the preliminary determination by January 31, 2002 (*see* 751(a)(3)(A) of the Act). Accordingly, the Department is extending the time limit for completion of the preliminary results to no later than May 31, 2002. *See* 19 CFR 351.302(b).

In accordance with sections 751(a)(1) and 777(i)(1) of the Act, we are issuing and publishing this notice.

Dated: August 28, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22146 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010813205–1205–01]

RIN 0648–XA74

NOAA Ocean Exploration Initiative

AGENCY: Office of Ocean Exploration, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: In June 2000, a U.S. panel of ocean scientists, explorers, and educators convened to create a National Strategy for Ocean Exploration. Their final report, "Discovering Earth's final Frontier: A U.S. Strategy for Ocean Exploration", is a plan to undertake new activities in ocean exploration. NOAA is embarking on this new strategy through its Ocean Exploration Program, and desires to partner with public, private, and academic ocean exploration programs outside of NOAA.

The purpose of this notice is to advise the public, academic institutions, and private sector and government entities that the NOAA Office of Ocean Exploration (OE) is soliciting proposals in support of its mission to expand knowledge of the ocean's physical, chemical and biological environments, processes, characteristics, and resources by means of interdisciplinary expeditious to unknown, or poorly known, regions and through innovative experiments.

DATES: Proposals must be submitted to the Office of Ocean Exploration no later than 1 p.m. EST on November 7, 2001. Applications received after that time will not be considered for funding. Facsimile applications will not be accepted.

ADDRESSES: Send proposals to Katherine Croff, NOAA, Office of Ocean Exploration, Bldg. SSMC3, 11th Floor, 1315 East West Highway, Silver Spring, MD 20910 or via email to: *oar.oe.submissions@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: For further information, applicants and other interested parties are encouraged to contact the Office by phone at 301–713–9444 x–139 or via email at *oar.oe.faq@noaa.gov* or by letter (see **ADDRESSES**). A copy of this notice, as well as ancillary information, will be posted on the OE Program webpage which can be found at: *http://oceanexplorer.noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Program Authority

Authority: 33 U.S.C. 883d.

Catalog of Federal Domestic Assistance Number: 11.460

II. Program Description

A. Mission and Background

The OE Program's mission is to search and investigate the oceans for the purpose of discovery and the advancement of knowledge of the ocean's physical, chemical and biological environments, processes, characteristics, and resources by means of interdisciplinary expeditious to unknown, or poorly known, regions and through innovative experiments. The Program advocates discovery-based science and collaboration between multiple partners and disciplines. Education and outreach are also important OE Program components.

NOAA's OE Program is viewed as a component of an envisioned larger National Ocean Exploration Program which is described in Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration *http://oceanpanel.nos.noaa.gov.* As envisioned, it would seek to bring the best of our Nation's ocean scientists to ocean science and technological frontiers for the purposes of discovering more about life in the oceans, discovering new oceans processes, learning more about maritime cultural resources and heritage, and prospecting for biological and mineral resources. The NOAA OE Program will thereby support NOAA's role as the Nation's agency for ocean stewardship.

In order to facilitate pathfinding oceanic research and technology development, the OE Program will invest in well-justified projects that will expand our knowledge of the ocean's physical, chemical and biological environments as well as its processes,

characteristics, and resources. The OE Program will achieve these goals, in part, by means of interdisciplinary expeditions to unknown, or poorly known, regions and by means of innovative experiments. The Program also will seek to expand the Nation's maritime cultural heritage through support of ocean archeological expeditions.

A major commitment will be devoted to data dissemination and timely communication of the Program's achievements to a broad audience. Participants in the program are anticipated to include the public, private entities, and academic scientists.

B. Notice Objectives

The purpose of this announcement is to invite the submission of research proposals to explore and discover fundamental, new knowledge about the ocean and the organisms that live within it, to pursue the advancement of ocean technology and to develop teaching tools and innovative means for disseminating results and data.

C. Research Proposal Focus

Proposals should address pathfinding research within the themes and regions listed below. Research within areas of U.S. legal jurisdiction is encouraged.

Generalized thematic focuses for Ocean Exploration proposals include: (1) Exploring unknown or poorly known ocean regions; (2) exploring ocean dynamics and interactions at new time scales; (3) developing new sensors and systems; (4) exploring the Nation's maritime heritage; (5) exploring the ocean using remote sensing techniques, especially passive acoustics; and (6) exploring for living and nonliving ocean resources.

Areas of geographic interest include (but are not necessarily limited to) the: (1) Eastern Pacific (from the Baja peninsula to the Bering Sea and including the Gulf of Alaska); (2) Northwest Hawaiian Islands; (3) Arctic; (4) Antarctic; (5) Gulf of Mexico; (6) Gulf of Maine; (7) South Atlantic Bight.

The scope of proposals is left to the proposer's discretion, e.g., a proposal may be for a specific task or a large-scale, multi-institutional interdisciplinary expedition. Proposals may include costs for ship time and other facilities, including ROVs, etc.

All funded Principal Investigators (PIs) will be required to cooperate with the OE Program staff in facilitating education and outreach activities, which are major priorities for the program. These activities may entail such things as accommodation of a teacher/educator-at-sea or at-sea media participation. Proposals should specifically address these priorities.

NOAA's Ocean Explorer website (*http://oceanexplorer.noaa.gov*) is the principle vehicle for chronicling and documenting missions supported by the OE Program. PIs and mission participants will be required to provide materials for this site. Mechanisms to do this, e.g., coordination with the NOAA Ocean Explorer website team (see Ancillary Information at: http://oceanexplorer.noaa.gov), should be described in the proposal, and costs for accomplishing this goal should be included in the budget.

PIs must also be willing to cooperate with OE to ensure that data acquired through their grants are compatible with the OE data/information system currently under development. All funded proposals will be required to provide OE with metadata (via the Internet) pertaining to all research data sets within 90 days of their collection. In keeping with OE's education and outreach goals, the Internet databases also should be friendly to users from a wide spectrum of abilities and backgrounds. Because of the anticipated wide diversity in kinds of data to be acquired, dates for access to specific datasets (by the OE Program, relevant data repositories, and other requesters) will be individually established prior to each proposal award.

III. Funding Availability

This solicitation announces that approximately $14M may be available in FY 2002, in award amounts to be determined by the proposals and available funds. Applicants are hereby given notice that funds have not yet been appropriated for this program.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If one incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at one's own risk of these costs not being included under the award. Notwithstanding any verbal or written assurance that one may have received, pre-award costs are not allowed under the award unless the Grants Officer approves them in accordance with 15 C.F.R. 14.28.

IV. Matching Requirements

Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. However, applicants are not required to seek matching funds to qualify for this award. If an applicant chooses to cost-share, and if that application is selected for funding, the applicant will be bound by the percentage of the cost-share reflected in the award.

V. Type of Funding Instrument

The type of a funding instrument (either grant or cooperative agreement) that NOAA will use will be determined by the NOAA Grants Office in consultation with the NOAA OE Program Office. Mechanism for actual transfer of funds will depend on the specific agency or institution and its relationship to NOAA. Note: Grants or cooperative agreements will not be used in the case of funding for other Federal agencies. Such agencies will be funded through an inter-agency transfer (see Section IX for additional information).

IV. Duration of Funding and Award Period

Proposals may request funding for up to three years. Funding in out-years will be contingent on successful accomplishment of prior-year objectives and the level of the program's overall funding. A year-end report of accomplishments will be required for multi-year proposals.

VII. Eligibility

Institutions of higher education, nonprofit organizations, commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments, and Federal agencies are eligible to apply and be awarded funds. Note: Before other Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds for the purpose of this program in excess of their appropriation; see Section IX for more details on this point. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

VIII. Project Funding Considerations

NOAA encourages proposals that are interdisciplinary and involve legitimate collaborations with more than one institution or agency.

IX. Application Forms and Format

All applications must include the forms listed in section IX(A) and a proposal that conforms to the specifications in section IX(B). For other federal agencies wishing to apply, please contact the OE Program Director at 301–713–9444 or via email at

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oar.oe.fag@noaa.gov prior to the development of any research proposals to discuss the legal authority for receiving these funds.

A. Forms

Standard Forms 424, Application for Federal Assistance, 424A, Budget Information-Non-Construction Programs, 424B, Assurances-Non-Construction Programs, SF–LLL, Disclosure of Lobbying Activities (Rev. 7–97) (if applicable); DOC forms, CD–346, Applicant for Funding Assistance, CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying, and CD–512, Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying shall be used in applying for financial assistance. All necessary forms may be obtained via the OE Internet site (see: OE Application Kit) at *http://oceanexplorer.noaa.gov*. For hard copies, see **ADDESSES** and/or **FOR FURTHER INFORMATION.**

B. Proposal Format

The proposal should be self-contained. The proposal must clearly delineate each partner's efforts and the associated requests for OE funds, as well as any cost-sharing. The same proposal will be used to implement funding of all partners in the proposed effort, if selected. Thus, separate budgets within the single proposal will be required if more than one funding action is needed..

All proposals/applications must include the following: (a) Completed cover page; (b) a maximum half-page executive summary; (c) a maximum 20-page description of the entire project (including collaborations, period of performance, and work plan); (d) budget narrative (including proper budget justification for non-standard items); (e) a summary of relevant current funding support; (f) a short Principal Investigator resume, including recent relevant publication references,and (g) all government forms required for submission.

The entire package must make 40 pages or less. Proposals must be stapled or bound in the uppermost left-hand corner. Margins should be one inch on all four sides and the font size should be at least 10 point. A copy of the proposal on floppy diskette or Zip disk in Adobe Acrobat PDF or Microsoft Word format is requested, but not required.

X. Proposal/Application Submission Procedure

Investigators/applicants may submit hard copies or electronic copies (via email) of their proposals. Applicants submitting hard copies must submit three hard copies of the proposal. While extra copies are not required, submission of an extra twelve copies will expedite the review process. Although electronic submissions are welcomed, the forms, identified in Section IX(A), must be submitted in hard copy with original signatures in conjunction with any electronic submissions by the closing date/time. Three original copies of the forms, identified in section IX(A), are needed. Failure to submit the required forms may result in a proposal being rejected. Please send electronic submissions to the following email address: *oar.oe.submissions@noaa.gov*. For further information, see *Announcement of Opportunity: Application Kit* at *http://oceanexplorer.noaa.gov/* or see **ADDRESSES** and/or **FOR FURTHER INFORMATION.**

XI. Evaluation Criteria

Each proposal should take into consideration all of the following criteria. Listed in order of importance, these criteria will be used by independent peer mail reviewers and an independent peer review panel to assist in their evaluations of proposals submitted to the OE Program:

Scientific and Technical Merit

The scientific and/or technical context and value of the work proposed, and the probability of success.

Relevance of the Proposal to OE Program Objectives

The capacity for the proposal to address and support Ocean Exploration's missions and objectives (see: Section II., Parts A, B, and C).

Usability of Results

The anticipated or potential scientific and/or technical importance of project results.

Other Requirements

All proposals must provide sufficient information to demonstrate the applicant's scientific and/or technical capability to successfully undertake the proposed work. All proposals must also provide a complete and detailed budget, which includes supporting narratives for unusual and/or unusually costly items.

The proposals will be judged, in accordance with these evaluation criteria, on a adjectival scale ranging in order of decreasing merit, as follows:

Excellent: Comprehensive, thorough and of exceptional merit, one or more major strengths, no major weaknesses, and any minor weaknesses easily correctable.

Very Good: Competent, one or more major strengths, strengths outweigh weaknesses, and major weaknesses correctable.

Good: Reasonable, may be strengths and/or weaknesses, weaknesses do not significantly detract from the proposal's viability, any major weaknesses are correctable.

Fair: One or more major weaknesses, weaknesses outweigh strengths, major weaknesses may possibly be corrected or minimized.

Poor: One or more major weaknesses which will be difficult to correct or may not be correctable.

XII. Selection Process

Proposals will be evaluated by an independent peer mail review, i.e., each proposal will be reviewed, by three qualified scientific and/or technical peers drawn from government, academia, and/or industry (working independently). These reviewers will be required to certify that they do not have a conflict of interest and that they will maintain confidentiality concerning the application(s) they are reviewing. The peer reviewers will (1) assign adjectival ratings to each proposal based on the evaluation criteria described in section XI, and (2) compose written assessments.

Proposals and the accompanying written mail reviews will be sent to OE, who will make them available to the peer review panel. Panel members may include relevant NOAA and non-NOAA experts. As a group, the panel members will discuss the scientific merits of each proposal and the contents of the written assessments composed during the peer mail reviews process. After the discussion, each peer review panel member will individually rate each proposal using the evaluation criteria listed in this announcement. There will be no consensus advice or evaluation.

Following the panel meeting, the proposals, the written reviews, and ratings of each panelist then will be sent to the OE Program's Chief Scientist. The Chief Scientist will compile the individual ratings for each proposal, and, after taking into account the extent to which the proposals meet OE's funding considerations, will group all of the proposals into the following fundable categories: Highest Priority For Funding, Merits Funding, or Decline.

The Director of the NOAA OE Program will have the final authority and responsibility for decisions regarding proposal acceptance or rejection. The Director, in making his/her final decisions, will consider: (1) Individual peer reviews, (2) the peer review panel evaluations, ratings and Chief Scientist groupings; (3) the avoidance of duplication with other projects funded by NOAA or other Federal Agencies; (4) the extent to which the proposals meet the funding considerations in Section VIII; and (5) availability of funding. Therefore, the highest proposal rating may not ultimately determine funding. Investigators may be asked to modify objectives, work plans, or budgets prior to approval of the award. Subsequent administrative processing will be in accordance with current NOAA grants procedures.

XIII. Other NOAA Affiliations

Other NOAA agencies and programs also have mission objectives which involve ocean research and technology development. Examples include, the National Undersea Research Program, the National Sea Grant College Program, the Office of Oceanic and Atmospheric Research Office's Arctic Research Office, NMFS and the National Ocean Service. The OE Program anticipates and encourages collaborative efforts between itself and these agencies and programs. Investigators who wish to work with the OE Program through any of these other entities should contact them directly. Prospective collaborative projects facilitated by these other programs will be subject to the OE Program's proposal review and decision-making process. For additional details about these other programs, see: http://oceanexplorer.noaa.gov.

XIV. Federal Policies and Procedures Applicable to OE

A. Environmental Impact

If a proposed project might have an environmental impact, the proposal should furnish sufficient information to assist proposal reviewers in assessing the environmental consequences of supporting the project.

B. ESA/MMPA Permits and Authorizations

Where relevant, proposals with the potential to impact marine mammals and/or other protected species must comply with the Marine Mammal Protection Act of 1972 (MMPA), (16 U.S.C. 1361–1421h) and the Endangered Species Act of 1973 (ESA), (16 U.S.C. 1531–1544).

For further information about permits, authorizations or viewing marine mammals and other protected species in the wild please visit the following NMFS websites:

http://www.nmfs.noaa.gov/prot res/overview/permits.html

http://www.nmfs.noaa.gov/prot res/MMWatch/MMViewing.html.

XV. Other Requirements

A. Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations and procedures applicable to Federal financial assistance awards. Women and minority individuals and groups are encouraged to submit applications under this program.

DOC/NOAA is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

B. Past Performance

Any first-time applicant for Federal grant funds is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

C. Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

D. No Obligation of Future Funding

If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

E. Delinquent Federal Debt

No Federal funds will be awarded to an applicant or to its subrecipients who have any outstanding debt until either:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DOC are made.

F. Name Check Review

All non-profit and for-profit applicants are subject to a name-check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

G. False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

H. Primary Applicant Certifications

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided.

1. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. *Drug-Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more then $150,000, or the single family maximum

mortgage limit for affected programs, whichever is greater; and

4. *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

I. Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512. "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

J. Intergovernmental Review

Applicants under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

K. Purchase of American-Made Equipment and Products

Applicants are hereby notified that they will be encouraged to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administration Procedure Act (5 U.S.C. 553(a)(2)) or any other law for this notice concerning grants, benefits, and contracts.

Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act (5 U.S.C. § 601 et. seq.)

This action has been determined to be not significant for purposes of Executive Order 12866.

This notice contains collection-of-information requirements which are subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, SF–LLL and CD–346 have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB control number.

Dated: August 29, 2001.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 01–22142 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–KD–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

August 28, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348 is being increased for swing, reducing the limit for Categories 341/641 to account for the swing being applied. The limit for Categories 347/348 is also being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66726, published on November 7, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 28, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Qatar and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001.

Effective on September 4, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
341/641	208,185 dozen.
347/348	702,995 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–22119 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Romania

August 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 435 and 444 are being adjusted for the undoing of special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 77594, published on December 12, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 4, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
435	15,712 dozen.
444	15,000 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–22158 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

August 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 66 FR 11003, published on February 21, 2001.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 15, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 6, 2001, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Twelve-month limit [1]
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [2], 359–H/659–H [3], 359–O [4], 431 444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [5], 659–O [6], 831–844 and 846–859, as a group	733,029,292 square meters equivalent.
Sublevels in Group II	
239	6,243,128 kilograms.
331	540,605 dozen pairs.
345	135,598 dozen.
352/652	3,507,182 dozen.
359–H/659–H	5,159,777 kilograms.
435	27,427 dozen.
438	30,535 dozen.
631	5,527,362 dozen pairs.
633/634/635	1,667,128 dozen of which not more than 978,503 dozen shall be in Categories 633/634 and not more than 867,079 dozen shall be in Category 635.
642	839,303 dozen.
659–S	1,729,838 kilograms.
Group II Subgroup 333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	78,984,840 square meters equivalent.
Within Group II Subgroup	
342	231,636 dozen.
351	349,669 dozen.
447/448	22,516 dozen.
636	422,522 dozen.
651	510,930 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[5] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–22120 Filed 8–31–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, as amended.

DATES: This proposed action will be effective without further notice on October 4, 2001, unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or ESN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552), as amended, which requires the submission of a new or altered system report.

August 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0215 CFSC

SYSTEM NAME:

General Morale, Welfare, Recreation and Entertainment Records (May 18, 1998, 63 FR 27269).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Name, address, and other pertinent information of members, participants, patrons, and other authorized users. Other ancillary information such as travel vouchers, security check results and orders will be kept in the system. Bingo, pay-out control sheet indicating individual name, grade, Social Security Number, duty station, dates and amount of bingo winnings paid, and Internal Revenue Forms W2–G, Certain Gambling Winnings and 5754, Statement by Person(s) Receiving Gambling Winnings.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 26 U.S.C. 6041, Information at Source; Army Regulation 215–1, Morale Welfare, and Recreation Activities and Non-appropriated Fund Instrumentalities; DoD Instruction 1015.2 Military Morale, Welfare and Recreation (MWR) and E.O. 9397 (SSN).'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'By name and Social Security Number.'

* * * * *

A0215 CFSC

SYSTEM NAME:

General Morale, Welfare, Recreation and Entertainment Records.

SYSTEM LOCATION:

Major Army commands, field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, their families, other members of the military community, certain DoD civilian employees and their families overseas, certain military personnel of foreign nations and their families, personnel authorized to use Army-sponsored Morale, Welfare, Recreation (MWR) services, youth services, athletic and recreational services, Armed Forces Recreation Centers, Army recreation machines, and/or to participate in MWR-type activities, to include bingo games; professional entertainment groups recognized by the Armed Forces Entertainment; Army athletic team members; ticket holders of athletic events; units of national youth groups such as Boy Scouts, Girl Scouts, and 4–H Clubs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, and other pertinent information of members, participants, patrons, and other authorized users. Other ancillary information such as travel vouchers, security check results and orders will be kept in the system. Bingo, pay-out control sheet indicating individual name, grade, Social Security Number, duty station, dates and amount of bingo winnings paid, and Internal Revenue Forms W2–G and 5754, (Gambling Winnings and Statement by Person(s) Receiving Gambling Winnings, respectively).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 26 U.S.C. 6041, Information at Source; Army Regulation 215–1, Morale Welfare, and Recreation Activities and Non-appropriated Fund Instrumentalities; DoD Instruction 1015.2, Military Morale, Welfare and Recreation (MWR); and E.O. 9397 (SSN).

PURPOSE(S):

To administer programs devoted to the mental and physical well-being of Army personnel and other authorized users; to document the approval and conduct of specific contests, shows, entertainment programs, sports activities/competitions, and other MWR-type activities and events sponsored or sanctioned by the Army.

Information will be used to market and promote similar MWR type activities conducted by other DoD organizations.

To provide a means of paying, recording, accounting reporting, and controlling expenditures and merchandise inventories associated with bingo games.

ROUTINE USES OF RECORDS MAINTAINED IN SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552(b)(3) as follows:

To the Internal Revenue Service to report all monies and items of merchandise paid to winners of games whose one-time winnings are $1,200 or more.

The DOD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system:

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, cards, magnetic tapes, discs, computer printouts, and electronic storage media.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Records are kept in buildings secured during non-duty hours and accessed by only designated persons having official need therefor.

RETENTION AND DISPOSAL:

Bingo records are maintained on-site for four years and then shipped to a Federal Records Center for storage for an additional three years. After seven years, records are destroyed. All other documents as destroyed after 2 years, unless required for current operation.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Community and Family Support Center, 4700 King Street, Alexandria, VA 22302–4414.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director of Community Activities at the installation or activity where assigned.

Individuals must provide name, rank, Social Security Number, proof of identification, and any other pertinent information necessary.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director of Community Activities at the installation of activity where assigned.

Individuals must provide name, rank, Social Security Number, proof of identification, and any other pertinent information necessary.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual or group receiving the service and bingo pay-out control sheets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–22111 Filed 8–31–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Intent to Repay to the State of Maine Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 459 of the General Education Provisions Act (GEPA) (20 U.S.C. 1234h), the Secretary of Education (Secretary) intends to repay to the State of Maine Department of Education (MDE), the State educational agency (SEA), an amount equal to 75 percent of the principal amount of funds returned to the U.S. Department of Education (Department) as the result of final audit determinations. The Department's recovery of funds followed an audit disallowance issued by the Office of Elementary and Secondary Education under Chapter 1 of Title I of the Elementary and Secondary Education Act (ESEA) for the period July 1, 1991 through June 30, 1992. The MDE returned $14,476 to the Department in settlement of the 1992 audit exception. This notice describes the MDE's plan for use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATES: All comments must be received on or before October 4, 2001.

ADDRESSES: All written comments should be addressed to Dr. Joseph F. Johnson, Jr., Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., FOB–6, Room 3W220, Washington, DC 20202–6132.

FOR FURTHER INFORMATION CONTACT: S. Colene Nelson, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., FOB–6, Room 3E335, Washington, DC 20202–6132. Telephone: (202) 260–0979. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Internet address: *Colene.Nelson@ed.gov.*

Individuals with disabilities may obtain this document in an alternate format (e.g. Braille, large print, audiotape, or computer disk) on request to the contact persons listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION

A. Background

The Department has recovered $14,476 from the MDE in settlement of a 1992 audit disallowance under Chapter 1 of Title I of the Elementary and Secondary Education Act (Chapter 1) (20 U.S.C. 2701 *et seq.* (1988)). Under Chapter 1, funds were awarded, through SEAs, to local educational agencies to improve the achievement of educationally deprived children attending high-poverty schools.

The auditors found that, during the year ending June 30, 1992, the salaries of two employees of the MDE's Division of Finance's grants management accounting staff were charged in full to the Chapter 1 program, but they did not spend their entire time on activities directly benefiting the Chapter 1

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program. The auditors noted that provisions in the Office of Management and Budget (OMB) Circular A–87, Attachment B, section 10(b), required the salaries and wages of employees chargeable to more than one grant program or other cost objective to be supported by appropriate time distribution records. This resulted in questioned costs of $29,484 to Chapter 1. The Department upheld the auditors' finding and required the MDE to repay the amount of $29,484. The MDE appealed the determination and that appeal resulted in an agreement among the parties dated March 27, 1998 that reduced the questioned costs to $14,476. The State of Maine has repaid this amount to the Department.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA (20 U.S.C. 1234h) provides that, whenever the Secretary has recovered program funds following a final audit determination, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that—

(1) The practices or procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 459(a)(2) of GEPA, the MDE has applied for a grantback of $10,857—75 percent of the principal amount recovered by the Department—and has submitted a plan for use of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Title I, Part A, of ESEA, the successor program to Chapter 1.

According to the plan, the MDE will use the grantback funds under Title I to arrange for technical assistance in early literacy strategies to staff in schools designated as priority schools or schools identified as needing improvement. Specifically, the MDE will contract with the Gorham School Department for the purpose of providing a distinguished educator to provide the following services to identified schools in the State: (1) Presentations on best practices in literacy; (2) sessions to facilitate priority school staff as they develop plans for school reform in literacy; and (3) training sessions on topics related to parent involvement. In addition, the distinguished educator will conduct sessions to assist MDE staff in developing strategies to implement the Maine Learning Results. The $10,857 in grantback funds will be used to fund one-fifth of the distinguished educator's salary ($9,500) and travel expenses for site visits ($1,357).

D. The Secretary's Determination

The Secretary has carefully reviewed the plan submitted by the MDE. Based upon that review, the Secretary has determined that the conditions under section 459 of GEPA have been met. These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary may take appropriate administrative action. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the MDE under a grantback arrangement. The grantback award would be in the amount of $10,857.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The MDE agrees to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the MDE submitted and any amendments to that plan that are approved in advance by the Secretary, and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 2001, in accordance with section 459(c) of GEPA and the MDE's plan.

(3) The MDE will, not later than December 31, 2001, submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget; and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditure of funds awarded under the grantback arrangement.

Electronic Access to this Document

You may review this document, as well as other Department of Education documents published in the **Federal Register**, in text or Portable Document Format (PDF) on the World Wide Web at the following site: *http://www.ed.gov/legislation/FedRegister*

To use the PDF you must first have the Adobe Acrobat Reader Program with Search, which is available free at the previous site. If you have any questions about using the PDF, call the U.S. Government Printing Office, toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

(Catalog of Federal Domestic Assistance Number 84.012, Educationally Deprived Children—State Administration).

Dated: August 29, 2001.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–22189 Filed 8–31–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–427–000]

Dominion Transmission, Inc.; Notice of Certificate Application

August 28, 2001.

Take notice that on August 15, 2001, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia 26301, filed an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, as amended, and the Federal Energy Regulatory Commission's (the Commission) Rules and Regulations thereunder. DTI requests a blanket certificate and authorization to plug and abandon certain storage wells in the following instances: (1) Highway, commercial or residential construction necessitates the abandonment of a storage well or wells; (2) the storage wells have proven virtually incapable of functioning as injection/withdrawal wells to any appreciable extent; or (3) it is economically advisable to plug and abandon the storage well/wells versus reconditioning. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

DTI represents that it will not use the blanket authorization on a storage well that will result in a reduction of service of a storage reservoir, unless needed to protect life and property. In all cases, the abandonment of the storage well will only involve the removal of minor surface facilities, appropriate erosion control, and site restoration, with all work confined to the original well pad.

Questions regarding this filing should be directed to Sean R. Sleigh, Certificate Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301, call 304–627–3462, fax 304–627–3305.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 18, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this Application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22095 Filed 8–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–065]

El Dorado Irrigation District California; Notice of Public Meeting

August 28, 2001.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a new license for the El Dorado Project (FERC No. 184), which was filed on February 22, 2000. The El Dorado Project, licensed to the El Dorado Irrigation District (EID), is located on the South Fork American River, in El Dorado, Alpine, and Amador Counties, California. The project occupies lands of the Eldorado National Forest.

The EID, several state and federal agencies, and several non-governmental agencies have agreed to ask the Commission for time to work collaboratively with a facilitator to

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resolve certain issues relevant to this proceeding. The purpose of this two-day meeting is to finalize the request to the Commission for time to conduct collaborative discussions and to develop protocols by which the collaborative group would operate. We invite the participation of all interested governmental agencies, non-governmental organizations, and the general public in this meeting.

The meeting will be held on Monday, September 10 and Tuesday, September 11, 2001, from 9 am until 4 pm in the Marriott Sacramento, located at 11211 Point East Drive, Rancho Cordova, California.

For further information, please contact Elizabeth Molloy at (202) 208–0771 or John Mudre at (202) 219–1208.

David P. Boergers,

Secretary.

[FR Doc. 01–22098 Filed 8–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–253–004]

El Paso Natural Gas Company; Notice of Application

August 28, 2001.

Take notice that on August 17, 2001, El Paso Natural Gas Company (El Paso) filed in Docket No. CP93–253–004 an application, pursuant to Section 3 of the Natural Gas Act (NGA), Sections 153, *et seq.*, of the Commission's Regulations, to amend its Section 3 authorization and the Presidential Permit solely with respect to an increase in the maximum daily export capacity, all as more fully described below. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call (202) 208–2222 for assistance).

Specifically, El Paso is requesting an amendment to its existing Section 3 authorization and Presidential Permit granted by orders issued November 29, 1993, and June 11, 1997 in Docket Nos. CP93–253–000, *et al.*, solely to increase the maximum daily export capacity from 208,000 Mcf/d to 308,000 Mcf/d on the Samalayuca Lateral pipeline. Therefore, this application to amend does not affect any other aspect of the Samalayuca Lateral Expansion Project, as filed and approved. El Paso states that subsequent to the commencement of transportation service on the Samalayuca Lateral, various parties in Mexico have expressed interest in the transportation by El Paso of additional volumes of natural gas, utilizing the Samalayuca Lateral facilities and the delivery of such volumes to the International Boundary.

El Paso anticipates that the Comision Federal de Electricidad (CFE) will require an additional 60,000 Mcf/d of natural gas for its new Chihuahua II power plant to be located near Chihuahua, Mexico in the city of El Encino scheduled for commercial operation in October 2001. CFE has advised El Paso that another 40,000 Mcf/d of natural gas will be required for fuel at a new turbine generator to be installed at the El Encino site by February 2002. Furthermore, El Paso understands that CFE has issued a Request for Proposal for the new Chihuahua III power plant to be located near the city of Juarez at the original Samalayuca plant site, which will require an additional 50,000 Mcf/d of transportation capacity by May 2003.

El Paso proposes to provide the necessary transportation and delivery service for these additional volumes by operating the existing 24″ O.D. Samalayuca Lateral pipeline at a higher pressure; the installation of one additional meter run at the existing meter station located in the plant yard of the Hueco Compressor Station; and the installation of additional piping within the plant yard of the Hueco Compressor Station that would permit El Paso to receive gas volumes into the Samalayuca Lateral from the discharge side of the Hueco Compressor Station. Transportation of gas to the Hueco Compressor Station would be accomplished through existing transportation contracts or through capacity obtained through the capacity release program. El Paso points out that it is not proposing to award any capacity on its mainline system pursuant to this amendment and the facilities will be installed under El Paso's part 157, Subpart F Blanket Certificate.

Any questions regarding the application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs Department, El Paso Natural Gas Company, Post Office Box 1087, Colorado Springs, Colorado 80944, or at (719) 520–3788.

There are two to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 18, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities.

For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Interventions, comments, and protests may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–22094 Filed 8–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–431–000]

Great Lakes Gas Transport, LLC; Notice of Abandonment Application

August 28, 2001.

On August 22, 2001, Great Lakes Gas Transport, LLC (GLGT), P.O. Box 550, Hartville, Ohio 44632, filed an application in Docket No. CP01–431–000 pursuant to Sections 1(b), 1(c) and 7(b) of the Natural Gas Act (NGA) for an order permitting and approving GLGT to abandon facilities and services by sale to Dominion Transmission, Inc. (DTI), Dominion Field Services, Inc. (Field Services) and Hope Gas, Inc. dba Dominion Hope (Dominion Hope). GLGT further requests that the Commission determine that certain facilities to be sold by GLGT to Field Services will be gathering facilities and to Dominion Hope will be distribution facilities and that both will be non-jurisdictional and not subject to the Commission's jurisdiction under the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" from the RIMS Menu and follow the instructions (please call (202)208–2222 for assistance).

Specifically, GLGT requests authorization to abandon by sale and to transfer all of its facilities to DTI, Field Services and Dominion Hope, including without limitation, authority to abandon all Points of Delivery which are served from the certificated and non-certificated facilities. The facilities and properties to be transferred are described in the June 11, 2001 Asset Purchase Agreement (Agreement), which is attached to the Application as Exhibit R. The Agreement provides for GLGT to convey all of its facilities, both jurisdictional and nonjurisdictional, to the purchasers for a total purchase price of $3,250,000. Consistent with the division of assets described herein, the purchase price will be allocated among the Dominion companies.

GLGT states that upon the sale and transfer of GLGT's facilities, GLGT will cease doing business and will no longer be a pipeline subject to the Commission's jurisdiction. GLGT requests authorization to abandon its existing FERC Gas Tariff and services, and to abandon and transfer all of its jurisdictional facilities to DTI, Field Services, and Dominion Hope. GLGT states it will convey its facilities that serve primarily a gathering function (including all of its facilities currently classified as gathering and certain facilities currently classified as jurisdictional transportation) to Field Services, a non-jurisdictional provider of gathering services. GLGT will convey the portion of its facilities that will continue to perform an interstate transportation function to DTI, an interstate pipeline regulated by this Commission. Finally, GLGT will convey its remaining facilities to Dominion Hope, a West Virginia local distribution company (LDC), for use as distribution facilities.

GLGT states that Field Services and DTI will take assignment of, and honor, all of GLGT's existing gas purchase and transportation contracts. The contracts to be assigned consist of a host of gas purchase contracts currently held by FirstEnergy Services, Corp. (an affiliate of GLGT) and three transportation agreements. The gas purchase contracts will be assigned to Field Services and the transportation agreements to DTI. Therefore, GLGT's existing customers will not be faced with any reduction or loss of service.

GLGT states that DTI will acquire the facilities that will continue to perform an interstate transportation function under its blanket authorization. Thus, these facilities will remain subject to this Commission's jurisdiction. GLGT requests a determination that, subsequent to the transfer described herein, all the other facilities will perform non-jurisdictional gathering and distribution functions that will not be subject to the Commission's jurisdiction. Thus, the proposed operation of these facilities by Field Services and Dominion Hope will not subject either of them to the Commission's jurisdiction as a regulated natural gas company or cause the rates and services provided through the facilities to become subject to the Commission's jurisdiction. GLGT states that Field Services and Dominion Hope will offer service on an open-access basis and with no undue discrimination in favor of their affiliates, and will be subject to the jurisdiction of State regulatory commissions.

Any questions regarding this application should be directed to Jeffery A. Bynum, Senior Vice President, Great Lakes Gas Transport, L.L.C. P.O. Box 550, Hartville, Ohio 44632, at (330) 877–6747.

There are two ways to become involved in the Commission's review of this abandonment. First, any person wishing to obtain legal status by becoming a party to the proceedings for this abandonment should, on or before September 7, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this abandonment. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the

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abandonment provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this abandonment should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying abandonment will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–22096 Filed 8–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–109–000]

Midwest Generation, LLC v. Commonwealth Edison Company; Notice of Amendment to Complaint Filing

August 28, 2001.

Take notice that on August 24, 2001, Midwest Generation, LLC (Midwest) supplemented its complaint in this proceeding with Exhibits 3 through 14, the December 15, 1999 memoranda of understanding between Midwest and Commonwealth Edison Company. Midwest requests privileged treatment of the documents pursuant to Section 388.112 of the Commission's regulations. 18 CFR 388.112(2001)

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before September 10, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the amendment to the complaint shall also be due on or before September 10, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22097 Filed 8–31–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2904–000, *et al.*]

Pacific Gas and Electric Company, *et al.*; Electric Rate and Corporate Regulation Filings

August 28, 2001.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company

[Docket No. ER01–2904–000]

Take notice that on August 23, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing two agreements entitled Wholesale Distribution Tariff Service Agreement (Service Agreement) and Agreement for Parallel Operation—Nonutility-Owned Generation (PO") with Los Alamos Energy, LLC (Los Alamos), submitted pursuant to the PG&E Wholesale Distribution Tariff (WDT).

The Service Agreement permits PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities. As detailed in the Service Agreement, PG&E proposes to charge Los Alamos a monthly Cost of Ownership Charge equal to the rates for distribution-level, customer-financed and distribution-level, utility-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). PG&E's currently effective rates of 0.46% and 1.33%, respectively, for distribution-level, customer-financed and distribution-level, utility-financed Special Facilities are contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which is included as Attachment 2 of this filing.

Copies of this filing have been served upon Los Alamos, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

2 Black Hills Corporation, d/b/a Black Hills Power, Inc.

[Docket No. ER01–2913–000]

Take notice that on August 23, 2001, Black Hills Corporation, d/b/a Black Hills Power, Inc., tendered for filing an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with Cargill.

Black Hills Power, Inc. has requested that the executed Service Agreement become effective August 6, 2001.

Copies of the filing were provided to Cargill and to the regulatory commissions for the states of Montana, South Dakota and Wyoming.

Commendate: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Carolina Power & Light Company

[Docket No. ER01–2914–000]

Take notice that on August 23, 2001, Carolina Power & Light Company (CP&L) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Duke Energy Trading and Marketing, L.L.C. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of CP&L.

CP&L is requesting an effective date of August 7, 2001 for the Service Agreements.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corporation

[Docket No. ER01–2915–000]

Take notice that on August 23, 2001, Florida Power Corporation (FPC) filed a Service Agreement with Entergy-Koch Trading, LP under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10.

FPC is requesting an effective date of August 3, 2001 for this Agreement.

A copy of this filing was served upon the Florida Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. American Electric Power Service Corporation

[Docket No. ER01–2916–000]

Take notice that on August 23, 2001, American Electric Power Service Corporation (AEPSC) tendered for filing a Service Agreement for ERCOT Regional Transmission Service between AEPSC and Magic Valley Electric Cooperative Inc. (MVEC) dated July 24, 2001 and an Interconnection Agreement between Central Power and Light Company (CPL) and MEVC dated July 24, 2001.

AEPSC seeks an effective date of July 24, 2001 for both of these agreements which coincides with the termination date of these parties' Agreement for the Supply of Wholesale Electric Power Service to Municipalities and Rural Electric Cooperatives.

AEPSC served copies of the filing on Magic Valley Electric Cooperative, Inc. and the Public Utility Commission of Texas.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ER01–2917–000]

Take notice that on August 23, 2001, UtiliCorp United Inc. (UtiliCorp) tendered for filing, on behalf of its WestPlains Energy-Colorado division (WestPlains), service agreements for sales of energy and capacity to UtiliCorp from Cripple Creek & Victor Gold Mining Company.

Utilicorp requests that the Service Agreements be made effective June 8, 2001.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power Corporation

[Docket No. ER01–2918–000]

Take notice that on August 23, 2001, Florida Power Corporation (FPO) tendered for filing a revision to its Market-Based Wholesale Power Sales Tariff, FERC Electric Tariff, Original Volume No. 8 (Tariff). The revised Tariff includes provisions for affiliate sales, sales of ancillary services at market-based rates, and resales of transmission rights.

FPC requests that the modification become effective August 24, 2001, the day after filing.

Copies of the filing were served upon FPC's customers receiving service under the Tariff and the Florida Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power Corporation

[Docket No. ER01–2919–000]

Take notice that on August 23, 2001, Florida Power Corporation (FPC) tendered for filing a revised Short-Form Market-Based Wholesale Power Sales Tariff, FERC Electric Tariff, Original Volume No. 10 (Short-Form Tariff). The Short-Form Tariff is revised to include the Detroit Edison protections for affiliate sales. See Detroit Edison Company *et al.*, 80 FERC 61,348 (1997).

FPC requests that the revision become effective August 24, 2001.

Copies of the filing were served upon FPC's customers receiving service under the Short-Form Tariff and the Florida Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22093 Filed 8–31–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7047–6]

Community Based In-Home Asthma Environmental Education and Management

AGENCY: Environmental Protection Agency.

ACTION: Request for grant proposals.

SUMMARY: Request for Proposals for Community Based In-Home Asthma Environmental Education and Management. This is an announcement of the availability of FY 2001 grant funds for the Environmental Protection Agency's (EPA) Indoor Environments Division/Office of Radiation and Indoor Air. Section 103(a)(1) of the Clean Air Act authorizes the Administrator to conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution by [(b)(3)] making grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in 103(a)(1). The intended use of these funds is to support pilot studies of asthma education, including asthma management and indoor asthma trigger identification/mitigation, in existing community-based in-home environmental management or education programs. EPA is awarding these grants to support the recipients to conduct pilot studies of in-home asthma education and assess the effectiveness of their in-home approaches to educating children with asthma, their parents and/or primary care givers, and other people with asthma, including how to identify the indoor triggers to which the asthmatic(s) in the household may be sensitive, and how to mitigate them. EPA plans to award two grants of up to $150,000.00 each, to two qualified

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organizations, however the final number of awards and award amounts may vary depending on proposal quality and resource availability.

DATES: Letter of Intent Deadline: Postmarked no later than September 18, 2001. Pre-application Assistance Conference Call date is: September 25, 2001, 12 noon until 2pm Eastern Daylight Time. Application Deadline: Postmarked no later than October 23, 2001.

ADDRESSES: Send Letter of Intent and Applications to the attention of John Guevin, Environmental Protection Agency, Ariel Rios Building (6609J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Guevin (202) 564–9370.

SUPPLEMENTARY INFORMATION: The focus for funding is to: (a) Reduce the impact of in-home environmental asthma triggers on children and adults with asthma; (b) strengthen the capacity of individual households to control in-home environmental asthma triggers; and (c) assess the effectiveness and sustainability of strategies for in-home environmental asthma trigger management and education within communities.

Completed applications, including work plans and detailed budgets, are due to the Indoor Environments Division no later than October 23, 2001. If you intend to apply, you must send a letter of intent postmarked no later than September 18, 2001 to Attention: John Guevin, U.S. Environmental Protection Agency, Ariel Rios Building (6609J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or an e-mail to *guevin.john@epa.gov* by no later than 3 pm (EDT) on September 18, 2001, indicating the name of your organization, the name and phone number of a contact person in the organization, and if you would like to participate in the pre-award technical assistance conference call on September 25, 2001.

Note: The target population of focus is children with asthma and their parents and/or care-givers. Adults with asthma may be included in the in-home asthma education program; however, children with asthma should be given preference. Community-based in-home asthma environmental education and management program(s) may occur inside or outside the home through clinical visits or community forums.

Eligibility Criteria

To be eligible for funding, an applicant must:

(1) Meet the standards for eligibility as identified in Section 103 (b)(3) of the Clean Air Act (page 1, paragraph 1);

(2) Demonstrate the ability to implement and track the results of an asthma education program which includes: in-home identification and assessment of potential indoor environmental asthma triggers for diagnosed asthmatics; and direct one-on-one education on asthma, asthma management, and mitigation of indoor environmental triggers in the home to which children and other household members with asthma may be sensitive;

(3) Request no more than $150,000.00 to accomplish pilot project objectives. Demonstrate that the project goals and objectives can be achieved given the amount of the grant;

(4) Properly complete and submit standard form SF–424 and a proposal no greater than nine pages (including supplemental biographical information) in length (in no smaller than 12 point type) by the established due date;

(5) Commit to complete the proposed pilot project activities within 18–24 months of grant award.

Ranking Criteria

Applications will be ranked on the basis of the criteria listed below. Ranking for each criterion is based on a scale of 1 (does not meet the requirement) to 5 (exceeds the requirement).

(1) Applicant is currently performing community-based environmental health or public health education and demonstrates that it is achieving public health outcomes and results. (1–5 points)

(2) Applicant demonstrates the ability to implement an asthma education program (face-to-face instruction which can occur inside or outside the home, *e.g.*, in a clinic or other community setting) which integrates indoor environmental trigger identification and mitigation approaches in the home into a comprehensive asthma management education program (*i.e.*, medical management and the socio-economics of the target population are addressed). (1–5 points)

(3) Applicant proposal has goals and objectives which are clearly stated and will reduce the incidence and severity of asthma episodes in the target population, and create behavioral changes in the home as a result of its educational outreach activities. The grant budget is appropriate to accomplish the scope of the work (*i.e.*, number of children with asthma, their parents and/or care-givers that will be reached). (1–5 points)

(4) Applicant proposed work targets low-income, urban and/or disproportionately impacted (with respect to asthma severity or incidence) populations, with an emphasis on children. (1–5 points)

(5) Applicant demonstrates the effectiveness of education strategies to varied populations and geographic locations in the United States, and contributes to an improved understanding of how to conduct asthma education programs that address asthma triggers in homes. Education materials and assessment tools selected for the pilot project reflect current standards for conducting environmental health or public health education and outreach activities, particularly with respect to motivating behavioral changes in low-literacy, low-income, and disproportionately impacted populations. (1–5 points)

(6) Applicant outlines educational materials and mitigation methods for environmental (secondhand) tobacco smoke, house dust mites, cockroaches, molds, and animal dander which are compatible with the guidance contained in EPA's asthma brochure, "Clear Your Home Of Asthma Triggers: Your Children Will Breathe Easier" (http://www.epa.gov/iaq/pubs/asthma.html) and the findings and recommendations contained in the January, 2000 National Academy of Sciences report on asthma, "Clearing the Air: Asthma and Indoor Air Exposures" (*http://books.nap.edu/catalog/9610.html*). (1–5 points)

(7) Applicant staff have the knowledge and experience to successfully perform the proposed work. (1–5 points)

(8) Applicant describes methods that will be used to ensure sustained participant involvement throughout the life of the project. Applicant adequately describes mechanisms for obtaining feedback about program effectiveness from participants after the in-home education assessment visits. (1–5 points)

(9) Applicant describes a clear in-home asthma education and assessment of asthma triggers evaluation component, *e.g.*, on-site, in-home visits or patient/family self-reporting, which is practical, reasonable, and sound. Assessment methods address established indoor environmental triggers of asthma including: environmental (secondhand) tobacco smoke, house dust mites, cockroaches, molds, and animal dander. Whichever assessment method is used, applicant must, at a minimum, report the number of homes visited, the number of children and adults with asthma educated, the number of homes in which indoor environmental triggers have been identified, and the number of households in which mitigation actions have been taken. Applicant agrees to provide quarterly performance reports to EPA which shall include, at a minimum, information about the above. (1–5 points)

(10) Applicant addresses the potential beyond the life of the EPA grant and the ability of this project to be replicated in other areas and with other populations. (1–5 points)

Application Process

Applicants must complete standard form 424 (*http://www.epa.gov/ogd/how_to_apply.htm*) and submit a work plan no greater than nine pages in length, including any supplementary biographical information (in 12 point type). The work plan must include: (1) A summary of specific objectives, expected outcomes, and deliverables; and (2) a discussion of the budget and how the budget relates to the objectives, outcomes, and deliverables in the work plan. The project work plan submitted with the completed application SF–424 should conform to the following outline:

(1) Title.

(2) Description of the applicant organization, experience in community-based environmental or public health education (especially with children and adults with asthma), results of existing in-home education efforts and/or existing indoor air quality/asthma activities, and the organization's infrastructure as it relates to its ability to do in-home asthma assessments and/or education programs.

(3) Project purpose.

(4) Description of basic structure of the in-home asthma education and assessment pilot project proposed, how many families will be reached, curricula and assessment tools to be used, and resource lists including references. Describe why the curricula and protocols were selected or created; what other materials you may have considered (including reasons for not selecting them); and, if possible, a discussion of how the asthma education approaches you wish to demonstrate compare or contrast to other known approaches.

(5) Project Period—beginning and ending dates. Budget. Indicate funds used for salaries, materials, equipment, contracted activities, travel, overhead, and other pertinent information.

(6) Description of target audiences, community, and any special asthma-related demographics of areas targeted for this work.

(7) Description of staffing and funding resources needed to implement proposed work plans, including number of staff and qualifications.

(8) Description of mechanisms for question resolution and follow-up with asthmatics and their families and/or primary care givers following in-home visit(s). Reasons for selecting or creating these mechanisms and, if possible, a discussion of how the selected mechanisms compare to other available mechanisms.

(9) Description of any types of follow-up materials or training that may be given to the households such as community resource lists, household repair and maintenance training, lessons on how to obtain services in the community, etc.

(10) Definition of success for the project and how success will be measured. Describe mechanisms for tracking program outputs (*e.g.*, how many households were educated, how many homes were assessed, in how many homes actions were taken), and evaluating program outcomes (*i.e.*, the effectiveness of the education and mitigation methods, the level of increased awareness).

(11) Description of experience implementing evaluation and tracking procedures and managing grants (*e.g.*, submitting reports, budgets, etc.).

(12) Schedule—indicate tasks, quarterly report submission and final report submission dates.

(13) Identification of other localities, regions, or states that might benefit from the lessons you expect to learn as a result of your pilot project.

If you would like to apply for assistance under the Community Based In-Home Asthma Environmental Education and Management program, application materials are available at the web addresses listed below or by calling EPA's Indoor Environments Division at (202) 564–9370. The application kit contains the following information:

—Application for Federal Assistance
—Instructions for completing the application
—Assurances/certifications

An original application and two copies must be received at the following address no later than close of business on Tuesday, October 23, 2001:

Mailing Address: Attn: John Guevin, In-Home Education Program, U.S. Environmental Protection Agency, Ariel Rios Building (6609J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Courier Address: Attn: John Guevin, U.S. Environmental Protection Agency, In-Home Education Program (6th floor), 501 3rd Street, NW., Washington, DC 20001.

A pre-application assistance conference call has been scheduled for Tuesday, September 25, 2001 from 12 noon until 2 p.m. Eastern Daylight Time to help prospective applicants. All applicants must submit a letter of intent by September 18, 2001. Those indicating a desire to participate in the pre-award assistance conference call will be mailed instructions for participating in the conference call.

In addition, prospective applicants may obtain a copy of the *Code of Federal Regulations* (CFR) Title 40, Part 30 (and for State and local agencies, also see Part 31). This portion of the CFR includes regulations applicable to your assistance agreement. Copies of the CFR are available at your local U.S. Government Bookstore, the U.S. Government Printing Office or on the internet at *http://www.epa.gov/ogd/how_to_apply.htm*. Once at this site, select "Administrative Regulations and Policies/Subchapter B-Grants and Other Federal Assistance" and select Part 30 or Part 31.

Selected projects will be announced on or around December 30, 2001. If you have any questions regarding this grant notice, please contact John Guevin (202) 564–9370.

Authority: 42 U.S.C. 7401–7626; Pub. L. 159, 69 Stat. 322

Answers to Questions You May Have

Question 1: The RFP states that grant awards will be for no more than $150,000. Is this per year for multiple years, or a one time grant?

Answer: This is a one time grant of up to $150,000.00.

Question 2: How many awards are anticipated and to how many organizations?

Answer: We anticipate awarding a total of two grants, i.e., one grant to each of two qualified organizations.

Question 3: If my organization has indirect costs, are they to be included within the $150,000?

Answer: Yes, all indirect costs are included within the $150,000.

Question 4: What is an indirect cost, and what if we don't have an indirect cost rate established?

Answer: Indirect costs are explained in the grant application forms, SF–424, found at this website (*www.epa.gov/iaq/asthma*). If your organization has an indirect cost rate established, include it where appropriate in your budget submittal. If your organization does not have an established indirect cost rate, you may submit your proposal with an estimated indirect cost rate. If this is the case, please state in your transmittal letter that you do not currently have an established rate, but that you will

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establish one by submitting the proper forms within 30 days of award. Include the name, phone number and fax number for your financial officer, and our Grants Administration Division will work with that individual to provide the necessary information.

Question 5: If we need help figuring out how to fill in the budget forms, is there someplace we can go to understand cost principles for a Federal grant?

Answer: Yes, go to *www.epa.gov/ogd/how_to_apply/htm.*

Question 6: Is there a cost-share requirement? Will proposals that include cost-sharing be reviewed more favorably?

Answer: No, cost-sharing is not required, and including a cost-share will not cause your proposal to be viewed more favorably.

Question 7: Where can I find the standard form 424 mentioned in eligibility criterion number (4), and can we submit a proposal greater than nine pages in length?

Answer: The EPA application for grant assistance, SF–424 can be found on our website *www.epa.gov/iaq/asthma* along with all of the required forms.

The work plan narrative must be no more than nine pages in length, including a detailed, itemized budget, and any supplementary biographical information you wish to provide. In particular, attention should be paid to the qualifications and experience of key personnel. There is no requirement that the information be double-spaced, only that it be no smaller than 12 point type.

Question 8: On SF–424, block 10, is a space for "Catalog of Federal Domestic Assistance Number." What number should we use?

Answer: The correct number is 66–606.

Question 9: On SF–424, in block 16, it asks "Is application subject to review by State Executive Order 12372 process?'

Answer: To determine whether your state requires review prior to receiving a Federal grant award, and a point of contact if it does, check the Office of Management and Budget website, *www.whitehouse.gov/OMB/grants/spoc.html.*

Question 10: What start date should we use on the form?

Answer: Use January 1, 2002, as the start date, although the actual award date may vary. No pre-award costs will be approved for this pilot project, so please do not incur any costs unless and until you receive an assistance agreement from EPA.

Question 11: Are we required to include a quality assurance narrative statement?

Answer: If you are making environmental measurements or collecting data, your proposal should include a statement about the quality assurance practices you will put in place to ensure the accuracy of your data. If there is a need for additional information, our Grants Administration Division will contact you prior to award.

Question 12: What rules will govern our grant?

Answer: Familiarize yourself with Code of Regulations 40 part 30 if you are a non-profit or higher education group, and in addition, with Part 31 if you are a State or local government entity. These rules can be found at *www.epa.gov/epacfr40/chapt-I.info/chi.toc.htm.* At that location, look under SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE (parts 30–49)." Please note that no cost share is required.

Question 13: Is the due date of October 23, 2001 flexible?

Answer: No. Mailed applications must bear an envelope postmark (or carrier such as FedEx, UPS, or DHL equivalent) of October 23, 2001 or be hand-delivered by messenger not later than close of business (5pm EDT) Tuesday, October 23, 2001 as directed in the Request for Proposals. Please note that our mailing address and direct delivery address are different.

Question 14: Can I include letters of recommendation, past project reports, etc. along with my proposal?

Answer: All elements of your submission should address the eligibility and ranking criteria outlined in the Request for Proposals. Your submission must be no more than nine pages in length (in no smaller than 12 point type), including the work plan, detailed budget and biographical information.

Question 15: Can grant funds be used to mitigate homes?

Answer: The Clean Air Act authority under which this project is being conducted provides for studies and demonstrations, not implementation. Mitigation is acceptable under this grant only to the extent that it is done as a way to teach occupants how to clean-up and/or prevent indoor environmental triggers of asthma in their home.

Question 16: Will our grant proposals be considered confidential?

Answer: While grant proposals are generally handled in a confidential manner, they may be disclosed under the Freedom of Information Act unless they are marked "restricted" or "confidential." If there is any information you wish to ensure remains confidential, please be sure to stamp "confidential" or "restricted" on each page on which such information occurs.

Question 17: Are we permitted to enter into contracts as part of the project we are proposing?

Answer: Yes, as long as the costs are allowable as defined under the Code of Federal Regulations 40 Part 30 and Part 31, which can be found at *www.epa.gov/ogd/grants.htm.*

Dated: August 24, 2001.

Jeffrey R. Holmstead,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 01–22126 Filed 8–31–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 22, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 5, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0194.

Title: Section 74.21 Broadcasting emergency information.

Form No.: None.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 1.

Estimated Hours Per Response: 1 hour.

Frequency of Response: Reporting, on occasion.

Cost to Respondents: $0.

Estimated Total Annual Burden: 1 hour.

Needs and Uses: In the event of an emergency, Section 74.21 requires that a licensee of an auxiliary broadcast station notify the FCC in Washington, DC, as soon as practicable, when that station is operated in a manner other than that for which is authorized. This notification shall specify the nature of the emergency and the use to which the station is being put. The licensee shall also notify the FCC when the emergency operation has been terminated. These notifications are used by FCC staff to evaluate the need and nature of the emergency broadcast to confirm that an actual emergency existed.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22080 Filed 8–31–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

August 22, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 4, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0316.

Title: Section 76.1700, Records to be Maintained Locally by Cable System Operators for Public Inspection.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3,885.

Estimated Time per Response: 26 hours.

Frequency of Response: Recordkeeping.

Total Annual Burden: 101,010 hours.

Total Annual Costs: None.

Needs and Uses: 47 CFR Section 76.1700 requires cable television systems having 1,000 or more subscribers to maintain a public inspection file containing certain records. The records are used by FCC staff, local public officials, and the public to assess a cable television station's performance and to ensure that the system is in compliance with all of the Commission's applicable rules and regulations, i.e., when the FCC staff is conducting field inspections/investigations.

OMB Control Number: 3060–0332.

Title: Section 76.614, Cable Television System Regular Monitoring, and 76.1706, Signal Leakage Logs and Repair Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 10,080.

Estimated Time per Response: 1 to 30 minutes.

Frequency of Response: Recordkeeping; On occasion reporting requirements.

Total Annual Burden: 7,056 hours.

Total Annual Costs: None.

Needs and Uses: 47 CFR 76.614 requires cable television operators transmitting carriers in the frequency bands 108–137 and 225–400 MHz to provide for a program of regular monitoring for signal leakage by substantially covering the plant every three months. Section 76.1706 requires cable operators to maintain a log showing the date and location of each signal leakage source pursuant to section 76.614, the date on which the leakage was repaired, and the probable cause of the leakage. The log must be kept on file for a period of two years and must be made available to authorized representatives of the FCC upon request. Originally, the requirement to maintain logs was included in section 76.614, but pursuant to the Commission's reorganization and renumbering of section 76 as part of the 1998 Biennial Review—Multichannel Video and Cable Television Service, this recordkeeping requirement was placed in section 76.1706.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22081 Filed 8–31–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

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SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the collection of information from persons attending training courses conducted by the Emergency Management Institute (EMI) of the Federal Emergency Management Agency. This information is used to evaluate the effectiveness of EMI training conducted at the National Emergency Training Center in Emmitsburg, Maryland.

SUPPLEMENTARY INFORMATION: In order to provide quantified data for the Government Performance and Results Act on how we are accomplishing our mission, and to provide stimulus for improving our training courses, the Emergency Management Institute initiated collection of information on the benefits or lack of benefits, for training conducted. As a result, a one page form titled "Follow-Up Evaluation Survey" is sent to people attending training, three months after they complete the training. The survey asks participants to answer three questions.

Collection of Information

Title: Emergency Management Institute Follow-up Evaluation Survey.

Type of Information Collection: Revision of a currently approved Collection.

OMB Number: 3067–0273.

Form Number(s): 95–56.

Abstract: The Robert T. Stafford Disaster Relief and Emergency Act Public Law 93–288, as amended authorizes training programs for emergency mitigation, preparedness, response and recovery.

This information collection is needed to provide quantified data for the Government Performance and Results Act on how we are accomplishing our mission, and to provide stimulus for improving our training courses. The survey asks participants to describe the benefits of training received and if there were no benefits, to describe any difference in course materials or instruction that would have made the training more useful. The information is used to prepare reports on the benefits or lack of benefits for training conducted, and it is used to initiate reviews to improve training courses.

Affected Public: Federal Government; State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 580 hours.

FEMA forms	Number of respondents	No. of responses (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A × B × C)
95–56	5800	2320	Per course	.25	580
Total	5800	2320	Per course	.25	580

Estimated Cost: Estimated cost for participants would be $16.00 hourly rate X.25 per response = $4.00. Total annualized costs to the Federal Government is approximately $11,604. to include postage costs, contract staff, and reproducing reports.

Comments

Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472. Telephone number (202) 646–2625. Fax number (202) 646–3524 or email *muriel.anderson@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Dennis Hickethier, Education Specialist, Emergency Management Institute, (301) 447–1148 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: August 22, 2001.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 01–22100 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency is submitting a request for review and approval of a collection of information under the emergency processing procedures in the Office of Management and Budget (OMB) regulation 5 CFR 1320.13. FEMA is requesting the collection be approved by September 17, 2001, for use through March 31, 2002.

SUPPLEMENTARY INFORMATION: Public Law (PL) 106–390 Disaster Mitigation Act of 2000 (Stafford Act Amendments), Section 308, requires the Director of the Federal Emergency Management Agency to conduct a study of participation by Indian tribes in emergency management and cost-sharing related activities.

Collection of Information

Title: Participation and Cost-Share Capability of Indian Tribes in Emergency Management Programs.

Type of Information Collection: New Collection.

Abstract. Pursuant to PL–106–390 Disaster Mitigation Act of 2000 (Stafford Act Amendments), Section 308, FEMA will collect data from Indian tribes to: (1) Measure their level of participation in emergency management related activities, and (2) review and assess their capacity to participate in and manage cost-shared emergency management programs. Findings will be reported to Congress as mandated by law.

Affected Public: State and Tribal Government Officials.

Estimated Total Annual Burden Hours. 414 Hours.

FY 2001	No. of respondents (A)	Frequence of response (B)	House per response (C)	Annual burden hours (A × B × C)
Tribes	650	1	.5	325
States	50	1	.5	25
Total	700	1	.5	*414

*Includes 64 hours for pre-survey activities.

Estimated Cost. $83,530.00.

Comments

Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Interested persons should submit written comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Emergency Management Agency, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sylvia U. Correa, Surveys Manager, Federal Emergency Management Agency, (202) 646–4247 or e-mail at *sylvia.correa@fema.gov.* For copies of the proposed collection of information, contact Ms. Muriel Anderson at (202) 646–2625.

Dated: August 22, 2001.

Reginald Trujillo,

Chief, Program Services Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate.

[FR Doc. 01–22101 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Debt Collection Financial Statement.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0122.

Abstract: FEMA Form 22–13, Debt Collection Financial Statement is submitted by FEMA's debtors listing name, addresses and other identifying data, their employment and income, their property and their debts. Debtors submit these statements when requesting installment repayment plans or termination of collection actions due to poverty or suspension or when compromising debts owed to FEMA.

Affected Public: Individuals or Households.

Number of Respondents: 600.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 450 hours.

Frequency of Response: On Occasion.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472, telephone number (202) 646–2625 or facsimile number (202) 646–3347, or e:mail *muriel.anderson@fema.gov.*

Dated: August 22, 2001.

Reginald Trujillo,

Branch Chief, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate.

[FR Doc. 01–22102 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: National Flood Insurance Telephone Response Center (TRC) and Leads Application Program.

Type of Information Collection: New Collection.

OMB Number: 3067–New.

Abstract: The National Flood Insurance Telephone Response Center (TRC) and Leads Application Program was established as part of FEMA Cover America Advertising Campaign in 1995. The TRC is designed to respond to customer inquires about flood insurance, offers to send customers general information on the National Flood Insurance Program (NFIP), refer customers to insurance agents, and

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inform customers of insurance agents that can write flood insurance policies in the area in which they live.

Affected Public: Individual or Households, and Business or Other For-Profit.

Number of Respondents: 78,448.

Estimated Time per Respondent: 3 minutes, Incoming Callers; 2 minutes Lead Program Application (FEMA Form 81–95); 3 minutes, Outbound Calls.

Estimated Total Annual Burden Hours: 3,915 hours.

Frequency of Response: Monthly.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472, telephone number (202) 646–2625 or facsimile number (202) 646–3347, or e:mail *muriel.anderson@fema.gov.*

Dated: August 22, 2001.

Reginald Trujillo,

Branch Chief, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate.

[FR Doc. 01–22103 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Capability Assessment for Readiness (CAR).

Type of Information Collection: Reinstatement, without change of a previously approved collection for which approval has expired.

OMB Number: 3067–0272.

Abstract: The CAR is required for the Federal Emergency Management Agency to report the status of emergency management programs in the nation to the President and the U.S. Congress. States, territories and insular areas use it for program evaluation, strategic planning and budgeting. It is also needed for program evaluation and management to assure that federal funding to state and local governments, territories and insular areas are properly managed and targeted to those areas that need improvement. The CAR is also used to satisfy the Government Performance and Results Act of 1993 and to meet the goals stated in FEMA Strategic plan. The data collected will be summarized in a report to the President and Congress.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 56.

Estimated Time per Respondent: 60 hours.

Estimated Total Annual Burden Hours: 3,360.

Frequency of Response: Biennially.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities and Services Management Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472, telephone number (202) 646–2625 or facsimile number (202) 646–3347, or email *muriel.anderson@fema.gov.*

Dated: August 22, 2001.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 01–22104 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1376–DR]

North Dakota; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA–1376–DR), dated May 28, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now March 1, 2001, through and including August 9, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22105 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1386–DR]

Virginia; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Virginia, (FEMA–1386–DR), dated July 12, 2001, and related determinations.

EFFECTIVE DATE: August 9, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Virginia is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 12, 2001:

Lee County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22106 Filed 8–31–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 18, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Robert Hill Smith, Tallahassee, Florida; William Godfrey Smith, Jr., Tallahassee, Florida; Patricia Hill Smith, Tallahassee, Florida; Paula Peters Smith, Tallahassee, Florida; Virginia Austin Smith, Tallahassee, Florida; Jennifer Wilson Smith, Tallahassee, Florida; Warren Hamilton Smith, Tallahassee, Florida; William Godfrey Smith, III, Tallahassee, Florida; The VAS Trust, Tallahassee, Florida; The WHS Trust, Tallahassee, Florida; The JWS Trust, Tallahassee, Florida; The WGS, III Trust, Tallahassee, Florida; 2S Partnership, Tallahassee, Florida; and WGS Trust, Tallahassee, Florida; to retain voting shares of Capital City Bank Group, Inc., Tallahassee, Florida, and thereby indirectly retain voting shares of Capital City Bank, Tallahassee, Florida.

Board of Governors of the Federal Reserve System, August 28, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22079 Filed 8–31–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 2001.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Second Bancorp Incorporated, Warren, Ohio; to merge with Commerce Exchange Corporation, Beachwood, Ohio, and thereby indirectly acquire Commerce Exchange Bank, Beachwood, Ohio.

2. Whitaker Bank Corporation of Kentucky, Lexington, Kentucky; to acquire 100 percent of the voting shares of Citizens National Bank & Trust of Hazard, Hazard, Kentucky.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Grand Bankshares, Inc., West Palm Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Grand Bank of Florida, West Palm Beach, Florida.

2. The Colonial BancGroup, Inc., Montgomery, Alabama; to merge with Manufacturers Bancshares, Inc., Tampa, Florida, and thereby indirectly acquire Manufacturers Bank of Florida, Tampa, Florida.

C. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Capitol Bancorp, Inc., Lansing, Michigan; Sun Community Bancorp Limited, Phoenix, Arizona; and Nevada Community Bancorp Limited, Las Vegas, Nevada, to acquire 51 percent of the voting shares of Bank of Las Vegas, Las Vegas, Nevada.

2. Capitol Bancorp, Inc., Lansing, Michigan; Sun Community Bancorp Limited, Phoenix, Arizona; and First California Northern Bancorp, Napa, California; to acquire 51 percent of the voting shares of Napa Community Bank, Napa, California (in organization). First California Northern Bancorp also has applied to become a bank holding company.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Greater Bay Bancorp, Palo Alto, California; to merge with SJNB Financial Corp., San Jose, California, and thereby indirectly acquire San Jose National Bank, San Jose, California.

Board of Governors of the Federal Reserve System, August 28, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22077 Filed 8–31–01; 8:45 am]

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FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 18, 2001.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. CNB Financial Corporation, Clearfield, Pennsylvania; to retain voting shares of County Reinsurance Company, Phoenix, Arizona, and thereby engage in underwriting credit life and accidential death and disability insurance, pursuant to § 225.28(b)(11)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, August 28, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22078 Filed 8–31–01; 8:45 am]

BILLING CODE 6210–01–S

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer Meeting

The Depository Library Council to the Public Printer (DLC) will meet on Sunday, October 14, 2001, through Wednesday, October 17, 2001, in Alexandria, Virginia. The sessions will take place from 7:30 p.m. until 10 p.m. on Sunday, 8:30 a.m. until 5 p.m. on Monday and Tuesday and from 8:30 a.m. until 3:30 p.m. on Wednesday. The meeting will be held at the Holiday Inn Hotel and Suites, 625 First Street, Alexandria, Virginia. The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public.

A limited number of rooms are being held for Council attendees at the rate of $126 (plus tax). Some attendees will be booked at the Radisson Hotel Old Town Alexandria, 901 North Fairfax Street, Alexandria, VA. The Radisson is a couple of blocks from the Holiday Inn. Reservations can be made by dialing the Holiday Inn directly at 703–548–6300. The rate is good for the meeting dates as well as the three (3) days prior to the meeting and the three (3) days after the meeting (Please *note*, since the General Services Administration federal per diem rates change October 1, the room rate could be higher when the meeting convenes). To receive the *prevailing* Government rate, you must make your reservation no later than September 14, 2001 and mention that you are with the Government Printing Office Conference. After that date, rooms will be subject to availability at the best obtainable rate.

Michael F. DiMario,

Public Printer.

[FR Doc. 01–22099 Filed 8–31–01; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Secretary's Advisory Committee on Regulatory Reform; Notice of Intent to Establish

ACTION: Notice of intent to establish a Secretarial Advisory Committee on Regulatory Reform.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act. Notice is hereby given that the Secretary of the Department of Health and Human Services intends to establish an Advisory Committee on Regulatory Reform.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 415F, Washington, DC, 20201, (202) 690–7858.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) seeks to ensure that its programs and the activities they are designed to foster are effective and efficient, have broad impact on the intended clientele, and are readily accessible to them. To that end, HHS is examining its array of regulations with a view to identifying opportunities for reforms that will maintain or enhance program performance in selected mission areas and at the same time reduce burdens and costs on effected entities. The Secretary, therefore, is establishing an Advisory Committee on Regulatory Reform.

This Committee is governed by the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation of advisory committees and implementing regulations (41 CFR part 102–3).

The Secretary's Advisory Committee on Regulatory Reform will provide findings and recommendations to the Secretary regarding potential regulatory changes. As part of their responsibilities, the Committee will hold regional public hearings and solicit public comments regarding HHS regulations that involve health care delivery, operations, health and biomedical research as well as the development of pharmaceuticals and other medical products. The Committee shall (a) review candidate regulatory changes identified through the regional hearings, through solicitations of written comments from the public, or through consultation with HHS staff and (b) advise whether, if effected, these candidate changes would have beneficial results. As appropriate, the Committee shall consider the potentially most beneficial regulatory reforms further and advise the Secretary regarding their priority for implementation.

The Committee shall consist of not more than 20 members including the Chairperson or Co-Chairpersons. Appointments shall be made by the Secretary from authorities knowledgeable in the fields of health care delivery, health systems operations, advocacy for patients' interests, health insurance, development of pharmaceuticals and other medical products, and biomedical and health services research. Attention shall be given to equitable geographic distribution and to ethnic and gender representation.

The Committee shall meet three times unless, after consultation with the Chairperson or Co-Chairpersons, the Secretary determines that additional meetings are necessary to fulfill the purpose of the Committee. All meetings shall be at the call of the Chairperson or Co-Chairpersons. An official of the federal government shall be present at all meetings. Meetings shall be open to the public. Advance notice of all meetings shall be given to the public. Meetings shall be conducted and records of proceedings shall be kept in accordance with applicable laws and Departmental regulations.

Unless renewed by appropriate action prior to its expiration, the Secretary's Advisory Committee on Regulatory Reform shall terminate on [insert date one year from charter approval].

Dated: August 29, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–22214 Filed 8–30–01; 11:42 am]

BILLING CODE 4154–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces fees for vessel sanitation inspections for fiscal year 2002 (October 1, 2001, through September 30, 2002).

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: David L. Forney, Chief, Vessel Sanitation Program, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, Mailstop F–16, Atlanta, Georgia 30341–3724, telephone (770) 488–7333, E-mail: *Dforney@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The fee schedule for sanitation inspections of passenger cruise ships currently inspected under the Vessel Sanitation Program (VSP) was first published in the **Federal Register** (52 FR 45019) on November 24, 1987, and CDC began collecting fees on March 1, 1988. Since then, CDC has published the fee schedule annually. This notice announces fees effective October 1, 2001.

The formula used to determine the fees is as follows:

Average cost per inspection = Total Cost of VSP divided by Weighted Number of Annual Inspections.

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The size/cost factor was established in the proposed fee schedule published in the **Federal Register** (52 FR 27060) on July 17, 1987, and revised in a schedule published in the **Federal Register** (54 FR 48942) on November 28, 1989. The revised size/cost factor is presented in Appendix A.

Fee

The fee schedule is presented in Appendix A and will be effective October 1, 2001, through September 30, 2002. This fee schedule represents a 4.3% increase over the current fee schedule, which became effective October 1, 2000. The increase is primarily due to substantial increases in the cost of air transportation and personnel. If travel expenses continue to increase, it may be necessary to readjust the fees before September 30, 2002, since travel constitutes a sizable portion of the program's costs. If such a readjustment in the fee schedule is necessary, a notice will be published in the **Federal Register** 30 days before the effective date.

Applicability

The fees will be applicable to all passenger cruise vessels for which inspections are conducted as part of CDC's VSP.

Dated: August 27, 2001.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

Appendix A

SIZE/COST FACTOR

Vessel size	GRT[1]	Average Cost X
Extra small	<3,001	0.25
Small	3,001–15,000	0.50
Medium	15,001–30,000	1.00
Large	30,001–60,000	1.50
Extra large	>60,000	2.00

[1] GRT—Gross Register Tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

FEE SCHEDULE OCTOBER 1, 2001—SEPTEMBER 30, 2002

Vessel size	GRT[1]	Fee ($US)
Extra small	<3,001	1,200
Small	3,001–15,000	2,400
Medium	15,001–30,000	4,800
Large	30,001–60,000	7,200
Extra large	>60,000	9,600

[1] GRT—Gross Register Tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Inspections and reinspections involve the same procedure, require the same amount of time, and are therefore charged at the same rate.

[FR Doc. 01–22107 Filed 8–31–01; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10049]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed

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information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because of an unanticipated event and possible public harm.

Our fall media campaign begins in October and in order to assess it, we need to be able to begin the first of our surveys before then. The other two information collections also need to be conducted before the normal clearance procedures would result in an OMB approval.

CMS is requesting OMB review and approval of this collection by September 12, 2001, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by September 10, 2001. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Assessment of CMS' Fall Media Campaign; *Form No.:* CMS–10049 (OMB # 0938–XXXX); *Use:* CMS is collecting information 3 times (before, during, and after) during its fall media campaign to assess the campaign. The respondents will be beneficiaries and their caregivers. We will collect information via telephone surveys and by monitoring phone calls to the 1–800–MEDICARE number and "page views" on selected Medicare websites; *Frequency:* Once; *Affected Public:* Individuals and households; *Number of Respondents:* 3,750; *Total Annual Responses:* 3,750; *Total Annual Hours:* 625.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, by September 10, 2001: Centers for Medicare and Medicaid Services, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–0262; Attn: Julie Brown and, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. Fax Number: (202) 395–6974 or (202) 395–5167; Attn: Allison Eydt, CMS Desk Officer.

Dated: August 29, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–22195 Filed 8–31–01; 11:00 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Program Information Report.

OMB No.: 0980–0017.

Description: The report is submitted annually by all Head Start and Early Head Start grantees and delegate agency. The report contains information which the grantees complete such as, number and ages of children enrolled, what educational and health services they receive and what family services are provided.

Respondents: Head Start Grantees

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PIR	2,437	1	04	9,748
Estimated Total Annual Burden Hours				9,748

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: August 28, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–22124 Filed 8–31–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Mexican Border Youth Survey (BYS)—New

Violence and substance abuse are a serious concern at places along the U.S.-Mexico border. Young people ages 18–25 are attracted to Mexico because alcohol is inexpensive and the drinking age is 18 rather than 21. SAMHSA's Center for Substance Abuse Prevention is planning to conduct surveys at five sites along the Texas-Mexico border to support development, implementation and assessment of enforcement and education programs to address underage and binge drinking related problems. This program replicates a project targeting underage and binge drinking that has been implemented in San Diego, California ("Operation Safe Crossing"), which has yielded successful outcomes, including a 26% reduction in youth crossing the border to drink alcohol.

The purpose of replicating the model in Texas is to test local adaptations of the program which includes surveys of youth crossing the U.S.-Mexico border. This effort uses the survey data to inform the public of problem behaviors specific to their local community and serves to develop community awareness and inform community interventions, such as underage curfews and enforcing bar closing hours. The data collected will be made available to local groups to assist in raising community awareness of youth drinking issues. It is expected that communities will use the information to tailor interventions to reduce youth drinking-associated problems.

The BYS is comprised of two surveys, which are conducted on Friday and Saturday of one randomly selected weekend each month in each site. All information is collected in an anonymous and confidential manner. One survey, the Mexican Entry Survey, interviews a sample of youths on their way into Mexico between 9 p.m. and 1 a.m. The other survey, the Mexican Exit Survey, includes those same youths returning from Mexico between midnight and 6 a.m. the next day and an independent sample of pedestrians and drivers (where many young drinkers drive rather than walk across the border). The Exit Survey includes a breath test. In addition, there will be a 1-time test of saliva to test reliability and validity of the collection and analysis process.

The total annual burden associated with this project across all sites is summarized in the table below.

Sample	Number of respondents	Responses/ respondent	Hours/ response	Total burden (hours)
Mexican Entry Survey:				
—Entry Survey	6,000	1	.25	498
—Exit Survey	(6,000)	1	.083	498
Mexican Exit Survey, with breath or saliva test and pedestrians or drivers	15,000	1	.083	1,245
One-time Pilot Saliva Test in one location only	(100)	2	.050	10
Total	21,000			3,253

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Lauren Wittenberg, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 23, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–22108 Filed 8–31–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is also available on the internet at the following websites: *http://workplace.samhsa.gov; http://www.drugfreeworkplace.gov;* and *http://www.health.org/workplace.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed

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in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)
Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150
Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400
Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745
Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)
American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900
Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750
Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)
Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)
Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917
Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)
Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171
Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416
Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468
DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310
Dynacare Kasper Medical Laboratories*, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876
ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609
Express Analytical Labs, 1301 18th Ave NW, Suite 110, Austin, MN 55912, 507–437–7322
Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630
General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267
Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–443–3823 (Formerly: Laboratory Specialists, Inc.)
LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories Inc., A Member of the Roche Group)
Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.)
Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)
Marshfield Laboratories, Forensic Toxicolgy Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734
MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)
Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250 / 800–350–3515
Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300 / 800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)
One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134
Pacific Toxicology Laboratories, 6160 Variel Ave., Wooddland Hills, CA 91367, 818–598–3110 / 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory
Pathology Associates Medical Laboratories, 11604 E. Indiana Ave., Spokane, WA 99206, 509–926–2400 / 800–541–7891
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372 / 800–821–3627
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 444 Giddings Road, Auburn Hills, MI 48326, 248–373–9120 / 800–444–0106 (Formerly: HealthCare/Presferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 801 East Dixie Ave., Suite 105A, Leesburg, FL 34748, 352–787–9006x4343 (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)
Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600 / 800–877–7484 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200 / 800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
Universal Toxicology Laboratories (Florida), LLC, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–717–0300, 800–522–0232x419 (Formerly: Integrated Regional Laboratories, Cedars Medical Center, Department of Pathology)
Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851/888–953–8851

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian Laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited Laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian Laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. Laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (Federal Register. 16 July 1996) as meeting the minimum standards of the "Mandatory Guidelines for Workplace Drug Testing" (59 Federal Register, 9 June 1994, Pages 29908–29931). After receiving the Dot certification, the laboratory will be included in the monthly list of DHHS certified Laboratories and participate in NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mentol Health Services Administration.

[FR Doc. 01–21892 Filed 8–31–01; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act and Oil Pollution Control Act of 1990

In accordance with 28 CFR 50.7, notice is hereby given that on August 23, 2001 a proposed consent decree in *United States* v. *Tesoro Hawaii Corporation*, Civil Action No. 01–00560 SOM LEK, was lodged with the United States District Court for the District of Hawaii.

This action arose out of the August 24, 1998 oil spill from Tesoro's single-point mooring facility located offshore of Barber's Point, Oahu, Hawaii. The United States alleges that oil from the oil spill caused injuries to natural resources in and around Kauai. The consent decree requires the company to carry out a net removal project, and pay a total of $580,000 allocated as follows: $500,000 for natural resources restoration projects compensating for injuries to wildlife and habitat, $10,000 for restoration projects compensating for lost human use, $15,000 as a penalty to the State of Hawaii, and $55,000 to the State as a state supplemental environmental project.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments on the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Tesoro Hawaii Corporation*, Civil Action No. 01–00560 SOM LEK, DOJ No. 90–5–2–1–2124/2.

The proposed consent decree may be examined at the office of the United States Attorney, Suite 6100, Box 50183, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850, and may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. To request a copy of the proposed consent decree by mail, please refer to *United States* v. *Tesoro Hawaii Corporation*, Civil Action No. Civil 01–00560 SOM LEK, DOJ No. 90–5–2–1–2124/2, and enclose a check for the amount of $7.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–22118 Filed 8–31–01; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2151–01; AG Order No. 2506–2001]

RIN 1115–AE26

Extension and Redesignation of Somalia under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On September 16, 1991, the Attorney General designated Somalia under the Temporary Protected Status (TPS) program for a 12-month period that expired on September 16, 1992. That initial designation allowed eligible nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who had continuously resided in the United States since September 16, 1991, to apply for TPS. That initial designation has been extended each subsequent year. Presently, TPS for Somalia is scheduled to expire on September 17, 2001.

This notice extends the TPS designation for Somalia for another 12-month period (until September 17, 2002) and sets forth the procedures by which nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who previously registered for TPS may re-register for the TPS program.

This notice also redesignates Somalia under the TPS program, thereby expanding TPS eligibility to include nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who, among other requirements described in this notice, have been "continuously physically present in the United States" since September 4, 2001.

EFFECTIVE DATES:

Extension of designation and reregistration. The extension of Somalia's TPS designation is effective September 17, 2001, and will remain in effect until September 17, 2002. Nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who are currently registered under the TPS program must reregister during the 90-day period from September 4, 2001 until December 3, 2001.

Redesignation. The redesignation of Somalia under the TPS program is effective September 4, 2001 and will remain in effect until September 17, 2002. The registration period for TPS under the redesignation begins on September 4, 2001 and will remain in effect until September 17, 2002.

FOR FURTHER INFORMATION CONTACT: Rebecca Peters, Program Analyst, Residence and Status Services, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

What is the statutory authority for the Attorney General to extend Somalia's TPS designation under the TPS program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that at least 60 days before the end of a designation, or any extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine under this section that the foreign state no longer meets the conditions for designation, the period of designation is automatically extended for 6 months pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). The period of designation may, however, be extended for a period of 12 or 18 months at the Attorney General's discretion. 8 U.S.C. 1254a(b)(3)(C). Such an extension makes TPS available only to persons who have been continuously physically present in, and who have continuously resided in, the United States from the effective date of the initial designation, in this case, since September 16, 1991.

What is the statutory authority for the Attorney General to redesignate Somalia for TPS?

Section 244 of the Act implicitly authorizes the Attorney General to redesignate a foreign state (or part of such foreign state) under the TPS program. Whereas extension of an existing TPS designation extends benefits only to those who previously registered for TPS under the earlier designation, redesignation broadens the potential class of TPS beneficiaries. Redesignation expands TPS eligibility to include both those who were present in the United States before the effective date of the earlier designation but failed to register during the earlier designation period and those who arrived in the United States after the effective date of the earlier designation, but on or before, the effective date of the re-designation. 8 U.S.C. 1254a(c)(1)(A).

Why did the Attorney General decide both to extend Somalia's designation and to redesignate Somalia under the TPS program?

On September 16, 1991, the Attorney General designated Somalia under the TPS program. Since that time, the Attorney General and the Department of State have continuously examined conditions in Somalia. A recent Department of State report on conditions in Somalia found that "[o]pen conflict remains a fact of life in southern Somalia, where numerous actors compete for land and power. While northern regions of Somalia are relatively stable and peaceful, their security is jeopardized by the instability in the [S]outh." The report further states that "[t]he current security situation in southern Somalia makes the return of Somalis from the United States dangerous. Major regions of the country are under the control of bandits and the population is beyond the reach of the rule of law. The country's nascent institutions are not able to adequately address the demands of a ravaged population, nor would they be able to document or accommodate a large volume of returns. Somalis within the country rely on family connections and collective security for survival. New arrivals, outside this network, would be vulnerable in the extreme."

The Resource Information Center of the Immigration and Naturalization Service (Service) recently prepared a report that concludes that "[f]ighting occurred in Mogadishu this March on the largest scale in years. Gunmen continue to ambush civilians and political figures alike." According to the report, "[k]idnappings occur frequently, and with no functioning government-wide judicial system crimes are often ignored. Drought, malnutrition, and cholera continue to ravage the country."

Based on these findings, the Attorney General has determined that conditions in Somalia warrant both the extension and redesignation of Somalia under the TPS program. This order will extend TPS for those nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who registered under the initial designation of TPS, while also opening the program to both those who failed to register during the intial designation period and those who arrived in the United States after the effective date of the earlier designation, but on or before the effective date of redesignation. 8 U.S.C. 1254a(c)(1)(A).

If I currently have TPS through the Somalia TPS program, do I still need to reregister for TPS?

Yes. If you currently have TPS through the Somalia TPS program, your status will expire on September 17, 2001. Accordingly, you must reregister for TPS in order to maintain your status through September 17, 2002. See the reregistration instructions below.

If I am currently registered for TPS, how do I reregister for an extension?

All persons previously granted TPS under the Somalia program who wish to maintain such status must apply for an extension by filing the following: (1) A Form I–821, without the $50 filing fee, (2) a Form I–765, Application for Employment Authorization, and (3) two identification photographs (1½ inches × 1½ inches). See Chart 1 below to determine whether you must submit the $100 filing fee with a Form I–765. Children who are beneficiaries of TPS and who have reached the age of 14, but who were not previously fingerprinted, must pay the $25 fingerprint fee upon their next application for extension.

CHART 1.—FILING FEE FOR FORM I–765 UNDER TPS EXTENSION

If	Then
You are applying for employment authorization through September 17, 2002.	You must complete and file: Form I–765, Application for Employment Authorization, with the $100 filing fee.
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–765, with no filing fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, and (2) Form I–765, with no fee.

Submit the completed forms and applicable fee, if any, to the Immigration and Naturalization Service district office having jurisdiction over your place of residence during the 90-day reregistration period that begins on September 4, 2001 and ends on December 3, 2001 (inclusive of such end date).

If you fail to reregister during the 90-day reregistration period, you may apply for TPS under the redesignation, as described below.

If I am not currently registered for TPS, how do I register under the redesignation?

Applicants who are not currently registered for TPS may register under the redesignation by submitting:

(1) A Form I–821, Application for Temporary Protected Status, with the $50 processing fee or a request for a fee waiver;

(2) A Form I–765, Application for Employment Authorization;

(3) Two identification photographs (1½ x 1½ inches);

(4) Supporting evidence, as provided in 8 CFR 244.9 (describing evidence necessary to establish eligibility for TPS benefits); and

(5) For every applicant who is 14 years of age or older, a $25 fingerprint fee. 8 CFR 244.6.

Although a complete application must include the fingerprint fee for every applicant who is 14 years of age or older, applicants should not submit a completed fingerprint card (FD–258, Applicant Card) with the application package. The application will be accepted without the fingerprint card attached. After the Service receives the application, the Service will mail an appointment letter with instructions to appear for fingerprinting at a Service-authorized site. See Chart 2 below to determine what fees must be submitted with the application package and to obtain information on requesting a fee waiver(s).

Submit the completed forms and applicable fees to the Service district office having jurisdiction over your place of residence during the registration period that begins September 4, 2001 and ends September 17, 2002 (inclusive of such end date).

CHART 2.—FILING FEES FOR FORM I–821 AND FORM I–765 UNDER TPS RE-DESIGNATION

If	Then
You are applying for TPS and employment authorization through September 17, 2002.	You must complete and file: (1) Form I–821, Application for Temporary Protected Status, with fee ($50). (2) Form I–765, Application for Employment Authorization, with fee ($100), and (3) Fingerprint fee ($25).
You already have employment authorization or do not require employment authorization.	You must complete and file: (1) Form I–821, with fee ($50). (2) Form I–765, with no fee, and (3) Fingerprint fee ($25).
You are applying for TPS and employment authorization and are requesting a fee waiver for the Form I–821 fee ($50), or Form I–765 fee ($100).	You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, (2) Form I–821, with no fee, (3) Form I–765, with no fee, and (4) Fingerprint fee ($25).

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What are the requirements for nationals of Somalia (or persons who have no nationality and who last habitually resided in Somalia) to demonstrate that they have been "continuously physically present" and have "continuously resided" in the United States?

All applicants for TPS must demonstrate that they have been "continuously physically present," and have "continuously resided," in the United States since September 4, 2001. "Continuously physically present" means actual physical presence in the United States for the entire period specified. An applicant shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of "brief, casual, and innocent absence's, as the phrase is defined in 8 CFR 244.1. "Continuously resided" means residing in the United States for the entire period specified. An applicant will not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence or due merely to a brief, temporary trip abroad required by emergency or extenuating circumstances outside the control of the applicant.

For new applicants who seek to register for the first time under the redesignation of Somalia for TPS, 8 CFR 244.9 provides a non-exhaustive list of documents that applicants may use to demonstrate their identity, nationality, and residency.

For those individuals who previously registered for TPS and who seek to reregister under the extension of TPS for Somalia, completing the block on the Form I–821 attesting to the continued maintenance of the conditions of eligibility will generally preclude the need for supporting documents or evidence. The Service, however, reserves the right to request additional information and/or documentation on a case-by-case basis.

Notice of Extension of Designation and Re-Designation of Somalia Under the TPS Program

By the authority vested in me as Attorney General under section 244 of the Act, and as required by sections 244(b)(3)(A) and (C), and 244(b)(1) of the Act, I have consulted with the appropriate government agencies concerning the redesignation of Somalia under the TPS program and the extension of that state's current TPS designation. Based on these consultations, I find the following:

(1) There exist extraordinary and temporary conditions in Somalia that prevent aliens who are nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) from returning to Somalia in safety; and

(2) Permitting nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) to remain temporarily in the United States is not contrary to the national interest of the United State. 8 U.S.C. 1254a(b)(1)(C).

Accordingly, I order as follows:

(1) The designation of Somalia is extended for the 12-month period spanning from September 17, 2001, to September 17, 2002. 8 U.S.C. 1254a(b)(3)(A) and (C). Nationals of Somalia (and aliens having no nationally who last habitually resided in Somalia) who received TPS during the initial designation period may apply for an extension of TPS during the 90-day reregistration period from September 4, and December 3, 2001.

(2) Somalia is redesignated for TPS for the period effective from September 4, 2001 until September 17, 2002. 8 U.S.C. 1254a(b) (2). Nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who have been "continuously physically present" and have "continuously resided" in the United States on or before September 4, 2001 may apply for TPS within the registration period, which begins September 4, 2001 and ends on September 17, 2002 (inclusive of such end date).

(3) I estimate that there are approximately 300 nationals of Somalia (or aliens who have no nationality and who last habitually resided in Somalia) who were granted TPS and are eligible for reregistration, and no more than 7,000 nationals of Somalia (or aliens who have no nationality and who last habitually resided in Somalia) who are not currently registered for TPS, but who are eligible for TPS under this re-designation.

(4) In order to maintain TPS, a national of Somalia (or an alien having no nationality who last habitually resided in Somalia) who is currently registered for TPS must reregister by filing the Form I–821, together with the Form I–765, and two identification photographs (1½ inches by 1½ inches) within the 90-day period beginning September 4, 2001 and ending on December 3, 2001 (inclusive of such end date). There is no fee for a Form I–821 filed as part of the reregistration application. A Form I–765 must be filed with the Form I–821. If the applicant requests employment authorization, he or she must submit $100 or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I–765. An applicant who does not request employment authorization must nonetheless file the Form I–765 along with the Form I–821, but is not required to submit the fee. The $25 fingerprint fee is required only for children who are beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted.

(5) A national of Somalia (or an alien having no nationality who last habitually resided in Somalia) applying for TPS under the redesignation must file the Form I–821, Form I–765, two identification photographs (1½ inches by 1½ inches), and all supporting evidence within the period beginning September 4, 2001 and ending on September 17, 2002. A $50 fee must accompany the Form I–821. If the applicant requests employment authorization, he or she must submit a $100 fee with the Form I–765. A $25 fingerprinting fee must also be submitted for every applicant who is 14 years of age or older. An applicant who does not request employment authorization must nonetheless file the Form I–765 along with the Form I–821, but is not required to submit the $100 fee for the Form I–765. The applicant may request a waiver of the fee(s) in accordance with 8 CFR 244.20.

(6) Pursuant to section 244(b) (3) (A) of the act, I will review, at least 60 days before September 17, 2002, the designation of Somalia under the TPS program to determine whether the conditions for designation continue to be met.

(7) Information concerning the extension and redesignation of Somalia under the TPS program will be available upon publication of this notice at local Service offices and on the Service website at http://www.ins.usdoj.gov.

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–22152 Filed 8–31–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–TWOW (2001)]

State Plans for the Development and Enforcement of Standards; Office of Management and Budget (OMB) Approval of Information-Collection (Paperwork) Requirements; 29 CFR Parts 1902, 1952, 1953, 1954, 1955, 1956

ACTION: Notice of opportunity for public comment.

SUMMARY: The Occupational Safety and Health Administration (OSHA) solicits public comment concerning its request for Office of Management and Budget (OMB) approval of the information collection requirements associated with its regulations regarding State Plans for the development and enforcement of standards. Section 18 of the Occupational Safety and Health Act offers an opportunity to the States to assume responsibility for the development and enforcement of State standards through the mechanism of an OSHA-approved State Plan. Absent an approved plan States are precluded from enforcing occupational safety and health standards with respect to an issue that is addressed by OSHA. In order to obtain and maintain State Plan approval, a State must submit various documents to OSHA describing its program operation under 29 CFR Parts 1902, 1952, 1953, 1954, 1955, and 1956.

DATES: Submit written comments on or before November 5, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR 1218–TWOW (2001), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Diane Price, Directorate of Federal-State Operations, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210, telephone; (202) 693–2244, e-mail *Diane.Price@osha.gov*. A copy of the agency's Information Collection Request (ICR) supporting the need for the information collections specified in these regulations is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html* and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, has practical utility, reporting burden (time and cost) is minimized, collection instruments are understandable, and OSHA's estimate of the information collection burden is correct. Currently, OSHA is soliciting comments concerning the information collection requirements contained in the series of regulations establishing requirements for the initial approval, continuing approval, final approval, monitoring and evaluation of OSHA-approved State Plans:

29 CFR part 1902, State Plans for the Development and Enforcement of State Standards;
29 CFR part 1952, Approved State Plans for Enforcement of State Standards;
29 CFR part 1953, Changes to State Plans for the Development and Enforcement of State Standards;
29 CFR part 1954, Procedures for the Evaluation and Monitoring of Approved State Plans;
29 CFR part 1955, Procedures for Withdrawal of Approval of State Plans;
29 CFR part 1956, State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States without Approved Private Employee Plans

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information is necessary for the proper performance of OSHA's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on participating States, for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB approval of the collection-of-information requirements associated with its State Plan regulations. Specifically, OSHA is requesting approval of a total burden-hour estimate of 9,874 hours affecting the 26 States that currently operate OSHA-approved State plans:

Information collection requirement	Estimated burden hours
State Plan Submission and Approval 29 CFR 1902, 1952, Subparts A–C, 1952, Subpart A	[1] 0
State Plan Changes 29 CFR 1953	2,360
State Plan Monitoring Activities 29 CFR 1954	7,514
Total	9,874

[1] No State Plans currently pending; 2000 burden hours for active collection.

The Agency will summarize the comments submitted in response to this notice. OSHA will then include this summary in its request to OMB to approve these information collection requirements.

Type of Review: New.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: State Plans for the Development and Enforcement of Standards.

OMB Number: 1218–0NEW.

Agency Number: Docket Number ICR–1218–TWOW (2001).

Affected Public: Designated State government agencies which have submitted and obtained approval for State Plans for the development and enforcement of occupational safety and health standards.

Number of Respondents: 26.

Frequency of Response: On occasion; quarterly; annually.

Average Time Per Response: Varies from 1 hour to respond to an information survey to 80 hours to document State annual performance goals.

Estimated total burden hours: 9,874.

Estimated Cost: 0. There are no capital or start-up costs.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is

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the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, D.C., on August 28, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–22141 Filed 8–31–01; 8:45 am]

BILLING CODE 4510–26–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* September 19, 2001.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Regional Humanities Centers, Implementation Phase, submitted to the Office of Challenge Grants at the August 1, 2001 deadline.

2. *Date:* September 21, 2001.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Regional Humanities Centers, Implementation Phase, submitted to the Office of Challenge Grants at the August 1, 2001 deadline.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 01–22143 Filed 8–31–01; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Carry Out a New Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for three years.

DATES: Written comments on this notice must be received by November 5, 2001 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone 703–292–7556; or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: "eRecruitment" System.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to carry out a new information collection.

Abstract

National Science Foundation (NSF), Division of Human Resources (HRM), as part of its Workforce Planning efforts, is reengineering its business processes. Part of this reengineering effort is devoted to making the application and referral process for both internal and external applicants easier to use, more efficient and timely. Applicants will apply on-line using a web-based resume, which will prompt them to provide pertinent personal data necessary to apply for a position.

Proposed Project

Use of the Information

The information will be used by NSF to provide applicants with the ability to apply electronically for NSF positions and receive notification as to their qualifications, application dispensation and to request to be notified of future vacancies for which they may qualify.

In order to apply for vacancies, applicants will be required to submit certain data in order to receive consideration. Users only need access to the Internet for this system to work. This information will be used to determine which applicants are best qualified for a position, based on applicant responses to a series of job related "yes/no" or "multiple choice" questions. The resume portion requires applicants to provide the same information they would provide were they were submitting a paper OF–612. The obvious benefit being that the applicant may do so on-line, 24 hours a day/seven days a week and receive electronic notification about the status of their application or information on other vacancies for which they may qualify. Staff members of the Human Resource Division and the selecting official(s) for specific positions for which applicants apply are the only ones privy to the applicant data. The most significant data is not the applicant personal data such as address or phone number but rather their description of their work experience and their corresponding responses to those questions, which determine their overall rating, ranking, and referral to the selecting official.

Estimate of Burden

Public reporting burden for this collection of information is estimated to average less than 30 to 45 minutes to create the on line resume and potentially less than 10 to 15 minutes to apply for jobs on-line.

There is no financial burden on the applicant, in fact this should relieve much of the burden the current paper-intensive process puts on applicants.

Respondents

Individuals. Approximately 4800 applicants apply for NSF vacancies a year. This number could potentially double based on evidence from other agencies that use electronic recruitment systems; the estimated number of responses is 6500.

Estimated Number of Responses

Approximately 25 responses per job opening.

Estimated Total Annual Burden on Respondents

Approximately 45 minutes per respondent total time is all that will be needed to complete the on-line application, for a total of 4,875 hours annually.

Frequency of Responses

Applicants need only complete the resume one time, and they may use that resume to apply as often as they wish for any NSF job opening.

Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: August 29, 2001.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 01–22148 Filed 8–31–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On July 17, 2001, the National Science Foundation published a notice in the **Federal Register** of Waste Management permit applications received. A Waste Management permit was issued on August 28, 2001 to the following applicant: Lars Wikander, Quark Expeditions, Inc.; Permit No.: 2002 WM–001.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–22149 Filed 8–31–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Cyberinfrastructure (#10719).

Date/Time: September 14, 2001, 2 p.m.–5 p.m. EDT.

Place: Room 1150, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Teleconference Meeting. Persons wishing to attend the meeting at NSF should contact Richard Hilderbrandt to arrange for a visitor's pass.

Contact Person: Dr. Richard Hilderbrandt, Program Director, Division of Advanced Computational Infrastructure and Research, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Tel: (703) 292–7093, e-mail *rhilderb@nsf.gov*.

Purpose of Meeting: To develop a plan for the preparation of a report to the National Science Foundation concerning the broad topic of advanced cyberinfrastructure and the evaluation of the existing Partnerships for Advanced Computational Infrastructure.

Agenda: Tentative.

Report on relevant developments since last meeting.

Report and discussion from each sub-committee:

Technology-Functions.

Needs.

PACI evaluation.

NSF Issues.

Discussion and agreement on next steps and schedule.

Matters arising.

Dated: August 28, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–22153 Filed 8–31–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–003–LT and 50–247–LT; ASLBP No. 01–792–03–LT]

Consolidated Edison Company of New York, Inc. and Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Units 1 and 2; Designation of Presiding Officer

Pursuant to delegation by the Commission, *see* 37 FR 28710 (Dec. 29, 1972), CLI–01–19, 54 NRC__ (Aug. 22, 2001), and the Commission's regulations, *see* 10 CFR 2.1319, notice is hereby given that a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to conduct further proceedings in accordance with 10 CFR 2.1320 in the following case:

Consolidated Edison Company of New York, Inc., Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, INC.

(Indian Point Nuclear Generating Units 1 and 2)

The hearing will be conducted pursuant to 10 CFR part 2, subpart M, of the Commission's Regulations, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications." This proceeding concerns an application seeking the Commission's authorization to transfer the ownership interest in, and operating/maintenance responsibility for Indian Point Nuclear Generating Units 1 and 2 from Consolidated Edison Company of New York, Inc., to Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc., respectively. The notice of consideration of this transfer request and opportunity for hearing was published in the **Federal Register**. See 66 FR 8122 (Jan. 29, 2001).

The Presiding Officer in this proceeding is Administrative Judge Ann Marshall Young. All correspondence, documents, and other materials shall be filed with Judge Young in accordance

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with 10 CFR 2.1313. Her mail and e-mail addresses are: Administrative Judge Ann Marshall Young, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, E-mail: amy@nrc.gov

Issued at Rockville, MD., this 28th day of August 2001.

G. Paul Bollwerk III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 01–22138 Filed 8–31–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company, North Anna Power Station, Units 1 and 2; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Virginia Electric and Power Company (Virginia Power) has submitted an application for renewal of operating licenses NPF–4 and NPF–7 for an additional 20 years of operation at North Anna Power Station (NAPS), Units 1 and 2. NAPS is located in Louisa County, Virginia. The application for renewal was submitted by letter dated May 29, 2001, pursuant to 10 CFR part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on June 28, 2001 (66 FR 34489). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on July 27, 2001 (66 FR 39213). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), Virginia Power submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is accessible at *http://www.nrc.gov/NRC/ADAMS/index.html*, which provides access through the NRC's Public Electronic Reading Room (PERR) link. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to pdr@nrc.gov.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's "Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants," (NUREG–1437) in support of the review of the application for renewal of the NAPS operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Virginia Electric and Power Company.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold a public meeting for the NAPS license renewal supplement to the GEIS. The scoping meeting will be held at the Public Meeting Room in the Louisa County Government Building, 1 Woolfolk Avenue, Louisa, Virginia, on Thursday, October 18, 2001. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m. Both meetings will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by Virginia Power of the proposed action, NAPS license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the Louisa County Government Building. No comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Mr. Andrew J. Kugler by telephone at 1 (800) 368–5642, extension 2828, or by Internet to the NRC at *ajk1@nrc.gov* no later than October 5, 2001. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Kugler's attention no later than October 5, 2001, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by November 5, 2001. Electronic comments may be sent by the Internet to the NRC at *NorthAnnaEIS@nrc.gov*. Electronic submissions should be sent no later than November 5, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Kugler at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 28th, day of August 2001.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Chief, Generic Issues, Environmental, Financial, and Rulemaking Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22136 Filed 8–31–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request to Amend a License to Export Highly-Enriched Uranium

Pursuant to 10 CFR 110.70(b)(2) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following request to amend an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the request to amend a license to export special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this amendment request follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application No., Docket No.	Description of material		End use	Country of destination
	Material type	Total qty		
Transnuclear, Inc., August 9, 2001, August 10, 2001, XSNM03171/01, 11005236.	Highly-Enriched Uranium (93.30%).	Additional 10.0 kg Uranium (9.33 kg U-235).	To fabricate targets for irradiation in the NRU Reactor to produce medical radioisotopes and to extend expiration date to 9/30/02.	Canada.

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Dated this 28th day of August 2001 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Deputy Director, Office of International Programs.

[FR Doc. 01–22140 Filed 8–31–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of September 3, 10, 17, 24, October 1, 8, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 3, 2001

There are no meetings scheduled for the Week of September 3, 2001.

Week of September 10, 2001—Tentative

There are no meetings scheduled for the Week of September 10, 2001.

Week of September 17, 2001—Tentative

There are no meetings scheduled for the Week of September 17, 2001.

Week of September 24, 2001—Tentative

Friday, September 28, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

9:30 a.m.—Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607)

1:30 p.m.—Briefing on Threat Environment Assessment (Closed—Ex. 1)

Week of October 1, 2001—Tentative

Thursday, October 4, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of October 8, 2001—Tentative

There are no meetings scheduled for the Week of October 8, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: August 30, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–22242 Filed 8–30–01; 12:52 pm]

BILLING CODE 7590–01–M

PRESIDIO TRUST

The Presidio of San Francisco, California; Extension of the Public Comment Period for the Draft Presidio Trust Implementation Plan and Draft Environmental Impact Statement

AGENCY: The Presidio Trust.

ACTION: Extension of public comment period.

SUMMARY: The Presidio Trust (Trust) is extending the public comment period for the draft Presidio Trust Implementation Plan (PTIP) and draft Environmental Impact Statement (EIS) from September 25, 2001 to October 25, 2001 to provide additional opportunity for the public to review and comment on the draft PTIP and EIS. The draft PTIP is a proposed update to the July 1994 Final General Management Plan Amendment (GMPA) for the portion of The Presidio of San Francisco (Presidio) under the jurisdiction of the Trust. The PTIP EIS supplements the GMPA Environmental Impact Statement adopted by the National Park Service for the Presidio in 1994.

SUPPLEMENTARY INFORMATION: The Trust, as lead agency, released and circulated for review to the public and commenting agencies the draft EIS for the PTIP on July 25, 2001. The Environmental Protection Agency (EPA) published a notice of the draft EIS in the **Federal Register** on July 27, 2001 (66 FR 39161). The Trust published a notice in the **Federal Register** on July 26, 2001 (66 FR 39058–59) regarding the availability of the draft EIS, where and how it could be reviewed, and the date and location of public hearings to comment on the document. The EPA notice and Trust notice initially provided for a 60-day comment period for the draft EIS ending September 25, 2001. In response to several requests for commenting organizations and other parties, the Trust is now extending this period by 30 days to October 25, 2001. The Trust is providing this longer 90-day review period to further enhance the opportunities for public and agency participation in the National Environmental Policy Act process for the PTIP.

FOR FURTHER INFORMATION CONTACT: John Pelka, NEPA Compliance Coordinator, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Telephone: 415/561–5414.

Dated: August 28, 2001.

Karen A. Cook,

General Counsel.

[FR Doc. 01–22109 Filed 8–31–01; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25143; 813–330]

The Toronto-Dominion Bank; Notice of Application

August 28, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the "Act") exempting the applicant from all provisions of the Act, except section 9, section 17 (other than certain provisions of sections 17(a), (d), (e), (f), (g), and (j)), section 30 (except for certain provisions of sections 30(a), (b), (e), and (h)), and sections 36 through 53, and the rules and regulations under those sections.

SUMMARY: Applicant requests an order to exempt certain limited partnerships and other entities ("Partnerships") formed for the benefit of key employees of The Toronto-Dominion Bank ("TD") and its affiliates from certain provisions of the Act. Each Partnership will be an "employees' securities company" within the meaning of section 2(a)(13) of the Act.

Applicant: TD.

Filing Dates: The application was filed on March 29, 2001, and amended on July 24, 2001 and on August 23, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2001,

and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicant, c/o Gordon A. Paris, The Toronto-Dominion Bank, TD Bank Tower, Toronto-Dominion Centre, 55 King Street, West & Bay Street, Toronto, Ontario M5K 1A2, Canada.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Nadya Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. TD, a Canadian chartered bank, offers a range of financial services directly and through its affiliates, including brokerage and investment advisory services.

2. TD intends to establish Partnerships from time to time for the benefit of eligible current and former key employees, officers, directors, partners and persons on retainer ("Eligible Employees") of TD and its affiliates (as defined in Rule 12b–2 under the Securities Exchange Act of 1934 (the "Exchange Act")) (collectively, the "TD Group") as part of a program designed to create an in-house employee investment program similar to those offered by other financial institutions to their employees to recognize their contributions to the TD Group and retain these Eligible Employees and to facilitate the recruitment of high caliber employees. The investment objectives and policies for each Partnership may vary from Partnership to Partnership. Participation in a Partnership will be voluntary.

3. Each of the Partnerships will be a limited partnership, or alternatively, a limited liability company, business trust or other entity organized under the laws of the State of Delaware or another state or non-U.S. jurisdiction. The Partnerships will be operated in accordance with their respective limited partnership agreements or other organizational documents (each, a "Partnership Agreement"). Each partnership will be formed as an "employees' securities company" within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end management investment company which may be diversified or nondiversified.

4. Each Partnership will be managed, operated and controlled by its general partner, managing member or other similar entity (the "General Partner"). Each General Partner will be an entity in the TD Group. An entity in the TD Group will be appointed General Partner to the initial Partnership, and will be (a) registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"), (b) exempt from Advisers Act registration requirements by virtue of section 203(b)(3) thereof, or (c) excluded from the definition of investment adviser under the Advisers Act because it is a bank or a bank holding company.

5. Interests in the Partnerships ("Limited Partnership Interests" or "Interests") will be offered without registration in reliance on Section 4(2) or Regulation D of the Securities Act of 1933, as amended (the "1933 Act") and will be sold only to (a) Eligible Employees of the TD Group, (b) spouses, parents, children, spouses of children, brothers, sisters and grandchildren of Eligible Employees ("Qualified Family Members"), or (c) trust or other investment vehicles established solely for the benefit of Eligible Employees or Qualified Family Members ("Qualified Investment Vehicles" and, collectively with Qualified Family Members, "Qualified Participants"). Those Eligible Employees and Qualified Participants who acquire Interests in a Partnership are hereinafter referred to as "Limited Partner(s)."

6. Qualified Investment Vehicles must meet the standards for an "accredited investor" under rule 501(a) of Regulation D. Eligible Employees and their Qualified Family Members will be individuals who satisfy certain financial and sophistication standards, will be able to make investment decisions on their own without the protection of the regulatory safeguards intended to protect the public, will be capable of understanding and evaluating the merits and risks of participation in a Partnership and able to bear the economic risk of such participation, including a complete loss of his or her investment. Eligible Employees and Qualified Family Members will meet the standards for an "accredited investor" under rule 501(a)(6) Regulation D, except that a maximum of 35 Eligible Employees who are sophisticated investors but who do not meet the definition of an accredited investor may become Limited Partners if each of them falls into one of the following categories: (a) Eligible Employees who (i) have a graduate degree in business, law or accounting, (ii) have a minimum of five years of consulting, investment banking or similar business experience, and (iii) will have had reportable income from all sources (including any profit shares or bonus) in the calendar year immediately preceding the Eligible Employee's admission as a Limited Partner in excess of $120,000 and will have a reasonable expectation of reportable income of at $150,000 in the years in which the Eligible Employee invests in a Partnership;[1] or (b) Eligible Employees who are "knowledgeable employees" of the Partnership as defined in rule 3c–5 under the Act (with the Partnership treated as through it were a "covered company" for purposes of the rule).

7. The specific investment objectives and strategies for a particular Partnership will be set forth in the private placement memorandum relating to the Interests offered by the Partnership, and each Eligible Employee and Qualified Participant will receive a copy of the private placement memorandum and the Partnership Agreement. The terms of a Partnership will be fully disclosed to each Eligible Employee at the time they are offered the right to subscribe for Interests in such Partnership. Each Partnership will send audited financial statements to the Limited Partners as soon as practicable after the end of its fiscal year. In addition, a report will be sent to each Limited Partner setting forth the information with respect to his or her share of income, gains, losses, credits and other items for federal and state income tax purposes, resulting from the operation of the Partnership during that year.

8. Interests in a Partnership will be non-transferable except with the express consent of the General Partner and then only to Eligible Employees or Qualified Participants or an entity within the TD Group, as described below. No fee of any kind will be charged in connection with the sale of Interests.

9. TD or an entity within the TD Group, or any Eligible Employee or Qualified Participant designed thereby,

[1] In addition, such Eligible Employees in this category will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the aggregate in a Partnership and in all other Partnerships in which that Eligible Employee has previously invested.

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may have the right but not the obligation, to acquire the Interest of a Limited Partner upon the termination of the Limited Partner's employment with an entity within the TD Group with or without cause, including as a result of the death, disability or voluntary resignation of the Limited Partner, or upon the Limited Partner's bankruptcy. Each private placement memorandum will describe whether the TD Group will be required, or Eligible Employees or Qualified Participants will have the option to, acquire the Interest of a Limited Partner upon the termination of the Limited Partner's employment, whether for cause or not, or upon his or her bankruptcy or adjudication of incompetence. In this regard, the purchase price for the Interest will be equal to the lesser of (a) the amount of such Limited Partner's capital contributions less prior distributions from the Partnership (plus interest, as determined by the General Partner) or (b) the fair market value of the Interest, as determined by the General Partner in good faith as of the date of termination and in accordance with its customary valuation procedures.

10. An entity within the TD Group may purchase Interests, which it may offer to new Eligible Employees joining the TD Group. These Interests will be acquired from the Partnership in the same manner of payment, at the same time, and at the same purchase price as Interests purchased by Limited Partners. The General Partner may sell the Interest it has so acquired to any Eligible Employee or Qualified Participant at any time during the life of the Partnership at a price no greater than the net asset value of the Interests on the previous appraisal date as defined in the Partnership Agreement after the date of sale. An entity within the TD Group may instead award Interests so acquired at any time during the life of the Partnership to Eligible Employees as a bonus or similar compensation.

11. In an investment program that provides for vesting provisions, all or a portion of an Eligible Employee's Interest at the commencement of the program will be treated as being "invested," and "vesting" will occur either through the passage of a specified period of time or upon the occurrence of a specified event. The portion of an Interest that is unvested at the time of an Eligible Employee's employment termination, and the portion that is vested in the event of certain specified events, may be subject to repurchase by a TD Group entity or reallocated to other Limited Partners in the relevant Partnership.

12. A Partnership will not acquire any security issued by a registered investment company if the Partnership immediately after such purchase or acquisition will own in the aggregate more than 3% of the total voting stock of such investment company.

13. The General Partner of a Partnership may charge the Partnership an annual management fee, a flat administrative charge or a "carried interest."[2] A Partnership will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own securities of the Partnership (other than short-term paper). If an entity within the TD Group makes loans to any Partnership or Limited Partner, the lender will be entitled to receive interest at the rate obtainable on an arm's length basis. Any indebtedness of the Partnership will be the debt of the Partnership and without recourse to the Limited Partners.

Applicant's Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

[2] A "carried interest" is an allocation to the General Partner based on net gains in addition to the amount allocable to the General Partner that is in proportion to its capital contributions. Depending on whether the General Partner is registered as an investment adviser under the Advisers Act, any "carried interest" will be charged only if permitted by rule 205–3 under the Advisers Act (in the case of a General Partner registered under the Advisers Act) or will comply with section 205(b)(3) of the Advisers Act (with the Partnership treated as though it were a "business development company" solely for the purpose of that section) in the case of a General Partner not registered under the Advisers Act.

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provisions of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicant requests an order under sections 6(b) and 6(e) of the Act exempting the Partnerships from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53 of the Act, and the rules and regulations thereunder.

3. Section 17(a) generally prohibits any "affiliated person" (as defined in section 2(a)(3) of the Act) of a registered investment company, or any affiliated person of that person, acting as principal, from knowingly selling or purchasing any security or other property to or from that company. Applicants request an exemption from section 17(a) to permit the Partnerships to (a) purchase portfolio investments from or sell portfolio securities to TD, or any other affiliated person of a Partnership, or an affiliated person thereof (an "Affiliated Entity"), on a principal basis; (b) purchase interests or property in a company or other investment vehicle in which TD, or an Affiliated Entity, already owns securities, or, where such company or other investment vehicle is otherwise affiliated with TD or a Partnership; (c) sell, put or tender, or grant options in securities or interests in a company or other investment vehicle back to such entity, where that entity is affiliated with TD or an Affiliated Entity; (d) participate as a selling security holder in a public offering that is underwritten by TD or an Affiliated Entity or in which TD or an Affiliated Entity acts as a member of the underwriting or selling group; (e) invest in companies, partnerships or other investment vehicles offered, sponsored or managed by TD or an Affiliated Entity (referred to hereinafter collectively as "TD Sponsored Vehicles" and individually as a "TD Sponsored Vehicle"), or to purchase securities from TD Sponsored Vehicles; (f) invest in securities of, or lend money to entities with which TD or an Affiliated Entity has performed investment banking or other services and from which they may have received fees; and (g) purchase securities that are underwritten by TD and or Affiliated Entity (including a member of a selling group) on terms at least as favorable to the Partnership as those offered to investors other than affiliated persons of TD.

4. Applicants submit that an exemption from section 17(a) is consistent with the policy of the Partnerships and the protection of investors. Applicants state the Limited Partners in each Partnership will be fully informed of the extent of the Partnership's dealings with affiliated persons and, as professionals employed in the investment banking and financial service businesses, will be able to understand and evaluate the attendant risk. Applicant asserts that the community of interest among the Limited Partners and TD Group will provide the best protection against any risk of abuse. Applicant acknowledges that the requested relief will not extend to any transactions between a Partnership and any affiliated subadviser or an affiliated person of the unaffiliated subadviser, or between a partnership and any person who is not an employee, officer or director of TD or is an entity outside of the TD Group and is an affiliated person of the Partnership as defined in section 2(a)(3)(E) of the Act ("Advisory Person") or any affiliated person of such person.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from participating in any joint enterprise, or other joint arrangement, unless approved by the Commission. Applicant requests relief to permit affiliated persons of each Partnership, or affiliated persons of such persons, to participate in any joint arrangement in which the Partnership or an entity controlled by the Partnership is a participant. Applicant acknowledges that the requested relief will not extend to any transaction in which an unaffiliated sub-investment adviser or an Advisory Person or an affiliated person of either has an interest.

6. Applicants submit that any joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants believe that the flexibility to structure co-investment and joint investments in the manner described above will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants note that a company will primarily be organized for the benefit of the Limited Partners, and that any investments by a Partnership made concurrently with an Affiliated Co-Investor will be on the same terms (but not necessarily in the same amount) as the investments by such Affiliated Co-Investors.

7. Section 17(d) of the Act and rule 17e–1 thereunder limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicant requests an exemption from section 17(e) and rule 17e–1 to the extent necessary to permit TD or any entity within the TD Group, acting as agent or broker, to receive placement fees, financial advisory fees or other compensation in connection with the purchase or sale by a Partnership of securities, subject to the requirement that placement fees, financial advisory fees or other compensation is deemed "usual and customary." Applicant states that for the purposes of the application, fees and other compensation that is being charged or received by TD or any entity within the TD Group will be deemed "usual and customary" only if (a) the Partnership is purchasing or selling securities with other unaffiliated third parties, (b) the fees or other compensation being charged to the Partnership are also being charged to the unaffiliated third parties, and (c) the amount of securities being purchased or sold by the Partnership does not exceed 5% of the total amount of securities being purchased or sold by the Partnership and unaffiliated third parties. Applicant asserts that compliance with section 17(e) would prevent a Partnership from participating in a transaction in which TD or an entity within the TD Group, for other business reasons, does not wish it to appear as if the Partnership is being treated in a more favorable manner (in terms of lower fees) than unaffiliated third parties also participating in the transaction. Applicant asserts that fees or other compensation paid by a Partnership to TD or an entity within the TD Group will be the same as those negotiated at arm's length with unaffiliated third parties and the unaffiliated third parties will have as great or greater interest as the Partnership in the transaction as a whole.

8. Rule 17e–1(b) requires that a majority of directors who are not "interested persons" (as defined by section 2(a)(19) of the Act) take actions and make approvals regarding commission, fees, or other remuneration. Applicant requests an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make determinations as set forth in rule. Applicant states that because all of the directors of a General Partner will be affiliated persons, without such relief requested, a Partnership could not comply with rule 17e–1. Applicant states that Partnership will comply with rule 17e–1(b) by having a majority of the directors of the General Partner take actions and make approvals as set forth in rule 17e–1. Applicant states that each Partnership will otherwise comply with the requirements of rule 17e–1.

9. Section 17(f) designates the entities that may act as investment company custodians, and rule 17f–1 imposes certain requirements when the custodian is a members of a national securities exchange. Applicant requests an exemption from section 17(f) and subsections (a), (b) (to the extent such subsection refers to contractual requirements), (c) and (d) of rule 17f–1 to the extent necessary to permit a member of the TD Group to act as custodian without a written contract. Applicant also requests an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. Applicant believes that because of the community of interest of all the parties involved, compliance with these requirements would be unnecessary. Applicant states that it will comply with all other requirements of rule 17f–1.

10. Section 17(g) and rule 17g–1 generally requires the bonding of officers and employers of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicant requests relief from rule 17g–1(d), (e) and (g) to the extent necessary to permit the General Partner or an entity controlling the General Partner to take the actions and make the determinations set forth in the rule, regardless of whether or not they are interested persons. Applicant states that, because all the directors of the General Partner will be affiliated persons, Applicants could not comply with rule 17g–1 without the requested relief. Applicant also states that each Partnership will comply with all other requirements of rule 17g–1.

11. Section 17(j) and paragraph (b) of rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of security held or to be acquired by a

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registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicant requests an exemption from section 17(j) of the Act and the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are burdensome and unnecessary as applied to Partnerships. The relief requested will extend only to entities within the TD Group and is not requested with respect to any unaffiliated sub-investment adviser or Advisory Person.

12. Applicant requests an exemption from the requirements in sections 30(a), 30(b) and 30(e), and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicant contends that the forms prescribed by the Commission for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweigh any benefit to the Limited Partners. Applicant requests exemptive relief to the extent necessary to permit each Partnership to report annually to its Limited Partners.

13. Applicant also requests an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership and any other person who may be deemed to be a member of an advisory board of a Partnership from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in a Partnership. Applicant asserts that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) of the Act and rule 17d–1 thereunder (the "Section 17 Transactions") will be effected only if the General Partner determines that: (a) The terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Limited Partners, the Partnership's organizational documents, and the Partnership's reports to its Limited Partners. In addition, the General Partner will record and preserve a description of the Section 17 Transactions, the General Partner's findings, the information or materials upon which the General Partner's findings are based, and the basis for those findings. All such records will be maintained for the life of the Partnership and at least two years thereafter, and will be subject to examination by the Commission and its staff.[3]

2. In connection with the Section 17 Transactions, the General Partner will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any such transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of principal underwriter for the Partnerships, or any affiliated person of such a person, promoter, or principal underwriter.

3. The General Partner will not invest the funds of any Partnership in any investment in which an "Affiliated Co-Investor" (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Partnership and an Affiliated Co-Investor are participants, unless any such Affiliated Co-Investor, prior to disposing of all or part of its investment; (a) gives the General Partner sufficient, but not less than one day's notice, of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with the Affiliated Co-Investor. The term "Affiliated Co-Investor" means any person who is: (a) an "affiliated person," as such term is defined in the Act, of the Partnership; (b) TD or any entity with the TD Group; (c) an officer or director of TD or entity within the TD Group; (d) a company, partnership, or other investment vehicle offered, sponsored, or managed by TD or by any other entity within the TD Group; (e) an entity with respect to which TD or another entity within the TD Group provides management, investment or similar services as manager, investment manager, or general partner or in a similar capacity, and for which it may receive compensation, including without limitation, management fees, performance fees, carried interest entitling it to share disproportionately in income and capital gains or similar compensation; or (f) a company in which an officer, director or member of a General Partner acts as an officer, director, or General Partner, or has a similar capacity to control the sale or other disposition of an entity's securities. The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by an Affiliated Co-Investor: (a) To its direct or indirect wholly owned subsidiary, to any company (a "Parent") of which the Affiliated Co-Investor is a direct or indirect wholly owned subsidiary, or to a direct or indirect wholly owned subsidiary of its Parent; (b) to Qualified Family Members of the Affiliated Co-Investor or a trust established for any Affiliated Co-Investor or any such family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder; (e) when the securities are government securities as defined in section 2(a)(16) of the Act; (f) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities; or (g) when any entity with respect to which TD or any other entity with the TD Group provides management, investment management or similar services as manager, investment manager, or general partner or in a similar capacity, if TD or such entity does not have the actual investment discretion over the sale or disposition of the entity's securities.

4. Each Partnership and its General Partner, and its investment adviser, if any, will maintain and preserve, for the life of each such Partnership and at least two years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Limited Partners, and each annual report of the Partnership required by the terms of the applicable Partnership Agreement to be sent to the Limited Partners, and agree that all such records will be subject to examination by the Commission and its staff.[4]

5. The General Partner will send or cause to be sent to each Limited Partner who had an Interest in a Partnership, at any time during the fiscal year then ended, Partnership financial statements that have been audited by independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of such fiscal year in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, as soon as practicable after the end of each fiscal year of each of the Partnerships, the General Partner of each Partnership shall send or cause to be sent a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Limited Partner of his or her federal and state and income tax returns and a report of the investment activities of the Partnership during that year.

6. In any case where purchases or sales are made by a Partnership from or to an entity affiliated with the Partnership by reason by a 5% or more investment in such entity by a TD Group director, officer, or employee, such individual will not participate in the General Partner's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22122 Filed 8–31–01; 8:45 am]

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[3] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

[4] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 3, 2001: Closed meetings will be held on Wednesday, September 5, 2001, at 10:30 a.m. and Thursday, September 6, 2001, at 11:00 a.m.

Commissioner Unger, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (8), (9)(A), 9(B), and (10) and 17 CFR 200.402(a)(5), (7), (8), (9)(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Wednesday, September 5, 2001, and Thursday, September 6, 2001, will be:

- Institution and settlement of injunctive actions;
- Institution and settlement of administrative proceedings of an enforcement nature;
- Formal orders; and
- Consideration of actions involving foreign governmental authorities.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: August 30, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22213 Filed 8–30–01; 11:49 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44748; File No. SR–Amex–2001–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Allow In-Firm Delivery of the Regulatory Element of Continuing Education Program

August 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 341A (Continuing Education Requirements for Registered Persons) to permit the in-firm delivery of the Regulatory Element of Continuing Education Program. The text of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Regulatory Element is a 3½-hour computer-based training program that currently can only be administered to registered persons at the location of an outside vendor such as Prometric Testing Centers (formerly Sylvan Technology Centers). Exchange Rule 341A requires that each registered person, who is not exempt from the Rule, complete the Regulatory Element

[1] 5 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange provided written notice to the Commission on July 27, 2001, of its intention to file this proposal. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

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on the occurrence of his or her second registration anniversary and every three years thereafter. On each occasion, the training must be completed within 120 days after the registered person's anniversary date. A registered person who has not completed the Regulatory Element within the prescribed time periods is deemed to be inactive until the Regulatory Element has been fulfilled, and may not conduct, or be compensated for, activities requiring a securities registration.

The Securities Industry/Regulatory Council on Continuing Education ("Council") is responsible for the oversight of the Continuing Education Program for the securities industry. The Council's duties include recommending and helping to develop specific content and questions for the Regulatory Element, and the minimum core curricula for the Firm Element. The Council is comprised of 14 representatives from a broad cross section of broker/dealers, and six self-regulatory organizations, including the Amex. The Council, working with representatives from the North American Securities Administrators Association, and with the knowledge of the Council's SEC liaison, has developed a model under which broker/dealers may deliver the Regulatory Element computer-based training on the firm's premises. The model requires that the broker/dealer meet certain conditions for in-firm delivery relating to computer hardware and the security of the training environment. The proposed amendments to Amex Rule 341A encapsulate the delivery requirements as specified by the Council.[6] Firms of any size may take advantage of the in-firm delivery procedures.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act[7] in general, and furthers the objectives of section 6(b)(5)[8] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange also believes the proposed rule change is consistent with section 6(c)(3)(B) of the Act[9] Under this section, it is the Exchange's responsibility to prescribe standards for training, experience and competence for persons associated with Exchange members and member organization. The Exchange has proposed this rule change to establish an additional mechanism for the administration of Regulatory Element of the Continuing Education Program, which will help enable registered persons to satify their continuing education obligations.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative immediately upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow in-firm delivery of the Regulatory Element of the Continuing Education Program at the Amex without unnecessary delay. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions refer to file number SR–Amex–2001–61 and should be submitted by September 25, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22123 Filed 8–31–01; 8:45 am]

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[6] The Exchange modeled the proposed rule change after Rules the Commission approved allowing in-firm delivery of the Regulatory Element for the New York Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. *See* Securities Exchange Act Release Nos. 43701 (December 11, 2000), 65 FR 79143 (December 18, 2000) (SR–NASD–00–64) and 43838 (January 12, 2001), 66 FR 6722 (January 2, 2001) (SR–NYSE–00–55).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(c)(3)(B).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation 15 U.S.C. 78c(f)

[13] 17 CFR 200.30–3(c)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3362]

State of Tennessee; Amendment #1

In accordance with a notice received from the Federal Emergency Management Agency, dated August 27, 2001, the above numbered declaration is hereby amended to include Shelby County, Tennessee as a disaster area due to damages caused by severe storms and flooding that occurred on July 27, 2001 and continued through August 22, 2001.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Fayette and Tipton counties in Tennessee; Crittenden County in Arkansas; and DeSoto and Marshall counties in Mississippi. All other contiguous counties have been previously declared.

For economic injury the number is 9M4700 for Arkansas and 9M4800 for Mississippi.

All other information remains the same, i.e., the deadline for filing applications for physical damage is October 15, 2001, and for loans for economic injury the deadline is May 16, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 28, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–22144 Filed 10–31–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3740]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will meet on Wednesday, September 19, 2001, in Room 600, 301 4th St., SW., Washington, DC from 3:30 p.m. to 5 p.m.

The Commission will discuss public diplomacy strategies as they relate to the Middle East peace process and U.S. policies toward Iraq.

Members of the general public may attend the meeting, although attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact Bruce Gregory at (202) 619–4457.

Dated: August 27, 2001.

Bruce Gregory,

U.S. Advisory Commission on Public Diplomacy, U.S. Department of State.

[FR Doc. 01–22121 Filed 8–31–01; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received by October 4, 2001 to: Attention DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Ware, US Department of Transportation, (202) 366–2019, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Office of the Secretary

Title: Relocation Assistance and Real Property Acquisition Regulations For Federal and Federally Assisted Programs.

OMB Control Number: 2105–0508.

Affected Public: Federal Government State, Local or Tribal Government, individuals, business, farms and not-for-profit institutions.

Annual Estimated Burden: 29,043.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on August 28, 2001.

Michael Robinson,

Information Resource Management, United States Department of Transportation.

[FR Doc. 01–22157 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Colorado Springs Airport; Colorado Springs, CO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Director of Aviation for Colorado Springs Airport under the provisions of 49 U.S.C. 47504(b) and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On February 8, 2001, the FAA determined that the noise exposure maps submitted by the Director of Aviation under part 150 were in compliance with applicable requirements. On August 7, 2001, the Associate Administrator for Airports approved the Colorado Springs Airport noise compatibility program. All of the program elements were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Colorado Springs Airport noise compatibility program is August 7, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM–611; 1601 Lind Avenue, SW., Renton, Washington, 98055–4056. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Colorado Springs Airport, effective August 7, 2001. Under 49 U.S.C. 47504(a) an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. 49 U.S.C. 47503(a)(1) requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) part

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150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval of disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150.

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Denver, Colorado.

The Director of Aviation for Colorado Springs Airport submitted to the FAA the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Colorado Springs Airport. The Colorado Springs noise exposure maps were determined by FAA to be in compliance with applicable requirements of February 8, 2001. Notice of this determination was published in the **Federal Register** on February 20, 2001.

The Colorado Springs Airport noise compatibility program contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2002. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in 49 U.S.C. 47504(a). The FAA began its review of the program on February 8, 2001, and was required by a provision of 49 U.S.C. 47504(b) to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained seven proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of 49 U.S.C. 47504(b) and FAR 150 have been satisfied. The overall program, therefore, was approved by the the Associated Administrator for Airports effective August 7, 2001. These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on August 7, 2001. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of the Colorado Springs Airport.

Issued in Renton, Washington, on August 20, 2001.

Lowell H. Johnson,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 01–22155 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period was published on December 13, 2000 (65 FR 77958–77959).

DATES: Comments must be submitted on or before October 4, 2001.

FOR FURTHER INFORMATION CONTACT: Walter Culbreath at the National Highway Traffic Safety Administration, (NAD–40), 202–366–1566. 400 Seventh Street, SW., Room 6132, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: National Survey of Drinking and Driving Attitudes & Behaviors—2001

OMB Number: 2127—New.

Type of Request: New information collection requirement.

Abstract: An agency goal is to reduce the number of alcohol related fatalities from 15,786, in 1999, to 11,000 by the year 2005. In support of this goal, NHTSA has conducted over past decade a series of bi-annual surveys of the driving-aged public (aged 16 or older) to identify patterns and trends in public attitudes and behaviors towards drinking and driving and public reaction to alcohol countermeasures aimed at reducing the occurrence of drinking and driving and alcohol related crashes. The proposed study, to be administered in the 3rd quarter of 2001, and the sixth in this series of biennial survey's will collect data on topics included in the first five studies (and several additional topics), including: frequency of drinking and driving and of riding with an impaired driver, ways to prevent drinking and driving, enforcement of drinking and driving laws including the use of sobriety checkpoints, understanding of BAC levels and legal limits, and crash and injury experience.

Affected Public: Randomly selected members of the general public aged sixteen and older in telephone households.

Estimated Total Annual Burden: 1,680.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on August 29, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–22156 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6583; Notice 2]

Supplemental Notice on Public Workshop

AGENCY: National Highway Traffic Safety Administration.

ACTION: Supplemental notice on public workshop.

SUMMARY: We are issuing this notice to provide additional information about the public workshop we will be hosting for the New Car Assessment Program (NCAP) on Consumer Braking Information. The purpose of this program is to provide comparative stopping distance performance of light vehicles, currently targeted to those light vehicles equipped with 4-wheel anti-lock braking systems (ABS). Our workshop will focus on the issues discussed in the Request for Comments notice published on July 17, 2001, including driver variability, test pavement variability, and consumer information format. The results of this workshop will be included in the subject docket along with other written comments received by October 15, 2001. These comments, and any data that are submitted, will be used to assist in finalizing plans for a pilot program on brake testing of model year 2003 vehicles.

DATES: We will hold the public workshop on September 26, 2001, from 9 a.m. to 4 p.m. If you wish to participate in the meeting, or submit comments on the proposed agenda, please contact Mr. Jeff Woods, at the address or telephone number listed below, by September 24, 2001. If you wish to give a presentation at the meeting, please provide a synopsis of your presentation to Mr. Woods by September 19, 2001. Presentations shall be limited to 30 minutes with a brief question-and-answer opportunity following each presentation.

ADDRESSES: *Public Workshop:* We will hold the public meeting in room 6332–6336 of the Department of Transportation Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Woods, Office of Safety Performance Standards, NPS–22, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–6206; Fax: (202) 366–4329, email: *jwoods@nhtsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2001, we published a **Federal Register** Notice (66 FR 37253) requesting comments on our consumer braking information program for light vehicles that are currently subjected to the NCAP program. We also announced a public workshop for September 26, 2001, to discuss some of the technical issues about this braking information program. This notice provides additional details of the workshop, including the location, time, agenda and goals of the workshop.

In the July 17, 2001 notice, the agency provided an extensive discussion of the history of the program, the research conducted to date, a discussion of some of the issues that the agency feels have been resolved, and a detailed description of the draft test protocol. This previous notice can be found in the subject docket (see instructions on how to access the docket below under Availability of Relevant Documents below).

Public Meeting

A. Time/Location

The workshop will be held Wednesday, September 26, 2001, at the Department of Transportation headquarters building (also known as the Nassif Building), 400 Seventh Street, SW., Washington, DC 20590, Room 6332–6336. The meeting will be from 9 a.m. until 4 p.m.

B. Purpose

The purpose of the meeting is to obtain more technical information and discuss some of the outstanding issues related to the consumer braking information program. The specific issues that we would like to focus on include:

- Driver Variability
- Test Surface Variability
- Consumer Information Format

Though our primary focus will be on these issues, we will be open to presentations and discussions of other relevant technical issues related to the program, as time allows.

C. Agenda for the Public Workshop on NCAP Braking

I. Opening Remarks
II. Introduction
  Agency Presentation—Brief overview of the development of the NCAP Braking program
III. Technical Presentations
  A. Driver Variability
  B. Surface Variability
  C. Consumer Information Format
IV. Post Presentation Open Discussions

If possible the presentations will be scheduled by the primary subject of the presentations, as listed in the agenda. However, speakers are encouraged to make their entire presentation at one time.

D. Procedural Matters

The meeting will be moderated by a NHTSA representative.

After each presentation, there will be a ten-minute opportunity to address questions from the agency panel and from the audience.

To facilitate communication, we will provide auxiliary aids (e.g., sign-language interpreter) to participants as necessary, during the meeting. Any person desiring assistance of auxiliary aids should contact Mr. Woods no later than 10 days before the meeting. For any presentation that will include slides, motion pictures, a computer projector, or any other visual aids, the presenters should bring at least two paper copies of the presentation to the meeting so that we can provide a copy to the court reporter and readily include the material in the public record. In addition, we will make a verbatim record of the public meeting and place a copy in the docket.

E. Availability of Relevant Documents

The July 17, 2001, Request for Comments notice for the NCAP Braking program has been placed in the docket. To obtain that notice, you may either visit the docket in Washington, DC, or

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query the Department of Transportation docket website.

The docket is located at Room PL–401, 400 Seventh Street, SW., Washington, DC. Docket hours are 9 a.m. to 5 p.m., Monday through Friday. The Docket Management System website is *http://dms.dot.gov/*. You should search for Docket No. 6583.

F. Written Comments

If you wish to submit written comments on the issues discussed at the meeting, please submit them by the comment closing date of October 15, 2001. Comments must refer to the Docket and Notice numbers cited at the beginning of this Notice and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The Docket Section is open on weekdays from 9 a.m. to 5 p.m. Alternatively, you may submit your comments electronically by logging onto the Docket Management System website at *http://dms.dot.gov*. Click on "Help & Information" or "Help/Info" to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number (6583) of this program.

Issued on: August 28, 2001.

Claude H. Harris,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 01–22113 Filed 8–31–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice of Public Information Collection Submitted to OMB for Review

AGENCY: Surface Transportation Board.

ACTION: Extension of a currently approved collection.

SUMMARY: The Surface Transportation Board has submitted to the Office of Management and Budget for review and approval the following proposal for collection of information as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

Title: Application To Open an Account for Billing Purposes

OMB Form Number: 2140–0006.

No. of Respondents: 20.

Total Burden Hours: 1.6.

DATES: Persons wishing to comment on this information collection should submit comments by October 4, 2001.

ADDRESSES: Direct all comments to Case Control, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423. When submitting comments refer to the OMB number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Anthony Jacobik, Jr. (202) 565–1713. Request for copies of the information collection may be obtained by contacting Arlene Jeffcoat (202) 565–1661.

SUPPLEMENTARY INFORMATION: The Surface Transportation Board (STB) is, by statute, responsible for the economic regulation of surface transportation carriers operating in the interstate and foreign commerce. The form is for use by applicants who wish to open an account with the STB. Charges to the account would be posted for services rendered. The account holder would be billed on a monthly basis for payment of accumulated fees. The form requests information as required by OBM and Treasury regulations for the collection of fees.

Dated: August 29, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01–22117 Filed 8–31–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34081]

Effingham Railroad Company—Operation Exemption—Line Owned by Total Quality Warehouse

Effingham Railroad Company (ERRC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate over approximately 3,661 feet of railroad line that will be constructed for and acquired by Total Quality Warehouse (TQW), located in an industrial park in Effingham, IL[1] to provide a more efficient interchange with the Canadian National Railroad on the border of an existing industrial park.

Construction of the track was expected to begin on August 13, 2001, 7 days after the exemption was filed, and ERRC will begin operations as soon as construction is completed.[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34081, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John M. Robinson, 9616 Old Spring Road, Kensington, MD 20895.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: August 28, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–22116 Filed 8–31–01; 8:45 am]

BILLING CODE 4915–00–P

[1] ERRC states that the additional track to be operated will be constructed from ERRC's engineering designation Sta. 95+84.61 to Sta. 152+65.84.

[2] ERRC simultaneously filed a petition to dismiss the verified notice of exemption. The Board will address the jurisdictional issue raised by the petition to dismiss in a subsequent decision.

Corrections

Federal Register

Vol. 66, No. 171

Tuesday, September 4, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-344-001]

Dominion Transmission, Inc.; Notice of Compliance Filing

Correction

In notice document 01–20341 appearing on page 42644, in the issue of Tuesday, August 14, 2001, make the follow correction:

On the same page, in the first column, the Docket No. should be as set forth above.

[FR Doc. C1–20341 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0007]

Submission for OMB Review; Comment Request Entitled Contractor's Qualifications and Financial Information

Correction

In notice document 01–19516 appearing on page 41029 in the issue of Monday, August 6, 2001, make the following correction:

In the second column, in the **ACTION:** section, "pubic" should read "public ".

[FR Doc. C1–19516 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

Public Health Service

Correction

In notice document 01–20190 beginning on page 42548 in the issue of Monday, August 13, 2001, make the following correction:

On the same page, in the third column, under the heading **Request for Public Input**, in paragraph (2), sixth line from the bottom, "September 27, 2001" should read "September 12, 2001".

[FR Doc. C1–20190 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 103

RIN 1076–AD73

Loan Guaranty, Insurance, and Interest Subsidy

Correction

In rule document 01–1249 beginning on page 3861, in the issue of Wednesday, January 17, 2001, make the following correction:

§ 103.25 [Corrected]

On page 3871, in the second column, under the heading **Subpart D—Provisions Relating to Borrowers**, in §103.25, in the first entry, "(b) A borrower" should read "(a) A borrower".

[FR Doc. C1–1249 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 749

Records Preservation Program

Correction

In rule document 01–19104 beginning on page 40578 in the issue of Friday August 3, 2001, make the following correction:

On page 40579, in the second column, the heading,

PART 749—RECORDS PRESERVATION PROGRAM AND RECORD

Retention Appendix

should read;

PART 749—RECORDS PRESERVATION PROGRAM AND RECORD RETENTION APPENDIX

[FR Doc. C1–19104 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITY AND EXCHANGE COMMISSION

[Release No. IA–1960; 803–154]

Capital Guardian Trust Company, et al.; Notice of Application

August 7, 2001.

Correction

In notice document 01–20233 beginning on page 42570 in the issue of Monday, August 13, 2001, make the following correction:

On page 42570, in the second column, the Release No. should be as set forth above.

[FR Doc. C1–20233 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSSION

[Release No. 34–44621; File No. SR–Amex–2001–23]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange, LLC Relating to the Listing and Trading of Index-Linked Exchangeable Notes

July 30, 2001.

Correction

In notice document 01–19583 beginning on page 41064 in the issue of Monday, August 6, 2001, make the following correction:

On page 41064, in the second column, the Release No. should be as set forth above.

[FR Doc. C1–19583 Filed 8–31–01; 8:45 am]

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SECURITY AND EXCHANGE COMMISSION

[Release No. 34–44653; File No. SR–Phlx–2001–70]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Exchange Rule 98, Emergency Committee Until November 30, 2001

August 3, 2001.

Correction

In notice document 01–20767 beginning on page 43289 in the issue of Friday, August 17, 2001, make the following correction:

On page 43289, in the third column, the date should be as set forth above.

[FR Doc. C1–20767 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 139

[Docket No. FAA-2000-7479; Notice No. 00-05]

RIN 2120-AG96

Certification of Airports; Correction

Correction

In proposed rule document 01–20518 beginning on page 42807 in the issue of Wednesday, August 15, 2001, make the following correction:

On page 42807, in the second column, in the third complete paragraph, in the last line, "§239.203(b)(65 FR 38673)" should read "§139.203(b)(65 FR 38673)".

[FR Doc. C1–20518 Filed 8–31–01; 8:45 am]

BILLING CODE 1505–01–D



Federal Register

Tuesday,
September 4, 2001

Part II

Department of Agriculture

Farm Service Agency

7 CFR Parts 735, 736, et al.
Implementation of the United States Warehouse Act; Proposed Rule

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 735, 736, 737, 738, 739, 740, 741 and 742

RIN 0560–AG45

Implementation of the United States Warehouse Act

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Department of Agriculture (USDA) is proposing a revision of the regulations administering the United States Warehouse Act to implement the provisions of the Grain Standards and Warehouse Improvement Act of 2000 (2000 Act). The 2000 Act, enacted on November 9, 2000, amended the United States Warehouse Act (USWA) in its entirety. The 2000 Act updates Federal warehouse licensing operations, authorizes electronic warehouse receipts for all commodities, and authorizes the Secretary of Agriculture (Secretary) to establish regulations for voluntary systems for other electronic documents related to sales and transfers of agricultural products. Further information about the USWA and copies of the 2000 Act, the official transcript of January 23, 2001's public meeting, and this proposed rule may be found at *http://www.fsa.usda.gov/daco/uswa.htm.*

DATES: Comments concerning this rule must be received on or before October 4, 2001 to be assured of consideration. Comments regarding the information collection requirements of the Paperwork Reduction Act must be received October 4, 2001 to be assured of consideration.

Comments: For complete consideration and evaluation, commenters are asked to include with each of their comments the specific page, subpart, section, sub-section, etc., of the proposed rule. Comments that suggest alternate or replacement language may be considered. Commenters may submit their comments by mail, fax, e-mail or internet to the applicable address below.

ADDRESSES: Comments should be sent to Roger Hinkle, Chief, Licensing Authority Branch, Warehouse and Inventory Division, Farm Service Agency (FSA), United States Department of Agriculture, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553, telephone (202) 720–2121, FAX (202) 690–3123, e-mail address, *USWA@wdc.fsa.usda.gov,* or USWA's internet web page at *http://www.fsa.usda.gov/daco/uswa.htm.* Persons with disabilities who require alternative means for communication of regulatory information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Roger Hinkle, (202) 720–7433 or e-mail USWA@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by the Office of Management and Budget.

A Regulatory Impact Analysis (RIA) was prepared. The USWA does not mandate participation by those it regulates; it simply offers warehouse operators and service providers an alternative means for servicing their depositors and other customers. The fees charged USWA users are intended to offset the administration of the Act. The RIA summarized the cost and benefit impact of the rule as follows:

The rule offers current and potential warehouse operators a voluntary means to license warehouses used to store agricultural products. It also uniformly provides for the issuance of warehouse receipts, including electronic warehouse receipts, for agricultural products stored or handled in licensed warehouses, and for other purposes.

Implementation of the USWA and the establishment of associated standards and protocols will help: (1) Maintain the competitiveness in domestic and world markets; (2) improve the prices that producers receive; and (3) eliminate any disruption in commerce.

Copies of the RIA are available upon request at the address listed above.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12612

It has been determined that this proposed rule/activity does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this proposed rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Background

The 2000 Act, enacted on November 9, 2000, provides for the revision of the USWA. The 2000 Act amendments provide for licensing and inspection of warehouses used to store agricultural products, issuance of warehouse receipts, including electronic warehouse receipts, for agricultural products, and for other purposes.

The USWA, originally enacted in 1916, authorized the Secretary to license warehouse operators who stored agricultural products and persons to sample, weigh, inspect and grade agricultural products. The USWA licensing program has always been voluntary and regulated licensees in order to protect depositors.

In 1990, the USWA was amended to direct the Secretary to establish EWRs for the cotton industry. Since the first issuance of EWRs in 1995, the number of banks, cooperatives, gins, merchants and warehouse operators participating in USWA's electronic-based program has more than doubled. The percentage of EWRs issued increased from 45 percent of the 15 million bales in 1995–1996 crop year to more than 95 percent of the 17 million bales in 1999–2000 crop year.

The 2000 Act amendments include several provisions that thoroughly modernize the program and reflect the current technology advancements

within the agricultural marketing systems. The new provisions will make U.S. agriculture more competitive in both domestic and foreign markets through efficiencies and cost savings provided by today's computer technology and information management systems. These new provisions include: (1) Extending the USWA's authority to all agricultural products including a processed product of an agricultural commodity; (2) granting the Secretary the power to establish regulations governing one or more electronic systems under which EWRs or other electronic documents related to the shipment, payment and financing of domestic and foreign agricultural products may be issued or transferred; (3) allowing licensees or providers to provide a bond or other financial assurance as the Secretary determines appropriate; (4) allowing warehouse operators to allocate storage space to a depositor; (5) requiring warehouse operators to issue warehouse receipts only when requested by the depositor; and (6) allowing for arbitration.

The proposed rule redesigns the structure of the warehouse licensing regulations by removing the eight commodity-specific regulations and replacing them with one general regulation. The commodity-specific requirements have been moved to the applicable licensing (See Exhibits A and B for cotton and grain, respectively) or provider agreements. The proposed rule updates and modifies the regulatory language, merges all similar language from the specific commodity regulations and at the same time removing redundancies, but does not substantively changing the program operations. Public comments are requested regarding the new regulatory format, including the consolidation of the specific commodity regulations into one broad, generic regulatory package; and the placement of the specific commodity requirements in the licensing agreements or the provider agreements.

As a result of the merger of all the specific-commodity warehouse regulations into one generic regulation, the cotton flow standard previously codified at 7 CFR part 735.201, is not included in these regulations. The cotton flow standard has been included in the cotton-specific licensing and EWR provider agreements.

The operation of the licensing program for warehouse operators, inspectors, samplers, classifiers, and weighers is not substantively changed by the proposed rule. The proposed general licensing program requirements are furnished in subparts B and C with the more specific requirements stated in the licensing agreements. Public comments are requested on the continuation of the current licensing program, including any licensing requirements that should be changed.

Section 3(h) of the USWA allows the Secretary to issue regulations governing one or more electronic systems under which EWRs may be issued and transferred and other electronic documents relating to the shipment, payment, and financing of the sale of agricultural products. Previously, EWRs were only authorized for cotton. The authority for electronic conveyance of other business documents (such as grade and weight certificates, phytosanitary certificates, bills of lading, export evidence certificates or letters of credit) is a new authority. The proposed regulation in subparts D and E provides for a system where FSA will establish regulatory guidelines for systems for the electronic conveyance of these and other electronic documents that will authorize and standardize electronic documents and allow their transfer from buyer to seller across state and international boundaries. This new paperless flow of agricultural products from farm gate to end-user will provide savings and efficiencies for America's farmers. Public comments are requested on the system for electronic conveyance as provided in the proposed rule, including the use of service providers, and the involvement of FSA in standardizing the electronic document formats.

The structure will mirror that structure established for cotton EWRs consisting of independent providers who have signed an agreement with FSA. Section 735.300 provides the general warehouse requirements applicable to all warehouse receipts whether paper or electronic for any agricultural product. Requirements specific to EWRs are found in section 735.302. FSA has developed two provider agreements. The EWR provider agreement for EWRs and electronic USWA documents will cover all approved agricultural products (See Exhibit C). Separate addenda will be developed to cover the commodity-specific EWRs (See Exhibit D and E for cotton and grain, respectively). FSA has developed a second provider agreement that will cover all other electronic documents (See Exhibit F). Separate addenda may be developed for each specific document. FSA decided to increase both the net worth and the insurance requirement for providers of EWRs. The net worth requirement was increased from $25,000 to $100,000 and the insurance coverage required was increased to $4 million. These changes are codified at Section 735.401. Public comments are requested on these increases in financial requirements.

Section 11(e)(4) of the USWA provides that "an electronic receipt issued or other electronic document transferred, in accordance with this Act shall not be denied legal effect, validity, or enforceability on the ground that the information is generated, sent, received, or stored by electronic or similar means." Accordingly, this proposed rule in subpart E sets forth the manner in which a private person may be approved to establish a system that accomplishes these functions. Under the provider agreement for these functions, in addition to other activities, a party will be able to take a paper document relating to the shipment, payment, and financing of the sale of an agricultural product to an approved provider and the provider may generate an identical electronic document for electronic transmission. This aspect of the USWA will allow parties to conduct all aspects of these agricultural transactions in an electronic manner whereas currently, in many instances, necessary documents are in a paper format and must be physically delivered to another party.

Entities involved in transactions which are anticipated to be conducted under such a system are anticipated to be primarily those which are involved in international shipments in which the financing of the sale will be through the use of various commercial instruments including letters of credit issued by foreign entities. The value of the commodity and associated cargo costs involved in these transactions will often exceed $10 million. Unlike those providers which are authorized to administer an electronic system with respect to warehouse receipts, the providers which are approved by the Secretary to operate this broader system which, encompasses all financial and shipping activities, are authorized to "generate" a document for use by parties to a transaction. Accordingly, the liability of these providers is significantly greater and FSA has determined that the financial net worth requirements for these providers should be significantly greater in order to ensure, in the event there are errors committed by the providers, that affected parties have the ability to recoup any losses which they may incur as a result of the provider's conduct. The financial requirements for providers of other electronic documents are found in Section 735.402 and require a provider to have a net worth of $10 million and maintain 2 insurance

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policies for a total coverage of $50 million. Public comments are sought regarding the net worth and insurance requirements for the provider of other electronic documents including the reasonableness of the requirements, and alternative levels for consideration.

Section 11(e) also provides that in establishing this electronic document system, the Secretary may act "notwithstanding any other provision of Federal or State law. * * *" In order to provide a uniform system in developing documents for inclusion in this system and to provide for a uniform resolution of disputes that arise in the administration of this system, the proposed rule provides that the law of New York State will govern all transactions entered into with the use of the system except for laws relating to the legal doctrines of the choice of law and determination of venue. FSA has determined that, taking into account the large body of commercial law which has developed in the State of New York, especially laws relating to complex financing agreements involving international transactions which utilize letters of credit, such an approach would: (1) Make clear to all users of the system the law that would be applied regardless of the location of the provider, the location of the various parties to the transaction and the location of the actual activity that is the focus of the transaction; (2) assist in the development of uniform documents by more than one approved provider; and (3) reduce transactional costs as a result of the uniformity in documents, especially in the case of international transactions. Public comments are requested on the decision to use the law of the State of New York to govern all transactions under the electronic system.

The Secretary is authorized to assess and collect fees from Federally-licensed warehouse operators, approved providers and other users of the USWA. The fees are intended to offset the cost of operating the revised USWA. The fee schedule is included as an addendum to the licensing and provider agreement and is available from the Deputy Administrator for Commodity Operations, located in Washington, D.C.

Section 202 of the 2000 Act imposes certain deadlines for the regulations and on the effectiveness of the existing USWA. Final regulations are required to be in place no later than 180 days after the date of enactment. The USWA as it previously existed terminates not later than August 1, 2001. This proposed rule has been issued with a 30-day comment period, and FSA intends to issue the final rule as soon as possible after comments have been received and evaluated.

Paperwork Reduction Act

Title: 7 CFR 735, United States Warehouse Act.

OMB Control Number: 0560–0120.

Expiration Date: March 31, 2003.

Type of Request: Request for approval of a revised information collection.

Abstract: USDA will collect information from those individuals who voluntarily apply for warehouse licensing under the USWA and meet the minimum requirements for licensing for the applicable agricultural product. The USWA also provides for the voluntary approval and governing of one or more electronic provider systems under which farmers and merchants transfer electronic receipts or documents relating to the shipment, payment, and financing of the sale of agricultural products. Applicants must voluntarily certify that they will abide by the provisions of the USWA.

Information secured voluntarily from interested warehouse operators forms the basis for the issuance, suspension, reinstatement, or revocation of a license.

Likewise, information secured voluntarily from an interested electronic provider forms the basis for approval under the USWA, which allows for the use of electronic warehouse receipts for all agricultural products and the use of other electronic documents.

The provider agreement entered into by a private person and the FSA sets forth the manner in which this person may be approved to establish a system that accomplishes how information is generated, sent, received, or stored by electronic or similar means.

Approved providers must have a signed agreement with FSA, comply with the terms of that agreement, maintain specific financial and bonding requirements, pay user fees, establish and retain contemporaneous records of each EWR entry and access, be liable to the Secretary for issues associated with system failure or malfunction, furnish annual audit level financial statements, and submit to FSA an electronic data processing audits. This audit encompasses the provider's fiscal year and must evidence current computer operations, security, disaster recovery capabilities of the system, and other related systems. Information maintained to accommodate requirements under the provider agreement are considered to be normal operating practices for those private individuals who become approved providers and adds no additional burden to their day-to-day operations.

Estimate of Respondent Burden: The estimated average public reporting burden for the collection of information is 30 minutes per response;

Respondents: Warehouse operators and electronic providers;

Estimated Number of Respondents: 4,600;

Estimated Number of Responses per Respondent: One response per year;

Estimated Annual Number of Responses: 25,937 and

Estimated Total Annual Burden Hours on Respondents: 14,701 hours.

In addition to commenting on the substance of the regulation, the public is invited to comment on the information collection. Proposed topics include the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information technology; or (d) ways to minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques) or other forms of information technology; e.g., permitting electronic submission response. The information collection package may be obtained from Steve Gill, at the address listed below. Comments regarding the information collections may be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, and to Steve Gill, Director, Warehouse and Inventory Division, FSA, USDA, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553.

List of Subjects in 7 CFR Part 735

Administrative practice and procedure, Agricultural commodities, Beans, Cotton, Cottonseeds, Grain, Nuts, Sugar, Surety Bonds, Tobacco, Warehouses, Wool.

For the reasons stated in the preamble, FSA proposes to amend 7 CFR Chapter 700 as follows:

PART 735—COTTON WAREHOUSES

1. Part 735 is revised to read as follows:

PART 735—REGULATIONS FOR THE UNITED STATES WAREHOUSE ACT

Subpart A—General Provisions

Sec.

735.1 Applicability.
735.2 Administration.
735.3 Definitions.
735.4 Fees.
735.5 Penalties.
735.6 Suspension and revocation.
735.7 Return of suspended or revoked license or provider agreement.
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735.11 Lost or destroyed licenses or agreements.
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735.200 Service licenses.
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Subpart D—Warehouse Receipts

735.300 Warehouse receipt requirements.
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735.302 Electronic warehouse receipts.

Subpart E—Electronic Providers

735.400 Administration.
735.401 Electronic warehouse receipt and USWA electronic document providers.
735.402 Providers of other electronic documents.
735.403 Audits.
735.404 Fees.
735.405 Choice of law.

Authority: 7 U.S.C. 241 *et seq.*

Subpart A—General Provisions

§ 735.1 Applicability.

(a) The regulations of this part set forth the terms and conditions under which the Farm Service Agency (FSA) will administer the United States Warehouse Act (the Act). These regulations set forth the standards and the terms and conditions a participant or provider must meet to be eligible for licensing or approval under the Act.

(b) Additional terms and conditions may be set forth in applicable licensing agreements, provider agreements and other documents.

§ 735.2 Administration.

(a) FSA will administer all provisions of the Act under the general direction and supervision of the FSA's Deputy Administrator, Commodity Operations, (DACO), or designee.

(b) DACO may waive or modify program requirements or deadlines in cases where lateness or failure to meet such other requirements does not adversely affect the programs operated under the Act.

§ 735.3 Definitions.

Words used in this part in the singular form will be deemed to import the plural, and vice versa, as the case may demand. For the purposes of this part, unless the context otherwise requires; and will be applicable to the program authorized by this part and will be used in all aspects of administering this program:

Access means the ability when authorized, to read, change, and transfer warehouse receipts or other applicable document information retained in a central filing system.

Agricultural product means an agricultural produced product stored or handled for the purposes of interstate or foreign commerce including a processed product of an agricultural product as determined by DACO.

Approval means the consent provided by DACO for a person to engage in an activity authorized by the Act.

Central filing system (CFS) means an electronic system operated and maintained by a provider approved by DACO where the information relating to warehouse receipts, USWA documents and other electronic documents are recorded and maintained in a transparent, secure, unbiased and anonymous condition.

Control of the facility means ultimate responsibility for the operation and integrity of a facility by ownership, lease, or operating agreement.

Department means the Department of Agriculture.

Electronic document means a document that is generated, sent, received, or stored by electronic, optical, or similar means, including electronic data interchange, electronic mail, telegram, telex, or telecopy.

Electronic warehouse receipt (EWR) means a warehouse receipt that is authorized by DACO to be issued or transmitted under the Act in the form of an electronic document.

Examiner means an individual designated by DACO for the purpose of examining warehouses.

Financial assurance means the surety or other financial obligation approved by DACO that is a condition of receiving a license or approval under the Act.

Force Majeure means severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, act of civil or military, non-availability of transportation facilities, or any other cause beyond the control of the warehouse operator or provider that renders performance impossible.

Holder means a person that has possession in fact or by operation of law of a warehouse receipt or any electronic document.

License means a license issued under the Act by DACO.

Licensing agreement means the document and any amendment to such agreement executed by the warehouse operator and FSA specifying licensing terms and conditions specific to the warehouse operator and the agricultural product licensed to be stored.

Non-stored agricultural product means an agricultural product received temporarily into a warehouse for conditioning, transferring, assembling for shipment, or lots of an agricultural product moving through a warehouse for current merchandising or milling use, against which no warehouse receipts are issued and no storage charges assessed.

Official Standards of the United States means the standards of the quality or condition for an agricultural product, fixed and established under the United States Cotton Standards Act, the United States Grain Standards Act, the Agricultural Marketing Act of 1946, or other applicable official United States Standards.

Other electronic documents means those electronic documents, other than an EWR, related to the shipment, payment or financing of agricultural products that DACO has approved for inclusion in a provider's CFS.

Person means a person as set forth in 1 U.S.C. 1.; a State; and a political subdivision of a State.

Provider means a person that maintains one or more electronic systems that has been approved by DACO.

Provider Agreement means the document and any amendment to such agreement executed by the provider and FSA that sets forth the provider's responsibilities concerning the provider's maintenance of a CFS.

Receipt means a warehouse receipt issued in accordance with the Act,

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including an electronic warehouse receipt.

Schedule of fees means the fees charged for services provided under the Act.

Service license means the document and any amendment to such agreement executed by a person licensed under the Act to perform required services such as inspection, sampling, grading, classifying, or weighing services for the licensed warehouse.

Stored agricultural products means all agricultural products received into, stored within, or delivered out of the warehouse which is not classified as a non-storage agricultural product under this part.

User means a person that uses a provider's CFS.

Warehouse means a structure or other approved storage facility, as determined by DACO, in which any agricultural product may be stored or handled.

Warehouse capacity means the maximum quantity of an agricultural product that the warehouse will accommodate when stored in a manner customary to the warehouse as determined by DACO.

Warehouse Operator means a person lawfully engaged in the business of storing or handling agricultural products.

§ 735.4 Fees.

(a) Warehouse operators, licensees, applicants or providers must pay:

(1) An annual fee as provided in the applicable licensing or provider agreement.

(2) Fees that FSA assesses for examinations and audits.

(b) The schedule showing the current fees or any annual fee changes will be provided as an addendum to the applicable licensing or provider agreement or is available at:

(1) DACO's USWA website, or

(2) May be requested at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, D.C. 20250–0550.

(c) At the sole discretion of DACO, these fees may be waived.

§ 735.5 Penalties.

If a person fails to comply with any requirement of the Act, the regulations set forth in this part or any applicable licensing or provider agreement, DACO may assess after an opportunity for a hearing as provided in § 735.8, a civil penalty:

(a) Of not more than $25,000 per violation, if an agricultural product is not involved in the violation; or

(b) Of not more than 100 percent of the value of the agricultural product, if an agricultural product is involved in the violation.

§ 735.6 Suspension and revocation.

(a) DACO may, after an opportunity for a hearing as provided in § 735.8, suspend or revoke any license or agreement issued under the Act, for any violation of or failure to comply with any provision of the Act, regulations or any applicable licensing or provider agreement.

(b) The reasons for a suspension or revocation under this part include, but are not limited to:

(1) Failure to perform licensed or approved services as provided in this part or in the applicable licensing or provider agreement;

(2) Failure to maintain minimum financial requirements as provided in the applicable licensing or provider agreement; and

(3) Failure to submit a proper annual financial statement within the established time period as provided in the applicable licensing or provider agreement.

§ 735.7 Return of suspended or revoked license or provider agreement.

When a license issued to a warehouse operator or an agreement to a provider ends or is suspended or revoked by DACO, such license and applicable licensing agreement or provider agreement and certificate of approval must be immediately returned to DACO.

§ 735.8 Appeals.

(a) Any person who is subject to an adverse determination made under the Act may appeal the determination by filing a written request with DACO at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, D.C. 20250–0550.

(b) Any person who believes that they have been adversely affected by a determination under this part must seek review with DACO within twenty-one business days of such determination, unless provided with notice by DACO of a different deadline.

(c) Appeals procedure. The appeal process set forth in this part is applicable to all licensees and providers under any provision of the Act, regulations or any applicable licensing agreement as follows:

(1) DACO will notify the person in writing of the nature of the suspension or revocation action.

(2) The person must notify DACO of any appeal to its action within twenty-one business days.

(3) The appeal and request must state whether:

(i) A hearing is requested;

(ii) The person will appear in person at such hearing; or

(iii) Such hearing will be held by telephone.

(4) DACO will provide the person a written acknowledgment of their request to pursue an appeal.

(5) When a person requests an appeal and does not request a hearing DACO will allow that person:

(i) To submit in writing the reasons why they believe DACO's determination to be in error.

(ii) Twenty-one business days from the receipt of the acknowledgment, to file any statements and documents in support of their appeal.

(iii) An additional fifteen business days to respond to any new issues raised by DACO in response to the person's initial submission.

(6) If the person requests to pursue an appeal and requests a hearing, DACO will:

(i) Notify the person of the date of the hearing.

(ii) Determine the location of the hearing, when such a person requests to appear in person.

(iii) Notify the person of the location of the hearing.

(iv) Afford the person twenty-one business days from the receipt of the notification of the scheduling of the hearing to submit any statements and documents in support of the appeal.

(v) Allow the person an additional fifteen days from the date of the hearing to submit any additional material.

(7) Determinations of DACO will be final and no further appeal within USDA will be available except as may be specified in the final determination of DACO.

(8) A person may not initiate an action in any court of competent jurisdiction prior to the exhaustion of the administrative appeal process set forth in this section.

§ 735.9 Dispute resolution and arbitration of private parties.

(a) Any claim for noncompliance or unresolved dispute between a warehouse operator or provider and another party with respect to activities authorized under the Act may be resolved by the parties involved through mutually agreed upon arbitration procedures or as may be prescribed in the applicable licensing agreement. The arbitration procedures must be nondiscriminatory and provide each party equal access and protection relating to the disputed issue. No arbitration determination or award will affect DACO's authority under this part.

(b) In the event a party requests arbitration assistance from DACO the initiating party will be responsible for all costs incurred by DACO.

§ 735.10 Posting of license, certificate of approval or other USWA documents.

(a) The warehouse operator must post, in a conspicuous place in the principal place where warehouse receipts are issued, a statement approved by DACO that the warehouse operator is an approved licensee under the Act.

(b) Immediately upon receipt of their service license or any modification or extension thereof under the Act, the licensee and warehouse operator must jointly post the same, and thereafter, except as otherwise provided in the regulations in this part or as prescribed in the applicable licensing agreement, and keep such license conspicuously posted in the office where all or most of the services are done, or in such place as may be designated by FSA.

§ 735.11 Lost or destroyed licenses or agreements.

FSA will replace a lost or destroyed license or agreement upon satisfactory proof of loss or destruction. FSA will mark such license or agreement as a duplicate.

§ 735.12 Safe keeping of records.

Each warehouse operator or provider must store all records, books, and papers pertaining to the licensed warehouse or provider system in a fireproof safe, vault, compartment or other place approved by FSA in which to keep such documents when not in actual use.

§ 735.13 Information of violations.

Every person licensed or approved under the Act must immediately furnish DACO any information which comes to the knowledge of such person that indicates that any provision of the Act or the regulations in this part has been violated.

§ 735.14 Bonding and other financial assurance requirements.

(a) As a condition of receiving a license or approval under the Act, the person applying for the license or approval must execute and file with DACO a bond, or provide such other financial assurance as DACO determines appropriate, to secure the person's compliance with the Act.

(b) Such bond or assurance must be for a period of not less than one year and in such amount as required by DACO.

(c) Failure to provide for, or renew, a bond or a financial assurance instrument will result in the immediate and automatic revocation of the warehouse operator's license or provider's agreement.

(d) If DACO determines that a previously approved bond or other financial assurance is insufficient, DACO may immediately suspend or revoke the license or approval covered by the bond or other financial assurance if the person that filed the bond or other financial assurance does not provide such additional bond or other financial assurance as DACO determines appropriate.

(e) To qualify as a suitable bond or other financial assurance, the entity issuing the bond or other financial assurance must be subject to service of process in suits on the bond or other financial assurance in the State in which the warehouse is located.

Subpart B—Warehouse Licensing

§ 735.100 Application.

(a) An applicant for a license must submit to DACO information and documents determined by DACO to be sufficient to determine that the applicant can comply with the provisions of the Act. Such documents must include a current review or an audit level financial statement prepared according to generally accepted accounting standards as defined by the American Institute of Certified Public Accountants, and for any entity that is not an individual, a current copy of each applicable organization document that establishes proof of the existence of the entity, such as:

For a Partnership	Executed partnership agreement.
For a Corporation	(1) Articles of incorporation certified by the secretary of state of the applicable state of incorporation; (2) By-laws; and (3) Declaration of Corporate Principal.
For a Limited Partnership.	(1) Executed limited partnership agreement.
For a Limited Liability Company.	(1) Articles of Organization or similar documents; and (2) Operating Agreement or similar agreement.

(b) The warehouse facilities of an operator licensed under the Act must, as determined by DACO, be:

(1) Physically and operationally suitable for proper storage of the applicable agricultural product or agricultural products specified in the license;

(2) Operated according to generally accepted warehousing practices in the industry for the applicable agricultural product or agricultural products stored in the facility; and

(3) Subject to the control of the warehouse operator including all contiguous storage space with respect to such facilities.

(c) As specified in individual licensing agreements a warehouse operator must:

(1) Meet the basic financial requirements determined by DACO; and

(2) Meet the net worth requirements determined by DACO;

(d) In order to obtain a license, the warehouse operator must correct any exceptions made by the warehouse examiner at the time of the original warehouse examination.

(e) DACO may issue a license for the storage of two or more agricultural products in a single warehouse as provided in the applicable licensing agreements. The amount of the bond or financial assurance, net worth, and inspection and license fees will be determined by DACO in accordance with the licensing agreements applicable to the specific agricultural product, based upon the warehouses' total capacity storing such product, which would require:

(1) The largest bond or financial assurance;

(2) The greatest amount of net worth; and

(3) The greatest amount of fees.

§ 735.101 Financial records and reporting requirements.

(a) Warehouse operators must maintain complete, accurate, and current financial records that must be available to DACO for review or audit at DACO's request as may be prescribed in the applicable licensing agreement.

(b) Warehouse operators must, annually, present a financial statement as may be prescribed in the applicable licensing agreement to DACO.

§ 735.102 Financial assurance requirements.

(a) Warehouse operators must file with DACO financial assurances approved by DACO consisting of:

(1) A warehouse operator's bond; or

(2) Obligations that are unconditionally guaranteed as to both interest and principal by the United States, in a sum equal at their par value to the amount of the bond otherwise required to be furnished, together with an irrevocable power of attorney authorizing DACO to collect, sell, assign

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and transfer such obligations in case of any default in the performance of any of the conditions required in the licensing agreement; or

(3) An irrevocable letter of credit issued in the favor of DACO with a term of not less than two years; or

(4) A certificate of participation in, and coverage by, an indemnity or insurance fund as approved by DACO, established and maintained by a State, backed by the full faith and credit of the applicable State, which guarantee's depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouse operator under the terms of the Act. If a warehouse operator files a bond or financial assurance in the form of a certification of participation in an indemnity or insurance fund, the certification may only be used to satisfy any deficiencies in assets above the minimum net worth requirement as prescribed in the applicable licensing agreement. A certificate of participation and coverage in this fund must be furnished to DACO annually; or

(5) Other forms of financial assurance as may be approved by DACO as provided in the applicable licensing agreement.

(b) The warehouse operator may not withdraw obligations required under this section until one year after license termination or until satisfaction of any claims against the obligations whichever is later.

§ 735.103 Amendments to license.

The FSA will issue an amended license upon:

(a) Receipt of forms prescribed and furnished by DACO outlining the requested changes to the license;

(b) Payment of applicable licensing and examination fees;

(c) Receipt of bonding or other financial assurance if required in the applicable licensing agreement; and

(d) Receipt of a report on the examination of the proposed facilities pending inclusion or exclusion, if determined necessary by DACO.

§ 735.104 Insurance requirements.

Each warehouse operator must comply fully with the terms of insurance policies or contracts covering their licensed warehouse and all products stored therein, and must not commit any acts, nor permit others to do anything, which might impair or invalidate such insurance.

§ 735.105 Care of agricultural products.

Each warehouse operator must at all times, including during any period of suspension of their license, exercise such care in regard to agricultural products in their custody as required in the applicable licensing agreement.

§ 735.106 Excess storage and transferring of agricultural products.

(a) If at any time a warehouse operator stores an agricultural product in a warehouse subject to a license issued under the Act in excess of the capacity for which it is licensed, such warehouse operator must immediately notify DACO of such excess storage and the reason for the storage.

(b) A warehouse operator who desires to transfer stored agricultural products to another warehouse may do so either by physical movement, or by other methods as may be provided in the applicable licensing agreement.

§ 735.107 Warehouse charges and tariffs.

(a) A warehouse operator will not make any unreasonable or exorbitant charge for services rendered.

(b) A warehouse operator must follow the terms and conditions for each new or revised warehouse tariff or schedule of charges as prescribed in the applicable licensing agreement.

§ 735.108 Inspections and examinations of warehouses.

Warehouse operators must permit any agent of the Department, to enter and inspect or examine, on any business day during the usual hours of business, any licensed warehouse, the offices of the warehouse operator, the books, records, papers, and accounts.

§ 735.109 Disaster loss to be reported.

If at any time a disaster or loss occurs at or within any licensed warehouse, the warehouse operator must report immediately the occurrence of the disaster or loss and the extent of damage, to DACO.

§ 735.110 Conditions for delivery of agricultural products.

(a) In the absence of a lawful excuse, a warehouse operator will, without unnecessary delay, deliver the agricultural product stored or handled in the warehouse on a demand made by:

(1) The holder of the warehouse receipt for the agricultural product; or

(2) The person that deposited the product, if no warehouse receipt has been issued.

(b) Prior to delivery of the agricultural product, payment of the accrued charges associated with the storage of the agricultural product, including satisfaction of the warehouse operator's lien, if owed, must be made if requested by the warehouse operator.

(c) When the holder of a warehouse receipt requests delivery of an agricultural product covered by the warehouse receipt, the holder must surrender the warehouse receipt to the warehouse operator, in the manner prescribed by DACO, to obtain the agricultural product.

(d) A warehouse operator must cancel each warehouse receipt returned to the warehouse operator upon the delivery of the agricultural product for which the warehouse receipt was issued.

(e) For the purpose of this part, unless prevented from doing so by force majeure, a warehouse operator will deliver or ship such agricultural products stored or handled in their warehouse as prescribed in the applicable licensing or provider agreement.

§ 735.111 Fair treatment.

(a) Contingent upon the capacity of a warehouse, a warehouse operator will deal, in a fair and reasonable manner, with persons storing, or seeking to store, an agricultural product in the warehouse if the agricultural product—

(1) Is of the kind, type, and quality customarily stored or handled in the area in which the warehouse is located;

(2) Is tendered to the warehouse operator in a suitable condition for warehousing; and

(3) Is tendered in a manner that is consistent with the ordinary and usual course of business.

(b) Nothing in this section will prohibit a warehouse operator from entering into an agreement with a depositor of an agricultural product to allocate available storage space.

§ 735.112 Terminal and futures contract markets.

(a) DACO may issue service licenses to weigh masters or their deputies to perform services relating to warehouse receipts which are deliverable in satisfaction of futures contracts in such contract markets or as may be prescribed in any applicable licensing agreement.

(b) DACO may approve, as registrar of warehouse receipts issued for an agricultural product in a warehouse licensed under the Act which operates in any terminal market or in any futures contract market, the official designated by officials of the State in which such market is located if such individual is not:

(1) An owner or employee of licensed warehouse;

(2) The owner of, or an employee of the owner of, such agricultural product deposited in any such licensed warehouse; or

(3) As may be prescribed in any applicable licensing or provider agreement.

Subpart C—Inspectors, Samplers, Classifiers, and Weighers

§ 735.200 Service licenses.

(a) FSA may issue to a person a license for:—

(1) Inspection of any agricultural product stored or handled in a warehouse subject to the Act;

(2) Sampling of such an agricultural product;

(3) Classification of such an agricultural product according to condition, grade, or other class and certify the condition, grade, or other class of the agricultural product;

(4) Weighing of such an agricultural product and certify the weight of the agricultural product; or

(5) Performing two or more services specified in paragraphs (a)(1), (2), (3) or (4) of this section.

(b) Each person seeking a license to perform activities described in this section must submit an application on forms furnished by DACO which contain, at a minimum, the following information:

(1) The name, location and license number of the warehouses where the applicant would perform such activities;

(2) A statement from the warehouse operator that the applicant is authorized to perform such activities at these locations; and

(3) Evidence that the applicant is competent to inspect, sample, classify, according to grade or weigh the agricultural product;

§ 735.201 Inspection certificate; form.

Each inspection certificate issued under the Act by a licensee to perform such services must be on a form prescribed by DACO.

§ 735.202 Standards of grades for other agricultural products.

Official standards of the United States for any kind, class or grade of an agricultural product to be inspected must be used if such standards exist. Until official standards of the United States are fixed and established for the kind of agricultural product to be inspected, the kind, class and grade of the agricultural product must be stated, subject to the approval of DACO. If such standards do not exist for such an agricultural product, the following will be used:

(a) State standards established in the State in which the warehouse is located,

(b) In the absence of any State standards, in accordance with the standards, if any, adopted by the local board of trade, chamber of commerce, or by the agricultural product trade generally in the locality in which the warehouse is located, or

(c) In the absence of the standards set forth in paragraphs (a) and (b) of this section, in accordance with any standards approved for the purpose by DACO.

Subpart D—Warehouse Receipts

§ 735.300 Warehouse receipt requirements.

(a) Warehouse receipts may be:

(1) Negotiable or non-negotiable; and

(2) In a paper or electronic format, which besides complying with the requirements of the Act, must be in a format approved by DACO.

(b) At the request of a depositor of an agricultural product stored or handled in a warehouse licensed under the Act, the warehouse operator:

(1) Will issue a warehouse receipt to the depositor;

(2) May not issue a warehouse receipt for an agricultural product unless the agricultural product is actually stored in their warehouse at the time of issuance;

(3) May not issue a warehouse receipt until the quality, condition and weight of such an agricultural product is ascertained by a licensed inspector and weigher;

(4) May not directly or indirectly compel or attempt to compel the depositor to request the issuance of a warehouse receipt omitting the statement of quality or condition;

(5) Must, when issuing a warehouse receipt and purposely omits any information for which a blank or field is provided in the form, notate the blank to show such intent;

(6) May not deliver any portion of an agricultural product for which they have issued a negotiable warehouse receipt until the warehouse receipt has been returned to them and canceled;

(7) May not deliver an agricultural product for which they have issued a non-negotiable warehouse receipt until such warehouse receipt has been returned or the depositor or the depositor's agent has provided a written order for the agricultural product and the warehouse receipt upon final delivery; and

(8) Must deliver, upon proper presentation of a warehouse receipt for any agricultural product, and payment or tender of all advances and charges, to the depositor or lawful holder of such warehouse receipt the agricultural product of such identity, quantity, quality and condition as set forth in such warehouse receipt.

(c) In the case of a lost or destroyed warehouse receipt, a new warehouse receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the original warehouse receipt may be issued.

§ 735.301 Notification requirements.

Warehouse operators must file with DACO the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouse operator, and will promptly notify DACO of any changes with respect to persons authorized to sign.

§ 735.302 Electronic warehouse receipts.

(a) Warehouse operators licensed under the Act have the option of issuing Electronic Warehouse Receipts (EWRs) instead of paper warehouse receipts for the agricultural product stored in their warehouse. Warehouse operators licensed under the Act must:

(1) Only issue EWRs through a provider whom FSA has approved;

(2) Inform DACO of the identity of their provider, when they are a first time user of EWRs, 60 calendar days in advance of issuing an EWR through that provider. DACO may waive or modify this 60-day requirement as set forth in § 735.2(b);

(3) Before issuing an EWR, request and receive from FSA a range of consecutive warehouse receipt numbers which the warehouse will use consecutively for issuing their EWRs;

(4) When using an approved provider, issue all warehouse receipts initially as EWRs;

(5) Cancel an EWR only when they are the holder of the warehouse receipt;

(6) Correct information on the EWR only with written notification to the provider;

(7) Receive written approval from FSA at least 30 calendar days before changing providers. Upon approval they may request their current provider to transfer their EWR data from its Central Filing System (CFS) to the CFS of the approved provider whom they select. Warehouse operators may only change providers once a year; and

(8) Notify all holders of EWRs by inclusion in the CFS at least 30 calendar days before changing providers, unless otherwise required or allowed by FSA.

(b) An EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt, and possesses the following attributes:

(1) The person identified as the 'holder' of an EWR will be entitled to the same rights and privileges as the holder of a paper warehouse receipt;

(2) Only the current holder of the EWR may transfer the EWR to a new holder;

(3) The identity of the holder must be included as additional information for every EWR;

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(4) An EWR may only designate one entity as a holder at any one time;

(5) An EWR may not be issued for a specific identity-preserved or commingled agricultural product lot if another warehouse receipt representing the same specific identity-preserved or commingled lot of the agricultural product is outstanding. No two warehouse receipts issued by a warehouse operator may have the same warehouse receipt number or represent the same agricultural product lot;

(6) An EWR may only be issued to replace a paper warehouse receipt if requested by the current holder of the paper warehouse receipt;

(7) Holders and warehouse operators may authorize any other user of their provider to act on their behalf with respect to their activities with this provider. This authorization must be in writing, and acknowledged and retained by the provider; and

(8) A depositor or current EWR holder may request a paper warehouse receipt in lieu of an EWR.

(c) A warehouse operator not licensed under the Act may, at the option of the warehouse operator, issue EWRs in accordance with this subpart, except this option does not apply to a warehouse operator that is licensed under State law to store agricultural products in a warehouse if the warehouse operator elects to issue an EWR under State law.

Subpart E—Electronic Providers

§ 735.400 Administration

This subpart sets forth the regulations under which DACO may approve one or more electronic systems under which:

(a) Electronic documents relating to the shipment, payment, and financing of the sale of agricultural products may be issued or transferred; or

(b) Electronic receipts may be issued and transferred.

§ 735.401 Electronic warehouse receipt and USWA electronic document providers.

(a) Application for a provider agreement to establish a system to issue and transfer EWR's and USWA electronic document's may be made to FSA upon forms prescribed and furnished by DACO. Each provider operating pursuant to this section must meet the following requirements:

(1) Have and maintain a net worth of at least $100,000;

(2) Maintain two insurance policies; one for 'errors and omissions' and another for 'fraud and dishonesty'. Maximum deductible amounts will be prescribed in the applicable provider agreement. Each policy must have a minimum coverage of $4 million. Each policy must contain a clause requiring written notification to FSA 30 days prior to cancellation;

(3) Meet any additional financial requirements as set forth in the applicable provider agreement.

(4) Pay user fees annually to FSA, as set and announced annually by FSA prior to April 1 of each calendar year.

(b) The provider agreement will contain, but not be limited to, the following basic elements:

(1) Minimum document and warehouse receipt requirements;

(2) Liability;

(3) Transfer of records;

(4) Records;

(5) Conflict of interest requirements;

(6) USDA common electronic information requirements;

(7) Terms of insurance policies or assurances;

(8) Provider's integrity statement;

(9) Security audits; and

(10) Submission, approval, use and retention of documents.

(c) DACO may suspend or terminate a provider's agreement for cause at any time.

(1) Hearings and appeals will be conducted in accordance with procedures as set forth in §§ 735.6 and 735.8.

(2) Suspended or terminated providers may not execute any function pertaining to USWA documents or EWRs during the pendency of any appeal or subsequent to this appeal if the appeal is denied except as authorized by DACO.

(3) The provider or DACO may terminate the provider agreement without cause solely by giving the other party written notice 60 calendar days prior to termination.

(d) Each provider agreement will be automatically renewed annually on April 30th as long as the provider complies with the terms contained in the provider agreement, the regulations in this subpart and the Act.

§ 735.402 Providers of other electronic documents.

(a) Application for a provider agreement to establish a system to issue and transfer other electronic documents may be made to FSA upon forms prescribed and furnished by DACO. Each provider operating pursuant to this section must meet the following requirements:

(1) Have and maintain a net worth of at least $10 million;

(2) Maintain two insurance policies; one for 'errors and omissions' and another for 'fraud and dishonesty'. Maximum deductible amounts will be prescribed in the applicable provider agreement. Each policy must have a minimum coverage of $25 million. Each policy must contain a clause requiring written notification to FSA 30 days prior to cancellation;

(3) Meet any additional financial requirements as set forth in the applicable provider agreement; and

(4) Pay user fees annually to FSA, as set and announced annually by FSA prior to April 1 of each calendar year.

(b) The provider agreement will contain, but not be limited to, the following basic elements:

(1) Minimum document requirements;

(2) Liability;

(3) Transfer of records;

(4) Records;

(5) Conflict of interest requirements;

(6) USDA common electronic information requirements;

(7) Terms of insurance policies or assurances;

(8) Provider's integrity statement;

(9) Security audits; and

(10) Approval, use and retention of documents.

(c) DACO may suspend or terminate a provider's agreement for cause at any time.

(1) Hearings and appeals will be conducted in accordance with procedures as set forth in §§ 735.6 and 735.8.

(2) Suspended or terminated providers may not execute any function pertaining to any electronic document during the pendency of any appeal or subsequent to this appeal if the appeal is denied except as authorized by DACO.

(3) The provider or DACO may terminate the provider agreement without cause solely by giving the other party written notice 60 calendar days prior to termination.

(d) Each provider agreement will be automatically renewed annually on April 30th as long as the provider complies with the terms contained in the provider agreement, the regulations in this subpart and the Act.

(e) In addition to audits prescribed in this section the provider must submit a copy of any audit, examination or investigative report prepared by any Federal governmental regulatory agency with respect to the provider including agencies such as, but not limited to, the Comptroller of the Currency, Department of the Treasury, the Federal Trade Commission, and the Commodity Futures Trading Commission.

§ 735.403 Audits.

(a) No later than 120 days following the end of the provider's fiscal year, the provider approved under §§ 735.401 and 735.402 must submit to FSA an annual audit level financial statement and an electronic data processing audit that meets the minimum requirements as provided in the applicable provider agreement. The electronic data processing audit will be used by DACO to evaluate current computer operations, security, disaster recovery capabilities of the system, and compatibility with other systems approved by DACO.

(b) Each provider will grant the Department unlimited, free access at any time to all records under the provider's control relating to activities conducted under this part and as specified in the applicable provider agreement.

§ 735.404 Fees.

(a) A provider approved under §§ 735.401 or 735.402 must furnish FSA with copies of its current schedule of fees for all services and charges as they become effective.

(b) Fees charged any user by the provider must be in effect for a minimum period of one year.

(c) Providers must furnish the FSA and all users a 60-calendar day advance notice of their intent to change any fee.

§ 735.405 Choice of law.

All disputes arising under any transaction conducted through the use of a provider approved under § 735.402 shall be determined by the application of the laws of New York State except that the laws of New York relating to the legal doctrines of the choice of law and determination of venue shall not be applicable.

2. Parts 736 through 742 are removed and reserved.

Note: The following exhibits A through F are being published for informational purposes and they will not become part of the codified regulations.

Signed at Washington, D.C., on August 24, 2001.

Carolyn B. Cooksie,

Acting Administrator, Farm Service Agency.

Exhibit A—Draft

License Number_____

Effective_____

Licensing Agreement for Cotton

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Licensing Agreement for Cotton

As a condition of licensing under the United States Warehouse Act (the Act), the warehouse operator agrees to the conditions set forth in this agreement and the regulations found at 7 CFR 735:

I. Definitions

Current assets. Assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

Current liabilities. Those financial obligations which are expected to be satisfied during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

Licensed sampler, classifier and weigher. A person licensed under the Act to sample, classify and/or weigh and certificate the grade or other class and weight of cotton stored at a cotton warehouse licensed under the Act.

Net Worth. When liabilities are subtracted from allowable assets, it is the balance amount. In determining allowable assets, credit may be given for appraisal of real property less improvements and for the appraisal of insurable property such as buildings, machinery, equipment, and merchandise inventory only to the extent that such property is protected by insurance against loss or damage by fire, lightning, and other risk. Such insurance must be in the form of lawful insurance policies issued by insurance companies authorized to do such business and subject to service of process in the State in which the warehouse is located. The Farm Service Agency will determine what assets are allowable and under what conditions appraisals may be used.

II. Financials

A. Financial Requirements

1. The warehouse operator agrees to have and maintain:

a. Total net worth of at least the amount obtained by multiplying $10.00 by the maximum number of bales that the warehouse accommodates when stored in the manner customary to the warehouse as determined by the Farm Service Agency; however, no person may be licensed or remain licensed as a warehouse operator unless that person has allowable net worth of at least $25,000.00 (Any deficiency in net worth above the $25,000.00 minimum may be supplied by an increase in the amount of the financial assurance). The maximum total allowable net worth required need not exceed $250,000.00.

b. Total allowable current assets equal to or exceeding total current liabilities or evidence acceptable to the Farm Service Agency that funds will be and remain available to meet current obligations.

2. If a warehouse operator is licensed or is applying for licenses to operate two or more warehouses, the maximum capacity of all licensed warehouses, as determined by the Farm Service Agency, will be the capacity considered in determining whether the warehouse operator meets the net worth requirements.

B. Financial Reporting

1. The warehouse operator agrees to provide annually, within 90 days of the fiscal year end, or more frequently if required, to the Farm Service Agency, financial statements from the warehouse operators records prepared according to generally accepted accounting principles. The Farm Service Agency may grant one 30 day extension to provide a financial statement.

2. These financial statements must include but not be limited to:

a. Balance sheet,

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b. Statement of income (profit and loss),
c. Statement of retained earnings, and
d. Statement of cash flows.

3. An authorized representative for the warehouse operator must certify under penalty of perjury that the statements, as prepared, accurately reflect the financial condition of the warehouse operator as of the date designated and fairly represent the results of operations for the period designated.

4. The warehouse operator must have the financial statements required audited or reviewed by a certified public accountant or an independent public accountant. Audits and reviews by independent certified public accountants and independent public accountants must be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on this statement, must be furnished along with the financial statements. The Farm Service Agency may also require an on-site examination and an audit by an authorized officer or agent of the United States Department of Agriculture and request other pertinent information.

C. Accepting Other Financial Statements

1. Financial statements of a parent company which separately identify the financial position of the warehouse operator as a wholly owned subsidiary and which meet the basic requirements of financial statements, may be accepted by the Farm Service Agency in lieu of the warehouse operator meeting such requirements.

2. Guaranty agreements from a parent company submitted on behalf of a wholly owned subsidiary may be accepted by the Farm Service Agency as meeting the basic requirements of financial statements if the parent company submits a financial statement which meets the financial requirements and financial reporting requirements.

D. Special Cases: Assets and Liabilities

Subject to such terms and conditions as the Farm Service Agency may prescribe and for the purposes of determining allowable assets and liabilities, appraisals of the value of fixed assets in excess of the book value claimed in the financial statement submitted by a warehouse operator to conform with the requirements may be allowed if:

1. Prepared by independent appraisers acceptable to the Farm Service Agency, and

2. The assets are fully insured against casualty loss.

E. Financial Special Conditions—Public Debt Obligations

The warehouse operator agrees that if they file a bond in the form of either a deposit of public debt obligations of the United States or other obligations which are unconditionally guaranteed as to both interest and principal by the United States:

1. The obligation deposited will *not* be considered a part of the warehouse operator's asset.

2. A deficiency in total allowable net worth as computed may be offset by the licensed warehouse operator furnishing acceptable financial assurance for the difference;

3. The deposit may be replaced or continued in the required amount from year to year; and

4. The deposit will not be released until one year after cancellation or revocation of the license that it supports or until satisfaction of any claim against the deposit, whichever is later.

III. Financial Assurance

A. Financial Assurance Requirements Computation

The warehouse operator agrees:

1. To furnish financial assurance computed at the rate of ten dollars ($10.00) per bale for the maximum number of bales that the warehouse accommodates when stored in the manner customary to the warehouse as determined by the Farm Service, but not less than twenty-five thousand dollars ($25,000.00) nor more than two hundred fifty thousand dollars ($250,000.00).

2. When applying for licenses to operate two or more warehouses in the same State, or multiple states, and at the warehouse operator's election, they may provide financial assurance meeting the requirements of the Act and the regulations to cover all these warehouses within the multiple states and the maximum of two hundred fifty thousand dollars ($250,000.00) of financial assurance will apply for each State covered.

3. In case of a deficiency in net worth above the twenty-five thousand dollars ($25,000.00) minimum required, to add to the amount of financial assurance determined in accordance with paragraph (1) of this section an amount equal to that deficiency. If a letter of credit is used for the amount of the deficiency, it must be issued for a period of not less than two years to coincide with the period of any deposit of obligations. Any letter of credit must be clean, irrevocable, issued by a commercial bank payable to the Farm Service Agency by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation. The deposit will not be considered an asset of the company.

4. If the Farm Service Agency finds that conditions exist which warrant requiring additional financial assurance, to add to the amount of financial assurance a further amount to meet such conditions.

B. Financial Assurance—Acceptable Forms

The warehouse operator may offer as financial assurance any of the following:

1. A warehouse operators bond, or

2. In the form of a deposit with the Farm Service Agency, United States bonds, United States Treasury notes, or other public debt obligations of the United States or obligations that are unconditionally guaranteed as to both interest and principal by the United States, or

3. In the form of a letter of credit issued to the Agency for a period of not less than two years to coincide with the period of any deposit of obligations, or

4. In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Farm Service Agency, established and maintained by a State, backed by the full faith and credit of the applicable State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouse operator under the terms of the Act and regulations, or

5. Other forms of financial assurance as may be prescribed in the applicable licensing agreement and related addenda deemed acceptable by the Farm Service Agency.

IV. Duties of Warehouse Operator

A. General

The warehouse operator agrees to:

1. At all times exercise such care in regard to cotton in custody as a reasonably careful owner would exercise under the same circumstances and conditions and not handle or store it in a manner that would damage or degrade it.

2. To not differentiate among depositors regarding use of and access to services, except that available storage space may be allocated.

3. If handling non-licensed cotton, to keep it separate in storage from the licensed cotton.

4. Upon acceptance of baled cotton for storage, immediately attach (if not already present) an identification tag of a quality approved by Farm Service Agency. These tags will contain a number, be attached in an orderly manner and clearly distinguishable from one another.

5. Not accept for storage any bale of cotton that is excessively wet. Fire damaged cotton is not to be stored in contact with cotton that has not been so damaged.

6. Keep the warehouse reasonably clean at all times and free of loose cotton, except in containers separate and apart from other cotton and provide a safe environment in and around the warehouse and provide all necessary assistance in the execution of inspections and examinations by representatives of the Farm Service Agency.

7. Unless prevented from doing so by force majeure, to deliver stored cotton without unnecessary delay. A warehouse operator will be considered to have delivered cotton without unnecessary delay, if for the week in question, the warehouse operator has delivered or staged for scheduled delivery at least 4.5 percent of either their licensed storage capacity or Commodity Credit Corporation-approved storage capacity or other storage capacity as determined by the Farm Service Agency to be in effect during the relevant week of shipment.

8. To resolve any claim for noncompliance with the cotton shipping standard through established industry, professional, or mutually agreed upon arbitration procedures. The arbitration procedures will be nondiscriminatory and provide each person equal access and protection relating to the cotton shipping standard.

9. License all facilities controlled by them at a specific location, unless those facilities are specifically exempted by the Farm Service Agency.

B. Insurance

1. *Requirements.* The warehouse operator agrees to:

a. Secure, in their own name, insurance on stored cotton against loss or damage by fire, lightning, and other risk under forms of policies which automatically attach for the full replacement value of stored cotton, as soon as such cotton is placed in their legal custody, and continue such insurance in effect so long as the cotton remains in their legal custody. The warehouse operator also agrees to keep a general insurance account showing the policy number, issuing company, amount binding, and expiration dates of all insurance policies and in each instance show the property covered by such policies. This insurance will be lawful policies issued by one or more insurance companies. The warehouse operator must submit such reports to underwriters as may be required under the terms of such policies, and submit copies of such reports to the Farm Service Agency as required.

b. Show, in the tariff to be posted at all delivery points, the conditions under which the cotton will be insured against loss or damage by fire, lightning, and other risk.

c. Require that the warehouse operator's insurance company give 30 days advance notice to the Farm Service Agency of intent to cancel the stock (inventory) coverage.

C. Records To Be Kept in a Safe Place

The warehouse operator agrees to:

1. Provide a fireproof safe, a fireproof vault, or a fireproof compartment in which to keep, when not in use, all records, books, and papers pertaining to the licensed warehouse, including a current warehouse receipt book, copies of warehouse receipts issued, and canceled warehouse receipts or microfilm copies of canceled receipts, except that, with the written consent of the Farm Service Agency, upon a showing by the warehouse operator that it is not practicable to provide such fireproof safe, vault, or compartment, may keep such records, books, and papers in some other place of safety, approved by the Farm Service Agency.

2. Retain each canceled receipt for a period of six years after December 31 of the year in which the warehouse receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending, or as may be required by the Farm Service Agency in particular cases to carry out the purposes of the Act.

3. Arrange canceled warehouse receipts in numerical order and otherwise in such manner as may be directed, for purposes of audit, by authorized officers or agents of the United States Department of Agriculture and the Farm Service Agency.

D. Scales and Weighing

The warehouse operator agrees to:

1. Be equipped with suitable scales in good order, and so arranged that all cotton can be weighed in and out, if required, of the warehouse. The scales in any warehouse must be subject to examination by authorized officers or agents of the United States Department of Agriculture and to disapproval by the Farm Service Agency. If disapproved, any weighing apparatus must not thereafter be used in ascertaining the weight of cotton for the purposes of this Act, until such disapproval is withdrawn.

2. Weigh, by a weigher licensed under the authority of the United States Warehouse Act, the cotton that comes into the warehouse unless warehouse weights are established at the gin. These weights must be certified by the licensed weigher.

3. Assume full responsibility for the weights established at the gin for warehouse receipt purposes. In order to use these weights, the licensed warehouse must maintain control of the scales used to weigh cotton. They must be inspected and certified as accurate by a State agency or a qualified scale company and a copy of the inspection report must be maintained at the warehouse office for the warehouse examiner's review. The scale must be checked by the warehouse operator for accuracy on a routine basis. Point of origin weights may be used for single bale or lot stored cotton by agreement with the depositor. Any point of origin weights shown on a warehouse receipt will be the official warehouse bale or lot weight. Lot cotton tendered for storage on which a multiple bale warehouse receipt is issued must be maintained so as to preserve its individual and collective identity during storage and shipment, provided that if such lot is broken at the warehouse, for the issuance of new receipts, each bale will be weighed at the warehouse by a licensed weigher before single bale warehouse receipts are issued.

E. Warehouse Charges

The warehouse operator:

1. Must not make any unreasonable or exorbitant charge for services rendered.

2. Must, before a license to conduct a warehouse is granted under the Act, file, with the Farm Service Agency, a copy of their rules and a schedule of charges to be assessed depositors.

3. Must, at or before the beginning of each season, file an amended schedule of charges with Farm Service Agency along with the rules, if any, and of our schedule of charges for the ensuing season. The cotton season will commence not later than September 1 of each year, as the operator of the warehouse will select, and will notify Farm Service Agency in writing not less than 5 days preceding the date selected.

4. Must file an amended schedule, if making changes other than the beginning of the season, showing the contemplated changes will be filed with Farm Service Agency. No increase in the storage rate shown in such an amended schedule will apply to cotton in storage at the time the changes become effective.

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5. May demand payment of all accrued charges at the close of each cotton season. If, upon demand, the owner of the cotton refuses to pay such charges at the end of a season, action may be taken to enforce collection of its charges as is permitted by the laws of the State in which the warehouse is located.

F. Business Hours

The warehouse operator agrees to:

1. Be open for the purpose of receiving cotton for storage and delivering cotton out of storage and for settlement purposes every normal business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m. The warehouse operator must post their business hours at the public entrance to the office and to their licensed warehouse.

2. In case the warehouse is not to be kept open as required, state, in the posted notice, the period during which the warehouse is to be closed and the name, the address, and telephone number of the person who will be authorized to receive and deliver cotton stored in the warehouse.

G. System of Accounts

The warehouse operator agrees to:

1. Have and maintain a system of accounts approved for the purpose by the Farm Service Agency. These records must include:

a. Bale tag numbers,
b. Distinguishing mark or identifier,
c. Weight,
d. Class when required and/or ascertained,
e. Location in the warehouse,
f. Date received for storage,
g. Date delivered out of storage, and
h. Receipts issued and canceled.

2. Maintain a detailed set of records of money received and disbursed and, if applicable, all insurance policies taken out and canceled on request of each depositor. These records will be maintained accurately and concisely as activity occurs. The warehouse operator must retain these records for a period of six years after December 31 of the year in which they were created, and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending, or as may be required by the Farm Service Agency in particular cases to carry out the purposes of the Act.

H. Excess Storage and Transferring Cotton

The warehouse operator agrees that:

1. If at any time cotton stored in the warehouse exceeds the capacity for which the warehouse is licensed, the warehouse operator will immediately notify the Farm Service Agency of the fact and the location of excess storage.

2. If they desire to transfer, at their own expense, depositor cotton to another warehouse (receiving), the warehouse operator may do so.

a. The transferring (shipping) warehouse operator's accepted rules or schedule of charges must contain notice that the warehouse operator may transfer cotton according to conditions prescribed by the Farm Service Agency.

b. The warehouse operator must request permission in writing to the Farm Service Agency.

3. For purposes of transferring cotton, a receiving warehouse means a warehouse operated by a warehouse operator who holds an un-suspended, un-revoked cotton license under the Act, or a warehouse operated by a warehouse operator who holds an effective warehouse license for the public storage of cotton issued by a State that has financial, bonding and examination requirements for the benefit of all depositors or, in the case of warehouses operating in a State without licensing authorities, warehouses with an approved Cotton Storage Agreement with the Commodity Credit Corporation.

4. The shipping warehouse operator must transfer all identity-preserved cotton in lots and must list on a Bill of Lading all forwarded bales by receipt number and weight. The receiving warehouse operator will promptly issue a non-negotiable warehouse receipt for each lot of cotton stored and will attach a copy of the corresponding bill of lading to each receipt and return the receipt promptly to the shipping warehouse operator. The receiving warehouse operator will store each such lot intact, and will attach a header card to the lot showing the receipt number, number of bales, and a copy of the Bill of Lading with the individual tag numbers, marks, or identifiers to the stored lot. Such non-negotiable warehouse receipts issued for forwarded cotton will have printed or stamped diagonally in large bold outline letters across the face of the receipt the words: "NOT NEGOTIABLE."

5. The shipping warehouse operator's financial assurance will be increased to consider the addition of the transferred cotton to the licensed capacity of the warehouse with the net asset requirements based on the total of the licensed capacity and the forwarded cotton. The amount of financial assurance need not exceed $250,000.00 unless necessary to cover a deficiency in net worth. The receiving warehouse operator must not incur storage obligations that exceed the licensed or approved capacity of the receiving warehouse;

6. The shipping warehouse operator continues to retain storage obligations to the owners of all cotton deposited in the warehouse for storage whether forwarded or retained and is, except as otherwise agreed upon under paragraph (g) of this section.

7. The owner of cotton deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the cotton was first deposited for storage, unless the owner of the cotton, with the consent of both the shipping warehouse operator and the receiving warehouse operator, elects to take delivery at the warehouse to which cotton was transferred under this section.

8. Nothing in this section diminishes the right of the owner of the cotton to receive or the obligation of the warehouse operator of a licensed warehouse from which the product is transferred, to deliver to the owner the same cotton, identity preserved, called for by the warehouse receipt or other evidence of storage;

9. Recording and retention of non-negotiable warehouse receipts received as a result of forwarding cotton under this section will be subject to the requirements for warehouse receipts specified elsewhere in these regulations; and

10. If it is the shipping warehouse operator's obligation by terms of the warehouse receipt or otherwise to insure the cotton subject to the transfer, they must keep such cotton insured in their own name or transfer the cotton only to a warehouse where the cotton is fully insured

11. A receiving warehouse operator must not transfer or offset to another warehouse, in any manner, their obligation to the shipping warehouse operator.

I. Reports Required

The warehouse operator agrees to:

1. When requested by the Farm Service Agency, make such reports, on forms prescribed and furnished for the purpose by the Farm Service Agency, concerning the condition, contents, operation, and business of the warehouse.

2. Keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted.

J. Inspections, Examinations of Warehouse

The warehouse operator agrees to permit any officer or agent of the United States Department of Agriculture, authorized by the Farm Service Agency, to enter and inspect or examine on any business day during the usual hours of business, any warehouse for which they hold a license, the office, the books, records, papers, and accounts relating, and the contents thereof and will furnish that officer or agent the assistance necessary to enable making any inspection or examination.

K. Arrangement of Stored Cotton

The warehouse operator agrees to:

1. Store each bale of cotton for which a receipt under the Act has been issued in a manner acceptable to Farm Service Agency.

2. For cotton tendered for storage, by any one depositor, of the same grade and staple in such quantity that efficiency of operation dictates that such cotton should be stored in a lot or lots without regard to visibility of all tags on all bales within any lot, may store such cotton in lots if each lot originally contained two or more bales. If a negotiable multiple bale receipt is issued each bale entering into a lot must bear an individual bale identification, and must be stored so that the number of bales within the lot may be accurately determined.

3. For lot cotton, an individual lot identification tag showing the lot number and the number of bales in the lot to each lot of cotton will be affixed. An office record showing the bale or tag number, mark, or identifier of each bale in the lot and the location of the lot in the warehouse will be maintained. Each lot will be so arranged as to be readily distinguishable from each and every other lot. When requested by a proper representative of Farm Service Agency engaged in making an examination of the warehouse, stacks or lots of cotton, as the examiner deems necessary to a proper examination, will be torn or broken down at the warehouse operator's expense.

4. Block piling of cotton for which single bale receipts have been or are to be issued is permitted, with the written permission of DACO, provided the warehouse operator is willing to tear or break down the blocks at the request of a representative of the Farm Service Agency when making an examination of the warehouse.

5. Notify the insurance underwriter of block piling and they must have consented to insuring it.

6. To arrange the cotton so as not to obstruct free access and the proper operation of the sprinkler or other fire protection equipment.

L. Removal of Cotton from Storage

Except as may be permitted by law or the regulations in this part, the warehouse operator must not remove any cotton, from storage, from the licensed warehouse or a part thereof designated in the receipt for such cotton, if by such removal the insurance thereon will be impaired, without first obtaining the consent in writing of the holder of the receipt, and indorsing on such receipt the fact of such removal. Under no other circumstances, unless it becomes absolutely necessary to protect the interests of holders of receipts, will cotton be removed from the warehouse, and immediately upon any such removal the warehouse operator will notify the Farm Service Agency of such removal and the necessity therefor.

M. Drawing of Samples

The warehouse operator agrees:

1. That persons will be licensed to draw samples from any cotton stored or to be stored in the licensed warehouse if the owner of such cotton or any person having a legal right to have such cotton sampled requests that samples be drawn.

2. When directed by Farm Service Agency, such requests will be in writing.

3. Samplers will perform their duties under its supervision and the samples will be drawn in accordance with Agricultural Marketing Service or other procedures recognized by Farm Service Agency.

4. Each sample will be appropriately marked to show the tag number, mark, or identifier of the bale of cotton from which it was drawn.

N. Warehouse Receipts

1. The warehouse operator when choosing the option to issue Electronic Warehouse Receipts (EWRs) instead of paper warehouse receipts for the agricultural product(s) stored in their warehouse agrees to:

a. Only issue EWRs through a provider whom the Farm Service Agency has approved.

b. Receive written approval from the Farm Service Agency at least 30 calendar days before changing providers. Upon approval a warehouse operator may request their current provider to transfer their EWR data from its Central Filing System (CFS) to the CFS of the approved provider whom they select. Warehouse operators must notify all holders of EWRs by inclusion in the CFS at least 30 calendar days before changing providers, unless otherwise required or allowed by the Agency. Warehouse operators may only change providers once a year.

c. Cancel EWRs only when they are the holder of the receipt(s).

d. Correct information on the EWR only with written notification to the provider.

e. Before issuing EWRs, request and receive from the Farm Service Agency a range of consecutive warehouse receipt numbers which the warehouse operator will use consecutively for issuing their EWRs.

f. Issue warehouse receipts initially as EWRs.

g. Inform the Farm Service Agency of the identity of their provider 60 calendar days in advance of issuing EWRs through that provider. The Farm Service Agency may waive or modify this 60-day requirement as set forth under 7 CFR 735.2(b).

2. The warehouse operator will ensure that an issued EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt, and possess the following attributes that:

a. The person identified as the 'holder' of a EWR will be entitled to the same rights and privileges as the holder of a paper warehouse receipt.

b. Only the current holder of the EWR may transfer the EWR to a new holder.

c. The identity of the holder must be included as additional information for every EWR.

d. An EWR will only designate one entity as a holder at any one time.

e. An EWR will not be issued for a specific identity preserved or a commingled agricultural product lot if another receipt, whether paper or electronic, representing the same specific identity preserved or commingled lot of agricultural product is outstanding. No two warehouse receipts issued by a warehouse operator may have the same receipt number or represent the same agricultural product lot.

f. An EWR may only be issued to replace a paper receipt if requested by the current holder of the paper warehouse receipt.

g. Allows a 'holder' the option to authorize any other user of a provider to act on their behalf with respect to their activities with their provider. This authorization must be in writing, acknowledged, and retained by the provider.

h. Provisions of 7 CFR 735.300(c) will be applicable to lost or destroyed EWRs.

i. Only the current EWR holder may request a paper warehouse receipt in lieu of a EWR with respect to an agricultural product.

V. Paper Warehouse Receipts

A. Issuance

The warehouse operator agrees to:

1. Issue warehouse receipts for any cotton stored in a warehouse at the request of a depositor.

2. Except when an expiration date authorized by Farm Service Agency is shown on the face of the receipt, every negotiable receipt issued for cotton stored in a licensed warehouse will be effective until surrendered for delivery of the cotton, and every non-negotiable receipt will be effective until surrendered for delivery of the cotton or until all cotton covered by the receipt has been delivered in response to proper delivery orders of the person rightfully entitled to the cotton:

3. Nothing contained in this section will prohibit the warehouse operator from legally selling the cotton when the accrued storage and other charges equals or exceeds the current market value of the cotton.

4. Every negotiable receipt issued for cotton stored in a licensed warehouse will embody within its written or printed terms a statement that the cotton covered by such receipt was classified by a licensed classifier or a board of cotton examiners when such cotton is so classified.

5. Whenever the grade or other class of the cotton is stated in a receipt issued for cotton stored in a licensed warehouse, such grade or other class will be determined by a licensed classifier or a board of cotton examiners upon the basis of a sample drawn, and will be stated in the receipt.

B. Form

1. Every warehouse receipt, whether negotiable or non-negotiable, issued for cotton stored in a licensed warehouse must, in addition to complying with the requirements of section 11 of the Act, embody within its written or printed terms the following:

a. The name of the warehouse operator and the designation, if any, of the warehouse,

b. The warehouse operator's license number,

c. The Commodity Credit Corporation contract code number, if applicable,

d. A statement whether the warehouse operator is incorporated or unincorporated, and if incorporated, under what laws,

e. In the event the relationship existing between the warehouse operator and any depositor is not that of a strictly disinterested custodianship, a statement setting forth the actual relationship,

f. The tag identifier given to each bale of cotton,

g. A statement conspicuously placed, whether or not the cotton is insured, and, if insured, to what extent, by the warehouse operator against loss by fire, lightning, or other risk,

h. A blank space designated for the grade and/or other classification may be stated.

i. The words "Not Negotiable," or "Negotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon.

j. A statement indicating that the weight was determined by a weigher licensed under the Act, except that if at the request of the depositor, the weight is not so determined or if the point of origin weight was determined as permitted, the receipt will contain a statement to that effect.

k. Licensed receipts issued to cover linters will be clearly and conspicuously marked "Linters"

l. If the warehouse operator a receipt under the Act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line will be drawn through such space to show that such omission has been made by the warehouse operator.

m. A warehouse receipt may contain additional information, provided that this information does not interfere with the information required.

2. If the warehouse operator issues a warehouse receipt omitting the statement of grade on request of the depositor, such receipt will have clearly and conspicuously stamped or written in the space provided for the statement of grade the words "Not graded on request of depositor"

3. If the warehouse operator issues a warehouse receipt under the Act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line will be drawn through such space to show that such omission has been made purposely.

C. Persons Authorized to Sign Warehouse Receipts

The warehouse operator must file with the Farm Service Agency, the name and genuine signature of each person authorized to sign warehouse receipts for the warehouse operator, promptly notify Farm Service Agency of any changes as to persons authorized to sign, file the signatures of such persons, and will be bound by such signatures the same as if the warehouse operator, had personally signed the receipt.

D. Copies of Warehouse Receipts

The warehouse operator agrees that at least one copy of all warehouse receipts must be made and, except skeleton and microfilm copies, have clearly and conspicuously printed or stamped on the face the words "Copy □ Not Negotiable".

E. Printing of Warehouse Receipts

The warehouse operator agrees to issue only warehouse receipts that:

1. Are in a form prescribed by the Farm Service Agency.

2. Are on distinctive paper or card stock specified by the Farm Service Agency;

3. Printed by a printer with whom the United States has an agreement and bond for such printing; and

4. On paper and/or card stock tinted with ink in the manner prescribed by the agreement.

F. Return of Warehouse Receipts Prior to Delivery

The warehouse operator agrees to:

1. Not deliver any cotton for which they have issued a negotiable receipt until the receipt has been returned to the warehouse operator and canceled; and

2. Not deliver cotton for which they have issued a non-negotiable receipt until such receipt has been returned, or they have obtained from the holder or agent, a written order and a receipt upon delivery of 90% (ninety percent) of the quantity.

G. Balance Warehouse Receipts

The warehouse operator, upon request of the holder, may issue a warehouse receipt for previously warehouse receipted cotton, the receipt for which has been canceled. The balance warehouse receipt must show the number and issuance date of the original warehouse receipt.

H. Lost or Destroyed Warehouse Receipts

1. The warehouse operator may issue a new warehouse receipt subject to the same terms and conditions, and bearing on its face the number and the date of the original receipt when presented with the case of a lost or destroyed warehouse receipt.

2. Before issuing a replacement warehouse receipt, the warehouse operator must require the holder or other person applying therefore to make and file with the warehouse operator:

a. An affidavit showing that the holder is lawfully entitled to the possession of the original warehouse receipt; that the holder has not negotiated or assigned it; how the original receipt was lost or destroyed; and, if lost, that diligent effort has been made to find the warehouse receipt without success.

b. A bond in an amount double the value, at the time the bond is given, of the agricultural product represented by the lost or destroyed warehouse receipt. This bond will be in a form approved for the purpose by the Farm Service Agency, and will be conditioned to indemnify the warehouse operator against any loss sustained by reason of the issuance of this warehouse receipt. The bond will have as surety a surety company which is authorized to do business, and is subject to administration of process in a suit on the bond, in the State in which the warehouse is located, unless a variance is granted by the Farm Service Agency.

3. Auditing Canceled Warehouse Receipts. The warehouse operator agrees to forward canceled receipts for auditing, as requested, to the Farm Service Agency.

VI. Service Licenses

A. The Applicant

1. The applicant must make application for license to sample, classify and weigh cotton to the Farm Service Agency on forms furnished by the Farm Service Agency. Each application must:

a. Be signed by the applicant.

b. Contain or be accompanied by a statement from the warehouse that the applicant is acceptable to such warehouse operator.

c. If seeking sampling, classification licensing, certification that the applicant can correctly sample, classify cotton in accordance with the Official Standards of the United States.

d. If seeking weighing licensing, certification that the applicant can correctly weigh cotton.

e. Furnish such additional information as requested by the Farm Service Agency.

B. Examination of Applicant

As a service license applicant, submit to an examination or test to show ability to properly sample, classify and/or weigh cotton, as the case may be, and also make available for inspection copies of the standards of classification or the weighing apparatus as the case may be, used or to be used.

C. Classification Certificates

1. Each class certificate issued under the Act by a licensed classifier must be in a form approved by the Farm Service Agency, and include the following information within its terms:

a. The caption "United States Warehouse Act Cotton Class Certificate,"

b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable,

c. The name and location of the warehouse in which the cotton is or is to be stored,

d. The date of the certificate,

e. The consecutive number of the certificate,

f. The location of the cotton at the time of classification,

g. The identification of each bale of cotton by the tag number given to the bale in accordance with this agreement or if there is no such tag number by other marks or numbers,

h. The grade or other class, except length of staple, of each bale covered by the certificate in accordance with the regulations or this agreement, as far as applicable, and the standard or description in accordance with which the classification is made,

i. A blank space designated for the purpose in which the length of staple may be stated,

j. A statement that the certificate is issued by a licensed classifier under the Act, and

k. The signature of the licensed classifier.

2. In addition to the provisions of paragraph 1, the class certificate may include any other matter not inconsistent with the Act or the regulations in this part, provided the approval of the Farm Service Agency is first secured.

3. In lieu of a class certificate in the form prescribed in paragraph 1, Form A memorandums and Form C certificates issued by a board of cotton examiners and class certificates issued by licensed classers under the United States Cotton Standards Act shall be deemed sufficient for the purposes of the Act and the regulations in this part, if the samples on which they are based were approximately six ounces in weight, not less than three ounces of which are to be drawn from each side of the bale. Each sample must be representative of the bale from which drawn.

D. Weight Certificates

1. Each weight certificate issued under the Act by a licensed weigher must be in a form approved for the purpose by the Farm Service Agency, and include the following information within its terms:

a. The caption "United States Warehouse Act, Cotton Weight Certificate,"

b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable,

c. The name and location of the warehouse in which the cotton is or is to be stored,

e. The date of the certificate,

f. The consecutive number of the certificate,

g. The location of the cotton at the time of weighing,

h. The identification of each bale of cotton by the tag number given to the bale in accordance with this agreement or if there is no such tag number by other marks or numbers,

i. The gross, or net and tare, weight of the cotton and, if the cotton be excessively wet or otherwise of a condition materially affecting its weight, a statement of such fact to which may be added the weigher's estimate of the number of pounds which should be allowed for such condition,

j. A statement that the certificate is issued by a weigher licensed under the Act, and

k. The signature of the licensed weigher.

2. In addition to the provisions of paragraph 1, the weight certificate may include any other matter not consistent with the Act or the regulations in this part provided the approval of the Farm Service Agency is first secured.

E. Classification and Weight Certificate

The class and weight of any cotton, ascertained by a classifier and a weigher, may be stated on a certificate meeting the combined requirements of subsections C and D: provided the form of the certificate is approved for the purpose by the Farm Service Agency.

F. Duties of Sampler, Classifier and Weigher

Each sampler, classifier and weigher whose license remains in effect must:

1. Without discrimination, as soon as practicable, upon reasonable terms, classify or weigh and certificate the class or weight, respectively, of cotton stored or to be stored in the licensed warehouse to which the license applies, if such cotton is offered under such conditions as permit the proper performance of such functions; except that no class or weight certificate need to be issued when the class or weight so determined is entered on a receipt by the licensed classifier or weigher making the determination.

2. Sample cotton stored or to be stored in a licensed warehouse for which holding a license, in accordance with the standards. No class or weight certificate will be issued under the Act, for cotton not in the custody of a licensed warehouse operator for purposes of storage. Cotton not in the custody of such a warehouse operator for such purpose be sampled by a licensed sampler.

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3. Keep their license conspicuously posted where all or most of the classifying is done, and each licensed sampler and/or weigher will keep their license conspicuously posted in the warehouse office or in such place as may be designated for the purpose by a representative of the Farm Service Agency.

4. From time to time, when requested by the Farm Service Agency, make reports, on forms furnished for the purpose by the Farm Service Agency, bearing upon activities as a licensed sampler, classifier and/or weigher.

5. Permit any authorized officer or agent of the United States Department of Agriculture or the Farm Service Agency or their designee to inspect or examine, on any business day during the usual hours of business, their books, papers, records, and accounts relating to the performance of their duties under the Act and, with the consent of the warehouse operator concerned, assist any such officer or agent in the inspection or examination as far as it relates to the performance of the duties of such sampler, classifier or weigher under the Act.

6. Keep for a period of one year, in a place accessible to interested parties, a copy of each certificate issued and file the certificate with the warehouse in which the cotton covered by the certificates is stored.

7. No person will in any way represent themselves to be a sampler, classifier, and/or weigher licensed under the Act unless holding an un-suspended and un-revoked license issued under the Act.

VII. Cotton Classification

A. Official Cotton Standards of the United States

The official cotton standards, established and promulgated under the United States Cotton Standards Act of March 4, 1923, within their scope, are hereby adopted as the official cotton standards for the purposes of the Act and the regulations.

B. Access to the Cotton Standards

The warehouse operator and each licensed classifier will keep themselves provided with, or have access to, a set of practical forms of the official cotton standards of the United States, or such parts thereof as the Farm Service Agency may deem necessary for use in the locality in which the licensed warehouse is located.

VIII. Fees

The Farm Service Agency is authorized, by the enabling legislation, to assess and collect fees to cover the administration of the program. A schedule showing the current fees or any annual fee changes will be provided as an addendum to the licensing agreement.

The fees for cotton warehouses are detailed in the attached Addendum No. 1.

This agreement forms a part of the (License Number) _____for (Warehouse Operator) _____at (Licensed Location)_____and is effective (Date)_____.

_____
Warehouse Operator

_____
By

_____
Date

_____
For the Farm Service Agency.

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ADDENDUM No. 1: FEES

Fee Table

Schedule of fees charged for services rendered.

United States Warehouse Act ★(effective October 1, 2001)

Fee Table

Cotton	*License Action Fee*	*Service License Fee*	*Inspection Fee*	Annual User Fees		
				Capacities - Range By Functional Unit	CCC Agreement	W/o CCC Agreement
	$80	$35	$80/ 1,000 Bales or Fractional Part Min $160 Max $1,600	1 to 20,000 Bales	$560	$1,115
				20,001 to 40,000 Bales	730	1,460
				40,001 to 60,000 Bales	895	1,790
				60,001 to 80,000 Bales	1,125	2,245
				80,001 to 100,000 Bales	1,400	2,800
				100,000 to 120,000 Bales	1,680	3,355
				120,001 to 140,000 Bales	1,955	3,915
				140,000 to 160,000 Bales	2,240	4,475
				160,000 + Bales	*2,240	**4,475
					*Plus $80 per 5,000 bales capacity above 160,000 bales or fraction	**plus $110 per 5,000 bales capacity above 160,000 bales or fraction

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Exhibit B—Draft

License Number_____

Effective_____

Licensing Agreement for Grain

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Licensing Agreement for Grain

As a condition of licensing under the United States Warehouse Act (the Act), the warehouse operator agrees to the conditions set forth in this agreement and the regulations found at 7 CFR 735:

I. Definitions

Bin. A bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

Current assets. Assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

Current liabilities. Those financial obligations which are expected to be satisfied during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

Dockage. Dockage in grain as defined by the official grain standards of the United States.

Grain. All products commonly classed as grain such as wheat, corn, oats, barley, rye, flaxseed, rough, brown, and milled rice, sunflower seeds, field peas, soybeans, emmer, sorghum, safflower seed, triticale, millet and such other products as are ordinarily stored in grain warehouses, subject to the disapproval of the Farm Service Agency.

Licensed inspector and/or weigher. A person licensed under the Act to sample, inspect and/or weigh grain and certificate the grade and/or weight of grain stored at a grain warehouse licensed under the Act.

Net Worth. When liabilities are subtracted from allowable assets, it is the balance amount. In determining allowable assets, credit may be given for appraisal of real property less improvements and for the appraisal of insurable property such as buildings, machinery, equipment, and merchandise inventory only to the extent that such property is protected by insurance against loss or damage by fire, lightning, and other risk. Such insurance must be in the form of lawful insurance policies issued by insurance companies authorized to do such business and subject to service of process in the State in which the warehouse is located. The Farm Service Agency will determine what assets are allowable and under what conditions appraisals may be used.

Non-storage grain. Grain received temporarily into a warehouse for conditioning, transferring, assembling for shipment, or lots of grain moving through a warehouse for current merchandising or milling use, against which no warehouse receipts are issued and no storage charges assessed. The merchandising or milling stocks held in storage as reserve stocks, or stored for use at an indefinite future date, may not be treated as non-storage grain.

Storage grain. All grain received into, stored in, or delivered out of the warehouse which is not classified as non-storage.

II. Financials

A. Financial Requirements

1. The warehouse operator agrees to have and maintain:

a. Total net worth of at least the amount obtained by multiplying $0.25 by the warehouse capacity in bushels; however, no person may be licensed or remain licensed as a warehouse operator unless that person has allowable net worth of at least $50,000.00 (Any deficiency in net worth above the $50,000.00 minimum may be supplied by an increase in the amount of the financial assurance).

b. Total allowable current assets equal to or exceeding total current liabilities or evidence acceptable to the Farm Service Agency that funds will be and remain available to meet current obligations.

2. If a warehouse operator is licensed or is applying for licenses to operate two or more warehouses, the maximum capacity of all licensed warehouses, as determined by the Farm Service Agency, will be the capacity considered in determining whether the warehouse operator meets the net worth requirements.

B. Financial Reporting

1. The warehouse operator agrees to provide annually, within 90 days of the fiscal year end, or more frequently if required, to the Farm Service Agency, financial statements from the warehouse operator's records prepared according to generally accepted accounting principles. The Farm Service Agency may grant one 30 day extension to provide a financial statement.

2. These financial statements must include but not be limited to:

a. Balance sheet,

b. Statement of income (profit and loss),

c. Statement of retained earnings, and

d. Statement of cash flows.

3. An authorized representative for the warehouse operator must certify under penalty of perjury that the statements, as prepared, accurately reflect the financial condition of the warehouse operator as of the date designated and fairly represent the results of operations for the period designated.

4. The warehouse operator must have the financial statements required audited or reviewed by a certified public accountant or an independent public accountant. Audits and reviews by independent certified public accountants and independent public accountants must be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on this statement, must be furnished along with the financial statements. The Farm Service Agency may also require an on-site examination and an audit by an authorized officer or agent of the United States Department of Agriculture and request other pertinent information.

C. Accepting Other Financial Statements

1. Financial statements of a parent company which separately identify the financial position of the warehouse operator as a wholly owned subsidiary and which meet the basic requirements of financial statements, may be accepted by the Farm Service Agency in lieu of the warehouse operator meeting such requirements.

2. Guaranty agreements from a parent company submitted on behalf of a wholly owned subsidiary may be accepted by the Farm Service Agency as meeting the basic requirements of financial statements if the parent company submits a financial statement which meets the financial requirements and financial reporting requirements.

D. Special Cases: Assets and Liabilities

1. Subject to such terms and conditions as the Farm Service Agency may prescribe and for the purposes of determining allowable assets and liabilities, appraisals of the value of fixed assets in excess of the book value claimed in the financial statement submitted by a warehouse operator to conform with the requirements may be allowed if

a. prepared by independent appraisers acceptable to the Farm Service Agency and

b. the assets are fully insured against casualty loss.

2. All grain purchased from and remaining in-store at another warehouse must be fully paid for and a warehouse receipt issued in the name of the purchasing warehouse operator for such quantity and quality as the warehouse operator's records or assets may state.

E. Financial Special Conditions—Public Debt Obligations

The warehouse operator agrees that if they file a bond in the form of either a deposit of public debt obligations of the United States or other obligations which are unconditionally guaranteed as to both interest and principal by the United States:

1. The obligation deposited will *not* be considered a part of the warehouse operator's assets.

2. A deficiency in total allowable net worth as computed may be offset by the licensed warehouse operator furnishing acceptable financial assurance for the difference.

3. The deposit may be replaced or continued in the required amount from year to year; and

4. The deposit will not be released until one year after cancellation or revocation of the license that it supports or until satisfaction of any claim against the deposit, whichever is later.

III. Financial Assurance

A. Financial Assurance Requirements—Computation

The warehouse operator agrees:

1. To furnish financial assurance computed at the rate of twenty cents ($0.20) per bushel for the first million bushels of storage space, fifteen cents ($0.15) for the second million bushels of storage space, and ten cents ($0.10) for the balance of storage space that the warehouse accommodates when stored in the manner customary to the warehouse as determined by the Farm Service Agency, but not less than fifty thousand dollars ($50,000.00) nor more than five hundred thousand dollars ($500,000.00).

2. When applying for licenses to operate two or more warehouses in the same State, or multiple states, and at the warehouse operator's election, they may provide financial assurance meeting the requirements of the Act and the regulations to cover all these warehouses within the multiple states and the maximum of five hundred thousand dollars ($500,000.00) of financial assurance will apply for each State covered.

3. In case of a deficiency in net worth above the fifty thousand dollars ($50,000.00) minimum required, to add to the amount of financial assurance determined in accordance with paragraph (1) of this section an amount equal to that deficiency. If a letter of credit is used for the amount of the deficiency, it must be issued for a period of not less than two years to coincide with the period of any deposit of obligations. Any letter of credit must be clean, irrevocable, issued by a commercial bank payable to the Farm Service Agency by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation. The deposit will not be considered an asset of the company.

4. If the Farm Service Agency finds that conditions exist which warrant requiring additional financial assurance, to add to the amount of financial assurance a further amount to meet such conditions.

B. Financial Assurance—Acceptable Forms

The warehouse operator may offer as financial assurance any of the following:

1. A warehouse operator's bond, or

2. In the form of a deposit with the Farm Service Agency, United States bonds, United States Treasury notes, or other public debt obligations of the United States or obligations that are unconditionally guaranteed as to both interest and principal by the United States, or

3. In the form of a letter of credit issued to the Agency for a period of not less than two years to coincide with the period of any deposit of obligations, or

4. In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Farm Service Agency, established and maintained by a State, backed by the full faith and credit of the applicable State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouse operator under the terms of the Act and regulations, or

5. Other forms of financial assurance as may be prescribed in the applicable licensing agreement and related addenda deemed acceptable by the Farm Service Agency.

IV. Duties of Warehouse Operator

A. General

The warehouse operator agrees to:

1. At all times exercise such care in regard to grain in custody as a reasonably careful owner would exercise under the same circumstances and conditions.

2. To not differentiate among depositors regarding use of and access to services, except that available storage space may be allocated.

3. Accept all storage and non-storage grain and, at the request of the depositor, deliver out all storage and non-storage grain, other than specially-binned grain, in accordance with the grades of that grain as determined by a person duly licensed to inspect that grain and to certificate the grade and the weight of that grain under the Act and the regulations; or

4. If an appeal from the determination of an inspector has been taken, that grain will be accepted for and delivered out of storage in accordance with the grades as finally determined in the appeal.

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5. Keep the warehouse reasonably clean at all times and free from straw, detritus, rubbish, or accumulations of materials that will create a hazard or interfere with the handling of grain and provide a safe environment in and around the warehouse and will provide all necessary assistance in the execution of inspections and examinations by representatives of the Farm Service Agency.

6. Maintain sufficient inventory of grain in licensed storage with respect to quality and quantity as evidenced by the outstanding storage obligations (warehouse receipted and not warehouse receipted) and, in case the grades of stored grain should get out of balance with grades represented by outstanding storage obligations, to effect the necessary corrective actions to regain the quality and quantity equity.

B. Insurance

1. *Requirements.* The warehouse operator agrees to:

a. Secure, in their own name, insurance on stored grain against loss or damage by fire, lightning, and other risk under forms of policies which automatically attach for the full replacement value of stored grain, as soon as such grain is placed in their legal custody, and continue such insurance in effect so long as the grain remains in their legal custody. The warehouse operator also agrees to keep a general insurance account showing the policy number, issuing company, amount binding, and expiration dates of all insurance policies and in each instance show the property covered by such policies. This insurance will be lawful policies issued by one or more insurance companies. The warehouse operator must submit such reports to underwriters as may be required under the terms of such policies, and submit copies of such reports to the Farm Service Agency as required.

b. Show, in the tariff to be posted at all delivery points, the conditions under which the grain will be insured against loss or damage by fire, lightning, and other risk.

c. Require that the warehouse operator's insurance company give 30 days advance notice to the Farm Service Agency of intent to cancel the stock (inventory) coverage.

C. Records To Be Kept in a Safe Place

The warehouse operator agrees to:

1. Provide a fireproof safe, a fireproof vault, or a fireproof compartment in which to keep, when not in use, all records, books, and papers pertaining to the licensed warehouse, including a current warehouse receipt book, copies of warehouse receipts issued, and canceled warehouse receipts or microfilm copies of canceled receipts, except that, with the written consent of the Farm Service Agency, upon a showing by the warehouse operator that it is not practicable to provide such fireproof safe, vault, or compartment, may keep such records, books, and papers in some other place of safety, approved by the Farm Service Agency.

2. Retain each canceled receipt for a period of six years after December 31 of the year in which the warehouse receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending, or as may be required by the Farm Service Agency in particular cases to carry out the purposes of the Act.

3. Arrange canceled warehouse receipts in numerical order and otherwise in such manner as may be directed, for purposes of audit, by authorized officers or agents of the United States Department of Agriculture and the Farm Service Agency.

D. Scales and Bin Numbers

The warehouse operator agrees to:

1. Be equipped with suitable scales in good order, and so arranged that all grain, whether for storage or for non-storage purposes, can be weighed in and out of the warehouse. The scales in any warehouse must be subject to examination by authorized officers or agents of the United States Department of Agriculture and to disapproval by the Farm Service Agency. If disapproved, any weighing apparatus must not thereafter be used in ascertaining the weight of grain for the purposes of this Act, until such disapproval is withdrawn

2. Cause both bulk grain bins and compartments for sacked grain of all warehouses licensed under the Act to be identified by means of clearly discernible numbers securely affixed. The series of numbers to be used must be approved by the Farm Service Agency. Bulk grain bins must be numbered so as to be easily identified at the openings on top and also on or near the outlet valves underneath. Compartments must be numbered in such a manner as clearly showing the space covered by each number.

3. Apply for licensing at all facilities controlled by them at a specific location, among which grain may be transferred without weighing, unless those facilities are specifically exempted by the Farm Service Agency. The warehouse operator must not select, randomly, the bins to be licensed unless specifically exempted by the Farm Service Agency.

E. Warehouse Charges

The warehouse operator must:

1. not make any unreasonable or exorbitant charge for services rendered.

2. before a license to conduct a warehouse is granted under the Act, file, with the Farm Service Agency, a copy of their rules and a schedule of charges to be assessed depositors.

3. before making any change in such rules or schedule of charges, file with the Farm Service Agency a new rule statement or schedule of charges.

4. post conspicuously where the depositor may access it at all delivery points, a copy of the current rules and schedule of charges.

F. Business Hours

The warehouse operator agrees to:

1. be open for the purpose of receiving grain for storage and delivering grain out of storage and for settlement purposes every normal business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m. The warehouse operator must post their business hours at the public entrance to the office and to their licensed warehouse.

2. in case the warehouse is not to be kept open as required, state, in the posted notice, the period during which the warehouse is to be closed and the name, the address, and telephone number of the person who will be authorized to receive and deliver grain stored in the warehouse.

G. System of Accounts

The warehouse operator agrees to:

1. Have and maintain a system of accounts approved for the purpose by the Farm Service Agency. This system of accounts must include an accurate and concise daily position record showing, as activity occurs, the total quantity of each kind and class (and the subclass white club wheat) of grain in licensed space:

a. Total grain unloaded into the warehouse,

b. Total grain loaded out of the warehouse,

c. Total grain adjustments,

d. Total grain remaining in the warehouse at the close of each business day,

e. Total obligations transferred to another warehouse,

f. Total negotiable and non-negotiable warehouse receipts issued, canceled, and balance outstanding,

g. Total increase, decrease, and outstanding un-receipted obligations belonging to others including grain bank,

h. Total grain owned by the warehouse operator for which warehouse receipts have not been issued, and

i. Total grain obligations.

2. Maintain a separate set of records for each depositor showing the kind, class (and the subclass white club wheat), grade, and quantity of grain deposited or redelivered which must include a detailed record of all money received and disbursed and, if applicable, all insurance policies taken out and canceled on request of each depositor. These records will be maintained accurately and concisely as activity occurs. The warehouse operator must retain these records for a period of six years after December 31 of the year in which they were created, and for such longer period as may be necessary for the purposes of any litigation which the warehouse operator knows to be pending, or as may be required by the Farm Service Agency in particular cases to carry out the purposes of the Act.

3. Maintain similar records and information for any non-storage grain handled through the warehouse. Records required with respect to non-storage grain must be retained, as a part of the records of the warehouse, for a period of one year after December 31 of the year in which the lot of non-storage grain is delivered from the warehouse.

H. Excess Storage and Transferring Grain

The warehouse operator agrees that:

1. If at any time grain stored in the warehouse exceeds the capacity for which the warehouse is licensed, the warehouse operator will immediately notify the Farm Service Agency of the fact and the location of excess storage.

2. If they desire to transfer stored grain to another warehouse (receiving), the warehouse operator may do so either by physical movement of the stored grain or by other methods accepted as standard industry practice subject to the following terms and conditions:

a. The transferring (shipping) warehouse operator's accepted rules or schedule of charges must contain notice that the warehouse operator may transfer grain according to conditions prescribed by the Farm Service Agency.

b. The warehouse operator must request permission in writing to the Farm Service Agency.

c. For purposes of transferring grain, a receiving warehouse means a warehouse operated by a warehouse operator who holds an un-suspended, un-revoked grain license under the United States Warehouse Act, or a warehouse operated by a warehouse operator who holds an effective warehouse license for the public storage of grain issued by a State that has financial, bonding and examination requirements for the benefit of all depositors or, in the case of warehouses operating in a State without licensing authorities, warehouses with approved Uniform Grain and Rice Storage Agreements with the Commodity Credit Corporation.

d. Non-negotiable warehouse receipts must be obtained promptly by the shipping warehouse operator from the receiving warehouse operator for all warehouse receipted or open storage transferred grain. Such warehouse receipts must have printed or stamped in large bold or outline letters diagonally across the face and covering the face from corner to corner the words "NOT NEGOTIABLE". In the case of grain shipped to a warehouse in a State that doesn't allow issuance of non-negotiable warehouse receipts, the receiving warehouse operator will issue an affidavit specifying the kind, class (and the subclass white club wheat), grade and quantity of the grain received from the shipping warehouse operator. These receipts and affidavits are not valid for collateral purposes. They must be retained by the shipping warehouse operator to be presented to and used by authorized officers and agents of the United States Department of Agriculture, and the Farm Service Agency in lieu of an on-site inventory. The grain covered by these warehouse receipts and affidavits is not the property of either the receiving or shipping warehouse operator but held in trust by both solely for the benefit of the depositors whose bailed grain was transferred individually or collectively and which the depositor or the depositor's transferee retains title.

e. The shipping warehouse operator's financial assurance amount must be increased to consider the addition of the transferred grain to the licensed capacity of the warehouse with the net worth requirements based on the total of the licensed capacity and the transferred grain. The receiving warehouse operator must not incur storage obligations that exceed the licensed or approved capacity of their warehouse.

f. The shipping warehouse operator retains storage obligation to the owners of all grain deposited in the warehouse for storage, whether transferred or retained, and is, except as otherwise agreed upon under paragraph (g), required to redeliver the grain upon demand to the depositor or the depositor's transferee at the warehouse where the grain was first deposited for storage.

g. The owner of grain deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the grain was first deposited for storage, unless the owner of the grain, with the consent of both the shipping warehouse operator and the receiving warehouse operator, elects to take delivery at the warehouse to which grain was transferred.

h. Nothing in this agreement will in any way diminish the right of the owner of the grain to receive on delivery, or the obligation of the warehouse operator of a licensed warehouse from which the product is transferred, to deliver to the owner, grain in the quantity, and of the kind, quality, class (and the subclass white club wheat) and grade, called for by the warehouse receipts or other evidence of storage.

i. Recording and retention of non-negotiable warehouse receipts received as a result of transferring grain under this section will be subject to the requirements for warehouse receipts.

j. A receiving warehouse operator must not transfer or offset to another warehouse, in any manner, their obligation to the shipping warehouse operator.

I. Reports Required

The warehouse operator agrees to:

1. When requested by the Farm Service Agency, make such reports, on forms prescribed and furnished for the purpose by the Farm Service Agency, concerning the condition, contents, operation, and business of the warehouse.

2. Keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted.

J. Inspections, Examinations of Warehouse

The warehouse operator agrees to permit any officer or agent of the United States Department of Agriculture, authorized by the Farm Service Agency, to enter and inspect or examine on any business day during the usual hours of business, any warehouse for which they hold a license, the office, the books, records, papers, and accounts relating and the contents thereof and will furnish that officer or agent the assistance necessary to enable making any inspection or examination.

K. Loading Out Without Weighing

The warehouse operator may:

1. Load out identity-preserved grain without weighing for which the owner has agreed to assume all shortages, provided that the warehouse receipts

covering this grain have been surrendered to the warehouse operator.

2. At the request of the owner, load out fungible grain without weighing. Destination weights are to be obtained and posted as soon as possible. Any interim weight certificate issued by the shipping warehouse operator must clearly show the weight as an estimate.

L. Storage of Identity Preserved Grain

1. The warehouse operator may elect *not* to accept and store identity preserved grain.

2. If electing to accept and store bulk identity-preserved grain, the warehouse operator agrees to:

a. Clearly mark with identification each bag or container.

b. Maintain records that clearly show the location of all identity-preserved grain stored in the warehouse.

M. Containerized Grain Storage

The warehouse operator agrees to keep containerized grain stored in an orderly manner so as to permit easy access to all lots and to facilitate inspecting, sampling, counting and identification of each lot.

N. Delivery of Fungible Grain

The warehouse operator must:

1. Upon proper presentation of a warehouse receipt for any grain, other than identity-preserved grain, and, if requested by the warehouse operator, payment of all accrued charges associated with the storage of the grain, deliver to the depositor or lawful holder of the warehouse receipt, grain in the quantity, and of the kind, quality, class (and the subclass white club wheat) and grade, called for by the warehouse receipts or other evidence of storage; or

2. Upon proper presentation of a warehouse receipt for any identity-preserved grain and, if requested by the warehouse operator, payment of all accrued charges associated with the storage of the grain, deliver to the person lawfully entitled thereto, the identical grain stored in the warehouse.

O. Storage Obligations

The warehouse operator, while authorized to commingle grain in store, is liable to each depositor for the care and delivery of grain stored as if the grain were separately stored. The warehouse operator is free to store in any manner that results in their ability to produce grain, as a bailee for hire, that meets or exceeds the quantity and quality specifications of the warehouse receipt or the original delivery receipt (scale ticket).

P. Out of Condition and Damaged Grain

The warehouse operator may refuse to accept grain offered for storage if its condition is such that it will affect the condition of existing grain in the warehouse unless the warehouse operator chooses to separately bin and condition the grain.

Q. Reconditioning Grain

The warehouse operator agrees to:

1. Immediately notify the owners and the Farm Service Agency when grain is going out of condition and where the warehouse operator is unable to condition the grain and stop the deterioration, and

2. Follow instructions received.

R. Warehouse Receipts

1. The warehouse operator when choosing the option to issue Electronic Warehouse Receipts (EWRs) instead of paper warehouse receipts for the agricultural product(s) stored in their warehouse agrees to:

a. Only issue EWRs through a provider whom the Farm Service Agency has approved.

b. Receive written approval from the Farm Service Agency at least 30 calendar days before changing providers. Upon approval a warehouse operator may request their current provider to transfer their EWR data from its Central Filing System (CFS) to the CFS of the approved provider whom they select. Warehouse operators must notify all holders of EWRs by inclusion in the CFS at least 30 calendar days before changing providers, unless otherwise required or allowed by the Agency. Warehouse operators may only change providers once a year.

c. Cancel EWRs only when they are the holder of the receipt(s)

d. Correct information on the EWR only with written notification to the provider.

e. Before issuing EWRs, request and receive from the Farm Service Agency a range of consecutive warehouse receipt numbers which the warehouse operator will use consecutively for issuing their EWRs.

f. Issue warehouse receipts initially as EWRs.

g. Inform the Farm Service Agency of the identity of their provider 60 calendar days in advance of issuing EWRs through that provider. The Farm Service Agency may waive or modify this 60-day requirement as set forth under 7 CFR 735.2(b).

2. The warehouse operator will ensure that an issued EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt, and possess the following attributes that:

a. The person identified as the 'holder' of a EWR will be entitled to the same rights and privileges as the holder of a paper warehouse receipt.

b. Only the current holder of the EWR may transfer the EWR to a new holder.

c. The identity of the holder must be included as additional information for every EWR.

d. An EWR will only designate one entity as a holder at any one time.

e. An EWR will not be issued for a specific identity preserved or a commingled agricultural product lot if another receipt, whether paper or electronic, representing the same specific identity preserved or commingled lot of agricultural product is outstanding. No two warehouse receipts issued by a warehouse operator may have the same receipt number or represent the same agricultural product lot.

f. An EWR may only be issued to replace a paper receipt if requested by the current holder of the paper warehouse receipt.

g. An EWR allows a "holder" the option to authorize any other user of a provider to act on their behalf with respect to their activities with their provider. This authorization must be in writing, acknowledged, and retained by the provider.

h. Provisions of 7 CFR 735.301(c) will be applicable to lost or destroyed EWRs.

i. Only the current EWR holder may request a paper warehouse receipt in lieu of a EWR with respect to an agricultural product.

V. Paper Warehouse Receipts

A. Issuance

The warehouse operator agrees to:

1. Issue warehouse receipts for any grain stored in a warehouse at the request of a depositor.

2. Prior to issuing any warehouse receipt under the Act, obtain a copy of the original weight certificate, original inspection certificate or original inspection and weight certificate representing the grain. The warehouse operator's records must identify the certificate (s) used as the basis for issuing the receipt and retained for a period of three years after December 31 of the year in which issued. Certificates filed in the office of an independent inspection or weighing agency or with a U. S. Registrar meet this requirement.

B. Form

1. Every warehouse receipt, whether negotiable or non-negotiable, issued for grain stored in a licensed warehouse must, in addition to complying with the

requirements of section 11 of the Act, embody within its written or printed terms the following:

a. The name of the warehouse operator and the designation, if any, of the warehouse,

b. The warehouse operator's license number,

c. The Commodity Credit Corporation contract code number, if applicable,

d. A statement whether the warehouse operator is incorporated or unincorporated, and if incorporated, under what laws,

e. In the event the relationship existing between the warehouse operator and any depositor is not that of a strictly disinterested custodianship, a statement setting forth the actual relationship,

f. A statement conspicuously placed, whether or not the grain is insured, and, if insured, to what extent, by the warehouse operator against loss by fire, lightning, or other risk,

g. The net weight, including dockage, if any, of the grain.

h. In the case of grain the identity of which is to be preserved, its identification or location in accordance with the regulations.

i. The words "Not Negotiable," or "Negotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon.

2. Every negotiable warehouse receipt issued must, in addition to conforming with the requirements of paragraph (a), embody within its written or printed terms, a form of endorsement which may be used by the depositor, or their authorized agent, for showing the ownership of, and liens, mortgages, or other encumbrances on the grain covered by the receipt.

3. The grade stated in a warehouse receipt must be stated as determined by the inspector who last inspected and graded the grain or, if an appeal has been taken, the grade will be stated on such receipt in accordance with the grade as finally determined in such appeal.

4. If the warehouse operator issues a warehouse receipt omitting the statement of grade on request of the depositor, such receipt will have clearly and conspicuously stamped or written in the space provided for the statement of grade the words "Not graded on request of depositor".

5. If the warehouse operator issues a warehouse receipt under the Act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line will be drawn through such space to show that such omission has been made purposely.

C. Persons Authorized to Sign Warehouse Receipts

The warehouse operator must file with the Farm Service Agency, the name and genuine signature of each person authorized to sign warehouse receipts for the warehouse operator, promptly notify Farm Service Agency of any changes as to persons authorized to sign, file the signatures of such persons, and will be bound by such signatures the same as if the warehouse operator, had personally signed the receipt.

D. Copies of Warehouse Receipts

The warehouse operator agrees that at least one copy of all warehouse receipts must be made and, except skeleton and microfilm copies, have clearly and conspicuously printed or stamped on the face the words "Copy—Not Negotiable".

E. Printing of Warehouse Receipts

The warehouse operator agrees to issue only warehouse receipts that:

1. Are in a form prescribed by the Farm Service Agency.

2. Are on distinctive paper or card stock specified by the Farm Service Agency;

3. Printed by a printer with whom the United States has an agreement and bond for such printing; and

4. On paper and/or card stock tinted with ink in the manner prescribed by the agreement.

F. Return of Warehouse Receipts Prior to Delivery

The warehouse operator agrees to:

1. Not deliver any grain for which they have issued a negotiable receipt until the receipt has been returned to the warehouse operator and canceled; and

2. Not deliver grain for which they have issued a non-negotiable receipt until such receipt has been returned, or they have obtained from the holder or agent, a written order and a receipt upon delivery of 90% (ninety percent) of the quantity.

G. Balance Warehouse Receipts

The warehouse operator, upon request of the holder, may issue a warehouse receipt for previously warehouse receipted grain, the receipt for which has been canceled. The balance warehouse receipt must show the number and issuance date of the original warehouse receipt.

H. Lost or Destroyed Warehouse Receipts

1. The warehouse operator may issue a new warehouse receipt subject to the same terms and conditions, and bearing on its face the number and the date of the original receipt when presented with the case of a lost or destroyed warehouse receipt.

2. Before issuing a replacement warehouse receipt, the warehouse operator must require the holder or other person applying therefore to make and file with the warehouse operator

a. An affidavit showing that the holder is lawfully entitled to the possession of the original warehouse receipt; that the holder has not negotiated or assigned it; how the original receipt was lost or destroyed: and, if lost, that diligent effort has been made to find the warehouse receipt without success.

b. A bond in an amount double the value, at the time the bond is given, of the agricultural product represented by the lost or destroyed warehouse receipt. This bond will be in a form approved for the purpose by the Farm Service Agency, and will be conditioned to indemnify the warehouse operator against any loss sustained by reason of the issuance of this warehouse receipt. The bond will have as surety a surety company which is authorized to do business, and is subject to administration of process in a suit on the bond, in the State in which the warehouse is located, unless a variance is granted by the Farm Service Agency.

3. Auditing Canceled Warehouse Receipts. The warehouse operator agrees to forward canceled receipts for auditing, as requested, to the Farm Service Agency.

VI. Service Licenses

A. The Applicant

The applicant for service licensing under the Act:

1. Must make application for license to inspect and/or weigh grain to the Farm Service Agency on forms furnished by the Agency. Each application must:

a. Be signed by the applicant.

b. Contain or be accompanied by a statement from the warehouse that the applicant is acceptable to such warehouse operator.

c. If seeking inspection licensing, certification that the applicant can correctly inspect grain in accordance with the official standards of the United States, or in the absence of such standards, in accordance with any standards approved by the Farm Service Agency.

d. If seeking weighing licensing, certification that the applicant can correctly weigh grain.

e. Furnish such additional information as requested by the Farm Service Agency.

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B. Examination of Applicant

As a service license applicant, submit to an examination or test to show ability to properly inspect, grade and/or weigh grain, as the case may be, and also make available for inspection copies of the standards of inspection and grading and the weighing apparatus as the case may be, used or to be used.

C. Inspection Certificate

1. Each inspection certificate issued under the Act by an inspector must be in a form approved by the Farm Service Agency, and include the following information within its terms:

a. The caption "United States Warehouse Act, Grain Inspection Certificate,"

b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable,

c. The name and location of the warehouse in which the grain is or is to be stored,

d. A statement showing whether the inspection covers grain moving into or out of the warehouse,

e. The date of the certificate,

f. The consecutive number of the certificate,

g. The approximate quantity of grain covered by the certificate,

h. The kind of grain covered by the certificate,

i. The grade of the grain, as determined by such duly licensed inspector, in accordance with official standards and, in the case of grain for which no official standards of the United States are in effect, the standards or description in accordance with which such grain is graded.

j. A statement that the certificate is issued by an inspector licensed under the U.S. Warehouse Act and the regulations thereunder,

k. A statement conspicuously placed to the effect that the certificate is not valid for the purposes of the United States Grain Standards Act, and

l. The signature of the inspector who inspected and graded the grain.

2. In addition to the provisions of paragraph 1, the inspection certificate may include any other matter consistent with the Act or the regulations, provided the approval of the Farm Service Agency is first secured.

3. In lieu of an inspection certificate in the form prescribed in paragraph one, an official inspection certificate issued pursuant to the provisions of the United States Grain Standards Act, or the Agricultural Marketing Act of 1946 on grain which is stored or to be stored in a warehouse licensed under the Act will be acceptable for purposes of the Act and the regulations.

D. Weight Certificates

1. Each weight certificate issued under the Act by an inspector must be in a form approved for the purpose by the Farm Service Agency, and include the following information within its terms:

a. The caption "United States Warehouse Act, Grain Weight Certificate,"

b. Whether it is an original, a duplicate, or other copy, and that it is not negotiable,

c. The name and location of the warehouse in which the grain is or is to be stored,

d. Whether the grain is weighed into or out of the warehouse,

e. The date of the certificate,

f. The consecutive number of the certificate,

g. The net weight, including dockage, if any, of the grain.

h. A statement that the certificate is issued by a weigher licensed under the U.S. Warehouse Act and the regulations thereunder, and

i. The signature of the weigher.

2. In addition to the provisions of paragraph 1, the weight certificate may include any other matter consistent with the Act or the regulations in this part provided the approval of the Farm Service Agency is first secured.

3. In lieu of a weight certificate in the form prescribed in paragraph 1 of this section, an official weight certificate issued pursuant to the provisions of the United States Grain Standards Act, or an official weight certificate issued pursuant to the Agricultural Marketing Act of 1946 on grain which is stored or to be stored in a warehouse licensed under the Act is acceptable for purposes of the Act.

E. Grade and Weight Certificate

The grade and weight of any grain, ascertained by an inspector and a weigher, may be stated on a certificate meeting the combined requirements of subsections C and D provided the form of the certificate is approved for the purpose by the Farm Service Agency.

F. Duties of Inspector and Weigher

Each inspector and weigher whose license remains in effect must:

1. When given grain to inspect, grade and/or weigh under conditions which permit proper inspection and weighing, without discrimination, as soon as practicable and upon reasonable terms, perform the requested services for which licensed.

2. Issue a certificate of grade for any grain only if the inspection and grading thereof is based upon a correct and representative sample of the grain.

3. As soon as possible after grading any grain and not later than the close of business on the next following business day, make accessible to the parties interested in a transaction in which the grain is involved at the location of the license, a copy of the inspection certificate issued by the licensed inspector.

4. Keep the license to inspect, grade and/or weigh conspicuously posted at the place where those duties are performed or as directed by the Farm Service Agency.

5. Permit any authorized officer or agent of the United States Department of Agriculture or the Farm Service Agency or their designee to inspect or examine, on any business day during the usual hours of business, their books, papers, records, and accounts relating to the performance of their duties under the Act and, with the consent of the warehouse operator concerned, assist any such officer or agent in the inspection or examination as far as it relates to the performance of the duties of such inspector or weigher under the Act.

6. Keep for a period of one year, in a place accessible to interested parties, a copy of each certificate issued and file the certificate with the warehouse in which the grain covered by the certificates is stored.

VII. Grain Grading

A. Official Grain Standards of the United States

The Official Grain Standards of the United States are hereby adopted as the official grain standards for the purposes of the Act and the regulations.

B. Standards of Grade for Other Grain

Until Official Standards of the United States are fixed and established for the kind of grain to be inspected, the grade of the grain will be stated, subject to the approval of the Farm Service Agency:

1. In accordance with the State standards, if any, established in the State in which the warehouse is located,

2. In the absence of any State standards, in accordance with the standards, if any, adopted by the local board of trade, Chamber of Commerce, or by the grain trade generally in the locality in which the warehouse is located, or

3. In the absence of the standards mentioned in paragraphs 1 and 2 of this section, in accordance with any standards approved for the purpose by the Farm Service Agency.

VIII. Grain Appeals

A. Appeal Procedure

The depositor, holder of the warehouse receipt or the warehouse operator may make an appeal as to the grade of a lot of grain stored or to be stored in a warehouse. If the original grade certificate was issued by an inspector licensed under, or authorized by, the United States Grain Standards Act or the Agricultural Marketing Act, the appeal, including the amount of fees, will be governed by the regulations issued under those Acts respectively; otherwise, the appeal, including fees will be governed by paragraphs B and C of this section.

B. Request for Appeal

1. The warehouse operator agrees to accept a request for an appeal inspection by a depositor or holder of the warehouse receipt made by written notice to the warehouse operator before the identity of the lot of grain has been lost and not later than the close of business on the first business day following furnishing of the statement of original grade.

2. If the appeal is requested by the warehouse operator, notice must be given promptly to the owner of the grain. Oral notice may be made if followed by written notice.

3. Where it is not practical for the warehouse operator to maintain the identity of all grain being received for storage until depositors receive a statement of grade and consequently opportunity for appeal, any depositor or agent before or at the time of delivery of grain may request that the warehouse operator retain the identity of such lot until depositor has been furnished with a statement of grade for the lot and has waived or requested and received an appeal inspection grade.

4. The warehouse operator need not preserve the identity of the lot in the original conveyance; but with the knowledge and consent of the depositor or agent may use other means to preserve such identity. Further, if compliance with such request would adversely affect receiving, storing or delivering the grain of other depositors, the warehouse operator may defer unloading the grain until such time as would not disrupt service to other depositors but without unnecessary delay to the party making such request.

C. Appeal Sampling, Preservation, Delivery and Examination

1. The lot of grain for which an appeal is requested must be re-sampled in such manner and quantity as the depositor or holder of the warehouse receipt and the warehouse operator agree results in a representative sample of the lot acceptable to each for appeal purposes. If the parties are unable to agree on such a sample, a sample drawn by a duly licensed inspector in the presence of the interested parties must be deemed binding. In no case will the sample be of less than 2000 grams by weight.

2. The sample must be packaged, to the satisfaction of the interested parties, so as to preserve its original condition.

3. Delivery.

a. For grains for which there are official U.S. Standards, the sample will be secured and delivered to the nearest office charged with providing official inspection service under the United States Grain Standards Act or the Agricultural Marketing Act of 1946. At this point, procedures to determine the grade of the grain will be as set forth in regulations issued under the United States Grain Standards Act or under the Agricultural Marketing Act of 1946, as is applicable.

b. For grain for which there are no official U.S. Standards, the party requesting the appeal will apply directly to the Farm Service Agency for relief. The Farm Service Agency will determine the appeal based on approved standards and set the required fees. Such determination will be binding on all interested parties.

4. The sample must be accompanied by:

a. A copy of the written request for appeal,

b. The grain inspection certificate originally issued, and

c. An agreement to pay the costs of such inspection as prescribed by the United States Grain Standards Act, the Agricultural Marketing Act or the Farm Service Agency.

5. The sample of the grain involved in the appeal must be examined as soon as possible. Such tests must be applied as are necessary. Unless the appeal is dismissed, a grade certificate must be issued by the person determining the grade, showing the grade assigned by them to such grain. The certificate will supersede the inspection certificate originally issued for the grain involved. The original or a copy of the new grade certificate will be sent to the depositor or holder of the warehouse receipt, the warehouse operator and the licensed inspector making the original determination of grade.

D. Ability To Appeal

1. No person licensed under the Act, will, directly or indirectly by any means whatsoever, deter or prevent or attempt to deter or prevent any party from taking an appeal.

2. No rule, regulation, bylaw, or custom of any market, board of trade, Chamber of Commerce, exchange, inspection department or similar organization nor any contract, agreement or understanding, will be grounds for refusing to determine any appeal.

E. Owner Not Compelled To Store Grain

Nothing in this agreement will require the owner or agent to store such grain with the warehouse operator after the appeal inspection, but if the grain is stored it will be accepted for and delivered out of storage in accordance with the grade as finally determined in such appeal.

IX. Fees

The Farm Service Agency is authorized, by the enabling legislation, to assess and collect fees to cover the administration of the program. A schedule showing the current fees or any annual fee changes will be provided as an addendum to the licensing agreement.

The fees for grain warehouses are detailed in the attached Addendum No. 1.

This agreement forms a part of the (License Number_____ for (Warehouse Operator)_____ (Licensed Location)_____ and is effective (Date)_____.

Warehouse Operator

_____

By

_____

Date

_____

For the Farm Service Agency.

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ADDENDUM No. 1: FEES

Fee Table

Schedule of fees charged for services rendered

United States Warehouse Act ★(effective October 1, 2001)

Fee Table

Grain	License Action Fee	Service License Fee	Inspection Fee	Annual User Fees		
				Capacities - Range By Functional Unit	CCC Agreement	W/o CCC Agreement
	$80	$35	$16/ 10,000 Bushels or Fractional Part Min $160 Max $1,600	1 to 150,000 Bushels	$145	$290
				150,001 to 250,000 Bushels	295	585
				250,001 to 500,000 Bushels	435	865
				500,001 to 750,000 Bushels	590	1 175
				750,001 to 1,000,000 Bushels	730	1,460
				100,000,001 to 1,200,000 Bushels	875	1,750
				120,000,001 to 1,500,000 Bushels	1,120	2,035
				1,500,001 to 2,000,000 Bushels	1,165	2,325
				2,000,001 to 2,500,000 Bushels	1,310	2,620
				2,500,001 to 5,000,000 Bushels	1,450	2,900
				5,000,001 to 7,500,000 Bushels	1,605	3,205
				7,501,001 to 10,000,000 Bushels	1750	3,500
				10,000,000 + Bushels	*1,750	**3,500
					*Plus $50 per million bushels capacity above 10,000,000 bales or fraction	**plus $90 per million bushels capacity above 10,000,000 bushels or fractio

BILLING CODE 3410-05-C

Exhibit C—Draft

Farm Service Agency

Provider Agreement to Electronically File and Maintain Electronic Warehouse Receipts and United States Warehouse Act Documents

[WA–141; 0560–0120]

This Provider Agreement (hereafter "Agreement") between_____ (hereafter "Provider") and the Farm Service Agency (hereafter "FSA") authorizes the Provider to establish and maintain a database and system for the purpose of electronically filing warehouse receipts and documents issued under the United States Warehouse Act (hereafter "USWA") in a central data filing system (hereafter "central filing system" or "CFS") and permits the Provider to accept the filing of warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts and electronically filed USWA documents are hereafter referred to herein as "electronic warehouse receipts" and "electronic USWA documents" respectively.

The purpose of this Agreement is to ensure that:

A. Electronic warehouse receipts and electronic USWA documents issued and filed in accordance with this Agreement meet the requirements of the USWA and 7 CFR Part 735,

B. Providers meet the applicable requirements of the USWA and 7 CFR Part 735,

C. The Provider as a U. S. Department of Agriculture representative, operates a system that is independent in action and appearance of bias or influences other than those which serve the best interest of the users, and

D. Data kept in the Provider's CFS is secured, not changed inappropriately and only released to authorized parties. Only the issuer may change, cancel or void the USWA documents.

The terms of the Agreement are:

I. Incorporation of Regulations

The regulations promulgated by FSA and published in the **Federal Register** and annually codified at 7 CFR Part 735 relating to the issuance of electronic warehouse receipts and electronic USWA documents are incorporated herein and made a part hereof by reference, including regulations published after execution of this agreement.

II. Access

A. Provider shall make the CFS operative and accessible to users and FSA for a period of not less than 18 hours per day Monday through Friday and not less than 12 hours per day on Saturday and Sunday. Provider shall offer a continuous period of access to the CFS during the hours of 7:00 AM to 6:00 PM for the local time zone where the CFS is located. Routine maintenance shall be performed without disruption of services.

B. If, for extraordinary maintenance or for reasons beyond the Provider's control, the Provider cannot furnish access to the CFS as described in paragraph A of this section, the Provider shall furnish notice to FSA as follows:

1. For extraordinary maintenance, an advance notice of at least 5 calendar days setting out the reasons and expected duration of the maintenance; and

2. If unforeseen circumstances cause the CFS to be inaccessible during operating hours for more than a 1 hour period, Provider shall immediately notify the FSA contact person of the access problems.

If a Provider's shutdowns interfere with FSA activities under this Agreement, FSA may immediately suspend this Agreement pending completion of the activities or may immediately terminate this Agreement.

C. Provider shall give FSA unrestricted access to the CFS and all related and backup files, at no charge, for purposes of administering this Agreement. The Provider shall also give FSA unrestricted access to the physical site where the CFS and off-site records are retained. All FSA requested information from the Provider shall be available in either electronic or printed format or both at FSA discretion.

III. Fees and Charges

A. Fees charged to Providers by FSA.

1. Providers shall pay fees to FSA as shown in Addendum No. 1. This fee schedule may be changed by FSA annually. Such changes will be announced by April 1st and will become effective as of the following May 1st.

2. Each applicant requesting approval shall submit the current non-refundable application fee. Upon approval applicant shall pay the current non-refundable annual fee.

3. Each year the Agreement is in effect the Providers shall pay FSA the annual fee for that year. Providers will be invoiced by FSA for each annual payment. Providers shall pay FSA the annual fee for that year by May 30.

B. Provider's Schedule of fees for Users.

1. Any fee charged a user by the Provider shall be filed with FSA. Provider shall make its fees available to the public, upon demand.

2. Fees for the use of the CFS shall not be assessed to users in a discriminatory manner.

3. Providers may, after notification to FSA, restrict a user's access to the CFS when fee payments are more than 60 days overdue.

IV. Financial, Insurance and Audit Requirements

A. Each Provider shall maintain complete, accurate, and current financial records. The Provider must submit to FSA an annual audit level financial statement. This audit shall encompass the Provider's fiscal year and shall be submitted to FSA no later than four calendar months following the end of the Providers fiscal year.

B. Provider shall furnish insurance coverage payable to system users and FSA as required by 7 CFR Part 735. Deductible provisions for each policy shall not exceed $10,000. Each policy shall contain a clause requiring written notification to FSA 30 days prior to cancellation.

C. The Provider must submit to FSA an electronic data processing audit that encompasses the Provider's fiscal year and must be submitted to the FSA no later than four calendar months following the end of the Providers fiscal year. The audit must evidence current computer operations, security, disaster recovery capabilities of the system, and other related systems.

V. Liability

Providers shall be strictly liable to FSA under this agreement for any losses and costs incurred by FSA associated with system failure or lost, damaged, or improperly destroyed electronic warehouse receipts or electronic USWA documents.

VI. Records

A. Provider shall maintain a continuous log capable of producing an audit trail of all electronic warehouse receipts and all electronic USWA documents activities as follows:

1. Each Provider shall establish a contemporaneous log and accompanying set of records that shall allow for a reconstruction of the files, activities, and events pertaining to each electronic warehouse receipt and each electronic USWA document issued, canceled, converted to paper, converted from paper, or changed in anyway. The log and records maintained for this reconstruction shall be kept in secure storage for a period of 6 years after December 31 of the year in which the electronic warehouse receipt was

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canceled and 6 years after the electronic USWA document was issued, unless FSA requires that the data be retained for a longer period. The log at a minimum shall capture a before and after field, the date of change, the time of the change, and the identity of the user making the change.

2. The log shall include details of any attempts to make unauthorized changes or access to electronic warehouse receipt or electronic USWA document data.

3 . Provider shall furnish reports as requested by FSA to ensure compliance with this Agreement and the USWA.

B. Each Provider shall create, daily, two complete sets of disaster recovery records. These records shall be kept in a fireproof chamber and retained until a new set of disaster recovery records are created and stored. One set of the disaster recovery records shall be kept off-site.

C. Providers shall not delete or alter any of the FSA required electronic warehouse receipts, electronic USWA documents or related data in the CFS, including the holder unless such actions are authorized by this Agreement or by FSA.

D. Provider shall notify FSA immediately if any data related to an electronic warehouse receipt or electronic USWA document has been lost due to a system malfunction. Provider shall furnish a written explanation of the events which occurred and any other documentation as requested by FSA.

VII. Security

A. Provider shall ensure on-site security of the computer hardware, software, and data. Security shall be designed to prevent the destruction, accidental or intentional, of facilities and data along with preventing the unauthorized distribution of electronic warehouse receipt or electronic USWA document information. Unless authorized by FSA, the data may only be given to a party who has the right to access it.

B. Provider shall have a comprehensive disaster recovery procedure approved by FSA of all computerized and non-computerized functions and data. Provider shall perform a comprehensive test of the disaster recovery plan twice a year and report the results of those tests to FSA. The comprehensive test is to be performed at a different location using hardware not used in the normal production program. A complete backup of production data is to be restored.

C. FSA may require alternative or additional security requirements if FSA determines that the security procedures submitted by the Provider or actually implemented by the Provider are insufficient.

VIII. System Termination

If the Provider intends to terminate its operations under this Agreement, the Provider must give FSA and users thirty days advance notice of such termination. FSA will perform a closeout audit or advise the Provider in writing that such an audit is waived prior to termination. Any termination of operations under this Agreement by the Provider or by anyone operating in the place or instead of the operator will render the Provider or the Provider's insurance company, or both liable to FSA and the users for any damages resulting from such termination.

IX. Transferring Receipts or Documents

A. A Provider may transfer electronic warehouse receipts or electronic USWA documents from its CFS to the CFS of another FSA approved Provider, when the Provider has received a request from the warehouse operator or other authorized party, defined in the applicable Addendum, and approval from FSA. These warehouse operators and other authorized parties may only change Providers once a year. FSA may waive or modify this limitation of allowing the changing of Providers only once a year.

1. The current Provider must:

a. Provide the new Provider and the warehouse operator, a list of current holders of all open electronic warehouse receipts and electronic USWA documents that were issued within the past 1 year for that warehouse 45 days prior to the transfer date. The list should contain the following information about each holder: holder ID, name, complete mailing address, phone number, fax number, and contact person.

b. Invoice the warehouse operator fourteen days prior to the transfer date for the transfer charges. The invoice amount will be determined according to the current Provider's tariff and the number of open electronic warehouse receipts and electronic USWA documents that were issued within the past 1 year for the warehouse or holder on the date of invoice.

c. Before 12:00 noon on the day of transfer:

1. Terminate access by all holders to the electronic warehouse receipts and electronic USWA documents records of the subject warehouse.

2. Produce a file of all data in each of the electronic warehouse receipts and electronic USWA documents records for the subject warehouse. This file is to include only open electronic warehouse receipts and electronic USWA documents issued within the past 1 year.

3. Provide the new Provider a list of current holders of open electronic warehouse receipts and electronic USWA documents issued within the past 1 year for that warehouse (new holders could have shown up since the notification date). The list should contain the same information about each holder as required in subparagraph A.1.a.

4. Initiate the connection to the new Provider's system and transmit the files of electronic warehouse receipts and electronic USWA documents records. Each Provider agrees to maintain a designated transfer site for purpose of transferring these files.

5. Notify FSA/Kansas City Commodity Office/Licensing Branch (FSA/KCCO/LB of the transfer.

2. The warehouse operator must:

a. Notify FSA/KCCO/LB, current Provider, and their Licensing Authority, if applicable, 60 days prior to the transfer date. Notification must include an exact date for the transfer.

b. Send notification of the change to the holders of open electronic warehouse receipts and electronic USWA documents issued within the past 1 year 30 days prior to the transfer date. The notification must inform the holders that access to their electronic warehouse receipts and electronic USWA documents will not be available on the transfer date. The notification should also clearly state the last day the current Provider will be utilized, and the first day the new Provider will be effective.

c. Pay all charges due the current Provider prior to the transfer of electronic warehouse receipts and electronic USWA documents to the new Provider. This includes the transfer charges. Failure to pay could delay the transfer of data files to the new Provider.

3. The new Provider must:

a. Perform necessary data conversions and make the electronic warehouse receipts and electronic USWA documents records available on their system and open access to all holders and authorized users not later than 7:00 a.m., the day after the transfer date.

b. Notify the warehouse operator that the conversion is complete.

c. Notify FSA/KCCO/LB that the conversion is complete.

4. FSA/KCCO/LB will:

a. Contact the current Provider and new Provider to determine if the requested transfer date is acceptable. If the requested transfer date is not acceptable to both Providers, negotiate an acceptable transfer date with both Providers and the warehouse operator.

b. Determine the notification date (at least 30 days prior to the transfer date).

5. FSA/KCCO/LB may accept a transfer date that is less than 60 days from the date of notification of change, if agreed to by FSA/KCCO/LB, both Providers and the warehouse operator. The 60 day requirement is to allow for proper notification to all holders of the electronic warehouse receipts and electronic USWA documents.

B. A Provider may transfer electronic warehouse receipts and electronic USWA documents from its CFS to the CFS of another FSA approved Provider when the Provider has received written permission from FSA and has notified all users of the electronic warehouse receipts and electronic USWA documents being transferred, at least 30 days prior to the transfer.

X. System Requirements

A. Transmission procedures for FSA used by the Provider shall be approved by FSA.

B. FSA may deny or withdraw approval of this Agreement if it determines that the prospective Provider's software or hardware are not capable of fulfilling the requirements of this Agreement.

C. Upon request by FSA all transmissions of data shall be secured and transmitted via telecommunications hardware and software according to the requirements described in the applicable Addendum for the electronic warehouse receipts and electronic USWA documents the Provider is authorized to maintain in the CFS.

XI. Record Data Requirements

The Provider shall adhere to the requirements as described in the applicable Addendum for the electronic warehouse receipts and electronic USWA documents that they are authorized to maintain in the CFS.

XII. Suspension or Termination

A. FSA may immediately suspend or terminate this Agreement for cause at any time if FSA determines the Provider is in default.

B. Once suspended and before the Provider is reinstated, FSA may conduct an on-site examination and may assess a reinstatement fee. The reinstatement fee shall equal the annual fee provided for in Addendum No. 1. This reinstatement fee may be waived if it is determined that the Provider was not in default of the terms of this Agreement.

C. Once this Agreement is terminated, all related electronic files and paper records shall be immediately surrendered to FSA.

XIII. Effective Date, Renewal, Amendments, and Correspondence

A. This Agreement shall become effective upon the date signed by FSA.

B. Unless terminated, this Agreement shall automatically renew for a period of one year, effective April 30, if the provisions of this Agreement, the applicable provisions of 7 CFR Part 735 and the applicable provisions of the USWA are complied with. The Agreement will automatically renew each April 30 thereafter under the same terms and conditions, unless amended.

C. The Provider shall designate a contact person or alternate person as the person to be contacted by FSA regarding this Agreement. Notice required by this Agreement delivered to the address of the contact person or the person's alternate shall be notice to the Provider hereunder.

D. FSA may amend this Agreement for any reason. If the Agreement is so amended, the Provider may refuse to accept such amendment and terminate this Agreement in accordance with paragraph E of this section. During the 60 day notice period the Provider will continue to operate under the terms of the Agreement in effect prior to the amendment.

E. Either FSA or the Provider may terminate this Agreement without cause, provided the terminating party gives the other party written notice at least 60 days in advance.

F. Unless otherwise notified, the Provider shall direct all contacts in connection with this Agreement to the FSA contact person: Chief, Licensing Branch, Warehouse Licensing and Examination Division, Kansas City Commodity Office, P.O. Box 419205; Kansas City, Missouri; 64141–6205, Phone: 816–926–6474; Fax: 816–926–1774.

Provider: _____

Signature: _____

Title: _____

Date: _____

Director, Kansas City Commodity Office, FSA: _____

Date: _____

Addendum No. 1: Fees

Schedule of fees charged Electronic Warehouse Receipt Providers for services rendered.

United States Warehouse Act—Provider Schedule of Fees

The fees shown below shall remain effective from:

May 1,____ through April 30,____.

Application Fee: $9,000.00.

Annual Renewal Fee: $9,000.00.

Exhibit D—Draft

Farm Service Agency

Addendum to the Provider Agreement to Electronically File and Maintain Cotton Warehouse Receipts

[WA–141–1; 0560–120]

This Addendum between_____(hereafter "Provider") and the Farm Service Agency (hereafter "FSA") authorizes the Provider to establish and maintain a database and system for the purpose of electronically filing cotton electronic warehouse receipts issued under the United States Warehouse Act (hereafter "USWA") in a central data filing system (hereafter "central filing system" or "CFS") and permits the Provider to accept the filing of electronic warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for cotton are hereafter referred to herein as "electronic warehouse receipts (EWRs)."

This Addendum sets forth the Provider's minimum requirements for EWR record formatting, reporting requirements and the protocols to be used in the transmission of such information.

I. Receipt Record Data Requirements

FSA, in administration of the USWA, the regulations found at 7 CFR Part 735, the Provider Agreement To Electronically File And Maintain Electronic Warehouse Receipts, and this Addendum, may at any time require the Provider to furnish information beyond the minimum requirements shown in this Addendum.

A. Required Information

The Provider shall, at a minimum make the elements listed below available to every USWA and non-USWA licensed warehouse operator issuing EWRs in the CFS. The Provider shall ensure that all of these fields are completed by all warehouse operators. It is each individual warehouse operator's responsibility to supply the necessary data to complete each element. This Addendum does not restrict the number of fields that may be made available to warehouse operators.

USWA license number, if applicable [1]

Receipt number

Bale Tag number

Issuance date

Receipt status

[1] Enter Federal license number, if not licensed, zero fill field.

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The words "Not Negotiable", or "Negotiable" according to the nature of the receipt
Cancellation date
Name of warehouse
Location of warehouse (City)
Location of warehouse (State)
Warehouse operator
Location receipt issued (City)
Location receipt issued (State)
Received from
Lot identification tag (multiple bale receipts)
Cotton graded statement
State—"Not graded at request of the depositor" or—Color grade = "C–25" (4 character), fiber length = "F–45" (4 character), micronaire = "M–3.5" (5 character), strength = "S–38.1" (6 character), leaf grade = "L–4" (3 character), and extraneous matter = "E–47" (4 character).
Net weight
Number of bales (multiple bale receipts)
Terms and conditions (These terms and conditions that apply to each EWR must be furnished by the individual warehouse operators issuing the EWRs. Refer to Exhibit I, for USWA licensed warehouse operators)
Name of person authorized to sign warehouse receipt.

B. Additional Information

The Provider shall, at a minimum make the elements listed below available to every USWA and non-USWA licensed warehouse operator issuing EWRs in the CFS. The Provider shall ensure that all of these fields are completed by all warehouse operators. It is each individual warehouse operator's responsibility to supply the necessary data to complete each element. This addendum does not restrict the number of fields that may be made available to warehouse operators. FSA may allow a user of the Provider's system to modify the elements listed below without being the holder of the EWR. The Provider shall notify the current holder of the EWR of any changes.

Holder
Warehouse Code
Receipt Type (single bale or multiple bale)
Paper receipt number (if applicable)
Compression status
Compression Paid or Unpaid
Receiving Charges Paid or Due [2]
Rail or Truck
Gin Code [3]
Gin Tag [3]

[2] These fields may be modified by the warehouse operator without being the holder.

[3] Note: In case of reconcentrated cotton the gin code and gin tag can be the previous storing warehouse code and receipt number.

License Type, US if Federally Licensed, NL if not licensed or the two letter Postal abbreviation if State Licensed, will precede or follow the warehouse receipt number
Commodity Credit Corporation (CCC) Agreement (Y or N)
Location of bale [2]
Gross and Tare weight

C. Converting Electronic to Paper

When converting from an electronic to a paper warehouse receipt, the Provider shall advise the warehouse operator to print on the face of the paper warehouse receipt the EWR number.

II. Transmission of Data

Upon request by FSA all transmissions of data shall be secured and transmitted via telecommunications hardware and software according to the requirements described in Attachment I Provider Specifications for interfacing with Warehouse Examiners' Communications Software (WECS) for cotton.

Provider: _____
Signature: _____
Title: _____
Date: _____
Director, Kansas City Commodity Office, FSA: _____
Date: _____

Exhibit D–1

Terms and Conditions For USWA Licensed Warehouse Operators

The following information must be recorded on all EWR's.
The statements:
Incorporated or Unincorporated and if incorporated, under what laws.
Insured or Not Insured and if insured, to what extent, by the warehouse operator against loss by fire, lighting and other risks.
Weight was determined by a weigher licensed under the USWA or not weighed at the request of the depositor.
In the event the relationship existing between the warehouse operator and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship.

Exhibit E—Draft

Farm Service Agency

Addendum to the Provider Agreement to Electronically File and Maintain Grain Warehouse Receipts

[WA–141–2; 0560–0120]

This Addendum between _____ (hereafter "Provider") and the Farm Service Agency (hereafter "FSA") authorizes the Provider to establish and maintain a database and system for the purpose of electronically filing grain warehouse receipts issued under the United States Warehouse Act (hereafter "USWA") in a central data filing system (hereafter "central filing system" or "CFS") and permits the Provider to accept the filing of electronic warehouse receipts from other than USWA licensed warehouse operators in such electronic data filing system. Such electronically filed warehouse receipts for grain are hereafter referred to herein as "electronic warehouse receipts(EWRs)."

Grain is defined as all products commonly classed as grain such as wheat, corn, oats, barley, rye, flaxseed, rough, brown, and milled rice, sunflower seeds, field peas, soybeans, emmer, sorghum, safflower seed, triticale, millet and such other products as are ordinarily stored in grain warehouses, subject to the disapproval of the FSA.

This Addendum sets forth the Provider's minimum requirements for EWR record formatting, reporting requirements and the protocols to be used in the transmission of such information.

I. Receipt Record Data Requirements

FSA, in administration of the USWA, the regulations found at 7 CFR Part 735, the Provider Agreement To Electronically File and Maintain Warehouse Receipts and this Addendum, may at any time require the Provider to furnish information beyond the minimum requirements shown in this Addendum.

A. Required Information

The Provider shall, at a minimum, make the elements listed below available to every USWA and non-USWA licensed warehouse operator issuing EWRs in the CFS. The Provider shall ensure that all of these fields are completed by all warehouse operators. It is each individual warehouse operator's responsibility to supply the necessary data to complete each element. This Addendum does not restrict the number of fields that may be made available to warehouse operators.

USWA license number, if applicable [1]
Receipt number
Issuance date
Receipt status
The words "Not Negotiable" or "Negotiable" according to the nature of the receipt
Cancellation date
Name of warehouse
Location of warehouse (City)

[1] Enter Federal license number, if not licensed, zero fill field.

Location of warehouse (State)
Warehouse operator
Location receipt issued (City)
Location receipt issued (State)
Received from
Net weight
Dockage (if any)
Grade
Commodity
Name of person authorized to sign warehouse receipt
Terms and conditions (These terms and conditions that apply to each EWR must be furnished by the individual warehouse operators issuing the EWRs. Refer to Exhibit I for USWA licensed warehouse operators).

B. Additional Information

The Provider shall, at a minimum, make the elements listed below available to every USWA and non-USWA licensed warehouse operator issuing EWRs in the CFS. The Provider shall ensure that all of these fields are completed by all warehouse operators. It is each individual warehouse operator's responsibility to supply the necessary data to complete each element. This Addendum does not restrict the number of fields that may be made available to warehouse operators. FSA may allow a user of the Provider's system to modify the elements listed below without being the holder of the EWR. The Provider shall notify the current holder of the EWR of any changes.

Holder
Warehouse Code
Paper receipt number (if applicable)
License Type, US if Federally Licensed, NL if not licensed or the two letter Postal abbreviation if State Licensed, will precede or follow the warehouse receipt number
Date to which storage has been paid or storage start date [2]
Received by Truck, Rail or Barge
Amount per unit of measure of prepaid in or out charges
Commodity Credit Corporation (CCC) Agreement (Y or N)

C. Converting Electronic To Paper

When converting from an electronic to a paper warehouse receipt, the Provider shall advise the warehouse operator to print on the face of the paper warehouse receipt the EWR number.

II. Transmission of Data

Upon request by FSA, all transmissions of data shall be secured and transmitted via telecommunications hardware and software according to the requirements described in Attachment I Provider Specifications for interfacing with Warehouse Examiners' Communications Software (WECS) for grain.

Provider: _____
Signature: _____
Title: _____
Date: _____
Director, Kansas City Commodity Office, FSA: _____
Date: _____

[2] This field may be modified by the warehouse operator without being the holder.

Exhibit E–1

Terms and Conditions For USWA Licensed Warehouse Operators

The following information must be recorded on all EWR's.
The statements:
Incorporated or Unincorporated and if incorporated, under what laws.
Insured or Not Insured and if insured, to what extent, by the warehouse operator against loss by fire, lighting and other risks.
Weight was determined by a weigher licensed under the USWA or not weighed at the request of the depositor.
In the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship.

Exhibit E–2 Draft

Farm Service Agency

Addendum to the Provider Agreement to Electronically File and Maintain United States Warehouse Act Grain Inspection and/or Weight Certificates

[WA–141–3; 0560–0120]

This Addendum between _____ (hereafter "Provider") and the Farm Service Agency (hereafter "FSA") authorizes the Provider to establish and maintain a database and system for the purpose of electronically filing inspection and weight certificates issued under the United States Warehouse Act (hereafter "USWA") in a central data filing system (hereafter "central filing system" or "CFS"). Such electronically filed certificates are hereafter referred to herein as "electronic inspection and/or weight certificates (EIWCs)."

This Addendum sets forth the Provider's minimum requirements for EIWC record formatting, reporting requirements, and the protocols to be used in the transmission of such information.

I. Document Record Data Requirements

FSA, in administration of the USWA, the regulations found at 7 CFR part 735, the Provider Agreement To Electronically File And Maintain United States Department of Agriculture Documents and this Addendum, may at any time require the Provider to furnish information beyond the minimum requirements shown in this Addendum.

A. Required Information

The Provider shall, at a minimum make the elements listed below available to every USWA warehouse operator issuing EIWCs in the CFS. The Provider shall ensure that all of these fields are completed by all warehouse operator's. It is each individual warehouse operator's responsibility to supply the necessary data to complete each element. This Addendum does not restrict the number of fields that may be made available to warehouse operators.

License number
Certificate number
Issuance date
Name of warehouse
Location of warehouse (City)
Location of warehouse (State)
Type of certificate (Inspection, Weight or Both)
In or Out of warehouse certificate
Kind of grain
Grade
Net weight, including dockage, (Weight or combination certificate)
Approximate quantity of commodity (if not a weight or combination certificate)
Name of person authorized to sign certificate
Terms and conditions (These terms and conditions that apply to each EIWC must be furnished by the individual warehouse operator issuing the EIWCs. Refer to Exhibit I for required statements).

B. Additional Information

The Provider shall, at a minimum make the elements listed below available to every USWA warehouse operator issuing EIWCs in the CFS. The Provider shall ensure that all of these fields are completed by all warehouse operator's. It is each individual warehouse operator's responsibility to supply the necessary data to complete each element. This Addendum does not restrict the number of fields that may be made available to warehouse operators. FSA may allow a user of the Providers system to modify the elements listed below without being the holder of the certificate. The Provider shall notify the current holder of the certificate of any changes.

Holder
Warehouse Code
Paper certificate number (if applicable)
License Type, U.S. if Federally Licensed, NL if not licensed or the

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two letter Postal abbreviation if State Licensed, will precede or follow the certificate number.

C. Converting Electronic to Paper

When converting from an electronic to a paper certificate, the Provider shall advise the warehouse operator to print on the face of the paper certificate the EIWC number.

II. Transmission of Data

Upon request by FSA, all transmissions of data shall be secured and transmitted via telecommunications hardware and software according to the requirements described in Attachment I Provider Specifications for interfacing with Warehouse Examiners' Communications Software (WECS) for inspection and/or weight certificates.

Provider: _____
Signature: _____
Title: _____
Date: _____
Director, Kansas City Commodity Office, FSA: _____
Date: _____

Exhibit E–3

Exhibit I

Terms and Conditions for USWA Licensed Warehouse Operators

The following information must be shown on all EIWCs.

The statements:

"United States Warehouse Act, Grain Inspection and/or Weight Certificate"
"Certificate issued by an inspector/weigher licensed under the United States Warehouse Act"
"Not valid for the purpose of the United States Grain Standards Act"

Exhibit F—Draft

Farm Service Agency

Provider Agreement To Electronically File And Maintain Other Electronic Documents

[WA–142; 0560–0120]

This Provider Agreement (Agreement) between_____(Provider) and the Farm Service Agency (FSA) authorizes the Provider to establish and maintain a database and system for the purpose of electronically utilizing documents related to the shipment, payment, and financing of the sale of agricultural products in a central filing system (central filing system or CFS) as authorized by the United States Warehouse Act (USWA). This Agreement will become effective upon execution by FSA and shall remain in effect until terminated as provided for in section III of the Agreement.

For the purposes of this Agreement:

Electronic documents are documents which are generated, sent, received, or stored by electronic, optical, or similar means, including electronic data exchange, electronic mail, telegram, telex or telecopy. Such documents include but are not limited to: sales contracts; bills of lading; insurance certificates; grading and classing documents; and letters of credit. Once a negotiable electronic document is issued under this Agreement, no duplicate document in any other form may be transferred by any person with respect to the same agricultural product (or any portion of the same agricultural product).

If a non-negotiable document in a non-electronic format is presented to the Provider for transmission in their CFS, the Provider may generate an electronic version of such document but must maintain custody of the original non-negotiable document except as is authorized by FSA.

Agricultural products are those commodities and products of such commodities listed in Appendix I. Items that consist of an agricultural product and a non-agricultural product will be considered to be an agricultural product if the non-agricultural component is less than 50 percent of the weight or volume of the item (excluding added water)

I. Terms and Conditions

A. The regulations at 7 CFR Part 735 are incorporated by reference including any amendments to such regulations which are made after execution of the Agreement.

B. The CFS shall be designed in a manner that allows parties to transfer and, if necessary to complete a transaction, generate a document for use by another party with respect to the shipment, payment or financing of a sale with respect to an agricultural commodity.

C. The Provider will operate a CFS in a manner that does not favor the interests of any party over those of another party or which creates the appearance of operation in a manner that is biased in favor of any other party. The Provider will make the CFS operative and accessible to users and FSA for a period of not less than 18 hours per day Monday through Friday and not less than 12 hours per day on Saturday and Sunday. The Provider will offer a continuous period of access to the CFS during the hours of 7:00 AM to 6:00 PM for the local time zone where the CFS is located. Routine maintenance shall be performed without disruption of services. If, for extraordinary maintenance or for reasons beyond the Provider's control, the Provider cannot furnish such access to the CFS the Provider shall furnish notice to FSA as follows:

1. For extraordinary maintenance, advance written notice setting forth the reasons and expected duration of the maintenance shall be provided 5 calendar days before the beginning of such maintenance; and

2. If unforeseen circumstances cause the CFS to be inaccessible during operating hours for more than a 1 hour period, the Provider will immediately notify FSA of the access problems.

D. The Provider will give FSA unrestricted access, without cost to FSA, to: the CFS; all related and backup files; and off-site records. Such access includes access to the location where such systems, records and data are maintained. The Provider will provide to FSA information which FSA has requested in the form, either printed or electronic or both, as requested by FSA.

E. The Provider will pay to FSA fees as set forth in Appendix II by the dates specified in such Appendix. These fees may be changed annually and any changes will be provided as an amendment to Appendix II by April 1st of each year and will become effective May 1st of each year.

F. Any fee charged a user by the Provider must be filed with FSA and must be approved by FSA. The Provider will make available at no charge a schedule of its fees to potential users. Fees assessed to users of the CFS must be levied in a non-discriminatory manner. The Provider may deny a user access to the CFS if the user has not made payment to the Provider for fees which are more than 60 days overdue.

G. The Provider will maintain a financial net worth of at least $10 million and will maintain financial records for review by FSA for the purposes of verifying net worth of the Provider.

H. The Provider will furnish insurance coverage payable to users of the CFS as provided in 7 CFR Part 735. Deductible provisions for each policy may not exceed $10,000. Each policy must provide that coverage under the policy remains in effect until 30 days after written notification is made by FSA to the insurer that the Provider is terminating the policy.

I. The Provider will be strictly liable for costs incurred by FSA as a result of action taken by FSA in the event of a failure of the CFS or in the event of lost, damaged, or improperly destroyed electronic documents.

J. The Provider will maintain a log of all activity undertaken in the CFS that is capable of producing an audit trail of transactions. The log and accompanying

set of records must be sufficient to allow for a reconstruction of the files, activities, and events pertaining to each electronic document that is: issued; canceled; converted to paper; converted from paper; transferred; or changed in anyway. The log and records maintained for this reconstruction shall be kept in secure storage for a period of 6 years after the electronic document was issued. The log must contain: a "before" and "after" field; the date of change; the time of the change; the identity of the user making the change; and details of attempts to make unauthorized changes or access to electronic document data. Daily, the Provider will create two complete sets of disaster recovery records. These records shall be kept in a fireproof chamber and retained until a new set of disaster recovery records are created and stored. One set of the disaster recovery records shall be kept off-site. The Provider will notify FSA immediately if any data related to an electronic document has been lost due to a CFS malfunction and will furnish a written explanation of the events which occurred and any other documentation as requested by FSA.

K. The Provider shall ensure on-site security of the computer hardware, software, and data. Security shall be designed to prevent the destruction of facilities and data and the unauthorized distribution of electronic document information. Unless authorized by FSA, the data may only be given to a party who has the right to access it. The Provider will maintain a comprehensive disaster recovery procedure approved by FSA of all computerized and non-computerized functions and data. At a location that is not related to the CFS, the Provider will perform a comprehensive test of the disaster recovery plan twice a year and report the results of those tests to FSA. After reviewing the results of such a test, FSA may require alternative or additional security requirements if FSA determines that the security procedures of the Provider are insufficient to protect users of the system.

L. The Provider will furnish reports as requested by FSA to ensure compliance with this Agreement and the USWA.

M. Each Provider shall maintain complete, accurate, and current financial records. The Provider must submit to FSA an annual audit level financial statement. This audit shall encompass the Provider's fiscal year and shall be submitted to FSA no later than four calendar months following the end of the Provider's fiscal year.

N. The Provider must submit to FSA an electronic data processing audit that encompasses the Provider's fiscal year and must be submitted to the FSA no later than four calendar months following the end of the Provider's fiscal year. The audit must evidence current computer operations, security, disaster recovery capabilities of the system, and other related systems.

II. System Requirements

A. Before the Provider allows a user access to its CFS, FSA must have approved a written submission received from the Provider that sets forth in detail the manner in which the CFS will operate. The CFS must be operated in a manner that allows inter-action with FSA data bases and the CFS of another entity approved by FSA as a provider under 7 CFR Part 735.

B. Upon request by FSA, all transmissions of data shall be secured and transmitted by using hardware and software approved by FSA.

III. Suspension or Termination

A. The Provider or FSA may terminate this Agreement by providing the other party written notification 60 days prior to the effective date of the termination. During this 60 day period, prior to allowing a user to use the CFS, the Provider will notify the user of the date this Agreement will terminate.

B. FSA may immediately suspend or terminate this Agreement for cause at any time if FSA determines the Provider has failed to comply with any provision of the USWA, the regulations at 7 CFR Part 735 or this Agreement. If this Agreement is suspended, FSA will provide the Provider a written statement of the basis of the suspension. Upon completion of the action necessary to conform to the provisions of the USWA, the regulations at 7 CFR Part 735 or this Agreement, the Provider may request reinstatement of the Agreement. As a condition of reinstatement, FSA may conduct an on-site examination and may assess a reinstatement fee. The reinstatement fee shall not exceed the annual fee provided for in Appendix II and may be waived if it is determined that the Provider was not in material violation of such provisions.

C. Once this Agreement is terminated, all related electronic files and paper records shall be immediately surrendered to FSA.

D. If the Agreement is to be terminated by the Provider, FSA will perform a final audit of the CFS or advise the Provider in writing that such an audit is waived.

IV. Amendment to this Agreement

FSA may amend this Agreement for any reason. If the Agreement is to be amended, the Provider may refuse to accept such amendment and terminate this Agreement in accordance with section III.

V. Contact Persons

A. The Provider shall designate a contact person or alternate person as the person to be contacted by FSA regarding performance of this Agreement. Notice required by this Agreement delivered to the address of the contact person or the person's alternate shall be notice to the Provider.

B. Unless specified in writing by FSA, the Provider shall direct all inquiries regarding performance of this Agreement to: Chief, Licensing Branch, Warehouse Licensing and Examination Division, Kansas City Commodity Office, P.O. Box 419205, Kansas City, MO 64141–6205; Phone: 816–926–6474; Fax: 816–926–1774.

Provider: _____
Signature: _____
Title: _____
Date: _____
On behalf of FSA: _____
Date: _____

Appendix I

Agricultural Products covered under this agreement include but are not limited to:

Beans, Berry's, Coffee, Cotton, Dairy Products, Fish/Shellfish, Flowers, Fruits, Grain, Grass, Greens, Gourds, Herbs, Hides/Skins, Horticulture, Livestock, Meat, Melons, Nuts, Oilseeds, Poultry, Sweeteners, Vegetables, Wool, Wood Products.

Addendum No. 1: Fees

Schedule of fees charged Providers of Other Electronic Documents for services rendered.

United States Warehouse Act—Provider Schedule of Fees

The fees shown below shall remain effective from:

May 1,____through April 30,____.
Application Fee: $9,000.00.
Annual Renewal Fee: $9,000.00.

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Federal Register

Tuesday,
September 4, 2001

Part III

Department of the Interior

Fish and Wildlife

50 CFR Part 32
2001–2002 Refuge-Specific Hunting and Sport Fishing Regulations; Final Rule

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DEPARTMENT OF THE INTERIOR

50 CFR Part 32

RIN 1018–AG58

Fish and Wildlife Service

2001–2002 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (we or the Service) adds seven national wildlife refuges (refuges) to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities; and amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for 2001–2002.

DATES: This rule is effective September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Leslie A. Marler, (703) 358–2397; Fax (703) 358–2248.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 (NWRSAA) closes national wildlife refuges to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or fishing, upon a determination that such uses are compatible with the purposes of the refuge. The action also must be in accordance with provisions of all laws applicable to the areas, must be developed in coordination with the appropriate State wildlife agency(ies), must be consistent with the principles of sound fish and wildlife management and administration, and must be otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (System) for the benefit of present and future generations of Americans.

We review refuge hunting and fishing programs annually to determine whether to include additional refuges or whether individual refuge regulations governing existing programs need modifications, deletions, or additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to refuge-specific regulations to ensure the continued compatibility of hunting and fishing programs and that these programs will not materially interfere with or detract from the fulfillment of the System's mission or the purposes of the refuge.

You may find provisions governing hunting and fishing on national wildlife refuges in Title 50 of the Code of Federal Regulations in part 32. We regulate hunting and fishing on refuges to:

- Ensure compatibility with the purpose(s) of the refuge;
- Properly manage the fish and wildlife resource;
- Protect other refuge values;
- Ensure refuge visitor safety; and
- Provide opportunities for high-quality recreational and educational experiences.

On many refuges where we decide to allow hunting and fishing, our general policy of adopting regulations identical to State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under the section entitled "Statutory Authority." We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to either migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or those species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and fishing in 50 CFR part 32. In this rulemaking, we are promulgating many of the amendments to these sections to standardize and clarify the existing language of these regulations.

Some refuges make seasonal information available in brochures or leaflets, which we provide for in 50 CFR 25.31, to supplement these refuge-specific regulations.

Plain Language Mandate

In this rule some of the revisions to the individual refuge units are to comply with a Presidential mandate to use plain language in regulations and do not modify the substance of the previous regulations. These types of changes include using "you"to refer to the reader and "we" to refer to the Service and using the word "allow" instead of "permit" when we do not require the use of a permit for an activity.

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966 (16 U.S.C. 668dd–668ee, as amended), and the Refuge Recreation Act (RRA) of 1962 (16 U.S.C. 460k–460k–4) govern the administration and public use of national wildlife refuges.

Amendments enacted by the National Wildlife Refuge System Improvement Act (NWRSIA) of 1997 amend and build upon the NWRSAA in a manner that provides an improved "Organic Act" for the System similar to those that exist for other public lands. The NWRSIA serves to ensure that we effectively manage the System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The NWRSAA states first and foremost that we focus the mission of the System on conservation of fish, wildlife, and plant resources and their habitats. The NWRSIA requires the Secretary, before initiating or allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible and promotes public safety. The NWRSIA establishes as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the System, through which the American public can develop an appreciation for fish and wildlife. The NWRSIA establishes six wildlife-dependent recreational uses, when compatible, as the priority general public uses of the System. Those priority uses are: hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The RRA authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which the area was established. This act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The NWRSAA and the RRA also authorize the Secretary to issue regulations to carry out the purposes of the acts and regulate uses.

We develop hunting and/or sport fishing plans for each refuge prior to opening it to hunting or fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge. We have ensured initial compliance with the NWRSAA and the RRA for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at or near the time of acquisition. This policy ensures that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. We ensure continued compliance by the development of Comprehensive Conservation Plans, long-term hunting and sport fishing plans, and by annual review of hunting and sport fishing programs and regulations.

In preparation for new openings, we include the following documents in the refuges' "opening package:" (1) Step-down hunting and/or fishing management plan; (2) Appropriate NEPA documentation (Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement); (3) Appropriate decision documentation (e.g., Finding of No Significant Impact); (4) Section 7 evaluation; (5) Copies of letters requesting State and, where appropriate, tribal involvement and the results of the request; (6) A draft news release; (7) Outreach plan; and (8) Draft refuge-specific regulations. Upon review of these documents, we have determined that the opening of these national wildlife refuges to hunting and fishing is compatible with the principles of sound fish and wildlife management and administration and otherwise will be in the public interest.

Response to Comments Received

In the July 3, 2001, **Federal Register** (66 FR 35193), we published a proposed rulemaking identifying the refuges and their proposed hunting and/or fishing programs and invited public comments. We reviewed and considered all substantive comments following a 30-day comment period.

We received three comments on the proposed rule: two from nongovernmental organizations and one from an individual. One respondent strongly supported the proposed rule.

Comment: Two commenters expressed opposition to opening refuges to hunting and fishing and believe refuges should be places offering protection and shelter. Along this same line, another commenter expressed that "management of NWRs should emphasize wildlife preservation, habitat protection, and native ecosystem restoration over public uses, especially consumptive uses." Also a commenter suggested that before we authorize a hunting/fishing program we should census populations, evaluate habitat, or use other means of ecological study.

Response: The Refuge System provides opportunities for compatible wildlife-dependent recreational activities. Hunting and fishing are integral parts of a comprehensive wildlife management program. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (NWRSIA), identifies them as two of the priority public uses of the Refuge System. The principal focus of the NWRSIA was to clearly establish a wildlife conservation mission for the Refuge System and provide managers clear direction and procedures for making determinations regarding wildlife conservation and public uses within the units of the System. The Service does manage national wildlife refuges primarily for wildlife preservation, habitat protection, and biological integrity and allows uses only when compatible with achieving the refuge's purposes. In passing the NWRSIA, Congress reaffirmed that the Refuge System was created to conserve fish, wildlife, and plants and their habitats and that this objective had been facilitated by providing Americans opportunities to participate in compatible wildlife-dependent recreation, including hunting and/or fishing on Refuge System lands. Additionally, the NWRSIA established six priority wildlife-dependent uses of the Refuge System, where compatible. These priority uses are: hunting, fishing, wildlife observation, wildlife photography, environmental education, and interpretation. The NWRSIA directs the Secretary to facilitate those uses.

When lands and waters are under consideration for addition to the Refuge System, the Refuge manager will make an interim compatibility determination on any existing priority public uses. The record of decision establishing the refuge must document the completion of such determinations. The results of these determinations are in effect until the completion of a Comprehensive Conservation Plan (CCP). During the development of the CCP and implementation of the National Environmental Policy Act (NEPA) process, we accept and incorporate public comments into the hunting/fishing decision on the refuge. Refuge managers plan efforts well in advance of any proposed changes in order to obtain as much involvement from groups and individuals as possible. This may include public meetings, workshops, news releases, and mailings to interested groups. The refuge manager consults with any affected Service Regional Office, State wildlife agencies, tribes, and the public before opening a refuge to hunting or fishing. The decision to open a refuge to hunting or fishing depends on the provisions of Federal and/or State laws and regulations applicable to the specific refuge and a determination by the Refuge manager that opening an area to hunting will be compatible with the refuge purpose(s). This decision must also be consistent with the principles of sound wildlife management, applicable wildlife objectives, and otherwise be in the public interest (50 CFR 32.1). The refuge manager must submit a hunting or fishing plan that has undergone a public input process as required by NEPA to the Regional Office for approval. The Regional Director approves the plan before the rulemaking process begins. These hunting/fishing plans contain:

a. Step-down hunting/fishing plans (compatibility determinations). The plan should be an appendix to the overall plan for providing public uses on refuges, providing documentation of the hunting/fishing allowed on a refuge, including the relationship of hunting/fishing to refuge purpose(s) goals, objectives, and the System mission;

b. Appropriate NEPA documentation;

c. Appropriate decision documentation;

d. Section 7 evaluation;

e. Copies of letters requesting State and, where appropriate, tribal involvement and the results of the request;

f. Draft news release; and

g. Outreach plan.

Additionally, we review all hunting programs annually to determine if they may affect, adversely or beneficially, threatened or endangered species and their habitat. The refuge manager will initiate consultation, as appropriate, in accordance with Section 7 of the Endangered Species Act and intra-Service consultation procedures.

With regard to censusing populations, evaluating habitat, or other means of ecological study, we base our hunting and fishing programs on State and Federal laws which establish the harvest limits and hunting/fishing seasons. The respective State issues hunting/fishing licenses, not the Refuge System or the refuge manager, and we require hunters/anglers to have all applicable Federal, State, and tribal licenses and/or stamps in their possession when hunting/fishing on a refuge. We only allow hunting/fishing if it is compatible with achieving the purposes of the refuge and in accordance with those State/Federal laws. We may, however, be more restrictive if the local conditions

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warrant. We periodically adjust the hunting/fishing program to ensure that those allowed activities remain compatible, that the amount of take per hunter/angler is sustainable, and that the take does not affect the viability of a population.

Comment: Another commenter suggested there was "insufficient time and notice given to the public to comment on the process."

Response: We provided the public a 30-day period to comment on the July 3, 2001, proposed rule. The Refuge-Specific Hunting and Sport Fishing Regulations are an annual process with the proposed rule published each summer with a 30-day comment period. There is nothing contained in this annual regulation outside of the scope of the annual review process where we add refuges or determine whether individual refuge regulations need modifications, deletions, or additions made to them. We make every attempt to collect all of the proposals from refuges nationwide and process them expeditiously to maximize the time available for public review. As we stated in the proposed rule, by allowing a 30-day comment period, we are trying to avoid jeopardizing the establishment of hunting and fishing programs this year (two of the six priority uses established by the NWRSIA) or shortening their duration. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. Even after issuance of a final rule, we accept comments, suggestions, and concerns for consideration for any appropriate subsequent rulemaking.

Comment: A commenter suggested using a sequence to standardize refuge planning that Defenders of Wildlife recommended in their publication, "Recommendations for Implementing the National Wildlife Refuge System Improvement Act," and delay our final decisionmaking until population and habitat information required by the National Wildlife Refuge System Improvement Act is presented and analyzed.

Response: Our Comprehensive Conservation Plan (CCP) process consists of eight steps (see the Service Manual chapter published in final in the **Federal Register** on May 25, 2000, 65 FR 33892—specifically in that policy, 602 FW 3.4C): (1) Preplanning: Planning the Plan; (2) Initiate Public Involvement and Scoping; (3) Review Vision Statement and Goals and Determine Significant Issues; (4) Develop and Analyze Alternatives, Including the Proposed Action; (5) Prepare Draft Plan and NEPA Document; (6) Prepare and Adopt Final Plan; (7) Implement Plan, Monitor, and Evaluate; and (8) Review and Revise Plan. These steps closely parallel the standardized sequence for refuge planning suggested by Defenders of Wildlife in the publication referenced by the comment. In situations where we are unable to develop new data for the CCP, such as conducting biological inventories in advance of the planning effort, the CCP may identify the need for further data collection. In such cases we may delay decisionmaking, pending additional data collection and analysis. There are many sources of data that can aid in CCP development. We include a list of potential data sources in our Comprehensive Conservation Planning policy (602 FW 3.4 C(1)(e)). A lack of data should not delay completion of the CCP.

Comment: A commenter suggested that we thoroughly analyze and discuss all current and proposed habitat management practices for the refuges in question.

Response: We address current and proposed habitat management practices (general principles, tundra, grassland, grazing and haying, wetland/water, moist soil, cropland, and forest management) in existing guidance to managers. This guidance provides a framework for refuge managers to develop specific habitat management programs and requires refuge managers to thoroughly investigate fundamental habitat management practices.

Effective Date

This rule is effective upon publication in the **Federal Register**. We have determined that any further delay in implementing these refuge-specific hunting and sport fishing regulations would not be in the public interest in that a delay would hinder the effective planning and administration of the hunting and fishing programs. We provided a 30-day comment period for the July 3, 2001, proposed rule. An additional 30-day delay would jeopardize holding the hunting and/or fishing programs this year or shorten their duration and thereby lessen the management effectiveness of this regulation. These rules do not impact the public generally in terms of requiring lead time for compliance. Rather, they relieve restrictions in that they permit activities on refuges that would otherwise not be allowed. Therefore, we find good cause under 5 U.S.C. 553 (d)(3) to make this rule effective upon publication.

We allow the following wildlife-dependent recreational activities:

Hunting of migratory game birds on seven refuges, including:

- Grand Bay National Wildlife Refuge, Alabama and Mississippi
- Great River National Wildlife Refuge, Illinois and Missouri
- Middle Mississippi River National Wildlife Refuge, Illinois and Missouri
- Port Louisa National Wildlife Refuge, Illinois and Iowa
- Clarks River National Wildlife Refuge, Kentucky
- Petit Manan National Wildlife Refuge, Maine
- Deep Fork National Wildlife Refuge, Oklahoma

Upland game hunting on six refuges, including:

- Grand Bay National Wildlife Refuge, Alabama and Mississippi
- Great River National Wildlife Refuge, Illinois and Missouri
- Middle Mississippi River National Wildlife Refuge, Illinois and Missouri
- Port Louisa National Wildlife Refuge, Illinois and Iowa
- Two Rivers National Wildlife Refuge, Illinois and Missouri
- Clarks River National Wildlife Refuge, Kentucky

Big game hunting on eight refuges, including:

- Grand Bay National Wildlife Refuge, Alabama and Mississippi
- Great River National Wildlife Refuge, Illinois and Missouri
- Middle Mississippi River National Wildlife Refuge, Illinois and Missouri
- Port Louisa National Wildlife Refuge, Illinois and Iowa
- Big Oaks National Wildlife Refuge, Indiana
- Clarks River National Wildlife Refuge, Kentucky
- Petit Manan National Wildlife Refuge, Maine
- Clarence Cannon National Wildlife Refuge, Missouri

Sport fishing on nine refuges, including:

- Sacramento River National Wildlife Refuge, California
- Great River National Wildlife Refuge, Illinois and Missouri
- Middle Mississippi River National Wildlife Refuge, Illinois and Missouri
- Port Louisa National Wildlife Refuge, Illinois and Iowa
- Two Rivers National Wildlife Refuge, Illinois and Missouri
- Big Oaks National Wildlife Refuge, Indiana
- Clarks River National Wildlife Refuge, Kentucky
- Clarence Cannon National Wildlife Refuge, Missouri
- Supawna Meadows National Wildlife Refuge, New Jersey

In accordance with the NWRSAA and the RRA, we have determined that these openings are compatible and consistent with the purpose(s) for which we established the respective refuges. A copy of the compatibility determinations for these respective refuges is available by request to the contact noted under the heading **FOR FURTHER INFORMATION CONTACT.**

We are correcting administrative errors in 50 CFR part 32 that occurred when we inadvertently dropped migratory game bird hunting and sport fishing as activities open to the public in Lacreek National Wildlife Refuge in the State of South Dakota and sport fishing as an activity open to the public in Minidoka National Wildlife Refuge in the State of Idaho, and when we did not remove sport fishing from the list of activities open to the public in Delevan National Wildlife Refuge in the State of California. Lacreek National Wildlife Refuge has been open to sport fishing and migratory game bird hunting since the late 1960s. Minidoka National Wildlife Refuge has been open to sport fishing since the late 1980s. Delevan National Wildlife Refuge closed to sport fishing over a decade ago. We are adding Litchfield Wetland Management District in the State of Minnesota, which has been open since 1978, to clarify a hunting blind issue. Wetland management districts contain numerous waterfowl production areas. Land acquired as a "waterfowl production area" is annually open to hunting of migratory game birds, upland game, and big game (see 50 CFR 32.1).

We are making another technical correction by removing Mark Twain National Wildlife Refuge from the listing for the States of Illinois, Iowa, and Missouri. We have officially renamed units of Mark Twain National Wildlife Refuge as Great River National Wildlife Refuge, Middle Mississippi River National Wildlife Refuge, Port Louisa National Wildlife Refuge, Two Rivers National Wildlife Refuge, and Clarence Cannon National Wildlife Refuge. The headquarters administrative site will retain the name Mark Twain Refuge Complex.

We incorporate this regulation into 50 CFR part 32. Part 32 contains general provisions and refuge-specific regulations for hunting and sport fishing on national wildlife refuges.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Service asserts that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government. A cost-benefit and full economic analysis is not required. The purpose of this rule is to open 12 refuges to hunting and fishing activities. We created five of these refuges from existing units of Mark Twain National Wildlife Refuge in Illinois, Iowa, and Missouri and, as such, hunting and fishing activities were already available to the public. We exclude these five refuges from the analysis because they do not provide an increase in supply of hunting and fishing opportunities. The seven new refuges are located in the States of Alabama, Mississippi, Kentucky, Indiana, Oklahoma, Maine, California, and New Jersey. Fishing and hunting are two of the priority public uses of national wildlife refuges recognized as legitimate and appropriate, and we should facilitate their implementation, subject to such restrictions or regulations as may be necessary to ensure their compatibility with the purpose of each refuge. Many of the 535 existing national wildlife refuges already have programs where we allow fishing and hunting. Not all refuges have the necessary resources and landscape that would make fishing and hunting opportunities available to the public. By opening these seven new refuges, we have determined that we can make high-quality and safe experiences available to the public. This rule establishes new hunting and/or fishing programs at the following refuges: Grand Bay, Clarks River, Big Oaks, Deep Fork, Petit Manan, Sacramento River, and Supawna Meadows National Wildlife Refuge.

Following a best-case scenario, if the refuges establishing new fishing and hunting programs were a pure addition to the supply of such activities, it would mean an estimated increase of 14,630 days of hunting and 18,460 user days of fishing (Table 1). However, the number of Americans participating in fishing and hunting activities has been stable since 1991. Any increase in the supply of these activities introduced by adding refuges where the activity is available will most likely be offset by other sites losing participants, especially if the new sites have higher quality fishing and/or hunting opportunities. Using the value of the difference in the upper and lower bounds of the 95 percent confidence interval for average consumer surplus to represent the estimate of the increase in consumer surplus for higher quality fishing and hunting (Walsh, Johnson, and McKean, 1990 [1]) yields an estimated increase in consumer surplus of $672,000 annually (2001 dollars based on consumer surplus quality change). If the possible fishing and hunting opportunities attributable to this rule are a pure addition to the current supply, then the consumer surplus will be slightly over $2 million annually. As stated earlier, the trend is flat in participation in fishing and hunting activities in the last 10 years and, therefore, if new refuges are open to these activities, the true estimate of the benefits will be closer to $672,000 annually. Consequently, this rule will have a small measurable economic benefit on the United States economy.

TABLE 1.—ESTIMATED CHANGES IN CONSUMER SURPLUS FROM ADDITIONAL FISHING AND HUNTING OPPORTUNITIES IN 2001

Refuge	Additional fishing days	Additional hunting days	Fishing and hunting combined
Grand Bay	.....	330	330
Clarks River	5,000	5,000	10,000
Big Oaks	7,000	9,000	16,000
Deep Fork	.....	250	250
Petit Manan	.....	50	50
Sacramento River	1,000	.....	1,000

[1] Article presented at the Western Regional Science Association Annual Meeting in Molokai, Hawaii, on February 22, 1990.

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TABLE 1.—ESTIMATED CHANGES IN CONSUMER SURPLUS FROM ADDITIONAL FISHING AND HUNTING OPPORTUNITIES IN 2001—Continued

Refuge	Additional fishing days	Additional hunting days	Fishing and hunting combined
Supawna Meadows	5,460		5,460
Total Days/Year	18,460	14,630	33,090
Consumer surplus per day (1987 $)	$39.25	$41.69	
Consumer surplus for quality change	$14.90	$10.66	
Change in total consumer surplus for quality change	$724,555	$609,925 (1987$)	$1,334,480
		(2001$)	$2,080,661
Change in quality consumer surplus	$275,054	$155,956 (1987$)	$431,010
		(2001$)	$672,011

b. This rule will not create inconsistencies with other agencies' actions. This action pertains solely to the management of the National Wildlife Refuge System. The fishing and hunting activities located on national wildlife refuges account for approximately 1 percent of the available supply in the United States. Any small, incremental change in the supply of fishing and hunting opportunities will not measurably impact any other agency's existing programs.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not affect entitlement programs. There are no grants or other Federal assistance programs associated with public use of national wildlife refuges.

d. This rule will not raise novel legal or policy issues. It opens seven additional refuges for fishing and hunting activities and continues the practice of allowing recreational public use of national wildlife refuges. Many refuges in the System currently have opportunities for the public to hunt and fish on refuge lands.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Congress created the National Wildlife Refuge System to conserve fish, wildlife, and plants and their habitats and facilitated this conservation mission by providing Americans opportunities to visit and participate in compatible wildlife-dependent recreation, including fishing and hunting, as priority general uses on national wildlife refuges and to better appreciate the value of, and need for, wildlife conservation.

This rulemaking does not increase the types of recreation allowed on the System but establishes hunting and/or fishing programs on seven additional refuges. As a result, there will be opportunities for an increase in wildlife-dependent recreation on national wildlife refuges. The changes in the amount of allowed use are likely to increase visitor activity on the seven national wildlife refuges. But, as stated above, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity. To the extent visitors spend time and money in the area of the refuge that would not have been spent there anyway, they contribute new income to the regional economy and benefit local businesses.

For purposes of analysis, we will assume that any increase in refuge visitation is a pure addition to the supply of the available activity. This will result in a best-case scenario and is expected to overstate the benefits to local businesses. The latest information on the distances traveled for fishing and hunting activities indicates that over 80 percent of the participants travel less than 100 miles from home to engage in the activity. This indicates that participants will spend their travel-related expenditures in the local economy. Since participation is scattered across the country, many small businesses benefit. The National Survey of Fishing, Hunting, and Wildlife Associated Recreation identifies expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the expected maximum additional participation on the System as a result of this rule yields the following estimates (Table 2) compared to total business activity for these sectors.

TABLE 2.—ESTIMATION OF THE ADDITIONAL FISHING AND HUNTING OPPORTUNITIES WITH THE OPENING OF SEVEN REFUGES TO FISHING AND/OR HUNTING IN 2001

	U.S. total participation in 1996	Average per day	Current refuge participation w/o duplication	Possible additional refuge participation
Anglers:				
Total days spent	626 mil		6.7 mil	18,460
Total expenditures	$38.0 bil	$61	$406.3 mil	$1,120,575
Trip related	$15.4 bil	$25	$164.6 mil	$454,128
Food and lodging	$6.0 bil	$10	$64.1 mil	$176,933
Transportation	$3.7 bil	$6	$39.6 mil	$109,109
Other	$5.7 bil	$9	$60.9 mil	$168,086
Hunters:				
Total days spent	257 mil		2.0 mil	14,630
Total expenditures	$21 bil	$82	$164.4 mil	$1,195,447
Trip related	$5.2 bil	$20	$40.7 mil	$296,016
Food and lodging	$2.5 bil	$10	$19.6 mil	$142,315

TABLE 2.—ESTIMATION OF THE ADDITIONAL FISHING AND HUNTING OPPORTUNITIES WITH THE OPENING OF SEVEN REFUGES TO FISHING AND/OR HUNTING IN 2001—Continued

	U.S. total participation in 1996	Average per day	Current refuge participation w/o duplication	Possible additional refuge participation
Transportation	$1.8 bil	$7	$14.1 mil	$102,467
Other	$900 mil	$4	$7.0 mil	$51,233

Using a national impact multiplier for wildlife-associated recreation developed for the report "1996 National and State Economic Impacts of Wildlife Watching" for the estimated increase in direct expenditures yields a total economic impact of $7.7 million (2001 dollars). Since we know that most of the fishing and hunting occur within 100 miles of a participant's residence, then it is unlikely that most of this spending would be "new" money coming into a local economy and, therefore, would be offset with a decrease in some other sector of the local economy. The net gain to the local economies would be no more than $7.7 million and most likely considerably less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns would not add new money in the local economy and, therefore, the real impact would be on the order of $1.5 million annually. Taken as percent of similar figures for this type of economic activity, it shows that the maximum increase at most (if all spending were new money) ranges from .01 percent to 3.58 percent for local retail trade spending (Table 3). Even the three counties in Indiana (Big Oaks National Wildlife Refuge) that would have a share of the $3.7 million increase in recreationist spending (if all spending were from outside the retail area) would average approximately $7,000 per establishment.

The majority of affected counties have a large percentage of their retail trade establishments that qualify as small businesses. With such a small increase in overall spending that we anticipate from this rule, it is unlikely that a substantial number of small entities will have more than a small benefit from the increased recreationist spending near the affected refuges.

TABLE 3.—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION IN 2001

Refuge/County(ies)	Retail trade in 1997	Estimated max. refuge addition	Addition as a % of total	Total retail establ.	Establ. with <10 emp.
Grand Bay	$77 thou		.01%		
Mobile, AL	$608 mil			2,229	1,467
Jackson, MS	$131 mil			681	491
Clarks River		$2.3 mil	1.03		
Graves, KY	$37 mil			175	119
McCracken, KY	$154 mil			659	443
Marshall, KY	$36 mil			168	122
Big Oaks		$3.7 mil	3.58		
Jefferson, IN	$45 mil			218	153
Jennings, IN	$32 mil			100	70
Ripley, IN	$27 mil			168	113
Deep Fork		$58 thou	.18		
Okmulgee, OK	$32 mil			194	140
Petit Manan		$12 thou	.03		
Washington, ME	$40 mil			281	206
Sacramento River		$233 thou	.06		
Butte, CA	$287 mil			1,095	736
Lake, CA	$58 mil			296	229
Tehama, CA	$70 mil			244	168
Supawna Meadows		$1.3 mil	1.93		
Salem, NJ	$66 mil			305	203

Many small businesses may benefit from some increased wildlife refuge visitation. However, we expect that much of this benefit will be offset as recreationists spend the same money in a different location. We expect that the incremental recreational opportunities will be scattered, and so we do not expect that the rule will have a significant economic effect (benefit) on a substantial number of small entities in any region or nationally.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. The additional fishing and hunting opportunities at the seven refuges that do not currently have these programs would generate expenditures by anglers and hunters with an economic impact estimated at $7.7 million per year (2001 dollars). Consequently, the maximum benefit of this rule for businesses, both small and large, would not be sufficient to make this a major rule. The impact would be scattered across the country and would most likely not be significant in any local area.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will have only a slight effect on the costs of hunting and fishing opportunities of Americans. Under the assumption that

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any additional hunting and fishing opportunities would be of high quality, participants would be attracted to the refuge. If the refuge were closer to the participant's residence, then a reduction in travel costs would occur and benefit the participants. We do not have information to quantify this reduction in travel cost; but we have to assume that, since most people travel less than 100 miles to hunt and fish now, the reduced travel cost would be small for the additional days of hunting and fishing generated by this rule. We do not expect this rule to affect the supply or demand for fishing and hunting opportunities in the United States and, therefore, it should not affect prices for fishing and hunting equipment and supplies, or the retailers that sell equipment. Additional refuge hunting and fishing opportunities would account for less than .04 percent of the available opportunities in the United States.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. Because this rule represents such a small proportion of recreational spending of a small number of affected hunters and anglers (approximately a maximum impact of $7.7 million annually), there will be no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of $72 billion nationwide. This rule adds seven refuges to the list of refuges that have hunting and/or fishing programs. Refuges that establish hunting and fishing programs may hire additional staff from the local community to assist with the programs, but this would not be a significant increase with this rule adding only seven refuges. Consequently, there are no anticipated significant employment or small business effects.

Unfunded Mandates Reform Act

Since this rule applies to public use of federally owned and managed refuges, it does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This regulation will affect only visitors at national wildlife refuges and limit what they can do while they are on a refuge.

Federalism (Executive Order 13132)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. In preparing this rule, we worked with State governments.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation will clarify established regulations and result in better understanding of the regulations by refuge visitors.

Energy Supply, Distribution, or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only adds seven refuges to the list of refuges that have hunting and/or fishing programs and makes minor changes to other refuges open to those activities, it is not a significant regulatory action under Executive Order 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on national wildlife refuges with tribal governments having adjoining or overlapping jurisdiction before we propose the regulations. This regulation is consistent with and not less restrictive than tribal reservation rules.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the Office of Management and Budget under the Paperwork Reduction Act (OMB Control Number is 1018–0102). See 50 CFR 25.23 for information concerning that approval. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Endangered Species Act Section 7 Consultation

In preparation for new openings, we include Section 7 consultation documents approved by the Service's Endangered Species program in the refuge's "openings package" for Regional review and approval from the Washington Office. We reviewed the changes in hunting and fishing regulations herein with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543). For the national wildlife refuges proposed to open for hunting and/or fishing, we have determined that Grand Bay, Supawna Meadows, Petit Manan, Sacramento River (for valley elderberry longhorn beetle), and Clarks River (for bald eagles) National Wildlife Refuges will not likely adversely affect and Clarks River (for Indiana bat) and Sacramento River National Wildlife Refuges will not affect the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat of such species within the System.

We also comply with Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) when developing Comprehensive Conservation Plans, step-down management plans for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. We also make determinations required by the Endangered Species Act on a case-by-case basis before the addition of a refuge to the lists of areas open to hunting or fishing as contained in 50 CFR 32.7.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and 516 DM 6, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required.

A categorical exclusion from NEPA documentation applies to this amendment of refuge-specific hunting and fishing regulations since it is technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (516 DM 2, Appendix 1.10).

Prior to the addition of a refuge to the list of areas open to hunting and fishing in 50 CFR part 32, we develop hunting and fishing plans for the affected refuges. We incorporate these proposed refuge hunting and fishing activities in the refuge Comprehensive Conservation Plans (CCPs) and/or other step-down management plans, pursuant to our refuge planning guidance in 602 FW 1, 3, and 4. We prepare these CCPs and step-down plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the affected public to participate in the review, development, and implementation of these plans.

Available Information for Specific Refuges

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs and maps of their respective areas. You may also obtain information from the Regional offices at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Box 1306, 500 Gold Avenue, Albuquerque, New Mexico 87103; Telephone (505) 248–7419.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 713–5401.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345; Telephone (404) 679–7166.

Region 5—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8306.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228; Telephone (303) 236–8145.

Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545.

Primary Author

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List of Subjects in 50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, we amend Title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

2. In § 32.7 "What refuge units are open to hunting and/or fishing?" by:

a. Alphabetically adding Grand Bay National Wildlife Refuge in the States of Alabama and Mississippi;

b. Alphabetically adding Sacramento River National Wildlife Refuge, removing "Salton Sea National Wildlife Refuge," and alphabetically adding "Sonny Bono Salton Sea National Wildlife Refuge" in the State of California;

c. Removing Mark Twain National Wildlife Refuge in the States of Illinois, Iowa, and Missouri;

d. Alphabetically adding Great River National Wildlife Refuge, Middle Mississippi River National Wildlife Refuge, Port Louisa National Wildlife Refuge, and Two Rivers National Wildlife Refuge in the State of Illinois;

e. Alphabetically adding Big Oaks National Wildlife Refuge in the State of Indiana;

f. Alphabetically adding Port Louisa National Wildlife Refuge in the State of Iowa;

g. Alphabetically adding Clarks River National Wildlife Refuge in the State of Kentucky;

h. Alphabetically adding Petit Manan National Wildlife Refuge in the State of Maine;

i. Alphabetically adding Litchfield Wetland Management District in the State of Minnesota;

j. Alphabetically adding Clarence Cannon National Wildlife Refuge, Great River National Wildlife Refuge, Middle Mississippi River National Wildlife Refuge, and Two Rivers National Wildlife Refuge in the State of Missouri; and

k. Removing "Arid Lands National Wildlife Refuge" in the State of Washington and alphabetically adding "Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge" to read as follows:

§ 32.7 What refuge units are open to hunting and/or fishing?

3. In § 32.20 Alabama by alphabetically adding Grand Bay National Wildlife Refuge to read as follows:

§ 32.20 Alabama.

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Grand Bay National Wildlife Refuge

Refer to § 32.43 Mississippi for regulations.

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4. In § 32.22 Arizona by:

a. Revising paragraph A., adding paragraph B.4., and revising paragraphs C., and D. of Bill Williams River National Wildlife Refuge;

b. Revising paragraph A. of Cibola National Wildlife Refuge; and

c. Revising paragraph A.4.i., adding paragraphs A.4.iii, and A.4.iv., revising paragraph A.5., adding paragraphs A.6., and B.5., and revising paragraph D. of Havasu National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

* * * * *

Bill Williams River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning and white-winged doves on designated areas of the refuge subject to the following conditions:

1. We allow only shotguns.

2. You may possess only nontoxic shot while in the field.

3. You may not hunt within 50 yards (45 m) of any building, road, or levee.

B. Upland Game Hunting. * * *

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4. You may not hunt within 50 yards (45 m) of any building, road, or levee.

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C. Big Game Hunting. We allow hunting of desert bighorn sheep on designated areas of the refuge with a valid State permit.

D. Sport Fishing. We allow sport fishing in designated areas subject to the following condition: We prohibit personal watercraft (PWC, as defined by State law), air boats, or hovercraft on all waters within the boundaries of the refuge.

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Cibola National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, common snipe, and mourning and white-winged doves on designated areas of the refuge subject to the following conditions:

1. We allow only shotguns.
2. You may possess only approved nontoxic shot while in the field.
3. You must obtain a permit to enter the Island Unit.
4. You must pay a hunt fee in portions of the refuge. Consult refuge hunting leaflet for locations.
5. We do not allow pit or permanent blinds.
6. You may hunt only during seasons, dates, times, and areas posted by signs and/or indicated on refuge leaflets, special regulations, and maps available at the refuge office.
7. You must remove all temporary blinds, boats, and decoys from the refuge following each day's hunt.
8. We do not allow hunting within 50 yards (45 m) of any public roads or levees.
9. We close Farm Unit 2 to all hunting except goose hunting during the Arizona waterfowl season.
10. Consult the refuge hunt leaflet for the shot limit.
11. The area known as Pretty Water is open to waterfowl hunting from ½ hour before sunrise to 3:00 p.m. MST during the Arizona and California waterfowl seasons.
12. The Hart Mine Marsh area is open to hunting from 10 a.m. to 3 p.m. daily during goose season.

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Havasu National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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i. We require a fee for waterfowl hunting, and you must have in your possession proof of payment (refuge permit) while hunting.

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iii. Waterfowl hunters must hunt only at the assigned location.

iv. We limit waterfowl hunters to 16 shells each.

5. You must remove temporary blinds, boats, hunting equipment, and decoys from the refuge following each day's hunt.
6. You may not hunt within 50 yards (45m) of any building, road, or levee.

B. Upland Game Hunting. * * *

* * * * *

5. You may not hunt within 50 yards (45 m) of any building, road, or levee.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We close designated portions of the Topock Marsh to all entry from October 1 through January 31.
2. We prohibit personal watercraft (PWC, as defined by State law), air boats, or hovercraft on all waters within Topock Marsh or other waters indicated by signs or buoys.

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5. In § 32.24 California by:

a. Revising paragraph D. of Delevan National Wildlife Refuge;

b. Revising paragraph A. of Humboldt Bay National Wildlife Refuge;

c. Alphabetically adding Sacramento River National Wildlife Refuge;

d. Revising the heading "Salton Sea National Wildlife Refuge" to read "Sonny Bono Salton Sea National Wildlife Refuge," placing it in appropriate alphabetical order, and revising paragraph A.2.;

e. Revising paragraphs A.1. and D.2. of San Luis National Wildlife Refuge; and

f. Revising San Pablo Bay National Wildlife Refuge to read as follows:

§ 32.24 California.

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Delevan National Wildlife Refuge

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D. Sport Fishing. [Reserved]

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Humboldt Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese (except Canada geese), ducks, coots, common moorhens, and snipe on designated areas of the refuge subject to the following conditions:

1. We allow hunting on Salmon Creek only on Tuesdays and Saturdays from ½ hour before sunrise until 1:00 p.m., and we require a valid refuge daily permit issued prior to each hunt by random drawing.
2. We restrict hunters on Salmon Creek to within 100 feet (30 m) of the assigned hunt site except for placing and retrieving decoys, retrieving downed birds, or traveling to and from the parking area.
3. The Teal Island and Egret Island units of the refuge are open on Saturday, Sunday, Wednesday, Federal holidays, and the opening and closing days of the State waterfowl hunting season.
4. Portions of the Jacoby Creek, Eureka Slough, and Table Bluff units of the refuge are open during the State waterfowl hunting season. We designate the Jacoby Creek and Eureka Slough units boat access only.
5. We require that adults 18 years of age or older accompany hunters under the age of 16.
6. You must unload firearms while transporting them between the parking area and designated blind sites in the Salmon Creek unit.
7. You may possess no more than 25 approved nontoxic shells while in the field.
8. You may use only portable blinds or blinds constructed of vegetation in the free-roam hunting areas.
9. You must remove all blinds, decoys, shell casings, and other personal equipment from the refuge following each day's hunt.

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Sacramento River National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on Packer Lake subject to the following conditions:

1. Due to primitive access, you may fish only from boats up to 14 feet (4.2 m) long and canoes.
2. You may fish from the western shoreline from sunrise to sunset.

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San Luis National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. You may use only portable blinds or blinds constructed of vegetation in the free-roam hunting area.

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D. Sport Fishing. * * *

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2. We allow only the use of pole and line or rod and reel, and anglers must attend their equipment at all times.

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San Pablo Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.
2. Access is by foot, bicycle, and boat only.
3. You must remove all portable blinds, decoys, and personal equipment following each day's hunt.
4. We allow floating blinds on the refuge, and they are available to any hunter on a first-come, first-serve basis. Floating blinds require refuge manager approval or are subject to removal.
5. We prohibit digging into levees and slough channels.
6. We allow only dogs engaged in hunting activities on the refuge during waterfowl season.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge in accordance with State hunting regulations and the following conditions:

1. Contact the refuge manager for details.
2. You may possess a maximum of 25 approved nontoxic shot while in the field.
3. Access is by foot and bicycle only.
4. We allow only dogs engaged in hunting activities on the refuge during pheasant season.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

Sonny Bono Salton Sea National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. You must hunt from assigned blinds on the Union Tract and within 100 feet (30 m) of blind sites on the Hazard Tract, except when shooting to retrieve crippled birds.

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6. In § 32.27 Delaware by revising Prime Hook National Wildlife Refuge to read as follows:

§ 32.27 Delaware.

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Prime Hook National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

1. Consult the refuge hunting brochure for specific information regarding species, areas, and days open to hunting, rules, and regulations.
2. We require a refuge permit and fee for waterfowl hunting.
3. Refuge hunt dates will correspond with State-established migratory game bird seasons.

B. Upland Game Hunting. We allow hunting of upland species on designated areas of the refuge subject to the following conditions:

1. Consult the refuge hunting brochure for specific information regarding species, areas, and days open to hunting, rules, and regulations.
2. You may possess only approved nontoxic shot while in the field.
3. We do not allow upland game hunting beginning March 1 through August 31.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. Consult the refuge hunting brochure for specific information regarding areas and days open to hunting, rules, and specific regulations.
2. You may use only portable tree stands and must remove them from the refuge following each day's hunt.
3. During the firearm deer season, hunters must wear in a conspicuous manner on head, chest, and back a minimum of 400 square inches (10.16 m^2) of solid-colored hunter orange clothing or material.
4. We require a refuge permit and fee for deer hunting.

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge subject to the following conditions:

1. Consult refuge regulations regarding access areas, launch points, and motor restrictions.
2. We allow fishing only from sunrise to sunset in all areas except those areas marked by signs as closed to public entry.

7. In § 32.28 Florida by:

a. Adding paragraph D.8. of J. N. "Ding" Darling National Wildlife Refuge;

b. Revising paragraphs A.5., A.7., A.8., A.17., and D. of Merritt Island National Wildlife Refuge; and

c. Revising paragraph A. of Ten Thousand Islands National Wildlife Refuge to read as follows:

§ 32.28 Florida.

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J. N. "Ding" Darling National Wildlife Refuge

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D. Sport Fishing. * * *

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8. With the exception of those nonregulated species generally used as bait, all fish caught for commercial purposes in the waters of the refuge or transported into the refuge must remain in an intact and whole condition until removed from the refuge.

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Merritt Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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5. All persons must successfully complete a Firearm Hunter Education course before they may hunt and must possess the Firearm Hunter Education certificate when hunting.

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7. We close the refuge between sunset and sunrise except waterfowl hunters may enter at 4:00 a.m. on hunting days with a valid Refuge Hunt Permit.

8. You may not park along Blackpoint Wildlife Drive, Playalinda Beach Road, or Scrub Ridge Trail for the purpose of waterfowl hunting.

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17. Boats must not exceed idle speed in Bairs Cove and KARS (Kennedy Athletic Recreational Social Organization) Marina or 8 mph in Haulover Canal.

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D. Sport Fishing. You may fish, crab, clam, oyster, and shrimp in designated areas of the refuge subject to the following conditions:

1. We close the refuge between sunset and sunrise except anglers may enter after dark to fish from a boat with a valid Refuge Night Fishing Permit. We allow nighttime boat launching only at Bairs Cove and Beacon 42 Fish Camp. We allow night fishing only in Haulover Canal and the open waters of Mosquito Lagoon, Indian River Lagoon, and Banana River.
2. Anglers must attend their lines at all times.
3. Vehicles must use only designated public access routes and boat launching areas north and south of Haulover Canal.
4. You may not launch boats, crab, or fish from Black Point Wildlife Drive.
5. You may not use air-thrust boats, hovercraft, personal watercraft, or similar craft on refuge waters.
6. You may not use motorized boats in the Banana River Manatee Sanctuary (north of KARS Park on the west side of the Barge Channel and north of the Air Force power line on the east side of the Barge Channel). This includes any boat having an attached motor or a nonattached motor capable of use (including electric trolling motors). This is in effect throughout the year.
7. Boats must not exceed idle speed in Bairs Cove and KARS Marina or 8 mph in Haulover Canal.
8. We prohibit harvest or possession of horseshoe crabs while on the refuge.

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Ten Thousand Islands National Wildlife Refuge

A. Hunting of Migratory Game Birds. You may hunt ducks and coots in designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We allow hunting only on Wednesday, Saturday, Sunday, Thanksgiving, Christmas, and New Year's Day within the State season from ½ hour before sunrise until noon.
2. You must possess a valid refuge hunt permit at all times while hunting on the refuge.
3. You will need to break down temporary blinds, including those of native vegetation, following each day's hunt. We prohibit the construction of permanent or pit blinds.
4. You must remove decoys, guns, blinds, and boats from the refuge by 1:00 p.m. daily.
5. We allow public hunting only in the area shown on the refuge hunt brochure. We will post closed areas with signs or delineate them by red reflectors on posts along the small road extending south off U.S. 41. Entry into the refuge for hunting may not begin until 4:00 a.m. for designated hunt days.
6. We prohibit air-thrust boats, hovercraft, personal watercraft, and off-road vehicles at all times. We limit watercraft to outboard engines with a maximum of 25 hp.
7. We encourage the use of dogs to retrieve dead or wounded waterfowl. Dogs must remain under the control of their handlers at all times.
8. You may possess only approved nontoxic shot while in the field.
9. We require all guides to purchase and possess a refuge Special Use Permit.
10. We prohibit the possession of alcoholic beverages.
11. Hunters under the age of 16 may hunt only with an adult 21 years of age or older, and they must remain in sight and normal voice contact with the adult.
12. You may take ducks and coots with shotguns only. We prohibit the possession of handguns and other long guns.

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8. In § 32.29 Georgia by revising paragraph C. of Okefenokee National Wildlife Refuge to read as follows:

§ 32.29 Georgia.

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Okefenokee National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following condition: We require a refuge permit for Suwannee Canal Unit.

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9. In § 32.31 Idaho by:

a. Revising paragraphs A.1., A.3., A.4., and D.1. of Deer Flat National Wildlife Refuge; and

b. Revising paragraph D. of Minidoka National Wildlife Refuge to read as follows:

§ 32.31 Idaho.

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Deer Flat National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. You may hunt only ducks, coots, and doves on the Lake Lowell sector.

* * * * *

3. Snipe and dove hunters may possess only approved nontoxic shot while in the field.

4. We restrict nonmotorized boats and boats with electric motors only to the area bounded by the water's edge and extending to a point 200 yards (180 m) lakeward in hunting area 1 on the Lake Lowel sector.

* * * * *

D. Sport Fishing. * * *

1. During the waterfowl season, we allow fishing only within the area bounded by the water's edge extending to a point 200 yards (180 m) lakeward in front of the Lower Dam, fishing area A and in front of the Upper Dam, and fishing area B on the Lake Lowell sector.

Minidoka National Wildlife Refuge

* * * * *

D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing from boats on the main reservoir from Minidoka Dam to the west tip of Bird Island, April 1 through September 30.

2. We allow fishing from boats within boating lanes at Smith and Gifford Springs year around.

3. We allow bank fishing all year.

10. In § 32.32 Illinois by:

a. Alphabetically adding Great River National Wildlife Refuge;

b. Removing Mark Twain National Wildlife Refuge;

c. Alphabetically adding Middle Mississippi River National Wildlife Refuge;

d. Alphabetically adding Port Louisa National Wildlife Refuge;

e. Alphabetically adding Two Rivers National Wildlife Refuge; and

f. Revising paragraphs A.1., B.1., B.2., B.3., C.1., C.2., C.3., D.1. and D.2. of Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.32 Illinois.

* * * * *

Great River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to brochures and posted regulations.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to brochures and posted regulations.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to brochures and posted regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to brochures and posted regulations.

Middle Mississippi River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to brochures and posted regulations.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to brochures and posted regulations.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to brochures and posted regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to brochures and posted regulations.

Port Louisa National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to brochures and posted regulations.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to brochures and posted regulations.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to brochures and posted regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to brochures and posted regulations.

Two Rivers National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to brochures and posted regulations.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to brochures and posted regulations.

Upper Mississippi River National Wildlife and Fish Refuge

A. Hunting of Migratory Game Birds. * * *

1. In areas posted "Area Closed" or "No Hunting Zone," we prohibit hunting of migratory game birds at any time.

* * * * *

B. Upland Game Hunting. * * *

1. In areas posted "No Hunting Zone," we prohibit hunting or possession of firearms at all times.

2. In areas posted "Area Closed," we only allow hunting beginning the day after the close of the applicable State duck hunting season until upland game season closure or March 15, whichever occurs first, except we allow spring turkey hunting during State seasons.

3. On areas open to hunting, we prohibit hunting or possession of firearms from March 16 until the opening of State fall hunting seasons, except we allow spring turkey hunting during State seasons.

* * * * *

C. Big Game Hunting. * * *

1. In areas posted "No Hunting Zone," we prohibit hunting or possession of firearms at all times.

2. In areas posted "Area Closed," we only allow hunting beginning the day after the close of the applicable State duck hunting season until big game season closure or March 15, whichever occurs first.

3. On areas open to hunting, we only allow hunting or possession of firearms until season closure or March 15, whichever occurs first.

* * * * *

D. Sport Fishing. * * *

1. On Spring Lake Closed Areas, Carroll County, Illinois, we prohibit fishing from October 1 until the day after the close of the State duck hunting season.

2. On Mertes Slough, Buffalo County, Wisconsin, we allow only hand-powered boats or boats with electric motors.

11. In § 32.33 Indiana by alphabetically adding Big Oaks National Wildlife Refuge to read as follows:

§ 32.33 Indiana.

* * * * *

Big Oaks National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: We require a refuge access permit.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following condition: We require a refuge access permit.

* * * * *

12. In § 32.34 Iowa by:

a. Revising paragraphs B. and C. of Driftless Area National Wildlife Refuge;

b. Removing Mark Twain National Wildlife Refuge;

c. Revising paragraph B. of Neal Smith National Wildlife Refuge;

d. Alphabetically adding Port Louisa National Wildlife Refuge; and

e. Revising Union Slough National Wildlife Refuge to read as follows:

§ 32.34 Iowa.

* * * * *

Driftless Area National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. In areas posted "Area Closed," we prohibit entry, including hunting.

2. In areas open to hunting, we allow hunting beginning November 1 until the close of State hunting seasons or January 15, whichever occurs first.

3. You may possess only approved nontoxic shot while hunting for any allowed birds or other small game.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

1. In areas posted "Area Closed," we prohibit all public entry, including hunting.

2. In areas open to hunting, we allow hunting beginning November 1 until the close of State hunting seasons or January 15, whichever occurs first.

3. We allow archery and muzzleloader hunting only.

4. We allow deer drives only during lawful party hunting conducted within the refuge, in accordance with State regulations. We prohibit driving deer from or through the refuge to any persons hunting outside the refuge boundary.

5. We do not allow construction or use of permanent blinds, platforms, or ladders.

6. You must remove all stands from the refuge following each day's hunt.

* * * * *

Neal Smith National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of ringnecked pheasant, bobwhite quail, cottontail rabbit, and squirrel on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while hunting for any permitted birds or other small game.

2. We allow hunting only during the dates posted at the refuge.

3. All hunters must wear one or more of the following articles of visible, external, solid-blaze-orange clothing: a hat, vest, coat, jacket, sweatshirt, sweater, shirt, or coveralls.

* * * * *

Port Louisa National Wildlife Refuge

Refer to § 32.32 Illinois for regulations.

Union Slough National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to brochures and posted regulations.

B. Upland Game Hunting. We allow upland game hunting on designated areas of the refuge subject to brochures and posted regulations.

C. Big Game Hunting. We allow big game hunting on designated areas of the refuge subject to brochures and posted regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to brochures and posted regulations.

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13. In § 32.36 Kentucky by alphabetically adding Clarks River National Wildlife Refuge to read as follows:

§ 32.36 Kentucky.

* * * * *

Clarks River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, woodcock, snipe, and mourning doves on designated areas of the refuge subject to State regulations and the following conditions:

1. Hunting of waterfowl will cease at 2:00 p.m. each day of open season.

2. You may use only portable or temporary blinds.

3. You must remove portable or temporary blinds and decoys from the refuge following each day's hunt.

4. You may possess only approved nontoxic shot while hunting waterfowl in the field.

5. The refuge is a day-use area only with the exception of legal hunting activities.

6. We prohibit the use of all-terrain vehicles on all refuge hunts.

7. We prohibit target practice on refuge property.

8. We prohibit mules and horses on refuge hunts.

9. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

10. Each hunter must have in his/her possession a current, signed copy of the Clarks River National Wildlife Refuge Hunting/Fishing Permit while participating in refuge hunts.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, opossum, bobcat and coyote on designated areas of the refuge subject to State regulations and the following conditions:

1. We prohibit mules and horses on refuge hunts.

2. We prohibit all-terrain vehicles on all refuge hunts.

3. The refuge is a day-use area only with the exception of legal hunting activities.

4. We prohibit target practice on refuge property.

5. We limit shotguns to no larger than 10 gauge. All shotgun ammunition must meet legal shot-size requirements for each hunted species. We limit the use of rifles and pistols to rimfire only for upland game.

6. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

7. You must have in your possession a current, signed copy of the Clarks River National Wildlife Refuge Hunting/Fishing Permit while participating in refuge hunts.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to State regulations and the following conditions:

1. We prohibit the use or construction of any permanent tree stand.

2. We allow portable stands and climbing stands, but you must remove them from the tree when they are not in use.

3. We require safety belts at all times with the use of tree stands.

4. The refuge is a day-use area only with the exception of legal hunting activities.

5. We prohibit the use of all-terrain vehicles on all refuge hunts.

6. We prohibit mules and horses on refuge hunts.

7. You may not hunt by organized deer drives of two or more hunters. The definition of drive is: the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make the animals more susceptible to harvest.

8. We prohibit target practice on refuge property.

9. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

10. You must have in your possession a current, signed copy of the Clarks River National Wildlife Refuge Hunting/Fishing Permit while participating in refuge hunts.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge subject to State regulations, any refuge-specific regulations listed in the Clarks River National Wildlife Refuge Hunting/Fishing Permit, and the following conditions:

1. The refuge is a day-use area only with the exception of legal fishing activities.

2. You must have in your possession a current, signed copy of the Clarks River National Wildlife Refuge Hunting/Fishing Permit while fishing on the refuge.

* * * * *

14. In § 32.37 Louisiana by:

a. Adding paragraphs A.3., B.3., and C.3., and revising paragraph D.2. of Atchafalaya National Wildlife Refuge;

b. Revising paragraphs A. and D.1. of Bayou Cocodrie National Wildlife Refuge;

c. Revising the introductory text of paragraph A., paragraph A.1., the introductory text of paragraph B., and paragraphs B.1., C.1., and D.1. of Lake Ophelia National Wildlife Refuge; and

d. Revising paragraphs A., B., and C. of Upper Ouachita National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

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Atchafalaya National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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3. For the Shatters Bayou Unit, hunting must be in accordance with the Attakapas Wildlife Management Area rules and regulations.

B. Uplond Game Hunting. * * *

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3. For the Shatters Bayou Unit, hunting must be in accordance with the Attakapas Wildlife Management Area rules and regulations.

C. Big Game Hunting. * * *

* * * * *

3. For the Shatters Bayou Unit, hunting must be in accordance with the Attakapas Wildlife Management Area rules and regulations.

D. Sport Fishing. * * *

* * * * *

2. For the Indian Bayou and Shatters Bayou Unit, we require an Army Corps of Engineers permit for commercial shellfishing.

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Bayou Cocodrie National Wildlife Refuge

A. Hunting of Migratory Game Birds. You may hunt ducks, coots, woodcock, and snipe on designated areas of the refuge subject to the following condition: We require a refuge permit.

* * * * *

D. Sport Fishing. * * *

1. Anglers must possess a refuge permit.

* * * * *

Lake Ophelia National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, coots, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit.

* * * * *

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, feral hog, beaver, nutria, and coyote on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit.

* * * * *

C. Big Game Hunting. * * *

1. We require a refuge permit.

* * * * *

D. Sport Fishing. * * *

1. We require a refuge permit.

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Upper Ouachita National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, coots, mourning doves, and woodcock on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge permit.

* * * * *

15. In § 32.38 Maine by alphabetically adding Petit Manan National Wildlife Refuge to read as follows:

§ 32.38 Maine.

* * * * *

Petit Manan National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, woodcock, rails, gallinules, and snipe on designated areas of the refuge subject to the following conditions:

1. You may not erect permanent waterfowl blinds on the refuge.

2. You must remove all temporary blinds, concealment materials, boats, and decoys following each day's hunt.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. We prohibit the use of pursuit or trailing dogs on the refuge.

3. We prohibit the hunting of crows on the refuge.

4. The refuge will be open to hunting of coyotes no earlier than November 1 and no later than March 31.

C. Big Game Hunting. We allow hunting of white-tailed deer and bear on designated areas of the refuge subject to the following conditions:

1. We prohibit the use of pursuit or trailing dogs on the refuge.

2. We allow black bear hunting only during the firearm season for white-tailed deer.

3. You must remove all tree stands by the last day of the white-tailed deer hunting season.

4. We close the refuge to all visitation from sunrise to sunset. However, during hunting season, we allow hunters to enter the refuge ½ hour prior to sunrise and remain on the refuge ½ hour after sunset.

D. Sport Fishing. [Reserved]

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16. In § 32.40 Massachusetts by revising paragraph D.1. of Parker River National Wildlife Refuge to read as follows:

§ 32.40 Massachusetts.

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Parker River National Wildlife Refuge

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D. Sport Fishing. * * *

1. We allow saltwater fishing on the ocean beach and the surrounding waters of the Broad Sound.

* * * * *

17. In § 32.42 Minnesota by:

a. Revising Fergus Falls Wetland Management District;

b. Alphabetically adding Litchfield Wetland Management District; and

c. Revising paragraphs A., B., and C., in Windom Wetland Management District to read as follows:

§ 32.42 Minnesota.

* * * * *

Fergus Falls Wetland Management District

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds throughout the district except that we allow no hunting on the Townsend, Headquarters, Mavis, and Gilmore Waterfowl Production Areas (WPA) in Otter Tail County, and Larson WPA in Douglas County.

B. Upland Game Hunting. We allow upland game hunting throughout the district except that we allow no hunting on the Townsend, Headquarters, Mavis, and Gilmore WPAs in Otter Tail County, and Larson WPA in Douglas County.

C. Big Game Hunting. We allow big game hunting throughout the district except that we allow no hunting on the Townsend, Headquarters, Mavis, and Gilmore WPAs in Otter Tail County, and Larson WPA in Douglas County.

D. Sport Fishing. We allow sport fishing throughout the district except that we allow no fishing on the Townsend, Headquarters, Mavis, and Gilmore WPAs in Otter Tail County, and Larson WPA in Douglas County.

Litchfield Wetland Management District

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds throughout the district subject to the following conditions:

1. You must remove boats, decoys, and other personal property following each day's hunt.

2. You must remove portable or temporary blinds and any material brought onto the area for blind construction following each day's hunt.

B. Upland Game Hunting. We allow upland game hunting throughout the district.

C. Big Game Hunting. We allow big game hunting throughout the district subject to the following conditions:

1. We do not allow construction or use of permanent blinds, stands, or platforms.

2. You must remove all temporary blinds, stands, or platforms following each day's hunt.

D. Sport Fishing. We allow fishing throughout the district.

* * * * *

Windom Wetland Management District

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds throughout the district except that you may not hunt on the Worthington Waterfowl Production Area (WPA) in Nobles County, Headquarters WPA in Jackson County, or designated portions of the Wolf Lake WPA in Cottonwood County.

B. Upland Game Hunting. We allow hunting of upland game throughout the district except that you may not hunt on the Worthington WPA in Nobles County, Headquarters WPA in Jackson County, or designated portions of the Wolf Lake WPA in Cottonwood County.

C. Big Game Hunting. We allow hunting of big game throughout the district except that you may not hunt on the Worthington WPA in Nobles County, Headquarters WPA in Jackson County, or designated portions of the Wolf Lake WPA in Cottonwood County.

* * * * *

18. In § 32.43 Mississippi by:

a. Alphabetically adding Grand Bay National Wildlife Refuge;

b. Revising Hillside National Wildlife Refuge;

c. Revising Mathews Brake National Wildlife Refuge;

d. Revising Morgan Brake National Wildlife Refuge;

e. Revising Panther Swamp National Wildlife Refuge; and

f. Revising Yazoo National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

* * * * *

Grand Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and mourning doves on designated areas of the refuge subject to State regulations and the following conditions:

1. Hunting of waterfowl will cease at 2:00 p.m. each day of open season.

2. You may use only portable or temporary blinds.

3. You must remove portable or temporary blinds and decoys from the refuge following each day's hunt.

4. You may possess only approved nontoxic shot while hunting waterfowl in the field.

5. The refuge is a day-use area only with the exception of legal hunting activities.

6. We prohibit the use of all-terrain vehicles on all refuge hunts.

7. We prohibit target practice on refuge property.

8. We prohibit mules and horses on refuge hunts.

9. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

10. Each hunter must have in his/her possession a current, signed copy of the Grand Bay National Wildlife Refuge Hunting Permit while participating in refuge hunts.

B. Upland Game Hunting. We allow hunting of squirrel on designated areas of the refuge subject to State regulations and the following conditions:

1. We prohibit mules and horses on refuge hunts.

2. We prohibit the use of all-terrain vehicles on all refuge hunts.

3. The refuge is a day-use area only with the exception of legal hunting activities.

4. We prohibit target practice on refuge property.

5. We limit shotguns to no larger than 10 gauge. All shotgun ammunition must meet legal shot-size requirements.

6. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

7. Each hunter must have in his/her possession a current, signed copy of the Grand Bay National Wildlife Refuge Hunting Permit while participating in refuge hunts.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to State regulations and the following conditions:

1. We prohibit the use or construction of any permanent tree stand.

2. We allow portable and climbing stands, but you must remove them from the tree when not in use or they will be subject to confiscation.

3. We require safety belts at all times with the use of tree stands.

4. The refuge is a day-use area only with the exception of legal hunting activities.

5. We prohibit the use of all-terrain vehicles on all refuge hunts.

6. We prohibit the use of mules and horses on refuge hunts.

7. You may not hunt by organized deer drives of two or more hunters. The definition of drive is: the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make the animals more susceptible to harvest.

8. We prohibit target practice on refuge property.

9. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

10. You must have in your possession a current, signed copy of the Grand Bay National Wildlife Refuge Hunting Permit while participating in refuge hunts.

D. Sport Fishing. [Reserved]

Hillside National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves, waterfowl, and coots on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting of quail, rabbit, squirrel, and raccoon on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. We allow fishing and frogging in designated portions of the refuge subject to the following condition: We require a refuge permit.

Mathews Brake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves, waterfowl, and coots on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting of quail, rabbit, squirrel, and raccoon on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. We allow fishing and frogging on designated portions of the refuge subject to the following condition: We require a refuge permit.

Morgan Brake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves, waterfowl, and coots on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting of quail, rabbit, squirrel, and raccoon on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. We allow fishing and frogging in designated portions of the refuge subject to the following condition: We require a refuge permit.

* * * * *

Panther Swamp National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves, waterfowl, and coots on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting of quail, rabbit, squirrel, and raccoon on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. We allow fishing and frogging in designated portions of the refuge subject to the following condition: We require a refuge permit.

* * * * *

Yazoo National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of waterfowl on designated areas of the refuge subject to the following condition: We require a refuge permit. Please consult the refuge brochure for species information.

B. Upland Game Hunting. We allow hunting of rabbit, squirrel, and raccoon on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. [Reserved]

19. In § 32.44 Missouri by:

a. Alphabetically adding Clarence Cannon National Wildlife Refuge;

b. Alphabetically adding Great River National Wildlife Refuge;

c. Removing Mark Twain National Wildlife Refuge;

d. Alphabetically adding Middle Mississippi River National Wildlife Refuge; and

e. Alphabetically adding Two Rivers National Wildlife Refuge to read as follows:

§ 32.44 Missouri.

* * * * *

Clarence Cannon National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Uplond Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to posted regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to posted regulations.

Great River National Wildlife Refuge

Refer to § 32.32 Illinois for regulations.

Middle Mississippi River National Wildlife Refuge

Refer to § 32.32 Illinois for regulations.

* * * * *

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Two Rivers National Wildlife Refuge

Refer to § 32.32 Illinois for regulations.

20. In § 32.47 Nevada by revising paragraphs A. and D. of Ruby Lake National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

* * * * *

Ruby Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, moorhens, and snipe on designated areas of the refuge in accordance with State laws and subject to the following conditions:

1. The refuge is open to the public from 1 hour before sunrise until 2 hours after sunset.

2. We do not allow off-road vehicles on the refuge.

3. We do not allow permanent or pit blinds on the refuge. You must remove all blind materials and decoys following each day's hunt.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State laws and subject to the following conditions:

1. The refuge is open to the public from 1 hour before sunrise until 2 hours after sunset.

2. We allow fishing only from the dikes in the areas north of the Brown Dike and east of the Collection Ditch, with the exception that you may fish from foot-propelled, personal flotation devices (float tubes) in designated areas.

3. We prohibit fishing from the bank on the South Marsh except at Brown Dike, the Main Boat Landing, and Narciss Boat Landing.

4. You may use only artificial lures in the Collection Ditch and spring ponds adjoining the ditch.

5. We do not allow boats on the refuge beginning January 1 through June 14.

6. During the boating season, we allow boats only on the South Marsh. Beginning June 15 through July 31, we allow only motorless boats or boats with battery-powered electric motors. Beginning August 1 through December 31, we allow only motorless boats and boats propelled by motors with a total of 10 hp or less.

7. You may launch boats only from designated landings.

8. We do not allow storage of boats of any kind on the refuge beginning January 1 through May 31.

9. We do not allow off-road vehicles on the refuge.

* * * * *

21. In § 32.49 New Jersey by revising paragraphs A., C.5., and D. of Supawna Meadows National Wildlife Refuge to read as follows:

§ 32.49 New Jersey.

* * * * *

Supawna Meadows National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese and ducks on designated areas of the refuge during designated refuge seasons subject to the following conditions:

1. We allow loaded and uncased firearms in an unanchored boat only when retrieving crippled birds.

2. You must remove all hunting blind materials, boats, and decoys following each day's hunt. We do not allow permanent blinds.

3. You may possess only approved nontoxic shot while in the field.

* * * * *

C. Big Game Hunting. * * *

* * * * *

5. You may only use single-projectile ammunition when hunting from a stand elevated at least 6 feet (1.8 m) above ground level and only in firearms equipped with adjustable sights or a scope. Hunters may use buckshot when hunting from the ground or from stands less than 6 feet above ground level.

D. Sport Fishing. We allow fishing and crabbing on the refuge in designated areas subject to the following conditions:

1. We prohibit the taking of frogs, salamanders, and turtles from all nontidal waters and refuge lands.

2. We prohibit fishing in designated nontidal waters from sunset to sunrise.

3. We prohibit bow fishing in nontidal waters.

* * * * *

22. In § 32.50 New Mexico by:

a. Revising Bitter Lake National Wildlife Refuge; and

b. Revising paragraph C. of Bosque del Apache National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

* * * * *

Bitter Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, mourning doves, and sandhill cranes on designated areas of the refuge subject to the following conditions:

1. You may hunt during seasons, dates, times, and areas posted by signs and/or indicated on refuge leaflets, special regulations, and maps available at the refuge office.

2. You may possess only approved nontoxic shot while in the field.

3. We do not allow pit or permanent blinds.

4. Neither hunters nor dogs may enter closed areas to retrieve game.

B. Upland Game Hunting. We allow hunting of pheasant, quail, cottontail, and jack rabbit on designated areas of the refuge subject to the following conditions:

1. We allow hunting during seasons, dates, times, and areas as posted by signs and/or indicated on refuge leaflets, special regulations, and maps available at the refuge office.

2. You may possess only approved nontoxic shot while in the field.

C. Big Game Hunting. We allow hunting of mule deer and white-tailed deer on designated areas of the refuge subject to the following condition: We allow hunting during seasons, dates, times, and areas as posted by signs and/or indicated on refuge leaflets, special regulations, and maps available at the refuge office.

D. Sport Fishing. [Reserved]

Bosque del Apache National Wildlife Refuge

* * * * *

C. Big Game Hunting. We allow hunting of mule deer on designated areas of the refuge subject to the following conditions:

1. Refer to refuge map for designated areas.

2. Hunts are subject to State regulations and seasons.

* * * * *

23. In § 32.52 North Carolina by:

a. Revising paragraph D. of Pea Island National Wildlife Refuge; and

b. Revising paragraphs A., B.1., and C. of Roanoke River National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

* * * * *

Pea Island National Wildlife Refuge

* * * * *

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge subject to the following conditions:

1. We prohibit fishing and crabbing in North Pond, South Pond, and Newfield impoundments.

2. We require a refuge permit for night fishing.

* * * * *

Roanoke River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots on designated areas of the refuge subject to the following condition: We require a State-issued refuge permit.

B. Upland Game Hunting. * * *

1. We require a State-issued refuge permit.

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: We require a State-issued refuge permit.

* * * * *

24. In § 32.53 North Dakota by:

a. Revising Lake Alice National Wildlife Refuge;

b. Revising paragraph C.2. of Long Lake National Wildlife Refuge; and

c. Revising paragraph C. of Slade National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

* * * * *

Lake Alice National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, tundra swans, ducks, coots, and mourning doves on designated areas of the refuge; consult refuge publication.

B. Upland Game Hunting. We allow upland game and furbearer hunting on

designated portions of the refuge at certain times of the year; consult refuge publication.

C. Big Game Hunting. We allow special refuge permit holders to hunt deer and fox with rifles during the State firearm deer season on designated portions of the refuge subject to the following conditions:

1. We allow fox hunting on certain areas of the refuge outside of the State firearm deer season without a special refuge permit; consult refuge publication.

2. We allow archery hunting on designated portions of the refuge; consult refuge publication.

D. Sport Fishing. [Reserved]

* * * * *

Long Lake National Wildlife Refuge

* * * * *

C. Big Game Hunting.

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2. We restrict archery hunters to the portions of the refuge open to firearm deer hunting during the State firearm deer season. Prior to and following the firearm deer season, we open additional refuge areas as designated to archery deer hunting.

* * * * *

Slade National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following condition: Hunters may enter the refuge on foot only.

* * * * *

25. In § 32.55 Oklahoma by:

a. Revising paragraphs A., B., C., and revising the introductory text of paragraph D. and paragraph D.1. of Deep Fork National Wildlife Refuge;

b. Adding paragraph A.6., revising paragraph B.5., the introductory text of paragraph C. and paragraph C.1., adding paragraphs C.3. and C.4., and revising the introductory text of paragraph D. and paragraph D.1. of Little River National Wildlife Refuge; and

c. Adding paragraph B.3. of Washita National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Deep Fork National Wildlife Refuge

A. Hunting of Migratory Game Birds. You may hunt ducks in designated areas of the refuge subject to the following condition: You must possess a refuge permit.

B. Upland Game Hunting. You may hunt squirrel, rabbit, and raccoon in designated areas of the refuge subject to the following condition: You must possess a refuge permit.

C. Big Game Hunting. You may hunt white-tailed deer in designated areas of the refuge subject to the following condition: You must possess a refuge permit.

D. Sport Fishing. You may sport fish on the refuge in designated areas subject to the following conditions:

1. The refuge is open to fishing as specified in refuge leaflets, special regulations, permits, maps or as posted on signs.

* * * * *

Little River National Wildlife Refuge

A. Hunting of Migratory Game Birds. *

* * * * *

6. You must obtain a refuge permit.

B. Upland Game Hunting. * * *

* * * * *

5. You must obtain a refuge permit.

C. Big Game Hunting. You may hunt deer and feral hog on designated areas of the refuge subject to the following conditions:

1. Deer hunters must obtain a refuge permit and pay fees.

* * * * *

3. You may hunt feral hog during any established refuge hunting season. Refuge permits and legal weapons apply as for the current hunting season.

4. You must obtain a refuge permit.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. You may fish from sunrise to sunset.

* * * * *

Washita National Wildlife Refuge

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B. Upland Game Hunting.

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3. You may possess only approved nontoxic shot while in the field.

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26. In § 32.56 Oregon by revising paragraphs A.1. and C. of Malheur National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

* * * * *

Malheur National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. We allow only nonmotorized boats or boats with electric motors.

* * * * *

C. Big Game Hunting. We allow hunting of deer and pronghorn during the authorized State seasons on the refuge area west of Highway 205 and south of Foster Road.

* * * * *

27. In § 32.57 Pennsylvania by revising paragraph B.1. of Erie National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

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Erie National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. We require refuge permits for hunting fox, raccoon, and coyote.

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28. In § 32.60 South Carolina by revising paragraphs A., B., and C., of Santee National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

* * * * *

Santee National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning doves on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge permit.

* * * * *

29. In § 32.61 South Dakota by revising paragraphs A. and D. of Lacreek National Wildlife Refuge to read as follows:

§ 32.61 South Dakota.

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Lacreek National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow waterfowl hunting on designated areas of the refuge in accordance with State law.

* * * * *

D. Sport Fishing. We allow fishing in areas posted as open in accordance with State law.

* * * * *

30. In § 32.62 Tennessee by revising paragraphs B., C., and D.4. of Cross Creeks National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

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Cross Creeks National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of squirrel on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. * * *

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4. Fish lengths and daily creel limits established for Barley Reservoir by the Tennessee Wildlife Resources Agency apply to all waters within the boundary of the refuge.

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31. In § 32.63 Texas by:

a. Revising paragraphs C. and D. of Aransas National Wildlife Refuge; and

b. Revising paragraph A.5. and adding paragraphs C.9., C.10., and C.11. of Balcones Canyonlands National Wildlife Refuge to read as follows:

§ 32.63 Texas.

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Aransas National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following conditions:

1. We may immediately close the entire refuge or any portion thereof to hunting in the event of the appearance of whooping cranes in the hunt area.
2. You must obtain a refuge permit and pay a fee.
3. You may not use dogs to trail game.
4. You may not possess alcoholic beverages while on the refuge.
5. We will annually designate bag limits in the refuge hunt brochure.
6. We allow archery hunting in October within the deer season for the county on specified days listed in the refuge hunt brochure.
7. We allow firearm hunting in November within the deer season for the county on specified days listed in the refuge hunt brochure.
8. Firearm hunters must wear a total of 400 square inches (10.16 m^2) hunter orange including 144 square inches (936 cm^2) visible in front and 144 square inches visible in rear. Some hunter orange must appear on head gear.
9. You must unload and encase all firearms while in a vehicle.
10. You may not hunt on or across any part of the refuge road system, or hunt from a vehicle on any refuge road or road right-of-way.
11. You may hunt white-tailed deer and feral hog on designated areas of Matagorda Island in accordance with the State permit system as administered by Texas Parks and Wildlife Department.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. You may not use crab traps in any refuge marshes, including Matagorda Island.
2. Beginning April 15 through October 15, you may fish on the refuge only in areas designated in the refuge fishing brochure.
3. You may fish all year in marshes on Matagorda Island and in areas designated in the refuge fishing brochure.

Balcones Canyonlands National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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5. We allow dogs to retrieve game birds during the hunt, but the dogs must be under control of the handler at all times and not allowed to roam free.

* * * * *

C. Big Game Hunting. * * *

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9. You may not use dogs for hunting.
10. You may not camp.
11. You may only use vehicles on designated roads and parking areas.

* * * * *

32. In § 32.67 Washington by:

a. Removing Arid Lands National Wildlife Refuge Complex;

b. Alphabetically adding Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge; and

c. Revising paragraphs A. and C. of Willapa National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, mourning doves, and common snipe on the Wahluke Unit and designated Columbia River islands (those islands downstream of the Bonneville Powerline crossing, between River Mile 351 and 341) of the Monument/Refuge in accordance with State regulations and subject to the following conditions:

1. You may possess only approved nontoxic shot while on the refuge.
2. We allow access from 2 hours before sunrise to 2 hours after sunset. We do not allow overnight camping and/or parking.
3. We close the furthest downstream island (Columbia River Mile 341–343) to hunting.

B. Upland Game Hunting. We allow hunting of pheasant, quail, and partridge on designated areas on the Wahluke Unit of the Monument/Refuge in accordance with State regulations and subject to the conditions listed below:

1. You may possess only approved nontoxic shot while on the refuge.
2. We allow only shotguns and archery hunting.
3. We allow access from 2 hours before sunrise to 2 hours after sunset. We prohibit overnight camping and/or parking.

C. Big Game Hunting. We allow hunting of deer on the Wahluke Unit of the Monument/Refuge in accordance with State regulations and subject to the following conditions:

1. We allow only shotguns, muzzleloaders, and archery hunting.
2. We allow access from 2 hours before sunrise to 2 hours after sunset. We prohibit overnight camping and/or parking.

D. Sport Fishing. We allow fishing on the Wahluke Unit and designated Columbia River islands of the Monument/Refuge (those islands downstream of the Bonneville Powerline crossing, between River Mile 351 and 341) in accordance with State regulations and subject to the following conditions:

1. We allow access to the islands from July 1 to September 30, except for Islands 18 and 19 (downstream of Johnson Island), where we allow access from July 31 to September 30.
2. We allow access from 2 hours before sunrise to 2 hours after sunset. We prohibit overnight camping and/or parking.
3. We allow nonmotorized boats and boats with electric motors on the WB–10 Ponds, with walk-in access only.

* * * * *

Willapa National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and snipe on designated areas of Riekkola, Lewis, Tarlatt Slough, and Leadbetter Units in accordance with State hunting regulations and subject to the following conditions:

1. Prior to entering the hunt area at the Riekkola and Tarlatt Slough Units, we require you to obtain a refuge permit, pay a recreation user fee, and obtain a blind assignment.
2. At the Riekkola and Tarlatt Slough Units, you may take ducks and coots only coincidental to hunting geese.
3. We allow hunting on Wednesday and Saturday in the Riekkola and Tarlatt Slough Units only from established blinds.
4. At the Lewis Unit, we prohibit hunting from the outer dike that separates the bay from the freshwater wetlands.
5. At the Riekkola and Tarlatt Slough Units, you may possess no more than 25 approved nontoxic shells per day while in the field.
6. At the Leadbetter Unit, you may possess only approved nontoxic shot.

* * * * *

C. Big Game Hunting. We allow hunting of deer, elk, and bear on Long Island and on designated areas of the Bear River Unit, in accordance with State hunting regulations and subject to the following conditions:

1. At Long Island you must possess a valid refuge permit and report game taken, as specified with the permit.
2. At Long Island we allow only archery hunting and prohibit firearms.
3. At Bear River we do not allow bear hunting.
4. We prohibit dogs.

* * * * *

33. In § 32.69 Wisconsin by:

a. Revising paragraph C.1. of Fox River National Wildlife Refuge;

b. Revising paragraph D. of Horicon National Wildlife Refuge;

c. Revising paragraphs A. and B. of St. Croix Wetland Management District; and

d. Revising Trempealeau National Wildlife Refuge to read as follows:

§ 32.69 Wisconsin.

* * * * *

Fox River National Wildlife Refuge

* * * * *

C. Big Game Hunting. * * *

1. We require refuge permits during designated time periods.

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Horicon National Wildlife Refuge

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D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following condition: We allow only bank fishing.

* * * * *

St. Croix Wetland Management District

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds throughout the district except that you may not hunt on designated portions posted as closed of the St. Croix Prairie Waterfowl Production Area (WPA) in St. Croix County.

B. Upland Game Hunting. We allow hunting of upland game throughout the district except that you may not hunt on designated portions posted as closed of the St. Croix Prairie WPA in St. Croix County.

* * * * *

Trempealeau National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following condition: We require a refuge permit.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following condition: We require a refuge permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge permit.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow only hand-powered boats or boats with electric motors on the refuge.
2. You must remove ice fishing shelters from the refuge following each day's hunt.
3. We prohibit possessing archery or spearing equipment on refuge pools at any time. We allow taking rough fish by bow and arrow or spear only along the refuge boundary in the backwaters of the Trempealeau River, in accordance with State regulations.

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34. In § 32.72 Guam by revising paragraph D. of Guam National Wildlife Refuge to read as follows:

§ 32.72 Guam.

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Guam National Wildlife Refuge

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D. Sport Fishing. Anglers may fish and collect marine life on designated areas of the refuge only in accordance with refuge and Government of Guam laws and regulations. The leaflet is available at the refuge headquarters and anglers are subject to the following additional conditions:

1. Anglers may be on the refuge from 8:30 a.m. until 5:00 p.m. daily, except Thanksgiving, Christmas, and New Year's Day.
2. We prohibit overnight camping on the refuge.
3. You may not possess surround or gill nets on the refuge.
4. We prohibit the collection of corals, giant clams (*Tridacna* and *Hippopus* spp.), and coconut crabs (*Birgus latro*) on the refuge.

Dated: August 23, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Docket No. 01-080-1

Oriental Fruit Fly; Designation of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by quarantining a portion of San Bernardino County, CA, and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Oriental fruit fly into noninfested areas of the United States.

DATES: This interim rule was effective August 29, 2001. We invite you to comment on this docket. We will consider all comments that we receive by November 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01-080-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 01-080-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Knight, PPQ, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231; (301) 734-8039.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, vegetables, and berries. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks, which can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93-10 (referred to below as the regulations), were established to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. Section 301.93-3(a) provides that the Administrator will list as a quarantined area each State, or each portion of a State, in which the Oriental fruit fly has been found by an inspector, in which the Administrator has reason to believe the Oriental fruit fly is present, or that the Administrator considers necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly has been found. The regulations impose restrictions on the interstate movement of regulated articles from the quarantined areas. Quarantined areas are listed in § 301.93-3(c).

Less than an entire State will be designated as a quarantined area only if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are substantially the same as those imposed on the interstate movement of regulated articles; and (2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the Oriental fruit fly.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) reveal that a portion of San Bernardino County, CA, is infested with the Oriental fruit fly. The Oriental fruit fly is not known to exist anywhere else in the continental United States.

State agencies in California have begun an intensive Oriental fruit fly eradication program in the quarantined area in San Bernardino County. Also, California has taken action to restrict the intrastate movement of regulated articles from the quarantined area.

Accordingly, to prevent the spread of the Oriental fruit fly to other States, we are amending the regulations in § 301.93-3 by designating a portion of San Bernardino County, CA, as a quarantined area for the Oriental fruit fly. The quarantined area is described in the rule portion of this document.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the Oriental fruit fly from spreading to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the Oriental fruit fly regulations by adding a portion of SanBernardino County, CA, to the list of quarantined areas. The regulations restrict the interstate movement of regulated articles from the quarantined area. County records indicate there are 10 to 15 small growers within the quarantined area who will be affected by this rule. There is no commercial

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agricultural acreage nor any flea markets or certified farmers markets within the quarantined area. The number of nurseries and fruit and produce dealers located within the quarantined area is presently unknown.

We expect that any small entities located within the quarantined area that sell regulated articles do so primarily for local intrastate, not interstate, movement, so the effect, if any, of this rule on these entities appears to be minimal. The effect on any small entities that may move regulated articles intrastate will be minimized by the availability of various treatments that, in most cases will allow these small entities to move regulated articles interstate with very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule: (1) Preempts all State or local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties who may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The site-specific environmental assessment provides a basis for the conclusion that the implementation of integrated pest management to eradicate the Oriental fruit fly will not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 am. and 4:30 p.m. Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.93–3, paragraph (c) is revised to read as follows:

§ 301.93–3 Quarantined areas.

* * * * *

(c) The areas described below are designated as quarantined areas:

California

San Bernardino County. That portion of the county beginning at the intersection of Interstate Highway 10 and Mills Avenue; then east on Mills Avenue to Haven Avenue; then south on Haven Avenue to Edison Avenue; then west on Edison Avenue to Archibald Avenue; then south on Archibald Avenue to Merrill Avenue; then west on Merrill Avenue to Carpenter Avenue; then south on Carpenter Avenue to Remington Avenue; then west on Remington Avenue to Grove Avenue; then south on Grove Avenue to Kimball Avenue; then west on Kimball Avenue to El Prado Road; then northwest on El Prado Road to Central Avenue; then southwest on Central Avenue to State Highway 71; then northwest on State Highway 71 to Schaefer Avenue; then east on Schaefer Avenue to East End Avenue; then north on East End Avenue to Grand Avenue; then east on Grand Avenue to Kadota Avenue; then north on Kadota Avenue to Mills Avenue; then northeast on Mills Avenue to the point of beginning.

Done in Washington, DC, this 29th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22241 Filed 9–4–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–10]

Amendment of Class E5 Airspace; Ocracoke, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E5 airspace at Ocracoke, NC. On October 12, 1999, the Pamlico Nondirectional Radio Beacon (NDB) was decommissioned, canceling the Standard Instrument Approach Procedure (SIAP) to the Ocracoke Island Airport, served by this NAVAID. Therefore, the airspace legal description must be amended to reflect this change.

EFFECTIVE DATE: 0901 UTC, November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

The Pamlico NDB was decommissioned on October 12, 1999, canceling the SIAP to the Ocracoke Island Airport served by this NAVAID. The extension to the Class E airspace, to accommodate the SIAP, is no longer required. As a result, the airspace legal description must be amended. This rule will become effective on the date specified in the **EFFECTIVE DATE** section. Since this action eliminates the impact of controlled airspace on the users of the airspace in the vicinity of the Ocracoke Island Airport, Ocracoke, NC, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Ocracoke, NC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth

* * * * *

ASO NC E5 Ocracoke, NC [Revised]

Ocracoke Island Airport, NC
(Lat. 35°06'05"N., long. 75°57'58"W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Ocracoke Island Airport.

* * * * *

Issued in College Park, Georgia, on August 8, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–22246 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name and address for Baxter Pharmaceutical Products, Inc.

DATES: This rule is effective September 5, 2001.

ADDRESSES: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Baxter Pharmaceutical Products, Inc., 110 Allen Rd., Liberty Corner, NJ 07938, has informed FDA of a change of name and address to Baxter Healthcare Corp., 95 Spring St., New Providence, NJ 07974. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the changes.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for "Baxter Pharmaceutical Products, Inc." and in the table in paragraph (c)(2) by revising the entry for "010019" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Baxter Healthcare Corp., 95 Spring St., New Providence, NJ 07974	010019

(2) * * *

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Drug labeler code	Firm name and address
010019	Baxter Healthcare Corp., 95 Spring St., New Providence, NJ 07974

Dated: August 23, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–22167 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for an approved new animal drug application (NADA) from Dow B. Hickam, Inc., to Bertek Pharmaceuticals, Inc.

DATES: This rule is effective September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Norman J. Turner, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0214.

SUPPLEMENTARY INFORMATION: Dow B. Hickam, Inc., Pharmaceuticals, P.O. Box 35413, Houston, TX 77035, has informed FDA that it has transferred to Bertek Pharmaceuticals, Inc., 12720 Dairy Ashford, Sugar Land, TX 77478, ownership of, and all rights and interests in NADA 39–583. Accordingly, the agency is amending the regulations in 21 CFR 524.2620 to reflect the transfer of ownership.

In addition, Bertek Pharmaceuticals, Inc., has not been previously listed in the animal drug regulations as a sponsor of an approved application. At this time, 21 CFR 510.600(c)(1) and (c)(2) is being amended to add entries for the firm.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Dow B. Hickam, Inc." and by alphabetically adding an entry for "Bertek Pharmaceuticals, Inc." and in the table in paragraph (c)(2) by removing the entry for "000514" and by numerically adding an entry for "062794" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Bertek Pharmaceuticals, Inc., 12720 Dairy Ashford, Sugar Land, TX 77478	062794

(2) * * *

Drug labeler code	Firm name and address
062794	Bertek Pharmaceuticals, Inc., 12720 Dairy Ashford, Sugar Land, TX 77478

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.2620 [Amended]

4. Section 524.2620 *Liquid crystalline trypsin, Peru balsam, castor oil* is amended in paragraph (a)(2) by removing "000514" and adding in its place "062794".

Dated: August 23, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–22198 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Marbofloxacin Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for the use of marbofloxacin tablets in cats for the treatment of infections associated with bacteria susceptible to marbofloxacin.

DATES: This rule is effective September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, is the sponsor of NADA 141–151 that provides for use of Zeniquin™ (marbofloxacin) Tablets for the treatment of infections in dogs associated with bacteria susceptible to marbofloxacin. Pfizer, Inc., filed a supplemental NADA which provides for the addition of cats to product indications. The supplemental NADA is approved as of August 1, 2001, and the regulations in 21 CFR 520.1310 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for non-food-producing animals qualifies for 3 years of marketing exclusivity beginning August 1, 2001, because the application contains substantial evidence of effectiveness of the drug involved or any studies of animal safety required for approval of the application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1310 is amended by revising paragraphs (a) and (d) to read as follows:

§ 520.1310 Marbofloxacin tablets.

(a) *Specifications.* Each tablet contains 25, 50, 100, or 200 milligrams (mg) marbofloxacin.

* * * * *

(d) *Conditions of use*—(1) *Amount.* 1.25 mg per pound (/lb) of body weight once daily, but may be increased to 2.5 mg/lb of body weight once daily.

(2) *Indications for use.* For the treatment of infections in dogs and cats associated with bacteria susceptible to marbofloxacin.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian. Federal law prohibits the extralabel use of this drug in food-producing animals.

Dated: August 21, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–22165 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Moxidectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fort Dodge Animal Health. The supplemental NADA provides for topical use of a 0.5 percent moxidectin solution on cattle for treatment and control of infections of additional life stages and species of gastrointestinal roundworms.

DATES: This rule is effective September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Janis Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Div. of American Home Products Corp., 800 Fifth St. NW., Fort Dodge, IA 50501, filed supplemental NADA 141–099 that provides for use of Cydectin® (moxidectin) 0.5% Pour-On for Beef and Dairy Cattle at 500 micrograms moxidectin per kilogram of body weight for treatment and control of infections of additional life stages and species of gastrointestinal roundworms. The supplemental NADA is approved as of June 18, 2001, and the regulations are amended in 21 CFR 524.1451 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning June 18, 2001, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant impact on human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 524.1451 is amended by redesignating paragraph (d) as paragraph (e), by removing the last sentence of newly redesignated paragraph (e)(3), by adding new paragraph (d), and by revising newly redesignated paragraph (e)(2) to read as follows.

§ 524.1451 Moxidectin.

* * * * *

(d) *Special considerations.* See § 500.25 of this chapter.

(e) * * *

(2) *Indications for use.* Beef and dairy cattle: For treatment and control of internal and external parasites: gastrointestinal roundworms (*Ostertagia ostertagi* (adult and L4, including inhibited larvae), *Haemonchus placei* (adult and L4), *Trichostrongylus axei* (adult and L4), *T. colubriformis* (adult and L4), *Cooperia oncophora* (adult and L4), *C. pectinata* (adult), *C. punctata* (adult and L4), *C. spatulata* (adult), *C. surnabada* (adult and L4), *Bunostomum phlebotomum* (adult), *Oesophagostomum radiatum* (adult and L4), *Nematodirus helvetianus* (adult and L4)); lungworms (*Dictyocaulus viviparus*, adult and L4); cattle grubs (*Hypoderma bovis*, *H. lineatum*); mites (*Chorioptes bovis*, *Psoroptes ovis* (*P. communis* var. *bovis*)); lice (*Linognathus vituli*, *Haematopinus eurysternus*, *Solenopotes capillatus*, *Bovicola*(*Damalinia*) *bovis*); and horn flies (*Haematobia irritans*). To control infections and to protect from reinfection with *H. placei* for 14 days after treatment, *O. radiatum* and *O. ostertagi* for 28 days after treatment, and *D. viviparus* for 42 days after treatment.

* * * * *

Dated: August 24, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–22200 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 556

Tolerances for Residues of New Animal Drugs in Food; Oxytetracycline; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the tolerance for the sum of residues of the tetracyclines in milk previously established but inadvertently removed in a subsequent amendment and to reflect the correct tolerance of 0.3 part per million oxytetracycline in milk. This action is being taken to improve the accuracy of the agency's regulations.

DATES: This rule is effective September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lynn G. Friedlander, Center for Veterinary Medicine (HFV–151), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6985.

SUPPLEMENTARY INFORMATION: FDA is amending the animal drug regulations in § 556.500 (21 CFR 556.500) to reflect the tolerance for the sum of residues of the tetracyclines in milk, which had been established in a final rule published in the **Federal Register** of September 30, 1998 (63 FR 52157 at 52158), but removed in a subsequent amendment to § 556.500 in a final rule published in the **Federal Register** of October 27, 1998 (63 FR 57245 at 57246). At this time, § 556.500 is being amended to reflect the correct tolerance of 0.3 part per million for the sum of residues of the tetracyclines including chlortetracycline, oxytetracycline, and tetracycline in milk.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808. Publication of this document constitutes final action on this changes under the Administrative Procedure Act (5 U.S.C. 553).

List of Subjects in 21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 556 is amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

2. Section 556.500 is amended by revising paragraph (b) to read as follows:

§ 556.500 Oxytetracycline.

* * * * *

(b) *Beef cattle, dairy cattle, calves, swine, sheep, chickens, turkeys, catfish, lobster, and salmonids.* Tolerances are established for the sum of residues of the tetracyclines including chlortetracycline, oxytetracycline, and tetracycline, in tissues and milk as follows:

(1) 2 parts per million (ppm) in muscle.

(2) 6 ppm in liver.

(3) 12 ppm in fat and kidney.

(4) 0.3 ppm in milk.

Dated: August 20, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–22164 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid and Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved, single-ingredient lasalocid and bacitracin methylene disalicylate Type A medicated articles to make two-way combination drug Type C medicated feeds. These combination medicated feeds are used for the prevention of coccidiosis, and for increased rate of weight gain and improved feed efficiency in growing turkeys.

DATES: This rule is effective September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–179 that provides for use of AVATEC® (90.7 grams per pound (g/lb) of lasalocid sodium) and BMD® (50 g/lb of bacitracin methylene disalicylate) Type A medicated articles to make combination drug Type C medicated turkey feeds. The combination Type C medicated feeds are used for prevention of coccidiosis caused by *Eimeria meleagrimitis*, *E. gallopavonis*, *E. adenoeides*, and for increased rate of weight gain and improved feed efficiency in growing turkeys. The NADA is approved as of July 11, 2001, and the regulations are amended in 21 CFR 558.311 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.311 is amended in the table in paragraph (e)(1) by alphabetically adding an item under entry (xv) following "Bacitracin 4 to 50" to read as follows:

§ 558.311 Lasalocid.

* * * * *

(e) * * *

(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
. . .	.	.	.	.
(xv) 68 (0.0075 pct) to 113 (0.0125 pct)	Bacitracin 4 to 50 Bacitracin methylene disalicylate 4 to 50	Growing turkeys; for prevention of coccidiosis caused by *E. meleagrimitis*, *E. gallopavonis*, and *E. adenoeides*; for increased rate of weight gain and improved feed efficiency.	Feed continuously as sole ration. Bacitracin methylene disalicylate as provided by No. 046573 in § 510.600(c) of this chapter.	046573
. . .	.	.	.	.

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Dated: August 21, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–22163 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 230 and 231a

RIN 0790–AG73

Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes regulations on "Procedures governing Banking Offices on DoD Installations" and revises regulations on "Financial Institutions on DoD Installations." This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and addresses areas such as the solicitation for such services, the types of services and the logistics support provided.

DATES: This rule is effective June 1, 2001.

FOR FURTHER INFORMATION CONTACT: T. Summers, 703–602–0299.

SUPPLEMENTARY INFORMATION:

I. Background

Stateside military banking began in 1941 when the Department realized that financial services were urgently needed by military and civilian personnel on domestic installations. To address this need, the Department permitted installation commanders to negotiate with nearby local banks to establish branches on their installation. Today, there are over 230 domestic installations that have either a bank or credit union or both. To ensure consistency between installations in the level, cost and types of financial services offered, the Department established regulations in parts 230 and 231 to govern the operation and oversight of these institutions. These regulations limit the number of financial institutions that may operate on an installation to one bank and one credit union (with a grandfather provision). The regulations require full and open competition for a full spectrum of banking services (to include electronic banking services). Policy guidance relating to the military banking program, by regulation, is the responsibility of the Under Secretary of Defense (Comptroller) while operational guidance rests with the Defense Finance and Accounting Service (DFAS). To ensure financial services are available on our overseas installations, the Department operates the overseas military banking program. The DFAS has been assigned the program office responsibilities for this effort, which is provided under contract by a domestic financial institution. In FY 2000, the overseas military banking program contractor operated 110 banking offices and over 250 automated teller machines in 10 foreign countries. Overseas military banks support DoD personnel and their families, disbursing officers, appropriated fund activities (such as the Defense Commissary Agency) and nonappropriated fund activities (such as the Army and Air Force Exchange Service).

II. Comments, and Changes to, the Proposed Rule

The Department of Defense published the proposed rule on August 11, 1999 (64 FR 43856). Over 240 comments from 55 entities were received in response to the publication of the previously published proposed rule. The majority of the comments on Part 230 of the proposed rule focused on two areas: (1) Prohibiting the assessment of automated teller machine (ATM) surcharging and (2) the establishment of a ceiling for other fees and charges. These comments and their disposition are specifically addressed below. The remainder of the comments were either administrative in nature or suggested that additional clarification was needed in certain areas. None of these resulted in any significant changes to the proposed rule.

A. Section 230.4(a)(7)(i)

This section of the previously published proposed rule would have required that on-base ATM service offered by financial institutions operating on domestic installations and domestic credit unions operating on DoD installations overseas be provided without surcharge. Forty-nine of the fifty-five entities providing comments objected to this limitation. While being sympathetic to the Department's interest in shielding lower income military members and civilian employees from ATM fees, the comments essentially reflected the belief that the freedom from any regulatory constraints relating to a surcharge fee structure should be permitted to create an environment by which the "economics of the marketplace" determine the level of any surcharges that an institution might consider levying. In this regard, such factors as operational expense structures, ATM usage factors and the convenience factor should be the litmus test of the extent to which surcharges, if any, should be imposed by the financial institution installing the ATM. It was also noted that ATM surcharges typically are incurred by noncustomers, i.e., by persons who have chosen to use a particular financial institution's ATM, but have chosen not to establish an account relationship with that institution. Thus, the incurring of ATM surcharges is voluntary and an individual can readily avoid surcharges by either establishing a deposit account with that institution or by only using the ATMs of the individual's existing depositary institution. Those entities providing comments on this section made a number of compelling arguments to retain the existing requirement that requires the banking liaison officer (BLO) and credit union liaison officer (CULO) annually review service charges and fees (to include surcharges on ATM transactions). As a result, this section has been deleted in its entirety.

B. Section 230.4(a)(3)(iv)

This section of the previously published proposed rule would have required that retail fees and services for products (to include related minimum balance requirements for noninterest checking, Negotiable Order of Withdrawal (NOW) and savings accounts) offered by financial institutions operating on DoD installations shall not exceed 110 percent of the industry-wide averages for banks in the "Annual Report to Congress on Retail Fees and Services of Depository Institutions," published by the Board of Governors of the Federal Reserve System. In its comments, the National Association of Federal Credit Unions (NAFCU) took exception to the 110 percent limitation citing that a credit union's fee structure is designed to allow credit unions to provide members with convenient and efficient services, as well as, a good return on their ownership interest. The Department has reviewed the concerns expressed and, based on its review, has removed the 110 percent ceiling requirement.

III. Executive Order 12866, Regulatory Planning and Review

It has been determined that 32 CFR part 230 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

IV. Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

V. Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

VI. Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been certified that the rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

VII. Executive Order 13132, "Federalism"

It has been certified that the rule does not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Parts 230 and 231a

Armed forces, Banks, Banking, Credit unions, Federal buildings and facilities.

Accordingly, 32 CFR part 230 is revised to read as follows:

PART 230—FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Sec.

230.1 Purpose.
230.2 Applicability.
230.3 Definitions.
230.4 Policy.
230.5 Responsibilities.

Authority: 10 U.S.C. 136

§ 230.1 Purpose.

This part:

(a) Updates policies and responsibilities for financial institutions that serve Department of Defense (DoD) personnel on DoD installations worldwide. Associated procedures are contained in 32 CFR part 231.

(b) Prescribes consistent arrangements for the provision of services by financial institutions among the DoD Components, and requires that financial institutions operating on DoD installations provide, and are provided, support consistent with the policies stated in this part.

§ 230.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff (JCS), the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter collectively referred to as "the DoD Components") and all nonappropriated fund instrumentalities including the Military Exchange Services and morale, welfare and recreation (MWR) activities.

§ 230.3 Definitions.

Terms used in this part are set forth in 32 CFR part 231.

§ 230.4 Policy.

(a) The following pertains to financial institutions on DoD installations:

(1) Except where they already may exist as of May 1, 2000, no more than one banking institution and one credit union shall be permitted to operate on a DoD installation.

(2) Upon the request of an installation commander and with the approval of the Secretary of the Military Department concerned (or designee), duly chartered financial institutions may be authorized to provide financial services on DoD installations to enhance the morale and welfare of DoD personnel and facilitate the administration of public and quasi-public monies. Arrangement for the provision of such services shall be in accordance with this part and the applicable provisions of 32 CFR part 231.

(3) Financial institutions or branches thereof, shall be established on DoD installations only after approval by the Secretary of the Military Department concerned (or designee) and the appropriate regulatory agency.

(i) Except in limited situations overseas (see paragraph (b)(2)(iii) of this section), only banking institutions insured by the Federal Deposit Insurance Corporation and credit unions insured by the National Credit Union Share Insurance Fund or by another insurance organization specifically qualified by the Secretary of the Treasury, shall operate on DoD installations. These financial institutions may either be State or federally chartered; however, U.S. credit unions operated overseas shall be federally insured.

(ii) Military banking facilities (MBFs) shall be established on DoD installations only when a demonstrated and justified need cannot be met through other means. An MBF is a financial institution that is established by the Department of the Treasury under statutory authority that is separate from State or Federal laws that govern commercial banking. Section 265 of title 12, United States Code contains the provisions for the Department of the Treasury to establish MBFs. Normally, MBFs shall be authorized only at overseas locations. This form of financial institution may be considered for use at domestic DoD installations only when the cognizant DoD Component has been unable to obtain, through normal means, financial services from a State or federally chartered financial institution authorized to operate in the State in which the installation is located. In times of mobilization, it may become necessary to designate additional MBFs as an emergency measure. The Director, Defense Finance and Accounting Service (DFAS) may recommend the designation of MBFs to the Department of the Treasury.

(iii) Retail banking operations shall not be performed by any DoD Component. Solicitations for such services shall be issued, or proposals accepted, only in accordance with the policies identified in this part. The DoD Components shall rely on commercially available sources in accordance with DoD Directive 4100.15.[1]

(4) Installation commanders shall not seek the provision of financial services from any entity other than the on-base banking office or credit union. The Director, DFAS, with the concurrence of the Under Secretary of Defense

[1] See footnote 1 to § 231.1(a).

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(Comptroller) (USD(C)), may approve exceptions to this policy.

(5) Financial institutions authorized to locate on DoD installations shall be provided logistic support as set forth in 32 CFR part 231.

(6) Military disbursing offices, nonappropriated fund instrumentalities (including MWR activities and the Military Exchange Services) and other DoD Component activities requiring financial services shall use on-base financial institutions to the maximum extent feasible.

(7) The Department encourages the delivery of retail financial services on DoD installations via nationally networked automated teller machines (ATMs).

(i) ATMs are considered electronic banking services and, as such, shall be provided only by financial institutions that are chartered and insured in accordance with the provisions of paragraph (a)(3) of this section.

(ii) Proposals by the installation commander to install ATMs from other than on-base financial institutions shall comply with the provisions of paragraph (a)(4) of this section.

(8) Expansion of financial services (to include in-store banking) requiring the outgrant of additional space or logistical support shall be approved by the installation commander. Any DoD activity or financial institution seeking to expand financial services shall coordinate such requests with the installation bank/credit union liaison officer prior to the commander's consideration.

(9) The installation commander shall ensure, to the maximum extent feasible, that all financial institutions operating on that installation are given the opportunity to participate in pilot programs to demonstrate new financial-related technology or establish new business lines (e.g., in-store banking) where a determination has been made by the respective DoD Component that the offering of such services is warranted.

(10) The installation commander shall approve requests for termination of financial services that are substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate such requests with the USD(C), through the Director, DFAS, before notification to the appropriate regulatory agency.

(11) Additional guidance pertaining to financial services is set forth in 32 CFR part 231.

(b) The following additional provisions pertain only to financial institutions on overseas DoD installations:

(1) The extension of services by MBFs and credit unions overseas shall be consistent with the policies stated in this part and with the applicable status of forces agreements, other intergovernmental agreements, or host-country law.

(2) Financial services at overseas DoD installations may be provided by:

(i) Domestic on-base credit unions operating overseas under a geographic franchise and, where applicable, as authorized by the pertinent status of forces agreements, other intergovernmental agreements, or host-country law.

(ii) MBFs operated under and authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(iii) Domestic and foreign banks located on overseas DoD installations that are:

(A) Chartered to provide financial services in that country, and

(B) A party to a formal operating agreement with the installation commander to provide such services, and

(C) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(3) In countries served by MBFs operated under contract, nonappropriated fund instrumentalities and on-base credit unions that desire, and are authorized, to provide accommodation exchange services shall acquire foreign currency from the MBF at the MBF accommodation rate; and shall sell such foreign currency at a rate of exchange that is no more favorable to the customer than the customer rate available at the MBF.

§ 230.5 Responsibilities.

(a) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to this part.

(b) The Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)) shall monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(c) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services that affect the morale and welfare of DoD personnel.

(d) DoD Component responsibilities pertaining to this part are set forth in 32 CFR part 231.

PART 231a—[REMOVED]

By the authority of 10 U.S.C. 301, 32 CFR part 231a is removed.

Dated: August 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22172 Filed 9–4–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–01–056]

Special Local Regulations for Marine Events; Hampton River, Hampton, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.508 during the Hampton Bay Days Festival to be held September 7–9, 2001, on the waters of the Hampton River at Hampton, Virginia. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the festival events. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.508 is effective from 12 noon eastern time on September 7, 2001 to 6 p.m. eastern time on September 9, 2001.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer J. Saffold, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703–2199, (757) 483–8521.

SUPPLEMENTARY INFORMATION: Hampton Bay Days, Inc. will sponsor the Hampton Bay Days Festival on September 7–9, 2001 on the Hampton River, Hampton, Virginia. The festival will include water ski demonstrations, personal watercraft and wake board competitions, paddle boat races, classic boat displays, fireworks displays and a helicopter rescue demonstration. A fleet of spectator vessels is expected to gather nearby to view the festival events. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.508 will be in effect for the duration of the festival activities. Under provisions of 33 CFR 100.508, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander, except that vessels may enter and anchor in the special spectator anchorage areas if they proceed at slow, no wake speed. The Coast Guard Patrol Commander will allow vessels to transit the regulated area between festival events. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: August 24, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–22255 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–055]

RIN 2115–AE46

Special Local Regulations for Marine Events; Nanticoke River, Sharptown, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Sharptown Outboard Regatta, a marine event to be held on the waters of the Nanticoke River between the Maryland S.R. 313 bridge at Sharptown, Maryland and Nanticoke River Light 43 (LLN–24175). These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Nanticoke River during the event.

DATES: This rule is effective from 11 a.m. eastern time on September 22, 2001 until 6 p.m. eastern time on September 23, 2001.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–055 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dulani Woods, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, telephone number (410) 576–2513.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The high-speed boat races will take place on September 22 and 23, 2001. The special local regulations are necessary to provide for the safety of event participants, support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

Background and Purpose

The North-South Racing Association will sponsor the Sharptown Outboard Regatta on September 22 and 23, 2001. The event will consist of 50 hydroplanes and runabouts conducting a high-speed competitive race on the waters of the Nanticoke River between the Maryland S.R. 313 bridge at Sharptown, Maryland and Nanticoke River Light 43 (LLN–24175). A fleet of spectator vessels is anticipated for the event. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Nanticoke River. The regulated area will include waters of the Nanticoke River between Maryland S.R. 313 bridge at Sharptown, Maryland and Nanticoke River Light 43 (LLN–24175). The temporary special local regulations will be enforced from 11 a.m. to 6 p.m. eastern time on September 22 and 23, 2001, and will restrict general navigation in the regulated area during the event. Except for participants in the Sharptown Outboard Regatta and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Although this regulation prevents traffic from transiting a portion of the Nanticoke River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Nanticoke River during the event.

Although this regulation prevents traffic from transiting a portion of the Nanticoke River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so

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mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pubic Law 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State law or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We prepared an "Environmental Assessment" in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The "Environmental Assessment" and "Finding of No Significant Impact" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add a temporary section, § 100.35–T05–055 to read as follows:

§ 100.35–T05–055 Nanticoke River, Sharptown, Maryland.

(a) *Definitions*—(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(2) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participating Vessels.* Participating vessels include all vessels participating in the Sharptown Outboard Regatta under the auspices of the Maine Event Application submitted by the North-South Racing Association Inc., and approved by the Commander, Fifth Coast Guard District.

(4) *Regulated Area.* All waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 bridge and Nanticoke River Light 43 (LLN–24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32′47″ N, longitude 075°43′15″ W, to latitude 38°32′42″ N, longitude 75°43′09″ W, thence northeasterly to latitude 38°33′07″ N, longitude 075°42′27″ W, thence northwesterly to latitude 38°33′10″ N, longitude 75°42′46″ W, thence southwesterly to latitude 38°32′47″ N, longitude 75°43′15″ W. All coordinates reference Datum NAD 1983.

(b) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective Dates.* The regulated area is effective from 11 a.m. eastern time on September 22, 2001 until 6 p.m. eastern time on September 23, 2001.

(d) *Enforcement Times:* This section will be enforced from 11 a.m. to 6 p.m. eastern time on September 22 and 23, 2001.

Dated: August 24, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–22256 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–054]

Special Local Regulations for Marine Events; Wrightsville Channel, Wrightsville Beach, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.513 during the Wilmington YMCA Triathlon to be held September 16, 2001, on the waters of Wrightsville Channel, Wrightsville Beach, North Carolina. This action is necessary to provide for the safety of life on navigable waters during the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.513 is effective from 6:15 a.m. to 7:30 a.m. eastern time on September 16, 2001.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Operations Division, Auxiliary and Boating Safety Section, at (757) 398–6204.

SUPPLEMENTARY INFORMATION: The Wilmington YMCA will sponsor the Wilmington YMCA Triathlon on September 16, 2001 on the waters of Wrightsville Channel, Wrightsville Beach, North Carolina. The event will involve 500 swimmers racing along a course within the regulated area. In order to ensure the safety of the swimmers and transiting vessels, 33 CFR 100.513 will be in effect for the duration of the event. Under provisions of 33 CFR 100.513, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: August 24, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–22257 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–053]

RIN 2115–AE46

Special Local Regulations for Marine Events; Delaware River, Pea Patch Island to Delaware City, DE

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Escape from Fort Delaware Triathlon, a marine event to be held on the waters of the Delaware River between Pea Patch Island and Delaware City, Delaware. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Delaware River between Pea Patch Island and Delaware City during the event.

DATE: This rule is effective from 7:45 a.m. to 10:15 a.m. eastern time on September 15, 2001.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–053 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The swimming event will take place on September 15, 2001. The special local regulations are necessary to provide for the safety of event participants, support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

Background and Purpose

On September 15, 2001, Diamond State Games 2001 will sponsor the Escape from Fort Delaware Triathlon. The swimming segment of the triathlon will be conducted on a portion of the Delaware River between Pea Patch Island and Delaware City, Delaware. A fleet of spectator vessels is expected to gather near the event site to view the triathlon. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the event.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Delaware River between Pea Patch Island and Delaware City, Delaware. The temporary special local regulations will be in effect from 7:45 a.m. to 10:15 a.m. eastern time on September 15, 2001. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Although this regulation prevents traffic from transiting a portion of the Delaware River during the event, the

effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Delaware River during the event.

Although this regulation prevents traffic from transiting a portion of the Delaware River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State law or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add a temporary section, § 100.35–T05–053 to read as follows:

§ 100.35–T05–053 Delaware River, Pea Patch Island to Delaware City, Delaware.

(a) *Regulated Area.* All waters of the Delaware River between Pea Patch Island and Delaware City, Delaware, bounded by a line connecting the following points:

Latitude	Longitude
39°35'40.2" North ..	075°34'36.6" West, to
39°34'58.8" North ..	075°35'38.4" West, to
39°34'11.4" North ..	075°34'43.8" West, to
39°35'06.6" North ..	075°34'11.6" West

All coordinates reference Datum NAD 1983.

(b) Coast Guard Patrol Commander. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Philadelphia.

(c) Special Local Regulations:

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) Effective Dates. This section is effective from 7:45 a.m. to 10:15 a.m. eastern time on September 15, 2001.

Dated: August 24, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–22258 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD078–3078a; FRL–7049–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions From Marine Vessels Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Maryland State Implementation Plan (SIP). This revision establishes reasonable available control technology (RACT) to reduce volatile organic compound (VOC) emissions from marine vessel coating operations. The intent of this action is to approve Maryland's RACT regulation to control VOC emissions from marine vessel coating operations. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on October 22, 2001 without further notice, unless EPA receives adverse written comment by October 5, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Makeba Morris, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Makeba Morris at (215) 814–2187, or by e-mail at morris.makeba@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

On August 20, 2001, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). This SIP revision, submitted by the Maryland Department of the Environment (MDE), consists of the Code of Maryland Regulations (COMAR) 26.11.19.27, Control of Volatile Organic Compound (VOC) Emissions From Marine Vessel Coating Operations.

II. Summary of the SIP Revision

A. Applicability—COMAR 26.11.19.27 applies to sources, where marine vessel coating operations are performed, with facility-wide potential VOC emissions of 25 tons per year or more or actual emissions of 20 pounds per day.

B. Definitions—COMAR 26.11.19.27 defines the following terms: Air flask coating, Antenna coating, Antifoulant coating, Chemical agent resistant coating, Heat resistant coating, High gloss coating, High-temperature coating, Inorganic zinc (high build) coating, Marine vessel coating operation, Mist/tack coating, Navigational aids coating, Nonskid coating, Nuclear coating, Organic zinc coating, Pretreatment wash primer coating, Rubber camouflage coating, Sealant coating, Ship, Special marking coating, Speciality interior coating, Thermoplastic coating, Undersea weapons systems coating, Weld-through (shop) preconstruction primer.

C. Coating Requirements—COMAR 26.11.19.27 establishes limits for the following marine vessel coatings:

Coating	Maximum VOC Content, Pounds per gallon, as applied (Grams per liter)
Air Flask	2.83 (340)
Antenna	4.42 (530)
Antifoulant	3.42 (400)
CARC	2.83 (340)
Heat Resistant	3.50 (420)
High Gloss	3.50 (420)
High Temperature	4.17 (500)
Inorganic zinc high build primer	2.83 (340)

Coating	Maximum VOC Content, Pounds per gallon, as applied (Grams per liter)
Mist/Tack	5.08 (610)
Navigational aids	4.58 (550)
Nonskid	2.83 (340)
Nuclear	3.50 (420)
Organic zinc	3.00 (360)
Pre-treatment wash primer	6.50 (780)
Rubber camouflage	2.83 (340)
Sealant coat for thermal spray aluminum	5.08 (610)
Special marking	4.08 (490)
Specialty interior	2.83 (340)
Thermoplastic coating	4.58 (550)
Undersea weapons systems	2.83 (340)
Weld-through (shop) primer	5.42 (650)

In addition to the limit on the VOC content of the coatings listed above, the following requirements apply:

(1) A coating which satisfies the definition of more than one category of coating is subject to the maximum VOC content which applies to the applicable coating category.

(2) Any other coatings not specifically listed in the regulation may not exceed a VOC content of 2.83 pounds per gallon (340 grams per liter), as applied, and

(3) The limits established by the new regulation may be exceeded by 20 percent, but only during the time period between November 1 of a given year through March 31 of the following year.

D. Clean-Up Requirements—This regulation also requires reasonable precautions to minimize the release of VOCs into the atmosphere. These work-practice requirements include:

(1) Storing all waste materials containing VOC, including cloth and paper, in closed containers, (2) Maintaining lids on any VOC-bearing materials when not in use, and

(3) Using enclosed containers or VOC recycling equipment to clean spray gun equipment.

E. Compliance—Compliance must be demonstrated in accordance with COMAR 26.11.19.02.

F. Record keeping—Records of total volume and VOC content of each coating, coating solvent, and cleanup solvent used that contains VOCs must be maintained on a monthly basis and retained for at least three years.

III. EPA's Evaluation

This SIP revision imposing RACT to control VOC emissions from marine vessel coating operations is consistent with federal guidelines and will result in significant VOC emission reductions. EPA has determined that COMAR 26.11.19.27 is approvable as a SIP revision.

Final Action: EPA is approving the addition of COMAR 26.11.19.27, Control of Volatile Organic Compound (VOC) Emissions from Marine Vessel Coating Operations as a revision to the Maryland SIP as submitted by MDE on August 20, 2001. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 22, 2001 without further notice unless EPA receives adverse comment by October 5, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law.

Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 5, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving Maryland's regulation imposing RACT to control VOC emissions from marine vessel coating operations, may not be, challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 28, 2001.

Thomas C. Voltaggio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(166) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(166) Revisions to the Maryland State Implementation Plan submitted on August 20, 2001 by the Maryland Department of the Environment consisting of Reasonably Available Control Technology (RACT) requirements to reduce volatile organic compound (VOC) emissions from marine vessel coating operations.

(i) Incorporation by reference.

(A) A letter dated August 20, 2001 from the Maryland Department of the Environment transmitting an addition to Maryland's State Implementation Plan, pertaining to volatile organic compound (VOC) regulations in Maryland's air quality regulations, COMAR 26.11.19.27.

(B) Addition of new COMAR 26.11.19.27—Control of Volatile Organic Compounds from Marine Vessel Coating Operations, effective on October 20, 1997.

(ii) Additional Materials—Remainder of the August 20, 2001 submittal pertaining to COMAR 26.11.19.27—Control of VOC Emissions from Marine Vessel Coating Operations.

[FR Doc. 01–22267 Filed 9–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301159; FRL–6796–6]

RIN 2070–AB

Buprofezin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of buprofezin (2-tert-butylimino-3-isopropyl-5-phenyl-1,3,5-thiadiazinan-4-one) in or on almonds; banana; citrus; citrus, oil; citrus, dried pulp; grape; grape, raisin; milk; fat (cattle, goats, hogs, horses, sheep); meat byproducts (cattle, goats, hogs, horses, sheep); liver (cattle, goats, hogs, horses, sheep). Aventis (formerly AgrEvo) requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. In addition, this regulation also establishes time-limited tolerances for residues of buprofezin (2-tert-butylimino-3-isopropyl-5-phenyl-1,3,5-thiadiazinan-4-one) in or on almond, hulls; cotton, undelinted seed; cotton, gin byproducts; and tomato. Aventis (formerly AgrEvo) requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire on July 31, 2005.

DATES: This regulation is effective September 5, 2001. Objections and requests for hearings, identified by docket control number OPP–301159, must be received by EPA on or before November 5, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301159 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Richard J. Gebken, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6701; and e-mail address: gebken.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.hhtml, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301159. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 21, 2000 (65 FR 38543) (FRL–6557–3), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by AgrEvo USA Company, Little Falls Centre One, 2711 Centerville Road, Wilmington, DE 19808. This notice included a summary of the petition prepared by Aventis (formerly AgrEvo), the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.511 be amended by establishing a tolerance for residues of the insecticide buprofezin in or on almonds, nutmeats at 0.05 part per million (ppm); almonds, hulls, at 0.7 ppm; bananas at 0.1 ppm, the citrus crop group, fruit, at 0.7 ppm, cotton seed at 1.0 ppm, grapes at 0.4 ppm, and tomatoes, fruit at 0.8 ppm; in or on the following processed commodities: citrus oil at 26 ppm; citrus pulp, dried, at 2.5 ppm; cotton gin byproducts at 23 ppm; and raisins at 1.0 ppm; and in or on the following meat and milk commodities: the fat, meat and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; and milk at 0.01 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that" there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of buprofezin, on almond; banana; citrus; citrus, oil; citrus, dried pulp; grape; grape, raisin; milk; fat (cattle, goats, hogs, horses, sheep); meat byproducts (cattle, goats, hogs, horses, sheep); liver (cattle, goats, hogs, horses, sheep); almond, hulls; cotton, undelinted seed; cotton, gin byproducts and tomato at 0.05, 0.20, 2.0, 60, 6.0, 0.40, 0.60, 0.01, 0.05, 0.05, 0.05, 0.70, 0.40, 15, 0.40 ppm, respectively. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by buprofezin are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents	NOAEL = 13.0 mg/kg/day males NOAEL = 16.3 mg/kg/day females LOAEL = 68.6 mg/kg/day males LOAEL = 81.8 mg/kg/day females based on increased relative thyroid weight for males, increased liver weights for both male and females, and increased microscopic lesions in liver and thyroid for both male and females.
870.3200	24-Day dermal toxicity	*Systemic* NOAEL = 300 mg/kg/day LOAEL = 1,000 mg/kg/day based on increased focal necrosis with an inflammatory infiltrate in liver for females. *Dermal* NOAEL = 300 mg/kg/day LOAEL = 1,000 mg/kg/day based on increased acanthosis and hyperkeratosis in skin for females.
870.3700	Prenatal developmental in rodents	*Maternal* NOAEL = 200 mg/kg/day LOAEL = 800 mg/kg/day based on mortality, decreased pregnancy rates, and increased resorption rates. *Developmental* NOAEL = 200 mg/kg/day LOAEL = 800 mg/kg/day based on reduced ossification, reduced pup weight, fetal edema.
870.3700	Prenatal developmental in non-rodents	*Maternal* NOAEL = 50 mg/kg/day LOAEL = 250 mg/kg/day based on decreased food consumption, decreased body weights. *Developmental* NOAEL = 250 mg/kg/day LOAEL = not established (less than 250 mg/kg/day)
870.3800	Reproduction and fertility effects	*Parental/systemic* NOAEL = 7.89 mg/kg/day LOAEL = 81.47 mg/kg/day based on decreased body weight gain and on organ weight changes. *Reproductive* NOAEL = 7.89 mg/kg/day LOAEL = 81.47 mg/kg/day based on decreased pup weight
870.4100	Chronic toxicity dogs	NOAEL = 2 mg/kg/day LOAEL = 20 mg/kg/day based on increased bile duct hyperplasia in both males and females, increased serum alkaline phosphatase activity in both males and females, increased relative and absolute liver weights and decreased liver function in females
870.4200	Carcinogenicity mice	NOAEL = 1.82 mg/kg/day for males and 17.4 mg/kg/day for females. LOAEL 17.40 and 191.0 mg/kg/day for males and females respectively, based on increased absolute liver weights, increased hepatocellular adenomas in females, and increased hepatocellular adenomas.+ carcinomas in females
870.4300	Carcinogenicity rats	NOAEL = 1 mg/kg/day LOAEL = 8.7 mg/kg/day based on increased incidence of follicular cell hyperplasia and hypertrophy in thyroid in males. No evidence of carcinogenicity
870.5100	Gene mutation salmonella	Not mutagenic, with or without activation tested up to cytotocic levels.
870.5100	Gene mutation mouse lymphoma	Not mutagenic, with or without activation tested up to cytotoxic levels.
870.5100	Gene mutation *in vitro* human cytogenetic assay	Negative for micronucleus induction in bone marrow cells of males and females. Tested up to cytotoxic levels.
870.5100	Unscheduled DNA synthesis	Negative for DNA repair tested up to cytotoxic levels.
870.7485	Metabolism and pharmacokinetics	79.1% recovered from feces, 12.9% from urine within 72 hours and 45.4% recovered as parent cpd, several metabolites identified.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10x to account for interspecies differences and 10x for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10x to account for interspecies differences and 10x for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for buprofezin used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BUPROFEZIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13-50 years of age)	NOAEL = 200 mg/kg/day UF = 100 Acute RfD = 2.0 mg/kg/day	FQPA SF = 3x aPAD = acute RfD + FQPA SF = 0.67 mg/kg/day	Developmental toxicity rat LOAEL = 800 mg/kg/day based on skeletal effects and decreased body weight in offspring.
Acute dietary (general population including infants and children)	N/A	N/A	No appropriate study with a single-dose endpoint. This risk assessment is not required.
Chronic dietary (all populations)	NOAEL= 1.0 mg/kg/day UF = 100 Chronic RfD = 0.01 mg/kg/day	FQPA SF = 3x cPAD = chronic RfD divide FQPA SF = 0.003 mg/kg/day	2-Year chronic toxicity/carcinogenicity in rat LOAEL = 8.7 mg/kg/day based on increased incidence of follicular cell hyperplasia and hypertrophy in the thyroid of males.
Intermediate-term dermal (1 week to several months) (residential)	Dermal NOAEL = 300 mg/kg/day	LOC for MOE = 100 (Occupational)	24-Day dermal toxicity rat LOAEL = 1,000 mg/kg/day based on an increase of focal necrosis with an inflammatory infiltrate in liver in females
Short-term inhalation (1 to 7 days) (residential)	Inhalation (or oral) study NOAEL= 200 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational)	Developmental toxicity rat LOAEL = 800 mg/kg/day based on skeletal effects and decreased body weight in offspring
Intermediate-term inhalation (1 week to several months) (residential)	Oral study NOAEL = 13 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational)	90-day oral subchronic study in rat LOAEL = 68.6 mg/kg/day based on organ weight changes and microscopic findings in liver and thyroid (male and females) and kidney (males only).
Cancer (oral, dermal, inhalation)	Suggestive evidence of carcinogenicity, but not sufficient to assess human carcinogenic potential	N/A	2-Year carcinogenicity study in mice. Liver tumors observed in female mice. The Agency's Cancer Assessment Review Committee (CARC) recommended that no quantification of cancer risk is required.

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.511) for the residues of buprofezin, in or on a variety of raw agricultural commodities. Tolerances were corrected from the petitioner's original request from the following commodities: bananas at 0.1 ppm, citrus crop group, fruit, at 0.7 ppm, citrus oil at 26 ppm; citrus pulp, dried, at 2.5 ppm, and meat of cattle, goats, hogs, horses, and sheep at 0.05 ppm. The petitioner in the case of bananas, citrus and associated byproducts utilized the average residue values, and the Agency utilized the highest sample concentration for the purpose of evaluating the risk assessment. In addition, the Agency determined upon evaluation of the submitted data, that a residue for meat of cattle, goats, hogs, horses and sheep of 0.05 ppm was unnecessary. Risk assessments were conducted by EPA to assess dietary exposures from buprofezin in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™ ver 7.075) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The acute analysis assumed tolerance level residues and 100% crop treated for all registered and proposed uses.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic analysis incorporated average residues calculated from field trial and processing studies and assumed 100% crop treated for all commodities except tomatoes (40% crop treated assumed). The acute and chronic dietary food exposure estimates to buprofezin, for all population subgroups, were less than the Agency's level of concern (greater than 100% aPAD and cPAD)

iii. *Cancer.* In accordance with the EPA Guidelines for Carcinogen Risk Assessment (proposed July 1999), the Agency's Cancer Assessment Review Committee has classified buprofezin as having "suggestive evidence of carcinogenicity," but not sufficient to assess human carcinogenic potential, and further recommended that no quantification of cancer risk is required. Therefore, a cancer risk assessment is not required.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a Data Call-In for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

The Agency used percent crop treated (PCT) information as follows.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which buprofezin may be applied in a particular area. All estimates assumed 100% crop treated for all commodities except tomatoes (40% crop treated assumed because Agency data indicates that actual application of buprofezin on all tomatoes produced in the U.S. would be less than 40%).

2. *Dietary exposure from drinking water.* The Agency Metabolism Assessment Review Committee has concluded that buprofezin was the only residue of concern in drinking water (acute and chronic ground water EECs of 0.09 ppb (SCI-GROW) and peak and 56–day average surface water concentrations of 34 ppb and 17.7 ppb (17.7/3 = 5.9 ppb), respectively (GENEEC; Tier 1)).

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that

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drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to buprofezin they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of buprofezin for acute and chronic ground water estimated EECs of 0.09 ppb (SCI-GROW) and peak and 56-day average surface water concentrations of 34 ppb and 17.7 ppb (17.7/3 = 5.9 ppb), respectively (GENEEC; Tier 1).

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Buprofezin is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether buprofezin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, buprofezin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that buprofezin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—i. In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* It was concluded that toxicity data provide no indication of increased susceptibility of rats or rabbits following *in utero* exposure or of rats following prenatal/postnatal exposure to buprofezin. In the prenatal developmental toxicity study in rats, developmental effects were seen only in the presence of severe maternal toxicity including deaths. No developmental toxicity was seen at the highest dose tested in the prenatal developmental toxicity study in rabbits. In the two-generation reproduction study in rats, effects in the offspring were observed only at treatment levels which resulted in evidence of parental toxicity

iii. *Conclusion.* The toxicology data base for buprofezin is complete for FQPA assessment. The developmental toxicity studies in rats and rabbits and the two-generation reproduction study in rats are available and considered acceptable acute and subchronic neurotoxicity studies are not required for buprofezin.

The Agency determined that an additional developmental neurotoxicity study in rats is required based on the evidence of thyroid toxicity following subchronic and chronic exposures to rats as well as chronic exposures to dogs. In these studies, thyroid toxicity was characterized as decreases in serum thyroxine levels and increased thyroid weights in dogs and histopathological lesions in the subchronic and chronic toxicity studies in rats. While the Agency recognized the fact that thyroid toxicity was seen in the presence of hepatotoxicity, there was concern that thyroid effects were seen in two species following subchronic and chronic exposures.

The Agency concluded that the DNT study is needed to further evaluate the hormonal responses associated with the developing fetal nervous system. The Agency concluded that a safety factor is necessary for buprofezin since there is a data gap for a developmental neurotoxicity study in rats. This study is required due to the evidence of thyroid toxicity observed following subchronic and chronic exposures to rats and chronic exposure to dogs.

The safety factor was reduced to 3x because: (1) There is no evidence of increased susceptibility to young rats or rabbits following *in utero* exposure or following prenatal and/or postnatal exposure to rats; (2) adequate actual data, surrogate data, and/or modeling outputs are available to satisfactorily assess dietary (food and water) exposure assessment; (3) and there are no registered residential uses at the present time.

The FQPA safety factor for buprofezin is applicable to females 13-50 years and to infants and children due uncertainty resulting from data gap for the developmental neurotoxicity study in rats. This study will characterize the potential for neurotoxic effects on fetal development and may provide data that could be used in the toxicology endpoint selection for dietary exposure risk assessments for these population subgroups.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female),

and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, the Agency concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which the Agency has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because the Agency considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, the Agency will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* To estimate acute aggregate exposure risk, the Agency combined the high-end value from food and water and compared it to the aPAD. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to buprofezin will occupy 4% of the aPAD for females 13 years and older (no endpoint was identified for the general population including infants and children). In addition, there is potential for acute dietary exposure to buprofezin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO BUPROFEZIN

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females (13-50)	0.67	4%	34	0.09	1.9×10^4

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to buprofezin from food will utilize 73% of the cPAD for all population subgroups. There are no residential uses for buprofezin that result in chronic residential exposure to buprofezin. In addition, there is potential for chronic dietary exposure to buprofezin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO BUPROFEZIN

Population Subgroup	cPAD mg/kg/day	Food Exposure mg/kg/day	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (all)	0.0033	0.001226	5.9	0.09	73
All Infants (less than 1 year)	0.0033	0.000968	5.9	0.09	23
Children (1-6 years)	0.0033	0.002385	5.9	0.09	9
Children (7-12 years)	0.0033	0.001622	5.9	0.09	17
Females (13-50)	0.0033	0.001084	5.9	0.09	66
Males (13-19 years)	0.0033	0.001050	5.9	0.09	79
Males (20+ years)	0.0033	0.000999	5.9	0.09	81
Seniors (55+)	0.0033	0.001060	5.9	0.09	78

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Buprofezin is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Buprofezin is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* In accordance with the EPA Guidelines for Carcinogen Risk Assessment (proposed July 1999), the Agency's Cancer Assessment Review Committee has classified buprofezin as having suggestive evidence of carcinogenicity, but not sufficient to assess human carcinogenic potential, and further recommended that no quantification of cancer risk is required.

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Therefore, a cancer risk assessment is not required.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to buprofezin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

1. *Residue analytical methods–plants.* The petitioner proposed method BF/10/97 for enforcement of the almond, banana, citrus, cotton, and grape tolerances. Adequate radiovalidation and independent laboratory validation (ILV) have been received and the method was forwarded to the Analytical Chemistry Laboratory (ACL) for petition method validation (PMV). The petitioner will be required to make any modifications or revision to the proposed enforcement method resulting from PMV. The petitioner is requested to submit a confirmatory method and an interference study. If the petitioner proposes a confirmatory method which employs a mass spectrum detector (MS), then an interference study is not necessary (chromatograms and spectra of fortified samples should be submitted; structurally significant ions should be chosen with a m/z < 91 and intensity < 3x noise at the LOQ for the primary method).

2. *Residue analytical methods–livestock.* The petitioner proposed method BF/11/97 for enforcement of livestock tolerances. Adequate ILV has been received and the method was forwarded to the ACL for PMV (D271333, T. Bloem, 21-Dec-2000). The petitioner will be required to make any modifications or revision to the proposed enforcement method resulting from the PMV. The petitioner is also required to submit a radiovalidation study.

3. *Multiresidue method.* The petitioner submitted data concerning the behavior of buprofezin through FDA multiresidue testing protocols C–F. This information has been forwarded to FDA for inclusion in PAM I.

B. International Residue Limits

Codex has a maximum residue limit (MRL) for buprofezin in/on tomato (1 ppm) and oranges (0.5 ppm). Mexico has a MRL for buprofezin in/on cottonseed (0.05 ppm). Canada does not have any MRLs for the proposed crops. Since the orange and cottonseed MRLs are less than the tolerances determined appropriate by the Agency, harmonization is not possible. Since the tomato MRL is 2x the tolerance determined appropriate by the Agency, harmonization is not possible.

C. Conditions

Conditions for continued registration are as follows: A developmental neurotoxicity study in rats (OPPTS 870.6300) guideline requirement (40 CFR part 158) for Food/Feed Use due to possible endocrine disruptor effects, a revised Section B, a revised Section F, Plant Enforcement Method (BF/10/97) - Confirmatory Method, Interference Study, and successful Agency Validation, Plant Enforcement Method (BF/02/96) - Confirmatory Method and Interference Study, Livestock Enforcement Method - successful Agency Validation and Radioavalidation, Storage Stability Data, validation of frozen storage intervals, petition method validation, an interference study, Additional almond, banana, citrus, cotton, and tomato field trial data, and a citrus processing study.

V. Conclusion

Therefore, the tolerance is established for residues of buprofezin (2-tert-butylimino-3-isopropyl-5-phenyl-1,3,5-thiadiazinan-4-one), in or on almond; banana; citrus; citrus, oil; citrus, dried pulp; grape; grape, raisin; milk; fat (cattle, goats, hogs, horses, sheep); meat byproducts (cattle, goats, hogs, horses, sheep); liver (cattle, goats, hogs, horses, sheep); almond, hulls; cotton, undelinted seed; cotton, gin byproducts and tomato at 0.05, 0.20, 2.0, 60, 6.0, 0.40, 0.60, 0.01, 0.05, 0.05, 0.05, 0.70, 0.40, 15, 0.40 ppm, respectively.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301159 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 5, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301159, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 21, 2001.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.511 is amended by alphabetically adding the following commodities to the table in paragraph (a) and by removing and reserving paragraph (b) to read as follows:

§ 180.511 Buprofezin; tolerances for residues.

(a) * * *

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Commodity	Parts per million	Expiration/ Revocation Date
Almonds, nutmeat	0.05	none
Almond, hulls	0.70	12/31/05
Banana	0.20	none
Cattle, fat	0.05	none
Cattle, mbyp	0.05	none
Cattle, liver	0.05	none
Citrus fruit	2.0	none
Citrus, oil	60	none
Citrus, dried pulp	6.0	none
Cotton, gin byproducts	15	12/31/05
Cotton, undelinted seed	0.40	12/31/05
Goats, fat	0.05	none
Goats, mbyp	0.05	none
Goats, liver	0.05	none
Grape	0.40	none
Grape, raisin	0.60	none
Hogs, fat	0.05	none
Hogs, mbyp	0.05	none
Hogs, liver	0.05	none
Horses, fat	0.05	none
Horses, mbyp	0.05	none
Horses, liver	0.05	none
Milk	0.01	none
Sheep, fat	0.05	none
Sheep, mbyp	0.05	none
Sheep, liver	0.05	none
Tomato	0.40	12/31/05

* * * * *

(b) *Section 18 emergency exemption.* [Reserved]

[FR Doc. 01–22281 Filed 9–4–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301165; FRL–6798–6]
RIN 2070–AB78

Pyriproxyfen; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for the combined residues of pyriproxyfen in or on succulent beans. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on succulent beans. This regulation establishes a maximum permissible level for residues of pyriproxyfen in this food commodity. The tolerance will expire and is revoked on June 30, 2003.

DATES: This regulation is effective September 5, 2001. Objections and requests for hearings, identified by docket control number OPP–301165, must be received by EPA on or before November 5, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301165 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave,, NW., Washington, DC 20460; telephone number: (703) 308–9367; and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301165. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the insect growth regulator pyriproxyfen, [2-[1-methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine], in or on succulent beans at 0.10 part per million (ppm). This tolerance will expire and is revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Pyriproxyfen on Succulent Beans and FFDCA Tolerances

The silverleaf whitefly (SLW) is a relatively new pest, and has caused severe economic damage to various commodities nationwide. The larval instars and adults feed on the sap of bean plants, resulting in honeydew production which serves as a medium for fungal disease development, which hampers photosynthesis and renders pods unmarketable. Additionally, in late 1992, bean golden mosaic virus (BGMV) was first detected, although it's distribution was limited for several years. This virus is transmitted by the SLW. Recently, BGMV has become a more serious problem, believed to be the result of season-long build-up of the disease. This shift is a significant new development making BGMV a major pest in legume production in Florida. This trend is expected to continue unless an effective insecticide is available to control the SLW. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on succulent beans for control of silverleaf whitefly in Florida. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of pyriproxyfen in or on succulent beans. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on succulent beans after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether pyriproxyfen meets EPA's registration requirements for use on succulent beans or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of pyriproxyfen by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Florida to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for pyriproxyfen, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of pyriproxyfen and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of pyriproxyfen in or on succulent beans at 0.10 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is

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retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for pyriproxyfen used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PYRIPROXYFEN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF[1]	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary all populations	not applicable	not applicable	There were no effects that could be attributed to a single exposure (dose) in oral toxicity studies including the developmental toxicity studies in rats and rabbits.
Chronic dietary all populations	NOAEL= 35.1 mg/kg/day UF = 100 Chronic RfD = 0.35 mg/kg/day	FQPA SF = 1 cPAD = 0.35 1 = 0.35 mg/kg/day	Combined/chronic toxicity - rat LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats.
Short-term dermal and inhalation (1-7 days) and intermediate-term dermal and inhalation (1 week - several months) (Occupational/Residential)	not applicable	not applicable	
Long-term dermal (several months - lifetime)[2] (Occupational/Residential)	35.1 mg/kg/day	LOC for MOE = 100 (Residential)	Combined/chronic toxicity - rat LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats.
Long-term inhalation (several months - lifetime)[2] (Occupational/Residential)	35.1 mg/kg/day	LOC for MOE = 100 (Residential)	Combined/chronic toxicity - rat LOAEL = 182.7 mg/kg/day based on decreased weight gain in female rats.
Cancer (oral, dermal, inhalation)	"Group E" human carcinogen	not applicable	There is no evidence of carcinogenic potential. Therefore, a cancer risk assessment is not required.

[1]UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, LOC = level of concern, MOE = margin of exposure.
[2]Appropriate route-to-route extrapolation should be performed for these risk assessments. Exposure values using absorption factors of 10% for dermal and 100% for inhalation (default value) should be converted to equivalent oral doses and compared to the oral NOAEL.
*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.510) for the combined residues of pyriproxyfen, in or on a variety of raw agricultural commodities. Section 18 emergency exemptions for use in/on cotton, citrus, almonds, and stone fruits have been approved. Section 3 permanent tolerances have been granted for cotton, citrus fruits, pome fruits, tree nuts, fruiting vegetables, and all foods in food handling establishments. Risk assessments were conducted by EPA to assess dietary exposures from pyriproxyfen in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The acute dietary assessment is not required for pyriproxyfen because there were no effects that could be attributed to a single exposure (dose) in oral toxicity studies including the developmental toxicity studies in rats and rabbits.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments:

Tolerance level residues and 100% crop treated.

iii. *Cancer.* Pyriproxyfen has been classified as a Group E carcinogen; there is no evidence of carcinogenic potential. Therefore, a cancer risk assessment is not required.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for pyriproxyfen in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of pyriproxyfen.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to pyriproxyfen they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the EECs of pyriproxyfen for chronic exposures are estimated to be 0.11 ppb for surface water and 0.006 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Pyriproxyfen is currently registered for use on the following residential non-dietary sites: Residential (indoor, non-food) products for flea and tick control. Formulations include contact sprays, emulsifiable concentrates, and impregnated materials (pet collars). With the exception of the pet collar uses, consumer use of pyriproxyfen typically results in short-term, intermittent exposures. Hence, chronic residential postapplication exposure and risk assessments were conducted to estimate the potential risks from pet collar uses.

The risk assessment was conducted using the following assumptions: Application rate of 0.58 mg ai/day (product label)), average body weight for a 1 to 6 year old child of 10 kg, the active ingredient dissipates uniformly through 365 days (the label instructs to change the collar once a year), and 1% of the active ingredient is available for dermal and inhalation exposure per day. The assessment also assumes an absorption rate of 100%. This is a conservative assumption since the dermal absorption was estimated to be 10%.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether pyriproxyfen has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyriproxyfen does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pyriproxyfen has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOAEL was 100 mg/kg/day, based on decreased body weight, body weight gain, food consumption and increased water consumption at the LOAEL of 300 mg/kg/day. The developmental (fetal) NOAEL was 300 mg/kg/day, based on increased skeletal variations and unspecified visceral variations at the LOAEL of 1,000 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 100 mg/kg/day, based on abortions, soft stools, emaciation, decreased activity and bradypnea at the LOAEL of 300 mg/kg/day. The developmental (pup) NOAEL was 300 mg/kg/day, based on decreased viable litters at the LOAEL of 1,000 mg/kg/day.

3. *Reproductive toxicity study.* In the 2-generation reproductive toxicity study in rats, the maternal (systemic) NOAEL was 87/96 mg/kg/day for M/F, based on decreased body weights, body weight gains, and increased liver weight associated with histopathological findings in the liver at the LOAEL of 453/498 mg/kg/day for M/F. The developmental (pup) NOAEL was 87/96 mg/kg/day, based on decreased body weight on lactation days 14 and 21 at the LOAEL of 453/498 mg/kg/day. The

reproductive NOAEL was 453/498 mg/kg/day HDT.

4. *Prenatal and postnatal sensitivity.* The toxicological data base for evaluating prenatal and postnatal toxicity for pyriproxyfen is complete with respect to current data requirements. There are no prenatal or postnatal toxicity comparisons for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation rat reproductive toxicity study.

5. *Conclusion.* Based on the above, the Agency concludes that reliable data support use of a 100-fold margin of exposure/uncertainty factor, rather than the standard 1,000-fold margin/factor, to protect infants and children.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water EECs. DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to pyriproxyfen in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of pyriproxyfen on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* The acute dietary assessment is not required for pyriproxyfen because there were no effects that could be attributed to a single exposure (dose) in oral toxicity studies including the developmental toxicity studies in rats and rabbits.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pyriproxyfen from food will utilize 0.9% of the cPAD for the U.S. population, 1.6% of the cPAD for all infants <1 year old and 2.6% of the cPAD for children 1-6 years old. Chronic residential exposure to pyriproxyfen from pet collars is estimated to increase total pyriproxyfen exposure to infants and children only marginally. In addition, despite the potential for chronic dietary exposure to pyriproxyfen in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of pyriproxyfen in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO PYRIPROXYFEN

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population all seasons	0.35	0.9	0.11	0.006	12000
All infants (<1 year)	0.35	1.6	0.11	0.006	3400
Children (1-6 years)	0.35	2.6	0.11	0.006	3400
Children (7-12 years)	0.35	1.5	0.11	0.006	3400
Females (13-50 years)	0.35	0.7	0.11	0.006	10000
Males (13-19 years)	0.35	0.9	0.11	0.006	12000
Males (20+ years)	0.35	0.6	0.11	0.006	12000
Seniors (55+)	0.35	0.6	0.11	0.006	12000

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short-term residential exposure assessment is not required for pyriproxyfen due to the lack of significant toxicological effects observed.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term residential exposure assessment is not required for pyriproxyfen due to the lack of significant toxicological effects observed.

5. *Aggregate cancer risk for U.S. population.* Pyriproxyfen has been classified as a Group E carcinogen; there is no evidence of carcinogenic potential.

Therefore, a cancer risk assessment is not required.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to pyriproxyfen residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example - gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRL) for pyriproxyfen on succulent beans.

VI. Conclusion

Therefore, the tolerance is established for combined residues of pyriproxyfen in or on succulent beans at 0.10 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301165 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 5, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301165, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any

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unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 21, 2001.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.510 is amended by alphabetically adding the commodity bean, succulent to the table in paragraph (b) to read as follows:

§ 180.510 Pyriproxyfen; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/Revocation Date
* * * * *		
Bean, succulent	0.10	6/30/03
* * * * *		

* * * * *

[FR Doc. 01–22282 Filed 9–4–01; 8:45am]
BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2100–F]

RIN 0938–AK89

Medicaid Program; Modification of the Medicaid Upper Payment Limit Transition Period for Inpatient Hospital Services, Outpatient Hospital Services, Nursing Facility Services, Intermediate Care Facility Services for the Mentally Retarded, and Clinic Services

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule modifies the Medicaid upper payment (UPL) limit provisions by establishing a new transition period for States that submitted plan amendments before March 13, 2001 that do not comply with the new UPLs effective on that date (but do comply with the prior UPLs) and were approved on or after January 22, 2001. This new transition period applies to payments for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services.

EFFECTIVE DATE: November 5, 2001.

FOR FURTHER INFORMATION CONTACT:

Robert Weaver, (410) 786–5914—Nursing facility services and intermediate care facility services for the mentally retarded

Marge Lee, (410) 786–4361—Inpatient and outpatient hospital services and clinic services

SUPPLEMENTARY INFORMATION:

I. Background

In the final rule published on January 12, 2001 in the **Federal Register** (66 FR 3148), we specified transition periods for those States with State plan amendments (SPAs) approved before the final rule effective date of March 13, 2001. In our March 13, 2001 letter to State Medicaid Directors, we clarified that state plan amendments submitted on or after the effective date of that final rule would be subject to the new requirements of that final rule. We further explained that we would disapprove any state plan amendment that is submitted on or after that date, including modification to existing state plans, that does not conform with the new upper payment limitations.

The State Medicaid Directors letter did not address the amendments pending CMS approval. After reviewing the legal and policy issues involved, the Administration now believes that each State's pending amendment should be reviewed under the criteria in place when it was submitted, and, for those submitted before March 13, 2001, the criteria before the January 12, 2001 final rule rather than applying the provisions of that rule. However, the Administration is also committed to phasing out the UPL loophole and assuring that tax dollars are spent properly. Absent modification of the UPL transition provisions, approval of these State plan amendments could trigger a 2-year transition period through September 30, 2002, which would have greater budget implications than anticipated.

II. Provisions of the Proposed Rule

On April 3, 2001, we published a proposed rule in the **Federal Register** (66 FR 17657) proposing to create a separate UPL transition period for State plan amendments that were submitted to us before March 13, 2001 but were approved on or after January 22, 2001. We proposed that these State plan amendments would qualify for a transition period that would end on the later of March 13, 2001 or 1 year after the approved effective date of each State plan amendment. With respect to pending UPL plans that are expansions of previously approved plans, we proposed that the separate transition period would only apply to the portion of spending under the pending plan that is above the amount that was previously approved.

The proposed rule did not include those State plan amendments that were actively (not deemed) approved after January 12, 2001 based on their compliance with the final rule of January 12, 2001. Because these amendments comply with the January 12, 2001 final rule, the amendments are not subject to the transition periods specified in the January 12, 2001 final rule. Also, as noted in the State Medicaid Directors letter of March 13, 2001, any State plan amendments submitted on or after March 13, 2001 would be reviewed and acted upon under the January 12, 2001 final rule. We would also treat any material change submitted on or after March 13, 2001 to a State plan amendment pending on that date as a new State plan amendment. We would not be able to approve such a submission under the UPL requirements in effect, and it would not be eligible for the new transition period.

III. Analysis of and Responses to Public Comments

We received 7 timely comments in response to the April 3, 2001 proposed rule. The majority of the comments were from State agencies, and associations representing hospitals, health care systems, and providers of long-term care, assisted living, and nursing facilities. We reviewed each comment and grouped like or related comments. The comments and our responses are summarized below.

Comment: Several commenters requested either this regulation be withdrawn or that State plan amendments submitted prior to March 13, 2001 and approved after January 22, 2001 receive the transition period as defined in the January 12, 2001 final UPL rule. Several of these commenters felt the rule was a retroactive application of policy. Two commenters pointed out that the impact on one State would be to reduce its transition period from September 30, 2002 to September 30, 2001. Another commenter felt it was unfair to change the rules in mid-stream on States that had submitted amendments prior to January 12, 2001. If we decline to withdraw this proposal, one commenter asked that States submitting plan amendments on or before January 12, 2001 be allowed to exceed the newly established payment limits until September 30, 2002, the rationale being that States did not receive official word until the rule was published on January 12, 2001.

Response: We do not agree with the request to withdraw this rule or to extend the full two-year transition period to States with pending (unapproved) amendments as of January 12, 2001 but we have altered the timing of the new transition period to ensure that it will not apply retroactively to any payments that may already have been made.

We note that States had clear and sufficient notice of an impending change in the UPL rules, and should have had no reasonable expectation of favorable treatment for unapproved amendments after the publication of the final rule. Therefore, the proposed shorter transition reflected an approach to balance our interest in curtailing the use of inappropriate Federal Medicaid funds with the States concerns about a shift in federal rules. When the final UPL regulation was issued on January 12, 2001, we did not state that pending State plan amendments would be approved. Thus, we do not believe

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States had a reasonable reliance on the expectation of a full transition period. Nevertheless, we were aware of the possibility that some States may have been adversely affected by the timing of the issuance of the final rule. Thus, we determined that we would approve amendments pending prior to the effective date (March 13, 2001) of the January UPL regulation but we announced that we would propose a shorter transition period for those amendments.

The duration of the proposed new transition period was not intended to apply retroactively to any payments. Because of the timing in issuing this final rule, we have lengthened the duration of the new transition period to ensure that this remains the case. The new transition period will not end until the later of: (1) One year from the initial effective date of the State plan provision; or (2) the effective date of this final rule.

As a result of this change, no State that qualifies for this new transition period will have its transition period expire prior to the effective date of this final rule. In addition, all such States will also have or have had at least 1 full year to make payments under their amendments, which was our intent in issuing the transition policies in the April 3, 2001 proposed rule.

Comment: One commenter asked for clarification that state plan amendments pending as of March 12, 2001 that do not increase spending levels at non-State, government owned hospitals would not be impacted by this rule.

Response: If the pending amendments do not increase spending, then the transition period provided by this rule would not be applicable.

Comment: Two commenters indicated that they were uncertain how the transition period in this final regulation would impact States that have relied on enhanced Medicaid funding for many years. One of these commenters was under the impression that this regulation would permit a window of two years for those States that had approved state plans before October 1, 1992 and did not submit amendments.

Response: A State's eligibility for one of the two longer transition periods set forth in the January 12, 2001 final UPL rule is not altered by this rule. What could be impacted is the maximum amount of excessive funding that is phased out over long periods of time. If an amendment pending on March 13 was approved after January 22, 2001, and the amendment had the effect of increasing the amount of spending that already exceeded the January 12, 2001 final UPL rule, then just the incremental increase provided by that amendment would be subject to the transition period in this rule.

Comment: One commenter recommended that only state plan amendments submitted to CMS on or after March 13, 2001, the effective date of the January 12, 2001 UPL regulation, be subject to this regulation. A second commenter similarly recommended this regulation apply only to amendments submitted after January 12, 2001.

Response: We do not agree with these comments. The purpose of providing any transition period is to help mitigate the effect the new upper payment limits may have in States which have relied on enhanced payments under the former regulations to leverage federal Medicaid dollars. By extending a grace period to amendments submitted after the March 13, 2001 effective date of the new upper payment limits, this recommendation would provide a transition period to spending situations where clearly there was no reliance when the new rules took effect. We similarly believe that any State that submitted an amendment after the January 12, 2001 publication date of the final rule arguably had no basis to expect the amendment would be approved or had any history of reliance on such spending.

Comment: One commenter stated that we did not respond adequately in the January 12, 2001 final rule to several comments submitted on the October 10, 2000 proposed rule. Another commenter expressed concerns over the provisions of the January 12, 2001 final rule.

Response: We believe that, in the January 12, 2001 final rule, we adequately responded to all comments submitted in response to the October 10, 2000 proposed rule. We do not think it is necessary or appropriate to further respond to those comments, or respond to comments on the provisions of the January 12, 2001 final rule, in this final rule.

IV. Provisions of the Final Regulation

For the reasons discussed in section III of this preamble, this final rule adopts the separate UPL transition period proposed in the April 3, 2001 proposed rule.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

VI. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this final rule as required by Executive Order (EO) 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($110 million or more in any one year). We consider this to be a major rule and we have provided an analysis below.

B. Overall Impact

The estimates provided below are based on State-reported Federal fiscal year information submitted with State plan amendments and State expenditure information, where available. We have lowered our estimate of potentially impacted State plan amendments that may qualify for a transition period to 4. In the April 3, 2001 proposed rule, we had estimated that 11 State plan amendments may have qualified for the transition period provided by this rule. Our revised estimate is based on a better understanding of State spending made pursuant to the amendments that targeted payments to public providers.

Were these State plan amendments to be approved under the 2-year transition period, we estimate the increase in spending attributed to these amendments would total $1.0 billion over fiscal years 2001 and 2002 as a result of the two-year transition period ending on September 30, 2002. Subjecting these same state payment provisions to the new shorter transition periods provided by this final rule will result in .5 billion savings over the same period relative to the spending that could have occurred under transition 2-year transition period ending September 30, 2002.

C. Impact on Small Entities and Rural Hospitals

The Regulatory Flexibility Act requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million to $25 million (see 65 FR 69432) or less annually. For purposes of the RFA, all hospitals, nursing facilities, intermediate care facilities for the mentally retarded, and clinics are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

We do not believe the shorter transition periods adopted in this final rule will have a significant impact on small entities, including small rural hospitals. Although the transition policy allows States to make higher payments to government providers than what otherwise would have been allowable under the rules that were effective on March 13, 2001, this flexibility is only available for one year. Therefore, we do not expect small entities to develop any reliance on these payments.

D. The Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in a mandated expenditure in any one year by State, local, or Tribal governments, in the aggregate, or by the private sector, of $110 million. Because this final rule does not mandate any new spending requirements or costs, but rather provides for new transition periods, we do not believe it has any unfunded mandate implications.

E. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We do not believe this final rule in any way imposes substantial direct compliance costs on State and local governments, or preempts or supersedes State or local law. However, we realize the reform of upper payment limits is an issue some States are very interested in. Therefore, in addition to providing States with an opportunity to comment on the proposed rule, we have tried to afford States ample opportunities to express their interest and concerns as we have moved forward in developing reforms.

F. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, 42 CFR part 447 is amended as follows:

PART 447—PAYMENTS FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 447.272, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.272 Inpatient services: Application of upper payment limits.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) For State plan provisions that are effective after September 30, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective after September 30, 1999, submitted to CMS before March 13, 2001, and approved by CMS after January 21, 2001, payments may exceed the limit in paragraph (b) of this section until the later of November 5, 2001, or 1 year from the approved effective date of the State plan provision.

* * * * *

3. In § 447.321, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.321 Outpatient hospital and clinic services: Application of upper payment limits.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) For State plan provisions that are effective after September 30, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective after September 30, 1999, submitted to CMS before March 13, 2001, and approved by CMS after January 21, 2001, payments may exceed the limit in paragraph (b) of this section until the later of November 5, 2001, or 1 year from the approved effective date of the State plan provision.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: August 9, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–22269 Filed 9–4–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2000; MM Docket No. 00–166; RM–9951; RM–10015; RM–10016]

Radio Broadcasting Services; Wickenburg, Bagdad and Aguila, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration of the *Report and Order* in this proceeding, 66 FR 21680, May 1, 2001, as requested by Circle S Broadcasting Co., Inc., licensee of Station KSWG (FM), Channel 231C3, Wickenburg, Arizona, to the extent it substitutes Channel 242C3 for Channel 231C3 and modifies its license accordingly, rather than the allotment of Channel 242C3 at Wickenburg as that community's third local FM transmission service. The substitution and modification at Wickenburg is preferred over the allotment of Channel 242C3 for general application based upon the original proponent's withdrawal of interest, and the failure of any other party to express an interest therein. Coordinates used for Channel 242C3 at Wickenburg remain as specified in the *Report and Order*. Allotments made in the context of this proceeding at Bagdad and Aguila, Arizona, remain unchanged. Additionally, as Wickenburg is located

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within 320 kilometers (199 miles) of the US-Mexico border, concurrence of the Mexican government to this allotment was requested, but has not been received. Therefore, the allotment of Channel 242C3 at Wickenburg is conditioned on concurrence of the Mexican government in accordance with the 1992 USA-Mexico M Broadcast Agreement.

DATES: Effective October 9, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau. (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 00–166, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 231C3 at Wickenburg.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22203 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 082701D]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Adjustment of daily retention limit; inseason quota transfer.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily retention limit should be adjusted to two large medium or giant BFT per vessel. NMFS has also determined that the BFT General category restricted fishing day (RFD) schedule should be adjusted; i.e., certain RFDs should be waived to allow for maximum utilization of the General category subquota for the September fishing period. Therefore, NMFS increases the daily retention limit from zero to two large medium or giant BFT on the following previously designated RFDs for 2001: September 2, 3, 5, 9, 10, and 12. NMFS has also determined that a quota transfer to allow continued fishing in the Harpoon category is appropriate, and therefore transfers 15 metric tons (mt) from the Reserve to the Harpoon category for the remainder of the 2001 fishing year.

DATES: The retention limit adjustment for General category vessels is effective September 1, 2001 through September 15, 2001. The quota transfer to the Harpoon category is effective August 29, 2001 through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Pat Scida or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories, and General category effort controls (including time-period subquotas and RFDs) are specified annually as required under 50 CFR 635.23 (a) and 635.27 (a). The initial 2001 BFT fishing category quotas and General category effort controls were specified on July 13, 2000 (66 FR 37421, July 18, 2001).

Adjustment of Daily Retention Limits

Under § 635.23 (a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that an increase of the daily retention limit for the first half of September is appropriate and necessary to allow full use of the September subquota. Therefore, NMFS adjusts the daily retention limit for September 1 through September 15 to two large medium or giant BFT per vessel. Additionally, under 50 CFR 635.23 (a)(4), NMFS has determined that adjustment of the RFD schedule is also necessary to allow full use of the September subquota. Consequently, NMFS must increase the daily BFT retention limit for certain previously designated RFDs. Therefore, NMFS adjusts the daily retention limit for September 2, 3, 5, 9, 10, and 12, 2001, to two large medium or giant BFT per vessel. NMFS has selected these days in order to give adequate advance notice to fishery participants and NMFS enforcement.

The intent of these adjustments is to allow for maximum utilization of the General category subquotas for the September fishing period specified under 50 CFR 635.27 (a) to achieve optimum yield in the General category fishery, to collect a broad range of catch-effort data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP. For these same reasons, NMFS adjusted the General category daily retention limit on several occasions for previously scheduled RFDs over the last two years (64 FR 42855, August 6, 1999; 64 FR 51079, September 21, 1999; 65 FR 46654, July 31, 2000; and 65 FR 54970, September 12, 2000).

While BFT catch rates have been slow so far this season, NMFS recognizes that catch rates tend to increase in the fall fisheries. In order to ensure that the September subquota is not filled prematurely and to ensure equitable fishing opportunities in all areas and for all gear types, NMFS is adjusting the General category daily retention limit only through September 15 and NMFS is not waiving all the RFDs previously scheduled for September. After September 15, the daily BFT retention limit for vessels fishing under the General category quota reverts to one fish per day on authorized fishing days. Additionally, the scheduled RFDs for September 16, 17, 19, 23, 24, 26, 30, and October 1 and 3, remain in effect. If catch rates continue to be low after September 15, daily retention limits may be increased and some or all of the remaining previously scheduled RFDs may be waived as well.

Inseason Transfer to the Harpoon Category

Under the implementing regulations at 50 CFR 635.27 (a)(7), NMFS has the authority to allocate any portion of the Reserve to any category quota in the fishery, other than the Angling category school BFT subquota (for which there is a separate reserve), after considering the following factors: (1) The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; (2) the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no allocation is made; (3) the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded; (5) effects of the transfer on BFT rebuilding and overfishing; and (6) effects of the transfer on accomplishing the objectives of the HMS FMP.

The 2001 annual BFT quota specifications previously issued under § 635.27 provide for a quota of 55 mt of large medium and giant BFT to be harvested from the regulatory area by vessels fishing under the Harpoon category quota. As of August 23, 2001, Harpoon category landings totaled approximately 48 mt, with 7 mt available for the remainder of the season.

After considering the factors for making transfers between categories and from the Reserve, NMFS has determined that 15 mt of the remaining 41.9 mt of Reserve should be transferred to the Harpoon category. Thus, the Harpoon category quota is adjusted to 70 mt for the 2001 fishing year.

Once the adjusted Harpoon category quota has been attained, the Harpoon category will be closed. Announcement of the closure will be filed with the Office of the Federal Register, stating the effective date of closure, and further communicated through the Highly Migratory Species Fax Network, the Atlantic Tunas Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure will be provided as far in advance as possible, fishermen are encouraged to call the Atlantic Tunas Information Line at (888) USA-TUNA or (978) 281–9305, to check the status of the fishery before leaving for a fishing trip.

Classification

This action is taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 29, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22159 Filed 8–29–01; 4:49 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 082901B]

Atlantic Highly Migratory Species (HMS) Fisheries; Large Coastal Shark Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Postponement of closure; fishing season notification.

SUMMARY: NMFS notifies eligible participants of the commercial fishery for large coastal sharks (LCS) in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, which was scheduled to be closed on August 31, 2001, at 11:30 p.m. local time, has been extended to September 4, 2001, at 11:30 p.m. local time.

DATES: The commercial fishery for LCS will close on September 4, 2001, at 11:30 p.m. local time through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Christopher Rogers or Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks, and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

On June 26, 2001, NMFS announced in the **Federal Register** (66 FR 33918) that the LCS commercial quota for the second semi-annual 2001 fishing season was 697 metric tons (mt) dressed weight (dw). Additionally, NMFS announced that, based on past catch rates, the LCS fishery would close on August 31, 2001. As of July 31, 2001, approximately 331 mt dw, or 47 percent of the available quota, had been reported landed. Extending the season should ensure that eligible participants have an adequate opportunity to harvest the available quota.

Commercial fishing for pelagic and small coastal sharks may continue until further notice. When quotas for these species are projected to be reached, NMFS will file notice of closure at the Office of the Federal Register.

This action is taken under 50 CFR part 635 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 29, 2001.

Richard W. Surdi

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22160 Filed 8–29–01; 4:49 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 070201A]

Atlantic Highly Migratory Species; Swordfish Quota Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Adjustment of annual catch quotas.

SUMMARY: NMFS adjusts the 2001 fishing year directed fishery and incidental catch quotas for North Atlantic swordfish to account for underharvest from the 1999 fishing year. Any unharvested quota from the 2000 fishing year will be transferred at a later date, once final landings have been tabulated. The 2001 South Atlantic swordfish quota remains at 289 mt dw. This action is consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and the provisions for swordfish quota adjustments at 50 CFR part 635.

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DATES: Effective September 4, 2001 through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Mike Barnette at 727–570–5447; Fax: 727–570–5656 or by email at jill.stevenson@noaa.gov or michael.barnette@noaa.gov.

SUPPLEMENTARY INFORMATION: The HMS FMP and its implementing regulations at 50 CFR part 635 establish catch quotas and, as applicable, fishing category and seasonal subquotas, for the North Atlantic and South Atlantic swordfish stocks. Under the FMP, these catch quotas are required to be consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). Additionally, the implementing regulations require that, if total landings are above or below the applicable Atlantic swordfish quotas, the difference must be subtracted from, or added to, the following year's quota for the specific management category, provided such quota adjustments are consistent with ICCAT recommendations. Landings reports for the directed fisheries for North and South Atlantic swordfish, and estimates of the incidental catch of North Atlantic swordfish, indicate that the allocations for the respective fisheries were not completely harvested during the 1999 fishing year (June 1, 1999 through May 31, 2000.)

North Atlantic Swordfish

Directed fishery landings and incidental catch of North Atlantic swordfish during the 1999 fishing year were reported to ICCAT to be 2896 metric tons (mt) whole weight, equivalent to 2177.5 mt dressed weight (dw). The 1999 fishing year quota, after adjustment for the previous year's underharvest (65 FR 15873, March 24, 2000), was 2727.3 mt dw. Therefore, a total of 549.8 mt dw of unharvested swordfish quota may be carried over.

Under applicable regulations at 50 CFR 635.23 (c)(3), if total landings are above or below the specific North Atlantic swordfish annual quotas, they must be subtracted from, or added to, the following year's quota. Further, any carryover adjustments to the annual North Atlantic swordfish directed fishery quota must be apportioned equally between the two semiannual periods. The ICCAT recommendation on rebuilding the North Atlantic swordfish stock does allow for such carryovers. Because the 2000 fishing year ended May 31, 2001, the carryover amount will be applied to the current fishing year (June 1, 2001 through May 31, 2002.)

A total of 249 mt dw of the unharvested 1999 quota is added to the base 2001 directed fishery quota of 2033.2 mt dw for an adjusted North Atlantic swordfish directed catch quota of 2282.2 mt dw. This adjusted annual quota is divided into 2 equal semiannual quotas of 1141.1 mt dw for the periods of June 1, 2001 through November 30, 2001 and December 1, 2001 through May 31, 2002. The remaining 300.8 mt dw of the unharvested 1999 fishing year quota is added to the base 2001 incidental catch quota of 300 mt dw for an adjusted North Atlantic swordfish incidental catch quota of 600.8 mt dw.

South Atlantic Swordfish

Directed fishery landings of South Atlantic swordfish during the 1999 fishing year were reported to ICCAT to be 51 mt whole weight, equivalent to 38.3 mt dw. The 1999 fishing year quota was set at 289 mt dw (64 FR 29090, May 28, 1999). Consequently, a total of 250.7 mt dw was unharvested at the end of the fishing year.

The ICCAT recommendation on allocating the total allowable catch of South Atlantic swordfish contains no provisions to adjust country-specific quotas for over or under harvests in prior years. Therefore, the U.S. quota for South Atlantic swordfish remains at the current level of 289 mt dw. There is no incidental catch quota for South Atlantic swordfish.

Additional Quota Adjustments

When final swordfish landings figures for the 2000 fishing year are available, NMFS will transfer any unharvested quota to the 2001 fishing year. Additionally, if NMFS estimates that U.S. fishermen discarded more than 320 mt ww of swordfish during the 2000 fishing year, the dressed weight equivalent of the amount by which that allowance is exceeded will be deducted from the 2001 fishing year landings quota, consistent with the ICCAT swordfish rebuilding recommendation and HMS regulations at 50 CFR 635.27 (c)(3)(iii). NMFS will publish the 2000 fishing year swordfish landings and dead discards estimates at a later date and will announce any required adjustments to the 2001 fishing year quotas in the **Federal Register**.

Under the swordfish limited access program established under the 1999 HMS FMP and implemented by regulations at 50 CFR 635.16, NMFS has issued incidental catch permits. All swordfish catch by vessels so permitted are applied to the incidental catch quota as required by regulations at 50 CFR 635.27 (c). In past years, only a fraction of the incidental catch quota has been landed and NMFS has received comments requesting reallocation of a portion of the incidental catch quota to the directed fishery category. While under current regulations such reallocation is possible through an inseason quota adjustment, a permanent reallocation could reduce the potential for closure of the directed fishery mid-season. NMFS is currently evaluating the need for reallocation and may address this issue in a future rulemaking.

At the 2000 meeting of ICCAT, Japan indicated that it had exceeded its annual allocation of North Atlantic swordfish, due to higher than anticipated incidental catch rates of swordfish in its bigeye tuna fishery. This problem is difficult to address, because swordfish are not a target species and overharvest of the quota has forced Japanese fishermen to discard all swordfish, dead or alive. At the ICCAT meeting, the United States agreed to assist Japan in its efforts to comply with the catch allocation provisions of the swordfish rebuilding program by transferring to Japan a total of 400 mt whole weight (300.8 mt dw) of the U.S. North Atlantic swordfish quota for the 2001 fishing year. In order to accomplish this transfer, NMFS will have to reserve a portion of the 2001 North Atlantic swordfish quota. This reserve quota will be proposed in an upcoming rulemaking and the public will be provided with an opportunity to comment.

Classification

This action is taken under 50 CFR 635.27 (c). This action is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: August 29, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22184 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010502110–1110–01; I.D. 081601C]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment for the Commercial Salmon Season from Queets River, WA, to Cape Falcon, OR

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment to the 2001 annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS announces a modification of the open periods and limited retention regulation for the commercial fishery from the Queets River, WA, to Cape Falcon, OR. The fishing period opened August 3, 2001, and closed at midnight on August 12, 2001, with a limit of 100 chinook per boat for this open period. The fishery was assessed on August 14, 2001, and any further openings will be announced as needed. This action is necessary to conform to the 2001 annual management measures for ocean salmon fisheries.

DATES: Adjustment in the area from Queets River, WA, to Cape Falcon, OR -- effective 0001 hours local time (l.t.), August 3, 2001, until August 12, 2001. Comments will be accepted through September 20, 2001.

ADDRESSES: Submit written comments to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; fax 206–526–6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; fax 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140, Northwest Region, NMFS, NOAA.

SUPPLEMENTARY INFORMATION: The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the modification of the open periods and limited retention regulation for the commercial fishery from the Queets River, WA, to Cape Falcon, OR, was justified, given the relative catch rate of chinook and coho. The open period for the fishery was modified to open for 10 days, starting August 3, 2001, and closed at midnight on August 12, 2001, with a limited retention regulation of 100 chinook per boat for this open period. Modification of fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i). Modification of the species that may be caught and landed during specific seasons, and the establishment or modification of limited retention regulations, is authorized by regulations at 50 CFR 660.409(b)(1)(ii).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the commercial fishery for all salmon in the area from Queets River to Cape Falcon would open the earlier of the day following closure of the U.S.-Canada Border to Leadbetter Pt. July troll fishery or July 28, but not before July 20, through the earliest of September 30 or the overall chinook quota (preseason 6,000-chinook guideline) or a 63,000 marked-coho guideline. The fishery was scheduled to run continuously until 75 percent of either guideline was caught; it would then revert to a cycle of 4 days open/3 days closed. The annual measures also indicated that trip limits, gear restrictions, and guidelines may be instituted or adjusted inseason.

The U.S.-Canada Border to Leadbetter Pt. July troll fishery was closed in an inseason action on July 9, 2001, at 2359 hours l.t.(66 FR 38573, July 25, 2001). Therefore, the commercial fishery for all salmon from Queets River to Cape Falcon opened on July 20, 2001.

NMFS announced a modification of the weekly opening period and the addition of a limited retention regulation for the commercial fishery from the Queets River, WA, to Cape Falcon, OR, to follow a cycle of 4 days open/3 days closed, and a limit of 65 chinook per open period per boat effective 0001 hours l.t., July 20, 2001 (66 FR 45634, August 29, 2001). The Regional Administrator consulted with representatives of the Pacific Fishery Management Council (Council), Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) regarding the inseason action by conference call on July 18, 2001. The states indicated that there was a higher than projected chinook/coho catch ratio. The modifications to the season were adopted to avoid closing the fishery early because of the chinook quota, thus precluding the opportunity to catch available marked hatchery coho salmon.

There was a subsequent conference call on July 26, 2001, following the first open period, to assess the status of the fishery. The chinook/coho catch rates and effort data in the first open period indicated that no further season modifications were necessary for the second 4-day opening (July 27-30, 2001).

After the second open period, the Regional Administrator again consulted with representatives of the Council, WDFW, and ODFW by conference call on August 1, 2001, regarding the fishery. The chinook/coho catch rates and effort data indicated that the availability of coho was increasing in the area. The states recommended that the season be modified to open for 10 days, reopening August 3, 2001, and closing at midnight on August 12, 2001, with a limit of 100 chinook per boat for the open period. All other restrictions that apply to this fishery, as announced in the 2001 annual management measures for ocean salmon fisheries and subsequent inseason actions, remain in effect.

The Regional Administrator consulted with representatives of the Council, WDFW, and ODFW regarding the inseason action by conference call. The best available information on August 1, 2001, indicated that the catch/effort data and projections supported the commercial fishery season modifications. The states will manage the fisheries in state waters adjacent to the areas of the exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishermen of the adjustments in the area from Queets River to Cape Falcon effective 0001 hours l.t., August 3, 2001, was given prior to the effective date by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

Because of the need for immediate action for the season modifications for the area from Queets River to Cape Falcon, NMFS has determined that good cause existed for this notification to be issued without affording a prior opportunity for public comment because such notification would be unnecessary, impracticable, and contrary to the public interest. Moreover, because of the immediate need to modify a season because of estimates of effort and catch, the

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Assistant Administrator for Fisheries, NOAA finds, for good cause, under 5 U.S.C. 553(d)(3), that delaying the effectiveness of this rule for 30 days is impracticable and contrary to public interest.

This action does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 23, 2001.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22277 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 083001B]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish in the Southeast Outside District. This action is necessary because the Pacific halibut prohibited species catch (PSC) limit specified for hook-and-line gear targeting groundfish other than sablefish in the GOA and demersal shelf rockfish in the Southeast Outside District has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 4, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut PSC limit for groundfish included in the other hook-and-line fishery, which is defined at § 679.21 (d)(4)(iii)(C), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) and subsequent adjustments (66 FR 17087, March 29, 2001 and 66 FR 37167, July 17, 2001) as 290 metric tons (mt).

The other hook-and-line fishery includes all groundfish except sablefish in the GOA and demersal shelf rockfish in the Southeast Outside District.

In accordance with § 679.21 (d)(7)(ii), NMFS is prohibiting directed fishing for groundfish other than sablefish in the GOA or demersal shelf rockfish in the Southeast Outside District by vessels using hook-and-line gear.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20 (e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action because the Pacific halibut hook-and-line PSC limit has been reached constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the Pacific halibut hook-and-line PSC limit has been reached constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553 (d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22265 Filed 8–30–01; 1:58 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 083001A]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel with gears other than jig in the Eastern Aleutian District and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of Atka mackerel in these areas.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 3, 2001, through 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP at subpart H of 50 CFR part 600 and CFR part 679.

The Atka mackerel TAC for non-jig gear in the Eastern Aleutian District and the Bering Sea subarea was specified as 7,143 metric tons (mt) (66 FR 7276, January 22, 2001). See § 679.20(a)(8)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the TAC for non-jig gear Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 6,943 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the 2001 TAC of Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 TAC of Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22264 Filed 8–30–01; 1:58 pm]

BILLING CODE 3510–22–S

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Proposed Rules

Federal Register
Vol. 66, No. 172
Wednesday, September 5, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–3]

Proposed Establishment of Class E5 Airspace; Reform, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish Class E5 airspace at Reform, AL. A Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 19 Standard Instrument Approach Procedure (SIAP) has been developed for North Pickens Airport, Reform, AL. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at North Pickens Airport. The operating status of the airport would change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before October 5, 2001.

ADDRESSES: Send comments on the proposed in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–3, Manager, Airspace Branch, ASO–520, P. O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01–ASO–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Reform, AL. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth

* * * * *

ASO AL E5 Reform, AL [New]

North Pickens Airport, AL
(lat. 33°23′20″N., long. 88°00′20″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of North Pickens Airport.

* * * * *

Issued in College Park, Georgia, on August 20, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–22247 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 010607148–1148–01]

RIN 0691–AA42

International Services Surveys: BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules to amend the reporting requirements for the BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

The BE–48 survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. The data are needed to support U.S. trade policy initiatives; compile the U.S. international transactions, national income and product, and input-output accounts; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

BEA proposes to raise the exemption level for the BE–48 survey to $2 million in either reinsurance premiums, received or paid; reinsurance losses, paid or recovered; primary insurance premiums received; or primary insurance losses paid, from $1 million on the previous (2000) survey. Raising the exemption level will reduce respondent burden, particularly for small companies.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before November 5, 2001.

ADDRESSES: Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington DC 20230, or hand delivered to room M–100, 1441 L Street, NW., Washington, DC 20005. Comments will be available for public inspection in room 7005, 1441 L Street, NW., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: These proposed rules amend 15 CFR part 801 by revising § 801.9(b)(4)(ii) to set forth revised reporting requirements for the BE–48, Annual Survey of Reinsurance and Other Insurance Transactions by U.S. Insurance Companies with Foreign Persons. The survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (Pub.L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended). Section 3103(a) of the Act provides that "The President shall, to the extent he deems necessary and feasible— * * * (1) conduct a regular data collection program to secure current information * * *related to international investment and trade in services * * *" In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated the authority under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The BE–48 is an annual survey of U.S. reinsurance and other insurance transactions with unaffiliated foreign persons. The data are needed to support U.S. trade policy initiatives; compile the U.S. international transactions, national income and product, and input-output accounts; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Under the proposed rule, reporting in the BE–48 annual survey would be required from all U.S. persons whose reinsurance premiums, received or paid; reinsurance losses, paid or recovered; primary insurance premiums received; or primary insurance losses paid exceeded $2 million during the reporting year. The proposed exemption level is an increase from the current level of $1 million. The increase is intended to reduce respondent burden, particularly for small companies. The data collected on the BE–48 are disaggregated by country and by type of insurance transaction.

Executive Order 12866

These proposed rules are not significant for purposes of E.O. 12866.

Executive Order 13132

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act. A request for review of the forms has been submitted to the Office of Management and Budget under section 3507 of the Paperwork Reduction Act.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

Public reporting burden for this collection of information is estimated to vary from less than one hour to 20 hours, with an overall average burden of 4 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S.

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Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0016, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. While the survey does not collect data on total sales or other measures of the overall size of businesses that respond to the survey, historically the respondent universe has been comprised mainly of major U.S. corporations. With the proposed increase in the exemption level for the survey from $1 million to $2 million in covered receipts or payments, even fewer small businesses can be expected to be subject to reporting than in the past. Of those smaller businesses that must report, most will tend to have specialized operations and activities and thus will be likely to report only one type of insurance transaction, often limited to transactions with a single partner country; therefore, the burden on them can be expected to be small.

List of Subjects in 15 CFR Part 801

Balance of payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: June 4, 2001.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101–3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 860 as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 801.9 is amended by revising paragraph (b)(4)(ii) to read as follows:

§ 801.9 Reports required.

* * * * *

(b) * * *

(4) * * *

(ii) Exemption. A U.S. person otherwise required to report is exempt if , with respect to transactions with foreign persons, each of the following six items were $2 million or less in the reporting period: Reinsurance premiums received, reinsurance premiums paid, reinsurance losses paid, reinsurance losses recovered, primary insurance premiums received, and primary insurance losses paid. If any one of these items is greater than $2 million in the reporting period, a report must be filed.

* * * * *

[FR Doc. 01–22190 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–06–P

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AB48

Assessment or Waiver of Interest, Penalties, and Administrative Costs With Respect to Collection of Certain Debts

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to amend its regulations to conform those regulations to the practice of the agency to waive interest, penalties, and administrative costs where a debt is being recovered by setoff from current annuities and where the debt was not caused by fraud. This amendment will conform the regulation to current agency practice.

DATES: Submit comments on or before November 5, 2001.

ADDRESSES: Address any comments concerning this proposed rule to the secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 200.7 of the Board's regulations provides for the assessment and waiver of interest, penalties, and administrative costs with respect to the collection of debts owed the Board. The Board proposes to amend its regulations so that the assessment of interest, penalties and administrative costs will be automatically waived in any case where the debt is being recovered by full or partial withholding of current annuities payable under the Railroad Retirement Act and where fraud on the part of the debtor is not involved. This amendment will conform the Board's regulations to Board policy regarding recovery of debts due to the Board. The Social Security Administration also follows this same practice.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 200

Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend 20 CFR part 200 as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Amend § 200.7 by adding a new paragraph (i) to read as follows:

§ 200.7 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts.

* * * * *

(i) The Board shall waive the collection of interest, penalties, and administrative costs in any case where the debt to be recovered is being recovered by full or partial withholding of a current annuity payable under the Railroad Retirement Act and the debt was not incurred through fraud.

Dated: August 27, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–22272 Filed 9–4–01; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AB35

Designation of Central and Field Organization

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its regulations to reflect its current agency structure due to recent reorganizations.

DATES: Submit comments on or before November 5, 2001.

ADDRESSES: Address any comments concerning the proposed rule to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312)751–4945, TDD (312)751–4701.

SUPPLEMENTARY INFORMATION: Part 200 of the Board's regulations deals with general administration of the Board. The Board proposes to amend § 200.1 dealing with the designation of central and field offices to reflect current agency structure due to recent reorganizations.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 200

Organization and functions (Government agencies), Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend 20 CFR part 200 as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Section 200.1 is amended by revising paragraphs (a)(4), (b)(1), and (b)(2) to read as follows:

§ 200.1 Designation of central and field organization.

(a) * * *

(4) The headquarters of the Board is in Chicago, Illinois, at 844 North Rush Street. The Board maintains numerous district offices across the country in localities easily accessible to large numbers of railroad workers, in addition to three regional offices located in Atlanta, Georgia; Denver, Colorado; and, Philadelphia, Pennsylvania.

(b) *Internal organization.* (1) Reporting directly to the Board Members is the six member Executive Committee. The Executive Committee is comprised of the General Counsel, who also serves as the Senior Executive Officer, the Director of Administration, the Director of Programs, the Chief Financial Officer, the Chief Information Officer, and the Chief Actuary.

(2) The Executive Committee is responsible for the day to day operations of the agency. The Senior Executive Officer is responsible for direction and oversight of the Executive Committee. The General Counsel is responsible for advising the Board Members on major issues, interpreting the Acts and regulations administered by the Board, drafting and analyzing legislation, and planning, directing, and coordinating the work of the Office of General Counsel, the Bureau of Hearings and Appeals, and the Office of Legislative Affairs through their respective directors, and the Office of Secretary to the Board. The Director of Programs is responsible for managing, coordinating, and controlling the program operations of the agency which carry out provisions of the Railroad Retirement and Railroad Unemployment Insurance Acts. The Director of Administration is responsible for managing, coordinating, and controlling certain administrative operations of the Board including the Bureau of Supply and Service, the Bureau of Human Resources, the Office of Public Affairs, and the Office of Equal Opportunity. The Chief Financial Officer is responsible for the financial management of the agency, and the Chief Information Officer is responsible for coordinating the agency's information resources management program. The Board's Chief Actuary is responsible for the actuarial program of the Board. The Chief Actuary is a non-voting member of the Executive Committee.

Dated: August 27, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–22271 Filed 9–4–01; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: 010815207–1207–01]

RIN 0651–AB41

Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: In implementing the provisions of the American Inventors Protection Act of 1999 related to the eighteen-month publication of patent applications, the United States Patent and Trademark Office (Office) revised the rules of practice related to requirements for claiming the benefit of a prior-filed application. The Office is now proposing to revise the time period for claiming the benefit of a prior-filed application in an application filed under the Patent Cooperation Treaty (PCT), revise the time period for filing an English language translation of a non-English language provisional application, and make other technical corrections to the rules of practice related to eighteen-month publication. The Office is also proposing to make permanent a temporary rule that amends the rules of practice to include the current statutory provisions that define when national stage commencement occurs in an application filed under the PCT.

DATES: To be ensured of consideration, written comments must be received on or before October 5, 2001. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to AB41comments@uspto.gov. Comments may also be submitted by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872–9399, marked to the attention of Robert A. Clarke. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office prefers that the comments be submitted on a DOS formatted 3 ½ inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in

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Crystal Park 2, Suite 910, 2121 Crystal Drive, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: http://www.uspto.gov). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Robert A. Clarke or Joni Y. Chang, Legal Advisors, Office of Patent Legal Administration, by telephone at (703) 308–6906, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872–9399, marked to the attention of Robert A. Clarke.

SUPPLEMENTARY INFORMATION: The American Inventors Protection Act of 1999 was enacted into law on November 29, 1999. *See* Public Law 106–113, 113 Stat. 1501, 1501A–552 through 1501A–591 (1999). The American Inventors Protection Act of 1999 contained a number of changes to title 35, United States Code, including provisions for the publication of pending applications for patent, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code ("eighteen-month publication"). The Office implemented the eighteen-month publication provisions of the American Inventors Protection Act of 1999 in a final rule published in September of 2000. *See Changes to Implement Eighteen-Month Publication of Patent Applications*, 65 FR 57023 (Sept. 20, 2000), 1239 *Off. Gaz. Pat. Office* 63 (Oct. 10, 2000) (final rule).

Section 4503(b) of the American Inventors Protection Act of 1999 amended 35 U.S.C. 119(e) and 120 to provide that no application shall be entitled to the benefit of a prior-filed application unless an amendment containing the specific reference to the prior-filed application is submitted at such time during the pendency of the application as required by the Office. Section 4503(b) of the American Inventors Protection Act of 1999 also amended 35 U.S.C. 119(e) and 120 to permit the Office to establish procedures for accepting an unintentionally delayed claim for the benefit of a prior-filed application. This notice proposes to amend 37 CFR 1.78 to: (1) Clarify the requirements for claiming the benefit of a prior-filed application in an application filed under the PCT; and (2) revise the time period and requirements for filing an English language translation of a non-English language provisional application.

35 U.S.C. 371(b) currently sets forth the time period for commencement of the national stage in an application filed under the PCT. Due to a possible statutory revision of 35 U.S.C. 371(b) to provide that the time period for commencement of the national stage will be set forth in the regulations, the Office is amending § 1.491 such that the regulations set forth the current language of 35 U.S.C. 371(b) (as amended by Pub. L. 99–616, section 7(b), 100 Stat. 3485, 3485 (1986)) that defines when national stage commencement occurs. Certain U.S. statutes and regulations provide for requirements that are tied to the date of national stage "commencement" (*e.g.*, the date of national stage commencement is relevant to the due date for the national fee, an oath or declaration, and any required translation of the international application or amendments under PCT Article 19 (35 U.S.C. 371(d)), and in determining whether patentees are entitled to a patent term adjustment pursuant to 35 U.S.C. 154(b)(1)(B) (37 CFR 1.702(b))). Therefore, it is important that the regulations provide for a date of commencement of the national stage as to the United States in advance of any statutory revision to 35 U.S.C. 371(b).

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is proposed to be amended as follows:

Section 1.78

Section 1.78(a)(1) is proposed to be amended to make its provisions applicable to international applications designating the United States of America. The phrase "nonprovisional application" as used in the rules of practice means either an application filed under 35 U.S.C. 111(a) or an international application filed under 35 U.S.C. 363 that entered the national stage after compliance with 35 U.S.C. 371. *See* § 1.9(a)(3). Thus, provisions which apply only to a nonprovisional application (*e.g.*, the requirement in § 1.78(a)(2)(iii) for a specific reference in an application data sheet (§ 1.76) or the specification) do not apply to any international application that does not enter national stage processing under 35 U.S.C. 371. The specific reference requirements of 35 U.S.C. 119(e) and 120 are met in such an international application by a specific reference to the prior-filed application in the international application papers (*e.g.*, in the Request (PCT Rule 4.10 and § 1.434(d)(2)), or a correction or addition in accordance with PCT Rule 26*bis*).

Section 1.78(a)(2) is proposed to be amended to place its provisions in separate paragraphs (a)(2)(i) through (a)(2)(iv) for clarity. Sections 1.78(a)(2) is also proposed to be amended to also make its provisions applicable to international applications designating the United States of America, and to set forth the time period for making a claim (providing the specific reference required by § 1.78(a)(2)(i)) for both an application filed under 35 U.S.C. 111(a) and an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371.

Specifically, if the later-filed application is an application filed under 35 U.S.C. 111(a), the specific reference required by § 1.78(a)(2)(i) must be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior application. If, however, the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, the specific reference required by § 1.78(a)(2)(i) must be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. This reference must, in any event, be submitted during the pendency of the later-filed application. The provisions relating to an application filed under 35 U.S.C. 111(a) do not change the time period for submitting a specific reference in such applications. The provisions relating to an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371, however, do change the time period for submitting a specific reference in such applications in that the four-month period is measured from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) rather than the actual filing date of the international application under 35 U.S.C. 363.

Section 1.78(a)(2) is also amended to eliminate the requirement that if the application claims the benefit of an international application, the first sentence of the specification must include an indication of whether the international application was published under PCT Article 21(2) in English. The Office is eliminating this requirement because: (1) The Office will not delay publication of the application if this

requirement is not met; and (2) this information can be obtained from other sources (*e.g.*, the language of publication can usually be determined by the country of origin of the international application).

Section 1.78(a)(2) is also amended to change the sentence "(t)he identification of an application by application number under this section is the specific reference required by 35 U.S.C. 120 to every application assigned that application number" to "(t)he identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number." This change clarifies that the other provisions of § 1.78(a)(2) (*e.g.*, that the claim be in the application data sheet or the first sentence of the specification) remain applicable when an application under § 1.53(b) claims the benefit under 35 U.S.C. 120 of a continued prosecution application filed under § 1.53(d). *See Changes to Patent Practice and Procedure*, 62 FR 53131, 53144 (Oct. 10, 1997), 1203 *Off. Gaz. Pat. Office* 63, 73 (Oct. 21, 1997) (final rule).

Section 1.78(a)(3) is proposed to be amended to change "nonprovisional application" to "application," and change "paragraph (a)(2)" to paragraph "(a)(2)(ii)" for consistency with the changes to § 1.78(a)(2).

Section 1.78(a)(3) provides that if the reference required by 35 U.S.C. 120 and § 1.78(a)(2) of this section is presented in an application after the time period provided by § 1.78(a)(2)(ii), the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States may be accepted if the applicant files a petition to accept the delayed claim that is accompanied by: (1) The surcharge set forth in § 1.17(t); and (2) a statement that the entire delay between the date the claim was due under § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

If an applicant includes a claim to the benefit of a prior-filed nonprovisional application or international application designating the United States elsewhere in the application but not in the manner specified in § 1.78(a)(2)(i) (*e.g.*, if the claim is included in an unexecuted oath or declaration or the application transmittal letter) within the time period set forth in § 1.78(a)(2)(ii), the Office will not require a petition (and the surcharge under § 1.17(t)) to correct the claim if the information concerning the claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt. This is because the application will have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application within the time period set forth in § 1.78(a)(2)(ii). If, however, an applicant includes such a claim elsewhere in the application and not in the manner specified in § 1.78(a)(2)(i), and the claim is not recognized by the Office as shown by its absence on a filing receipt (*e.g.*, if the claim is in a part of the application where priority or continuity claims are not conventionally located, such as the body of the specification), the Office will require a petition (and the surcharge under § 1.17(t)) to correct such claim. This is because the application will not have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application.

Section 1.78(a)(4) is proposed to be amended to make its provisions applicable to international applications designating the United States of America.

Section 1.78(a)(5) is proposed to be amended to place its provisions in separate paragraphs (a)(5)(i) through (a)(5)(iv) for clarity. Section 1.78(a)(5) is also proposed to be amended to: (1) Make its provisions applicable to international applications designating the United States of America; (2) set forth the time period for making a claim (providing the specific reference required by § 1.78(a)(5)) for both an application filed under 35 U.S.C. 111(a) and an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371; and (3) change the time period and requirements for filing an English language translation of a non-English language provisional application.

Specifically, if the later-filed application is an application filed under 35 U.S.C. 111(a), the specific reference required by § 1.78(a)(5)(i) must be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior application. If, however, the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, the specific reference required by § 1.78(a)(5)(i) must be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. This reference must, in any event, be submitted during the pendency of the later-filed application. The provisions relating to an application filed under 35 U.S.C. 111(a) do not change the time period for submitting a specific reference in such applications. The provisions relating to an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371, however, do change the time period for submitting a specific reference in such applications in that the four-month period is measured from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) rather than the actual filing date of the international application under 35 U.S.C. 363.

Section 1.78(a)(5) is also proposed to be amended to provide that if a provisional application was filed in a language other than English and an English-language translation of the provisional application and a statement that the translation is accurate were not previously filed in the provisional application or the nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language provisional application and a statement that the translation is accurate to avoid abandonment of the nonprovisional application. Thus, § 1.78(a)(5) will no longer provide that if a provisional application was filed in a language other than English, a claim to the benefit of such provisional application is waived if an English language translation of a non-English language provisional application is not submitted within the later of four months from the actual filing date of the nonprovisional application or sixteen months from the filing date of the prior provisional application. In the event that the Office schedules for publication an application that claims the benefit of a provisional application filed in a language other than English without issuing a notice requiring the applicant to file English-language translation of the non-English-language provisional application, the applicant should file the English-language translation of the non-English-language provisional application and a statement that the translation is accurate before the scheduled publication date. This change to § 1.78(a)(5) will also allow applicant to file an English-language translation of a non-English language provisional application either in the provisional application or in each nonprovisional application that claims

the benefit of the provisional application.

Section 1.78(a)(5) is also proposed to be amended to delete the term "copending," as 35 U.S.C. 119(e) no longer requires copendency between a nonprovisional application and a provisional application for the nonprovisional application to claim the benefit of the filing date of the provisional application under 35 U.S.C. 119(e). 35 U.S.C. 119(e)(1) continues to require that any nonprovisional application claiming the benefit of a provisional application be filed within twelve months after the filing date of the provisional application (or the next succeeding business day if the date that is twelve months after the filing date of the provisional application falls on a Saturday, Sunday, or Federal holiday). *See Request for Continued Examination Practice and Changes to Provisional Application Practice*, 65 FR 50092, 50098 (Aug. 16, 2000), 1238 *Off. Gaz. Pat. Office* 13, 18–19 (Sept. 5, 2000) (final rule) (comment 2 and response).

Section 1.78(a)(6) provides that if the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in an application after the time period provided by § 1.78(a)(5)(ii), the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted if the applicant files a petition to accept the delayed claim that is accompanied by: (1) The surcharge set forth in § 1.17(t); and (2) a statement that the entire delay between the date the claim was due under § 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

If an applicant includes a claim to the benefit of a prior-filed provisional application elsewhere in the application but not in the manner specified in § 1.78(a)(5)(i) (*e.g.*, if the claim is included in an unexecuted oath or declaration or the application transmittal letter) within the time period set forth in § 1.78(a)(5)(ii), the Office will not require a petition (and the surcharge under § 1.17(t)) to correct the claim if the information concerning the claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt. This is because the application will have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application within the time period set forth in § 1.78(a)(5)(ii). If, however, an applicant includes such a claim elsewhere in the application and not in the manner specified in § 1.78(a)(5)(i), and the claim is not recognized by the Office as shown by its absence on a filing receipt (*e.g.*, if the claim is in a part of the application where priority or continuity claims are not conventionally located, such as the body of the specification), the Office will require a petition (and the surcharge under § 1.17(t)) to correct such claim. This is because the application will not have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application.

Section 1.311

Section 1.311(a) is proposed to be amended to correct the parenthetical reference to "(§ 1.211(f))" to "(§ 1.211(e))."

Section 1.434

Section 1.434(d)(2) is proposed to be amended by deleting the term "copending," as the prior national application may be a provisional application and 35 U.S.C. 119(e) no longer requires copendency for a nonprovisional application to claim the benefit of the filing date of a provisional application under 35 U.S.C. 119(e).

Section 1.491

Section 1.491 is proposed to be amended to define both commencement of the national stage and entry into the national stage. Because these two events (commencement of the national stage and entry into the national stage) may not take place at the same time, the Office is amending § 1.491 to clarify when each of these two events takes place. Section 1.491(a) specifically indicates that, subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a). Thus, § 1.491(a) merely incorporates the statutory language contained in 35 U.S.C. 371(b) (as amended by Pub. L. 99–616, § 7(b), 100 Stat. 3485, 3485 (1986)). Section 1.491(b) contains the provisions of former § 1.491, and provides that an international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

On August 30, 2001, the Office published a temporary rule that amends § 1.491 to define both commencement of the national stage and entry into the national stage in the manner discussed above. This notice proposes to make the amendment to § 1.491 in that temporary rule permanent.

Classification

Administrative Procedure Act

The changes proposed in this notice concern only the procedures for filing claims for the benefit of a prior-filed application under 35 U.S.C. 119(e) or 120, the procedures for filing an English language translation of a non-English language provisional application, and technical corrections to the provisions of §§ 1.78, 1.311, 1.434, and 1.491. Because all of the changes relate to Office practices and procedures, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A) (or any other law). However, because the Office desires the benefit of public comment on this topic, the Office is voluntarily accepting comments.

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), an initial regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. *See* 5 U.S.C. 603.

Executive Order 13132

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This notice involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this notice have been reviewed and previously approved by OMB under the following control numbers: 0651–0021, 0651–0031, 0651–0032, and 0651–0033. The Office is not resubmitting information collection packages to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collections under these OMB control numbers.

The title, description and respondent description of each of the information collections are shown below with an estimate of each of the annual reporting burdens. Included in each estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651–0021.
Title: Patent Cooperation Treaty.
Form Numbers: PCT/RO/101,ANNEX/134/144, PTO–1382, PCT/IPEA/401, PCT/IB/328.
Type of Review: Regular submission (approved through December of 2003).
Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.
Estimated Number of Respondents: 331,288.
Estimated Time Per Response: Between 15 minutes and 4 hours.
Estimated Total Annual Burden Hours: 401,083.
Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

OMB Number: 0651–0031.
Title: Patent Processing (Updating).
Form Numbers: PTO/SB/08/21–27/30/31/35/36/42/43/61/62/63/64/67/68/91/92/96/97.
Type of Review: Regular submission (approved through October of 2002).
Affected Public: Individuals or households, business or other for-profit institutions, not-for-profit institutions and Federal Government.
Estimated Number of Respondents: 2,247,389.
Estimated Time Per Response: 0.45 hours.
Estimated Total Annual Burden Hours: 1,021,941 hours.
Needs and Uses: During the processing of an application for a patent, the applicant/agent may be required or desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application. The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revive; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments; Petitions and their Transmittal Letters; and Deposit Account Order Forms.

OMB Number: 0651–0032.
Title: Initial Patent Application.
Form Number: PTO/SB/01–07/13PCT/17–19/29/101–110.
Type of Review: Regular submission (approved through October of 2002).
Affected Public: Individuals or households, business or other for-profit institutions, not-for-profit institutions and Federal Government.
Estimated Number of Respondents: 319,350.
Estimated Time Per Response: 9.35 hours.
Estimated Total Annual Burden Hours: 2,984,360 hours.
Needs and Uses: The purpose of this information collection is to permit the Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the Office in the processing and examination of the application.

OMB Number: 0651–0033.
Title: Post Allowance and Refiling.
Form Numbers: PTO/SB/13/14/44/50–57; PTOL–85b.
Type of Review: Regular submission (approved through September of 2000).
Affected Public: Individuals or households, business or other for-profit institutions, not-for-profit institutions and Federal Government.
Estimated Number of Respondents: 135,250.
Estimated Time Per Response: 0.325 hour.
Estimated Total Annual Burden Hours: 43,893 hours.
Needs and Uses: This collection of information is required to administer the patent laws pursuant to title 35, U.S.C., concerning the issuance of patents and related actions including correcting errors in printed patents, refiling of patent applications, requesting reexamination of a patent, and requesting a reissue patent to correct an error in a patent. The affected public includes any individual or institution whose application for a patent has been allowed or who takes action as covered by the applicable rules.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, DC 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.78 is amended by revising paragraph (a) to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross references to other applications.

(a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or copending international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or copending international application designating the United States of America, each prior application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior application must be:

(i) An international application entitled to a filing date in accordance

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with PCT Article 11 and designating the United States of America; or

(ii) Complete as set forth in § 1.51(b); or

(iii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and include the basic filing fee set forth in § 1.16; or

(iv) Entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(f).

(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted during the pendency of the later-filed application and within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted during the pendency of the later-filed application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior application. The time periods set forth in this paragraph do not apply to an application for a design patent.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76) or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in an application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The surcharge set forth in § 1.17(t); and

(ii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

(4) A nonprovisional application other than for a design patent or an international application designating the United States of America may claim an invention disclosed in one or more prior-filed provisional applications. In order for an application to claim the benefit of one or more prior-filed provisional applications, each prior provisional application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior provisional application must be entitled to a filing date as set forth in § 1.53(c), and the basic filing fee set forth in § 1.16(k) must be paid within the time period set forth in § 1.53(g).

(5)(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior provisional application. These time periods are not extendable. Except as provided in paragraph (a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior provisional application.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76) or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the provisional application was filed in a language other than English and an English-language translation of the provisional application and a statement that the translation is accurate were not previously filed in the provisional application or the nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language provisional application and a statement that the translation is accurate to avoid abandonment of the nonprovisional application.

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in an application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by:

(i) The surcharge set forth in § 1.17(t); and

(ii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

* * * * *

3. Section 1.311 is amended by revising paragraph (a) to read as follows:

§ 1.311 Notice of allowance.

(a) If, on examination, it appears that the applicant is entitled to a patent under the law, a notice of allowance will be sent to the applicant at the correspondence address indicated in § 1.33. The notice of allowance shall specify a sum constituting the issue fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. The sum specified in the notice of allowance may also include the publication fee, in which case the issue fee and publication fee (§ 1.211(e)) must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable.

* * * * *

4. Section 1.434 is amended by revising paragraph (d)(2) to read as follows:

§ 1.434 The request.

* * * * *

(d) * * *

(2) A reference to any prior-filed national application or international application designating the United States of America, if the benefit of the filing date for the prior-filed application is to be claimed.

5. Section 1.491 is revised to read as follows:

§ 1.491 National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

Dated: August 29, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–22273 Filed 9–4–01; 8:45 am]

BILLING CODE 8510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD078–3078b; FRL 7049–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions From Marine Vessel Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Maryland State Implementation Plan (SIP) revision. The revision establishes and imposes reasonably available control technology to reduce volatile organic compound (VOC) emissions from marine vessel coating operations. In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by October 5, 2001.

ADDRESSES: Written comments should be addressed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Makeba Morris, (215) 814–2182, at the EPA Region III address above, or by e-mail at makeba.morris@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 28, 2001.

Thomas C. Voltaggio,

Regional Administrator, Region III.

[FR Doc. 01–22268 Filed 9–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301166; FRL–6799–6]

RIN 2070–AC18

Sulfuryl Fluoride; Proposed Pesticide Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish temporary tolerances for sulfuryl fluoride and inorganic fluoride residues resulting from application of sulfuryl fluoride in or on walnuts and raisins under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This fumigant is being proposed as a methyl bromide alternative in the post-harvest fumigation of stored walnuts and raisins. These temporary tolerances would support a proposed 3–year experimental use permit (EUP) effective between September 24, 2001 and September 24, 2004, conducted by Dow AgroSciences entirely in the state of California. The temporary tolerances will expire April 1, 2006. This will allow approximately 18 months after the end of the EUP, for all the treated commodities to clear commerce.

DATES: Comments, identified by docket control number OPP–301166 must be received on or before October 5, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301166 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 308–6742; e-mail address: mcneilly.dennis@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301166. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301166 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–301166. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background and Statutory Findings

In the **Federal Register** of June 15, 2001 (66 FR 32618) (FRL–6788–2), EPA issued a notice under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a announcing the filing of an Experimental Use Permit (EUP) and associated request for temporary tolerances by Dow AgroSciences LLC. Dow AgroSciences requested temporary tolerances for sulfuryl fluoride residue of the insecticide sulfuryl fluoride, in or on walnuts and raisins at 2.0 and 0.004 part per million (ppm), respectively. The June 15, 2001 Notice inadvertently omitted reference to the requested 2.0 ppm tolerance for walnuts. In addition, the company has since submitted a revised limit of quantitation (LOQ) for sulfuryl fluoride in raisins of 0.004 ppm instead of 0.003 ppm. Dow AgroSciences also requested a temporary tolerance for fluoride residue of the insecticide sulfuryl fluoride, in or on walnuts at 12.0 part per million (ppm) and an exemption from the requirement of a tolerance for fluoride residues in or on raisins resulting from treatment with the insecticide sulfuryl fluoride under the USEPA's Threshold of Regulation Policy - Deciding Whether a Pesticide with a Food Use Pattern Needs a Tolerance. EPA is issuing this action as a proposal (rather than a final rule) because after review of the initial petitions and Notice of Filing the Agency has determined that:

1. The original Notice of Filing did not include the 2.0 ppm tolerance for sulfuryl fluoride residues in or on walnuts. In addition, the company has revised the limit of quantitation of fluoride residues in or on raisins from 0.003 ppm to 0.004 ppm.

2. The Agency wanted to publish its planned approach for regulating fluoride residues in or on raisins. This approach differs from that proposed by Dow AgroSciences. Although Dow AgroSciences has submitted data indicating that post-harvest use of sulfuryl fluoride is not expected to result in finite residues of either sulfuryl fluoride or fluoride in or on raisins, that data is limited and may not accurately reflect residues that may occur in actual use. EPA also notes that the existing 7.0 ppm tolerance in 40 CFR 180.145 established to regulate fluoride residues in or on grapes from use of cryolite might be affected by fluoride residues in or on raisins from sulfuryl fluoride use. The enforcement analytical methods for both cryolite and sulfuryl fluoride measure fluoride anion and cannot distinguish fluoride resulting from cryolite application to grapes, sulfuryl fluoride application to raisins, or even fluoride which may be a natural constituent of grapes. Because this existing tolerance is expressed in §180.145 as parts per million of cryolite, the Agency will add a new paragraph (a)(3) to 40 CFR 180.145 expressing the temporary tolerances for raisins and walnuts as parts per million fluoride, in order to reduce the potential for confusion. The tolerance expression will clarify that the tolerance for fluoride residues in or on raisins covers residues from application of both cryolite to grapes, expected to be the major source of fluoride residue, and residues of fluoride from post-harvest treatment with sulfuryl fluoride. The fluoride tolerance for raisins must also account for naturally occurring levels of fluoride in raisins. Residues of fluoride from use of sulfuryl fluoride on raisins are expected to be at most trace levels with most raisins having non-detectable (1.1 ppm) residue levels.

3. Sulfuryl fluoride is a fumigant that is being proposed as a methyl bromide alternative for the post-harvest control of pests in stored walnuts and raisins. In the future, it is likely that other commodities may be proposed for post-harvest, stored commodity fumigation using this fumigant.

Section 408(r) of the FFDCA authorizes EPA to establish a temporary tolerance or exemption for pesticide chemical residues resulting from use of a pesticide pursuant to a FIFRA section 5 experimental use permit (EUP). Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...." Additionally, section 408(b)(2)(D) requires that the Agency consider "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of sulfuryl fluoride on walnuts and raisins at 2.0 and 0.004 ppm, respectively. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for temporary tolerances for inorganic fluoride residues of sulfuryl fluoride on walnuts and raisins at 12.0 and 30.0 ppm, respectively. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sulfuryl fluoride and fluoride are discussed in the following discussion.

Acute, subchronic, chronic, and other toxicity. Technical grade sulfuryl fluoride (Profume® Gas Fumigant, 99.8% active ingredient) is marketed as a liquified gas in pressurized steel cylinders. The acute oral LD_{50} of sulfuryl fluoride has been estimated to be approximately 100 (milligrams/kilogram (mg/kg) in rats (Toxicity Category II). The acute inhalation LC_{50} in mice (4 hour exposure) is 660 ppm (2.56 milligram/liter (mg/L) in males and 642 ppm (2.49 mg/L) in females. The acute inhalation LC_{50} in rats (1 hour exposure) is 17.5 mg/L. Based on the use pattern for sulfuryl fluoride and several reported incidences of human poisonings in the Sulfuryl Fluoride Reregistration Eligibility Decision (RED) (September, 1993) and elsewhere in the general toxicologic literature, the Agency has classified sulfuryl fluoride as Toxicity Category I for acute inhalation toxicity. The acute dermal

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toxicity study (assumed Toxicity Category of IV), the primary skin irritation study (assumed Toxicity Category of IV), the primary eye irritation study (assumed Toxicity Category of I), and the dermal sensitization study (assumed to be a non-sensitizer) have been waived. These studies were waived because they would not change the overall signal word from DANGER, and/or alter personal protective equipment requirements. In addition, the insecticide is a volatile gas. In a non-guideline study in which rats were dermally exposed (with no inhalation exposure) to vapors of sulfuryl fluoride gas at an exposure concentration of 9,599 ppm for 4 hours, no treatment-related adverse effects were observed.

In 2–week inhalation studies in rats, dogs and rabbits, different target organs were affected. In rats, the primary target organ was the kidneys, in which severe histopathological lesions were observed. These lesions included papillary necrosis, hyperplasia of the epithelial cells of the papillae, and degeneration/regeneration of collecting tubules and proximal tubules. In dogs, the primary target organ was the upper respiratory tract, in which minimal inflammation was observed. Intermittant tremors and tetany were also noted in dogs. In rabbits, the primary target organ was the brain, in which malacia (necrosis) and vacuolation were observed in the cerebrum. Inflammation of the upper respiratory tract was also noted in rabbits.

In subchronic (90–day) inhalation studies in rats, dogs, rabbits and mice, the brain was the major target organ. Malacia and/or vacuolation were observed in the white matter of the brain in all four species. The portions of the brain most often affected were the caudate-putamen nucleus in the basal ganglia, the white fiber tracts in the internal and external capsules, and the globus pallidus of the cerebrum. In dogs and rabbits, clinical signs of neurotoxicity (including tremors, tetany, incoordination, convulsions and/or hind limb paralysis) were also observed. Inflammation of the nasal passages and histiocytosis of the lungs were observed in rats and rabbits; but not in dogs, in which species inflammation of the upper respiratory tract was more prominent in the 2–week study. In rats, kidney damage was also observed. In mice, follicular cell hypertrophy was noted in the thyroid gland. Decreased body weights and body weight gains were also observed in rats, dogs and mice.

In chronic (1–2 year) inhalation studies in rats, dogs and mice, target organs were the same as in the 90–day studies. In rats, severe kidney damage caused renal failure and mortalities in many animals. Additional gross and histopathological lesions in numerous organs and tissues were considered to be secondary to the primary effect on the kidneys. Other treatment-related effects in rats included effects in the brain (vacuolation of the cerebrum and thalamus/hypothalamus) and respiratory tract (reactive hyperplasia and inflammation of the respiratory epithelium of the nasal turbinates, lung congestion, aggregates of alveolar macrophages). In dogs and mice, increased mortalities, malacia and/or vacuolation in the white matter in the brain, histopathology in the lungs, and follicular cell hypertrophy in the thyroid gland were observed. Decreased body weights and body weight gains were also noted in all three species. No evidence of carcinogenicity was observed in either the combined chronic toxicity/carcinogenicity study in rats or in the 18–month carcinogenicity study in mice.

In many subchronic and chronic inhalation studies in rats, dogs, and rabbits, dental fluorosis was the most sensitive toxic effect observed in the study. In two 90–day studies in rats and rabbits, in which serum fluoride levels were determined, an increased serum level of fluoride anions was observed at even lower dose levels. The increased serum fluoride levels were due to the conversion of sulfuryl fluoride to fluoride anions in the body.

In specially designed acute and subchronic inhalation neurotoxicity studies in rats, several electrophysiological parameters (EEGs) were recorded in addition to observations for clinical signs of neurotoxicity, functional observational battery (FOB) and motor activity testing, and/or neurohistopathologic examination. Following two exposures on consecutive days for 6 hours/day at 300 ppm of sulfuryl fluoride (354 mg/kg/day), no treatment-related neurotoxic effects were noted. In a 90–day study, changes in some EEG patterns were observed at 100 ppm (80 mg/kg/day) and in several additional patterns at 300 ppm (240 mg/kg/day). Vacuolation of the white matter in the cerebrum was also observed at 300 ppm in this study. In a specially designed 1–year chronic inhalation neurotoxicity study in rats, no treatment-related neurotoxic effects were observed at 80 ppm (56 mg/kg/day). EEGs were not recorded in this study.

In a developmental toxicity inhalation study in rats, no developmental toxicity was observed in the pups. Although no maternal toxicity was observed in this study at the highest dose tested (225 ppm), significant maternal toxicity (decreased body weight, body weight gain and food consumption; increased water consumption and kidney weights; and gross pathological changes in the kidneys and liver) was observed in a previously conducted range-finding study at a slightly higher dose level (300 ppm). In a developmental toxicity inhalation study in rabbits, decreased fetal body weights were observed in the pups. At the same dose level, decreased body weight and body weight gain were observed in the dams. In a 2-generation reproduction inhalation study in rats, vacuolation of the white matter in the brain, pathology in the lungs (pale, gray foci; increased alveolar macrophages) and decreased body weights were observed in the parental animals. Decreased pup body weights in the F_1 and F_2 generations were observed in the offspring. No effects on reproductive parameters were noted in this study. No quantitative or qualitative evidence of increased susceptibility of fetuses or pups was observed in the developmental toxicity or reproduction studies on sulfuryl fluoride.

A battery of mutagenicity studies was negative for genotoxic potential. The studies included an Ames assay in *Salmonella typhimurium*, an unscheduled DNA synthesis assay in primary rat hepatocytes, and a micronucleus assay in mouse bone marrow cells.

Sulfuryl fluoride is classified as a "not likely" human carcinogen according to the EPA Draft Guidelines for Carcinogen Risk Assessment (July, 1999)

Poisonings and fatalities have been reported in humans following inhalation exposure to sulfuryl fluoride. The severity of these effects has depended on the concentration of sulfuryl fluoride and the duration of exposure. Short-term inhalation exposure to high concentrations has caused respiratory irritation, pulmonary edema, nausea, abdominal pain, central nervous system depression, and numbness in the extremities. In addition, there have been two reports of deaths of persons entering houses treated with sulfuryl fluoride. One person entered the house illegally and was found dead the next morning. A second person died of cardiac arrest after sleeping in the house overnight following fumigation. A plasma fluoride level of 0.5 mg/L (10 times normal) was found in this person following exposure. Prolonged chronic inhalation exposure to concentrations of sulfuryl fluoride gas significantly above the TLV of 5 ppm have caused fluorosis in humans because sulfuryl fluoride is converted to fluoride anion in the body. Fluorosis is characterized by binding of fluoride anion to teeth (causing mottling of the teeth) and to bone.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences. There are no additional uncertainty factors (other than the 3X FQPA Safety Factor) used in this assessment, except a 3X factor used in long-term occupational inhalation exposure/risk assessment. A 3X factor is used there, rather than a 1X factor, because the toxicological endpoint is based on a 90–day inhalation study rather than a chronic study.

For dietary risk assessment (other than cancer) the Agency calculates an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such an additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) EPA determines a LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

A summary of the toxicological endpoints for sulfuryl fluoride used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SULFURYL FLUORIDE FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario[1]	Dose (mg/kg/day)	Endpoint	Study
Acute Dietary (General Population including Infants and Children)	None UF = N/A FQPA Factor = N/A	No toxicological endpoint attributable to a single exposure was identified in the available toxicology studies on sulfuryl fluoride. Acute RfD = Not Required	None
Chronic Dietary (General Population including Infants and Children)	NOAEL = 8.5; UF = 300; FQPA Factor = 3	Vacuolation of white matter in the brain of females. Chronic RfD = 0.028 mg/kg/day Chronic Population-Adjusted Dose (cPAD) = 0.0093 mg/kg/day	90–Day inhalation-rabbits
Oral, Incidental (All Durations)	None; UF = N/A; FQPA Factor = N/A	Due to sulfuryl fluoride being a gas and its use pattern, no significant incidental oral exposure is anticipated.	None
Dermal (All Durations)	None; UF = N/A; FQPA Factor = N/A	Due to sulfuryl fluoride being a gas and its use pattern, no significant dermal exposure is anticipated.	None
Inhalation Short-Term (Occupational)	NOAEL = 30; MOE = 100; FQPA Factor = N/A	Malacia (necrosis) and vacuolation in the cerebrum, inflammation of nasal tissues and trachea.	2–Week inhalation-rabbits
Inhalation Short-Term (Residential)	NOAEL = 30; MOE = 300; FQPA Factor = 3	Malacia (necrosis) and vacuolation in the cerebrum, inflammation of nasal tissues and trachea.	2– Week inhalation-rabbits
Inhalation Intermediate-Term (Occupational)	NOAEL = 8.5; MOE = 100; FQPA Factor = N/A	Vacuolation of white matter in the brain of females.	90–Day inhalation-rabbits
Inhalation Intermediate-Term (Residential)	NOAEL = 8.5; MOE = 300; FQPA Factor = 3	Vacuolation of white matter in the brain of females.	90–Day inhalation-rabbits
Inhalation Long-Term (Occupational)	NOAEL = 8.5; MOE =300; FQPA Factor = N/A	Vacuolation of white matter in the brain of females.	90–Day inhalation-rabbits

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SULFURYL FLUORIDE FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario[1]	Dose (mg/kg/day)	Endpoint	Study
Carcinogenicity Chronic Exposure	Classified as a "not likely" human carcinogen	Negative for carcinogenicity in carcinogenicity studies in rats and mice	Chronic toxicity/carcinogenicity, rats and Carcinogenicity, mice

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.
[1] The only significant route of exposure for inorganic fluoride is dietary exposure, which includes residues in drinking water. This risk assessment uses the maximum concentration limit goal (MCLG) of 4.0 ppm for fluoride as the basis for a maximum allowable exposure to inorganic fluoride (see the Cryolite Reregistration Eligibility Decision, 8/96, EPA- 738–R–96–016). Using the Agency default values of body weight (70 kg) and water consumption (2 liters/day), the MCLG converts to an exposure limit of 0.114 mg/kg/day. This exposure is used as the cPAD for inorganic fluoride in this risk assessment.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No tolerances have ever been established in the United States for sulfuryl fluoride. This is the first food use for sulfuryl fluoride in the U.S. tolerances have been established for the insecticide cryolite (40 CFR 180.145) for residues of fluoride, in or on a variety of raw agricultural commodities. Cryolite degrades after application, with the metabolite of toxicological concern being fluoride. Section 180.145 already contains a tolerance for fluoride resulting from the use of cryolite in or on grapes, measured as fluoride but expressed as 7 ppm cryolite equivalents. Section 180.145 does not set a specific tolerance for raisins, the 7.0 ppm tolerance for the raw agricultural commodity grapes would apply to residues in the processed commodity raisins. See 40 CFR 180.1(f). A tolerance for fluoride (55 ppm expressed as Cryolite) residue in or on raisins was proposed but has not been finalized. See 62 FR 42546 (Aug 7, 1997). There is also uncertainty concerning the extent of naturally occurring levels of fluoride in raisins; and, a major purpose of this experimental use permit is to generate comprehensive residue data collected from different storage facilities. It is for these reasons that the Agency proposes setting a 30 ppm tolerance for fluoride (55 ppm cryolite divided by 1.84 conversion factor) that would adequately address residues from cryolite application to grapes, sulfuryl fluoride application to raisins, and naturally occurring background levels of fluoride in raisins. Risk assessments were conducted by EPA to assess dietary exposures from sulfuryl fluoride and the metabolite inorganic fluoride in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. No toxicological endpoint attributable to a single exposure was identified in the available toxicology studies on sulfuryl fluoride or inorganic fluoride (Cryolite RED) that would be applicable for an acute dietary exposure.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. This survey indicates the following average daily consumption for the total U.S. population for the commodities involved in this EUP: 0.0000253 mg/kg/day for raisins and 0.0000040 mg/kg/day for walnuts. To determine the estimated daily average consumption for a "U.S. population" individual, simply multiple the daily average times the body weight in kg.

The existing tolerance for cryolite on grapes (40 CFR 180.145) is in fact a tolerance for fluoride, because the approved analytical method for enforcement tests only for fluoride, and not cryolite. There is no analytical method for distinguishing between cryolite and sulfuryl fluoride as the source of inorganic fluoride in or on grapes or raisins, nor is there any toxicological reason to distinguish between such residues.

In order to assess compliance with the tolerances in 40 CFR 180.145, measured levels of fluoride in grapes are converted to cryolite equivalents by multiplying the concentration (in parts per million) of fluoride by a factor of 1.84 (molecular weight of cryolite divided by molecular weight of fluoride, divided by the number of fluoride atoms in cryolite; (210 amu) + (19 amu) x 6 = 1.84). A tolerance for fluoride (55 ppm expressed as Cryolite) residue in or on raisins was proposed but has not yet been finalized, see 62 FR 42546 (Aug 7, 1997). The Agency is proposing a 30 ppm tolerance for fluoride (55 ppm cryolite divided by 1.84 conversion factor) that would adequately address residues from cryolite use on grapes, sulfuryl fluoride use on raisins, and background levels.

In order to provide additional data concerning the residues of fluoride in grapes treated with sulfuryl fluoride, the petitioner has agreed to monitor fluoride levels in all batches of raisins fumigated pursuant to the EUP and to provide the data to the Agency. The exposure and risk estimates for Sulfuryl Fluoride and Fluoride Anion from the fumigation of raisins and walnuts with Sulfuryl Fluoride are indicated in the following Table 2:

TABLE 2.—EXPOSURE AND RISK ESTIMATES FOR SULFURYL FLUORIDE AND FLUORIDE ANION FROM THE FUMIGATION OF RAISINS AND WALNUTS WITH SULFURYL FLUORIDE

Population Subgroup	Sulfuryl Fluoride		Fluoride Anion	
	Risk, % cPAD[a]	Exposure, mg/kg/day	Exposure, mg/kg/day	Risk, % MCLG[b]
U.S. Population	0.000008	<1	0.000808	<1

TABLE 2.—EXPOSURE AND RISK ESTIMATES FOR SULFURYL FLUORIDE AND FLUORIDE ANION FROM THE FUMIGATION OF RAISINS AND WALNUTS WITH SULFURYL FLUORIDE—Continued

Population Subgroup	Sulfuryl Fluoride		Fluoride Anion	
	Risk, % cPAD[a]	Exposure, mg/kg/day	Exposure, mg/kg/day	Risk, % MCLG[b]
All Infants (<1 Year)	0.000000	<1	0.000065	<1
Children (1–6 Years of Age)	0.000016	<1	0.002447	2
Children (7–12 Years of Age)	0.000014	<1	0.000862	<1
Females (13–50 Years of Age)	0.000009	<1	0.000600	<1
Males (13–19 Years of Age)	0.000005	<1	0.000420	<1
Males (20+ Years of Age)	0.000005	<1	0.000547	<1
Seniors (55+ Years of Age)	0.000007	<1	0.000870	<1

[a] Exposure ÷ cPAD (0.009 mg/kg/day) x 100
[b] Exposure ÷ Max. Conc. Limit Goal for fluoride anion (0.114 mg/kg/day) x 100

iii. *Cancer.* Sulfuryl fluoride is classified as "not likely to be carcinogenic to humans." This classification is based on the lack of evidence of carcinogenicity in male and female rats as well as male and female mice and on the lack of genotoxicity in an acceptable battery of mutagenicity studies performed on the technical grade material.

iv. *Anticipated residue and percent crop treated information.* For the purposes of these temporary tolerances, the Agency is assuming 100% of the walnut and raisin crops will be treated with sulfuryl fluoride, and that residues will be at the proposed tolerance levels. These conservative assumptions over state the actual exposure but because this is an experimental use permit reliable data on the actual percent crop treated and residues are not available. The registrant estimates that this experimental use permit may entail treatment of up to 14% and 32% of the domestically produced walnuts and raisins, respectively. In this risk assessment, all walnuts are assumed to contain 2.0 ppm residues of sulfuryl fluoride and 12.0 ppm residue of fluoride, and raisins are assumed to contain 0.004 ppm residues of sulfuryl fluoride and 30.0 ppm residues of fluoride.

2. *Dietary exposure from drinking water.* The Agency has determined that because of the indoor use pattern and physicochemical characteristics of sulfuryl fluoride (such as low water solubility and high volatility), neither residues of sulfuryl fluoride nor of inorganic fluoride are expected to reach surface or groundwater due to the post harvest fumigation of walnuts and raisins. There are no other anticipated sources of sulfuryl fluoride in surface or ground water, and EPA believes that it is not present in drinking water. Any releases to wastewater treatment plants would be "stripped" from the wastewater during the aeration of the activated sludge or trickling filter processes (secondary treatment). Residues of inorganic fluoride may be in drinking water due to intentional fluoridation or to natural sources. Dietary exposure to fluoride from drinking water is estimated to average 0.057 mg/kg/day (Cryolite RED, 8/96, EPA–738–R–96–016).

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). The Agency has determined that exposure of residents to sulfuryl fluoride resulting from home fumigation is negligible. The only significant exposure pathway for inorganic fluoride is via the diet (food + drinking water).

Structural pest control, a residential non-dietary site, is the only currently registered use of sulfuryl fluoride. Details concerning residential exposure from the structural pest control use of sulfuryl fluoride are discussed in the Sulfuryl Fluoride Reregistration Eligibility Decision (RED) issued in September 1993 (EPA 738–R–93–016). The Agency does note that this insecticide is a Restricted Use Pesticide and there are no homeowner products registered.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." EPA does not have, at this time, available data to determine whether sulfuryl fluoride per se has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. For the purposes of this tolerance action, therefore, EPA has not assumed that sulfuryl fluoride has a common mechanism of toxicity with other substances. On this basis, the petitioner must submit, upon EPA's request and according to a schedule determined by the Agency, such information as the Agency directs to be submitted in order to evaluate issues related to whether sulfuryl fluoride shares a common mechanism of toxicity with any other substance and, if so, whether any tolerances for sulfuryl fluoride need to be modified or revoked.

Crop protection uses of cryolite, intentional fluoridation of municipal drinking water, and the proposed uses of sulfuryl fluoride appear to share a common mechanism of toxicity through residues of their common degradate, inorganic fluoride. Exposure to fluoride from chronic ingestion of cryolite-treated commodities combined with residues of inorganic fluoride in drinking water is estimated to be 0.085 mg/kg/day. This is derived using 0.028 mg/kg/day for fluoride from cryolite treated commodities + 0.057 mg/kg/day from fluoride intentionally added to drinking water (Cryolite RED). Aggregate exposure to inorganic fluoride from sulfuryl fluoride, cryolite, and

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water fluoridation is estimated to be 0.087 mg/kg/day for the most highly exposed population subgroup (children 1–6 years of age). This exposure estimate is approximately 75% of the exposure-converted MCLG for fluoride and indicates that the sulfuryl fluoride contributes a negligible amount to the cumulative exposure estimate for inorganic fluoride.

The Agency has determined that because the use pattern and physicochemical characteristics of sulfuryl fluoride, neither residues of sulfuryl fluoride nor of inorganic fluoride are expected to reach surface or ground water due to the post-harvest fumigation of walnut and raisins. Specifically, the indoor use of this highly volatile compound is not expected to result in residues in either surface or ground water.

For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* Neither quantitative not qualitative evidence of increased susceptibility of fetuses or pups to sulfuryl fluoride was demonstrated in the prenatal developmental toxicity studies in rats and rabbits or in the 2-generation reproduction study in rats.

3. *Conclusion.* There is an adequate toxicity database for sulfuryl fluoride, for the purposes of this experimental use permit only. Adequate exposure data for the purposes of this experimental use permit are available or are estimated based on data that reasonably account for potential exposures. The Agency has reduced the FQPA Safety Factor from 10X to 3X in assessing the toxicity from exposure to sulfuryl fluoride from all sources. The FQPA Safety factor was reduced because:

(i) There is no qualitative or quantitative evidence of increased susceptibility following *in utero* exposure to rats and/or following pre-/postnatal exposure to rats.

(ii) The dietary (food and drinking water) and non-occupational exposure assessments will not underestimate the potential exposure to infants, children, and/or women of childbearing age. The FQPA Safety Factor was not reduced to 1X because of the lack of a developmental neurotoxicity study in rats.

E. Aggregate Risks and Determination of Safety

The potential exists for exposure to sulfuryl fluoride from dietary and residential pathways. However, the risk from exposure to sulfuryl fluoride via the residential pathway is considered negligible. Accordingly, EPA has considered only dietary exposure as contributing to the aggregate risk from sulfuryl fluoride. As explained in Unit III. C.1.ii. of this preamble, chronic exposure was estimated using DEEM and assuming 100% of the raisin and walnut crops would be treated and contain tolerance level residues. The resulting dietary risk estimates are less than 1% of the cPAD, except for "Children (1–6 years of age)". The Agency's level of concern is risks > 100% of the cPAD. No acute dietary risks were assessed since no toxicological endpoint attributable to a single exposure could be identified.

The only significant exposure pathway for inorganic fluoride is via the diet (food + drinking water). EPA notes that anticipated fluoride exposure resulting from post-harvest use of sulfuryl fluoride on walnuts and raisins is negligible in comparison to fluoride levels permitted under the Safe Drinking Water Act. The Agency's Office of Water has set a MCLG of 4.0 ppm for fluoride. The Office of Pesticides Programs has used this number as the exposure level in drinking water. This concentration is a level that provides no known or anticipated adverse health effects. The MCLG has been reviewed and is supported by the Surgeon General. Risks from dietary exposure to inorganic fluoride from the post-harvest fumigation of raisins and walnuts are estimated to be less than 1% of the MCLG for fluoride when the MCLG is converted to an exposure equivalent using Agency default values of body weight and drinking water consumption. Total exposure to fluoride, including that from fluoridated water, cryolite uses and from the proposed uses of sulfuryl fluoride are discussed in Unit III.C.4. of this preamble. As noted there, aggregate fluoride exposure for the most highly exposed population is about 75% of the MCLG converted to an exposure equivalent.

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to sulfuryl fluoride and inorganic fluoride residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate methods of analysis for both sulfuryl fluoride and fluoride anion are available. The methods are considered adequate as tolerance enforcement methods for the purposes of these temporary tolerances during the EUP. For a Section 3 registration, the registrant will need to submit independent laboratory validations for both the proposed sulfuryl fluoride and inorganic fluoride methods. For sulfuryl fluoride, the method consists of blending the sample for 5 minutes in an air-tight Eberbach blending device, equilibrating the sample for 5 minutes, and analyzing 30mL of headspace from the sample container by gas chromatography. For fluoride anion, analysis is done by ion-specific electrodes using a double standard addition procedure. Spike and recovery submitted with the request show acceptable recoveries for both sulfuryl fluoride and inorganic fluoride for raisins and walnuts.

Adequate enforcement methodology (example: gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. Magnitude of Residues

The petitioner submitted data describing residues of sulfuryl fluoride and inorganic fluoride in raisins and walnuts following a number of fumigation regimes including: "To Determine and Evaluate the Significance of Sulfuryl Fluoride Residues in Dried Fruits and Tree Nuts Following Fumigation Treatments with Sulfuryl Fluoride at Different Temperatures, Sample Locations, Desorption Rates, Repeated fumigations, and A Comparison of Treatments Done Under Vacuum or Normal Atmospheric Pressure Phase 1." Unpublished study sponsored by Dow AgroSciences LLC 6/1/2000. MRID 45170401.

The fumigation of walnuts and raisins consisted of treatments at either 10, 21, or 32 °C, multiple fumigations (up to 5) at 21 °C, or fumigation under vacuum versus ambient atmospheric pressure (21 °C). As part of the studies, samples were collected from the top, middle, and bottom of the fumigation chamber; additionally, samples were collected at post-aeration intervals of up to 11 days depending upon the treatment. For all treatments to raisins, residues of sulfuryl fluoride were <1 LOQ (<0.004 ppm) and most residues were <1 LOD (<0.0011 ppm); residues of inorganic fluoride were <1 LOQ (2.2 ppm) with approximately half falling below the LOD (< 0.75 ppm). Finite residues of sulfuryl fluoride and inorganic fluoride were found in/on walnuts and are summarized in Table 3 below.

The proposed use pattern specifies a maximum cumulative per batch rate of 2,500 oz-hours/1,000 ft^3 for ambient pressure fumigations and 250 oz-hours/1,000 ft^3 for vacuum fumigations. The multiple-fumigation data submitted with the EUP reflect use rates of 2,500 oz- hours/1,000 ft^3 for each fumigation; thus, a batch fumigated 5 times represents a 5X rate. In determining appropriate tolerance levels for walnuts, only data from single fumigations were considered. The data summarized below indicate that a 2.0 ppm tolerance for sulfuryl fluoride and 12.0 ppm tolerance for inorganic fluoride in or on walnuts are appropriate for the use rate being proposed in this experimental use permit. In Table 3, only those commodities treated once reflect the use rate proposed in this experimental use permit. The other data, those samples reflecting more than one application, provide additional information but reflect a higher use rate than proposed in the experimental use permit and therefore are not directly used in determining appropriate tolerances.

TABLE 3.—SUMMARY OF RESIDUE DATA FOR SULFURYL FLUORIDE AND INORGANIC FLUORIDE IN/ON WALNUTS

Temp., °C	No. of Treatments[a]	Pressure	PAT, days[b]	Sulfuryl Fluoride, ppm		Fluoride Anion, ppm	
				Mean	Max.	Mean	Max.
10	1	Ambient	4	0.184	0.259	2.9	3.1
10	1	Ambient	4	0.332	0.387	2.9	3.2
10	1	Ambient	4	0.271	0.289	3.1	3.4
21	1	Ambient	4	0.044	0.051	7.1	7.5
21	1	Ambient	7	0.006	0.007	5.8	6.1
32	1	Ambient	4	0.212	0.229	8.0	8.8
32	1	Ambient	7	0.062	0.073	9.6	10.5
21	1	Ambient	1	1.535	1.767	NS[c]	-
21	1	Ambient	4	0.124	0.135	NS	-
21	1	Ambient	7	0.007	0.010	<2.3	2.3
21	3	Ambient	1	4.794	5.303	NS	-
21	3	Ambient	4	0.884	0.927	NS	-
21	3	Ambient	7	0.211	0.231	10.2	38.6
21	5	Ambient	1	4.811	6.282	NS	-
21	5	Ambient	4	2.069	2.355	NS	-
21	5	Ambient	7	0.666	0.742	25.8	30.2
21	5	Ambient	11	0.214	0.252	NS	-
21	1	Vacuum	4	1.629	1.705	4.5	4.6
21	1	Vacuum	7	0.540	0.719	5.8	6.2

[a] Each fumigation was conducted at a treatment rate of 2,500 oz-hours/1,000 ft^3. The proposed use pattern is for the cumulative treatment rate not to exceed 2,500 oz-hours/1,000 ft^3 for ambient fumigations or 250 oz-hours/1,000 ft^3 for vacuum fumigations.
[b] PAT = Post-aeration Time.
[c] NS = No sample

Proposed tolerances - raisins. The data submitted with the EUP request indicate that, at the proposed use rate, only trace residues of sulfuryl fluoride are present in or on raisins, all below the LOQ. Based on these data, a tolerance for sulfuryl fluoride in or on raisins set at the LOQ, or 0.004 ppm, would not be exceeded through post-harvest application of sulfuryl fluoride.

C. International Residue Limits

There are no U.S. tolerances and/or CODEX MRLs established.

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D. Conditions

The proposed temporary tolerances are to support an experimental use permit only. The registrant has agreed to analyzing every batch of raisins for fluoride levels to verify tolerance levels for fluoride are not exceeded. Other conditions may be specified on the Profume label. The Agency will not complete a final label review until comments on the proposed temporary tolerances are received and reviewed.

The Agency reserves the right to make additional data requirements for a Section 3 registration; however, the Agency knows that at least the following additional data will be required:

(1) Additional residue data to further define magnitude of the residue for both sulfuryl fluoride and inorganic fluoride (background levels vs. residues from Cryolite use).

(2) Residue data to define background levels of fluoride naturally occurring in both walnuts and raisins.

(3) Residue dissipation data examining residue levels in/on walnuts and raisins under post-fumigation storage conditions as a function of time.

(4) A comprehensive air monitoring study in and around the fumigation chambers.

(5) A Developmental Toxicity Study.

V. Conclusion

Temporary tolerances are proposed for sulfuryl fluoride residues of sulfuryl fluoride in walnuts and raisins at 2.0 and 0.004 ppm, respectively.

A temporary tolerance is also proposed for inorganic fluoride residues of sulfuryl fluoride in walnuts and raisins at 12.0 and 30.0 ppm, respectively.

VI. Regulatory Assessment Requirements

This proposed rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this proposed rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this proposed rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 22, 2001.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

1. Section 180.145 is amended by adding paragraph (a)(3) to read as follows:

§ 180.145 Fluorine compounds; tolerances for residues.

(a) * * *

(3) Temporary tolerances are established for residues of fluoride resulting from the post-harvest treatment with sulfuryl fluoride. The tolerances are measured and expressed as ppm of fluoride. Total residues of fluoride in or on raisins from use of cryolite on grapes (addressed in paragraph (a)(1) of this section) or sulfuryl fluoride on raisins shall not exceed the tolerance list in the following table.

Commodity	Parts per million	Expiration/ Revocation Date
Raisins	30.0	4/01/06
Walnuts	12.0	4/01/06

* * * * *

2. Section 180.575 is added to read as follows:

§ 180.575 Sulfuryl fluoride; tolerances for residues.

(a) *General.* Temporary tolerances are established for residues of sulfuryl fluoride resulting from the post harvest treatment with sulfuryl fluoride.

Commodity	Parts per million	Expiration/Revocation Date
Raisins	0.004	4/01/06
Walnuts	2.0	4/01/06

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 01–22283 Filed 9–4–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2001; MM Docket No. 01–205; RM–10212]

Radio Broadcasting Services; Weinert, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Jeraldine Anderson, requesting the allotment of Channel 266C3 to Weinert, Texas, as that community's first local aural transmission service. This proposal requires a site restriction 13.8 kilometers (8.6 miles) south of the community at coordinates 33–12–15 NL and 99–37–35 WL.

DATES: Comments must be filed on or before October 15, 2001, and reply comments on or before October 30, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–205, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR § 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Weinert, Channel 266C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy ond Rules Division, Mass Media Bureau.

[FR Doc. 01–22201 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2004, MM Docket No. 01–196, RM–10208]

Radio Broadcasting Services; Childress, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Jeraldine Anderson requesting the allotment of Channel 281C2 at Childress, Texas. The coordinates for Channel 281C2 at Childress are 34–12–44 and 100–15–55. There is a site restriction 23.6 kilometers (14.6 miles) south of the community.

DATES: Comments must be filed on or before October 15, 2001, and reply comments on or before October 30, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, S.W., Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061. Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–196, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW.,

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Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1.The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 281C2 at Childress.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22202 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2003, MM Docket No. 01–197, RM–10170]

Radio Broadcasting Services; Baird, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 243C3 at Baird, Texas, as that community's second local FM service. The coordinates for Channel 243C3 at Baird are 32–35–06 and 99–21–56. There is a site restriction 21.4 kilometers (13.3 miles) north of the community.

DATES: Comments must be filed on or before October 15, 2001, and reply comments on or before October 30, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, S.W., Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Katherine Pyeatt, 6655 Aintree circle, Dallas, Texas 75214.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–197, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 243C3 at Baird.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22205 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1998; MM Docket No. 01–106; RM–10105]

Radio Broadcasting Services; Pacific City and Scappoose, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: John L. Zolkoske filed a petition for rule making requesting the allotment of Channel 282A at Pacific City Oregon, as the community's first local aural transmission service. *See* 66 FR 2682, May 15, 2001. Thunderegg Wireless, L.L.C ("Thunderegg") filed a counterproposal and a subsequent request to withdraw its counterproposal. A showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, since there is no continuing show of interest by either party, we will dismiss the instant petition and grant Thunderegg's request to withdraw its counterproposal.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–106, adopted August 15, 2001 , and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22204 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1999; MM Docket No. 00–20; RM–9733]

Radio Broadcasting Services; Paris and Mount Pleasant, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making; Withdrawal.

SUMMARY: This document dismisses a petition for rule making filed by Carephil Communications, Inc. requesting the reallotment of Channel 270C2 from Paris, Texas, to Mount Pleasant, Texas, and modification of the license for Station KBUS(FM) to specify Mount Pleasant as the community of license. *See* 65 FR 7817, February 16, 2000. Carephil Communications, Inc. withdrew its interest in the reallotment of Channel 270C2 from Paris, Texas, to Mount Pleasant, Texas. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–20, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22206 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2002; MM Docket No. 01–198, RM–10213; MM Docket No. 01–199, RM–10214; MM Docket No. 01–200, RM–10215; MM Docket No. 01–201, RM–10216; MM Docket No. 01–202, RM–10217; MM Docket No. 01–203, RM–10218; MM Docket No. 01–204, RM–10219]

Radio Broadcasting Services; Junction, TX; Knox City, TX; Dilley, TX; Frederic, MI; Goree, TX; Leakey, TX; and Sweetwater, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes seven new allotments to Junction, Texas; Knox City, Texas; Dilley, Texas, Frederic, Michigan, Goree, Texas, Leakey, Texas; and Sweetwater, Texas. *See* Supplementary Information, *infra*.

DATES: Comments must be filed on or before October 15, 2001, and reply comments on or before October 30, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Katherine Pyeatt, 6655 Aintree Circle, Dallas Texas, (Petitioner for Junction, Texas); Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061 (Petitioner for Knox City, Dilley, Goree, Leakey, and Sweetwater, Texas); and Arthur V. Belendiuk, Esq., Smithwick & Belendiuk, P.C., 5028 Wisconsin Ave., NW., Suite 301, Washington, DC 20016 (Counsel for Alpine Wireless of Frederic).

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–198; MM Docket No. 01–199; and MM Docket No. 01–200, MM Docket No. 01–201; MM Docket No. 01–202 ; MM Docket No. 01–203; and MM Docket No. 01–204, adopted August 15, 2001, and released August 24, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

The Commission requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 277C3 at Junction, Texas, as potentially the community's third local FM transmission service. Channel 277C3 can be allotted to Junction in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.3 kilometers (7.6 miles) south to avoid short-spacings to the licensed sites of Station KKCN(FM), Channel 276C1, Ballinger, Texas, and Station KEEP(FM), Channel 276A, Bandera, Texas. The coordinates for Channel 277C3 at Junction are 30–22–51 North Latitude and 99–47–59 West Longitude. Since Junction is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 291A at Knox City, Texas, as the community's second local FM transmission service. Channel 291A can be allotted to Knox City in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.7 miles) northeast to avoid a short-spacing to the construction permit site of Station KKHR(FM), Channel 292C2, Abilene, Texas. The coordinates for Channel 291A at Knox City are 33–25–55 North Latitude and 99–47–43 West Longitude.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 264A at Dilley, Texas, as the community's second local FM transmission service. Channel 264A can be allotted to Dilley in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 264A at Dilley are 28–40–02 North Latitude and 99–10–13 West Longitude. Since Dilley is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Alpine Wireless of Frederic proposing the allotment of Channel 237A at Frederic, Texas as the community's first local aural transmission service. Channel 237A can be allotted to Frederic in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.6 kilometers (4.7 miles) east to avoid a short-spacing to the licensed sites of Station WCFX(FM), Channel 237A, Clare, Michigan, and Station WJZJ(FM), Channel 238C2, Glen Arbor, Michigan. The coordinates for

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Channel 237A at Frederic are 44–46–29 North Latitude and 84–39–29 West Longitude. Since Frederic is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 275A at Goree, Texas, as the community's first local aural transmission service. Channel 275A can be allotted to Goree in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.3 kilometers (2.7 miles) northeast to avoid a short-spacing to the licensed site of Station KHXS(FM), Channel 274C1, Merkel, Texas. The coordinates for Channel 275A at Goree are 33–30–00 North Latitude and 99–30–00 West Longitude.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 299A at Leakey, Texas, as the community's third FM transmission service. Channel 299A can be allotted to Leakey in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.3 kilometers (8.3 miles) west to avoid short-spacings to the licensed sites of Station KXTN–FM, Channel 298C, San Antonio, Texas, and Station XHPC–FM, Channel 300B, Piedras, Mexico. The coordinates for Channel 299A at Leakey are 29–41–58 North Latitude and 99–53–41 West Longitude. Since Leakey is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

The Commission requests comments on a petition filed by Jeraldine Anderson proposing the allotment of Channel 221C3 at Sweetwater, Texas, as the community's second FM transmission service. Channel 221C3 can be allotted to Sweetwater in compliance with the Commission's minimum distance separation requirements at city reference coordinates and requires no site restriction. The coordinates for Channel 221C3 at Sweetwater are 32–28–15 North Latitude and 100–24–20 West Longitude. Since Sweetwater is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CRF part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1.The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Frederic, Channel 237A.

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 264A at Dilley; adding Goree, Channel 275A; adding Channel 277C3 at Junction; adding Channel 291A at Knox City, TX; adding Channel 299A at Leakey; and adding Channel 221C3 at Sweetwater, TX

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22207 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG99

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Oahu Elepaio; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; correction.

SUMMARY: The proposed rule to designate critical habitat for the Oahu elepaio (*Chasiempis sandwichensis ibidis*) was published in the **Federal Register** on June 6, 2001. The maps and legal descriptions of the critical habitat units are correct as published in the **Federal Register**, but Figure 2 in the background of the proposed rule, which showed the proposed critical habitat units in relation to the current, recent historical, and presumed prehistoric distributions of the Oahu elepaio, is incorrect. This document contains the correct version of Figure 2 with an accurate map of the proposed critical habitat units.

DATES: Comments on the proposed rule that was published June 6, 2001 (66 FR 30372) must be received no later than September 6, 2001.

ADDRESSES: Send written comments on the proposed rule to Paul Henson, Field Supervisor, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, or Eric VanderWerf, Biologist, at the above address (telephone: 808/541–3441; facsimile: 808/541–3470).

SUPPLEMENTARY INFORMATION: On June 6, 2001, the U.S. Fish and Wildlife Service (Service) published a proposed rule to designate critical habitat for the Oahu elepaio (66 FR 30372). The proposed rule contained correct maps and legal descriptions of the proposed critical habitat units. However, Figure 2 in the background of the proposed rule, which showed the proposed critical habitat units in relation to the current, recent historical, and presumed prehistoric distribution of the Oahu elepaio, showed the proposed critical habitat units incorrectly. Figure 2 erroneously showed an additional habitat unit in the northern Koolau Mountains, and the boundary of the Northern Waianae Unit was inaccurate along its northwestern edge. We are providing a corrected version of Figure 2 that contains an accurate map of the proposed critical habitat units, and which matches the critical habitat units depicted in the legal description of the original proposed rule. Page 30377 of the proposed rule should be replaced with Figure 2 of this correction.

In addition, we attempted to use the correct spelling of Hawaiian words by including diacritical marks (a single grave mark (') before a vowel indicating a glottal stop, and a macron or horizontal line above a vowel indicating a longer or stressed vowel sound), but we acknowledge that these marks were not printed correctly in the proposed rule. In the final rule to designate critical habitat for the Oahu elepaio, we will ensure that the Hawaiian diacritical marks are either used correctly or eliminated.

Accordingly, make the following correction to FR Doc. 01–14171 published at 66 FR 30372 on June 6, 2001.

PART 17—[CORRECTED]

1. On page 30377, correct the map for Figure 2 to read as follows:

BILLING CODE 4310–55–P

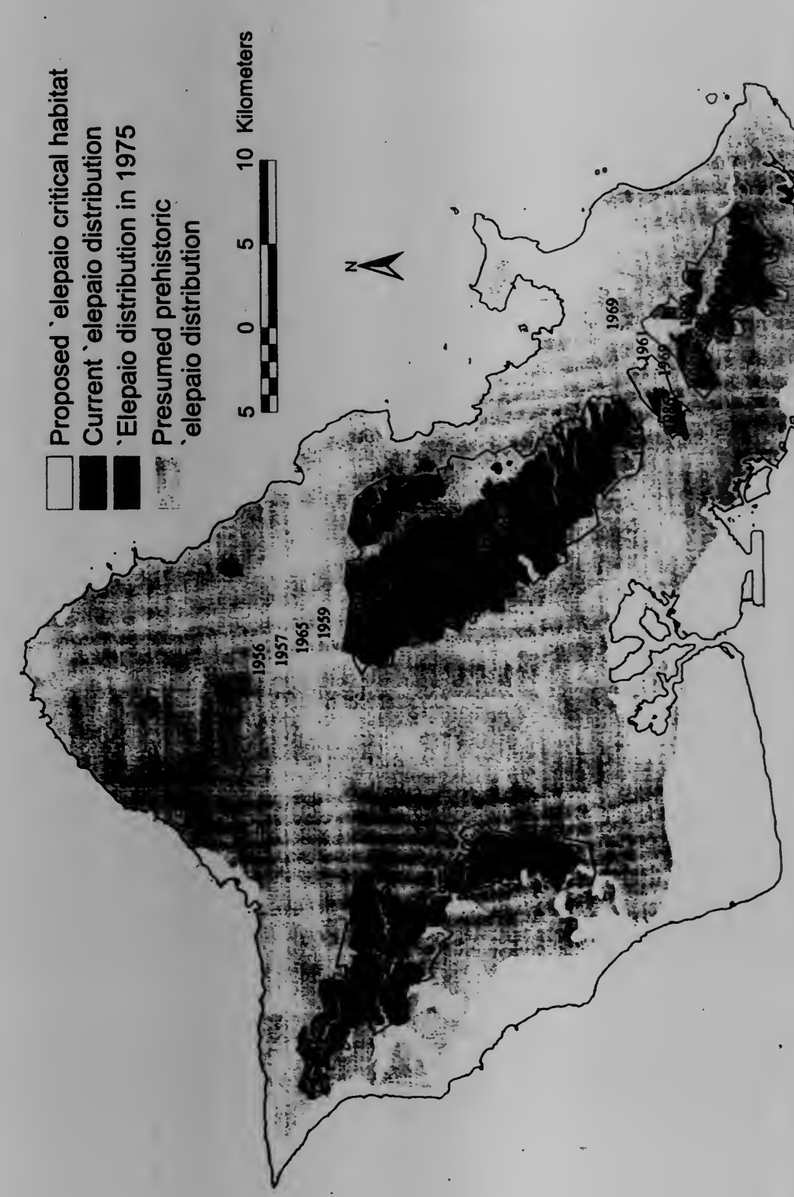


Figure 2. Current, recent historical (1975), and presumed prehistoric distributions of the O`ahu `elepaio. Years indicate when `elepaio were last observed in that area.

Dated: August 8, 2001.
Joseph E. Doddridge,
Acting Assistant Secretary for Fish and Wildlife and Parks.
[FR Doc. 01–22179 Filed 9–4–01; 8:45 am]
BILLING CODE 4310–55–C

Notices

Federal Register
Vol. 66, No. 172
Wednesday, September 5, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Interim Direction on Administration of Authorizations for Fiber Optic Cable Uses on National Forest System Lands

AGENCY: Forest Service, USDA.
ACTION: Notice of availability of agency directive.

SUMMARY: The Forest Service is issuing an interim directive to provide internal administrative direction to guide its employees in the processing of proposals and applications for fiber optic cable uses and in the administration of authorizations for these uses on National Forest System lands. The interim directive is issued to the Forest Service Special Uses Handbook FSH 2709.11, Chapter 40, Special Uses Administration, as ID number 2709.11–2001–1.
DATES: The interim directive is effective September 5, 2001.
ADDRESSES: The interim directive is available electronically from the Forest Service via the World Wide Web/ Internet at *http://www.fs.fed.us/im/directives*. Single paper copies of the interim directive also are available by contacting the Forest Service, USDA, Lands Staff (Mail Stop 1124), P.O. Box 96090, Washington, DC 20090–6090 (telephone 202–205–1264).
FOR FURTHER INFORMATION CONTACT: Mark Scheibel, Lands Staff (202–205–1264).

Dated: August 7, 2001.
Hilda Diaz-Soltero,
Associate Chief for Natural Resources.
[FR Doc. 01–22217 Filed 9–4–01; 8:45 am]
BILLING CODE 3410–11–P

AMTRAK REFORM COUNCIL

Notice of Meeting

AGENCY: Amtrak Reform Council.
ACTION: Notice of special public business meeting in Los Angeles, CA.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997 (Reform Act), the Amtrak Reform Council (Council) gives notice of a special public meeting of the Council. On Thursday, September 20, 2001, the Council will hold a Business Meeting 8:30 a.m.–10:30 a.m. Pacific Daylight Time (PDT) during which time the Council members will discuss general Council business. Immediately following the business meeting, also on September 20, 2001 and at the same location, the Council will hold a formal Hearing inviting the Mountain and West Coast states to testify before the Council regarding the issues raised in the Council's Second Annual Report published in March 2001. The Hearing will be held from 10:30 a.m. to 5:30 p.m. PDT.
DATES: The Business Meeting will be held on Thursday, September 20, 2001, from 8:30 a.m.–10:30 a.m. PDT. The Hearing will also be held on Thursday, September 20, 2001, from 10:30 a.m. to 5:30 p.m. PDT. Both events are open to the public.
ADDRESSES: Both the Business Meeting and the Hearing will take place in the Garden West Room in the Wilshire Grand Hotel, 930 Wilshire Boulevard, Los Angeles, CA 90017. Persons in need of special arrangements should contact the person listed below.
FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, SW, Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061. For information regarding ARC's upcoming events, the agenda for meetings, the ARC's Second Annual Report, information about ARC Council Members and staff, and much more, you can also visit the Council's website at *www.amtrakreformcouncil.gov.*

The Council meeting following the Los Angeles meeting will be held on Friday, October 12, 2001, in the Atlanta B Room of the Atlanta Renaissance Hotel at 590 West Peachtree Street, NW, Atlanta, GA 30308. The ARC Business Meeting will be held from 8:30 a.m. to 10:30 a.m. (EDT). Following the business meeting, the Council will hold a hearing inviting the Southern and East Coast states to testify on issues raised in the Council's Second Annual Report published in March 2001. The hearing will be held from 10:30 a.m. to 5:30 p.m. (EDT).

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (Reform Act), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the Reform Act provides: that the Council is to monitor cost savings from work rules established under new agreements between Amtrak and its labor unions; that the Council submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after a specified period, the Council has the authority to determine whether Amtrak can meet certain financial goals specified under the Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The Reform Act prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC, August 30, 2001.
Thomas A. Till,
Executive Director.
[FR Doc. 01–22244 Filed 9–4–01; 8:45 am]
BILLING CODE 4910–06–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 9:30 a.m. local time on September 25, 2001, at 2175 K Street, Suite 400 Conference Room. The CSB will discuss the agency's draft recommendations policy guidelines. The draft Recommendations Program policy is available at *www.csb.gov* for public review.

The meeting will be open to the public. Please notify CSB if a translator or interpreter is needed, 10 business

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days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of Congressional and Public Affairs, (202) 261–7600, or visit our website.

Christopher W. Warner,

General Counsel.

[FR Doc. 01–22299 Filed 8–30–01; 4:25 pm]

BILLING CODE 6350–50–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, September 26, 2001, at the Hyatt Regency Hotel, 350 North High Street, Columbus, Ohio 43215. The purpose of the meeting is to discuss current events and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 29, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–22212 Filed 9–4–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on Friday, September 28, 2001, at the Philadelphia Convention Center, Conference Room B, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The Advisory Committee will plan a press conference to release its report, *Barriers to Minority and Women Owned Businesses in Pennsylvania*, and discuss new topic areas.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 29, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–22210 Filed 9–4–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Committee to the Commission will convene at 10:45 a.m. and adjourn at 2:45 p.m. on Friday, September 21, 2001, at the Burlington International Airport, Hamilton Room-One Flight Up Restaurant, 1200 Airport Drive, South Burlington, Vermont 05430. The Advisory Committee will hold a planning meeting to review its draft project proposal, discuss future coordination with educational leaders, and plan its next project activity.

Persons desiring additional information, or planning a presentation to the Committee, should contact Marc Pentino, of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 29, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–22211 Filed 9–4–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Membership of the USCCR Performance Review Board

AGENCY: Commission on Civil Rights.

ACTION: Notice of membership of the USCCR Performance Review Board.

SUMMARY: This notice announces the appointment of the Performance Review Board (PRB) of the United States Commission on Civil Rights. Publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of the U.S. Commission on Civil Rights' Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Staff Director, U.S. Commission on Civil Rights for the FY 2001 rating year.

FOR FURTHER INFORMATION CONTACT: George Harbison, Acting Director of Human Resources, U.S. Commission on Civil Rights, 624 9th Street, N.W., Washington, D.C. 20425, (202) 376–8364.

Members

Gloria Gutierrez
Assistant Director Marketing and Customer Liaison U.S. Bureau of the Census

Robert Kugelman
Director, Office of Budget Department of Commerce

Joseph Mancias
Senior Management Counsel Department of Justice

Les Jin,

Staff Director.

[FR Doc. 01–22274 Filed 9–4–01; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

[I.D. 062901C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Implantation and Recovery of Archival Tags.

Form Number(s): None.

OMB Approval Number: 0648–0338.

Type of Request: Regular submission.

Burden Hours: 15.

Number of Respondents: 20.

Average Hours Per Response: 30 minutes for tag recovery and notification, 30 minutes for notification of tag implantation, and 1 hour for a report of tag implantation

Needs and Uses: Under a scientific research exemption any person may catch, possess, retain, and land any regulated species in which an archival tag has been affixed or implanted, provided that the person immediately reports the landing to NMFS. In addition, any person affixing or implanting an archival tag into a regulated species is required to provide NMFS with written notification in advance of beginning the tagging activity and to provide a written report upon completion of the activity.

Affected Public: Individuals and households, business or other for-profit organizations, not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 24, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–22183 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: American Management and Business Internship Training (AMBIT) Program: Applications.

Agency Form Number: N/A.

OMB Number: 0625–0224.

Type of Request: Revision-Regular Submission.

Burden: 465.

Number of Respondents: 265.

Avg. Hours Per Response: 1–3 hours.

Needs and Uses: The U.S. Department of Commerce's International Trade Administration (ITA), in collaboration with the International Fund for Ireland (IFI), has established the American Management & Business Internship Training (AMBIT) program. AMBIT provides one-week to six-month training programs for managers and technical experts from Northern Ireland and the Border Counties of Ireland, thereby improving their skills while enhancing U.S. commercial opportunities in the region. AMBIT was launched in 1995 to demonstrate America's interest in supporting the peace process by encouraging economic development in Northern Ireland and the Six Border Counties of Ireland.

The U.S. Department of Commerce works in partnership with the IFI, an organization established in 1986 by the British and Irish Governments to promote economic/social progress and to encourage contact, dialog, and reconciliation in the region. The United States, the European Union, Canada, Australia, and New Zealand contribute to the IFI budget.

Affected Public: Business or other non-profit, individuals (non-U.S. citizens).

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain a benefit, voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230 or via internet at *MClayton@doc.gov*.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22208 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: SABIT: Applications and Questionnaires.

Agency Form Number: N/A.

OMB Number: 0625–0225.

Type of Request: Revision-Regular Submission.

Burden: 6,088.

Number of Respondents: 2,800.

Avg. Hours Per Response: 2 hours.

Needs and Uses: The Special American Business Internship Training (SABIT) programs of the Department of Commerce's International Trade Administration (ITA), are a key element in the U.S. Government's efforts to support the economic transition of the Newly Independent States (NIS) of the former Soviet Union. SABIT places business executives and scientists from the Independent States in U.S. firms for one-to-six month internships to gain firsthand experiences working in a market economy. This unique private sector-U.S. Government partnership was created in order to tap the U.S. private sector's expertise in assisting the NIS's transition to a market economy while boosting U.S.-NIS long-term trade.

Under the "regular" (grants) SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. The information collected by the Application is needed by the SABIT staff to recruit and screen respondents and provide U.S. firms with a pool of eligible candidates from which to select interns. Intern applications are required to determine the suitability of candidates for SABIT internships. Feedback surveys and end-of-internship reports are needed to enable SABIT to track the success of the program as regards trade between the U.S. and NIS, as well as to improve the content and administration of the programs.

Affected Public: Business or other non-profit, individuals (non-U.S. citizens).

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit, voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by

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calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230 or via internet at *MClayton@doc.gov*.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22209 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Oil Country Tubular Goods From Korea: Extension of Time Limit for Preliminary Results of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of new shipper review.

EFFECTIVE DATE: September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Strollo or Dana Mermelstein, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–5255 or (202) 482–1391, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Departments's regulations are to the current regulations, codified at 19 CFR part 351 (2001).

Background

On February 28, 2001, the Department of Commerce (the Department) received a properly filed request from Shinho Steel Company (Shinho) for a new shipper administrative review of the antidumping duty order on oil country tubular goods from Korea. On April 9, 2001, the Department published a notice of initiation of this administrative review, covering the period of August 1, 2000 through February 28, 2001 (66 FR 18438).

Extension of Time Limits for Preliminary Results

This is the first review of this order concerning Shinho. There are several complex issues, including the selection of a comparison market and the request for a constructed export price offset. As such, it is not practicable to complete this review within the time limits mandated by section 751(a)(2)(B) of the Act. Therefore, we are extending the due date for the preliminary results until January 28, 2002 pursuant to section 751(a)(2)(B)(iv) of the Act. The final results will be due 90 days after the issuance of the preliminary results, unless extended.

August 29, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–22276 Filed 9–4–01; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 01–C0011]

HMB Corporation (f/k/a Taylor Electric Supply, Inc.), Respondent Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1115.20(b)(4). Published below is a provisionally-accepted Settlement Agreement with HMB Corporation (f/k/a Taylor Electric Supply, Inc.) requiring that HMB Corporation pay between $87,500 through $175,000 for the remediation of certain in-wall electric heaters it distributed that were manufactured by Cadet Manufacturing Company.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by September 20, 2001.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 01–C0011, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Howard N. Tarnoff, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, 1382.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: August 29, 2001.

Todd A. Stevenson,

Acting Secretary.

Consent Agreement

This Consent Agreement is made by and between the staff of the Consumer Product Safety Commission, and HMB Corporation (f/k/a Taylor Electric Supply, Inc.) "HMB"), a domestic corporation, to settle the staff's allegations that HMB, doing business as Taylor Electric Supply, distributed in commerce certain allegedly defective in-wall electric heaters manufactured by Cadet Manufacturing Company ("Cadet"), a domestic corporation, with its principal place of business located at 2500 West Fourth Plain Boulevard, Vancouver, Washington 98660.

Parties

1. The "staff" is the staff of the Consumer Product Safety Commission ("the CPSC" or "the Commission"), an independent regulatory agency of the United States of America, established by Congress pursuant to section 4 of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2053, as amended.

2. Respondent HMB is a corporation organized and existing under the laws of the State of Oregon. HMB owns and maintains two commercial buildings and the property on which they are located at 1709 S.E. 3rd Ave., and 240 S.E. Clay Blvd., Portland, Oregon. HMB leases the property to Rexel Taylor Corporation, which, through its subsidiary Summers Group, Inc., purchased HMB's wholesale electrical distribution business in 1997.

Subject Matter

3. Since approximately 1978, Cadet allegedly manufactured, sold and/or distributed in commerce in-wall electric heaters for use in homes and residences under the brand names "Cadet" and "Encore." These include all models and variants within each model of the series

FW (including models FW–051, FW–101, FW–122, FW–202, and FW–751), manufactured between 1978 and 1987; series FX (including models FX–051, FX–052, FX–071, FX–072, FX–101, FX–102, FX–122, FX–151, FX–152, FX–202, and FX–242), manufactured between 1985 and 1994; series LX (including models LX–242, LX–302, LX–402, and LX–482), manufactured between 1985 and 1994; series TK (including models TK–051, TK–071, TK–072, TK–101, TK–102, TK–151, and TK–152), manufactured between 1984 and 1998; series ZA (including models ZA–051, ZA–052, ZA–071, ZA–072, ZA–101, ZA–102, ZA–122, ZA–151, ZA–152, ZA–202, and ZA–242), manufactured between 1985 and 1994; series Z (including models Z–072, Z–101, Z–102, Z–151, Z–152, Z–202, and Z–208), manufactured between 1993 and 1999; and all series and models of the same or functionally identical heaters manufactured and distributed by Cadet under the Encore brand name, including series RX (including modes RX–072, RX–101, RX–102, RX–151, RX–152, RX–202, and RX–242), manufactured between 1985 and 1994; series RLX (including models RLX–302, RLX–402, and RLX–482) manufactured between 1985 and 1994; series RK (including models RK–101 and RK–102), manufactured between 1984 and 1998; series RA (including models RA–101, RA–102, RA–151, RA–152, and RA–202), manufactured between 1985 and 1994; series ZC (including models ZC–072, ZC–101 ZC–102, ZC–151, ZC–152, ZC–202, and ZC–208), manufactured between 1993 and 1999; and series RW, manufactured between 1978 and 1981. For each of these heaters, the variants signified by the suffix T (with thermostat), W (white color), and TW (with thermostat and white color) found after the model number are included. All the heaters and variants referred to in this paragraph shall hereinafter be collectively referred to as "the Heaters." The Heaters were sold and/or distributed to consumers principally in the States of California, Idaho, Montana, Oregon, and Washington. Between approximately 1982 and 1997, Taylor Electric Supply allegedly sold and/or distributed certain of the Heaters in commerce.

4. On January 14, 1999, the staff filed an Administrative Complaint ("Complaint") against Cadet, seeking a determination that certain of the Heaters present a substantial product hazard within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2), and public notice and a recall of certain of the Heaters pursuant to sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d). The Complaint alleged that certain of the Heaters are defective and present a substantial product hazard within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2), because their design and/or manufacture causes them to overheat, fail, and catch fire; and/or allows lint, dirt, or debris to build up within the heaters and catch fire. The Complaint also alleged that the design of certain of the Heaters can cause the Heaters to spew flames and/or burning or molten particles, or eject sparks into the living space of a home or residence, or energize the Heaters creating a risk of electric shock. On July 30, 1999, the CPSC approved a Consent Agreement and Order ("the Cadet Order") between the Staff and Cadet which, *inter alia*, required Cadet to undertake a remediation program for notification to consumers and for the replacement of the Heaters ("the Cadet Corrective Action Plan" or "the Plan"). The Plan became effective on February 17, 2000. As of April 30, 2001, consumers had ordered 332,857 replacement heaters under the Cadet Corrective Action Plan.

Agreement of the Parties

5. It is the express purpose of the parties entering this Consent Agreement to protect the public safety by assisting Cadet's recall and replacement of the Heaters.

6. Fulfillment of the terms of this Consent Agreement and the attached Order (hereinafter "Order" or "the Order"), which is hereby incorporated by reference, shall resolve all potential obligations of HMB (and each of HMB's successors, assigns, parents, subsidiaries, affiliated entities, agents, representatives, attorneys, employees, officers, directors, stockholders, and principals) (collectively "the HMB Releasees") under Sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d), to give public notice of the alleged hazard presented by the Heaters, and to repair, replace, or refund the purchase price of the Heaters. Fulfillment of the terms of this Consent Agreement and Order shall also resolve all potential obligations and liabilities of the HMB Releasees for all other claims and causes of action which could have been alleged by the CPSC against the HMB Releasees relating to the Heaters, based upon information known to the CPSC, or otherwise in the CPSC's possession, at the time the CPSC staff signs this Consent Agreement. Nothing in this Paragraph 6 is intended to limit the CPSC's rights under Paragraph 20 of this Consent Agreement.

7. The staff believes that this Consent Agreement and Order is an equitable resolution of consumer claims against HMB for replacement heaters, and the staff has concluded that the Cadet Corrective Action Plan, and HMB's participation in that Plan, will provide an effective, fair, reasonable and adequate remedy for consumers throughout the United States who own or are otherwise exposed to the Heaters by notifying consumers of the alleged hazard and providing replacement heaters to them, and that this Agreement is, therefore, in the best interests of consumers.

8. This Consent Agreement and Order shall not be deemed or construed as an admission by HMB or as evidence: (a) Of any violation of law or regulation by HMB; (b) of other wrongdoing by HMB; (c) that the Heaters are defective, create a substantial product hazard, or are unreasonably dangerous; or (d) of the truth of any claims or other matters alleged or otherwise stated by the CPSC or any other person either against HMB or with respect to the Heaters.

9. The Heaters are "consumer products" within the meaning of Section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

10. HMB (f/k/a Taylor Electric Supply) was a "distributor" of "consumer product[s]," which were "distributed in commerce," as those terms are defined in sections 3(a)(1), (5), and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (5), and (11).

11. The CPSC has jurisdiction over HMB and the Heaters under sections 3(a)(1), (5), and (11) and section 15 of the CPSA, 15 U.S.C. 2052(a)(1), (5), and (11) and § 2064.

12. For purposes of this settlement only, HMB agrees not to contest the staff's allegation, which HMB denies, that the Heaters contain a "defect which creates a substantial product hazard," as those terms are defined in section 15(a) of the CPSA, 15 U.S.C. 2064(a).

13. Upon final acceptance by the CPSC of this Consent Agreement and Order, HMB knowingly, voluntarily, and completely waives and relinquishes any past, present, and/or future right or rights in this matter: (a) To the issuance of a proposed complaint in accordance with 16 CFR 1115.20(6), to an administrative or judicial hearing, and to all further procedural steps—including findings of fact and conclusions of law—to determine whether the Heaters contain a defect which creates a substantial product hazard within the meaning of section 15 of the CPSA; (b) to seek judicial review or otherwise challenge or contest the validity of this consent Agreement and

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Order as issued and entered; (c) to seek judicial review of this or any past orders, findings, and/or determinations of the CPSC in this matter, except as set forth in Paragraphs 21 and 24 of this Consent Agreement; and (d) to file any claim or to seek any remedy under the Equal Access to Justice Act.

14. The order is issued under Sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and 9d), and a violation of this Consent Agreement and Order is a prohibited act within the meaning of section 19(a)(5) of the CPSA, 15 U.S.C. 2068(a)(5), and may subject HMB to civil and/or criminal penalties under sections 20 and 21 of the CPSA, 15 U.S.C. 2069 and 2070.

15. HMB agrees to fulfill all requirements of this Consent Agreement and Order.

16. For all purposes, this Consent Agreement and Order shall constitute an enforceable judgment obtained in ana ction or proceeding by a governmental unit to enforce its police and regulatory power. HMB acknowledges and agrees that this Consent Agreement and order are pursuant to the CPSC's police and regulatory power to remedy the alleged risk created by the Heaters, and that, once HMB signs the Consent Agreement and Order, the Consent Agreement and Order will not be subject to an automatic stay in any bankruptcy proceeding involving HMB.

17. HMB acknowledges that any interested person may bring an action pursuant to section 24 of the CPSA, 15 U.S.C. 2073, in any United States District Court in which HMB is found or transacts business, to enforce the Order and to obtain appropriate injunctive relief.

18. This Consent Agreement and Order shall be binding upon and inure to the benefit of the parties hereto and their successors, assigns, and any operating bankruptcy trustees or receivers. If, prior to the termination of this Consent Agreement and Order, HMB merges with any other business entity or sells, assigns, or otherwise transfers substantially all of its assets. HMB shall provide reasonable prior notice to the surviving corporation or to the purchaser, assignee, or transferee of substantially all of HMB's assets, of this Consent Agreement and Order, and of its binding effect upon said surviving corporation, purchaser, assignee, or transferee. The existence of this Consent Agreement and Order and its binding effect shall be noted in any agreement between HMB and such surviving corporation, purchaser, assignee, or transferee shall execute a document agreeing to be bound by the provisions of this Consent Agreement and Order and shall submit to the jurisdiction of the CPSC for purposes of enforcement of this Consent Agreement and Order. In the event of any merger, sale, assignment, or transfer of substantially all of HMB's assets, HMB shall provide written notice to the staff at least sixty (60) days prior to any such merger, asset sale, assignment, or transfer.

19. The CPSC, the staff, and/or HMB may disclose terms of this Consent Agreement and Order to the public.

20. If any provision of this Consent Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Consent Agreement and Order, such provision shall be fully severable. In such event, there shall be added as part of this Consent Agreement and Order a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. The effective date of the added provision shall be the date upon which the prior provision was held to be invalid, illegal, or unenforceable. The rest of the Consent Agreement and Order shall remain in full effect, unless the CPSC determines, after providing HMB with notice and a reasonable opportunity to comment, that severing the provision materially impacts the Cadet Corrective Action Plan. The CPSC determination shall constitute the final agency decision and shall be subject to judicial review, such review to be based upon the record of any such CPSC proceeding and according to law.

21. This Consent Agreement and Order have been negotiated by the parties. HMB is not relying on the advice of the staff, nor anyone associated with the staff, as to legal, tax, or other consequences of any kind arising out of this Consent Agreement and Order, and HMB specifically assumes the risk of all legal, tax, and other consequences.

22. HMB acknowledges that this Consent Agreement and Order have been negotiated between unrelated, sophisticated, and knowledgeable parties acting in their own self-interest and represented by counsel, and the provisions of this Consent Agreement and Order shall not be interpreted or construed against any person or entity because that person or entity or any of its attorneys or representatives drafted or participated in drafting this Consent Agreement and Order.

23. The provisions of this Consent Agreement and Order shall be interpreted in a reasonable manner to effect its purpose to remedy the alleged hazard that the Heaters pose and to resolve potential claims by the CPSC against HMB with respect to the Heaters.

24. The existence of a dispute between the staff and HMB over any provision of this Consent Agreement and Order shall not excuse, toll, or suspend any obligation or deadline imposed upon HMB under this Consent Agreement and Order, other than the specific provision in dispute.

25. This Consent Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the parties and approved by the CPSC.

26. This Consent Agreement and Order contain the entire agreement, understanding, representation, and interpretation of the parties herein, and nothing else may be used to vary or contradict its terms.

27. HMB's obligations under this Consent Agreement and Order shall terminate when HMB makes the final payment required under Paragraphs 3 and 4 of the Order.

28. HMB makes the monetary payments described in Paragraphs 3 and 4 of the Order solely as restitution to find the Cadet Corrective Action Plan and thereby to settle claims arising out of its alleged distribution of the Heaters. No payment made pursuant to, or referred to in this Consent Agreement and Order is a fine or other penalty paid with respect to any violation of any law or regulation. Payment hereunder does not constitute, nor shall it be construed or treated as, payment in lieu of a fine or other penalty, punitive recovery, or forfeiture.

29. HMB may request appropriate verification from the staff, including record review, of the number of replacement heaters ordered from Cadet under the Cadet Corrective Action Plan. Upon receipt of a request from HMB, the staff shall provide such verification, subject to appropriate protective orders preserving the confidentiality of business records obtained from Cadet. In the event that such verification demonstrates the number of replacement heaters represented by the CPSC to HMB pursuant to Paragraph 5 of the Order to be incorrect, thus rendering HMB's payment into the escrow account incorrect, the staff shall direct the Escrow Agent to refund the overpayment to HMB in the amount of $0.875 per heater. A dispute as to the proper amount of contingent contribution shall be resolved in accordance with Paragraph 24 of this Consent Agreement.

30. HMB and the staff consent to the entry of the Order attached hereto.

31. Upon provisional acceptance of this Consent Agreement and Order by the CPSC, this Consent Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1115.20(b)(4). If the CPSC does not receive any written request not to accept this Consent Agreement and Order within fifteen (15) calendar days, this Consent Agreement and Order shall be deemed finally accepted on the twentieth (20th) calendar day after the date it is published in the **Federal Register** in accordance with 16 CFR 1115.20(b)(5).

32. Upon final acceptance by the CPSC of this Consent Agreement and Order, the CPSC shall issue the incorporated Order. This Consent Agreement and Order shall become effective upon service of the signed Order upon HMB.

33. The parties have executed two (2) identical copies of this Consent Agreement and the two copies shall be treated as one and the same executed Consent Agreement.

Dated: July 12, 2001.

Howard N. Tarnoff,
Trial Attorney.
Margaret H. Plank,
Trial Attorney.
Eric L. Stone,
Director, Legal Division.
Alan H. Schoem,
Assistant Executive Director, Office of Compliance, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814. Telephone: (301) 504–0626, Facsimile: (301) 504–0359.

Dated: July 23, 2001.

William H. Taylor,
President, HMB Corporation, P.O. Box 15198, Portland, OR 97293. Telephone: (503) 233–5321.

Order

Upon consideration of the Consent Agreement entered into between Respondent HMB Corporation ("HMB") and the staff of the Consumer Product Safety Commission ("the staff") (collectively "the parties") and

The Consumer Product Safety Commission ("the CPSC" or "the Commission") having jurisdiction over the subject matter and HMB;

It is hereby ordered that:

1. The Consent Agreement between HMB and the staff is incorporated herein by reference and accepted, and HMB shall comply with all obligations of the Consent Agreement and this Order.

2. Based on the Consent Agreement, the CPSC finds that the Consent Agreement and this Order are necessary to protect the public from the alleged hazard presented by Cadet's series FW, FX, LX, TK, ZA, and Z in-wall electric heaters, and the functionally identical heaters manufactured and distributed by Cadet under the Encore brand name, including series RX, RLX, RK, RA, RW, and ZC. These heaters shall hereinafter be collectively referred to as "the Heaters."

3. HMB shall pay into an escrow account (Chase Manhattan Trust Company, National Association, Account #76609060682) established by the staff and Cadet for the purpose of remedying the alleged hazard posed by the heaters ("Escrow Account") the sum of EIGHTY—SEVEN THOUSAND FIVE HUNDRED DOLLARS ($87,500) upon the CPSC's final acceptance of this Order.

4. HMB shall pay into the Escrow Account contingent contribution(s) of an additional ($0.875) for every heater in excess of three hundred and fifty thousand (350,000) heaters ordered by consumers on or before February 17, 2002, under the Cadet Consent Agreement and Order, which was approved by the CPSC on July 30, 1999 ("the Cadet Order"). HMB's contingent contribution(s) shall be capped at EIGHTY—SEVEN THOUSAND FIVE HUNDRED DOLLARS ($87,500). HMB shall pay contingent contributions quarterly within fifteen (15) days of HMB's receipt of written notice from the staff of the number of replacement heaters over 350,000 ordered by consumers on or before February 17, 2002, and shipped by Cadet under the terms of the Cadet Order.

5. The CPSC may authorize the distribution of the monetary payments referred to in Paragraphs 3 and 4 above: (a) To offset expenses directly related to Cadet's CPSC-approved Corrective Action Plan; and/or (b) to otherwise remedy the alleged hazard posed by the Heaters.

6. In addition to any penalty it may incur pursuant to Paragraph 14 of the Consent Agreement, if HMB fails to make timely contributions to the Escrow Account, as required by Paragraphs 4 and 5 of this Order, HMB shall be liable for additional contributions to the Escrow Account. Such additional contributions shall consist of the following:

a. Interest at the percentage rate established by the Department of the Treasury pursuant to 31 U.S.C. 3717, for any period after the due date and

b. A five percent (5%) per month penalty charge if the deposit is not made within thirty (30) days after the due date.

Provisionally accepted and Provisional Order issued on the 29th day of August, 2001.

By order of the commission.

Todd A. Stevenson,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 01–22162 Filed 9–4–01; 8:45 am]

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DEPARTMENT OF EDUCATION

[CFDA Nos. 84.019A, 84.021A, 84.022A]

Office of Postsecondary Education; Fulbright-Hays Faculty Research Abroad Fellowship Program, Fulbright-Hays Group Projects Abroad Program, and Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program

Notice inviting applications for new awards for fiscal year (FY) 2002.

Purpose of Programs: (a) The Faculty Research Abroad Fellowship Program offers opportunities to faculty members of institutions of higher education for research and study in modern foreign languages and area studies.

(b) The Group Projects Abroad Program supports overseas projects in training, research, and curriculum development in modern foreign languages and area studies for groups of teachers, students, and faculty engaged in a common endeavor. Projects may include advanced intensive language projects, short-term seminars, curriculum development, or group research or study.

(c) The Doctoral Dissertation Research Abroad Fellowship Program provides opportunities for graduate students to engage in full-time dissertation research abroad in modern foreign languages and area studies.

Eligible Applicants: (a) Institutions of higher education are eligible to participate in the Faculty Research Abroad Fellowship Program and the Doctoral Dissertation Research Abroad Fellowship Program.

(b) Institutions of higher education, State departments of education, nonprofit private educational organizations, and consortia of these entities are eligible to participate in the Group Projects Abroad Program.

DATES: The dates of availability of applications and the deadlines for the transmittal of applications under each of these competitions are listed in the chart in this notice.

Estimated Available Funds: The Administration has requested for FY 2002 (a) $1,400,000 for the Faculty Research Abroad Fellowship Program; (b) $3,459,000 for the Group Projects Abroad Program; and (c) $3,141,000 for the Doctoral Dissertation Research Abroad Fellowship Program. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for these programs.

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CFDA number and name of program	Applications available	Deadline for transmittal of applications	Estimated range of awards	Estimated average size of awards	Estimated number of awards	Project period
84.019A Fulbright-Hays Faculty Research Abroad Fellowship Program.	September 12, 2001.	October 29, 2001.	$10,000–100,000	$46,667	30 fellowships ...	3–12 months.
84.021A Fulbright-Hays Group Projects Abroad Program.	September 5, 2001.	October 22, 2001.	35,000–200,000	72,063	48	4–6 weeks for short-term seminars and curriculum development projects. 3–12 months for group research or study projects. 36 months for advanced intensive language projects.
84.022A Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program.	September 12, 2001.	October 29, 2001.	10,000–70,000	26,846	117 fellowships	6–12 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for these programs as follows: 34 CFR part 662 governing the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program; 34 CFR part 663 governing the Fulbright-Hays Faculty Research Abroad Fellowship Program; and 34 CFR part 664 governing the Fulbright-Hays Group Projects Abroad Program.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Fulbright-Hays Faculty Research Abroad Fellowship Program and Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program

These competitions focus on projects designed to meet the following priority established by the Secretary for the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program (34 CFR 662.21(d)) and the Fulbright-Hays Faculty Research Abroad Fellowship Program (34 CFR 663.21(d)):

A research project funded under this priority must focus on one or more of the following areas: Africa, East Asia, Southeast Asia and the Pacific, South Asia, the Near East, East Central Europe and Eurasia, and the Western Hemisphere (Canada, Central and South America, Mexico, and the Caribbean). Please note that applications that propose projects focused on Western Europe will not be funded.

For FY 2002 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

Fulbright-Hays Group Projects Abroad Program

This competition focuses on projects designed to meet the following priority established by the Secretary for this program (34 CFR 664.32(a)(2)):

A group project funded under this priority must focus on one or more of the following areas: Africa, East Asia, South Asia, Southeast Asia and the Pacific, the Western Hemisphere (Central and South America, Mexico, and the Caribbean), East Central Europe and Eurasia, and the Near East. Please note that applications that propose projects focused on Canada or Western Europe will not be funded.

For FY 2002 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

Competitive Priority

Within the absolute priority specified in this notice for the Fulbright-Hays Group Projects Abroad Program, this competition focuses on projects designed to meet the following priority (34 CFR 664.30(b) and 34 CFR 664.31(g)):

Short-term seminars that develop and improve foreign language and area studies at elementary and secondary schools.

Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points to an application, depending on how well the application meets the priority.

Invitational Priority

Within the absolute priority specified in this notice for the Fulbright-Hays Group Projects Abroad Program, we are particularly interested in applications that meet the following invitational priority:

Group study projects that provide opportunities for regionally or nationally recruited undergraduate students to study in a foreign country for either a semester or a full academic year.

Under 34 CFR 75.105(c)(1) we do not give an application that meets the invitational priority a competitive or absolute preference over other applications.

For Applications and Further Information Contact

Applications for all the programs are available at: *www.ed.gov/offices/OPE/HEP/iegps/*

Faculty Research Abroad Fellowship Program: Eliza Washington, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8521. Telephone: (202) 502–7633, or via Internet: *eliza.washington@ed.gov.*

Group Projects Abroad Program: Lungching Chiao, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8521. Telephone: (202) 502–7624, or via Internet: *lungching.chiao@ed.gov.*

Doctoral Dissertation Research Abroad Fellowship Program: Karla Ver Bryck Block, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8521. Telephone: (202) 502–7632, or via Internet: *karla.verbryckblock@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under For Applications and Further Information Contact.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting those persons. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

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Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 22 U.S.C. 2452(b)(6).

Dated: August 29, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–22187 Filed 9–4–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.153A]

Office of Postsecondary Education; Business and International Education Program

Notice inviting applications for new awards for fiscal year (FY) 2002.

Purpose of Program: The Business and International Education Program provides grants to institutions of higher education to enhance international business education programs and to expand the capacity of the business community to engage in international economic activities.

Eligible Applicants: Institutions of higher education that enter into agreements with trade associations, business enterprises, or trade organizations that are engaged in international economic activity.

Applications Available: September 17, 2001.

Deadline for Transmittal of Applications: November 5, 2001.

Deadline for Intergovernmental Review: January 4, 2002.

Estimated Available Funds: The Administration has requested $4,300,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process, if Congress appropriates funds for this program.

Estimated Range of Awards: $50,000–$95,000.

Estimated Average Size of Awards: $77,137 per year.

Estimated Number of Awards: 27.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, and 98; and (b) The regulations for this program in 34 CFR parts 655 and 661.

SUPPLEMENTARY INFORMATION: Matching requirement: Under title VI, part B, section 613(d) of the Higher Education Act of 1965, as amended, Business and International Education Program grantees must provide no less than 50 percent of the total cost of projects in each fiscal year. Example: The institution's total costs of the proposed project will be $140,000 per year. The institution may request a grant in the amount of $70,000 or less. The institution must provide the remaining $70,000 in cash or in-kind contributions.

Priority

Invitational Priority

We are particularly interested in applications that meet the following priority.

Applications from institutions of higher education that propose educational programs abroad, including pre-departure and post-return programs, for undergraduate and graduate students to study or intern or both in a foreign country for a semester or more. These programs should be integrated into the curriculum of the home institutions.

Under 34 CFR 75.105(c)(1) we do not give an application that meets the invitational priority a competitive or absolute preference over other applications.

For Applications and Further Information Contact: Tanyelle Richardson, Business and International Education Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW., Suite 600, Washington, DC 20006–8521. Telephone: (202) 502–7626 or via Internet: *tanyelle.richardson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1130a–1130b.

Dated: August 29, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–22188 Filed 9–4–01; 8:45 am]

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DEPARTMENT OF EDUCATION

[CFDA No. 84.017A]

Office of Postsecondary Education; International Research and Studies Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The International Research and Studies Program provides grants to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and other international fields.

Eligible Applicants: Public and private agencies, organizations and institutions, and individuals.

Applications Available: September 10, 2001.

Deadline for Transmittal of Applications: November 5, 2001.

Estimated Available Funds: The Administration has requested $4,500,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications at this time to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $50,000–$150,000 per year.

Estimated Average Size of Awards: $99,000 per year.

Estimated Number of Awards: 19.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 85, 86, 97, 98, and 99; and (b) The regulations for this program in 34 CFR parts 655 and 660.

For Applications and Further Information Contact: Jose L. Martinez, International Research and Studies Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street NW., Suite 600, Washington, DC 20006–8521. Telephone: (202) 502–7635, or via Internet: *jose.martinez@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Applications and Further Information Contact.*

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

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Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1125.

Dated: August 29, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–22237 Filed 9–4–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

[FE Docket Nos. PP–234 and PP–235]

Notice of Floodplain and Wetlands Involvement Baja California Power, Inc. and Sempra Energy Resources

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of floodplain/wetland involvement.

SUMMARY: Baja California Power, Inc. (BCP) and Sempra Energy Resources (SER) have both applied for Presidential permits to construct, operate, maintain, and connect double-circuit electric transmission lines across the U.S. border with Mexico. The proposed action(s) have the potential to impact on a floodplain/wetlands. In accordance with DOE regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR Part 1022), floodplain or wetlands assessments will be performed for these proposed actions in a manner so as to avoid or minimize potential harm to or within potentially affected floodplain and wetlands.

DATES: Comments are due to the address below no later than September 20, 2001.

ADDRESSES: Written comments, questions about the proposed action, and requests to review the draft environmental assessment should be directed to: Ellen Russell, Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350. Fax: (202) 287–5736. E-mail: Ellen.Russell@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–6667.

For Further Information on General DOE Floodplain and Wetlands Environmental Review Requirements Contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119; Phone: 202–586–4600 or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: Under Executive Order 11988, Floodplain Management, and 10 CFR part 1022, Compliance with Floodplain-Wetlands Environmental Review Requirements (http://tis-nt.eh.doe.gov/nepa/tools/regulate/nepa_reg/1022/1022.htm), notice is given that DOE is considering applications from BCP and SER for Presidential permits to construct, operate, maintain and connect double circuit 230,000 kilovolt (230–kV) transmission lines across the U.S. border with Mexico to interconnect new merchant powerplants being constructed in Mexico with the electrical system of San Diego Gas & Electric (SDG&E) at SDG&E's existing Imperial Valley Substation. Notice of filing of the BCP and SER Presidential permit applications appeared in the **Federal Register** on March 22, 2001 (66 FR 16044 and 66 FR 16045, respectively).

Before making a final decision on granting or denying a Presidential permit DOE will prepare a single environmental assessment (EA) to address the environmental impacts that would accrue from the proposed project and reasonable alternatives. The EA will be prepared in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). Because the proposed action has the potential to impact on a floodplain/wetlands, the EA will include a floodplain and wetlands assessment. A floodplain statement of findings will be included in any Finding of No Significant Impact (FONSI) that may be issued following completion of the EA. Copies of the EA and FONSI may be requested by telephone, facsimile, or e-mail from the address given above.

Issued in Washington, D. C., on August 29, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Fossil Energy.

[FR Doc. 01–22234 Filed 9–4–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–241]

Notice of Floodplain and Wetlands Involvement;Enron North America Corp.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of floodplain/wetland involvement.

SUMMARY: Enron North America Corp. (Enron) has applied for a Presidential permit to construct, operate, maintain, and connect double-circuit electric transmission lines across the U.S. border with Mexico. The proposed action has the potential to impact on a floodplain/wetlands. In accordance with DOE regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR part 1022), floodplain or wetlands assessments will be performed for these proposed actions in a manner so as to avoid or minimize potential harm to or within potentially affected floodplain and wetlands.

DATES: Comments are due to the address below no later than September 20, 2001.

ADDRESSES: Written comments, questions about the proposed action, and requests to review the draft environmental assessment should be directed to: Ellen Russell, Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350. Fax: (202) 287–5736. E-mail: Ellen.Russell@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–6667.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN AND WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119; Phone: 202–586–4600 or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: Under Executive Order 11988, Floodplain Management, and 10 CFR Part 1022, Compliance with Floodplain-Wetlands Environmental Review Requirements (http://tis-nt.eh.doe.gov/nepa/tools/regulate/nepa_reg/1022/1022.htm), notice is given that DOE is considering an application from Enron for a Presidential permit to construct, operate, maintain and connect double circuit 230,000 kilovolt (230-kV) transmission lines across the U.S. border with Mexico. Notice of filing of the Enron Presidential permit application appeared in the **Federal Register** on June 27, 2001 (66 FR 34178).

Before making a final decision on granting or denying a Presidential permit, DOE will prepare an environmental assessment (EA) to address the environmental impacts that would accrue from the proposed project and reasonable alternatives. The EA will be prepared in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). Because the proposed action has the potential to impact on a floodplain/wetlands, the EA will include a floodplain and wetlands assessment. A floodplain statement of findings will be included in any Finding of No Significant Impact (FONSI) that may be issued following completion of the EA. Copies of the EA and FONSI may be requested by telephone, facsimile, or e-mail from the address given above.

Issued in Washington, DC, on August 29, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Fossil Energy.

[FR Doc. 01–22235 Filed 9–4–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–68–2]

Notice of Floodplain and Wetlands Involvement; San Diego Gas & Electric Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of floodplain/wetland involvement.

SUMMARY: San Diego Gas & Electric Company (SDG&E) has applied to amend Presidential Permit PP–68 authorizing the construction, operation, maintenance, and connection of a 230-kV electric transmission line at the U.S. international border with Mexico. The proposed action has the potential to impact on a floodplain/wetlands. In accordance with DOE regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR part 1022), a floodplain or wetlands assessment will be performed for this proposed action in a manner so as to avoid or minimize potential harm to or within potentially affected floodplain and wetlands.

DATES: Comments are due to the address below no later than September 20, 2001.

ADDRESSES: Written comments, questions about the proposed action, and requests to review the draft environmental assessment should be directed to: Ellen Russell, Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350. Fax: (202) 287–5736. E-mail: *Ellen.Russell@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–6667.

For Further Information on General DOE Floodplain and Wetlands Environmental Review Requirements Contact:

Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119; Phone: 202–586–4600 or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: Under Executive Order 11988, Floodplain Management, and 10 CFR part 1022, Compliance with Floodplain-Wetlands Environmental Review Requirements (*http://tis-nt.eh.doe.gov/nepa/tools/regulate/nepa_reg/1022/1022.htm*), notice is given that DOE is considering an application from SDG&E to amend the existing Presidential permit to authorize it to make certain changes to the existing transmission line to provide for the connection of the 510-megawatt (MW) Otay Mesa merchant powerplant being developed 1.5 miles north of the border. To interconnect the new powerplant to the existing PP–68 international transmission facilities, SDG&E proposes to construct a 5-acre switchyard within the fenced boundary of the powerplant and to construct approximately 0.1 miles of new 230-kV transmission line to interconnect with the 230-kV Miguel-Tijuana transmission line.

SDG&E also proposes to reconductor that portion of the existing transmission line from the new 5-acre switchyard, north to the Miguel Substation, a distance of approximately 8.5 miles. SDG&E proposes to bundle each circuit by adding a second set of conductors to

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each phase (i.e., 12 total conductors versus 6 that currently exist). The 1.5 mile portion of SDG&E's Miguel-Tijuana international transmission line south of the Otay Mesa powerplant will remain unchanged. Notice of SDG&E's application to amend Presidential Permit PP–68 appeared in the **Federal Register** on February 27, 2001 (66 FR 12504).

Before making a final decision on granting or denying a Presidential permit amendment to SDG&E, DOE will prepare an environmental assessment (EA) to address the environmental impacts that would accrue from the proposed project and reasonable alternatives. The EA will be prepared in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). Because the proposed action has the potential to impact on a floodplain/wetlands, the EA will include a floodplain and wetlands assessment. A floodplain statement of findings will be included in any Finding of No Significant Impact (FONSI) that may be issued following completion of the EA. Copies of the EA and FONSI may be requested by telephone, facsimile, or e-mail from the address given above.

Issued in Washington, DC, on August 29, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Fossil Energy.

[FR Doc. 01–22236 Filed 9–4–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board; Meeting

AGENCY: Department of Energy

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Alternative Technologies to Incineration Committee (ATIC) of the Environmental Management Advisory Board (EMAB). The EMAB is a Federal Advisory Committee act (FACA) entity.

DATES: Tuesday, September 25, 2001 and Wednesday, September 26, 2001.

ADDRESSES: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenues, SW., (Room 6A–092), Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Director of the Environmental Management Advisory Board, (EM–10), 1000 Independence Avenue SW., (Room 5B–171), Washington, DC 20585. The telephone number is 202–586–4400. The Internet address is *james.melillo@em.doe.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management Advisory Program from the perspective of affected groups, as well as state, local, and tribal governments. The Board will contribute to the effective operation of the Environmental Management Advisory Program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing EM and by helping to secure consensus recommendations on those issues. The ATIC will examine emerging candidate technologies identified by the Department for treatment for disposal of mixed transuranic (TRU) and low-level wastes previously scheduled for incineration at the Idaho National Engineering and Environmental Laboratory (INEEL). The Department is identifying these technologies through implementation of its technology Research Development Deployment & Demonstration (RDD&D) plan. The ATIC will facilitate stakeholder comment and communications on issues related to emerging alternative technologies to incineration for the treatment of mixed TRU and low-level wastes.

Preliminary Agenda

Tuesday, September 25, 2001
8:30 a.m.—Welcome and Introductions
—Introductory Comments
—Approval of Minutes from 6/13/01 Meeting
—Remarks-Office of Science and Techonology
—The EM–50 Science and Technology Work Plan Initiatives
—Status of Development Efforts for Technologies Identified by the Blue Ribbon Panel
—Regulatory Initiatives for WIPP
—Public Comment Period
5:00 p.m.—Summary and Closing Comments

Wednesday, September 26, 2001
8:30 a.m.—Introductory Comments
The Stakeholder Forum
—Q&A Session and Summary Comments
—Committee Work Session
—Public Comment Period
4:00 p.m.—Adjournment

Public Participation

This meeting is open to the public. If you would like to file a written statement with the Committee you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address and telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the meeting on September 25–26, 2001, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first.

Others will be accommodated as time permits. The Board Chair will conduct the meeting in an orderly manner.

Minutes

We will make the minutes of the meeting available for public review and copying by November 25, 2001. The minutes and transcript of the meeting will be available for viewing at the Freedom of Information Public Reading Room (1E–190) in the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. The room is open Monday through Friday from 9:00 a.m.–4:00 p.m. except on Federal holidays.

Issued in Washington, DC on August 29, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–22233 Filed 9–4–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 01–28–NG]

Office of Fossil Energy; H.Q. Energy Services (U.S.) Inc.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that on June 25, 2001, it issued DOE/FE Order No. 1694 granting H.Q. Energy Services (U.S.) Inc. (HQUS) long-term authorization to import from Canada up to 48,500 thousand cubic feet per day of natural gas beginning on the date of first import delivery and extending through December 14, 2005, pursuant to the terms of a natural gas sales agreement dated July 15, 1999, between HQUS and Marketing d'Energie HQ Inc. This natural gas may be imported from Canada at the interconnection point between St. Stephen in New Brunswick, Canada and Calais, Maine.

This order may be found on the FE web site at *http://www.fe.doe.gov*, or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities docket room, 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0334, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., July 25, 2001.

Clifford P. Tomaszewski,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import and Export Activities, Office of Fossil Energy.

[FR Doc. 01–22232 Filed 9–4–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–515–000]

Canyon Creek Compression Company; Notice of Proposed Changes in FERC Gas Tariff

August 29, 2001.

Take notice that on August 24, 2001, Canyon Creek Compression Company (Canyon) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective September 24, 2001.

Canyon states that the purpose of this filing is to make several minor revisions to Canyon's Tariff, primarily to the General Terms and Conditions. These changes correct or clarify various provisions of Canyon's Tariff and remove or modify outdated provisions.

Canyon states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22219 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–510–000]

Columbia Gas Transmission Corporation; Notice of Tariff Filing

August 29, 2001.

Take notice that on August 16, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of October 1, 2001:

Third Revised Sheet No. 500B

Columbia states that it is filing NTS Service Agreement No. 71024, OPT Service Agreement No. 71022, and OPT Service Agreement No. 71021, which are agreements for firm transportation service to be provided by Columbia to Virginia Power Services Energy Corp., Inc. (VPSE). While Columbia believes that the VPSE Agreements are largely consistent with Columbia's pro forma Rate Schedule NTS and OPT service agreements, Columbia is filing the VPSE Agreements as non-conforming service agreements within the meaning of Section 154.1(d) of the Commission's Regulations. Columbia requests that the Commission issue an order approving the VPSE Agreements to be effective as of October 1, 2001.

Columbia states that copies of its filing have been mailed to all parties on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22224 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–511–000]

Florida Gas Transmission Company; Notice of Filing of Restated Annual Reports

August 29, 2001.

Take notice that on August 17, 2001, Florida Gas Transmission Company (FGT) tendered for filing restated Annual Reports of system balancing activities.

FGT states that the restated reports are being filed to correct an error resulting from a change in the method of resolving fuel imbalance and to reflect the current reporting methodology. FGT states that the restatements result in a net improvement in the balancing tools position of $759,572. FGT is requesting waiver of the provisions of Section 19.1. B of the General Terms and Conditions of its FERC Gas Tariff in order to offset additional excess revenues identified in the restatement to the cumulative unrecovered cost balance at the end of the latest reporting period.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 5, 2001. Protests will be considered by the Commission in determining the appropriate action to be

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taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22223 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–509–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 29, 2001.

Take notice that on August 17, 2001, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, effective October 1, 2001:

Forty-Eighth Revised Sheet No. 8A
Fortieth Revised Sheet No. 8A.01
Fortieth Revised Sheet No. 8A.02
Forty-Fourth Revised Sheet No. 8B
Thirty-Seventh Revised Sheet No. 8B.01

FGT states that the above referenced tariff sheets are being filed pursuant to Section 22 of the General Terms and Conditions (GTC) of FGT's Tariff to reflect a decrease of the ACA charge to $0.21 cents per MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22225 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–513–000]

Kern River Gas Transmission Company;Notice of Proposed Changes in FERC Gas Tariff

August 29, 2001.

Take notice that on August 22, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 5, First Revised Sheet No. 5–A, and Second Revised Sheet No. 6, to be effective October 1, 2001.

Kern River states that the purpose of this filing is to update Kern River's tariff to reflect the Annual Charge Adjustment (ACA) factor to be effective for the twelve-month period beginning October 1, 2001 pursuant to Section 154.402 of the Commission's regulations. The ACA factor of $0.0021 per Dth specified by the Commission is a decrease of $0.0001 per Dth from Kern River's current ACA factor.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22221 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–512–000]

Mid-Louisiana Gas Company; Notice of Tariff Filing

August 29, 2001.

Take notice that on August 22, 2001, Mid-Louisiana Gas Company (Midla) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of September 1, 2001:

Third Revised Sheet No. 17
Original Sheet No. 17A
Fourth Revised Sheet No. 23
Fourth Revised Sheet No. 28
Third Revised Sheet No. 34
Third Revised Sheet No. 39
Fifth Revised Sheet No. 81

Midla states that the revised tariff sheets are being filed in order to clarify that the fuel retention provisions of Section 4.2 of its NNS, FTS, ITS, FTS–OCS and ITS–OCS Rate Schedules apply to the transportation services that Midla provides on its off-system facilities only to the extent that Midla incurs fuel or lost and unaccounted for volumes on those facilities.

Midla states that, whereas on its main system Midla incurs compressor fuel and lost and unaccounted for volumes in connection with all of its firm and interruptible transportation services, Midla does not incur any compressor fuel volumes on any of its off-system facilities because its does not provide any compression on such facilities, and, in many cases, does not incur any lost or unaccounted for volumes on such facilities either. Thus, according to Midla, its tariff filing clarifies that Midla will retain volumes under Section 4.2 for the firm and interruptible transportation services that it provides on its off-system facilities only to the extent that it incurs compressor fuel or lost and unaccounted for volumes on those facilities. Midla further states that its off-system facilities consist of: (i) its T–32 lateral, (ii) its pipeline facilities connected directly to Gulf South Pipeline Company, LP and (iii) its offshore laterals that are connected to the transmission systems of Tennessee Gas Pipeline Company, Southern Natural Gas Company and ANR Pipeline Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22222 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

tariff sheets to be effective November 1, 2001:

Fifth Revised Sheet No. 263H
Fourth Revised Sheet No. 263H.1

Tariff Sheet Nos. 263H and 263H.1 reflect the Sourcers' flow obligation after the Appendix B customers' election to source or buyout based on Northern's April 19, 2001 filing to replace both its fixed Carlton Premium and its fixed Carlton Surcharge with a mechanism to calculate the Premium and surcharge annually.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22227 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–514–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 29, 2001.

Take notice that on August 23, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective October 1, 2001:

Third Revised Volume No. 1
Twenty-First Revised Sheet No. 5

Original Volume No. 2
Twenty-Seventh Revised Sheet No. 2.2

Northwest states that the purpose of this filing is to update Northwest's tariff to reflect the Annual Charge Adjustment (ACA) factor to be effective for the twelve-month period beginning October 1, 2001 pursuant to Section 154.402 of the Commission's regulations. The ACA factor of $0.0021 per Dth specified by the Commission is a decrease of $0.0001 per Dth from Northwest's current ACA factor.

Northwest states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22220 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11964–000]

Symbiotics, LLC.; Notice of Extension of Time

August 29, 2001.

On July 16, 2001, Elese Teton, a representative for Shoshone-Bannock Tribes, requested an extension of time of the existing deadline to file its comments regarding the "Notice of

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Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests" (66 FR 28460, Published on May 23, 2001), for the Blackfoot Dam Hydroelectric Project, FERC No. 11964.

Upon consideration, notice is hereby given that a further extension of time for the filing of comments in the above proceeding is granted, extending the comment date to September 20, 2001.

David P. Boergers,

Secretary.

[FR Doc. 01–22228 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–477–001]

TransColorado Gas Transmission Company; Notice of Tariff Filing

August 29, 2001.

Take notice that on August 22, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing and acceptance, to be effective August 1, 2001, Second Revised First Revised Sheet No. 247B and Alternate Second Revised First Revised Sheet No. 247B to Original Volume No. 1 of its FERC Gas Tariff.

TransColorado states that it is preparing and intends to file, within the prescribed 30-day period, a request for clarification and rehearing of the August 2nd order. TransColorado states that it will ask the Commission to clarify that the 60-day period for crediting penalty revenues will begin with the close of TransColorado's books at year end as opposed to 60 days from December 31st. TransColorado states that in the alternative it will request rehearing of the August 2nd order and request that the Commission revise the 60-day requirement to 90 days consistent with TransColorado's time requirements and the crediting provisions of other interstate pipelines.

Second Revised First Revised Sheet No. 247B reflects revised procedures for crediting net cashout revenues to shippers to: (1) include the accrual of interest and (2) credit those revenues within 60 days after the accounting close of each calendar year consistent with TransColorado's forthcoming request for clarification. Alternate Second Revised First Revised Sheet No. 247B reflects the identical procedures for the accrual of interest, but increases the time frame to complete the crediting to 90 days in the event that rehearing is granted rather than clarification.

TransColorado states that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22226 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2130–001, et al.]

Central Maine Power Company, et al.; Electric Rate and Corporate Regulation Filings

August 29, 2001.

Take notice that the following filings have been made with the Commission:

1. Central Maine Power Company

[Docket No. ER01–2130–001]

Take notice that on August 22, 2001, Central Maine Power Company (CMP), tendered for filing in compliance with the Federal Energy Regulatory Commission's (FERC or Commission) order issued July 23, 2001, in Docket No. ER01–2130–000 a "First Amendment to Filing," which provides the information that the Commission requested in the July 23 Order.

Copies of this filing have been served on Calpine Construction Finance Company, L.P. and the State of Maine Public Utilities Commission.

Comment date: September 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Old Dominion Electric Cooperative

[Docket No. ER01–2331–000]

Take notice that on August 24, 2001, Old Dominion Electric Cooperative, tendered for filing with the Federal Energy Regulatory Commission (Commission) directive issued August 14, 2001, in the above referenced Docket No., original tariff sheets to comply with Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000).

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Liberty Electric Power, LLC

[Docket No. ER01–2398–001]

Take notice that on August 20, 2001, Liberty Electric Power, LLC , which will own and operate a natural gas-fired electric generating facility in the Borough of Eddystone, Pennsylvania submitted for filing with the Federal Energy Regulatory Commission (Commission) its initial FERC Electric Tariff Volume No. 1, in compliance with the Commission's August 15, 2001 letter order, which will enable Liberty Electric to engage in the sale of electric energy and capacity and ancillary services at market-based rates.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Ameren Services Company

[Docket No. ER01–2920–000]

Take notice that on August 24, 2001, Ameren Services Company (Ameren Services), as agent for Central Illinois Public Service Company (d/b/a AmerenCIPS) and Union Electric Company (d/b/a AmerenUE), submitted an unexecuted service agreement for Network Integrated Transmission Service and an unexecuted Network Operating Agreement with the Rolla Municipal Utilities (Rolla), the customer under the proposed agreements. Ameren Services requests an effective date of January 1, 2001 for these agreements.

A copy of the filing was served upon Rolla and the affected state regulatory commissions.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Atlantic City Electric Company

[Docket No. ER01–2921–000]

Take notice that Atlantic City Electric Company (Atlantic), on August 22, 2001, tendered for filing the Service Agreement with Aquila Energy Marketing Corporation (Aquila) under the Wholesale Market-Based Rate FERC Tariff, Original Volume No. 5, Effective March 28, 2001 of Atlantic City Electric Company providing for Sales of Capacity, Energy and/or Ancillary Services and resale of Transmission Rights.

Copies of the filing were served upon Aquila.

Comment date: September 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. WPS Resources Operating Companies

[Docket No. ER01–2924–000]

Take notice that on August 24, 2001, WPS Resources Operating Companies (WPSR), tendered for filing an unexecuted interconnection agreement and an unexecuted service agreement for ancillary and distribution services between its operating company, Wisconsin Public Service Corporation (WPSC) and Ag Environmental Solutions, LLC (AES). The interconnection agreement will establish the terms and conditions for interconnection service that WPSC will provide for a 750 kW generator owned by AES. The service agreement will permit AES to transmit the energy produced by its generator over WPSC's distribution system. WPSR requests waiver of the Commission's notice requirements to permit an effective date of the earlier of the date on which AES commits to be bound by the agreements as modified by the Commission or the date of the Commission's order.

Copies of the filing were served upon AES, Wisconsin Electric Power Company and the Public Service Commission of Wisconsin.

Comment date: September 14, 2001 in accordance with Standard Paragraph E at the end of this notice.

7. MidAmerican Energy Company

[Docket No. ER01–2925–000]

Take notice that on August 24, 2001, MidAmerican Energy Company (MidAmerican), filed with the Federal Energy Regulatory Commission (Commission) a Contract for Interconnection and Load Control Boundary Points with Western Area Power Administration, dated March 23, 2001, pertaining to the Sioux City 345 kV Point of Interconnection.

MidAmerican requests an effective date of January 1, 2001 for the Contract.

MidAmerican has served a copy of the filing on the Iowa Utilities Board, the Illinois Commerce Commission, the South Dakota Public Utilities Commission and the Western Area Power Administration.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Progress Energy, Inc. On behalf of Florida Power Corporation

[Docket No. ER01–2926–000]

Take notice that on August 24, 2001, Florida Power Corporation (FPC) filed a Service Agreement with Aquila Energy Marketing Corporation under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10.

FPC is requesting an effective date of August 6, 2001 for this Agreement.

A copy of this filing was served upon the Florida Public Service Commission.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER01–2927–000]

Take notice that on August 24, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing a Market-Based Service Agreement under Cinergy's Market-Based Rate Tariff No. 9 (the Tariff) entered into between Cinergy and Reliant Energy Services, Inc. (RESI).

Cinergy and RESI are requesting an effective date of July 24, 2001.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Progress Energy Ventures, Inc.

[Docket No. ER01–2928–000]

Take notice that on August 24, 2001, Progress Energy Ventures, Inc. tendered for filing an application for authorization to sell power at market-based rates pursuant to section 205 of the Federal Power Act, 16 USC 824d (1994) and Part 35 of the Federal Energy Regulatory Commission's (Commission), Rules of Practice and Procedure, 18 CFR Part 35 (2000).

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Progress Genco Ventures, LLC

[Docket No. ER01–2929–000]

Take notice that on August 24, 2001, Progress Genco Ventures tendered for filing an application for authorization to sell power at market-based rates pursuant to section 205 of the Federal Power Act, 16 USC § 824D (1994), and Part 35 of the Federal Energy Regulatory Commission's (Commission) Rules of Parctice and Procedure, 18 CFR Part 35 (2000).

Comment date: September 14. 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–2930–000]

Take notice that on August 24, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement Nos. 144 and 145 to add two new Customers to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply proposes to make service available as of January 1, 2002 to the Boroughs of South River and Milltown. Confidential treatment of information in the Service Agreement has been requested.

Copies of the filing have been provided to the New Jersey Board of Public Utilities and all parties of record.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–2931–000]

Take notice that on August 24, 2001, Allegheny Service corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) tendered for filing Service Agreement Nos. 139 through 143 to add five new Customers to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply proposes to make service available as of June 1, 2002 to the Boroughs of Lavallette, Madison, Butler, Park Ridge and Pemberton. Confidential treatment of information in the Service Agreements has been requested.

Copies of the filing have been provided to the New Jersey Board of Public utilities and all parties of record.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Minnesota Power, Inc. and Superior Water, Light & Power Company

[Docket No. ER01–1013–000]

Take notice that on May 7, 2001, Minnesota Power, Inc. and Superior Water, Light & Power Company tendered for filing with the Federal Energy Regulatory Commission (Commission) signed Service Agreements for Non-Firm and Short-Term Point-to-Point Transmission Service with OTP Wholesale Marketing

under its Transmission Service Agreement to satisfy its filing requirements under this tariff.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. South Point Energy Center, LLC

[Docket No. ES01–41–000]

Take notice that on August 20, 2001, South Point Energy Center, LLC (South Point) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue securities and assume liabilities in connection with the sale and leveraged lease financing of the South Point Energy Center.

South Point also requests a waiver of the Commission's competitive bidding requirements and negotiated placement requirements at 18 CFR 34.2.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Alliance Companies, Ameren Corporation on behalf of: Union Electric Company, Central Illinois Public Service Company

American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company; Consumers Energy and Michigan Electric Transmission Company

Exelon Corporation on behalf of: Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc.

FirstEnergy Corp. on behalf of: American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, The Toledo Edison Company; The Detroit Edison Company and International Transmission Company; Virginia Electric and Power Company

[Docket Nos. RT01–88–005, ER99–3144–013, and EC99–80–013]

Take notice that on August 27, 2001, Alliance Companies, *et al.* tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's July 12, 2001 Order issued in the above-captioned proceedings.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22218 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

August 29, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Transfer of License.

b. *Project No.*: 3574–016.

c. *Date Filed*: August 14, 2001.

d. *Applicants*: Continental Hydro Corporation (Transferor) and Tiber Montana, LLC (Transferee).

e. *Name of Project*: Tiber Dam.

f. *Location*: The proposed project is located at the U.S. Bureau of Reclamation's Tiber Dam, on the Marias River in Liberty County, Montana.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicants Contact*: Ted S. Sorenson, Manager, Tiber Montana, L.L.C., 5203 South 11th East, Idaho Falls, Idaho 83404, (208) 522–8069.

i. *FERC Contact*: Elizabeth Jones, (202) 218–0246.

j. *Deadline for filing comments or motions*: September 28, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N. E., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the Project Number (3574–016) on any comments or motions filed.

k. *Description of Transfer*: Continental Hydro Corporation requests approval to transfer its licensee to Tiber Montana, L.L.C. Under the transfer agreement between Continental Hydro and Tiber Montana, L.L.C., Tiber Montana, L.L.C. will acquire the project license, subject to Commission approval, and accept the terms and conditions of the license.

l. *Location of the Application*: Copies of this filing are on file with the Commission and are available for public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–22229 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

August 29, 2001.

a. *Application Type:* Revised Exhibit G for Turners Falls Project.

b. *Project No:* 2622–010.

c. *Date Filed:* August 16, 2001.

d. *Applicant:* International Paper Company.

e. *Name of Project:* Turners Falls Project.

f. *Location:* The project is located on the Turners Falls Canal off the Connecticut River in Franklin County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Michael Chapman, International Place II, 6400 Poplar Avenue, 6400 Poplar Avenue, TN 38197. Tel: (901) 763–5888.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 219–3273 or by e-mail at vedula.sarma@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* (September 30, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the project number (2622–010) on any comments or motions filed.

k. *Description of Filing:* The Commission in a July 2, 2001 order (International Paper Company and Turners Falls Hydro LLC, 96 FERC ¶ 61,007) ordered the licensee, International Paper Company, to file for approval a revised Exhibit G, showing the buildings or other facilities constituting licensed project structures, accompanied by an explanation of the basis for the licensee's determination.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–22230 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

August 29, 2001.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Application* New Major License.

b. *Project No.:* 2031–046

c. *Date Filed:* August 30 2000.

d. *Applicant:* Springville City, Utah.

e. *Names of Project:* Bartholomew Hydroelectric Project.

f. *Location:* Northeast of Springville City, within Bartholomew Canyon and on Hobble Creek, in Utah County, Utah. The project is partially situated on federal lands within the Uinta National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Matthew Cassel at Psomas Consultants, 2825 East Cottonwood Parkway, #120, Salt Lake City, Utah 84121 Telephone (801) 270–5777.

i. *FERC Contact:* Jim Haimes, *james.haimes@ferc.fed.us* (202) 219–2780.

j. *Deadline for Filing Comments, Recommendations, Terms and Conditions, and Prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission

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to serve a copy of that document on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervener also must serve a copy of the document on that resource agency.

k. Status of Environmental Analysis: These applications have been accepted for filing and are ready for environmental analysis at this time.

l. Description of the Project: The project, which does not include a dam or reservoir, operates using relatively small quantities of water removed from underground springs or small creeks located at high elevations and then transported via buried penstocks to three powerhouses and a powerhouse addition having a combined installed capacity of 2,000 kilowatts (kW). The project produces an average of approximately 4,653,000 kilowatt-hours of energy per year, primarily during the high runoff season each spring. Flows used to generate electricity either are diverted to the licensee's water distribution system for domestic and industrial consumption or are released into Hobble Creek.

The project's generating facility at the highest elevation is Upper Bartholomew powerhouse. Constructed in 1992, it is a 25-foot-long by 17-foot-wide, partially buried, concrete structure containing one turbine with an hydraulic capacity of 10 cubic feet per second (cfs) and a 900-foot gross head that drives one 200-kW generator.

Downhill, at the south end of Bartholomew Canyon, is the project's original generating facility, Lower Bartholomew Powerhouse. Constructed in 1948, this 80-foot-long by 28-foot-wide, brick and masonry structure contains one turbine with an hydraulic capacity of 16 cfs and a 980-foot gross head. The turbine powers one 500-kW generator.

Constructed in 1987, Lower Bartholomew Powerhouse Annex is a brick and masonry addition to the original powerhouse containing one turbine having an hydraulic capacity of 28 cfs and a 980-foot gross head. The turbine drives one 1,000-kW generator.

The project facility at the lowest elevation is Hobble Creek powerhouse, located in the lower portion of Hobble Creek Canyon. Constructed in 1950, this 35-foot-long by 30-foot-wide, masonry structure contains two turbines having a combined hydraulic capacity of 38 cfs and a 135-foot gross head. These turbines drive one 300-kW generator.

The project also includes the following two transmission facilities: (1) a 5.9-mile-long line, which includes one 1-mile-long, underground segment and a 4.9-mile-long overhead segment, from Upper Bartholomew powerhouse to Hobble Creek powerhouse; and (2) a 6.9-mile-long, 12.47-kilovolt, underground cable from Lower Bartholomew powerhouse to Springville City's electric distribution system.

The City proposes to continue diverting water from underground springs in Bartholomew Canyon to generate hydropower and to obtain culinary quality water for the City's municipal water supply system. In addition, the City proposes to continue diverting flows from the left and right forks of Hobble Creek to generate electricity at its existing 300-kilowatt (kW) Hobble Creek powerhouse.

m. *Locations of the Application:* Copies of each of the application are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

n. Filing and Service of Responsive Documents—The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–22231 Filed 9–4–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7047–9]

FY02 Wetland Program Development Grants Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Wetland Program Development Grants (WPDGs), initiated in FY90, provide eligible applicants an opportunity to conduct projects that promote the coordination and acceleration of research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution. While WPDGs can continue to be used by recipients to build and refine any element of a comprehensive wetland program, priority will be given to funding projects that address the three priority areas identified by EPA for FY02: Developing a comprehensive monitoring and assessment program; improving the effectiveness of compensatory mitigation; and refining the protection of vulnerable wetlands and aquatic resources.

This year, in addition to States, Tribes, local governments (S/T/LGs), interstate associations, and intertribal consortia, eligibility is broadened to include national non-profit, non-governmental organizations. This document governs the grant selection and award process for eligible applicants interested in applying for FY02 WPDGs.

FOR FURTHER INFORMATION CONTACT: Connie Cahanap, Office of Wetlands, Oceans, and Watersheds, Wetlands Division (MC 4502F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Telephone: (202) 260–6531, Fax: (202) 260–8000.

Dated: August 28, 2001.

John W. Meagher,

Acting Director, Office of Wetlands, Oceans, and Watersheds.

Wetland Program Development Grants Guidelines FY2002

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I. Introduction

The goals of the Environmental Protection Agency's (EPA) wetland program are to increase the quantity and quality of wetlands in the U.S. by conserving and increasing wetland acreage and improving wetland health. In pursuing these goals, EPA seeks to build the capacity of all levels of government to develop and implement effective, comprehensive programs for wetland protection and management. The six program areas central to achieving these goals are: regulation, monitoring and assessment, restoration, wetland water quality standards, public-private partnerships, and coordination among agencies with wetland or wetland-related programs.

In addition to S/T/LGs, interstate agencies, intertribal consortia, and local government agencies, EPA is broadening applicant eligibility this year to include national non-profit, non-governmental organizations in an effort to provide greater support for S/T/LGs (see section III).

The Wetland Program Development Grants, initiated in FY90, provide States, Tribes, local governments (S/T/LGs), interstate associations, intertribal consortia, and national non-profit non-governmental organizations (hereafter referred to as award applicants or award recipients) an opportunity to carry out projects to develop and refine comprehensive wetland programs. Interest in the grant program has continued to grow over the years, and since 1995, Congress has appropriated $15 million annually to support the grant program. The type of projects that award recipients can undertake to develop and refine their comprehensive wetland programs are very diverse. In the past, award recipients have pursued a wide range of activities, such as developing management tools for wetland resources, advancing scientific and technical tools for protecting wetland health, improving availability of data and information about wetlands, and training wetland managers and the public about wetland and watershed values. Appendix B lists other examples of project topics.

The statutory authority for WPDGs is section 104(b)(3) of the Clean Water Act (CWA). Section 104(b)(3) of the CWA restricts the use of these grants to developing and refining wetland management programs by conducting or promoting the coordination and acceleration of research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution. These grants may not be used for the operational support of wetland programs. All projects funded through this program must contribute to the overall development and improvement of S/T/LG wetland programs. Award applicants must demonstrate that their proposed project integrates with S/T/LG wetland programs.

The award and administration of WPDGs are governed by the regulations at 40 CFR part 31 ("Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments") and 40 CFR part 35, subpart A (66 FR 1725, Jan. 9, 2001, effective date postponed until April 9, 2001, 66 FR 9202 (Feb. 7, 2001)) and subpart B (see 66 FR 3782, Jan. 16, 2001, effective date postponed until April 17, 2001, 66 FR 9661 (Feb. 9, 2001)). This grant guideline document outlines the administrative and programmatic procedures for award applicants interested in the Wetland Program Development Grants.

II. Program Priorities

EPA has initiated an assessment of the wetland program elements that will move S/T/LGs toward developing comprehensive wetland programs. For FY02, the wetland program has identified three areas as program priorities for improving S/T/LG's ability to protect and restore their wetlands: (1) Developing a comprehensive wetland monitoring and assessment program; (2) improving the effectiveness of compensatory mitigation; and (3) refining the protection of vulnerable wetlands and aquatic resources. Applicants are encouraged to develop WPDG applications that address these priorities.

A. Developing a comprehensive monitoring and assessment program

Project objectives, results and products should substantively advance the scientific, technical, and management tools for evaluating, protecting and restoring wetland extent and health. Projects should be for the development of a comprehensive S/T/LG wetland monitoring and assessment program that improves decision making, with the aim of ultimately implementing these programs. WPDGs can be used for projects that build S/T/LG wetland monitoring and assessment capacity to determine the causes, effects, and extent of pollution to wetlands resources and develop pollution prevention, reduction, and elimination strategies. Capacity to analyze impacts and develop wetland management strategies can be improved by, for example, piloting methods for tracking wetland acreage gains and losses, demonstrating the use of wetland functional and biological assessment to improve the evaluation and ranking of potential wetland restoration sites or acquisition properties, analyzing and reporting monitoring data for reports required under section 305(b) of the Clean Water Act, and coordinating wetland management activities and information exchange among various levels of government. Furthermore, applicants can host technical training workshops, establish regional or state interagency wetland monitoring and assessment workgroups, develop biological and other functional assessment methods and protocols, develop volunteer monitoring programs, and improve wetland inventory. While wetland inventory is an important component, inventory alone does not constitute development of a comprehensive wetland monitoring and assessment program. Data collected from pilot wetland monitoring projects must be incorporated into 305(b) reports. Additionally, EPA strongly encourages recipients to download data collected through monitoring projects into STORET (short for STOrage and RETrieval).

B. Improving the effectiveness of compensatory mitigation

Projects should be directed toward improving S/T/LG capacity to ensure ecologically effective compensatory mitigation for unavoidable impacts. For example, WPDGs can be used to build technical expertise in wetland restoration and creation, develop

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tracking systems for compliance and enforcement of mitigation activities, or develop methods for monitoring the effectiveness of mitigation. Grant funds can only be used for improvement or development of mitigation programs. They cannot be used for specific mitigation activities (e.g., implementation of individual mitigation projects, mitigation banks, or in lieu fee mitigation programs).

C. Refining the protection of vulnerable wetlands and aquatic resources

While all wetlands are important in ecological functioning on a watershed scale, some are better protected than others; isolated wetlands and waters are particularly at risk as are wetlands subject to damage from discharge of incidental fallback of dredged material. S/T/LG wishing to build comprehensive wetland protection programs that protect isolated wetlands and other aquatic resources are encouraged to do so. National non-profit, non-governmental organizations that can support S/T/LGs in this area are encouraged to apply. Efforts can include, but are not limited to, information dissemination, data exchange, studying S/T/LG regulatory improvement opportunities, and surveying opportunities for land acquisition, conservation easements, and tax incentive provisions. This grant program, however, cannot fund the purchase of land or conservation easements (see Appendix A for Grant Restrictions).

D. Other program areas

While WPDGs can still be used by award recipients to develop and refine all elements of a comprehensive wetland program (see examples in Appendix B), in this and upcoming years, funding priority will be given to projects that address the three priority areas.

III. Funding Eligibility

In order to provide greater assistance to S/T/LGs, EPA is broadening funding eligibility to include non-profit, non-governmental organizations which undertake activities that advance wetland programs on a national basis. Activities must help S/T/LGs refine and develop wetland programs. For example, projects and tasks can involve collecting and making available through publications and other appropriate means, such as training, information about how various wetland programs across the nation protect, manage and restore their wetland resources and about initiatives to improve S/T/LG wetland programs.

States, Tribes, local government agencies, interstate agencies, and intertribal consortia continue to be eligible. Typical wetland or wetland related agencies include, but are not limited to wetland regulatory agencies, water quality agencies (Section 401 water quality certification), planning offices, wild and scenic rivers agencies, departments of transportation, fish and wildlife or natural resources agencies, agriculture departments, forestry agencies, coastal zone management agencies, park and recreation agencies, non-point source or storm water agencies, city or county and other S/T/LG wetland-related governmental agencies.

In order to be eligible for WPDG funds, Tribes must be federally recognized, although "Treatment as a State" status is not a requirement. Intertribal consortia that meet the requirements of 40 CFR 35.504 are eligible for direct funding.

Interstate agency and intertribal consortia projects must be broad in scope and encompass more than one State, Tribe, or local government.

Grant funds are awarded through a competitive process. The majority of WPDG funds are allocated to EPA Regional offices, based on the number of States and Territories within the Region, to fund S/T/LG, interstate agencies, and intertribal consortia. Headquarters reserves a portion of the funds for non-profit, non-governmental organizations (see section V for Application Procedures). Funding decisions are made by EPA Regional and Headquarters offices and are based on the quality of the proposals received and adherence to the selection criteria (see section IV). EPA typically receives requests for funding far in excess of available funds, therefore EPA cannot provide grant funds to all applicants.

IV. Selection Criteria

For FY02, priority in the selection process will be given to projects which support the development of a S/T/LG's monitoring and assessment program, improvement of the effectiveness of compensatory mitigation, or protection of vulnerable wetlands and aquatic resources. All proposals, regardless of topic area, will be evaluated using the following general categories of criteria:

- Clarity of Work Plan—clearly written and detailed proposals;
- Potential Environmental Results—a high probability for positive environmental results in the short and long term;
- Transferability of Results and/or Methods to S/T/LG;
- Success of Previous Projects—for applicants who have received prior EPA funding;
- Involvement/Commitment of the applicant—significant financial and personnel contribution and involvement of partners
- Incorporation of project into broad agency goals (Core Elements of a Comprehensive Wetland Program is available on EPA's web page at *http://www.epa.gov/owow/wetlands/initiative/#financial* or by mail upon request to the Wetlands Helpline at (800) 832–7828).

V. Application Procedures

WPDG applications from States, Tribes, and local governments are handled through EPA Regional offices, while applications from non-profit, non-governmental organizations are handled through EPA Headquarters (Appendix C). Applications from interstate agencies and intertribal consortia can be submitted to either a Regional office or Headquarters, however, the same proposals cannot be submitted to more than one office. Both Headquarters and Regional offices review all their applications and select the most competitive projects for funding. Both the quality and quantity of the applications will play a significant role in the selection of grants for funding.

A. Application Package

Interested applicants must submit an application, which includes completed EPA grant forms and a work plan. At a minimum, work plans must include: (1) Summary of key objectives and final products, preferably in 50 words or less; (2) detailed description of project tasks and an explanation of how the project will contribute to developing or improving the wetland program; (3) time-line; (4) budget and estimated funding amounts for each work plan component; (5) deliverables; (6) performance evaluation process and reporting schedule; (7) roles and responsibilities of the recipient and EPA in carrying out the work plan commitments; and (8) contact information for the Program Manager and Grant Project Lead Manager. Some Regional offices may ask S/T/LGs to submit pre-application proposals of grant projects for competitive review (see section V Part B for deadlines). Contact your Regional EPA Grant Coordinator (Appendix C) for specific regional guidance. Grant application forms are available at *http://www.epa.gov/ogd/hqgrant/* and by mail upon request to the Grants Administration Division at (202) 564–5305.

B. Deadlines

Full application proposals must be submitted to the appropriate EPA office and postmarked by the appropriate Regional and Headquarters deadlines:

Region 1: States: December 31, 2001; Tribes: June 28, 2002.
Region 2: January 31, 2002.
Region 3: Pre-proposal: October 10, 2001; Final proposal: January 16, 2002.
Region 4: October 31, 2001.
Region 5: December 14, 2001.
Region 6: November 30, 2001..
Region 7: December 1, 2001.
Region 8: December 3, 2001.
Region 9: Pre-proposal: October 26, 2001; Final proposal: January 11, 2002.
Region 10: Pre-proposal: November 5, 2001; Final proposal: February 22, 2002.
Headquarters: Pre-proposal: December 7, 2001; Final proposal: February 15, 2002.

Please contact the appropriate Grants Coordinator (Appendix C) for further information and/or to confirm deadlines.

Applicants may request assistance in revising work plans, proposed funding levels to better reflect the funding available, and preliminary proposals to develop a project that better reflects program priorities.

C. Match Requirements

S/T/LG, interstate agencies, and intertribal consortia must provide a minimum of 25% of each award's total project costs in accordance with 40 CFR 31.24, 35.385, and 35.615. We encourage States, Tribes and local governments to provide additional matching funds whenever possible (i.e., funds in excess of the required 25% of total project costs). Non-profit, non-governmental organizations must also provide a minimum of 25% of each award's total project costs.

Matching funds can be provided by entities other than the award recipient. Other Federal money cannot be used as the match for this grant program unless authorized by the statute governing the award of the other Federal funds. However, Indian tribes can use funds provided under the Indian Self-Determination and Education Act (25 U.S.C. 450 *et seq.*) to provide the required matching funds to the extent authorized by that Act and implementing regulations.

Matching funds are considered grant funds. They may be used for the reasonable and necessary expenses of carrying out the work plan. Any restrictions on the use of grant funds (i.e., prohibition of land acquisition with grant funds) also apply to the use of matching funds.

D. Quality Assurance/Quality Control (QA/QC)

QA/QC and peer review are sometimes applicable to these grants (see 40 CFR 30.54 and 40 CFR 31.45). Each application should be evaluated to determine if QA/QC is needed in order to comply with the quality system requirements under EPA Order 5360.1A2 (EPA's Policy and Program Requirements for the Mandatory Agency-wide Quality System, May 5, 2000). This document is available at *http://www.epa.gov/quality/qa_docs.html#noneparqt* and by mail upon request to the Quality Staff in the Office of Environmental Information by calling (202) 564–6830. These requirements apply to the collection of environmental data. Environmental data are any measurements or information that describe environmental processes, location, or conditions; ecological or health effects and consequences; or the performance of environmental technology. Environmental data include information collected directly from measurements, produced from models, and compiled from other sources such as data bases or literature. Applicants should allow sufficient time and resources for this process. EPA can help explain specific guidance on QA/QC requirements.

VI. Additional Program Information

A. Performance Partnership Grants

A Performance Partnership Grant (PPG) is a multi-program grant made to a State, Interstate agency, Tribe, or intertribal consortium from funds allocated and otherwise available for environmental program grants. Local governments are not eligible for PPGs. PPGs are voluntary and provide recipients the option to combine funds from two or more categorical grants into one or more PPGs. PPGs can provide administrative and/or programmatic flexibility.

However, the WPDGs remain a competitive grant program. Therefore, state or tribal proposals must first be selected under the competitive grant process and must identify specific wetland-related output or outcome measures in the grant proposal as a condition for adding funds to the PPG. Once the 104(b)(3) funds are awarded through the competitive process, the State or Tribe can choose to add wetland grant funds to a new or existing PPG in accordance with the regulations governing PPGs at 40 CFR part 35, subparts A and B. Because WPDGs are awarded competitively, the PPG work plan must include the work plan commitments that would have been included in the work plan for the WPDG (see 40 CFR 35.138).

For further information, see the final rules on Environmental Program Grants for State, Interstate, and Local Government Agencies at 66 FR 1725 (January 9, 2001) and Tribes at 66 FR 3782 (January 16, 2001). The effective dates for these rules were delayed to April 9, 2001 and April 17, 2001, respectively. The rules are also available on EPA's website at *http://www.epa.gov/fedrgstr/EPA-TOX/2001/Day-09/t218.htm* (State) and at *http://www.epa.gov/fedrgstr/EPA-GENERAL/2001January/Day-16/g219.htm* (Tribal).

B. Local and Tribal Funding Targets

Each Regional office will support the local government initiative and tribal efforts by targeting at least 15% of their Regional allocation to local government and tribal applications.

C. Reporting

WPDGs are currently covered under the following EPA grant regulations: 40 CFR part 30 (non-profit organizations); 40 CFR part 31 (states, tribes, interstate agencies, intertribal consortia and local governments) and 40 CFR part 35, subpart A (states, interstate agencies and local governments) (66 FR 1725, Jan. 9, 2001, effective date postponed until April 9, 2001, 66 FR 9202 (Feb. 7, 2001)) and subpart B (tribes and intertribal consortia) (66 FR 3782, Jan. 16, 2001, effective date postponed until April 17, 2001, 66 FR 9661, (Feb. 9, 2001)). These regulations specify basic grant reporting requirements, including performance and financial reports (see 40 CFR 30.51, 30.52, 31.40, 31.41, 35.115, and 35.515). In negotiating these grants, EPA will work closely with recipients to incorporate appropriate performance reporting requirements into each grant agreement consistent with 40 CFR 30.51, 31.40, 35.115, and 35.515. These regulations provide some flexibility in determining the appropriate content and frequency of performance reports. At a minimum, however, the reporting schedule must require the recipient to report at least annually.

The granting EPA offices will set the time frames and determine the required content of all periodic performance reports. However, at a minimum, the reports should include:

- Project description-short narrative of the original project
- Information on status of funding—total federal funds awarded under the WPDG, federal funds expended, federal funds remaining.
- Accomplishments in the last reporting period/progress to date—short narrative assessment of

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accomplishments and program highlights for that reporting period,

• Deficiencies and/or corrective actions—short narrative of any program deficiencies or corrective actions during that reporting period and proposed corrective actions or project modifications, and

• Planned activities for the next reporting period—short narrative describing upcoming activities.

D. Public Participation

EPA regulations require public participation in various Clean Water Act programs including grants (40 CFR part 25). Each applicant for EPA financial assistance shall include tasks for public participation in their project's work plan submitted in the grant application (40 CFR 25.11). The project work plan should reflect how public participation will be provided for, assisted, and accomplished.

E. Annual Wetlands Meeting/Training

EPA encourages S/T/LGs to include travel plans for wetland personnel to attend at least one national wetland meeting in support of the project or for training each year (e.g., National EPA, State, Tribal, Local Wetland Meeting, wetland monitoring workshops). Applicants should account for travel plans and costs in the work plans and the project budget. EPA's Wetlands Division does not anticipate providing travel for State, Tribal or local government staff to attend meetings other than through this grant program.

Appendix A—Grant Restrictions

Based on experience gained from previous years and policy and regulation, we offer the following comments/restrictions on funding eligibility.

• Universities (except those chartered as a part of state government) and schools, are not eligible for direct funding under this grant program. However, award recipients may award such entities contracts in accordance with 40 CFR 31.36, and subgrants in accordance with 40 CFR 31.37. The State, Tribe, local agency, or national non-profit organization should not simply pass through funding to an organization that is not eligible to receive funding directly.

• Universities that are agencies of state government are eligible to receive grant funds. Universities must provide documentation acceptable to EPA to demonstrate that they function as a state agency. Land grant schools do not automatically qualify for direct funding because of their status as a land grant school.

• This grant program cannot fund land acquisition or purchase of easements. However, this program may support research, investigations, experiments, training, demonstrations, surveys, and study efforts directed at identifying areas for acquisition, which would help address water pollution problems.

• This grant program cannot fund payment of taxes for landowners who have wetlands on their property.

• While contractual efforts can be a part of these grants, each recipient must be significantly involved in the administration of the grant. EPA recommends that recipients use no more than 50% of the grant funds to contract with non-governmental entities. However, if the applicant wants to exceed this limit, it may submit a written justification for greater involvement by non-governmental contractors. EPA will evaluate the need for greater contractual participation and may approve the request if they agree that there is adequate justification to exceed the 50% limit. For the purposes of this requirement, work done by other S/T/LG agencies, interstate associations, and intertribal consortia is not considered contractual efforts. The grant application should clearly indicate if the contractual work is being done by another S/T/LG agency, interstate agencies, or intertribal consortia.

• Inventory or mapping for the sole purpose of locating wetlands in a S/T/LG is not eligible for funding under this grant program. A description of how mapping or inventory projects will directly develop or improve the eligible applicant's wetland protection programs must be included in the grant application for these types of projects to be considered for funding under this grant program.

• Each grant must be completed with the initial award of funds. Recipients should not anticipate additional funding beyond the initial award of funds for a specific project. Eligible applicants should request the entire amount of money needed to complete the project in the original application. Each grant should produce a final, discrete product. Funding and project periods can be for more than one year.

• Grant funds cannot be used to fund an honorarium under this program.

• Any field work or research-type activities are limited to activities that have a direct, demonstrated link to program development or refinement included in the application.

• Purchase/lease of vehicles (including boats, motor homes) and office furniture is not eligible for funding under this program.

• Grant funds cannot be used to pay for travel by Federal agency staff unless travel costs are related to the grant project.

Appendix B—Example WPDG Project Topics

EPA has developed a database of all projects supported through the Wetland Program Development Grants funding. This searchable database will be available in September, 2001 on EPA's web page at:http://www.epa.gov/owow/wetlands/initiative/#financial

The following is a list of examples of projects that may be funded through Wetland Program Development Grants. Projects must be in support of conducting or promoting the coordination and acceleration of research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution.

• comprehensive planning of wetland resources, or integration of wetland management into broad watershed protection approaches

• development of S/T/LG Wetland Conservation Plans (WCP)

• development of a framework for assuming the CWA Section 404 program or Programmatic General Permits program

• development of widely applicable model wetland training programs for S/T/LGs

• development of wetland water quality standards, or refining criteria to appropriately reflect water quality conditions in wetlands

• creation, piloting and refining of wetland and riparian restoration programs

• development, piloting and refining of wetland bioassessment methods and programs to evaluate wetland health and performance of protection and restoration activities

• development of and/or participation in training that builds watershed and wetland partnership and technical skills (e.g., the Watershed Academy)

• development of outreach programs that improve public understanding of S/T/LG wetland protection and regulatory efforts and facilitate public-private partnerships and wetland restoration efforts.

This is not an exhaustive list, and eligible applicants may submit any eligible proposal for wetland program development which addresses EPA's goals and criteria outlined in this document.

Appendix C—Regional Grant Coordinators

Region 1: Bob Goetzl (goetzl.robert@epa.gov) 617/918–1671.
Region 2: John Cantilli (cantillli.john@epa.gov) 212/637–3810.
Region 3: Alva Brunner (brunner.alva@epa.gov) 215/814–2715.
Region 4: Sharon Ward (ward.sharon@epa.gov) 404/562–9269.
Region 5: Cathy Garra (garra.catherine@epa.gov) 312/886–0241.
Region 6: Sondra McDonald (mcdonald.sondra@epa.gov) 214/665–7187.
Region 7: Raju Kakarlapudi (kakarlapudi.raju@epa.gov) 913/551–7320.
Region 8: Brent Truskowski (truskowski.brent@epa.gov) 303/312–6235.
Region 9: Cheryl McGovern (mcgovern.cheryl@epa.gov) 415/744–2013.
Region 10: David Kulman (kulman.david@epa.gov) 206/553–6219.
Headquarters: Connie Cahanap (cahanap.concepcion@epa.gov) 202/260–6531. Donna An (an.donna@epa.gov) 202/260–0335.

[FR Doc. 01–22266 Filed 9–4–01; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7047–8]

EPA Region 8 "Best Professional Judgment" (BPJ) Determination of Effluent Limitations That Represent Best Available Technology Economically Achievable (BAT) for Coalbed Methane (CBM) Activities; Announcement of a Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, announcement of a meeting.

SUMMARY: EPA Region VIII will conduct an informational meeting on its efforts in developing a "Best Professional Judgment" (BPJ) determination of effluent limitations that represent Best Available Technology Economically Achievable (BAT) for Coalbed Methane (CBM) activities in Region 8. The Agency will provide an overview of the project. In December 2001, EPA intends to finalize the BPJ determination for Coalbed Methane produced waters, for use in Region 8's Clean Water Act National Pollutant Discharge Elimination System (NPDES) permitting activities. The meeting is open to the public, and limited seating is available on a first-come, first-served basis.

DATES: The meeting will be held on September 25, 2001, 1:00 pm to 4:00 pm.

ADDRESSES: Sheraton Billings Hotel (Granite Room), 27 North 27th Street, Billings, MT 59101. For information on accommodations and/or directions, contact the hotel at 406–252–7400.

FOR FURTHER INFORMATION CONTACT: Michael Reed, NPDES Permits Team, Water Program, Office of Partnerships and Regulatory Assistance, EPA Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; telephone (303) 312–6132; e-mail: reed.mike@epa.gov

SUPPLEMENTARY INFORMATION: The Clean Water Act, in section 301(b), requires the NPDES permitting authority to consider effluent limits based both on the technology available to treat the pollutants and on protection of the designated uses of the receiving water. These are known as technology-based and water quality-based effluent limitations, respectively. Section 301(b)(2)(A) of the Clean Water Act requires effluent limitations that "shall require the application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants." There are two approaches for developing technology-based limits for industrial facilities: (1) National effluent limitations guidelines (ELGs) and (2) in the absence of ELGs, limitations developed on a case-by-case basis using best professional judgment. Because CBM activities were not significant and widespread when EPA developed the ELGs for the Oil and Gas Point Source Category (40 CFR part 435), EPA did not consider CBM in developing these guidelines and has not applied them to CBM. Therefore, according to 40 CFR 125.3(c)(2), technology-based limits for the CBM permits need to be developed using a BPJ case-by-case analysis.

EPA Region 8, with the assistance of the EPA Office of Science and Technology in Washington, DC, will do an economic analysis to assess disposal options for water that is produced as part of the coalbed methane (CBM) extraction process. The analysis will support a BPJ determination of effluent limitations that represent Best Available Technology Economically Achievable (BAT) for CBM produced waters in Region 8. Several technologies are being considered for both technical and economic feasibility, including several water treatment technologies: zero discharge via reinjection, infiltration and/or evaporation; and beneficial use of the effluent for agriculture and wildlife. The main objectives of this action are to support EPA NPDES permitting in Indian Country, fulfilling our trust responsibility with Tribes to implement environmental laws and regulations, and to inform the states and EPA in the implementation of their NPDES permit programs.

The meeting will provide an update on the development of the BPJ determination for BAT. EPA will discuss CBM operations in EPA Region 8, feasibility and cost of produced water disposal options, and economic and environmental impacts. EPA will also be soliciting additional information prior to development of the draft analysis. The meeting is not a mechanism for submitting formal comments and will not be recorded nor transcribed. A more detailed agenda and other documents related to the BPJ project will be available at the meeting. For those unable to attend the meeting, EPA will make documents available at the EPA website http://www.epa.gov/region08/water/wastewater/npdeshome/cbm.html, and they can be obtained by an e-mail or telephone request to Michael Reed at the above address.

Dated: August 15, 2001.

Kerrigan G. Clough,

Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, Region VIII.

[FR Doc. 01–22279 Filed 9–4–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7049–2]

National Tribal Conference on Environmental Management

AGENCY: Environmental Protection Agency.

ACTION: Notice to Solicit Proposals from Federally-recognized Indian Tribes and Intertribal Consortia.

SUMMARY: The Environmental Protection Agency (EPA) is requesting proposals from federally-recognized Indian Tribes or Intertribal consortia to host the 6th National Tribal Conference on Environmental Management. EPA will be the official sponsor. The Tribal Conference will provide an opportunity for tribal leaders, tribal environmental managers, tribal organizations, Federal agencies, and other interested entities/persons to share information about tribal environmental programs and discuss issues of vital interest to Indian country. EPA is seeking to broaden the scope of the conference to be even more inclusive of the multi-media environmental issues being addressed by Tribes to establish stronger tribal networks and relationships across environmental efforts in Indian country, identify shared lessons learned; and familiarize Tribes with the full extent of tribal and EPA program environmental activities. EPA will award a cooperative agreement to the selected host Tribe to co-sponsor the conference, including personnel, planning, facilities and management expenses.

DATES: Submit proposals on or before October 12, 2001.

ADDRESSES: Mail proposals via U.S. Postal Service (including express and priority mail) to: U.S. Environmental Protection Agency, Attn: Clara Mickles, American Indian Environmental Office, Mailcode: 4101, 1200 Pennsylvania Avenue, NW. Washington, DC 20460. Mail proposals via commercial overnight delivery service (e.g., FedEx, DHL, UPS, etc.) to: U.S. Environmental Protection Agency, Attn: Clara Mickles, American Indian Environmental Office, 9th Floor, Room 913 East Tower, 401 M. Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Felicia Wright at (202) 260–4410, Caren

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Rothstein-Robinson at (202) 260–0065, Claudia Walters at (202) 564–6762 or Clara Mickles at (202) 260–7519, for pre-application assistance or questions about the conference.

SUPPLEMENTARY INFORMATION:

I. Background

Starting in 1992, the U.S. EPA has co-sponsored five bi-annual NTCEM conferences to provide an opportunity for tribal leaders, tribal environmental program managers, tribal organizations, Federal agencies, and other interested entities to share information about tribal environmental programs and discuss issues of vital interest to Indian Country. Topics at past conferences have helped to build tribal capacity in the following areas:

- Managing environmental programs (including integrated waste programs);
- Grant assistance to Tribes;
- Addressing concerns about human health risks and subsistence;
- Contracting, research, and business development opportunities;
- Technology (GIS) and natural resource management; and
- Air, water, and waste management issues.

The conference has traditionally been held in late Spring. Here is a listof previous conference locations and dates:

(1) Cherokee Nation, NC (May 19–20, 1992)
(2) Cherokee Nation, NC (May 23–26, 1994)
(3) Confederated Salish and Kootenai Tribes of the Flathead Nation, MT (May 1996)
(4) Prairie Island Indian Community, MN (May 19–21, 1998)
(5) Confederated Tribes of Siletz Indians, OR (June, 2000)

The most recent conference, hosted by the Confederated Tribes of Siletz Indians in Lincoln City, Oregon, was very successful in content as well as in attendance. Over 600 people attended this conference. Past conferences have drawn 500–700 participants representing more than 200 Tribes, Native Alaskans, Inter-tribal Consortia, and organizations. The conference agenda included all aspects of tribal environmental issues. For copies of past conference agendas, please see **FOR FURTHER INFORMATION CONTACT** section of this notice, or send email to *wright.felicia@epa.gov*. Any significant clarifications to this request for proposals will be posted on EPA's American Indian Environmental Office's web page at *http://www.epa.gov/indian/*.

II. 2002 Host Responsibilities

The tribal host will be the primary lead for this conference, including developing the conference agenda, handling conference logistics (such as registration, transportation and administering/making decisions regarding travel scholarships for tribal participants travel), developing conference materials, and in making sure that priority environmental issues of interest to tribes are represented. The host tribe will also take the lead role in developing a conference theme based on uniting tribal environmental efforts to protect human health and the environment in Indian country and tribal homelands.

III. Coordination With Other Federal Agencies and Tribal Organizations

EPA is coordinating with other federal agencies (including the Department of Interior, the Department of Health and Human Services, and the Department of Defense) and our key tribal partners (including the Tribal Operations Committee, Tribal Pesticide Program Council, Tribal Science Council, Tribal Association on Solid Waste and Emergency Response, and many other broader-based intertribal organizations and consortia) to strengthen the multi-media character of this conference. These groups will be invited to hold their own independently-sponsored meetings according to their own procedures around the other on-going conference events. For example, the National Tribal Environmental Council (NTEC) has advised EPA that they are planning to coordinate around and co-locate their annual meeting the same week as this conference. Once the conference host is selected, we encourage other organizations to contact the host to coordinate similar joint efforts.

IV. Evaluation Criteria

EPA is requesting proposals from Federally-recognized Indian Tribes or intertribal consortia to host the National Tribal Conference On Environmental Management through a cooperative agreement with EPA (the applicable Catalog of Federal Domestic Assistance number is 66.604). To be eligible to receive a cooperative agreement under the authorities listed in today's Notice, an intertribal consortium must meet the definition of eligibility in the Environmental Program Grants for Tribes Final Rule, at 40 CFR 35.504 (66 FR 3782, January 16, 2001), and are a non-profit organization within the meaning of OMB Circular A–122. The funding amount for the cooperative agreement is subject to the availability of funds in EPA. Prior cooperative agreement awards for co-hosting the tribal conference have been in the amount of $350,000. EPA will negotiate the final amount of the reward with the selected tribal host.

Tribes or intertribal consortia that wish to submit proposals must first meet two mandatory factors described below under the Evaluation Criteria. If your Tribe or intertribal consortium meets these mandatory factors, EPA will score your proposal based on how well you meet the evaluation criteria. Please make sure you address the mandatory factors first and then provide detailed information on all the listed criteria in your proposal. Submissions which do not address a particular criterion will receive a zero score for that criterion. EPA will evaluate all submissions according to the listed criteria.

All proposals must come from a tribal government or intertribal consortium. We strongly encourage direct involvement by staff from your environmental program/department, facility managers, and members of the local business community/chamber of commerce. EPA will award a grant to the selected tribal host to cover personnel, planning, and management expenses. EPA reserves the right to reject all proposals and make alternative arrangements for the conference. Clearly mark any information you consider confidential. Please submit a description of your facilities and a summary of your capabilities for each of the criteria below.

A. Mandatory Factors

- Have a conference center or other suitable meeting facilities capable of holding at least four concurrent sessions and a plenary session that will accommodate 700 people.
- Demonstrate the ability to effectively manage EPA financial assistance (i.e., an adequate financial management system with effective accounting procedures that maintain fiscal control).

B. Evaluation Criteria

- *Conference Facilities:* Proposed conference center (or other suitable meeting facility) is capable of holding at least four concurrent sessions and a plenary session for 700 people; facilities should have adequate amenities to comfortably accommodate large groups of people. Lodging for 700 people should be available within a reasonable travel time, preferably within 15 minutes of conference facilities. Tribes that do not have facilities located on their lands can outline a plan to utilize nearby facilities that meet the logistical needs described in the criteria. (Maximum of 25 points)
- Bonus of up to 10 additional points for conference facilities/amenities that are tribally-owned or located on tribal land.
- *Conference management:* Demonstrate capability to manage all aspects of a major conference, including conference planning, logistics, booking, registration, travel, on-site events, contractual support, closeout activities, and an ability to effectively manage EPA financial assistance (*i.e.*, an adequate financial management system with effective accounting procedures that maintain fiscal control). EPA will award a grant to the selected host Tribe to cover personnel, planning, and management expenses. (Maximum of 25 points)
- *Conference Transportation:* Demonstrate that: (1) Airline transportation is economically feasible for most conference participants; (2) the conference facilities are located within 90 minutes of a major airport; and (3) ground transportation can be provided for attendees to and from the airport and around the meeting sites (e.g., between meeting facility and offsite locations such as hotels, special event locations, etc.). (Maximum of 18 points)
- *Conference Materials:* Capability to produce and distribute conference materials, such as a conference logo, registration materials, signs/banners, an agenda booklet, and handouts. (Maximum of 15 points)
- *Vendor Area:* Use of an area in close proximity to the meeting area(s) capable of accommodating 25 or more vendors, providing exhibit booth space of 8′ X 8′ or 10′ X 10′ per vendor and access to electrical and telephone service. (Maximum of 12 points)
- *Recycling:* Commitment to use, to the maximum extent possible, products with recycled content and to collect recyclables at the conference. (Maximum of 5 points)

Total: 100 points with potential for up to 110 total points, including bonus.

In addition to soliciting proposals for the 2002 conference, we encourage you to submit suggestions or ideas for potential agenda topics that your Tribe would like to see addressed at the conference. We will forward suggestions to the selected tribal host. We also encourage you to attend the conference regardless of whether you are interested in hosting the event.

Authority: 7 U.S.C. 136, 15 U.S.C. 2601, 33 U.S.C. 1254, 42 U.S.C. 300f, 33 U.S.C. 1254, 42 U.S.C. 300f, 42 U.S.C. 6981, 42 U.S.C. 7403, 42 U.S.C. 13101 and 13102.

Dated: August 27, 2001.

Stephen D. Luftig,

Acting Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 01–22280 Filed 9–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00678C; FRL–6801–7]

Opportunity to Comment on Implications of Revised Bt Crops Reassessment for Regulatory Decisions Affecting These Products, and on Potential Elements of Regulatory Options; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is currently engaged in a comprehensive reassessment of the time-limited registrations for all existing *Bacillus thuringiensis* (*Bt*) corn and cotton plant-incorporated protectants. This notice announces the Agency's intent to provide additional time to comment on the implications of the revised risk and benefit sections of the reassessment, the draft Potential Risk Mitigation and Regulatory Options paper, and the regulatory decisions affecting *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants.

DATES: Comments, identified by docket control number OPP–00678B, must be received on or before September 10, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00678B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8715; fax number: (703) 308–7026; e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to manufacturers, producers, distributors, users, and other persons interested in the registrations listed below. This action may also be of interest to other persons who have an interest in the registration and/or the use of *Bt* corn, *Bt* cotton, and *Bt* potato plant-pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and under the Federal Food, Drug, and Cosmetic Act (FFDCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents (including copies of EPA's fact sheets on each registered *Bt* plant-pesticide, workshop proceedings on resistance management, EPA technical papers on regulation of agricultural biotechnology including resistance management for *Bt* plant-pesticides, ecological effects data requirements for protein plant-pesticides, allergenicity and health effects for protein plant-pesticides, and Scientific Advisory Panel reports from EPA's Biopesticide Internet Home Page at http://www.epa.gov/pesticides/biopesticides and from EPA's SAP Home Page at http://www.epa.gov/scipoly/sap). To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00678B. Additionally, the *Bt* Corn Cry1F registrations have official records under docket control numbers OPP–30494 and OPP–30120. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as

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Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00678B in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00678B. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Wani to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background and Explanation of Actions Being Taken

In the July 17, 2001 **Federal Register** (66 FR 37227) (FRL–6793–6), the Agency announced the July 24, 2001 Technical Briefing and an opportunity to comment on the *Bt* Crops reassessment. EPA asked that comments be submitted by August 30, 2001. In the August 10, 2001 **Federal Register** (66 FR 42220) (FRL–6791–4), the Agency announced the registration of the Cry1F corn plant-incorporated protectant and the opening of a public docket containing the record on which EPA based this registration.

Several members of the public have asked for additional time to submit comments in response to the July 17 Notice. In addition, some members of the public have asked for additional time to comment on the Cry1F product and have asked that it be considered separately from the other products covered by the *Bt* Crops Reassessment. Although the notice of registration and materials in the public docket for Cry1F state that the Cry1F product would be reevaluated on the same schedule as other *Bt* corn products and that relevant decisions in the *Bt* Crops Reassessment would be applied to that registration, this information was not noted in the FR Notice. Thus, this notice clarifies that the Cry1F product is included within the scope of the *Bt* Crops Reassessment. Further, in light of all of the circumstances, this Notice also announces the Agency's decision to provide additional time to comment for all *Bt* corn and cotton products with expiring registrations.

Several members of the public have also asked in a letter dated July 23, 2001, for an extension because a portion of the data base for the*Bt* Crops Reassessment relating to the toxicity of*Bt* corn pollen to Monarch butterflies is not publicly available. While these data are still subject to a confidentiality claim that prevents public release at this time, EPA has arranged to allow the public to inspect these data in EPA reading rooms, provided that any person inspecting the data first signs a Confidentiality Agreement. See www.epa.gov/pesticides/biopesticides for more information.

In summary, the Agency is extending until September 10, 2001, the period for comment on the implications of the revised risk and benefit sections of the reassessment, the draft Potential Risk Mitigation and Regulatory Options paper, and the regulatory decisions on the*Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants.

List of Subjects

Environmental protection, Plant-pesticides.

Dated: August 30, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–22363 Filed 8–31–01 12:21 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–211046; FRL–6800–5]

TSCA Section 21 Petition; Notice of Receipt

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of a petition submitted by the Cystic Fibrosis Foundation under section 21 of the Toxic Substances Control Act (TSCA), and requests comments on the petition. The Foundation has petitioned EPA to initiate a rulemaking proceeding under section 6(a)(1)(A) of TSCA to prohibit the manufacture, processing, distribution in commerce, use, and improper disposal of *Burkholderia cepacia* complex (Bcc), a group of naturally occurring microorganisms. The Petitioner believes that this action is necessary to "address the significant threat that these microorganisms pose to individuals with cystic fibrosis and other diseases that compromise the immune system." Under section 21 of TSCA, the Agency must respond to the petition by October 30, 2001. The Agency does not plan at this time to schedule a public hearing for this petition. However, if it is determined that a hearing is needed, the Agency will hold a public hearing in the future.

DATES: Comments, identified by docket control number OPPTS–211046, should be received on or before September 19, 2001. The Agency will accept comments received after that date, but cannot guarantee that they will be considered prior to preparing its response to the petition.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–211046 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division, (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260-1857; e-mail address: alwood.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to manufacturers (including importers), processors, and users of products that contain living microorganisms subject to jurisdiction under TSCA, especially if that entity knows that its products contain or may contain Bcc. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–211046. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, isavailable for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260-7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–211046 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260-7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–211046. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Wont To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version

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of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the actions sought by the petitioner, the facts, technical information, supporting rationale which the petitioner believes establishes the need for the requested action, the potential impacts of the requested action (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of its response to the petition. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What is a TSCA section 21 petition?

Section 21 of TSCA allows citizens to petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under sections 4, 5(a)(2), 6, or an order under section 5(e) or 6(b)(2) of TSCA. A TSCA section 21 petition must set forth facts which the petitioner believes establish the need for the action requested. EPA is required to grant or deny the petition within 90 days of its receipt. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. Within 60 days of denial or no action, petitioners may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking. When reviewing a petition for a new rule, as in this case, the court must provide an opportunity for *de novo* review of the petition. After hearing the evidence, the court can order EPA to initiate the requested action.

B. What Action is the Agency Taking/ Announcing?

This notice announces receipt by EPA on August 2, 2001, of a petition submitted by the Cystic Fibrosis Foundation under section 21 of TSCA, and requests comments on the petition. The Foundation has petitioned EPA to initiate rulemaking proceeding under section 6(a)(1)(A) of TSCA to prohibit the manufacture, processing, distribution in commerce, use, and improper disposal of Bcc. Under section 21 of TSCA, the Agency must respond to the petition by October 30, 2001.

The petitioner's request for a prohibition under section 6(a)(1)(A) of TSCA is based on their assertion that Bcc consists of a number of naturally occurring microorganisms which are subject to regulation under TSCA as chemical substances and exposure to Bcc resulting from its use in a "wide variety of commercial activities" poses a deadly risk to cystic fibrosis patients and individuals with certain other diseases that compromise the immune system. These commercial uses are asserted to include "products and services that involve drain cleaning, bioremediation, biomonitoring of hazardous wastes, biomass conversion, production of specialty chemicals, oil recovery, wastewater treatment, biomining, and desulfurization of oil and coal." The petitioner's request for action under section 6(a)(1)(A) of TSCA is based on several points including assertions that Bcc is not necessary for such applications, that the manufacturing, and use of Bcc poses an unreasonable risk to cystic fibrosis patients, and, despite limitations and uncertainties in the understanding of the extent to which Bcc is used in various products, that the "only regulatory action that will adequately reduce the risk presented by Bcc is a flat prohibition against manufacturing and use." EPA has commenced a review of this petition. Comments on the petition may be submitted by any of the methods identified in Unit I.

List of Subjects

Environmental protection.

Dated: August 27, 2001.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 01–22284 Filed 9–4–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7047–7]

Notice of Tentative Approval, Request for Comments and Solicitation of Requests for a Public Hearing for Public Water System Supervision Program Revisions for the State of Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Tentative Approval and Solicitation of Requests for a Public Hearing.

SUMMARY: Notice is hereby given in accordance with the provision of section 1413 of the Safe Drinking Water Act as amended, and the rules governing National Primary Drinking Water Regulations that the State of Maryland has revised its approved Public Water System Supervision Primacy Program. Specifically, Maryland has adopted the Consumer Confidence Report Rule, Variance and Exemption Rule, and the public water system definition; and made other minor revisions to its regulations. EPA has determined that these program revisions are no less stringent than the Federal provisions and satisfy the requirements of the Federal regulations. Therefore, EPA has decided to tentatively approve the program revisions. All interested parties are invited to submit written comments on this determination and may request a public hearing.

DATES: Comments or a request for a public hearing must be submitted by October 5, 2001. This determination shall become effective on October 5, 2001, if no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, and if no comments are received which cause EPA to modify its tentative approval.

ADDRESSES: Comments or a request for a public hearing must be submitted to Barbara Smith, Drinking Water Branch (3WP22), U.S. Environmental Protection Agency Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

- Drinking Water Branch, Water Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029; and
- Maryland Department of the Environment, Water Supply Program, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Barbara Smith at the Philadelphia address given above; telephone (215) 814–5786 or fax (215) 814–2318.

SUPPLEMENTARY INFORMATION: All interested parties are invited to submit written comments on this determination and may request a public hearing. All comments will be considered, and, if necessary, EPA will issue a response. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by October 5, 2001, a public hearing will be held. A request for public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Dated: August 23, 2001.

Donald S. Welsh,

Regional Administrator, EPA, Region III.

[FR Doc. 01–22127 Filed 9–4–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

August 28, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

Federal Communications Commission

OMB Control No.: 3060–0987.
Expiration Date: 08/31/04.
Title: 911 Callback Capability.
Form No.: N/A.
Estimated Annual Burden: 404 burden hours annually, ½ hour per response; 807 responses per year.
Description: The proposed labeling requirements would serve to educate consumers as to the capabilities and limitations of their handsets thus avoiding confusion resulting in delay in responding to E911 calls.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22181 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; FCC 01–J–1]

The Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice; comments requested.

SUMMARY: In this document, the Federal-State Joint Board invites comment regarding its review of the definition of universal service. Based on consideration of the Joint Board's recommendations in 1997, the Commission designated nine "core" services that are eligible for universal service support. The Commission recently asked the Joint Board to review this list and, if warranted, recommend modifications.

DATES: Comments are due on or before November 5, 2001. Reply comments are due on or before January 4, 2002.

ADDRESSES: See Supplementary Information section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Greg Guice, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400, TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: In 1997, based on consideration of the Joint Board's recommendations, the Commission designated nine "core" services that are eligible for universal service support: single-party service; voice grade access to the public switched telephone network; Dual Tone Multifrequency signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers. The Commission recently asked the Joint Board to review this list and, if warranted, recommend modifications.

The Telecommunications Act of 1996 provides that "[u]niversal service is an evolving level of telecommunications services that the Commission shall establish periodically * * *, taking into account advances in telecommunications and information technologies and services." It also provides that the Joint Board and the Commission shall base policies for the preservation and advancement of universal service on several principles, including: (1) Quality services should be available at just, reasonable, and affordable rates; (2) access to advanced telecommunications and information services should be provided in all regions of the Nation; and (3) consumers in all regions of the nation should have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

The Joint Board invites comment on what services, if any, should be added to or removed from the list of core services eligible for federal universal service support and how those core services should be defined. Commenters should address the four definitional criteria that the Joint Board and the Commission are required to consider under the 1996 Act. Pursuant to section 254(c)(1) of the 1996 Act, the Joint Board and the Commission must consider the extent to which the services in question (1) "are essential to education, public health, or public safety;" (2) "have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;" (3) "are being deployed in public telecommunications networks by telecommunications carriers;" and (4) "are consistent with the public interest, convenience, and necessity."

In addition, commenters should address the implications of any proposed modifications in terms of section 214(e) of the 1996 Act, which requires carriers to offer each of the core

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services to be eligible for universal service support. Commenters also should estimate the annual cost of any proposed modifications in the list of core services, and explain the derivation of their estimates. If the cost is expected to change significantly over time, commenters should provide an estimate for each of the first five years. Commenters may also wish to address the availability of functional substitutes for a service, the extent to which consumers may have access to the service in locales other than their own residences (*e.g.*, public payphone, worksite, public facilities), and whether providing support for the service would affect competition in its delivery. Finally, commenters may also wish to address the implications for any modifications in the list of core services of ongoing network modernization trends.

The Commission asked the Joint Board to consider as part of its review the record on requests to redefine voice grade access for universal service purposes. The Commission previously rejected arguments for a higher level of bandwidth capacity, in the *First Report and Order*, 62 FR 32862, June 17, 1997, concluding that "a network transmission component of Internet access beyond voice grade access should not be supported" pursuant to section 254(c)(1). The Joint Board invites commenters to update the record on the definition of voice grade access, including whether support for a network transmission component of Internet access beyond the existing definition of voice grade access is warranted at this time. The Joint Board also seeks additional comment on technical issues involved in modifying the current standard, including factors other than bandwidth that affect modem performance, and whether modification would encourage investment in enhanced analog modem performance to the detriment of investment in high-speed and advanced services.

The Joint Board also invites comment on whether any advanced or high-speed services should be included within the list of core services. Commenters should address the questions set forth, and should specify the standard or level of service to which the comments apply.

In addition, the Joint Board invites comment on whether "soft dial tone" or "warm line" services should be included within the list of core services. These services enable an otherwise disconnected line to be used to contact emergency services (911) and the local exchange carrier's central business office. In particular, the Joint Board invites comment on the extent to which these services are essential to public health or safety, and how such connections to eligible telecommunications carriers may be provided consistent with the principles of competitive neutrality.

Finally, the Joint Board invites comment on whether intrastate or interstate toll services, expanded area service, or prepaid calling plans should be included in the list of supported services.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: comments are due November 5, 2001, and reply comments are due January 3, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of the electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12 Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street SW., Room 5–A422, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554.

Pursuant to § 1.1206 of the Commission's Rules, this proceeding will continue to be conducted as a permit-but-disclose proceeding in which *ex-parte* communications are permitted subject to disclosure.

Federal Communications Commission.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–22182 Filed 9–4–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 19, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Helen M. Paul, Muscatine, Iowa; to acquire additional voting shares of APM Bancorp, Inc., Buffalo, Iowa, and thereby indirectly acquire additional voting shares of Buffalo Savings Bank, Buffalo, Iowa.

Board of Governors of the Federal Reserve System, August 29, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22169 Filed 9–4–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Frandsen Financial Corporation, Arden Hills, Minnesota; to acquire 100 percent of the voting shares of F&M Bank Minnesota, Dundas, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Spector Holdings Management, LLC, San Antonio, Texas; to become a bank holding company by acquiring 1 percent of the voting shares of, and become the general partner of, Spector Holdings Limited Partnership, San Antonio, Texas, and thereby indirectly acquire voting shares of Luling Bancshares, Inc., Luling, Texas, Luling Delaware Financial Corporation, Dover, Delaware, and Citizens State Bank, Luling, Texas.

In connection with this application, Spector Holdings Limited Partnership, San Antonio, Texas, has applied to become a bank holding by acquiring 57.9 percent of the voting shares of Luling Bancshares, Inc., Luling, Texas, and thereby indirectly acquire voting shares of Luling Delaware Financial Corporation, Dover, Delaware, and Citizens State Bank, Luling, Texas.

Also, Luling Bancshares, Inc., Luling, Texas, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Luling Delaware Financial Corporation, Dover, Delaware, and Citizens State Bank, Luling, Texas. Luling Delaware Financial Corporation also has applied to become a bank holding company.

Board of Governors of the Federal Reserve System, August 29, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22168 Filed 9–4–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of June 26 and 27, 2001

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on June 26 and 27, 2001.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate to an average of around 3-¾ percent.

By order of the Federal Open Market Committee, August 29, 2001.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 01–22245 Field 9–4–01; 8:45 am]

BILLING CODE 6210–01–S

[1] Copies of the Minutes of the Federal Open Market Committee meeting of June 26 and 27, 2001, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–296]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Home Health Advance Beneficiary Notice of Liability and Supporting Regulations in 42 CFR 484.10(a); *Form No.:* HCFA–R–296 (OMB# 0938–0781); *Use:* Home health agencies must provide proper written notice to Medicare beneficiaries in advance of furnishing home health care they believe that Medicare will not pay for before reducing, terminating, or denying services to a Medicare beneficiary; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, business or other for-profit; *Number of Respondents:* 8,326; *Total Annual Responses:* 180,000; *Total Annual Hours:* 15,000. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address:

CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, Attn. CMS–R–296, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 28, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–22177 Filed 9–4–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10037]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Real Choice Systems Change Grants; Nursing Facility Transition/Access Housing Grants; Community Personal Assistance Service and Supports Grants, National Technical Assistance and Learning Collaborative Grants to Support Systems Change for Community Living; *Form No.:* CMS–10037 (OMB# 0938–0836); *Use:* Information sought by CMSO/DEHPG is needed to award competitive grants to States and other eligible entities for the purposes of designing and implementing effective and enduring improvements in consumer-directed long term service and support systems; *Frequency:* Annually; *Affected Public:* State, local or tribal gov.; *Number of Respondents:* 76; *Total Annual Responses:* 76; *Total Annual Hours:* 7600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office at (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown Attn.: CMS–10037, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 28, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–22178 Filed 9–4–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 3 and 4, 2001, from 8:30 a.m. to 5 p.m.

Location: The Town Center Hotel, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD.

Contact: Tara P. Turner, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: *TurnerT@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12531. Please call the Information Line for up-to-date information on this meeting.

Agenda: On October 3, 2001, the committee will discuss new drug application (NDA) 21–356, Viread™ (tenofovir disoproxil fumarate) Tablets, Gilead Sciences, Inc., proposed for the treatment of human immunodeficiency virus (HIV) infection. On October 4, 2001, the committee will discuss NDA 21–266, Vfend™ (voriconazole) Tablets and NDA 21–267, Vfend™ I.V. (voriconazole) for infusion, Pfizer Global Research and Development, proposed for the treatment of invasive aspergillosis, serious Candida infections, infections caused by *Scedosporium* spp. and *Fusarium* spp., rare and refractory infections, and empirical treatment of febrile neutropenia.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by September 26, 2001. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 26, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 28, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–22166 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0368]

Draft Guidance for Industry on Submitting Marketing Applications According to the ICH/CTD Format; General Considerations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Submitting Marketing Applications According to the ICH/CTD Format; General Considerations." This guidance provides general guidance on how to organize new drug applications (NDAs), abbreviated new drug applications (ANDAs) and biologics license applications (BLAs) based on the International Conference on Harmonisation (ICH) M4 guidance on organizing the Common Technical Document (CTD) for the registration of pharmaceuticals for human use.

DATES: Submit written or electronic comments on the draft guidance by November 5, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Randy Levin, Center for Drug Evaluation and Research (HFD–001), Food and Drug Administration, 1451 Rockville Pike, Rockville, MD 20857, 301–594–5400; or

Robert Yetter, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Submitting Marketing Applications According to the ICH/CTD Format; General Considerations." This guidance is intended to supplement the ICH M4 guidances on quality, safety, and efficacy, which were signed off at step 4 of the ICH process in October 2000. Final versions of the M4 guidances on organizing the CTD will be available soon. This general considerations guidance applies to NDAs, ANDAs, and BLAs for both new molecular entities and nonnew molecular entities and all related presubmissions, supplements, and amendments.

This guidance provides some general information on the organization and format of the CTD as well as recommendations for completing module 1, which contains administrative and prescribing information specific to each regulatory authority. The content of documents in the CTD is provided in other FDA guidance documents. When finalized, this guidance will supersede the "Guidelines on Formatting, Assembling, and Submitting of New Drug and Antibiotic Applications," issued in February 1987.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on general considerations for submitting marketing applications according to the ICH/CTD format. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: August 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22199 Filed 9–4–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–64]

Notice of Submission of Proposed Information Collection to OMB; Pet Ownership in Public Housing for Elderly or Persons With Disabilities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date*: October 5, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0078) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of

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an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Pet Ownership in Public Housing for Elderly or Persons with Disabilities.

QMB Approval Number: 2577–0078.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use:

• Public Housing Agencies (PHAs) give written notice to applicants that pets are permitted, working animals excluded from regulation requirements, and where leases prohibit pets, residents may request a lease amendment. A copy of pet rules and written notice are given to each applicant when offered a unit.

Respondents: Individual or households, State, Local or Tribal Government.

Frequency of Submission: On occasion.

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
32,000		1		0.08		256

Total Estimated Burden Hours: 256.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 27, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–22171 Filed 9–4–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(OR–958–6320–ET; HAG01–0116; (OR–20221A))]

Public Land Order No. 7497; Partial Revocation of Executive Order Dated February 25, 1919; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive Order insofar as it affects 240 acres of lands withdrawn for Bureau of Land Management Public Water Reserve No. 61. This revocation is in aid of the exchange legislated by the Steens Mountain Cooperative Management and Protection Act of 2000, Public Law 106–399. The lands have been open to metalliferous mining and mineral leasing under the terms of the withdrawal, but are temporarily closed to surface entry and all mining due to the pending legislated land exchange.

EFFECTIVE DATE: September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Allison O'Brien, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6171.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated February 25, 1919, which established Public Water Reserve No. 61, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 35 S., R. 32¾ E.,
Sec. 9, NW¼SW¼;
Sec. 17, SW¼SW¼;
Sec. 18, S½SE¼;
Sec. 20, NE¼NW¼;
Sec. 28, NE¼NW¼.
The areas described aggregate 240 acres in Harney County.

2. The above-described lands are hereby made available for exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716 (1994).

Dated: August 15, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–22180 Filed 9–4–01; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–894 (Final)]

Certain Ammonium Nitrate From Ukraine

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of certain ammonium nitrate from Ukraine, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with regard to those imports of the subject merchandise from Ukraine that were subject to the affirmative critical circumstances determination by the Department of Commerce.

Background

The Commission instituted this investigation on October 13, 2000, following receipt of a petition filed with the Commission and the Department of Commerce by counsel for the ad hoc Committee for Fair Ammonium Nitrate Trade ("COFANT"), including Air Products & Chemicals, Inc., Allentown, PA; El Dorado Chemical Co., Oklahoma City, OK; LaRoche Industries, Inc., Atlanta, GA; Mississippi Chemical Corp., Yazoo City, MS; and Nitram, Inc., Tampa, FL. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of certain ammonium nitrate from Ukraine were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 14, 2001 (66 FR 14933). The hearing was held in Washington, DC on July 24, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in this investigation to the Secretary of Commerce on August 31, 2001. The views of the Commission are contained in USITC Publication 3448, August 2001, entitled Certain Ammonium Nitrate from Ukraine (Investigation No. 731–TA–894 (Final)).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: August 29, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22196 Filed 9–4–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–409–412 (Final) and 731–TA–909–912 (Final)]

Low Enriched Uranium From France, Germany, the Netherlands, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigations Nos. 701–TA–409–412 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–909–912 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from France, Germany, the Netherlands, and the United Kingdom of low enriched uranium.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: July 13, 2001.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (phone: 202–205–3179; e-mail: ffischer@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in France, Germany, the Netherlands, and the United Kingdom of LEU, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on December 7, 2000, by USEC, Inc. and its wholly-owned subsidiary the United States Enrichment Corp., Bethesda, MD.[2]

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 14, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on November 28, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 19, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 21, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these investigations. Specifically, these investigations do not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of these investigations, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these investigations.

The merchandise subject to these investigations is reported under Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 2844.20.0020. Subject merchandise may also be reported under statistical reporting numbers 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[2] On December 26, 2000, the petition was amended to add as petitioners the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC.

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any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is November 21, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 5, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 5, 2001. On December 24, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 27, 2001, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: August 29, 2001.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22186 Filed 9–4–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–73]

Steel

AGENCY: United States International Trade Commission.

ACTION: Scheduling of public hearing in Merrillville, Indiana.

SUMMARY: The Commission hereby gives notice of the scheduling of a public hearing in Merrillville, Indiana, in connection with investigation No. TA–201–73, Steel, under section 202(b) of the Trade Act of 1974 ("Trade Act") (19 U.S.C. 2252(b)). The hearing will be held at the Radisson Hotel at Star Plaza (800 East 81st Avenue, Merrillville, Indiana 46410) on Friday, October 5, 2001, beginning at 9:00 a.m.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: August 28, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the hearing should contact the Office of the Secretary at 202–205–2000. Media should contact Peg O'Laughlin (202–205–1819), Office of External Relations. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—Following receipt of a request from the United States Trade Representative on June 22, 2001, the Commission instituted investigation No. TA–201–73 to determine whether certain steel products [1] are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.[2]

Hearings.—As noted in its notice of institution (July 3, 2001, 66 FR 35,267), the Commission will hold hearings in connection with this investigation beginning the week of September 17, 2001, at the U.S. International Trade Commission Building. The Commission intends to publish a notice by September 5, 2001, announcing the schedule of the Washington, DC hearings. In addition, the Commission has determined that it will hold an additional hearing on October 5, 2001, at the Radisson Hotel at Star Plaza (800 East 81st Avenue, Merrillville, Indiana 46410), beginning at 9:00 a.m. Requests to appear at this additional hearing and the names of witnesses should be filed in writing with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 5:15 p.m., September 21, 2001. Persons testifying at the October 5th hearing are encouraged to file written statements before the hearing; the deadline for filing such statements (original and 14 copies) is October 1, 2001. If statements are submitted at the hearing, please provide at least 50 copies.

The purpose of the October 5th hearing is to receive testimony directly from persons who did not participate in the Washington, DC hearings and who have first-hand knowledge of certain issues as set forth below. The Commission requests that witnesses direct their presentations to the following issues: (1) The state of the domestic steel industry or industries (*e.g.*, employment levels, including unemployment or underemployment; worker training; level of commercial activity at productive facilities); (2) the influence of imports or other factors on the state of the domestic steel industry or industries; (3) the conditions of competition (*e.g.*, the business cycle, domestic demand); and (4) the similarities and differences between and among specific steel products with regard to physical characteristics, uses, manufacturing process, channels of distribution, and substitutability. Requests to appear at the hearing should identify the above-listed categories and the products to be addressed and the amount of time requested. After

[1] The June 22, 2001, request letter from the United States Trade Representative and the accompanying annexes listing the covered products by HTS categories are on the Commission's website (http://www.usitc.gov).

[2] On July 26, 2001, the Commission received a resolution from the Committee on Finance of the United States Senate for an investigation of the same scope. Pursuant to section 603 of the Trade Act, the Commission consolidated the investigation requested by the Committee with the ongoing investigation.

receiving these requests, Commission staff will notify participants of their time allotments. The Commission does not intend this hearing to serve as an opportunity for rebuttal to testimony presented at the Washington, DC hearings.

Oral testimony and written materials to be submitted at this public hearing are governed by §§ 201.6(b)(2) and 201.13(f) of the Commission's rules. In light of the nature of this hearing, the Commission makes no provision for *in camera* testimony or for filing pre-hearing and post-hearing briefs.

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

Issued: August 29, 2001.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22185 Filed 9–4–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–73]

Steel

AGENCY: United States International Trade Commission.

ACTION: Scheduling of public hearings for the injury phase of the investigation.

SUMMARY: In accordance with the Commission's notice of institution of investigation No. TA–201–73, Steel (66 FR 35267, July 3, 2001), this notice sets forth the schedule for the public hearings to be conducted during the injury phase of the Commission's investigation.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: August 29, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Media should contact Peg O'Laughlin (202–205–1819), Office of External Relations. General information concerning the Commission may also be obtained by accessing its internet server(*http://www.usitc.gov*).The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at*http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

Following receipt of a request from the United States Trade Representative on June 22, 2001, the Commission instituted investigation No. TA–201–73 under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) to determine whether certain steel products [1] are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.[2]

Hearings on Injury

The Commission has announced the following schedule of public hearings in connection with the injury phase of this investigation. The tabulation below shows the dates of the hearings, the starting times, the product(s) or issues to be addressed, the time allotted to the parties for their presentations, and the filing deadlines for the list of witnesses to appear at the hearings. Commission rule 201.13(d) will be strictly enforced.

Date of hearing	Starting time	Product(s)/issues to be addressed and time allocations	Deadline to file list of witnesses
Monday, September 17, 2001.	8:45 a.m.	—Congressional and Embassy presentations as requested	September 10.
		—Opening arguments—20 minutes: Parties in support of relief; 20 minutes: Parties in opposition to relief.	
	To be completed by 5 p.m..	—General arguments and issues common to product categories—90 minutes: Parties in support of relief;90 minutes: Parties in opposition to relief.	

Date of hearing	Starting time	Product(s)/issues to be addressed and time allocations	Deadline to file list of witnesses
Wednesday September 19, 2001.	9:15 a.m	—Congressional and Embassy presentations as requested	September 12.
		—Carbon and alloy flat—slabs.	
		—Carbon and alloy long—Ingots, billets, & blooms	
		45 minutes: Parties in support of relief	
		45 minutes: Parties in opposition to relief	
		—Carbon and alloy flat—Plate.	
		—Carbon and alloy flat—Hot-rolled sheet, strip, and coils	
		45 minutes: Parties in support of relief	
Thursday September 20, 2001.	9:15 a.m.	—Congressional and Embassy presentations as requested	September 12.
		—Carbon and alloy flat—Plate, continued	
		—Carbon and alloy flat—Hot-rolled sheet, strip, and coils, continued	
		45 minutes: Parties in opposition to relief	
		—Carbon and alloy flat—Cold-rolled sheet, strip, other than GOES.	

[1] The June 22, 2001, request letter from the United States Trade Representative and the accompanying annexes listing the covered products by HTS categories are on the Commission's website(*http://www.usitc.gov*).

[2] On July 26, 2001, the Commission received a resolution from the Committee on Finance of the United States Senate for an investigation of steel products with the same scope. Pursuant to section 603 of the Trade Act, the Commission consolidated the investigation requested by the Committee with the ongoing investigation.

Date of hearing	Starting time	Product(s)/issues to be addressed and time allocations	Deadline to file list of witnesses
		—Carbon and alloy flat—GOES.	
		—Carbon and alloy flat—Corrosion-resistant and other coated sheet and strip.	
		—Carbon and alloy flat-Tin mill products	
		90 minutes: Parties in support of relief	
		90 minutes: Parties in opposition to relief	
Monday September 24, 2001.	9:15 a.m.	—Congressional and Embassy presentations as requested	September 17.
		—Carbon and alloy long—Hot-rolled bar and light shapes.	
		—Carbon and alloy long—Cold-finished bar.	
		—Carbon and alloy long—Rebar.	
		—Carbon and alloy long—Rails and railway products.	
		—Carbon and alloy long—Heavy structural shapes and sheet piling.	
		—Carbon and alloy long—Fabricated structural units	
		90 minutes: Parties in support of relief	
		90 minutes: Parties in opposition to relief	
		—Carbon and alloy long—Wire.	
		—Carbon and alloy long—Strand, rope, cable, and cordage.	
		—Carbon and alloy long—Nails, staples, and woven cloth.	
		—Stainless and tool—Wire.	
		—Stainless and tool—Cloth.	
		—Stainless and tool—Rope	
		90 minutes: Parties in support of relief	
Tuesday September 25, 2001.	9:15 a.m.	—Congressional and Embassy presentations as requested	September 17.
		—Carbon and alloy long—Wire, continued.	
		—Carbon and alloy long—Strand, rope, cable, and cordage, continued.	
		—Carbon and alloy long—Nails, staples, and woven cloth, continued.	
		—Stainless and tool—Wire, continued.	
		—Stainless and tool—Cloth, continued.	
		—Stainless and tool—Rope, continued	
		90 minutes: Parties in opposition to relief	
		—Stainless and tool—Slabs/ingots.	
		—Stainless and tool—Cut-to-length plate.	
		—Stainless and tool—Bar and light shapes.	
		—Stainless and tool—Rod.	
		—Stainless and tool—Tool steel	
		90 minutes: Parties in support of relief	
		90 minutes: Parties in opposition to relief	
Friday September 28, 2001.	9:15a.m.	—Congressional and Embassy presentations as requested	September 21.
		—Stainless and tool—Seamless tubular products.	
		—Stainless and tool—Welded tubular products.	
		—Stainless and tool—Flanges and fittings	
		75 minutes: Parties in support of relief	
		75 minutes: Parties in opposition to relief	
Monday October 1, 2001	9:15 a.m.	—Congressional and Embassy presentations as requested	September 24.
		—Carbon and alloy tubular—Seamless.	
		—Carbon and alloy tubular—Seamless OCTG.	
		—Carbon and alloy tubular—Welded.	
		—Carbon and alloy tubular—Welded OCTG.	
		—Carbon and alloy tubular—Flanges, fittings, and tool joints	
		90 minutes: Parties in support of relief	
		90 minutes: Parties in opposition to relief	

Oral testimony and written materials to be submitted at the hearings are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the dates of the hearings.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Regardless of the product, the deadline for filing all prehearing briefs on injury is September 10, 2001. Parties may also file posthearing briefs. The deadlines for filing posthearing briefs on injury are as follows: September 27, 2001, for briefs regarding carbon and alloy flat products; October 2, 2001, for briefs presenting a summary of general arguments and common issues presented; October 2, 2001, for briefs regarding carbon and alloy long products; October 5, 2001, for briefs regarding stainless and tool steel products; and October 9, 2001, for briefs regarding carbon and alloy tubular products. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury by October 9, 2001. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

Issued: August 29, 2001.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22197 Filed 9–4–01; 8:45 am]

BILLING CODE 7020–02–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on September 8, 2001. The meeting will begin at 10 a.m. and continue until conclusion of the Board's agenda.

LOCATION: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, Virginia.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c)(10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Board's meeting of June 30, 20001.
3. Approval of the minutes of the Executive Session of the Board's meeting of June 30, 2001.
4. Chairman's Report.
5. Members' Report.
6. Inspector General's Report.
7. President's Report.
8. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
9. Consider and act on the report of the Board's Operations and Regulations Committee.
10. Consider and act on the report of the Board's Finance Committee.
11. Consider and act on an interim report of the Task Force on State Planning and Configuration.
12. Consider and act on an appointment to the Board of Directors of Friends of Legal Services Corporation.
13. Consider and act on the change in location of the April 2002 Board of Directors meeting.

Closed Session

14. Briefing [1] by the Inspector General on the activities of the Office of Inspector General.
15. Consider and act on the Office of Legal Affairs' report on potential and pending litigation involving LSC.
16. Consider and act on the request of a Corporate officer for permission to accept token compensation for teaching a college course on his own time.

Open Session

17. Consider and act on other business.
18. Public Comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: August 31, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel and Corporate Secretary.

[FR Doc. 01–22435 Filed 8–31–01; 4:08 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet on September 8, 2001. The meeting will begin at 9 a.m. and continue until the Committee concludes its agenda.

LOCATION: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, Virginia.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of June 30, 2001.
3. Report of LSC's Consolidated Operating Budget, Expenses and Other Funds Available through July 31, 2001.
4. Report on the projected operating expenses for fiscal year 2001 based on operating experiences through June 30, 2001.
5. Report on internal budgetary adjustments.
6. Consider and act on the President's recommendations for Consolidated Operating Budget reallocations.
7. Consider and act on proposed Temporary Operating Budget for Fiscal Year 2002.
8. Consider and act on budget mark for fiscal year 2003.
9. Consider and act on other business.
10. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel, & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: August 30, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel, and Corporate Secretary.

[FR Doc. 01–22436 Filed 8–31–01; 8:45 am]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Operations & Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on September 7, 2001. The meeting will begin at 2 p.m. and continue until the Committee concludes its agenda.

LOCATION: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, Virginia.

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR 1622.2 & 1622.3.

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STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of June 29, 2001.
3. Consider and act on the Draft Final Property Acquisition and Management Manual.
4. Consider and act upon the Final Report of the Regulations Review Task Force.
5. Staff report on the status of Current Rulemakings: 45 CFR part 1626 (Restrictions on Legal Assistance to Aliens); 45 CFR part 1611 (Eligibility); and 45 CFR 1639 (Welfare Reform).
6. Consider and act on other business.
7. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: August 30, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel and Corporate Secretary.

[FR Doc. 01–22437 Filed 8–31–01; 4:08 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on September 7, 2001. The meeting will begin at 10 a.m. and continue until the Committee concludes its agenda.

LOCATION: Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, Virginia.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the *Committee's* meeting of June 29, 2001.
3. Update by Bob Gross on the Creation of State Justice Communities.
4. Update by Michael Genz and Reginald Haley on the 2002 Competition.
5. Update by Glenn Rawdon and Joyce Raby on the Technology Grants.
6. Update by Pat Hanrahan on LSC's Diversity Activities.
7. Update by John Eidleman on the 2001 Program "Quality" Visits.
8. Report by Anh Tu and Cyndy Schneider on LSC's Visit to Micronesia and Guam.
9. Consider and act on other business.
10. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Secretary of the Corporation, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: August 30, 2001.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel and Corporate Secretary.

[FR Doc. 01–22438 Filed 8–31–01; 4:08 pm]

BILLING CODE 7050–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–106)]

Aerospace Safety Advisory Panel (ASAP); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Tuesday, September 25, 2001, 1 p.m. to 2 p.m. Eastern Daylight Time.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, Room 5W63, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Aerospace Safety Advisory Panel Executive Director, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0391, if you plan to attend.

SUPPLEMENTARY INFORMATION: This meeting will be conducted via telecon with Panel members and consultants. This meeting will be open to the public up to the seating capacity of the room (12). The agenda for the meeting is as follows: To discuss the Aerospace Safety Advisory Panel response to a National Aeronautics and Space Administration action to review the computer system redundancy approach for the International Space Station and compare it with the best practices used by other organizations that provide high availability computer systems to support human safety and protect high-value assets.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–22194 Filed 9–4–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following new information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C.Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: ckmorton@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling theNCUA Clearance Officer, C. Keith Morton, (703) 518–6411.It is also available on the following website: *www.NCUA.gov.*

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0063.

Form Number: CLF–8702.

Type of Review: Revision to a currently approved collection.

Title: Central Liquidity Facility (CLF) Regular Member Membership Application.

Description: This is a one-time form used to request membership in the CLF.

Respondents: Credit unions seeking membership in the CLF.

Estimated No. of Respondents/ Recordkeepers: 25.

Estimated Burden Hours Per Response: .50 hours.

Frequency of Response: Other. As credit unions request membership in the CLF.

Estimated Total Annual Burden Hours: 12.5 hours.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 28, 2001.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–22191 Filed 9–4–01; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following new information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C.Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton (703) 518–6411,National Credit Union Administration, 1775 Duke Street,Alexandria, Virginia 22314–3428,Fax No. 703–518–6433,E-mail: ckmorton@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860,Office of Management and Budget,Room 10226, New Executive Office Building,Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling theNCUA Clearance Officer, C. Keith Morton, (703) 518–6411.It is also available on the following website: *www.NCUA.gov.*

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0064.

Form Number: CLF–7000, 7001, 7002, 7003, & 7004.

Type of Review: Extension of a currently approved collection.

Title: Forms and Instructions for Central Liquidity Facility (CLF) Loans.

Description: Forms used by each borrower from the CLF.

Respondents: Credit Unions that borrow from the CLF.

Estimated No. of Respondents/ Recordkeepers: 25.

Estimated Burden Hours Per Response: 1-hour.

Frequency of Response: Other. As the need for borrowing arises.

Estimated Total Annual Burden Hours: 25 hours.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 28, 2001.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–22192 Filed 9–4–01; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application for continued operation of a small research camp at Cape Shirreff, Livingston Island, Antarctica, by Dr. Rennie S. Holt, a citizen of the United States. The application is submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application on or before October 5, 2001. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Joyce A. Jatko or Nadene Kennedy at the above address or (703) 292–8030.

SUPPLEMENTARY INFORMATION: NSF's Antarctic Waste Regulation, 45 CFR part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of a designated pollutant in Antarctica, and for the release of waste in Antarctica. NSF has received a permit application under this Regulation for the continued operation of a small remote research camp at Cape Shirreff, Livingston Island, Antarctica (62°28′07″S, (60°46′10″W) for another five years to continue predator-prey studies initiated in 1996 at the site. The permit period requested is from November 15, 2001 to April 30, 2006. Cape Shirreff is an ice-free peninsula towards the western end of the north coast of Livingston Island, and is designated as Antarctic Specially Protected Area No. 149 under the Antarctic Treaty. The camp consists of approximately four semi-permanent structures containing work, living, and storage spaces. During the field season from early September through the end of March of each year, four to six scientists will utilize the camp.

The permit applicant is: Dr. Rennie S. Holt, Director, U.S. AMLR Program, Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, CA 92038.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–22176 Filed 9–4–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section

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189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 13, 2001 through August 24, 2001. The last biweekly notice was published on August 22, 2001 (66 FR 44161).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By October 5, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document room (PDR) Reference staff at 1–800–397–4209, 304–415–4737 or by email to pdr@nrc.gov.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: July 26, 2001.

Description of amendments request: The proposed amendment modifies Administrative Controls Technical Specifications (TSs) 5.5.14.b and 5.5.14.b.2 such that they are consistent with Title 10 of the Code of Federal Regulations (10 CFR), § 50.59.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change replaces the word "involve" with "require" and deletes reference to the term "unreviewed safety question" consistent with 10 CFR 50.59. Deletion of the term "unreviewed safety question" was approved by the Nuclear Regulatory Commission with the revision to 10 CFR 50.59. Consequently, the probability of an accident previously evaluated is not significantly increased. Changes to the TS Bases are still subject to 10 CFR 50.59. As a result, the consequences of any accident previously evaluated are not significantly affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing plant operation. These changes are considered administrative changes and do not modify, add, delete, or relocate any technical requirements in the TS.

Therefore, this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The proposed changes will not reduce the margin of safety because they have no effect on any safety analyses assumptions. Changes to the TS Bases are still subject to 10 CFR 50.59, including prior Nuclear Regulatory Commission approval if the criteria in 10 CFR 50.59(c)(2) are met. The proposed changes to TS 5.5.14 are considered administrative in nature based on the revision to 10 CFR 50.59.

Therefore, this proposed modification does not significantly reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Peter Tam (Acting).

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: July 27, 2001.

Description of amendments request: The proposed amendment modifies the conditions and required actions for the control room emergency ventilation system (CREVS) of Technical Specification (TS) 3.7.8 for Calvert Cliffs Nuclear Power Plant, Units Nos. 1 & 2. Note 2 is being added to TS 3.7.8 to specify CREVS train operability requirements during the movement of irradiated fuel assemblies. Associated Limiting Conditions for Operation (LCO) Action Statements F and G are also being modified to be consistent with the addition of Note 2.

The proposed amendment also modifies the conditions and required actions for the control room emergency temperature system (CRETS) of TS 3.7.9. The existing note in TS 3.7.9 is being modified to specify CRETS train operability requirements during the movement of irradiated fuel assemblies. LCO Action Statements C and D are also being modified to be consistent with the addition of Note 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will modify the conditions and required actions for the Control Room Emergency Ventilation System (CREVS) and the Control Room Emergency Temperature System (CRETS) to reflect the licensing basis for movement of irradiated fuel assemblies. The CREVS and CRETS mitigate the consequences of an accident and do not initiate an accident. The CREVS provides protection to the control room operators in the event of a radioactive release. The CRETS provides protection to the Control Room by maintaining the temperature below the required limit. Therefore, changing the Conditions, Required Actions, and Completion Times for the CREVS and CRETS does not increase the probability of an accident.

As described in the Updated Final Safety Analysis Report (UFSAR), the CREVS and CRETS mitigate the consequences of six accidents. All but the fuel handling accident are postulated to occur during Modes 1, 2, 3, or 4. The fuel handling accident is only

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postulated to occur during the movement of irradiated fuel assemblies. The changes proposed would only alter the response to the loss of one CREVS or CRETS train during the movement of irradiated fuel assemblies. Since a single failure is not required to be postulated during the response to a fuel handling accident, having one CREVS or CRETS train out-of-service during fuel movement would not result in a change to the ability of the CREVS or CRETS to mitigate the consequences of a design basis fuel handling accident. The loss of one CREVS or CRETS train during Modes 1, 2, 3, or 4 is covered by other Conditions, and those Conditions have not been changed by this request. Therefore, the ability of the CREVS or CRETS to respond to any design basis accident would not be diminished by this proposed change.

Therefore, the proposed Technical Specification changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The proposed changes do not involve a change in the operation of the plant and no new accident initiation mechanism is created by the proposed changes. The operations of the CREVS or CRETS are not altered by the proposed changes. The proposed changes do not change the licensing basis requirements for the CREVS or CRETS response to the accidents described in the UFSAR. No plant changes will be made as a result of this request. No conditions have been created by this request that might result in a new accident that has not been previously analyzed. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Would not involve a significant reduction in the margin of safety.

The margin of safety created by the response of the CREVS or CRETS to various accidents has not been reduced by the proposed changes in the Conditions, Required Actions, or Completion Times. These changes merely clarify the Technical Specification so that the licensing basis is more accurately reflected. The fuel handling accident does not assume a single failure occurs during the plant response to the event; therefore, the loss of a single CREVS or CRETS train does not place the plant outside of the licensing basis. This would be reflected in the proposed changes. The changes do not alter the operation or response requirements of the CREVS or CRETS. The CREVS and CRETS will continue to respond to accidents as designed. Operators will continue to be protected as described in the UFSAR. Therefore, the margin of safety is not significantly reduced by these proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Peter Tam (Acting).

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: July 27, 2001.

Description of amendments request: The proposed amendment will add additional references to Technical Specification (TS) 5.6.5.b for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 & 2. The references will allow the use of ZIRLO™ clad fuel rods in the Calvert Cliffs' reactor cores.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change allows the use of methods required for the implementation of ZIRLO™ clad fuel rods in Calvert Cliffs Unit Nos. 1 and 2 and the use of current versions of the ECCS [emergency core cooling system] performance evaluation models for large and small break LOCAs [loss-of-coolant accidents]. The use of updated analysis methodologies will not increase the probability of an accident because the plant systems will not be operated outside of design limits, no different equipment will be operated, and system interfaces will not change.

With ZIRLO™ material introduced in the reactor, cores will exist in which ZIRLO™ and Zircaloy-4 clad fuel rods are co-resident. Fuel rods clad with each material will be evaluated based on the approved topical report.

The use of the three additional methodologies will not increase the consequences of an accident because Limiting Conditions for Operation (LCOs) will continue to restrict operation to within the regions that provide acceptable results, and Reactor Protective System (RPS) trip setpoints will restrict plant transients so that the consequences of accidents will be acceptable. Also, the consequences of the accidents will be calculated using NRC accepted methodologies.

The cores that will exist with ZIRLO™ and/or Zircaloy-4 clad fuel in the reactor will not increase the consequences of an accident. Operation within the LCOs and RPS setpoints will continue to restrict plant transients so that the consequences of accidents will be acceptable.

Therefore, the proposed Technical Specification changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The proposed change does not add any new equipment, modify any interfaces with any existing equipment, alter the equipment's function or change the method of operating the equipment. The proposed change does not alter plant conditions in a manner that could affect other plant components. The proposed change does not cause any existing equipment to become an accident initiator. The ZIRLO™ clad fuel rod design does not introduce features that could initiate an accident. Therefore, the proposed change does not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

3. Would not involve a significant reduction in the margin of safety.

Safety Limits ensure that Specified Acceptable Fuel Design Limits are not exceeded during steady state operation, normal operational transients, and anticipated operational occurrences. All fuel limits and design criteria shall be met based on the approved methodologies defined in the topical reports. The RPS in combination with the LCOs, will continue to prevent any anticipated combination of transient conditions for reactor coolant system temperature, pressure and thermal power level that would result in a violation of the Safety Limits. Therefore, the proposed changes will not involve a significant reduction in the margin of safety.

The safety analyses determine the LCO settings and RPS setpoints that establish the initial conditions and trip setpoints, which ensure that the Design Basis Events (Postulated Accidents and Anticipated Operational Occurrences) analyzed in the Updated Final Safety Analysis Report produce acceptable results. Also all fuel limits and design criteria shall be satisfied. The Design Basis Events that are impacted by the implementation of ZIRLO™ cladding will be analyzed using the NRC accepted methodology described in CENPD–404–P.

The change in the fuel rod cladding material and the use of the current ECCS performance evaluation models will not involve a reduction in the margin of safety because acceptable results for the impacted Design Basis Events will be maintained.

Therefore, the margin of safety is not significantly reduced by this proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Peter Tam, Acting.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2 (BSEP), Brunswick County, North Carolina

Date of amendments request: August 1, 2001.

Description of amendments request: The proposed amendments would revise the Technical Specifications (TS) to support a full-scope application of an Alternative Source Term (AST). The AST analyses were performed following the guidance in Regulatory Guide 1.183, "Alternative Radiological Source Terms For Evaluating Design Basis Accidents At Nuclear Power Reactors," dated July 2000, and Standard Review Plan Section 15.0.1, "Radiological Consequences Analyses Using Alternative Source Terms." *Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The BSEP systems affected by implementation of the Alternative Source Term analyses and the relaxations associated with TSTF [Technical Specification Task Force]-51, Revision 2, are not initiators of any design basis accidents. Therefore, because design bases accident initiators are not being altered by adoption of the Alternative Source Term analyses and the relaxations associated with TSTF–51, Revision 2, the probability of an accident previously evaluated is not affected. The Alternative Source Term does not affect the design or normal operation of the facility. Rather, once the occurrence of the accident has been postulated, the Alternative Source Term is an input used to evaluate the consequences of an accident. Implementation of the Alternative Source Term has been evaluated for the limiting design basis accidents at BSEP, and it has been demonstrated that the dose consequences of those limiting design bases accidents are within the regulatory guidance provided by the NRC in Regulatory Guide 1.183 and Standard Review Plan Section 15.0.1. For a fuel handling accident, the AST analyses demonstrate acceptable doses, within regulatory limits, without credit for secondary containment or automatic isolation of the Control Room. As such, the consequences of an accident previously evaluated are not affected.

Based on the above, the proposed license amendments do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The BSEP systems affected by implementing the Alternative Source Term changes and the changes associated with TSTF–51, Revision 2, do not alter any design bases accident initiators or create new types of accident precursors. In addition, these changes do not affect the design function or mode of operation of systems, structures, or components in the facility such that new equipment failure modes are created. Therefore, the proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The changes proposed are associated with the implementation of a new licensing basis for BSEP. Approval of the change from the original source term, developed in accordance with TID–14844, to a new Alternative Source Term, as described in NUREG–1465, "Accident Source Terms for Light-Water Nuclear Power Plants, Final Report," dated February 1, 1995, is being requested. The results of the accident analyses, revised in support of the proposed license amendments, are subject to revised acceptance criteria. These analyses have been performed using conservative methodologies, as specified in Regulatory Guide 1.183. Safety margins have been evaluated and margin has been retained to ensure that the analyses adequately bound the postulated limiting event scenarios. The dose consequences of these limiting events are within the acceptance criteria presented in 10 CFR 50.67, "Alternative source term," and Regulatory Guide 1.183.

The proposed changes continue to ensure that the doses at the exclusion area and low population zone boundaries, as well as the Control Room and Emergency Operations Facility/Technical Support Center, are within corresponding regulatory limits. Specifically, the margin of safety for these accidents is considered to be that provided by meeting the applicable regulatory limits, which for three of five event scenarios (i.e., the control rod drop accident, the fuel handling accident, and one of the two limits for a main steam line break accident), is conservatively set below the 10 CFR 50.67 limit. With respect to the Control Room personnel doses, the margin of safety is the difference between the 10 CFR 50.67 limits and the regulatory limit defined by 10 CFR 50, Appendix A, General Design Criterion 19.

Since the proposed changes continue to ensure that the doses at the exclusion area and low population zone boundaries, as well as the Control Room are within corresponding regulatory limits, the proposed license amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

Consolidated Edison Company of New York, Inc., Docket No. 50–003, Indian Point Nuclear Generating Station, Unit 1, Buchanan, New York

Date of amendment request: July 13, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 6.12, "High Radiation Area," to delete the administrative requirements for the control of access to high radiation areas. The control of access to these areas is assured by plant radiation protection programs that comply with 10 CFR 20.1601 requirements by using the alternate method in Regulatory Guide 8.38, "Control of Access to High and Very High Radiation Areas of Nuclear Power Plants," June 1993.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or in the consequences of an accident previously evaluated?

The proposed TS change is administrative in nature. It involves deleting specific requirements for complying with a subparagraph of 10 CFR [part] 20 for the purpose of controlling access to high radiation areas. Accident evaluations do not consider the effects of methods of controlling access to high radiation areas. The proposed changes do not result in a change to the design or operation of [* * *] any plant structure, system, or component. Therefore any assumptions of the operability or performance of any structure, system, or component in accident evaluations are unchanged.

Therefore, there is no increase in the probability or in the consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change is administrative in nature. The methods of controlling access to high radiation areas do not affect the design or operation of any plant structure, system, or component. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed TS change is administrative in nature. It involves deleting specific

requirements for complying with a subparagraph of 10 CFR [part] 20. However, effective compliance with 10 CFR [part] 20 is mandated by [* * *] another IP1 [Indian Point Nuclear Generating Station, Unit 1] TS provision. The effectiveness of Con Edison [Consolidated Edison Company of New York, Inc.] compliance with 10 CFR [part] 20 is not adversely affected by this change. In addition, this change does not affect any design function for or the operation of any plant structure, system, or component.

Therefore, the change does not affect any of the safety analyses or any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Section Chief: Robert A. Gramm.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: August 14, 2001.

Description of amendment request: **The proposed amendments would revise Technical Specification Surveillance Requirement 3.3.5.2 by changing the Engineered Safeguards Protective System Analog Instrument channel functional test frequency from 31 days to 92 days.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

Pursuant to 10 CFR 50.91, Duke Power Company (Duke) has made the determination that this amendment request involves a No Significant Hazards Consideration by applying the standards established by the NRC regulations in 10 CFR 50.92. This ensures that operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

No. This is a proposed change to the Technical Specification (TS) 3.3.5 Engineered Safeguards Protective System (ESPS) Analog Instrumentation, Surveillance Requirement (SR) 3.3.5.2 for the channel functional test. The proposed change to TS 3.3.5 ESPS Analog Instrumentation, SR 3.3.5.2 will extend the current 31 day surveillance frequency to a 92 day surveillance frequency. The proposed change does not alter the method of operating or configuration for any Structure, System, or Component.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

No. The ESPS Analog Instrumentation provides the necessary actuation of the Engineered Safety Features based on the Reactor Coolant and/or Reactor Building pressure. The proposed revision to the frequency for SR 3.3.5.2 will not alter the actuation of the Engineered Safety Features. The channel functional testing of the ESPS Analog Instrumentation will continue to be performed in an acceptable timeframe following the implementation of the proposed change.

(3) Involve a significant reduction in a margin of safety.

No. The proposed revision to the frequency for SR 3.3.5.2 will not impact the operation of the ESPS Analog Instrumentation. In addition, the channel functional testing of the ESPS Analog Instrumentation will continue to be performed in an acceptable timeframe following the implementation of the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20005.

NRC Section Chief: Richard L. Emch, Jr.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: August 23, 2001.

Description of amendment request: **The proposed amendment would revise the technical specifications to eliminate the requirement to move control element assembly #43 for the remainder of Cycle 15.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

One function of the CEAs [control element assemblies] is to provide a means of rapid negative reactivity addition into the core. This occurs upon receipt of a signal from the Reactor Protection System. This function will continue to be accomplished with the approval of the proposed change. Typically, once per 92 days each CEA is moved at least five inches to prove operability. Operability of a CEA requires the CEA be trippable and free from mechanical binding, *i.e.*, moveable. CEA #43 is operable. However, due to abnormal coil voltage on two of the five coils that move CEA #43, if CEA #43 were moved to perform the SR [surveillance requirement], it is possible that a drop rod incident could occur. The misoperation of a CEA, which includes a drop rod incident, is an abnormal occurrence and has been evaluated as part of the ANO–2 [Arkansas Nuclear One, Unit 2] accident analysis. The proposed change would eliminate the requirement to move CEA #43 every 92 days and therefore eliminate the potential of CEA misoperation, associated down power, and challenge to the plant.

If a reactor trip signal were generated, CEA #43 has been demonstrated to be operable and will drop into the core along with the remaining CEAs to ensure reactor shutdown. No modifications are proposed to the Reactor Protection System or associated Control Element Drive Mechanism Control System logic. The accident mitigation features of the plant are not affected by the proposed amendment.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

CEA #43 is operable, both moveable and trippable. The proposed change will not introduce any new design changes or systems. If a reactor trip were generated, CEA #43 will drop into the core along with the remaining CEAs to ensure reactor shutdown. The proposed change does not establish a potential for a new accident precursor.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

CEA #43 will continue to have the same capability to mitigate an accident as it had prior to approval of the proposed TS [technical specification] change. CEA #43 is moveable and trippable.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502

NRC Section Chief: Robert A. Gramm.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 18, 2001.

Description of amendment request: **The submittal requests a change to Technical Specifications (TS) Definitions 1.12 and 1.25, the effect of which will be to allow either an allocated or a measured response time to be utilized for the sensors in the Reactor Protective System and Engineered Safety Features Actuation System instrument loops.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendment to Technical Specifications (TS) Definitions 1.12 and 1.25 allows substitution of an allocated sensor response time in lieu of measuring sensor response time. Response time testing is not an initiator of any accident previously evaluated. Further, overall system response time will continue to meet Technical Specification requirements. The allocated sensor response times allowed in lieu of measurement have been determined to adequately represent the response time of the components such that the safety systems utilizing those components will continue to perform their accident mitigation function as assumed in the safety analysis.

Therefore, this change does not involve a significant increase in the probability of consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment to TS Definitions 1.12 and 1.25 allows the substitution of an allocated sensor response time in lieu of sensor response time testing for selected components. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The use of allocated response times in lieu of measured response times result in no physical change to the plant.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in a margin of safety. The proposed amendment to TS 1.1, Definitions, allows the substitution of an allocated sensor response time in lieu of measured sensor response time for certain pressure sensors. The allocated pressure sensor response times allowed in lieu of measurement have been determined to adequately represent the response time of the components such that the safety systems utilizing those components will continue to perform their accident mitigation function as assumed in the safety analysis.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston and Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Exelon Generation Company, LLC, Docket Nos. 50–237, Dresden Nuclear Power Station, Unit 2, Grundy County, Illinois

Date of amendment request: June 6, 2001.

Description of amendment request: **The proposed amendment would revise the values of the Safety Limit for the Minimum Critical Power Ratio in Technical Specification 2.1.1.**

Basis for proposed no significant hazards consideration determination: **As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:**

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established consistent with NRC approved methods to ensure that fuel performance during normal, transient and accident conditions is acceptable. The proposed change conservatively establishes the safety limit for the minimum critical power ratio (SLMCPR) for Dresden Nuclear Power Station (DNPS), Unit 2, Cycle 18 such that the fuel is protected during normal operation and during any plant transients or anticipated operational occurrences.

Changing the SLMCPR does not increase the probability of an evaluated accident. The change does not require any physical plant modifications, physically affect any plant components, or entail changes in plant operations. Therefore, no individual precursors of an accident are affected.

The proposed change revises the SLMCPR to protect the fuel during normal operation as well as during any transients or anticipated operational occurrences. Operational limits will be established based on the proposed SLMCPR to ensure that the SLMCPR is not violated during all modes of operation. This will ensure that the fuel design safety criteria (i.e., that at least 99.9 percent of the fuel rods do not experience transition boiling during normal operation and anticipated operational occurrences) is met. Since the operability of plant systems designed to mitigate any consequences of accidents has not changed, the consequences of an accident previously evaluated are not expected to increase.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in allowable modes of operation. The proposed change does not involve any modifications of the plant configuration or allowable modes of operation. The proposed change to the SLMCPR assures that safety criteria are maintained for DNPS, Unit 2, Cycle 18.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The value of the proposed SLMCPR provides a margin of safety by ensuring that no more than 0.1 percent of the rods are expected to be in boiling transition if the [minimum critical power ratio] MCPR limit is not violated. The proposed change will ensure the appropriate level of fuel protection. Additionally, operational limits will be established based on the proposed SLMCPR to ensure that the SLMCPR is not violated during all modes of operation. This will ensure that the fuel design safety criteria (i.e., that at least 99.9 percent of the fuel rods do not experience transition boiling during normal operation as well as anticipated operational occurrences) are met.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

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satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 30, 2001.

Description of amendment request: The proposed amendment would change the Technical Specification (TS) 5.5.7.a, b, and c, to update the Ventilation Filter Testing Program at Cooper Nuclear Station.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The District has evaluated each of the proposed TS changes in accordance with the criteria set forth in 10 CFR 50.92 and has determined that the proposed changes do not involve a significant hazards consideration.

The determination that the proposed changes do not involve a significant hazards consideration is based on an evaluation of these changes against each of the criteria in 10 CFR 50.92. The criteria and the conclusions of the evaluation are presented below.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The application of the 1989 version of ASME N510 will not change any of the surveillance requirements for operability of the SGT or the CREF. The changes with respect to RG 1.52 are editorial in nature and will not result in any changes in surveillance requirements. Since SGT and CREF are ESF systems and not accident initiators the probability of an accident evaluated in the Updated Safety Analysis Report will not be increased. As such, the probability of occurrence for a previously analyzed accident is not significantly increased.

The consequences of a previously analyzed event are dependent on the initial conditions assumed for the analysis, the availability and successful functioning of the equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. This change does not affect the performance of any credited equipment. These details of testing are not analysis assumptions. Based on this evaluation, there is no significant increase in the consequences of a previously analyzed event.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no change being made to the parameters within which the plant is operated. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. The change does not result in alteration of the procedures which ensure the plant remains within analyzed limits, and no change is being made to the procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. Sufficient equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event. The proposed change, which replaces references to ASME N510–1980 with references to ASME N510–1989, is acceptable because the tests continue to require appropriated confirmation of the assumed function of the systems (and thereby assure continued operability), and more accurately presents acceptable testing conditions. The changes with respect to RG 1.52 are editorial in nature and do not change existing surveillances. There is no detrimental impact on any equipment design parameter, and the plant will still be required to operate within prescribed limits. Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499

NRC Section Chief: Robert A. Gramm.

PPL Susquehanna, LLC, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: May 31, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification 2.1.1.2 to reflect the Unit 1 Cycle 13 (U1C13) minimum critical power ratio (MCPR) safety limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

No, The proposed change to the MCPR Safety Limit does not directly or indirectly affect any plant system, equipment, component, or change the way in which the plant is operated. Thus, this proposed amendment does not involve a significant increase in the probability of occurrence of an accident previously evaluated.

Prior to the startup of U1C13, licensing analyses are performed (using NRC approved methodology referenced in Technical Specification Section 5.6.5.b) to determine changes in the critical power ratio as a result of anticipated operational occurrences. These results are added to the MCPR Safety Limit values proposed herein to generate the MCPR operating limits in the U1C13 COLR [Core Operating Limits Report]. These limits could be different from those specified for the U1C12 COLR. The COLR operating limits thus assure that the MCPR Safety Limit will not be exceeded during normal operation or anticipated operational occurrences.

Therefore, this proposed amendment does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously analyzed?

No. The change to the MCPR Safety Limits and the U1C13 core loading which it supports does not directly or indirectly affect any plant system, equipment, or component (other than the core itself) and therefore does not affect the failure modes of any of these. Thus, the proposed changes do not create the possibility of a previously unevaluated operator error or a new single failure.

Therefore, this proposed amendment does not involve a possibility of a new or different kind of accident from any previously analyzed.

3. Does the proposed change involve a significant reduction in a margin of safety.

No. Since the proposed changes do not affect any plant system, equipment, or component, the proposed change will not jeopardize or degrade the function or operation of any plant system or component governed by Technical Specifications. The proposed MCPR Safety Limits do not involve a significant reduction in the margin of safety as currently defined in the Bases of the applicable Technical Specification sections, because the MCPR Safety Limits calculated for U1C13 preserve the required margin of safety.

Therefore these changes do not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Section Chief: Peter Tam, Acting.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: June 1, 2001, as supplemented June 13, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 3.7.1, Residual Heat Removal Service Water (RHRSW) System and Ultimate Heat Sink (UHS), to address previously unidentified single failure vulnerabilities when one or more RHRSW subsystems are inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Implementation of the subject changes reduces the probability of occurrence and the probability of adverse consequences of accidents previously evaluated. Inclusion of the large array valves and the bypass valves to the Technical Specifications (TS) recognizes their importance to safe shutdown. The administrative controls that TS's invoke increases the probability that potential inoperability of these valves is controlled and managed in a manner commensurate with their risk significance.

Reducing the completion time for RHRSW subsystem inoperable conditions recognizes their importance to safe shutdown commensurate with their risk significance.

These changes do not affect the design or operation of the affected components/systems and serves to increase the level of administrative control for the UHS and RHRSW system that will help to ensure the ability to achieve safe shutdown.

Therefore, this proposed amendment does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously analyzed?

The subject changes apply Technical Specification administrative controls to the UHS bypass and large array valves and shortens the completion times applicable to RHRSW inoperable conditions. The design and operation of the affected components and systems is not affected.

Application of these administrative controls does not involve a possibility of a new or different kind of accident from any previously analyzed.

3. Does the proposed change involve a significant reduction in a margin of safety.

Implementation of the subject changes increases the margin of safety since these changes add Technical Specification controls to components not currently addressed in the Technical Specifications and reduces the completion times for subsystems currently addressed in the Technical Specifications. These changes better account for the affected components/systems impact on safe shutdown.

Therefore these changes do not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, Inc., 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Section Chief: Peter Tam, Acting.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: May 3, 2001.

Description of amendment request: The licensee proposed to amend Ginna Station Improved Technical Specifications (ITS) to reflect the design changes to the actuation circuitry associated with the Control Room Emergency Air Treatment System (CREATS). The proposed design changes consist of replacing the current diverse radiation monitors with two Gieger-Mueller (GM) tubes powered from two separate safety-related power supplies which are configured into two redundant actuation logic trains, including manual initiation. The design changes is intended to increase system reliability by providing redundancy and reducing spurious actuations. As a result of the proposed design changes, the licensee requested that the following changes be made to the Limiting Condition for Operation (LCO) 3.3.6 for the CREATS Actuation Instrumentation:

a. Add a new Condition to require immediately placing the CREATS in the emergency mode of operation upon the loss of two instrument channels/trains.

b. Add a new surveillance requirement involving a CHANNEL CHECK of the Control Room Radiation Intake Monitors.

c. Revise Table 3.3.6–1 to increase the number of trains of Manual Initiation, and Automatic Actuation Logic and Actuation Relays, from one train to two trains.

d. Extend the Completion Time of the Required Action for a loss of one channel/train from 1 hour to 7 days as the result of installing redundant channels/trains.

e. Revise Table 3.3.6–1 to remove reference to the Iodine, Noble Gas, and Particulate Control Room Radiation Intake Monitors. These monitors will be replaced by the two new GM tubes.

f. Revise Table 3.3.6–1 to replace the column heading "Trip Setpoint" with "Allowable Value."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff reviewed the licensee's analysis against the three standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

The first standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed ITS changes listed above will not increase the probability of an accident previously evaluated because the CREATS actuation system is not an accident initiator as this system performs only mitigative functions. In particular, the system is designed to provide a protective environment from which the operators can control the plant following an uncontrolled release of radioactivity during a design-basis accident. The proposed design changes (increase system redundancy and reliability) and the ITS changes associated with LCO 3.3.6 (*i.e.*, action statements for loss of instrument channels/trains, channel check requirements, *etc.*,) will only ensure that the CREATS will continue to perform its safety functions and that the consequences of an accident previously evaluated will not increase.

The second standard requires that operation of the unit in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed ITS changes listed above will not create the possibility of a new or different kind of

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accident from any accident previously evaluated because the CREATS actuation system is not an accident initiator as this system performs only mitigative functions. The proposed change creates no new functional interactions with existing plant equipment nor does it introduce any new failure mode or mechanisms which could lead to reactor core damage or fission product release.

The third standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant reduction in a margin of safety. The proposed ITS changes will not adversely affect the performance of the CREATS, nor will they affect the ability of the system to perform their intended functions. The reason being that the proposed amendment does not involve any new acceptance criteria, analytical limits, or evaluation models which could affect operator dose limits.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005

NRC Section Chief: P. Tam, Acting.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: April 25, 2001 as supplemented by letter dated July 31, 2001.

Brief description of amendments: The proposed license amendments would change the Technical Specifications (TS) to allow a one-time only change to TS 3.8.1, "AC Sources—Operating," Action A.3, by extending the required Completion Time for restoration of an inoperable offsite circuit from 72 hours to 21 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed one time Technical Specification Completion Time (CT) extension does not significantly increase the probability of occurrence of a previously evaluated accident because the startup transformer [ST] XST2 is not an initiator of previously evaluated accidents involving a loss of offsite power. The proposed changes to the Technical Specification CT do not affect any of the assumptions used in the deterministic or the Probabilistic Safety Assessment (PSA) analysis relative to loss of offsite power initiating event frequency.

The proposed one time Technical Specification CT extension will continue to provide assurance that the sources of power to 6.9 kV AC [kilovolt alternating current] buses perform their function when called upon. Extending the Technical Specification CT to 21 days does not affect the design of XST2, the operational characteristics of XST2, the interfaces between XST2 and other plant systems, the function, or the reliability of XST2. Thus, 6.9 kV AC components will be capable of performing either accident mitigation function and there is no impact to the radiological consequences of any accident analysis.

To fully evaluate the effect of the proposed change, PSA methods and deterministic analysis were utilized. The results of this analysis show no significant increase in the Core Damage Frequency.

The Maintenance Rule (a)(4) risk management program assesses risk based on plant status. It requires the consideration of other measures to mitigate consequences of an accident occurring while a ST is unavailable.

The proposed changes do not alter the operation of any plant equipment assumed to function in response to an analyzed event or otherwise increase its failure probability. Therefore, these changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

These proposed changes do not change the design, configuration, or method of operation of the plant. The proposed activity involves a change to the allowed plant mode for the performance of preventive maintenance that will ensure the inherent reliability of the XST2 Startup Transformer is maintained. No physical or operational change to the ST or supporting systems are made by this activity. Since the proposed change does not involve a change to the plant design or operation, no new system interactions are created by this change. The proposed Technical Specification change does not produce any parameters or conditions that could contribute to the initiation of accidents different from those already evaluated in the Final Safety Analysis Report.

The proposed change only addresses the time allowed to restore the operability of XST2. Thus the proposed Technical Specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not affect the Limiting Conditions for Operation or their Bases that are used in the deterministic analysis to establish any margin of safety. PSA evaluations were used to evaluate the proposed change, and these evaluations determined that the net changes are either risk neutral or risk beneficial. The proposed activity involves a one time change to Allowed Outage Times.

The proposed change does not involve a change to the plant design or operation and thus does not affect the design of the ST, the operation characteristics of the ST, the interfaces between the ST and other plant systems, or the function or reliability of the ST. Because ST performance and reliability will continue to be ensured by the proposed one time Technical Specification change, the proposed changes do not result in a reduction in the margin of safety.

Therefore the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.*NRC Section Chief:* Robert A. Gramm.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: August 7, 2001 (ET 01–0021).

Description of amendment request: The amendment would add the following to the Wolf Creek Generating Station (WCGS) Technical Specifications (TSs): (1) The phrase, "or if open, capable of being closed" to Limiting Condition for Operation (LCO) 3.9.4 for the equipment hatch, during core alterations or movement of irradiated fuel assemblies inside containment, and (2) the requirement to verify the capability to install the equipment hatch in a new Surveillance Requirement (SR) 3.9.4.2. Nothing is proposed to be deleted from the TSs. Existing SR 3.9.4.2 would be renumbered SR 3.9.4.3, but would not otherwise be changed. Item (1) will allow the equipment hatch to be open during the conditions stated above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will allow the equipment hatch to be open during CORE ALTERATIONS and movement of irradiated fuel assemblies inside containment. The status of the equipment hatch during refueling operations has no affect on the probability of the occurrence of any accident previously evaluated. The proposed revision does not alter any plant equipment or operating practices in such a manner that the probability of an accident is increased. Since the consequences of a fuel handling accident inside containment with an open equipment hatch are bounded by the current analysis described in the USAR [Updated Safety Analysis Report for WCGS] and the probability of an accident is not affected by the status of the equipment hatch, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create any new failure modes for any system or component, nor do they adversely affect plant operation. No new equipment will be added and no new limiting single failures will be created. The plant will continue to be operated within the envelope of the existing safety analysis.

Therefore, the proposed changes do not create a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The previously determined radiological dose consequences for a fuel handling accident inside containment with the air lock doors open remain bounding for the proposed changes. These previously determined dose consequences were determined to be well within the limits of 10 CFR 100 and they meet the acceptance criteria of SRP [Standard Review Plan, NUREG–0800] section 15.7.4 and GDC [General Design Criteria of Appendix A to 10 CFR Part 50] 19.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: January 24, 2001, as supplemented by letters dated July 18 and August 3, 2001.

Brief description of amendment: The request consists of a change to Technical Specification 3.6.1.3, "Primary Containment Isolation Valves (PCIVs)," to permit the operation of the Inclined Fuel Transfer System (IFTS) bottom valve after removal of the IFTS primary containment isolation blind flange while the containment is required to be operable.

Date of issuance: August 16, 2001.

Effective date: As of the date of issuance and shall be implemented 30 days from the date of issuance.

Amendment No.: 117.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 21, 2001 (66 FR 15921). The supplemental letters dated July 18 and August 3, 2001, provided additional information that did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission (the Commission) staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 16, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Date of amendment request: January 27, 2000, as supplemented by letters dated March 1, June 12, and July 26, 2001.

Brief description of amendments: The amendments allow the qualified condensate storage tank to be used for both units and defines new minimum volume requirements for the tank depending on whether Arkansas Nuclear One, Unit 1, Arkansas Nuclear One, Unit 2, or both units are aligned to the tank. The total volume requirements, the allowable alternative alignment for ANO–2, and other aspects of the Technical Specifications (TSs) are unaffected by the change.

Date of issuance: August 16, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 214, 232.

Facility Operating License Nos. DPR–51 and NPF–6: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** May 30, 2001 (66 FR 29352).

The supplemental letters dated June 12 and July 26, 2001, provided additional information and revised TSs that did not expand the scope of the

application or change the initial proposed no significant hazards consideration determination which addressed the original application and supplement dated March 1, 2001.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 16, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 10, 2001.

Brief description of amendment: The proposed amendment will provide an alternative method for complying with the Limiting Conditions for Operation (LCO) requirements of Technical Specification 3.3.4.1, "End of Cycle Recirculation Pump Trip (EOC-RPT) Instrumentation," and require that an additional REQUIRED ACTION be added to CONDITION B as REQUIRED ACTION B.2.

Date of issuance: August 10, 2001.

Effective date: August 10, 2001.

Amendment No.: 148.

Facility Operating License No. NPF–29: Amendment revises the TS.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration, are contained in a Safety Evaluation dated August 10, 2001.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: September 1, 2000.

Brief description of amendments: Add a Technical Specification (TS) section regarding mechanical vacuum pump trip instrumentation.

Date of issuance: August 16, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 186 and 181.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 21, 2001.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 16, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 16, 2001.

Brief description of amendments: The amendments change the reference in Technical Specification 5.5.6, "Inservice Inspection Program for Post Tensioning Tendons," from Regulatory Guide 1.35, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments," Revision 3, 1989, to a reference to Subsection IWL, "Requirements of Class CC Concrete Components of Light-Water Cooled Power Plants," of Section XI, "Inservice Inspection," of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, and delete the applicability of Surveillance Requirement (SR) 3.0.2 to TS Section 5.5.6. SR 3.0.2 allows the surveillance to be performed within 1.25 times the interval specified in the surveillance's frequency.

Date of issuance: August 16, 2001.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 148 and 134.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 12, 2001 (66 FR 31707).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 16, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: June 13, 2001.

Brief description of amendment: The amendment revises TS 5.3 to permit lead-test-assemblies to be used, regardless of clad material, as long as the Nuclear Regulatory Commission has generically approved the fuel assembly design for use in pressurized water reactors.

Date of issuance: August 13, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 156.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 11, 2001 (66 FR 36342).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: December 20, 2000, as supplemented by letters dated February 1 and 28, and June 12, 2001.

Brief description of amendments: The amendments revised the technical specification (TS) requirements and authorized revision of the Technical Requirements Manual provisions applicable when actions direct suspension of operations involving positive reactivity changes. The proposed changes remove the requirement not to make positive reactivity changes during certain plant conditions, and limit the reactivity changes that are allowed to those that will continue to assure appropriate reactivity limits are met. Related changes to the Bases were also made. In addition, an administrative TS change was made to remove a footnote regarding an alternate onsite emergency power source, which is no longer applicable.

Date of issuance: August 13, 2001.

Effective date: August 13, 2001.

Amendment Nos.: Unit 1–128; Unit 2–117.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications and authorized revision of the Technical Requirements Manual.

Date of initial notice in ***Federal Register:*** February 7, 2001 (66 FR 9387).

The February 1 and 28, and June 12, 2001, supplemental letters provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 13, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: December 20, 2000.

Brief description of amendments: The amendments delete License Condition 2.G, "Reporting to the Commission," and Technical Specification 6.6.1.a, "Reportable Event Action."

Date of issuance: August 16, 2001.

Effective date: The amendments are effective as of the date of their issuance.

Amendment Nos.: Unit 1—129; Unit 2—118.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Facility Operating Licenses and the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 12, 2001 (66 FR 31715).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 16, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 28, 2001.

Brief description of amendments: The amendments revised the Technical Specifications (TS) to eliminate periodic response time testing requirements on selected sensors and selected protection channels, and modified TS Section 1.0 Definitions for "ENGINEERED SAFETY FEATURE (ESF) RESPONSE TIME" and "REACTOR TRIP SYSTEM (RTS) RESPONSE TIME" to provide for verification of response time for selected components. The associated Bases were also revised.

Date of issuance: August 21, 2001.

Effective date: The amendments are effective as of the date of their issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—130; Unit 2—119.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 12, 2001 (66 FR 31716).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 21, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 28th of August 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22137 Filed 9–4–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 10b–18; SEC File No. 270–416; OMB Control No. 3235–0474.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (Commission) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 10b–18 under the Securities Exchange Act of 1934 (Exchange Act) provides that the issuer or any affiliated purchaser of the issuer will not incur liability under Section 9(a)(2) of the Exchange Act or Rule 10b–5 under the Exchange Act if its purchases are effected in compliance with the manner, timing, price, and volume limitations of the safe harbor. The Rule further provides that purchases falling outside of the Rule's conditions shall not give rise to a presumption of manipulation. An issuer or an affiliated purchaser seeking to avail itself of the safe harbor, however, must collect information regarding the manner, time, price, and volume of its purchases of the issuer's common stock in order to verify compliance with the Rule's conditions and application of the safe harbor.

Each year there are approximately 1,179 share repurchase programs conducted in accordance with Rule 10b–18. For each such repurchase program, an average of approximately 8 hours are spent collecting the requisite information. If approximately 1,179 issuers engage in repurchases following a market-wide trading suspension and comply with the safe harbor then, collectively, these issuers would incur an additional 1,179 burden hours. Thus, the total compliance burden per year is approximately 10,611 burden hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: August 23, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22175 Filed 9–4–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17j–1—SEC File No. 270–239, OMB Control No. 3235–0224

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension and approval of the collection of information discussed below.

Rule 17j–1 [17 CFR 270.17j–1] under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act"), which the Commission adopted in 1980 [1] and amended in 1999,[2] implements section 17(j) of the Act, which makes it unlawful for persons affiliated with a registered investment company or with the investment company's investment adviser or principal underwriter (each, a "17j–1 organization"), in connection with the purchase or sale of securities

[1] Prevention of Certain Unlawful Activities With Respect To Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980) [45 FR 73915 (Nov. 7, 1980)].

[2] Personal Investment Activities of Investment Company Personnel, Investment Company Act Release No. 23958 (Aug. 20, 1999) [64 FR 46821–01 (Aug. 27, 1999)].

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held or to be acquired by the investment company, to engage in any fraudulent, deceptive, or manipulative act or practice in contravention of the Commission's rules and regulations. Section 17(j) also authorizes the Commission to promulgate rules requiring the rule 17j–1 organizations to adopt codes of ethics.

In order to implement section 17(j), rule 17j–1 imposes certain requirements on 17j–1 organizations and "Access Persons" [3] of those organizations. The rule prohibits fraudulent, deceptive or manipulative acts by persons affiliated with a rule 17j–1 organization in connection with their personal securities transactions in securities held or to be acquired by the fund. The rule requires each 17j–1 organization, unless it is a money market fund or a fund that does not invest in Covered Securities,[4] to: (i) Adopt a written code of ethics, (ii) submit the code and any material changes to the code, along with a certification that it has adopted procedures reasonably necessary to prevent access Persons from violating the code of ethics, to the fund board for approval, (iii) use reasonable diligence and institute procedures reasonably necessary to prevent violations of the code, (iv) submit a written report to the fund describing any issues arising under the code and procedures and certifying that the 17j–1 entity has adopted procedures reasonably necessary to prevent Access Persons from violating the code, (v) identify Access Persons and notify them of their reporting obligations, and (vi) maintain and make available to the Commission for review certain records related to the code of ethics and transaction reporting by Access Persons.

The rule requires each Access Person of a fund (other than a money market fund or a fund that does not invest in Covered Securities) and of an investment adviser or principal underwriter of the fund, who is not subject to an exception,[5] to file: (i) Within ten days of becoming an Access Person, a dated initial holdings report that sets forth certain information with respect to the access person's securities and accounts, (ii) within ten days of the end of each calendar quarter, a dated quarterly transaction report providing certain information with respect to any securities transactions during the quarter and any account established by the Access Person in which any securities were held during the quarter, and (iii) dated annual holding reports providing information with respect to each covered security the Access Person beneficially owns and accounts in which securities are held for his or her benefit. In addition, rule 17j–1 requires investment personnel of a fund or its investment adviser, before acquiring beneficial ownership in securities through an initial public offering (IPO) or in a private placement, to obtain approval from the fund or the fund's investment adviser.

The requirements that the management of a rule 17j–1 organization provide the fund's board with new and amended codes of ethics and an annual issues and certification report are intended to enhance board oversight of personal investment policies applicable to the fund and the personal investment activities of access persons. The requirements that Access Persons, who are not subject to an exception, provide initial holdings reports, quarterly transaction reports, and annual holdings reports and request approval for purchases of securities through IPOs and private placements are intended to help fund compliance personnel and the Commission's examinations staff monitor potential conflicts of interest and detect potentially abusive activities. The requirement that each rule 17j–1 organaization maintain certain records is intended to assist rule 17j–1 organizations and the Commission's examinations staff in determining whether there have been violations of rule 17j–1.

The Commission estimates that each year a total of 80,706 Access Persons and 17j–1 organizations are subject to the rule's reporting requirements.[6] Respondents provide approximately 113,896 responses each year. Each initial holdings report takes approximately forty-two minutes for each of the approximately 10,400 new Access Person each year to prepare. We estimate that each year Access Persons file approximately 30,000 quarterly transaction reports, each of which takes approximately twenty minutes to prepare. We estimate that each year approximately 75,000 Access Persons file annual holdings reports, each of which takes approximately forty-two minutes to prepare. We estimate that Access Persons file approximately 680 requests for preapproval of purchases of securities through initial public offerings and private placements, each of which takes approximately twenty-six minutes to prepare. In the aggregate, Access Persons spend approximately 70,000 hours per year complying with the reporting requirements under the rule.

We estimate that the industry spends approximately 37,000 hours notifying Access Persons of their reporting obligations and overseeing the reporting. We estimate that the industry spends approximately 3,600 hours per year preparing the annual reports regarding issues under the code of ethics and accompanying certifications to fund boards. We estimate that the industry spends approximately 2,500 hours a year preparing new codes of ethics for presentation to fund boards and approximately 1,200 hours per year preparing amendments for presentation to fund boards. We estimate that the industry spends approximately 370 hours per year documenting its approval of requests to purchase securities through initial public offerings or private placements. We estimate that the industry spends approximately 146,500 hours each year maintaining rule 17j–1 records and 13,500 hours maintaining and upgrading their electronic reporting and recordkeeping systems related to rule 17j–1. In the aggregate, 17j–1 organizations spend approximately 204,300 hours per year complying with their reporting and recordkeeping requirements under the rule and ensuring that Access Persons fulfill their reporting obligations.

The total annual burden of the rule's paperwork requirements is, therefore, estimated to be approximately 274,300 hours.[7]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 28, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22238 Filed 9–4–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Rule 17j–1(a)(1) defines an "access person" as "any director, officer, general partner, or advisory person of a fund or of a fund's investment adviser" and as "any director, officer, or general partner of a principal underwriter who, in the ordinary course of business, makes, participates in or obtains information regarding, the purchase or sale of Covered Securities by the Fund for which the principal underwriter acts, or whose functions or duties in the ordinary course of business relate to the making of any recommendation to the Fund regarding the purchase or sale of Covered Securities."

[4] A "Covered Security" is any security that falls within the definition in section 2(a)(36) of the Act, except for direct obligations of the U.S. Government, bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements, and shares issued by open-end funds. Rule 17j–1(a)(4).

[5] Rule 17j–1(d)(2) exempts Access Persons from reporting in five instances in which reporting would be duplicative or would not serve the purposes of the rule.

[6] Funds that are money market funds or that invest only in securities excluded from the definition of "security" in rule 17j–1, and any investment advisers, principal underwriters, and Access Persons to these funds, do not have to comply with the rule's requirements concerning codes of ethics, quarterly transaction reports, and initial holdings reports. The estimated number of respondents reported in this section may therefore overstate the number of entities actually required to comply with the rule's requirements.

[7] This estimate represents an increase from the approximately 156,700 burden hours estimated in connection with the Commission's last request for a PRA extension for rule 17j—1. The increase in burden hours is attributable to updated information about the number of affected respondents, and revised estimates of the component parts of the burden estimate in light of the industry's experience in implementing the recent amendments to the rule.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44749; File No. SR–CBOE–2001–47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Extend for a Four-Month Period the Pilot Program for the Exchange's 100 Spoke RAES Wheel

August 28, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 [2] thereunder, notice is hereby given that on August 27, 2001, the Chicago Board Options Exchange, Incorporated, ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. CBOE filed the proposal as a "non-controversial" rule change, pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) [4] thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE hereby proposed to extend, for an additional four-month period, the pilot program that permits the appropriate Floor Procedure Committee ("FPC") to allocate orders on the Exchange's Retail Automatic Execution System ("RAES") under the allocation system known as the 100 Spoke RAES Wheel. CBOE has designated this proposal as non-controversial and requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii) under the Act [5] to allow the proposal to be both effective and operative immediately upon filing with the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 25, 2000, the Commission approved, on a nine-month pilot basis, the Exchange's proposal to amend CBOE Rule 6.8, which governs the operation of RAES,[6] to provide the appropriate FPC with another choice for apportioning RAES trades among participating market makers, the 100 Spoke RAES Wheel.[7] In those classes where the 100 Spoke RAES Wheel is employed, the percentage of RAES contracts assigned to a participating market maker is essentially identical to the percent of non-RAES in-person agency contracts traded by that market maker in that class. At the conclusion of the pilot program on February 28, 2001, the program was extended for a six-month period that ends on August 28, 2001.[8] CBOE now proposes to extend the pilot program for an additional four-month period ending December 28, 2001.[9] The pilot will continue to operate under its current terms and conditions.

CBOE states that it believes that the 100 Spoke RAES Wheel pilot program is used as anticipated. CBOE represents that use of the 100 Spoke RAES Wheel has expanded since its implementation, and it is currently used in approximately two-thirds to three-fourths of the equity options trading stations. CBOE further represents that it believes that an extension of the pilot program will continue to provide the appropriate FPC with flexibility in determining the appropriate allocation system for a given class of options on RAES. In addition, CBOE believes that the continuation of the pilot program will continue to reward those market makers who are most active in providing liquidity to agency business in the assigned option class.

2. Statutory Basis

CBOE believes that the proposed rule change will continue to be consistent with the requirements of Section 6(b)(5) of the Act.[10] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to facilitate transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] RAES is the Exchange's automatic execution system for public customer market or marketable limit orders of less than a certain size.

[7] See Securities Exchange Act Release No. 42824 (May 25, 2000), 65 FR 37442 (June 14, 2000).

[8] See Securities Exchange Act Release No. 44020 (February 28, 2001), 66 FR 13985 (March 8, 2001).

[9] The Exchange represents that it intends to submit a rule change in the near future proposing permanent approval of the 100 Spoke RAES Wheel allocation system.

[10] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose a burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE has asserted that, because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition: and (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate), it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day pre-operative waiting period, which will allow the Exchange to continue the pilot program without interruption. CBOE contends that, with the continuation of the pilot program, market makers will continue to have greater incentive to compete effectively for orders in the crowd, which benefits investors and promotes the public interest. In addition, CBOE argues that, given the widespread use of the 100 Spoke RAES Wheel in equity options trading stations, requiring the Exchange to discontinue use of the 100 Spoke RAES Wheel as of August 29, 2001, would cause disruption to those trading stations and, thus, be disruptive to investors and the public interest. In light of these considerations, the Commission, consistent with the protection of investors and the public interest, has determined to designate the proposed rule change as operative immediately.[14]

In addition, Rule 19b–4(f)(6) requires the self-regulatory organization submitting the proposed rule change to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. CBOE has requested that the Commission waive the five-day pre-filing requirement. Consistent with CBOE's request, the Commission has determined to waive the pre-filing requirement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–47 and should be submitted by September 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22239 Filed 9–4–01; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *See* U.S.C. 78s(b)(3)(C).

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44750; File No. SR–NYSE–2001–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc.; Extending the Pilot Fee Structure Governing the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Materials

August 29, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2001, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to extend the pilot fee structure ("Pilot Fee Structure") regarding Exchange Rules 451 and 465 (the "Rules").[3] Among other things, the Rules establish guidelines for the reimbursement of expenses by NYSE issuers to NYSE member organizations for the processing of proxy materials and other issuer communications (collectively, "Material") with respect to security holders whose securities are held in street name. The current pilot period regarding the Rules is scheduled to expire on September 1, 2001.[4] NYSE proposes extending the pilot through April 1, 2002.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The text of NYSE Rule 451 also is included at Paragraph 402.10(A) of the Exchange's *Listed Company Manual.*

[4] *See* Securities Exchange Act Release No. 43603 (November 21, 2000), 65 FR 75751 (December 4, 2000).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

I. Purpose

Among other things, the Pilot Fee Structure lowers certain guidelines concerning the reimbursement of fees for the distribution of Material, creates incentive fees to eliminate duplicative mailings, and establishes a supplemental fee for intermediaries that coordinate multiple nominees. The proposed rule change would extend the Pilot Fee Structure's termination date from September 1, 2001, to April 1, 2002.

An extension of the Pilot Fee Structure will give the Commission additional time to consider the pilot program, without a lapse in the current Rules. Absent an extension of the Pilot Fee Structure, the fees in effect prior to the pilot program would return to effectivness after September 1, 2001, which could create confusion in the market.[5]

2. Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(4) of the Act [6] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In addition, the Exchange believes that the basis for the proposed rule change is the requirement under Section 6(b)(5) of the Act [7] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

NYSE has engaged in an on-going dialogue regarding the Pilot Fee Structure as well as other aspects of its proxy reimbursement guidelines with Commission staff as well as with the Proxy Voting Review Committee, which is a private initiative designed to review the proxy process that includes representatives of the securities industry, corporate issuers, institutional investors, NYSE and the largest provider of proxy intermediary services. The only written comment received by NYSE is a copy of a letter sent to the Commission from the Proxy Voting Review Committee, which unanimously supports NYSE's request for the extension.[8] NYSE has not otherwise solicited, and does not intend to solicit, comments on this proposed rule change. NYSE has not otherwise received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) may not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. NYSE seeks to have the proposed rule change become operative on or before September 1, 2001, in order to allow the Pilot Fee Structure to continue in effect on an uninterrupted basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change to extend the Pilot Fee Structure until April 1, 2002 operative immediately. The extension of the Pilot Fee Structure will provide the Commission with additional time to review and evaluate the pilot fees. Further, the Commission notes that it received a letter from the Proxy Review Committee, which supports the NYSE's extension request.[12]

The Commission notes that unless the current expiration date of the Pilot Fee Structure is extended, the reimbursement rates for Material distributed after September 1, 2001, will revert to those in effect prior to March 14, 1997. The Commission believes that such a result could be confusing and counterproductive.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately through April 1, 2002. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

[5] The Commission notes that a Proxy Voting review Committee was established as a private initiative to review the proxy voting process, which includes fees. The Committee has been meeting and plans to ultimately submit a report to the Commission, self-regulatory organizations, and the public. Accordingly, the extension will provide additional time to consider the committee's comments on this issue. *See also* Item II.C.*infra*

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* letter from Stephen P. Norman, Chairman, Proxy Review Committee, to Kelly Riley, Division of Market Regulation, SEC, dated August 10, 2001.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change.

[12] *See* note 8 *supra.*

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public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–22 and should be submitted by September 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22240 Filed 9–4–01; 8:45 am]

BILLING CODE 8010–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendments to the Sentencing Commission's Rules of Practice and Procedure. Request for public comment.

SUMMARY: This notice sets forth proposed amendments to the Commission's Rules of Practice and Procedure. The Commission invites public comment on these proposed amendments.

DATE: Public comment should be received not later than October 5, 2001.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs-Amendment of Rules Comment.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: Section 995(a)(1) of title 28, United States Code, authorizes the Commission to establish general policies and promulgate rules and regulations as necessary for the Commission to carry out the purposes of the Sentencing Reform Act of 1984. The Commission originally adopted the Rules of Practice and Procedure in July 1997 and now proposes to make amendments to these rules. Specifically, the proposed amendments clarify various rules pertaining to public access and generally provide updated information regarding how the public can contact the Commission. In accordance with Rule 1.2 of its Rules of Practice and Procedure, the Commission hereby invites the public to provide comment on the proposed amendments.

Authority: 28 U.S.C. 995(a)(1); USSC Rules of Practice and Procedure 1.2.

Diana E. Murphy,

Chair.

Proposed Amendments: Part I of the Rules of Practice and Procedure is amended by striking the introduction in its entirety.

Part I of the Rules of Practice and Procedure is amended in Rule 1.1 by striking the last sentence and inserting the following:

"These rules are not intended to create or enlarge legal rights for any person.".

Part II of the Rules of Practice and Procedure is amended in Rule 2.2 in the first paragraph by striking "public" following "and vote in"; and in the fourth paragraph by striking the last sentence and inserting the following:

"Such matters include the approval of budget requests, legal briefs, staff reports, analyses of legislation, administrative and personnel issues, notices regarding Commission amendment priorities, technical and clerical amendments to these rules, and decisions to hold a nonpublic meeting.".

Part III of the Rules of Practice and Procedure is amended in Rule 3.1 by adding at the end the following paragraph:

"Members may participate in meetings from remote locations by electronic means, including telephone, satellite, and video conference devices.".

Part III of the Rules of Practice and Procedure is amended in Rule 3.2 by adding at the end of the first paragraph the following:

"Except as provided in Rule 3.3, meetings of the Commission with outside parties shall be conducted in public.".

Rule 3.3 is amended to read as follows:

"Rule 3.3—Nonpublic Meetings

The Commission may hold nonpublic meetings (*i.e.*, meetings closed to the public) for purposes of the following: (1) To transact business of the Commission that is not appropriate for a public meeting (*e.g.*, discussion and resolution of personnel and budget issues); (2) to receive information from, and participate in discussions with, Commission staff and any person designated by an ex-officio commissioner as support staff for that commissioner; and (3) upon a decision by a majority of the members then serving, to receive or share information, from or with any other person, that is inappropriate for public disclosure (one example of which would be information from a law enforcement agency, the public disclosure of which would reveal confidential investigatory techniques or jeopardize an ongoing investigation).".

Part III of the Rules of Practice and Procedure is amended by striking Rule 3.4 in its entirety; and by redesignating Rules 3.5 and 3.6 as Rules 3.4 and 3.5, respectively.

Part V of the Rules of Practice and Procedure is amended in Rule 5.1 by striking "Office of Legislative and Public Affairs" and inserting "Office of Publishing and Public Affairs"; and by striking the second paragraph in its entirety and inserting the following:

"'Public comment' means (1) any written comment submitted by an outside party, including an agency represented by an ex-officio commissioner, pursuant to a solicitation by the Commission; and (2) any other written submission, from an outside party, that the Chair or a majority of the members then serving has not precluded from being made available to the public. 'Public comment' does not include any internal communication between and among commissioners, Commission staff, and any person designated by an ex-officio commissioner as support staff for that commissioner.".

Part V of the Rules of Practice and Procedure is amended in Rule 5.2 by adding at the end the following paragraph:

"Subsequent to the deadline for comment on the tentative priorities, the Commission shall publish in the **Federal Register**, and make available to the public for inspection, a notice of priorities for Commission inquiry and possible action.".

Part V of the Rules of Practice and Procedure is amended in Rule 5.3 by striking "Data and Reports" in the title and inserting "Information"; by striking "relevant data and reports for consideration" and inserting "relevant data, reports, and other information for consideration"; and by striking the last sentence and inserting the following:

"Upon authorization by the Staff Director, the Office of Publishing and Public Affairs shall make the data, reports, and other information available to the public as soon as practicable.".

Part VI of the Rules of Practice and Procedure is amended in Rule 6.1 by striking "(202) 273–4500" and inserting "(202) 502–4500"; by striking "(202) 273–4529" and inserting "(202) 502–4699"; and by adding at the end "The e-mail address is *pubaffairs@ussc.gov*.".

Rule 6.2 is amended to read as follows:

[13] 17 CFR 200.30–3(a)(12).

"Rule 6.2—Availability of Materials for Public Inspection; Office of Publishing and Public Affairs

The Office of Publishing and Public Affairs is the repository of all materials that are available to the public.

Generally, the Office of Publishing and Public Affairs will maintain for public inspection the following: (1) Agendas and schedules for Commission public meetings and public hearings; (2) approved minutes of Commission public meetings; (3) transcripts of public hearings; (4) public comment as defined in Rule 5.1; (5) data, reports, and other information made available pursuant to Rule 5.3; and (6) with respect to nonpublic meetings described in Rule 3.3(3), a list of outside parties attending the meeting, a list of issues upon which the Commission was briefed, and, unless otherwise directed by the Chair or a majority of the members then serving, copies of written materials submitted by outside parties.

The Office of Publishing and Public Affairs also will make available upon request (1) information available pursuant to the Commission's policy on public access to Commission data; and (2) *A Guide to Publications & Resources* that lists all publications and datasets available from the Commission.".

Part VI of the Rules of Practice and Procedure is amended in Rule 6.4 by striking "*http://www.access.gpo.gov/su_docs*; "Information Available for Free Public Use in Federal Depository Libraries" should be selected. The listing may be searched by state or by area code." and inserting "*http://www.access.gpo.gov/su_docs/locators/findlibs/index.html.*"

Part VI of the Rules of Practice and Procedure is amended in Rule 6.5 by striking "*http://www.ICPSR.umich.edu/NACJD/home.html.*" and inserting "http://www.ICPSR.umich.edu/NACJD/archive.html."

[FR Doc. 01–22275 Filed 9–4–01; 8:45 am]

BILLING CODE 2211–01–P

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 3767]

U.N. Arms Embargo of Liberia

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles or defense services to Liberia will continue to be denied pursuant to section 38 of the Arms Export ControlAct (AECA) and section 5 of the U.N. Participation Act(UNPA) in implementation of UN Security Council Resolution 1343.

EFFECTIVE DATE: September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Sweeney, MunitionsControl Analyst, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 633–2700.

SUPPLEMENTARY INFORMATION: U.N. Security Council Resolution (UNSC) 788 (1992) instituted an embargo on all deliveries of weapons and military equipment to Liberia. Consequently, the Department of State imposed a suspension on all previously issued licenses and approvals authorizing the export or transfer of defense articles or defense services to Liberia, and instituted a policy of denial for all new applications for licenses and other approvals to export or otherwise transfer defense articles or defense services to Liberia (57 FR 60265, December 18, 1992). The prohibited country list at section 126.1 of the International Traffic in Arms Regulations (ITAR) was updated on July 22, 1993 (58 FR 39280) to include Liberia.

Since that time, the Government of Liberia has been supporting armed rebel groups in the region and the Revolutionary United Front (RUF) in Sierra Leone in preparing and committing attacks on neighboring countries. On March 7, 2001, the U.N. Security Council adopted UNSCR 1343 replacing the earlier arms embargo imposed by UNSCR 788 with a broader embargo. This notice hereby advises that U.S. implementation of the prohibitions set forth in UNSCR 1343 is given effect by continuing the existing policy of denial for Liberia.

UNSCR 1343 requires that all States prevent the sale or supply to Liberia by their nationals or from their territories or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned. Also, the resolution requires States to prevent any provision to Liberia by their nationals or from their territories of technical training or assistance related to the provision, manufacture, maintenance or use of the aforementioned items. UNSCR 1343 has limited exceptions for supplies of non-lethal military equipment intended solely for humanitarian or protective use if approved in advance by an established Committee of the Security Council, and also for certain protective clothing exported to Liberia by United Nations personnel, humanitarian workers and the media for their personal use.

In accordance with 22 CFR 126.1, the U.S. Government will continue to deny all applications for licenses and other approvals to export or otherwise transfer defense articles and services to Liberia. This action also continues to preclude the use in connection with Liberia of any exemptions from licensing or other approval requirements (e.g. brokering) available under the ITAR. Exceptions to this denial policy, particularly for non-lethal items intended solely for humanitarian or protective use, will be considered on a case-by-case basis.

This action has been taken pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778) and relevant provisions of the ITAR, as well as section 5 of the UN Participation Act (22 U.S.C. 287(c)).

Dated: August 27, 2001.

John R. Bolton,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 01–22262 Filed 9–4–01; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3741]

Notice of Meetings; United States International Telecommunication Advisory Committee, Telecommunication Standardization (ITAC–T) US Study Group B

The Department of State announces a meeting of a U.S. International Telecommunication Advisory Committee. The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union (ITU).

US Study Group B will meet from 9:30 to 4 at the Department of Commerce, Room B841B, 1401 Constitution Ave, NW, Washington, DC 20230 on Tuesday September 25, 2001 to prepare for ITU–T Study Group 15 meeting of October 2001.

Members of the general public may attend this meeting. Directions to meeting location and actual room assignments may be determined by calling the Secretariat at 202 647–0965/2592. Entrance to the building is controlled; people intending to attend this meeting should send an e-mail to *mgeissinger@QWEST.NET* no later than 48 hours before the meeting for preclearance. This e-mail should display the name of the meeting and date of meeting, your name, social security number, date of birth, and

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organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U.S. Government identification card. Enter the Department of State from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: August 24, 2001.

Frank K. Williams,

Vice Chairman US WRC 2000 Del, Department of State.

[FR Doc. 01–22260 Filed 9–4–01; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice 3742]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Notice of Meeting

The Safety of Life at Sea (SOLAS) Working Group on Fire Protection, a working group of the Shipping Coordinating Committee, will conduct an open meeting at 10 a.m. on Friday, September 21, 2001, in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC.

The purpose of this meeting will be to prepare for discussions anticipated to take place at the forty-sixth session of the International Maritime Organization's Subcommittee on FireProtection, to be held February 4–8, 2002.

The meeting will focus on proposed amendments to the 1974 SOLAS Convention for the fire safety of commercial vessels. Specific discussion areas include:

—Recommendation on evacuation analysis for new and existing passenger vessels

—Smoke control and ventilation

—Unified interpretations to SOLAS chapter II–2 and related fire test procedures

—Analysis of fire casualty records

—Large passenger ship safety

—Performance testing and approval standards for fire safety systems

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Chief, Office of Design and Engineering Standards, Commandant (G–MSE–4), U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001, by calling: LCDR Kevin Kiefer at (202) 267–1444, or by visiting the following World Wide Website: http://www.uscg.mil/hq/g-m/mse4/stdimofp.htm.

Dated: August 27, 2001.

Stephen Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 01–22261 Filed 9–4–01; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of he Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received by October 5, 2001. Attention DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Ladd Hakes, Grants Management Division (M–62), Office of the Senior Procurement Executive, Office of the Secretary, US Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4284.

SUPPLEMENTARY INFORMATION:

Office of the Secretary

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Forms: SF 269, SF 270, SF 271, SF 272 and SF424.

OMB Number: 2105–0520.

Affected Public: All US and foreign direct air carriers must have accident liability insurance coverage to obtain or exercise authority to operate aircraft in interstate or foreign service.

Annual Estimated Burden: 125,650 hours.

Abstract: Information is required to meet the data requirements imposed by OMB Circular A–102 and the grant common rule, which the Department of Transportation codified at 49 CFR part 18. The information collected, retained and provided by the State and local government grantees is required to ensure grantee eligibility and their conformance with Federally mandated reporting requirements. OMB provides management and oversight of the circular. OMB also provides for a standard figure of seventy (70) annual burden hours per grantee for completion of required forms.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington DC on August 29, 2001.

Vanester Williams,

Clearance Officer, Department of Transportation.

[FR Doc. 01–22259 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186/ EUROCAE Working Group 51: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186/EUROCAE Working Group 51 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186/ EUROCAE Working Group 51: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held October 1–5, 2001 starting at 9 am.

ADDRESSES: The meeting will be held at EUROCONTROL, Brussels, Belgium.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org;* (2) Mr. Bob Darby, *bob.darby@eurocontrol.int.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 186/ EUROCAE Working Group 51 meeting. *Specific sessions will meet as follows: (1) October 1: Joint SC–186/EUROCAE WG–51 Plenary Session: (2) October 2: Joint SC–186/WG–1 & 4 and WG–51/SG–3; (3) October 3: SC–186/WG–1 meets separately, Joint SC–186/WG–4 & WG–51/SG–3; (4) October 4: Joint SC–186/ WG–4, WG–51/SG–3 and ICAO SCRSP/ ASA SG; (5) October 5: ICAO SCRSP/ ASA SG meets separately.* The plenary agenda will include:

- October 1:
- Opening Plenary Session (Welcome and Introductory Remarks, Review/ Approval of Meeting Agenda, Review/ Approval of Meeting Minutes)
- SC–186 Activity Reports:
- WG–1, Operations and Implementation
- WG–2, Traffic Information Service—Broadcast (TIS–B)
- WG–3, 1090 MHz Minimum Operational Performance Standard (MOPS)
- WG–4, Application Technical Requirements
- WG–5, Universal Access Transceiver (UAT) MOPS
- WG–6, ADS–B Minimum Aviation System Performance Standard (MASPS)
- EUROCAE WG–51 Report (SG–1, SG–2 and SG–3)
- Closing Plenary Session (Review Action Items/Work Program, Date, Place and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 27, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–22248 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 181/ EUROCAE Working Group 13: Standards of Navigation Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 181/EUROCAE Working Group 13 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 181/ EUROCAE Working Group 13: Standards of Navigation Performance.

DATES: The meeting will be held September 24–28, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; website *http://222.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 181/ EUROCAE Working Group 13 meeting.

Note: Working Groups 1 and 4 will meet separately September 24–27.

The plenary agenda will include:

- September 25 (9 a.m.–10 a.m.):
- Opening Plenary Session (Chairman Remarks, Review/Approval of Previous Meeting Minutes)
- Working Group Reports
- September 28 (9 am–1 pm):
- Final Review/Approval of Required Navigation Performance (RNP) Minimum Operational Performance Standard (MOPS), RTCA Paper No. 225–01/SC181–128
- Closing Plenary Session (New Business, Future Meeting Schedule, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 27, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–22249 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 199: Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 199 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 199: Airport Security Access Control Systems.

DATES: The meeting will be held on September 26, 2001 from 10:30 am—3 pm.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW, Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 199 meeting. The agenda will include:

- September 26:
  - Opening Session (Welcome and Introductory Remarks, Agenda Overview)
  - Current Committee Scope, Terms of Reference Overview
  - Workgroups reports and discussions (Section 1–4)
  - Other Action Items (Report on NAS Activities; List of Vendors; Vendor Solicitation)
  - Closing Session (Establish Agenda for Next Meeting, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 27, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–22250 Filed 9–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notices 437, 437–A, 437–A(1), 438 and 466

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notices 437, 437–A, 437–A(1), 438 and 466, Notice of Intention to Disclose.

DATES: Written comments should be received on or before November 5, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notices should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Notice of Intention to Disclose.

OMB Number: 1545–0633.

Notice Numbers: Notices 437, 437–A, 437–A(1), 438, and 466.

Abstract: Section 6110(f) of the Internal Revenue Code requires that a notice of intention to disclose be sent to all persons to which a written determination (either a technical advice memorandum or a private letter ruling) is issued. That section also requires that such persons receive a notice if related background file documents are requested. Notice 437 is issued to recipients of letter rulings; Notices 437–A and 437–A(1) to recipients of Chief Counsel Advice; Notice 438 to recipients of technical advice memorandums; and Notice 466 to recipients if a request for the related background file document is received. The notices also inform the recipients of their right to request further deletions to the public inspection version of written determinations or related background file documents.

Current Actions: There are no changes being made to the notices at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 5,250.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,625.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 29, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–22278 Filed 9–4–01; 8:45 am]

BILLING CODE 8320–01–P

UNITED STATES INSTITUTE OF PEACE

Sunshine Act Meeting

DATE/TIME: Thursday, September 20, 2001, 9:30 a.m.–5:30 p.m.

LOCATION: 1200 17th Street, NW, Suite 200, Washington, DC 20036–3011.

STATUS: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: September 2001 Board Meeting; Approval of Minutes of the One Hundredth Meeting (June 21–23, 2001) of the Board of Directors;—Chairman's Report; President's Report; Committee Reports; Fiscal Years 2002 and 2003 Budget Review; Review of Unsolicited Grant Applications; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: August 29, 2001.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 01–22392 Filed 8–31–01; 2:15 pm]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0011]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 5, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0011."

SUPPLEMENTARY INFORMATION: *Title:* Application for Reinstatement, (Insurance Lapsed More Than 6 Months) (Government Life Insurance and/or Total Disability Income Provision), VA Form 29–352.

OMB Control Number: 2900–0011.

Type of Review: Extension of a currently approved.

Abstract: The form is used to apply for reinstatement of insurance and/or Total Disability Income Provision that has lapsed for more than six months. The information is used to establish eligibility of the applicant for the purpose of reinstatement.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 20, 2001, at pages 20352 and 20353.

Affected Public: Individuals or households.

Estimated Annual Burden: 500 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0011" in any correspondence.

Dated: August 23, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22161 Filed 9–4–01; 8:45 am]

BILLING CODE 8320–01–P

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Corrections

Federal Register
Vol. 66, No. 172
Wednesday, September 5, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.007, 84.032, 84.033, 84.038, 84.063, 84.069, and 84.268]

Student Assistance General Provisions, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, Federal Work-Study, Federal Perkins Loan, Federal Pell Grant, Leveraging Educational Assistance Partnership, and William D. Ford Federal Direct Loan; Notice of Deadline and Submission Dates for Receipt of Applications, Reports, and Other Documents for the 2001-2002 Award Year

Correction

In notice document 01–20855 beginning on page 43753, in the issue of Monday, August 20, 2001, on pages 43755 and 43756, typeset errors were made on Table A and Table B. Tables A and B are set forth below.

Table A. Deadline Dates for Application Processing and Receipt of Student Aid Reports (SARs) or Institutional Student Information Records (ISIRs)

Who Submits?	What is Submitted?	Where is it Submitted?	What is the Deadline Date for Receipt?
Student	Free Application for Federal Student Aid (FAFSA) on the Web, Renewal FAFSA on the Web, or FAFSA Express electronic application	Electronically to the Department's Central Processing System (CPS)	July 1, 2002*
	Signature Page (if required)	The address printed on the signature page	August 21, 2002
Student through an Institution	An electronic original or renewal application	Electronically to the Department's CPS	July 1, 2002*
Student	A paper original Free Application for Federal Student Aid (FAFSA) or paper Renewal FAFSA	The address printed on the FAFSA, Renewal FAFSA, or envelope provided with the form	July 1, 2002
	Correction on the Web	Electronically to the Department's CPS	August 16, 2002*
Student	Signature Page (if required)	The address printed on the signature page	August 21, 2002
Student through an Institution	Electronic corrections and duplicate requests	Electronically to the Department's CPS	August 27, 2002*
Student	Corrections submitted using Part 2 of an SAR	The address printed on Part 2 of the SAR	August 16, 2002
Student	Change of address, change of institutions, and duplicate requests	The address printed on Part 2 of the SAR	August 16, 2002
		The Federal Student Aid Information Center by calling 1-800-433-3243	August 27, 2002
Student	Valid SAR	Institution	The earlier of: - the student's last date of enrollment; or - September 3, 2002
Student through the Department's CPS	Valid ISIR****	Institution receives ISIR from the Department's CPS	
Student	Verification documents	Institution	The earlier of:** - 90 days after the student's last date of enrollment; or - September 3, 2002
Student	Valid SAR after verification	Institution	The earlier of:*** - 90 days after the student's last date of enrollment; or - September 3, 2002
Student through the Department's CPS	Valid ISIR after verification****	Institution receives ISIR from the Department's CPS	

* The deadline for electronic transactions is 12:00 midnight (Central Time) on the deadline date. Transmissions must be completed and accepted by 12:00 midnight to meet the deadline. If transmissions are started before 12:00 midnight but are not completed until after 12:00 midnight, those transmissions will not meet the deadline. In addition, any transmission picked up on or just prior to the deadline date that gets rejected may not be able to be reprocessed because the deadline will have passed by the time the user gets the information notifying him/her of the reject.

** Although the Secretary has set this deadline date for the submission of verification documents to the institution, if corrections are required, the earlier deadline dates for submission of paper or electronic corrections must still be met.

*** The institution must have already received an SAR or ISIR with an eligible EFC while the student was enrolled and eligible for payment. Students completing verification while no longer enrolled will be paid based on the higher of the two EFCs.

**** For this purpose, the date the ISIR transaction was processed by CPS is considered to be the date the ISIR record layout, field 163. It is also primed on the first page of the SAR and ISIR.

Table B. Earliest Submission and Deadline Dates for Submitting Federal Pell Grant Disbursement Records

Who Submits?	What is Submitted?	Where is it Submitted?	What is the Earliest Submission and Deadline Date for Receipt?
Institution	At least one acceptable disbursement record must be submitted for each Federal Pell Grant recipient at the institution by:	To RFMS using EDE or custom software: Student Aid Internet Gateway (SAIG) (formerly Title IV Wide Area Network)	An institution may submit disbursement records as early as June 21, 2001, but can not submit a disbursement record any earlier than: (a) 30 calendar days prior to the disbursement date under the Advance payment method; (b) 5 calendar days prior to the disbursement date under the Just in-time payment method; or (c) the date of disbursement under the Reimbursement or Cash Monitoring payment methods. An institution is required to submit a disbursement record not later than the earlier of: (a) 30 calendar days after the institution - makes a disbursement; or - becomes aware of the need to make an adjustment to previously reported disbursement data; or (b) September 30, 2002. After September 30, 2002, an institution may submit a disbursement record only: (a) for a downward adjustment of a previously reported award; or (b) based upon a program review or initial audit finding per 34 CFR 690.83.
	Electronic Data Exchange (EDE)*	1. Pell Grant User Support Hotline: 1-800-474-7268 2. http://www.pellgrantsonline.ed.gov 3. SAIG	August 16, 2002**
	Requests for Year-To-Date Records	1. U.S. Department of Education Office of Student Financial Assistance Schools Channel/Pell Operations P.O. Box 23781 Washington, D.C. 20026-0781 2. http://www.pellgrantsonline.ed.gov 3. by email: sfa.administrative.relief@ed.gov	January 31, 2003
	Request for administrative relief based on a natural disaster or other unusual circumstances, or an administrative error made by the Department or Departmental contractors		

* An institution must ensure that its transmission of disbursement records is completed before midnight (local time at the institution's EDE destination point) on September 30, 2002.
** Year-To-Date records may be requested after this date, however, there may not be sufficient time for institutions to receive the file, create a disbursement record batch and submit to the Secretary by the September 30, 2002 deadline date for receipt of all 2001-2002 requests for payment.
NOTE: RFMS must accept a student origination record for a student from an institution before it accepts a disbursement record from the institution for that student. An institution may submit an origination and a disbursement record for a student in the same transmission.

[FR Doc. C1-20855 Filed 9-4-01; 8:45 am]
BILLING CODE 1501-01-D

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

Correction

In notice document 01-20278 beginning on page 42538 in the issue of Monday, August 13, 2001, make the following correction:

On page 42539, in the third column, in the fourth line, "cost" should read "post".

[FR Doc. C1-20278 Filed 9-4-01; 8:45 am]
BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Correction

In notice document 01-20885 beginning on page 44161 in the issue of Wednesday, August 22, 2001, make the following correction:

On page 44167, in the second column, under *Description of amendment request*, in the fifth line, "5.0.5" should read "4.0.5".

[FR Doc. C1-20885 Filed 9-4-01; 8:45 am]
BILLING CODE 1505-01-D

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

Correction

In notice document 01-18907 beginning on page 39376 in the issue of Monday, July 30, 2001, make the following correction:

On page 39376, in the third column, under the heading **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**, the following text should be moved to the second column preceding the heading **RRB-5:**

On July 20, 2001, the Railroad Retirement Board filed a new system report for this system with the House Committee on Government Operations, the Senate Committee on Governmental Affairs, and the Office of Management and Budget. This was done to comply with Section 3 of the Privacy Act of 1974 and OMB Circular No. A-130, Appendix I.

By Authority of the Board.
Beatrice Ezerski,
Secretary of the Board.

[FR Doc. C1-18907 Filed 9-4-01; 8:45 am]
BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AK85

Copayments for Medications

Correction

In proposed rule document 01-17734 beginning on page 36960 in the issue of Monday, July 16, 2001, make the following correction:

On page 36961, in the first column, under **ADDRESSES**, in the eighth line, *"OGSRegulations@mail.va.gov"* should read *"OGCRegulations@mail.va.gov"*.

[FR Doc. C1-17734 Filed 9-4-01; 8:45 am]
BILLING CODE 1505-01-D

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Federal Register

Wednesday,
September 5, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 203

Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Doc. No. FR–4615–P–01]

RIN 2502–AH57

Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would address property "flipping," the practice whereby a property recently acquired is resold for a considerable profit with an artificially inflated value, often abetted by a lender's collusion with the appraiser. Specifically, the proposed rule would establish certain new requirements regarding the eligibility of properties for FHA mortgage insurance. The proposed regulatory amendments would protect FHA borrowers from becoming unwitting victims of property flipping. Further, the proposed changes comply with Congressional mandates to maintain the FHA Insurance Fund in a sound actuarial manner.

DATES: *Comments Due Date:* November 5, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Predatory lending—whether undertaken by creditors, brokers or even home improvement contractors—involves engaging in deception or fraud, manipulating the borrower through aggressive sales tactics, or taking unfair advantage of a borrower's lack of understanding about loan terms. These practices are combined with loan terms that, alone or in combination, are abusive or make the borrower more vulnerable to abusive practices. Predatory lending often occurs in the subprime mortgage market which, in general, serves an important role by providing loans to borrowers who do not meet the credit standards for the prime mortgage market.

While no one set of abusive lending practices or terms characterizes a predatory mortgage loan, a loan can be predatory when lenders or brokers undertake one or more of the following practices: Charge borrowers excessive, often hidden fees; successively refinance loans at no benefit to the borrower; make loans without regard to a borrower's ability to repay; and engage in high-pressure sales tactics or outright fraud and deception. Vulnerable populations, including elderly and low-income individuals, and low-income or minority neighborhoods may be targeted by these unscrupulous lenders.

A major example of predatory lending is property "flipping," the practice whereby a recently acquired property is resold for a considerable profit with an artificially inflated value, often abetted by a lender's collusion with the appraiser. Most property flipping occurs within a matter of days after acquisition, and usually with only minor cosmetic improvements, if any.

II. This Proposed Rule

This proposed rule is one of several actions HUD is taking to address property flipping. This proposed rule would amend HUD's FHA single family mortgage insurance regulations at 24 CFR part 203 by establishing a new § 203.37a. This section would prescribe certain new requirements regarding the eligibility of properties for FHA mortgage insurance. The proposed regulatory amendments would protect FHA borrowers from becoming unwitting victims of property flipping. Further, the proposed changes comply with Congressional mandates to maintain the FHA Insurance Fund in a sound actuarial manner. Victims of predatory lending often default, causing losses to the Insurance Fund as a result of claims. Addressing predatory lending practices will assist in reducing such claims.

1. *Six-month restriction on sales.* Proposed § 203.37a would provide that any property being sold within six months after acquisition by the seller is not eligible for FHA financing. The 6 month restriction would not apply to the disposition of HUD-acquired properties under 24 CFR part 291 or to the disposition of single family assets in revitalization areas pursuant to section 204 of the National Housing Act (12 U.S.C. 1710).

As noted, property flipping involves the rapid resale, often within days, of a recently acquired property. A quick resale minimizes the ownership expenses incurred by the investor, and increases the profitability of the transaction. This is especially true when the "flip" is a pre-arranged transaction that would otherwise not have occurred without an interim owner aware of the final buyer's willingness to pay the excessive sales price. HUD believes that the proposed 6 month restriction on resales is of sufficient duration to preclude such short-term property flipping. HUD specifically invites public comment on the appropriateness of the 6 month period, and on whether a shorter or longer period would better accomplish HUD's goal of protecting FHA borrowers from becoming targets of this abusive sales practice.

2. *Owner of record.* Unscrupulous investors will also flip properties they have contracted to purchase (but have not yet acquired) by selling or assigning the rights to the sales contract, often for a significant profit. To prevent such property flipping scenarios, new § 203.37a would provide that only those properties purchased from the owner of record are eligible for FHA mortgage insurance.

3. *Exceptions to property flipping restrictions.* While HUD wishes to assist FHA borrowers in avoiding predatory sales practices, HUD is also aware that justifiable circumstances may sometimes exist for the quick and profitable resale of a recently acquired property. HUD does not wish to prevent the ability to use FHA-insured mortgage financing for the purchase of properties acquired through such legitimate transactions. Accordingly, new § 203.37a would authorize HUD to grant exceptions, on a case-by-case basis, to the proposed property flipping restrictions where the mortgagee demonstrates that the sales price of the property corresponds to its market value. Such documentation may include, but is not limited to, evidence that the sale price reflects a rapidly appreciating real estate market, that the seller has made improvements that result in a corresponding increase to the value of the property, or that the property is being sold at below market value due to a distress sale or at a tax sale.

HUD invites comment as to whether these exceptions are sufficient to avoid preventing or delaying legitimate business transactions. Such transactions might include certain resales within 6 months at less than the previous purchase price or certain resales at more than the previous purchase price but less than market value.

III. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Section reference	Number of parties	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated Annual Burden (in hours)
§ 203.37a(c)	500	1	0.5	250

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposal by name and docket number (FR–4615) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503;
and
Ethelene Washington, Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 7th Street, SW., Room 9114, Washington, DC 20410

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows. The proposed regulatory amendments are exclusively concerned with curbing the predatory lending practice of property flipping. The vast majority of lenders participating in the FHA single family mortgage insurance programs fully comply with all program requirements and conduct themselves in an ethical manner. The proposed rule would only impact the small minority of unscrupulous lenders who participate in the FHA programs and engage in this predatory practice.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

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Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Numbers for 24 CFR part 203 are 14.117 and 14.133.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 203 to read as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

2. Add § 203.37a to read as follows:

§ 203.37a Sale of property.

(a) *Sale by owner of record.* To be eligible for mortgage insurance, the property must be purchased from the owner of record and may not be sold through the sale or assignment of the sales contract.

(b) *No re-sale within previous 6 months.* (1) Any property being sold within six months after acquisition by the seller is not eligible for mortgage insurance.

(2) This six month restriction does not apply to the disposition of:

(i) HUD-acquired properties under 24 CFR part 291; or

(ii) Single family assets in revitalization areas pursuant to section 204 of the National Housing Act (12 U.S.C. 1710).

(c) *Case-by-case exceptions.* HUD may grant exceptions to the provisions of this section, on a case-by-case basis, upon written demonstration by the mortgagee that the sales price of the property accurately corresponds to its market value. Such documentation may include, but is not limited to, evidence that:

(1) The sales price reflects a rapidly appreciating real estate market;

(2) The seller has made improvements that have resulted in a corresponding increase to the value to the property; or

(3) The property is being sold at below market value due to a distress sale or at a tax sale.

Dated: July 12, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–22170 Filed 9–4–01; 8:45 am]

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Part III

The President

Proclamation 7459—National Ovarian Cancer Awareness Month, 2001

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Presidential Documents

Title 3—

The President

Proclamation 7459 of August 30, 2001

National Ovarian Cancer Awareness Month, 2001

By the President of the United States of America

A Proclamation

Ovarian cancer, the deadliest of the gynecologic cancers, is the fifth leading cause of cancer deaths among women in the United States. Experts predict that more than 23,000 cases will be diagnosed in 2001, with an estimated 13,900 women dying from the disease this year.

Ovarian cancer is very treatable when detected early, but only 25 percent of ovarian cancer cases in the United States are diagnosed in the early stages. The vast majority of cases are not diagnosed until the cancer has spread beyond the ovaries, often because symptoms are easily confused with other diseases and because no reliable, easily administered screening tool exists.

When the disease is diagnosed in advanced stages, the chance of 5-year survival is only about 25 percent. Currently, 50 percent of women diagnosed with ovarian cancer die from it within 5 years. Among African-American women, only 48 percent survive 5 years or more.

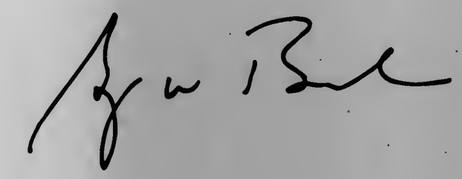
Early detection of this disease remains the best way to save women's lives. Symptoms may include abdominal pressure or bloating, persistent digestive problems, excessive fatigue, and sometimes abnormal bleeding. Women also should be aware that risk factors are higher for those who are over 50 years of age, who have a personal or family history of ovarian, breast, or colon cancer, and who have not borne a child.

National Ovarian Cancer Awareness Month serves as an important time to recognize Federally funded research efforts by the National Cancer Institute, the Centers for Disease Control and Prevention, and the Department of Defense Ovarian Cancer Research Program. Their work has achieved great strides, and my Administration is committed to continuing funding of research that will decrease the high mortality from ovarian cancer and ultimately prevent the disease. At the same time, the medical community and nonprofit groups are working together to create more awareness about the disease and spotlight the need for continued research into prevention, early detection tools, advanced therapies, and possible cures.

During this special observance, I commend the scientists, physicians, and other medical and health professionals who are working to advance knowledge and understanding of ovarian cancer. I also encourage all Americans to learn more about the disease and the importance of early detection. Doing so can save lives and protect the health and well-being of countless women.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September as National Ovarian Cancer Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of August, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01-22474
Filed 9-4-01; 9:52 am]
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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Egg, poultry, and rabbit grading:
Fees and charges; comments due by 9-12-01; published 8-13-01
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Referendum procedures; comments due by 9-12-01; published 8-28-01
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H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

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H.R. 821/P.L. 107–32

To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33

To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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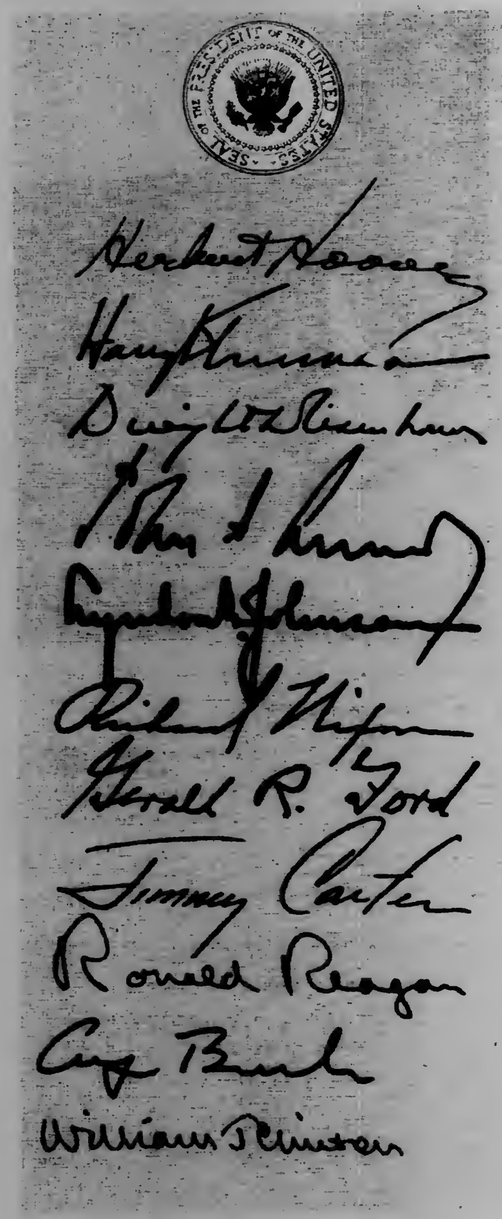
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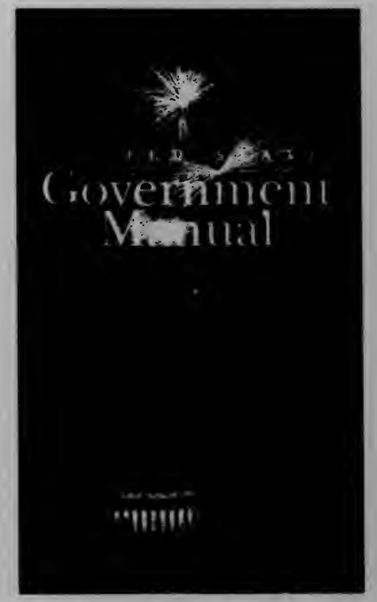
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WHEN: September 20, 2001—9:00 a.m. to noon
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538; or
info@fedreg.nara.gov

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Pine Shoot Beetle; Addition to Quarantined Areas

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 300 to 399, revised as of January 1, 2001, appearing on page 34 and 35, § 301.50–3(d) is removed. The text was removed by an amendment published at 64 FR 387, January 5, 1999.

[FR Doc.01–55522 Filed 9–5–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–23–AD; Amendment 39–12428; AD 2001–18–02]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, that requires a one-time eddy current inspection for cracks of the fuselage butt joint which is forward of the emergency exits on the left- and right-hand sides of the airplane at the level of stringers 27/48. This proposal would also require repair of any cracks detected. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign airworthiness authority. The actions specified by this AD are intended to detect and correct cracks in the area of the emergency escape hatches, which, if undetected, could result in depressurization during flight, possibly leading to structural failure of the airplane.

DATES: Effective October 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes was published in the **Federal Register** on June 27, 2001, (66 FR 34132). That action proposed to require a one-time eddy current inspection for cracks of the fuselage butt joint which is forward of the emergency exits on the left- and right-hand sides of the airplane at the level of stringers 27/48. That action also proposed to require repair of any cracks detected.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusions

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 23 Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required eddy current inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,760, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

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List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–02 Fokker Services B.V.: Amendment 39–12428. Docket 2001–NM–23–AD.

Applicability: All Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracks in the area of the emergency escape hatches, which, if undetected, could result in depressurization during flight, possibly leading to structural failure of the airplane, accomplish the following:

Inspection

(a) Prior to the accumulation of 30,000 total flight cycles, or within 12 months after the effective date of this AD, whichever occurs later: Perform a one-time eddy current inspection to detect cracks of the fuselage butt joint forward of the emergency hatches on the left- and right-hand sides of the airplane at the level of stringers 27/48, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28/53–148, dated August 15, 2000.

Repair

(b) If any crack is found during the inspection required by paragraph (a) of this AD: Prior to further flight, repair the crack per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Rijksluchtvaartdienst (or its delegated agent).

Reporting

(c) Submit a report of inspection findings (both positive and negative) to Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; and to Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1320. The report is to be submitted at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD. The report must include the inspections results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit a report of findings within 10 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection was accomplished prior to the effective date of this AD: Submit a report of findings within 10 days after the effective date of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) Except as specified by paragraph (b) of this AD, the actions shall be done in accordance with Fokker Service Bulletin SBF28/53–148, dated August 15, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive Dutch airworthiness directive 2000–151, dated November 30, 2000

Effective Date

(g) This amendment becomes effective on October 11, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22085 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–24–AD; Amendment 39–12429; AD 2001–18–03]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, that requires a one-time inspection for correct installation of the left- and right-hand fuel differential pressure (FDP) switches and for correct connection of the pressure sensing lines to the switches, and corrective action, if necessary. The actions specified by this AD are intended to ensure that a warning light goes on when the fuel filter is partially blocked by ice, so that the blockage of the fuel filter does not increase, leading to reduced fuel flow to the engine and possibly to an engine flame-out. This action is intended to address the identified unsafe condition.

DATES: Effective October 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation

Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes was published in the **Federal Register** on June 27, 2001 (66 FR 34134). That action proposed to require a one-time inspection for correct installation of the left- and right-hand fuel differential pressure (FDP) switches and for correct connection of the pressure sensing lines to the switches, and corrective action, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Cite Foreign Airworthiness Directive

The commenter states that the Dutch airworthiness directive is not cited in the proposed rule, and asks that it be included in the final rule. The FAA agrees with the commenter in that the note citing the Dutch airworthiness directive was inadvertently omitted from the proposed rule. We have added the note to this final rule accordingly.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required one-time inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,640, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–03 Fokker Services B.V.: Amendment 39–12429. Docket 2001-NM–24-AD.

Applicability: All Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that a warning light goes on when the fuel filter is partially blocked by ice, so that the blockage of the fuel filter does not increase, leading to reduced fuel flow to the engine and possibly to an engine flame-out, accomplish the following:

Inspection/Corrective Action

(a) Within 60 days from the effective date of this AD: Perform a one-time general visual inspection for correct installation of the left- and right-hand fuel differential pressure (FDP) switches and for correct connection of the pressure sensing lines to the FDP switches, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F27/28–63, dated November 21, 1999. If the switches are found to be installed incorrectly, as specified in the service bulletin, prior to further flight, re-install the switches and re-connect the pressure sensing lines to the switches, in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who

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may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Fokker Service Bulletin F27/28–63, dated November 21, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 1999–154, dated November 30, 1999.

Effective Date

(e) This amendment becomes effective on October 11, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22086 Filed 9–5–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–119–AD; Amendment 39–12430; AD 2001–18–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, that currently requires repetitive inspections to detect damage or deflection of the crew rest heat exchanger, and follow-on actions, if necessary. This amendment adds a new requirement for a one-time inspection to determine the part number and shop code of the shell of the crew rest heat exchanger; and follow-on actions, if necessary; which terminate the currently required repetitive inspections. This action is necessary to prevent cracking and buckling of the front edge of the crew rest heat exchanger, which could result in a jam of the rudder or elevator control cables, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000, as listed in the regulations, is approved by the Director of the Federal Register as of September 21, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 8, 2000 (65 FR 33444, May 24, 2000).

Comments for inclusion in the Rules Docket must be received on or before November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–119–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain "Docket No. 2001–NM–119–AD" in the subject line and need not be submitted in triplicate.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On May 15, 2000, the FAA issued AD 2000–10–12, amendment 39–11736 (65 FR 33444, May 24, 2000), applicable to certain Boeing Model 747–400 series airplanes, to require repetitive inspections to detect damage or deflection of the crew rest heat exchanger, and follow-on actions, if necessary. That action was prompted by reports of cracking and buckling of the front edge of the crew rest heat exchanger on several airplanes. The requirements of that AD are intended to detect and correct damage or deflection of the crew rest heat exchanger, which could result in jamming of the rudder or elevator control cables, and consequent reduced controllability of the airplane.

In the preamble to AD 2000–10–12, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action was being considered. We now have determined that further rulemaking action is indeed necessary, and this AD follows from that determination.

Actions Since Issuance of Existing AD

Since the issuance of AD 2000–10–12, we have reviewed and approved Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000. (AD 2000–10–12 referred to the original issue of Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, as the appropriate source of service information for the required actions.) Among other changes, Revision 2 of the service bulletin adds a new one-time inspection to determine the part number and shop code of the shell assembly of the crew rest heat exchanger. The service bulletin also describes procedures for certain follow-on actions if the shell has a certain part number and shop code, or if the shop code cannot be determined. The follow-on actions involve removing the shell assembly of the heat exchanger; measuring the thickness of the wall of the shell adjacent to the forward flange; remarking the part, if necessary; and replacing the shell assembly of the crew rest heat exchanger with a new shell assembly, if necessary. Accomplishment of the new inspection and applicable follow-on actions eliminates the need for the currently required repetitive inspections for deflection or damage of the crew rest heat exchanger. Accomplishment of the actions specified in Revision 2 of the service bulletin is intended to adequately address the identified unsafe condition.

Additionally, paragraph (b) of AD 2000–10–12 contains a requirement to measure the thickness of the material of

discrepant heat exchanger and send certain discrepant heat exchangers and inspection results to the airplane manufacturer. Because the airplane manufacturer has issued the new service bulletin discussed above, which contains a terminating action for the repetitive inspections required previously, we find that it is no longer necessary to require the measurement and return of discrepant heat exchangers. Paragraph (b) has been revised accordingly, and Note 3 of the existing AD, which contains information related to the return of damaged heat exchangers, has not been included in this AD.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, this AD supersedes AD 2000–10–12 to continue to require repetitive inspections to detect damage or deflection of the crew rest heat exchanger, and follow-on actions, if necessary. This AD adds a new requirement for a one-time inspection to determine the part number and shop code of the shell of the crew rest heat exchanger, and follow-on actions, if necessary, which terminate the currently required repetitive inspections. The actions are required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Differences Between Service Bulletin and This AD

This AD differs from the service bulletin in that the service bulletin specifies that the new inspection to determine the part number and shop code of the shell of the crew rest heat exchanger be accomplished at "the next heavy maintenance visit." We find that such a compliance time will not necessarily ensure that the inspection will be done in a timely manner. In developing an appropriate compliance time for the new inspection required by this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the new inspection (less than one hour). In light of all of these factors, we find an 18-month compliance time for completing the required inspection to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. We find that this compliance time will also be sufficient to allow the inspections to be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet.

Cost Impact

None of the Model 747–400 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 1 work hour to accomplish the inspection currently required by AD 2000–10–12, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection would be $60 per airplane, per inspection cycle.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 1 work hour to accomplish the new inspection required by this AD, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new required inspection would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–119–AD." The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

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List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11736 (65 FR 33444, May 24, 2000), and by adding a new airworthiness directive (AD) amendment 39–12430, to read as follows:

2001–18–04 Boeing: Amendment 39–12430. Docket 2001–NM–119–AD. Supersedes AD 2000–10–12, Amendment 39–11736.

Applicability: Model 747–400 series airplanes, line numbers 1 through 1205 inclusive, certificated in any category, and equipped with dual crown skin heat exchangers.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

Restatement of Requirements of AD 2000–10–12

Repetitive Inspections

(a) Within 1,200 flight hours or 90 days after June 8, 2000 (the effective date of AD 2000–10–12, amendment 39–11736), whichever occurs first, perform a general visual inspection of the crew rest heat exchanger to detect deflection or damage, in accordance with Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, or Revision 2, dated November 30, 2000. Repeat the inspection thereafter at intervals not to exceed 2,500 flight hours, until paragraph (d) of this AD is accomplished.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Corrective Action

(b) If any damage or deflection is detected during any inspection required by paragraph (a) of this AD, prior to further flight, replace the discrepant heat exchanger with a new heat exchanger, in accordance with Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, or Revision 2, dated November 30, 2000.

New Requirements of This AD

Note 3: Inspections and replacements accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–21A2412, Revision 1, dated August 31, 2000; are considered acceptable for compliance with paragraphs (a) and (b) of this AD.

Determination of the Part Number of the Heat Exchanger Shell

(c) Within 18 months after the effective date of this AD, do an inspection to determine the part number of the shell assembly of the crew rest heat exchanger, according to Boeing Alert Service Bulletin 747–21A2412; Revision 2, dated November 30, 2000.

(1) If the part number of the shell is NOT listed in the "Existing Part Number" column of the "Existing Parts Accountability" table under Section 2.E. of the service bulletin: No further action is required by this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

(2) If the part number is listed in the "Existing Part Number" column of the "Existing Parts Accountability" table under Section 2.E. of the service bulletin, but the shop code is NOT A3210: No further action is required by this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

(3) If the part number is listed in the "Existing Part Number" column of the "Existing Parts Accountability" table under Section 2.E. of the service bulletin, and the shop code is A3210 or cannot be determined, do paragraph (d) of this AD.

Measurement of Wall of Shell Assembly and Corrective Action

(d) For airplanes on which the shell assembly of the crew rest heat exchanger has the part number listed in the "Existing Part Number" column of the "Existing Parts Accountability" table under Section 2.E. of Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000, and the shop code is A3210 or cannot be determined: Before further flight, remove the shell assembly of the heat exchanger and measure the thickness of the wall of the shell adjacent to the forward flange, according to the service bulletin.

(1) If the thickness of the wall of the shell is equal to or greater than 0.028 inch: Remark the part if the part marking was unreadable, and reinstall the shell assembly, according to the service bulletin. No further action is required by this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

(2) If the thickness is less than 0.028 inch: Replace the shell assembly with a new shell assembly, according to the service bulletin. This terminates the repetitive inspections required by paragraph (a) of this AD.

Spares

(e) As of the effective date of this AD, no one may install a crew rest heat exchanger on any airplane unless paragraphs (c) and (d) of this AD, as applicable, have been done on that heat exchanger.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–10–12, amendment 39–11736, are approved as alternative methods of compliance with this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000; or Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, Revision 2, dated November 30, 2000, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 747–21A2412, dated January 20, 2000, was approved previously by the Director of the Federal Register as of June 8, 2000 (65 FR 33444, May 24, 2000).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on September 21, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22087 Filed 9–5–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–20–AD; Amendment 39–12433; AD 2001–18–07]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C, and 1900D airplanes. This AD requires you to inspect all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation. This AD also requires you to replace any flap flexible shaft assembly that has an incorrect diagonal wrap or incorrect installation. This AD is the result of several occurrences of flap extension/retraction failures on the affected airplanes due to the inner flexible shaft ends separating or disengaging. The actions specified by this AD are intended to prevent these flap extension/retraction failures due to incorrectly configured flap flexible shaft assemblies. Such failure could result in an asymmetric flap condition during flight if the flap safety switch fails to function properly.

DATES: This AD becomes effective on October 12, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of October 12, 2001.

ADDRESSES: You may get the service information referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–20–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul DeVore, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received reports of flap extension/retraction system failures on Raytheon Model 1900D airplanes. The failures occurred when the inner flexible shaft ends separated or disengaged. One of these failures resulted in an asymmetric flap condition when the flap safety switch failed to function properly.

The flap flexible shafts are designed to carry more torque in one direction than the other. If installed on the wrong side of the airplane, the excessive torque load leads to these failures. Raytheon informed us that the flap flexible shafts may have been installed on the wrong side of the airplane on certain Beech Models 1900, 1900C, and 1900D airplanes.

What Are the Consequences if the Condition Is Not Corrected?

Flap extension/retraction failures caused by incorrectly configured flap flexible shaft assemblies could result in loss of flap function or an asymmetric flap condition during flight if the flap safety switch fails to function properly.

Has FAA Taken Any Action to This Point?

The FAA issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Beech Models 1900, 1900C, and 1900D airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 5, 2001 (66 FR 30093). The NPRM proposed to require you to inspect the inner flexible (drive) shaft of all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation; and replace any flap flexible shaft assembly that has an incorrect diagonal wrap or incorrect installation.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

The FAA estimates that this AD affects 205 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected airplanes?

We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	No parts required for the inspection	$120 per airplane	$24,600

We estimate the following costs to accomplish any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need such replacements.

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Labor cost	Parts cost	Cost per flap shaft
8 workhours per flap shaft × $60 per hour = $480.	$232 per flap shaft	$712 per flap shaft (total of four per airplane).

The manufacturer will provide warranty credit for labor and parts to the extent noted under the Warranty Credit section of Raytheon Mandatory Service Bulletin SB 27–3397, Issued: January, 2001.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–18–07 Raytheon Aircraft Company: Amendment 39–12433; Docket No. 2001–CE–20–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial No.
Beech Model 1900	UA–2 and UA–3.
Beech Model 1900C	UB–1 through UB–74 and UC–1 through UC–174.
Beech Model 1900C (C–12J)	UD–1 through UD–6.
Beech Model 1900D	UE–1 through UE–345; UE–347 through UE–361; UE–364; UE–367; UE–373; and UE–379.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent flap extension/retraction failures due to incorrectly configured flap flexible shaft assemblies. Such failure could result in an asymmetric flap condition during flight if the flap safety switch fails to function properly.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the inner flexible (drive) shaft of all four flap flexible shaft assemblies for the correct diagonal wrap and the correct installation.	Within the next 200 hours time-in-service (TIS) after October 12, 2001 (the effective date of this AD), unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001.
(2) Replace any flap flexible shaft assembly found to-have an incorrect diagonal wrap or incorrect installation during the inspection required by paragraph (d)(1) of this AD.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001, and applicable maintenance manual.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Paul DeVpre, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4142; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* You must accomplish the actions required by this AD in accordance with Raytheon Aircraft Mandatory Service Bulletin SB 27–3397, Issued: January, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on October 12, 2001.

Issued in Kansas City, Missouri, on August 28, 2001.

Larry E. Werth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22174 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–239–AD; Amendment 39–12434; AD 2001–18–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate SA7019NM–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767–300 series airplanes modified by supplemental type certificate SA7019NM–D, that requires modification of the in-flight entertainment (IFE) system to install a switch to remove power from the IFE system, and revision of flight crew and cabin crew procedures. This action is necessary to ensure that the flight crew and cabin crew are able to remove electrical power from the IFE system when necessary and are advised of appropriate procedures for such action. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective October 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 11, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from BFGoodrich Aerospace, 3100 112th Street SW., Everett, Washington 98204–3500. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767–300 series airplanes modified by supplemental type certificate SA7019NM–D was published in the **Federal Register** on June 28, 2001 (66 FR 34377). That action proposed to require modification of the in-flight entertainment (IFE) system to install a switch to remove power from the IFE system and revision of flight crew and cabin crew procedures.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

None of the airplanes affected by this AD are on the U.S. Register. All airplanes included in the applicability of this AD currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD. However, the FAA considers that this AD is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 40 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,740 per airplane. Based on these figures, the cost impact of the required modification would be $5,140 per airplane.

Should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 1 work hour per airplane to accomplish the required manual revisions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required manual revisions would be $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules

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Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–08 Boeing: Amendment 39–12434. Docket 2000–NM–2309–AD.

Applicability: Model 767–300 series airplanes modified by supplemental type certificate (STC) SA7019NM–D, dated July 14, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew and cabin crew are able to remove electrical power from the in-flight entertainment (IFE) system when necessary and are advised of appropriate procedures for such action, accomplish the following:

Modification and Manual Revisions

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Install a master power control switch for the video system and associated wiring, in accordance with BFGoodrich Engineering Order 23–32–767–031, dated August 16, 2000.

(2) Following installation of the master power control switch in accordance with paragraph (a)(1) of this AD, prior to further flight, insert BFGoodrich 767 Flight Attendant Manual Supplement D2000–160, dated August 16, 2000, into the Flight Attendant Manual, and insert BFGoodrich B767 Airplane Flight Manual (AFM) Supplement D2001–025, dated February 26, 2001, into the Emergency Procedures section of the AFM.

Spares

(b) As of the effective date of this AD, no person shall install an IFE system in accordance with STC SA7019NM–D, dated July 14, 1995, on any airplane, unless it is modified, and the Flight Attendant Manual and AFM are revised, in accordance with this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with BFGoodrich Engineering Order 23–32–767–031, including Parts List Attachment and Wire List Attachment, dated August 16, 2000; BFGoodrich 767 Flight Attendant Manual Supplement D2000–160, dated August 16, 2000; and BFGoodrich B767 Airplane Flight Manual Supplement D2001–025, dated February 26, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from BFGoodrich Aerospace, 3100 112th Street SW., Everett, Washington 98204–3500. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on October 11, 2001.

Issued in Renton, Washington, on August 28, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22110 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is updating the animal drug regulations to reflect changes to previously approved new animal drug applications (NADAs). Several sponsors currently listed as sponsors of approved applications and specified in the animal drug approval regulations are incorrect. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective September 6, 2001.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4567.

SUPPLEMENTARY INFORMATION: FDA has found several errors in the agency's regulations concerning sponsors of approved applications of medicated animal feeds. To correct those errors, FDA is amending 21 CFR 510.600(c)(1) and (c)(2) to remove names and corresponding drug labeler codes for Carnation Co., Illini Feeds, and Tevcon Ind., Inc., because these firms are no longer the holders of any approved NADAs. The agency is also amending the animal drug approval regulations by removing the entry associated with Carnation Co.'s NADA 104–424 in 21 CFR 558.58, which is no longer an approved NADA.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling,

Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entries for "Carnation Co.", "Illini Feeds", and "Tevcon Ind., Inc." and in the table in paragraph (c)(2) by removing the entries for "047019 and 037310".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.58 [Amended]

4. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1) by removing paragraph (d)(1)(v).

Dated: August 29, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–22381 Filed 9–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1313

[DEA–197F]

RIN 1117–AA53

Waiver of Advance Notification Requirement To Import Acetone, 2-Butanone (MEK), and Toluene

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This rule finalizes, without change, the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on October 25, 2000, (65 FR 63822; as corrected at 65 FR 67796, November 13, 2000) to amend DEA regulations to waive the advance notification requirement to import the solvents acetone, 2-Butanone (MEK), and toluene, which are regulated as List II chemicals. DEA determined that the advance notification requirement is not necessary for these chemicals for effective chemical diversion control. No comments to the NPRM were received. This change to the regulations will ease regulatory burdens for the regulated industry and administrative burdens for DEA.

EFFECTIVE DATE: October 9, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

What Does This Final Rule Accomplish?

This final rule finalizes, without change, the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on October 25, 2000 (65 FR 63822; as corrected at 65 FR 67796), to amend Title 21, Code of Federal Regulations (CFR) § 1313.12 to waive the advance notification requirement for imports of the solvents acetone, 2-Butanone (MEK), and toluene, which are regulated as List II chemicals. This rule also finalizes a number of technical corrections to the regulations.

By What Authority Is DEA Waiving the Advance Notification Requirement?

The intent of the chemical control provisions of the Controlled Substances Act (CSA) is to curb the diversion of regulated chemicals to the illicit manufacture of controlled substances. This diversion can occur through distribution, importation and exportation of these chemicals. One of the principal components of chemical control with respect to imports and exports is the requirement that advance notification be provided to DEA prior to an importation or exportation of a listed chemical (21 U.S.C. 971). This advance notification allows DEA an opportunity to review the transaction and determine whether it might result in diversion of the chemical to the illicit manufacture of a controlled substance. The advance notification requirement is conditioned by the provision that DEA can waive the requirement for imports or exports of listed chemicals for which the Administrator determines that such advance notification is not necessary for effective chemical diversion control (21 U.S.C. 971(e)(3), 21 CFR 1313.12(c)(2) and 21 CFR 1313.21(c)(2)).

Why Is DEA Waiving the Advance Notification Requirement for Importation of Acetone, 2-Butanone (MEK), and Toluene?

DEA has determined that the advance notification requirement for acetone, 2-Butanone, and toluene is not necessary for effective chemical diversion control and, therefore, is waiving this requirement for these three List II chemicals.

Acetone, 2-Butanone (MEK) and toluene are widely used as industrial chemicals in the United States. The principal concern for DEA in regard to these solvents is their use in the illicit manufacture of cocaine. Cocaine is manufactured overseas; at this time, it is not manufactured in the United States. Diversion of these solvents for illegal manufacture of controlled substances has not been identified as a significant problem in the United States.

What Comments Did DEA Receive Regarding the Proposed Rule?

DEA received no comments to the NPRM.

What Will Be Required for Imports of Acetone, 2-Butanone (MEK), and Toluene?

With waiver of the advance notification requirement, importers of acetone, 2-Butanone (MEK) and toluene will not be required to submit individual DEA Form 486s in advance of each importation. Instead, importers will submit summary quarterly reports of all import transactions as described in 21 CFR 1313.12(e) pursuant to 21 U.S.C. 971(e)(3).

What Is the Impact of This Rulemaking on the Regulatory Burden for the Regulated Industry?

This final rule reduces the paperwork burden for the regulated industry. Approximately two thirds of all 15-day advance notifications of importation (on average 2000 advance notifications annually) are for the solvents acetone, 2-Butanone (MEK), and toluene, equating to an initial paperwork burden reduction of 420 hours. In lieu of this paperwork requirement, DEA is requiring that importers of acetone, 2-Butanone (MEK) and toluene complete a quarterly summary report of all transactions. This quarterly summary report is estimated to impose a regulatory burden of 200 hours per year. Therefore, this change creates a net reduction of 220 annual paperwork burden hours for the regulated industry.

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Technical Corrections to the Regulations

DEA also proposed a number of technical corrections to the regulations, which are finalized in this rulemaking.

In 21 CFR 1313.12(b) and 21 CFR 1313.21(b) the reference to the "Drug Control Section" is being changed to the "Chemical Control Section" to reflect organizational changes within DEA. In 21 CFR 1313.21(e), the text noting that no DEA Form 486 is required for exportations subject to 21 CFR 1313.21(c)(2) was inadvertently omitted. This text has been reinserted. Further, an error occurred in 21 CFR 1313.21(e) relating to exports where the word "importation", rather than the word "exportation", was inadvertently used in the sentence: "The report shall contain the following information regarding each individual importation:". The word "exportation" is being substituted to correct this error.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Waiving the 15-day advance notification requirement for imports of acetone, 2-Butanone, and toluene will ease the regulatory burden for the regulated industry.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). DEA has determined that this is not a significant regulatory action. This rulemaking will ease regulatory burdens for the regulated industry. Therefore, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Paperwork Reduction Act

This rulemaking waives the advance notification requirement for acetone, 2-Butanone and toluene. This change creates a net reduction of 220 annual paperwork burden hours for the regulated industry.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of this regulation, call or write Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307–7297.

List of Subjects in 21 CFR Part 1313

Administrative practice and procedure, Drug traffic control, Exports, Imports, List I and List II chemicals, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1313 is amended to read as follows:

PART 1313—[AMENDED]

1. The authority citation for part 1313 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b), 971.

2. Section 1313.12 is amended by revising paragraphs (b) and (f) to read as follows:

§ 1313.12 Requirement of authorization to import.

* * * * *

(b) A completed DEA Form 486 must be received at the following address not later than 15 days prior to the importation: Drug Enforcement Administration, P.O. Box 28346, Washington, DC 20038.

A copy of the completed DEA Form 486 may be transmitted directly to the Drug Enforcement Administration, Chemical Control Section, through electronic facsimile media not later than 15 days prior to the importation.

* * * * *

(f) The 15 day advance notification requirement set forth in paragraph (a) has been waived for imports of the following listed chemicals:

(1) Acetone.

(2) 2-Butanone (or Methyl Ethyl Ketone or MEK).

(3) Toluene.

3. Section 1313.21 is amended by revising paragraph (b) and the introductory text of paragraph (e) to read as follows:

§ 1313.21 Requirement of authorization to export.

* * * * *

(b) A completed DEA Form 486 must be received at the following address not later than 15 days prior to the exportation: Drug Enforcement Administration, P.O. Box 28346, Washington, DC 20038. A copy of the completed DEA Form 486 may be transmitted directly to the Drug Enforcement Administration, Chemical Control Section, through electronic facsimile media not later than 15 days prior to the exportation.

* * * * *

(e) For exportations where advance notification is waived pursuant to paragraph (c)(2) of this section, no DEA Form 486 is required, however, the regulated person shall file quarterly reports to the Drug Enforcement Administration, Chemical Control Section, P.O. Box 28346, Washington, DC 20038, by no later than the 15th day of the month following the end of each quarter. The report shall contain the following information regarding each individual exportation:

* * * * *

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 01–22321 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD09–01–119]

RIN 2115–AE46

Special Local Regulations for Marine Events; Milwaukee River, Milwaukee, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Milwaukee River Challenge crew boat races, an event to be held on the waters of the Milwaukee River, Milwaukee, Wisconsin. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Milwaukee River, Milwaukee, Wisconsin during the event.

DATES: This rule is effective from 12 m. (noon) until 6 p.m. (local) on September 22, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–119] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 S. Lincoln Memorial Drive, Milwaukee, WI 53207 from 7 a.m. until 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the permit request for special local regulations on August 1, 2001. We were notified of the need for special local regulations with insufficient time to publish an NPRM, allow for comments, and publish a temporary final rule prior to the event on September 22, 2001.

Background and Purpose

On September 22, 2001, Laacke and Joys Inc. will sponsor the Milwaukee River Challenge crew boat races from 12 m. (noon) until 6 p.m. on the waters of the Milwaukee River, Milwaukee, Wisconsin. A fleet of spectator vessels is expected to gather near the event site to view the crew boat races. Normal river traffic will be shut down for a period of six hours between the Chicago Street and Humboldt Avenue bridges. Except for participants in the Milwaukee River Challenge crew boat races and persons or vessels authorized by the Patrol Commander, no person or vessel may enter or remain in the regulated area.

The regulated area for the boat races will encompass all waters of the Milwaukee River and the adjacent shoreline between the Chicago Street and Humboldt Avenue bridges.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Milwaukee River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Milwaukee River, Milwaukee, Wisconsin from 12 m. (noon) until 6 p.m. (local) on September 22, 2001.

The effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact U.S. Coast Guard Marine Safety Office Milwaukee. (See **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

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Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A new temporary § 100.35-T09–996 is added to read as follows:

§ 100.35-T09–996 Milwaukee River, Milwaukee, Wisconsin.

(a) *Definitions.*

(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Coast Guard Group Milwaukee.

(2) *Official patrol.* The Official Patrol is any vessel assigned or approved by Commanding Officer, Marine Safety Office Milwaukee with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Regulated area.* All waters of the Milwaukee River and adjacent shoreline between the Chicago Street bridge and the Humboldt Avenue bridge.

(b) *Special local regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(c) Effective period. From 12 m. (noon) until 6 p.m. on September 22, 2001.

Dated: August 28, 2001.

K.A. Carlson,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 01–22397 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–030]

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock) in New Orleans, Orleans Parish, Louisiana. This deviation allows the Board of Commissioners of the Port of New Orleans to close the bridge to navigation from 7 a.m. until 5 p.m. on Saturday, September 22, 2001. This temporary deviation is issued to allow for the repair of the riverside operating strut guide of the bridge.

DATES: This deviation is effective from 7 a.m. until 5 p.m. on Saturday, September 22, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The St. Claude Avenue bascule bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock) in New Orleans, Orleans Parish, Louisiana, has a vertical clearance of 1 foot above high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows and some ships. The bridge owner requested a temporary deviation from the normal operation of the drawbridge in order to accommodate repair work on the bridge. These repairs are necessary for the continued operation of the bridge.

This deviation allows the draw of the St. Claude Avenue bascule bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), to remain closed to navigation from 7 a.m. until 5 p.m. on Saturday, September 22, 2001.

Dated: August 27, 2001.

Roy J. Casto,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–22396 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–027]

Drawbridge Operating Regulation; Port Allen Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad vertical lift bridge across the Gulf Intracoastal Waterway, Morgan City to Port Allen (Alternate Route), mile 56.0, on the Port Allen Canal near Morley, West Baton Rouge Parish, Louisiana. This deviation allows the Union Pacific Railroad to close the bridge to navigation from 7 a.m. until 7 p.m. on Monday, September 10, 2001 and from 7 a.m. until 7 p.m. on Wednesday, September 12, 2001. Presently, the draw is required to open on signal. This temporary deviation is issued to allow for the removal of the existing bridge joint components and set new panels on the moveable and the fixed ends of the bridge.

DATES: This deviation is effective from 7 a.m. on Monday, September 10, 2001 until 7 p.m. on Wednesday, September 12, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad vertical lift span bridge across the Gulf Intracoastal Waterway, Morgan City to Port Allen (Alternate Route), mile 56.0, on the Port Allen Canal near Morley, West Baton Rouge Parish, Louisiana, has a vertical clearance of 7 feet above high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows. The Union Pacific Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance and repair work on the bridge. These repairs are necessary for the continued operation of the bridge.

This deviation allows the draw of the Union Pacific Railroad vertical lift span drawbridge across the Gulf Intracoastal Waterway, Morgan City to Port Allen (Alternate Route), mile 56.0, on the Port Allen Canal, to remain closed to navigation from 7 a.m. until 7 p.m. on Monday, September 10, 2001 and from 7 a.m. until 7 p.m. on Wednesday, September 12, 2001.

Dated: August 27, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–22393 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–038]

RIN 2115–AE47

Drawbridge Operation Regulations: West Bay, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operating regulations for the West Bay Bridge, at mile 1.2, across West Bay in Osterville, Massachusetts. This final rule will increase the advance notice requirement for April and extend the evening operating hours at the bridge during the boating season. This action is expected to better meet the present needs of navigation.

DATES: This rule is effective October 9, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–038) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 9, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; West Bay, Massachusetts, in the **Federal Register** (66 FR 23638). We received no comment letters in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The West Bay Bridge, mile 1.2, across West Bay has a vertical clearance of 15 feet at mean high water and 17 feet at mean low water.

The existing regulations for the bridge listed at 33 CFR 117.622, require the bridge to open on signal, April 1 through October 31, as follows:

(1) April 1 through June 14 and October 12 through October 31; 8 a.m. to 4 p.m.

(2) June 15 through June 30; 8 a.m. to 6 p.m.

(3) July 1 through Labor Day; 8 a.m. to 8 p.m.

(4) Labor Day through October 11; 8 a.m. to 5 p.m.

(5) At all other times from April 1 through October 31, the draw shall open on signal if at least four-hours advance notice is given.

(6) From November 1 through March 31, the draw shall open on signal if at least twenty-four hours advance notice is given.

The bridge owner, the Town of Barnstable, asked the Coast Guard to change the drawbridge operation regulations to allow the bridge to open on signal, from April 1 through April 30

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if at least a twenty-four hours advance notice is given by calling the number posted at the bridge.

The bridge was authorized to remain closed for repairs in April for the last two years. The number of bridge openings in April for the last five years are as follows:

1995	1996	1997	1998	1999	2000
54	46	45	70	0	0

In return for the advance notice requirement at all times in April, the bridge owner would crew the bridge two to three hours later at night during the boating season.

The bridge owner voluntarily expanded on signal service during the summer of 1999 and 2000, by extending the operating hours at the bridge at night. This was possible as a result of the cost savings derived from not crewing the bridge, 8 a.m. to 4 p.m., during the month of April while it was closed for repairs.

The bridge owner held a town meeting on January 25, 2001, in Osterville, Massachusetts, to receive verbal and written comment regarding this proposed change to the drawbridge operation regulations. The bridge has essentially operated for the past two years in accordance with the operating hours included in this rule. The proposed changes were fully supported by the local attendees at the special town meeting. Attendees at the meeting included the local marina operators, mariners and citizens of Osterville. Mariners can reach open water when the West Bay Bridge is not crewed by navigating through Cotuit.

Discussion of Comments and Changes

The Coast Guard received no comment letters. No changes will be made to this final rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridge will open at all times for vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the bridge will open at all times for vessel traffic.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.622 is revised to read as follows:

§ 117.622 West Bay

The draw of the West Bay Bridge, mile 1.2, at Osterville, shall operate as follows:

(1) From November 1 through April 30, the draw shall open on signal if at least a twenty-four hours advance notice is given.

(2) From May 1 through June 15, the draw shall open on signal from 8 a.m. to 6 p.m.

(3) From June 16 through September 30, the draw shall open on signal from 7 a.m. to 9 p.m.

(4) From October 1 through October 31, the draw shall open on signal from 8 a.m. to 6 p.m.

(5) At all other times from May 1 through October 31, the draw shall open on signal if at least a four-hours advance notice is given by calling the number posted at the bridge.

Dated: August 17, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22394 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–028]

Drawbridge Operating Regulation; Atchafalaya River, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad vertical lift bridge across the Atchafalaya River, mile 107.4, near Melville, St. Landry and Point Coupee Parishes, Louisiana. This deviation allows the Union Pacific Railroad to close the bridge to navigation from 7 a.m. until 7 p.m. on Monday, October 15, 2001 and from 7 a.m. until 7 p.m. on Wednesday, October 17, 2001. This temporary deviation is issued to allow for the removal of the existing bridge joint components and set new panels on the moveable and the fixed ends of the bridge.

DATES: This deviation is effective from 7 a.m. on Monday, October 15, 2001 until 7 p.m. on Wednesday, October 17, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad vertical lift span bridge across the Atchafalaya River, mile 107.4, near Melville, St. Landry and Point Coupee Parishes, Louisiana, has a vertical clearance of 4 feet above high water in the closed-to-navigation position and 54 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows. The Union Pacific Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance and repair work on the bridge. These repairs are necessary for the continued operation of the bridge.

This deviation allows the draw of the Union Pacific Railroad vertical lift span drawbridge across the Atchafalaya River, mile 107.4, to remain closed to navigation from 7 a.m. until 7 p.m. on Monday, October 15, 2001 and from 7 a.m. until 7 p.m. on Wednesday, October 17, 2001.

Dated: August 27, 2001.

Roy J. Casto,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–22395 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4135a; FRL–7049–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 22, 2001 without further notice, unless EPA receives adverse written comment by October 9, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, or by e-mail at chalmers.ray@epa.gov. Please

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note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X to comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status in the Philadelphia area. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call regulations. On August 10, 2001, EPA signed its final rule approving the Commonwealth's NO_X SIP call regulations as a SIP revision and expects it to be published in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On December 8, 1995, March 21, 1996, January 21, 1997, July 24, 1998, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001; PADEP submitted revisions to the Pennsylvania SIP to establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to fourteen (14) of those sources. The remaining sources are or have been the subject of separate rulemakings. These sources are all located in the Philadelphia area. The table below identifies the sources and the individual plan approvals (PAs) or operating permits (OPs) in which RACT has been imposed. A summary of the VOC and NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	PA # or OP #	Source type	Pollutant
Perkasie Industries	Bucks	OP–09–0011	Lighting Fixture Production	VOC
Quaker Chemical Corporation.	Montgomery	OP–46–0071	Specialty Chemicals Producer	VOC & NO_X

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES—Continued

Source	County	PA # or OP #	Source type	Pollutant
Rohm and Haas—Bucks County Plant.	Bucks	OP–09–0015	Chemical Producer	VOC & NO_X
Rohm and Haas—Philadelphia Plant.	Philadelphia	PA–51–1531	Chemical Producer	VOC & NO_X
SBF Communications Graphics.	Philadelphia	PA–2197	Printing Facility	VOC
Schlosser Steel, Inc	Montgomery	OP–46–0051	Structural Steel Products	VOC
SEPTA's Berridge/ Courtland Maintenance Shop.	Philadelphia	PA–51–4172	Bus Repair & Maintenance Facility	VOC
Smith-Edwards-Dunlap Company.	Philadelphia	PA–2255	Printing Facility	VOC
Southwest Water Pollution Control Plant/Biosolids Recycling Center.	Philadelphia	PA 51–9515	Wastewater Treatment Plant	VOC & NO_X
Stroehman Bakeries, Inc	Montgomery	PA–46–0003	Bakery	VOC
Sunoco, Inc. (R&M) Refinery.	Philadelphia	PA–1501/1517	Refinery	VOC & NO_X
Tasty Baking Company	Philadelphia	PA–2054	Bakery	NO_X
Transcontinental Gas Pipeline Corp.—Compressor Station #200.	Chester	PA–15–0017	Natural Gas Compressor Station	VOC & NO_X
Worthington Steel Company.	Chester	OP–15–0016	Steel Product Producer	VOC & NO_X

A. Perkasie Industries Corporation

Perkasie Industries Corporation (Perkasie), located in Bucks County, Pennsylvania, manufactures fluorescent lighting fixtures. Perkasie is a major source of VOC. The manufacturing installations and processes at this source are subject to category specific SIP-approved RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs. The clean -up operations require a case-by-case RACT determination. The PADEP issued OP–09–0011 to Perkasie on August 14, 1996 to establish RACT. In OP–09–0011, Pennsylvania imposed work practice standards and limited the VOC emissions from the clean-up operations to less than 3 pounds per hour, 15 pounds per day, and 2.7 tons per year. Under OP–09–0011, Perkasie is required to use EPA approved test methods to determine the VOC properties of all coatings as described in 25 Pa Code 139, and to meet the recordkeeping and reporting requirements of 25 Pa Code 129.95.

B. Quaker Chemical Corporation

Quaker Chemical Corporation (Quaker), located in Montgomery County, Pennsylvania, is a batch process specialty chemicals manufacturing facility. Quaker manufactures approximately 400 different intermediate and final proprietary products through blending and/or reacting of raw materials in process vessels. Quaker is a major source of NO_X and VOC. The majority of the manufacturing installations and processes at this source are subject to category specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other small installations and processes require a case-by-case RACT determination. Pennsylvania issued permit OP–46–0071 to Quaker to impose RACT. The equipment which has the potential to emit small amounts of VOCs includes a pilot plant, laboratory hoods, Building #4 material storage vessels, fuel oil storage tanks, the B and C tank farms, the sparkler filter mixing system, and combustion units. OP–46–0071 requires that Quaker keep the following information for these sources: (1) The throughput or usage of each chemical processed, (2) the VOC contents of the chemicals and their Material Safety Data Sheets (MSDS), (3) the quantity of coatings applied through the spray booth, the composition of those coatings and their MSDS, and (4) any other data or records required to conform to 25 Pa. Code 129.95(e). The NO_X emitting units covered by OP–46–0071 include Boilers House Boilers No.1 and 2, each rated at 29.4 MMBtu/hr firing natural gas and NO. 6 fuel oil; several small combustion units, rated from 5MMBtu/hr to 0.3 MMBtu/hr, which fire natural gas only; the Administration Building Generator, rated at 1.4 MMBtu/hr firing natural gas; and the Fire Pump with a rated capacity of 150 hp firing diesel. OP–46–0071 requires that Boiler House Boilers No. 1 and 2 be maintained as follows: (1) An annual adjustment must be performed including inspection, adjustment, cleaning or replacement of the fuel burning equipment (the burners and all moving parts) necessary for operation in accordance with manufacturer's specifications, (2) an inspection must be performed of the flame pattern or characteristics and adjustments made necessary to minimize total emissions of NO_X, (3) an inspection must be performed of the air-to-fuel ratio control system and adjustments made to ensure the proper calibration and operation as specified by the manufacturer. Quaker must keep a permanent log book of the maintenance procedures performed including: (1) The date of the procedure, (2) the name of the service company and technicians, (3) the final operating rate or load, (4) the final NO_X and carbon monoxide emission rates, and (5) the final excess oxygen. Fuel records must be maintained for fuel used in these boilers including: (1) certification from the supplier of the type of fuel and its nitrogen content, and (2) identification of the sampling method and sampling protocol. The operation of the Administration Building Generator and the fire pump must not exceed 500hrs/year each. The company must operate and maintain all these units in accordance with the manufacturer's specifications and good air pollution control practices.

reporting requirements have been

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C. Rohm and Haas

Rohm and Haas, located in Bucks County, Pennsylvania is a diverse chemical manufacturing facility with a variety of continuous and batch type processes. It is a major source of NO_X and VOC. The majority of the manufacturing installations and processes at this source are subject to category specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other installations and processes require a case-by-case RACT determination. The PADEP issued Rohm and Haas OP–09–0015 to impose RACT. The company's VOC and NO_X emission sources are located in the following six areas: Emulsions Area, AtoHaas Area, Polymers Area, Plastics Additives Area, Facilities Area, and Bristol Research Park. The units or processes in these areas include, but are not limited to: polymerization reactors, monomer emulsion tanks, additive tanks, mix tanks, storage tanks, wastewater collection tanks, blend tanks, drain tanks, transfer piping, whitewater pits, pelletizers, kettles, inhibitor mix tanks, a cold methyl methacrylate transfer station, distillation vacuum jets, tank truck loading, railcar loading, and bulk loading operations. Pennsylvania identified and determined RACT for these numerous units and/or processes. Pennsylvania specified that RACT for VOC emitting units or processes which already vent to existing scrubbers or incinerators is continued use of the scrubbers or incinerators. Pennsylvania also required the Company to vent additional units or processes to the existing scrubbers or incinerators, and specified that RACT for these units or processes also consists of use of the scrubbers or incinerators. For the fugitive VOC emissions, Pennsylvania specified that RACT consists of use of good operating practices and a visual leak detection and repair program. Pennsylvania established short term and annual VOC limits on the combined equipment and/or processes in each area, and also on the numerous individual units or processes. Pennsylvania identified four boilers located in the Facilities Area as the most significant sources of NO_X emissions. Pennsylvania specified that RACT for two of the boilers is use of low NO_X burners and that the other two boilers are to be operated only as emergency standby units. OP–09–0015 imposes a NO_X emission limit of 0.47 lbs of NO_X/MMBtu on all four boilers. OP–09–0015 imposes extensive testing and recordkeeping requirements accordance with the applicable SIP-approved regulations as necessary to determine compliance. It imposes extensive, specific conditions for the monitoring of the operational parameters of the process and air pollution control equipment at the facility.

D. Rohm and Haas

Rohm and Haas also has a plant located in Philadelphia, Pennsylvania which manufactures chemical products used for industrial and water treatment operations and for pest control. The facility is a major source of NO_X and VOC. The majority of the manufacturing installations and processes at this source are subject to category specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with the applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other installations and processes require a case-by-case RACT determination. The Philadelphia Air Management Services (AMS) issued Rohm and Haas PA–51–1531 to establish RACT. The PADEP submitted PA–51–1531 to EPA as a SIP revision on behalf of the AMS. The facility has a large variety of units or processes that emit VOC. The units or processes which are the most significant sources of VOC include the Building #21, #R–12, #26, #85, #R–11, #80, and #34 vents, the vacuum distillation vent from the cation bead production process, the Semiworks Kathon area vents, the consolidated Goal process, and fugitive leaks. There are emission controls in place for many of these sources including consolidated Goal process scrubbers #U–526, #U–585, #U–588, and #U–594, the #R–11 Wyssmont scrubber, the Building #80 Amines scrubber, the Building #85 methanol wash scrubber, the Building #34 afterburner, the MMA Tank Car Conservation Vent, and a non-contact chilled water condenser. PA–51–1531 requires the use of this control equipment as RACT. PA–51–1531 specifies the following VOC RACT emissions limits:

Source	VOC (lbs/hour)	VOC (tons/year) (calculated for a rolling 12 month period)
U–526 Scrubber	1.0	1.0
U–585 Scrubber	0.5	0.2
U–588 Scrubber	0.5	1.0
U–594 Scrubber	21.5	6.5
Building R11 Wyssmont Scrubber	7	6
Building R11 Vent Group 4 Condenser	8	6
Building 85 Methanol Washing Scrubber	15	1
Building 21 Multiproducts Area	.....	.7
Building R12 Multiproducts Area	.....	12.5
Semi-works Kathon Area	.....	8
Building 26 Tritons Area	.....	4.2

The PA also requires the Company to implement a visual leak detection and repair (LDAR) program for fugitive emissions from the Goal production area and for fugitive emissions from transfer piping in the Building #85 separations area. Under the LDAR monitoring of all components will be conducted on a quarterly basis. PA–51–1531 requires Rohm and Haas to submit a quarterly Fugitive Emissions Monitoring Report which includes (1) the number of leaks by type of equipment occurring within each process unit during the reporting period, (2) the number of leaks that could not be repaired within 15 days, (3) the reason for unsuccessful or delayed repair beyond 15 days, (4) the percent leak by equipment type within each process unit and for the total covered processes, (5) a list of all process units not monitored during the quarter because the process was not in operation for the whole quarter, (6) the lists of actual components found leaking in each process unit, and (7) a list of the changes that remove change, or add process equipment (except for minor piping changes) to the fugitive emission program. Testing and recordkeeping/

reporting requirements have been imposed in accordance with SIP-approved regulations necessary to determine compliance with the RACT requirements. The facility's sources of NO_X emissions subject to case-by-case NO_X RACT requirements consist of three boilers, each with a heat capacity of 120 MMBtu per hour. Although these boilers have been shutdown, the AMS did determine and impose RACT for them, in the event that Rohm and Haas seeks emission reduction credits from the shutdown. PA 51–1531 specifies that NO_X RACT for these three boilers consists of installation of low NO_X burners, burner cap trials, and the elimination of waste solvent burning. PA 51–1531 limits the NO_X emissions from each boiler to 204 tons per twelve month rolling period and limits the total NO_X emissions from all three boilers to 612 tons per rolling twelve month period.

E. SBF Communication Graphics

SBF Communication Graphics (SBF), located in Philadelphia, Pennsylvania is a printing facility. It is a major source of VOC. The AMS issued PA–2197 to SBF, and the PADEP submitted it to EPA as a SIP revision. SBF is equipped with 8 non-heatset web offset lithographic printing presses and with 3 heatset web offset lithographic printing presses. These presses produce most of the facility's VOC emissions. The AMS determined that material substitution, i.e., the use of inks, fountain solutions and cleaning solutions with lower VOC contents, constitutes RACT. The PA specifies specific VOC content limitations, by weight, for inks, fountain solutions, and cleaning solutions used at SBF. The PA specifies that the VOC fraction of the ink (minus water), as applied to the substrate, shall not exceed 25% by weight. It requires that the VOC content of the fountain solution, as applied, shall be maintained at or below 5.0 percent by weight, and it shall contain no alcohol. Finally, the PA specifies that cleaning solutions shall either: (1) have a VOC content less than or equal to 30 percent by weight, or (2) have a VOC composite partial pressure, as used, less than or equal to 10 mm Hg at 68 degrees F, or 3) have a total usage which does not exceed 55 gallons over any 12-month rolling period. The PA imposes extensive and specific recordkeeping and reporting requirements necessary to determine compliance with the VOC RACT requirements.

F. Schlosser Steel, Inc.

Schlosser Steel, Inc., located in Montgomery County, Pennsylvania supplies structural steel products. The facility includes coating operations which make it a major source of VOC. The majority of the installations and processes at this source are subject to category specific SIP-approved regulations adopted by Pennsylvania in accordance with the applicable CTG(s). For other installations and processes, the PADEP has imposed case-by-case RACT in OP–46–0051. OP–46–0051 limits VOC emissions from parts washing and cleaning operations be less than 3 pounds per hour, 15 pounds per day, and 2.7 tons per year. It requires that the company train its personnel in proper use of equipment which generates VOCs, establish a cleaning solvent accounting system, and conduct a leak inspection and maintenance plan. The PADEP has imposed the testing, recordkeeping and reporting requirements necessary to demonstrate compliance with all applicable SIP-approved RACT regulations including 25 Pa Code 129.52 and 129.91–95.

G. SEPTA's Berridge/Courtland Maintenance Shop

The Southeastern Pennsylvania Transportation Authority's (SEPTA's) Berridge/Courtland Maintenance Shop, located in Philadelphia, Pennsylvania, repairs and maintains buses. The shop is a major source of VOC. The major of the VOC emitting installations and processes at this source are subject to category specific SIP-approved RACT requirements adopted in accordance with the applicable CTG(s). For other installations and processes, the Philadelphia AMS issued PA–51–4172 to establish RACT. The PADEP submitted PA–51–4172 to EPA has a SIP revision on behalf of AMS. The AMS established RACT on a case-by-case basis for the shop's spray booths, lithographic presses, and the silk screen shop. With respect to spray booth operations, PA–51–4172 specifies that SEPTA must ensure that HVLP type spray guns are utilized in all spraying operations and that spray guns are cleaned with a device that collects spent solvent for proper disposal and minimizes solvent emission during and between cleaning. For the lithographic presses, PA–51–4172 specifies that SEPTA shall use a fountain solution and water mixture with a VOC content no greater than 5% by weight unchilled or 8% by weight chilled to 55 degrees F. PA–51–4172 also specifies that any cleaning solution used for blanket and roller cleaning on a sheet-fed offset lithographic press shall have: (1) A VOC content, as applied, less than or equal to 30 percent by weight, or (2) a VOC composite partial vapor pressure, as used, less than or equal to 10 mm Hg at 68 degrees F. For degreasers not covered by SIP-approved 25 Pa Code 129.63, PA–51–4172 requires that "all containers containing VOC materials shall be covered when not in use; cleaned parts shall be thoroughly drained before removal; a permanent label shall be posted for operating requirements; solvent shall be transferred so as to keep evaporation below 20%; and, waste solvent shall be stored in covered containers. PA–51–4172 imposes the recordkeeping and reporting requirements necessary to determine compliance with all SIP-approved RACT regulations including 25 Pa Code 129.91–129.94.

H. Smith-Edwards-Dunlap, Company

The Smith-Edwards-Dunlap, Company, located in Philadelphia, Pennsylvania, prints poster boards, letterheads, business cards, etc. The facility is a major source of VOCs. The Philadelphia AMS issued PA–2255 to Smith-Edwards-Dunlap, Company to establish RACT. The PADEP submitted PA-2255 to EPA has a SIP revision on behalf of AMS. The units at the facility which emit VOCs are 13 lithographic printing presses. The PA specifies that VOC RACT for these presses is materials substitution to the use of inks, fountain solutions, and cleaning solutions with lower VOC contents. The permit requires that the VOC fraction of the ink (minus water), as applied to the substrate, shall not exceed 25% by weight. The permit also requires that the VOC fraction of all fountain solutions shall not exceed 20% by volume. Finally, the permit requires that each cleaning solution used in quantities of 55 gallons or more over any rolling twelve month period have a VOC content, as applied, of less than or equal to 30% by weight, or a VOC composite partial vapor pressure, as used, of less than or equal to 10 mm Hg at 68 degrees F. PA-2255 imposes the extensive recordkeeping and reporting requirements necessary to demonstrate compliance with the RACT determinations and 25 Pa Code 129.91 -129.94.

I. Southwest Water Pollution Control Plant/Biosolids Recycling Center

The Philadelphia Water Department's Southwest Water Pollution Control Plant/Biosolids Recycling Center is a publicly owned waste water treatment plant and biosolids recycling center. The facility is a major source of NO_X and VOC. The majority of the installations and processes at this source are subject to category specific, or presumptive SIP-approved RACT

requirements. For other VOC emitting installations and processes, the Philadelphia AMS issued PA 51–9515 to the facility to impose RACT. The facility emits VOCs from both the Biosolids Recycling Center (i.e., composting) operation and the wastewater treatment process. PA 51–9515 requires that the Biosolids Recycling Center compost pile aeration blower exhausts be vented to biofilters. PA 51–9515 requires that the excess gas produced by the wastewater treatment process's anaerobic digestion of sludge be flared through waste gas burners. It also specifies that the wastewater treatment process adhere to its approved good maintenance and operation program, and that the composting operation adhere to good maintenance and operation of the existing biofilters and of the compost pile aeration system. PA 51–9515 imposes extensive testing requirements for VOC from its wastewater using EPA Method 624 and the "TOXCHEM+" computer program. PA 51–9515 also imposes extensive recordkeeping and reporting requirements as necessary to determine compliance with all SIP-approved RACT regulations including 25 Pa Code 129.91—129.94.

J. Stroehman Bakeries, Inc.

Stroehman Bakeries, Inc., located in Montgomery County, Pennsylvania produces a variety of breads, rolls, and buns. The bakery is a major source of VOC. The bakery generates ethanol, a VOC, because of the yeast used to produce the baked goods during the baking process. The PADEP issued Stroehman Bakeries PA–46–0003 to establish RACT. PA–46–0003 specifies that RACT for the bread oven and for the roll and bun oven is use of use of a catalytic oxidizer with a minimum inlet temperature of 550 degrees F. PA–46–0003 imposes VOC emissions limits of 3.1lbs/hr and 13.7 tpy from the bread oven and 1.2lbs/hr and 5.4 tpy from the roll and bun oven. PA–46–0003 requires source testing in accordance with 25 Pa Code 139 and imposes additional testing conditions to demonstrate compliance. PA–46–0003 requires that the test(s) results be reported to PADEP and that all records be for a period of not less than two years.

K. Sunoco, Inc. (R&M)

Sunoco, Inc. (R&M) operates a refinery located in Philadelphia, Pennsylvania. The refinery is a major NO_X and VOC emitting facility. The majority of the installations and processes at this source are subject to category specific SIP-approved VOC regulations adopted by Pennsylvania in accordance with the applicable CTG(s), and to SIP-approved presumptive RACT requirements to control NO_X. For other installations and processes, the AMS issued PA–1501/1517 to establish RACT. The PADEP submitted PA-1501/1517 to EPA as a SIP revision on behalf of AMS. PA–1501/1517 imposes NO_X RACT requirements for the # 868 Fluid Catalytic Cracking Unit (FCCU) regenerator and for numerous heaters and boilers. PA–1501/1517 specifies that RACT for the FCCU consists of good combustion practices and limits the NO_X emissions from the #868 FCCU to 569 tons per year on a rolling 365 day basis. PA–1501/1517 also includes case-by-case RACT determinations for numerous boilers and heaters. The permit specifies that NO_X RACT for six units: the H–1 heater at Unit 433, the B–104 heater at Unit 1232, and Boilers #37, #38, #39, and #40 at the #3 Boilerhouse, is the use of ultra-low NO_X burners. The permit specifies that RACT for the remaining combustion sources is combustion tuning. The permit also specifies NO_X emissions limits for all of these units. For certain units, the permit also specifies maximum heat input limits. The NO_X RACT limitations for the heaters and boilers are shown in the table below:

Unit	Limit when burning gas (lbs. NO_x/MMBTU	Limit when burning oil (lbs. NO_x/MMBTU	Heat input cap (MMBTU/hour)
#3 Boiler House—#37, #38, #39 and #40 Boilers.	0.330	0.330	495 MMBTU/hour for Boilers #37, #38, and #39. 660 MMBTU/hour for Boiler #40
#22 Boiler House—#1, #2, and #3 Boilers	0.20	NA	NA
Heater F–1 @ Unit 137	0.230	0.230	415
Heater F–2 @ Unit 137	0.257	0.4	155
Heater F–3 @ Unit 137	NA	0.4	NA
Heater H101 @ Crude Unit 210A	0.089	0.4	NA
Heater H201 @ Crude Unit 210B	0.173	0.4	242
Heater 13H1 @ Crude Unit 210C	0.104	0.4	NA
Heater B–101 @ Unit 231	0.122	NA	91
Process Heater H–1 @ Unit 433	0.060	NA	243
Heater 1H–1 @ Unit 859	0.123	0.4	76
Heater 1H–2 @ Unit 859	0.123	0.4	70
Heater 1H3 @ Unit 859	0.134	0.4	NA
Heater 2H–2 @ Unit 860	0.350	0.4	NA
Heater 2H–3 @ Unit 860	0.163	0.4	NA
Heater 2H–4 @ Unit 860	0.270	0.4	NA
Heater 2H–5 @ Unit 860	0.163	0.4	NA
Heater 2H–7 @ Unit 860	0.157	0.4	NA
Boiler 2H–9 @ Unit 860	0.20	0.20	NA
Heater 3H1N @ Hydrogen Plant 861	0.133	NA	125
Heater 3H1S @ Hydrogen Plant 861	0.133	NA	123
Heater PH–1 @ Unit 864	0.167	0.4	NA
Heater PH–3 @ Unit 864	0.284	0.4	80
Heater PH–4 @ Unit 864	0.102	0.4	57
Heater PH–5 @ Unit 864	0.283	0.4	90
Heater PH–11 @ Unit 864	0.145	0.4	NA
Heater PH–12 @ Unit 864	0.119	0.4	NA
Heater 11–H1 @ Unit 865	0.113	0.4	NA
Heater B–104 @ Unit 1232	0.177	NA	70
Process Heater H–400 @ Unit 1332	0.156	NA	186
Process Heater H–401 @ Unit 1332	0.156	NA	NA

Unit	Limit when burning gas (lbs. NO_x/MMBTU	Limit when burning oil (lbs. NO_x/MMBTU	Heat input cap (MMBTU/hour)
Heater H–2 @ Unit 1332	0.300	NA	NA

The facility emits fugitive VOC emissions from valves, pumps, flanges, compressors in VOC service and from cooling towers. PA–1501/1517 specifies that Sunoco must utilize an emissions leak detection and repair (LDAR) program as RACT to reduce emissions from the valves, pumps, flanges and compressors in VOC service, and conduct an inspection and maintenance/monitoring program as RACT to reduce fugitive VOC emissions from cooling towers. PA–1501/1517 imposes the recordkeeping and reporting requirements necessary to determine compliance with its VOC and NO_X RACT requirements in accordance with 25 Pa Code 129.91–129.94.

L. Tasty Baking Company

The Tasty Baking Company is located in Philadelphia, Pennsylvania. The bakery is a major source of NO_X emissions. The bakery does not generate VOC because it does not use yeast in its baking process. The small boilers at this source are subject to specific SIP-approved presumptive RACT requirements. The Philadelphia AMS issued PA–2054 to establish RACT an Alison 501–KB5 gas turbine rated at 45.4 MMBtu/hr. The PADEP submitted PA–2054 to EPA as a SIP revision on behalf of AMS. PA–2054 specifies that NO_X RACT for this gas turbine consists of the use of water injection, and establishes NO_X emission limits 10 lbs/hr and 44 tpy. PA–2054 imposes the testing, recordkeeping and reporting requirements necessary to demonstrate compliance with its RACT requirements in accordance with 25 Pa Code 129.91–129.94.

M. Transcontinental Gas Pipeline Corp.—Compressor Station #200

Transcontinental Gas Pipeline Corporation operates a natural gas compressor station, designated as Station #200, in Chester County, Pennsylvania. Station 200 is a major NO_X and VOC emitting facility. Many of the installations and processes at this source are subject to specific SIP approved, or presumptive RACT requirements. For other installations and processes, PADEP imposes RACT requirements in PA–15–0017. The facility is equipped with 13 natural gas fueled reciprocating engines. PADEP determined that RACT for these 13 engines consists of the use of low emission combustion (LEC) equipment modifications. LEC equipment modifications include installation or modification of turbochargers, aftercoolers, inlet air systems, exhaust systems, power cylinder heads, fuel gas systems, ignition systems, cooling water systems, pistons, cylinder liners and camshafts. In addition to these equipment specifications, PA–15–0017 also imposes the following NO_X and VOC emissions limits:

Unit #	Model	NO_X emissions limit (lb/hour)	VOC emissions limit (lb/hour)
1 to 6 (Post RACT horsepower 2050)	BA–8T	18.1	9.0
7 to 9 and 13 (Post RACT horsepower 2100)	TLA–6	18.54	9.2
10 to 11 (Post RACT horsepower 3400)	TCV–10	30.0	14.9
12 (Post RACT horsepower 5500)	TCV–16	48.56	24.1

PA–15–0017 also includes the testing, recordkeeping and reporting conditions necessary to demonstrate compliance with its RACT requirements.

N. Worthington Steel Company

Worthington Steel Company's Malvern Plant, located in Chester County, Pennsylvania, is a steel processing and painting facility. The facility is a major source of NO_X and VOC emissions. Many of the installations and processes at this source are subject to category-specific SIP approved, or presumptive RACT requirements. For the coil coating line (including clean-up operations) and the 23 Safety Kleen cold cleaners, PADEP issued OP–15–0016 to establish RACT. For the coil coating operation, OP–15–0016 restricts the VOC content of each coating to 2.6 lbs/gallon (minus water) as applied to the substrate. OP–15–0016 also requires that the clean-up solvent used at the coil coating equipment shall not result in VOC emissions in excess of pounds per hour, 15 pounds per day, and 2.7 tons per year. OP–15–0016 restricts the clean-up solvent used in its cold cleaners shall not result in VOC emissions in excess of 3 lbs/hr, 15 lbs/day and 2.7 tpy. OP–15–0016 requires the recordkeeping and reporting requirements necessary to determine compliance with 129.91–129.95.

There are 65 small NO_X emitting units (space heaters, small boilers, and process annealing furnaces) that fire natural gas (units designated as C1–C41; C47—C51; and C55–C65), No. 2 fuel oil (C42–C46), or a combination of natural gas/fuel oil (C52–C54). These small units range in size from a rated heat input of less than 0.13 MMBtu/hr to 10.46 MMBtu/hr. Thirty-nine (39) of the 65 units are rated at less than 1MMBtu/hr, 22 are rated at or below 4MMBtu/hr, and 4 are rated from 6.27 to 10.46 MMBTU. OP–15–0016 requires that these units be operated and maintained done in accordance with manufacturer's specifications and good air pollution control practices which is consistent with the SIP-approved presumptive RACT requirements set forth in 25 Pa. Code Section 129.93(c)(1). Forty-seven (47) of these 65 small NO_X emitting units are limited to 4380 hours of operation per year.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving these SIP submittals because the Philadelphia AMS and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The AMS and PADEP have also imposed recordkeeping, monitoring, and/or testing requirements sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for 14 major of sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

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comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 22, 2001 without further notice unless EPA receives adverse comment by October 9, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section , or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 14 named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 5, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from 14 individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 28, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(169) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(169) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and/or NO_X RACT for 14 sources located in the Philadelphia-Wilmington-Trenton area, submitted by the Pennsylvania Department of Environmental Protection on December 8, 1995, March 21, 1996, January 21, 1997, July 24, 1998, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals, operating permits, or compliance permits on December 8, 1995, March 21, 1996, January 21, 1997, July 24, 1998, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001.

(B) Plan approvals (PA), or Operating permits (OP) issued to the following sources:

(*1*) Stroehmann Bakeries, Inc., PA–46–0003, effective on May 4, 1995, except for the expiration date.

(*2*) Schlosser Steel, Inc., OP–46–0051, effective February 1, 1996, except for the expiration date.

(*3*) Perkasie Industries Corporation, OP–09–0011, effective August 14, 1996, except for the expiration date.

(*4*) Quaker Chemical Corporation, OP–46–0071, effective September 26, 1996, except for the expiration date.

(*5*) Worthington Steel Company, OP–15–0016, effective July 23, 1996, except for the expiration date.

(*6*) Transcontinental Gas Pipeline Corp., PA–15–0017, effective June 5, 1995, except for the expiration date.

(*7*) Rohm and Haas Company, Bucks County Plant, OP–09–0015, effective April 20, 1999, except for the expiration date.

(*8*) SEPTA—Berridge/Courtland Maintenance Shop, PA–51–4172, effective July 27, 1999, except for condition 2.C. and condition 5.

(*9*) Southwest Water Pollution Control Plant/Biosolids Recycling Center, PA–51–9515, effective July 27, 1999, except for condition 1.A.(1), condition 1.A.(2), condition 2.A., condition 2.B., and condition 7.

(*10*) Rohm and Haas Company, Philadelphia Plant, PA–51–1531, effective July 27, 1999, except for condition 7.

(*11*) Sunoco, Inc. (R&M), PA–1501/1517, for Plant ID: 1501 and 1517, effective August 1, 2000, except for conditions 1.A. (4) as it pertains to the H–600, H–601, H–602, H–1, and H–3 heaters; 1.A. (7)–(10); 1.A. (12) as it pertains to HTR 1H4; 1.A. (13) as it pertains to HTR PH2 and HTR PH7; 1.A. (15) as it pertains to HTR 11H2; 1.A. (16); 1.A. (18) as it pertains to HTR 2H1, HTR 2H6, and HTR 2H8; 1.A. (19); 1.A. (21); 1.A.(22); 2.B. as it pertains to Gas_Oil HDS Unit 866: HTR 12H1; 2.E.; 2.L.; and condition 6.

(*12*) SBF Communication Graphics, PA–2197, for Plant ID: 2197, effective July 21, 2000.

(*13*) Smith-Edwards-Dunlap, Company, PA–2255, for Plant ID: 2255, effective July 14, 2000.

(*14*) Tasty Baking Co., PA–2054, for Plant ID: 2054, effective April 9, 1995.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the sources listed in paragraph (c)(169)(I)(B) of this section.

[FR Doc. 01–22360 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7050–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Alsco Anaconda Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region V is publishing a direct final notice of deletion of the Alsco Anaconda, Superfund Site (Site), located in Gnadenhutten, Ohio, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Ohio, through the Ohio Environmental Protection Agency, because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

DATES: This direct final notice of deletion will be effective November 5, 2001 unless EPA receives adverse comments by October 9, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Rosauro del Rosario, Remedial Project Manager (RPM) at (312) 886–6195, *DelRosario.Rosauro@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, Beard.Gladys@EPA.Gov, U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604, (mail code: SR–6J) or at 1–800–621–8431.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Gnadenhutten Public Library, P.O. Box 216, 160 N. Walnut St., Gnadenhutten, OH 44629, (704) 254–9224, Monday through Thursday 9 a.m. to 8 p.m., Friday and Saturday 9 a.m. to 5 p.m.; Ohio Environmental Protection Agency-Southeast District Office, 2195 Front Street, Logan, Ohio 43138, (740) 385–8501, Monday through Friday, 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Rosauro del Rosario, Remedial Project Manager at (312) 886–6195, *DelRosario.Rosauro@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, *Beard.Gladys@EPA.Gov* or 1–800–621–8431, (SR–6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Alsco Anaconda, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective November 5, 2001 unless EPA receives adverse comments by October 9, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the

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deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Alsco Anaconda Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of this Site:

(1) The EPA consulted with Ohio on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Ohio concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion a notice of intent to delete is published today in the "Proposed Rules" section of the **Federal Register**, is being published in a major local newspaper of general circulation at or near the Site, and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with a decision on the deletion based on the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting this Site from the NPL:

Site Location

The Alsco Anaconda Superfund Site is located approximately 50 miles south of Akron, Ohio within the Gnadenhutten village limits. Gnadenhutten, a community of about 1,300 residents, is located within Clay Township in Tuscarawas County, along the floodplain of the Tuscarawas River. The site boundaries are the Penn-Central Railroad right-of-way, the AmeriMark manufacturing site, Anaconda Drive (County Road 39), and the Tuscarawas River on the northwest, northeast, southeast, and southwest, respectively. The approximately 4.8 acre site includes four (4) source areas formerly known as the settling basin (consisting of the northern and southern impoundments), the sludge pit, and the wooded area. The general vicinity of the site can be described as rural, characterized by farmland and sparse population. The nearest residence is southeast of the main plant, approximately 1,000 feet from the former source areas. Groundwater from the Site flows to the southwest toward and into the Tuscarawas River, away from local municipal wells located approximately 0.5 miles upgradient of the Site.

Site History

From, at least 1965 to 1978, the Site was used for the disposal of wastewater and wastewater treatment sludge that were generated by the production of aluminum products. These sludge met the RCRA definition of F019 hazardous wastes. The amount of sludge disposed was the equivalent of approximately 3,240 cubic square yards. The impoundments and sludge pit contained contaminants such as cyanide, chromium, polychorinated biphenyls (PCB)s, arsenic, cadmium, lead, mercury, and zinc. A wooded low-lying area near the Tuscarawas River received overflow from the impoundments. The wastewater was discharged to the river. After 1978, sludge was disposed of in an off-site facility, but the wastewater discharges continued to the impoundments.

Remedial Investigation and Feasibility Study (RI/FS)

The EPA conducted a preliminary assessment of the Site in 1983 in an effort to identify and characterize the contamination. The results of the assessment indicated the Site posed potential threats to human health and the environment through dermal contact with or ingestion of contaminated soil, sediments, ground water, and surface water, as well as through inhalation of airborne contaminated-particulate matter. These preliminary studies led the Atlantic Richfield Company (ARCO), one of the Potentially Responsible Party's (PRP's), to initiate a Remedial Investigation/Feasibility Study (RI/FS) in 1985. The Site was eventually added to the final NPL list on June 10, 1986, 51 FR 21054.

The Site was divided into two (2) operable units after EPA rejected the groundwater portion of Remedial Investigation Report prepared by ARCO in 1989. The 2 operable units have been designated as the Source Material Operable Unit (SMOU) and the Groundwater Operable Unit (GWOU).

Record of Decision Findings

Records of Decisions (RODs) were issued for the SMOU and GWOU on September 8, 1989 and September 28, 1992, respectively. To implement the selected remedies under the RODs, U.S. EPA issued unilateral administrative orders (UAOs) to the PRPs ARCO and Harvard Industries on December 28, 1989 for the SMOU after negotiations failed. A UAO to conduct GWOU remedial activities outlined in the ROD was issued to ARCO in June 23, 1993.

The remedial action objectives of the ROD for the SMOU were to excavate and treat address all contaminated waste sludges and underlying soils. The remedy selected to meet these objectives included; (1) excavation of contaminated soil with greater than 500 parts per million (ppm) of polychlorinated biphenyls (PCBs) and transportation off-site to a facility permitted to incinerate PCB waste; (2) excavation of remaining sludge and underlying soil, which included sludge contaminated with less than 500 ppm of PCBs, to levels meeting RCRA clean closure requirements. The material would then be sent for treatment and disposal to a facility in compliance with the CERCLA off-site policy or to a reclamation/reuse facility; and (3) backfill selected areas, and recontour and vegetate any excavated or cleared areas; maintain the present security fence; and record the notice of the remedial action with the property deed.

The selected remedy was designed to eliminate the principal threat posed by the Site by removing the contaminated materials, thereby reducing the potential for exposure to cyanide, PCBs, chromium, and the other contaminants detected in site sludge and soils. To achieve this, the ROD required that all sludges and underlying soils be removed to a depth that prevents the ingestion of or direct contact with waste having a cumulative Hazard Index (HI) value of one for noncarcinogens or having a 1×10^{-6} cumulative excess cancer risk for carcinogens. The ROD also required that all sludge and underlying spoil be removed such that further contamination to groundwater in excess of Maximum Contaminant Levels (MCLs) is prevented.

The remedial action objectives of the ROD for the GWOU were to address the contaminated on- and off-property groundwater at the Site. The underlying premise was that the chosen remedy for the SMOU would result in clean closure of the Site by removing the source of groundwater contamination. The remedy selected to meet these objectives included; (1) natural flushing and attenuation of contaminants in the aquifer allowing groundwater to discharge to the Tuscarawas River; (2) sampling and laboratory analysis of the groundwater from monitoring wells; (3) installation of background wells; (4) institutional controls, including deed restrictions, that prevent installation of drinking water wells within the Site boundaries until remedial action levels for groundwater has been achieved; and (5) sampling of Tuscarawas River sediments and benthic organisms.

Characterization of Remaining Risk

No additional response action(s) is required. Those areas associated with GWOU and SMOU have been adequately addressed by the response actions already taken. Alsco Anaconda meets all site completion requirements specified under OSWER Directive 9320.2–09A–P (Close Out Procedures for National Priorities List Sites). Current site conditions are protective of human health and the environment, both for the SMOU and the GWOU. Cleanup objectives set forth in the RODs for this site and in the UAOs have been achieved.

Response Actions

The final SMOU RD Report (entitled SMOU Closure Project Manual) was submitted on July 31, 1991. The RA contract was awarded on November 22, 1991. A final Remedial Action Plan, was submitted on February 28, 1992.

The RA construction for the SMOU began on March 18, 1992. The RA activities included excavation of the waste sludge and affected underlying soil from the northern and southern impoundments and the sludge pit (this material did not contain PCBs at levels above 50ppm), conditioning the material, and transporting it off-site to the Peoria Disposal Company in Peoria, Illinois, a RCRA-permitted facility. Excavation of the "hot" PCB material (e.g., material containing greater than 500 ppm PCBs) from the wooded area was completed, and the material was transported to Aptus, Inc., in Coffeyville, Kansas, and incinerated. The remaining wooded area sludge with F019 wastes and PCBs at levels from 50 to 500 ppm, was sent to a RCRA/TSCA facility, the Chemical Waste Management Landfill in Model City, New York. Debris and non-hazardous materials were sent to the Suburban RDF Landfill in Brownsville, Ohio.

During excavation, air quality was monitored and dust suppression measures were taken. Confirmation samples were also taken as work progressed to ensure that cleanup levels had been met. As areas were confirmed clean, backfilling and regrading of clean areas of the Site took place.

In the course of conducting the remedial action, it was found that the extent of contamination was much greater than had been anticipated in the RI/F and ROD. Different contamination was found (e.g., material contaminated with volatile organic compounds, often referred to in site documents as "black material," as well as buried drums). Excavation of contaminated materials continued until December 1992, at which point ARCO stopped work.

The discovery of additional contamination described above resulted in ARCO conducting a Supplemental Investigation (SI) from September through November of 1993. Activities related to the SI included undertaking further characterization of the waste and conducting additional sampling of the drums uncovered and/or generated during the 1992 remedial actions. Also, further studies as to the extent of the remaining risk from the residual contamination were conducted by ARCO from September 12 through November 13, 1993. The SI Report describing the study results was first presented to the Agencies on March 17, 1994. With approval from EPA on how much additional excavation was required to meet risk based cleanup requirements, ARCO proceeded to complete the cleanup work by September 1995. These activities included excavation of three areas east of the SMOU, five within the SMOU, and much of the ARAN area. Additional backfilling and regrading of the Site also took place in 1995.

In June 1996, an Explanation of Significant Differences (ESD) was issued by EPA, documenting the volume increases and discovery of "black material" and buried drums.

In September 1998, U.S. EPA approved ARCO's RA Implementation Report for the SMOU, first-submitted in 1992 and subsequently modified over the intervening years, documenting that all remedial action activities associated with the SMOU had been completed.

The RA for the GWOU could not begin until the contaminated source material had been removed since it was not practical to install wells which might need to be abandoned during the additional SMOU excavation activities. Monitoring well installation activities were conducted from August 21, 1995, through September 13, 1995. Activities involved in the GWOU RA included installation of 6 shallow and 5 intermediate depth monitoring wells, 2 shallow and 1 intermediate depth background wells, abandonment of 3 existing monitoring wells, establishment

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of a bench mark to measure river levels, surveying of the well locations, and development of the wells.

ARCO has conducted fifteen (15) rounds of groundwater surveys, overseen by EPA and OEPA. With the exception of cyanide and arsenic, contaminants of interest established for this site have been meeting their respective cleanup criteria since 1999. The last three rounds of monitoring (May, August, and October of 2000) indicated that cyanide and arsenic have now achieved cleanup goals.

Cleanup Standards

In the ROD and UAO groundwater was to be monitored until cleanup standards were met. The cleanup standards were risk-based as follows: concentrations of site-related contaminants that also appear in background wells shall be reduced to their respective background concentrations, unless one of the following conditions results in a higher cleanup concentration. In no case shall contaminant concentrations be required to be reduced below background concentrations. Site-related contaminants with an existing MCL shall be reduced to a concentration at or below the MCL. Carcinogenic site-related contaminants shall be reduced to levels that pose a cumulative carcinogenic risk of no greater than 1×10^{-6}. Concentrations of noncarcinogenic site-related contaminants shall be reduced to levels that pose a cumulative HI no greater than one for any specific toxicological category.

Operation and Maintenance

Operation and maintenance (O &M) plans developed and implemented for this site have been sufficient to maintain effectiveness of the remedy. The O & M work required for the Site consisted of maintaining the gate and fence which surrounds the Site in order to prevent unauthorized entry. Excavation and off-site disposal of site contaminants to levels that met RCRA clean closure requirements were completed in 1995, therefore, additional O & M measures were not needed. For the GWOU, O & M involved groundwater monitoring. Now that cleanup standards have been met, there is no further need to continue this work. In addition, institutional controls implemented for this site have prevented the potentially affected population from being exposed to hazards posed by the during Site remediation activities. Now that clean-up standards have been met these institutional controls are no longer necessary.

Five-Year Review

A five-year review of the GWOU was conducted by Region 5 in the summer of 1997. The report recommended that groundwater monitoring continue until cleanup standards for all site related contaminants were met. Now that cleanup standards have been met, the need to conduct another five-year review, scheduled for 2002, is no longer necessary. The site is available for unlimited use and unrestriced exposure, therefore, another Five-Year review is no longer necessary.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion on this Site from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Ohio, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication. This action will be effective November 5, 2001 unless EPA receives adverse comments by October 9, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and as appropriate continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 28, 2001.

Norman Niedergang,

Acting Regionol Administrotor, Region V.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under Ohio "OH" by removing the entry for "Alsco Anaconda" and the city "Gnadenhutten."

[FR Doc. 01–22368 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH05

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for *Sidalcea oregana* var. *calva* (Wenatchee Mountains checker-mallow)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the plant *Sidalcea oregana* var. *calva* (Wenatchee Mountains checker-mallow), pursuant to the Endangered Species Act of 1973, as amended (Act). A total of approximately 2,484 hectares (6,135 acres) in Chelan County, Washington, is designated as critical habitat.

Critical habitat identifies specific areas that have the physical and biological features that are essential to the conservation of a listed species, and that may require special management considerations or protection. The primary constituent elements for *Sidalcea oregana* var. *calva* are those habitat components that are essential for its primary biological needs such as reproduction and dispersal. Critical habitat for *Sidalcea oregana* var. *calva* includes those areas possessing one or more of the primary constituent elements.

Located on Federal, State, and private lands, this critical habitat designation provides additional protection under section 7 of the Act with regard to activities that require Federal agency action. Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicited data and comments from the public on all aspects of the proposed rule and economic analysis.

DATES: This rule becomes effective on October 9, 2001.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Western Washington Office, Ecological Services, 510 Desmond Drive SE, Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Ken Berg, Manager, Western Washington Office (see **ADDRESSES** section) (telephone 360/753–9440; facsimile 360/753–9518).

SUPPLEMENTARY INFORMATION:

Background

Sidalcea oregana var. *calva*, the Wenatchee Mountains checker-mallow, is known to occur at six sites (populations) only in the mid-elevation wetlands and moist meadows of the Wenatchee Mountains of central Washington. The plant was first collected in 1893 by Sandberg and Leiburg from the Icicle Creek area, near Leavenworth, and from wet meadows near Peshastin, both in Chelan County. The type specimen collected by Hitchcock in 1951 was from Camas Land in Chelan County (Gamon 1987). The plant communities where the species is found are usually associated with meadows that have surface water or saturated soils during the spring and early summer. The species may also be found in open conifer forests dominated by *Pinus ponderosa* (ponderosa pine) and *Pseudotsuga menziesii* (Douglas-fir), and on the margins of shrub and hardwood thickets adjacent to seeps, springs, or small drainages. Soils are primarily composed of silt loams and clay loams, with a high percentage content of organic material, that are poorly drained.

A member of the mallow family (Malvaceae), *Sidalcea oregana* var. *calva* is a herbaceous perennial with a stout taproot that branches at the root crown giving rise to several stems. Plants range in height from 20 to 150 centimeters (cm) (8 to 60 inches (in.)). Plants vary from glabrous (lacking hairs and glands) to pubescent (hairy) or stellate (with star-shaped hairs) below, and finely stellate above. Flower clusters with one to many stalked flowers are arranged singly along a common stem. The flowers have pink petals 1 to 2 cm (0.4 to 0.8 in.) long, and are borne on stalks ranging from 1 to 10 millimeters (mm) (0.04 to 0.4 in.) in length. The calyx (outer whorl of floral parts) ranges from uniformly finely stellate, to bristly with a mixture of longer, simple to four-rayed, spreading hairs. These hairs are sometimes as long as 2.5 to 3 mm (0.1 to 0.12 in.) (Hitchcock and Cronquist 1961).

Flowering begins in the middle of June and peaks in the last half of July. Fruits are ripe in August. The species reproduces only from seed and, based on examination of seed capsules, the production of seed appears to be high (Gamon 1987). The somewhat clumped distribution of mature *Sidalcea oregana* var. *calva* plants suggests that seed dispersal is restricted to the areas near mature plants, unless the seeds are moved by animals or transported by water.

The physical and biological habitat features essential to the conservation of *Sidalcea oregana* var. *calva* include open meadows with surface water or saturated upper soil profiles in the spring and early summer and maintaining the hydrologic processes on which these areas depend; open conifer forests dominated by ponderosa pine and Douglas-fir; and the margins of shrub and hardwood thickets. All of these habitats have surface water or saturated soils well into the early summer. Elevations range from 488 to 1,000 meters (m) (1,600 to 3,300 feet (ft)). The species is generally found on flats or benches, but may also occur in small ravines and occasionally on gently sloping uplands.

Concentrations of *Sidalcea oregana* var. *calva* are found in the wetter portions of open-forest moist-meadow habitat, in slight topographic depressions, on the perimeter of shrub and hardwood thickets dominated by quaking aspen (*Populus tremuloides*), and along permanent or intermittent streams in sparsely forested draws. Frequently associated plant species include quaking aspen, black hawthorn (*Crataegus douglasii*), common snowberry (*Symphoricarpos albus*), serviceberry (*Amelanchier alnifolia*), few-flowered peavine (*Lathyrus pauciflorus*), northern mule's-ear (*Wyethia amplexicaulis*), sticky purple geranium (*Geranium viscosissimum*), western bistort (*Polygonum bistortoides*), leafy aster (*Aster foliaceus*), Watson's willow-herb (*Epilobium watsonii*), false hellebore (*Veratrum californica*), and rudbeckia (*Rudbeckia occidentalis*) (Washington Department of Natural Resources (WDNR) 2000). One-half of the *Sidalcea oregana* var. *calva* populations are found in association with *Delphinium viridescens* (Wenatchee larkspur), a former Federal category 1 candidate plant species. The latter species was removed from candidate status on February 28, 1996 (61 FR 7610), because it was found to be more abundant or widespread than previously believed.

During the summer of 1999, a sixth population was discovered on private property in Pendleton Canyon, an area burned and opened up by the Tyee Fire of 1994. This location is less than 8 kilometers (km) (5 miles (mi)) from the Camas Meadow population. While the discovery of the population occurred prior to the December 22, 2001 (64 FR 71680), listing of the species, we did not become aware of the discovery until after the publication date. This newly discovered population is included in the designation of critical habitat for the species.

The wetland and moist meadow complex at Camas Meadows, an area managed as a Natural Area Preserve (NAP) by the WDNR, contains the largest population of *Sidalcea oregana* var. *calva*. The Camas Meadow NAP includes approximately 539 hectares (ha) (1,333 acres (ac)) (WDNR 2000), and is located in the rural/wildland interface about 16 km (10 mi) south of Leavenworth, Washington. An estimated 3,300 *Sidalcea oregana* var. *calva* individuals occur there. Low-density, rural residential home sites have been developed adjacent to the NAP. Also, the Camas Meadows Bible Camp has occupied the southern perimeter of the meadow since the late 1940s, and the U.S. Forest Service (Forest Service) administers properties surrounding the NAP.

Another population is located north of the Camas Meadow NAP, on land administered by WDNR, and has approximately 30 individual plants. At the time the final listing rule was published (64 FR 71680), this population occurred on private land. The private landowners have since traded this land to the State of Washington.

In addition to these two populations of *Sidalcea oregana* var. *calva*, two other populations of *Sidalcea oregana* var. *calva* are known to be present on private lands. One population, of about 200 individuals, is located at the Mountain Home Resort. The second population is located in Pendleton Canyon, and consists of about 60 plants. The other two known populations are located on Forest Service lands,

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containing less than 10 individual plants combined. The combined number of individual plants for all six populations is approximately 3,600.

The primary threats to *Sidalcea oregana* var. *calva* include habitat fragmentation and destruction due to alterations of hydrology, rural residential development and associated impacts, conversion of native wetlands to orchards and other agricultural uses, competition from native and non-native plants, recreation, seed and plant collection, and fire suppression and associated activities. To a lesser extent, the species is threatened by livestock grazing, road construction, and timber harvesting and associated impacts including changes in surface runoff in the small watersheds in which the plant occurs.

Previous Federal Action

Federal action on *Sidalcea oregana* var. *calva* began when we published an updated Notice of Review (NOR) for plants, published in the **Federal Register** on December 15, 1980 (45 FR 82480). This notice included *Sidalcea oregana* var. *calva* as a category 1 candidate species. Category 1 candidates were defined as those taxa for which we had sufficient information on the biological vulnerability and threats to support preparation of listing rules. The NOR, published on September 27, 1985 (50 FR 39526), included *Sidalcea oregana* var. *calva* as a category 2 candidate species. Category 2 candidates were defined as taxa for which available information indicated that a proposal to list as endangered or threatened was possibly appropriate, but for which persuasive data on biological vulnerability and threats were not sufficient to support a proposed rule.

Notices of Review published on February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), identified *Sidalcea oregana* var. *calva* as a category 1 candidate species. Upon publication of the February 28, 1996, Notice of Review of Plant and Animal Taxa that are Candidates for Listing as Endangered or Threatened Species (61 FR 7596), we stopped using the category designations and simply included *Sidalcea oregana* var. *calva* as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

On August 1, 1997, we published the proposed rule to list *Sidalcea oregana* var. *calva* as an endangered species (62 FR 41328). The final determination to list *Sidalcea oregana* var. *calva* as an endangered species was published in the **Federal Register** on December 22, 1999 (64 FR 71680). In the final rule, we found that designation of critical habitat for the species was prudent. However, due to insufficient funding in our listing budget, critical habitat designation was deferred in order to focus our resources on higher priority critical habitat, including court-ordered designations, and other listing actions (64 FR 71685), while still allowing us to put in place protections needed for the protection of *S. oregana* var. *calva* through the listing process.

Subsequent to the final rule listing the species as endangered, the Southwest Center for Biological Diversity filed suit to compel us to designate critical habitat for several species, including *Sidalcea oregana* var. *calva* (*Southwest Center for Biological Diversity et al.* v. *Babbitt-Civil*, No. 99–D–1118). We entered into a settlement agreement with the plaintiff and agreed to propose critical habitat with a final determination to be made no later than August 31, 2001. The proposed rule to designate critical habitat for the species was published in the **Federal Register** on January 18, 2001 (66 FR 4783). In the proposal, we determined that it was prudent to designate approximately 2,484 ha (6,135 ac) of lands in Chelan County as critical habitat. The publication of the proposed rule opened a 60-day public comment period, which closed on March 19, 2001. On May 15, 2001, we published a notice announcing the reopening of the comment period on the proposal to designate critical habitat for *Sidalcea oregana* var. *calva*, and a notice of availability of the draft economic analysis on the proposed determination (66 FR 26827). This second public comment period closed on June 14, 2001.

Summary of Comments and Recommendations

We contacted appropriate Federal and State agencies, scientific organizations, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of a notice in the *Wenatchee World* on May 20, 2001.

On April 4, 2001, we held an informal public workshop in Leavenworth, Washington, to consider economic and other relevant impacts of designating critical habitat for *Sidalcea oregana* var. *calva*. Eleven individuals from the local community attended the workshop. The meeting was also attended by representatives from WDNR, the Forest Service, and The Nature Conservancy. No formal comments were accepted at this meeting; however, we encouraged the local community to provide written comments during the time when the comment period was reopened in May. All individuals who attended the meeting, in addition to all the landowners who live in the vicinity of the designated critical habitat, were notified by letter at the time the comment period was reopened.

We received two comments regarding the designation of critical habitat for the Wenatchee Mountains checker-mallow. One comment was received from the WDNR, Southeast Region, while the second comment was received from the Conservation Chair, Washington Native Plant Society. Both letters supported the designation of critical habitat. The letter from the Washington Native Plant Society raised several points that merit consideration. The letter concurred with our decision to exclude one of the six known populations for *Sidalcea oregana* var. *calva*, a disjunct population occurring on private property, as critical habitat. We had determined that this occurrence of the plant was not essential to the conservation of the species. Additionally, the letter recommended that although this occurrence was not "critical to the taxon's survival", it may represent an important genotype for the species and contribute to the species' genetic variability, and that seed should be collected from the population and maintained in an appropriate seed bank. We concur with this recommendation and, after getting permission from the landowners, will plan for seed collection, seed banking, and genetic testing of all known populations of the species, which will contribute to information requirements for the recovery of the species. Finally, because several populations of the species were adversely affected by wildfire during the summer of 1994, the commenter recommended developing protocols for fighting fires specific to areas with endangered plants where critical habitat has been designated. The Federal Wildland Fire Policy (1985) was developed by the Departments of Agriculture and the Interior to provide a common approach to wildland fire management that is consistent with public health and environmental considerations. The policy states that the protection priorities are; (1) human life, and (2) property and natural/cultural resources. We concur with the comment and, consistent with the policy, a recovery plan for this species will be developed with these considerations in mind.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited independent expert opinions from three knowledgeable plant ecologists and/or botanists who are familiar with *Sidalcea oregana* var. *calva*. We received comments from only one of the peer reviewers on the proposed critical habitat designation. Those comments were incorporated into this final rule.

Summary of Changes From the Proposed Rule

There are no significant changes from the proposed rule to this final rule.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation is defined in section 3(3) of the Act as the use of all methods and procedures which are necessary to bring any endangered or threatened species to the point at which listing under the Act is no longer necessary. Regulations under 50 CFR 424.02(j) define special management considerations or protection to mean any methods or procedures useful in protecting the physical and biological features of the environment for the conservation of the listed species.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area occupied by the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), that provide essential life cycle needs of the species.

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

When we designate critical habitat at the time of listing, as required under Section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (Vol. 59, p. 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires Service biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by states and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Methods

In determining areas that are essential to conserve *Sidalcea oregana* var. *calva*, we used the best scientific information available to us. This information included habitat suitability and site-specific species information, as well as discussions with Wenatchee National Forest and WDNR scientists about the management and conservation of this species. We have emphasized areas of current and historical *Sidalcea oregana* var. *calva* occurrences; maintenance of the genetic interchange necessary for the viability of a regional metapopulation; and maintenance of the integrity of the watershed hydrologic processes on which the wetlands and moist meadows that support the species depend. A metapopulation is a group of spatially separated populations that occasionally exchange genes. Individual populations may go extinct, but are later recolonized from another population. Linking the known populations provides pathways for gene flow, as well as opportunities for colonization by the species of areas where it may be extirpated. We believe that the maintenance of a viable regional metapopulation, as well as the integrity of the hydrologic processes that control the wetland and moist meadow habitat are essential to the conservation of *Sidalcea oregana* var. *calva*.

We used data on known and historic locations and soil maps to identify areas essential to the conservation of the species. We mapped critical habitat based on orthoquads and aerial photos available from WDNR, and ground-checked these areas. We included areas with wetland vegetation communities dominated by native grasses and forbs and generally free of woody shrubs, hardwood trees, or conifers that would produce shade and/or compete with *Sidalcea oregana* var. *calva*. Seeps, springs, and riparian corridors that have clay loam and silt loam soils were included because of their importance to maintaining the hydrologic processes that are essential to the conservation of the species. Inclusion of these areas also allows for the natural expansion of *Sidalcea oregana* var. *calva* populations that is essential for the conservation of the species.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act, and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we must consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species. These include, but are not limited to, the following: space for individual and population growth, and for normal behavior; food, water, air, light, minerals or nutrients, or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring, germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of a species.

The area we are designating as critical habitat provide the primary constituent elements for the species, which include: surface water or saturated upper soil profiles; a wetland plant community

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dominated by native grasses and forbs, and generally free of woody shrubs and conifers that would produce shade and competition for *Sidalcea oregana* var. *calva*; seeps and springs on fine textured soils (clay loams and silt loams), which contribute to the maintenance of hydrologic processes necessary to support meadows which remain moist into the early summer; and elevations of 488–1,000 m (1,600–3,300 ft).

In an effort to map areas that have the features essential to the conservation of the species, we used data on known *Sidalcea oregana* var. *calva* locations. We attempted to avoid developed areas, such as towns and other similar lands, that are unlikely to contribute to *Sidalcea oregana* var. *calva* conservation. However, mapping limitations did not allow us to exclude all developed areas, such as towns, or housing developments, or other lands unlikely to contain the primary constituent elements essential for conservation of *Sidalcea oregana* var. *calva*. Existing features and structures within the boundaries of the mapped unit, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other rural residential landscaped areas, will not contain one or more of the primary constituent elements and are, therefore, not critical habitat. Federal actions limited to those areas would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Critical Habitat Designation

We are designating critical habitat for one unit, comprised of 2,484 ha (6,135 ac). The approximate area, by land ownership, of this unit is shown in Table 1.

TABLE 1.—APPROXIMATE AREA OF DESIGNATED CRITICAL HABITAT IN HECTARES (HA) AND ACRES (AC)[1] IN CHELAN COUNTY, WASHINGTON, BY LAND OWNERSHIP

[Area estimates reflect the critical habitat unit boundaries; however, existing features and structures, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other rural residential landscaped areas not containing one or more of the primary constituent elements are not designated as critical habitat for *Sidalcea oregana* var. *calva*.]

Federal	Local/state	Private	Total
Areas Known To Be Currently Occupied			
0.5 ha (1 ac)	38 ha (94 ac)	0.5 ha (1 ac)	39 ha. (96 ac).
Areas of Suitable Habitat of Unknown Occupancy			
830 ha (2,050 ac)	540 ha (1,334 ac)	1,075 ha (2,655 ac)	2,445 ha. (6,039 ac).
Total			2,484 ha. (6,135 ac).

[1] Approximate acres have been converted to hectares (1 ha = 2.47 ac). Hectares and acres greater than 1 have been rounded to the nearest 5, except for totals which are sums of rows or columns.

Lands are designated under private, State, and Federal ownership. All of the designated critical habitat for *Sidalcea oregana* var. *calva* is in Chelan County, Washington, and includes Camas Creek and the adjacent Pendleton Canyon subbasin. The area designated for critical habitat includes all of the lands that have the primary constituent elements below 1,000 m (3,300 ft) within the Camas Creek watershed, and in the small tributary within Pendleton Canyon before its confluence with Peshastin Creek, and includes: (1) The entire area encompassed by the Camas Meadow Natural Area Preserve, which is administered by the WDNR; (2) two populations located on Forest Service land; (3) the small drainage north of the Camas Land, administered by the WDNR; and (4) the population on private property located in Pendleton Canyon; (5) the wetland complex of these watersheds necessary for providing the essential habitat components on which recovery and conservation of the species depends.

Portions of the designated critical habitat are presumably unoccupied by *Sidalcea oregana* var. *calva* at present, although the entire area has not been recently surveyed. Soil maps indicate that the entire area provides suitable habitat for the species, and there may be additional, but currently unknown, populations present here. Wetlands and moist meadow habitats (native grassland and forb-dominated vegetation) suitable for *Sidalcea oregana* var. *calva* are generally surrounded by upland areas, which are dominated by ponderosa pine and Douglas-fir forests. While these upland areas are less suitable as habitat for the species, because protection of the hydrological processes is necessary to ensure the viability of the wetland habitat of the species, we consider the entire area essential to the survival, eventual recovery, and delisting of *Sidalcea oregana* var. *calva*.

Pursuant to the definition of critical habitat in section 3 of the Act, any area so designated must also require "special management considerations or protections." Some areas essential to the conservation of the species may not be designated critical habitat if they already have adequate special management. Adequate special management or protection is provided by a legally operative plan that addresses the maintenance and improvement of the essential elements and provides for the long-term conservation of the species. We consider a plan adequate when it meets all of the following three criteria: (1) The plan provides a conservation benefit to the species (i.e., the plan must maintain or provide for an increase in the species' population or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the management plan will be implemented (i.e., those responsible for implementing the plan are capable of accomplishing the objectives, have an implementation schedule and/or have adequate funding to implement the management plan); and (3) the plan provides assurances the conservation plan will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives). If an area is covered by a plan that meets these criteria, it does not constitute critical habitat as defined by the Act.

The Camas Land NAP is managed by the WDNR, and a final Management Plan (Plan) for the area was approved in June 2000. The NAP was established in 1989 to protect the large populations of *Sidalcea oregana* var. *calva* and *Delphinium viridescens* (Wenatchee larkspur) that occur at Camas Meadow. The general management policy described in the Plan applies to all NAPs managed by the WDNR. These include: (1) Protection of outstanding examples of rare or vanishing terrestrial or aquatic ecosystems, rare plant and animal species, and unique geologic features; (2) the role of NAPs as a baseline to compare with similar ecosystems that are under the influence of human activities; and (3) areas that are important to preserving natural features of scientific or educational value. However, the Plan does not provide a specific management plan or prescription designed to conserve *Sidalcea oregana* var. *calva*, beyond permitting natural ecological and physical processes to continue (WDNR 2000). The Plan does call for management actions to enhance wet meadow habitat, which will benefit *Sidalcea oregana* var. *calva* by removing competing vegetation, including controlling noxious weeds; thinning ponderosa pine in the uplands; and improving and replacing culverts. However, these actions have not yet been implemented, and it is too early to assess their effectiveness.

Although the species is listed as endangered by the WDNR's Natural Heritage Program (1994), there is no State Endangered Species Act in the State of Washington for plants. The WDNR designation provides no legal protection for *Sidalcea oregana* var. *calva*, and there are no State laws that specifically protect plants on State lands. Therefore, we believe that this management plan alone does not provide sufficient protection for *Sidalcea oregana* var. *calva*, and have included the Camas Land NAP within the critical habitat designation.

Developed areas on the periphery of the Camas Land NAP and the Camas Meadow Bible Camp located on the south side of the Camas Land, within the area designated as critical habitat, are not considered as essential to the conservation of the species. These developed areas have been altered by the planting of lawns, installation of septic systems, and horse pastures and, therefore, do not contain the primary constituent elements necessary for the long-term protection and conservation of *Sidalcea oregana* var. *calva*.

We have determined that the habitat supporting the population found at the Mountain Home Resort (Resort) is not essential to the conservation of the species. This population is disjunct from the remaining populations, and located in an area entirely surrounded with private residences, private timberlands, and a road administered by Chelan County. The habitat on this property that contains *Sidalcea oregana* var. *calva*, and the former candidate species *Delphinium virdescens*, is confined to a small linear area associated with a drainage ditch adjacent to the Mountain Home road and is bordered on the north and south by gravel access roads leading to residences. It is likely that the habitat resulted from the construction of the road and the creation of the drainage ditch. The habitat is now dominated by non-native, sod-forming grasses and forbs mixed with native vegetation (Dottie Knecht, Forest Service, pers. comm. 2000). The class-B Washington State noxious weed, *Potentiall recta* (sulfur cinquefoil) (Washington Administrative Code 16–750–011) is frequently encountered in monitoring plots at this site, although at low densities (D. Knecht, pers. comm. 2000). Moving out of the occupied habitat and up the hill towards the Resort, the vegetation is also dominated by sod-forming pasture and lawn grasses, including *Agrostis alba* (creeping bentgrass), *Alopecuris pratensis* (meadow foxtail), *Phleum pratense* (timothy grass), and *Bromus inermis* (smooth brome). These species are not consistent with the primary constituent elements.

Through observation of the adjacent properties along the Mountain Home road, it is evident that, if the Resort were not present and the land had not been cleared to create a vista, the marginal habitat where the small population is found at this site would be forested with conifers mixed with hardwood trees and shrubs. Such habitat does not contain the vegetative requirements and open conditions of the primary constituent elements.

The population at the Resort is also disjunct from the other populations of the species, which are more than 16 km (10 mi) distant. Because of fragmentation and the patchy distribution of habitat between this population and other populations of the species, the persistence of this population cannot be assured. We believe that the most appropriate conservation strategy for *Sidalcea oregana* var. *calva* is one that focuses on the protection and expansion of the core habitat of the species rather than the protection of isolated populations of doubtful viability. Except through artificial means, there is no opportunity for gene exchange between this population and the other populations. Although no genetic testing has been conducted for this species, a small population, such as that found at the Resort, is likely to have reduced genetic diversity, which can result in decreased population viability due to inbreeding (Schemske *et al.* 1994).

Although the ability to predict random environmental events (stochastic events) is low, events such as forest fires (e.g., the 1994 Rat Creek and Hatchery Creek Fires) and rain-on-snow flooding do occur. The effects of these stochastic events are most acute in small populations (Schemske *et al.* 1994). As a result of an increased importance of stochastic processes and changes in ecological interactions in declining populations, the probability of a population extirpation is expected to be negatively correlated with its size (Schemske *et al.* 1994).

The population found at Pendleton Canyon is on privately-owned land that has been included as critical habitat because it is essential to the conservation of *Sidalcea oregana* var. *calva*. It is located in a wildland setting with none of the modifications typically associated with a residence, unlike the private residences near Camas Meadow or the population of *Sidalcea oregana* var. *calva* at the Resort which lack the primary constituent elements and have been excluded from critical habitat designation.

The Recovery Team for *Sidalcea oregana* var. *calva* will be providing guidance on recovery planning for this species, and at that time, they may provide additional guidance regarding the areas designated as critical habitat. We will review any of the Recovery Team's recommendations and re-examine our critical habitat designation, if necessary, to provide for the conservation of the species.

Effects of Critical Habitat Designation

Section 7 Consultation

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be

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implemented under section 7(a)(1) and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as " * * *the direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

Section 7(a)(2) of the Act requires that Federal agencies, including the Service, must ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Under section 7(a) of the Act, Federal agencies, including the Service, evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) and regulations at 50 CFR 402.10 requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain a biological opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. If such designation occurs, we may adopt the formal conference report as a biological opinion, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

When a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Through this consultation, we would advise the agencies whether the permitted actions would likely jeopardize the continued existence of the species or destroy or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the likelihood of jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), or a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (e.g., from the Federal Highway Administration or Federal Emergency Management Agency) are also subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation. While efforts were made to exclude existing features and structures, such as buildings, roads, and other such developed features not containing primary constituent elements, due to mapping constraints not all such features were excluded. Federal actions limited to these areas would not trigger a section 7 consultation, unless they affect the species and/or the primary constituent elements in adjacent critical habitat.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. Designation of critical habitat in areas known to be occupied by *Sidalcea oregana* var. *calva*, and areas where the species is detected in surveys at the time of the action, is not likely to result in a significant regulatory burden above that already in place due to the presence of the listed species. For some previously reviewed actions, in instances where critical habitat is subsequently designated, and in those cases where activities occur on designated critical habitat where *Sidalcea oregana* var. *calva* is not found at the time of the action, an additional section 7 consultation with the Service not previously required may be necessary for actions funded, authorized, or carried out by Federal agencies.

Section 4(b)(8) of the Act requires us to briefly describe and evaluate in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. When determining whether any of these activities may adversely modify critical habitat, we base our analysis on the effects of the action on the entire critical habitat area and not just on the portion where the activity will occur. Adverse effects on constituent elements or segments of critical habitat generally do not result in an adverse modification determination unless that loss, when added to the environmental baseline, is likely to appreciably diminish the capability of the critical habitat to satisfy essential requirements of the species. In other words, activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements (defined above) to an extent that the value of critical habitat for both the survival and recovery of the *Sidalcea oregana* var. *calva* is appreciably diminished.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and require that a section 7 consultation be conducted include, but are not limited to:

(1) Damming, water diversion, channelization, excess groundwater pumping, repair and replacement of culverts, or other actions that appreciably reduce the hydrologic function and surface area of rivers, streams, seeps or springs;

(2) Timber harvesting and road construction that directly or indirectly affects the hydrology of sites harboring the species;

(3) Rural residential construction that includes concrete pads for foundations or the installation of septic systems where a permit under section 404 of the Clean Water Act would be required from the Corps;

(4) Activities that alter watershed characteristics in ways that would appreciably reduce groundwater recharge or alter natural flooding regimes necessary to maintain natural, dynamic wetland communities. Such activities may include manipulation of vegetation through timber harvesting, road construction, maintaining an unnatural fire regime either through fire suppression, or too frequent or poorly-timed prescribed fires, residential and commercial development, and grazing of livestock that changes fire frequency or otherwise degrades watershed values;

(5) Activities that appreciably degrade or destroy native wetland communities, such as livestock grazing, land clearing, harvesting of trees or other forest products, introducing or encouraging the spread of non-native plant species; and

(6) Activities that appreciably alter stream channel morphology such as sand and gravel mining, road construction, channelization, impoundment, watershed disturbances, off-road vehicle use, and inappropriate recreational uses.

Any of the above activities that appreciably diminish the value of critical habitat to the degree that they affect the survival and recovery of *Sidalcea oregana* var. *calva* may be considered an adverse modification or destruction of critical habitat. We note that such activities may also jeopardize the continued existence of the species.

If you have questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat resulting from a Federal action, contact Ken Berg, Manager, Western Washington Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 N.E. 11th Ave, Portland, Oregon 97232 (telephone 503/231–2063; facsimile 503/231–6243).

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of the exclusions outweigh the benefits of specifying the areas as critical habitat. We cannot exclude the areas from critical habitat when the exclusion will result in the extinction of the species.

Economic effects caused by listing *Sidalcea oregana* var. *calva* as an endangered species and by other statutes are the baseline against which the effects of critical habitat designation are evaluated. The economic analysis must then examine the incremental economic effects and benefits of the critical habitat designation. Economic effects are measured as changes in national income, regional jobs, and household income. We made the draft economic analysis available for public review and comment as described in the "Summary of Comments" section of this document. The final analysis, which reviewed and incorporated public comments as appropriate, concluded that no significant additional economic impacts are expected from critical habitat designation above and beyond that already attributable to the listing of *Sidalcea oregana* var. *calva* under the Act and other statutes. The most likely economic effects of critical habitat designation are on activities funded, authorized, or carried out by a Federal agency.

We believe that any project that would adversely modify or destroy critical habitat for *Sidalcea oregana* var. *calva* would also jeopardize the continued existence of the species, and that reasonable and prudent alternatives to avoid jeopardizing the species would also avoid adverse modification of critical habitat. Thus, no significant additional regulatory burden or associated significant additional costs would accrue because of critical habitat above and beyond those attributable to the listing of *Sidalcea oregana* var. *calva*. Our economic analysis does recognize that there may be costs from delays associated with reinitiating completed consultations after the critical habitat designation is made final. There may also be economic

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effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be lowered due to perceived increase in the regulatory burden. We believe these impacts will be short-term, however.

The economic analysis concludes that, over the next 10 years the section 7 costs attributable to the listing are not expected to exceed $10,000, and result from a new consultation between us, the USFS, and WDNR. Costs attributable to critical habitat designation are not expected to exceed $2,000 and result from a re-initiated consultation between the USFS and us. Private landowners should incur no additional costs resulting from critical habitat designation. This estimate is based on the existing consultation history with agencies in this area and increased public awareness regarding the actual impacts of critical habitat designation on land values. Therefore, we conclude that no, or minimal, significant incremental costs are anticipated as a result of the designation of critical habitat for *Sidalcea oregana* var. *calva*.

A copy of the final economic analysis and a description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our Western Washington Office (see **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) In the economic analysis, we determined that this rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. *Sidalcea oregana* var. *calva* was listed as endangered on December 22, 1999. Since that time we have conducted, and will continue to conduct, formal and informal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of *Sidalcea oregana* var. *calva*.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 2). Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based on our experience with the species and its needs, we believe that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as jeopardy to the species under the Act.

Accordingly, we do not expect the designation of areas as critical habitat within the geographical range of the species to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons who do not have a Federal sponsorship of their actions are not restricted by the designation of critical habitat.

TABLE 2.—IMPACTS OF SIDALCEA OREGANA VAR. CALVA LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation [1]
Federal Activities Potentially Affected [2].	Activities conducted by the Army Corps of Engineers, U.S. Forest Service, Environmental Protection Agency, Federal Highway Administration, and any other Federal Agencies, including, but not limited to, actions that appreciably reduce the hydrologic function and surface area of rivers, streams, seeps, or springs, timber harvesting and road construction, rural residential construction that includes concrete pads for foundations or the installation of septic systems, and activities that alter watershed characteristics in ways that would appreciably reduce groundwater recharge or alter natural flooding regimes to alter natural, dynamic wetland communities.	Activities by these Federal Agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected [3].	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy *Sidalcea oregana* var. *calva* habitat by mechanical, chemical, or other means (e.g., grading, discing, ripping, and tilling, water diversion, impoundment, groundwater pumping, irrigation, construction, road building, herbicide application, recreational use, etc.) or appreciably decrease habitat value or quality through indirect effects (e.g., edge effects, invasion of exotic plants or animals, fragmentation of habitat).	Funding, authorization, or permitting such actions by Federal Agencies in any unoccupied critical habitat areas.

[1] This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[2] Activities initiated by a Federal agency.
[3] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(b) This rule is not expected to create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of *Sidalcea oregana* var. *calva* since its listing in 1999. The prohibition against adverse modification of critical habitat is expected to impose few, if any, additional restrictions to those that currently exist. However, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This final rule will not significantly impact entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any incremental effects in areas of designated critical habitat.

(d) OMB has determined that this rule may raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities.

As discussed in the economic analysis for this rulemaking and the preamble above, this rule is not expected to result in any significant restrictions in addition to those currently in existence for areas occupied by *Sidalcea oregana* var. *calva* and designated as critical habitat. As indicated in Table 1 (see Critical Habitat Designation section), we designated critical habitat on property owned by Federal, State and local governments, and private property, and identified the types of Federal actions or authorized activities that are of potential concern (Table 2). If these activities sponsored by Federal agencies within the designated critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization, as discussed above, these actions are currently required to comply with the listing protections of the Act, and the designation of critical habitat is not anticipated to have any significant additional effects on these activities in areas of critical habitat occupied by the species. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in a significant increased regulatory burden since the Corps of Engineers already requires review of projects involving wetlands because wetlands frequently contain listed species for which the Corps must consult with us under section 7. For actions on non-Federal property that do not have a Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

Therefore, we are certifying that this final designation of critical habitat is not expected to have a significant adverse impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is necessary.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will not be affected unless they propose an action requiring Federal funds, permits, or other authorization. Any such activity will require that the Federal agency ensure that the action will not adversely modify or destroy designated critical habitat.

(b) This rule, will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of *Sidalcea oregana* var. *calva*. Due to current public knowledge of the species' protection, and the fact that critical habitat provides no additional incremental restrictions, we do not anticipate that property values will be affected by the critical habitat designation. While real estate market values may temporarily decline following designation, due to the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in Washington. The designation of critical habitat within the geographic range occupied by *Sidalcea oregana* var. *calva* imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Sidalcea oregana* var. *calva*.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

This rule does not contain any information collection requirements for

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which OMB approval under the Paperwork Reduction Act is required. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number.

National Environmental Policy Act

We determined that we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis.

We have determined that there are no Tribal lands essential for the conservation of *Sidalcea oregana* var. *calva*. Therefore, critical habitat for *Sidalcea oregana* var. *calva* has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Western Washington Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Ted Thomas (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h), revise the entry for *Sidalcea oregana* var. *calva* under "FLOWERING PLANTS" to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
.	.	.	.	.	.	.	.
Sidalcea oregana var. *calva*	Wenatchee Mountains checker-mallow.	U.S.A. (WA)	Malvaceae-(Mallow)	E	673	17.96(a)	N/A
.	.	.	.	.	.	.	.

3. In § 17.96, add critical habitat for the Wenatchee Mountains checker-mallow (*Sidalcea oregana* var. *calva*) under paragraph (a) by adding an entry for *Sidalcea oregana* var. *calva* after the entry for *Kokia drynaroides* under Malvaceae to read as follows:

§ 17.96 Critical habitat-plants.

(a) Flowering plants.

* * * * *

Family Malvaceae: *Sidalcea oregana* var. *calva* (Wenatchee Mountains checker-mallow).

(1) Critical habitat unit is depicted for Chelan County, Washington, on the map below.

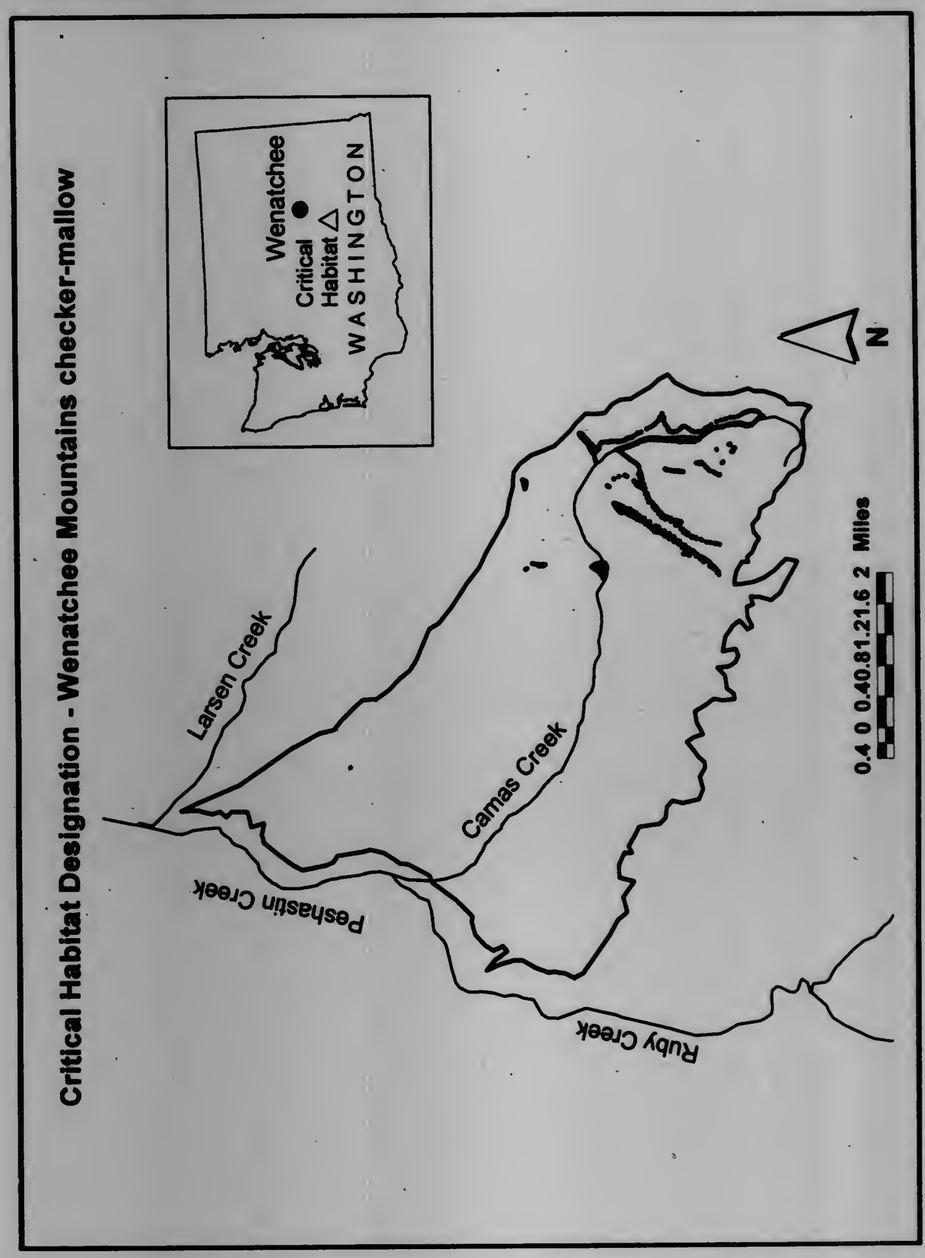
(2) Washington, Chelan County. From USGS 7.5' quadrangle maps Peshastin and Tip Top, Washington. T. 23 N., R 18 E., beginning at a point on Camas Creek in the NW¼ of NW¼ of section 35 at approximately 47°26'52" N latitude and 120°38'57" W longitude proceeding downstream (northwesterly), expanding in all directions to include the entire wetland complex that comprises the Camas Meadow Natural Area Preserve, to a point approximately 0.4 km (0.25 mi) from the confluence of Pendleton Creek and Peshastin Creek, located at 47°31'06" and 120°37'18" W longitude. From this last point, the western boundary of the designated critical habitat parallels Peshastin Creek to a point at the southwest of the designated area located at 47°28'46" N latitude and 120°38'57" W longitude. The maximum elevation of the designated critical habitat is 1,000 m (3,300 ft) and the lowest elevation is 488 m (1,600 ft). Critical habitat within this area includes watercourses and wetland habitat out to the beginning of upland vegetation.

(3) The known primary constituent elements of critical habitat for *Sidalcea oregana* var. *calva* include: surface water or saturated upper soil profiles; a wetland plant community dominated by native grasses and forbs, and generally free of woody shrubs and conifers that would produce shade and competition for *Sidalcea oregana* var. *calva*; seeps and springs on fine-textured soils (clay loams and silt loams), which contribute to the maintenance of hydrologic processes necessary to support meadows that remain moist into the early summer; and elevations of 488–1,000 m (1,600–3,300 ft).

Critical habitat does not include existing features and structures, such as buildings, roads, aqueducts, railroads, airports, other paved areas, lawns, and other rural residential landscaped areas, not containing one or more of the primary constituent elements.

Note: Map follows:

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Dated: August 29, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22341 Filed 9–5–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH06

Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Kootenai River Population of the White Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the Kootenai River population of the white sturgeon (*Acipenser transmontanus*). A total of 18 river kilometers (11.2 river miles) of the Kootenai River in Idaho is designated as critical habitat.

Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. State or private actions, with no Federal involvement, would not be affected by this rulemaking action. As required by section 4 of the Act, we considered economic and other impacts prior to making a final decision on what area to designate as critical habitat.

DATES: This rule becomes effective on October 9, 2001.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, Washington 99206.

FOR FURTHER INFORMATION CONTACT: Bob Hallock, U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, see **ADDRESSES** section; telephone 509/891–6839, facsimile 509/891–6748.

SUPPLEMENTARY INFORMATION:

Background

The Kootenai River population of the white sturgeon (*Acipenser transmontanus*) is 1 of 18 land-locked populations of white sturgeon known to occur in western North America. The Kootenai River originates in Kootenay National Park in British Columbia, Canada, then flows south into Montana, northwest into Idaho, then north through the Kootenai Valley back into British Columbia, where it flows through Kootenay Lake and joins the Columbia River at Castlegar, British Columbia. Kootenai River white sturgeon occur in Idaho, Montana, and British Columbia, and are restricted to approximately 270 river kilometers (km) (168 river miles (mi)) of the Kootenai River extending from Kootenai Falls, Montana, located 50 river km (31 mi) below Libby Dam, Montana, downstream through Kootenay Lake to Corra Lynn Dam at the outflow from Kootenay Lake in British Columbia.

Bonnington Falls, a natural barrier downstream of Kootenay Lake, has isolated the Kootenai River population of white sturgeon since the last glacial advance roughly 10,000 years ago (Apperson 1992). Approximately 45 percent of the species' range, based on river kilometers, is located within British Columbia. Apperson and Anders (1991) found that at least 36 percent of the sturgeon tracked during 1989 over-wintered in Kootenay Lake. They further believe that sturgeon do not commonly occur upstream of Bonners Ferry, Idaho, which includes most of the Kootenai River watershed in the United States.

The Kootenai River population of white sturgeon is threatened by factors including hydropower operations, flood control operations, poor recruitment, loss of habitat, and possibly, contaminants (water quality impacts). For more detailed discussions of the ecology of the Kootenai River population of white sturgeon, see the September 6, 1994, **Federal Register** notice listing this population as endangered (59 FR 45989), and the September 30, 1999, "Recovery Plan for the White Sturgeon (*Acipenser transmontanus*): Kootenai River Population" (U.S. Fish and Wildlife Service 1999). The final listing rule and the recovery plan incorporate the best available biological information on Kootenai River white sturgeon.

Although the Service, in cooperation with other agencies, has gained important life history information during the 7 years since listing the species, considerable uncertainty remains in accurately delineating critical habitat for the Kootenai River population of white sturgeon. However, we rely on the best currently available information, including our 1999 recovery plan for the species, to designate critical habitat; we will now summarize the recent findings and remaining areas of uncertainty. Information being gathered now and in the future may require substantially amending this rule, the associated analyses of impacts, and any recommendations under section 7 of the Act.

In 1997, Paragamian *et al.* (1997) estimated that there may be 1,468 adult sturgeon remaining in the Kootenai River population, with a male-to-female ratio of 1.7:1, or about 539 females. With 7 percent of these females reproductively active in a given year (Apperson and Anders 1991), and an assumed average of 100,000 eggs per female, there may be as many as 3.8 million eggs released on average annually. To increase the probability of survival of fertilized eggs, the U.S. Army Corps of Engineers (COE) has provided various augmentation flows from Libby Dam. However, during the last 10 years of intensive monitoring, only one hatching fry has been found, and no free-swimming larvae or young-of-the-year have been captured. To date, only 17 juvenile sturgeon have been captured that can be associated with the experimental augmentation flows between 1991 and 1997. Because of sampling gear limitations, the success of sturgeon recruitment during the 1998 and 1999 augmentation flows cannot be assessed at this time. Considering the extent of occupied habitat in the United States and Canada, we believe that we have not yet accounted for other naturally recruited sturgeon from these same year classes that are present in the system. However, because of the high incidence of recapture of marked juvenile sturgeon in this system, the number of additional juvenile sturgeon is believed to be small.

There is evidence that very high levels of mortality of sturgeon eggs and sac fry are occurring annually. While we anticipate high levels of mortality at early life stages of a highly fecund species such as the Kootenai River white sturgeon, during 10 years of intensive monitoring we have never captured a free-swimming larvae or young-of-the-year sturgeon, and have captured a total of only 17 juveniles. This suggests exceptionally high levels of mortality are occurring at the sites now being used for spawning, egg incubation, and yolk sac fry development.

White sturgeon are broadcast spawners that release adhesive eggs which then sink to the river bottom (Stockley 1981, Brannon *et al.* 1984). In the lower Columbia River, most sturgeon eggs are sheltered by attaching

themselves and incubating on rocky substrate near the spawning site (Parsley *et al.* 1993). Rocky substrates also provide cover for yolk sac larvae before they become free-swimming. However, in the Kootenai River, most of the current sturgeon spawning sites are over sandy substrate, and most eggs are found drifting along the river bottom covered with fine sand particles (Paragamian *et al.* in press). Recently, U.S. Geological Survey (USGS) geologists have analyzed core samples from the river bed and identified a "buried gravel/cobble geomorphic reach" throughout the reach of river from Bonner's Ferry downstream to the mouth of Deep Creek (Gary Barton, USGS, pers. comm. 2001). Purposes of this ongoing study are to determine the conditions that may have caused this gravel/cobble substrate to be buried, and when this may have occurred.

Through 10 years of monitoring, we have determined that 10 degrees Celsius (50 degrees Fahrenheit) is the optimum temperature for spawning for this species. When significant sturgeon recruitment last occurred in the Kootenai River (in the year 1974), and when preferred spawning temperatures were near 10 degrees Celsius, the following conditions were recorded: base flows of 40,000 cfs (1,120 cubic meters per second (cms)), peak flows of 55,000 cfs (1,540 cms), and a water surface elevation at Bonners Ferry of 1,765.5 ft (538.5 m) above sea level while at peak flows. We do not know the locations or the substrate composition of the spawning sites selected by adults under these 1974 conditions. The more extreme flow events common in the unregulated Kootenai River prior to impoundment may have caused gravel to be exposed within the spawning area. For example, the flood of record (1894) at Bonners Ferry, Idaho, was estimated to have been 157,000 cfs (4,396 cms), and peak flows in the range of 70,000 cfs (1,960 cms) were not unusual prior to construction of Libby Dam, which became fully operational in 1975. These flow, water surface elevation, and temperature conditions have not all been replicated at one time since 1974.

In the Kootenai River, spawning has not resulted in significant levels of recruitment, and it is unclear whether this is due to: (1) The current spawning site selection is a predominant behavioral response to changed river velocities and depths from the operations of Libby Dam, which may be causing the sturgeon to spawn primarily at new sites below the confluence with Deep Creek, about 3 river miles below Bonners Ferry, with unsuitable sandy riverbed substrates; or (2) the substrate at historic spawning sites has been altered by the operations of Libby Dam that have greatly reduced peak flood flows and associated stream energy. In turn, this may be causing rocky substrate, otherwise suitable for egg incubation and sac fry development, to be covered with sand. Since intensive monitoring began 10 years ago, there is evidence that some sturgeon in spawning condition enter the reach of river between Bonner's Ferry and the mouth of Deep Creek each year, but few have remained to spawn there.

Suitable water and sediment quality are necessary for viability of early life stages of Kootenai River white sturgeon, including both incubating eggs and yolk sac larvae, and normal breeding behavior. In 1992, Apperson documented elevated levels of copper in both Kootenai River sediments and sturgeon oocytes (the eggs before maturation), and found low levels of the polychlorinated biphenyl Arochlor 1260 in river water. Because offspring of wild sturgeon captured and spawned in the hatchery appeared to survive and develop normally on filtered hatchery water, the question regarding quality of the river habitat remains. Subsequent studies of biota and survival (egg and larvae) have continued the concern as to the role water and sediment quality is playing in the lack of recruitment to the sturgeon population. Although most sturgeon eggs released in the Kootenai River are not believed to live long enough to hatch into larvae and begin feeding, various constituent nutrients trapped in Lake Koocanusa, above Libby Dam, including nutrients, nitrogen, and phosphorus, may affect the food base of those larvae that do hatch. The operations of Libby Dam can affect water temperatures in the spawning reach, especially during intermediate and low water years. Water temperature may affect spawning behavior. Optimum spawning temperature is near 10 degrees Celsius, and sudden drops of 2 to 3 degrees Celsius cause males to become reproductively inactive. Water and sediment quality and the effects of contaminants on sturgeon recruitment remain an area of concern and uncertainty.

Researchers with the USGS are conducting a study of possible changes in riverbed substrate and water depths in the Kootenai River from Kootenay Lake, British Columbia, to above Bonners Ferry, Idaho, which may have resulted from the last 26 years of operations at Libby Dam. Further, there is an ongoing study involving the releases of large numbers (over 100,000) of four-day-old, hatchery-reared, yolk sac larvae over both sandy and rocky substrates in the Kootenai River, which is also intended to address uncertainties involving the sturgeon population's riverbed substrate needs.

Previous Federal Action

Federal action on the Kootenai River population of white sturgeon began on November 21, 1991, when we included this population as a category 1 candidate species in the Notice of Animal Candidate Review (56 FR 58804), based on field studies conducted by the Idaho Department of Fish and Game. Category 1 candidate species are taxa for which the Service has on file enough substantial information on biological vulnerability and threats to propose them for endangered or threatened status. On June 11, 1992, the Service received a petition from the Idaho Conservation League, North Idaho Audubon, and the Boundary Backpackers to list the Kootenai River population of white sturgeon as threatened or endangered under the Act. The petition cited the lack of natural flows affecting juvenile recruitment as the primary threat to the continued existence of the wild sturgeon population. Pursuant to section 4(b)(A) of the Act, the Service determined that the petition presented substantial information indicating that the requested action may be warranted, and published this finding in the **Federal Register** on April 14, 1993 (58 FR 19401). A proposed rule to list the Kootenai River population of white sturgeon as endangered was published on July 7, 1993 (58 FR 36379), with a final rule following on September 6, 1994 (59 FR 45989).

In the September 6, 1994, final rule listing the Kootenai River population of white sturgeon as endangered (59 FR 45989), we stated that the designation of critical habitat was not determinable. As identified in the final listing determination, the primary threat to this species involves effects of the greatly altered natural hydrograph in the Kootenai River downstream of and beginning with the operations of Libby Dam in 1975. Adaptive management involving flow augmentation and monitoring during the last six years has indicated that this threat is most crucial during the first year of life, especially the first three weeks of life of the sturgeon (fertilized egg through free-swimming larvae). Biological factors relevant to the species' early life stage habitat needs are discussed in the "Primary Constituent Elements" section of this final rule.

Section 4(a)(3) of the Act and its implementing regulations (50 CFR

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424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)) state that designation of critical habitat is not determinable if information is not sufficiently well known to permit identification of an area as critical habitat. Our regulations (50 CFR 424.12(a)(1)) also state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

At the time of listing, we found critical habitat not determinable because the information necessary to perform the required impacts analyses of such a designation was lacking. We believed there was insufficient biological information to accurately delineate the habitat essential to the species, and, in the absence of this delineation, the required analysis of impacts could not be completed accurately. In addition, specific areas of critical habitat could not be identified without additional information on the life history and habitat requirements of the sturgeon. Biological information needs then identified by the Service included information concerning specific river reaches or areas necessary for spawning, reproduction, and rearing of offspring; and water quality, temperature, and velocity required to meet the needs of various life history stages (e.g., spawning, early rearing, and juvenile migration).

We published a final Recovery Plan on September 30, 1999 (U.S. Fish and Wildlife Service 1999). The recovery strategy identified in this recovery plan emphasized the importance of reestablishing successful, natural spawning of Kootenai River white sturgeon, minimizing the loss of genetic variability, and successfully mitigating the biological and physical habitat changes caused by human development within the Kootenai River basin.

On June 30, 1999, the Center for Biological Diversity filed a complaint on the Service's failure to designate critical habitat for the Kootenai River population of white sturgeon. As part of a court decision of August 30, 2000, in *Center for Biological Diversity v. Bruce Babbitt, Secretary of the Department of the Interior, and the United States Fish and Wildlife Service*, C99–3202 SC, we entered into a court-approved settlement agreement to submit a proposed rule for designation of critical habitat for the Kootenai River population of white sturgeon to the **Federal Register** by December 15, 2000. The proposed rule for designation of critical habitat was published on December 21, 2000 (65 FR 80698). The public comment period on the proposed rule was open from December 21, 2000, until February 20, 2001. On April 26, 2001, we announced the availability of the draft economic analysis and reopened the public comment period (66 FR 20962). The second public comment period closed on May 29, 2001.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as: (i) the specific areas within the geographic area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon determination that such areas are essential for conservation of the species. The term "conservation" as defined in section 3(3) of the Act means "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary" (i.e., the species is recovered and removed from the list of endangered and threatened species). Section 3 of the Act further states that, except where determined by the Secretary of the Interior, critical habitat shall not include the entire geographic area which can be occupied by threatened or endangered species. In addition, critical habitat shall not be designated in foreign countries (50 CFR 424.12 (h)).

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas as critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. However, we cannot exclude areas from critical habitat when the exclusion will result in the extinction of the species.

In order to be included in a critical habitat designation, the habitat must first be "essential to the conservation of the species." Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

When we designate critical habitat at the time of listing, as required under section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic area of the species, we will designate only currently known essential areas. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area of the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), that provide essential life cycle needs of the species.

Our regulations state that, "The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." (50 CFR 424.12(e)). Accordingly, we do not designate critical habitat in areas outside the geographic area occupied by the species unless the best scientific and commercial data demonstrate that the unoccupied areas are essential for the conservation needs of the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining

which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by states and counties, scientific status surveys and studies, and biological assessments, unpublished materials, and expert opinion or personal knowledge.

Critical habitat provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for conservation of that species, and can alert the public as well as land- and water-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified or help to avoid accidental damage to such areas.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited independent expert opinions from four persons who are familiar with this species to peer-review the proposed critical habitat designation. Two of these experts provided us with a written response generally supporting the designation based on the best available information. They also provided additional information that we have incorporated into the rule.

Both reviewers suggested that with additional information there may be a need to modify or expand critical habitat in the future. One reviewer suggested expansion of critical habitat upstream to include gravel/cobble substrates that may be used for sturgeon spawning under exceptional runoff conditions in the future. Our detailed response to this suggestion is included in the "Summary of Comments and Recommendations" section of this rule.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations in 50 CFR 424.12, in determining which areas to designate as critical habitat, we must consider those physical and biological features (primary constituent elements) essential to the conservation of the species, and which may require special management considerations and protection. These physical and biological features include but are not limited to the following: space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and, habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

The important habitat features that provide for breeding and rearing of offspring through the free-swimming larvae stage include: water temperatures, depths, and flows sufficient to trigger sturgeon breeding, and water volumes and substrates sufficient to provide cover and shelter to incubating eggs and yolk sac larvae.

We have determined the primary constituent elements of critical habitat for the Kootenai River population of white sturgeon from studies of their habitats, life history, and population biology described and referenced above. Kootenai River flows may affect the sturgeon in two ways—flows may affect normal breeding behavior, including site selection, or alter the riverbed substrate, which may affect survival of eggs and cover for yolk sac larvae. Flows may also affect the efficiency of predators to locate eggs and sac fry larvae. The four primary constituent elements of Kootenai River sturgeon critical habitat are:

1. A flow regime that creates a hydrologic profile characterized by flow magnitude, timing, and velocity, and water depth and quality (including temperatures) necessary for normal behavior involving breeding site selection, breeding and fertilization, and cover for egg incubation and yolk sac fry development.

2. A flow regime that creates a hydrologic profile characterized by water of sufficient duration and magnitude to restore or maintain riverbed substrate necessary for attachment and shelter of incubating eggs and cover for yolk sac fry in inter-gravel spaces.

3. A flow regime that creates a hydrologic profile characterized by flow magnitude, time, velocity, depth, and duration necessary for the normal behavior of adult and juvenile sturgeon.

4. Water and sediment quality necessary for normal behavior, including breeding behavior, and viability of all life stages of the Kootenai River white sturgeon, including incubating eggs and yolk sac larvae.

The area we are designating as critical habitat for the Kootenai River population of white sturgeon provides the above constituent elements and requires special management considerations or protection to ensure their contribution to the species' conservation.

Critical Habitat Designation

Based on the best available information, we designate the following area as critical habitat for the Kootenai River population of white sturgeon: that portion of the Kootenai River within Boundary County, Idaho, from river kilometer 228 (about river mile 141.4, below Shorty's Island) to river kilometer 246 (about river mile 152.6, above the Highway 95 Bridge at Bonners Ferry, Idaho). The lateral extent of critical habitat is up to the ordinary high-water lines (as defined by the COE in 33 CFR 329.11) on each bank of the Kootenai River within this 18-kilometer (11.2-mile) reach.

Land Ownership

The reach of the Kootenai River designated as critical habitat lies within the ordinary high-water lines as defined for regulatory purposes (33 CFR 329.11). Upon statehood in 1890, the State of Idaho claimed ownership of the bed of the Kootenai River and its banks up to ordinary high-water lines. Numerous private-, public-, and tribally-owned parcels abut these State-owned riverbed/banks, including lands managed by the Service at the Kootenai National Wildlife Refuge, and trust lands managed by the Kootenai Tribe of Idaho.

Based upon early U.S. Forest Service (USFS) maps from 1916, USGS maps from 1928, and the confining effects of the private levees completed by the COE in 1961, it appears that within this reach of the Kootenai River the ordinary high-water lines originally delineating State lands are essentially unchanged. Because of the scales of the available maps, it is possible that minor river channel changes have occurred since statehood, and that some small portions of private lands now occur within the ordinary high-water lines. However, we understand that most of the lands where these changes may have occurred lie within the flowage and seepage easements purchased by the Federal Government under Public Law 93–251, section 56, passed in 1974. In addition, when the river meanders, the "government lot" or parcel owners abutting State-owned riverbed/banks may request parcel boundary adjustments to the new ordinary high-water line, and corresponding

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adjustments in taxable acreage. Although the elevations of ordinary high water may have been lowered by the operations of Libby Dam since 1974, the lateral extent of the State-owned riverbed/banks along the steep levees may be closely approximated today through the COE's definition of ordinary high-water line cited above. Thus, we believe the land we have designated as critical habitat is within lands owned by the State of Idaho.

Effect of Critical Habitat Designation

Section 7 Consultation

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1), and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 take prohibition. We anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best information available at the time of the designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Critical habitat receives regulatory protection only under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "* * * the direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to areas designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for both the survival and recovery of the species. Individuals, organizations, State, Tribal, and local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding. Thus, activities on Federal lands that may affect the Kootenai River white sturgeon or its critical habitat, if designated, will require section 7 consultation. Actions on private or State lands receiving funding or requiring a permit from a Federal agency also will be subject to the section 7 consultation process if the action may affect the species or its critical habitat. Federal actions not affecting the species or its critical habitat, as well as actions on non-Federal lands that are not federally funded or permitted, will not require section 7 consultation.

Federal agencies are required to evaluate their actions with respect to any species that is listed as endangered or threatened, and with respect to its designated critical habitat. Regulations implementing these interagency cooperation provisions of the Act are codified at 50 CFR part 402.

If we find a proposed agency action is likely to destroy or adversely modify the critical habitat, our biological opinion may include reasonable and prudent alternatives to the action that are designed to avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that we believe would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative vary accordingly.

Regulations at 50 CFR 402.16 also require Federal agencies to reinitiate consultation in instances where we have already reviewed an action for its effects on listed species if critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for both the survival and recovery of the Kootenai River population of white sturgeon is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species. A wide range of Federal activities may include land and water management actions of Federal agencies (e.g., Bonneville Power Administration, Natural Resources Conservation Service, Bureau of Indian Affairs, USFS, EPA, COE, and the U.S. Fish and Wildlife Service), and related or similar actions of other federally regulated projects (e.g., road and bridge construction or maintenance activities by the Federal Highway Administration; dredge and fill projects, sand and gravel mining, bank stabilization activities conducted by the COE; and NPDES permits authorized by the EPA). These activities may destroy or adversely modify critical habitat if they alter the primary constituent elements (defined above) to an extent that the value of critical habitat for both the survival and recovery of the Kootenai River population of white sturgeon is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may destroy or adversely modify critical habitat include, but are not limited to:

(1) Altering the flow regime within the critical habitat in ways that prevent the necessary conditions for breeding and fertilization. For example, flood control and hydroelectric operations and water release configuration limitations of Libby Dam may destroy or adversely modify critical habitat by altering habitat for normal breeding behavior, shelter for incubating eggs, and cover for yolk sac larvae.

(2) Altering the flow regime within the critical habitat in ways that prevent the necessary conditions for incubating eggs and developing yolk sac larvae. Flood control and hydroelectric operations combined with the water release configuration limitations of Libby Dam may destroy or adversely modify critical habitat necessary for incubation of eggs and development of yolk sac larvae by altering riverbed substrate composition through reduced bed load transport energy and unnatural distribution of stream bed sand and silt. Land management activities accelerating sediment releases from watersheds entering the Kootenai River below Libby Dam, and above or within critical habitat, may also destroy or adversely modify this critical habitat through increased deposition of sand and silt in the stream bed. Other actions, including channelization, levee reconstruction, stream bank stabilization, gravel removal, and road and bridge construction, may also affect critical habitat.

(3) Altering water chemistry. Possible actions include the release of chemicals or biological pollutants into the waters passing through the critical habitat from point sources or by dispersed releases (non-point sources).

These examples indicate the types of activities that will require consultation in the future and, therefore, that may be affected by critical habitat designation. These kinds of activities would also generally require consultation when they affect a listed species, irrespective of impacts to critical habitat. To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species. Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. As a result, we do not expect that designation of critical habitat in this area, occupied by the Kootenai River population of white sturgeon, will result in a regulatory burden substantially above that already in place, due to the presence of the already-listed species.

Federal actions that are found likely to destroy or adversely modify critical habitat (or to jeopardize the continued existence of the species) may often be modified, through development of reasonable and prudent alternatives, in ways that will remove the likelihood of destruction or adverse modification of critical habitat (or jeopardy). Project modifications may include, but are not limited to, adjustment in timing of projects to avoid sensitive periods for the species and its habitat; minimization of work and vehicle use in the wetted channel; avoidance of pollution; use of alternative material sources; sediment barriers; and use of best land management and construction practices.

If you have questions regarding whether specific activities will likely constitute destruction or adverse modification of critical habitat, contact the Supervisor, Upper Columbia River Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the Division of Endangered Species, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone 503–231–6158; facsimile 503–231–6243).

Summary of Comments and Recommendations

We twice requested all interested parties to submit comments or information that might bear on the designation of critical habitat for Kootenai River white sturgeon (65 FR 80618 and 66 FR 20962). We contacted all appropriate State and Federal agencies, Tribes, county governments, conservation organizations, and other interested parties and invited them to comment. In addition, we published newspaper notices inviting public comment and announcing the public hearings in the following newspapers—*Spokesman Review* and *Bonner County Daily Bee* in Idaho, and *The Western News* (Libby) in Montana.

We held a public hearing on the proposed rule in Bonners Ferry, Idaho, on January 18, 2001. Transcripts of this hearing are available for inspection (see **ADDRESSES** section).

A total of 21 commenters responded, 13 in writing and 8 orally. One commenter supported critical habitat as proposed, five commenters were opposed, and the remaining commenters were neutral to designation of critical habitat. Ten of the commenters were interested in expansion of the economic analysis to address all additional impacts of having listed the Kootenai River white sturgeon under the Act. We have reviewed all comments received for substantive issues and new data regarding critical habitat and the Kootenai River population of white sturgeon. Repeated or very similar comments are combined into single comments and responses.

During the public comment periods, we also received numerous written and oral comments that involved matters related to our December 2000 jeopardy biological opinion on the operations of the Federal Columbia River Power System, but unrelated to the designation of critical habitat. Only those comments involving impacts of our previous biological opinions which are applicable to our discussion of the economic baseline are addressed here.

Issue 1: One commenter suggested that we should include the entire range of the sturgeon, 168 river miles, as critical habitat.

Our Response: This is beyond the scope and intent of designating critical habitat (50 CFR 424.12 (b and c)). We only designated the reach of the river that is essential to the conservation of the species. We do not believe that the entire river meets the definition of critical habitat. Critical habitat is defined in section 3(5)(A) of the Act (see the "Critical Habitat" section of this rule).

Issue 2: One commenter stated that all upstream and upgradient habitats up to the watershed divide should be included as critical habitat for the sturgeon. Three other commenters suggested expanding the area of critical habitat some unspecified distance upstream of Bonners Ferry, Idaho.

Our Response: By regulation, designation of critical habitat involves a definable site that is essential for its conservation (50 CFR 424.12 (b and c)) and may require special management. Exposed gravel substrates exist in the Kootenai River bed upstream of the area we have designated as critical habitat, and these appear suitable for sturgeon spawning and early-life-stage rearing. There are no barriers that preclude

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sturgeon access to this river reach. The modest experimental augmentation flows in 1996 and 1997 intended to attract spawning sturgeon to this area were successful. However, based on the absence of historic observations and 10 years of monitoring sturgeon spawning movements through radio tracking of adults and sampling for eggs and larvae, there is no evidence that sturgeon have ever used this reach of the Kootenai River for spawning or early-life-stage rearing.

We know peak runoff event river depths and stream energy necessary to transport bedload have been altered by the operations of Libby Dam. Prior to the operations of Libby Dam, peak flows occasionally exceeded 100,000 cubic feet per second (cfs), and the average annual peak discharge was approximately 75,000 cfs. Since Libby Dam became operational, the average annual peak has been reduced to approximately 35,000 cfs (U.S. Army Corps of Engineers 2001). New information supports the proposed designation because it indicates the gravel/cobble substrate does exist in the area that we proposed. USGS geologists have analyzed core samples of the riverbed, and identified a "buried gravel/cobble geomorphic reach" extending from the railroad bridge in Bonners Ferry downstream about to the confluence with Deep Creek, a distance of about 3 miles, and entirely within critical habitat (Gary Barton, USGS, pers. comm. 2001). The purpose of this ongoing study is to determine whether it is likely that this gravel/cobble substrate (that may be suitable for sturgeon spawning/incubation) has been buried under sand and silt by the reduction in peak flow events and the loss of stream energy (necessary to naturally transport sediment), which may have occurred since Libby Dam became operational. The USGS has recently agreed to expand their ongoing studies to determine if there have been changes in the geomorphology of this reach of the Kootenai River that may affect the sturgeon.

At this time we do not have sufficient information to warrant expansion of critical habitat upstream of the area now designated. We do not believe that designation of all upstream and upgradient habitats up to the watershed divide as critical habitat is essential to the conservation of the species.

Issue 3: One commenter stated that poor recruitment since the 1960's warrants expansion of critical habitat into more diverse habitats such as off-channel rearing sites.

Our Response: The need to evaluate the use of off-channel habitats is acknowledged in the recovery plan, and a feasibility study is under way to determine if larval and juvenile sturgeon will occupy a reconnected meander channel (U.S. Fish and Wildlife Service 1999). Most of the off-channel habitat was eliminated long before 1975 when recruitment failure was recorded. White sturgeon in other portions of the Columbia River basin continue to recruit without off-channel habitats. In addition, off-channel Kootenai River habitat on the Creston Wildlife Management Area, British Columbia, now support introduced largemouth bass, a potential predator of young of the year sturgeon, thus supporting the idea that off-channel habitat are not suitable for the sturgeon.

Issue 4: Two commenters stated that the sturgeon's decline has resulted from cumulative effects of large-scale watershed alteration. Watershed processes that support the sturgeon's life history requirements must be restored, or at least not further degraded to ensure the "conservation of the species."

Our response: We acknowledge that there may be a variety of stressors, such as lack of turbidity, affecting constituent elements for sturgeon recruitment in addition to the substantially altered hydrograph since 1975, when Libby Dam became fully operational. These possible stressors are identified as study needs in the Recovery Plan (U.S. Fish and Wildlife Service 1999). However, at this time we have no compelling scientific information on any additional stressors that would warrant expansion of critical habitat.

Issue 5: Libby Dam should be decommissioned or converted to a "run-of-the-river" project. Reestablishment of a natural regime with associated stream functions is necessary to preclude adverse modification of critical habitat.

Our Response: Our recommendations in the 1995 and 2000 jeopardy biological opinions for Kootenai River white sturgeon have been focused on incremental reestablishment of the physical and biological features essential to the conservation of the species through changes in the operations of Libby Dam, including modified flood control procedures that allow water storage for the sturgeon and other listed fish, increased release capacity at Libby Dam, water temperature management, and restoration of channel capacity near Bonners Ferry through levee repairs (U.S. Fish and Wildlife Service 1995 and 2000). The intent of our recommendations is to modify operations of the Libby Project, as necessary, within its originally authorized purposes to conserve the sturgeon.

Issue 6: One commenter asked what critical habitat would do for the sturgeon and whether the biological opinion will be amended.

Our Response: Our December 2000 jeopardy biological opinion involving the operations of the Libby Project for the next 10 years is based on the same biological information used in this designation of critical habitat (U.S. Fish and Wildlife Service 2000). The reasonable and prudent alternatives in this biological opinion were provided to the action agencies (Corps of Engineers (COE), Bonneville Power Administration, and Bureau of Reclamation) to avoid jeopardy to Kootenai River white sturgeon. Finalization of this critical habitat designation will require that our December 2000 biological opinion be amended; however, we expect that this will not result in additional requirements affecting operations of Libby Dam, as the existing measures adequately address critical habitat.

Issue 7: One commenter stated that the use of the ordinary high-water line to delineate the lateral margins of critical habitat is confusing, and asked for an explanation of why the ordinary high-water line was selected.

Our Response: The ordinary high-water line was selected because it has an established definition cited elsewhere in this document, and it generally corresponds to the property lines separating State-owned lands from other lands in this area. A common indicator of this line is a distinct change in vegetation such as a grass or tree line. During 10 years of monitoring, no sturgeon have been observed spawning along the banks or in the vegetation along the Kootenai River near what appears to be the ordinary high-water line, and no sturgeon egg has been recovered from the river bottom in less than 3 meters (m) (about 10 feet (ft)) of water. These observations suggest that the primary constituent elements and habitat deemed critical for sturgeon reproduction in the Kootenai River lie within the ordinary high-water lines, and are generally associated with the bed of the river rather than with riparian vegetation above the ordinary high-water lines.

Issue 8: The area delineated as critical habitat does not account for Kootenai River water surface elevations, which may be above the ordinary high-water lines during sturgeon augmentation flows, and this may impact private property adjacent to State lands along the area of critical habitat and elsewhere along the Kootenai River.

Our Response: Water surface elevations above the ordinary high-water lines may occur based on our recommendations in the December 2000 biological opinion on the operations of the Federal Columbia River Power System, which includes operations of Libby Dam (U.S. Fish and Wildlife Service 2000). Similarly, water surface elevations may increase upstream and downstream of this 11.2-mile reach of the Kootenai River we are designating as critical habitat. The primary constituent elements are not known to be found in any of these adjacent areas. Thus, we do not consider lands higher in elevation and outside of the ordinary high-water lines to be critical habitat. Potential impacts of elevated river stages on private property above or beyond designated critical habitat and resulting from recommendations in our 2000 biological opinion are described as part of the baseline in the economics section of this rule.

Issue 9: One commenter stated that any private lands within the area proposed as critical habitat should be identified.

Our Response: We have determined that the bed and banks of the Kootenai River within the area designated as critical habitat that are below the ordinary high-water lines are owned entirely by the State of Idaho. We have made a written request to the State to verify this determination, but we have received no response (U.S. Fish and Wildlife Service 2001). No specific exceptions or in-holdings within these State-owned lands were identified during the public comment periods.

Issue 10: One commenter noted that there are many uncertainties about factors limiting sturgeon recruitment. The commenter went on to state that decisions, such as critical habitat designation, which may impact their community should be delayed until research is completed to obtain the best available scientific information.

Our Response: When we designate critical habitat at the time of listing, as required under section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us. While we may prefer to have additional information, sufficient information, including a recovery plan (Service, 1999), is available to support a critical habitat designation.

Issue 11: One commenter asked if local land owners would have to consult with the Service to maintain their levees or repair pump discharge facilities if these activities occur within critical habitat.

Our Response: If there is a nexus such as a Federal permit, a Federal activity, or if there is Federal funding, the involved Federal agency would be responsible for consultation with us. Critical habitat would be but another consideration during that consultation.

Issue 12: One commenter asked if activities such as boating or discharges permitted under the National Pollution Distribution Elimination System will be affected.

Our Response: No impact upon boating is anticipated, because the constituent elements of critical habitat for the species are not affected by boating. National Pollution Distribution Elimination System (NPDES) permits are issued by the U.S. Environmental Protection Agency (EPA), and are developed based on the Idaho state Water Quality Standards. NPDES permits control the pollutants released into waters of Idaho. These discharges may be from facilities such as municipal wastewater treatment plants, or from industrial discharges. Designation of critical habitat adds another consideration involving possible adverse modification of that habitat when we consult with Federal agencies on actions such as issuing NPDES permits. Through section 7 consultation, EPA will need to consider what pollutants may be in the discharge, how the pollutants compare with Idaho Water Quality Standards, and how those pollutants may affect Kootenai River white sturgeon, or the constituent elements of critical habitat. EPA provides a public comment and review period on any NPDES permits that are issued, so information on the effects of pollutants would be available at that time.

Issue 13: Ten commenters have requested that our economic analysis be expanded beyond the impacts of critical habitat to include all impacts of sturgeon listing and recovery throughout the Kootenai River basin.

Our Response: The Service has prepared an addendum to the critical habitat economic analysis, and included it in the final economic analysis. This addendum describes a baseline of positive and negative impacts in the Kootenai River basin associated with the listing as well as the impacts anticipated to be associated with critical habitat.

Issue 14: Three commenters expressed concerns that our recommendations in our biological opinion to increase release capacity from 25,000 to 35,000 cfs at Libby Dam may impact structures, wells, and sewage facilities, and may cause erosion of islands in the vicinity of Libby, Montana.

Our Response: The COE is initiating interagency studies and review under the National Environmental Policy Act which will determine the extent of any potential impacts associated with increasing releases from Libby Dam by 2004.

Issue 15: One commenter expressed concern over loss of recreation income associated with changes in operations of Lake Koocanusa.

Our Response: See the economics section of this rule. Our biological opinion recommends adoption of the COE's VarQ (Variable Flow) flood control procedures which will greatly increase the probability of Lake Koocanusa refill (McGrane 1999). In addition, we recommended that releases for sturgeon be based on the Montana Integrated Rule Curves (Marotz *et al.* 1999) meaning that there will be no augmentation for sturgeon during drought years such as this year (2001), and greater releases in exceptional runoff years like 1996 and 1997, when there is no difficulty refilling the reservoir. Relative to a best case model, the COE has estimated that with our biological opinion there may be a 2.3-ft reduction in average maximum water surface elevation of Lake Koocanusa, down to 2455.3 ft, and that may result in a 4 percent loss in visitor days on Lake Koocanusa (U.S. Army Corps of Engineers 1999). However, with the recently signed Libby Coordination Agreement, Lake Koocanusa may be held as much as 10 ft higher during August of some years (U.S. and Canadian Entities 1999). This increase in water surface elevation is expected to increase recreational use by about 12 percent. Losses in reservoir recreational use may be compensated for by increases in recreational use and associated commercialization of the Kootenai River below Libby Dam. This reach of the river supports a trophy rainbow trout fishery. Under our biological opinion for bull trout, minimum flows below Libby Dam will be increased by 50 to 125 percent during July and August, also increasing usable habitat for the rainbow trout population.

Issue 16: One commenter stated water released for the sturgeon will result in a loss of hydroelectric power generation.

Our Response: All water released to date for sturgeon flow augmentation has passed through the generators and produced power. In the future, the Federal action agencies may choose to use the spillway to provide some sturgeon augmentation flows. The COE will study this issue in the next few

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years, and determine if it can be done without damage to the spillway, or without impacting water quality downstream of Libby Dam. If the spillway is used, that water would not go through the turbines. However, the spillway would only be used when water elevations in Lake Koocanusa were high, so water would also likely be passed through the turbines at the same time, and power would still be generated. Therefore, we do not anticipate any significant change in hydroelectric power generation. As a consequence, and as noted later in this document, we feel this action will not have a significant effect on energy supply, distribution, or use, and so will comply with Executive Order 13211.

Issue 17: One person commented that during 1999 Libby Dam was operated only three days for power, and during the remainder of the year it was operated for fish.

Our Response: We are aware of no instance during 1999 when water passing through Libby Dam was not used to generate power. This includes the periods when releases were shaped for listed fish. The only way water passing through Libby Dam would not be used to generate power is if there were a spill, and that has not occurred since 1981, before any operations for listed fish began.

Issue 18: One person commented that while rapidly fluctuating water levels from load following may be the primary factor causing levee erosion through most of Kootenai Valley, peak flow events including sturgeon flows are the primary factor causing lateral erosion of the river bank and levee upstream of Bonners Ferry in the area of their property.

Our Response: The USGS is evaluating existing information on possible changes in channel configuration in the Kootenai River upstream of Bonners Ferry that may have occurred since Libby Dam became operational. We have asked them to investigate the possibility that reduced peak flows since Libby Dam became operational, and the resulting loss of energy to transport bed load, may have increased streambed gravel deposition, reduced channel capacity and reduced water depths above Bonners Ferry. Such changes may influence sturgeon spawning site selection. If this has occurred, the rate of lateral migration of the river and erosion of banks may also be affected. The effects of the operations of Libby Dam may be very different in the higher gradient reach of the Kootenai River above Bonners Ferry.

Issue 19: One person commented that the Service is asking for flows up to 60,000 cfs which equates to a stage of 1,764 ft at Bonners Ferry, and property owners may suffer a million and a half dollars worth of crop damages in the valley, mainly from seepage.

Our Response: The 2000 biological opinion recommends release capacity at Libby Dam be increased from about 25,000 to 35,000 cfs, but specific flows for sturgeon are recommended annually, on an in-season adaptive management basis. This adaptive management approach considers the presence of sturgeon expected to spawn, attainable water temperatures, the stage of Kootenay Lake and its associated backwater effect, the duration of flows and seepage into agricultural lands, the extent of runoff entering the river below Libby Dam, and public safety based on levee condition (Service 2000). The highest flow coinciding with a sturgeon release was about 45,000 cfs on June 7, 1997. That release would have occurred in the absence of a specific recommendation for sturgeon because it was necessary to preclude a forced spill at Libby Dam and the possibility of an uncontrolled flood. Because of concern for flooding, the flow event was extended by the Corps of Engineers for 13 days, rather than the recommended 3 days (U.S. Fish and Wildlife Service 1999). The highest river stage at Bonners Ferry during this multipurpose release was 1,764.4 ft, which occurred at 3:00 a.m. on June 7, 1997. This was an unusual situation that was influenced by the cumulative back water effect of Kootenay Lake during an exceptionally high runoff year. Most sturgeon flows have been in the range of 27,000 to 40,000 cfs. As authorized, Libby Dam was to control a 100-year flood event (0.01 exceedance frequency) to 57,000 cfs at Bonners Ferry, based on information that the reconstructed 1894 flood had been an 85- to 100-year event (McGrane 1995, 1996). In 1999, with additional flow records through 1978 available to better define a 100-year flood event, the authorized control level during a 100-year event was estimated to be 62,000 cfs, which corresponds to an elevation or stage at Bonners Ferry of 1768.9 ft (McGrane 1999).

Presently, because some levee segments have not been well maintained, the COE has an operational policy to control the river to an elevation of 1,764 ft (a 10-year event or a 0.10 exceedance frequency), at Bonners Ferry when possible, and this corresponds to a flow of 53,000 cfs (McGrane 1999). This 1,764 ft was the average stage of the Kootenai River at Bonners Ferry for the entire month of June prior to the operations of Libby Dam (Army Corps of Engineers 2001). The average stage for the month of May was 1,761 ft. Although seepage from these average stages and durations may have regularly affected some lands above river mile 143 (Dion and Whitehead 1973), we are aware of no information that a reduction in seepage was an authorized purpose of the Libby Project. Seepage is typically among the consequential effects of large flood control projects, and any seasonal reduction in seepage was an ancillary benefit of the Libby Project. The baseline for economic analysis in this document will be those conditions related to seepage prior to our 1995 biological opinion, rather than conditions related to seepage prior to operations of Libby Dam, addressed under other authorities.

Issue 20: One commenter asked if the designation of critical habitat would result in flows greater than those which we have recommended in our December 2000 biological opinion.

Our Response: No. We have no new information which would warrant additional increases in flows.

Methods

In finalizing critical habitat for the Kootenai River white sturgeon, we reviewed the overall approaches to conservation of the species taken by local, State, Tribal, and Federal agencies in the U.S. and Canada and private individuals and organizations since the species' listing in 1994. We also solicited information from knowledgeable biologists and reviewed the available information pertaining to habitat requirements of the species. This final critical habitat designation described below constitutes our best assessment of the area essential for the conservation of the sturgeon, and is based on the best scientific and commercial information available. The area designated is currently within the range occupied by the species, and contains all of the primary constituent elements identified in the "Primary Constituent Elements" section. The area designated is entirely within the historic range of the species, and requires special management consideration and protection to ensure its contribution to the species' recovery.

In an effort to map areas essential to the conservation of the species, we used data on known Kootenai River sturgeon spawning and early-life-stage rearing areas. In the lower Columbia River, where white sturgeon continue to spawn successfully, egg incubation sites and yolk sac fry development sites are at or slightly downstream of spawning sites (Parsley *et al.* 1993). In the Kootenai River, eggs at all stages of development and one hatching yolk sac fry have been found at or downstream of the spawning sites. Since 1991, sturgeon eggs have been recovered in the Kootenai River between river kilometer 228 (river mile 141.4), below Shorty's Island (Paramagian *et al.* 1995), and river kilometer 246 (river mile 152.6), above the Highway 95 bridge at Bonner's Ferry, Idaho (Paragamian *et al.* in press). Although many of the eggs found were unattached and drifting along the river bottom, Paragamian *et al.* (in press) supports the assumption that the Kootenai River sturgeon egg collection sites are in the vicinity of the spawning sites. Further, since no other spawning sites have been identified in 10 years of monitoring, we believe these are the same sites where at least some successful egg incubation and yolk sac fry development has occurred, as evidenced by the 17 wild juveniles captured and aged to year classes within this same 10-year study period.

Existing structures within the critical habitat boundaries, such as highway and railroad bridges, do not contain primary constituent elements essential for sturgeon conservation, and therefore are not included in this critical habitat designation even though they are included within mapped critical habitat boundaries. Federal actions limited to those structures would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Summary of Changes From the Proposed Rule

The final designation of critical habitat has no changes from the proposed designation.

Economic Analysis

Economic effects caused by listing the sturgeon as a Federally protected endangered species, and by other statutes, are the baseline against which the effects of a critical habitat designation are evaluated. The economic analysis must then examine the incremental economic and conservation benefits and effects of the critical habitat designation. Economic effects are measured as changes in national income, regional jobs, and household income, when possible. An analysis of the designation of critical habitat for the sturgeon was prepared (Bioeconomics, Inc. 2001, under contract with Industrial Economics, Inc.) and made available for public review and comment (April 18, 2001, through May 29, 2001; 66 FR 20962).

An addendum to the draft economic analysis was prepared and its availability is noted below in the "Economic Analysis" section. This addendum includes additional baseline information associated with the listing of the sturgeon and subsequent section 7 consultations, responses to public comments on the draft economic analysis, and is consistent with the May 11, 2001, ruling by the U.S. Court of Appeals, Tenth Circuit.

The final analysis, which reviewed and incorporated public comments, concluded that no additional costs or benefits are estimated to accrue from the designation of critical habitat for the sturgeon. All estimated costs and benefits from either ongoing impacts of past section 7 consultations, or associated with anticipated future consultations are attributable to the listing requirements of the Act and not any additional requirements associated with critical habitat designation. These listing-related impacts are estimated to include less than $2,000 per year in additional costs of completing consultations involving the sturgeon. Additionally, it is estimated that up to approximately $300,000 per year of seepage-related crop damage resulting from all water sources may occur in the Kootenai Valley. However, there was not sufficient information available to segregate crop damage resulting specifically from Kootenai River seepage during sturgeon augmentation flows recommended under section 7 of the Act, from those crop damages resulting from seepage during other high river flows, or from those crop damages resulting from entirely different water sources. This estimate of seepage-related crop damage may be a high estimate depending on actual crop locations, and the flow levels and durations of future sturgeon-related river flows. Levee owners along the Kootenai River may also benefit from modified river flows (reduced hydroelectric load following) resulting from section 7 consultation that will lead to reduced erosion and maintenance costs on most privately owned levees along the river. The small (4 percent) estimated loss in visitor use days on Lake Koocanusa, due to releases for sturgeon, may be offset by increased summer lake levels resulting from the Libby Coordination Agreement between the U. S. and Canada, and also by improved recreational fishing opportunities below Libby Dam associated with increased and more stable instream flows during July and August.

A copy of the final economic analysis is included in our administrative record and may be obtained by contacting the U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, Washington 99206, or at http://pacific.fws.gov/news/2001–60.htm.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) In the economic analysis, we determined that this rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The Kootenai River population of white sturgeon was listed as endangered on September 6, 1994. We have recently completed one formal section 7 consultation with the COE, Bonneville Power Administration, and the Bureau of Reclamation on operations of the Federal Columbia River Power System, in part, to ensure that their actions would not jeopardize the continued existence of the Kootenai River population of white sturgeon Based on the proposed action, we issued a jeopardy biological opinion on the sturgeon in December 2000.

Under the Act, critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise authorized by a Federal agency (see Table 1).

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TABLE 1.—ACTIVITIES POTENTIALLY IMPACTED BY KOOTENAI RIVER POPULATION OF WHITE STURGEON LISTING AND CRITICAL HABITAT DESIGNATION.

Categories of activities	Activities potentially affected by species listing only [1]	Additional activities potentially affected by critical habitat designation [2]
Potentially Affected Activities that are Initiated by a Federal Agency.	Operation of dams, reservoirs, and other water control facilities in the Kootenai River watershed. Federal issuance of scientific permits, operation of captive propagation facilities, sturgeon habitat restoration.	None.
Potentially Affected Activities Initiated by a Private or Other Non-Federal Entity That May Need Federal Authorization or Funding.	Construction and/or operation of freshwater hatcheries, water withdrawal projects, approval of new or revised water quality standards, pesticide registration, streambank stabilization, gravel mining, road and bridge construction, pipeline streamcrossings, and sturgeon habitat restoration that require a Federal action (permit, authorization, or funding).	None.

[1] This column represents the activities potentially affected by listing the Kootenai River population of white sturgeon as an endangered species (September 6, 1994; 59 FR 45989) under the Endangered Species Act.
[2] This column represents the activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.

Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based upon our experience with the species and its needs, we conclude that any Federal action or authorized action that could potentially cause adverse modification of designated critical habitat would currently be considered as "jeopardy" under the Act. Accordingly, the designation of areas within the geographic range occupied by the Kootenai River population of white sturgeon does not have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons that do not have a Federal "sponsorship" of their actions are not restricted by the designation of critical habitat, although they continue to be bound by the provisions of the Act concerning "take" of the species.

(b) This rule is not expected to create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the Kootenai River white sturgeon since its listing in 1994. The prohibition against adverse modification of critical habitat is expected to impose few, if any, additional restrictions to those that currently exist. However, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This final rule will not significantly impact entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any incremental effects in areas of designated critical habitat.

(d) OMB has determined that this rule will raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities.

As discussed in the economic analysis for this rulemaking and the preamble above, this rule is not expected to result in any significant restrictions in addition to those currently in existence for areas occupied by the Kootenai River population of white sturgeon and designated as critical habitat. As indicated in Table 1, we identified the types of Federal actions or authorized activities that are of potential concern. If these activities sponsored by Federal agencies within the designated critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization, as discussed above, these actions are currently required to comply with the listing protections of the Act, and the designation of critical habitat is not anticipated to have any significant additional effects on these activities in areas of critical habitat occupied by the species. For actions that have no Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

Therefore, we are certifying that this final designation of critical habitat is not expected to have a significant adverse impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is necessary.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (EO 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this final rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated in areas of occupied designated critical habitat.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

In the economic analysis, we determined the designation of critical habitat will not have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence for areas of occupied critical habitat.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

Under our economic analysis, we determined the designation of critical habitat will not cause: (a) any increases in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions; or (b) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. As discussed above, we anticipate that the designation of critical habitat will not have any additional effects on these activities in areas of critical habitat occupied by the species.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This rule will not "take" private property. The designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of the Kootenai River population of white sturgeon. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Non-Federal landowners in areas that are included in the designated critical habitat will continue to be able to make economic use of their property.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. The designation of critical habitat in areas currently occupied by the Kootenai River white sturgeon imposes no additional restrictions on state or private activities than those currently in place, and therefore has little incremental impact on State and local governments and their activities.

In keeping with Department of the Interior policy, we requested information from and coordinated development of this critical habitat designation with appropriate State resource agencies in Idaho. We also utilized information on critical habitat submitted by the State during the listing of the Kootenai River white sturgeon. The State now has representation on our recovery team for this species. Consequently, we will continue to coordinate this and any future designation of critical habitat with the appropriate State agency.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Office of the Solicitor will review the final determination. We have made every effort to ensure that this final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This designation does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951, E.O. 13175) and 512 DM 2, we understand that Federally recognized Tribes must be related to on a government-to-government basis. We support tribal measures that preclude the need for conservation regulations, and we provide technical assistance to tribes who wish assistance in developing and expanding tribal programs for the management of healthy ecosystems so that Federal conservation regulations, such as designation of critical habitat, on tribal lands are unnecessary.

The Presidential Memorandum of April 29, 1994, also requires us to consult with the tribes on matters that affect them, and section 4(b)(2) of the Act requires us to gather information regarding the designation of critical habitat and the effects thereof from all relevant sources, including the tribes. Recognizing a government-to-government relationship with tribes and our Federal trust responsibilities, we consulted representatives of the Kootenai Tribe of Idaho with regard to trust resources, tribal lands, or tribal rights that might be affected by the designation of critical habitat.

In our deliberations over this critical habitat designation, we identified possible effects to the Kootenai Tribe of Idaho or tribal resources. These include: (1) Effects of designation of critical habitat on State lands adjacent to tribal lands; and (2) the effects on tribal resources, such as water deliveries and aquatic resources such as the Kootenai River white sturgeon. The Kootenai Tribe of Idaho is directly involved in the conservation of the Kootenai River white sturgeon, and conducts a conservation aquaculture program. To do this, the Tribe diverts a small amount of water directly from the Kootenai River within the area of critical habitat. We do not anticipate any direct or

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indirect adverse effects to Tribal lands through management actions intended to enhance or maintain critical habitat on adjacent State of Idaho lands. However, we do anticipate beneficial effects to Tribal resources, including maintained water quality and continued conservation of the sturgeon, from the designation of critical habitat on adjacent non-tribal lands.

References Cited

A complete list of all references cited in this designation is available upon request from the U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Bob Hallock, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and Record Keeping Requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11 (h), by revising the entry for "Sturgeon, white" under "FISHES" in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
.	.	.	.	.	.	.	.
FISHES							
.	.	.	.	.	.	.	.
Sturgeon, white	*Acipenser transmontanus.*	U.S.A. (ID, MT) Canada (B.C.).	U.S.A. (ID, MT) Canada (B.C.) (Kootenai R. system).	E	549	17.95(e)	NA
.	.	.	.	.	.	.	.

3. Amend § 17.95(e) by adding critical habitat for the Kootenai River population of white sturgeon (*Acipenser transmontanus*) in the same alphabetical order as this species occurs in § 17.11(h) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

Kootenai River population of white sturgeon (*Acipenser transmontanus*)

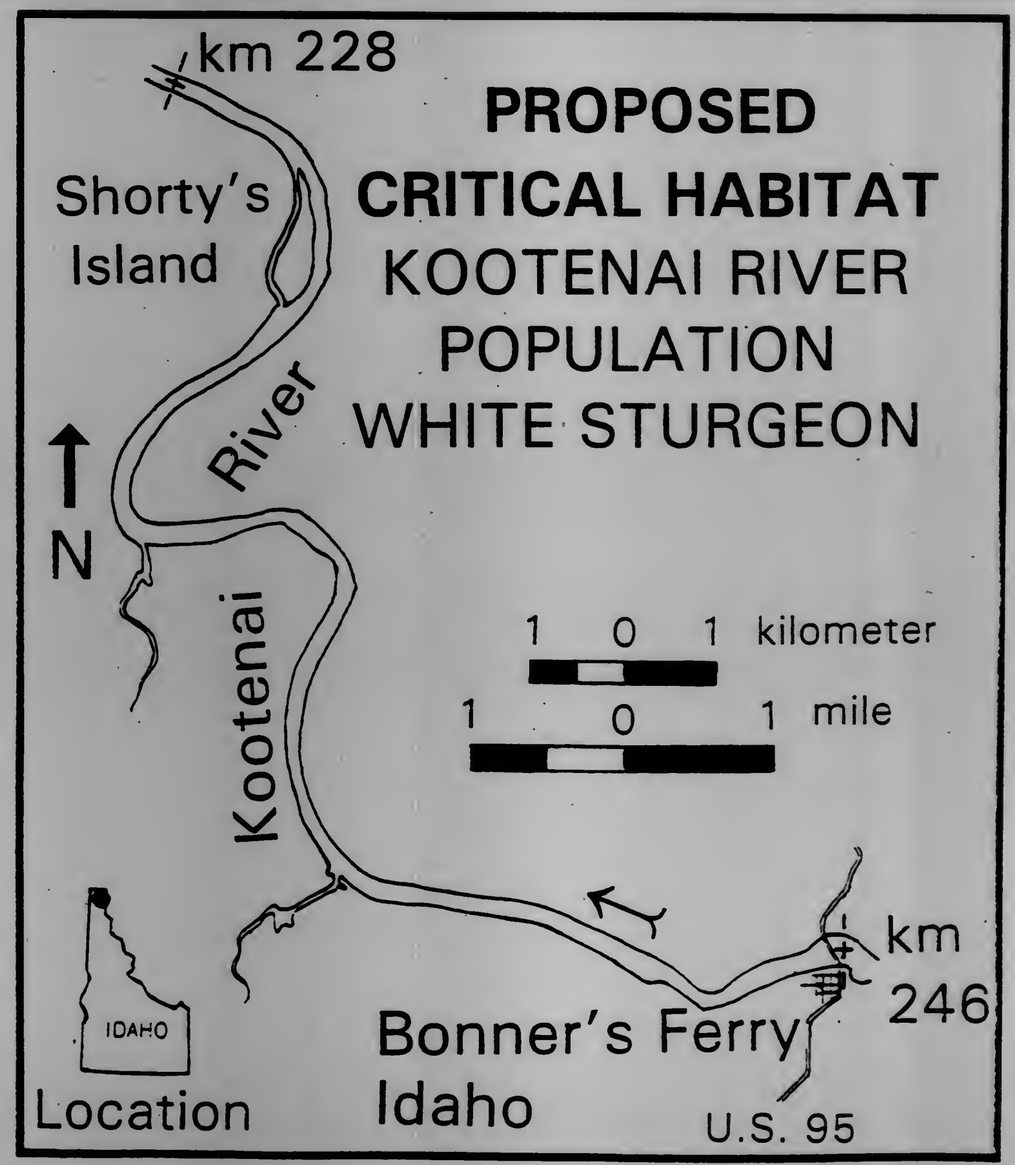
1. Idaho, Boundary County: Kootenai River from river kilometer 228 (river mile 141.4) to river kilometer 246 (river mile 152.6), as indicated on the map below, from ordinary high-water line to opposite bank ordinary high-water line as defined in 33 CFR 329.11.

2. Primary constituent elements include those that are essential for the primary biological needs of normal behavior, water requirements, cover, shelter, breeding, and rearing of offspring. These elements include the following: (1) A flow and hydrologic regime characterized by water magnitude, timing, depth, velocity, and quality (including temperatures) necessary for normal behavior involving breeding site selection, breeding and fertilization, and cover for egg incubation and yolk sac fry development; (2) a flow and hydrologic regime characterized by water of sufficient duration and magnitude to restore or maintain riverbed substrate necessary for cover and shelter for both incubating eggs and yolk sac larvae; (3) a flow and hydrologic regime characterized by flow magnitude, time, velocity, depth, and duration necessary for the normal behavior of adult and juvenile sturgeon; and (4) water and sediment quality necessary for normal behavior, including breeding behavior, and the viability of all life stages, including incubating eggs and yolk sac larvae.

3. Within this area, existing structures, such as highway and railroad bridges, are not included in the critical habitat designation.

Note: Map follows.

BILLING CODE 4310–55–P



* * * * *

Dated: August 28, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22342 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–C

VOL
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Proposed Rules

Federal Register
Vol. 66, No. 173
Thursday, September 6, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–06–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines. This proposal would require the insertion of a sleeve in the attachment boss of the compressor bleed valve. This proposal is prompted by several cases of contained centrifugal compressor impeller blade ruptures that have occurred in service. The actions specified by the proposed AD are intended to prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded in-flight shutdown.

DATES: Comments must be received by November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–06–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from Turbomeca S.A, Turbomeca S.A., 64511 Bordes Cedex, France; telephone 33 05 59 64 40 00, fax 33 05 59 64 60 80.

FOR FURTHER INFORMATION CONTACT: Glorianne Niebuhr, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7132; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–06–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–06–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines. The DGAC advises that several cases of contained centrifugal compressor impeller blade ruptures caused by acoustic excitation of the blades have occurred in service. This excitation may lead to initiation of cracks on the blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded inflight shutdown. To reduce the level of acoustic vibration of the compressor blades, a coupling effect must be removed. This is accomplished by distributing the symmetry by insertion of a metal sleeve. The actions specified by the proposed AD are intended to prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained compressor impeller blade ruptures and power loss that could lead to an uncommanded in-flight shutdown.

Manufacturer's Service Information

Turbomeca S.A. has issued Service Bulletin (SB) No. 292 72 2054, dated September 20, 1999, and SB No. 292 72 0261, dated September 20, 1999, that provide instructions for the removal of the compresser bleed valve, installation of the sleeve, and reinstallation of the compresser bleed valve. The DGAC classified these SB's as mandatory and issued AD's No. 1999–391(A) and 1999–392(A), dated October 6, 1999, in order to ensure the airworthiness of these Turbomeca S.A. engines in France.

Bilateral Agreement Information

This engine model is manufactured in France and is the type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Proposed Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines of the same type design that are used on rotocraft registered in the United States, the proposed AD would require insertion of a sleeve in the attachment boss of the compresser bleed valve. The actions would be required to be accomplished in accordance with the SB's described previously.

Economic Impact

There are approximately 1,406 engines of the affected design in the worldwide fleet. The FAA estimates that 476 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 0.5 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $430 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $218,960.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Turbomeca S.A.: Docket No. 2001–NE–06–AD.

Applicability

This airworthiness directive (AD) is applicable to Turbomeca S.A. Arriel–1D, –1D1, –1S, –1S1, –2S1 and –2B series turboshaft engines. These engines are installed on, but not limited to, Eurocopter France AS350B1, AS350B2, AS350B3; Astar 350D, Fennic AD550U2 and Sikorsky S–76A and S–76C series helicopters.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required within 30 days after the effective date of this AD, unless already done. To prevent acoustic excitation of the centrifugal compressor impeller blades resulting in contained blade ruptures and power loss that could lead to an uncommanded in-flight shutdown, do the following:

(a) Remove the compressor bleed valve, install the sleeve at the bottom of the boss attachment and install the valve as follows:

(1) For Arriel 2S1 and –2B engines in accordance with Paragraph 2.B. and 2.C. of Turbomeca S.A. Service Bulletin (SB) No. 292 72 2054, dated September 20, 1999.

(2) For Arriel 1D, –1D1, –1S, and –1S1 engines in accordance with Paragraph 2.B. and 2.C. of Turbomeca S.A. SB No. 292 72 0261, dated September 20, 1999.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (DGAC) Airworthiness Directives No. 1999–391(A) and 1999–392 (A), dated October 6, 1999.

Issued in Burlington, Massachusetts, on August 28, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–22313 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 99P–1864]

Orthopedic and Rehabilitation Devices: Reclassification of the Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint from class III (premarket approval) to class II (special controls). The agency is also proposing to revise the device identification. This reclassification is based upon new information regarding the device contained in a reclassification petition submitted by the Orthopedic Surgical Manufacturers Association. The agency is also publishing the recommendation of the Orthopedic and Rehabilitation Devices Panel (the Panel) regarding the

classification of this device. After considering public comments on the proposed classification, FDA will publish a final regulation classifying this device. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a draft guidance document that would serve as the special control if this proposal becomes final.

DATES: Submit written or electronic comments by December 5, 2001. See section XIII of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061 Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: John S. Goode, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background (Regulatory Authorities)

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the SMDA (Public Law 101–629), and FDAMA (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon "new information." The reclassification can be initiated by FDA or by the petition of an interested person. The term "new information," as used in section 513(e) of the act, includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d at 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2 177 (7th Cir. 1966).

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (See *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F. Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in "medical science." (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Regardless of whether data before the agency are past or new data, the "new information" upon which reclassification under section 513(e) of the act is based must consist of "valid scientific evidence," as defined in section 513(a)(3) and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C. Cir 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C.Cir.), cert. denied, 474 U.S. 1062 (1985)). FDA relies upon "valid scientific evidence" in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending PMA. (See section 520(c) of the act (21 U.S.C. 360j(c).)

II. Regulatory History of the Device

In the **Federal Register** of September 4, 1987 (52 FR 33686), FDA issued a final rule classifying the hip joint metal/polymer constrained cemented or uncemented prosthesis into class III (21 CFR 888.3310). The preamble to the proposal to classify the device (47 FR 29052, July 2, 1982) included the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel (the Orthopedic Section of the Panel or the Panel), a FDA advisory committee that met regarding the classification of the device. The Orthopedic Section of the Panel recommended that the device be classified into class III because the device is implanted and intended to relieve disabling pain and to restore or minimize further loss of functional use of the hip joint or limb.

The Orthopedic Section of the Panel identified the following three risks to health associated with use of the device: (1) Loss or reduction of joint function, (2) adverse tissue reaction, and (3) infection. Improper design or inadequate mechanical properties of the device, such as a lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, device deformation, or loosening of the device. Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of material from the surface of the device and the subsequent release of material into the surrounding tissues and systemic circulation. The implantation of the device may also lead to an increased risk of infection.

FDA agreed with the classification recommendation of the Orthopedic Section of the Panel. The preamble to the final rule classifying the device into class III advised that the earliest date by which PMA's for the device could be required was March 30, 1990, or 90 days after issuance of a rule requiring premarket approval for the device, whichever occurred later.

In the **Federal Register** of May 6, 1994 (59 FR 23731), FDA categorized the hip joint metal/polymer constrained cemented or uncemented prosthesis as a group 1 device that FDA believed had fallen into disuse or limited use. FDA believed that rulemaking under section 515(b) of the act was unlikely to result in viable PMAs or reclassification petitions for the device. In the **Federal Register** of September 7, 1995 (60 FR 46718), FDA published a proposed rule to require the filing of a PMA or notice of completion of a product development protocol (PDP) for 43 preamendments class III medical devices, including the hip joint metal/polymer constrained cemented or uncemented prosthesis. The agency received no comments regarding the proposed rule for the device. In the **Federal Register** of September 27, 1996 (61 FR 50704), FDA published a final rule requiring PMAs or PDPs for 41 of the class III devices, including the hip joint metal/polymer constrained cemented or uncemented prosthesis by December 26, 1996.

In December 1996, FDA received two PMAs for the device. On December 13, 1996, Howmedica Osteonics Corp. submitted a PMA for the Osteonics Constrained Hip Acetabular Insert. On December 26, 1996, Depuy, Orthopaedics, Inc. (Depuy), submitted a PMA for the S-Rom Poly-Dial Constrained Liner. Consistent with the act and the regulations, FDA consulted with the Panel regarding the approvability of the two PMAs. At a public meeting on June 10, 1997, the Panel unanimously recommended both PMAs for approval with conditions. In its deliberations on both PMAs, the Panel noted the long use of the device and the acceptable rate of complications associated with its use. FDA agreed with the Panel's recommendations and approved the Howmedica Osteonics Corp. Osteonics Constrained Hip Acetabular Insert on June 13, 1997, and the Depuy S-Rom Poly-Dial Constrained Liner on June 19, 1997.

On June 9, 1999, the agency filed a reclassification petition for the hip joint metal/polymer constrained cemented or uncemented prosthesis from OSMA that was dated June 1, 1999, and amended on June 8 and August 27, 1999. The petition requested that the device be reclassified from class III into class II. The petition included new information that was not available in 1996 when the final rule requiring PMAs or PDPs for the device was issued. Consistent with the act and the regulations, FDA consulted with the Panel regarding the possible reclassification of this device.

III. Device Description

The following revised device description is based on the Panel's recommendations and the agency's review:

A hip joint metal/polymer constrained cemented or uncemented prosthesis is a device intended to be implanted to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of ultra-high-molecular-weight polyethylene with or without a metal shell made of alloys, such as cobalt-chromium-molybdenum and titanium alloys. This generic type of device is intended for use with or without bone cement (21 CFR 888.3027).

This revised identification more accurately describes the currently marketed hip joint metal/polymer constrained cemented or uncemented prosthesis.

IV. Recommendation of the Panel

At a public meeting on November 4, 1999, the Panel recommended that the hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint be reclassified from class III into class II (Ref. 2). The Panel believed that class II with special controls would provide reasonable assurance of the safety and effectiveness of the device.

V. Risks to Health

After considering the information in the petition, the Panel's deliberations, the published literature, and the Medical Device Reports, FDA has evaluated the risks to health associated with the use of the hip joint metal/polymer constrained cemented or uncemented prosthesis. FDA now believes that the following are risks to health associated with use of the device: Infection, adverse tissue reaction, pain and/or loss of function, and revision. FDA notes that these risks to health are also associated with the use of other hip joint prostheses. In section VIII of this document, FDA describes a class II special controls guidance that addresses these risks to health.

A. Infection

Infection is a potential risk to health associated with all surgical procedures and implanted devices, and it occurs in patients implanted with metal/polymer constrained hip joint prostheses (Ref. 1). The best defenses against infection are preventive measures, including selection of patients without known local and/or systemic infection, administration of perioperative antibiotics, implantation of a sterilized device, and strict adherence to sterile surgical technique.

B. Adverse Tissue Reaction

Adverse tissue reaction is a potential risk to health associated with all implanted devices (Ref. 1). If the materials used in the manufacture of metal/polymer constrained hip joint prostheses are not biocompatible or adequately wear resistant, the patient could have an adverse tissue reaction.

C. Pain and/or Loss of Function

Pain and loss of hip joint function can occur with any hip arthroplasty. Loosening due to inappropriate patient and/or device selection; inappropriate surgical technique and/or poor bone quality; metal and/or polyethylene wear that may cause osteolysis (dissolution of bone); dislocation and instability due to inappropriate surgical technique and/or component design or failure; and component disassembly (e.g., disengagement of the metal reinforcing ring from the outer rim of the acetabular cup), fracture, and/or failure are potential complications that may result in pain and/or loss of hip joint function. In addition, because the constrained total hip prosthesis has components that are linked together across the joint, there is typically a reduction in the range of hip joint motion compared to a semi-constrained total hip prosthesis.

D. Revision

Revision is a potential risk to health associated with any hip arthroplasty. The major causes for revision of the metal/polymer constrained hip joint prosthesis are infection, adverse tissue reaction, and pain and/or loss of function. Revision hip arthroplasty typically has a lower clinical success rate than primary hip arthroplasty.

VI. Summary of Reasons for Recommendation

After considering the information in the petition and provided by FDA, the discussion during the Panel meeting,

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and their personal knowledge of and clinical experience with the device, the Panel gave two reasons in support of its recommendation to classify the generic type hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint from class III into class II. The Panel believed the device should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

VII. Summary of the Data Upon Which the Recommendation is Based

In addition to the potential risks to health of the hip joint metal/polymer constrained cemented or uncemented prosthesis described in section V of this document, there is reasonable knowledge of the benefits of the device (Ref.1). The device provides decreased pain or cessation of pain and increased mobility and function, resulting in an overall improved quality of patient life. In addition, the device may help to reduce the recurrence of dislocation. Based on the available information, FDA believes the special control discussed in section VIII of this document is capable of providing reasonable assurance of the safety and effectiveness of the device with regard to the identified risks to health of the device.

VIII. Special Controls

FDA believes that, in addition to general controls, the class II special controls guidance document entitled "Class II Special Controls Guidance: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis" (the class II special controls guidance) is an adequate special control to address the risks to health described in section V of this document. The class II special controls guidance provides information on how to meet premarket notification (510(k)) submission requirements for the device, including a list of relevant FDA orthopedic device guidance documents, voluntary consensus standards from the American Society for Testing and Materials and International Organization for Standardization, and labeling statements. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of this guidance document that FDA intends to use as the special control for this device.

The FDA guidance documents identified in the class II special controls guidance provide information on how to meet general orthopedic device premarket notification (510(k)) requirements, including biocompatibility testing, sterility testing, mechanical performance testing, and labeling. The FDA guidance documents can help control the risks to health of infection, adverse tissue reaction, pain and/or loss of function, and revision by having manufacturers address the need to use surgical quality implant materials, adequately test and sterilize their devices, and provide adequate instructions for use.

The voluntary consensus standards identified in the class II special controls guidance for the device define implant material specifications, testing methods, and performance criteria applicable to the hip joint metal/polymer constrained cemented or uncemented prosthesis. Adherence to these standards and comparison of the results from these test methods can control the risks of adverse tissue reaction, pain and/or loss of function, and revision by having manufacturers use surgical quality implant materials, adequately test their devices, and assure that the device has acceptable mechanical performance.

The labeling information listed in the class II special controls guidance identifies the intended use, specific indications for use, and precautions for use of the device. Adequate instructions for use by manufacturers can control the risks to health of adverse tissue reaction, pain and/or loss of function, and revision.

IX. FDA's Tentative Findings

FDA believes that the hip joint metal/polymer constrained cemented or uncemented prosthesis intended to replace a hip joint should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish special controls to provide such assurance.

X. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this proposed classification action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule classifying this device into class II will relieve all manufacturers of the device from the cost of complying with the premarket approval requirements in section 515 of the act, it will impose no significant economic impact on any small entities. The agency therefore certifies that this proposed rule, if finalized, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no information that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. The proposed special control does not require the respondent to submit additional information.

XIII. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by December 5, 2001. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA proposes that any final regulation that may issue based on this proposal become effective 30 days after its publication in the **Federal Register**.

XIV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition for the reclassification of hip joint metal/polymer constrained cemented or uncemented prosthesis submitted by the Orthopedic Surgical Manufacturers Association, Warsaw, IN, dated June 1, 1999, amended June 8 and August 27, 1999.

2. Transcript of the Orthopedic and Rehabilitation Devices Panel Meeting, November 4, 1999, pp. 25 to 142.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 888 be amended as follows:

PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 888.3310 is revised to read as follows:

§ 888.3310 Hip joint metal/polymer constrained cemented or uncemented prosthesis.

(a) *Identification.* A hip joint metal/polymer constrained cemented or uncemented prosthesis is a device intended to be implanted to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of ultra-high-molecular-weight polyethylene with or without a metal shell, made of alloys, such as cobalt-chromium-molybdenum and titanium alloys. This generic type of device is intended for use with or without bone cement (§ 888.3027).

(b) *Classification.* Class II (special controls). This special control for this device is the FDA guidance document entitled "Class II Special Controls Guidance Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis."

Dated: August 22, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–22286 Filed 9–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1301, 1304, 1305 and 1306

[DEA–208P]

RIN 1117–AA58

Allowing Central Fill Pharmacies To Fill Prescriptions for Controlled Substances on Behalf of Retail Pharmacies

AGENCY: Drug Enforcement Administration (DEA), Justice

ACTION: Notice of proposed rulemaking

SUMMARY: DEA is proposing to amend its regulations to provide for the use of central fill pharmacies, also known as refill pharmacies, fulfillment centers, or call centers. Unlike retail pharmacies which dispense controlled substances directly to the patient, central fill pharmacies provide a service to retail pharmacies by preparing and packaging prescriptions for retail pharmacies to dispense to the patient. Prescription information is transmitted from a retail pharmacy to a central fill pharmacy where the prescription is filled or refilled. The filled prescription is delivered to the retail pharmacy for pick up by the patient. Industry has expressed interest in utilizing central fill pharmacy operations to allow for more efficient delivery of prescriptions to patients. With this rulemaking, DEA is proposing to expand the definition of "dispense" to include the activities of central fill pharmacies. Mail order and Internet pharmacies, which currently obtain prescriptions from and dispense directly to a patient, are not affected by this regulation. They will continue to be registered as retail pharmacies.

DATES: Written comments must be submitted on or before November 5, 2001.

ADDRESSES: Comments should be submitted in triplicate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of the Proposed Rule?

DEA is proposing these amendments in response to significant changes taking place in the pharmacy industry. Increased demands are being placed on traditional pharmacy systems by the rapid growth in the number of prescriptions written and dispensed. The National Association of Chain Drugstores recently estimated that in 2005, pharmacists in the United States will fill over 4 billion prescriptions. While the number of prescriptions dispensed is growing dramatically, the United States is facing a severe pharmacist shortage. Between 1999–2004, the volume of prescriptions dispensed in retail pharmacies is expected to increase 35%, while during the same period the number of available pharmacists is projected to increase only 6%. These factors have forced the pharmacy industry to seek new ways to increase efficiency while maintaining quality patient care. By transferring some of the time-consuming, non-clinical duties such as prescription filling to central fill pharmacies, traditional retail pharmacies can dedicate more time to assisting patients.

In response to industry's interest in improving efficiency by implementing the concept of central fill pharmacies, DEA contacted a variety of relevant trade associations and professional organizations to obtain more information on the issue. Several segments of the industry submitted written comments to DEA's solicitation; two others, including one trade association and one company, requested to meet with DEA to provide additional information. After considering the issues raised by industry, DEA determined that changes to the regulations would be appropriate and would give industry needed flexibility to accommodate the tremendous growth in the number of prescriptions presented for dispensing.

DEA's current regulations do not permit the utilization of central fill pharmacies for the dispensing of controlled substances. With this rulemaking, DEA is proposing several amendments to its regulations to allow for the use of central fill pharmacies, subject to certain restrictions, in states where such activities are permitted. While DEA is committed to responding to emerging industry practices, such as central fill pharmacies, which will

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allow for more efficient delivery of prescription drugs, its primary responsibility is to prevent the diversion of controlled substances. Therefore, some restrictions on the use of central fill pharmacies are necessary.

What Do the Regulations Currently Permit?

At present, there is no provision in DEA's regulations for central fill pharmacy operations. Retail pharmacies, including those which utilize the mail service and the Internet, are registered by DEA to dispense prescriptions for controlled substances directly to the patient. "Dispensing" is defined in the Controlled Substances Act as delivering a controlled substance "to an ultimate user" (21 U.S.C. 802(10)). DEA regulations do not currently provide for central fill pharmacy operations which fill prescriptions for delivery to a traditional retail pharmacy. Allowing central fill pharmacies to fill prescriptions on behalf of retail pharmacies for subsequent dispensing to the ultimate user is a legitimate extension of current practice.

What Would the Proposed Regulations Allow?

This notice proposes to allow central fill pharmacies to become registered as practitioners under 21 CFR 1301.13(e)(1)(iii) so long as and to the extent that their activities are authorized by the state in which they are located. At present, the business activities under 21 CFR 1301.13(e)(1)(iii) include practitioners, hospitals/clinics, retail pharmacies, and teaching institutions. DEA is proposing to create a new business activity to be known as "central fill pharmacies." This would allow the central fill pharmacy to prepare prescriptions for controlled substances in Schedules II-V for dispensing to a patient by a registered traditional retail pharmacy pursuant to a prescription issued by an authorized practitioner and communicated to the central fill pharmacy by the retail pharmacy.

DEA has determined that central fill pharmacy activities are better characterized as "dispensing" activities as opposed to "distributing" activities. Therefore, central fill pharmacies will not be limited by the restrictions on "distributions" from one practitioner to another set forth in 21 CFR 1307.11, in particular the 5% limitation which limits the amount of controlled substances that can be distributed by one practitioner to another. Similarly, no official order forms (DEA Form 222) will be required for transfer of Schedule II controlled substances from a central fill pharmacy to a retail pharmacy since DEA considers this activity to be a form of dispensing, not distribution. 21 CFR 1305.03 is proposed to be amended to clarify that the order form requirement does not apply to such transfers.

Central fill pharmacies would be permitted to prepare both initial and refill prescriptions, subject to all applicable state and federal regulations. Only a licensed pharmacist may fill such prescriptions (21 CFR 1306.06). By definition, the filled prescriptions must be transported to a retail pharmacy for delivery to the patient. Both the pharmacist employed by the central fill pharmacy and the pharmacist who dispenses the prescription to the patient will be responsible for insuring that the prescription was issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice and otherwise in the manner specified by DEA regulations (21 CFR 1306.04(a), 1306.05(a)).

This notice proposes to allow a central fill pharmacy to prepare prescriptions on behalf of retail pharmacies with which it has a contractual agreement to provide such services or with which it shares a common owner. The central fill pharmacy would be required to keep a list of retail pharmacies for which it has agreed to provide such services. The central fill pharmacy would also be required to keep current copies of the Certificates of Registration for each retail pharmacy for which it is authorized to fill prescriptions. Similarly, retail pharmacies would be required to keep a list of those central fill pharmacies, along with current copies of their DEA Certificates of Registration, permitted to prepare prescriptions on their behalf. This information must be made available for inspection upon request by DEA.

A central fill pharmacy will not be permitted to prepare prescriptions provided directly by a patient or individual practitioner or to mail or otherwise deliver a filled prescription directly to a patient or individual practitioner. If a retail pharmacy and a central fill pharmacy are operated from the same location, each must be separately registered with DEA and maintain separate stock, inventories, and records.

Retail pharmacies would be permitted to transmit prescription information to a central fill pharmacy in two ways. First, a facsimile of a prescription for a controlled substance in Schedule II, III, IV or V may be provided by the retail pharmacy to the central fill pharmacy. The retail pharmacy must maintain the original hard copy of the prescription and the central fill pharmacy must maintain the facsimile of the prescription. Alternatively, DEA is proposing to allow the prescription information to be communicated electronically by the retail pharmacy to the central fill pharmacy. Since there appears to be little risk that an outside party will divert such prescription information, DEA is not proposing specific security standards with respect to electronic transmission in this particular situation. DEA will soon propose standards for electronic transmission of prescription information in a separate rulemaking. When setting up the transmission system, the participating pharmacies must be mindful of all federal and state requirements regarding patient confidentiality, network security, and use of shared databases. Both pharmacies must maintain the prescription information in a readily retrievable manner and comply with all applicable federal and state recordkeeping requirements.

With respect to security, central fill pharmacies would be required to comply with the same security requirements applicable to other practitioners (21 CFR 1301.71, 1301.75, 1301.76). While not specifically required by DEA regulations, central fill pharmacies may choose to implement additional security measures based on the volume of controlled substances handled, number of employees in the facility, or other unique factors. Such add tional security measures may be needed in order to comply with the general requirement to maintain effective controls and procedures to guard against theft and diversion of controlled substances (21 CFR 1301.71). As indicated above, since pharmacists at central fill pharmacies will be preparing prescriptions for controlled substances, they shall bear a corresponding responsibility, along with the pharmacist at the retail pharmacy, for the proper dispensing of the prescription (21 CFR 1306.04(a), 1306.05(a)). Additionally, central fill pharmacies must be vigilant in their choice of carriers to transport filled prescriptions to retail pharmacies and be aware of their responsibilities for reporting in-transit losses (21 CFR 1301.74(e)).

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator, Office of Diversion Control, hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. In fact, it is anticipated that this rule, by affording additional flexibility to pharmacies in the dispensing of prescriptions, will help lower total health care costs.

Executive Order 12866

The Deputy Assistant Administrator, Office of Diversion Control, further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 Section 1(b). DEA has determined that this is not a significant rulemaking action. Therefore, this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of these regulations, call or write Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

List of Subjects

21 CFR Part 1300

Definitions, Drug traffic control

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures

21 CFR Part 1304

Drug traffic control, Reporting requirements

21 CFR Part 1305

Drug traffic control, Reporting requirements

21 CFR Part 1306

Drug traffic control, prescription drugs

For the reasons set out above, Title 21, Code of Federal Regulations, Parts 1300, 1301, 1304, 1305, and 1306 are proposed to be amended to read as follows:

PART 1300—[AMENDED]

1. The authority citation for part 1300 continues to read as follows:

Authority: 21 U.S.C. 802, 871(b), 951, 958(f).

2. Section 1300.01 is proposed to be amended by redesignating the existing paragraphs (b)(6) through (42) as (b)(7) through (43) and by adding a new paragraph (b)(6) to read as follows:

§ 1300.01 Definitions relating to controlled substances.

* * * * *

(b) * * *

(6) The term central fill pharmacy means a pharmacy which is authorized by the state in which it is located to prepare controlled substances orders for dispensing pursuant to a valid prescription transmitted to it by a registered retail pharmacy and to return the labeled and filled prescriptions to the retail pharmacy for delivery to the ultimate user. A pharmacist employed by a central fill pharmacy may only fill controlled substance prescriptions pursuant to a written or electronic prescription provided by a retail pharmacy.

* * * * *

PART 1301—[AMENDED]

1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.13(e)(1)(iii) is proposed to be revised to read as follows:

§ 1301.13 Application for registration; time for application, expiration date, registration for independent activities; application forms, fees, contents and signature; coincident activities.

* * * * *

(e) * * *

(1) * * *

(iii) Dispensing or Instructing (Includes Practitioner, Hospital/Clinic, Retail Pharmacy, Central Fill Pharmacy, Teaching Institution).	Schedules II–V	New—224 ..... Renewal—224a	210 210	3	May conduct research and instructional activities with those substances for which registration was granted, except that a mid-level practitioner may conduct such research only to the extent expressly authorized under state statute. A pharmacist may manufacture an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in Schedule II–V in a proportion not exceeding 20% of the complete solution, compound or mixture.

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3. Section 1301.76 is proposed to be amended by adding new paragraph (d) to read as follows:

§ 1301.76 Other security measures for practitioners.

* * * * *

(d) Central fill pharmacies must comply with § 1301.74(e) when selecting private, common or contract carriers to transport filled prescriptions to a retail pharmacy for delivery to the ultimate user. When central fill pharmacies contract with private, common or contract carriers to transport filled prescriptions to a retail pharmacy, the central fill pharmacy is responsible for reporting in-transit losses upon discovery of such loss by use of a DEA Form 106. Retail pharmacies must comply with § 1301.74(e) when selecting private, common or contract carriers to retrieve filled prescriptions from a central fill pharmacy. When retail pharmacies contract with private, common or contract carriers to retrieve filled prescriptions from a central fill pharmacy, the retail pharmacy is responsible for reporting in-transit losses upon discovery of such loss by use of a DEA Form 106.

PART 1304—[AMENDED]

1. The authority citation for Part 1304 continues to read as follows:

Authority: 21 U.S.C. 821, 827, 871(b), 958(e), 965, unless otherwise noted.

2. Section 1304.04 is proposed to be amended by adding the new paragraph (i) to read as follows:

§ 1304.04 Maintenance of records and inventories.

* * * * *

(i) If a central fill and retail pharmacy are located at the same premises, each must maintain separate inventories of controlled substances, as well as separate records.

3. New § 1304.05 is proposed to be added to read as follows:

§ 1304.05 Records of authorized central fill pharmacies and retail pharmacies.

(a) Every retail pharmacy that utilizes the services of a central fill pharmacy must keep a record of all central fill pharmacies, including name, address and DEA number, that are authorized to fill prescriptions on its behalf. The retail pharmacy must also maintain a current copy of the Certificate of Registration for each central fill pharmacy authorized to fill prescriptions on its behalf. These records must be made available upon request for inspection by DEA investigators.

(b) Every central fill pharmacy must keep a record of all retail pharmacies, including name, address and DEA number, for which it is authorized to fill prescriptions. The central fill pharmacy must also maintain a current copy of the Certificate of Registration for all retail pharmacies for which it is authorized to fill prescriptions. These records must be made available upon request for inspection by DEA investigators.

PART 1305—[AMENDED]

1. The authority citation for part 1305 continues to read as follows:

Authority: 21 U.S.C. 821, 828, 871(b), unless otherwise noted.

2. Section 1305.03 is proposed to be revised to read as follows:

§ 1305.03 Distributions requiring order forms.

An order form (DEA Form 222) is required for each distribution of a Schedule I or II controlled substance except to persons exempted from registration under part 1301 of this chapter; which are exported from the United States in conformity with the Act; for delivery to a registered analytical laboratory, or its agent approved by DEA; or for transfer from a central fill pharmacy as defined in 21 CFR 1300.01(b)(6) to a retail pharmacy.

PART 1306—[AMENDED]

1. The authority citation for Part 1306 continues to read as follows:

Authority: 21 U.S.C. 821, 829, 871(b), unless otherwise noted.

2. Section 1306.05(a) is proposed to be revised to read as follows:

§ 1306.05 Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form prescribed by these regulations.

* * * * *

3. Section 1306.06 is proposed to be revised to read as follows:

§ 1306.06 Persons entitled to fill prescriptions.

A prescription for a controlled substance may only be filled by a pharmacist, acting in the usual course of his professional practice and either registered individually or employed in a registered pharmacy, a registered central fill pharmacy, or registered institutional practitioner.

4. Section 1306.11 is proposed to be amended by adding a new paragraph (d)(5)to read as follows:

§ 1306.11 Requirement of prescription.

* * * * *

(d) * * *

(5) Central fill pharmacies shall not be authorized under this paragraph to prepare prescriptions for a controlled substance listed in Schedule II upon receiving an oral authorization from a retail pharmacist or an individual practitioner.

* * * * *

5. Section 1306.14 is proposed to be amended by redesignating existing paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) to read as follows:

§ 1306.14 Labeling of substances and filling of prescriptions.

* * * * *

(b) If the prescription is filled at a central fill pharmacy, the central fill pharmacy shall affix to the package a label showing the retail pharmacy name and address and a unique identifier, (i.e. the central fill pharmacy's DEA registration number) indicating that the prescription was filled at the central fill pharmacy, in addition to the information required under paragraph (a) of this section.

* * * * *

6. A new § 1306.15 is proposed to be added to read as follows:

§ 1306.15 Transfer of prescription information between retail pharmacies and central fill pharmacies for prescriptions of Schedule II controlled substances.

Prescription information may be transferred between a retail pharmacy and a central fill pharmacy for dispensing purposes only if permitted under state law and only if the retail pharmacy and central fill pharmacy have a contractual relationship providing for such activities or share a common owner. The following requirements shall also apply:

(a) Prescriptions for controlled substances listed in Schedule II may be transmitted from a retail pharmacy to a central fill pharmacy via facsimile or a common, real-time electronic database. The retail pharmacy transmitting the prescription information must:

(1) Write the word "CENTRAL FILL" on the face of the original transmitted prescription, if sent via facsimile;

(2) Record and transmit to the central fill pharmacy (on the reverse side of the transmitted prescription, if sent via facsimile) the name, address, and DEA registration number of the central fill pharmacy to which the prescription has been transmitted and the retail pharmacy from which transmitted, the name of the retail pharmacy pharmacist transmitting the prescription, and the date of transmittal;

(3) Ensure that all information required to be on a prescription pursuant to § 1306.05 of this part is transmitted to the central fill pharmacy (either on the face of the prescription or in the electronic transmission of information);

(4) Maintain the original prescription for a period of two years from the date the prescription was filled;

(5) Keep a record of receipt of the filled prescription, including the method of delivery (private, common or contract carrier) and the name of the retail pharmacy employee accepting delivery.

(b) The central fill pharmacy receiving the transmitted prescription must:

(1) Keep a copy of the prescription (if sent via facsimile) or an electronic record of all the information transmitted by the retail pharmacy, including the name, address, and DEA registration number of the retail pharmacy transmitting the prescription;

(2) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacist filling the prescription, and the date of filling of the prescription;

(3) Keep a record of the date the filled prescription was delivered to the retail pharmacy and the method of delivery (i.e. private, common or contract carrier).

7. Section 1306.24 is proposed to be amended by redesignating the existing paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) to read as follows:

§ 1306.24 Labeling of substances and filling of prescriptions.

* * * * *

(b) If the prescription is filled at a central fill pharmacy, the central fill pharmacy shall affix to the package a label showing the retail pharmacy name and address and a unique identifier, (i.e. the central fill pharmacy's DEA registration number) indicating that the prescription was filled at the central fill pharmacy, in addition to the information required under paragraph (a) of this section.

* * * * *

8. Section 1306.26 is proposed to be amended by adding a new paragraph (g) to read as follows:

§ 1306.26 Dispensing without prescription.

* * * * *

(g) Central fill pharmacies shall not be permitted to dispense controlled substances to a purchaser at retail pursuant to this section.

9. A new § 1306.27 is proposed to be added to read as follows:

§ 1306.27 Transfer of prescription information between retail pharmacies and central fill pharmacies for initial and refill prescriptions of Schedule III, IV, or V controlled substances.

Prescription information may be transferred between a retail pharmacy and a central fill pharmacy for dispensing purposes only if permitted under state law and only if the retail pharmacy and central fill pharmacy have a contractual relationship providing for such activities or share a common owner. The following requirements shall also apply:

(a) Prescriptions for controlled substances listed in Schedule III, IV or V may be transmitted from a retail pharmacy to a central fill pharmacy via facsimile or a common, real-time electronic database. The retail pharmacy transmitting the prescription information must:

(1) Write the word "CENTRAL FILL" on the face of the original transmitted prescription, if sent via facsimile;

(2) Record and transmit to the central fill pharmacy (on the reverse side of the transmitted prescription, if sent via facsimile) the name, address, and DEA registration number of the central fill pharmacy to which the prescription has been transmitted and the retail pharmacy from which transmitted, the name of the retail pharmacy pharmacist transmitting the prescription, and the date of transmittal;

(3) Ensure that all information required to be on a prescription pursuant to Section 1306.05 of this part is transmitted to the central fill pharmacy (either on the face of the prescription or in the electronic transmission of information);

(4) Indicate in the information transmitted the number of refills already dispensed and the number of refills remaining;

(5) Maintain the original prescription for a period of two years from the date the prescription was last refilled;

(6) Keep a record of receipt of the filled prescription, including the method of delivery (private, common or contract carrier) and the name of the retail pharmacy employee accepting delivery.

(b) The central fill pharmacy receiving the transmitted prescription must:

(1) Keep a copy of the prescription (if sent via facsimile) or an electronic record of all the information transmitted by the retail pharmacy, including the name, address, and DEA registration number of the retail pharmacy transmitting the prescription;

(2) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacist filling the prescription, and dates of filling or refilling of the prescription;

(3) Keep a record of the date the filled prescription was delivered to the retail pharmacy and the method of delivery (i.e. private, common or contract carrier).

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 01–22322 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA041–4153; FRL–7049–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirements for Volatile Organic Compounds and Nitrogen Oxides in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to remove the limited status of its approval of the Commonwealth of Pennsylvania State Implementation Plan (SIP) revision that requires all major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) to implement reasonably available control technology (RACT) as it applies in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia

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area). EPA is proposing to convert its limited approval of Pennsylvania's VOC and NO_X RACT regulations to full approval because EPA has approved or is currently conducting rulemaking to approve all of the case-by-case RACT determinations submitted by Pennsylvania for the affected sources located in the Philadelphia area. The intended effect of this action is to remove the limited nature of EPA's approval of Pennsylvania's VOC and NO_X RACT regulations as they apply in the Philadelphia area.

DATES: Written comments must be received on or before October 9, 2001.

ADDRESSES: Written comments should be mailed to Marcia L. Spink, Associate Director, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 814-2104, at the EPA Region III address above, or by e-mail at *spink.marcia@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are all sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; all sources covered by a CTG issued prior to November 15, 1990; and all other major non-CTG sources. Section 182(f) provides that the planning requirements applicable to major stationary sources of VOC in other provisions in part D, subpart 2 (including section 182) apply to major stationary sources of NO_X.

The Pennsylvania SIP already includes approved RACT regulations for sources and source categories of VOCs covered by the CTGs as required by section 182(b)(2)(A) and (B). Regulations requiring RACT for all major sources of VOC and NO_X were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995. On February 4, 1994, PADEP submitted a revision to its SIP consisting of 25 Pa Code Chapters 129.91 through 129.95 to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT (non-CTG RACT rules). The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements under Chapter 129.93. As described in more detail below, EPA granted conditional limited approval of the Commonwealth's VOC and NO_X RACT regulations on March 23, 1998 (63 FR 13789), and removed the conditional aspect of the approval on May 3, 2001 (66 FR 22123).

Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f)) applies throughout the ozone transport region (OTR). The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The major source size generally is determined by the classification of the area in which the source is located. However, for areas located in the OTR, the major source size for stationary sources of VOC is 50 tons per year (tpy) unless the area's classification prescribes a lower major source threshold. In the Philadelphia area, major source of VOC is defined as one having the potential to emit 25 tpy or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. In the Philadelphia area, Pennsylvania's RACT regulations require non-CTG sources that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X comply with RACT. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT pursuant to a source category regulation under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998, EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; *or* (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking.

On April 22, 1999, PADEP made the required submittal to EPA, certifying that it had met the terms and conditions imposed by EPA in the conditional limited approval by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. Thus, in that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status.

It should be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). This SIP-approved regulation is more stringent than the case-by-case RACT determinations submitted by Pennsylvania for the affected sources in that it requires more total reductions in NO_X emissions from that group of sources than does their combined case-by-case RACT submittals. Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of

the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. On August 21, 2001 (66 FR 43795), EPA published its final rule approving the Commonwealth's NO_X SIP call rule SIP submittal. Subsequent Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable, and previously SIP-approved, requirements found in 25 PA Code Chapters 121, 123 and 145.

II. EPA's Action

As EPA stated in its May 3, 2001 final rule (66 FR 22123), conversion from limited to full approval would occur when EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the condition imposed by EPA in its March 23, 1998 (63 FR 13789) final rule. EPA has approved or is currently conducting rulemaking to approve all of the case-by-case RACT determinations submitted by PADEP to satisfy the condition imposed in EPA's March 23, 1998 (63 FR 13789) final rule for affected major sources of NO_X and/or VOC sources located in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, the five counties that comprise the Pennsylvania portion of the Philadelphia area.

Proposed Action

EPA is proposing to convert its limited approval of Pennsylvania's generic VOC and NO_X RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval as they apply in the five-county Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. EPA has approved or is currently conducting rulemaking to approve all of the case-by-case RACT determinations submitted by PADEP to satisfy the condition imposed in EPA's March 23, 1998 (63 FR 13789) final rule for affected major sources of NO_X and/or VOC sources located in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, the five counties that comprise the Pennsylvania portion of the Philadelphia area. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Philadelphia area, *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This proposed rule regarding Pennsylvania's generic VOC and NO_X RACT regulations as they apply in the Philadelphia area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–22362 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4135b; FRL–7049–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology

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(RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_x). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragragh of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 9, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, the EPA Region III address above or by e-mail at chalmers.ray@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 28, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–22361 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7050–7]

National Oil and Hazardous Substance; Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Alsco Anaconda Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency, (EPA) Region V is issuing a notice of intent to delete the Alsco Anaconda Superfund Site (Site) located in Gnadenhutten, Ohio, from the National Priorities List (NPL) and requests public comments on this notice of intent to delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Ohio, through the Ohio Environmental Protection Agency, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Alsco Anaconda Superfund Site without prior notice of intent to delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final notice of deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action. If we receive timely adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on adverse comments received on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by October 9, 2001.

ADDRESSES: Written comments should be addressed to: Bri Bill, Community Involvement Coordinator, U.S. EPA (P–19J), 77 W. Jackson, Chicago, IL 60604, 312–353–6646 or 1–800–621–8431.

FOR FURTHER INFORMATION CONTACT: Rosauro del Rosario, Remedial Project Manager at (312) 886–6195, or Gladys Beard, Associate Remedial Project Manager at (312) 886–7253 or 1–800–621–8431, Superfund Division, U.S. EPA (SR–6J), 77 W. Jackson, IL 60604.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Gnadenhutten Public Library, P.O. Box 216, 160 N. Walnut St., Gnadenhutten, OH 44629, (704) 254–9224, Monday through Thursday 9 a.m. to 8 p.m., Friday 9 a.m to 5 p.m. and Saturday 9 a.m. to 5 p.m.; Ohio Environmental Protection Agency-Southeast District Office, 2195 Front Street, Logan, Ohio 43138, (740) 385–8501, Monday through Friday, 8 a.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: August 28, 2001.

Norman Niedergang,

Acting Regional Administrator, U.S. EPA Region V.

[FR Doc. 01–22369 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH40

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Sacramento Mountains Checkerspot Butterfly and Proposed Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: 12-month finding and proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as endangered with critical habitat under the authority of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This species is restricted to meadows within the mixed-conifer forest at approximate elevations between 2,450 and 2,750 meters (m) (8,000 and 9,000 feet (ft)) in the vicinity of the Village of Cloudcroft, Otero County, New Mexico. The species is threatened by destruction and fragmentation of habitat from private and commercial development, habitat degradation and loss of host plants from grazing, encroachment of conifers and nonnative vegetation into non-forested openings, over collection, and, due to its limited range, vulnerability to local extirpations from extreme weather events or catastrophic wildfire including fire suppression activities. This proposal, if made final, would extend the Federal protection and recovery provisions of the Act to this species.

DATES: Comments from all interested parties received by November 5, 2001 will be considered. Public hearing requests must be received by October 22, 2001.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico, 87113.

FOR FURTHER INFORMATION CONTACT: Eric Hein, Endangered Species Biologist, New Mexico Ecological Services Field Office, at the above address (telephone 505/346–2525, ext. 135; facsimile 505/346–2542).

SUPPLEMENTARY INFORMATION:

Background

The Sacramento Mountains checkerspot butterfly (*Euphydryas anicia* (=*chalcedona*) *cloudcrofti*) is a member of the brush-footed butterfly family (Nymphalidae). The adults have a wingspan of approximately 5 centimeters (cm) (2 inches (in)) and they are checkered with dark brown, red, orange, white, and black spots and lines. The taxon was described in 1980 based on 162 adult specimens (Ferris and Holland 1980).

The Sacramento Mountains checkerspot butterfly inhabits meadows within the mixed-conifer forest (Lower Canadian Zone) at an elevation between 2,450 and 2,750 m (8,000 and 9,000 ft) in the vicinity of the Village of Cloudcroft, Otero County, New Mexico. The adult butterfly is often found in association with the larval food plants New Mexico penstemon (*Penstemon neomexicanus*) and valerian (*Valeriana edulis*), and adult nectar sources such as sneezeweed (*Helenium hoopesii*). New Mexico penstemon is a narrow endemic species (Sivinski and Knight 1996), restricted to the Sacramento Mountains of south-central New Mexico. Other plants that have been documented in butterfly habitat include: arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), and Wheeler's wallflower (*Erysimum capitatum*) (U.S. Forest Service (FS) 1999d).

Adult butterflies apparently lay their eggs on *Penstemon neomexicanus* and perhaps *Valeriana edulis*, the known larval host plants. After hatching, larvae feed on host plants and, during the 4th or 5th instar (the period between molts in the larval stage of the butterfly), enter an obligatory and extended diapause (maintaining a state of extended inactivity), generally as the food plants die back in the fall from freezing. Some larvae may remain in diapause for more than one year, depending on environmental conditions. During diapause, larvae probably remain in leaf or grass litter near the base of shrubs, under the bark of conifers, or in the loose soils associated with pocket gopher (*Thomomys bottae*) mounds (Moore 1989; T. Narahashi, Lincoln National Forest, pers. comm. 1999; G. Pratt, University of California, pers. comm.1998; C. Nagano, Fish and Wildlife Service, pers. comm. 1999, E. Hein, Fish and Wildlife Service, pers. obs.). Once larvae break diapause, they feed and grow through three or four more instars before pupating (entering the inactive stage within a chrysalis) and emerging as adults. Diapause is generally broken in late spring (March-April) and adults emerge in mid-summer (June-July).

The extent of the historical range of the Sacramento Mountains checkerspot butterfly is not known due to limited information collected on this subspecies prior to its description (Ferris and Holland 1980). However, based upon the location of its meadow habitat, the general trend of commercial and private development in suitable habitat, and the encroachment of conifers into suitable habitat due to fire suppression on public and private lands, we believe that it once occupied a more extensive, but still limited area. This conclusion that the butterfly likely had a continuous distribution within currently developed areas and that its range was more extensive is further supported by the following considerations. First, extensive recent searches of apparently suitable habitat failed to locate the species (FS 1999d; 2000a; 2000d; Hager and Stafford 1999; Holland 1999; Ferris and Holland 1980; Toliver *et al.* 1994; Cary and Holland 1992; C. Nagano, pers. obs.; E. Hein, pers. obs). Second, butterflies in the genus *Euphydryas* are known to be restricted to specific habitats and are widely collected and well studied (Ehrlich *et al.* 1975; Cullenward *et al.* 1979; Murphy and Weiss 1988). If the Sacramento Mountains checkerspot butterfly were more widespread and common in areas north of the Mescalero Nation or further south of Cloudcroft below the known elevational range of the butterfly, we would expect specimens to have been collected or reported. However, this has not been the case despite the fact that butterflies in this genus are very popular to collect (C. Nagano pers. comm. 1999), and lepidopterists have surveyed and collected throughout the Sacramento Mountains (Ferris and Holland 1980; Cary and Holland 1992; Toliver *et al.* 1994; Hager and Stafford 1999).

The type locality for the butterfly is Pines Campground, and its description is based upon individuals collected at that location in 1964, 1976, and 1978. Although the Sacramento Mountains were extensively surveyed by lepidopterists, the known range of the butterfly in 1980 was described as, "* * * an area of perhaps 1–2 square miles (mi) (2.6 to 5.2 square kilometers (km)) around the type locality" (Ferris and Holland 1980). Toliver *et al.* (1994) published all of the known location records, and the estimated extent of the range of the butterfly prior to 1997 was about 8 hectares (ha) (20 acres (ac)),

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primarily from two campgrounds (Holland 1999). From 1981 to 1996, there were no documented surveys for the butterfly (R. Holland, Albuquerque, New Mexico, pers. comm. to R. Galeano-Popp Lincoln National Forest 1997; FS 2000). By 1997, the known range of the species had decreased to less than one-half ha (Holland 1999). However, in 1997, the FS and Holland conducted limited surveys for the Sacramento Mountains checkerspot butterfly. The FS also conducted surveys during 1997, 1998, 1999, and 2000 to estimate the range of the butterfly (FS 1999d, 2000a, 2000d). Based on data gathered by the FS during 1997–1999, Holland (1999) described the range of the butterfly as, "* * * now known to extend as much as 8 km (5 mi) away from the Village of Cloudcroft" but he still considered the range "* * * remarkably limited."

The subspecies has been documented at 15 general localities (i.e., the geographic extent of occupied areas were not delimited and discrete populations were not identified) (FS 1999a, 1999b, 1999d, 2000a, 2000d). The known range of the butterfly is within an 85 square km (33 square mi) area, within which the distribution of the butterfly is patchy and disjunct. The known range of the butterfly is delimited on the north by the Mescalero Apache Nation lands, on the west by Bailey Canyon at the mouth of Mexican Canyon, on the east by Spud Patch Canyon and on the south by Cox Canyon (FS 2000a, 2000d). The potential range of the butterfly to the east and west is likely restricted because the non-forested areas are below 2,450 m (8,000 ft) in elevation and the majority of Sacramento Mountains checkerspot butterflies have been consistently documented at higher elevations (FS 1999a 1999b, 1999d, 2000a, 2000d). We do not know if the range of the butterfly extends into the lands owned by the Mescalero Apache Nation because, to our knowledge, no surveys have been conducted on their lands. It is also unknown whether suitable habitat is present on the lands owned by the Mescalero Apache Nation (Holland 2001). Nevertheless, there does not appear to be a significant amount of suitable habitat present on the lands owned by the Mescalero Apache Nation within the known elevational range of the Sacramento Mountains checkerspot butterfly (i.e., between 2,450 and 2,750 m (8,000 and 9,000 ft)) and proximal (i.e., provides connectivity) to butterfly localities. We solicited, but have not received, any information or comments from the Mescalero Apache Nation. More information would help clarify the status of the butterfly on these lands.

The FS used a Geographic Information System (GIS) to model the extent of existing Sacramento Mountains checkerspot butterfly habitat (FS 1999b). The model was built using non-forested openings visible on 1:24,000 scale orthophoto quadrangles, elevation, and known occupied locales. Based on the model, the FS estimated there were 2,104 ha (5,198 ac) of potential habitat, composed of 1,034 and 1,070 ha (2,553 and 2,645 ac) on private and FS lands, respectively (FS 1999b).

Extensive surveys for larvae and the adult butterflies were conducted within and outside of the modeled potential butterfly habitat during the Sacramento Mountains checkerspot butterfly's seasons of activity in 1997, 1998, 1999, and 2000 (FS 1999b, 1999d, 2000a, 2000d). These surveys partially ground-truthed the GIS model and documented that the distribution of the butterfly within the known range is patchy, disjunct, and generally located in non-forested openings along drainages, roadways, campgrounds, and valleys. The butterfly was documented on both FS and private lands (FS 1999a, 1999b, 1999d, 2000a, 2000d). We believe the modeled potential habitat is an accurate representation of suitable habitat (habitat that can be used by the butterfly). Based on GIS maps and the model provided by the FS, about 46 of 202 ha (114 of 498 ac) and 240 of 813 ha (592 of 2,010 ac) of suitable habitat surveyed during 1998 and 1999, respectively, were occupied by the butterfly. Seven hundred acres were surveyed during 2000, but it is unknown what proportion of the suitable habitat is currently used by the butterfly (i.e., the data only indicate the total acres surveyed and do not differentiate between areas currently used or unused by the butterfly) (FS 2000d). Nevertheless, survey areas during 1999 and 2000 overlapped and went beyond the boundary of the areas surveyed in 1998. Therefore, these data represent the best available information on the area used by the butterfly (determined by surveys) within suitable habitat. Based on these data, it appears that 15 to 35 percent of suitable habitat is currently used by the Sacramento Mountains checkerspot butterfly. Thus, we estimate that 316 to 736 ha (780 to 1,819 ac) of the suitable 2,104 ha (5,198 ac) are currently used by the Sacramento Mountains checkerspot butterfly.

Although the surveys conducted by the FS were directed at estimating the range of the Sacramento Mountains checkerspot butterfly, the individuals seen were also estimated. In 1997 and 1998, 595 adults and 114 larval tents (communal webs that contain larvae) were documented at 15 general localities, whereas the surveys in 1999 documented 1,629 adults, 26 post-diapause larvae, 800 pre-diapause larvae, and an unknown number of larval tents at generally the same localities, and surveys during 2000 documented approximately 1,000 adults, 26 post-diapause larvae, and 157 larval tents (FS 1999a 1999b, 1999d, 2000a, 2000d; Pittenger 1999). No new butterfly localities were documented during the 2000 field season, although the known range of the butterfly was expanded slightly (FS 2000d). Surveys were also conducted by the FS on 231 ha (570 ac) within the Smokey Bear Ranger District, north of the Mescalero Apache Nation during 1999, but did not document any Sacramento Mountains checkerspot butterflies (FS 2000a). None of these data provide a basis for estimates of actual population size, because no formal population estimation procedures were used. The surveys conducted by the FS are the result of one or more surveyors walking through suitable habitat and counting or estimating the number of individuals observed.

Because the Sacramento Mountains checkerspot butterfly has a life history pattern similar to other butterflies in the genus *Euphydryas* that exist as metapopulations, it is likely that this butterfly has a metapopulation structure (Murphy and Weiss 1988; Harrison 1989; Hanski and Gilpin 1991). A metapopulation is a set of local populations within an area, where typically migration from one local population to other areas containing suitable habitat is possible, but not routine. Movement between areas containing suitable habitat (i.e., dispersal) is restricted due to inhospitable conditions around and between areas of suitable habitat. Because many of the areas of suitable habitat may be small, and support small numbers of butterflies, local extinction of these small populations may be common. A metapopulation's persistence depends on the combined dynamics of these local extinctions and the subsequent recolonization of these areas by dispersal (Hanski 1999, Hanski and Gilpin 1991, 1997, McCullough 1996). We believe habitat loss has reduced the size of and connectivity between patches of suitable butterfly habitat. The reduction in the extent of meadows and other suitable non-forested areas has likely eliminated

connectivity among some localities and may have increased the distance beyond the normal dispersal ability of the Sacramento Mountains checkerspot butterfly, making recolonization of some patches following local extinction more difficult (Cullenward *et al.* 1979; Hanski 1999). In addition, habitat reduction lowers the quality of remaining habitat by reducing the diversity of microclimates and food plants for larvae and adult butterflies (Murphy and Weiss 1988; Thomas *et al.* 1996; Hanski 1999).

Based on available information on topography, soils, and vegetation, it is likely that the distribution of the Sacramento Mountains checkerspot butterfly was more extensive and continuous prior to the increase in commercial and private development, construction of roads, overgrazed range conditions, and the encroachment of conifers and subsequent decrease in the amount of non-forested lands. Many of the remaining Sacramento Mountains checkerspot butterfly populations are likely small and/or not viable (i.e., are likely to become extirpated in the near future). The isolated localities and limited geographic range of the butterfly indicate that the species is particularly vulnerable to perturbations (disturbances that impact the habitat and host plants associated with the species), which could lead to extinction (Ehrlich *et al.* 1972; Thomas *et al.* 1996).

Previous Federal Action

On January 28, 1999, we received a petition from Mr. Kieran Suckling of the Southwest Center for Biological Diversity in Tucson, Arizona, dated November 1998, which requested that we emergency list the Sacramento Mountains checkerspot butterfly as endangered. The petitioner stated that the species merits listing because of its restricted range, adverse impacts resulting from a proposed FS land transfer, improvements to a FS campground, construction of homes and other structures, aggressive nonnative weeds that may be affecting the larval food plants and adult nectar sources, global climate change, and livestock overgrazing. The petitioner requested emergency listing due to the perceived immediate threats to the species' continued existence from a proposed land transfer between the FS and the Village of Cloudcroft in the Sacramento Mountains in Otero County, New Mexico.

In accordance with section 4(b)(3)(A) of the Act, we published notice of our finding in the **Federal Register** on December 27, 1999 (64 CFR 72300), that the petitioner presented substantial information indicating that listing may be warranted, but that emergency listing was not warranted, and commenced a status review. In that notice we requested any additional data or scientific information concerning the status of the species including additional historical and current population data, pertinent information on biology or life history, information on habitat requirements, and information on immediate and future threats to the butterfly and areas inhabited by the species. During the two-month comment period, we received eight comments from individuals or agencies. One commentor supported, and four opposed listing the species; one requested the references cited; and two provided general comments or data on the Sacramento Mountains checkerspot butterfly. We received most substantive data relating to life history, current range, and threats from the Lincoln National Forest. The Sacramento Ranger District in the Lincoln National Forest has been instrumental in avoiding or minimizing some recent potential impacts to the butterfly on their lands. We incorporated these and other pertinent data into this proposal.

Section 4(b)(3)(B) of the Act requires the Secretary of the Interior to reach a final decision on any petition accepted for review within 12 months of its receipt. That decision, to be published in the **Federal Register**, must be one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted (a proposed regulation is published); or (3) the petitioned action is warranted, but the immediate proposal is precluded by listing actions of higher priority. On July 31, 2001, the United States District Court for the District of New Mexico, in *Center for Biological Diversity* v. *Gale A. Norton*, CIV 01–0258 PK/RLP ordered us to complete and submit for publication to the **Federal Register** a 12-month finding for the Sacramento Mountains checkerspot butterfly within 30 days. This proposed rule constitutes our 12-month petition finding that listing as endangered is warranted for the Sacramento Mountains checkerspot butterfly.

Peer Review

In accordance with interagency policy published on July 1, 1994 (59 FR 34270), upon publication of this proposed rule in the **Federal Register**, we will solicit expert reviews by at least three specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomic, biological, and ecological information for the Sacramento Mountains checkerspot butterfly. The purpose of such a review is to ensure that decisions are based on scientifically sound data, assumptions, and analyses, including the input of appropriate experts. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Sacramento Mountains checkerspot butterfly are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The threats that have been identified are commercial and private development, FS activities, fire suppression and wildfire, highway and forest road reconstruction, recreational impacts, domestic livestock grazing, nonnative vegetation, and insect control.

Commercial and Private Development

Commercial and private development is a significant threat to the Sacramento Mountains checkerspot butterfly. Habitat conversion activities from commercial and private development have likely already reduced many historic Sacramento Mountains checkerspot butterfly localities to non-viable states. Approximately fifty percent of all lands that might support the butterfly are in private ownership, subject to ongoing and future development activities. Much of these private lands are currently being developed for residential or commercial uses (FS 1986; FS 1997; E. Hein, pers. obs.; Holland 2001). Commercial and private development has been and is currently encouraged by the Village of Cloudcroft (Southeastern New Mexico Economic Development District 1974; Cloudcroft Area Sustainability Team 1995; J. Wilson, Lincoln National Forest, pers. comm. 2000). Within the known range of the Sacramento Mountains

checkerspot butterfly, there are two golf courses, at least 12 private developments, the Village of Cloudcroft, schools, several recreational parks, a ski area, and a network of paved, gravel, or dirt roadways.

The elevation, habitat, soils, and topography of these developed areas appear similar to areas that are known to be used by the butterfly and are either fragmenting or near to localities that support butterflies. For example, a subdivision on the east side of the Village of Cloudcroft is currently developing and eliminating approximately 10 ac of suitable, and likely currently used, butterfly habitat. This and other recent or proposed developments have or will likely fragment the distribution of the butterfly and eliminate butterfly localities or prevent the Sacramento Mountains checkerspot butterfly from moving between areas of suitable habitat (Murphy and Weiss 1988). Therefore, we believe that these private and commercial development activities have likely eliminated or interrupted dispersal of butterflies between suitable habitat patches and thus affected the metapopulation dynamics of the Sacramento Mountains checkerspot butterfly.

The construction of homes, businesses, and associated infrastructure in the habitat of the Sacramento Mountains checkerspot butterfly could directly affect the species through mortality or result in indirect effects, such as the introduction of nonnative plants and animals or loss of movement corridors (Holland 2001). Ground disturbance and vegetation clearing for commercial or private development can disturb soils, remove or eliminate diapause sites (i.e., leaf litter and grasses) and larval or adult food plants, and kill or injure individuals (Wilcox and Murphy 1985; Murphy and Weiss 1988; C. Nagano, pers. comm., E. Hein, pers. obs.). We have observed non-forested areas of private lands that historically were probably suitable butterfly habitat; however, some of these areas currently contain thick mats of oat grass (*Arrhenatherum elatius*), pastures devoid of vegetation from livestock grazing, and filled stock ponds and/or dammed wetlands that have eliminated suitable habitat of the Sacramento Mountains checkerspot butterfly.

The butterfly likely occupies a significant amount of private lands since habitat used by the butterfly occurs on FS land that is immediately adjacent to these areas and the elevational and habitat characteristics are contiguous (FS 2000a). Based on a GIS model, the FS estimated that there were 1,034 ha (2,553 ac) of potential habitat on private lands (FS 1999b). Because of the ground-truthing and butterfly surveys conducted using the model, we believe that this amount is a reasonable approximation of the maximum amount of suitable habitat present on private lands. Based upon butterfly and habitat surveys conducted by the FS, we have estimated that between 15 to 35 percent of suitable habitat is occupied by the Sacramento Mountains checkerspot butterfly (E. Hein, pers. obs.). Therefore, 155 to 362 ha (383 to 894 ac) of private land may be occupied by the butterfly and nearly all of the suitable habitat on private land is at risk from commercial and private development and the direct or indirect impacts thereof.

The population of the Village of Cloudcroft and vicinity has increased by 34 percent since 1970, and the number of housing units that were constructed during this period has increased by 50 percent (U.S. Census Bureau 1998; New Mexico Economic Development Department 1999). Based upon electrical power service and demand, the Village of Cloudcroft and surrounding areas within the range of the butterfly have sustained population growth of about 2.5 percent per year; these levels are projected to increase (FS 1999e). New subdivisions currently are being constructed on private land and there are many properties for sale ranging from less than 1 ha (2.5 ac) to at least 100 ha (250 ac) that appear to contain suitable non-forested habitat. Further, a 9-hole golf course is being discussed as a community recreational goal and objective for the Village of Cloudcroft in 2005 (Cloudcroft Area Sustainability Team 1995). Non-forested lands within the range of the Sacramento Mountains checkerspot butterfly are generally preferred by commercial and private developers, because these areas are less costly to develop (i.e., there are no trees to clear and the land generally lacks steep topography and is accessible from roads). This may result in a disproportionate impact on butterflies and their habitat. For example, Holland (1999, 2001) reported that the butterfly historically occurred in two meadows totaling 8 ha (20 ac) in the early 1980s; these areas were reduced by private development to less than 0.4 ha (1 ac) by July 1997.

In addition, heavy clearing and mowing activities on improved (i.e., with existing structures) or unimproved private lands, to reduce the threat of wildfire or improve the residential appearance, could eliminate larval or adult food plants and/or localities that are used by the Sacramento Mountains checkerspot butterfly. Additionally, the conversion of native landscapes to nonnative vegetation (e.g., lawns or gardens) could fragment localities, eliminate movement corridors, cause additional loss of suitable habitat (Wood and Samways 1991, Holland 2001). Developing areas reduce blocks of native vegetation to fragments that are insularized, creating a matrix of native habitat islands that have been altered by varying degrees from their natural state. Given the development pressures and history of construction in the vicinity of the Village of Cloudcroft, the remaining butterfly localities are at risk of extirpation.

FS Activities

We are aware of FS projects proposed within the known range of the butterfly that have the potential to adversely affect the Sacramento Mountains checkerspot butterfly. For example, the following projects are in various stages of planning or construction: (1) A capital improvement project for three campgrounds; (2) a new power line, service road, and corridor; (3) livestock grazing activities in several allotments, one of which encompasses over 44,921 ha (111,000 ac); and (4) a land transfer to the Village of Cloudcroft (FS 1999a, 1999b, 1999f, 2000; Service 1999, 2001).

One campground located near the Village of Cloudcroft contains one of the greatest known concentrations of the Sacramento Mountains checkerspot butterfly. Reconstruction activities in this campground are proposed for the year 2003, including replacement of existing or construction of new bathroom facilities, traffic control barriers, picnic tables, and campfire pits (FS 1999a, 1999b). Similar to trampling (see discussion below), these ground disturbance activities have the potential to directly (e.g., by crushing larvae) and indirectly (e.g., by destroying food plants) impact this species. We are providing technical assistance to the FS in an attempt to avoid or minimize adverse impacts to the Sacramento Mountains checkerspot butterfly. The FS intends to begin work on a management plan to address the conservation of the Sacramento Mountains checkerspot butterfly and to address future potential impacts in the near future (M. Crites, Lincoln National Forest, pers comm. 2000); however, no plan has been developed to date.

The FS is proposing to transfer land pursuant to the Townsite Act to the Village of Cloudcroft (FS 1997; 2001a). The proposed land transfer would involve 33 ha (81 ac) on 5 different parcels. Sacramento Mountains checkerspot butterflies have been observed on three of the five parcels (numbers 3, 4, and 5) and in adjacent lands (FS 1997, 1999a, 1999b, 1999d, 2000, 2001a, E. Hein, pers. obs.). The Village of Cloudcroft and the FS agreed to eliminate from the current land transfer proposal three other parcels (numbers 6, 7, and 8), in which a number of Sacramento Mountains checkerspot butterflies have been observed (FS 1999a, 1999b, 2001a). The stated purpose for the proposed land transfer is to provide additional land for commercial, industrial, educational, and recreational expansion and permit controlled growth (Village of Cloudcroft 1996). Development of these parcels would be consistent with past and current community development policies and objectives of encouraging commercial and private development in and around the Village of Cloudcroft (Southeastern New Mexico Economic Development District 1974; Village of Cloudcroft 1996; J. Wilson, pers. comm. 2000). A decision on the five parcels will be finalized this fiscal year (FS 2001a). If the parcels of land currently used by the butterfly are transferred and subsequently developed, habitat used by the butterfly could be further degraded or eliminated, suitable habitat further fragmented, and the movement of butterflies between local populations may be restricted.

The FS has eliminated some proposed projects (e.g., the construction of new administrative building) in habitat used by the butterfly. They have also taken some actions to protect and manage the Sacramento Mountains checkerspot butterfly, including instituting a butterfly closure order (see discussion below), fencing a portion of one butterfly locality, and conducting butterfly surveys to determine range and occupancy (FS 1999a, 1999b, 1999h, 2000a, 2000d). These actions have been beneficial, especially for increasing our knowledge of this species. However, we believe that other multiple use priorities on FS lands, such as range management, road maintenance, or capital improvement projects, may adversely impact this species (e.g., see discussion on road maintenance below).

Fire Suppression and Wildfire

The results of 100 years of fire suppression in the Sacramento Ranger District currently threatens the Sacramento Mountains checkerspot butterfly. Fire exclusion and suppression have reduced the size of grasslands and meadows by allowing the encroachment of conifers, and these trends are projected to continue (FS 1995, 1999h). Officials on the Lincoln National Forest reported that high forest stand densities exist on 35 percent of mixed conifer forests and 22 percent of ponderosa pine forests, and that insect and dwarf mistletoe infestations occur on 57 and 64 percent of their ponderosa pine forests, respectively (GAO 1999a). The natural fire regime historically maintained non-forested openings and meadows. Prior to 1900, the mean natural fire interval for forests in the Sacramento Mountains was about 4 to 5 years (Kaufmann et al. 1998). These frequent, low-intensity, surface fires historically maintained a forest that was more open (i.e., more non-forested patches of different size, more large, older trees, and fewer dense thickets of evergreen saplings) than it is currently (Kaufmann et al. 1998). Such low-intensity fires are now a rare event.

It is likely that fire exclusion and cattle grazing have severely altered and increased the threat of wildfire in ponderosa pine (*Pinus ponderosa*) and mixed conifer forests in the semi-arid western interior forests, including New Mexico (Belsky and Blumenthal 1997). For example, ponderosa pines have increased from 19 to 64 trees per ha (46 to 158 per ac) from 1911 to 1995, and mixed conifers increased from 92 to 192 trees per ha (227 to 475 per ac) from 1906 to 1995, in the Sacramento District of the Lincoln National Forest (FS 1999h). Further, there has been a general increase in the dominance of woody plants, with a decrease in the herbaceous (non-woody) ground cover (FS 1995) used by the butterfly (FS 2000a). These data indicate that the quality and quantity of the available butterfly habitat is decreasing range wide. Alternatively, restoration of natural processes and conditions may be difficult because of permanent impairment of areas from soil loss; the presence or dominance of noxious weeds, and the need to protect existing homes and businesses (FS 1995). Therefore, we believe that fire exclusion has substantially affected the species and will likely continue to significantly degrade the quality and quantity of suitable habitat. Additionally, future actions to manage or reduce the threat of wildfire will likely be more difficult to implement because of continued private development and the risk of fires escaping.

The Sacramento Mountains checkerspot butterfly is extremely vulnerable to catastrophic (i.e., high-intensity and large) wildfires in suitable butterfly habitat. Fire has caused the extirpation of populations of other butterflies in the genus *Euphydryas* (Murphy and Weiss 1988; 62 FR 2313). Future wildfires within the known range of the Sacramento Mountains checkerspot butterfly will likely be large scale, and, under current conditions, are imminent (FS 1999h). Large fuel accumulations (e.g., the encroachment of conifers into meadows and the development of mats of Kentucky blue grass (*Poa pratensis*) and oat grass (*Arrhenatherum elatius*)) can lead to intense soil heating and deep heat penetration, which could be lethal to the food plants and the various life stages of the Sacramento Mountains checkerspot butterfly (Society of American Foresters 1984). During the last 50 years in the Sacramento Mountains, at least nine catastrophic wildfires have burned over 34,000 ha (90,000 ac) (Kaufmann *et al.* 1998). In the next few years, the Sacramento Ranger District may have a catastrophic burn that eliminates some or all of the remaining butterfly habitat.

From 1.2 to 14.3 percent of various forest cover types totaling about 202,347 ha (0.5 million ac) are predicted to burn between 1994 and 2005 in the southwestern region of the FS (FS 1995). The Government Accounting Office (GAO) (GAO 1999a, 1999b) reported that the FS and scientists generally agree that the efforts to reduce the threat of large, intense, uncontrollable, destructive wildfire will likely fail because funding is inadequate for a cohesive fire management strategy to be implemented. In completing its Forest Plan, the Lincoln National Forest selected an alternative that had one of the highest overall fire risks, because the proposed fire protection and suppression budget provided less protection than most of the other alternatives considered (FS 1986). The FS concluded that the preferred alternative had one of the greatest probabilities of serious uncontrolled wildfires relative to other alternatives considered (FS 1986). Whether recent funding increases for FS fire risk reduction actions can result in sufficient implementation to reduce fire threats to the butterfly over the short-term is unclear.

For instance, the threat of wildfire has been recognized as significant since the latest Lincoln National Forest Plan (FS 1986). The Sacramento Ranger District of the Lincoln National Forest has recently approved a long-term fire management plan to reduce the threat of catastrophic wildfire in the wildland-urban interface (FS 1999h). This plan will treat about 5,666 ha (14,000 ac) of about 202,347 ha (0.5 million ac) that were the subject of a fire danger assessment on the Sacramento Ranger District. The District's assessment found about 53,419 ha (132,000 ac) had a high

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risk potential for fire ignitions, and about 89,032 ha (220,000 ac) had high fuel characteristics. The project proposes to reduce the high fire risk on the District through thinning and prescription burns on about 15 percent of the 142,452 ha at risk (352,000 ac) (FS 1999h). The FS has also recently proposed thinning 97 ha (239 ac) on the western edge of the Village of Cloudcroft (FS 2000c). The FS concluded that these projects are not expected to change the existing habitat conditions for the butterfly, or positively or negatively impact the butterfly (FS 1999h, G. Garcia, pers. comm. 2000).

Recently, the Southwestern Region of the FS initiated a program to reduce the risk of catastrophic crown fire in the wildland urban interface (FS 2000e). This program is designed to reduce fuel loads to protect life, property, and natural resources. Approximately 1.9 million acres are proposed for fuel load reduction within the National Forests in Arizona and New Mexico. These treatments are anticipated to be implemented slowly, with 20 to 30 projects beginning this fiscal year 2001, and the remainder of the projects spread over a 5 to 8 year period (J. Agyagos, FS, pers. comm.). The GAO also recently reported that Federal agencies are not organized to effectively and efficiently implement the national fire plan (GAO 2001). Therefore, it is unknown whether the proposed treatments will effectively reduce the risk of catastrophic wildfire to the butterfly or its habitat.

We believe that the reduction of fire risk may be very limited in geographic extent; consequently, the only potential for short term benefits for the butterfly may be a decrease in the amount of at-risk area and/or interrupting or reversing the encroachment of conifers in some areas to create or enlarge non-forested areas suitable for the butterfly. There are no fire risk reduction projects at nine of the known butterfly localities, and the prescriptions near the other six localities will be limited. Therefore, we concur with the FS that it is highly probable that the overall risk of fire or the encroachment of conifers will not be significantly reduced or eliminated by these efforts. We are not aware of any other projects to address the risk of fire on the Sacramento Ranger District. FS officials agree that when catastrophic fires occur, they will likely permanently damage soils, habitat, and watershed functioning (FS 1986; GAO 1999a).

The GAO reported that only 10–25 years remain to resolve the increasing threats of catastrophic wildfire before widespread damage from uncontrollable wildfires becomes inevitable. A random event, such as catastrophic fire, is highly probable and could easily destroy part of a Sacramento Mountains checkerspot butterfly locality or entire localities, or decrease a locality to so few individuals that risk of extirpation from genetic and demographic problems would increase.

The GAO concluded that the FS will likely not be able to meet its goal of reducing the threat of wildfire by 2015 because efforts and resources will need to be divided between reducing accumulated fuels on high-risk areas and maintaining low-risk conditions on other areas. For instance, the budget for fire suppression in the Lincoln National Forest plan was nearly double that of hazard protection (FS 1986). The GAO concluded that the threats and costs associated with wildfires, together with the urgent need to reduce the threats, make them the most serious immediate problem related to forest health in the interior West. We believe that this risk of wildfire is one of the most significant threats facing this species and projects resulting from increased fire risk funding will need to be implemented before significant risk reduction for the butterfly is achieved.

Highway and Forest Road Reconstruction

Construction of roadways has historically eliminated or reduced the quality or quantity of Sacramento Mountains checkerspot butterfly habitat (see also Factor E) (Pittenger 1999; E. Hein, pers. obs.), increasing the risk of extinction throughout all or a significant portion of the species' range. The reconstruction of forest roads is a threat to the Sacramento Mountains checkerspot butterfly, causing elimination of larval food and adult host plants, crushing of butterflies, and increasing the amount of soil erosion or dust. Because roads are usually sited in open non-forested areas, larval food and adult nectar plants are frequently found in large concentrations along roadways (E. Hein, pers. obs.). These areas can similarly contain aggregations of pre- and post-diapause larvae, because bare soils provide sites for thermoregulation (maintenance of a constant internal body temperature regardless of environmental temperature) (Porter 1982). Therefore, activities that disturb suitable habitat adjacent to roadways can impact very high quality sites, important for the development of various life history stages (e.g., pre-diapause instar development). We have recently observed road grading activities on FS and private lands that cleared at least 1 ha (2.4 ac) of larval and adult food plants, and may have directly killed individual larvae through crushing (E. Hein, pers. obs.). Butterflies in the adjacent non-graded areas may also be indirectly affected by soil erosion or dust covering and killing food plants (Farmer 1993). We believe that road maintenance activities can cause localized adverse impacts to the Sacramento Mountains checkerspot butterfly.

The New Mexico State Highway and Transportation Department (NMSHTD) recently improved portions of an approximately 3.2 km (2 mi) long stretch of State Highway 130 between the Village of Cloudcroft and the intersection of SH 130 and Sunspot Road (Metric Corporation 1996; Steve Reed, NMSHTD, pers. comm. 1999). The project cleared all vegetation by scraping and widening the road and shoulders, constructing retaining walls, adding drainage ditches and culverts, and reconstructing a curve. In 1998 and 1999, Sacramento Mountains checkerspot butterflies were located within the construction footprint (FS 1999a, 1999b; 1999d, E. Hein, pers. obs.); however, none were observed during surveys in 2000 and 2001 (E. Hein, pers. obs.). In July 1999, topsoil and vegetation were scraped and Sacramento Mountains checkerspot butterflies were likely killed (E. Hein, pers. obs.). Some topsoil and larval food plants were stockpiled and used in the revegetation when the project was completed. However, fewer than 10 New Mexico penstemon were replanted in the revegetation effort and the area is currently overgrown by noxious weeds (see discussion below). In addition, extensive retaining walls and roadsides were constructed with rocks and little to no soils may preclude revegetation in some areas that were likely used by the Sacramento Mountains checkerspot butterfly as corridors (Haddad and Baum 1999; Haddad 1999). The NMSHTD will monitor the revegetation areas for the recruitment and survival of larval food plants and adult nectar sources, and to determine whether the butterfly recolonizes the area. The NMSHTD is also conducting a five-year study on the natural history of the butterfly to increase the knowledge of the species (NMSHTD 2000; Pittenger 2001).

Recreational Impacts

Off-highway vehicles (OHVs) pose a threat to the butterfly through direct crushing of eggs, larvae, pupae, or thermoregulating adults located on bare soils, leaves, or grasses within or adjacent to trails and roads. Because each larval web of the butterfly contains from 10 to 100 pre-diapause larvae (T. Narahashi, pers. comm. 1999), hundreds to thousands of individuals could potentially be impacted in some localities. Thermoregulation sites are chosen by some *Euphydryas* sp. larvae for their solar radiation absorbance characteristics (Porter 1982). This site selection behavior is likely to occur with the Sacramento Mountains checkerspot butterfly because of relatively low temperatures during spring and summer months (E. Hein, pers. obs.). Post-diapause larvae in the genus *Euphydryas* can also be gregarious and cluster in areas of open soils, such as trails and roads, to thermoregulate (C. Nagano, pers. obs.; E. Hein, pers. obs.; Porter 1982; Weiss *et al.* 1987; Osborne and Redak 2000). We know of other butterflies that have also been impacted from OHVs (e.g., *Neonympha mitchellii mitchelli*, 56 FR 28825; *Glaucopsyche lygdamus palosverdesensis*, Arnold 1987; *Apodemia mormo langei*, Fish and Wildlife Service 1984; *Euphydryas editha quino*, 62 FR 2313; G. Pratt, pers. comm. 1998; M. Elvin, Fish and Wildlife Service, pers. comm. 2000).

Off-highway vehicle use is increasing in many western states (GAO 1995), and on the Lincoln National Forest (FS 1986, 1993). The FS estimated there were 1,368 km (850 mi) of OHV routes on their lands in the Southwestern region, with at least 80 km (50 mi) being added annually (FS 1986). OHVs can cause significant environmental damage to both vegetation and animals (including butterflies) (Webb and Wilshire 1983), and are causing vegetation and erosion on FS land, primarily in meadows, riparian areas, and steep slopes (FS 1986). The authorized and unauthorized use of OHVs can adversely affect Sacramento Mountain checkerspot localities (FS 2000a). Executive Orders 11644 and 11989 were issued in the 1970s to establish policies and procedures for regulating OHVs. Compliance with these executive orders has been mixed; for example, incomplete inventories of open and closed OHVs routes, inadequate mapping and signing of routes, and limited monitoring of the effects of OHVs on natural resources have been the primary deficiencies (GAO 1995). Similar OHV problems exist on the Sacramento Ranger District, where, despite efforts by the FS to alleviate OHV-related impacts to the Sacramento Mountains checkerspot butterfly, problems are still occurring. For example, the FS recently posted signs indicating that OHVs were not allowed in an area that currently supports the Sacramento Mountains checkerspot butterfly after noticing OHV tracks through a monitoring plot (FS 2000a). Although the Lincoln National Forest has closed areas to OHVs in the past, these efforts have not been effective in stopping unauthorized OHV use in non-forested areas (Fish and Wildlife Service 1994; Forest Guardians 1999), even when the area was partially fenced (T. Fiedler-Harper, pers. obs. 1999).

The Sacramento Mountains checkerspot butterfly may also be threatened by impacts from mountain bikes. The butterfly is found along and adjacent to several popular mountain biking routes, including trails that are traversed in an annual 2-day bike race during mid-May when post-diapause larvae are actively thermoregulating in these areas (FS 2000a; M. Crites, pers. comm. 1999; E. Hein, pers. obs). This race regularly attracts several hundred racers.

Mountain bikes may be directly or indirectly affecting larval food plants, nectar sources, or various life stages of the butterfly through the development trail ruts, the loss of residual topsoil and vegetation, increased erosion, the creation of stretches of standing water or muddy trail/road conditions, the development of parallel tracks, and the establishment of unauthorized trails (Cessford 1995). For example, following the bike race, we found crushed larval food plants along part of the race course that bisects one of the campgrounds that currently supports the butterfly (E. Hein, pers. obs.). Moreover, a recent study found that 58 percent of National Forests surveyed reported evidence of resource damage from mountain bikes (Chavez 1996).

Although the potential impact of mountain biking activities on butterflies has been infrequently studied, we know of other invertebrates that are impacted by bicycle traffic (e.g. *Cicindela ohlone*) (65 FR 6952). Moreover, mountain bike impacts are similar to other recreational impacts, and are likely to result in soil compaction, erosion, or the elimination or reduction of vegetation (Liddle 1975; Cessford 1995; Trails and Wildlife Task Force 1998). The significance of direct mortality on population viability is unknown at this time, but is considered a potential threat to the butterfly, particularly if bicycle traffic through areas used by the butterfly increases.

Hiking and camping pose a threat to the butterfly because of the development of trails, barren areas, and trampling, but the potential significance of these impacts has not been quantified. The development of parallel tracks, muddy trails, and erosion through meadows and non-forested areas may affect the butterfly through the reduction or elimination of larval and adult food plants (Boyle and Samson 1985; Kuss 1986; Hampton and Cole 1988). Cole (1995) reported that erect vegetation is readily damaged by trampling, with erect forbs, similar to the food plants of the butterfly, less resistant than those with matted or rosette (circular cluster of plant parts or leaves) growth. Meadows or non-forested areas, which may also be suitable habitat or support the Sacramento Mountains checkerspot butterfly, are favored locations for many campers (Hampton and Cole 1988; Cole 1989 and references therein). We observed a variety of these impacts (e.g., barren ground, trampled food plants, multiple trails, vehicle tracking, etc.) in areas used by larval and adult life stages of the Sacramento Mountains butterflies; these impacts are likely reducing the quality or quantity of suitable habitat in and around developed campgrounds or undeveloped campsites known to support the Sacramento Mountains checkerspot butterfly (E. Hein, pers. obs.). The FS indicated they would monitor trampling impacts at two campgrounds (FS 1999j). Although we have not received any information from the FS regarding trampling, we have documented larval webs and food plants within campsites that were trampled or crushed (E. Hein, pers. obs.).

Recreational resource damage and impacts to the Sacramento Mountains checkerspot butterfly are likely to increase in the near future. For example, the Forest contained 240 km (150 mi) of managed trails in 1986; however, the need for future trails is expected to increase and at least 25 percent more trail miles are needed to match demand (FS 1986). Developed (e.g., campground stays) and dispersed recreation (i.e., hiking, backpacking, camping, trail biking) in 1986 were projected to rise over 2.4 and 1.4 times, respectively, through the first quarter of the 21st century (FS 1986). In fact, by the end of the projected 50-year period of the Lincoln National Forest Plan (2036), the demand for dispersed recreation was expected to continue increasing and would exceed the projected capacity by 26 percent (FS 1986). In fact, the demand for developed recreation, which is generally greatest from May through September (the same activity period for the Sacramento Mountains checkerspot butterfly), often exceeded capacity in 1986. Moreover, the FS reported that the amount of recreational use left limited opportunity for a site to rest and rehabilitate during peak activity and use periods (FS 1986).

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We are aware of other sensitive butterflies that have been similarly impacted in and around developed FS campgrounds (e.g., *Pyrgus ruralis lagunae*, G. Pratt pers. comm. to E. Hein, 1998). Although proposed capital improvement projects for several FS campgrounds are needed to offset the high demand for developed recreation, these projects and the associated recreational impacts also have the potential to adversely affect the Sacramento Mountains checkerspot butterfly (see discussion under FS activities). We believe impacts to the butterfly from these recreational uses is ongoing and will continue.

Domestic Livestock Grazing

The Sacramento Mountains checkerspot butterfly has been and continues to be adversely affected by domestic livestock grazing. Grazing can eliminate or reduce the food plants used by larvae and the nectar plants used by adults, compact the soil, and eliminate or reduce ground cover by herbaceous plant and litter (Scholl 1989; Fleischner 1994; Belsky and Blumenthal 1997; Donahue 1999). The effects of grazing on the Sacramento Mountains checkerspot butterfly are largely a result of range management of domestic livestock. If domestic livestock are closely managed to minimize the loss or elimination of native vegetation used by the butterfly, then range management will likely have a negligible affect on the Sacramento Mountains checkerspot butterfly. Overgrazing has occurred in the valleys of the Sacramento Ranger District of the Lincoln National Forest over the last several decades (Fish and Wildlife Service 1993). Furthermore, overgrazing by stock animals has led to extinctions of some butterfly populations in the United States, including butterflies in the genus *Euphydryas* (Ehrlich 1989; Murphy and Weiss 1988; Weiss *et al.* 1991).

Overgrazing in the Lincoln National Forest has likely eliminated or reduced larval host plant and adult nectar sources of the Sacramento Mountains checkerspot butterfly. Similarly, overgrazing has compacted soils, decreased water infiltration, and increased water runoff, erosion, and dense conifer recruitment, severely altering the entire forest and meadow landscape in semi-arid western interior forests, including those in New Mexico (Belsky and Blumenthal 1997). In fact, herbaceous plants and grasses have been effectively removed from the Sacramento Ranger District by intensive overgrazing (FS 1995). Overgrazing can substantially reduce the availability of native nectar plants for some butterfly species and could be contributing to regional declines and extinctions (e.g., *Euphydryas editha bayensis*; Murphy and Weiss 1988; *Speyeria zerene myrtleae*; Launer *et al.* 1992). The availability of nectar and the amount consumed by female butterflies greatly influences the number of eggs produced and subsequent adult recruitment and long term population survival (Murphy *et al.* 1983; Boggs and Ross 1993 cited in Launer *et al.* 1992;).

We believe that widespread and intensive livestock grazing, leading to a reduction or elimination of residual plant or ground cover (i.e., little to no leaf or grass litter), has been detrimental for this butterfly, because the quality and quantity of larval and adult food plants and diapause sites have been reduced or eliminated. For example, the only variables that are consistently documented with Sacramento Mountains checkerspot butterfly presence are the occurrence of *Helenium hoopesii* (adult nectar source), mesic (neither extremely wet or extremely dry) soils, canopy cover less than 5 percent, and greater than 70 percent herbaceous cover (FS 2000a). Past and current range management within the range of the Sacramento Mountains checkerspot butterfly has led to the reduction or elimination of *Helenium hoopesii* and herbaceous ground cover (FS 1995; Belsky and Blumenthal 1997; Lincoln National Forest 1999). Trampling, primarily from cattle, can also kill butterfly larvae, eggs, and pupae (White 1986; Weiss 1999). White (1986) estimated that up to 35 percent of the total population of various life stages of butterflies in the genus *Euphydryas* can be lost to crushing in areas where heavy grazing occurs.

The amount of *Helenium hoopesii*, an adult nectar source, on range allotments in the Sacramento Ranger District is lower than it was in the 1970s and 1980s and the current range condition of four cattle allotments within the known range of the Sacramento Mountains checkerspot butterfly are poor to fair (R. Newman, Lincoln National Forest, pers. comm. 1999). Present range conditions within non-forested areas are declining (R. Newman, pers. comm. 1999), probably because cattle tend to concentrate in these areas (Belsky and Blumenthal 1997). Both larval and adult food plants are needed to sustain viable butterfly populations. For example, in some areas, if larval food plants are present, but nectar sources are absent, the habitats for other butterflies in the genus *Euphydryas* have remained unoccupied for at least a decade (Brown and Ehrlich 1980). In the Lincoln National Forest, permitted cattle grazing in 1980 exceeded capacity by about 33,000 AUMs and was projected to continue until about 2026 (FS 1986). Similarly, excessive forage utilization has been occurring since at least 1991 on the Sacramento allotment, the largest allotment in the Sacramento Ranger District (64 FR 24132).

A low to moderate level of grazing can sometimes be beneficial for sensitive butterflies in systems where nonnative grasses are palatable to domestic livestock or native ungulates or if native ungulate grazing (e.g., elk (*Cervus elaphus*)) was a component of the historical ecosystem (Weiss 1999, Weiss *et al.* 1991). Grazing levels in the known range of the Sacramento Mountains checkerspot butterfly continue to degrade the quantity and quality of suitable habitat. However, if a decrease in domestic livestock use is offset by an increase in native ungulate use, the result may be similarly degraded range conditions. This has been observed for at least one allotment within the range of the butterfly (R. Newman, pers. comm. 1999). Additionally, cattle must be properly managed during drought to avoid adversely affecting butterfly populations by overgrazing food plant and nectar sources. The lack of range management adjustments on the Lincoln National Forest during drought has resulted in extensive resource damage from domestic livestock grazing (Kaufmann *et al.* 1998).

Cattle grazing currently occurs in allotments where butterflies have been observed (FS 1999a, 1999b, 1999d 1999i, 2000a, 2000d). Data are lacking on long-term trends for Sacramento Mountains checkerspot butterfly localities that are grazed, but a study has recently been initiated to determine the effect of grazing on the Sacramento Mountains checkerspot butterfly (FS 2001b). Nevertheless, the co-occurrence of butterflies and domestic livestock does not demonstrate that the Sacramento Mountains checkerspot butterfly is not being adversely impacted by current range management. It is possible that these areas could be population sinks (i.e., areas where the presence of butterflies is only being maintained by immigration from other source populations) (Boughton 1999). We recently assisted the Forest Service in designing an experiment to investigate the influence of range management activities on the butterfly and its food plants (Service 2001).

Nonnative Vegetation

Nonnative vegetation threatens the Sacramento Mountains checkerspot butterfly by out-competing and reducing

or eliminating food plants for larvae and nectar plants used by adults (FS 1995; **Federal Register** 62:2313; Weiss 1999). A significant long-term threat to the Sacramento Mountains checkerspot butterfly is the change in community structure due to invasive nonnative plants. On the Lincoln National Forest, 12 aggressive nonnative plant species, including Russian knapweed (*Acroptilon repens*), musk thistle (*Carduus nutans*), oat grass, and teasel (*Dipsacus sylvestris*) have increased by 30 percent since the early 1990s; this trend is expected to increase (GAO 1999a). An estimated 3,238 ha (8,000 ac) of private lands are similarly infested with noxious weeds within the Smokey Bear and Sacramento Districts, and a minimum of 1,244 ha (3,075 ac) of FS lands are infested within the Sacramento District (FS 1996). A 1993 FS survey found that approximately 737 ha (1,822 ac) in the vicinity of the Village of Cloudcroft had infestations of noxious weeds (FS 1999a). Infestations are expanding in non-forested openings and within road rights-of-way, with the densities of weeds increasing where they have not been treated (FS 1999a). Russian knapweed, musk thistle, oat grass, and teasel are found along major roads within rights-of-way or mountain meadows, and small openings in the forest, from 2,130 to 2,750 m (7,000 to 9,000 ft) (Fish and Wildlife Service 1993; FS 1996). These four plants are the most common noxious weeds within the range of the butterfly in the Lincoln National Forest. Nonnative vegetation has caused the extinction of some populations of butterflies in other areas (Weiss 1999).

These nonnative plants can significantly affect the plant community structure. For example, Russian knapweed produces compounds that suppress the growth of other plant species, allowing it to form dense stands (FS 1996). Other species, such as musk thistle and teasel, can also reduce grass and native forb production and change meadow/grassland habitats structurally and compositionally (FS 1995). Moreover, nonnative grasses, such as oat grass, can outcompete native forbs through the buildup of thatch (Huenneke *et al.* 1990). Nearly 30 percent of mountain meadows and over half of some individual meadows were dominated by noxious weeds on the Sacramento Ranger District in 1995 (FS 1995). The Lincoln National Forest treated 992 ha (2,452 ac) of noxious weeds annually from 1997 to 1999 (FS 2000b). However, these treatments eliminated only 116 ha (287 ac), and another 91 ha (225 ac) of noxious weeds were documented (FS 2000b). These data indicate the severity of noxious weed infestations within the known range of the Sacramento Mountains checkerspot butterfly. These infestations threaten the butterfly, primarily through the reduction or elimination of larval or adult food plants.

The application of herbicides to control nonnative vegetation may also be a threat to the Sacramento Mountains checkerspot butterfly. The NMSHTD and the FS both use herbicides and mowing to control noxious weeds. The herbicides Escort and Round-Up have been used by the FS to control nonnative plants, primarily Russian knapweed, musk thistle, and teasel in canyons and along highway rights-of-way within the range of the butterfly. About 1,416 ha (3,500 ac) above 2,450 m (8,000 ft) have been treated (FS 1999a). The toxicity of Escort for insects is low to moderate, depending on application rate and timing (Dupont 1999). Alternatively, control of musk thistle on about 162 ha (400 ac) of private lands within the District is accomplished using picloram and/or 2, 4-D (FS 1996), and musk thistle has also been controlled on FS lands using glyphosphate (FS 1993). The herbicide 2,4-D is detrimental to native plants and has a moderate toxicity for insects (Cornell University 1998c), such as butterflies. Glyphosphate has low toxicity, but is a non-selective systemic herbicide (Cornell University 1998d). One area, which is proximate to habitat that supports the butterfly, was treated with glyphosphate in 1993. In 1999, the area contained almost no Sacramento Mountain checkerspot butterflies (FS 2000a). It is unknown if this absence is related to the herbicide application. Nevertheless, there is a potential for direct and indirect impacts on the Sacramento Mountains checkerspot butterfly from the application of herbicides.

Insect Control

The application of carbaryl and Bacillus thuringensis (BT) to control insects poses a threat to the Sacramento Mountains checkerspot butterfly. The petitioner reported that the entire Douglas-Fir forest in the Sacramento Mountains was treated in 1984 with either carbaryl or BT to control an outbreak of forest insects. Carbaryl is considered moderately to highly toxic and is lethal to many non-target insects, whereas BT can kill the larval stage of many insects, including butterflies (Cornell University 1998a, 1998b). These insecticides were applied during months when butterfly larvae were not in diapause; however, the areas which were treated with carbaryl or BT were heavily wooded and are not areas that were inhabited by the butterfly. Nevertheless, drift of these insecticides into areas used the butterfly could have occurred. It is unknown what affect these treatments may have had on the Sacramento Mountains checkerspot butterfly because we have no pretreatment data for comparison. There has been a recent outbreak of tussock moth (*Orgyia pseudotsugata*) in the Sacramento Mountains (G. Garcia, pers. comm. 2000). The FS may attempt to control the outbreak using a virus specific to the tussock moth, BT, or an application of insecticide (G. Garcia, pers. comm. 2000). Future applications of carbaryl or BT may pose a potential risk for the viability of Sacramento Mountain checkerspot butterfly localities.

Conclusion for Factor A

The Sacramento Mountains checkerspot butterfly appears to exhibit much of the same behavior, life history, and patchy distribution as other well-studied species in this genus. The patchy distributional pattern is expected in many butterflies in the genus *Euphydryas* and other species, because they exist as metapopulations and at any instant butterflies may be using some areas and not others (Hanski and Gilpin 1991). Suitable habitat within the range of the species can play a pivotal role in maintaining natural metapopulations, especially butterflies that may have limited dispersal abilities (Murphy and Weiss 1988; see discussion below). However, if populations are extirpated and the metapopulation becomes so fragmented that individuals are unable to disperse between suitable patches, natural recolonization probability will not offset the extinction probability, and will result in population extinction. Some butterfly localities may be linked by linear or open patches of suitable, non-forested areas, such as highway rights-of-way (Haddad 1999; Haddad and Baum 1999). If movements through these linkages are disrupted or precluded (e.g., by commercial or private development), then the stability of the metapopulation (i.e., the exchange of individuals between populations) will be affected (Murphy and Weiss 1988). Isolation, whether by geographic distance or ecological factors, will prevent the influx of new genetic material, and can result in inbreeding and extinction (Saccheri *et al.* 1998; Nieminen *et al.* 2001).

We believe that some of the butterfly localities consist of very small numbers of butterflies that are isolated and

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vulnerable to natural perturbations that could quickly eliminate them. Likewise, butterfly populations in the genus *Euphydryas* are known to undergo extreme variations in population size and are subject to extinction even when populations are greater than 50,000 individuals in preceding years (Weiss 1999). The mechanisms controlling population stability among species of butterflies in the genus *Euphydryas* are not well understood and may vary; however, it is known that small populations are particularly vulnerable to extinction (Murphy and Weiss 1988; 62 FR 2313) and some of the highest-density populations at high elevations (i.e., 2,000–3,000 m) can be the most susceptible to extinction (Thomas *et al.* 1996).

Much of the remaining suitable butterfly habitat, and the long-term persistence of the species, is threatened by the direct and indirect effects of commercial and private development, FS projects (e.g., campground reconstruction, powerline construction, road maintenance), catastrophic wildfire, fire suppression activities, highway reconstruction, off-highway vehicle use, trampling, overgrazed range conditions, and nonnative vegetation. Development of private land continues to increase within the known range of the butterfly, potentially rendering much of the butterfly habitat unsuitable. Village of Cloudcroft construction since the mid-1970s and the number of housing units has doubled. The limited geographic range of the Sacramento Mountains checkerspot butterfly increases the threat of extinction for this species given the expected continuing loss and degradation of suitable habitat and increased risks of extinction from random events, such as catastrophic fire, irreversibly eliminating vast amounts of habitat or localities. Considering the magnitude, imminence, and irreversibility of threats to habitat and the vulnerability of extant localities, we conclude that the Sacramento Mountains checkerspot butterfly is now in danger of extinction in all or a significant portion of its range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes. Collecting

Some collectors likely have high interest in the Sacramento Mountains checkerspot butterfly due to its extremely restricted distribution and low numbers. Both adult and larval stages of the species have been collected for scientific research and, similar to other narrowly endemic butterfly species, might be collected for recreational cultivation (i.e., raising butterflies for pleasure). We know of at least one person who collected an unknown number of Sacramento Mountains checkerspot butterfly larvae and others who have collected adults or have threatened to collect within the range of this species (Ferris and Holland 1980; R. Holland, pers. comm. to R. Galeano-Popp 1997; G. Pratt, pers. comm. 1999; FS 1999c). Additionally, some collectors prefer to eclose (emergence of an adult butterfly from a chrysalis) butterflies in captivity, thus reducing the risk of damage to the wings of adults, making for higher-quality individuals, prized by collectors. Specimens of other subspecies of the anicia checkerspot butterfly have been offered for sale (Kral 1987, 1989; Capps 1991). High prices for prized species can provide an incentive for illegal take and trade, and is sometimes referred to as market collecting (Erhlich 1989). Listing can increase the publicity and interest in a species' rarity, and thus may directly increase the value and demand for specimens.

Collecting from small colonies or repeated handling and marking, particularly of females in years of low abundance, could seriously damage populations through loss of individuals and genetic variability (Duffey 1968; Hayes 1981; Singer and Wedlake 1981; Gall 1984b; Murphy 1988; Hein and Myers 2000). We know of some butterfly populations (Mitchell's satyr, Saint Francis' satyr) that have been extirpated by collectors, possibly leading to extinction (57 FR 21564; 60 FR 5264).

The threat of collecting populations to extinction for a butterfly species is partly related to capture probability, which is influenced by the behavior of larvae or adults (Gall 1984a). Ehrlich *et al.* (1975) reported that adult mortality was not a major factor in population dynamics of *Euphydryas editha bayensis*, but this was probably related to the inability to capture more than 5 to 25 percent of the population. Yet, in a species such as the Sacramento Mountains checkerspot butterfly, individuals thermoregulate in early mornings or on cloudy days, making them more susceptible to capture. Throughout the day, adults are frequently found nectaring and are sedentary (E. Hein, pers. obs.; FS 1999d). We also know of other sensitive species where larvae are particularly easy to locate and have been heavily collected (*Euphydryas editha quino*, *Euphyes vestris harbisoni*, E. Hein, pers. obs.; *Hesperilla flavescens flavescens*, *Glaucopsyche lygdamus palosverdesensis*, T. Longcore, University of California, pers. comm. 2000).

Thomas (1989) outlined characteristics of butterfly species that would place them at risk from collectors. These characteristics include closed populations (i.e,. little immigration or emigration), sedentary behavior, less than 250 adults in the population, and populations that are located in small areas of accessible terrain. The Sacramento Mountains checkerspot butterfly fulfills most if not all of these traits, suggesting that the species is at risk to over collection. Since the known localities of the Sacramento Mountains checkerspot butterfly occur in areas frequented by butterfly collectors (Toliver *et al.* 1994) such as in public campgrounds, along public roadways, or in other readily accessible areas, the species is easily collected, and the limited numbers and distribution of this species make it attractive to collectors and vulnerable to over collection.

In an attempt to limit the threat of overcollection, the FS issued a closure order from April 1999 to April 2000 for the collection of any butterflies without a permit on the Smokey Bear and Sacramento Districts of the Lincoln National Forest (FS 1999a, 1999b). A closure order was implemented in April 2000 throughout the same region that restricts the collection of the Sacramento Mountains checkerspot butterfly without a permit (G. Garcia, Lincoln National Forest, pers. comm. 2000). This closure order may offer protection from butterfly collecting; however, some butterfly collectors are known to have intentionally violated a similar closure order in the Uncompahgre National Forest in Colorado in order to collect the endangered Uncompahgre fritillary butterfly (*Boloria acrocnema*) (U. S. Department of Justice 1993). Furthermore, there is a perception from some lepidopterists who fervently collect (e.g., one individual has greater than 25,000 butterfly specimens) that the closure order on the Lincoln National Forest or other public lands are overly restrictive and should not apply to them (Wells 1996; see also Lep News 1996). Similarly, a recent editorial published the location of a butterfly locale, and encouraged the public to "* * * plan a vacation to Cloudcroft and add this variation to (your) collection" (Wood 1999).

C. Disease or Predation

Wasps of the genus *Apanteles* and *Trichogramma* have been documented parasitizing the Sacramento Mountains checkerspot butterfly. Spiders, pocket gophers, ants, and birds are documented predators for butterflies in the genus

Euphydryas (Ehrlich 1965; Brown and Ehrlich 1980; Moore 1987; Moore 1989). There are no indications at this time that parasites or predators might be a limiting factor for the Sacramento Mountains checkerspot butterfly.

D. The Inadequacy of Existing Regulatory Mechanisms

The Sacramento Mountains checkerspot butterfly occurs on private and FS lands. Existing regulatory mechanisms do not fully protect this species or its habitat on any of these lands. The FS has the authority to manage the land and activities under their administration to conserve the butterfly. For example, this species was placed on the Regional Forester's Sensitive Species List, and the FS has minimized or avoided potentially adverse impacts to the butterfly by altering or canceling several recently proposed projects (see discussion above). The FS is required to maintain or enhance the viability of species on this list by considering species in their project biological evaluations and mitigate actions that adversely impact the species. The FS currently does not have a management plan that addresses specific conservation and recovery needs for the butterfly, nor have they developed population viability objectives or management guidelines. The development of a management/conservation plan for the Sacramento Mountains checkerspot butterfly was scheduled for December 2000, but has not yet been completed (FS 2000a).

Private lands constitute about 50 percent of the estimated range of the butterfly (FS 1999b). These lands play a substantial role in the Sacramento Mountains checkerspot butterfly's continued existence. There are no local or state regulatory mechanisms pertaining to the butterfly on State or non-Federal lands. The Sacramento Mountains checkerspot butterfly is not listed as threatened or endangered under the New Mexico Wildlife Conservation Act, and it receives no formal protection for take of individuals or habitat.

It is unknown whether suitable habitat is present on the Mescalero Apache Nation lands. However, there does not appear to be a significant amount of contiguous land present with elevations between 2,450 and 2,750 m (8,000 and 9,000 ft)) and proximal to butterfly localities. Nevertheless, these lands are managed by the Mescalero Apache Nation in accordance with tribal goals and objectives and within the framework of applicable laws. These lands are not Federal public lands or part of the public domain. The Mescalero Apache Nation is a sovereign government with inherent powers to make and enforce laws and manage and control their natural resources. We have initiated contact with the Mescalero Apache Nation, but have not had formal Government-to-Government contact over the status of the Sacramento Mountains checkerspot butterfly on their lands.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Extreme Weather

Periodic droughts (e.g., resulting in little to no snowpack and early snow melt), such as those that occurred in recent years in New Mexico, or late snow storms or summer frosts, pose a threat to the Sacramento Mountains checkerspot butterfly. Drought is known to cause a decrease in the size of populations of some butterfly species (C. Nagano, pers. obs., 1999) and cause population extinctions (Murphy and Weiss 1988; Thomas *et al.* 1996; Boughton 1999). In addition to killing larvae by dessication, drought conditions may—(1) cause the early senescence or death of the larvae food plant prior to the completion of larval development; (2) result in an early flight season prior to the availability of any nectar sources, causing mass starvation; or (3) lower the nutritional quality of the host plant (e.g., water content).

Holland (1999) believes that emergence of butterfly larvae from diapause above 2,450 m (8,000 f) might not be directly linked to precipitation, but driven more by photoperiodism (the relative periods of light and darkness associated with day and night) and warmth; hence, early flight seasons probably occur during years of light snow pack, increasing the risk of local extirpation and extinction. Moreover, almost all adult Sacramento Mountains checkerspot butterflies that were observed nectaring used *Helenium hoopesii*, and this species may not reach peak flowering abundance until after rains begin in July (FS 2000a). If summer rains are delayed or below average, it is highly possible that one or all of the above examples could occur. Late snow storms, summer frosts, and unusually cold or rainy weather can also lead to direct mortality of larval food plants, nectar sources, eggs, larvae, pupae, and/or adults (Ehrlich *et al.* 1972; White 1986; Thomas *et al.* 1996; Boughton 1999). Although the Sacramento Mountains checkerspot butterfly has evolved in an environment subject to periodic atypical weather events, it is believed that habitat fragmentation has increased the species' susceptibility to certain weather extremes. Moreover, it appears that New Mexico may be headed into a long-term drought (Fleck 2000).

Dispersal is normally a rare event in the genus *Euphydryas*, possibly resulting from extreme weather events or emigration from high density populations. Further, normal daily movements in *Euphydryas anicia* adults probably are less than 300 m (984 ft), suggesting that adults are somewhat sedentary and likely do not disperse more than a km (Cullenward *et al.* 1979). Because patches of forests may define the boundaries of the habitat, reduce immigration out of an area (M. Singer, University of Texas, pers. comm. to G. Pratt 1999), and are not readily crossed by butterflies that inhabit open meadows (Kuussaari *et al.* 1996), some Sacramento Mountains checkerspot butterfly localities are probably demographically isolated.

Roads

The Sacramento Mountains checkerspot butterfly may be killed by vehicles driving through habitat that supports the butterfly (E. Hein, pers. obs. 1999; W. Murphy, Southwestern Regional Office, FS, pers. comm. 2000). Roads are a significant source of mortality for many species of wildlife (Case 1978; Ashley and Robinson 1996; Hourdequin 2000), including butterflies (Ries *et al.* In press; Service 1996). Roads can also modify animal (including butterflies) behavior, alter the physical and chemical environment, and spread nonnative plant species (Trombulak and Frissell 2000). Roads limit movements and dispersal of insects, effectively fragmenting and isolating populations (Mader 1984; Mader *et al.* 1990).

Increases in the population in and around the Village of Cloudcroft (U.S. Census Bureau 1998; FS 1999e) have led to increases in traffic. For example, the average annual daily traffic along habitat adjacent to highway 130 was 1,956 vehicles in 1995 and is projected to double by 2015 (Metric Corporation 1996), especially with proposed private developments (e.g., Woodlands, The Lodge, etc.). The normal flight behavior of *Euphydryas anicia* suggests that butterflies found along roads may attempt to cross and increase their risk of death from passing vehicles. Roads could also indirectly affect the butterfly by increasing the deposition of dust on food plants for larvae and adults. Dust can affect plants by blocking photosynthesis, respiration, and transpiration and reducing growth or causing injuries (Farmer 1993). The direct and indirect impact of roads on

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the Sacramento Mountains checkerspot butterfly are presently unknown.

Given the low probability of improving the status of the Sacramento Mountains checkerspot butterfly in the next few years (e.g., the high risk of a catastrophic wildfire in the next few years, the continued elimination of suitable habitat by development, the likelihood of an extreme weather event occurring, the reduction or elimination of larval or adult food plants by grazing and/or nonnative plants), this species is vulnerable to extinction throughout all or a significant portion of its range. We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats facing the Sacramento Mountains checkerspot butterfly in determining to propose listing. Based on this evaluation, we propose to list the Sacramento Mountains checkerspot butterfly as endangered. Although we have considered all available alternatives to this action, such alternatives would not be in accordance with the Act or the definitions therein. Based on the information available, not listing the species as endangered or listing the species as threatened would not accurately reflect the status of the Sacramento Mountains checkerspot butterfly.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. The term "conservation," as defined in section 3(3) of the Act, means "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary" (i.e., the species is recovered and removed from the list of endangered and threatened species).

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We can exclude areas from critical habitat designation if we determine that the benefits of exclusion outweigh the benefits of including the areas as critical habitat, provided the exclusion will not result in the extinction of the species.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the last few years, a series of court decisions have overturned Fish and Wildlife Service determinations that designation of critical habitat would not be prudent for a variety of species (e.g., *Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt*, 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have examined the question of whether critical habitat for the Sacramento Mountains checkerspot butterfly would be prudent.

Due to the small number of butterfly localities, the Sacramento Mountains checkerspot butterfly is vulnerable to unrestricted collection, vandalism, or other disturbance. Rare butterflies are highly prized by collectors and we have specific evidence for Sacramento Mountains checkerspot butterfly of collection and trade of this species or similarly situated species (see Factor B). We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, this information has already been published and available (Ferris and Holland 1980; Toliver *et al.* 1994; Wood 1999). Consistent with recent case law, we must weigh the benefits in proposing to designate critical habitat for the Sacramento Mountains checkerspot butterfly against the harm which could be caused by disclosure of its location.

The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies consult with us to ensure that their proposed actions will not destroy or adversely modify critical habitat. While a critical habitat designation for this species in currently occupied habitat would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. Both of these situations are expected because of the metapopulation structure of butterflies in the genus *Euphydryas* (e.g., Harrison 1989, Hanski and Gilpin 1991). There may also be some educational or informational benefits to designating critical habitat. Consequently, we find that these benefits outweigh the risk of increasing collection because the locations are already known and available to the public. Therefore, we find that critical habitat is prudent for the Sacramento Mountains checkerspot butterfly.

The Act requires that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is listed. Although we will make a detailed determination of the habitat needs of a listed species during the recovery planning process, there is no provision in the Act to delay designation of critical habitat until such time as a recovery plan is prepared. We reviewed the available information pertaining to habitat characteristics where this species has been recently located, including material received during the comment period for the 90-day petition finding. This and other information represent the best scientific and commercial data available, and led us to conclude that the designation of critical habitat is both prudent and determinable for the Sacramento Mountains checkerspot butterfly. Therefore, we propose to designate critical habitat pursuant to the Act for the Sacramento Mountains checkerspot butterfly.

Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for conservation of that species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas. Critical habitat also identifies areas that may require special management considerations or protection, and may provide protection to areas where significant threats to the species have been identified.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act, with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferencing on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the protection that may be provided under the section 7 adverse modification standard, designation of critical habitat does not provide prohibitions beyond those available from the listing of a species as endangered or threatened.

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not create or mandate a management plan, establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for critical habitat are most appropriately addressed in recovery plans and management plans, and through section 7 consultation.

Because of this species' precarious status, mere stabilization of the Sacramento Mountains checkerspot butterfly at its present level will not achieve survival and recovery. Protection and enhancement of the existing localities, plus reestablishment of localities in suitable areas of its known range, are necessary for its survival and recovery. One of the most important goals to be achieved toward recovery is establishment of secure self-reproducing localities in areas from which the species is no longer found, and may have been extirpated. We, therefore, determine that areas that may or may not be used by butterflies every year are essential for the conservation of the species and are proposed as critical habitat.

Methods

The proposed critical habitat described below constitutes our best assessment of areas needed for the conservation of the Sacramento Mountains checkerspot butterfly and is based on the best scientific and commercial information available to us concerning the species' known present and historic range, habitat, biology, and threats. We have emphasized known butterfly localities, especially areas that were identified in the FS GIS model (FS 1999b). To maintain genetic and demographic interchange that will help maintain the viability of a regional metapopulation, we included dispersal areas adjacent to or linking localities that have some or all of the above elements and are sufficient to provide for connectivity between areas of butterfly habitat. The proposed areas are essential to the conservation of the species because they either currently support localities of the butterfly, or because they currently support the necessary requirements for survival, growth, and reproduction of the butterfly (see description of primary constituent elements, below). Despite extensive surveys and ongoing research, we currently are not aware of any areas outside the geographical area occupied by the Sacramento Mountains checkerspot butterfly that provide the primary constituent elements essential to the life cycle needs of the species (see "Primary Constituent Elements" section) and that are essential for the conservation of the butterfly. To the extent feasible, we will continue, with the assistance of other Federal, State, and private researchers, to conduct surveys and research on the species and its habitat. If new information becomes available that indicates that other areas or habitat types within the Sacramento Mountains checkerspot butterfly's historic range are essential to the conservation of the species, we will revise the designated critical habitat for the Sacramento Mountains checkerspot butterfly accordingly. Important considerations in selection of areas proposed in this rule include factors such as connectivity, habitat diversity, and potential for restoration and repatriation. The proposed critical habitat reflects the need for localities of sufficient size to provide habitat for Sacramento Mountains checkerspot butterfly localities—large enough to be self-sustaining over time, despite fluctuations in local conditions. Many areas are or have the potential to be interconnected so that butterflies are able to move among localities, at least during certain seasons. The ability of the species to repopulate areas where they are depleted or apparently extirpated is vital to recovery. Some areas proposed as critical habitat may not have substantial amounts of presently suitable foraging or breeding habitat, but instead provide dispersal corridors important for the maintenance of the butterfly's metapopulation structure.

The areas we propose to designate as critical habitat include areas containing all known remaining localities used by the species. We believe it is important that the areas selected for proposed critical habitat designation include a representation of each locality within the range of the species. Nevertheless, uncertainty on the complete distribution limits of some known localities or currently unknown localities may result in small areas of habitat used by the butterfly being outside the designation. Further, this proposed critical habitat designation includes areas that may not currently support the butterfly every year, but are necessary for the conservation and recovery of the species. The inclusion of these types of areas in this proposed critical habitat designation for the Sacramento Mountains checkerspot butterfly are essential for the conservation of the species. The Sacramento Mountains checkerspot butterfly is in danger of extinction, and although additional localities of the butterfly have been found since 1997, their contribution to the status of the species may be offset by the magnitude and imminence of the threats facing the species. Additional localities/populations must be established to conserve and recover the Sacramento Mountains checkerspot butterfly.

If this proposed rule is finalized and the Sacramento Mountains checkerspot butterfly is added to the lists of threatened and endangered species and we develop a recovery plan for the species, areas may be identified that are suitable for reintroduction. However, until a recovery plan is completed, we believe that this proposed critical habitat designation for the Sacramento Mountains checkerspot butterfly will provide for the protection of habitat essential for the species' conservation. If information becomes available that indicates additional or fewer areas would provide for the species' conservation, we may revise the proposed critical habitat designation.

We propose the area described below as critical habitat for Sacramento Mountains checkerspot butterfly (see the Regulation Promulgation section of this rule for exact descriptions of boundaries). The proposed critical habitat designation includes the area found within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico, south of the Mescalero Apache Nation boundary. Mescalero Apache Nation lands are not included in the proposed

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designation because it is unknown if these lands contain suitable habitat. The proposal includes those areas that currently support localities of the butterfly, as well as some that may not currently support the butterfly, but which are considered essential for reestablishment to conserve the species. Not all of the areas we are proposing to designate as critical habitat for the butterfly provide the primary constituent elements necessary for this species. For example, forested areas (i.e., canopy cover greater than 5 percent), meadows with elevation above or below 2,450 and 2,750 m (8,000 and 9,000 ft), and other areas that do not provide the habitat for the Sacramento Mountains checkerspot butterfly do not contain the primary constituent elements. Therefore, Federal actions with effects limited to the areas that do not contain the primary constituent elements would not be subject to section 7 consultation. The areas are described more precisely in the Regulation Promulgation section of this rule.

We did not map critical habitat in sufficient detail to exclude all developed areas (e.g., see features or structures defined below) and other lands unlikely to contain primary constituent elements essential for Sacramento Mountain checkerspot butterfly conservation. Within the proposed critical habitat boundaries, only lands containing some or all of the primary constituent elements (defined below) are proposed as critical habitat. Existing features and structures within proposed critical habitat, such as buildings, roads, cultivated agricultural land, residential landscaping (e.g., mowed nonnative ornamental grasses), ponds, wetlands (i.e., a lowland area that is permanently saturated with water), forests, and other features, do not contain, and are not likely to develop, some or all of the primary constituent elements. Therefore, these areas are not proposed for critical habitat.

The habitat features (primary constituent elements) that provide for the physiological, behavioral, and ecological requirements essential for the conservation of the species are described at 50 CFR 424.12, and include the following: space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

We determined the primary constituent elements for the butterfly from field studies and population biology including, but not limited to, Cullenward *et al.* 1979; Ferris and Holland 1980; Cary and Holland 1992; Toliver *et al.* 1994; and FS 1999a, 1999d, 2000a, 2000d. These primary constituent elements of critical habitat for the Sacramento Mountains checkerspot butterfly include those habitat components providing for breeding, ovipositing (egg laying), diapausing, roosting or resting, or foraging areas and are described below. The proposed critical habitat designation includes the area found within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico. The primary constituent elements are: (1) elevation between 2,450 and 2,750 m (8,000 and 9,000 ft) within the mixed-conifer forest (Lower Canadian Zone) and within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico, south of the Mescalero Apache Nation boundary; (2) drainages, meadows, or grasslands; (3) supporting the known food plants New Mexico penstemon (*Penstemon neomexicanus*), sneezeweed (*Helenium hoopesii*), or valerian (*Valeriana edulis*); (4) less than 5 percent canopy cover; and (5) composed of plants such as arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), or Wheeler's wallflower (*Erysimum capitatum*). Areas adjacent to or linking areas that have some or all of the above elements and are sufficient to provide for dispersal between areas of butterfly habitat are necessary for the conservation of the species and thus are proposed as critical habitat. Habitat that provides for dispersal may not support all of the other primary constituent elements.

Due to the patchiness and small size of the areas providing suitable habitat for the Sacramento Mountains checkerspot butterfly, we have elected to designate an inclusive area that still provides habitat for the species as critical habitat rather than attempt to identify each individual meadow separately. Regulations at 50 CFR 424.12(c) require that we define the specific limits of critical habitat by using reference points and lines as found on standard topographic maps of the area(s). Because of the variety of meadow sizes, the difficulties in trying to obtain precise legal descriptions on the smaller meadows, the limited number of suitable habitat patches, and for ease of reference, we did not map critical habitat in sufficient detail to exclude land that is not likely to contain all of the primary constituent elements essential for the conservation of the Sacramento Mountains checkerspot butterfly. Consequently, the areas we are designating as critical habitat also include areas of unsuitable habitat; for example, forests (i.e., areas with cover greater than 5 percent), meadows with elevation above or below 2,450 and 2,750 m (8,000 and 9,000 ft), and other areas that do not provide the habitat for the Sacramento Mountains checkerspot butterfly. Federal actions with effects limited to these other habitat types, therefore, would not trigger a section 7 consultation. Please note, however, that any activity authorized, funded, or carried out by a Federal agency that has a potential to affect the constituent elements of designated critical habitat, regardless of the activity's location in relation to designated critical habitat, will require a consultation with us, as required under the provisions of section 7 of the Act (see "Effects of Critical Habitat Designation" section). Prior to finalizing this rule, we will seek ways to refine our mapping in order to exclude, from within the critical habitat boundary, developed areas or other areas that do not contain the primary constituent elements and therefore, would not be considered to be critical habitat.

Land Ownership

Proposed critical habitat for the Sacramento Mountains checkerspot butterfly encompasses the localities where the species has been collected in the recent past, where it is currently known to exist, where it is reasonably likely to occur currently, or where it may occur in the future. All of the land is within the administrative boundaries of the Sacramento Ranger District of the Lincoln National Forest. However, within this area are also lands of the Village of Cloudcroft, a number of smaller unincorporated communities, and a large number of other private landowners within the jurisdiction of Otero County, New Mexico. Private lands are primarily used for grazing and agriculture, but also include small-residence lots, larger ranchettes, and businesses.

About half of the suitable habitat for the Sacramento Mountains checkerspot butterfly occurs on private land and these areas are rather evenly distributed throughout the known range of the butterfly. Although much of these lands have not been surveyed for the butterfly, because of a lack of access to private lands, these areas are within meadows that are adjacent to and contiguous with FS meadows, some with documented butterfly locations, and are also within the same elevational range where butterflies are consistently documented. For the reasons discussed above, we believe these areas are essential to the conservation of the species. The estimated land ownership for areas within the proposed critical habitat boundaries is approximately 1,033 ha (2,553 ac) of private lands and 1,070 ha (2,645 ac) of FS lands. These estimates reflect the gross total area of proposed critical habitat and not the net acreage containing the primary constituent elements. We do not currently have sufficient data, due to limited access to private land, to estimate the actual acreage within the boundaries of proposed critical habitat. We believe that about 1 percent (5,198 out of 34,560 ac) of the area we are proposing as critical habitat may contain the primary constituent elements. Estimates made for this proposal could differ from estimates in any final designation due to changes in the information available or improved calculation methods.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing and designation of critical habitat encourages and results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the states and requires that the we carry out recovery actions for all listed species. The protection required of Federal agencies and the prohibitions against certain activities are discussed, in part, below.

Listing of this butterfly would authorize development of a recovery plan for the butterfly. Such a plan would identify both State and Federal efforts for conservation of the butterfly and establish a framework for agencies and stakeholders to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and describe site-specific management actions necessary to achieve conservation and survival of the Sacramento Mountains checkerspot butterfly.

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Fish and Wildlife Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no significant new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Such consultation would result in a biological opinion from us as to whether the proposed action would likely jeopardize the continued existence of the species or destroy or adversely modify its critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to the species or destruction or adverse modification of its critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that we believe would avoid jeopardizing the species or the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Activities on Federal lands that may affect the Sacramento Mountains checkerspot butterfly or its critical habitat will require section 7 consultation. Activities on private lands requiring a permit from a Federal agency, such as a permit from the FS or from us (e.g., section 10(a)(1)(B) permits) or some other Federal action, including funding (e.g., Federal Highway Administration or Department of Agriculture Title IV Wildfire Suppression, Hazardous Fuels Reduction, or Rehabilitation projects, etc) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to the extent that the value of critical habitat for both the survival and recovery of the Sacramento Mountains checkerspot butterfly is appreciably diminished. We note that such activities may also jeopardize the continued existence of the species. Actions authorized, funded, or carried out by a Federal agency that appreciably degrade suitable habitat, deter the use of suitable habitat areas by the Sacramento Mountains checkerspot butterfly, or otherwise affect the species require consultation under section 7 of the Act. Such activities may include, but are not limited to, the following—habitat restoration activities; activities associated with timber harvesting; livestock grazing and associated management activities; recreational activities or improvements; road or power line maintenance or construction; trail maintenance; fire suppression and fuel reduction; off-road vehicle management; and sale, exchange, or lease of Federal land containing suitable habitat. Some activities, for example, timber harvesting, thinning, or prescribed burning may benefit the species by creating or maintaining non-forested openings, as well as reducing conifer seed production and establishment or encroachment of conifer seedlings. However, these types

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of activities need to be carefully planned because they also have the potential for adverse effects on the Sacramento Mountains checkerspot butterfly.

Conservation of this butterfly is consistent with some ongoing activities at localities that support the species; however, listing of the species and designating critical habitat may entail consultation in regard to activities taking place on Federal lands, such as those of the FS. We believe that listing the Sacramento Mountains checkerspot butterfly and designation of critical habitat could affect Federal agency activities including, but not limited to:

(1) Sale, exchange, or lease of lands owned by the FS;

(2) Regulation of grazing, recreation, off-road vehicle management, or timber management by the FS;

(3) Funding and implementation of disaster relief projects by the Federal Emergency Management Agency, including vegetation clearing to reduce the risk of catastrophic wildfire;

(4) Funding and regulation of new road construction by the Federal Highway Administration or State highway activity implemented by the State and partly funded by the Federal government, including highway maintenance activities, such as roadside vegetation control;

(5) Funding of low-interest loans to facilitate the construction of low income housing by the Department of Housing and Urban Development;

(6) Clearing of vegetation or fuel reduction by the FS; and

(7) Issuance of section 10(a)(1)(B) permits by the Fish and Wildlife Service for Habitat Conservation Plans.

The Act and its implementing regulations found at 50 CFR 17.21, 17.22, and 17.23 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. With respect to animal species listed as endangered, all prohibitions of section 9(a)(1) of the Act, implemented by 50 CFR 17.21, apply. These prohibitions, in part, make it illegal with respect to any endangered animal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; or take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect—or attempt any of these). Certain exceptions apply to our agents and State conservation agencies.

The Act and 50 CFR 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered animal species under certain circumstances. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

Section 10(a) of the Act authorizes us to issue permits for the taking of listed species incidental to otherwise lawful activities. Incidental take permit applications must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. Currently, no approved HCPs cover the Sacramento Mountains checkerspot butterfly or its habitat. However, we expect critical habitat may be used as a tool to help identify areas within the range of the Sacramento Mountains checkerspot butterfly that are most critical for the conservation of the species. We will encourage development of HCPs for such areas on non-Federal lands because we consider HCPs to be one of the most important methods through which non-Federal landowners can resolve endangered species conflicts. We will provide technical assistance and work closely with applicants throughout development of HCPs to help identify special management considerations for the Sacramento Mountains checkerspot butterfly. We intend for HCPs to provide a package of protection and management measures sufficient to address the conservation needs of the species.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. We believe that, based on the best available information, the following actions are not likely to result in a violation of section 9, provided these actions are carried out in accordance with existing regulations and permit requirements:

(1) Possession, delivery, or movement, including interstate transport and import into or export from the United States, involving no commercial activity, of dead specimens of this taxon that were collected prior to the date of publication in the **Federal Register** of a final regulation adding this taxon to the list of endangered species;

(2) Activities authorized, funded, or carried out by Federal agencies (e.g., grazing management, non-forested area management, private or commercial development, recreational trail or forest road development or use, road construction, prescribed burns, timber harvest, pesticide/herbicide application, or pipeline or utility line construction crossing suitable habitat) when such activity is conducted in accordance with a biological opinion from us on a proposed Federal action;

(3) Low-impact, infrequent, dispersed human activities on foot or horseback (e.g., bird watching, sightseeing, backpacking, hunting, photography, camping, hiking);

(4) Activities on private lands that do not result in the take of Sacramento Mountains checkerspot butterfly, including those activities involving loss of habitat, such as normal landscape activities around your own personal residence, proper grazing management, road construction that avoids butterfly habitat, pesticide/herbicide application consistent with label restrictions; and

(5) Activities conducted under terms of a valid permit issued by us pursuant to section 10(a)(1)(A) and 10(a)(1)(B) of the Act.

We believe that the following actions involving Sacramento Mountains checkerspot butterfly could result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Capture (i.e., netting), survey, or collection of specimens of this taxon without a permit from us pursuant to section 10(a)(1)(A) of the Act;

(2) Incidental take of Sacramento Mountains checkerspot butterfly without a permit pursuant to section 10(a)(1)(B) of the Act;

(3) Sale or purchase of specimens of this taxon, except for properly documented antique specimens of this taxon at least 100 years old, as defined by section 10(h)(1) of the Act;

(4) Use of pesticides/herbicides that are in violation of label restrictions resulting in take of Sacramento Mountains checkerspot butterfly;

(5) Unauthorized release of biological control agents that attack any life stage of this taxon;

(6) Removal or destruction of the native food plants being utilized by Sacramento Mountains checkerspot butterfly, defined as *Penstemon neomexicanus, Helenium hoopesii*, or *Valeriana edulis*, within areas that are used by this taxon that results in harm to this butterfly; and

(7) Destruction or alteration of Sacramento Mountains checkerspot butterfly habitat by grading, leveling, plowing, mowing, burning, herbicide or pesticide spraying, intensively grazing, or otherwise disturbing non-forested openings that result in the death of or injury to eggs, larvae, or adult Sacramento Mountains checkerspot butterflies through significant impairment of the species essential breeding, foraging, sheltering, or other essential life functions.

Questions regarding whether specific activities will constitute a violation of section 9 of the Act or destruction or adverse modification of critical habitat should be directed to the Field Supervisor of the New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Requests for copies of the regulations concerning listed wildlife or inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone 505/248–6649; facsimile 505/248–6922).

Relationship of Critical Habitat to Incidental Take Permits Issued Under Section 10

As stated earlier, there are no approved HCPs within the proposed critical habitat designation. However, future HCPs are probable. In the event that future HCPs covering the Sacramento Mountains checkerspot butterfly are developed within the proposed critical habitat, we will work with applicants to ensure the HCPs provide for protection and management of habitat areas essential for the conservation of the butterfly, while directing development and habitat modification to nonessential areas of lower habitat value. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the Sacramento Mountains checkerspot butterfly. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a biologically configured system of interlinked habitat blocks. We fully expect that HCPs undertaken by local jurisdictions (e.g., Otero County or the Village of Cloudcroft) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species. We will conduct a robust economic analysis on the effects of the proposed critical habitat designation prior to a final determination. We will conduct an analysis that complies with the ruling by the Tenth Circuit Court of Appeals in *New Mexico Cattle Growers Association, et al.* v. *U.S. Fish and Wildlife Service.* When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**, and we will reopen the comment period at that time to accept comments on the economic analysis or further comment on the proposed rule.

Public Comments Solicited

We intend for any final action resulting from this proposal to be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Final promulgation of the regulations on Sacramento Mountains checkerspot butterfly will take into consideration any comments and any additional information we receive during the comment period, and such communications may lead to a final regulation that differs from this proposal. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat for the Sacramento Mountains checkerspot butterfly as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Depending on additional status information received (e.g., new localities) and the development and implementation of conservation agreements or management plans to reduce the threats to the Sacramento Mountains checkerspot butterfly, whether the development of a special rule under section 4(d) of the Act would promote conservation of this taxon;

(3) Biological, commercial, trade, or other relevant data concerning threats (or lack thereof) to the Sacramento Mountains checkerspot butterfly;

(4) Specific information on the amount, range, and distribution of Sacramento Mountains checkerspot butterflies and their habitat, and what habitat is essential to the conservation of the species and why;

(5) The location of any additional localities of Sacramento Mountains checkerspot butterfly;

(6) Current or planned activities in the subject area and their possible impacts on this taxon;

(7) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(8) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on unincorporated communities, small entities (e.g., businesses), or individuals; and

(9) Economic and other values associated with designating critical habitat for the Sacramento Mountains checkerspot butterfly such as those derived from non-consumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, "existence values," or reductions in administrative costs).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. All comments must be received in our New Mexico Ecological Services Field Office by November 5, 2001.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested by October 22, 2001. Should

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a public hearing be requested, then we will announce the date, time, and place for the hearing in the **Federal Register** and local newspapers at least 15 days prior to the hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this notice easier to understand including answers to questions such as the following: (1) Are the requirements in the notice clearly stated? (2) Does the notice contain technical language or jargon that interferes with the clarity? (3) Does the format of the notice (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the notice? What else could we do to make the notice easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to the Field Supervisor, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and has been reviewed by the Office of Management and Budget (OMB), under Executive Order 12866.

(a) While we will prepare an economic analysis to assist us in considering whether areas should be excluded pursuant to section 4 of the Act, we believe that this rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. Under the Act, critical habitat may not be destroyed or adversely modified by a Federal agency action; the Act does not impose any restrictions related to critical habitat on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency. The Act prohibits us from considering the economic impacts that may result from listing the species.

(b) This rule, if finalized, will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies would be required to ensure that their actions do not destroy or adversely modify designated critical habitat of the Sacramento Mountains checkerspot butterfly. Because of the potential for impacts on other Federal agencies activities, we will review this proposed action for any inconsistencies with other Federal agency actions.

(c) We believe that this rule, if finalized, will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients, except those involving Federal agencies which would be required to ensure that their activities do not destroy or adversely modify designated critical habitat. As discussed above, we do not anticipate that the adverse modification prohibition (from critical habitat designation) will have any significant economic effects, but will wait until completion of the economic analysis to fully evaluate expected effects.

(d) OMB has determined that the critical habitat portion of this rule will raise novel legal or policy issues and, as a result, this rule has undergone OMB review. The listing portion of this rule will not raise novel legal or policy issues. The proposed rule follows the requirements for proposing to list a species and determining critical habitat contained in the Endangered Species Act.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

The areas we are proposing as critical habitat are already occupied, or used by the Sacramento Mountains checkerspot butterfly as corridors for movement between populations or suitable habitat. As a result, Federal agencies funding, permitting, or implementing activities in these areas will be required to consult with us under section 7 of the Act, to avoid jeopardizing the continued existence of this species, if the species becomes listed under the Act. While the designation of critical habitat will require that agencies ensure, through section 7 consultation, that their activities do not destroy or adversely modify critical habitat, for the reasons discussed above we do not believe this will result in any additional regulatory burden on the Federal agencies or their applicants. As a result, this proposed rule, if finalized, would not result in a significant economic burden on Federal agencies or their applicants. Additionally, the majority of businesses that support the approximately 700 residents living in the Village of Cloudcroft and an additional 2,300 people living in the small communities in the mountain area, are located within the limits of the Village of Cloudcroft. These businesses support tourism and the retirement community, which are the main sources of income for the Village of Cloudcroft (Clements and Sem 1997). The Village of Cloudcroft contains existing man-made structures and other features not containing one or more of the primary constituent elements are not considered critical habitat

Therefore, we are certifying that the proposed designation of critical habitat in this rule is not expected to have a significant adverse impact on a substantial number of small entities. Thus, no regulatory flexibility analysis is necessary.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any of their actions involving Federal funding or authorization must not destroy or adversely modify the critical habitat or take the species under section 9.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year (i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act).

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. This critical habitat rule will not increase or decrease the restrictions on private property concerning take of the Sacramento Mountains checkerspot butterfly. We do not anticipate that property values will be affected by critical habitat designation, but will analyze the effects in our economic analysis.

Federalism

In accordance with Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposal with appropriate resource agencies in New Mexico (i.e., during the 90-day finding comment period). We will continue to coordinate any future listing decisions or designation of critical habitat for the Sacramento Mountains checkerspot butterfly with the appropriate agencies. The designation may have some benefit to these governments in that the areas essential to the conservation of the species would be clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species would be specifically identified.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections 3(a) and 3(b)(2) of the Order. We propose to list a species and designate critical habitat in accordance with the provisions of the Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Sacramento Mountains checkerspot butterfly.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* This rule will not impose new record-keeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (Douglas County v. Babbitt, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as that of the Sacramento Mountains checkerspot butterfly, pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners v. U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for critical habitat designation. We will notify the public of the availability of the draft environmental assessment for this proposal.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and the Department of the Interior's requirement at 512 DM 2, we understand that recognized Federal Tribes must be related to on a Government-to-Government basis. We are not aware of any Tribal lands essential for the conservation of the Sacramento Mountains checkerspot butterfly. Therefore, we are not proposing to designate critical habitat for the Sacramento Mountains checkerspot butterfly on Tribal lands. Additionally, the proposed designation does not contain any lands that we have identified as impacting Tribal trust resources

References Cited

A complete list of all references cited in this rulemaking is available upon request from the New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Eric Hein, New Mexico Ecological Services Field Office (see **ADDRESSES** section) (telephone 505/346–2525).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons given in the preamble, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201—4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "INSECTS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	•
INSECTS							

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Species		Historic range	Vertebrate population where endangered or theatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
Butterfly, Sacramento Mountains checkerspot.	*Euphydryas anicia cloudcrofti.*	U.S.A. (NM)	NA	E		17.95(i)	NA
*	*	*	*	*	*	*	*

3. Amend § 17.95(i) by adding critical habitat for the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects.*

* * * * *

Sacramento Mountains Checkerspot Butterfly (*Euphydryas anicia cloudcrofti*)

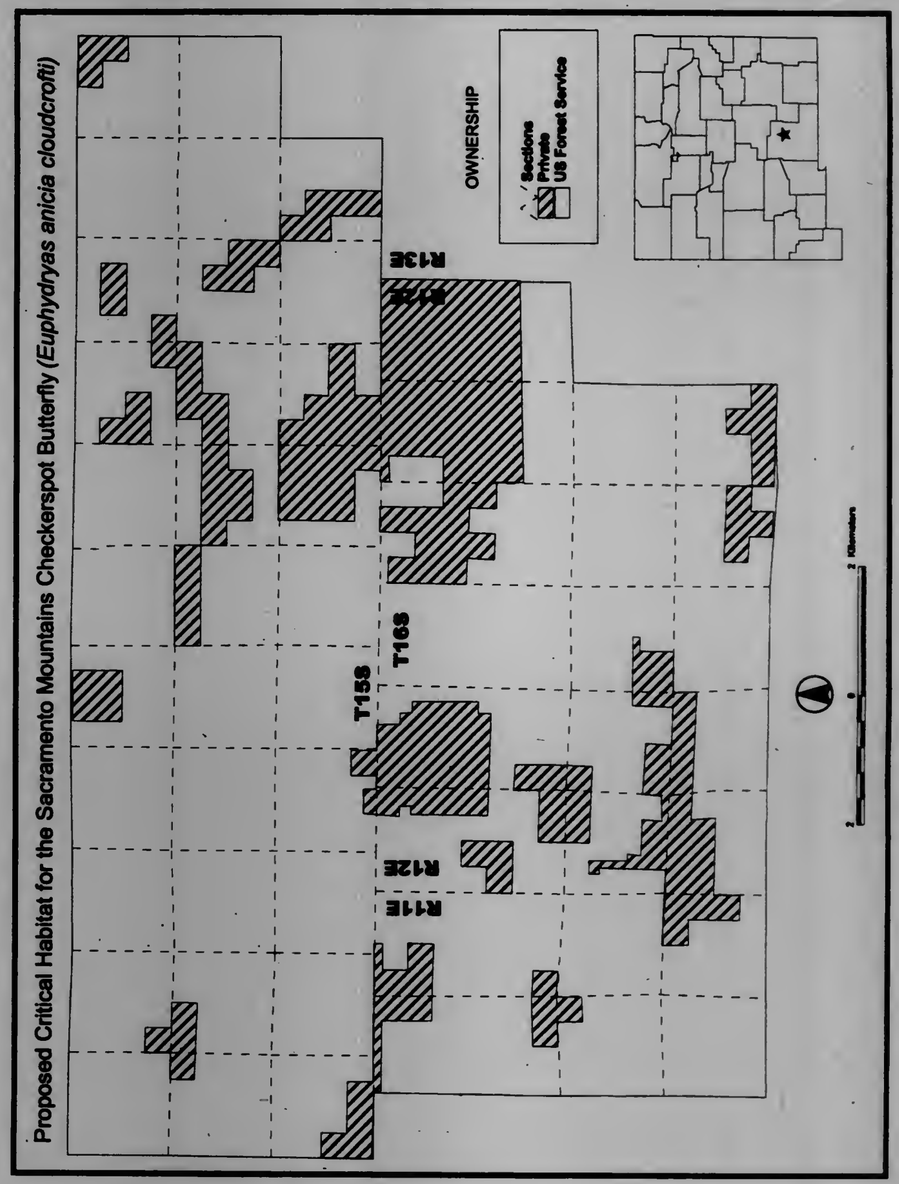
1. Proposed critical habitat is depicted for Otero County, New Mexico, on the maps below.

2. Within these areas, the primary constituent elements of critical habitat for the Sacramento Mountains checkerspot butterfly are: (1) Levation between 2,450 and 2,750 m (8,000 and 9,000 ft) within the mixed-conifer forest (Lower Canadian Zone) and within an approximate 140 square km (54 square mi) polygon centered around the Village of Cloudcroft, Otero County, New Mexico, south of the Mescalero Apache Nation boundary; (2) drainages, meadows, or grasslands; (3) supporting the known food plants New Mexico penstemon (*Penstemon neomexicanus*), sneezeweed (*Helenium hoopesii*), or valerian (*Valeriana edulis*); (4) less than 5 percent canopy cover; and (5) composed of plants such as arrowleaf groundsel (*Senecia triangularis*), curly-cup gumplant (*Grindelia squarrosa*), figworts (*Scrophularia* sp.), penstemon (*Penstemon* sp.), skyrocket (*Ipomopsis aggregata*), milkweed (*Asclepias* sp.), Arizona rose (*Rosa woodsii*), or Wheeler's wallflower (*Erysimum capitatum*). Areas adjacent to or linking areas that have some or all of the above elements and are sufficient to provide for dispersal between areas of butterfly habitat are necessary for the conservation of the species and thus are proposed as critical habitat. Habitat that provides for dispersal may not support all of the other primary constituent elements.

3. Existing man-made structures and other features not containing one or more of the primary constituent elements are not considered critical habitat.

Map 1: Otero County, New Mexico. From USGS 7.5' quadrangle map Cloudcroft, New Mexico, New Mexico Principal Meridian: T.15 S., R.13 E., sects 19–35; T.15 S., R.12 E., sects 20–29, 32–36; T.16 S., R.11 E., sects 1–2, 11–14; T.16 S., R.12 E., sects 1–11, 14–18.

BILLING CODE 4310–55–P



* * * * *

Dated: August 30, 2001.

Marshall P. Jones, Jr.,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–22340 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–C

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Notices

Federal Register
Vol. 66, No. 173
Thursday, September 6, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–044–1]

Notice of Request for Reinstatement of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection that it uses in preventing the introduction and spread of livestock and poultry diseases through the importation into the United States of restricted and controlled materials.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–044–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–044–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information regarding regulations to prevent the introduction and spread of livestock and poultry diseases through the importation into the United States of restricted and controlled materials, contact Dr. Tracye Butler, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1232; (301) 734–3277. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS" Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Restricted and Controlled Animal and Poultry Products and Byproducts, Organisms, and Vectors into the United States.

OMB Number: 0579–0015.

Type of Request: Reinstatement of an information collection.

Abstract: The United States Department of Agriculture (USDA) restricts and controls the importation of certain animal and poultry products and byproducts, organisms, and vectors to prevent the introduction and spread of livestock and poultry diseases into the United States.

To do this, we must collect information from a variety of individuals, both within and outside the United States, who are involved in handling, transporting, and importing these items. Collecting this information is critical to our mission of ensuring that these imported items do not present a disease risk to the livestock and poultry populations of the United States.

If these information collections are not conducted, the United States will be at increased risk of an exotic disease incursion. The introduction of such diseases as rinderpest, foot-and-mouth disease, hog cholera, African swine fever, swine vesicular disease, and exotic Newcastle disease would have an immeasurable impact upon the U.S. livestock and poultry industries, not only in the area of animal health, but also in the realm of international trade.

Collecting this information requires us to use a number of forms and documents, which are described below. We are asking the Office of Management and Budget (OMB) to approve our use of these information gathering tools for 3 years.

VS Form 16–25 (Application for Approval or Report of Inspection of Establishments Handling Restricted Animal Byproducts or Controlled Materials) is a dual purpose form. It is an application for those establishments requesting approval to handle restricted imported animal byproducts and controlled materials. It also serves as a report of inspections of establishments to ensure that restricted and controlled imports are being handled in compliance with our requirements.

VS Form 16–26 (Agreement for Handling Restricted Imports of Animal Byproducts and Controlled Materials) is a form signed by an operator of an establishment wishing to handle restricted or controlled materials in which the operator agrees to comply with all requirements for handling the restricted and controlled materials.

VS Form 16–3 (Application for Permit to Import Controlled Materials/Import or Transport Organisms or Vectors) is the application and agreement form used by individuals seeking a permit.

Certain sections of 9 CFR parts 94 and 95 specify that various categories of animal products, byproducts, and controlled materials may be imported into the United States if authorization for such importation has been granted by the Administrator, Animal and Plant Health Inspection Service (APHIS). Such permission is given only when the Administrator is satisfied that the importation will not constitute an undue risk to U.S. livestock and poultry.

Under 9 CFR part 122, organisms that present a disease risk to animals or poultry, or vectors of such disease agents, may not be imported or moved interstate without a permit issued by the U.S. Department of Agriculture. Part 122 specifies that importers must obtain such permits prior to the importation or interstate transport of the organism or vector.

Prospective importers may apply for import authorization by completing the appropriate sections of VS Form 16–3. APHIS personnel must have the essential data concerning the proposed importation in order to evaluate the request and determine what safeguard measures are appropriate in each case

and to advise APHIS port and border personnel regarding clearance of arriving shipments.

Certificates. Under 9 CFR parts 94, 95, and 96, certain animal and poultry products must have a certificate from the national government of the exporting country to be eligible for importation into the United States. These certificates are required to verify that the animal or poultry products meet the sanitary requirements of our regulations (e.g., originated from disease-free animals and from animals native to the country of origin, or were prepared in a certain manner in an approved establishment).

The certificate accompanies each shipment to the United States. Upon arrival of the shipment, the certificate is presented to APHIS port inspectors who evaluate the information according to the permission authorization and 9 CFR parts 94, 95, and 96.

The certificate, signed by a full-time salaried veterinary official from the country of origin, or other authorized person, provides us with information that enables us to determine whether an article meets our requirements for importation.

Seals. Certain animal or poultry products and byproducts must be shipped in sealed containers or holds to ensure that the integrity of the shipment is not violated. The seals must be numbered, the numbers of the seals must be recorded on the government certificate that accompanies the shipment, and the seals must not have been tampered with. USDA inspectors at the port of entry inspect the seals and verify that the seals are intact and that the numbers match those on the certificates.

Compliance agreement, recordkeeping requirements. Certain animal or poultry products and byproducts are required to be processed in a certain manner in an establishment in a foreign country before being exported to the United States. We require an official of the processing plant to sign a written agreement prepared by APHIS. By signing this agreement, this official certifies that the animal products being exported to the United States have been processed in a manner approved by the USDA, and that adequate records of these exports are being maintained.

Marking requirements. Before certain animal products may enter the United States, they must be marked, with an ink stamp or brand, to indicate that the products have originated from an approved meat processing establishment and have been inspected by appropriate veterinary authorities. The mark is applied to the meat product by processing plant personnel.

Foreign meat inspection certificate for importation of fresh meat from regions free of FMD and rinderpest, but subject to certain restrictions due to their proximity to, or trading relationships with, regions where FMD or rinderpest exists. This certificate, completed by a veterinary official of the exporting region, provides specific information regarding the establishment where the animals were slaughtered, the origin of the animals, and the processing and handling of the meat or other animal products.

Certification of a national government for importation of pork or pork products from a swine vesicular disease-free region. This is a statement, completed by a government official of an exporting region, certifying the U.S.-destined pork or pork product originated in a region that is free from swine vesicular disease.

Cleaning and disinfecting methods. This is a letter from veterinary officials of an exporting region stating that appropriate cleaning and disinfecting methods have been applied to trucks, railroad cars, or other means of conveyance used to transport certain animal products destined for the United States.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning these information collection activities. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.306554 hours per response.

Respondents: Importers, exporters, shippers, foreign animal health authorities, owner/operators of establishments that handle restricted and controlled materials.

Estimated annual number of respondents: 7,098.

Estimated annual number of responses per respondent: 8.0545224.

Estimated annual number of responses: 57,171.

Estimated total annual burden on respondents: 17,526 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 30th day of August 2001.

Alfonso Torres,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22403 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Special Cotton Import Quota Announcements Numbers 1 and 2

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Two special import quotas for upland cotton are established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991, and Presidential Proclamation 6948 of October 29, 1996. The quotas are referenced as the Commodity Credit Corporation Special Cotton Import Quota Announcement Numbers 1 and 2 and are set forth in subheadings 9903.52.01 and 9903.52.02, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: Each of the special quotas is subject to an established date and applies to upland cotton purchased not later than 90 days from the established date and entered into the United States not later than 180 days from the established date. Dates applicable to each individual special import quota are contained in a table following this notice.

FOR FURTHER INFORMATION CONTACT: Scott O. Sanford, Farm Service Agency, United States Department of Agriculture, STOP 0515, 1400 Independence Avenue, SW., Washington, DC 20013–0515 or call (202) 720–3392.

SUPPLEMENTARY INFORMATION: The 1996 Act, as amended, requires that a special

global import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met for 2 consecutive 4-week periods ending August 9, 2001. Therefore, quotas referenced as Special Cotton Import Quota Announcement Numbers 1 and 2 are established subject to the following dates and quantities.

Each special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to extra long staple cotton.

Authority: Sec. 136, Public Law 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, DC on August 30, 2001.

James R. Little,

Acting Executive Vice President, Commodity Credit Corporation.

Secretary of Agriculture's cotton import quota announcement	HTS subheading	News release date	Quota start date	90-day purchase date	180-day import date	Quota amount (Kilograms)	3-month consumption base period
Number 1	9903.52.01	8/02/01	8/09/01	11/06/01	2/04/02	33,238,369	April–June 2001.
Number 2	9903.52.01	8/09/01	8/16/01	11/13/01	2/11/02	33,238,369	April–June 2001.

[FR Doc. 01–22402 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Cane Creek Watershed, TN

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Cane Creek Watershed, Lauderdale County Tennessee.

FOR FURTHER INFORMATION, CONTACT: James W. Ford, State Conservationist, Natural Resources Conservation Service, 675 U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203, telephone number (615) 277–2531.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, James W. Ford, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is remedial and is planned to correct degradation of the channel of Cane Creek and other associated damages. Repair work is necessary as a result of original design deficiencies during channel modification in 1970. The planned works of improvement include installation of five main channel structures and structures within the channel of two major tributaries. Federal financial assistance will be provided to effect recommended repairs.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting James W. Ford. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: August 16, 2001.

James W. Ford,

State Conservationist.

[FR Doc. 01–22343 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Hay Lake Wetland Restoration, Coconino County, AZ

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hay Lake Wetland Restoration Project in Coconino County, Arizona.

FOR FURTHER INFORMATION CONTACT: Michael Somerville, State Conservationist, Natural Resources Conservation Service, 3003 North Central Avenue, Suite 800, Phoenix, AZ 85012, telephone (602) 280–8801.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. Based on evidence presented, Michael Somerville, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project proposes to restore wetland functions and values to an ephemeral, depressional wetland.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. Copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Stephen Smarik, Environmental Coordinator at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Michael Somerville,

State Conservationist.

[FR Doc. 01–22344 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, September 13, 2001, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of July 13, 2001 Meeting
III. Announcements
IV. Staff Director's Report
V. FY–2003 Budget Estimate to OMB
VI. Recommendations to Congress for National Electoral Reform
VII. Future Agenda Items
11 a.m. Briefing on Environmental Justice

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications, (202) 376–8312.

Les Jin,

Staff Director.

[FR Doc. 01–22536 Filed 9–4–01; 2:21 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2002 Economic Census, Commodity Flow Survey.

Form Number(s): CFS–1000.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 400,000 hours.

Number of Respondents: 50,000.

Avg Hours Per Response: 2 hours.

Needs and Uses: The 2002 Commodity Flow Survey, a component of the Census Bureau's 2002 Economic Census, is a cooperative effort between the Census Bureau and the Department of Transportation's Bureau of Transportation Statistics. The survey produces key information about the transportation of freight in the United States. The Commodity Flow Survey is the only source of nationwide data on the movement of goods from origin to destination by all modes of transportation and for intermodal combinations. This survey provides a crucial set of statistics on the value, weight, mode, and distance of commodities shipped by mining, manufacturing, wholesale, and selected retail establishments. The Census Bureau will publish these statistics at the national, Census Region, Census Division, state, and selected Metropolitan Area levels. As in the 1997 Commodity Flow Survey, this survey also identifies shipments that are exports and/or shipments of hazardous materials.

Federal, state, and local government agencies spend over $100 billion annually on transportation programs. The Commodity Flow Survey provides data that are critical to these agencies in making a wide range of transportation investment decisions for developing and maintaining an efficient transportation infrastructure that supports economic growth and competitiveness. Numerous other Federal, state, and local agencies require the Commodity Flow Survey data on transportation flows, as they impact the domestic economy in many ways. Transportation planners require the periodic benchmarks provided by a continuing Commodity Flow Survey to evaluate and respond to ongoing geographic shifts in production and distribution centers, as well as policies such as just in time delivery.

The 2002 Commodity Flow Survey will be a mail-out/mail-back sample survey of 50,000 business establishments. Respondents will be asked to provide four reports each over the course of 2002. This reflects a reduction of 50 percent in sample size from the 1997 Commodity Flow Survey as a result of funding limitations. If full funding were to become available, the sample size would be increased to 100,000 establishments.

Affected Public: Businesses or other for-profit.

Frequency: Data will be collected quarterly over the course of 2002. The collection is conducted every five years as part of the quinquennial economic census.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 193 and 224.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22348 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 35–2001]

Foreign-Trade Zone 35—Philadelphia, PA, Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Philadelphia Regional Port Authority, grantee of FTZ 35, Philadelphia, Pennsylvania, requesting authority to expand its zone to include a site in Fort Washington, Pennsylvania, adjacent to the Philadelphia Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the

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regulations of the Board (15 CFR part 400). It was formally filed on August 28, 2001.

FTZ 35 was approved on March 24, 1978 (Board Order 128, 43 FR 14531, 4/6/78) and expanded on August 21, 1980 (Board Order 162, 45 FR 58388, 9/3/80) and on December 29, 1993 (Board Order 678, 59 FR 1372, 1/10/94). The zone project currently consists of seven sites in the Philadelphia area: *Site 1* (176,541 sq. ft.)—located at Pier 78 South, Philadelphia; *Site 2* (24 acres)—located at Pier 98 South Annex, Philadelphia; *Site 3* (341,000 sq. ft.)—consisting of Piers 38 and 40, Philadelphia; *Site 4* (35 acres)—Penn Terminals Complex, One Saville Avenue, Eddystone; *Site 5* (19 acres)—warehouse complex located at 3033 63rd Street, Philadelphia; *Site 6* (32 acres)—Publicker Site, located at 2937 Christopher Columbus Boulevard, Philadelphia; and, *Site 7* (2 acres)—American Foodservice Corporation's cold storage facility, located at 400 Drew Court, King of Prussia. An application is pending with the Board to include the jet fuel storage and distribution system at the Philadelphia International Airport in Philadelphia and Tinicum Township, Pennsylvania (FTZ Docket 20–2001).

The applicant is now requesting authority to expand the general-purpose zone to include an additional site (Proposed Site 9, 66 acres) at the Fort Washington Exposition Center, located at 1100 Virginia Drive within the Fort Washington Industrial and Office Park, Fort Washington. The site is owned by 1100 Virginia Drive Associates. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 5, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 20, 2001.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, The Curtis Center, Suite 580 West, 6th and Walnut Streets, Philadelphia, PA 19106

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: August 28, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–22417 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Change of Address; Submission of Comments

The office of the Foreign-Trade Zones Board staff has moved from the Herbert Clark Hoover Building—Room 4008 to the Franklin Court Building—Suite 4100W. Submissions to the Board should hereafter be directed to one of the addresses described below:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, D.C. 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, D.C. 20230.

Dated: August 31, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–22418 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Germany; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, United States Department of Commerce.

ACTION: Notice of amended final results of administrative review

SUMMARY: On July 12, 2001, the Department of Commerce published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Sweden, and the United Kingdom. Based on our analysis of a comment received, we are amending the final results of reviews of the antidumping duty order covering cylindrical roller bearings from Germany with respect to merchandise produced by INA Wälzlager Schaeffler oHG.

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Richard Rimlinger, AD/CVD Enforcement, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3477 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of January 1, 1995. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On July 12, 2001, the Department published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Italy, Japan, Sweden, and the United Kingdom (66 FR 36551). We invited interested parties to comment on our final results. Based on a timely comment we received from a respondent, INA Wälzlager Schaeffler oHG (INA), we are now amending the final results of review with respect to the order covering cylindrical roller bearings (CRBs) from Germany. The period of review (POR) for this order is May 1, 1999, through December 31, 1999.

On July 11, 2001, we received a letter from INA stating that it had reviewed the Department's disclosure materials and found a ministerial error. Specifically, INA alleged that the Department in its final results inadvertently used the wrong variable in its computer program to identify whether INA's home-market customers are affiliated or unaffiliated. We reviewed INA's allegation and agree with INA; therefore, we are amending the final results of review for CRBs from Germany. For more information, see analysis memorandum from analyst to file dated August 9, 2001.

Amendment to Final Results

We are now amending the final results of administrative review of the antidumping duty order on CRBs from Germany for the period of review May 1, 1999, through December 31, 1999. As a result of this change, the weighted-average margin for INA changed from 2.96 percent to 2.82 percent. Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise exported by INA covered by this administrative review.

We are issuing and publishing this determination in accordance with section 751(a) of the Act.

Dated: August 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–22416 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Preliminary Results of Antidumping Duty New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to a request from Shanghai Taoen International Trading Co., Ltd. (Shanghai Taoen). The review covers the period September 1, 1999 through September 30, 2000.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) and NV. Interested parties are invited to comment on these preliminary results. (See the "Preliminary Results of Review" section of this notice.)

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Mark Hoadley, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2312 or (202) 482–0666, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

The Department published in the **Federal Register** an antidumping duty order on freshwater crawfish tail meat from the PRC on September 15, 1997 (62 FR 48218). On September 29, 2000 the Department received timely requests for review, in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations, from Coastal (Jiangsu) Foods Co., Ltd. (Coastal), Shouzhou Huaxiang Foodstuffs Co., Ltd. (Shouzhou), and Shanghai Taoen, to conduct new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC.

On November 6, 2000, the Department published its initiation of these new shipper reviews for the period September 1, 1999 through August 31, 2000. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Reviews*, 65 FR 66525 (November 6, 2000).

On March 16, 2001 the Department published an extension of the deadline for completion of the preliminary results of these new shipper reviews until August 27, 2001. *See Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China*, 66 FR 15219 (March 16, 2001).

The new shipper requests were made pursuant to section 751(a)(2)(B) of the Act and § 351.214(b) of the Department's regulations, which state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period covered by the original investigation (the POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer.

The regulations require that the exporter or producer shall include in its request, with appropriate certifications: (i) The date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States, or if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the period of investigation (POI); and (iv) in an antidumping proceeding involving inputs from a non-market-economy (NME) country, a certification that the export activities of such exporter or producer are not controlled by the central government. *See* 351.214(b)(2) of the Department's Regulations.

The request received from Shanghai Taoen was accompanied by information and certifications establishing the effective date on which this company first shipped and entered freshwater crawfish tail meat for consumption in the United States, the volume of each shipment, and the date of first sale to an unaffiliated customer in the United States. Shanghai Taoen certified that it was not affiliated with any company which exported freshwater crawfish tail meat from the PRC during the POI. In addition, Shanghai Taoen certified that its export activities are not controlled by the central government. With respect to Coastal and Shouzhou, their entries of subject merchandise occurred well after the end of the period of review (POR), and we determined that an expansion of the normal POR would likely prevent the Department from completing this review within the designated time limits. Therefore, we rescinded the new shipper reviews for Coastal and Shouzhou. For a full discussion of this issue, *see Freshwater Crawfish Tail Meat From the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Reviews*, 66 FR 41831 (August 9, 2001) (*Rescission Notice*). Thus, only the new shipper review of Shanghai Taoen remains.

Scope of Review

The product covered by this review is freshwater crawfish tail meat, in all its

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forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in mid-year 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Verification

As provided in section 782(i) of the Act, we conducted a verification of the responses of Shanghai Taoen. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (room B099 of the Main Commerce Building).

New Shipper Status

Based on the questionnaire responses received from Shanghai Taoen, and our verification thereof, we preliminarily determine that this company has met the requirements to qualify as a new shipper during the POR. We have determined that the company made its first sale or shipment of subject merchandise to the United States during the POR, that these sales were bona fide sales, and that these companies were not affiliated with any exporter or producer that previously shipped to the United States.

Separate Rates

Shanghai Taoen has requested a separate, company-specific rate. In its questionnaire responses, the company states that it is an independent legal entity.

To establish whether a company operating in an NME country is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). Under this policy, exporters in NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. De facto absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

De Jure Control

With respect to the absence of *de jure* government control over the export activities of all the companies reviewed, evidence on the record indicates that Shanghai Taoen's export activities are not controlled by the government. Shanghai Taoen submitted evidence of its legal right to set prices independently of all government oversight. The business license of the company indicates that it is permitted to engage in the exportation of crawfish. We find no evidence of *de jure* government control restricting this company's exportation of crawfish.

In general, no export quotas apply to crawfish. Prior verifications have confirmed that there are no commodity-specific export licenses required and no quotas for the seafood category "Other," which includes crawfish, in *China's Tariff and Non-Tariff Handbook* for 1996. In addition, we have previously confirmed that crawfish is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities*. (*See Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999) and *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*, 64 FR 27961 (May 24, 1999) (*Ningbo New Shipper Review*).)

The following law, which has been placed on the record of this review, indicates a lack of *de jure* government control over privately-owned companies, such as Shanghai Taoen, and that control over these enterprises rests with the enterprises themselves. *The Administrative Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons* (*Legal Persons Law*), issued on June 13, 1988 by the State Administration for Industry and Commerce of the PRC and placed on the record of this review, provides that, to qualify as legal persons, companies must have the "ability to bear civil liability independently" and the right to control and manage their businesses. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. *See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (November 6, 1995) (*Manganese Metal*). At verification, we saw that the business license for Shanghai Taoen was granted in accordance with this law. Therefore, we preliminarily determine that there is an absence of *de jure* control over export activity with respect to this firm.

De Facto Control

With respect to the absence of *de facto* control over export activities, the information provided, and reviewed at verification, indicates that the management of Shanghai Taoen is responsible for the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for this company. In addition, we have found that the respondent's pricing and export strategy decisions are not subject to any outside entity's review or approval, and that there are no governmental policy directives that affect these decisions.

There are no restrictions on the use of export earnings. The company's general manager has the right to negotiate and enter into contracts, and may delegate this authority to employees within the company. There is no evidence that this authority is subject to any level of governmental approval. Shanghai Taoen has stated that its management is selected by its board of directors and/or its employees and that there is no government involvement in the selection process. Lastly, decisions made by respondent concerning purchases of subject merchandise from other suppliers are not subject to government approval. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over its export activities, we preliminarily determine that a separate rate should be applied to Shanghai Taoen.

Normal Value Comparisons

To determine whether respondent's sales of the subject merchandise to the United States were made at prices below NV, we compared their United States prices to NV, as described in the "United States Price" and "Normal Value" sections of this notice.

United States Price

For Shanghai Taoen, we based United States price on EP in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (CEP) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated purchaser in the United States. We deducted foreign inland freight and brokerage and handling expenses from the starting price (gross unit price) in accordance with section 772(c) of the Act.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the companies contested such treatment in these reviews. Accordingly, we have applied surrogate values to the factors of production to determine NV. *See Factor Values Memo for the Preliminary Results of the Antidumping Duty New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China*, August 27, 2001 (*Factor Values Memo*).

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations. Consistent with the original investigation and the first administrative review of this order, we determined that India (1) is comparable to the PRC in level of economic development, and (2) is a significant producer of comparable merchandise. With the exceptions of the crawfish input and by-product, we valued the factors of production using publicly available information from India. We adjusted the Indian import prices by adding freight expenses to make them delivered prices. Because Shanghai Taoen was unable to support its reported tape factor at verification, we are using partial facts available for this factor, in accordance with section 776(a) of the Act and section 351.308 of the Department's regulations. For tape, we are using the amount calculated at verification.

In the original investigation of sales at less than fair value (LTFV) and in previous reviews of this order, for the crawfish input, we used Spanish import statistics for live freshwater crawfish imported from Portugal. However, Spanish imports of live freshwater crawfish from Portugal have declined drastically. From April 1999 through March 2000, the production period corresponding to the current review, Spanish imports from Portugal were only 17 metric tons, in contrast to the 357 metric tons used during the investigation, and 160 metric tons used during the 1997–98 administrative review. This represents a decline of 95.2 percent since the period of the LTFV investigation. In addition, unlike in other years, Spanish imports from Portugal were heavily weighted towards one month. This one month accounted for 71 percent of the total volume of imports from Portugal for that year. Small import volumes as a whole, and one month accounting for the vast proportion of imports, seem to indicate that live freshwater crawfish is no longer a product that is regularly traded between Portugal and Spain. Therefore, we searched for data reflecting a more substantial volume of trade. For these preliminary results, we have used Australian farm gate prices for whole, live freshwater crawfish. *See, Factor Values Memo*. For a complete discussion of our choice of Australian farm gate prices, refer to *Issues and Decision Memo for the Final Results of the Antidumping Duty New Shipper Reviews of Freshwater Crawfish Tail Meat from the People's Republic of China*, August 20, 2001 (Comment 1) (*September 1999-March 2000 Decision Memo*). The public version of this document is on file in the Central Records Unit (room B099 of the Main Commerce Building).

We valued the factors of production as follows:

- To value whole crawfish, we used the Australian farm gate price for freshwater crawfish ($3 Australian per kilogram for freshwater crawfish less than 40 grams) as reported in *Freshwater Crawfish Tail Meat (crawfish) from the People's Republic of China (PRC): Meetings Regarding the Crawfish Industry in Western Australia*, July 31, 2001. For further details, refer to the *September 1999-March 2000 Decision Memo*, at Comment 4.
- To value the by-product of shells, we used a September 1999 free-on-board (FOB) factory price quote for crab and shrimp shells from a Canadian seller of crustacean shells and incorporated a 30 percent wet/dry conversion factor. For further details, *see Factors Value Memorandum*.
- To value coal and electricity, we used data reported as the average Indian domestic prices within the categories of "Steam Coal for Industry" and "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes, First Quarter, 2000*. We adjusted the cost of coal to include an amount for transportation. For water, we relied upon public information from the October 1997 *Second Water Utilities Data Book: Asian and Pacific Region*, published by the Asian Development Bank.

To achieve comparability of energy and water prices to the factors reported for the crawfish processing periods applicable to the companies under review, we adjusted these factor values to reflect inflation to the applicable crawfish processing season during the POR using the Wholesale Price Index (WPI) for India, as published in the 2001 *International Financial Statistics* (*IFS*) by the International Monetary Fund (IMF).

- To value packing materials (plastic bags, cardboard boxes and adhesive tape), we relied upon Indian import data from the April 1998 through March 1999 issues of *Monthly Statistics of the Foreign Trade of India (Monthly Statistics)*. We adjusted these prices to reflect inflation to the crawfish processing season during the POR. We adjusted the values of packing materials

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to include freight costs incurred between the supplier and the factory. For transportation distances used in the calculation of freight expenses on packing materials, we added, to surrogate values from India, a surrogate freight cost using the shorter of (a) the distances between the closest PRC port and the factory, or (b) the distance between the domestic supplier and the factory. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China*, 62 FR 51410 (October 1, 1997) (*Roofing Nails*).

• To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we calculated simple average rates using publicly available financial statements of four Indian seafood processing companies, and applied these rates to the calculated cost of manufacture. *See Factor Values Memorandum*.

• For labor, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000. *See http://ia.ita.doc.gov/wages/*. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of these wage rate data on the Import Administration's web site is the *1998 Year Book of Labour Statistics*, International Labour Office (Geneva: 1998), Chapter 5: Wages in Manufacturing.

• We valued movement expenses as follows:

• To value truck freight expenses we used seventeen price quotes from six different Indian trucking companies which were used in the antidumping investigation of *Bulk Aspirin from the People's Republic of China*, 65 FR 33805 (May 25, 2000). We adjusted the rates to reflect inflation to the month of sale of the finished product using the WPI for India from the *IFS*.

To value brokerage and handling in the home market, we used information reported in the antidumping administrative review of *Certain Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews*, 63 FR 48184 (September 9, 1998) (*Stainless Steel Wire Rod from India*), and also used in the *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Administrative Antidumping Duty and New Shipper Reviews, and Final Rescission of New Shipper Review*, 65 FR 20948 (April 19, 2000). We adjusted the rates to reflect inflation to the month of sale using the WPI for India from the *IFS*.

We used the average of the foreign brokerage and handling expenses reported in the U.S. sales listing of the public questionnaire response submitted in the antidumping review of Viraj Group, Ltd. in *Stainless Steel Wire Rod from India*. Charges were reported on a per metric ton basis. We adjusted these values to reflect for inflation to the month of sale using the WPI for India from the IFS. For further discussion, *see Factor Values Memorandum*.

Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations at the rates certified by the Federal Reserve Bank. *See http://ia.ita.doc.gov/exchange/index.html*.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Shanghai Taoen	9/1/99–9/30/00	7.23

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of this preliminary result, unless the time limit is extended.

Upon completion of this new shipper review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of this review. For assessment purposes, we calculated importer-specific assessment rates for freshwater crawfish tail meat from the PRC. We divided the total dumping margins (calculated as the difference between NV and EP) for each importer by the total quantity of subject merchandise sold to that importer during the POR. Upon the completion of this review, we will direct Customs to assess the resulting quantity-based rates against the weight in kilograms of each entry of the subject merchandise by the importer during the POR. *See Memorandum to Barbara E. Tillman through Maureen Flannery, from Mark Hoadley: Collection of Cash Deposits and Assessment of Duties on Freshwater Crawfish from the PRC*, August 27, 2001.

The following deposit rates will be effective upon publication of the final results of this new shipper review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The per kilogram cash deposit rate for Shanghai Taoen will be the total amount of duties it owes for the POR divided by the total quantity it entered during the POR; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the current PRC-wide rate, 201.63 percent; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

This notice also serves as a preliminary reminder to importers of their responsibility under § 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 27, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–22415 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Manufacturing Extension Partnership National Advisory Board (MEPNAB), National Institute of Standards and Technology (NIST), will meet Thursday, September 20, 2001 from 8 a.m. to 3:30 p.m. The MEPNAB is composed of nine members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was established to fill a need for outside input on MEP. MEP is a unique program consisting of centers in all 50 states and Puerto Rico. The centers have been created by state, federal, and local partnerships. The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. The purpose of this meeting is to hear about latest developments, status of plans for 2002 and the logic, background, progress and goals of the 360vu brand. There will also be a presentation on findings from a technology extension pilot partnering. Discussions scheduled to begin at 8 a.m. and to end at 9:30 a.m. and to begin at 2:30 p.m. and to end at 3:30 p.m. on September 20, 2001, on personnel issues and proprietary budget information will be closed.

DATES: The meeting will convene September 20, 2001 at 8 a.m. and will adjourn at 3:30 p.m. on September 20, 2001.

ADDRESSES: The meeting will be held in the Tenth Floor Conference Room, Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899–4800, telephone number (301) 975–5033.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration with the concurrence of the General Counsel formally determined on December 18, 2000, that portions of the meeting which involve discussion of proposed funding of the MEP may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because that portion will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of the meeting which involve discussion of the staffing of positions in MEP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in that portion of the meeting is likely to reveal information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 28, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–22285 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[980608149–1186–02]

RIN 0648–ZA44

Financial Assistance for the Use of Satellite Data for Studying Local and Regional Phenomena

AGENCY: National Environmental Satellite, Data, and Information Service, National Oceanic and Atmospheric Administration, Department of Commerce

ACTION: Notice of availability of Federal assistance.

SUMMARY: The Office of Research and Applications announces the availability of Federal assistance for fiscal year 2002 to expand the use of satellite data for the study of scientific phenomena in local and regional areas. This announcement provides detailed guidelines for the technical program, evaluation criteria, and selection procedures.

DATES: Proposals must be received no later than 5 pm EDT on October 25, 2001. Applications received after that time will be returned without review.

ADDRESSES: Office of Research and Applications; NOAA/NESDIS; 5200 Auth Road; Rm 701; Camp Springs, MD 20746–4304.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Drahos, Federal Program Officer, at 301–763–8204 or Hank.Drahos@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority: Statutory authority for this program is provided under 49 U.S.C. 44720.

Catalog of Federal Domestic Assistance (CFDA). This program is listed in the CFDA under Number 11.440.

Program Description

NOAA's National Environmental Satellite, Data, and Information Service (NESDIS) Office of Research and Applications (ORA) has established a program to provide free real-time satellite data to academic institutions for their use in studying local and regional phenomena. The emphasis of the program is to foster new uses and expand the use of satellite data within the academic community. In order to do so, ORA will: (1) provide *free access to real-time satellite data* for use in ongoing projects; (2) provide data and funds for the purchase of basic equipment required for analysis as part of an existing program or teaching laboratory; and (3) provide data to support students for research purposes.

Examples of real-time data and holding periods available are: Advanced Very High Resolution Radiometer (AVHRR) (72 hours), Geostationary Operational Environmental Satellite (GOES) sounder (240 hours) and imagery (82 hours), METEOSAT (24 hours), GMS (24 hours), and conventional (100 hours). Data older than the given times is not available free under this grant program. The use of this program solely for free data for ongoing activities with no other costs encumbered is encouraged.

The purpose of this notice is to identify eligibility criteria, roles and responsibilities, milestones, and selected criteria associated with the award. Each funded project will establish a 1-year grant between ORA and the grantee. Funding amounts will range from a minimum of $0 plus free data up to $25,000 for equipment and personnel.

Background

ORA provides overall guidance and direction to the research and application activities of NESDIS. ORA provides expert service to other NESDIS offices relating to sensor development, instrument problems, or systems hardware components. It coordinates with NESDIS, other appropriate NOAA units, and U.S. Government agencies in the implementation and evaluation of operational and research satellite data and products that result from research activities. It coordinates research activities of mutual interest with the academic community, NASA laboratories, and with foreign laboratories, particularly those in satellite operating countries. ORA provides advice to the Assistant Administrator concerning interfaces among centers and offices of NESDIS and among the major NOAA elements in relation to broad scale scientific projects. It produces and provides specific programmatic studies and statistics as needed. ORA provides support and coordination on NOAA's activities in the Strategic Plan and the U.S. Global Change Research Program.

Roles und Responsibilities

ORA: ORA will have primary responsibility for the following activities: 1. Provide funds and real-time satellite data needed for the project. 2. Provide technical guidance for image processing and analysis. Monitor progress and evaluate progress reports.

Grantee: The grantee shall have primary responsibility for the following activities associated with the project: 1. Organize and manage grant activities. 2. Identify a Principal Investigator who will take the lead for all technical aspects of the grant and be responsible for using satellite data as a key tool in the activity. 3. The grantee will agree to use the data only for the purposes stated in the proposal.

Grant Application Package

All applicants are required to submit a NOAA Grants Application Package and project proposal. The standard NOAA Grants Application Package (which includes Forms SF–424, SF–424A, SF–424B, CD–511, CD–512 if you have subcontracts or subgrantees, and SF–LLL if you are involved in lobbying activities) can be obtained from the NOAA Grants Website at *http://www.rdc.noaa.gov/~grants/pdf/.* If Internet access is not available, the standard NOAA Grant Application can be obtained from the Office of Research and Applications (301–763–8127).

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

Required Elements

All recipients are to closely follow the instructions and guidelines in the preparation of the standard NOAA Application Forms listed earlier in this document.

1. Signed Summary title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative. The page identifies the project's title and the PI's name and affiliation, complete address, phone, FAX, and e-mail address.

2. Project Proposal should include the following sections, totaling no more than 8 pages.

A. Goals and Objectives—identify broad project goals and quantifiable objectives.

B. Background/Introduction—state the problem and summary of existing federal/state/local efforts.

C. Audience—identify explicitly the audience and describe specifics of how the project will contribute to the target audience.

D. Project Description/Methodology—describe the specifics of the activity (3 pages maximum), with a complete and explicit description of the project area. Expected Results—list desired outcomes in terms of products or services.

3. Project Budget—provide a detailed budget breakdown by category and provide a brief narrative budget justification. Multi-year proposals will be accepted; however, future funding will be dependent upon satisfactory performance and the availability of funds. The annual awards must have scopes of work that are clearly severable that can be easily separated into annual increments of meaningful work which represent solid accomplishments if prospective funding is not made available to the applicant.

Selection Process

Applicants will submit project proposals to the Office of Research and Applications by the published due date. A project selection panel will be convened to review and recommend selection using the criteria published in these guidelines. Each proposal will be reviewed by at least three reviewers who are qualified to review the proposed work. These reviewers may include both Federal and non-Federal individuals, each of whom will provide an independent recommendation. Proposals will be ranked according to a scoring system (explained below) and presented to the Selecting Official (Director, ORA) for final selection. In addition to the rankings assigned by the panel members, the Director may consider geographic location and balance of technical areas in making his final decision. Selection Criteria (with weights).

1. Relevance of the Proposed Research to NESDIS and NOAA Missions (30 points) Will the activity foster broader knowledge concerning the use of satellite data in meteorological and/or oceanographic research at your institution?

2. Technical Merit (60 points) Is the proposed activity scientifically sound and relevant?

3. Overall Qualifications (10 points) Are the proposers capable of conducting a project of the scope and scale proposed (i.e., scientific, professional, facility, and administrative resources/capabilities?

Selection Schedule

Proposals due—October 25, 2001.

Final selection—Approximately January 1, 2002.

Grant start date—Approximately March 1, 2002.

Note: All deadlines are for receipt by 5 p.m. EDT on October 25, 2001. All applicants are required to submit one original and two copies of a completed and signed NOAA Grants Application Package. The application package may be obtained by calling (301) 763–8127 or accessed on-line from the NOAA Grants Home Page at *http://www.rdc.noaa.gov/~grants/index/html.*

Reporting Requirements

The Grantee will be required to provide a semi-annual progress report and a final report to the Federal Program Officer.

Funding Availability

NOAA expects that approximately $100,000 will be available in FY 2002 for this program. However, publication of this notice does not obligate NOAA to award any specific grant or cooperative agreement or to obligate all or any part of the available funds.

Cost Sharing

There is no requirement for matching funds under this award.

Eligibility Criteria

Eligible applicants are institutions of higher education, other nonprofits, state, local and Indian tribal governments. NESDIS Cooperative Institutes and Federal agencies or institutions are not eligible to receive Federal assistance under this Notice.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by the Applicant's cognizant Federal agency, prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 "Certifications Regarding Debarment, Suspension, and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying," and explanations are hereby provided.

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR, part 26, Section 605) are subject to 15 CFR part 26, subpart f, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities."

Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866. Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for this notice concerning grants, cooperative agreements, benefits, and contracts. Therefore, this notice is exempt from the requirements of the Regulatory Flexibility Act. Notwithstanding any

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other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Dated: August 29, 2001.

Mary M. Glackin,

Deputy Assistant Administrator for Satellite and Information Services.

[FR Doc. 01–22430 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–HR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Short Supply Request Under the United States - Caribbean Basin Trade Partnership Act (CBTPA) and the African Growth and Opportunity Act (AGOA)

August 31, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Denial of the petition alleging that micro-denier, 30 and 36 singles solution dyed staple open-end spun viscose yarn, for use in knit fabrics, cannot be supplied by the domestic industry in commercial quantities in a timely manner.

SUMMARY: On June 29, 2001 the Chairman of CITA received a petition from Fabrictex alleging that micro-denier, 30 and 36 singles solution dyed open-end staple spun viscose yarn, for use in knit fabrics, classified in subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA and AGOA. Based on currently available information, CITA has determined that substitutable products can be supplied by the domestic industry in commercial quantities in a timely manner and therefore denies the petition.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112 (b)(5)(B) of the AGOA, Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA and the AGOA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA and the AGOA also provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA or AGOA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On June 29, 2001 the Chairman of CITA received a petition from Fabrictex alleging that micro-denier, 30 and 36 singles solution dyed staple open-end spun viscose yarn, for use in knit fabrics, classified in subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA and the AGOA.

On July 9, 2001, CITA solicited public comments regarding this request (66 FR 35777) particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. On July 25, 2001, CITA and the Office of the U.S. Trade Representative offered to hold consultations with the relevant Congressional committees. We also requested advice from the U.S. International Trade Commission and the relevant Industry Sector Advisory Committees.

On the basis of currently available information, including its review of the petition and public comments and advice received and its understanding of the industry, CITA has determined that stock dyed viscose yarn is substitutable for a solution dyed viscose yarn for purposes of the intended use, and that this substitute yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Currently available information indicates that there is available domestic capacity to open-end spin micro-denier viscose yarn and there is available domestic capacity to stock dye fiber to any color required by Fabrictex. Stock dyed open-end spun micro-denier viscose yarn can be supplied in the quantities and in the time frame specified by Fabrictex. CITA concludes in the context of this petition that U.S. producers have the ability to supply substitutable yarns in commercial quantities in a timely manner. Fabrictex's request is denied.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–22405 Filed 9–5–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held in the Executive Conference Room, Building 202, Ft. Belvoir, Virginia on Wednesday, September 19, 2001 from 0900 until 1500. The purpose of this meeting is to report back to the BoV on continuing items of interest.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mr. John Michel at (703) 805–4575.

Dated: August 29, 2001.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 01–22309 Filed 9–5–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 219. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 219 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: September 1, 2001.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 218. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the Federal Register ow constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

CIVILIAN BULLETIN NO. 219—MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

[The only changes in civilian bulletion 219 updates rates for Alaska]

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
Alaska:						
Anchorage [Incl Nav Res]						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
Barrow	140 60 34		15		215	05/01/2000
Bethel	90 50 29		13		153	09/01/2001
Clear	80 44 26		11		135	09/01/2001
Cold Bay	153 35 22		9		197	09/01/2001
Coldfoot	135 57 33		14		206	10/01/1999(ROW
Copper Center	85 39 24		10		134	09/01/2001
Cordova	80 58 33		14		152	03/01/2000
Craig						
05/01–08–31	90 52 30		13		155	09/01/2001
09/01–04/30	77 51 30		13		141	09/01/2001
Deadhorse	80 54 31		13		147	03/01/1999
Delta Junction	79 40 24		10		129	09/01/2001
Denali National Park						
06/01–08/31	125 53 31		13		191	09/01/2001
09/01–05/31	90 50 29		13		153	09/01/2001
Dillingham	95 48 28		12		155	09/01/2001
Dutch Harbor-Unalaska	110 54 31		13		177	09/01/2001
Eareckson Air Station	80 44 26		11		135	09/01/2001
Eielson AFB						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Elemendorf AFB						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
Fairbanks						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Ft. Greely	79 40 24		10		129	09/01/2001
Ft. Richardson						
05/01–09/15	161 52 30		13		226	09/01/2001
09/16–04/30	89 46 27		11		146	09/01/2001
Ft. Wainwright						
05/01–09/15	149 53 31		13		215	09/01/2001
09/16–04/30	75 46 27		12		133	09/01/2001
Glennallen						
05/01–09/30	137 49 29		12		198	09/01/2001
10/01–04/30	89 45 27		11		145	09/01/2001
Healy						
06/01–08/31	125 53 31		13		191	09/01/2001
09/01–05/31	90 50 29		13		153	09/01/2001
Homer						

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CIVILIAN BULLETIN NO. 219—MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

[The only changes in civilian bulletion 219 updates rates for Alaska]

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
05/15–09/15	119	54	31		13	186	09/01/2001
09/16–05/14	79	50	29		13	142	09/01/2001
Juneau	109	52	30		13	174	09/01/2001
Kaktovik	165	60	34		15	240	01/01/2000
Kavik Camp	125	55	32		14	194	03/01/1999
Kenai–Soldotna							
04/01–10/31	131	55	32		14	200	09/01/2001
11/01–03/31	86	52	30		13	151	09/01/2001
Kennicott	159	57	33		14	230	09/01/2001
Ketchikan	98	51	30		13	162	09/01/2001
King Salmon							
05/01–10/01	160	64	36		16	240	09/01/2001
10/02–04/30	95	58	33		15	168	09/01/2001
Klawock							
05/01–08/31	90	52	30		13	155	09/01/2001
09/01–04/30	77	51	30		13	141	09/01/2001
Kodiak	99	56	32		14	169	09/01/2001
Kotzebue							
05/01–08/31	137	55	32		14	206	09/01/2001
09/01–04/30	95	44	26		11	150	09/01/2001
Kulis AGS							
05/01–09/15	161	52	30		13	226	09/01/2001
09/16–04/30	89	46	27		11	146	09/01/2001
McCarthy	159	57	33		14	230	09/01/2001
Metlakatla							
05/30–10/01	98	45	27		11	154	09/01/2001
10/02–06/01	78	43	26		11	132	09/01/2001
Murphy Dome							
05/01–09/15	149	53	31		13	215	09/01/2001
09/16–04/30	75	46	27		12	133	09/01/2001
Nome	89	51	30		13	153	09/01/2001
Nuiqsut	175	42	25		11	228	09/01/2001
Point Hope	130	56	21		14	200	03/01/1999
Point Lay	105	54	31		13	172	03/01/1999
Prudhoe Bay	80	54	31		13	147	03/01/1999
Seward							
05/31–09/30	119	53	31		13	185	09/01/2001
10/01–05/30	74	49	29		12	135	09/01/2001
Sitka-Mt. Edgecombe							
05/16–09/16	139	58	33		15	212	01/01/2000
09/17–05/15	129	58	33		14	201	01/01/2000
Skagway	98	51	30		13	162	09/01/2001
Spruce Cape	99	56	32		14	169	09/01/2001
Tanana	89	51	30		13	153	09/01/2001
Umiat	172	62	35		16	250	09/01/2001
Valdez							
05/01–10/01	109	55	32		14	178	09/01/2001
10/02–04/30	99	54	31		14	167	09/01/2001
Wainwright	124	41	25		10	175	09/01/2001
Wasilla	95	48	28		12	155	01/01/2000
Wrangell	98	51	30		13	162	09/01/2001
Yakutat	110	54	31		14	178	03/01/1999
(Other)	80	44	26		11	135	09/01/2001
American Samoa: American Samoa			85		67	152	03/01/2000
Guam: Guam (Incl All Mil Instal)			150		71	221	04/01/2000
Hawaii:							
Camp H M Smith			112		65	177	06/01/2000
Eastpac Naval Comp Tele Area			112		65	177	06/01/2000
Ft. Derussey			112		65	177	06/01/2000
Ft. Shafter			112		65	177	06/01/2000
Hickam AFB			112		65	177	06/01/2000
Honolulu (Incl Nav & Mc Res Ctr)			112		65	177	06/01/2000
Isle of Hawaii: Hilo			84		58	142	05/01/2000
Isle of Hawaii: Other			89		54	143	05/01/2000

CIVILIAN BULLETIN NO. 219—MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

[The only changes in civilian bulletion 219 updates rates for Alaska]

Locality	Maximum lodging amount (A)	+	M&IE rate (B)	=	Maximum per diem rate (C)	Effective date
Isle of Kauai						
05/01–11/30	143		69		212	06/01/2000
12/01–04/30	176		73		249	06/01/2000
Isle of Kure	65		41		106	05/01/1999
Isle of Maui	143		72		215	05/01/2000
Isle of Oahu	112		65		177	06/01/2000
Kaneohe Bay Mc Base	112		65		177	06/01/2000
Kekaha Pacific Missile Range Fac						
05/01–11/30	143		69		212	06/01/2000
12/01–04/30	176		73		249	06/01/2000
Kilauea Military Camp	84		58		142	05/01/2000
Lualualei Naval Magazine	112		65		177	06/01/2000
Nas Barbers Point	112		65		177	06/01/2000
Pearl Harbor (Incl All Military)	112		65		177	06/01/2000
Schofield Barracks	112		65		177	06/01/2000
Wheeler Army Airfield	112		65		177	06/01/2000
(Other)	72		61		133	01/01/2000
Johnston Atoll: Johnston Atoll	13		16		29	12/01/2000
Midway Islands: Midway Islands (Incl All Military)	150		47		197	02/01/2000
Northern Mariana Islands:						
Rota	149		72		221	04/01/2000
Saipan	154		87		241	04/01/2000
(Other)	55		72		127	04/01/2000
Puerto Rico:						
Bayamon						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Carolina						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Fajardo (Incl Ciba & Luquillo).						
Ft. Buchanan (Incl GSA Svc Ctr)						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Humacao	82		54		136	01/01/2000
Luis Munoz, Marin IAP AGS						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
Mayaguez	85		59		144	01/01/2000
Ponce	96		69		165	01/01/2000
Roosevelt RDS & Nav Sta	82		54		136	01/01/2000
Sabana Seca [incl All Military]						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
San Juan & Nav Res Sta						
04/11–12/23	155		71		226	01/01/2000
12/24–04/10	195		75		270	01/01/2000
[Other]	62		57		119	01/01/2000
Virgin Islands (U.S.):						
St. Croix						
04/15–12/14	93		72		165	01/01/2000
12/15–04/14	129		76		205	01/01/2000
St. John						
04/15–12/14	219		84		303	01/01/2000
12/15–04/14	382		100		482	01/01/2000
St. Thomas						
04/15–12/14	163		73		236	01/01/2000
12/15–04/14	288		86		374	01/01/2000
Wake Island: Wake Island	60		32		92	09/01/1998

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Dated: August 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22308 Filed 9–5–01; 8:45 am]

BILLING CODE 5001–08–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Thursday, September 13, 2001. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at Temple University Ambler, 580 Meetinghouse Road, Ambler, Pennsylvania.

The conference among the Commissioners and staff will begin at 10 a.m. The session will include a welcome and remarks on the Center for Sustainable Communities by Temple Ambler Dean Dr. Sophia T. Wisniewska; introduction of the Commission's new Deputy Executive Director; and reports on: The status of the Commission's comprehensive planning effort; development of the PCB TMDL for the Delaware Estuary; the Toxics Advisory Committee meeting of August 9, 2001; the TMDL PCB Expert Panel meeting of September 11, 2001; the Flow Management Technical Advisory Committee meeting of July 26, 2001; and the July 31, 2001 Day on the Delaware, hosted by the Delaware River Foundation and Trout Unlimited.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the dockets listed below, a resolution recognizing the July 2001 codification of the Delaware River Basin Commission's policies and approved projects and facilities as the comprehensive plan of the Commission in accordance with Section 13.1 of the Delaware River Basin Compact; deleting the Evansburg Project from the plan; making additional minor revisions; and providing for the codification's electronic publication and updating.

The dockets scheduled for public hearing are as follows:

1. *Public Service Enterprise Group D–68–20 CP (Revision 2).* A project to revise the heat dissipation area specified in DRBC Docket No. D–68–20 CP (Revision 1) for the thermal discharge from Salem Generating Station. The project is located on Artificial Island in Lower Alloways Township, Salem County, New Jersey, in DRBC Water Quality Zone 5.

2. *Anthony E. Argiros D–99–46.* A project to replace the applicant's failing sewage leach fields with a 16,500 gallons per day (gpd) secondary treatment plant which will continue to serve the Family School in the Town of Hancock, Delaware County, New York. The proposed sewage treatment plant (STP) will discharge to Abe Lord Creek, a tributary of the Delaware River.

3. *New Jersey-American Water Company D–99–73 CP.* A ground water withdrawal project to supply up to 25.4 million gallons (mg)/30 days of water to the applicant's Logan System from new Well No. 6 and to increase the withdrawal limit from all wells to 50 mg/30 days. The project is located in Logan Township, Gloucester County, New Jersey.

4. *Montgomery Township Municipal Sewer Authority D–2001–16 CP.* A project to expand the Eureka STP from 0.75 mgd to 2.4 mgd, while continuing to provide advanced secondary level treatment via an anoxic/oxic process. The plant is located at 1485 Lower State Road, approximately 1,000 feet west of State Highway 152. The plant will continue to serve residential and industrial development in portions of Montgomery Township, Montgomery County, Pennsylvania. STP effluent will discharge to Little Neshaminy Creek through the existing outfall.

5. *Wernersville Municipal Authority D–2001–17 CP.* A project to transfer up to 1.5 mgd of potable water to the applicant's public water distribution system via an interconnection with the Western Berks Water Authority (WBWA). The applicant proposes to construct a 20,300 linear feet pipeline from Hains Church to the WBWA water main on Robers Bridge Road approximately 3,000 feet east of its intersection with State Hill Road, all within Lower Heidelberg Township, Berks County, Pennsylvania. The project will serve mainly residential customers in Wernersville Borough, Lower Heidelberg and South Heidelberg Townships, all in Berks County.

6. *Hilltown Township Water and Sewer Authority D–2001–19 CP.* A project to construct a 0.15 mgd STP to serve approximately 2,500 existing and future residents of Hilltown Township, Bucks County, Pennsylvania. The proposed STP will provide tertiary level treatment via sequencing batch reactors, chemical precipitation and disk filtration. The proposed STP will be located approximately 3,000 feet north of the intersection of Keystone Drive and Diamond Road in Hilltown Township. STP effluent will be discharged to an unnamed tributary of Mill Creek in the East Branch Perkiomen Creek watershed.

7. *Artesian Water Company D–2001–24 CP.* A ground water withdrawal project to supply up to 13 mg/30 days of water to the applicant's public water supply system from new Well No. 1 in the Cockeysville Formation; to interconnect Well No. 1 to Artesian Water Company's distribution system; and to increase the existing withdrawal from all wells to 553 mg/30 days. The project is located in the Brandywine-Christina watershed Northeast of the city of Newark, New Castle County, Delaware.

8. *Upper Merion Municipal Utility Authority D–2001–29 CP.* A project to relocate an STP outfall from a small stream, Trout Creek (locally known as Trout Run), to the nearby Schuylkill River. No expansion of the 6 mgd STP is proposed. The STP will continue to provide secondary treatment via a trickling filter and oxidation tower process. The project is located on Mancill Mill Road in Upper Merion Township, Montgomery County, Pennsylvania. The project will continue to serve portions of Tredyffrin and Easttown Townships in Chester County and Upper Merion Township in Montgomery County, Pennsylvania.

9. *Artesian Water Company, Inc. D–2001–34 CP.* A ground water withdrawal project to supply up to 14 mg/30 days of water to the applicant's public water supply system from new Well No. 1 in the Cheswold Formation. The project is located in the St. Jones River watershed, Kent County, Delaware.

In addition to the public hearing, the Commission will address the following at its 1 p.m. business meeting: Minutes of the July 25, 2001 business meeting; announcements; report on hydrologic conditions; reports by the Executive Director and Acting General Counsel; public dialogue; and resolutions (1) amending the Administrative Manual, By-Laws, Management and Personnel to provide for confirmation of the appointment of the Deputy Executive Director; (2) confirming the appointment of a new Deputy Executive Director to the Commission; (3) authorizing the Executive Director to enter into an agreement for development of a TMDL database through an existing General Services Administration Contract with Battelle; and (4) authorizing the Executive Director to enter into contracts with Rutgers University and the University of Maryland for air-water flux and sediment studies to support development of a TMDL for PCBs in the Delaware Estuary consistent with certain grant awards.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at 609–883–9500 ext. 221 with any docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Secretary at 609–883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at 609–883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the Commission may accommodate your needs.

Dated: August 27, 2001.

Pamela M. Bush,

Commission Secretary and Acting General Counsel.

[FR Doc. 01–22407 Filed 9–5–01; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 6, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Crystal Thomas, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *CAThomas@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 31, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Application for Designation as an Eligible Institution for Titles III and IV.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1,200.

Burden Hours: 8,400.

Abstract: Institutions of Higher Education will submit this form in order to be designated as eligible to compete for grants under the Higher Education Act of 1965, as amended, Title III, Parts A and C and Title V.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266 or via his internet address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–22391 Filed 9–5–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice Extending the Public Scoping Period for the Programmatic Environmental Impact Statement on the Disposition of Scrap Metals and Announcement of Public Scoping Meetings

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) announces the extension of the public scoping period and additional public scoping meetings for the programmatic environmental impact statement (PEIS) that DOE is preparing on the policy alternatives for the disposition of DOE scrap metals that may have residual surface radioactivity.

DATES: The scoping period on the PEIS is extended 60 days until November 9, 2001. DOE invites Federal agencies, Native American tribes, state and local governments, and members of the public to comment on the scope of this PEIS. DOE will consider all comments received by the close of the scoping period and will consider comments received after that date to the extent practicable. DOE will conduct additional public scoping meetings to assist in defining the appropriate scope of the PEIS, including the alternatives and significant environmental issues to be considered. DOE will hold additional meetings in the following locations:

Meeting: Ken Edwards Community Center, 1527 Fourth Street, Santa Monica, California 90401. October 8, 2001, 8–10 P.M.

Meeting: Simi Valley City Hall, 2929 Tapo Canyon Road, Simi Valley, California 93063. October 9, 2001, 8–10 P.M.

Meeting: Zuhrah Shrine Center, 2540 Park Avenue, Minneapolis, Minnesota 55404. October 16, 2001, 2–5 P.M., 8–10 P.M.

Meeting: American Conference Centers, 780 Third Avenue, C2, New York, NY 10017. October 18, 2001, 2–5 P.M. 8–10 P.M.

At each scoping meeting, the public will have the opportunity to ask questions and to comment orally or in

writing on the scope of the PEIS, including the alternatives and issues that DOE should consider. Also, at these meetings, DOE plans to provide background information on the program and the PEIS preparation schedule.

ADDRESSES: Comments on the scope of the PEIS may be mailed to the address below or sent by facsimile or electronic mail. Written comments may be mailed to the following address. Kenneth G. Picha, Jr., Office of Technical Program Integration, EM–22, Attn: Metals Disposition PEIS, Office of Environmental Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0113, Telephone: (301)–903–7199.

Otherwise, send comments via facsimile to Metals Disposition PEIS at 301–903–9770 or send electronic mail to *Metals.Disposition.PEIS@em.doe.gov* or the web site at *www.em.doe.gov/smpeis.*

FOR FURTHER INFORMATION: To request further information about this PEIS, the public scoping meetings, or to be placed on the PEIS distribution list, use any of the methods listed under **ADDRESSES** above. For background documents in hard copy related to this PEIS contact the DOE Center for Environmental Management Information at 800–736–3282. For general information concerning the DOE National Environmental Policy Act (NEPA) process, contact: Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, Telephone: 202–586–4600, Voice Mail: 800–472–2756, Facsimile: 202–586–7031.

Additional NEPA information is also available on the DOE web site: *http//tis.eh.doe.gov/nepa/*

SUPPLEMENTARY INFORMATION: DOE generates surplus and scrap material during the normal course of activities, and attempts to recycle as much as possible consistent with common industrial practice. DOE is also guided by several Executive Orders that provide direction to Federal Agencies on recycling practices to avoid unnecessary energy consumption and use of raw materials for the development of new products. Much of this material consists of scrap metal that may contain residual surface radioactivity. On July 12, 2001, DOE issued a Notice of Intent (66 FR 36562) to prepare a PEIS on the DOE policy alternatives for the disposition of scrap metals that may contain residual surface radioactivity.

As originally announced in the Notice of Intent, DOE has conducted public scoping meetings on the PEIS in the following locations: North Augusta, South Carolina; Oak Ridge, Tennessee; Oakland, California; Richland, Washington; Cincinnati, Ohio; and, Washington, DC. The original public scoping period was to continue until September 10, 2001. However, in response to public comments and to ensure that the public has ample opportunity to provide comments, DOE is extending the public scoping period by 60 days and scheduling additional meetings as specified under **DATES,** above. The schedule for completion of the Draft PEIS will be delayed until March, 2002, and the Final PEIS until August, 2002. Further information on this proceeding is contained in the Notice of Intent.

Issued in Washington, DC, on August 30, 2001.

Steven V. Cary,

Acting Assistant Secretary, Office of Environment, Safety and Health.

[FR Doc. 01–22382 Filed 9–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–111–000]

California Independent System Operator; Notice of Change in Docketing

August 30, 2001.

Take notice that on June 25, 2001, July 11, 2001, August 10, 2001, the California Independent System Operator (CAISO) filed market monitoring reports in Docket Nos. EL00–95–000, EL00–98–000 and RT01–85–000, as required by the Commission's April 26, 2001 Order.[1] A new docket number has been established for these filings, and the CAISO shall hereafter file all market monitoring reports under Docket Number EL01–111–000. Previous filings, identified above, will be re-designated in the new docket.

David P. Boergers,

Secretary

[FR Doc. 01–22335 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

[1] 95 FERC ¶ 61,115 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–518–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 30, 2001.

Take notice that on August 27, 2001, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet to become effective October 1, 2001:

Sixteenth Revised Sheet No. 7

Pursuant to Order 472, the Commission authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 2001 ACA unit surcharge approved by the Commission is $0.0021 per Dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22331 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–517–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 30, 2001.

Take notice that on August 27, 2001, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to become effective October 1, 2001:

Fifth Revised Sheet No. 5
Seventh Revised Sheet No. 6
Fourth Revised Sheet No. 10

Pursuant to Order 472, the Commission authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 2001 ACA unit surcharge approved by the Commission is $0.0021 per Dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22332 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–430–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

August 30, 2001.

Take notice that on August 22, 2001, Florida Gas Transmission Company (FGT), 1400 Smith Street, Suite 3997, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP01–430–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205 and 157.211) under the Natural Gas Act (NGA) for authorization to construct and operate delivery point facilities for service to an end-user in Polk County, Florida, under FGT's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

FGT requests authorization to construct and operate delivery point facilities, consisting of a 4-inch tap valve, connecting pipe and electronic flow measurement instrumentation, to serve Florida Natural Growers (FNG). It is stated that FGT will use the facilities to transport up to 800 MMBtu equivalent of natural gas per day on an interruptible basis pursuant to Section 284.223 of the Commission's regulations. FGT estimates the cost of the facilities at $86,800 and states that it would be reimbursed by FNG for all costs associated with the facilities. FGT states that FNG will construct approximately 65 feet of connecting pipe from FGT's facilities to FNG's meter station. It is explained that the FNG currently receives gas service from Central Florida Gas, a subsidiary of Chesapeake Utilities Corporation. It is asserted that FGT has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers. It is further asserted that because the proposal involves interruptible deliveries, it will have no impact on FGT's peak day and annual deliveries.

Any questions regarding the application may be directed to Stephen T. Veatch, Director, Certificates and Regulatory Reporting, at (713) 853–6549.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22337 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–516–000]

Honeoye Storage Corporation; Notice of Tariff Filing

August 30, 2001.

Take notice that on August 24, 2001, Honeoye Storage Corporation (Honeoye) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

First Revised Title Page

Second Revised Sheet No. 25

Take further notice that Honeoye tendered for filing as part of its FERC Gas Tariff, Original Volume No.1A, the following tariff sheets proposed to be effective October 1, 2001:

First Revised Sheets No. 1
First Revised Sheets No. 2
First Revised Sheets No. 3
First Revised Sheets No. 9
First Revised Sheets No. 21
First Revised Sheets No. 25
First Revised Sheets No. 70

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First Revised Sheets No. 75
First Revised Sheets No. 105
First Revised Sheets No. 108
First Revised Sheets No. 129
First Revised Sheets No. 130
First Revised Sheets No. 135
First Revised Sheets No. 136
First Revised Sheets No. 137

Honeoye states that one of the purposes of this filing is to amend its Second Revised Volume No. 1 tariff to change Honeoye's administrative mailing address.

Honeoye states that the second purpose of this filing is to amend its Original Volume No. 1A tariff to: (1) Change Honeoye's administrative mailing address; (2) redesignate the title of its open access Gas Tariff where necessary from Original Volume No. 2 to Original Volume No. 1A; and (3) include a generic waiver of the "shipper-must-have-title" rule and a general statement that it will only transport for its customers on off-system pipeline capacity pursuant to its Commission-approved tariff and rates.

Honeoye states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22333 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–520–000]

Questar Pipeline Company; Notice of Tariff Filing

August 30, 2001.

Take notice that on August 24, 2001, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fifth Revised Sheet No. 80A and First Revised Sheet No. 80B, to be effective March 23, 2001.

On February 21, 2001, Questar filed tariff sheets in Docket No. RP01–233–000 to change the issuing officer and correct typographical errors in its tariff. The Commission approved those changes by letter order issued March 28, 2001. Among those tariff sheets, previously approved language was inadvertently omitted. This filing tenders tariff sheets to reinstate this language.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22329 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–519–000]

Questar Pipeline Company; Notice of Tariff Filing

August 30, 2001.

Take notice that on August 24, 2001, Questar Pipeline Company (Questar) tendered for filing of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fourth Revised Sheet No. 80A and Original Sheet No. 80B, to be effective November 1, 2000.

On October 10, 2000, Questar filed tariff sheets in Docket No. RP01–33–000 in compliance with Order No. 587–L (the October 10 filing), which was approved by the Commission's Order On Filings to Establish Imbalance Netting and Trading Pursuant to Order Nos. 587–G and 587–L, issued on November 9, 2000. Among those tariff sheets approved, Fourth Revised Sheet No. 80A was modified to contain carry-over language and inadvertently omitted effective tariff language that was not intended for deletion. The language that was inadvertently omitted in the October 10 filing is being tendered for reinstatement in this filing. These tariff sheets contain only the previously approved language.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22330 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–521–000]

Trailblazer Pipeline Company ; Notice of Proposed Changes in FERC Gas Tariff

August 30, 2001.

Take notice that on August 27, 2001, Trailblazer Pipeline Company (Trailblazer) tendered for filing certain tariff sheets to become part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective September 27, 2001.

Trailblazer states that the purpose of this filing is to make several minor revisions to Trailblazer's Tariff, including changes to the General Terms and Conditions, to pro forma service agreements and rate schedules. These changes correct or clarify various provisions of Trailblazer's Tariff and remove or modify outdated provisions.

Trailblazer states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22328 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–433–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

August 30, 2001.

On August 27, 2001, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed an application in Docket No. CP01–433–000 pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA) for (1) a certificate of public convenience and necessity authorizing Transco's installation and operation of two electric motor driven centrifugal compressors at Transco's existing Compressor Station No. 35 in Harris County, Texas to comply with the Clean Air Act Amendments of 1990, and (2) an order permitting and approving abandonment by removal of the four existing natural gas-fired compressors at Station No. 35. To comply with requirements set by the Texas Natural Resource Conservation Commission (TNRCC) for the Metropolitan Houston-Galveston Intrastate Air Quality Control Region, Transco needs to start work at the station in January 2002, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" from the RIMS Menu and follow the instructions (please call (202) 208–2222 for assistance).

Transco states that the Clean Air Act Amendments of 1990 and state implementation plans pursuant thereto require certain reductions of NO_X (oxides of nitrogen) air emissions at certain of Transco's compressor stations. Accordingly, during the past few years and over the next few years Transco has and plans to install or modify certain facilities at these stations to achieve the required reductions of NO_X. In most cases, installations and modifications would be made on existing natural gas-fired compressors, and Transco would make these installations and modifications pursuant to its blanket facilities certificate (18 CFR 157.208) issued in Docket No. CP82–426 when it is authorized to do so (either under automatic or prior notice authorization, depending on the estimated dollar amount). However, at Station No. 35 the existing natural gas-fired compressors will be retired and replaced with units driven by electric motors, and thus Transco states it will need individual certificate and abandonment authority from the Commission.

Transco states that the facilities at Station No. 35 are located within a fenced area of approximately 23 acres. All proposed construction activities associated with the installation of the new facilities and removal of existing facilities will occur within the boundaries of the existing station property. Extensions to existing access roads will be located within the fenced area.

Transco states that it proposes to eliminate NO_X emissions from the existing natural gas-fired compressor engines located at Station No. 35. These NO_X emission reductions are required to comply with the TNRCC requirements set for the Metropolitan Houston-Galveston Intrastate Air Quality Control Region. This NO_X emissions elimination will be achieved by replacing the four existing compressors driven by Nordberg 3800 HP natural gas-fired engines with two new centrifugal compressors, each driven by a 7455 HP General Electric synchronous electric motor. The horsepower of the new units will be sufficient to meet Transco's contract obligations to its firm shippers.

Transco states that a new compressor building housing the new units will be approximately 75 feet x 110 feet. This compressor building will be constructed north of the existing pipeline. Yard piping will be modified to accommodate the new building. A new 35 foot by 72 foot auxiliary building will be constructed to house control and safety equipment and an emergency generator. A new 16 foot by 50 foot skid-mounted switchgear building will be constructed to house the electrical equipment for the electric driven centrifugal compressors.

Transco states a new substation will be constructed for the transformers and electrical equipment that will supply electric power to the electric driven centrifugal compressors. The substation area will be approximately 120 feet x 200 feet and will be located in the northwest corner of the property. The substation will be constructed and owned by Transco. The substation will receive electric power via a high voltage service drop from an existing transmission line of Houston Lighting and Power Company, located along the western edge of the station property.

Transco states that approximately four acres of the existing station site will be impacted by the installation activity.

Transco states that no ground or surface water impacts will occur as a result of this project. The existing fenced station facility property does not contain any wetlands or surface water bodies. Areas disturbed by the installation activity will be restored and maintained according to applicable provisions in the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan ("Plan").

Transco states that the station noise emissions after the installation of the new electric units will be equal to or lower than the current station noise emissions at the nearest noise-sensitive areas.

Transco states that the above-discussed installations will cost approximately $18.2 million.

Transco states that no air permits are required for the compressor conversion, although a new natural gas-fired auxiliary generator will be registered with the TNRCC, at which time it will be authorized under a Permit-By-Rule. The TNRCC Title V permit will be modified upon the completion of this NO_x emission reduction project. Other than the above, Transco is not aware of any application to supplement or effectuate the proposal set forth herein which must be or is to be filed by Transco, any of Transco's customers, or any other persons with any other Federal, State or regulatory body.

Transco states that the construction and operation of the proposed facilities will have no significant impact on the quality of human health or the environment other than the positive impact of reducing NO_x emissions. Transco certifies that the proposed facilities will be designed, constructed, operated and maintained in accordance with all applicable safety standards and plans for maintenance and inspection.

Transco states that because of installation of the new electric units, the existing natural gas-fired compressors and associated equipment will not be needed. Accordingly, the four units and all associated equipment required for operation of these units will be removed. The existing compressor building will be demolished and removed. This will require the disturbance of an additional one acre within the Station No. 35 site. This area will be restored pursuant to the Commission's Plan and maintained as a grassy area. The estimated cost of this removal work is approximately $2.5 million.

Transco submits that this project will serve the public convenience and necessity because it will eliminate NO_x emissions at Station No. 35 and enable Transco to comply with the Clean Air Act Amendments of 1990 and the requirements set by the TNRCC for the Metropolitan Houston-Galveston Intrastate Air Quality Control Region.

Transco's contact person for this project is Tom Messick, P.O. Box 1396, Houston, Texas 77251, at (713) 215–2772.

There are two ways to become involved in the Commission's review of this abandonment. First, any person wishing to obtain legal status by becoming a party to the proceedings for this abandonment should, on or before September 20, 2001, file with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this abandonment. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the abandonment provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this abandonment should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–22336 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of New Docket Prefix "AD"

August 30, 2001.

Notice is hereby given that a new docket prefix "AD" has been established to identify Administrative items which may be listed on the Commission meeting schedule.

The prefix will be ADFY–NNN–000, where "FY" stands for the fiscal year in which the item is being scheduled, and "NNN" is a sequential number.

David P. Boergers,

Secretary.

[FR Doc. 01–22338 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–285–000, et al.]

FPL Energy Operating Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 30, 2001.

Take notice that the following filings have been made with the Commission:

1. FPL Energy Operating Services Inc.

[Docket No. EG01–285–000]

Take notice that on August 24, 2001, FPL Energy Operating Services, Inc. (the Applicant), with its principal office at 700 Universe Boulevard, Juno Beach, Florida 33408, filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a Florida corporation who entered into an O&M Agreement to operate and maintain (i) a nominal 708 megawatt (MW) gas-fired combined cycle power generation facility and (ii) a nominal 171 MW gas-fired simple cycle power generation facility (Facility) located in Ashland County, Virginia. Electric energy produced by the Facility is sold at wholesale.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

2. King City Energy Center, LLC.

[Docket No. EG01–286–000]

Take notice that on August 28, 2001, King City Energy Center, LLC (King City) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

King City, a Delaware limited liability company, proposes to own and operate one 45 MW simple cycle natural gas-fired combustion turbine peaking unit located in King City, California. King City will sell the output at wholesale to Calpine Energy Services, L.P., and other purchasers.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

3. Gilroy Energy Center, LLC.

[Docket No. EG01–287–000]

Take notice that on August 28, 2001, Gilroy Energy Center, LLC (Gilroy) filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Gilroy, a Delaware limited liability company, proposes to own and operate six simple cycle natural gas-fired combustion turbine peaking units located in Gilroy, California. Gilroy will sell the output at wholesale to Calpine Energy Services, L.P., and other purchasers.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

4. Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Metropolitan Edison Company, Potomac Electric Power Company, PECO Energy Company, PPL Electric Utilities Corporation, Public Service Electric and Gas Company, UGI Utilities, Inc.

[Docket No. ER01–897–002]

Take notice that on August 27, 2001 Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Potomac Electric Power Company, PPL, Inc., Public Service Electric & Gas Company, UGI Utilities, Inc. tendered for filing in compliance with the Federal Energy Regulatory Commission's (Commission) delegated letter order issued on April 27, 2001, in the above captioned docket, pages which have been formatted to comply with the Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) pagination requirements that are applicable to rate schedules: Atlantic City Electric Company Rate Schedule FERC No. 75; Delmarva Power & Light Company Rate Schedule FERC No. 124; Metropolitan Edison Company Rate Schedule FERC No. 77; PECO Energy Company Rate Schedule FERC No. 123; Potomac Electric Power Company Rate Schedule FERC No. 46; Public Service Electric and Gas Company Rate Schedule FERC No. 166; UGI Utilities, Inc. Rate Schedule FERC No. 9; Baltimore Gas and Electric Company Rate Schedule FERC No. 58; PPL Electric Utilities Corporation Rate Schedule FERC No. 168.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Electric Company

[Docket No. ER01–900–002]

Take notice that on August 27, 2001 Pennsylvania Electric Company tendered its compliance filing with the Federal Energy Regulatory Commission's (Commission) delegated letter order issued on April 27, 2001, in the above captioned docket, pages which have been formatted to comply with the Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) pagination requirements that are applicable to rate schedules: Pennsylvania Electric Company Rate Schedule FERC No. 63.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Pennsylvania Electric Company

[Docket No. ER01–901–002]

Take notice that on August 27, 2001, Pennsylvania Electric Power Company tendered its compliance filing with the Federal Energy Regulatory Commission's (Commission) delegated letter order issued on April 27, 2001, in the above captioned docket, pages which have been formatted to comply with the Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) pagination requirements that are applicable to rate schedule: Pennsylvania Electric Company FERC Rate Schedule No. 100.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. CP&L Holdings, Inc., et al.

[Docket No. ER00–1520–003]

Take notice that on August 23, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Carolina Power & Light Company (CP&L) and Florida Power Corporation (FPC), tendered for filing First Revised Rate Schedule FERC No. 1-System Integration Agreement between CP&L and FPC (Revised SIA) in compliance with CP&L Holdings, et al., 92 FERC ¶ 61,023 (2000).

Progress Energy respectfully requests that the Revised SIA become effective August 24, 2001, the day after filing.

Copies of the filing were served to North Carolina Utilities Commission,

the South Carolina Public Service Commission and the Florida Public Service Commission.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc., On Behalf of the Entergy Operating Companies: Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

[Docket No. ER01–2201–001]

Take notice that on August 27, 2001, Entergy Services, Inc., on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered its compliance filing in response to the Federal Energy Regulatory Commission's (Commission) order in Entergy Services, Inc., 96 FERC 61,148 (2001).

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER01–2214–001]

Take notice that on August 24, 2001, Entergy Services, Inc., tendered its compliance filing in response to the Federal Energy Regulatory Commission's (Commission) order in Entergy Services, Inc., 96 FERC ¶ 61,113 (2001).

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Metro Energy, L.L.C.

[Docket No. ER01–2317–001]

Take notice that on August 24, 2001, Metro Energy, L.L.C. (Metro Energy) made a compliance filing in the above-referenced proceeding, as directed by the Federal Energy Regulatory Commission's (Commission) August 13, 2001 letter order conditionally accepting Metro Energy's market-based rate schedule for filing.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER01–2351–001]

Take notice that on August 24, 2001, in compliance with PJM Interconnection, L.L.C., 96 FERC ¶ 61,210 (2001), PJM Interconnection, L.L.C. (PJM) tendered for filing proposed amendments to Section 18.17.1(b) to correct a typographical error.

PJM states that it served copies of this filing on all parties of record in Docket No. ER01–2351–000, all PJM members, and the state electric regulatory commissions in the PJM control area.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. AES Red Oak, L.L.C.

[Docket No. ER01–2401–001]

Take notice that on August 23, 2001, AES Red Oak, L.L.C. revised its Market Based Rate Tariff (FERC Electric Tariff Original Vol. No. 1), Docket No. ER01–2401–000 in accordance with the Federal Energy Regulatory Commission's (Commission) Rules and Regulations.

Comment date: September 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Competitive Energy Services, LLC

[Docket No. ER01–2562–001]

Take notice that on August 24, 2001, Competitive Energy Services, LLC (CES) filed a supplement to its application for market-based rates as power marketer. The supplemental information pertains to the ownership of CES.

Copies of this filing are on file with the Commission and are available for public inspection.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER01–2621–001]

Take notice that on August 24, 2001, Florida Power Corporation (FPC) tendered for filing a revision to its Cost-Based Wholesale Power Sales Tariff, FERC Electric Tariff, First Revised Volume No. 9 (CR–1 Tariff). The CR–1 Tariff is revised to include provisions for affiliate sales, consistent with Detroit Edison Company, 80 FERC ¶ 61,348 (1997), and provisions for the resale of transmission rights, consistent with Commonwealth Edison Company, 78 FERC ¶ 61,312 (1997). FPC requests that the revision become effective August 25, 2001.

Copies of the filing were served upon FPC's customers receiving service under the CR–1 Tariff and the Florida Public Service Commission.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Western Resources, Inc.

[Docket No. ER01–2752–000]

Take notice that on August 24, 2001, Western Resources, Inc.(WR) filed for withdrawal of Service Agreement No. 87 of Federal Energy Regulatory Commission (FERC) Electric Tariff First Revised No. 6 with Southern Company Energy Marketing L.P. (Southern). WR states the reason for the withdrawal is due to the fact that its submission on August 1, 2001, is duplicative to a previously accepted filing. WR requests an effective date of withdrawal of August 1, 2001.

Notice of the withdrawal has been served upon Southern and the Kansas Corporation Commission.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Pool

[Docket No. ER01–2922–000]

Take notice that on August 27, 2001, the New England Power Pool (NEPOOL) submitted, with the support and concurrence of ISO New England Inc. and National Grid USA (on behalf of its subsidiary, New England Power Company (NEP)), a filing pursuant to Section 205 of the Federal Power Act and Section 35 of the Federal Energy Regulatory Commission's (Commission) regulations, describing a transmission maintenance/construction pilot project relating to the refurbishment by NEP of a 345 kV PTF line located in central Massachusetts (Line 343). The Transmission Incentive Pilot concerns the refurbishment by NEP of Line 343 using innovative work practices to minimize line outages, resulting in avoided energy costs for New England customers.

The NEPOOL Participants Committee states that a copy of this filing was sent to the NEPOOL Participants and the New England state governors and regulatory commissions.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER01–2923–000]

Take notice that on August 27, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a long-term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Duke Energy Trading and Marketing, LLC.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. West Valley Generation LLC

[Docket No. ER01–2942–000]

Take notice that on August 13, 2001, West Valley Generation LLC changed their name from PPM Six LLC in accordance with Section 35.16 of the Federal Energy Regulatory Commission's Rules and Regulations.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22365 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

August 30, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. Application for Approval to Amend Project Boundary.

b. Project No. 2651–018.

c. *Date Filed:* August 6, 2001.

d. *Applicant:* Indiana Michigan Power Company.

e. *Name of Project:* Elkart Hydroelectric Project.

f. St. Joseph River, Elkart Indiana.

g. Filed Pursuant to: Federal Power Act, 16 USC §§ 791(a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Mr. Frank M. Simms, Fossil and Hydro Operations, American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215–2373, (614) 223–2918, *fmsimms@aep.com.*

i *FERC Contact:* Any questions on this notice should be addressed to: Samuel Edoror at (202) 208–0848, or e-mail address: *samuel.edoror@ferc.fed.us.*

j. *Deadline for filing comments and or motions:* October 1, 2001.

All documents (original and eight copies) should be filed with: Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the project number (P–2651–018) on any comments or motions filed.

k. *Description of Request:* Indiana Michigan Power Company (I&M) proposes to revise the boundary to allow water access to several parcels of land within an adjacent subdivision. (I&M) plans to convey fee interest for less than one acre of land within the project reservoir to allow an adjacent developer to access the St. Joseph River by dredging a 300 feet long channel. In return, the developer will convey a flowage easement for the parcel, plus the easement of lands within the channel up to elevation 743.00.

l. *Location of application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rule of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–22334 Filed 9–5–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; "Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Stakeholder Preferences Regarding Environmental Quality,

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Quality of Life, and Economic Development in Survey of Cape May County, New Jersey, EPA ICR No. 2019.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 2019.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.Sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 2019.01. For technical questions about the ICR contact Dr. Janet L. Gamble at (202) 564–3387.

SUPPLEMENTARY INFORMATION:

Title: Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey, EPA ICR No. 2019.01. This is a new collection.

Abstract: The Pennsylvania State University (PSU) in cooperation with the Global Change Research Program (GCRP) in the Office of Research and Development (ORD) of the U.S. Environmental Protection Agency (EPA) is proposing to conduct a survey of individual residents and business managers in Cape May County, New Jersey. The survey will solicit Cape May County (NJ) residents' perceptions about their quality of life, how they prioritize risks to their quality of life, and their judgments about trade-offs among alternative actions that would reduce vulnerability to these risks. The focus will be on risks related to changes in land-use practices such as development of open land, and risks related to the potential for storm damages that could accompany sea-level rise or climate change. The survey approach also will solicit business managers' perceptions of direct and indirect risks from flooding.

This data collection is motivated by the Mid-Atlantic Regional Assessment of the Potential Consequences of Climate Variability and Change (MARA), that showed that many potential impacts from climate change will exacerbate existing environmental stresses, particularly those from economic development and sea level rise. Yet little is known about how individuals and their communities are willing to make trade-offs between protection of nearby ecosystems and local economic development. This is particularly important in coastal communities where a major component of many livelihoods stems from tourism based on ecological features such as migratory bird habitat. Paradoxically, development decisions to accommodate more tourists could decrease the habitat for the ecosystems that attract tourists. This could be compounded by failing to account for climate change and for the sea-level rise that is occurring as Mid-Atlantic coastal areas subside; sea-level rise and climate change could affect both ecosystem habitat as well as developed areas. Decisions by individual citizens, businesses, developers, local planners, and environmental protection agencies could be improved by having information about the relative importance of a range of quality-of-life characteristics, including habitat and infrastructure protection, when compared with economic development. Because Cape May County has many of these features, it is an appropriate test case for identifying preferences about such trade-offs.

The data is being collected by Penn State University in collaboration with EPA/ORD Global Change Research Program, under Cooperative Agreement No. R–82840701–0. This survey is not associated with any rule-making process within the Federal government. Instead, Penn State will use this research to demonstrate the potential usefulness of such an approach for localities that want more information about tradeoffs related to development decisions. For Cape May County, the data will be used to assess the relative importance of quality-of-life characteristics and citizens' willingness to make trade-offs among actions to improve the levels and resiliency of those characteristics. The results will be useful most directly for (and are expected to be used by) the residents of Cape May County. The development, pretesting and revision, implementation, and analysis of the data will demonstrate the usefulness of the questionnaire for implementation by other communities facing similar issues.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 6, 2001 (66 FR 18239); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 12 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Individuals/Households and Businesses/For Profit Entities.

Estimated Number of Respondents: 2125.

Frequency of Response: One time only.

Estimated Total Annual Hour Burden: 454 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $ 5,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 2019.01 in any correspondence.

Dated: August 23, 2001

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22374 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Hazardous Waste Generator Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Hazardous Waste Generator Standards, OMB Control Number 2050–0035, expiring on September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments referencing EPA ICR No. 0820.08 and OMB Control 2050–0035, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact call Sandy Farmer at EPA, (202) 260–2740, by E-mail at *Farmer.Sandy@epamail.epa.gov*, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0820.08. For technical questions about the ICR contact Bryan Groce at 703–308–8750.

SUPPLEMENTARY INFORMATION:

Title: Hazardous Waste Generator Standards (OMB Control Number 2050–0035; EPA ICR No. 0820.08.) expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: In the Resource Conservation and Recovery Act (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency (EPA) to implement a comprehensive program for the safe management of hazardous waste. The core of the national waste management program is the regulation of hazardous waste from generation to transport to treatment and eventual disposal, or from "cradle to grave." Section 3001(d) of RCRA requires EPA to develop standards for small quantity generators. Section 3002 of RCRA among other things states that EPA shall establish requirements for hazardous waste generators regarding recordkeeping practices. Section 3002 also requires EPA to establish standards on appropriate use of containers by generators.

Finally, section 3017 of RCRA specifies requirements for individuals exporting hazardous waste from the United States, including a notification of the intent to export, and an annual report summarizing the types, quantities, frequency, and ultimate destination of all exported hazardous waste. This ICR targets five categories of informational requirements in part 262: pre-transport requirements for both large (LQG) and small (SQG) quantity generators; air emission standards requirements for LQGs (referenced in 40 CFR part 265, subparts I and J); recordkeeping and reporting requirements for LQGs and SQGs; and export requirements for LQGs and SQGs (i.e., notification of intent to export and annual reporting).

This collection of information is necessary to help generators and EPA (1) identify and understand the waste streams being generated and the hazards associated with them, (2) determine whether employees have acquired the necessary expertise to perform their jobs, and (3) determine whether LQGs have developed adequate procedures to respond to unplanned sudden or non-sudden releases of hazardous waste or hazardous constituents to air, soil, or surface water. This information is also needed to help EPA determine whether tank systems are operated in a manner that is fully protective of human health and the environment. Additionally, this information contributes to EPA's goal of preventing contamination of the environment from hazardous waste accumulation practices, including contamination from equipment leaks and process vents.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 3, 2001 (66 FR 17701); no comments were received.

Burden Statement: The average annual public reporting burden per response for LQGs under this collection of information is estimated to range from 21 minutes to 32 hours, and the average annual public reporting burden per response for SQGs is estimated to range from 21 minutes to 7 hours. The average annual recordkeeping burden per response for LQGs under this collection of information is estimated to range from 2 minutes to 3 hours, and the average annual recordkeeping burden per response for SQGs is estimated at 1 hour. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Hazardous Waste Generators, Hazardous Waste Transporters who commingle waste with different Department of Transportation descriptions; and Importers or Exporters of Hazardous Waste.

Estimated Number of Respondents: 130,511.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 475,802 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $54,288.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses listed above. Please refer to EPA ICR No. 0820.08 and OMB Control No. 2050–0035 in any correspondence.

Dated: August 23, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22370 Filed 9–5–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Emissions Standards for Hazardous Air Pollutants (NESHAP) From Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: 40 CFR part 63, subpart CC—National Emissions Standards for Hazardous Air Pollutants from Petroleum Refineries; OMB Control Number (2060–0340); expiration date August 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1692.04 and OMB No. 2060–0340, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by email at auby.susan@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No.1692.04. For technical questions about the ICR contact Dan Chadwick at (202) 564–7054.

SUPPLEMENTARY INFORMATION:

Title: National Emissions Standards for Hazardous Air Pollutants from Petroleum Refineries, 40 CFR part 63, subpart CC; OMB Control Number 2060–0340; EPA ICR Number 1692.04, expiring August 31, 2001. This is an extension of a currently approved collection.

Abstract: The information being requested includes a one-time report of construction, anticipated and actual start-up dates, and physical or operational changes to existing facilities; notification of compliance status reports; periodic reports; and event triggered (e.g., notification of installation of a new control device or reconstruction of an existing control device, notification of an intent to perform a performance test) reports. The periodic reports provide information on monitored control device parameters when they are outside of established ranges and on instances where inspections revealed problems. Records (e.g., parameter monitoring data, records of annual storage vessel inspections) are required to be maintained on-site for a minimum of 5 years.

Effective enforcement of the standards is necessary due to the hazardous nature of benzene (a known human carcinogen) and the other Hazardous Air Pollutants (HAP's) emitted from petroleum refineries. The required records and reports are necessary: (1) To enable EPA to identify new and existing sources subject to the standards, and (2) to assist EPA and State agencies to which enforcement has been delegated in determining compliance with the standards. The EPA uses the reports to identify facilities that may not be in compliance with the standards. Based on reported information, EPA can decide which facilities should be inspected and what records or specific emission sources should be inspected at each facility. The required records also provide an indication as to whether facility personnel are operating and maintaining control equipment properly.

In order to retain effective enforcement of the petroleum refinery NESHAP (sections 112 and 114 of the Clean Air Act) response to this information collection is mandatory. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 15, 2000, (65 FR 55955); no comment were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1495 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of petroleum refineries.

Estimated Number of Respondents: 157.

Frequency of Response: Semi-annually.

Estimated Total Annual Hour Burden: 469,430 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $542,173.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1692.05 and OMB Control No. 2060–0340 in any correspondence.

Dated: August 23, 2001

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22371 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Annual Updates of Emission Data to Aerometric Information Retrieval System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Annual Updates of Emission Data to Aeronmetric Information Retrieval System, EPA ICR No. 916.11, OMB Control No. 2060–0088, Expiration Date August 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 916.11 and OMB Control No. 2060–0088, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at Farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 916.11. For technical questions about the ICR contact David Misenheimer, Telephone (919) 541–5473; Email: misenheimer.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Annual Updates of Emission Data to Aerometric Information Retrieval System (OMB Control No. 2060–0088; EPA ICR No. 916.11) expiring August 31, 2001. This is a request for extension of a currently approved collection.

Abstract: This ICR deals with reports required by 40 CFR 51.321, 51.322, and 51.323. The respondents (States) are required to annually update information on stationary sources emitting at least prescribed amounts of pollutants regulated by National Ambient Air Quality Standards (NAAQS) via electronic input to EPA. EPA's Office of Air Quality Planning and Standards (OAQPS) uses the annual emission reports to update a national data base on air emissions which it has maintained since 1974. The data is used in developing emission standards, applying dispersion models, preparing national trend assessments, preparing reports to Congress, providing information to the public, and other special analyses and reports. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 13, 2001 (66 FR 31913); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 212 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and local air pollution control agencies.

Estimated Number of Respondents: 54.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 11,448 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $29,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondents burden, including through the use of automated collection techniques to addresses listed above. Please refer to EPA ICR No. 916.11 and OMB Control No. 2060–0088 in any correspondence.

Dated: August 23, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22372 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS, Graphic Arts Industry Subject to New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standards for the Graphic Arts Industry, OMB Control Number 2060–0105, expiration date August 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 0657.07 and OMB Control No. 2060–0105, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-Mail at *auby.susan@epamail.epa.gov* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0657.07. For technical questions about the ICR , contact Kelli Smith at 202–564–2257.

SUPPLEMENTARY INFORMATION:

Title: NSPS for Graphic Arts Industry (OMB Control No. 2060–0105, expiration date August 31, 2001; EPA ICR No.0657.07). This is a request for extension of a currently approved collection.

Abstract: The EPA is charged under section 111 of the Clean Air Act, as amended, to establish standards of performance for new stationary sources that reflect:

* * * application of the best technological system of continuous emissions reduction which (taking into consideration the cost * * * and energy requirements) the Administrator determines has been adequately demonstrated (section 111(a)(l)).

In addition, section 114(a) requires that any owner or operator subject to any Subpart to establish and maintain records, make reports, install, use and maintain monitoring equipment or methods as required, and provide other

information as EPA may deem necessary.

The New Source Performance Standards (NSPS) for subpart QQ were proposed on October 28, 1980, and promulgated on November 8, 1982. These standards apply to each publication rotogravure printing press (not including proof presses) commencing construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart QQ.

Owners or operators of the affected facilities described have certain notification, reporting, and recordkeeping requirements under this rule. Examples of each of these respectively are: a one-time-only notification of the date of the anticipated and actual dates of startup, keeping records of monthly emissions calculations, and a reporting of the initial performance test. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such reports and records.

Approximately 30 facilities are currently subject to the standard, and it is estimated that an additional 3 facilities will become subject to the standard in the next three years, for a total of 33. It is further assumed that less than half of the existing facilities will be adding or modfiying a press during the three year period. Therefore there are 270 existing presses subject to this standard and an additional 10 affected units will be added each year. This is based upon the AIRS Facility Subsystem Report.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Information is entered into the AIRS database.

Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 15, 2000; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 65 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Graphic Arts Industry.

Estimated Number of Respondents: 33.

Frequency of Response: On occasion, Semi-annually.

Estimated Total Annual Hour Burden: 3,871.

Estimated Total Annualized Capital, O&M Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No.0657.07 and OMB Control No. 2060–0105 in any correspondence.

Dated: August 20, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22373 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7048–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NESHAP for Equipment Leaks (Fugitive Emission Sources)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP for Equipment Leaks (Fugitive Emission Sources), OMB Control Number 2060–0068, expiration date August 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before Octber 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1153.07 and OMB Control No. 2060–0068, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Susan Auby at EPA, (202) 260–4901,or download off the Internet at *http://www.epa.gov/icr/icr.htm* and refer to EPA ICR No. 1153.07. For technical questions about the ICR, contact Rafel Sanchez at 202–564–7028.

SUPPLEMENTARY INFORMATION:

Title: NESHAP for Equipment Leaks (Fugitive Emission Sources),OMB Control Number 2060–0068, EPA ICR Number 1153.07, expiring August 31,2001. This ICR is a revision of a currently approved collection.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Equipment Leaks (Fugitive Emission Sources) were proposed on January 5, 1981, and promulgated on June 6, 1984. These standards apply to fugitive emissions from equipment sources operating in volatile hazardous air pollutant (VHAP) service (containing or contacting fluids with at least 10% VHAP by weight). Affected facilities are those which own and/or operate pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels, and control devices or systems in VHAP service. This information is being collected to assure compliance with 40 CFR part 61, subpart V.

EPA is taking action to have the requirements of this Information Collection Request, (40 CFR part 61, subpart V, OMB Control Number 2060–0068, EPA ICR Number 1153.07), authorized by OMB as an Information Collection option within the Information Collection Request for the Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry, (OMB Control Number 2060–0443, EPA ICR Number 1854.02). When approved by OMB, the separate Information Collection Request requirements under OMB Control Number 2060–0068, EPA ICR Number 1153.07 will not be necessary.

Owners or operators of the affected facilities described must make one-time-only notifications including: notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate, notification of the initial performance test, including information necessary to determine the conditions of the performance test, and performance test measurements and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports and records are required, in general, of all sources subject to the NESHAPs.

Monitoring requirements specific to the Equipment Leaks (Fugitive Emission Sources) NESHAP provides information on leak detection. Owners or operators are also required to submit semiannual reports of the number of valves, pumps, and compressors for which leaks were detected, and explanations for any leak repair delays.

Any owner or operator subject to the provisions of this part shall maintain a file of these reports and retain the file for at least two years following the date of such records.

Approximately 75 sources are currently subject to the standard, and no new sources are expected in the next three years. However, approximately two modified, reconstructed, or new process units are expected per year. The number of affected sources is expected to decline during the next three years. Therefore, the number of affected sources by this standard will remain unchanged from the previous submittal.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 01, 2001, (66 FR 8588) and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 561 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of equipment sources operating in volatile hazardous air pollutant (VHAP) service.

Estimated Number of Respondents: 21.

Frequency of Response: Semi-annually.

Estimated Total Annual Hour Burden: 23,558.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1153.07 and OMB Control No.2060–0068 in any correspondence.

Dated: August 24, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22375 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7049–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing, Subpart BBB, OMB Control Number 2060–0156, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1158.07 and OMB Control No. 2060–0156, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.Susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1158.07. For technical questions about the ICR contact Maria Malavé at (202) 564–7027 or via E-mail to *Malave.Maria@EPAMAIL.EPA.Gov*.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing, EPA ICR No. 1158.07; OMB Control No. 2060–0156, expiring September 30, 2001. This is a request for extension of a currently approved collection..

Abstract: NSPS Subpart BBB applies to affected facilities in rubber tire manufacturing plants that commence construction, modification or reconstruction after January 20, 1983.

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The affected facilities include: Each underthread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, each Michelin-C automatic operation. The rule establishes standards for volatile organic compounds (VOCs) use and emission limits.

Monitoring, recordkeeping and reporting requirements allow the regulatory agencies to determine compliance with the standard. One time only reports are required to identify the affected facilities and the compliance method used. Notification of Method 25 performance is also required. Annual reports of Method 24 results to verify VOC content of water-based sprays would be required.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published in the **Federal Register** on February 1, 2001, (66 FR 8588). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average about 167 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of rubber tire manufacturing plants.

Estimated Number of Respondents: 43.

Frequency of Response: Annual and semiannual when a source has excess emissions.

Estimated Total Annual Hour Burden: 13,151 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $17,200.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1158.07 and OMB Control No. 2060–0156 in any correspondence. .

Dated: August 27, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22376 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7049–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq., this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Underground Storage Tanks, Technical and Financial Requirements, and State Program Approval Procedures, OMB Control Number 2050–0068, which expires on September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1360.06 and OMB Control No. 2050–0068, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.Sandy@epa.gov*, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1360.06. For technical questions about the ICR contact Sammy Ng at the Office of Underground Storage Tanks (OUST) by phone at (703) 603–9900 or by E-mail at Ng.Sammy@epa.gov.

SUPPLEMENTARY INFORMATION: *Title:* Underground Storage Tanks, Technical and Financial Requirements and State Program Approval Procedures, OMB Control Number 2050–0068, EPA ICR Number 1360.06, expiring on September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the EPA develop standards for Underground Storage Tanks (UST) systems as may be necessary to protect human health and the environment, and procedures for approving State programs in lieu of the Federal program. EPA promulgated technical and financial requirements for owners and operators of USTs at 40 CFR part 280, and State program approval procedures at 40 CFR part 281. This ICR is a comprehensive presentation of all information collection requirements contained at 40 CFR parts 280 and 281. The data collected under 40 CFR part 280 are used by the owners and operators and/or EPA or the implementing agency to monitor results of testing, inspections, and operations of UST systems, as well as to demonstrate compliance with regulations. EPA believes strongly that, if the minimum requirements specified under the regulations are not met, neither the facilities nor EPA can ensure that UST systems are being managed in a manner protective of human health and the environment. The data collected under 40 CFR part 281 are used by EPA to determine whether to approve a State program. Before granting approval, EPA must determine that programs will be no less stringent than the Federal program and contain adequate enforcement mechanisms.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 19, 2001 (66 FR 15423); no comments were received.

Burden Statement: For UST facilities, the annual reporting and recordkeeping burden is estimated to average 23 hours per respondent. For States applying for program approval, the annual reporting and recordkeeping burden is estimated to average 48 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this information collection are those facilities that own and operated USTs and those States that implement the UST programs.

Estimated Number of Respondents: 261,904.

Frequency of Response: As needed.

Estimated Total Annual Burden: 6,025,543 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $363.56 million.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1360.06 and OMB Control No. 2050–0068 in any correspondence.

Dated: August 27, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22378 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50689; FRL–6794–1]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits (EUPs) to the following pesticide applicants. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: By mail: Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by telephone: Contact the designated person at the office location, telephone number, or e-mail address cited in each EUP: 1921 Jefferson Davis Hwy., Arlington, VA.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the designated contact person listed for the individual EUP.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. EUPs

EPA has issued the following EUPs:

68467–EUP–2. Amendment. Mycogen Seeds c/o Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054. The EUP amendment/extension for *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (Plasmid Insert PHI8999) in corn plants was published in the **Federal Register** of January 17, 2001 (66 FR 4020) (FRL–6740–2). This subsequent amendment allowed 55 acres from the Nebraska approved total to be planted in Puerto Rico. The transfer reduced the state acreage in Nebraska from 161.96 to 106.96 acres and increased the state acreage in Puerto Rico from 34 to 89 acres. This permit was issued with the limitation that all treated crops be destroyed or used for research purposes only. (Mike Mendelsohn; Rm. 910W13, Crystal Mall #2; telephone number: (703) 308–8715; e-mail address: mendelsohn.mike@epa.gov).

73049–EUP–1. Amendment/Extension. Valent BioSciences Corporation. This EUP allows the use of 292 pounds of the plant regulator aminoethoxyvinylglycine (AVG) on 2,650 acres of stone fruits (apricots, cherries, nectarines, peaches, plums, and prunes) to evaluate harvest benefits in an expanded use area (larger-scale field testing). The program is authorized only in the States of Alabama, Arkansas, California, Georgia, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, and Washington. The EUP is effective from June 25, 2001 to December 21, 2003. A temporary tolerance of 0.170 part per million (ppm) has been established for residues of the active ingredient in or on food commodities of the stone fruit crop group. (Denise Greenway: Rm. 910W59, Crystal Mall #2; telephone number: (703) 308–8263; e-mail address: greenway.denise@epa.gov).

Persons wishing to review these EUPs are referred to the designated contact person. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection. Experimental use permits.

Dated: August 23, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–22380 Filed 9–5–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7050–3]

Proposed CERCLA Prospective Purchaser Agreement; Sanitary Landfill Company (IWD) Superfund Site; Moraine, OH

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9601 et seq., and the authority of the Attorney General of the United States to compromise and settle claims of the United States as delegated, notice is hereby given of a proposed prospective purchaser agreement concerning the Sanitary Landfill Company (IWD) Superfund Site at 1855 Cardington Road in Moraine, Ohio with Debpat, LLC ("Debpat"). The agreement requires the Debpat to pay $5,000.00 to the Hazardous Substance Superfund. Debpat intends to renovate and use an existing warehouse on the property. The agreement includes a covenant not to sue the City of Canton under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a) and it imposes certain institutional controls on Debpat. For thirty (30) days following the date of publication of this notice, the United States will receive written comments relating to the agreement. The United States will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper, or inadequate. The United States' response to any comments received will be available for public inspection at U.S. EPA, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. Please contact Karen L. Peaceman at (312) 353–5751 to make arrangements to inspect the comments.

DATES: Comments must be submitted on or before October 9, 2001.

ADDRESSES: The proposed settlement is available for public inspection at U.S. EPA, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. A copy of the proposed agreement may be obtained from Karen L. Peaceman, at U.S. EPA, Region 5, 77 W. Jackson Boulevard (C–14J), Chicago, IL 60604, phone (312) 353–5751. Comments should reference the Sanitary Landfill Company (IWD) Superfund Site prospective purchaser agreement, and should be addressed to Karen L. Peaceman.

FOR FURTHER INFORMATION CONTACT: Karen L. Peaceman, at U.S. EPA, Region 5, 77 W. Jackson Boulevard (C–14J), Chicago, IL 60604, phone (312) 353–5751.

Dated: July 20, 2001.

William E. Muno,

Director, Superfund Division, U.S. EPA Region 5.

[FR Doc. 01–22377 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59378; FRL–6795–1]

Toxic Substances Control Act; Certain Chemicals and Microorganisms; Premanufacture Notices; High Production Volume Challenge Program; Delay in Processing Due to Move of Offices; Extension of Review Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pollution Prevention and Toxics (OPPT) is expected to move a number of its offices on November 1, 2001, from the current location at 401 M St., SW., to 1200 Pennsylvania Ave., NW., in Washington, DC. The move is expected to cause limited delay in OPPT's processing of certain documents submitted for review, including notices submitted under section 5 of the Toxic Substances Control Act (TSCA). EPA is requesting submitters' cooperation in handling this temporary interruption in operations. Other units within OPPT will also be moving at various times before or after this date. This notice discusses how OPPT's move will affect the processing of different types of TSCA section 5 notices, as well as certain documents submitted under the High Production Volume (HPV) Challenge Program. These documents fall into several categories as described below in the notice.

DATES: The anticipated move date is November 1–2, 2001, as of today's **Federal Register** notice, and should this date change, EPA will publish another **Federal Register** notice. For information on other relevant dates, see Unit II.B. of **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: For the New Chemicals Program: Flora Chow, Chief, New Chemicals Notice Management Branch, Chemical Control Division (7405), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3725, facsimile: (202) 260–0118.

For the HPV Challenge Program: Barbara Leczynski, Chief Existing Chemicals Branch, Chemical Control Division (7405), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3945, facsimile: (202) 260–1096.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Document Apply to Me?

You may be affected by this document if you are, or may in the future be, a manufacturer or importer of a chemical substance that requires submission of a Premanufacture Notice (PMN), a manufacturer or importer of a microorganism that requires submission of a Microbial Commercial Activity Notice (MCAN), or the manufacturer, importer or processor of a chemical substance for a significant new use that requires a Significant New Use Notice (SNUN), under section 5 of TSCA (15 U.S.C. 2604), or an exemption from these requirements. Particularly affected are submitters of such notices with review periods scheduled to expire between October 25, 2001, and November 15, 2001, and persons wishing to submit new notices between October 25, 2001, and November 8, 2001.

Potentially affected entities may include, but are not limited to the following:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Chemical manufacturers or importers	325, 32411	Anyone who plans to manufacture or import a new chemical substance (including microorganisms), or who intends to manufacture, import or process a chemical substance for a significant new use, for a non-exempt commercial purpose is required to provide the EPA with a PMN or MCAN or SNUN at least 90 days prior to the activity. Any TSCA chemical substance that is not on the TSCA Inventory is classified as a new chemical.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

This document may also apply to you if you are a sponsor of a HPV chemical under the Agency's voluntary HPV Challenge Program.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about EPA's New Chemicals Program, go directly to the Home Page at http://www.epa.gov/oppt/newchems/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–59378. The official record consists of the documents specifically referenced in this action, any public comments received, and other information related to this action, including any information claimed as CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

II. Background

A. What is the Agency's Authority for Taking this Action?

Section 5 of TSCA and 40 CFR part 720 require any person who intends to manufacture (defined by statute to include import) a new chemical substance (i.e., a chemical not on the TSCA section 8(b) Inventory) to notify EPA at least 90 days before commencing non-exempt commercial manufacture in the form of a Premanufacture Notice (PMN). At least 90 days advance notice for manufacture of new microorganisms is required under 40 CFR part 725 in the form of a Microbial Commercial Activity Notice (MCAN). Under section 5 of TSCA and 40 CFR part 721, any person intending to manufacture or process a chemical substance for a significant new use, as designated by EPA in a Significant New Use Rule (SNUR), must also give EPA at least 90 days advance notice in the form of a SNUN. SNURs for microorganisms appear at 40 CFR part 725, subpart M.

There are a number of exemptions from the above-described 90–day PMN, MCAN and SNUN notice requirements. Several of these exemptions require submitting to EPA a written notice or application, which is subject to a review period shorter than 90 days. For example, pursuant to TSCA section 5(h)(1), EPA has promulgated a Test Market Exemption (TME) from all three of the 90–day notice requirements. The TME from the PMN requirement appears at 40 CFR 720.38; the TME from the MCAN requirement is codified in 40 CFR part 725, subpart F (§§ 725.300–725.370); and the TME from the SNUN requirement appears at 40 CFR 721.45(a). Under TSCA section 5(h)(4), EPA promulgated at 40 CFR 721.50 a Low Volume Exemption (LVE) and a Low Release/Low Exposure (LOREX) Exemption from the PMN requirement. The rule in 40 CFR part 725 pertaining to genetically engineered microorganisms provides several exemptions from the 90–day MCAN requirement, including the TSCA Experimental Release Application (TERA) in 40 CFR part 725, subpart E, and the Tier I and Tier II Exemptions in 40 CFR part 725, subpart G.

A submitter may, with EPA's agreement, voluntarily suspend the review period for all these types of notices. Suspensions longer than 15 days must be documented in writing. Suspensions for PMNs, SNUNs, and exemptions therefrom are authorized at 40 CFR 720.75(b). Suspensions for MCANs and exemptions therefrom are authorized at 40 CFR 725.54.

TSCA section 26(c) authorizes EPA to take action with respect to a category of chemical substances. Under TSCA section 5(c), EPA has authority to unilaterally extend the notice review period for PMNs, MCANs and SNUNs. (See also 40 CFR 720.75(c) for PMNs and SNUNs, and 40 CFR 725.56 for MCANs.) However, extensions of the review period for an individual TSCA section 5 notice shall not total more than 90 days. Because the extension described in this **Federal Register** notice is for less than 90 days, EPA reserves the right under TSCA section 5(c) to issue, for good cause, future additional extensions for individual cases up to a total of 90 days.

B. What Action is the Agency Taking in Regard to TSCA Section 5, and Which Notices are Affected by this Action?

EPA's Office of Pollution Prevention and Toxics is moving its offices from the current location at 401 M St., SW., to 1200 Pennsylvania Ave., NW., in Washington, DC. Prior to a move scheduled to occur on November 1, 2001, EPA will conduct an inventory of documents containing CBI in the current location. After relocation, the holdings will be re-inventoried to verify the complete transfer to the new offices. Because of these activities, EPA is taking the following actions and is requesting the assistance of notifiers as described in this unit:

Category 1—TSCA section 5 notices and exemptions submitted to EPA between October 25, 2001, and

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November 8, 2001. OPPT will not process any new documents during the 15–day period centered around the November 1, 2001, move date, that is from October 25, 2001, to November 8, 2001. Therefore, the review period for any TSCA section 5 notice submitted between October 25, 2001, and November 8, 2001, will not begin until OPPT resumes normal operations and the TSCA Document Control Office (DCO) receives the document on November 9, 2001, or as soon thereafter as practicable. EPA strongly discourages companies from submitting new notices or exemption applications to OPPT during this time. Also during this period, companies should refrain from submitting any related documents, such as notice of commencement (NOC), prenotice correspondence, consolidation requests, notice of bona fide intent to manufacture, amendments to notices, etc.

Category 2—TSCA section 5 exemptions scheduled to expire between October 25, 2001, and November 15, 2001. For any exemption applications for which the review period is scheduled to expire between October 25, 2001, and November 15, 2001, and which have not been granted by EPA, EPA is requesting submitters to voluntarily suspend the review period until after November 15, 2001. EPA needs to receive these suspensions before October 25, 2001. An additional week is required for these ememptions in *Category 2* to ensure there is suffiecient time to dertimine that the exemptions will not present unreasonalbe risk.

Category 3—TSCA section 5 PMNs, MCANs, and SNUNs scheduled to expire between October 25, 2001, and November 8, 2001. Under the authority of TSCA sections 5(c) and 26(c), EPA is hereby extending the notice review period an additional 15 days for any PMN, MCAN or SNUN for which the review period is scheduled to expire between October 25, 2001, and November 8, 2001, and which are not voluntarily suspended beyond November 8, 2001, except those notices that will not be regulated by EPA, as described in Unit II.D. However, EPA encourages submitters of any notices due to expire between October 25, 2001, and November 8, 2001, to provide voluntary suspensions of the review period beyond November 8, 2001, so that the 15–day unilateral extension under TSCA section 5(c) will not apply to those notices.

C. Are Only TSCA Section 5 Notices Affected?

No, there is another category of documents that will be affected by OPPT's move:

Category 4—Chemical Right-to-Know documents. It is also expected that the move may affect the initial completeness review and posting on the Chemical Right-to-Know (ChemRTK) website (www.epa.gov/chemrtk) of test plans and robust summaries submitted to the Agency under the HPV Challenge Program, as well as the review of submissions for which the 120–day public review period has already begun. Additional information on this program and any delays that may occur can be found at the above ChemRTK website and in Unit II.G. below.

D. Which Notices Will Not Be Affected?

The review period will not be affected for the following notices and exemption applications:

1. PMNs, MCANs, SNUNs, and Low Volume Exemptions for which "Drop" or "Grant" decisions have been posted on the New Chemicals Program "Current Status of PMNs" webpage (http://www.epa.gov/oppt/newchems/dropstat.htm) before October 25, 2001.

2. Low Release and Exposure (LOREX) Exemptions and TMEs for which an EPA representative has orally informed the submitter that EPA has made a "Grant" decision for the case.

For these TSCA section 5 notices and exemption applications, because no further review or regulatory action is anticipated, EPA expects to allow the review period to expire without further suspension or extension.

E. If I Am the Submitter of an Affected PMN, MCAN, SNUN, or Exemption Application, What Do I Need to Do?

If you have submitted a notice or notices that fall into any of the categories for which EPA is requesting a voluntary suspension, and you wish to submit such a suspension, you should send a written suspension to the TSCA DCO in accordance with 40 CFR 720.75(b) or 40 CFR 725.54 for microorganisms. You should also contact the OPPT Program Manager assigned to your notice or exemption. If you do not know how to contact the Program Manager, you should contact Flora Chow, Chief, New Chemicals Notice Management Branch, at (202) 260–3725.

There is a possibility that the chemical substances submitted for review in the TSCA section 5 notices in Category 3 (i.e., PMNs, MCANs or SNUNs for which the review period is scheduled to expire between October 25, 2001, and November 8, 2001, and which are not dropped or voluntarily suspended beyond November 8, 2001) may be regulated by EPA under TSCA. EPA requires an extension of the review periods to complete its risk assessment, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend, under TSCA section 5(c) and 40 CFR 720.75(c), the review period for each such TSCA section 5 notice. Pursuant to 40 CFR 720.75(c)(2)(i), EPA will notify each submitter of such notices that the notice review period will be extended for the reasons set forth in this notice.

F. What Happens If I Submit a TSCA Section 5 Notice During this 15–Day Period?

Any notices submitted to the TSCA DCO between October 25 and November 8 will not be "received" by the Agency and the 90–day review period will not commence until the document is processed by the TSCA DCO. (See e.g., 40 CFR 720.75(a) and 40 CFR 725.50.) Because no document processing activities will occur during this 15–day period, all companies are encouraged to refrain from submitting any TSCA section 5 notices or exemption applications, or related actions, such as notice of commencement (NOC), prenotice correspondence, consolidation requests, notice of bona fide intent to manufacture, amendments to notices, etc., to the Agency. The Agency intends to expeditiously process documents after the 15th day, when normal operations resume. However, depending on the number of documents pending on November 9, 2001, it may take several days before all these documents are officially "received" and the review period commenced.

G. What Effect Will this Action Have on Submissions to the Agency Under the HPV Challenge Program?

OPPT's move, which will be phased over several months, may affect the review of submissions under the HPV Challenge Program. Sponsors of chemicals in the voluntary HPV Challenge Program submit test plans and robust summaries of existing data to the Agency for a 120–day review. EPA conducts an initial review of such submissions to determine whether all materials needed for the technical review are included. All submissions under the HPV Challenge Program are then made publicly available on the EPA Chemical Right-to-Know (ChemRTK) website (www.epa.gov/chemrtk) for a 120–day review period prior to the start of any new testing. The Agency completes its technical evaluation of the complete submission during the 120–day period, and forwards its comments to the sponsor and posts them on the website. However, the initial completeness review and posting on the ChemRTK website of newly submitted test plans and robust summaries may be delayed as a result of the move. Submissions for which the 120–day review period has already started may also be affected. Additional information on this program and any delays that may occur can be found at the ChemRTK website.

H. Was this Action Submitted to Congress and the Comptroller General?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before the Agency can impose binding requirements like those contained in a rule, the Agency must submit a report, which includes a copy of the document, to each House of the Congress and to the Comptroller General of the United States. Although this document is not a rule, it is binding in the sense that the suspensions announced in here are binding. EPA will submit a report to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to its publication in the **Federal Register**. This action is not "major" as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Chemicals, Chemical right-to-know, High Production Volume, Microorganisms, Premanufacture notices, Test marketing exemptions.

Dated: August 17, 2001.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–22379 Filed 9–5–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of New Exposure Draft *Accounting for National Defense PP&E and Associated Cleanup Costs*

Board Action

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 1999, notice is hereby given that the Federal Accounting Standards Advisory Board has published a new exposure draft, *Accounting for National Defense PP&E and Associated Cleanup Costs.*

Summary of the Proposed Statement

On August 29, 2001, the Federal Accounting Standards Advisory Board (FASAB) released for public comment an exposure draft (ED) to amend Statement of Federal Financial Accounting Standards (SFFAS) No. 11, *Amendments to Accounting for Property, Plant, and Equipment—Definitional Changes,* which was issued in December 1998; SFFAS, No. 8, *Supplementary Stewardship Reporting,* which was issued in June 1996; and SFFAS No. 6, *Accounting for Property, Plant, and Equipment,* which was issued in November 1995. The proposed amendments would change the definition of ND PP&E, the method of accounting for it, and the information reported about it. The exposure draft, entitled *Accounting for National Defense PP&E and Associated Cleanup Costs,* amending SFFAS No. 11, *Amendments to Accounting for Property, Plant, and Equipment—Definitional Changes,* SFFAS No. 8, *Supplementary Stewardship Reporting,* and SFFAS No. 6, *Accounting for Property, Plant, and Equipment* will be out for comment until November 29, 2001.

In the existing standards, ND PP&E consists of: (a) PP&E components of weapons systems and support PP&E owned by the Department of Defense or its component entities for use in the performance of military missions and (b) vessels held in a preservation status by the Maritime Administration's National Defense Reserve Fleet. Expenditures made to acquire, replace, or improve those PP&E are recognized as an expense in the period incurred, rather than being recognized as assets on the balance sheet. In addition, ND PP&E valuation (using either a historical or latest acquisition cost valuation method), condition, and deferred maintenance information are to be reported as Required Supplementary Stewardship Information (RSI). Also, the total estimated cleanup cost for ND PP&E is to be recognized as an expense in the period the asset is placed into service.

In early 1998, the FASAB issued an exposure draft to amend SFFAS Nos. 6 and 8. The exposure draft was initiated (1) to respond to definitional questions from several agencies, and (2) in recognition of the need to provide a transition plan in light of DoD's inability to comply with the provisions of SFFAS No. 8. During the process, the Board reconsidered whether SFFAS No. 8 was an appropriate end goal. Ultimately, the 1998 exposure draft included, among other proposals, proposals to replace the requirement to report cumulative cost information in the supplementary stewardship report with a requirement to report ND PP&E annual acquisition costs for each of five years (i.e., annual trend information rather than cumulative costs), unit, and condition information. In addition to considering the written comments, FASAB held a public hearing on these proposals to explore further the concerns expressed by some respondents.

After the public comment period and hearing, the Board proceeded to issue standards relating to various aspects of the proposal. In December of 1998, the FASAB issued SFFAS No. 11, Amendments to Accounting for Property, Plant, and Equipment—Definitional Changes, which amended SFFAS Nos. 6 and 8. SFFAS No. 11 accomplished only the definitional changes sought in the 1998 ED. Because of the divergent views of both respondents and Board members on accounting for ND PP&E, the FASAB did not reach a final conclusion on revisions to the reporting requirements for ND PP&E in SFFAS No. 8.

The amendments proposed in this ED would make the following changes. The definition of ND PP&E would be amended. ND PP&E would consist of 2 separate categories of items within the amended definition: (a) Major End Items and (b) Mission Support Items. The two-category approach facilitates application of different standards for expense recognition and disclosures for different types of ND PP&E. Beginning in fiscal year (FY) 2002, Major End Items would be subject to a reporting of the number of units and condition assessment information by asset type or category. Beginning in FY 2006, Major End Items would be capitalized but not depreciated, while Mission Support Items would be capitalized and depreciated. Also, beginning in FY 2006, data for the ten largest (in planned dollar terms) current acquisition programs would be disclosed. In addition, the total estimated cleanup cost per Major End Items would be recognized as a part of the acquisition cost as items are placed into service. For Mission Support Items, a portion of the total estimated cleanup cost would be recognized as an expense during each period that the item is in operation. The amendments proposed in this ED that affect the definition of ND PP&E, and unit and condition reporting would take effect in FY 2002. The remaining

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amendments would take effect in FY 2006 or upon implementation of this standard if implemented earlier.

One Board member, who believes various proposed reporting requirements do not meet criteria to be considered essential for financial statement purposes, provided an alternative view in the ED.

The exposure draft will soon be mailed to FSAB's mailing list subscribers. Additionally, it is available on FSAB's home page http://www.financenet.gov/fasab.htm. Copies can be obtained by contacting FSAB at (202) 512–7350, or wascakr@fasab.gov.

The Board has posed specific questions for comment. Respondents are encouraged to address those questions and to comment on any part of the ED in light of Statement of Federal Financial Accounting Concepts 1, *Objectives of Federal Financial Reporting.* For further information call Risk Wascak (202) 512–7363.

Written comments are requested by November 29, 2001, and should be sent to: Wendy M. Comes, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street, NW, Suite 6814, Mail Stop 6K17V, Washington, DC 20548.

FOR FURTHER INFORMATION, CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 6814, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463.

Dated: August 30, 2001.

Wendy M. Comes,

Executive Director.

[FR Doc. 01–22327 Filed 9–5–01; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested.

August 29, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 5, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION: *OMB Approval No.:* 3060–0837.

Title: Application for DTV Broadcast Station License.

Form No.: FCC 302–DTV.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 500 license applications, 100 modification applications.

Estimated Hours Per Response: 1.5 hours for license applications, 10 hours for modification applications (2.0 hours applicant; 2 hours attorney, 6 hours contract engineer).

Frequency of Response: On occasion.

Cost to Respondents: $245,000.

Estimated Total Annual Burden: 950 hours.

Needs and Uses: Licensees and permittees of DTV broadcast stations are required to file FCC Form 302–DTV to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations.

The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from FCC 302–DTV for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22357 Filed 9–5–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

August 28, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 9, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0833.

Title: Implementation of Section 255 of the Telecommunications Act of 1996: Complaint Filings/Designation of Agents.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, federal government, and state, local or tribal governments.

Number of Respondents: 8,677 respondents; 11,577 responses.

Estimated Time Per Response: .50—5 hours.

Frequency of Response: On occasion and one time reporting requirements, third party disclosure requirement, and recordkeeping requirement.

Total Annual Burden: 12,338 hours.

Total Annual Cost: $720,000.

Needs and Uses: This information collection includes rules governing the filing of complaints as part of the implementation of Section 255 of the Telecommunications Act of 1996, which seeks to ensure that telecommunications equipment and services are available to all Americans, including those individuals with disabilities. In particular, telecommunications service providers and equipment manufacturers will be asked for a one-time designation of an agent who will receive and promptly handle voluntary consumer complaints of accessibility concerns. As with any complaint procedure, a certain number of regulatory and information burdens are necessary to ensure compliance with FCC rules.

OMB Control No.: 3060–0874.

Title: Consumer Complaint Form.

Form No.: FCC Form 475.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, federal government, and state, local or tribal governments.

Number of Respondents: 58,772.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion reporting requirements, and third party disclosure requirement.

Total Annual Burden: 29,386 hours.

Total Annual Cost: N/A.

Needs and Uses: FCC Form 475 allows the Commission to collect detailed data from consumers on the practices of common carriers. The information contained in the collection will allow consumers to provide the Commission with the relevant information required to help consumers to develop a concise statement outlining the issue in dispute. The information will then be used to assist in the resolution of informal complaints and to collect data required to assess the practices of common carriers. FCC Form 475 was previously revised to consolidate and streamline information requirements and eliminate the FCC Form 476. This submission to the Office of Management and Budget (OMB) is to seek an extension of OMB approval for three years.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22358 Filed 9–5–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2001—12]

Filing Dates for the South Carolina Special Election in the 2nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: South Carolina has scheduled special elections to fill the U.S. House of Representatives seat in the Second Congressional District held by the late Congressman Floyd Spence. There are three possible special elections, but only two may be necessary.

- Primary Election: October 30, 2001.
- Possible Runoff Election: November 13, 2001. In the event that one candidate does not achieve a majority vote in his/her party's Special Primary Election, the top two vote-getters will participate in a Special Runoff Election.
- General Election: December 18, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Scott, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

Special Primary Only

All principal campaign committees of candidates *only* participating in the South Carolina Special Primary shall file a 12-day Pre-Primary Report on October 18, 2001. (See chart below for the closing date for the report.)

Special Primary and General Without Runoff

If only two elections are held, all principal campaign committees of candidates participating in the South Carolina Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on October 18, 2001; a Pre-General Report on December 6, 2001; and a consolidated Post-General & Year-End Report on January 17, 2002. (See chart below for the closing date for each report.)

Special Primary and Runoff Elections

All principal campaign committees of candidates *only* participating in the South Carolina Special Primary and Special Runoff Elections shall file a 12-day Pre-Primary Report on October 18, 2001; and a Pre-Runoff Report on November 1, 2001. (See chart below for the closing date for each report.)

Special Primary, Runoff and General Elections

All principal campaign committees of candidates participating in the South Carolina Special Primary, Special Runoff and Special General Elections shall file a 12-day Pre-Primary Report on October 18, 2001; a Pre-Runoff Report on November 1, 2001; a Pre-General Report on December 6, 2001; and a consolidated Post-General & Year-End Report on January 17, 2002. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees that file on a semiannual basis during 2001 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the South Carolina Special Primary, Runoff or General Elections by the close of books for the applicable report(s). Consult the chart below that corresponds to the committee's situation for close of books and filing date information.

Since disclosing financial activity from two different calendar years on one report would conflict with the calendar year aggregation requirements stated in the Commission's disclosure rules, unauthorized committees that trigger the filing of the consolidated Post-General & Year-End Report will be required to file this report on two separate forms. One form to cover 2001 activity, labeled as the Year-End Report; and the other form to cover only 2002 activity, labeled as the Post-General Report. Both forms must be filed by the due date for the consolidated report, January 17, 2002.

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Committees filing monthly that support candidates in the South Carolina Special Primary, Special Runoff or Special General Elections should continue to file according to the non-election year monthly reporting schedule.

CALENDAR OF REPORTING DATES FOR SOUTH CAROLINA SPECIAL ELECTIONS

Report	Close of books[1]	Reg./Cert. mailing date[2]	Filing date
COMMITTEES INVOLVED IN ONLY THE SPECIAL PRIMARY (10/30/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Year-End	12/31/01	01/31/02	01/31/02
IF ONLY TWO ELECTIONS ARE HELD, COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (10/30/01) AND THE SPECIAL GENERAL (12/18/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Pre-General	11/28/01	12/03/01	12/06/01
Post-General & Year-End[3]	01/07/02	01/17/02	01/17/02
IF THREE ELECTIONS ARE HELD, COMMITTEES INVOLVED IN ONLY THE SPECIAL PRIMARY (10/30/01)AND SPECIAL RUNOFF (11/13/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Pre-Runoff	10/24/01	10/29/01	11/01/01
Year-End	12/31/01	01/31/02	01/31/02
COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (10/30/01), SPECIAL RUNOFF (11/13/01)AND THE SPECIAL GENERAL (12/18/01) MUST FILE:			
Pre-Primary	10/10/01	10/15/01	10/18/01
Pre-Runoff	10/24/01	10/29/01	11/01/01
Pre-General	11/28/01	12/03/01	12/06/01
Post-General & Year-End[3]	01/07/02	01/17/02	01/17/02
COMMITTEES INVOLVED IN ONLY THE SPECIAL RUNOFF (11/13/01) MUST FILE:			
Pre-Runoff	10/24/01	10/29/01	11/01/01
Year-End	12/31/01	01/31/02	01/31/02
COMMITTEES INVOLVED IN ONLY THE SPECIAL GENERAL (12/18/01) MUST FILE:			
Pre-General	11/28/01	12/03/01	12/06/01
Post-General & Year-End	01/07/02	01/17/02	01/17/02

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.
[3] Committees should file a consolidated Post-General & Year-End Report by the filing date of the Post-General Report.

Dated: August 31, 2001.

Karl J. Sandstrom,

Commissioner, Federal Election Commission.

[FR Doc. 01–22390 Filed 9–5–01; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001: Bath, Clay, Elliot, Estill, Harrison, Lawrence, Lewis, Livingston, Mason, Menifee, Powell, and Rowan for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22304 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 23, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001: Floyd, Knott, Letcher, Perry, and Pike Counties for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22305 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001: Johnson, Rockcastle and Whitley Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22306 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1388–DR]

Kentucky; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, [FEMA–1388–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001:

Carter and Unicoi Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22301 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1387–DR]

Tennessee; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee, [FEMA–1387–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001:

Carter and Unicoi Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22307 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1387–DR]

Tennessee; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, [FEMA–1387–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 22, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22302 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1387–DR]

Tennessee; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee, [FEMA–1387–DR], dated August 15, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2001:

Carter, Cocke, Greene, Johnson, Unicoi and Washington Counties for Individual Assistance (already designated for Public Assistance).

Shelby County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22303 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1386–DR]

Virginia; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, [FEMA–1386–DR], dated July 12, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 27, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–22300 Filed 9–5–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 28, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Great River Financial Group, Inc., Burlington, Iowa; to acquire 100 percent of the voting shares of Southeast Security Bank, Mediapolis, Iowa.

2. River Valley Bancorp, Inc., Eldridge, Iowa; to acquire 100 percent of the voting shares of State Bank of Latham, Latham, Illinois, after its merger with Valley State Bank, Eldridge, Iowa.

Board of Governors of the Federal Reserve System, August 30, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22288 Filed 9–5–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of an Optional Form by the Department of State

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Department of State canceled the following Optional Form: OF 156E, Nonimmigrant Treaty/Inventory Visa Application.

This form is now a State Department form (DS Form 2051). You can request copies of the new form from: Department of State, IS/OIS/DIR, 2201 C Street, NW; Room B264NS, Washington, DC 20520–0264, 202.647.0596.

DATES: Effective September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Cunningham, Department of State, 202.312.9605.

Dated: August 27, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–22410 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Office of Communications, Cancellation of an Optional Form by the Office of Personnel Management (OPM)

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled OF 630B, Request to Donate Annual Leave to Leave Recipient (Outside Agency) Under the Leave Transfer Program. The form was only available with FPM Letter 630–33 which no longer exists. OPM developed their own form (OPM 630B) which they are happy to share with you. To obtain a copy of this form, go to the following internet site: *http://www.opm.gov/forms*

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective September 6, 2001.

Dated: August 28, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–22411 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Availability of Final Environmental Impact Statement: United States Mission to the United Nations

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the General Services Administration (GSA) has filed with the U.S. Environmental Protection Agency and made available to other government agencies and interested private parties, the Final Environmental Impact Statement (FEIS) for the demolition of the Federal building currently housing the United States Mission to the United Nations (USUN) and the subsequent construction of a new facility on the same site. A public hearing for the Draft Environmental Impact Statement was held on Wednesday, June 13th, 2001.

The FEIS is on file at GSA offices in Manhattan, Manhattan Community District #6 and the Mid-Manhattan Library. Copies of the FEIS Executive Summary or additional information may be obtained from: General Services Administration, Public Buildings Services—2PT, 26 Federal Plaza, Room 1609, New York, New York, 10278, ATTN: Peter Sneed.

Written comments regarding the FEIS may be submitted until Friday October 26th, 2001 and should be addressed to General Services Administration in care of the above noted individual.

Dated: August 28, 2001.

Steve Ruggiero,

Acting Regional Administrator (2A).

[FR Doc. 01–22339 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Rapid Diagnostic Tests for HIV

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Opportunities for collaboration for evaluation of rapid diagnostic tests for HIV. The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of HIV/AIDS Prevention, has an opportunity for collaboration to evaluate rapid diagnostic tests for HIV. These evaluations will include evaluation of the sensitivity and specificity of the test, and the predictive value of algorithms using two or more different rapid tests in combination.

SUMMARY: The Division of HIV/AIDS Prevention of the National Center for HIV, STD, and TB Prevention (NCHSTP) at the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services (DHHS) seeks one or more companies that have developed or is distributing a rapid diagnostic test for HIV and is interested in marketing the test for use in the United States. The Division of HIV/AIDS Prevention is interested in evaluating such tests. The evaluation will include determination of the sensitivity and specificity of the test, and also evaluate the predictive value of two or more different tests used in combination in populations of low prevalence. This collaboration will have an expected duration of two (2) to three (3) years. The goals of the collaboration include the timely development of data to be used to determine whether the test could be used in the diagnosis and/or screening for HIV in the United States.

Confidential proposals, preferably six pages or less (excluding appendices), are solicited from companies who have a product that is suitable for commercial distribution.

DATES: Formal proposals must be submitted no later than October 9, 2001.

ADDRESSES: Formal proposals should be submitted to Cassandra Walker, Division of HIV/AIDS Prevention, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–46 Atlanta, GA 30333; Phone 404–639–6191; Fax 404–639–8640; e-mail:Cwalker5@cdc.gov . Scientific questions should be addressed to Bernard M. Branson, MD,

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Division of HIV/AIDS Prevention, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–46, Atlanta, GA 30333; Phone: 404–639–6166; Fax: 404–639–8640; e-mail BBranson@cdc.gov.

SUPPLEMENTARY INFORMATION:

Technology Sought

One mission of the Division of HIV/AIDS Prevention/NCHSTP is to develop new alternatives to increase the number of persons who know their HIV infection status. The Prevention Services Research Branch is seeking rapid diagnostic tests for HIV that are suitable for commercial distribution and that are simple: preferably, tests that: use direct unprocessed specimens (e.g., whole blood or oral fluid); can be performed in 30 minutes or less by persons with minimal training; include all necessary reagents in the test kit; can be stored at temperatures between 25 and 39°C; and have a minimum 1-year shelf life.

NCHSTP and Collaborator Responsibilities

The NCHSTP role may include, but will not be limited to, the following:

(1) Providing scientific, and technical expertise needed for the research project;

(2) Planning and conducting research studies of the diagnostic tests and interpreting results; and

(3) Publishing research results.

The NCHSTP anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing tests that can be used in the evaluation; and

(2) Providing NCHSTP access to necessary data in support of the research activities.

Selection Criteria

Proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Data available on the performance of the tests in different populations;

(2) Information on the technology used for the test;

(3) Information on the time required to perform the test, whether the test is preformed on whole blood, sera, plasma or saliva, and the steps involved in performing the test;

(4) Information on the storage requirements and stability of the test;

(5) Interest by the company to seek FDA approval and market the test in the United States; and

(6) Documentation of production capacity to provide at least 500,000 tests annually, and the ability to deliver a minimum of 45,000 tests within 90 days of order.

Dated: August 29, 2001.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 01–22431 Filed 9–5–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Evaluation of the Early Head Start Fatherhood Demonstration.

OMB No.: New Collection.

Description: ACYF, in partnership with the Office of Child Support Enforcement (OCSE), recently funded 21 Early Head start grantees to develop and implement creative practices to increase the involvement of fathers in their Early Head Start program and in the lives of their children. This submission requests approval to conduct the survey of demonstration staff and to collect father participation data from the demonstration programs.

Respondents: To reduce of the burden of demonstration staff, the survey will be configured in four versions. The Director Version will be completed by the Early Head Start program directors. The Father Coordinator Version will be completed by the staff member responsible for father activities. The Family Specialist version will be completed by the staff member who works most closely with the Early Head Start families in the home. The Teacher Version will be completed by the staff member working with families of children participating in the Early Head Start child care programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Director Version	21	2	.5	18.9
Father Coordinator Version	21	2	.5	17.8
Family Specialist Version	21	2	.4	14.2
Teacher Version	13	2	.4	8.8
Estimated total Annual Burden Hours:				59.7

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: August 30, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–22347 Filed 9–5–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0318]

Medical Devices; Draft Guidance; Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis." This draft guidance document was developed as a special control guidance to support the reclassification of the hip joint metal/polymer constrained cemented or uncemented prosthesis into class II. Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to reclassify this device type. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments concerning this guidance by December 5, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the draft guidance document entitled "Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in the brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: John S. Goode, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document was developed as a special control guidance to support the reclassification of the hip joint metal/polymer constrained cemented or uncemented prosthesis into class II. Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to reclassify this device type. This draft guidance may not be implemented until the reclassification process undergoes notice and comment and completes final rulemaking to reclassify this device. If a final rule to reclassify this device type is not issued, this guidance document will not be issued as a special control.

FDA believes that special controls, when combined with the general controls, will be sufficient to provide reasonable assurance of the safety and effectiveness of the hip joint metal/polymer constrained cemented or uncemented prosthesis. If the device is reclassified, a manufacturer who intends to market a device of this generic type must: (1) Conform with the general controls of the Federal Food, Drug, and Cosmetic Act (the act), including the premarket notification requirements described in FDA regulations (21 CFR 807.81); (2) address the specific risks to health associated with the hip joint metal/polymer constrained cemented or uncemented prosthesis; and (3) receive a substantial equivalence determination from FDA prior to marketing the device.

This special control draft guidance document identifies the classification, product code, and classification definition for the generic hip joint metal/polymer constrained cemented or uncemented prosthesis. In addition, it identifies the risks to health and serves as a special control that, when followed and combined with the general controls, will generally address the risks associated with this generic device type and lead to a timely section 510(k) of the act (21 U.S.C. 360(k)) review and clearance.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking about the hip joint metal/polymer constrained cemented or uncemented prosthesis. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive "Class II Special Controls Guidance Document: Hip Joint Metal/Polymer Constrained Cemented or Uncemented Prosthesis" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1328) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Internet site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance on or before [*insert date 90 days after date of publication in the* **Federal Register**]. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 22, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–22287 Filed 9–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Extended Lung Cancer Incidence Follow-Up for the Mayo Lung Project Participants

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 30, 2001, page 21404, Volume 66, No. 83 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Extended Lung Cancer Incidence Follow-Up for the Mayo Lung Project Participants. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* The Mayo Lung Project (MLP) was an NCI-funded randomized controlled trial (RCT) of lung cancer screening conducted among 9,211 male smokers from 1971 to 1983. No reduction in lung cancer mortality was observed in the MLP with an intense regimen of x-ray and sputum cytology screening. Recent analysis of update mortality and case survival data (through 1996) suggests that lesions with little-to-no clinical relevance (over-diagnosis) may have been detected through screening in the MLP intervention arm. Over-diagnosis leads to unnecessary medical interventions, including diagnostic and treatment procedures that carry with them varying degrees of risk. Consequently, over-diagnosis can result in considerable harm, including premature death, which would not have occurred in the absence of screening. The persistence, after screening ends, of an excess of lung cancer cases in the intervention arm is the strongest evidence in support of over-diagnosis, but this information cannot be adequately obtained with available MLP data. therefore, we propose to re-contact the MLP participants and/or their next-of-kin to determine the participants who were diagnosed with lung cancer after the formal end of the Project. These data will allow the NCI to either more-convincingly state or perhaps refute the possibility of over-diagnosis in lung cancer screening, and may be used to guide future research agendas and lung cancer screening policies. *Frequency of Response:* Once. *Affected public:* Individuals. *Type of Respondents:* MLP participants or their next-of-kin. The annual reporting burden is as follows: *Estimated Number of Respondents:* 6,223; *Estimated Number of Responses per Respondent:* 1. *Average Burden Hours Per Response:* 0.25; *Estimated Total Annual Burden Hours Requested:* 1,556. The annualized cost to respondents is estimated at $27,230. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Pamela Marcus, Epidemiologist, Biometry Research Group, Division of Cancer Prevention, National Cancer Institute, Suite 344 EPN, 6130 Executive Blvd, Bethesda, MD 20892–7354; or call non-toll free 301–496–7468; or email *pm145q@nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: August 27, 2001.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 01–22352 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 4, 2001.

Time: 10 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gloria B. Levin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, *leving@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 5, 2001.

Time: 1 pm to 2 pm.

Agendo: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anne E Schaffner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *schaffno@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 9–11, 2001.

Time: 6 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Hotel St. Francis, 219 Don Gasper Avenue, Sante Fe, NM 87501.

Contact Person: Eugene Vigil, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 13, 2001.

Time: 2 pm 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. Mac Stiles, DDS, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7770, Bethesda, MD 20892, (301) 435–1785.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 28, 2001.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22351 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Loan Repayment Program for Clinical Researchers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: Pending approval by the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) announces the availability of educational loan repayment under the NIH Loan Repayment Program for Clinical Researchers (the Program). The Program, which is authorized by section 487F of the Public Health Service (PHS) Act (42 U.S.C. 288–5a), as added by the Public Health Improvement Act of 2000 (Pub. L. 106–505), provides for the repayment of the educational loan debt of qualified health professionals who agree to conduct clinical research. The Program provides for the repayment of up to $35,000 of the principal and interest of the educational loans of such health professionals for each year of obligated service. The purpose of the Program is the recruitment and retention of highly qualified health professionals as clinical investigators. Through this notice, the NIH invites qualified health professionals who contractually agree to engage in clinical research for at least two years, to apply for participation in the NIH Loan Repayment Program for Clinical Researchers.

DATES: Interested persons may request information about the Program beginning on September 6, 2001.

ADDRESSES: Information regarding the requirements and application procedures for the Program may be obtained by calling or writing: Marc S. Horowitz, J.D., Office of Loan Repayment and Scholarship, National Institutes of Health, 2 Center Drive, Room 2E30, Bethesda, MD 20892–0230 or call non-toll-free number (301) 402–5666 or e-mail your request, including your address, to <lrp@nih.gov>.

SUPPLEMENTARY INFORMATION: The Public Health Improvement Act of 2000 (Pub. L. 106–505) was enacted on November 13, 2000 adding section 487F of the Public Health Service (PHS) Act (42 U.S.C. 288–5a). Section 487F authorizes the Secretary, acting through the Director of the NIH, to carry out a program of entering into contracts with appropriately qualified health professionals. Under such contracts, qualified health professionals agree to conduct clinical research for at least two years in consideration of the Federal Government agreeing to repay, for each year of service, not more than $35,000 of the principal and interest of the educational loans of such health professionals. This program is known as the NIH Loan Repayment Program for Clinical Researchers (LRP–CR).

Eligibility Criteria

Specific eligibility criteria with regard to participation in the LRP for Clinical Researchers include the following:

(1) Participants must be United States citizens, nationals, or permanent residents;

(2) Participants must have a M.D., Ph.D., Pharm.D., D.O., D.D.S., D.M.D., D.P.M., D.C., N.D., or equivalent degree;

(3) Participants must be affiliated with the NIH in one of the following ways:

(a) a recipient of postdoctoral National Research Service Award support on an individual postdoctoral fellowship (F32) or an institutional research training grant (T32). NRSA recipients will only be eligible for loan repayment during the first and third year of NRSA support. The second year of postdoctoral NRSA involves repayment of a service obligation incurred during the first year of NRSA support which eliminates the possibility of concurrent participation in the loan repayment program.

(b) a recipient of support under an individual or institutional research career development award including the following mechanisms:

(1) K01, the Mentored Research Scientist Development Award,

(2) K07, the Academic Clinical Scientist Development Award,

(3) K08, the Mentored Clinical Scientist Development Award,

(4) K12, Mentored Clinical Scientist Development Program Award,

(5) K22, the Career Transition Award with an extramural phase,

(6) K23, the Mentored Patient-Oriented Research Career Development Award, or

(7) K25, the Mentored Quantitative Research Career Development Award.

(c) a first-time recipient of NIH grant support as the principal investigator of an

(1) R01, a research project grant consisting of one research project,

(2) R03, a small research grant,

(3) R21, an exploratory/developmental grant,

(4) U01, a cooperative agreement consisting of one research project.

(d) a first-time director of subprojects on multicomponent center grants (P series grants, program project grants (P01)), or multicomponent cooperative agreements (U series).

(4) Participants must have qualifying educational debt in excess of 20 percent of their annual income or compensation, as applicable, at their expected date of program eligibility. The expected date of program eligibility is the date by which

the following conditions will be met: (a) Award date of a qualifying grant, and (b) the Secretary executes a LRP–CR contract. Contracts are not effective retroactive to the award date of the grant.

(5) Participants must engage in clinical research, as defined by Section 206 of Public Law 106–505, the Public Health Improvement Act, which states: "The term clinical research means patient-oriented clinical research conducted with human subjects, or research on the causes and consequences of disease in human populations involving material of human origin (such as tissue specimens and cognitive phenomena) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to clarify a problem in human physiology, pathophysiology or disease, or epidemiologic or behavioral studies, outcomes research or health services research, or developing new technologies, therapeutic interventions, or clinical trials."

(6) Individuals with existing service obligations to Federal, State, or other entities will not be considered for the Program unless and until the existing service obligation is discharged or deferred for the length of Program participation. Further, any individual who has a Federal judgment lien against his/her property arising from a Federal debt is barred from receiving Federal funds, until the judgment is paid in full or satisfied.

(7) Applicants will not be excluded from consideration under the Program on the basis of age, race, culture, religion, gender, sexual orientation, disability, or other non-merit factors.

NIH will evaluate the applicant and awardee pools after the first year of operation to assess and measure the extent of recruitment and retention of qualified health professionals to clinical research. At that time, NIH will expand the pool of individuals eligible to apply for loan repayment.

Selection Process

Individuals submit their LRP–CR applications to the Director, Office of Loan Repayment and Scholarship (OLRS), who forwards those satisfying the basic eligibility criteria to the relevant NIH Institutes and Centers (IC) for review. The IC Loan Repayment Committee (IC–LRC) reviews and ranks applications based upon the following:

(1) A personal statement, which includes a discussion of career goals and research and academic objectives;

(2) A research statement, which provides a description of the proposed research project including the specific responsibilities and role of the applicant in conducting the research;

(3) A research training plan, if applicable, which includes a detailed description of the mentoring plan, including a discussion of the research methods and scientific techniques to be taught;

(4) A description of the current research being conducted in the lab;

(5) Recommendation forms submitted by three individuals. Information provided addresses the applicant's potential for success in clinical research and/or academic medicine, and their main strengths and weaknesses; and

(6) A supporting statement from the sponsoring institution.

Funds for repayment will only be awarded to IC–LRC-approved applications, subject to the receipt of an appropriation and/or allocation of funds from the U.S. Congress, the NIH or IC. The Director, Office of Loan Repayment and Scholarship (OLRS), provides current deadlines, sources for assistance, and additional details regarding application procedures in an Applicant Information Bulletin that is maintained on the Loan Repayment Program's Internet homepage at <http://lrp.info.nih.gov>.

Program Administration and Details

Under the LRP for Clinical Researchers, the NIH will repay a portion of the extant qualified educational loan debt incurred by health professionals to pay for their undergraduate, graduate, and/or health professional school educational expenses. Upon application, individuals must have total qualified educational debt that exceeds 20% of their anticipated annual compensation ("debt threshold") on the date of program eligibility.

An amount equal to 50 percent of the debt threshold will not be considered for repayment ("participant obligation"). For example, an applicant has a loan debt of $100,000 and a university compensation of $40,000. Since the loan debt exceeds the "debt threshold" (20% of university compensation = $8,000), the applicant has sufficient debt for loan repayment consideration. The "participant obligation" is one-half the debt threshold, in this case $4,000. Thus, repayment of $4,000 is the applicant's responsibility. The remaining amount ("repayable debt") will be considered for repayment.

The repayable debt of qualified health professionals will be satisfied at the rate of one-quarter per year, subject to a statutory limit of $35,000 per year, for each year of obligated service. Obligated service requires selected individuals to engage in at least 2 years of qualified clinical research as an investigator on an NIH grant or as the recipient of an NIH award. Following conclusion of the initial two-year contract, participants may apply for renewal contracts if they have remaining repayable debt and continue to engage in qualified clinical research. These continuation contracts may be approved on a year-to-year basis, subject to a finding by NIH that the applicant's clinical research accomplishments are acceptable and qualified clinical research continues. Funding of contracts is contingent upon an appropriation and/or allocation of funds from the U.S. Congress and/or the NIH or ICs.

In return for the repayment of their educational loans, participants must agree to (1) engage in qualified clinical research as an investigator on an NIH grant or as a recipient of an NIH award for a minimum period of 2 years; (2) make payments to lenders on their own behalf for periods of Leave Without Pay (LWOP); (3) pay monetary damages as required for breach of contract; and (4) satisfy other terms and conditions of the LRP–CR contract and application procedures. Applicants must submit a signed contract, prepared by the NIH, agreeing to engage in qualified clinical research at the time they submit an application. Substantial monetary penalties will be imposed for breach of contract.

The NIH will repay lenders for the principal, interest, and related expenses (such as the required insurance premiums on the unpaid balances of some loans) of qualified Government (Federal, State, local) and commercial educational loans obtained by participants for the following:

(1) undergraduate, graduate, and health professional school tuition expenses;

(2) other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other living expenses as determined by the Secretary.

Repayments will be authorized for direct payment to lenders, following receipt of (1) the research supervisor's verification of completion of the prior period of research, and (2) lender verification of the crediting of prior loan repayments, including the resulting account balances and current account status. The NIH will repay loans in the following order, unless the Secretary determines that significant savings would result from a different order of priority:

(1) Loans guaranteed by the U.S. Department of Health and Human Services:

- Health Education Assistance Loan (HEAL);
- Health Professions Student Loan (HPSL);
- Loans for Disadvantaged Students (LDS);
- Primary Care Loan (PCL); and
- Nursing Student Loan Program (NSL);

(2) Loans guaranteed by the U.S. Department of Education:

- Direct Subsidized Stafford Loan;
- Direct Unsubsidized Stafford Loan;
- Direct Consolidation Loan;
- Perkins Loan;
- FFEL Subsidized Stafford Loan;
- FFEL Unsubsidized Stafford Loan; and
- FFEL Consolidation Loan;

(3) Loans made or guaranteed by a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States;

(4) Loans made by Academic Institutions; and

(5) Private ("Alternative") Educational Loans:

- MEDLOANS; and
- Private (non-guaranteed) Consolidation Loan.

Within each category, loans are repaid in order of interest rate (highest first).

The following loans are NOT repayable under the LRP–CR:

(1) Loans not obtained from a government entity, academic institution, or a commercial or other chartered lending institution such as loans from friends, relatives, or other individuals;

(2) Loans for which contemporaneous documentation is not available;

(3) Loans or portions of loans obtained for educational or living expenses which exceed a reasonable level, as determined by the standard school budget for the year in which the loan was made, and are not determined by the LRP to be reasonable based on additional contemporaneous documentation provided by the applicant;

(4) Loans, financial debts, or service obligations incurred under the following programs, or other programs which incur a service obligation which converts to a loan on failure to satisfy the service obligation:

- Physicians Shortage Area Scholarship Program (Federal or State);
- National Research Service Award Program;
- Public Health and National Health Service Corps Scholarship Program;
- Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Program; and
- Indian Health Service Scholarship Program;

(5) Delinquent loans, loans in default, loans not current in their payment schedule, loans already repaid or those for which promissory notes have been signed after the program effective date are not eligible for repayment; and

(6) PLUS Loans.

During lapses in loan repayments, due either to LRP administrative complications or a break in service, LRP participants are wholly responsible for making payments or other arrangements that maintain loans current, such that increases in either principal or interest do not occur. Penalties assessed participants as a result of LRP administrative complications to maintain a current payment status may be considered for reimbursement.

Additional Program Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs.

This program is subject to OMB clearance under the requirements of the Paperwork Reduction Act of 1995. A Request for OMB Review and Approval of information collection associated with the program is being prepared by the NIH and will be sent to OMB for review and approval prior to implementation of the LRP for Clinical Researchers.

The *Catalog of Federal Domestic Assistance* number for the LRP for Clinical Researchers is 93.280.

Dated: Augsut 20, 2001.

Yvonne T. Maddox,

Acting Deputy Director, National Institutes of Health.

[FR Doc. 01–22353 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Pediatric Research Loan Repayment Program

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: Pending approval by the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) announces the availability of educational loan repayment under the NIH Pediatric Research Loan Repayment Program (the Program). The Program, which is authorized by section 487F [1] of the Public Health Service (PHS) Act (42 U.S.C. 288–6), as added by the Children's Health Act of 2000 (Pub. L. 106–310), provides for the repayment of the educational loan debt of qualified health professionals who agree to conduct pediatric research. The Program provides for the repayment of up to $35,000 of the principal and interest of the educational loans of such health professionals for each year of obligated service. The purpose of the Program is the recruitment and retention of highly qualified health professionals as pediatric researchers. Through this notice, the NIH invites qualified health professionals who contractually agree to engage in pediatric research for at least two years, to apply for participation in the NIH Pediatric Research Loan Repayment Program.

DATES: Interested persons may request information about the Program beginning on September 6, 2001.

ADDRESSES: Information regarding the requirements and application procedures for the Program may be obtained by calling or writing: Marc S. Horowitz, J.D., Office of Loan Repayment and Scholarship, National Institutes of Health, 2 Center Drive, Room 2E30, Bethesda, MD 20892–0230 or call non-toll-free number (301) 402–5666 or e-mail your request, including your address, to <lrp@nih.gov>.

SUPPLEMENTARY INFORMATION: The Children's Health Act of 2000 (Pub. L. 106–310) was enacted on October 17, 2000 adding section 487F of the Public Health Service (PHS) Act (42 U.S.C. 288–6). Section 487F authorizes the Secretary, acting through the Director of the NIH, to carry out a program of entering into contracts with appropriately qualified health professionals. Under such contracts, qualified health professionals agree to conduct pediatric research for at least two years in consideration of the Federal Government agreeing to repay, for each year of service, not more than $35,000 of the principal and interest of the educational loans of such health professionals. This program is known as

[1] So in law. There are two sections 487F. Section 1002(b) of Public Law 106–310 (114 Stat. 1129) inserted section 487F above. Subsequently, section 205 of Public Law 106–505 (114 Stat. 2329), which relates to a loan repayment program regarding clinical researchers, inserted a section 487F after section 487E.

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the NIH Pediatric Research Loan Repayment Program (PR–LRP).

Eligibility Criteria

Specific eligibility criteria with regard to participation in the Pediatric Research LRP include the following:

(1) Participants must be United States citizens, nationals, or permanent residents;

(2) Participants must have a M.D., Ph.D., Pharm.D., D.O., D.D.S., D.M.D., D.P.M., D.V.M., D.C., N.D., or equivalent degree;

(3) Participants must be affiliated with the NIH in one of the following ways:

(a) A recipient of postdoctoral National Research Service Award support on an individual postdoctoral fellowship (F32) or an institutional research training grant (T32). NRSA recipients will only be eligible for loan repayment during the first and third year of NRSA support. The second year of postdoctoral NRSA involves repayment of a service obligation incurred during the first year of NRSA support which eliminates the possibility of concurrent participation in the loan repayment program.

(b) A recipient of support under an individual or institutional research career development award including the following mechanisms:

(1) K01, the Mentored Research Scientist Development Award,

(2) K07, the Academic Clinical Scientist Development Award,

(3) K08, the Mentored Clinical Scientist Development Award,

(4) K12, Mentored Clinical Scientist Development Program Award,

(5) K22, the Career Transition Award with an extramural phase,

(6) K23, the Mentored Patient-Oriented Research Career Development Award, or

(7) K25, the Mentored Quantitative Research Career Development Award.

(c) a first-time recipient of NIH grant support as the principal investigator of an

(1) R01, a research project grant consisting of one research project,

(2) R03, a small research grant,

(3) R21, an exploratory/developmental grant,

(4) U01, a cooperative agreement consisting of one research project.

(d) a first-time director of subprojects on multicomponent center grants (P series grants, program project grants (P01)), or multicomponent cooperative agreements (U series).

(4) Participants must have total qualifying educational debt in excess of 20 percent of their annual income or compensation, as applicable, at their expected date of program eligibility. The expected date of program eligibility is the date by which the following conditions will be met: (a) Award date of a qualifying grant, and (b) the Secretary executes a PR–LRP contract. Contracts are not effective retroactive to the award date of the grant;

(5) Participants must engage in qualified pediatric research. The term pediatric research, according to Pub. L. 106–310 (Title X, section 1001), refers to "research that is directly related to diseases, disorders, and other conditions in children;" and

(6) Individuals with existing service obligations to Federal, State, or other entities will not be considered for the Program unless and until the existing service obligation is discharged or deferred for the length of Program participation. Further, any individual who has a Federal judgment lien against his/her property arising from a Federal debt is barred from receiving Federal funds, until the judgment is paid in full or satisfied.

(7) Applicants will not be excluded from consideration under the Program on the basis of age, race, culture, religion, gender, sexual orientation, disability, or other non-merit factors.

NIH will evaluate the applicant and awardee pools after the first year of operation to assess and measure the extent of recruitment and retention of qualified health professionals to pediatric research. At that time, NIH will expand the pool of individuals eligible to apply for loan repayment.

Selection Process

Individuals submit their PR–LRP applications to the Director, Office of Loan Repayment and Scholarship (OLRS), who forwards those satisfying the basic eligibility criteria to the relevant NIH Institutes and Centers (IC) for review. The IC Loan Repayment Committee (IC–LRC) reviews and ranks applications based upon the following:

(1) A personal statement, which includes a discussion of career goals and research and academic objectives;

(2) A research statement, which provides a description of the proposed research project including the specific responsibilities and role of the applicant in conducting the research;

(3) A research training plan, if applicable, which includes a detailed description of the mentoring plan, including a discussion of the research methods and scientific techniques to be taught;

(4) A description of the current research being conducted in the lab;

(5) Recommendation forms submitted by three individuals. Information provided addresses the applicant's potential for success in research and/or academic medicine, potential for success in basic or clinical research, and their main strengths and weaknesses; and

(6) A supporting statement from the sponsoring institution.

Funds for repayment will only be awarded to IC–LRC-approved applications, subject to the receipt of an appropriation and/or allocation of funds from the U.S. Congress, the NIH or IC. The Director, Office of Loan Repayment and Scholarship (OLRS), provides current deadlines, sources for assistance, and additional details regarding application procedures in an Applicant Information Bulletin that is maintained on the Loan Repayment Program's Internet homepage at <http://lrp.info.nih.gov>.

Program Administration and Details

Under the Pediatric Research LRP, the NIH will repay a portion of the extant qualified educational loan debt incurred by health professionals to pay for their undergraduate, graduate, and/or health professional school educational expenses. Upon application, individuals must have total qualified educational debt that exceeds 20% of their anticipated annual compensation ("debt threshold") on the date of program eligibility.

An amount equal to 50 percent of the debt threshold will not be considered for repayment ("participant obligation"). For example, an applicant has a loan debt of $100,000 and a university compensation of $40,000. Since the loan debt exceeds the "debt threshold" (20% of university compensation = $8,000), the applicant has sufficient debt for loan repayment consideration. The "participant obligation" is one-half the debt threshold, in this case $4,000. Thus, repayment of $4,000 is the applicant's responsibility. The remaining amount ("repayable debt") will be considered for repayment.

The repayable debt of qualified health professionals will be satisfied at the rate of one-quarter per year, subject to a statutory limit of $35,000 per year, for each year of obligated service. Obligated service requires selected individuals to engage in at least 2 years of qualified pediatric research as an investigator on an NIH grant or as the recipient of an NIH award. Following conclusion of the initial two-year contract, participants may apply for renewal contracts if they have remaining repayable debt and continue to engage in qualified pediatric research. These continuation contracts may be approved on a year-to-year basis, subject to a finding by NIH that the applicant's pediatric research accomplishments are acceptable and qualified pediatric research continues. Funding of contracts is contingent upon an appropriation and/or allocation of funds from the U.S. Congress and/or the NIH or ICs.

In return for the repayment of their educational loans, participants must agree to (1) engage in qualified pediatric research as an investigator on an NIH grant or as a recipient of an NIH award for a minimum period of 2 years; (2) make payments to lenders on their own behalf for periods of Leave Without Pay (LWOP); (3) pay monetary damages as required for breach of contract; and (4) satisfy other terms and conditions of the PR–LRP contract and application procedures. Applicants must submit a signed contract, prepared by the NIH, agreeing to engage in qualified pediatric research at the time they submit an application. Substantial monetary penalties will be imposed for breach of contract.

The NIH will repay lenders for the principal, interest, and related expenses (such as the required insurance premiums on the unpaid balances of some loans) of qualified Government (Federal, State, local) and commercial educational loans obtained by participants for the following:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other living expenses as determined by the Secretary.

Repayments will be authorized for direct payment to lenders, following receipt of (1) the research supervisor's verification of completion of the prior period of research, and (2) lender verification of the crediting of prior loan repayments, including the resulting account balances and current account status. The NIH will repay loans in the following order, unless the Secretary determines that significant savings would result from a different order of priority:

(1) Loans guaranteed by the U.S. Department of Health and Human Services:

- Health Education Assistance Loan (HEAL);
- Health Professions Student Loan (HPSL);
- Loans for Disadvantaged Students (LDS);
- Primary Care Loan (PCL); and
- Nursing Student Loan Program (NSL);

(2) Loans guaranteed by the U.S. Department of Education:

- Direct Subsidized Stafford Loan;
- Direct Unsubsidized Stafford Loan;
- Direct Consolidation Loan;
- Perkins Loan;
- FFEL Subsidized Stafford Loan;
- FFEL Unsubsidized Stafford Loan; and
- FFEL Consolidation Loan;

(3) Loans made or guaranteed by a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States;

(4) Loans made by Academic Institutions; and

(5) Private ("Alternative") Educational Loans:

- MEDLOANS; and
- Private (non-guaranteed) Consolidation Loan.

Within each category, loans are repaid in order of interest rate (highest first).

The following loans are NOT repayable under the PR–LRP:

(1) Loans not obtained from a government entity, academic institution, or a commercial or other chartered lending institution such as loans from friends, relatives, or other individuals;

(2) Loans for which contemporaneous documentation is not available;

(3) Loans that have been consolidated with loans of other individuals, such as a spouse.

(4) Loans or portions of loans obtained for educational or living expenses which exceed a reasonable level, as determined by the standard school budget for the year in which the loan was made, and are not determined by the LRP to be reasonable based on additional contemporaneous documentation provided by the applicant;

(5) Loans, financial debts, or service obligations incurred under the following programs, or other programs which incur a service obligation which converts to a loan on failure to satisfy the service obligation:

- Physicians Shortage Area Scholarship Program (Federal or State);
- National Research Service Award Program;
- Public Health and National Health Service Corps Scholarship Program;
- Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Program; and
- Indian Health Service Scholarship Program;

(6) Delinquent loans, loans in default, loans not current in their payment schedule, loans already repaid or those for which promissory notes have been signed after the program effective date are not eligible for repayment; and

(7) PLUS Loans.

During lapses in loan repayments, due either to LRP administrative complications or a break in service, LRP participants are wholly responsible for making payments or other arrangements that maintain loans current, such that increases in either principal or interest do not occur. Penalties assessed participants as a result of LRP administrative complications to maintain a current payment status may be considered for reimbursement.

Additional Program Information

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs.

This program is subject to OMB clearance under the requirements of the Paperwork Reduction Act of 1995. A Request for OMB Review and Approval of information collection associated with the program is being prepared by the NIH and will be sent to OMB for review and approval prior to implementation of the Pediatric Research LRP.

Dated: August 20, 2001.

The *Catalog of Federal Domestic Assistonce* number for the Pediatric Research LRP is 93.285.

Yvonne T. Maddox,

Acting Deputy Director, National Institutes of Health.

[FR Doc. 01–22354 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications

listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods and Structures for Microengineering Neocartilage Scaffolds

Erik Petersen and Richard Spencer (NIA),
DHHS Reference No. E–175–01/0 filed 27 Apr 2001,

Licensing Contact: Marlene Shinn; 301–496–7056 ext. 285; e-mail: shinnm@od.nih.gov.

Therapy for joint damage due to trauma, congenital abnormality, or osteoarthritis has in the past only been limited to the replacement of the joint with a prosthesis. Recently, autologous transplantation of chondrocytes has begun to be performed, however, there are several hurdles that have needed to be overcome, including problems with cell loss and heterogeneous development of tissue density.

The NIH announces a new method of growing chondrocytes on a two-dimensional surface patterned biocompatible scaffold. These scaffolds consist of creating uniform contoured surfaces using photolithographic methods and then covering the surface with a polysaccharide gel. The gel is then allowed to cure and then is removed from the template. Chondrocytes that have been isolated from explants are then applied to the surface and attach to the gel. Once attached, the cells create an extracellular matrix within the gel and layers of neocartilage are created within the square depressions. Functional tissue is thereby produced which can be used as grafts and/or implants in humans.

Agents Useful for Reducing Amyloid Precursor Protein and Treating Dementia and Methods of Use Thereof

Nigel H. Greig et al. (NIA),
Serial No. 60/245,329 filed 02 Nov 2000,

Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: pontzern@od.nih.gov.

Alzheimer's disease (AD) is a progressive neurodegenerative condition leading to loss of memory and other cognitive functions. Alzheimer's disease is characterized pathologically by the appearance of senile plaques, primarily composed of amyloid β protein (Aβ), and neurofibrillary tangles in the CNS. Treatments reducing potentially toxic Aβ may thus prevent the occurrence and progression of Alzheimer's disease. As Aβ is derived from the larger β amyloid precursor protein (βAPP), reducing the production of βAPP should provide a therapy for the treatment of Alzheimer's disease.

The production of βAPP is regulated by cytokines, muscarinic receptors, and some cholinesterase inhibitors. The latter also have some utility in treating the symptoms of Alzheimer's disease. The agents and methods disclosed and claimed in this patent application reduce the production of βAPP and Aβ in vivo and in vitro without cholinergic side effects or other toxicity. The agents are structurally related to a known anti-cholinesterase agent in current clinical assessment, but are devoid of anticholinesterase activity and associated side effects. They likely act on a recently described translational regulatory element on βAPP mRNA. Further information as to how these agents effect βAPP processing can be found in the Proceedings of the National Academy of Sciences, Volume 98(13), Pages 7605–7610, June 19, 2001.

Dated: August 29, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health,

[FR Doc. 01–22355 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: September 5, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, Ph.D., Chief Scientific Review Branch, OSA, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, MSC 7003, Bethesda, MD 20892–7003, 301–443–2860, ehayunga@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 28, 2001.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22350 Filed 9–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4651–N–04]

Submission for Emergency OMB Review: Public Comments on Fair Housing Act (FHA) Training and Technical Guidance

AGENCY: Office of Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of proposed information collection requirement.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budge (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal. The Department of Housing and Urban Development (HUD) will be offering Training and Technical Guidance on the Fair Housing Act. Under the Fair Housing Act, it is unlawful to design and construct certain attached single-family and multifamily (buildings having four or more units) dwellings built for first occupancy after March 13, 1991, in a manner that makes them inaccessible to persons with disabilities. It also established design and construction requirements to make these dwellings readily accessible to and usable by persons with disabilities. KPMG Consulting, Inc., under contract to HUD, will be collecting information from the appropriate parties including, but not limited to, builders, architects, engineers, disabled persons, realtors, and code bodies in order to tailor the training and technical guidance to the intended audience.

DATES: Submit comments on or before: September 13, 2001.

ADDRESSES: Interested person are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–2374 (this is not a toll-free number) or e-mail to *Wayne_Eddins@HUD.gov*. Copies of the available documents submitted to OMB may be obtained from Mr. Eddins. Hearing or speech-impaired individuals may obtain further information via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8399.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). HUD has requested OMB approval by September 15, 2001.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless collection displays a valid control number.

This notice contains the following information:

(1) The title for the collection of information;

(2) A summary of the collection of information;

(3) A brief description of the need for the information and proposed use of the information;

(4) A description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information;

(5) An estimate of the total annual reporting and recordkeeping burden that will result from the collection of information;

Title: Fair Hosing Act Training and Technical Guidance.

OMB Control Number: Pending.

Type of submission: Emergency expedited.

Form Number(s): No form required.

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Total burden hours
1000		1		0.3		300

Contract: Cheryl Kent, HUD (202–708–2333, ext. 7058.) Joseph Lackey, OMB, (202) 395–7316

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 29, 2001.

Wayne Eddins,

Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–22408 Filed 9–5–01; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to request information collection authority.

SUMMARY: We, the U.S. Fish and Wildlife Service, have submitted the collection of information described below to OMB for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms, and explanatory materials may be obtained by contacting our Information Collection Officer at the address or phone number listed below.

DATES: You must submit comments on or before October 9, 2001.

ADDRESSES: Send your comments and suggestions on specific requirements to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of the Interior Desk Officer, 725 17th Street NW., Washington, DC 20503, and to Rebecca Mullin, Information Collection Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance and Habitat Restoration, Arlington, Virginia, at 703/358–1718, or Well Stephensen, Office of Marine Mammals Management, Anchorage, Alaska, at 907/786–3815.

SUPPLEMENTARY INFORMATION: We have submitted the following information collection clearance requirements to the OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. The OMB has up to 60 days to approve or disapprove information collection, but they may respond after 30 days. Therefore, for your comments and suggestions to receive maximum consideration, the OMB should receive your input October 9, 2001.

Currently, we have approval from the OMB to collect information under OMB control number 1018–0066. This approval expires on October 31, 2001. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless we display a currently valid OMB control number.

On March 6, 2001, we published in the **Federal Register** (66 FR 13564) a 60-day notice of our intention to request information collection authority from the OMB; our notice solicited public comments. We received no comments in response to that notice.

As with our 60-day notice, this 30-day notice invites your comments on: (1) Whether this collection of information is necessary for us to properly perform our functions, including whether this information will have practical utility; (2) the accuracy of our estimate of burden, including the validity of the methodology and assumptions we use; (3) ways to enhance the quality, utility, and clarity of the information we are proposing to collect; and (4) ways for us to minimize the burden of the collection of information on people who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological

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collection techniques or other forms of information technology.

In October 1988, pursuant to provisions of Section 109(i) of the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361–1407), we implemented formal Marking, Tagging, and Reporting Regulations at 50 CFR 18.23(f) for Alaska Natives harvesting polar bear, northern sea otter, and Pacific walrus in Alaska. Under Section 101(b) of the MMPA, Alaska Natives residing in Alaska and dwelling on the coast of the North Pacific or Arctic Oceans may harvest these species for subsistence or handicraft purposes. Section 109(i) of the MMPA authorized us, acting on behalf of the Secretary of the Interior, to prescribe marking, tagging, and reporting regulations applicable to this Native subsistence and handicraft take.

Our regulations have enabled us to gether data on the Native subsistence and handicraft harvest, and on the biology of polar bear, sea otter, and Pacific walrus in Alaska in order to determine what effect such take is having on these populations. The regulations have also provided us with a means of monitoring the disposition of the harvest to ensure that any commercial use of products created from these species meets the criteria set forth in Section 101(b) of the MMPA.

The information that we propose to continue to collect from Alaska Natives beyond the currently authorized period that expires on October 31, 2001 (under OMB Clearance Number 1018–0066), will be used to improve our decision-making ability by substantially expanding the quality and quantity of harvest and biological data upon which we can base future management decisions. It will provide us with the ability to make inferences about the condition and general health of these populations, and to consider the importance and impacts to these populations resulting from the Native harvest and habitat degradation. without authority to collect this harvest information, our ability to measure the take of polar bear, sea otter and walrus is inadequate. We believe that mandatory marking, tagging, and reporting is essential for us, in concert with Alaska Natives, to be able to improve the quality and quantity of harvest and biological data necessary to base future management decisions. It allows us to make rational, knowledgeable decisions regarding the Native harvest and habitat degradation within the range of these species.

We estimate that the annual burden associated with this request will be 674 hours for each year of the 3-year period of OMB authorization. We calculated this estimated burden based on previous experience suggesting that Alaska Natives annually will take about 2,695 polar bears, sea otter, and Pacific walrus for subsistence and handicraft purposes, and that 15 minutes will be needed to provide the required information for each animal taken.

Title: Marine Mammal Marking, Tagging, and Reporting Program.

Bureau form numbers: R7–51, and R7–52.

Frequency of collection: Occasional.

Description of respondents: Individuals and households.

Number of respondents: Approximately 2,695 per year.

Estimated completion time: 15 minutes per response.

Annual burden hours: 674 hours.

Current OMB Clearance Number: 1018–0066.

Approval expires: October 31, 2001.

Dated: July 18, 2001.

Rebecca Mullin,

Information Collection Officer, U.S. Fish and Wildlife Service.

[FR Doc. 01–22345 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Michael M. Smith, Bowie, TX, PRT–047142

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Saint Louis Zoo, Saint Louis, MO, PRT–039855

The applicant requests a permit to import biological samples collected from wild primates in Madagascar for the purpose of scientific research. Samples are to be collected from multiple species of the Lemuridae, Megaladapidae, Indridae, Daubentoniidae, and Cheirogaleidae families. This notification covers activities conducted by the applicant over a five year period.

Applicant: National Marine Fisheries Service, Miami, FL, PRT–045532

The applicant requests a permit to import and or introduce from the sea biological samples collected from wild Leatherback sea turtle (*Dermochelys coriacea*), Hawksbill sea turtle (*Eretmochelys imbricata*), and Kemp's Ridley sea turtle (*Lepdochelys. kempii*) for the purpose of scientific research. Samples are to be collected opportunistically from salvaged specimens. This notification covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Gerald M. Moschgat, Ebensburg, PA, PRT–047378

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: August 24, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–22384 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammal Protection Act; Notice of Receipt of Petition To List the Alaska Stock of Sea Otters as Depleted

AGENCY: Fish and Wildlife Service (FWS), Interior.

ACTION: Receipt of petition.

SUMMARY: On August 21, 2001, the FWS received a petition under section 115 of the Marine Mammal Protection Act (MMPA) from the Center for Biological Diversity (CBD). The petition requests that FWS list the Alaska stock of sea otters as depleted under the MMPA. Within 60 days of the receipt of this petition, the FWS will publish a finding in the **Federal Register** as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

FOR FURTHER INFORMATION CONTACT: The petition can be viewed online at *http://www.r7.fws.gov/ea/sotter/Pet2.pdf.* For a printed copy of the petition, contact: Douglas Burn, Wildlife Biologist, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, or telephone 907/786–3800 or facsimile 907/786–3816.

Authority: The authority for this action is the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1383b *et seq.*

Dated: August 17, 2001.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 01–22346 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Final Supplemental Environmental Impact Statement

AGENCY: U.S. Fish and Wildlife Service, Interior (Lead Agency): New York State Department of Environmental Conservation: Vermont Department of Fish and Wildlife (Cooperating Agencies).

ACTION: Notice of availability of Final Supplemental Environmental Impact Statement for a sea lamprey control proposal in Lake Champlain

SUMMARY: This notice announces the availability of a Final Supplemental Environmental Impact Statement (FSEIS) on a proposal to continue sea lamprey control in Lake Champlain. The U.S. Fish and Wildlife Service (USFWS) in cooperation with the Vermont Department of Fish and Wildlife (VTDFW) and the New York State Department of Environmental Conservation (NYSDEC) prepared the FSEIS pursuant to Sec. 102(2)(c) of the National Environmental Policy Act of 1969.

DATES: A 30-day review period will follow the Environmental Protection Agency's notice of availability of the FSEIS on September 7, 2001.

ADDRESSES: Copies of the FSEIS are available from Mr. Dave Tilton, Project Leader, USFWS Lake Champlain Office, 11 Lincoln St., Essex Junction, Vermont 05452; phone 802–872–0629, fax 802–872–9704.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Tilton, Project Leader, USFWS Lake Champlain Office, 11 Lincoln St., Essex Junction, Vermont 05452; phone 802–872–0629, fax 802–872–9704. New York contact person is Mr. Lawrence Nashett, Acting Regional Fisheries Manager, New York Department of Environmental Conservation, Region 5, P.O. Box 296, Ray Brook, New York 12977; phone 518–897–1333. Vermont contact person is Mr. Brian Chipman, District Fisheries Biologist, Vermont Department of Fish and Wildlife, 111 West Street, Essex Junction, Vermont 05452, phone 802–878–1564.

SUPPLEMENTARY INFORMATION:

Background

Sea lamprey are primitive marine invaders to Lake Champlain. They are parasitic fish that feed on the body fluids of other fish resulting in reduced growth and often the death of host fish. A substantial body of information collected on Lake Champlain indicates sea lamprey have a profound negative impact upon the lake's fishery resources and have suppressed efforts to establish new and historical sportfisheries. In 1990, the USFWS, NYSDEC, and VTDFW initiated an 8-year experimental sea lamprey control program for Lake Champlain. The experimental program treated tributaries and deltas of Lake Champlain with the chemical lampricides TFM and Bayluscide (listed as Bayer 73 in the Final Environmental Impact Statement), which substantially reduced larval sea lamprey numbers in treated waters. The program included monitoring and assessment of the effects of this sea lamprey reduction technique on the characteristics of certain fish populations, the sport fishery, and the area's growth and economy. A set of thirty evaluation standards were established. Overall, the experimental sea lamprey control program met or exceeded the majority of the standards demonstrating a successful reduction in the sea lamprey population. In addition to this evaluation, the cooperating agencies assessed the effects of the program on nontarget organisms.

Two rounds of treatments were planned for each significantly infested stream and delta. From 1990 through 1996, 24 TFM treatments were conducted on 14 Lake Champlain tributaries, and 9 Bayluscide treatments were conducted on 5 deltas. Approximately 141 stream miles and 1220 delta acres were treated.

In summary, trap catches of spawning-phase sea lamprey declined by 80 to 90 percent; nest counts were reduced by 57 percent. Sixteen of 22 TFM treatments reduced ammocoetes at index stations to less than 10 percent of pre-treatment levels. Eight of the nine Bayluscide treatments resulted in mean mortality rates over 85 percent among caged ammocoetes. Relatively small numbers of nontarget amphibian and fish species were killed. Adverse effects on nontarget species were higher for Bayluscide treatments than TFM. Native mussels, snails and some other macroinvertebrates were significantly affected after the 1991 Bayluscide treatments of the Ausable and Little Ausable deltas in New York. However, they recovered to pre-treatment levels within 4 years. American brook lamprey also experienced substantial treatment-related mortality. Yet, the finding of dead American brook lamprey during the experimental program's second-round treatments, in each stream where they were negatively affected during the first round, suggested survival or immigration was adequate to maintain their populations. Wounding rates on lake trout and landlocked Atlantic salmon were reduced in the main lake basin, and catches of both species increased. A significant increase in survival of 3 to 4-year old lake trout was noted: survival of older fish improved, but did not change significantly. Returns of Atlantic salmon to tributaries increased significantly after treatment. Changes in wounding rates on brown

and rainbow trout could not be evaluated, but angler catches increased since 1990. Catch per unit effort of rainbow smelt, the major forage species for salmonids, decreased significantly at one of two sampling stations in the main lake basin and in Malletts Bay, but not at other locations; length-at-age also decreased at most sites. Evaluation of angler responses to the program indicated a favorable economic benefit-cost ratio of 3.5–1.

A Comprehensive Evaluation of an 8–Year Program of Sea Lamprey Control in Lake Champlain provides a detailed description of the results of the project. It is available on the USFWS web-site at, [www.fws.gov/r5lcfwro/lamprey/lamprey.html.], or from any of the contacts for further information listed above.

Decision To Be Made

The responsible officials in the USFWS, NYSDEC, and VTDFW must decide whether to continue sea lamprey control for Lake Champlain. If sea lamprey control will continue, the agencies must also decide whether to implement the following actions:

(1) Establish long term program objectives to include:

(a) Achieve and maintain lamprey wounding rates at or below 25 wounds per 100 lake trout, ideally 10 wounds per 100 lake trout; 15 wounds per 100 landlocked salmon, ideally 5 wounds per 100 landlocked salmon; and 2 wounds per 100 walleye, ideally less than 1 wound per 100 walleye.

(b) Attain target wounding rates within 5 years of full implementation of the Proposed Action. Full implementation is defined as application of optimal sea lamprey control strategies on all tributaries that are identified in the Proposed Action and are known to warrant sea lamprey control measure.

(2) Employ an integrated approach to continuing sea lamprey control using lampricides and nonchemical means.

In addition, if sea lamprey control will continue, the agencies must also make the following determinations:

(1) Determine mitigation and monitoring measures required for sound resource management.

(2) Determine whether sea lamprey control is in the best interest for the resource and citizens of the States of New York and Vermont.

The Record of Decision is expected to be released in September, 2001. The Responsible Officials will make a decision regarding this proposal after considering public comments and the environmental consequences displayed in the Final Supplemental Environmental Impact Statement, applicable laws, regulations, and policies. The decision and supporting reason will be documented in the Record of Decision.

Dated: August 24, 2001.

Richard O. Bennett,

Acting Regional Director.

[FR Doc. 01–22432 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On June 14, 2001, a notice was published in the **Federal Register** (volume 66 FR page 32371), that an application had been filed with the Fish and Wildlife Service by Samuel T. Fejes, Jr. for a permit (PRT–043925) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 15, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: August 24, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–22383 Filed 9–5–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF JUSTICE

Justice Management Division

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: New Collection; Applicant Qualification Form.

The Department of Justice (DOJ), Justice Management Division (JMD) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until November 5, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Joanne Simms, Director, JMD Personnel Staff, Suite 1110, 1331 Pennsylvania Avenue, NW, Washington, DC 20350.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Applicant Qualification Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: N/A. Personnel, Staff, Justice Management Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Applicants for employment with certain DOJ components who do not have access to the Internet. Other: None Abstract: This form would allow applicants for employment with the Department of Justice who do not have access to the Internet to provide the required personal and experience information and job specific criteria in a format that can be scanned into the electronic recruitment module that automatically rates and ranks applicants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1000 responses are estimated annually with an average of thirty minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 500 hours annually.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW, Washington, D.C. 20004.

Dated: August 28, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–22310 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2001, and published in the **Federal Register** on April 17, 2001, (66 FR 19796), Novartis Pharmaceutical Corporation, 59 Route 10, East Hanover, New Jersey 07936, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture finished product for distribution to its customers.

DEA has considered the factors in title 21, United States Code, section 823(a) and determined that the registration of Novartis Pharmaceutical Corporation to manufacture methylphenidate is consistent with the public interest at this time. DEA has investigated Novartis Pharmaceutical Corporation on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: August 23, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22323 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 9, 2001, Chattam Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by renewal and by letter dated June 11, 2001, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
4-Methoxyamphetamine (7411)	I
2,5-Dimethoxyamphetamine (7396).	I
Difenoxim (9168)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Codeine (9050)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Morphine (9300)	II
Thebaine (9333)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to bulk manufacture the listed controlled substances to produce products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 5, 2001.

Dated: August 24, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22326 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 31, 2001, Houba Inc., P.O. Box 190, 16235 State Road 17, Culver, Indiana 46511, made application by to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium raw (9600)	II
Opium poppy (9650)	II
Poppy straw concentrate (9670)	II

The firm plans to import the controlled substances to use in the manufacture of active pharmaceutical ingredients.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in

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accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 9, 2001.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 23, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22324 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substance; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 6, 2001, Houba Inc., P.O. Box 190, 16235 State Road 17, Culver, Indiana 46511, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II

The firm plans to bulk manufacture the controlled substances for the production of finished dosage form products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: August 23, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22325 Filed 9–5–01; 8:45 am]

BILLING CODE 4410–09–M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, September 13, 2001, and Friday, September 14, 2001, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 9:30 a.m. on September 13, and at 8:30 a.m. on September 14.

On Thursday, September 13, 2001 MedPAC will conduct a hearing on regulatory complexity in Medicare. Witnesses will include: Bruce Bradley, General Motors; William Roper, University of North Carolina; Robert Berenson, Academy of Health Services Research and Health Policy; Ron Pollack, Families, USA; David Lipschutz, Center for Health Care Rights; Douglas Wood, Mayo Clinic and Foundation; Rebecca Brewer, Colleton Medical Center; Steve Dominquez, Tenet Healthcare; John Markus, Fresenius Medical Care North America; Arthur Rubin, MDxL; James Regan, Denver Medical Society; Robert Margolis, HealthCare Partners; Mara Benner, Gentiva Health Services; Keith Weikel, ManorCare-HCR; Rita Hostak, Sunrise Medical; Richard Jones, United Healthcare; Maureen McLaughlin, Group Health Cooperative; William Haggett, Independence Blue Cross.

On Friday, September 14, 2001 the following topics will be discussed: the new rule on payment for hospital outpatient department services; payment for outpatient hospital care in cancer hospitals; managed care issues in Medicare; Medicare consumer coalitions; quality improvement standards for health plans and providers; complexity of the Medicare program and regulatory burden; blood safety requirements: impact on hospital costs and PPS policy options; and the revised estimate of the payment update for physician services.

Agendas will be mailed on September 5, 2001. The final agenda will be available on the Commission's website (www.MedPAC.gov)

ADDRESSES: MedPAC's address is: 1730 K Street, NW., Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 01–22349 Filed 9–5–01; 8:45 am]

BILLING CODE 6820–BW–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–107)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that IntraPace, Inc., of Menlo Park, CA 94025, has applied for a partially exclusive license to practice the invention disclosed in U.S. Patent Application Serial Nos. 09/350,736, entitled, "Advanced Sensor Systems for Biotelemetry" and 09/427,043, entitled "Modular Sensor Signal System" which are both assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received on or before September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: August 28, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–22364 Filed 9–5–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is resubmitting the following information collection without change to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: *ckmorton@ncua.gov.*

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, C. Keith Morton, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposals for the following collection of information:

OMB Number: 3133–0116.

Form Number: NCUA 9600, NCUA 4401, NCUA 4221, NCUA 4505, & NCUA 4506.

Type of Review: Extension of a currently approved collection.

Title: 12 U.S.C. 1771—Conversion from Federal to State Credit Union and from State to Federal Credit Union.

12 U.S.C. 1781—Insurance of Member Accounts—Eligibility.

Description: The forms constitute the application for an approval of credit union conversions from federal to state charter and from state to federal charter. In addition, forms in the package contain the application and approval for federal insurance of member accounts in credit unions.

Respondents: Credit unions seeking to convert from federal to state charter and from state to federal charter and non-federally insured state chartered credit unions seeking federal share insurance.

Estimated No. of Respondents/ Recordkeepers: 50.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: Other. As credit unions seek approval to convert charter or federal share insurance.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: N/A.

Dated: By the National Credit Union Administration Board on August 30, 2001.

Hattie M. Ulan,

Acting Secretary of the Board.

[FR Doc. 01–22296 Filed 9–5–01; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following new information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: ckmorton@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, C. Keith Morton, (703) 518–6411. It is also available on the following website: *www.NCUA.gov.*

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0061.

Form Number: CLF–8703.

Type of Review: Revision to a currently approved collection.

Title: Central Liquidity Facility (CLF) Repayment Agreement, Regular Member.

Description: The form is used by CLF regular members borrowing from the CLF.

Respondents: Credit Unions which are CLF regular members who borrow from the CLF.

Estimated No. of Respondents/ Recordkeepers: 40.

Estimated Burden Hours Per Response: 2.875 hours.

Frequency of Response: Other. As the need for borrowing arises.

Estimated Total Annual Burden Hours: 115 hours.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 28, 2001.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–22297 Filed 9–5–01; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is resubmitting the following information collection without change to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until November 5, 2001.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. C. Keith Morton, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: ckmorton@ncua.gov.

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OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, C. Keith Morton, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposals for the following collection of information:

OMB Number: 3133–0114.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: Payment on Shares by Public Units and Nonmembers

Description: 5 CFR 701.32 limits nonmember and public unit deposits in federally insured credit unions to 20 percent of their shares or $1.5 million, whichever is greater. The collection of information requirement is for those credit unions seeking an exemption from the above limit.

Respondents: Credit Unions seeking an exemption from the limits on share deposits by public unit and nonmember accounts set by 5 CFR 701.32.

Estimated No. of Respondents/ Recordkeepers: 20.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Other. As exemption is requested.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 30, 2001.

Hattie Ulan,

Acting Secretary of the Board.

[FR Doc. 01–22298 Filed 9–5–01; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel (AccessAbility section) will be held by teleconference from 2 p.m. to 4 p.m. on Wednesday, September 26, 2001 in Room 528 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 31, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–22388 Filed 9–5–01; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Davis-Besse Nuclear Power Station; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–3 issued to FirstEnergy Nuclear Operating Company (FENOC) for operation of the Davis-Besse Nuclear Power Station (DBNPS), Unit 1, located in Ottawa County, Ohio.

The proposed amendment would change Technical Specification (TS) Sections 3/4.9.7, Refueling Operations—Crane Travel—Fuel Handling Building, and associated Bases; TS 3/4.9.11, Refueling Operations—Storage Pool Water Level, and associated bases; TS 3/4.9.12, Refueling Operations—Storage Pool Ventilation; TS 3/4.9.13, Refueling Operations—Spent Fuel Assembly Storage, and associated Bases; and TS 5.6 Design Features—Fuel Storage. The purpose of this license amendment application is to propose the necessary revisions to the DBNPS TS to reflect an increase in Spent Fuel Pool (SFP) storage capability, as a result of the SFP re-racking project, from the current capacity of 735 fuel assemblies to a new capacity of 1624 fuel assemblies. To provide additional temporary storage of fuel assemblies to support a complete re-racking of the SFP, this license amendment application also requests approval for up to 90 transfer pit storage locations. The transfer pit storage rack will be relocated into the SFP as part of the completion of this re-racking project. The resulting SFP fuel storage capacity will be sufficient to meet storage needs through the current expiration date of the DBNPS operating license, April 22, 2017.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below. The Davis-Besse Nuclear Power Station (DBNPS) has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the DBNPS, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because the methods and procedures for handling fuel assemblies will remain unchanged, fuel handling equipment reliability will be unaffected, and provisions will remain in place to ensure that the likelihood of a heavy load drop will remain extremely small. The proposed changes involve an expanded SFP storage capacity resulting from the planned re-racking of the SFP, and the inclusion of provisions allowing for temporary storage of fuel assemblies in the transfer pit.

For the installation activities involving the proposed expanded spent fuel storage capacity, heavy load lifts have been given careful-consideration. In accordance with the proposed changes to Technical Specifications (TS) 3/4.9.7, "Crane Travel—Fuel Handling Building," except when a specially designed impact cover is placed over fuel assemblies located in the cask pit, heavy loads are prohibited from travel over stored fuel assemblies. The physical design of the impact cover, together with administrative controls established while the impact cover is being installed or removed, ensure that it can not fall into the cask pit in the unlikely event that it is dropped. As described below, except for the use of a temporary crane, the spent fuel cask crane will be used for the replacement of the existing storage racks in the spent fuel pool (SFP), placement of the temporary rack in the transfer pit, and eventual relocation of racks from the cask pit and transfer pit to the SFP. The spent fuel cask crane is comprised of a main hook rated for 140 tons, as well as an auxiliary hook rated for 20 tons. As described in the DBNPS Updated Safety Analysis Report (USAR) Section 9.1.5, "Control of Heavy Loads," the spent fuel cask crane, including its auxiliary hoist, is subject to compliance with the applicable guidelines of NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." This will ensure that there will be no significant increase in the probability of a heavy load drop, and that the probability of a heavy load drop will remain extremely small. Due to the limited travel of the spent fuel cask crane, a temporary crane will be used, as necessary, to position existing racks for removal and for final positioning of the new racks. The crane will be designed to meet the intent of NUREG–0612 through a defense-in-depth approach. The temporary crane will only lift the racks several inches above the pool floor, will not be used to lift any heavy loads over fuel assemblies or safety-related equipment, and will not be used to move fuel assemblies. The methods and procedures for handling fuel assemblies during installation activities will not be significantly changed. Based on these considerations, there will be no significant increase in the probability of damage to stored fuel assemblies as a result of installation activities.

For the activities involving the post-installation use of the proposed expanded spent fuel storage capacity, the following previously postulated accident scenarios have been considered: Misloaded or Mislocated Fuel Assembly; Seismic Event; and Fuel Handling Accident. In addition, the effects of a loss of spent fuel pool cooling or level have been evaluated. The probability of the inadvertent misloading or mislocation of a fuel assembly is primarily a function of fuel handling procedures. The probability of a fuel handling accident is primarily a function of fuel handling equipment reliability and fuel handling procedures. The methods and procedures for handling fuel assemblies during normal, post-installation use of the racks will not be significantly changed. In addition, following completion of installation activities, the activities performed in and around the spent fuel pool will not be significantly changed due to the use of the new spent fuel pool racks. The proposed TS changes have no bearing on the probability of a seismic event or the probability of a loss of spent fuel pool cooling or level. Based on these considerations, there will be no significant increase in the probability of an accident previously evaluated as a result of normal, post-installation use of the racks.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because evaluations for each postulated accident have shown that the consequences remain bounded by the consequences from the previously evaluated accidents.

For the installation activities involving the proposed expanded spent fuel storage capacity, heavy load lifts have been given careful consideration. Heavy load lifts are subject to compliance with the applicable guidelines of NUREG–0612. These guidelines include use of defined safe load paths in accordance with approved procedures. This will ensure that there will be no significant increase in the consequences of a heavy load drop, in the unlikely event that one were to occur.

For the activities involving the post-installation use of the proposed expanded spent fuel storage capacity, the following previously postulated accident scenarios have been considered: Misloaded or Mislocated Fuel Assembly; Seismic Event; and Fuel Handling Accident. In addition, the effects of a loss of spent fuel pool cooling or level have been evaluated. The criticality analyses for the new spent fuel pool storage racks require burnup/enrichment limitations similar to those currently in place for the existing racks. These burnup/enrichment limitations are imposed by the proposed changes to TS 3/4.9.13, Refueling Operations-Spent Fuel Assembly Storage. The criticality evaluation for the new racks shows that if an unirradiated fuel assembly of the highest permissible enrichment is placed in an unauthorized storage cell or mislocated outside a storage rack, k_{eff} will be maintained ≤ 0.95, taking credit for soluble boron in the spent fuel pool water. Therefore, there will be no adverse radiological consequences due to the proposed changes.

The results of the seismic evaluation demonstrate that the racks will remain intact and that the structural capability of the pool and liner will not be exceeded. The Auxiliary Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks and pool water inventory, therefore, the rack geometry and cooling to the fuel will be maintained. Thus, there will be no adverse radiological consequences due to the proposed changes.

The new racks do not change the height of the stored fuel relative to any load being handled, and the 72 hour decay time for the fuel assumed in the design basis accident is conservative. Based on this, the design basis fuel handling accident for the pool area remains unchanged.

The mechanical accidents analyses evaluated the extent of rack deformation due to different scenarios. Based on the maximum calculated rack deformation, it was concluded that the criticality and thermal hydraulics limitations were not exceeded. Also, the mechanical accident analyses concluded that the pool liner will not be pierced, and there will be no catastrophic damage to the pool structure. Therefore, the analyzed mechanical accidents will not lead to radiological consequences beyond that already evaluated.

The evaluation of a loss of spent fuel pool cooling shows that sufficient time will be available, before a significant reduction in water level, to restore cooling or to provide a source of makeup water. Therefore, the racks will remain submerged and fuel stored therein will remain sufficiently cooled, and there will be no adverse radiological consequences due to the proposed changes.

The fuel handling area ventilation system will continue to ensure that in the event radioactive material is released from a damaged irradiated fuel assembly, it will be filtered through HEPA and charcoal iodine adsorber filters prior to discharge to the atmosphere. Therefore, the radiological consequences will continue to be mitigated as prior to the proposed changes.

2. Not created the possibility of a new or different kind of accident from any accident previously evaluated because the function and parameters of the components and the associated activities necessary to support safe storage of fuel assemblies in the new racks are similar to those presently in place. The methods and procedures for handling fuel assemblies would not be changed. Therefore, the list of

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postulated accidents remains unchanged.

Any event which would modify parameters important to safe fuel storage sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents would be considered a new or different accident. The fuel storage configuration and the existence of the coolant are the parameters that are important to safe fuel storage. The proposed changes do not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents, nor do they affect the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. Not involve a significant reduction in a margin of safety because for the proposed changes, appropriate evaluations have shown compliance with stipulated safety margins.

The objective of spent fuel storage is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as a seismic event or a fuel handling accident. The design of the new spent fuel racks meets all applicable requirements for safe fuel storage. The seismic and structural design of the racks preserves the proper margin of safety during normal and abnormal loads. The methodology used in the criticality analysis meets the applicable regulatory guidance. The thermal-hydraulic evaluation demonstrates that the pool will be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible malfunction scenarios and seismic events. Upon the unlikely event of a complete loss of spent fuel pool cooling, sufficient time will be available, before a significant reduction in water level, to restore cooling or to provide a source of makeup water. Therefore, the racks will remain submerged and fuel stored therein will remain sufficiently cooled. In addition, the results of the fuel handling accident evaluation show that the minimum subcriticality margin will be maintained, cooling will remain adequate, the spent fuel pool structure will not suffer catastrophic damage, and the radiological dose resulting from the release caused by a fuel handling accident will not be increased from that previously considered.

Thus, it is concluded that the proposed changes do not involve a significant reduction in the margin of safety.

Conclusion:

On the basis of the above, the Davis-Besse Nuclear Power Station has determined that the License Amendment Request does not involve a significant hazards considerations. As this License Amendment Request concerns a proposed change to the Technical Specifications that must be reviewed by the Nuclear Regulatory Commission, this License Amendment Request does not constitute an unreviewed safety question.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 9th, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mary O'Reilly, FirstEnergy Corporation, 76 South Main Street, Akron, OH., attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties."

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this action, see the application for amendment dated December 2, 2000, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 30th day of August, 2001.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22412 Filed 9–5–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request For Reclearance of a Revised Information Collection: RI 98–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. RI 98–7, We Need Important Information About Your Eligibility for Social Security Disability Benefits, is used by OPM to verify receipt of Social Security Administration (SSA) disability benefits, make necessary adjustments to the Federal Employees Retirement

System (FERS) disability benefit, and to notify the annuitant of any overpayment payable to OPM. It also notifies the annuitant of the responsibility to notify OPM if SSA benefits begin and consequences of non-notification.

Approximately 5,500 RI 98–7 forms will be completed annually. We estimate it takes approximately 5 minutes to complete the form. The annual burden is 458 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or email to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received by October 9, 2001.

ADDRESSES: Send or deliver comments to John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415–3520. and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–22359 Filed 9–5–01; 8:45 am]

BILLING CODE 6325–50–U

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish period summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Supplemental Information on Accident and Insurance; OMB 3220–0036.

Under section 12(o) of the Railroad Unemployment Insurance Act (RUIA), the Railroad Retirement Board is entitled to reimbursement of the sickness benefits paid to a railroad employee if the employee receives a sum or damages for the same infirmity for which the benefits are paid. Section 2(f) of the RUIA requires employers to reimburse the RRB for days in which salary, wages, pay for time lost or other remuneration is later determined to be payable. Reimbursements under section 2(f) generally result from the award of pay for time lost or the payment of guaranteed wages. The RUIA prescribes that the amount of benefits paid be deducted and held by the employer in a special fund for reimbursement to the RRB.

The RRB currently utilizes Form(s) SI–1c, (Supplemental Information on Accident and Insurance), SI–5 (Report of Payments to Employee Claiming Sickness Benefits Under the RUIA), ID–3s (Request for Lien Information), ID–3s–1, (Lien Information Under Section 12(o) of the RUIA), ID–3u (Request for Section 2(f) Information), ID–30k (Form Letter Asking Claimant for Additional Information on Injury or Illness), and ID–30k–1 (Request for Supplemental Information on Injury or Illness—3rd Party), to obtain the necessary information from claimants and railroad employers. The RRB proposes minor non-burden impacting editorial changes to all of the forms in the collection. Completion is required to obtain benefits. One response is requested of each respondent.

Estimate of Annual Respondent Burden: the estimated annual respondent burden for this collection is as follows:

Form Nos.	Annual responses	Time (min.)	Burden (hrs.)
SI–1c	1,000	5	93
SI–5	2,500	5	208
ID–3s	18,500	3	925
ID–3s.1	500	3	25
ID–3u	1,500	3	75
ID–30k	2,000	5	208
ID–30k.1	2,500	5	167
Total	28,500		1,691

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received on or before November 5, 2001.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–22311 Filed 9–5–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25146; 813–252]

WS Investment Company, L.L.C. et al. Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the "Act") granting an exemption from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g) and (j)), section 30) (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations under the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to exempt certain investment funds formed for the benefit of eligible current and former employees of Wilson Sonsini Goodrich & Rosati, Professional Corporation, and its affiliates from certain provisions of the Act. Each fund will be an "employees' securities company" as defined in section 2(a)(13) of the Act.

Applicants: WS Investment Company, L.L.C. (the "Investment Fund") and Wilson Sonsini Goodrich & Rosati, Professional Corporation (together with any business organization that results from a reorganization of Wilson Sonsini Goodrich & Rosati, Professional Corporation, into a different type of business organization or into an entity organized under the laws of another jurisdiction, "WSGR").

Filing Dates: The application was filed on March 27, 2000 and amended on August 28, 2001.

Hearing or Notificaton of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 650 Page Mill Road, Palo Alto, CA 94304.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. WSGR is a law firm organized as a California professional corporation. WSGR and its "affiliates," as defined in rule 12b–2 under the Securities Exchange Act of 1934 (the "Exchange Act"), are referred to collectively as the "WSGR Group" and individually as a "WSGR entity." The shareholders of WSGR are referred to as "Members."

2. The Investment Fund is a Delaware limited liability company established pursuant to a limited liability company agreement. The applicants may in the future offer additional pooled investment vehicles identical in all material respects to the Investment Fund (other than investment objectives and strategies) (the "subsequent Funds") (together, the Investment Fund and the Subsequent Funds are referred to as the "Funds"). The applicants anticipate that each Subsequent Fund will also be structured as a limited liability company, although a Subsequent Fund could be structured as a limited partnership, corporation, trust or other business organization formed as an "employees' securities company" within the meaning of section 2(a)(13) of the Act. The Funds will operate as non-diversified, closed-end management investment companies. The Funds will be established to enable the Members and certain attorney and non-attorney employees of WSGR Group to participant in certain investment opportunities that come to the attention of WSGR Group. Participation as investors in the Funds will allow the Eligible Investors, as defined below, to diversify their investments and to have the opportunity to participate in investments that might not otherwise be available to them or that might be beyond their individual means.

3. WSGR or a wholly-owned subsidiary of WSGR will serve as the sole manager (the "Manager") or each Fund. The Funds will have one or more investment committees ("Investment Committees"), each member of which shall be a Member. The Manager or WSGR shall appoint the members of each Investment Committee. If the Manager is a wholly-owned subsidiary of WSGR, the members of each Investment Committee will be officers and/or directors of the subsidiary. The Manager or any person involved in the operation of the Funds will register as an investment adviser if required under the Investment Advisers Act of 1940, or the rules under that Act.

4. Interests in the Funds ("Interests") will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the "Securities Act"), Regulation D under the Securities Act or rule 701 under the Securities Act, or any successor rule, and will be sold solely to Eligible Investors. Eligible Investors consist of "Eligible Employees," "Qualified Investment Vehicles," "Immediate Family Members," each as defined below, and WSGR entities. The term "Fund Investors" refers to Eligible Investors who invest in the Funds. Prior to offering Interests in a Fund to an individual, the Manager must reasonable believe that the individual is a sophisticated investor capable of understanding and evaluating the risks of participating in the Fund without the benefit or regulatory safeguards. An "Eligible Employee" is a person who is, at the time of investment, a current or former Member of WSGR or employee of WSGR Group who (a) meets the standards of an "accredited investor" set forth in rule 501(a)(5) or rule 501(a)(6) of Regulation D under the Securities Act, (b) is one of 35 or fewer employees of WSGR Group who meets certain salary and other requirements ("Category 2 investors"), or (c) is a lawyer employed by WSGR who purchase Interests pursuant to an offering under rule 701 under the Securities Act ("rule 701") ("Category 3 investors").

5. Each Category 2 investor will be an employee of WSGR Group, but not a lawyer employed by WSGR, who meets the sophistication requirements set forth in rule (506)(b)(2)(ii) of Regulation D under the Securities Act [1] and who (a) has a graduate degree, has a minimum of 3 years of business experience, has had compensation of at least $150,000 in the preceding 12 month period, and has a reasonable expectation of compensation at a least $150,000 in each of the 2 immediately succeeding 12 month periods, or (b) is a "knowledgeable employee," as defined rule 3c–5 under the Act, of the Fund (with the Fund treated as though it were a "Covered Company" for purposes of the rule). In addition, a Category 2 investor qualifying under (a) above will not be permitted to invest in any calendar or fiscal year (as determined by WSGR) more than 10% of his or her income from all sources for the immediately preceding calendar or fiscal year in one or more Funds.

6. Each Category 3 investor will be a lawyer employed by WSGR who reasonable expects to have compensation of at least $120,000 in the

[1] Some or all Category 2 investors may purchase their Interests in an offering under rule 701 rather than under Regulation D.

next 12 months and who has a reasonable expectation of compensation of at least $150,000 in each of the 2 immediately succeeding 12 month periods. (In addition, any Category 3 investors who is not a Member will not be permitted to invest in any calendar or fiscal year (as determine by WSGR) more than 10% (or 5%, if he or she has been employed as a lawyer for less than 3 years) of his or her reasonably expected income from all sources for that year in one or more Funds. Category 3 investors will purchase Interests pursuant to an offering under rule 701. Prior to receiving a subscription agreement from any potential Fund Investor pursuant to an offering in reliance on rule 701, WSGR will make available at no charge to potential Fund Investors the services of an independent third party ("Financial Consultant") qualified to provide advice concerning the appropriateness of investing in a Fund.

7. A Qualified Investment Vehicle is a trust or other entity the sole beneficiaries of which are Eligible Employees or their Immediate Family Members or the settlers and trustees of which consist of Eligible Employees or Eligible Employees together with Immediate Family Members.[2] Immediate Family Members include any parent, child, spouse of a child, spouse, brother or sister, and includes any step and adoptive relationships. A Qualified Investment Vehicle must be either (a) an accredited investor as defined in rule 501(a) of Regulation D or (b) an entity for which an Eligible Employee is a settlor and principal investment decisionmaker. An Immediate Family Member who purchases Interests must be an accredited investor as defined in rule 501(a)(5) or rule 501(a)(6) of Regulation D.

8. Each Fund may issue its Interests in series (each, a "Series" and collectively, the "Series") with new Series of Interests being offered from time to time. Each Series may be further divided into two or more separate classes (each, a "Class"), having such terms and conditions as the Manager may establish. Each Series will represent an interest in some or all of those Fund investments made by the Fund during a specified period of time (the "Investment Period"). Following the end of a Series' Investment Period, no new investment will be made for that Series, although following a Series' Investment Period additional money may be contributed to an existing investment.

9. The Manager may determine, in its sole discretion, that in cases when the Investment Periods for two or more Series are open concurrently and when a limited amount of securities of an investee company is available, the Investment Committee for one Series (the "Mandatory Series") will have the right to determine whether, and to what extent, the Mandatory Series will invest in the securities prior to one or more other Series having the right to invest. In such a case, the Mandatory Series shall be the Series in which Members have a mandatory obligation to invest. Each Member is required to purchase Interests in each Mandatory Series in an amount equal to a specified percentage of the investments made by that Mandatory Series based generally on his or her annual compensation. Members have a right, but not an obligation, to invest in Series other than the Mandatory Series (the "Voluntary Series"). Associates of WSGR will have the right to invest in Mandatory Series and may have the right to invest in Voluntary Series.

10. Currently, the Mandatory Series consists of two separate Classes: one Class, which is assessable, for Members and certain senior non-attorney employees of WSGR who are accredited investors; and one Class, which is non-assessable, for other Fund Investors. Assessments may be made against assessable interests solely during the Investment Period, and solely for the purpose of funding investments that the Fund otherwise does not have sufficient capital to make.

11. In order to comply with the requirements of rule 701, at the beginning of each Investment Period, the Fund will accept capital contributions or irrevocable commitments for the relevant Series from those Eligible Investors investing pursuant to Regulation D (the "Regulation D Investors"), and then prepare a balance sheet as required by rule 701. The fund may then receive and accept subscription agreements, and thereafter accept capital contributions or commitments for that Series from those Eligible Investors investing pursuant to rule 701 (the "rule 701 Investors"). The capital contributions and commitments of the Rule 701 Investors, in the aggregate, will not exceed 15% of the total amount of capital contributions and irrevocable commitments received from the Regulation D Investors. Because the capital commitments of the rule 701 Investors may be funded, in whole or in part, through periodic payroll deductions, the Rule 701 Investors may from time to time contribute money prior to the time the fund is able to invest that money. It currently is anticipated that any such amounts will be placed in a separate bank or escrow account, opening the delivery of the money to the Fund for investment or other authorized purposes.[3] No more than approximately 13% (*i.e.*, 15% of the total amount of capital contributions and irrevocable commitments received from the Regulation D Investors) of all Fund investments and other authorized expenditures for each Series will at any time be paid for out of money contributed to the Fund by Rule 701 Investors.

12. The terms of a Fund will be fully disclosed in the private placement memorandum of the Fund, and each Eligible Investor will receive a private placement memorandum and Fund's limited liability company agreement (or other organizational documents) prior to his or her investment in the Fund. Each Fund will send its Fund Investors annual reports, which will contain audited financial statements with respect to those Series in which the Fund Investor has Interests, as soon as practicable after the end of each fiscal year. In addition, as soon as practicable after the end of each fiscal year, the Funds will send a report to each Fund Investor setting forth such tax information as shall be necessary for the preparation by the Fund Investor of his or her federal and state tax returns.

13. Eligible Investors will be permitted to transfer their Interests only with the express consent of the Manager. Any such transfer must be to another Eligible Investor. No fee of any kind will be charged in connection with the sale of Interests.

14. An Eligible Employee's Interests may be subject to repurchase or cancellation if: (a) A Fund Investor ceases to be an Eligible Investor; (b) a Fund Investor is no longer deemed to be able to bear the economic risk of investment in a Fund; (c) adverse tax consequences were to inure to the Fund were a particular Fund Investor to remain; or (d) the continued membership of the Fund Investor would violate applicable law or regulations. In addition, WSGR reserves the right to impose vesting provisions on a Fund Investor's investments in a Fund. In an investment program that provides for vesting provisions, all or a portion of a Fund Investor's Interests will be treated as unvested, and vesting will occur through the passage of a specified period of time. The portion of a Fund Investor's Interests that are unvested at the time of the termination of a Fund Investor's employment with WSGR may be subject to repurchase or cancellation. Upon any repurchase or cancellation of all or a portion of a Fund Investor's Interests, a Fund will at a minimum pay to the Fund Investor the lesser of (a) the amount actually paid by the Fund Investor to acquire the Interests less the amount of any distributions received by that Fund Investor from the Fund (plus interest at or above the prime rate, as determined by the Manager) and (b) the fair market value of the Interests determined at the time of repurchase or cancellation, as determined in good faith by the Manager. Any interest owed to a Fund Investor pursuant to (a) above will begin to accrue at the end of the Investment Period.

15. WSGR may be reimbursed by a Fund for reasonable and necessary out-of-pocket costs directly associated with the organization and operation of the Funds, including administrative and overhead expenses. There will be no allocation of any of WSGR's operating expenses to a Fund. In addition, WSGR may allocate to a Series any out-of-pocket expenses specifically attributable to the organization and operation of that Series. No separate management fee will be charged to a Fund by the Manager, and no compensation will be paid by a Fund or by Fund Investors currently employed by WSGR Group to the Manager for its services. The Manager may impose a fixed fee or a management fee, in either case not to exceed one percent of the value of the Interests held by any Fund Investor. Such a fee will be charged only to a person who becomes a former employee of WSGR Group and any Qualified Investment Vehicle associated with that Fund Investor, so that these Fund Investors bear their fair share of the costs of managing the Funds.

16. WSGR may in its discretion advance funds to Eligible Investors for the purpose of making their capital contributions. WSGR currently expects that no interest will be charged on such loans, but WSGR reserves the right to charge interest on such loans in the future. The interest rate charged on such loans will not exceed the prime rate. The Funds may borrow from WSGR Group, Members, or a bank or other financial institution, provided that a Fund will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own outstanding securities of the Fund (other than short-term paper). Any borrowings by a Fraud will be non-recourse other than to WSGR or a WSGR entity. If WSGR or a WSGR entity or a Member makes a loan to the Funds, the interest rate on the loan will be no less favorable to the Funds than the rate that could be obtained on an arm's length basis.

17. No Fund will acquire any security issued by a registered investment company if immediately after the acquisition the Fund would own more than 3% of the outstanding voting stock of the registered investment company.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under section 6(b) and 6(e) of the Act exempting the Funds from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e) and (h)), sections 36 through 53 of the Act, and the rules and regulations under the Act.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit a Fund to: (1) Purchase, from WSGR or any affiliated person thereof, securities or interests in properties previously acquired for the account of WSGR or any affiliated person thereof; (b) sell, to WSGR or any affiliated person thereof, securities or interested in properties previously acquired by the Funds; (c) invest in companies, partnerships or other investment vehicles offered, sponsored or managed by WSGR or any affiliated person thereof; and (d) purchase interests in any company or other investment vehicle (i) in which WSGR owns 5% or more of the voting securities, or (ii) that otherwise is an affiliated person of the Fund (or an affiliated person of such a person) or any affiliated person of WSGR.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and the purposes of the Act. Applicants state that the Fund Investors will be informed in the Fund's private placement memorandum of the possible extent of the Fund's dealings with WSGR or any affiliated person thereof. Applicants also state that, as financially sophisticated professionals, Fund Investors will be able to evaluate the attendant risks. Applicants assert that the community of interest among the Fund Investors and WSGR will provide the best protection against any risk of abuse.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of an affiliated person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicants request relief to permit affiliated persons of each Fund, or affiliated persons of any of these persons, to participate in any joint arrangement in which the Fund is a participant. Joint transactions in which a Fund may participate could include the following: (a) An investment by one or more Funds in a security in which WSGR or its affiliated person, or another Fund, is a participant, or with respect to which WSGR or an affiliated person is entitled to receive fees (including, but not limited to, legal fees, placement fees, investment banking fees, brokerage commissions, or other economic

[2] A Qualified Investment Vehicle is not permitted to participate in a rule 701 offering. WSGR or the Manager may, however, in their discretion and in compliance with rule 701, permit an Eligible Employee who purchases Interests in the Fund in a rule 701 offering to transfer some or all of those Interests to a Qualified Investment Vehicle.

[3] Applicants state that in the future, the Fund may not need to use the separate bank account or escrow arrangements, if (for example) Regulation D Investors make sufficient capital contributions to a Fund at the beginning of the Investment Period.

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benefits or interests); (b) an investment by one or more Funds in an investment vehicle sponsored, offered or managed by WSGR; and (c) an investment by one or more Funds in a security in which an affiliate is or may become a participant.

6. Applicants state that strict compliance with section 17(d) would cause the Funds to forego investment opportunities simply because a Fund Investor, WSGR or other affiliates of the Fund also had made or contemplated making a similar investment. In addition, because investment opportunities of the types considered by the Funds often require that each participant make available funds in an amount that may be substantially greater than that available to the investor alone, there may be certain attractive opportunities of which a Fund may be unable to take advantage except as a co-participant with other persons, including affiliates. Applicants note that, in light of WSGR's purpose of establishing the Funds so as to reward Eligible Investors and to attract highly qualified personnel to WSGR, the possibility is minimal that an affiliated party investor will enter into a transaction with a Fund with the intent of disadvantaging the Fund. Finally, applicants contend that the possibility that a Fund may be disadvantaged by the participation of an affiliate in a transaction will be minimized by compliance with the lockstep procedures described in condition 4 below. Applicants assert that the flexibility to structure co-investments and joint investments will not involved abuses of the type section 17(d) and rule 17d–1 were designed to prevent.

7. Section 17(f) of the Act designate the entities that may act as investment company custodians, and rule 17f–2 allows an investment company to act as self-custodian, subject to certain requirements. Applicants request an exemption from section 17(f) and rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (a) A Fund's investments may be kept in the locked files of WSGR or of a Member; (b) for purposes of paragraph (d) of the rule, (i) employees of WSGR will be deemed employees of the Funds, (ii) officers of the Manager and the Manager of a Fund will be deemed to be officers of the Fund, and (iii) the Manager of a Fund will be deemed to be the board of directors of the Fund; and (c) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees of WSGR. Applicants assert that the securities held by the Funds are most suitably kept in WSGR's files, where they can be referred to as necessary.

8. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons ("disinterested directors") take certain actions and give certain approvals relating to fidelity bonding. Paragraph (g) of rule 17g–1 sets forth certain materials relating to the fidelity bond that must be filed with the Commission and certain notices relating to the fidelity bond that must be given to each member of the investment company's board of directors. Paragraph (h) of rule 17g–1 provides that an investment company must designate one of its officers to make the filings and give the notices required by paragraph (g). Paragraph (j) of rule 17g–1 exempts a joint insured bond provided and maintained by an investment company and one or more other parties from section 17(d) of the Act and the rules thereunder. Rule 17g–1(j)(3) requires that investment companies relying on this exemption have a majority of disinterested directors, that those disinterested directors select and nominate any other disinterested directors, and that any legal counsel of those disinterested directors be independent. Applicants request an exemption from section 17(g) and rule 17g–1 to the extent necessary to permit each Fund to comply with rule 17g–1 without the necessity of having a majority of the disinterested directors take such action and make such approvals as are set forth in the rule. Specifically, each Fund will comply with rule 17g–1 by having the Manager take such actions and make such approvals as are set forth in rule 17g–1. Applicants state that, because the Manager will be an interested person of the Fund, a Fund could not comply with rule 17g–1 without the requested relief. Applicants also request an exemption from the requirements of rule 17g–1(g) and (h) relating to the filing of copies of fidelity bonds and related information with the Commission and the provision of notices to the board of directors and from the requirements of rule 17g–1(j)(3). Applicants believe the filing requirements are burdensome and unnecessary as applied to the Funds. The Manager will maintain the materials otherwise required to be filed with the Commission by rule 17g–1(g) and agree that all such material will be subject to examination by the Commission and its staff. The Manager will designate a person to maintain the records otherwise required to be filed with the Commission under paragraph (g) of the rule. Applicants also state that the notices otherwise required to be given to the board of directors would be unnecessary as the Funds will not have boards of directors. The Funds will comply with all other requirements of rule 17g–1.

9. Section 17(j) and paragraph (b) of rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the requirements of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Funds.

10. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e), and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevant to the Funds and would entail administrative and legal costs that outweigh any benefit to the Fund Investors. Applicants request exemptive relief to the extent necessary to permit each Fund to report annually to its Fund Investors. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the Manager of each Fund and any other persons who may be deemed members of an advisory board of a Fund from filing Forms 3, 4 and 5 under section 16 of the Exchange Act with respect to their ownership of Interests in the Fund. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filing are unnecessary for the protection of investors and burdensome to those required to make them.

Applicant's Conditions

The applicants agree that any order granting the requested relief will be subject toe the following conditions:

Fund Operations

1. Each proposed transaction to which a Fund is a party otherwise prohibited by section 17(a) or section 17d–1 (each a "Section 17 Transactions") will be effected only if the Manager determines that: (a) the terms of Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to the Fund Investors of the participating Fund and do not involve overreaching of the Fund of its Fund Investors on the part of any person concerned; and (b) the Section 17 Transaction is consistent with the interests of the Fund Investors of the participating Fund, the Fund's organizational documents and the Fund's reports to its Fund Investors.

In addition, the Manager will record and preserve a description of such Section 17 Transactions, its findings, the information or materials upon which its findings are based and the basis therefore. All such records will be maintained for the life of a Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

2. If purchases or sales are made by a Fund from or to an entity affiliated with the Fund by reason of a Member or employee of the WSGR Group (a) serving as an officer, director, general partner or investment adviser of the entity, or (b) having a 5% or more investment in the entity, such individual will not participate in the Fund's determination of whether or not to effect the purchase or sale.

3. The Manager will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Funds, or any affiliated person of such a person, promoter, or principal underwriter.

4. The Manager will not make on behalf of a Fund any investment in which a Co-Investor, as defined below, has or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Fund and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment, (a) gives the Manager sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the participating Fund holding such investment has the opportunity to dispose of its investment prior to or concurrently with, on the same terms as, on a *pro rata* basis with the Co-Investor. The term "Co-Investor" with respect to any Fund means any person who is (a) an "affiliated person" (as defined in section 2(a)(3) of the Act) of the Fund; (b) the WSGR Group; (c) a Member, lawyer, or employee of the WSGR Group; (d) an investment vehicle offered, sponsored, or managed by WSGR or an affiliated person of WSGR; or (e) an entity in which a WSGR entity acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities.

The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by a Co-Investor; (a) To its direct or indirect wholly-owned subsidiary, to any company (a "parent") of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its parent; (b) to Immediate Family Members of the Co-Investor or a trust established for any such Immediate Family Member; (c) when the investment is comprised of securities that are listed on a national securities exchange registered under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder; or (e) when the investment is comprised of securities (i) that meet the requirements of and are authorized as Nasdaq SmallCap Market securities by The Nasdaq Stock Market, Inc., (ii) that have an average daily trading volume value over the last 60 calendar days of at least $1 million, and (iii) are issued by an issuer whose common equity securities have a public float value of at least $150 million.

5. The Manger of each Fund will send to each person who was a Fund Investor in such Fund at any time during the fiscal year then ended audited financial statements with respect to those Series in which the Fund Investor held Interests. At the end of each fiscal year, the Manager will make a valuation or have a valuation made of all of the assets of the Fund as of the fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Fund. In addition, as soon as practicable after the end of each fiscal year of each Fund, the Manager of the Fund shall send a report to each person who was a Fund Investor at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Fund Investor of his or her federal and state income tax returns and a report of the investment activities of such Fund during such year.

6. Each Fund and the Manager will maintain and preserve, for the life of each Series of that Fund and at least two years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements and annual reports of such Series to be provided to its Fund Investors, and agree that all such records will be subject to examination by the Commission and its staff. All such records will be maintained in an easily accessible place for at least the first two years.

Compliance With Rule 701

7. Prior to receiving a subscription agreement from any potential Fund Investor pursuant to an offering in reliance on rule 701, WSGR will make available at no charge to potential Fund Investors the services of a Financial Consultant qualified to provide advice concerning the appropriateness of investing in a Fund. Specifically, the Financial Consultant will hold one or more group meetings with potential Fund Investors at which the Financial Consultant will discuss the risks and other considerations relevant to determining whether to invest in a Fund. The Financial Consultant also will be available to the group of potential Fund Investors to answer general questions regarding an investment in the Fund. In addition, potential Fund Investors will be given the opportunity to submit relevant questions and issues to the Financial Consultant in advance of the group meetings, so that the Financial Consultant can address those questions and issues at the meetings. WSGR will not need to reveal the specific investments made by any Fund to the Financial Consultant, as long as the investment objectives, risk characteristics and other material information about the Fund of the type that would be disclosed in the offering documents for the Fund is made available to the Financial Consultant.

8. WSGR will at all times control each Fund, within the meaning of rule 405 under the Securities Act. In this regard, WSGR will, either directly or through a wholly-owned subsidiary, be the sole manager of the Fund, own at least 95% of the voting Interests of the Fund, and make all investment and other operational decisions for the Fund.

9. WSGR or a wholly-owned subsidiary will own not less than 5% of the economic Interests issued each year

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by the Fund, and (as discussed above) at least 95% of the voting Interests of the Fund. In addition, WSGR and its Members, directly or through Qualified Investment Vehicles, together will own at least 80% of the economic Interests of each Series.

10. WSGR prepares its financial statements on a modified cash basis, and does not consolidate the Fund's financial statements with its own. If, however, WSGR prepared its financial statements in accordance with GAAP, it would consolidate the Fund's financial statements with its own.

11. WSGR, when offering Interests pursuant to rule 701 under the Securities Act, will issue Interests in each Series in compliance with rule 701(d)(2),[4] and will comply with all applicable requirements of rule 701(e).[5]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22387 Filed 9–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25145; 812–12070]

Keeper Holdings, LLC, et al.; Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act, under section 6(c) of the Act for an exemption from section 17(e) of the Act and rule 17e–1 under the Act, and under section 17(d) of the Act and rule 17d–1 under the Act permitting certain joint transactions.

[4] If WSGR relies on rule 701(d)(2)(ii), it will not sell pursuant to rule 701, during any consecutive 12-month period, Interests in the Fund if the sales prices of those Interests exceeds 15% of the total assets of the Fund.

[5] In order to comply with the requirements of rule 701, at the beginning of each Investment Period the Fund will accept capital contributions or irrevocable commitments from Regulation D Investors for the relevant Series, and then prepare a balance sheet as required by rule 701. The Fund may then receive and accept subscription agreements, and thereafter accept capital contributions or commitments, from Rule 701 Investors for that Series, which in the aggregate will not exceed 15% of the total amount of capital contributions and irrevocable commitments received from Regulation D Investors.

SUMMARY OF THE APPLICATION: The order would permit (1) registered investment companies ("funds") for which certain affiliates of State Street Corporation ("State Street") act as investment adviser, promoter or principal underwriter to engage in certain transactions with certain affiliates of Citigroup, Inc. ("Citigroup"), and (2) funds for which certain affiliates of Citigroup act as investment adviser, promoter or principal underwriter to engage in certain transactions with certain affiliates of State Street.

Applicants: Keeper Holdings, LLC (the "Citigroup Member") and State Street Bank and Trust Company (the "State Street Member").

Filing Dates: The application was filed on April 24, 2000 and amended on August 28, 2001.

Hearing or Notificotion of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Keeper Holdings, LLC, Travelers Life and Annuity, One Tower Square, Hartford, Connecticut 06183.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Citigroup is a large diversified financial services company. It currently has ten investment advisory subsidiaries (including Citibank N.A.) that collectively act as investment adviser to at least 111 funds consisting of at least 289 portfolios. Its subsidiaries Salomon Smith Barney Inc. and Citibank, N.A. are among the largest underwriters, dealers and/or brokers in securities, commodities, foreign exchange, commercial loans, securities loans, derivative instruments and other financial instruments and conduct hundreds of billions of dollars per year of principal and agency transactions with funds.

2. State Street provides transfer agency, custody or administration services for funds and other investment vehicles holding at least $6 trillion in assets as of December 31, 1999, including 16 Ctigroup funds, as defined below. SSgA Funds Management, Inc. a subsidiary of State Street ("Funds Management"), acts as investment adviser to at least 27 funds consisting of at least 91 portfolios.[1] Funds Management in registered under the Investment Advisers Act of 1940 (the "Advisers Act"). State Street also has three investment advisory subsidiaries registered under the Advisers Act, each of which manages one fund. State Street currently engages in a large volume of principal and agency transactions with third party funds, in areas such as securities, foreign exchange, settlement credit, repurchase agreements, securities loans, derivative instruments and other financial instruments.

3. On December 9, 1999, Citigroup and State Street, through the Citigroup Member and the State Street Member, entered into a definitive agreement to form and operate a joint venture, for the primary purpose of providing recordkeeping and other bundled services for defined benefit and defined contribution pension plans (the "Venture"). The Venture consists of CitiStreet LLC ("CitiStreet") and persons controlled by CitiStreet (together with CitiStreet, the "Venture Entities"). The State Street Member and the Citigroup Member each own 50% of CitiStreet. State Street obtained its interest by contributing its recordkeeping business for institutional clients, primarily defined contribution pension plans, and its benefits outsourcing business, which provide services for defined benefit and health and welfare benefit plans. Citigroup obtained its interest by contributing cash and its interest in various subsidiaries engaged in defined contribution plan recordkeeping, plan communication and administration services, investment advisory services and related products and services for

[1] Prior to May 2001 these services were provided through the State Street Global Advisors division of the State Street Member. However, as a result of the Gramm-Leach-Bliley Act of 1999, State Street now provides these services through funds Management.

business, government and tax-exempt organization employers and their participants. The State Street Member and the Citigroup Member each has a 50% interest in the profits of the Venture. The Venture will operate and expand the businesses contributed by State Street and Citigroup for the purpose of marketing and providing bundled recordkeeping and administrative services and, to a lesser extent, investment advisory and broker-dealer services and outsourcing services, for defined benefit and defined contribution retirement plans and for health and welfare benefit plans, both in the United States and globally, for business and not-for-profit entities. One of the Venture Entities acts as investment adviser for, and another as the principal underwriter for, a fund consisting of six portfolios, the shares of which are held exclusively by various variable annuity accounts sold by various of the Venture Entities. No fund advised, promoted or distributed by a Venture Entity would be covered by the requested order.

4. The Venture will conduct its own businesses, operating completely separately from the business units of either State Street or Citigroup. CitiStreet is managed by its board of managers (the "Board"), which has delegated day-to-day management authority to CitiStreet's chief executive officer but retains the ability to revoke all or a portion of such authority at any time. The Board consists of twelve individuals, five chosen by the Citigroup Member, five by the State Street Member and two (from the Venture's officers) by the Citigroup Member and the State Street Member together. Certain material contracts, incentive compensation and pension plans, hiring or firing the chief financial officer and approval of annual budgets and business plans require unanimous approval by the non-management members of the Board. Certain extraordinary actions, such as hiring or firing the chief executive officer, capital calls, acquisitions, change in business purpose, changing the distribution policy, liquidating, commencing bankruptcy proceedings, amending the joint venture agreement and redeeming interests, require the direct approval of each of the Citigroup Member and the State Street Member.

5. CitiStreet has adopted policies on behalf of itself and the other Venture Entities prohibiting any information regarding investment advisory and portfolio execution matters relating to the Citigroup Funds and the State Street Funds, each as defined below, from being communicated between the Venture Entities, on the one hand, and the Citigroup asset management units and the State Street asset management units, on the other hand.

6. The Citigroup Member is indirectly wholly owned by Citigroup through a chain of intermediate holding companies and The Travelers Insurance Company and is a sister company to, rather than owned or controlled by, any of Citigroup's banking companies, broker-dealer units or investment management units. The Citigroup Member is a holding company the sole purpose of which is to hold Citigroup's interest in CitiStreet. It does not conduct any business other than acting as a 50% owner of CitiStreet. Its managing member is Plaza, LLC. Its only other member is SSB Keeper Holdings, LLC. The Citigroup Member has no officers.

7. The legal entity serving as the State Street Member is State Street Bank and Trust Company, which is the primary operating entity of State Street. State Street's interest in the Venture is supervised by the senior executives who serve as members of the Board, none of whom are involved in day-to-day administration or investment management of the State Street Funds (as defined below).

8. The applicants seek relief under sections 6(c), 17(b) and 17(d) of the Act and rule 17d–1 under the Act on behalf of (a) Citigroup Member, Citigroup and any entity controlling, controlled by or under common control with Citigroup other than the Venture Entities and (b) State Street Member, State Street and any entity controlling, controlled by or under common control with State Street other than the Venture Entities. The persons referred to in clause (a) of the preceding sentence are referred to as the "Citigroup Affiliates" and those referred to in clause (b) are referred to as the "State Street Affiliates." The requested order would permit the Citigroup Affiliates to engage in Covered Transactions (as defined below) with any fund or portfolio thereof for which one or more of the State Street Affiliates acts as the investment adviser or as the promoter or principal underwriter (the "State Street Funds"). The requested order would also permit the State Street Affiliates to engage in Covered Transactions with any fund or portfolio thereof for which one or more of the Citigroup Affiliates acts as the investment adviser or as the promoter or principal underwriter (the "Citigroup Funds").

9. The "Covered Transactions" are transactions between (a) State Street Funds and Citigroup Affiliates and (b) Citigroup Funds and State Street Affiliates that would be prohibited or restricted by sections 17(a)(1), 17(a)(2), 17(a)(3), 17(d) (and rule 17d–1 thereunder), 17(e)(1), 17(e)(2) (and paragraphs (b) and (d) of rule 17e–1 thereunder) solely because (a) Citigroup Affiliates may be deemed to be affiliated persons of an affiliated person (the Venture) of the State Street Funds and (b) State Street Affiliates may be deemed to be affiliated persons of an affiliated person (the Venture) of the Citigroup Funds, in each case solely by reason of Citigroup's and State Street's interest in and control over the Venture through the Citigroup Member or the State Street Member, respectively.

10. Citigroup will operate the fund investment management businesses conducted by Citigroup Affiliates independently of its broker-dealer, foreign exchange, commodities, custody and other businesses that would be likely to seek to conduct business with the State Street Funds. Independent operation would consist of separate line-of-business management, a separate compensation system that does not reward employees based on business done by other business units of Citigroup with the Venture or the State Street Affiliates, and separate investment portfolio and transaction execution management in which the other business units do not have input.

11. All Citigroup Affiliates are subject to confidentiality and "Chinese Wall" policies designed to keep information about customers and suppliers and transactions with them on a need-to-know basis. Pursuant to these policies, the Citigroup asset management units have designated information regarding investment advisory and portfolio execution matters relating to the Citigroup Funds as information that may not be communicated between the Venture Entities, on the one hand, and the Citigroup asset management units, on the other hand.

12. The Citigroup Affiliates have adopted policies that have the effect of prohibiting the Citigroup Affiliates from (a) linking any approval or action relating to the Venture to any action by any State Street Fund or by any State Street Affiliate relating to any State Street Fund or (b) using the existence of the Venture as a basis for seeking to persuade any State Street Fund to engage in business with any Citigroup Affiliate.

13. State Street's investment advisory units (including the State Street Global Advisors division and Funds Management) operate as completely separate business units from State Street and its other business units. The investment advisory units have their own officers and employees, maintain

their own books and records and collectively operate as a separate line of business and profit center. As a matter of policy and regulatory requirements, the other business units and State Street have no input into investment advisory policy or portfolio decisions on behalf of the State Street Funds.

14. State Street will operate the fund investment management businesses conducted by the State Street Affiliates independently of its broker-dealer, foreign exchange, commodities, custody and other businesses that would likely seek to do business with the Citigroup Funds. Independent operation would consist of separate line-of-business management, a separate compensation system that does not reward employees based on business done by other business units of State Street with the Venture or the Citigroup Affiliates, and separate investment portfolio and transaction execution management in which the other business units do not have input.

15. Funds Management and State Street's other advisory units have adopted confidentiality policies designed to keep information about clients and suppliers on a need-to-know basis. Pursuant to these policies, Funds Management and State Street's other advisory units have designated information regarding investment advisory and portfolio execution matters relating to the State Street Funds as information that may not be communicated between the Venture Entities, on the one hand, and Funds Management and State Street's other advisory units, on the other hand.

16. The State Street Affiliates have adopted policies that have the effect of prohibiting the State Street Affiliates from (a) linking approval or action relating to the Venture to any action by any Citigroup Fund or any Citigroup Affiliate relating to any Citigroup Fund or (b) using the existence of the Venture as a basis for seeking to persuade any Citigroup Fund to engage in business with any State Street Affiliate.

17. There is not, and each of Citigroup and State Street have adopted policies effectively prohibiting, any express or implied understanding between State Street and Citigroup that (a) any State Affiliate will cause any State Street Fund to enter into transactions with any Citigroup Affiliate or to give to preference to any Citigroup Affiliate in selecting with whom to effectuate transactions, or (b) any Citigroup Affiliate will cause any Citigroup Fund to enter into any transactions with any State Street Affiliate or to give a preference to any State Street Affiliate in selecting with whom to effectuate transactions. The boards of directors of the Citigroup Funds and the boards of directors of the State Street Funds will be informed of the existence of the Venture in connection with any consideration by them of any contract, arrangement or product involving a Citigroup Fund and a State Street Affiliate or a State Street Fund and a Citigroup Affiliate.

Applicants' Legal Analysis

1. Applicants request an order under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, under section 6(c) of the Act for an exemption from section 17(e) of the Act and rule 17e–1 under the Act, and under section 17(d) of the Act and rule 17d–1 under the Act permitting certain joint transactions.

Section 17(a) of the Act

2. Sections 17(a(1) and 17(a)(2) of the Act prohibit an affiliated person of a fund, or any affiliated person of the affiliated person ("second-tier affiliate"), acting as principal, from selling any security or other property to, or purchasing any security or other property from, the fund. Section 17(a)(3) of the Act prohibits any affiliated person of a fund, or any second-tier affiliate, from borrowing money or other property from the fund. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines control to mean "the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company." Section 2(a)(9) also provides that any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company is presumed to control the company. Since Citigroup and State Street each own, indirectly, more than 25% of the voting securities of CitiStreet, they each are presumed to control CitiStreet. In addition, the Citigroup Affiliates and the Citigroup Funds are under the control of Citigroup and the State Street Affiliates and State Street Funds are under the control of State Street. Therefore, the Citigroup Affiliates and Citigroup Funds are under common control with CitiStreet, making them affiliated persons of each other. The State Street Affiliates and State Street Funds are also under common control with CitiStreet, making them affiliated persons of each other. The Citigroup Affiliates and Citigroup Funds are therefore second-tier affiliates of the State Street Funds and the State Street Affiliates and State Street Funds are second-tier affiliates of the Citigroup Funds. The Citigroup Affiliates are thus prohibited under sections 17(a)(1) and 17(a)(2) from conducting principal transactions in securities or other property with the State Street Funds and the State Street Affiliates are prohibited from conducting principal transactions in securities and other property with the Citigroup Funds. In addition, the Citigroup Affiliates are prohibited under section 17(a)(3) from borrowing money or other property from the State Street Funds and the State Street Affiliates are prohibited from borrowing money or other property from the Citigroup Affiliates. Applicants seek relief under sections 6(c) and 17(b) to exempt transactions prohibited by sections 17(a)(1), 17(a)(2) and 17(a)(3).

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each fund and the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

4. Applicants state that section 17(a) was intended to protect funds from self-dealing and overreaching by insiders. Applicants assert that because of the remoteness of the affiliations involved, the Citigroup Affiliates are unable to influence portfolio decisions by the State Street Funds and the State Street Affiliates are unable to influence portfolio decisions by the Citigroup Funds. In addition, since any pecuniary benefits realized by the Citigroup Affiliates from the State Street Funds would not be shared with the State Street Affiliates and any benefits realized by the State Street Affiliates from the Citigroup Funds would not be shared with the Citigroup Affiliates, there would be no incentive for the State Street Affiliates or the Citigroup Affiliates to recommend or cause their funds to enter into such transactions if they were not consistent with the best interests of the funds. In addition, the Citigroup Affiliates have put in place a number of protections, as stated in the conditions and representations, that will ensure that any decisions made by the Citigroup Affiliates on behalf of the Citigroup Funds or the State Street Affiliates on behalf of the State Street Funds will be based on the best interests of the funds. For example, condition 3 provides that the compensation schemes of the Citigroup Affiliates will not be based on the amount of business done by the Citigroup Funds with State Street Affiliates and that the compensation schemes of the State Street Affiliates will not be based on the amount of business done by the State Street Funds and the Citigroup Affiliates. Accordingly, applicants believe that the terms of any Covered Transactions otherwise prohibited by section 17(a) would be fair, that there would be no overreaching, and that the transactions would be consistent with the policy of each fund and with the general purposes of the Act. Applicants also assert that permitting the transaction will be in the public interest and consistent with the protection of investors because permitting the proposed transactions would likely benefit the State Street Funds and the Citigroup Funds by increasing their investment opportunities and ability to obtain best execution with respect to the proposed transactions.

Section 17(d)

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter for a fund, or any affiliated person of such a person or principal underwriter, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the fund participates, without an order of the Commission. Certain potential transactions between the Citigroup Affiliates and the State Street Funds and the State Street Affiliates and the Citigroup Funds could be deemed a joint enterprise or other joint arrangement within the meaning of section 17(d) and rule 17d–1. These could include securities lending, investments in private placement securities, participation in credit programs and participation in back office providers. Applicants request an order in accordance with section 17(d) and rule 17d–1 to permit any joint transactions between the Citigroup Affiliates and the State Street Funds and the State Street Affiliates and the Citigroup Funds that would otherwise be prohibited by section 17(d) and rule 17d–1.

6. In passing on applications for orders under rule 17d–1, the Commission considers whether the fund's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

7. As discussed above, the Citigroup Affiliates do not have the power to influence the decisions of the State Street Funds and the State Street Affiliates do not have the power to influence the decisions of the Citigroup Funds. Because of this lack of influence, applicants assert that any joint transactions will be consistent with the provisions, policies and purposes of the Act. For the same reason, applicants believe that the participation by the State Street Funds in joint transactions with the Citigroup Affiliates will not be on a basis different from or less advantageous than the Citigroup Affiliates, and that the participation by the Citigroup Funds in joint transactions with the State Street Affiliates will not be on basis different from or less advantageous than that of the State Street Affiliates.

Section 17(e)

8. Section 17(e)(1) of the Act prohibits an affiliated person or a second-tier affiliate of a fund from receiving any compensation in connection with acting as an agent in connection with the purchase or sale of any property to or for the fund except as a securities underwriter or broker. Section 17(e)(2) of the Act prohibits an affiliated person or a second-tier affiliate of a fund from receiving compensation for acting as broker in connection with the sale of securities to or by the fund if the compensation exceeds the limits prescribed by the section unless otherwise permitted by rule 17e–1 under the Act. Rule 17e–1 sets forth the conditions under which an affiliated person or a second-tier affiliate of a fund may receive a commission which would not exceed the "usual and customary broker's commission" for purposes of section 17(e)(2). Rule 17e–1(b) requires the fund's board of directors, including a majority of the directors who are not interested persons under section 2(a)(19) of the Act, to adopt certain procedures and to determine at least quarterly that all transactions effected in reliance on the rule complied with the procedures. Rule 17e–1(d) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e–1.

9. Section 17(e)(1) would prevent the Citigroup Affiliates from acting as an agent in non-securities transactions by the State Street Funds, such as obtaining insurance, leasing office space, and entering into credit arrangements. A parallel prohibition would apply to the State Street Affiliates with respect to the Citigroup Funds. Applicants request an exemption under section 6(c) from section 17(e)(1) to permit any such transactions. Applicants believe such an exemption is consistent with the standard of section 6(c) because of the remote affiliation between the Citigroup Affiliates and the State Street Funds and the State Street Affiliates and the Citigroup Funds and the potential benefits to the Citigroup Funds and State Street Funds from being able to engage in the Covered Transactions.

10. Applicants request an exemption under section 6(c) from section 17(e)(2) and rule 17e–1 to the extent necessary to permit a State Street Fund to pay brokerage compensation to a Citigroup Affiliate acting as broker in the ordinary course of business in connection with the sale of securities to or by the State Street Fund, without complying with the requirements of rule 17e–1 (b) and (d). Applicants request the same relief with respect to brokerage compensation paid by a Citigroup Fund to a State Street Affiliate. Applicants believe that the proposed brokerage transactions involve no conflicts of interest or possibility of self-dealing and will meet the standards of section 6(c). The interests of the State Street Affiliates that manage the State Street Funds, and those of the Citigroup Affiliates that manage the Citigroup Funds, are directly aligned with the funds they manage rather than with the other venturer's affiliates and the manager will only enter into brokerage transactions with the other venturer's affiliates if the fees charged are reasonable and fair as required by rule 17e–1(a). Applicants will also comply with rule 17e(a). Applicants will also comply with rule 17e–1(c).

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. No State Street Affiliate will control any Citigroup Fund relying on the order or any investment adviser, promoter or principal underwriter of any Citigroup Fund relying on the order. No Citigroup Affiliate will control any State Street Fund relying on the order or any investment adviser, or principal underwriter of any State Street Fund relying on the order.

2. No officer, director or employee of any Venture Entity will seek to influence in any way the terms of any Covered Transactions.

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3. None of the Citigroup Affiliates will adopt any compensation scheme any component of which is based on the amount of business done by the Citigroup Funds with State Street Affiliates. None of the State Street Affiliates will adopt any compensation scheme any component of which is based on the amount of business done by the State Street Funds with Citigroup Affiliates.

4. None of Citigroup Member, State Street Member or the Venture Entities will directly or indirectly control any Citigroup Fund, State Street Fund, or any investment adviser, promoter, or principal underwriter of any Citigroup Fund or State Street Fund.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22385 Filed 9–5–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25144; 812–12134]

The Charles Schwab Family of Funds, et al.; Notice of Application

August 29, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1) of the Act, under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered management investment companies to use cash collateral from securities lending transactions to purchase shares of affiliated registered management investment companies or affiliated private investment funds, and to pay fees based on a share of the revenue generated from securities lending transactions to an affiliated agent.

Applicants: The Charles Schwab Family of Funds, Schwab Investments, Schwab Capital Trust, Schwab Annuity Portfolios (each a "Trust" and, together, the "Trusts"), on behalf of each of their existing or future series (each a "Fund" and, together, the "Funds"), Charles Schwab Investment Managements, Inc. ("CSIM"), and Charles Schwab & Co., Inc. (CS&Co.).

Filing Dates: The application was filed on June 20, 2000, and amended on August 17, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, 101 Montgomery Street, San Francisco, CA 94104.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Each Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. Each Trust offers multiple Funds. The Money Market Fund, Value Advantage Fund, Government Securities Fund, and Treasury Fund (the "Registered Investment Funds") are money market Funds that comply with the requirements of rule 2a-7 under the Act. CSIM, a wholly-owned subsidiary of The Charles Schwab Corporation ("Charles Schwab"), is registered as an investment adviser under the Investment Advisers Act of 1940. CSIM serves an investment adviser and provide administrative services to each Fund. CS&Co., a wholly-owned subsidiary of Charles Schwab, acts as principal underwriter of the shares of each Registered Investment Fund and provides shareholder and transfer agency services to each Fund.

2. Applicants request that any relief granted pursuant to the application also apply to (a) any other registered open-end investment company that is advised or sub-advised by CSIM or any entity controlling, controlled by, or under common control with CSIM and is part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act as the Trust ("Future Fund") and (b) any investment entity excluded from the definition of investment company under section 3(c)(1) or section 3(c)(7) of the Act, advised by CSIM, and established for the purpose of investment of cash collateral in connection with the securities lending program described below ("Private Investment Fund" and together with the Registered Investment Funds, the "Investment Funds").[1]

3. CS&Co. proposes to establish and administer a securities lending program ("Program") for the Funds. In connection with the Program, CS&Co. will enter into a securities lending agreement ("Securities Lending Agreement") with the Funds that participate as lenders in the Program ("Lending Funds"). The Securities Lending Agreement will authorize CS&Co., as agent for a Lending Funds, to enter into a borrowing agreement ("Borrowing Agreement") with one or more entities designated by CS&Co and approved by the Lending Funds as eligible to borrow portfolio securities ("borrowers"). The Securities Lending Agreement and the Borrowing Agreement will establish, with respect to each transaction, the initial and on-going collateralization requirements, the types of collateral that may be accepted, and the manner in which the Borrower's rebate will be established. With respect to cash collateral, a Borrower will be paid a fixed return on the cash collateral for the term of the loan. The difference between the fixed return and the actual return on the investment of the cash collateral is divided between the Lending Fund and CS&Co. In the case of collateral other than cash, the Borrower pays the Lending Fund a lending fee, which is split between the Lending Fund and CS&Co.

4. The Securities Lending Agreement will authorize and instruct CS&Co. as agent for the Lending Fund to invest the cash collateral in accordance with specific guidelines or instructions

[1] All existing entities that currently intend to rely on the requested relief have been named as applicants. Any future Fund or Private Investment Fund will rely on the requested relief only in accordance with the terms and conditions of the application.

provided by the Lending Fund. These guidelines or instructions will identify the particular Investment Funds or other investment vehicles, instruments, and accounts, if any, in which cash collateral may be invested, and the amounts or percentages of cash collateral that may be invested in each Investment Funds and other authorized investments. Applicants state that the personnel who will provide lending agency services to the Lending Funds will not provide investment advisory services to the Lending Funds or participate in any way in the selection of portfolio securities or other aspects of the portfolio management of the Lending Funds.

5. CS&Co. is proposing to invest cash collateral received in the Program on behalf of a Lending Fund in units of beneficial interests of one or more of the Investment Funds ("Shares") to the extent permitted by the Securities Lending Agreement between CS&Co. and a Lending Fund. Shares will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Rules of Conduct of the National Association of Securities Dealers, Inc. ("NASD")). The Private Investment Funds will comply with the requirements of rule 2a–7 under the Act, except CSIM as the general partner of the Private Investment Funds shall take any action required to be taken by the board of directors under rule 2a–7. Each Private Investment Fund will offer daily redemption of Shares at the current net asset value per share. As agent for the Lending Fund, CS&Co. will not purchase Shares of an Investment Fund with cash collateral unless participation in the Program has been approved by a majority of the trustees of the Lending Fund who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("Independent Trustees"). In addition, CS&Co. will not purchases Shares of any Investment Fund, unless the Lending Fund has represented to CS&Co., among other things, that: (a) Its policies generally permit the Lending Fund to engage in securities lending transactions; (b) the transactions will be conducted in accordance with the conditions prescribed by the staff in various no-action and interpretive letters as they may be modified or updated; (c) it policies permit the Lending Fund to purchase Shares of the Investment Funds; and (d) its securities lending activities will be conducted in accordance with all representations and conditions in the application applicable to the Lending Fund.

6. Applicants request an order to permit the Lending Funds to use cash collateral received from Borrowers to purchase Shares of the Investment Funds. Applicants also request an order to permit the Lending Funds to pay CS&Co., for its services as lending agent, fees based on a share of the revenue generated from securities lending transactions undertaken pursuant to the Program.

Applicants' Legal Analysis

A. Investment of Cash Collateral by the Lending Funds in the Investment Funds

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may knowingly sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by the investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent the exemption is consistent with the public interest and the protection of investors.

3. Applicants seek an order under section 12(d)(1)(I) of the Act exempting them from the provisions of section 12(d)(1) of the Act to permit the Lending Funds to purchase, and the Registered Investment Funds to sell, Shares in excess of the limits imposed by sections 12(d)(1)(A) and 12(d)(1)(B) in connection with the Lending Funds' investment of cash collateral.

4. Applicants state that the proposed investment of cash collateral in Shares of the Registered Investment Funds will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B). Shares will not be subject to any sales load, redemption fee, asset-based sales charge, or service fee. Applicants state that the advisory and other fees of the Lending Fund associated with securities lending activities will be determined solely with respect to its own assets (including the assets that are being loaned) and will not be affected by the value of the collateral received in connection with the loan because the collateral will not increase the net asset value of the Lending Funds. Accordingly, applicants state that the fees charged by an Investment Fund with respect to these additional assets, including fees for advisory, custody, transfer agency, and administrative services should not be viewed as duplicative of the fees charged by the Lending Funds with respect to the underlying securities that have been loaned. Applicants state that each Registered Investment Fund, because it will comply with rule 2a–7, has the necessary liquidity to satisfy the demands of the Program and will not be susceptible to control through the threat of large-scale redemptions. Moreover, an Investment Fund will not invest in any investment company in excess of the limits of section 12(d)(1)(A) of the Act.

5. Section 17(a)(1) and 17(a)(2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person, acting as principal, to sell any security to, or purchase any security from, the registered investment company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and, in the case of an investment company, its investment adviser. As investment adviser to the Lending Funds and the Investment Funds, CSIM could be deemed to control both the Lending Funds and the Investment Funds. Accordingly, the Lending Funds and Investment Funds could be deemed to be under common control and affiliated persons of each other. In addition, if a Lending Fund acquire 5% or more of an Investment Fund's securities, the Lending Fund and Investment Fund would be deemed affiliated persons of each other. In light of these possible affiliations, section 17(a) could prevent an Investment Fund from selling Shares to and redeeming Shares from the Lending Funds.

6. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the general purposes of the Act. Section 6(c) of the Act provides

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that the Commission may exempt any person, security, or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

7. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Lending Funds to purchase and redeem from the Investment Funds, and the Investment Funds to sell and to redeem for the Lending Funds, Shares in one or more of the Investment Funds. Applicants state that the Lending Funds will purchase, hold, and redeem Shares on the same basis as any other holder of Shares. Applicants assert that a Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund invests in the types of instruments that the Lending Fund only if that Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral. Applicants state that cash collateral of a Lending Fund that complies with rule 2a–7 under the Act will not be used to acquire Shares of any Investment Fund that does not comply with rule 2a–7 under the Act. Applicants state that permitting the Lending Funds to invest cash collateral in the Private Investment Funds enables the Lending Funds to invest in a lower-cost vehicle with liquidity, maturity, quality and diversification similar to a registered investment company that complies with rule 2a–7. For these reasons, applicants believe their requested relief meets the standards of sections 6(c) and 17(b) of the Act.

8. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any other affiliated person of such persons, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by an order. CSIM, as investment adviser, is an affiliated person of the Lending Funds and the Investment Funds. CS&Co. is an affiliated person of an affiliated person of the Lending Funds and the Investment Funds, because CS&Co. and CSIM are both wholly-owned subsidiaries of Charles Schwab and are therefore under common control.

9. Applicants state that the Lending Funds, CSIM (by serving as investment adviser to and providing other services to the Investment Funds at the same time that the Investment Funds sell Shares to and redeem them from the Lending Funds and by managing the portfolio securities of the Lending Funds and the Investment Funds at the same time that the Lending Funds' cash collateral is invested in Shares), CS&Co. (by acting as lending agent, investing cash collateral in Shares and receiving a portion of the revenue generated by securities lending transactions), and the Investment Funds (by selling Shares to and redeeming them for the Lending Funds), could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) and rule 17d–1 under the Act.

10. Under rule 17d–1, in passing on applications for orders under section 17(d), the Commission considers whether the company's participation in the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards, because the Lending Funds will invest in the Investment Funds on the same basis as any other shareholder.

B. Payment of Fees by the Lending Funds to CS&Co.

1. Applicants state that CS&Co. as an entity under common control with CSIM, the investment adviser to the Lending Funds, is an affiliated person of an affiliated person of the Lending Funds. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving investment companies and their affiliated persons unless the Commission has approved the transaction. Applicants state that a lending agent agreement between a registered investment company and an affiliated person of the investment company under which compensation is based on a share of the revenue generated by the lending agent's efforts may constitute a joint arrangement within the meaning of section 17(d) and rule 17d–1. Consequently, applicants request an order to permit the Lending Funds to pay, and CS&Co. as lending agent to accept, fees based on a share of the revenue generated from securities lending transactions undertaken pursuant to the Program.

2. Applicants propose that each Trust, on behalf of a Lending Fund, adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with CS&Co., as lending agent, will meet the standards of rule 17d–1:

a. In connection with the approval of CS&Co. as lending agent for a Trust on behalf of a Lending Fund and implementation of the proposed fee arrangement, a majority of the board of trustees ("Board") of the Lending Fund, including a majority of the Independent Trustees, will determine that: (i) the contract with CS&Co. is in the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by CS&Co. are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by CS&Co. are at least equal to those provided by others offering the same or similar services for similar compensation; and (iv) the fees for CS&Co.'s services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. Each Trust's contract with CS&Co. on behalf of its Lending Funds for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board, including a majority of the Independent trustees, makes the findings referred to in paragraph (a) above.

c. In connection with the initial implementation of an arrangement whereby CS&Co. will be compensated as lending agent based on a percentage of the revenue generated by a Lending Fund's participation in the Program, the Board will obtain competing quotes with respect to lending agent fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

d. The Board of each Trust, including a majority of its Independent Trustees, (i) at each regular quarterly meeting will determine, on the basis of reports submitted by CS&Co., that the loan transactions during the prior quarter were conducted in compliance with the conditions and procedures set forth in the application and (ii) will review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

e. Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities pursuant to the Program and (ii) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, and the terms of the loan transaction. In addition, each Lending Fund will maintain all information or materials upon which a determination was made in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The securities lending program of each Lending Fund will comply with all present and future applicable Commission and staff positions regarding securities lending arrangements.

2. The approval of the relevant Trust's Board, including a majority of the Independent Trustees, will be required for the initial and subsequent approvals of CS&Co.'s service as securities lending agent for each Lending Fund pursuant to the Program, for the institution of all procedures relating to the Program as it related to a Lending Fund, and for any periodic review of loan transactions for which CS&Co. acted as lending agent pursuant to the Program.

3. A majority of the Board of each relevant Trust, including a majority of the Independent Trustees, will initially and at least annually thereafter determine that the investment of securities lending cash collateral in Shares of the Investment Funds is in the best interests of the shareholders of each Lending Fund.

4. Investment in Shares of an Investment Fund by a particular Lending Fund will be consistent with such Lending Fund's investment objectives and policies.

5. Investment in Shares of an Investment Fund by a particular Lending Fund will be in accordance with the guidelines regarding the investment of securities lending cash collateral specified by the Lending Fund in the Securities Lending Agreement. A Lending Fund's cash collateral will be invested in a particular Investment Fund only if that Investment Fund has been approved for investment by the Lending Fund and if that investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral.

6. The Shares of an Investment Fund will not be subject to a sales load, redemption fee, any asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the NASD).

7. An Investment Fund will not acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

8. Each Private Investment Fund will comply with the requirements of sections 17(a), (d), and (e) and 18 of the Act as if such Private Investment Fund were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, each Private Investment Fund will comply with section 22(e) of the Act. CSIM, as investment adviser to a Private Investment Fund, with the approval of its board or other governing body, shall adopt procedures designed to ensure that the Private Investment Fund will comply with sections 17(a), (d), and (e), 18, and 22(e) of the Act. CSIM will also periodically review and update, as appropriate, such procedures and maintain books and records describing such procedures, as well as records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be maintained pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and the staff.

9. Each Investment Fund will use the amortized cost method of valuation, as defined in rule 2a–7, and will comply with rule 2a–7. Each Private Investment Fund will value its shares as of the close of business on each business day using the amortized cost method to determine its net asset value per share. Each Private Investment Fund will adopt the procedures described in rule 2a–7(c)(7), and CSIM will comply with these procedures and take any other actions as are required to be or may be taken pursuant to these procedures.

10. Each Lending Fund will purchase and redeem Shares of the Private Investment Funds as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Private Investment Funds. A separate account will be established in the shareholder records of the Private Investment Funds for the account of each applicable Lending Fund.

11. The net asset value per share with respect to Shares of a Private Investment Fund will be determined separately for each Private Investment Fund by dividing the value of the assets belonging to that Private Investment Fund, less the liabilities of that Private Investment Fund, by the number of Shares outstanding with respect to the Private Investment Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22386 Filed 9–5–01; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Delegation of Authority No. 247]

Delegation of Responsibilities Under the Government Information Security Reform Act From the Deputy Secretary of State to the Chief Information Officer

By virtue of the authority vested in me by Delegation of Authority 245 dated 4/23/01, and in accordance with section 3534(a)(3) of the Government Information Security Reform Act (44 U.S.C. 3531 *et seq.*) (the "Act"), I hereby delegate to the Chief Information Officer the authority to administer all functions under Subchapter II of Chapter 35 of title 44, United States Code, including—

(A) Designating a senior agency information security official who shall report to the Chief Information Officer;

(B) Developing and maintaining an agencywide information security program as required by the Act;

(C) Ensuring that the agency effectively implements and maintains information security policies, procedures and control techniques;

(D) Training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities ; and

(E) Assisting senior agency officials concerning their responsibilities pursuant to the Act.

Notwithstanding the provisions of this delegation of authority, the Secretary of State, the Deputy Secretary of State, or the Under Secretary for Management may at any time exercise any function hereby delegated.

The functions hereby delegated to the Chief Information Officer may be redelegated in consultation with the Under Secretary for Management.

This delegation of authority shall be published in the **Federal Register**.

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Dated: August 20, 2001.

Richard L. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 01–22419 Filed 9–5–01; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Membership of the Performance Review Board (PRB)

AGENCY: Office of the United States Trade Representative.

SUMMARY: the following staff members are designated to serve on the Performance Review Board:

Performance Review Board (PRB)

Chair—Joseph Papovich.
Alternate Chair—Florie Liser.
Members—Regina Vargo, Ralph Ives, David Walters.
Executive Secretary—Lorraine Green.

EFFECTIVE DATE: August 22, 2001.

FOR FURTHER INFORMATION CONTACT: Lorraine Green, Director, Human Resources, (202) 395–7360.

John Hopkins,

Assistant United States Trade Representative for Administration.

[FR Doc. 01–22406 Filed 9–5–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–64]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 26, 2001.

ADDRESS: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 30, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–9792.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 14 CFR 91.319(d)(3).
Description of Relief Sought: To permit Boeing to operate an aircraft holding an experimental certificate into or out of airports with an operating control tower without notifying the control tower of the experimental nature of the aircraft.

Docket No.: FAA–2001–10205.
Petitioner: Massachusetts Institute of Technology.
Section of 14 CFR Affected: 14 CFR 142.57(a)(1).
Description of Relief Sought: To permit MIT to conduct the crewmember qualification check with an 85% check in the simulator and a 15% check in the aircraft.

Docket No.: FAA–2000–8497.
Petitioner: America West Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 91.205(b)(12).
Description of Relief Sought: To permit AWA to operate it's aircraft over water without at least one pyrotechnic signaling device onboard.

Docket No.: FAA–2001–10342.
Petitioner: Gulfstream Aerospace Corporation.
Section of 14 CFR Affected: 14 CFR 25.813(a).
Description of Relief Sought: To provide Gulfstream with relief from the 20-inch passageway requirements to allow for a minimum passageway dimension of 12 inches for installation of a forward mounted crew/observer Jumpseat in the Gulfstream Model G–IV aircraft.

[FR Doc. 01–22251 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–65]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on August 30, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10013.
Petitioner: Federal Express Corporation.
Section of 14 CFR Affected: 14 CFR 121.623(a) and (d), 121.643, and 121.645(e).
Description of Relief Sought/ Disposition: To permit FedEx Express to conduct supplemental operations within the 48 contiguous United States and the District of Columbia using the flight regulations for alternate airports as required by § 121.619 and the fuel reserve regulations as required by § 121.639 that are applicable to domestic operations.
Grant, 08/17/2001, Exemption No. 7608.

Docket No.: FAA–2001–8943.
Petitioner: Avianca S.A.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Avianca to operate a B–757 (registration No. N321LF; serial No. 26269) without that airplane being able to record data in accordance with the following paragraphs of § 121.344(a): (14) Rudder pedal input, and (17) Primary yaw control surface position.
Grant, 08/17/2001, Exemption No. 7607.

Docket No.: FAA–2001–8883.
Petitioner: Atlantic Southeast Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d)(1).
Description of Relief Sought/ Disposition: To permit ASA to operate 19 Avions de Transport Regional ATR 72 airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.344(a).
Grant, 08/17/2001, Exemption No. 7601.

Docket No.: 29900.
Petitioner: Atlantic Coast Airlines and Trans States Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d)(1).
Description of Relief Sought/ Disposition: To permit ACA and Trans States to operate their currently-owned British Aerospace Jetstream 41 airplanes without recording all the parameters specified in § 121.344(d)(1) from the source prescribed by the regulations.
Grant, 08/17/2001 Exemption No. 7595.

Docket No.: FAA–2001–9513.
Petitioner: Big Sky Transportation Company dba Big Sky Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(a).
Description of Relief Sought/ Disposition: To permit Big Sky to operate it's 6 Fairchild SA–227DC/ Metro 23 aircraft after August 20, 2001, without those aircraft being equipped with an approved digital flight data recorder.
Grant, 08/17/2001, Exemption No. 7596.

Docket No.: FAA–2001–9512.
Petitioner: Peninsula Airways, Inc. dba PenAir.
Section of 14 CFR Affected: 14 CFR 121.344(a).
Description of Relief Sought/ Disposition: To permit PenAir to operate it's 2 Fairchild SA–227DC/ Metro 23 aircraft after August 20, 2001, without those aircraft being equipped with an approved digital flight data recorder.
Grant, 08/17/2001, Exemption No. 7603.

Docket No.: FAA–2001–9740
Petitioner: American Eagle Airlines, Inc. and Executive Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(c)(1) and (d)(1).
Description of Relief Sought/ Disposition: To permit AME and Executive to operate certain Avions de Transport Regional ATR 42 and ATR 72 airplanes without those airplanes having the capability to record data in accordance with the following paragraphs of § 121.344(a): (12) Pitch control input; (13) Lateral control input; and (14) Rudder pedal input.
Grant, 08/17/2001, Exemption No. 7599.

[FR Doc. 01–22252 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–66]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on August 30, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of petitions

Docket No.: FAA–2001–9581 (previously Docket No. 29146).
Petitioner: BFGoodrich Aerospace MRO Group, Inc.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit BFGoodrich to (1) extend its October 31, 2001, termination date to October 31, 2003,unless sooner superseded or rescinded, and 92) change the name of the exemption holder to "Goodrich Aviation Technical Services, Inc.
Grant, 07/20/2001, Exemption No. 7024A

Docket No.: FAA–2001–9348 (previously Docket No. 25974).
Petitioner: Air Transport Association of America, Inc
Section of 14 CFR Affected: 14 CFR 91.203.
Description of Relief Sought/ Disposition: To permit ATA-member airlines to operate certain U.S.-registered aircraft on a temporary basis following the incidental loss or mutilation of a certificate of Airworthiness, aircraft registration certificate, or both.
Grant, 07/13/2001, Exemption No. 5318G

Docket No.: FAA–2001–9784.
Petitioner: The Boeing Company Wichita Modification Center.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit Boeing to make it's Inspection Procedures Manual (IPM) available electronically to its supervisory, inspection, and other personnel, rather than give a paper copy of the IPM to each of its supervisory and inspection personnel.
Grant, 07/20/2001, Exemption No. 7578

Docket No.: FAA–2001–9553 (previously Docket No. 25233).

Petitioner: Alaska Air Carriers Association.
Section of 14 CFR Affected: 14 CFR 43.3(g), 121.709(b)(3), and 135.443(b)(3).
Description of Relief Sought/ Disposition: To permit certificated and appropriately trained pilots employed by an AACA-member airline to remove and reinstall passenger seats in aircraft type certificated for 10 to 19 passenger seats used by that AACA-member airline in operations conducted under 14 CFR 121 or 14 CFR 135 and permit those pilots to make required logbook entries.
Grant, 07/25/2001, Exemption No. 7048A
Docket No.: 24237.
Petitioner: Department of the Air Force.
Section of 14 CFR Affected: 14 CFR 91.177(a)(2) and 91.179(b)(1).
Description of Relief Sought/ Disposition: To permit the United States Army Special Operations Command, 160th Special Operations Aviation Regiment to operate under an exemption, granted to the Air Force, when training to conduct joint operations with the Air Force Special Operations Command. This exemption permits the Air Force to conduct low-level operations without complying with en route minimum altitudes for flight under instrument flight rules (IFR) or direction of flight requirements for IFR en route segments in uncontrolled airspace.
Grant, 07/27/2001, Exemption No. 4371G
Docket No.: FAA–2000–8189.
Petitioner: United Parcel Service Company.
Section of 14 CFR Affected: 14 CFR 121.344(a)(53)
Description of Relief Sought/ Disposition: To permit UPS to operate certain Airbus A300–600 airplanes without recording the parameters listed in § 121.344(a)(53) within the ranges, accuracies, resolutions, and recording intervals specified in appendix M to part 121.
Denial, 07/22/2001, Exemption No. 7582
Docket No.: FAA–2001–8963 (previously Docket No. 29002).
Petitioner: Peninsula Airways, Inc. dba PenAir.
Section of 14 CFR Affected: 14 CFR 121.709(b)(3).
Description of Relief Sought/ Disposition: To permit properly trained PenAir flight crewmembers to install and/or remove medevac stretchers on PenAir Fairchild Metro III aircraft and make the appropriate entries in the aircraft maintenance records.
Grant, 07/22/2001, Exemption No. 6674B
Docket No.: FAA–2001–9366 (previously Docket No. 28552).
Petitioner: World Free Fall Convention.
Section of 14 CFR Affected: 14 CFR 105.43(a).
Description of Relief Sought/ Disposition: To permit WFFC to allow nonstudent, foreign nationals to participate in WFFC-sponsored parachute jumping events held at WFFC's facilities without complying with the parachute equipment and packing requirements of Section 105.43(a).
Grant, 07/22/2001, Exemption No. 6390A
Docket No.: FAA–2001–9342.
Petitioner: Phillipsburg Aviation.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353 and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit Phillipsburg Aviation to conduct local sightseeing flights in the vicinity of Phillipsburg, Ohio, for the benefit of the Special Wish Foundation during August 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/25/2001, Exemption No. 7580
Docket No.: FAA–2001–9781.
Petitioner: Martin County Board of County Commissioners.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353 and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit MCBCC to conduct local sightseeing flights at the Martin County Airport for the 11th Annual Stuart Air Show sponsored by the Visiting Nurse Association in November 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/25/2001, Exemption No. 7579
Docket No.: FAA–2001–9734.
Petitioner: Kent State University.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353 and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit KSU to conduct local sightseeing flights in the vicinity of Stow, Ohio, for its community Aviation Day during September 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
Grant, 07/25/2001, Exemption No. 7581

[FR Doc. 01–22253 Filed 9–5–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–67]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on August 30, 2001.

Donald P. Bryne,
Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10167.
Petitioner: Cumberland Air Charter.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit CAC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
Grant, 08/10/2001, Exemption No. 7591
Docket No.: FAA–2001–10072.
Petitioner: Bay Air Charter, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit BACI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.

Grant, 08/10/2001, Exemption No. 7592
Docket No.: FAA–2001–10091.
Petitioner: Mr. Lloyd E. Swenson.
Section of 14 CFR Affected: 14 CFR 91.109(a) and (b)(3).
Description of Relief Sought/ Disposition: To permit Mr. Swenson to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.
Grant, 08/10/2001, Exemption No. 7593
Docket No.: FAA–2001–10268.
Petitioner: Phillipsburg Aviation.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit Phillipsburg Aviation to conduct local sightseeing flights into the vicinity of Phillipsburg, Ohio, for its 6th benefit for the Special Wish Foundation during August 2001 for compensation or hire, without complying with certain anti-drug and alcobol misuse prevention requirements of part 135.
Grant, 08/10/2001, Exemption No. 7594
Docket No.: FAA–2001–9791 (previously Docket No. 27306).
Petitioner: NockAir Helicopter, Inc.
Section of 14 CFR Affected: 14 CFR 133.43(a) and (b).
Description of Relief Sought/ Disposition: To permit Nockair to use its helicopters to perform aerial trapeze acts without using an approved external-load attachment or quick-release device for carrying a person on a trapeze bar.
Grant, 08/03/2001, Exemption No. 6685B
Docket No.: FAA–2001–9563.
Petitioner: Mr. Michael Kulbacki.
Section of 14 CFR Affected: 14 CFR 61.123(a) and 61.183(a).
Description of Relief Sought/ Disposition: To permit Mr. Kulbacki to be eligible for a commercial pilot certificate and a flight instructor certificate or rating at 17 years of age instead of 18 years of age.
Denied, 08/03/2001, Exemption No. 7585
Docket No.: FAA–2001–9619.
Petitioner: Dassault Falcon Jet Corporation.
Section of 14 CFR Affected: 14 CFR 25.813(e).
Description of Relief Sought/ Disposition: To permit DFJC to install interior doors between passenger compartments, on the Dassault Falcon Jet airplane models Mystere Falcon 900 and Falcon 900EX.
Grant, 08/10/2001, Exemption No. 7590
Docket No.: 29891.
Petitioner: Houston Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit HHI to operate its 3 Bell 212 helicopters (Registration Nos. N8145Y, N8223V. and N8224V) under part 135 without those helicopters being equipped with an approved digital flight data recorder.
Grant, 08/08/2001, Exemption No. 7588
Docket No.: 29675.
Petitioner: OMNI Energy Services Corp. dba OMNI Aviation Services L.L.C.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit OMNI to operate one Bell 212 helicopter (Registration No. N250MH, Serial No. 30519) under part 135 without an approved digital flight data recorder installed on the helicopter.
Grant, 08/08/2001, Exemption No. 7587
Docket No.: FAA–2001–9328.
Petitioner: Era Aviation Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit ERA to operate its 4 Bell 212 helicopters (Registration Nos. N399EH, N361EH, N362EH, and N522EH; and Serial Nos. 30810, 30554, 30853, and 31199, respectively) under part 135 without those helicopters being equipped with an approved digital flight data recorder.
Grant, 08/08/2001, Exemption No. 7589
Docket No.: FAA–2001–9321.
Petitioner: Aviation Ventures, Inc. dab Vision Air.
Section of 14 CFR Affected: 14 CFR 135.153(a) and 135.180(a).
Description of Relief Sought/ Disposition: To permit Vision Air to conduct part 135 on-demand operations in Malaysia in its Dornier 228–202K and Dornier 228–212 airplanes without (1) an approved ground proximity warning system, and (2) and approved traffic alert and collision avoidance system.
Grant, 08/08/2001, Exemption No. 7586

[FR Doc. 01–22254 Filed 9–5–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–68]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purposed of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington DC on August 13, 2001.

Donald P. Byrne,
Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: FAA–2001–9285.
Petitioner: Mesaba Aviation, Inc.
Section of 14 CFR Affected: 14 CFR § 121.344(d).
Description of Relief Sought/ Disposition: To permit Mesaba to operate 18 RJ85 airplanes without those airplanes having the capability to record data in accordance with the following paragraphs of § 121.344(a): (12) Pitch control input; (13) Lateral control input; (14) Rudder pedal input.
Grant, 08/17/2001, Exemption No. 7600
Docket No.: FAA–2001–9875.
Petitioner: Continental Express Airlines.
Section of 14 CFR Affected: 14 CFR § 121.344 (c) and (d).
Description of Relief Sought/ Disposition: To permit Continental Express to operate certain Avions de Transport Regional ATR 42 airplanes without those airplanes having the

capability to record data in accordance with the following paragraphs of § 121.344(a), as applicable: (12) Pitch control input; (3) Lateral control input; (14) Rudder pedal input; (15) Primary pitch control surface position; (16) Primary lateral control surface position; (30) Master warning; (31) Air/ground sensor (primary airplane system reference nose or main gear).

Grant, 08/17/2001, Exemption No. 7602
Docket No.: FAA–2001–10007.
Petitioner: Era Aviation, Inc.
Section of 14 CFR Affected: 14 CFR § 135.152(a).
Description of Relief Sought/ Disposition:
Description of Relief Sought/ Disposition: To permit Era to operate two S–76As (registration Nos. N575EH and N579EH; serial Nos. 760366 and 760274, respectively) under part 135 without an approved digital flight data recorder installed.

Grant, 08/17/2001, Exemption No. 7605
Docket No.: FAA–2001–8601 (previously Docket No. 29142).
Petitioner: Geo-Seis Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit Geo-Seis to add 5 Burocopter Puma 330J helicopters (Registration Nos. N330J, N330JA, N330JF, N405R, and N505R; and Serial Nos. 1647, 1140, 1514, 1475, and 1478, respectively) to the list of aircraft covered by Exemption No. 6785.

Grant, 08/17/2001, Exemption No. 6785B
Docket No.: FAA–2001–10437.
Petitioner: Mesa Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Mesa to operate two CL600–2B19 airplanes (Registration Nos. N27173 and N37228) under part 121 without those aircraft being equipped with an approved digital flight data recorder capable of recording the following parameters: Pitch control Position(s); Lateral Control Position(s); and Yaw Control Position(s).

Grant, 08/17/2001, Exemption No. 7604
Docket No.: FAA–2001–9799.
Petitioner: Atlantic Coast Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit ACA to operate one CL–600 airplane without that airplane having the capability to record data in accordance with the requirements of § 121.344(a).

Grant, 08/17/2001, Exemption No. 7598
Docket No.: FAA–2001–9441 (previously Docket No. 28962).
Petitioner: Bombardier Services Corporation, West Virginia Air Center.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit Bombardier to assign copies of its Inspection Procedures Manual (IPM) to key individuals within departments and to strategically place an adequate number of IPMs for access by all employees, rather than giving a copy of the IPM to all supervisory and inspection personnel.

Grant, 08/08/2001, Exemption No. 6677B

[FR Doc. 01–22414 Filed 9–5–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

RIN 2127–AI23

Reports, Forms and Record Keeping Requirements OMB Approval of Agency Information Collection Activity

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice.

SUMMARY: On June 4, 2001 and July 5, 2001, we published Notices in the **Federal Register** reporting that we had submitted to the Office of Management and Budget (OMB) a request for an extension of a previously approved collection of information. Those Notices are located at 66 FR 30046 and 66 FR 35499 respectively. The approved collection of information pertained to a statutorily-mandated final rule requiring that any person who knowingly or willfully sells or leases a defective or noncompliant tire for use on a motor vehicle, with actual knowledge that the manufacturer of the tire has notified its dealers of the defect or noncompliance, report that sale or lease to us. The **Federal Register** published that Final Rule on July 23, 2001, and it may be reviewed at 66 FR 38159.

This Notice serves to inform the public that OMB has approved this collection of information and has assigned it OMB control number 2127–0610. This collection of information has been approved through July 31, 2004. This Notice also serves to remind the public that there is no obligation to respond to a collection of information without a valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Jennifer T. Timian, NHTSA 400 Seventh Street, SW., Room 5219, NCC–10, Washington, DC 20590. Ms. Timian's telephone number is (202) 366–5263.

Issued on: August 30, 2001.
Kenneth N. Weinstein,
Associate Administrator for Safety Assurance.

[FR Doc. 01–22399 Filed 9–5–01; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10512]

Notice of Receipt of Petition for Decision That Nonconforming 2002 Harley Davidson FX, FL, and XL Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 2002 Harley Davidson FX, FL, and XL motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002 Harley Davidson FX, FL, and XL motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 9, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Milwaukee Motorcycle Imports, Inc. of Milwaukee, Wisconsin ("MMI") (Registered Importer 99–192) has petitioned NHTSA to decide whether non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles are eligible for importation into the United States. The vehicles which MMI believes are substantially similar are 2002 Harley Davidson FX, FL, and XL motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

MMI submitted information with its petition intended to demonstrate that non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses*, 111 *Rearview Mirrors*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 122 *Motorcycle Brake Systems*, and 205 *Glazing Materials*.

The petitioner also states that vehicle identification number plates that meet the requirements of 49 CFR Part 565 are already affixed to non-U.S. certified 2002 Harley Davidson FX, FL, and XL motorcycles.

Petitioner additionally contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S. model headlamp assemblies which incorporate headlamps that are certified to meet the standard; (b) replacement of all stop lamp and directional signal bulbs with bulbs that are certified to meet the standard; (c) replacement of all lenses with lenses that are certified to meet the standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information label.

Standard No. 123 *Motorcycle Controls and Displays:* installation of a U.S. model speedometer calibrated in miles per hour and a U.S. model odometer that measures distance traveled in miles.

The petitioner states that when the vehicle has been brought into conformity with all applicable Federal motor vehicle safety standards, a certification label that meets the requirements of 49 CFR Part 567 will be affixed to the front of the motorcycle frame.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 30, 2001.
Marilynne Jacobs,
Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–22400 Filed 9–5–01; 8:45 am]
BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–01–8587, Notice No. 01–09]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders by Underwater Adventures, 400 West Magnolia, Leesburg, Florida, 32757. RSPA has determined that Underwater Adventures marked and certified an undetermined number of cylinders as being properly tested in accordance with the Hazardous Materials Regulations (HMR), when the cylinders were improperly tested.

A hydrostatic retest and visual inspection, conducted as prescribed in the HMR, are used to verify the structural integrity of a cylinder. If the hydrostatic retest and visual inspection are not performed in accordance with the HMR, a cylinder with compromised structural integrity may be returned to service when it should be condemned. Extensive property damage, serious personal injury, or death could result from rupture of a cylinder. Cylinders that have not been retested in accordance with the HMR may not be charged or filled with compressed gas or other hazardous material.

FOR FURTHER INFORMATION CONTACT: Cheryl K. Johnson, Senior Inspector, Southern Region, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, U.S. Department of Transportation, 1701 Columbia Avenue, Suite 520, College Park, GA 30337. Telephone: (404) 305–6120, Fax: (404) 305–6125.

SUPPLEMENTARY INFORMATION: Through its inspection of Underwater Adventures, RSPA has determined that Underwater Adventures marked and certified an undetermined number of cylinders as having been properly tested in accordance with the HMR, without properly retesting the cylinders. In addition, Underwater Adventures marked an undetermined number of

cylinders with a Retester Identification Number (RIN) that belongs to another company. In 1981, Underwater Adventures was issued RIN B095. That RIN authorization expired on June 24, 1986. Underwater Adventures has never renewed its RIN authorization and has been servicing cylinders without holding a RIN since 1986. During the inspection, Underwater Adventures was unable to calibrate its test equipment. In addition, Underwater Adventures failed to keep any records of its retest and reinspections; thus, it is impossible to determine the number of cylinders that Underwater Adventures improperly tested. These cylinders may pose a safety risk to the public.

The cylinders in question are stamped with one of the following two RINs: B095 or B059. The markings appear in the following pattern:

(1)

B0
M Y
59

(2)

B0
M Y
95

M is the month of retest (e.g. 10), and Y is the year of the retest (e.g. 01).

On May 19, 1981, RSPA issued RIN B059 to Safety Systems of Biloxi, Inc., P.O. Drawer 6039, 10970 Old Highway 67, Biloxi, Mississippi 39532–6039. Safety Systems renewed this RIN on March 12, 2001, and is the only authorized user of that RIN. Any cylinder marked and serviced by Safety Systems of Biloxi, Inc. is not covered by this safety advisory.

Anyone who has a cylinder that has been serviced by Underwater Adventures and that is marked with RIN numbers B095 or B059 and stamped with a retest date after 1986 should consider the cylinder unsafe and not fill it with a hazardous material unless the cylinder is first properly retested by a DOT-authorized retest facility. Filled cylinders (if filled with an atmospheric gas) described in this safety advisory should be vented or otherwise safely discharged, and then taken to a DOT-authorized cylinder retest facility for proper retest to determine compliance with the HMR and their suitability for continuing service. Under no circumstance should a cylinder described in this safety advisory be filled, refilled or used for its intended purpose until it is reinspected and retested by a DOT-authorized retest facility.

It is further recommended that persons finding or possessing a cylinder described in this safety advisory contact Ms. Johnson for additional information.

Issued in Washington, DC on August 30, 2001.

Frits Wybenga,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–22398 Filed 9–5–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or email to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202)–906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Amendment of a Savings Association Charter.

OMB Number: 1550–0018.

Form Number: N/A.

Regulation requirement: N/A.

Description: All federally chartered savings associations are required to obtain approval of any changes in its charter that are not preapproved by regulation.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 3.

Estimated Frequency of Response: 3.

Estimated Burden Hours per Response: 20.

Estimated Total Burden: 60 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22289 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application Processing Fees.

OMB Number: 1550–0053.

Form Number: N/A.

Regulation requirement: N/A.

Description: Fees must accompany certain applications, including securities filings, notices, and requests, before such applications will be accepted for processing by OTS.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 2,543.

Estimated Frequency of Response: 1 per year.

Estimated Burden Hours per Response: .036.

Estimated Total Burden: 92 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel Regulations & Legislation.

[FR Doc. 01–22290 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Management Official Interlocks.

OMB Number: 1550–0051.

Form Number: N/A.

Regulation requirement: N/A.

Description: OTS uses the requested information to evaluate the merits of interlocks exemption applications.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1.

Estimated Frequency of Response: 1.

Estimated Burden Hours per Response: 4.

Estimated Total Burden: 4 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22291 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application to Issue Mutual Capital Certificates.

OMB Number: 1550–0050.

Form Number: N/A.

Regulation requirement: 12 CFR 563.74.

Description: 12 CFR 563.74 requires any insured mutual institution wishing to issue mutual capital certificates to obtain OTS approval. Approval may not be granted unless the proposed issuance of the mutual capital certificates, the form, and the manner of the filing of the application are in accordance with the provisions of section 563.74.

Type of Review: Extension.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: 6 hours.

Estimated Total Burden: 6 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22292 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Amendment of a Savings Association's Bylaws.

OMB Number: 1550–0017.

Form Number: N/A.

Regulation requirement: N/A.

Description: Collection information is in compliance with the legal requirement for all federally chartered savings associations to file bylaw amendment applications or notices with OTS.

Type of Review: Renewal.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 7.

Estimated Frequency of Response: 1 per year.

Estimated Burden Hours per Response: 8 hours.

Estimated Total Burden: 56 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22293 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application Filing Requirements.

OMB Number: 1550–0056.

Form Number: N/A.

Regulation requirement: 12 CFR 516.1(c).

Description: 12 CFR 516.1 contains OTS application filing procedures. Three copies of the applications must be filed with the appropriate OTS Regional Office. Certain applications require more than three copies because the application raises a significant issue of policy or law or because other agencies have statutory oversight over the application.

Type of Review: Extension.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 2,543.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .17 hours.

Estimated Total Burden: 432 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel Regulations & Legislation.

[FR Doc. 01–22294 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 9, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or email to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.*

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202)-906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Electronic Operations.

OMB Number: 1550–0095.

Form Number: Not applicable.

Regulation requirement: 12 CFR 555.300(b).

Description: OTS requires a savings association to notify OTS before it establishes a transactional web site. This information collection is needed to evaluate a thrift's risks in the use of information technology so that any safety and soundness concerns may be addressed in a timely manner.

Type of Review: Renewal without change.

Affected Public: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 100.

Estimated Frequency of Response: 1 per year.

Estimated Burden Hours per Response: 2 hours.

Estimated Total Burden: 458 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: August 27, 2001.

Deborah Dakin,

Deputy Chief Counsel Regulations & Legislation.

[FR Doc. 01–22295 Filed 9–5–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0091]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to apply for VA medical care, nursing home, domiciliary and dental benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2001.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov.* Please refer to "OMB Control No. 2900–0091" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) way to minimize the burden of the collection of information on respondents,

including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Application for Medical Benefits, VA Form 10–10EZ.

OMB Control Number: 2900–0091.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to establish a system of records on veterans applying and/or enrolling for VA medical care benefits. The information collected is used to establish basic eligibility for VA benefits; enroll veterans into the VA health care enrollment system; determine a veteran's marital status, next-of-kin and emergency contacts for care management and consent purposes; establish eligibility for cost free health care, mileage reimbursement and prescription co-payment exemption for certain veterans; identify those veterans who have third party health insurance for billing purposes to recover the cost of medical care furnished to veterans for treatment of nonservice-connected conditions; and establish an individual's eligibility for other health services, including but not limited to nursing home, dental and domiciliary care.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,467,447 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 2,372,766.

Dated: August 10, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22314 Filed 9–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0507]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine eligibility for reinstatement of insurance and/or Total Disability Income Provision.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–0507" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501—3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Medical Information for Reinstatement, VA Form Letter 29–762.

OMB Control Number: 2900–0507.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used by the veteran's attending physician to provide medical information that is required to determine eligibility for reinstatement of insurance and/or Total Disability Income Provision.

Affected Public: Individuals or households.

Estimated Annual Burden: 240 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 480.

Dated: August 23, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22315 Filed 9–5–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0469]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to establish entitlement to Government Life Insurance proceeds.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–0469" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certificate Showing Residence and Heirs of Deceased Veterans or Beneficiary, VA Form 29–541.

OMB Control Number: 2900–0469.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to establish entitlement to Government Life Insurance proceeds in estate cases when formal administration of the estate is not required.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,039 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,078.

Dated: August 23, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–22316 Filed 9–5–01; 8:45 am]

BILLING CODE 8320–01–P

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Corrections

Federal Register
Vol. 66, No. 173
Thursday, September 6, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal Plant and Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97–093–5]

RIN 0579–AA90

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

Correction

In rule document 01–20693, beginning on page 43964, in the issue of Tuesday, August 21, 2001, (and **Federal Register** correction C1–20693 printed in 66 FR 46066, on Friday, August 31, 2001) make the following correction:

On page 43964, in the first column, under the heading **DATES:**, in the last line, "February 18, 2002" should read "February 19, 2002".

[FR Doc. C1–20693 Filed 9–5–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
September 6, 2001

Part II

Department of Education

Privacy Act of 1974; System of Records (ED Web Personalization Pilot Data Collection); Notice

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DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of the Chief Information Officer, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Chief Information Officer for the Department of Education publishes this Notice of a New System of Records for the ED Web Personalization Pilot Data Collection (System Number 18–04–03). The U.S. Department of Education (ED) plans to pilot test a customer personalization capability as part of the upcoming redesign of its main web site, www.ed.gov.

DATES: We must receive your comments on the proposed routine uses for this system of records included in this notice on or before October 9, 2001. The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 31, 2001. This new system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on October 10, 2001, or (2) October 9, 2001, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments on the proposed routine uses of this system, and requests for information about the final pilot test results, to Keith Stubbs, Office of the Chief Information Officer, Web Services Group, U.S. Department of Education, 7th and D Streets, SW., Regional Office Building 3, room 4923–B, Washington, DC 20202–0001. If you prefer to send your comments through the Internet, use the following address: *Comments@ed.gov*. You must include the term "ED Web Pilot Project" in the subject line of your electronic message.

During and after the comment period, you may inspect all comments about this notice in room 4923–B, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Sally Budd, U.S. Department of Education, Office of the Chief Information Officer, 7th and D Streets, SW., Regional Office Building 3, room 4923–A, Washington, DC 20202–0001. Telephone number: (202) 205–2280. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to a record about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a "record" and the system, whether manual or computer-driven, is called a "system of records." The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or "altered" system of records.

Pilot Project

Through its Internet Customer Survey (OMB control number 1800–0011), ED has identified several different constituencies among its Internet customers, and the fact that each one of these constituencies has different educational interests and information needs. Web site personalization is viewed by many as an effective means of fulfilling the diverse needs of Internet customers. Pilot testing web site personalization is necessary to (1) determine its effectiveness as a customer service tool and its potential role in improving the delivery of the Agency information and services, and (2) determine the policy, resource and other implications of the implementation of web personalization by a Federal agency.

The pilot test will be conducted for a period of nine months that will begin with the release of the redesigned web site. The new reengineered web site will be launched in the fall of 2001. We anticipate that a significant number of our web site users will take advantage of the new personalization feature due to the start of the new school year and renewed focus on education. Responses to the ed.gov on-line Internet Customer Survey indicate a strong shift in users of our Internet services from education administrators and teachers to students (up 24%) and parents and family members (up 12%). Students and parents constitute 62% of respondents in the most recent analysis of results.

In addition, we anticipate a significant increase in the number of users during the March, April, and May timeframe when many of our customers will be college-age students who wish to apply for student financial aid. Our WebTrends system usage analysis indicates that the FAFSA (Free Application for Student Aid) web application receives the highest volume of users during this period. Responses to the ed.gov on-line Internet Customer Survey indicates that these Internet users are likely to be more technically astute, have less time to surf the Internet for the information they need, and thus more likely to want and to take advantage of a web personalization feature. Conducting the pilot for nine months from the fall of 2001 through the March-May timeframe will give customers sufficient opportunity to respond to new personalization features and provide an adequate sample upon which to base the analysis of our pilot test.

During the pilot test, ED will offer its Internet customers the opportunity to use a web personalization form which will allow users to select a login name and password (to avoid using persistent cookies), to define their interests, and to elect to receive weekly email notification of new postings in their areas of interest. This information will be used by the system to present a customized view of the ED web site.

Registered users will have access to a home page that features content that matches their interests and allows them to bookmark their favorite pages on the ED site and save search criteria for reuse.

In conjunction with this pilot test, ED will also give its Internet customers the opportunity to complete a very brief survey designed to record their opinions about the usefulness and effectiveness of the web personalization feature. The customer survey is very similar to the existing ED Internet Customer Survey (http://www.ed.gov/Survey/cust.html) in its overall approach, question design, and technologies used. The survey will contain questions designed to collect respondents' demographic information, level of satisfaction with the personalization service, reasons for registering or not registering for the service, preferred features, and potential enhancements. This short survey consists of 12 questions and requires approximately 10 minutes to complete. ED will evaluate the results of this survey as part of its analysis of the pilot test. ED will also publish the results of the pilot test, the analysis, and a proposed web personalization model once the pilot test and analysis are complete.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: http://www.ed.gov/legislation/FedRegister/.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Dated: August 31, 2001.

Craig B. Luigart,

Chief Information Officer.

For the reasons discussed in the preamble, the Chief Information Officer of the U.S. Department of Education publishes notice of a new system of records to read as follows:

18–04–03

SYSTEM NAME:

ED Web Personalization Pilot Data Collection.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Office of the Chief Information Officer, Web Services Group, U.S. Department of Education, Seventh and D Streets, SW., room 4923, ROB–3, Washington, DC 20202–5130.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All users of the U.S. Department of Education web site (*www.ed.gov*) who choose to personalize the web site.

CATEGORIES OF RECORDS IN THE SYSTEM:

The ED Web Personalization Pilot Data Collection contains user customization data. The system contains data elements such as customer first name, middle initial and last name; customer email address; Ed.gov ID and password; and information selection criteria such as desired subject(s), audience type, level(s) of education, resource type(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The general statutory authority is 40 U.S.C. 1425(b) and 44 U.S.C. Chapter 35.

PURPOSE(S):

The purpose of this system of records is to give ED customers the option of customizing the retrieval and delivery of web site content and services based on their interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice (DOJ) and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(2) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(3) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

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(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(6) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Disclosure for Use By Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local or foreign agency or other authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative or prosecutive responsibility within the entity's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:

STORAGE:

System records will be maintained on a database server as part of the *www.ed.gov* web site, and are backed up and archived onto electronic storage media.

RETRIEVABILITY:

Each record in this system is indexed and retrieved by a personal ID and password that is created by the user of the *www.ed.gov* web site.

SAFEGUARDS:

All users of this system will have a unique user ID with a personal identifier.

This system does not use persistent cookies (data that a web server causes to be placed on a user's hard drive) to implement personalization. It is the policy of the Department to prohibit the use of persistent cookies on U.S. Department of Education Web sites except where: there is a compelling need; there are appropriate safeguards in place; the use is personally approved by the Secretary of Education; and there is clear and conspicuous notice to the public.

All physical access to the U.S. Department of Education web site and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the U.S. Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department, and contract staff on a "need to know" basis, and controls individual users" ability to access and alter records within the system.

RETENTION AND DISPOSAL:

U.S. Department of Education web personalization customers can remove any information about their web preferences (i.e., the subjects, levels of education, types of resources, and audience-targeted materials in which they are interested), as well as any bookmarks or saved searches they have stored on the Department's web pages. U.S. Department of Education customers, however, cannot delete their names, zip codes, or email addresses from the system (although they can replace it with other information). The system, however, automatically will purge any unused accounts after a certain period of disuse. If approval to continue the ED web personalization service is received before the end of pilot, ED will keep the existing registration database active to avoid forcing customers to reregister. If approval is not received, ED will delete all customer information from the database and disable the service. If the personalization service is continued, the Department will retain and dispose of these records in accordance with National Archives and Records Administration General Records Schedule 20, Item 1.c. This schedule provides disposal authorization for electronic files and hard-copy printouts created to monitor system usage, including, but not limited to, log-in files, password files, audit trail files, system usage files, and cost-back files used to assess charges for system use. Records will be deleted or destroyed when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes.

SYSTEM MANAGERS AND ADDRESS:

Internet Project Manager, U.S. Department of Education, Office of the Chief Information Officer, 7th and D Streets, SW., Regional Office Building 3, room 4923–B, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, you may gain access to the system via the *www.ed.gov* web site, or by contacting the system administrator through the *webmaster@inet.ed.gov* email address. Requests for notification about an individual must meet the requirements of the regulations at 34 CFR 5b.5. Individuals may also present their requests in writing or in person at any of the locations identified for this system of records.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, follow the directions described in the Notification Procedure.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in this system of records, you may gain access to the system and alter the record via the *www.ed.gov* web site and the system edit and update function. If you wish to contest the content of a record, contact the system manager by following the directions described in the Notification Procedure. Requests to amend a record must meet the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from customers who use the *www.ed.gov* web site and complete the optional web site personalization. The personalization form provides the information contained within the system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–22389 Filed 9–5–01; 8:45 am]
BILLING CODE 4000–01–P

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September 6, 2001

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Part 301

Pine Shoot Beetle; Addition to Quarantined Area; Correction; Interim Rule

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–048–2]

Pine Shoot Beetle; Addition to Quarantined Areas; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; correction.

SUMMARY: This document corrects an interim rule published July 18, 2001, that amended the pine shoot beetle regulations. The correction changes an instruction to reflect that a paragraph containing a map depicting the quarantined area (7 CFR 301.50–3(d)) was being added rather than revised.

EFFECTIVE DATE: July 18, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236, (301) 734–8247.

SUPPLEMENTARY INFORMATION: On January 5, 1999, we published in the **Federal Register** (64 FR 385–387, Docket No. 98–113–1) an interim rule that amended the pine shoot beetle regulations (contained in 7 CFR 301.50 through 301.50–10) by, among other things, removing paragraph (d) of § 301.50–3. Paragraph (d) contained a map that showed the quarantined counties listed in § 301.50–3(c). This interim rule was affirmed as a final rule on April 2, 1999 (63 FR 15916–15918, Docket No. 98–113–2).

However, due to an oversight by the Office of the Federal Register, paragraph (d) of § 301.50–3 continued to appear in the Code of Federal Regulations revised as of January 1, 2000, and January 1, 2001.

On July 18, 2001, we published in the **Federal Register** (66 FR 37401–37405, Docket No. 01–048–1) an interim rule that amended the pine shoot beetle regulations by, among other things, revising the map contained in paragraph (d) of § 301.50–3. Since § 301.50–3(d) should have been removed prior to that date, we are now correcting the interim rule published July 18, 2001, to reflect that paragraph (d) of § 301.50–3 was being added rather than revised.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—[CORRECTED]

The interim rule amending 7 CFR part 301 published July 18, 2001, at 66 FR 37401 is corrected as follows:

1. On page 37403, in the first column, amendatory instruction 2k for § 301.50–3 is corrected to read as follows:

k. By adding paragraph (d).

2. On page 37404, in the third column, § 301.50–3, paragraph (d) is corrected by removing the three asterisks following the paragraph designation and adding in their place: "A map of the quarantined areas follows:".

Done in Washington, DC, this 30th day of August 2001.

Alfonso Torres,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22404 Filed 9–5–01; 8:45 am]

BILLING CODE 3410–34–U

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H.R. 93/P.L. 107–27

Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28

To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29

To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30

To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31

To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32

To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 968/P.L. 107–33

To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

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H.R. 1753/P.L. 107–35

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H.R. 2043/P.L. 107–36

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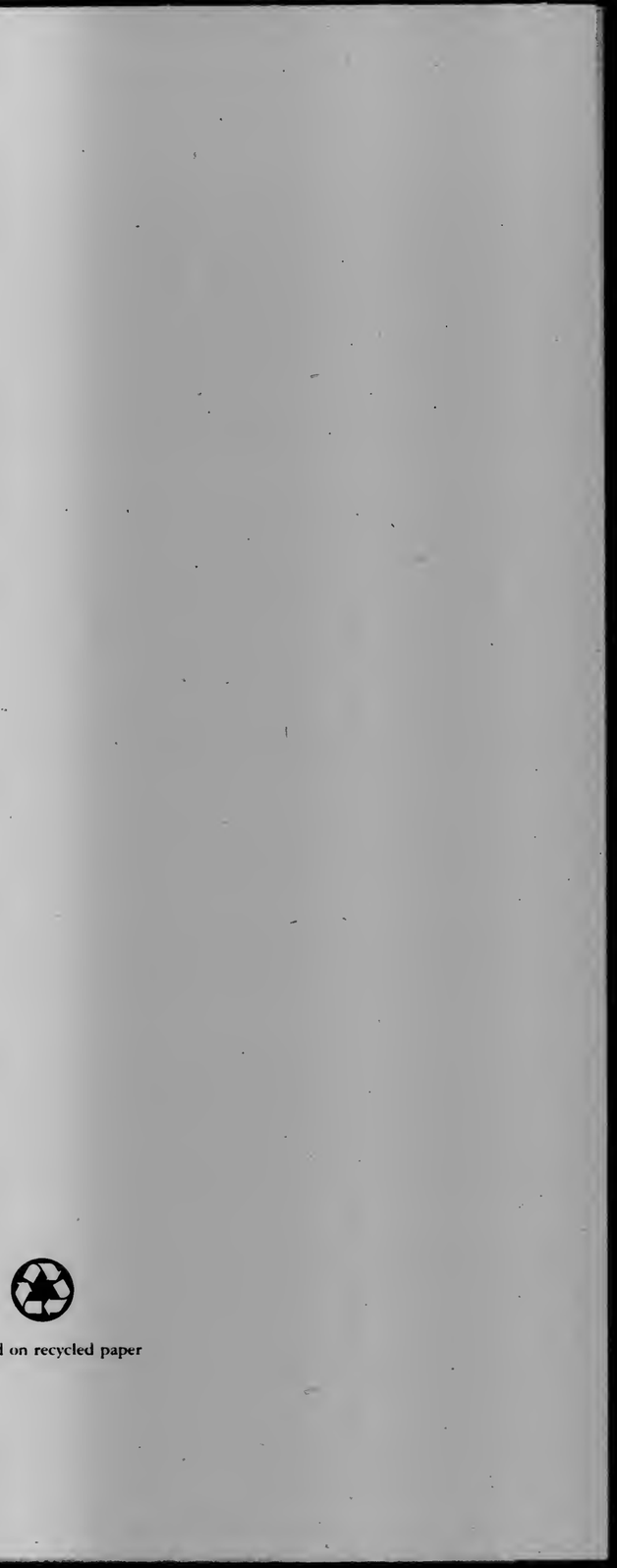
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Presidential Documents

Title 3—

The President

Presidential Determination No. 2001–24 of August 18, 2001

Military Drawdown for Tunisia

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me as President by the Constitution and laws of the United States, including Title III (Foreign Military Financing) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, as enacted in Public Law 106–429 (Title III), I hereby direct the drawdown of defense articles from the stocks of the Department of Defense, and military education and training of the aggregate value of $5 million for Tunisia, consistent with the authority provided under Title III, for the purposes of part II of the Foreign Assistance Act of 1961.

The Secretary of State is authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, August 18, 2001.

[FR Doc. 01–22643
Filed 9–6–01; 8:45 am]
Billing code 4710–10–M

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Presidential Documents

Presidential Determination No. 2001–25 of August 31, 2001

Presidential Determination on the Proposed Protocol Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Peaceful Uses of Nuclear Energy

Memorandum for the Secretary of State [and] the Secretary of Energy

I have considered the proposed Protocol Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Peaceful Uses of Nuclear Energy signed at Washington on May 30, 1980, along with the views, recommendations, and statements of the interested agencies.

I have determined that the performance of the Protocol will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b)), I hereby approve the proposed Protocol and authorize you to arrange for its execution.

The Secretary of State is authorized and directed to publish this determination in the **Federal Register.**

THE WHITE HOUSE,
Washington, August 31, 2001.

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Rules and Regulations

Federal Register
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Friday, September 7, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214, 245, 248, 274a, and 299

[INS No. 2117–01; AG Order No. 2502–2001]

RIN 1115–AG08

V Nonimmigrant Classification; Spouses and Children of Lawful Permanent Residents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a new V nonimmigrant classification for certain spouses and children of lawful permanent resident aliens that was added by section 1102 of the Legal Immigration Family Equity Act (LIFE) of 2000, Public Law 106–553, effective on December 21, 2000. To be eligible for this new nonimmigrant category, the alien must be the beneficiary of an immigrant visa petition that has been pending with the Immigration and Naturalization Service (Service) for at least 3 years, or that has been approved and 3 years have passed since the filing date. Eligible aliens may enter and work in the United States, and continue to reside here while they wait for the immigrant visa petition to be approved; their priority date to be reached for filing for adjustment of status or an application for an immigrant visa; and the adjudication of that application. This interim rule sets forth the eligibility standards for V classification and the procedures for changing to V nonimmigrant status while in the United States, and for obtaining employment authorization based on V nonimmigrant status.

DATES: *Effective date.* This rule is effective on September 7, 2001.

Comment date. Comments must be submitted on or before November 6, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 4034, Washington, DC 20536, via fax to (202) 305–0143, or via email to *INSREGS@USDOJ.GOV*. To ensure proper handling, please reference the INS No. 2117–01 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 3214, Washington, DC 20536, Telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

Background

Section 1102 of the LIFE Act amends the Immigration and Nationality Act, as amended (8 U.S.C. 1101, *et seq.*) (Act), in three ways:

(1) Section 1102 amends section 101(a)(15) of the Act (8 U.S.C. 1101(a)(15)) to add a new nonimmigrant classification, paragraph (V), for certain spouses and children of lawful permanent residents (LPRs), who have waited at least 3 years for the availability of an immigrant visa number in the family-based second (F2A) preference category in accordance with the State Department's monthly Visa Bulletin. Eligible spouses and children (under 21 years old and unmarried) of LPRs outside the United States may apply for a V nonimmigrant visa abroad and for admission to the United States as a V nonimmigrant. If already present in the United States, eligible aliens may obtain V nonimmigrant status while remaining in the United States.

(2) Section 1102 of LIFE also adds section 214(o) to the Act (8 U.S.C. 1184(o)) in order to provide the terms and conditions of V nonimmigrant status and employment authorization.

(3) Section 1102 of LIFE makes conforming amendments to sections 214(b) and 214(h) of the Act (8 U.S.C. 1184(b) and 1184(h)) to include reference to the V nonimmigrant classification.

Who Is Eligible for V Nonimmigrant Status?

To be eligible for V nonimmigrant status, the alien must be the beneficiary of an immigrant visa petition, Form I–130, Petition for Alien Relative, that was filed by the LPR on or before December 21, 2000, under the F2A preference category of section 203(a)(2)(A) of the Act (8 U.S.C. 1153(a)(2)(A)). The child of a petitioned-for spouse or child beneficiary is also eligible for such status if he or she is accompanying or following to join such an alien.

The alien is eligible for V status if the Form I–130 immigrant visa petition has been pending for 3 years or more. In addition, the alien is eligible for V status after the visa petition has been approved and 3 years have passed since the date of filing, in either of the following circumstances:

(1) An immigrant visa number is not yet available to the beneficiary; or

(2) If an immigrant visa number is available to the beneficiary, his or her application for an immigrant visa abroad or application for adjustment of status under section 245 of the Act (8 U.S.C. 1255) is still pending.

An eligible spouse of an LPR will be classified as V–1. An eligible child of an LPR will be classified as V–2. The child of either, if eligible to accompany or follow to join the principal alien under section 203(d) of the Act (8 U.S.C. 1153(d)), will be classified as V–3.

An alien eligible for V nonimmigrant status may apply for a V nonimmigrant visa at a consular office abroad or, if the alien is already in the United States, he or she may apply to the Service for classification as a V nonimmigrant. An alien in V nonimmigrant status in the United States may obtain employment authorization.

What Are the Terms and Conditions of V Nonimmigrant Status?

Aliens in V–1, V–2, or V–3 nonimmigrant status are authorized to remain in the United States until their authorized period of admission expires, or until one of the following is denied: (1) the Form I–130, Petition for Alien Relative, filed by the LPR on behalf of his or her spouse or child; (2) the alien's application for an immigrant visa; or (3) the alien's application for adjustment of status. If the V–1 or V–2 alien's status is terminated for any of these reasons,

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the V–3 status of any derivative child will simultaneously be terminated.

Aliens in the United States in V nonimmigrant status must abide by the terms and conditions of that status as set forth in section 214 of the Act (8 U.S.C. 1184). Since V nonimmigrants are admitted to the United States to await the availability of an immigrant visa number in the F2A preference category (spouses and minor children of lawful permanent residents), in accordance with the State Department's monthly Visa Bulletin, they must continue to be eligible for that preference category.

An alien who is no longer eligible for the F2A preference category described in section 203(a)(2)(A) of the Act (8 U.S.C. 1153(a)(2)(A)) is no longer eligible for V nonimmigrant status. For example, an alien would no longer be eligible if the qualifying marriage that forms the basis for the Form I–130 is terminated or the child petitioned for on the Form I–130 reaches the age of 21. If the Form I–130 is withdrawn by the petitioner, or if it is revoked under section 205 of the Act (8 U.S.C. 1155), then the alien is no longer considered to be in valid V classification beginning 30 days after the withdrawal or event that causes the revocation (8 U.S.C. 1184(p)(3)). (However, the Service notes that a spouse or child of an abusive lawful permanent resident may be eligible in certain circumstances to file a self-petition for classification as a preference immigrant, as provided in 8 CFR 204.4, even if the LPR has withdrawn the Form I–130 that was filed on his or her behalf.)

How Can an Eligible Alien Who Is Outside the United States Obtain a V Nonimmigrant Visa?

Eligible aliens who live abroad may obtain a V nonimmigrant visa from the Department of State by applying at a United States consular office. Eligible applicants must demonstrate that they meet the requirements of section 101(a)(15)(V) of the Act (8 U.S.C. 1101(a)(15)(V)).

The Department of State published an interim regulation on April 16, 2001, at 66 FR 19390 (22 CFR 41.86), that sets forth procedures for applying for a V nonimmigrant visa at a consular office abroad.

Waiver of Ground of Inadmissibility

Section 1102(b) of LIFE adds section 214(o) to the Act, (8 U.S.C. 1184(o)) which, among other things, provides that aliens applying for admission to the United States in V nonimmigrant status are exempt from the ground of inadmissibility found at section 212(a)(9)(B) of the Act (8 U.S.C. 1182(a)(9)(B)), relating to unlawful presence. This means that, for the purpose of admission as a V nonimmigrant, aliens who have accrued more than 180 days of unlawful presence in the United States are not subject to the 3- and 10-year bars to admission.

It is important to note that, as discussed in more depth below, section 214(o) of the Act waives this ground of inadmissibility only for V nonimmigrant admissions (or changing to a V nonimmigrant status), and not for purposes of obtaining immigrant status. When a V nonimmigrant applies for adjustment or for an immigrant visa to obtain permanent resident status, he or she is still subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act relating to unlawful presence and the bars to admissibility.

How Can an Eligible Alien Who Is in the United States Obtain V Nonimmigrant Status?

Beginning September 7, 2001, eligible aliens in the United States who wish to obtain V nonimmigrant status must file the Form I–539, Application to Change Nonimmigrant Status, with the Service and pay the application fee, currently $120, required by 8 CFR 103.7(b)(1), or request a waiver of the application fee in accordance with 8 CFR 103.7(c). All aliens 14 to 79 years of age who are filing Form I–539 to obtain V nonimmigrant status must submit a service fee for fingerprinting, currently $25, with their application. In addition to the instructions listed on the Form I–539, all aliens applying for V nonimmigrant status must follow the supplemental instructions found on Supplement A to Form I–539. Applications should be submitted to: U.S. Immigration and Naturalization Service, P.O. Box 7216, Chicago, IL 60680–7216.

Supplement A to Form I–539 includes instructions specific to applicants for V nonimmigrant status in addition to those found on Form I–539.

Although the statute uses the term "adjust," the Service views the conversion to V nonimmigrant status as a "change" from one (usually) nonimmigrant status to another nonimmigrant status, rather than an "adjustment" of status from nonimmigrant status to lawful permanent resident (LPR) status. This is especially so because V nonimmigrants are required to be pursuing LPR status through the adjustment of status or the immigrant visa process. For these reasons, the Service is planning to use the Form I–539 and the term "change" of status.

Medical Examination

An applicant applying for V nonimmigrant status must submit, along with his or her application, the results of a medical examination by a civil surgeon. The alien must submit this information on Form I–693, Medical Examination of Aliens Seeking Adjustment of Status, completed by a civil surgeon. Each Service district office maintains a list of physicians in the area who have been designated as civil surgeons by the Service. An applicant for V nonimmigrant status is not required to submit the vaccination supplement to Form I–693.

Fingerprinting Appointment

After receiving the application and proper fees, the applicant will be scheduled for fingerprinting at an Application Support Center (ASC). An applicant who does not appear for fingerprinting without previously notifying the Service may have his or her application denied under 8 CFR 103.2(b)(13).

Evidence

An alien applying for V nonimmigrant status should submit proof of filing of the immigrant petition that qualifies the alien for V status. Proof of filing may be in the form of Form I–797, Notice of Action, which serves as a receipt of the petition or as a notice of approval, or a receipt for the filed petition or notice of approval issued by a local district office. If the alien does not have such proof, the Service will review other forms of evidence, such as correspondence to or from the Service regarding a pending petition.

If the alien does not have any of the above items, but believes he or she is a beneficiary of a qualifying petition and as such is eligible for V nonimmigrant status, he or she should provide information indicating where and when the petition was filed, the name and alien number of the petitioner, and the names of all the beneficiaries.

Affidavit of Support

Aliens entering as V nonimmigrant aliens are not subject to the legally binding Affidavit of Support requirements of section 213A of the Act (8 U.S.C. 1183a) and 8 CFR part 213A, until they file for adjustment of status to LPR. However, the Service may request that an applicant for V status submit the non-binding Affidavit of Support, Form I–134.

Grounds of Inadmissibility

Aliens applying to the Service for V nonimmigrant status must be eligible for admission to the United States. This means they must not be inadmissible under any of the grounds found at section 212(a) of the Act, except those from which the LIFE Act explicitly exempts them. Section 214(o)(3) of the Act, as added by the LIFE Act, exempts an alien applying to obtain V nonimmigrant status from three grounds of inadmissibility: section 212(a)(6)(A) (aliens present without admission or parole); section 212(a)(7) (aliens not in possession of a valid, unexpired passport or immigrant or nonimmigrant visa); and section 212(a)(9)(B) (aliens unlawfully present). The fact that an alien is inadmissible under one of these three grounds does not make him or her ineligible to obtain the V nonimmigrant status. Thus, the alien need not have been maintaining lawful status at the time of applying to the Service to obtain V nonimmigrant status. An alien who is inadmissible as a nonimmigrant on any other ground under section 212(a) of the Act may apply to the Service for any available nonimmigrant waivers.

It is important to note that while section 214(o) of the Act waives these three grounds of inadmissibility for change to V nonimmigrant status, there is no corresponding exemption of these same grounds of inadmissibility when an alien in the V nonimmigrant status later applies for an immigrant visa or for adjustment of status to LPR. For example, if an alien in V nonimmigrant status, who has accrued more than 1 year of unlawful presence in the United States, travels abroad and is readmitted as a V nonimmigrant, that alien, when he or she departs the United States, triggers the 10-year bar to admission under section 212(a)(9)(B) of the Act. Section 214(o) exempts him or her from this ground of inadmissibility for purposes of obtaining V nonimmigrant status, but does not exempt the alien from that ground of inadmissibility when he or she later applies for an immigrant visa or for adjustment to LPR status. That means that he or she will be unable to adjust status to LPR for 10 years from the date of departure, unless an individual waiver for that ground of inadmissibility is granted.

To the extent that he or she may be eligible, the alien applying to adjust status may apply for the waivers found at section 212(g), (h), (i), and (a)(9)(B)(v) of the Act.

What Will Be the Period of Authorized Stay for V Nonimmigrants?

The Service will give aliens granted admission to the United States in the V nonimmigrant classification a maximum 2-year period of admission. Similarly, the Service will give aliens approved for a change of status to V nonimmigrant status a maximum 2-year period of admission. In either case, the period of V nonimmigrant status may be extended, as discussed below, if the alien continues to remain eligible for V status.

Children in V–2 or V–3 Status Who Reach the Age of 21 or Get Married

If an alien is 19 years old or older and applies for admission to the United States in V–2 or V–3 status, or for change to V–2 or V–3 status in the United States, he or she will be granted a period of admission that will end on the day before the alien turns 21 years of age.

One of the eligibility requirements for V classification is that an alien must be the beneficiary of a petition for status filed under section 203(a)(2)(A) of the Act—the Form I–130 for spouses or children of an LPR. *See* Pub. L. No. 106–553, sec. 1102(a)(3), 114 Stat. At 2762A–142. The term "child" is defined in section 101(b)(1) of the Act to mean, with certain qualifications, an unmarried person under 21 years of age. *See* 8 U.S.C. 1101(b)(1). Since the eligibility criteria of section 1102(a) do not include section 203(a)(2)(B) of the Act (unmarried sons or daughters of an LPR), an alien 21 years of age or over who is the son or daughter of an LPR is not eligible for V–2 classification. Likewise, an alien who gets married is no longer eligible for V classification as a "child." Therefore, if the child of an LPR is admitted to the United States as a V–2 nonimmigrant and subsequently turns 21 or gets married, he or she is no longer eligible for that nonimmigrant status. Since the law provides for V–3 status for a derivative child of a principal alien, an alien will no longer be eligible for that nonimmigrant status after turning 21 or getting married.

How Can an Alien Obtain Employment Authorization Based on V Nonimmigrant Status?

An alien in valid V nonimmigrant status is eligible for employment authorization as long as he or she remains in that status. In order to obtain employment authorization, the alien must submit Form I–765, Application for Employment Authorization, with the application fee, currently $100, as required by 8 CFR 103.7(b)(1), or a request for a fee waiver in accordance with 8 CFR 103.7(c). An alien in V nonimmigrant status should submit his or her Form I–765 to: U.S. Immigration and Naturalization Service, P.O. Box 7216, Chicago, IL 60680–7216.

If the alien's application for employment authorization is approved, the Service will grant the alien employment authorization for a period of time to match his or her period of authorized stay as a V nonimmigrant. An alien already in the United States who is applying for V status may file for employment authorization at the same time he or she files Form I–539 and Supplement A to Form I–539.

How Can an Alien Obtain an Extension of His or Her V Nonimmigrant Status?

If an alien's period of admission is about to expire and the alien continues to be eligible for V nonimmigrant status, the alien may apply for an extension, using Form I–539 and Supplement A to Form I–539. Applications for extension of V nonimmigrant status should be submitted with the application fee for Form I–539, currently $120, as required by 8 CFR 103.7(b)(1), or the alien may request a fee waiver in accordance with 8 CFR 103.7(c). Applicants for an extension of V nonimmigrant status do not need to submit the fingerprinting service fee, nor do they need to have a medical examination or submit Form I–693 (medical examination). Applications should be submitted to: U.S. Immigration and Naturalization Service, P.O. Box 7216, Chicago, IL 60680–7216.

An alien granted an extension of V nonimmigrant status will be given a period of authorized stay not to exceed 2 years. A child in V nonimmigrant status who is 19 years old or older will be granted an extension valid until the day before his or her 21st birthday.

A V nonimmigrant who has filed an application for adjustment of status (Form I–485) is still eligible for extension of V nonimmigrant status as long as the adjustment application remains pending. However, any applicant for adjustment of status can obtain many of the same benefits as are provided for in the V status. Applicants for adjustment of status are considered to be in a period of stay authorized by the Attorney General while their application remains pending, and they are eligible to obtain employment authorization and to apply for advance parole to return to the United States after travel abroad.

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What if an Alien Has an Approved Petition and a Current Priority Date but Does Not Have a Pending Application for an Immigrant Visa Abroad or an Application for Adjustment of Status?

The V visa classification includes aliens who are the beneficiary of an approved immigrant visa petition that was filed more than 3 years earlier, during the time that an immigrant visa is not available or during the time that an application for an immigrant visa abroad or for adjustment of status under section 245 of the Act is still pending. However, the Service recognizes that there may be limited circumstances in which an eligible spouse or child has an immigrant visa number available, but has not yet applied either for an immigrant visa abroad or for adjustment to LPR status.

In order to provide aliens time to file the appropriate application when their V status is expiring, the Service will grant a one-time 6-month extension of V nonimmigrant status to such aliens if they are otherwise eligible. Similarly, for an alien in this situation who is applying for admission to the United States on the basis of a V visa that is otherwise valid, the Service will admit the alien for a 6-month period in order to provide time to file the appropriate application.

In either case, if the alien has not filed either an application for adjustment of status or for an immigrant visa by the end of the 6-month period, the alien will no longer be able to extend his or her V nonimmigrant status.

May an Alien Travel Abroad While in V Nonimmigrant Status?

An alien who obtained a V nonimmigrant visa from a consular office abroad may be inspected and admitted to the United States in V nonimmigrant status after traveling abroad as long as the alien possesses a valid, unexpired V visa and remains eligible for V nonimmigrant status.

However, as a general matter, an alien who was granted V nonimmigrant status in the United States by the Service will need to obtain a V visa from a consular office abroad in order to be inspected and admitted to the United States as a V nonimmigrant after traveling abroad. (The alien will not need to apply for a V visa abroad in order to be admitted if he or she has traveled to contiguous territories or adjacent islands, has another valid visa, and is eligible for automatic revalidation.) Procedures for obtaining a V nonimmigrant visa abroad are found in the Department of State regulations at 22 CFR 41.86 (66 FR 19390, April 16, 2001). In addition, the alien must remain eligible for admission in V nonimmigrant status.

A V nonimmigrant with a pending Form I–485, Application to Register Permanent Residence or Adjust Status, does not need to obtain advance parole prior to traveling abroad. Section 1102(d) of the LIFE Act amends section 214 of the Act to include V nonimmigrants in the list of nonimmigrant classifications that may have dual intent. This means that an alien in V nonimmigrant status may be considered a nonimmigrant despite the fact that he or she is an intending immigrant with a filed application for adjustment of status or an immigrant visa. Aliens with dual intent, including V nonimmigrants, do not need to obtain advance parole to protect their pending applications for adjustment of status from being considered abandoned when they depart the United States.

When Is an Alien's V Nonimmigrant Status Terminated?

Under section 214(o)(1)(B) of the Act, as added by section 1102 of LIFE, the period of authorized admission as a V nonimmigrant terminates 30 days after any of the following is denied:

- The qualifying Form I–130;
- The alien's application for an immigrant visa pursuant to the approval of such Form I–130; or
- The alien's Form I–485 under section 245 of the Act pursuant to the approval of such Form I–130.

In the case of a derivative child (V–3), the period of admission is terminated when the Form I–130, Application for Immigrant Visa, or Form I–485 filed by the principal alien (V–1 or V–2) is denied.

The Service considers the withdrawal or revocation of an approved Form I–130 to be the equivalent of a denial. In addition, as discussed above, an alien spouse will lose V–1 status upon divorcing the LPR who filed the immigrant visa petition, and an alien child will lose V–2 or V–3 status upon turning 21 or marrying, because he or she will no longer satisfy the statutory definition of a "child."

Unless the alien has some other status under the immigration laws, he or she will become removable upon termination of the V status, and unlawful presence will begin to accrue.

What Happens if the Petitioner of the Form I–130 That Qualified the Beneficiaries for V Nonimmigrant Status Naturalizes?

If the LPR petitioner of the Form I–130 that qualified the beneficiaries for V nonimmigrant status becomes a United States citizen, the petitioner's spouse and children (and any derivative child) will no longer qualify for V nonimmigrant status as defined under section 101(a)(15)(V) of the Act. Their V status will expire when the current period of authorized admission ends, and they will not be eligible to renew V status.

However, as the spouse or child of a person who has now become a United States citizen, the principal beneficiaries will be immediate relatives as defined in section 201(b)(2)(A) of the Act (8 U.S.C. 1151(b)(2)(A)). As provided in 8 CFR 204.2(i)(3), the Form I–130 filed by the LPR automatically will be upgraded to an immediate relative petition.

An immediate relative must still be the beneficiary of a Form I–130, but he or she does not need to wait for an immigrant visa number to be available before filing an application for adjustment of status. A V–1 or V–2 alien with a pending or approved Form I–130 who becomes an immediate relative may apply for adjustment of status (Form I–485) immediately if he or she has not already done so. If the V–1 or V–2 alien has already filed a Form I–485 based on an approved Form I–130 at the time the LPR naturalizes, he or she does not need to file any additional forms.

It is important to note that a U.S. citizen must file a new immigrant visa petition (Form I–130) and an application for adjustment of status (Form I–485) on behalf of any child who was in V–3 status, in order for that child to adjust status. Derivative children in V–3 status were not covered by the Form I–130 previously filed by the LPR on behalf of his or her spouse (V–1) and children (V–2).

Each alien who is the beneficiary of a pending Form I–485 will be able to obtain work authorization while his or her adjustment application is pending.

What Happens if an Alien Is Already in Immigration Proceedings?

If an alien is already in immigration proceedings and believes that he or she may be eligible to apply for V nonimmigrant status, he or she should request before the immigration judge or the Board that the proceedings be administratively closed (or, if the alien has a motion pending before the Board, that the motion be indefinitely continued), in order to allow the alien to pursue an application for V nonimmigrant status with the Service. If the alien appears eligible for V nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely. In the event that the Service finds an alien eligible for the V classification, the Service can adjudicate the application for change of status. In the event that the Service finds an alien ineligible for V status, the Service shall recommence proceedings by filing a motion to re-calendar.

If an Alien Is Already the Subject of a Final Order of Removal, Deportation or Exclusion, What Is the Procedure for Moving To Reopen Based on V Eligibility?

The LIFE Act Amendments contain no special provisions for reopening proceedings where an alien is already the subject of a final order of removal, deportation, or exclusion because that alien is now eligible for V nonimmigrant status. Accordingly, motions to reopen will be governed by the Department of Justice's current rules regarding motions to reopen, 8 CFR 3.23 (before the Immigration Judge) and 3.2 (before the Board of Immigration Appeals), which contain time and numerical limitations on the filing of such motions. *See* 8 CFR 3.23(b)(1) and 3.2(c)(2).

The rules, however, do provide for limited exceptions to these time and numerical limitations, among which is a motion to reopen filed jointly by the alien and the Service counsel in the case. Therefore, an alien who is the subject of a final order who alleges eligibility for V nonimmigrant status may contact the Service counsel to request the filing of a joint motion to reopen. The Service will exercise its discretion in considering such requests. The Service's discretion to join in motions to reopen, however, cannot provide or restore eligibility for discretionary relief that is otherwise barred by the statute (such as in the case of aliens whose orders were entered in absentia for failure to appear, or aliens who failed to voluntarily depart the United States within the time period specified).

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). This interim rule establishes the proper rules and filing procedures for the part of the LIFE Act creating a new "V" nonimmigrant classification for spouses and children of lawful permanent resident aliens. According to the legislative history, Congress enacted the V visa in order to ameliorate the effects of the long statutory and administrative backlogs inherent in the immigration of alien relatives by providing for expeditious family reunification. The "Joint Memorandum Concerning the Legal Immigration Family Equity Act of 2000 and the LIFE Act Amendments of 2000," submitted in lieu of a committee report, states that:

> [The LIFE Act] sought to provide a new mechanism to address the problem created by the long backlog of immigrant visa applications for spouses and minor children of lawful permanent residents, who are currently having to wait many years for a visa to become available to them. Right now, many of these individuals are even precluded from visiting their spouse or parent in the United States on account of an administrative interpretation that the filing of their petition casts doubt on the bona fides of their applications for visitor visas, indicating that instead they are intending immigrants* * *. The purpose of the V and K visas is to provide a speedy mechanism by which family members may be reunited.

Public Law 106–553 became effective on December 21, 2000, and therefore, immediate implementation of this rule without prior notice and comment is necessary to further the important public interests discussed above in the law's legislative history. Publishing a proposed rule would mean that the rule would not take effect immediately, and because of the necessary comment period, would result, contrary to the public interest, in a lengthy delay in processing for those already eligible for this benefit. In fact, eligible aliens have already filed applications with the Service's local offices while the Service has been in the process of drafting regulations. Many of these applicants are filing on the wrong forms, which do not provide sufficient information for adjudication decisions. The Service has no other recourse but to return the incorrect forms. Therefore, it is of significant importance that the Service publish regulations to establish appropriate procedures as soon as possible. Since further delays with respect to this interim rule are contrary to the public interest, there is good cause under 5 U.S.C. 553 to forgo the prior publication of a proposed rule and to make this rule effective upon the date of publication in the **Federal Register**.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because this regulation affects family members of lawful permanent residents. It does not have an effect on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. The Service estimates that this rule will result in an increase in Service revenue of $35.8 million in Fiscal Year (FY) 2001, $8.8 million in FY 2002, and $1.2 million in FY 2003.

Executive Order 12866

This rule is considered by the Department of Justice to be a significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Assessment of Regulatory Impact on the Family

This immigration law facilitates reunification of families by according preferences to aliens who are the spouse or children of lawful permanent resident aliens. This regulation implements an additional nonimmigrant classification through which these aliens may be reunified with their family member. For this reason, the Attorney General has determined, as provided by the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, Sec. 654, 112 Stat. 2681, 2681–528–24 (1998) (5 U.S.C. 601, note), that this rule will not have an adverse impact on the strength or stability of the family.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the

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distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

The information collection requirement contained in this rule (Form I–539, Supplement A) has been submitted to the Office of Management and Budget for emergency review and approval under the provisions of the Paperwork Reduction Act. The emergency clearance is good for 180 days from the date of OMB approval. Prior to its renewal by OMB, INS will publish a notice in the **Federal Register** soliciting comment on the form. The OMB control number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Section 141 if the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931 note, respectively; 8 CFR part 2.

2. Section 214.1(a)(2) is amended by:

a. Adding the entry for "101(a)(15)(V)" in proper sequential order; and

b. Designating the existing note as "Note 1" and by adding a "Note 2" to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(2) * * *

Section	Designation
. . . . .	
101(a)(15)(V)	V–1, V–2, or V–3
. . . . .	

Note: The classification designation V–1 is for the spouse of a lawful permanent resident; the classification designation V–2 is for the principal beneficiary of an I–130 who is the child of an LPR; the classification V–3 is for the derivative child of a V–1 or V–2 alien.

§ 214.2 [Amended]

3. Section 214.2 is amended by adding and reserving paragraph (u) and by adding paragraph (v), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(u) [Reserved]

(v) *Certain spouses and children of LPRs.* Section 214.15 of this chapter provides the procedures and requirements pertaining to V nonimmigrant status.

4. Section 214.15 is added to read as follows:

§ 214.15 Certain spouses and children of lawful permanent residents.

(a) *Aliens abroad.* Under section 101(a)(15)(v) of the Act, certain eligible spouses and children of lawful permanent residents may apply for a V nonimmigrant visa at a consular office abroad and be admitted to the United States in V–1 (spouse), V–2 (child), or V–3 (dependent child of the spouse or child who is accompanying or following to join the principal beneficiary) nonimmigrant status to await the approval of:

(1) A relative visa petition;

(2) The availability of an immigrant visa number; or

(3) Lawful permanent resident (LPR) status through adjustment of status or an immigrant visa.

(b) *Aliens already in the United States.* Eligible aliens already in the United States may apply to the Service to obtain V nonimmigrant status for the same purpose. Aliens in the United States in V nonimmigrant status are entitled to reside in the United States as V nonimmigrants and obtain employment authorization.

(c) *Eligibility.* Subject to section 214(o) of the Act, an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa under section 203(d) of the Act) of an immigrant visa petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, may apply for V nonimmigrant status if:

(1) Such immigrant visa petition has been pending for 3 years or more; or

(2) Such petition has been approved, and 3 or more years have passed since such filing date, in either of the following circumstances:

(i) An immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 203(a)(2)(A) of the Act; or

(ii) The alien's application for an immigrant visa, or the alien's application for adjustment of status under section 245 of the Act, pursuant to the approval of such petition, remains pending.

(d) *The definition of "pending".* For purposes of this section, a pending petition is defined as a petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, that has not been adjudicated. In addition, the petition must have been properly filed according to § 103.2(a) of this chapter, and if, subsequent to filing, the Service returns the petition to the applicant for any reason or makes a request for evidence, the petitioner must satisfy the Service request within the time period set forth at § 103.2(b)(8) of this chapter. If the Service denies a petition, but the petitioner appeals that decision, the petition will be considered pending until the administrative appeal is decided by the Service. A petition rejected by the Service as not properly filed is not considered to be pending.

(e) *Classification process for aliens outside the United States.*

(1) *V nonimmigrant visa.* An eligible alien may obtain a V nonimmigrant visa from the Department of State at a consular office abroad pursuant to the procedures set forth in 22 CFR 41.86.

(2) *Aliens applying for admission to the United States as a V nonimmigrant at a port-of-entry.* Aliens applying under section 235 of the Act for admission to the United States at a port-of-entry as a V nonimmigrant must have a visa in the appropriate category. Such aliens are exempt from the ground of inadmissibility under section 212(a)(9)(B) of the Act.

(f) *Application by aliens in the United States.* An alien described in paragraph (c) of this section who is in the United States may apply to the Service to obtain V nonimmigrant status pursuant to the procedures set forth in this section and 8 CFR part 248. The alien must be admissible to the United States, except that, in determining the alien's admissibility in V nonimmigrant status, sections 212(a)(6)(A), (a)(7), and (a)(9)(B) of the Act do not apply.

(1) *Contents of application.* To apply for V nonimmigrant status, an eligible alien must submit:

(i) Form I–539, Application to Extend/Change Nonimmigrant Status, with the fee required by § 103.7(b)(1) of this chapter;

(ii) The fingerprint fee as required by § 103.2(e)(4) of this chapter;

(iii) Form I–693, Medical Examination of Aliens Seeking Adjustment of Status, without the vaccination supplement; and

(iv) Evidence of eligibility as described by Supplement A to Form I–539 and in paragraph (f)(2) of this section.

(2) *Evidence.* Supplement A to Form I–539 provides instructions regarding the submission of evidence. An alien applying for V nonimmigrant status with the Service should submit proof of filing of the immigrant petition that qualifies the alien for V status. Proof of filing may include Form I–797, Notice of Action, which serves as a receipt of the petition or as a notice of approval, or a receipt for a filed petition or notice of approval issued by a local district office. If the alien does not have such proof, the Service will review other forms of evidence, such as correspondence to or from the Service regarding a pending petition. If the alien does not have any of the items previously mentioned in this paragraph, but believes he or she is eligible for V nonimmigrant status, he or she should state where and when the petition was filed, the name and alien number of the petitioner, and the names of all beneficiaries (if known).

(g) *Period of admission.*

(1) *Spouse of an LPR.* An alien admitted to the United States in V–1 nonimmigrant status (or whose status in the United States is changed to V–1) will be granted a period of admission not to exceed 2 years.

(2) *Child of an LPR or derivative child.* An alien admitted to the United States in V–2 or V–3 nonimmigrant status (or whose status in the United States is changed to V–2 or V–3) will be granted a period of admission not to exceed 2 years or the day before the alien's 21st birthday, whichever comes first.

(3) *Extension of status.* An alien may apply to the Service for an extension of V nonimmigrant status pursuant to this part and 8 CFR part 248. Aliens may apply for the extension of V nonimmigrant status, submitting Form I–539, and the associated filing fee, on or before 120 days before the expiration of their status. If approved, the Service will grant an extension of status to aliens in V nonimmigrant status who remain eligible for V nonimmigrant status for a period not to exceed 2 years, or in the case of a child in V–2 or V–3 status, the day before the alien's 21st birthday, whichever comes first.

(4) *Special rules.* The following special rules apply with respect to aliens who have a current priority date in the United States, but do not have a pending application for an immigrant visa abroad or an application to adjust status.

(i) For an otherwise eligible alien who applies for admission to the United States in a V nonimmigrant category at a designated Port-of-Entry and has a current priority date but does not have a pending immigrant visa abroad or application for adjustment of status in the United States, the Service will admit the alien for a 6-month period (or to the date of the day before the alien's 21st birthday, as appropriate).

(ii) For such an alien in the United States who applies for extension of V nonimmigrant status, the Service will grant a one-time extension not to exceed 6 months.

(iii) If the alien has not filed an application, either for adjustment of status or for an immigrant visa within that 6-month period, the alien cannot extend or be admitted or readmitted to V nonimmigrant status. If the alien does file an application, either for adjustment of status or for an immigrant visa within the time allowed, the alien will continue to be eligible for further extensions of V nonimmigrant status as provided in this section while that application remains pending.

(h) *Employment authorization.* An alien in V nonimmigrant status may apply to the Service for employment authorization pursuant to this section and § 274a.12(a)(15) of this chapter. An alien must file Form I–765, Application for Employment Authorization, with the fee required by 8 CFR 103.7. The Service will grant employment authorization to aliens in V nonimmigrant status who remain eligible for V nonimmigrant status valid for a period equal to the alien's authorized admission as a V nonimmigrant.

(i) *Travel abroad; unlawful presence.*—

(1) *V nonimmigrant status in the United States.* An alien who applies for and obtains V nonimmigrant status in the United States will be issued Form I–797, Notice of Action, indicating the alien's V status in the United States. Form I–797 does not serve as a travel document. If such an alien departs the United States, he or she must obtain a V visa from a consular office abroad in order to be readmitted to the United States as a V nonimmigrant. This visa requirement, however, does not apply if the alien traveled to contiguous territory or adjacent islands, possesses another valid visa, and is eligible for automatic revalidation.

(2) *V nonimmigrants with a pending Form I–485.* An alien in V nonimmigrant status with a pending Form I–485 (Application to Register Permanent Residence or Adjust Status) that was properly filed with the Service does not have to obtain advance parole in order to prevent the abandonment of that application when the alien departs the United States.

(3) *Unlawful presence.*—

(i) *Nonimmigrant admission.* An alien otherwise eligible for admission as a V nonimmigrant is not subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act. This is true even if the alien had accrued more than 180 days of unlawful presence in the United States and is applying for admission as a nonimmigrant after travel abroad.

(ii) *Permanent resident status.* A V nonimmigrant alien is subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act when applying for an immigrant visa or for adjustment of status to that of a lawful permanent resident. Therefore, a departure from the United States at any time after having accrued more than 180 days of unlawful presence will render the alien inadmissible under that section for the purpose of adjustment of status or admission as an immigrant, unless he or she has obtained a waiver under section 212(a)(9)(B)(v) of the Act or falls within one of the exceptions in section 212(a)(9)(B)(iii) of the Act.

(j) *Termination of status.*—

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(1) *General.* The status of an alien admitted to the United States as a V nonimmigrant under section 101(a)(15)(V) of the Act shall be automatically terminated 30 days following the occurrence of any of the following:

(i) The denial, withdrawal, or revocation of the Form I–130, Petition for Immediate Relative, filed on behalf of that alien;

(ii) The denial or withdrawal of the immigrant visa application filed by that alien;

(iii) The denial or withdrawal of the alien's application for adjustment of status to that of lawful permanent residence;

(iv) The V–1 spouse's divorce from the LPR becomes final; or

(v) The marriage of an alien in V–2 or V–3 status.

(2) *Dependents.* When a principal alien's V nonimmigrant status is terminated, the V nonimmigrant status of any alien listed as a V–3 dependent or who is seeking derivative benefits is also terminated.

(3) *Appeals.* If the denial of the immigrant visa petition is appealed, the alien's V nonimmigrant status does not terminate until 30 days after the administrative appeal is dismissed.

(4) *Violations of status.* Nothing in this section precludes the Service from immediately initiating removal proceedings for other violations of an alien's V nonimmigrant status.

(k) *Naturalization of the petitioner.* If the lawful permanent resident who filed the qualifying Form I–130 immigrant visa petition subsequently naturalizes, the V nonimmigrant status of the spouse and any children will terminate after his or her current period of admission ends. However, in such a case, the alien spouse or child will be considered an immediate relative of a U.S. citizen as defined in section 201(b) of the Act and will immediately be eligible to apply for adjustment of status and related employment authorization. If the V–1 spouse or V–2 child had already filed an application for adjustment of status by the time the LPR naturalized, a new application for adjustment will not be required.

(l) *Aliens in proceedings.* An alien who is already in immigration proceedings and believes that he or she may have become eligible to apply for V nonimmigrant status should request before the immigration judge or the Board, as appropriate, that the proceedings be administratively closed (or before the Board that a previously-filed motion for reopening or reconsideration be indefinitely continued) in order to allow the alien to pursue an application for V nonimmigrant status with the Service. If the alien appears eligible for V nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely. In the event that the Service finds an alien eligible for V nonimmigrant status, the Service can adjudicate the change of status under this section. In the event that the Service finds an alien ineligible for V nonimmigrant status, the Service shall recommence proceedings by filing a motion to re-calendar.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

5. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

6. Section 245.2 is amended by adding a new paragraph (a)(4)(ii)(D), to read as follows:

§ 245.2 Application.

(a) * * *

(4) * * *

(ii) * * *

(D) The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful V status shall not be deemed an abandonment of the application if, upon returning to this country, the alien is admissible as a V nonimmigrant.

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

7. The authority citation for part 248 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

8–9. Section 248.1 is amended by adding a sentence at the end of paragraph (a) and by revising paragraph (b) introductory text to read as follows:

§ 248.1 Eligibility.

(a) * * * An alien defined by section 101(a)(15)(V) of the Act may be accorded nonimmigrant status in the United States by following the procedures set forth in § 214.15(f) of this chapter.

(b) * * * Except in the case of an alien applying to obtain V nonimmigrant status in the United States under § 214.15(f) of this chapter, a change of status may not be approved for an alien who failed to maintain the previously accorded status or whose status expired before the application or petition was filed, except that failure to file before the period of previously authorized status expired may be excused in the discretion of the Service, and without separate application, where it is demonstrated at the time of filing that:

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

10. The authority citation for part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

11. Section 274a.12 is amended by:

a. Revising the last sentence in paragraph (a) introductory text;

b. Removing the "or" at the end of paragraph (a)(13);

c. Removing the period of the end of paragraph (a)(14) and adding "; or" in its place; and by

d. Adding paragraph (a)(15).

The revisions and additions read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(a) *Aliens authorized employment incident to status.* * * * Any alien who is within a class of aliens described in paragraphs (a)(3) through (a)(8) or (a)(10) through (a)(15) of this section, and who seeks to be employed in the United States, must apply to the Service for a document evidencing such employment.

* * * * *

(15) Any alien in V nonimmigrant status as defined in section 101(a)(15)(V) of the Act and 8 CFR 214.15. An employment authorization document issued under this paragraph will be valid for a period equal to the alien's period of authorized admission as a V nonimmigrant and, in any case, may not exceed 2 years;

* * * * *

PART 299—IMMIGRATION FORMS

12. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

13. Section 299.1 is amended in the table by adding Form "I–539, Supplement A", in proper numerical sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	*
I–539 Supplement A.	03–27–01	Filing Instructions for V nonimmigrant status.
*	*	*

14. Section 299.5 is amended in the table by adding Form "I–539 Supplement A" in proper numerical sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB Control No.
*	*	*
	I–539 Supplement A Filing Instructions for V nonimmigrant status.	1115–0237
*	*	*

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–22151 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522, 524, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 56 approved new animal drug applications (NADAs) and 3 approved abbreviated new animal drug applications (ANADAs) from Roche Vitamins, Inc., to Alpharma, Inc.

DATES: This rule is effective September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054–1298, has informed FDA that it has transferred ownership of, and all rights and interest in, the following approved NADAs and ANADAs to Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024:

NADA No.	Product Name
33–950	Sulfamerazine in Fish Grade
35–688	Aureo SP–250; Aureomix 500
35–805	Aureomix-S 700 Crumbles; Aureomix-S 700
36–361	Amprolium Plus Ethopabate/CTC® Sodium Sulfate
40–209	Rofenaid® 40
41–647	Aureomix-S 700–A
41–648	Aureomix-S 700–D
41–649	Aureomix-S 700–G
41–650	Aureomix-S 700–E
41–651	Aureomix-S 700–F
41–652	Aureomix-S 700–C–2
41–653	Aureomix-S 700–B
41–654	Aureomix-S 700–H
41–984	Rofenaid® Plus Roxarsone
46–920	Baciferm® 10, 25, 40, and 50 Type A Medicated Articles
48–486	Robenz® Type A Medicated Article
48–761	Aureomycin® Type A Medicated Article
49–287	Chlorachel–50
55–040	SF Mix 66
92–507	Robenz® With Aureomycin® 500
95–546	Robenz® Plus Roxarsone
96–298	Avatec® and Bovatec® Premixes
96–933	Robenz® Plus Zn Bacitracin
97–085	Robenz® Plus Bac MD
100–901	Pfichlor 100S Milk Replacer Type A Medicated Article
102–485	Avatec®/3–Nitro®
105–758	Zinc Bacitracin and Amprol HI–E®
107–996	Avatec®/Fortracin® Premix
112–661	Avatec®/Lincomix®/3–Nitro®
112–687	Avatec®/Flavomycin®/3–Nitro®
114–794	Baciferm®/Amprol HI–E® Premix
121–553	Coban®/Aureomycin®
123–154	Coban®/3–Nitro®–10/Baciferm® Premix
125–933	Romet®–30 (Sulfamerazine)
126–052	Avatec®/Baciferm®/3–Nitro®
128–686	Bio-Cox® Type A Medicated Article
131–894	Avatec®/Fortracin®/3–Nitro® Broiler Premix
132–447	Bio-Cox® Plus Roxarsone
134–185	Bio-Cox®/3–Nitro®/Flavomycin®
134–284	Bio-Cox®/Flavomycin®
135–321	Bio-Cox®/3–Nitro®/BMD®
135–746	Bio-Cox®/BMD®
136–484	Carb-O-Sep®/Baciferm®
137–536	Bio-Cox®/3–Nitro® plus Albac®
137–537	Bio-Cox®/Lincomix®
139–075	Cygro® Type A Medicated Article
139–190	Bio-Cox®/3–Nitro®/Baciferm®
139–235	Bio-Cox®/Baciferm®
140–579	Bovatec®/Terramycin®
140–581	Bio-Cox®/3–Nitro®/Lincomix®
140–859	Aureomycin®/Bio-Cox®
140–865	Monteban®/Baciferm®
140–867	Aureomycin®/Bio-Cox®/3–Nitro®
141–025	Cattlyst® Type A Medicated Article
141–109	Avatec®/Baciferm®
141–150	Avatec®/Stafac®
200–140	Aureozol® Type A Medicated Article
200–167	Aureozol® 500 Granular
200–242	Aureomycin®–50, 70, 80, 90, 100/BMD® 25, 30, 40, 50, 60, 75

Accordingly, the agency is amending the regulations in 21 CFR 558.58, 558.76, 558.78, 558.95, 558.120, 558.128, 558.140, 558.145, 558.155, 558.195, 558.305, 558.311, 558.340, 558.355, 558.363, 558.366, 558.515, 558.550, 558.575, 558.582, and 558.600 to reflect the transfer of ownership. Section 558.95 is also being amended to remove paragraph (d)(1)(x), an entry pertaining to NADA 112–687, which is redundant with § 558.311(e)(1)(ii). Other nonsubstantive changes are being made to remove incorrect drug labeler codes.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Parts 522 and 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522, 524, and 558 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.575 [Amended]

2. Section 522.575 *Diazepam injection* is amended in paragraph (b) by removing "000004" and by adding in its place "063238".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 524 continues to read as follows:

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Authority: 21 U.S.C. 360b.

§ 524.520 [Amended]

4. Section 524.520 *Cuprimyxin cream* is amended in paragraph (b) by removing "000004" and by adding in its place "063238".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.58 [Amended]

6. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1)(iii), under the "Limitations" column in the entries for "Bacitracin 4 to 50", "Bacitracin 5 to 35 plus roxarsone 34 (0.00375%)", and "Bacitracin 10 to 50 plus roxarsone 15.4 to 45.4 (0.0017% to 0.005%)" by removing "Nos. 046573 and 063238" and by adding in its place "No. 046573"; and under the "Sponsor" column by removing "063238" and "and 063238" wherever they appear.

§ 558.76 [Amended]

7. Section 558.76 *Bacitracin methylene disalicylate* is amended in the table in paragraph (d)(1)(iv), under the "Limitations" column by removing "Nos. 000004 and 046573" and by adding in its place "No. 046573"; and under the "Sponsor" column by removing "000004 and 046573" both times it appears and adding in its place "046573".

8. Section 558.78 is amended by revising paragraph (a)(1), by removing paragraph (a)(2), and by redesignating paragraph (a)(3) as paragraph (a)(2); in the table in paragraphs (d)(1)(i) and (d)(1)(ii) under the "Sponsor" column by removing "063238"; and in paragraphs (d)(1)(v) and (d)(1)(vi) under the "Sponsor" column, and in paragraph (d)(2)(ii) by removing "063238" and by adding in its place "046573" to read as follows:

§ 558.78 Bacitracin zinc.

(a) * * *

(1) No. 046573: 10, 25, 40, and 50 grams per pound as in paragraph (d) of this section.

* * * * *

§ 558.95 [Amended]

9. Section 558.95 *Bambermycins* is amended by removing and reserving paragraph (d)(1)(x); and in paragraphs (d)(1)(xi)*(b)*, (d)(1)(xii)*(b)*, and (d)(1)(xiv)*(b)* by removing "063238" and by adding in its place "046573".

§ 558.120 [Amended]

10. Section 558.120 *Carbarsone (not U.S.P.)* is amended in paragraph (d)(1)(iii)*(b)* by removing "Nos. 046573 and 063238" and by adding in its place "No. 046573".

11. Section 558.128 is amended by revising paragraph (a); in the table in paragraph (d)(1) and in paragraph (d)(2) by removing "00004" or "000004" wherever they occur and by adding in their place "046573"; in paragraph (d)(1)(i) in entry 1, and in paragraphs (d)(1)(iv), (d)(1)(vi), and (d)(1)(viii) under the "Sponsor" column by removing "063238" and by adding in its place "046573"; in paragraph (d)(1)(i) in entry 2, and in paragraphs (d)(1)(ii), (d)(1)(iii), (d)(1)(v), (d)(1)(vii), (d)(1)(x), and (d)(1)(xii) in entry 3, and in paragraphs (d)(1)(xiv), (d)(1)(xvi), and (d)(1)(xvii) under the "Sponsor" column by removing "063238" to read as follows:

§ 558.128 Chlortetracycline.

(a) *Approvals.* See sponsors in § 510.600(c) of this chapter for Type A medicated articles containing the following concentrations of either chlortetracycline calcium complex equivalent to chlortetracycline hydrochloride or, for products intended for use in milk replacer, chlortetracycline hydrochloride:

(1) Nos. 000069, 046573, and 053389: 50 to 100 grams per pound.

(2) No. 017519: 50 grams per pound.

* * * * *

§ 558.140 [Amended]

12. Section 558.140 *Chlortetracycline and sulfamethazine* is amended in paragraph (a) by removing "063238" and by adding in its place "046573".

§ 558.145 [Amended]

13. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraph (a)(1) by removing "and 063238", and in paragraph (a)(2) by removing "063238" and by adding in its place "046573".

§ 558.155 [Amended]

14. Section 558.155 *Chlortetracycline, sulfathiazole, penicillin* is amended in paragraph (a)(1) by removing "000004 and 000010" and adding in its place "Nos. 000010 and 046573", and in paragraph (a)(2) by removing "000004 and 000010" and by adding in its place "000010 and 046573".

§ 558.195 [Amended]

15. Section 558.195 *Decoquinate* is amended in the table in paragraph (d) in the entry for "Roxarsone 11 to 45 (0.0012–0.005 pct.) plus Bacitracin 12 to 50" under the "Limitations" column by removing "Nos. 011716, 046573, and 063238" and by adding in its place "No. 046573".

§ 558.305 [Amended]

16. Section 558.305 *Laidlomycin propionate potassium* is amended in paragraph (a) by removing "063238" and by adding in its place "046573".

§ 558.311 [Amended]

17. Section 558.311 *Lasalocid* is amended in paragraphs (b) and (e) by removing "000004" or "063238" wherever they occur and by adding in their place "046573".

§ 558.340 [Amended]

18. Section 558.340 *Maduramicin ammonium* is amended in paragraph (a) by removing "063238" and by adding in its place "046573".

§ 558.355 [Amended]

19. Section 558.355 *Monensin* is amended in paragraphs (b)(8), (b)(9), (f)(1)(iv)*(b)*, and (f)(1)(v)*(b)* by removing "063238" and by adding in its place "046573"; in paragraphs (f)(1)(xiv)*(b)* and (f)(1)(xvi)*(b)* by removing "Nos. 046573 and 063238" and by adding in its place "No. 046573"; and in paragraph (f)(1)(xv)*(b)* by removing "Nos. 063238 and 046573" and by adding in its place "No. 046573".

§ 558.363 [Amended]

20. Section 558.363 *Narasin* is amended in paragraphs (a)(7) and (d)(1)(x)(B) by removing "063238" and by adding in its place "046573".

§ 558.366 [Amended]

21. Section 558.366 *Nicarbazin* is amended in the table in paragraph (c) in the entry for the combination of nicarbazin at 113.5 grams per ton and bacitracin zinc at 4 to 50 grams per ton by removing "063238" in the "Limitations" column and by adding in its place "046573".

§ 558.515 [Amended]

22. Section 558.515 *Robenidine hydrochloride* is amended in paragraph (a) by removing "063238" and by adding in its place "046573"; in the table in paragraph (d) in the entry for robenidine hydrochloride at 30 grams per ton as a single ingredient by removing "063238" in the "Sponsor" column and by adding in its place "046573"; in the two entries for "Bacitracin (as bacitracin zinc)" by removing "063238" in the "Sponsor" column; and in the entry for "Chlortetracycline 500" by removing "063238" from the "Sponsor" column and by adding in its place "046573".

§ 558.550 [Amended]

23. Section 558.550 *Salinomycin* is amended in paragraph (a)(1) by removing "063238" and by adding in its place "046573"; by removing paragraph (a)(3); in paragraph (d)(1)(xvii)(C) by removing "000004" and by adding in its place "046573"; in paragraphs (d)(1) and (d)(3) by removing "063238" wherever it occurs and by adding in its place "046573"; in paragraph (d)(1)(viii)*(c)* by removing "(b)(1)(iv)*(c)*" and by adding in its place "(d)(1)(iv)*(c)*"; and in paragraph (d)(1)(xi)*(c)* by removing "(b)(1)(x)*(c)*" and by adding in its place "(d)(1)(x)*(c)*".

§ 558.575 [Amended]

24. Section 558.575 *Sulfadimethoxine, ormetoprim* is amended in paragraphs (a)(1) and (a)(2) by removing "000004" and by adding in its place "046573".

§ 558.582 [Amended]

25. Section 558.582 *Sulfamerazine* is amended in paragraph (a) by removing "063238" and by adding in its place "046573".

§ 558.600 [Amended]

26. Section 558.600 *Tiamulin* is amended in paragraph (c)(4)(ii) by removing "046573, 053389, and 063238" and by adding in its place "046573 and 053389".

Dated: August 24, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–22470 Filed 9–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 231

RIN 0790–AG74

Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule reflects the transition of operational responsibilities for banks and credit unions from the Office of the Under Secretary of Defense (Comptroller) to the Defense Finance and Accounting Service; to address changes in financial-related technology and the vehicles through which financial services are delivered (i.e., in-store banking, electronic banking (ATMs)); and incorporates the procedural guidance contained in other DoD documents.

DATES: This rule is effective June 1, 2001.

FOR FURTHER INFORMATION CONTACT: T. Summers, 703–602–0299.

SUPPLEMENTARY INFORMATION:

Background

Stateside military banking began in 1941 when the Department realized that financial services were urgently needed by military and civilian personnel on domestic installations. To address this need, the Department permitted installation commanders to negotiate with nearby local banks to establish branches on their installation. Today, there are over 230 domestic installations that have either a bank or credit union or both. To ensure consistency between installations in the level, cost and types of financial services offered the Department established regulations in parts 230 and 231 to govern the operation and oversight of these institutions. These regulations limit the number of financial institutions that may operate on an installation to one bank and one credit union (with a grandfather provision). The regulations require full and open competition for a full spectrum of banking services (to include electronic banking services). Policy guidance relating to the military banking program, by regulation, is the responsibility of the Under Secretary of Defense (Comptroller) while operational guidance rests with the Defense Finance and Accounting Service (DFAS). To ensure financial services are available on our overseas installations, the Department operates the overseas military banking program. The DFAS has been assigned the program office responsibilities for this effort, which is provided under contract by a domestic financial institution. In FY 2000, the overseas military banking program contractor operated 110 banking offices and over 250 automated teller machines in 10 foreign countries. Overseas military banks support DoD personnel and their families, disbursing officers, appropriated fund activities (such as the Defense Commissary Agency) and nonappropriated fund activities (such as the Army and Air Force Exchange Service).

Comments, and Changes to, the Proposed Rule

The Department of Defense published a proposed rule on August 11, 1999 (64 FR 43858). Over 240 comments from 55 entities were received in response to the publication of the proposed rule. The majority of these comments focused on three areas in the proposed rule: (1) Prohibiting the assessment of automated teller machine (ATM) surcharging; (2) the establishment of a ceiling for other fees and charges; and (3) monthly financial reporting. The first two were addressed in 32 CFR part 230. The comments and the disposition of those comments on monthly financial reporting are specifically addressed below. The remainder of the comments were either administrative in nature or suggested that additional clarification was needed in certain areas. None of these resulted in any significant changes to the proposed rule.

The previously published proposed rule (§ 231.4(g)(5)) would have required that the on-base financial institution include in its operating agreement with the installation commander a provision that it will furnish copies of its monthly financial reports and other local publications to the installation commander (or designee). Prior to the consolidation of the guidance for banks and credit unions, the provision for monthly reporting was only included in the credit union guidance with periodic financial reporting required for banks only in certain situations. Therefore, most of the comments received were objections from on-base banks. The comments reflected that the banking industry is highly regulated and quarterly reports are generated as required by Federal and State regulators. Thus, they did not see a need to require the monthly production of information that is neither requested nor needed. It was suggested that when additional information is needed, it would be more appropriate for it to be provided on an "as requested" basis. There may be occasions where the installation commander will need financial information that is unobtainable from sources other than the on-base financial institution. For example, there may be a need for financial information by the installation commander to accommodate an evaluation of a potential expansion of existing on-base financial services or information may be required to assist in the development of a solicitation when the on-base financial institution has given notice of its intent to terminate operations on the installation. Based on the comments received, the section has been revised to require an on-base financial institution furnish copies of its financial reports and other local publications only on an "as needed" basis in response to a formal request from the installation commander (or designee).

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Executive Order 12866, Regulatory Planning and Review

It has been determined that 32 CFR part 231 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, Regulatory Flexibility Act (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

Public Law 96–511, Paperwork Reduction Act (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been certified that the rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been certified that the rule does not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 231

Armed forces, Banks, Banking, Credit unions, Federal buildings and facilities.

Accordingly, 32 CFR part 231 is revised to read as follows:

PART 231—PROCEDURES GOVERNING BANKS, CREDIT UNIONS AND OTHER FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Subpart A—Guidelines 231.1 Overview.

231.2 Policy.
231.3 Responsibilities.
231.4 General provisions.
231.5 Procedures—domestic banks.
231.6 Procedures—overseas banks.
231.7 Procedures—domestic credit unions.
231.8 Procedures—overseas credit unions.
231.9 Definitions.

Subpart B—DoD Directive 1000.11

231.10 Financial institutions on DoD installations.

Subpart C—Guidelines for Applications of the Privacy Act to Financial Institution Operations

231.11 Guidelines.
Appendix A to part 231—Sample Operating Agreement Between Military Installations and Financial Institutions
Appendix B to part 231—In-store Banking.
Appendix C to part 231—Sample certificate of compliance for credit unions.

Authority: 10 U.S.C. 136.

Subpart A—Guidelines

§ 231.1 Overview.

(a) *Purpose.* This part implements DoD Directive 1000.11 (32 CFR part 230) [1] and prescribes guidance and procedures governing the establishment, support, operation, and termination of banks and credit unions operating on DoD installations worldwide, to include military banking facilities (MBFs). In addition, this part provides guidance intended to ensure that arrangements for the provision of services by financial institutions are consistent among DoD Components, and that financial institutions operating on DoD installations provide, and are provided, support consistent with the guidance and procedures stated herein.

(b) *Applicability.* This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff and the supporting Joint Agencies, the Combatant Commands, the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, the DoD Field Activities, the Uniformed Services University of the Health Sciences (USUHS), all DoD nonappropriated fund instrumentalities including the Military Exchange Services and morale, welfare and recreation (MWR) activities, and all other organizational entities within the Department of Defense.

[1] Copies may be obtained via Internet at *http://www.dtic.whs/directives.*

§ 231.2 Policy.

The policy pertaining to financial institutions operating on DoD installations is contained in DoD Directive 1000.11 (32 CFR part 230) and in § 231.4.

§ 231.3 Responsibilities.

(a) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop and monitor policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to this part.

(b) The Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)) shall monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(c) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services that affect the morale and welfare of DoD personnel.

(d) The Director, Defense Finance and Accounting Service (DFAS) shall:

(1) Develop procedures governing banks and credit unions on DoD installations for promulgation in this part.

(2) For domestic DoD installations, coordinate with the Secretaries of the Military Departments (or designees) on requests from subordinate installation commanders to establish or terminate banking offices or on-base credit unions. For overseas DoD installations, coordinate with the Secretary of the Military Department concerned (or designee) on requests from subordinate installation commanders to establish or discontinue the provision of financial services from the on-base financial institution under contract with the Department of Defense or to establish or terminate banking offices or credit unions located on DoD installations.

(3) In coordination with affected DoD Components, authorize the specific types of banking services that will be provided by overseas military banking facilities (MBFs) and specify the charges or fees, or the basis for these, to be levied on users of these services.

(4) Coordinate with the Fiscal Assistant Secretary of the Treasury on the designation of domestic and overseas MBFs as depositaries and financial agents of the U.S. Government.

(5) Designate a technical representative to provide policy direction for the procuring and administrative contracting officer(s) responsible under the Federal Acquisition Regulation (FAR) for acquiring banking services required at overseas DoD installations.

(6) Serve as principal liaison with banking institutions having offices on overseas DoD installations. In this capacity, monitor MBF managerial and operational policies, procedures, and operating results and take action as appropriate.

(7) As necessary, assist in the formation of government-to-government agreements for the provision of banking services on overseas DoD installations, in accordance with DoD Directive 5530.3 [2].

(8) Provide procedural guidance to DoD Components, as required.

(9) Maintain liaison with financial institution trade associations, leagues, and councils in order to interpret DoD policies toward respective memberships and aid in resolving mutual concerns affecting the provision of financial services.

(10) Coordinate with the USD(P&R), through the USD(C), on all aspects of morale and welfare and with the USD(AT&L), through the USD(C), on all aspects of logistic support for on-base financial institutions.

(11) Monitor industry trends, conduct studies and surveys, and facilitate appropriate dialogues on banking and credit union arrangements and cost-benefit relationships, coordinate as necessary with DoD Components, financial institutions, and trade associations as appropriate.

(12) Maintain liaison, as appropriate, with financial institution regulatory agencies at federal and state levels.

(13) Ensure that recommendations of the Combatant Commands are considered before processing requests for overseas banking and credit union service or related actions.

(14) Maintain a listing of all geographic franchises assigned to credit unions serving DoD overseas installations.

(e) Secretaries of the Military Departments (or designees) shall:

(1) For domestic DoD installations, take action on requests from subordinate installation commanders to establish or terminate financial institution operations. For overseas DoD installations, take action in accordance with guidance contained herein on requests from subordinate installation commanders to establish or discontinue the provision of financial services from the DoD contracted banking institution, or to establish or terminate other financial institutions located on DoD installations.

(2) Provide for liaison to those financial institutions that operate banking offices on respective domestic DoD installations.

(3) Oversee the use of banking offices and credit unions on respective DoD installations within the guidance contained herein and in DoD Directive 1000.11 (32 CFR part 230).

(4) Evaluate the services provided and related charges and fees by respective on-base banking offices and credit unions to ensure that they fulfill the requirements upon which the establishment and retention of those services were justified.

(5) Monitor practices and procedures of respective banking offices and credit unions to ensure that the welfare and interests of DoD personnel as consumers are protected.

(6) Assist on-base banking offices and credit unions to develop and expand necessary services for DoD personnel consistent with this part.

(7) Encourage the conversion of existing domestic MBFs on respective installations to independent or branch bank status where feasible.

(8) Provide logistical support to overseas MBFs under terms and conditions identified in this part as well as with the applicable terms of DoD contracts with financial institutions responsible for the operations of overseas MBFs.

(9) Refer matters requiring policy decisions or proposed changes to this part or DoD Directive 1000.11 (32 CFR part 230) to the USD(C) through the Director, DFAS.

(10) Monitor and encourage the use of financial institutions on DoD installations to accomplish the following ends.

(i) Facilitate convenient, effective management of the appropriated, nonappropriated, and private funds of on-base activities.

(ii) Assist DoD personnel in managing their personal finances through participation in programs such as direct deposit and regular savings plans, including U.S. savings bonds. The use of on-base financial institutions shall be on a voluntary basis and should not be urged in preference to, or to the exclusion of, other financial institutions.

(11) Encourage and assist duly chartered financial institutions on domestic DoD installations to provide complete financial services to include, without charge, basic financial education and counseling services. Financial education and counseling services refer to basic personal and family finances such as budgeting, checkbook balancing and account reconciliation, benefits of savings, prudent use of credit, how to start a savings program, how to shop and apply for credit, and the consequences of excessive credit.

(12) Establish liaison, as appropriate, with federal and state regulatory agencies and financial institution trade associations, leagues, and councils.

(13) Make military locator services available to on-base financial institutions in accordance with the Privacy Act guidelines in subpart B of this part.

(14) Permit DoD personnel to serve on volunteer boards or committees of on-base financial institutions, without compensation, when neither a conflict of duty nor a conflict of interest is involved, in accordance with DoD Directive 5500.7.[3]

(15) Allow DoD personnel to attend conferences and meetings that bring together representatives of on-base financial institutions, when neither a conflict of duty nor a conflict of interest is involved, in accordance with DoD Directive 1327.5,[4] subchapter 630 of the DoD Civilian Personnel Manual (DoD 1400.25–M [5]), and Comptroller General Decision B–212457.

(f) The Commanders of the Combatant Commands (or designees) shall:

(1) Ensure the appropriate coordination of the following types of requests affecting financial institutions overseas.

(i) Establish financial institutions in countries not presently served. Such requests will include a statement that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation.

(ii) Eliminate any or all financial institutions on DoD installations within a foreign country. Such requests will include a statement that the U.S. Chief of Diplomatic Mission has been informed and that appropriate arrangements to coordinate local termination announcements and procedures have been made with the U.S. Embassy.

(2) Monitor and coordinate military banking operations within the command area. Personnel assigned to security assistance positions will not perform

[2] See footnote 1 to § 231.1(a).

[3] See footnote 1 to § 231.1(a).

[4] See footnote 1 to § 231.1(a).

[5] See footnote 1 to § 231.1(a).

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this function without the prior approval of the Director, Defense Security Cooperation Agency (DSCA).

(g) The Commanders of Major Commands and subordinate installation commanders shall:

(1) Monitor the banking and credit union program within their commands.

(2) Coordinate requests to establish or construct bank and credit union offices or terminate logistical support as specified in this part to banks and credit unions within their commands. Personnel assigned to overseas security assistance positions will not monitor, coordinate, or assist in military banking operations without the prior approval of the DSCA.

(3) Assign, as appropriate, responsibility for paragraphs (g)(1) and (g)(2) of this section, to comptroller or resource management personnel.

(4) Cooperate with financial institution associations, leagues, and councils.

(5) Recognize the right of all DoD personnel to organize and join credit unions and promote the credit union movement in DoD worldwide.

(6) Permit DoD personnel to serve on volunteer boards or committees of on-base financial institutions, without compensation, when neither a conflict of duty nor a conflict of interest is involved, in accordance with DoD Directive 5500.7.

(7) Allow DoD personnel to attend conferences and meetings that bring together representatives of on-base financial institutions, when neither a conflict of duty nor a conflict of interest is involved, in accordance with DoD Directive 1327.5, Subchapter 630 of the DoD Civilian Personnel Manual (DoD 1400.25–M), and Comptroller General Decision B–212457.

(8) Seek the provision of financial services only from existing on-base financial institutions, proposing alternatives only where on-base financial institutions fail to respond favorably to a valid requirement.

§ 231.4 General provisions.

(a) *Security.* The installation commander (or designee) and officials of the on-base financial institutions shall work with the installation security authorities to establish an understanding as to each entity's responsibilities. The on-base financial institutions are encouraged to establish an ongoing relationship with installation security authorities on all matters of asset protection.

(1) A written agreement shall be established outlining the security procedures that the financial institution will follow and the role that installation security authorities will play with regard to alarms, movement of cash, and procedures to be followed in response to criminal activity (e.g., armed robbery).

(2) Cash and other assets in on-base banking offices and credit unions are the property of those financial institutions. Maintenance of alarms and use of armored cars is the sole responsibility of the on-base financial institution. The on-base financial institution is also solely responsible for the guarding or escorting of cash unless the installation commander determines that providing such services is desirable or necessary.

(b) *Central locator services.* Military locator services shall be provided per the guidelines in subpart B of this part.

(1) When appropriate, installations will process financial institution requests for central locator service to obtain military addresses of active duty personnel. This service will be used to locate persons for settling accounts, and recovering funds on checks that did not clear or loans that are delinquent or in default (see DoD Directive 1344.9[6]). If delinquent loans or dishonored checks are not recouped within 48 hours, financial institutions operating on DoD installations may bring this information to the attention of the local commander, bank liaison officer, or other designee for assistance in effecting restitution of the amount due, if not otherwise prohibited by law. The financial institution will pay the appropriate fee for each request to the respective Military Department.

(2) The DoD Components shall assist financial institutions to locate DoD personnel whose whereabouts cannot be locally determined. The request should be on the financial institution's letterhead, include the Service member's name and social security number, and cite the cognizant Military Service regulation that authorizes the use of locator services. If a financial institution needs immediate service, the cognizant institution official should contact the bank or credit union liaison officer.

(i) For addresses of Department of the Army active, retired, separated and civilian personnel, financial institutions may telephone (703) 325–3732 or write to: Department of the Army Worldwide Locator, U.S. Army Enlisted Record and Evaluation Center, 8899 E. 56th Street, Indianapolis, IN 46249–5301.

(ii) For addresses of Navy active, retired, separated and civilian personnel, financial institutions may telephone (901) 874–3388 or write to: Navy Personnel Command, PERS–312F, 5720 Integrity Drive, Millington, TN 38055–3120.

(iii) For addresses of Department of the Air Force active, retired, separated and civilian personnel, financial institutions may telephone (210) 565–2660 or write to: Air Force Personnel Center, MSIMDL Suite 50, 550 C Street West, Randolph AFB, TX 78150–4752.

(iv) For addresses of United States Marine Corps active, retired, separated and civilian personnel, financial institutions may telephone (703) 784–3942 or write to:

Active

U.S. Marine Corps—CMC, HQ MC MMS B 10, 2008 Elliot Road, Room 201, Quantico, VA 22134–5030.

Retired-Separated

Q U.S. MMRS–6, 280 Russell Road, Quantico, VA 22134–5105.

Civilian

Commanding General, 15303 Andrew Road, Kansas City, MO 64147–1207.

(c) *Advertising.*

(1) An on-base financial institution may use the unofficial section of that installation's daily bulletin, provided space is available, to inform DoD personnel of financial services and announce seminars, consumer information programs, and other matters of broad general interest. Announcements of free financial counseling services are encouraged. Such media may not be used for competitive or comparative advertising of, for example, specific interest rates on savings or loans.

(2) An on-base financial institution may use installation bulletin boards, newsletters or web pages to post general information that complements the installation's financial counseling programs and promotes financial responsibility and thrift. Message center services may distribute a reasonable number of announcements to units for use on bulletin boards so long as this does not impose an unreasonable workload.

(3) An on-base financial institution may include an insert in the installation's newcomers package (or equivalent). This insert should benefit newcomers by identifying the financial services that are available on the installation.

(4) DoD Directive 5120.20[7] prevents use of the Armed Forces Radio and Television Service to promote a specific financial institution.

(5) Off-base financial institutions are not permitted to distribute competitive literature or forms on the installation. These institutions, however, may use commercial advertising, mailings or telecommunications to reach their customers.

(6) Advertising in government-funded (official) installation papers is not permitted with the exception of insert advertising in the *Stars and Stripes* overseas. Installation newspapers funded by advertisers are not official publications and, thus, may include advertising paid for by any financial institution.

(7) Installation activities, including Military Exchange Services and concessionaire outlets, shall not permit the distribution of literature from off-base financial institutions if there is an on-base financial institution. This does not prevent the Military Exchange Services from distributing literature on affinity credit card services that those Military Exchange Services may acquire centrally through competitive solicitation.

(d) *Automated teller machine (ATM) service.* On-base financial institutions are encouraged to install ATMs at those installation(s) on which they are located.

(1) Financial institutions that propose to install ATMs on DoD installations shall bear the cost of ATM installation, maintenance and operation. The installation commander may enter into an agreement with the on-base financial institution wherein the installation may acquire and provide ATMs to on-base financial institutions under certain circumstances, such as when it is advantageous to the government to have one or more ATMs available for use but the acquisition cost to the financial institution is prohibitive. No ATM shall be purchased by an installation unless approved by the Secretary of the Military Department concerned (or designee). In all such cases, installation costs and all logistic support shall be borne by the financial institution.

(2) ATM approval authority is as shown:

(i) The installation commander has approval authority when an on-base financial institution wishes to place an ATM on the installation. This approval should be reflected as an amendment to the operating agreement.

(ii) Where there is no on-base financial institution, follow the solicitation procedures to obtain financial services set forth in §§ 231.5(c) and 231.7(b).

(3) The availability of ATM service shall not preclude the later establishment of a banking office should conditions change on an installation.

(4) Proposals by an installation commander to install ATMs on domestic installations from other than on-base financial institutions, including the Military Exchange Services, morale, welfare and recreational activities and/or other nonappropriated fund instrumentalities, shall be considered only when:

(i) ATM service is unavailable or existing service is inadequate, and

(ii) The on-base financial institution(s) either declines to provide the service, fails to improve existing service so that it is adequate, or does not formally respond to the request for such service within 30 days of the date of the request. Any ATM service from other than on-base financial institutions is considered an exception to policy. The procedures to establish an on-base financial institution set forth in §§ 231.5(c) and 231.7(b) shall be followed when soliciting for such ATM services. Proposals offering shared-access ATMs (e.g., ATMs operated by two or more financial institutions where their accountholders are not assessed any or all fees applicable to nonaccountholders) shall receive preference.

(5) ATM service from foreign banking institutions may be authorized on overseas installations with or without MBFs operated under contract where the installation or community commander determines that a bonafide need exists to support local national hires. On installations with MBFs operated under contract, the MBFs shall be the primary source of the ATM service except when a determination has been made by the cognizant contract program office that providing the service is either not cost effective or precluded by pertinent status of forces agreements, other intergovernmental agreements or host-country law. In those instances where ATM service from foreign banking institutions is authorized and provided by other than the on-base financial institution, ATM connectivity shall be limited to host country networks and the ATMs shall dispense only local currency (no U.S. dollars). The operating agreement covering ATM service shall be negotiated by the installation or community commander and submitted for approval by the appropriate Combatant Commander (or designee) prior to its execution. A copy of the operating agreement will be forwarded through DoD Component channels to the DFAS.

(e) *Domestic and international treasury general accounts.* In cases where authorization will be required for the on-base banking office or credit union to act as a Treasury General Account (TGA) domestic depositary (or, on overseas installations, an International Treasury General Account (ITGA) depository), the financial institution shall satisfy the risk management standard established by the Secretary of the Treasury. Local operating funds may be used if the on-base financial institution requests reimbursement for costs incurred. On-base financial institutions shall accept deposits for credit to the TGA (or ITGA) when so authorized.

(f) *Staffing.* (1) On-base financial institutions shall be staffed adequately (i.e., commensurate with industry standards for similar numbers of accountholders and financial services rendered). Staffing at overseas MBFs operated under DoD contract shall be maintained within negotiated ceilings.

(2) All staffing shall comply fully with applicable equal employment opportunity laws and with the spirit of DoD equal employment opportunity policies as set forth in DoD Directive 1440.1.[8]

(3) DoD personnel, excluding military retirees and their dependents, may not serve as directors of domestic or foreign banking institutions operating banking offices on those DoD installations where they currently are assigned. This does not preclude a member of a Reserve Component, who has been serving as a director of a domestic or foreign banking institution operating a banking office on a DoD installation, from retaining his or her directorship if called to active duty.

(4) DoD personnel may not be detailed to duty with an on-base financial institution located on a DoD installation. Off-duty personnel, however, may be employed by an on-base financial institution subject to approval by the installation commander (or designee). Such employment must not interfere with the performance of the individual's official duties and responsibilities.

(g) *Departure clearance.* The installation commander establishes the clearance policy for all DoD personnel leaving the installation. The on-base financial institutions shall be included as places requiring clearance. The purpose of a clearance is to report change of address, reaffirm allotments or outstanding debts, and receive financial counseling, if desired or appropriate. Clearance may not be denied in order to collect debts or resolve disputes with financial institution management.

(h) *Financial education.* (1) Officials of on-base financial institutions shall be

[6] See footnote 1 to § 231.1(a).

[7] See footnote 1 to § 231.1(a).

[8] See footnote 1 to § 231.1(a).

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invited to take part in seminars to educate personnel on personal financial management and financial services. Financial institutions shall be encouraged to provide financial education and counseling services as an integral part of their financial service offerings. Officials of on-base financial institutions shall submit advance briefing texts for approval by the installation commander to ensure that the program is not used to promote services of a specific financial institution.

(2) DoD personnel who tender uncollectable checks, overdraw their accounts or fail to meet their financial obligations in a proper and timely manner damage their credit reputation and adversely affect the public image of all government personnel. For uniformed personnel, military financial counselors and legal advisors shall recommend workable repayment plans that avoid further endangering credit ratings and counsel affected personnel to protect their credit standing and career. Counselors shall ensure that such personnel are aware of the stigma associated with bankruptcy and difficulties in obtaining future credit at reasonable rates and terms and shall recommend its use only when no other alternative will alleviate the situation.

(i) *Operating agreements.* (1) Before operations of an on-base banking office or credit union begin, a written operating agreement (Appendix C of this part) and the appropriate real estate outgrant (i.e., a lease, permit or license issued as identified in §§ 231.5(e), 231.5(f), 231.5(g), 231.7(d), 231.7(e) and 231.7(f) shall be negotiated directly between the installation commander and officials of the designated financial institution. Thereafter, the operating agreement shall be jointly reviewed by the installation commander and the financial institution at least once every 5 years. The operating agreement shall define the basic relationship between the on-base financial institution and the installation commander and identify mutual support activities such as hours of operation, service fees and security provided. One copy of the agreement shall be sent through command channels to the Secretary of the Military Department concerned (or designee). A copy of the agreement shall be maintained by the installation commander and the banking office or on-base credit union. At a minimum, the agreement shall include the following provisions:

(i) Identification of services to be rendered and the conditions for service. Full financial services shall be provided where feasible. Agreements, however, may not restrict either entity's right to renegotiate services and fees.

(ii) Agreement by both parties that they will comply with this part and DoD Directive 1000.11 (32 CFR part 230).

(iii) Agreement by the on-base financial institution that it will furnish copies of its financial reports and other local publications on an "as needed" basis in response to a formal request from the installation commander (or designee).

(iv) Agreement that the on-base financial institution will indemnify and hold harmless the U.S. Government from (and against) any loss, expense, claim, or demand to which the U.S. Government may be subjected as a result of death, loss, destruction, or damage in conjunction with the use and occupancy of the premises caused in whole or in part by agents or employees of the on-base financial institution.

(v) Agreement that neither the Department of Defense nor its representatives shall be responsible or liable for the financial operation of the on-base financial institution or for any loss (including criminal losses), expense, or claim for damages arising from operations.

(vi) Agreement by the on-base financial institution (or any successor) that it will provide no less than 180 days advance written notice to the installation commander before ceasing operations.

(vii) Specification of the security services to be provided for guarding cash shipments, at times of unusual risk to the financial institution and to avoid excessive insurance costs charged to that institution.

(viii) Statement that the physical security for cash and negotiable items will be in a manner consistent with the requirements of the on-base financial institution's insurer. A copy of those requirements will be provided to the installation commander on request.

(ix) Statement that the financial institution, whenever possible, will accommodate local command requests for lectures and printed materials for consumer credit education programs. Officials invited to participate in such programs shall not use the occasion to promote the exclusive services of a particular financial institution.

(x) Agreement that the financial institution will reimburse the installation for the provision of logistical support (such as custodial, janitorial, and other services provided by the government) at rates set forth in the lease or agreement between the installation and the financial institution.

(xi) Statement that on-base financial institution operations shall be terminated, when required, under provisions specified in this part.

(2) Approved expansion of services will be documented as an amendment to the existing operating agreement between the installation commander and the on-base financial institution. The amendment to the operating agreement and any required lease (to include a change to an existing lease) shall be in place prior to the initiation of new financial services or offices.

(j) *Installation financial services.* (1) Retail banking operations shall not be performed by any DoD Component or nonappropriated fund instrumentality including the Military Exchange Services and morale, welfare and recreation (MWR) activities or any other organizational entity within the Department of Defense.

(2) Financial services provided on DoD installations will be as uniform as possible for all personnel. As separately negotiated, or based on a fee schedule, custodians of nonappropriated funds shall compensate on-base financial institutions for services received. Compensation may be made with compensating balances or paying fees based on the services provided or a combination of these payment mechanisms. Fees shall not exceed the charge customary for the financial institution less an offsetting credit on balances maintained. Banking offices shall classify nonappropriated fund accounts as commercial accounts.

(3) At a minimum, banking offices shall provide the same services to individuals and nonappropriated fund instrumentalities as are available in the surrounding geographic area.

(4) On-base financial institutions may conduct operations during normal duty hours provided they do not disrupt the performance of official duties. Operating hours shall be set, in consultation with the bank or credit union liaison officer, to meet the needs of all concerned. ATMs may be used to expand financial services and operating hours.

(5) DoD personnel may use their allotment of pay privileges to establish sound credit and savings practices through on-base financial institutions.

(i) The on-base financial institution shall credit customer accounts not later than the deposit date of the allotment check or electronic funds transfer.

(ii) The initiation of an allotment is voluntary (See Volume 7a, Chapter 42, Section 4202 of The DoD Financial Management Regulation (7200.14–R)). Thus, DoD personnel generally cannot be required to initiate an allotment for the repayment of a loan. Allotments voluntarily established by DoD personnel for the purpose of repaying a loan or otherwise providing funds to an on-base financial institution shall continue in effect at the option of the allotter.

(6) In accordance with sound lending practice, policies on loans to individuals are expected to be as liberal as feasible while remaining consistent with the overall interests of the on-base financial institution. On-base financial institutions shall conform to the Standards of Fairness principles before executing loan or credit agreements. See DoD Directive 1344.9.

(7) On-base financial institutions shall make basic financial education and counseling services available without charge to individuals seeking these services. Financial education and counseling services refer to basic personal and family finances such as budgeting, checkbook balancing and account reconciliation, benefits of savings, prudent use of credit, how to start a savings program, how to shop and apply for credit, and the consequences of excessive credit. DoD personnel in junior enlisted or civilian grades, or newly married couples who apply for loans, shall be given special attention and counseling.

(8) On-base financial institutions must strive to provide the best service to all customers. On-base financial institutions that evidence a policy of discrimination in their services are in violation of this part. In resolving complaints of discrimination, use the procedures specified in § 231.5(h)(8).

(9) All correspondence regarding on-base financial institutions, and questions concerning their operation that cannot be resolved locally, shall be referred through command channels to the Secretary of the Military Department concerned (or designee) for consideration.

§ 231.5 Procedures—domestic banks.

(a) *General policy.* Given their role in promoting morale and welfare, on-base banks shall be recognized and assisted by DoD Components at all levels.

(b) *Establishment.* (1) The following information shall be included in the installation commander's request to the Secretary of the Military Department concerned (or designee) for establishment of banking offices:

(i) The approximate number of DoD personnel at the installation, and other persons who may be authorized to use the banking office.

(ii) The distance between the installation and the financial institutions in the vicinity, and the names of those institutions.

(iii) Available transportation between the installation and the financial institutions listed in paragraph (b)(1)(ii) of this section.

(iv) The number of DoD personnel in duty assignments that confine them to the installation or who cannot obtain transportation (such as hospital patients).

(v) The name and location of the depositary used to make official deposits for credit to the TGA.

(vi) A list of organizational and nonappropriated fund accounts, the name and location of the financial institutions where deposited, and the average daily activity and balance of each account.

(vii) A written description and photographs of the space proposed for banking office use.

(viii) A statement listing the requirements of the proposed banking office for safes and a vault, alarm systems, and surveillance equipment, when necessary.

(ix) Reasons for use of space controlled by the General Services Administration (GSA). All the GSA assigned space, whether leased space or federal office building space, is reimbursable to the GSA at the standard level user charge. As such, space occupied by a banking office to serve military needs will be assigned and charged by the GSA.

(x) Any other information pertinent to the establishment of a banking office.

(2) The Secretary of the Military Departments (or designee) shall:

(i) Review each request for the establishment of banking offices.

(ii) Conduct a solicitation for the services when warranted.

(iii) Approve proposals for banking offices.

(iv) Notify the selected financial institution either directly or through the installation commander. The selected banking institution will, in turn, obtain operating authority from their regulating agencies.

(v) Forward proposals to establish TGAs to the DFAS for subsequent forwarding to the Fiscal Assistant Secretary of the Treasury in accordance with Volume 5, Chapter 5, paragraph 050102 of The DoD Financial Management Regulation (7000.14–R).

(c) *Solicitations.* The Secretary of the Military Department concerned (or designee), or the installation commander with advice from the cognizant Secretary of the Military Department (or designee), shall conduct solicitations to include pre-proposal conferences for on-base banking. Subject to the criteria for selection outlined in paragraph (c)(4) of this section the preferred sources of on-base financial services at domestic installations are federally-insured, state-chartered or federally-insured, federally-chartered banking institutions operating in the local area. The guidance at paragraph (c)(1) of this section addresses distribution of the solicitation only and does not preclude any federally-insured, state-chartered or federally-insured, federally-chartered banking institution from responding at any stage (from local distribution in paragraph (c)(1)(i) of this section to publication in the *Commerce Business Daily* and financial institution trade journals as outlined in paragraph (c)(1)(iii) of this section of the solicitation process. No commitment may be made to any banking institution regarding its proposal until a designation is made by the appropriate regulatory agency.

(1) Solicitations for banking services shall be accomplished in the following order:

(i) Solicitation letters will be sent to local banking institutions and a solicitation announcement will be published in the local newspaper(s) and forwarded to financial institution associations.

(ii) If the Secretary of the Military Department concerned (or designee) or, where delegated, the installation commander, determines that the geographic scope of the solicitation needs to be expanded, a prospectus will be forwarded to financial institutions in a larger geographic area, as well as financial institution associations and regulatory authorities in the state where the installation is located.

(iii) If the Secretary of the Military Department concerned (or designee) or, where delegated, the installation commander, determines that the geographic scope of the solicitation needs to be expanded further, the prospectus will be published in the Commerce Business Daily and financial institution trade journals.

(2) For solicitations conducted at the installation level, the installation commander shall review proposals to establish banking offices, select the banking institution making the best offer and forward a recommendation to the Secretary of the Military Department concerned (or designee) for final approval.

(3) Banking institutions shall not be coerced when banking arrangements are under consideration or after banking offices are established. If otherwise proper, this prohibition does not preclude:

(i) Discussions with banking institutions prior to submitting a proposal for a new banking office.

(ii) Helping banking offices extend their operations in support of an installation requirement.

(iii) Discussions with banking institutions to improve services or to create savings for the banking institution or DoD personnel.

(iv) Seeking proposals for banking service as directed by the Secretary of the Military Department concerned (or designee).

(v) Negotiations preparatory to signing a banking agreement.

(4) When soliciting for banking services, proposals shall be evaluated on specific factors identified in the solicitation. These factors, at a minimum, shall be predicated on the services to be provided as outlined in appendix A, paragraph 3, of this part, the financial institution's schedule of service fees and charges, and the extent of logistical support required. Prior to issuance of the solicitation, the preparing office shall identify (for internal use during the subsequent evaluation period) the weights to be applied to the factors reflected in the solicitation. Proposals shall be evaluated and ultimate selection made based upon the factors and weights developed for the solicitation.

(5) The Secretary of the Military Department concerned (or designee), or the installation commander with advice from the cognizant Secretary of the Military Department (or designee), shall make the selection of the banking institution based on the provisions outlined in this section.

(d) *Terminations.* (1) Requests for termination of financial services shall be approved by the installation commander, substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The termination of banking office operations shall be initiated by the installation commander only under one of the following conditions:

(i) The mission of the installation has changed, or is scheduled to be changed, thereby eliminating or substantially reducing the requirement for financial services.

(ii) Active military operations prevent continuation of on-base financial services.

(iii) Performance of the banking office in providing services is not satisfactory according to standards ordinarily associated with the financial services industry or is inconsistent with the operating agreements or the procedures prescribed herein.

(iv) When merger, acquisition, change of control or other action results in violation of the terms and conditions of the existing operating agreement, the Secretary of the Military Department (or designee) shall terminate the operating agreement with the existing banking institution. When the merger, acquisition, change of control or other action does not result in violation of the terms and conditions of the existing operating agreement, the Secretary of the Military Department (or designee) shall initiate a novation action of the operating agreement identifying the change in control.

(2) The installation commander shall forward requests for termination to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate all termination actions with the USD(C), through the Director, DFAS, before notification to the appropriate regulatory agency. Subsequent to this coordination process:

(i) The Secretary of the Military Department (or designee) shall inform the regulatory agency of the action.

(ii) The installation commander shall revoke the authority of the financial institution to operate. The lease will be terminated.

(3) Any banking office that intends to terminate its operations should notify the installation commander at least 180 days before the closing date. This notification should precede any public announcement of the planned closure. When appropriate, the commander shall attempt to negotiate an agreement permitting the banking office to continue operations until the installation has made other arrangements. Immediately upon notification of a closing, the commander shall advise the DoD Component headquarters concerned. If it is determined that continuation of banking services is justified, action to establish another banking office shall be taken in accordance with the guidance prescribed herein.

(e) *Use of space, logistical support, and military real property for domestic banks.*—(1) *Lease Terms.* (i) The consideration for a lease shall be determined by appraisal of fair market rental value in accordance with 10 U.S.C. 2667. Periodic reappraisals shall be based upon the fair market rental value exclusive of the improvements made by the banks.

(ii) The term of the lease shall not exceed 5 years except where the banking institution uses its own funds to improve existing government space as outlined in paragraph (e)(5) of this section. If space occupied is assigned by the GSA, charges to financial institutions for space and services shall be at the GSA standard level user rate.

(iii) Leases shall include the following provisions:

(A) The government has the right to terminate the lease due to national emergency; installation inactivation, closing, or other disposal action; or default by the lessee.

(B) The lessee shall provide written notice 180 days prior to voluntarily terminating the lease.

(C) Upon a lease termination, the government has the option to cause the title of all structures and other improvements to be conveyed to the United States without reimbursement, or require the lessee to remove the improvements and restore the land to its original condition.

(2) *Logistical support.* (i) The banking office shall be housed in a building accessible to DoD personnel on the installation and in a location permitting reasonable security.

(ii) Banking institutions shall perform all maintenance, repair, improvements, alterations, and construction on the banking premises.

(iii) Banking institutions shall pay for all utilities (i.e., electricity, natural gas or fuel oil, water and sewage), heating and air conditioning, intrastation telephone service, and custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal) at rates set forth in the lease, operating agreement or other written agreement between the installation and the banking institution.

(3) Leases executed before the issuance of this part may not be altered solely as a result of the provisions of this part unless a lessee specifically requests a renegotiation under these provisions. No lease may be negotiated or renegotiated, nor may any rights be waived or surrendered without compensation to the government.

(4) When a banking institution participates in the construction of a shopping mall complex the lease shall cover only land where the banking office physically is located.

(5) When a banking institution uses its own funds to improve existing government space, leases, for a period not to exceed 25 years subject to periodic review every 5 years to assess changes in fair market value, may be negotiated for a period commensurate with the appraised value of the leasehold improvements divided by the annual lease fee.

(f) *Land leases.* (1) A lease for construction of a building to house a banking office shall be at the appraised fair market rental value. Charges shall apply for the term of the lease not to exceed 25 years, subject to periodic review every 5 years to assess changes in fair market value.

(2) If determined to be in the government's interest, an existing lease of land may be extended prior to expiration of its term. Passage of title to facilities shall be deferred until all extensions have expired. Such extensions shall be for periods not to exceed 5 years with lease payments set at the appraised fair market rental of the land only as determined on the date of each such extension. Banking institution lessees shall continue to maintain the premises and pay for utilities and services furnished.

(3) When, under the terms of a lease, title to improvements passes to the government, arrangements normally will be made as follows:

(i) When the square footage involved exceeds that authorized in DoD 4270.1–M[9], the banking institution shall be given first choice to continue occupying the excess space under a lease that provides for fair market rental for the land underlying that excess space.

(ii) The charge for continued occupancy of improved space by a banking office shall be at fair market rental value only for the associated land. The lessee shall continue to maintain the premises and pay the cost of utilities and services furnished.

(g) *Construction.* Banks may construct buildings subject to the following provisions:

(1) The building shall be solely for the use of the banking institution and may not provide for other commercial enterprises or government instrumentalities.

(2) Construction projects must meet the criteria in DoD 4270.1–M.

(3) *Construction projects approval authority.* (i) Projects costing $25,000 or more shall be approved by the Major Command with an information copy sent to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall have 30 days to provide comments to the Major Command before final approval can be granted.

(ii) Projects costing less than $25,000, to include interior alterations and room or office additions to existing banking offices, shall be approved by installation commanders. Copies of approvals, including the identification of project cost, shall be furnished to the Secretary of the Military Department concerned (or designee).

(4) The Congress shall be notified of all construction projects, using other than appropriated funds and costing over $500,000, in accordance with DoD Instruction 7700.18[10].

(5) Proposals for construction of structures on installations at a banking institution's expense shall be reviewed and reported in accordance with regulations of the Military Department concerned. The following information shall be listed to support each proposal:

(i) Number of DoD personnel at the installation plus others who may use the banking office

(ii) Square footage of the proposed building

(iii) Land area to be leased to the banking institution

(iv) Term of the lease

(v) Estimated cost of construction

(vi) Estimated fair market value of the land to be leased

(vii) Statement that the banking institution will be responsible for utility connections and other utility and maintenance costs

(viii) Statement that the building will be used only for financial services

(ix) A statement that financial institution officials understand the potential loss of the building in the event of installation closure or other delimiting condition

(x) Justification for a waiver of space criteria if the building exceeds that specified in DoD 4270.1–M.

(6) Banks shall pay for interior alterations and maintenance as well as utilities, custodial, and other furnished services.

(7) Banks shall pay all construction costs.

(h) *Bank liaison officer (BLO).* Each installation commander having an on-base banking office shall appoint a BLO. The BLO's name and duty telephone number shall be displayed prominently at each banking office on the installation. As appropriate, the BLO's responsibility shall be assigned to comptroller or resource management personnel. Employees, officials or directors of a financial institution may not serve as BLOs. The BLO shall:

(1) Ensure that the banking institution operating the banking office has the latest version of this part.

(2) Ensure that traveler's checks and money orders are not being sold by other on-base organizations when banking offices are open for business. Postal units and credit unions, however, are exempt from this restriction. Also, ensure that other financial services, to include vehicle financing on domestic installations, are offered only by the banking office.

(3) Attend financial workshops, conferences, and seminars as appropriate. These gatherings offer excellent opportunities for personnel of financial institutions and the Department to improve the military banking program. Free discussion among the attendees gives an excellent forum for planning, developing, and reviewing programs that improve financial services made available to DoD personnel and organizations.

(4) Assist, when requested by the banking office manager or the installation commander, in locating and collecting from individuals tendering uncollectable checks, overdrawing accounts, or defaulting on loans (within the guidelines of subpart C) if not otherwise prohibited by law.

(5) Maintain regular contact with the banking office manager to confer and discuss quantitative and qualitative improvements in the services provided. In executing this authority, the BLO shall not become involved in the internal operations of the financial institution.

(6) Review the schedule of service charges and fees annually, and ensure that the operating agreement is updated at least every 5 years. Renegotiate the financial services offered and related service charges and fees as necessary.

(7) Assist in resolving customer complaints about banking services.

(8) Assist in resolving complaints of discrimination with financial services by the banking institution. If a complaint cannot be resolved, a written request for investigation shall be forwarded to the appropriate regulatory agency. Any such request must document the problem and command efforts taken toward its resolution. Information copies of all related correspondence shall be sent through channels to the Secretary of the Military Department concerned (or designee) for transmittal to the DFAS.

(9) Assist the installation commander to report to the appropriate regulatory agency any evidence suggesting malpractice by banking office personnel.

(i) *In-store banking.* Under the direction and approval of the installation commander, an on-base financial institution may provide in-store banking within the premises of a commissary operated by the Defense Commissary Agency, a Military Exchange, or any other on-base retail facility.

(1) Provision of the requested services, and any associated stipulations, shall be documented as an amendment to the existing operating agreement between the installation commander and the on-base financial institution that will provide in-store services.

[9] See footnote 1 to § 231.1(a).

[10] See footnote 1 to § 231.1(a).

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(2) The amendment to the operating agreement shall be drafted through close coordination between the requesting DoD Component representative, the on-base financial institution representative, the bank liaison officer, and the installation commander (or designee). The final amendment shall be signed by the installation commander and the on-base financial institution with the acknowledgement of the DoD Component that will host the in-store banking operation.

(3) The installation commander shall extend the opportunity to provide the requested in-store banking services to all financial institutions located on the installation. The selection process is outlined in Appendix B of this part.

(4) Space shall be granted by the installation commander through a lease to the banking institution that will provide in-store service.

(j) *Domestic military banking facilities (MBFs).*—(1) *Domestic MBF establishment.* (i) Requests to establish MBFs shall be made only when a need for services cannot be met by other means. During mobilization, however, MBFs may be designated as an emergency measure.

(ii) Installation commanders shall send requests for an MBF with justification for its establishment through the Secretary of the Military Department concerned (or designee) to the Director, DFAS, for coordination with the Department of the Treasury. The Department of the Treasury may approve the designation of an MBF under provisions of 12 U.S.C. 265.

(iii) MBF operations may begin only after approval for MBF status is granted by the Department of the Treasury.

(2) *MBF conversion.* (i) Where MBFs exist, installation commanders shall encourage their conversion to independent or branch banks.

(ii) Proposals from the on-base banking institution to convert an existing MBF to an independent or branch bank shall be sent through command channels to the Secretary of the Military Department concerned (or designee) for approval. The Secretary of the Military Department (or designee) shall forward the request to the Director, DFAS, for coordination with the Department of the Treasury.

(iii) Unsolicited proposals from banking institutions to establish independent or branch banks where an MBF exists shall be forwarded through command channels to the Secretary of the Military Department concerned (or designee). Each proposal shall be evaluated on its own merits.

(A) The installation commander shall inform the banking institution operating the MBF that an unsolicited proposal for a banking office has been received and shall offer that incumbent institution the opportunity to submit its own proposal.

(B) Preference to operate an independent or branch bank shall be given to the banking institution that has operated the MBF, provided that the banking service previously rendered has been satisfactory and that the institution's proposal is adequate.

(3) *MBF termination.* The Director, DFAS, shall coordinate the termination of a financial institution's authority to operate an MBF with the Department of the Treasury.

§ 231.6 Procedures—overseas banks.

(a) *General provisions of banking services overseas.* The Department acquires banking services overseas for use by authorized persons and organizations from the following sources:

(1) MBFs operated under contract and authorized by the pertinent status of forces agreement, other intergovernmental agreements, or host-country law.

(2) Domestic and foreign banking institutions located on overseas DoD installations. Each such institution shall be:

(i) Chartered to provide financial services in that country.

(ii) A party to a formal operating agreement with the installation commander to provide such services.

(iii) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(b) *Establishment.*—(1) *Overseas MBFs Operated Under Contract.* Installation or community commanders requiring banking services will send a request through command channels to the Secretary of the Military Department concerned (or designee) for concurrence and subsequent transmittal to the Director, DFAS, for approval.

(i) Requests to establish MBFs shall include, but are not limited to, the following information:

(A) The approximate number of DoD personnel at the installation and in the community and any other persons who may be authorized to use the MBF.

(B) The distance between the installation and the nearest MBF and credit union office, the names; addresses, and telephone numbers of the operators of those institutions; and the installations and communities where they are located.

(C) The availability of official and public transportation between the installation or community and the nearest MBF and credit union office.

(D) The name and location of the depository used to make official deposits for credit to the TGA.

(E) A list of organizational and nonappropriated fund accounts, the name and location of the financial institutions where deposited, and the average daily activity and balance of each account.

(F) A written description and photographs or drawings of the space proposed for MBF use. The extent and approximate cost of required alterations, including the construction of counters and teller cages.

(G) A statement that recognizes the logistical support, including equipment, to be provided by the local command as detailed in paragraph (c) of this section. The statement will include the costs of such equipment and the manner in which it will be acquired.

(H) In countries where no MBFs currently are operated under contract, a statement from the cognizant Combatant Command that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation in accordance with paragraph (c)(1)(i) of this section.

(I) Any other pertinent information to justify the establishment of an MBF.

(ii) As a general rule, MBFs may be established only when the installation or community population meets the following criteria:

(A) *Full-time MBF.* Except in unusual circumstances, a total of at least 1,000 permanent military personnel and DoD civilian employees are necessary to qualify for a full-time MBF.

(B) *Part-time MBF.* Except in unusual circumstances, a total of at least 250 permanent military personnel and DoD civilian employees are necessary to qualify for a part time MBF.

(iii) If the population at a certain remote area is not sufficient to qualify under the criteria for full-time or part-time MBFs, the installation or community commander will explore all other alternatives for acquiring limited banking services before requesting establishment of an MBF as an exception to these provisions. Alternatives to limited banking services include installation of ATMs and check cashing and accommodation exchange service by disbursing officers and their agents.

(iv) Establishment of an overseas MBF is predicated on and requires:

(A) Designation of the MBF contractor as a depositary and financial agent of the U.S. Government by the Department of the Treasury.

(B) The availability of banking contractors interested in bidding for the operation of the facility and the viability of such proposals.

(C) The availability of appropriated funds to underwrite such banking services.

(D) Establishment of a U.S. dollar currency custody account to support banking operations.

(2) *Other overseas banking offices.* Where a need for financial services has been identified and either the banking and currency control laws of certain host countries do not permit MBFs to operate on DoD installations or MBFs, where permitted, have not been established, then the following applies:

(i) Installation or community commanders shall send requests for banking services or unsolicited proposals from foreign banking institutions to their Major Commands with supporting data as required in § 231.5(b)(1).

(ii) Major Commands shall forward installation or community commander requests to the Secretary of the Military Department concerned (or designee) for approval. The Secretary of the Military Department concerned (or designee) shall coordinate with the DFAS to seek the designation of the parent foreign banking institution as a depositary and financial agent of the U.S. Government by the Department of the Treasury.

(iii) Banking offices in this category cannot become operational until the foreign parent banking institution has been designated a depositary and financial agent of the U.S. Government. The institution also shall indicate a willingness and ability to provide collateral backing for any official and nonappropriated fund U.S. dollar deposits. Any collateral pledged shall be in a form acceptable to the DFAS and the Department of the Treasury.

(c) *Logistical support.—(1) Overseas MBFs operated under contract.* (i) Given that appropriated funds support those MBFs that are operated under contract, installation or community commanders shall provide the MBFs logistical support to the maximum possible extent. Such support normally includes:

(A) Adequate office space, including steel bars; grillwork; security doors; a vault, safes, or both; security alarm systems and camera surveillance equipment (where deemed necessary) that meet documented requirements of the MBF contractor's insurance carrier; construction of counters, teller cages, and customer and work areas; necessary modifications and alterations to existing buildings; and construction of new MBF premises, if necessary.

(*1*) The size and arrangement of space should permit efficient operations. Space assigned may not exceed that prescribed in DoD 4270.1–M.

(*2*) All maintenance, repair, rehabilitation, alterations, or construction for banking offices shall comply with guidelines established by the installation commander.

(B) Office space in a building that is accessible to most users and permits the maximum security. In addition, office space for MBF area and district administrations and storage space for retention of records, files, and storage of supplies.

(C) DoD housing on a rental basis to assigned MBF staff that are designated as key and essential MBF managerial personnel who are unable to find suitable, reasonably priced housing in the vicinity of the DoD installation, subject to the assignment procedures and other requirements of DoD 4165.63–M.[11]

(D) Education, on a space-available, tuition-paying basis, provided by the Department of Defense Education Activity to minor dependents of assigned staff in accordance with DoD Directive 1342.13.[12]

(E) Air conditioning, which is considered a normal utility for banking offices located at installations that qualify for air conditioning under applicable regulations. Banking space is classified as administrative space at military installations.

(F) Utilities (i.e., electricity, natural gas or fuel oil, water and sewage), heating, intrastation telephone service, and custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal).

(G) Defense Switched Network (DSN) voice and data communication to include, where feasible, Internet access.

(H) Military guards, civilian guards (for use within the installation), military police, or other protective services to accompany shipments of money. This level of protective service also shall be provided at other times as required to include replenishment of ATM currency and receipts, alarm system failures, and to avoid undue risks or insurance costs on the part of the MBF.

(I) U.S. Military Postal Service access in accordance with DoD Directive 4525.6.[13] Use of free intra-theater delivery system (IDS) is authorized for all routine mail sent and received between Army Post Offices (APOs) and Fleet Post Offices (FPOs) within a theater.

(J) Office equipment and furniture on memorandum receipt if available from local stock. If office equipment or furniture is unavailable, statements of nonavailability shall be issued.

(K) Vehicle registration and fuel sales from government-owned facilities for bank-operated vehicles, if not in conflict with host government agreements. Vehicle registration shall be subject to normal fees.

(L) Issuance by local commanders of invitational travel orders, at no expense to the U.S. Government when required for official onsite visits by U.S. based banking institution officials.

(ii) Suggestions for changes to the logistical support provisions of the MBF contract may be forwarded for consideration through command channels to the Director, DFAS.

(2) *Other overseas banking offices.* (i) Logistical support provided to such offices will be negotiated with the parent foreign banking institution and incorporated into the written operating agreement.

(ii) Logistical support shall not exceed that provided to contract MBFs, as specified in paragraph (c)(1) of this section.

(d) *Operations.*—(1) *General conditions of MBF operation.* (i) Before initiating MBF operations, a written agreement shall be negotiated directly and signed by the installation or community commander and a senior official of the banking contractor or other financial institution concerned. One copy of the agreement with U.S. banking contractors and two copies of the agreement with institutions other than U.S. banking contractors shall be forwarded through command channels to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall forward one copy of the agreement with institutions other than U.S. banking contractors through command channels to the Director, DFAS. A copy of the agreement also shall be maintained at all times by the installation or community commander and the banking institution manager.

(ii) For MBFs operated by U.S. banking contractors, the agreement shall state operating details not set forth in the contract. Though the contract limits the number of operating hours per week, local commanders and MBF managers should set days and hours of operation to best meet local needs. Operating times may include Saturdays and evening hours when necessary to complement other retail services for DoD personnel, provided the contractor can implement that service at no

[11] See footnote 1 to § 231.1(a).
[12] See footnote 1 to § 231.1(a).
[13] See footnote 1 to § 231.1(a).

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additional cost to the government. When added cost is involved, the commander shall send a request including reasons for expanded or modified times of operation, through command channels, to the Secretary of the Military Department concerned (or designee) for action. If approved, the request, with recommendations, shall be forwarded to the Director, DFAS (or designee).

(2) *Overseas MBFs operated under contract.*—(i) *General.* Overseas MBFs shall operate under terms and conditions established at the time of contract negotiations and confirmed in respective contracts or contracting officer determinations.

(ii) *Authorized customers.* DoD banking contracts specify the personnel authorized to receive service. Additionally, overseas major commanders may approve banking services for other individuals that qualify for individual logistic support under the regulations of the DoD Component concerned, provided that the use of banking services is not precluded by status of forces agreements, other intergovernmental agreements, or host-country law.

(iii) *Services rendered.* DoD banking contracts specify the services to be rendered and related charges. Suggestions for expansion or modification of authorized services, fees or charges may be forwarded through DoD Component channels to the Director, DFAS. Proposals for any new service must be coordinated with the appropriate Combatant Command and U.S. Chief of Diplomatic Mission or U.S. Embassy to make certain that the proposal does not conflict with the status of forces agreements, other intergovernmental agreements, or host-country law.

(iv) *Regulation to be provided.* The Director, DFAS (or designee) shall advise each U.S. banking contractor operating an overseas MBF of this Regulation and furnish a copy to the contractor.

(v) *Conditions of operation.* (A) Part-time and payday service MBFs shall provide limited services that mirror, to the extent feasible, those provided by full-time MBFs. Since part-time MBFs operate out of nearby MBFs, installation or community commanders shall provide and fund transportation and guards for their operation.

(B) Any deficiency of banking services under DoD banking contracts shall be reported to the manager of the MBF within 7 calendar days of noting the deficiency. If the problem has not been corrected within 30 calendar days after being noted, the commander shall report the problem through DoD Component channels to the Director, DFAS (or designee).

(C) The MBF contractor and military disbursing officers shall establish cash management practices that minimize the cash required conducting business.

(D) Commanders shall assist MBF contractors to develop and update contingency plans for banking services in the event of hostilities or other emergencies.

(E) MBF provision of foreign currency shall be in accordance with Volume 5, Chapter 13 of The DoD Financial Management Regulation (DoD 7000.14–R).

(3) *Other overseas banking offices.*—(i) *Authorized customers.* The list of authorized customers shall be negotiated between the installation commander and the foreign banking institution and shall be reflected in the operating agreement. The list of authorized customers included in the operating agreement shall be consistent with the applicable status of forces agreement, other intergovernmental agreements, or host-country law.

(ii) *Services rendered.* Services and charges shall parallel, whenever practical, the services and charges of MBFs operated under contract. Specific services shall be negotiated and included in the agreement with the foreign banking institution. A copy of the agreement shall be sent through DoD Component channels to the Director, DFAS (or designee).

(iii) *Operating agreements.* Before agreements are executed, they will be coordinated with and approved by the cognizant Combatant Command (or designee).

(iv) *Conditions of operation.* A foreign banking institution shall provide equipment (except that furnished by the installation or community), supplies, and trained personnel.

(4) *Relocation of MBF.* (i) When an MBF is moved from one location to another at the same installation or community, the commander shall notify the cognizant Military Department, through command channels. The Military Department shall forward the information to the Director, DFAS (or designee).

(ii) For all other relocations, prior approval from the Director, DFAS (or designee) shall be obtained through DoD Component channels.

(5) *Comments.* Installation or community commanders shall send their banking comments through DoD Component channels to the Director, DFAS (or designee) for any of the following:

(i) Major changes in installation population that would affect use of the MBF.

(ii) Opinion that the space assigned is not adequate for the efficient operation of the MBF including a statement concerning corrective action.

(iii) Suggestions that might improve the MBF operation, increase efficiency, or decrease costs.

(iv) Pending developments that may have a material impact on the MBF operation.

(6) *Bank liaison officer.* The duties of the BLO are outlined in § 231.5(h).

(e) *Termination.* Requests to eliminate any or all MBFs in a foreign country shall include documentation that the U.S. Chief of Diplomatic Mission has been informed and that arrangement for local termination announcements and procedures have been made with the U.S. Embassy.

(1) *Overseas MBFs operated under contract.* In cases where an installation or community no longer can justify overseas MBF operations, the commander shall notify the Secretary of the Military Department concerned (or designee) through command channels.

(i) The report shall state whether a part-time MBF should be established and specify the days each week that the MBF would be needed.

(ii) The Secretary of the Military Department (or designee) shall send this report with recommendations to the Director, DFAS (or designee).

(2) *Other overseas banking offices.* Termination actions, when required, shall be taken in accordance with the applicable clauses in the operating agreement. Notice of intent to terminate, including the closing date, shall be sent through DoD Component channels to Director, DFAS (or designee), who shall notify the Department of the Treasury so that the foreign banking institution's authority as a Depositary and Financial Agent of the U.S. Government at that location may be revoked.

§ 231.7 Procedures—domestic credit unions.

(a) *General policy.* Given their role in promoting morale and welfare, on-base credit unions shall be recognized and assisted by DoD Components at all levels. These financial institutions shall provide services to DoD personnel of all ranks and grades within their respective fields of membership.

(b) *Establishment.* A demonstrated need for credit union services may be addressed by establishing a new full-service credit union or by opening a branch office or facility of an existing credit union under the common bond principle.

(1) DoD personnel seeking to establish a new full-service credit union shall submit a proposal to the installation commander for review. In addition to the information identified in § 231.5(b)(1), the proposal shall include a request for the establishment of a field of membership that includes all personnel at the installation. Upon installation commander concurrence, the proposal shall be forwarded through DoD Component channels to the Secretary of the Military Department (or designee).

(2) The Secretary of the Military Department concerned (or designee) shall:

(i) Obtain a list of credit unions that could establish eligibility to serve the installation's military members and civilian employees from the National Credit Union Administration (NCUA) Regional Office that has geographic jurisdiction and the applicable state regulatory agency.

(ii) Prepare and send formal solicitation letters to eligible credit unions informing them of an opportunity to establish a branch office at the installation.

(iii) In coordination with the installation commander, establish the criteria for selection of a specific credit union in accordance with § 231.5(c)(4). Proposals shall be evaluated, and a selection made, based upon the factors and weights developed for the solicitation.

(3) Upon approval by the Secretary of the Military Department (or designee), the NCUA or applicable state regulatory agency shall be notified and asked to establish or amend the selected credit union's charter to include the new location.

(4) No commitment may be made to a credit union regarding its proposal until the appropriate regulatory agency has approved the requested charter change.

(c) *Terminations.*—(1) *Voluntary credit union terminations.* (i) When a credit union plans to end operations on a DoD installation, it shall be required to notify the installation commander 180 days before the closing date. Such notification shall be required to precede public announcement of the planned closure. When appropriate, the commander shall attempt to negotiate an agreement permitting the credit union to continue operations until the installation has made other arrangements.

(ii) The installation commander shall inform the Secretary of the Military Department concerned (or designee) immediately upon receiving notification of a closing. The report shall include a recommendation about continued credit union service on the installation. Paragraph (b) of this section applies if continued service is needed.

(2) *Termination for cause.* If, after discussion with credit union officials, an installation commander determines that the operating policies of a credit union are inconsistent with this Regulation, a recommendation for termination of logistical support and space arrangements may be made through the Secretary of the Military Department concerned (or designee). A credit union shall be removed from the installation only with approval of the Secretary of the Military Department (or designee) after coordination with the USD(C) through the Director, DFAS, and the appropriate regulatory agency.

(3) *Termination in the interest of national defense.* At the option of the government, leases may be terminated in the event of national emergency or as a result of installation deactivation, closing, or other disposal action.

(4) *Termination resulting from merger, acquisition, or change of control.* When merger, acquisition, change of control or other action results in violation of the terms and conditions of the existing operating agreement, the Secretary of the Military Department (or designee) shall, subsequent to coordination with the USD(C), through the Director, DFAS, terminate the operating agreement with the existing credit union. When the merger, acquisition, change of control or other action does not result in violation of the terms and conditions of the existing operating agreement, the Secretary of the Military Department (or designee) shall initiate a novation action of the operating agreement identifying the change in control.

(5) *Termination of lease.* The lessee shall provide written notice 180 days prior to a voluntary termination of the lease. Upon lease termination, the government has the option to cause the title of all structures and other improvements to be conveyed to the United States without reimbursement, or require the lessee to remove the improvements and restore the land to its original condition.

(d) *Use of space, logistical support, and military real property for domestic credit unions.*—(1) *Criteria for use of space in Government-owned real property.* (i) Criteria governing the assignment of space and construction of new space for credit unions are in DoD 4270.1–M.

(ii) A credit union may be furnished space on a DoD installation at one or more locations for periods not exceeding 5 years except where the credit union uses its own funds to improve existing government space as outlined in paragraphs (d)(1)(ii)(C) and (d)(1)(ii)(D) of this section. The cumulative total of space furnished shall be subject to the limitations of DoD 4270.1–M.

(A) The furnishing of office space (including ATM placement) to on-base credit unions is governed by section 170 of the Federal Credit Union Act (12 U.S.C. 1770). The provision of no-cost office space for a period not to exceed 5 years is limited to credit unions if at least 95 percent of the membership to be served by the allotment of space is composed of individuals who are, or who were at the time of admission into the credit union, military personnel or federal employees, or members of their families. A written statement to the effect that the credit union meets the 95 percent criterion shall be required to justify and document the allotment of free government space. This statement shall be prepared on the credit union's letterhead and signed either by the chairman of the board of directors or the president. A certification also shall be required whenever there is a merger, takeover, or significant change in a field of membership. This certification shall serve as justification and documentation for the continued allocation of free government space including space renovated with credit union funds. The statement shall be updated every 5 years and on renewal of each no-cost permit or license. (See appendix C of this part for a sample format of the statement.)

(B) Credit unions that fail to meet the 95 percent criterion shall be charged fair market rental for space provided. Except where more than one credit union exists on an installation prior to June 9, 2000, credit unions giving less than full service or not serving all assigned DoD personnel are not authorized no-cost office space.

(C) When a credit union that meets the 95 percent criterion uses its own funds to expand, modify, or renovate government-owned space, it may be provided a no-cost permit or license for a period commensurate with the extent of the improvements not to exceed 25 years as determined by the DoD Component concerned. The permit or license shall be effective until the agreed date of expiration or until the credit union ceases to satisfy the 95 percent criterion. In this latter case, the no-cost permit shall be cancelled in favor of a lease immediately negotiated at fair market value under the provisions of paragraph (d)(1)(ii)(B) of this section. If the credit union desires, this permit or license may extend through the period identified in the

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original permit or license not to exceed 25 years.

(D) Similarly, a credit union not meeting the 95 percent criterion that uses its own funds to expand, modify, or renovate government-owned space, may be provided a lease at fair market value for a period not to exceed 25 years subject to periodic review every 5 years to assess changes in fair market value. Duration of this lease shall be commensurate with the extent of the improvements as determined by the DoD Component concerned.

(iii) All space assigned by the GSA, whether leased or in a federal office building, is reimbursable to the GSA at the standard level user charge. Consequently, the GSA shall charge the benefiting DoD Component for any space assigned for credit union operations. Such space is subject to the provisions of paragraph (d)(1)(i) and (ii) of this section.

(2) *Logistical support.* When available, custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal), heating and air conditioning, utilities (i.e., electricity, natural gas or fuel oil, water, and sewage), fixtures, and maintenance shall be furnished without cost to credit unions occupying no-cost office space in government buildings. With the exception of intrastation telephone service, credit unions shall be required to pay for all communication services to include telephone lines, long distance data services and Internet connections. Credit unions also shall pay for space alterations. Should a credit union fail to meet the 95 percent membership criterion, any logistical support furnished shall be on a reimbursable basis.

(3) Leases executed before the issuance of this part may not be altered solely as a result of the provisions of this part unless a lessee specifically requests a renegotiation under these provisions. No lease may be negotiated or renegotiated, nor may any rights be waived or surrendered without compensation to the government.

(4) When a credit union participates in the construction of a shopping mall complex the lease shall cover only land where the branch or facility physically is located.

(5) *Administrative fees.* All administrative fees associated with the initiation, modification, or renewal of an outgrant shall be borne by the installation, provided that the credit union satisfies the 95 percent membership criterion requirement for no-cost office space as outlined paragraph (d)(1)(ii)(A) of this section, and that the fees are associated with the no-cost space.

(e) *Land leases.* Credit unions entering into a land lease to construct a building on a DoD installation shall do so in accordance with § 231.5(f).

(f) *Construction.* Credit unions constructing a building on a DoD installation shall do so in accordance with § 231.5(g).

(g) Credit unions offering ATM service shall do so in accordance with § 231.4(d).

(h) *Staffing.* (1) On-base credit unions shall provide full service. To do so, credit union offices shall be staffed by:

(i) An official authorized to act on loan applications.

(ii) An individual authorized to sign checks; and

(iii) A qualified financial counselor available to serve members during operating hours.

(2) Exceptions to paragraph (h)(1)(i) of this section may be approved by the installation commander with advice from the Secretary of the Military Department concerned (or designee) in the case of newly organized credit unions.

(3) When an on-base credit union can support only minimum staffing, one of the positions required in paragraph (h)(1)(i) of this section or paragraph (h)(1)(ii) of this section also may be subsumed under the counselor duties.

(4) Credit union remote service locations at the same installation may be staffed with one person alone, provided that a direct courier or an electronic or automated message service links each remote location to the credit union's main office.

(i) *Credit union liaison officer (CULO).* When a credit union office is located on an installation, the commander shall appoint a CULO. As appropriate, the CULO responsibility should be assigned to comptroller or resource management personnel. The CULO's name and duty telephone number shall be displayed prominently at each credit union office on the installation. Anyone who serves as a credit union board member or in any other official credit union capacity may not serve as a CULO. The duties of a CULO are the same as the duties listed for a BLO (see § 231.5(h)).

(j) *In-store banking.* In-store banking services may be provided in accordance with § 231.5(i) except that:

(1) Credit unions interested in submitting proposals to provide requested in-store banking services shall provide a statement from the NCUA or applicable state regulatory agency certifying the credit union's authority to offer the requested financial services to the commissary, Military Exchange, or other on-base facilities.

(2) Space granted to a credit union selected to provide in-store banking services should be issued through a no-cost license in accordance with section 170 of the Federal Credit Union Act (12 U.S.C. 1770).

§ 231.8 Overseas credit unions.

(a) *General policy.* (1) Credit union services to authorized persons and organizations may be provided by domestic on-base credit unions operating under a geographic franchise.

(2) The extension of credit union service overseas is encouraged consistent with the principles prescribed for domestic credit unions and with applicable status of forces agreements or other intergovernmental agreements, or host-country law.

(3) Where permitted by the status of forces agreements or other intergovernmental agreements, or host-country law, only federal credit unions or federally insured state chartered credit unions may operate on overseas DoD installations. The ultimate decision to provide services overseas rests with the credit union itself.

(b) *Establishment.* (1) Commanders shall notify the Secretary of the Military Department concerned (or designee), through command channels, when overseas credit union services are needed. Such requests shall include:

(i) Full information about available space and logistical support.

(ii) The name and location of the nearest credit union facility or branch.

(iii) The distance between the installation and the nearest credit union facility or branch.

(iv) The availability of any official or public transportation.

(v) The number of DoD personnel in duty assignments that confine them to the installation or who cannot obtain transportation (such as hospital patients).

(vi) In countries not presently served, a statement concurred in by the cognizant Combatant Command that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy. The statement shall include that the host country will permit credit union operations and will indicate any conditions imposed by the host country with respect to those operations.

(2) Subsequent to approval of the request from the installation or community commander to establish an overseas credit union facility, the Secretary of the Military Department concerned (or designee) shall solicit proposals for the provision of full credit union services under the following provisions.

(i) Where there is a DoD designated geographic franchise with a specific field of membership, the Secretary of the Military Department (or designee) shall direct the installation or community commander to contact the supporting credit union and request that a branch or facility be established. The basic decision concerning such extensions of service rests with the servicing credit union. The Director, DFAS (or designee) shall maintain a listing of all geographic franchises assigned to credit unions serving DoD overseas installations.

(ii) Where there is no DoD designated geographic franchise, the Secretary of the Military Department (or designee) shall:

(A) Coordinate requests, through the Director, DFAS (or designee), to obtain a geographic franchise. A geographic franchise is the authorization granted to a credit union by the Office of the Under Secretary of Defense (Comptroller) (OUSD(C)) to provide financial services in a specific geographic region located outside the United States, its territories and possessions.

(B) Solicit proposals from credit unions currently operating on DoD installations.

(C) Review proposals of interested credit unions.

(D) Coordinate with field commands, as needed.

(E) Recommend selection to the NCUA or applicable state regulatory agency with a copy to the DFAS and the OUSD(C), requesting that the appropriate field of membership adjustment be made. Such a recommendation shall identify the primary installations on which the credit union would operate and, if applicable, the contiguous geographic boundaries for future facilities and branches.

(3) Where there is an existing field of membership, the Secretary of the Military Department concerned (or designee) shall take the following actions:

(i) If a credit union on an installation terminates operation, afford any other credit union having a geographic franchise within that country an opportunity to assume the franchise being vacated. If all such institutions decline, the geographic franchise shall be offered to the federally insured credit union community. If, as a result of a credit union decision to decline service to an installation or a termination action, another credit union:

(A) Offers to provide service.

(B) Meets host country requirements (if any) and

(C) Is assigned the former geographic franchise or portion thereof, the NCUA or the applicable state regulatory agency shall be notified and requested to make appropriate field of membership adjustments.

(ii) When other credit union(s) having a geographic franchise within a country decline the opportunity, or there is no other credit union having a franchise within that country, the provisions of paragraph (b)(2)(ii) of this section apply.

(4) No commitment may be made to a credit union regarding its proposal until the appropriate regulatory agency has announced a selection.

(c) *Logistical support.* Installation or community commanders shall provide logistical credit union support. Such support normally shall include:

(1) Adequate office space, including steel bars; grillwork; security doors; a vault, safes or both; security alarm systems and camera surveillance equipment (where deemed necessary) that meet documented requirements of the credit union's insurance carrier; construction of counters, teller cages, and customer and work areas; necessary modifications and alterations to existing buildings. The size and arrangement of space should permit efficient operations. The credit union shall pay for all improvements to the space given. Space assigned may not exceed that prescribed in DoD 4270.1–M.

(2) DoD housing on a rental basis to key credit union personnel unable to find suitable, reasonably priced housing in the vicinity of the DoD installation, if available.

(3) Education, on a space-available, tuition-paying basis, provided by the Department of Defense Education Activity to minor dependents of assigned staff in accordance with DoD Directive 1342.13.

(4) Utilities (i.e., electricity, natural gas or fuel oil, water and sewage), heating, intrastation telephone service, and custodial and janitorial services.

(5) DSN voice and data communication to include, where feasible, internet access.

(6) U.S. Military Postal Service support under DoD Directive 4525.6. The use of free intra-theater delivery system (IDS) is authorized for all routine mail sent and received between Army Post Offices (APOs) and Fleet Post Offices (FPOs) within a theater.

(7) Military guards, civilian guards (for use within the installation), military police, or other protective services to accompany shipments of money from the MBF to the credit union and return where it is impractical or not authorized to have a local armored car service or civilian police authorities entering a military installation to provide cash escort service or when the cost of obtaining such service is prohibitive. This level of protective service also shall be provided at other times as required to include replenishment of ATM currency and receipts, alarm system failures, and to avoid undue risks or insurance costs.

(d) *Travel.* Travel by credit union officials must be at no expense to the U.S. Government. Overseas commanders may issue invitational travel orders for official on-base visits by credit union officials at no cost to the U.S. Government.

(e) *Operations.* (1) An overseas credit union shall confine its field of membership to individuals or organizations eligible by law or regulation to receive services and benefits from the installation. Services shall not be provided to those personnel precluded such services by the applicable status of forces agreement, other intergovernmental agreements, or host-country law.

(2) The Department assigns overseas credit unions a prescribed geographic franchise. Any credit union, however, may continue to serve its members stationed overseas by mail or telecommunications, to include access to the Internet.

(3) A credit union proposing a new service to be offered by a branch office that is not authorized by the operating agreement shall coordinate the establishment of the new service through the cognizant Component command to the Combatant Command. The new service shall be offered only after the appropriate command's approval and coordination with the U.S. Chief of Diplomatic Mission or U.S. Embassy to ensure that the service does not conflict with the applicable status of forces agreement, other intergovernmental agreements, or host-country law.

(4) Credit unions that operate full service branches shall have U.S. currency and coin available for member transactions. In areas served by currency custody accounts, transactional U. S. currency and coins shall be made available from the servicing MBF with no direct or analysis charge to the credit union, provided settlement is made via the local MBF account or equivalent arrangements are made with the MBF.

(5) In countries served by MBFs operated under contract, credit unions shall purchase foreign currency only from the servicing MBF.

(i) The bulk rate purchase price shall apply to currency used by the credit

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union to make payments to vendors or to make payroll payments.

(ii) Credit unions that desire and are authorized to provide accommodation exchange services to its members shall acquire foreign currency from the servicing MBF at the MBF wholesale rate and sell it at a rate of exchange no more favorable than that available to customers of the MBF.

(6) Credit unions operating under a geographic franchise on an overseas DoD installation shall not publicize, display or sell vehicles on the installation.

(7) The NCUA or applicable state regulatory agency may review operations of overseas credit union offices either when it examines the main credit union or at other times of its choosing. For federally insured, state chartered credit unions, the applicable state regulatory agency also may examine credit unions operations.

(f) *Glossary of terms.*—

(1) *Automated Teller Machine (ATM).* An electronic machine that dispenses cash, and may perform such other functions as funds transfers among a customer's various accounts and acceptance of deposits. Equipment generally is activated by a plastic card in combination with a personal identification number (PIN). Typically, when the cardholder's account is with a financial institution other than that operating the ATM, its use results in the assessment of a fee from the ATM network (e.g., Armed Forces Financial Network (AFFN), Cirrus, or PLUS) that processes the transaction.

(2) *Banking institution.* An entity chartered by a state or the federal government to provide financial services.

(3) *Banking office.* A branch bank, or independent bank operated by a banking institution on a domestic DoD installation or by a foreign banking institution on an overseas DoD installation.

(4) *Branch bank.* A separate unit chartered to operate at an on-base location geographically remote from its parent banking institution.

(5) *Credit union.* A cooperative nonprofit association, incorporated under the Federal Credit Union Act (12 U.S.C. 1751 *et seq.*), or similar state statute, for the purposes of encouraging thrift among its members and creating a source of credit at a fair and reasonable rate of interest.

(6) *Credit union facility.* A facility employing a communications system with the parent credit union to conduct business at remote locations where a full-service credit union or credit union branch is impractical. Credit union facilities need not provide cash transaction services but must disburse loans and shares by check or draft and provide competent financial counseling during normal working hours.

(7) *Discrimination.* Any differential treatment in provision of services, including loan services, by a financial institution to DoD personnel and their dependents on the basis of race, color, religion, national origin, sex, marital status, age, rank, or grade.

(8) *DoD Component.* For the purposes of this part, DoD Components include the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, the Joint Staff and the supporting Joint Agencies, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, the Uniformed Services University of the Health Sciences, all nonappropriated fund instrumentalities including the Military Exchange Services, and morale, welfare and recreation activities, and all other organizational entities within the Department of Defense.

(9) *DoD Personnel.* All military personnel; DoD civil service employees; other civilian employees, including special government employees of all offices, Agencies, and Departments performing functions on a DoD installation (including nonappropriated fund instrumentalities); and their dependents. On domestic DoD installations, retired U.S. military personnel and their dependents are included.

(10) *Domestic DoD installation.* For the purposes of this Regulation, a military installation located within a state of the United States, the District of Columbia, Guam or the Commonwealth of Puerto Rico.

(11) *Fair market rental.* A reasonable charge for on-base land, buildings, or building space. Rental is determined by a government appraisal based on comparable properties in the local civilian economy. The appraiser, however, shall consider that on-base property may not always be comparable to similar property in the local commercial geographic area. Examples of circumstances that may affect fair market rental include limitations of usage and access to the financial institution by persons other than those on the installation, proximity to the community center or installation business district, and the government's right to terminate the lease or take title to improvements constructed at the financial institution's expense.

(12) *Field of membership.* A group of people entitled to credit union membership because of a common bond of occupation, association, employment, or residence within a well-defined neighborhood, community, rural district, and other persons sharing a common bond as described by credit union board of directors policy or by Interpretation Ruling and Policy Statement (IRPS) 99–1. A field of membership is defined in the credit union's charter by the appropriate regulatory agency.

(13) *Financial institution.* This term encompasses any banking institution, credit union, thrift institution and subordinate office branch or facility, each as separately defined herein.

(14) *Financial services.* Those services commonly associated with financial institutions in the United States, such as electronic banking (e.g., ATMs and personal computing banking), in-store banking, checking, share and savings accounts, funds transfers, sales of official checks, money orders, and travelers checks, loan services, safe deposit boxes, trust services, sale and redemption of U.S. Savings Bonds, and acceptance of utility payments and any other services provided by financial institutions.

(15) *Foreign banking institution.* A bank located outside the United States chartered by the country in which it is domiciled.

(16) *Full service credit union.* A credit union that provides full-time counter transaction services, to include cash operations, and is staffed during normal working hours by a loan officer, a person authorized to sign checks, and a qualified financial counselor. In overseas areas, "full service" includes cash operations where not prevented by:

(i) Status of forces agreements, other intergovernmental agreements, or host-country law.

(ii) Physical security requirements that cannot be resolved by the credit union or local command.

(17) *Geographic franchise.* Authorization granted to a credit union by the Office of the Under Secretary of Defense (Comptroller) to provide financial services in a specific geographic region located outside the United States, its territories and possessions.

(18) *Independent bank.* A bank specifically chartered to operate on one or more DoD installations whose directors and officers usually come from the local business and professional community. Such operations are thus differentiated from county-wide or state-wide branch systems consisting of a head office and one or more geographically separate branch offices.

(19) *In-store banking.* An expansion of financial services provided by an on-base financial institution within the premises of a commissary store operated by the Defense Commissary Agency, a Military Exchange outlet, and other on-base retail facilities.

(20) *Malpractice.* Any unreasonable lack of skill or fidelity in fiduciary duties or the intentional violation of an applicable law or regulation or both that governs the operations of the financial institution. A violation shall be considered intentional if the responsible officials know that the applicable action or inaction violated a law or regulation.

(21) *Military banking facility (MBF).* A banking office located on a DoD installation and operated by a financial institution that the Department of the Treasury specifically has authorized, under its designation as a "Depository and Financial Agent of the U.S. Government," to provide certain banking services at the installation.

(22) *National bank.* An association approved and chartered by the Comptroller of the Currency to operate a banking business.

(23) *On-base.* Refers to physical presence on a domestic or overseas DoD installation.

(24) *Operating agreement.* A mutual agreement between the installation commander and the on-base financial institution to document their relationships.

(25) *Overseas DoD installation.* A military installation (or community) located outside the states of the United States, the District of Columbia, Guam or the Commonwealth of Puerto Rico.

(26) *Part-time MBF.* A MBF that operates fewer than 5 days a week exclusive of additional payday service. When only payday service is provided, the MBF may be termed a "payday service facility."

(27) *Regulatory Agency.* Includes the Office of the Comptroller of the Currency, Department of the Treasury; the Federal Deposit Insurance Corporation; the Board of Governors of the Federal Reserve System; the respective Federal Reserve Banks; the National Credit Union Administration; Office of Thrift Supervision; the various state agencies and commissions that oversee financial institutions; and, for military banking facilities (MBFs), the Fiscal Assistant Secretary of the Treasury (or designee).

(28) *State bank.* An institution organized and chartered under the laws of one of the states of the United States to operate a banking business within that state.

(29) *Thrift institution.* An institution organized and chartered under federal or state law as a Savings Bank, Savings Association, or Savings and Loan Association.

Subpart B—DoD Directive 1000.11

§ 231.10 Financial institutions on DoD installations.

(a) *Purpose.* This subpart:

(1) Updates policies and responsibilities for financial institutions that serve Department of Defense (DoD) personnel on DoD installations worldwide. Associated procedures are contained in subpart A of this part.

(2) Prescribes consistent arrangements for the provision of services by financial institutions among the DoD Components, and requires that financial institutions operating on DoD installations provide, and are provided, support consistent with the policies stated herein.

(b) *Applicability.* This subpart applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter collectively referred to as "the DoD Components"), and all nonappropriated fund instrumentalities including the Military Exchange Services and morale, welfare and recreation (MWR) activities.

(c) *Definitions.* Terms used in this subpart are set forth in subpart A of this part.

(d) *Policy.* (1) The following pertains to financial institutions on DoD installations:

(i) Except where they already may exist as of May 1, 2000, no more than one banking institution and one credit union shall be permitted to operate on a DoD installation.

(ii) Upon the request of an installation commander and with the approval of the Secretary of the Military Department concerned (or designee), duly chartered financial institutions may be authorized to provide financial services on DoD installations to enhance the morale and welfare of DoD personnel and facilitate the administration of public and quasi-public monies. Arrangement for the provision of such services shall be in accordance with this subpart and the applicable provisions of subpart A of this part.

(iii) Financial institutions or branches thereof, shall be established on DoD installations only after approval by the Secretary of the Military Department concerned (or designee) and the appropriate regulatory agency.

(A) Except in limited situations overseas (see paragraph (d)(2)(ii)(C) of this section), only banking institutions insured by the Federal Deposit Insurance Corporation and credit unions insured by the National Credit Union Share Insurance Fund or by another insurance organization specifically qualified by the Secretary of the Treasury, shall operate on DoD installations. These financial institutions may either be State or federally chartered; however, U.S. credit unions operated overseas shall be federally insured.

(B) Military banking facilities (MBFs) shall be established on DoD installations only when a demonstrated and justified need cannot be met through other means. An MBF is a financial institution that is established by the Department of the Treasury under statutory authority that is separate from State or Federal laws that govern commercial banking. Section 265 of title 12, United States Code contains the provisions for the Department of the Treasury to establish MBFs. Normally, MBFs shall be authorized only at overseas locations. This form of financial institution may be considered for use at domestic DoD installations only when the cognizant DoD Component has been unable to obtain, through normal means, financial services from a State or federally chartered financial institution authorized to operate in the State in which the installation is located. In times of mobilization, it may become necessary to designate additional MBFs as an emergency measure. The Director, Defense Finance and Accounting Service (DFAS) may recommend the designation of MBFs to the Department of the Treasury.

(C) Retail banking operations shall not be performed by any DoD Component. Solicitations for such services shall be issued, or proposals accepted, only in accordance with the policies identified in this subpart. The DoD Components shall rely on commercially available sources in accordance with DoD Directive 4100.15.[14]

(iv) Installation commanders shall not seek the provision of financial services from any entity other than the on-base banking office or credit union. The Director, DFAS, with the concurrence of the Under Secretary of Defense (Comptroller) (USD(C)), may approve exceptions to this policy.

(v) Financial institutions authorized to locate on DoD installations shall be provided logistic support as set forth in subpart A of this part.

[14] See footnote 1 to § 231.1(a).

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(vi) Military disbursing offices, nonappropriated fund instrumentalities (including MWR activities and the Military Exchange Services) and other DoD Component activities requiring financial services shall use on-base financial institutions to the maximum extent feasible.

(vii) The Department encourages the delivery of retail financial services on DoD installations via nationally networked automated teller machines (ATMs).

(A) ATMs are considered electronic banking services and, as such, shall be provided only by financial institutions that are chartered and insured in accordance with the provisions of paragraph (d)(1)(iii) of this section.

(B) Proposals by the installation commander to install ATMs from other than on-base financial institutions shall comply with the provisions of paragraph (d)(1)(iv) of this section.

(viii) Expansion of financial services (to include in-store banking) requiring the outgrant of additional space or logistical support shall be approved by the installation commander. Any DoD activity or financial institution seeking to expand financial services shall coordinate such requests with the installation bank/credit union liaison officer prior to the commander's consideration.

(ix) The installation commander shall ensure, to the maximum extent feasible, that all financial institutions operating on that installation are given the opportunity to participate in pilot programs to demonstrate new financial-related technology or establish new business lines (e.g., in-store banking) where a determination has been made by the respective DoD Component that the offering of such services is warranted.

(x) The installation commander shall approve requests for termination of financial services that are substantiated by sufficient evidence and forwarded to the Secretary of the Military Department concerned (or designee). The Secretary of the Military Department (or designee) shall coordinate such requests with the USD(C), through the Director, DFAS, before notification to the appropriate regulatory agency.

(xi) Additional guidance pertaining to financial services is set forth in subpart A of this part.

(2) The following additional provisions pertain to only to financial institutions on overseas DoD installations:

(i) The extension of services by MBFs and credit unions overseas shall be consistent with the policies stated herein and with the applicable status of forces agreements, other intergovernmental agreements, or host-country law.

(ii) Financial services at overseas DoD installations may be provided by:

(A) Domestic on-base credit unions operating overseas under a geographic franchise and, where applicable, as authorized by the pertinent status of forces agreements, other intergovernmental agreements, or host-country law.

(B) MBFs operated under and authorized by the pertinent status of forces agreement, other intergovernmental agreement, or host-country law.

(C) Domestic and foreign banks located on overseas DoD installations that are:

(*1*) Chartered to provide financial services in that country, and

(*2*) A party to a formal operating agreement with the installation commander to provide such services, and

(*3*) Identified, where applicable, in the status of forces agreements, other intergovernmental agreements, or host-country law.

(iii) In countries served by MBFs operated under contract, nonappropriated fund instrumentalities and on-base credit unions that desire, and are authorized, to provide accommodation exchange services shall acquire foreign currency from the MBF at the MBF accommodation rate; and shall sell such foreign currency at a rate of exchange that is no more favorable to the customer than the customer rate available at the MBF.

(e) *Responsibilities.* (1) The Under Secretary of Defense (Comptroller) (USD(C)) shall develop policies governing establishment, operation, and termination of financial institutions on DoD installations and take final action on requests for exceptions to this subpart.

(2) The Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)) shall monitor policies and procedures governing logistical support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(3) The Under Secretary of Defense (Personnel and Readiness) (USD(P&R)) shall advise the USD(C) on all aspects of on-base financial institution services that affect the morale and welfare of DoD personnel.

(4) DoD Component responsibilities pertaining to this subpart are set forth in subpart A of this part.

Subpart C—Guidelines for Application of the Privacy Act to Financial Institution Operations

§ 231.11 Guidelines.

(a) The following guidelines govern the application of DoD Directive 5400.11 [15] to those financial institutions that operate under this part:

(1) Financial institutions and their branches and facilities operating on DoD military installations do not fall within the purview of 5 U.S.C. 552 *et seq.*

(i) These financial institutions do not fit the definition of "agency" to which the Privacy Act applies, that is, any executive department, Military Department, government corporation, government-controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or an independent regulatory agency (5 U.S.C. 552(e) and 552a(a)(1)).

(ii) These financial institutions are not "government contractors" within the meaning of 5 U.S.C. 552a(o), as they do not operate a system of records on behalf of an agency to accomplish an agency function. According to the Office of Management and Budget Privacy Act Guidelines, the provision relating to government contractors applies only to systems of records actually taking the place of a federal system which, but for the contract, would have been performed by an agency and covered by the Privacy Act. Clearly, the subject institutions do not meet these criteria.

(iii) Since the Act does not apply to them, these financial institutions are not required to comply with 5 U.S.C. 552a(e)(3) in obtaining and making use of personal information in their relationships with personnel authorized to use such institutions. Thus, these institutions are not required to inform individuals from whom information is requested of the authority for its solicitation, the principal purpose for which it is intended to be used, the routine uses that may be made of it, or the effects of not providing the information. There also is no requirement to post information of this nature within on-base banking and credit union offices.

(2) The financial institutions concerned hold the same position and relationship to their account holders, members, and to the government as they did before enactment of OMB Circular A–130. Within their usual business relationships, they still are responsible for safeguarding the information provided by their account holders or members and for obtaining only such

[15] See footnote 1 to § 231.1(a).

information as is reasonable and necessary to conduct business. This includes credit information and proper identification, which may include social security number, as a precondition for the cashing of checks.

(3) Financial institutions may incorporate the following conditions of disclosure of personal identification in all contracts, including loan agreements, account signature cards, certificates of deposit agreements, and any other agreements signed by their account holders or members:

I hereby authorize the Department of Defense and its various Components to verify my social security number or other identifier and disclose my home address to authorized (name of financial institution) officials so that they may contact me in connection with my business with (name of financial institution). All information furnished will be used solely in connection with my financial relationship with (name of financial institution).

(ii) When the financial institution presents such signed authorizations, the receiving military command or installation shall provide the appropriate information.

(4) Even though an agreement described in paragraph (a)(3) of this section has not been obtained, the Department of Defense may provide these financial institutions with salary information and, when pertinent, the length or type of civilian or military appointment, consistent with DoD Directives 5400.11 and 5400.7.[16] Some examples of personal information pertaining to DoD personnel that normally can be released without creating an unwarranted invasion of personal privacy are name, rank, date of rank, salary, present and past duty assignments, future assignments that have been finalized, office phone number, source of commission, and promotion sequence number.

(5) When DoD personnel with financial obligations are reassigned and fail to inform the financial institution of their whereabouts, they should be located by contacting the individual's last known commander or supervisor at the official position or duty station within that particular DoD Component. That commander or supervisor either shall furnish the individual's new official duty location address to the financial institution, or shall forward, through official channels, any correspondence received pertaining thereto to the individual's new commander or supervisor for appropriate assistance and response. Correspondence addressed to the individual concerned at his or her last official place of business or duty station shall be forwarded as provided by postal regulations to the new location. Once an individual's affiliation with the Department of Defense is terminated through separation or retirement, however, the Department's ability to render locator assistance (i.e., disclose a home address) is severely curtailed unless the public interest dictates disclosure of the last known home address. The Department may, at its discretion, forward correspondence to the individual's last known home address. The Department may not act as an intermediary for private matters concerning former DoD personnel who are no longer affiliated with the Department.

(b) Questions concerning this guidance should be forwarded through channels to the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), The Pentagon, Washington, DC 20301–1100.

[16] See footnote 1 to 231.1(a).

Appendix A to Part 231—Sample Operating Agreement

Sample Operating Agreement Between Military Installations and Financial Institutions

Note: The following operating agreement template identifies general arrangement and content. Content of the actual operating agreement may vary according to the circumstances of each installation.

Operating Agreement Between (Name of Installation), (State or Country Installation Located) and (Name of Financial Institution).

This Agreement is made and entered into this day by and between the installation commander of (name of installation) in his or her official capacity as installation commander, hereinafter referred to as the "commander" and the (name of financial institution), having its principal office at (location of home office) hereinafter referred to as the "financial institution," together hereinafter referred to as "the parties." Whereas the commander and the financial institution enter into this Operating Agreement upon the mutual consideration of the promises, covenants, and agreements hereinafter contained.

1. The parties understand and agree that this Agreement shall in no way modify, change, or alter the terms and conditions of Lease Number (number of lease) covering the use of real property described therein, and this Agreement shall continue, subject to the termination provisions herein-after set forth, during the terms of said lease and any extensions thereof. In the case of a banking institution operating a military banking facility (MBF) overseas, this agreement will not change the conditions of the contract between the banking institution and the Department of Defense.

2. The financial institution agrees to operate a (federally or state) chartered office on-base in accordance with the policies and procedures set forth in DoD Directive 1000.11, and Volume 5, Chapter 34, of the DoD 7000.14–R (as codified in the Code of Federal Regulations (CFR) at 32 CFR parts 230 and 231, respectively); and, in addition for the Overseas Military Banking Program (OMBP), the policies and procedures set forth in the applicable DoD contract. The hours of operations shall be between (hour office opens) and (hour office closes), and on the following days (weekdays office open), except on government holidays when the financial institution may be closed. The Program Office for the OMBP shall notify the commander of any changes to the DoD contract.

3. The financial institution shall provide the following services:

a. *Services for Individuals.*

(1) Demand (checking) account services.

(2) Cashing personal checks and government checks for accountholders.

(3) Maintaining savings accounts and (any other interestbearing accounts).

(4) Selling official checks, money orders, and traveler's checks.

(5) Selling and redeeming United States savings bonds.

(6) Providing direct deposit service.

(7) Loan services.

(8) Electronic banking (i.e., automated teller machines, internet banking).

b. *Services for disbursing officers.*

(1) Furnishing cash (if the financial institution's terms for doing so is consistent with sound management practices).

(2) Accepting deposits for credit to the Treasury General Account (where the financial institution has entered into an agreement with the Department of the Treasury).

c. *Services for nonappropriated fund instrumentalities and private organizations.*

(1) Demand (checking) account services, including wire transfers.

(2) Savings accounts and nonnegotiable certificates of deposit or other interestbearing accounts offered by the banking institution.

(3) Currency and coin for change.

4. Service charges shall be as follows:

a. *Service for individuals.*

(1) No fees shall be charged to individuals for the services listed in subparagraphs 3.a.(2), and 3.a.(5), above, except for subparagraph 3.a.(2), wherein checks drawn on other financial institutions may be treated in accordance with the financial institution's established policy. Any charge to cash a government check shall not exceed that typically charged by financial institutions in the vicinity of the installation. Fees assessed to accountholders and nonaccountholders for use of automated teller machines shall be the customary service charges of the financial institution or those negotiated for base personnel per the attached schedule.

(2) Checking and savings accounts. Fees for individual checking and savings accounts shall be the customary service charges of the financial institution or those negotiated for base personnel per the attached schedule.

(3) Sale of official checks, money orders, traveler's checks and other types of financial paper. Charges for these services shall be the customary charges of the financial institution operating the on-base office.

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b. *Service for Disbursing Officers.* No charge shall be made for the services listed in subparagraph 3.b.(2), above. Compensation to the financial institution shall be per its separate agreement with the Department of the Treasury. Charges, if any, for the services stated in subparagraph 3.b.(1) shall be as locally negotiated with the financial institution.

c. *Nonappropriated Fund Instrumentolities and Private Organizations.* State the charges or refer to a schedule of charges for funds and organizations that do not participate in a central banking program. For those activities participating in a central banking program, determine the compensation to the financial institution by account analysis.

5. It is agreed that the financial institution shall:

a. Notify the commander or designated representative of any proposed changes to the attached schedule of fees and services at least 30 days prior to implementation.

b. Follow the requirements in Volume 5, Chapter 34, of DoD 7000.14–R, as codified in the *Code of Federal Regulations* (CFR), and any changes thereto.

c. Comply with Department of the Treasury requirements for establishment and operation of a Treasury General Account where the financial institution agrees to act as a depository for government funds.

d. Absolve the (Military Service) and its representatives of responsibility or liability for the financial operation of the financial institution; and for any loss (including losses due to criminal activity), expenses, or claims for damages arising from financial institution operations.

e. Indemnify, and hold harmless the United States from (and against) any loss, expense, claim, or demand, including attorney fees, court costs, and costs of litigation, to which the government may be subjected as a result of death, loss, destruction, or damage in connection with the use and occupancy of (Military Service) premises occasioned in whole or in part by officers, agents or employees of the financial institution operating an office of the financial institution.

f. Favorably respond, whenever feasible, to reasonable local command requests for lectures and printed materials to support consumer credit education programs, financial management program and newcomer's briefings.

g. Prominently post in the lobby of the financial institution the name, duty telephone number of the (Bank or Credit Union) Liaison Officer.

h. Accept the government travel card in all on-base ATMs operated by the financial institution.

i. Abide by the installation fire protection program, including immediate correction of fire hazards noted by the installation fire inspector during periodic fire prevention inspections.

6. The commander shall provide the following space and support:

a. Space requirements for financial institution operations shall be administered in accordance with the existing outgrant (i.e., lease, permit or license). (Show Number of Outgrant).

b. Utilities (i.e., electricity, natural gas or fuel oil, water and sewage), heating and air conditioning, intrastation telephone service, and custodial and janitorial services to include garbage disposal and outdoor maintenance (such as grass cutting and snow removal) on a reimbursable basis.

c. DoD housing and minor dependent education in overseas locations for military banking facility (MBF) and credit union personnel in accordance with §§ 231.6(c)(1)(i)(C), 231.6(c)(1)(D), 231.8(c)(2) and 231.8(c)(3).

7. Termination of this Agreement shall be consistent with the termination provision of the real property lease and subpart A. The Secretary of the (Military Department) shall have the right to terminate this Agreement at any time. Any termination of the right of the financial institution to operate on the installation shall render this Agreement terminated without any applicable action by the commander.

8. Any provision of this Agreement that is contrary to or violates any laws, rules, or regulations of the United States, its agencies, or the state of (state in which the financial institution is located) that apply on federal installations shall be void and have no force or effect; however, both parties to this Agreement agree to notify the other party promptly of any known or suspected continuing violation of such laws, rules, or regulations.

9. So long as this Agreement remains in effect, it shall be reviewed jointly by the commander and the financial institution at least once every 5 years to ensure compatibility with current DoD issuances and to determine if any changes are required to the Agreement.

In witness whereof, the commander, and the financial institution, by their duly authorized office, have hereunto set their hands this day of (month, day, year).

Financial Institution Official

Installation Commander

Appendix B to Part 231—In-Store Banking

A. *Selection Process.* The purpose of this guidance is to assure an impartial and thorough process to select the best on-base financial institution to provide in-store banking services when such services are desired and approved by the installation commander.

1. Consistent with DoD Component delegation, the final decision to solicit for an in-store banking office rests with the installation commander.

2. The DoD Component seeking in-store banking (e.g., in buildings operated by the Defense Commissary Agency, Military Exchange Services and MWR activities) shall draft the solicitation letter.

3. Close coordination among all cognizant DoD organizations is essential throughout the selection process.

B. *Specific Procedures*

1. The need for in-store banking service may be identified from either:

a. An unsolicited proposal from an on-base financial institution,

b. A DoD Component's request, or

c. An installation commander's request.

2. The cognizant installation commander (or designee) is responsible for assessing the environment and authorizing the Bank/Credit Union Liaison Officer(s) to pursue the acquisition of in-store banking services. If no authorization is given, no further action is required.

3. The cognizant installation commander shall determine whether a solicitation is required. (A solicitation shall be required whenever there are two or more financial institutions on a DoD installation.) If no solicitation is required, then the Bank/Credit Union Liaison Officer shall work directly with the on-base financial institution to obtain the requested services. Where there is neither a banking office nor an on-base credit union, use the solicitation process outlined in §231.5(c) of this chapter, as supplemented by the provisions outlined in paragraph A, above.

4. The solicitation letter shall identify the financial services being requested and classify these services as either mandatory or optional. In addition, the solicitation letter shall highlight any services that will be weighed as more important than others during the evaluation of the proposals. Any space consideration and terms of the proposed agreement also shall be identified in the letter.

5. The installation commander (or designee) formally shall notify the selected financial institution and request that institution to coordinate with the proper activity to begin any construction, modifications or renovations necessary to open the in-store banking office. The cognizant facility management personnel shall begin the process of obtaining the necessary outgrant instruments. Concurrently, the requesting DoD Component representative and the financial institution representative shall draft the appropriate amendment to the operating agreement. The amendment should contain provisions regarding:

a. The roles and responsibilities of all parties involved.

b. The financial services to be provided, and

c. The logistical support arrangements to include custodial services and security provisions. The amendment should be coordinated with the Bank/Credit Union Liaison Officer(s) prior to forwarding that document to the installation commander for signature. The amendment shall be signed by the installation commander (or designee) and the appropriate financial institution official with a copy furnished to the Secretary of the Military Department concerned (or designee) and the Director, DFAS (or designee).

Appendix C to Part 231—Sample Certificate of Compliance for Credit Unions Certificate of Compliance

I, (name), Chairman of the Board of Directors or President of the (credit union), located at (place), certify that this credit union complies with the requirements of section 170 of the Federal Credit Union Act (12 U.S.C 1770), for the allotment of space in federal buildings without charge for rent or services. The provision of no-cost office space is limited to credit unions if at least 95 percent of the membership to be served by the allotment of space is composed of individuals who are, or who were at the time of admission into the credit union, military personnel or federal employees, or members of their families.

(Date)

(Name)
(Chairman of the Board of Directors or the President)

Note: The Certificate of Compliance shall be written on credit union letterhead.

Dated: August 29, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–22173 Filed 9–6–01; 8:45 am]

BILLING CODE 5001–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD011/108–3056a; FRL–7040–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to the Control of Iron and Steel Production Installations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions consist of amendments to the applicable test methods for use at iron and steel facilities. The revisions also establish a visible emission standard for Basic Oxygen Furnace (BOF) Shops at integrated steel mills. Finally the revisions remove certain obsolete requirements related to coke ovens and hearth furnaces. These SIP revisions were submitted by the Maryland Department of the Environment (MDE) on April 2, 1992 and October 10, 2000. EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on November 6, 2001 without further notice, unless EPA receives adverse written comment by October 9, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, or by e-mail at *knapp.ruth@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us" or "our" are used we mean EPA.

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I. What Is EPA Approving?

We are approving as a SIP revision the use of the stack testing methods for particulates and sulfur oxides, and the test methods for visible emission tests contained in Supplement 3 of the Maryland document Technical Memorandum 91–01 Test Methods and Equipment Specifications for Stationary Sources (TM–91) for use at iron and steel facilities in Maryland. This reference can be found in COMAR 26.11.10.06 (formerly COMAR 26.11.10.07). COMAR 26.11.01 General Administrative Provisions is also being revised to refer to TM–91. TM–91 is incorporated by reference in COMAR 26.11.01.04C and this reference may now refer to Supplement 3 of TM–91 which contains the new visible emissions test method for the BOF shop. In addition we are approving as a SIP revision a visible emission standard for basic oxygen furnace shops (BOF) and the removal of obsolete regulations regarding hearth shops and coke ovens in COMAR 26.11.10 Control of Iron and Steel Production Installations.

II. What New Stack Test Methods Will Apply to These Iron and Steel Installations?

The stack test methods in the Air Management Administration Technical Memorandum: Stack Test Methods for Stationary Sources (June 1983) are being replaced by the Federally enforceable updated methods found in TM–91. These Federally enforceable methods are Method 5 for particulates, and Method 8 for sulfur oxides as found in 40 CFR part 60, appendix A.

III. What Visible Emission Test Methods Are Going To Apply to Iron and Steel Installations?

Several of the visible emission test methods that currently apply to these facilities will continue to apply. The following methods found in AMA–TM 81–04 Procedures for Observing and Evaluating Visible Emissions from Stationary Sources (the current SIP approved visible test method document) are also found in TM–91: Method 9 Determination of Visible Emissions from Stationary Sources; and Methods 9H Determination of the Opacity of Visible Fugitive Emissions from the "G", "H", "J" and "K" Blast Furnace Casthouses; Method 9I Determination of the Opacity of Visible Fugitive Emissions from the "L" Blast Furnace Casthouses; and Method 9J Determination of Opacity of Visible Fugitive Emissions from the No. 7 Sinter Plant. These methods are contained in Supplement 3 of TM 91–01 with the following identification: Method 1004, Methods 1004 F–H respectively. They have essentially been included in TM–91 without substantive changes. However Supplement 3 of TM–91 include one new method, Method 1004I that has not previously been included in the State Implementation Plan. Method 1004I was specifically developed to be used in conjunction with the opacity standard developed for BOF shops and currently only applies to BOF shops at Bethlehem Steel's Sparrow Point facility in Baltimore. The method varies somewhat from Method 9 found in 40 CFR part 60, appendix A since Method 9 is not directly applicable to fugitive emissions. This particular method was agreed to as part of a consent agreement between EPA, MDE and Bethlehem Steel.

IV. What Is the Visible Emission Limit for the BOF Shop?

According to the SIP revision, visible emissions cannot be greater than 15

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percent opacity from the basic oxygen furnace shop roof monitor based on a three observation rolling arithmetic average of the opacity records recorded on each of three (3) calendar days. One exceedance of the 15 percent standard during a calendar year is allowed. However, all further exceedances are violations of the standard.

V. How Often Will Compliance With the Opacity Standard for the BOF Shop Be Determined?

At a minimum, visible emission observations shall be made weekly on three different calendar days during the week.

VI. What Regulations Are Being Removed Because They Are Obsolete?

Regulations pertaining to hearth shops and coke ovens are being removed from COMAR 26.11.10. Coke oven regulations were only applicable to the Bethlehem Steel facility at Sparrows Point. As of March 17, 1999, all coke ovens were being demolished and there are no plans to produce coke at this facility. If new coke ovens are constructed, they would have to comply with Maximum Achievable Control Technology (MACT) requirements and New Source Review (NSR) requirements. Maryland retained some coke oven regulations related to pushing emissions and limiting the sulfur content of coke oven gas pending promulgation of future MACT standards. The limitation on sulfur in coke oven gas that remains in the SIP is technically a relaxation since it allows the use of coke oven gas with a concentration of 1 percent sulfur in the gas instead of 0.3 percent sulfur. Based on the old regulations which are being removed, an old existing facility had to meet the limit of 1 percent sulfur while any new coke oven capacity from a modification or construction of an oven needed to meet the 0.3 percent sulfur limit.

The 1 percent limit that remains is therefore less restrictive. However, as mentioned above there are no operating coke ovens in the state, and it is highly unlikely that any new ovens will be built. If new coke ovens are built, they will need to comply with more recent regulations such as MACT and NSR. NSR requires that new sources demonstrate that good air quality will be maintained. For all practical purposes, this change regarding sulfur in coke oven gas and removal of other coke oven regulations is unlikely to result in any adverse environmental effects. Regarding the open hearth furnace regulations, the only affected facilities are located at the Sparrows Point facility. These furnaces have not operated since 1989 and the company requested that their registration be deleted.

VII. What Are the Environmental Effects of This Action?

By establishing a visible emissions limit for the BOF shop these fugitive particulate emissions are now limited and the opacity standard provides more protection for the environment. Although some of the regulations regarding coke ovens and open hearth furnaces are being removed or modified, this will have no practical effect on the environment since these facilities either do not exist or are officially no longer operating. If new facilities of these types were to be constructed or to restart operations, they would have to comply with more recent environmental regulations of MACT and NSR.

VIII. EPA's Rulemaking Action

We are approving revisions to the Maryland SIP submitted on April 2, 1992 and October 10, 2000. The revisions allow for the use of Supplement 3 of TM–91 for iron and steel facilities, establish an opacity standard for BOF shops, and remove obsolete regulations pertaining to coke ovens and open hearth furnaces from COMAR 26.11.10. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comment. However, in a separate document in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on November 6, 2001 without further notice unless we receive adverse comment by October 9, 2001. Should we receive such comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IX. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action regarding changes to Maryland's control of iron and steel production installations may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 10, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(153) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(153) Revisions to the Maryland State Implementation Plan submitted on April 2, 1992 and October 10, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter dated April 2, 1992 from the Maryland Department of the Environment transmitting revisions to the testing and observation procedures for iron and steel production operations

(B) The following revised Maryland provisions, effective February 17, 1992.

(*1*) Revised COMAR 26.11.10.07.

(*2*) Technical Memorandum 91–01, Supplement 1—Appendix A, Test Method 5 and Method 8.

(C) Letter dated October 10, 2000 from the Maryland Department of the Environment transmitting revisions to regulations and technical memoranda governing control of iron and steel production operations.

(D) The following revised Maryland provisions, effective November 2, 1998.

(*1*) Revisions to COMAR 26.11.01.04C(2).

(*2*) Revisions to the following provisions of COMAR 26.11.10: Paragraphs .02A., .02B(2), .02B(3), .03A(2)(a) through (c), .03A(2)(e), .03B [introductory paragraph], .03B(5) [formerly cited as .03B(6)], .04B(2) introductory paragraph [combined with provision formerly cited as .04B(2)(a)], .04B(2)(c)(i) and .04B(2)(c)(ii) [formerly cited as .04B(2)(e)(i) and .04B(2)(e)(ii) respectively], .04B(2)(f), .04B(3) through(5), and.05.

(*3*) Removal of the following provisions: COMAR 26.11.10.01B(1) [existing provision .01B(2) is renumbered as .01B(1)], .03B(1) [existing provisions .03B(2) through(5) are renumbered as .03B(1) through (4)], .03B(7), .03B(8), .03C, .03D, .04A(2) and .04A(3) [existing provision .04A(1) is renumbered as .04A], .04B(2)(b), and .04B(2)(h) [existing provisions .04B(2)(c) through (g) and (i) are renumbered as .04B(2)(a) through (f)].

(*4*) Addition of COMAR 26.11.10.01B(2) and new .03C.

(*5*) Technical Memorandum 91–01, Supplement 3—Test Methods 1004, 1004F, 1004G, 1004H, and 1004I.

(E) Revisions to COMAR 26.11.10.03C(1) [formerly cited as .03C], and the addition of Paragraphs .03C(2) and .03C(3); effective October 2, 2000.

(ii) Additional Materials—Remainder of the state submittals pertaining to the revisions listed in paragraph (c)(153) (i) of this section.

[FR Doc. 01–22366 Filed 9–6–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301160; FRL–6797–3]

RIN 2070–AB78

Fluazinam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of fluazinam in or on peanuts and potatoes. ISK Biosciences Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 7, 2001. Objections and requests for hearings, identified by docket control number OPP–301160, must be received by EPA on or before November 6, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301160 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide

Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; and e-mail address: *giles-parker.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at *http://www.epa.gov/.* To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm.* A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301160. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 6, 2000 (65 FR 76253) (FRL–6573–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by ISK Biosciences Corporation, 5970 Heisley Road, Suite 200, Mentor, Ohio, 44060. This notice included a summary of the petition prepared by ISK Biosciences Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the fungicide fluazinam, 3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine, in or on peanuts and potatoes at 0.02 part per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of fluazinam on peanuts and potatoes at 0.02 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fluazinam are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—TOXICOLOGICAL PROFILE OF FLUAZINAM TECHNICAL

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rats	NOAEL: Males = 3.8 mg/kg/day; Females = 4.3 mg/kg/day

TABLE 1.—TOXICOLOGICAL PROFILE OF FLUAZINAM TECHNICAL—Continued

Guideline No.	Study Type	Results
		LOAEL Males = 38 mg/kg/day; Females = 44 mg/kg/day based on increased liver weights and liver histopathology in males, and increased lung and uterus weights in females.
870.3150	90–Day oral toxicity dogs	NOAEL = 10 mg/kg/day LOAEL = 100 mg/kg/day based on retinal effects, increased relative liver weight, liver histopathology and possible increased serum alkaline phosphatase in females and possible marginal vacuolation of the cerebral white matter (equivocal)
870.3200	21–Day dermal toxicity rats	Systemic NOAEL = 10 mg/kg/day LOAEL = 100 mg/kg/day based on increased AST and cholesterol levels in clinical chemistry determinations (males) Dermal NOAEL = not identified LOAEL = 10 mg/kg/day based on erythema, acanthosis, and dermatitis
870.3250	90–Day dermal toxicity	Not Available
870.3465	90–Day inhalation toxicity	Not Available
870.3700	Prenatal developmental toxicity rats	Maternal NOAEL = 50 mg/kg/day LOAEL = 250 mg/kg/day based on decreased body weight gain and food consumption and increased water consumption and urogenital staining Developmental NOAEL = 50 mg/kg/day LOAEL = 250 mg/kg/day based on decreased fetal body weights and placental weights, increased facial/cleft palates, diaphragmatic hernia, and delayed ossification in several bone types, greenish amniotic fluid and possible increased late resorptions and postimplantation loss
870.3700	Prenatal developmental toxicity rabbits	Maternal NOAEL = 4 mg/kg/day LOAEL = 7 mg/kg/day based on decreased food consumption and increased liver histopathology. Developmental NOAEL = 7 mg/kg/day LOAEL = 12 mg/kg/day based on an increase in total litter resorptions and possible fetal skeletal abnormalities
870.3700	Prenatal developmental toxicity rabbits	Maternal NOAEL = 3 mg/kg/day LOAEL = not identified (>3 mg/kg/day) Developmental NOAEL = 3 mg/kg/day LOAEL = not identified (>3 mg/kg/day)
870.3800	Reproduction and fertility effects rats	Parental/Systemic NOAEL = 1.9 mg/kg/day LOAEL = 9.7 mg/kg/day based on liver pathology in F_1 males Reproductive NOAEL = 10.6 mg/kg/day LOAEL = 53.6 mg/kg/day based on decreased number of implantation sites and decreased litter sizes to day 4 postpartum for F_1 females (F_2 litters). Offspring NOAEL = 8.4 mg/kg/day LOAEL = 42.1 mg/kg/day based on reduced F_1 and F_2 pup body weight gains during lactation.
870.4100	Chronic toxicity rats	NOAEL = Males: 1.9 mg/kg/day; Females: 4.9 mg/kg/day LOAEL = Males: 3.9 mg/kg/day; Females: not identified (>4.9 mg/kg/day) based on increased testicular atrophy in males and no effects in females
870.4100	Chronic toxicity dogs	NOAEL = 1 mg/kg/day LOAEL = 10 mg/kg/day based on gastric lymphoid hyperplasia in both sexes and nasal dryness in females
870.4300	Combined chronictoxicity/carcinogenicity rats	NOAEL = Males: 0.38 mg/kg/day; Females: 0.47 mg/kg/day LOAEL = Males: 3.8 mg/kg/day; Females: 4.9 mg/kg/day based on liver toxicity in both sexes, pancreatic exocrine atrophy in females and testicular atrophy in males. Some evidence of carcinogenicity (thyroid gland follicular cell tumors) in male rats, but not in females.
870.4200	Carcinogenicity mice	NOAEL = Males:1.1 mg/kg/day; Females: 1.2 mg/kg/day

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TABLE 1.—TOXICOLOGICAL PROFILE OF FLUAZINAM TECHNICAL—Continued

Guideline No.	Study Type	Results
		LOAEL = Males: 10.7 mg/kg/day; Females: 11.7 mg/kg/day based on increased incidences of brown macrophages in the liver of both sexes, eosinophilic vacuolated hepatocytes in males, and increased liver weight in females Clear evidence of carcinogenicity (hepatocellular tumors) in male mice, but not in females
870.4200	Carcinogenicity mice	NOAEL = Males:<126 mg/kg/day, Females: <162 mg/kg/day LOAEL = Males: 126 mg/kg/day; Females: 162 mg/kg/day based on increased liver weights and liver and brain histopathology in both sexes Equivocal/some evidence of carcinogenicity (hepatocellular tumors) in male mice, but not in females
870.5100	Bacterial reverse mutation assay (Ames test)	Negative with and without S9 up to cytotoxic concentrations.
870.5100	Bacterial reverse mutation assay (Ames test)	Negative with and without S9 up to cytotoxic concentrations.
870.5300	*In vitro* mammalian gene mutation assay	Negative with S9 activation up to 9 µg/ml. Negative without S9 activation up to 0.3 µg/ml. Compound tested to cytotoxic concentrations.
870.5300	*In vitro* mammalian gene mutation assay	Negative with and without S9 activation up to 5 µg/ml. Compound tested to cytotoxic concentrations.
870.5375	*In vitro* mammalian chromosome aberration (CHL cells)	Negative with and without S9 up to cytotoxic concentrations. Cells harvested at 24 and 48 hours in nonactivated studies and at 24 hours in activated studies.
870.5395	Mammalian erythrocyte micronucleus test	Negative at 24 hour sacrifice (500, 1,000, 2,000 mg/kg). Negative at 24, 48, and 72 hour sacrifices (2,000 mg/kg).
870.5550	UDS in primary rat hepatocytes	Negative; however there were several serious study deficiencies: treatment time shorter than recommended, no data supporting the claim of cytotoxicity; data variability for major endpoints.
870.5550	Differential killing/growth inhibition in *B. subtilis*	Negative, however only one replicate plate/dose was used.
870.6200	Acute neurotoxicity screening battery rats	Systemic NOAEL = 50 mg/kg LOAEL = 1,000 mg/kg based on soft stools and decreased motor activity on day of dosing. Neurotoxicity NOAEL = 2,000 mg/kg LOAEL = not identified (>2,000 mg/kg)
870.6200	Subchronic neurotoxicity screening battery rats	Neurotoxicity NOAEL = Males: 233 mg/kg/day; Females: 280 mg/kg/day LOAEL = not identified (Males: >233 mg/kg/day; Females: > 280 mg/kg/day)
870.6300	Developmental neurotoxicity	Not Available
870.7485	Metabolism and pharmacokinetics rats	Only 33–40% of the administered dose was absorbed. Most of the administered dose was recovered in the feces (>89%). Excretion via the urine was minor (<4%). Total biliary radioactivity, however, represented 25–34% of the administered dose, indicating considerable enterohepatic circulation.
870.7600	Dermal penetration	Not Available
Special studies:	4-Week dietary (Range-finding) rats	NOAEL = Males: 5.1 mg/kg/day; Females: 5.3 mg/kg/day LOAEL = Males: 26.4 mg/kg/day; Females: 25.9 mg/kg/day based on decreased body weight gain and food consumption, increased serum phospholipids, increased total cholesterol, increased relative liver weights, and liver histopathology.
	4-Week dietary (Range-finding) mice	NOAEL = Males: 7.6 mg/kg/day; Females: 8.2 mg/kg/day LOAEL = Males: 36 mg/kg/day; Females: 43 mg/kg/day based on decreased body weight gain, increased serum glucose, increased kidney weights.

TABLE 1.—TOXICOLOGICAL PROFILE OF FLUAZINAM TECHNICAL—Continued

Guideline No.	Study Type	Results
	4-Week dietary (Range-finding) mice	NOAEL = not identified (Males; <555 mg/kg/day; Females: <658 mg/kg/day) LOAEL = Males: 555 mg/kg/day; Females: 658 mg/kg/day based on vacuolation of white matter in brain, increased liver weights, histopathology in liver.
	90-Day dietary (Special liver study) rats	NOAEL = not determined (Males: <37.6 mg/kg/day, Females: <44.7 mg/kg/day) LOAEL = Males: 37.6 mg/kg/day, Females: 44.7 mg/kg/day based on increased relative liver weights and liver histopathology.
	11–Week oral toxicity (Special retinal study) dogs	NOAEL/LOAEL not determined.
	7-Day inhalation toxicity rats (Test Material: Frowncide WP (51.9% a.i.))	NOAEL = Males: 1.38 mg/kg/day; Females: 1.49 mg/kg/day LOAEL = Males: 3.97 mg/kg/day; Females: 4.25 mg/kg/day based on increased testes weight (males) and increased liver weight (females).
	Developmental toxicity (range-finding) rats	Maternal and developmental NOAELS and LOAELS were not assigned.
	Eight special mechanistic studies to assess the CNS white matter vacuolation	White matter vacuolation in the CNS of mice, rats, and dogs was found to be due to Impurity-5.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fluazinam used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUAZINAM FOR USE IN HUMAN RISK ASSESSMENTS[1]

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute Dietary females 13-50 years of age	Developmental NOAEL = 7 mg/kg/day; UF = 100; Acute RfD = 0.07 mg/kg/day	FQPA SF = 10; aPAD = acute RfD/FQPA SF = 0.007 mg/kg/day	Developmental toxicity, rabbits. Developmental LOAEL = 12 mg/kg/day based on increased incidence of total litter resorptions and possibly increased incidence of fetal skeletal abnormalities.

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TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUAZINAM FOR USE IN HUMAN RISK ASSESSMENTS[1]—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute Dietary general population including infants and children	NOAEL = 50 mg/kg/day UF = 100; Acute RfD = 0.50 mg/kg/day	FQPA SF = 3; aPAD = acute RfD/FQPA SF = 0.167 mg/kg/day	Acute neurotoxicity, rats. LOAEL = 1,000 mg/kg/day based on decreased motor activity and soft stools on day of dosing.
Chronic Dietary all populations	NOAEL= 1.1 mg/kg/day UF = 100; Chronic RfD = 0.011 mg/kg/day	FQPA SF = 3; cPAD = chronic RfD/FQPA SF = 0.00367 mg/kg/day	Carcinogenicity, mice. LOAEL = 10.7 mg/kg/day based on liver histopathology and increased liver weight.
Cancer (oral, dermal, inhalation)	Suggestive evidence of carcino-genicity, but not sufficient to assess human carcinogenic potential[2]	Quantification of human cancer risk not required.[2]	Increases in thyroid gland follicular cell tumors in male rats; increases in hepatocellular (liver) tumors in male mice.[2]

* The reference to the FQPA Safety Factor refers to any safety factor retained or reduced due to concerns unique to the FQPA.
[1] UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic), RfD = reference dose, LOC = level of concern, MOE = margin of exposure
[2] Cancer Assessment Document - Evaluation of the Carcinogenic Potential of Fluazinam, March 29, 2001, HED Doc. No. 014512.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No tolerances have been established for the residues of fluazinam. Risk assessments were conducted by EPA to assess dietary exposures from fluazinam in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A DEEM acute dietary exposure analysis was performed using tolerance residue levels and 100% CT data for all commodities (Tier 1). The DEEM defaults were used for all processing factors.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A DEEM chronic dietary exposure analysis was performed using tolerance residue levels and 100% CT data for all commodities (Tier 1). The DEEM defaults were used for all processing factors.

iii. *Cancer.* Since fluazinam has been classified as Suggestive evidence of carcinogenicity, but not sufficient to assess human carcinogenic potential, an exposure assessment was not performed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for fluazinam in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of fluazinam.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent of reference dose (%RfD) or percent of adjusted dose (%PAD). Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to fluazinam they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of fluazinam for acute exposures are estimated to be 18.0 parts per billion (ppb) for surface water and 0.10 ppb for ground water. The EECs for chronic exposures are estimated to be 3.15 ppb for surface water and 0.10 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluazinam is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether fluazinam has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fluazinam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluazinam has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—i. In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* Qualitative evidence of increased susceptibility of fetuses to fluazinam was demonstrated in a developmental toxicity study in rats. Increased incidences of facial/palate clefts and other rare deformities in the fetuses were observed in the presence of minimal maternal toxicity. In a developmental toxicity study in rabbits and in a 2-generation reproduction study in rats, neither quantitative nor qualitative evidence of increased susceptibility of fetuses or pups to fluazinam was observed. Because of the neurotoxic lesion observed in the white matter of the brain in mice, dogs and rats and the qualitative evidence of increased susceptibility of rat fetuses to fluazinam, a developmental neurotoxicity study will be required to be submitted to the Agency. Further, because of the lack of a developmental neurotoxicity study and the qualitative evidence of increased susceptibility of rat fetuses to fluazinam, the Food Quality Protection Act (FQPA) safety factor (SF) for protection of infants and children, as required by the FQPA of 1996, will be retained at 10X when assessing acute dietary exposure for "females 13–50 years of age" due to concern for the developing fetus. Additionally, the FQPA SF will be reduced to 3X when assessing exposures for all populations for all exposure durations (acute and chronic) because of uncertainty resulting from lack of a developmental neurotoxicity study.

iii. *Conclusion.* Because of the lack of a developmental neurotoxicity study and the qualitative evidence of increased susceptibility of rat fetuses to fluazinam, the Agency determined that the FQPA safety factor should be retained at 10X when assessing acute dietary exposure for "females 13–50 years of age" since, in addition to the need for a developmental neurotoxicity study, increased susceptibility of rat fetuses was observed following *in utero* exposure in the rat developmental toxicity study resulting in concern for the developing fetus. The Agency also determined that the FQPA safety factor should be reduced to 3X when assessing exposure for "all populations" for all exposure durations (acute and chronic) since there is uncertainty due to the lack of a developmental neurotoxicity study. This study will further characterize the toxicity of fluazinam and may provide endpoints and NOAELs that could be used in risk assessments for any subpopulation/exposure duration.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, the Office of Pesticide Programs (OPP) concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure to fluazinam from food will occupy <1% of the aPAD for the U.S. population, 2% of the aPAD for the

most highly exposed population subgroup, females 13–50 years old. All other population subgroups occupy <1% of the aPAD. In addition, there is potential for acute dietary exposure to fluazinam in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO FLUAZINAM

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. Population	0.17	<1%	18	0.10	5,900
Adult Male 20+ yrs	0.17	<1%	18	0.10	5,900
Adult Female 13ndash;50 yrs	0.007	2%	18	0.10	210
Children 1–6 yr	0.17	<1%	18	0.10	1,700

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fluazinam from food will utilize 8% of the cPAD for the U.S. population and 11% of the cPAD for the most highly exposed population subgroup, females 13–50 years old. There are no residential uses for fluazinam that result in chronic residential exposure to fluazinam. There is potential for chronic dietary exposure to fluazinam in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUAZINAM

Population Subgroup	cPAD mg/kg/day	%cPAD Food	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.0037	8	3.15	0.10	120
Adult Male 13–19 yrs	0.0037	<1	3.15	0.10	130
Adult Female 13–50 yrs	0.0037	11	3.15	0.10	99
Children 1–6 yrs	0.0037	1	3.15	0.10	37

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluazinam is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluazinam is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* In accordance with the EPA Draft Guidelines for Carcinogen Risk Assessment (July, 1999), the Agency classified fluazinam into the category Suggestive evidence of carcinogenicity, but not sufficient to assess human carcinogenic potential based on the following weight-of-the-evidence considerations:

i. There was some evidence in that fluazinam induced an increase in thyroid gland follicular cell tumors in male rats, but not in female rats. In one study in mice, there was clear evidence that an increased incidence of hepatocellular tumors observed in the male mice was treatment-related. In another study in mice, there was equivocal/some evidence that fluazinam may have induced an increase in hepatocellular tumors in the male mice. Increases in hepatocellular tumors observed in the female mice in the latter study were not statistically significant and some occurred at an excessively toxic dose level. The thyroid gland follicular cell tumors of concern were seen only in male rats and the hepatocellular tumors of concern were seen only in male mice.

ii. Fluazinam was negative in mutagenicity assays.

Based on the 1999 draft Agency Cancer Risk Assessment Guidelines, the classification of suggestive evidence of carcinogenicity a dose-response assessment is not indicated (i.e. no Q*, no MOE) therefore, sufficient protection is afforded by the RFD approach so a risk assessment was not performed.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluazinam residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

For fluazinam, the gas chromatography/electron capture detection (GC/ECD) methods are adequate for collecting data on residues of fluazinam per se in/on peanuts and potatoes and have a validated limit of quantitation of 0.01 ppm in/on all associated plant matrices. The method has been adequately radiovalidated, and has undergone a successful ILV trial in conjunction with the time-limited tolerance petition for use on peanuts. The method has been forwarded to the Analytical Chemistry Branch (ACB) for a petition method validation to determine if it is suitable as an enforcement method. ACB has determined that the method is suitable for collecting pesticide residue monitoring data and food tolerance enforcement of fluazinam in/on peanut nutmeat.

This method is currently being validated by the Analytical Chemistry Branch Laboratories, BEAD (7503C), Office of Pesticide Programs. Upon successful completion of the EPA validation and the granting of this registration, the method will be forwarded to FDA for publication in a future revision of the Pesticide Analytical Manual, Vol-II (PAM-II). Prior to publication and upon request, the method will be available prior to the harvest season from the Analytical Chemistry Branch (ACB), BEAD (7503C), Environmental Science Center, 701 Mapes Road, Ft. George C. Meade, MD 20755–5350. Contact Francis D. Griffith, Jr., telephone (410) 305–2905, e-mail: griffith.francis @epa.gov. The analytical standards are also available from the EPA National Pesticide Standard Repository at the same location.

B. International Residue Limits

There are currently no Codex maximum residue levels established for residues of fluazinam on any crop.

C. Conditions

1. *Toxicology.* The toxicological database for fluazinam is adequate at this time to support the requested registration and tolerances according to Subdivision F Guideline requirements and 40 CFR 158.690. The Agency has determined that there is a high degree of confidence in the hazard endpoints and dose-response assessments conducted for this chemical. However, the Agency is requiring that the following additional toxicology studies be performed and submitted within a reasonable period of time in order to more clearly and fully characterize the toxicity of this chemical.

- 870.3465 28-Day inhalation toxicity in rats.
- 870.6300 Developmental neurotoxicity study in rats. Test material to be technical grade fluazinam containing the maximum level of Impurity-5 permitted in the current specification for technical grade fluazinam. The protocol should be submitted to EPA for comment before the start of the study and should include full neurohistopathological examination of dams.
- 870.6200 Subchronic neurotoxicity screening battery in rats (conditional requirement). Based on a consideration of the results in the developmental neurotoxicity study in rats required above (870.6300), the Agency will subsequently recommend whether a repeat of the subchronic neurotoxicity study in rats (870.6200) should also be required to support the registration of fluazinam.

2. *Residue chemistry.* The submitted potato processing studies did not include quantifiable residues in the RAC samples. However, the tests were conducted at only 2.6–2.8X the proposed maximum rate instead of the required 5X rate, the maximum theoretical concentration factor for potatoes. Despite these factors, the Agency has concluded that it is unlikely that residues in processed potatoes will exceed the 0.02 ppm RAC tolerance based on the level of parent compound in the raw tuber being about 0.001 ppm in the plant metabolism study. However, for confirmatory purposes, the Agency is requiring the registrant to submit the following study as a condition of registration:

- 860.1850 Residue Chemistry: Potato processed commodity study at a higher treatment level of 5X).

V. Conclusion

Therefore, the tolerance is established for residues of fluazinam, 3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine, in or on peanuts and potatoes at 0.02 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301160 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 6, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental

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Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301160, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *oppdocket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Policies that have tribal implications is defined in the Executive Order to include regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 9, 2001.

Anne E. Linday,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.574 is added to read as follows:

§ 180.574 Fluazinam; tolerances for residues.

(a) *General.* Tolerances are established for residues of fluazinam, (3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine) in or on the following commodities:

Commodity	Parts per million
Peanuts	0.02
Potatoes	0.02

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 01–22525 Filed 9–6–01; 8:45 am]

BILLING CODE 6560–50–S

NATIONAL SCIENCE FOUNDATION

45 CFR Part 670

Conservation of Antarctic Animals and Plants

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: The National Science Foundation (NSF) is amending its regulations to designate two additional Antarctic Specially Protected Areas (ASPAs) and to correct some typographical errors. These regulations, pursuant to the Antarctic Conservation Act of 1978, as amended, are being revised to reflect recommendations adopted by the Antarctic Treaty parties at the 15th and 21st Antarctic Treaty Consultative Meeting.

DATES: Effective September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Anita Eisenstadt, Office of the General Counsel, at 703–292–8060, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

SUPPLEMENTARY INFORMATION: The Antarctic Conservation Act of 1978, as amended, ("ACA") (16 U.S.C. 2401 *et seq.*) implements the Protocol on Environmental Protection to the Antarctic Treaty ("the Protocol"). Annex II of the Protocol contains provisions for conservation of native Antarctic plants and animals. Annex V contains provisions for the protection of specially designated areas. Section 6 of the ACA, (16 U.S.C. 2405), as amended, directs the Director of the National Science Foundation to issue such regulations as are necessary and appropriate to implement Annexes II and V to the Protocol.

The Antarctic Treaty Parties periodically adopt measures to establish additional specially protected areas. At the 15th Antarctic Treaty Consultative Meeting (ATCM) held in Rio de Janeiro in 1987, the Parties adopted Recommendation XIV–5 that added as a specially protected area the Summit of Mt. Melbourne, North Victoria Land. This site was previously included in the list of specially protected areas in 45 CFR part 670. However, in the 1998 amendments to 45 CFR part 670 [63 FR 50164 (September 21, 1998)], the site was inadvertently omitted from the list. At the 21st ATCM in Christchurch, New Zealand in 1997, the Parties adopted Measure 3 (1997) that added as a specially protected area Botany Bay, Cape Geology, Victoria Land. The rule is being revised to add these two specially protected areas. No public comment is needed because the addition of these two sites merely implements measures adopted at the ATCM.

Finally, these amendments correct typographical errors in the names of several species designated as native birds in § 670.20, and one species designated as a specially protected species in § 670.25.

Determinations

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Management and Budget. This rule involves a foreign affairs function of the United States and is, therefore, exempt from the notice requirements of section 553 of the Administrative Procedures Act and from regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although this rule is exempt from the Regulatory Flexibility Act, it has nonetheless been determined that this rule will not have a significant impact on a substantial number of small businesses. For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), these amendments to the existing regulations do not change the collection of information requirements contained in NSF's existing regulations, which have already have been approved by the Office of Management and Budget (OMB No. 3145–0034). Finally, NSF has reviewed this rule in light of section 2 of Executive Order 12778 and certifies that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order.

List of Subjects in 45 CFR Part 670

Administrative practice and procedure, Antarctica, Exports, Imports, Plants, Reporting and recordkeeping requirements, Wildlife.

Dated: August 29, 2001.

Lawrence Rudolph,

General Counsel, National Science Foundation.

Pursuant to the authority granted by 16 U.S.C. 2405(a)(1), NSF hereby amends 45 CFR part 670 as set forth below:

PART 670—[AMENDED]

1. The authority citation for Part 670 continues to read as follows:

Authority: 16 U.S.C. 2405, as amended.

2. Section 670.20 is revised to read as follows:

§ 670.20 Designation of native birds.

The following are designated native birds:

Albatross

Black-browed—*Diomedea melanophris.*
Gray-headed—*Diomedea chrysostoma.*
Light-mantled sooty—*Phoebetria palpebrata.*
Wandering—*Diomedea exulans.*

Fulmar

Northern Giant—*Macronectes halli.*
Southern—*Fulmarus glacialoides.*
Southern Giant—*Macronectes giganteus.*

Gull

Southern Black-backed—*Larus dominicanus.*

Jaeger

Parasitic—*Stercorarius parasiticus.*
Pomarine—*Stercorarius pomarinsus*

Penguin

Adelie—*Pygoscelis adeliae.*
Chinstrap—*Pygoscelis antarctica.*
Emperor—*Aptenodytes forsteri.*
Gentoo—*Pygoscelis papua.*
King—*Aptenodytes patagonicus.*
Macaroni—*Eudyptes chrysolophus.*
Rockhopper—*Eudyptes crestatus.*

Petrel

Antarctic—*Thalassoica antarctica.*
Black-bellied Storm—*Fregetta tropica.*
Blue—*Halobaena caerulea.*
Gray—*Procellaria cinerea.*
Great-winged—*Pterodroma macroptera.*
Kerguelen—*Pterodroma brevirostris.*
Mottled—*Pterodroma inexpectata.*
Snow—*Pagodroma nivea.*
Soft-plumaged—*Pterodroma mollis.*
South-Georgia Diving—*Pelecanoides georgicus.*

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White-bellied Storm—*Fregetta grallaria.*
White-chinned—*Procellaria aequinoctialis.*
White-headed—*Pterodroma lessoni.*
Wilson's Storm—*Oceanites oceanicus.*

Pigeon

Cape—*Daption capense.*

Pintail

South American Yellow-billed—*Anas georgica spinicauda.*

Prion

Antarctic—*Pachyptila desolata.*
Narrow-billed—*Pachyptila belcheri.*

Shag

Blue-eyed—*Phalacrocorax atriceps.*

Shearwater

Sooty—*Puffinus griseus.*

Skua

Brown—*Catharacta lonnbergi*
South Polar—*Catharacta maccormicki.*

Swallow

Barn—*Hirundo rustica.*

Sheathbill

American—*Chionis alba.*

Tern

Antarctic—*Sterna vittata.*
Arctic—*Sterna paradisaea.*

§ 670.25 [Amended]

3. In § 670.25, remove the word "rossi" and add, in its place, the word "*rossii*".

§ 670.29 [Amended]

4. In § 670.29, add two additional ASPAs at the end of the section as follows:

* * * * *

ASPA 159, Summit of Mt. Melbourne, North Victoria Land.

ASAP 160, Botany Bay, Cape Geology, Victoria Land.

[FR Doc. 01–22533 Filed 9–6–01; 8:45 am]
BILLING CODE 7555–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 010719181–1181–01; I.D. 062501A]

RIN 0648–AP35

Antarctic Marine Living Resources; Harvesting and Dealer Permits, and Catch Documentation

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interpretive rule.

SUMMARY: NMFS issues a rule clarifying NMFS' interpretation of the Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA) which prohibits the import into the United States of *Dissostichus eleginoides* (Patagonian toothfish), *Dissostichus mawsoni*(Antarctic toothfish), and products from such fish harvested in violation of a conservation measure in force with respect to the United States. NMFS interprets this prohibition as applying to Patagonian and Antarctic toothfish and products from such fish, even if such fish or products are accompanied by a validated Dissostichus Catch Document (DCD), if the fish were harvested in violation of a conservation measure in force with respect to the United States. NMFS issues this interpretative rule because of recent requests for permits from U.S. importers wishing to receive toothfish that were harvested in violation of a conservation measure in force with respect to the United States, seized by a foreign law enforcement authority, and accompanied by DCDs validated by the country that seized the fish. The intent of this interpretation is to clarify that under United States law, such fish cannot be imported into the United States.

DATES: This rule is effective September 7, 2001.

ADDRESSES: Copies of the Regulatory Impact Review supporting this action may be obtained from Dean Swanson or Mark Wildman, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dean Swanson or Mark Wildman at 301–713–2276.

SUPPLEMENTARY INFORMATION: The Antarctic fisheries are managed in accordance with the Convention on the Conservation of Antarctic Marine Living Resources (Convention). Under the authority of the AMLRCA, 16 U.S.C. 2431 *et seq.*, NMFS implements conservation measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) through regulations at 50 CFR part 300, subpart G. In accordance with CCAMLR's requirements, the Secretary of the Department of Commerce (Secretary) has implemented a Catch Documentation Scheme (CDS) for Patagonian and Antarctic toothfish, which requires that shipments of such product be accompanied by validated documentation. At CCAMLR's October/November 2000 annual meeting, CCAMLR discussed the difficulties experienced by some Member countries that had seized or confiscated a catch or shipment of Patagonian or Antarctic toothfish and wished to export it to another country. CCAMLR considered a proposal that would have allowed a Member country that had seized toothfish to issue a new "DCD" and sell the fish in the international market. However, there was insufficient support to adopt that proposal, and CCAMLR agreed to discuss the proposal further. Since last November, the United States has received requests for permits from importers wishing to receive illegally harvested toothfish accompanied by DCDs validated by the countries that seized such fish.

The purpose of the AMLRCA is to provide legislative authority for implementation of the Convention. (16 U.S.C. 2431(b)). The AMLRCA states that it is illegal for any person to "ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of any antarctic living marine resource (or part or product thereof) which he knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States . . . ." (16 U.S.C. 2435 (3)). Neither the Convention nor any of CCAMLR's conservation measures currently contains a provision for "cleansing" illegally harvested toothfish. Thus, in light of the explicit statutory prohibition and the lack of international agreements to the contrary, NMFS interprets U.S. law to prohibit the import of illegally harvested, seized fish even if it is accompanied by a validated DCD. The fact that the fish has been seized by a foreign law enforcement authority and that it is accompanied by a DCD issued by the country that seized the fish, does not change the fact that the fish was harvested in violation of a conservation measure. Pursuant to the procedures established to implement section 6 of Executive Order 12866, the Office of Management and Budget has determined that this interpretive rule is not significant.

Dated: August 30, 2001.

John Oliver

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22553 Filed 9–6–01; 8:45 am]
BILLING CODE 3510–22–S

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Proposed Rules

Federal Register
Vol. 66, No. 174
Friday, September 7, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 852

RIN 1901–AA90

Guidelines for Physicians Panel Determinations on Worker Requests for Assistance in Filing for State Workers' Compensation Benefits

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing procedures to implement Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 under which a DOE contractor employee or the employee's estate can seek assistance from the DOE Program Office in filing a claim with the appropriate State workers' compensation system based on an illness or death caused by exposure to a toxic substance during the course of employment at a DOE facility. These procedures deal with how: An individual may submit an application to the Program Office for review and assistance; the Program Office determines whether to submit an application to a physicians panel; physicians panels determine whether the illness or death of a DOE contract employee arose out of and in the course of employment by a DOE contractor and through exposure to a toxic substance at a DOE facility; the Program Office accepts or rejects a determination by a physicians panel; and appeals may be undertaken.

DATES: Submit written comments on or before October 9, 2001 to the address listed under the **ADDRESSES** section. You may present oral views, data, and arguments at the public hearing, which will be held in Washington, DC, at the address listed under the **ADDRESSES** section beginning at 9 a.m. eastern daylight time on September 24, 2001. DOE must receive requests to speak at the public hearing and a copy of your statements no later than 4 p.m., September 14, 2001. For more information concerning public participation in this rulemaking proceeding, see section IV of this notice of proposed rulemaking.

ADDRESSES: Send three (3) copies of written comments and your prepared statements for the public hearing to Ms. Loretta Young, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, Washington, DC 20585, Attention: Physicians Panel Rule.

A public hearing will be held at the following address: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Room 1E–245, Washington, DC.

You may read and copy written comments received by DOE, the public hearing transcript, and any other docket material at the DOE Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, DC 20585 between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. For more information concerning public participation in this rulemaking proceeding, see section IV of this notice of proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Young, telephone: 202–586–2819; fax: 202–586–6010; e-mail: *loretta.young@eh.doe.gov;* address: Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Discussion of Proposed Rule
III. Regulatory Review and Procedural Requirements
A. Review under Executive Order 12866
B. Review under the Regulatory Flexibility Act
C. Review under the Paperwork Reduction Act
D. Review under the National Environmental Policy Act
E. Review under Executive Order 13132
F. Review under Executive Order 12988
G. Review under the Unfunded Mandates Reform Act
H. Review under the Treasury and General Government Appropriations Act, 1999
I. Review under Executive Order 13211
IV. Opportunity for Public Comment
A. Written Comments
B. Public Hearing

I. Introduction

The Energy Employees Occupational Illness Compensation Program Act of 2000 ("Act") (Pub. L. No. 106–398, 42 U.S.C. 7384, *et seq*) establishes a program for compensating covered workers made ill during nuclear weapons production for DOE. Covered workers with certain illnesses, including chronic beryllium disease, radiation-induced cancers, and silicosis, may be eligible for specified benefits under the program. Executive Order 13179 (65 FR 77487, December 7, 2000) assigns the Department of Labor primary responsibility for this program.

While not eligible for Federal compensation under EEOICPA, workers with other illnesses that may be related to workplace toxic exposures may qualify and apply for compensation through their respective State workers' compensation systems. Subtitle D of the Act authorizes the Secretary of Energy to enter into an agreement with each State to provide assistance to a DOE contractor employee in filing a claim under that State's workers' compensation system. After DOE enters into such an agreement with a State, an applicant can submit an application to the Program Office in DOE for assistance in filing a claim with that State's workers' compensation system. If the application comes within the terms and conditions of the relevant State Agreement and contains reasonable evidence that the illness or death of a covered employee may be related to employment at a DOE facility, then DOE must submit the application to a physicians panel established under the Act to determine the validity of the applicant's claim. Under the Act, DOE specifies the number of physicians panels required, the number of physicians per panel, and each panel's jurisdiction, while the Secretary of Health and Human Services appoints the members of the physicians panels. Section 3661(d) of Subtitle D of the Act provides that a physicians panel must make its determination "under guidelines established by the Secretary [of Energy], by regulation." If a physicians panel makes a positive determination and the Program Office accepts it, then the Program Office must assist the applicant in filing a claim with the relevant State's workers' compensation system. In addition, DOE may not contest the claim or any award made regarding the claim and, to the extent permitted by law, may direct a DOE contractor not to contest the claim or award. Furthermore, any costs of contesting the claim or award is not an allowable cost under a DOE contract.

The proposed procedures are consistent with existing DOE Notice 350.6 that sets forth Departmental policy to pay all valid State workers' compensation claims. DOE Notice 350.6 provides for the expeditious validation of claims that meet the criteria for compensation under a State workers' compensation system. The proposed procedures would achieve the same result.

The linkage to the criteria for compensation under a State workers' compensation system is consistent with the structure of the Act. Specifically, Subtitle D of the Act authorizes DOE to assist a worker in filing a claim under the appropriate State workers' compensation system. DOE does not interpret Subtitle D as calling for federalizing the operation of State workers compensation standards. Rather, Subtitle D is intended to ensure that DOE will assist and not hinder the processing of valid claims under a State workers' compensation system.

II. Discussion of Proposed Rule

A. What Is the Purpose of This Proposed Rule?

The proposed rule establishes procedures for implementing Subtitle D of the Act. Proposed section 852.1(a) provides that these regulations address how (1) an individual may submit an application to the Program Office for review and assistance, (2) the Program Office determines whether to submit an application to a physician panel, (3) physicians panels determine whether the illness or death of a DOE contract employee arose out of and in the course of employment by a DOE contractor and through exposure to a toxic substance at a DOE facility, (4) the Program Office accepts or rejects a determination by a physicians panel, and (5) appeals may be undertaken.

B. What Is the Scope of This Proposed Rule?

Proposed section 852.1(b) makes clear that the procedures only cover applications that meet three conditions. First, the application must be based on the illness or death of a DOE contractor employee. Second, the illness or death must be caused by exposure to a toxic substance. And third, the exposure must have occurred during the course of employment at a DOE facility.

Consistent with the statutory emphasis on State Agreements as a precondition for action under Subtitle D of the Act, proposed section 852.1(c) provides that all actions under the procedures must be pursuant to a relevant State Agreement and consistent with its terms and conditions.

C. What Definitions Are Used in This Proposed Rule?

This proposed rule contains definitions of "Act", "Applicant", "DOE", "DOE Contractor Employee", "DOE Facility", "Program Office", "Physicians Panel", "State Agreement", and "Toxic Substance".

D. What Is the Act?

The Act is the Energy Employees Occupational Illness Compensation Program Act of 2000, 42 U.S.C. 7384 *et seq*.

E. Who Is an Applicant?

An applicant is a DOE contractor employee or the employee's estate seeking assistance from the Program Office in filing a claim with the relevant State workers' compensation system.

F. Who Is a DOE Contractor Employee?

Proposed section 852.2 defines a DOE contractor employee to be a "Department of Energy contractor employee" as defined by section 3621(11) of the Act. The statutory definition focuses on employment by a DOE contractor at a DOE facility and establishes one of the subsets of employees eligible for the DOL program. Thus, the term "DOE contractor employee" does not include all those employees eligible for the DOL program. For example, it does not include atomic weapon employees who were not employed by a DOE contractor at a DOE facility. In addition, it does not include Federal employees.

G. What Is a DOE Facility?

Proposed section 852.2 defines "DOE facility" to be a "Department of Energy facility" as defined by section 3621(12) of the Act. DOE has published a list of facilities it considers to be Department of Energy facilities for purposes of the Act. (66 FR 4003, January 17, 2001; revised 66 FR 31218, June 11, 2001). DOE took a broad view of what constitutes a Department of Energy facility in compiling this list and solicits comments as to whether this broad view is appropriate for implementing Subtitle D of the Act.

H. What Is the Program Office?

The Program Office is the DOE Office of Worker Advocacy or any other DOE office subsequently designated by the Secretary of Energy. The Program Office exercises most of the functions of the Secretary of Energy under Subtitle D of the Act.

I. What Is a Physicians Panel?

Physicians panels are appointed by the Secretary of Health and Human Services in response to requests by DOE pursuant to Subtitle D of the Act. Physicians panels provide DOE with impartial and independent determinations as to whether the illness or death of a DOE contractor worker arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility. Physicians panels may be asked to review new applications that have not undergone prior physicians panel review, or to re-examine applications that have already undergone physicians panel review.

J. What Is a State Agreement?

Proposed section 852.2 defines "State Agreement" as an agreement negotiated between DOE and a State that sets forth the terms and conditions for dealing with an application for assistance under Subtitle D of the Act in filing a claim with the State's workers' compensation system. The existence of a State Agreement with a particular State is a condition precedent for any action by the Program Office on an application for assistance in filing a claim with that State's workers compensation system. Once in effect, a State Agreement sets the parameters within which the Program Office can take action with respect to an application.

K. What Provisions Does a State Agreement Contain?

Proposed section 852.6 provides for three standard provisions in State Agreements which are subject to negotiation. First, a State will identify the applicable criteria used to determine the validity of a workers' compensation claim under State law and describe how those criteria are applied in a State worker's compensation proceeding. Second, only those applications that satisfy the identified applicable criteria law will be submitted to a physicians panel. And third, the Program Office will provide assistance to only those applications that meet the identified applicable criteria.

The standard provisions indicate that DOE will rely on State standards for screening applications prior to submission to physicians panels for a causation determination. DOE has considered prescribing Federal standards without regard to State law,

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and proposes not to do so for a variety of reasons. First, the text of the Act does not require DOE to prescribe such standards. Second, in the absence of statutory text and legislative history to the contrary, DOE construes the purpose of the Act to be provision of DOE assistance to contractor employees or their estates to enable them to qualify for compensation under State law. Third, there is nothing in the text of the Act or its legislative history indicating that Congress intended to bypass State law or to provide for affirmative physician panel determinations that may not have any operative impact because of State law. Although the Act provides for DOE to deny reimbursement of contractor litigation expenses in defense of claims for which there are affirmative physician panel determinations, that provision would have no impact in circumstances where the contractor's defense is in the hands of an insurance company. DOE invites comments on its proposal to rely on State standards to screen applications for assistance. DOE also solicits comments as to what other provisions should be included in State Agreements. For example, should a State Agreement contain a provision under which the State would consider the opinion of a physicians panel on medical issues and, if appropriate, delay State proceedings in order to obtain such an opinion?

L. What Is a Toxic Substance?

Proposed section 852.2 defines "toxic substance" as any material that has the potential to cause illness or death because of its radioactive, chemical, or biological nature. This is a relatively broad definition of the term, which could be interpreted to encompass not only toxic chemicals, but also infectious agents and external radiation sources. However, this definition does not include all workplace conditions that might cause illness or death. For example, workplace noise is not considered a toxic substance and thus hearing loss resulting from exposure to workplace noise could not provide a basis for an application for assistance under Subtitle D of the Act. An example of a narrower definition of "toxic substance" would be, "any chemical or compound capable of causing illness as a result of exposure." DOE solicits comments on its definition, including whether "toxic substance" should be defined more precisely.

M. How Does an Individual Obtain and Submit an Application for Review and Assistance?

Proposed section 852.3 defines how an individual obtains and submits an application for review and assistance. An application can be obtained in person from the Program Office, from any Resource Center, and from any DOE-sponsored Former Worker Program. There are currently approximately one dozen Former Worker Programs throughout the U.S. The Former Worker Programs currently offer screening examinations for the detection of occupational illnesses for individuals formerly employed at some but not all DOE facilities. An application can also be obtained by mail or telephone request to the Program Office, or, in a printable format, from the Program Office's web site.

Proposed section 852.3 also describes how an application is submitted. An application can be submitted in person to the Program Office, to any Resource Center, or to any DOE-sponsored Former Worker Program, where staff will be available to answer questions and assist the individual in filling out the application. An application can also be submitted by mail to the Program Office.

Proposed section 852.4 describes the information and materials that the individual must submit as a part of the application for physicians panel review. First, the individual must sign a request for review by a physicians panel of the individual's application for assistance. Additional information requirements flow out of Subtitle D of the Act, which requires that, in order to qualify for physicians panel review, the applicant must submit reasonable evidence that (a) the application was filed by or on behalf of a DOE contractor employee or employees estate; and (b) the illness or death of the employee may have been related to employment at a DOE facility. In order to assure that the Program Office has sufficient information to determine whether an individual meets these eligibility criteria, and in order to provide a physicians panel with sufficient information to make a causation determination on an application, the applicant is also required in proposed section 852.4, to provide (a) a signed medical release, authorizing non-DOE sources of medical information to provide the Program Office with medical records documenting the individual's diagnosis or providing an opinion as to the relationship between the applicant's medical condition and exposure to a toxic substance while employed at a DOE facility; (b) a signed release permitting the Program Office to obtain any records under the control of DOE and relevant to the individual's eligibility for the program or relevant to the physicians panel's adjudication of the application, including employment, exposure and medical records; (c) an employment history, filled out by the individual; and (d) any other information or materials deemed by the Program Office to be relevant to a determination of the individual's eligibility for the review and assistance program, or relevant to adjudication of the application by a physicians panel. As the program is implemented, the Program Office may find that it needs additional information or materials for the processing of an application for review and assistance.

N. How Does the Program Office Decide What Applications To Submit to a Physicians Panel?

Proposed section 852.5 establishes a screening mechanism by which the Program Office determines whether to submit an application to a physicians panel. Specifically, an application must contain adequate information to permit the Program Office to make a reasonable initial determination that the following three conditions are met. First, the application was filed by or on behalf of a DOE contractor employee or employee's estate. Second, the illness or death of the DOE contractor employee may have been related to employment at a DOE facility. And third, the conditions in the relevant State Agreement are or can be satisfied. DOE solicits comment on whether the proposed conditions are appropriate and what, if any, additional conditions should be used.

Proposed section 852.5 provides that the Program Office will screen applications prior to sending them to a physicians panel for a causation determination. Among other things, under the proposed rule, the Program Office may decide not to forward an application to a physicians panel at this stage because the Program Office determines that the application would not satisfy the conditions in the relevant State Agreement, including the applicable criteria used to determine the validity of a workers' compensation claim under State law. Potential criteria would include: (1) Whether the disease or condition is covered under the State workers' compensation system, (2) whether there is a prescribed time period for bringing a claim, and (3) what level and type of evidence is required to support a claim. DOE solicits comment on whether the suggested criteria are appropriate and what, if any, alternative or additional criteria should be used. In addition, DOE specifically solicits comments on whether State claims' timeliness requirements should be excluded from the screening criteria developed under this part.

DOE also seeks comment on a more limited alternative screening mechanism. This alternative would provide for the negotiation of agreements with the States to identify particular criteria that are relevant to the question, under state law, whether a particular disease caused by a toxic substance arises out of employment at a DOE facility. Under this alternative screening mechanism, the Program Office would take into consideration the relevant State criteria in determining whether an application alleges an illness or death that may have been related to employment at a DOE facility and should be submitted to a physicians panel to determine whether the medical evidence supports the applicable criteria. The Program Office would refer to a physicians panel any application that alleges the appropriate criteria, along with specific questions that the panel should address, based on criteria identified in the relevant State Agreement, in order to determine whether the condition in question arises out of employment and exposure to toxic substances. DOE invites comments on this alternative screening mechanism that would limit the use of state criteria to those related to the question of whether a disease arose from exposure to a toxic substance during employment at a DOE facility and that would not use other State criteria related to the broader question of whether an application presents a valid claim for compensation under the State's workers' compensation system. In particular, comments should address what type of criteria might be identified in a State Agreement under this alternative screening mechanism. Potential criteria might include: (1) Whether the disease originated from a hazard to which workers would have been equally exposed outside of the employment, (2) whether there is a causal connection between the work conditions and the disease, (3) whether the disease is peculiar to the occupation in which the employee is or was engaged, (4) whether the disease was contracted after a period of exposure to the toxic substance specified under state law, or (5) the level of medical probability that the disease was the material and direct result of the conditions under which the work.

DOE is considering an additional alternative that would provide for this screening determination to be made by State officials on a reimbursable basis. This would take advantage of the in-house expertise of the State workers' compensation offices. DOE invites affected States and interested members of the public to comment on this alternative screening mechanism. Under this alternative, DOE would contract with States to do the initial screening prior to submission of applications to the physician panels. States most likely have an existing structure within their workers' compensation office that could make these determinations. The determinations would not be compensation determinations, but rather a basic threshold test for eligibility based on pre-established determination criteria. Such criteria could include eligibility under that State's workers compensation laws; evidence that the application was filed on behalf of a DOE contractor employee or employee's estate; and evidence that the illness or death of the DOE contractor employee may have been related to employment at a DOE facility. If the State determines that an individual meets that test, the Program Office would then submit the necessary information to a physicians panel. DOE solicits comment on this alternative. DOE is specifically interested in receiving comment regarding the burden this would place on States and whether utilizing State expertise to make these determinations (rather than the Program Office) would justify this burden.

As a general matter, DOE requests comments as to: (1) whether the use of a screening mechanism is consistent with the statutory framework; and (2) whether the use of applicable State criteria or uniform Federal criteria better achieves the statutory objectives.

O. What Guidelines Does a Physicians Panel Use To Determine Whether an Illness Arose Out of and in the Course of Employment by a DOE Contractor and Exposure To a Toxic Substance at a DOE Facility?

Proposed section 852.7 provides that a physicians panel determines whether the illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility on the basis of whether there is sufficient information to support two findings. First, the physician panel must find there is an adequate factual basis for a prima facie case that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor caused the illness or death. Second, taking into account all the information, the physicians panel must make a reasonable finding that it is more likely than not that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor caused the illness or death. This two-pronged test focuses on both adequacy of information and likelihood of causation.

Proposed section 852.7 sets the burden of proof as "more likely than not." DOE considered and decided not to propose the "as likely as not" standard used in subtitles of the Act other than Subtitle D. In DOE's view, the "more likely than not" standard better reflects the proof of causation required by the statute's physicians panel provisions. DOE solicits comments on what is the appropriate burden of proof for assistance under the DOE program.

DOE considered and rejected proposing guidelines under which a physicians panel must determine whether an illness arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility by using the applicable criteria under State law in the manner used to determine the validity of a workers' compensation claim under State law. DOE decided it is more appropriate to take State criteria into account during the initial screening process. DOE does believe it is appropriate to have a physicians panel examine one or more of the medical criteria identified in a State Agreement if it is not possible during the initial screening to determine whether a particular criterion is satisfied. DOE solicits comments on the extent, if any, to which physicians panels should be expected to examine criteria used in State workers' compensation proceedings.

P. What Materials Should a Physicians Panel Review Prior to Making a Determination?

Proposed section 852.8 provides that each physicians panel member will receive from the Program Office a complete set of materials related to the applicant's diagnosis, medical history, work history, and history of exposures so that the panel will have an adequate body of information for making a determination. The panel must review all materials it receives from the Program Office.

Q. How May a Physicians Panel Obtain Additional Information or a Consultation That It Needs To Make a Determination?

A physicians panel may, on occasion, need additional information or consultations to make its determination. For expediency, documentation of evidence, maintenance of confidentiality, and records control, proposed section 852.9 requires the panel to make all requests for additional information through the Program Office.

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The panel may request an interview with the applicant, if the panel believes that only the applicant can supply the necessary information. Based upon the experiences of similar physicians panels, including the Expert Panel of the Fernald II Settlement Fund, it is anticipated that such a request will be unusual, but may be necessary in rare cases in order to obtain essential information. The panel can also request that the applicant provide additional medical information. The physicians panel may request consultation with specialists in fields relevant to its deliberations, if needed, as provided for in section 3661(d)(4) of the Act, or refer to relevant medical and scientific literature. The Program Office will maintain a roster of available specialists for this purpose.

Subtitle D neither specifically authorizes nor specifically bars DOE from paying for the development of medical evidence (e.g. medical examinations) to support an individual's application for assistance under Subpart D. Although today's proposed regulations do not provide for DOE to pay for the development of the applicant's medical documentation, DOE considered proposing regulations to permit such activities. DOE elected not to make such a proposal because of doubts about statutory authorization and whether this approach is appropriate. DOE invites comment on this choice and the desirability of including regulations permitting such activities in the notice of final rulemaking.

R. How Is a Physicians Panel To Carry out Its Deliberations and Arrive at a Determination?

After each member of a physicians panel reviews the information, the panel members discuss an application and arrive at a determination by unanimous agreement of its members. Because it is anticipated that physicians panels will be spread out geographically, proposed section 852.10 permits teleconferencing. This system has worked well for prior physicians panels, such as the Expert Panel of the Fernald II Settlement Fund.

S. How Must a Physicians Panel Issue Its Determination?

In order to ensure that a physicians panel has made its determination based upon the relevant evidence and that it has provided the basis for its determination, proposed section 852.11 requires the panel to identify the materials it has reviewed in making its determination, and express the determination and its basis in a series of findings that logically links the evidence reviewed to the conclusions drawn. The panel must also cite, for the Program Office's consideration, any evidence to the contrary of the panel's determination, and explain why the panel finds this evidence to be not persuasive.

DOE anticipates that some covered workers who have applied for benefits under the DOL program will also apply for assistance from the Program Office in filing a claim with a State workers' compensation system. However, filing a claim under the DOL program is not a requirement for the DOE program. In addition, receiving benefits under the DOL program does not automatically entitle an applicant to receive assistance from the Program Office or a positive determination from a physicians panel. For example, under the DOL program a member of a Special Exposure Cohort who has a specified cancer could establish entitlement to benefits for a specified cancer in the absence of clear evidence that the disease is the result of exposure to a toxic substance. A physicians panel, however, can make a positive determination only if sufficient evidence is provided. Factual findings made by DOL, including findings based on dose reconstructions performed by HHS regarding the likelihood that cancer was caused by occupational exposure to radiation, while relevant to a panel's assessment, are not binding on a physicians panel. A physicians panel is free to make different causation determinations, or to base those determinations on different factual premises. A physicians panel would be expected to explain the extent to which it based its determination on the findings of any agency in its report to the Program Office.

T. When Must a Physicians Panel Issue Its Determination?

Proposed section 852.12 requires a physicians panel to submit its determination within 30 working days of receiving the application materials, unless granted an extension by the Program Office.

U. What Precautions Must Each Physicians Panel Member and Each Specialist Take in Order To Keep an Applicant's Personal and Medical Information Confidential?

Because records for review by the physicians panels and by medical specialists consulted at the request of these panels contain confidential, personal, and medical information, this section is included to provide safeguards that physicians panels and specialists must follow to preserve the confidentiality of this information. Physicians panel members and specialists are required to comply with all provisions of the Privacy Act of 1974 applicable to Worker Advocacy records. Safeguards specified include maintaining paper records in locked cabinets and desks, and not including personally identifiable information in published or unpublished reports, studies, or surveys.

V. What Actions Must a Physicians Panel Member Take if That Member Has a Potential Conflict of Interest in Relation To a Specific Application?

In order to ensure objectivity and fairness, proposed section 852.14 requires each panel member to report any real or perceived conflict of interest with regard to a particular application to the Program Office, and to cease reviewing the application pending instruction by the Program Office. The Program Office will then take appropriate actions to remedy the situation, generally referring the application to a different physicians panel. At least two physicians panels are designated to review applications submitted by employees of each DOE facility. The Program Office may also employ other remedies, such as substituting an alternate panel member for the panel member with the conflict of interest. The Program Office has alternate panel members available for this purpose if needed.

W. When May the Program Office Ask a Physicians Panel To Re-Examine an Application That Has Undergone Prior Physicians Panel Review?

Proposed section 852.15 provides that the Program Office may refer a case back to the original panel or to a different panel, after the original panel has made a determination, in the following circumstances: if the Program Office obtains additional information whose consideration could result in a different determination, including information provided by the applicant, for quality assurance purposes, or if an additional review is otherwise necessary for the fair determination of the application. The Program Office may refer an application to a different panel, but not the original panel, if the office has concerns that the available evidence does not support the original panel's determination, as one possible remedy for a conflict of interest involving a panel member, as described in section 852.14, or to ensure consistency between panels in their decision making.

X. Must the Program Office Accept the Determination of a Physicians Panel?

Proposed section 852.16 requires the Program Office, except as provided in section 852.15, to accept the determination by a physicians panel unless there is significant evidence to the contrary.

Y. Is There an Appeals Process?

Proposed section 852.17 provides that an applicant may request the Office of Hearings and Appeals to review: (1) A decision by the Program Office not to submit an application to a physicians panel, (2) a negative determination by a physicians panel that is accepted by the Program Office, or (3) a decision by the Program Office not to accept a positive determination by a physicians panel if the Program Office does not return the application to a physicians panel for further consideration. Proposed section 852.17 is clear that an applicant must request review by the Office of Hearings and Appeals in order to exhaust administrative remedies. An applicant must file a notice of appeal with the Office of Hearings and Appeals on or before 60 days from the date of a letter from the Program Office notifying the applicant of a determination appealable under this section. The Office of Hearings and Appeals will consider appeals in accordance with its procedures set forth in 10 CFR part 1003. A decision by the Office of Hearings and Appeals shall constitute final agency action.

Z. What Is the Effect of the Acceptance by the Program Office of a Positive Determination by a Physicians Panel?

In the event the Program Office accepts a positive determination by a physicians panel, the Program Office must assist the applicant in filing a claim with the relevant State's workers' compensation system and cannot contest the claim or any award made regarding the claim. In addition, the Program Office may, to the extent permitted by law, direct a DOE contractor not to contest the claim or award. Furthermore, any costs of contesting the claim or award is not an allowable cost under a DOE contract.

AA. How Much Will This Program Cost?

DOE estimates that the worker assistance program will result in costs of $127,122,251 over the next ten years. This total cost estimate includes benefit costs for State workers' benefits paid to ill workers or their families, and operational costs for the operation of the Advocacy Office, Resource Centers, physicians panels and advisory committee. Of this total, $92,645,500 is attributed to administering the program. The administrative cost estimates are distributed among DOE Resource Center costs of $16,500,000, records search costs estimated at $45,895,500, physicians panel costs of $19,500,000, casework and hotline costs of $9,950,000 and Federal Advisory Committee costs of $800,000. DOE estimates that more than $45,000,000 of the $45,895,000 estimated costs for records searches will be in support of the DOL portion of the program, based on DOL estimates of the number of claimants. The highest annual administrative costs are anticipated in fiscal year 2003, and are estimated to be approximately $19,000,000.

DOE estimates the total benefit costs over the next ten years to be $34,476,751. The highest anticipated annual costs would be in fiscal year 2003, and are estimated at $29,695,098. Costs are expected to decrease each year thereafter throughout the estimation period. The total benefit costs will be distributed across a number of claimant and benefit types, including medical care, wage replacement, and permanent partial disability (PPD). The highest total costs for benefits are anticipated in fiscal year 2003, and are estimated to be just above $10,000,000. Medical cost estimates are based on Workers Compensation for Radiation Induced Illness: A Re-Examination of Past Practices and Options for Change by N. A. Ashford et al, January 1996, with costs escalated to1999 dollars. These cost estimates, as well as estimates of the number of claimants, are taken from DOE and DOL estimates for a prior legislative proposal covering some of the same workers and conditions covered by the Subtitle D worker assistance program. PPD benefits vary by State, worker attributes like age and employability, and worker wage. These estimates reflect a range of costs for disability payments.

DOE contractors will see increased costs in the form of insurance payments or premiums and increased contributions to State workers' compensation funds in some cases. Ultimately, DOE bears the cost of the additional workers' compensation claims, as DOE contractors pass on these costs.

III. Regulatory Review and Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined to be "a significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule would provide guidelines for the operation and determinations of physicians panels established to provide expert opinion to DOE on the cause of a worker's illness or death. It would not impose costs or burdens on any small business or other small entity. DOE, therefore, certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act

The proposed rule provides that an individual may submit an application for review and assistance to the Program Office that contains information relating to the individual's employment by a DOE contractor, the nature of the illness or death, and the relationship between the illness or death and the individual's employment at a DOE facility. The application is required for DOE to determine whether reasonable evidence exists for submitting the individual's application to a physician panel.

DOE is submitting to the Office of Management and Budget (OMB), simultaneously with the publication of this proposed rule, this collection of information for review and approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection has been reviewed and assigned a control number by OMB. Interested persons may obtain a copy of the Paperwork Reduction Act Submission from the contact person named in this notice.

Interested persons are invited to submit comments to OMB addressed to: Department of Energy Desk Officer, Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503. Persons submitting comments to OMB also are requested to send a copy to the DOE contact person at the address given in the **ADDRESSES** section of this notice.

OMB is particularly interested in comments on: (1) The necessity for the proposed collection of information, including whether the information will have practical utility; (2) the accuracy of DOE's estimates of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

DOE assumes that most applications for assistance under this part will be made in the first and second years after the worker assistance process is established. It is not possible to give precise estimates of the number of applications that will be filed. However, DOE previously has estimated the number of workers potentially eligible for State compensation at 1,200. For purposes of the Paperwork Reduction Act Submission, DOE is multiplying 1,200 by 5 to reach an estimate of the total number of applications that may be filed. DOE further assumes that one hour will be required to complete an application. Using these assumptions, DOE estimates the total annual paperwork burden to be approximately 6,000 hours.

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule deals only with physicians panel procedures, and, therefore, is covered under the Categorical Exclusion for rulemakings that are strictly procedural in paragraph A6 of Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), imposes certain requirements on Agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications." Policies that have federalism implications are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government." On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's proposed rule and has determined that it does not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The scope of this proposed rule is limited to defining how a physicians panel established under the Act will determine whether the illness or death that is the subject of an application for assistance in filing a claim under a State's workers' compensation system arose out of and in the course of employment by the Department of Energy and exposure to a toxic substance at a Department of Energy Facility. Referral of an application to a physicians panel can occur only by agreement with the applicable State, and the proposed rule would require the application of that State's statutory workers' compensation criteria, if provided for in the agreement. Thus, this proposed rule would not preempt State workers' compensation law. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Federal Agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear, legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear, legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal Agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any 1 year. The Act also requires a Federal Agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed "significant intergovernmental mandate," and it requires an Agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirement that might significantly or uniquely affect small governments. The proposed rule published today does not contain any Federal mandate, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal Agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. This rulemaking would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has not prepared a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA, as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits energy supply, distribution, and use.

Today's proposed rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

IV. Opportunity for Public Comment

A. Written Comments

Interested persons are invited to participate in this proceeding by submitting data, views, or comments with respect to this proposed rule. To help the Department review the submitted comments, commenters are requested to reference the paragraph(s) (e.g., 852.2(a)) to which they refer when possible.

Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. All comments received will be available for public inspection as part of the administrative record on file for this rulemaking in the Department of Energy Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9 a.m.and 4 p.m., Monday through Friday, except Federal holidays. All written comments received by the date indicated in the **DATES** section of this notice of proposed rulemaking and all other relevant information in the record will be carefully assessed and fully considered prior to the publication of the final rule. Pursuant to the provisions of 10 CFR 1004.11, anyone submitting information or data that he or she considers to be confidential and exempt from public disclosure by law should submit one complete copy of the document, as well as two copies, if possible, from which the information has been deleted. The Department will make its own determination as to the confidentiality of the information and treat it accordingly.

B. Public Hearing

1. Procedure for Submitting Requests to Speak

You will find the time and place of the public hearing listed at the beginning of this notice. We invite any person who has an interest in today's notice, or who is a representative of a group or class of persons that has an interest in these issues, to request an opportunity to make an oral presentation. If you would like to speak at this hearing, contact Ms. Loretta Young, telephone: 202–586–2819; fax: 202–586–6010; e-mail: *loretta.young@eh.doe.gov;* address: Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, Washington, DC 20585, no later than 10 days in advance of the hearing.

The person making the request should briefly describe the nature of the interest in the rulemaking, and provide a telephone number for contact. We request each person selected to be heard to submit an advance copy of his or her statement at least 10 days prior to the date of this hearing. Also, each presenter is to bring three copies of the prepared oral statement to the hearing. At our discretion, we may permit any person who cannot do this to participate if that person has made alternative arrangements with Ms. Young in advance.

2. Conduct of Hearing

DOE will designate a DOE official to preside at the public hearing. The public hearing will not be a judicial or evidentiary-type hearing, but DOE will conduct it in accordance with 5 U.S.C. 553 and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Each oral presentation is limited to 10 minutes. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal or clarifying statement. The statements will be given in the order in which the initial statements were made and will be subject to time limitations. Only those conducting the hearing may ask questions. The hearing will last as long as there are persons who have requested an opportunity to speak.

DOE will prepare a transcript of the hearing. DOE will retain the transcript and other records of this rulemaking and make them available for inspection in DOE's Freedom of Information Reading Room, as provided at the beginning of this notice. Any person may purchase a copy of the transcript from the transcribing reporter.

The presiding official will announce any further procedural rules needed for the proper conduct of the hearing.

List of Subjects in 10 CFR Part 852

Administrative practice and procedure, Government contracts, Hazardous substances, Workers' Compensation.

Issued in Washington, DC, on August 31, 2001.

Francis Blake,

Deputy Secretary of Energy.

For the reasons stated in the preamble, DOE hereby proposes to amend chapter III of title 10 of the Code of Federal Regulations by adding part 852 to read as follows:

PART 852—GUIDELINES FOR PHYSICIAN PANEL DETERMINATIONS ON WORKER REQUESTS FOR ASSISTANCE IN FILING FOR STATE WORKERS' COMPENSATION BENEFITS

Sec.

852.1 What is the purpose and scope of this part?
852.2 What are the definitions of terms used in this part?
852.3 How does an individual submit an application for review and assistance?
852.4 What information and materials must an individual submit as a part of the application for review and assistance?
852.5 What applications are submitted to a physician panel?
852.6 What conditions will be set forth in State Agreements?
852.7 How does a physicians panel determine whether an illness arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility?
852.8 What materials should a physicians panel review prior to making a determination?
852.9 How may a physicians panel obtain additional information or a consultation that it needs to make a determination?
852.10 How is a physicians panel to carry out its deliberations and arrive at a determination?
852.11 How must a physicians panel issue its determination?
852.12 When must a physicians panel issue its determination?
852.13 What precautions must each physicians panel member and each specialist take in order to keep an applicant's personal and medical information confidential?
852.14 What actions must a physicians panel member take if that member has a potential conflict of interest in relation to a specific application?
852.15 When may the Program Office ask a physicians panel to re-examine an application that has undergone prior physicians panel review?

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852.16 Must the Program Office accept the determination of a physicians panel?
852.17 Is there an appeals process?
852.18 What is the effect of the acceptance by the Program Office of a positive determination by a physicians panel?

Authority: 42 U.S.C. 7384, *et seq.*; 42 U.S.C. 2201 and 7101, *et seq.*; 50 U.S.C. 2401 *et seq.*

§ 852.1 What is the purpose and scope of this part?

(a) This part implements Subtitle D of the Act by establishing the procedures under which:

(1) An individual may submit an application to the Program Office for review and assistance;

(2) The Program Office determines whether to submit an application to a physician panel;

(3) Physicians panels determine whether the illness or death of a DOE contractor employee arose out of and in the course of employment by a DOE contractor and through exposure to a toxic substance at a DOE facility;

(4) The Program Office accepts or rejects a determination by a physicians panel; and

(5) Appeals may be undertaken.

(b) This part covers applications based on the illness or death of a DOE contractor employee caused by exposure to a toxic substance during the course of employment at a DOE facility.

(c) All actions under this part must be pursuant to the relevant State Agreement and consistent with its terms and conditions.

§ 852.2 What are the definitions of terms used in this part?

Act means the Energy Employees Occupational Illness Compensation Program Act of 2000, 42 U.S.C. 7384 *et seq.*

Applicant means a DOE contractor employee or the employee's estate seeking assistance from the Program Office in filing a claim with the relevant State workers' compensation system.

DOE means the U.S. Department of Energy.

DOE contractor employee means a "Department of Energy contractor employee" as defined by section 3621(11) of the Act.

DOE facility means a facility designated by DOE as a "Department of Energy facility" as defined by section 3621(12) of the Act.

Physicians panel means a group of physicians appointed by the Secretary of Health and Human Services pursuant to Subtitle D of the Act to evaluate potential claims of DOE contractor employees under the appropriate State workers' compensation system.

Program Office means the Office of Worker Advocacy within DOE's Office of Environment, Safety and Health, or any other DOE office subsequently assigned to perform the functions of the Secretary of Energy under Subtitle D of the Act.

State Agreement means an agreement negotiated between DOE and a State that sets forth the terms and conditions for dealing with an application for assistance under Subpart D of the Act in filing a claim with the State's workers' compensation system.

Toxic substance means any material that has the potential to cause illness or death because of its radioactive, chemical, or biological nature.

§ 852.3 How does an individual submit an application for review and assistance?

(a) An individual obtains an application for review and assistance—

(1) In person from the Program Office, from any Resource Center or from any DOE-sponsored Former Worker Program;

(2) By mail or telephone request to the Program Office; or

(3) In printable format, from the Program Office's web site.

(b) An individual submits an application for review and assistance—

(1) In person to the Program Office, to any Resource Center or to any DOE-sponsored Former Worker Program.

(2) By mail to the Program Office.

§ 852.4 What information and materials must an individual submit as a part of the application for review and assistance?

As a part of the application for review and assistance, an individual must submit, in writing:

(a) A signed request for a review of the application by a medical panel;

(b) A signed medical release, whereby the individual permits health care providers and health care facilities to release to the Program Office any medical records providing documentation of the individual's diagnosis or an opinion as to the relationship between the applicant's medical condition and exposure to a toxic substance while employed at a DOE facility;

(c) A signed release permitting the Program Office to obtain any records under the control of DOE and relevant to the individual's eligibility for the review and assistance program, or relevant to the adjudication of the application by a physicians panel, including employment, exposure and medical records;

(d) An employment history; and

(e) Any other information or materials deemed by the Program Office to be relevant to a determination of the individual's eligibility for the review and assistance program, or relevant to adjudication of the application by a physicians panel.

§ 852.5 What applications are submitted to a physician panel?

(a) The Program Office will submit an application to a physicians panel if the application contains adequate information to make a reasonable initial determination that:

(1) The application was filed by or on behalf of a DOE contractor employee or employee's estate;

(2) The illness or death of the DOE contractor employee may have been related to employment at a DOE facility; and

(3) The conditions in the relevant State Agreement are or can be satisfied.

(b) The Program Office shall notify the applicant promptly in writing of a negative determination under this section.

§ 852.6 What conditions will be set forth in State Agreements?

Subject to negotiations between DOE and a State, a State Agreement must contain provisions that:

(a) A State will identify the applicable criteria used to determine the validity of a workers' compensation claim under State law and describe how those criteria are applied in a State workers' compensation proceeding;

(b) Only those applications that can satisfy the identified applicable criteria will be submitted to a Physicians Panel; and

(c) The Program Office will provide assistance to only those applications that satisfy the identified applicable criteria.

§ 852.7 How does a physicians panel determine whether an illness arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility?

A panel shall determine whether the illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility on the basis of whether there is sufficient information to support:

(a) A prima facie case that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor caused the illness or death; and

(b) A reasonable finding that it is more likely than not that exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor caused the illness or death.

§ 852.8 What materials should a physicians panel review prior to making a determination?

The physicians panel should review all records relating to the application that are provided by the Program Office. Such records may include:

(a) Medical records;

(b) Employment records;

(c) Exposure records;

(d) Job history obtained by interview with the applicant;

(e) Medical Examiner's report or Coroner's report and death certificate;

(f) Workers' compensation records;

(g) Medical literature or reports;

(h) Information (e.g., dose reconstruction data) included as part of a claim under the Act filed with the Department of Labor; and

(i) Any other records or evidence pertaining to the applicant's request for assistance.

§ 852.9 How may a physicians panel obtain additional information or a consultation that it needs to make a determination?

If, after reviewing all materials provided by the Program Office, a physicians panel finds that it needs additional information or consultation with a specialist in order to make a determination, it must request this information or consultation through the Program Office. A physicians panel may request:

(a) A recorded interview under oath with the applicant by an individual designated by the Program Office if the physicians panel believes only the applicant can provide the necessary information.

(b) That the applicant provide additional medical information.

(c) Consultation with designated specialists in fields relevant to its deliberations.

(d)Specific articles or reports, or assistance searching the medical or scientific literature.

(e) Other needed information or materials.

§ 852.10 How is a physicians panel to carry out its deliberations and arrive at a determination?

(a) Each panel member reviews all materials relating to the application.

(b) All panel members meet in conference, in person, or by teleconference in order to discuss the application and arrive at a common determination.

§ 852.11 How must a physicians panel issue its determination?

A physicians panel must submit its determination and the findings that provide the basis for its determination to the Program Office. The determination of whether the illness or death that is the subject of the application arose out of and in the course of employment by DOE and exposure to a toxic substance at a DOE facility, and the findings must be in writing and signed by all panel members. These findings must include:

(a) Each illness or cause of death that is the subject of the application.

(b) For each illness or cause of death listed under paragraph (a) of this section:

(1) Diagnosis.

(2) Approximate date of onset.

(3) Date of death, where applicable.

(4) Whether the illness or death arose out of and in the course of employment by a DOE contractor and exposure to a toxic substance at a DOE facility.

(5) The basis for the determination under paragraph (a)(4) of this section.

(c) The physicians panel must provide the program office with:

(1) Any evidence to the contrary of the panel's determination, and why the panel finds that this evidence is not persuasive.

(2) A listing of information and materials reviewed by the panel in making its determination, including:

(i) Information and materials provided by the Program Office.

(ii) Information and materials obtained by the panel, including consultations with specialists, scientific articles, and the record of an interview with an applicant.

(3) Any other information the panel concludes that the Program Office should have in order to understand the panel's deliberations and determination.

(4) If explicitly requested by DOE with respect to a specific criteria identified in the relevant State Agreement, a finding as to whether the specified criteria is satisfied, to the extent such a finding is within the expertise of the physicians panel.

§ 852.12 When must a physicians panel issue its determination?

A physicians panel must submit its determination and findings to the Program Office within 30 working days of the time that panel members have received the application for review from the Program Office; provided that, the Office may grant an extension of the time period if requested by the physicians panel.

§ 852.13 What precautions must each physicians panel member and each specialist take in order to keep an applicant's personal and medical information confidential?

In order to maintain the confidentiality of an applicant's personal and medical information, each physicians panel member and each specialist consulted at the request of a physicians panel must take the following precautions:

(a) After receiving applicant records from the Program Office, maintain the confidentiality of these records, keep them in a secure, locked location, and, upon completion of panel deliberations, follow the instructions of the Program Office with regard to the disposal or temporary retention of these records;

(b) Conduct all case reviews and conferences in private, in such a fashion as to prevent the disclosure of personal applicant information to any individual who has not been authorized to access this information;

(c) Release no information to a third party, unless authorized to do so in writing by the applicant; and

(d) Adhere to the provisions of the Privacy Act of 1974 regarding Worker Advocacy Records.

§ 852.14 What actions must a physicians panel member take if that member has a potential conflict of interest in relation to a specific application?

(a) If a panel member has a past or present relationship with an applicant, an applicant's employer, or an interested third party that may affect the panel member's ability to objectively review the application, or that may create the appearance of a conflict of interest, then that panel member must immediately:

(1) Cease review of the application; and

(2) Notify the Program Office and await further instruction from the Office.

(b) The Program Office must then take such action as is necessary to assure an objective review of the application.

§ 852.15 When may the Program Office ask a physicians panel to re-examine an application that has undergone prior physicians panel review?

(a) Under the following circumstances, the Program Office may direct the original physicians panel or a different physicians panel to re-examine an application that has undergone prior physicians panel review:

(1) If the Program Office obtains new information whose consideration could result in a different determination.

(2) For quality assurance purposes.

(3) In any other situation in which the Program Office concludes that there is good cause for re-examination of an application, except as specified in paragraph (b) of this section.

(b) Under the following circumstances, the Program Office may direct a different physicians panel, but

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not the original physicians panel, to re-examine an application that has undergone prior physicians panel review:

(1) The Program Office concludes that there is doubt whether the available evidence supports the original panel's determination;

(2) The Program Office becomes aware of a real or potential conflict of interest of a member of the original panel in relation to the application under review; or

(3) In order to ensure consistency among panels.

§ 852.16 Must the Program Office accept the determination of a physicians panel?

(a) Except as provided in § 852.15 of this part, the Program Office must accept the determination by a physicians panel unless there is significant evidence to the contrary.

(b) The Program Office must promptly notify an applicant of its acceptance or rejection of a determination by a physicians panel.

§ 852.17 Is there an appeals process?

(a) In order to exhaust administrative remedies, an applicant must request the Office of Hearings and Appeals to review:

(1) A decision by the Program Office not to submit an application to a physicians panel;

(2) A negative determination by a physicians panel that is accepted by the Program Office; or

(3) A decision by the Program Office not to accept a positive determination by a physicians panel and not to return the application to a physicians panel for further consideration.

(b) An applicant must file a notice of appeal with the Office of Hearings and Appeals on or before 60 days from the date of a letter from the Program Office notifying the applicant of a determination appealable under this section.

(c) An appeal under this section is subject to the procedures of the Office of Hearings and Appeals in 10 CFR part 1003.

(d) A decision by the Office of Hearings and Appeals shall constitute final agency action.

§ 852.18 What is the effect of the acceptance by the Program Office of a positive determination by a physicians panel?

In the event the Program Office accepts a positive determination by a physicians panel:

(a) The Program Office must:

(1) Assist the applicant in filing a claim with the relevant State's workers' compensation system; and

(2) Not contest the claim or any award made regarding the claim;

(b) The Program Office may, to the extent permitted by law, direct a DOE contractor not to contest the claim or award; and

(c) Any costs of contesting the claim or award shall not be an allowable cost under a DOE contract.

[FR Doc. 01–22472 Filed 9–6–01; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

RIN 3095–AB01

Research Room Procedures

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA proposes to amend its regulations on use of NARA research rooms to add a policy on use of public access personal computers (workstations) in the research rooms. These NARA-provided workstations will provide researcher access to the Internet. We are also clarifying that, in research rooms where the plastic researcher identification card is also used with the facility's security system, we will issue a plastic card to researchers who have a paper card from another NARA facility. This proposed rule will affect researchers who use NARA research facilities nationwide.

DATES: Comments are due by November 6, 2001.

ADDRESSES: Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–713–7270. You may also comment via the Internet to *comments@NARA.GOV*. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: 3095–AB01" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact the Regulation Comment desk at 301–713–7360, ext. 226.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION:

Public Access Personal Computer Workstations in the Research Rooms § 1254

Before September 30, 2001, NARA will have installed personal computer workstations with Internet access in research and/or consultation rooms in all NARA archival facilities, including regional archives and Presidential libraries, for the exclusive use of researchers. There will be at least one workstation at each facility. Space constraints in many of the facilities limit the number of workstations that can be provided.

These computers will provide Internet access for research purposes, such as access to NARA's Archival Information Locator (NAIL), and NAIL's successor, the Archival Research Catalog (ARC). Computers designated for public use provide Internet access only. At least one of the public Internet access workstations in each facility complies with the Workforce Investment Act of 1998, ensuring comparable accessibility to individuals with disabilities.

Use of the workstations will be on a first-come, first-served basis. A 30-minute time limit may be imposed on the use of the equipment when others are waiting to use a workstation. This policy is compatible with our policy for limiting the length of time microform readers and self-service copiers may be used when others are waiting.

Because of the possibility of introducing a virus to NARA's computer network, researchers may not load files or software on these computers. For the same reason, researchers may not use personally owned diskettes to download information. Researchers may download information to diskettes furnished by NARA and print information to an on-site printer. Based on the experience of several NARA facilities that already have Internet capability in the research room, we expect low to moderate use of the NARA-provided diskettes and printers. Therefore, we do not intend to charge for these services.

Validity of Paper Researcher Identification Cards at all NARA Facilities

Currently NARA researcher identification cards issued at one NARA facility are valid at all NARA facilities. At our College Park facility, a plastic researcher identification card that works with our security system is issued. We intend to expand use of the plastic card to the National Archives Building in downtown Washington, DC, and possibly to other NARA facilities in the future. We are modifying the existing rule to provide that NARA will issue a plastic identification card (at no charge) to replace a previously-issued paper one when a researcher goes for the first time to a facility that use the plastic cards.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to individuals conducting research on NARA premises. This regulation does not have any federalism or tribal implications.

List of Subjects in 36 CFR Part 1254

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend part 1254 of title 36, Code of Federal Regulations, as follows:

PART § 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for Part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101–2118; 5 U.S.C. 552; and E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Revise § 1254.6 to read as follows::

§ 1254.6 Researcher identification card.

(a) An identification card is issued to each person who is approved to use records other than microfilm. Cards are valid for three years, and may be renewed upon application. Cards are valid at each facility, except as described in paragraph (b) of this section. They are not transferable and must be presented if requested by a guard or research room attendant.

(b) At the National Archives in College Park and other NARA facilities that issue and use plastic researcher identification cards as part of their security systems, paper researcher identification cards issued at other NARA facilities are not valid. In facilities that use plastic researcher identification cards, NARA will issue a plastic card to replace the paper card at no charge.

3. Add § 1254.25 to read as follows:

§ 1254.25 Rules for public access use of the Internet on NARA-supplied personal computers.

(a) Public access personal computers (workstations) are available for Internet use in all NARA research rooms. The number of workstations varies per location. These workstations are intended for research purposes and are provided on a first-come-first-served basis. When others are waiting to use the workstation, a 30-minute time limit may be imposed on the use of the equipment.

(b) Researchers should not expect privacy while using these workstations. These workstations are operated and maintained on a United States Government system, and activity may be monitored to protect the system from unauthorized use. By using this system, researchers expressly consent to such monitoring and the reporting of unauthorized use to the proper authorities.

(c) At least one Internet access workstation will be provided in each facility that complies with the Workforce Investment Act of 1998, ensuring comparable accessibility to individuals with disabilities.

(d) Researchers may download information to a diskette and print materials, but the research room staff will furnish the diskettes and paper. Researchers may not use personally owned diskettes on NARA personal computers.

(e) Researchers may not load files or any type of software on these workstations.

Dated: August 31, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–22484 Filed 9–6–01; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD011/108–3056b; FRL–7040–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to the Control of Iron and Steel Production Installations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of Maryland for the purpose of amending the applicable test methods for use at iron and steel facilities. The revisions also establish a visible emission standard for Basic Oxygen Furnace (BOF) Shops at integrated steel mills. Finally the revisions remove certain obsolete requirements related to coke ovens and hearth furnaces. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A more detailed description of the state submittals and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by October 9, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above, or by e-mail at *knapp.ruth@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 10, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–22367 Filed 9–6–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–126–4–7530; FRL–7051–3]

Approval and Promulgation of Air Quality State Implementation Plans; Supplemental; Texas: Low Emission Diesel Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rulemaking supplements a previous proposal published April 23, 2001 (66 FR 20415), in which EPA proposed approving a State Implementation Plan (SIP) revision for the State of Texas establishing a Low Emission Diesel (LED) fuel program for nine counties within the Dallas-Fort Worth (DFW) Consolidated Metropolitan Statistical Area (CMSA). Today's supplemental proposal revises the April 23 proposal to reflect recent changes to the LED rule proposed by the Texas Natural Resource Conservation Commission (TNRCC). These proposed changes to the TNRCC LED rule include a change to the implementation date for this program to April 1, 2005, and possible alternate compliance methods. We previously proposed that the TNRCC LED fuel program requirements are necessary to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the DFW ozone nonattainment area, and therefore could be approved into the SIP in accordance with section 211(c)(4)(C) of the Clean Air Act (the Act).

Because TNRCC has not yet finalized the changes to the LED rule, we are proposing to approval Texas' proposed SIP revision of the LED rule for DFW in parallel with TNRCC's rulemaking activities ("parallel processing"). If the final version of the LED rule adopted by TNRCC is significantly changed from the proposed version which is being "parallel processed" today, EPA will propose a new rulemaking with the final LED rule adopted by TNRCC. If there are no significant changes to the "parallel-processed" version, EPA will proceed with final rulemaking on the version finally adopted by TNRCC and submitted to EPA.

DATES: Comments should be received on or before October 9, 2001.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214)665–7214.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refers to EPA.

Why Is the State Submitting This Revision?

The LED fuel program was initially submitted as part of the DFW attainment demonstration. This LED rule was codified in Chapter 114 of the Texas Administrative Code (TAC) (Sections 114.6, 114.312–114.317 and 114.319, December 6, 2000).

Numerous changes to State air pollution control laws occurred during Texas' 77th legislative session. One of these changes relates to the LED program. House Bill 2912, which became law on June 17, 2001, limits the State's authority to regulate fuel content. The law bans the establishment of fuel control measures more stringent than EPA's between September 1, 2000 and January 1, 2004. The law specifically authorizes TNRCC's adoption of the LED fuel program, but mandates that implementation be delayed until February 1, 2005. Finally, this law allows TNRCC to consider other fuels to achieve equivalent emissions reductions as an alternative method of compliance, which is intended to allow refiners flexibility in complying with the LED requirements.

In anticipation of this legislation, the TNRCC proposed amendments to the LED rule on May 10, 2001. The proposed amendments modify the LED rules to delay the implementation date from May 1, 2002, to April 1, 2005, and provide additional flexibility to allow for alternative emission reduction plans.

What Did the State Submit?

In a letter to EPA dated June 15, 2001, the Governor requested "parallel processing" of the LED rule with the proposed amendments. See 30 TAC 114.314, 114.318, 114.319 (May 10, 2001).

What Is EPA's Evaluation of This SIP Revision?

We consider the implementation date change to have no significant impact on the DFW attainment demonstration. The alternative method of compliance which is intended to provide additional flexibility for refiners to comply with LED requirements is acceptable, although we have requested clarification of certain aspects of this provision.

Why Are We "Parallel Processing" and How Does it Work?

Because of the urgency associated with the October 15, 2001, approval deadline imposed by a consent decree order affecting, among others, the Houston Attainment SIP (*Natural Resources Defense Council* v. *Browner*, Civ No. 99–2976, November 30, 1999), Texas requested that EPA proceed with expedited review and approval of these revisions to the LED program, which is relied upon in the Houston (HGA) attainment demonstration SIP as well as the DFW attainment demonstration SIP. Therefore, because these revisions affect both the HGA and DFW attainment demonstrations and because the HGA attainment SIP is subject to a consent decree deadline, we have agreed to expedited review of these revisions for both the DFW and HGA SIP revisions.

In order to expedite review, approval of this revision is being proposed under a procedure called "parallel processing" whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations (40 CFR part 51, Appendix V, section 2.3). If the State's proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those subsequent changes and may publish another notice of proposed rulemaking. If no substantial changes are made, EPA will publish a final rulemaking on the revisions after responding to any submitted comments. Final rulemaking action by EPA will occur only after the SIP revision has been fully adopted by Texas and submitted formally to EPA for incorporation into the SIP. In addition, any action by the State resulting in undue delay in the adoption of the rules may result in a re-proposal, altering the approvability of the SIP.

What Is EPA Proposing?

In today's action, we are proposing approval of the LED rule with the proposed amendments as they apply to the DFW nonattainment area counties plus five adjacent counties within the CMSA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The proposed rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings." This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 24, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–22523 Filed 9–6–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE058–1032; FRL–7052–1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; One-Hour Ozone Attainment Demonstration Plan for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision submits an analysis and determination that there are no additional reasonably available control measures (RACM) available to advance the area's attainment date after adoption of all Clean Air Act (Act) required measures. On December 16, 1999, EPA proposed to approve, and to disapprove in the alternative, the attainment demonstration State implementation plan (SIP) for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area). Kent and New Castle Counties are part of the Philadelphia area. The intended effect of this action is to propose approval of a reasonably available control measure (RACM) analysis submitted by the State of Delaware. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 9, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179. Or by e-mail at *cripps.christopher@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

When Did Delaware Submit the RACM Analysis?

On August 3, 2001, the State of Delaware (Delaware) submitted the RACM analysis for the Philadelphia area as a SIP revision.

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II. Analysis of the Delaware Submittal

A. What Are the Requirements for Reasonably Available Control Measures (RACM)?

Section 172(c)(1) of the Act requires SIPs to contain reasonably available control measures (RACM) as necessary to provide for attainment. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). (See 57 FR 13498, 13560, April 16, 1992.) In that guidance, EPA indicates that potentially available control measures, which would not advance the attainment date for an area, would not be considered RACM under the Act. EPA concludes that a measure would not be reasonably available if it would not advance attainment. EPA's guidance also indicates that states should consider all potentially available measures to determine whether they are reasonably available for implementation in the area, including whether or not they would advance the attainment date. Further, the guidance calls for states to indicate in their SIP submittals whether measures considered are reasonably available or not, and if so the measures must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. The EPA also issued a recent memorandum on this topic, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

B. How Does This Submission Address the RACM Requirement?

The analysis submitted by the Delaware on August 3, 2001, as a supplement to its attainment demonstration SIP for the Philadelphia area, addresses the RACM requirement. Delaware has examined a wide variety of potential stationary source and mobile source controls. The stationary/area source controls that were considered were limits on area source categories not covered by a control technique guideline (CTG) (*e.g.*, motor vehicle refinishing, and surface/cleaning degreasing); rule effectiveness improvements; expanding the applicability of CTG limits to sources smaller than those mandated under the CTG); "beyond RACT" controls on major stationary sources of nitrogen oxides (NO_X); and other potential measures. The mobile source control measures considered included measures such as the national low emission vehicle program, high occupancy vehicle (HOV) lanes; employer based programs; trip reduction ordinances; bicycle and pedestrian improvements; programs to restrict extended idling of vehicle; early retirement of older motor vehicles; traffic flow improvements; and alternative fuel vehicles. Delaware considered an extensive list of potential control measures and chose measures for implementation which went beyond the Federally mandated controls, which were found to be cost effective and technologically feasible. From the list of measures considered, the rules and measures adopted and submitted by Delaware includes the following:

(1) Delaware has adopted, and EPA has SIP-approved, a rule for vehicle refinishing. The rule includes VOC content limits for motor vehicle refinishing coatings at least equivalent to the Federal requirements and required compliance with this rule in 1996 versus in 1998 as required under the Federal rule.

(2) Delaware has adopted, and EPA has SIP approved, a rule for control of VOC emissions from offset lithographic printing operations.

(3) Delaware has adopted, and EPA has SIP approved, a rule for control of VOC emissions from aerospace coating operations with an applicability threshold well below that required by the applicable CTG.

(4) Delaware has adopted, and EPA has SIP approved, a rule for control of VOC emissions from graphic arts operations (packaging rotogravure, publication rotogravure, or flexographic printing press) with an applicability threshold well below that required by the applicable CTG.

(5) Delaware has adopted, and EPA has SIP approved, a rule for control of VOC emissions from use of organic cleaning solvents that includes requirements that go beyond the applicable CTG for surface cleaning and degreasing.

(6) Delaware has adopted, and EPA has SIP approved, a rule requiring the sale of vehicles under the national low-emission vehicle program.

(7) Delaware has adopted, and EPA has SIP approved, a rule to implement Phase II NO_X controls under the Ozone Transport Commission's (OTC) Memorandum of Understanding (MOU). This rule established a fixed cap on ozone-season NO_X emissions from major point sources of NO_X. The rule grants each source a fixed number of NO_X allowances, applies state-wide, and requires compliance during the ozone season. The implementation of this rule commenced May 1, 1999 in Delaware and reduces NO_X emissions both inside and outside the Philadelphia area.

(8) Delaware has adopted, and EPA has SIP approved, a rule to implement the NO_X SIP call. Delaware's rule requires compliance commencing with the start of the 2003 ozone season.

Other potential measures are not considered to be cost effective or have implementation difficulties due to the intensive and costly effort that would be involved in regulating numerous, small area source categories. These explanations are provided in further detail in the docket for this rulemaking. Delaware concluded that a number of potential transportation control measures were considered feasible, but would not, in aggregate, advance the attainment date.

The attainment demonstration for the Philadelphia area contains modeling using the urban airshed model (UAM) which demonstrates that the Philadelphia area cannot attain solely through reductions in the Philadelphia nonattainment area. The Philadelphia area relies on background reductions of transported ozone to attain the one hour ozone standard. EPA established in the NO_X SIP Call, promulgated on October 27, 1998 (63 FR 57356), the appropriate division of control responsibilities between the upwind and downwind States under the Act. In *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000), the court upheld the NO_X SIP Call on most issues, although a subsequent order of the court delays the implementation date to no later than May 31, 2004. EPA is moving forward to implement those portions of the rule that have been upheld, ensuring that most—if not all—of the emission reductions from the NO_X SIP Call assumed in the one hour ozone NAAQS attainment demonstration for the Philadelphia area will occur. EPA's modeling to determine the region-wide impacts of the NO_X SIP Call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away, and this analysis was upheld by the court. Also, on January 18, 2000 (65 FR 2674), EPA promulgated a final rule on petitions filed pursuant to section 126 of the Act by eight Northeastern States, that sought to mitigate interstate transport of NO_X emissions from a number of large electric generating units (EGUs) and large industrial boilers and turbines. Because the allocation of responsibility for transport was not made until late

1998 and early 2000, the prohibitions on upwind contributions under section 110(a)(2)(D) and section 126 could not be enforced prior to 2003 or 2004. The implementation of the control measures in states upwind of the Philadelphia area that are needed to eliminate the significant contribution of sources in those states—will not ripen until 2003 or 2004 under the NO_X SIP call or the section 126 petitions.

To demonstrate attainment of the one hour ozone standard, the UAM modeling required the Delaware portion of the Philadelphia area to achieve emissions levels on the order of 104 tons per day of VOC emissions and 138 tons per day of NO_X. The ROP plan for 2005 is projected to get emissions levels down to 96.5 tons per day of VOC emissions and 138 tons per day of NO_X excluding the benefits of the Federal Tier 2/Sulfur rule.[1] This Tier 2/Sulfur program will further reduce emissions in the area staring with the 2004 model year vehicles.[2] Any potential reductions from the remaining potential RACM measures in aggregate are relatively small (as documented in the docket for this rulemaking) compared to the ROP reductions that will be achieved by the 2005 attainment date.

Thus, EPA concludes that no additional measures could advance the attainment date for the Philadelphia area prior to full implementation of all upwind and local controls scheduled for implementation by 2005.

III. Opening of the Public Comment Period

The EPA is opening a comment period for 30 days to take comment on Delaware's August 3, 2001 RACM submittal discussed above. EPA is proposing to approve Delaware's SIP revision for RACM, which was submitted on August 3, 2001, as a supplement to its one hour attainment demonstration for the Philadelphia area. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

[1] The ROP plan does but the attainment modeling does not consider the effects of the Federal Tier 2/Sulfur rule; thus an adjustment to exclude the Federal Tier 2/Sulfur rule effects on the ROP plan projections is necessary to compare the ROP plan projections with the attainment plan modeling.

[2] With the Federal Tier 2/Sulfur rule benefits, the 2005 projections are 95.8 tons per dey of VOC emissions and 134.3 tons per day of NO_X.

IV. Proposed Action

EPA is proposing to approve the RACM analysis submitted by the State of Delaware on August 3, 2001 as a supplement to its one hour attainment demonstration for the Philadelphia area. This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this action, EPA will evaluate those changes and may publish another supplemental notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by Delaware and submitted formally to EPA for incorporation into the SIP.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule regarding Delaware's RACM analysis for the Philadelphia area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 31, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–22617 Filed 9–6–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD126–3080; FRL–7051–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; One-Hour Ozone Attainment Demonstration Plan for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision submits an analysis and determination that there are no additional reasonably available control measures (RACM) available to advance the area's attainment date after adoption of all Clean Air Act (Act) required measures. On December 16, 1999, EPA proposed to approve, and to disapprove in the alternative, the attainment demonstration State implementation plan (SIP) for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area). Cecil County, Maryland is part of the Philadelphia area. The intended effect of this action is to propose approval of a RACM analysis submitted by the State of Maryland. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 9, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179. Or by e-mail at *cripps.christopher@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. What Previous Proposed Actions Have Been Taken on the Attainment Demonstration SIP Revisions?

On December 16, 1999, we proposed approval of the attainment demonstration for the Philadelphia area, which was submitted on April 29, 1998 (64 FR 70412). We supplemented our December 16, 1999 proposed action on July 28, 2000 (65 FR 46383) and July 16, 2001 (66 FR 36964).

B. When Did Maryland Submit the RACM Analysis?

On August 20, 2001, the State of Maryland (Maryland) submitted the RACM analysis (Maryland SIP Revision Number 01–09) for the Philadelphia area as a SIP revision.

II. Analysis of the Maryland Submittal

A. What Are the Requirements for Reasonably Available Control Measures (RACM)?

Section 172(c)(1) of the Act requires SIPs to contain reasonably available control measures (RACM) as necessary to provide for attainment. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). (See 57 FR 13498, 13560, April 16, 1992.) In that guidance, EPA indicates that potentially available control measures, which would not advance the attainment date for an area, would not be considered RACM under the Act. EPA concludes that a measure would not be reasonably available if it would not advance attainment. EPA's guidance also indicates that states should consider all potentially available measures to determine whether they are reasonably available for implementation in the area, including whether or not they would advance the attainment date. Further, the guidance calls for states to indicate in their SIP submittals whether measures considered are reasonably available or not, and if so the measures must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. The EPA also issued a recent memorandum on this topic, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John. S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html*.

B. How Does This Submission Address the RACM Requirement?

The analysis submitted by Maryland on August 20, 2001, as a supplement to its attainment demonstration SIP for the Philadelphia area, addresses the RACM requirement. Maryland has considered a variety of potential stationary/area source controls such as limits on area source categories not covered by a control technique guideline (CTG) (e.g., motor vehicle refinishing, and surface/cleaning degreasing); rule effectiveness improvements; controls on major stationary sources of nitrogen oxides (NO_X) beyond that required under reasonably available control technology (RACT); and other potential measures. Maryland considered a variety of potential mobile source control measures such as alternative fuel vehicles; bicycle and pedestrian improvements; early retirement of older motor vehicles; land use and development changes; transit improvements; employer based programs; congestion pricing for low occupancy vehicles; traffic flow improvements; outreach and education; parking restrictions; market-based/economic incentive-based program; low emission vehicle standards; and other measures such as trip reduction ordinances, value pricing and highway ramp metering.

The State has implemented measures which went beyond the Federally mandated controls, which were found to be cost effective and technologically feasible. Maryland has adopted and submitted rules for the following categories of area sources which go beyond the Federally mandated controls. The following are examples and not an exhaustive list:

(1) Maryland has adopted, and EPA has SIP approved, a rule for motor vehicle refinishing. The rule includes volatile organic compound (VOC) content limits for motor vehicle refinishing coatings, application standards and storage and house keeping work practices. This rule goes beyond the Federal rule in content limits, and sets application and work practices standards.

(2) Maryland has adopted, and EPA has approved, a rule for control of VOC emissions from screen printing on plywood used for signs, and untreated sign paper.

(3) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from screen printing, lithographic printing, drying ovens, adhesive application, and laminating equipment used to produce a credit card or similar plastic card product.

(4) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from "digital imaging"—printers that use a computer driven machine to transfer an electronically stored image onto the substrate through the use of inks, toners, or other similar color graphic materials via ink jet, electrostatic, and spray jet technologies.

(5) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from cold and vapor degreasing that includes requirements that go beyond the applicable CTG. Maryland restricts the vapor pressure of solvents used to 1 mm Hg at 20° C (0.019 psia) or less for and cold degreasing, including cold or vapor degreasing at: service stations; motor vehicle repair shops; automobile dealerships; machine shops; and any other metal refinishing, cleaning, repair, or fabrication facility.

(6) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC and NO_X emissions by banning open burning activities from June 1 through August 31 of each year.

(7) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from lithographic printing.

Maryland has adopted and submitted rules for additional "beyond RACT" reductions in NO_X emissions as follows:

(1) Maryland has adopted, and EPA has SIP approved, a rule to implement Phase II NO_X controls under the Ozone Transport Commission's (OTC) Memorandum of Understanding (MOU). This rule established a fixed cap on ozone-season NO_X emissions from specified major point sources of NO_X. The rule grants each source a fixed number of NO_X allowances, applies state-wide, and required compliance starting during the 2000 ozone season. It reduces NO_X emissions both inside and outside the Philadelphia area.

(2) Maryland has adopted, and EPA has SIP approved, a rule to implement the NO_X SIP call. The Maryland rule requires compliance commencing with the start of the 2003 ozone season. (This measure is identified as Phase II/III control under the OTC MOU on NO_X control in the attainment demonstration).

Maryland has also adopted, and EPA has SIP approved, a rule requiring the sale of vehicles under the national low-emission vehicle program (NLEV).

Maryland has considered a variety of potential mobile source control measures such as alternative fuel vehicles; bicycle and pedestrian improvements; early retirement of older motor vehicles; land use and development changes; transit improvements; employer based programs; congestion pricing for low occupancy vehicles; traffic flow improvements; outreach and education; parking restrictions; market-based/economic incentive-based program; and other measures such as trip reduction ordinances, value pricing and highway ramp metering.

The Maryland portion (Cecil County) of the Philadelphia area has unique local characteristics that affect the effectiveness of many mobile source measures. The first is that the majority of the vehicle travel occurs on the Interstate 95 highway; much of this traffic is through traffic that would not be affected by locally adopted transportation control measures. Cecil County is a rural area without much of the mass transit infrastructure found in State's other major nonattainment areas (Baltimore, Metropolitan Washington, DC). The area has few point sources of VOC emissions and no major sources of NO_X. Most of the area source VOC emissions are already subject to regulation. Maryland determined that many of the considered measures were not to be RACM due to the potential for substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. A large number of the considered measures were rejected on these grounds or on the grounds that they could not be implemented by 2005 much less any earlier. Some were rejected because they would not advance attainment because the measure had benefits outside the ozone season or would be sporadically implemented (not episodically) such as the "try transit week" items. These explanations are provided in further detail in the docket for this rulemaking.

The attainment demonstration for the Philadelphia area contains modeling using the urban airshed model (UAM) which demonstrates that the Philadelphia area cannot attain solely through reductions in the Philadelphia nonattainment area. The Philadelphia area relies on background reductions of transported ozone to attain the one hour ozone standard. EPA established in the NO_X SIP Call, promulgated on October 27, 1998 (63 FR 57356), the appropriate division of control responsibilities between the upwind and downwind States under the Act. In *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000), the court upheld the NO_X SIP Call on most issues, although a subsequent order of the court delays the implementation date to no later than May 31, 2004. EPA is moving forward to implement those portions of the rule that have been upheld, ensuring that most—if not all—of the emission reductions from the NO_X SIP Call assumed in the 1-hour ozone attainment demonstration for the Philadelphia area will occur. EPA's modeling to determine the region-wide impacts of the NO_X SIP Call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away, and this analysis was upheld by the court. Also, on January 18, 2000 (65 FR 2674), EPA promulgated a final rule on petitions filed pursuant to section 126 of the Act by eight Northeastern States, that sought to mitigate interstate transport of NO_X emissions from a number of large electric generating units (EGUs) and large industrial boilers and turbines. Because the allocation of responsibility for transport was not made until late 1998 and early 2000, the prohibitions on upwind contributions under section 110(a)(2)(D) and section 126 could not be enforced prior to 2003 or 2004. The implementation of the control measures in states upwind of the Philadelphia area that are needed to eliminate the significant contribution of sources in those states—will not ripen until 2003 or 2004 under the NO_X SIP call or section 126 petitions.

As previously stated, the Philadelphia attainment demonstration contains UAM modeling which demonstrates that the Philadelphia area cannot attain solely through reductions in the Philadelphia nonattainment area. The Philadelphia area relies on background reductions of transported ozone to attain the one hour ozone standard. To demonstrate attainment of the one hour ozone standard, the modeling required the Maryland portion of the Philadelphia area to achieve emissions levels on the order of 8.2 tons per day of VOC emissions and 10.5 tons per day of NO_X. To reach these emissions levels, emission reductions (relative to the 1990 base year) of 3.2 tons per day of NO_X and 10.3 tons per day of VOC are necessary in the Maryland portion of the Philadelphia area. Any potential reductions from the remaining potential RACM measures in aggregate are small compared to the 2005 attainment demonstration reductions (plus the addition of the Tier 2/Sulfur benefits) that will be reached by the 2005 attainment date. Thus, EPA concludes that no additional measures could advance the attainment date for the Philadelphia area prior to full implementation of all upwind and local

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controls scheduled for implementation by 2005.

III. Opening of the Public Comment Period

The EPA is opening a comment period for 30 days to take comment on Maryland's August 20, 2001 RACM submittal. EPA is proposing to approve Maryland's SIP revision for RACM, which was submitted on August 20, 2001, as a supplement to its one hour attainment demonstration for the Philadelphia area. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

IV. Proposed Action

EPA is proposing to approve the RACM analysis submitted by the State of Maryland on August 20, 2001 as a supplement to its one hour attainment demonstration for the Philadelphia area. This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this action, EPA will evaluate those changes and may publish another supplemental notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this action, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by Maryland and submitted formally to EPA for incorporation into the SIP.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule regarding Maryland's RACM analysis for the Philadelphia area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 31, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–22618 Filed 9–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD125–3079; FRL–7051–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; One-Hour Ozone Attainment Demonstration Plan for the Baltimore Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision submits an analysis and determination that there are no additional reasonably available control measures (RACM) available to advance the area's attainment date after adoption of all Clean Air Act (Act) required measures. On December 16, 1999, EPA proposed to approve, and to disapprove in the alternative, the attainment demonstration State implementation plan (SIP) for the Baltimore severe ozone nonattainment area (the Baltimore area). The intended effect of this action is to propose approval of a RACM analysis submitted by the State of Maryland. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 9, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179. Or by e-mail at *cripps.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. What Previous Proposed Actions Have Been Taken on the Attainment Demonstration SIP Revisions?

On December 16, 1999, we proposed approval of the attainment demonstration for the Baltimore area, which was submitted on April 29, 1998 (64 FR 70397). We supplemented our December 16, 1999 proposed action on July 28, 2000 (65 FR 46383) and July 16, 2001 (66 FR 36964).

B. When Did Maryland Submit the RACM Analysis?

On August 20, 2001, the State of Maryland (Maryland) submitted the RACM analysis (Maryland SIP Revision Number 01–08) for the Baltimore area as a SIP revision.

II. Analysis of the Maryland Submittal

A. What Are The requirements for Reasonably Available Control Measures (RACM)?

Section 172(c)(1) of the Act requires SIPs to contain reasonably available control measures (RACM) as necessary to provide for attainment. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). (See 57 FR 13498, 13560, April 16, 1992.) In that guidance, EPA indicates that potentially available control measures, which would not advance the attainment date for an area, would not be considered RACM under the Act. EPA concludes that a measure would not be reasonably available if it would not advance attainment. EPA's guidance also indicates that states should consider all potentially available measures to determine whether they are reasonably available for implementation in the area, including whether or not they would advance the attainment date. Further, the guidance calls for states to indicate in their SIP submittals whether measures considered are reasonably available or not, and if so the measures must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. The EPA also issued a recent memorandum on this topic, "'Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

B. How Does this Submission Address the RACM Requirement?

The analysis submitted by Maryland on August 20, 2001, as a supplement to its attainment demonstration SIP for the Baltimore area, addresses the RACM requirement. Maryland has considered a variety of potential stationary/area source controls such as limits on area source categories not covered by a control technique guideline (CTG) (e.g., motor vehicle refinishing, and surface/cleaning degreasing); rule effectiveness improvements; controls on major stationary sources of nitrogen oxides (NO_X) beyond that required under reasonably available control technology (RACT); and other potential measures. Maryland considered a variety of potential mobile source control measures such as alternative fuel vehicles; bicycle and pedestrian improvements; early retirement of older motor vehicles; land use and development changes; transit improvements; employer based programs; congestion pricing for low occupancy vehicles; traffic flow improvements; outreach and education; parking restrictions; market-based/economic incentive-based program; low emission vehicle standards; and other measures such as trip reduction ordinances, value pricing and highway ramp metering.

The State has implemented measures which went beyond the Federally mandated controls, which were found to be cost effective and technologically feasible. Maryland has adopted and submitted rules for the following categories of area sources which go beyond the federally mandated controls. The following are examples and not an exhaustive list:

(1) Maryland has adopted, and EPA has SIP approved, a rule for motor vehicle refinishing. The rule includes volatile organic compound (VOC) content limits for motor vehicle refinishing coatings, application standards and storage and house keeping work practices. This rule goes beyond the Federal rule in content limits, and sets application and work practices standards.

(2) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from screen printing on plywood used for signs, and untreated sign paper.

(3) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from screen printing, lithographic printing, drying ovens, adhesive application, and laminating equipment used to produce a credit card or similar plastic card product.

(4) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from "digital imaging"—printers that use a computer driven machine to transfer an electronically stored image onto the substrate through the use of inks, toners, or other similar color graphic materials via ink jet, electrostatic, and spray jet technologies.

(5) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC emissions from cold and vapor degreasing that includes requirements that go beyond the applicable CTG. Maryland restricts the vapor pressure of solvents used to 1 mm Hg at 20 C (0.019 psia) or less for and cold degreasing, including cold or vapor degreasing at: service stations; motor vehicle repair shops; automobile dealerships; machine shops; and any other metal refinishing, cleaning, repair, or fabrication facility.

(6) Maryland has adopted, and EPA has SIP approved, a rule for control of VOC and NO_X emissions by banning open burning activities from June 1 through August 31 of each year.

(7) Maryland has adopted, and EPA has approved Maryland's rule for control of VOC emissions from lithographic printing.

Maryland has also adopted and submitted rules for additional "beyond RACT" reductions in NO_X emissions as follows:

(1) Maryland has adopted, and EPA has SIP approved, a rule to implement Phase II NO_X controls under the Ozone Transport Commission's (OTC) Memorandum of Understanding (MOU). This rule established a fixed cap on ozone-season NO_X emissions from specified major point sources of NO_X. The rule grants each source a fixed number of NO_X allowances, applies state-wide, and required compliance starting during the 2000 ozone season. It reduces NO_X emissions both inside and outside the Baltimore area.

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(2) Maryland has adopted, and EPA has SIP approved, a rule to implement the NO_X SIP call. The Maryland rule requires compliance commencing with the start of the 2003 ozone season. (This measure is identified as Phase II/III control under the OTC MOU on NO_X control in the attainment demonstration).

Maryland has also adopted, and EPA has SIP approved, a rule requiring the sale of vehicles under the national low-emission vehicle program (NLEV).

Maryland has adopted into its post-1996 rate-of-progress plans through the attainment year of 2005 rule effectiveness improvements.

Maryland has considered a variety of potential mobile source control measures such as alternative fuel vehicles; bicycle and pedestrian improvements; early retirement of older motor vehicles; land use and development changes; transit improvements; employer based programs; congestion pricing for low occupancy vehicles; traffic flow improvements; outreach and education; parking restrictions; market-based/economic incentive-based programs; and other measures such as trip reduction ordinances, value pricing and highway ramp metering. Maryland determined that many of the considered measures were not to be RACM due to the potential for substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. A large number of the considered measures were rejected on these grounds or on the grounds that they could not be implemented by 2005 much less any earlier. Some measures were rejected because they would not advance attainment because they had benefits outside the ozone season or would be sporadically implemented (not episodically) such as the "try transit week" items. A number of the potential RACM candidates are already programmed into the area's transportation plan as mitigation measures. As such, these measures pass the feasibility test. Maryland concluded these would not advance the attainment date because their emission benefits, even when aggregated with other potentially feasible measures, are small relative to the amount needed to attain the standard. These explanations are provided in further detail in the docket for this rulemaking.

The attainment demonstration for the Baltimore area contains modeling using the urban airshed model (UAM) which demonstrates that the Baltimore area cannot attain solely through reductions in the Baltimore nonattainment area. The Baltimore area relies on background reductions of transported ozone to attain the 1-hour ozone standard. EPA established in the NO_X SIP Call, promulgated on October 27, 1998 (63 FR 57356), the appropriate division of control responsibilities between the upwind and downwind States under the Act. In *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000), the court upheld the NO_X SIP Call on most issues, although a subsequent order of the court delays the implementation date to no later than May 31, 2004. EPA is moving forward to implement those portions of the rule that have been upheld, ensuring that most—if not all—of the emission reductions from the NO_X SIP Call assumed in the 1-hour ozone attainment demonstration for the Baltimore area will occur. EPA's modeling to determine the region-wide impacts of the NO_X SIP Call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away, and this analysis was upheld by the court. Also, on January 18, 2000 (65 FR 2674), EPA promulgated a final rule on petitions filed pursuant to section 126 of the Act by eight Northeastern States, that sought to mitigate interstate transport of NO_X emissions from a number of large electric generating units (EGUs) and large industrial boilers and turbines. Because the allocation of responsibility for transport was not made until late 1998 and early 2000, the prohibitions on upwind contributions under section 110(a)(2)(D) and section 126 could not be enforced prior to 2003 or 2004. The implementation of the control measures in states upwind of the Baltimore area that are needed to eliminate the significant contribution of sources in those states—will not ripen until 2003 or 2004 under the NO_X SIP call or the section 126 petitions.

As previously stated, the Baltimore attainment demonstration contains UAM modeling which demonstrates that the Baltimore area cannot attain solely through reductions in the Baltimore nonattainment area. The Baltimore area relies on background reductions of transported ozone to attain the 1-hour ozone standard. To demonstrate attainment of the 1-hour ozone standard, the modeling required the Baltimore area to achieve emissions levels on the order of 224 tons per day of VOC emissions and 323 tons per day of NO_X. To reach these emissions levels, emission reductions (relative to the 1990 base year) of 152 tons per day of NO_X and 120 tons per day of VOC are necessary in the Baltimore area. Any potential reductions from the remaining potential RACM measures in aggregate are small compared to the 2005 attainment demonstration reductions (plus the addition of the Tier 2/Sulfur benefits) that will be reached by the 2005 attainment date. Thus, EPA concludes that no additional measures could advance the attainment date for the Baltimore area prior to full implementation of all upwind and local controls scheduled for implementation by 2005.

III. Opening of the Public Comment Period

The EPA is opening a comment period for 30 days to take comment on Maryland's August 20, 2001 RACM submittal. EPA is proposing to approve Maryland's SIP revision for RACM, which was submitted on August 20, 2001, as a supplement to its one-hour attainment demonstration for the Baltimore area. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

IV. Proposed Action

EPA is proposing to approve the RACM analysis submitted by the State of Maryland on August 20, 2001 as a supplement to its one-hour ozone attainment demonstration for the Baltimore area.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule regarding Maryland's RACM analysis for the Baltimore area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 31, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–22619 Filed 9–6–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 431

[CMS–2128–P]

RIN 0938–AL06

Medicaid Program; Continue To Allow States an Option Under the Medicaid Spousal Impoverishment Provisions To Increase the Community Spouse's Income When Adjusting the Protected Resource Allowance

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: Section 1924 of the Social Security Act (the "Act") sets forth provisions designed to afford financial protection against impoverishment to a non-institutionalized spouse of an institutionalized individual. These provisions contain several formulas to provide this protection and specify how income and resources of spouses separated by institutionalization will be treated for purposes of determining the institutionalized spouse's Medicaid eligibility and calculating the amount the institutionalized spouse must contribute towards the cost of his or her institutional care. This proposed rule would implement certain provisions of section 1924 of the Act, which provides for fair hearings for an increase in the community spouse resource allowance.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 6, 2001.

ADDRESSES: In commenting, please refer to file code CMS–2128–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2128–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Roy Trudel, (410) 786–3417.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–0626 or (410) 786–7195.

I. Background

A. Statutory Basis

Title XIX of the Social Security Act (the Act), "provid[es] federal financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons." *Harris* v. *McRae*, 448 U.S. 297, 301 (1980). Under section 1902(a)(17) of the Act, each participating State must develop a plan containing "reasonable standards * * * for determining eligibility for and the extent of medical assistance." *Schweiker* v. *Gray Panthers*, 453 U.S. 34, 36 (1981). Section 1902(a)(17)(B) of the Act states that those State standards must "provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient."

Section 1924 of the Act requires a State with a Medicaid program to use special rules for the treatment of income and resources of married institutionalized individuals who have

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spouses who are not institutionalized. (Throughout this preamble, we use the term "institutionalized spouses" to mean married institutionalized individuals and the term "community spouses" to mean spouses who are not institutionalized.) These provisions are referred to as the "spousal impoverishment" provisions. The spousal impoverishment provisions govern the allocation of income and resources between the spouses for determining Medicaid eligibility of the institutionalized spouse as well as allowing the States to determine how much income of the institutionalized spouse is available to be applied toward the cost of his or her institutional care ("post-eligibility determinations").

B. Income and Resource Allocation

Income and resource calculations for married persons have proved to be a matter of great complexity, particularly when one of the spouses is cared for in an institutional setting, such as a nursing home, but the other spouse is not institutionalized. Before 1989, the provisions governing the Medicaid eligibility of institutionalized spouses sometimes left the community spouse with income below the poverty level and with minimal resources as well. At that time, after the month of institutionalization, the income of the two spouses was considered separately in most States for purposes of determining an institutionalized spouse's eligibility. However, very little of the institutionalized spouse's income could be protected for use by the spouse in the community. This often left the community spouse with little income to live on. After the month of institutionalization, most States would consider the joint resources of the community spouse and the institutionalized spouse (subject to a limited exclusion), and any property owned solely by the institutionalized spouse to be available for the care of the institutionalized spouse. (Property owned solely by the community spouse was not considered.) Thus, depending on how resources were owned, many married couples would have to deplete almost all of their resources before the institutionalized spouse would qualify for Medicaid. The net effect of those requirements in some cases was the "pauperization" of the community spouse. H.R. Rep. No. 105, 100th Cong., 1st Sess. Pt. 2, at 65 (1987).

The Congress attempted to alleviate that spousal impoverishment hardship in the Medicare Catastrophic Coverage Act (MCCA) of 1988, (Public Law 100–360, enacted on December 22, 1988.) The MCCA requires a State to use a complex set of requirements and exclusions when allocating income and resources between community and institutionalized spouses, both when the State makes the initial eligibility determination, and later in post-eligibility determinations.

In section 1924(a)(1) of the Act, it provides that the spousal impoverishment provisions "supersede any other provision" of the Medicaid statute that "is inconsistent with them." However, the MCCA did not repeal the Secretary's authority to prescribe standards (under section 1902(a)(17)(B) of the Act) for determining what income is "available" to a spouse, and the requirement for States to set reasonable standards for determining eligibility and amount of assistance. That section 1902(a)(17) authority may now only be exercised in a manner that does not contravene the specific requirements of the spousal impoverishment provisions.

With respect to the allocation of income as part of an eligibility determination, the spousal impoverishment provisions impose only a single rule. Section 1924(b)(1) of the Act provides that during any month in which an institutionalized spouse is in the institution, no income of the community spouse shall be deemed available to the institutionalized spouse (subject to certain qualifications regarding income attribution). Thus, section 1924(b)(1) of the Act establishes a special rule that protects the income of the community spouse by excluding that income from consideration when determining whether the institutionalized spouse is eligible for Medicaid. Section 1924(b)(1) of the Act, however, does not address the extent to which the State may consider the institutionalized spouse's income available to meet the needs of the community spouse.

With respect to income attribution after the State makes the initial eligibility determination, the spousal impoverishment provisions provide more extensive guidance and requirements. Specifically, section 1924(b)(2) of the Act provides that, if payment of income is made solely in the name of one spouse, that income is generally treated as available *only* to that spouse. Section 1924(d) of the Act provides a number of exceptions to that rule, which are generally designed to ensure that the community spouse has sufficient income to meet his or her basic monthly needs. In particular, section 1924(d) of the Act provides for the establishment of a minimum monthly maintenance needs allowance for each community spouse. The community spouse's minimum monthly maintenance needs allowance,is set at a level that is much higher than the official Federal poverty level. Once income is attributed to each of the spouses according to the general rules in section 1924(b) of the Act, the income attributed to the community spouse is compared to the community spouse's minimum monthly maintenance needs allowance. Section 1924(d)(2) of the Act provides that if the community spouse's income is less than the minimum monthly maintenance needs allowance, the amount of the shortfall can be deducted from the income of the institutionalized spouse that would otherwise be considered available for the care of the institutionalized spouse. The amount of that deduction is referred to as the community spouse monthly income allowance.

The deduction of the community spouse monthly income allowance, in effect, prevents income the community spouse needs to meet basic living expenses from being considered available for the care of the institutionalized spouse. The deduction thus causes Medicaid to assume a greater portion of the costs of institutionalized care. The greater Medicaid payments for care of the institutionalized spouse would free up income to meet the minimum needs of the community spouse. The community spouse monthly income allowance, therefore, ensures that the community spouse's basic monthly maintenance needs can be met *before* the institutionalized spouse's income is considered available to pay for the costs of his or her own institutional care.

With respect to the attribution of resources between the institutionalized spouse and community spouse, the statute provides extensive rules for both initial and post-eligibility decisions. For initial eligibility determinations, each spouse's share of resources is calculated as of the beginning of the institutionalized spouse's first period of institutionalization. At that time, all of the institutionalized spouse's and community spouse's resources are tallied together, and one half of the total value is allocated to each spouse (the "spousal share"). Often, most of the resources allocated to the institutionalized spouse must be exhausted before the institutionalized spouse is eligible for Medicaid. In contrast, the community spouse's share is protected from complete exhaustion. In particular, the community spouse's resources are not considered available for the care of the institutionalized spouse (and the institutionalized spouse can become Medicaid eligible) so long as the community spouse's share does not exceed the community spouse resource allowance (CSRA). Thus, the CSRA limits the extent to which the spouses must exhaust resources before the institutionalized spouse becomes eligible for Medicaid. Section 1924(f)(2)(A) of the Act specifies that the CSRA is the greatest of (1) $12,000 or a State standard up to $60,000 (indexed for inflation; for 2001 the indexed amount is $87,000); (2) the lesser of the spousal share (approximately one-half of the spouses' pooled resources) or $60,000 (indexed for inflation); (3) the amount set at a fair hearing under section 1924(e)(2) of the Act; or (4) the amount transferred under a court order.

In allocating income and resources between spouses, States have employed two divergent methods. Under the method used by most States, known as the "income-first" method, the institutionalized spouse's income (above the allowances specified in section 1924(d) of the Act) is allocated to the community spouse for purposes of determining the extent to which the community spouse has sufficient income to meet minimum monthly maintenance needs. Under the income-first method, the CSRA is increased only if the community spouse's income will not reach his or her minimum monthly maintenance needs allowance *after* taking into account any income not protected under section 1924(d) that is available or potentially available from the institutionalized spouse. In contrast, under the other method, known as the "resources-first" method, the couple's resources can be protected for the benefit of the community spouse to the extent necessary to ensure that the community spouse's total income, including income generated by the CSRA, meets the community spouse's minimum monthly maintenance needs allowance. Additional income from the institutionalized spouse that may be, but has not been, made available for the community spouse is not considered.

C. Current Policy and Implementation of the New Provisions

Section 1924(e)(2)(C) of the Act provides that if either spouse establishes that the CSRA (in relation to the amount of income generated by that allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted an amount adequate to provide a minimum monthly maintenance needs allowance.

We have previously issued policy memoranda and letters expressing our view that section 1924(e)(2)(C) of the Act authorizes a State to consider potential income transfers from an institutionalized spouse to a community spouse, so that a State may adopt the income-first method or apply some other reasonable methodology until we issue final regulations addressing the issue. Thus, under our present policy, States may clearly use the income-first method, and may be able to use other methods, such as resources-first. In other words, consistent with the statutory requirement that State's utilize "reasonable standards" for determining eligibility and the amount of benefits as described in Section 1902(a)(17), we have permitted States to employ income-first or other reasonable methodologies. In practice, no State has elected to use a method other than income-first or resources-first. The proposed regulation is therefore intended to codify and reflect long-standing State practices.

However, the issue of which criteria may be employed during the fair hearing under section 1924(e)(2)(C) of the Act to determine whether, and if so by how much, to raise the CSRA has been the subject of some dispute. Permitting the community spouse to obtain a larger CSRA can give the community spouse additional income-generating resources to meet minimum monthly needs. Without an increase in the CSRA, the resources would be considered available to the institutionalized spouse and might have to be exhausted before the institutionalized spouse would be Medicaid eligible. On the other hand, permitting the hearing officer to raise the CSRA when the institutionalized spouse has income which could be used to enable the community spouse to meet minimum monthly maintenance needs can, under some circumstances, have unintended consequences for a State's Medicaid program. This policy can create an avenue for a couple to shelter almost limitless amounts of resources, provided these resources currently have minimal incoming-producing value.

Indeed, the legality of the income first rule has been challenged in several courts. The United States Courts of Appeals for the Sixth and Third Circuits have upheld the income-first rule in *Chambers* v. *Ohio Dep't of Human Servs.*, 145 F.3d 793, 802 (6th Cir. 1998) and *Cleary* v. *Waldman*, 167 F.3d 801, 811–812 (3d Cir. 1999), respectively. Nevertheless, the Wisconsin Court of Appeals invalidated a Wisconsin statute, which adopted the income-first rule, holding that the spousal impoverishment provisions of the Medicaid program unambiguously preclude the use of an "income-first" methodology. The United States Supreme Court has granted the State of Wisconsin's petition for review of this decision. See *Wisconsin Department of Health and Family Services* v. *Blumer*, No. 00–952.

Because this subject has been a source of some controversy, we believe it is appropriate to codify provisions regarding the community spouse resource allowance before adopting regulations governing all of the spousal impoverishment protection provisions of section 1924 of the Act.

II. Provisions of the Proposed Regulations

We propose to allow States the threshold choice of using either the income-first or resources-first method when determining whether the community spouse has sufficient income to meet minimum monthly maintenance needs. Under our proposal, States would not be able to use different rules on a case-by-case basis, but must apply the same rule to all spouses. Under section 1902(a)(17)(B) of the Act, the Secretary has authority to prescribe appropriate standards for determining whether income is "available." In the exercise of that authority, and in view of the cooperative federalism considerations embodied in the Medicaid program, we have concluded that States may be in the best position to determine the type of protection to afford community spouses and whether to require hearing officers to take into account any income of the institutionalized spouse before raising the CSRA.

We believe that section 1924 of the Act does not specifically address whether the income-first or resources-first method is appropriate in making the determination on raising the CSRA. Section 1924(e)(2)(C) of the Act directs the State to determine whether the community spouse's income meets his or her minimum monthly maintenance needs. It also provides that, if the community spouse's income falls short of meeting those needs, the CSRA should be increased by an amount that will generate sufficient income *to bring the community spouse's income to the minimum monthly maintenonce needs level.* However, this statutory guidance does not address whether the community spouse's income may include the institutionalized spouse's income that could be made available to the community spouse.

In fact, while section 1924(b)(1) specifically prohibits the *community spouse's* income from being considered available for the care of the *institutionalized spouse*, the statute does not preclude the Secretary nor the

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State from considering the *institutionalized spouse's income* from being available to the *community spouse* for purposes of determining whether the community spouse's needs will be met absent an increase in the CSRA. That supports an inference that it is permissible to consider all or some portion of the institutionalized spouse's income to be available to the community spouse. In addition, the legislative history suggests that Congress contemplated the possibility that, in determining whether to raise the CSRA, States might take into account not only the community spouse's own income but "other income attributable to the community spouse" consistent with the Secretary's rules. H.R. Cong. Rep. No. 661, 100th Cong., 2d Sess 265 (1988). Accordingly, we believe that the statute permits an income-first rule and does not foreclose a resources-first rule.

Because an income-first rule would conserve scarce resources that States may allocate towards their Medicaid programs, avoid sheltering of high value low income-producing resources, and generally affords the community spouse a significant degree of protection from impoverishment, States may prefer to employ this approach. On the other hand, the resources-first rule may in certain cases afford greater protection to the community spouse, especially after the death of the institutionalized spouse. While in our view, the statute certainly does not compel States to adopt the resources-first method, we believe it would be appropriate to afford the option of selecting a resources-first rule.

Section 1924(a) of the Act provides that in determining the eligibility for medical assistance of an institutionalized spouse, its provisions supersede any other provision of title XIX of the Act, "which is inconsistent with them," including section 1902(a)(17). Section 1902(a)(17)(B) of the Act provides that the State plan for medical assistance shall "provide for taking into account only the income and resources, as are, *as determined in accordance with standards prescribed by the Secretary*, available to the applicant or recipient * * *." (Emphasis supplied.) In *Schweiker* v. *Gray Panthers*, 453 U.S. 34, 44, 101 S.Ct 2633, 2640 (1981), the Supreme Court held that the underscored language constituted a delegation of substantive rulemaking authority to the Secretary. Therefore, section 1902(a)(17)(B) of the Act gives the Secretary the authority to promulgate regulations on the matter of how much income and resources are available to applicants for, or recipients of, Medicaid for determining their eligibility and the amount of assistance they may receive. Furthermore, because our proposal to permit States to use either the income-first or resources-first method does not conflict with section 1924 of the Act, we can issue a proposed rule on this matter.

As noted above, section 1924(e)(2)(C) of the Act authorizes either spouse to establish whether the community spouse resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance. However, it does not specify whether in the process of establishing the inadequacy of the community spouse resource allowance, all of the institutionalized spouse's income which could be made available to the community spouse must be taken into account before seeking this adjustment. Because section 1924(e)(2) of the Act is silent on this issue, it does not conflict with the Secretary's authority under section 1902(a)(17)(B) of the Act to prescribe standards for determining the amount of the institutionalized spouse's income that would be available to the community spouse in determining whether it is appropriate to raise the community spouse resource allowance. This determination would have a corresponding impact on the institutionalized spouse's Medicaid eligibility.

Since our decision, under section 1902(a)(17)(B) of the Act, to permit States to use either the income-first or resources-first rule does not conflict with section 1924 of the Act, we are able to issue proposed regulations on this matter. In other words, because the statute does not require nor foreclose States from using either the income-first or resources-first method, we can use the rulemaking authority under section 1902(a)(17) of the Act to leave the choice of method to the States. (This approach is consistent with the Supreme Court's decision in *Batterton* v. *Francis*, 432 U.S. 416 (1977), which upheld a regulation that permitted States to define "unemployed" either to include families participating in a labor strike or to exclude them.) In addition, Section 1902(a)(17) contemplates that States will establish plans containing "reasonable standards" for determining eligibility consistent with the Act and our regulations. The statute thus contemplates that different States may establish different standards for determining eligibility, so long as all are "reasonable" and all are consistent with the Act and our regulations. Accordingly, as an exercise of our discretion, we propose to leave to the States the option to either use the income-first or resources-first method for purposes of a fair hearing under section 1924(e)(2)(C) of the Act to determine whether, and if so by how much, to raise the CSRA.

As such, we propose to add a new § 431.260 to provide for fair hearings to raise the community spouse resource allowance. At § 431.260(a), we propose to define "institutionalized spouse" as an individual who is married to a person who is not in a medical institution or nursing facility and who is either likely to be in an institution or nursing facility or likely to be receiving services under a home and community-based waiver under section 1902(a)(10)(A)(ii)(VI) of the Act for at least 30 consecutive days. We propose to define the term "community spouse" as the spouse of an institutionalized individual. We would define the term "community spouse resource allowance" as the amount of a couple's combined resources (held jointly and separately), allocated to the community spouse and considered unavailable to the institutionalized spouse when determining his or her eligibility for Medicaid, as specified in section 1924(f)(2)(A) of the Act. Additionally, we would define "minimum monthly maintenance needs allowance" as the minimum amount of an institutionalized spouse's income that is protected for the community spouse.

At § 431.260(b), we would specify that either spouse may request a hearing to establish that the community spouse resource allowance (in relation to the amount of income generated by the allowance) is not adequate to raise the community spouse's income to the minimum monthly maintenance needs allowance. At § 431.260(c), we propose to provide that the State must choose to use either the income-first method or the resources-first method when determining whether to increase the community spouse resource allowance to ensure the community spouse has sufficient income to meet minimum monthly maintenance needs. We would provide that under the income-first method, the State require that all income of the institutionalized spouse that could be made available to the community spouse after subtracting the allowances specified in section 1924(d) be considered to be available before additional resources are allocated to raise the community spouse's income to meet the minimum monthly maintenance needs allowance. We propose that under the resources-first method, the State allocate additional resources to raise the community spouse's income to meet the minimum monthly maintenance needs allowance without regard to income of the institutionalized spouse that potentially could be made available to the community spouse, but has not been made available.

III. Collection of Information Requirements

Under the Paper Work Reduction Act (PRA) of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment if Office of Management and Budget review and approval is needed because a proposed regulation imposes a collection of information requirement. However, this proposed regulation does not impose any new collection of information requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995. The proposed regulation only codifies the existing State practice of choosing whether to use income-first or resources-first, a matter we have left entirely to each State. We do not currently require States to formally notify us about which approach they take, and the proposed regulation similarly does not require this notification. Thus, the proposed rule imposes no new or different processes or information requirements on States.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Statement

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory apprpaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). This proposed rule would give States an option to use either an income-first method or resources-first method when determining whether the community spouse has sufficient income to meet minimum monthly maintenance needs. This proposed rule is not a major rule because it would not impose new costs on State governments or other entities. The proposed rule only codifies existing State practices, and in no way requires States to take any action that would increase or even change their current program costs.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $25 million or less annually. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. This proposed rule would have no impact on small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. The proposed rule would have no impact on the private sector. The rule would impose no requirements on State, local or tribal governments. The rule only codifies existing State practices, and thus requires no new or additional expenditures of funds by any entity, government or private.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that would impose substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Because this proposed rule only codifies existing State practices, it would impose no requirements on governments, nor does it preempt State law or otherwise have Federalism implications.

B. Anticipated Effects

Because the proposed rule only codifies existing State practices, it will have no new effect on State governments, providers, or the Medicaid and Medicare programs. Therefore, we are not providing an impact analyses.

C. Alternative Considered

We considered imposing a requirement on all States to use the income-first methodology, or a requirement that all States use the resources-first methodology when determining whether to raise the community spouse resource allowance. However, as explained in the preamble to this proposed rule, we do not believe the statute clearly requires the use of either of those alternatives to the exclusion of the other. Therefore, we believe, in the spirit of Federalism, that we should leave to States the decision as to which alternative to use.

D. Conclusion

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Sections Affected in 42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services propose to amend 42 CFR part 431 as follows:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

§ 431.200 [Amended]

2. Section 431.200 is amended by adding the sentence, "This subpart also implements section 1924(e)(2)(C) of the Act, which provides for a fair hearing regarding revision of the community

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spouse resource allowance." at the end of the section.

3. A new undesignated, centered heading, and new § 431.260 are added to read as follows:

Community Spouse Resource Allowance

§ 431.260 Fair hearings to raise the community spouse resource allowance.

(a) *Definitions.* For purposes of this section, the following definitions apply:

Community spouse means the spouse of an institutionalized individual.

Community spouse resource allowance means the amount of a couple's combined jointly and separately-owned resources, as specified in section 1924(f)(2)(A) of the Act, allocated to the community spouse and considered unavailable to the institutionalized spouse when determining his or her eligibility for Medicaid.

Institutionalized spouse means an individual who meets all of the following criteria:

(1) The individual is in a medical institution or nursing facility (or at the State's option, is eligible for home and community-based waiver services under section 1902(a)(10)(A)(ii)(VI) of the Act).

(2) The individual is likely to remain in a medical institution or nursing facility (or satisfy the State option) for at least 30 consecutive days.

(3) The individual is married to a person who is not in a medical institution or nursing facility.

Minimum monthly maintenance needs allowance means the minimum amount of income, as determined under section 1924(d)(3) of the Act, that is protected for the community spouse when determining the amount of the institutionalized spouse's income that is to be applied to the cost of care.

(b) *Request for a hearing.* Either spouse (or authorized representative) may request a hearing to establish that the community spouse resource allowance (in relation to the amount of income generated by the allowance) is not adequate to raise the community spouse's income to the minimum monthly maintenance needs allowance.

(c) *Methodology for determining an increase in the community spouse resource allowance.* For purposes of conducting a hearing to determine whether it is appropriate to raise the community spouse resource allowance (and if so by how much) a State must elect either of the following methods, which must apply to all hearings of this type under the State's Medicaid program:

(1) *Income-first method.* The State considers that all income of the institutionalized spouse that could be made available to the community spouse, after deducting the allowances specified in section 1924(d) of the Act, has been made available before additional resources are allocated to raise the community spouse's income to the minimum monthly maintenance needs allowance.

(2) *Resources-first method.* The State allocates to the community spouse additional income-producing resources to raise the community spouse's income to the minimum monthly maintenance needs allowance without first considering all income of the institutionalized spouse that could be made available to the community spouse as if it has been made available.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: August 28, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: August 30, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–22605 Filed 9–6–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 174
Friday, September 7, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental Impact Statements: Vegetation Management in the Appalachian Mountains; Vegetation Management in the Coastal Plain/Piedmont; and Vegetation Management in the Ozark/Ouachita Mountains

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare three supplemental environmental impact statements.

SUMMARY: The Forest Service, Southern Region, will prepare a Supplemental Environmental Impact Statement (EIS) for each of the three Vegetation Management EISs: (1) *Vegetation Management in the Appalachian Mountains;* (2) *Vegetation Management in the Coastal Plains/Piedmont;* and (3) *Vegetation Management in the Ozark/Ouachita Mountains* to clarify management requirements contained in each on Proposed, Endangered, Threatened, and Sensitive (PETS) species and to amend the subject Forest Land and Resource Management Plans to clarify the same requirements. The existing requirements for Biological Evaluations (BEs) unnecessarily restrict analysis to population survey information and would require gathering population inventory information in cases where gathering the information is not technically feasible or necessary. If approved, the changes would provide for using widely accepted methods of biological analysis and would improve the efficiency of conducting BEs on National Forests in the Southern Region.

DATES: Comments concerning the proposals should be received on or before October 9, 2001.

ADDRESSES: Send written comments to the Regional Forester, Attention: Mercedes Martin; USDA, Forest Service; Suite 811N; 1720 Peachtree St., NW; Atlanta, GA; 30309–9102.

FOR FURTHER INFORMATION CONTACT: Co-team leaders Robert Wilhelm, (404) 347–7076 or David Purser (404) 347–5292.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to amend Forest Plans in the Southern Region and supplement the EISs for Vegetation Management in the Appalachian Mountains, the Coastal Plains/Piedmont, and the Ozark/Ouachita Mountains to clarify Management Requirements for managing PETS species. The changes pertain to requirements for gathering population inventory information on PETS species when conducting a BE for proposed vegetation management projects.

The action is needed because the requirements for conducting BEs for vegetation management projects exclude accepted methods of analysis, overemphasize population inventory information, and, in some cases, require gathering population inventory information where it is unnecessary or is not technically feasible. The Records of Decision for the three EISs amended the Forest Plans in the Southern Region.

In a separate action, the Southern Region will supplement the Forest Service Manual to include regional policy requirements on conducting BEs. The Forest Service is inviting comment on that action under 36 CFR 216.

Decisions To Be Made

The Regional Forester will decide whether, and in what way, to modify the management requirements pertaining to population inventory information in BEs for projects covered in the three Records of Decision and EISs for Vegetation Management, and, through the Records of Decision, will amend the respective Forest Plans to make the corresponding changes in the standard on conducting BEs.

Responsible Official

Elizabeth Estill, Regional Forester, 1720 Peachtree St., NW; Atlanta, GA, 30309–9102 is the Responsible Official making the decisions on regional requirements on vegetation management and to amend the Forest Plans to make the corresponding changes.

Preliminary Issues

One preliminary issue has been identified: whether PETS species will be adequately protected and managed.

Public Involvement

The Forest Service will be seeking information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action.

While public participation in these analyses is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft Supplemental EISs. No public meetings are planned. The scoping process for each supplement will include identifying: potential issues, significant issues to be analyzed, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

Estimated Dates for Filing

The three Draft Supplemental EISs are expected to be filed with the Environmental Protection Agency (EPA) and available for public review by December 2001. At that time, EPA will publish a Notice of Availability of each Draft Supplemental EIS in the **Federal Register**. The comment period on each Draft Supplemental EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is important that those interested in the population inventory issue participate at that time.

The Final Supplemental EISs are scheduled to be completed by March 2002. In the Final Supplemental EISs, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in each Draft Supplemental EIS and applicable laws, regulations, and policies considered in making a decision regarding each proposal.

The Reviewer's Obligation To Comment

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is

meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft Supplemental EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: August 31, 2001.

Elizabeth Estill,

Regional Forester.

[FR Doc. 01–22500 Filed 9–6–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Monday, September 17, 2001. The meeting is scheduled to begin at 6 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center; 400 West Virginia Street; Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda includes:

(1) Discussion of written comments received from the public regarding the proposed management plan for Opal Creek Scenic Recreation Area.

(2) Development of Alternative Proposals that address various elements presented in the written public comments.

A public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the September 17 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

DISCLAIMER: This meeting notice is being published less than 15 days prior to the meeting to accommodate the required 45-day public comment period on the proposed SRA Management Plan. This late notice is authorized under 41 CFR 1016.1015(b)(2).

Dated: August 30, 2001.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 01–22501 Filed 9–6–01; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agency employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 8, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agency employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

Service

Grounds Maintenance
Naval Air Warfare Center Weapons Division, Buildings 456 (N97) and 1438 (Main Post Area), White Sands Missile Range, New Mexico
NPA: Tresco, Inc., Las Cruces, New Mexico
Government Agency: Department of the Navy

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–22546 Filed 9–6–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 8, 2001.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 29 and July 27, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 34612 and 39142) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and service proposed for addition to the Procurement List.

Accordingly, the following commodities and service are hereby added to the Procurement List:

Commodities

Tape, Electronic Data
7045–01–357–9939
Wipes, Alcohol, TX806 Isopropyl
7045–01–321–7456

Service

Janitorial/Custodial, U.S. Coast Guard, MSO/Group Portland, 6767 North Basin Avenue, Portland, Oregon.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–22547 Filed 9–6–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 083101B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Gear Identification Requirements

Form Number(s): None.

OMB Approval Number: 0648–0351.

Type of Request: Regular submission.

Burden Hours: 32,664.

Number of Respondents: 3,685.

Average Hours Per Response: 1 minute per piece of gear.

Needs and Uses: Regulations at 50 CFR 648.81 (f), 648.84, 648.123 (b)(3), 648.144 (b), and 697.21 require that Federal fishing permit holders using specified fishing gear mark that gear with specified information (the official vessel numbers, Federal permit number, tag number, or other method identified in the regulation). The regulations also specify how the gear is to be marked (e.g. location and visibility). Marking of gear aids law enforcement and also helps identify gear involved in damage, loss, or civil proceedings.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22550 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 083101C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southwest Region Gear Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0360.

Type of Request: Regular submission.

Burden Hours: 1,420.

Number of Respondents: 232.

Average Hours Per Response: 2 minutes per gearmarking.

Needs and Uses: This collection of information covers regulatory requirements for fishing gear identification under the Magnuson-Stevens Fishery Conservation and Management Act. The regulations specify that fishing gear must be marked with the vessel's official identification number. The regulations further specify how the gear is to be marked, e.g., location and visibility. Vessels in the Western Pacific pelagic longline and Northwestern Hawaiian Islands lobster fisheries are affected. This information is used for enforcement purposes, and for purposes of gear identification

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concerning damage, loss, and civil proceedings.

Affected Public: Business or other for-profit organizations, individuals.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22551 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 083101D]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Vessel Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0350.

Type of Request: Regular submission.

Burden Hours: 4,363.

Number of Respondents: 5,821.

Average Hours Per Response: 45 minutes.

Needs and Uses: Federally-permitted vessels in the Northeast Region of the U.S. must display their vessel identification numbers on three locations (port and starboard of deckhouse or hull, and weather deck) on the vessel at a required size. The requirement is needed to assist the National Marine Fisheries Service and the Coast Guard in enforcing fishery regulations.

Affected Public: Business or other for-profit organizations, individuals.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 30, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22552 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36–2001]

Proposed Foreign-Trade Zone—Washington County, MD; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Board of County Commissioners of Washington County, Maryland, to establish a general-purpose foreign-trade zone at sites in Washington County, Maryland, adjacent to the Baltimore Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 31, 2001. The applicant is authorized to make the proposal under Article 23, Section 467 of the Annotated Code of Maryland.

The proposed zone would be the third general-purpose zone in the Baltimore Customs port of entry area. The existing zones are FTZ 73 in Baltimore (Grantee: Maryland Department of Transportation/Maryland Aviation Administration, Board Order 180, 46 FR 58730, 12/3/81); and, FTZ 74 in Baltimore (Grantee: Baltimore Development Corporation, on behalf of the City of Baltimore, Maryland, Board Order 183, 47 FR 5737, 2/8/82).

The proposed new zone would consist of 7 sites in Washington County: *Site 1* (276 acres)—Lakeside Corporate Center (formerly, Ft. Ritchie Military Reservation, owned by the PenMar Development Corporation), 200 Castle Drive, Cascade; *Site 2* (443 acres)—387 acres within the 600-acre Hagerstown Regional Airport complex and 56 acres within the adjacent Bowman Airpark (owned by Washington County and the Bowman Group Properties), 18434 Showalter Road, Hagerstown; *Site 3* (81 acres)—Hub Industrial Park (owned by the Dahbura Family Limited Partnership), 18223 Shawley Drive, Maugansville; *Site 4* (722 acres)—Hunter's Green/Hopewell Valley industrial complex (owned by the Bowman Group Properties and by Tiger Development, Inc.), south of the intersection of Hopewell Road and Halfway Boulevard, Hagerstown; *Site 5* (43 acres)—City of Hagerstown Industrial Park (owned by the City) located on the east side of Frederick Street, Hagerstown; *Site 6* (172 acres)—Interstate Industrial Park complex (owned by the Bowman Group Properties), 10228 Governor Lane Boulevard, Williamsport; and, *Site 7* (129 acres)—Mellott Enterprises industrial complex (owned by Mellott Enterprises), Resley Street, approximately one mile north of Maryland Avenue, Hancock. Sites 2, 4, 5 and 7 are located in State-designated Enterprise Zones.

The application indicates a need for foreign-trade zone services in the Washington County area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activities. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on October 17, 2001, at 10:00 a.m., Board of County Commissioners Hearing Room, 2nd Floor, 100 West Washington Street, Hagerstown, Maryland.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 6, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 21, 2001).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Office of the Washington County Administrator, Washington County Administration Building, 100 West Washington Street, Room 226, Hagerstown, MD 21740–4727

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230

Dated: August 31, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–22559 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–009]

Industrial Nitrocellulose From France: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from the respondent, Bergerac, N.C., the Department of Commerce is conducting an administrative review of the antidumping duty order on industrial nitrocellulose from France. The review covers one manufacturers/exporter, Bergerac, N.C. The period of review is August 1, 1999, through July 31, 2000.

We have preliminarily determined that sales by Bergerac, N.C. have been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in these proceedings are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: David Dirstine, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4033.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On August 10, 1983, the Department of Commerce (the Department) published in the **Federal Register** (48 FR 36303) the antidumping duty order on industrial nitrocellulose (INC) from France. On August 25, 2000, the respondent requested a review of that order for respondent Bergerac, N.C. On October 2, 2000, in accordance with 19 CFR 351.213(b), we published a notice of initiation of administrative review of this order for the period of review August 1, 1999, through July 31, 2000 (POR) (65 FR 58733). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The product covered by this review is INC containing between 10.8 and 12.2 percent nitrogen. INC is a dry, white amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in serveral viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. Imports of this product are classified under the *Harmonized Tariff Schedule of the United States Annotated* (HTSUS) subheadings 3912.20.00 and 3912.90.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written descriptions of the scope of this proceeding remain dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by Bergerac, N.C. (BNC), using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales, financial, and cost records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (CRU), Main Commerce Building, Room B–099.

Constructed Export Price

For the price to the United States, we used constructed export price (CEP) as defined in section 772(b) of the Act. We calculated CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in the United States. We made deductions, as appropriate, for discounts and rebates. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the Statement of Administrative Action (SAA) (H.R. Doc. 103–316 (1994) at 823–824) to the URAA, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, including commissions, direct selling expenses, and indirect selling expenses in the United States. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act. No other adjustments to CEP were claimed or allowed.

Tevco, Inc. (TEVCO), a U.S. affiliate of BNC, imported subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers. The further-manufactured products were then sold to unaffiliated parties. We preliminarily determine that the special rule under section 772(e) of the Act for merchandise with value added after importation applies to the sales made by TEVCO in the United States.

Section 772(e) of the Act provides that, when the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price to an unaffiliated party of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison, and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price to an unaffiliated party of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated

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purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated purchaser, TEVCO. Based on this analysis, we determined that the estimated value added in the United States by TEVCO accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. See 19 CFR 351.402(c) for an explanation of our practice on this issue; see also *Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part*, 66 FR 36551, 36555, Decision Memorandum at Comment 28 (July 12, 2001) (AFBs). Therefore, we determine preliminarily that the value added is likely to exceed substantially the value of the subject merchandise.

For BNC, we determine preliminarily that there was a remaining sufficient quantity of sales of identical or other subject merchandise to unaffiliated persons to provide a reasonable basis for comparison and that the use of these sales is appropriate as a basis for calculating margins of dumping on the value-added merchandise. See *AFBs*. Accordingly, for purposes of determining dumping margins for the sales subject to the special rule, we have used the weighted-average dumping margins calculated on sales of identical or other subject merchandise sold to unaffiliated persons. See the Analysis Methodology memorandum from J. David Dirstine to the file dated August 30, 2001.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by BNC in France was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. BNC's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like products were first sold for consumption in the exporting country.

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers.

On November 29, 2000, the Department received a below-cost allegation from the petitioner, Green Tree Chemical Technologies, Inc. The petitioner's below-cost allegation made use of BNC's data on the record, employed a reasonable methodology, and provided evidence that alleged below-cost sales are representative of a broader range of models that may be used as a basis for normal value. Therefore, pursuant to section 773(b)(1)(A) and (B), on December 20, 2000, we initiated a below-cost investigation of sales by BNC in its home market. For a further discussion of this below-cost investigation, see Memorandum to Richard W. Moreland from Laurie Parkhill, dated December 20, 2000, on file in the CRU, Room B–099.

In accordance with section 773(b)(3) of the Act, we calculated the cost of production (COP) based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus amounts for home-market selling, general and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. We used the home-market sales data and COP information provided by BNC in its questionnaire response.

After calculating a weighted-average COP, in accordance with section 773(b)(3) of the Act, we tested whether the home-market sales of INC were made at prices below COP within an extended period of time in substantial quantities, and whether such prices permitted recovery of all costs within a reasonable period of time. We compared grade-specific COP's to the reported home-market prices less any applicable movement charges, discounts and rebates, indirect selling expenses, commissions, and packing.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of BNC's sales of a grade of INC were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of BNC's sales of a grade of INC during the period of review were at prices less than the COP, we disregarded such below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act. Based on comparisons of home-market prices to weighted-average COPs for the period of review, we determined that below-cost sales of INC were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded certain below-cost sales with respect to BNC.

We compared U.S. sales with sales of the foreign like product in the home market.

Home-market prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to CEP, we made COS adjustments by deducting home-market direct selling expenses from normal value. We also made adjustments, when applicable, for home-market indirect selling expenses to offset U.S. commissions deducted from CEP.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, we base normal value, to the extent practicable, on sales at the same level of trade as the CEP. If normal value is calculated at a different level of trade, we make an adjustment, if appropriate and if possible, in accordance with section 773(a)(7) of the Act. We determined that there was one level of trade in the home market. We were unable to match CEP sales at the same level of trade in the home market or to make a level-of-trade adjustment, because the differences in price between the CEP level of trade and the home-market level of trade are not quantifiable due to the lack of an equivalent CEP level of trade in the home market. Section 773(a)(7)(B) of the Act provides for an adjustment to normal value if normal value is established at a level of trade that is a more advanced stage of distribution than the level of trade of the CEP sale and the information on the record does not provide a basis for determining a level-of-trade adjustment. Therefore, we have made a CEP offset for all such sales as requested by the respondent. (See the Level of Trade section of our analysis memorandum to the file, dated August 30, 2001, on file in the CRU, Room B–099.)

Preliminary Results of Reviews

As a result of our review, we preliminarily determine the weighted-average dumping margins of 3.26 percent for the period August 1, 1999, through July 31, 2000.

Any interested party may request a hearing within 30 days of the date of publication of this notice. A hearing, if requested, will be held at the main Commerce Department building three days after submission of rebuttal briefs.

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.

Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument with an electronic version included.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs. The Department will issue final results of this review within 120 days of publication of these preliminary results.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific *ad valorem* duty-assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined CEP sales made during the POR to the total customs entered value of the sales used to calculate these duties. We will direct the Customs Service to assess the resulting percentage margin for the reviewed CEP sales uniformly on all entries of that particular importer during the POR as well as on those entries of subject merchandise for which we determined that the special rule for merchandise with value added after importation applied under section 772(e) of the Act. See 19 CFR 351.212(a).

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rate for Bergerac, N.C. will be the rate established in the final results of review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will 1.38 percent. This is the "All Others" rate from the less-than-fair-value investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

We are issuing and publishing these determinations in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22557 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 27, 2001, the Department of Commerce ("the Department") published the preliminary results of administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China ("PRC"). This review covers an exporter, Guizhou Provincial Chemicals Import & Export Corporation ("Guizhou"), and its supplier of potassium permanganate, the Zunyi Chemical Factory ("Zunyi"). The period of review ("POR") is January 1, 1999 through December 31, 1999.

The final weighted-average dumping margin for the reviewed exporter is listed below in the section entitled *"Final Results of Review."* The final margin differs from that published in the preliminary results due to changes that we made since the preliminary results. For details regarding these changes, see the section of the notice entitled *"Changes Since the Preliminary Results."*

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Howard Smith, AD/CVD Enforcement Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or (202) 482–5193 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Rounds Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations at 19 CFR part 351 (2001).

Background

Since the publication of the preliminary results, the following events have occurred. On March 19, 2001 the respondents and the petitioner (Carus Chemical Company ("Carus")) submitted publicly available information and comments regarding factor valuation. On March 29, 2001 petitioner filed rebuttal comments regarding the respondents' March 19, 2001 factor value submission and objected to respondents' submission because it lacked certificates of accuracy. At the Department's request the respondents submitted an appropriate certificate on April 5, 2001. See the memorandum to the file from the case analyst dated April 16, 2001. In response to the Department's invitation to comment on the preliminary results of review, the petitioner and the respondents filed case briefs on March 30, 2001 and rebuttal briefs on April 5, 2001. The Department held a public

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hearing regarding this review on April 13, 2001.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. During the review period, potassium permanganate was classifiable under item 2841.60.0010 of the Harmonized Tariff Schedule ("HTS"). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Bernard T. Carreau, Deputy Assistant Secretary, Important Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Record Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *www.ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results of Review

Based on our analysis of the petitioner's and the respondents' comments, we have made certain changes to the factors of production and surrogate values used to calculate the margin in the preliminary results. The changes and corrections are discussed in the relevant sections of the Decision Memorandum. In addition, further details regarding the changes and corrections can be found in the surrogate value memorandum (*see Surrogate Values Used for the Final Results of the 1999 Administrative Review of Potassium Permanganate From the People's Republic of China*), which is on file in room B–099 of the main Department of Commerce building.

Final Results of Review

We determine that the following percentage weighted-average margins exist for the period January 1, 1999 through December 31, 1999:

Exporter/manufacturer	Margin (percent)
Guizhou Provincial Chemicals Import & Export Corporation ...	107.32

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for sales to a specific importer by the total quantity of subject merchandise sold to the importer in order to calculate a per-unit dollar assessment. The per-unit dollar amount will be assessed uniformly against each unit of subject merchandise that the importer entered during the POR.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of potassium permanganate from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will continue to be 128.94 percent; and (4) the cash-deposit rate for non-PRC exporters will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i)(1) of the Act.

Dated: August 27, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comments and Responses

1. Allegations That the Sale is not Bona Fide and There was Fraud Upon the Department's Proceedings
2. Allegation of Failure to Properly Address the Characteristics of the Sale
3. Allegation of Failure to Take into Account the Importer's Resale Price
4. Allegation of Failure to Properly Weigh Evidence Regarding the Shipper's Policy on LCL Shipments
5. Allegation of Failure to Address Fraud on the Department's Proceedings
6. Allegation of Failure to Properly Weigh Evidence Regarding Knowledge of the Hazardous Nature of the Merchandise
7. Allegation of Failure to Take into Account Evidence Regarding the Parties Responsible for the Merchandise Descriptions on House Bills of Lading (HBLs)
8. Allegation of Failure to Properly Weigh Evidence Regarding the Fraudulent HBL
9. Allegation That the Department Improperly Placed the Burden of Proof on Petitioner
10. Allegation of Failure to Determine Whether the Shipment was Legal
11. Allegation That the Department's Approach in the Preliminary Results Undermines Trade Laws
12. Respondents' Failure to Provide the Required Certification with their Factor Value Submission
13. Use of Third-Party Price Quotes Dated after the Preliminary Results
14. Contemporaneity and Representativeness of Respondents' Price Quotes
15. Surrogate Value for Coal
16. Surrogate Value for Drums Used for Packing
17. Surrogate Value for Electricity
18. Surrogate Value for Manganese Dioxide
19. Surrogate Value for Potassium Hydroxide
20. Surrogate Value for Selling, General and Administrative Expenses (SG&A), Factory Overhead and Profit Ratios
21. Surrogate Value for Water
22. Inputs Used to Treat River Water: Lime, Alum, Salt, Electricity and Labor
23. Surrogate Value for Lime
24. Surrogate Value for Alum
25. Surrogate Value for Salt

[FR Doc. 01–22560 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Postponement of Preliminary Antidumping Duty Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Gabriel Adler, Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0650, or (202) 482–3813, respectively.

POSTPONEMENT OF PRELIMINARY DETERMINATION: The Department of Commerce (the Department) is postponing the deadline for issuance of the preliminary determination in the antidumping duty investigation of certain softwood lumber products from Canada until October 15, 2001.

On April 23, 2001, the Department initiated an antidumping investigation of certain softwood lumber products from Canada. *See Initiation of Antidumping Duty Investigation: Certain Softwood Lumber Products from Canada*, 66 FR 21328 (April 30, 2001). The notice stated that the Department would issue its preliminary determination no later than 140 days after the date of initiation (*i.e.*, September 10, 2001). At the request of the petitioner,[1] on July 30, 2001, the Department postponed the date of preliminary determination by two weeks, until September 24, 2001.

In accordance with Section 733(c)(1)(A) of the Tariff Act of 1930, as amended, (the Act), on August 23, 2001, the petitioner filed a request that the Department further postpone the preliminary determination in this investigation by three weeks. The petitioner's request for postponement was timely, and the Department finds no compelling reason to deny the request. Therefore, in accordance with section 733(c)(1) of the Act, the Department is postponing the deadline for issuing this preliminary determination until October 15, 2001.

This postponement is in accordance with section 733(c) of the Act and 19 CFR 351.205(b)(2).

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22556 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DS–P

[1] Coalition for Fair Lumber Imports Executive Committee.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–811; A–455–803; A–823–809; A–822–804, A–570–860, A–580–844, A–449–804, A–841–804]

Antidumping Duty Orders: Steel Concrete Reinforcing Bars From Belarus, Indonesia, Latvia, Moldova, People's Republic of China, Poland, Republic of Korea and Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty orders.

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur (Belarus) at (202) 482–5346, Maisha Cryor (Indonesia) at (202) 482-5831, Christopher Smith (Latvia and Ukraine) at (202) 482–1442, Michele Mire (Moldova) at (202) 482–4711, Constance Handley (People's Republic of China) at (202) 482–0631, Chris Riker (Poland) at (202) 482–0186, Mark Manning (Republic of Korea) at (202) 482–3936, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Scope of Orders

For purposes of these orders, the product covered is all steel concrete reinforcing bars (rebar) sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Antidumping Duty Orders

In accordance with section 735(a) of the Act, the Department made its final determinations that rebar from Belarus, Indonesia, Latvia, Moldova, People's Republic of China (PRC), Poland, Republic of Korea (Korea) and Ukraine is being sold at less-than-fair-value (LTFV) (66 FR 18752; 66 FR 33522, 33531). On May 25, 2001, the U.S. International Trade Commission (the ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that a regional industry in the United States is materially injured by reason of less than fair value (LTFV) imports of subject merchandise from Indonesia, Poland, and Ukraine. On July 23, 2001, the ITC notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that a regional industry in the United States is materially injured by reason of LTFV imports of subject merchandise from Belarus, Korea, Latvia, and Moldova, and that a regional industry in the United States is threatened with material injury by reason of LTFV imports of subject merchandise from the PRC.

In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from all producers and exporters in Poland, the PRC, Korea and Ukraine. Therefore, we will instruct Customs to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption prior to the date of publication of the *Preliminary Determinations* in the **Federal Register** (66 FR 8339, 66 FR 8343, 66 FR 8348).

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further

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advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the U.S. price of the merchandise for all relevant entries of rebar from Belarus, Indonesia, Latvia, Moldova, the PRC, Poland, Korea and Ukraine. These antidumping duties will be assessed on all unliquidated entries of rebar from Belarus, Indonesia, Latvia, Moldova, Poland, Korea and Ukraine entered, or withdrawn from warehouse, for consumption on or after January 30, 2001, the date on which the Department published its notice of preliminary determinations for those countries in the **Federal Register** (66 FR 8323, 66 FR 8329, 66 FR 8333, 66 FR 8339, 66 FR 8343, 66 FR 8348). Pursuant to 736(b)(2) of the Act, the effective date of assessment of antidumping duties on all unliquidated entries of rebar from the PRC will be July 30, 2001, which is the date of the publication of the ITC's final injury determination with respect to the PRC. Therefore, we will instruct Customs to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "All Others" rates apply to all exporters in Indonesia, Latvia, Poland and Korea of subject rebar not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Indonesia:	
Sakti	71.01
Bhirma	71.01
Krakatau	71.01
Perdana	71.01
Hanil	71.01
Pulogadung	71.01
Tunggal	71.01
Master Steel	71.01
All others	60.46
Poland:	
Stalexport	52.07
All others	47.13
Ukraine: Ukraine-Wide Rate	41.69
Belarus: Belarus-Wide Rate	114.53
People's Republic of China	
Laiwu Steel Group	133.00
PRC-Wide Rate	133.00
Republic of Korea	
Dongkuk Steel Mill Co., Ltd./ Korea Iron & Steel Co., Ltd.	22.89
Hambo Iron & Steel Co., Ltd.	102.28
All others	22.89
Latvia	
Liepajas Metalurgs	17.21
All others	17.21
Moldova: Moldova-Wide Rate	232.86

This notice constitutes the antidumping duty orders with respect to rebar from Belarus, Indonesia, Latvia, Moldova, the PRC, Poland, Korea and Ukraine. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of the Act of 1930, as amended.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22558 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–852]

Notice of Rescission of Antidumping Duty Administrative Review: Structural Steel Beams From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the antidumping duty administrative review of structural steel beams from Japan.

SUMMARY: On July 23, 2001, the Department of Commerce ("Department") published a notice of initiation of an antidumping duty administrative review on structural steel beams from Japan. This review covers six manufacturers/exporters of the subject merchandise. The period of review ("POR") is February 11, 2000 through May 31, 2001. This review has now been rescinded as a result of a withdrawal of the request for administrative review by the interested parties.

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen or Jim Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0409 (Chen) or 202–482–0159 (Doyle), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On June 19, 2000, the Department published the antidumping duty order on structural steel beams from Japan. See Structural Steel Beams from Japan: Notice of Antidumping Duty Order, 65 FR 37960 (June 19, 2000). On June 11, 2001, the Department published a notice of opportunity to request an administrative review of this order for the period February 11, 2000 through May 31, 2001. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 66 FR 31203 (June 11, 2001). Petitioners Northwestern Steel & Wire Company, Nucor-Yamato Steel Company, and TXI-Chaparral Steel, Inc. (collectively "petitioners") timely requested that the Department conduct an administrative review of sales by Kawasaki Steel Corporation, Nippon Steel Corporation, NKK Corporation, Sumitomo Metal Industries, Ltd., Tokyo Steel Manufacturing Co., Ltd., and Topy Industries, Ltd., Japanese producers or exporters of subject merchandise. On July 23, 2001, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part, 66 FR 38252 (July 23, 2001).

Rescission of Review

Petitioners timely withdrew their request for review on July 23, 2001. There were no other requests for administrative review from an interested party. As a result, in accordance with section 351.213(d)(1) of the Department's regulations, the Department is rescinding this administrative review.

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) of the Act.

Dated: August 29, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 01–22555 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

AGENCY: International Trade Administration, Department of Commerce.

ACTION: The Department of Commerce is soliciting applications for an allocation of the 2002 tariff rate quotas on certain worsted wool fabric.

SUMMARY: The Department of Commerce (Department) hereby solicits applications from persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers for an allocation of the 2002 tariff rate quotas on certain worsted wool fabric. Interested persons must submit an application on the form provided to the address listed below by 5:00 p.m. on October 9, 2001. Application forms may be obtained from that office (via facsimile or mail) or from the following internet address: http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp.

The Department will cause to be published in the **Federal Register** its determination to allocate the 2002 tariff rate quotas and will notify applicants of their respective allocation as soon as possible after that date. Promptly thereafter, the Department will issue licenses to eligible applicants. The 2003 tariff rate quotas will be allocated at a later date.

DATES: To be considered, applications must be received or postmarked by 5:00 p.m. on October 9, 2001.

ADDRESSES: Applications must be submitted to the Industry Assessment Division, Office of Textiles, Apparel and Consumer Goods Industries, Room 3001, United States Department of Commerce, Washington, D.C. 20230 (telephone: (202) 482-4058). Application forms may be obtained from that office (via facsimile or mail) or from the following internet address: http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4058.

SUPPLEMENTARY INFORMATION

BACKGROUND:

Title V of the Trade and Development Act of 2000 (the Act) created two tariff rate quotas, providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12). The first tariff rate quota year commenced on January 1, 2001 and ends on December 31, 2001. In the first tariff rate quota year, 12 firms received an allocation for HTS 9902.51.11 and 15 firms received an allocation for HTS 9902.51.12. The second tariff rate quota year will commence January 1, 2002 and ends on December 31, 2002. Annual imports under 9902.51.11 are limited to 2,500,000 square meters, and annual imports under 9902.51.12 are limited to 1,500,000 square meters; these limits may be modified by the President.

The Act requires that the tariff rate quotas be allocated to persons who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States. On January 22, 2001 the Department published regulations establishing procedures for allocating the tariff rate quotas. 66 FR 6459, 15 CFR 335. In order to be eligible for an allocation, an applicant must submit an application on the form provided to the address listed above by 5:00 p.m. on October 9, 2001 in compliance with the requirements of 15 CFR 335.

Any business confidential information that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law.

Dated: August 30, 2001.

Linda M. Conlin,

Assistant Secretary for Trade Development, Department of Commerce.

[FR Doc.01–22535 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082101C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a working meeting which is open to the public.

DATES: The GMT working meeting will begin Monday, September 24, 2001, at 1 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. to 5 p.m. Tuesday, September 25 through Friday, September 28.

ADDRESSES: The meetings will be held at NMFS Southwest Fisheries Science Center, Santa Cruz Laboratory, 110 Shaffer Road, Santa Cruz, CA 95060; telephone: (831) 420–3900.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: John DeVore, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT meeting is to prepare final recommendations regarding groundfish harvest levels and management for 2002. Members of the Council's Scientific and Statistical Committee and the Groundfish Advisory Subpanel may attend to discuss the results of recent groundfish stock assessments and 2002 harvest levels. The GMT will also prepare reports, recommendations, and analyses in support of various Council decisions through the remainder of the year. The following specific items comprise the draft agenda (1) prepare final acceptable biological catch (ABC) and optimum yield (OY) recommendations for 2002, (2) complete and/or review rebuilding plans for overfished groundfish stocks,

(3) calculate limited entry, open access, and other allocations, (4) evaluate management options for 2002, (5) complete and/or review economic/social analysis of proposed harvest levels and management measures for 2002, (6) complete the Council's Stock Assessment and Fishery Evaluation document, (7) resolve any outstanding recreational data issues and evaluate the need for inseason management adjustments, and(8) other miscellaneous Council groundfish issues.

Although non-emergency issues not contained in this agenda may come before the GMT for discussion, those issues may not be the subject of formal GMT action during this meeting. GMT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: August 28, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22554 Filed 9–6–01; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act of 1978, notice is given that the following employees will serve as members of the Commission's Performance Review Board.

Members: Donald L. Tendick, Acting Executive Director, Chairman; R. Scott Parsons, Acting Chief of Staff; Phyllis J. Cela, Acting Director, Division of Enforcement, Andrea M. Corcoran, Director, Office of International Affairs; John C. Lawton, Acting Director, Division of Trading and Markets; David R. Merrill, Acting General Counsel, Office of General Counsel; Richard A. Shilts, Acting Director, Division of Economic Analysis.

DATES: This action will be effective on August 31, 2001.

ADDRESS: Commodity Futures Trading Commission, Office of Human Resources, Three Lafayette Centre, Suite 4100, Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Marsha Scialdo, Director, Office of Human Resources, Commodity Futures Trading Commission, Three Lafayette Centre, Suite 4100, Washington, DC 20581, (202) 418–5003.

SUPPLEMENTARY INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, August 10, 2000.

Issued in Washington, DC on August 31, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–22534 Filed 9–6–01; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form, and OMB Number: Application for Discharge of Member or Survivor of Group Certified to Have Performed Active Duty with the Armed Forces of the Untied States; DD Form 2168; OMB Number 0704–0100.

Type of Request: Extension.

Number of Respondents: 3,000.

Responses per Respondent: 1.

Annual Responses: 3,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 1,500.

Needs and Uses: Public Law 95–202, Section 401, directs the Secretary of Defense to determine if civilian employment or contractual service rendered by groups to the Armed Forces of the United States shall be considered active duty. This information collection provides the necessary information to assist each of the Military Departments in determining if an applicant was a member of a group that has performed active military service. Those individuals who have been recognized as a member of an approved group are eligible for benefits provide for by laws administered by the Veterans' Administration.

Affected Public: Individual or Households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing. Written request for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 23, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22519 Filed 9–6–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting Notice

AGENCY: U.S. Army Center of Military History, DoD.

ACTION: Notice of Meeting.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Department of Defense Historical Advisory Committee.

Date: 25 October 2001.

Place: U.S. Army Center of Military History, Building 35, 103 Third Avenue, Fort McNair, DC 20319–5058.

Time: 9 a.m. to 4:30 p.m. (25 October 2001).

Proposed Agenda: Review and discussion of the status of historical activities in the United States Army.

Purpose of the Meeting: The committee will review the Army's historical activities for FY 2001 and those projected for FY 2002 based upon reports and manuscripts received throughout the period. And the committee will formulate recommendations through the Chief of Military History of the Chief of Staff, Army, and the Secretary of the Army for advancing the use of history in the U.S. Army.

The meeting of the advisory committee is open to the public. Because of the restricted meeting space, however, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend the 25 October 2001 meeting.

Any members of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentations or oral statements at the meeting.

All communications regarding this advisory committee should be addressed to Dr. Jeffrey J. Clarke, U.S. Army Center of Military History, ATTN: DAMH–ZC, 103 Third Avenue, Fort McNair, DC 20319–5058; telephone number (202) 685–2709.

Dated: August 17, 2001.

Jeffrey J. Clarke,

Chief Historian.

[FR Doc. 01–22441 Filed 9–6–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of Performance Review Boards for the Department of the Army.

EFFECTIVE DATE: September 6, 2001.

FOR FURTHER INFORMATION CONTACT: David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Office of the Secretary of the Army are:

1. Mr. Charles T. Horner, Principal Deputy Assistant Secretary of the Army, (Financial Management & Comptroller), Office, Assistant Secretary of the Army, (Financial Management & Comptroller).

2. Ms. Judith Guenther, Director of Investment, Office, Assistant Secretary of the Army, (Financial Management & Comptroller).

3. Mr. John Miller, Director for Business Resources, Office, Assistant Secretary of the Army, (Financial Management & Comptroller).

4. Mr. Francis E. Reardon, The Auditor General, Army Audit Agency.

5. Mr. Thomas Druzgal, Deputy Auditor General, Army Audit Agency.

6. Ms. Joyce Morrow, Director, Audit Policy, Plans & Resources, Army Audit Agency.

7. Mr. Frederick R. Budd, Director, Single Agency Manager—Pentagon.

8. Dr. Henry C. Dubin, Director for Assessment & Evaluation, Office, Assistant Secretary of the Army, (Acquisition, Logistics & Technology).

9. Dr. A. Michael Andrews, Deputy Assistant Secretary of the Army, (Research & Technology)/Chief Scientist, Office, Assistant Secretary of the Army, (Acquisition, Logistics & Technology).

10. Ms. Claudia L. Tornblom, Deputy Assistant Secretary of the Army, (Management and Budget), Office, Assistant Secretary of the Army, (Civil Works).

11. Dr. Daphne Kamely, Special Assistant to the Deputy Asst Sec of the Army, (Environment, Safety & Occupational Health), Office, Assistant Secretary of the Army, (Installations & Environment).

12. Mr. Karl F. Schneider, Deputy Assistant Secretary of the Army, (Army Review Boards Agency), Office, Assistant Secretary of the Army, (Manpower and Reserve Affairs).

13. Ms. Elizabeth Throckmorton, Assistant Deputy ASA (Civilian Personnel Policy), Office, Assistant Secretary of the Army, (Manpower and Reserve Affairs).

14. Mr. David Borland, Vice Director, Directorate of Information Systems for Command, Control, Communications & Computers.

15. MG Steven W. Boutelle, Director of Programs Architecture, Directorate of Information Systems for Command, Control, Communications & Computers.

16. Mr. John C. Speedy III, Assistant Deputy Under Secretary of the Army, (International Policy), Office, Deputy Under Secretary of the Army, (International Affairs).

17. MG Howard J. von Kaenel, Military Deputy to the Under Secretary of the Army, (International Affairs), Office, Deputy Under Secretary of the Army, (International Affairs).

18.Mr. J. Douglas Sizelove, Assistant Deputy Under Secretary of the Army, (Operations Research), Office, Deputy Under Secretary of the Army, (Operations Research).

19. Dr. Daniel Willard, Special Assistant for Air and Missile Defense, Office, Deputy Under Secretary of the Army, (Operations Research).

20.Mr. Earl H. Stockdale, Deputy General Counsel, (Civil Works & Environment), Office of the Army General Counsel.

21. Mr. Levator Norsworthy, Deputy General Counsel, (Acquisition), Office of the Army General Counsel.

22. MG Warren L. Freeman, Commanding General, District of Columbia National Guard.

The following members are added to the Performance Review Board for the U.S. Army Materiel Command:

1. Mr. Jimmy C. Morgan, Director, U.S. Army Armament and Chemical, Acquisition and Logistics Activity, U.S. Army Tank-automotive and Armaments Command.

2. Dr. Joseph A. Lannon, Director, Warheads, Energetics and Combat-Support.

3. Armaments Center, U.S. Army Tank-automotive and Armaments Command.

4. Mr. Michael P. Devine, Technical Director for Armaments.

5. U.S. Army Armament RD&E Center, U.S. Army Tank-automotive and Armaments Command.

Luz D. Oritz,

Army Federal Register Liaison Officer.

[FR Doc. 01–22440 Filed 9–6–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Grant of Exclusive Licenses

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of a prospective exclusive license for all fields of use in the manufacture, use, and sale of the Shock Absorbing Block.

DATES: Written objections must be filed not later than November 6, 2001.

ADDRESS: United States Army Corps of Engineers Research and Development Center, Waterways Experiment Station, Attn: CEERD–OP–MS (Mr. Phillip Stewart), 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Stewart, ATTN: CEERD–OP–MS; (601) 634–4113, FAX (601) 634–410; Internet *phillip.stewart@erdc.usace.army.mil*; U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

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SUPPLEMENTARY INFORMATION: This invention relates to a novel and inexpensive shock-absorbing block or wall. Applications include crash cushion barriers on highways and around buildings. Made from scrap rubber tires and foamed concrete, the invention represents a significant advancement over currently available products. Patent number 5,863,483 claims the 1 method of making the block and patent number 5,942,306 claims the manufactured item. The United States of America, as represented by the Secretary of the Army, intends to grant an exclusive license for all fields of use in the manufacture, use, and sale of the Shock Absorbing Block to Camtek Construction Products Corporation, a company with principal offices located in Murrysville, Pennsylvania. Pursuant to 37 CFR 404.7(b)(1)(i), any interested party may file a written objection to this prospective exclusive license agreement.

Richard L. Frenette,

Counsel.

[FR Doc. 01–22442 Filed 9–6–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 9, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 31, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: New.

Title: Application for Federal Education Assistance (ED Form 424) Clearance Package.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 17,000.

Burden Hours: 4,250.

Abstract: Need to collect information necessary for the processing of various Department of Education grant program's application packets from State and Local educational agencies, institutions of higher education. Information is used by program offices to determine eligibility and facilitate in the disbursement of program funds.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address *Jackie.Montague@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–22473 Filed 9–6–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–028]

ANR Pipeline Company; Notice of Negotiated Rate Filing

August 31, 2001.

Take notice that on August 23, 2001, ANR Pipeline Company (ANR), tendered for filing one Interruptible Service Agreement and a description of the essential conditions involved in agreeing to a Negotiated Rate Arrangement. ANR requests that the Commission approve the Negotiated Rate Arrangements to be retroactively effective on July 20, 2001.

ANR states that the filed Negotiated Rate Arrangement reflects a negotiated rate between ANR and Holland, City of (Inc.) for transportation service, under one transportation agreement for a period to be effective beginning July 20, 2001, until April 30, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22491 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–030]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

August 31, 2001.

Take notice that on August 22, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to the Federal Energy Regulatory Commission (Commission) the following contract for disclosure of a recently negotiated rate transaction:

FTS–1 Service Agreement No. 71003 between Columbia Gulf Transmission Company and Virginia Power Energy Marketing, Inc. dated August 2, 2001

Transportation service is to commence November 1, 2001 under the Agreement. Columbia Gulf requests an August 2, 2001 effective date for its filing.

Columbia Gulf states that copies of the filing have been served on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22496 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–482–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

August 31, 2001.

Take notice on August 14, 2001, Dominion Transmission, Inc., (DTI) tendered for filing as part of its FERC Gas Tariff, the filing tariff sheets:

First Revised Volume No. 2 Effective August 15, 2001

First Original Sheet No. 4

Third Revised Volume No. 1 Effective August 8, 2001

Sub. First Revised Sheet No. 5

DTI states that the filing is being made in compliance with the Commission's letter order issued on August 8, 2001, in Docket No. RP01–482–000.

On July 9, 2001, DTI filed revised tariff sheets in Third Revised Volume No. 1 and First Revised Volume No. 2, which supercedes in their entirety, the currently effective Original Volume Nos. 2 and 2A. DTI states that it has revised its currently effective tariff to reflect the change in its corporate name from CNG Transmission Corporation to Dominion. The tariff sheets were accepted for filing, effective August 8, 2001, except that First Revised Sheet No. 5 to Third Revised Volume No. 1 was rejected. The Commission required that First Revised Sheet No. 5 be replaced to eliminate the typographical error at Rate Schedule X–49 and X–50 by replacing the name of the old contract with "Notice of Cancellation". DTI is filing a replacement page for First Revised Sheet No. 5 of Third Revised Volume No. 1 along with a corresponding correction in the index of First Revised Volume No. 2, Original Sheet No. 4.

DTI states that copies of its letter of transmittal have been served upon the parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22495 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–13–005]

East Tennessee Natural Gas Company; Notice of Negotiated Rate Filing

August 31, 2001.

Take notice that on August 17, 2001, East Tennessee Natural Gas Company (East Tennessee), tendered for filing copies of a Firm Transportation Service Agreement, attached as Appendix A to the filing, and a Negotiated Rate Letter Agreement, attached as Appendix B to the filing, under Rate Schedule FT–A. East Tennessee requests that the Commission grant all necessary waivers and approve the Firm Transportation Service Agreement and Negotiated Rate Letter Agreement to be effective August 17, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boegers,

Secretary.

[FR Doc. 01–22497 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–005]

Northern Natural Gas Company; Notice of Compliance Filing

August 31, 2001.

Take notice that on August 24, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective August 1, 2001:

Seventh Revised Sheet No. 263
Third Revised Sheet No. 263B
Third Revised Sheet No. 263C

Northern states that the filing is being made in compliance with the Commission's Order dated July 27, 2001.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boegers,

Secretary.

[FR Doc. 01–22494 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2831–000]

Tampa Electric Company; Notice of Filing

August 31, 2001.

Take notice that on August 20, 2001, Tampa Electric Company (Tampa Electric) amends its August 13, 2001 filing in Docket No. ER01–2831–000 by withdrawing the notice of cancellation of the Contract for the Purchase and Sale of Power and Energy between Tampa Electric and NP Energy Inc. (NP Energy).

The August 13 filing in Docket No. ER01–2831–000 is not withdrawn altogether. Tampa Electric continues to request that its notice of cancellation of the Service Agreement be accepted for filing and made effective August 13, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 10, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22498 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–468–002]

Texas Eastern Transmission, LP; Notice of Errata Filing

August 31, 2001.

Take notice that on August 20, 2001, Texas Eastern Transmission, LP (Texas Eastern) submitted for filing Substitute Original Sheet No. 648 and Substitute Original Sheet No. 649 to be included in Pro Forma Seventh Revised Volume No. 1 in lieu of Original Sheet No. 648 and Original Sheet No. 649 which were filed on July 31, 2001, in compliance with Order No. 637, et seq., and in accordance with the Commission's suggestion in its June 12, 2001, letter order issued in Docket Nos. RP00–468–000 and RP01–25–000.

Texas Eastern states that a subsequent review of the scheduling and curtailment sequences for secondary transactions on Original Sheet No. 648 and Original Sheet No. 649 failed to address two potential transactions, from Secondary Receipt Points outside the Transportation Path to Primary Delivery points and from Secondary Points outside the Transportation Path to Secondary Points outside the Transportation Path. Texas Eastern states that Substitute Original Sheet No. 648 and Substitute Original Sheet No. 649 are being submitted to correct the scheduling and curtailment sequences.

Texas Eastern states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22492 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–468–003]

Texas Eastern Transmission, LP; Notice of Second Errata Filing

August 31, 2001.

Take notice that on August 24, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing Second Substitute Original Sheet No. 648 and Second Substitute Original Sheet No. 649 to be included in Pro Forma Seventh Revised Volume No. 1 in lieu of tariff sheets previously filed on July 31, 2001, in compliance with Order No. 637, *et seq.*, and in accordance with the Commission's suggestion in its June 12, 2001, letter order issued in Docket Nos. RP00–468–000 and RP01–25–000.

Texas Eastern states that on August 20, 2001 it submitted an errata filing to revise the scheduling and curtailment sequences for secondary transactions to include two additional potential transactions. Texas Eastern states that as a result of an inquiry from one of its customers it has identified the need for a further revision to the scheduling and curtailment sequences for secondary transactions to address transactions which are delivered at Secondary Delivery Points but received from Primary Receipt Points. Texas Eastern states that the second substitute tariff sheets are being submitted to further correct the scheduling and curtailment sequences.

Texas Eastern states that copies of the filing were mailed to all affected customers and interested state commissions.

Coinciding with the period granted by the Commission for Texas Eastern's July 31, 2001, compliance filing, interested parties will have until August 30, 2001, to submit comments regarding this filing. Texas Eastern has 20 days to respond to any comments received in response to this filing. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22493 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–435–011]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

August 30, 2001.

Take notice that on August 15, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission its Refund Report made pursuant to the Commission's Letter Order issued June 18, 2001 in Docket No. RP01–435–000.

Williston Basin states that on August 10, 2001, refunds were sent to applicable Rate Schedule IT–1 shippers associated with the final reconciliation of the gas supply realignment (GSR) amortization account as of June 30, 2001. These refunds included interest through August 10, 2001, in accordance with Section 154.501 of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before September 6, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22469 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–28–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

August 31, 2001.

Take notice that on August 24, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, to become effective August 24, 2001:

Eighth Revised Sheet No. 375

Williston Basin states that it has revised the above-referenced tariff sheet found in Section 48 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, to add a new receipt point, Point ID No. 03682 (Silvertip), to Williston Basin's Big Horn Pool. Point ID No. 03682 (Silvertip) is a new receipt point constructed to allow Williston Basin to receive natural gas for its shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission. 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

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instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22490 Filed 9–6–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–409–000]

Calypso Pipeline, L.L.C.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Request Calypso Natural Gas Pipeline Project, Request for Comments on Environmental Issues, and Notice of a Public Scoping Meeting and Site Visit

August 31, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) and the Minerals Management Service (MMS) will prepare an Environmental Impact Statement (EIS) that will analyze the environmental impacts of the proposed Calypso Natural Gas Pipeline Project involving construction and operation of facilities by Calypso Pipeline, L.L.C. (Calypso).[1] The proposed pipeline originates in the Bahamas and would come ashore at Port Everglades, Florida. These facilities would consist of about 41.8 miles of 24-inch diameter pipeline (approximately 36.0 miles offshore and approximately 5.8 miles onshore), a meter and pressure regulation station with a pig receiver, and 2 block valves. This EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity. The MMS will have primary responsibility for offshore analysis in U.S. waters and will coordinate with the U.S. Army Corps of Engineers regarding Florida state waters review.

The application and other supplemental filings in this docket are available for viewing on the FERC Internet Web site (*www.ferc.gov*). Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. General information about the MMS and detailed information regarding Florida state and Federal waters can be accessed at the MMS Internet Web site (*www.mms.gov*).

The FERC is the lead agency and the MMS is a Federal cooperating agency for this project because the MMS has jurisdiction by law as well as special expertise regarding the potential environmental impacts associated with that portion of the proposed pipeline that would be installed on the Outer Continental Shelf.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice that Calypso provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

Florida is experiencing a substantial increase in demand for electric power as a result of population growth in the state. Calypso's proposed project would transport into Florida up to 832 million standard cubic feet per day of natural gas. The project would deliver the gas to an interconnect with the Florida Gas Transmission Company (FGT) system. The Calypso Natural Gas Pipeline Project would be located onshore in Broward County, Florida and offshore in the Atlantic Ocean. The project would receive gas at the U.S./Bahamian Exclusive Economic Zone (EEZ) at a subsea connection to a 24-inch pipeline, referred to as the Grand Bahama Island Pipeline, transporting natural gas from a proposed liquefied natural gas (LNG) storage facility in Freeport, Grand Bahama Island. The LNG facility and the Grand Bahama Island Pipeline are non-jurisdictional facilities.

Hawksbill Creek LNG, Ltd., a Bahamian company, proposes to construct and operate the LNG terminal in Freeport, Grand Bahama Island that would receive LNG tankers arriving from international LNG supply locations. The LNG would be offloaded from the tankers and stored in specially designed storage tanks. From there, the LNG would be revaporized in heat exchangers on the terminal site and the resulting natural gas would be fed into the 24-inch-diameter offshore pipeline.

The FERC and MMS authorizations for this project would not extend eastward of the EEZ. The Government of the Bahamas regulates matters pertaining to the environment and safety and traditionally requires an environmental impact assessment as a condition to approving a project such as the LNG terminal and Grand Bahama Island Pipeline. The Government of the Bahamas is in the process of reviewing the environmental impact assessment for these facilities.

The LNG facility and the Grand Bahama Island Pipeline are not part of the facilities proposed in Calypso's application to the FERC. In its application, Calypso seeks authority to construct and operate the following:

- *Offshore Pipeline Segment*

The proposed offshore pipeline segment will be located in the Atlantic Ocean, off the southeast Florida coastline, and will consist of approximately 36 miles (31.2 nautical miles) of 24-inch-diameter pipeline (Offshore Pipeline). The Offshore Pipeline will traverse the Atlantic Ocean, starting at the U.S./Bahamian EEZ, passing through Federal and state waters, and ending at a shoreline entry at Port Everglades in Fort Lauderdale, Florida to connect with the proposed Calypso onshore pipeline segment.

The Port Everglades, Florida shore approach would be installed utilizing horizontal directional drilling (HDD) techniques to minimize impacts to three near-shore coral reefs. The pipeline would be directionally drilled out from an upland site at Nova Southeastern University to a point 4,616 feet from shore on the north side of the Port Everglades entrance channel. From this point, a 2,132-foot long by 25-foot wide ditch would be open cut through a spoil area to the origination of a second directional drill. The second directional drill would be used to extend the pipeline an additional 5,130 feet to the northeast exiting in about 120 feet of water. Finally, the pipeline between 120 feet and 200 feet of water would be covered with prefabricated flexible concrete mats. Where water depths exceed 200 feet, the offshore pipeline would be laid directly on the sea floor.

- *Onshore Pipeline Segment*

The proposed onshore pipeline segment will be located in Broward County, Florida and will consist of approximately 5.8 miles of 24-inch-diameter pipeline (Onshore Pipeline). The Onshore Pipeline will start at the terminus of the proposed Offshore Pipeline (the Port Everglades shoreline entry) and end at a proposed interconnection with FGT's existing 24-inch Lauderdale Lateral at Mile Post (MP) 1.6 (near Florida Power & Light Company's Fort Lauderdale Plant). A block valve would be located near the beginning of the Onshore Pipeline. A pressure regulation and meter station with a pig receiver and a block valve would be located at the terminus of the Onshore Pipeline.

The proposed facilities are summarized in Tables 1 and 2 below. The general locations of the project facilities are shown in Appendix 1.[2] If you are interested in obtaining detailed maps of a specific portion of the project send in your request using the form in Appendix 3.

[1] Calypso's application was filed with the Commission on July 20, 2001, under Section 7(c) of the Natural Gas Act as amended, and Parts 157 and 284 of the Commission's regulations.

TABLE 1.—PROPOSED PIPELINE FACILITIES FOR THE CALYPSO NATURAL GAS PIPELINE PROJECT

State	Location	Diameter (inches)	Mileposts		Length (statute miles)
			Begin	End	
Federal Waters	Offshore EEZ	24	0.0	31.6	31.6
Florida Waters	Offshore	24	31.6	36.0	4.4
Florida	Broward	24	36.0	41.8	5.8
Project Total =					41.8

TABLE 2.—SUMMARY OF ANCILLARY FACILITIES FOR THE CALYPSO NATURAL GAS PIPELINE PROJECT

State	County	Facility	Approximate milepost	Description
Florida	Broward	Block Valve (Below Ground)	36.02	Nova Southeastern, University Oceanographic Center.
	Broward	Meter and Pressure Regulation Station, Pig Receiver.	41.72	Disturbed area near FPL, Fort Lauderdale Cooling Pond.
	Broward	Block Valve (Above Ground)	41.83	Located at tie-in to FGT pipeline.

Land Requirements for Construction

Construction of the onshore portion of the Calypso Natural Gas Pipeline Project would affect a total of about 68.8 acres of land including 31.9 acres required for pipeline construction; 21.4 acres required for extra workspace; 10.0 acres required for a contractor yard; and 0.5 acres required for aboveground facilities. Total land requirements for the permanent right-of-way would be about 4.6 acres and less than 0.3 acres of land would be required for the operation of the new permanent aboveground facilities. The remaining approximately 64 acres of land affected by construction would be restored and allowed to revert to its former use.

Approximately 2.2 miles (38 percent) of the Onshore Pipeline would be directionally drilled or bored underground. Of the remaining 3.6 miles of the proposed route, approximately 2.8 miles (78 percent) would cross industrial/commercial land, and 3.4 miles (94 percent) would be installed parallel to existing roadway, pipeline, and utility rights-of-way. Calypso would typically use a 75-foot-wide construction right-of-way width. Additional extra temporary work areas may be necessary for waterbody, highway and railroad crossings; additional topsoil storage; and pipe storage and equipment yards.

Following construction and restoration of the right-of-way and temporary extra work spaces, Calypso would retain a new 10-foot-wide permanent easement for the 24-inch-diameter pipeline. The remaining portion of the construction right-of-way would be returned to landowners for their use without restrictions after appropriate reclamation efforts are successful.

Constructing the offshore portion of the Calypso Natural Gas Pipeline Project would affect 766 acres in Federal waters. Calypso has predicted that in Florida state waters construction of the pipeline would cause temporary direct impacts to about 1.7 acres of marine hardbottom habitat of which 0.3 acres is coral reef and the remainder is disturbed and/or transitional hardbottom habitat. Approximately 1.8 acres of sand bottom would be affected. Construction-generated sedimentation would affect an additional 4.3 acres of the spoil area, about 0.3 acres of reef, and 0.1 acres of reef-sand transition area.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. This is called "scoping." The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

1. Geology
2. Soils and Sediments
3. Water Resources

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this ntoice. Copies of the appendices were sent to all those receiving this notice by mail.

[3] "We", "us", "our" refer to the environmental staff of the Office of Energy Projects (OEP).

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4. Wetlands, Barrier Beaches, and Submerged Aquatic Vegetation
5. Vegetation
6. Fish and Wildlife
7. Endangered and Threatened Species
8. Land Use. Recreation, and Visual Resources
9. Cultural Resources
10. Air Quality and Noise
11. Socioeconomics
12. Reliability and Safety
13. Alternatives

Our independent analysis of the issues will be in the Draft EIS which will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Indian tribes; affected landowners; local libraries and newspapers; other interested parties; and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before issuing a Final EIS. The Final EIS will include our responses to comments received and will be used by the Commission in its decision-making process to determine whether to approve the project.

To ensure that your comments are considered, please carefully follow the instructions in the Public Participation and Scoping Meeting section of this Notice of Intent.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified a number of issues that deserve attention based on a preliminary review of the proposed facilities, the environmental information provided by Calypso, and early input from intervenors. Some of these issues are listed below. This list is preliminary and may be changed based on your comments and our analysis. Currently identified environmental issues for the Calypso Natural Gas Pipeline Project include:

- Construction and operational effects on seagrasses, coral reefs, hard and soft bottom communities, mangroves, and aquatic organisms;
- Extent and effects of turbidity and sedimentation that may result from pipeline trenching and directional drilling in shallow waters;
- Potential effects of proposed shore approach on the Port Everglades entrance channel and on sensitive surface waters, including the Port Everglades and Intracoastal Waterway;
- Effects on wildlife and fisheries including essential fish habitat and fisheries of special concern, other commercial and recreational fisheries, or other species listed at the Federal, state, or local level;
- Potential fuel spills from the pipelay barges and associated vessel traffic;
- Potential effect on future land use of 27 parcels of land, and effect on 24 landowners and governmental agencies;
- Potential effects to resources and recreation associated with construction and operation in John U. Lloyd State Park;
- Potential effect to Broward County tree resources and on rare plants;
- Effect of construction on groundwater and surface water supplies;
- Potential introduction and control of non-native plant species;
- Effects on six federally endangered and threatened species including the West Indian manatee, loggerhead sea turtle, green sea turtle, hawksbill sea turtle, Kemp's ridley sea turtle, and leatherback sea turtle;
- Potential effects on offshore submerged cultural resources;
- Noise generated as a result of pipeline construction;
- Disruption of local roadways and commerce during construction;
- Potential impacts on 1.7 acres of non-forested wetlands;
- Potential effect of project on designated airport runway clearance zones;
- Cumulative effects of the proposed project with other projects, including other natural gas pipelines, which have been or may be proposed in the same region and similar time frames;
- Safety of the proposed pipeline.

Public Participation and Scoping Meeting

You can be involved in this project by providing us with your specific comments or concerns. By commenting, your concerns will be addressed in the EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

Send one original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of the Gas/Hydro Group, PJ–11.3.

Reference Docket No. CP01–409–000.

Mail your comments so that they will be received in Washington, DC on or before September 30, 2001.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meeting the FERC will conduct in the project area. The location and time for this meeting is listed below.

Schedule for the Calypso Natural Gas Pipeline Project Environmental Impact Statement Public Scoping Meeting

Date and Time: September 12, 2001 at 7 pm
Location: I.T. Parker Community Center, 901 NE. Third Street, Dania Beach, FL 33004
Phone: (954) 924–3698

The public meeting is designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. Prior to the start of the meeting, company representatives will be available to informally discuss the project. Interested groups and individuals are encouraged to attend the meeting and to present comments on the environmental issues they believe should be addressed in the Draft EIS. A transcript of the meeting will be made so that your comments will be accurately recorded.

On the date of the meeting, the staff will also be visiting some project areas. Anyone interested in participating in a site visit may contact the Commission's Office of External Affairs for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. As details of the project become established, representatives of Calypso may also separately contact landowners, communities, and public agencies concerning project matters, including acquisition of permits and right-of-way easements.

All commentors will be retained on our mailing list. If you do not want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EISs, you must return the Information Request (Appendix 3). If you do not send comments or return the Information Request, you will be taken off the mailing list.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.gov) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

David P. Boergers,

Secretary.

[FR Doc. 01–22487 Filed 9–6–01; 8:45 am]

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[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 31, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12106–000

c. *Date Filed:* August 17, 2001.

d. *Applicant:* John Floreske, Jr.

e. *Name of Project:* Flint Creek Hydroelectric Project.

f. *Location:* The proposed project would be located at the outlet works of the existing Georgetown Lake/Flint Creek Dam on Flint Creek and Georgetown Lake near the Town of Philipsburg in Granite County, Montana. Flint Creek Dam is owned by Granite County. Portions of the project are upon submerged federal lands (Deer Lodge National Forest) within both Granite and Deer Lodge Counties in Montana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Floreske, Jr., P.O. Box 489, Haines, AK 99827, Telephone/fax (907) 766–2899.

i. *FERC Contact:* Mr. Lynn R. Miles, Sr. (202) 219–2671.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

Please include the Project Number (12106–000) on any comments, protest, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing 55-foot-high by 525-foot-long Georgetown Lake/Flint Creek Dam, and the existing Georgetown Lake Reservoir with a surface area of 2850 acres and a storage capacity of 31,040 acre-feet at a spillway crest elevation of 6,429.5. The project would consist of: (1) Replacement of all of the existing 6,282-foot-long 52-inch-diameter woodstave flowline with 36-inch-diameter HDPE pipe except for a 120 foot section of 20-inch-diameter steel pipe flowline portion and the 36-foot-diameter 1493-foot-long steel penstock, (2) a powerhouse with an installed capacity of 1.6 MW, and (3) appurtenant facilities. There are no new transmission lines required as Montana Power Company owns and maintains the recently reconstructed transmission line which comes directly to the project's switch yard/generator building for interconnection. The project would have an annual generation of 8.3 MWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license

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application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–22488 Filed 9–6–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

August 31, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12105–000.

c. *Date filed:* August 7, 2001.

d. *Applicant:* Central Washington Power Agency.

e. *Name of Project:* Cle Elum Hydroelectric Project.

f. *Location:* The project would be located on the Cle Elum River in Kittitas County, Washington and would utilize the U.S. Bureau of Reclamation's existing Cle Elum Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Mark Kjelland, 1400 Vantage Highway, Ellensburg, WA 98926, (509) 933–7201 and Mr. Don Godard, Public Utility District No. 2 of Grant County, P.O. Box 878, Ephrata, WA 98823, (509) 754–0500.

i. *FERC Contact:* James Hunter, (202) 219–2839.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and motions to intervene may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Please include the project number (P–12105–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Competing Application:* Project No. 11923–000, Date Filed: March 28, 2001, Due Date: July 9, 2001

l. *Description of Project:* The proposed project using the Cle Elum Dam and impoundment would consist of: (1) A proposed 1,000-foot-long, 12-foot-diameter steel penstock inserted in the existing outlet tunnel, (2) a proposed bifurcation to allow bypass flows to be discharged via a control valve at the original discharge point, (3) a proposed powerhouse containing two generating units having a total installed capacity of 30.4 MW, (4) a proposed 1,200-foot-long transmission line, and (5) appurtenant facilities. The project would have an annual generation of 46.8 GWh that would be either used by the members of the Power Agency or sold to another utility.

m. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item h above.

n. Preliminary Permit—Public notice of the filing of the initial preliminary permit application; which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

August 31, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding. unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Exempt:		
1. Project No. 2539.013	8–30–01	Tim Welch.
Prohibited:		
1 ER01–889–000	8–28–01	Commissioner Wood (Memo to File).

David P. Boergers,

Secretary.

[FR Doc. 01–22499 Filed 9–6–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6621–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (97 FR 27647).

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Draft EISs

ERP No. D–AFS–J65350–MT Rating EC2, West Lake Timber Sale and Road Decommissioning Project, Implementation, Gallatin National Forest, Hebgen Lake Ranger District, Gallatin County, MT.

Summary: EPA recommends including a higher level of road decommissioning in the preferred alternative, since reductions in road density are critical to aquatic health and wildlife security, including the threatened grizzly bear. Additional information should be presented regarding erosive soils, fisheries impacts and aquatic monitoring.

ERP No. D–BLM–K65233–NV Rating EC2, Falcon to Gonder 345kV Transmission Project, Construction, Resource Management Plan Amendments, Right-of-Way Grant, Lander, Elko, Eureka and White Pine Counties, NV.

Summary: EPA expressed concerns regarding the measures that would be used to minimize and mitigate project impacts to water quality. EPA recommended additional information regarding Clean Water Act Section 404 compliance, water quality mitigation measures, and polychlorinated biphenyls.

ERP No. D–COE–K39067–CA Rating EC2, Salinas Valley Water Project, Construction, Monterey County Water Resources Agency (MCWRA), Issuing of Permits or Approval of Action, Monterey and San Luis Obispo Counties, CA.

Summary: EPA expressed concern relating to impacts associated with basin hydrology, recreation, energy, potential growth inducement, riparian habitat, endangered Steelhead Salmon and the narrow scope of alternatives analyzed.

ERP No. D–COE–K39069–CA Rating LO, Pine Flat Dam Fish and Wildlife Habitat Restoration Investigation, Restoration and Protection of the Ecosystem for Fish and Wildlife Resources, King River Basin, Fresno County, CA.

Summary: While EPA has no objections to the action as proposed, it did request that some clarifying information be included in the FEIS.

ERP No. D–NOA–K39068–CA Rating LO, San Francisco Bay National Estuarine Research Reserve, Proposes to Designate Three Sites: China Camp State Park, Brown's Island Regional Parks District, and Rush Ranch Open Space Preserve, Contra Costa, Marin and Solano Counties, CA.

Summary: EPA had no objections to the proposed designation, but noted that anticipated facility construction or reconstruction would require supplemental environmental documentation.

ERP No. D–USN–K11106–HI Rating EC2, Programmatic EIS—Ford Island Development Program, Proposed Consolidation of Selected Operation at Pearl Harbor by Locating and Relocating Certain Activities Ford Island, HI.

Summary: EPA expressed environmental concerns due to potential water quality impacts, especially as it affects the water quality of Pearl Harbor, designated by EPA as a water quality-limited segment under the Clean Water Act. EPA requested that water quality protection measures and additional pollution prevention measures be include in future environmental documents.

Dated: September 4, 2001.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–22548 Filed 9–6–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6621–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa*

Weekly receipt of Environmental Impact Statements

Filed August 27, 2001 Through August 31, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010330, Draft EIS, AFS, MT, Kelsey-Beaver Fire Recovery Project, Implementation of Fuel Reduction and Salvage of Fire-Killed Trees within Roderick South, Kelsey Creek, and Upper Beaver Areas, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT, Comment Period Ends: October 22, 2001, Contact: Kathy Mohar (406) 295–4693.

EIS No. 010331, Final EIS, BPA, OR, Condon Wind Project, To Execute One or More Power Purchase and Transmission Services Agreements To Acquire and Transmit up to the Full Electrical Output, NPDES Permits and Right-of-Way Permit for Public Land, Gilliam County, OR, Wait Period Ends: October 9, 2001, Contact: Sarah Branam (503) 230–5115. This document is available on the Internet at: *www.efw.bpa.gov.*

EIS No. 010332, Final Supplement, SFW, NY, VT, Lake Champlain Sea Lamprey Control Long-Term Program, Proposal is to Achieve Fish Population, Recreational Fishery and Economic Benefits Associated with Reduced Sea Lamprey Predation Implementation, Clinton, Essex and Washington Counties, NY and Addison and Chittenden Counties, VT, Wait Period Ends: October 9, 2001, Contact: David C. Nettles (802) 872–0629.

EIS No. 010333, Final EIS, CDB, CA, West Hollywood Gateway Public/Private Partnership Construction Project, Multi-Story Office, Retail, Restaurant and Entertainment Use Development, Community Development Block Grant (CDBG) Funds Issuance, City of West Hollywood, Los Angeles County, CA, Wait Period Ends: October 9, 2001, Contact: DeAnn Johnson (323) 890–7186. This document is available on the Internet at: *http://www.lacdc.org.*

EIS No. 010334, Draft EIS, IBR, CA, American River Pump Station Project, Providing Placer County Water Agency (PCWA) with the Year-Round Access to its Middle Fork Project (MFP) Water Entitlements from the American River, Placer County, CA, Comment Period Ends: October 22, 2001, Contact: Rod Hall (916) 989–7279.

EIS No. 010335, Draft EIS, FHW, CA, CA–22/West Orange County Connection Project, Transportation Improvements between Interstate 605 and State Route 55, In the cities of Los Alamitos, Seal Beach, Garden Grove, Westminster, Santa Ana, and Orange, Orange County, CA, Comment Period Ends: October 30, 2001, Contact: Robert Cady (916) 498–5038.

EIS No. 010336, Final EIS, FAA, IL, WI, IN, Chicago Terminal Airspace Project (CTAP), For Proposed Air Traffic Control Procedures and Airspace Modification for Aircraft Operations to/from the Chicago Region, Including Chicago O'Hare International Airport, Chicago Midway Airport, Milwaukee Mitchell International Airport, IL, IN and WI, Wait Period Ends: October 9, 2001, Contact: Annette Davis (847) 294–8091.

Amended Notices

EIS No. 010246, Draft Supplement, MMS, ID, Smoky Canyon Mine Panels B and C, Propose to Mine Phosphate Ore Reserves in the Final Two Mine Panels, National Forest System Lands and Federal Mineral Leases, Caribou National Forest, Permit, Caribou County, ID, Due: October 11, 2001, Contact: Jeffery Cundick (208) 478–6354. Revision of FR Notice Published on 7/13/2001: CEQ Review Period Ending on 9/11/2001 has been Extended to 10/11/2001.

EIS No. 010267, Final EIS, GSA, DC, Department of Transportation Headquarters, Proposal to Lease 1.3 to 1.35 Million Rentable Square Feet of Consolidated and Upgraded Space, Five Possible Sites, Located in the Central Employment Area, Washington, D.C., Due: August 27, 2001, Contact: John Simeon (202) 260–5786. Revision of FR notice published on 7/27/2001: CEQ Comment Period Ending 9/4/2001 has been Corrected to 8/27/2001.

EIS No. 010285, Draft Supplement, AFS, CO, Uncompahgre National Forest Travel Plans Revision, and Forest Plan Amendment, Updated Information, Grand Mesa, Uncompahgre and Gunnison National Forests, Garrison, Hinsdale Mesa, Montrose, Ouray, San Juan Counties, CO, Due: October 1, 2001, Contact: Jeff Burch (970) 874–6600. Revision of FR Notice Published on 8/3/2001: CEQ Review Period Ending 9/17/2001 has been extended to 10/1/2001.

Dated: September 4, 2001.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–22549 Filed 9–6–01; 8:45 am]

BILLING CODE 6560–60–U

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–128; DA 01–1967]

Petitions for Declaratory Ruling, Reconsideration and/or Clarification of the Payphone Compensation Second Order on Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Common Carrier Bureau seeks comment on petitions for declaratory ruling, reconsideration and/or clarification filed by Bulletins, WorldCom, Inc., AT&T and Global Crossing Telecommunications, Inc.

DATES: Comments due no later than October 9, 2001. Reply comments due no later than October 22, 2001.

ADDRESSES: Federal Communications Commission, The Portals II, 445 12th Street, SW., Room 6–A207, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tania Cho of the Common Carrier Bureau, Network Services Division: by phone (202) 418–2320; by fax (202) 418–2345; by TTY (202) 418–0484; or, by email at *tcho@fcc.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2001, the Federal Communications Commission (Commission) released the *Second Order on Reconsideration*, which modified the rules governing the entity responsible for compensating a payphone service provider (PSP) for coinless calls placed from a payphone that are routed to the network of a facilities-based interexchange carrier (IXC), and then to one or more IXC resellers before being transferred to a local exchange carrier (LEC) for call completion. The modified rules provide that the first facilities-based IXC to which a LEC routes a coinless payphone call must (1) compensate the PSP for the completed call; (2) track or arrange for tracking of all compensable calls; and (3) send to the PSP call completion information to enable the PSP to verify the accuracy of compensation it receives for coinless, compensable calls and/or to bill the underlying facilities-based carrier. The first facilities-based IXC may seek reimbursement from the switchless or switch-based reseller ultimately responsible for the compensation.

Several parties have filed petitions for declaratory ruling, clarification and/or reconsideration. Bulletins seeks clarification of whether the modified rules relieve certain LECs from their obligation to compensate PSPs for coinless calls made from a payphone, and whether IXCs are provided a basis for exempting calls originated from payphones served by Competitive Local Exchange Carriers (CLECs). WorldCom, Inc. (WorldCom) seeks a declaratory ruling that a completed dial-around payphone call is defined as one that is completed on the underlying carrier's network, or one that is handed off to switch-based reseller customers that do not have prior agreements with all PSPs to pay dial around compensation. WorldCom also seeks clarification that carriers are only required to report compensable toll-free and access number calls. AT&T seeks clarification of whether its practice of compensating PSPs at the Commission-established rate for all calls that are sent to a switch-based reseller's switching platform, regardless of whether such calls are completed, is consistent with the Commission's requirements. AT&T also seeks clarification and/or reconsideration of the IXCs reporting obligations to PSPs. Global Crossing Telecommunications, Inc. (Global Crossing) requests that the Commission establish a specific timing surrogate for determining whether a particular call is completed, and therefore compensable. Global Crossing also seeks reconsideration of the reporting requirements.

Copies of the petitions will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, (202) 418–0270. Copies of the petitions are also available on the Commission's Electronic Comment Filing System (ECFS) at *http://www.fcc.gov/e-file/ecfs.html* (insert CC Docket No. 96–128 into the Proceeding block). Copies of the petitions may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW., Washington, DC 20036, telephone (202) 857–3800, fax (202) 857–3805, TTY (202) 293–8810.

Federal Communications Commission.

Dorothy Attwood,

Chief, Common Carrier Bureau.

[FR Doc. 01–22434 Filed 9–6–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 01–2034]

Fifth Meeting of the Advisory Committee for the 2003 World Radiocommunication Conference (WRC–03 Advisory Committee)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–03 Advisory Committee will be held on September 28, 2001, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2003 World Radiocommunication Conference. The Advisory Committee will consider any preliminary views and/or proposals introduced by the Advisory Committee's Informal Working Groups.

DATES: September 28, 2001; 10 am–12 noon.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Julie Garcia, FCC International Bureau, Planning and Negotiations Division, at (202) 418–0763.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission

(FCC) established the WRC–03 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2003 World Radiocommunication Conference (WRC–03). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the fifth meeting of the WRC–03 Advisory Committee. The WRC–03 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the fifth meeting is as follows:

Agenda

Fifth Meeting of the WRC–03 Advisory Committee Federal Communications Commission 445 12th Street, SW., Room TW–C305 Washington, DC 20554

September 28, 2001; 10 am–12 noon

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Fourth Meeting
4. IWG Reports and Documents relating to:
   a. Consensus Views and Issue Papers
   b. Draft Proposals
5. Future Meetings
6. Other Business

Federal Communications Commission.

Donald Abelson,

Chief, International Bureau.

[FR Doc. 01–22433 Filed 9–6–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010982–031.
Title: Florida—Bahamas Shipowners and Operators Association.
Parties:
Arawak Line Ltd.
Bahamas Ro Ro Services (Freeport), Inc.
Caicos Cargo Ltd. d/b/a Turks Island Shipping Line
Crowley Liner Services, Inc.
G & G Marine, Inc.
Nina APS
Pioneer Shipping, Ltd.
Seaboard Marine, Ltd.
Tropical Shipping & Construction Co., Ltd.
Synopsis: The proposed modification specifies that the space chartering authority is to apply to ad hoc, emergency or interim situations that will be reported to the Commission on a quarterly calendar year basis.

Agreement No.: 011075–058.
Title: Central America Discussion Agreement.
Parties:
King Ocean Central America, S.A.
Seaboard Marine, Ltd.
Crowley Liner Services, Inc.
A.P. Moller-Maersk Sealand
APL Co. Pte. Ltd.
Nordana Line.
Caribbean American Lines, S.A.
Synopsis: The proposed amendment adds Caribbean American Lines, S.A. as a member of the Central America section of the agreement and combines the slot chartering authority and the reporting requirement into a single section of the agreement. The amendment also clarifies that the slot chartering authority is limited to ad hoc, emergency or interim situations.

Agreement No.: 011648–006.
Title: APL/Crowley/Lykes/MLL Space Charter and Sailing Agreement.
Parties:
American President Lines, Ltd. ("APL")
APL Co. PTE LTD.("APL")
Crowley Liner Services, Inc.
Lykes Lines Limited, LLC. ("Lykes")
TMM Lines Limited
Synopsis: The proposed modification: authorizes Lykes to provide vessels (formerly provided by APL) in the U.S. Gulf/Caribbean trade; requires that permanent charges in port rotations and terminal arrangements be approved unanimously; adjusts various allocation commitments between the parties and transfer of unused spaces from one to another; provides for existing commitments to outside parties; eliminates reference to discussions regard establishing a discussion agreement; changes the minimum expiration date for the agreement; and provides for arbitration and severability.

Agreement No.: 011775.
Title: NYK/WWL South America Space Charter Agreement.
Parties:
Nippon Yusen Kaisha
Wallenius Wilhelmsen Line
Synopsis: The proposed agreement establishes a space charter agreement with authority to reach agreement on rates, terms and conditions of carriage, including terms of individually executed service contracts in the trade between all U.S. Coasts and Mexico, Central and South America and the Caribbean and points served via each. Specialized vehicle-carrying vessels are to be employed.

Agreement No.: 011776.
Title: Lykes/CSAV Slot Charter Agreement.
Parties:
Lykes Lines Limited, LLC
Compania Sud Americana de Vapores S.A.
Synopsis: The proposed agreement authorizes Lykes to charter space to CSAV in the trade between U.S. Gulf Coast ports (including Puerto Rico) and ports in the Caribbean.

Agreement No.: 011777.
Title: Lykes/CCNI Slot Charter Agreement.
Parties:
Lykes Lines Limited, LLC
Compania Chilena de Navegacion Interoceanica
Synopsis: The proposed agreement authorizes Lykes to charter space to CCNI in the trade between U.S. Gulf ports (including Puerto Rico) and ports in the Caribbean.

Agreement No.: 200233–010.
Title: Packer Avenue Lease and Operating Agreement.
Parties:
Philadelphia Regional Port Authority
Astro Holdings, Inc.
Synopsis: The proposed amendment extends the agreement through December 15, 2001.

Dated: August 31, 2001.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–22443 Filed 9–6–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/address	Date reissued
4595N	Claudia C. Mayorga dba Majestic, Freight Forwarders Service, 16310 Los Alimos Street Granada Hills, CA 91344.	June 14, 2001.
3262F	GES Logistics, Inc., 235 E. Broadway, Suite 311, Long Beach, CA 90802	February 21, 2001.
16633F	Uniship, Inc., 320 Pine Avenue, Suite 400, Long Beach, CA 90802	July, 4, 2001.

Sandra L. Kusumóto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–22444 Filed 9–6–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 3743F.
Name: Pac-Power Freight Systems, Inc.
Address: 8366 Isis Avenue, Los Angeles, CA 90045
Date Revoked: July 30, 2001.
Reason: Surrendered license voluntarily.

License Number: 4366NF.
Name: Seven Ocean Services, Ltd.
Address: 2669 Myrtle Avenue, Suite 201, Signal Hill, CA 90806
Date Revoked: June 21, 2001.
Reason: Surrendered license voluntarily.

License Number: 1864F.
Name: Transcontinental Exports Limited
Address: 523 Old Northwest Hwy., Suite 202D, Barrington, IL 60010
Date Revoked: July 10, 2001.
Reason: Surrendered license voluntarily.

License Number: 3457F.
Name: Transport International Services
Address: 9111 Katy Freeway, Suite 312, Houston, TX 77024
Date Revoked: July 25, 2001.
Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–22445 Filed 9–6–01; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry (ATSDR)

Solicitation of Interested Persons To Serve as Special Consultants to the Community and Tribal Subcommittee (CTS) of the Board of Scientific Counselors, ATSDR

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces ATSDR's intent to fill 3 Special Consultant vacancies on the Community and Tribal Subcommittee of Board of Scientific Counselors ATSDR.

Background

The Community and Tribal Subcommittee is composed of four members of Board of Scientific Counselors, ATSDR. The CTS provides the board with a formal vehicle for citizens input. In 1994, three community and tribal representatives were selected to serve as Special Consultants to the CTS. At the end of their tenure, it was decided to increase the number of Special Consultants from three to eleven in order to bring a wider spectrum of representation from community and tribal members who live near hazardous waste sites, or are otherwise affected by hazardous substances in the community environment.

FOR FURTHER INFORMATION: To express interest in serving as a Special Consultant to the CTS and obtain additional information, contact: Ruby Palmer, Designated Federal Official, CTS ATSDR (E–54), 1600 Clifton Road, NE, Atlanta, GA 30033; toll-free 1–888–422–8737.

SUPPLEMENTARY INFORMATION: ATSDR conducts public health-related activities at hazardous waste sites and releases, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*). ATSDR established a Board of Scientific Counselors which is chartered under the Federal Advisory Committee Act (5 U.S.C. app.). In order to obtain input from communities and tribes located near superfund sites or hazardous waste sites, the Community and Tribal Subcommittee is recruiting three community and tribal representatives as consultants to the Subcommittee. The CTS objective is to provide BSC, ATSDR, with the views and recommendations of community and tribal representatives on ATSDR's community involvement programs, practices, policies, and other relevant issues impacting communities and tribes who live near Superfund and hazardous waste sites. The Subcommittee reviews ATSDR's community involvement programs and policies; provides advice, findings, and recommendations to the Board on these issues; and brings broad-based community and tribal involvement issues to the attention of the Board. The CTS will present its findings, advice, and recommendations to the full Board. The BSC will discuss and review reports of the Subcommittee and may forward recommendations to the Agency for action. The Community and Tribal Subcommittee will periodically meet and/or hold conference calls. A group consisting of Special Consultants, the CTS Chair and the Designated Federal Official will review the applications and develop a short list to be recommended to the Agency for consideration. The Agency, in consultation with the Board chair will then select the three community representatives to fill the vacancies, with special consideration given to the recommended slate. Accordingly, any person who lives in a community affected by a National Priority List or other hazardous waste site; who is a representative of a group that works at local, regional, or national locations with these communities; or who wishes to be considered for serving as a special consultant on this Subcommittee should write or call the ATSDR contact person listed above to obtain additional information.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

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Prevention and the Agency for Toxic Substances and Disease Registry.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

BILLING CODE 4163-70-P

Application: **Please complete the following application and return it to the address listed by Monday, October 1, 2001.**

Application
Community and Tribal Subcommittee
Agency for Toxic Substances and Disease Registry (ATSDR) **August 15, 2001**

Please answer the following questions (as legibly as possible to ensure that photocopies of it are readable) by Monday, October 1, 2001. Please send to:

Ruby Palmer
Designated Federal Official, CTS
ATSDR (E-54)
1600 Clifton Road, NE
Atlanta, GA 30033

Phone: Toll-free 1-888-422-8737
Fax: (404) 498-1744

Name: _____

Street Address: _____
City, State, Zip: _____

Telephone: _____

Fax: _____

E-mail: _____
Employment and employer(s) for last five years: _____
_____
_____

Please check the corresponding box for your response to the following questions; please keep any written responses brief.

1) Do you live in a community or on a reservation that contains a site contaminated with toxic substances or are you a member of an organization that works on environmental health/toxic substance issues with such affected communities/tribes? *Check all that apply*

_____ yes, live in such a community/reservation

_____ yes, member of such an organization

_____ no

If you checked no, please skip to question # 9.

ATSDR Community and Tribal Subcommittee Application, continued:

2) What type of site is it?

_____National Priorities List (Superfund NPL) _____Department of Energy

_____Department of Defense _____State

_____Not sure/don't know _____Other

3) What is the status of site cleanup?

_____Cleanup underway _____No work done

_____Cleanup completed _____Not sure/don't know

4) How would you characterize your community/tribe?

_____Rural _____ Suburban _____Urban _____ Tribal Lands

_____Not sure/ don't know

5) How would you characterize the racial/ethnic makeup of your community/tribe?

_____White _____African-American _____Hispanic

_____Asian _____Native American _____Mixed/ no group predominate

_____Not sure/don't know

6) How would you characterize the economic status of your community/tribe?

_____Lower income _____Middle income _____Upper income

_____Not sure/don't know

7) Do you believe your personal/family health has been harmed due to exposure to toxic substances in the environment?

_____Yes _____Possibly _____No

7a) If you are a tribal member, is contamination of traditional food supply thought to be a problem?

_____Yes _____Possibly _____No

ATSDR Community and Tribal Subcommittee Application, continued:

8) Are you a member of a community/tribal organization focused on the site?

_____Yes _____No

8a) If yes, please describe_____

_____

_____

9) Are you familiar with the Agency for Toxic Substances and Disease Registry (ATSDR)?

_____Yes _____No

10) Have you either sought assistance from, or previously been involved with ATSDR?

_____Yes _____No

11) Has ATSDR sponsored a health assessment or health study in your community?

_____Yes _____No _____Not sure/don't know

12) Have you attended other national or regional ATSDR meetings in the last 5 years?

_____Yes _____No

13) Are you a member of an organization – other than the one you may have noted in question 8 – focused on toxic substances/environmental health?

_____Yes _____No

13a) If yes, what is the scope of the organization?

_____Local _____Regional _____National

13b) Please describe the organization_____

_____

_____

_____

14) How many years have you been involved in toxic substance/environmental health issues?

_____Years

15) How many hours per month *on average* can you make available for telephone calls. periodic meetings, an review of materials?

_____ Hours per month

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16) Have you in the past or are you now participating in an advisory group similar in structure to the Community/Tribal Subcommittee?

_____Yes _____No

16a) If yes, please describe the group and your role_____

_____

_____

17) **QUALIFICATIONS/BACKGROUND**: Please briefly note your knowledge of/ experience with toxic substance/environmental health issues. List relevant self-education/ research, workshops attended, and/or formal training._____

_____

_____

_____

_____

_____

18) **CURRENT ISSUES:** What are your views on ATSDR's current approach to working with communities/tribes?_____

_____

_____

_____

_____

_____

19) **EXPECTATIONS:** What type of input, recommendations, and advice do you envision the Subcommittee providing, and what type of outreach would you do in order to formulate your recommendations to the Board of Scientific Counselors? _____

_____

_____

_____

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[FR Doc. 01–22504 Filed 9–6–01; 8:45 am]
BILLING CODE 4163–70–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02005]

Sexually Transmitted Disease Faculty Expansion Program; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for a Sexually Transmitted Disease (STD) Faculty Expansion Program (FEP)was published in the **Federal Register** on August 23, 2001, [Vol. 66, No. 164, Pages 44351–44354]. The notice is amended as follows:

(1) On page 44351, third column, at the beginning of sixth paragraph, under Section C. Availability of Funds, insert a sentence, "Applicants may incur pre-award costs up to 90 days prior to the award, however, all pre-award costs are incurred at the applicants' risk." before the paragraph beginning "CDC is * * * the Use of Funds section."

(2) On page 44352 and third column, the section title "E. Application Content" should be replaced with "E. Content" and a word, "Application" should be inserted as a subtitle above the beginning of the last paragraph, "The narrative should be * * * in the order presented below:"

Dated: August 31, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–22503 Filed 9–6–01; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Draft Guideline for Prevention of Intravascular Catheter-Related Infections

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice is a request for review of and comment on the *Draft Guideline for Prevention of Intravascular Catheter-Related Infections*, available on the CDC website at *www.cdc.gov/ncidod/hip/ivguide.htm*. The guideline has been developed for practitioners who insert and maintain intravascular catheters and for personnel who are responsible for monitoring and preventing infections in healthcare settings. The guideline is intended to replace the *Guideline for Prevention of Intravascular Device-Related Infections* published in 1996.

DATES: Comments on the *Draft Guideline for Prevention of Intravascular Catheter-Related Infections* must be received in writing on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the *Draft Guideline for Prevention of Intravascular Catheter-Related Infections* should be submitted to the Resource Center, Attention: IVGuide, Division of Healthcare Quality Promotion, CDC, Mailstop E–68, 1600 Clifton Rd., NE, Atlanta, Georgia 30333; fax 404 498–1244; e-mail: *ivrequests@cdc.gov;* or Internet: *www.cdc.gov/ncidod/hip/ivguide.htm.*

ADDRESSES: Comments on the *Draft Guideline for Prevention of Intravascular Catheter-Related Infections* should be submitted to the Resource Center, Attention: IVGuide, Division of Healthcare Quality Promotion, CDC, Mailstop E–68, 1600 Clifton Road, NE, Atlanta, Georgia 30333; fax 404–498–1244; e-mail: *ivcomments@cdc.gov;* or Internet: *www.cdc.gov/ncidod/hip/ivguide.htm.*

SUPPLEMENTARY INFORMATION: The *Draft Guideline for Prevention of Intravascular Catheter-Related Infections* is designed to provide healthcare practitioners with background information and specific recommendations to reduce the incidence of intravascular catheter-related bloodstream infections: Part I: Intravascular Catheter-Related Infections: An Overview reviews pivotal issues and controversies in intravascular catheter use and maintenance. These issues include definitions and diagnosis of catheter-related infection, barrier precautions during catheter insertion, skin antisepsis, intervals for replacement of catheters and intravenous fluids and administration sets, catheter site case, the role of specialized intravascular catheter personnel and the use of antimicrobial/antiseptic impregnated catheters, prophylactic systemic antibiotics, flush solutions, and anticoagulants. Part II: Recommendations for Prevention of Intravascular Catheter-Related Infections provides consensus recommendations of the Healthcare Infection Control Practices Advisory Committee (HICPAC) and other professional societies. Most recommendations are pertinent for the inpatient, outpatient, and home care setting, unless otherwise noted.

HICPAC was established in 1991 to provide advice and guidance to the Secretary and the Assistant Secretary for Health, DHHS; the Director, CDC; and the Director, National Center for Infectious Diseases, regarding the practice of infection control and strategies for surveillance, prevention, and control of healthcare-associated infections in U.S. healthcare facilities. The committee advises CDC on guidelines and other policy statements regarding prevention of healthcare-associated infections and related adverse events.

Dated: August 31, 2001.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 01–22502 Filed 9–6–01; 8:45 am]
BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0370]

Preparation for ICH Meetings in Brussels, Belgium, Including Progress on Implementing of the Common Technical Document; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration is announcing a public meeting entitled "Preparation for ICH Meetings in Brussels, Belgium, Including Progress on Implementation of the Common Technical Document" to solicit information and receive comments on the International Conference on Harmonisation (ICH) as well as the upcoming meetings in Brussels, Belgium. The purpose of the meeting is to solicit public input prior to the next Steering Committee and Expert Working Group meetings in Brussels, Belgium, October 22 to 25, 2001, at which discussion of the Common Technical Document and other topics related to the upcoming meeting in Brussels, Belgium will take place.

Date and Time: The public meeting will be held on October 5, 2001, from 10:30 a.m. to 2 p.m.

Location: The public meeting will be held at 5630 Fishers Lane, rm. 1066, Rockville, MD 20852.

Contact: Kimberly Topper, Center for Drug Evaluation and Research (HFD–

21), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20857, 301–827–7001, FAX 301–827–6801, e-mail: Topper@cder.fda.gov.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number) and written material and requests to make oral presentations to the contact person by September 28, 2001.

If you need special accommodations due to a disability, please contact Kimberly Topper (address above) at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The International Conference on Harmonisation of Technical Requirements for the Registration of Pharmaceuticals for Human Use was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory obligations of safety and effectiveness.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory agencies. The ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. The ICH is concerned with harmonization among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labor and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations. The ICH Steering Committee includes representatives from each of the ICH sponsors and Canadian Therapeutics Programme, and the European Free Trade Area. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions. The current ICH process and structure can be found on the Internet at http://www.ifpma.org/ich1.html.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Oral presentations from the public will be scheduled between approximately 12:30 and 2 p.m. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person by September 28, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses, phone number, fax, and e-mail of proposed participants, and an indication of the approximate time requested to make their presentation.

The agenda for the public meeting will be made available on September 28, 2001, under Docket No. 01N–0370, at the Docket Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: August 30, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22471 Filed 9–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94P–0240]

Small Entity Compliance Guide: "Food Labeling; Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a small entity compliance guide (SECG) for a final rule published in the **Federal Register** of March 16, 1999 (64 FR 12887), entitled "Food Labeling; Serving Sizes; Reference Amount for Baking Powder, Baking Soda, and Pectin." The SECG is intended to set forth the requirements of that final rule in plain language and to help small businesses understand the regulation.

DATES: Submit written or electronic comments on the SECG at any time.

ADDRESSES: Submit written comments concerning this SECG to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Submit written requests for single copies of the SECG to Lori A. LeGault (address below). Send one self-adhesive address label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT: Lori A. LeGault, Center for Food Safety and Applied Nutrition (HFS–840), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5269.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 18, 1997 (62 FR 61476), FDA published a proposed rule to amend the nutrition labeling regulations to change the reference amount customarily consumed per eating occasion for the food category "Baking powder, baking soda, pectin." A final rule based on that proposed rule was published in the **Federal Register** of March 16, 1999 (64 FR 12887).

FDA examined the economic implications of that final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–602). The agency determined that the final rule would have a significant economic impact on a substantial number of small entities.

In compliance with section 212 of the Small Business Regulatory Fairness Act (Public Law 104–121), FDA made available (via the Internet) a small entity compliance guide stating in plain language the requirements of this regulation.

FDA is issuing this SECG as level 2 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the agency's current thinking on the subject. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments on the SECG entitled "Food Labeling; Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin" to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of the SECG may also be viewed on a personal computer with access to the Internet. The Center for Food Safety and Applied Nutrition's home page includes the SECG and can be found at http://www.cfsan.fda.gov/~dms/sodaguid.html.

Dated: August 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22481 Filed 9–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 98N–1230, 96P–0418, and 97P–0197]

Small Entity Compliance Guide: "Food Labeling: Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a small entity compliance guide (SECG) for a final rule that published in the **Federal Register** of December 5, 2000 (65 FR 76092), entitled "Food Labeling: Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution." The SECG is intended to set forth the requirements of that final rule in plain language and to help small businesses understand the regulation.

DATES: Submit written or electronic comments on this SECG at any time.

ADDRESSES: Submit written comments concerning this SECG to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Submit written requests for single copies of the SECG to the Office of Nutritional Products, Labeling and Dietary Supplements (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St., Washington, DC 20204, 202–205–4561. Send one self-adhesive address label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT:

For the labeling provisions: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–822), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4168.

For refrigeration provisions: Nancy S. Bufano, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–401–2022.

SUPPLEMENTARY INFORMATION:

I. Background

To reduce the risk of illness and death from consumption of eggs contaminated with *Salmonella enteritidis* (SE), FDA published in the **Federal Register** of July 6, 1999 (64 FR 36492), a proposed rule requiring the labeling of shell eggs with a safe handling statement and the refrigeration of shell eggs at retail. FDA published the final rule in the **Federal Register** of December 5, 2000 (65 FR 76092).

FDA examined the economic implications of that final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–602) and determined that the final rule would have a significant economic impact on a substantial number of small entities.

In compliance with section 212 of the Small Business Regulatory Fairness Act (Public Law 104–121), FDA made available (via the Internet) a SECG stating in plain language the requirements of this regulation.

FDA is issuing this SECG as level 2 guidance consistent with FDAs good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the agency's current thinking on the subject. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written or electronic comments on the SECG entitled "Food Labeling: Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution" to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of the SECG may also be viewed on a personal computer with access to the Internet. Center for Food Safety and Applied Nutrition's home page includes the SECG and can be found at http://www.cfsan.fda.gov/~dms/eggsguid.html.

Dated: August 28, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22482 Filed 9–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Call for Applications for the Directors Council of Public Representatives (COPR)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), the Federal government's primary agency for supporting and conducting medical research leading to the improvement in the nation's health, has established a relatively new national advisory council—the Directors Council of Public Representatives (COPR). The Chair of COPR is the Director of the National Institutes of Health. This notice describes the process for the selection of members of the COPR that NIH will use, as the original founding

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members begin to complete their terms and begin the COPR rotation process.

DATES: The application deadline for the COPR is October 23, 2001; the notification of selection date is December 2001; the term start date is April 1, 2002; and the first COPR meeting date for new members is April 16, 2002.

FOR FURTHER INFORMATION CONTACT: NIH Council of Public Representatives (COPR), c/o Palladian Partners, Inc., 1010 Wayne Avenue, Suite 1200, Silver Spring, MD 20910, telephone (301) 650–8660, fax (301) 650–7172, e-mail *COPR@pallidianpartners.com*. If you are interested in serving as a member of the COPR, please contact Palladian Partners, Inc. to have an application mailed to you or go on-line to *www.nih.gov/about/publicliaison* to access the COPR application instructions. If you have questions about your application or the submission process, please feel free to contact the staff working on this project by mail, telephone, fax, or e-mail, as indicated in the above information

ADDRESS: Please mail your application to NIH Council of Public Representatives (COPR), c/o Palladian Partners, Inc., 1010 Wayne Avenue, Suite 1200, Silver Spring, MD 20910, telephone (301) 650–8660, fax (301) 650–7172, e-mail *COPR@palladianpartners.com*.

SUPPLEMENTARY INFORMATION: The Director of the National Institutes of Health (NIH) created the Director's Council of Public Representative (COPR) in 1999 as an important forum for information exchange between the public and the NIH at the highest level. The COPR consists up to 20 individuals who are selected from among the many diverse communities that benefit from, and have an interest in, NIH research, programs, and activities. The COPR allows representatives of the public to present issues, concerns, and viewpoints to the NIH Director and to take information from NIH back to the broader public. COPR terms are typically three-year terms.

The minimum eligibility criteria are that the applicant must:

- Have some interest in the work of NIH (such as being a patient or family member of a patient; a care giver, or a volunteer in the health or science arena; a scientist or student of science; a health communicator, educator or professional in the medical field, but certainly not limited to these examples).
- Be in a position (formally or informally) to communicate regularly with the broader public or segments of the public about the activities of the COPR and the NIH.
- Commit to participating fully in activities of the COPR, including COPR meeting discussions and conference calls, and subcommittee and/or working group activities that will take time in addition to COPR meeting attendance twice a year.

Note: The NIH will cover travel expenses while on official government business as a COPR member.

In addition, COPR members—while participating in COPR activities— will have to agree to subordinate disease-specific or program-specific interests to broader, cross-cutting matters of importance to the NIH. COPR members will also need to agree to represent as broad a "public viewpoint" as possible and to at least keep the spirit of this goal at the forefront during all COPR discussions and activities.

Please contact Palladian Partners, Inc. to have an application mailed to you or go on-line to *www.nih.gov/about/publicliaison* to access the COPR application instructions. The NIH Director's COPR staff is located in the Office of Communications and Public Liaison, Office of the Director, National Institutes of Health. *The application deadline is Tuesday, October 23, 2001. We will not consider late nomination packages.*

After applications are screened for completeness, they will be reviewed and scored by external reviewers who are familiar with the responsibilities of the COPR. The NIH Director will make the final selection of candidates with the goal of creating a COPR that reflects the breadth and diversity of the publics interested in the NIH, taking into consideration many varied factors, including age, gender, culture, and geography. We expect that candidates will be selected in December 2001.

Thank you for your interest in the COPR. We look forward to receiving your application packet.

Dated: August 24, 2001.

Anne Thomas,

Associate Director for Communications, NIH.

[FR Doc. 01–22467 Filed 9–6–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 5452b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Development of Novel Imaging Technology (Phased Innovation award).

Date: October 1–2, 2001.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, Versailles III, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, room 8043, Bethesda, MD 20892, (301) 496–7576.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22462 Filed 9–6–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Program Project Application.

Date: October 1–3, 2001.

Time: 7:30 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Baltimore Inner-Harbor, 110 S. Eutaw Street, Baltimore, MD 21201.

Contact Person: Virginia P. Wray, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8125, Rockville, MD 20892–7405, 301/496–9236.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394; Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research: 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22457 Filed 9–6–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: November 2, 2001.

Time: 8:30 am to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Dulles, 2300 Dulles Corner Blvd., Herndon, VA 20171.

Contact Person: Priti Mehrotra, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, MD 20892, 301–496–2550, *pm158b@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22458 Filed 9–6–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 16–17, 2001.

Time: October 16, 2001, 8:30 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: The Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.

Contact Person: Gregory P. Jarosik, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–2550, *gjarosik@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22463 Filed 9–6–01 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 16, 2001.

Time: 8 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Square, 2000 N Street, NW., Washington, DC 20036.

Contact Person: Paula S. Strickland, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C02, 6003 Executive Boulevard, MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

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Dated: August 30, 2001.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–22459 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Program Project Applications.
Date: October 1–3, 2001.
Time: 7 p.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: The Charles Hotel, One Bennett Street, Cambridge, MA 02138.
Contact Person: Ethel B. Jackson, DDS, Chief, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7846, *jackson4@niehs.nih.gov*

Nome of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, To Review Program Project Applications.
Date: October 26, 2001.
Time: 8:30 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: NIEHS, South Campus, Building 101, Conference Room C, Research Triangle Park, NC 27709, (Telephone Conference Call).
Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142 NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: August 30, 2001.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–22461 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, "Non-Human Primate Immune Tolerance Cooperative Study Group".
Date: October 29–30, 2001.
Time: October 29, 2001, 8:30 am to adjournment.
Agenda: To review and evaluate grant applications.
Place: Embassy Square, 2000 N Street, NW., Washington, DC 20036.
Contact Person: Priti Mehrotra, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, MD 20892, 301–496–2550, *pm158b@nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 30, 2001.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–22464 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.
Date: October 22–24, 2001.
Time: October 22, 2001, 8:30 am to adjournment.
Agenda: To review and evaluate grant applications.
Place: Embassy Square, 2000 N Street, NW., Washington, DC 20036.
Contact Person: Hagit David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 30, 2001.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–22465 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Deafness and Other Communications Disorders Special Emphasis Panel.
Date: September 25, 2001.
Time: 1 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: 6120 Executive Blvd., Executive Plaza South, Rockville, MD 20892 (Telephone Conference Call).
Contact Person: Ali A Azadegan, DVM, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD, NIH, DHHS, Bethesda, MD 20892–7180, (301) 496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Disorders, National Institutes of Health, HHS)

Dated: August 30, 2001.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–22466 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: September 5, 2001.
Time: 9:15 am to 10:45 am.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: September 5, 2001.
Time: 10:30 am to 1 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: September 5, 2001.
Time: 2 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 30, 2001.
LaVerne Y. Stringfield,
Director, Office of Federal Advisory Committee Policy.
[FR Doc. 01–22460 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Proposed Actions Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), HHS.

ACTION: Notice, correction.

SUMMARY: In a proposed action to amend the membership provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines) published August 24, 2001 (66 FR 44638–44640), a truncated URL was provided for access to the RAC charter under the proposed amendments to Section IV–C–2. The correct URL is *http://www4.od.nih.gov/oba/rac/RACCharter.htm.*

FOR FURTHER INFORMATION: Contact OBA by e-mail at *oba@od.nih.gov*, telephone at 301–496–9838, or fax to 301–496–9839.

Correction

1. Section IV–C–2 should read, "The RAC membership and procedures, in addition to those set forth in the NIH Guidelines, are specified in the charter for the RAC, which is filed as provided in the General Services Administration Federal Advisory Committee Management regulations, 41 CFR parts 101–6 and 102–3, and is available on the OBA website, *http://www4.od.nih.gov/oba/rac/RACCharter.htm.*"

Dated: August 30, 2001.
Sarah Carr,
Acting Director, NIH Office of Biotechnology Activities.
[FR Doc. 01–22476 Filed 9–6–01; 8:45 am]
BILLING CODE 4140–01–P

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Environmental Assessment for a Major Amendment to the County of San Diego Subarea Plan of the Multiple Species Conservation Program Plan, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The County of San Diego (County) has requested a major amendment to its Subarea Plan of the Multiple Species Conservation Program (MSCP) and has forwarded this request to the Fish and Wildlife Service (Service) for approval. Our proposed action would include the Cielo Ridge and Rancho de Lusardi properties into the MSCP for incidental take authorization (including harm, injury and harassment), if necessary, of species listed as threatened or endangered pursuant to the Endangered Species Act of 1973, as amended. Take authorization may be needed during the development of homes on these properties should unlisted species covered by the MSCP become listed during the 50-year term of the permit. The County's existing incidental take permit (PRT–840414) does not apply to these amendment areas until the amendment process has been completed. These amendment lands include key core habitat areas within the County's jurisdiction that are vital to the continued existence of many of the species covered for take authorization under the County's permit. Upon completion of the amendment process, Cielo Ridge and Rancho Cielo de Lusardi would be annexed into the County's Subarea Plan, and if necessary, these properties would then be afforded take authorization pursuant to the County's permit and implementing agreement (legal contact).

This notice announces the availability of the Environmental Assessment (EA), dated January, 2001, and the Major Amendment proposed by the County. These documents describe the proposed action and possible alternatives.

DATES: Written comments should be received by the Service on or before October 9, 2001.

ADDRESSES: Comments should be addressed to Mr. Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California 92008. Written comments may be sent by facsimile to (760) 431–9618.

FOR FURTHER INFORMATION CONTACT: Ms. Patrice Ashfield, Fish and Wildlife Biologist, [see **ADDRESSES**]; telephone (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Document Availability

Individuals interested in obtaining copies of the Proposed Major Amendment and Environmental Assessment for review should immediately contact the aforementioned office [see **ADDRESSES**]. Documents will also be available for public inspection by appointment during normal business hours (8 a.m. to 12 p.m. and 1 p.m. to 5 p.m.) Monday through Friday at the above address.

Background

Section 9 of the Endangered Species Act and Federal regulation prohibit the "taking" of a species listed as endangered or threatened. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, capture or collect listed wildlife, or attempt to engage in such conduct. Harm includes habitat modification that kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Under limited circumstances, the Service may issue permits for take of listed species that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are found in 50 CFR 17.32 and 50 CFR 17.22.

When the County completed its Subarea Plan of the MSCP, the status of several sites within the South County and Lake Hodges segments was not resolved, and these lands were designated as major or minor amendment areas. The County's take authorization does not apply to these amendment areas until the amendment process has been completed.

The County has requested a major amendment to include Cielo Ridge and Rancho Cielo de Lusardi properties into its Subarea Plan of the MSCP for incidental take authorization of species, should it be needed, during development of 11 Cielo Ridge homes and 13 Rancho Cielo de Lusardi homes. These properties are located north of the Del Dios Highway in the Santa Fe Valley, County of San Diego, California. Lands designated as major amendment areas include several properties that did not initially participate in the MSCP as the regional habitat conservation plan was being formulated. The inclusion of the proposed housing subdivisions, Cielo Ridge and Rancho Cielo de Lusardi, into the MSCP County Subarea Plan would incorporate these projects into the County of San Diego's subregional planning efforts. To this end, these proposed subdivisions have been reviewed under the County of San Diego's Biological Mitigation Ordinance and the County Subarea Plan for the MSCP and have been found by the County to be in conformance with relevant criteria and regulations.

These amendment lands include key core habitat areas within the County's jurisdiction that are vital to the continued existence of many of the species included on the County's permit. A request for a major amendment area must be processed by the Service and the California Department of Fish and Game Agencies in conformity with all applicable laws and regulations (including National Environmental Policy Act, California Environmental Quality Act, and the Endangered Species Act). Upon completion of the amendment process, Cielo Ridge and Rancho Cielo de Lusardi would be annexed into the County's Subarea Plan, and if necessary, these properties would then be afforded take authorization pursuant to the County's permit and implementing agreement.

Together Cielo Ridge and Rancho Cielo de Lusardi properties would add 87.5 acres of land into the San Diego County MSCP Subarea Plan. Approximately 36.4 acres of habitat would be impacted by the construction of 24 homes, including 30.2 acres of southern mixed chaparral, 5.3 acres of disturbed habitat, 0.1 acre of non-native grassland and 0.8 acre of eucalyptus woodland. No state or federally threatened or endangered species have been identified onsite; however, unlisted rare species occur onsite that could be listed during the 50-year term of the permit. Proposed mitigation to offset project impacts include 41.2 acres of dedicated open space, along with 10.0 acres of open space to be contained within the proposed housing lots for a total of 51.2 acres of permanent open space dedicated to the County of San Diego.

The inclusion of 51.2 acres of open space would enhance the regional preserve in this area by creating a corridor at the southern portion of the proposed residential development which extends southward to the San Dieguito River. The two sites are predominantly covered with mixed chaparral vegetation with several sensitive plant and animal species, including wart-stemmed ceanothus (*Ceanothus verrucosus*) and ashy spike-moss (*Selaginella cinerascens*). Proposed mitigation measures include onsite preservation of 71 percent of the habitat on Cielo Ridge and 45 percent of the habitat on Rancho Cielo de Lusardi. Approximately 81 percent of the wart-stemmed ceanothus and 50 percent of the ashy spike-moss populations would be preserved within the proposed open space easements.

An addendum to the previously certified Environmental Impact Report/Environmental Impact Statement has been prepared in accordance with California Environmental Quality Act Guidelines Section 15164. The County of San Diego has determined that the proposed amendment is in conformance with the California Environmental Quality Act, the MSCP Plan, and the Biological Mitigation Ordinance.

Alternatives to the Service's proposed action include the Preferred Project Alternative which would include Cielo Ridge and Rancho Cielo de Lusardi into the MSCP and result in construction of 27 homes on 87.55 acres. The total acreage of open space from both properties under this alternative would be 48.9 acres. The No Action Alternative would result in no development of either property.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and the National Environmental Policy Act of 1969 regulations (40 CFR 1506.6). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate the proposed amendment, associated documents, and submitted comments to determine whether the proposed amendment meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Endangered Species Act. If it is determined that the requirements are met, the County Subarea Plan of the MSCP Plan will be amended to include the Cielo Ridge and Rancho Cielo de Lusardi subdivisions. We will make a final decision no sooner than 30 days from the date of publication of this notice.

Dated: August 21, 2001.

Daniel S. Walsworth,

Acting Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.

[FR Doc. 01–22505 Filed 9–6–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Preparation of an Environmental Impact Report/Statement for the Western Riverside County, CA, Multiple Species Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: Pursuant to the National Environmental Policy Act, the Fish and Wildlife Service (Service) advises the public that we intend to gather information necessary to prepare, in coordination with the County of Riverside, California (County), a joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). The County and other jurisdictions intend to request Endangered Species Act permits for up to 164 covered species including federally threatened or endangered species and unlisted species that may become listed during the term of the permit. The permit is needed to authorize take of listed species (including harm, injury and harassment) during urban and rural development in the approximately 1.26 million-acre (1,967 square-mile) study area in western Riverside County.

The Service is furnishing this notice to: (1) Advise other Federal and State agencies, affected Tribes, and the public of our intentions; (2) announce the initiation of a 30-day public scoping period; and (3) obtain suggestions and information on the scope of issues to be included in the EIR/EIS.

DATES: We will accept written comments until October 9, 2001.

ADDRESSES: Send comments to Mr. James Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Field Office, 3720 Loker Avenue West, Carlsbad, CA 92008; facsimile (760) 431–9618. Information, comments and/or questions related to the preparation of the EIR and the California Environmental Quality Act process should be submitted to Ms. Kristi Lovelady; P.O. Box 1605; 4080 Lemon Street, 7th Floor; Riverside, CA 92502; facsimile (909) 955–6879.

FOR FURTHER INFORMATION CONTACT: Background information pertaining to the MSHCP may be found in the Conservation Information section of the following web page *http:/www.rcip.org/library.htm*. For additional information please contact Mr. Jeff Newman, U.S. Fish and Wildlife Service, telephone (760) 431–9440 [see **ADDRESSES** for Carlsbad Field Office]; or Ms. Kristi Lovelady, County of Riverside, telephone (909) 955–6742 [see **ADDRESSES**].

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Endangered Species Act of 1973, as amended, and Federal regulation prohibit the "taking" of a species listed as endangered or threatened. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, capture, or collect listed wildlife, or attempt to engage in such conduct. Harm includes habitat modification that kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Under limited circumstances, the Service may issue permits for take of listed species that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are found in 50 CFR 17.32 and 50 CFR 17.22.

We anticipate that the County and other jurisdictions will request Endangered Species Act permits for up to 164 covered species, including 26 federally threatened or endangered species, and 138 unlisted species that may become listed during the term of the permit. The permits are needed to authorize take of listed species (including harm, injury and harassment) during urban and rural development in rapidly growing western Riverside County.

In the year 2020, the Southern California Association of Governments estimates that Riverside County will be home to approximately 2.8 million people, who will occupy approximately 918,000 dwelling units. This represents a doubling of the County's present population and housing stock. Another study by the California Department of Finance estimates that the County will continue to grow to 3.5 million people by 2030 and 4.5 million people by 2040. These residents will be located within 24 incorporated cities, as well as within numerous unincorporated areas.

The crush of the coming population boom and the challenge of balancing the associated housing, transportation, and economic needs of existing and future populations with limited natural resources and the sensitivity of the natural environment required Riverside County to develop a unique planning model. This model, known as the Riverside County Integrated Project, consists of three integrated regional planning efforts to determine future

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land use, transportation, and conservation needs for the County. The goals of the effort are three-fold:

1. Update the County's General Plan to describe anticipated future growth over the long term. The General Plan is meant to express the community's goals with respect to both the man-made and natural environments, and set forth the policies and implementation measures needed to achieve those goals for the welfare of those who live, work, and do business in the County. The County's General Plan is being prepared and integrated with the MSHCP. The County is preparing an EIR to address the environmental impacts of the implementation of the County's proposed General Plan.

2. Identify transportation corridors to meet the County's future transportation needs through the Community Environmental and Transportation Acceptability Program (CETAP). The CETAP transportation program is a multi-modal planning effort that considers not only highway options, but also looks at transit and other forms of travel demand management and goods movement. The MSHCP is expected to address the growth facilitating effects of the CETAP corridors and to facilitate requisite environmental clearances for such corridors. Riverside County and the Federal Highway Administration (lead agency for the National Environmental Policy Act) are also preparing two EIR/EISs to address the environmental impacts of the proposed CETAP corridors.

3. Create a MSHCP for the western portion of the County, and integrate ongoing preparation of the Coachella Valley Multi-Species Habitat Conservation Plan into the fabric of comprehensive planning for the County. The western Riverside County MSHCP, which is the subject of this notice, will identify activities resulting in the incidental take of covered species and those actions necessary to conserve these species within a regional reserve system.

Proposed Action and Alternatives To Be Evaluated

In anticipation of receiving permit applications from the County and other jurisdictions, the Service will prepare a joint EIR/EIS with the County, lead agency for the MSHCP. The Service's proposed action is to consider approval of the MSHCP and issuance of incidental take permits to the County and other jurisdictions.

The County's proposed MSHCP will be a comprehensive plan that seeks to conserve up to 164 species within a reserve system of approximately 510,000 acres pursuant to State and Federal endangered species laws. The MSHCP would establish a reserve system, with a focus on conserving species and the habitats upon which they depend, through conservation and management. The MSHCP will describe strategies to conserve federally listed and unlisted species and their habitats identified for inclusion and management, while allowing incidental take of endangered and threatened species associated with development. Development may include residential, commercial, industrial, and recreational development; public infrastructure such as roads and utilities; and maintenance of public facilities. This plan is intended to allow the County and other participating jurisdictions to retain local control over land use decisions, provide for critical public infrastructure projects, and sustain economic growth.

The EIR/EIS for the MSHCP will assist the Service during its decision making process by enabling us to analyze the environmental consequences of the proposed action and a full array of alternatives identified during preparation of the MSHCP. Although specific alternatives have not been prepared for public discussion, the range of alternatives preliminarily identified for consideration include:

1. The No Action/No Project alternative. Conservation would rely on existing or future amended General Plans, growth management programs, habitat management efforts, and continuing project-by-project review and permitting pursuant to the National Environmental Policy Act and sections 7 and 10 of the Endangered Species Act;

2. An alternative for enhanced management of the existing preserves within western Riverside County.

3. A potential conservation scenario for only currently listed and proposed species (i.e., approximately 29 species);

4. A potential conservation scenario for only currently listed, proposed, and certain candidate species (i.e., approximately 36 species); and

5. A more-robust, broad-based ecosystem conservation alternative.

Potentially Significant Impacts of Implementation of the MSHCP

Potentially significant impacts could occur with the implementation of the MSHCP alternatives. These could include impacts to biological resources, land use and planning (land use development patterns), mineral resources, population, housing, economics, and public services (fire protection and parks). For all significant impacts, the EIR/EIS will identify mitigation measures, where feasible.

The following issues will be addressed in the EIR/EIS.

Biological Resources

Incidental take of federally listed species would result from activities covered under the MSHCP. The impacts of take will be discussed in the EIR/EIS. In addition, the implementation of the MSHCP may facilitate development in areas not required for the reserve system, which may result in impacts to species in these areas. These potential impacts related to biological resources will be further addressed in the EIR/EIS.

Land Use and Planning

Included within the MSHCP planning area are 14 cities, State, Federal, and other public jurisdiction lands. Preservation of lands within the proposed MSHCP reserve system may conflict with existing and/or planned policies with respect to land use. The EIR/EIS will address potential MSHCP consistency with local, State and federal land use policies.

Mineral Resources

There may be lands now designated that would not be available for mineral resource extraction as a result of the adoption of the MSHCP. This will be addressed in the EIR/EIS.

Population, Housing, and Economics

The adoption of the MSHCP could cause a change in the distribution, density, or pattern of growth in western Riverside County. With implementation of the MSHCP, growth and development patterns could be shifted from the rural residential and suburban areas to urban centers and community nodes where there is increased access to infrastructure and transportation facilities.

Public Services (Fire Protection and Parks)

The risk of fire could increase at the habitat edges adjacent to existing development. Fire protection impacts will be discussed in the EIR/EIS. While the MSHCP will include a public access component to define potentially compatible activities such as trails, trail heads, and passive recreation, some recreational facilities currently being planned by jurisdictions for areas where core reserves and linkage areas are proposed, may have to be redesigned or relocated. The potential need to relocate a public service or recreational facility will be examined in the EIR/EIS.

Transportation/Traffic

The proposed MSHCP reserve may require eliminating, re-aligning, or designing specific features to avoid and minimize the incidental take of covered species for some planned facilities and programs that support various modes of transportation. The EIR/EIS will analyze these potential impacts.

Indirect Impacts (Growth Inducement)

Authorization of take with the implementation of the MSHCP could remove an impediment to development. This potential impact will be analyzed in the EIR/EIS.

Scoping

We invite the public to participate in the scoping process, review the draft EIR/EIS, and attend public meetings. The location and time of the scoping meetings to be scheduled during the month of September 2001 will be announced in the local news media. We invite comments from all interested parties to ensure that the full range of issues related to the permit requests are addressed and that all significant issues are identified.

We expect a draft EIR/EIS for the MSHCP to be available for public review in Winter 2002. Release of the draft EIR/EIS for public comment and the public meetings will be announced in the local news media, as these dates are established.

Regulatory Authority

We will conduct environmental review of the permit applications in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500 through 1508), and with other appropriate Federal laws and regulations, policies, and procedures of the Service for compliance with those regulations.

Dated: August 23, 2001.

Mary Ellen Mueller,

Acting Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.

[FR Doc. 01–22506 Filed 9–6–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Second Modification to Consent Decree Under the Clean Water Act

Under 28 CFR 50.7 notice is hereby given that on August 20, 2001, a proposed Second Modification To Consent Decree ("Second Modification") in *United States and State of Indiana* v. *City of Boonville*, Civil Act No. EV 84–187–C–Y/H was lodged with the United States District Court for the Southern District of Indiana.

In this action, the United States sought injunctive relief and civil penalties for violations of the Clean Water Act ("CWA"), 33 U.S.C. 1251 *et seq.*, and terms and conditions of an National Pollutant Discharge Elimination System ("NPDES") permit governing discharges of pollutants from a publicly owned treatment works ("POTW") operated by the City of Boonville, Indiana ("City"). Following entry of a Consent Decree in 1987 and entry of a Joint Stipulation and Order ("JSO") modifying the Consent Decree in 1991, the United States sought additional relief and stipulated penalties as a result of the City's failure to complete construction of required POTW improvements in accordance with schedules set forth in the Consent Decree as modified by the JSO.

The proposed Second Amendment provides a modified schedule for the completion of some of the other remaining remedial work necessary for the City to obtain compliance with its NPDES permit and the Consent Decree, as modified by the JSO. Also, under the Second Modification the City will pay $61,000.00 as stipulated penalties to the United States of America and the State of Indiana.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Second Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of Indiana* v. *City of Boonville*, Civil Action No. EV 84–187–C–Y/H, D.J. Ref. 90–5–1–1–2071B.

The Second Modification may be examined at the Office of the United States Attorney, 10 West Market Street, Suite 2100, Indianapolis, Indiana, 46204–3048, and at U.S. EPA Region V, 77 W. Jackson Blvd., (C–14J), Chicago, Illinois, 60604–3590. A copy of the Second Modification may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $6.00 (.25 cents per page reproduction cost) payable to the Consent Decree Library.

William D. Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–22446 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Robert Desmond*, Civ. No. 01–CV–11425–RGS (D. Mass.), was lodged with the United States District Court for the District of Massachusetts on August 20, 2001. This proposed Consent Decree concerns a complaint filed by the United States of America against Robert Desmond, Esq., of Chestnut Hill, Massachusetts, pursuant to section 309 (b), (d) and (g), of the Clean Water Act, 33 U.S.C. 1319 (b), (d) and (g), to obtain injunctive relief and impose civil penalties against the Defendant for unlawfully discharging dredged or fill materials into waters of the United States in Taunton, Bristol County, Massachusetts, for failing to comply with the terms of a March 30, 1998 administrative order, issued in accordance with Clean Water Act section 309(a), 33 U.S.C. 1319(a), requiring the completion of a restoration plan; and for failing to comply with the terms of a June 21, 1998 "Administrative Consent Agreement and Final Order," under Clean Water Act section 309(g), 33 U.S.C. 1319(g), which directed the Defendant to pay a penalty of $12,500 by July 31, 1998.

The proposed Consent Decree requires the Defendant to pay a civil penalty in the amount of $10,000, for its several alleged violations of the Clean Water Act. The Defendant is required to pay an additional penalty of $48,478.47, reflecting payments owed to the United States under the CAFO, unless the Defendant proves to the satisfaction of the United States, within 90 days of entry of the Consent Decree, that he paid $12,500 to the United States on or before July 31, 1998. Finally, the proposed Consent Decree enjoins the Defendant and his agents from discharging any pollutant into waters of the United States unless such discharge complies with the provisions of the Clean Water Act and its implementing regulations.

The Department of Justice will receive written comments relating to this

proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Attention: Joshua M. Levin, P.O. Box 23986, Washington, DC 20026–3986. Please refer to the matter of *United States* v. *Robert Desmond*, DJ Reference No. 90–5–1–1–06024.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Massachusetts, John Joseph Moakley U.S. Courthouse, Suite 2300, 1 Courthouse Way, Boston, MA 02210–3002. In addition, the proposed Consent Decree may be viewed on the World Wide Web at *http//www.usdoj.gov/enrd/enrd-home.html*.

Scott A. Schacter,

Assistant Section Chief, Environmental Defense Section, Environment and Naturol Resources Division.

[FR Doc. 01–22447 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Mallory Creek Developers, Inc., et al.*, Case No. 7:01–CV–163–F1 (E.D.N.C.), was lodged with the United States District Court for the Eastern District of North Carolina on August 22, 2001. The proposed Consent Decree concerns alleged violations of sections 301(a), 402, and 404 of the Clean Water Act, 33 U.S.C. §§ 1311(a), 1342 and 1344, resulting from Defendant's unauthorized discharge of pollutants into waters of the United States at the Mallory Creek Developers Site located on the west side of State Highway 133, in Brunswick County, North Carolina.

The proposed Consent Decree would require the payment of a civil penalty of $100,000 and completion of site restoration activities, including the filling of ditches.

The United States Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to S. Randall Humm, Attorney, United States Department of Justice, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026–3986, and should refer to *United States* v. *Mallory Creek Developers, Inc., et al.*, Case No. 7:01–CV–163–F1 (E.D.N.C.)

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Eastern District of North Carolina, 310 New Bern Avenue, Federal Building, 5th Floor, Raleigh, North Carolina.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Naturol Resources Division, United States Department of Justice.

[FR Doc. 01–22448 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 243–2001]

Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following systems of records—previously published July 8, 1997 (62 FR 36572) and October 10, 1995 (60 FR 52697), respectively:

The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS), JUSTICE/INS–001A

Alien Status Verification Index (ASVI), JUSTICE/INS–009

INS proposes to add six new routine use disclosure provisions, identified as R, S, T, U, V, and W and to appropriately edit routine use J to JUSTICE/INS–001A. Routine use R permits disclosure of information from this system of records to appropriate health authorities that perform required medical examinations on individuals entering the United States. Release of this information assists these individuals in performing their oversight responsibilities. Routine use S ensures that the system of records is in compliance with the requirements of section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Routine use T allows contractors access to INS information when performing a function on its behalf. Routine use U is necessary to assist other government agencies in the performance of their law enforcement functions. Routine use V is necessary to permit disclosure of information on individuals from this system to the Social Security Administration (SSA) so that the SSA will be able to issue valid social security numbers to certain aliens who have made a request for a social security number and card as part of the immigration process and in accordance with agreements in place between the INS, SSA and the Department of State. These interagency agreements, which are authorized by specific SSA regulations, concern the sharing of information on aliens so that the SSA may issue them social security numbers and appropriate cards if the aliens so request. Finally, routine use W allows disclosure to former employees when the Department requires information and/or consultation assistance from the former employee that is necessary for personnel-related or other official purposes regarding a matter within that person's former area of responsibility. (This routine use is also being added in JUSTICE/INS–009 as J.)

In INS–001A, Routine uses D and F includes an additional source, tribal governments. Routine use J required editing because no routine use is necessary to allow the applicant, petitioner, and/or respondent access to their record.

Also, the following sections have been modified. The "Categories of Records" portion in the system has been edited to include photographs as another form of information within the system. The "Retention and Disposal" section has been edited to reflect the actual language approved by the National Archives and Records Administration (NARA). Finally, the "Record Source" and "Systems Exempted From Certain Provisions of the Act" portions have been edited to improve clarification of the system.

Secondly, INS proposes to add three new routine use disclosures to JUSTICE/INS–009, identified as H, I, and J. Routine use H ensures that the system of records is in compliance with the requirements of Section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Routine use I clarifies those entities having access to ASVI via partnership in the SAVE program. Lastly, routine use J has been added as explained above. Also, routine uses A, B, D, and F are being edited to clarify the system description (*e.g.*, include an additional source, tribal governments; and amend the use of ASVI data). The "Retention and Disposal" section has been edited to reflect that the disposition schedule is no longer pending. Other minor corrections or edits have been made to the following sections, "Record Source" and "Systems Exempted From Certain Provisions of the Act."

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on proposed system modifications and new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments (by 30 days from the publication date of this notice). The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modifications.

Dated: August 21, 2001.

Janis A. Sposato,

Acting Assistant Attorney General for Administration.

JUSTICE/INS–001A

SYSTEM NAME:

The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS).

SYSTEM LOCATION:

Headquarters, Regional, District, and other INS file control offices in the United States and foreign countries as detailed in JUSTICE/INS–999, last published April 13, 1999 (64 FR 18052). Remote access terminals will also be located in other components of the Department of Justice and in the Department of State on a limited basis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals covered by provisions of the Immigration and Nationality Act of the United States.

B. Individuals who are under investigation, or who were investigated by the INS in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive Orders, and Presidential proclamations administered by INS, and witnesses and informants having knowledge of such violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. The computerized indexing system contains personal identification data such as A-File number, date, and place of birth, date and port of entry, as well as the location of each official hardcopy paper file known as the "A-file." Microfilm records contain naturalization certificates and any supporting documentation prior to April 1, 1956; however, after that date, this type of information is maintained in the "A-file" which is described in B. below.

B. The hard copy A-file (prior to 1940 was called Citizenship File (C-File)) contains all the individual's official record material such as naturalization certificates; various forms (and attachments, e.g., photographs), applications and petitions for benefits under the immigration and nationality laws, reports of investigations; statements; reports; correspondence; and memoranda on each individual for whom INS has created a record under the Immigration and Nationality Act.

AUTHORITY FOR MAINTENANCE OF RECORDS:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 8 U.S.C. 1360), and the regulations pursuant thereto.

PURPOSE:

The system is used primarily by INS and other Department of Justice employees to administer and enforce the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and the referral of such violations for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements.

C. To other federal, state, tribal, and local government law enforcement and regulatory agencies and foreign governments, including the Department of Defense and all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, and INTERPOL, and individuals and organizations during the course of an investigation or the processing of a matter, or during a proceeding within the purview of the immigration and nationality laws, to elicit information required by INS to carry out its functions and statutory mandates.

D. To a federal, state, tribal, local or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

E. A record, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which INS or the Department of Justice (DOJ) is authorized to appear when any of the following is a party to the litigation or has an interest in the litigation and such records are determined by INS or DOJ to be arguably relevant to the litigation: (1) INS, or any subdivision thereof, or (2) any employee of INS in his or her official capacity, or (3) any employee of INS in his or her individual capacity when the Department of Justice has agreed to represent the employee, and (4) the United States, where INS determines that the litigation is likely to affect it or any of its subdivisions.

F. To a federal, state, tribal, local or foreign government agency in response to its request, in connection with the hiring or retention by such agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the letting of a contract, or the issuance of a license, grant, loan or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. To a federal, state, local or foreign government agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of INS concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

H. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

I. To other federal agencies for the purpose of conducting national intelligence and security investigations.

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J. To an attorney or representative (as defined in 8 CFR 1.1(j)) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before INS or the Executive Office for Immigration Review.

K. To a federal, state, tribal, or local government agency to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the United States Government, and/or to obtain information that may assist INS in collecting debts owned to the United States Government; to a foreign government to assist such government in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to it provided that the foreign government in question (a) Provides sufficient documentation to establish the validity of the stated purpose of its request, and (b) provides similar information to the United States upon request.

L. To student volunteers whose services are accepted pursuant to 5 U.S.C. 3111 or to students enrolled in a college work-study program pursuant to 42 U.S.C. 2751 *et seq.*

M. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

N. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

O. To the General Services Administration and the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

P. To an obligor who has posted a bond with the INS for the subject. INS may provide only such information as either may (1) aid the obligor in locating the subject to insure his or her presence when required by INS, or (2) assist the obligor in evaluating the propriety of the following actions by INS: either the issuance of an appearance demand or notice of a breach of bond—*i.e.*, notice to the obligor that the subject of the bond has failed to appear which would render the full amount of the bond due and payable.

Q. To an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

R. Consistent with the requirements of the Immigration and Nationality Act, to the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities, to provide proper medical oversight of INS-designated civil surgeons who perform medical examinations of both arriving aliens and of those requesting status as a lawful permanent resident, and to ensure that all health issues potentially affecting public health and safety in the United States are being or have been, adequately addressed. In addition, the names, addresses, and telephone numbers of designated civil surgeons are routinely provided to the CDC to enable the CDC to send its technical instructions to the designated civil surgeons.

S. To a federal, state or local government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

T. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

U. To the appropriate agency/organization/task force, regardless of whether it is federal, state, local, foreign, or tribal, charged with the enforcement (e.g., investigation and prosecution) of a law (criminal or civil), regulation, or treaty, of any record contained in this system of records which indicates either on its face, or in conjunction with other information, a violation or potential violation of that law, regulation, or treaty.

V. To the Social Security Administration (SSA) for the purpose of issuing a social security number and card to an alien who has made a request for a social security number as part of the immigration process and in accordance with any related agreements in effect between the SSA and the Immigration and Naturalization Service and/or the Department of State entered into pursuant to 20 CFR 422.103(b)(3); 422.103(c); and 422.106(a), or other relevant laws and regulations.

W. Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Most A-file and C-file records are paper documents and are stored in file folders. Some microfilm and other records are stored in manually operated machines, file drawers, and filing cabinets. Those index records that can be accessed electronically are stored in a database on magnetic disk and tape.

RETRIEVABILITY:

These records are indexed and retrieved by an individual's A-file or C-file number, name, and/or date of birth.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces that are locked during non-duty office hours. Many records are stored in cabinets, open shelving, or machines that are also locked during non-duty office hours. Access to automated records is controlled by passwords and name identifications.

RETENTION AND DISPOSAL:

A-file records are retained for 75 years from the date the file is retired to the Federal Records Center or date of last action (whichever is earlier) and then destroyed. C-file records are to be destroyed 100 years from March 31, 1956. Automated master index records are permanent and will be transferred to NARA in 2005.

SYSTEM MANAGER(S) AND ADDRESS:

The Servicewide system manager is the Assistant Commissioner, Office of Records Services, Immigration and Naturalization Service, 425 Street NW, Fourth Floor, Union Labor Life Building, Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above, the nearest INS office, or the INS office maintaining desired records, if known, by using the list of principal offices of the Immigration and Naturalization Service Appendix: JUSTICE/INS–999, last published in the **Federal Register**, April 13, 1999(64 FR 18052).

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) officer at one of the addresses identified above. Clearly mark the envelope and letter "Privacy Act Request." Provide the A-file number and/or the full name, date and place of birth, and notarized signature of the individual who is the subject of the record, and any other information which may assist in identifying and locating the record, and a return address. For convenience, INS Form G–639, FOIA/PA Request, may be obtained from the nearest INS office and used to submit a request for access.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope "Privacy Act Request." The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information contained in INS records is supplied by individuals —generally, individuals covered by this system of records—on Department of State and INS applications and forms. Other information comes from inquiries or complaints from members of the general public and members of Congress; referrals of inquiries or complaints directed to the President or Attorney General; INS reports to investigations, sworn statements, correspondence, official reports, memoranda, and written referrals from other entities, including federal, state, and local governments, various courts and regulatory agencies, foreign government agencies and international organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), and (g) of the Privacy Act. These exemptions apply only to the extent that records in the system are subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). INS has published implementing regulations in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and these have been published in the **Federal Register** and can be found at 28 CFR 16.99.

Justice/INS–009

SYSTEM NAME:

Alien Status Verification Index.

SYSTEM LOCATION:

Immigration and Naturalization Service (INS), 425 I Street NW, Washington, DC 20536.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are applicants, petitioners, beneficiaries, or possible violators of the Immigration and Nationality Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an index of aliens and other persons on whom INS has a record as an applicant, petitioner, beneficiary, or possible violator of the Immigration and Nationality Act. Records include index and file locator data such as last and first name, alien registration number (or "A-file" number), date and place of birth, social security account number, date coded status transaction data and immigration status classification, verification number, and an employment eligibility statement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 101 and 121 of the Immigration Reform and Control Act of 1986; Section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; 8 U.S.C. 1360; 8 U.S.C. 1324a; 8 U.S.C. 1373; 8 U.S.C. 1642; 20 U.S.C. 1091; 42 U.S.C. 1320b-7; 42 U.S.C. 1436; and Executive Order 12781.

PURPOSE:

This system of records is used to verify the individuals' immigrant, nonimmigrant, and/or eligibility status for any purpose consistent with INS statutory responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USE:

Relevant information contained in this system of records may be disclosed as follows:

A. To a federal, state, tribal, or local government agency, or to a contractor acting on its behalf, to the extent that such disclosure is necessary to enable these agencies to make decisions concerning the (1) hiring or retention of an employee; (2) issuance of a security clearance; (3) reporting of an investigation of an employee; (4) letting of a contract; (5) issuance of a license or grant; or (6) determination of eligibility for a federal, state, or local program or other benefit. Such access may be via a system in which the recipient performs its own automated verification of the requisite information for deciding any of the above. INS will assign appropriate access codes for remote access through secured terminals to agencies which are to perform their own automated verification. Records may also be disclosed to these agencies for use in computer matching programs for the purpose of verifying eligibility of applicants for federal, state, or local programs or benefits.

B. To any person or entity, *e.g.*, employers, agents of employers, state employment agencies, etc., authorized or required by law to participate in an employment verification program, any information which will enable such persons or entities to verify eligibility to work in the United States in compliance with the employer sanctions provisions of the Immigration Reform and Control Act of 1986. Such persons or other entities are assigned secure access codes and will have access through electronic means.

C. To the private contractor for maintenance and for other administrative support operations (e.g., preparing for INS management reimbursable cost reports etc. based on user access), to the extent necessary to perform such contract duties.

D. To other federal, state, tribal, or local government agencies for the purpose of verifying information in conjunction with the conduct of a national intelligence and security investigation or for criminal or civil law enforcement purposes.

E. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff request the information on behalf of and at the request of the individual who is the subject of the record.

G. To the National Archives and Records Administration (NARA) and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

H. To a federal, state, tribal, or local government agency participating in the INS Status Verification Program seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

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I. To a person or entity authorized by a federal, state, tribal or local government agency to act as the agency's contractor, agent, grantee, or designee with respect to ascertaining or verifying immigration status for any purpose consistent with INS statutory responsibilities, and/or are otherwise authorized by law. INS would disclose to such person or entity only to the extent that it would otherwise disclose to the authorizing federal, state, tribal or local government agency pursuant to an applicable Privacy Act disclosure provision.

J. Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are stored on magnetic disk and tape.

RETRIEVABILITY:

Records are indexed and retrievable by name and date and place of birth, or by name and social security account number, by name and A-file number.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice Orders governing security of automated records and Privacy Act systems of records. Access is controlled by restricted password for use of remote terminals in secured areas.

RETENTION AND DISPOSAL:

Information is destroyed when no longer needed.

SYSTEM MANAGER AND ADDRESS:

The Director, SAVE Branch, Immigration and Naturalization Service, 425 I Street NW, First Floor, Union Labor Life Building, Washington, DC 20536, is the sole manager of the system.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager listed above.

RECORD ACCESS PROCEDURES:

In all cases, requests for access to a record from this system shall be in writing. If a request for access is made by mail the envelope and letter shall be clearly marked "Privacy Act Request." The requester shall include the name, date and place of birth of the person whose record is sought and if known the alien file number. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his or her request to the System Manager or to the INS office that maintains the file. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Basic information contained in this system is taken from Department of State and INS applications and reports on the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–22449 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 244–2001]

Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following systems of records:

1. The Asset Management Information System (AMIS), JUSTICE/INS–004, April 27, 1998, (63 FR 20651);
2. INS Bond Management Information System (BMIS), JUSTICE/INS–008, December 18, 1998, (63 FR 70159);
3. INS Password Issuance and Control System (PICS), JUSTICE/INS–011, March 2, 1989, (54 FR 8838);
4. INS Port of Entry Office Management Support System (POMS), JUSTICE/INS–015, June 14, 1990, (55 FR 24167);
5. INS Global Enrollment System (GES), JUSTICE/INS–017, March 13, 1997, (62 FR 11919);
6. INS Attorney/Representatives Complaint/Petition Files, JUSTICE/INS–022, December 16, 1999, (64 FR 70288);
7. INS Law Enforcement Support Center Database, JUSTICE/INS–023, May 14, 1997, (62 FR 26555);
8. FD–258 Fingerprint Tracking System, JUSTICE/INS–024, July 31, 2000, (65 FR 46741); and
9. Hiring Tracking System (HITS), JUSTICE/INS–026, December 16, 1999, (64 FR 70291).

The INS has modified the above noted systems of records to include a new routine use that allows disclosure to contractors working on behalf of INS to have access to necessary information to assist INS with its operations.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on the routine use disclosure. The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by October 9, 2001. The public, OMB, and the Congress are invited to submit any comments to Mary E. Cahill, Management and Planning Staff, Justice Management Division, United States Department of Justice, Washington, DC 20530–0001 (Room 1400, National Place Building).

A description of the modification to the INS" systems of records is provided below. In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: August 21, 2001.

Janis A. Sposato,

Acting Assistant Attorney General for Administration.

SYSTEM NAMES:

JUSTICE/INS–004, The Asset Management Information System (AMIS)

JUSTICE/INS–008, INS Bond Management Information System (BMIS)

JUSTICE/INS–011, INS Password Issuance and Control System (PICS)

JUSTICE/INS–015, INS Port of Entry Office Management Support System (POMS)

JUSTICE/INS–017, INS Global Enrollment System (GES)

JUSTICE/INS–022, INS Attorney/Representatives Complaint/Petition Files

JUSTICE/INS–023, INS Law Enforcement Support Center Database

JUSTICE/INS–024, FD–258 Fingerprint Tracking System

JUSTICE/INS–026, Hiring Tracking System (HITS)

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

* * * * *

[FR Doc. 01–22450 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 29, 2001, and published in the **Federal Register** on April 6, 2001, (66 FR 18305), Ansys Technologies, Inc., 25200 Commercentre Drive, Lake Forest, California 92630, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexane-carbonitrile (PCC) (8603).	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Ansys Technologies, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Ansys Diagnostics, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22454 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 7, 2001, Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590).	I
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymeth-amphetamine (7405)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl) pyrrolidine (7458).	I
1-[1-2(2-Thienyl) cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexane-carbonitrile (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II
Noroxymorphone (9668)	II

The firm plans to manufacture small quantities of the listed controlled substances for reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 6, 2001.

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22452 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 4, 2000, and published in the **Federal Register** on January 10, 2001, (66 FR 2004), Noramco of Delaware, Inc., Division of McNeilab, Inc., which has changed its name to Noramco of Delaware, Inc., Division of Ortho-McNeil, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

The firm plans to manufacture the listed controlled substances for distribution to its customers as bulk product.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Noramco of Delaware, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Noramco of Delaware, Inc. on a regular basis to ensure that the

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company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administration, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22455 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 4, 2000, and published in the **Federal Register** on January 10, 2001, (66 FR 2005), Organix Inc., 240 Salem Street, Woburn, Massachusetts 01801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture a derivative of cocaine in gram quantities for validation of synthetic procedures.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 832(a) and determined that the registration of Organix, Inc. to manufacture is consistent with the public interest at this time. DEA has investigated Organix, Inc. to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22453 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 21, 2001, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Thebaine (9333)	II

The firm plans to produce bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 6, 2001.

Dated: August 27, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22451 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8:30 a.m. to 4:30 p.m. on Monday, November 5, 2001 & 8:30 a.m. to 12 noon on Tuesday, November 6, 2001.

Place: Washington Court Hotel on Capitol Hill, 525 New Jersey Avenue NW., Washington, DC 20001.

Status: Open.

Matters To Be Considered: Division Reports, Updates on Strategic Planning, Interstate Compact Activities, and Plan Colombia; Presentations on Violation/Revocation/Reentry and Job Stress in Corrections; and Report on Institutional Cultural Project.

Contact Person for More Information: Larry Solomon, Deputy Director, 202–307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 01–22531 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 30, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 219–8904 or email *Howze-Marlene@dol.gov*).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of

the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Notice to Participants and Beneficiaries and the Federal Government of Electing One Percent Increased Cost Exemption.

OMB Number: 1210–0105.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 10.

Number of Annual Responses: 10,000.

Estimated Time Per Response: 2 minutes.

Total Burden Hours: 333.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $5,000.

Description: Plans may be exempted from Mental Health Parity Act of 1996 requirements of parity between dollar limits on medical/surgical and mental health benefits if parity would result in an increase in cost of at least one percent and participants and beneficiaries and the federal government are notified. This ICR covers notice to participants and beneficiaries and to the federal government when a plan elects the increased cost exemption.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Calculation and Disclosure of Documentation of Eligibility for Exemption.

OMB Number: 1210–0106.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 10.

Number of Annual Responses: 200.

Estimated Time Per Response: 3 minutes.

Total Burden Hours: 10.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $100.

Description: The Mental Health Parity Act of 1996 requires parity between the dollar limits imposed on mental health benefits and those imposed on medical/surgical benefits offered by group health plans and issuers. Upon receipt of notice that a plan claims exemption from these requirements, participants and beneficiaries may request a summary of the information on which the exemptions was based.

The information collection request (ICR) found in the interim rules at 29 CFR 2590.712(f)(4) requires the plan to maintain group health plan claims and administrative expense records in such a way that they can be used to demonstrate the applicability of the one percent cost increase exemption as defined in the interim rules, and that a summary of that information can be provided at the request of participants and beneficiaries, or their representative at no charge.

This ICR covers the calculation and disclosure of information on which the exemption was based.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Form 5500 Annual Information Return/Report of Employee Benefit Plan.

OMB Number: 1210–0110.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; and Farms.

Frequency: Annually; On Occasion.

Number of Respondents: 863,682.

Number of Annual Responses: 863,682.

ESTIMATED TIME PER RESPONSE: [1]

	Pension plans		Welfare plans	
	Large	Small	Large	Small
Form 500	1 hr., 44 min	1 hr., 6 min	1 hr., 38 min	1 hr., 5 min.
Schedule A	1 hr., 41 min	53 min	8 hr., 10 min	2 hr., 11 min.
Schedule B	6 hr., 38 min	31 min.		
Schedule C	1 hr., 17 min		52 min.	
Schedule D	10 hr	10 hr.		
Schedule E	3 hr., 18 min	3 hr., 18 min.		
Schedule F			45 min	26 min.
Schedule G	11 hr., 58 min		6 hr., 28 min.	
Schedule H	7 hr., 56 min		3 hr., 22 min.	
Schedule I		1 hr., 28 min		1 hr., 28 min.
Schedule P	13 min	2 min.		
Schedule R	1 hr	30 min.		
Schedule SSA	6 hr., 10 min	1 hr., 42 min.		
Schedule T	4 hr., 40 min	37 min.		

[1] The time needed to complete and file the forms listed above reflects the combined requirements of the Internal Revenue Service, Department of Labor, Pension Benefit Guaranty Corporation, and the Social Security Administration. These times will vary depending on individual circumstances.

Total Burden Hours: 1,847,163.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $546,789,000.

Description: Part 1 of Title I and Title IV of the Employee Retirement Security Act of 1974, as amended, and the Internal Revenue Code, require administrators of pension and welfare benefit plans (collectively referred to as employee benefit plans) to file return/reports annually concerning, among other things, the financial condition and operation of plans. These annual reporting requirements are satisfied generally by filing the Form 5500.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 01–22528 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–29–P

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DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 27, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: New collection.

Agency: Employment and Training Administration (ETA).

Title: Workforce Investment Act (WIA) Employment and Training Administration (ETA) Financial Reporting Requirements for National Farmworkers Jobs Program (NFJP) Under Title I of the Act

OMB Number: 1205–0NEW.

Affected Public: State, Local, or Tribal Government; Not-for-profit institutions.

Number of Respondents: 53.

Number of Annual Responses: 636.

Frequency: Quarterly.

Estimated Time Per Response: 1 hour.

Total Burden Hours: 636.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Financial data information collection requirements for the Workforce Investment Act (WIA) Title I programs are contained in the Public Law 105–220, dated August 7, 1998 and WIA Final Rule, 20 CFR 652, *et al.*, dated August 11, 2000.

DOL regulations Part 669—National Farmworkers Jobs Program Under Title I of the Workforce Investment Act, Subpart A, 669.170(b) specifies what WIA regulations apply to the programs funded under WIA section 167. This section states that the general administrative requirements found in 20 CFR part 667 apply, which include reporting requirements at 667.300. This section specifies quarterly financial reporting no later than 45 days after the end of each quarter for all WIA Title I grantees.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 01–22530 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration Notice

Revised Schedule of Remuneration for the UC Program

Under Section 8521(a)(2) of title 5 of the United States Code, the Secretary of Labor is required to issue from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-servicemembers (UCX).

This Notice is to publish a revised schedule that reflects increases in military pay and allowances which were effective in July 2001.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 20 CFR 614.12(c), applies to "First Claims" for UCX which are effective beginning with the first day of the first week which begins on or after October 1, 2001.

Pay grade	Monthly rate
(1) Commissioned Officers:	
0–10	$13,903
0–9	13,103
0–8	12,088
0–7	10,973
0–6	9,234
0–5	7,740
0–4	6,399
0–3	5,087
0–2	4,025
0–1	3,074
(2) Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member Or Warrant Officer:	
0–3E	5,981
0–2E	4,889
0–1E	4,110
(3) Warrant Officers:	
W–5	6,761
W–4	5,829
W–3	4,855
W–2	4,152
W–1	3,544
(4) Enlisted Personnel:	
E–9	5,417
E–8	4,545
E–7	4,025
E–6	3,524
E–5	2,948
E–4	2,480
E–3	2,204
E–2	2,111
E–1	1,927

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time for which any prior schedule was in effect.

Signed at Washington, DC, on August 24, 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary.

[FR Doc. 01–22529 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar

character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specifed classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and State:

Volume IV

Michigan
MI010104 (Sept. 7, 2001)
MI010105 (Sept. 7, 2001)

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
CT010001 (Mar. 2, 2001)
CT010003 (Mar. 2, 2001)
CT010004 (Mar. 2, 2001)
New Hampshire
NH010001 (Mar. 2, 2001)
New Jersey
NJ010002 (Mar. 2, 2001)
NJ010009 (Mar. 2, 2001)
Vermont
VT010001 (Mar. 2, 2001)
VT010011 (Mar. 2, 2001)
VT010013 (Mar. 2, 2001)
VT010041 (Mar. 2, 2001)
VT010043 (Mar. 2; 2001)

Volume II

Pennsylvania
PA010004 (Mar. 2, 2001)
PA010006 (Mar. 2, 2001)
PA010028 (Mar. 2, 2001)
Virginia
VA010014 (Mar. 2, 2001)
West Virginia
WV010003 (Mar. 2, 2001)

Volume III

Alabama
AL010034 (Mar. 2, 2001)
Florida
FL010001 (Mar. 2, 2001)
FL010009 (Mar. 2, 2001)
FL010017 (Mar. 2, 2001)
FL010032 (Mar. 2, 2001)
FL010034 (Mar. 2, 2001)
FL010100 (Mar. 2, 2001)
South Carolina
SC010037 (Mar. 2, 2001)
Tennessee
TN010002 (Mar. 2, 2001)
TN010003 (Mar. 2, 2001)
TN010018 (Mar. 2, 2001)
TN010038 (Mar. 2, 2001)
TN010039 (Mar. 2, 2001)
TN010040 (Mar. 2, 2001)
TN010041 (Mar. 2, 2001)
TN010042 (Mar. 2, 2001)
TN010043 (Mar. 2, 2001)
TN010044 (Mar. 2, 2001)
TN010048 (Mar. 2, 2001)
TN010049 (Mar. 2, 2001)

Volume IV

Illinois
IL010001 (Mar. 2, 2001)
IL010002 (Mar. 2, 2001)
IL010004 (Mar. 2, 2001)
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IL010007 (Mar. 2, 2001)
IL010015 (Mar. 2, 2001)
IL010016 (Mar. 2, 2001)
IL010017 (Mar. 2, 2001)
IL010021 (Mar. 2, 2001)
IL010022 (Mar. 2, 2001)
IL010023 (Mar. 2, 2001)
IL010024 (Mar. 2, 2001)
IL010027 (Mar. 2, 2001)
IL010029 (Mar. 2, 2001)
IL010030 (Mar. 2, 2001)
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IL010070 (Mar. 2, 2001)
Michigan
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MI010003 (Mar. 2, 2001)
MI010004 (Mar. 2, 2001)
MI010007 (Mar. 2, 2001)
MI010027 (Mar. 2, 2001)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and Related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 30th day of August 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–22356 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Pension and Welfare Benefits Administration (PWBA) is announcing that collections of information included in a regulation pertaining to participant directed individual account plans under section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA) and in ERISA Technical Release 91–1 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA 95). This notice announces the OMB approval numbers and expiration dates.

FOR FURTHER INFORMATION CONTACT: Address requests for copies of the information collection requests (ICRs) to Gerald B. Lindrew, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC, 20210. Telephone: (202) 219–4782. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 18, 2001 (66 FR 4865), PWBA announced its intent to request renewal of its current OMB approval for the information collection provisions in a regulation pertaining to participant directed individual account plans under section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). In accordance with the PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0090. The approval expires December 31, 2002.

In the **Federal Register** of January 18, 2001 (66 FR 4864), the Agency announced its intent to request renewal of its current OMB approval for the information collection provisions of Technical Release 91–1, related to the transfer of excess assets from a defined benefit plan to a retiree health benefits account. In accordance with PRA 95, OMB has renewed its approval for the ICR under OMB control number 1210–0084. The approval expires December 31, 2002.

Under 5 CFR 1320.5 (b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Dated: August 28, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01–22527 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–10926, et al.]

Prohibited Transaction Exemption 2001–32; Grant of Individual Exemptions; Development Company Funding Corporation, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Development Company Funding Corporation, Located in the District of Columbia

[Prohibited Transaction Exemption 2001–32; Application No. D–10926]

Exemption

Section I. Transactions

A. Effective August 25, 2000, the restrictions of sections 406(a) and 407(a) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the following transactions involving Trusts and Certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates between the Underwriter of the Certificates and an employee benefit plan when the SBA, the Fiscal Agent, the Selling Agent, the Central Servicing Agent, the Trustee, the Underwriter, or an Obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of Certificates by a plan in the secondary market for such Certificates; and

(3) The continued holding of Certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, Section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for the acquisition or holding of a Certificate on behalf of an Excluded Plan, by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective August 25, 2000, the restrictions of section 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to:

(1) The direct or indirect sale, exchange or transfer of Certificates in the initial issuance of Certificates between the Underwriter and a plan, when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the Certificates is (a) an Obligor with respect to 5 percent or less of the fair market value of the 504 Program Loans underlying the Debentures related to that Series of Certificates, or (b) an affiliate of a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of Certificates in connection with the initial issuance of the Certificates, at least 50 percent of each Series of Certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group, and at least 50 percent of the aggregate interest in the Series is acquired by persons independent of the Restricted Group.

(iii) A plan's investment in each Series of Certificates does not exceed 25 percent of all of the Certificates of that Series outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the Certificates, no more than 25 percent of the assets of a plan with

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) of the Act and regulation 29 CFR section 2510.3–21(c).

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respect to which the person has discretionary authority or renders investment advice are invested in Certificates representing an interest in a Trust containing assets sold or serviced by the same entity.[2] For purposes of this subparagraph (iv) only, an entity will not be considered to service assets contained in a Trust if it is merely a subservicer of that Trust.

(2) The direct or indirect acquisition or disposition of Certificates by a plan described in paragraph B.(1) in the secondary market for such Certificates, provided that conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of Certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective August 25, 2000, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a Trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding Trust Agreement; and

(2) The Trust Agreement is provided to, or described in all material respects in the offering circular or other disclosure document provided to the investing plans before they purchase Certificates issued by the Trust.[3]

D. Effective August 25, 2000, the restrictions of sections 406(a) and 407(a) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to any transaction to which those restrictions or sanctions would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H), or (I) of the Act or section 4975(e)(2)(F), (G), (H), (I) of the Code), solely because of the plan's ownership of Certificates.

Section II. Conditions

The relief provided under Section I is available only if the following conditions are met:

A. The acquisition of Certificates by a plan is on terms (including the Certificate price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

B. The rights and interests evidenced by the Certificates are not subordinated to the rights and interests evidenced by other Certificates in the same Series;

C. The Certificates and Debentures are guaranteed as to the timely payment of principal and interest by the SBA, and are therefore backed by the full faith and credit of the United States;

D. The Trustee is not an affiliate of any other member of the Restricted Group.

Section III. Definitions

For purposes of this exemption:

A. "Certificate" means a certificate:

(1) That represents a beneficial ownership interest in a discrete pool of Debentures and all payments thereon, held in Trust by the Trustee pursuant to the Trust Agreement;

(2) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the discrete pool of Debentures held as part of such Trust; and

(3) That is issued by the Trustee as agent for the SBA and guaranteed by the SBA as to timely payment of principal and interest pursuant to section 505 of the Small Business Investment Act of 1958, as amended (the Small Business Investment Act).

B. "Trust" means the trust created pursuant to the Trust Agreement, under which, with respect to each Series of Certificates, the Trustee holds in Trust for the benefit of the certificateholders of the Series the following property:

(1) The discrete pool of Debentures related to the Series;

(2) A debenture guarantee agreement executed by the SBA pursuant to section 503 of the Small Business Investment Act pursuant to which the SBA guarantees timely payment of principal and interest on the Debentures related to the Series; and

(3) The certificate account maintained by the Central Servicing Agent for such Series into which the Central Servicing Agent deposits payments due in respect of the Debentures on each semiannual debenture payment date.

C. "Debentures" means debentures issued by a certified development company and guaranteed as to timely payment of principal and interest by the SBA pursuant to section 503 of the Small Business Investment Act.

D. "504 Program Loans" means loans made by a certified development company to a small business concern and funded with the proceeds of a Debenture pursuant to section 503 of the Small Business Investment Act.

E. "SBA" refers to the U.S. Small Business Administration.

F. "Underwriter" means an entity which has received an individual prohibited transaction exemption from the Department that provides relief for the operation of asset pool investment trusts that issue "asset-backed" pass-through securities to plans, that is similar in format and structure to this exemption (the Underwriter Exemptions);[4] any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such entity; and any member of an underwriting syndicate or selling group of which such firm or person described above is a manager or co-manager with respect to the Certificates.

G. "Fiscal Agent" means the entity that has contracted with the SBA to assess the financial markets, arrange for the production of required documents, and monitor the performance of the Trustee and the Underwriter.

H. "Selling Agent" means the entity appointed by a certified development company to select Underwriters, negotiate the terms and conditions of Debenture offerings with the Underwriters, and direct and coordinate Debenture sales.

I. "Central Servicing Agent" means the entity that has entered into a master servicing agreement with the SBA to support the orderly flow of funds among borrowers, certified development companies and the SBA.

J. "Trustee" means an entity that is the trustee of the Trust.

K. "Obligor" means any person that is obligated to make payments under a Section 504 Loan related to a Debenture contained in the Trust.

L. "Excluded Plan" means any employee benefit plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

M. "Restricted Group" with respect to a class of Certificates means:

(1) Each Underwriter;

(2) The Fiscal Agent;

(3) The Selling Agent;

(4) The Trustee;

(5) The Central Servicing Agent;

(6) Any Obligor with respect to loans relating to Debentures included in the Trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the Trust, determined on the date of the initial issuance of Certificates by the Trust;

(7) The SBA; or

(8) Any affiliate of a person described in (1)–(7) above.

N. "Affiliate" of another person includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), brother, sister, or spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

O. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

P. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary that has investment management authority or renders investment advice with respect to assets of such person.

Q. "Sale" includes the entrance into a Forward Delivery Commitment, provided:

(1) The terms of the Forward Delivery Commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The offering circular or other disclosure document is provided to an investing plan prior to the time the plan enters into the Forward Delivery Commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to Sales are met.

R. "Forward Delivery Commitment" means a contract for the purchase or sale of one or more Certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the Certificates) and optional contracts (which give one party the right but not the obligation to deliver Certificates to, or demand delivery of Certificates from, the other party).

S. "Trust Agreement" means that trust agreement by and among the SBA, the Fiscal Agent and the Trustee, as amended, establishing the Trust and, with respect to each Series of Certificates, the supplement to the trust agreement pertaining to such Series.

T. "Series" means any particular series of Certificates issued pursuant to the Trust Agreement that, in the aggregate, represent the entire beneficial interest in a discrete pool of Debentures held by the Trustee pursuant to the Trust Agreement.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 10, 2001 at 66 FR 36005.

For Further Information Contact: Karen Lloyd of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Merganser Capital Management LP (Merganser), Located in Cambridge, Massachusetts

[Prohibited Transaction Exemption 2001–33 Application No. D–10951]

Exemption

Section I. Transaction

Merganser shall not be precluded from functioning as a "qualified professional asset manager" pursuant to Prohibited Transaction Exemption 84–14 (49 Fed. Reg. 9494, Mar. 13, 1984) (PTE 84–14) for the period between April 6, 2000 and December 31, 2006, solely because of its failure to satisfy the shareholders' or partners' equity requirement under section V(a)(4) of PTE 84–14, provided that the conditions set forth in Section II are met.

Section II. Conditions

(a) Merganser shall obtain an irrevocable Letter of Credit, which shall be reduced only by ERISA Claims paid on behalf of ERISA Clients.

(b) The amount available under the Letter of Credit shall be at least $750,000 as of the first day of each fiscal year during which the Letter of Credit is maintained.

(c) Merganser shall cause the Letter of Credit to be issued to an Agent to be held for the benefit of all ERISA Clients.

(d) Merganser shall notify current and future ERISA Clients in writing of: (i) Their status as beneficiaries of the Letter of Credit; (ii) their right to make a draw against the Letter of Credit by presenting the Agent with the documentation described in (g) below; and (iii) the U.S. address of the Agent at which an ERISA Client may present such documentation. Merganser shall promptly notify all ERISA Clients of any changes in the information as to how to contact the Agent.

(e) Merganser shall provide current and future ERISA Clients with a copy of the proposed and final exemption as published in the **Federal Register**.

(f) Merganser shall provide the Agent with a complete list of all ERISA Clients, which shall be updated each time Merganser obtains a new ERISA Client.

(g) The Letter of Credit shall be payable on demand solely to any ERISA Client (or its agent) if the ERISA Client provides the Agent with:

(i)(A) a certified copy of the final judgment against Merganser based on an ERISA Claim of such client, entered by a court of competent jurisdiction with all rights of appeal having expired or having been exhausted, or (B) a true copy of a settlement agreement between the ERISA Client and Merganser providing for damages to the ERISA Client with respect to an ERISA Claim;

(ii) in the case of a final court judgment, a certified true copy of a Sheriff's or Marshall's levy and execution on the judgment, returned unsatisfied, or such other documentation, certified by an officer of the court in which the judgment was entered, stating that the judgment remains unsatisfied following attempts to collect the judgment in accordance with local court rules; and

(iii) a certificate of an authorized representative of the ERISA Client stating the amount of the judgment or settlement which remains unsatisfied.

(h)(i) The Letter of Credit shall be maintained until the earlier of December 31, 2006 or Merganser's satisfaction of the partners' equity requirement under section V(a)(4) of PTE 84–14.

(ii) Notwithstanding subparagraph (i), in the event that one or more ERISA Clients has a Pending ERISA Claim on December 31, 2006, Merganser shall either (A) cause the Letter of Credit to be maintained until the earlier of December 31, 2008 or a final judgment or settlement disposing of all such Pending ERISA Claims, or (B) cause a bond to be purchased which fully insures all such Pending ERISA Claims in the total amount equal to the amount of such Pending ERISA claims but not to exceed $750,000.

Section III. Definitions

(a) "Agent" shall mean a commercial bank, trust company or other financial institution subject to federal or state

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] The offering circular or other disclosure document must contain substantially the same information that would be disclosed in a prospectus if the offering of the Certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the offering circular or other disclosure document must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

[4] For a listing of the Underwriter Exemptions, see the description provided in footnote 1 of Prohibited Transaction Exemption 2000–58 (65 FR 67765, November 13, 2000).

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banking regulation that is independent of Merganser.

(b) "Claim" shall mean a civil proceeding for monetary relief which is commenced by the filing or service of a civil complaint or similar pleading, or a request for monetary relief which could have been the subject of such a complaint or pleading but for a settlement agreement.

(c) "ERISA Claim" shall mean a Claim filed against Merganser or with respect to which a settlement is reached with Merganser prior to December 31, 2006, by reason of Merganser's alleged breach or violation of a duty described in sections 404 or 406 of the Act.

(d) "ERISA Client" shall mean any employee benefit plan covered by Title I of ERISA to which Merganser provides or provided investment management services on or before December 31, 2006.

(e) "Letter of Credit" shall mean a standby letter of credit in the amount of $750,000 issued by a commercial bank, trust company or other financial institution subject to federal or state banking regulation that is independent of Merganser.

(f) "Pending ERISA Claim" shall mean an ERISA Claim that: (i) has been filed in court and is not the subject of a final judgment or settlement; or (ii) has been the subject of a final judgment or settlement which remains unsatisfied.

(g) A person will be "independent" of another person only if:

(i) For purposes of this exemption, such person is not an affiliate of that other person; and

(ii) The other person, or an affiliate thereof, is not a fiduciary that has investment management authority or renders investment advice with respect to assets of such person.

(h) An "affiliate" of a person means:

(i) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person. (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual);

(ii) Any officer, director, employee or relative (as defined in section 3(15) of the Act) of any such other person or any partner in any such person; and

(iii) Any corporation or partnership of which such person is an officer, director or employee, or in which such person is a partner.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 4, 2001 at 66 FR 30012.

For Further Information Contact:

Karen Lloyd of the Department, telephone (202) 219–8194. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all materiall terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 4th day of September, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–22478 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10946]

Notice of Proposed Individual Exemption To Amend Prohibited Transaction Exemption (PTE) 99–45, Involving Donaldson, Lufkin & Jenrette Securities Corporation (DLJ), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed individual exemption to modify PTE 99–45.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption which, if granted, would amend PTE 99–45 (64 FR 61138, November 9, 1999), an exemption granted to DLJ. PTE 99–45, which is effective as of September 24, 1999, relates to the (1) purchase or sale of a security between certain affiliates of DLJ which are foreign broker-dealers (the Foreign Affiliates) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, DLJ or the Foreign Affiliates; (2) the extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions that are effected on either an agency or a principal basis, or in connection with the writing of options contracts; and (3) the lending of securities to the Foreign Affiliates by the Plans.

If granted, the proposed exemption would incorporate by reference many of the facts, representations and conditions contained in PTE 99–45. However, the proposed exemption would expand the scope of PTE 99–45 to apply not only to current and future Foreign Affiliates of DLJ that are located in the United Kingdom and Australia, and which are subject to the securities regulatory entities within these jurisdictions, but to current and future Foreign Affiliates of Credit Suisse First Boston Corporation (CSFB), also located in the United Kingdom and Australia. CSFB, a Massachusetts-based broker-dealer registered with the U.S. Securities and Exchange Commission (the SEC), is an indirect, wholly owned subsidiary of Credit Suisse Group (CSG). As of December 31, 1999, CSFB had approximately $97.8 billion in assets on a consolidated basis. CSG is the current parent of DLJ.

Thus, the proposed exemption will affect participants, beneficiaries and fiduciaries of Plans which are engaged in purchases or sales of securities or in securities lending arrangements with Foreign Affiliates of DLJ or CSFB that are located in the United Kingdom and Australia.

EFFECTIVE DATE: If granted, the proposed amendment will be effective as of November 3, 2000.

DATES: Written comments and requests for a public hearing should be received by the Department on or before October 22, 2001.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. D–10946. The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that will amend PTE 99–45. PTE 99–45 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code.

The proposed exemption has been requested in an application filed on behalf of DLJ and CSFB (together, the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, the proposed exemption is being issued solely by the Department.

PTE 99–45 states that—

- The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective September 24, 1999, to any purchase or sale of a security between certain affiliates of DLJ which are Foreign Affiliates and Plans with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, DLJ or the Foreign Affiliates;
- The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective September 24, 1999, to any extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions, regardless of whether the transactions are effected on an agency or a principal basis, or in connection with the writing of options contracts; and
- The restrictions of section 406(a)(1)(A) through (D) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective September 24, 1999, to the lending of securities to the Foreign Affiliates by the Plans.

The transactions described in PTE 99–45 are subject to a number of conditions.

Subsequent to the granting of PTE 99–45, the Applicants informed the Department of certain modifications to the Summary of Facts and Representations set forth in Prohibited Transaction Exemption PTE 99–45. Specifically, on August 30, 2000, Credit Suisse Group (CSG), a global financial services company providing insurance, banking and investment banking products in Switzerland and abroad, agreed to purchase Donaldson Lufkin & Jenrette, Inc. (DLJ, Inc.), the former parent of DLJ. Pursuant to a tender offer, Diamond Acquisition Corporation (DAC), a CSG subsidiary and a shell corporation formed for the purpose of the merger described herein, purchased all of the outstanding voting common stock of DLJ, Inc., of the series designated as "DLJ Common Stock," for a purchase price of $90 per share or an aggregate purchase price that was in excess of $10 billion. After these shares of common stock were tendered, the shares of DLJ Common Stock held by AXA, S.A. (AXA), DLJ, Inc."s ultimate parent at that time, and certain affiliates of AXA, were also purchased by DAC.

On November 3, 2000 (i.e., the closing date), DLJ, Inc. became an indirect, wholly owned subsidiary of CSG and a direct subsidiary of Credit Suisse First Boston, Inc. (CSFBI). Diamond Restructuring Corporation, a wholly owned subsidiary of DAC, merged with and into DLJ, Inc. DLJ, Inc. was the surviving entity in the merger. CSFBI then transferred all of the outstanding shares of its wholly owned subsidiary, CSFB, a U.S. registered broker-dealer, to DLJ, Inc. and CSFB became a wholly owned subsidiary of DLJ, Inc. DLJ continued to exist as a separate wholly owned subsidiary of DLJ, Inc. under the same name. DLJ, Inc. was the surviving entity in the transactions described above and, on November 6, 2000, DLJ, Inc. was renamed "Credit Suisse First Boston (USA), Inc." (CSFB (USA)). At present, DLJ continues to survive as a wholly owned subsidiary of CSFB (USA).

The Applicants note that PTE 99–45 defines the term "Foreign Affiliates" to include "current and future affiliate[s] of DLJ" that are subject to similar regulations in the United Kingdom and in Australia. Therefore, the Applicants believe that foreign broker-dealer affiliates of CSFB, by virtue of the acquisition transaction, are affiliates of DLJ and, thus, are covered by PTE 99–45, to the extent the Foreign Affiliates are regulated by either the Securities and Futures Authority in the United Kingdom or the Australian Securities & Investments Commission in Australia. In addition, the Applicants note that DLJ, as an independent entity, will survive for some time, but may eventually be merged into and become part of CSFB in the future.

If granted, the amendment will be effective as of November 3, 2000. For purposes of the amendment, the Department has revised the operative language of the proposal and the definitions to include references to both DLJ and CSFB and their affiliates, where applicable. The Department notes that these revisions will extend the availability of PTE 99–45 to current and future Foreign Affiliates of DLJ that are based in the United Kingdom and Australia as well as to current and future Foreign Affiliates of CSFB, also based in these countries.

Notice to Interested Persons

The Applicants represent that, because those Plans that will be potentially interested in the transactions cannot be identified at this time, the only practical means of notifying Plan fiduciaries is by the publication of the notice of proposed exemption in the **Federal Register**. Therefore, comments and requests for a hearing must be received by the Department not later than 30 days from the date of the

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publication of the proposed exemption in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the facts and representations set forth in the notice of proposed exemption relating to PTE 99–45 and this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time frame set forth above, after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I. Covered Transactions

A. If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 3, 2000, to any purchase or sale of a security between certain affiliates of Donaldson, Lufkin & Jenrette Securities Corporation (DLJ) or Credit Suisse First Boston Corporation (CSFB) which are foreign broker-dealers (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, DLJ, CSFB, or a Foreign Affiliate, provided that the following conditions and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer;

(2) The terms of any transaction are at least as favorable to the Plan as those which the Plan could obtain in a comparable arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, and the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to Plan assets solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 3, 2000, to any extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions, regardless of whether they are effected on an agency or a principal basis, or in connection with the writing of options contracts, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to any Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder if such Act, rules or regulations were applicable.

C. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 3, 2000, to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery or by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day on which the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in an arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either (a) receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than the Plan would pay an unrelated party in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities that the Plan would have received (net of tax withholdings)[1] had it remained the record owner of such securities.

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of the Plan's business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary (a) the most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change;

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Plan within (a) the customary delivery period for such securities, (b) five business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively such period as permitted by Prohibited Transaction Class Exemption (PTCE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded.[2]

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities or the equivalent thereof within the time described in paragraph (9), the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement, and does pay, to the Plan, the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate. Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404b–1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of this exemption in the course of engaging in a securities lending transaction, the Plan fiduciary which caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

Section II. General Conditions

A. The Foreign Affiliate is a registered broker-dealer subject to regulation by a governmental agency, as described in Section III. B., and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the 1934 Act, and Securities and Exchange Commission interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements.

C. Prior to the transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions.

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E. to determine whether the conditions of this exemption have been met except that—

[1] The Department notes the Applicants' representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not lent the securities.

[2] PTCE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein).

(1) A party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination, as required by paragraph E.; and

(2) A prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the control of the Foreign Affiliate, such records are lost or destroyed prior to the end of such six year period;

E. Notwithstanding the provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to above in paragraph D., unconditionally available for examination during normal business hours at their customary location to the following persons or an authorized representative thereof:

(1) The Department, the Internal Revenue Service or the SEC;

(2) Any fiduciary of a Plan;

(3) Any contributing employer to a Plan;

(4) Any employee organization any of whose members are covered by a Plan; and

(5) Any participant or beneficiary of a Plan.

However, none of the persons described above in paragraphs (2)–(5) of this paragraph E. shall be authorized to examine trade secrets of the Foreign Affiliate, or any commercial or financial information which is privileged or confidential.

F. Prior to any Plan's approval of any transaction with a Foreign Affiliate, the Plan is provided copies of the proposed and final exemption with respect to the exemptive relief granted herein.

Section III. Definitions

For purposes of this proposed exemption,

A. The terms "DLJ" or "CSFB" as referred to in Section I., mean Donaldson, Lufkin & Jenrette Securities Corporation or Credit Suisse First Boston Corporation.

B. The term "affiliate" of another person shall include:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner. (For purposes of this definition, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

C. The term "Foreign Affiliate," shall mean a current or future affiliate of DLJ or CSFB that is subject to regulation as a broker-dealer by—

(1) The Securities and Futures Authority, in the United Kingdom; or

(2) The Australian Securities & Investments Commission in Australia.

D. The term "security" shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term "security" does not include swap agreements or other notional principal contracts.

Section IV. Effective Date

If granted, this proposed exemption will be effective as of November 3, 2000.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 99–45, refer to the proposed exemption and the grant notice which are cited above.

Signed at Washington, DC, this 4th day of September, 2001.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–22479 Filed 9–6–01; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10762, et al.]

Proposed Exemptions; Key Trust Company of Ohio (Key Trust) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. ____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Key Trust Company of Ohio (Key Trust), Located in Cleveland, OH

[Application No. D–10762]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).[1]

I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the making of interest-free loans to a defined contribution plan (the Plan) by its respective sponsor (the Plan Sponsor) pursuant to the terms of a credit facility arrangement (the Credit Facility Arrangement), established by Key Trust and its affiliates (collectively, KeyBank), which enables daily transactions, such as participant investment transfers, distributions or participant loans, in connection with the Plan's unitized employer stock fund (the Unitized Employer Stock Fund or Fund) within KeyBank; and (2) the repayment, by the Plan to the Plan Sponsor, of any interest-free loan within 90 days with cash proceeds received from the sale of employer stock (Employer Stock) held in the Unitized Employer Stock Fund.

II. General Conditions

(a) Each loan made under the Credit Facility Arrangement provides short-term funds to the Plan for a period of no longer than 90 days for the purpose of facilitating Plan participant transfers, distributions, loans and other participant transactions involving the Plan's Unitized Employer Stock Fund.

(b) The maximum amount of short-term funds available to a Plan under the Credit Facility Arrangement, in the aggregate, does not exceed 25 percent of the fair market value of the Plan's Unitized Employer Stock Fund.

(c) Each loan made under the Credit Facility Arrangement is repaid with proceeds from the sale of Employer Stock held in the Unitized Employer Stock Fund.

(d) For purposes of repaying a loan under the Credit Facility Arrangement, the sales price for the Employer Stock is based upon its fair market value as determined on the New York Stock Exchange (the NYSE) or other applicable securities exchange where such Employer Stock is primarily traded on the date of the transaction, as calculated by an independent pricing service.

(e) Each loan made under the Credit Facility Arrangement is unsecured and no commitment fees, interest or commissions are paid by the Plan.

(f) In the event of a loan default or delinquency, the Plan Sponsor has no recourse against the Plan.

(g) Each loan is initiated, accounted for and administered by KeyBank, the independent fiduciary, which will monitor the terms and conditions of the exemption on behalf of the Plan, at all times.

(h) KeyBank maintains for a period of six years, in a manner that is accessible for audit and examination, the records necessary to enable the persons described in paragraph (i) to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of KeyBank, such records are lost or destroyed prior to the end of such six year period; and

(2) No party in interest, other than KeyBank, shall be subject to the civil penalty that may be assessed under section 502(i), or the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (h).

(i)(1) Except as provided in paragraph (h)(2) and notwithstanding anything to the contrary in sections 504(a)(2) and (b) of the Act, the records referred to in paragraph (h) are unconditionally available for examination during normal business hours by—

(A) Any duly authorized employees or representatives of the Department or the Internal Revenue Service;

(B) Any fiduciary of a Plan or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of a Plan or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described above in paragraph (i)(1)(B) or (C) shall be authorized to examine the trade secrets of KeyBank or commercial or financial information which is privileged or confidential.

III. Definitions

(a) The term "KeyBank" refers Key Trust Company of Ohio and its affiliates.

(b) An "affiliate" of KeyBank includes—

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with KeyBank;

(2) Any officer, director, employee, relative or partner in KeyBank; and

(3) Any corporation or partnership of which KeyBank is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "closing price" means the final price at which Employer Stock has traded on the NYSE (or such other exchange on which Employer Stock is primarily traded) on the date of the transaction as may be reported to KeyBank using an independent pricing service for the reporting of final prices.

(e) The term "Employer Stock" refers to common stock issued by a Plan Sponsor, an affiliate of the Plan Sponsor, a former Plan Sponsor, or an affiliate of the former Plan Sponsor.[2]

(f) The term "Plan Sponsor" refers to an employer (or an affiliate of the employer) sponsoring a defined contribution plan which has entered into a Unitized Employer Stock Fund Investment Policy Agreement (the Policy Agreement) with KeyBank in order to structure the investment by the Plan's Unitized Employer Stock Fund in Employer Stock.

(g) The term "Unitized Employer Stock Fund" refers to an investment fund established by KeyBank whose assets will consist primarily of shares of Employer Stock.

(h) The "trading day" refers to any day on which KeyBank and the NYSE

[1] Unless otherwise noted, references to specific sections of the Act refer also to the corresponding provisions of the Code.

[2] The Department notes that the term "Employer Stock," as defined in this proposal, may not satisfy the definition of "employer security" contained in section 407(d)(1) of the Act.

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are open for business and are able to transact trades involving Employer Stock as a Plan investment. The close of trading day will be the time of the close on the NYSE. In the event that either KeyBank or the NYSE (or any other exchange on which the Employer Stock is primarily traded) is incapable of processing trades involving Employer Stock, or in the event trading in Employer Stock is suspended, the close of the trading day will be the last time by which transactions involving Employer Stock are processed on any such day.

(i) The term "drift allowance" refers to the range of percentages, comprised of a maximum and minimum percentage, which is determined and established by the Plan Sponsor as being the proper percentages within which the liquidity component of the Unitized Employer Stock Fund should represent of the entire market value of such Fund on any given day.

(j) The term "liquidity component" means the short-term investment vehicle which is selected by the Plan Sponsor and used to invest any uninvested cash in the Plan's Unitized Employer Stock Fund.

(k) The term "target percentage" means the number, expressed as a percentage, which is determined and established by the Plan Sponsor, as being the proper percentage that the liquidity component of the Unitized Employer Stock Fund will represent of the entire market value of such Fund (including the liquidity component and the Employer Stock). The target percentage will take into consideration factors such as the daily market volume for trading in the Employer Stock and the average daily trading activity of such stock in the Unitized Employer Stock Fund.

(l) The term "transaction valuation date" refers to any day on which KeyBank and the NYSE (or any other national securities exchange on which Employer Stock is primarily traded) are open for business and are able to transact trades.

Summary of Facts and Representations

1. *KeyBank*, which serves as trustee, custodian and/or recordkeeper to employee benefit plans, includes Key Trust and its affiliates. KeyBank maintains its principal place of business at 127 Public Square, Cleveland, Ohio. Currently, KeyBank has tax-exempt assets under management in excess of $53.6 billion and is trustee for more than $14.5 billion in defined contribution plan assets..

KeyBank has been providing services to defined contribution plans for more than 40 years. In this regard, KeyBank maintains records for approximately 1,120 daily valued plans. KeyBank also serves as trustee to 61 defined contribution plans which permit participant-directed investments. As of December 31, 2000, these Plans had approximately 135,000 participants and beneficiaries. Although the fair market value of each Plan's assets varies in amount, as of December 31, 2000, the aggregate fair market value of Plan assets that were invested in Unitized Employer Stock Funds under management by KeyBank was $1.76 billion. Further, KeyBank has experience in maintaining Unitized Employer Stock Funds similar to those described herein.

As discussed in Representation 15 of this proposed exemption, KeyBank has agreed to serve as the independent fiduciary for existing and future client Plans wishing to participate in the Credit Facility Arrangement described herein. KeyBank represents that it is (or will be) independent of each Plan Sponsor and the fees that it receives from a Plan or a Plan Sponsor for fiduciary, custodial or recordkeeping services constitute (or will constitute) less than one percent of its total fiduciary funds and fund management revenues. Further, KeyBank represents that it will not receive any additional fees from a Plan as a result of its oversight of a Credit Facility Arrangement.

2. *Key Trust* is a trust company also headquartered at 127 Public Square, Cleveland, Ohio. Key Trust and its affiliates, which are collectively referred to herein as "KeyBank," are subsidiaries of KeyCorp, a bank holding company.

3. *The Plans* that will engage in the subject Credit Facility Arrangement will consist of defined contribution plans for which KeyBank currently (or in the future) serves as trustee, custodian and/or recordkeeper. Each Plan will permit participant-directed investment of account balances among various investment funds, including a Unitized Employer Stock Fund. Thus, each Plan will be an "individual account plan" or a "defined contribution plan" within the meaning of section 3(34) of the Act and will be subject to the provisions of Titles I and II of the Act. Further, each Plan will be qualified under section 401(a) of the Code and may have a cash or a deferred compensation arrangement, as provided under section 401(k) of the Code. Although a Plan is required to permit participant investment direction of account balances, such Plan will not necessarily be subject to the provisions of section 404(c) of the Act.

4. Each Unitized Employer Stock Fund [3] established for a Plan will be invested primarily in stock issued by a Plan's sponsor, an affiliate of the Plan sponsor, a former Plan Sponsor, or an affiliate of a former Plan Sponsor (collectively, the Plan Sponsor). A portion of the Fund may be invested in cash or cash equivalents. (Alternatively, the Unitized Employer Stock Fund may be funded solely with Employer Stock.) The actual percentage of a Unitized Employer Stock Fund that is invested in cash or cash equivalents will be determined by the Plan Sponsor based on the liquidity needs of the Fund.[4]

If it is determined that the Unitized Employer Stock Fund is to operate in a daily environment, sufficient liquidity must be created so that participant requests may be settled on the day on which they are requested. In other words, the Plan Sponsor must determine both a "target percentage" and a "drift allowance" for the "liquidity component." [5] Then, funds consisting of cash and cash equivalents, which have been allocated to the liquidity component, will be placed in a money market fund selected by the Plan Sponsor.[6] In making his or her determinations, the Plan Sponsor will consider such factors as (a) the last six months of trading activity for the Employer Stock, (b) the total number of shares in the Unitized Employer Stock Fund versus the total number of shares held in the market, and (c) past and anticipated daily transaction volumes.

5. A participant's interest in a Unitized Employer Stock Fund will consist of "units." The underlying Employer Stock of a Plan Sponsor that is held on behalf of a Plan in the Unitized Employer Stock Fund will constitute a security for which there is a "generally-recognized market" within the meaning of section 3(18) of the Act. However, the Employer Stock may be thinly-traded or considered appropriate to sell in the market over a period of time.

6. KeyBank and the Plan Sponsor will enter into an individually-customized, Policy Agreement in order to structure a Unitized Employer Stock Fund's investment in Employer Stock. The Policy Agreement will be developed in a manner which is consistent with the Plan, participant self-direction, applicable provisions of the Act, and the Department's regulations. In particular, the Policy Agreement will establish certain administrative procedures that KeyBank will utilize in order to effect Plan transactions involving a Unitized Employer Stock Fund, including purchases or sales of Employer Stock held by such Fund. For example, a Plan may provide that participants may sell (or purchase) units of the Unitized Employer Stock Fund on a daily basis and buy (or sell) units or shares of another investment fund under the Plan, with the sales and purchases settling on a daily basis. In addition, a Plan may provide that participants may sell units of the Unitized Employer Stock Fund to receive participant distributions and loans. Further, the Policy Agreement will define the target and drift allowance comprising the liquidity component and include any rebalancing parameters that may be applicable.

7. The Policy Agreement will also describe how KeyBank, as Plan trustee, will process participant transactions. In this regard, the Policy Agreement will set forth a cash position which the Plan Sponsor believes will provide sufficient liquidity in the Unitized Employer Stock Fund. This will enable KeyBank to effect participant transactions on a daily basis. When a Plan participant sells units of a Unitized Employer Stock Fund, the value of the units will be made available to the participant on a specified transaction date. If the cash or cash equivalents of the Unitized Employer Stock Fund are not sufficient, after netting out participant purchases and sales with respect to the Unitized Employer Stock Fund on the transaction date, Employer Stock held in the Fund may be sold by KeyBank over a period of time in order to complete the participant's transaction and to minimize, as much a possible, a depressed price for Employer Stock.[7]

In other words, if the percentage of the liquidity component falls within the drift allowance specified in the Policy Agreement, KeyBank will do nothing more. However, if the percentage rises above the maximum drift allowance, KeyBank will purchase sufficient Employer Stock in order to bring the liquidity component back into target. Conversely, if the percentage of the liquidity component falls below the minimum drift, KeyBank will sell Employer Stock sufficient to bring the liquidity component back into target.

On most days, however, KeyBank notes that net participant activity will not result in the liquidity component drifting above or below the allowance range. As such, KeyBank will not have to go into the open market each day to purchase or sell shares of Employer Stock.

8. On occasion, KeyBank represents that net participant activity may exceed the balance of the liquidity component. If this happens, an overdraft will occur in the Plan's Unitized Employer Stock Fund. Under such circumstances, KeyBank states that it has several alternatives it can pursue. For example, KeyBank may immediately—

- Sell shares of Employer Stock sufficient in amount to cover the overdraft and bring the liquidity component back to its target. Such trades will ordinarily be transacted on a next business day settlement period.
- Sell shares of Employer Stock sufficient in amount to cover the overdraft as well as bring the liquidity component back within the drift allowance.
- Request that the Plan Sponsor buy back sufficient shares of Employer Stock to cover the overdraft as well as bring the liquidity component back within the drift allowance for next day settlement. In order to do so, KeyBank represents that the Plan Sponsor must (i) be permitted to buy back shares of Employer Stock, (ii) be interested in building its treasury position, (iii) have sufficient cash to do so, (iv) pay a fair market price for the shares, and (v) not apply any transaction costs. The overdraft will then be reflected on the Plan's records for at least one business day.
- Borrow money from an independent lender and charge the cost of the temporary loan to the Plan's Unitized Employer Stock Fund. Under this alternative, KeyBank states that once shares of Employer Stock sufficient to cover the overdraft are sold and the liquidity component is brought back to its target position, it will pay back the third party lender for the amount of the loan as well as the loan fee. Under this alternative, a loan agreement will be required which will include parameters dictating whether KeyBank will be required to sell shares of Employer Stock on a next day basis or within the standard settlement time frame.

9. Assuming it must effect sales of Employer Stock in order to fund participant requests in the event of an overdraft situation, KeyBank proposes to adopt an interim solution. Under KeyBank's proposal, a Plan Sponsor would be permitted to make periodic, short-term, interest-free loans to its respective Plan under a Credit Facility Arrangement established by KeyBank. The Credit Facility Arrangement, whose terms will be embodied in the Policy Agreement, will be offered by KeyBank as a service to help the Plan Sponsor address the liquidity needs of the Plan's Unitized Employer Stock Fund in a daily trading environment. The Credit Facility Arrangement will facilitate participant transfers (*e.g.*, the transfer of all or part of a participant's interest from the Unitized Employer Stock Fund to another investment fund, or individual shares of stock if permitted by the Plan), distributions, loans, and other participant transactions within the Unitized Employer Stock Fund.

In other words, the Credit Facility Arrangement is directed at net participant activity (*i.e.*, the liquidity needs of the Unitized Employer Stock Fund as a whole rather than individual participant activity). The Credit Facility Arrangement will allow a Plan to—

- Obtain short-term funds from the Plan Sponsor in order to implement participant directions with respect to daily transactions involving the Unitized Employer Stock Fund, as of a specified transaction valuation date (see Representation 10).
- Effect sales of Employer Stock held in the Unitized Employer Stock Fund in

[3] For a simplified example showing how the Unitized Employer Stock Fund will operate, see the Appendix.

[4] Sufficient liquidity is defined as having enough cash on hand so that net daily activity may be transacted at the net asset value (NAV) of the day the transactions are requested.

[5] Section III(i)-(k) of this proposed exemption defines the terms "drift allowance," "target percentage," and "liquidity component" as follows:

(i) The term "drift allowance" refers to the range of percentages, comprised of a maximum and minimum percentage, which is determined and established by the Plan Sponsor as being the proper percentages within which the liquidity component of the Unitized Employer Stock Fund should represent of the entire market value of such Fund on any given day.

(j) The term "liquidity component" means the short-term investment vehicle which is selected by the Plan Sponsor and used to invest any uninvested cash in the Plan's Unitized Employer Stock Fund.

(k) The term "target percentage" means the number, expressed as a percentage, which is determined and established by the Plan Sponsor, as being the proper percentage that the liquidity component of the Unitized Employer Stock Fund will represent of the entire market value of such Fund (including the liquidity component and the Employer Stock).

[6] According to KeyBank, the Plan Sponsor generally will select a KeyBank money market fund. Any interest earned on assets invested in such fund will be used for the benefit of those participants who have invested in a Plan's Unitized Employer Stock Fund. Although a KeyBank money market fund will not charge a Plan any fees in connection with the cash assets invested, KeyBank will receive an account-level fee as part of its overall trustee compensation.

[7] To the extent that Employer Stock is sold to the Plan Sponsor or an affiliate of an existing Plan Sponsor, KeyBank represents that such sale will be conducted in accordance with section 408(e) of the Act and the regulations promulgated thereunder. However, the Department expresses no opinion herein on whether the sale of Employer Stock to the Plan Sponsor or to an affiliate of an existing Plan Sponsor will satisfy the terms and conditions of section 408(e) of the Act.

In addition, the Department notes that the timing of such sales will be subject to the general fiduciary responsibility provisions of Part 4 of Title I of the Act. In this regard, section 404 of the Act requires, among other things, that a fiduciary of a plan act prudently and solely in the interest of the plan and its participants and beneficiaries when making investment decisions on behalf of the plan.

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an orderly fashion. Without the Credit Facility Arrangement, the KeyBank might be required to sell a large block of Employer Stock held in the Plan's Unitized Employer Stock Fund on a specified date at a depressed price.

• Repay amounts borrowed from the Plan Sponsor with proceeds received from the sale of Employer Stock.

By participating in the Credit Facility Arrangement, a Plan will not be subject to restrictions that will impact on the transferability of units in the Unitized Employer Stock Fund or curtail daily trading by participants. Also, by participating in the Credit Facility Arrangement, the Plan will not have to obtain credit from an unrelated, third party and pay a loan fee to such lender. Accordingly, KeyBank requests an administrative exemption from the Department with respect to the implementation of such arrangement.

10. As noted in Representation 9, the proposed Credit Facility Arrangement will facilitate daily trading of the Unitized Employer Stock Fund by providing required liquidity. This will enable a Plan's Unitized Employer Stock Fund to execute participant transactions at the fair market value of the Fund units. The valuation will be based on a specified transaction valuation date that has been established under the Plan and the Policy Agreement.

Typically, the transaction valuation date for a Plan with daily trading will be any day on which KeyBank and the NYSE (or any other national securities exchange on which Employer Stock is primarily traded) are open for business and are able to transact trades. The value of units in a Unitized Employer Stock Fund (including the value of Employer Stock, cash or cash equivalents and accrued, but not payable, dividends or earnings) will be based on the closing price of the Employer Stock for the trading day coinciding with, or immediately proceeding the transaction valuation date. The closing price will be the final price at which the Employer Stock has been traded on the NYSE (or other applicable exchange on which Employer Stock is primarily traded). KeyBank will determine a per unit value (*i.e.*, the NAV) by dividing the total value of the Unitized Employer Stock Fund by the total number of units held by Plan participants. KeyBank will make appropriate adjustments for accruals and expenses of the Unitized Employer Stock Fund.

11. Generally, participant transactions that are initiated by KeyBank on a given day (*i.e.*, prior to 4:00 p.m.) will be processed after the close of market at the day's NAV for the Unitized Employer Stock Fund. Should a KeyBank representative become aware of an overdraft problem at the beginning of the next business day, the representative will determine if the overdraft situation is within the parameters of the Policy Agreement. The KeyBank representative will then inform the Plan Sponsor of the overdraft and the Plan Sponsor will make an interest-free loan to the Plan under the Credit Facility Arrangement in order to provide the necessary liquidity to the Plan's Unitized Employer Stock Fund. The loan amount will be determined by KeyBank and such loan will be made by the Plan Sponsor to the Plan through wire transfer or account debit authorization.

12. For purposes of effecting sales of Employer Stock, KeyBank will use unaffiliated brokers unless the Plan Sponsor specifically requires the use of a KeyBank affiliated broker. If an affiliated broker is utilized, KeyBank represents that it will comply with the terms and conditions of Prohibited Transaction Class Exemption (PTCE) 86–128, 51 FR 41686 (November 18, 1986).[8]

Thus, in most cases, KeyBank expects that it will sell Employer Stock on a three day settlement basis and on the same day as the loan is made to the Plan. However, in some cases, an orderly liquidation of the Employer Stock may need to occur over a longer period of time.

Generally, the amount of Employer Stock sold by KeyBank at one time will not be more than 25–30 percent of the daily trading activity in the Employer Stock.[9] However, in rare cases,[10] an orderly liquidation of the Employer Stock may need to occur over a period of weeks or a few months depending upon the size of the block of Employer Stock and the trading volume of such stock. It is expected that a KeyBank broker will obtain the best execution and price for the sale of the Employer Stock within a given time frame as well as within the Plan's requirements.

As noted above, the price at which the Employer Stock will be sold by KeyBank will be determined on a transactional basis.[11] Any Employer Stock sold on the open market by KeyBank will be at the market price. Occasionally, KeyBank may sell the Employer Stock in a private sale. The price will still be determined on a transactional basis and will reflect such stock's current fair market value.

13. The proposed exemption will be subject to a number of structural safeguards. First, each loan made under the Credit Facility Arrangement will provide short-term funds to the Plan for a period of no longer than 90 days, and the purpose of each loan will be to facilitate participant transfers, distributions, loans and other participant transactions involving the Plan's Unitized Employer Stock Fund. Second, to provide liquidity to facilitate daily transactions with a Plan's Unitized Employer Stock Fund, the maximum amount of short-term funds available to the Plan under the Credit Facility Arrangement, in the aggregate, will not exceed 25 percent of the fair market value of the Plan's Unitized Employer Stock Fund.[12] Third, each loan made under the Credit Facility Arrangement will be repaid with proceeds from the sale of Employer Stock held in the Unitized Employer Stock Fund. Fourth, each loan made under the Credit Facility Arrangement will be unsecured and no commitment fees, interest or commissions will be paid by the Plan. Fifth, in the event of a loan default or delinquency, the Plan Sponsor will have no recourse against the Plan. Sixth, as described in Representation 15, each loan will be initiated, accounted for and administered by KeyBank, as the independent fiduciary, which will maintain written records of each Credit Facility Arrangement and monitor, on behalf of the affected Plan, the terms and conditions of the exemption, at all times.

14. Absent the requested exemption, KeyBank is concerned that loans to the Plan from the Plan Sponsor and the repayment of such loans will constitute prohibited transactions under sections 406(a) and 406(b) of the Act, as such provisions relate to extensions of credit by a party in interest to a plan, the transfer of assets between a plan and a party in interest, and self-dealing by a plan fiduciary. In addition, KeyBank represents that short-term extensions of credit to facilitate securities transactions are covered under PTCE 80–26 (45 FR 28545, April 29, 1980).[13] However, KeyBank notes that PTCE 80–26 would cover loans entered into under the Credit Facility Arrangement only if the loan proceeds are used to pay benefits or if the loans are limited in duration to three business days. Therefore, KeyBank states that an individual exemption is needed to facilitate participant transfers and loans with a Unitized Employer Stock Fund under the Credit Facility Arrangement. This will allow loan periods to exceed three business days and permit the sale of Employer Stock in an orderly fashion.

15. As the independent fiduciary, KeyBank believes the Credit Facility Arrangement will be in the best interests of a Plan and its participants and beneficiaries. With the Credit Facility Arrangement, KeyBank represents that the Plan will be able to obtain, without payment of interest or costs associated under a similar arrangement with an unrelated party, short-term funds from the Plan Sponsor which will enable participants to make daily transactions to and from the Unitized Employer Stock Fund as of the transaction valuation date. In forming its opinion, KeyBank will consider the Plan's overall investment portfolio, liquidity requirements and investment objectives and policies. KeyBank will determine whether the Credit Facility Arrangement is consistent with and furthers each of these aspects of a Plan.

KeyBank agrees to monitor the Credit Facility Arrangement throughout its duration on behalf of the Plan and take any appropriate actions to safeguard the interests of the Plan. In this regard, KeyBank will be given the authority to monitor, at all times, the Credit Facility Arrangement as part of its arrangements with the Plan Sponsor under the Policy Agreement regarding the structure of the Unitized Employer Stock Fund. In this regard, KeyBank will—

• Monitor the amount of cash contained in the Unitized Employer Stock Fund and provide the Plan Sponsor with information regarding this matter. In turn, the Plan Sponsor will determine the amount of cash necessary to provide sufficient liquidity for KeyBank to process Plan transactions.

• Review and report the proportion of cash to Employer Stock held within the Unitized Employer Stock Fund at the completion of each transaction involving such Fund.

• Sell sufficient shares of Employer Stock as are necessary to bring the cash portion of the Fund within the target percentage.

• Consent to a modification of the cash position of the Unitized Employer Stock Fund if KeyBank and the Plan Sponsor determine that such revised position is appropriate based on overall Plan activity and KeyBank's standard operating procedures.

• Have sole responsibility (i) with respect to the unaffiliated broker and the primary exchange through which the purchase and sale of Employer Stock will occur; and (ii) whether to execute the transaction as one or a series of more than one trade.

• Use best efforts to effectuate trades involving Employer Stock in an efficient manner which is consistent with its obligations under the Act.

In addition, KeyBank will provide each Plan fiduciary with an Independent Fiduciary Statement reflecting KeyBank's determinations prior to permitting the Credit Facility Arrangement to become effective. Unless a particular application of the Credit Facility Arrangement to an overdraft situation does not meet the standards set forth in the Policy Agreement, the interest-free loan will be processed in accordance with the Policy Agreement.

KeyBank represents that its ongoing independent involvement in, and oversight of, the Credit Facility Arrangement program will also provide protection for the Plan and its participants and beneficiaries. Consistent with the relevant Plan provisions, KeyBank will be solely responsible for determining when and how much to borrow under the Credit Facility Arrangement as established by the Plan Sponsor pursuant to the Policy Agreement between KeyBank and Plan Sponsor, and to cause the Plan to repay loan amounts within the 90 day period. As stated above, KeyBank will receive no additional fee or other compensation as a result of the Credit Facility Arrangement.

16. KeyBank represents that the proposed transactions will satisfy the statutory conditions for an exemption under section 408(a) of the Act because:

(a) The Credit Facility Arrangement will enhance a Plan Sponsor's ability to provide Plan participants with a Unitized Employer Stock Fund featuring daily transactions and valuations, thereby affording participants the

[8] In pertinent part, PTCE 86–128 permits a plan fiduciary to effect or execute securities transactions on behalf of a plan in return for a fee, provided that certain enumerated conditions are met. The Department is, however, providing no opinion on whether such transactions satisfy the terms and conditions of PTCE 86–128.

[9] This percentage parameter also applies to KeyBank's purchases of Employer Stock for a Plan. KeyBank has adopted an internal policy to the effect that purchases of Employer Stock will be made in accordance with Rule 10b–18 (Rule 10b–18) of the Securities and Exchange Act of 1934 (the 1934 Act). Rule 10b–18 serves as a "safe harbor" for an issuer or affiliated purchaser to purchase shares of the issuer without violating the anti-manipulation (e.g., market-making) provisions of sections 9(a)(2) or 10(b) of the 1934 Act. In general, purchases are made in accordance with Rule 10b–18 if each of the following conditions is met: (a) the volume of purchases, other than block purchases, on any given day does not exceed 25 percent of the trading volume of the security; (b) the purchase price may not be more than (i) for listed stocks, the higher of the current independent bid quotation or the last independent sale price on the exchange, and (ii) for stocks traded over the counter, the lowest current independent offer quotation; (c) the purchases may not be the opening transaction on the market or occur during the last half hour of the schedules close of trading on the market; and (d) the purchases are made from or through one broker on a single day, unless the purchase was not solicited on behalf of the issuer or affiliated purchaser.

The percentage parameter for purchases or sales of Employer Stock by KeyBank may be exceeded through an exception to Rule 10b-18 volume limitation. In this regard, Rule 10b-18 does not count block purchases (i.e., a quantity of stock that either has a purchase price of $200,000 or more or is at least 5,000 shares and has a purchase price of at least $50,000) toward the volume limitation. Normally, however, KeyBank will not exceed the percentage parameters because its policy is not to open the market or move the market when it trades Employer Stock.

[10] The liquidity needs of the Unitized Employer Stock Fund and the market for Employer Stock will necessitate the situation in which an orderly liquidation of Employer Stock may need to occur over a period of months or a few weeks. For example, (a) if it is known that a 10 percent shareholder is liquidating his or her interest in the Plan Sponsor in the market, large sales of Employer Stock will typically yield a lower price than smaller sales over a period of weeks or a few months; (b) if a large amount of Employer Stock is to be sold by the Plan (e.g., part of the business is sold and a large number of employees become eligible for and elect to receive distributions from the Plan), an orderly sale of Employer Stock by the Plan would normally yield a higher price; or (c) if the Plan Sponsor determines that it would be imprudent or unlawful to sell the Employer Stock at a particular time (e.g., it jeopardizes the Plan's qualified tax status or it would violate a securities law), then sales of Employer Stock would be made as prudent and lawful as possible and would be extended over a period of time.

[11] In contrast, participant transactions involving the Unitized Employer Stock Fund, which are described above in Representations 10 and 11 of this proposed exemption, will be made after the close of market based on the unit value of the Unitized Employer Stock Fund at the closing price of the Employer Stock held by the Unitized Employer Stock Fund. Participants will also receive confirmation of the unit price at which their transactions (e.g., distributions, transfers, etc.) are made.

[12] KeyBank notes that the percentage parameter for purchases and sales of Employer Stock has no correlation to the referenced condition.

[13] PTCE 80–26 permits parties in interest to make interest-free loans to an employee benefit plan (a) to facilitate the payment of ordinary operating expenses of the plan, including the payments of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract or (b) for a period of not more than three days, for a purpose incidental to the ordinary operation of the plan.

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flexibility of moving into or out of the Fund on a daily basis, with the fair market value of Fund units established as of an established transaction valuation date.

(b) The Credit Facility Arrangement will allow the Plan Sponsor to make short-term funds available to a Plan in order to facilitate Plan participant transactions with the Unitized Employer Stock Fund.

(c) The Credit Facility Arrangement will permit the orderly sale of Employer Stock thereby enhancing the Unitized Employer Stock Fund's asset value for all Plan participants and permitting a better return to the Fund than could be achieved if sales were to be made as of a given trading day to complete participant transactions.

(d) Each loan made under the Credit Facility Arrangement will provide short-term funds to the Plan for a period of no longer than 90 days and the purpose of each loan will be to facilitate participant transfers, distributions, loans and other participant transactions involving the Plan's Unitized Employer Stock Fund.

(e) The maximum amount of short-term funds available to the Plan under the Credit Facility Arrangement will, in the aggregate, not exceed 25 percent of the Plan's Unitized Employer Stock Fund.

(f) Each loan made under the Credit Facility Arrangement will be repaid with proceeds from the sale of Employer Stock held in the Unitized Employer Stock Fund.

(g) For purposes of repaying loans under the Credit Facility Arrangement, the sales price for the Employer Stock will be based upon its fair market value as determined on the NYSE or other applicable securities exchange on which Employer Stock is primarily traded, as of the date of the transaction.

(h) Each loan made under the Credit Facility Arrangement will be unsecured and no commitment fees, interest, commissions will be paid by the Plan.

(i) In the event of a loan default or delinquency, the Plan Sponsor will have no recourse against the Plan.

(j) Each loan will be initiated, accounted for and administered by KeyBank, the independent fiduciary, which will maintain written records of each Credit Facility Arrangement and monitor the terms and conditions of the exemption, on behalf of the affected Plan, at all times.

Notice to Interested Persons

Notice of the proposed exemption will be provided by first-class mail to each known Plan Sponsor within 30 days after the publication of the notice of proposed exemption in the **Federal Register**. Such notice will include a copy of the notice of proposed exemption, as published in the **Federal Register**, as well as a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on and/or to request a hearing. Comments and hearing requests with respect to the proposed exemption are due 60 days after the date of publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Appendix

Following is a simplified example illustrating the drift allowance, the target position and the liquidity component.

Suppose that the initial funding of the ABC Company Stock Option (Day One) is a cash and an in-kind contribution of $10 million.

At the establishment of the option, the Plan Sponsor, following discussions with KeyBank, sets the liquidity component at 1 percent and the drift allowance at 0.2 percent.

As such, the in-kind portion of the $10 million contribution is $9.9 million. $100,000 of the contribution will be made in cash and will be kept "liquid." The $100,000 amount will be invested in a short-term investment fund with KeyBank. Assuming shares of Employer Stock cost $9 per share (closing price on Day One), the in-kind contribution will be 1.1 million shares.

The Unitized Employer Stock Fund's balance sheet will be created. In addition, an initial unit value will be determined. For these purposes, KeyBank has assumed a $10 unit value to start, which may bear no direct relationship to the actual value of the Employer Stock. Thus:

	MV	Units	Unit value
Initial Balance (at close Day One)	$10,000,000	1,000,000	$10.00

On Day One, net participant activity received prior to the cut-off time (i.e., 4:00 p.m.) including contributions, distributions and transfers is acted upon and totaled after the close of the market on Day One. Then, prior to the market opening on the next business day (Day Two) such amount is either added or subtracted from the balance of the Unitized Employer Stock Fund.

This may be illustrated as follows:

	MV	Units	Unit value
Opening Balance	$10,000,000	1,000,000	$10.00
E/ee Contributions	5,000	500	10.00
E/er Contributions	10,000	1,000	10.00
Transfers In	7,000	700	10.00
Distributions	(8,000)	(800)	10.00
Loans	(3,000)	(300)	10.00
Transfers Out	(12,000)	(1,200)	10.00
(Sub-Total)	9,999,000	999,000	10.00

Total Net Participant Activity = ($1,000) (i.e., $5,000 + 10,000 + 7,000 − [8,000 + 3,000 + 12,000]

KeyBank next determines the new balance in the liquidity component by posting the net activity against it. In this example,

$100,000 (representing the cash portion of the in-kind contribution)—$1,000 (representing net participant activity) = $99,000.

Prior to market opening on the next business day (Day Two), the liquidity component is $99,000/$9,999,000 or 0.0099009. Since the liquidity component is within the 1 percent target, KeyBank does not need to do anything on Day Two.

At the close of market on Day Two, KeyBank will determine the value of the Unitized Employer Stock Fund (both in terms of dollars and unit value) by pricing the shares of the Employer Stock, adding the value of the liquidity component, adding any actual or accrued earnings, and subtracting actual expenses occurring on Day Two. Thus, using the following assumptions,

The 1.1 million shares, priced at $9.25 (the new closing price for the Employer Stock) =	$10,175,000
The liquidity component =	99,000
Earnings =	5,000
Expenses (occurring on Day Two) =	(15,000)
	$10,264,000

	MV	Units	Unit value
Opening Balance	$10,000,000	1,000,000	$10.00
E/ee Contributions	5,000	500	10.00
E/er Contributions	10,000	1,000	10.00
Transfers In	7,000	700	10.00
Distributions	(8,000)	(800)	10.00
Loans	(3,000)	(300)	10.00
Transfers Out	(12,000)	(1,200)	10.00
(Sub-Total)	9,999,000	999,900	10.00
Earnings	5,000		
Expenses	(15,000)		
Unrealized Apprec	275,000		
Closing Balance	$10,264,000	999,900	10.2650

Net participant activity received prior to cut-off time on Day Two would be processed after the close of the market on Day Two at the $10.2650 unit value. Assume for purposes of the illustration that there was no net participant activity on Day Two.

Once the Unitized Employer Stock Fund is valued, KeyBank will determine what percentage of the liquidity component is the value of the overall Fund. This is done so that KeyBank can determine whether it is necessary to trade shares of the Employer Stock on Day Three in order that the liquidity component can stay within its target allowance. As such, $99,000/$10,264,000 = .0096453.

Since the liquidity component on Day Two is within the appropriate range, i.e., less than 1.2 percent but more than 0.8 percent, KeyBank will do nothing more to create (or reduce) additional liquidity.

On the other hand, if the net outflow of participant activity received prior to the cut-off time on Day One is more than the liquidity component, for example, $110,000, the following will happen:

	MV	Units	Unit value
Opening Balance	$10,000,000	1,000,000	$10.00
E/ee Contributions	0	0	10.00
E/er Contributions	0	0	10.00
Transfers In	0	0	10.00
Distributions	(50,000)	(5,000)	10.00
Loans	(5,000)	(500)	10.00
Transfers Out	(55,000)	(5,500)	10.00
(Sub-Total)	9,890,000	989,000	10.00

KeyBank will then post the net activity against the liquidity component of the Unitized Employer Stock Fund. Using the foregoing example, the account is overdrawn by $10,000, i.e., $100,000 less net activity of $110,000.

Prior to market opening on the next business day (Day Two), the liquidity component is negative.

Under this circumstance, KeyBank will refer to the Policy Agreement to determine what actions it should undertake to clear the overdraft and restore the Unitized Employer Stock Fund's liquidity component back to the target allowance.

KeyBank must determine how much liquidity the Unitized Employer Stock Fund requires to bring it back to target. In addition, KeyBank must clear the $10,000 overdraft. As such,

1% of $9,890,000 = $98,900 + $10,000 = $108,900.

1.2% of $9,890,000 = $118,680 + $10,000 = $128,680.

Thus, KeyBank will be required to sell shares of Employer Stock sufficient in amount to be at least $108,900 but not exceeding $128,680.

Brookshire Brothers, Ltd. (Brookshire), Located in Lufkin, Texas

[Application No. D–10894]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I. Transaction

If the exemption is granted, the restrictions of section 406(a)(1)(A)

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through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the establishment by Brookshire of a minimum price guarantee (the Minimum Price Guarantee) for the valuation and purchase by Brookshire of Profit Sharing Stock owned by the Brookshire Brothers Employee Stock Ownership Plan (the ESOP), provided the conditions set forth in Section II are satisfied:

Section II. Conditions

A. The ESOP shall pay no consideration, interest or other fee or expense in connection with the Minimum Price Guarantee.

B. The Minimum Price Guarantee shall expire on the first date after December 22, 1999 upon which the fair market value of a share of the Profit Sharing Stock exceeds the minimum price per share established by the Minimum Price Guarantee.

Section III. Definitions

A. The term "Brookshire" means Brookshire Brothers, Ltd., a Texas limited partnership with headquarters in Lufkin, Texas.

B. The term "Profit Sharing Plan" means the Brookshire Brothers Profit Sharing Plan, as amended and restated effective April 30, 1988.

C. The term "Profit Sharing Stock" means approximately 600,182 shares of the common stock of Brookshire Brothers Holding, Inc., Brookshire's parent company, transferred from the Profit Sharing Plan to the ESOP on December 19, 1999.

D. The term "Minimum Price Guarantee" means the guarantee established pursuant to the ESOP whereby the value of the Profit Sharing Stock will be equal to the price of such stock prior to December 22, 1999 plus a 4% annual increase.

Effective Date: The proposed exemption, if granted, will be effective December 19, 1999.

Summary of Facts and Representations

1. Brookshire Brothers, Ltd. (Brookshire), has its principal place of business in Lufkin, Texas, and is engaged in the retail grocery industry.

2. Brookshire is the sponsor of the Brookshire Brothers Employee Stock Ownership Plan (the ESOP), adopted effective April 26, 1998. The ESOP has approximately 6,416 participants and approximately $47,385,548 in assets.

3. Brookshire also sponsors the Brookshire Brothers Profit Sharing Plan (the Profit Sharing Plan). As of December 19, 1999, the Profit Sharing Plan held approximately 600,182 shares of the common stock (the Stock) of Brookshire Brothers Holding, Inc. (Holding), Brookshire's parent company. Holding's Stock is not publicly traded.

4. On December 19, 1999, the Stock was transferred from the Profit Sharing Plan to the ESOP. Participants' respective interests in the Stock were credited to separate profit sharing accounts in the name of each participant established under the ESOP (Profit Sharing Accounts).

5. On December 22, 1999, the ESOP purchased 2,746,255 additional shares of the Stock from approximately 300 to 350 stockholders (the Historical Stockholders), which represented a controlling interest in Holding, in a cash-out merger (Cash-Out Merger).[14] To accomplish the Cash-Out Merger, the ESOP formed a subsidiary which then merged with and into Holding, with Holding surviving the merger. The Historical Stockholders of Holding received approximately $15.46 in cash, $2.44 in a note and .32 shares of Holding common stock for each share of the Stock owned prior to the Cash-Out Merger.[15] After the Cash-Out Merger, the ESOP owned approximately 71.8% of Holding and the Historical Stockholders owned 28.2% of Holding. In order to purchase the shares, the ESOP borrowed $62,765,907 from Brookshire and $9,900,000 from Holding, in transactions that Brookshire represents complied with the statutory exemptions contained in section 408(b)(3) of the Act and section 4975(d)(3) of the Code.[16]

6. The incurrence of debt in the Cash-Out Merger leveraged Brookshire and has depressed Holding's stock price. The value of the Stock as of April 22, 1999 was $22 per share, while the value of the Stock immediately following the Cash-Out Merger was approximately $14 per share. As of April 29, 2000, the value of the Stock was $15.21 per share. The 2000 appraisal was performed by Willamette Valuation Services.

7. To counteract the effect of the debt on the Profit Sharing Plan participants who had account balances prior to the Cash-Out Merger, the ESOP was designed to guarantee that the value of the Stock in the Profit Sharing Accounts would be at least equal to the price of such Stock before the Cash-Out Merger transaction (i.e., $22 per share) plus a 4% annual increase (the Minimum Price Guarantee). This would ensure that in the short run the Profit Sharing Plan participants would not be negatively impacted by the Cash-Out Merger transaction.

8. The Minimum Price Guarantee applies to the price per share that will be received by ESOP participants and beneficiaries for the Stock in their Profit Sharing Accounts upon a distribution of their Profit Sharing Accounts due to their retirement, death, disability or termination of employment. Participants do not have the right to a distribution from their Profit Sharing Accounts in the form of Stock; accordingly, if a distribution is to be made, the ESOP's trustee will put the Stock to Brookshire and the value of the Profit Sharing Account will be distributed to the participant in cash. Brookshire will bear the cost of any difference between the actual value of the Stock and its value pursuant to the Minimum Price Guarantee.

9. The Minimum Price Guarantee will not take effect unless a prohibited transaction exemption is received from the Department. The Minimum Price Guarantee will expire as of the first date that the fair market value of Holding Stock exceeds the minimum price established by the guarantee following the Cash-Out Merger (*i.e.*, $22 per share plus the 4% annual increase).

10. Under the terms of the ESOP, the Stock will be valued by the independent trustee at least annually on the last day of the plan year, and on such other date or dates deemed necessary by the plan administrator. The trustee is LaSalle Bank, N.A., which has no other relationship with Brookshire or Holding. The trustee is required to determine the value of the Stock in good faith and based on all relevant factors for determining the fair market value of securities. The trustee's determination will include an appraisal of the Stock by an independent appraiser hired by the trustee.

11. In summary, it is represented that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act as follows:

(a) The exemption is administratively feasible because it involves only the application of the Minimum Price Guarantee;

(b) the exemption is in the interests of the ESOP and its participants and beneficiaries because such participants and beneficiaries will be protected until the value of the Stock recovers; and

(c) the exemption is protective of the rights of the ESOP's participants and beneficiaries because the total cost of the Minimum Price Guarantee will be borne by Brookshire.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons by first class mail or personal delivery within 30 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate). Comments and requests for a public hearing are due within sixty (60) days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karen Lloyd of the Department, telephone (202) 219–8194. (This is not a toll-free number).

[14] Brookshire represents that the acquisition of Holding's stock by the ESOP was exempt by reason of the statutory exemption under section 408(e). In relevant part, section 408(e) of the Act provides that sections 406 and 407 of the Act shall not apply to the acquisition or sale by a plan of qualifying employer securities as defined in section 407(d)(5) of the Act, if no commission is charged and the plan is an eligible individual account plan. Section 407(d)(5) of the Act defines a "qualifying employer security" to mean an employer security that is stock, a marketable obligation or an interest in a publicly traded partnership. An "employer security" is defined in section 407(d)(1) of the Act as a security issued by an employer of employees covered by the plan, or by an affiliate of such employer. Section 407(d)(7) of the Act sets forth the circumstances under which an entity will be considered an affiliate of another entity, and states in relevant part: "A corporation is an affiliate of an employer if it is a member of any controlled group of corporations (as defined in section 1563(a) of the Code] * * * of which the employer who maintains the plan is a member. * * * An employer which is a person other than a corporation shall be treated as affiliated with another person to the extent provided by regulations of the Secretary." In this regard, Brookshire represents that Brookshire and Holding are members of the same controlled group of corporations under section 1563(a) of the Code and, therefore, are affiliates for purposes of section 407(d)(7) of the Act. The Department expresses no opinion in this proposed exemption as to whether the acquisition and holding by the ESOP of Holding's common stock would be covered by section 408(e) of the Act and the regulations thereunder. The Department is not providing any relief herein for the acquisition and holding by the ESOP of Holding's common stock.

[15] The ESOP did not receive this consideration with respect to the Profit Sharing Stock. The ESOP held the Profit Sharing Stock prior to the Cash-Out Merger. The ESOP then acquired additional shares in the Cash-Out Merger, which was treated as a stock purchase for federal income tax purposes. Since the ESOP was the purchaser of additional shares, the Profit Sharing Stock already held by the ESOP was not cashed out.

[16] The Department expresses no opinion as to whether the loans satisfied section 408(b)(3) of the Act and section 4975(d)(3) of the Code. The Department also wishes to note that ERISA's general standards of fiduciary conduct would apply to the purchase of the Stock by the ESOP and the accompanying extensions of credit, and that satisfaction of the conditions of this proposal, if granted, should not be viewed as an endorsement of the entire transaction by the Department. Section 404(a) of the Act requires, among other things, that a plan fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries in a prudent fashion. Accordingly, the plan fiduciary must act prudently with respect to the decision to enter into an investment transaction.

The Golden Comprehensive Security Program (the Security Program), The Golden Retirement Savings Program (the Savings Program); and (collectively, the Plans); Located in New York, New York

[Application Nos. D–10913; D–10914]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective January 27, 2000, to the past acquisition and holding by the Savings Program of 1,896.294 publicly traded warrants and by the Security Program of 2,073.554 publicly traded warrants (the Warrants) of Golden Books Family Entertainment, Inc. (the Employer), a party in interest with respect to the Plans, provided that the following conditions were met:

(a) The acquisition and holding of the Warrants by the Plans occurred in connection with the Employer's bankruptcy proceeding (the Bankruptcy) pursuant to which all holders of the old common stock (the Old Stock) of the Employer were treated in the same manner;

(b) The Plans had little, if any, ability to affect the negotiation of the Employer's plan of reorganization with respect to the bankruptcy proceeding;

(c) The Warrants were acquired automatically and without any action on the part of the Plans; and

(d) The Plans did not pay any fees or commissions in connection with the receipt of the Warrants, nor did the Plans pay any fees or commissions in connection with the holding of the Warrants.

Effective Date: This exemption, if granted, will be effective as of January 27, 2000.

Summary of Facts and Representations

1. The Employer is a Delaware corporation with its principal place of business in New York, New York. It publishes, produces, licenses and markets an extensive range of children's and family-related media and entertainment products. The Employer has two business segments, which it operates primarily through its principal operating subsidiary, Golden Books Publishing: (i) Consumer Products, which includes its Children's Publishing division, and (ii) Entertainment, which operates as the Golden Books Entertainment Group division. As of June 16, 2000, the Employer employs approximately 560 individuals, calculated on a full-time equivalent basis.

2. The Savings Program and the Security Program are both defined contribution profit sharing plans maintained by Golden Books Publishing pursuant to sections 401(a) and 401(k) of the Code. The Savings Program covers groups of employees of Golden Books Publishing and any other United States subsidiary of Golden Books Publishing to which the Savings Program has been extended by his or her employer, either unilaterally or through collective bargaining. Participants under the Savings Program generally include part-time and full-time hourly employees and retired hourly (collectively bargained and non-collectively bargained) employees. The Savings Program is administered by the GBPC Benefit Plans Administration Committee (the Committee) appointed by the Employer. As of December 31, 1999, the Savings Program had approximately 639 participants and total assets in excess of $31 million.

The Security Program generally covers salaried employees (*i.e.*, employees whose basic compensation for services is paid in fixed amounts at stated intervals without regard to the number of hours worked) of Golden Books Publishing and any other United States subsidiary of Golden Books Publishing to which the Security Program has been extended by his or her employer. Employees who belong to a collective bargaining unit of employees represented by a collective bargaining representative are not eligible to participate in the Security Program. The Security Program is administered by the Committee. As of December 31, 1999, the Security Program had approximately 822 participants and total assets in excess of $64 million.

At the time of the transaction, the percentage of the fair market value of the total assets of the Security Program that was involved in the transaction was less than 1%. The percentage of the fair market value of the total assets of the Savings Program that was involved in the transaction was less than 1%.

3. Putnam Fiduciary Trust Company (the Trustee), a trust company having its principal place of business in Boston, Massachusetts, is the trustee for the Plans. All money and such other property as shall be acceptable to the Trustee as shall from time to time be paid or delivered to the Trustee, all investments made therewith and

proceeds thereof and all earnings and profits thereon, less the payments which shall have been made by the Trustee, are held under the Western Publishing Group, Inc. Master Retirement Trust, the Plans' trust. The Trustee exercises no investment discretion over the assets involved in the transaction.

4. Under each of the Plans, participants previously could elect to have a portion or all of their tax deferred contributions, employer matching contributions and participant after-tax contributions invested in one or more investment funds established by the Committee, including the Parent Company Stock Fund, which invested solely in shares of Old Common Stock. In addition, employer profit sharing contributions could be, until the amendment of the Plans to eliminate the Parent Company Stock Fund as an investment alternative, invested by the Committee in the Parent Company Stock Fund. Approximately 473 participants out of a total of approximately 1,461 participants in the Plans have assets invested in the Parent Company Stock Fund.

5. In February 1999, the Employer reached an agreement with its major creditors pursuant to which its then existing long-term debt would be significantly reduced and its existing trade obligations would be paid in full. In accordance with that agreement, the Employer, as well as Golden Books Publishing and Golden Books Home Video, Inc. (the Debtors) filed petitions for reorganization under Chapter 11 of the United States Bankruptcy Code on February 26, 1999. Under an order dated September 24, 1999, the Bankruptcy Court confirmed the Debtor's Amended Joint Plan of Reorganization (the Reorganization Plan). Significant components of the Reorganization Plan were approved by the Bankruptcy Court on December 22, 1999. On January 27, 2000 (the Effective Date), the Debtors formally emerged from protection under the Bankruptcy Code upon the consummation of the Reorganization Plan.

The Reorganization Plan (i) divided claims and equity interests into various classes, (ii) set forth the treatment afforded to each class, and (iii) provided the means by which the Debtors would be reorganized under Chapter 11 of the Bankruptcy Code. Under the Reorganization Plan, the Debtors significantly reduced their long-term debt, secured a $60 million financing arrangement and are paying all trade debt in full with interest.

Specifically, the Reorganization Plan provided for, among other things, the cancellation of all of the approximately 28 million shares of Old Common Stock outstanding at January 27, 2000 and the issuance to all holders of Old Common Stock, including the Plans, as of such date of 175,000 Warrants, in the aggregate.[17] The Warrants have normal and customary terms for a security of this nature.

Approximately 473 participants (the Participants) under the Plans were effected by the cancellation of the Old Common Stock and the issuance of the Warrants. On the Effective Date, the Participants held through the Parent Company Stock Fund 731,753.322 shares of Old Common Stock and upon consummation of the Reorganization Plan the Participants received in the aggregate 3,969.848 Warrants to purchase an equal number of shares of New Common Stock. The Savings Program holds 1,896.294 Warrants and the Security Program holds 2073.554 Warrants.

The Reorganization Plan was approved by the affirmative vote of a majority of the more than 28 million outstanding shares of Old Common Stock entitled to vote on the Reorganization Plan. Because of the nominal amount of Old Common Stock held by the Plans in relation to the other stockholders of the Employer, the Plans had little, if any, ability to affect the negotiation of the Reorganization Plan. The acquisition and holding of the Warrants by the Plans occurred in connection with the Employer's bankruptcy proceeding pursuant to which all holders of the Old Stock of the Employer were treated in the same manner as a result of the Reorganization Plan. The Warrants were acquired by the Plans automatically and without any action on the part of the Plans. The Plans did not pay any fees or commissions in connection with the receipt and holding of the Warrants.

6. Currently, the disposition of the Warrants is pending the Bankruptcy. To the extent that there is or will be any discretion to be exercised regarding the Warrants, all decisions regarding the holding and disposition of the Warrants by the Plans will be made by the individual plan participants whose accounts in the Plans received the Warrants in connection with the Bankruptcy proceeding.

7. It is represented that the Warrants do not constitute qualifying employer securities for purposes of section 407(d)(5) of the Act. The Employer represents that the Warrants held by the Plans would constitute an "employer security" within the meaning of 407(d)(1) of the Act but not a "qualifying employer security" under section 407(d)(5) of the Act inasmuch as the Warrants do not fall within any of the covered categories. Therefore, the Employer requests retroactive exemptive relief from the Department.

8. In summary, it is represented that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(a) The acquisition and holding of the Warrants by the Plans occurred in connection with the Employer's bankruptcy proceeding pursuant to which all holders of the Old Stock of the Employer were treated in the same manner;

(b) The Plans had little, if any, ability to affect the negotiation of the Employer's plan of reorganization with respect to the bankruptcy proceeding;

(c) The Warrants were acquired automatically and without any action on the part of the Plans; and

(d) The Plans did not pay any fees or commissions in connection with the receipt of the Warrants, nor did the Plans pay any fees or commissions in connection with the holding of the Warrants.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the Employer and Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

The FHP International Corporation 401(k) Savings Plan (the Plan); and The FHP International Corporation PAYSOP (the PAYSOP; together, the Plans), Located in Santa Ana, California

[Application Nos. D–10916 and D–10917]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application

[17] The Department also wishes to note that ERISA's general standards of fiduciary conduct would apply to the past acquisition and holding of the Old Stock by the Plans. In this regard, section 404(a) of the Act requires, among other things, that a plan fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries in a prudent fashion.

of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, from April 21, 1997 through May 20, 1997, to: (1) The past receipt by the Plans of certain rights (the Talbert Rights) to purchase shares of common stock (the Talbert Common Stock), par value $.01 per share, of Talbert Medical Management Holding Corporation (Talbert); (2) the past holding of the Talbert Rights by the Plans; and (3) the disposition or exercise of the Talbert Rights by the Plans; provided that the following conditions are satisfied:

(A) The Plans' acquisition and holding of the Talbert Rights resulted from independent acts of FHP International Corporation (FHP) and Talbert as corporate entities, and all holders of common stock of FHP (FHP Common Stock) were treated in a like manner, including the Plans;

(B) With respect to Talbert Rights allocated to the Plans, the Talbert Rights were acquired solely for the accounts of participants who had directed investment of all or a portion of their account balances in FHP Common Stock pursuant to Plan provisions for individually-directed investment of participant accounts; and

(C) With respect to Talbert Rights allocated to the Plans, all decisions regarding the holding, disposition or exercise of the Talbert Rights were made, in accordance with Plan provisions for individually-directed investment of participant accounts, by the individual Plan participants whose accounts in the Plan received Talbert Rights, including all determinations regarding the exercise or sale of the Talbert Rights, except for those participants who failed to file timely and valid instructions concerning the exercise of the Talbert Rights (in which event the Talbert Rights were sold).

Effective Date: This exemption, if granted, will be effective from April 21, 1997 through May 20, 1997.

Summary of Facts and Representations

1. Prior to February 14, 1997, PacifiCare Operations, Inc. (formerly named "PacifiCare Health Systems, Inc.") (Old PacifiCare) was a publicly traded corporation, with shares of its common stock traded on the NASDAQ National Market. Old PacifiCare and its affiliated employers were engaged in the operation of numerous health maintenance organizations (HMOs), health plans and other similar businesses. Prior to February 14, 1997, FHP was a publicly traded corporation, with shares of its common stock traded on the NASDAQ National Market. FHP and its affiliated employers were actively engaged in the operation of numerous HMOs, health plans and other similar businesses.

2. Pursuant to the Amended and Restated Agreement and Plan of Reorganization among Old PacifiCare, N–T Holdings, Inc., Neptune Merger Corp., Tree Acquisition Corp. and FHP, dated as of November 20, 1996, (the Merger Agreement), Old PacifiCare and FHP became subsidiaries of a new corporation, PacifiCare Health Systems, Inc. (New PacifiCare) on February 14, 1997 (the Merger).

3. Prior to the Merger, Old PacifiCare caused N–T Holdings, Inc., Neptune Merger Corp. and Tree Acquisition Corp. to be formed and organized in anticipation of the Merger Agreement. Neptune Merger Corp. and Tree Acquisition Corp. were each formed as wholly-owned subsidiaries of N–T Holdings, Inc. Upon the consummation of the Merger on February 14, 1997, Neptune Merger Corp. was merged into and with Old PacifiCare, and Old PacifiCare became a wholly-owned subsidiary of New PacifiCare. Simultaneously, Tree Acquisition Corp. was merged into and with FHP, and FHP became a wholly-owned subsidiary of New PacifiCare. N–T Holdings, Inc. was then renamed "PacifiCare Health Systems, Inc.," and, after the consummation of the Merger, was the parent company of Old PacifiCare and FHP. Shares of common stock of New PacifiCare are traded on the NASDAQ National Market.

4. As consideration for the Merger, holders of shares of FHP Common Stock, par value $.05 per share, including the Plans, received cash, shares of New Pacificare Class A common stock, par value $.01 per share, shares of New Pacificare Class B common stock, par value $.01 per share, and were eligible to receive Talbert Rights in exchange for the shares of FHP Common Stock held on the date of the Merger.

5. Also, in connection with the Merger, Talbert Medical Management Corporation (TMMC) and Talbert Health Services Corporation (THSC), which were indirect, wholly-owned subsidiaries of FHP prior to February 14, 1997, became wholly-owned subsidiaries of Talbert. Subsequent to the Merger, Talbert became a privately held corporation with no affiliation with FHP, Old PacifiCare or New PacifiCare. However, the applicant represents that Talbert was an employer of employees covered by the Plan at the time of the issuance of the Talbert Rights.[18]

6. The issuance of the Talbert Rights was commenced by Talbert effective as of April 21, 1997. Talbert Rights were issued pursuant to a public offering of such rights, and the Talbert Rights issued to the Plans were registered with the Securities and Exchange Commission. Participants (and the beneficiaries of deceased participants) in the Plans were offered the opportunity to direct the independent trustee of the Plans (the Trustee) to exercise or sell the Talbert Rights credited to their accounts in the Plans in accordance with the Plans' procedures, described below. Upon their issuance, and until the closing of the Talbert Rights offering period on May 20, 1997, Talbert Rights were tradable on the NASDAQ National Market. When the offering was completed on May 20, 1997, all of the Talbert Rights held by the Plans had been exercised or sold on or before that date. The shares of Talbert Common Stock received upon the exercise of the Talbert Rights, and the proceeds received upon the sale of the Talbert Rights, were allocated to the accounts of participants and beneficiaries in accordance with the terms of the Plans, described below.

7. In September, 1997, MedPartners, Inc., an unrelated party, commenced a tender offer for the outstanding shares of Talbert Common Stock, including the shares of Talbert Common Stock held by the Plans. Participants (and the beneficiaries of deceased participants) in the Plans were offered the opportunity to direct the Trustee with respect to the tender of shares of Talbert Common Stock credited to their accounts in the Plans in accordance with procedures described in the Plans. The Plan Committees directed the Trustee with respect to the tender of shares of Talbert Common Stock credited to the accounts of participants and beneficiaries for which tender directions were not received. The tender offer closed and the Plans received cash for shares of Talbert Common Stock tendered by the Plans on September 19, 1997. Effective as of the closing of the tender offer, Talmed Merger Corporation, a wholly-owned subsidiary of MedPartners, Inc., merged into Talbert, and all of the remaining shares

[18] Section 407(d)(1) of the Act defines the term "employer security" as a security issued by an employer of employees covered by the plan, or by an affiliate of such employer. Section 3(5) of the Act defines the term "employer" to include any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan. In this regard, the Department is providing no opinion in this proposed exemption as to whether the Talbert Rights were considered an "employer security" at the time of their issuance by Talbert.

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of Talbert Common Stock held by the Plans were converted to cash. Effective upon such merger, Talbert became a wholly-owned subsidiary of MedPartners, Inc.

8. Prior to February 14, 1997, FHP and its affiliated employers maintained the FHP International Corporation Employee Stock Ownership Plan (the Prior Plan). The Prior Plan consisted of three separate, but complementary, parts which were designed to satisfy the specific rules applicable to each part. The first part was an employee stock ownership plan intended to qualify under Code sections 401 and 4975(e)(7), the second part was a stock bonus plan intended to qualify under Code section 401, which included a cash or deferred arrangement intended to qualify under section 401(k), and the third part was a payroll-based tax credit employee stock ownership plan intended to qualify under Code sections 41, 401, 409 and 4975(e)(7). No additional employer contributions were allocated to the third part of the Prior Plan as of any date after December 31, 1986.

9. Effective as of February 14, 1997, the third part of the Prior Plan, which was a payroll-based tax credit employee stock ownership plan, was "spun off" into the PAYSOP as a separate plan. The PAYSOP was terminated effective as of February 14, 1997. FHP and certain of its subsidiaries continue to maintain the PAYSOP pending the complete termination and winding up of the PAYSOP. The estimated number of PAYSOP participants affected by the exemption proposed herein is 771. The percentage of the fair market value of the total assets of the PAYSOP involved in the subject transaction is 2.75%.

10. The first and second parts of the Prior Plan were continued as the Plan (which was renamed "The FHP International Corporation 401(k) Savings Plan" at that time). Effective as of February 14, 1997, the Plan was converted to a profit sharing plan intended to qualify under section 401 of the Code which includes a cash or deferred arrangement intended to qualify under Code section 401(k). Also, effective as of February 14, 1997, the Plan was amended to eliminate those provisions necessary for it to qualify as a stock bonus plan, an employee stock ownership plan or payroll-based tax credit employee stock ownership plan, to eliminate distributions in shares of FHP common stock, and to change certain other provisions. The estimated number of Plan participants affected by the exemption proposed herein is 9,060. The percentage of the fair market value of the total assets of the Plan involved in the subject transaction is 1.65%.

11. On or about April 1, 1999, account balances under the Plan not attributable to "Talbert Individuals" (as defined in the Employee Benefits and Compensation Allocation Agreement,[19] dated as of February 14, 1997) were transferred to the PacifiCare Health Systems, Inc. Savings and Profit Sharing Plan. As of April 15, 1999, FHP's sponsorship of the Plan terminated, and the then-members of the Administrative Committee were removed. Under the Assumption Agreement dated March 31, 1999, MedPartners, Inc. (MedPartners) became the sponsor of the Plan, but FHP retained all liability for making required filings relating to the period of time during which the FHP was a participating employer in the Plan. After the assumption of the Plan by MedPartners, MedPartners changed its name to "CareMark Rx, Inc.," and in May, 1999, the Plan was merged into another plan maintained by CareMark Rx, Inc. called the CareSave 401(k) Retirement Plan.

12. The FHP International Corporation 401(k) Savings Plan and The FHP International Corporation PAYSOP (i.e., the Plans) permitted participants to direct the investments of their accounts in the Plans into investment funds established under the Plans. Effective as of February 14, 1997, the Plans provided for investment in shares of New PacifiCare Class A Common Stock, shares of New PacifiCare Class C Common Stock, Talbert Rights and shares of Talbert Common Stock in accordance with the terms therein. The Plans provided that Talbert Rights, when issued to each Plan's Trustee, were to be allocated to the Talbert Common Stock Investment Fund, and were to be exercised or sold in accordance with the Plans' provisions. The Plans provided that a participant would have the opportunity to direct the exercise or sale of some or all of the Talbert Rights credited to such participant's accounts in the Plans. However, a physician in a position to make referrals to Talbert Health Services Corporation was not provided the opportunity to direct the exercise of the Talbert Rights credited to his or her accounts, and the Talbert Rights credited to such a participant's accounts were to be sold by the Plans if the Talbert Rights had value at the time of the sale.

13. A participant entitled to direct the exercise or sale of the Talbert Rights credited to his or her account could make such direction in accordance with a telephonic procedure not later than 1 p.m. Pacific Daylight Time on May 13, 1997.[20] Materials were provided to the participants by letter dated April 21, 1997. Thus, participants had approximately 20 days in which to act. The materials received by the participants included: (a) Final Prospectus dated April 21, 1997 relating to shares of Talbert Common Stock and the Talbert Rights pursuant to the Talbert Rights offering; (b) Summary Plan Description for the FHP International Corporation Employee Stock Ownership Plan (the ESOP); (c) Prospectus Supplement dated April 21, 1997 for the Plan and the PAYSOP; and (d) March 10, 1997 letter describing the changes in the ESOP. In the case of a participant who failed to make a timely direction in accordance with such telephonic procedure, the Plans provided that the Talbert Rights credited to his or her account were to be sold by the Plan if the Talbert Rights had value at the time of the sale.

14. The Plans provided that in the case of a participant who directed the exercise of some or all of the Talbert Rights credited to his or her accounts, the amounts held in the other investment funds in which such participant's accounts were invested (i.e, those investment funds other than the investment funds in which the Talbert Rights or shares of NewPacifiCare stock were held) would be liquidated proportionately to the extent necessary to provide the exercise price with respect to Talbert Rights being exercised. In the event all of such investments were liquidated, the participant's Plan or PAYSOP investments in New PacifiCare Class A Common Stock and New PacifiCare Class B Common Stock would be liquidated to the extent necessary to provide such exercise price.

15. The decision whether to sell the Talbert Rights allocated to a particular participant's account was made by the participant. Once the decision to sell had been made by the Plans' participants, the Plan Committees then directed the Trustee when, during the five trading days beginning on May 14, 1997 and ending on May 20, 1997, the Talbert Rights would be sold (if they had value at the time of the sale). The reason the Talbert Rights were sold over a five-day period (instead of all at once) was to avoid adversely affecting the price of the rights. The Plan Committees, assisted by Buck Consultants (Buck), established a special telephone line containing a menu driven voice response system. The line was manned by employees of Buck. Participants were notified in writing that their elections were to be made through the use of this telephone system. The elections were collected by Buck, and aggregate results for the Plans were forwarded to the Plans' Trustee, Wells Fargo Bank (the Bank). The Bank then exercised and sold the appropriate number of Talbert Rights in accordance with the Participants' directions. Each Talbert Right sold was to be treated as having been sold for the average sale price (net of selling expenses) of the Talbert Rights sold by the Plans. The proceeds from the sale of the Talbert Rights credited to a participant's accounts were to be invested in accordance with such participant's existing investment directions applicable to new contributions, and if there were no such directions, in an investment fund designated under the Plan if the Talbert Rights had value at the time of the sale. Talbert Rights held as unallocated forfeitures were to be sold by the Plans if the Talbert Rights had value at the time of the sale.

16. In summary, the applicant represents that the transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (a) The Plans' acquisition of the Talbert Rights resulted from the independent acts of FHP and Talbert as corporate entities; (b) all holders of FHP Common Stock, including the Plans, were treated in a like manner with respect to the Talbert Rights; (c) with respect to Talbert Rights allocated to the Plans, the Talbert Rights were acquired solely for the accounts of participants who had directed investment of all or a portion of their account balances in FHP Common Stock pursuant to plan provisions for individually-directed investment of participant accounts; (d) the Talbert Rights offering period extended only from April 21, 1997 through May 20, 1997, so the Talbert Rights were held by the Plans for no more than 30 days; (e) the Plans' participants and beneficiaries were afforded a reasonable opportunity to direct the sale or exercise of the Talbert Rights credited to their accounts; (f) the Plans' participant direction procedure was administered by an independent fiduciary (*i.e.*, the Bank); and (g) the Plan Committees exercised investment discretion only with respect to undirected investments in Talbert Rights and acted only in accordance with the procedures specified in the disclosures made to the Plan participants who received the Talbert Rights.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 4th day of September, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 01–22477 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–29–P

[19] Talbert Individuals are defined in that Agreement to include, essentially, active employees and former employees of Talbert, TMMC and THSC, their dependents, beneficiaries, and alternate payees under qualified domestic relations orders.

[20] In the case of such a participant who was a resident of Guam and who gave his or her direction in writing, such direction had to have been received not later than May 8, 1997.

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10997]

Notice of Proposed Individual Exemption To Modify Prohibited Transaction Exemption 97–08 (PTE 97–08) Involving Morgan Stanley Dean Witter & Co. Incorporated (MSDW&Co) Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration U.S. Department of Labor

ACTION: Notice of proposed individual exemption to modify PTE 97–08.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual administrative exemption which, if granted, would amend PTE 97–08 (62 FR 4811, January 31, 1997), an exemption which was granted to Morgan Stanley & Co., Incorporated (MSC), a subsidiary of MSDW&Co. PTE 97–08 provided relief for certain securities lending, principal transactions, and extensions of credit. If granted, this proposed exemption to modify PTE 97–08 would permit a U.S. affiliate of a foreign broker-dealer to guaranty the obligations of such broker-dealer that arise in connection with transactions described in PTE 97–08 and would affect the participants and beneficiaries of certain employee benefit plans (the Plans or Plan) participating in such transactions and the fiduciaries with respect to such plans.

EFFECTIVE DATE: If granted, the proposed amendments will be effective, as of August 25, 1995, the effective date of PTE 97–08.

DATES: Written comments and requests for a public hearing should be received by the Department on or before October 22, 2001.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. D–10997.

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The application pertaining to the proposed exemption to amend PTE 97–08 and the comments received will be available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that would modify PTE 97–08. PTE 97–08 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. Specifically, PTE 97–08 provides retroactive exemptive relief from the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, for certain principal transactions between Plans and broker-dealers affiliated with MSC which are subject to British law (the MSC/UK Affiliates), the lending of securities that are assets of Plans to MSC/UK Affiliates, and any extensions of credit to Plans by MSC/UK Affiliates to permit the settlement of securities transactions or in connection with the writing of options contracts; provided certain conditions are satisfied.

The proposed amendment has been requested in an application filed on behalf of MSDW&Co, MSC, and any current and future U.K. broker-dealer affiliates of MSDW&CO and MSC (the Applicants), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this proposed exemption is issued solely by the Department.

MSDW&Co is the parent holding company for a number of subsidiaries which, among other businesses, perform securities underwriting, distribution and trading, merger, acquisition, restructuring and other corporate finance services for clients around the world and provides investment advisory services, equipment and other finances businesses credit card services. Further, MSDW&Co currently has foreign affiliates that are registered under foreign broker-dealer registration laws that are represented to be comparable to the Securities Exchange Act of 1934 (the Exchange Act).

MSC, an affiliate of MSDW&Co, is a broker-dealer registered with the Securities and Exchange Commission under the Exchange Act, providing, among other things, investment banking, securities and asset management services to institutional investors, including multinational corporations, governments, emerging growth companies, financial institutions, employee benefit plans, universities, foundations, and individual investors.

Pursuant to PTE 97–08, the MSC/UK Affiliates, in particular Morgan Stanley & Co. International LTD, which is regulated by the Securities and Futures Authority in the United Kingdom, effective August 25, 1995, may enter into principal transactions with Plan accounts, borrow securities from such Plan accounts, and engage in extensions of credit to such Plans, including those in connection with the settlement of securities transactions and the writing of options contracts; provided certain conditions, as set forth in PTE 97–08, are satisfied. With respect to that section of PTE 97–08 that permits extensions of credit, the MSC/UK Affiliates have found that Plans often seek a guaranty of the MSC/UK Affiliates' obligations, particularly in connection with the writing of options contracts. The requested modification to PTE 97–08 would permit a guaranty to be given to a Plan by MSDW&Co or any U.S. affiliate of MSDW&Co, so long as such guaranty when given: (a) Is in connection with one of the transactions, described in Section I (A), (B), or (C) of PTE 97–08, for which the specific conditions for such transaction and all of the general conditions, as set forth in PTE 97–08 have been satisfied; (b) is lawful under the applicable securities laws; (c) is provided at no separate cost to the Plan; and (d) is not a prohibited transaction under section 503(b) of the Code. In the absence of a modification to PTE 97–08, a violation of section 406(a)(1)(B) of the Act could occur, if MSDW&Co or one of its affiliates were a party in interest with respect to a Plan and also provided a guaranty to such Plan. It is represented that the Plans that potentially could be affected by this proposed modification of PTE 07–08 have not been identified, either because they are not capable of being known or are too numerous to mention.

The Applicants have requested that the modification to PTE 97–08 be made retroactive, as of August 25, 1995, the effective date of PTE 97–08. The Applicants represent that, to their knowledge, while there has never been an occasion on which a guaranty has been drawn on by a Plan, guaranties have been made with respect to many transactions.

The Applicants maintain that principal transactions, securities lending transactions, and extensions of credit in connection with the global securities business are a typical and increasingly common part of a Plan's investment strategy. It is represented that guaranties by affiliates of broker-dealers are common in many transactions, and in particular, in the purchase and sale of options. The Applicants argue that to the extent that an affiliate of a broker-dealer adds a credit guaranty to the obligations of such broker-dealer, a Plan would be advantaged.

The proposed modification of PTE 97–08 would be administratively feasible, because the guaranty will be part of the contract between the Plan and the party in interest and will be enforceable by the Plan in the U.S. courts. Further, because Standard & Poor's provides a rating for the outstanding debt of MSDW&Co (AA–, as of May 2001), Plans are able to effectively monitor the credit quality of the guaranty.

The Applicants maintain that the proposed modification of PTE 97–08 would be in the interest of affected Plans. In this regard, it is represented that the guaranty can only benefit Plans, as it provides an additional party for a Plan to look to in the event of a default by a broker-dealer.

The proposed modification of PTE 97–08 will be protective of Plans, because the guaranty will add safety and provide credit enhancement to many securities transactions. If the requested modification of PTE 97–08 were to be denied, affected Plans would not have the benefit in their dealings with parties in interest of the security provided by the guaranty.

In summary, the Applicants represent that the proposed modification of PTE 97–08 satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) The guaranty has been and will be given in connection with any transaction which is exempt, pursuant to PTE 97–08; (b) the guaranty has been and will be lawful under the applicable securities laws; (c) the guaranty has been and will be provided at no separate cost to the Plan; (d) the guaranty has not been and will not be a prohibited transaction under section 503(b) of the Code; (e) the guaranty has been and will be enforceable by the Plan in the U.S. courts; (f) Plans have benefited and will benefit from the addition of a credit guaranty by MSDW&Co of the obligations of its broker-dealer affiliates; (g) various rating agencies are able to determine the quality of the outstanding debt of MSDW&Co, thus providing a mechanism by which Plans are able to monitor the viability of the guaranty; (h) Plans have had and will have an additional party to look to in the event of a default by a broker-dealer.

Notice to Interested Persons

Notification of the publication of the Notice of Proposed Exemption to Modify PTE 97–08 (the Notice) will be mailed by first class mail to those Plan accounts that trade most frequently with the MSC/UK Affiliates. Such notification will be given within 15 days of the publication of the Notice in the **Federal Register**. The notification will contain a copy of the Notice, as published in the **Federal Register**, and a copy of the supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Written comments and hearing requests are due within 45 days of the publication of the Notice in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) or (F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the Summary of Facts and Representations set forth in the notice of proposed exemption relating to PTE 97–08, as modified by this Notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time frame set forth above, after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990), the Department proposes to modify PTE 97–08 to include in Section I an additional transaction (D), as set forth below:

Section I. Transactions

D. If the exemption is granted, effective August 25, 1995, the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, to a guaranty given to a Plan by MSDW&Co or any U.S. affiliate of MSDW&Co, provided that the guaranty when given: (a) Is in connection with one of the transactions, described in Section I(A), (B), or (C) of PTE 97–08, for which the specific conditions for such transaction and all of the general conditions, as set forth in PTE 97–08 have been satisfied; (b) is lawful under the applicable securities laws; (c) is provided at no separate cost to the Plan; and (d) is not a prohibited transaction under section 503(b) of the Code.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 97–08, refer to the proposed exemption and the grant notice that are cited above.

Signed at Washington, DC, this 4th day of September, 2001.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 01–22480 Filed 9–6–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries Meeting

Notice is hereby given that the Advisory Committee on Presidential Libraries will meet on September 21, 2001, at 1:30 p.m., at the Houston I meeting room on the second floor of the Double Tree Guest Suites, 303 W. 15th Street in Austin, Texas.

The agenda for the meeting will be the Presidential library programs and a discussion of several critical issues including dialogue concerning the symposium on the "Future of Presidential Libraries" and a report by

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the Archivist on recent developments at NARA.

The meeting will be open to the public. For further information, contact David Peterson at 301–713–6050.

Dated: August 31, 2001.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 01–22483 Filed 9–6–01; 8:45 am]

BILLING CODE 7515–01–U

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (1171), NSF.

Date/Time: September 21, 2001; 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 970, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open (Members of the public who wish to attend should arrange access ahead of time with the contact person listed below).

Contact Person: Dr. Stuart Plattner, Program Director; Division of Behavioral and Cognitive Sciences, NSF, Suite 995; 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8740.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on issues related to the use of human subjects in social and behavioral research.

Agenda

Discussions addressing the following topics:

Foreign Institutional Review Boards (IRBs)
Training (for principal investigators, research personnel, IRBs)
Consent (forms, signing, group/individual, students as research subjects)
Ethnography/oral history; "ethical proofreading"
Confidentiality/privacy
Secondary subjects/secondary data; linking data
Expanding the "exempt" category
Deception
Subpart "D" of the Common Rule
Research on the World Wide Web
Data archiving

Dated: September 4, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–22518 Filed 9–6–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

AmerGen Energy Company, LLC; Three Mile Island Nuclear Station, Unit 1; Exemption

1.0 Background

The AmerGen Energy Company, LLC (the licensee) is the holder of Facility Operating License No. DPR–50 which authorizes operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Dauphin County in Pennsylvania.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix G requires, in part, that pressure-temperature (P/T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G states that "[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions." Appendix G of 10 CFR part 50 specifies that these limits be at least as conservative as those obtained by following the methods of analysis and the margins of safety of the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G.

Pressurized-water reactor licensees have installed cold overpressure mitigation systems/low temperature overpressure protection (LTOP) systems in order to protect the reactor coolant pressure boundary (RCPB) from being operated outside of the boundaries established by the P/T limit curves and to provide pressure relief of the RCPB during low temperature overpressurization events. The licensee is required by the TMI–1 Technical Specifications (TS) to update and submit the changes to its LTOP setpoints whenever the licensee is requesting approval for amendments to the P/T limit curves in the TMI–1 TS.

By an application dated March 29, 2001, the licensee requested amendments to the P/T limit curves in the TS. In the same application, the licensee requested an exemption from application of specific requirements of 10 CFR part 50, Appendix G, and 10 CFR part 50, Section 50.61(a)(5), in order to address provisions of amendments to the TS P/T limits curves. Specifically, the exemption would instead allow the use of ASME Code Cases and an alternative approach as follows:

1. Code Case N–588, which permits the use of circumferentially-oriented flaws in circumferential welds for development of P/T limits,
2. Code Case N–640, which permits application of the lower bound static initiation fracture toughness value equation as the basis for establishing the P/T curves in lieu of using the lower bound crack arrest fracture toughness value equation, and
3. The master curve approach for determining the initial reference temperature value for weld metal WF–70 in the TMI–1 reactor vessel.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The three exemptions and their associated special circumstances are discussed below.

3.1 Code Case N–588

The licensee has proposed an exemption to allow use of ASME Code Case N–588 in conjunction with ASME Section XI and 10 CFR Part 50, Appendix G, to determine P/T limits for TMI–1. The proposed amendment to revise the P/T limits for TMI–1 relies in part on the requested exemption. These revised P/T limits have been developed using postulated flaws in the circumferential orientation for the circumferential weld in the TMI–1 RPV, in lieu of postulating axial flaws in the circumferential welds.

The use of circumferential flaws in circumferential welds is more appropriate than the use of axial flaws in circumferential welds. Since the flaws postulated in the development of P/T limits have a through-wall depth of one-quarter of the vessel wall thickness (1.94 in. for the TMI–1 RPV), the length of the postulated flaw, six times the depth, is more than 11 inches. For the circumferential weld in the TMI–1 RPV, an axial flaw of this length centered at the weld would place the tips of the postulated flaw within the adjacent base metal above and below the weld.

Therefore, the only way to maintain a flaw within the circumferential weld metal is to postulate a circumferential flaw within the weld, as accomplished using Code Case N–588. For the base metals adjacent to the circumferential welds, axial flaws are and continue to be postulated for the development of P/T limits.

The underlying purpose of ASME Section XI and 10 CFR Part 50, Appendix G, is to ensure that (1) the RCPB be operated in a regime having sufficient margin to ensure that when stressed the vessel boundary behaves in a non-brittle manner and the probability of a rapidly propagating fracture is minimized and (2) P/T operating and test curves provide margin in consideration of uncertainties in determining the effects of irradiation on material properties.

Application of Code Case N–588 to determine P/T operating and test curve limits per ASME Section XI, Appendix G, provides appropriate, conservative procedures to determine limiting maximum postulated defects and to consider those defects in the P/T limits. This application of the code case maintains the margin of safety for circumferential welds equivalent to that originally contemplated for plates/forgings and axial welds. Therefore, pursuant to 10 CFR 50.12(a)(2)(ii), application of the code case would continue to achieve the underlying purpose of the rule, and application of 10 CFR part 50, Appendix G in these circumstances is not necessary to achieve that purpose.

3.2 Code Case N–640

The licensee has proposed an exemption to allow use of the ASME Code Case N–640 in conjunction with ASME Section XI and 10 CFR part 50, Appendix G, to determine P/T limits for TMI–1. The proposed license amendment to revise the TS P/T operating limits for TMI–1 relies, in part, on the requested exemption. These revised P/T operating limits have been developed using the K_{IC} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, in lieu of the K_{IA} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, as the lower bound for fracture toughness. The other margins involved with the ASME Section XI, Appendix G process of determining P/T limit curves remain unchanged.

Use of the K_{IC} curve in determining the lower bound fracture toughness in the development of the P/T operating limits curve is more technically correct than using the K_{IA} curve. The K_{IC} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The licensee has determined that the use of the initial conservatism of the K_{IA} curve when the curve was codified in 1974 was justified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{IA} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P/T curves based on the K_{IC} curve will enhance overall plant safety by opening the P/T operating window with the greatest safety benefit in the region of low temperature operations. The operating window through which the operator heats up and cools down the reactor coolant system (RCS) is determined by the difference between the maximum allowable pressure determined by Appendix G of ASME Section XI, and the minimum required pressure for the reactor coolant pump (RCP) seals adjusted for instrument uncertainties.

Since the RCS P/T operating window is defined by the P/T operating and test limit curves developed in accordance with the ASME Section XI, Appendix G procedure, continued operation of TMI–1 with these P/T curves without the relief provided by ASME Code Case N–640 may unnecessarily restrict the P/T operating window, especially at low temperature conditions. The operating window becomes more restrictive with continued reactor vessel service. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, does not significantly reduce the margin of safety. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served, and application of 10 CFR Part 50, Appendix G, in these circumstances is not necessary to achieve that purpose.

In summary, the ASME Section XI, Appendix G procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by application of ASME Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

3.3 Master Curve Approach

The licensee has proposed an exemption from 10 CFR Part 50.61(a)(5) to allow the use of the master curve approach as an alternative to Paragraph NB–2331 of the ASME Code to determine the initial reference temperature (RT_{NDT}) value for weld metal WF–70 in the TMI–1 reactor vessel. The evaluation was part of a pressurized thermal shock (PTS) reevaluation for the TMI–1 RPV.

The current Charpy V-notch and drop weight-based methodology described in NB–2331 establishes an RT_{NDT} value and then relies on surveillance data from the testing of Charpy specimens and/or general material embrittlement models incorporated into Regulatory Guide 1.99, Revision 2 to predict the amount this value will shift due to a given level of neutron radiation exposure. This "initial plus shift" methodology has been consistently used to assess RPV embrittlement in the U.S. The master curve approach, however, proposes that "direct measurement" of fracture toughness can be made on unirradiated specimens.

The unirradiated RT_{NDT} for WF–70 weld metal was determined from drop weight tests and fracture toughness tests from welds fabricated with WF–70 and WF–209–1 weld metal. Since WF–70 and WF–209–1 welds were fabricated using the same heat number of weld wire and the same type of flux, their material properties are considered equivalent. Charpy V-notch impact and drop weight tests (the current methodology) were applied to the WF–70 weld metal by the licensees for Zion Nuclear Power Station, Units 1 and 2, and Oconee Nuclear Station, Units 1, 2, and 3, in the early 1990s for a PTS evaluation. The tests resulted in wide variability in RT_{NDT} values. The staff concluded that the large uncertainty in RT_{NDT} values for WF–70 weld metal is due to the low upper-shelf behavior of the material. Therefore, the definition of RT_{NDT} in the ASME Code is not applicable for WF–70 weld metal due to the large variability in RT_{NDT} values. In lieu of using Charpy V-notch and drop weight data, the licensee proposed to determine the initial reference temperature value using the test results from the master curve methodology. Since the licensee did not follow the method in Section III of the ASME Code, the methodology for determining the RT_{NDT} of WF–70 does not meet the requirements of 10 CFR 50.61 and requires an exemption.

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By letter dated February 22, 1994, the NRC approved the use of the master curve approach for the Zion Nuclear Power Station, Units 1 and 2, and the RT_{NDT} value is −26 °F for WF–70 weld metal. The exemption approval for the Zion station also stated that other procedures for determination of RT_{NDT} may serve as acceptable alternatives to NB–2331 contingent on staff review and approval. The staff acceptance of the alternative procedure in that evaluation was based, in part, on the analysis of a significant amount of fracture toughness data for the WF–70 weld metal. Therefore, since TMI–1 used the same weld metal as Zion and the data considered for the Zion exemption resulted in a more representative RT_{NDT} value, the TMI–1 use of the master curve approach for WF–70 weld metal is acceptable.

In summary, the underlying purpose of 10 CFR 50.61 is to ensure that the RPV is adequately protected from PTS. Application of the master curve approach to determine the unirradiated RT_{NDT} value for weld metal WF–70 is acceptable because the master curve approach is more appropriate for material with low upper-shelf behavior like WF–70 weld metal.

Therefore, pursuant to 10 CFR 50.12(a)(2)(ii), application of the master curve approach to determine the unirradiated RT_{NDT} value for weld metal WF–70 would continue to achieve the underlying purpose of the rule, and application of the definition of $RT_{NDT(U)}$ in 10 CFR 50.61(a)(5) in these circumstances is not necessary to achieve that purpose.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are authorized by law, will not endanger life or property or common defense and security, and are, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants AmerGen Energy Company, LLC exemptions from the requirements of 10 CFR part 50, Appendix G, and 10 CFR part 50, § 50.61(a)(5), for TMI–1.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 45874).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of August 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nucleor Reactor Regulation.

[FR Doc. 01–22514 Filed 9–6–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–8]

Calvert Cliffs Nuclear Power Plant; Notice of Docketing of the Materials License SNM–2505; Amendment Application for the Calvert Cliffs Independent Spent Fuel Storage Installation

By letter dated July 26, 2001, Calvert Cliffs Nuclear Power Plant, Inc. (CCNPP), submitted an application to the Nuclear Regulatory Commission (NRC or the Commission) in accordance with 10 CFR part 72 requesting an amendment of the Calvert Cliffs independent spent fuel storage installation (ISFSI) license (SNM–2505) for the ISFSI located in Calvert County, Maryland. CCNPP is requesting Commission approval to amend SNM–2505 to reflect revised fuel assembly integrity analysis as described in the Safety Analysis Report. CCNPP proposed changes to Technical Specification 2.3 to remove the 15-inch drop height limit and require inspection after any drop of a dry shielded canister. CCNPP also proposed a change to Technical Specification 6.3 to revise the reference to a semi-annual environmental reporting period to be consistent with the annual reporting requirements of 10 CFR 50.36a(2).

This application was docketed under 10 CFR part 72; the ISFSI Docket No. is 72–8 and will remain the same for this action. The amendment of an ISFSI license is subject to the Commission's approval.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or, if a determination is made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected, take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing on whether the action should be rescinded or modified.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/nrc/adams/index.html*. If you do not have access to ADAMS or if there are problems in accessing documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 29th day of August 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–22515 Filed 9–6–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

FirstEnergy Nuclear Operating Company, et al., Beaver Valley Power Station, Unit Nos. 1 and 2; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 241 and 121 to Facility Operating License Nos. DPR–66 and NPF–73, respectively, issued to FirstEnergy Nuclear Operating Company, et al. (the licensee), which revised the Technical Specifications (TSs) and authorized revisions to the Updated Final Safety Analysis Report (UFSAR) for operation of Beaver Valley Power Station, Unit Nos. 1 and 2, located in Shippingport, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment authorized revisions to the BVPS–1 and 2 UFSAR design-basis fuel handling accident (FHA) dose consequence analyses. The amendment also revised the BVPS–1 and 2 TSs associated with the requirements for handling irradiated fuel assemblies in the reactor containment and fuel building and the TS requirements associated with ensuring that UFSAR safety analysis assumptions are met for a postulated FHA. The term "recently irradiated" fuel is defined in the applicable TS Bases as "fuel that has occupied part of a critical reactor core within the previous 100 hours." The purpose of the addition of the term "recently irradiated" throughout the TSs is to establish a point where operability of those systems typically used to mitigate the consequences of an FHA is no longer required to meet the radiation exposure limits of 10 CFR 50.67. This amendment revises the TSs to eliminate TS controls over the integrity of the fuel building and the reactor containment building and the operability of the associated building's ventilation/filtration systems after the decay period of 100 hours.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on June 4, 2001 (66 FR 30026). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated March 19, 2001 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML010810433), as supplemented by letters dated July 6 (ADAMS Accession No. ML011980423), August 8 (ADAMS Accession No. ML012260302), and August 23, 2001 (ADAMS Accession No. ML012420089), (2) Amendment Nos. 241and 121 to License Nos. DPR–66 and NPF–73, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment, dated August 17, 2001 (ADAMS Accession No. ML012210436). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 30th day of August 2001.

For the Nuclear Regulatory Commission.

Lawrence J. Burkhart,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22517 Filed 9–6–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1108 (which should be mentioned in all correspondence concerning this draft guide), is "Combining Modal Responses and Spatial Components in Seismic Response Analysis." This draft guide is a proposed Revision 2 of Regulatory Guide 1.92, and it is being revised to improve the guidance to licensees and applicants on methods acceptable to the NRC staff for combining modal responses and spatial components in seismic response analysis in the design and evaluation of nuclear power plant structures, systems, and components important to safety.

This draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Comments will be most helpful if received by October 22, 2001.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (*http://www.nrc.gov*). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV*. For information about the draft guide and the related documents, contact Mr. O.P. Gormley at (301) 415–6793; e-mail *OPG@NRC.GOV*.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; email *PDR@NRC.GOV*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to *DISTRIBUTION@NRC.GOV*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 29th day of August 2001.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 01–22516 Filed 9–6–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review, Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rules 17Ad–6 and 17Ad–7, SEC File No. 270–151, OMB Control No. 3235–0291.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission

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("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

- Rules 17Ad–6 and 17Ad–7: Recordkeeping requirements for transfer agents

Rule 17Ad–6 under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et. seq.*) requires every registered transfer agent to make and keep current records about a variety of information, such as: (1) Specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad–2 (17 CFR 240.17Ad–2)); (2) written inquires and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

Rule 17Ad–7 under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et. seq.*) requires each registered transfer agent to retain the records specified in Rule 17Ad–6 in an easily accessible place for a period of six months to six years, depending on the type of record or document. Rule 17Ad–7 also specifies the manner in which records may be maintained using electronic, microfilm, and microfiche storage methods.

These recordkeeping requirements ensure that all registered transfer agents are maintaining the records necessary to monitor and keep control over their own performance and for the Commission to adequately examine registered transfer agents on an historical basis for compliance with applicable rules.

We estimate that approximately 1,000 registered transfer agents will spend a total of 500,000 hours per year complying with Rules 17Ad–6 and 17Ad–7. Based on average cost per hour of $50, the total cost of compliance with Rule 17Ad–6 is $25,000,000.

The retention period for the recordkeeping requirements under Rule 17Ad–6 is six months to one year. In addition, such records must be retained for a total of two to six years or for one year after termination of the transfer agency, depending on the particular record or document. The recordkeeping requirements under Rules 17Ad–6 and 17Ad–7 are mandatory to assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. This rule does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 29, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22507 Filed 9–6–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Moog Inc, Common Stock, Class A and B, $1.00 par Value) File No. 1–5219

August 31, 2001.

Moog Inc., a New York Corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Class A and B Common Stock, $1.00 par value ("Security"), from listing and registration on the American Stock Exchange LLC ("Amex").

On June 16, 2001, the Board of Directors of the Issuer approved a resolution to withdraw the Issuer's Security from listing on the Amex and list it on the New York Stock Exchange, Inc. ("NYSE"). In its application, the Issuer states that trading in the Security on the Amex will cease on August 24, 2001, and trading in the Security is expected to begin on the NYSE at the opening of business on August 27, 2001. In making the decision to withdraw the Security from listing on the Amex, the Issuer considered the potential increased institutional interest and benefit to its capital structure.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of New York, in which it is incorporated and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and shall have no effect upon its listing on the NYSE or its registration under Section 12(b) of the Act.[3]

Any interested person may, on or before September 20, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22509 Filed 9–6–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25147]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

August 31, 2001.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August, 2001. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0192 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested person may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 26, 2001, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

Minn Shares Inc. [File No. 811–7744]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has remaining assets of approximately $492,277, consisting primarily of liquid securities. Applicant will appoint a liquidating agent, who will liquidate the assets over a period of approximately three years and distribute the proceeds pro rata to applicant's shareholders. Distributions will be made to shareholders after payment of approximately $172,596 of outstanding debts and liquidation expenses. A special meeting of shareholders is scheduled for September 7, 2001 to approve applicant's liquidation. Applicant currently is not a party to any litigation or administration proceeding. Lawrence P. Grady, applicant's president and largest shareholder, is a party to an SEC enforcement action arising out of the SEC's examination of applicant. The application is submitted in connection with that proceeding.

Filing Dates: The application was filed on August 3, 2001. Applicant has agreed to file an amended application during the notice period, the substance of which is reflected in this notice.

Applicant's Address: 520 Diamond Lake Lane, Minneapolis, MN 55419.

Mutual Selection Fund, Inc. [File No. 811–2300]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 2, 2001, applicant transferred its assets to Pearl Total Return Fund, a series of Pearl Mutual Funds, based on net asset value. Expenses of $39,276 incurred in connection with the reorganization were paid by Pearl Management Company, applicant's investment adviser.

Filing Dates: The application was filed on August 13, 2001, and amended on August 27, 2001.

Applicant's Address: 2610 Park Ave., PO Box 209, Muscatine, IA 52761.

Credit Suisse Warburg Pincus Small Company Value II Fund, Inc. [File No. 811–7375]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 11, 2001, applicant transferred its assets to Credit Suisse Warburg Pincus Small Company Value Fund, a series of Credit Suisse Warburg Pincus Capital Funds, based on net asset value. Expenses of $122,129 incurred in connection with the reorganization were paid by applicant's investment adviser, Credit Suisse Asset Management, LLC.

Filing Date: The application was filed on August 16, 2001.

Applicant's Address: 466 Lexington Ave., New York, NY 10017.

Zero Gravity Funds [File No. 811–9787]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 30, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $10,950 incurred in connection with the liquidation will be paid by Zero Gravity Capital Management LLC, applicant's investment adviser.

Filing Date: The application was filed on August 6, 2001.

Applicant's Address: 400 Montgomery Street, 3rd Floor, San Francisco, CA 94104.

Dreyfus Global Bond Fund, Inc. [File No. 811–7085]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 2000, applicant made a final liquidating distribution to its shareholders based on net asset value. Expenses of $5,000 incurred in connection with the liquidation were paid by applicant's investment adviser, The Dreyfus Corporation.

Filing Date: The application was filed on July 31, 2001.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Avenue, New York, NY 10166.

Allegiance Investment Trust-American Value Fund [File No. 811–9185]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 7, 2000, applicant transferred its assets to Van Deventer & Hoch American Value Fund, a series of Advisors Series Trust, based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Date: The application was filed on August 3, 2001.

Applicant's Address: 800 North Brand Boulevard, Suite 300, Glendale, CA 91203.

TD Waterhouse Family of Funds [File No. 811–9543]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 12, 2001, and amended on August 17, 2001.

Applicant's Address: P.O. Box 100, Toronto Dominion Centre, 26th Floor, Toronto Dominion Tower, 55 King Street West, Toronto, Ontario, Canada M5K 1A2.

Virtus Funds [File No. 811–6158]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 27, 1998, each series of applicant transferred its assets to corresponding portfolios of Evergreen Municipal Trust, Evergreen Fixed Income Trust, Evergreen Money Market Trust and Evergreen Equity Trust based on net asset value. Applicant incurred no expenses in connection with the reorganization.

Filing Date: The application was filed on August 8, 2001.

Applicant's Address: Federated Investors Tower, Pittsburgh, PA 15222–3779.

SG Cowen Standby Tax-Exempt Reserve Fund, Inc. [File No. 811–4344]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By May 31, 2001, all shareholders of applicant had voluntarily redeemed their shares at net asset value, except SG Cowen Asset Management, Inc. ("SGCAM"), applicant's investment adviser. SGCAM plans to redeem its shares in connection with the winding up of applicant's affairs. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on July 25, 2001, and amended on August 14, 2001.

Applicant's Address: 560 Lexington Avenue, New York, NY 10022.

MuniHoldings California Insured Fund V, Inc. [File No. 811–9313]

Summary: Applicant, a closed-end management investment company,

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

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seeks an order declaring that it has ceased to be an investment company. On March 5, 2001, applicant transferred its assets to MuniHoldings California Insured Fund, Inc. based on net asset value. Each holder of applicant's auction market preferred stock ("AMPS") received the equivalent number of newly-issued shares of an existing series of AMPS of the acquiring fund representing the same aggregate liquidation preference. Expenses of $261,031 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on July 19, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

MuniHoldings Florida Insured Fund V [File No. 811–9331]

Summary: Applicant, a closed-end management investment company, seeks an order declaring that it has ceased to be an investment company. On March 5, 2001, applicant transferred its assets to MuniHoldings Florida Insured Fund based on net asset value. Each holder of applicant's auction market preferred stock ("AMPS") received the equivalent number of newly-issued shares of an existing series of AMPS of the acquiring fund representing the same aggregate liquidation preference. Expenses of $276,084 incurred in connection with the reorganization were paid by applicant and Fund Asset Management, L.P., applicant's investment adviser.

Filing Date: The application was filed on July 19, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

MuniHoldings New Jersey Insured Fund IV, Inc. [File No. 811–9315]

Summary: Applicant, a closed-end management investment company, seeks an order declaring that it has ceased to be an investment company. On March 5, 2001, applicant transferred its assets to MuniHoldings New Jersey Insured Fund, Inc. based on net asset value. Each holder of applicant's auction market preferred stock ("AMPS") received the equivalent number of newly created series of AMPS of the acquiring fund representing the same aggregate liquidation preference. Expenses of $258,468 incurred in connection with the reorganization were paid by applicant and Fund Asset Management, L.P., applicant's investment adviser.

Filing Date: The application was filed on July 19, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

MuniHoldings New York Insured Fund IV, Inc. [File No. 811–9317]

Summary: Applicant, a closed-end management investment company, seeks an order declaring that it has ceased to be an investment company. On March 5, 2001, applicant transferred its assets to MuniHoldings New York Insured Fund, Inc. on net asset value. Each holder of applicant's auction market preferred stock ("AMPS") received the equivalent number of newly-issued shares of an existing series of AMPS of the acquiring fund representing the same aggregate liquidation preference. Expenses of $216,087 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on July 19, 2001.

Applicant's Address: 800 Scudders Mill Rd., Plainsboro, NJ 08536.

Credit Suisse Institutional Strategic Global Fixed Income Fund, Inc. [File No. 811–8931]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By December 21, 2000, all shareholders of applicant had voluntarily redeemed their shares at net asset value. Expenses of approximately $2,500 incurred in connection with the liquidation were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser, or its affiliates.

Filing Dates: The application was filed on February 22, 2001, and amended on June 8, 2001, and August 9, 2001.

Applicant's Address: 466 Lexington Avenue, New York, NY 10017.

GTBD Fund, L.L.C. (Deauville Europe Fund, L.L.C.) [File No. 811–10225]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on June 15, 2001, and amended on August 16, 2001, and August 21, 2001.

Applicant's Address: One World Financial Center, 31st Floor, 200 Liberty St., New York, NY 10281.

Multistate Tax Exempt Unit Trust [File No. 811–2774]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. By April 9, 2001, each series of applicant had distributed its assets to unitholders based on net asset value. As of August 24, 2001, applicant had 400 unitholders who have not presented their trust certificates for redemption. Applicant's trustee, the Bank of New York, is holding any unclaimed funds, which will escheat to each unitholder's state of residence after the applicable holding period. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on May 18, 2001, and amended on August 24, 2001.

Applicant's Address: 90 State House Square, Hartford, CT 06103.

NSB Asset Fund, Inc. [File No. 811–10031]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering. Applicant will continue to operate as an unregistered real estate investment trust in reliance on section 3(c)(1) of the Act.

Filing Dates: The application was filed on July 3, 2001, and amended on August 27, 2001.

Applicant's Address: One South Main, Suite 1380, Salt Lake City, UT 84111.

Morgan Stanley Dean Witter World Wide Income Trust [File No. 811–5744]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 31, 2001, applicant transferred its assets to Morgan Stanley Diversified Income Trust based on net asset value. Expenses of $137,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on July 23, 2001.

Applicant's Address: Two World Trade Center, 70th Floor, New York, NY 10048.

A.G. Series Trust [File No. 811–03050]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. At the time of filing, Applicant had distributed all of its shares at net asset value to its shareholders in connection with Applicant's liquidation. There were no expenses incurred in connection with the liquidation.

Filing Dates: The application was filed on June 7, 2001, and amended on July 19, 2001.

Applicant's Address: 2929 Allen Parkway, Houston, Texas 77019.

Templeton Variable Annuity Fund [File No. 811–5024]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 8, 1998, applicant transferred its assets to Templeton Stock Fund based on net asset value. Expenses of $20,946 incurred in connection with the reorganization were paid by Templeton Variable Annuity Fund and Templeton Stock Fund.

Filing Date: The application was filed on June 20, 2001.

Applicant's Address: 500 East Broward Boulevard, Suite 2100, Fort Lauderdale, Florida 33394–3091.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22508 Filed 9–6–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44483A; File No. SR–Amex–2001–40]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by American Stock Exchange LLC Relating to the Listing and Trading of Institutional Index Notes; Correction

August 30, 2001.

Release No. 34–44483, issued on June 27, 2001, and published in the **Federal Register** on July 6, 2001,[1] contained an error in Part IV.[2] The term "Industrial Holdings" was mistakenly used. The correct term is "Institutional Holdings."

Accordingly, the term "Institutional Holdings" should replace the term "Industrial Holdings" in Part IV of the Release.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22511 Filed 9–6–01; 8:45 am]

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[1] *See* 66 FR 35677.

[2] *See* 66 FR 35677, 35680.

[3] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44739A; File No. SR–ISE–00–22]

Self-Regulatory Organizations; International Securities Exchange LLC; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendments Nos. 1 and 2 to the Proposed Rule Change Relating to Market Maker Financial Requirements; Correction

August 30, 2001.

In Release No. 34–44739, issued on August 22, 2001 (FR Document 01–21739 beginning on page 45713 for Wednesday, August 29, 2001), the conclusion inadvertently referred to the proposed rule change as SR–NYSE–00–22. The conclusion should read that the proposed rule change (SR–ISE–00–22), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22513 Filed 9–6–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44734A; File No. SR–NASD–2001–42]

Self-Regulatory Organizations; the National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 To Extend the Expiration Date of Nasdaq's Transaction Credit Pilot Program; Correction

August 30, 2001.

In Release No. 34–44734, issued on August 22, 2001 (FR Document 01–21651 beginning on page 45347 for Tuesday, August 28, 2001), the title inadvertently omitted the name of the self-regulatory organization. The title is corrected to read as set forth above. Additionally, the release contained an inaccurate expiration date for the pilot program. The pilot program is extended for an additional six months, through December 31, 2001, not through September 1, 2001.

[1] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22512 Filed 9–6–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44752; File No. SR–NYSE–2001–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Administer NYSE Rule 91.10 Pursuant to the NYSE's Minor Rule Violation Plan

August 29, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 21, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" for imposition of fines for minor rule violations of rules and/or policies ("List") by adding to the List the failure to comply with the provisions of NYSE Rule 91.10, Taking or Supplying Securities Named in Order. The Exchange believes it is appropriate to make the failure to comply with the provisions of NYSE Rule 91.10 subject to the possible imposition of a fine under NYSE Rule 476A procedures. The text of the proposed rule change is available at the NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections, A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Rule 476A provides that the Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The purpose of the NYSE Rule 476A procedure is to provide for a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under NYSE Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than an admonition letter would convey. NYSE Rule 476A preserves due process rights, identifies those rule violations that may be the subject of summary fines, and includes a schedule of fines.

In SR–NYSE–84–27,[3] which initially set forth the provisions and procedures of Rule 476A, the Exchange indicated it would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of NYSE Rule 476A as experience with it was gained.

The Exchange proposes to add to the List the failure by specialists or specialist organizations to comply with the provisions of NYSE Rule 91.10. That rule requires that whenever a specialist has elected to take or supply for his or her account the securities named in an order entrusted to the specialist, he or she must summon a representative of the firm that entered the order to confirm, in written format, the acceptance or rejection of such transaction.

The purpose of the proposed change to the List is to facilitate the Exchange's ability to induce compliance with all aspects of the above-cited rule. The Exchange believes failure to comply with the requirements of the rule should be addressed with an appropriate sanction and seeks Commission approval to add violations of these requirements to the List so as to have a broad range of regulatory responses available. The Exchange believes that this would more effectively encourage compliance by enabling a prompt, meaningful and heightened regulatory response (*e.g.*, the issuance of a fine rather than an admonition letter) to a minor violation of NYSE Rule 91.10.

The Exchange wishes to emphasize the importance it places upon compliance with the above-named rule and all others on the List. While the Exchange, upon investigation, may determine that a violation of any of these rules is a minor violation of the type which is properly addressed by the procedures adopted under NYSE Rule 476A, in those instances where investigation reveals a more serious violation of the above-described rules, the Exchange will provide an appropriate regulatory response. This includes the full disciplinary procedures available under NYSE Rule 476.

2. Statutory Basis

The Exchange believes the proposal will advance the objectives of Section 6(b)(6)[4] of the Act in that it will provide a procedure whereby member organizations can be appropriately disciplined in those instances when a rule violation is minor in nature, but a sanction more serious than an admonition letter is appropriate. The NYSE believes the proposed rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of Sections 6(b)(7)[5] and 6(d)(1)[6] of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to appropriate and publishes its reasons for so findings or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2001–28 and should be submitted by September 28, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22456 Filed 9–6–01; 8:45 am]

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[3] Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985) (approving SR–NYSE–84–27).

[4] 15 U.S.C. 78f(b)(6).

[5] 15 U.S.C. 78f(b)(7).

[6] 15 U.S.C. 78f(d)(1).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44757; File No. SR–NYSE–2001–35]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Regarding Listing and Trading CP HOLDRS on the Exchange

August 30, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to list under Paragraph 703.19 of the Listed Company Manual (the "Manual")[3] CP HOLDRS issued pursuant to the deposit agreement among Merrill Lynch Canada Inc., as initial depositor and coordinator ("Merrill Lynch"), BNY Trust Company of Canada, as depositary, the owners and beneficial owners from time to time of CP HOLDES, and depositors from time to time of the underlying securities represented by CP HOLDRS. CP HOLDRS are depositary receipts initially representing ownership in deposited common back stock of Canadian Pacific Limited ("CP") and subsequently representing ownership of the shares of common stock of CP's successor companies that are expected to result from CP's plan of reorganization.[4] The value of CP HOLDRS directly relates to the value of the underlying securities.[5]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Paragraph 703.19 of the Manual, the Exchange may approve for listing securities which can not be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, and warrants.[6] The Exchange is now proposing to list CP HOLDRS, as below described, pursuant to Paragraph 703.19 of the Manual.

Description of CP HOLDRS. CP HOLDRS are depositary receipts designed by Merrill Lynch to provide current holders of shares of common stock issued by CP ("CP Shares") with a single exchange traded instrument representing shares of common stock of the five successor companies that are expected to result from CP's announced plan of reorganization.[7] CP HOLDRS have been designed without regard for the value, price performance, volatility or investment merit of CP historically or the successor companies prospectively.

CP HOLDRS will be issued by the CP HOLDRS Deposit Facility created by the deposit agreement among BNY Trust Company of Canada, as depositary, Merrill Lynch Canada Inc., as initial depositor and coordinator, the owners and beneficial owners from time to time of CP HOLDRS, and depositors from time to time of underlying securities. The deposit agreement will govern the terms of CP HOLDRS.[8]

Merrill Lynch, as initial depositor, will be deemed the "issuer" of CP HOLDRS for purposes of the Securities Act of 1933, as amended, and the Act. The depositary will deliver CP HOLDRS issued by the CP HOLDRS Deposit Facility created by the deposit agreement. The CP HOLDRS Deposit Facility created by the deposit agreement is not a registered investment company under the Investment Company Act of 1940 (the "1940 Act").

Under the deposit agreement, its plan of reorganization, CP HOLDRS will represent shares of the successor companies resulting from the reorganization of CP and received in exchange for CP Shares.

CP HOLDRS will be delivered by the depositary to depositing holders of CP Shares pursuant to the deposit agreement. Prior to the reorganization of CP, holders of CP Shares must deposit their CP Shares in order to receive CP HOLDRS. One CP HOLDRS will be issued for each CP Share deposited. The depositary will deliver additional CP HOLDRS on a continuous basis to depositing holders of CP Shares (or, following the completion of CP's reorganization, to depositors of the underlying securities).

As discussed more fully herein in "*Cancellation of CP HOLDRS*," the deposit agreement entities holders of CP HOLDRS to surrender CP HOLDRS to the depository and receive the underlying securities represented by those CP HOLDRS. Although a beneficial owner of CP Shares will not receive cash in lieu of fractional interests of the successor companies at the time of the reorganization of CP, when a beneficial owner of CP HOLDRS surrenders his or her CP HOLDRS to receive the underlying securities, the depositary will deliver cash to the holder in lieu of fractional interests in the underlying securities based on the most recent closing price of the security (*i.e.*, the closing price for the common stock of the underlying security on the trading day before the holder surrenders his or her CP HOLDRS). The depositary will reflect that transaction on the books and records of the CP HOLDRS Deposit Facility accordingly. A holder of CP HOLDRS will not have to wait for the depositary to sell the aggregate of such fractions and distribute the proceeds to such holder, but will receive cash in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Footnote 80 of the Securities Exchange Act Release No. 40761 (December 8, 1998) notes that an "other security" listing standard (such as Paragraph 703.19) is not intended to accommodate the listing of securities that raise significant regulatory issues without a specific separate filing with the Commission pursuant to Rule 19b–4 under the Act.

[4] CP has announced a plan to split into five separate public successor companies—PanCanadian Petroleum Limited, Canadian Pacific Railway Company, Fording Inc., CP it is anticipated that current holders of CP Shares will hold the equity securities of each of these successor companies.

[5] The shares of common stock of the successor companies that are held under the deposit agreement at any point in time (together with other securities that may be represented by CP HOLDRS in the future) are collectively referred herein as the "underlying securities."

[6] *See* Securities Exchange Act Release No. 28217 (July 18, 1990) ("July 18, 1990 Release"), 55 FR 30056 (July 24, 1990); Securities Exchange Act Release No. 29229 (May 23, 1991), 56 FR 24852 (May 31, 1991).

[7] For the detailed description of CP HOLDRS, *see* the registration statement on Form F–1 filed by Merrill Lynch with the Commission (File No. 333–63924) (the "Registration Statement").

[8] For the description of the deposit agreement, *see* the Registration Statement.

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lieu of fractional interests at the time such holder surrenders his or her CP HOLDRS.

CP HOLDRS will present an investor's undivided beneficial ownership of the underlying securities. According to the Registration Statement, owners of CP HOLDRS will have the same rights and privileges as they would have if they owned the underlying securities outside of CP HOLDRS. These include the right to instruct the depositary to vote the underlying securities, to receive any dividends and other distribution on the underlying securities that are declared and paid to the depositary by an issuer of an underlying security, the right to receive reports and other information required to be distributed by the issuer in respect of the underlying securities, the right to pledge CP HOLDRS and the right to surrender CP HOLDRS to receive the underlying securities. Investors will retain the right to receive any reports and communications that the issuers of underlying securities are required to send to beneficial owners of their securities. As such, investors will receive such reports and communications in the same manner as if such investors beneficially owned their underlying securities outside of CP HOLDRS from the broker through which they hold their CP HOLDRS. These reports currently include annual reports, audited financial statements (including management's discussion and analysis of financial condition and results of operations) and management proxy circulars.

Stock splits and reverse splits of any of the underlying securities will not affect the weighings of the underlying securities. Rather, the share amounts will be adjusted to reflect such splits so that there is no change in weighting solely due to a split. Weighings will change with the relative price changes of the underlying securities. Securities will not be added other than in accordance with stock distributions or reorganizations events outlined in the prospectus. As a result, if an underlying security distributes shares of stock or if a security is acquired by another company, the new shares will remain in CP HOLDRS so long as they are registered under Section 12 of the Exchange Act, are issued by a reporting issuer under Canadian securities laws and are listed for trading on a national securities exchange in Canada and on either a national securities exchange in the United States or the NASDAQ National Market System. (*See* "*Reconstitution Events*" below).

The deposit agreement entitles investors to receive, subject to certain limitations and net of any fees of the depositary, any distributions of cash (including dividends), securities or property made with respect to the underlying securities. The depositary will not distribute a fraction of one cent but will round to the nearest whole cent before distribution. Distributions will be made by the depositary as soon as is practicable following receipt by the depositary of such distributions. There may be a delay (which is expected not to exceed one day) between the time any cash or other distribution is received by the depositary with respect to the underlying securities and the time such cash or other distributions are distributed to holders of CP HOLDRS due to the need for the depositary to process the flow of funds. Events beyond the control of the depositary, such as computer failures and other disruptions of banking systems generally may also result in a delay in distributions to holders of CP HOLDRS. Holders of CP HOLDRS will not be entitled to any interest on any distribution by reason of any delay in distribution by the depositary. If any tax or other governmental charge becomes due with respect to CP HOLDRS or any underlying securities, holders of CP HOLDRS will be responsible for paying that tax or governmental charge. Holders of CP HOLDRS may elect to receive dividends with respect to underlying securities in either Canadian or U.S. dollars by following the procedures established by the broker through which they hold their CP HOLDRS.

The value of CP HOLDRS directly relates to the value of the underlying securities. Although it is possible that CP HOLDRS may trade at either a discount or a premium to the aggregate value of the underlying securities, historically, HOLDRS products currently listed on the American Stock Exchange LLC and the Exchange have traded at values reflecting the aggregate value of the underlying securities represented by CP HOLDRS. Merrill Lynch believes that this trading equivalency results from the ability to cancel HOLDRS products and receive the underlying securities at any time. As such, arbitrageurs can quickly move between HOLDRS and the underlying securities thereby limiting any such premiums or discounts. Based on the foregoing, the Exchange believes that it is reasonable to expect that CP HOLDRS will not trade at a material discount or premium to the underlying securities. The Exchange believes that the arbitrage process—which provides the opportunity to profit from differences in prices of the same or similar securities (*e.g.*, CP HOLDRS and the underlying securities)—increases the efficiency of the markets and should promote correlative pricing between CP HOLDRS and the underlying securities.

CP HOLDRS will be issued in "book-entry only" form and will be represented by one or more global certificates registered in the name of CDS & CO., the nominee of The Canadian Depositary for Securities Limited ("CDS"), and deposited with CDS. U.S. holders of CP HOLDRS will hold their interests in the global certificates indirectly through the Depository Trust Company ("DTC"). DTC is, in turn, a participant in CDS. All interests of Canadian and U.S. holders of CP HOLDRS in the global certificates, including those held through DTC, will be subject to the procedures and requirements of CDS. Those interests held through DTC may also be subject to the procedures and requirements of DTC. Investors will not be able to hold CP HOLDRS in individually registered positions, but rather can only hold these positions through a broker-dealer in street name, except as otherwise required by applicable law or if CDS or DTC advises the depositary that it is no longer willing or able to act as a depositary for CP HOLDRS or the depositary is unable to find a successor.

CP HOLDRS will be issued to investors in certificated form only if: (i) That action is required under applicable law; (ii) CDS or DTC advises BNY Trust Company of Canada or its successor that either CDS or DTC is no longer willing or able to properly discharge its responsibilities as depositary with respect to CP HOLDRS and BNY Trust Company of Canada or its successor is unable to locate a qualified successor; or (iii) CDS ceases to be a clearing agency or otherwise ceases to be eligible to be a depositary and BNY Trust Company of Canada or its successor is unable to locate a qualified successor.

Investors wishing to receive registered shares may surrender their CP HOLDRS at any time (and pay any applicable fees) and receive the underlying securities represented by their CP HOLDRS, and then follow the procedures established by the issuers of each of the underlying securities to become the registered owner of those securities.

Reconstitution Events. The deposit agreement provides for distribution of the underlying securities as promptly as possible to investors in CP HOLDRS in the circumstances referred to in the Registration Statement as "reconstitution events." The reconstitution events will occur under the following circumstances:

(1) If any class of underlying securities ceases to be outstanding as a result of, or is surrendered by the depositary in connection with, a merger, consolidation or other corporate combination of its issuer, the depositary will distribute any securities received as consideration from the acquiring company unless the securities received are registered under Section 12 of the Act, are issued by a reporting issuer under Canadian securities laws, and are listed for trading on a national securities exchange in Canada and on either a national securities exchange in the United States or the NASDAQ National Market System. In that case, the securities received will be treated as additional underlying securities and shall be added to the classes and quantities of securities that must be deposited for issuance of CP HOLDRS.

(2) If any class of underlying securities is delisted from trading on its primary exchange or market in either the United States or Canada and is not listed for trading, as the case may be, on another national securities exchange in Canada or on either a national securities exchange in the United States or the NASDAQ National Market System, within five business days from the date of such delisting, the depositary will, to the extent lawful and feasible, distribute those underlying securities to the owners in proportion to their ownership of CP HOLDRS.

(3) If any class of underlying securities is no longer registered under Section 12 of the Act or if an issuer of underlying securities is no longer a reporting issuer under the Canadian securities laws, the depositary will, to the extent lawful and practicable, distribute the underlying securities of the company to the owners.

(4) If the Commission determines that an issuer of an underlying security is an investment company under the 1940 Act, and the depositary has actual knowledge of such Commission determination, then the depositary will, to the extent lawful and practicable, distribute the underlying securities of such issuer to the owners in proportion to their ownership of CP HOLDRS.

(5) If there is any other change in nominal value, change in par value, split-up, consolidation or any other reclassification of any underlying securities, or any recapitalization, reorganization, merger or consolidation or sale of assets affecting the issuer of any underlying securities in connection with which the depositary receives securities that are not registered under Section 12 of the Act, are not issued by a reporting issuer under Canadian securities laws and are not listed on a national securities exchange in Canada and either a national securities exchange in the United States or through the NASDAQ National Market in connection with such event, the depositary will, to the extent lawful and practicable, distribute any securities so received by the depositary to the owners in proportion to their ownership of CP HOLDRS.

Cancellation of CP HOLDRS. The deposit agreement entitles holders of CP HOLDRS to surrender CP HOLDRS to the depositary and receive the underlying securities represented by those CP HOLDRS. The depositary will deliver the underlying securities to surrendering owners of CP HOLDRS as promptly as practicable. Merrill Lynch expects, absent unforeseeable difficulties or difficulties outside of the depositary's control, that the depositary will delivery the underlying securities to surrendering owners of CP HOLDRS within one business day of the business day they surrender their CP HOLDRS. In addition, if any fractional interests in underyling securities are represented by CP HOLDRS at the time of the surrender of CP HOLDRS, the depositary will deliver cash in lieu of such fractional interests, as described herein under "*Description of CP HOLDRS.*"

Withdrawal of underlying securities upon surrender of CP HOLDRS is also subject to the payment of applicable fees (including the payment to the depository of a cancellation fee of up to $0.10 per CP HOLDR surrendered), taxes or governmental charges, if any. Cancellation fees will be rounded up to the nearest 100 CP HOLDRS cancelled.

Termination of the Depository. The depositary will terminate the deposit agreement by mailing notice of termination to the owners of CP HOLDRS if: (i) The depositary is notified that CP HOLDRS are no longer listed on a national securities exchange in Canada and either a national securities exchange in the United States or the NASDAQ National Market System and CP HOLDRS are not approved for listing on another national securities exchange in Canada and either a national securities exchange in the United States or the NASDAQ National Market System within five business days of their delisting; (ii) 60 days have passed after the depositary has delivered to Merrill Lynch a written notice of its election to resign and no successor has been appropriately appointed; or (iii) 75% of the owners of outstanding CP HOLDRS (other than Merrill Lynch or its affiliates) notify the depositary that they elect to terminate the deposit agreement.

Registration under the Act. To be included in CP HOLDRS, the underlying securities must always be registered under Section 12 of the Act; must be issued by a reporting issuer under Canadian securities laws; and each underlying security must be listed for trading on a national securities exchange in Canada and either a national securities exchange in the United States or the NASDAQ National Market System.

CP Shares are currently listed on the Exchange and The Toronto Stock Exchange (the "TSE") under the symbol "CP."

Full and complete information regarding CP HOLDRS, including risks associated with investing in CP HOLDRS, is provided in the Registration Statement.

Criteria for Initial and Continued Listing. CP HOLDRS will be subject to the Exchange's listing criteria for equities under Paragraph 703.19 of the Manual.

Merrill Lynch represented to the Exchange that CP HOLDRS will comply with the listing standards for equities set forth in Paragraph 703.19 of the Manual. Specifically:

(i) There will be one million CP HOLDRS outstanding;

(ii) There will be at least 400 holders of CP HOLDRS;

(iii) CP HOLDRS will have a minimum life of one year; and

(iv) CP HOLDRS will have a minimum market value of at least U.S. $4 million.

CP HOLDRS will be subject to the Exchange's continued listing criteria for specialized securities pursuant to Paragraph 802.01D of the Manual. Accordingly, the Exchange will consider suspending and delisting CP HOLDRS from trading under the following circumstances:

(i) If the number of publicly-held CP HOLDRS is less than 100,000;

(ii) If the number of holders of CP HOLDRS is less than 100;

(iii) If CP HOLDRS will have the aggregate market value of less than U.S. $1 million;

(iv) The issuer of any underlying security is no longer subject to the reporting obligations of the Exchange Act; or

(v) If any underlying security no longer trades in a market in which there is last saie reporting.

As noted above, each underlying security will be registered under Section 12 of the Act. Each of the successor companies is expected to be listed on the Exchange and the TSE. As such, information regarding the trading history of these companies will be

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available to the same extent as any other equity security that is listed on a national securities exchange and registered under Section 12 of the Act. Going forward, trading history on CP HOLDRS will be available on a similar basis as any other exchange-traded security (*e.g.*, Bloomberg, Reuters, ILX).

Because the listing of CP HOLDRS is expected to precede listing of the underlying securities, it is impossible to provide historical information relating to average daily trading volume or the average U.S. dollar value of trading in each underlying security. However, information is available in respect of CP Shares (which, as described above, will initially be represented by CP HOLDRS) indicating that there is a broad and liquid market for CP Shares.[9] In addition, PanCanadian Petroleum Limited, one of the successor companies to CP, currently is listed on the TSE under the symbol "PCP." Information available from the TSE indicates that there is also a broad and liquid market for PanCanadian Petroleum Limited.[10] Based on this information, the Exchange anticipates that each of the underlying securities will have an average daily trading volume and U.S. dollar value of shares traded adequate to support listing and trading in CP HOLDRS.

The Exchange will, prior to trading CP HOLDRS, distribute a circular to the membership, as described herein under "*Disclosure and Dissemination of Information.*"

Exchange Rules Applicable to Trading of CP HOLDRS. Since CP HOLDRS will be deemed equity securities for the purpose of Paragraph 703.19 of the Manual, the NYSE's existing equity floor trading rules will apply to the trading of CP HOLDRS. First, pursuant to NYSE Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading CP HOLDRS.[11] Second, CP HOLDRS will be subject to the equity margin rules of the Exchange. Third, the regular equity trading hours of 9:30 a.m. to 4 p.m. will apply to transactions in CP HOLDRS. Fourth, the Exchange's surveillance procedures for CP HOLDRS will be similar to those used for investment company units and will incorporate and rely upon existing NYSE surveillance procedures governing equities.

Disclosure and Dissemination of Information. Merrill Lynch will deliver a prospectus to each holder of CP Shares in connection with the solicitation for deposits of CP Shares in connection with the initial issuance of CP HOLDRS. After the initial issuance of CP HOLDRS, the depositary will deliver a prospectus, and any applicable supplements, to depositors of CP Shares or the shares of the successor companies upon such depositor's surrender of the requisite amount of CP Shares or shares of the successor companies to create CP HOLDRS. The Exchange will note in its circular to membership (as described below) that the Commission staff takes the position that under the Securities Act of 1933 and rules thereunder,[12] member organizations that acquire CP HOLDRS from the depositary for resale to customers must deliver a prospectus to such customers.

Pursuant to Paragraph 703.19, the Exchange will, prior to trading CP HOLDRS, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) with handling transactions in CP HOLDRS and highlighting the unique characteristics and risks of CP HOLDRS. In addition, the circular will advise members of Exchange about policies relating to trading halts in CP HOLDRS. Specifically, the circular will inform that the Exchange may consider factors such as the extent to which trading is not occurring in underlying security(s) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Based on the foregoing, the Exchange finds it appropriate to approve CP HOLDRS for listing and trading on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[13] of the Act, in general, and furthers the objectives of Section 6(b)(5),[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consisted with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–2001–35 and should be submitted by September 28, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

A. Generally

The Commission finds that the proposed rule change in consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5).[15] Specifically, the Commission finds that the proposal to list and trade CP HOLDRS will provide investors with a convenient and less expensive way of participating in the securities markets. The Exchange's proposal should

[9] During the sixty-day trading period of June 4, 2001 to August 27, 2001, the average daily trading volume of CP Shares was 767,832 shares (on the NYSE) and 1,393,024 shares (on the TSE), while the average daily U.S. dollar value of CP Shares traded was U.S. $29,661,350.16 (on the NYSE) and U.S. $53,911,421.82 (on the TSE).

[10] During the sixty-day trading period of June 1, 2001 to August 27, 2001, the average daily trading volume on the TSE of PCP was 609,249 shares, while the average daily U.s. dollar value of PCP traded was U.S. $17,688,326.17.

[11] NYSE Rule 405 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[12] *See* 15 U.S.C. 77e; 17 CFR 230.174.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(5).

advance the public interest by providing investors with increased flexibility in satisfying their investment needs by providing current holders of CP Shares with a single exchange traded instrument representing shares of common stock of the five successor companies that are expected to result from CP's announced plan of reorganization, and allowing subsequent investors to purchase and sell such instruments in the secondary market. Accordingly, the Commission finds that the Exchange's proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[16]

The Commission believes that CP HOLDRS will provide investors with an alternative to trading, on an individual basis, shares of common stock of the five successor companies that are expected to result from CP's announced plan of reorganization, and will give investors the ability to trade a single exchange traded instrument representing these companies' common stock continuously throughout the business day in secondary market transactions at negotiated prices. CP HOLDRS will allow investors to: (i) Respond quickly to changes in the overall securities markets generally and for the industry represented by the underlying securities; (ii) trade, at a price disseminated on a continuous basis, a single security representing five securities that the investor owns beneficially; (iii) engage in hedging strategies similar to those used by institutional investors; (iv) reduce transaction costs for trading a portfolio of securities; and (v) retain beneficial ownership of the securities underlying the CP HOLDR.

Although CP HOLDRS are not leveraged instruments, and, therefore, do not possess any of the attributes of stock index options, their prices will be derived from and based upon the value of the underlying securities. Accordingly, the level of risk involved in the purchase or sale of CP HOLDRS is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for CP HOLDRS is based upon the aggregate value of the five underlying securities represented by CP HOLDRS. Nevertheless, the Commission believes that the unique nature of CP HOLDRS, related to, among other things, the lack of historical information relating to average daily trading volume or the average U.S. dollar value of trading in each underlying security, raises, certain product design, disclosure, trading, and other issues that must be addressed.

B. Characteristics of CP HOLDRS

The Exchange has represented that each underlying security will be registered under Section 12 of the Exchange Act. Each of the successor companies is expected to be listed on the Exchange and the TSE. Consequently, information regarding the trading history of these companies will be available to the same extent as any other equity security that is listed on a national securities exchange and registered under Section 12 of the Exchange Act and, going forward, trading history on CP HOLDRS will be available on a similar basis as any other exchange-traded security (*e.g.*, Bloomberg, Reuters, ILX).

Additionally, the Exchange has represented and the Commission notes that, because the listing of CP HOLDRS is expected to precede listing of the underlying securities, it is impossible to provide historical information relating to average daily trading volume or the average U.S. dollar value of trading in each underlying security. The available information regarding CP Shares (which is the only security that will initially be represented by CP HOLDRS) shows that there is a broad and liquid market for CP Shares.[17] In addition, the Exchange has highlighted the breadth and liquidity of the market for Pan Canadian Petroleum Limited, one of the successor companies to CP, currently is listed on the TSE under the symbol "PCP."[18] Based on this information and the Exchange's assertion that it anticipates that each of the underlying securities will have an average daily trading volume and U.S. dollar value of shares traded adequate to support listing and trading in CP HOLDRS, the Commission believes that this information about the liquidity of the CP Shares market is a sufficient proxy for the expected liquidity of the future market for CP HOLDRS.

As represented by the Exchange above, CP HOLDRS will represent an investor's undivided beneficial ownership of the underlying securities. Owners of CP HOLDRS will have the same rights and privileges as they would have if they owned the underlying securities outside of CP HOLDRS. These include the right to instruct the depositary to vote the underlying securities, to receive any dividends and other distributions on the underlying securities that are declared and paid to the depositary by an issuer of an underlying security, the right to receive reports and other information distributed by the issuer in respect of the underlying securities, the right to pledge CP HOLDRS and the right to surrender CP HOLDRS to receive the underlying securities. As beneficial holders of the underlying securities, investors will receive reports and communications, including management proxy circulars, in the same manner as if such investors beneficially owned their underlying securities outside of CP HOLDRS from the broker through which they hold their CP HOLDRS. CP HOLDRS also are subject to certain reconstitution events that are set out in the depositary agreement.

C. Listing and Trading of CP HOLDRS

The Commission finds that the NYSE's proposal contains adequate rules and procedures to govern the trading of CP HOLDRS. CP HOLDRS are equity securities that will be subject to the full panoply of NYSE rules governing the trading of equity securities on the NYSE, including, among others, rules governing the priority, parity and precedence of orders, responsibilities of the specialist, account opening and customer suitability requirements, and the election of a stop or limit order.

In addition, the NYSE has developed specific listing and delisting criteria for CP HOLDRS that will help to ensure that a minimum level of liquidity will exist for CP HOLDRS to allow for the maintenance of fair and orderly markets. The delisting criteria also allows the NYSE to consider the suspension of trading and the delisting of a CP HOLDR if an event occurred that made further dealings in such securities inadvisable. This will give the NYSE flexibility to delist CP HOLDRS if circumstances warrant such action.

Moreover, in approving this approval, the Commission notes the Exchange's belief that CP HOLDRS will not trade at a material discount or premium in relation to the overall value of the trusts' assets because of potential arbitrage opportunities. The Exchange represents that the potential for arbitrage should keep the market price of a CP HOLDR comparable to the overall value of the deposited securities.

Finally, the NYSE has developed surveillance procedures for CP HOLDRS

[16] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] *See supra*, footnote 9.

[18] *See supra*, footnote 10.

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that incorporate and rely upon existing NYSE surveillance procedures governing equities. The Commission believes that these surveillance procedures are adequate to address concerns associated with listing and CP HOLDRS. Accordingly, the Commission believes that the rules governing the trading of CP HOLDRS provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

D. Disclosure and Dissemination of Information

The Commission believes that the Exchange's proposal will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading CP HOLDRS. The prospectus will address the special characteristics of CP HOLDRS, including a statement regarding its redeemability and method of creation. The Commission notes that all original investors in CP HOLDRS who obtain CP HOLDRS by surrendering their CP Shares will receive a prospectus. Finally, the Securities Act of 1933 and rules thereunder [19] require all broker-dealers who acquire CP HOLDRS from the depositary for resale to customers to deliver a prospectus to such customers.

The Commission also notes that upon the initial listing of CP HOLDRS, the Exchange will issue a circular to its members explaining the unique characteristics and risks of this type of security. The circular also will note the Exchange members' prospectus delivery requirements, and highlight the characteristics of purchases in CP HOLDRS. The circular also will inform members of Exchange policies regarding trading halts in CP HOLDRS.

E. Scope of the Commission's Order

The Commission is approving in general the NYSE's proposed listing standards for CP HOLDRS and, specifically, the listing of the CP HOLDRS described herein. The Exchange has represented that the unique nature of its proposed CP HOLDRS product makes the promulgation of generic listing standards impractical. The Commission specifically notes that CP HOLDRS arise from a corporate reorganization, that there is a broad and liquid market for CP shares, and that the five underlying securities that result from this corporate reorganization are registered under Section 12 of the Act. Consequently, the Exchange has incorporated the listing standards for equities set forth in Paragraph 703.19 of the Manual, as well as the continued listing criteria for specialized securities pursuant to Paragraph 802.01D of the Manual, as the appropriate listing standards for CP HOLDRS. Although the Commission finds that these standards satisfy Section 6(b)(5) of the Act with respect to CP HOLDRS, the Commission specifically notes that this approval order, which incorporates the listing standards for equities in Paragraph 703.19, is limited to this unique product. Other similarly structured products will require separate review by the Commission prior to being traded on the Exchange.

F. Accelerated Approval

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[20] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the NYSE filing. Accordingly, the Commission believes it is appropriate to permit investors to benefit from the flexibility and convenience afforded by this new instrument by listing and trading them as soon as possible. The Commission notes that the Exchange has indicated that it will have adequate surveillance procedures in place to monitor the trading of this new HOLDRS product. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[21] to approve the proposal on an accelerated basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–NYSE–2001–35) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22510 Filed 9–6–01 8:45 am]

BILLING CODE 8010–01–M

[19] *See supra*, footnote 12.

[20] 15 U.S.C. 78s(b)(2).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority Business (ISAC–14) will hold a meeting on September 24, 2001, from 9 a.m. to 4 p.m. The meeting will be opened to the public from 9 a.m. to 10 a.m. and again from 10:45 a.m. to 4 p.m. The meeting will be closed to the public from 10 a.m. to 10:45 a.m.

DATES: The meeting is scheduled for September 24, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held in Conference Room 4830, of the Department of Commerce, located at 14th Street between Pennsylvania and Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg or Pam Wilbur, (principal contacts), at (202) 482–4792, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230 or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following topics will be addressed:

- Briefing by the new Assistant Secretary for Trade Development, Linda Conlin, on her goals and on Trade Promotion Authority.
- Discussion of the APEC SME Ministerial.
- Committee Business
- Update on SBA programs
- Discussion of the TPCC benchmarking initiative.
- Discussion of new initiatives for minority and underserved outreach, the closing of the MBDO office, and status of the District Export Council program.

Elizabeth A. Gianini,

Acting Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–22544 Filed 9–6–01; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a partially opened meeting.

SUMMARY: The Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC–13) will hold a meeting on September 11, 2001, from 9 a.m. to 12 noon. The meeting will be opened to the public from 9 a.m. to 9:45 a.m. and closed to the public from 9:45 a.m. to 12 noon.

DATES: The meeting is scheduled for September 11, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held in Conference Room 6057, of the Department of Commerce, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Holderman (principal contacts), at (202) 482–0345, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following topics will be addressed:

- Preparations for the WTO GATS negotiations in October 2001 and WTO Ministerial in Qatar, November 2001.
- Services in current anti-dumping case.

Elizabeth A. Gianini,

Acting Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–22545 Filed 9–6–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During Week Ending August 17, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10401.
Date Filed: August 14, 2001.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 EUR–ME 0114 dated 13 July 2001
TC2 Europe-Middle East Resolutions r1–r29
PTC2 EUR–ME 0115 dated 24 July 2001
Technical Correction to PTC2 EUR–ME 0114 dated 13 July 2001
MINUTES—PTC2 EUR–ME 0116 dated 14 August 2001
TABLES—PTC2 EUR–ME Fares 0053 dated 24 July 2001
Intended effective date: 1 January 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–22537 Filed 9–6–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During Week Ending August 24, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10455
Date Filed: August 20, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC23 AFR–TC3 0124 dated 14 August 2001
Mail Vote 141—Resolution 010L TC23/TC123 Africa—TC3
Special Passenger Amending Resolution from Libya r1–r11
Intended effective date: 30 August 2001

Docket Number: OST–2001–10476
Date Filed: August 22, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC1 0190 dated 14 August 2001
TC1 Caribbean Expedited Resolutions 002LL, 015v
PTC1 0192 dated 14 August 2001
TC1 Within South America Expedited Resolutions 001aa, 002y, 078ec
Intended effective date: 15 September

Docket Number: OST–2001–10477
Date Filed: August 22, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC1 0191 dated 14 August 2001
TC1 Longhaul (except between USA and Chile)
Expedited Resolutions r1-r6
Intended effective date: 15 September 2001

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–22540 Filed 9–6–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending August 17, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.* The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1996–1393.
Date Filed: August 13, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 4, 2001.
Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. Section 41101 and 14 CFR Part 377, subpart B, requesting renewal of its certificate for Route 517, authorizing scheduled foreign air transportation of persons, property and mail between Dallas/Fort Worth, Texas and Tokyo, Japan.

Docket Number: OST–1996–1394
Date Filed: August 13, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 4, 2001.
Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. Section 41101 and Subpart B, requesting renewal of segment 4 of its certificate for Route 602, authorizing scheduled foreign air transportation of persons, property, and mail between the coterminal points Dallas/Fort Worth, Texas and Miami, Florida, the intermediate points the Azores and

Lisbon, Portugal, and the coterminal points Madrid, Barcelona, Malaga, and Palma de Mallorca, Spain.

Docket Number: OST–2001–10393.
Date Filed: August 13, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 4, 2001.
Description: Application of United Parcel Service Co., pursuant to 49 U.S.C. Section 41102 and Part 302, Subpart B, requesting amendment of its certificate of public convenience and necessity to engage in the foreign air transportation of property and mail between a point or points in the United States, on the one hand, and a point or points in Mexico, on the other.

Docket Number: OST–2001–10427.
Date Filed: August 15, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 5, 2001.
Description: Application of Flight Alaska, Inc., d/b/a Yute Air Alaska, Inc., pursuant to 14 CFR 302.10(a)(2), requesting the issuance of a Final Order on an expedited basis, granting the application to make effective the passenger authority in its certificate of public convenience and necessity. To facilitate rapid Department action, Flight Alaska requests that the answer period be shortened to 14 days, from the 21 days provided in 14 CFR Section 302.204(a).

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–22538 Filed 9–6–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During The Week Ending August 24, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–1996–1371.
Date Filed: August 23, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 13, 2001.
Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Sections 41102 and 41108 and Subpart B, requesting renewal of its authority to engage in scheduled foreign air transportation of persons, property and mail between the terminal point Atlanta, Georgia, and the coterminal points Madrid, Barcelona, Malaga and Palma de Mallorca, Spain.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–22539 Filed 9–6–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Portage County, WI

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the proposed highway improvement of United States Highway (US) 10 from the vicinity of Trestik Road west of the Village of Junction City to Portage County Trunk Highway (CTH) K east of the City of Stevens Point in Portage County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Wesley Shemwell, Pavement Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin 53719–2814, telephone: (608) 829–7521. You may also contact Ms. Carol Cutshall, Director, Bureau of Environment, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965; telephone: (608) 266–9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Offices' database at: *http://www.access.gpo.gov/nara*.

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare the second tier of a tiered environmental impact statement to improve US 10 as an ultimate four lane roadway from Trestik Road west of Junction City to CTH K east of Stevens Point, a distance of about 26 miles.

The overall second tiered EIS will have two distinct segments. The west segment extends from Trestik Road to I 39/US 51, while the east segment is from I 39/US 51 to CTH K. There will be two levels of analysis done. The western segment will be analyzed in detail, with the Final EIS completing the environmental documentation requirements for the improvements of US 10 along this segment.

For the eastern segment, conceptual highway corridors will be studied in broad, general corridors. This level of study will complete the first tier of an environmental evaluation for this section. To ensure the accuracy of the generalized impacts and compliance with current legislation, additional environmental documentation will be required for specific design projects along this eastern segment of US 10.

Improvements to the overall corridor are considered necessary to provide for the existing and projected traffic demand. US 10 in Portage County is classified as a principle arterial. Truck volume on the route is high. All the US 10 traffic passes through the communities of Junction City and Stevens Point, which contributes to congestion and traffic related impacts within those communities.

Planning, environmental, and engineering studies are underway to develop transportation alternatives. The EIS will assess the environmental impacts of alternatives including (1) no-build, (2) improvements along the existing rural corridor, with possible relocated alignments along portions of the route, (3) bypass corridors around Junction City and Stevens Point, and (4) improvement alternatives through Junction City and Stevens Point.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed, or are known to have interest in this proposal. A series of public meetings will be held in the project corridor throughout the data gathering and development of alternatives. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the hearing. As part of the scoping process, coordination activities have begun. Scoping meetings will be held on an individual or group meeting basis. Agency coordination will be accomplished during these meetings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided in the caption **FOR FURTHER INFORMATION CONTACT.**

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: August 28, 2001.

Wesley A. Shemwell,
Pavement Engineer, Federal Highway Administration, Madison, Wisconsin.
[FR Doc. 01–22532 Filed 9–6–01; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–391 (Sub–No. 8X)]

Red River Valley & Western Railroad Company—Abandonment Exemption—in Dickey County, ND and Brown County, SD

Red River Valley & Western Railroad Company (RRVW) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon approximately 18.3 miles of rail line from milepost 134.65 in or near Oakes, in Dickey County, ND to milepost 116.3 in or near Hecla, in Brown County, SD. The line traverses United States Postal Service Zip Codes 58474 and 57446.

RRVW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be reroute over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on October 9, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 17, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 27, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Troy W. Garris, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., 5th Floor, Washington, DC 20036–1609.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

RRVW has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 14, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RRVW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by RRVW's filing of a notice of consummation by September 7, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: August 29, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,
Secretary.
[FR Doc. 01–22263 Filed 9–6–01; 8:45 am]
BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 30, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 9, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0895.
Form Number: IRS Form 3800.
Type of Review: Revision.
Title: General Business Credit.
Description: Internal Revenue Code (IRC) section 38 permits taxpayers to reduce their income tax liability by the amount of their general business credit,

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which is an aggregation of their investment credit, jobs credit, alcohol fuel credit, research credit, low-income housing credit, disabled access credit, enhanced oil recovery credit, etc. Form 3800 is used to figure the correct credit.

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/Recordkeeper: 272,197.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—17 hr., 56 min.

Learning about the law or the form—1 hr., 0 min.

Preparing and sending the form to the IRS—1 hr., 19 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 5,514,712 hours.

OMB Number: 1545–1317.

Regulation Project Number: INTL–79–91 Final.

Type of Review: Extension.

Title: Information Returns Required of United States Persons with Respect to Certain Foreign Corporations.

Description: These regulations clarify certain requirements of sections 1.6035–1, 1.6038–2 and 1.6046–1 of the Income Tax Regulations relating to Form 5471 and affect controlled foreign corporations and their United States shareholders.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1336.

Form Number: IRS Forms 9455 and 9456.

Type of Review: Extension.

Title: IRS Taxpayer Education Programs Annual Survey (9455); and IRS Taxpayer Education Programs Annual Survey 2nd Notice (9456).

Description: The data collected will be used to estimate the number of individuals who teach IRS' tax education programs, and the number of students who are exposed to the Understanding Taxes High School, UT–8th Grade, UT–Post Secondary, and the Small Business Tax Education Programs during the course of a year. It will also be used to justify the continued use of these programs. This effort is in line with IRS initiatives on reducing taxpayer burden and Compliance 2000 initiatives to encourage voluntary compliance with the tax laws.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents: 120,800.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 20,137 hours.

OMB Number: 1545–1575.

Regulation Project Number: REG–116608–97 Final .

Type of Review: Extension.

Title: Eligibility Requirements After Denial of the Earned Income Credit.

Description: This information is to provide guidance to taxpayers who have been denied the earned income credit (EIC).

Respondents: Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour .

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–22541 Filed 9–6–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 30, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 9, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0086.

Form Number: IRS Form 1040–C.

Type of Review: Extension.

Title: U.S. Departing Alien Income Tax Return.

Description: Form 1040–C is used by aliens departing the U.S. to report income received for the entire tax year. The data collected are used to insure that the departing alien has no outstanding U.S. tax liability.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 2,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 4 min.

Learning about the law or the form—45 min.

Preparing the form—2 hr., 10 min.

Copying, assembling, and sending the form to the IRS—1 hr., 11 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 11,292 hours.

OMB Number: 1545–1010 .

Form Number: IRS Form 1120–RIC.

Type of Review: Revision.

Title: U.S. Income Tax Return for Regulated Investment Companies.

Description: Form, 1120–RIC is filed by a domestic corporation electing to be taxed as a RIC in order to report its income and deductions and to compute its tax liability. IRS uses Form 1120–RIC to determine whether the RIC has correctly reported its income, deductions, and tax liability.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 3,277.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—57 hr., 24 min.

Learning about the law or the form—19 hr., 42 min.

Preparing the form—36 hr., 24 min.

Copying, assembling, and sending the form to the IRS—4 hr., 17 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 385,966 hours.

OMB Number: 1545–1022.

Form Number: IRS Form 7018–C.

Type of Review: Extension.

Title: Order Blank for Forms.

Description: Form 7018—C allows taxpayers who must file information returns a systematic way to order information tax forms materials.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 868,432.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 43,422 hours.

OMB Number: 1545–1743.

Form Number: IRS Form 8851.

Type of Review: Extension.

Title: Summary of Archer MSAs.

Description: This form will be used by the IRS to determine whether numerical limits set forth in section 220(j)(1) have been exceeded.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 200,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—3 hr., 35 min.

Learning about the law or the form—6 min.

Preparing, copying, assembling, and sending the form to the IRS—9 min.

Frequency of Response: Annually, Other (additional report for 2001).

Estimated Total Reporting/Recordkeeping Burden: 1,540,000 hours.

OMB Number: 1545–1746.

Form Number: IRS Form 13094.

Type of Review: Extension.

Title: Recommendation for Juvenile Employment with the Internal Revenue Service.

Description: The data collected on the form provides the Internal Revenue Service with a consistent method for making suitability determinations on juveniles for employment within the Service.

Respondents: Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 208 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–22542 Filed 9–6–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 31, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 9, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0971.

Form Number: IRS Form 1041–ES.

Type of Review: Extension.

Title: Estimated Income Tax for Estates and Trusts.

Description: Form 1040–ES is used by fiduciaries of estates and trusts to make estimated tax payments if their estimated tax is $1,000 or more. IRS uses the data to credit taxpayers' accounts and to determine if the estimated tax has been properly computed and timely paid.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,200,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—19 min.

Learning about the law or the form—15 min.

Preparing the form—1 hr., 33 min.

Copying, assembling, and sending the form to the IRS—1 hr.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 3,281,200 hours.

OMB Number: 1545–1292.

Regulation Project Number: PS–97–91 and PS–101–90 Final.

Type of Review: Extension.

Title: Enhanced Oil Recovery Credit.

Description: This regulation provides guidance concerning the costs subject to the enhanced oil recovery credit, the circumstances under which the credit is available, and procedures for certifying to the Internal Revenue Service that a project meets the requirements of section 43(c) of the Internal Revenue Code.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 73 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,460 hours.

OMB Number: 1545–1617.

Regulation Project Number: REG–118966–97 Final.

Type of Review: Extension.

Title: Information Reporting With Respect to Certain Foreign Partnerships and Certain Foreign Corporations.

Description: Section 6038 requires certain U.S. persons who own interests in controlled foreign partnerships or certain foreign corporations to annually report information to the IRS. This regulation provides reporting rules to identify foreign partnerships and foreign corporations which are controlled by U.S. persons.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 250 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–22543 Filed 9–6–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel; Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held September 25, 2001.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on September 25, 2001, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 694–1861 (not a toll free number).

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SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on September 25, 2001, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax 2 returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Daniel L. Black, Jr.,
Chief, Appeals.
[FR Doc. 01–22562 Filed 9–6–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Special Enrollment Examination Advisory Committee; Notice of Meeting

AGENCY: Internal Revenue Service, Office of Director of Practice, Treasury.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: Notice is given of a meeting of the Special Enrollment Examination Advisory Committee.

DATES: The meeting will be held Tuesday, September 25, 2001 (8:30 a.m. to 4:00 p.m.) Written requests to speak at the meeting or to attend the meeting must be received no later than September 18, 2001.

ADDRESSES: The meeting will be held at offices of the Internal Revenue Service, Bankamerica Building, 200 W Adams Street, Room 608 A and B, Chicago, Illinois. Written requests to speak at the meeting or to attend the meeting must be mailed, faxed, or e-mailed to: Internal Revenue Service, Office of Director of Practice, N:C:SC:DOP, Attn: Kathy Hughes, Designated Federal Officer, 1111 Constitution Avenue, NW, Washington, DC 20224; fax number 202–694–1934; e-mail address *Kathy.E.Hughes@irs.gov.*

FOR FURTHER INFORMATION CONTACT: Kathy Hughes, Designated Federal Officer, Special Enrollment Examination Advisory Committee, at 202–694–1851.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to cover the following agenda:

Tuesday, September 25, 2001

8:30 a.m.–11:30 a.m.
Public Session: Discussion of Continuing Professional Education Guidelines
1 p.m.–3 p.m.
Public Session: Discussion of Structure of Special Enrollment Examination
3 p.m.–4 p.m.
Public Session: Opportunity for interested individuals to offer remarks germane to agenda topics or Enrolled Agent Program

Beginning at 3 p.m. interested persons may speak at the meeting in accordance with the following limitations: (1) speakers' remarks must be germane to the topics listed above or germane to the Enrolled Agent Program; and (2) remarks must be limited to no more than 10 minutes. Persons wishing to speak must send Kathy Hughes, the Designated Federal Officer, a written request, and the text or outline of their remarks, prior to the meeting in order to allow for the compilation of a speakers list. Speakers will be entered on the list in order of the receipt of their requests. No more than six requests will be accepted. Speakers will be notified of their position on the list, or in case more than six requests are received, that their requests to speak cannot be granted. Persons interested in attending the meeting (but not speaking) must also send Kathy Hughes a written request prior to the meeting in order to allow for adequate seating. Every effort will be made to accommodate all requests for attendance. Written requests to speak and written requests to attend must be received no later than September 18, 2001.

At any time, any interested person may submit to Kathy Hughes a written statement concerning the SEE or the Enrolled Agent Program. Such statements will be considered by the Director of Practice and, at his discretion, may be referred to the Committee for discussion at a later meeting.

Dated: August 30, 2001.
Patrick W. McDonough,
Director of Practice.
[FR Doc. 01–22561 Filed 9–6–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Professional Certification and Licensure Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Professional Certification and Licensure Advisory Committee will meet at the Department of Veterans Affairs, Education Service Conference Room 601V, 1800 G. St., NW., Washington DC, on Thursday, September 20, 2001, from 8:30 a.m. to 4 p.m., and from 8:30 a.m. to 12 p.m. on Friday, September 21, 2001. The agenda for this inaugural meeting will include overview of VA policies concerning approval of licensing and certification testing. The majority of this initial meeting will be dedicated to determining the functions of the Committee. Established by Public Law 106–419, the purpose of the Committee is to provide advice and counsel to the Secretary, Veterans Affairs on matters regarding the requirements of organizations or entities offering licensing and certification tests taken by individuals entitled to payment under VA's education and training programs. Those planning to attend the open meeting should contact Ms. Lynn M. Cossette or Mr. William G. Susling at (202) 273–7187 by September 14, 2001.

Dated: August 30, 2001.
By direction of the Secretary.
Nora E. Egan,
Committee Management Officer.
[FR Doc. 01–22468 Filed 9–6–01; 8:45 am]
BILLING CODE 8320–01–M

Federal Register

Friday,
September 7, 2001

Part II

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–36]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* versus *Veterans Administration*, No. 88–25031–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *ARMY*: Mr. Jeff Holste, Military Programs, U:S. Army Corps of Engineers, Installation Support Center, Planning Branch, Attn: CEMP-IP, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–5737; *NAVY*: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: August 31, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register report for 9/7/01

Suitable/Available Properties

Buildings (by State)

California

Bldgs. 18026, 18028
Camp Roberts
Monterey Co: CA 93451–5000
Landholding Agency: Army
Property Number: 21200130081
Status: Excess
Comment: 2024 sq. ft. & 487 sq. ft., concrete, poor condition, off-site use only

Bldg. 301
Naval Support Activity
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200020041
Status: Excess
Comment: 18,608 sq. ft., presence of asbestos/lead paint, needs major rehab

Bldg. 371
Naval Warfare Systems Center
San Diego Co: CA 92152–
Landholding Agency: Navy
Property Number: 77200020080
Status: Unutilized
Comment: 29,800 sq. ft., needs rehab, presence of asbestos/lead paint, off-site use only

Bldg. 402
Naval Warfare Systems Center
San Diego Co: CA 92152–
Landholding Agency: Navy
Property Number: 77200020081
Status: Unutilized
Comment: Presence of lead paint, most recent use—storage, off-site use only

Bldg. 417
Naval Warfare Systems Center
San Diego Co: CA 92152–
Landholding Agency: Navy
Property Number: 77200020082
Status: Unutilized
Comment: 110 TR, needs rehab, presence of asbestos/lead paint, off-site use only

Bldg. 418
Naval Warfare Systems Center
San Diego Co: CA 92152–
Landholding Agency: Navy
Property Number: 77200020083
Status: Unutilized
Comment: 288 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 426
Naval Warfare Systems Center
San Diego Co: CA 92152–
Landholding Agency: Navy
Property Number: 77200020084
Status: Unutilized
Comment: presence of asbestos/lead paint, off-site use only

Bldg. 434
Naval Warfare Systems Center

San Diego Co: CA 92152–
Landholding Agency: Navy
Property Number: 77200020085
Status: Unutilized
Comment: 11,440 sq. ft., needs rehab, presence of asbestos/lead paint, off-site use only

Bldg. 210
Naval Warfare Assessment Station
Corona Co: CA 91718–5000
Landholding Agency: Navy
Property Number: 77200020086
Status: Unutilized
Comment: 17,708 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—police station, off-site use only

Bldg. 541
Naval Warfare Assessment Station
Corona Co: CA 91718–5000
Landholding Agency: Navy
Property Number: 77200020087
Status: Unutilized
Comment: 3857 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 804
Naval Warfare Assessment Station
Corona Co: CA 91718–5000
Landholding Agency: Navy
Property Number: 77200020088
Status: Unutilized
Comment: 3119 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 805
Naval Warfare Assessment Station
Corona Co: CA 91718–5000
Landholding Agency: Navy
Property Number: 77200020089
Status: Unutilized
Comment: 3732 sq ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 806
Naval Warfare Assessment Station
Corona Co: CA 91718–5000
Landholding Agency: Navy
Property Number: 77200020090
Status: Unutilized
Comment: 3110 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 807
Naval Warfare Assessment Station
Corona Co: CA 91718–5000
Landholding Agency: Navy
Property Number: 77200020091
Status: Unutilized
Comment: 3110 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—office, off-site use onlyBldgs. 23027, 23025

Marine Corps Air Station
Miramar Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 77200040023
Status: Unutilized
Comment: 400 sq. ft., metal siding, most recent use—loading facility, off-site use only

Bldg. 200
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200110007
Status: Excess
Comment: 7390 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—police station

Bldg. 205
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200110008
Status: Excess
Comment: 3886 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—offices

Bldg. 211
Naval Postgraduate School
Monterey Co: CA 93943-
Landholding Agency: Navy
Property Number: 77200110009
Status: Excess
Comment: 6329 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—offices

Bldg. 228
Naval Postgraduate School
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200110010
Status: Excess
Comment: 6000 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—fitness center

Bldg. 12174
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110048
Status: Excess
Comment: 480 sq. ft., most recent use—change house, off-site use only

Bldg. 16007
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110049
Status: Excess
Comment: 300 sq. ft., most recent use—firing station, off-site use only

Bldg. 16009
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110050
Status: Excess
Comment: most recent use—camera station, off-site use only

Bldg. 16025
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110051
Status: Excess
Comment: 4220 sq. ft., most recent use—offices, off-site use only

Bldg. 16052
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110052
Status: Excess
Comment: 560 sq. ft., most recent use—storage, off-site use only

Bldg. 31497
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110053
Status: Excess
Comment: most recent use—fragmentation pool, off-site use only

Bldg. 31501
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110054
Status: Excess
Comment: 3666 sq. ft., most recent use—lab, off-site use only

Bldg. 31520
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110055
Status: Excess
Comment: 693 sq. ft., most recent use—storage, off-site use only

Bldg. 31522
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110056
Status: Excess
Comment: 144 sq. ft., most recent use—equip. bldg., off-site use only

Bldg. 31584
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110057
Status: Excess
Comment: 113 sq. ft., most recent use—storage, off-site use only

Bldg. 31585
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110058
Status: Excess
Comment: most recent use—testing tower, off-site use only

Bldg. 31587
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110059
Status: Excess
Comment: most recent use—obsv. tower, off-site use only

Bldg. 32527
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110060
Status: Excess
Comment: most recent use—equip. shelter, off-site use only

Bldg. 32528
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110061
Status: Excess
Comment: 192 sq. ft., most recent use—control station, off-site use only

Bldg. 32529
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110062

Status: Excess
Comment: 300 sq. ft., most recent use—control bldg., off-site use only
Bldg. 32574
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110063
Status: Excess
Comment: most recent use—hazmat pad, off-site use only
Bldg. 32575
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110064
Status: Excess
Comment: most recent use—hazmat pad, off-site use only
Bldg. 7
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110074
Status: Unutilized
Comment: 47,442 sq. ft., needs rehab, presence of lead paint, most recent use—warehouse, off-site use only
Bldg. 117
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110075
Status: Unutilized
Comment: 17,682 sq. ft., needs rehab, most recent use—machine shop, off-site use only
Bldg. 149
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110076
Status: Unutilized
Comment: 1617 sq. ft., needs rehab, most recent use—storage, off-site use only
Bldg. 245
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110077
Status: Unutilized
Comment: 1200 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—valve shop, off-site use only
Bldg. 3123
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110078
Status: Unutilized
Comment: 3360 sq. ft., needs rehab, presence of asbestos, most recent use—cafeteria, off-site use only
Bldg. 3327
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110079
Status: Unutilized
Comment: 240 sq. ft., needs rehab, presence of lead paint, most recent use—flame spray, off-site use only
Bldg. 3442
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110080
Status: Unutilized
Comment: 1080 sq. ft., needs rehab, most recent use—picnic canopy, off-site use only
Bldg. 3482
Naval Station
San Diego Co: CA 92136–
Landholding Agency: Navy
Property Number: 77200110081
Status: Unutilized
Comment: 280 sq. ft., needs rehab, off-site use only
Bldg. 01290
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120090
Status: Excess
Comment: 460 sq. ft., most recent use—garage, off-site use only
Bldg. 02453
Naval Air Weapons Station
China Lake Co: CA 93555–6001
Landholding Agency: Navy
Property Number: 77200120110
Status: Excess
Comment: 48 sq. ft., most recent use—storage locker, off-site use only
Bldg. 32027
Naval Air Weapons Station
China Lake Co: CA 93555–6001
Landholding Agency: Navy
Property Number: 77200120111
Status: Excess
Comment: 331 sq. ft., off-site use only
Bldg. 32534
Naval Air Weapons Station
China Lake Co: CA 93555–6001
Landholding Agency: Navy
Property Number: 77200120112
Status: Excess
Comment: 2252 sq. ft., most recent use—repair shop, off-site use only
Bldg. 32537
Naval Air Weapons Station
China Lake Co: CA 93444–6001
Landholding Agency: Navy
Property Number: 77200120113
Status: Excess
Comment: most recent use—instrument bldg., off-site use only

Colorado

Bldg. F–107
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130082
Status: Unutilized
Comment: 10,126 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only
Bldg. T–108
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130083
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only
Bldg. T–209
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130084
Status: Unutilized
Comment: 400 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint. shop, off-site use only
Bldg. T–217
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130085
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only
Bldg. T–218
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130086
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only
Bldg. T–220
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130087
Status: Unutilized
Comment: 690 sq. ft., poor condition, possible asbestos/lead paint, most recent use—heat plant, off-site use only
Bldg. T–6001
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130088
Status: Unutilized
Comment: 4372 sq. ft., poor condition, possible asbestos/lead paint, most recent use—vet clinic, off-site use only

Connecticut

Bldgs. 31, 78, 91
Naval Submarine Base
New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200030055
Status: Unutilized
Comment: Total sq. ft. = 41,809, presence of asbestos, most recent use—storage/training/repair, off-site use only
Bldg. 406
Naval Submarine Base
New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200030056
Status: Unutilized
Comment: 13,546 sq. ft., needs rehab, presence of asbestos, most recent use—shop, off-site use only
Bldg. 392
Naval Sub Base New London
Groton Co: CT 06349–
Landholding Agency: Navy
Property Number: 77200030065
Status: Unutilized
Comment: 996 sq. ft., needs repair, possible asbestos/lead paint, most recent use—storage, off-site use only

Hawaii

Bldg. T–158
Pohakuloa Training Area
Pohakuloa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200130089
Status: Unutilized
Comment: 984 sq. ft. quonset hut, off-site use only
Bldg. T–207
Pohakuloa Training Area
Pohakuloa Co: HI 96857–
Landholding Agency: Army
Property Number: 21200130090
Status: Unutilized
Comment: 1968 sq. ft. quonset hut
Bldg. S87, Radio Trans. Fac.
Lualualei, Naval Station, Eastern Pacific
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 77199240011
Status: Unutilized
Comment: 7566 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only
Bldg. 64, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding
Property Number: 77199310004
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.
Bldg. 442, Naval Station
Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199630088
Status: Excess
Comment: 192 sq. ft., most recent use—storage, off-site use only
Bldg. S180
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640039
Status: Unutilized
Comment: 3412 sq. ft., 2-story, most recent use—bomb shelter, off-site use only, relocation may not be feasible
Bldg. S181
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640040
Status: Unutilized
Comment: 4258 sq. ft., 1-story, most recent use—bomb shelter, off-site use only, relocation may not be feasible
Bldg. 219
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640041
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible
Bldg. 220
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640042
Status: Unutilized
Comment: 620 sq. ft., most recent use—damage control, off-site use only, relocation may not be feasible
Bldg. 160
Naval Station, Pearl Harbor
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840002
Status: Excess
Comment: 6070 sq. ft., needs rehab, presence of lead paint, most recent use—storage/office, off-site use only
8 Bldgs.
Iroquois Point Navy Housing
Ewa Beach Co: HI 96706–
Location: #5404, 5409, 5415, 5441, 5403, 5411, 5413, 5435
Landholding Agency: Navy
Property Number: 77200110015 Status: Unutilized Comment: 1808 to 2000 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Kansas

Bldg. P–394
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21200130091
Status: Unutilized
Comment: 504 sq. ft., needs rehab, most recent use—storage, off-site use only

Maine

Bldg. 4
Naval Air Station
Brunswick Co: ME 04011–
Landholding Agency: Navy
Property Number: 77199930005
Status: Excess
Comment: 16,644 sq. ft., presence of asbestos/lead paint, most recent use—headquarters building, off-site use only
Bldg. 8
Naval Air Station
Brunswick Co: ME 04011–
Landholding Agency: Navy
Property Number: 77199930006
Status: Excess
Comment: 7413 sq. ft., presence of asbestos/lead paint, most recent use—public works building, off-site use only
Bldg. 12
Naval Air Station
Brunswick Co: ME 04011–
Landholding Agency: Navy
Property Number: 77199930007
Status: Excess
Comment: 25,354 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only
Bldg. 41
Naval Air Station
Brunswick Co: ME 04011–
Landholding Agency: Navy
Property Number: 77199930008
Status: Excess
Comment: 10,526 sq. ft., presence of asbestos/lead paint, most recent use—security building, off-site use only

Maryland

Bldg. 503
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130092
Status: Unutilized
Comment: 14,244 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—training, off-site use only
Bldg. 2222A
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130095
Status: Unutilized
Comment: 66 sq. ft., most recent use—storage, off-site use only
Bldg. 2222B
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130096
Status: Unutilized
Comment: most recent use—storage, off-site use only
Bldg. 2478
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130097
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—medical clinic, off-site use only
Bldg. 8481
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21200130098
Status: Unutilized
Comment: 7718 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—heat plant, off-site use only.
Bldg. 139
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200010032
Status: Unutilized
Comment: 4950 sq. ft., possible asbestos/lead paint, most recent use—wind tunnel, off-site use only
Bldg. 104
Naval Surface Warfare
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120079
Status: Unutilized
Comment: 8050 sq. ft., most recent use—garage, off-site use only
Bldg. 109
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5000
Landholding Agency: Navy
Property Number: 77200120080
Status: Unutilized
Comment: 9650 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only
Bldg. 110
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700

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Landholding Agency: Navy
Property Number: 77200120081
Status: Unutilized
Comment: 10,750 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 111
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120082
Status: Unutilized
Comment: 4220 sq. ft., most recent use—office, off-site use only

Bldg. 112
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120083
Status: Unutilized
Comment: 2440 sq. ft., most recent use—printing bldg., off-site use only

Bldg. 113
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120084
Status: Unutilized
Comment: 2440 sq. ft., most recent use—lab, off-site use only

Bldg. 143
Naval Surface Warfare
West Bethesda Co: MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120085
Status: Unutilized
Comment: 16,950 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 152
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120086
Status: Unutilized
Comment: 1400 sq. ft., most recent use—fire house annex, off-site use only

Bldg. 159
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120087
Status: Unutilized
Comment: 605 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—hazardous waste storage, off-site use only

Bldg. 187
Naval Surface Warfare
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120088
Status: Unutilized
Comment: 768 sq. ft., most recent use—pump house, off-site use only

Bldg. 117
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120102
Status: Unutilized
Comment: 400 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 124
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120103
Status: Unutilized
Comment: 480 sq. ft., needs rehab, most recent use—warehouse, off-site use only

Bldg. 130
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120104
Status: Unutilized
Comment: 2225 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage/recycling, off-site use only

Bldg. 181
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120105
Status: Unutilized
Comment: 491 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—equip. maint., off-site use only

Bldg. 196
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200120106
Status: Unutilized
Comment: 456 sq. ft., needs rehab, most recent use—destructor bldg., off-site use only

Bldg. 493
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77200120155
Status: Excess
Comment: 5476 sq. ft., presence of asbestos, most recent use—maint/storage, off-site use only

Montana

Bldg. 00405
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130099
Status: Unutilized
Comment: 3467 sq. ft., most recent use—storage, security limitations

Bldg. T0066
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130100
Status: Unutilized
Comment: 528 sq. ft., needs rehab, presence of asbestos, security limitations

New Hampshire

Bldg. 128
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830015
Status: Excess
Comment: 10,900 sq. ft., needs rehab, presence of asbestos, most recent use—storage, off-site use only

Bldg. 185
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830016
Status: Excess
Comment: 2310 sq. ft., needs rehab, presence of asbestos, most recent use—office, off-site use only

Bldg. 314
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830017
Status: Excess
Comment: cement block bldg., needs rehab, presence of asbestos, most recent use—storage, off-site use only

Bldg. 336
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830018
Status: Excess
Comment: metal bldg w/cement block foundation, off-site use only

Bldg. 160
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77199910046
Status: Unutilized
Comment: 6080 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldg. 179
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200020099
Status: Excess
Comment: 1452 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—quarters, off-site use only

Bldg. 201
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200020100
Status: Excess
Comment: 450 sq. ft., presence of asbestos/lead paint, off-site use only

Bldg. 304
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200020101
Status: Excess
Comment: 1320 sq. ft., presence of asbestos/lead paint, most recent use—garb. house, off-site use only

Bldg. 10
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy

Property Number: 77200030018
Status: Excess
Comment: 12,000 sq. ft., presence of asbestos/lead paint, most recent use—shop facility, off-site use only

Bldg. 239
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200030019
Status: Excess
Comment: 897 sq. ft., presence of asbestos/lead paint, off-site use only

New Jersey

Bldg. 816C
Armament R, D, & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21200130103
Status: Unutilized
Comment: 144 sq. ft., most recent use—storage, off-site use only

Bldg. D1–A
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940024
Status: Unutilized
Comment: 1134 sq. ft., presence of lead paint, most recent use—smokehouse/lunchroom, off-site use only

Bldg. HA–1A
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940025
Status: Unutilized
Comment: 120 sq. ft., most recent use—storage, off-site use only

Bldg. C–16
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010014
Status: Unutilized
Comment: 34,811 sq. ft., presence of asbestos/lead paint, off-site use only

Bldg. C–25
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010015
Status: Unutilized
Comment: 4,448 sq. ft., presence of asbestos/lead paint, off-site use only

Bldg. C–40
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010016
Status: Unutilized
Comment: 6,924 sq. ft., presence of asbestos/lead paint, off-site use only

Bldg. 511
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010017
Status: Unutilized
Comment: 1,871 sq. ft., presence of asbestos/lead paint, off-site use only

Bldgs. 553, 554, 555
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010018
Status: Unutilized
Comment: guard towers, off-site use only

Bldg. 557
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010019
Status: Unutilized
Comment: 9,670 sq. ft., presence of asbestos/lead paint, off-site use only

New Mexico

Bldg. 01714
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130107
Status: Unutilized
Comment: 468 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 20451
White Sand Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130108
Status: Unutilized
Comment: 186 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 20452
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130109
Status: Unutilized
Comment: 168 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 20453
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130110
Status: Unutilized
Comment: 168 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 20454
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130111
Status: Unutilized
Comment: 151 sq .ft., needs rehab, presence of asbestos, off-site use only

Bldg. 20455
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130112
Status: Unutilized
Comment: 266 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 20457
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130113
Status: Unutilized
Comment: 166 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 21610
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130114
Status: Unutilized
Comment: 6440 sq. ft., needs rehab, presence of asbestos, most recent use—admin., off-site use only

Bldg. 27912
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130115
Status: Unutilized
Comment: 320 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 27920
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130116
Status: Unutilized
Comment: 608 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 28791
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130117
Status: Unutilized
Comment: 324 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 29015
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130118
Status: Unutilized
Comment: 332 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 29016
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130119
Status: Unutilized
Comment: 320 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 30211
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130120
Status: Unutilized
Comment: 324 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 32740
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130121
Status: Unutilized
Comment: 168 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 33137
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130122
Status: Unutilized
Comment: 240 sq. ft., needs rehab, presence of asbestos, most recent use—power plant, off-site use only

Bldg. 33138
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130123

Status: Unutilized
Comment: 216 sq. ft., needs rehab, presence of asbestos, most recent use—dispatch office, off-site use only

Bldg. 33151
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130124
Status: Unutilized
Comment: 384 sq. ft., needs rehab, presence of asbestos, most recent use—power plant, off-site use only

Bldg. 33152
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130125
Status: Unutilized
Comment: 240 sq. ft., needs rehab, presence of asbestos, most recent use—instrument bldg., off-site use only

Bldg. 33170
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130126
Status: Unutilized
Comment: 800 sq. ft., needs rehab, presence of asbestos, most recent use—communications, off-site use only

Bldg. 34049
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130127
Status: Unutilized
Comment: 1256 sq. ft., needs rehab, presence of asbestos, off-site use only

Bldg. 34054
White Sands Missile Range
White Sands Co: Dona Anna NM 88002–
Landholding Agency: Army
Property Number: 21200130128
Status: Unutilized
Comment: 320 sq. ft., needs rehab, presence of asbestos, off-site use only

New York

Bldg. T–181
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130129
Status: Unutilized
Comment: 3151 sq. ft., needs rehab, most recent use—housing mnt., off-site use only

Bldg. T–201
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130131
Status: Unutilized
Comment: 2305 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–203
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130132
Status: Unutilized
Comment: 2284 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. T–252
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130133
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–253, T–256, T–257
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130134
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–271, T–272, T–273
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130135
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. T–274
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130136
Status: Unutilized
Comment: 2750 sq. ft., needs rehab, most recent use—BN HQ, off-site use only

Bldgs. T–276, T–277, T–278
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130137
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldgs. T–744, T–745
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130138
Status: Unutilized
Comment: 5310 sq. ft., needs rehab, most recent use—barracks, off-site use only

Bldg. T–1030
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130139
Status: Unutilized
Comment: 15606 sq. ft., needs rehab, most recent use—simulator bldg., off-site use only

Bldg. P–2159
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130140
Status: Unutilized
Comment: 1948 sq. ft., needs rehab, most recent use—waste/water treatment, off-site use only

Bldg. T–2442
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130141
Status: Unutilized
Comment: 4340 sq. ft., needs rehab, most recent use—vet facility, off-site use only

Bldg. T–2443
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200130142
Status: Unutilized
Comment: 793 sq. ft., needs rehab, most recent use—vet facility, off-site use only

Quarters 372
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130143
Status: Unutilized
Comment: 1248 sq. ft., needs repair, presence of asbestos, most recent use—quarters

Quarters 1000
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130144
Status: Unutilized
Comment: 2800 sq. ft., needs repair, presence of asbestos, most recent use—quarters

Bldg. 691
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130145
Status: Unutilized
Comment: 2561 sq. ft., needs repair, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 709
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130146
Status: Unutilized
Comment: 1666 sq. ft., needs repair, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 759
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130147
Status: Unutilized
Comment: 11,942 sq. ft., needs repair, possible asbestos/lead paint, most recent use—community center, off-site use only

Bldg. 1280
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130148
Status: Unutilized
Comment: 2760 sq. ft., needs repair, presence of asbestos, most recent use—quarters

Bldg. 1664
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200130149
Status: Unutilized
Comment: 800 sq. ft., needs repair, possible asbestos/lead paint, most recent use—storage, off-site use only

North Carolina

Bldg. C5536
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Landholding Agency: Army
Property Number: 21200130150
Status: Unutilized
Comment: 600 sq. ft., single wide trailer w/ metal storage shed, needs major repair, presence of asbestos/lead paint, off-site use only

Oklahoma

Bldg. S–4636
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200130151
Status: Unutilized
Comment: 1389 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–4749
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200130152
Status: Unutilized
Comment: 1438 sq. ft., possible asbestos/lead paint, most recent use—weather station, off-site use only

Pennsylvania

Bldg. 38
Naval Support Activity
Philadelphia Co: PA 19111–5098
Landholding Agency: Navy
Property Number: 77200010020
Status: Unutilized
Comment: 6525 sq. ft., metal butler bldg., needs rehab, presence of asbestos/lead paint, off-site use only

Bldg. 5
Navy Surface Warfare Center
Philadelphia Co: PA 19112
Landholding Agency: Navy
Property Number: 77200030071
Status: Unutilized
Comment: 286,824 sq. ft., needs rehab, presence of asbestos, most recent use—warehouse, off-site use only

Bldg. 47
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030072
Status: Unutilized
Comment: 16,343 sq. ft., presence of asbestos, most recent use—office, off-site use only

Bldg. 55
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030073
Status: Unutilized
Comment: 5603 sq. ft., needs repair, presence of asbestos, most recent use—store, off-site use only

Bldg. 531
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030074
Status: Unutilized
Comment: 5102 sq ft., presence of asbestos, most recent use—office, off-site use only

Bldg. 996
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030075
Status: Unutilized
Comment: 1800 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Rhode Island

Bldg. 1
Old Naval Hospital
One Riggs Road
Newport Co: RI 02841–
Landholding Agency: Navy
Property Number: 77200010022
Status: Unutilized
Comment: 49,189 sq. ft., presence of asbestos/lead paint, needs major repair, NEPA requirements, boiler plant which provides heat and hot water to bldg. will be shut down

Bldg. K–61
Naval Station
Newport Co: RI 02841–
Landholding Agency: Navy
Property Number: 77200030079
Status: Unutilized
Comment: 32,836 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 685
Naval Station
Middletown Co: Newport RI 02842–
Landholding Agency: Navy
Property Number: 77200030080
Status: Unutilized
Comment: 25,090 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—navy lodge, off-site use only

Virginia

Bldg. 400
Fort Eustis
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200130153
Status: Unutilized
Comment: 128 sq. ft., most recent use—storehouse, off-site use only

Bldgs. 1516, 1517, 1552, 1567
Fort Eustis
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200130154
Status: Unutilized
Comment: 2892 & 4720 sq. ft., most recent use—dining/barracks/admin, off-site use only

7 Bldgs.
Fort Eustis
#1612–1617, 1620
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200130155
Status: Unutilized
Comment: plant utility bldgs., storage, treatment facilities

Bldg. 1559
Fort Eustis
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200130156
Status: Unutilized
Comment: 2892 sq. ft., most recent use—storage, off-site use only

Bldg. P00151
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427–
Landholding Agency: Army
Property Number: 21200130157
Status: Unutilized
Comment: 1098 sq. ft., most recent use—housing maint., off-site use only

Bldg. TT0135
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427–
Landholding Agency: Army
Property Number: 21200130158
Status: Unutilized
Comment: 2144 sq. ft., needs major rehab, most recent use—thrift shop, off-site use only

Bldgs. SP–79/80/81/79AQ
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110034
Status: Excess
Comment: most recent use—residential & detachable garage, high maintenance, presence of asbestos, off-site use only

Structure SP–129
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110136
Status: Excess
Comment: 3564 sq. ft., presence of asbestos/lead, most recent use—office, off-site use only

Land (by State)

Virginia

Land
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77200040034
Status: Unutilized
Comment: 4900 sq. ft. open space

Suitable/Unavailable Properties

Buildings (by State)

Puerto Rico

Bldgs. 501 & 502
U.S. Naval Radio Transmitter Facility
State Road No. 2
Juana Diaz PR 00795–
Landholding Agency: Navy
Property Number: 77199530007
Status: Underutilized
Comment: Reinforced concrete structures, limited access, needs rehab, most recent use—transmitter and power house

Virginia

Naval Medical Clinic
6500 Hampton Blvd.
Norfolk Co: Norfolk VA 23508–
Landholding Agency: Navy
Property Number: 77199010109
Status: Unutilized
Comment: 3665 sq ft., 1 story, possible asbestos, most recent use-laundry.

Land (by State)

Virginia

Naval Base
Norfolk Co: Norfolk VA 23508–
Location: Northeast corner of base, near Willoughby housing area.
Landholding Agency: Navy
Property Number: 77199010156
Status: Unutilized
Comment: 60 acres; most recent use—sandpit; secured area with alternate access.

2.6 acres
Naval Station

Norfolk Co: VA 23508–1273
Landholding Agency: Navy
Property Number: 77199010157
Status: Unutilized
Comment: 1 acre; most recent use—sandpit; secured area with alternate access.

Bldg. 332
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110035
Status: Excess
Comment: 1200 sq. ft., most recent use—storage, off-site use only

San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77200110037
Status: Unutilized
Comment: 1200 sq. ft., most recent use—storage, off-site use only

Reason: Extensive deterioration
Landholding Agency: Navy
Property Number: 77200110038
Status: Unutilized
Comment: 1200 sq. ft., most recent use—storage, off-site use only

Bldg. 363
Naval Station
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110039
Status: Excess
Comment: 1200 sq. ft., most recent use—storage, off-site use only

Norfolk Co: VA 23508–1273
Landholding Agency: Navy
Property Number: 77200120131
Status: Underutilized
Comment: most recent use—brush/debris storage
1.15 acres
Naval Amphibious Base Little Creek
Norfolk Co: VA 23508–
Landholding Agency: Navy
Property Number: 77200120132
Status: Unutilized
Comment: most recent use—open space

Suitable/To Be Excessed

Buildings (by State)

Puerto Rico

Bldg. 561
Former Ramey AFB
Aguadilla PR 00604–
Landholding Agency: Navy
Property Number: 77199630001
Status: Unutilized
Comment: 102666 sq. ft. bldg. on 5.006 acres, most recent use—manufacturing, office and freight distribution center, presence of asbestos

Unsuitable Properties

Buildings (by State)

Arizona

Bldg. 958
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200040001
Status: Excess
Reason: Extensive deterioration

Bldg. 1216
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200040002
Status: Excess
Reason: Extensive deterioration

Bldg. 676
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200040003
Status: Excess
Reason: Extensive deterioration

Bldg. 321
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200110001
Status: Excess
Reason: Extensive deterioration

Bldg. 322
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200110002
Status: Excess
Reason: Extensive deterioration

Bldg. 331
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200110003
Status: Excess
Reason: Extensive deterioration

Bldg. 332
Marine Corps Air Station
Yuma Co: AZ 85369–
Landholding Agency: Navy
Property Number: 77200110004
Status: Excess
Reason: Extensive deterioration

California

Bldg. 210
Naval Station, San Diego
San Diego CA 92136–
Landholding Agency: Navy
Property Number: 77199830001
Status: Excess
Reason: Extensive deterioration

Bldg. 444
Naval Station
San Diego CA 92136–5294
Landholding Agency: Navy
Property Number: 77199830122
Status: Excess
Reason: Extensive deterioration

Bldg. 209
Naval Station, San Diego
San Diego CA 92136–5065
Landholding Agency: Navy
Property Number: 77199840001
Status: Excess
Reason: Extensive deterioration

Bldgs. 20106, 20195
Naval Air Weapons Station
China Lake Co: CA 93555–
Landholding Agency: Navy
Property Number: 77199930001
Status: Excess
Reasons: Secured Area Extensive deterioration

Bldgs. 40, 62
Naval Air Station, North Island
Imperial Beach Co: CA 91932–
Landholding Agency: Navy
Property Number: 77199930024
Status: Excess
Reason: Extensive deterioration

Bldg. 5UT4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930081
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5US4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930082
Status: Unutilized
Reason: Extensive deterioration

Bldg. 127
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930083
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5A6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency Navy
Property Number: 77199930084
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5A7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930085
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5A8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930086
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5A9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930087
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5B6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930088
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5B7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930089
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5B8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930090
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5B9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930091
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5C6
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930092
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5C7
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930093
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5C8
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930094
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5C9
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930095
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5D1
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930096
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5D2
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930097
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5D3
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930098
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5D4
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930099
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5D5
Marine Corps Recruit Depot
San Diego Co: CA 92140–
Landholding Agency: Navy
Property Number: 77199930100
Status: Unutilized
Reason: Extensive deterioration

Bldg. 206
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930105
Status: Unutilized
Reason: Extensive deterioration

Bldg. 432
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930106
Status: Unutilized
Reason: Extensive deterioration

Bldg. 433
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930107
Status: Unutilized
Reason: Extensive deterioration

Bldg. 435
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930108
Status: Unutilized
Reason: Extensive deterioration

Bldg. 456
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930109
Status: Unutilized
Reason: Extensive deterioration

Bldg. 921
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930110
Status: Unutilized
Reason: Extensive deterioration

Bldg. 201
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 205
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 227
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 230
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 232
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 337
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 338
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 339
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940009
Status: Unutilized
Reason: Extensive deterioration

Bldg. 349
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 362
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940011
Status: Unutilized
Reason: Extensive deterioration

Bldg. 363
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940012
Status: Unutilized
Reason: Extensive deterioration

Bldg. 410
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940013
Status: Unutilized
Reason: Extensive deterioration

Bldg. 438
Naval Weapons Station
Fallbrook Co: CA 92028–3187
Landholding Agency: Navy
Property Number: 77199940014
Status: Unutilized
Reason: Extensive deterioration

Bldg. Q100
Naval Amphibious Base
Coronado Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940067
Status: Excess
Reason: Extensive deterioration

Bldg. Q102
Naval Amphibious Base
Coronado Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940068
Status: Excess
Reason: Extensive deterioration

Bldg. 106
Naval Amphibious Base
Coronado Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940069
Status: Excess
Reason: Extensive deterioration

Bldg. 111
Naval Amphibious Base
Coronado Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940070
Status: Excess
Reason: Extensive deterioration

Bldg. 112
Naval Amphibious Base
Coronado Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940071
Status: Excess
Reason: Extensive deterioration

Bldg. 613
NAS, North Island
Coronado Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940072
Status: Excess
Reason: Extensive deterioration

Bldg. 55
Naval Amphibious Base
Imperial Beach Co: CA 92118–
Landholding Agency: Navy
Property Number: 77199940073
Status: Excess
Reason: Extensive deterioration

Bldg. 154
Naval Air Station
North Island Co: CA 92132–
Landholding Agency: Navy

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Property Number: 77200010037
Status: Excess
Reason: Extensive deterioration
OT68
Space & Navy Warfare
Systems Center
San Diego Co: CA 92152–5001
Landholding Agency: Navy
Property Number: 77200010076
Status: Unutilized
Reason: Floodway
Bldg. 1234
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010077
Status: Excess
Reason: Extensive deterioration
Bldg. 1439
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010078
Status: Excess
Reason: Extensive deterioration
Bldg. 1443
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010079
Status: Excess
Reason: Extensive deterioration
Bldg. 2231
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010080
Status: Excess
Reason: Extensive deterioration
Bldg. 2232
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010081
Status: Excess
Reason: Extensive deterioration
Bldg. 2582
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010082
Status: Excess
Reason: Extensive deterioration
Bldg. 2583
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010083
Status: Excess
Reason: Extensive deterioration
Bldg. 21544
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010084
Status: Excess
Reason: Extensive deterioration
Bldg. 21549
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010085
Status: Excess
Reason: Extensive deterioration
Bldg. 25131
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010086
Status: Excess
Reason: Extensive deterioration
Bldg. 32927
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010087
Status: Excess
Reason: Extensive deterioration
Bldg. 130167
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010088
Status: Excess
Reason: Extensive deterioration
Bldg. 130175
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010089
Status: Excess
Reason: Extensive deterioration
Bldg. 201076
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010090
Status: Excess
Reason: Extensive deterioration
Bldg. 201487
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010091
Status: Excess
Reason: Extensive deterioration
Bldg. 1684
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010092
Status: Excess
Reason: Extensive deterioration
Bldg. 16146
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010093
Status: Excess
Reason: Extensive deterioration
Bldg. 43332
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010094
Status: Excess
Reason: Extensive deterioration
Bldg. 43333
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010095
Status: Excess
Reason: Extensive deterioration
Bldg. 43334
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010096
Status: Excess
Reason: Extensive deterioration
Bldg. 43335
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010097
Status: Excess
Reason: Extensive deterioration
Bldg. 43336
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010098
Status: Excess
Reason: Extensive deterioration
Bldg. 43337
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010099
Status: Excess
Reason: Extensive deterioration
Bldg. 52651
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200010100
Status: Excess
Reason: Extensive deterioration
Bldg. 17A
Marine Corps Logistics Base
Barstow Co: San Bernardino CA 92311–
Landholding Agency: Navy
Property Number: 77200020001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration
Bldg. 62327
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020034
Status: Excess
Reason: Extensive deterioration
Bldg. 3314
Marine Corps Air Station
Miramar Co: CA 92145–
Landholding Agency: Navy
Property Number: 77200020035
Status: Excess
Reason: Extensive deterioration
Bldgs. 5157, 5158
Construction Battalion Center
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200020045
Status: Unutilized
Reason: Secured Area
Facility 13181
Camp Pendleton
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020046
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Facility 14220
Camp Pendleton
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020047
Status: Unutilized

Reasons: Secured Area Extensive deterioration
Facility 24151
Camp Pendleton
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020048
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Bldg. 22074
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020092
Status: Unutilized
Reason: Extensive deterioration
Bldg. 62324
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020093
Status: Unutilized
Reason: Extensive deterioration
Bldg. H–62
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020094
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1442
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020106
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1651
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020107
Status: Unutilized
Reason: Extensive deterioration
Bldg. 13162
Marine Corps Base
Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020108
Status: Unutilized
Reason: Extensive deterioration
Bldg. 14100
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020109
Status: Unutilized
Reason: Extensive deterioration
Bldg. 25131
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200020110
Status: Unutilized
Reason: Extensive deterioration
Bldg. 23025
Marine Corps Air Station
Miramar Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200030001
Status: Unutilized
Reason: Secured Area
Bldg. 23027
Marine Corps Air Station
Miramar Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200030002
Status: Unutilized
Reason: Secured Area
Bldg. 731
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030003
Status: Excess
Reason: Extensive deterioration
Bldg. 731A
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030004
Status: Excess
Reason: Extensive deterioration
Bldg. 865
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030005
Status: Excess
Reason: Extensive deterioration
Bldg. 868
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030006
Status: Excess
Reason: Extensive deterioration
Bldg. 474
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030007
Status: Excess
Reason: Extensive deterioration
Bldg. 5021
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030008
Status: Excess
Reason: Extensive deterioration
Bldg. 5022
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030009
Status: Excess
Reason: Extensive deterioration
Bldg. 5025
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030010
Status: Excess
Reason: Extensive deterioration
Bldg. 5113
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043–
Landholding Agency: Navy
Property Number: 77200030011
Status: Excess
Reason: Extensive deterioration
Bldg. 5114
Naval Const. Battalion Ctr
Port Hueneme
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030012
Status: Excess
Reason: Extensive deterioration
Bldgs. 82 & 84
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030013
Status: Excess
Reason: Extensive deterioration
Bldg. 6–1
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030014
Status: Excess
Reason: Extensive deterioration
Bldg. 479
Naval Construction Battalion Ctr.
Port Hueneme
Oxnard Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030015
Status: Excess
Reason: Extensive deterioration
Bldg. 1131
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030025
Status: Excess
Reason: Extensive deterioration
Bldg. 1132
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030026
Status: Excess
Reason: Extensive deterioration
Bldg. 1141
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030027
Status: Excess
Reason: Extensive deterioration
Bldg. 1145
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030028
Status: Excess
Reason: Extensive deterioration
Bldg. 1256
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030029
Status: Excess
Reason: Extensive deterioration
Bldg. 1362
Marine Corps Base
Camp Pendleton Co: CA 92055–

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Landholding Agency: Navy
Property Number: 77200030030
Status: Excess
Reason: Extensive deterioration
Bldg. 1363
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030031
Status: Excess
Reason: Extensive deterioration
Bldg. 1622
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030032
Status: Excess
Reason: Extensive deterioration
Bldg. 1623
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030033
Status: Excess
Reason: Extensive deterioration
Bldg. 13115
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030034
Status: Excess
Reason: Extensive deterioration
Bldg. 13125
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030035
Status: Excess
Reason: Extensive deterioration
Bldg. 13142
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030036
Status: Excess
Reason: Extensive deterioration
Bldg. 16134
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030037
Status: Excess
Reason: Extensive deterioration
Bldg. 16135
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030038
Status: Excess
Reason: Extensive deterioration
Bldg. 16136
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030039
Status: Excess
Reason: Extensive deterioration
Bldg. 16137
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030040
Status: Excess
Reason: Extensive deterioration
Bldg. 43432
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030041
Status: Excess
Reason: Extensive deterioration
Bldg. 62408
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200030042
Status: Excess
Reason: Extensive deterioration
Bldg. 801
Naval Air Station
Point Mugu
Oxnard Co: Ventura CA 93042–5001
Landholding Agency: Navy
Property Number: 77200030043
Status: Unutilized
Reason: Extensive deterioration
Bldg. 41
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030044
Status: Unutilized
Reason: Extensive deterioration
Bldg. 103
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030045
Status: Unutilized
Reason: Extensive deterioration
Bldg. 259
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030046
Status: Unutilized
Reason: Extensive deterioration
Bldg. 260
Naval Const. Battalion Ctr
Port Hueneme Co: CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030047
Status: Unutilized
Reason: Extensive deterioration
Bldg. 274
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030048
Status: Unutilized
Reason: Extensive deterioration
Bldg. 462
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030049
Status: Unutilized
Reason: Extensive deterioration
Bldg. 488
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030050
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1150
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030051
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1156
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030052
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1275
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030053
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1321
Naval Const. Battalion Ctr
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200030054
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21091
Marine Corps Air Station
Miramar Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 77200030058
Status: Unutilized
Reason: Extensive deterioration
Bldg. 21127
Marine Corps Air Station
Miramar Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 77200030059
Status: Unutilized
Reason: Extensive deterioration
Bldg. 9919
Marine Corps Air Station
Miramar Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 77200030060
Status: Unutilized
Reason: Extensive deterioration
Bldg. 9920
Marine Corps Air Station
Miramar Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 77200030061
Status: Unutilized
Reason: Extensive deterioration
Bldg. OT33
Old Town Campus
Naval Space & Warfare Systems
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200040004
Status: Unutilized
Reason: Extensive deterioration
Bldg. OT–5
Old Town Campus
Naval Space & Warfare Systems
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200040005
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1393
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040024
Status: Excess
Reason: Extensive deterioration
Bldg. 25155
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040025
Status: Excess
Reason: Extensive deterioration
Bldg. 25158
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040026
Status: Excess
Reason: Extensive deterioration
Bldg. 25159
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040027
Status: Excess
Reason: Extensive deterioration
Bldg. 27
Naval Postgraduate School
Fleet Numerical Meteor. & Ocean. Ctr.
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200110005
Status: Excess
Reason: Secured Area
Bldg. 50
Naval Postgraduate School
Fleet Numerical Meteor. & Ocean. Ctr.
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200110006
Status: Excess
Reason: Secured Area
Bldg. 1468
Naval Base Ventura
on Parcel 1
Port Hueneme Co: Ventura CA 93042–5000
Landholding Agency: Navy
Property Number: 77200110013
Status: Unutilized
Reason: Secured Area
Bldg. 1469
Naval Base Ventura
on Parcel 1
Port Hueneme Co: Ventura CA 93042–5000
Landholding Agency: Navy
Property Number: 77200110014
Status: Unutilized
Reason: Secured Area
Bldg. 12041
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110065
Status: Excess
Reason: Extensive deterioration
Bldg. 12052
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110066
Status: Excess
Reason: Extensive deterioration
Bldg. 16066
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110067
Status: Excess
Reason: Extensive deterioration
Bldg. 16074
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110068
Status: Excess
Reason: Extensive deterioration
Bldg. 16085
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110069
Status: Excess
Reason: Extensive deterioration
Bldg. 16086
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110070
Status: Excess
Reason: Extensive deterioration
Bldg. 16100
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110071
Status: Excess
Reason: Extensive deterioration
Bldg. 16115
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110072
Status: Excess
Reason: Extensive deterioration
Bldg. 16117
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200110073
Status: Excess
Reason: Extensive deterioration
Bldg. 1235
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110082
Status: Excess
Reason: Extensive deterioration
Bldg. 1682
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110083
Status: Excess
Reason: Extensive deterioration
Bldg. 1683
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110084
Status: Excess
Reason: Extensive deterioration
Bldg. 1691
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110085
Status: Excess
Reason: Extensive deterioration
Bldg. 16109
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110086
Status: Excess
Reason: Extensive deterioration
Bldg. 16110
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110087
Status: Excess
Reason: Extensive deterioration
Bldg. 16128
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110088
Status: Excess
Reason: Extensive deterioration
Bldg. 33378
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110089
Status: Excess
Reason: Extensive deterioration
Bldg. 33566
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110090
Status: Excess
Reason: Extensive deterioration
Bldg. 33967
Marine Corps Base
Camp Pendleton Co: CA 920550–
Landholding Agency: Navy
Property Number: 77200110091
Status: Excess
Reason: Extensive deterioration
Bldg. 41318
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110092
Status: Excess
Reason: Extensive deterioration
Bldg. 41319
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110093
Status: Excess
Reason: Extensive deterioration
Bldg. 43454
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110094
Status: Excess
Reason: Extensive deterioration
Bldg. 43455
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110095
Status: Excess
Reason: Extensive deterioration
Bldg. 1231
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110096
Status: Excess

Reason: Extensive deterioration

Agency

Bldg. 1687
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110097
Status: Excess
Reason: Extensive deterioration

Bldg. 2622
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110098
Status: Excess
Reason: Extensive deterioration

Bldg. 31523
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200110099
Status: Excess
Reason: Extensive deterioration

Bldg. 467
Marine Corps Recruit Depot
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200110100
Status: Unutilized
Reason: Secured Area

Bldg. 121 SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120001
Status: Excess
Reason: Extensive deterioration

Bldg. 121A SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120002
Status: Excess
Reason: Extensive deterioration

Bldg. 121B SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120003
Status: Excess
Reason: Extensive deterioration

Bldg. 137 SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120004
Status: Excess
Reason: Extensive deterioration

Bldg. 223 SNI
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120005
Status: Excess
Reason: Extensive deterioration

Bldg. 171
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120069
Status: Unutilized
Reason: Secured Area

Bldg. 336
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120070
Status: Unutilized
Reason: Secured Area

Bldg. 338
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120071
Status: Unutilized
Reason: Secured Area

Bldg. 339
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120072
Status: Unutilized
Reason: Secured Area

Bldg. 345
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120073
Status: Unutilized
Reason: Secured Area

Bldg. 354
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120074
Status: Unutilized
Reason: Secured Area

Bldg. 355
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120075
Status: Unutilized
Reason: Secured Area

Bldg. 357
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120076
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. F–28
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120077
Status: Unutilized
Reason: Secured Area

Bldg. F–31
Naval Base Pt. Loma
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200120078
Status: Unutilized
Reason: Secured Area

Bldg. 01289
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120089
Status: Excess
Reason: Extensive deterioration

Bldg. PM1529
Point Mugu, Naval Base
Oxnard Co: Ventura CA 93042–5001
Landholding Agency: Navy
Property Number: 77200120094
Status: Unutilized
Reason: Extensive deterioration

Bldg. PM1606
Point Mugu, Naval Base
Oxnard Co: Ventura CA 93042–5001
Landholding Agency: Navy
Property Number: 77200120095
Status: Unutilized
Reason: Extensive deterioration

Bldg. 53320
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120096
Status: Excess
Reason: Extensive deterioration

Bldg. 53321
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120097
Status: Excess
Reason: Extensive deterioration

Bldg. 53335
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120098
Status: Excess
Reason: Extensive deterioration

Bldg. 53336
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200120099
Status: Excess
Reason: Extensive deterioration

Bldg. 70140
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120107
Status: Excess
Reason: Extensive deterioration

Bldg. 70141
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120108
Status: Excess
Reason: Extensive deterioration

Bldg. 70143
Naval Air Weapons Station
China Lake Co: CA 93555–6100
Landholding Agency: Navy
Property Number: 77200120109
Status: Excess
Reason: Extensive deterioration

Bldg. 25062
Naval Air Weapons Station
China Lake Co: CA 93555–6001
Landholding Agency: Navy
Property Number: 77200120114
Status: Excess
Reason: Extensive deterioration

Bldg. 33023
Naval Air Weapons Station
China Lake Co: CA 93555–6001
Landholding Agency: Navy
Property Number: 77200120115
Status: Excess
Reason: Extensive deterioration

Bldg. 33054

Naval Air Weapons Station
China Lake Co: CA 93555–6001
Landholding Agency: Navy
Property Number: 77200120116
Status: Excess
Reason: Extensive deterioration

Bldg. 106
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120134
Status: Excess
Reason: Extensive deterioration

Bldg. 108
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120135
Status: Excess
Reason: Extensive deterioration

Bldg. 109
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120136
Status: Excess
Reason: Extensive deterioration

Bldg. 110
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120137
Status: Excess
Reason: Extensive deterioration

Bldg. 147
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120138
Status: Excess
Reason: Extensive deterioration

Bldg. 163
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120139
Status: Excess
Reason: Extensive deterioration

Bldg. 244
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92133–5704
Landholding Agency: Navy
Property Number: 77200120140
Status: Excess
Reason: Extensive deterioration

Bldg. 250
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120141
Status: Excess
Reason: Extensive deterioration

Bldg. 251
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120142
Status: Excess
Reason: Extensive deterioration

Bldg. 252
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120143
Status: Excess
Reason: Extensive deterioration

Bldg. 311
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120144
Status: Excess
Reason: Extensive deterioration

Bldg. 313
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120145
Status: Excess
Reason: Extensive deterioration

Bldg. 318
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120146
Status: Excess
Reason: Extensive deterioration

Bldg. 339
Naval Amphibious Base
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120147
Status: Excess
Reason: Extensive deterioration

Bldg. C–54
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120148
Status: Excess
Reason: Extensive deterioration

Bldg. C–114
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120149
Status: Excess
Reason: Extensive deterioration

Bldg. 124
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120150
Status: Excess
Reason: Extensive deterioration

Bldg. 311
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120151
Status: Excess
Reason: Extensive deterioration

Bldg. 312
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120152
Status: Excess
Reason: Extensive deterioration

Bldg. 605
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120153
Status: Excess
Reason: Extensive deterioration

Bldg. 610
North Island
Naval Base Coronado
San Diego Co: CA 92135–7040
Landholding Agency: Navy
Property Number: 77200120154
Status: Excess
Reason: Extensive deterioration

Bldg. 471
Marine Corps Recruit Depot
San Diego Co: CA 92132–
Landholding Agency: Navy
Property Number: 77200130103
Status: Unutilized
Reason: Secured Area

Connecticut

DG1–DG8, DG10–DG–27
Dolphin Gardens
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77199930025
Status: Unutilized
Reason: Extensive deterioration

Bldg. 480
Naval Submarine Base
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200010075
Status: Unutilized
Reason: Secured Area

10 Bldgs./84.62 acres
Naval Weapons Ind. Rsv. Pl.
Bloomfield Co: Hartford CT 06002–0002
Landholding Agency: Navy
Property Number: 77200020096
Status: Unutilized
Reason: Secured Area

Bldg. 308
Naval Submarine Base
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200030016
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Naval Submarine Base
#1, 3, 80, 154, 426
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 77200120006
Status: Unutilized
Reason: Extensive deterioration

District of Columbia

Bldg. A–092

Naval Station Anacostia
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200110046
Status: Underutilized
Reason: Secured Area

Florida

Bldg. 648
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920087
Status: Unutilized
Reason: Secured Area

Bldg. 1882
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920088
Status: Unutilized
Reasons: Secured Area
Extensive deterioration

Bldg. 3228
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920089
Status: Unutilized
Reason: Secured Area

Bldg. 3604
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920090
Status: Unutilized
Reason: Secured Area

Bldg. 3605
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920091
Status: Unutilized
Reason: Secured Area

Bldg. 3626
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920092
Status: Unutilized
Reason: Secured Area

Bldg. 3674
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199920093
Status: Unutilized
Reason: Secured Area

Bldg. A–146
Boca Chica Annex
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77199930027
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–232
Boca Chica Annex
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77199930028
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–4020
Boca Chica Annex
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77199930029
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3451
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77199940066
Status: Unutilized
Reason: Secured Area

Bldg. 1558
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 592
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 610
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7L
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7M
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7N
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 70
NAS Jacksonville
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200010007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. A–952
Naval Air Station
Boca Chica
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200010034
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–962
Naval Air Station
Boca Chica
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200010035
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–1105
Naval Air Station
Boca Chica
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200010036
Status: Unutilized
Reason: Extensive deterioration

Bldg. 44
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010038
Status: Unutilized
Reason: Secured Area

Bldg. 58
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010039
Status: Unutilized
Reason: Secured Area

Bldg. 365
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010040
Status: Unutilized
Reason: Secured Area

Bldg. 455
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010041
Status: Unutilized
Reason: Secured Area

Bldg. 467
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010042
Status: Unutilized
Reason: Secured Area

Bldg. 475
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010043
Status: Unutilized
Reason: Secured Area

Bldg. 605A
Naval Air Station
Pensacola Co: Escambia FL 43508–
Landholding Agency: Navy
Property Number: 77200010044
Status: Unutilized
Reason: Secured Area

Bldg. 689
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010045
Status: Unutilized
Reason: Secured Area

Bldg. 802A
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010046
Status: Unutilized
Reason: Secured Area

Bldg. 835
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010047
Status: Unutilized
Reason: Secured Area

Bldg. 859B
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010048
Status: Unutilized
Reason: Secured Area

Bldg. 859C
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010049
Status: Unutilized
Reason: Secured Area

Bldg. 869
Naval Air Station
Pensacola Co: Escambia FL 32598–
Landholding Agency: Navy
Property Number: 77200010050
Status: Unutilized
Reason: Secured Area

Bldg. 1713
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010051
Status: Unutilized
Reason: Secured Area

Bldg. 2437
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010052
Status: Unutilized
Reason: Secured Area

Bldg. 2462
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010053
Status: Unutilized
Reason: Secured Area

Bldg. 3446
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010054
Status: Unutilized
Reason: Secured Area

Bldg. 3478
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010055
Status: Unutilized
Reason: Secured Area

Bldg. 3878
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200010056
Status: Unutilized
Reason: Secured Area

Bldg. 7H
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020064
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7J
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020065
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7K
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020066
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 106
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020067
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 135
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020068
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 142
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020069
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 584
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020070
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 610
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020071
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 702
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020072
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 703
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020073
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 725
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020074
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 740A
Naval Air Station
Jacksonville Co: Duval FL 32212–
Landholding Agency: Navy
Property Number: 77200020075
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 54
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200020076
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 211
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200020077
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 62
NAS Jacksonville
Altoona Co: Marion FL 32702–
Landholding Agency: Navy
Property Number: 77200020111
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 94
NAS Jacksonville
Altoona Co: Marion FL 32702–
Landholding Agency: Navy
Property Number: 77200020112
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 114
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040006
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area

Bldg. 133
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040007

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Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
Bldg. 141
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040008
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
16 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 142, 151, 153, 156, 164, 170, 171, 176, 178, 180, 182–187
Landholding Agency: Navy
Property Number: 77200040009
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
11 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 103, 105, 112, 113, 115–119, 121, 122
Landholding Agency: Navy
Property Number: 77200040010
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
23 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 143–150, 152, 154, 155, 157, 158, 160–163, 165, 166, 168, 169, 179, 181
Landholding Agency: Navy
Property Number: 77200040011
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 173, 174, 175, 177, 188
Landholding Agency: Navy
Property Number: 77200040012
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
6 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 130–132, 134–136
Landholding Agency: Navy
Property Number: 77200040013
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
Bldgs. 159, 167, 172
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Landholding Agency: Navy
Property Number: 77200040014
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 124, 127, 138–140
Landholding Agency: Navy
Property Number: 77200040015
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 107, 109, 111, 120, 123
Landholding Agency: Navy
Property Number: 77200040016
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
5 Bldgs.
Naval Air Station
Whiting Field
Milton Co: Santa Rosa FL 32570–
Location: 102, 104, 106, 108, 110
Landholding Agency: Navy
Property Number: 77200040017
Status: Underutilized
Reasons: Within airport runway clear zone, Secured Area
Bldg. 36
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200040021
Status: Unutilized
Reason: Extensive deterioration
Bldg. 348
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200040022
Status: Unutilized
Reason: Extensive deterioration
Bldg. 1801
Naval Station Mayport
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200040035
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Floodway Secured Area, Extensive deterioration
Bldg. 1802
Naval Station Mayport
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200040036
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Floodway Secured Area, Extensive deterioration
Bldg. 1803
Naval Station Mayport
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200040037
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Floodway Secured Area, Extensive deterioration
Bldg. 1859
Naval Station Mayport
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200040038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Floodway, Secured Area, Extensive deterioration
Bldg. 1558
Naval Station Mayport
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200110016
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration
Bldg. 183
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110019
Status: Unutilized
Reason: Secured Area
Bldg. 494
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110020
Status: Unutilized
Reason: Secured Area
Bldg. 647
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110021
Status: Unutilized
Reason: Secured Area
Bldg. 649B
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110022
Status: Unutilized
Reason: Secured Area
Bldg. 679
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110023
Status: Unutilized
Reason: Secured Area
Bldg. 692
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110024
Status: Unutilized
Reason: Secured Area
Bldg. 755
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110025
Status: Unutilized
Reason: Secured Area
Bldg. 785
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110026
Status: Unutilized
Reason: Secured Area
Bldg. 1704
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110027

Status: Unutilized
Reason: Secured Area
Bldg. 3448
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110028
Status: Unutilized
Reason: Secured area
Bldg. 3579
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110029
Status: Unutilized
Reason: Secured area
Bldg. 3673
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110030
Status: Unutilized
Reason: Secured area
Bldg. 3823
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110031
Status: Unutilized
Reason: Secured area
Bldg. 3824
Naval Air Station
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 77200110032
Status: Unutilized
Reason: Secured area
Bldg. 369
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200120007
Status: Unutilized
Reason: Extensive deterioration
Bldg. 370
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200120008
Status: Unutilized
Reason: Extensive deterioration
Bldg. 2012
Naval Station
Mayport Co: Duval FL 32228–
Landholding Agency: Navy
Property Number: 77200120009
Status: Unutilized
Reason: Extensive deterioration
Bldg. C–25
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120117
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–222
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120118
Status: Unutilized
Reason: Extensive deterioration
Bldg. 226
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120119
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–255
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120120
Status: Unutilized
Reason: Extensive deterioration
Bldg. 299
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120121
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–325
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120122
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–628
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120123
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–634
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120124
Status: Unutilized
Reason: Extensive deterioration
Bldg. A–728
Naval Air Station
Key West Co: Monroe FL 33040–
Landholding Agency: Navy
Property Number: 77200120125
Status: Unutilized
Reason: Extensive deterioration

Georgia

Bldg. 3012
Naval Submarine Base
Kings Bay Co: Camden GA 31547–
Landholding Agency: Navy
Property Number: 77199910001
Status: Unutilized
Reason: Extensive deterioration
Facility 5001
Naval Submarine Base
Kings Bay Co: Camden GA 31547–
Landholding Agency: Navy
Property Number: 77199940016
Status: Unutilized
Reason: Secured area
Facility 5002
Naval Submarine Base
Kings Bay Co: Camaden GA 31547–
Landholding Agency: Navy
Property Number: 77199940017
Status: Unutilized
Reason: Secured area
Facility 5003
Naval Submarine Base
Kings Bay Co: Camden GA 31547–
Landholding Agency: Navy
Property Number: 77199940018
Status: Unutilized
Reason: Secured area
Facility 5935
Naval Submarine Base
Kings Bay Co: Camden GA 31547–
Landholding Agency: Navy
Property Number: 77199940019
Status: Unutilized
Reason: Secured area

Guam

Bldg. 26
U.S. Naval Forces, Marianas
Waterfront Annex Co: GU 96540–0051
Landholding Agency: Navy
Property Number: 77200020049
Status: Unutilized
Reason: Secured area
Bldg. 3116
U.S. Naval Forces, Marianas
Waterfront Annex Co: GU 96540–0051
Landholding Agency: Navy
Property Number: 77200020052
Status: Unutilized
Reason: Secured area
Bldg. 123
U.S. Naval Forces
Marianas Co: Comm. Annex GU 96540–0051
Landholding Agency: Navy
Property Number: 77200120091
Status: Unutilized
Reason: Secured area
Bldg. 124
U.S. Naval Forces
Marianas Co: Comm. Annex GU 96540–0051
Landholding Agency: Navy
Property Number: 77200120092
Status: Unutilized
Reason: Secured area
Bldg. 135
U.S. Naval Forces
Marianas Co: Comm. Annex GU 96540–0051
Landholding Agency: Navy
Property Number: 77200120093
Status: Unutilized
Reason: Secured area

Hawaii

Bldg. 126, Naval Magazine
Waikele Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration, Secured area
Bldg. Q75, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230013
Status: Unutilized
Reasons: Extensive deterioration, Secured area
Bldg. 7, Naval Magazine
Lualualei Branch
Lualualei Co: Oahu HI 96792–
Landholding Agency: Navy
Property Number: 77199230014
Status: Unutilized
Reasons: Extensive deterioration, Secured area
Bldg. 9

Navy Public Works Center
Kolekole Road
Lualualei Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldg. X5
Nanumea Road
Pearl Harbor Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 77199530010
Status: Excess
Reason: Secured area
Bldg. SX30
Nanumea Road
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199530011
Status: Excess
Reason: Secured area
Bldg. 98
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199620032
Status: Excess
Reason: Extensive deterioration
Bldg. Q13
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640035
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q14
Naval Station, Ford Island
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199640036
Status: Unutilized
Reason: Extensive deterioration
Bldg. 40
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830028
Status: Unutilized
Reason: Extensive deterioration
Bldg. 50
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830029
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q76
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830030
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q334
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830031
Status: Unutilized
Reason: Extensive deterioration
Bldg. S380
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830032
Status: Unutilized
Reason: Extensive deterioration
Bldg. S381
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830033
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q410
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830034
Status: Unutilized
Reason: Extensive deterioration
Bldg. Q422
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830035
Status: Unutilized
Reason: Extensive deterioration
Bldg. 429
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830036
Status: Unutilized
Reason: Extensive deterioration
Bldg. 431
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830037
Status: Unutilized
Reason: Extensive deterioration
Bldg. 447
Naval Magazine Lualualei
Co: Oahu HI 96792–4301
Landholding Agency: Navy
Property Number: 77199830038
Status: Unutilized
Reason: Extensive deterioration
Facility S–721
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840042
Status: Excess
Reason: Secured area
Facility S–897
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840043
Status: Excess
Reason: Secured area
Facility S–937
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840044
Status: Excess
Reason: Secured area
Facility 19
Naval Station
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199840045
Status: Excess
Reason: Secured area
Facility 63
Naval Computer & Telecomm. Station
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77199920013
Status: Excess
Reason: Extensive deterioration
Facility SX30
Navy Public Works Center
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199920027
Status: Excess
Reasons: Secured area, Extensive deterioration

Illinois

Bldg. 415
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840023
Status: Unutilized
Reason: Secured area
Bldg. 1015
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840024
Status: Unutilized
Reason: Secured area
Bldg. 1016
Naval Training Center
201 N. Decatur Ave.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77199840025
Status: Unutilized
Reason: Secured area
Bldg. 910
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920055
Status: Unutilized
Reason: Secured area
Bldg. 800
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920056
Status: Unutilized
Reason: Secured area,
Bldg. 1000
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920057
Status: Unutilized
Reason: Secured area,
Bldg. 1200
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920058
Status: Unutilized
Reason: Secured area,
Bldg. 1400
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920059
Status: Unutilized

Reason: Secured area,
Bldg. 1600
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920060
Status: Unutilized
Reason: Secured area,
Bldg. 2600
Naval Training Center
Great Lakes Co: IL 60088–5000
Landholding Agency: Navy
Property Number: 77199920061
Status: Unutilized
Reason: Secured area,

Indiana

Bldg. 3
Naval Surface Warfare
Naval Investigation Ofc.
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010057
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area,
3 Bldgs.
Naval Surface Warfare 157, 166, 171
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010058
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area,
3 Bldgs.
Naval Surface Warfare
#22, 2792, 2794
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010059
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured area,
3 Bldgs.
Naval Surface Warfare
#158, 167, 172
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010060
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldgs. 162, 163
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010061
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldgs. 169D, 169E
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010062
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
4 Bldgs.
Naval Surface Warfare
#173, 2171, 2172, 2179
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010063
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
5 Bldgs.
Naval Surface Warfare 2174, 2175, 2176, 2193, 2784
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010064
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldgs. 2500, 2501
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010065
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
3 Bldgs.
Naval Surface Warfare
#2502, 2503, 2715
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010066
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
10 Bldgs.
Naval Surface Warfare
#2803, 2855–2863
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010067
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldgs. 2905, 3074
Naval Surface Warfare
Crane Co: Lawrence IN 47522–
Landholding Agency: Navy
Property Number: 77200010068
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Maine

Aircraft Hangar #2
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199810015
Status: Excess
Reason: Extensive deterioration
Bldg. 13
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840005
Status: Excess
Reason: Extensive deterioration
Bldg. 15
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840006
Status: Excess
Reason: Extensive deterioration
Bldg. 16
Naval Air Station
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199840007
Status: Excess
Reason: Extensive deterioration
Bldg. 90
Naval Security Group Activity
Winter Harbor Co: ME 00000–
Landholding Agency: Navy
Property Number: 77200020098
Status: Excess
Reason: Extensive deterioration

Maryland

15 Bldgs.
Naval Air Warfare Center
Patuxent River Co: St. Mary's MD 20670–5304
Landholding Agency: Navy
Property Number: 77199730062
Status: Unutilized
Reason: Extensive deterioration
Bldg. 163
Naval Surface Warfare Center
Carderock Division
West Bethesda Co: Montgomery MD 20817–5700
Landholding Agency: Navy
Property Number: 77200010033
Status: Unutilized
Reason: Extensive deterioration
Bldg. 867
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77200120010
Status: Excess
Reason: Extensive deterioration
Bldg. 868
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77200120011
Status: Excess
Reason: Extensive deterioration
Bldg. 1044
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77200120012
Status: Excess
Reason: Extensive deterioration

Mississippi

Bldg. 78
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830047
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 113
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830048
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 147
Naval Construction Battalion Center
Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830049
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 187
Naval Construction Battalion Center

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Gulfport Co: Harrison MS 39501–5001
Landholding Agency: Navy
Property Number: 77199830050
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 7
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930010
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 75
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930011
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 179
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930012
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Structure 262
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930013
Status: Unutilized
Reason: Secured area

Bldg. 279
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930014
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 326
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930015
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 412
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77199930016
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 49
CBC Gulfport
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200010024
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 130
CBC Gulfport
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200010025
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 368
CBC Gulfport
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200010026
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 390
CBC Gulfport
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200010027
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 43
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200030076
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 44
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200030077
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 164
Construction Battalion Center
Gulfport Co: Harrison MS 39501–
Landholding Agency: Navy
Property Number: 77200030078
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Missouri

Steam Line/Support Structure
Marine Corps Support Activity
Kansas City Co: Jackson MO 64147–
Landholding Agency: Navy
Property Number: 77200030017
Status: Unutilized
Reason: Extensive deterioration

New Hampshire

Bldg. 89
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830086
Status: Unutilized
Reason: Secured area

Bldg. 99
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830088
Status: Unutilized
Reason: Secured area

Bldg. 115
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830089
Status: Unutilized
Reason: Secured area

Bldg. 178
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830090
Status: Unutilized
Reason: Secured area

Bldg. 298
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830091
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. H–21
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199830092
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Dry Dock 1
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840012
Status: Underutilized
Reason: Secured area

Dry Dock 3
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840013
Status: Underutilized
Reason: Secured area

Berth 2
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840014
Status: Underutilized
Reason: Secured area

Berth 11
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 77199840015
Status: Underutilized
Reason: Secured area

Parcel #1
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77199910002
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Parcel #2
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77199910003
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Parcel #3
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77199910004
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldg. 55
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77199940020
Status: Unutilized
Reason: Secured area

Bldg. 150
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77199940021
Status: Unutilized
Reason: Secured area

New Jersey

Bldg. 188
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199830065
Status: Unutilized
Reason: Extensive deterioration

Bldg. 473
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199920024
Status: Unutilized
Reason: Extensive deterioration

Bldg. 474
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199920025
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 220, 234, 236
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77199930017
Status: Unutilized
Reason: Extensive deterioration

28 Sheds
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940026
Status: Unutilized
Reason: Extensive deterioration

Bldg. FA–1
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010008
Status: Unutilized
Reason: Extensive deterioration

Bldg. GB–1
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010009
Status: Unutilized
Reason: Extensive deterioration

Bldg. R–18
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010010
Status: Unutilized
Reason: Extensive deterioration

Bldg. S–62
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010011
Status: Unutilized
Reason: Extensive deterioration

Bldg. S–412
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010012
Status: Unutilized
Reason: Extensive deterioration

Bldg. S–457
Naval Weapons Station
Colts Neck Co: Earle NJ 07722–
Landholding Agency: Navy
Property Number: 77200010013
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1042
Naval Air Eng. Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77200040039
Status: Unutilized
Reason: Extensive deterioration

Hangar 1
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77200110101
Status: Underutilized
Reason: Secured area

Bldg. B–33
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77200110102
Status: Underutilized
Reason: Secured area

Bldg. B–487A
Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77200110103
Status: Excess
Reason: Secured area

New Mexico

Bldg. N149
Naval Air Warfare
White Sands Co: NM 88002–
Landholding Agency: Navy
Property Number: 77200110104
Status: Excess
Reason: Extensive deterioration

North Carolina

Bldg. M–319
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 77200120127
Status: Unutilized
Reason: Secured area

Pennsylvania

Bldg. 524
Naval Systems Engineering Station
Philadelphia PA 19112–
Landholding Agency: Navy
Property Number: 77199830023
Status: Unutilized
Reason: Extensive deterioration

Bldg. 152
Naval Air Station Willow Grove
Willow Grove Co: Montgomery PA 19113–
Landholding Agency: Navy
Property Number: 77199930018
Status: Excess
Reason: Extensive deterioration

Bldg. 185
Naval Air Station Willow Grove
Willow Grove Co: Montgomery PA 19113–
Landholding Agency: Navy
Property Number: 77199930019
Status: Excess
Reason: Extensive deterioration

Bldg. 603
Naval Support Station
Mechanicsburg Co: Cumberland PA 17055–0788
Landholding Agency: Navy
Property Number: 77199940015
Status: Unutilized
Reason: Extensive deterioration

Facility 22
Naval Support Station
Philadelphia Co: PA 19111–5098
Landholding Agency: Navy
Property Number: 77199940060
Status: Excess
Reason: Extensive deterioration

Bldg. 85
Naval Support Activity
Philadelphia Co: PA 19111–5098
Landholding Agency: Navy
Property Number: 77200010021
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030066
Status: Unutilized
Reason: Extensive deterioration

Bldg. 51
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030067
Status: Unutilized
Reason: Extensive deterioration

Bldg. 52
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030068
Status: Unutilized
Reason: Extensive deterioration

Bldg. 84
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030069
Status: Unutilized
Reason: Extensive deterioration

Bldg. 950
Navy Surface Warfare Center
Philadelphia Co: PA 19112–
Landholding Agency: Navy
Property Number: 77200030070
Status: Unutilized
Reason: Extensive deterioration

Puerto Rico

B–38
Naval Station Roosevelt Roads
Ceiba PR 00735–
Landholding Agency: Navy
Property Number: 77199830075

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Status: Unutilized
Reason: Extensive deterioration

Rhode Island

Bldg. 52
Gould Island, Naval Station
Newport Co: RI 00000–
Landholding Agency: Navy
Property Number: 77199930020
Status: Excess
Reasons: Not accessible by road, Extensive deterioration

South Carolina

Bldg. 49
Naval Public Works Center
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020062
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 38
Naval Air Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020105
Status: Unutilized
Reasons: Secured area, Extensive deterioration

4 Industrial Bldgs.
Naval Weapons Station Charleston 88, 92, 94, 354
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020113
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

4 Heat Plant Bldgs.
Naval Weapons Station Charleston 89, 95, 355, 438
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020114
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

8 Security Bldgs.
Naval Weapons Station Charleston 313, 859, 860, 897, 918, 1654, 1655, 3217
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020115
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

8 Storage Bldgs.
Naval Weapons Station Charleston 307, 353, 799, 831, 861, 933, 984, 994 Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020116
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

6 Bldgs.
Naval Weapons Station Charleston 183, 855, 868, 968, 3238, 408 Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200020117
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 2012
Naval Weapons Station
Charleston
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200030057
Status: Excess
Reason: Extensive deterioration

Bldg. 7
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040030
Status: Unutilized
Reason: Secured area

Bldg. 314
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040031
Status: Unutilized
Reason: Secured area

Bldg. 316
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040032
Status: Unutilized
Reason: Secured area

36 Bldgs.
Naval Weapons Station Charleston
Goose Creek Co: Berkeley SC 29445–
Location: 34, 47, 63, 67, 203, 276, 297, 306, 334, 350, 370, 383, 435, 725, 798, 806, 823, 844, 905, 906, 907, 912, 915, 919, 920, 923, 924, 948, 954, 992, 2333, 2334, 3232, 3741, 3761, 454
Landholding Agency: Navy
Property Number: 77200110033
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Tennessee

20 Bldgs.
Naval Support Activity
Millington Co: Shelby TN 38054–
Location: 766, 1597–1598, 5238, 435–446, S239, S75, 1211, 1379
Landholding Agency: Navy
Property Number: 77199940027
Status: Excess
Reasons: Secured area
Extensive deterioration

6 Bldgs.
Naval Support Activity #2003, 2016, 2024, 2025, 2076, 2077
Millington Co: TN 38054–
Landholding Agency: Navy
Property Number: 77200120013
Status: Excess
Reason: Secured area

Bldgs. 430, 434, R23–99
Naval Support Activity
Millington Co: TN 38054–
Landholding Agency: Navy
Property Number: 77200130104
Status: Excess
Reason: Secured area

5 Bldgs.
Naval Support Activity
Millington Co: TN 38054–
Landholding Agency: Navy
Property Number: 77200130105
Status: Excess
Reason: Secured area

Texas

Bldgs. 1561, 1562, 1563
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77199820050
Status: Unutilized
Reasons: Secured area
Extensive deterioration

Bldg. 1190
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77199820053
Status: Unutilized
Reason: Secured area

Bldg. 1820
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77199820054
Status: Unutilized
Reasons: Secured Area
Extensive deterioration

Facilities 105 and 105C
Naval Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199910012
Status: Unutilized
Reason: Extensive deterioration

Bldg. 101
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940052
Status: Excess
Reason: Extensive deterioration

Bldg. 198
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940053
Status: Excess
Reason: Extensive deterioration

Bldg. 1104
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940054
Status: Excess
Reason: Extensive deterioration

Bldg. 1198
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940055
Status: Excess
Reason: Extensive deterioration

Bldg. 1823
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940056
Status: Excess
Reason: Extensive deterioration

Bldg. H–9
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940057
Status: Excess
Reason: Extensive deterioration

Bldg. H–45
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940058
Status: Excess
Reason: Extensive deterioration

Bldg. H–54
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940059
Status: Excess
Reason: Extensive deterioration

Bldg. 1504
Naval Air Station
Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200110018
Status: Unutilized
Reason: Extensive deterioration

Facility 119
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77200110047
Status: Excess
Reasons: Within airport runway clear zone, Secured area, Extensive deterioration

Bldg. 1149
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120014
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4200
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120015
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1173
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120016
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1268
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120017
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1837
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–6200
Landholding Agency: Navy
Property Number: 77200120018
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1346
Naval Air Station
Ft. Worth Co: Tarrant TX 76127–
Landholding Agency: Navy
Property Number: 77200120156
Status: Excess
Reasons: Secured area, Extensive deterioration

Virginia

Bldg. O2
Naval Weapons Station
Yorktown Co: York VA 23691–
Landholding Agency: Navy
Property Number: 77199810073
Status: Excess
Reason: Extensive deterioration

Bldg. 2208
Naval Medical Clinic
Quantico VA
Landholding Agency: Navy
Property Number: 77199820001
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 358, 359
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820023
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–43
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820024
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–102
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820025
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–102A
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820026
Status: Excess
Reason: Extensive deterioration

Bldg. CAD–127
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199820027
Status: Excess
Reason: Extensive deterioration

CAD–40
Cheatham Annex
Williamsburg VA 23185–
Landholding Agency: Navy
Property Number: 77199830084
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 3074
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77199920026
Status: Unutilized
Reason: Extensive deterioration

Bldg. 449
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920068
Status: Excess
Reason: Extensive deterioration

Bldg. 450
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920069
Status: Excess
Reason: Extensive deterioration

Bldg. 451
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920070
Status: Excess
Reason: Extensive deterioration

Bldg. 453
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920071
Status: Excess
Reason: Extensive deterioration

Bldg. 454
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920072
Status: Excess
Reason: Extensive deterioration

Bldg. 708
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920073
Status: Excess
Reason: Extensive deterioration

Bldg. 709
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920074
Status: Excess
Reason: Extensive deterioration

Bldg. 710
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920075
Status: Excess
Reason: Extensive deterioration

Bldg. 711
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920076
Status: Excess
Reason: Extensive deterioration

Bldg. 712
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920077
Status: Excess
Reason: Extensive deterioration

Bldg. 713
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920078
Status: Excess
Reason: Extensive deterioration

Bldg. 714
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920079
Status: Excess
Reason: Extensive deterioration

Bldg. 715

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Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920080
Status: Excess
Reason: Extensive deterioration
Bldg. 716
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920081
Status: Excess
Reason: Extensive deterioration
Bldg. 717
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920082
Status: Excess
Reason: Extensive deterioration
Bldg. 718
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920083
Status: Excess
Reason: Extensive deterioration
Bldg. 1454
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–
Landholding Agency: Navy
Property Number: 77199920084
Status: Excess
Reason: Extensive deterioration
Bldg. 3170
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77199940064
Status: Unutilized
Reason: Extensive deterioration
Bldgs. 1252, 1277
Marine Corps Base
Quantico Co: VA 22134–
Landholding Agency: Navy
Property Number: 77199940065
Status: Unutilized
Reason: Extensive deterioration
Bldg. 7
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldg. 12
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 24
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area.
Bldg. 34
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 108
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 299
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 400
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 436
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldgs. 442, 443
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020017
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 530
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020018
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 532
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldgs. 646–651
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldgs. 758, 759
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 764
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 784
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 786
Naval Weapons Station Yorktown
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 788
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 790
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020026
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 814
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020027
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldgs. 1955–1957
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020028

Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldgs. 1960, 1961, 1964
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020029
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldgs. 1980, 1981
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200020030
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 160
Cheatham Annex
Williamsburg Co: VA 23185–5830
Landholding Agency: Navy
Property Number: 77200020031
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 1453
Norfolk Naval Shipyard
Portsmouth Co: VA 23709–5000
Landholding Agency: Navy
Property Number: 77200020063
Status: Unutilized
Reasons: Secured area, Extensive deterioration
Bldg. 2185
Marine Corps Base
Quantico Co: VA 00000–
Landholding Agency: Navy
Property Number: 77200040018
Status: Excess
Reason: Extensive deterioration
Facility 85
St. Julien's Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110121
Status: Excess
Reason: Extensive deterioration
Facility 113
St. Julien's Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110122
Status: Excess
Reason: Extensive deterioration
Structure 161
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110123
Status: Excess
Reasons: Secured area, Extensive deterioration
Structure 162
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110124
Status: Excess
Reasons: Secured area, Extensive deterioration
Structure 236
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110125
Status: Excess
Reasons: Secured area, Extensive deterioration
Structure 273
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110126
Status: Excess
Reasons: Secured area, Extensive deterioration
Structure 276
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110127
Status: Excess
Reasons: Secured area, Extensive deterioration
Structure 327
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110128
Status: Excess
Reasons: Secured area, Extensive deterioration
Structure 358
St. Julian's Creek Annex
Portsmouth Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200110129
Status: Excess
Reasons: Secured area, Extensive deterioration
Bldg. 13
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120024
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 14
Naval Weapons Station
Yorktown Co: VA 2369 –
Landholding Agency: Navy
Property Number: 77200120025
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 22
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120026
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 23
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120027
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 70
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120028
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 87
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120029
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 88
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120030
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 118
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120031
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 385
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120032
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 396A
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120033
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration
Bldg. 492
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120034
Status: Excess
Reasons: Secured area, Extensive deterioration
Bldg. 507
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120035
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area
Bldg. 612

Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120036
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1224
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120037
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1225
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120038
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1226
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120039
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1227
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120040
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1228
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120041
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1587
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120042
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1588
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120043
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1589
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120044
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1590
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120045
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1591
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120046
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 1612
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120047
Status: Excess
Reasons: Secured area, Extensive deterioration

Structure 1743
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120048
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 103B
Naval Weapons Station
Yorktown Co: VA 23691–
Landholding Agency: Navy
Property Number: 77200120049
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B109
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120050
Status: Unutilized
Reason: Extensive deterioration

Bldg. B112
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120051
Status: Unutilized
Reason: Extensive deterioration

Bldg. 123
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120052
Status: Unutilized
Reason: Extensive deterioration

Bldg. B132
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120053
Status: Unutilized
Reason: Extensive deterioration

Bldg. B157
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120054
Status: Unutilized
Reason: Extensive deterioration

Bldg. 170A
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120055
Status: Unutilized
Reason: Extensive deterioration

Bldg. B239
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120056
Status: Unutilized
Reason: Extensive deterioration

Bldg. B362
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120057
Status: Unutilized
Reason: Extensive deterioration

Bldg. B396
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120058
Status: Unutilized
Reason: Extensive deterioration

Bldg. B402
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120059
Status: Unutilized
Reason: Extensive deterioration

Bldg. B425
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120060
Status: Unutilized
Reason: Extensive deterioration

Bldg. B428
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120061
Status: Unutilized
Reason: Extensive deterioration

Bldg. B451
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120062
Status: Unutilized
Reason: Extensive deterioration

Bldg. B465
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120063
Status: Unutilized
Reason: Extensive deterioration

Bldg. B1100
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120064
Status: Unutilized
Reason: Extensive deterioration

Bldg. B1124
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120065
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9411
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120066
Status: Unutilized
Reason: Extensive deterioration

Bldg. B9429
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120067
Status: Unutilized
Reason: Extensive deterioration

Tracks
Naval Surface Warfare Center
Dalgren Co: King George VA 22448–
Landholding Agency: Navy
Property Number: 77200120068
Status: Unutilized
Reason: Extensive deterioration

Bldg. 232
St. Julian's Creek Annex
Portsmouth Co: VA –
Landholding Agency: Navy
Property Number: 77200120130
Status: Excess
Reason: Extensive deterioration

Washington

Bldg. 6661
Naval Submarine Base, Bangor
Silverdale Co: Kitsap WA 98315–6499
Landholding Agency: Navy
Property Number: 77199730039
Status: Unutilized
Reason: Secured Area

Bldg. 604
Manchester Fuel Department
Port Orchard WA 98366–
Landholding Agency: Navy
Property Number: 77199810170
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 288
Fleet Industrial Supply Center
Bremerton WA 98314–5100
Landholding Agency: Navy
Property Number: 77199810171
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 47
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199820056
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 48
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199820057
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Coal Handling Facilities
Puget Sound Naval Shipyard #908, 919, 926–929
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77199820142
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 193
Puget Sound Naval Shipyard
Bremerton WA 98310–
Landholding Agency: Navy
Property Number: 77199820143
Status: Unutilized
Reason: Contamination

Bldg. 202
Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830019
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 2649
Naval Air Station Whidbey Island
Oak Harbor WA 98278–
Landholding Agency: Navy
Property Number: 77199830020
Status: Excess
Reasons:
Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldgs. 35, 36
Naval Radio Station T Jim Creek
Arlington Co: Snohomish WA 98223–
Landholding Agency: Navy
Property Number: 77199830076
Status: Unutilized
Reason: Extensive deterioration

Bldg. 918
Puget Sound Naval Shipyard
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77199840020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 894
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77199920085
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 73
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–
Landholding Agency: Navy
Property Number: 77199920152
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 210A
Naval Station Bremerton
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77199930021
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 511
Naval Station Bremerton
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77199930022
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 527
Naval Station Bremerton
Bremerton Co: WA 98314–
Landholding Agency: Navy
Property Number: 77199930023
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 97
Naval Air Station
Whidbey Island
Oak Harbor Co: WA 98278–
Landholding Agency: Navy
Property Number: 77199930040
Status: Unutilized
Reason: Extensive deterioration

Bldg. 331
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–
Landholding Agency: Navy
Property Number: 77199930041
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 786
Naval Undersea Warfare Center
Keyport Co: Kitsap WA 98345–
Landholding Agency: Navy
Property Number: 77199930042
Status: Unutilized
Reasons: Secured area, Extensive deterioration

Bldg. 15
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930071
Status: Unutilized
Reason: Extensive deterioration

Bldg. 119
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930072
Status: Unutilized
Reason: Extensive deterioration

Bldg. 853
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930073
Status: Unutilized
Reason: Extensive deterioration

Bldg. 854
Naval Air Station, Whidbey Island
Oak Harbor Co: WA 98278–3500
Landholding Agency: Navy
Property Number: 77199930074
Status: Unutilized
Reason: Extensive deterioration

Bldg. 166
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930101
Status: Excess
Reason: Secured area

Bldg. 287
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930102
Status: Excess
Reason: Secured area

Bldg. 418
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930103
Status: Excess
Reason: Secured area

Bldg. 858
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930104
Status: Excess
Reason: Secured area

Bldg. 17
Naval Radio Station
Jim Creek
Arlington Co: WA 98223–8599
Landholding Agency: Navy
Property Number: 77200010073
Status: Excess
Reasons: Secured area, Extensive deterioration

Bldg. 47
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77200010074
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Whitney Point Complex
Brinnon Co: Jefferson WA 98320–9899
Landholding Agency: Navy
Property Number: 77200010102
Status: Excess
Reason: Extensive deterioration

Bldg. 398
Naval Station
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77200020038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 976
Naval Station
Bremerton Co: WA 98314–5020
Landholding Agency: Navy
Property Number: 77200020039
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

8 Bldgs.
Naval Station
902, 903, 905, 907, 909–911, 915
Bremerton Co: WA 98314–5020
Landholding Agency: Navy
Property Number: 77200020040
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Bldg. 109
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 157
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 161
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 170
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030023
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 262
Naval Weapons Station
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200030024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 482
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77200040019
Status: Excess
Reason: Secured area

Bldg. 529
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77200040020
Status: Excess
Reason: Secured area

Bldg. 133
Naval Undersea Warfare Station
Keyport Co: Kitsap WA 98345–7610
Landholding Agency: Navy
Property Number: 77200120133
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area, Extensive deterioration

Bldg. 2511
NAS Whidbey Island
Oak Harbor Co: Island WA 98278–3500
Landholding Agency: Navy
Property Number: 77200120157
Status: Excess
Reason: Secured Area

Land (by State)

California

Space Surv. Field Station
Portion/Off Heritage Road
San Diego CA 90012–1408
Landholding Agency: Navy
Property Number: 77199820049
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Land
Naval Construction Battalion Center
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77199940001
Status: Underutilized
Reason: Secured Area

PCL–4 (11.60 acres)
Construction Battalion Center
Port Hueneme Co: Ventura CA 93043–4301
Landholding Agency: Navy
Property Number: 77200020095
Status: Underutilized
Reason: Secured area

Parcel 1
Naval Base Ventura
NWC & SWC 32nd Ave.
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110011
Status: Underutilized
Reason: Secured area

Parcel 2
Naval Base Ventura
NWC Patterson Rd.
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110012
Status: Underutilized
Reason: Secured area

Parcel 3
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110037
Status: Underutilized
Reason: Secured area

Parcel 4
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110038
Status: Underutilized
Reason: Secured area

Parcel 7
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110039
Status: Underutilized
Reason: Secured area

Parcel 8
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110040
Status: Underutilized
Reason: Secured area

Parcel 10
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110041
Status: Underutilized
Reason: Secured area

Parcel 11
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110042
Status: Underutilized
Reason: Secured area

Parcel 12
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110043
Status: Underutilized
Reason: Secured area

Parcel 13
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110044
Status: Underutilized
Reason: Secured area

Parcel 14
Naval Base
Port Hueneme Co: Ventura CA 93043–4300
Landholding Agency: Navy
Property Number: 77200110045
Status: Underutilized
Reason: Secured area

District of Columbia

1600 sq. ft./T–88
Naval Research Lab
Washington Co: DC 20375–5320
Landholding Agency: Navy
Property Number: 77200110118
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Maryland

6 Acres
Naval Air Station
Patuxent River Co: MD 20670–
Landholding Agency: Navy
Property Number: 77199940023
Status: Unutilized
Reason: Secured area

Land—5000 sq. ft.
Naval Air Station
Patuxent River Co: MD 20670–1603
Landholding Agency: Navy
Property Number: 77200010023
Status: Unutilized
Reason: Secured area

New Hampshire

Parcel #4
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200010028
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Parcel #5
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200010029
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Parcel #6
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200010030
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

Parcel #7
Portsmouth Naval Shipyard
Portsmouth Co: NH 03804–5000
Landholding Agency: Navy
Property Number: 77200010031
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

North Carolina

0.85 parcel of land
Marine Corps Air Station, Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77199740074
Status: Unutilized
Reason: Secured area

Parcel of land 144 sq. ft.
Marine Corps Base
Camp Lejeune Co: Onslow NC 28542–
Landholding Agency: Navy
Property Number: 77200120126
Status: Underutilized
Reason: Secured area

Washington

Land-Port Hadlock Detachment
Naval Ordnance Center Pacific Division
Port Hadlock Co: Jefferson WA 98339–
Landholding Agency: Navy
Property Number: 77199640019
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured area

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Medicare Program; Payments for New Medical Services and New Technologies Under the Acute Care Hospital Inpatient Prospective Payment System; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS 1176–F]

RIN 0938–AL09

Medicare Program; Payments for New Medical Services and New Technologies Under the Acute Care Hospital Inpatient Prospective Payment System

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes a mechanism for increased Medicare payments for new medical services and technologies furnished to Medicare beneficiaries under the acute care hospital inpatient prospective payment system. The rule implements section 533 of the Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000; and finalizes related regulatory provisions that were addressed in a proposed rule published in the **Federal Register** on May 4, 2001 (66 FR 22646).

EFFECTIVE DATE: This final rule is effective October 9, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Phillips, (410) 786–4548.

SUPPLEMENTARY INFORMATION:

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I. Background

Section 1886(d) of the Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. Under the prospective payment system, we pay for inpatient hospital services on a rate per discharge basis that varies according to the diagnosis-related group (DRG) to which a Medicare beneficiary's stay is assigned. The formula used to calculate payment for a specific case multiplies an individual hospital's payment rate per case by the weight of the DRG to which the case is assigned. Each DRG weight represents the average resources required to care for cases in that particular DRG relative to the average resources used to treat cases in all DRGS.

On December 21, 2000, Congress passed the Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000 (Pub. L. 106–554). Section 533 of Public Law 106–554 requires the Secretary to establish a mechanism to recognize the costs of new medical services and technologies under the hospital inpatient prospective payment system by October 1, 2001, and to report to Congress on ways to more expeditiously incorporate new services and technologies into the DRG system under the hospital inpatient prospective payment system.

II. Issuance of Proposed Rule

On May 4, 2001 (66 FR 22646), as part of the annual hospital inpatient prospective payment system proposed rule, we proposed a mechanism to recognize the costs of new medical services and technologies and qualifying criteria for payments for these services and technologies. We received 61 public comments (which are addressed throughout this preamble) on our proposed criteria to qualify for this special payment and on the proposed mechanism to pay for qualifying new technologies. Due to this large number of public comments, we decided not to finalize the proposed mechanism and qualifying criteria in the FY 2002 hospital inpatient prospective payment system final rule (August 1, 2001, 66 FR 39828), but to publish a separate final rule.

In the August 1, 2001 hospital inpatient prospective payment system final rule, we indicated that although we intend to establish the mechanism by October 2001, we will not make additional payments under the mechanism for cases involving new technology during Federal fiscal year (FY) 2002 because it is not feasible. This is due to the timing of the enactment of Public Law 106–554 on December 21, 2000, the requirement that we establish the mechanism through notice and an opportunity for public comment, and the requirement that the payments be implemented in a budget neutral manner. That is, it was not feasible to establish the criteria by which new technologies would qualify through a proposed rule with opportunity for public comment as part of the May 4, 2001 proposed rule, finalize those criteria in response to public comments, allow technologies to qualify under those criteria, and implement payments for any qualified technologies in a budget neutral manner. Making the special payments in a budget neutral manner requires an adjustment to the standardized amounts (which must be published in final by August 1 each year) that we use to pay acute care hospitals under the prospective payment system.

III. Incorporating New Medical Services and Technologies in the Hospital Inpatient Prospective Payment System

Much attention recently has focused on how well Medicare incorporates the cost of new medical services and technologies into its payment systems. Of particular concern is the adequacy of Medicare's payment systems in facilitating access to new technologies for Medicare beneficiaries. Thus, section 533 of Public Law 106–554 was enacted. The discussion that follows addresses the requirements of section 533 of Public Law 106–554 for establishing a mechanism for recognizing the costs of new medical services and technologies, and for reporting to Congress on the ways to more expeditiously incorporate new services.

A. Overview

Medicare payment for an inpatient hospital discharge under the inpatient prospective payment system is determined by multiplying the relative weight associated with a particular DRG by the national average standardized amount (adjusted for other hospital characteristics such as a geographic wage index, teaching status, and treating a high percentage of low-income patients). Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to eight additional diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM). The DRG relative weights are recalculated each year to reflect the average resources expended across all hospitals to treat patients within a particular DRG.

In general, the inpatient prospective payment system makes payments for new medical services and technologies as soon as these items are payable. New items or services generally fit within existing DRGs, and hospitals using these items and services will be paid at established payment rates for the applicable DRGs. Payment rates subsequently may be adjusted through the annual process of evaluating the assignment of cases within DRGs and recalculating the relative weights associated with each DRG based on average charges. These annual adjustments are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources.

Since the prospective payment system was first implemented in October 1983, the pace of innovation in medical technology has been rapid. Generally speaking, the system appears to have accommodated these innovations without occasioning significant concerns regarding access to new technologies. In its March 2001 report to the Congress, the Medicare Payment Advisory Commission stated "the design of the inpatient PPS [prospective payment system] makes it easier to ensure an appropriate distribution of payments while accommodating technological advances" (page 44).

B. Current Practice—Coding and Payment

A number of issues arise relating to present methods of incorporation of new technologies in the inpatient hospital prospective payment system. One issue is the appropriate ICD–9–CM code to be assigned to the new technology. This issue is discussed in detail below. Assuming the new technology is or can be covered by Medicare, a determination must be made concerning to which DRG should the new technology be assigned. The DRG (and the value of the relative weight associated with that DRG) to which the new technology is assigned determines the payment rate for the new technology. Under the DRG system, the condition of the patient is the primary consideration in the decision to assign a new technology to a DRG. Therefore, a new technology generally will be assigned to the same DRG as the DRG's predecessor technologies and treatment modalities. In this way, hospitals can receive payment for new technology under the inpatient hospital prospective payment system quickly. As use of the new technology diffuses among hospitals, we have gradually and largely automatically recalibrated DRG payment rates based on hospital claims data to reflect increasing or decreasing costs of cases assigned to the DRG. Generally, it takes 2 years for claims data to be reflected in recalibrated DRG weights. Considering the actual costs as reflected in the claims data, we may also reassign new technologies to different DRGs. However, because a new technology is often more costly initially than the predecessor technologies, the adequacy of the initial payment rate occasionally becomes an issue.

At present, if payment is to be made other than by routine assignment of the new technology to an existing DRG, it is necessary to establish a new ICD–9–CM code. The lag between application for a new code and its being made effective for payment is at least a year. Because we use actual charge data from hospitals, additional costs or savings from the new technology are not reflected in the DRG weight for 2 years after a new code is effective. For example, the costs or savings attributable to any new technologies that were assigned new ICD–9–CM codes effective October 1, 1999, will be reflected in the DRG relative weights effective for discharges on or after October 1, 2001.

The lag before new technology affected payment has been viewed by some observers as a useful check on payment changes, helping to ensure that these changes reflect the benefit of a new technology. Hospitals would adopt and utilize the new technology, it was reasoned, with a speed and to a degree commensurate with its medical advantages. Any differences in the resource requirements between the new and existing technologies would then be reflected over time in claims data and in changes in the DRG weights. To the extent particular new technologies may have been initially given relatively low payment, the design of the system provided incentives to compensate by achieving efficiencies elsewhere. Conversely, if a particular new technology reduced costs compared to existing technologies, hospitals would reap the payment benefits until such time as the DRG weights began to reflect the lower costs.

C. Current Practice—Data

Recently, we provided an explicit avenue to permit more rapid payment adjustment through use of additional data. The Conference Report that accompanied the Balanced Budget Act of 1997 (Pub. L. 105–33) stated that "in order to ensure that Medicare beneficiaries have access to innovative new drug therapies, the conferees believe that HCFA [now CMS] should consider, to the extent feasible, reliable, validated data other than Medicare Provider Analysis and Review (MedPAR) data in annually recalibrating and reclassifying the DRGs" (H.R. Conf. Rep. No. 105–217, 105th Cong., 1st Sess., at 734 (1997)). The MedPAR data contains records for all Medicare hospital discharges and is the source data used for DRG recalibration. Although we had never precluded the use of non-MedPAR data, we established an explicit process for the submission of such data in a manner consistent with the annual recalibration of the DRG weights. We stated in the July 30, 1999 **Federal Register** that, in the case of external data, a significant sample of the data should be submitted by August 1, approximately 8 months prior to the publication of the proposed rule. This would allow us to verify and test the data and make a preliminary assessment as to the feasibility of the data's use (64 FR 41499). Subsequently, a complete database must be submitted no later than December 1, approximately 4 months prior to the publication of the proposed rule. On the issue of the use of sample data, we stated in the **Federal Register** that we were not establishing specific criteria regarding sample sizes or data collection methodologies prior to gaining experience that would enable us to realistically reflect the availability of external data based on actual experience. We also encouraged anyone interested in submitting such data in the future to contact us to discuss the specific data they wish to submit and whether the data may be adequate.

D. New Legislation

Section 533 of Public Law 106–554 addresses the issue of how new technologies are introduced into the DRGs, and how DRG payment rates must be adapted to accommodate them. Specifically, the provision requires that the Secretary:

- Not later than April 1, 2001, submit a report to Congress on methods of expeditiously incorporating new medical services and technologies into the clinical coding system.
- Not later than October 1, 2001, implement the preferred methods described in the report.
- Effective October 1, 2001, establish a mechanism to recognize the costs of new medical services and technologies after notice and opportunity for public comment.
- Establish criteria to identify new medical services or technologies after notice and an opportunity for public comment.

E. DRG Assignment Issues

As background for discussion of how the DRGs should be changed to better accommodate new technology, this section will discuss the rationale for basing the initial DRG assignment on patient condition. The underlying assumption of the prospective payment system is that because hospitals are responsible for the delivery of care they can respond to the incentives to control costs inherent in the system. The success of any payment system that is predicated on providing incentives for cost control is almost totally dependent on the effectiveness with which the incentives are communicated. The DRGs were designed to be a management tool that is used also as the basis for prospective payments. The key distinction between a management tool and payment method is the ability of the hospital to use the information to take action in response to the incentives in the system. Thus, a management tool communicates information in a form and at a level of detail that can lead to specific actions. The effectiveness of any incentive-based payment system is enhanced if the payment method is simultaneously a management tool.

Because the DRGs were developed to group clinically similar patients, an extremely important means of communication between the clinical and financial aspects of care was created. DRGs provided administrators and physicians with a meaningful basis for evaluating both the process of providing care and the associated financial impacts. Development of care pathways by DRG and profit-and-loss reports by DRG product lines became commonplace. With the adoption of these new management methods, length of stay and the use of ancillary services dropped dramatically.

The DRGs not only provided a communications tool for hospital management, but they also provided an effective means for hospitals and Medicare to communicate. Instead of accountants and lawyers arguing the fine points of cost accounting, the focus of payment deliberations became the determination of a fair payment rate for patients with specific clinical problems. The vast majority of modifications to the DRGs since the inception of the Medicare inpatient hospital prospective payment system have resulted from recommendations from hospitals. The recommendations have almost always been the result of clinicians identifying specific types of patients with unique needs. A recent example of such a clinical dialogue relates to the DRGs for burns. The FY 1999 update to the DRGs included a major restructuring of the burn DRGs. This restructuring was the direct result of detailed and specific clinical recommendations provided to CMS by burn specialists.

Central to the success of the Medicare inpatient hospital prospective payment system is that DRGs have remained a clinical description of why the patient required hospitalization. We believe it would be undesirable to transform DRGs into detailed descriptions of the technology and processes used by the hospital to treat the patient. If such a transformation were to happen, the DRGs would become largely a repackaging of fee-for-service without the management and communication benefits. A fundamental assumption underlying DRGs is that the hospital has the responsibility for deciding what technology and process to employ in treating a particular type of patient. As hospitals in the aggregate make treatment decisions, these decisions are reflected in the DRG payment weights. The separation of the clinical and payment weight methodologies allows a stable clinical methodology to be maintained while the payment weights evolve in response to changing practice patterns. The packaging of all services associated with the care of a particular type of patient into a single payment amount provides the incentive for efficiency inherent in a DRG-based prospective payment system. Substantial disaggregation of the DRGs into smaller units of payment, or a substantial number of cases receiving extra payments, would undermine the incentives and communication value in the DRG system.

F. Coding Issues

To permit us to identify use of a new technology on hospital claims and hence to make different payments than would otherwise be applicable, we would require a code that can be used to specify when that technology is used.

1. Process for Establishing New Codes

The ICD–9–CM Coordination and Maintenance Committee is responsible for discussing potential changes to ICD–9–CM. This is a Federal interdepartmental committee, co-chaired by the National Center for Health Statistics (NCHS) and CMS. The NCHS has lead responsibility for the ICD–9–CM diagnosis codes, while CMS has lead responsibility for the ICD–9–CM procedure codes. The Committee holds meetings twice a year, usually in May and November. Agendas for the discussions about procedure codes are published on CMS' Internet website a month before the meeting. A **Federal Register** notice is also published listing topics to be discussed. The meetings are open to the public and are held usually in Baltimore, Maryland. Shortly afterwards, an extensive summary of the meeting is published on CMS' website and the public is given an additional opportunity to comment. Final comments are due by early January. A complete, current timeline is included in the Summary Report of the Committee at: *www.hcfa.gov/medicare/icd9cm.htm.*

For a topic to be discussed at one of the two yearly meetings of the Committee, the Committee must receive a request 2 months prior to the meeting. This timeframe allows CMS to publish the agendas in the **Federal Register** notices and allows individuals and organizations to review the agenda and to determine if they wish to attend the public meetings. The timeframe is also necessary to allow the Committee to research the topic and prepare a draft solution in time for the meeting. During the meetings, the Committee provides a brief description of the topic (such as a new technology that may not be adequately identified by the current code) and then describes the technology or procedure through a formal presentation. Frequently, medical experts who perform the procedure make a presentation to describe the procedure and how it might be different from other procedures in the current code. Proposals are made to either continue capturing the procedure in the existing code, revise existing codes, or create a new code. The public then discusses the merits of the proposals and offers any alternate suggestions.

The ICD–9–CM is updated once a year, effective October 1. This date coincides with the annual updates to the DRGs within the inpatient hospital prospective payment system. Each spring we publish a proposed rule that includes proposed changes to the inpatient hospital prospective payment system. This notice also includes final decisions on changes to ICD–9–CM codes. By August 1, we publish the new codes in the Addendum to ICD–9–CM, which is a technical presentation of actual changes to be made in both the index and tabular sections of the ICD–9–CM coding books. The Addendum is available on CMS' website and is also sent to organizations such as the American Hospital Association (AHA) and the American Health Information Management Association (AHIMA) to distribute to their members. By October 1 of each year, the Department of Health and Human Services also produces a CD–ROM version of the ICD–9–CM, which may be purchased through the Government Printing Office. Since the ICD–9–CM is not a copyrighted system, many publishers and organizations distribute and sell books or other publications that include the changes to ICD–9–CM.

Although the Committee's process for discussing proposed changes to the ICD–9–CM fully involves and informs the public, the deliberative nature of the process does require some time. Topics discussed at the May and November 2000 meetings of the Committee are for changes to ICD–9–CM in October 2001. Therefore, depending on whether a request is considered at the May or November meeting, resulting changes may not be effective for approximately a year to a year-and-a-half later.

2. Options To Expedite the Implementation of Coding Changes

Several constraints upon the system would complicate implementing extensive changes. One significant complication is the interaction between the DRG system and the ICD–9–CM diagnosis and procedure codes (in the case of new services and technologies, the discussion focuses on procedure rather than diagnosis codes). When a new procedure code is created, a decision must be made as to whether the new code affects DRG assignment (for example, resulting in a case being assigned to a surgical rather than a medical DRG). Currently, new technology is generally assigned to the same DRG as its predecessor codes. Even if new codes do not affect DRG assignment, the GROUPER software (used to assign cases to DRGs) must be reprogrammed to recognize and classify all the new codes. This is necessary to allow Medicare's claims processing systems to process the claim.

In addition to the changes to the GROUPER software, implementing changes to ICD–9–CM codes is a detailed and far-reaching process involving modifications to code books and software coding systems, as well as changes to hospitals' claims processing systems. As described above, the current process is organized around the annual publication of coding changes in the **Federal Register** as part of the updates and changes to the inpatient hospital prospective payment system. The changes are made available during the summer, and communicated via multiple channels to hospitals. This process allows for the necessary processing changes to be thoroughly tested prior to implementation, both by CMS and by the hospitals. This testing procedure is essential given the volume (generally 11 million claims annually) and dollar impact (approximately $76 billion during FY 2002) of Medicare inpatient discharges.

Another important issue when considering expediting the process of making coding changes is that the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected (section 1886(d)(4)(C)(iii) of the Act). If ICD–9–CM changes were made at multiple times during the year, the budget neutrality requirement would mean the standardized amounts, and potentially the cost outlier thresholds, would change as well. These changes would compromise the prospective nature of the payment system, whereby hospitals are able to project their revenues for the year and plan accordingly. Because we do not believe the requirement in section 533 of Public Law 106–554 to explore ways to expedite coding changes was intended to disrupt the prospective nature of the payment system, we did not consider options that would require revising the DRG weights and the standardized amounts more than once a year.

With these considerations in mind, in the May 4, 2001 proposed rule, we explored the potential for shortening the current process.

First, we proposed to move the November meeting of the Coordination and Maintenance Committee to December. To move it further would disrupt the process for production of the annual inpatient prospective payment system regulation. This step would shorten the code assignment process by a month and permit coding changes resulting in payment changes to be implemented within a year.

Second, we proposed to expedite the process by issuing new coding decisions resulting from the spring meeting of the Committee (currently in May) that would be effective the following October 1. We also stated it may be necessary to move the May meeting to April to accommodate this change. Because the timing of this process would not allow the coding changes to be incorporated into the proposed rule published in the spring, cases with the new codes would have to be assigned to the same DRG to which they would have been assigned without the new code and no other payment adjustments would be possible. These coding changes would thus not affect the DRG weights or the budget neutrality calculations. However, more rapid introduction of new codes would permit reflection of the codes in claims data more quickly, and thus would permit eventual adjustment of payment rates sooner than otherwise possible. This capability could be of particular use where otherwise available data were not sufficient to support an immediate payment change, because hospital claims data permitting identification of use of the new technology would be available more quickly.

This proposed change would reduce the time between discussion of a proposed code and its implementation from a minimum of 11 months to 6 months. It would allow for the collection of MedPAR data a full year earlier than under the current process, providing the possibility that DRG revisions based on new codes could be expedited by up to 1 year.

As noted in the May 4, 2001 proposed rule, there would be significant challenges to making this proposed process work. Because the changes would not be included in the proposed rule published in the spring, the public would be given less opportunity to consider the merits of the proposals, and it would have to either attend the spring meeting of the Committee or respond to the summary report within a few weeks. The decisions from the spring meeting must be finalized by the middle of June in order for us to include the changes in the Addendum to ICD–9–CM and in order to make changes in the GROUPER software to be effective October 1; it may be necessary to schedule the spring meeting earlier to meet this deadline. The opportunity to solicit additional input from industry groups and experts would be curtailed because of the short time lines. There would be an increased risk of errors related to revisions in the procedure

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code index (a manual process performed by CMS), as there would be less time available to review and revise the procedure index to ensure that all changes are accurately reflected.

For example, in the final rule published on August 1, 2001 (66 FR 40065), we created a new procedure code to capture percutaneous gastrojejunostomy (code 44.32). All coding instructions (indexing, inclusion terms, and exclusion terms) must be verified so that the procedure is appropriately indexed. If one of the many index entries for gastrojejunostomy is not correctly updated, percutaneous gastrojejunostomy would be assigned to another gastroenterostomy (code 44.39), which is an operating room procedure. This can have a significant impact on national health care data. Coders at different hospitals may follow different entries and arrive at different codes. To limit the potential for confusion in the hospital and coding communities resulting from two separate schedules for implementing code changes, we proposed to limit these changes to those that meet our definition of new technology eligible for special treatment as described below. Under the proposal, it would not be necessary, however, to demonstrate that the cases involving the new technology would be inadequately paid, since there would be no payment impacts of these changes.

The changes would be included in the Addendum to ICD–9–CM for the inpatient hospital prospective payment system, and placed on the website for use by the industry in updating books and software systems. They also would be published in the final rule, and included in the CD–ROM version of ICD–9–CM that is distributed by the Government Printing Office.

Comment: Comenters generally supported changing the ICD–9–CM Coordination and Maintenance Committee meetings from May and November to April and December each year. They believed this would provide a greater opportunity to have topics considered in a timely fashion. The commenters also supported implementing codes discussed at the April meeting the following October. Commenters recommended that all topics discussed at the April meeting be implemented the following October, and disagreed that these more rapid changes should be limited to new technologies. One commenter wrote that it would be confusing to implement procedural coding decisions from a single Coordination and Maintenance Committee meeting in two different years.

One commenter expressed concern regarding the scheduling of Committee meetings in December and April. The commenter was concerned that, by implementing code changes from the April meeting as part of the October updates, the proposed DRG assignments would not be included in the proposed rule usually published in the spring for the fiscal year that begins October 1. The commenter stated that this would be a major concern to the hospital industry because hospitals need time to comment on all proposed changes to the DRGs, analyze the changes for budgeting, train staff on coding changes, and implement software changes.

Response: We appreciate the support of the majority of the commenters that Committee meetings should be held in April and December of each year to expedite the revision of ICD–9–CM codes and are adopting the proposed change in the schedules as final. We will begin this revised schedule in calendar year 2002. The meeting scheduled for November 1 and 2, 2001, will be held as scheduled because many organizations have already planned their travel schedule around these days. The spring 2002 meeting is currently scheduled for April 18 and 19, 2002.

We also agree, based on the comments, that attempts should be made to include all proposals discussed and approved at the April meeting as part of code revisions the following October. This may not always be possible if additional issues are raised that require analysis and further research. Therefore, with the extremely short timelines from the April meeting to publication of the final addendum in June, we encourage those seeking new codes to submit complete documentation for consideration prior to the April meeting. We note that we are retaining the requirement that requestors must notify the Committee 2 months prior to the meeting in order to have an issue addressed.

We acknowledge the commenter's concern that, by implementing code changes discussed at the April meeting by the following October, there will not be the opportunity to propose DRG reclassifications associated with these new codes in the annual proposed rule published in the spring. Therefore, as stated above, these new codes will be assigned to (and paid according to) the same DRG as their predecessor technology. The DRG classifications of these new codes will be discussed in the annual final rule.

There will also be less time to communicate and prepare for the changes. Nevertheless, we believe the requirement to expeditiously incorporate new technology into the ICD–9–CM coding system necessarily entails tradeoffs.

Comment: One commenter questioned why new codes approved by the Committee at its April meeting could not be published in the proposed rule. The commenter noted that the proposed rule has not been published until May the last several years.

Response: The preparation of the proposed rule and the calculations associated with the proposed payment rates begin in January and February. In particular, if a code is being proposed for reassignment to another DRG, it is necessary to perform calculations of the payment effects of such a change to ensure budget neutrality. Therefore, even though the actual publication of the proposed rule may occur after the Committee's meeting has been held, it would not be possible to incorporate coding changes approved at the April meeting in time for publication in the proposed rule.

Comment: Commeuters argued that a 23-month delay could still exist after new codes for new technologies are approved by the Committee before actual payment is available to hospitals for these new technologies. For example, if a new technology is introduced after the October deadline for consideration at the December ICD–9–CM Coordination and Maintenance Committee meeting, the earliest such a technology could qualify for special new technology payments under section 533 of Public Law 106–554 would be almost 2 years later, when a new ICD–9–CM code would become effective.

Response: The commenter is incorrect that payment would not be available to hospitals for a new technology until a new code is effective. After the Committee approves a new technology for an ICD–9–CM code, coders would assign the new technology to an appropriate existing code until such time as a new code, if necessary, could be established. Payment would be made in accordance with the DRG to which that existing code was assigned.

We believe that product sponsors will anticipate when their new products will come to market and begin the process of attaining a new code (if necessary) to coincide with the introduction of the product into the marketplace. That is, it is unlikely that a new product coming onto the market in November could not have been anticipated in time for consideration at the December Committee meeting (requests must be submitted by October for consideration at the December meeting). Therefore, we believe the actual time between the marketing of a new product and the effective date of a new ICD–9–CM code to capture the associated procedure would generally be substantially less than 23 months.

Comment: Several commenters representing hospital groups strongly urged us to continue with annual updates to ICD–9–CM. They stated that more frequent code changes would be burdensome to hospitals. They further stated that ICD–9–CM changes require coding personnel to become familiar with the new codes and their systems, clinical data abstraction systems, laboratory systems, order-entry systems, as well as decision-support systems.

Commenters pointed out that some hospitals, especially small and rural hospitals, do not have automated encoding systems and coding personnel do not have access to the Internet. These hospitals utilize books to assign codes. They added that keeping up with a quarterly change in ICD–9–CM codes would be quite a challenge unless code book publishers adopted a quarterly update publication schedule. Several commenters stated that hospitals had great difficulty with the quarterly coding changes introduced with the outpatient hospital prospective payment system. Another commenter stated that the complexity associated with quarterly updates and billing requirements should be of utmost concern and must be avoided.

Other commenters representing medical technology manufacturers supported more frequent changes to ICD–9–CM. One commenter suggested that codes be changed twice a year, after each ICD–9–CM Coordination and Maintenance Committee meeting. The commenter believed that vendors that provide new technologies and the providers that use them would be motivated to accurately report any new codes as soon as possible. The commenter pointed out that the only constraint to issuing codes twice a year would be the need to update software programs such as the Clinical Data Editor which lists current ICD–9–CM codes. The commenter believed that because many software companies update their software quarterly, this should not be a problem.

Several commenters recommended that codes be updated quarterly. They believed this would lead to more rapid data gathering on new technologies. One commenter suggested that because DRGs are updated once a year, the new codes created on a quarterly basis be assigned to existing DRGs. Another commenter recommended updating the DRGs on a quarterly basis along with quarterly updates of ICD–9–CM codes.

Finally, a commenter emphasized the need to decouple the introduction of new codes from payment determinations. The commenter believed this will allow the expedited introduction of new codes without disrupting the prospectivity of the payment system.

Response: We agree that it is important to update ICD–9–CM in an organized and timely fashion. As some of the commenters suggested, coding changes have a great impact on other activities such as software development and coding book updates. When the codes are changed, all software using these codes must be updated. Code books would also have to be updated, at an expense to hospitals.

We understand the desire for more expeditious introduction of new codes from the perspective of tracking the data associated with new technology. However, we also understand the concerns expressed in the comments submitted by the hospital community with introducing new ICD–9–CM codes on a more frequent basis than annually. We believe the change to the ICD–9–CM Coordination and Maintenance Committee meetings discussed above appropriately balances these concerns. We will continue to pursue ways to further expedite the introduction of new codes.

Comment: Several commenters disagreed that the introduction of new codes and the assignment of those codes to DRGs at multiple times during the year would compromise the prospective nature of the payment system.

Response: Our statement in the proposed rule that changes to the ICD–9–CM codes at multiple times during the year would compromise the prospective nature of the payment system assumed these changes would affect the DRG assignment and, therefore, the payments for affected cases. We agree that, if the coding changes had no impact on payment, the principles of certainty and predictability that underlie the prospective payment system would not be compromised. However, as reflected in the previous comment and response, implementing new ICD–9–CM codes at multiple times during the year would be a labor-intensive, and thereby costly, undertaking for hospitals.

Comment: Some commenters recommended that the Committee hold three meetings a year. Other commenters that addressed this issue supported plans to hold two meetings a year.

Response: To date, the Committee has been able to sufficiently address requests by lengthening the time allotted for meetings as opposed to adding additional meetings. This has worked well in the past. Should the need arise, we will consider scheduling a third meeting. For now, we plan to hold only two meetings a year.

Comment: Several commenters supported the open process involved with the ICD–9–CM Coordination and Maintenance Committee. They also supported the continuance of this process.

Response: We agree that the open process involved with the Committee has worked well. These open meetings allow the public to fully evaluate proposed changes to ICD–9–CM. Those participating in the meetings have brought expertise in coding, medicine, data systems, as well as code book preparation to the discussions. This has consistently led to useful changes to the coding system. Frequently, these discussions lead to alternate suggestions on how to resolve coding problems. We will continue this open process for updating ICD–9–CM.

Comment: One commenter suggested that procedures associated with a new technology for which the Food and Drug Administration (FDA) has issued an "approvable letter" should be provided an ICD–9–CM procedure code. According to the commenter, the FDA may issue an approvable letter setting forth the actions that must be taken before final approval.

Response: One of the questions asked by participants at the Committee meetings is whether or not the procedure is investigational. The public participants tend to oppose the creation of new codes for relatively new, unproven procedures. They usually recommend waiting to see how widespread the technology will become. Because of space limitations in the code book, the public participants tend to recommend waiting to see if the device or procedure is approved by the FDA. We will continue to discuss new procedures at the Committee meetings. On occasion, we may discuss procedures or devices that are under FDA investigation. As is currently the case, public participants at the meetings will be given the opportunity to discuss whether or not the code is needed.

3. Limitations of ICD–9–CM

While the updating process currently in use may not lend itself to expeditiously incorporating new medical services and technologies into the ICD–9–CM coding system, another important factor is the dated and limited structure of the ICD–9–CM system. The ICD–9–CM system was developed in the 1970s and implemented in 1979.

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Dramatic advances have occurred in medicine since that time. Although the ICD–9–CM Coordination and Maintenance Committee has attempted to make coding modifications to capture new technology, it has sometimes been difficult to achieve a reasonable result.

The ICD–9–CM procedure codes are made up of four digits: two numerical characters followed by a decimal, and then two additional numerical characters. The first two digits indicate a category, such as 36—Operations on the vessels of the heart. The third digit provides additional breakdown, such as 36.0—Removal of coronary artery obstruction and insertion of stents. When the fourth digit is added, the code is fully described. There are only 10 codes available within each category (fourth digits 0–9). Once a category is full, we must either combine types of similar procedures under one code, or find a place in another section of the code book for a new code. The benefit of such a system is that we can collapse the codes into categories when analyzing claims data to capture a wide range of similar procedures. However, if similar codes are placed in separate sections of the code book, coders may not easily find them. Errors may occur when trying to identify particular types of cases when codes are not carefully placed within a system such as the current ICD–9–CM.

ICD–9–CM is 22 years old and the premises on which the coding system was established are dated. A number of approaches and techniques used for procedures such as lasers and the use of scopes were not anticipated when the structure of ICD–9–CM was developed. Consequently, the basic categories were established on technology that is now outdated. Making needed coding changes each year has been quite difficult and involves making compromises that effect the precision of the coding.

4. Short-Term Solutions Within the ICD–9–CM Structure

To consider how we might better respond to requests for new codes in the short term, we examined ICD–9–CM to attempt to identify an open series of codes that could be used for new procedures and technologies. There are currently 16 categories of procedure codes. However, codes 17.00 through 17.99 are not in use. These codes are found between category 3, "Operations on the Eye," and category 4, "Operations on the Ear." This series of 100 codes could be used to provide codes for new procedures and technology. To fully utilize this new series of codes, we would assign new procedures to the next available code.

A limitation of this approach would be that this category would capture a diverse group of procedures potentially affecting all body systems. Assigning diverse procedure codes to this category would undoubtedly create considerable confusion for coders. Currently, procedures are grouped by body system, and similar procedures are placed in categories. This arrangement assists the coder in choosing the most appropriate code because he or she can quickly review closely related codes that are together. Using category 17 for new technology codes, on the other hand, would mean that closely related codes would be widely separated.

Use of category 17 would also require a major revision of coding rules since coders are taught to identify codes within a group of similar procedures. They are not accustomed to looking for a list of unrelated procedures in a separate section of the coding book.

To supplement the category 17 codes, the Coordination and Maintenance Committee may be able to assign vacant codes in other categories. However, large numbers of sequences are already fully or nearly fully occupied, and this strategy would only provide limited availability of new codes.

Comment: Several commenters supported the need to develop short-term solutions to the limitations of ICD–9–CM. They generally supported creating a new series of codes in category 17 of ICD–9–CM for new technologies. However, some commenters stressed the need to assign new codes to the appropriate place in the body of ICD–9–CM as the first priority. They believed this will maintain the structure of ICD–9–CM and reduce confusion. They recommended that only when unused codes within the appropriate section of ICD–9–CM are not available should category 17 codes be used.

One commenter pointed out another series of unused procedure codes: the codes in category 0 (codes 00.00 through 00.99). The commenter suggested using these codes when slots are not available in the appropriate section of ICD–9–CM. The commenter further recommended that we use codes from category 0 prior to using the codes in category 17.

Response: We agree with the commenters that new codes should be created in the appropriate section of ICD–9–CM as a first priority. Only when there are no available slots in other chapters should codes be created in category 17. We also agree that using codes 00.00 through 00.99 is an excellent idea. Using these two empty categories would create 200 available slots for new codes. We will discuss this issue as part of the ICD–9–CM Coordination and Maintenance Committee meetings.

Comment: One commenter supported the use of category 17 of ICD–9–CM for new procedures, but pointed out that ICD–9–CM was designed to report the procedure performed, not the device or other specific technology used. The commenter went on to state that ICD–9–CM was never intended to report information on a single procedure reflecting a single technology or a single manufacturer's technology. The commenter also suggested that if new codes were created for individual devices instead of groups of similar procedures, the available empty codes would be quickly used up.

Response: We agree with the commenter that ICD–9–CM should continue to develop new codes for new types of procedures. We do not believe it should be converted to a system which tries to identify all new devices created by individual manufacturers. We believe the ICD–9–CM Coordination and Maintenance Committee should continue to evaluate the merits for requests for new codes and consider them in the context of the structure and limitations of ICD–9–CM.

5. Alternative Short-Term Approaches

Some observers have expressed concern that the additional codes available within the ICD–9–CM code set may not be adequate to accommodate both routine changes in coding and the new technologies under consideration, particularly if a long-term change, such as adoption of ICD–10—Procedure Coding System (ICD–10–PCS), is significantly delayed. We have examined several alternative short-term options in the event the additional available codes are used before a long-term solution is reached. In evaluating these alternatives, we must consider the changes each entails to hospitals' and CMS' coding and claims processing systems, and the time necessary to implement such changes (balanced against the timeframe for adopting a long-term coding solution).

Expanding ICD–9–CM procedure codes by making them alphanumeric or adding a fifth digit would make available a substantial number of new codes for new technology but would require substantial system changes and create standards issues. This approach was extensively discussed in meetings of the ICD–9–CM Coordination and Maintenance Committee prior to the development of ICD–10–PCS. Input from the public indicated that such a significant modification to a limited and dated system would only make the system worse. The time it would take to make this system work well would be longer than that required to build a new system and the resources needed for system changes would be significant. Such a modification of the ICD–9–CM standard code set would require the formal standards modification and adoption process prescribed by the regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191.

Using the V-code section of ICD–9–CM diagnosis codes to report new technology would not require any systems changes or create any standards issues and would create a moderate number of codes for new technology. We have discussed this recommendation with NCHS. NCHS opposed this option as an inappropriate use of diagnosis codes. While "V" codes are used for the classification of factors influencing health status and contact with health services, they are not a substitute for procedure coding. By adding procedure coding concepts to the diagnosis coding system, confusion could easily lead to increased errors. Furthermore, the V-code section has only a limited number of available spots.

We also considered using HCFA (the Health Care Financing Administration was recently renamed the Centers for Medicare & Medicaid Services (CMS)) Common Procedure Coding System (HCPCS) codes to report use of new technology for inpatient cases. However, using HCPCS would require a moderate amount of systems change and would require the formal standards modification and adoption process prescribed by Public Law 104–191, since the HCPCS code set is not the standard code set prescribed for inpatient services. However, it would make a substantial number of codes available for new technology. Alphanumeric HCPCS codes are currently used in outpatient departments and physician offices for reporting services, and they are used on a limited basis by hospitals in reporting the use of hemophilia clotting factors used during an inpatient stay.

Use of HCPCS codes would require that a new service or technology either be assigned a code through otherwise applicable processes for HCPCS coding or that CMS assign a specific, temporary code for use in connection with new technology payments for inpatient hospital services. Specifically assigned codes could be assigned relatively quickly. However, use of such codes would run the risk of confusion if other codes were assigned to the same service or items when used in other settings. More generally, HCPCS coding would duplicate information found in the ICD–9–CM procedure codes. Careful attention to integration of coding across the two systems would be necessary, and dissemination of information about correct coding to hospital coders would present challenges. Even with excellent integration and dissemination, the risk of confusion by hospital coders would be high.

The use of HCPCS codes would also raise questions on how the accuracy of claims data will be assessed. CMS contracts with Peer Review Organizations to validate the accuracy of coded data. Consideration would need to be given to how the accuracy of these data could be verified. If two separate coding systems with overlapping information are used, considerable variations in reporting practices might arise.

Similar to the option of using alphanumeric ICD–9–CM procedure codes, changes in systems and in hospital coding procedures that would be associated with this approach would take time and resources to implement for hospitals, CMS, and potentially other payers such as Medicare secondary insurers.

In recognition of these considerations, we proposed not to proceed with use of HCPCS codes for this purpose at the present. We believed this possibility should be revisited later if the ICD–9–CM codes in fact prove inadequate and if a longer term solution is not yet available. However, we solicited public comments on the concept of using HCPCS codes to identify specific new technologies on inpatient hospital claims.

Comment: One commenter suggested that V codes be used in combination with existing procedure codes to act as a flag and differentiate the new technology procedures from the old procedures. The commenter suggested that the following new V codes be created to identify new technology:

V00 Admission/Encounter for New Technology Procedures

The following categories would be used to identify new technology:

V00.0 New Technology—Drugs
V00.1 New Technology—Musculoskeletal/Integumentary
V00.2 New Technology—Respiratory, Nose, Throat
V00.3 New Technology—Cardiovascular
V00.4 New Technology—Digestive System
V00.5 New Technology—Urinary
V00.6 New Technology—Genital System/Male and Female
V00.7 New Technology—Nervous System
V00.8 New Technology—Eye, Ear
V00.9 New Technology—NEC/NOS

The commenter suggested that we use these codes beginning October 1, 2001. If this were not possible, the commenter suggested that we implement the codes after discussion at the next meeting of the ICD–9–CM Coordination and Maintenance Committee.

Another commenter opposed the use of V codes as a way of supplementing the procedure codes. The commenter believed that this was an inappropriate use of diagnosis codes. The commenter stated that the ICD–9–CM diagnosis codes have space constraints as well. The commenter suggested that it is possible that there might not be sufficient available codes to meet the need for new procedure codes, but using available V codes for procedures would seriously restrict the ability to create new diagnosis codes when necessary.

Response: The use of V codes for new technology is on the agenda to be discussed at the November 1, 2001 meeting of the ICD–9–CM Coordination and Maintenance Committee. The NCHS is responsible for the diagnosis part of the meeting. However, it should be mentioned that previous discussions at the meeting have not been supportive of proposals such as this. This use of diagnosis codes to help identify procedures or technologies is contrary to the usual structure and content of ICD–9–CM diagnosis codes.

Moreover, it would not be possible to implement the use of V codes as recommended by the commenter on October 1, 2001. The addendum to ICD–9–CM, which lists code revisions, has already been distributed. Software vendors and publishers have already begun preparing their coding products. We believe the Committee should continue its open process of discussion of code revisions in this regard. To implement a code change without providing the public an opportunity to comment would not be consistent with that process.

Comment: One commenter opposed expanding ICD–9–CM procedure codes by making them alphanumeric or adding an additional digit. The commenter believed that this approach would be difficult and costly to implement. The commenter also stated that it would essentially convert ICD–9–CM into a new coding system, and thus the system would not be a "short-term" approach, as it would have to undergo

the formal standards modification and adoption process of Public Law 104–191. In addition, the commenter stated that, if a new procedure coding system is going to be formally adopted through the standards modification and adoption process, it should be ICD–10–PCS, which is a significant improvement over ICD–9–CM.

Response: We agree with the commenter's explanation for why it would be unwise to initiate a process of modifying ICD–9–CM procedure codes involving the use of alphanumeric characters or the addition of digits, as this effort would utilize extensive resources and offer few overall improvements.

Comment: Several commenters supported our proposal not to use HCPCS codes for inpatient claims. The commenters stated that hospitals have had great difficulty with the quarterly coding changes introduced with the outpatient prospective payment system. One commenter stated that some hospitals have not been able to keep their systems current with the onslaught of HCPCS coding changes, especially the device pass-through C-codes. The commenter also stated that many hospitals have separate coding staffs for inpatient records and for outpatient records. The commenter further stated that introducing HCPCS coding into the inpatient Medicare reporting system would create significant burdens and training issues and that there would also need to be information system changes to activate the HCPCS codes.

Another commenter opposed the use of both HCPCS codes and CPT codes on inpatient claims. The commenter stated that the use of another procedure coding system in addition to ICD–9–CM for inpatient claims increases the complexity and destroys clinical analysis capability of the DRG system.

Several commenters supported using HCPCS codes as procedure codes in the inpatient hospital setting. One commenter urged CMS to adopt the same process it uses for the outpatient hospital prospective payment system, in order to expedite the assignment of temporary new technology codes that qualify for additional payment under the inpatient hospital prospective payment system.

One commenter supported the use of level two of HCPCS codes for new technology, but not for all medical services and technology. The commenter stated that the best approach would be to use a combination of HCPCS and ICD–9–CM procedure codes to report new medical services and new technologies. The commenter supported the continued use of ICD–9–CM procedure codes for any new service or technology that represents a new procedure. However, if the new service or technology represents an item, drug, or device, as opposed to a procedure, then a HCPCS code should be assigned. This commenter did not support the use of temporary HCPCS codes (for example, G codes) in connection with new technology payments for inpatient hospital services, as this could result in duplicative or overlapping codes among different coding systems. The commenter recommended that new items, drugs, or devices meeting the definition of new technology should be assigned a HCPCS code through the usual HCPCS process. Consideration should also be given to the feasibility of implementing new HCPCS codes more frequently than once a year. The commenter also stated that a number of payers already report HCPCS codes in Form Locator 44 on the billing form (UB–92). The commenter recommended that CMS approach the National Uniform Billing Committee to explore this option.

Response: We agree that introducing HCPCS coding into the inpatient system as a solution to limitations with ICD–9–CM would be burdensome to hospitals and increase the complexity and confuse the logic of the inpatient hospital coding scheme. In addition, HCPCS codes could not be used for reporting diagnosis and treatment of hospital inpatients unless and until the HCPCS code set was formally adopted under the modifications and adoption procedures required for national standards under Public Law 104–191. As noted above, using categories 0 and 17 of ICD–9–CM appears to offer workable short-term solutions. As discussed below, a longer term solution is the adoption of a more flexible coding system such as ICD–10. Therefore, we are not introducing the use of HCPCS codes for inpatient use at this time.

Comment: One commenter recommended that we require the use of Universal Product Numbers (UPNs) as a means of reporting all new medical devices qualifying as new technologies. The commenter mentioned that there are currently two industry standards with different formats for UPN codes. The commenter recommended that both of these formats be accepted, and added that the UPNs would facilitate the use of a bar code that would assist in ordering, tracking, and validating inventory. The commenter also stated that the use of UPNs would substantially reduce administrative costs. The commenter recommended that UPN codes be incorporated into the existing ICD–9–CM coding system—the ICD–9–CM procedure code descriptor would identify the procedure and the UPN code would then make clear which products qualify as new technologies.

Response: We have been exploring the use of UPN codes for ambulatory bills. Since this coding system is not currently in widespread use, it was not selected as one of the national standards for medical coding under Public Law 104–191. If UPN codes were to be implemented, they would first have to be evaluated under the standards modification and adoption procedures for designating national standards under Public Law 104–191. Designating any new coding system as a national standard is a lengthy process that involves public discussions as well as proposed and final rulemaking. We will continue our process of evaluating UPN codes as a future national coding standard.

6. Development of ICD–10–PCS; A Possible Long-Term Solution

While acknowledging the limitations of the ICD–9–CM coding system, the Secretary designated the ICD–9–CM coding system as the national standard for reporting, among other things, diagnosis and treatment of hospital inpatients, in a final rule published in the **Federal Register** on August 17, 2000 (65 FR 50311), following notice and comment rulemaking in accordance with Public Law 104–191. In that same final rule, the public was advised that ICD–10–PCS has great promise as a future replacement of ICD–9–CM. However, it was also noted that ICD–10–PCS, at that time, required additional testing and revision prior to a decision on whether to use it as a national standard. At that time, work was proceeding on an updated variant of the ICD system, ICD–10, that could replace ICD–9–CM, but this system was not yet completed. The World Health Organization developed ICD–10 as an international diagnosis coding system. NCHS has been modifying ICD–10 to replace the diagnosis section of ICD–9–CM. This system is being referred to as ICD–10–CM. At the same time, CMS has been developing the ICD–10–PCS as a possible replacement for the ICD–9–CM procedure codes.

Criteria for the development of a new procedure coding system were established in 1993 by the National Committee on Vital and Health Statistics (NCVHS) in a report concerning recommendations for a single procedure classification system. The criteria included the following:

- Completeness—all substantially different procedures have a unique code.
- Expandability—the structure of the system allows incorporation of new procedures and technologies as unique codes.
- Standardized terminology—the coding system includes definitions of the terminology used. While the meaning of the specific words can vary in common usage, the coding scheme does not include multiple meanings for the same term. Each term is assigned a specific meaning.
- Multiaxial—the system has a multiaxial structure with each code character having the same meaning within the specific procedure section and across procedure sections to the extent possible.
- Diagnostic information is not included in the procedure description.

Using these criteria, CMS developed the ICD–10–PCS through a contract with 3M Health Information Systems. The ICD–10–PCS system provides much greater code capacity because all substantially different procedures have a unique code. While the ICD–9–CM procedure coding system is limited to a maximum of 10,000 codes, the current draft of ICD–10–PCS contains 197,769 codes and the number could be expanded further.

7. Public Meeting on Implementing ICD–10–PCS

The Department of Health and Human Services is starting the process of soliciting public comments on whether it should proceed to adopt ICD–10–PCS as the national standard for coding inpatient hospital services to replace the ICD–9–CM procedures code set. A public meeting on this issue was held May 17, 2001, in the CMS Auditorium in Baltimore, Maryland. The complete report summarizing the results of that meeting, including the presenters' position papers, can be found at: *http://www.hcfa.gov/medicare/icd9cm.htm*. The public was encouraged to attend and participate in the discussion on whether ICD–10–PCS should become a national standard. Organizations and groups were given the opportunity to make a brief presentation on their members' behalf.

Comment: Several commenters supported the ICD–10–PCS as a long-term solution for replacing the ICD–9–CM. One commenter noted the number of interested parties during the May 17, 2001 ICD–9–CM Coordination and Maintenance Committee meeting who endorsed ICD–10–PCS. Other commenters suggested that we coordinate the implementation of ICD–10–PCS at the same time as the ICD–10–CM diagnosis code set. One commenter objected to the potential adoption of ICD–10–PCS.

Response: We agree that ICD–10–PCS is the best long-term solution to replace ICD–9–CM. As mentioned earlier, organizations were given the opportunity to submit a position paper and make a presentation on this issue. Several organizations requested the opportunity to present on this issue. The position papers developed are posted as part of the Summary Report of the ICD–9–CM Coordination and Maintenance Committee. The presenters' remarks summarized these position papers. The following are excerpts from the position papers.

"ICD–10–PCS represents a significant improvement over ICD–9–CM and substantially meets the characteristics of a procedural coding system outlined by the NCVHS as described above. ICD–10–PCS also meets all of the HIPAA requirements outlined earlier * * * Replacement with a new procedural coding system for inpatient services is absolutely necessary and ICD–10–PCS meets the criteria for such a replacement system."

American Health Information Management Association

"AHA has worked closely with institutional members in the field-testing of ICD–10–PCS. The field-testing results are very positive. Results indicate that ICD–10–PCS can easily accommodate the expansion of new procedure codes. Coders working with ICD–10–PCS also found the new system to be efficient, logical, and easy to understand and learn * * * Based on the testing, the new procedure classification system holds a great deal of promise and should be considered for future use * * * Therefore, the AHA supports the HIS industry in requesting that ICD–10–PCS implementation be carried out in tandem with the migration to ICD–10–CM."

American Hospital Association

"Our position is that ICD–9–CM is not adequate for long-term future use and that providers, payers, and Medicare beneficiaries would be well served by a conversion to ICD–10–PCS."

Federation of American Hospitals

"Based on AMA's support for the elimination of complex regulatory burdens mandated by the Medicare program, the AMA does not support the adoption of ICD–10–PCS. The AMA believes that the implementation of ICD–10–PCS will only add to the regulatory burden faced by physicians and other health care providers. ICD–10–PCS is a substantial departure from ICD–9 and from all existing health care code sets. As a result, it would require significant resources to implement and problems inherent in the system suggest that it may not be worth the cost."

American Medical Association

"ASHA appreciates having had the opportunity to provide input on the development of this system and is pleased to see that many of our recommendations have been incorporated into the final version of the ICD–10–PCS * * *. Again, ASHA supports the implementation of the ICD–10–PCS as a replacement for Volume 3 of the ICD–9–CM."

American Speech-Language Hearing Association

"AdvaMed supports the rapid adoption of the International Classification of Disease, Procedural Coding System, 10th Edition (ICD–10–PCS), for use in hospital inpatient billing* * *It is a system that has been developed over the past decade with substantial input from the clinical community and offers tremendous versatility in describing the differences in the use and characteristics of medical technologies."

AdvaMed

"The transition from ICD–9–CM to ICD–10–PCS will help enhance the quality of care available for Medicare beneficiaries and provide better management tools for healthcare professionals * * * ICD–10–PCS should be implemented to bring our coding system up to the standards of the rest of the world, to improve our ability to understand the impact on procedure and technology selection on patient outcomes, and to provide better options for paying hospitals appropriately for the care they provide."

Medical Technology Partners

"Importantly, ICD–10–PCS has the capacity to grow as medical science grows * * * ICD–10–PCS may have the flexibility and durability to span this century—a statement that cannot be made about any other medical coding system currently proposed or in use. A coding system that could be updated decade after decade would provide an unprecedented continuity of medical data."

Ingenix Syndicated Content Group

"We believe that the ICD–10–PCS fulfills these criteria, and we urge the Health Care Financing Administration to implement the ICD–10–PCS as a national standard for coding inpatient procedures as quickly as possible."

Princeton Reimbursement Group

The only organization presenting at the meeting that did not support the adoption of ICD–10–PCS as the national standard for inpatient procedure coding was the American Medical Association.

While it is widely acknowledged that the ICD–9–CM diagnoses and procedures coding system is dated, we are not yet ready to begin the final decisionmaking process as to which coding system will become the next national standard. The NCHS has not yet completed the final draft of ICD–10–CM diagnosis code set. While CMS has completed ICD–10–PCS and held public meetings on its possible implementation, we are not yet ready to proceed with making final recommendations. CMS believes that further action on naming new coding systems should not begin until NCHS has completed ICD–10–CM. Most

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organizations commenting on this topic want decisionmaking action deferred until both systems are complete. At that time, the formal standards modification and adoption process will begin, to determine if both ICD–10–CM and ICD–10–PCS should be implemented as new standards and whether they should be implemented at the same time.

The May 4, 2001 proposed rule stated that implementation of ICD–10–CM and ICD–10–PCS could not occur before October 2003. Linking the ICD–10–PCS implementation date to ICD–10–CM could postpone such implementation well beyond 2003. To date, there has not been any public evaluation of or testimony on ICD–10–CM. In addition, ICD–10–PCS and ICD–10–CM could not be used for reporting diagnosis and treatment of inpatients until those code sets were formally adopted under the national standards modification and adoption process of Public Law 104–191. Those procedures are very involved and the process can be very lengthy.

8. Methods of Expeditiously Incorporating New Medical Services and Technologies Into the Coding System

In summary, we are developing a two-part strategy for expeditiously incorporating new medical services and technologies into the clinical coding system used with respect to payment for inpatient hospital services. First, we are shortening the timeframe for implementing new codes by processing changes without first publishing them in the proposed rule in the spring. This means new codes approved at the spring meeting of the ICD–9–CM Coordination and Maintenance Committee could be implemented by October of the same year, although the DRG assignment for these new codes would initially be the same as the predecessor technologies. We also are moving the November meeting to December (and the May meeting to April, to allow more time to implement decisions from the spring meeting by October). These changes will reduce the time it currently takes to implement new codes, as well as reduce the time required to collect data through the MedPAR by up to a year in many cases.

Second, to make more codes available to identify new technology, we will begin immediately to work with the public to use categories 0 and 17 of ICD–9–CM procedures. This will provide room for 200 additional procedure codes. We also will continue the current process of adding and revising codes within the current categories as room and structure allow. Our long-range strategy is to consider the implementation of the ICD–10–PCS and ICD–10–CM code sets as replacement systems for ICD–9–CM. However, because such a change would require proceeding in accordance with the standards modification and adoption process under Public Law 104–191, in addition to the need to revise both our payment systems and those of hospitals, this would be a lengthy process.

IV. New Requirements Relative to New Services and Technologies

Section 533(b) of Public Law 106–554 amended section 1886(d)(5) of the Act to add new subparagraphs (K) and (L) to address a process of identifying and ensuring adequate payment for new medical services and technologies under Medicare. Under new section 1886(d)(5)(K)(i) of the Act, effective for discharges beginning on or after October 1, 2001, the Secretary is required to establish (after notice and opportunity for public comment) a mechanism to recognize the costs of new services and technologies under the inpatient hospital prospective payment system. New section 1886(d)(5)(K)(ii)(I) of the Act specifies that the mechanism must apply to a new medical service or technology if, "based on the estimated costs incurred with respect to discharges involving such service or technology, the DRG prospective payment rate otherwise applicable to such discharges * * * is inadequate." New section 1886(d)(5)(K)(vi) of the Act specifies that a medical service or technology will be considered "new" if it meets criteria established by the Secretary (after notice and opportunity for public comment).

New sections 1886(d)(5)(K)(ii) through (vi) of the Act further provide—

- For an additional payment for new medical services and technology in an amount beyond the DRG prospective payment system payment rate that adequately reflects the estimated average cost of the service or technology.
- That the requirement for an additional payment for a new service or technology may be satisfied by means of a new-technology group (described in new section 1886(d)(5)(L) of the Act), an add-on payment, a payment adjustment, or any other similar mechanism for increasing the amount otherwise payable with respect to a discharge.
- For the collection of data relating to the cost of new medical services or technology for not less than 2 years and no more than 3 years after an appropriate inpatient hospital services code is issued. The statute further provides that discharges involving new services or technology that occur after the collection of these data will be classified within a new or existing DRG group with a weighting factor derived from cost data collected for discharges occurring during such period.

In the May 4, 2001 proposed rule, we included a discussion of how we proposed to implement the provisions of section 533(b) of Public Law 106–554 (66 FR 22693). This final rule establishes a mechanism to implement those provisions.

A. Criteria for Identifying New Medical Services and Technology

New section 1886(d)(5)(K)(vi) of the Act specifies that a medical service or technology will be considered "new" if it meets criteria established by the Secretary (after notice and opportunity for public comment). (For convenience, hereafter we refer to "new medical services and technology" as "new technology.") In the May 4, 2001 proposed rule, we proposed that a new technology would be an appropriate candidate for an additional payment when, in the judgment of the Secretary, it represents an advance in medical technology that substantially improves, relative to technologies previously available, the diagnosis or treatment of Medicare beneficiaries (proposed § 412.87(b)(1)). This proposed criterion was intended to ensure that new technology can be demonstrated to provide a substantial clinical improvement based on verifiable evidence. In the May 4, 2001 proposed rule, we proposed to make determinations regarding which new technologies meet this criterion using a panel of Federal clinical and other experts, supplemented as appropriate with outside expertise. As explained below, we also proposed that new technologies meeting this clinical definition must also be demonstrated to be inadequately paid otherwise under the DRG system to receive special payment treatment (proposed § 412.87(b)(3)). New technologies that do not meet these proposed standards would be paid through other applicable DRG payments. These payments would be recalibrated over time to reflect the actual use of the new technologies.

In addition to the clinical and cost criteria, we proposed that, in order to qualify for the special payment treatment provided under new section 1886(d)(5)(K)(ii)(I) of the Act, a specific technology must be new (proposed § 412.87(b)(2)). We believe the new provision contemplates the special payment treatment for new technologies until such time as data are available to reflect the cost of the technology in the DRG weights through recalibration (generally 2 years). Specifically, new section 1886(d)(5)(K)(ii)(II) of the Act states that the Secretary must "provide for the collection of data with respect to the costs of a new medical service or technology * * * for a period of not less than two years and not more than three years beginning on the date on which an inpatient hospital code is issued with respect to the service or technology." In addition, new section 1886(d)(5)(K)(ii)(III) states that the Secretary must "provide for additional payment to be made * * * with respect to discharges involving a new medical service or technology described in subclause (I) that occur during the period described in subclause (II) in an amount that adequately reflects the estimated average costs of such service or technology."

We also proposed in the May 4 proposed rule that the results of all determinations would be announced in the **Federal Register** as part of the annual updates and changes to the inpatient hospital prospective payment system (proposed § 412.87(b)(1)). In addition, we noted that this determination is separate and distinct from the coverage decision process.

We solicited comments on these proposals. In particular, given that this process is the result of new legislation with possibly major implications for the hospital inpatient prospective payment system, we invited public comment on: Our definition of new medical services and technologies; the use of Federal clinical and other experts to make determinations regarding which criteria meet our definition of a new service or technology; the information necessary to determine whether payment would be inadequate; and our payment mechanism (see the following discussions for these latter two issues).

Comment: Commenters argued that our proposed rule did not establish a clear means whereby new technologies may qualify for additional payments to be effective for discharges occurring on or after October 1, 2001. These commenters believed that section 533 of Public Law 106–554 requires new technologies to be identified and special payments to be made at that point.

Several commenters argued that particular new technologies should be recognized for special payment under this provision beginning October 1, 2001. On the other hand, a commenter representing hospitals encouraged us to proceed carefully and deliberately.

Response: Although we are establishing the methodology by which new technologies may become eligible for special payments in this final rule, we will not make additional payments under the methodology during FY 2002. This is due to the timing of the enactment of Public Law 106–554 on December 21, 2000, the requirement that we establish the mechanism through notice and an opportunity for public comment, and the requirement that the payments be implemented in a budget neutral manner. That is, it was not feasible to establish the criteria by which new technologies would qualify through a proposed rule with opportunity for public comment as part of the May 4, 2001 proposed rule, finalize those criteria in response to public comments, allow technologies to qualify under those criteria, and implement payments for any qualified technologies in a budget neutral manner. Making the special payments in a budget neutral manner requires an adjustment to the standardized amounts (which must be published in final by August 1 each year) that we use to pay acute care hospitals under the prospective payment system.

It was not possible to establish a process through proposed and final rulemaking, whereby new technologies could qualify for this special payment provision, prior to publishing a proposed rule for FY 2002. As noted previously, Public Law 106–554 was enacted on December 21, 2000. We are required to publish our proposed rule updating the standardized amounts and including other changes to the hospital inpatient prospective payment system by April 1 of each year, and to publish a final rule by August 1 of each year.

We did, however, carefully evaluate all technologies of which we were aware, including those submitted for consideration during the public comment period on the May 4, 2001 proposed rule, that might seek designation as "new" under this provision. All of those that were submitted during the public comment period were previously existing technologies with data already available in the MedPAR file. Therefore, they would not be eligible under our criterion to be considered new. Of new technologies that we considered prior to publication of the proposed rule, none submitted data we believe were sufficient to document that the technology would be inadequately paid under existing DRGs. However, one new technology, intravascular brachytherapy, was assigned to a higher weighted DRG based on the clinical characteristics of the procedure.

Comment: A number of comments addressed our proposed eligibility requirements for a medical service or technology to qualify as "new technology". Several commenters were concerned that the criteria were too vague and subjective to be implemented. Specifically, commenters took issue with the "substantial improvement" requirement, stating that the statute does not require such a stringent test and that the term is too subjective and cumbersome to administer properly.

The Medicare Payment Advisory Commission (MedPAC), which stated it was in general agreement with the criteria overall, commented that it would be difficult to operationalize the "substantial improvement" criterion, which makes judgements about the extent to which a given technology improves diagnosis or treatment. Another commenter suggested rewording the criterion to say "substantial differences" and stated that these differences should be measured based on diagnostic or therapeutic effects.

Other commenters, representing national associations of hospitals, supported our proposed criteria for identifying new technology, although one commenter also expressed reservations about the ambiguity of the "substantial improvement" criterion.

Response: As stated previously, we proposed the "substantial improvement" criterion to limit these special payments for those technologies that afford clear improvements over the use of previously available technologies. We believe the special payments for new technology established by this final rule should be limited to those new technologies that have been demonstrated to represent a substantial improvement in caring for Medicare beneficiaries, such that there is a clear advantage to creating a payment incentive for physicians and hospitals to utilize the new technology. Where such an improvement is not demonstrated, we continue to believe the incentives of the DRG system provide a useful balance to the introduction of new technologies.

In that regard, we would point out that various new technologies introduced over the years have been demonstrated to have been less effective than initially thought, or in some cases even potentially harmful. We believe it is in the best interest of Medicare beneficiaries to proceed very carefully with respect to the incentives created to quickly adopt new technology.

Therefore, we are adopting our proposed requirement that a new technology must represent a substantial improvement, and are clarifying the way it will be applied. We will evaluate a request for special payment for a new

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technology against the following criteria in order to determine if the new technology meets the substantial improvement requirement:

- The device offers a treatment option for a patient population unresponsive to, or ineligible for, currently available treatments.
- The device offers the ability to diagnose a medical condition in a patient population where that medical condition is currently undetectable or offers the ability to diagnose a medical condition earlier in a patient population than allowed by currently available methods. There must also be evidence that use of the device to make a diagnosis affects the management of the patient.
- Use of the device significantly improves clinical outcomes for a patient population as compared to currently available treatments. Some examples of outcomes that are frequently evaluated in studies of medical devices are the following:
  - ◆ Reduced mortality rate with use of the device.
  - ◆ Reduced rate of device-related complications.
  - ◆ Decreased rate of subsequent diagnostic or therapeutic interventions (for example, due to reduced rate of recurrence of the disease process).
  - ◆ Decreased number of future hospitalizations or physician visits.
  - ◆ More rapid beneficial resolution of the disease process treatment because of the use of the device.
  - ◆ Decreased pain, bleeding, or other quantifiable symptom.
  - ◆ Reduced recovery time.

We will require the requester to submit evidence that the technology meets one or more of these criteria. We note that these criteria are not intended for use in making coverage decisions under section 1862(a)(1)(A) of the Act.

Comment: Several commenters requested that we clarify the time period in which a technology would be considered new for purposes of qualifying for this special add-on payment. The commenters noted that proposed § 412.87(b)(2) states that " [a] medical service or technology may be considered new within 2 or 3 years after it becomes available on the market * * *." The commenters argued that this requirement should be clarified to state that the 2-year to 3-year period begins with the assignment of an appropriate tracking code, not the point at which the technology becomes available on the market. Several commenters indicated that this would enable previously existing technologies to qualify if they receive a new code that better enables tracking of their data.

Response: The 2-year to 3-year period referenced in section 1886(d)(5)(K)(ii)(II) of the Act is the time that is required for discharge data associated with a new technology to be reflected in the DRG weights. Therefore, the most appropriate point to begin the period during which a technology may be considered new is the point at which the technology becomes available on the market and the ICD–9–CM code issued by the ICD–9–CM Coordination and Maintenance Committee becomes effective. The 2-year to 3-year time period provided under the Act recognizes the lag between market approval and a new ICD–9–CM code becoming effective.

Technology will no longer be considered new after the point at which data begin to become available reflecting the code assigned to the technology by the Committee. We do not believe it would be appropriate to consider technologies that have been on the market for more than 2 or 3 years for approval under this provision on the basis that the Committee subsequently issues a more precise procedural code. Data reflecting the costs of these technologies are already available in the MedPAR data. We would, however, continue our past practice of evaluating whether existing procedures are appropriately classified to a DRG. To the extent the introduction of a new code for existing technology helps to better identify higher costs associated with a procedure, we would work to expedite the appropriate assignment of that code (for example, using more recent MedPAR data).

Comment: Several commenters objected to our proposal to consult a Federal panel of experts in evaluating new technology under the "substantial improvement" criterion. One commenter referred to the panel as an unnecessary layer of bureaucracy that should be eliminated. The commenter believed the panel would be unnecessary and that CMS should automatically deem drugs and biologicals approved by FDA through its "fast-track" processes as new technology.

A number of commenters requested further details regarding the composition of the panel and its review process. They requested that CMS establish clear timelines on when the panel will review applications for new technologies and publish these timelines on the CMS website. The commenters further stated that meetings of the panel should be open to the public and the meeting date and agenda announced in advance, with technology sponsors allowed to present their request at the meetings. The commenters also requested that a reconsideration process be established.

Response: The role of the Federal panel will be to evaluate whether a new technology represents a substantial improvement in the diagnosis or treatment of Medicare beneficiaries. Because there is not another body currently making such determinations, it is necessary to establish the panel. The panel will be comprised of CMS clinical staff, supplemented with coding and claims processing experts on staff at CMS. The panel may be supplemented with outside expertise as appropriate.

The panel will consider all relevant information (including FDA "fast-track" approval) in making its determinations. However, we do not envision an automatic approval process under this provision.

The panel will consider applications on an ongoing, ad hoc basis. As described below, the initial data submission must be no later than early October, approximately 6 months prior to the publication of the proposed annual update rule, and a complete dataset must be submitted no later than mid-December. Similarly, initial clinical data (peer-reviewed articles, study results, etc.) to demonstrate the substantial improvement associated with the new technology must be submitted by early October. This will permit the panel to request further documentation if necessary prior to reaching a decision. It will also allow time to consider whether outside expertise is needed, and, if so, to convene appropriate experts. It is anticipated that consultations with the sponsors of technologies will be utilized as necessary.

Decisions of the panel will be published in the annual proposed rule announcing updates to the inpatient prospective payment system, along with summaries of the documentation considered. This will permit the sponsors of the technology to request a reconsideration of a negative decision, as well as allow the public to evaluate the decisions and request reconsideration.

Comment: Commenters requested we clarify how subsequent versions of an approved new technology will be treated under this provision. The commenters suggested that the special payment provision should be available to any new technology that is introduced while the first eligible version of the technology is still eligible for special payment. The commenters further suggested that if the subsequent variations of the new technology are substantially similar, they should be automatically eligible for the special payment provision. If the subsequent versions are different or broader than the initial technology, there should be an abbreviated application process available.

Response: We agree with the commenters that subsequent new technologies that are substantially similar to a currently approved (for special payment) technology should be eligible for special payment as well. Otherwise, our payment policy would bestow an advantage to the first applicant representing a particular new technology to receive approval.

Applicants would still be required to submit data showing they would be inadequately paid and that the subsequent technology meets the criterion that it be new (case data are not currently available in the MedPAR data). Once data become available to incorporate the costs of the new technology into the DRG recalibration process, subsequent versions must demonstrate they meet the substantial improvement criterion (with the previously new technology included in the comparative baseline) in order to qualify for special treatment.

For example, Company A and Company B are simultaneously developing a new technology. Company A applies and is approved for additional payments under this provision for FY 2003. Company B then submits an application to demonstrate its product is substantially similar to Company A's product, and is approved for additional payments for FY 2004. In FY 2005, data are available on Company A's product to be used for DRG recalibration. Therefore, no additional payments are made for Company A's product during FY 2005, and, because Company B's product is substantially similar to Company A's product, no additional payments will be made for Company B's product during FY 2005. Similarly, if Company A developed a variation of the new technology in FY 2005, this variation must meet all three criteria in order to be eligible (substantial clinical improvement, inadequately paid otherwise, and data unavailable for DRG recalibration).

Presumably, a substantially similar technology would be assigned the same ICD–9–CM code as the initial new technology. Because the approval of additional new technologies would affect the budget neutrality calculations and the requirement for the public to have the opportunity to review and comment on decisions that would impact on hospital payments, we will implement subsequently approved technologies through the annual notice of proposed and final rulemaking.

Comment: One commenter requested clarification whether a new use of an existing technology would qualify as new under our criteria.

Response: If the new use of the existing technology was for treating patients not expected to be assigned to the same DRG as the patients receiving the existing technology, it may be considered for approval, but it must also meet the substantial improvement and inadequacy of payment criteria in order to qualify for special payment.

Comment: One commenter requested that, when a procedure is approved as a new technology under the proposed criteria outlined in section IV.F. of the May 4, 2001 proposed rule (66 FR 22693), it automatically be issued a new ICD–9–CM code without the requestor having to contact the ICD–9–CM Coordination and Maintenance Committee.

Response: Before any procedure can be uniquely classified either within the regular DRGs or under the new technology process, it first must be identified. A procedure is identified through an ICD–9–CM code. This code may be a general code, such as for a bronchial dilation. It also may be more precise, such as for the implantation of an external, pulsatile heart-assist system. Participants at the public meetings of the ICD–9–CM Coordination and Maintenance Committee carefully evaluate the need for a new, unique ICD–9–CM code. They consider factors such as: whether or not there is an existing code that adequately identifies the procedure; whether the procedure is so unique that it warrants a unique code; whether there is room within ICD–9–CM for a new code; whether the structure of ICD–9–CM allows for the capture of the needed data; and whether documentation in the medical record will allow for the identification of the procedure to the extent specified by the proposed code.

These are very different considerations than those suggested by the criteria to qualify for special payment under this provision. Therefore, it would not be appropriate to allow technologies to bypass the Committee review process.

B. Determining Adequacy of Current Payments for New Services and Technology

Because the inpatient hospital prospective payment system includes costs associated with all aspects of a patient's stay in the hospital, it is not enough to simply identify a technology as "new" and pay an additional amount. A single DRG may encompass many different treatment approaches for a particular illness, with an array of costs associated with those approaches. Clinicians are expected to select the appropriate approach based on the needs of the patient, with the payments averaging out over time to approximate the level of resources needed to treat the average patient in the DRG.

Section 1886(d)(5)(K)(ii) of the Act, as added by section 533(b) of Public Law 106–554, requires that the Secretary make a determination whether the payment otherwise applicable under the existing DRG is inadequate compared to the estimated costs incurred with respect to new technology (as defined earlier in this final rule). We believe that, in order to evaluate whether the DRG payment inadequately reflects the costs of new technology, we must be able to assess the costs of cases involving the new technology against other cases in the DRG. In other words, the criteria for identifying new technology that will receive special payment treatment should reflect whether the new technology is so expensive that hospitals are unlikely to offset the higher costs with other less costly cases within the DRG. In the May 4 proposed rule, we proposed that this threshold be set at one standard deviation beyond the mean standardized charge for all cases in the DRG to which the new technology is assigned (or the case-weighted average of all relevant DRGs, if the new technology occurs in many different DRGs) (proposed § 412.87(b)(3)). (Standardization adjusts the actual charges of a case by the payment factors such as the wage index, the indirect medical education adjustment factor, and the disproportionate share adjustment factor.)

We proposed to make this comparison preferably using Medicare cases identifiable in our MedPAR database, although data from a clinical trial (including FDA clinical trials) where no bills were submitted for payment may be considered. To the extent possible, CMS proposed to rely on existing information in making these determinations. In most instances, the information would include the Medicare provider number of the hospital where each case was treated, the beneficiary identification numbers of the Medicare patients, the dates of admission and discharge, the charges associated with each case, and all relevant ICD–9–CM codes associated with each case (individual patient information is needed to permit matching of the hospital data with the Medicare payment file on the patient). We proposed to assess the charges of identified cases involving the new

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technology, accounting for the additional costs of the new technology that might not be included in the charges if the new technology is being provided by the manufacturer as part of a clinical trial. If the costs of the new technology are not included in the total charges, we proposed to require the requestor to submit adequate documentation upon which to formulate an estimate of the likely costs to hospitals of the new technology.

We proposed that a significant sample of the data must be submitted no later than early October, approximately 6 months prior to the publication of the proposed rule. Subsequently, a complete database must be submitted no later than mid-December. This proposed timetable was necessary to allow CMS adequate time to assess and verify the data, as well as to work with the submitters to deal with any unique situations with respect to data availability. It was also necessary to allow us to accurately incorporate the data into the annual proposed rule, which we begin preparing in January. We solicited public comments on this process.

To illustrate the proposed use of the standard deviation thresholds, the proposed rule considered DRG 8 (Peripheral and Cranial Nerve and Other Nervous System Procedures Without CC). The average standardized charge of cases assigned to this DRG based on discharges during FY 2000 was $13,212, and the standard deviation was $8,978. Therefore, under our proposal, if a requestor were to seek assignment of a new technology that would otherwise be assigned to DRG 8 to a different DRG, the requestor would be expected to provide data indicating that the average standardized charge of cases receiving this new technology will exceed $22,190. We proposed that these data must be of a sufficient sample size to demonstrate a significant likelihood that the true mean across all cases likely to receive the new technology will exceed the mean for the cases in DRG 8 by one standard deviation.

We explained in the proposed rule that using standard deviation as the threshold takes into account the distribution of charges associated with different treatment modalities around the mean charge for a particular DRG, and the extent to which lower cost cases in the DRG should be expected to offset higher cost cases. Using this method, new technology in a DRG with very little variation in charges would be more likely to meet the criteria. This would be appropriate because there are fewer opportunities within such a DRG to recover the costs of very high cost cases from excess payments for very low cost cases.

In the proposed rule, we noted that, we will continue to evaluate the appropriateness of all DRG assignments. This applies not only to new technology but existing technologies as well.

Comment: Some commenters disagreed with our proposed timetable for submitting data. One commenter recommended that, if MedPAR data are available for review, the timeline for applying for consideration for this special provision should be February 1, for inclusion in the proposed rule scheduled to be published April 1 each year. If only manufacturer (non-MedPAR) data are available, the commenter recommended a deadline of December 1 for submitting data for consideration. Another commenter recommend a two-step process for submitting data, where CMS would accept the manufacturer's "good faith estimate" of the hospitals' acquisition costs, then validate that initial estimate based upon actual claims experience.

Response: The proposed timetable originated from the one established in the July 30, 1999 final rule (64 FR 41500). We have attempted to balance the mandate to expedite incorporation of new technology into the clinical coding system for the hospital inpatient prospective payment system with the integrity and incentives of the inpatient hospital prospective payment system. In particular, because the payments under this provision are to be budget neutral, meaning overall payments are reduced to pay for higher payments for new technology cases, it is imperative to provide adequate opportunity to validate the data submitted. If we did not validate the data, then technologies that do not warrant special payment might qualify, which means other payments might be reduced more than is appropriate under the budget neutrality adjustment.

The December 1 deadline for submitting data not currently in the MedPAR database would not allow sufficient time to process, verify, and analyze the data prior to reaching a decision by mid-January for inclusion in the proposed rule, particularly if there is a large volume of requests submitted.

In particular, because these data are not currently in the MedPAR database, it will be necessary to independently verify the data submitted, especially the costs of the technology and the DRGs where the new technology will likely be assigned.

Although the availability of data in the MedPAR database will facilitate our analyses, a February 1 deadline would be unworkable due to the lead time needed to prepare the proposed rule (DRG reclassification decisions must be completely programmed during February to complete the calculation of the proposed standardized amounts). In addition, it is unclear what data will be available in the MedPAR database. New technology under this provision is defined by the fact that data are otherwise not available to reflect the costs of the new technology in the DRG weights through recalibration. Therefore, even if some MedPAR data were available, it is presumed additional data not available in MedPAR on the costs of the new technology will be needed in all instances.

For these reasons, we believe the timetable we set forth in the proposed rule is appropriate, and we are implementing it effective for applications to be eligible for special new technology payments during FY 2003.

With regard to the two-step process suggested by the commenter, our process does accommodate the fact that actual hospital acquisition costs may not be available at the time a request is being considered. However, we require manufacturers to provide sufficient information to allow their pricing estimate to be substantiated at the time the request is being considered.

Comment: Several commenters suggested we delete the proposed requirement that a "significant sample" of the data be submitted no later than early October. The commenters suggested that instead we should rely on data that can be reasonably provided by the manufacturer at the time of introduction of the new technology. Furthermore, the commenters believed that any economic data required should be reasonably derived from the clinical trials conducted in conjunction with submissions to FDA for marketing approval or for an investigational device exemption. These data may include economic models that reflect manufacturer list price and other variables, as well as published data to estimate likely volume of use in Medicare patients.

Another commenter requested that we clarify that, where the charges of a new technology are not included in the charges of trial participants because the technology is provided at no cost, we will adjust the standardized charges of cases involving the new technology to reflect that fact.

Response: We agree with the commenters' characterization of the types of data that are likely to be available to demonstrate a technology would be inadequately paid. As stated in the proposed rule and above, the timetable we established is designed to allow adequate time to assess and verify the data, as well as to work with the submitters to deal with any unique situations with respect to data availability.

Commenters may have misunderstood our reference to a "significant sample" of data by early October. Apart from any statistical implications of that term, we intended to convey that requestors would need to submit a sample of sufficient size to enable us to undertake an initial validation and analysis of the data. Any problems we encountered in our review of this sample of data could then potentially be addressed prior to the December deadline to submit all of the data for analysis.

Finally, in cases where charges related to a new technology are not reflected in the total billed charges for a case, we intend to rely on verifiable pricing information supplied by the manufacturer. The estimated charges of the new technology will be added to the standardized charges for determining whether the average standardized charges of a new technology meets the one standard deviation threshold.

Comment: Several commenters expressed concern that our proposed requirement that the data submitted include Medicare beneficiary patient identifiers would lead to burdensome compliance issues with respect to patient confidentiality.

Response: We appreciate the concern that our data submission requirement not place requesters in the position of potential patient privacy violations. These concerns are significant because the final rules on privacy of individually identifiable health data became effective on April 14, 2001. Health plans, including Medicare, and providers that conduct certain transactions electronically, including the hospitals that will receive payment under this final rule, will be required to come into compliance with the final privacy rules no later than April 14, 2003. The privacy rules, however, permit providers to share with health plans information needed to ensure correct payment if they have obtained consent from the patient to use that patient's data for treatment, payment, or health care operations. (See 45 CFR 164.502 and 164.506.) Since the information to be provided here is needed to ensure correct payment, no additional consents will be required. However, we will continue to evaluate the need for this information as we acquire more experience analyzing requests.

Comment: Many commenters objected to using a threshold of one standard deviation above the mean charges of other cases in the DRG for determining that a new technology would be inadequately paid. Commenters stated that, using this threshold, virtually no new technology in recent years would qualify for the special payment provision.

To illustrate the impact of the standard deviation threshold, commenters included analysis of the standard deviation for each DRG in MDC 5 (Diseases and Disorders of the Circulatory System) as a percentage of the average charges for the DRG. Across all DRGs in MDC 5, the analysis found that the standard deviation was 69 percent of the average DRG charges. Some commenters suggested alternative criteria, such as the lower of 120 percent of the base DRG payment amount, or $2,500 in average increased costs.

One commenter suggested that high-cost outlier cases should be removed from the calculation of the mean and standard deviation because these cases have a disproportionate effect on those statistics. Alternatively, the commenter suggested the threshold should be set based on the distribution of the charges using a logarithmic transformation of the arithmetic charge values. The commenter believed this would produce a more normal distribution and result in mean and standard deviation values that are less effected by outliers.

On the other hand, several commenters believed that the standard deviation threshold was appropriate. MedPAC stated that this approach maintains the case-based payment inherent in the system, and appropriately recognizes the variability in costs per case. Hospital associations also generally approved of the criteria, although at least one expressed reservations that this may result in a threshold that is too high for some DRGs. Another national hospital association, however, expressed concern that the threshold may be too low for some DRGs. This commenter suggested the threshold be set at the greater of one standard deviation or $10,000.

Response: The suggestions from the commenters reflect the divergent opinions within the healthcare community about how far this policy should go to provide special payment for new technologies. We do not believe a set minimum dollar threshold, such as $2,500 is appropriate. For many DRGs this would represent a relatively small percentage of the costs of a case. Similar to MedPAC, we believe it is important to establish thresholds that recognize the variability in costs per case within DRGs and maintain the fundamental financial incentives of the prospective payment system as much as possible. We continue to believe a threshold based on the standard deviation is appropriate for that purpose.

We did explore whether a logarithmic specification to estimate the standard deviation would be a more appropriate method in light of the concern expressed by the commenters that our proposed threshold was unduly influenced by outlier cases. We first converted the charges of all cases in each DRG to their logarithmic values, and then calculated the mean and standard deviations of those logarithmic values. Next, we added together the mean and standard deviations, and then transformed that number back to charges.

Using this methodology, the average standard deviation as a percentage of the mean charges for the DRG declines from 75 percent using the proposed methodology to 50 percent using the logarithmic transformation. The average amount by which a new technology would have to exceed the DRG charges declines as well, from $11,794 in the proposed rule, to $7,799.

We believe the standard deviation based on a logarithmic transformation of the charges is an appropriate methodology to use to establish the threshold. Charge data for most DRGs tend to be skewed toward high cost cases, and a few extremely costly cases can have a disproportionate effect on the calculation of the standard deviation. Therefore, in order to qualify for the special payment provision, a new technology must result in average charges above the DRG mean charges plus one standard deviation of charges based on the logarithmic distribution.

Comment: Several commenters pointed out that the proposed language of § 412.87(b)(3) indicated we would compare the costs of the cases involving a new medical service or technology with the average charges for all cases in the DRG. Because hospital charges are much greater than costs, this criterion further disadvantages new technologies.

Response: We agree that it would be inappropriate to require new technologies to exhibit costs in excess of one standard deviation of average charges. In this final rule, we are revising the proposed language of § 412.87(b)(3) to refer to the charges of cases involving new technologies rather than costs.

Comment: Some commenters objected to our proposal to use the case-weighted average standard deviation of all relevant DRGs for a particular new technology, rather than determining

eligibility separately for each DRG involved. The commenters believed it would be more appropriate to apply thresholds separately.

Another commenter supported our proposed approach. Several commenters requested clarification of how we would calculate the standard deviation when a new technology involves more than one DRG.

Response: We believe a single threshold should apply to each new technology as proposed. We would expect hospitals will evaluate whether to adopt a new technology on the basis of all cases where it is applicable, rather than assessing the technology on a DRG-by-DRG basis. As described above, a fundamental premise of a prospective payment system is that hospitals will receive payments in excess of costs for some cases, and vice versa. The same is likely to occur for a specific technology across several DRGs. Therefore, for purposes of determining whether the technology should qualify for special payment treatment, it is most appropriate to evaluate the adequacy of payments across all DRGs.

To clarify this calculation, we would determine a case-weighted mean standardized charge and standard deviation for all of the DRGs to which a technology is likely to be assigned (based on the number of cases estimated to be assigned to each relevant DRG). The resulting mean standardized charge and standard deviation would then be the threshold amount that the new technology would have to exceed in order to qualify. That is, in order to qualify, a new technology that would be applicable across multiple DRGs would need to demonstrate that the mean standardized charge and the standard deviation for all cases likely to receive the new technology, across all DRGs, must exceed the case-weighted mean standardized charge and standard deviation for all cases currently in the DRGs to which the new technology would be assigned.

Comment: Commenters requested that we include either in this final rule or on our Internet website a listing of qualifying thresholds for each DRG.

Response: We have included this information in Table 1 of this final rule. The data are based on the discharge data used to calculate the DRG relative weights for FY 2002, as published in the August 1, 2001 final rule (66 FR 40054).

C. Developing a Payment Mechanism

Section 1886(d)(5)(K)(v) of the Act, as added by section 533(b) of Public Law 106–554, provides flexibility to the Secretary in terms of deciding exactly how the requirement for an additional payment will be satisfied: a new-technology group, an add-on payment, a payment adjustment, or any other similar mechanism for increasing the amount otherwise payable. In the May 4 proposed rule, we stated that we believe the approach most consistent with the design and incentives of the inpatient hospital prospective payment system would be to assign new technology to the most appropriate DRG based on the condition of the patient as described above, and adjust payments for individual cases that involve the new technology when the costs of those cases exceed a threshold amount. That is, we proposed to pay an additional amount not for every case involving the new technology, but only where the costs of the entire case exceed the DRG payment amount. This proposal reflected our concern that the establishment of new DRGs specifically for the purpose of recognizing costly new technology could potentially disrupt the DRG classification structure. In particular, some new technologies may involve large numbers of cases across multiple DRGs. If we were to create new DRGs specifically for new technology, this could pull cases out of existing DRGs, possibly leading to distortions in the relative weights and inadequate payments for cases remaining in the existing DRGs.

In the May 4, 2001 proposed rule, we proposed that Medicare provide higher payments for cases with higher costs involving identified new technologies, while preserving some of the incentives under the average-based payments for all treatment modalities for a particular patient category. The payment mechanism we proposed would be based on the cost to hospitals for the new technology. We proposed under § 412.88 that Medicare would pay a marginal cost factor of 50 percent for the costs of the new technology in excess of the full DRG payment. This would be calculated before any outlier payments under section 1886(d)(5)(A) of the Act, if applicable. Similarly, cases involving new technology would be eligible for outlier payments, with the additional amounts paid for the new technology included in the base payment amount. Costs would be determined by applying the cost-to-charge ratio in a manner identical to that currently used for outlier payments. Under the proposal, if the costs of a new technology case exceed the DRG payment by more than the estimated costs of the new technology, Medicare payment would be limited to the DRG payment plus 50 percent of the estimated costs of the new technology, except if the case qualified for outlier payments. (We proposed a conforming change to § 412.80 by adding a new paragraph (a)(3) to provide that outlier qualifying thresholds and payments would be in addition to standard DRG payments and additional payments for new medical services and technology (effective October 2001).)

In the proposed rule, we gave the following example: consider a new technology estimated to cost $3,000, in a DRG that pays $20,000. A hospital submits three claims for cases involving this new technology. After applying the hospital's cost-to-charge ratio, it is determined the costs of these three cases are $19,000, $22,000, and $25,000. Under the proposed approach, Medicare would pay $20,000 (the DRG payment) for the first claim. For the second claim, Medicare would pay one half of the amount by which the costs of the case exceed the DRG payment, up to the estimated cost of the new technology, or $21,000 ($20,000 plus one half of $2,000). For the third claim, Medicare would pay $21,500 ($20,000 plus one half of the total estimated costs of the new technology).

In the May 4 proposed rule we stated that we believe it is appropriate to limit the additional payment to 50 percent of the additional cost to appropriately balance the incentives. We stated that this proposed limit would provide hospitals an incentive for continued cost-effective behavior in relation to the overall costs of the case. In addition, we believe hospitals would face an incentive to balance the desirability of using the new technology versus the old; otherwise, there would be a large and perhaps inappropriate incentive to use the new technology. For example, in the late 1980s, we considered whether to establish a special payment adjustment for tissue plasminogen activator (TPA), a thrombolytic agent used in treating blockages of coronary arteries, reflecting the high costs of the drug. We did not establish such an adjustment because we believed that the updates to the standardized amounts, combined with the potential for continuing improvements in hospital productivity, would be adequate to finance appropriate care of Medicare patients. In fact, the costs of the drug were offset by shorter hospital stays and an overall reduction in costs per case. As clinical experience with TPA accumulated, furthermore, it appeared that the drug was not as widely beneficial as its original proponents expected. Establishing an add-on payment for this drug might have actually led to more extensive use of this drug for patients who would not have benefited, and might have even been harmed, by its blood-thinning characteristics.

Comment: Several commenters representing hospital associations suggested that we prospectively adjust the DRG weights to account for the expected additional costs of new technology. They further stated that this would incorporate the additional costs into the DRG weights, rather than providing a separate add-on amount on a case-by-case basis. The commenters argued that the add-on payment methodology increases the complexity of the system.

One commenter suggested our proposed payment mechanism violates section 1886(d)(5)(K)(v) of the Act, which prohibits the Secretary from establishing a separate fee schedule for payments for new technologies under this provision. The commenter believed that the proposed methodology amounts to a fee schedule, with the vast majority of new technologies being paid at the marginal cost of such technologies.

Response: We considered all options, including the one suggested here, prior to proposing an add-on payment. However, as noted above, we believe the proposed payment mechanism appropriately balances the incentives for cost-effective behavior with the incentives created to utilize eligible new technologies due to the increased payments.

It should be noted that CMS had discretion prior to Public Law 106–554 to use data other than MedPAR as part of the recalibration process. In the July 30, 1999 **Federal Register**, we described the process whereby we would consider non-MedPAR data in the DRG reclassification and recalibration. This was in response to the Conference Report that accompanied Public Law 105–33, which stated "in order to ensure that Medicare beneficiaries have access to innovative new drug therapies, the conferees believe that CMS should consider, to the extent feasible, reliable, validated data other than Medicare Provider Analysis and Review (MedPAR) data in annually recalibrating and reclassifying the DRGs" (H.R. Conf. Rep. No. 105–217 at 734 (1997)).

We are concerned, however, that the approach suggested by the commenters may not adequately fulfill Congress' intent in enacting section 533 of Public Law 106–554. Specifically, Congress already recognized that the Secretary could use non-MedPAR data to adjust the DRG weights, as evidenced by the Conference Report reference just quoted. Therefore, if incorporating new technology in the DRG weights sooner would be sufficient to fulfill Congress' intent in section 533, there would have been no need to enact section 533.

We disagree with the commenter who suggested our proposed methodology equates to a fee schedule. The additional payments made under this provision recognize the additional costs incurred by hospitals above the normal DRG payment. They are not fees paid for the use of a new technology irrespective of the amount otherwise paid under the existing prospective payment system. Therefore, they are an add-on payment, consistent with the language of section 533.

Comment: Other commenters representing medical technology manufacturers recommended that, rather than our proposed add-on payment methodology, we should create a limited number of new technology DRGs. They stated that the proposed methodology is flawed because it relies on charges, and charges for medical technology typically do not receive the same mark-up as other components of care.

Response: We are concerned about creating specific new technology DRGs for two reasons. In particular, we anticipate the number of technologies eligible for special payment during any given year will be relatively few. Establishing specific new technology DRGs would result in most, if not all, of these new technology DRGs being comprised of one or two procedures, with the DRG weights based entirely on the projected average charges associated with those very limited and specific procedures. As a result, payment for the new technology could be significantly higher than the payment for predecessor technologies in existing DRGs. This approach would forfeit the incentives to balance the clinical benefits of new technology with the higher costs. In addition, section 1886(d)(5)(L)(ii)(I) of the Act prohibits establishing new technology groups based on the costs associated with a specific new medical service or technology.

We are also concerned about the potential that a future technology may be so prevalent across so many DRGs that a disproportionate number of cases would be assigned to a new technology DRG rather than existing DRGs, resulting in distortions in DRG recalibration.

Comment: We received a mixed response to our proposal to pay 50 percent of excess costs up to a limit of 50 percent of the estimated average cost of the new technology. Several commenters objected to the proposal, arguing that the methodology does not comply with the statutory requirement to pay an amount that "adequately reflects the estimated average costs" of new technology. Generally, these commenters recommended that the add-on payment should be 100 percent of the costs of the new technology. Other commenters, including MedPAC, supported the payment mechanism as a way of maintaining the integrity of the DRG system and maintaining an incentive for hospitals and physicians to carefully weigh the clinical benefits of new technology against their costs.

Response: For several reasons, we do not believe it would be appropriate to pay 100 percent of the costs of new technology through the add-on payment. First, as stated above, the prospective payment system is an average-based system, allowing hospitals to recover the "excess" costs of high cost cases through "excess" payments for low cost cases. In deciding which treatment is most appropriate for any particular patient, physicians are expected to balance the clinical needs of patients with the efficacy and costliness of particular treatments. Paying an add-on amount equal to 100 percent of the costs of new technology would remove consideration of the costs of new technology from treatment decisions. We agree with MedPAC that it is important to maintain some incentive to weigh the costs of new technology in making clinical decisions.

Second, we do not believe it is appropriate to pay an add-on amount equal to 100 percent of the costs of new technology because there is no similar methodology to reduce payments for cost-saving technology. For example, as new technologies permit the development of less-invasive surgical procedures, the total costs per case may begin to decline as patients recover and leave the hospital sooner. However, Medicare will continue to pay the full DRG payment for those cases, without benefit of the reduced costs being reflected in the DRG weights for 2 to 3 years (as described above).

Third, we are concerned that, because these payments are linked to charges submitted by hospitals, there is the potential that hospitals may adapt their charge structure to maximize payments for DRGs that include eligible new technologies. The higher the marginal cost factor, the greater the incentive hospitals face in this regard.

In light of these concerns, we believe that an additional payment based on a 50-percent marginal cost factor is appropriate. In addition, we note that this final rule includes a target limit on total payments under this provision (see section III.D. of this preamble for a complete discussion of this issue). If, based on our projections of special

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payments for the upcoming year, we estimate that the limit established by this target would be exceeded, we would prospectively revise downward the marginal cost factor so that the target is not exceeded, in order to limit the extent of the adjustment to the standardized amounts for budget neutrality.

D. Budget Neutrality

The report language accompanying section 533 of Public Law 106–554 indicates Congressional intent that the Secretary implement the new mechanism on a budget neutral basis (H.R. Conf. Rep. No. 106–1033, 106th Cong., 2d Sess. at 897 (2000)). Section 1886(d)(4)(C)(iii) of the Act requires that the adjustments to annual DRG classifications and relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. Therefore, we proposed to simulate projected payments under this provision for new technology during the upcoming fiscal year at the same time we estimate the payment effect of changes to the DRG classifications and recalibration. The impact of additional payments under this provision would then be factored into the budget neutrality factor, which is applied to the standardized amounts.

Because, under our proposal, any additional payments directed toward new technology under this provision would be offset to ensure budget neutrality, it would be important to carefully consider the extent of this provision and ensure that only technologies representing substantial advances are recognized for additional payments. In that regard, we proposed to discuss in the annual proposed and final regulations implementing changes to the inpatient hospital prospective payment system those technologies that were considered under this provision; our determination as to whether a particular new technology meets our criteria for a "substantial improvement" and for a new technology; whether it is determined further that cases involving the new technology would be inadequately paid under the existing DRG payment; and any assumptions that went into the budget neutrality calculations related to additional payments for that new technology, including the expected number, distribution, and costs of these cases.

The payments made under our proposed approach to implement this provision would be redistributed from all other payments made under the inpatient prospective payment system. Our projections of the aggregate payments for new technology would involve not only estimates of the effect of the new technology on the entire cost per case but also estimates of the volume of cases expected to involve the new technology during the upcoming year.

Comment: Two commenters representing hospitals expressed concerns regarding the amount of potential payments under this provision, and argued that the amount of the offset to the prospective payment system standardized amount should be set a prescribed limit. Specifically, the commenters were concerned that this provision would be financed by reducing payments for cases that do not involve new technology to pay for additional payments for cases that do involve new technology.

These commenters suggested that we establish a target limit on the payments for new technology under this special provision. Estimated total payments under this provision would be limited to a predetermined target percentage of total payments, thereby limiting the size of the standardized amount offset to no greater than the target limit. One commenter recommended that the limit be set at 0.5 percent of prospective payment system payments, based on the commenter's assessment of the new technology components in the hospital inpatient market basket.

Response: Because Congress intended section 533(b) to be implemented in a budget neutral manner (the Congressional Budget Office scored the budgetary impact of section 533 at zero dollars), requiring that special payments under this provision be financed by reducing payments for other cases, there is great potential for this provision to adversely impact certain hospitals. Although we believe that the criteria for qualifying new technology we proposed would appropriately limit the new technologies eligible for special payments to those with exceptionally high costs relative to their anticipated DRG payment, we are concerned that this provision should not result in inappropriately large redistributions of payments from hospitals that do not employ new technology to those that do. Therefore, after careful consideration of the comments received on this provision, we are establishing a target limit on the percentage of total payments under this provision.

The report language accompanying section 533 of Public Law 106–544 states that "[t]he total amount of projected additional payments under the mechanism would be limited to an amount not greater that the Secretary's annual estimation of the costs attributable to the introduction of new technology in the hospital sector as a whole (as estimated for purposes of the annual hospital update calculation." (H.R. Conf. Rep. No. 106–1033, 106th Cong., 2d Sess. at 897 (2000).) Although the Secretary has not historically prepared such an estimate, MedPAC has historically prepared such an estimate.

As part of its annual recommendation to Congress on the update to the standardized amounts, over the past several years, MedPAC has recommended an allowance for scientific and technological advances of 0.5 and 1.0 percent (June 2000 Report to Congress, page 126; and March 2001 Report to Congress, page 76). To appropriately balance Congress' intent to increase Medicare's payments for eligible new technologies with concern that the total size of those payments not result in significantly reduced payments for other cases, we are setting the target limit for special payments for new technology under the provisions of section 533(b) of Public Law 106–554 at 1.0 percent of total operating prospective payments.

The target limit will be enforced based on an estimate of the total amount of payments projected to be made under this provision during the upcoming fiscal year, compared with total operating prospective payment system payments projected to be made during the same period (including adjustments for indirect medical education, disproportionate share of low-income patients, and outlier cases). Should the projected amount of new technology payments exceed the 1.0 percent target limit, we would make a prospective adjustment to lower the marginal payments for new technology cases (below the 50-percent level) so that the target is not exceeded.

We considered alternative approaches to enforcing the target limit. For example, one could establish a priority ranking of the approved technologies, and work down the list paying for as many new technologies as possible until the limit is reached. Such a ranking could be based on the clinical merits of the technology, or the cost implications of the technology. However, we were concerned that such an approach would exclude some otherwise approved technologies from receiving extra payments.

Another approach, the one we have selected, is to reduce the level of payments for approved technologies across the board, to ensure estimated payments do not exceed the limit. Using this approach, all cases involving approved new technologies that would otherwise receive additional payments would still receive special payments, albeit at a reduced amount. Because, by definition, payments made under this provision would need to be at relatively high levels in order for the limit to come into play, and because new technology tends to be concentrated in particular categories of hospitals (for example, academic medical centers), we believe this is the most appropriate mechanism to enforce the target limit because substantial payment redistributions will have already likely occurred to these hospitals by the time the limit is reached. Although the marginal payment rate for individual technologies will be reduced, this should be offset by large overall payments for new technologies under this provision.

V. Provisions of the Final Rule

We are adopting the provisions of the May 4, 2001 proposed rule as final with the modifications that are discussed throughout this preamble. Specifically, this final rule specifies that a target for new technology payments under section 1886(d)(5)(K) of the Act will be set at 1.0 percent of total operating payments. Cases in which new technologies are used will qualify for payment under the new technology provision if their charges exceed one standard deviation from the mean charge (based on a logarithmic distribution) for all cases in that DRG. Payment will be limited to 50 percent of the amount by which the cost of the case exceeds the DRG payment for the case, up to 50 percent of the cost of the new technology. Should projected payments for the technology exceed the target amount in a given year, the marginal payment factor will be reduced prospectively from 50 percent as necessary to meet the target. This provision must be implemented in a budget neutral manner.

VI. Effective Date of the Final Rule

This final rule has been determined not to be a major rule as defined in Title 5, United State Code, section 804(2); that is, due to the budget neutrality aspect of the implemented provisions of section 533 of Public Law 106–554, the anticipated annual effect on the economy will not exceed $100 million or more. Therefore, 5 U.S.C. 801, as added by section 251 of Public Law 104–121, which provides that a major rule shall take effect 60 days after the later of (1) the date a report on the rule is submitted to Congress or (2) the date the rule is published in the **Federal Register**, does not apply.

VII. Regulatory Impact Analysis

A. General

We have examined the impacts of this rule as required by Executive Order 12866. We have examined the impacts of this rule under the criteria of the Regulatory Flexibility Act (RFA) Public Law 96–354, section 1102(b) of the Act, and the Unfunded Mandate Reform Act of 1995 (UMRA) Public Law 104–4. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of $100 million or more annually (major rules). We have determined that this final rule is not a major rule within the meaning of Executive Order 12866.

The RFA requires agencies to analyze options for regulatory relief of small businesses in issuing a proposed rule and a final rule that has been preceded by a proposed rule. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $25 million or less annually. Based on 1997 Census Bureau data, there are 4,700 general short-term acute care hospitals (tax exempt; government or nonprofit). Of the 792 proprietary hospitals, 658 are proprietary hospitals with greater than $10 million in annual receipts. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA). Section 601(g) of the Social Security Amendments of 1983 (Public Law 98–21) designated hospitals in certain New England counties as belonging to the adjacent NECMA. Thus, for purposes of the hospital inpatient prospective payment systems, we classify these hospitals as urban hospitals.

Because we are not making payments under this provision for FY 2002, there are no estimated impacts. Future impacts of this provision on hospitals, which may include small entities and would not include unfunded mandates, will be discussed in the annual proposed and final rules implementing the updates and other changes to the inpatient prospective payment system.

B. Anticipated Effects

As noted above, there is no impact on payments to hospitals during FY 2002. Future impacts of this provision will be included as part of the annual proposed and final rules updating the acute care hospital inpatient prospective payment system.

C. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

We have reviewed this final rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that the final rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

D. Unfunded Mandate

Section 202 of the Unfunded Mandate Reform Act of 1995 (Pub. L. 104–4) also requires that agencies assess anticipated costs and benefits before issuing any final rule that has been preceded by a final rule that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This final rule would not mandate any requirements for State, local, or tribal governments.

E. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

VIII. Information Collection Requirements

This document does not contain any new information collection requirements that are subject to review and approval by the Office of Management and Budget (OMB) as provided for under the Paperwork Reduction Act of 1995. In particular, the requirements referenced in these

regulations are conducted on an individual case-by-case basis, and, therefore, are exempt for the PRA, as stipulated under 5 CFR 1320.3(h)(6).

TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]

DRG	Cases	Mean	Standard deviation
1	33,680	$34,221	$17,102
2	6,750	$35,700	$17,893
3	2	$114,502	$11,624
[illegible]	6,003	$25,072	$13,170
[illegible]	92,462	$14,018	$6,792
[illegible]	364	$7,554	$3,946
[illegible]	12,412	$28,146	$14,441
8	4,137	$14,771	$8,602
9	1,600	$13,968	$7,449
10	17,473	$13,211	$6,878
11	3,108	$8,957	$4,907
12	46,381	$9,146	$4,608
13	6,376	$8,376	$4,319
14	317,412	$12,074	$6,357
15	144,440	$7,682	$3,797
16	11,084	$12,117	$5,995
17	3,496	$7,027	$3,563
18	25,812	$10,098	$5,247
19	8,590	$7,117	$3,829
20	5,603	$29,649	$16,261
21	1,305	$15,564	$8,129
22	2,527	$10,617	$5,666
23	9,396	$8,291	$4,353
24	52,442	$10,390	$5,414
25	25,247	$6,251	$3,342
26	31	$6,266	$3,909
27	3,425	$13,687	$7,317
28	11,272	$14,148	$7,368
29	4,469	$7,332	$3,923
31	3,467	$9,138	$4,690
32	1,729	$5,439	$2,885
34	20,124	$10,318	$5,334
35	5,686	$6,178	$3,226
36	3,154	$6,906	$3,026
37	1,441	$11,546	$5,753
38	101	$5,070	$3,040
39	906	$6,068	$3,462
40	1,524	$8,638	$4,331
42	2,199	$6,530	$3,535
43	85	$4,899	$2,913
44	1,230	$6,604	$3,577
45	2,418	$7,040	$3,578
46	3,036	$8,286	$4,388
47	1,278	$5,328	$3,073
49	2,223	$18,135	$8,896
50	2,461	$8,531	$4,134
51	201	$8,198	$4,422
52	217	$7,601	$3,828
53	2,459	$12,031	$6,317
54	2	$6,447	$1,733
55	1,491	$8,455	$4,508
56	494	$8,644	$4,304
57	703	$10,954	$6,215
59	105	$7,209	$3,911
60	2	$7,221	$2,545
61	229	$13,913	$6,554
62	3	$4,633	$2,084
63	2,989	$14,388	$7,788
64	3,021	$12,715	$6,891
65	34,317	$5,607	$2,930
66	6,940	$5,657	$3,089
67	494	$8,111	$4,574
68	16,632	$6,949	$3,454
69	5,406	$5,236	$2,545

TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]—Continued

DRG	Cases	Mean	Standard deviation
70	24	$4,884	$3,203
71	82	$7,197	$3,640
72	877	$6,982	$3,692
73	6,591	$8,215	$4,366
75	38,768	$33,224	$15,468
76	38,787	$30,628	$14,878
77	2,333	$12,849	$6,282
78	31,837	$14,053	$6,514
79	169,072	$18,018	$9,147
80	8,971	$9,880	$4,948
81	4	$25,053	$14,517
82	61,618	$15,155	$8,215
83	6,419	$10,237	$5,258
84	1,500	$5,708	$2,978
85	20,492	$13,187	$6,844
86	2,109	$7,046	$3,797
87	59,825	$15,002	$7,866
88	387,633	$9,555	$4,709
89	523,306	$11,160	$5,497
90	53,588	$6,744	$3,159
91	54	$8,727	$5,111
92	13,717	$12,968	$6,607
93	1,663	$7,679	$3,878
94	11,989	$12,637	$6,571
95	1,588	$6,204	$3,082
96	61,673	$8,021	$3,937
97	31,319	$6,004	$2,955
98	18	$7,582	$4,869
99	18,898	$7,292	$3,873
100	7,580	$5,486	$2,971
101	19,910	$8,974	$4,681
102	5,122	$5,531	$2,994
103	471	$201,472	$88,012
104	19,527	$81,506	$33,051
105	25,736	$58,962	$24,215
106	3,385	$79,188	$31,820
107	87,178	$55,413	$21,398
108	5,998	$58,620	$26,620
109	59,671	$40,351	$16,091
110	52,195	$43,587	$20,444
111	8,459	$24,521	$11,025
113	42,092	$27,689	$14,908
114	8,659	$17,115	$8,391
115	14,139	$35,743	$14,537
116	90,458	$23,428	$9,246
117	3,694	$13,386	$7,342
118	7,529	$15,361	$7,697
119	1,298	$13,855	$7,253
120	37,300	$24,039	$11,815
121	161,319	$16,520	$8,201
122	78,646	$10,933	$5,624
123	40,546	$16,620	$9,332
124	131,648	$14,598	$6,634
125	79,518	$11,040	$5,161
126	5,130	$28,436	$14,368
127	675,000	$10,417	$5,270
128	9,362	$7,652	$3,640
129	4,121	$10,564	$6,345
130	85,502	$9,755	$4,906
131	28,033	$6,094	$2,922
132	146,801	$6,749	$3,415
133	8,243	$5,761	$3,153
134	35,952	$6,081	$3,270
135	7,207	$9,244	$4,732
136	1,214	$5,991	$3,354
138	193,004	$8,485	$4,419
139	82,257	$5,256	$2,783
140	69,373	$5,641	$2,826
141	89,931	$7,531	$3,850
142	45,586	$5,698	$2,972

TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]—Continued

DRG	Cases	Mean	Standard deviation
143	203,055	$5,496	$2,840
144	81,220	$12,430	$6,670
145	7,183	$6,234	$3,543
146	10,602	$28,843	$13,084
147	2,604	$17,162	$7,124
148	128,536	$36,602	$17,385
149	18,314	$15,988	$6,363
150	19,681	$30,856	$14,557
151	4,781	$14,262	$6,152
152	4,345	$20,114	$9,492
153	2,070	$12,419	$5,334
154	28,558	$45,582	$22,620
155	6,534	$13,951	$6,030
156	4	$24,515	$15,028
157	7,848	$12,849	$6,386
158	4,593	$6,554	$3,240
159	16,163	$13,919	$6,659
160	11,549	$8,172	$3,745
161	11,021	$11,565	$5,625
162	7,131	$6,561	$3,189
163	5	$9,247	$5,009
164	4,797	$25,031	$11,606
165	2,053	$13,954	$5,974
166	3,503	$15,270	$6,996
167	3,248	$9,334	$3,949
168	1,318	$13,342	$6,733
169	830	$7,320	$3,923
170	10,920	$31,661	$15,545
171	1,274	$12,356	$5,789
172	30,262	$14,527	$7,677
173	2,666	$7,411	$4,273
174	238,934	$10,265	$5,186
175	32,223	$5,742	$2,920
176	14,986	$11,102	$5,506
177	9,143	$9,368	$4,574
178	3,584	$6,861	$3,386
179	12,227	$11,171	$5,759
180	85,143	$9,809	$5,057
181	26,209	$5,548	$2,829
182	242,227	$8,187	$4,273
183	83,676	$5,926	$3,122
184	79	$4,419	$2,409
185	4,742	$9,056	$4,830
186	3	$18,405	$20,674
187	641	$8,336	$4,371
188	75,191	$11,554	$6,075
189	11,923	$6,099	$3,389
190	49	$12,761	$5,926
191	8,818	$47,924	$23,462
192	1,088	$19,337	$9,024
193	5,231	$36,682	$17,597
194	713	$18,351	$8,617
195	4,292	$31,452	$13,969
196	1,157	$17,300	$7,001
197	18,613	$26,434	$12,496
198	5,707	$12,973	$5,941
199	1,699	$26,123	$13,033
200	1,058	$33,952	$16,409
201	1,424	$40,293	$19,691
202	25,853	$13,752	$7,269
203	28,853	$14,338	$7,733
204	56,928	$12,186	$6,210
205	22,786	$12,582	$6,592
206	1,934	$7,756	$4,175
207	30,650	$11,634	$6,092
208	10,017	$6,824	$3,696
209	339,625	$20,928	$7,567
210	119,568	$17,986	$7,417
211	31,401	$13,043	$4,799
212	6	$57,573	$33,539

TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]—Continued

DRG	Cases	Mean	Standard deviation
213	9,090	$19,794	$9,448
216	5,917	$24,182	$11,536
217	16,277	$33,068	$16,354
218	21,104	$15,896	$7,086
219	19,357	$10,596	$4,412
220	6	$13,926	$6,350
223	13,119	$10,043	$4,772
224	10,983	$8,270	$3,609
225	5,688	$11,467	$5,400
226	5,114	$16,123	$7,698
227	4,647	$8,329	$3,762
228	2,319	$11,244	$5,538
229	1,089	$7,551	$3,649
230	2,346	$13,595	$6,666
231	11,253	$14,623	$7,174
232	797	$9,873	$4,737
233	5,030	$21,696	$10,843
234	3,144	$12,956	$7,125
235	4,996	$7,557	$3,909
236	38,004	$7,028	$3,697
237	1,675	$5,509	$2,682
238	7,875	$14,517	$7,359
239	48,837	$10,383	$5,292
240	11,259	$13,777	$7,033
241	3,157	$6,653	$3,599
242	2,429	$11,575	$6,019
243	86,835	$7,582	$3,847
244	12,079	$7,371	$3,781
245	5,101	$4,922	$2,658
246	1,377	$5,950	$3,193
247	16,745	$5,841	$3,056
248	10,464	$8,369	$4,331
249	11,271	$6,910	$3,691
250	3,438	$7,061	$3,603
251	2,395	$4,839	$2,541
253	19,553	$7,575	$3,837
254	10,395	$4,527	$2,252
256	6,026	$8,410	$4,480
257	16,174	$9,112	$4,025
258	15,852	$7,402	$3,036
259	3,731	$8,869	$4,250
260	4,849	$5,909	$2,982
261	1,826	$9,722	$4,969
262	606	$8,773	$4,213
263	18,078	$22,473	$12,380
264	3,592	$12,368	$6,593
265	3,654	$17,016	$8,218
266	2,683	$8,939	$4,427
267	233	$10,099	$5,245
268	868	$12,455	$6,679
269	7,352	$18,569	$9,303
270	2,601	$8,408	$4,226
271	9,563	$11,955	$6,102
272	5,424	$10,430	$5,406
273	1,279	$5,949	$3,210
274	2,321	$12,576	$6,967
275	246	$7,068	$4,484
276	1,172	$7,242	$3,830
277	84,730	$8,937	$4,492
278	33,239	$5,927	$2,921
279	3	$2,550	$1,458
280	15,468	$7,111	$3,566
281	7,089	$4,838	$2,486
282	3	$2,776	$646
283	5,596	$7,337	$3,849
284	1,861	$4,435	$2,410
285	6,167	$22,178	$10,857
286	2,048	$22,448	$10,632
287	5,653	$20,363	$10,040
288	2,609	$21,408	$9,984

TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]—Continued

DRG	Cases	Mean	Standard deviation
289	4,711	$9,475	$4,696
290	8,639	$8,890	$4,252
291	64	$6,421	$2,912
292	4,632	$28,760	$14,261
293	619	$13,457	$6,625
294	87,396	$7,796	$4,126
295	3,263	$7,665	$4,171
296	233,776	$8,887	$4,580
297	43,365	$5,313	$2,709
298	86	$4,227	$2,343
299	1,173	$9,354	$5,053
300	15,908	$11,597	$6,055
301	3,186	$6,404	$3,554
302	7,642	$33,433	$15,262
303	19,313	$25,451	$11,944
304	11,690	$25,200	$12,299
305	2,962	$12,174	$5,779
306	7,274	$13,464	$6,515
307	2,065	$6,404	$2,638
308	7,413	$17,032	$8,420
309	4,070	$9,562	$4,995
310	23,711	$11,599	$5,752
311	7,918	$6,344	$3,030
312	1,479	$10,838	$5,460
313	586	$6,918	$3,749
315	29,885	$21,700	$10,594
316	104,168	$14,316	$7,562
317	1,504	$6,355	$4,181
318	5,549	$12,235	$6,592
319	422	$6,344	$4,153
320	185,584	$8,903	$4,369
321	30,258	$5,887	$2,803
322	61	$5,610	$2,749
323	17,186	$8,429	$4,735
324	7,460	$4,756	$2,640
325	8,134	$6,626	$3,620
326	2,666	$4,301	$2,463
327	11	$4,011	$2,006
328	658	$7,522	$4,114
329	76	$4,760	$2,733
331	45,848	$11,037	$5,883
332	4,907	$6,392	$3,626
333	280	$8,311	$4,255
334	8,579	$15,279	$6,397
335	10,649	$11,836	$4,640
336	9,465	$9,208	$4,241
337	3,012	$6,171	$2,467
338	1,218	$12,580	$6,334
339	1,337	$12,595	$6,238
341	2,704	$13,097	$7,597
342	297	$8,432	$4,109
344	3,468	$12,517	$7,111
345	408	$12,158	$5,737
346	4,425	$10,873	$5,923
347	365	$6,111	$4,094
350	6,229	$7,381	$3,762
352	749	$6,828	$3,920
353	2,511	$18,468	$8,772
354	7,480	$15,397	$6,967
355	5,456	$9,559	$3,707
356	24,916	$7,864	$3,397
357	5,517	$25,319	$12,074
358	20,083	$12,100	$5,313
359	29,672	$8,726	$3,458
360	15,788	$8,826	$3,997
361	374	$11,030	$5,326
363	2,838	$8,262	$4,621
364	1,630	$8,158	$4,241
365	1,712	$20,830	$10,330
366	4,393	$13,272	$7,187

TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]—Continued

DRG	Cases	Mean	Standard deviation
367	581	$5,804	$3,619
368	3,097	$11,964	$6,156
369	3,121	$5,836	$3,537
370	1,078	$9,721	$4,374
371	1,296	$7,095	$2,780
372	917	$5,484	$2,633
373	3,703	$3,956	$1,708
374	118	$7,009	$3,183
375	10	$6,519	$2,880
376	247	$5,310	$3,009
377	48	$17,649	$8,033
378	153	$8,352	$4,083
379	337	$4,826	$2,768
380	58	$4,498	$2,471
381	149	$6,220	$3,465
382	44	$1,723	$967
383	1,700	$4,987	$2,853
384	114	$3,658	$2,099
389	15	$22,357	$13,168
390	14	$12,153	$9,490
392	2,311	$34,949	$17,050
394	1,859	$18,654	$8,770
395	86,456	$8,418	$4,521
396	15	$11,234	$7,337
397	17,475	$13,060	$7,124
398	17,426	$13,436	$6,962
399	1,715	$7,119	$3,892
400	6,418	$30,559	$15,016
401	5,550	$30,943	$15,124
402	1,490	$12,369	$6,278
403	31,624	$19,437	$10,245
404	4,625	$9,221	$5,463
406	2,497	$30,406	$14,779
407	711	$13,029	$5,948
408	2,168	$23,053	$11,140
409	2,799	$11,704	$6,368
410	33,080	$10,149	$5,353
411	13	$4,717	$2,623
412	29	$6,510	$3,640
413	6,392	$14,553	$7,717
414	765	$7,832	$4,651
415	38,554	$40,839	$20,733
416	182,689	$16,737	$8,522
417	16	$9,109	$5,531
418	22,714	$10,799	$5,728
419	15,220	$8,970	$4,675
420	3,098	$6,391	$3,306
421	11,387	$6,726	$3,463
422	79	$4,491	$2,525
423	7,417	$18,731	$9,501
424	1,264	$24,550	$12,072
425	15,626	$7,073	$3,762
426	4,423	$5,455	$2,947
427	1,624	$5,506	$3,008
428	831	$7,318	$3,753
429	25,769	$8,557	$4,250
430	58,439	$8,037	$4,037
431	312	$6,586	$3,306
432	465	$7,118	$3,892
433	5,404	$2,945	$1,677
439	1,331	$19,257	$8,994
440	5,095	$20,402	$9,799
441	595	$9,392	$5,040
442	15,277	$25,949	$12,950
443	3,705	$10,482	$5,464
444	5,156	$7,489	$3,871
445	2,414	$4,946	$2,580
447	5,419	$4,874	$2,761
449	27,866	$8,337	$4,444
450	6,827	$4,359	$2,287

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TABLE 1.—MEAN AND STANDARD DEVIATIONS, BY DRG [1]—Continued

DRG	Cases	Mean	Standard deviation
451	3	$3,661	$1,689
452	22,558	$10,348	$5,628
453	5,047	$5,217	$3,083
454	3,908	$8,634	$4,546
455	926	$4,771	$2,719
461	3,461	$12,229	$6,684
462	12,886	$12,794	$6,412
463	21,658	$7,038	$3,634
464	6,394	$5,002	$2,798
465	154	$6,501	$3,829
466	1,460	$6,123	$3,744
467	524	$6,207	$3,956
468	56,634	$40,436	$20,195
470	91,129	$8,750	$4,248
471	11,452	$31,327	$10,631
473	7,597	$41,853	$21,410
475	106,641	$41,657	$21,697
476	4,110	$24,265	$11,524
477	24,655	$20,084	$9,803
478	106,268	$25,438	$12,600
479	24,705	$14,976	$6,929
480	536	$106,339	$47,738
481	371	$84,770	$38,759
482	5,661	$39,848	$19,532
483	41,640	$163,741	$91,302
484	310	$53,719	$25,103
485	2,865	$32,195	$15,089
486	1,849	$54,905	$28,043
487	3,333	$20,448	$10,772
488	769	$55,206	$27,898
489	13,936	$19,397	$9,910
490	5,360	$10,850	$5,902
491	12,053	$17,259	$6,454
492	2,669	$52,027	$29,545
493	54,438	$19,103	$8,585
494	29,646	$10,474	$4,767
495	152	$91,522	$43,233
496	1,462	$60,541	$27,811
497	17,089	$33,800	$15,718
498	12,653	$24,583	$11,561
499	30,042	$14,842	$6,792
500	43,667	$9,947	$4,368
501	2,165	$28,367	$13,126
502	580	$16,063	$6,974
503	5,499	$12,650	$6,099
504	112	$136,018	$72,135
505	145	$15,964	$9,765
506	914	$52,706	$27,278
507	289	$18,465	$9,271
508	654	$13,178	$6,914
509	175	$7,521	$4,121
510	1,613	$13,629	$6,439
511	598	$7,074	$3,875
512	322	$62,401	$26,643
513	111	$64,167	$22,861
514	16,717	$68,327	$25,311
515	3,705	$53,939	$21,310
516	74,959	$28,839	$11,990
517	168,815	$22,998	$10,791
518	47,230	$17,756	$8,980
519	5,385	$23,034	$10,757
520	10,402	$16,420	$7,565
521	22,607	$7,527	$4,035
522	11,542	$7,088	$3,155
523	14,748	$4,154	$2,098

[1] Cases are taken from the FY 2000 MedPAR file; DRGs are from GROUPER V.19.

List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 412 is amended as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 412.2, the introductory text of paragraph (f) is republished, and a new paragraph (f)(9) is added to read as follows:

§ 412.2 Basis of payment.

* * * * *

(f) *Additional payments to hospitals.* In addition to payments based on the prospective payment system rates for inpatient operating and inpatient capital-related costs, hospitals receive payments for the following:

* * * * *

(9) Special additional payment for certain new technology as specified in §§ 412.87 and 412.88 of Subpart F.

3. The title of Subpart F is revised to read as follows:

Subpart F—Payment for Outlier Cases and Special Treatment Payment for New Technology

4. A new undesignated center heading is added after the Subpart F heading and before § 412.80; the section heading of § 412.80 is revised; and a new paragraph (a)(3) is added to read as follows:

Payment for Outlier Cases

§ 412.80 Outlier cases: General provisions.

(a) *Basic rule.*

* * * * *

(3) *Discharges occurring on or after October 1, 2001.* For discharges occurring on or after October 1, 2001, except as provided in paragraph (b) of this section concerning transfers, CMS provides for additional payment, beyond standard DRG payments and beyond additional payments for new medical services or technology specified in §§ 412.87 and 412.88, to a hospital for covered inpatient hospital services furnished to a Medicare beneficiary if the hospital's charges for covered services, adjusted to operating costs and capital costs by applying cost-to-charge ratios as described in § 412.84(h), exceed the DRG payment for the case (plus payments for indirect costs of graduate medical education (§ 412.105), payments for serving a disproportionate share of low-income patients (§ 412.106), and additional payments for new medical services or technologies) plus a fixed dollar amount (adjusted for geographic variation in costs) as specified by CMS.

* * * * *

5. A new undesignated center heading and §§ 412.87 and 412.88 are added immediately following § 412.86, to read as follows:

Additional Special Payment for Certain New Technology

§ 412.87 Additional payment for new medical services and technologies: General provisions.

(a) *Basis.* Sections 412.87 and 412.88 implement sections 1886(d)(5)(K) and 1886(d)(5)(L) of the Act, which authorize the Secretary to establish a mechanism to recognize the costs of new medical services and technologies under the hospital inpatient prospective payment system.

(b) *Eligibility criteria.* For discharges occurring on or after October 1, 2001, CMS provides for additional payments (as specified in § 412.88) beyond the standard DRG payments and outlier payments to a hospital for discharges involving covered inpatient hospital services that are new medical services and technologies, if the following conditions are met:

(1) A new medical service or technology represents an advance that substantially improves, relative to technologies previously available, the diagnosis or treatment of Medicare beneficiaries. CMS will determine whether a new medical service or technology meets this requirement and announce the results of its determinations in the **Federal Register** as a part of its annual updates and changes to the hospital inpatient prospective payment system.

(2) A medical service or technology may be considered new within 2 or 3 years after the point at which data begin to become available reflecting the ICD–9–CM code assigned to the new service or technology (depending on when a new code is assigned and data on the new service or technology become available for DRG recalibration). After CMS has recalibrated the DRGs, based on available data, to reflect the costs of an otherwise new medical service or technology, the medical service or technology will no longer be considered "new" under the criterion of this section.

(3) The DRG prospective payment rate otherwise applicable to discharges involving the medical service or technology is determined to be inadequate, based on application of a threshold amount to estimated charges incurred with respect to such discharges. To determine whether the payment would be adequate, CMS will determine whether the charges of the cases involving a new medical service or technology will exceed a threshold amount set at one standard deviation beyond the geometric mean standardized charge for all cases in the DRG to which the new medical service or technology is assigned (or the case-weighted average of all relevant DRGs if the new medical service or technology occurs in many different DRGs). Standardized charges reflect the actual charges of a case adjusted by the prospective payment system payment factors applicable to an individual hospital, such as the wage index, the indirect medical education adjustment factor, and the disproportionate share adjustment factor.

§ 412.88 Additional payment for new medical service or technology.

(a) For discharges involving new medical services or technologies that meet the criteria specified in § 412.87, Medicare payment will be:

(1) The full DRG payment (including adjustments for indirect medical education and disproportionate share but excluding outlier payments); plus

(2) If the costs of the discharge (determined by applying cost-to-charge ratios as described in § 412.84(h)) exceed the full DRG payment, an additional amount equal to the lesser of—

(i) 50 percent of the costs of the new medical service or technology; or

(ii) 50 percent of the amount by which the costs of the case exceed the standard DRG payment.

(b) Unless a discharge case qualifies for outlier payment under § 412.84, Medicare will not pay any additional amount beyond the DRG payment plus 50 percent of the estimated costs of the new medical service or technology.

(c) If CMS estimates before the beginning of a Federal fiscal year that the additional payments under this section would exceed 1.0 percent of total operating payments under the hospital inpatient prospective payment system, the additional payment amounts under paragraph (a) of this section will be reduced prospectively to a percentage estimated to result in payments not to exceed 1.0 percent of total operating payments under the hospital inpatient prospective payment system.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: August 17, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: August 28, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–22475 Filed 9–4–01; 11:03 am]

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Federal Register

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Part IV

Environmental Protection Agency

40 CFR Part 141
National Primary Drinking Water Regulations: Minor Revisions to Public Notification Rule and Consumer Confidence Report Rule; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7050–8]

RIN 2040–AD06

National Primary Drinking Water Regulations: Minor Revisions to Public Notification Rule and Consumer Confidence Report Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today's action proposes to make specific changes to the health effects language for di(2-ethylhexyl) adipate (DEHA) and di(2-ethylhexyl) phthalate (DEHP) in the Public Notification (PN) Rule (May 4, 2000, 65 FR 26020) and the Consumer Confidence Report (CCR) Rule (August 19, 1998, 63 FR 44511). EPA is also clarifying the proper use of the Integrated Risk Information System (IRIS) database. In addition, today's rule proposes to correct mistakes in Appendix A of the CCR Rule. These minor changes to Appendix A address errors in the list of major sources in drinking water for copper, the placement of regulatory and health effects information for the disinfection byproducts (i.e., bromate, chloramines, chlorite, chlorine, and chlorine dioxide), and reference to chloride dioxide instead of chlorine dioxide. EPA is not reopening its consideration of the health effects statements in the PN and CCR Rules for contaminants other than DEHA and DEHP.

DATES: Written comments on this proposed rule must be received by October 9, 2001.

ADDRESSES: Send written comments to the Comment Clerk, docket number W–01–07, Water Docket (MC 4101), Rm EB 57, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW Washington, DC 20460. The record for this proposed rule is established under docket number W–01–07. The record is available for inspection from 9 a.m. to 4 p.m. Monday through Friday, excluding legal holidays at the Water Docket, East Tower Basement, Rm EB 57, USEPA, 401 M Street, SW, Washington DC. For access to docket materials, please call 202–260–3027 to schedule an appointment. Comments may be hand-delivered to the Water Docket, U.S. Environmental Protection Agency; 401 M Street SW, East Tower Basement, Rm EB 57, Washington DC, 20460.

FOR FURTHER INFORMATION CONTACT: Kathleen Williams at (202)-260–2589 or e-mail: williams.kathleena@epa.gov. Contact the Safe Drinking Water Hotline (800–425–4791) for general information about these rules. Hours of operation are 9 am to 5:30 pm (ET), Monday -Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

TABLE OF REGULATED ENTITIES

Category	Examples of regulated entities
State/Local/Tribal governments	Publicly-owned PWSs, such as municipalities; county governments, water districts, water and sewer authorities, state governments, and other publicly- owned entities that deliver drinking water as an adjunct to their primary business (e.g., schools, State parks, roadside rest stops).
Industry	Privately-owned PWSs, such as private utilities, homeowner associations, and other privately-owned entities that deliver drinking water as an adjunct to their primary business (e.g., trailer parks, factories, retirement homes, day-care centers).
Federal government	Federally-owned PWSs, such as water systems on military bases.

In June 2000, the American Chemistry Council (ACC) filed a petition for review of the May 4, 2000 revised Public Notification (PN) Rule in the D.C. Circuit Court of Appeals, alleging that EPA violated Administrative Procedure Act (APA) notice and comment requirements with respect to the health effects language for the contaminants di(2-ethylhexyl)adipate (DEHA) and di(2-ethylhexyl)phthalate (DEHP). ACC contended that the Agency relied solely on the Integrated Risk Information System (IRIS) database to develop health effects language for these two contaminants although other information was available. As part of a settlement agreement with ACC, EPA is proposing minor modifications for the DEHA and DEHP health effects language used in the PN and Consumer Confidence Report (CCR) Rules. EPA is also including a statement in this preamble on the proper use of IRIS.

EPA is also using today's action to propose other minor changes for Appendix A of the CCR Rule. In Appendix A "leaching from wood preservatives" is incorrectly listed as a major source of copper in drinking water. This rule deletes "leaching from wood preservatives" from the list of major sources for copper. Regulatory and health effects information for the disinfection byproducts bromate, chloramines, chlorite, chlorine, and chlorine dioxide is incorrectly placed in the volatile organic contaminants section of Appendix A. In addition, the entry for chlorine dioxide was inadvertently listed as chloride dioxide. Today's action moves entries for the disinfection byproducts from their existing locations and places them in the inorganic contaminants section of Appendix A. Misspelling of chlorine dioxide is also corrected.

I. Proposed Revisions to the Public Notification Rule

Section 1414(c) of the SDWA required EPA to revise its existing regulations governing the public notification that public water systems must provide to the persons served by the system when the system violates drinking water standards, or in certain other circumstances. This public notification is an integral part of the public health protection and consumer right-to-know provisions of the SDWA as amended in 1996. EPA's regulations set the requirements that public water systems must follow regarding the form, manner, frequency, and content of a public notice. When there is a violation, public water systems must, among other things, provide information to the public on the potential health effects of exposure to the contaminant in question. The Public Notification (PN) Rule (40 CFR part 141, subpart Q) provides specific health effects statements for each regulated contaminant that a public water system must provide in its public notice.

On May 14, 1999, EPA published proposed revisions to the PN rule for public comment. In that rulemaking EPA proposed to use the same brief health effects language for the PN Rule as EPA had recently required for the CCR Rule, issued in August, 1998. As a result, the PN proposal contained the CCR health effects language for DEHP and DEHA. During the public comment period, the Chemical Manufacturers Association (now known as the American Chemistry Council) submitted comments questioning several aspects of the health effects language for these two contaminants, including the reference to "general toxic effects" for DEHA and the basis for characterizing DEHP as a human carcinogen. They submitted over 100 pages of comments on these contaminants providing support for their suggested changes to the health effects language. EPA did not change the health effects statements as a result of these comments, but responded to the comments by stating that the current health effects language for DEHA and DEHP is consistent with the most recent Agency IRIS document for those contaminants. EPA published the final public notification rule on May 4, 2000.

On June 30, 2000, the American Chemistry Council filed a petition for review of the final public notification rule in the D.C. Circuit Court of Appeals challenging the health effects language for these two contaminants. ACC specifically challenged EPA's failure to respond to their extensive comments on the health effects language and EPA's apparent reliance solely on the IRIS database.

To resolve the ACC petition, EPA reconsidered comments requesting changes to health effects language and agreed that the response to comments with respect to the issues ACC raised was inadequate. However, any contention that EPA relies solely on IRIS data for health effects language is inaccurate. EPA does not rely solely on IRIS in developing, or considering changes to, the health effects statements for the CCR and PN Rules.

EPA recognizes that IRIS is not a comprehensive toxicological database. There may be more recent relevant information available than is contained in IRIS. IRIS values are not rules adopted after notice and comment rulemaking, although recent IRIS assessments are posted on the Internet and public comments are solicited. IRIS values are not legally binding and are not entitled to conclusive weight in any rulemaking. In addition, EPA or any State agency that uses IRIS should not rely exclusively on IRIS values but should consider all credible and relevant information that is submitted in any particular rulemaking. If an outside party questions IRIS values during the course of an EPA rulemaking (such as a rule to establish health effects language for a contaminant for CCR and PN purposes), EPA considers all credible and relevant information before it in that proceeding.

EPA also believes that some minor changes to the health effects language for these two contaminants is appropriate based on the existing science (which, as noted above, includes but is not limited to the IRIS database.) The specific changes and the rationale for those changes is discussed in detail below.

A. Di(2-ethylhexyl)phthalate

Di(2-ethylhexyl)phthalate (DEHP) was regulated by EPA in 1992 as a B2 Carcinogen (probable human carcinogen) with an MCLG of zero and an MCL of 0.006 mg/L (57 FR 31776). The regulation was based on a 1987 EPA assessment of the data from a study in rats by the National Toxicology Program (NTP, 1982). Noncancer effects of concern included proliferation of peroxisomes, and enlargement of the liver, factors that appear to play a role in tumor development, and effects on reproduction and development (U.S. EPA, 1991). The Consumer Confidence Report/Public Notification language was developed to reflect the potential for these effects to occur when the drinking water exposure exceeds the MCL for a long period of time. The health effects language for DEHP given in Appendix A of the CCR Rule (40 CFR part 141, subpart O) and Appendix B of the PN Rule (40 CFR part 141, subpart Q) states:

"Some people who drink water containing di(2-ethylhexyl)phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer."

ACC objected to three components of the Consumer Confidence Report/Public Notification language as follows:

—ACC felt that EPA should not rely on the 1987 cancer classification for DEHP;

—ACC felt that it was very unlikely that DEHP was a cancer hazard in humans and that this should be reflected in the Consumer Confidence Report/Public Notification language; and

—ACC requested that EPA delete the reference to reproductive effects.

In the opinion of EPA, the requested modifications to the Consumer Confidence Report/ Public Notification language are not consistent with the DEHP toxicological data. DEHP does not appear to be a genotoxic carcinogen, but it has not been possible to completely define its mode of tumorigenic action at this time. The data suggest that activation of the Peroxisome Proliferator Activated Receptor, the production of hydrogen peroxide by peroxisomes, enhanced cell proliferation, and apoptosis may all play a role in tumorigenesis (ATSDR, 2000). However, unless an assessment that incorporates and links the various lines of evidence for a nonlinear mode of action can be completed, carcinogenicity remains as an endpoint of human concern. An Agency assessment is presently underway which may change the classification and quantification of the cancer endpoint, but it is premature to predict the final conclusion of that assessment.

In the time that has elapsed since EPA regulated DEHP, the link between DEHP and effects on reproduction and development has been strengthened (Hileman, 2000). Accordingly, there is no justification for removing the language about the potential for reproductive effects from the Consumer Confidence Report/Public Notification language. Reproductive effects that are associated with exposure to DEHP include abnormalities in testicular maturation in males (Arcadi et al., 1998, Dostal et al., 1988; Gray and Butterworth, 1980), teratogenic effects (Tyl et al., 1988), and effects on fertility (Lamb et al., 1987). The data from the studies by Tyl and Lamb suggest a steep dose-response curve.

On the other hand there are data that indicate that, at least for the biomarkers of liver effects including precancerous changes (i.e. induction of peroxisomal enzymes; liver enlargement), DEHP has a more pronounced effect on rodents than on primates. Accordingly, EPA feels that it is appropriate to qualify the exposures that may lead to adverse health effects from ingestion of water containing DEHP by saying that concentrations would have to be well in excess of the MCL (0.006 mg/L) and occur for a long period of time to be of concern. The testicular effects of DEHP can occur with short duration exposures, particularly if they occur in early development (Arcadi et al., 1998, Dostal et al., 1988). However, they appear to be reversible if exposure ceases before puberty (Dostal et al., 1988) and, thus, generate concern primarily when exposures occur over many years. Accordingly, EPA proposes to modify the Consumer Confidence Report/Public Notification language to state:

"Some people who drink water containing di(2-ethylhexyl)phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer."

—Di(2-ethylhexyl)adipate

Di(2-ethylhexyl)adipate (DEHA) was regulated by EPA in 1992 as a C

Carcinogen (possible human carcinogen) with a MCLG of 0.4 mg/L and an enforceable MCL of 0.4 mg/L (57 FR 31776). The existing health effects statement regarding di(2-ethylhexyl) adipate, found in Appendix A of the CCR Rule (40 CFR part 141, subpart O) and Appendix B of the PN Rule (40 CFR part 141, subpart Q), is as follows:

"Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties."

ACC raised concerns, and EPA has agreed, that the term "general toxic effects" in the existing health effect statement for di(2-ethylhexyl)adipate may be unnecessarily vague and alarming to the public. The specific toxic effects of DEHA seen in animal toxicological studies are reduction in body weight gain and increase in absolute and relative liver weights. Accordingly, EPA is today proposing to replace the reference to "general toxic effects" with new language that incorporates a more specific description of these "general toxic effects," namely, weight loss and liver enlargement.

In addition, EPA is proposing to add the qualifier "possible" to the reference to "reproductive difficulties" in the health effects statement for DEHA in the PN and CCR Rules. The MCLG and MCL values for DEHA are derived from the Reference Dose (RfD) of 0.6 mg/kg/day.[1] This RfD is based on two studies in rats: a one-generation reproductive toxicity study which examined effects on fertility, reproductive outcome and gross and histological parameters in parents of both sexes; and a developmental study which assessed the effects of DEHA on gestating females and their developing fetuses (ICI, 1988 a and b). Both studies identified a no-observed-adverse-effect level (NOAEL) of 170 mg/kg/day. The data base for the derivation of the RfD was considered somewhat deficient because of the lack of a multi-generation reproductive study and the lack of relevant data in species other than rats. Accordingly, an uncertainty factor (UF) of 300 was applied to the NOAEL to derive the RfD of 0.6 mg/kg/day. This UF consists of the standard 100 factor for interspecies extrapolation and intraspecies variability, and an additional factor of 3 for database deficiencies.

[1] Using the RfD of 0.6 mg/kg/day and assuming 70 kg body weight, 2 liter/day drinking water consumption, a relative source contribution of 20%, and applying an additional management factor of 10 for possible carcinogenicity of DEHA, the MCLG is 0.4 mg/liter. The MCL was also established at 0.4 mg/liter.

In deriving the RfD for DEHA, it was therefore implicitly recognized that the data base for reproductive and developmental effects was not entirely satisfactory. To reflect this uncertainty in the data base, EPA believes it is appropriate to include in the new health effects statement the wording "possible" before "reproductive difficulties."

Today, EPA is proposing to modify the existing health effects statement regarding di(2-ethylhexyl)adipate in the PN and CCR Rules to state as follows:

"Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience toxic effects such as weight loss, liver enlargement or possible reproductive difficulties."

EPA believes that this change is appropriate. It is critical that standard health effects language for public notification conveys to the public clear descriptions, in easy-to-understand language, of the potential adverse health effects of a drinking water contaminant when such a contaminant is found at concentrations above the Federal standard.

II. Proposed Revisions to the Consumer Confidence Report Rule

The Consumer Confidence Report (CCR) Rule (40 CFR part 141, subpart O) requires community water systems to issue an annual water quality report to their customers. The report provides a snapshot of local drinking water quality, including information on the source of the water, the contaminants found in the water, the potential health effects of any contaminants found above Federal health standards, the ways the water system protects its water supply, and how consumers can get involved in protection of source water. As part of that rule, CWSs must provide a statement concerning the health effects of contaminants when those contaminants are found at levels that violate the regulatory standard. Because the PN and CCR rules are closely related, EPA has required that systems use the same health effects language for CCR purposes as for PN purposes. For this reason, EPA is proposing to make the same changes to the CCR health effects language for DEHP and DEHA as is proposed today for the PN Rule.

EPA is also proposing to make the following minor corrections to Appendix A of the CCR Rule (40 CFR part 141, subpart O):

A. For the entry on Copper: "Leaching from wood preservatives" is listed as a major source of copper in drinking water. EPA mistakenly included that listing although leaching from wood preservatives is not a major source of copper in drinking water. This rule proposes to delete that part of the entry so the amended appendix lists only "corrosion of household plumbing systems; erosion of natural deposits" as major sources for copper in drinking water.

B. For the disinfection byproducts entries: Bromate, Chloramines, Chlorite, Chlorine, and Chlorine Dioxide. EPA mistakenly placed information for these contaminants in the volatile organic contaminants section of Appendix A instead of the inorganic contaminants section. This rule proposes to correct that mistake by placing information for these contaminants in the inorganic contaminants section of Appendix A. Also, the entry for chlorine dioxide was misspelled. This rule also proposes to correct that mistake by replacing "chloride dioxide" with "chlorine dioxide" in the appendix.

EPA does not solicit, and will not respond to, comments on the text of the health effects statements for these or any contaminants other than DEHA and DEHP.

III. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866. This rule makes minor changes to the Public Notification Rule and Consumer Confidence Report Rule which do not change the regulatory burden.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or Tribal governments or the private sector. This rule does not change the costs to State, local, or Tribal governments as estimated in the final Public Notification Rule (65 FR 26020, May 4, 2000) and the final Consumer Confidence Report Rule (August 19, 1998, 63 FR 44511), and does not change either the frequency of reports or the regulatory burden of public notification. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the same reason, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus today's rule is not suject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule makes minor changes to the Public Notification Rule and the Consumer Confidence Report Rule, and does not change the frequency of reporting or the regulatory burden. The rule imposes no additional enforceable duty on any State, local or tribal governments or the private sector.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et.seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice-and-comment rulemaking requirement under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small government jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities for the agency" after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(30–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's rule on small entities, EPA considered small entities to be public water systems serving 10,000 or fewer persons. This is the cut-off level specified by Congress in the Safe Drinking Water Act Amendments of 1996 for small system flexibility provisions. In accordance with the RFA requirements, EPA proposed using this alternative definition in the **Federal Register** (63 FR 7620, February 13, 1998), requested public comment, consulted with the Small Business Administration, finalized this definition for the final CCR regulation, and expressed its intention to use the alternative definition for all future drinking water regulations (63 FR 44511, August 19, 1998).

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule makes minor changes to the Public Notification Rule and the Consumer Confidence Report Rule and imposes no additional enforceable duty on any State, local or tribal governments or the private sector. It does not change

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either the frequency of reports or the regulatory burden of public notification.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

F. National Technology Transfer and Advancement Act

Section 12 (d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 12898—Environmental Justice Strategy

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's proposed rule makes minor changes to the Consumer Confidence Report Regulation and Public Notification Regulation, and does not alter the regulatory requirements of those regulations. The Agency considered environmental justice related issues concerning the potential impacts of public notification during development of the Public Notification Regulation and Consumer Confidence Report Regulation. In the May 4, 2000, PN Rule (65 FR 2620), EPA concluded that the PN requirements would be beneficial to low-income and minority communities. In the August 19, 1998 Consumer Confidence Report Regulation (August 19, 1998, 63 FR 44511), EPA determined that provisions in that regulation would be beneficial to low-income and minority communities, particularly the provision requiring a good faith effort to reach non bill-paying customers.

H. Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule proposes minor changes to the Consumer Confidence Report Regulation and Public Notification Rule. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

I. Executive Order 13175—Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's rule makes minor changes to the Consumer Confidence Report Rule and Public Notification Rule. It imposes no additional enforceable duty on any tribal governments or the private sector, and does not change either the frequency of reports or the regulatory burden of public notification. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

J. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action." This rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

IV. References

Agency for Toxic Substances and Disease Registry (ATSDR) 1999. Toxicological profile for di(2-ethylhexyl)phthalate. December. U.S. Department of Health and Human Services. Public Health Service.

Agency for Toxic Substances and Disease Registry (ATSDR) 2000. Toxicological profile for di(2-ethylhexyl)phthalate (update) September U.S. Department of Health and Human Services. Public Health Service.

Arcadi, F.A., C. Costa, C. Imperatore, A. Marchese, A. Rapisarda, M. Salemi, G.R. Trimarchi, and G. Costa, 1998. Oral toxicity of bis(2-ethylhexyl)phthalate during pregnancy and suckling in Long-Evans rat. Food Chem Toxicol 36:963–970 (as cited in ATSDR, 2000).

Dostal, L.A., R.E. Chapin, S.A. Stephanski, M.W. Harris, and B.A. Schwetz, 1988. Testicular toxicity and reduced Sertoli cell numbers in neonatal rats by di(2-ethylhexyl)phthalate and the recovery of fertility as adults. Toxicol. Appl. Pharmacol. 95:104–121.

Gray, T.J. and K.R. Butterworth. 1980. Testicular atrophy produced by phthalate esters. Arch. Toxicol. 1980 (Supp. 4):452–455.

Hileman, B. 2000. Alert on phthalates. Chem, and Eng. News. 78 (32):52–54.

ICI Central Toxicology Laboratory (1988a). "Di(2-ethylhexyl)adipate (DEHA): Fertility study in rats." Study No. RR0374. Alderly Park, Cheshire, UK. Tinston DJ.

ICI Central Toxicology Laboratory (1988b). "Di(2-ethylhexyl)adipate: Teratogenicity study in the rat". Study No. RR0372. Alderly Park, Cheshire, UK. Hodge MCE.

Lamb, J.C., R.E. Chapin, J. Teague, A.D Lawton, J.R. Reel, 1987. Reproductive effects of four phthalic acid esters in the mouse. Toxicol. Appl. Pharmacol. 88:255–269.

NTP 1982. Carcinogenesis bioassay of di(2-ethylhexyl)phthalate (CAS No 117–81–7) in F344 rats and B6C3F$_1$ mice. Department of Health and Human Services. Public Health Services. National Institute of Health. NTP Publication No. 217.

Tyl, R.W. 1988. Developmental toxicity evaluation of dietary di(2-ethylhexyl) phthalate in Fischer 344-rats and CD–1 mice. 10:395–412.

U.S. EPA. 1991. Drinking Water Criteria Document for Phthalic Acid Esters (PAES). Environmental Criteria and Assessment Office. Office of Health and Environmental Assessment. Cincinnati, OH 45268. ECAO–CIN–D009. August 1988, Revised August 1991.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: August 30, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, 40 CFR part 141 is proposed to be amended as follows:

PART 141—[AMENDED]

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

Subpart Q—[AMENDED]

2. Appendix B to Subpart Q is amended by revising entries 33. for "Di(2-ethylhexyl) adipate" and 34. for "Di(2-ethylhexyl) phthalate" to read as follows:

APPENDIX B TO SUBPART Q OF PART 141—STANDARD HEALTH EFFECTS LANGUAGE FOR PUBLIC NOTIFICATION

Contaminant (units)	MCLG (mg/l)	MCL (mg/l)	Standard health effects language for public notification
. . . . .			
E. Synthetic Organic Chemicals (SOCs).			
. . . . .			
33. Di(2-ethylhexyl) adipate	0.4	0.4	Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience toxic effects such as weight loss, liver enlargement or possible reproductive difficulties.
34. Di(2-ethylhexyl) phthalate	0	0.006	Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
. . . . .			

Subpart O—[AMENDED]

3. Appendix A to Subpart O is amended:

a. under the heading "Volatile organic contaminants" by removing entries for: "Bromate (ppb), "Chloramines (ppm)", "Chlorite (ppm)", "Chlorine (ppm)", and "Chloride dioxide (ppm)".

b. under the heading "Inorganic contaminants" by adding in alphabetical order entries for: "Bromate (ppb), "Chloramines (ppm)", "Chlorine (ppm)", "Chlorine dioxide (ppm)", and "Chlorite (ppm)".

c. under the heading "Inorganic contaminants" by revising the entry for "copper (ppm)".

d. under the heading "Synthetic organic contaminants including pesticides and herbicides" by revising entries for "Di(2-ethylhexyl) adipate (ppb)" and "Di(2-ethylhexyl) phthalate (ppb)".

APPENDIX A TO SUBPART O—REGULATED CONTAMINANTS

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
•	•	•	•	•	•	•
Inorganic contaminants:						
•	•	•	•	•	•	•
Bromate (ppb)	0.010	1000	10	0	By-product of drinking water chlorination.	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
•	•	•	•	•	•	•
Chloramines (ppm)	MRDL = 4		MRDL = 4	MRDLG = 4	Water additive used to control microbes.	Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine (ppm)	MRDL = 4		MRDL = 4	MRDL = 4	Water additive used to control microbes.	Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorine dioxide (ppm)	MRDL = .8	1000	MRDL = .800	MRDLG = 800	Water additive used to control microbes.	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.
Chlorite (ppm)	1		1	0.8	By-product of drinking water chlorination.	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
•	•	•	•	•	•	•
Copper (ppm)	AL=1.3		AL=1.3	1.3	Corrosion of household plumbing systems; Erosion of natural deposits.	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's disease should consult their personal doctor.
•	•	•	•	•	•	•
Synthetic organic contaminants including pesticides and herbicides:						

APPENDIX A TO SUBPART O—REGULATED CONTAMINANTS—Continued

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Di(2-ethylhexyl) adipate (ppb)	.4	1000	400	400	Discharge from chemical factories.	Some people who drink water containing di(2-ethylhexyl) adipate well in excess of the MCL over many years could experience toxic effects such as weight loss, liver enlargement or possible reproductive difficulties.
Di(2-ethylhexyl) phthalate (ppb)	.006	1000	6	0	Discharge from rubber and chemical factories.	Some people who drink water containing di(2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
•	•	•	•	•	•	•

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Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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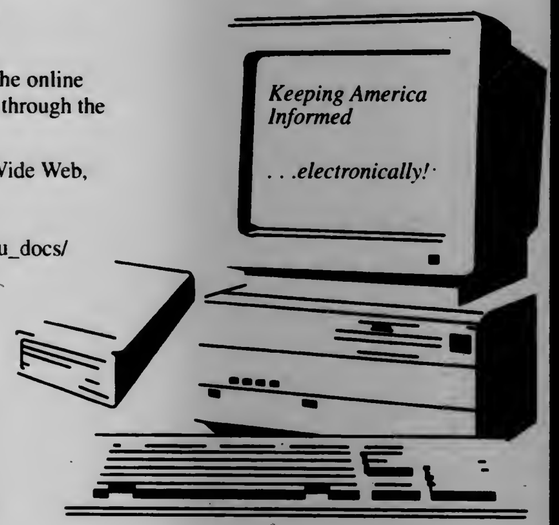
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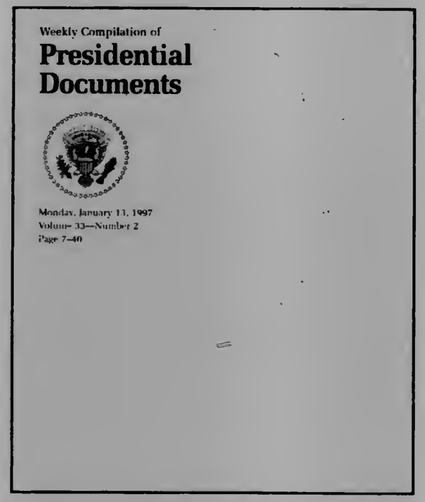
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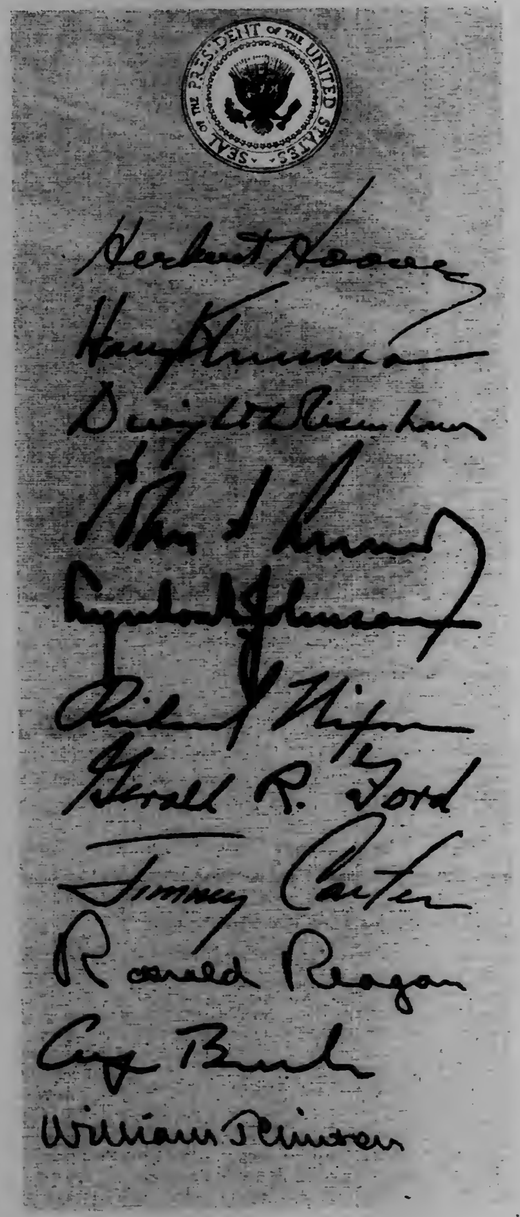
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106th Congress, 2nd Session, 2000

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM194; Special Conditions No. 25–184–SC]

Special Conditions: Boeing Model 727–200 Airplanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Boeing Model 727–200 airplanes modified by Aircraft Systems & Manufacturing. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of a new electronic air data system, consisting of an electronic Horizontal Situation Indicator (HSI) and dual air data computers, that performs critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is September 24, 2001. Comments must be received on or before October 10, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM194, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM194. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the rules docket number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM194." The postcard will be date stamped and returned to the commenter.

Background

On February 6, 2001, Aircraft Systems & Manufacturing, 302 Toledo Trail Drive, Georgetown, Texas, 78628, applied for a Supplemental Type Certificate (STC) to modify Boeing Model 727–200 airplanes. These airplanes are low-wing, pressurized transport category airplanes with three fuselage-mounted jet engines. They are capable of seating between 170 and 189 passengers, depending upon the model and configuration. The modification incorporates the installation of a new electronic air data system consisting of an electronic Horizontal Situation Indicator (HSI) and dual air data computers. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF).

Type Certification Basis

Under the provisions of 14 CFR 21.101, Aircraft Systems & Manufacturing must show that the Boeing Model 727–200 series airplanes, as modified to include the new electronic air data system, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A3WE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The specific regulations included in the certification basis for the Boeing Model 727–200 series airplanes include Civil Air Regulations (CAR) 4b, as amended by amendment 4b-1 through 4b-11.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, CAR 4b, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 727–200 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 727–200 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with

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§ 11.38, and become part of the airplane's type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Aircraft Systems & Manufacturing apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the Boeing 727–200 airplanes modified by Aircraft Systems & Manufacturing will incorporate a new electronic air data system, consisting of an electronic HSI and dual air data computers, that will perform critical functions. This system may be vulnerable to high-intensity radiated fields. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses requirements for protection of electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Boeing Model 727–200 series airplanes modified by Aircraft Systems & Manufacturing. These special conditions will require that this system, which performs critical functions, must be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to flight deck-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field Strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 727–200 series airplanes modified by Aircraft Systems & Manufacturing to install a new electronic air data system. Should Aircraft Systems & Manufacturing apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A3WE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Boeing Model 727–200 series airplanes modified by Aircraft Systems & Manufacturing to include the new electronic air data system. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplanes.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Boeing Model 727–200 series airplanes as modified by Aircraft Systems & Manufacturing.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on August 24, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22661 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–246–AD; Amendment 39–12427; AD 2001–18–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A340–211 Series Airplanes Modified by Supplemental Type Certificate ST09092AC–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A340–211 series airplanes modified by supplemental type certificate ST09092AC–D, that requires modifying the passenger entertainment system (PES) and revising the Flight Crew Operating Manual. This action is necessary to ensure that the flight crew is able to remove electrical power from the entire PES when necessary and is advised of appropriate procedures for such action. Inability to remove power from the PES during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective October 15, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 15, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Systems Company, Intelligence Information and Aircraft Integration Systems, 7500 Maehre Road, Waco, Texas 76705. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Fort Worth Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ingrid Knox, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, ASW–150, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298; telephone (817) 222–5139; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A340–211 series airplanes modified by supplemental type certificate (STC) ST09092AC–D was published in the **Federal Register** on March 2, 2001 (66 FR 13222). That action proposed to require modifying the passenger entertainment system (PES) and revising the Flight Crew Operating Manual.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Omit Reference to the Foreign Airworthiness Authority

The commenter requests that the FAA revise the final rule to omit the references to the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France. The commenter points out that the PES system that is the subject of the proposed AD was approved by an American STC; thus, the DGAC is not the primary airworthiness authority for the STC as the proposed rule states.

We concur. The references in the proposed rule to the DGAC were included in error. However, the sections that contained the subject references are not restated in this final rule. Therefore, no change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. The single airplane included in the applicability of this AD currently is operated by a non-U.S. operator under foreign registry; therefore, it is not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that the subject airplane is imported and placed on the U.S. Register in the future.

Should the affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 28 work hours to accomplish the modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $162,597 per airplane. Based on these figures, the cost impact of the required modification would be $164,277.

Should the affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 1 work hour to accomplish the manual revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required manual revision would be $60.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3)

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will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–01 Airbus: Amendment 39–12427. Docket 2000–NM–246–AD.

Applicability: Model A340–211 series airplanes modified by supplemental type certificate (STC) ST09092AC–D, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is able to remove electrical power from the entire passenger entertainment system (PES) when necessary and is advised of appropriate procedures for such action, accomplish the following:

Modification and Flight Crew Operating Manual Revision

(a) Within 18 months after the effective date of this AD, do paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the PES by replacing the three-unit busbar with a two-unit busbar and installing associated wiring, in accordance with Raytheon Service Bulletin A340VIP–24–1, dated August 28, 2000.

(2) Revise the Electrical Controls and Indicators section of the Airbus A340 Flight Crew Operating Manual to advise the flight crew that power to the PES can be removed by using the "COMMERCIAL" switch in the flight compartment, by inserting "Electrical Controls and Indicators," 1.24.20, page 4, Revision 07, dated October 1995, of the Airbus A340 Flight Crew Operating Manual.

Spares

(b) As of the effective date of this AD, no person shall install a PES system in accordance with STC ST09092AC–D on any airplane, unless it is modified and the Flight Crew Operating Manual is revised in accordance with this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Fort Worth Airplane Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Raytheon Service Bulletin A340VIP–24–1, dated August 28, 2000; and Airbus A340 Flight Crew Operating Manual "Electrical Controls and Indicators," 1.24.20, page 4, Revision 07, dated October 1995; as applicable. The Airbus A340 Flight Crew Operating Manual contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
List of Effective Pages 01–52	07	October 1995.

(The revision date of this document is only contained in the "List of Normal Revisions"; no other page of the document contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Systems Company, Intelligence Information and Aircraft Integration Systems, 7500 Maehre Road, Waco, Texas 76705. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Fort Worth Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on October 15, 2001.

Issued in Renton, Washington, on August 27, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22084 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30266; Amdt. No. 2067]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore–(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on August 31, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective November 1, 2001*

Hot Springs, AR, Memorial Field, RNAV (GPS) RWY 5, Orig
Hot Springs, AR, Memorial Field, GPS RWY 5, Orig, CANCELLED
Burbank, CA, Burbank-Glendale-Pasadena, VOR RWY 8, Amdt 10C
Burbank, CA, Burbank-Glendale-Pasadena, RNAV (GPS) RWY 8, Orig
Grand Junction, CO, Walker Field, RNAV (GPS) RWY 11, Orig
Grand Junction, CO, Walker Field, RNAV (GPS) RWY 29, Orig
Grand Junction, CO, Walker Field, GPS RWY 11, Orig, CANCELLED
Grand Junction, CO, Walker Field, GPS RWY 29, Orig-A, CANCELLED
Crystal River, FL, Crystal River, VOR/DME OR GPS–A, Amdt 1
Gainesville, FL, Gainesville Regional, VOR/DME RWY 6, Orig
Gainesville, FL, Gainesville Regional, VOR/DME RWY 10, Orig
Gainesville, FL, Gainesville Regional, VOR RWY 24, Orig
Gainesville, FL, Gainesville Regional, VOR RWY 28, Orig
Gainesville, FL, Gainesville Regional, LOC/DME BC RWY 10, Orig
Gainesville, FL, Gainesville Regional, NDB RWY 28, Amdt 9
Gainesville, FL, Gainesville Regional, ILS RWY 28, Amdt 12
Keystone Heights, FL, Keystone Airpark, VOR/DME RWY 4, Orig
Lake City, FL, Lake City Muni, NDB RWY 28, Amdt 2
Miami, FL, Dade-Collier Training and Transition, NDB OR GPS RWY 9, Amdt 13
Miami, FL, Dade-Collier Training and Transition, ILS RWY 9, Amdt 14
Williston, FL, Williston Muni, VOR/DME RWY 23, Orig
Centralia, IL, Centralia Muni, VOR–A, Amdt 1
Centralia, IL, Centralia Muni, RNAV (GPS) RWY 18, Orig

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Centralia, IL, Centralia Muni, RNAV (GPS) RWY 36, Orig
Minneapolis, MN, Minneapolis-St Paul Intl (Wold-Chamberlain), NDB RWY 4, Amdt 20A
Minneapolis, MN, Minneapolis-St Paul Intl (Wold-Chamberlain), RNAV (GPS) RWY 4, Orig
Hazen, ND, Mercer County Regional, RNAV (GPS) RWY 14, Orig
Hazen, ND, Mercer County Regional, RNAV (GPS) RWY 32, Orig
Hazen, ND, Mercer County Regional, GPS RWY 14, Orig, CANCELLED
Hazen, ND, Mercer County Regional, GPS RWY 32, Orig, CANCELLED
Gordon, NE, Gordon Muni, RNAV (GPS) RWY 22, Orig
Gordon, NE, Gordon Muni, GPS RWY 22, Orig, CANCELLED
North Platte, NE, North Platte Regional Lee Bird Field, RNAV (GPS) RWY 30, Orig
Newark, NJ, Newark Intl, VOR RWY 11, Amdt 2
Newark, NJ, Newark Intl, RNAV (GPS) RWY 11, Orig
Newark, NJ, Newark Intl, GPS RWY 11, Orig, CANCELLED
Boise City, OK, Boise City, RNAV (GPS) RWY 4, Orig
Boise City, OK, Boise City, GPS RWY 4, Orig, CANCELLED
Butler, PA, Butler County/K W Scholter Field, ILS RWY 8, Amdt 6
Collegeville, PA, Perkiomen Valley, VOR OR GPS RWY 9, Amdt 4
Galeton, PA, Cherry Springs, VOR–A, Amdt 6, CANCELLED
Galeton, PA, Cherry Springs, VOR/DME–A, Orig
Lancaster, PA, Lancaster, RNAV (GPS) RWY 8, Orig
Angleton/Lake Jackson, TX, Brazoria County, NDB RWY 17, Amdt 3
Angleton/Lake Jackson, TX, Brazoria County, RNAV (GPS) RWY 17, Amdt 1
Angleton/Lake Jackson, TX, Brazoria County, RNAV (GPS) RWY 35, Amdt 1
Conroe, TX, Montgomery County, ILS RWY 14, Amdt 2
Conroe, TX, Montgomery County, NDB RWY 14, Amdt 2
Conroe, TX, Montgomery County, RNAV (GPS) RWY 32, Orig
Conroe, TX, Montgomery County, VOR/DME RNAV RWY 32, Amdt 1B, CANCELLED
Conroe, TX, Montomery County, GPS RWY 32, Orig-C, CANCELLED
Hondo, TX, Hondo Muni, RNAV (GPS) RWY 17L, Orig
Hondo, TX, Hondo Muni, GPS RWY 17L, Amdt 1, CANCELLED
Houston, TX, Clover Field, VOR–A, Amdt 1
Houston, TX, Clover Field, GPS RWY 32L, Orig, CANCELLED
Houston, TX, Clover Field, RNAV (GPS) RWY 32L, Orig
Houston, TX, David Wayne Hooks Memorial, RNAV (GPS) RWY 17R, Orig
Houston, TX, David Wayne Hooks Memorial, RNAV (GPS) RWY 35L, Orig
Houston, TX, Ellington Field, RNAV (GPS) RWY 4, Orig
Houston, TX, Ellington Field, GPS RWY 4, Orig-A, CANCELLED
Houston, TX, Ellington Field, GPS RWY 22, Orig, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, GPS RWY 15L, Orig-B, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, RNAV (GPS) RWY 15L, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, GPS RWY 27, Amdt 1, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, GPS RWY 33R, Orig, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, RNAV (GPS) RWY 27, Orig
Houston, TX, George Bush Intercontinental Arpt/Houston, RNAV (GPS) RWY 33R, Orig
Houston, TX, Houston-Southwest, NDB RWY 9, Amdt 5
Houston, TX, Houston-Southwest, NDB RWY 27, Amdt 4
Houston, TX, Houston-Southwest, RNAV (GPS) RWY 9, Orig
Houston, TX, Houston-Southwest, RNAV (GPS) RWY 27, Orig
Houston, TX, Houston-Southwest, VOR/DME RNAV RWY 9, Amdt 2
Houston, TX, Houston-Southwest, VOR/DME RNAV RWY 27, Amdt 3
Houston, TX, Houston-Southwest, GPS RWY 27, Orig, CANCELLED
Houston, TX, Houston-Southwest, GPS RWY 9, Orig, CANCELLED
Houston, TX, Sugar Land Muni/Hull Field, VOR/DME–A, Amdt 1
Houston, TX, Sugar Land Muni/Hull Field, NDB RWY 17, Amdt 9
Houston, TX, Sugar Land Muni/Hull Field, RNAV (GPS) RWY 17, Orig
Houston, TX, Sugar Land Muni/Hull Field, RNAV (GPS) RWY 35, Orig
Houston, TX, Weiser Airpark, RNAV (GPS)–E, Orig
Houston, TX, William P. Hobby, VOR/DME RWY 22, Amdt 24A, CANCELLED
La Porte, TX, La Poret Muni, VOR–A, Orig
La Porte, TX, La Porte Muni, VOR OR GPS–A, Amdt 12, CANCELLED
La Porte, TX, La Porte Muni, NDB RWY 30, Amdt 2,
La Porte, TX, La Porte Muni, RNAV (GPS) RWY 30, Orig
Charlotte Amalie, VI, Cyril E King, ILS RWY 10, Amdt 1
Madison, WI, Dane County Regional-Truax Field, VOR RWY 13, Orig
Madison, WI, Dane County Regional-Truax Field, VOR RWY 18, Orig
Madison, WI, Dane County Regional-Truax Field, VOR RWY 36, Orig
Madison, WI, Dane County Regional-Truax Field, VOR OR TACAN OR GPS RWY 13, Amdt 23B, CANCELLED
Madison, WI, Dane County Regional-Truax Field, VOR OR TACAN OR GPS RWY 18, Amdt 20B, CANCELLED
Madison, WI, Dane County Regional-Truax Field, VOR OR TACAN OR GPS RWY 31, Amdt 24C, CANCELLED
Madison, WI, Dane County Regional-Truax Field, VOR/DME OR TACAN RWY 13, Orig
Madison, WI, Dane County Regional-Truax Field, VOR/DME OR TACAN RWY 18, Orig
Madison, WI, Dane County Regional-Truax Field, VOR/DME OR TACAN RWY 31, Orig
Madison, WI, Dane County Regional-Truax Field, NDB RWY 36, Amdt 29
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 13, Orig
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 18, Orig
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 21, Orig–A
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 31, Orig
Madison, WI, Dane County Regional-Truax Field, RNAV (GPS) RWY 36, Orig
Oshkosh, WI, Wittman Field, RNAV (GPS) RWY 36, Orig

Note: The FAA published the following procedures in Docket No. 30264, Amdt. No. 2065 to Part 97 of the Federal Aviation Administration Regulations (**Federal Register** Vol. 66, No. 164, Page 44301–44302, dated Thursday, August 23, 2001) under Section 97.23 & 97.33 effective October 4, 2001 is hereby amended as follows:

Change the effective on the following procedures to November 1, 2001:

Burbank, CA, Burbank-Glendale-Pasadena, VOR RWY 8, Amdt 10C
Burbank, CA Burbank-Glendale-Pasadena, RNAV (GPS) RWY 8, Orig

[FR Doc. 01–22658 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 970626156–1021–04]

RIN 0648–AK01

Regulation of the Operation of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries, National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA) Department of Commerce.

ACTION: Final rule; notice of availability of environmental assessment.

SUMMARY: NOAA amends the regulations governing activities in the Gulf of the Farallones National Marine Sanctuary (GFNMS or Sanctuary) to prohibit the operation of motorized personal watercraft (MPWC) within the boundaries of the GFNMS. This regulation is necessary to protect sensitive biological resources, to minimize user conflict, and to protect the ecological, aesthetic, and recreational qualities of the Sanctuary. NOAA also announces the availability of an Environmental Assessment (EA) on the rule.

DATES: Effective October 10, 2001.

ADDRESSES: Copies of the Environmental Assessment are available upon request from the Gulf of the Farallones National Marine Sanctuary, Fort Mason, Building 201, San Francisco, CA 94123 (415) 561–6622.

FOR FURTHER INFORMATION CONTACT: Ed Ueber at (415) 561–6622.

SUPPLEMENTARY INFORMATION:

I. Background

In recognition of the national significance of the unique marine environment of the Gulf of the Farrallones, California, the GFNMS was designated in January 1981. The GFNMS regulations at 15 CFR part 922, Subpart H prohibit a relatively narrow range of activities to protect Sanctuary resources and qualities. On April 18, 1996, the Environmental Action Committee (EAC) of West Marin, California, petitioned the GFNMS to ban the use of MPWC in the Sanctuary. Operation of MPWC is currently not regulated under GFNMS regulations. The EAC identified a number of concerns regarding the use of MPWC within the Sanctuary. In its petition, the EAC asserted that: MPWC are completely incompatible with the existence of a marine sanctuary; pose a danger to the biological resources of the sanctuary, such as marine mammals, wildfowl, kelp beds, anadromous fish, and other marine life; create noise, water and air pollution; and threaten mariculture and other commerce throughout the Sanctuary. The EAC also stated that MPWC create a hazard for other Sanctuary users, including swimmers, sailboats, windsurfers, open-water rowing shells and kayaks. NOAA also received 195 letters from members of the public in response to media publicity about the petition. Sixty-four percent opposed regulation of MPWC; 33% supported the EAC's requested ban; one percent expressed no clear opinion.

To supplement existing information on the use and impacts of MPWC, NOAA published a Notice of Inquiry/Request for Information in the Federal Register on August 21, 1997, initiating a 45-day comment period that ended October 6, 1997. NOAA requested information on the following: (1) The number of motorized personal watercraft being operated in the Sanctuary; (2) possible future trends in such numbers; (3) the customary launching areas for motorized personal watercraft in or near the Sanctuary; (4) the areas of use of motorized personal watercraft activity in the Sanctuary, including areas of concentrated use; (5) the periods (e.g., time of year, day) of use of motorized personal watercraft in the Sanctuary, including periods of high incidence of use; (6) studies or technical articles concerning the impacts of motorized personal watercraft on marine resources and other users; (7) first person or documented accounts of impacts of motorized personal watercraft on marine resources and other users; and (8) any other information or other comments that may be pertinent to this issue. NOAA received 160 public comments in response to the notice of inquiry and two signature petitions during the comment period. One hundred fifty-three (96%) supported banning the operation of MPWC within the GFNMS. Two signature petitions were also received; one, with 276 signatures, supported the ban; the second, with 41 signatures, opposed the ban. Forty-four people spoke at a public meeting held to gather information during the comment period, all but one of who supported the petition to ban MPWC operation. Half of the speakers at the public meeting had previously submitted written comments.

Responses to and investigation of the specific questions in the August, 1997 notice revealed that: (1) The number of MPWC currently being operated in Sanctuary waters is believed to be 20 by the proprietors of Lawson's Landing, the primary MPWC launch site in Sanctuary waters, and these users make less than 200 launches per year; (2) the use of MPWC in Sanctuary waters is believed to be increasing; (3) there are two established MPWC launch sites in the Sanctuary, at Bodega Harbor and Lawson's Landing; (4) the areas in the Sanctuary where MPWC are operated are in the vicinity of the mouth of Tomales Bay and the area outside Bodega Harbor-over 95% of MPWC operation that occurs in the Sanctuary occurs in these areas; (5) April through November appear to be the times of highest use of MPWC in Sanctuary waters; (6, 7, and 8) numerous studies, technical articles, and personal documentation such as photos, letters and logs of the impacts of MPWC on marine resources and other users were received and collected.

The following were identified during NOAA's review of this issue: (1) Water-based recreational activity is increasing in the United States; (2) water-based recreational activity has impacted coastal habitats, seabirds, marine mammals and fish; (3) operation of MPWC is a relatively new and increasingly popular water sport; (4) MPWC, are different from other types of motorized watercraft in their structure (smaller size, shallower draft, two-stroke engine, and exhaust venting to water as opposed to air) and their operational impacts (operated at faster speeds, operated closer to shore, make quicker turns, stay in a limited area, tend to operate in groups, and have more unpredictable movements); (5) MPWC have been operated in such a manner as to create a safety hazard to other resource users in the vicinity; (6) MPWC may interfere with marine commercial users; (7) MPWC have disturbed natural quiet and aesthetic appreciation; (8) MPWC have interfered with other marine recreational uses; (9) MPWC have impacted coastal and marine habitats; (10) MPWC have disturbed waterfowl and seabirds; (11) MPWC have disturbed marine mammals; (12) MPWC may disturb fish; (13) other jurisdictions have had problems with MPWC and have proposed and implemented various means of attempting to solve the problems; (14) the Sanctuary has sensitive areas that were deemed worthy of protection by the designation of a National Marine Sanctuary, including five State designated Areas of Special Biological Significance and four semi-enclosed estuarine areas; and (15) MPWC present a present and potential threat to resources and users of the GFNMS.

Based on this information, the NMSP published a proposed rule to prohibit operation of MPWC from the mean high tide line seaward to 1000 yards. The proposed rule was designed to protect Sanctuary resources and minimizing user conflict in the nearshore areas. NOAA received 53 public comments on the proposed rule. Fifty-one commentors (96%) supported a full ban on MPWC within the GFNMS and 2 (4%) opposed the proposed regulations. On June 2, 1999, a public hearing to accept comments on the proposed rule was held in Point Reyes, California. Five people spoke at the public hearing. Three people spoke in favor of a complete ban on MPWC within the GFNMS and two people spoke out against the proposed 1000-yard restriction. Comments received on the April 23 rule and NOAA's responses were included in the preamble to the proposed rule that was published in the **Federal Register** on May 22, 2000.

After considering the comments in response to the proposed rule, reviewing new and recent MPWC regulations for agencies with contiguous or overlapping boundaries, and reviewing recent biological information, NOAA concluded that a total prohibition on the operation of MPWC would be necessary to adequately protect Sanctuary resources. On May 22, 2000, NOAA published a notice of

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withdrawal of the April 23, 1999 proposed rule, a new proposed rule for the total prohibition of MPWC within the Sanctuary, and a notice of availability of Draft Environmental Assessment (DEA). Comments on the proposed rule and the DEA were accepted until June 21, 2000. In addition, a public hearing was held on June 12, 2000. NOAA received 65 comments on the proposed rule. Fifty commentors (77%) supported a full ban and 15 (23%) were opposed to the full ban. The comments and NOAA's responses to them are provided below.

The waters of the Sanctuary are home to a rich diversity of organisms and provide critical habitat for seabirds, marine mammals, fishes, invertebrates, sea turtles and marine flora. The biological importance and uniqueness of Sanctuary waters have been internationally recognized by the incorporation of Sanctuary waters into the United Nations' Man in the Biosphere system as part of the Golden Gate Biosphere Reserve, and the designation of Bolinas Lagoon as a RAMSAR (Convention for Wetlands of International Significance) site.

Because of its unique geology and geography, the biological diversity found within the GFNMS rivals any location along the Pacific coast. Fueled by the strongest coastal upwelling in North America (Bakun, 1973), abundant biological resources thrive in the productive waters of the Gulf's broad, shallow continental shelf. A counter-clockwise eddy that swirls south of Point Reyes in the Gulf of the Farallones concentrates the products of upwelling (Wing et al., 1995) and acts like an incubator for small developing animals. These in turn are food for organisms higher on the food web. The result is a marine system that supports some of the most active commercial fisheries on the west coast, provides food and habitat to support the largest concentration of breeding seabirds in the continental United States and supports roughly 20% of the breeding population of California's harbor seals. The offshore area of the Sanctuary provides important habitat for federally endangered blue, humpback, fin, sei and sperm whales, and provides habitat for up to 50% of all the ashy storm petrels in the world and 90% of all the common murres in their southern range. Harbor porpoise, Steller sea lions, Pacific white sided dolphins, Dall's porpoise, California sea lions, common murres, Cassin's auklets, rhinoceros auklets, three species of cormorants, two species of grebes, tufted puffins, pigeon guillemots, marbled murrelets, black footed albatross, storm petrels, shearwaters, fulmars and many species of seabirds and marine mammals that are less abundant also depend on the offshore areas of the Sanctuary to provide food and shelter.

The Gulf of the Farallones is a destination feeding area for protected white sharks (Klimley and Ainley, 1996) and endangered blue and humpback whales (Kieckhefer, 1992). The sharks aggregate in coastal areas and near the Farallon islands from spring through fall to feed on an abundance of seals and sea lions. The whales travel from Mexico to feed on the concentrations of krill and forage fish found in the Sanctuary. From spring through late summer, krill swarm in the surface layers of the Gulf (Smith and Adams, 1988). It is during these daytime surface swarms that krill are most vulnerable to predators. Endangered whales, seabirds and salmon feed heavily on krill when krill are concentrated in these surface aggregations. Ten percent of California's threatened coho salmon population feed in the outer Sanctuary during the ocean phase of their life history before returning to spawn in Lagaunitas Creek and its tributaries. Recently listed populations of chinook salmon also feed in the Gulf of the Farallones as adults before returning to the Sacramento River drainage to complete their life cycle. Gray whales pass through the Sanctuary twice a year on their migration route between winter calving grounds in Mexico and summertime feeding areas in Alaska. In recent years, more individual gray whales are remaining in the Gulf of the Farallones throughout the year to feed instead of proceeding to the feeding grounds in Alaska.

The protected bays and coastal wetlands of the Sanctuary, such as Bodega Bay, Tomales Bay, Drakes Bay, Bolinas Lagoon, Estero Americano and Estero de San Antonio, include intertidal mudflats, sand flats, salt marshes, submerged rocky terraces, and shallow subtidal areas. These areas support large populations of benthic fauna and concentrations of burrowing organisms and organisms living on marine plants. Submerged eelgrass (Zostera marina) beds are prevalent in the northern portion of Tomales Bay and provide crucial feeding habitat for more than 50 resident, breeding, and migratory bird species. These eelgrass beds are also important for many marine invertebrates and for the developing egg masses of herring and other fishes. It is estimated that approximately 30 million herring spawn annually on the eelgrass beds of Tomales Bay (Fox, 1997). The shallow protected bays and estuaries within the Sanctuary, such as Tomales Bay, Drakes Bay, Bolinas Lagoon, and the esteros, are important habitat for anadromous fish, several species of surfperches, sharks, rays and flatfish. Over 150 species of fish are found in the Sanctuary including the federally endangered winter-run Chinook salmon and the federally threatened coho salmon, spring run Chinook salmon, steelhead trout and tidewater goby.

Among the hundreds of bird species that reside in or migrate through the Sanctuary, many are endangered, threatened or of special concern. These include the following species which are found in the Sanctuary and on the Farallon Islands (Key: FE=Federally listed as endangered; FT=Federally listed as threatened; SE=listed in the State of California as endangered; ST=listed in the State of California as threatened; CSC=California species of concern):

Swimmers [ducks and duck-like]:		
Aleutian Canada Goose	*Branta canadensis leucopareia*	FT
Barrow's Goldeneye	*Bucephala islandica*	CSC
Common Loon	*Gavia immer*	CSC
Double-crested Cormorant	*Palacrocorax auritus*	CSC
Harlequin Duck	*Histrionicus histrionicus*	CSC
Marbled Murrelet	*Brachyramphus marmoratus*	FT/SE
Aerialists [gulls and gull-like]:		
American White Pelican	*Pelecanus erythorhynchos*	CSC
Ashy Storm Petrel	*Oceanodroma homochroa*	CSC
California Brown Pelican	*Pelecanus occidentalis californicus*	FE/SE
California Gull	*Larus californicus*	CSC
California Least Tern	*Sterna antillarum browni*	FE/SE
Elegant Tern	*Sterna elegant*	CSC
Short-tailed Albatross	*Diomedea albatrus*	FE

Long-legged waders [herons, cranes, etc.]:		
California Black Rail	*Laterallus jamaicensis corurniculus*	ST
Smaller waders [plovers, sandpipers, etc.]:		
Long-billed Curlew	*Numenius americanus*	CSC
Western Snowy Plover (coastal)	*Charadrius alexandrinus niv.*	FT/CSC
Birds of prey [hawks, eagles, owls]:		
Bald Eagle check status	*Haliaeetus leucocephalus*	FT
Ferruginous Hawk	*Buteo regalis*	CSC
Osprey	*Pandion haliaetus*	CSC
Prairie Falcon	*Falco mexicanus*	CSC
Peregrine Falcon	*Falco peregrinus*	FE
Passerine birds [perching]:		
Saltmarsh common yellowthroat	*Geothlypis trichas sinuosa*	CSC

There are at least twelve critical marine bird nesting areas along the shoreline of the Sanctuary. More than twelve species of marine birds breed within the Sanctuary and the nesting population on the Farallon Islands is the largest concentration of breeding marine birds in the continental United States. During nesting and rearing of young, these sea birds are especially dependent on the Sanctuary waters for food.

Thirty-three species of marine mammals have been observed in the Sanctuary including six species of pinnipeds, one mustelid and twenty-six species of cetaceans. About 20% of the state's breeding population of harbor seals live within the boundaries of the Sanctuary, and northern fur seals are starting to recolonize historic pupping sites within the Sanctuary for the first time since 1820. Of the twenty-six species of cetaceans that occur in Sanctuary waters, nineteen are migratory, and seven are considered resident species. Many of these marine mammals occur in large concentrations and are dependent on the productive and secluded habitat of the Sanctuary's waters and adjacent coastal areas for breeding, pupping, hauling-out, feeding, and resting during migration. Three areas in the Sanctuary have been identified as critical feeding areas for the threatened Steller sea lion, including the nearshore areas around Point Reyes, the northern half of Tomales Bay and areas adjacent to the Farallon Islands.

Humpback and blue whales migrate to offshore areas of the Sanctuary each summer to feed. Fin, sei and sperm whales also frequent this area when prey are abundant. Harbor seals, elephant seals, California sea lions, Dall's porpoise, harbor porpoise and gray whales are common residents in Sanctuary waters. Gray whales pass through the Sanctuary twice a year on their migration route between winter calving grounds in Mexico and summertime feeding areas in Alaska. In recent years, individuals have remained in the Gulf of the Farallones to feed instead of proceeding to the feeding grounds in Alaska. Since 1999, gray whales have been feeding in Bodega Bay and cow-calf pairs have been entering coastal embayments in unprecedented numbers. Some individuals have acclimated to conditions in the Sanctuary and are now year-round residents. Four species of endangered sea turtles are also known to reside in or migrate through Sanctuary waters. A listing of all threatened and endangered marine mammals and sea turtles follows (Key: FE=Federally listed as endangered; FT=Federally listed as threatened; ST=listed in the State of California as threatened).

Pinnipeds:		
Guadelupe fur seal	*Arctocephalus townsendi*	FT/ST
Steller (Northern) sea lion	*Eumetopias jubatus*	FT
Mustelids:		
Southern sea otter	*Enhydra lutris nereis*	FT
Cetaceans:		
Blue whale	*Balaenoptera musculus*	FE
Humpback whale	*Magaptera noveangliae*	FE
Sei whale	*Balaenoptera robustus*	FE
Sperm whale	*Physeter macrocphalus*	FE
Fin whale	*Balaenoptera physalus*	FE
Sea Turtles:		
Green turtle	*Chelonia mydas*	FE
Leatherback turtle	*Dermochelys coriacea*	FE
Loggerhead turtle	*Caretta caretta*	FE
Olive (Pacific) ridley	*Lepidochelys olivacea*	FE

Several populations of marine mammals are starting to recover from near extinction after years of human exploitation. As populations begin to rebound, individuals are expanding the populations' distributions back to historic ranges. In many instances, such as the sea otters, gray whales, northern fur seals and elephant seals, animals are using areas that have not been utilized for decades. It is critical for the Sanctuary to provide habitat that was historically available and allow these populations to return to their natural levels.

The offshore waters of the Sanctuary also provide entrance and egress for commercial shipping traffic using ports in San Francisco Bay. Tankers and container ships traverse the Sanctuary in three offshore shipping lanes that direct traffic from different directions in and out of San Francisco Bay. These offshore waters also support an active sport and commercial fishery. Small skiffs and larger commercial vessels troll at constant speeds or drift through the Sanctuary waters fishing for salmon and albacore. Rockfish and urchin boats fish the high spots and reefs closer to shore. On the softer sediment of the continental shelf, crab fishermen lay out their lines of crab pots each one identified with a buoy at the surface. All of these activities have gear in the water that is independent from or is attached but extends some distance from the boat. The gear is not readily apparent to the casual observer. Fishermen are generally aware of how gear types are deployed and operated. In cases where

the potential for conflict arises, most boats operating offshore have navigation equipment and radios to communicate with each other. Commercial whale watching and seabird operations regularly use the offshore area of the Sanctuary for wildlife viewing opportunities. In 1999, 3500 people visited the Sanctuary on one commercial company's whale watching trips (Mary Jane Schramm, Oceanic Society, pers. comm. 10 April 2000).

The nearshore waters of the Sanctuary are the areas most heavily used for recreation. Areas such as Tomales Bay and Dillon Beach in Bodega Bay are used for fishing, sailing, canoeing, rowing, kayaking and swimming. These activities are often conducted very close to shore and may be dependent on calm waters. Other activities conducted in the nearshore area of the Sanctuary that could be affected by MPWC include diving, windsurfing, surfing and bodyboarding.

Several Federal resource agencies have recognized MPWC as a unique type of recreational vessel that is relatively recent in origin (U.S. Fish and Wildlife Service, 1992; NOAA, 1992; U.S. Dept. of Interior, 1998c). MPWC are designed to be operated at high speeds, closer to shore, and to make quicker turns than other types of motorized vessels. MPWC have a disproportional thrust capability and horsepower to vessel length and/or weight, in some cases four times that of conventional vessels (U.S. Dept. of Interior, 1998c). Research indicates that impacts associated with MPWC tend to be locally concentrated, producing effects that are more geographically limited yet potentially more severe than motorboat use, due to repeated disruptions and an accumulation of impacts in a shorter period of time (Snow, 1989). MPWC are generally of smaller size, with a shallower draft (4 to 9 inches), and lower horsepower (around 75, as compared to up to 250 for large pleasure craft) than most other kinds of motorized watercraft (Ballestero, 1990; Snow, 1989). The smaller size and shallower draft of MPWC means they are more maneuverable, operable closer to shore and in shallower waters than other types of motorized watercraft. This maneuverability greatly increases the potential for MPWC to disturb fragile nearshore habitats and organisms. Although wakes of MPWC may be smaller than wakes of conventional motorboats, they can be more damaging (e.g., flooding of coastal bird nests; erosion of shoreline) because MPWC are often operated faster, closer to shore and repeatedly in the same area (Snow, 1989).

MPWC are powered by a jet-propelled system that typically involves a two-stroke engine with an exhaust expulsion system that vents into the water. The two-stroke engines found on the vast majority of MPWC in the United States discharge more of their fuel (ranging from 10% to more than 50% of the unburned fuel/oil mixture, depending on manufacturing conditions and operating variables) than four-stroke engines (Tahoe Research Group, 1997). These emissions pose a serious threat to the environment, as two-stroke engines introduce more volatile organic compounds (by as much as a factor of 10) into the water than four-stroke engines (Juttner et al., 1995; Tjarnlund et al., 1995). These emissions can have significant adverse impacts in many areas of the Sanctuary, particularly shallow nearshore coastal areas, estuaries, and open ocean surface waters.

Research indicates that MPWC can increase turbidity and may redistribute benthic invertebrates, and these impacts may be prolonged as a result of repeated use by multiple machines in a limited area. Research has shown that MPWC can foul water with their discharge, and increase local erosion rates by launching and beaching repeatedly in the same locations (Snow, 1989). Research in the Everglades National Park indicated that fishing success dropped to zero when fishing occurred in the same waters used by MPWC, and scientists in the Pacific Northwest have been concerned about the effects of MPWC on spawning salmon (Snow, 1989; Sutherland and Ogle, 1975). Research in Florida indicates that MPWC cause wildlife to flush at greater distances, with more complex behavioral responses than observed in disturbances caused by automobiles, all-terrain vehicles, foot approach, or motorboats. This was partially attributed by the scientists to the typical operation of MPWC, where they accelerate and decelerate repeatedly and unpredictably, and travel at fast speeds directly toward shore, while motorboats generally slow down as they approach shore (Rodgers, 1997). Scientific research also indicates that even at slower speeds, MPWC were a significantly stronger source of disturbance to birds than were motorboats. Levels of disturbance were further increased when MPWC were used at high speeds or outside of established boating channels (Burger, 1998). Research notes that declining nesting success of grebes, coots, and moorhens in the Imperial National Wildlife Refuge were due to the noise and physical intrusion of MPWC (Snow, 1989). In addition, MPWC have been observed flushing wading birds and nesting osprey from their habitats, contributing to abnormally high numbers of abandoned osprey nests on certain islands in the Florida Keys (U.S. Fish and Wildlife Service, 1992). The number of active osprey nests in the lower Florida Keys "backcountry" dropped from five to zero between 1986 and 1990. Biologists believe this was due to MPWC flushing parents from the nests (Cuthbert and Suman, 1995). Research suggests that declines in nesting birds in some states occurred simultaneously with MPWC operation.

Numerous shoreline roost sites exist within the Sanctuary and research has shown that human disturbance at bird roost sites can force birds to completely abandon an area. Published evidence strongly suggests that estuarine birds may be seriously affected by even occasional disturbance during key parts of their feeding cycle, and when flushed from feeding areas, such as eelgrass beds, will usually abandon the area until the next tidal cycle (Kelly, 1997). Seabirds such as common murres and sooty shearwaters often form large aggregations on the surface of the ocean. Feeding aggregations of sooty shearwaters can often number in the thousands and cover significant offshore areas. These feeding flocks are ephemeral in nature and their movement is dictated by the availability of their prey. These seabirds are especially susceptible during these critical periods and disturbance could have negative impacts on them.

There is a general conclusion that marine mammals are more disturbed by watercraft such as MPWC, which run faster, on varying courses, or often change direction and speed, than they are by boats running parallel to shore with no abrupt course or major speed changes. Researchers note that MPWC may be disruptive to marine mammals because they change speed and direction frequently, are unpredictable, and may transit the same area repeatedly in a short period of time. In addition, because MPWC lack low-frequency long distance sounds underwater, they do not signal surfacing mammals or birds of approaching danger until they are very close to them (Gentry, 1996; Osborne, 1996). Possible disturbance effects of MPWC on marine mammals could include shifts in activity patterns and site abandonment by harbor seals and Steller sea lions; site abandonment by harbor porpoise; injuries from collisions; and avoidance by whales (Gentry, 1996; Richardson et al., 1995).

The offshore area of the Sanctuary is a destination feeding ground for endangered blue and humpback whales. Fin, sei, and sperm whales also frequent offshore areas to forage. The recent MPWC bans implemented by PRNS and GGNRA limit the nearshore areas of the Sanctuary where MPWC can be operated and increase the likelihood that MPWC will be used in the Sanctuary's offshore area. The traffic route from the launch site in Bodega Harbor through Bodega Bay to and from this offshore area would put MPWC in offshore feeding areas for federally listed seabirds, marine mammals, and salmon. It would also cross the migration corridor for gray whales and put MPWC in close proximity to gray whale feeding areas in Bodega Bay. Gray whales pass through the Sanctuary twice a year on their migration route between winter calving grounds in Mexico and summertime feeding areas in Alaska.

In 1995, some gray whales began feeding in the Gulf of the Farallones in lieu of completing their yearly migration to Alaskan feeding grounds and some of these animals are beginning to reside in the Gulf year-round. Since 1999, gray whales have been feeding in Bodega Bay in unprecedented numbers. Some individuals have acclimated to conditions in the Sanctuary and are now year round residents. In early summer, gray whales begin foraging in Bodega Bay with the most recent feeding activity documented in early April, 2000 (Dr. Sarah Allen, Point Reyes National Seashore, pers. comm. April 11, 2000).

Historically, there were four launch sites used by MPWC to access Sanctuary waters: Lawson's Landing at Dillon Beach, Millerton Point Park, Inverness, and Bodega Harbor. Millerton Point Park and Inverness are now closed to launching MPWC as a result of the prohibition against MPWC operation in PRNS and GGNRA. Lawson's Landing is in Marin County and was closed to MPWC by the 1999 County ordinance but can be used at the present time because of the tentative ruling by the Marin Superior Court on September 13, 2000, described above. Currently, the only remaining egress into the Sanctuary is from Lawson's Landing and from Bodega Harbor in Sonoma County. Use by MPWC of an egress corridor from Bodega Harbor in Sonoma County would put MPWC in the same vicinity as the feeding whales. Gray whales have not been observed in Bodega Bay when MPWC are using the area. With site affinity not firmly established for gray whales starting to feed in Bodega Bay, it's important that these whales be allowed to forage without repeated disturbance.

Endangered blue whales were also observed feeding two miles off of the Point Reyes headlands during July of 1999. This is unusually close to shore for these animals, whose numbers in the area comprise a major concentration for the world, and who normally forage farther offshore. This unpredictable blue whale feeding activity demonstrates the importance of protecting all of the Sanctuary's waters. As marine mammal populations begin to recover from years of harvesting pressure, it is difficult to predict what areas of the Sanctuary will be utilized. Humpback whales regularly feed in areas outside NOAA's previously proposed 1000 yard buffer (Kiekhefer, 1992). During summer and fall more than 100 humpback whales can be observed moving around the Gulf of the Farallones following concentrations of herring, sardines, or krill that are their favorite prey. Humpbacks use bubble nets and other behavioral adaptations during feeding to drive their prey to the surface where they are trapped by the air-sea interface and captured.

Federally listed Southern sea otter populations are also recovering from near extinction and recolonizing areas within their historic range. Sitings of sea otters in the GFNMS have increased from two individuals in 1992 to 20 animals in 1998 (Dr. Sarah Allen, Point Reyes National Seashore, pers. comm. July, 1999). Prior to the designation of the Monterey Bay National Marine Sanctuary, an otter in that area was struck and killed by an MPWC. (NOAA 1990, Volume 1). Operation of MPWC in GFNMS could put these animals at risk in an area that appears to be providing habitat and an opportunity for the species' survival.

In Sanctuary waters beyond three nautical miles are found 11 federally endangered and 7 threatened species of birds, fish, turtles, and marine mammals, and 50% of all the ashy storm petrels in the world and 90% of all the common murres in their southern range. These waters are a destination feeding area for concentrations of endangered blue and humpback whales, feeding summer resident fin, sei and sperm whales, endangered winter run chinook and coho salmon.

MPWC have significant potential to interfere with a large number of other Sanctuary users. Numerous respondents to the Notice of Inquiry/Request for Information and the April 23, 1999, proposed rule and the subsequent revised proposed rule on May 22, 2000, noted that MPWC were interfering with, and often jeopardizing the well-being of, swimmers, kayakers, canoeists, and other boaters and users of the Sanctuary. MPWC have been involved in numerous accidents, and thus pose a hazard to other vessels and water users. Although MPWC make up approximately 11% of vessels registered in the country (U.S. Dept. of Interior, 1998c), Coast Guard statistics show that in 1996 MPWC were involved in 36% of all watercraft accidents (U.S. Coast Guard, 1999). In addition, numerous commentors noted that the operation of MPWC diminishes the aesthetic qualities of many coastal and ocean areas, and may interfere with other economic uses, such as tourism.

II. Summary of Comments and Responses

Comment 1: MPWC operation should be prohibited throughout the entire Sanctuary.

Response: NOAA agrees. After consideration of all comments, the latest biological information on impacts of MPWC in offshore areas, regulations promulgated by other resource agencies with adjacent or overlapping jurisdiction, and conflicts with other Sanctuary users, NOAA has concluded that a Sanctuary-wide prohibition on the operation of MPWC is necessary and the best way to protect the Sanctuary's resources.

Comment 2: MPWC operation should not be prohibited throughout the entire Sanctuary.

Response: NOAA disagrees. See response to Comment 1.

Comment 3: MPWC should be regulated by a seasonal ban because the presence of whales in the Sanctuary is seasonal.

Response: NOAA disagrees. A seasonal ban will not provide adequate year-round protection to whales in the GFNMS. NOAA believes that a seasonal ban will not give adequate protection to Gray whales because Gray whales have been observed in the Sanctuary every month of the year since 1995. Prior to that, Gray whales were commonly seen from March 1–December 1 and often seen in February. As indicated in the final EA, researchers have indicated that MPWC may disrupt marine mammals because MPWC change speed and direction frequently, are unpredictable, and may transit the same area repeatedly in a short period of time. Although MPWC lack low-frequency long distance sounds underwater this does not mean that marine mammals are not adversely impacted by MPWC noise. Whether the noise is heard at close range or farther away, it still will disturb marine mammals which may cause shifts in activity patterns, site abandonment, or avoidance. Since

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marine mammals are limited to close range detection of MPWC noise and activity there is a greater chance of collision.

In addition, whales are not the only wildlife that inhabit the Sanctuary that are disturbed and negatively impacted by the use of MPWC. A seasonal closure may only offer protection to one or two specific species, but not to the other 33-marine mammals or the hundreds of bird and fish species found throughout the Sanctuary on a year-around basis. Although the concentration of certain species does occur on a seasonal basis, the seasonal overlay among species is continuous throughout the year and a seasonal prohibition would not provide full protection.

A seasonal ban will also not adequately address the other concerns related to MPWC use in the Sanctuary such as noise, conflicts with other Sanctuary users, turbidity, and water quality concerns related to 2-stroke engines. A more detailed explanation of these concerns is found in response to comment numbers 7, 8, and 6.

Comment 4: MPWC threaten and disturb wildlife in the Sanctuary.

Response: NOAA agrees. Research in Florida indicates that MPWC cause wildlife to flush at greater distances, with more complex behavioral responses than observed in disturbances caused by automobiles, all-terrain vehicles, foot approach, or motorboats. This was partially attributed by the scientists to the typical operation of MPWC, where they accelerate and decelerate repeatedly and unpredictably, and travel at fast speeds directly toward shore, while motor boats generally slow down as they approach shore (Rodgers, 1997). Scientific research also indicates that even at slower speeds, MPWC were a significantly stronger source of disturbance to birds than were motor boats. Levels of disturbance were further increased when MPWC were used at high speeds or outside of established boating channels (Burger, 1998).

There is a general conclusion that marine mammals are more disturbed by watercraft such as MPWC, which run faster, on varying courses, or often change direction and speed, than they are by boats running parallel to shore with no abrupt course or major speed change. In addition, because MPWC lack low-frequency long distance sounds underwater, they do not signal surfacing mammals or birds of approaching danger until they are very close to them (Gentry, 1996; Osborne, 1996). Documented disturbance effects of MPWC on marine mammals could include shifts in activity patterns and site abandonment by harbor seals and Steller sea lions; site abandonment by harbor porpoise; injuries from collisions; and avoidance by whales (Gentry, 1996; Richardson et al., 1995).

Comment 5: MPWC disturb the tranquility of the Sanctuary.

Response: NOAA agrees. The use of MPWC can conflict with other users of the Sanctuary who use it solely for aesthetic purposes.

Comment 6: MPWC cause "unacceptable" pollution as a result of their two-stroke engines.

Response: NOAA agrees. MPWC are powered by a jet-propelled system that typically involves a two-stroke engine with an exhaust expulsion system that vents directly into the water. The two-stroke engines found on the vast majority of MPWC in the United States discharge more of their fuel (ranging from 10% to more than 50% of the unburned fuel/oil mixture, depending on manufacturing conditions and operating variables) than four-stroke engines found on many conventional recreational boats (Tahoe Research Group, 1997). These emissions pose a serious threat to the environment, as two-stroke engines introduce more volatile organic compounds (VOCs) (by as much as a factor of 10) into the water than four-stroke engines (Juttner et al., 1995; Tjarnlund et al., 1995). These emissions can have significant adverse impacts in many areas of the Sanctuary, particularly shallow nearshore coastal areas and estuaries.

Comment 7: NOAA proposes to ban MPWC because their two-stroke engines release pollutants into the water even though other recreational vessels with two-stoke engines are free to operate throughout the Sanctuary.

Response: NOAA disagrees. NOAA acknowledges that motorized watercraft with two-stroke engines other than MPWC are not restricted in the Sanctuary but, as indicated in response to comment 6, there are negative water quality impacts associated with MPWC's engine exhaust and subsequent discharge of VOCs into the water column. However, the proposed ban on MPWC two-stroke engines is not the sole reason why NOAA proposes a complete ban of MPWC throughout the Sanctuary. There are several factors NOAA has taken into consideration while proposing this ban of MPWC that cumulatively, indicate that a total ban is necessary including wildlife disturbance, user conflicts, and safety concerns (as detailed in the responses to comments 4, 8, 9, and 17). Other watercraft that are propelled by two-stroke engines do not have the same level of cumulative adverse impacts to Sanctuary resources as that of MPWC, therefore NOAA is not proposing a total ban of their use in Sanctuary waters.

Comment 8: MPWC cause "unacceptable" noise levels, that disturb marine wildlife (marine mammals, seabirds) as well as human visitors to the Sanctuary.

Response: NOAA agrees. In general, unless modified by the operator (i.e., removal or alteration of the muffler), MPWC do not appear to be any louder in the air than similarly powered conventional motorized watercraft (MPWC and conventional watercraft both registered between 74 and 84 decibels in tests conducted in 1990) (Woolley, 1996) and appear to be quieter underwater (Gentry, 1996). MPWC may be perceived as being louder than other boats because they can travel faster, closer to shore, often travel in groups, tend to frequently accelerate and decelerate, and "wake-jump." These characteristics create uneven, persistent noise apparently more bothersome to people and potentially to wildlife. In addition, research indicates that the constancy of speed figures into noise generation, as most people adjust to a constant drone and cease to be disturbed by it, even at elevated levels, but the changes in loudness and pitch of MPWC are more disturbing to people than other watercraft (Wagner, 1994). In addition, many MPWC operators alter or remove the mufflers to enhance craft performance, thus increasing the noise generated by their craft.

Comment 9: MPWC operation presents a user conflict with other Sanctuary users and poses a threat to anyone engaging in other recreational activities.

Response: NOAA agrees. The Sanctuary encourages multiple uses of its waters that are compatible with resource protection. When used as designed and in the current manner, MPWC have significant potential to interfere with a large number of other Sanctuary users. Numerous respondents to the proposed rule noted that MPWC were interfering with, and often jeopardizing the well-being of, swimmers, kayakers, canoeists, and other recreational boaters and users of the Sanctuary. MPWC have been involved in numerous accidents, and thus pose a hazard to other water users. Although MPWC make up approximately 11% of vessels registered in the country (U.S. Dept. of Interior, 1998c), Coast Guard statistics show that in 1996, 36% of all watercraft involved in accidents were MPWC (U.S. Coast Guard, 1999). While this accident data is not site specific to the Sanctuary, it does demonstrate that the potential for accidents does exist and that MPWC have a higher ratio of accidents than other motorized watercraft.

Additional comments received noted that the operation of MPWC in nearshore areas diminishes the aesthetic qualities of many beach and recreational areas, and may interfere with other economic uses of the areas based upon these aesthetic qualities.

Comment 10: A partial ban on MPWC use would be impossible to enforce.

Response: NOAA agrees. A partial ban at 100 yards, 1000 yards, or event three nautical miles would be difficult to enforce. In a tentative ruling issued September 13, 2000, the Superior Court in Marin County rejected the County's ordinance prohibiting MPWC operation was rejected by the Marin for being vague, in part because of the difficulty in knowing where MPWC could be operated in the County's jurisdiction out to three-miles. Before the Marin County ban, there was difficulty enforcing the Point Reyes National Seashore's one quarter mile restriction.

Despite local rider's attempt at self-policing and their efforts to create no ride zones, violations were chronic and regulations were hard to enforce. A total prohibition will provide a clear and simple enforcement rule within the GFNMS, will avoid confusion and will avoid the cost of installation and maintenance of a delineation system.

Delineation of MPWC zones with buoys is in place at the Monterey Bay National Marine Sanctuary (MBNMS) and it is needed for enforcement because MPWC lack standard navigational equipment and chart storage. MBNMS's regulation delineates four near harbor areas and bouys are in place to mark the boundary. The Florida Keys National Marine Sanctuary (FKNMS) does not have a specific MPWC regulation, however there are a number of small areas that are closed to motorized vessels. These areas are delineated by spar buoys or 30 inch buoys every 400 to 600 feet. The annual cost of maintenance and placement of each buoy is $250–$500 respectively (Upper Keys Manager, Lt.Cdr. David Savage, pers.com. October 3, 2000). These buoys are placed in shallow (1–2 fathoms maximum 12 feet) water. Because of weather and sea conditions, the GFNMS would require a 48 inch or larger buoys placed at a depth of 15–41 fathoms (90–246 feet) at a cost of $2,000 to $5,000 each. These larger buoys are needed because of ground tackle requirements for sea conditions. In addition, if the GFNMS were to place buoys 1,200 feet apart (double the width of the FKNMS placement); a minimum of 4,000 buoys would be required to indicate channels and closed areas (5 buoys per nautical mile to mark 80 nautical miles).

Comment 11: NOAA denied commentors due process because public comment meetings were in remote locations and electronic comments were not accepted.

Response: NOAA disagrees. As part of this process, NOAA held one public scoping meeting and two public hearings. All of the meetings were held at the Bear Valley Visitor Center of the Point Reyes National Seashore. This is a central location for the GFNMS and one visited by over 1,300,000 people annually. It is well known and easy to find. In addition, maps to the Center were provided upon request. A private meeting with the industry representatives was also held. Over three months of time was provided for written comments in this and the previous proposed rule.

NOAA believes that it has provided sufficient opportunities for members of the public to comment on this issue and has fulfilled all public notice requirements. NOAA is not required to accept electronic comments and does not yet have a formal policy on this issue.

Comment 12: NOAA's conclusions are based on inaccurate and outdated information.

Response: NOAA has considered the most current information available in its deliberations regarding the regulation of MPWC in the Sanctuary. Much of the information is from 1997 and 1998 data. The sources are reliable, well-known and respected in their fields, and have knowledge and experience in the Gulf of Farallones National Marine Sanctuary. Please refer to source citations located in the Bibliography of the Environmental Assessment.

Comment 13: Prohibiting MPWC operation without prohibiting operation of other motorized craft is unfair discrimination.

Response: NOAA disagrees. No other vessel type has demonstrated so many wide and varied detrimental aspects as MPWC. These aspects include: noise disturbance to wildlife and humans; discharge of VOC pollution and water quality impacts; physical disturbance to marine mammal, bird, and fish from frequent and erratic movement and fast speeds; and interference with other Sanctuary users (swimmers, kayakers, canoeists, other boaters, sailors, hikers, beach goers, whale and bird watchers, and people looking for a wilderness experience and aesthetic appreciation). These impacts are supported by scientific information data and provide justification as to why a ban is necessary. NOAA has not received comments or complaints on these types of cumulative disturbances caused by other vessel types.

Comment 14: NOAA failed to address the current regulations in the Hawaiian Islands Humpback Whale and Florida Keys National Marine Sanctuaries.

Response: NOAA disagrees. NOAA believes that an accurate comparison between the Gulf of the Farallones and the Hawaiian Islands Humpback Whale and Florida Keys National Marine Sanctuaries cannot be made because none of these three Sanctuaries have similar climates, hydrodynamics, boundary and shoreline delineation, or species composition.

The Hawaiian Islands Humpback Whale National Marine Sanctuary protects a single species and it is not required to address the complexity of the species composition at GFNMS, which has 33 marine mammal, 400 bird, and hundreds of fish species. The Florida Keys National Marine Sanctuary (FKNMS) does have a current restriction on MPWC use within 100 yards of residential shoreline to a no-wake speed (including other motorized vessels). However, in October 1999, the FKNMS Sanctuary Advisory Council decided that these strategies had been ineffective and voted to advise the Sanctuary managers to consider new regulations that could result in additional restrictions to MPWC in Florida.

NOAA believes regulations for each National Marine Sanctuary must be considered on a case-by-case basis, taking into account the unique features of each location, including living resources, physical characteristics, and use.

Comment 15: NOAA has changed the regulations as a result of pressure from MPWC opponents.

Response: NOAA disagrees. NOAA has considered all information carefully and in an unbiased manner based on the information found in the scientific literature, public documents, and comments by MPWC users and nonusers alike. Based upon new and recent regulations for areas with contiguous and overlapping boundaries, the latest biological information on impacts of MPWC in offshore areas, as well as conflicts with other Sanctuary users, NOAA has determined that a Sanctuary-wide prohibition on the operation of MPWC is necessary and the best way to adequately protect the Sanctuary's resources. NOAA's initial proposal of a 1,000 yard buffer would have only protected 5% of the Sanctuary from the impacts of MPWC operation, leaving the remaining 95% of the Sanctuary at risk. The complete ban

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of MPWC in GFNMS will ensure full protection to marine resource that could otherwise be affected.

The May 22, 2000, **Federal Register** notice for GFNMS withdrawal and notice of proposed rule, specifically states that the action was taken in response to the petition from the Environmental Action Committee of West Marin and to comments received in response to a proposed rule that NOAA published on April 23, 1999. Additional information on effects of MPWC to wildlife in GFNMS has been gathered since the original proposed ban of 1,000 yards from shore. As outlined in the May 22, 2000 notice, observations in July 1999 indicate that blue whales which had previously only been seen offshore at depths of 100 fathoms or more, were observed closer to shore at 40 to 50 fathoms and one sighting at 20 fathoms. These offshore observations of Gray whales and other species such as blue whales, guadalupe fur seals, and humpback whales, all indicate that if the ban were restricted to 1,000 yards the potential for impacts at these offshore distances would not be decreased.

Other reasons as to why NOAA has proposed a complete ban are delineation and enforcement. As discussed in response to comment 10, NOAA's initial proposed ban of 1,000 yards from shore would be difficult and costly to enforce in terms of personnel and buoy installation and maintenance.

Comment 16: NOAA has failed to consider alternatives to a total ban of MPWC in the Sanctuary.

Response: NOAA disagrees. NOAA considered all alternatives described in the Environmental Assessment, which includes a description of the alternative, a discussion of its environmental and socioeconomic impacts, and an analysis of the alternative. The alternatives found in the Environmental Assessment include: no action; creation of zones for the operation of MPWC; banning operation of MPWC from the nearshore area of the Sanctuary; prohibition of operation of MPWC in the entire Sanctuary; and regulation of all recreational vessel traffic in the Sanctuary. NOAA believes that it has developed its regulations fairly and without bias based upon scientific literature, public documents, and comments from MPWC users, nonusers, local citizens, and the MPWC industry.

Comment 17: NOAA cannot rationally prohibit operation of MPWC use throughout GFNMS on the basis of potential conflicts with recreational users concentrated in "nearshore waters."

Response: NOAA is not prohibiting MPWC use solely because of user conflicts. As explained in response to comments 4, 6, and 18, other concerns associated with the use of MPWC in the Sanctuary support NOAA's conclusion that operation of MPWC should be prohibited throughout the Sanctuary. While MPWC do interfere with nearshore uses such as swimming, canoeing, and kayaking and cause adverse impacts to nearshore wildlife and habitats, the impacts that MPWC can have on wildlife and water quality in offshore areas is also part of the basis for this action.

Comment 18: NOAA's own data from the National Marine Fisheries Service indicate that MPWC operation does not pose a risk to marine mammals.

Response: NOAA disagrees. The data cited from the Southwest Region of the National Marine Fisheries Service is based only on animals that have washed ashore in a dead or dying state and do not address negative impacts aside from mortality. Morbidity is not the only measure of effects on a marine mammal. It is detrimental to marine mammals, many of which are endangered or threatened, to alter their behavior (their feeding activities and subsequently their survivability) in a significant manner. A comment in support of the prohibition indicated that in one area Gray whales are seen frequently in proximity of other vessels and human activity but are never seen when MPWCs are present. A comment opposed to the prohibition indicated that MPWCs have been operated in the same area and whales have never been observed. Both statements support the contention that Gray whales alter their behavior to avoid MPWCs. Altering animal behavior is contrary to the goals and objectives of the Sanctuary.

As indicated in the EA, researchers have reported that MPWC may be disruptive to marine mammals because MPWC change speed and direction frequently, are unpredictable, and may transit the same area repeatedly in a short period of time. It is true that MPWC lack low-frequency long distance sounds underwater. However, this does not mean that marine mammals are not adversely impacted by the MPWC noise. Whether the noise is heard at close range or farther away, it still will disturb marine mammals which may cause shifts in activity patterns, site abandonment, or avoidance. Since marine mammals are limited to close range detection of MPWC noise and activity there is a greater chance of collision.

Comment 19: NOAA's reference to Coast Guard statistics regarding boating accidents nationally has little relevance given the absence of any reported MPWC accidents in the GFNMS.

Response: NOAA disagrees. MPWC have been involved in numerous accidents, and thus pose a hazard to other water users. Although MPWC make up approximately 11 percent of vessels registered in the country (U.S. Dept. of Interior, 1998c), Coast Guard statistics show that in 1996, 36 percent of all watercraft involved in accidents were MPWC (U.S. Coast Guard, 1999). While this accident data is not site specific to the Sanctuary, it does demonstrate that the potential for accidents does exist and that MPWC have a higher ratio of accidents than other motorized watercraft.

Comment 20: NOAA is unconvincing in its attempt to suggest that the recent efforts by Marin County to ban MPWC use within three miles of shore necessitate a ban by NOAA throughout the Sanctuary. No-wake zones could be established.

Response: As explained in the response to comment 10, the Marin County prohibition was recently overturned in a tentative ruling by the Marin Superior Court. The County is not enforcing the ordinance at this time. Whether the County's ordinance is implemented or not, NOAA is required to protect the marine resources in the GFNMS. NOAA believes that a total ban throughout the Sanctuary is necessary to ensure marine resource protection.

No-wake zones would only provide protection in limited areas but would be very expensive because they would require marker buoys. Sanctuary resources outside of these zones would still be at risk from the effects of MPWC operation.

Comment 21: NOAA continues to advance factual inaccuracies, unfounded assertions, illogical conclusions to support the prohibition. NOAA references studies regarding disturbance of waterfowl and seabirds as a reason to ban MPWC use throughout the entire Sanctuary even though these sources recommend creation of a "buffer zone." NOAA's assertion that MPWC may be perceived as being louder than other boats provides no potential basis for a ban extending throughout the entire Sanctuary.

Response: NOAA disagrees. NOAA's decision to prohibit MPWC was carefully considered and is scientifically defensible. Specifically, NOAA has referenced numerous studies related to MPWC impacts to all types of wildlife (marine mammals, birds, and pinnepeds) found within the Sanctuary's boundaries, not just waterfowl and seabirds. While studies on waterfowl and seabird recommend the creation of a buffer to reconcile the impacts of MPWC, buffer zones will not sufficiently address the other concerns related to MPWC use throughout the sanctuary such as water pollution, user conflicts, and other wildlife and human disturbance outside of the zones.

Comment 22: MPWC use in the Sanctuary is decreasing.

Response: NOAA disagrees. With the closure of other areas within and around the Sanctuary, such as GGNRA and PRNS, it is unlikely that use in the Sanctuary will decrease. NOAA is not aware of any data indicating that MPWC use is decreasing in GFNMS, other than statements from MPWC users and use trends nationally, which are documented in the United States Coast Guard report (1999).

Comment 23: NOAA's proposed regulation is arbitrary because it would prohibit MPWC operation because of their speed.

Response: NOAA disagrees. As stated in earlier responses, MPWCs have not been proposed to be banned in the Sanctuary because of any single reason such as speed. Speed is one of many aspects of MPWCs, including water quality effects, noise disturbance to humans and wildlife, and user conflicts, that NOAA considered.

III. Summary of Regulations

The regulations for the GFNMS are amended as follows:

The addition to 15 CFR 922.82(a) prohibits operation of MPWC in the Sanctuary. The prohibition includes an exception for the use of MPWC for emergency search and rescue and law enforcement (other than training activities) by Federal, State and local jurisdictions.

The addition to 15 CFR 922.81 provides a definition of "motorized personal watercraft." "Motorized personal watercraft" will be defined as "a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel".

IV. Miscellaneous Rulemaking Requirements

Executive Order 12866: Regulatory Impact

This rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that if it was adopted as proposed it would not have a significant economic impact on a substantial number of small entities. No comments were received on the economic impact of the proposed rule on small entities and, therefore, the basis for the certification has not changed.

Accordingly, a Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This rule would not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required. A draft environmental assessment has been prepared. It is available for comment from the address listed at the beginning of this notice.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

Alan Neuschatz,

Chief Financial Officer/Chief Administrative Officer, Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922, Subpart H, is amended as follows:

PART 922, NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. Section 922.81 is amended by adding the following definition, in the appropriate alphabetical order.

§ 922.81 Definitions.

* * * * *

Motorized personal watercraft means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel.

3. Section 922.82 is amended by adding new paragraph (a)(7) as follows:

§ 922.82 Prohibited or otherwise regulated activities.

(a) * * *

(7) Operation of motorized personal watercraft, except for the operation of motorized personal watercraft for emergency search and rescue mission or law enforcement operations (other than routine training activities) carried out by National Park Service, U.S. Coast Guard, Fire or Police Departments or other Federal, State or local jurisdictions.

* * * * *

[FR Doc. 01–22637 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 872, 878, 880, 882, 884, and 892

[Docket No. 01N–0073]

Medical Devices; Exemption From Premarket Notification Requirements; Class I Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: In the **Federal Register** of July 25, 2001 (66 FR 38786), the Food and Drug Administration (FDA) amended its medical device classification regulations for class I devices to specifically add a reference to the general limitations on exemptions from premarket notification requirements from each generic device classified as exempt in each section. As published, an exemption from the premarket notification requirements and a reference to the general limitations language was inadvertently added to 12 device classifications that should not include the reference. These devices are not exempt from the requirements of premarket notification. This document corrects those errors.

DATES: This rule is effective September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

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SUPPLEMENTARY INFORMATION:

I. Background

Provisions under section 206 of the Food and Drug Administration Modernization Act (FDAMA) exempt certain class I devices from the premarket notification requirements of the Federal Food, Drug, and Cosmetic Act (the act). To implement the new law, FDA evaluated all class I devices to determine which device types should become exempt under the new provisions and which device types should remain subject to the requirements of 510(k) of the act (21 U.S.C. 360(k)). FDA then amended its classification regulations through a series of publications in the **Federal Register** (63 FR 63222, November 12, 1998; 65 FR 2296, January 14, 2000; 63 FR 5387, February 2, 1998; and 66 FR 38786). The most recent amendment (66 FR 38786) revised statutory citations for over 500 devices in order to reference the limitation provisions found in each device classification regulation for devices that were exempt from the premarket notification requirements for clarity and convenience. During preparation of the final rule, however, certain devices were inadvertently included in a list of devices to be amended, and were erroneously changed by adding the limitations language and an exemption from premarket notification. This document corrects those errors.

II. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impact of this rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, this rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule does not change the status quo for these devices, the agency certifies that this final rule will not have a significant negative economic impact on a substantial number of small entities. Section 202(a) of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for the final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed $100 million.

IV. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects

21 CFR Parts 872, 878, 880, 882, and 884

Medical devices.

21 CFR Part 892

Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 872, 878, 880, 882, 884, and 892 are amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 872.6710 is amended by revising paragraph (b) to read as follows:

§ 872.6710 Boiling water sterilizer.

* * * * *

(b) *Classification.* Class I (general controls).

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

3. The authority citation for 21 CFR part 878 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

4. Section 878.4460 is amended by revising paragraph (b) to read as follows:

§ 878.4460 Surgeon's glove.

* * * * *

(b) *Classification.* Class I (general controls).

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

5. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

6. Section 880.5680 is amended by revising paragraph (b) to read as follows:

§ 880.5680 Pediatric position holder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

7. Section 880.6250 is amended by revising paragraph (b) to read as follows:

§ 880.6250 Patient examination glove.

* * * * *

(b) *Classification.* Class I (general controls).

8. Section 880.6375 is amended by revising paragraph (b) to read as follows:

§ 880.6375 Patient lubricant.

* * * * *

(b) *Classification.* Class I (general controls).

9. Section 880.6760 is amended by revising paragraph (b) to read as follows:

§ 880.6760 Protective restraint.

* * * * *

(b) *Classification.* Class I (general controls).

PART 882—NEUROLOGICAL DEVICES

10. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

11. Section 882.1030 is amended by revising paragraph (b) to read as follows:

§ 882.1030 Ataxiagraph.

* * * * *

(b) *Classification.* Class I (general controls).

12. Section 882.1420 is amended by revising paragraph (b) to read as follows:

§ 882.1420 Electroencephalogram (EEG) signal spectrum analyzer.

* * * * *

(b) *Classification.* Class I (general controls).

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

13. The authority citation for 21 CFR part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

14. Section 884.2980 is amended by revising paragraph (a)(2) to read as follows:

§ 884.2980 Telethermographic system.

(a) * * *

(2) *Classification.* Class I (general controls).

* * * * *

15. Section 884.2982 is amended by revising paragraph (a)(2) to read as follows:

§ 884.2982 Liquid crystal thermographic system.

(a) * * *

(2) *Classification.* Class I (general controls).

* * * * *

PART 892—RADIOLOGY DEVICES

16. The authority citation for 21 CFR part 892 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

17. Section 892.1100 is amended by revising paragraph (b) to read as follows:

§ 892.1100 Scintillation (gamma) camera.

* * * * *

(b) *Classification.* Class I (general controls).

18. Section 892.1110 is amended by revising paragraph (b) to read as follows:

§ 892.1110 Positron camera.

* * * * *

(b) *Classification.* Class I (general controls).

Dated: August 23, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–22577 Filed 9–7–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4152a; FRL–7050–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 25, 2001, without further notice, unless EPA receives adverse written comment by October 10, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, the EPA Region III address above or by e-mail at *chalmers.ray@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X to comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the

regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/ NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On December 7, 1998, February 2, 1999, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001, PADEP submitted revisions to the Pennsylvania SIP to establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to fourteen (14) of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals and operating permits which impose VOC and/or NO_X RACT requirements for each source. These sources are all located in the Philadelphia area. The table below identifies the sources and the individual plan approvals (PAs) and operating permits (OPs) which are the subject of this rulemaking. A summary of the VOC and/or NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	PA # or OP #	Source type	Pollutant
Aldan Rubber Company	Philadelphia	PA–1561	Rubber Coated Fabric Maker	VOC.
Arbill Industries, Inc	Philadelphia	PA–51–3811	Industrial Laundry	VOC.
Bethlehem Lukens Plate	Montgomery	OP–46–0011	Steel Plate Production	NO_X & VOC.
Braceland Brothers, Inc	Philadelphia	PA–3679	Printing Facility	VOC.
Graphic Arts, Inc.	Philadelphia	PA–2260	Printing Facility	VOC.
International Business Systems	Montgomery	OP–46–0049	Printing Facility	VOC.
McWhorter Technologies	Philadelphia	PA–51–3542	Specialty Resins Producer	VOC.
Montenay Montgomery Ltd	Montgomery	OP–46–0010A	Municipal Waste Combustor	NO_X.
Newman and Company	Philadelphia	PA–3489	Paperboard Producer	NO_X.
Northeast Foods	Bucks	OP–09–0014	Bakery	VOC.
Northeast Water Pollution Control Plant (Philadelphia Water Department).	Philadelphia	PA–51–9513	Wastewater Treatment Plant	VOC & NO_X.
O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant.	Philadelphia	PA–1533	Electric Generation Facility	NO_X.
O'Brien (Philadelphia) Cogeneration, Inc.—Southwest Water Pollution Control Plant.	Philadelphia	PA–1534	Electric Generation Facility	NO_X.
Pearl Pressman Liberty	Philadelphia	Plan Approval #7721	Printing Facility	VOC.

A. Aldan Rubber Company

Aldan Rubber Company (Aldan) has a plant located in Philadelphia, Pennsylvania which produces custom rubber coated fabric. Several installations at this source are subject to categoric specific SIP-approved RACT requirements adopted by the Commonwealth in accordance with applicable CTGs. The small boiler is subject to the SIP-approved presumptive RACT for NO_X found at 25 Pa. Code 129.93 (b)(2). Forty-two mixing churns and a crumber unit require case-by-case RACT determinations to control VOCs. The Philadelphia Air Management Services (AMS) issued PA–1561 to Aldan to establish and impose RACT. The PADEP submitted PA–1561 to EPA as a SIP revision on behalf of the AMS. PA–1561 establishes RACT for the 42 rubber-solvent churns as the use of a carbon adsorber system, which PA–1561 requires to be maintained in accordance with manufacturer's specifications. PA–1561 establishes RACT for the crumber unit as use of a condenser. The PA requires the crumber condenser temperature to be maintained at less than 80 degrees F. The PA also specifies that the crumber unit's VOC emissions shall be limited to 4 pounds per hour and 2.7 tons per year. PA–1561 requires a control efficiency test on the carbon adsorber unit once every five years, and also requires records to be kept of the concentration of organic material in the exhaust of the carbon adsorber unit and of the maintenance conducted on the unit. PA–1561 requires a daily log to be kept of the temperature of the crumber condenser. In addition, PA–1561 requires Aldan to keep all the records and other data required to demonstrate compliance with the RACT requirements of 25 Pa. Code 129.91–129.94.

B. Arbill Industries, Inc.

Arbill Industries, Inc. (Arbill) has a plant in Philadelphia, Pennsylvania which is an industrial laundry and petroleum based dry-cleaning facility. Arbill is a major source of VOC. The AMS issued Arbill Industries PA–51–3811 to establish RACT. The PADEP submitted PA–51–3811 to EPA as a SIP revision on behalf of the AMS. The facility consists of several VOC emitting sources including 2 heavy-duty petroleum solvent dry cleaning washers, 10 textile dryers with built-in condensers, 3 vacuum stills for petroleum solvent, and 26 hampers. PA–51–3811 requires a RACT program consisting of the reduction of evaporative losses from washing, drying, and transfer operations. This program includes the following: (1) eliminating fugitive emissions from the dryer by replacement of the cooling towers to allow the cooling water in the dryer condensers to be kept at the constant temperatures required for complete recovery; (2) using of petroleum cleaning solvents that have higher flash points; (3) retrofitting the Hoyt dryers with three temperature gauges, installed next to the loading door, to measure the temperature of the dryer, of the air exiting the condenser, and of the outlet water from the condenser; (4) maintaining the proper operating temperature range for each dryer; (5) not operating any dryer that is not within the proper operating temperature range; (6) placing covers over all hampers used to transfer textiles after the wash cycle to reduce fugitive emissions; and (7) placing covers over all hampers containing solvent laden textiles awaiting processing. PA–51–3811 requires Arbill to keep records of solvent usage, of solvent chemical composition, of solvent purchases and inventories, of the reconciliation of solvent purchases and inventories with actual usage, of the three temperature readings from each Hoyt dryer (taken once per load per dryer), and of the operating hours of each unit. PA–51–3811 also requires Arbil to keep all records and other data required to demonstrate compliance with the RACT requirements of 25 Pa. Code 129.91–129.94.

C. Bethlehem Lukens Plate

Bethlehem Lukens Plate (Bethlehem) operates a plant located in Montgomery County, Pennsylvania which produces carbon, alloy, and stainless steel plates. Bethlehem is a major source of NO_X and VOC. Many installations and processes at this source are subject to categoric specific SIP-approved RACT requirements adopted by the Commonwealth in accordance with applicable CTGs and to SIP-approved presumptive RACT requirements to control NO_X. Other installations and processes require case-by-case RACT determinations. The PADEP issued Bethlehem OP–46–0011 to establish RACT. OP–46–0011 establishes the following NO_X RACT emission limits:

Furnace	NO_X emission limit, tons per year*
Slab Heating Furnace	85.97
Slab Heating Furnace	187.34
Rose Annealing Furnace	36.84
Quench Furnace	50.55
Temper Furnace	19.78

*To be met on a 12-month rolling basis.

OP–46–0011 also requires the fuel usage of the furnaces to be limited as per the following Table and the annual NO_X emissions to be determined by multiplying the annual usage of natural gas by the corresponding emission factor:

Source	NG fuel usage (thousand cubic feet)		Emission factor
	Monthly	Annual	LB NO_X/1000CF NG
Slab Heating Furnace 1	156,240	1,874,880	0.388
Slab Heating Furnace 2	151,821	1,821,848	0.198
Rose Annealing Furnace	46,988	575,856	0.140
Quench Furnace	74,638	895,657	0.140
Temper Furnace	23,570	282,839	0.100

In addition, OP–46–0011 also specified that RACT for the furnaces includes maintenance and operation in accordance with manufacturer's specifications as well as in accordance with good air pollution control practices. OP–46–0011 also includes requirements which make four emergency generators rated at 1000, 300, 150, and 125 KW subject to the presumptive NO_X RACT requirements of 25 Pa. Code section 129.93(c)(5). The permit requires that they shall not operate more than 500 hours in any consecutive 12 month period. The permit also requires that they be maintained and operated in accordance with manufacturers' specifications as well as in accordance with good air pollution control practices. With respect to VOC emissions, OP–46–0011 requires that the VOC emissions from each of the following sources or processes shall never exceed 3 pounds per hour, 15 pounds per day, or 2.7 tons per year: a 200 HP steam generator, a 300 HP steam generator, a Drever furnace, a quench furnace, a temper furnace, slab heating furnaces No. 1 and No. 2, miscellaneous cutting torches, a rose annealing furnace, space heaters, slab preheaters No. 1 through No. 4, APB Preheaters No. 1 through No. 3, four emergency generators (1000 KW, 300 KW, 150KW, & 125 KW), one emergency waste water treatment plant (WWTP) diesel pump,

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above ground storage tanks, a propane vaporizer, VOC emissions from miscellaneous cleaning fluids used for maintenance, Safety-Kleen or similar parts washers, freeze protection, VOC emissions from miscellaneous maintenance painting, and VOC emissions from maintenance lubricant sprays. The permit also requires that these units or operations shall be maintained and operated in accordance with manufacturers' specifications as well as in accordance with good air pollution control practices. OP–46–0011 requires Lukens to keep records of the fuel used per month for each furnace on a 12-month rolling basis, the number of hours of operation in any 12 consecutive month period for each emergency generator described in Condition 6, and of all additional data required by 25 Pa. Code 129.95.

D. Braceland Brothers, Inc.

Braceland Brothers, Inc. is a printing facility located in Philadelphia, Pennsylvania. Braceland is a major source of VOC. The AMS issued PA–3679 to establish RACT. The PADEP submitted PA–3679 to EPA as a SIP revision on behalf of the AMS. PA–3679 establishes RACT requirements for 1 non-heatset web offset lithographic printing press, 3 heatset web offset lithographic printing presses, and 2 non-heatset sheetfed offset lithographic printing presses. PA–3679 specifies that RACT consists of the use of inks, fountain solutions, and cleaning solutions which meet specified lower VOC content limitations. PA–3679 requires that the VOC fraction of the ink (minus water), as applied to the substrate, shall not exceed 25 percent by weight. PA–3679 also requires that the VOC content of the fountain solutions for the web presses, as applied, shall be maintained at or below 5.0 percent by weight, and that the fountain solutions shall contain no alcohol. PA–3679 also specifies that the VOC content of the fountain solutions for the sheetfed presses, as applied, shall be maintained at or below 5.0 percent by weight or shall be maintained at or below 8.5 percent by weight and refrigerated to 60 degrees F or less. Finally, PA–3679 specifies that cleaning solutions shall either: (1) Have a VOC content, as applied, less than or equal to 30 percent by weight, (2) have a VOC composite partial pressure, as used, less than or equal to 10 mm Hg at 68 degrees F, or (3) be used in amounts which do not exceed 55 gallons over any 12-month rolling period. PA–3679 requires that detailed records to be kept pertaining to the inks, fountain solutions, and cleaning solutions to determine compliance. The PA also specifies that a record of VOC emissions per press, using a mass balance equation, shall be shall be maintained on a rolling 12 month basis. In addition, it requires that material purchases and inventories shall be maintained and reconciled with actual usage. PA–3679 also contains a general requirement to keep all the records and other data needed to demonstrate compliance with the VOC RACT requirements of 25 Pa. Code § 129.91–129.94.

E. Graphic Arts, Inc.

Graphic Arts, Inc. is a lithographic printing facility located in Philadelphia, Pennsylvania. The plant is a major source of VOC. The AMS issued PA–2260 to establish and impose RACT. The PADEP submitted PA–2260 to EPA as a SIP revision on behalf of the AMS. PA–2260 establishes RACT for five non-heatset sheetfed lithographic printing presses. PA–2260 requires as the use of: (1) Inks with a VOC fraction of no more than 25 percent by weight; (2) fountain solutions with a VOC fraction of no more than 20 percent by volume; and (3) cleaning solutions with either a VOC content (as applied) less than or equal to 30 percent by weight, or a VOC composite partial pressure (as used) less than or equal to 10 mm Hg at 68 degrees F, or which are used in quantities which do not exceed 55 gallons over any 12-month rolling period. To determine compliance with these requirements, PA–2260 requires detailed records to be kept pertaining to the inks, fountain solutions, and cleaning solutions. The permit also contains a general requirement to keep all the records and other data needed to demonstrate compliance with the VOC RACT requirements of 25 Pa. Code 129.91–129.94.

F. International Business Systems, Inc.

International Business Systems, Inc. (International Business Systems) is a printing facility located in Montgomery County, Pennsylvania. The plant is a major source of VOC. PADEP issued OP–46–0049 to establish and impose RACT. OP–46–0049 includes RACT requirements for 10 non-heatset web offset lithographic printing presses, eight tinting units, and miscellaneous units. OP–46–0049 requires that the VOC emissions from the presses be limited to 18 tons per year on a 12-month rolling basis, and limits the VOC emissions from clean-up solvents to 16 tons per year on a 12-month rolling basis. The permit also requires all inks used to be non-heatset inks containing less than 35 percent VOC by weight. Further, OP–46–0049 requires the VOC content of the wetting/fountain solutions when using UV cured inks to be 8 percent or less as applied. However, the permit provides that an "alternative" fountain solution which does not exceed 10% VOC by weight may be used if the company notifies the PADEP that compliance wetting /fountain solutions are not available. The use of the alternative fountain solution is allowed only until an appropriate lower VOC content fountain solution becomes available. OP–46–0049 limits emissions from the tinting units to 30 tons per year on a 12 month rolling basis. In addition, the permit specifies that operation and maintenance of all VOC emitting units must be in accordance with manufacturer's specifications and good air pollution control practices. Finally, OP–46–0049 specifies that all solvent laden containers shall be closed at all times except during filling or draining, and that all solvent laden towels shall be placed in closed containers immediately after use and then disposed of to minimize VOC emissions. The facility also has some additional miscellaneous VOC emitting equipment, including 1 film and 2 plate processors, 7 collating machines, an alcohol storage tank, 4 parts washers, several space heaters, and a natural gas fired emergency electric generator. The permit limits VOC emissions from these source groups to less than 3 pounds per hour, 15 pounds per day, or 2.7 tons per year. It also requires operation and maintenance in accordance with manufacturer's specifications and good air pollution control practices. OP–46–0049 requires detailed records to be kept pertaining to the inks, fountain solutions, and cleaning solutions. The permit also requires that records be kept in accordance with 25 Pa. Code 129.95.

G. McWhorter Technologies, Inc.

McWhorter Technologies Inc. (McWhorter), located in Philadelphia, Pennsylvania, produces specialty resins used by the coatings industry. McWhorter is a major source of VOC. The AMS issued PA–51–3542 to establish RACT. The PADEP submitted PA–51–3542 to EPA as a SIP revision on behalf of the AMS. PA–51–3542 establishes RACT requirements for reactor vessels, storage tanks, thinning tanks, a scrubber, boilers, space heaters and other combustion equipment. RACT is specified as the: (1) Use of temperature controllers on packed columns to prevent excess vapor loss in reactors, (2) use of an automatic caustic feed system for the scrubber, (3) use of conservation vents on all fixed roof tanks, (4) use of a heat exchanger in the wastewater treatment system to reduce emissions from storage tanks during processing, (5) use of carbon canisters to treat vapor from the wastewater tanks, (6) closure of all storage vessel lids except during transfer operations, (7) use of mechanical or equivalent seals on all pumps, (8) use of caps, blind flanges, plugs, or second valves to seal open end lines at all times, except during operations, maintenance, or repairs which require process fluid flow through open-ended valves or lines, and (9) use of an equipment inspection and maintenance program. PA–51–3542 requires the Company to keep all records and other data required to demonstrate compliance with RACT requirements of 25 Pa. Code 129.91–129.94.

H. Montenay Montgomery Limited Partnership

Montenay Montgomery Limited Partnership operates a municipal waste combustor in Montgomery County, Pennsylvania. The facility is a major source of NO_X. The PADEP issued OP–46–0010A to establish and impose RACT. The plant has two municipal waste combustors, each rated to burn 600 tons of waste per day. OP–46–0010A specifies that air contaminant emissions from the two municipal waste combustors must be controlled through the use of individual Research-Cottrell spray dryer absorber using Sorbalit 1 reagent to control mercury and acid gases, Research-Cottrell fabric collectors and a selective non-catalytic reduction (SNCR) control system. OP–46–0010A requires that NO_X emissions per combustor (expressed as NO2) shall not exceed a 24-hour daily arithmetic average of 205 parts per million by volume, corrected to 7 percent oxygen, dry basis and, in accordance with 40 CFR 60.33b(d), 109 pounds per hour, and 477.4 tons per year. OP–46–0010A also specifies that the facility shall comply with all applicable requirements in 40 CFR part 60, subpart Cb (relating to Emission Guidelines and Compliance Times for large Municipal Waste Combustors that are constructed on or before September 20, 1994). The permit requires that compliance with the NO_X limits be monitored using continuous emissions monitors. OP–46–0010A requires the facility to keep records of air pollution control system evaluations and records of calibration checks, adjustments, and maintenance on all equipment is subject to the its requirements. In addition to the incinerators, the facility is equipped with an emergency diesel-fired generator. OP–46–0010A specifies that the generator shall not be operated in excess of 500 hours in a consecutive 12 month period, which makes the emergency generator subject to the presumptive RACT requirements specified at 25 Pa. Code Section 129.93(c). OP–46–0010A also specifies that the generator shall be operated and maintained in accordance with the manufacturer's specifications and good air pollution control practices.

I. Newman and Company

Newman and Company (Newman) is a paperboard production facility located in Philadelphia, Pennsylvania. The plant is a major source of NO_X. Many installations and processes at this facility are subject to and to SIP-approved presumptive RACT requirements to control NO_X. The AMS issued PA–3489 to establish and impose RACT. The PADEP submitted PA–3489 to EPA as a SIP revision on behalf of the AMS. PA–3489 limits NO_X emissions from the Union Ironwork boiler (which has a rated firing rate of 118 million Btu per hour and which uses either natural gas or #6 oil as a fuel) to 121 tons per year on a rolling 12-month basis. It also establishes NO_X emissions limits for the boiler of 0.37 lbs/MMBtu when firing natural gas and of 0.43 lbs/MMBtu when firing #6 oil. In addition, PA–3489 requires an annual tune-up of the boiler to be done to ensure that it is meeting the operating standards as specified by the manufacturer. PA–3489 requires a stack test to be done once every five years to determine the boiler's NO_X emissions. PA–3489 also requires the facility to use emissions factors in lbs. NO_X/MMBtu from the most recent stack test to calculate the rolling 12-month total of NO_X emissions from the boiler. PA–3489 further requires the company to submit quarterly reports which shall include the type and amount of fuels burned each day, the heat content of each fuel, the total heating value of the fuel consumed each day, and the 12-month rolling NO_X totals for each individual month in the quarter. PA–3489 also requires the company to keep all records and other data required to demonstrate compliance with RACT requirements of 25 Pa. Code 129.91–129.94.

J. Northeast Foods, Inc.

Northeast Foods, Inc. (Northeast Foods),located in Bucks County, Pennsylvania, produces hamburger rolls and English muffins. The plant is a major source of VOC emissions. PADEP issued OP–09–0014 to establish and impose RACT. OP–09–0014 establishes RACT requirements for three natural gas-fired griddles used to bake English Muffins, a natural gas-fired oven used to bake rolls, and two natural gas-fired boilers with heat input ratings of 6.3 MMBtu/hr each. OP–09–0014 establishes VOC RACT as operation in accordance with manufacturer's specifications and good air pollution control practices. In addition, the permit requires muffin griddle line 3 to remain shutdown and the natural gas line to that oven be turned off. OP–09–0014 specifies that reactivation of this muffin line will require the company to comply with 25 Pa. Code, Chapter 127. The permit requires the company to keep records demonstrating compliance in accordance with its requirements and 25 Pa. Code 129.95. Among other things, the permit requires the Company to record the types and amounts of product produced monthly, the initial yeast content and total yeast action time for each product produced monthly, the spike yeast content and spiking time for each product produced monthly, and the monthly operating hours of each of the ovens.

K. Northeast Water Pollution Control Plant (Philadelphia Water Department)

The Northeast Water Pollution Control Plant , which is operated by the Philadelphia Water Department, is a publicly owned wastewater treatment plant. The plant is a major source of VOC and NO_X. The NO_X emitting installations and processes at this facility are subject to SIP-approved presumptive RACT requirements of 25 Pa. Code 129.93. The AMS issued PA–51–9513 to establish and impose RACT. The PADEP submitted PA–51–9513 to EPA as a SIP revision on behalf of the AMS. The plant emits VOCs from the wastewater treatment process. Excess gas produced by the anaerobic digestion of sludge is flared through waste gas burners. PA–51–9513 specifies that VOC RACT for the wastewater treatment process is adhering to an established good maintenance and operation program. The permit requires the company to determine VOC emissions on a daily basis using the results of a wastewater influent sample taken on a 24 hour basis and the computer program called "TOXCHEM." The permit also requires the Department to keep all records and other data required to demonstrate compliance with the requirements of 25 Pa. Code 129.91–129.94. Among other things, these records are required to include daily influent wastewater flow and associated parameters, and the monthly VOC concentration of the influent. The permit also requires the Department to submit a report on a semi-annual basis which provides, among other things, the

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monthly VOC emissions from the facility.

L. O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant

O'Brien (Philadelphia) Cogeneration, Inc. (O'Brien), located at the City of Philadelphia's Northeast Water Pollution Control Plant, generates electricity. The AMS issued PA–1533 to establish and impose RACT. The PADEP submitted PA–1533 to EPA as a SIP revision on behalf of the AMS. PA–1533 limits the non-methane hydrocarbons from the facility to 1.12 grams per brake horsepower, 31 pounds per hour, and 21tons per year. PA–1533 does establish and impose NO_X RACT requirements for the facility's three Caterpillar Gas engines, rated at 650 kW, 500 kW, and 225 kW, all of which burn digester gas. It also imposes RACT to control NO_X from the facility's seven standby Detroit Diesel engines, each rated at 2340 HP, which burn diesel fuel. PA–1533 requires that the facility's NO_X emission rate shall not exceed 2.00 grams per brake horsepower-hour, 80.00 pounds per hour, and 40 tons per year. PA–1533 also requires the NO_X emissions of the Detroit Diesel engines be vented to a selective catalytic reduction (SCR) system. In addition, PA–1533 specifies that the company shall operate each of the Caterpillar Gas engines a maximum of 8000 hours per year and that it shall operate each of the Detroit Diesel engines a maximum of 250 hours per year. PA–1533 also requires the company to perform a routine maintenance program on each Caterpillar Gas and Detroit Diesel engine every six months. PA–1533 requires that the operating parameters of the engines and the SCR system be maintained to those established as conditions during the time they were stack tested (which occurred at the time of installation). PA–51–1533 requires the Company to keep all records required to demonstrate compliance with the NO_X RACT requirements of 25 Pa. Code 129.91–129.94. These records are required to include operating hours, fuel and lube oil consumption, fuel-to-air ratio, kilowatt hours produced, flow rate, temperature and pressure drop across the SCR, the ammonia flow rate, and records of the routine maintenance program.

M. O'Brien (Philadelphia) Cogeneration, Inc.—Southwest Water Pollution Control Plant

O'Brien (Philadelphia) Cogeneration, Inc. (O'Brien) also operates another cogeneration plant at the City of Philadelphia's Southwest Water Pollution Control Plant. The AMS issued PA–1534 to establish and impose RACT for NO_X. The PADEP submitted PA–1534 to EPA as a SIP revision on behalf of the AMS. PA–1534 restricts the facility's non-methane hydrocarbon emissions to 1.12 grams per brake horsepower, 31 pounds per hour, and 15 tons per year. PA–1534 NO_X RACT requirements for two Dorman Engines and ten standby Detroit Diesel Engines. The Dorman Engines burn digester gas and are each rated at 593 HP. The Detroit Diesel engines are each rated at 1550 HP and burn diesel fuel. PA–1534 requires that the facility's NO_X emissions not exceed 2.00 grams per brake horsepower-hour, 80.32 pounds per hour, and 30 tons per year. PA–1534 also requires that the NO_X emissions of the Detroit Diesel engines be controlled by a selective catalytic reduction (SCR) system. In addition, PA–1534 requires that the facility operate each of the Dorman engines a maximum of 8000 hours per year and each of the Detroit Diesel engines a maximum of 250 hours per year. PA–1534 also requires the Company to perform a routine maintenance program on each Dorman and Detroit Diesel engine every six months. Finally, PA–51–1534 requires the Company to operate the engines and the SCR system using the same operating parameters as were established as operating conditions when the engines were stack tested (which occurred at the time of installation). PA–1534 requires the facility to keep all records required to demonstrate compliance with the NO_X RACT requirements of 25 Pa. Code Sections 129.91–129.94. These records are required to include operating hours, fuel and lube oil consumption, fuel-to-air ratio, kilowatt hours produced, flow rate, temperature and pressure drop across the SCR, the ammonia flow rate, and records of the routine maintenance program.

N. Pearl Pressman Liberty

Pearl Pressman Liberty (Pearl Pressman) operates a printing facility in Philadelphia, Pennsylvania. The facility is a major source of VOC. The AMS issued PA–7721 to establish and impose RACT. The PADEP submitted PA–7721 to EPA as a SIP revision on behalf of the AMS. PA–7721 establishes VOC RACT for 5 non-heatset sheet-fed offset lithographic presses. PA–7721 requires as RACT that this facility use: (1) Inks with a VOC fraction of no more than 25 percent by weight; (2) fountain solutions with a VOC fraction of no more than 20 percent by volume; and (3) cleaning solutions with a VOC content (as applied) less than or equal to 30 percent by weight, or a VOC composite partial vapor pressure (as used) less than or equal to 10 mm Hg at 68 degrees F, or be used in an amount that does not exceed 55 gallons over any 12-month rolling period (except at the automatic blanket cleaner associated with press #1). PA–7721 specifies that the Company may use cleaning solutions at the automatic blanket cleaner associated with press #1 which do not meet the above VOC content or partial vapor pressure requirements if the VOC emissions from the cleaning solutions are not greater than 5 tons per rolling 12 month period. To determine compliance with these requirements, PA–7721 requires detailed records to be kept pertaining to the inks, fountain solutions, and cleaning solutions. The permit also contains a general requirement to keep all the records and other data needed to demonstrate compliance with the VOC RACT requirements of 25 Pa. Code 129.91–129.94.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving Pennsylvania's RACT SIP submittals because the AMS and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The AMS and PADEP have also imposed record-keeping, monitoring, and testing requirements necessary to be able to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for 14 major sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 25, 2001 without further notice unless EPA receives adverse comment by October 10, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action.

Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 14 named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 9, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and/or NO_X from 14 individual sources in the Philadelphia area of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(185) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(185) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_X RACT for 14 sources located in the Philadelphia area, submitted by the Pennsylvania Department of Environmental Protection on December 7, 1998, February 2, 1999, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals and operating permits December 7, 1998, February 2, 1999, April 20, 1999, March 23, 2001 (two separate submissions), and July 5, 2001.

(B) Plan approvals (PA), Operating permits (OP) issued to the following sources:

(*1*) International Business Systems, Inc., OP–46–0049, effective October 29, 1998 and as revised December 9, 1999, except for the expiration date.

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(2) Bethlehem Lukens Plate, OP–46–0011, effective December 11, 1998, except for the expiration date.

(3) Montenay Montgomery Limited Partnership, OP–46–0010A, effective April 20, 1999 and as revised June 20, 2000, except for the expiration date.

(4) Northeast Foods, Inc., OP–09–0014, effective April 9, 1999, except for the expiration date.

(5) Aldan Rubber Company, PA–1561, effective July 21, 2000, except for conditions 1.A.(1), 1.A.(2) and 1.A.(4); and conditions 2.A. and 2.C.

(6) Braceland Brothers, Inc., PA–3679, effective July 14, 2000.

(7) Graphic Arts, Incorporated, PA–2260, effective July 14, 2000.

(8) O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant, PA–1533, effective July 21, 2000.

(9) O'Brien (Philadelphia) Cogeneration, Inc.-Southwest Water Pollution Control Plant, PA–1534, effective July 21, 2000.

(10) Pearl Pressman Liberty, PA–7721, effective July 24, 2000.

(11) Arbill Industries, Inc., PA–51–3811, effective July 27, 1999, except for condition 5.

(12) McWhorter Technologies, PA–51–3542, effective July 27, 1999, except for condition 2.B. and condition 5.

(13) Northeast Water Pollution Control Plant, PA–51–9513, effective July 27, 1999, except for condition 1.A.(1), conditions 2.A. and 2.B., and condition 7.

(14) Newman and Company, PA–3489, effective June 11, 1997.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in (c)(185)(i)(B).

[FR Doc. 01–22614 Filed 9–7–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL–7052–7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Iowa, Kansas, Missouri, and Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the small Municipal Waste Combustion (MWC) units section 111(d) negative declarations submitted by the states of Iowa, Kansas, Missouri, and Nebraska. These negative declarations certify that small MWC units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in these states.

DATES: This direct final rule will be effective November 9, 2001 unless EPA receives adverse comments by October 10, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

Emission guidelines for small MWC units were originally promulgated in December 1995 but were vacated by the U.S. Court of Appeals for the District of Columbia Circuit in March 1997. In response to the 1997 vacature, on August 30, 1999, EPA proposed to reestablish emission guidelines for small MWC units. On December 6, 2000 (65 FR 76378), EPA finalized the section 111(d) emission guidelines for existing small MWC units. The emission guidelines contained in this final rule are equivalent to the 1995 emission guidelines for small MWC units. The emission guidelines are codified at 40 CFR part 60, subpart BBBB.

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Part 62 of the CFR provides the procedural framework for the submission of these plans. When designated facilities are located in a state, a state must develop and submit a plan for the control of the designated pollutant. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect, or negative declaration, in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B for that designated pollutant.

The states of Iowa, Kansas, Missouri, and Nebraska have determined there are no existing sources in their states subject to the small MWC units emission guidelines. Consequently, each state has submitted a letter of negative declaration certifying this fact. We are taking final action to approve these negative declarations.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state negative declarations as meeting Federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves state negative declarations and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves state negative declarations relating to a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 9, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Municipal waste combustion units, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: August 30, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

2. Subpart Q is amended by adding an undesignated center heading and § 62.3915 to read as follows:

Air Emissions from Small Existing Municipal Waste Combustion Units

§ 62.3915 Identification of plan—negative declaration.

Letter from the Iowa Department of Natural Resources submitted March 21, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

Subpart R—Kansas

3. Subpart R is amended by adding an undesignated center heading and § 62.4180 to read as follows:

Air Emissions From Small Existing Municipal Waste Combustion Units

§ 62.4180 Identification of plan—negative declaration.

Letter from the Kansas Department of Health and Environment submitted February 13, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

Subpart AA—Missouri

4. Subpart AA is amended by adding an undesignated center heading and § 62.6359 to read as follows:

Air Emissions From Small Existing Municipal Waste Combustion Units

§ 62.6359 Identification of plan—negative declaration.

Letter from the Missouri Department of Natural Resources submitted March 22, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

Subpart CC—Nebraska

5. Subpart CC is amended by adding an undesignated center heading and § 62.6915 to read as follows:

Air Emissions from Small Existing Municipal Waste Combustion Units

§ 62.6915 Identification of plan—negative declaration.

Letter from the Nebraska Department of Environmental Quality submitted June 8, 2001, certifying that there are no small municipal waste combustion units subject to 40 CFR part 60, subpart BBBB.

[FR Doc. 01–22620 Filed 9–7–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7050–9]

District of Columbia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The District of Columbia has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the District's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize the

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District of Columbia's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on November 9, 2001 unless EPA receives adverse written comment by October 10, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Charles Bentley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3379. We must receive your comments by October 10, 2001. You can view and copy the District of Columbia's application from 8:30 a.m. to 4:30 p.m. at the following addresses: District of Columbia Department of Health, Environmental Health Administration, Bureau of Hazardous Materials and Toxic Substances, Hazardous Waste Division, 51 N Street, NE, 3rd Floor, Washington DC 20002, Phone number (202) 535–2290, attn: James Sweeney, and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

FOR FURTHER INFORMATION CONTACT: Charles Bentley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3379.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that the District of Columbia's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant the District of Columbia Final authorization to operate its hazardous waste program with the changes described in the authorization application. The District of Columbia has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in the District of Columbia, including issuing permits, until the State is granted authorization to do so.

A. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in the District of Columbia subject to RCRA will now have to comply with the authorized District requirements instead of the equivalent Federal requirements in order to comply with RCRA. The District of Columbia has enforcement responsibilities under its District hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports,
- Enforce RCRA requirements and suspend or revoke permits, and
- Take enforcement actions regardless of whether the District has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which the District of Columbia is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the District's program changes. If EPA receives comments which oppose this authorization, or portion(s) thereof, that document will serve as a proposal to authorize such changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the District's program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the District's hazardous waste program, we may withdraw that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has the District of Columbia Previously Been Authorized for?

The District of Columbia Hazardous Waste Management Act of 1977 (D.C. Law 2–64, as amended) directed the Mayor to develop a regulatory scheme for management of hazardous waste in the District, and the District subsequently established a comprehensive hazardous waste management program. On July 22, 1983, the District adopted analogs to 40 CFR parts 260 through 265 (July 1982 ed.), 40 CFR part 270 (July 1983 ed.) and 40 CFR part 124, subpart A (July 1983 ed.) as amended by the District. These regulations were amended on September 28, 1984. EPA's final authorization of the District's base RCRA program took effect on March 22, 1985.

Since the base program authorization, the District of Columbia Hazardous Waste Management Act was amended in 1989, and the District's hazardous waste regulations have been amended five (5) times (1985, 1987, 1988, 1996, and 2000). The latest regulatory amendments became effective on September 19, 2000.

The District of Columbia's Department of Health (DOH) is currently designated the lead agency for implementing the District's hazardous waste program. The District's previously-authorized hazardous waste program was administered through the Department of Consumer and Regulatory Affairs. However, on July 17, 1996, the District's government was reorganized, and all of the District's environmental programs were reassigned to the DOH. The District's hazardous waste program is currently being implemented by the Hazardous Waste Division of the Bureau of Hazardous Material and Toxic Substances (BHMTS) of the Environmental Health Administration (EHA), within the DOH.

G. What Changes Are We Authorizing With Today's Action?

On July 20, 2001, the District of Columbia submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. EPA Region III worked closely with the District to develop the authorization application. Therefore, EPA's comments relative to the District's legal authority to carry out aspects of the Federal program for which the District is seeking authorization; the scope of and coverage of activities regulated; and the District's procedures, including the criteria for permit reviews, public participation and enforcement capabilities, were addressed before the submission of the final application by the District. The District also solicited public comments on its proposed regulations before they were adopted. The EPA has reviewed the District's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that the District's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization. Consequently, EPA intends to grant the District of Columbia Final authorization for the program modifications contained in the program revision application.

The District's program revision application includes the District's statutory and regulatory changes to the District's authorized hazardous waste program, including the adoption of the Federal hazardous waste regulations published through June 30, 1998 (RCRA Cluster VII), with certain exceptions described in section H.

The District is today seeking authority to administer the Federal requirements that are listed in the chart below. This chart also lists the District's analogs that are being recognized as equivalent to the appropriate Federal requirements. Unless otherwise stated, the District's statutory references are to the District of Columbia Hazardous Waste Management Act as contained in the D.C. Code 6–701 *et seq.* (1981 ed., 1995 Repl. Vol., 1999 Supplement). The regulatory references are to Title 20 of the District of Columbia Municipal Regulations (DCMR), Chapters 1 through 6, Chapters 40 through 50 and Chapter 54, as amended, effective September 29, 2000.

We now make an immediate final decision, subject to receipt of written comments that oppose this action, that the District of Columbia's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the District of Columbia Final authorization for the following program changes:

Federal requirement	Analogous District of Columbia Authority
40 CFR part 260—Hazardous Waste Management System: General, as of July 1, 1998.	District of Columbia Code (D.C. Code) §§ 6–701(a), 6–702(1)–(3), 6–702(5)–(9) and 6–705(a); Title 20 District of Columbia Municipal Regulations (20 DCMR)§§ 4000.1 through 4001.18, 4017.1, 4017.3 and 5400.1. (More stringent provision: 5400.1 "small quantity generator").
40 CFR part 261—Identification and Listing of Hazardous Waste, as of July 1, 1998.	D.C. Code §§ 6–701(a) and 6–705(a); 20 DCMR §§ 4016, 4100 through 4112, Chapter 41 Appendices I&II, 4200.2 and 5400.1. (More stringent provisions: 4100.13(a), 4101.5, 4101.6(a)&(b), 4101.7, 4101.9 (introductory paragraph), 4101.9(c), (d) & (f), 4102.5 (introductory paragraph), 4102.6, 4102.7(d)&(e), 4102.10, 4103.2(b) and 4106.1).
40 CFR part 262—Standards Applicable to the Generators of Hazardous Wastes, as of July 1, 1998.	D.C. Code §§ 6–701(a) and 6–705(a); 20 DCMR Chapter 42 (except 4200.16 and 4208), and §§ 5400.1 and 4016. (More stringent provisions: 4200.2, 4202.7(b)(1)&(2), 4203.5(c)&(e), 4204.3(c), 4204.9 (introductory paragraph), 4207.12(a)(1), 4207.21 and 4207.24 (introductory paragraph)).
40 CFR part 263—Standards Applicable to the Transporters of Hazardous Wastes, as of July 1, 1998.	D.C. Code §§ 6–701(a) and 6–705(a); 20 DCMR Chapter 43 (except § 4300.11 and 4303). (More stringent provisions: 4300.9, 4300.12 and 4302.3(b)).
40 CFR part 264—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, as of July 1, 1998.	D.C. Code §§ 6–701(a), 6–702(1), 6–703(b), 6–705(a), 6–904, 6–905, and 6–906; 20 DCMR Chapters 1–6, Chapter 44, 20 DCMR §§ 5400.1, 4016 and 4018. (More stringent provisions: 4400.3, 4018, 4400.7(i)&(k), 4407.1, 4413.1, 4413.7, 4413.11 (introductory paragraph), 4413.11(b), 4413.12 (introductory paragraph), 4413.12(b), 4413.17 (introductory paragraph), 4413.19 (introductory paragraph), 4413.26, 4414.4, 4414.10(h), 4414.15(h), 4416.32(d) (introductory paragraph), 4417.2, 4417.3 and 4474.1).
40 CFR part 265—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, as of July 1, 1998.	D.C. Code §§ 6–701(a), 6–702(1), 6–705(a), 6–904, 6–905, and 6–906; 20 DCMR Chapters 1 through 6 and §§ 4401, 4016 and 5400.1. (More stringent provisions: 4401.2 (introductory paragraph), 4401.2(a)–(n) & (r)–(t))
40 CFR part 266—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities, as of July 1, 1998.	D.C. Code §§ 6–701(a), 6–702(1), 6–703(b), 6–705(a), 6–904, 6–905, and 6–906; 20 DCMR Chapters 1–6, Chapter 45 (except 4512.5(c)), 20 DCMR § 5400.1. (More stringent provisions: 4507.1 and 4507.3).

Federal requirement	Analogous District of Columbia Authority
40 CFR part 268—Land Disposal Restrictions, as of July 1, 1998.	D.C. Code §§ 6–701(a) and 6–705(a); 20 DCMR Chapter 50 and §§ 5400.1 and 4016. (More stringent provisions: 5000.2, 5000.11 and 500.12(h)(2) (introductory paragraph)).
40 CFR part 270—The Hazardous Waste Permit Program, as of July 1, 1998.	D.C. Code §§ 6–701(a), 6–703, 6–705(a), and 6–709; 20 DCMR Chapter 46, 20 DCMR §§ 4017.1, 4017.2 and 5400.1. (More stringent provisions: 4018, 4400.3, 4507.1, 4600.6, 4600.8(c)&(h), 4600.12, 4601.3, 4601.10, 4601.16 (introductory paragraph), 4617.13(e) and 4618.4). The District has no analog to 40 CFR 270.5 in its regulations; however, in its Memorandum of Agreement (MOA) with EPA, the District has agreed to comply with the 40 CFR 270.5 requirements.
40 CFR part 124—Permit Procedures, as of July 1, 1998.	D.C. Code §§ 6–701(a), 6–703, 6–705(a), and 6–709; 20 DCMR Chapter 47.
40 CFR part 273—Standards for Universal Waste Management, as of July 1, 1998.	D.C. Code §§ 6–701(a) and 6–705(a); 20 DCMR Chapter 48 and § 5400.1. (More stringent provisions: 4800.2, 4801.1, 4801.2(c), 4801.3, 4801.6(e), 4801.8(c), 4802.6, 4802.7 and 4804.1(b)).
40 CFR part 279—Standards for the Management of Used Oil, as of July 1, 1998.	D.C. Code §§ 6–701(a), 6–705(a), and 6–713; 20 DCMR Chapter 49 and § 5400.1. (More stringent provisions: 4900.5, 4900.6, 4900.7, 4900.9, 4900.15 Table 1, 4900.16(a)&(b), 4900.16(d)(1)–(3), 4900.16(e), 4901.3, 4901.5, 4901.7(a)(3), 4902.2(b), 4903.5, 4903.11(c)&(d), 4903.14(d), 4903.16 (introductory paragraph), 4904.2(c), 4904.3, 4904.12(c), 4905 and 4906.4(b)).
HSWA Cluster I	
Sharing of Information With the Agency for Toxic Substances and Disease Registry (SI) (RCRA section 3019(b)).	D.C. Code §§ 6–705(a), 6–731 *et seq.* In its MOA with EPA, the District has agreed to share exposure information with the Agency for Toxic Substances and Disease Registry.

H. Where Are the District's Revised Rules Different From the Federal Rules?

The District of Columbia's hazardous waste program contains several provisions that are more stringent than the Federal RCRA program. The more stringent provisions are being recognized as a part of the Federally-authorized program and are Federally-enforceable. The specific more stringent provisions are noted in the preceding chart and in the District's authorization application, and include, but are not limited to, the following:

1. The District subjects generators of between 100 kilograms and 1,000 kilograms of hazardous waste in a calendar month to full regulation rather than to the reduced requirements in the Federal regulations for this group of generators.

2. At 20 DCMR section 4300.9, the District's analog to 40 CFR 263.12, transporters storing waste at transfer facilities in the District for 10 days or less are subject to the District's requirements analogous to 40 CFR 264.14–264.17 and 40 CFR subparts C, D, and F, unlike the Federal program. These additional requirements make the District's program more stringent than the Federal program.

3. The District prohibits land disposal, incineration and underground injection of hazardous waste, and prohibits the burning, processing or incineration of hazardous waste, hazardous waste fuels, or mixtures of hazardous wastes and other materials in any type of incinerator, boiler, or industrial furnace. The Federal program does not include such prohibitions.

4. Unlike the Federal program, the District prohibits the burning of both on- and off-specification used oil in the District, and prohibits the use of used oil as a dust supressant.

A number of the District's regulations are not being authorized by today's actions. Such provisions include, but are not limited to, the following:

1. The District has regulations defining how program information is to be shared with the public, but is not seeking authorization at this time for the Availability of Information requirements relative to RCRA section 3006(f).

2. The District is not seeking authority for the Federal corrective action program. EPA will continue to administer this part of the program. The District is planning to apply for the corrective action program in a subsequent authorization revision application.

3. The District has incorporated the Federal hazardous waste export provisions at 40 CFR part 262, subparts E and H, into its regulations at 20 DCMR sections 4204 and 4207. However, the District is not seeking authorization for these provisions at this time. EPA will continue to implement those requirements as appropriate.

4. The District is adopting the universal waste requirements relative to the Federal program as of July 1, 1998 and 63 FR 71225 (Revision Checklist 176). The District also regulates mercury-containing lamps as a universal waste, but is not seeking authorization for this universal waste at this time because the District's requirements, while consistent with the Federal requirements, were developed before the promulgation of the Federal hazardous waste lamp rule (64 *FR* 36466, Revision Checklist 181). The District will make any necessary revisions to its lamp rule and authorization will be sought in a subsequent revision authorization package.

The District's regulations contain several requirements that go beyond the scope of the Federal program, and thus are not part of the program being authorized by today's action. EPA cannot enforce these requirements which are broader in scope, although compliance with these provisions is required by District law. Such provisions include, but are not limited to, the following:

1. The District does not have an analog to 40 CFR 261.4(a)(4) that excludes source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 from the Federal definition of solid waste. This difference makes the District's universe of regulated hazardous waste larger than EPA's and, therefore, broader in scope.

2. Under Federal regulations, generators of 0–100 kilograms of hazardous waste are conditionally exempt from regulation. The District regulates all generators of hazardous waste, and its regulations do not provide any conditional exemption from regulatory requirements. In the District, generators of 0–100 kilograms of hazardous waste, or up to 1 kilogram of acute hazardous waste, are considered small quantity generators and may accumulate up to 600 kilograms of hazardous waste on site for up to 180 days. They are not conditionally exempt from regulation and are subject to the same regulatory requirements as Federal large quantity generators. Thus, the District's regulation is broader in scope than the Federal regulation, because there is no Federal analog to this regulatory approach.

3. 20 DCMR section 4200.16 requires that all generators obtain a permit under 20 DCMR section 4208. Such a permit must be renewed on a biennial basis. The generator must also pay a fee to obtain a permit. There are no such requirements in the Federal system.

4. Unlike the Federal system, all transporters holding a hazardous waste at a transfer facility in the District must obtain a Hazardous Waste Transfer Facility Permit pursuant to the requirements of 20 DCMR section 4303, including the payment of fees.

I. Who Handles Permits After the Authorization Takes Effect?

After authorization, the District of Columbia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the timing and process for effective transfer to the District are mutually agreed upon. Until such time as formal transfer of EPA permit responsibility to the District occurs and EPA terminates its permit, EPA and the District agree to coordinate the administration of permits in order to maintain consistency. EPA will not issue any more new permits or new portions of permits for the provisions listed in the chart in section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which the District of Columbia is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in the District of Columbia?

The District of Columbia is not seeking authority to operate the program on Indian lands, since there are no Federally-recognized Indian lands in the District.

K. What Is Codification and Is EPA Codifying the District of Columbia's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the District's statutes and regulations that comprise the District's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized District rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart J, for this authorization of the District of Columbia's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's "Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A

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major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective November 9, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 24, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–22520 Filed 9–7–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010502110–1110–01; I.D. 082301B]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment for the Commercial Salmon Season from Humbug Mt., OR, to the OR-CA Border

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment to the 2001 annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS announces a modification of the limited retention regulation for the commercial fishery from Humbug Mt., OR, to the OR-CA border, suspending the possession and landing limit of 30 fish per day until further notice. This action was effective at 0001 hours local time (l.t.) on August 9, 2001. The fishery continues through the earlier of August 31 or a 3,000–chinook quota, however further inseason adjustments will be instituted if needed. This action is necessary to conform to the 2001 annual management measures for ocean salmon fisheries.

DATES: Effective 0001 hours l.t., August 9, 2001, through the earlier of August 31 or a 3,000–chinook quota. Comments will be accepted through September 25, 2001.

ADDRESSES: Comments on this action may be mailed to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; fax 206–526–6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; fax 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140, Northwest Region, NMFS, NOAA.

SUPPLEMENTARY INFORMATION: The Northwest Regional Administrator, NMFS (Regional Administrator), modified the limited retention regulation for the commercial fishery from Humbug Mt. to the OR-CA border, by suspending the possession and landing limit of 30 fish per day until further notice, effective at 0001 l.t. on August 9, 2001. The Regional Administrator determined that the modification was justified to provide greater opportunity to reach the 3000–chinook quota. Modification of the species that may be caught and landed during specific seasons, and the establishment or modification of limited retention regulations, is authorized by regulations at 50 CFR 660.409 (b)(1)(ii).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the commercial fishery for all salmon except coho from Humbug Mt. to the OR-CA border would open August 1 through the earlier of August 31 or a 3,000–chinook quota. The annual management measures included a possession and landing limit of 30 fish per day, and required that fishermen land and deliver all salmon to Gold Beach, Port Orford, or Brookings within 24 hours of closure.

The Regional Administrator consulted with representatives of the Pacific Fishery Management Council (Council) and Oregon Department of Fish and Wildlife (ODFW) regarding the above-described inseason action by conference call on August 8, 2001. ODFW reported that the chinook catch rate and effort were lower than projected preseason, and that only 100 chinook had been landed as of August 7. Therefore, ODFW recommended that the season be modified by suspending the possession and landing limit of 30 fish per day until further notice, effective at 0001 on August 9, 2001. ODFW reasoned that suspending the possession and landing limit provided greater opportunity to search for fish in outlying areas, thus increasing the potential for improving catch rates beyond those observed to date. All other restrictions that apply to this fishery remain in effect, as announced in the 2001 annual management measures for ocean salmon fisheries and subsequent inseason actions. This includes the requirement that all salmon be landed and delivered to Gold Beach, Port Orford, or Brookings.

The Regional Administrator consulted with representatives of the Council and ODFW regarding the above-described inseason action by conference call on August 8, 2001. The best available information regarding catch and effort to date, as well as projected catch and effort, supported modifying the commercial fishery to provide greater opportunity to catch harvestable fish within the limit of the 3000-chinook quota. The state will manage the fisheries in state waters adjacent to the areas of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishermen of the adjustment in the area from Humbug Mt. to the OR-CA border, effective 0001 hours l.t., August 9, 2001, was given prior to the effective date by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Because of the need for immediate action for the modification for the area from Humbug Mt. to the OR-CA border to allow harvest of the available chinook quota, NMFS has determined that good cause existed for this notification to be issued without affording a prior opportunity for public comment because such notification would be impracticable and contrary to the public interest. Since this action eliminates the possession and landing limit of 30 fish per day, it relieves a restriction, and under 5 U.S.C. 553 (d)(1) it is not subject to a delay in the effective date.

This action does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 4, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22640 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 090401D]

Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the fourth seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 5, 2001, until 1200 hrs, A.l.t., October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) and adjusted (66 FR 17087, March 29, 2001 and 66 FR 37167, July 17, 2001) for the fourth season, the period September 1, 2001, through October 1, 2001, as 100 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the fourth seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for species included in the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species."

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the fourth seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the fourth seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 5, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22646 Filed 9–5–01; 3:05 pm]

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Proposed Rules

Federal Register
Vol. 66, No. 175
Monday, September 10, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206–AJ06

Excepted Service—Schedule A Authority for Nontemporary Part-Time or Intermittent Positions

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) proposes to revoke the Schedule A excepted service appointing authority for nontemporary part-time or intermittent positions for which total annual compensation does not exceed 40 percent of GS–3, step 1, because the conditions justifying the original exception no longer exist. Revocation would bring the positions filled under this Schedule A authority into the competitive service and permit noncompetitive conversion of position incumbents to competitive appointments.

DATES: Comments must be received on or before November 9, 2001.

ADDRESSES: Send or deliver written comments to Richard A. Whitford, Acting Associate Director for Employment, Office of Personnel Management, 1900 E Street, NW., Room 6566, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Janice Domke Reid or Christina Vay on 202–606–0960 or FAX 202–606–0390.

SUPPLEMENTARY INFORMATION:

Background

The Schedule A authority, 5 CFR 213.3102(g), was established in 1903 for use by all agencies to meet their continuing part-time, intermittent or seasonal needs for lower graded positions. These positions were excepted from the competitive service because there were too few candidates for standing registers, not due to the nature of their duties or qualifications.

The authority originally contained a dollar limitation on total compensation to assure that the positions filled were menial, not full-time, and were of the type for which the authority was intended. In 1958, this was changed to 40 percent of GS–3, step 1, to avoid having to amend the authority with each Federal pay raise. The authority was amended in 1977 to clarify that it could not be used for temporary project employment to meet a one-time need. It has not been amended since.

In the past, complexities in the examining system necessitated excepted authorities on the basis that examining was impracticable. This was especially true for this Schedule A authority where employment was expected to be sporadic, totaling less than 6 months a year, and competitive examination with the establishment of standing registers would not have been able to produce enough candidates to fill the positions.

The authority has been used relatively little on a Government-wide basis.

Current Staffing Flexibilities

Competitive examining has changed drastically since the day when this Schedule A authority was established. Today agencies have more choices and flexibility for filling continuing positions that are not full-time. They routinely appoint employees with part-time or intermittent work schedules under career appointments in the competitive service.

Seasonal employees are also appointed under career appointments in the competitive service when they perform recurring work that is expected to last at least 6 months during a calendar year. Work lasting less than 6 months a year is usually performed by temporary employees, and agencies can appoint them under 5 CFR 316.401. When employment totals less than 1,040 hours a service year, there is no limit on the number of times temporary employees may be reappointed.

Conversion of Employees

The revocation brings the positions into the competitive service as provided in 5 CFR 316.701 and 316.702. Before the effective date of these regulations, positions for which examining is still impracticable may be placed under other appropriate excepted appointing authorities and the employees converted to excepted appointments under those authorities.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 213

Government employees. Reporting and recordkeeping requirements.

Kay Coles James,
Director.

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 et seq.; and Pub. L. 106–117 (113 Stat. 1545).

§ 213.3102 [Amended]

2. Paragraph (g) of § 213.3102 is removed and reserved.

[FR Doc. 01–22563 Filed 9–7–01; 8:45 am]
BILLING CODE 6325–38–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–41–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–100 and 727–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727–100 and 727–200 series airplanes. This proposal would require replacement of the installed autopilot pitch control computer with a modified computer; testing of the modified system, and revision of the Airplane Flight Manual (AFM). This action is necessary to prevent undesirable and potentially dangerous pitch oscillations during coupled instrument landing systems (ILS) approaches. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–41–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Thanh Truong, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2552; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–41–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that, on February 9, 1998, a Boeing Model 727 series airplane was involved in an accident during a coupled instrument landing system (ILS) category II approach at Chicago O'Hare International Airport. The approach was normal until the airplane passed through 200 feet above ground level, where the airplane started a pitch oscillation that continued to increase. The airplane descended below the ILS glide slope, then climbed above it, and finally descended below it again, impacting the ground 300 feet short of the runway threshold. Upon impact, the airplane slid over the threshold and off the right side of the runway, where it came to rest. Twenty-two passengers and one flight attendant sustained minor injuries. The airplane was extensively damaged.

The National Transportation Safety Board (NTSB), in investigating the accident, has determined that the existence of an autopilot system anomaly can, under certain conditions, produce undesirable pitch oscillations in the Model 727–100 and –200. The ILS provides electronic signals to guide the pilot and autopilot in flying the airplane to the runway. The glide slope is usually determined from a 3-degree flight path to a point about 1,000 feet down the runway from the approach end. Electronic signals are processed on the airplane and instruments indicate whether the airplane is on the localizer and glide slope or indicate how much, and in which direction, the airplane has deviated from them. The information provided to the pilot via displays on the instrument panel, or directly to the autopilot, indicate whether the airplane should continue on course or fly up, down, left, or right to get back on course.

Because glide slope deviations close to the runway require smaller pitch corrections than those required far from the runway, the autopilot sensitivity has to be reduced as the airplane nears the runway. This process, called desensitization, depends on distance from the runway, but if the ILS does not provide distance measuring equipment, this is sometimes calculated by measuring time elapsed since passing a point of known distance from the runway and muliplying the measured time by an assumed ground speed. This time-based method was used by the Sperry SP–150 autopilot installed on the accident airplane. The system was set up to start desensitizing over a period of 150 seconds after passing through a radio altitude of 1,500 feet. Upon receiving the middle marker signal on the ILS approach, the speed of desensitization would increase.

A characteristic of the time-based method of desensitizing the autopilot is that the gain will be scheduled correctly only if the ground speed is relatively close to the ground speed the autopilot designers assumed when selecting the time period required for desensitization. If the ground speed is higher than the ground speed assumed in the autopilot design, the airplane will approach the runway before the desensitization period expires and the sensitivity will be higher than that intended by the design.

The 150-second desensitization period used by the Sperry SP–50 and SP–150 autopilots was optimized for the lower approach airspeeds and a 40-degree flap setting. However, in the early 1980s, operators started landing the Model 727 at 30-degree flap settings, and higher airspeeds, in order to

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improve the maneuverability of the airplane during the approach.

During the NTSB investigation, another pilot described a pitch event experienced by another Model 727 series airplane in 1997. That airplane was aking a coupled ILS category II approach to a runway at Chicago O'Hare International Airport when, at about 250 feet, the crew felt a bump and the airplane pitched up in response to being slightly below the glide slope. The airplane climbed through the glide slope and then pitched down severely to recapture the glide slope. The pilot called for a go-around, came back for another approach, and experienced the same bump again before diverting to the alternate airport. This Model 727 also had a time-based autopilot with a 150-second desensitization period. NTSB studies found that at the approach speeds of the accident flight, the autopilot with the 150-second desensitization period responds to disturbances by commanding oscillatory pitch changes that grow in time and result in significant deviations from the desired flight path. Based on the NTSB's studies and FAA findings, the improper desensitization schedule is considered a contributing factor in the destabilized approach of the accident flight and in the reported pitch event that occurred in 1997. Therefore, the FAA is concerned that other Model 727 series airplanes equipped with unmodified SP–50 and SP–150 autopilots could experience, in conditions similar to those of the accident flight, undesirable and potentially dangerous pitch changes during coupled ILS category II approaches.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 727–22A0093, dated December 20, 2000, which describes procedures for replacement of the SP–50 or SP–150 autopilot pitch control computer with a modified autopilot pitch control computer and a functional test to verify function. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Boeing Alert Service Bulletin 727–22A0093 refers to Sperry Service Bulletin 21–1132–121, dated November 23, 1982 (for the SP–50 autopilots), and Sperry Service Bulletin 21–1132–122, dated February 7, 1983 (for the SP–150 autopilots), as additional sources of service information for accomplishment of the replacement of the autopilot pitch control computer and subsequent one-time test.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below. The proposed AD would also require two revisions to the FAA-approved Airplane Flight Manual (AFM). One revision, required within six months after the effective date of the proposed AD, would prohibit a category II autopilot coupled ILS approach if the Middle Marker (ground or airborne system) is inoperative. This revision would also require that the autopilot be disconnected at, or prior to, 80 feet above the runway's touchdown-zone elevation during coupled ILS category II approaches. The second revision, required after the autopilot modification, would limit the approach flap setting to 30 degrees when conducting a category II autopilot coupled ILS approach. It should be noted that the FAA is conducting additional studies to develop operating limitations, as necessary, that address approach flap settings and airspeeds specifically, and also considering other aspects such as winds and glideslope angles.

Differences Between the Proposed AD and the Service Bulletin

Operators should note that the service bulletin recommends accomplishing the replacement "at the earliest convenience" (after the release of the service bulletin). The FAA, however, has determined that performing the replacement "at the earliest convenience" may not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the replacement (approximately 2 hours). In light of all of these factors, the FAA finds an 18-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Operators should also note that, although the service bulletin recommends performing a functional test in accordance with the 727 Maintenance Manual, the proposed AD would require accomplishment of the more detailed functional test in accordance with Sperry Service Bulletins 21–1132–121 or 21–1132–122, as applicable.

Cost Impact

There are approximately 750 airplanes of the affected design in the worldwide fleet. The FAA estimates that 162 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revisions, and that the average labor rate is $60 per work hour. Based on this figure, the cost impact of the proposed AFM revisions on U.S. operators is estimated to be $9,720, or $60 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed replacement and functional test of the SP–50 autopilot. Estimated costs for required parts would be $1. It would take approximately 2 work hours per airplane to accomplish the proposed replacement and functional test of the SP–150 Autopilot. Estimated costs for required parts would be $168. Based on these figures, the cost impact of the proposed replacement and functional test on U.S. operators is estimated to be between $9,882 and $46,656, or between $61 and $288 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2001–NM–41–AD.

Applicability: Model 727–100 and 727–200 series airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin 727–22A0093, dated December 20, 2000.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent undesirable and potentially dangerous pitch oscillations during coupled instrument landing systems (ILS) approaches, accomplish the following:

Revision of Airplane Flight Manual

(a) Within six months after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by adding the following paragraphs under AUTOPILOT/FLIGHT DIRECTOR SYSTEM. This may be accomplished by inserting a copy of this AD into the AFM.

"CAT II autopilot coupled ILS approach shall not be performed if the Middle Marker (ground or airborne system) is inoperative.

Disconnect the autopilot at, or prior to, 80 ft. (above the runway's touchdown-zone elevation) during Cat II autopilot coupled ILS approaches."

Modification and Testing of Autopilot

(b) Within 18 months after the effective date of this AD, replace the existing SP–50 or SP–150 single channel autopilot with a modified single channel autopilot in accordance with Boeing Alert Service Bulletin 727–22A0093, dated December 20, 2000.

(c) Concurrent with the modifications required by paragraph (b) of this AD, and before reinstallation of the modified autopilot and further flight, perform a one-time test procedure of the modified autopilot in accordance with Sperry Service Bulletin 21–1132–121, dated November 23, 1982 (for SP–50 autopilots), or 21–1132–122, dated February 7, 1983 (for SP–150 autopilots), as applicable.

Post-Modification Revision of Airplane Flight Manual

(d) Before further flight after performing the replacement required by paragraph (b) of this AD, revise the Limitations Section of the AFM by adding the following paragraph under AUTOPILOT/FLIGHT DIRECTOR SYSTEM. This may be accomplished by inserting a copy of this AD into the AFM.

"Limit the approach flap setting to 30 degrees when conducting CAT II autopilot coupled ILS approach."

Spare Parts

(e) As of the effective date of this AD, no person shall install on any airplane an autopilot pitch control computer unless it has been modified and the applicable AFM has been revised in accordance with this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on August 31, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22589 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4152b; FRL–7050–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 10, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief,

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Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, the EPA Region III address above or by e-mail at *chalmers.ray@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–22613 Filed 9–7–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL–7052–8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Iowa, Kansas, Missouri, and Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve the small Municipal Waste Combustion (MWC) units section 111(d) plan negative declarations submitted by the states of Iowa, Kansas, Missouri, and Nebraska. These negative declarations certify that small MWC units subject to the requirements of sections 111(d) and 129 of the Clean Air Act do not exist in these states.

In the final rules section of the **Federal Register**, EPA is approving each state's negative declaration as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by October 10, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: August 30, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–22621 Filed 9–7–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ041–OPP; FRL–7052–2]

Clean Air Act Proposed Full Approval of Operating Permit Programs; Pima County Department of Environmental Quality, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Pima County Department of Environmental Quality (PDEQ or District) operating permit program. The PDEQ operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the PDEQ operating permit program on October 30, 1996. The District has revised its program to satisfy the conditions of the interim approval. However, PDEQ must also revise its rules to incorporate the adoption date of the rule it has incorporated by reference. Therefore, in addition to proposing approval of several rules already submitted by PDEQ, EPA is proposing in this rulemaking action to approve two rules in parallel with the District's adoption of revised rules that will add reference dates for materials incorporated by reference. We are proposing to approve rules that were submitted by PDEQ on May 28, 1998 and those that were public noticed by the District on August 9, 2001 and are scheduled for an adoption hearing on September 11, 2001.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by October 10, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of PDEQ's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location: Pima County Department of Environmental Quality, 130 West Congress Street, Tucson, Arizona 85701.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or *vagenas.ginger@epa.gov*.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
What is EPA's proposed action?
What is parallel processing?
What are the program changes that EPA is approving?
What is the effect of this proposed action?
Are there other issues with this program?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the national ambient air quality standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. What Is EPA's Proposed Action?

Because the operating permit program originally by PDEQ substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the PDEQ program to receive full approval. Today's **Federal Register** action describes the changes that PDEQ has made to its operating permit program to correct conditions and obtain full approval.

EPA is proposing full approval of the operating permits program submitted by PDEQ based on the revisions submitted on May 28, 1998 and those proposed for adoption by Pima on August 9, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. EPA is also proposing to approve, as a title V operating permit program revision, additional changes to the rules that have been submitted to correct interim approval issues. The interim approval issues, PDEQ's corrections, and the additional changes are described below under the section entitled, "What are the program changes that EPA is approving?"

III. What Is Parallel Processing?

Parallel processing refers to concurrent state and federal rulemaking actions. Under this procedure, EPA publishes our proposed action and initiates our 30-day comment period at the same time the District is undergoing its rulemaking processes.

EPA has reviewed the changes that the District expects to adopt formally in the near future. The rulemaking process currently underway in Pima County will not change the substance of the rules, it will merely add a reference date to clarify which version of the material incorporated by reference is in effect. The District's public comment period for the revision to include a reference date began on August 9, 2001. The substantive changes to the ruies have already been adopted by the District, including an opportunity for public comment. The comment period for EPA's proposed action, which would approve both the text of the rules as well as the addition of a reference date for the material incorporated by reference into the rules, closes on October 10, 2001. We will finalize this action after PDEQ adopts the changes in substantially the same form as proposed and submits them to EPA as a revision to the District's title V program unless we receive comments that change our assessment that the rules comply with the relevant CAA requirements.

IV. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of PDEQ's operating permit programs contingent upon the correction a number of interim approval issues. Each issue, along with the District's correction, is described below.

1. Rule deficiency: PCC Sec. 17.04.340(133)(b)(i) (the definition of "major source") did not clearly require that fugitive emissions of hazardous air pollutants (HAPs) be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of HAPs must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. See § 70.2.

Rule change: The definition of major source, which has been recodified as 17.04.340 (122), has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, "* * * for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate and including fugitive emissions, 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants * * *." (Emphasis added.)

2. Rule deficiency: PDEQ's rules did not clearly specify when a source became subject to title V. EPA required the District to revise PCC Sec. 17.12.150(B) and Sec. 17.12.150(G)(1) to correct this problem.

Rule change: The text of PCC 17.12.150 was removed and replaced by an incorporation by reference of AAC R18–2–303, a rule that was submitted as part of the State of Arizona's (ADEQ's) title V program. EPA found the version of R18–2–303 effective on November 15, 1993 and submitted as part of the State's title V program to be approvable. In terms of substance, the incorporation of AAC R18–2–303 resolves the interim approval issue. Notwithstanding the approvability of the substance of Pima's rule, it does not include a reference date for the material incorporated by reference. EPA believes that the identification of the version of materials incorporated by reference is critical to enforceability and clarity, and therefore finds this change to be unapprovable; however, Pima has undertaken a rulemaking to correct this problem and plans to submit the revised rule to EPA by September 28, 2001. We are therefore proposing to approve this change concurrent with Pima's rulemaking to add a reference date. Alternatively, if Pima does not revise and resubmit the rule as described above, we will be unable to grant full approval to the Pima title V program. If we do not fully approve the District's title V program by December 1, 2001, PDEQ will lose its authority to implement its title V operating permits program and the federal operating permit program (part 71) will be in effect.

3. Rule deficiency: EPA required that the District revise PCC Sec. 17.12.160(E)(7) to provide that only emissions units that are not subject to unit-specific applicable requirements

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may qualify for treatment as insignificant emissions units. See § 70.5(c).

Rule changes: Pima has revised its provisions regarding insignificant activities to be consistent with those of ADEQ, which EPA found fully approvable in our initial program actions. PCC 17.12.160 was amended to be identical to AAC R18–2–304 and now requires that insignificant activities be listed in the application. The definition of insignificant activities (PCC 17.04.340.109) has been amended to be identical to ADEQ's definition (Rule R18–2–101.54). For additional analysis of the insignificant activity issue, see 61 FR 55911; October 30, 1996.

4. Rule deficiency: Section 70.6(a)(8) requires that title V permits contain a provision that "no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit." PCC Sec. 17.12.180(A)(10) included this exact provision but also included a sentence that negated this provision. EPA required that PDEQ either delete or revise the negating sentence to make the rule consistent with part 70.

Rule change: The negating sentence has been deleted from the District's rule.

5. Rule deficiency: Section 70.4(b)(12) provides that sources are allowed to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. PCC 17.12.180(A)(14) provided for such permit conditions but did not restrict the allowable changes to those that are not modifications under title I of the Act and those that do not exceed the emissions allowable under the permit. Pima was required to revise PCC 17.12.180(A)(14) to add these conditions.

Rule change: Pima has corrected this deficiency by revising PCC 17.12.180(A)(14) to include the following language: "Changes made under this paragraph (14) shall not include modification under any provision of Title I of the Act and may not exceed emissions allowable under the permit."

6. Rule deficiency: EPA required that the District revise PCC Sec. 17.12.340 to include a provision for giving public notice "by other means if necessary to assure adequate notice to the affected public." See § 70.7(h)(1).

Rule change: Pima has submitted a new rule (Rule 17.12.345) that incorporates by reference A.R.S 49–104(B)(3) as amended in 1995. This rule provides that, "[t]he department, through the Director, shall * * * utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties."

B. Other Changes

Some of the rules the District submitted to EPA for approval incorporate changes other than those necessary to correct interim approval deficiencies. In this action, EPA is also proposing to approve, as a title V operating permit program revision, those additional program changes made by PDEQ since the interim approval was granted. We have evaluated the additional changes and, with one exception that is described in detail below, find that they are consistent with part 70. We are including the additional changes in our proposed approval.

Paragraph (c) of PDEQ's definition of major source (17.04.340(122)) lists source categories that must count fugitives. Subparagraph xxvii has been modified to read: "All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category." Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold. This is inconsistent with part 70 and is not approvable. EPA has, however, proposed to revise the major source definition to incorporate the 1980 cutoff. We are therefore proposing to approve the District's definition of major source provided that EPA finalizes revisions to the part 70 rule that will make the change approvable. Alternatively, if EPA does not finalize the changes to part 70 described above, Pima's major source definition will conflict with the operative version of part 70 and we will be unable to approve it. The remedy to Pima's interim approval issue regarding the counting of fugitive emissions of hazardous air pollutants resides within that same definition, so if we are barred from approving Pima's new major source definition because of the 1980 date, we will be unable to grant full approval to PDEQ's title V program. As a result, Pima would lose its authority to implement its title V operating permits program on December 1, 2001, and part 71 will be in effect.

PDEQ made a number of additional changes to the rules that implement their part 70 program, many of which were non-substantive (e.g., recodifications) or irrelevant (e.g., changes to requirements applying to non-title V sources). A general description of the more substantive changes follows. For more detail on all of the changes, refer to section B of the technical support document.

The District's permit application and processing procedures were modified to specify that an application will not be considered complete if the Control Officer disputes a source's claim of confidentiality. PDEQ's permit content provisions were also modified. Prompt reporting of deviations is now defined as notice that is provided within two working days. A new paragraph explicitly restricts emissions to units for which emissions are quantifiable or for which there are replicable procedures to enforce the emission trades. The list of conditions that must be included in a title V permit has been expanded to include "such other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1 and 2 and 3, and the rules adopted pursuant thereto."

The permit content provisions have also been modified to redefine the terms and conditions in a title V permit that are enforceable by the Administrator and citizens under the Act. It generally requires that the Control Officer designate as not federally enforceable any terms and conditions that are not required under the Act or any of its applicable requirements. It also includes an independent mandate that terms and conditions that are entered into voluntarily are enforceable by citizens and the Administrator under the Clean Air Act. The rule was also modified to require that all permits include a condition that specifies that noncompliance with any federally enforceable requirement in a permit constitutes a violation of the Clean Air Act. It had previously stated that any permit noncompliance constitutes a violation of the Act. Finally, the emergency provisions have been modified so that they are now entirely consistent with § 70.6(g).

V. What Is the Effect of This Proposed Action?

Pima has adopted rule revisions that address the issues identified in EPA's interim approval and has made additional revisions to its program as described above. The District is currently in the process of adopting revisions that will specify the version of the materials they have incorporated by reference. PDEQ has submitted a copy of its revised rules to EPA and has requested that we propose action on those rules currently being revised during the period that the District is accepting comment on the addition of a reference date for the rules that were incorporated by reference. The rules proposed for approval today are those that were previously submitted along with those for which the District comment period commenced on August 9, 2001. Table 1 lists the rules addressed by this proposal with the dates that they were (or are anticipated to be) adopted and submitted by PDEQ.

TABLE 1.—SUBMITTED RULES

Rule #	Rule title	Adopted	Submitted
17.04.340.A. (122).	Words, phrases, and terms—definition of "Major source" only	Scheduled for adoption on 9/11/01.	Submittal anticipated by 9/28/01
17.04.340.A. (109).	Words, phrases, and terms—definition of "Insignificant activity" only	4/7/98	5/28/98
17.12.150	Transition from installation and operating permit program to unitary permit program	Scheduled for adoption on 9/11/01.	Submittal anticipated by 9/28/01
17.12.160	Permit application processing procedures	4/7/98	5/28/98
17.12.180	Permit contents	4/7/98	5/28/09
17.12.345	Public notification	4/7/98	5/28/98

As noted above, PDEQ has already adopted and submitted most of the required changes. Should the District adopt Rules 17.12.150 and 17.04.340.A.(122) in the form in which they were noticed and submit them to EPA as a title V program revision, Pima will have fulfilled the conditions of the interim approval granted on October 30, 1996 (61 FR 55910). EPA is therefore proposing full approval of the PDEQ operating permit program, contingent on the adoption and submittal of minor revisions to Rules 17.12.150 and 17.04.340.A.(122), and contingent on EPA finalizing its proposed change to the part 70 definition of major source. In addition, we are proposing to approve, as a title V operating permit program revision, additional changes to PDEQ's rules, as described in section IV.B. of this document.

VI. Are There Other Issues With This Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

One citizens' group commented on what it believes to be deficiencies with respect to PDEQ's title V program. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval, and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Pima submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by October 10, 2001.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 30, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–22623 Filed 9–7–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7051–1]

District of Columbia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The District of Columbia has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant such Final authorization to the District of Columbia. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and we do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule, and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by October 10, 2001.

ADDRESSES: Send written comments to Charles Bentley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3379. You can examine copies of the materials submitted by the District of Columbia during normal business hours at the following locations: District of Columbia Department of Health, Environmental Health Administration, Bureau of Hazardous Materials and Toxic Substances, Hazardous Waste Division, 51 N Street, NE., 3rd Floor, Washington DC 20002, Phone number (202) 535–2290, attn: James Sweeney; or EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

FOR FURTHER INFORMATION CONTACT: Charles Bentley, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–3379.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: August 24, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–22521 Filed 9–7–01; 8:45 am]

BILLING CODE 6560–50–U

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Solicitation for Expressions of Interest in Participation in Negotiated Rulemaking Working Group

AGENCY: Legal Services Corporation.

ACTION: Request for expressions of interest in participation in Negotiated Rulemaking Working Group.

SUMMARY: LSC is conducting a Negotiated Rulemaking to consider revisions to its eligibility regulations at 45 CFR Part 1611. LSC hereby solicits expressions of interest in appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties.

DATES: Expressions of interest must be received by September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; (202) 336–8817; *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: 45 CFR part 1611 sets forth the requirements relating to determination and documentation of client eligibility. The current version of 1611 was adopted in 1983. There have been two proposed revisions to 1611 published since then, one in 1989 and another in 1995, but neither rulemaking was completed. Many outstanding issues prompting the 1995 proposed rulemaking remain extant and there are other issues, particularly related to documentation requirements, which are appropriate for discussion. In addition, there is a FY1998 statutory change which should be incorporated into the regulation.

In light of the above, the LSC Board of Directors identified 45 CFR part 1611, Eligibility, as an appropriate subject for rulemaking on January 27, 2001. On June 30, 2001, the LSC President and the Chair of the Operations and Regulations Committee made a determination to proceed with the institution of a Negotiated Rulemaking to consider amendments to Part 1611. In accordance with the LSC Rulemaking Protocol, LSC is now formally soliciting suggestions for appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties.

The Negotiated Rulemaking Working Group

LSC anticipates that the Working Group will be a group of 15–20 persons comprised of LSC representatives and affected and/or interested parties (*i.e.*, individual recipients, clients, national organizations, local and national bar associations, etc.). LSC anticipates that the Working Group will include LSC representatives from the Office of Legal Affairs, the Office of Program Performance, and the Office of Compliance and Enforcement, along with a liaison from the Office of Inspector General. LSC is seeking external members representing national legal services advocacy organizations; individual recipients (preferably reflecting large/small and/or urban/rural diversity); clients; national and local organized bar associations; and other interested stakeholders. While there are no specific "criteria" for membership, it is expected that members will have the support of their organizations in participating in the effort and be knowledgeable about the issues.

Once appointed, the Working Group will meet under the direction of a trained facilitator with the aim of developing a consensus-based proposed rule. LSC expects that the Working Group will meet in 2–3 day, face-to-face sessions over the coming several months.

Solicitation of Expressions of Interest in Appointment to the Working Group

LSC hereby solicits expressions of interest in appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties. Expressions of interest must be submitted no later than 15 days from the date of publication of this notice. Expressions of interest must be submitted in writing (by regular mail, fax or email) to LSC's Mattie Condray at the addresses listed in this notice.

Once LSC has received expressions of interest, the President, working in consultation with the Operations and Regulations Committee, acting through its Chair, will make appointments of individuals and organizations to the Working Group. Groups or organizations asked to participate in the Working Group will be responsible for selecting and designating their own representatives.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 01–22595 Filed 9–7–01; 8:45 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Solicitation for Expressions of Interest in Participation in Negotiated Rulemaking Working Group

AGENCY: Legal Services Corporation.

ACTION: Request for expressions of interest in participation in Negotiated Rulemaking Working Group.

SUMMARY: LSC is conducting a Negotiated Rulemaking to consider revisions to its alien representation regulations at 45 CFR part 1626. LSC hereby solicits expressions of interest in appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties

DATES: Expressions of interest must be received by September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; (202) 336–8817; *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: 45 CFR part 1626 sets forth the restrictions on legal assistance LSC grant recipients may provide to non-U.S. citizens. Although Part 1626 was last amended relatively recently (1997), this regulation has been identified both by staff and field representatives as in need of additional amendment. In the years since its last amendment, several practical issues have emerged, such as issues relating to documentation requirements, representation of groups of aliens, and representation of legal aliens not currently covered by the rule. In addition, the findings of the Erlenborn Commission and certain provisions from the Victims of Trafficking and Violence Protection Act of 2000 need to be incorporated into the 1626 regulations.

In light of the above, the LSC Board of Directors identified 45 CFR part 1626, Restrictions on Legal Assistance to Aliens, as an appropriate subject for rulemaking on January 27, 2001.[1] On June 30, 2001, the LSC President and the Chair of the Operations and Regulations Committee made a determination to proceed with the institution of a Negotiated Rulemaking to consider amendments to part 1626. In accordance with the LSC Rulemaking Protocol, LSC is now formally soliciting suggestions for appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties.

The Negotiated Rulemaking Working Group

LSC anticipates that the Working Group will be a group of 15–20 persons comprised of LSC representatives and affected and/or interested parties (i.e., individual recipients, clients, national organizations, local and national bar associations, etc.). LSC anticipates that the Working Group will include LSC representatives from the Office of Legal Affairs, the Office of Program Performance, and the Office of Compliance and Enforcement, along with a liaison from the Office of Inspector General. LSC is seeking external members representing national legal services advocacy organizations; individual recipients (preferably reflecting large/small and/or urban/rural diversity); clients; national and local organized bar associations; and other interested stakeholders. While there are no specific "criteria" for membership, it is expected that members will have the support of their organizations in participating in the effort and be knowledgeable about the issues.

Once appointed, the Working Group will meet under the direction of a trained facilitator with the aim of developing a consensus-based proposed rule. LSC expects that the Working Group will meet in 2–3 day, face-to-face sessions over the coming several months.

Solicitation of Expressions of Interest in Appointment to the Working Group

LSC hereby solicits expressions of interest in appointment to the Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties. Expressions of interest must be submitted no later

[1] The LSC Board of Directors had previously identified 1626 as an appropriate subject for rulemaking as it relates to the incorporation of the findings of the Erlenborn Commission as adopted by the LSC Board of Directors in 1999. The current action supercedes and subsumes that previously announced rulemaking action.

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than 15 days from the date of publication of this notice. Expressions of interest must be submitted in writing (by regular mail, fax or email) to LSC's Mattie Condray at the addresses listed in this notice.

Once LSC has received expressions of interest, the President, working in consultation with the Operations and Regulations Committee, acting through its Chair, will make appointments of individuals and organizations to the Working Group. Groups or organizations asked to participate in the Working Group will be responsible for selecting and designating their own representatives.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 01–22596 Filed 9–7–01; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 090401C]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting on September 25 through 27, 2001, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, September 25, 26, and 27, 2001. The meeting will begin at 9:00 a.m. on Tuesday and 8:30 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the Holiday Inn Express, 110 Middle Street, Fairhaven, MA 02719; telephone (508) 997–1281. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, September 25, 2001

After introductions, the Council will elect its 2001–2002 officers. The Sea Scallop Committee report to follow will be the only item on the agenda for the rest of the day. The Sea Scallop Committee will ask the Council to approve draft management measures to be included and analyzed in the Draft Supplemental Environmental Impact Statement for Amendment 10 to the Sea Scallop Fishery Management Plan (FMP). The discussion will include review of Sea Scallop Scallop Committee, Plan Development Team, and Advisory Panel recommendations. Measures to be considered include options that concern: Finfish bycatch during scallop fishing; limited access permit restrictions, including allocating differing days-at-sea amounts by gear sector; framework adjustments and annual specifications, including changing the scallop fishing year and increasing the days-at-sea carry-over provision; programs to fund and administer scallop research and on-board observers; data collection and monitoring; management of the general category open-access scallop fishery and possibly other measures.

Wednesday, September 26

The Research Steering Committee will provide an update on its most recent activities. The Northeast Fisheries Science Center will then present a follow-up report on the stock status of Gulf of Maine cod, which was included as part of an advisory to the Council last month. The NMFS Regional Office will then review its recent efforts to revise the current days-at-sea management system. Following these briefings, there will be a report from the Council's Capacity Committee on its progress to develop proposals to reduce latent fishing effort, allow consolidation of fishing effort and modify permit transfer restrictions. The remainder of the day will be spent on groundfish issues. The Council intends to take final action on Framework Adjustment 36 to the Northeast Multispecies FMP. Measures under the framework would reduce Gulf of Maine (GOM) cod fishing mortality and discards, extend or change the Western GOM closed area, change the area authorized for the northern shrimp fishery, and allow tuna purse seine vessels access to groundfish closed areas. The Council is considering the full range of measures for reducing GOM cod fishing mortality, including changes to recreational fishing measures.

Thursday, September 27

Reports on recent activities will include those from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. The Council's Scientific and Statistical Committee will review its deliberations on issues and questions about the status determination criteria (overfishing definitions) for scallops under rotational area management, red crab and skates, and the Stock Assessment Workshop (SAW) 33 Advisory Report. The Monkfish Committee will review its initial discussions concerning the annual framework adjustment called for in the Monkfish FMP. Included will be the effect of the timing of the upcoming monkfish stock assessment and the impact of the recent court decision on the Council's actions. The Monkfish Committee will also review its discussions about preliminary recommendations for 2002 workload priorities, including a possible plan amendment. The Herring Committee will discuss and ask the Council to take final action on Framework Adjustment 1 to the Atlantic Herring FMP. The action would implement a January through May seasonal quota in herring Management Area 1A and set a 6,000 metric ton quota in the areas for 2002. The committee also will recommend not to support a mid-season adjustment to the 2001 allocation for joint ventures and not to develop a limited entry or controlled access in 2002. The Protected Species Committee will report on and ask for approval of its comments on NMFS's draft Right Whale Recovery Plan and Biological Opinions for the Northeast Multispecies, Monkfish, and Dogfish FMPs. The day will conclude with a report on Marine Protected Areas by the Council Executive Director. Any other outstanding business also will be addressed at this time.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of two Council meetings before making recommendations to the National Marine Fisheries Service Regional Administrator on any framework adjustment to a fishery management plan. If the Regional Administrator concurs with the adjustment proposed by the Council, the Regional Administrator may publish the action either as proposed or final regulations in the **Federal Register**. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 5, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22647 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 082901A]

Fisheries of the Northeastern United States; Supplemental Environmental Impact Statements (SEISs) for the Essential Fish Habitat (EFH) Components of the Monkfish, Atlantic Herring, and Atlantic Salmon Fishery Management Plans (FMPs)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of intent to prepare an SEIS; request for comments; notice of scoping meeting.

SUMMARY: NMFS announces its intent to prepare SEISs in accordance with the National Environmental Policy Act of 1969 (NEPA) for the EFH components of the Monkfish, Atlantic Herring, and Atlantic Salmon FMPs. NMFS will hold a public scoping meeting and accept written comments to determine the range of management alternatives to be addressed in the SEISs to describe and identify EFH for these fisheries, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH.

DATES: NMFS will accept written comments through November 9, 2001. A public scoping meeting will be held on September 27, 2001, from 2:30 until 4:30 p.m.

ADDRESSES: Written comments on the intent to prepare the SEISs and requests for the scoping document or other information should be directed to the National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, Attn: Louis A. Chiarella. Comments may also be sent via facsimile (fax) to (978) 281–9301. NMFS will not accept unsigned faxes or comments by e-mail. The public meeting will be held at the NMFS Northeast Regional Office, One Blackburn Drive, Gloucester, MA, on September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Louis A. Chiarella, Essential Fish Habitat Coordinator, 978–281–9277, fax 978–281–9301, e-mail *Lou.Chiarella@noaa.gov*.

SUPPLEMENTARY INFORMATION: In response to a U.S. District Court Order (*AOC* v. *Daley*, September 14, 2000), the NMFS is re-evaluating the EFH components of Amendment 1 to the Monkfish FMP, the Atlantic Herring FMP and Amendment 1 to the Atlantic Salmon FMP. The EFH sections being re-evaluated for these fisheries were developed as part of an EFH Omnibus Amendment and were approved by the Secretary of Commerce for monkfish on April 22, 1999, Atlantic herring on October 27, 1999, and Atlantic salmon on April 21, 1999. NMFS will prepare SEISs and will consider EFH and Habitat Areas of Particular Concern (HAPC) for these fisheries, as well as fishing and non-fishing threats to EFH as required under the Magnuson-Stevens Fishery Conservation and Management Act.

NMFS is considering the need to revise the EFH designations for monkfish, Atlantic herring, and Atlantic salmon based upon any available new scientific information and is considering potential HAPC designations. NMFS will consider a range of alternatives to minimize adverse effects of fishing activities on EFH.

NMFS and the New England Fishery Management Council (Council) will jointly develop EFH analysis and management alternatives for the Monkfish, Atlantic Herring, and Atlantic Salmon FMPs. Analysis and subsequent management alternatives may be presented as one NEPA document addressing EFH for all three species, as two or more separate NEPA documents addressing the EFH for each species separately or in combination with another species, or (3) as part of a combined NEPA document that also addresses other fisheries management issues for one or more of these species.

The public is invited and encouraged to assist NMFS and the Council in developing the scope of EFH alternatives to be analyzed.

Public Information Meeting

The public scoping meeting will be held on September 27, 2001, from 2:30 until 4:30 p.m., at the NMFS Northeast Regional Office, One Blackburn Drive, Gloucester, MA, Conference Room.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Louis A. Chiarella (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 5, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22648 Filed 9–7–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 175
Monday, September 10, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 5, 2001.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Cooperative State Research, Education, and Extension Service

Title: Grant Application Forms for the Small Business Innovation Research Grants Program.

OMB Control Number: 0524–0025.

Summary of Collection: In 1982, the Small Business Innovation Research (SBIR) Grants Program was authorized by Public Law 97–219, and in 2000, reauthorized through September 30, 2008, by Public Law 106–564. This legislation requires each Federal agency with a research and development budget in excess of $100 million to establish an SBIR program. the objections of the U.S. Department of Agriculture (USDA), Cooperative State Research, Education, and Extension Service (CSREES), SBIR Program are to stimulate technological innovation in the private sector, strengthen the role of small businesses in meeting Federal research and development needs, increase private sector commercialization of innovations derived for USDA-supported research and developments efforts, and foster and encourage participation by women-owned and socially and economically disadvantaged small business firm in technological innovation. USDA conducts its SBIR Program through the use of grants awards and the Grants Management Branch, CSREES, administers these grants. Each year, USDA issues an SBIR Program Solicitation requesting Phase I proposals. These proposals are evaluated by peer review panels and awarded on a competitive basis. The SBIR Program Solicitation requests that applicants submit proposals following the format outlined in the SBA Policy Directive.

Need and Use of the Information: CSREES uses forms CSREES–667, "Proposal Cover Sheet" and CSREES–668, "Project Summary," to collect recordkeeping data, required certification, and information used to respond to inquiries from Congress, other Government agencies, and the grantee community concerning grant projects supported by the USDA SBIR Program.

Description of Respondents: Business or other for-profit; Individuals or households.

Number of Respondents: 480.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,472.

National Agricultural Statistics Service

Title: Milk and Milk Products.

OMB Control Number: 0535–0020.

Summary of Collection: U.S. Code Title 7, Section 2204, statute specifies that "The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain* * *by the collection of statistics* * *and shall distribute them among agriculturists". The National Agricultural Statistics Service's (NASS) primary function is to prepare and issue current official state and national estimates of crop and livestock production. Estimates of milk production and manufactured dairy products are an integral part of this program. Statistics on milk production and manufactured dairy products are used by the U.S. Department of Agriculture (USDA) to carry out the National Dairy Support Program.

Need and Use of the Information: Milk and dairy statistics are used by USDA to help administer price support programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. Dairy products prices are collected weekly to meet the time requirements for the announcement of milk price supports under the Federal Order Program. Estimates of number of total milk production are used by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. Collecting data less frequently would prevent USDA and the agricultural industry from keeping abreast of changes at the state and national level.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 44,689.

Frequency of Responses: Reporting: Quarterly; Weekly; Monthly; Annually; Other biweekly.

Total Burden Hours: 24,223.

Farm Service Agency

Title: Application for Payment of Amounts Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent.

OMB Control Number: 0560–0026.

Summary of Collection: Representatives or survivors of producers who die, disappear, or are declared incompetent must be afforded a method of obtaining any payment intended for the producer. 7 CFR part 707 provides that form FSA–325 be used as the form of application for persons desiring to claim such payments. The information collected is necessary to determine whether representatives or survivors of a producer are entitled to receive payments earned by a producer who dies, disappears, or is declared incompetent before receiving the payment.

Need and Use of the Information: FSA will collect information using form FSA–325 to determine if the survivors have rights to the existing payments. The information will also help FSA determine if the survivors have rights to the unpaid portions of the producer's payments.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institution; State, Local or Tribal Government.

Number of Respondents: 4,000.

Frequency of Responses: Reporting: Other (when necessary).

Total Burden Hours: 6,000.

Farm Service Agency

Title: Warehouse Regulations Under USWA and Standards for Approval of Warehouses.

OMB Control Number: 0560–0120.

Summary of Collection: Section 4 of the United States Warehouse Act (USWA) (7 U.S.C. 244) states "That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this Act and such rules and regulations and may be hereunder: *Provided*, that each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehousemen agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder." The Farm Service Agency (FSA) administers the USWA. Although there are several warehouse types covered under the USWA, the reporting requirements within a particular warehouse type are essentially the same as those across all warehouse types and, with some exceptions, the forms are used bilaterally; that is, they are used for both USWA licensing and Commodity Credit Corporation purposes. The forms are furnished to interested warehouse operators or used by the warehouse examiners employed by FSA to secure and record information about the warehouse operators and the warehouse.

Need and Use of the Information: FSA will collect information (1) to determine whether or not the warehouse and the warehouse operator making application for licensing and/or approval meets applicable standards; (2) to issue such license or approvals; (3) to determine, once licensed or approved, that the licensee or warehouse operator continues to meet such standards and is conforming to regulatory or contractual obligations, (4) to determine that the stored commodity is in good condition and (5) to determine that the licensee or warehouse operator is storing the commodity for which licensed or approval in a safe and prudent manner.

Description of Respondents: Business or other for-profit

Number of Respondents: 4,600.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually; Other (daily record)

Total Burden Hours: 14,701.

Farm Service Agency

Title: 7 CFR 1924–B Management Advice to Individuals Borrowers and Applicants.

OMB Control Number: 0560–0154.

Summary of Collection: The Consolidated Farm and Rural Development Act (CONACT) as amended, authorizes the Secretary of Agricultural to make and service direct farm loans to eligible applicants. The collection of information is needed to develop sound farm loan assessments, provide appropriate credit counseling and credit supervision that will assist the Agency's customers toward successful farming/ranching operations. The Farm Service Agency will collect information using several FSA forms.

Need and Use of the Information: FSA will collect information to protect the government's financial interests by ensuring the farming operations of the Agency's direct loan customers be properly assessed for short and long-term financial feasibility. The information is also used to ensure all customers receive appropriate credit counseling and credit supervision to ensure the greatest chance for financial and productive success. If the information were not collected the Agency would be unable to meet the mission of the loan program mandated by Congress.

Description of Respondents: Farm; Business or other-for-profit; Federal Government; Not-for-profit institutions

Number of Respondents: 63,125.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 157,646.

Risk Management Agency

Title: Multiple Peril Crop Insurance.

OMB Control Number: 0563–0053.

Summary of Collection: Previous amendments to the Federal Crop Insurance Act have expanded the role of the crop insurance program to be the principal tool for risk management by producers of farm products and provided for nationwide expansion of a comprehensive crop insurance program. In June of 2000, the ACT was amended again by Public Law 106–224 mandating changes to crop insurance regulations, providing for independent review of crop insurance products by person experienced as actuaries and in underwriting, giving contracting authority for the development of new products, and requiring that the crop insurance program operate on an actuarially sound basis. To meet the goals, existing crop programs must be improved and expanded, new crop products developed, and new insurance concepts studied for possible implementation.

Need and Use of the Information: Federal Crop Insurance Corporation (FCIC) offers a Standard Reinsurance Agreement to eligible crop insurance companies under which FCIC will use data elements instead of standards forms. The information collected may be used by Federal agencies, Risk Management Agency, crop insurance companies reinsured by FCIC, and other agencies that require such information in the performance of their duties. If the information were not collected by specified dates, the producers may not have insurance coverage or the amount of insurance may be reduced and the crop insurance program would not be administered in an actuarially sound manner.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 1,304,390.

Frequency of Response: Recordkeeping; Reporting: Other.

Total Burden Hours: 1,194,316.

Rural Business-Cooperative Service

Title: Value-Added Agricultural Product market Development Grant Program (Independent Producers).

OMB Control Number: 0570–0039.

Summary of Collection: The Rural business-Cooperative Service (RBS) an agency within the USDA Rural Development mission area will administer the Value-Added Agricultural Product Market Development Grant Agreement Program.

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The objective of this program is to encourage producers of agricultural commodities and products of agricultural commodities to further refine these products increasing their value to end users of the product. These grants will be used for two purposes: (1) to fund feasibility studies, marketing and business plans, and similar development activities; and (2) to use the grant as part of the venture's working capital fund. Grants will only be awarded if projects or ventures are determined to be economically viable and sustainable.

Need and Use of the Information: RBS will use the information collected to determine (1) applicant eligibility and monitor recipient performance; (2) the specific purpose for which the funds will be utilized; (3) time frames or dates by which activities surrounding the use of funds will be accomplished; (4) feasibility of the project; (5) applicants' experience in managing similar activities; and (6) the effectiveness and innovation used to address critical issues vital to value-added ventures development and sustainability. Without this information there would be no basis on which to ward funds.

Description of Respondents: Business or other for-profit.

Number of Respondents: 120.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 2460.

Rural Business-Cooperative Service

Title: Value-Added Agricultural Product Market Development Grant Program (Resource Center).

OMB Control Number: 0570–0040.

Summary of Collection: The Rural Business-Cooperative Service (RBS) was established by Public Law 103–354, The Department of Agriculture Reorganization Act of 1994. The mission of RBS is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. The objective of this program is to establish a pilot project to be known as the Agricultural Marketing Resource Center. This center will have the capabilities, including electronic capabilities, to collect, disseminate, coordinate, and provide information on value-added processing to independent producers and processors of value-added agricultural commodities and products of agricultural commodities. Funds will be awarded on a competitive basis using specific selection criteria and in amounts up to 50 percent of the costs for carrying out the proposed uses.

Need and Use of the Information: RBS will use the information collected to determine (1) eligibility; (2) the specific purpose for which the funds will be utilized; (3) time frames or dates by which activities surrounding the use of funds will be accomplished; (4) feasibility of the project; (5) applicants' experience in managing similar activities; and (6) the effectiveness and innovation used to address critical issues vital to value-added ventures development and sustainability. Without this ifnormation there would be no basis on which to award funds.

Description of Respondents: Business or other for-profit.

Number of Respondents: 40.

Frequency of Responses: Recordkeeping; Reporting: Semi-annually.

Total Burden Hours: 628.

Rural Utilities Service

Title: Report of Compliance and Participation.

OMB Control Number: 0572–0047.

Summary of Collection: The Rural Utilities Service (RUS) is required to implement regulations of the U.S. Department of Justice and the U.S. Department of Agriculture and to provide for the collection of civil rights data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 (Acts). Rus Form 268, Report of Compliance and Participation, is designed for use by RUS electric and telephone borrowers in complying with the reporting requirements outlined in RUS Bulletin 1790–1, "Nondiscrimination Among Beneficiaries of RUS Programs." This guidance bulletin describes the statutes, rules, and regulations, which inform RUS borrowers of their responsibilities for ensuring nondiscrimination practices in the operation of their organizations.

Need and Use of the Information: RUS will collect information to determine the extent to which the borrowers are in compliance with requirements of the Acts, to identify potential problem compliance areas, and to determine a borrower's eligibility for advance of loan funds. If this form is not submitted, RUS would have no method of ensuring borrower compliance with requirements of the Acts.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 1,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,005.

Rural Utilities Service

Title: Weather Radio Transmitter Grant Program.

OMB Control Number: 0572–0124.

Summary of Collection: The National Weather Service operates an All Hazards Early Warning System that alerts people in areas covered by its transmissions of approaching dangerous weather and other emergencies. The National Weather Service can typically provide warnings of specific weather dangers up to fifteen minutes prior to the event. At present, this system covers all major metropolitan areas and many smaller cities and towns; however, many rural areas lack National Oceanic and Atmospheric Administration's Weather Radio and Alert System (NOAA) Weather Radio coverage. The Weather Radio Transmitter Grant Program will provide grant funds, for use in rural areas and communities of 50,000 or less inhabitants. The grant funds will be processed on a first-come basis until the appropriation is used in its entirety.

Need and Use of the Information: The Rural Utilities Service (RUS) will use the information from the submission to determine the following: (1) That adequate coverage in the area does not already exist and that the proposed coverage will meet the needs of the community; (2) that design requirements are met; and (3) that the funds needed to complete the project are adequate based on the grant and the matching portion from the applicant.

Description of Respondents: Not for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 60.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 345.

Rural Utilities Service

Title: 7 CFR part 1744, Subpart B, Lien Accommodations and Subordination Policy.

OMB Control Number: 0572–NEW.

Summary of Collection: The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture (USDA). It makes mortgage loans and loan guarantees to finance electric, telecommunications, and water and waste facilities in rural areas. The Telecommunications Act of 1996 mandates that universally available and affordable telecommunications services, including advanced services, be made available to all U.S. citizens whether in rural areas or city centers, affluent, or poor communities. In support of this mandate, RUS is amending its regulation to ensure that, with the assistance of advanced telecommunications technology, rural citizens be provided the same economic, educational, and health care benefits available in the large metropolitan areas.

Need and Use of the Information: This regulation will help RUS facilitate funding from non-RUS sources in order to meet the growing capital needs of rural Local Exchange Carriers and enable the providers to compete in an expanding number of telecommunications services. RUS will use the information to provide "automatic" approval for borrowers requesting lien accommodations that meet the required financial tests. These tests are designed to ensure that the financial strength of the borrower is more than sufficient to protect the government's loan security interests; hence, the lien accommodations will not adversely affect the government's financial interests.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 30.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 23.

Rural Housing Service

Title: Form RD 1940–59, Settlement Statement.

OMB Control Number: 0575–0088.

Summary of Collection: The Rural Housing Service (RHS) and the Farm Service Agency (FSA) are requesting an extension of the OMB clearance for Form RD 1940–59, "Settlement Statement." The Real Estate Settlement Procedures Act (RESPA), as amended, requires the disclosure of real estate settlement costs to real estate buyers and sellers. Disclosure of the nature and costs of a mortgage transaction enables the borrower to be a more informed customer and protects the public from unnecessarily high settlement charges.

Need and Use of the Information: Form RD 1940–49 is completed by Settlement Agents, Closing Attorneys, and Title Insurance Companies performing the closing of RHS loans and credit sales use to purchase or refinance Section 502 Housing, Rural Rental Housing, and Farm Laboring Housing. The same parties performing the closing of FSA Farm Ownership loans and credit sales complete the form. The information is collected to provide the buyer and the seller with a statement detailing the actual costs of the settlement services involved in certain Agency financed real estate transactions. Failure to collect the information and disclose the information would be a violation of the RESPA.

Description of Respondents: Business or for-profit.

Number of Respondents: 17,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 28,900.

Rural Housing Service

Title: 7 CFR 1951–N, Servicing Cases Where Unauthorized Loan or Other Financial assistance was received—Multiple Family Housing.

OMB Control Number: 0575–0104.

Summary of Collection: Through regular visits by Rural Development personnel and the Office of Inspector General cases of unauthorized assistance were identified. Unauthorized assistance may in the form of a loan, grant, interest subsidy benefit created through use of an incorrect interest rate, interest credits or rental assistance extended to a Multi-Family Housing borrower or grantee by Rural Housing Service (RHS). RHS has published its own regulation, consistent with the Federal Claims Act, through which it can better assist the recipients of RHS assistance and still adequately protect the Government's interest. The information collected under the provisions of this regulation is provided on a voluntary basis by the recipient of the assistance in question, although failure to cooperate in effecting requiring corrections to loan accounts may result in loss or reduction of benefits or liquidation of the loan. The information collected will primarily be financial data relating to income and expenses. Also, tenants who refuse to cooperate or provide information may lose their subsidy or tenancy.

Need and Use of the Information: The information required by this regulation is collected from Multi-Family Housing borrowers (who may be individuals, partnerships, private or nonprofit corporations or public bodies) and from tenants who reside in the borrower's rental projects. The collections are made from RHS borrowers on an individual case. If this regulation is not continued, the cases involving unauthorized financial assistance would remain unresolved and many borrowers would keep financial benefits for which they did not qualify under RHS loan regulations.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 450.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 800.

Rural Housing Service

Title: Rural Housing Demonstration Program—Section 502.

OMB Control Number: 0575–0114.

Summary of Collection: Section 506 of the Housing Act of 1949 as amended by Title V—Rural Housing of Housing and Urban-Rural Recovery Act of 1983 directs the Secretary to conduct research, technical studies and demonstrations in order to improve the architectural designs, cost effectiveness and utility of housing units. The amendment allows the Secretary to permit housing demonstrations which do not meet existing published standards, rules, regulations or policies, if the Secretary finds that in doing so, the health and safety of the population is not adversely affected. The Rural Housing Service (RHS) will collect information from applicants seeking an innovation housing unit award.

Need and Use of the Information: RHS will collect information from the proposer to evaluate the strengths and weaknesses to which the proposal concept possesses or lacks the attributes set forth in the proposed content and evaluation criteria. RHS will use the collected information to select the most feasible proposals that will enhance the Agency's chances in accomplishing the demonstration objective. The information will be utilized to sustain and modify RHS's current policies pertaining to the construction of modest housing.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; Individuals or households; State, Local or Tribal Government.

Number of Respondents: 25.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 2,000.

Rural Housing Service

Title: 7 CFR 1951–C, "Offset of Federal Payments to USDA Borrowers'.

OMB Control Number: 0575–0119.

Summary of Collection: The Federal Claims Collection Act of 1966 as amended by the Debt Collection Act of 1982, the Deficit Reduction Act of 1984 and the Debt Collection Improvement Act of 1996 provides for administrative, salary, and Internal Revenue Service offsets by Government agencies to collect delinquent debts. The regulation identifies documents submitted by borrowers requesting a different repayment agreement when they are delinquent on their debt to the Federal Government. This regulation does not

require a response, if the borrower is willing to allow his program payment to be made directly to the agency.

Need and Use of the Information: The information will be utilized by agency personnel and is essential in determining if a different repayment agreement can be accepted. A delinquent borrower is required to pay current or submit documentation ranging from a written agreement, pay current from liquid assets or submit a Farm and Home Plan to show repayment to avoid the offset.

Description of Respondents: Not for profit institutions; State, Local, or Tribal Government.

Number of Respondents: 2,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 1,331.

Rural Housing Service

Title: 7 CFR 1942–C, "Fire and Rescue Loans".

Summary of Collection: The Rural Housing Service (RHS) is authorized by section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of essential community facilities primarily servicing rural residents. The primary regulation for administering this Community Facility Program is 7 CFR 1942–A (0575–0015). The information must be collected to determine eligibility, analyze financial feasibility, take security, monitor the use of loan funds, and monitor the financial condition of borrowers, and otherwise assisting borrowers.

Need and Use of the Information: Rural Development field offices will collect the information from applicant/borrowers and consultant through a variety of forms and other existing documents. This information will be used to determine applicant/borrower eligibility, project feasibility, and ensure borrowers operate on a sound basis and use loan funds for authorized purpose.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 1,211.

Frequency of Responses: Reporting: On occasion; Quarterly; Annually.

Total Burden Hours: 6,482.

Animal and Plant Health Inspection Service

Title: West Indian Fruit Fly.

OMB Control Number: 0579–0170.

Summary of Collection: The United States Department of Agriculture is responsible for preventing plant pests and noxious weeds from entering the United States, preventing the spread of pests and weeds not widely distributed in the United States and eradicating those imported pests and weeds when eradication is feasible. Section 414 of the Plant Protection Act (PPA) (7 U.S.C. 7701–7772) provides that the Secretary of Agriculture may, under certain conditions, hold, seize, quarantine, treat, apply other remedial measures to destroy or otherwise dispose of any plant, plant pest, plant product, article, or means of conveyance that is moving, or has moved into or through the United States or interstate if the Secretary has reason to believe that the article is a plant pest or is infested with a plant pest at the time of move. The Animal and Plant Health Inspection Service (APHIS) published an interim rule to prevent the spread of the West Indian Fruit fly to non-infested areas of the United States. The rule quarantined a part of Cameron County, TX, because of the West Indian Fruit Fly and restricted the interstate movement of regulated articles from the quarantined area.

Need and Use of the Information: APHIS will collect information to certify bulk shipments of regulated articles. If the information were not collected APHIS would be unable to provide for the interstate movement of certain articles from the quarantined area.

Description of Respondents: Business or other for-profit.

Number of Respondents: 37.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 37.

Grain Inspection, Packers & Stockyards Administration

Title: "Clear Title" Regulations to Implement Section 1324 of the Food Security Act of 1985.

OMB Control Number: 0580–0016.

Summary of Collection: The Food Security Act of 1985 permits the state to establish "central filing systems" for the purpose of pre-notifying buyers, commission merchants, and selling agents of security interests against "farm products". These central filing systems notify buyers of farm products or any mortgages or liens on the products. There are 19 states that currently have certified central filing systems.

Need and Use of the Information: A state submits information one time to Grain Inspection, Packers and Stockyards Administration (GIPSA) when applying for certification. GIPSA reviews the information submitted by the states to certify that those central filing systems meet the criteria set forth in section 1324 of the Food Security Act of 1985.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 12.

Agricultural Marketing Service

Title: Raisins Produced from Grapes Grown In California.

OMB Control Number: 0581–0196.

Summary of Collection: Market Order No. 989 covering raisins produced from grapes grown in California emanates from enabling legislation (The Agricultural Marketing Agreement Act of 1937). This legislation was designed to permit regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and improving returns to producers. The Order authorizes the issuance of grade and condition standards, inspection requirements, and volume regulations through a producer reserve pool. The Order is administered by a 47 member Raisin Administrative Committee, comprised of 35 producers, 10 handlers, one member representing the cooperative bargaining association(s) and one member representing the public administers the order. The new changes in the legislation require handlers to report to the committee information on acquisitions, shipments, and inventories of organic raisins.

Need and Use of the Information: The information collected is used to evaluate whether organic raisins should be subject to the order's volume regulation requirements. Collecting the information less frequently would eliminate data needed to keep the California raisin industry and the Secretary abreast of changes at the state and local levels.

Description of Respondents: Farms.

Number of Respondents: 20.

Frequency of Responses: Reporting: Weekly; Monthly; Annually.

Total Burden Hours: 2,000.

Food Safety and Inspection Service

Title: Marking, Labeling, and Packaging Material.

OMB Control Number: 0583–0092.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. To control the manufacture of marking devices bearing official marks, FSIS requires that official meat and poultry establishment and manufacturers of such marking devices complete FSIS form 7234–1, Application for Approval of Labels, Marking or Device.

Need and Use of the Information: FSIS will collect information to ensure that meat and poultry product are accurately labeled. FSIS will also collect the following information: Establishment number, company name and address, name of product, action requested of FSIS, size of label, product formulation, special processing procedures, and a signature on the form.

Description of Respondents: Business or other for-profit.

Number of Respondents: 34,552.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 119,005.

Food and Nutrition Service

Title: Requisition for Food Coupon Books.

OMB Control Number: 0584–0022.

Summary of Collection: The Food Stamp Act of 1977 requires the Secretary of Agriculture and the Food and Nutrition Service (FNS) to prescribe appropriate procedures for the delivery of food coupon books to coupon issuers and for the subsequent controls to be placed over such coupons by coupon issuers in order to ensure adequate accountability. The regulations at 7 CFR 274.7 and 274.8, require State agencies to establish coupon inventory management systems which include proper control and security procedures, procedures for ordering coupon books and shipping books within the State. These procedures also provide an orderly mechanism for States to order new supplies of food coupon books. FNS will collect information using Form FNS–260, Requisition of Food Coupon Books, to determine what States need additional coupon books and the details of their order.

Need and Use of the Information: FNS collects information to determine how many coupon books to order, what denominations and when to order more coupon books in order to provide State agencies with inventories that will be adequate to issue program benefits to households on a monthly basis.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 221.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 663.

Food and Nutrition Service

Title: Food Coupon Deposit Document.

OMB Control Number: 0584–0314.

Summary of Collection: The Food Stamp Program is designed to promote the general welfare and safeguard the health and well being of the Nation's population by raising levels of nutrition among low-income households. Section 2 of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011 *et seq.*) (the Act) states in part, that "* * * a Food Stamp Program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation." Section 10 of the Food Stamp Act requires the U.S. Department of Agriculture to issue regulations that provide for the redemption, through financial institutions, of food coupons accepted by retail food stores from program participants. The Food Coupon Deposit Document (FCDD), which is currently used in the Food Stamp Program by banks and financial institutions to redeem food stamp benefits from authorized retailers and to monitor the authorization of firms for compliance and continued eligibility in the Food Stamp Program.

Need and Use of the Information: The Food and Nutrition Service (FNS) will collect information to track deposits of food coupons. All financial institutions use the FCDD when they deposit food coupons at Federal Reserve Banks. The information to be collected is the name, address, and unique check routing code of each financial institution that deposits food coupons on the face of every FCDD. Without the information there is no way of tracking deposits of food coupons.

Descriptions of Respondents: Business or other for-profit.

Number of Respondents: 10,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 1,327.

Food and Nutrition Service

Title: The Integrity Profile.

OMB Control Number: 0584–0401.

Summary of Collection: The Food and Nutrition Service (FNS) administers the Women, Infant, and Children (WIC) Program on behalf of the Secretary of Agriculture. In recent years, the Office of Inspector General (OIG), has performed audits of FNS' vendor management and recommended that FNS (1) develop criteria to identify vendors suspected of abuse (high-risk vendors) and (2) requires State agencies to perform a minimum number of compliance investigations in order to provide sufficient evidence on whether vendors are overcharging the Program or violating other regulatory requirements. Accordingly, FNS requires State agencies to report annually on their vendor monitoring efforts. The data collected from the States serves as a management tool to provide Congress, OIG senior program managers, as well as the general public, assurances that program funds are being spent appropriately and that every reasonable effort is being made to prevent, detect and eliminate fraud, waste and abuse.

Need and Use of the Information: The information collected is analyzed and a report is prepared by FNS annually that (1) assesses State agency progress in eliminating abusive vendors, (2) assesses the level of activity that is being directed in ensuring program integrity, and (3) analyzes trends over a 5-year period. The information is used at the national level in formulating program policy and regulations. At the FNS regional office level, the data is reviewed to identify possible vendor management deficiencies so that technical assistance can be provided to States, as needed. At the State level, the information is used to provide assurances to the Governor's office, and other interested parties, that WIC issues are being addressed.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 88.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,778.

Food and Nutrition Service

Title: Food Stamp Program: State Agency Options.

OMB Control Number: 0584–0496.

Summary of Collection: The Food Stamp Act of 1977, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) establishes a program whereby needy households apply for and receive food stamp benefits. It specifies national eligibility standards but allows State agencies certain options in administering the program. These options relate to establishing a homeless shelter deduction and periodical reviews; updating standard utility allowances to be used in excess shelter cost computation; and establishing a methodology for offsetting costs of producing self-employment income. The Food and Nutrition Service (FNS) will collect information from state agencies on the methods used to calculate these deductions and allowances.

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Need and Use of the Information: FNS will collect information from State agencies on how the various Food Stamp Program implementation options will be determined. The information collected will be used by FNS to establish quality control reviews, standards and self-employment costs.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 256.

Food and Nutrition Service

Title: Food Stamp Program: Grants to Improve Food Stamp Program Access.

OMB Control Number: 0584–0506.

Summary of Collection: In January 2001, the Food and Nutrition Service (FNS) awarded grants of up to 300,000 to 14 non-food stamp governmental authorities, nonprofit local organizations, institutions of higher learning, foundations and other non-profit organizations. To receive a grant, each interested competitor had to provide a proposal to USDA on the projects to be undertaken. Each proposal was competitively ranked and the top ranked proposals were awarded grants. USDA is seeking information from the grantees on the outcome of the projects funded, such as a description of the projects, funding levels, staffing successes, failures, and lesson learned from the projects.

Need and Use of the Information: FNS will collect information in three phases: the application process; ongoing quarterly reports; and a final report. FNS will use the information from the grantees on the outcome of the projects funded to consolidate a report of success stories, and lessons learned from the projects. The information will be used to inform FNS about useful strategies that promote access and are successful in increasing participants of eligible persons in the Food Stamp Program.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 250.

Frequency of Responses: Reporting: Quarterly; Annually.

Total Burden Hours: 21,008.

Forest Service

Title: Health Screen Questionnaire.

OMB Control Number: 0596–NEW.

Summary of Collection: The Protection Act of 1922 (16 U.S.C. 594) authorizes the Forest Service to fight fires on National Forest System lands. Individuals must complete the Health Screening Questionnaire (HSQ) when seeking employment as a new firefighter with the Forest Service or recertification as a Forest Service firefighter. Potential applicants are to complete forms FS–5100–30 and FS–5100–31, which are necessary to obtain their health screening information.

Need and Use of the Information: FS will collect information to determine whether an individual being considered for a position in Wildland Firefighting can carry out those duties in a manner that will not place the candidate unduly at risk due to inadequate physical fitness and health. If the information is not collected, the Government's liability risk is high, special needs of one individual may not be known, or the screening of an applicant's physical suitability would be greatly inhibited.

Description of Respondents: Individuals or households; Federal Government.

Number of Respondents: 15,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,250.

Agricultural Marketing Service

Title: Customer Service Survey for USDA—Donated Food Products.

OMB Control Number: 0581–0182.

Summary of Collection: Each year the Agricultural Marketing Service (AMS) procures about $700 million dollars of poultry, livestock, fruit, and vegetable products for the school lunch and other domestic feeding programs under authority of 7 CFR 250, Regulations for the Donation of Food for Use in the United States, its Territories and possessions and areas under its jurisdiction. To maintain and improve the quality of these products, AMS has sought to make this process more customer-driven and therefore is seeking opinions from the users of these products. AMS will use AMS–11, "Customer Opinion Postcard," to collect information. Customers that use USDA-procured commodities to prepare and serve meals, retrieve these cards from the boxes and use them to rate their perception of product flavor, texture, and appearance as well as overall satisfaction.

Need and Use of the Information: AMS will collect information on the product type, production lot, and identify the location and type of facility, which the product was served. USDA program managers will use survey responses to maintain and improve product quality through the revision of USDA commodity specifications and follow-up action with producers of designated production lots.

Description of Respondents: State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 8,400.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 700.

Animal and Plant Health Inspection Service

Title: West Nile Virus Surveillance Project.

OMB Control Number: 0579–0162.

Summary of Collection: The mission of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services is to protect and improve the health, quality and marketability of the Nation's livestock by preventing, controlling, and monitoring animal disease. Veterinary Services' Emergency Programs is charged with coordinating USDA's role and responsibilities in planning for and responding to emerging or exotic animal diseases. West Nile Virus (WNV) is a type of virus that can cause encephalitis, or inflammation of the brain. WNV was first identified in a limited area of the northeastern United States in wild birds, mosquitoes, humans, and horses in 1999. The scientific literature about WNV indicates that transmission is primarily through a mosquito-bird cycle, with occasional incursions into other vertebrates as terminal host only.

Need and Use of the Information: APHIS will collect data and blood samples to determine equine or premises risk factors for WNV infection. The information will be use to protect human health, livestock producers and veterinarians will use the information to protect their herds and flocks from infection and subsequent production losses.

Description of Respondents: Individuals or households; Farms; Business or other for-profit.

Number of Respondents: 420.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 945.

Sondra A. Blakey,

Departmental Information Clearance Officer.

[FR Doc. 01–22626 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Revision of Systems of Records and Proposed New Routine Uses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of privacy act systems of records and proposed new routine uses.

SUMMARY: Notice is hereby given that the United States Department of Agriculture is proposing to change the (USDA) Privacy Act Systems of Records maintained by the Farm Service Agency (FSA) as follows: A new routine use would be added to two Privacy Act systems of records maintained by FSA.

EFFECTIVE DATE: The proposed routine uses will become effective November 9, 2001 unless modified by a subsequent notice to incorporate public comments. Comments must be received by October 10, 2001 to be assured consideration.

ADDRESSES: Interested persons may submit written comments to Diane Flores Korwin, Freedom of Information and Privacy Act (FOIA/PA) Specialist, Public Affairs Staff, Farm Service Agency, U.S. Department of Agriculture, Public Affairs, STOP 0506, 1400 Independence Avenue, SW., Washington, DC 20250–0506; telephone 202–720–5534. The public may inspect comments received on this notice Monday–Friday, except holidays, between 8:15 a.m. and 4:45 p.m. in Room 3625 at the address listed above.

FOR FURTHER INFORMATION CONTACT: Diane Flores Korwin, telephone 202–720–5534.

SUPPLEMENTARY INFORMATION: This notice concerns two of the Privacy Act systems of records maintained by FSA; USDA/FSA–2, "Farm Records File" and USDA/FSA–14, "Applicant/Borrower File." The proposed revisions would provide disclosure of certain records in these files to State-certified or State-licensed appraisers, and to employees of other Federal agencies who are qualified to conduct real estate appraisals.

Disclosure of this information to State-certified or State-licensed appraisers, and to employees of other Federal agencies who are qualified to conduct real estate appraisals is a use of the information compatible with the specific administrative purposes for which the information was collected. Limited disclosure is clearly within FSA's mandate to promote a viable agricultural economy, and is essential for effective implementation of appraisal standards established under of the Financial Institutions Reform Recovery and Enforcement Act (FIRREA) of 1989, 12, U.S.C. ch. 34A. Release of this producer and farm information relates to effective analyses of comparable properties and determinations of capitalization rates in connection with appraisers' valuations of properties using the comparable sales and income approaches.

Appraisers' ethical and other standards and general practices promulgated pursuant to the FIRREA provide safeguards against further dissemination of the information provided to persons outside USDA. Appraisals are confidential and may not be released to other parties without the approval of the appraiser and the client. Appraisal reports identify properties, but do not identify the owner by name, and those appraisers who violate the ethical standards are subject to discipline by State certification boards.

The FSA also publishes information regarding acreage allotments and marketing quotas for farms raising tobacco and peanuts as required by law. However, information concerning the acreage, yield, storage, and marketing by farmers engaged in production of tobacco and peanuts will only be released in a manner that does not identify the information furnished by individual producers. 7 U.S.C. 1373 prohibits release of this information in a form identifiable to an individual producer.

Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA hereby takes the following action:

(1) USDA/FSA–2, "Farm Records File"

This system is being amended to add a routine use allowing the limited disclosure of Producer and Farm Information to State-certified or State-licensed appraisers and employees of Federal agencies other than USDA who are qualified to conduct real estate appraisals.

The specific information to be disclosed to the appraiser is:

— Production Flexibility Contract Acres
— Payment yields
— Agricultural use acres and cropland acres
— Copies of aerial photography
— Conservation Reserve Program (CRP) acres
— Highly erodible land (HEL) delineations
— Wetland classifications

Notwithstanding the foregoing, USDA will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by USDA and is necessary for the administration of Title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. § 1361 *et seq.*, unless the information to be released is in an aggregate form that does not identify the information furnished by any person. FSA will continue to make available for public inspection information regarding acreage allotments and farm marketing quotas established for farms as required by law.

(2) USDA/FSA–14, "Applicant/Borrower File"

This system is being amended to add a routine use allowing the limited disclosure of Producer and Farm Information to state-certified or state-licensed appraisers and employees of Federal agencies other than USDA who are qualified to conduct real estate appraisals.

The specific information to be disclosed to the appraiser is:

—Production Flexibility Contract Acres
—Payment yields
—Agricultural use acres and cropland acres
—Copies of aerial photography
—Conservation Reserve Program (CRP) acres
—Highly erodible land (HEL) delineations
—Wetland classifications

Notwithstanding the foregoing, USDA will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by USDA and is necessary for the administration of Title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1361 *et seq.*, unless the information to be released is in an aggregate form that does not identify the information furnished by any person. FSA will continue to make available for public inspection, information regarding acreage allotments and farm marketing quotas established for farms, as required by law.

Signed at Washington, DC, on August 31, 2001.

Ann M. Veneman,

Secretary.

USDA/FSA–2.

SYSTEM NAME:

Farm Records File (Automated), USDA/FSA–2.

SYSTEM LOCATION:

This system of records is under the control of the Deputy Administrator for Program Delivery and Field Operations, FSA, USDA, Stop 0539, PO Box 2415, Washington, DC 20013. The data will be maintained at the county FSA office which services the particular farm, the State FSA Office of the State where the particular county FSA office is located, the Kansas City Management Office, 8930 Ward Parkway, PO Box 419205, Kansas City, Missouri 64141–0205; the Kansas City Commodity Office, PO Box 419205, 9200 Ward Parkway, Kansas City, Missouri 64141–0205, and the FSA National Office. The address of each county and State FSA office can be

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found in the local telephone directory under the heading "United States Government, Department of Agriculture, Farm Service Agency."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Farm owners, operators, and other producers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information in the system consists of documentation of participation in the active programs as well as discontinued programs. This includes names and addresses of producers and is not necessarily limited to farm allotments, quotas, bases, and history; compliance data; production and marketing data; lease and transfer of allotments and quotas; appeals; new grower applications; conservation program documents; program participation and payment documents; appraisals, leases, and data for farm reconstitution; and, for payment limitation purposes, financial statements, and other applicable farm information as well such documents as tax statements, wills, trusts, partnership agreements, and corporate charters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 135b, 450j, 450k, 405l, 1281–1393, 1421–1449, 1461–1469, 1471–1471i, 1781–1787; 15 U.S.C. 714–714p; 16 U.S.C. 590a–590q, 1301–1311, 1501–1510, 1606, 2101–2111, 2201–2205, 3501, 3801–3847, 4601, 5822; 26 U.S.C. 6109; 40 U.S.C. App. 1, 2, 203; 43 U.S.C. 1592; and 48 U.S.C. 1469.

PURPOSE(S):

To facilitate the Congressional mandate that FSA and CCC operate farm programs that control the price and supply of certain agricultural commodities, that protect the environment and that enhance the marketing and distribution of certain agricultural commodities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records contained in this system may be disclosed:

(1) To a cooperative marketing association approved to carry out CCC rice support loan and marketing programs, but only that data regarding member and related individual participation in such programs;

(2) To the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute, rule, regulation or order issued pursuant thereto, of any records within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery to the extent that records sought are relevant to the subject of the proceeding;

(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;

(5) To the Internal Revenue Service to establish the tax liability of individuals as required by the Internal Revenue Code;

(6) To State or local tax authorities having an agreement with CCC to withhold taxes or fees from loan proceeds;

(7) To the Bureau of Reclamation (BOR), but only that data necessary for the BOR to administer the Reclamation Act of 1982 as amended;

(8) To boards or other entities authorized by state statute to collect commodity assessments;

(9) To the Food Safety and Inspection Service;

(10) To the Peanut Board with respect to producers of peanuts and their participation in the peanut price support, production control and quota programs;

(11) To the Bureau of Indian Affairs the name and address of producers to assist in the distribution of funds to Native American Indians;

(12) To candidates for FSA county and/or community committee positions the names and addresses of producers in the county for the purpose of county committee elections;

(13) To tobacco analysis laboratories the producers' names and addresses as well as crop-specific data regarding tobacco being analyzed prior to the marketing of such tobacco;

(14) To the public who may inspect farm allotment and quota data for marketing quota crops as required by the Agricultural Act of 1938, as amended;

(15) To State Foresters the names and addresses of producers and crop-specific data regarding their operations with respect to forestry conservation practices;

(16) To cotton buyers the names of cotton producers;

(17) To cotton ginners the names, addresses and cotton acreages;

(18) To members of Congress the names and addresses of producers; and

(19) To the public when they need to obtain the names and addresses of producers who have loans with FSA or CCC to prevent such individual from purchasing commodity that has been placed under a CCC loan.

(20) To State or local taxing authorities or their contracted appraisal companies the name of and address of producers for tax appraisal purposes; and

(21) To State-certified or State-licensed appraisers and employees of Federal agencies other than USDA qualified to perform real estate appraisals.

The specific information to be disclosed to the appraiser is:

— Production Flexibility Contract Acres

— Payment yields

— Agricultural use acres and cropland acres

— Copies of aerial photography

— Conservation Reserve Program (CRP) acres

— Highly erodible land (HEL) delineations

— Wetland classifications

Notwithstanding the foregoing, USDA will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by USDA and is necessary for the administration of Title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1361 *et seq.*, unless the information to be released is in an aggregate form that does not identify the information furnished by any person. FSA will continue to make available for public inspection, information regarding acreage allotments and farm marketing quotas established for farms, as required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and Department computer systems at applicable locations as set out above under the heading "System Location'.

RETRIEVABILITY:

Records may be indexed by individual name, farm number, tax identification number, Social Security Number, or loan number.

SAFEGUARDS:

Records are kept in locked Government office buildings. Access to these records is limited to authorized FSA personnel and representatives. Records stored in computer files are protected by passwords and other electronic security systems. Additionally, any negotiable documents, such as warehouse receipts, are kept in a fireproof cabinet.

RETENTION AND DISPOSAL:

Program documents are destroyed within 6 years after end of participation, except for conservation program documents, which are retained for periods sufficient to insure compliance equal to the life of the practice. Other documents, such as powers of attorney or leases, are destroyed after such document is no longer valid. Original loan notes are returned to producers after liquidation of loan.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Administrator for Program Delivery and Field Operations, FSA, USDA, Stop 0539, PO Box 2415, Washington, DC 20013.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records, or information as to whether the system contains records pertaining to the individual from the System Manager listed above.

RECORD ACCESS PROCEDURES:

An individual may obtain information about a record in the system which pertains to such individual by submitting a written request to the above listed System Manager. The envelope and letter should be marked "Privacy Act Request." A request for information pertaining to an individual should contain: name, address, ZIP code, name of system of record, year of records in question, and any other pertinent information to help identify the file.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the above listed System Manager, and should include the reason for contesting it and the proposed amendment to the information with supporting information to show how the record is inaccurate. A request for contesting records pertaining to an individual should contain: name, address, ZIP code, name of system of record, year of records in question, and any other pertinent information to help identify the file.

RECORD SOURCE CATEGORIES:

Information in this system is submitted by county and State Committees and their representatives, the Office of Inspector General and other investigatory agencies, the Office of the General Counsel, the Kansas City Commodity Office, the Kansas City Management Office, the Natural Resources and Conservation Service and by third parties and by the individual who is the subject of the file.

USDA/FSA–14

SYSTEM NAME:

Applicant/Borrower, USDA/FSA–14.

SYSTEM LOCATION:

Each Farm Service Agency (FSA) applicant's/borrower's records are located in the Agricultural Credit Team Office, County, District, or State Office through which the financial assistance is sought or was obtained, and electronic account records are in the Finance Office in St. Louis, Missouri. A State Office version of the Team Office, County or District office file may be located in or accessible by the State Office which is responsible for that Agricultural Credit Team, County or District Office. Correspondence regarding borrowers is located in the Agricultural Credit Team, County, District, State and National Office files. The addresses of Agricultural Credit Team, County, District and State Offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Farm Service Agency." The Finance Office is located at 1520 Market Street, St. Louis, Missouri 63103.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former FSA applicants/borrowers and their respective household members including members of associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes files containing characteristics of applicants/borrowers and their respective household members, such as gross and net income, sources of income, capital, assets and liabilities, net worth, age, race, number of dependents, marital status, reference material, farm or ranch operating plans, and property appraisals.

The system also includes credit reports and personal references from credit agencies, lenders, businesses, and individuals. In addition, a running record of observation concerning the operations of the person being financed is included. A record of deposits to and withdrawals from an individual's supervised bank account is also contained in those files where appropriate. In some Agricultural Credit Team and County Offices, this record is maintained in a separate folder containing only information relating to activity within supervised bank accounts. Some items or information are extracted from the individual's file and placed in a card file for quick reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et. seq.*, 42 U.S.C. 1471 *et. seq.*, and 42 U.S.C. 2706.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records contained in this system may be disclosed:

(1) To the appropriate agency, whether Federal, State, local, tribal, foreign, or other public authority foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute or a rule, regulation or order issued pursuant thereto, or of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving agency;

(2) To business firms in a trade area that buy chattel or crops or sell them for commission. The disclosure may include the name, home address, social security numbers and financial information. This is being done so that FSA may benefit from the purchaser notification provisions of section 1324 of the Food Security Act of 1985 (7 U.S.C. 163(e)). The Act requires that potential purchasers of farm commodities must be advised ahead of time that a lien exists in order for the creditor to perfect its lien against such purchases;

(3) To the appropriate authority when a default involves a security interest in tribal allotted or trust land. The disclosure may include the name, home address, and information concerning default on loan repayment. Pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 (42 U.S.C. 12701 et. seq.), liquidation may be pursued only after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe(s);

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(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual;

(5) To a collection or servicing contractor, financial institution, or a local, State, or Federal agency, when FSA determines such referral is appropriate for servicing or collecting the borrower's account or as provided in contracts with servicing or collection agencies. The disclosure may include name, home address, social security number, and financial information;

(6) In a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation and, by careful review, the agency determines that the records are both relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records;

(7) To financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources when FSA determines such referral is appropriate to encourage the borrowers to refinance their FSA indebtedness as required by Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471). The disclosure may include name, home address, and financial information for selected borrowers;

(8) To the Department of the Treasury, Internal Revenue Service (IRS), any legally enforceable debt(s), to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A;

(9) To the Defense Manpower Data Center, Department of Defense, and the United States Postal Service any information regarding indebtedness, for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the FSA in order to collect debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, administrative or salary offset procedures, or by collection agencies;

(10) To lending institutions any financial information when FSA determines the individual may be financially capable of qualifying for credit with or without a guarantee. The referral may contain name, home address, and financial information;

(11) To lending institutions that have a lien against the same property as FSA, for the purpose of the collection of the debt. These loans can be under the direct or guaranteed loan programs. Disclosure may include names, home addresses, social security numbers, and financial information;

(12) To private attorneys under contract with either FSA or with the Department of Justice for the purpose of foreclosure and possession actions and collection of past due accounts in connection with FSA loans;

(13) To the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records;

(14) To the Department of Housing and Urban Development (HUD) as a record of location utilized by Federal agencies for an automatic credit prescreening system. The disclosure may include names, home addresses, social security numbers, and financial information;

(15) To the Department of Labor, State Wage Information Collection agencies, and other Federal, State, and local agencies, as well as those responsible for verifying information furnished to qualify for Federal benefits, to conduct wage and benefit matching through manual and/or automated means, for the purpose of determining compliance with Federal regulations and appropriate servicing actions against those not entitled to program benefits, including possible recovery of improper benefits. This may include names, home addresses, social security numbers, and financial information; and

(16) To financial consultants, advisors, or underwriters, when FSA determines such referral is appropriate for developing packaging and marketing strategies involving the sale of FSA loan assets. The referral may include names, home addresses, and financial information; and

(17) To state-certified or state-licensed appraisers and employees of Federal agencies other than USDA qualified to perform real estate appraisals.

The specific information to be disclosed to the appraiser is:

—Production Flexibility Contract Acres

—Payment yields

—Agricultural use acres and cropland acres

—Copies of aerial photography

—Conservation Reserve Program (CRP) acres

—Highly erodible land (HEL) delineations

—Wetland classifications

Notwithstanding the foregoing, USDA will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by USDA and is necessary for the administration of title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1361 *et seq.*, unless the information to be released is in an aggregate form that does not identify the information furnished by any person. FSA will continue to make available for public inspection information regarding acreage allotments and farm marketing quotas established for farms as required by law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically and in file folders at the Agricultural Credit Team, County, District, State, and National offices. A limited subset of personal, financial and characteristics data required for effective management of the programs and borrower repayment status is maintained on disk or magnetic tape at the Finance Office. This subset of data may be accessed by the authorized personnel from each office.

RETRIEVABILITY:

Records are indexed by name, identification number and type of loan. Data may be retrieved from paper records or the magnetic tapes. A limited subset is available through telecommunications capability, ranging from telephones to intelligent terminals. All FSA Agricultural Credit Team, State, National and some county offices have the telecommunications capability available to access this subset of data.

SAFEGUARDS:

Records are kept in locked offices at the Agricultural Credit Team, County, District, State and National Offices. A limited subset of data is also maintained in a tape and disk library and an on-line retrieval system at the Finance Office. Access is restricted to authorized FSA personnel. A system operator and terminal passwords and code numbers are used to restrict access to the online system. Passwords and code numbers are changed as necessary.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 366–380) and in accordance with FSA's disposal schedules. The Agricultural Credit Team, District, County, State and National office dispose of records by shredding, burning, or other suitable disposal methods after established retention periods have been fulfilled. Finance Office records are disposed of by overprinting. (Destruction methods may never compromise the confidentiality of information contained in the records). Applications, including credit reports and personal references which are rejected, withdrawn, or otherwise terminated, are kept in the Agricultural Credit, County, District, or State office for 2 full fiscal years and 1 month after the end of the fiscal year in which the application was rejected, withdrawn, canceled, or expired. If final action was taken on the application, including an appeal, investigation, or litigation, the application is kept for 1 full fiscal year after the end of the fiscal year in which final action was taken. The records, including credit reports, of borrowers who have paid or otherwise satisfied their obligations are retained at the Agricultural Credit Team, County, District, or State Office for 1 full fiscal year after the fiscal year in which the loan was paid in full. Correspondence records at the National Office which concern borrowers and applicants are retained for 3 full fiscal years after the last year in which there was correspondence.

SYSTEM MANAGER(S) AND ADDRESS:

The Agricultural Credit Manager at the Agricultural Credit Team Office or at the County Office, District Director at the District Office, and the State Executive Director at the State Office, the Assistant Administrator of the Finance Office for Finance Office in St. Louis, MO, and the FSA Administrator for the National Office at the following address: USDA/FSA Administrator, Stop 0501, PO 2415, Washington, DC 20250–2415.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or determine whether the system contains records pertaining to themselves from the appropriate Systems Manager. If specific location of the record is not known, the individual should address their request to: Administrator, FSA, Attention: Freedom of Information Officer, Stop 0506, PO Box 2415, Washington, DC 20013–2415. A request for information should include: name, address, State and county where the loan was applied for or approved, and particulars involved (i.e. date of request/approval, type of loan, etc.).

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in this system which pertains to themselves by submitting a written request to one of the Systems Managers. The envelope and letter should be marked "Privacy Act Request." A request for information should contain: name, address, ZIP code, name of the system of records in question, and any other pertinent information to help identify the file.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the above listed System Manager, and should include the reason for contesting it and the proposed amendment to the information with supporting information to show how the record is inaccurate. A request for contesting records should contain: name, address, ZIP code, name of the system of records in question, and any other pertinent information to help identify the file.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the borrower. Credit reports and personal references come primarily from credit agencies and creditors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–22579 Filed 9–7–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to request an extension of a currently approved information collection for a form used in support of the FSA Farm Loan Programs (FLP). This renewal does not involve any revisions to the program rules.

DATES: Comments on this notice must be received on or before November 9, 2001, to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, USDA, Farm Service Agency, Loan Servicing and Property Management Division, 1400 Independence Avenue, SW, STOP 0523, Washington, DC 20250–0523; Telephone (202) 690–4014; Electronic mail: mike_cumpton@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Form FSA 1962–1, Agreement for the Use of Proceeds/Release of Chattel Security.

OMB Control Number: 0560–0171.

Expiration Date of Approval: September 30, 2001.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: This form is needed to implement section 335(f) of the Consolidated Farm and Rural Development Act (7 U.S.C 1985(f)), which requires release of normal income security to pay essential household and farm operating expenses of the borrower, until the Agency accelerates the loan.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 20 minutes per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 55,000.

Estimated Number or Responses Per Respondent: 1.

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Estimated Total Annual Burden On Respondents: 18,150.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Michael Cumpton, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW, STOP 0523, Washington, DC 20250–0523.

Comments will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on August 31, 2001.

James R. Little,

Acting Administrator, Farm Service Agency.

[FR Doc. 01–22580 Filed 9–7–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

[Docket No. 0413–MGGL16C]

Idaho Cobalt Project Plan of Operations, Salmon-Challis National Forest, Lemhi County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) for the proposed Idaho Cobalt Project Mine. The Salmon-Challis National Forest Supervisor has determined that preparation of the EIS is required for approval of the Idaho Cobalt Project Plan of Operations (Plan), under FS regulations governing locatable mineral activities on National Forest System Lands (36 CFR 228A) and CEQ regulations implementing the National Environmental Policy Act (40 CFR 1501–1508). The EIS will disclose the environmental effects of the Plan submitted by Formation Capital Corporation U.S. (Formation) for an underground cobalt-copper-gold mine on the Salmon/Cobalt District of the Salmon-Challis National Forest in Lemhi County, Idaho.

The proposed Idaho Cobalt Project is located in an area of the Salmon-Challis National Forest open to mineral location and development. The Forest Service is guided by law and policy, which recognizes Formation's legal right to explore for, and develop mineral resources. At the same time, the Forest Service is charged to ensure that these activities are conducted in an environmentally sound manner, and that once completed, reclamation of the land to a stable and useable condition is accomplished.

The Idaho Cobalt is approximately 45 road miles west from Salmon, Idaho or 22 direct miles. The initial Plan submitted by Formation describes the proposed Idaho Cobalt Project, including production adits and declines, waste rock disposal areas, processing plant, tailings disposal methods, haul roads, and ancillary support facilities on National Forest System Lands. Two separate underground mining operations would be developed and used to extract ore from two deposits, the Ram and Sunshine. Three portals are being proposed along the slopes above Bucktail Creek. A mill would be situated on a plateau located east of the portals. Tailings disposal is proposed to utilize a dry stacking method in an area located east and down slope of the mill. Process waters would be managed and are proposed to be recycled in a closed system, using a water management reservoirs located east and down slope of the tailings disposal site. The proposed nominal ore production rate for mining has been established at 800 tons per day (tpd) or 280,000 tons per year (tpy). The initial start-up rate is proposed to be 600 tpd or 210,000 tpy, with full production in the third year. Current reserves and resources identified by Formation would allow for a 9-year mine life. The project would have a surface disturbance estimated at 191 acres.

The proposed Idaho Cobalt Project is located adjacent to the Blackbird Mine in the historic Blackbird Mining District. Extensive negotiations have occurred and are still ongoing between the existing and previous owners of the Blackbird property and state and federal agencies regarding environmental damage arising from the previous mining operations in the area. The problems created by past mining include degradation of waters draining from mine portals, waste dumps and the tailings impoundment area, as well as spilled tailings along Blackbird Creek. Actions taken by federal and state agencies under Superfund authority have included a Natural Resource Damage Assessment which was settled by Consent Decree, and an Administrative Order on Consent (AOC) for the performance of early removal action and a Remedial Investigation/Feasibility Study (RI/FS) for site cleanup which is still ongoing.

The area that may potentially be affected by the proposed Idaho Cobalt Project mining and mill operation drains to Big Deer Creek, and Panther Creek. Ninety-nine percent of the Panther Creek basin is National Forest; less than one percent is privately owned. Panther Creek flows into the Salmon River, a principal sub-basin of the Snake River. Preliminary environmental issues identified for the immediate project area are described below. Potential Project impacts outside this area include the transportation corridor (Salmon, Idaho to the project site); impact to the socio-economic areas of Lemhi and Custer Counties with the respective county seats of Salmon and Challis, Idaho; and line of sight visual impacts from Gant Ridge trails.

The EIS will tier to the Salmon National Forest Land and Resource Management Plan (Forest Plan) and Final EIS, January 1988, which provide overall guidance of all land management activities on the Salmon National Forest, including mineral exploration and development. This document also tiers to the 1982 Final Environmental Impact Statement for the Blackbird Cobalt-Copper Project.

DATES: Written comments and suggestions must be submitted on or before October 31st, 2001.

ADDRESSES AND FURTHER INFORMATION: Submit written comments and suggestions on the proposed activities to Ray Henderson, Project Coordinator, Salmon-Challis National Forest, 50 Hwy 93 South, Salmon, Idaho, 83467, Phone (208) 756–5100. To be placed on the project mailing list or for additional information, contact the Project Coordinator identified above.

SUPPLEMENTARY INFORMATION: Formation Capital Corporation U.S. (Formation) submitted a Plan of Operations for the proposed Idaho Cobalt Project to the Salmon-Challis National Forest in January 2001. The plan, as proposed and subsequently modified by Formation, is summarized as follows:

The proposed Idaho Cobalt Project would consist of developing an 800-ton per day mine and mill complex. The project would involve mining cobalt-copper-gold reserves with an annual production rate of 280,000 tons of ore at full production. Current reserves and resources would allow for a 9-year mine life. The ore would be mined from two deposits, the Ram and the Sunshine and conveyed to a mill situation on a plateau (The Big Flat). Underground mining methods are proposed, and a flotation mill would be used to process ore from the mine. At full production the mill would produce approximately 32 tons of concentrate and 768 tons of tailings per day. The concentrate would be shipped to an off-site hydrometallurgical facility.

Ram and Sunshine ore would be hauled directly to the mill with 30-ton trucks, where the ore would be stockpiled. The approximate haul distance to the proposed site of the mill from the Ram portal is 2.8 miles and 1.5 miles from the Sunshine portal. Another proposal being considered for the Ram ore is an overhead tram from the 7070 Ram portal to the mill. A conceptual design for the tram includes a 70 cubic foot tramcar traveling on track cables and driven by a haul cable. Two pivoted intermediate towers, approximately 35 feed high, would support the track cables. The tramcar would be loaded from a hopper at the Ram portal, and the car would discharge into a hopper at the mill crusher. A third option for delivering the Ram ore to the mill is to develop a shaft in the second year. The shaft would be located near the mill, connecting to an adit joining the Ram underground workings.

The proposed tailings disposal facility and the water management reservoir are also located on the Big Flat, east of the mill. Disposal of tailings in this area via a dry stacking method was proposed by Formation to take advantage of relatively flat topography, avoidance of wetlands, suitable foundation soils, elimination of the need for a tailings dam, and distance from active drainages and streams. Approximately 60 percent of the tailings would be required underground as backfill. Process waters would be managed and recycled in a closed system, using lined water management reservoirs located east and down slope of the tailings disposal site to reduce water requirements as well as eliminate the need for a water discharge. An additional modification includes the identification of 80 acres for Land Application of excess waters in the latter stages of mine life. The project would disturb 191 acres of National Forest Land.

Power for the project would be secured from an existing power line delivering power to the Blackbird Mine. Emergency power would be supplied with diesel generating equipment located at the main portals and at the mill. This equipment would be sufficient only for essential mill equipment and mine pumps.

It is anticipated that most of the project employees would live in the Salmon area. Employees would be transported to the project site by buses or vans assigned to personnel. The proposed transportation route for the employees is via the Williams Creek Summit, along the Williams Creek road, the Deep Creek road, the Panther Creek road and the Blackbird Creek road. The transportation route for the concentrates is also expected to be via Williams Creek Summit. Equipment, reagents and other freight would also be hauled in along this route.

There would be three main phases in the life of the Idaho Cobalt Project: The construction phase, the production phase, and the reclamation phase. There would also be concurrent reclamation in the construction and production phases as existing disturbed areas or new disturbance is reclaimed post-use. The construction phase would include improving 1 mile of existing roads (4 acres), and the preparation and construction of 4.2 miles of new roads (20.5 acres), the portals and waste rock dumps (15.8 acres) tram corridor (4.8), the mill site (3.5 acres), power line and substation (2.4 acres), tailings disposal site (20 acres), and the water management reservoir (13 acres). Soil stockpile areas, stormwater diversion ditches and borrow areas for 30 acres, with 80 acres proposed for Land Application of reservoir waters towards the end of mine life.

The production phase would bring the mill on line at 400-tons per day increasing to 800-tons per day as the underground Ram mine expands. Each of the project components is integral to the whole operation and therefore there would be limited opportunities for concurrent reclamation. However, there would be concurrent reclamation in some areas when active use stops. The reclamation phase would include final shaping of waste rock dumps, sealing mine portals, mill demolition, power line and substation dismantling, tailings disposal area shaping and revegetation, water management reservoir reclamation, and road reclamation.

Cobalt is a strategic and industrial metal with a diverse range of critical and important uses. The largest single use is in super-alloys for air and land-based gas turbine engines. The fastest growing usage is in the battery industry for cell phones, pagers, portable computers and gasoline-electric hybrid power automobiles. Cobalt is used in computer hard disk drives, semiconductors, magnetic data storage and solar collectors. It is a component in the effort to reduce air pollution, as it is a catalyst for removing sulfur from oil to provide for clean burning fuels and has important medical uses as well.

The Salmon Forest Plan provides guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The proposal would occur within Management Area 5B. Management emphasis in this area is on producing long-term timber outputs through a moderate level of investment in regeneration and thinning. It recognizes the potential for high-value locatable mineral occurrence and probable development. It directs that exploration, location, leasing and development of energy and non-energy minerals resources be coordinated with other resources.

Under the United States Mining Laws of May 10, 1872, as amended (30 U.S.C. 22), United States citizens and corporations have the right to search for and develop minerals upon public lands, including National Forest Systems lands, open to mineral entry. Forest Service regulations (36 FR 228, Subpart A) require that the agency work with mineral operators to minimize or eliminate adverse environmental impacts from mineral activities on National Forest System lands.

The FS decision to be made in response to Formation's Plan is described by regulation at 36 CFR 228.5 and includes: (a) Approve the project as proposed, (b) Notify the operator of changes or additions to the plan of operations deemed necessary to meet the purpose of the regulations.

These regulations also direct the FS to comply with the requirements of the National Environmental Policy Act (NEPA) in connection with each Plan of Operation. In this regard, the Salmon-Challis Forest Supervisor has determined that an EIS is required to support a decision on the Idaho Cobalt Project. The EIS will analyze the direct, indirect, and cumulative environmental effects of the proposed Plan of Operation and other reasonable alternatives including mitigation, monitoring and reclamation measures designed to minimize adverse effects.

Public participation is an important part of the analysis process (40 CFR 1501.7). Scoping activities to date have included a May 3, 2001 meeting at the

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forest headquarters in Salmon, Idaho, between representatives of the Salmon-Challis National Forest, Formation, and state and federal regulatory agencies in recognition of the Idaho Joint Review Process (JRP).

A public scoping meeting was conducted on July 20th in Salmon, Idaho. Notices of the meeting were placed in the paper of Record for Salmon and Challis, the Recorder Herald and Challis Messenger. Comments from the public and other agencies will be used to prepare the Draft EIS. A public scoping meeting is also scheduled for October 11th in Salmon, Idaho. Meeting times and place will be placed in the papers of Record for the Salmon and Challis, the Recorder Herald and Challis Messenger. The public is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision.

The scoping process to date has identified the following primary issues:

1. What is the potential for development of acid mine drainage and mobilization of heavy metals from geologic materials exposed by the proposed mining activities.

2. How would proposed mine facilities and activities prevent, control or treat ARD? What are the long-term maintenance requirements of these facilities along with their predicted long-term viability and stability?

3. What is the potential for adverse impacts to water quality downstream of project facilities from the proposed mining activities, including accidental spills of hazardous materials along the transportation route, and how would water quality be maintained and beneficial uses protected?

4. Would special status fish species and their habitat (threatened, endangered, sensitive) or species whose populations or habitat are present be adversely affected by the proposed mining activities?

5. What is the relationship between this project and the current program to remediate the environmental damage at the Blackbird Mine and to re-establish an anadromous fishery in Panther Creek?

6. Would surface water and groundwater quality monitoring be adequate to detect and allow for the correction of any water quality problems resulting from the proposed mining activities?

7. What is the relationship of the aquifer systems between the proposed project and surrounding areas, particularly the Blackbird Mine and receiving streams? What is the existing quality of groundwater in the project area and how would the project affect existing groundwater quality?

8. In recognition of the Clear Creek wildfire of the summer of 2000, what are the potential effects on water quality from accelerated erosion and sedimentation, in consideration of surface disturbance associated with the proposed mining operations?

9. Initial agency review identified specific issues regarding opportunities to reduce the number of waste rock facilities, consolidation of potentially acid generating material into separate locations, and lining of the tailings and water management reservoir.

10. The water balance and geochemical aspect of the operation will receive a critical review and will include consideration of the option for land application for water management purposes.

11. Opportunities exist to place a transportation system on the project site, which meets Forest guidelines, and to reclaim existing access not meeting standards.

This list may be verified, expanded, or modified based on additional scoping for this proposal.

In order to implement the project, the proponent, Formation, must obtain approval or conduct consultation with several other federal, state, and local regulatory agencies. These agencies include: U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, Army Corps of Engineers, Idaho Department of Environmental Quality, Idaho Department of Water Resources, Idaho State Historic Preservation Officer and Lemhi County, Idaho.

The Salmon-Challis National Forest is the lead agency in the preparation of this EIS. The Idaho Department of Environmental Quality is a cooperating agency. (Other state or federal agencies may be identified as cooperating agencies as a result of the scoping process).

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in February 2002. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposal participate at that time. To be most helpful, comments on the Draft EIS should be as specific as possible. The Final EIS is anticipated to be completed by July 2002.

The Forest Service believes, at this stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage, but that are not raised until after completion of the final environmental impact statement, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, ind.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this Environmental Impact Statement. My address is Salmon-Challis National Forest, 50 Hwy 93 South, Calmon, Idaho 83467.

Dated: September 4, 2001.

George Matejko,

Forest Supervisor, Salmon-Challis National Forest.

[FR Doc. 01–22597 Filed 9–7–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–867]

Automotive Replacement Glass Windshields From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determination of antidumping duty investigation.

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Statutory Time Limits

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to issue the preliminary determination of an antidumping duty investigation within 140 days after the date of initiation. However, if petitioner makes a timely request for an extension of the period within which the determination must be made, section 733(c)(1)(A) of the Act allows the Department to extend the time limit for the preliminary determination until not later than 190 days after the date of initiation.

Background

On March 20, 2001, the Department initiated the above-referenced investigation. *See Notice of Initiation of Antidumping Duty Investigation: Automotive Replacement Glass Windshields from the People's Republic of China*, 66 FR 16651 (March 27, 2001). On July 17, 2001, the Department postponed the deadline for the preliminary determination to August 31, 2001, pursuant to section 733(c)(1)(B) of the Act. *See Automotive Replacement Glass Windshields from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 66 FR 38256 (July 23, 2001) (*"Postponement Notice"*).

Postponement of Preliminary Determination

On August 29, 2001, petitioners made a timely request for a 10-day extension of the period within which the determination must be made in accordance with section 733(c)(1)(A) of the Act. Petitioners noted that the parties in this investigation have made a number of submissions concerning issues which could have a significant impact on the results of the preliminary determination. Further, petitioners noted that the Department's original extension indicated that this investigation involves a "novel product with complex issues related to the * * * appropriate criteria used to define individual models for margin comparison purposes", among other factors. *See Postponement Notice* at 38257. Furthermore, petitioners note that since the original extension of the preliminary determination, petitioners have made an allegation of critical circumstances that it must address in the preliminary determination. Therefore, based on petitioners' timely request for an extension in accordance with section 733(c)(1)(A) of the Act, the Department is postponing the deadline for issuing this determination until September 10, 2001.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22655 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia; Notice of Court Decision and Suspension of Liquidation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 9, 2001, in *Heveafil Sdn. Bhd. and Filati Lastex Sdn. Bhd.* v. *United States*, Court No. 98–04–00908, Slip. Op. 01–97 (CIT), a lawsuit challenging the Department of Commerce's (the Department's) final results of administrative review of the antidumping order on extruded rubber thread from Malaysia, the Court of International Trade (CIT) affirmed the Department's remand determination and entered a judgment order. In its remand determination, the Department annulled all findings and conclusions made pursuant to the duty-absorption inquiry conducted for Heveafil Sdn. Bhd. (Heveafil) and Filati Lastex Sdn. Bhd. (Filati). As a result of the remand determination, the final antidumping duty rates for Heveafil and Filati were unchanged. However, the Court's decision was not in harmony with the Department's original final results. Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*"Timken"*), the Department will continue to order the suspension of liquidation of the subject merchandise until there is a "conclusive" decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct the Customs Service (Customs) to liquidate Heveafil's and Filati's entries of subject merchandise consistent with the Department's determination concerning the October 1, 1995, to September 30, 1996, period of review (POR).

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, AD/CVD Enforcement Group I, Office II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0656.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of its final results of the administrative review of the antidumping order on extruded rubber thread, on March 16, 1998. *See Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty Administrative Review*, 63 FR 312752 (March 16, 1998) (*Thread Final Results*).

Following publication of *Thread Final Results*, Heveafil and Filati, respondents in this case, filed a lawsuit with the CIT challenging the Department's determination on eleven issues. On February 27, 2001, the CIT issued a remand with respect to one issue and affirmed the Department on all other issues. Specifically, the Court remanded the case to the Department to annul all findings and conclusions made pursuant to the duty-absorption inquiry for *Thread Final Results* because it held that the Department lacked statutory authority under section 751(a)(4) of the Tariff Act of 1930, as amended, to conduct such an inquiry for Heveafil and Filati. *See Heveafil Sdn. Bhd. and Filati Lastex Sdn. Bhd.* v. *United States*, Court No. 98–04–00908, Slip. Op. 01–22, at page 16 (CIT February 27, 2001).

On March 6, 2001, the Department issued its Final Results of Redetermination, in which it annulled all findings and conclusions made pursuant to the duty-absorption inquiry conducted in the subject review with respect to Heveafil and Filati. As a result of the remand determination, the final antidumping duty rates for Heveafil and Filati were unchanged.

The CIT affirmed the Department's Final Results of Redetermination on August 9, 2001. *See Heveafil Sdn. Bhd. and Filati Lastex Sdn. Bhd.* v. *the United States*, Court No. 98–04–00908, Slip. Op. 01–97 (CIT).

Suspension of Liquidation

The U.S. Court of Appeals for the Federal Circuit in *Timken* held that the Department must publish notice of a

decision of the CIT or the Federal Circuit which is not "in harmony" with the Department's final determination. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. Therefore, pursuant to *Timken*, the Department will continue to suspend liquidation pending the expiration of the period to appeal the CIT's August 9, 2001 decision or, if that decision is appealed, pending a final decision by the Federal Circuit. The Department will instruct Customs to liquidate Heveafil's and Filati's entries of subject merchandise during the POR, effective October 8, 2001, in the event that the CIT's ruling is not appealed.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22651 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests by the respondent, Ausimont SpA and Ausimont USA (Ausimont), and the petitioner, E.I. DuPont de Nemours & Company (DuPont), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. The period of review (POR) is August 1, 1999, through July 31, 2000.

We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the United States price and NV.

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker or Gabriel Adler, at (202) 482–1756 or (202) 482–3813, respectively; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001).

Case History

On August 30, 1988, the Department published in the **Federal Register** the antidumping duty order on granular PTFE resin from Italy (53 FR 33163). On August 16, 2000, the Department issued a notice of opportunity to request the twelfth administrative review of this order, for the period August 1, 1999, through July 31, 2000. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 65 FR 49962 (August 16, 2000). Pursuant to this notice, on August 31, 2000, the petitioner and Ausimont requested that the Department conduct an administrative review. We published the notice of initiation of this antidumping duty administrative review on October 2, 2000. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 65 FR 58733 (October 2, 2000).

We issued an antidumping questionnaire to Ausimont on October 10, 2000, followed by supplemental questionnaires on February 12, May 2, and May 14, 2001. We received timely responses to these questionnaires.

We conducted a verification of sales and cost data submitted by Ausimont SpA at the company's corporate headquarters in Bollate, Italy, from July 11 through July 20, 2001. We verified data submitted by Ausimont USA at the company's Thorofare, New Jersey office on August 21 and 22, 2001. *See Memorandum from Verification Team to Gary Taverman* (Verification Report), dated August 31, 2001, on file in the Central Records Unit (CRU) located in Room B–099 of the main Department of Commerce building. We used standard verification procedures, including on-site inspection of the respondent producer's facilities and examination of relevant sales and financial records.

Scope of the Review

The product covered by this review is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Final Affirmative Determination; Granular Polytetrafluoroethylene Resin from Italy*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTS). We are providing this HTS number for convenience and U.S. Customs purposes only. The written description of the scope remains dispositive.

Fair Value Comparisons

We compared the constructed export price (CEP) to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual transactions to contemporaneous monthly weighted-average prices of sales of the foreign like product.

We first attempted to compare contemporaneous sales of products sold in the United States and the comparison market that were identical with respect to the following characteristics: type, filler, percentage of filler, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. sales with comparison market sales of the most similar merchandise.

Since there were appropriate comparison market sales for all U.S. sales, we did not need to compare U.S. sales to constructed value, in accordance with section 773(a)(4) of the Act.

Constructed Export Price

For all sales to the United States, we calculated CEP, as defined in section 772(b) of the Act, because all sales to unaffiliated parties were made after importation of the subject merchandise into the United States through the respondent's affiliate, Ausimont USA. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States, net of billing adjustments. We adjusted these prices for movement expenses, including international freight, marine insurance, brokerage and handling, U.S. inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted selling expenses incurred by the affiliated seller in connection with economic activity in the United States. These expenses include credit, inventory carrying costs, and indirect expenses incurred by Ausimont USA.

With respect to sales involving imported wet raw polymer that was further manufactured into finished PTFE resin in the United States, we deducted the cost of such further manufacturing in accordance with section 772(d)(2) of the Act.[1]

Finally, we made an adjustment for the profit allocated to the above-referenced selling and further manufacturing expenses, in accordance with section 772(d)(3) of the Act.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating NV, we compared Ausimont's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

[1] We note that on November 20, 2000, Ausimont requested that the Department apply the "special rule" in accordance with section 772(e) of the Act. Under the special rule, where the value added to the merchandise by an affiliate is likely to exceed substantially the value of the subject merchandise, the administering authority determines the constructed export price using the price of identical or similar subject merchandise sold by the exporter or producer to an unaffiliated person, provided that the administering authority determines that the use of such sales is appropriate. On November 28, 2000, we rejected Ausimont's request, noting that, as in the previous review (where the same issue had been raised) the administrative burden of applying section 772(d)(2) of the Act in this case is relatively low, and the proportion of the respondent's further-manufactured sales relative to total sales is sufficiently high to raise concerns about the accuracy of the dumping margin that would result from application of the special rule. See Letter from the Department of Commerce to Ausimont, dated November 28, 2000, including Memorandum from Magd Zalok to Holly Kuga, Acting Deputy Assistant Secretary for Import Administration, dated December 9, 1999, on file in the CRU.

B. Cost of Production Analysis

Based on a timely allegation filed by the petitioners, we initiated a cost of production (COP) investigation of Ausimont, to determine whether sales were made at prices below the COP. *See Memorandum from David Layton and Magd Zalok to Gary Taverman, dated February 5, 2001.*

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses, interest expenses, selling expenses, and packing costs. Initially, Ausimont provided fiscal-year 1999 cost data for the foreign like product because fiscal-year (FY) 2000 audited data were not available when the initial questionnaire response was prepared. Once the FY 2000 data became available, we requested, and Ausimont submitted, COP data for the POR. *See* Letter from the Department of Commerce to Ausimont, dated June 11, 2001. We relied on the submitted COPs for the POR in our COP analysis.

2. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the revised COP to home market prices, less any rebates, discounts, applicable movement charges, and direct and indirect selling expenses (which were also deducted from COP).

3. Results of the COP Test

We disregarded below-cost sales where 20 percent or more of the respondent's sales of a given product were made at prices below the COP. We determined such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act.

C. Calculation of NV Based on Comparison-Market Prices

We determined home market prices net of price adjustments (i.e., early payment discounts and rebates). Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We increased the reported U.S. packing costs by an amount for packing labor, consistent with the findings of the sales verification conducted in this case. *See* Verification Report. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act (*i.e.*, differences in credit expenses). Finally, we made a CEP-offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act as discussed in the *Level of Trade/CEP Offset* section below.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales at the same level of trade in the comparison market as the level of trade of the U.S. sales. The NV level of trade is that of the starting-price sales in the comparison market. For CEP sales, such as those made by Ausimont in this review, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than that of the U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under

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section 773(a)(7)(B) of the Act (the CEP-offset provision). *See, e.g., Industrial Nitrocellulose From the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 6148, 6151 (February 8, 2000) (Industrial Nitrocellulose).

In implementing these principles in this review, we obtained information from Ausimont about the marketing involved in the reported U.S. sales and in the home market sales, including a description of the selling activities performed by Ausimont for each channel of distribution. In identifying levels of trade for CEP and for home market sales, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act, and those reflected in the home market starting price before making any adjustments. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

The record evidence in this review indicates that the home market and the CEP levels of trade have not changed from the 1998–99 review,[2] the most recently completed review in this case. As explained below, we determined in this review that, as in the prior review, there was one home market level of trade and one U.S. level of trade (*i.e.*, the CEP level of trade).

In the home market, Ausimont sold directly to fabricators. These sales primarily entailed selling activities such as technical assistance, engineering services, research and development, technical programs, and delivery services. Given this fact pattern, we found that all home market sales were made at a single level of trade. In determining the level of trade for the U.S. sales, we only considered the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *See, e.g., Industrial Nitrocellulose* at 6150. The CEP level of trade involves minimal selling functions such as invoicing and the occasional exchange of personnel between Ausimont SpA and its U.S. affiliate. Given this fact pattern, we found that all U.S. sales were made at a single level of trade.

[2] *See Notice of Final Results of Antidumping Duty Administrative Review; Granular Polytetrafluoroethylene Resin From Italy*, 65 FR 54993 (September 12, 2000), and *Granular Polytetrafluoroethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 30064 (May 10, 2000).

Based on a comparison of the home market level of trade and this CEP level of trade, we find the home market sales to be at a different level of trade from, and more remote from the factory than, the CEP sales. Section 773(a)(7)(A) of the Act directs us to make an adjustment for difference in levels of trade where such differences affect price comparability. However, we were unable to quantify such price differences from information on the record. Because we have determined that the home-market level of trade is more remote from the factory than the CEP level of trade, and because the data necessary to calculate a level-of-trade adjustment are unavailable, we made a CEP-offset adjustment to NV pursuant to section 773(a)(7)(B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margin exists for the period August 1, 1999, through July 31, 2000:

Exporter/manufacturer	Weighted-average margin percentage
Ausimont SpA	2.15

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. We encourage parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Assessment

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate applicable to all appropriate entries. We calculated an importer-specific duty assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Upon issuance of the final results of review, where the assessment rate is above *de minimis*, we will instruct the U.S. Customs Service to assess duties on all entries of subject merchandise by that importer.

Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of granular PTFE resin from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Ausimont will be the rate established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 46.48 percent, the "all others" rate established in the LTFV investigation. *See* 53 FR 26090 (July 11, 1988).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility to file a certificate

regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22649 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Oil Country Tubular Goods From Korea: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of the antidumping duty administrative review of oil country tubular goods from Korea.

SUMMARY: In response to a request from SeAH Steel Corporation ("SeAH"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on oil country tubular goods ("OCTG") from Korea. This review covers one manufacturer/exporter of the subject merchandise to the United States, SeAH, and the period August 1, 1999 through July 31, 2000, which is the fifth period of review ("POR").

We have preliminarily determined that SeAH made sales below normal value ("NV"). If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the constructed export price ("CEP") and NV. The preliminary results are listed below in the section entitled "Preliminary Results of Review."

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Scott Lindsay, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5255, or (202) 482–3782, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

On August 11, 1995, the Department published in the **Federal Register** an antidumping duty order on oil country tubular goods (OCTG) from Korea (60 FR 41058). On August 31, 2000, the Department received a timely request from SeAH to conduct an administrative review pursuant to section 351.213(b)(2) of the Department's regulations. We published a notice of initiation of this antidumping duty administrative review on OCTG on October 2, 2000 (65 FR 58733).

The Department subsequently determined it was impracticable to complete the review within the standard time frame, and extended the deadline for completion of this antidumping duty administrative review. *See Oil Country Tubular Goods from Korea: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review*, 66 FR 23232 (May 8, 2001).

Scope of Review

The products covered by this order are oil country tubular goods ("OCTG"), hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive of the scope of this review.

Period of Review

This review covers the period August 1, 1999 through July 31, 2000.

Verification

As provided in section 782(i) of the Act, we verified information provided by SeAH using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records.

Date of Sale

SeAH reported the date of invoice as the date of sale for its U.S. market sales and the purchase order date as the date of sale in the third country market. SeAH stated that, in the third country market, the material terms of sale, i.e. price and quantity, are finalized on the purchase order date, and therefore, this date was reported as the date of sale. For its U.S. sales, SeAH stated that the vast majority of sales are made from inventory. For these sales, the customer generally contacted Pusan Pipe America ("PPA"), SeAH's affiliated reseller. According to SeAH, no set purchase order was generated, and the invoice was the first document which indicated that a transaction occurred. Therefore, the invoice date best reflects the date on which the material terms of sale are established. On June 1, 2001, SeAH reiterated that the dates of sale reported in both markets best reflect the dates on which the material terms were set. The Department, therefore, is preliminarily using the dates of sale reported by SeAH.

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Transactions Reviewed

SeAH produced OCTG in Korea and shipped it to the United States. PPA was the importer of record for all U.S. sales. All of SeAH's U.S. sales are classified as CEP sales (*see* "United States Price" section below). The Department's questionnaire instructed the respondent to report CEP sales made after importation if the dates of sale fell within the POR (*see* page C–1 of the Department's October 26, 2000 Questionnaire). Therefore, as it did in the 1997–1998 review, the Department again reviewed U.S. sales during the POR when those sales involved subject merchandise that had entered the United States and been placed in the physical inventory of SeAH's U.S. affiliate. The questionnaire also instructed the respondent to report CEP sales made prior to importation when the entry dates fell within the POR. Consequently, we have limited our U.S. database to these sets of transactions.

Comparison Market

The Department determines the viability of a comparison market by comparing the aggregate quantity of comparison market sales to U.S. sales. An exporting country is not considered a viable comparison market if the aggregate quantity of sales of subject merchandise to that market amounts to less than five percent of the quantity of sales of subject merchandise into the United States during the POR. *See* section 773(a)(1)(B) of the Act; 19 CFR 351.404. We found Korea was not a viable comparison market because the aggregate quantity of SeAH's sales of subject merchandise in Korea during the POR amounted to less than five percent of the quantity of sales of subject merchandise to the United States during the POR.

According to section 773(a)(1)(B)(ii) of the Act, the price of sales to a third country can be used as the basis for normal value only if such price is representative, if the aggregate quantity (or, where appropriate, value) of sales to that country is at least five percent of the quantity (or value) of total sales to the United States, and if the Department does not determine that the particular market situation in that country prevents proper comparison with the export price or constructed export price. The only third country market to which SeAH sold subject merchandise during the POR was Canada. Sales to Canada, on both a value and a volume basis, were found to be greater than the five percent threshold defined in section 773(a)(1)(B) of the Act and section 19 CFR 351.404 of the Department's regulations. In addition, we found that the market situation in Canada did not prevent proper comparison between normal value and constructed export price. Therefore, we used Canadian sales in our analysis of petitioners' allegation regarding sales below cost (*see* "Normal Value" section below), and have used SeAH's sales to Canada as the basis for normal value.

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than normal value, we compared the Constructed Export Price (CEP) to the NV, as described in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transaction prices.

United States Price

We preliminarily determine that all of SeAH's U.S. sales were made "in the United States" by SeAH's U.S. affiliate on behalf of SeAH within the meaning of section 772(b) of the Act, and thus, should be treated as CEP transactions. *See AK Steel Corp.* v. *United States*, 226 F.3d 1361, 1374 (Fed. Cir. 2000).

The starting point for the calculation of CEP was the delivered price to unaffiliated customers in the United States. We identified the appropriate starting price by adjusting for early payment discounts. In accordance with section 772(c)(2) of the Act, we made deductions for movement expenses, including foreign inland freight, ocean freight, marine insurance, foreign and U.S. brokerage and handling, U.S. inland freight, U.S. wharfage, and U.S. customs duties. In accordance with section 772(d)(1) of the Act, we also deducted credit expenses and indirect selling expenses, including inventory carrying costs. In accordance with section 772(c)(1)(B) of the Act, we added duty drawback to the starting price. In accordance with section 772(d)(2) of the Act, we deducted the cost of further manufacturing where such deduction was appropriate. This deduction for further manufacturing was based on the fees charged by unaffiliated U.S. processors; SeAH indicated that the reported further processors' charges included processing costs and, where applicable, the cost of materials. SeAH also indicated that the reported further processors' charges did not include separate G&A expense information related to this further processing because all of the expenses incurred by PPA, including the minimal G&A expense associated with PPA's dealings with further processors, were reported as indirect selling expenses. Finally, we deducted an amount of profit allocated to these expenses, in accordance with section 772(d)(3) of the Act.

Normal Value

A. Model Match

In making comparisons in accordance with section 771(16) of the Act, we considered all products described in the "Scope of Review" section of this notice, above, sold in the comparison market in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Appendix V of the Department's October 26, 2000 antidumping questionnaire.

In the most recently completed segment of the proceeding involving SeAH, i.e., the third review, the Department disregarded SeAH's sales that failed the cost test. *See Oil Country Tubular Goods From Korea; Final Results of Antidumping Duty Administrative Review*, 65 FR 13364 (March 13, 2000). We therefore had reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that SeAH's sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below COP. Therefore, we examined whether sales in the comparison market were below the cost of production.

B. Cost of Production and Constructed Value

1. *Cost of Production:* Using sales and COP information provided by the respondent, we compared sales of the foreign like product in the comparison market with the model-specific COP figures for the POR. In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, including all costs and expenses incidental to placing the foreign like product in packed condition and ready for shipment.

After calculating COP, we tested whether comparison market sales of the foreign like product were made at prices below COP and, if so, whether the below-cost sales were made within an extended period of time in substantial quantities and at prices that did not permit recovery of all costs within a reasonable period of time. *See* section 773(b)(1) of the Act. Because each individual price was compared to the POR average COP, any sales that were below cost were also determined not to be at prices which permitted cost recovery within a reasonable period of time. *See* section 773(b)(2)(D) of the Act. We compared model-specific COPs to the reported comparison market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that model because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model during the POR were at prices less than the weighted-average COPs for the POR, we disregarded the below-cost sales because they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2) (B) and (C) of the Act, and were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

2. *Constructed Value:* In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable contemporaneous sales of subject merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included SeAH's cost of materials and fabrication (including packing), SG&A expenses, and profit. *See* section 773(e)(2)(A) of the Act. In accordance with the Department's October 26, 2000 questionnaire, the reported cost of materials included import duties associated with obtaining the materials. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we relied on SeAH's reported weighted-average third country selling expenses.

C. Price-to-Price Comparison

Where appropriate, for comparison to CEP, we made adjustments to NV by deducting Korean inland freight from the factory to the port, brokerage and handling, terminal charges, wharfage, international ocean freight and packing, in accordance with section 773(a)(6)(B) of the Act, and direct selling expenses (credit expenses) in accordance with section 773(a)(6)(C)(iii) of the Act. We also made adjustments for differences in costs attributable to differences in physical characteristics of merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

Finally, the Department added duty drawback to third-country prices for comparison to duty-inclusive cost of production and U.S. price. *See Oil Country Tubular Goods from Korea: Final Results of Antidumping Duty Administrative Review*, 64 FR 13169 (March 17, 1999).

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") of the U.S. sales. The NV LOT is that of the starting-price sales in the comparison market. The Court of Appeals for the Federal Circuit ("Federal Circuit") has held that the statute unambiguously requires Commerce to deduct the selling expenses set forth in section 772(d) from the CEP starting price prior to performing its LOT analysis. *See Micron Technology, Inc.* v. *United States*, 243 F.3rd 1301, 1315 (Fed. Cir. 2001). Consequently, the Department will continue to adjust the CEP, pursuant to section 772(d), prior to performing the LOT analysis, as articulated by the Department's regulations at section 351.412. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit.

To determine whether comparison market NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 17, 1997).

In the instant review, SeAH only made sales in both the United States and the third country market, Canada, through its affiliate, PPA. In Canada, SeAH reported only one LOT. SeAH contends that when the CEP adjustments are made, the CEP LOT is less advanced than the foreign market LOT, qualifying SeAH for a CEP offset.

In the foreign market (i.e., the third-country market), the relevant transaction for the Department's analysis is between the affiliate, PPA, and the unaffiliated purchaser in Canada. PPA performs the following selling functions with respect to its Canadian and U.S. sales: negotiating prices, meeting with customers, invoicing, extending credit, managing personnel (i.e., training), strategic and economic planning, computer, legal, accounting, and/or business system development, and procurement and/or sourcing. However, the relevant transaction for U.S. sales, after CEP adjustments are made, is between SeAH and PPA. SeAH does not perform any of the above-listed functions which PPA provides for Canadian customers. On the other hand, for SeAH's sales to PPA, PPA performs four functions that are not provided when PPA sells to Canadian customers: serving as importer of record, paying U.S. customs duties and wharfage, arranging import documents, and inventorying the merchandise. Finally, there is one selling function that PPA provides on its sales to the United States that is performed by SeAH for SeAH's sales through PPA to Canada, market research.

As set forth in section 351.412(f) of the Department's regulations, a CEP offset will be granted where (1) normal value is compared to CEP sales, (2) normal value is determined at a more advanced LOT than the LOT of the CEP, and (3) despite the fact that the party has cooperated to the best of its ability, the data available do not provide an appropriate basis to determine whether the difference in LOT affects price comparability. Since the selling functions provided by PPA for SeAH's sales to the United States, after CEP adjustments are made, are at a marketing stage which is less advanced than for SeAH's sales to Canada, we preliminarily determine that sales in Canada are being made at a more advanced LOT than those to the U.S. Because there is only one level of trade

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in Canada, the data available do not permit us to determine the extent to which this difference in LOT affects price comparability. Therefore, in accordance with section 351.412(f), we are granting SeAH a CEP offset. To calculate this offset, we deducted indirect selling expenses from NV to the extent of U.S. indirect selling expenses.

Currency Conversion

We made currency conversions based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/ exporter	Time period	Margin (percent)
SeAH Steel Corporation	8/1/1999–7/31/ 2000	1.54

We will disclose to any party to the proceeding calculations performed in connection with these preliminary results of review, within five days after the date of the publication of the preliminary results of review. *See* 19 CFR 351.224(b). Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). Any interested party may request a hearing within 30 days of publication of these preliminary results. The hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs unless otherwise notified by the Department. Unless extended under section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of OCTG from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for SeAH, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the LTFV investigation, which is 12.17 percent. *See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Korea*, 60 FR 33561 (June 28, 1995).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677(f)(i)(1)).

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22656 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–007]

Potassium Permanganate From Spain: Notice of Amended Final Results of Antidumping Duty Administrative Review Pursuant to Final Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review pursuant to final court decision

SUMMARY: On February 28, 1992, the United States Court of International Trade (CIT) affirmed the remand determination of the Department of Commerce (the Department) of the final results of the antidumping duty administrative review on potassium permanganate from Spain for the period of review, January 1, 1986 to December 31, 1986. In order to give effect to this final and conclusive decision, we are amending our final results retroactively.

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Jack K. Dulberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5505.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1988, the Department published in the **Federal Register** a notice of final results of antidumping duty administrative review on potassium permanganate from Spain *See Notice of Final Results of Antidumping Duty Administrative Review on Potassium Permanganate from Spain*, 53 FR 21504 (June 8, 1988) (*Final Results*). Industria Quimica del Nalon (IQN), (formerly known as Asturquimica), the sole respondent in this case, subsequently appealed the Department's determination before the CIT on the following three issues: (1) Whether to allow home market technical services and invoice processing expense adjustments; (2) whether to allow a currency conversion adjustment (*i.e.*, for Spanish currency appreciation during the POR, under 19 CFR 353.60 (b)); and (3) whether to allow a home market tax rebate adjustment. On December 21, 1989, the CIT directed the Department to grant a tax rebate adjustment. *See Industria Quimica del Nalon* v. *United States*, Slip Op. 89–174 (December 21, 1989). On May 24, 1991 the court again remanded the above-referenced proceeding to the Department. In its opinion, the court directed the Department to grant the respondent technical services and invoice processing expense adjustments. *See Industria Quimica del Nalon* v. *United States*, Slip Op. 91–43 (CIT, May 24, 1991).[1]

[1] In its opinion, the CIT also upheld the Department's denial of a currency rate adjustment.

On September 9, 1991, the Department filed with the court its final results of redetermination in which the dumping margin calculation reflected the adjustments for the tax rebate and certain technical services and invoice processing expenses. *See Memorandum for Eric I. Garfinkel, Assistant Secretary from Joseph A. Spetrini, Deputy Assistant Secretary: Remand Results—Industria Quimica del Nalon* v. *United States concerning Potassium Permanganate from Spain*, (September 9, 1991)(Public Version). On February 28, 1992, the CIT affirmed the Department's remand results. *See Industria Quimica del Nalon* v. *United States*, Slip Op. 92–17 (CIT, February 28, 1992). On May 17, 1993, the court issued a final and conclusive decision dismissing the case. *See Industria Quimica del Nalon* v. *United States*, Slip Op. 92–17 (May 17, 1993). This decision was not appealed and has now become final and conclusive.

As a result of these proceedings, the dumping margin for IQN changed to 5.53 percent. We are amending the *Final Results* for the period January 1, 1986 to December 31, 1986 now as notice of this change was inadvertently not published earlier.

As a result of the remand determination, the final dumping margin is as follows:

Manufacturer: IQN

Margin (Percent): 5.53

The "All Others Rate" was not affected by the *Final Results of Redetermination*.

Accordingly, the Department will determine and the United States Customs Service will assess, antidumping duties on all entries of subject merchandise from IQN during the review period in question in accordance with these amended final results. This notice is issued and published in accordance with section 751(a)(1) of the Tariff Act (19 USC 1675(a)(1) and 19 CFR 351.221).

Dated: August 31. 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22654 Filed 9–7–01; 8:45 am]

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See Industria Quimica del Nalon v. *United States*, Slip Op. 91–43 (CIT, May 24, 1991).

DEPARTMENT OF COMMERCE

[A–570–815]

Sulfanilic Acid From the People's Republic of China; Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 10, 2001.

ACTION: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sulfanilic acid from the People's Republic of China. The review covers exports of this merchandise to the United States for the period August 1, 1999, through July 31, 2000, and three firms: Zhenxing Chemical Industry Company (Zhenxing), Yude Chemical Industry Company (Yude), and Baoding Chemical Industry Import and Export Corporation (Baoding). The preliminary results of this review indicate that there are dumping margins only for Zhenxing and the "PRC enterprise."

We preliminarily find that Baoding acted as Zhenxing's shipping agent in preparing Zhenxing's export documents and coordinating its shipments of subject merchandise to the United States during the POR. Therefore, we are preliminarily rescinding the review of Baoding because we preliminarily find that Baoding was not involved in any sales of sulfanilic acid to the United States other than those reported by Zhenxing. In addition, we are preliminarily rescinding the review with respect to Yude because Yude did not export the subject merchandise to the United States during the period of review (POR). Interested parties are invited to comment on these preliminary results. *See Public Comment* section of this notice. The dumping margins are listed below in the "Preliminary Results of the Review" section of this notice.

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Dana Mermelstein, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230 at (202) 482–3964 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On August 16, 2000, the Department published in the **Federal Register** (65 FR 49962) a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on Sulfanilic Acid from the People's Republic of China, for the August 1, 1999, through July 31, 2000, period of review (POR). 57 FR 37524 (August 19, 1992). In accordance with 19 CFR 351.213(b), petitioner, Nation Ford Chemical Company, and respondents, Zhenxing, Yude, Baoding, and PHT International, Inc. ("PHT," the U.S. importer affiliated with Zhenxing), requested a review for the aforementioned period. On October 2, 2000, we published a notice of "Initiation of Antidumping Review." *See* 65 FR 58733. The Department is now conducting this administrative review pursuant to section 751(a) of the Act.

Zhenxing, a Chinese manufacturer described as a joint venture with U.S.-based importer PHT, reported sales of subject merchandise to the United States during the POR in its December 11, 2000, response to Section A (Organization, Accounting Practices, Markets and Merchandise) of the Department's questionnaire. In its response to this questionnaire, Yude reported that it did not make any sales of sulfanilic acid to the United States during the POR. Baoding indicated that it would not be submitting its Section A response. On December 15, 2000, Baoding filed a request to submit an overdue response to Section A of the Department's questionnaire, indicating its interest in seeking a separate rate for Baoding's sales of sulfanilic acid to the United States during the POR. Zhenxing submitted its response to Sections C and D (Sales to the United States and Factors of Production, respectively) on January 8, 2001. On January 10, 2001, the Department granted Baoding's request to submit its overdue Section A response, which was subsequently submitted on January 11, 2001. Baoding submitted its response to Section C on January 24, 2001, and stated that it was not filing a Section D response since all of its sales of subject merchandise to the United States were produced by Zhenxing, and

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the information was already included in Zhenxing's Section D response.

On December 22, 2000, the Department requested, in a letter to the U.S. Customs Service (Customs), the release of certain Customs documents concerning alleged sales of sulfanilic acid from Zhenxing to an unaffiliated importer other than PHT during the POR. Customs released these documents to the Department on January 26, 2001. On February 2, 2001, the Department filed these Customs documents on the record of this review and invited interested parties to provide comments. Petitioner and respondents filed comments on February 16, 2001, and rebuttal comments on February 20, 2001. On February 27, 2001, petitioner filed a submission to rebut the new factual information included in respondents' February 16, 2001, in accordance with section 351.301(c)(1) of the Department's regulations.

Petitioner submitted a letter to the Department on March 5, 2001, requesting that the Department effectively end its review and resort to adverse facts available in assigning a dumping margin. In this letter, petitioner claimed that the Customs documents indicated that information provided in the questionnaire responses was inaccurate and misleading. In an April 13, 2001, submission, respondents indicated that they were prepared to file a consolidated sales response on behalf of Zhenxing and Baoding that would encompass all of "Zhenxing's" sales of sulfanilic acid during the POR, to related and unrelated importers in the United States. According to respondents, their decision was made in light of the Department's determination made in the prior administrative review that Baoding's sales to an unrelated importer were Zhenxing's sales. *See Sulfanilic Acid from the People's Republic of China; Final Results of Administrative Review*, 66 FR 15837 (March 21, 2001) and accompanying Decision Memo at Comment 1, on file in the Department's Central Records Unit (CRU) located in room B–099 of the Department's main building. On May 2, 2001, petitioner filed a letter to the Department again requesting an immediate end to the review and the use of adverse facts available. Petitioner also stated that if the Department chose not to terminate the review, the Department must request that respondents provide a consolidated response for all of Zhenxing's sales to the United States of subject merchandise (including Baoding's U.S. sales of sulfanilic acid), and that respondents address certain deficiencies in their responses that included contradictory and misleading statements which should be verified by the Department. On June 26, 2001, respondents submitted their response to the Department's supplemental questionnaire, which consolidated all sales of subject merchandise and attributed all of the reported sales to Zhenxing as a result of Zhenxing's role in sales negotiations with both the related and unrelated importer. Because Baoding acted only as a shipping agent for Zhenxing in facilitating the exportation of subject merchandise to the United States, and because, in response to the Department's supplemental questionnaire, Baoding consolidated its previously reported "own" sales with those of Zhenxing (*See* Respondents" supplemental questionnaire response dated June 26, 2001), we are preliminarily rescinding the review of Baoding.

Scope of Review

Imports covered by this review are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.22 of the Harmonized Tariff Schedule (HTS), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the subheading 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under the HTS subheading 2921.42.90, is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Review

The review period is August 1, 1999 through July 31, 2000.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondents using standard verification procedures, including on-site inspection of the manufacturer's facilities, and the examination of relevant sales and financial records.

Preliminary Rescission of Review With Respect to Yude

In the last administrative review, the Department did not reach the issue of whether to collapse Zhenxing and Yude due to our determination to assign the PRC-wide rate to Yude and Zhenxing as adverse facts available. *See Sulfanilic Acid from the People's Republic of China; Final Results of Administrative Review*, 66 FR 15837 (March 21, 2001) and accompanying Decision Memo at Comment 10, on file in the CRU. For purposes of this review, the Department did not analyze the issue of whether to collapse Yude and Zhenxing because we are rescinding the review with respect to Yude, as Yude did not export the subject merchandise to the United States during the POR.

Separate Rate Analysis for Zhenxing

It is the Department's standard policy to assign to all exporters of the merchandise subject to review in non-market economy countries a single rate, unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. *See Mitsubishi Heavy Industries, Ltd.*, v. *U.S.*, 1999 CIT, Lexis 39, 54 F.Supp 2d 1183, Slip Op. 99–46 (1999). To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in a non-market economy ("NME") country under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four criteria: (1) Whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits and financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to sign contracts and other agreements.

Zhenxing and Baoding both initially requested separate, company-specific rates. However, since we are preliminarily rescinding the review with respect to Baoding, we have only analyzed the separate rate claim made by Zhenxing. In its questionnaire response, Zhenxing stated that it is an independent legal entity.

1. Absence of De Jure Control

With respect to the absence of *de jure* government control over the export activities of Zhenxing, evidence on the record indicates that Zhenxing is not controlled by the government. In its questionnaire response, Zhenxing stated that it is an independent legal entity. Zhenxing submitted evidence of its legal right to set prices independent of all government oversight. The business license and customs registration certificate of Zhenxing also indicate that it is a joint venture and is permitted to engage in the exportation of sulfanilic acid. We find no evidence of *de jure* government control restricting Zhenxing from the exportation of sulfanilic acid.

2. Absence of De Facto Control

With respect to the absence of *de facto* control over export activities, the information provided and reviewed at verification indicates that the management of Zhenxing, itself, is responsible for the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for this company. In addition, we have found that the respondent's pricing and export strategy decisions are not subject to any outside entity's review or approval, and that there are no governmental policy directives that affect these decisions.

There are no restrictions on Zhenxing's use of its export earnings. The company's general manager has the right to negotiate and enter into contracts and may delegate this authority to other company employees. There is no evidence that this authority is subject to any level of governmental approval. Zhenxing has stated that its management is selected by the general manager in consultation with its board of directors and that there is no government involvement in this selection process.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over its export activities, we preliminarily determine that a separate rate should be applied to Zhenxing. For further discussion of the Department's preliminary determination regarding the issuance of separate rates, *see* Separate Rates Decision Memorandum for Barbara Tillman, Director, Office of AD/CVD Enforcement VII, dated August 31, 2001. A public version of this memorandum is on file in the CRU.

United States Price

Zhenxing reported as constructed export price ("CEP") the U.S. sales made by PHT on behalf of Zhenxing, and as export price ("EP") the U.S. sales made to an unaffiliated U.S. importer. We calculated CEP based on FOB prices to unaffiliated purchasers in the United States. We made deductions for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs duties, U.S. transportation, credit, warehousing, repacking in the United States, indirect selling expenses, including inventory carrying costs, and constructed export price profit, as appropriate, in accordance with sections 772(c) and (d) of the Act.

The EP calculation for Zhenxing's sales to an unaffiliated importer is in accordance with section 772(a) of the Act, and is based on packed FOB, or where appropriate, C&F prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight from the plant to the port of exportation, ocean freight, marine insurance, and any brokerage and handling charges incurred by Zhenxing.

For those domestic factors provided by NME companies and used in the calculation of Zhenxing's CEP and EP sales (such as inland freight, insurance, brokerage and handling), we valued those factors using surrogate rates from India. Where appropriate, we calculated expenses which were incurred in U.S. dollars based on the actual U.S. dollar amounts paid for such expenses.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value ("NV") using a factors of production methodology if (1) the merchandise is exported from a non-market economy (NME) country, and (2) the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Accordingly, we treated the PRC as an NME country for purposes of this review and calculated NV by valuing the factors of production as set forth in section 773(c)(3) of the Act in a comparable market economy country which is a significant producer of comparable merchandise. Pursuant to section 773(c)(4) of the Act, we determined that India is comparable to the PRC in terms of per capita gross national product ("GNP"), the growth rate in per capita GNP, and the national distribution of labor; and that India is a significant producer of comparable merchandise. The Department has selected India as the surrogate country in the investigation and all prior administrative reviews of this order. *See Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China*, 57 FR 9409, 9412 (March 18, 1992). For further discussion of the Department's selection of India as the primary surrogate country, *see* Memorandum from Jeffrey May, Director, Office of Policy, to Barbara Tillman, Director, Office of AD/CVD Enforcement VII, dated June 11, 2001; "Surrogate Values Memorandum" dated August 31, 2001; and the Preliminary Analysis Memorandum dated August 31, 2001, which are on file in the CRU.

For purposes of calculating NV, we valued PRC factors of production in accordance with section 773(c)(1) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. For those surrogate values not

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contemporaneous with the POR, we adjusted for inflation where appropriate, using the Indian wholesale price indices (WPI) and U.S. producer price indices (PPI) published in the IMF's International Financial Statistics. When necessary, we adjusted the values for certain inputs reported in *Chemical Weekly* to exclude sales and excise taxes. In accordance with our practice, we added to CIF import values from India a surrogate inland freight cost using a simple average of the reported distances from either the closest PRC port to the factory, or from the domestic input supplier to the factory. *See Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 at 61977 (November 20, 1997). In accordance with this methodology, we valued the factors of production as follows:

To value aniline used in the production of sulfanilic acid, we used the rupee per kilogram value for sales in India during the POR as reported in *Chemical Weekly*, excluding any amounts assessed for the Indian excise tax and sales tax. We made adjustments to include costs incurred for freight between the Chinese aniline suppliers and the Zhenxing factory, or the Zhenxing factory to the port, as appropriate.

The surrogate freight rates used in the calculation of transportation costs for material inputs and subject merchandise were based on price quotes for truck freight rates from six different Indian trucking companies which were used in the *Final Determination of Sales at Less than Fair Value: Bulk Aspirin from the People's Republic of China*, 65 FR 33805 (May 25, 2000) (*Bulk Aspirin*). We used rail freight rates also from *Bulk Aspirin* that were quoted by two Indian rail freight transporters. Both the trucking and rail freight rates were contemporaneous with the POR and therefore, not inflated.

To value sulfuric acid used in the production of sulfanilic acid, we used the rupee per kilogram value for sales in India during the POR as reported in *Chemical Weekly*, excluding the amounts assessed for the Indian excise tax and the Maharastra sales tax. We made additional adjustments to include costs incurred for freight between the Chinese sulfuric acid supplier and the Zhenxing factory in the PRC.

To value sodium bicarbonate used in the production of sodium sulfanilate, we used the rupee per kilogram value for sales in India during the POR as reported in *Chemical Weekly*, excluding the amounts assessed for the Indian excise tax and the Maharastra sales tax. We made additional adjustments to include costs incurred for freight between the Chinese sodium bicarbonate supplier and Zhenxing factory in the PRC.

Consistent with our final results in the 1997–1998 administrative review (*see Sulfanilic Acid from the People's Republic of China; Final Results of Administrative Review*, 65 FR 13366 (March 13, 2000), we used public price quotes to value activated carbon, which are specific to the type and grade of activated carbon used in the production of sulfanilic acid. See NFC's Initial Submission of Surrogate Value Information dated August 17, 2001. We made adjustments to include costs incurred for inland freight between the Chinese activated carbon supplier and Zhenxing's factory in the PRC.

To value the inner and outer bags used as packing materials, we used import information from *Indian Import Statistics* for the period April 1998–March 1999. Using the Indian rupee wholesale prices index (WPI) data obtained from *International Financial Statistics*, we adjusted these values to account for inflation in India during the POR. We adjusted these values to include freight costs incurred between the Chinese plastic bag suppliers and Zhenxing's factory in the PRC.

To value coal, we used the price of steam coal in 1996 for industries in India as reported in *Energy, Prices and Taxes, First Quarter 1999* published by the International Energy Agency. This price was adjusted for inflation to be concurrent with the POR and has been placed on the record of this review.

To value electricity, we used the price of industrial electricity in India in 1997 reported in *Energy, Prices, and Taxes, First Quarter 1999* published by the International Energy Agency. This price was adjusted for inflation to be concurrent with the POR.

The Department's regulations, at 19 CFR 351.408(c)(3), state that "[f]or labor, the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries. The Secretary will calculate the wage rate to be applied in nonmarket economy proceedings each year. The calculation will be based on current data, and will be made available to the public." To value the factor inputs for labor, we used the wage rates calculated for the PRC in the Department's "Expected Wages of Selected Non-Market Economy Countries—1998 Income Data" as updated in May 2000, and made public by the Department on its world-wide web site for Import Administration at *www.ia.ita.doc.gov*.

Following our practice from prior administrative reviews of sulfanilic acid from the PRC, for factory overhead, we used information reported in the January 1997, *Reserve Bank of India Bulletin* ("*Bulletin*"). From this information, we were able to determine factory overhead as a percentage of total cost of manufacturing.

To value brokerage and handling, we used the average of the foreign brokerage and handling expenses reported in the U.S. sales listing of the questionnaire response submitted in *Certain Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews* (63 FR 48184, September 9, 1998). This average value was used in prior reviews of the crawfish antidumping duty order. *See*, for example, *Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Duty Administrative Review, and Rescission of a New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China*, 65 FR 60399 (October 11, 2000). We adjusted the value for brokerage and handling for inflation during the POR using Indian rupee WPI data published by the IMF.

To value marine insurance, we used marine insurance data collected in the *Tenth Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China (TRBs X). See, Memorandum to the File: Marine Insurance Rates* (June 30 1998). We adjusted this value for inflation during the POR using the U.S. dollar PPI data published by the IMF.

To value ocean freight, we used a value for ocean freight provided by the Federal Maritime Commission used in the *Final Determination of the Antidumping Administrative Review of Sebacic Acid from the PRC*, 62 FR 65674 (December 15, 1997). We adjusted the value for ocean freight for inflation during the POR using the U.S. dollar PPI data published by the IMF.

For selling, general and administrative (SG&A) expenses, we used information obtained from the January 1997 *Bulletin*. We calculated an SG&A rate by dividing SG&A expenses as reported in the *Bulletin* by the cost of manufacturing.

Finally, to calculate a profit rate, we used information obtained from the January 1997 *Bulletin*. We calculated a profit rate by dividing the before-tax profit by the sum of those components pertaining to the cost of manufacturing plus SG&A as reported in the *Bulletin*.

For a complete discussion of the Department's selection of surrogate values and copies of source documents relating to their valuation, see the Department's "Surrogate Values Memorandum" dated August 31, 2001, and *NFC's Initial Submission of Surrogate Value Information*," dated August 17, 2001.

Preliminary Results of the Review

We preliminarily determine the weighted average dumping margin for Zhenxing for the period August 1, 1999 through July 31, 2000 to be 54.50 percent.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Normally, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. However, for purposes of this review, the Department will notify parties of the schedule for submission of these briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than ten days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date case briefs are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief.

Duty Assessments and Cash Deposit Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit rates will be effective with respect to all shipments of sulfanilic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company listed above will be the rate for that firm established in the final results of this review; (2) for companies previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) for all other PRC exporters of subject merchandise, the cash deposit rate will be the PRC-wide rate of 85.20 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22652 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–815]

Pure Magnesium and Alloy Magnesium From Canada: Final Results of Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative reviews.

SUMMARY: On May 9, 2001, the Department of Commerce published in the **Federal Register** the preliminary results of the administrative reviews of the countervailing duty orders on pure magnesium and alloy magnesium from Canada for the period January 1, 1999 through December 31, 1999. We received no comments on the preliminary results of these reviews. The Department has now completed these reviews in accordance with section 751(a) of the Act. The final results do not differ from the preliminary results of these reviews. For information on the net subsidy rate of the reviewed company, as well as for all non-reviewed companies, see the Final Results of Reviews section of this notice. We will instruct the Customs Service to assess countervailing duties accordingly.

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Craig Matney, AD/CVD Enforcement, Office 1, Group I, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3464 or (202) 482–1778, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of section 751(a) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA"), effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to 19 CFR Part 351 (2000).

Background

On August 31, 1992, the Department published in the **Federal Register** the countervailing duty orders on pure magnesium and alloy magnesium from

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Canada (57 FR 39392). The Department published the preliminary results of these administrative reviews on May 9, 2001 (*see Pure Magnesium and Alloy Magnesium From Canada: Preliminary Results of Countervailing Duty Administrative Reviews*, 66 FR 23669 (May 9, 2001)) (*"Preliminary Results"*).

In accordance with 19 CFR 351.213(b), the reviews of these orders cover those producers or exporters of the subject merchandise for which these reviews were specifically requested. Accordingly, these reviews cover only Norsk Hydro Canada, Inc. ("NHCI"), the sole producer or exporter of the subject merchandise for which a review was requested. The petitioner in these reviews is the Magnesium Corporation of America.

In the preliminary results of these reviews, the Department invited interested parties to comment on the results (*see Preliminary Results*). However, we received no comments. The Department did not conduct a hearing for these reviews because none was requested. The Department has now completed these reviews in accordance with section 751 of the Act.

Scope of the Orders

The products covered by these orders are pure and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes.

The pure and alloy magnesium are currently classifiable under items 8104.11.0000 and 8104.19.0000, respectively, of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written descriptions of the merchandise subject to the orders are dispositive.

Secondary and granular magnesium are not included in the scope of these orders. Our reasons for excluding granular magnesium are summarized in *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada*, 57 FR 6094 (February 20, 1992).

Period of Review

The period of review for which we are measuring subsidies is from January 1, 1999 through December 31, 1999.

Final Results of Reviews

We have determined that no changes to our analysis are warranted for purposes of these final results. Therefore, in accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to these reviews. We will instruct the Customs Service ("Customs") to assess countervailing duties as indicated below on all appropriate entries. For the period January 1, 1999 through December 31, 1999, we determine the net subsidy rate for the reviewed company to be as follows:

NET SUBSIDY RATE

Manufacturer/exporter	Percent
Norsk Hydro Canada, Inc.	1.21

The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentage detailed above on the f.o.b. invoice price on all shipments of the subject merchandise from NHCI entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named (*see* 19 CFR 351.213(b)). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except NHCI will be unchanged by the results of these reviews.

Accordingly, we will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Except for Timminco Limited, which was excluded from the orders in the original investigations, these rates were established in the first administrative proceeding conducted under the URAA. *See Final Results of the Second Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium from Canada*, 62 FR 48607 (September 16, 1997).

In addition, for the period January 1, 1999 through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry, except for Timminco Limited (which was excluded from the orders in the original investigations).

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22653 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea for the period November 17, 1998 through December 31, 1999. For information on the net subsidy for the reviewed company, please see the "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the "Public Comment" section of this notice).

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Tipten Troidl, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Countervailing Duty regulations are references to the provisions codified at 19 CFR part 351 (2001) (CVD Regulations).

Background

On August 6, 1999, the Department published in the **Federal Register** the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea. *See Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip from France, Italy and the Republic of Korea*, 64 FR 42923 (August 6, 1999). On August 16, 2000, the Department published an opportunity to request an administrative review of this countervailing duty order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request an Administrative Review*, 65 FR 49962 (August 16, 2000). We received a timely request for review of Inchon Iron and Steel Co. (Inchon) and Sammi Steel Co. (Sammi), from petitioners. On October 2, 2000, the Department published "Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part" of the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea, covering the period of review (POR) November 17, 1998 through December 31, 1999. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Rescission in Part with August Anniversary Dates*, 65 FR 58735 (October 2, 2000).

On September 15, 2000, Sammi provided the Department with a certification stating that neither it nor its affiliates exported the subject merchandise to the United States during the POR. Because there were no shipments of exports to the United States of the subject merchandise, the Department is preliminarily rescinding this administrative review with respect to Sammi.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The company subject to this review is Inchon. This review covers 14 programs.

Scope of Review

For purposes of this review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

The Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below:

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and

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with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."[2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 HI–C." The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."

[1] "Arnokrome III" is a trademark of the Arnold Engineering Company.

[2] "Gilphy 36" is a trademark of Imphy, S.A.

[3] "Durphynox 17" is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

Subsidies Valuation Information

Benchmarks for Long-term Loans: During the POR, Inchon had both won-denominated and foreign currency-denominated long-term loans outstanding which had been received from government-owned banks, Korean commercial banks, overseas banks, and foreign banks with branches in Korea.

In the *Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530 (March 31, 1999) (*Plate in Coils*) and the *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636 (June 8, 1999) (*Sheet and Strip*), the Department, for the first time, examined the Government of Korea (GOK)'s direction of credit policies for the period 1992 through 1997. Based on new information gathered during the course of those investigations, the Department determined that the GOK controlled directly or indirectly the lending practices of most sources of credit in Korea between 1992 and 1997. In the *Final Affirmative Countervailing Duty Determination: Certain Cut-to Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73180 (December 29, 1999) (*CTL Plate*) the Department determined that the GOK still exercised substantial control over lending institutions in Korea during 1998. In addition, because no new factual information has been placed on the record, we preliminarily find direction of credit countervailable through 1999, which is the POR of this current administrative review.

Based on our findings on this issue in prior investigations, we are using the following benchmarks to calculate the subsidies attributable to respondents' long-term loans obtained in the years 1992 through 1999:

(1) For countervailable, foreign-currency denominated loans, we used, where available, the company-specific weighted-average U.S. dollar-denominated interest rates on the company's loans from foreign bank branches in Korea.

(2) For countervailable won-denominated long-term loans, where available, we used the company-specific corporate bond rate on the company's public and private bonds. We note that this benchmark is based on the decision in *Plate in Coils* in which we determined that the GOK did not control the Korean domestic bond market after 1991, and that domestic bonds may serve as an appropriate benchmark interest rate (*see Plate in Coils*, 64 FR at 15531). Where unavailable, we used the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in *Plate in Coils*, in which we determined that, absent company-specific interest rate information, the corporate bond rate is the best indicator of a market rate for won-denominated long-term loans in Korea (*see Id.*).

Treatment of Subsidies Received by Trading Companies: We required responses from trading companies because the subject merchandise may be subsidized by means of subsidies provided to both the producer and the exporter of the subject merchandise. Subsidies conferred on the production and exportation of subject merchandise benefit the subject merchandise even if the merchandise is exported to the United States by a trading company rather than by the producer itself. Therefore, the Department calculates countervailable subsidy rates on the subject merchandise by cumulating subsidies provided to the producer with those provided to the exporter. During the POR, Inchon exported subject merchandise to the United States through a trading company, Hyundai Corporation (Hyundai). We required the trading company to provide a response to the Department with respect to the export subsidies under review.

Under section 351.107(b)(1) of the Department's regulations, when the subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may establish a "combination" rate for each combination of an exporter and supplying producer. However, as noted in the Preamble to the Final Regulations, there may be situations in which it is not appropriate or practicable to establish combination rates when the subject merchandise is exported by a trading company. *See Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27303 (May 19, 1997). In such situations, the Department will make exceptions to its combination rate approach on a case-by-case basis. *See Id.*

Preliminarily, we determined that it is not appropriate to establish combination rates. This determination is based on two main facts: first, the majority of the subsidies conferred upon the subject merchandise were received by the producer; second, the level of subsidies conferred upon the individual trading company with regard to the subject merchandise is insignificant.

Instead, we have continued to calculate a rate for the producer of subject merchandise that includes the subsidies received by the trading company. To reflect those subsidies that are received by the exporter of the subject merchandise in the calculated *ad valorem* subsidy rate, we calculated the benefit attributable to the subject merchandise. We then factored that amount into the calculated subsidy rate for the relevant producer. In each case, we determined the benefit received by the trading company for each export subsidy, and weighted the average of the benefit amounts by the relative share of the trading company's value of exports of the subject merchandise to the United States. These calculated *ad valorem* subsidies were then added to the subsidies calculated for the producer of subject merchandise. Thus, for each of the programs below, the listed *ad valorem* subsidy rate includes countervailable subsidies received by both the producer and the trading company.

I. Programs Conferring Subsidies

A. The GOK's Direction of Credit

We determined in the *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000) (*H-beams*), that the provision of long-term loans via the GOK's direction of credit policies was specific to the Korean steel industry through 1991 within the meaning of section 771(5A)(D)(iii) of the Act. In *H-beams*, we also determined that the provision of these long-term loans through 1991 resulted in a financial contribution, within the meaning of sections 771(5)(E)(ii) and 771(5)(D)(i) of the Act, respectively.

In *H-beams*, the Department also determined that the GOK continued to control directly and indirectly the lending practices of most sources of credit in Korea through 1997. The Department determined in *H-beams* that the GOK's regulated credit from domestic commercial banks and government-controlled banks such as the Korea Development Bank (KDB) was specific to the steel industry. Further the Department determined in this investigation that these regulated loans conferred a benefit on the producer of the subject merchandise to the extent that the interest rates on these loans were less than the interest rates on comparable commercial loans within the meaning of section 771(5)(E)(ii) of the Act. In the final determination of *CTL Plate*, the Department determined that the GOK continued to control, directly and indirectly, the lending practices of sources of credit in Korea in 1998. *See CTL Plate*, 64 FR at 73180.

We provided the GOK with the opportunity to present new factual information concerning the government's credit policies through 1999, the POR, which we would consider along with our finding in the prior investigations. The GOK did not provide any new factual information on this program that would lead us to change our determination in the current administrative review. Therefore, we continue to find lending from domestic banks and from government-owned banks such as the KDB to be countervailable.

With respect to foreign sources of credit, in *Plate in Coils* and *Sheet and Strip*, we determined that access to foreign currency loans from Korean branches of foreign banks (*i.e.*, branches of U.S.-owned banks operating in Korea) did not confer a benefit to the recipient as defined by section 771(5)(E)(ii) of the Act, and, as such, credit received by the respondent from these sources was found not countervailable. This determination was based upon the fact that credit from Korean branches of foreign banks was not subject to the government's control and direction. Thus, in *Plate in Coils* and *Sheet and Strip*, we determined that respondent's loans from these banks could serve as an appropriate benchmark to establish whether access to regulated foreign sources of credit conferred a benefit on respondents. As such, lending from this source continues to be not countervailable, and, where available, loans from Korean branches of foreign banks continue to serve as an appropriate benchmark to establish whether access to regulated foreign currency loans from domestic banks confers a benefit upon respondents.

Inchon received long-term fixed and variable rate loans from GOK owned/controlled institutions during the years 1993 through 1999 that were outstanding during the POR. In order to determine whether these GOK directed loans conferred a benefit, we compared the interest rates on the directed loans to the benchmark interest rates detailed in the "Subsidies Valuation Information" section of this notice.

The repayment schedules of these loans did not remain constant during the lives of the respective loans. Therefore, in these preliminary results, we have calculated the benefit from these loans using the Department's variable rate methodology. We first derived the benefit amounts attributable

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to the POR for the company's fixed and variable rate loans, we then summed the benefit amounts from the loans and divided the total benefit by Inchon's total f.o.b. sales value during the POR. On this basis, we preliminarily determine the net countervailable subsidy to be 0.06 percent *ad valorem* for Inchon.

B. Article 17 of the Tax Exemption and Reduction Control Act (TERCL): Reserve for Overseas Market Development

Under Article 17 of the TERCL, a domestic person engaged in a foreign trade business is allowed to establish a reserve fund equal to one percent of its foreign exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning from the reserve, to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one-year grace period. The balance of this reserve fund is not subject to corporate income tax during the grace period. However, all of the money in the reserve is eventually reported as income and subject to corporate tax either when it offsets export losses or when the grace period expires. The deferral of taxes owed amounts to an interest-free loan equal to the company's tax savings. This program is only available to exporters. Although Inchon did not use this program during the POR, it exported subject merchandise through Hyundai, which used this program during the POR.

In *CTL Plate*, 64 FR at 73181, we determined that the Reserve for Overseas Market Development program constituted a countervailable export subsidy under section 771(5A)(B) of the Act because use of the program is contingent upon export performance. Respondents have not provided any new information to warrant reconsideration of this determination. Therefore, we continue to find this program countervailable.

To determine the benefit conferred by this program, we calculated the tax savings by multiplying the balance amount of the reserve as of December 31, 1999, by the corporate tax rate for 1999. We treated the tax savings on these funds as a short-term interest-free loan. Accordingly, to determine the benefit, the amount of tax savings was multiplied by the Hyundai's weighted-average interest rate for short-term won-denominated commercial loans for the POR. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the "Subsidies Valuation Information" section of this notice, we calculate a countervailable subsidy of less than 0.005 percent *ad valorem* for Inchon.

C. Electricity Discounts Under the Requested Load Adjustment Program (RLA)

With respect to the Requested Load Adjustment (RLA) program, the GOK introduced this discount in 1990, to address emergencies in KEPCO's ability to supply electricity. Under this program, customers with a contract demand of 5,000 kW or more, who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3,000 kW or more, are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO finds the application in order, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months, normally July and August. Under this program, a basic discount of 440 won per kW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. During the POR, KEPCO granted Inchon electricity discounts under this program.

In *Sheet and Strip*, the Department found this program countervailable under section 771(5A)(D)(iii)(I) of the Act because the discounts were distributed to a limited number of customers (*see Sheet and Strip*, 64 FR at 30646). Respondents have not provided any new information to warrant reconsideration of this determination. Therefore, we continue to find this program countervailable.

Because the electricity discounts provide recurring benefits, we have expensed the benefit from this program in the year of receipt. To measure the benefit from this program, we summed the electricity discounts which Inchon received from KEPCO under the RLA program during the POR. We then divided that amount by Inchon's total f.o.b. sales value for 1999. On this basis, we determine a net countervailable subsidy of less than 0.005 percent *ad valorem* for Inchon.

D. POSCO's Provision of Steel Inputs for Less Than Adequate Remuneration

POSCO is the only Korean producer of hot-rolled stainless steel coil (hot-rolled coil), which is the main input into the subject merchandise. During the POR, POSCO sold hot-rolled coil to Inchon for products that were consumed in Korea, as well as hot-rolled coil to produce exports of the subject merchandise. In *CTL Plate*, the Department determined that the GOK through its ownership and control of POSCO set prices of steel inputs used by the Korean steel industry at prices at less than adequate remuneration (*see CTL Plate*, 64 FR at 73184). Thus, in *CTL Plate*, the Department found this program countervailable.

Respondent claims that in May 1999, POSCO eliminated it's two-tiered pricing system and established unit prices applicable for sales to all customers. Prior to that period, POSCO set different prices depending on whether the input was to be used to produce products for domestic consumption or export consumption. However, this change in pricing policies does not impact the determination made by the Department in *CTL Plate* (*see id.* at 73184–85). In *CTL Plate*, the Department did not determine that the difference in pricing between domestic and export consumption constituted a countervailable subsidy. Instead, the Department found that the prices charged by POSCO were for less than adequate remuneration (*see id.* at 73185). Therefore, the fact that POSCO now only charges one price to the Korean steel industry for steel inputs does not affect the determination as to whether a good or service has been provided for less than adequate remuneration. The Department must still examine the prices charged to Inchon by POSCO for hot roiled coil to determine whether the prices are still for less than adequate remuneration.

Under section 351.511(a)(2) of the CVD Regulations, the adequacy of remuneration is to be determined by comparing the government price to a market determined price based on actual transactions in the country in question. Such prices could include prices stemming from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions. During the POR, Inchon imported hot-rolled coil; therefore, we are using actual imported prices of hot-rolled coil as our basis of comparison to the price at which POSCO sold hot-rolled coil. Based upon this comparison, we preliminarily determined that POSCO sold hot-rolled coil to Inchon at less than adequate remuneration. As a result, a benefit is conferred to Inchon under section 771(5)(E)(iv); therefore, we continue to find this program countervailable.

To determine the value of the benefit under this program, we compared the quarterly delivered weighted-average price charged by POSCO to Inchon for hot-rolled coils to the quarterly delivered weighted-average price Inchon paid for imported hot-rolled coil, by grade of hot-rolled coil, making due allowance for factors affecting comparability. We then multiplied this price difference by the quantity of hot-rolled coil that Inchon purchased from POSCO during the POR. We then divided the amount of the price savings by the f.o.b. sales value of merchandise produced using hot-rolled coils. On this basis, we determine that Inchon received a countervailable subsidy of 2.87 percent *ad valorem* from this program during the POR.

Respondents state that after the POR, on September 29, 2000, the privatization of POSCO was completed. As a result, they claim that this privatization of POSCO qualifies as a program-wide change pursuant to section 351.526 of the CVD Regulations. Under this regulation, the Department may adjust the CVD cash deposit rate to account for changes in the administration of a program under very specific circumstances. In accordance with Section 351.526 of the CVD Regulations, we preliminarily find that the privatization or a change in ownership of POSCO does not qualify as a program-wide change. If requested in any subsequent administrative review, we will examine the effect of POSCO's alleged privatization on this program.

II. Programs Determined To Be Not Used

A. Article 16 of the TERCL: Reserve for Export Loss

B. *Investment Tax Credits under Article 10, 18, 25, 26, 27 and 71 of TERCL*

C. *Loans from the National Agricultural Cooperation Federation*

D. *Tax Incentives for Highly-Advanced Technology Businesses under the Foreign Investment and Foreign Capital Inducement Act*

E. *Reserve for Investment under Article 43–5 of TERCL*

F. *Export Insurance Rates Provided by the Korean Export Insurance Corporation*

G. *Special Depreciation of Assets on Foreign Exchange Earnings*

H. *Excessive Duty Drawback*

I. *Short-Term Export Financing*

J. *Export Industry Facility Loans*

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for the producer/exporter subject to this administrative review. For the period November 17, 1998, through December 31, 1999, we preliminarily determine the net subsidy for Inchon to be 2.93 percent *ad valorem*.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct Customs to assess countervailing duties as indicated above. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties as indicated above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was *not* requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 351.212(c)(ii)(2). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636 (June 8, 1999). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period November 17, 1998 through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results.

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Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22650 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080701E]

Proposed Information Collection; Comment Request; Northwest Region Gear Identification Requirements; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce published a notice of proposed information collection on August 10, 2001. This notice makes a correction to that document.

SUPPLEMENTARY INFORMATION:

Need for Correction

In the August 10, 2001, issue of the **Federal Register** (FR Doc. 01–20118) "Proposed Information Collection; Comment Request; Northeast Region Gear Identification Requirements," the title should have read "Proposed Information Collection; Comment Request; Northwest Region Gear Identification Requirements." All other information remains unchanged.

Dated: August 31, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–22639 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Great Lakes Coastal Restoration Grants Implementation Plan

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of availability of Great Lakes Coastal Restoration Grants Implementation Plan.

SUMMARY: Notice is hereby given of the availability of the Great Lakes Coastal Restoration Grants Implementation Plan. The Commerce, State, Justice Appropriations Act for 2001 created the Great Lakes Coastal Restoration Grants program. This program provides funding for competitive matching grants to state and local governments for community based coastal restoration activities in the Great Lakes region. As required, the National Oceanic and Atmospheric Administration (NOAA) developed an implementation plan for this program, and submitted it to Congress on May 31, 2001.

The Great Lakes Coastal Restoration Grants Implementation Program will direct approximately $30 million for matching grants to be awarded competitively to state agencies and local governments to undertake coastal and water quality restoration projects in the Great Lakes region. Other entities such as regional organizations and nonprofit groups are not eligible to receive funds directly, but are eligible to receive pass through funding from state agencies or local governments. The eligible states are Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. These states will each receive a portion of the funds to support a competitive funding program. The funding levels are based on the Coastal Zone Management Act allocation formula, and are as follows: Illinois ($1,750,000); Indiana ($1,750,000); Michigan ($7,000,000); Minnesota ($1,938,000); New York ($4,727,000); Ohio ($4,489,000); Pennsylvania ($1,846,000); Wisconsin ($5,686,000). The statute requires matching grants but does not specify an amount. For this year, the match ratio is 4:1.

Each state will run a public competitive process to select eligible projects. At least fifty percent of a state's allocation should be directed to local government projects. The other specifics of the process, including timing and final project selection, are left up to individual states. States are encouraged to utilize these funds to address restoration priorities identified in existing plans such as Coastal Management Plans and Remedial Action Plans. Proposals funded under this program should be consistent with a Great Lakes State's approved coastal management program under section 306 of the Coastal Zone Management Act (CZMA). Absent an approved program, projects must be consistent with the CZMA. Restoration projects eligible for funding include contaminated site cleanup, stormwater controls, wetland restoration, acquisition of greenways and buffers, and other projects designed to control polluted runoff and protect and restore coastal resources. States may use up to five percent of their allotments to cover the administrative expenses of implementing the program.

Copies of the Great Lakes Coastal Restoration Grants Implementation Plan can be found on the NOAA website at *http://www.ocrm.nos.noaa.gov/cpd* or may be obtained upon request from: Joseph Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155, extension 201, e-mail *joseph.flanagan@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301–713–3155 extension 195, e-mail *john.king@noaa.gov.*

(Catalog of Federal Domestic Assistance Numbers: 11.419 for NOAA Coastal Zone Management Program Administration)

Dated: September 4, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 01–22587 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090401B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Reef Fish Stock Assessment Panel (RFSAP).

DATES: This meeting will begin at 9 a.m. on Monday, September 24, and conclude by 12 noon on Friday, September 28, 2001.

ADDRESSES: The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The RFSAP will convene to review stock assessments on the status of the gag, vermilion snapper, and gray triggerfish stocks in the Gulf of Mexico. These stock assessments were prepared by NMFS and will be presented to the RFSAP. In the Report to Congress on the Status of Fisheries in the United States prepared by NMFS in January 2001, gag and vermilion snapper were listed as undergoing overfishing and gag was listed as approaching an overfished condition. The status of gray triggerfish was listed as unknown.

The RFSAP is composed of biologists who are trained in the specialized field of population dynamics. They advise the Council on the status of stocks and, when necessary, recommend a level of acceptable biological catch (ABC) needed to prevent overfishing or to effect a recovery of an overfished stock. They may also recommend catch restrictions needed to attain management goals.

Based on its review of the gag, vermilion snapper, and gray triggerfish stock assessments, the RFSAP may recommend a range of ABC for 2002, and may recommend management measures to achieve the ABC.

The conclusions of the RFSAP will be reviewed by the Council's Standing and Special Reef Fish Scientific and Statistical Committee (SSC), Socioeconomic Panel (SEP), and Reef Fish Advisory Panel (RFAP) at meetings to be held in October, 2001. Gag is a component of the shallow-water grouper complex (which consists of red grouper, gag, yellowfin grouper, black grouper, scamp, yellowmouth grouper, rock hind, and red hind). The Council may set year 2002 total allowable catches (TAC), as well as other management measures for the gag component of the shallow-water grouper complex and for vermilion snapper and gray triggerfish at its meeting in Biloxi, MS on December 10–14, 2001.

Although other non-emergency issues not on the agendas may come before the RFSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the RFSAP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by September 17, 2001.

Dated: September 5, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22645 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090401A]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Oversight Committee in September, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Monday, September 24, 2001, at 10 a.m.

ADDRESSES: The meeting will be held at the Radisson Airport Hotel Providence, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Monkfish Committee will discuss issues and options to be considered for the annual adjustment framework, including the effect of the timing of the upcoming stock assessment and the recent judicial decision on the framework development schedule. They will also hold preliminary discussions on recommendations to the Council for 2002 workload priorities, including a possible plan amendment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 5, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, Notional Marine Fisheries Service.

[FR Doc. 01–22642 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083101E]

Marine Mammals; File No. 782–1645

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that The National Marine Mammal Laboratory, Alaska Fisheries Science Center, 7600 Sand Point Way, N.E., BIN C15700, Seattle, WA 98115 (PI: Dr. Robert DeLong) has been issued a permit to take harbor porpoise (*Phocoena phocoena*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review

upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Tammy Adams, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On July 31, 2001, notice was published in the **Federal Register** (66 FR 39493) that a request for a scientific research permit to take harbor porpoise had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: September 4, 2001.

Eugene T. Nitta,

Acting Chief, Permits and Documentotion Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–22641 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

Announcement of Public Meeting on Existing Public and Private High-Tech Workforce Training Programs in the United States

AGENCY: Technology Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given that a public meeting will be held on Tuesday November 20, 2001, 10:00 a.m. in the Technology Administration, Technology Center, U.S. Department of Commerce, Room 4813. Sections 115(a) and 115(b) of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313) require the Secretary of Commerce to conduct a study and prepare a report to Congress on existing public and private high-tech workforce training programs in the United States. In connection with this study and report, this public meeting is intended to provide an opportunity for individuals to offer comments on information technology (IT) workforce training.

The study and report will focus on the education and training paths and programs through which workers prepare for highly skilled IT jobs, and maintain the skills needed in an ever-changing IT environment. The study and report will explore: IT worker demand in terms of education and skill requirements, employer role in IT worker training, the IT education and training program landscape, including what education and skills various models of IT worker training program provide; and key elements for program success. Interested parties may include employers, IT workers, education/training providers, state and local governments, and area/regional training partnerships.

DATES: Tuesday, November 20, 2001, 10 a.m.

ADDRESSES: Technology Center, Technology Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 4813, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Individuals who wish to attend this public meeting should contact Carol Ann Meares, Technology Administrations, U.S. Department of Commerce, Room 4823, Washington, DC 20230. Telephone (202) 482–0940, or e-mail *cmeares@ta.doc.gov.*

Dated: September 4, 2001.

Bruce Mehlman,

Assistant Secretary of Commerce for Technology Policy.

[FR Doc. 01–22632 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–18–M

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No. 010626163–1163–01]

Notice, Request for Comments on Existing Public and Private High-Tech Workforce Training Programs in the United States

AGENCY: Technology Administration, U.S. Department of Commerce.

ACTION: Request for comments on existing public and private high-tech workforce training programs in the United States for Congressionally-mandated study and report to the Congress by the Secretary of Commerce.

SUMMARY: On behalf of the Secretary of Commerce, the Technology Administration (TA) invites interested parties to comment on existing public and private high-tech workforce training programs in the United States. Sections 115(a) and 115(b) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313) require the Secretary of Commerce to conduct a study and issue a report on this subject. In connection with this study and report, this Federal Register notice is intended to solicit comments and reply comments from the public in paper or electronic form. All written comments submitted in response to this notice will be posted on the TA website (*www.ta.doc.gov/ittraining*), and may be used in a report to Congress.

DATES: Interested parties are invited to submit comments no later than November 9, 2001.

ADDRESSES: Comments may be mailed to Carol Ann Meares, Office Technology Policy, Technology Administration, Room 4823 HCHB, 1401 Constitution Ave., NW., Washington, DC 20230. Paper submissions should include an electronic copy of the comments on a diskette in ASCII, WordPerfect (please specify version) or Microsoft Word (please specify version) format. Diskettes should be labeled with the name and organizational affiliation of the filer, and the name and version of the word processing program used to create the document.

In the alternative, comments may be submitted electronically to the following electronic mail address: techtraining@ta.doc.gov. Comments submitted as attachments to electronic mail should be submitted in one or more of the formats specified above.

Another alternative method for providing comment is an Internet-based form that can be completed and submitted online. The URL for this notice is www.ta.doc.gov/ittraining/form.

FOR FURTHER INFORMATION CONTACT: Carol Ann Meares, Office Technology Policy, telephone: (202) 482–0940; or electronic mail: cmeares@ta.doc.gov. Media inquiries should be directed to the Office of Public Affairs, Technology Administration, at (202) 482–8321.

SUPPLEMENTARY INFORMATION:

I. Background

The development and application of new information technologies across virtually every segment of the American economy has resulted in rapid, sustained growth in demand for highly skilled information technology (IT) workers. Accordingly, between 1983 and 1998, the number of high-skilled IT workers increased from 719,000 to 2,084,000—an increase of 190 percent, more than six times the overall U.S. job growth rate during this period.

Rapid growth is expected to continue into the foreseeable future. The Department of Labor Bureau of Labor Statistics' (BLS) most recent ten-year employment projections indicate that the number of core IT workers—computer scientists, computer programmers, computer engineers, systems analysts, computer support specialists, and database administrators—will rise from 2.2 million in 1998 to 3.9 million in 2008. Another 300,000 will be needed to replace those leaving the field during this period. As a result, BLS projects more than 2 million new core IT workers will be needed during this ten-year period. In addition, the five fastest growing occupations in the U.S. economy during this period are all core IT occupations—database administrators, 77.2 percent; systems analysts, 93.6 percent; computer support specialists, 102.3 percent; computer engineers, 107.9 percent; and "all other computer scientists," 117.5 percent. These growth rates compare to a projected increase of 14.4 percent for all occupations during this period.

The jobs represented by these broad occupational classifications are varied, complex and specialized, as are the knowledge, skills and experience required to perform them. There is no single path to prepare a worker for a core IT occupation. Most get their education from four-year colleges and universities. Other paths include two-year degree-granting community colleges, special university/community programs designed to upgrade the skills of the current workforce, a growing number of private sector certification programs, in-house company training, short courses and self-study.

BLS's Current Population Survey indicates that two-thirds of the current core IT workforce have four-year college degrees, a quarter have less than a bachelor's degree but more than a high school diploma, and the balance have a high school diploma or less. In addition to formal education, many IT workers hold one or more technical certifications. Of those with four-year college degrees, 46 percent have IT degrees, minors or second majors; 86 percent have a degree in a science or engineering discipline.

This study and report will focus on the education and training paths and programs through which Americans prepare for these jobs and maintain the skills needed in an ever-changing information technology environment.

The Office of Technology Policy, an agency of the Commerce Department's Technology Administration, has conducted research and produced reports on the Nation's challenge in meeting the high U.S. demand for skilled IT workers. These reports can be downloaded for review at: *http://www.ta.doc.gov/reports.htm*

II. Statutory Language Requiring a Study and Report to Congress

The statutory language requiring the Secretary of Commerce to conduct a study and submit a report to Congress on existing public and private high-tech workforce training programs in the United States is found in Sections 115(a) and 115(b) of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313), and is set forth below:

Sec. 115(a) STUDY—The Secretary of Commerce shall conduct a review of existing public and private high-tech workforce training programs in the United States.

Sec. 115(b) REPORT—Not later than 18 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress setting forth the findings of the study conducted under subsection (a).

III. Specific Questions

The Department seeks comment on the following specific questions. Parties need not address all questions, but are encouraged to respond to those about which they have particular knowledge or information.

A. Questions for Employers

Please provide some information about your company/organization to provide a context for your comments (e.g. type of business, georgraphic location, size of total workforce, size of IT workforce).

1. What types of IT workers does your company/organization employ (.e.g. development, application, support; occupational/technical skill type; entry-level, mid-level, senior)?

2. In making IT workforce-hiring decisions, what priority do you place on:

Graduate degrees?

—Four-year IT degree (e.g. computer science, computer engineering, management information systems)?

—Four-year technical degree (e.g. math, science, engineering)?

—Four-year business degree?

—Four-year liberal arts degree?

—Two-year associates degree?

—Technical Certification(s)? Which certifications does your company rely on?

—General technical experience?

—Experience with specific applications, operating systems, programming languages, hardware, etc.?

—Industry-specific Experience?

3. What types of education/training programs (e.g. certification programs, private IT schools, short courses, seminars, community colleges, universities) provide newly hired IT workers with the skills needed?

4. What types of education/training programs (e.g. certification programs, private IT schools, short courses, seminars, community colleges, universities) provide current employees with the skills needed to be successful in their jobs, career progression, and to adapt effectively to changing technology?

5. Does your company/organization undertake efforts to keep the skills of your IT workforce current? What types of education/training programs (e.g. certification programs, private IT schools, short courses, in-house training, contract trainers, vendor training, seminars, community colleges, universities) does your company/organization use to provide current IT employees with the skills they need? What are the strengths and weaknesses of these programs?

6. What barriers inhibit investment in the education/training of current IT employees (e.g., cost, time from the job, fear of losing employee, uncertainty about future skill needs)?

7. Is your company/organization engaged in any partnerships (with industry, government, academia, training providers, etc.) to develop IT workers? What are the strengths and weaknesses of these programs?

8. What factors are considered in deciding whether to fill an IT position (or class of IT positions) by providing training and education to upgrade the knowledge and skills of current employee(s) ("making"), or by hiring employees who already have the skills from the open labor market ("buying")? What are the characteristics (e.g., skill level, experience requirements, area of expertise) of IT position that your company/organization fills by making? By buying?

9. How important are "soft skills" (e.g., oral and written communications skills, teamwork, problem solving) for an IT worker? Which "soft skills" are most important?

10. How quickly do the IT skills needed by your company/organization change? How are these changing IT skills requirements met? What impact do changing skills requirements have on your IT workforce?

11. Are you aware of or been involved in any U.S. Department of Labor-sponsored or support IT workforce training programs in your area? Have you hired or considered for employment any employees trained through U.S. Department of Labor-sponsored or supported IT training workforce programs? If so, what is your assessment

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of the value of the training of these employees received? How well did the skills of the graduates of these programs meet your company's IT skill needs?

12. Does your company/organization train non-IT employees for IT jobs in the company/organization? If so, what types of education and training programs are provided for this purpose?

13. For IT managers: When announcing a job opening, do the education/skills/experience articulated by your company/organization as required for specific IT positions accurately reflect the education/skills/experience required to be successful in the positions?

14. For human resource officials: Do the education/skills/experience articulated by your line managers as required for specific IT positions accurately reflect the education/skills/experience required to be successful in the positions?

15. What types of credentials would substitute for technical job experience for entry-level jobs? For more advanced jobs?

16. Does your company/organization, either directly or through another organization, provide information regarding your IT skills needs to local educational and training providers to help them tailor their curricula/instruction to your needs?

17. Aside from the education/training investment in your current IT employees, what types of investments does your company/organization make in developing the U.S. IT workforce (e.g. financial contributions, scholarships, internships, work study, hardware/software donations, employee mentoring of students, adopt-a-school, other)?

18. Of the IT education/training programs that you have experience with, which do you consider effective?

B. Questions for IT Workers

1. What types of education and training programs (e.g. certification programs, private IT schools, short courses, seminars, community colleges, four-year colleges, graduate schools) provide the most immediately marketable skills for obtaining an IT job?

2. What types of education and training programs provide the most valuable IT or other skills for success in the long run in the IT field? Career progression in IT? Ability to adapt to changing information technology?

3. What are the strengths and weaknesses of the IT education/training program(s) you attended in terms of their providing valuable knowledge and skills for the IT job market?

4. What barriers do current/potential IT workers face in obtaining IT education and training (e.g., cost, availability, scheduling, meeting prerequisites)?

5. In your experience, what types of programs provide the highest quality of IT education/training? Best value? Most effective?

6. What barriers have you faced in obtaining IT jobs (e.g., lack of education, certification, experience, specificity of skill requirements)?

7. Have your employers supported your efforts to obtain IT education/training/skills upgrading? If so, how (e.g., paid for training, provided training on-site, provided time away from work to attend classes)? What barriers did you face in getting your employer(s) support?

8. How do you keep your skills up-to-date (programs, cost, time)?

9. How important is formal training versus experience gained on the job?

10. In your experience, do you believe that employers' stated requirements—in terms of education, skills, and experience—closely match the actual requirements of the jobs advertised?

11. Are you aware of any U.S. Department of Labor-sponsored or supported IT workforce training programs in your area? Have you participated in any U.S. Department of Labor-sponsored or supported IT workforce training programs? If so, what is your assessment of the value of the training provided by these programs?

C. Questions for Education/Training Providers

Please provide some information about your company/school/institution to provide a context for your comments (e.g., contract trainer, private IT school, community college, college, university; number of students; type of IT programs offered; duration, cost, type of client served).

1. In your IT education/training programs, is there any tension between providing fundamental knowledge and skills that are broadly applicable, and providing IT skills (perhaps proprietary) that will make your graduates immediately marketable? If so, how do you deal with the tension?

2. Are you finding that students in your programs arrive with the fundamental skills to be successful in IT careers? What are the characteristics of students who are most likely to succeed in your programs? What are the most significant barriers your students face in completing your programs? What are the most significant barriers your students face in finding employment after completing your program?

3. In an era of rapidly changing technology, how flexible is your institution in adapting its curricula to meet the changing technical skill needs of students and employers? Other changing needs of students and employers (e.g., soft skills, business skills, hands-on training, internships)? What are the barriers to adapting to these changing needs?

4. Does your institution provide placement services for your graduates? What level of success do your students have in securing IT employment after receiving training/education from your institution? What barriers to securing IT employment do your graduates report?

5. How do you develop connections between the program (what is taught) and employers' needs?

D. Questions for State/Local Government Agencies and Area/Regional Partnerships

Please provide some information about your agency/partnership to provide a context for your comments (e.g. type of institution, when established, phase of development, scope of activities).

1. Does your organization have a strategic plan for developing the IT workforce in your area or region? What are the elements of your plan?

2. Who is involved in your plan (e.g. government agencies, companies, education/training providers, workforce investment boards)?

3. Who do your programs target for training (entry level, career changers, disadvantaged groups, special communities, current IT workforce—both staying current (retooling) and getting ahead (upgrading))? What are the barriers to providing this training (aptitude, lack of knowledge/skill needed to participate in training, interest, lack of available workers, lack of time in students' lives, employer resistance)? How do you attract students/clients to your programs?

4. Approximately how many people have received training through your programs (please include the timeframe)?

5. Which institutions (governments agencies, IT companies, non-IT companies) are financially supporting this effort? Do employers participate in supporting this effort?

Which IT training providers (e.g. contract trainers, private IT schools, community colleges, universities) participate in your effort?

6. What types of training programs (certification, community college, 4-year colleges, graduate schools) do your students participate in under your programs?

7. With respect to those you are training for IT jobs, besides the technical IT training what other kinds of education, training and employment-related services are available through your program?

8. How successful have your programs been in placing students in IT jobs? What are the barriers your program participants face in getting IT jobs after completing their training?

9. What feedback have you received from employers on the strengths and weaknesses of your programs?

10. Does your state/jurisdiction offer incentives (tax, financial, other) to employer or employees for IT education and training? How effective have these incentives been?

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: September 4, 2001.

Bruce Mehlman,

Assistant Secretary of Commerce for Technology Policy.

[FR Doc. 01–22633 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

September 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward and the rescinding of carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69911, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 12, 2001, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit [1]
Levels in Group I	
342/642	550,234 dozen.
345	582,964 dozen.
448	22,999 dozen.
604–A [2]	967,083 kilograms.
634/635	419,596 dozen.
644	624,467 numbers.
847	549,776 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 604-A: only HTS number 5509.32.0000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–22628 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

September 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 350 and 650 are being adjusted for the rescinding of carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69742, published on November 20, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive

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issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 11, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
350	165,996 dozen.
650	154,949 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–22629 Filed 9–7–01; 8:45 am]
BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

September 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 350/650 and 840 are being reduced for the rescinding of carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69503, published on November 17, 2000.

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 13, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 11, 2001, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
350/650	181,508 dozen.
840	246,443 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–22630 Filed 9–7–01; 8:45 a.m.
BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Republic of Turkey

September 4, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 350 is being reduced for the rescinding of carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66730, published on November 7, 2000.

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 4, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 12, 2001, you are directed to reduce the current limit for Category 350 to 759,015 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing:

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–22631 Filed 9–7–01; 8:45 am]
BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Advisory Group; Meeting

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Policy Board will meet in closed session on September 19 and 20, 2001. the mission of the Defense Policy Board is to provide the Secretary of Defense and the Under Secretary of Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting, the Board will hold classified discussions on national security matters.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App II (1982)), it has been determined that the committee meeting concerns matters sensitive to the interest of national security, listed in 5 U.S.C. 552B(c)(1)(1982). Accordingly this meeting will be closed to the public

DATES: September 19 and 20, 2001, 0800–1800.

ADDRESSES: The Pentagon, Washington, DC

FOR FURTHER INFORMATION CONTACT: Lauren Haber, OUSD (Policy), 703–697–0286

Dated: August 31, 2001.

L.M. Bynum,
Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22573 Filed 9–7–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Deterrence Concepts Advisory Group; Meeting

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Deterrence Concepts Advisory Group met in closed session on September 5, 2001. The Committee was established to provide advice and recommendations to the Secretary of Defense on advancing a strong, secure, and persuasive U.S. force for freedom and progress in the world, and to do so at the lowest nuclear force level consistent with security requirements.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App. II (1982)], it has been determined that the committee meeting concerns matters sensitive to the interest of national security, listed in 5 U.S.C. 552B(c)(1)(1982) and accordingly this meeting was closed to the public.

This notice is being published in less than the 15 days required by law, due to the urgent need for this committee to continue its activities so that its advice on a matter of extraordinary importance may be provided to the Secretary of Defense in a timely manner.

DATES: September 5, 2001, 1:30 p.m.

ADDRESSES: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lauren Haber, OUSD (Policy), 703–697–0286.

Dated: August 31, 2001.

L.M. Bynum,
Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22574 Filed 9–7–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Meeting

AGENCY: Department of Defense, USSTRATCOM.

ACTION: Notice.

SUMMARY: The Strategic Advisory Group (SAG) will meeting closed session on October 4 and 5, 2001. The mission of the SAG is to provide timely advice on scientific, technical, and policy-related issues to the Commander in Chief, U.S. Strategic Command, during the development of the nation's strategic war plans. At this meeting, the SAG will discuss strategic issues that relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topic will require discussion of information classified in accordance with Executive Order 12958, April 17, 1995. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, (5 U.S.C. App 2), it has been determined that this SAG meeting concerns matters listed in 5 USC 552b(c) and that, accordingly, this meeting will be closed to the public.

Dated: August 31, 2001.

L.M. Bynum,
Alternate OSD Federal Register Liaison Office, DoD.

[FR Doc. 01–22575 Filed 9–7–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 9, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed

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information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 4, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Evaluation of the Projects with Industry (PWI) Program.

Frequency: One-time.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 462

Burden Hours: 540

Abstract: The evaluation of the PWI Program will provide the Rehabilitation Services Administration (RSA) and other federal officials with information needed to assess the extent to which Program purposes are being fulfilled. The data obtained will also enable RSA to identify the impact of recent regulatory changes on the Program and to determine the ongoing utility of, and need for revisions to, the Program's compliance indicators and performance indicators under the Government Performance and Results Act (GPRA). Respondents to information requests will include PWI staff, local Vocational Rehabilitation agency staff, Business Advisory Council members, employers of former PWI participants, local workforce investment board members, and staff of local one-stop job centers.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–22594 Filed 9–7–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2069–006]

Arizona Public Service Company; Notice of Petition for Declaratory Order

September 4, 2001.

On August 1, 2001, Arizona Public Service Company (APS) filed a petition for a declaratory order regarding the Offer of Settlement and Settlement Agreement (settlement) filed September 15, 2000, and currently pending before the Commission in the relicensing proceeding for the Childs Irving Project No. 2069. The settlement, which was signed by APS, the intervenors in the relicensing proceeding, and several non-intervenors, provides, among other things, that APS will cease generation at the project no later than December 31, 2004, will surrender the project license and decommission the project site, and will complete project decommissioning no later than December 31, 2009. The settlement also provides that, in the event of a Commission order that alters any of its essential terms, the settlement shall become null and void, and the relicensing proceeding shall be restored.

APS requests that the Commission issue a declaratory order determining whether the process contemplated by the settlement is acceptable. Specifically, APS seeks confirmation that the Commission will allow the parties to the settlement to return to the pre-settlement status quo if the Commission modifies the settlement or if the objectives of the settlement, including license surrender and project decommissioning, are not achieved. By this, APS means, in particular, that the Commission will retain or reinstate its relicense application and process it without providing a new opportunity for the filing of competitive license applications. APS also seeks confirmation that, if the Commission accepts the surrender of the license, it will allow the surrender to be effective at a future date so that generation may continue until December 31, 2004. In this regard, APS requests the Commission to confirm that it would exercise its authority to issue annual licenses during the pendency of the surrender application and until the deadline for the cessation of generation. The petition does not request the Commission to take a position on the merits of the settlement.

Because the relief sought by the petition could have implications for other proceedings in which similar issues occur, the Commission encourages comments from any interested entities, not just those involved in this particular proceeding. The Commission would particularly welcome comments that address whether it should be willing to retain or reinstate relicense applications that are conditional upon the occurrence of other events, especially when those events are contemplated by settlements submitted during relicensing proceedings. The Commission would also welcome comments that address whether, and under what conditions, it should provide additional opportunities for entities to seek licenses to operate a project if an incumbent licensee that has filed an application for a new license subsequently seeks, conditionally or unconditionally, to surrender its existing license before the new license has been issued. Also, the Commission would welcome comments that address the extent to which it should allow the effectiveness of a license surrender to be postponed, and whether it should be willing to issue annual licenses for an extended period of time until project generation ceases or until the project is fully decommissioned.

Any person desiring to be heard or to protest the petition should file comments, a protest, or a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.210, 385.211 and 385.214. In determining the appropriate action to take, the Commission will consider all protests and other comments, but only those who file a motion to intervene may become parties to the proceeding. Comments, protests, or motions to intervene must be filed within 30 days of publication of this notice in the **Federal Register** and must bear in all capital letters the title "COMMENTS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and Project No. 2069–006.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-filing" link.

Send the filings (original and 8 copies) to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Copies of the petition for declaratory order are on file with the Commission and are available for public inspection in Room 2A and may also be viewed on the web at *http://www.ferc.gov/online/rims.htm* (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–22586 Filed 9–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1821–001]

Power Dynamics, Inc.; Notice of Filing

September 4, 2001.

Take notice that on July 25, 2001, Power Dynamics, Inc. (PDI) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), FERC Electric Tariff, Original Volume No. 1.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 14, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–22584 Filed 9–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–288–000, et al.]

Homer City OL1 LLC, et al.; Electric Rate and Corporate Regulation Filings

September 4, 2001.

Take notice that the following filings have been made with the Commission:

1. Homer City OL1 LLC

[Docket No. EG01–288–000]

Take notice that on August 28, 2001, Homer City OL1 LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

2. Homer City OL2 LLC

[Docket No. EG01–289–000]

Take notice that on August 28, 2001, Homer City OL2 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

3. Homer City OL3 LLC

[Docket No. EG01–290–000]

Take notice that on August 28, 2001, Homer City OL3 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

4. Homer City OL4 LLC

[Docket No. EG01–291–000]

Take notice that on August 28, 2001, Homer City OL4 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Homer City OL5 LLC

[Docket No. EG01–292–000]

Take notice that on August 28, 2001, Homer City OL5 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

6. Homer City OL6 LLC

[Docket No. EG01–293–000]

Take notice that on August 28, 2001, Homer City OL6 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-

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MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

7. Homer City OL7 LLC

[Docket No. EG01–294–000]

Take notice that on August 28, 2001, Homer City OL7 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

8. Homer City OL8 LLC

[Docket No. EG01–295–000]

Take notice that on August 28, 2001, Homer City OL8 LLC (Applicant) filed with the Federal Energy Regulatory Commission an application for determination that it will be an Exempt Wholesale Generator upon the purchase and leaseback by Applicant of an undivided interest in the Homer City Electric Generating Station, an 1,884-MW coal-fired generating plant located in Indiana County, Pennsylvania.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

9. Panda Shiloh Power, L.P.

[Docket No. EG01–296–000]

Take notice that on August 29, 2001, Panda Shiloh Power, L.P. (Panda), with its principal offices at 4100 Spring Valley Road, Suite 1001, Dallas, Texas 75244, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and Part 365 of the Commission's regulations.

Panda is a Delaware limited partnership, which will construct, own and operate a nominal 1100 MW natural gas-fired generating facility within the region governed by the Mid-America Interconnected Network, Inc. (MAIN) and sell electricity at wholesale.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that address the adequacy or accuracy of the application.

10. Front Range Power Company, LLC

[Docket No. EG01–297–000]

Take notice that on August 30, 2001, Front Range Power Company, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Front Range Power Company, LLC is a Colorado limited liability company owned by Mesquite Colorado Holdco, L.L.C., a Delaware limited liability company and affiliate of El Paso Energy Corporation, and Colorado Springs Utilities, an enterprise of the City of Colorado Springs, Colorado, to develop, design , construct, own, operate and maintain a natural gas-fired combined-cycle electric generation plant with a maximum capacity of approximately 480 MW, located on a 28-acre parcel of land approximately 17 miles south of Colorado Springs, Colorado.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Energy Transfer—Hanover Ventures, LP

[Docket No. ER01–2221–001]

Take notice that on August 30, 2001, Energy Transfer—Hanover Ventures, LP (ETHAN) tendered for filing with the Federal Energy Regulatory Commission (Commission), a supplement to its application for market-based rates as power marketer. The supplemental information pertains to ETHAN's ownership, business activities, and market power. Further the supplement makes certain changes to the Rate Schedule FERC No. 1 to cause them to conform with Section 35.9 of the Commission's regulations.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER01–2948–000]

Take notice that on August 28, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing an executed service agreement for firm point-to-point transmission service for Exelon Generating Company, L.L.C. (Exelon) and two executed umbrella service agreement for point-to-point transmission service (firm and non-firm) with SCANA Energy Marketing, Inc. (SCANA).

Copies of this filing were served upon Exelon, SCANA and the state commissions within the PJM control area.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Supply Company, LLC

[Docket No. ER01–2949–000]

Take notice that on August 28, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 147 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements for an effective date of September 1, 2001 for Portland General Electric.

Copies of the filing have been provided to all parties of record.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. American Electric Power Service Corporation

[Docket No. ER01–2950–000]

Take notice that on August 28, 2001, American Electric Power Service Corporation (AEP) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Letter agreement between Entergy Power Ventures, LP and Northeast Texas Electric Cooperative, Inc. and Southwestern Electric Power Company (the Company).

AEP requests an effective date of October 27, 2001.

Copies of the filing have been served upon Entergy Power Ventures, LP, Northeast Texas Electric Cooperative, Inc. and the Public Utility Commission of Texas.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Allegheny Energy Supply Company, LLC

[Docket No. ER01–2951–000]

Take notice that on August 28, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 146 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements for an effective date of July 30, 2001 for Associated Electric Cooperative, Inc.

Copies of the filing have been provided to all parties of record.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. American Transmission Company LLC

[Docket No. ER01–2952–000]

Take notice that on August 29, 2001, American Transmission Company LLC (ATCLLC) tendered for filing a Network Integration Transmission Service Agreement and a Network Operating Agreement for Manitowoc Public Utilities.

ATCLLC requests an effective date of August 1, 2001.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–22604 Filed 9–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–135–000, et al.]

Wisconsin Public Services Corporation., et al.; Electric Rate and Corporate Regulation Filings

August 31, 2001.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Public Service Corporation

[Docket No. EC01–135–000]

Take notice that on August 27, 2001, Wisconsin Public Service Corporation, the applicant in this proceeding, supplemented its August 2, 2001 application by providing a statement showing that the application is consistent with the public interest and requesting Commission action by October 10, 2001.

Copies of the filing were served upon Eagle River Light & Water Utility, Wisconsin Public Power, Inc., and the Wisconsin and Michigan public service commissions.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. MIECO Inc.

[Docket No. ER98–51–011]

Take notice that MIECO Inc. (MIECO) on August 28, 2001 tendered for filing with the Federal Energy Regulatory Commission (Commission) a triennial update regarding MIECO's continued compliance with the Commission's standards for market-based rate authority.

Copies of the filing were served upon the official service list compiled by the Commission Secretary in this proceeding.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Timber Energy Resources, Inc., A Texas Corporation

[Docket No. ER01–1993–001]

Take notice that on August 28, 2001, Timber Energy Resources, Inc. (TERI) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notification of Change in Status regarding a change in the upstream ownership for its 14 MW waste wood-fired small power production facility located approximately one mile south of Telogia, Florida.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. PSEG Waterford Energy LLC

[Docket No. ER01–2482–001]

Take notice that on August 28, 2001, PSEG Waterford Energy LLC (PSEG Waterford) tendered for filing a Compliance Filing Regarding Order Granting Rate Approval and Granting Certain Waivers and Blanket Approval. This filing is submitted in compliance with a letter order issued by the Federal Energy Regulatory Commission (Commission) on August 23, 2001, wherein the Commission accepted for filing PSEG Waterford's rate schedule for the wholesale sale of electric energy and capacity at market-based rates, subject to PSEG Waterford making one revision to its rate schedule.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. SCANA Energy Marketing, Inc. and South Carolina Electric & Gas Company

[Docket No. ER01–2635–001]

Take notice that on August 24, 2001, Scana Energy Marketing, Inc. filed a Notice of Cancellation in conformance with Order No. 614 in conjunction with its earlier filing of July 19, 2001.

Comment date: September 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER01–2932–000]

Take notice that on August 28, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Entergy-Koch Trading, LP.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER01–2933–000]

Take notice that on August 28, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the

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"Entergy Operating Companies") tendered for filing with the Federal Energy Regulatory Commission (Commission) a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Mirant Americas Energy Marketing, LP.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. PJM Interconnection, L.L.C.

[Docket No. ER01–2934–000]

Take notice that on August 28, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission), one signature page to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA) executed by BP Energy; a request for Commission approval of the withdrawal of two parties from the RAA; an amended Schedule 17 of the RAA adding BP Energy to the list of RAA signatories, and deleting the entities that are withdrawing from the RAA; and a Notices of Cancellation for Essential.com, Inc., and Metromedia Energy, Inc. reflecting their withdrawal as signatories to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including the parties for which a signature page is being tendered with this filing, the parties that are withdrawing from the RAA, and each of the state electric regulatory commissions within the PJM control area.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Xcel Energy Services Inc.

[Docket No. ER01–2935–000]

Take notice that on August 27, 2001 Xcel Energy Services Inc. (XES), on behalf of Northern States Power Companies (NSP) tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and New Ulm Public Utilities. XES requests that this Short-Term Market-Based Electric Service Agreement be made effective on July 30, 2001.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER01–2936–000]

Take notice that on August 27, 2001, Arizona Public Service Company (APS) tendered for filing with the Federal Energy Regulatory Commission (Commission) an Interconnection and Operating Agreement with San Manuel Power Company under APS" Open Access Transmission Tariff.

A copy of this filing has been served on San Manuel Power Company and the Arizona Corporation Commission.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER01–2937–000]

Take notice that on August 27, 2001, Arizona Public Service Company (APS) tendered for filing with the Federal Energy Regulatory Commission (Commission) an Interconnection and Operating Agreement with San Manuel Power Company under APS' Open Access Transmission Tariff.

A copy of this filing has been served on San Manuel Power Company and the Arizona Corporation Commission.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER01–2938–000]

Take notice that on August 27, 2001 PJM Interconnection, L.L.C. (PJM), submitted for filing with the Federal Energy Regulatory Commission (Commission) an executed interconnection service agreements between PJM and Northeast Maryland Waste Disposal Authority.

Copies of this filing were served upon Northeast Maryland Waste Disposal Authority and the state regulatory commissions within the PJM control area.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–2939–000]

Take notice that on August 27, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy) submitted for filing to the Federal Energy Regulatory Commission (Commission or FERC) a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Pennsylvania Power & Light Company (now PPL Electric Utilities Corporation d/b/a PPL Utilities) FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 5. GPU Energy requests that cancellation be effective October 24, 2001.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER01–2940–000]

Take notice that on August 27, 2001, Cinergy Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) an Interconnection Agreement entered into by and between Cinergy Services, Inc. (Cinergy) and Duke Energy Knox, LLC (Duke Energy Knox), and a Facilities Construction Agreement by and between Cinergy and Duke Energy Knox, both of which are dated July 30, 2001.

Cinergy requests an effective date of July 30, 2001 for both the Interconnection Agreement and the Facilities Construction Agreement.

Cinergy states that it has served a copy of its filing upon the Indiana Utility Regulatory Commission and Duke Energy Knox.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Xcel Energy Services Inc.

[Docket No. ER01–2941–000]

Take notice that on August 27, 2001 Xcel Energy Services Inc. (XES), on behalf of Northern States Power Companies (NSP Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Rate Schedule for Market-Based Power Sales. XES requests that this Rate Schedule for Market-Based Power Sales be made effective on August 28, 2001.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Ameren Services Company

[Docket No. ER01–2943–000]

Take notice that on August 27, 2001, Ameren filed with the Federal Energy Regulatory Commission the cancellation of Non-Firm Point-to-Point Transmission Service Agreement dated June 30, 1998, Docket No. ER98–3715–000.

Copy of the cancellation has been served to Tractebel Energy Marketing, Inc.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company

[Docket No. ER01–2944–000]

Take notice that on August 27, 2001, Ameren filed with the Federal Energy Regulatory Commission the cancellation of Non-Firm Point-to-Point Transmission Service Agreement dated June 30, 1998, Docket No. ER98–3714–000.

Copy of the cancellation has been served to Tractebel Energy Marketing, Inc.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Xcel Energy Services Inc.

[Docket No. ER01–2945–000]

Take notice that on August 27, 2001 Xcel Energy Services Inc. (XES), on behalf of Northern States Power Companies (NSP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Long-Term Market-Based Electric Service Agreement between NSP and New Ulm Public Utilities. XES requests that this Short-Term Market-Based Electric Service Agreement be made effective on July 30, 2001.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER01–2946–000]

Take notice that Virginia Electric and Power Company (the Company) on August 27, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC) the following Service Agreement by Virginia Electric and Power Company to Enron Power Marketing, Inc., designated as Service Agreement No. 3, under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6.

The foregoing Service Agreement is tendered for filing under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6, effective on June 15, 2000. The Company requests an effective date of July 25, 2001.

Copies of the filing were served upon Enron Power Marketing, Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Electric Power Company

[Docket No. ER01–2947–000]

Take notice that on August 27, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Standby Delivery Service Agreement (Agreement) between Wisconsin Electric and the City of Kiel (the City) under which Wisconsin Electric will provide 24.9 kV standby delivery service to the City. The Agreement is being designated as Wisconsin Electric Power Company Rate Schedule No. 103.

Wisconsin Electric requests waiver of the Commission's notice of filing requirements to allow the Agreement to become effective on January 1, 2001. A refund calculation would result in zero refunds because billings to the customer under this Agreement have not been made as of this filing date.

Copies of the filing have been served on the City, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: September 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–22583 Filed 9–7–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

September 4, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* A New Major License.

b. *Project No.:* P–2042–013.

c. *Date filed:* January 21, 2000.

d. *Applicant:* Public Utility District No. 1 of Pend Oreille County.

e. *Name of Project:* Box Canyon Hydroelectric Project.

f. *Location:* On the Pend Oreille River, in Pend Oreille County, Washington and Bonner County, Idaho. About 709 acres within the project boundary are located on lands of the United States, including Kalispel Indian Reservation (493 acres), U.S. Forest Service Colville National Forest (182.93 acres), U.S. Department of Energy, Bonneville Power Administration (24.14 acres), U.S. Fish and Wildlife Service (2.45 acres), U.S. Army Corps of Engineers (5.29 acres), and U.S. Bureau of Land Management (1.44 acres).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).

h. *Applicant Contact:* Mr. Mark Cauchy, Public Utility District No. 1 of Pend Oreille County, 130 North Washington St., Newport, WA 99156; (509) 447–9331

i. *FERC Contact:* Mr. Timothy Welch. E-mail: Timothy.Welch@FERC.FED.US or telephone (202) 219–2666.

j. *Deadline for filing comments, recommendations, terms and conditions and prescriptions:* 60 days from the date of issuance of this notice.

All documents (original and eight copies should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, recommendations, terms and conditions, and prescriptions may be filed electronically, as well as protests and interventions, via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the "e-Filing" link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the

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official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is ready for environmental analysis at this time.

l. *Description of the Project:* The Box Canyon Project is located in the northeast corner of Washington state in Pend Oreille County. The project dam is located at river mile 34.4 from the Pend Oreille River's confluence with the Columbia River. The site is 13 miles from the Canadian border, 14 miles from the Idaho border, and 90 miles north of city of Spokane, WA. The existing Box Canyon Project consists of : (1) 46-foot-high, 160-foot-long reinforced concrete dam with integral spillway, (2) 217-foot-long, 35-foot-diameter diversion tunnel, (3) 1,170-foot-long forebay channel, (4) auxiliary spillway, (5) powerhouse containing four generating units with a combined capacity of 72 MW, (6) 8,850-acre reservoir at maximum operating pool elevation of 2030.6 feet, and other associated facilities. PUD No.1 operates the project in a run-of-river mode.

PUD No.1 proposes to upgrade all four turbines with new high efficiency, fish-friendly runners and to rewind the four generators to increase generating capacity to 90 MW. No new structures will be built and no construction in the river will be required. No operational changes will be needed although peak flow through each turbine will be increased from 6,850 cfs to 8,100 cfs which will ultimately result in an 8% increase in average annual energy output.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link-select "Docket #" and follow the instructions (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

n. The Commission directs, pursuant to section 4.34(b) of the Regulations (see order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," OR "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–22585 Filed 9–7–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7052–9]

EPA Science Advisory Board; Notification of Public Advisory Committee Teleconference Meeting

Summary—Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) Subcommittee on Particle Monitoring will meet in a public teleconference on Monday, October 1, 2001 from 11 am to 2 pm Eastern Time. The meeting will be hosted out of Conference Room 6013, US EPA, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting is open to the public, however, due to limited space, seating will be on a registration-only basis. Consequently, the public is encouraged to connect via phone to the teleconference. For further information concerning the meeting, or how to register and obtain the phone number, please contact the individuals listed below.

Background—The CASAC Subcommittee on Particle Monitoring (formerly the CASAC Technical Subcommittee for Fine Particle Monitoring) was established in 1996 to provide advice and comment to EPA (through CASAC) on appropriate methods and network strategies for monitoring fine particles in the context of implementing the revised national ambient air quality standards (NAAQS) for particulate matter. The Subcommittee's last meeting/workshop was held on January 22, 2001 (see 66 FR 1343, January 8, 2001 for additional details).

Purpose of the Meeting—This Consultation meeting will be used to comment on EPA's proposed methodology for measuring coarse particulate matter and to discuss alternative approaches to accommodate existing and emerging technologies. The Subcommittee is asked to suggest alternative approaches to EPA's proposed methodology for measuring coarse particulate matter. In the discussion of such approaches, the subcommittee should consider the use of performance based equivalency standards and implementation mechanisms that encourage the use of continuous methods while retaining adequate quality control of data. In addition to continuous methods, the subcommittee is asked to consider the feasibility of incorporating existing integrated methods such as the high volume PM10 sampler and dichotomous samplers into a future PM coarse network. The Subcommittee also is asked to comment on basic network considerations such as the number and location of future PM coarse sites and the frequency for chemical speciation analysis.

Availability of Review Materials—Dr. Russell Wiener can be contacted for information regarding EPA's proposed coarse reference method (919–541–1910).

For Further Information—Members of the public wishing to register for the teleconference or gain access to the conference room on the day of the meeting must contact Ms. Rhonda Fortson, Management Assistant, Clean Air Scientific Advisory Committee, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4563; fax at (202) 501–0582; or via e-mail at *fortson.rhonda@epa.gov*. Those desiring additional information about the meeting, should contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee, EPA Science Advisory Board (1400A), Suite

6450, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4546; fax at (202) 501–0582; or via e-mail at *flaak.robert@epa.gov*. A copy of the draft agenda will be posted on the SAB Web site (*www.epa.gov/sab*) (under the AGENDAS subheading) approximately 12 days before the meeting. The Agenda may also be obtained from Ms. Fortson at the same time.

Members of the public who wish to make a brief oral presentation must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Monday, September 24, 2001 in order to be included on the Agenda. Public comments will be limited to approximately three to five minutes per speaker or organization, with a total time of fifteen minutes overall for all speakers. Written comments must be received no later than the day prior to the meeting, preferably in electronic format (see below for details).

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total, unless otherwise stated. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until two days following the date of the meeting (unless otherwise stated above), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file formats: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on our Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Flaak or Ms. Fortson at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: September 4, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–22622 Filed 9–7–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 5, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Piedmont BankCorp, Statesville, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Piedmont Bank, Statesville, North Carolina.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Georgia Banking Company, Inc., Atlanta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Georgia Banking Company, Atlanta, Georgia.

In connection with this application, Applicant also has applied to acquire GBC Funding, Inc., Atlanta, Georgia, and thereby engage in mortgage lending activities pursuant to section 225.28(b)(1) of Regulation Y.

C. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Prairieland Employee Stock Ownership Plan, Bushnell, Illinois; to acquire an additional 12.4 percent for a total of 45.85 percent, of the voting shares of Prairieland Bancorp, Inc., Bushnell, Illinois, and thereby indirectly acquire Farmers and Merchants State Bank of Bushnell, Bushnell, Illinois.

D. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Leawood Bancshares, Inc., Leawood, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Town & Country Bank (in organization), Leawood, Kansas.

Board of Governors of the Federal Reserve System, September 4, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22591 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Conference Call

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee telephone conference call.

Name: National Committee on Vital and Health Statistics (NCVHS). Subcommittee on Privacy and Confidentiality.

Time and Date: 11 a.m.–1 p.m., September 10, 2001.

Place: Conference Call. Dial in Number (800) 403–2010, Participant Code 478387.

Status: Open.

Purpose: The National Committee on Vital and Health Statistics in the statutory public advisory body to the Secretary of Health and Human Services in the area of health data, statistics, and health information policy. It is established by section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)), and its mandate includes advising the Secretary on the implementation of part C of title XI of the Social Security Act (42 U.S.C. 1320d through 1320d–8)(the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 104–191).

The Subcommittee on Privacy and Confidentiality monitors major developments in health information privacy and confidentiality on behalf of the full Committee, makes recommendations to the full Committee and assists and advises the Department on implementation of the health information privacy provisions of HIPAA.

This meeting of the Subcommittee on Privacy and Confidentiality will be conducted as a conference call to continue subcommittee discussion following the hearing held on August 21, 22 and 23 regarding: (1) The effects of the HIPAA health information privacy regulation on research (both research in which treatment is given and records-based research); and (2) the regulation's provisions for use and disclosure of health information for marketing. During this conference call, draft recommendations will be developed on the implementation of the HIPAA privacy regulation (45 CFR parts 160 and 164) with respect to matters considered at the hearing. After the conference call, the Subcommittee will prepare a draft letter to HHS Secretary Thompson. The draft letter will contain recommendations, and it will be reviewed by the full National Committee on Vital and Health Statistics at the September 24–25 meeting.

The HIPAA privacy regulation and further information about it can be found on the web site of the HHS Office for Civil Rights, at http://www.hhs.gov/ocr/hipaa/. The regulation has been in effect since April 14, 2001. Most entities covered by the regulation must come into compliance by April 14, 2003, and many are beginning the process of implementation.

Additional information about the Conference Call will be provided on the NCVHS website at *http://www.ncvhs.hhs.gov* shortly before the Conference Call date.

Contact Person for More Information: Substantive program information may be obtained from Gail Horlick, M.S.W., J.D., Lead Staff Person for the NCVHS Subcommittee on Privacy and Confidentiality, Office of Research and Demonstrations, Program Analyst, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop E–62, Atlanta, Georgia 30333, telephone (404) 639–8345; or Majorie S. Greenberg, Executive Secretary, NCVHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245.

Information about the committee, including summaries of past meetings and a roster of committee members, is available on the Committee's website at *http://www.ncvhs.hhs.gov*.

Dated: August 29, 2001.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 01–22576 Filed 9–7–01; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Diseases Transmitted Through the Food Supply

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of annual update of list of infectious and communicable diseases that are transmitted through handling the food supply and the methods by which such diseases are transmitted.

SUMMARY: Section 103(d) of the Americans with Disabilities Act of 1990, Public Law 101–336, requires the Secretary to publish a list of infectious and communicable diseases that are transmitted through handling the food supply and to review and update the list annually. The Centers for Disease Control and Prevention (CDC) published a final list on August 16, 1991 (56 FR 40897) and updates on September 8, 1992 (57 FR 40917); January 13, 1994 (59 FR 1949); August 15, 1996 (61 FR 42426); September 22, 1997 (62 FR 49518–9); September 15, 1998 (63 FR 49359), September 21, 1999 (64 FR 51127); and September 27, 2000 (65 FR 58088). No new information that would warrant additional changes has been received; therefore the list, as set forth in the last update and below, remains unchanged.

EFFECTIVE DATE: September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Art Liang, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop G–24, Atlanta, Georgia 30333, telephone (404) 639–2213.

SUPPLEMENTARY INFORMATION: Section 103(d) of the Americans with Disabilities Act of 1990, 42 U.S.C. 12113(d), requires the Secretary of Health and Human Services to:

1. Review all infectious and communicable diseases which may be transmitted through handling the food supply;
2. Publish a list of infectious and communicable diseases which are transmitted through handling the food supply;
3. Publish the methods by which such diseases are transmitted; and,
4. Widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Additionally, the list is to be updated annually. Since the last publication of the list on September 27, 2000 (65 FR 58088), CDC has received no information to indicate that additional unlisted diseases are transmitted through handling the food supply. Therefore, the list set forth below is unchanged from the list published in the **Federal Register** on September 27, 2000.

I. Pathogens Often Transmitted by Food Contaminated by Infected Persons Who Handle Food, and Modes of Transmission of Such Pathogens

The contamination of raw ingredients from infected food-producing animals and cross-contamination during processing are more prevalent causes of foodborne disease than is contamination of foods by persons with infectious or contagious diseases. However, some pathogens are frequently transmitted by food contaminated by infected persons. The presence of any one of the following signs or symptoms in persons who handle food may indicate infection by a pathogen that could be transmitted to others through handling the food supply: diarrhea, vomiting, open skin sores, boils, fever, dark urine, or jaundice. The failure of food-handlers to wash hands (in situations such as after using the toilet, handling raw meat, cleaning spills, or carrying garbage, for example), wear clean gloves, or use clean utensils is responsible for the foodborne transmission of these pathogens. Non-foodborne routes of transmission, such as from one person to another, are also major contributors

in the spread of these pathogens. Pathogens that can cause diseases after an infected person handles food are the following:

Caliciviruses (Norwalk and Norwalk-like viruses)
Hepatitis A virus
Salmonella typhi
Shigella species
Staphylococcus aureus
Streptococcus pyogenes

II. Pathogens Occasionally Transmitted by Food Contaminated by Infected Persons Who Handle Food, But Usually Transmitted by Contamination at the Source or in Food Processing or by Non-foodborne Routes

Other pathogens are occasionally transmitted by infected persons who handle food, but usually cause disease when food is intrinsically contaminated or cross-contaminated during processing or preparation. Bacterial pathogens in this category often require a period of temperature abuse to permit their multiplication to an infectious dose before they will cause disease in consumers. Preventing food contact by persons who have an acute diarrheal illness will decrease the risk of transmitting the following pathogens:

Campylobacter jejuni
Cryptosporidium parvum
Entamoeba histolytica
Enterohemorrhagic Escherichia coli
Enterotoxigenic Escherichia coli
Giardia lamblia
Nontyphoidal Salmonella
Taenia solium
Vibrio cholerae 01
Yersinia enterocolitica

References

1. World Health Organization. Health surveillance and management procedures for food-handling personnel: report of a WHO consultation. World Health Organization technical report series; 785. Geneva: World Health Organization, 1989.

2. Frank JF, Barnhart HM. Food and dairy sanitation. In: Last JM, ed. Maxcy-Rosenau public health and preventive medicine, 12th edition. New York Appleton-Century-Crofts, 1986:765–806.

3. Bennett JV, Holmberg SD, Rogers MF, Solomon SL. Infectious and parasitic diseases. In: Amler RW, Dull HB, eds. Closing the gap: the burden of unnecessary illness. New York: Oxford University Press, 1987:102–114.

4. Centers for Disease Control and Prevention. Locally acquired neurocysticercosis—North Carolina, Massachusetts, and South Carolina, 1989–1991. MMWR 1992; 41:1–4.

5. Centers for Disease Control and Prevention. Foodborne Outbreak of Cryptosporidiosis-Spokane, Washington, 1997. MMWR 1998; 47:27.

Dated: September 4, 2001.

James D. Seligman,

Associate Director for Program Services Centers for Disease Control and Prevention.

[FR Doc. 01–22598 Filed 9–7–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Fund Annual Financial Report for Tribes (ACF–696T).

OMB No.: 0970–0195.

Description: The Child Care and Development Fund (CCDF) annual financial reporting form (ACF–696T) provides a mechanism for Indian Tribes to report expenditures under the CCDF program. The CCDF program provides funds to Tribes, as well as States and Territories, to assist low-income families in obtaining child care so that they can work or attend training/education, and to improve the quality of care. Information collected via the ACF–696T allows the Administration for Children and Families (ACF) to monitor expenditures and to estimate outlays and may be used to prepare ACF budget submissions to Congress. This information collection is a revised version of the currently-used ACF–696T for which Office of Management and Budget (OMB) approval expires on February 28, 2002.

Respondents: Indian Tribes and Tribal Organizations that are CCDF grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–696T	232	1	8	1856
Estimated Total Annual Burden Hours				1856

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarify of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 4, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–22607 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Senior Executive Service Performance Review Board Membership

The Health Resources and Services Administration (HRSA) announces the appointment of members to the HRSA Senior Executive Service (SES) Performance Review Board (PRB). This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4) of the Civil Service Reform Act of 1978, which requires members of performance review boards to be published in the **Federal Register**.

The function of the PRB is to ensure consistency, stability and objectivity in SES performance appraisals, and to make recommendations to the Administrator, HRSA, relating to the performance of senior executives in the Agency.

The following persons will serve on the HRSA SES Performance Review Board:

Thomas G. Morford, Neil Sampson, James J. Corrigan, Katherine M. Marconi, Mary J. Horner, Douglas Morgan, Patricia L. Mackey, Catherine A. Flickinger, Merle G. McPherson, William D. Hobson, Marcia K. Brand, Peter C. van Dyck, James Macrae, Jon L. Nelson, Denise H. Geolot, Wayne C. Richey, Sharon Holston.

For further information about the HRSA Performance Review Board, contact Ms. Wendy Ponton, HRSA Office of Human Resources and Development, 5600 Fishers Lane, Room 14A43, Rockville, Maryland 20857.

Dated: August 24, 2001.

Elizabeth M. Duke,

Acting Administrator, Health Resources and Services Administration.

[FR Doc. 01–22578 Filed 9–7–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4463–N–07]

Mortgage and Loan Insurance Program Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under section 221(g)(4) of the act during the 6-month period beginning July 1, 2001 is 6¾ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning July 1, 2001, is 5⅞ percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Department of Housing and Urban Development, 451 7th Street, SW., Room 6164, Washington, DC 20410. Telephone (202) 708–3944, extension 2612, or TDD (202) 708–4594 for hearing- or speech-impaired callers. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning July 1, 2001, is 5⅞ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 5⅞ percent for the 6-month period beginning July 1, 2001. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) with an insurance commitment or endorsement date (as applicable) within the second 6 months of 2001.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.

Effective interest rate	On or after	Prior to
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6⅜	Jan. 1, 1998	July 1, 1998.
6⅛	July 1, 1998	Jan. 1, 1999.
5½	Jan. 1, 1999	July 1, 1999.
6⅛	July 1, 1999	Jan. 1, 2000.
6½	Jan. 1, 2000	July 1, 2000.
6½	July 1, 2000	Jan. 1, 2001.
6	Jan. 1, 2001	July 1, 2001.
5 ⅞	July 1, 2001	Jan. 1, 2002.

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" of interest in effect at the time the debentures are issued. The term "going Federal rate" is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8– to 12–year maturities, for the 6-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the 6-month period beginning July 1, 2001, is 6¾ percent.

HUD expects to publish its next notice of change in debenture interest rates in December 2001.

The subject matter of this notice falls within the categorical exemption from HUD's environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no environmental finding has been prepared for this notice.

(Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715*l*, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: August 27, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–22565 Filed 9–7–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Draft Recovery Goals for Four Endangered Fishes of the Colorado River Basin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: To further the recovery of humpback chub (*Gila cypha*), bonytail (*Gila elegans*), Colorado pikeminnow (formerly named Colorado squawfish; *Ptychocheilus lucius*), and razorback sucker (*Xyrauchen texanus*), we, the Fish and Wildlife Service announce the availability of draft recovery goals for these endangered fishes of the Colorado River Basin. This information will serve as a supplement and amendment to the respective existing recovery plans for each species. The draft recovery goals for each species provide objective, measurable recovery criteria for downlisting and delisting that identify levels of demographic and genetic viability needed for self-sustaining populations and site-specific management actions/tasks needed to minimize or remove threats. We solicit review and comment from agencies and the public on these draft recovery goals. Reviewers should pay particular attention to the application of existing demographic and genetic data in the development of minimum viable population (MVP) standards and the downlisting and delisting monitoring periods associated with each species.

SUPPLEMENTARY INFORMATION: The purpose of these supplements and amendments are to describe site-specific management actions/tasks; provide objective, measurable recovery criteria; and provide estimates of the time required to achieve recovery of each of the four endangered fish species. The recovery goals for the humpback chub, razorback sucker, and bonytail are identified by two recovery units, upper basin (above Glen Canyon Dam, Arizona) and lower basin. Recovery of the Colorado pikeminnow is currently considered only for the upper basin. Downlisting and delisting criteria by listing factors and management actions, as well as demographic criteria, are presented for populations of each species within recovery units. In addition, updated life-history information, statistical criteria for monitoring, and estimated time to achieve downlisting and delisting requirements are also identified. These serve as supplements and amendments to the recovery plans by providing more

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specific objective and measurable criteria to recover each of the four fish species.

Copies of the Draft Recovery Goals will be mailed to interested parties upon request. The documents are also available (in *.pdf format) for viewing and downloading at: *http://www.r6.fws.gov/crrip/rg.htm*. Make requests and mail comments to the Director at the address below. You may submit comments by sending electronic mail (e-mail) to: colorivgoals @ fws.gov.

DATES: The agency must receive comments on or before October 25, 2001.

ADDRESSES: Mail comments and requests to Dr. Robert Muth, Director, Upper Colorado River Endangered Fish Recovery Program, U.S. Fish and Wildlife Service, Post Office Box 25486, DFC, Denver, Colorado, 80225. See **SUPPLEMENTARY INFORMATION** for information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Muth, Director (extension 268), Dr. Thomas Czapla (extension 228) or Ms. Debra Felker (extension 227), Coordinators (see **ADDRESSES** above), at telephone (303) 969–7322.

Dated: August 20, 2001.

Ralph O. Morgenweck,

Regional Director, Denver, CO.

[FR Doc. 01–22602 Filed 9–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Status of the Wasatch Front Population of the Spotted Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce our intent to prepare a status review and a revised 12-month finding for the Wasatch Front population of the spotted frog (*Rana luteiventris*).

DATES: Comments and information for our use in preparing the status review and revised 12-month finding will be accepted until November 9, 2001.

ADDRESSES: Questions and comments concerning this status review should be sent to Henry Maddux, Field Supervisor, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115. Written comments and materials also should be directed to the same address. Copies of our 1995 status review and 12-month finding are available on the web at <http://mountain-prairie.fws.gov/spottedfrog>. Comments can be provided via e-mail to <fw6_spottedfrog@fws.gov>. Comments and materials received will be available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jessica L. Gourley, Fish and Wildlife Biologist (see **ADDRESSES** section), telephone (801) 524–5001, e-mail <jess_gourley@fws.gov>.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 1989, we received a petition from the Board of Directors of the Utah Nature Study Society requesting that the Service add the spotted frog (then referred to as *Rana pretiosa*) to the List of Threatened and Endangered Species. The petition addressed the range-wide distribution of the spotted frog that included a main population in southeast Alaska, Alberta, British Columbia, eastern Washington, northeastern Oregon, northern and central Idaho, and western Montana and Wyoming, Utah, and additional disjunct populations in northeastern California, southern Idaho, Nevada, and western Washington and Oregon. The disjunct populations in Utah occur along the Wasatch Front and West Desert. The petition specifically requested that we consider the status of the Wasatch Front population.

The spotted frog belongs to the family of true frogs, the Ranidae. Adult frogs have large, dark spots on their backs and pigmentation on their abdomens varying from yellow to red (Turner 1957). Spotted frogs along the Wasatch Front generally possess a salmon color ventrally, while West Desert and Sanpete County, Utah, populations [[Page 16219]] generally have a yellow to yellow-orange color ventrally. Spotted frogs in Utah are reported to have fewer and lighter colored spots (Colburn, U.S. Fish and Wildlife Service, pers. comm. 1992) than other populations. The spotted frog is closely associated with water (Dumas 1966, Nussbaum et al. 1983). Habitat includes the marshy edges of ponds, lakes, slow-moving cool water streams and springs (Licht 1974; Nussbaum *et al.* 1983; Morris and Tanner 1969; Hovingh 1987).

Section 4(b)(3)(B) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that we make a finding on whether a petition to list, delist or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action is—(a) not warranted; (b) warranted; or (c) warranted but precluded from immediate proposal by other pending listing proposals of higher priority. We subsequently published a notice of a 90-day finding in the **Federal Register** (54 FR 42529) on October 17, 1989, and a notice of the 12-month petition finding in the **Federal Register** (58 FR 27260) on May 7, 1993. In the 12-month petition finding we concluded that listing of the spotted frog as threatened in some portions of its range was warranted but precluded by other higher priority listing actions. Both distinct populations in Utah, the Wasatch Front and West Desert populations, were found to be warranted but precluded and were designated as candidates for listing. The Wasatch Front population was assigned a listing priority number of 3 because the magnitude of the threats were high and imminent, while the West Desert population was assigned a listing priority of 9 because of moderate to low threats.

Our warranted but precluded finding identified that habitat loss and modification from reservoir construction and from urban and agricultural developments was a primary cause of the decline in the Wasatch Front population (Dennis Shirley, pers. comm. 1992). Degradation of spring habitats and water quality from cattle grazing and other agricultural activities in these limited habitats were identified as potential threats to the spotted frog of the West Desert population (Hovingh 1987; Peter Hovingh, pers. comm. 1992; Dennis Shirley, pers. comm. 1992).

On November 28, 1997, we announced the availability of a Draft Conservation Agreement for the Wasatch Front and West Desert populations (Utah) of spotted frog for review and comment (62 FR 63375). We subsequently signed the Conservation Agreement on February 13, 1998. The goal of this agreement developed by the Utah Department of Natural Resources in cooperation with the Bureau of Land Management, Bureau of Reclamation, Utah Reclamation Mitigation and Conservation Commission, Central Utah Water Conservancy District, the Confederated Tribes of the Goshute Federation, and the Service, was to ensure the long-term conservation of the spotted frog within its historical range in Utah. Due to numerous activities and studies in addition to and pursuant with the Conservation Agreement, we determined that the status of the species in Utah had improved and issued a new 12-month petition finding of "not warranted" on April 2, 1998 (63 FR 16218).

On June 8, 1999, a complaint was filed by the Biodiversity Legal Foundation and Peter Hovingh challenging the "not warranted" finding as violating the ESA and the Administrative Procedure Act. The complaint alleged that the "not warranted" finding was inconsistent with the 8 years of prior determinations by the Service that the spotted frog deserved ESA listing, that spotted frog populations had declined during the course of the 8-year administrative process, that the Conservation Agreement contained future and voluntary actions that had yet to be implemented and had not proven successful at protecting spotted frog populations prior to the "not warranted" decision, and that all measures identified by the Service as having previously been implemented had either failed, had been rejected by the Service as inadequate, or were adopted to mitigate specific projects that had already destroyed spotted frogs and their wetland and aquatic habitat.

On August 6, 2001, a settlement was reached between the plaintiffs and the Government regarding this complaint. The settlement stipulates that we remand for reconsideration the "not warranted" finding and start a new status review and 12-month finding on the Wasatch Front population of the spotted frog. The revised finding is to be completed by July 31, 2002. The agreement also states that we will not vacate our previous determination in the interim. Therefore, the candidate status of the species will not be restored unless and until we determine in the revised 12-month finding that the species is warranted for listing, or warranted but precluded from listing by higher listing priority actions.

References Cited

A complete list of all references cited is available upon request from the Utah Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Jessica L. Gourley (see **ADDRESSES** section).

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 30, 2001.

Ralph O. Morgenweck,

Regional Director, Denver, CO.

[FR Doc. 01–22600 Filed 9–7–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Environmental Assessment for the Mandalay Bank Protection Project (Demo) Terrebonne Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

The Service announces the availability of the draft EA for the Mandalay Bank Protection Project. A more detailed description of the project is outlined in the **SUPPLEMENTARY INFORMATION** section below. A Copy of the draft EA may be obtained by sending a written request to the Service's Louisiana Field Office (see **ADDRESSES**). Requests must be made in writing to be processed. This notice is provided pursuant to NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action, including the identification of any other aspects of the human environment not already identified in the Service's EA.

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Louisiana Field Office (see **ADDRESSES**). You also may comment via the internet to *"martha_segura@fws.gov"*. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at the telephone numbers listed below (see **FOR FURTHER INFORMATION**). Finally, you may hand deliver comments to the Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written comments on the draft EA should be sent to the Service's Louisiana Field Office (see **ADDRESSES**) and should be received on or before October 10, 2001.

ADDRESSES: Persons wishing to review the draft EA may obtain a copy by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 646 Cajundome Boulevard, Suite 400, Lafayette, Louisiana 70506. Documents will be available for public inspection by appointment during normal business hours at the Service's Louisiana Field Station (Attn: Martha Segura), or Mandalay National Wildlife Refuge, 3599 Bayou Black Drive, Houma, Louisiana 70360 (Attn: Paul Yakupzack). Written data or comments regarding the draft EA should be submitted to the Service's Louisiana Field Office. The data and comments must be submitted in writing to be adequately considered in the Service's decision-making process.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Segura, Fish and Wildlife Biologist, (see **ADDRESSES** above), telephone: 337/291–3110 or 337/291–3100, facsimile: 337/291–3139.

SUPPLEMENTARY INFORMATION: The Mandalay Bank Protection Project (Demo), is being funded through the Coastal Wetlands Planning, Protection and Restoration Act on the Ninth Priority Project List as a Demonstration Project. The project purpose is to evaluate less-costly, effective alternatives to traditional rock rip-rap for protecting and restoring highly erodible banks along waterways traversing coastal wetlands.

The project is located in Mandalay National Wildlife Refuge along the southern bank of the Gulf Intracoastal Waterway (GIWW). The banks of the GIWW are severely eroded and there are many locations where the bank has "blown out", exposing the fragile interior marshes to erosion from the wakes and surges of passing boat and barge traffic. The preferred alternative is to install and evaluate four alternatives to rock rip-rap which would protect and restore these easily erodible banks.

Dated: August 30, 2001.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 01–22601 Filed 9–7–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-09-1320-EL, WYW151133]

Belle Ayr 2000 Tract, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Notice is hereby given that certain coal resources in the Belle Ayr 2000 Tract described below in Campbell County, Wyoming will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 2 p.m., on Thursday, October 11, 2001. Sealed bids must be submitted on or before 4 p.m., on Wednesday, October 10, 2001.

ADDRESSES: The lease sale will be held in the First Floor Conference Room (Room 107) of the BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003. Sealed bids must be submitted to the Cashier, BLM, Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Julie Weaver, Land Law Examiner, or Melvin Schlagel, Coal Coordinator, at 307–775–6260 and 307–775–6257, respectively.

SUPPLEMENTARY INFORMATION: The coal estate of the Belle Ayr 2000 tract, Serial Number WYW151133, is being offered in response to a lease by application (LBA) request for a competitive sale filed by RAG Wyoming Land Company, a subsidiary of RAG American Coal Company. The application was filed on July 28, 2000, and was approved for processing as a maintenance tract by the Powder River Regional Coal Team on October 25, 2000. The tract is located in Campbell County approximately 11 miles south of Gillette, Wyoming, and is crossed by Bishop Road about 3 miles east of State Highway 59.

T.48 N., R. 71 W., 6th P.M., Wyoming
Sec. 28: Lots 3–6;
Sec. 29: Lots 1 and 6.
Containing 243.61 acres

All of the acreage offered has been determined to be suitable for mining assuming that Bishop Road is moved as planned. The surface estate of the tract is completely controlled by the applicant. There are no oil and gas wells on the tract but these rights are privately owned and are not included in this coal lease.

The tract is within the mine permit area for the Belle Ayr mine and contains surface mineable coal reserves in one primary seam currently being recovered at this mine. The in-place Wyodak seam averages about 76 feet thick on the LBA while the overburden averages about 192 feet thick.

The Belle Ayr LBA coal is ranked as subbituminous C. The overall average quality of the in-place reserves is 8490 BTU/lb., 30% moisture, 4.75% ash, 0.35% sulfur, and 1.02% sodium in the ash. These quality averages place the coal reserves near the middle of the range of coal quality currently being mined in the southern Powder River Basin in Campbell County.

The tract contains an estimated 31.4 million tons of mineable coal in the Wyodak seam. This estimate of reserves does not include any tonnage from localized seams or splits containing less than 5 feet of coal. Potential bidders must reduce this estimate to account for mining losses associated with thick seam recovery. The stripping ratio for the mineable reserves is approximately 3.0:1 (BCY/Ton).

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals the fair market value of the tract and other applicable requirements are met. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m., on Wednesday, October 10, 2001, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale.

The lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and of a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the BLM, Wyoming State Office at the addresses above. Case file documents, WYW151133, are available for inspection at the BLM, Wyoming State Office.

Dated: August 1, 2001.

Alan Rabinoff,

Deputy State Director, Minerals and Lands.

[FR Doc. 01–20777 Filed 9–7–01; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–417–421 and 731–TA–953–963 (Preliminary)]

Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping investigations Nos. 701–TA–417–421 (Preliminary) and 731–TA–953–963 (Preliminary)[1] under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of carbon and certain alloy steel wire rod,[2] provided for in subheadings 7213.91, 7213.99, 7227.20, and 7227.90.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Brazil, Canada, Germany, Trinidad and Tobago, and Turkey and by reason of such imports from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) and 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) and 1673a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty and antidumping investigations in 45 days, or in this case by October 15, 2001. The Commission's views are due at Commerce within five business days thereafter, or by October 22, 2001.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on August 31, 2001, by counsel on behalf of Co-Steel Raritan, Inc., Perth Amboy, NJ; GS Industries, Inc., Charlotte, NC; Keystone Consolidated Industries, Inc., Dallas, TX; and North Star Steel Texas, Inc., Edina, MN.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on September 21, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202–205–3200) not later than September 19, 2001, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 26, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 4, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22590 Filed 9–7–01; 8:45 am]

BILLING CODE 7020–02–P

[1] Investigations Nos. 701–TA–417–421 (Preliminary) cover imports from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey, respectively. Investigations Nos. 731–TA–953–963 (Preliminary) cover imports from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela, respectively.

[2] For purposes of these investigations, carbon and certain alloy steel wire rod is defined as hot-rolled bars and rods, in irregularly wound coils, of circular cross section, having a diameter of 5 mm or more but less than 19 mm, of non-alloy or alloy steel, except such bars and rods of free-machining steel or of alloy steel containing by weight 24 percent or more of nickel. Free-machining steel is any steel product containing by weight one or more of the following elements, in the specified proportions: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium. The investigations do not cover concrete reinforcing bars and rods, or bars and rods of stainless steel or tool steel.

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–435]

In the Matter of Certain Integrated Repeaters, Switches, Transceivers, and Products Containing Same; Notice of Decision Not To Review a Final Initial Determination, and Schedule for Filing of Written Submissions on the Issues of Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination ("Final ID") issued by the presiding administrative law judge ("ALJ") on July 19, 2001, finding a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation. The Commission also determined to deny the petition of respondent Altima Communications Inc. to supplement the evidentiary record in the investigation, and to grant the motion of complainants Intel Corporation and Level Communications, Inc. to strike portions of Altima Communications, Inc.'s petition for review.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W.,

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Washington, D.C. 20436, telephone (202) 205–3115. Copies of the public versions of the final ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: This patent-based section 337 investigation was instituted on August 23, 2000, based upon a complaint filed on July 20, 2000, by Intel Corporation ("Intel") and Level One Communications, Inc. ("Level One"). 65 FR 51327 (Aug. 23, 2000). The respondent is Altima Communications, Inc. ("Altima"). A second patent-based section 337 investigation naming Altima as a respondent was instituted on April 24, 2000, based upon a complaint filed by Level One on March 23, 2000, and supplemented on April 13, 2000. 65 FR 21789 (Apr. 24, 2000). On August 24, 2000, the ALJ issued an order consolidating the two investigations. From April 16, 2001, through April 30, 2001, the ALJ held an evidentiary hearing. On July 19, 2001, the ALJ issued a final ID finding that respondent Altima violated section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by infringing certain claims of two of the complainants' asserted patents. The ALJ found that: (1) There has been importation and sale of the accused products; (2) complainants practice the patents in controversy and satisfy the domestic industry requirements of section 337; (3) certain of the claims in issue are valid; (4) the accused imported products directly infringe certain of the claims in issue; and (5) respondent has induced infringement of certain of the claims in issue. Based on these findings, the ALJ concluded there was a violation of section 337. The ALJ recommended issuance of a limited exclusion order.

Complainants Intel and Level One and respondent Altima filed petitions for review of various portions of the Final ID, and opposed each others' petitions for review. The Commission investigative attorney (IA) did not petition for review of the Final ID, but he opposed the other parties' petitions for review.

On August 1, 2001, Altima petitioned the Commission for leave to supplement the evidentiary record of the investigation. On August 8, 2001, Intel and Level One filed their opposition to Altima's petition to supplement, and moved to strike portions of respondent's petition for review related to materials that have not been admitted into evidence and are not part of the evidentiary record created in connection with the instant investigation. On August 13, 2001, the IA filed his opposition to Altima's petition to supplement.

Having examined the record in this investigation, including the Final ID, the petitions for review, and the responses thereto, the Commission determined not to review the Final ID; thus, the Commission has found a violation of section 337. Having also examined Altima's petition to supplement the evidentiary record, Intel and Level One's opposition to Altima's petition to supplement and Intel and Level One's motion to strike, the Commission has determined to deny Altima's petition to supplement and to grant Intel and Level One's motion to strike.

In connection with the final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of the remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background see the Commission Opinion, In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December, 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the July 19, 2001, recommended determination by the ALJ on remedy and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on September 19, 2001. Reply submissions must be filed no later than the close of business on September 26, 2001. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. The target date for completion of the investigation is October 23, 2001.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is requested will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Subpart G of the Commission's Rules of Practice and Procedure (19 CFR Subpart G).

By order of the Commission.
Issued: September 5, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22603 Filed 9–7–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 7, 2001, Applied Science Labs, Inc., A Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substance listed below:

Drug	Schedule
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Meperidine (9230)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import these controlled substances for the manufacture of reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 10, 2001.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 30, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22568 Filed 9–7–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of Title 21, Code of Federal Regulations(CFR), notice is hereby given that on April 19, 2001, Lipomed, Inc., One Broadway, Cambridge, Massachusetts 02142, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxocodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II

The firm plans to import small reference standard quantities of finished commercial product from its sister company in Switzerland for sale to its customers for drug testing and pharmaceutical research and development.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant

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Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 10, 2001.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 30, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22567 Filed 9–7–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 4, 2000, and published in the **Federal Register** on January 10, 2001, (66 FR 2005), Organichem Corporation, 33 Riverside Avenue, Renssalaer, New York 12144, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Pentobarbital (2270)	II
Methylphenidate (1724)	II
Meperidine (9230)	II

The firm plans to manufacture bulk products for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Organichem Corporation to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Organichem Corporation to ensure that the company's registration is consistent with the public interest. The investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: August 30, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22569 Filed 9–7–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated August 7, 2000, and published in the **Federal Register** on August 18, 2000, (66 FR 50568), Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Poppy Straw (9650)	II

The firm plans to import the listed controlled substances for the manufacture of bulk pharmaceutical controlled substances and non-controlled substance flavor extract.

DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Penick Corporation to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Penick Corporation to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 30, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22570 Filed 9–7–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 14, 2000, and published in the **Federal Register** on June 26, 2000, (65 FR 39430), Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium powdered (9639)	II

The firm plans to manufacture the listed controlled substances for distribution as bulk pharmaceutical products to its customers.

DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Penick Corporation to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Penick Corporation to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and .0104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: August 30, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–22571 Filed 9–7–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, Office of Foreign Relations; Questions and Answers for Solicitation for Cooperative Agreement Application (SGA) 01–10 Caribbean Labor Market Information System Market

AGENCY: Bureau of International Labor Affairs, Office of Foreign Relations, Labor.

ACTION: Notice.

SUMMARY: In response to the subject solicitation, inquiries have been received regarding the requirements of the solicitation. This notice publishes the inquiries and the responses to the inquiries. Due to the pending closing date of September 12, 2001 no further questions will be entertained.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Ave., NW., Washington, DC 20210, Telephone (202) 219–9355, e-mail: *harvey_lisa@dol.gov.*

Q: Given the fact that detailed national plans can only be derived from on-site assessments within the individual countries with consensus-building exercises with government officials and the social partners, could you clarify what level of specificity is required regarding the implementation or redesign of the proposed surveys (i.e. labor force and occupational wage surveys)?

A: The level of specificity necessary for a complete and thorough demonstration of the applicant's abilities, and then for a thorough review and full consideration by the technical evaluation panel shall be determined by and is the responsibility of the applicant.

Q: Is USDOL proposing the implementation of a regional labor force survey and an occupational employment and wage that must be adopted by all countries rather than allowing the individual countries to develop surveys or refine existing surveys and collection techniques?

A: USDOL, in support of Caribbean government efforts to collect and report on data that can be aggregated regionally and compared across countries, is promoting the implementation of a standard labor force survey for the region. The survey would collect a core set of labor market data, from which individual countries could expand upon (but not subtract) at their discretion to collect additional relevant data to meet their particular information needs.

Q: If USDOL is proposing the implementation of multiple labor force surveys, could you identify which countries USDOL intends to target?

A: All of the countries listed in the SUMMARY section of the SGA.

Q: Could you clarify what is the distinction between (1) "method for performing all the specific work * * *" and (3) "approach to producing all the required deliverables * * *"?

A: There is no distinction.

Q: Given that detailed national plans can only be derived from on-site needs analyses that feed into a consensus-building process involving the social partners, what level of specificity is required for regional and national workplans in the "Technical Sample"?

A: The level of specificity necessary for a complete and thorough demonstration of the applicant's abilities, and then for a thorough review and full consideration by the technical evaluation panel shall be determined by and is the responsibility of the applicant.

Q: Will a bid be deemed responsive to the solicitation requirements if the workplans provided in the "Technical Sample" section include an indicative list of activities that will be finalized during project implementation in collaboration with national partners?

A: Yes.

Q: Is a separate budget required for each of the 13 national workplans? If so, given that training and other project activities will likely be conducted on a regional or multi-country level in many cases, how can 13 separate national budgets be developed for these shared and indivisible resources?

A: No.

Signed at Washington, DC this 5th day of September 2001.

Lawrence J. Kuss,

Grant Officer.

[FR Doc. 01–22606 Filed 9–7–01; 8:45 am]

BILLING CODE 4510–28–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

September 5, 2001.

TIME AND DATE: 10 a.m., Thursday, October 11, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Kinder Morgan Operating L.P. "C," Docket Nos. KENT 2000–128–R, etc. (Issues include whether the judge correctly determined that Kinder Morgan is engaged in "the work of preparing the coal" as defined in section 3(i) of the Mine Act, and that Kinder Morgan's marine terminal is therefore a "coal or other mine" under section 3(h)(1) of the Mine Act).

TIME AND DATE: 2 p.m., Thursday, October 11, 2001

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a majority vote of the Commission that the Commission consider and act upon the following in closed session:

1. Kinder Morgan Operating L.P. "C," Docket Nos. KENT 2000–128–R, etc. (see oral argument listing).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 01–22803 Filed 9–6–01; 3:40 pm]

BILLING CODE 6735–01–M

NATIONAL AREONAUTICS AND SPACE ADMINISTRATION

[Notice (01–108)]

NASA Advisory Council (NAC), Earth Science Data and Information Systems and Services Advisory Subcommittee (ESDISSAS); Meeting

AGENCY: National Aeronautics and Space Administration.

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ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Earth Systems Science and Applications Advisory Committee, Earth Science Data and Information Systems and Services Advisory Subcommittee.

DATES: Wednesday, October 3, 2001, 8:15 a.m. to 5:15 p.m.; and Thursday, October 4, 2001, 8:15 a.m. to 4 p.m.

ADDRESSES: NASA Headquarters, 300 E Street SW, Room MIC–7A, Washington, DC 20546

FOR FURTHER INFORMATION CONTACT: Ms. Martha Maiden, Code YS, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1078.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Welcome and Introduction Comments
—State-of-the-Enterprise
—Earth Science Enterprise (ESE) Budget Overview
—ESE Data Systems and Services
—Earth Science Technology Office Broad Area Announcement and transition to usage Report from Earth Science Data and Information System Project
—New Data and Information Systems and Services (NewDISS) Report 1.0 Release Readiness
—NewDISS Formulation Status
—Earth Science Information Partners (ESIP) planning status
—Future of Federation and its Role in NewDISS
—New ESE Data Access Prioritization Group
—Summary of first day
—State of and Strategy for High-End Computing and Climate Modeling
—Data Policy for ESE Data Buys
—Overall Discussion and Recommendations
—General Discussion/Closing Remarks and Adjournment

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Beth McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–22572 Filed 9–7–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL INDIAN GAMING COMMISSION

Information Collection; Comment Request

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission (NIGC), in accordance with the Paperwork Reduction Act of 1995, is submitting to the Office of Management and Budget (OMB) a request to review and extend approval for the information collection activity associated with the issuance of a certificate of self-regulation for class II gaming to Indian tribes conducting gaming under the Indian Gaming Regulatory Act. The OMB will consider comments from the public on this information collection activity.

DATES AND ADDRESSES: Comments regarding the NIGC's evaluation of the information collection activity and its request to OMB to extend approval for the information collection must be received by October 15, 2001. When providing comment, a respondent should specify the particular collection activity to which the comment pertains. Send comments to: Office of Information and Regulatory Affairs (Attn: Desk Officer for the National Indian Gaming Commission), Office of Management and Budget, 725 17th Street NW., Washington, DC 20503. The NIGC regulation to which the information collection pertains is available on the NIGC website, *www.nigc.gov*. The regulation is also available by written request to the NIGC (Attn: Ms. Cindy Altimus), 1441 L Street NW., Suite 9100, Washington, DC, 20005, or by telephone request at (202) 632–7003. This is not a toll-free number. All other requests for information should be submitted to Ms. Altimus at the above address for the NIGC.

SUPPLEMENTARY INFORMATION:

Title: Issuance of Certificates of Self Regulation to Tribes for Class II Gaming.

OMB Number: 3141–0008.

Abstract: The Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.*, allows any Indian tribe that has conducted class II gaming for at least three years to petition the NIGC for a certificate of self-regulation for its class II gaming operations. The NIGC will issue the certificate if it determines from available information that the tribe has conducted its gaming activity in a manner which has resulted in an effective and honest accounting of all revenues, a reputation for safe, fair, and honest operation of the activity, and an enterprise free of evidence of criminal or dishonest activity. The tribe must also have adopted and implemented proper accounting, licensing, and enforcement systems and conducted the gaming operation on a fiscally or economically sound basis. The implementing regulation of the NIGC, 25 CFR part 518, requires a tribe interested in receiving the certificate to file a petition with the NIGC describing the tribe's gaming operations, its regulatory process, its tribal revenue allocation plan, and its accounting and record keeping systems for the gaming operation. The tribe must also provide copies of various documents in support of the petition. Submission of the petition and supporting documentation is voluntary. The NIGC will use the information submitted by the respondent tribe in making a determination on whether to issue the certificate of self-regulation.

Respondents: Indian tribes conducting class II gaming.

Estimated Number of Potential Respondents: 200.

Estimated Annual Voluntary of Responses: 5.

Estimated Annual Burden Per Voluntary Respondent: 130.

Estimated Total Annual Burden on Voluntary Respondents: 650.

Jacqueline Agtuca,

Chief of Staff.

[FR Doc. 01–22401 Filed 9–7–01; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–237]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Unit 2; Exemption

1.0 Background

The Exelon Generation Company, LLC, (Exelon, or the licensee) is the holder of Facility Operating License No. DPR–19, which authorizes operation of the Dresden Nuclear Power Station, Unit 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling water reactor located in Grundy County, Illinois.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, section

50.55a(g)(6)(ii)(B), Expedited Examination of Containment, requires that, by September 9, 2001, licensees of all operating nuclear power plants shall implement the inservice examinations for the first period of the first inspection interval specified in ASME Subsection IWE of the 1992 Edition with the 1992 Addenda in conjunction with the modifications specified in 10 CFR 50.55a(b)(2)(ix). The purpose of performing these containment inspections is to ensure the structural integrity of the containment. While some of the inservice examinations can be performed with the plant at power, due to radiological considerations, other examinations must be scheduled during plant outages.

The licensee recently upgraded their inservice examination program by implementing the 1998 Edition of ASME Section XI, Subsection IWE in place of the 1992 Edition. The staff approved this proposal by letter dated September 18, 2000. While the licensee intended to complete the required inservice examinations during the refueling outage of October 1999, the licensee subsequently determined that some of the examinations did not meet either the 1992 or 1998 Edition and, therefore, must be re-performed. Considering that the licensee's next scheduled refueling outage will be in October 2001, the licensee will be unable to complete all inservice examinations required by regulation unless a special outage, for the purpose of performing inservice examinations, is planned prior to September 9, 2001.

In consideration of the above, by letter dated December 8, 2000, and supplemented by letter dated February 2, 2001, the licensee requested a schedular exemption from implementation of inservice examinations of the containment by September 9, 2001, as required by 10 CFR 50.55a(g)(6)(ii)(B). The schedular exemption is requested to extend the implementation date by 90 days (i.e., to December 8, 2001) to allow completion of first period examinations during the next refueling outage, scheduled to begin in October 2001.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(iii), special circumstances are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted. The requested schedular exemption is required to prevent a forced shutdown of the facility for the purpose of conducting inservice examinations prior to September 9, 2001. In addition, according to 10 CFR 50.12(a)(2)(v), special circumstances are also present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. The requested exemption is only needed for a maximum of 90 days, to the start of the next scheduled refueling outage. The staff believes that the licensee made good faith efforts to complete the inservice examinations to satisfy the regulations during their last refueling outage of October 1999.

As described in the staff's safety evaluation dated August 31, 2001, the staff finds that: (1) The requested 90-day extension is a relatively short period that would not permit a significant increase in any degradation that has developed since the general visual examination performed during the most recent refueling outage conducted in October 1999, (2) a separate outage for the performance of containment inspections to meet the date of September 9, 2001, would present undue hardship and costs due to lost generation, and (3) an extra shutdown would increase radiological exposure. On this basis, the staff concludes that (1) the exemption requested by the licensee will not present an undue risk to the public health and safety, (2) to meet the date required by the regulation would result in undue hardship or other costs, and (3) the exemption would provide only temporary relief from the applicable regulation. Therefore, the exemption is authorized pursuant to 10 CFR 50.12(a).

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants Exelon Nuclear an exemption from the requirements of 10 CFR 50.55a(g)(6)(ii)(B) for Dresden Nuclear Power Station, Unit 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 45876).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 31st day of August 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22624 Filed 9–7–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1109 (which should be mentioned in all correspondence concerning this draft guide), is "Laboratory Investigations of Soils and Rocks for Engineering Analysis and Design of Nuclear Power Plants." This draft guide is a proposed Revision 1 of Regulatory Guide 1.138, and it is being revised to describe laboratory investigations and testing practices that are acceptable to the NRC staff for determining soil and rock properties and characteristics needed for engineering analysis and design for foundations and earthworks for nuclear power plants. The state of the art of laboratory testing practices of soils and rocks is reflected in existing national standards, and this guide recommends and references such standards where appropriate.

This draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike,

Rockville, MD. Comments will be most helpful if received by December 10, 2001.

You may also provide comments via the NRC's interactive rulemaking Web site through the NRC home page *(http://www.nrc.gov)*. This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV*. For information about the draft guide and the related documents, contact Mr. J. Philip at (301)415–6211; e-mail *JXP@NRC.GOV*.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301)415–4737 or (800)397–4205; fax (301)415–3548; e-mail *PDR@NRC.GOV*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to *DISTRIBUTION@NRC.GOV*; or by fax to (301)415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 30th day of August 2001.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 01–22625 Filed 9–7–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27435]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 31, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 25, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 25, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

FirstEnergy Corp., GPU, Inc., et al. (70–9793)

FirstEnergy Corp. ("FirstEnergy"), an Ohio holding company claiming exemption from registration under the Act through rule 2, its utility subsidiaries: Ohio Edison Company ("Ohio Edison"), American Transmission Systems, Incorporated ("ATSI"), The Cleveland Electric Illuminating Company ("Cleveland Electric"), The Toledo Edison Company ("Toledo Edison"), Pennsylvania Power Company ("Penn Power"), and Northeast Ohio Natural Gas Corp. ("NONGC"), and their respective subsidiaries; FirstEnergy's direct nonutility subsidiaries: FE Acquisition Corp. ("FE Acquisition"), FirstEnergy Properties, Inc. ("FE Properties"), FirstEnergy Facilities Services Group, LLC ("FE Facilities"), FE Holdings, LLC ("FE Holdings"), FELHC, Inc. ("FELHC"), FirstEnergy Securities Transfer Company ("FirstEnergy Transfer"), FirstEnergy Nuclear Operating Company ("FENOC"), FirstEnergy Solutions Corp. ("FirstEnergy Solutions"), FirstEnergy Generation Corp. ("GenCo"), FirstEnergy Ventures Corp. ("FirstEnergy Ventures"), MARBEL Energy Corporation ("MARBEL"), Centerior Indemnity Trust ("CIT"), Centerior Service Company ("Centerior Service") and FirstEnergy Service Company ("ServeCo"), and their respective subsidiaries, all located at 76 South Main Street, Akron, Ohio, 44308; and GPU, Inc. ("GPU"), a registered public utility holding company, its utility subsidiaries: Jersey Central Power & Light Company ("JCP&L"), Pennsylvania Electric Company ("Penelec"), Metropolitan Edison Company ("Met-Ed"), York Haven Power Company ("York Haven"), and Waverly Electric Power & Light Company ("Waverly Electric"), and their respective subsidiaries; and its nonutility subsidiaries: GPU Capital, Inc. ("GPU Capital"), GPU Electric, Inc. ("GPU Electric"), GPU Diversified Holdings, LLC ("GPUDH"), GPU EnerTech Holdings, Inc. ("GPU EnerTech"), GPU Power, Inc. ("GPU Power"), GPU Advanced Resources, Inc. ("GPUAR"), GPU Service, Inc. ("GPU Service"), GPU Telcom Services, Inc. ("GPU Telcom"), GPU Nuclear, Inc. ("GPU Telecom"), and MYR Group, Inc. ("MYR"), and their respective subsidiaries, all located at 300 Madison Avenue, Morristown, New Jersey, 07962, (collectively, "Applicants"), have filed an application-declaration, as amended ("Application"), under sections 6(a), 7, 9(a), 10, 11, and 13 of the Act and rules 42, 43, 45, 46, 52, 53, 54, and 85–91 under the Act.

Applicants request authority for, among other things, the merger of GPU with and into FirstEnergy ("Merger"); GPU will no longer be a separate entity after the Merger. Following consummation of the Merger, FirstEnergy will register with the Commission as a holding company under the Act. Under the terms of the Agreement and Plan of Merger, dated August 8, 2000 ("Merger Agreement"), FirstEnergy will pay cash for 50% and issue FirstEnergy common shares for 50% of the shares of GPU common stock outstanding at the time of the completion of the Merger, subject to a tax adjustment. The total Merger consideration to be paid by FirstEnergy is estimated to be approximately $4.5 billion.[1]

In addition, Applicants seek approval for the creation and reorganization of certain nonutility subsidiaries and other matters. In connection with the Merger, Applicants seek approval for financing by FirstEnergy for the purpose of paying the cash and common stock portions of the Merger consideration and other general corporate purposes that may be required in the period immediately following the Merger ("Acquisition Financing"). Applicants also seek approvals for the ongoing financing activities of, the provision of intrasystem services and guaranties by, and certain investments and other matters relating to FirstEnergy and its subsidiaries following the Merger. Applicants further seek preliminary and temporary approval for ServeCo (the new service company for the FirstEnergy system) and GPU Service to act as service companies for the FirstEnergy system under section 13 of the Act and applicable rules.

All pre-Merger subsidiaries of FirstEnergy and GPU are referred to as "Subsidiaries." "FirstEnergy Utility Subsidiaries" include: Ohio Edison, Cleveland Electric, Toledo Edison, Penn Power, NONGC and ATSI; "FirstEnergy Nonutility Subsidiaries" include all the FirstEnergy Subsidiaries, except for the FirstEnergy Utility Subsidiaries; "GPU Subsidiaries" means all current subsidiaries of GPU; "GPU Utility Subsidiaries" include JCP&L, Met-Ed, Penelec, York Haven and Waverly Electric; "GPU Nonutility Subsidiaries" include all GPU Subsidiaries, except for the GPU Utility Subsidiaries; "Utility Subsidiaries" means FirstEnergy Utility Subsidiaries and GPU Utility Subsidiaries; "Nonutility Subsidiaries" means FirstEnergy Nonutility Subsidiaries and GPU Nonutility Subsidiaries; and "Subsidiary" or "Subsidiaries" means all subsidiaries of post-Merger FirstEnergy, including FirstEnergy Utility Subsidiaries, FirstEnergy Nonutility Subsidiaries, GPU Utility Subsidiaries and GPU Nonutility Subsidiaries.

I. Parties to the Merger

A. FirstEnergy and Its Affiliates

FirstEnergy directly owns all of the issued and outstanding voting securities of Ohio Edison,[2] ATSI, Cleveland Electric, Toledo Edison, Penn Power, and NONGC.[3] Ohio Edison, Cleveland Electric, Toledo Edison and Penn Power, collectively comprise the "FirstEnergy Operating Companies." The FirstEnergy Operating Companies, ATSI, NONGC, OVEC and IKEC are all "public-utility companies" as defined in the Act.

For the twelve months ending December 31, 2000, FirstEnergy had total revenue of $7,028,961,000 and net income of $598,970,000. FirstEnergy had total assets of $17,941,294,000, as of December 31, 2000.

1. Utility Operations

Ohio Edison is both a public utility and a public utility holding company exempt from registration under the Act by order of the Commission.[4] Ohio Edison engages in the generation, distribution, and sale of electric energy to approximately one million customers within a 7,500-square-mile area of central and northeastern Ohio. For the twelve months ending December 31, 2000, Ohio Edison had total revenue of $2,343,596,000 and net income of $313,609,000; Ohio Edison's operating revenue during this period was principally derived from the sale of electricity. Ohio Edison had total assets of $7,165,242,000, as of December 31, 2000. Ohio Edison owns all of the issued and outstanding voting securities of Penn Power, an electric public utility organized under Pennsylvania law in 1930. Penn Power is also authorized to do business and owns property in Ohio. Penn Power furnishes electric service to approximately 138,000 customers in a 1,500-square-mile area of western Pennsylvania. For the twelve months ending December 31, 2000, Penn Power had total revenue of $383,112,000, and net income of $22,847,000; Penn Power's operating revenue was principally derived from the sale of electricity. Penn Power had total assets of $988,909,000, as of December 31, 2000.

Cleveland Electric is engaged primarily in the generation, distribution and sale of electric energy to approximately 741,000 customers in an area of approximately 1,700 square miles in northeastern Ohio, including the City of Cleveland. Cleveland Electric also has ownership interests in certain generating facilities located in the Commonwealth of Pennsylvania. Cleveland Electric also engages in the sale, purchase and interchange of electric energy with other electric companies. For the twelve months ending December 31, 2000, Cleveland Electric had total revenue of $1,887,039,000 and net income of $202,950,000; Cleveland Electric's operating revenue was principally derived from the sale of electricity. Cleveland Electric had total assets of $5,964,631,000, as of December 31, 2000.

Toledo Edison is a public utility engaged primarily in the distribution and sale of electric energy to approximately 303,000 customers in an area of approximately 2,500 square miles in northwestern Ohio, including the City of Toledo. Toledo Edison owns directly 4% of the issued and outstanding voting securities of OVEC. For the twelve months ending December 31, 2000, Toledo Edison had total revenue of $954,947,000, and net income of $137,233,000; Toledo Edison's operating revenue was principally derived from the sale of electricity. Toledo Edison had total assets of $2,652,267,000, as of December 31, 2001.

ATSI owns and operates certain major, high-voltage transmission facilities, which consist of approximately 7,100 circuit miles (5,752 "pole" miles) of transmission lines with voltages of 345 kV and 138 kV (the "Bulk Transmission System") and 69 kV (the "Area Transmission System," and together with the Bulk Transmission System, the "Transmission System"). ATSI has 37 interconnections with six neighboring control areas. ATSI is the control area operator for the FirstEnergy system. The primary function of the Transmission System is to integrate the generation resources of the FirstEnergy Companies with their native retail and wholesale loads. To perform this network function, the Bulk Transmission System and the Area Transmission System are integrated and operate in a parallel manner to each other. The FirstEnergy Companies also operate low voltage 23, 33, 34.5, and 36 kV facilities.

NONGC is a public-utility company that provides gas distribution and transportation service to approximately 5,000 customers located in central and northeast Ohio. NONGC operates approximately 420 miles of distribution and transportation pipeline and ancillary facilities. NONGC receives its gas supplies from local gas producers as well as from interstate pipeline companies. For the twelve months ending December 31, 2000, NONGC had total revenue of $6,074,120, and net

[1] Consideration estimation is based on the market price of FirstEnergy common stock and the number of shares of GPU common stock outstanding at the time the Merger Agreement is executed.

[2] Ohio Edison directly owns 16.5% of the issued and outstanding voting securities of Ohio Valley Electric Corporation ("OVEC"), and OVEC owns all of the issued and outstanding voting securities of Indiana-Kentucky Electric Corporation ("IKEC").

[3] The acquisition of NONGC by FirstEnergy is the subject of a separate filing currently before the Commission (File No. 70–9941).

[4] *See* Ohio Edison Company, HCAR No. 21019 (April 26, 1979).

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income of $112,985; NONGC's operating revenue was principally derived from the distribution and transportation of natural gas. NONGC had total assets of $18,374,761, as of December 31, 2000.

2. Nonutility Subsidiaries

FirstEnergy Properties owns nonutility land and coal rights held for sale, investment or potential development; office buildings rented to affiliated companies and third parties; and also holds the former Centerior Energy Corporation's partnership share of investments in economic development investments. FirstEnergy Properties has one subsidiary, BSG Properties, Inc. ("BSG Properties").[5] FirstEnergy Properties also owns a 1.47% limited partnership interest in Cleveland Development Partnership I ("Cleveland Development").[6] FirstEnergy Properties also owns a 5% interest in CID.

FirstEnergy Ventures' principal business involves the ownership of stock investments in certain unregulated enterprises and business ventures. FirstEnergy Ventures has eight wholly owned subsidiaries organized under Ohio law.[7] FirstEnergy Transfer is an Ohio corporation organized in 1997 to act as transfer agent and registrar for the securities of FirstEnergy and its direct and indirect subsidiaries.

FirstEnergy Facilities is the parent company of 11 direct subsidiaries which provide mechanical contracting, facilities management and energy management services to regional and national customers.[8] FirstEnergy Facilities is also the parent company of six indirect subsidiaries providing related services.[9]

MARBEL is the parent company of NONGC, a gas utility, and a holding company, Marbel Holdco, Inc. ("Marbel Holdco").[10] In addition, MARBEL is the contracting party to two large gas supply agreements.

FirstEnergy Services is a natural gas and power marketer in both wholesale and retail markets. FirstEnergy Services has two wholly owned subsidiaries, Penn Power Energy, Inc. ("Penn Power Energy")[11] and GenCo.[12] FE Acquisition holds all of the outstanding shares of Mid-Atlantic Energy Development Co. ("Mid-Atlantic"), an inactive holding company.[13] FENOC operates the Davis-Besse Nuclear Power Station, and the Perry and the Beaver Valley Nuclear Power Plants under the supervision and direction of the owners of those facilities. FELHC is a wholly owned FirstEnergy, first tier subsidiary that serves as licensee with respect to all Federal Communications Commission ("FCC") radio licenses for the FirstEnergy Operating Companies.[14] FirstEnergy also holds all of the issued and outstanding voting securities of the following three direct, inactive, nonutility subsidiaries: Centerior Service, CIT,[15] and FE Holdings.

FirstEnergy directly holds minority interests in nonutility businesses comprised of two real estate companies,[16] two telecommunications companies,[17] and eight companies engaged in power marketing and brokering, investing venture capital in the energy industry, emission technology, electronic commerce related to the power markets, and alternative energy storage systems.[18] Further,

[5] BSG Properties owned a commercial building, which it sold, and is engaged in post-closing matters.

[6] Cleveland Development is a partnership created to provide a source of private sector funding for real estate development in the City of Cleveland.

[7] FirstEnergy Ventures' subsidiaries include: (1) Centerior Power Enterprises, Inc. ("Centerior Power"), which will be dissolved upon the planned cancellation of a contract which required it (together with CPICOR Management LLC ("CPICOR"), a non-affiliate) to implement the Department of Energy ("DOE") clean coal project; (2) Centerior Energy Services, Inc. ("Centerior Energy Services"), which provides various consulting services related to energy management and procurement under the registered trade name "The E Group"; (3) Advanced Technologies Development Corp. ("Advanced Technologies"), which owns fiber optics cables, communications towers and electronics for cell siting operations, as well as some proprietary software for telecommunications services; (4) Centerior Communications Holdings, Inc. ("Centerior Communications"), which holds an interest in Fiber Venture Equity, Inc. ("Fiber Venture") (Fiber Venture owns a 6.5% interest in America's Fiber Network, LLC ("AFN") and 100% of AFN Finance Company No. 3 ("AFN No. 3")); (5) Bay Shore Power Company ("Bay Shore"), which is undergoing start-up operations and will own and operate a petroleum coke disposal facility that will supply steam to GenCo for the operation of turbines at the Bay Shore Power Plant and to BP Amoco Corporation ("BP"); (6) FirstEnergy Fuel Marketing Company ("FirstEnergy Fuel Marketing"), which provides products and services to electricity generators and industrial fuel suppliers, including logistics services, contract administration, inventory management and fuel blending; (7) FirstEnergy Telecommunications Corp. ("FirstEnergy Telecommunications"), which will be a competitive telecommunications services provider offering services only in the regulated activities area; and (8) Warrenton River Terminal, Ltd. ("Warrenton River"), which owns facilities for the transloading of bulk materials on the Ohio River—primarily coal. FirstEnergy Ventures is also part owner of two Ohio limited liability companies: Eastroc Technologies, LLC ("Eastroc Technologies") and Engineered Processes, Ltd. ("Engineered Processes"), which own or apply technologies for the production of gypsum products.

[8] These subsidiaries consist of the following: (1) Ancoma, Inc. ("Ancoma") of Rochester, New York (a New York corporation); (2) Colonial Mechanical Corporation ("Colonial Mechanical") of Richmond, Virginia (a Virginia corporation); (3) Webb Technologies, Inc. ("Webb Technologies") of Norfolk, Virginia (a Virginia corporation); (4) Dunbar Mechanical Inc. ("Dunbar Mechanical") of Toledo, Ohio (an Ohio corporation); (5) Edwards Electrical & Mechanical, Inc. ("Edwards E&M") of Indianapolis, Indiana (an Indiana corporation); (6) Elliott-Lewis Corporation ("Elliot-Lewis") of Philadelphia, Pennsylvania (a Pennsylvania corporation); (7) L.H. Cranston and Sons, Inc. ("Cranston and Sons") of Timonium, Maryland (a Maryland corporation); (8) Roth Bros., Inc. ("Roth Bros.") of Youngstown, Ohio (an Ohio corporation); (9) The Hattenbach Company ("Hattenbach") of Cleveland, Ohio (an Ohio corporation); (10) R. P. C. Mechanical, Inc. ("R. P. C. Mechanical") of Cincinnati, Ohio (an Ohio corporation); and (11) Spectrum Controls Systems, Inc. ("Spectrum") of Cincinnati, Ohio (an Ohio corporation).

[9] E–L Enterprises, Inc. ("E-L Enterprises") is a wholly owned subsidiary of Elliot-Lewis. E-L Enterprises holds all of the issued and outstanding stock of Modern Air Conditioning, Inc. ("Modern AC") and R.L. Anderson, Inc. (R.L. Anderson") (both of which provide HVAC equipment installation and service, energy management, facilities management and plumbing services). Elliot-Lewis also has two other direct subsidiaries: A.A. Duckett, Inc. ("Duckett") (provides HVAC installation and service) and Sautter Crane Rental, Inc. ("Sauter Crane") (provides crane rental service to affiliated companies and third parties, including other utilities and mechanical contractors).

[10] Marbel Holdco holds FirstEnergy's 50% owoership in Great Lakes Energy Partners, LLC ["Great Lakes"). Great Lakes is an oil and gas exploration and production company in a joint venture with Range Resources Corporation and holds a majority of its assets in the Appalachian Basin, including more than 7,700 oil and natural gas wells, drilling rights on nearly one million acres, proven resources of 450 billion cubic feet equivalent of natural gas and oil, and 5,000 miles of pipeline. Great Lakes also owns intrastate gas pipelines and a small interstate pipeline between Ohio and West Virginia.

[11] Penn Power Energy is a licensed electric supplier providing retail electricity service in Pennsylvania.

[12] GenCo is an exempt wholesale generator within the meaning of Section 32 of the Act ("EWG") and operates fossil fuel plants and the Seneca pumped storage plant, all of the output of which is sold at wholesale prices to FirstEnergy Services. Most of the generating facilities operated by GenCo are leased from the FirstEnergy Operating Companies.

[13] Mid-Atlantic owned three 130 MW gas-fired peaking turbines at Richland, Ohio. Mid-Atlantic sold those turbines to GenCo effective January 1, 2001, prior to their going into service.

[14] An application was made on January 18, 2001, for FCC approval of FELHC as an exempt telecommunications company ("ETC").

[15] CIT is a wholly owned subsidiary of FirstEnergy and the remnant of an executive compensation program that required the creation of a trust if the rating of Centerior Energy Corporation dropped below investment grade. That event occurred, and the trust was funded using short term debt instruments, but it is expected that the trust will cease to exist between December 2001 and June 2002.

[15] CIT is a wholly owned subsidiary of FirstEnergy and the remnant of an executive compensation program that required the creation of a trust if the rating of Centerior Energy Corporation dropped below investment grade. The event occurred, and the trust was funded using short term debt instruments, but is is expected that the trust will cease to exist between December 2001 and June 2002.

[16] Cleveland Civic Vislon Housing Fund, L.L.C. (5.5%) and Marion Senior Housing Limited Partnership (29.21%).

[17] FirstEnergy Telecommunications Corp. ("First Communications") (31.08%) and Pantellos Corporation ("Pantellos") (5.38%); these companies have applied to the FCC for approvals as ETCs.

FirstEnergy holds a 10% membership interest in The Alliance Participants Administrative and Startup Activities Company, LLC ("BridgeCo").[19] In addition, FirstEnergy owns varying shares of passive financial investments in an array of companies.[20]

In addition to the utility subsidiaries mentioned above, Ohio Edison owns multiple wholly owned, indirect and direct, nonutility subsidiaries involved in energy operations and financing.[21] Ohio Edison also has interests in 14 real estate subsidiaries: McDonald Corporate Tax Credit Fund Limited Partnership (12.37%); McDonald Corporate Tax Credit Fund—1995 Limited Partnership (9.0%); McDonald Ohio Tax Credit Fund—1996 Limited Partnership (42.13%); McDonald Ohio Tax Credit Fund—1998 Limited Partnership (30.94%); Ohio Equity Fund For Housing Limited Partnership II (7.62%); USA Institutional Tax Credit Fund VII, L.P. (8.11%); Boston Financial Institutional Tax Credits III, a Limited Partnership (5.38%); Boston Financial Institutional Tax Credits V, a Limited Partnership (3.24%); Boston Financial Institutional Tax Credits XVI, a Limited Partnership (5.83%); Apollo Tax Credit Fund III, L.P. (33.33%); Apollo Tax Credit Fund—IX, Limited Partnership (99.99%); Boston Capital Corporate Tax Credit Fund IV, a Limited Partnership (2.95%); Boston Capital Corporate Tax Credit Fund X, a Limited Partnership (10.93%); and Boston Capital Corporate Tax Credit Fund XIV, a Limited Partnership (20.00%). Further, Ohio Edison owns a 10% limited partnership interest in CID Ohio Equity Capital, Limited Partnership Fund IV ("CID"), a vehicle for investments in a portfolio of private equity and equity-related securities of start-up and early-stage growth companies operating principally in Ohio (inactive). Further, Penn Power, a subsidiary of Ohio Edison, owns a 50% limited partnership interest in Cranberry Square Associates, L.P. ("Cranberry Square") (a real estate limited partnership).

Further, two other FirstEnergy utilities hold interests in nonutility businesses. Cleveland Electric has three nonutility subsidiaries,[22] and Toledo Edison has nonutility interests through the ownership of 90% of The Toledo Edison Capital Corporation ("TECC").

B. GPU and Its Affiliates

GPU directly owns all of the outstanding shares of common stock of three electric utilities: JCP&L, Penelec, and Met-Ed (together, "GPU Energy Companies").[23] The customer service function and transmission and distribution operations of these three electric utilities are conducting business under the name "GPU Energy." The GPU Energy Companies rely almost exclusively on purchased power agreements, principally short- and intermediate-term contracts and existing power purchase agreements with non-utility generators, to supply energy to their customers. GPU indirectly owns all of the voting securities of two additional utility companies: York Haven and Waverly Electric. As of May 31, 2000, GPU's domestic electric utility operations served approximately two million customers in New Jersey, Pennsylvania and New York. For the twelve months ending December, 31, 2000, GPU had total revenue of $5,196,256,000, and net income of $233,538,000. GPU had total assets of $19,262,461,000, as of December 31, 2000.

JCP&L is engaged in the sale, purchase, transmission and distribution of electric power to 1,016,650 customers (as of May 31, 2001) located within 13 counties and 236 municipalities in northern, western and east central New Jersey. For the twelve months ending December 31, 2000, JCP&L had total revenue of $1,979,297,000, and net income of $210,812,000; operating revenues were derived from the distribution and resale of electricity. JCP&L had total assets of $6,217,355,000, as of December 31, 2000.

Penelec is an electric utility company engaged in the sale, purchase, transmission, and distribution of electric power to 576,091 customers (as of May 31, 2001) in approximately 31 counties in northern and central Pennsylvania. Penelec also provides wholesale service to six municipalities in Pennsylvania and five municipalities in New Jersey. Additionally, Penelec, through Waverly Electric, a direct subsidiary of Penelec, provides retail electric service to 3,741 customers (as of May 31, 2001) in Waverly, New York, and vicinity.[24] For the twelve months ending December 31, 2000, Penelec had total revenue of $901,881,000, and net income of $39,250,000; operating revenues were derived from the distribution and resale of electricity. Penelec had total assets of $3,048,119,000, as of December 31, 2000.

Met-Ed was organized under Pennsylvania law in 1922 and is engaged in the sale, purchase, transmission and distribution of electric power to 497,609 customers (as of May 30, 2001) in 14 counties in central and eastern Pennsylvania. Met-Ed owns all of the voting securities of York Haven, a public utility company. For the twelve months ending December 31, 2000, Met-Ed had total revenue of $842,333,000, and net income of $81,895,000; operating revenues were derived from the distribution and resale of electricity. Met-Ed had total assets of $3,161,379,000, as of December 31, 2000.

II. Description of the Merger

As mentioned above, the Merger Agreement provides for GPU to be merged with and into FirstEnergy, with FirstEnergy as the surviving corporation and the separate existence of GPU ceasing. The GPU Energy Companies will become direct subsidiaries of FirstEnergy following the merger. On November 21, 2000, the shareholders of FirstEnergy and GPU approved the Merger.

[18] PowerSpan Corp. ("PowerSpan") (18.63%); Nth Power Technologies II, LLC, ("Nth Power") (8.2%); Kinetic Ventures I, LLC (formerly Utility Competitive Advantage Fund I, LLC) (11.1049%); Kinetic Ventures II, LLC (formerly Utility Competitive Advantage Fund II, LLC) (17.63%); Envirotech Investment Fund I, L.P. ("Envirotech") (6.36%); Automated Power Exchange, Inc., Active Power, Inc. ("APX") (1.16%); Active Power, Inc. ("Active Power") (0.006%); and Utility.com, Inc. ("Utility.Com") (5.0%).

[19] BridgeCo is a short-term entity created to manage the financial and other affairs of the ten members of the Alliance RTO until the company begins operations.

[20] Corvis Corporation; Cisco Systems Inc.; S1 Corporation; Smarthouse, Inc.; Silas Creek Retail, Inc.; Smith International, Inc.; Steel City Products, Inc.; Madisons of Columbus, Inc.; The Mason And Dixon Lines, Inc.; Luckey Farmers, Inc.; The Lionel Corp.; Jewel Recovery L.P. (d/b/a Zales Corp.); Hermans Sporting Goods, Inc.; Homeplace of America, Inc.; House of Fabrics, Inc.; Federals, Inc.; Country Spring Farms Co-Op, Inc.; Cook United, Inc.; County Seat Stores, Inc.; Busy Beavers Building Centers, Inc.; Bulk Materials, Inc.; Best Products Co., Inc.; Value Merchants Inc.; COLOROCS Corp.; Republic Technologies International, Inc.; United Merchants and Manufacturers, Inc.; Edison Brothers Stores, Inc.; EBS Pension, L.L.C.; EBS Building, L.L.C.; EBS Litigation, L.L.C.; EnviroSource, Inc.; and Oakhurst Capital, Inc.

[21] Cleveland Electric owns Centerior Funding Corporation ("Centerior Funding"), which is a Delaware corporation organized in 1996 that factors accounts receivable. It also owns 10% of The Toledo Edison Capital Corporation ("TECC"), which is a Delaware corporation organized in 1997 that makes equity investments in Delaware business trusts that hold lessor debt instruments issued in connection with Cleveland Electric's and Toledo Edison's sale and leaseback of interests in the Bruce Mansfield Plant. Cleveland Electric Financing Trust I ("CEI Financing Trust I") is a wholly owned financing subsidiary of Cleveland Electric.

[22] In addition, GPU owns interests in various nonutility businesses. GPU's nonutilities conduct businesses permitted by the Act under sections 32, 33, or 34, by Commission order under section 11(b)(1), or by rule 58.

[23] Waverly Electric's revenues account for less than 1% of Penelec's total operating revenue.

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Shortly before the Merger is completed, FirstEnergy will give each GPU shareholder the opportunity to elect to receive, for each share of GPU common stock he or she owns, either: $36.50 in cash, without interest; or, a number of shares of FirstEnergy common stock equal to an exchange ratio designed to provide GPU shareholders with FirstEnergy shares having a value of $36.50.[25]

If GPU shareholders elect to receive cash for more than 50% of the GPU shares, the amount of cash that GPU shareholders will receive for each GPU share for which they made a cash election will be reduced *pro rata* so that the total amount of cash that FirstEnergy will pay to all GPU shareholders in the Merger is the same as the amount that FirstEnergy would have had to pay if cash elections were made for only 50% of the GPU shares. Similarly, if GPU shareholders elect to receive FirstEnergy shares for more than 50% of the GPU shares, the number of FirstEnergy shares GPU shareholders will receive for each GPU share for which they made a share election will be reduced *pro rata* so that the total number of shares that FirstEnergy will issue to all GPU shareholders in the Merger is the same as the number of shares that FirstEnergy would have had to issue if share elections had been made for only 50% of the GPU shares.

FirstEnergy will not issue fractional interests in its shares in connection with the Merger. Any GPU shareholder otherwise entitled to a fractional interest, including in connection with a tax adjustment, will instead receive cash in an amount equal to that fraction multiplied by the average of the closing prices of the shares of FirstEnergy common stock over the five-day trading period ending on the trading day before the Merger is completed.

Under certain circumstances it may be necessary for FirstEnergy to reduce the total amount of cash it pays in the Merger in order to ensure that the Merger qualifies as a "reorganization" for U.S. federal income tax purposes. In this event, all GPU shareholders who are entitled to receive cash, other than as a result of being a dissenting shareholder or being entitled to cash in lieu of a fractional share of FirstEnergy common stock, will receive a reduced amount of cash, as nearly *pro rata* as possible, and FirstEnergy shares with a value equal to the reduced cash amount. For these purposes, FirstEnergy will determine the value of those FirstEnergy shares based on the closing price of the FirstEnergy shares on the date the Merger is completed.

After the Merger, FirstEnergy proposes to hold as first tier subsidiaries seven public utility companies: Ohio Edison, Cleveland Electric, Toledo Edison, JCP&L, Penelec, Met-Ed and ATSI. FirstEnergy will hold as second tier subsidiaries five public utility companies: Penn Power, York Haven, Waverly, NONGC and OVEC. FirstEnergy will hold IKEC as a third-tier subsidiary. For the purpose of the Application at issue, Ohio Edison, Cleveland Electric, Toledo Edison, JCP&L, Penelec, and Met-Ed are collectively are referred to as the "Primary Operating Utilities." FirstEnergy also proposes to own a number of nonutility subsidiaries as described above.

III. Financing Authorization

A. Overview

In order to ensure that the FirstEnergy system is able to meet its capital requirements immediately following registration and plan its future financing, FirstEnergy and its Subsidiaries request authorization to enter into numerous types of financing transactions for the period beginning with the effective date of the Commission's order in this matter and continuing to and including June 30, 2003 ("Authorization Period"). In addition to engaging in Acquisition Financing, Applicants request that FirstEnergy be able to engage in other financing transactions as set forth below during the Authorization Period.

FirstEnergy requests authority to engage in Acquisition Financing in order to meet the cash and common stock portions of the Merger consideration. FirstEnergy will issue between 74 million and 95 million shares of common stock in connection with the Merger. Approximately $2.2 billion of cash will be used at closing to fund the cash portion of the Merger consideration. In addition to this Merger consideration, FirstEnergy plans to refinance at or about the effective time of the Merger certain then-outstanding GPU-related short-term debt (expected to be approximately $1.8 billion). Applicants plan to meet the Acquisition Financing requirements through a short-term bank bridge loan, but may use long-term or short-term financing, including preferred stock and preferred stock equivalent securities (collectively, "Preferred Securities") or securities convertible into common stock. The bridge loan will ultimately be repaid with proceeds from permanent debt financing by FirstEnergy or other entities in the FirstEnergy system as approved by the Commission in this filing or in subsequent requests contained in later submissions to the Commission.

Applicants also seek authority for: (1) External issuances by FirstEnergy of common stock, Preferred Securities, long-term debt, short-term debt and other securities; guarantees of obligations of affiliated or unaffiliated persons in favor of other unaffiliated persons; and the entering into by FirstEnergy of transactions to manage interest rate risk ("Hedging Transactions"); (2) the entering into by the Utility Subsidiaries of hedging transactions to the extent not exempt pursuant to rule 52; (3) lending to non-wholly owned Non-Utility Subsidiaries at a rate not less than the cost of capital of the lending associate company; (4) the establishment of a utility money pool ("Utility Money Pool") and a nonutility money pool ("Nonutility Money Pool") and the issuance of intrasystem guaranties by FirstEnergy and the Nonutility Subsidiaries on behalf of the Subsidiaries; (5) the continuation of existing intrasystem debt, guarantees and other financing arrangements; (6) the ability of 50% or more owned Subsidiaries to alter their capital stock in order to engage in financing transactions with their parent company; (7) the ability of FirstEnergy and those Subsidiaries identified below to pay dividends out of capital or unearned surplus; and (8) the formation of financing entities ("Financing Subsidiaries") and the issuance by these entities of securities otherwise authorized to be issued and sold in accordance with this Application or to applicable exemptions under the Act, including intrasystem guaranties of these securities and the retention of existing Financing Subsidiaries.

Applicant's effective cost of money on long-term debt borrowings under the authorizations granted under this Application will not exceed the greater of (1) 350 basis points over the comparable term U.S. Treasury securities or (2) a gross spread over U.S. Treasuries that is consistent with similar securities of comparable credit quality and maturities (or perpetual preferred) issued by other companies. Applicant's effective cost of money on short-term debt borrowings under authorizations granted under this Application will not exceed the greater of (1) 350 basis points over the comparable term London Interbank Offered Rate ("LIBOR") or (2) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The dividend rate on any series of Preferred Securities will not exceed the greater of (1) 500 basis points over the yield to maturity of a U.S. Treasury security having a remaining term equal to the term of such series of Preferred Securities or (2) a rate that is consistent with similar securities of comparable credit quality and maturities (or perpetual preferred) issued by other companies. The maturity of indebtedness will not exceed fifty years. All Preferred Securities (other than perpetual preferred) will be redeemed no later than fifty years after their issuance.

The proceeds from the sale of securities in external financing transactions will be used for general corporate purposes, including: financing the cash and stock portion of the Merger consideration under the Merger Agreement; the financing, in part, of the capital expenditures of FirstEnergy and its Subsidiaries; the financing of working capital requirements of FirstEnergy and its Subsidiaries; the acquisition, retirement or redemption under rule 42 of securities previously issued by FirstEnergy or its Subsidiaries; and authorized investments in energy-related companies, as defined in rule 58 under the Act ("Rule 58 Subsidiaries"), other energy-related companies ("Energy-Related Companies"), exempt wholesale generators ("EWGs"), foreign utility companies ("FUCOs"), ETCs; and for other lawful purposes.

Financings by each Applicant will be subject to the following conditions ("Financial Conditions"): (1) FirstEnergy's *pro forma* common equity ratio at the assumed closing date of the Merger will be 29.5%;[26] (2) FirstEnergy's consolidated common equity[27] will be at least 30% of consolidated capitalization by December 31, 2002, and at all times thereafter during the Authorization Period; (3) within nine months following the date of the order in this matter and at all times thereafter during the Authorization Period, FirstEnergy will maintain at least an investment grade corporate credit rating or senior secured debt rating by at least one nationally recognized rating agency; (4) each Primary Operating Utility, other than Cleveland Electric, will maintain common equity of at least 30% of its capitalization and at least an investment grade senior secured debt rating by at least one nationally recognized rating agency; (5) Cleveland Electric will achieve a 30% common equity ratio and an investment grade senior secured debt rating by at least one nationally recognized credit agency by June 30, 2003; and (6) except as otherwise approved by the Commission in accordance with any request contained in this Application FirstEnergy represents that it also will be in compliance with rule 53. Notwithstanding the commitments described in the preceding paragraph regarding investment grade ratings and the 30% common equity criteria, Applicants request that the Commission reserve jurisdiction over the issuance of securities in those circumstances where FirstEnergy does not comply with either the investment grade ratings or the 30% common equity criteria.

B. Existing Financing Arrangements

Applicants estimate that FirstEnergy has a $450 million credit agreement outstanding and that the FirstEnergy Operating Companies and ATSI have $7.4 billion outstanding in first mortgage bonds, preferred stock, debentures, and other notes. Applicants seek authority for these existing outstanding securities and financing arrangements to stay in place following the Merger. Applicants also each seek authority, following the Merger, to refinance or refund these existing securities for the purpose of lowering interest costs, changing from fixed rate to variable rate, refunding short-term debt with long-term debt (including any refinancing of the Acquisition Financing), extending the maturity, altering covenants, changing capitalization ratios or for other proper financial purposes. Further, Applicants seek approval for the outstanding securities and financing arrangements of the FirstEnergy Nonutility Subsidiaries to remain in place following consummation of the Merger.

In addition, each of the GPU Energy Companies has in place approval from the Commission for the issuance of short term debt.[28] Applicants propose that such approvals remain in place following the Merger and to the extent any such approval contemplated a transaction between GPU and a GPU Energy Company, FirstEnergy proposes to succeed to the rights and duties of GPU. Accordingly, Applicants request authority for FirstEnergy to assume any short-term debt outstanding or credit facility of GPU existing at the time of the Merger. As mentioned FirstEnergy proposes to refinance at or about the effective date of the Merger certain then-outstanding GPU-related short-term debt (expected to be about $1.8 billion). Such short-term debt refinancing will count against the Aggregate Financing Limit.

C. FirstEnergy External Financing

In addition to existing financing, Applicants request authority for FirstEnergy to obtain funds externally through sales of common stock, Preferred Securities, long-term debt, and short-term debt securities. With respect to common stock, FirstEnergy also requests authority to issue common stock to third parties in consideration for the acquisition by FirstEnergy or a Nonutility Subsidiary of equity or debt securities of a company being acquired under rule 58 or sections 32, 33 or 34 of the Act. In addition, FirstEnergy seeks the flexibility to enter into certain hedging transactions to manage rate risk and for other lawful purposes. The aggregate amount of new equity, Preferred Securities, long-term debt and short-term debt financing to be obtained by FirstEnergy during the Authorization Period shall be not more than $8.0 billion ("Aggregate Financing Limit"), which includes the common stock and debt portions of the Acquisition Financing. The Aggregate Financing Limit does not include the existing financing, and any refinancing or refunding of outstanding securities as described in Section III. B. above.

1. Common Stock

FirstEnergy is authorized under its restated articles of incorporation to issue 300 million shares of common stock ($.10 par value).[29] FirstEnergy proposes, during the Authorization

[25] FirstEnergy will determine the exact exchange ratio by dividing $36.50 by the average of the closing sale prices for a share of FirstEnergy common stock on the New York Stock Exchange as reported in The Wall Street Journal over the 20-day trading period ending on the seventh trading day before the Merger is completed. The exchange ratio, however, will be fixed at 1.2318 if the average closing price of the FirstEnergy shares over this period is equal to or greater than $29.6313, and at 1.5055, if the average closing price over this period is equal to or less than $24.2438. This means that the number of FirstEnergy shares a GPU shareholder will receive for each GPU share he or she owns will never be less than 1.2318 nor more than 1.5055, regardless of what happens to FirstEnergy's share price.

[26] For this purpose, consolidated capitalization includes common equity, preferred stock, including preferred stock subject to mandatory redemption within one year, and long-term and short-term debt, including current maturities of long-term debt.

[27] Common equity is to be based upon the balance sheets contained in FirstEnergy's most recent 10–K or 10–Q filed with the Commission pursuant to the Securities Exchange Act of 1934.

[28] HCAR No. 27041 (June 22, 1999), *supplemented by*, HCAR No. 27302 (Dec. 15, 2000); HCAR No. 26544 (July 17, 1996); and HCAR No. 26801 (Dec. 22, 1997).

[29] Under its articles of incorporation, FirstEnergy is authorized to issue 305 million shares consisting of 300 million shares of common stock and 5 million shares of preferred stock. As of December 31, 2000, FirstEnergy had 224,531,580 shares of common stock outstanding and no shares of preferred stock outstanding. Upon consummation of the Merger, FirstEnergy will be authorized to issue up to 375 million shares of common stock and 5 million shares of preferred stock.

Period, to issue common stock (other than for employee benefit plans or stock purchase and dividend reinvestment plans and other than shares issued in the Merger) in amounts that, when combined with the proposed additional long-term debt, short-term debt, and Preferred Securities issued and then outstanding, shall not exceed the Aggregate Financing Limit.

Common stock financings may be made through underwritten public distributions, private placements, or other non-public offerings to one or more persons. All such common stock sales will be at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

2. Preferred Securities

FirstEnergy requests authority to issue preferred stock or other types of Preferred Securities in one or more series with such rights, preferences and priorities as may be designated in the instrument creating each such series, as determined by FirstEnergy's Board of Directors. Dividends or distributions on Preferred Securities will be made periodically and to the extent funds are legally available for such purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Preferred Securities may be convertible or exchangeable into shares of FirstEnergy common stock or indebtedness.

3. Long-Term Debt

FirstEnergy proposes to issue long-term debt securities, including bonds, notes, medium-term notes or debentures under one or more indentures (each, the "FirstEnergy Indenture") or long-term indebtedness under agreements with banks or other institutional lenders. The maturity dates, interest rates, redemption and sinking fund provisions, tender or repurchase and conversion features, if any, with respect to the long-term securities of a particular series, as well as any associated placement, underwriting or selling agent fees, commissions and discounts, if any, will be established by negotiation or competitive bidding. In addition to the long-term debt noted above, FirstEnergy expects to assume $300 million of GPU debentures (7.7% Series A, due December 1, 2005) upon consummation of the Merger. Because it is part of existing capitalization, this $300 million will not count against the Aggregate Financing Limit.

4. Short-Term Debt

FirstEnergy seeks authority to issue short-term debt in order to provide for the reissuance of pre-Merger letters or lines of credit or commercial paper and to provide financing for general corporate purposes, working capital requirements, and temporary financing of Subsidiary capital expenditures. Any short-term debt outstanding or credit facility of GPU existing at the time of the Merger would be assumed by FirstEnergy. FirstEnergy's proposed short-term debt may also include commercial paper, from time to time, in established domestic or European commercial paper markets. This commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. The aggregate amount of additional capitalization obtained by FirstEnergy during the Authorization Period from issuance and sale of short-term debt, when combined with common stock (other than for employee benefit plans or stock purchase and dividend reinvestment plans and other than shares issued in the Merger), long-term debt, and Preferred Securities issued then outstanding, as described in this section, shall not exceed the Aggregate Financing Limit. FirstEnergy will limit the amount of short-term debt issued and outstanding at any time under the authority requested in this Application plus any short-term debt outstanding at the date of the Merger, to $5.0 billion. Further, FirstEnergy may, without counting against the above $5.0 billion limit, maintain back-up lines of credit in connection with a commercial paper program in an aggregate amount not to exceed the amount of authorized commercial paper. Credit lines may be set up for use by FirstEnergy for general corporate purposes in addition to credit lines to support commercial paper as described in this subsection. FirstEnergy would borrow and repay under such lines of credit, from time to time, as it is deemed appropriate or necessary.

5. Hedging Transactions

FirstEnergy requests authority to enter into, perform, purchase and sell financial instruments intended to reduce or manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements or any other similar agreements. Hedges may also include issuance of structured notes (*i.e.*, a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury or Agency (*e.g.*, Federal National Mortgage Association) obligations or LIBOR based swap instruments (collectively, "Hedge Instruments"). FirstEnergy will not engage in speculative transactions unassociated with its outstanding debt and financing needs and activities. FirstEnergy will only enter into agreements with counterparties ("Approved Counterparties") whose senior debt ratings, as published by a national recognized rating agency, are greater than or equal to "BBB," or an equivalent rating.

In addition, FirstEnergy and the Subsidiaries request authorization to enter into interest rate hedging transactions with respect to anticipated debt offerings (the "Anticipatory Hedges"), subject to certain limitations and restrictions. Anticipatory Hedges would only be entered into with Approved Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through: (1) A forward sale of exchange-traded Hedge Instruments ("Forward Sale"), (2) the purchase of put options on Hedge Instruments ("Put Options Purchase"), (3) a Put Options Purchase in combination with the sale of call options Hedge Instruments ("Zero Cost Collar"), (4) transactions involving the purchase or sale, including short sales, of Hedge Instruments, or (5) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to, structured notes, caps and collars, appropriate for the Anticipatory Hedges.

D. Subsidiary External Financing

ATSI and NONGC each seek approval to issue debt or Preferred Securities on the same terms and conditions as FirstEnergy as described above. The maximum amount of new financing to be obtained by ATSI and NONGC during the Authorization Period shall not exceed $500 million for ATSI and $200 million for NONGC.[30] Additionally, to the extent not exempt under rule 52, the Utility Subsidiaries request authority to enter into, perform, purchase, and sell Hedge Instruments and Anticipatory Hedges subject to the limitations and requirements applicable to FirstEnergy.

Financings obtained by the Utility Subsidiaries within and beyond the scope of rule 52 will be used for general corporate purposes and working capital requirements, including contributions to the Utility Money Pool. These financings may be made under instruments in place at the time of the Merger or new agreements.

E. Intrasystem Transactions

1. Guaranties

Applicants request authority to enter into guaranties, obtain letters of credit, enter into support or expense agreements or otherwise provide credit support with respect to the obligations of the Subsidiaries as may be appropriate or necessary to enable such Subsidiaries to carry on in the ordinary course of their respective businesses, and to enter into guaranties of nonaffiliated third parties' obligations in the ordinary course of FirstEnergy's business ("FirstEnergy Guaranties"). In addition, Applicants request authority for each Nonutility Subsidiary to provide guaranties and other forms of credit support ("Nonutility Guaranties") (together with FirstEnergy Guaranties, "Guaranties").

The aggregate amount of the Guaranties will not exceed $4.0 billion outstanding at any one time, not taking into account obligations exempt under rule 45 ("Guaranty Limit"). Excluded from this amount are guaranties and other credit support mechanisms by FirstEnergy and GPU in favor of their respective Subsidiaries which were previously issued and are expected to remain in place following the Merger.[31]

The issuance of any guaranties will also be subject to the limitations of rule 53(a)(1) or 58(a)(1), as applicable. Applicants propose that each Subsidiary be charged a fee for each guaranty provided on its behalf that is not more than that obtainable by the beneficiary of the guaranty from third parties.

2. Money Pools

Applicants request authority for FirstEnergy and the Utility Subsidiaries to establish the Utility Money Pool. In addition, Applicants request authority for the Utility Subsidiaries, to the extent not exempted by rule 52, to make unsecured short-term borrowings from the Utility Money Pool, to contribute surplus funds to the Utility Money Pool, and to lend and extend credit to (and acquire promissory notes from) one another through the Utility Money Pool.

In addition, FirstEnergy and the Nonutility Subsidiaries request authority to establish the Nonutility Money Pool. FirstEnergy requests authority to contribute its surplus funds and to lend and extend credit to: (1) The Utility Subsidiaries through the Utility Money Pool; and (2) the Nonutility Subsidiaries through the Nonutility Money Pool. Amounts borrowed by each Utility Subsidiary from the Utility Money Pool would be limited to amounts authorized by each applicable state commission. FirstEnergy will receive no loans and will borrow no funds from either Money Pool.

Utility Money Pool participants that borrow would borrow *pro rata* from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Utility Money Pool. On any day when more than one fund source (*e.g.*, surplus treasury funds of FirstEnergy and other Utility Money Pool participants ("Internal Funds")) and proceeds from external financings ("External Funds"), with different rates of interest, is used to fund loans through the Utility Money Pool, each borrower would borrow *pro rata* from each such fund source in the Utility Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Utility Money Pool.

If only Internal Funds make up the funds available in the Utility Money Pool, the interest rate applicable and payable to or by Utility Subsidiaries for all loans of these Internal Funds will be the greater of the 30-day LIBOR rate as quoted in The Wall Street Journal or the money market rate that a lending Subsidiary could have obtained if it placed its excess cash in such an investment.

If only External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such External Funds would be equal to the lending company's cost for such External Funds (or, if more than one Utility Money Pool participant had made available External Funds on such day, the applicable interest rate would be a composite rate equal to the weighted average of the cost incurred by the respective Utility Money Pool participants for such External Funds).

In cases where both Internal Funds and External Funds are concurrently borrowed through the Utility Money Pool, the rate applicable to all loans comprised of these "blended" funds would be a composite rate equal to the weighted average of: (1) The cost of all Internal Funds contributed by Utility Money Pool participants (as determined in accordance with the second-preceding paragraph above) and (2) the cost of all such External Funds (as determined in accordance with the immediately preceding paragraph above). In circumstances where Internal Funds and External Funds are available for loans through the Utility Money Pool, loans may be made exclusively from Internal Funds or External Funds, rather than from a "blend" of these funds, to the extent it is expected that these loans would result in a lower cost of borrowing.

Funds not required by the Utility Money Pool to make loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) would ordinarily be invested in one or more short-term investments, including: (1) Interest-bearing accounts with banks; (2) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (3) obligations issued or guaranteed by any state or political subdivision of a state, provided that these obligations are rated not less than "A" by a nationally recognized rating agency; (4) commercial paper rated not less than "A–1" or "P–1" or their equivalent by a nationally recognized rating agency; (5) money market funds; (6) bank certificates of deposit; (7) Eurodollar funds; and (8) other investments that are permitted by section 9(c) of the Act and rule 40 under the Act.

The Nonutility Money Pool will be operated on the same terms and conditions as the Utility Money Pool, except that FirstEnergy funds made available to the two money pools will be made available first for loans through the Utility Money Pool and then for loans through the Nonutility Money Pool. Operation of the Utility and Nonutility Money Pools, including record keeping and coordination of loans, will be handled by FirstEnergy's service company, ServeCo, under the authority of the appropriate officers of the participating companies. ServeCo will administer the Utility and Nonutility Money Pools on an "at cost" basis and will maintain separate records for each money pool.

3. Other Borrowings

Applicants request authority for FirstEnergy or a Nonutility Subsidiary, as the case may be, to make loans to Nonutility Subsidiaries at interest rates and maturities designed to provide a return to the lending company of not less than its effective cost of capital. If

[30] These securities shall be included in determining compliance with the overall financing limitation of $8 billion for FirstEnergy.

[31] FirstEnergy and GPU each has, respectively, $846 million and $58 million in existing guaranties.

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these loans are made to a Nonutility Subsidiary, that Nonutility Subsidiary will not sell any services to any associate Nonutility Subsidiary unless that company falls within one of the categories of companies to which goods and services may be sold on a basis other than "at cost" as described in the Application in this matter.

Applicants also request authority for FirstEnergy or a Nonutility Subsidiary to make loans to Nonutility Subsidiaries that are not wholly owned by FirstEnergy, directly or indirectly, at interest rates and maturities designed to provide a return to the lending company of not less than its effective cost of capital. If these loans are made to a Nonutility Subsidiary, that Nonutility Subsidiary will not sell any services to any associate Nonutility Subsidiary unless that company falls within one of the categories of companies to which goods and services may be sold on a basis other than "at cost," as described in the Application.

F. Other Transactions

1. Financing Subsidiaries

FirstEnergy and the Subsidiaries request authority to acquire, directly or indirectly, the equity securities of one or more Financing Subsidiaries. Financing Subsidiaries may be corporations, trusts, partnerships or other entities created specifically for the purpose of facilitating the financing of the authorized and exempt activities (including exempt and authorized acquisitions) of FirstEnergy and the Subsidiaries through the issuance of long-term debt, Preferred Securities or equity securities, to third parties and the transfer of the proceeds of these financings to FirstEnergy or these Subsidiaries.[32]

FirstEnergy or a Subsidiary may, if required, guarantee or enter into support or expense agreements in respect of the obligations of any such Financing Subsidiaries. Any amounts issued by such financing entities to third parties will be included in the overall external financing limitation, if any, applicable to its immediate parent. However, any intrasystem borrowing by the parent of the proceeds of those issuances would not count against the proposed aggregate financing limitation, if any, applicable to the parent and a guaranty by the parent with respect to those issuances would not count against the Guaranty Limit.

[32] One of the special purpose subsidiaries already in existence, such as OES Capital or Centerior Funding, may be used for these purposes as well.

2. Nonutility Subsidiary Reorganizations

Applicants request the authorization and approval of the Commission to organize and acquire the securities of one or more additional Subsidiaries to act as a holding company for nonutility investments if, in FirstEnergy's judgment, there are organizational, functional, tax or other benefits to be derived in separating nonutility businesses at the first-tier level. Accordingly, unless otherwise indicated, references to the "Nonutility Holding Company" shall include such other first-tier Subsidiaries as FirstEnergy may choose to organize to serve a similar purpose. Applicants request authority, through the Authorization Period, to sell or otherwise transfer: (1) Nonutility Subsidiary businesses; (2) the securities of current Subsidiaries engaged in some or all of these nonutility businesses; or (3) investments which do not involve a Subsidiary (*i.e.*, less than 10% voting interest) to certain first-tier nonutility holding companies (collectively, "Nonutility Holding Companies") or a Subsidiary of Nonutility Holding Company, and, to the extent approval is required, Nonutility Holding Company or any Subsidiary of Nonutility Holding Company requests authority to acquire the assets of these businesses, securities of former Subsidiaries of FirstEnergy or GPU or other investment interests.[33] Applicants state that the proposed transactions will not involve the sale or disposition of any utility assets, and will not involve the acquisition of any new businesses or activities.

3. Changes in Capital Stock of Majority Owned Subsidiaries

Applicants state that proposed sales of capital securities (*i.e.*, common stock or Preferred Stock) may in some cases exceed the then authorized capital stock of a Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value. Therefore, Applicants request authority to change the terms of any 50% or more owned Subsidiary's authorized capital stock capitalization or other equity interests by an amount deemed appropriate by FirstEnergy or other intermediate parent company, provided that the consent of all other shareholders has been obtained for this change. This request for authorization is limited to FirstEnergy's 50% or more owned Subsidiaries and will not affect the aggregate limits or other conditions contained in this Application. A Subsidiary would be able to change the par value, or change between par value and no-par stock, or change the form of such equity from common stock to limited partnership or limited liability company interests or similar instruments, or from such instruments to common stock, without additional Commission approval. Any action by a Utility Subsidiary would be subject to and would only be taken upon receipt of necessary approval by the state commission in the state or states where the Utility Subsidiary is incorporated and doing business.

[33] Applicants state that transfers of these securities or assets may be effected by share exchanges, share distributions or dividends followed by contribution of these securities or assets to the receiving entity.

4. Payment of Dividends

a. *FirstEnergy.* Applicants state that as a result of the application of the purchase method of accounting to the Merger, the current retained earnings of the GPU Subsidiaries will be recharacterized as additional paid-in-capital. In addition, the Merger will give rise to a substantial level of goodwill. In accordance with the Commission's Staff Accounting Bulletin No. 54, Topic 5J, the goodwill will be "pushed down" to the GPU Subsidiaries, and the difference between the purchase price allocated to the GPU Subsidiaries and the par values, if any, of their outstanding common stock will be reflected as additional paid-in capital on the GPU Subsidiaries' financial statements. The effect of these accounting practices will be to leave the GPU Subsidiaries with no retained earnings, the traditional source of dividend payments. Accordingly, Applicants request authority for FirstEnergy to pay dividends out of additional paid-in-capital up to the amount of $155 million, representing the total amount of dividends out of capital from the GPU Subsidiaries.

b. *Nonutility Subsidiaries.* The Nonutility Holding Company proposes to pay dividends, on behalf of itself and every direct or indirect Nonutility Subsidiary, from time to time through the Authorization Period, out of capital and unearned surplus (including revaluation reserve), to the extent permitted under state law. Without further approval by the Commission no Nonutility Subsidiary will declare or pay any dividend out of capital or unearned surplus if that Nonutility Subsidiary derives any material part of its revenue from the sale of goods, services, electricity, or natural gas to any of the Utility Subsidiaries.

5. EWGs and FUCOs

Following the Merger, Applicants request authority for FirstEnergy to finance the acquisition of additional investments in EWGs and FUCOs provided that its "aggregate investment" in EWGs and FUCOs (as that term is defined in rule 53) of up to $5 billion (including amounts currently invested in EWGs and FUCOs by FirstEnergy and GPU). Applicants state that GPU's aggregate investment in EWGs and FUCOs as of March 31, 2001, was $1,846,598,000. As of the same date, FirstEnergy's aggregate investment in EWGs was $354,831,392. Applicants note that *pro forma* consolidated retained earnings of FirstEnergy as of December 31, 2000, was $1.1 billion.

6. Stock and Incentive Plans

Applicants request authority for FirstEnergy, from time to time, to issue up to 30 million shares of FirstEnergy common stock under the employee benefit and incentive plans described below and under a dividend reinvestment plan currently in place at FirstEnergy and anticipated to continue after the Merger.

After the Merger, FirstEnergy will continue to have several employee and director stock-based plans. These include an Executive and Director Incentive Compensation Plan, an Executive Deferred Compensation Plan, a Deferred Plan for Directors, two Employee Savings Plans and two plans that were assumed by FirstEnergy in connection with the merger between Ohio Edison and Centerior Energy Corporation that resulted in the formation of FirstEnergy. In addition, as a result of the Merger, FirstEnergy will assume certain obligations of GPU under GPU related stock option and incentive plans.

7. Tax Allocation Agreement

The Applicants request the Commission approve an agreement for the allocation of consolidated tax among FirstEnergy and its Subsidiaries following the Merger ("Tax Allocation Agreement"). Applicants state that the Tax Allocation Agreement is subject to the approval by the Commission under the Act because it provides for the retention by FirstEnergy of certain tax benefits related to the incurrence of indebtedness by FirstEnergy rather than the allocation of such benefits to Subsidiaries. The Applicants request that the Commission reserve jurisdiction over approval of the Tax Allocation Agreement pending completion of the record.

8. Investment in Nonutility Subsidiaries

Applicants propose to acquire directly or indirectly the securities of one or more corporations, trusts, partnerships, limited liability companies or other entities (collectively, "Intermediate Subsidiaries"), which would be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of or other interest in one or more EWGs, FUCOs, ETCs, Rule 58 Subsidiaries, and Energy Related Companies (collectively, "Exempt Subsidiaries") and make additional investments in other Nonutility Subsidiaries approved by the Commission as requested in this Application (collectively, "Non-Exempt Securities"). FirstEnergy states that Intermediate Subsidiaries also may engage in development and administrative activities related to these Exempt Subsidiaries and other Nonutility Subsidiaries, and proposes to expand, directly or through Nonutility Subsidiaries up to $300 million in the aggregate outstanding at any one time during the Authorization Period on these development activities. Applicants also maintain that the Intermediate Subsidiaries will provide both development and administrative activities "at cost" in accordance with section 13(b) and rules 90 and 91 of the Act.

9. Sale of Certain Goods and Services Outside the United States

Applicants request authority to allow Energy Related Companies to acquire interests in the entities not only within the United States as permitted by rule 58 but also outside the United States. Specifically, Applicants request that they be allowed to engage in energy management and consulting services anywhere outside the United States. Applicants also request that these entities be allowed to engage in energy marketing in Canada and Mexico and request that the Commission reserve jurisdiction with respect to the granting of authority to provide energy marketing services elsewhere outside the United States. Finally, Applicants request authority to allow these entities to engage in infrastructure services anywhere outside the United States and request that the Commission reserve jurisdiction over this proposal.

IV. Affiliate Transactions

A. Service Companies

Applicants propose that ServeCo will enter into a service agreement with each of the Utility Subsidiaries and other affiliates. Applicants seek certain exemptions from or waiver of the Commission's rules regarding the provision of services at cost to FirstEnergy affiliates as described below. GPU's nuclear operating company, GPU Nuclear, is an approved subsidiary service company. FirstEnergy Nuclear Operating Company also provides operating services to the FirstEnergy nuclear generating plants under the direction and supervision of the plants' owners.

1. Proposed Interim Operations

Currently, FirstEnergy provides many common corporate services to its affiliates, including the FirstEnergy Utility Subsidiaries.[34] As a part of the Merger, GPU Service will become a subsidiary of FirstEnergy. GPU Service is an approved subsidiary service company which provides services to the GPU Subsidiaries. FirstEnergy currently anticipates that all of the service functions of FirstEnergy and of GPU Service will be transferred to ServeCo. ServeCo will be staffed primarily by transferring existing personnel from the current employee rosters of FirstEnergy, GPU Service and the Utility Subsidiaries or other affiliates. In the interim, subject to Commission approval, FirstEnergy will continue to provide services to all its affiliates after the Merger, and GPU Service will function as it has in the past in accordance with Commission approvals. GPU Service may render services to the FirstEnergy Utility Subsidiaries or other Subsidiaries of FirstEnergy following the Merger.

FirstEnergy will cause ServeCo to begin at least minimal operations within 90 days following the closing of the Merger and will transfer to ServeCo the service functions currently conducted by FirstEnergy consistent with continued efficient operation of the FirstEnergy system. In any event, Applicants state that all these service functions will be transferred to ServeCo no later than January 1, 2003. Applicants also state that a determination regarding the status of FENOC and GPU Nuclear will made before January 1, 2003. FirstEnergy requests authority under section 13(a) permitting FirstEnergy to continue to provide services to affiliates, including the Utility Subsidiaries, during this interim period. FirstEnergy will file a separate application with the Commission on or before September 1.

[34] These services include: energy supply management of the bulk power and natural gas supply, procurement of fuels, coordination of electric and natural gas distribution systems, maintenance, construction and engineering work, customer bills and related matters; materials management; facilities; real estate; rights of way; human resources; finance; accounting; internal auditing; information systems; corporate planning and research; public affairs; corporate communications; legal; environmental matters, and executive services.

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2002, seeking authorization for ServeCo to consolidate service functions now provided by FirstEnergy, other FirstEnergy entities and GPU Service.

During the interim period, in order to assure that an allocable portion of certain services to be provided by FirstEnergy (e.g., executive services) are properly charged or allocated to all of FirstEnergy's Subsidiaries after the Merger, FirstEnergy will enter into a service agreement with GPU Service. Any charges by FirstEnergy to GPU Service will in turn be assigned and allocated to the GPU Subsidiaries in accordance with the terms of the existing GPU system service agreements. Amounts that were allocated to GPU under the GPU system service agreements will be allocated to FirstEnergy. Except as noted in Section IV.A.2., all services provided by FirstEnergy, ServeCo, GPU Service, GPU Nuclear, and FENOC will be at cost, as defined in rules 90 and 91 under the Act.

2. Exemption Requests

Applicants request authorization for ServeCo, GPU Service and the Nonutility Subsidiaries to enter into agreements to provide construction, goods or services to certain associate companies at fair market prices determined without regard to cost and therefore request an exemption (to the extent that rule 90(d) of the Act does not apply) under section 13(b) from the cost standards of rules 90 and 91.

Applicants note that certain associate companies, currently provide services to the FirstEnergy Utility Subsidiaries at a price not restricted to cost. Applicants request authorization to allow these arrangements, as well as extensions, additions and replacements of these arrangements in the ordinary course of business (the "At Market Service Arrangements"), to remain in place for a period ending not later than December 31, 2002, and request an exemption or waiver under section 13 from the cost standards of rules 90 and 91, as applicable, for these At Market Service Arrangements.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22593 Filed 9–7–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Federal Register Citation of Previous Announcement: [66 FR 46301, September 4, 2001]

Status: Closed meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date Previously Announced: August 30, 2001.

Change in the Meeting: Deletion.

The following item was not considered at the closed meeting scheduled for Wednesday, September 5, 2001: consideration of actions involving foreign governmental authorities.

At times, change in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 6, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22708 Filed 9–6–01; 11:29 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 3771]

Culturally Significant Objects Imported for Exhibition; Determinations: "Art and Home: Dutch Interiors in the Age of Rembrandt"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended by Delegation of Authority No. 236–3 of August 28, 2000 [65 FR 53795], and Delegation of Authority dated June 29, 2001, I hereby determine that the objects to be included in the exhibit, "Art and Home: Dutch Interiors in the Age of Rembrandt," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at The Newark Museum, Newark, New Jersey, from on or about September 26, 2001, to on or about January 20, 2002, the Denver Art Museum, Denver, Colorado, from on or about March 2, 2002, to on or about May 26, 2002, and other possible venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: September 5, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–22753 Filed 9–7–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3770]

Office of the Coordinator for Counterterrorism; Designation of a Foreign Terrorist Organization

AGENCY: Department of State.

ACTION: Designation of a foreign terrorist organization.

Pursuant to section 219 of the Immigration and Nationality Act ("INA"), as added by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104–132, section 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104–208, 110 Stat. 3009 (1996), the Secretary of State hereby designates, effective September 10, 2001, the following organization as a foreign terrorist organization: The "United Self-Defense Forces of Colombia", also known as the "Autodefensas Unidas de Colombia", also known as the "AUC .

Dated: September 5, 2001.

Ambassador Francis X. Taylor,

Coordinator for Counterterrorism, Department of State.

[FR Doc. 01–22638 Filed 9–7–01; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–10524]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0514

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR comprises Submission of Continuous-Discharge Book, Revised Merchant Mariner's Application, Report of Entry-Level Physical, Report of Other Physical, Report of New Sea Service, and Report of Chemical Testing. Before submitting the ICR to OMB, the Coast Guard is requesting comments on it.

DATES: Comments must reach the Coast Guard on or before November 9, 2001.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG 2001–10524], U. S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The DMS maintains the public docket for this request. Comments will become part of this docket and will be available for inspection or copying in room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov* and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2001–10524], and give the reason for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

1. *Title:* Submission of Continuous-Discharge Book, Revised Merchant Mariner's Application, Report of Entry-Level Physical, Report of Other Physical, Report of New Sea Service, and Report of Chemical Testing.

OMB Control Number: 2115–0514.

Summary: The Coast Guard needs this various information to evaluate the competency, character, and physical fitness of individuals applying for Coast Guard Licenses, Certificates of Registry, and Merchant Mariners' Documents.

Need: 46 U.S.C. 7101 and 7302 give the Coast Guard the authority to issue Licenses, Certificates of Registry, and Merchant Mariners' Documents to individuals found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness.

Respondents: Merchant Mariners.

Frequency: On occasion.

Burden Estimate: The estimated burden is 21,359 hours a year.

Dated: August 31, 2001.

V.S. Crea,

Director of Informotion and Technology.

[FR Doc. 01–22627 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–01–024]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) and its working groups will meet to discuss waterway improvements, aids to navigation, area projects impacting safety on the Houston Ship Channel, and various other navigation safety matters in the Galveston Bay area. All meetings will be open to the public.

DATES: The next meeting of HOGANSAC will be held on Wednesday, October 17, 2001 from 9 a.m. to approximately 12 noon. The meeting of the Committee's working groups will be held on Thursday, September 6, 2001, at 9 a.m. The meetings may adjourn early if all business is finished. Members of the public may present written or oral statements at either meeting.

ADDRESSES: The full Committee meeting will be held at the Texas Cruise Ship Terminal, Port of Galveston, Galveston, Texas (409–766–6113). The working group meeting will be held at the Center for Maritime Education, The Seaman's Church Institute, Houston, Texas (713–674–1236).

FOR FURTHER INFORMATION CONTACT: Captain Kevin Cook, Executive Director of HOGANSAC, telephone (713–671–5199), or Commander Peter Simons, Executive Secretary of HOGANSAC, telephone (713–671–5164), e-mail psimons@vtshouston.uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings—Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC)

The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Casto) (or the Committee Sponsor's representative), Executive Director (CAPT Cook) and Chairman (Tim Leitzell).
(2) Approval of the May 24, 2001 minutes.
(3) Old Business.
  (a) Dredging projects.
  (b) Electronic navigation.
  (c) AtoN Knockdown Working Group.
  (d) Facility Information Guide.
  (e) TNRCC Clean Air Rules and Plans for Houston/Galveston.
  (f) Mooring subcommittee report.
  (g) Membership solicitation.
  (h) 2002 Harbor Safety Conference plans.
  (i) Texas City Container Terminal update.
(4) New Business.
  (a) Operation BoatSmart.
  (b) Navigational considerations impacting movement of offshore rigs in the Galveston Bay region.

Working Group Meeting. The tentative agenda for the working group meeting includes the following:

(1) Presentation by each working group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each working group. Working groups have been formed to examine the following issues: dredging and related issues, electronic navigation systems, AtoN knockdowns, impact of passing vessels on moored ships, recreational boater education issues. All working groups may not necessarily report out at this session, however, working group discussions not reported out at this October meeting will be addressed at a future meeting of HOGANSAC. Further, working group reports may not necessarily include discussions on all issues within the particular working group's area of responsibility. All meetings are open to the public. Please note that the meetings may adjourn early if all business is finished. Members of the public may make presentations, oral or written, at either meeting.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director or Executive Secretary.

Dated: August 16, 2001.

Roy J. Castro,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–22582 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Middle Georgia Regional Airport, Macon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Middle Georgia Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 148).

DATES: Comments must be received on or before October 10, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airport District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Rex Elder, Aviation Director of the Middle Georgia Regional Airport at the following address: City of Macon, Municipal Aviation Department, 1000 Terminal Drive, Macon, Georgia 31297.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Macon under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Daniel Gaetan, Program Manager, Atlanta Airports District Office, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, (404) 305–7146. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Middle Georgia Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 28, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Macon, Municipal Airport Department, was substantially complete within the requirements of section 158.25 of Part 148. The FAA will approve or disapprove the application, in whole or in part, no later than December 3, 2001.

The following is a brief overview of the application.

PFC Application No.: PFC No. 01–01–C–00–MCN.

Level of the proposed PFC: $4.50.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: November 1, 2008.

Total estimated net PFC revenue: $806,842.

Brief description of proposed project(s): Airport Entrance Road, Rehabilitate Runway 5–23, Improvements to terminal building.

Class or classes of air carriers that the public agency has requested not be required to collect PFCs: Air taxi/Commercial operators (ATCO) filing form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Middle Georgia Regional Airport.

Issued in College Park, Georgia on August 28, 2001.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 01–22660 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meetings

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting in preparation for the eighteenth meeting of the International Civil Aviation Organization's Dangerous Goods Panel to be held October 15–25, 2001 in Montreal, Canada.

DATES: October 3, 10 AM–12:30 PM, Room 6332–6336.

ADDRESSES: The meeting will be held at DOT Headquarters, NassifBuilding, Room 6332–6336, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bob Richard, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to prepare and discuss positions for the eighteenth meeting of the Dangerous Goods Panel. Topics to be covered during the public meeting will include (1) Air transport packaging requirements, (2) Requirements for lithium batteries, (3) Requirements for cryogenic liquefied gas receptacles, (4) Requirements for UN marked compressed gas cylinders, (5) Harmonization with the 12th revised edition of the UN Model Regulations, (6) Dangerous goods carried by passengers and crew members, (7) Information requirements on the air waybill and notification to pilot in command (NOTOC), (8) Infectious substance requirements, and (9) Incident reporting.

The public is invited to attend without prior notification.

Dated: September 5, 2001.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–22657 Filed 9–7–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34084]

New Hampshire Central Railroad, Inc.—Operation Exemption—Certain Lines of the State of New Hampshire

New Hampshire Central Railroad, Inc. (NHCR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate approximately 36.1 miles of certain rail lines owned by the State of New Hampshire by and through the New Hampshire Department of Transportation (NHDOT).[1] The subject lines consist of railroad lines lying in Grafton and Coos Counties, NH, comprising a portion of railroad rights-of-way known as the Berlin Branch and Groveton Branch as follows: (a) From milepost 113.0 in Littleton, NH, to milepost 125.0 in Whitefield, NH; (b) from milepost 125.0 in Whitefield to milepost 130.9 in Jefferson (Waumbee Junction), NH; and (c) from milepost 130.9 in Jefferson (Waumbec Junction), to a point in Groveton (Northumberland), NH, at the Whistle Post located south of the West Street crossing, that point being the point of intersection with tracks of the St. Lawrence & Atlantic Railroad Company.

NHCR certifies that its annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual freight revenues are not projected to exceed $5 million.

The transaction is scheduled to be consummated on August 31, 2001.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34084, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Richard A. Currier, P. O. Box 248, Colebrook, NH 03576.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 30, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–22485 Filed 9–7–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The parties state that NHCR and the State of New Hampshire, by its Department of Transportation, entered into an operating agreement on December 1, 2000, providing for NHCR's operation of the subject line.

NHCR will replace New Hampshire and Vermont Railroad Company, which had operated under an agreement with NHDOT that was terminated effective December 31, 2000. *See New Hampshire and Vermont Railroad Company Operation Exemption—Certain Lines of the State of New Hampshire,* STB Finance Docket No. 33727 (STB served Apr. 16, 1999).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. AB–589X[1]; AB–295 (Sub-No. 4X)]

Monon Rail Preservation Corporation—Abandonment Exemption and the Indiana Rail Road Company—Discontinuance of Service Exemption; Monroe County, IN

On August 21, 2001, Monon Rail Preservation Corporation (Monon) and The Indiana Rail Road Company (INRD) (collectively, petitioners) jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 for Monon to abandon and for INRD to discontinue service over a 1,500-foot segment of Monon's Ellettsville Line,[2] extending from the end of the line at milepost Q213.41 to milepost Q213.69, in Monroe County, IN. The line traverses U.S. Postal Service Zip Code 47429. There are no stations on the line.

The line does not contain federally granted rights-of-way. Any documentation in Monon's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 7, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 1, 2001. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB–589X and AB–295 (Sub-No. 4X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) John Broadley, 1054 31st Street NW., Suite 200, Washington, DC 20007. Replies to the petition are due on or before October 1, 2001.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. (TDD for the hearing impaired is available at 1–800–877–8339.)

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on

[1] The docket numbers of the parties were transposed in the petition for exemption.

[2] INRD was granted local trackage rights over the entire Ellettsville Line in *The Indiana Rail Road Company—Trackage Rights Exemption—Monon Rail Preservation Corporation,* STB Finance Docket No. 33669 (STB served Oct. 16, 1998). Subsequently, INRD was authorized to operate the Ellettsville Line in *The Indiana Rail Road Company—Operation Exemption—Monon Rail Preservation Corporation,* STB Finance Docket No. 33670 (STB served Feb. 21, 2001). Although petitioners characterize INRD's transaction as a discontinuance of trackage rights, they are technically seeking, with respect to the 1,500-foot segment, discontinuance of INRD's service under the operating agreement, which superseded the trackage rights.

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the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 31, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–22635 Filed 9–7–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Performance Review Board

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: This notice lists the membership to the Departmental Offices' Performance Review Board (PRB) and supersedes the list published in **Federal Register** 54601, Vol. 65, No. 174, dated September 8, 2000, in accordance with 5 U.S.C. 4314(c)(4). The purpose of the PRB is to review the performance of members of the Senior Executive Service and make recommendations regarding performance ratings, performance awards, and other personnel actions.

The names and titles of the PRB members are as follows:

Steven O. App—Deputy Chief Financial Officer
Maria E. Canales—Director, Liaison and Business Services
Mary Chaves—Director, Office of International Trade
Marcia H. Coates—Director, Office of Equal Opportunity Program
Edward J. DeMarco—Director, Office of Government Sponsored Enterprises Policy
Anna F. Dixon—Director, Office of Enforcement Budget Res. Policy
Kay Frances Dolan—Deputy Assistant Secretary (Human Resources)
James Fall, III—Deputy Assistant Secretary (Technical Assistance Policy)
James J. Flyik—Deputy Assistant Secretary, (Information Systems) and Chief Information Officer
Geraldine A. Geradi—Director, Business Taxation
Ronald A. Glaser—Director, Office of Personnel Policy
John C. Hambor—Director, Office of Policy Analysis
Barry K. Hudson—Director, Office of Financial Management
Donald W. Kiefer—Director, Office of Tax Analysis
Jeffrey F. Kupfer—Executive Secretary
David A. Lebryk—Deputy Assistant Secretary (Fiscal Operations and Policy)
Nancy Lee—Director, Office of Central and Eastern European Nations
James R. Lingebach—Director, Office of Accounting and Internal Control
David G. Loevinger—Director, East Asian Nations
Carl L. Moravitz—Director, Office of Budget
William C. Murden—Director, Office of International Banking and Securities Markets
Robert R. Newcomb—Director, Office of Foreign Assets Control
Joel D. Platt—Director, Revenue Estimating
Steven C. Radelet—Deputy Assistant Secretary (Asia, The Americas and Africa)
William C. Randolph—Director, International Taxation
Corey Rindner—Director, Office of Procurement
Michael L. Romey—Special Assistant to the Secretary National Security
Mary Beth Shaw—Director, DC Pensions Project Office
Gay H. Sills—Director, Office of International Investment
James F. Sloan—Director, FinCen
Mark D. Sobel—Deputy Assistant Secretary (International Money & Financial Policy)
Eric Solomon—Deputy Assistant Secretary (Regulatory Affairs)
Jane L. Sullivan—Director, Information Technology and Policy Strategy
Thomas C. Wiesner—Director, Customer Service Infrastructure and Operations

FOR FURTHER INFORMATION CONTACT: Barbara A. Hagle, Executive Secretary, PRB, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6109, Metropolitan Square, Washington, DC 20220. Telephone: 202–622–2209. This notice does not meet the Department's criteria for significant regulations.

James J. Flyzik,

Acting Assistant Secretary for Management, and Chief Information Officer.

[FR Doc. 01–22592 Filed 9–7–01; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–62]

Cancellation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Customs broker license cancellation.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license is canceled without prejudice.

Name	License #	Port name
Danzas Corporation.	2005	New York.

Dated: August 22, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–22564 Filed 9–7–01; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 66, No. 175

Monday, September 10, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 170

Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers

Correction

In rule document 01–20628 beginning on page 43080 in the issue of Friday, August 17, 2001, make the following correction:

On page 43081, in the third column, in footnote number 9, in the second line, "NRA's amendment" should read "NFA's amendment".

[FR Doc. C1–20628 Filed 9–7–01; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG83

List of Approved Spent Fuel Storage Casks: NAC-MPC Revision

Correction

In proposed rules document 01–21935 beginning on page 45788 in the issue of Thursday, August 30, 2001, make the following correction:

On page 45788, in the third column, in the first complete paragraph, in the sixth line, "November 15, 2001" should read "November 13, 2001 ".

[FR Doc. C1–21935 Filed 9–7–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44734; File No. SR–NASD–2001–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 To Extend the Expiration Date of Nasdaq's Transaction Credit Pilot Program

August 22, 2001.

Correction

In notice document 01–21651 beginning on page 45347 in the issue of Tuesday, August 28, 2001, make the following correction:

On page 45348, in the second column, in the last two sentences of the first paragraph, "[insert date 21 days from the date of publication]" should read "September 18, 2001".

[FR Doc. C1–21651 Filed 9–7–01; 8:45 am]

BILLING CODE 1505–01–D

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Air programs; State authority delegations:
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html.* Some laws may not yet be available.

H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

Last List August 21, 2001

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869-044-00002-4)	36.00	[1]Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1-699	(869-044-00004-1)	53.00	Jan. 1, 2001
700-1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200-End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
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1-26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27-52	(869-044-00008-3)	45.00	Jan. 1, 2001
53-209	(869-044-00009-1)	34.00	Jan. 1, 2001
210-299	(869-044-00010-5)	56.00	Jan. 1, 2001
300-399	(869-044-00011-3)	38.00	Jan. 1, 2001
400-699	(869-044-00012-1)	53.00	Jan. 1, 2001
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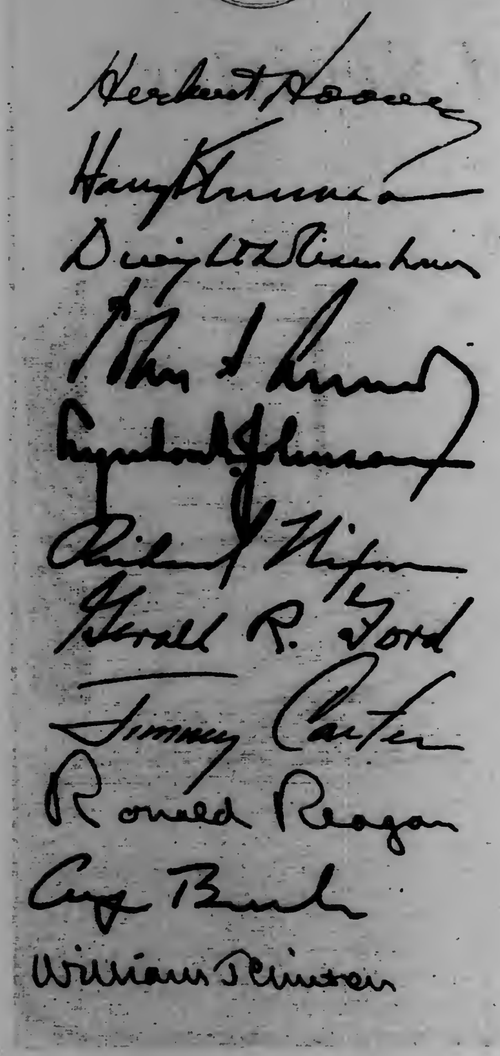
[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

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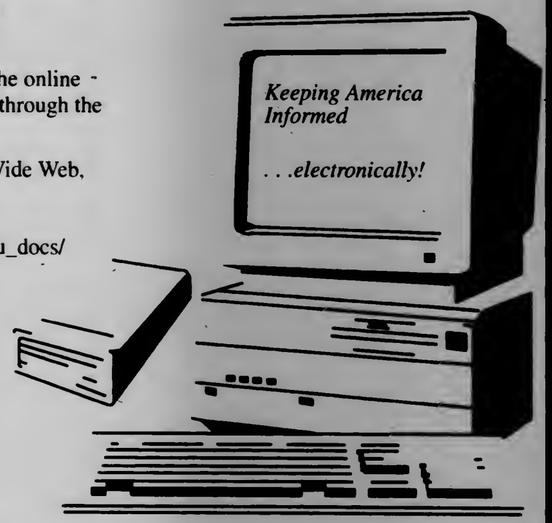
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DEPARTMENT OF ENERGY

10 CFR Part 710

RIN 1992–AA22

Criteria And Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material

AGENCY: Office of Security and Emergency Operations, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending procedures for making final determinations of eligibility for access to classified matter and/or special nuclear material. The purpose of the amendments is to ensure that DOE procedures in this regard conform to the access eligibility determination provisions in Part 5 of Executive Order 12968, "Access to Classified Information," signed by the President in August 1995.

EFFECTIVE DATE: This rule is effective September 11, 2001.

FOR FURTHER INFORMATION CONTACT: A. Barry Dalinsky, Policy, Standards and Analysis Division, Office of Safeguards and Security, SO–211, Office of Security Affairs, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290; (301) 903–5010.

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H. Review Under the Treasury and General Government Appropriations Act of 1999
I. Review Under Small Business Regulatory Enforcement Fairness Act of 1996
IV. Conclusion

I. Background

DOE published a notice of proposed rulemaking in the **Federal Register** on August 16, 1999 (64 FR 44433) to amend its procedures for resolving questions concerning an individual's DOE access authorization eligibility. These procedures are codified in subpart A of Title 10, Code of Federal Regulations, part 710 (hereafter referred to as 10 CFR part 710).

II. Public Comments; Changes to Proposed Rule

DOE did not receive any public comments on its proposed rule .

In two instances DOE has modified the proposed rule. First, we have added paragraph (j) to § 710.29 ("Final Appeal Process") to state the Secretary of Energy's authority to exercise the authority of the Appeal Panel. This addition implements section 5.2(b) of Executive Order No. 12968, which provides:

> Nothing in this (Executive Order) shall prohibit an agency head from personally exercising the appeal authority * * * (of the appeal panel) based upon recommendations from an appeals panel. In such case, the decision of the agency head shall be final.

Second, DOE has determined that today's rule should be effective immediately. In the Notice of Proposed Rulemaking, DOE stated that the procedures established by today's rule would not apply to cases when a "notification letter" (as described in 10 CFR 710.21) already had been issued on or after the effective date of the regulation. As proposed, cases in process would be conducted under the procedural rules in existence on the date of the notification letter.

An agency may apply new procedural rules in pending proceedings as long as the application of the new procedures does not impair the rights of, or otherwise cause injury or prejudice to, a party. Since the new procedures principally revise existing appeal procedures after a Hearing Officer has issued findings and opinion, DOE has determined that, at the option of the individual, the procedures adopted today should be available to any individual in pending cases that have not already been appealed to the Director, Office of Hearings and Appeals, as of the effective date of today's regulatory amendments. The final decision in cases that have been appealed to the Director, Office of Hearings and Appeals, will be rendered by the Director, Office of Security Affairs.

III. Procedural Requirements

A. Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, requires that a federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. Such an analysis is not required, however, if the agency certifies that the rule would not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)).

DOE certifies that today's amendments to 10 CFR part 710 will not have a significant economic impact on a substantial number of small entities. This final rule will only change the Department's procedures for access authorization eligibility determinations. The amendments are intended to conform 10 CFR part 710 to the requirements of Executive Order 12968 and affect only individual employees or applicants for employment. The rule does not directly regulate small entities.

C. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit policymaking discretion of the States

and carefully assess the necessity for

G. Review Under the Unfunded

List of Subjects in 10 CFR Part 710

imprisonment of six (6) months or

Operations Office Manager or

(k) Trafficked in, sold, transferred,

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and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132

D. Review Under the National Environmental Policy Act

DOE has concluded that the final rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, the final rule is categorically excluded from environmental review as it is strictly procedural (Category Exclusion A6). Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under the Paperwork Reduction Act

No new collection of information will be imposed by this rulemaking. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

F. Review Under Executive Order 12988

Section 3 of Executive Order 12988 (61 FR 4729) instructs each agency to adhere to cerain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 3(a) and (b), include eliminating drafting errors and ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. The DOE certifies that today's final rule meets the requirements of section 3(a) and (b) of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531, *et seq.*, requires each federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any federal mandate in an agency rule that may result in the expenditure by state, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. The Act also requires a federal agency to develop an effective process to permit timely input by elected officers of state, local, and tribal governments on a proposed "significant intergovernmental mandate," and it requires an agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. The rule amendments finalized today do not impose a federal mandate on state, local, or tribal governments or on the private sector. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's final rule does not impact on the autonomy or integrity of the family institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Statement.

I. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(3).

IV. Conclusion

The Notice of Proposed Rulemaking to amend 10 CFR part 710 was issued by the Assistant Secretary for Nonproliferation and National Security. This final rule, however, is being issued by the Secretary. The rule applies to all Department of Energy Federal and contractor employees, including Federal and contractor employees of the National Nuclear Security Administration.

List of Subjects in 10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Nuclear materials.

Issued in Washington, DC, on July 24, 2001.

Spencer Abraham,

Secretary of Energy.

For the reasons set forth in the preamble, part 710 of Title 10 of the Code of Federal Regulations is amended to read as follows.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 710 is revised to read as follows:

Authority: 42 U.S.C. 7101, *et seq.*; 50 U.S.C. 2401, *et seq.*; Atomic Energy Act of 1954, sec. 141, 68 Stat 940, as amended (42 U.S.C. 2161); Atomic Energy Act of 1954, sec. 145, 68 Stat 942, as amended (42 U.S.C. 2165); Atomic Energy Act of 1954, sec. 161, 68 Stat 948, as amended (42 U.S.C. 2201); E.O. 10450, 3 CFR 1949–1953 comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 comp., p. 398, as amended, 3 CFR Chap. IV; E.O. 12958, 3 CFR 1995, comp., p. 333; E.O. 12968, 3 CFR 1995, comp., p. 391.

Subpart A—General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material

2. Section 710.1 is amended by revising paragraph (b) to read as follows:

§ 710.1 Purpose.

* * * * *

(b) This subpart is published to implement: Executive Order 12968, 60 FR 40245 (August 7, 1995); Executive Order 12958, 60 FR 19825 (April 20, 1995); Executive Order 10865, 25 FR 1583 (February 24, 1960), as amended; and Executive Order 10450, 18 FR 2489 (April 27, 1954), as amended. This subpart also provides for public information: selected provisions of the Atomic Energy Act of 1954, as amended, set forth in appendix A to this subpart; and the 1997 Adjudicative Guidelines approved by the President and set forth in appendix B to this subpart.

3. Section 710.4 is amended by revising paragraph (c) and adding paragraph (g) to read as follows:

§ 710.4 Policy.

* * * * *

(c) If the individual is currently awaiting a hearing or trial, or has been convicted of a crime punishable by imprisonment of six (6) months or longer, or is awaiting or serving a form of preprosecution probation, suspended or deferred sentencing, court ordered probation, or parole in conjunction with an arrest or criminal charges initiated against the individual for a crime that is punishable by imprisonment of six (6) months or longer, DOE may suspend processing an application for access authorization until such time as the hearing, trial, criminal prosecution, suspended sentencing, deferred sentencing, probation, or parole has been completed.

* * * * *

(g) If an individual believes that the provisions of paragraph (c), (d), or (e) of this section have been inappropriately applied, a written appeal may be filed with the Director, Office of Safeguards and Security, DOE Headquarters, within 30 calendar days of the date the individual was notified of the action. The Director, Office of Safeguards and Security, shall act on the written appeal as described in section 710.6(c).

4. Section 710.5 is amended by adding in alphabetical order a definition for the term "Classified Matter" and by revising the definitions for "Local Director of Security," "National Security Information," and "Operations Office Manager or Manager" to read as follows:

§ 710.5 Definitions.

* * * * *

Classified Matter means the material of thought or expression that is classified pursuant to statute or Executive Order.

* * * * *

Local Director of Security means the Operations Office or Naval Reactors Office Security and Safeguards Division Director, or other similar title; for Washington, DC area cases, the Director, Headquarters Operations Division; for the Idaho Operations Office, the Program Manager, Security and Resource Management Division; for the Pittsburgh Naval Reactors Office, the Director, Contracts and Securities Division; for the Savannah River Operations Office, the Director, Internal Security Division; and any person designated in writing to serve in one of the aforementioned positions in an "acting" capacity.

National Security Information means any information that has been determined, pursuant to Executive Order 12958 or any predecessor Order, to require protection against unauthorized disclosure and that is so designated.

Operations Office Manager or *Manager* means the Manager of a DOE Operations Office (Albuquerque, Chicago, Idaho, Nevada, Oak Ridge, Oakland, Richland, or Savannah River), the Manager of the Pittsburgh Naval Reactors Office, the Manager of the Schenectady Naval Reactors Office, and, for Washington, DC area cases, the Director, Office of Safeguards and Security.

* * * * *

5. Section 710.7 is amended by revising paragraph (a) to read as follows:

§ 710.7 Application of the criteria.

(a) The decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the common defense and security and is clearly consistent with the national interest. Any doubt as to an individual's access authorization eligibility shall be resolved in favor of the national security. Absent any derogatory information, a favorable determination usually will be made as to access authorization eligibility.

* * * * *

6. Section 710.8 is amended by adding the words "(or National Security)" between the words "Sensitive" and "Positions" in the first sentence of paragraph (f) and revising paragraphs (g), (h), (j), (k), and (l) to read as follows:

§ 710.8 Criteria.

* * * * *

(g) Failed to protect classified matter, or safeguard special nuclear material; or violated or disregarded security or safeguards regulations to a degree which would be inconsistent with the national security; or disclosed classified information to a person unauthorized to receive such information; or violated or disregarded regulations, procedures, or guidelines pertaining to classified or sensitive information technology systems.

(h) An illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability.

* * * * *

(j) Been, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse.

(k) Trafficked in, sold, transferred, possessed, used, or experimented with a drug or other substance listed in the Schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as marijuana, cocaine, amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, or as otherwise authorized by Federal law.

(l) Engaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include, but are not limited to, criminal behavior, a pattern of financial irresponsibility, conflicting allegiances, or violation of any commitment or promise upon which DOE previously relied to favorably resolve an issue of access authorization eligibility.

7. Section 710.9 is revised to read as follows:

§ 710.9 Action on derogatory information.

(a) If the reports of investigation of an individual or other reliable information tend to establish the validity and significance of one or more items in the criteria, or of other reliable information or facts which are of security concern, although outside the scope of the stated categories, such information shall be regarded as derogatory and create a question as to the individual's access authorization eligibility.

(b) If a question arises as to the individual's access authorization eligibility, the Local Director of Security shall authorize the conduct of an interview with the individual, or other appropriate actions, which may include a DOE-sponsored mental evaluation, and, on the basis of the results of such interview or actions, may authorize the granting of the individual's access authorization. If, in the opinion of the Local Director of Security, the question as to the individual's access authorization eligibility has not been favorably resolved, he shall submit the matter to the Manager with a recommendation that authority be obtained to process the individual's case under administrative review procedures.

(c) If the Manager agrees that unresolved derogatory information is present and that appropriate attempts to

resolve such derogatory information

authorization, the Manager shall

(3) Provide the name and telephone

by the Appeal Panel is not filed within

(b) If the Hearing Officer's decision is

Panel within 20 calendar days of receipt

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resolve such derogatory information have been unsuccessful, he shall notify the Director, Office of Safeguards and Security, of his proposal to conduct an administrative review proceeding, accompanied by an explanation of the security concerns and a duplicate Personnel Security File. If the Manager believes that the derogatory information has been favorably resolved, he shall direct that access authorization be granted for the individual. The Manager may also direct the Local Director of Security to obtain additional information in the matter prior to deciding whether to grant the individual access authorization or to submit a request for authority to conduct an administrative review proceeding. A decision in the matter shall be rendered by the Manager within 10 calendar days of its receipt.

(d) Upon receipt of the Manager's notification, the Director, Office of Safeguards and Security, shall review the matter and confer with the Manager on:

(1) The institution of administrative review proceedings set forth in §§ 710.20 through 710.32;

(2) The granting of access authorization; or

(3) Other actions as the Director deems appropriate.

(e) The Director, Office of Safeguards and Security, shall act pursuant to one of these options within 30 calendar days of the receipt of the Manager's notification unless an extension is granted by the Director, Office of Security Affairs.

8. Section 710.10 is amended by revising paragraphs (a) and (d) and adding paragraphs (e) and (f) to read as follows:

§ 710.10 Suspension of access authorization.

(a) If information is received that raises a question concerning an individual's continued access authorization eligibility, the Local Director of Security shall authorize action(s), to be taken on an expedited basis, to resolve the question pursuant to § 710.9(b). If the question as to the individual's continued access authorization eligibility is not resolved in favor of the individual, the Local Director of Security shall submit the matter to the Manager with a recommendation that the individual's access authorization be suspended pending the final determination resulting from the procedures in this subpart.

* * * * *

(d) Following the decision to suspend an individual's DOE access authorization, the Manager shall immediately notify the Director, Office of Safeguards and Security, of the action and the reason(s) therefore. In addition, the Manager, within 10 calendar days of the date of suspension, shall notify the Director, Office of Safeguards and Security, of his proposal to conduct an administrative review proceeding, accompanied by an explanation of its basis and a duplicate Personnel Security File.

(e) Upon receipt of the Manager's notification, the Director, Office of Safeguards and Security, shall review the matter and confer with the Manager on:

(1) The institution of administrative review procedures set forth in §§ 710.20 through 710.32;

(2) The reinstatement of access authorization; or

(3) Other actions as the Director deems appropriate.

(f) The Director, Office of Safeguards and Security, shall act pursuant to one of these options within 30 calendar days of the receipt of the Manager's notification unless an extension is granted by the Director, Office of Security Affairs.

9. Section 710.21 is amended by revising the section heading, paragraphs (a) and (b)(2) and adding paragraph (c) to read as follows:

§ 710.21 Notice to the individual.

(a) Unless an extension is authorized by the Director, Office of Safeguards and Security, within 30 calendar days of receipt of authority to institute administrative review procedures, the Manager shall prepare and deliver to the individual a notification letter approved by the local Office of Chief Counsel, or the Office of General Counsel for Headquarters cases. Where practicable, the letter shall be delivered to the individual in person.

(b) * * *

(1) * * *

(2) The information which creates a substantial doubt regarding the individual's access authorization eligibility (which shall be as comprehensive and detailed as the national security permits) and why that information creates such doubt.

* * * * *

(c) The notification letter referenced in paragraph (b) of this section shall also:

(1) Describe the individual's access authorization status until further notice;

(2) Advise the individual of the right to representation at the individual's own expense at each and every stage of the proceedings;

(3) Provide the name and telephone number of the designated DOE official to contact for any further information desired concerning the proceedings, including an explanation of the individual's rights under the Freedom of Information and Privacy Acts; and

(4) Include a copy of this subpart.

10. Section 710.22 is revised to read as follows:

§ 710.22 Initial decision process.

(a) The Manager shall make an initial decision as to the individual's access authorization eligibility based on the existing information in the case if:

(1) The individual fails to respond to the notification letter by filing a timely written request for a hearing before a Hearing Officer or fails to respond to the notification letter after requesting an extension of time to do so;

(2) The individual's response to the notification letter does not request a hearing before a Hearing Officer; or

(3) The Hearing Officer refers the individual's case to the Manager in accordance with § 710.25(e) or § 710.26(b).

(b) Unless an extension of time is granted by the Director, Office of Safeguards and Security, the Manager's initial decision as to the individual's access authorization eligibility shall be made within 15 calendar days of the date of receipt of the information in paragraph (a) of this section. The Manager shall either grant or deny, or reinstate or revoke, the individual's access authorization.

(c) A letter reflecting the Manager's initial decision in the individual's case shall be signed by the Manager and delivered to the individual within 15 calendar days of the date of the Manager's decision unless an extension of time is granted by the Director, Office of Safeguards and Security. If the Manager's initial decision is unfavorable to the individual, the individual shall be advised:

(1) Of the Manager's unfavorable decision and the reason(s) therefor;

(2) That within 30 calendar days from the date of receipt of the letter, he may file a written request for a review of the Manager's initial decision through the Director, Office of Safeguards and Security, DOE Headquarters, to the DOE Headquarters Appeal Panel (hereafter referred to as the "Appeal Panel");

(3) That the Director, Office of Safeguards and Security, may, for good cause shown, at the written request of the individual, extend the time for filing a written request for a review of the case by the Appeal Panel; and

(4) That if the written request for a review of the Manager's initial decision by the Appeal Panel is not filed within 30 calendar days of the individual's receipt of the Manager's letter, the Manager's initial decision in the case shall be final.

§ 710.23 [Amended]

11. Section 710.23 is amended by removing the words "Operations Office" from the section heading.

12. Section 710.27 is amended by revising the section heading, removing the words "an initial opinion" in the first sentence of paragraph (a) and adding in their place the words "a decision," by removing paragraphs (e), (f), and (g) and by revising paragraph (d) to read as follows:

§ 710.27 Hearing Officer's decision.

* * * * *

(d) The Hearing Officer's decision shall be based on the Hearing Officer's findings of fact. If, after considering all of the factors in light of the criteria set forth in this subpart, the Hearing Officer is of the opinion that it will not endanger the common defense and security and will be clearly consistent with the national interest to grant or reinstate access authorization for the individual, the Hearing Officer shall render a favorable decision; otherwise, the Hearing Officer shall render an unfavorable decision. Within 15 calendar days of the Hearing Officer's written decision, the Hearing Officer shall provide copies of the decision and the administrative record to the Manager and the Director, Office of Safeguards and Security.

13. Section 710.28 is revised to read as follows:

§ 710.28 Action on the Hearing Officer's decision.

(a) Within 10 calendar days of receipt of the decision and the administrative record, unless an extension of time is granted by the Director, Office of Safeguards and Security, the Manager shall:

(1) Notify the individual in writing of the Hearing Officer's decision;

(2) Advise the individual in writing of the appeal procedures available to the individual in paragraph (b) of this section if the decision is unfavorable to the individual;

(3) Advise the individual in writing of the appeal procedures available to the Manager and the Director, Office of Safeguards and Security, in paragraph (c) of this section if the decision is favorable to the individual; and,

(4) Provide the individual and/or counsel or representative, a copy of the Hearing Officer's decision and the administrative record.

(b) If the Hearing Officer's decision is unfavorable to the individual:

(1) The individual may file with the Director, Office of Safeguards and Security, a written request for further review of the decision by the Appeal Panel along with a statement required by paragraph (e) of this section within 30 calendar days of the individual's receipt of the Manager's notice;

(2) The Director, Office of Safeguards and Security may, for good cause shown, extend the time for filing a request for further review of the decision by the Appeal Panel at the written request of the individual provided the request for an extension of time is filed by the individual within 30 calendar days of receipt of the Manager's notice;

(3) The Hearing Officer's decision shall be considered final if the individual does not: file a written request for a review of the decision by the Appeal Panel or for an extension of time to file a written request for further review of the decision by the Appeal Panel in accordance with paragraphs (b)(1) or (b)(2) of this section; or, file a written request for a further review of the decision by the Appeal Panel after having been granted an extension of time to do so.

(c) If the Hearing Officer's decision is favorable to the individual, within 30 calendar days of the individual's receipt of the Manager's notice:

(1) The Manager or the Director, Office of Safeguards and Security, may file a written request for further review of the decision by the Appeal Panel along with the statement required by paragraph (e) of this section;

(2) The Director, Office of Security Affairs, may, at the written request of the Manager or Director, Office of Safeguards and Security, extend the time for filing a request for further review of the decision by the Appeal Panel; or

(3) The Manager, with the concurrence of the Director, Office of Safeguards and Security, shall grant or reinstate the individual's access authorization.

(d) A copy of any request for further review of the individual's case by the Appeal Panel filed by the Manager or the Director, Office of Safeguards and Security, shall be provided to the individual by the Manager.

(e) The party filing a request for review of the individual's case by the Appeal Panel shall include with the request a statement identifying the issues on which it wishes the Appeal Panel to focus. A copy of such statement shall be served on the other party, who may file a response with the Appeal Panel within 20 calendar days of receipt of the statement.

14. Sections 710.29 through 710.34 are redesignated as §§ 710.30 through 710.35 and a new § 710.29 is added to read as follows:

§ 710.29 Final appeal process.

(a) The Appeal Panel shall be convened by the Director, Office of Security Affairs, to review and render a final decision in an access authorization eligibility case referred by the individual, the Manager, or the Director, Office of Safeguards and Security, in accordance with §§ 710.22, 710.28, and 710.32.

(b) The Appeal Panel shall consist of three members, each of whom shall be a DOE Headquarters employee, a United States citizen, and hold a DOE Q access authorization. The Director, Office of Security Affairs, shall serve as a permanent member of the Appeal Panel and as the Appeal Panel Chairman. The second member of the Appeal Panel shall be a DOE attorney designated by the General Counsel. The head of the DOE Headquarters element who has cognizance over the individual whose access authorization eligibility is being considered may designate an employee to act as the third member on the Appeal Panel; otherwise, the third member will be designated by the Chairman. Only one member of the Appeal Panel shall be from the security field.

(c) In filing a written request for a review by the Appeal Panel in accordance with §§ 710.22 and 710.28, the individual, or the counsel or representative, shall identify the relevant issues and may also submit any relevant material in support of the individual. The individual's written request and supportive material shall be made a part of the administrative record. The Director, Office of Safeguards and Security, shall provide staff support to the Appeal Panel as requested by the Director, Office of Security Affairs.

(d) Within 15 calendar days from the date of receipt of a request for a review of a case by the Appeal Panel, the Director, Office of Security Affairs, shall:

(1) Request the General Counsel to designate an attorney who shall serve as an Appeal Panel member;

(2) Either request the head of the cognizant DOE element to designate, or himself designate, an employee from outside the security field who shall serve as the third member of the Appeal Panel; and

(3) Arrange for the Appeal Panel members to convene to review the

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administrative record or provide a copy of the administrative record to the other

completed and its results available for

(b) * * *

§ 710.32 Reconsideration of access

§ 710.33 Terminations.

individuals who require access to classified information. They apply to persons being

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administrative record or provide a copy of the administrative record to the other Appeal Panel members for their independent review.

(e) The Appeal Panel may initiate an investigation of any statement or material contained in the request for an Appeal Panel review and use any relevant facts obtained by such investigation in the conduct of the final decision process. The Appeal Panel may solicit and accept submissions from either the individual or DOE officials that are relevant to the final decision process and may establish appropriate time frames to allow for such submissions. The Appeal Panel may also consider any other source of information that will advance the final decision process, provided that both parties are afforded an opportunity to respond to all third party submissions. All information obtained by the Appeal Panel under this section shall be made a part of the administrative record.

(f) Within 45 work days of the closing of the administrative record, the Appeal Panel shall render a final written decision in the case predicated upon an evaluation of the administrative record, findings as to each of the allegations contained in the notification letter, and any new evidence that may have been submitted pursuant to § 710.30. If a majority of the Appeal Panel members determine that it will not endanger the common defense and security and will be clearly consistent with the national interest, the Director, Office of Security Affairs, shall grant or reinstate access authorization for the individual; otherwise, the Director, Office of Security Affairs, shall deny or revoke access authorization for the individual. The Appeal Panel written decision shall be made a part of the administrative record.

(g) The Director, Office of Security Affairs, through the Director, Office of Safeguards and Security, shall inform in writing the individual involved and counsel or representative of the Appeal Panel's final decision. A copy of the correspondence shall also be provided to the other panel members and the Manager.

(h) If, upon receipt of a written request for a review of the individual's case by the Appeal Panel, the Director, Office of Security Affairs, is aware or subsequently becomes aware of information that the individual is the subject of an unresolved inquiry or investigation of a matter that could reasonably be expected to affect the individual's DOE access authorization eligibility, the Director may defer action by the Appeal Panel on the request until the inquiry or investigation is completed and its results available for review by the Appeal Panel. In such instances, the Director, Office of Security Affairs, shall:

(1) Obtain written approval from the Secretary to defer review of the individual's case by the Appeal Panel for an initial interval not to exceed 90 calendar days;

(2) Advise the individual and appropriate DOE officials in writing of the initial deferral and the reason(s) therefor;

(3) Request that the individual's employment status not be affected during the initial and any subsequent deferral interval, except at the written request of the individual;

(4) Obtain written approval from the Secretary to extend the deferral for each subsequent 90 calendar day interval and advise in writing all concerned parties of the Secretary's approval;

(5) Inform in writing all concerned parties when the inquiry or investigation has been completed and the results made available to the Appeal Panel.

(i) If, upon receipt of a written request for review of an individual's case by the Appeal Panel, the Director, Office of Security Affairs, is aware or subsequently becomes aware of information that adversely affects the individual's DOE access authorization eligibility and that cannot for national security reasons be disclosed in the proceedings before a DOE Hearing Officer, the Director may refer the information and the administrative record to the Secretary for the final decision as to the individual's DOE access authorization eligibility. In such instances, the Director, Office of Security Affairs, shall notify in writing all concerned parties that the individual's case has been provided to the Secretary for a final decision in accordance with § 710.31.

(j) Upon the recommendation of the Appeal Panel, the Secretary may exercise the appeal authority of the Appeal Panel. If the Secretary exercises the appeal authority, then the decision of the Secretary is final.

15. Newly redesignated § 710.30 is amended by removing the word "determination" and adding the word "decision" in paragraph (a) and removing the words "an opinion" and adding the words "a decision" in paragraph (b)(1), by removing the word "getting" and adding the word "receiving" in paragraph (b)(1), and by revising paragraph (b)(2) to read as follows:

§ 710.30 New evidence.

* * * * *

(b) * * *

(2) In those cases where the Hearing Officer's decision has been issued, the application for presentation of new evidence shall be referred to the Director, Office of Security Affairs. In the event that the Director, Office of Security Affairs, determines that the new evidence shall be received, he shall determine the form in which it, and the other party's response, shall be received.

* * * * *

16. Newly redesignated § 710.31 is revised to read as follows:

§ 710.31 Action by the Secretary.

(a) Whenever an individual has not been afforded an opportunity to cross-examine witnesses who have furnished information adverse to the individual under the provisions of §§ 710.26(l) or (o), or the opportunity to review and respond to the information provided by the Director, Office of Security Affairs, to the Secretary under § 710.29(i), only the Secretary may issue a final decision to deny or revoke DOE access authorization for the individual after personally reviewing the administrative record and any additional material provided by the Director, Office of Security Affairs. The Secretary's authority may not be delegated and may be exercised only when the Secretary determines that the circumstances described in § 710.26(l) or (o), or § 710.29(i) are present, and such determination shall be final.

(b) Whenever the Secretary issues a final decision as to the individual's DOE access authorization eligibility, the individual and other concerned parties will be notified in writing, by the Director, Office of Security Affairs, of that decision and of the Secretary's findings with respect to each of the allegations contained in the notification letter and each substantial issue identified in the statement in support of the request for review to the extent allowed by the national security.

(c) Nothing contained in these procedures shall be deemed to limit or affect the responsibility and powers of the Secretary to issue subpoenas or to deny or revoke access to Restricted Data, national security information, or special nuclear material.

(d) Only the Secretary may approve initial and subsequent requests under § 710.29(h) by the Director, Office of Security Affairs, to defer the review of an individual's case by the Appeal Panel.

17. Newly redesignated § 710.32 is revised to read as follows:

§ 710.32 Reconsideration of access eligibility.

(a) If, pursuant to the procedures set forth in §§ 710.20 through 710.31 the Manager, Hearing Officer, Appeal Panel, or the Secretary has made a decision granting or reinstating access authorization for an individual, the individual's access authorization eligibility shall be reconsidered as a new administrative review under the procedures set forth in this subpart when previously unconsidered derogatory information is identified, or the individual violates a commitment or promise upon which the DOE previously relied to favorably resolve an issue of access authorization eligibility.

(b) If, pursuant to the procedures set forth in §§ 710.20 through 710.31 the Manager, Hearing Officer, Appeal Panel, or the Secretary has made a decision denying or revoking access authorization for the individual, the individual's access authorization eligibility may be reconsidered only when the individual so requests, when there is a bona fide offer of employment requiring access to Restricted Data, national security information, or special nuclear material, and when there is either:

(1) Material and relevant new evidence which the individual and the individual's representatives are without fault in failing to present earlier, or

(2) Convincing evidence of rehabilitation or reformation.

(c) A request for reconsideration shall be submitted in writing to the Director, Office of Security Affairs, accompanied by an affidavit setting forth in detail the new evidence or evidence of rehabilitation or reformation. If the Director, Office of Security Affairs, determines that the regulatory requirements for reconsideration have been met, the Director shall notify the individual that the individual's access authorization shall be reconsidered in accordance with established procedures for determining eligibility for access authorizations.

(d) If the individual's access authorization is not reinstated following reconsideration, the individual shall be advised by the Director, Office of Safeguards and Security, in writing:

(1) Of the unfavorable action and the reason(s) therefor; and

(2) That within 30 calendar days from the date of receipt of the notification, he may file, through the Director, Office of Safeguards and Security, DOE Headquarters, a written request for a review of the decision by the Appeal Panel, in accordance with § 710.29.

18. Newly redesignated § 710.33 is revised to read as follows:

§ 710.33 Terminations.

If the individual is no longer an applicant for access authorization or no longer requires access authorization, the procedures of this subpart shall be terminated without a final decision as to the individual's access authorization eligibility, unless a final decision has been rendered prior to the DOE being notified of the change in the individual's pending access authorization status.

19. Newly redesignated § 710.35 is revised to read as follows:

§ 710.35 Time frames.

Statements of time established for processing aspects of a case under this subpart are the agency's desired time frames in implementing the procedures set forth in this subpart. However, failure to meet the time frames shall have no impact upon the final disposition of an access authorization by a Manager, Hearing Officer, the Appeal Panel, or the Secretary, and shall confer no procedural or substantive rights upon an individual whose access authorization eligibility is being considered.

20. Section 710.36 is added to read as follows:

§ 710.36 Acting officials.

Except for the Secretary, the responsibilities and authorities conferred in this subpart may be exercised by persons who have been designated in writing as acting for, or in the temporary capacity of, the following DOE positions: The Local Director of Security, the Manager, the Director, Office of Safeguards and Security, or the General Counsel. The responsibilities and authorities of the Director, Office of Security Affairs, may be exercised in his absence only by the Deputy Director, Office of Security Affairs.

21. Appendix B to Subpart A of Part 710 is added to read as follows:

Appendix B to Subpart A of Part 710—Adjudicative Guidelines Approved by the President in Accordance With the Provisions of Executive Order 12968

(The following guidelines, included in this subpart for reference purposes only, are reproduced as provided to the DOE by the Security Policy Board. The President may change the guidelines without notice.)

Adjudicative Guidelines for Determining Eligibility for Access to Classified Information

1. *Introduction.* The following adjudicative guidelines are established for all U.S. government civilian and military personnel, consultants, contractors, employees of contractors, licensees, certificate holders or grantees and their employees and other individuals who require access to classified information. They apply to persons being considered for initial or continued eligibility for access to classified information, to include sensitive compartmented information and special access programs and are to be used by government departments and agencies in all final clearance determinations.

2. *The Adjudicative Process.*

(a) The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance. Eligibility for access to classified information is predicated upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole person concept. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating the relevance of an individual's conduct, the adjudicator should consider the following factors:

(1) The nature, extent, and seriousness of the conduct;

(2) The circumstances surrounding the conduct, to include knowledgeable participation;

(3) The frequency and recency of the conduct;

(4) The individual's age and maturity at the time of the conduct;

(5) The voluntariness of participation;

(6) The presence or absence of rehabilitation and other pertinent behavioral changes;

(7) The motivation for the conduct;

(8) The potential for pressure, coercion, exploitation, or duress; and

(9) The likelihood of continuation or recurrence.

(b) Each case must be judged on its own merits, and final determination remains the responsibility of the specific department or agency. Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.

(c) The ultimate determination of whether the granting or continuing of eligibility for a security clearance is clearly consistent with the interests of national security must be an overall common sense determination based upon careful consideration of the following, each of which is to be evaluated in the context of the whole person concept, as explained further below:

(1) Guideline A: Allegiance to the United States;

(2) Guideline B: Foreign influence;

(3) Guideline C: Foreign preference;

(4) Guideline D: Sexual behavior;

(5) Guideline E: Personal conduct;

(6) Guideline F: Financial considerations;

(7) Guideline G: Alcohol consumption;

(8) Guideline H: Drug involvement;

(9) Guideline I: Emotional, mental, and personality disorders;

(10) Guideline J: Criminal Conduct;

(11) Guideline K: Security violations;

(12) Guideline L: Outside activities;

(13) Guideline M: Misuse of Information Technology Systems.

(d) Although adverse information

(c) Involvement in the above activities

Guideline C: Foreign Preference

(a) The behavior occurred during or prior

has subsequently provided correct

influence, fighting, child or spouse abuse, or

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(d) Although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or emotionally unstable behavior. Notwithstanding, the whole person concept, pursuit of further investigation may be terminated by an appropriate adjudicative agency in the face of reliable, significant, disqualifying, adverse information.

(e) When information of security concern becomes known about an individual who is currently eligible for access to classified information, the adjudicator should consider whether the person:

(1) Voluntarily reported the information;

(2) Was truthful and complete in responding to questions;

(3) Sought assistance and followed professional guidance, where appropriate;

(4) Resolved or appears likely to favorably resolve the security concern;

(5) Has demonstrated positive changes in behavior and employment;

(6) Should have his or her access temporarily suspended pending final adjudication of the information.

(f) If after evaluating information of security concern, the adjudicator decides that the information is not serious enough to warrant a recommendation of disapproval or revocation of the security clearance, it may be appropriate to recommend approval with a warning that future incidents of a similar nature may result in revocation of access.

Guideline A: Allegiance to the United States

3. *The Concern.* An individual must be of unquestioned allegiance to the United States. The willingness to safeguard classified information is in doubt if there is any reason to suspect an individual's allegiance to the United States.

4. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Involvement in any act of sabotage, espionage, treason, terrorism, sedition, or other act whose aim is to overthrow the Government of the United States or alter the form of government by unconstitutional means;

(b) Association or sympathy with persons who are attempting to commit, or who are committing, any of the above acts;

(c) Association or sympathy with persons or organizations that advocate the overthrow of the United States Government, or any state or subdivision, by force or violence or by other unconstitutional means;

(d) Involvement in activities which unlawfully advocate or practice the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any state.

5. *Conditions that could mitigate security concerns include:*

(a) The individual was unaware of the unlawful aims of the individual or organization and severed ties upon learning of these;

(b) The individual's involvement was only with the lawful or humanitarian aspects of such an organization;

(c) Involvement in the above activities occurred for only a short period of time and was attributable to curiosity or academic interest;

(d) The person has had no recent involvement or association with such activities.

Guideline B: Foreign Influence

6. *The Concern.* A security risk may exist when an individual's immediate family, including cohabitants and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

7. *Conditions that could raise a security concern and may be disqualifying include:*

(a) An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country.

(b) Sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists;

(c) Relatives, cohabitants, or associates who are connected with any foreign country;

(d) Failing to report, where required, associations with foreign nationals;

(e) Unauthorized association with a suspected or known collaborator or employee of a foreign intelligence service;

(f) Conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government;

(g) Indications that representatives or nationals from a foreign country are acting to increase the vulnerability of the individual to possible future exploitation, coercion or pressure;

(h) A substantial financial interest in a country, or in any foreign owned or operated business that could make the individual vulnerable to foreign influence.

8. *Conditions that could mitigate security concerns include:*

(a) A determination that the immediate family member(s) (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States;

(b) Contacts with foreign citizens are the result of official United States Government business;

(c) Contact and correspondence with foreign citizens are casual and infrequent;

(d) The individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons or organizations from a foreign country;

(e) Foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities.

Guideline C: Foreign Preference

9. *The Concern.* When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

10. *Conditions that could raise a security concern and may be disqualifying include:*

(a) The exercise of dual citizenship;

(b) Possession and/or use of a foreign passport;

(c) Military service or a willingness to bear arms for a foreign country;

(d) Accepting educational, medical, or other benefits, such as retirement and social welfare, from a foreign country;

(e) Residence in a foreign country to meet citizenship requirements;

(f) Using foreign citizenship to protect financial or business interests in another country;

(g) Seeking or holding political office in the foreign country;

(h) Voting in foreign elections; and

(i) Performing or attempting to perform duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

11. *Conditions that could mitigate security concerns include:*

(a) Dual citizenship is based solely on parents' citizenship or birth in a foreign country;

(b) Indicators of possible foreign preference (e.g., foreign military service) occurred before obtaining United States citizenship;

(c) Activity is sanctioned by the United States;

(d) Individual has expressed a willingness to renounce dual citizenship.

Guideline D: Sexual Behavior

12. *The Concern.* Sexual behavior is a security concern if it involves a criminal offense, indicates a personality or emotional disorder, may subject the individual to coercion, exploitation, or duress, or reflects lack of judgment or discretion. (The adjudicator should also consider guidelines pertaining to criminal conduct (Guideline J) and emotional, mental, and personality disorders (Guideline I) in determining how to resolve the security concerns raised by sexual behavior.) Sexual orientation or preference may not be used as a basis for a disqualifying factor in determining a person's eligibility for a security clearance.

13. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Sexual behavior of a criminal nature, whether or not the individual has been prosecuted;

(b) Compulsive or addictive sexual behavior when the person is unable to stop a pattern of self-destructive high-risk behavior or that which is symptomatic of a personality disorder;

(c) Sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress;

(d) Sexual behavior of a public nature and/or that which reflects lack of discretion or judgment.

14. *Conditions that could mitigate security concerns include:*

(a) The behavior occurred during or prior to adolescence and there is no evidence of subsequent conduct of a similar nature;

(b) The behavior was not recent and there is no evidence of subsequent conduct of a similar nature;

(c) There is no other evidence of questionable judgment, irresponsibility, or emotional instability;

(d) The behavior no longer serves as a basis for coercion, exploitation, or duress.

Guideline E: Personal Conduct

15. *The Concern.* Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility:

(a) Refusal to undergo or cooperate with required security processing, including medical and psychological testing; or

(b) Refusal to complete required security forms, releases, or provide full, frank and truthful answers to lawful questions of investigators, security officials or other official representatives in connection with a personnel security or trustworthiness determination.

16. *Conditions that could raise a security concern and may be disqualifying also include:*

(a) Reliable, unfavorable information provided by associates, employers, coworkers, neighbors, and other acquaintances;

(b) The deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(c) Deliberately providing false or misleading information concerning relevant and material matters to an investigator, security official, competent medical authority, or other official representative in connection with a personnel security or trustworthiness determination.

(d) Personal conduct or concealment of information that may increase an individual's vulnerability to coercion, exploitation, or duress, such as engaging in activities which, if known, may affect the person's personal, professional, or community standing or render the person susceptible to blackmail;

(e) A pattern of dishonesty or rule violations, including violation of any written or recorded agreement made between the individual and the agency;

(f) Association with persons involved in criminal activity.

17. *Conditions that could mitigate security concerns include:*

(a) The information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability;

(b) The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily;

(c) The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts;

(d) Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided;

(e) The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress;

(f) A refusal to cooperate was based on advice from legal counsel or other officials that the individual was not required to comply with security processing requirements and, upon being made aware of the requirement, fully and truthfully provided the requested information;

(g) Association with persons involved in criminal activities has ceased.

Guideline F: Financial Considerations

18. *The Concern.* An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

19. *Conditions that could raise a security concern and may be disqualifying include:*

(a) A history of not meeting financial obligations;

(b) Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust;

(c) Inability or unwillingness to satisfy debts;

(d) Unexplained affluence;

(e) Financial problems that are linked to gambling, drug abuse, alcoholism, or other issues of security concern.

20. *Conditions that could mitigate security concerns include:*

(a) The behavior was not recent;

(b) It was an isolated incident;

(c) The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation);

(d) The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

(e) The affluence resulted from a legal source; and

(f) The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Guideline G: Alcohol Consumption

21. *The Concern.* Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness.

22. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, or other criminal incidents related to alcohol use;

(b) Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job;

(c) Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence;

(d) Evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program;

(e) Habitual or binge consumption of alcohol to the point of impaired judgment;

(f) Consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program.

23. *Conditions that could mitigate security concerns include:*

(a) The alcohol related incidents do not indicate a pattern;

(b) The problem occurred a number of years ago and there is no indication of a recent problem;

(c) Positive changes in behavior supportive of sobriety;

(d) Following diagnosis of alcohol abuse or alcohol dependence, the individual has successfully completed inpatient or outpatient rehabilitation along with aftercare requirements, participated frequently in meetings of Alcoholics Anonymous or a similar organization, has abstained from alcohol for a period of at least 12 months, and received a favorable prognosis by a credentialed medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Guideline H: Drug Involvement

24. *The Concern.*

(a) Improper or illegal involvement with drugs raises questions regarding an individual's willingness or ability to protect classified information. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information.

(b) Drugs are defined as mood and behavior altering substances and include: (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and (2) inhalants and other similar substances.

(c) Drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

25. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Any drug abuse (see above definition);

(b) Illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution;

(c) Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of drug abuse or drug dependence;

(d) Evaluation of drug abuse or drug

Guideline I: Criminal Conduct

Guideline M: Misuse of Information

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(d) Evaluation of drug abuse or drug dependence by a licensed clinical social worker who is a staff member of a recognized drug treatment program;

(e) Failure to successfully complete a drug treatment program prescribed by a credentialed medical professional. Recent drug involvement, especially following the granting of a security clearance, or an expressed intent not to discontinue use, will almost invariably result in an unfavorable determination.

26. *Conditions that could mitigate security concerns include:*

(a) The drug involvement was not recent;

(b) The drug involvement was an isolated or aberrational event;

(c) A demonstrated intent not to abuse any drugs in the future;

(d) Satisfactory completion of a prescribed drug treatment program, including rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a credentialed medical professional.

Guideline I: Emotional, Mental, and Personality Disorders

27. *The Concern.* Emotional, mental, and personality disorders can cause a significant defect in an individual's psychological, social and occupational functioning. These disorders are of security concern because they may indicate a defect in judgment, reliability, or stability. A credentialed mental health professional (e.g., clinical psychologist or psychiatrist), employed by, acceptable to or approved by the government, should be utilized in evaluating potentially disqualifying and mitigating information fully and properly, and particularly for consultation with the individual's mental health care provider.

28. *Conditions that could raise a security concern and may be disqualifying include:*

(a) An opinion by a credentialed mental health professional that the individual has a condition or treatment that may indicate a defect in judgment, reliability, or stability;

(b) Information that suggests that an individual has failed to follow appropriate medical advice relating to treatment of a condition, e.g., failure to take prescribed medication;

(c) A pattern of high-risk, irresponsible, aggressive, anti-social or emotionally unstable behavior;

(d) Information that suggests that the individual's current behavior indicates a defect in his or her judgment or reliability.

29. *Conditions that could mitigate security clearance concerns include:*

(a) There is no indication of a current problem;

(b) Recent opinion by a credentialed mental health professional that an individual's previous emotional, mental, or personality disorder is cured, under control or in remission and has a low probability of recurrence or exacerbation;

(c) The past emotional instability was a temporary condition (e.g., one caused by a death, illness, or marital breakup), the situation has been resolved, and the individual is no longer emotionally unstable.

Guideline J: Criminal Conduct

30. *The Concern.* A history or pattern of criminal activity creates a doubt about a person's judgment, reliability and trustworthiness.

31. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Allegations or admissions of criminal conduct, regardless of whether the person was formally charged;

(b) A single serious crime or multiple lesser offenses.

32. *Conditions that could mitigate security concerns include:*

(a) The criminal behavior was not recent;

(b) The crime was an isolated incident;

(c) The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life;

(d) The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur;

(e) Acquittal;

(f) There is clear evidence of successful rehabilitation.

Guideline K: Security Violations

33. *The Concern.* Noncompliance with security regulations raises doubt about an individual's trustworthiness, willingness, and ability to safeguard classified information.

34. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Unauthorized disclosure of classified information;

(b) Violations that are deliberate or multiple or due to negligence.

35. *Conditions that could mitigate security concerns include actions that:*

(a) Were inadvertent;

(b) Were isolated or infrequent;

(c) Were due to improper or inadequate training;

(d) Demonstrate a positive attitude towards the discharge of security responsibilities.

Guideline L: Outside Activities

36. *The Concern.* Involvement in certain types of outside employment or activities is of security concern if it poses a conflict with an individual's security responsibilities and could create an increased risk of unauthorized disclosure of classified information.

37. Conditions that could raise a security concern and may be disqualifying include any service, whether compensated, volunteer, or employment with:

(a) A foreign country;

(b) Any foreign national;

(c) A representative of any foreign interest;

(d) Any foreign, domestic, or international organization or person engaged in analysis, discussion, or publication of material on intelligence, defense, foreign affairs, or protected technology.

38. *Conditions that could mitigate security concerns include:*

(a) Evaluation of the outside employment or activity indicates that it does not pose a conflict with an individual's security responsibilities;

(b) The individual terminates employment or discontinues the activity upon being notified that it is in conflict with his or her security responsibilities.

Guideline M: Misuse of Information Technology Systems

39. *The Concern.* Noncompliance with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's trustworthiness, willingness, and ability to properly protect classified systems, networks, and information. Information Technology Systems include all related equipment used for the communication, transmission, processing, manipulation, and storage of classified or sensitive information.

40. *Conditions that could raise a security concern and may be disqualifying include:*

(a) Illegal or unauthorized entry into any information technology system;

(b) Illegal or unauthorized modification destruction, manipulation or denial of access to information residing on an information technology system;

(c) Removal (or use) of hardware, software, or media from any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations;

(d) Introduction of hardware, software, or media into any information technology system without authorization, when specifically prohibited by rules, procedures, guidelines or regulations.

41. *Conditions that could mitigate security concerns include:*

(a) The misuse was not recent or significant;

(b) The conduct was unintentional or inadvertent;

(c) The introduction or removal of media was authorized;

(d) The misuse was an isolated event;

(e) The misuse was followed by a prompt, good faith effort to correct the situation.

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DEPARTMENT OF THE TREASURY

12 CFR Part 1510

RIN 1550–AA79

Resolution Funding Corporation Operations

AGENCY: Department of the Treasury.

ACTION: Affirmation of interim rule as final, with amendments.

SUMMARY: The Secretary of the Treasury (Secretary) is adopting as a final rule, with amendments, an interim rule that amended the Treasury Department's regulation governing the operations of the Resolution Funding Corporation (Funding Corporation). The interim rule implemented statutory changes affecting the Funding Corporation's operations, eliminated obsolete regulatory provisions, and streamlined remaining regulatory provisions. The final rule makes two technical changes to the interim rule to reduce the compliance burden.

EFFECTIVE DATE: The interim rule became effective on March 8, 2000. The amendments made by the final rule are effective on September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brandon B. Straus, Attorney-Advisor, Office of the Assistant General Counsel (Banking & Finance), (202) 622–1964, or Matthew P. Green, Financial Analyst, Office of Financial Institutions and Government Sponsored Enterprise Policy, Department of the Treasury, (202) 622–2157.

SUPPLEMENTARY INFORMATION:

I. Background

In an interim rule published in the **Federal Register** on March 8, 2000 (*see* 65 FR 12064) and which became effective on that date, the Secretary amended the Treasury Department's regulation governing the operations of the Funding Corporation (operations regulation) in order to implement statutory changes affecting the Funding Corporation's operations, eliminate obsolete regulatory provisions, and streamline the regulation's remaining provisions. The Funding Corporation is a mixed-ownership government corporation created by Congress in 1989 as a mechanism for issuing debt to finance the resolution of a large number of insolvent savings associations. The **SUPPLEMENTARY INFORMATION** section of the interim rule provides additional background on the Funding Corporation and a detailed explanation of the regulatory amendments made by the interim rule (*see* 65 FR 12064–12068). The Secretary now is adopting the interim rule as final, with two changes that are discussed below.

II. Analysis of Public Comment and the Final Rule

The Secretary received one comment on the interim rule, which was submitted by the Funding Corporation. The Funding Corporation supported the Secretary's effort to streamline and simplify the operations regulation. The Funding Corporation also suggested a change to the procedure in § 1510.5(d)(1) of the interim rule governing how the Funding Corporation collects funds from the Federal Home Loan Banks (Banks) in order to make interest payments on its debt obligations (bonds). The Funding Corporation commented that in order to comply with the timing requirement in § 1510.5(d)(1) for reporting actual quarterly net earnings to the Funding Corporation, the Banks must close their books and determine actual net earnings figures no later than four business days after the end of a quarter. The Funding Corporation stated that in the future, however, it may not be possible for the Banks to close their books within this timeframe due to the operation of Financial Accounting Standards Board Statement 133. Statement 133, which went into effect for the Banks in 2000, establishes new accounting and reporting standards for derivative instruments. Consequently, the Funding Corporation believes it may not be able to obtain actual net earnings figures from the Banks by the sixth business day prior to the interest payment due date, as required by § 1510.5(d)(1) of the interim rule. To address this timing issue, the Funding Corporation recommended that the Secretary remove all the reporting deadlines from § 1510.5(d) of the interim rule and establish them in a separate procedure so that the deadlines could be changed without the need for a regulatory amendment.

In order to address the Funding Corporation's concern, the Secretary is revising the timing requirements in the interim final rule to allow the Banks an additional two business days to provide actual quarterly net earnings figures to the Funding Corporation after the end of each quarter. Specifically, the final rule permits the Banks to have up until the fourth business day prior to the interest payment due date to submit their actual quarterly net earnings figures to the Funding Corporation and for the Funding Corporation to then notify each Bank of the payment due from the Bank. As a result of this change, the final rule moves back by two business days the deadlines in § 1510.5(d)(2) and (3) related to the Federal Savings and Loan Insurance Corporations (FSLIC) Resolution Fund and the Secretary of the Treasury, so that any payment from the FSLIC Resolution Fund to the Funding Corporation is due no later than noon on the third business day prior to the interest payment due date. Similarly, the Funding Corporation must request payment from the Secretary no later than the third business day prior to the interest payment due date.

In the interest of reducing regulatory burden, the final rule also removes the requirement in § 1510.5(c) that the Funding Corporation obtain the Secretary's approval of the quarterly reports of funding projections it submits to the Secretary. Approval of these reports is not necessary because they are provided to the Secretary solely for informational purposes.

III. Administrative Procedure Act

This rule makes technical amendments to the regulation governing the operation of the Funding Corporation that do not affect the general public. For this reason, it has been determined that publishing this rule with notice and an opportunity for public comment is unnecessary pursuant to 5 U.S.C. 553(b). For the same reason, pursuant to 5 U.S.C. 553(d), it is determined that there is good cause for the final rule to become effective immediately upon publication.

IV. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

V. Executive Order 12866

This final rule is not a "significant regulatory action" for purposes of Executive Order 12866. Accordingly, a regulatory assessment is not required.

List of Subjects in 12 CFR Part 1510

Federal home loan banks, Federal Reserve System, Resolution Funding Corporation, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Secretary is adopting as a final rule the interim rule that amended 12 CFR part 1510 and that was published at 65 FR 12064 on March 8, 2000, with the following amendments:

PART 1510—RESOLUTION FUNDING CORPORATION OPERATIONS

1. The authority citation for part 1510 continues to read as follows:

Authority: 12 U.S.C. 1441b; Sec 14(d), Pub. L. 105–216, 112 Stat. 910.

2. Amend § 1510.5 as follows:

a. Remove "for approval" from the introductory text of paragraph (c); and

b. Revise paragraph (d) to read as follows:

§ 1510.5 How does the Funding Corporation make interest payments on its obligations?

* * * * *

(d) *The Funding Corporation must request funds from the Banks, the FSLIC Resolution Fund, and the Secretary*—(1) *Requests to the Banks.* Not less than four business days prior to the interest payment due date, the Funding Corporation must obtain from each Bank a report of its actual net earnings for the prior quarter and notify each Bank in writing of the interest payment due date and the amount of the payment due

from the Bank. To the extent funds

SMALL BUSINESS ADMINISTRATION

from the previous statutory limit of

not have specific jurisdictional

13 CFR Part 144

from Microloans may be used only for

from the Bank. To the extent funds identified in paragraph (a)(1) of this section are insufficient to pay the interest due, the amount of each Bank's payment must be 20 percent of the Bank's actual quarterly net earnings, taking into account any adjustment to the Bank's earnings for any previous quarters. The Funding Corporation must request the Bank to provide payment through wiring immediately available and finally collected funds to the Funding Corporation no later than the interest payment due date.

(2) *Request to the FSLIC Resolution Fund.* On the day the Funding Corporation notifies the Banks of the payments due from them under paragraph (d)(1) of this section, the Funding Corporation must:

(i) Notify the FSLIC Resolution Fund in writing of:

(A) The interest payment due date;

(B) The aggregate amount of the quarterly interest payment due on that date; and

(C) The amount of the quarterly interest payment that will be funded by earnings on assets of the Funding Corporation not invested in the Funding Corporation Principal Fund and payments due from the Banks; and

(ii) Request that the FSLIC Resolution Fund transfer to the Funding Corporation by noon on the third business day prior to the interest payment due date any funds available from the net proceeds from the sale of assets received from the RTC, to the extent funds identified in paragraphs (a)(1) and (2) of this section are insufficient to pay the interest due.

(3) *Request to the Secretary.* No less than three business days prior to the interest payment due date, the Funding Corporation must request payment from the Secretary by providing a certification, in a form satisfactory to the Secretary, stating the total amounts of the quarterly interest payment to be paid by the Funding Corporation from sources other than the Secretary and the amounts necessary to make up the deficiency. Any amount paid by the Secretary becomes a liability of the Funding Corporation to be repaid to the Secretary upon the dissolution of the Funding Corporation, to the extent of its remaining assets.

Dated: September 4, 2001.

Peter R. Fisher,

Under Secfetary of the Treasury.

[FR Doc. 01–22796 Filed 9–10–01; 8:45 am]

BILLING CODE 4810–25–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 120 and 134

RIN 3245–AE51

Business Loan Program and Office of Hearings and Appeals

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: SBA is implementing changes to the microloan program as required by law. This final rule terminates the designation of the microloan program as a "demonstration," allows a nonprofit child care business to qualify for the microloan program, and authorizes a microloan intermediary to use up to 25 percent of grant funds for technical assistance to prospective microloan borrowers. This final rule also establishes procedures for SBA to revoke or suspend a microloan intermediary or non-lending technical assistance provider.

DATES: This rule is effective October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, Chief, Microenterprise Development Branch, Office of Financial Assistance, Office of Capital Access, 202–205–6497.

SUPPLEMENTARY INFORMATION: Pub. L. 105–135, enacted on December 2, 1997, (1997 legislation) amends SBA's microloan program in section 7(m) of the Small Business Act (15 U.S.C. 636(m)) (Act). On August 11, 1999, SBA published a proposed rule in the **Federal Register** (64 FR 43636), to implement: (1) Changes to the microloan program as required by the 1997 legislation, and (2) standards and procedures SBA could use to suspend or revoke the status of a non-lending technical assistance provider (hearing and appeal regulatory proposal). SBA received three comments in response to this proposed rule, all of which addressed the hearing and appeal regulatory proposal.

The following is a summary of the portion of the proposed rule relating to the implementation of the 1997 legislation which SBA is publishing as final.

The 1997 legislation terminated the designation of the microloan program as a "demonstration." This final rule deletes that designation wherever it was in SBA's rules, including the heading for subpart G of this part.

SBA is amending § 120.706 of its regulations (13 CFR 120.706) to increase the aggregate amount that a microloan intermediary may borrow from SBA from the previous statutory limit of $2,500,000 to the new statutory limit of $3,500,000.

Generally, microloan borrowers must engage in for profit activities. However, SBA is amending § 120.707(a) of its regulations to implement the 1997 legislation which authorizes microloan assistance to a borrower to establish a nonprofit child care business.

The 1997 legislation increases, from 15 percent to 25 percent, the amount of grant funds a microloan intermediary may use for technical assistance to prospective microloan borrowers. This final rule amends § 120.712 to reflect the increased percentage. SBA is also implementing another provision from the 1997 legislation by amending § 120.712 to allow an intermediary to use up to 25 percent of the grant funds it receives from SBA to contract with third parties to provide technical assistance to microloan borrowers.

Under section 7(m) of the Act, SBA may give grants to a maximum of 25 non-lending technical assistance providers. Under prior rules, SBA could provide the 25 grants for a maximum of 5 annual terms. The final rule amends § 120.714 of SBA's regulations to reflect the changes in the 1997 legislation that authorize SBA to provide the annual grants without any maximum term limits.

Section 7(m)(12) of the Act authorizes SBA, on a pilot basis, to guarantee loans made to microloan intermediaries. Currently, § 120.715 of SBA's regulations incorrectly places a limit on the number of loans to intermediaries that SBA may guarantee. SBA is amending § 120.715 of its regulations to clarify that there is no statutorily prescribed limit on the number of loans which SBA is authorized to guarantee to microloan intermediaries.

SBA had proposed adding § 120.716 to its regulations to implement the 1997 legislation's welfare-to-work initiative. The 1997 legislation envisioned that funding would be appropriated through fiscal year 2000. Since this initiative was not funded, and by its own terms was scheduled to terminate at the end of the current fiscal year, SBA is not including it in this final rule.

In the proposed rule, SBA proposed adding a new section to the regulations describing the procedures that SBA would use to suspend or revoke a microloan intermediary or non-lending technical assistance provider (NTAP). The new provision also would have given such an entity the right to appeal any such suspension or revocation to the agency's Office of Hearings and Appeals (OHA). A commenter advised that OHA, under its present rules, did not have specific jurisdictional authority to hear an appeal from a microloan intermediary or NTAP. While it is true that such specific authority does not exist, § 134.102 (Jurisdiction of OHA) does allow OHA to hear any determination, appeal or other proceeding referred to OHA by the Administrator of SBA. This language allows for SBA to hear appeals from microloan intermediaries or NTAPs. However, despite this language and in an effort to ensure clarity, SBA is amending part 134 in this rule to give the OHA the specific authority to consider appeals from an agency decision to suspend or revoke a microloan intermediary or NTAP.

Compliance With Executive Orders 13132, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

For purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

The Office of Management and Budget reviewed this rule as a "significant" regulatory action under Executive Order 12866.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. Based on our program experience, SBA estimates that there are only 130 small business intermediaries that may be affected by this rule. Furthermore, SBA anticipates that of these 130 intermediaries only a small number will utilize the new initiatives created by the 1997 legislation. In addition, based on program history, SBA expects that it will only rely on its authority to suspend or revoke the status of an intermediary lender or non-lending technical assistance provider in an insignificant number of cases and only under extreme circumstances.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch 35, SBA certifies that this final rule does not impose any additional reporting or recordkeeping requirements.

List of Subjects

13 CFR Part 120

Loan programs—business, Small businesses

13 CFR Part 134

Administrative practice and procedure, Organization and function (Government agencies)

For the reasons stated in the preamble and pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends parts 120 and 134, chapter I, title 13, Code of Federal Regulations as follows:

PART 120—BUSINESS LOANS

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. Revise the heading for subpart G of part 120, title 13, Code of Federal Regulations to read as follows:

Subpart G—Microloan Program

3. In § 120.700, revise the first sentence to read as follows:

§ 120.700 What is the Microloan Program?

The Microloan Program assists women, low income individuals, minority entrepreneurs, and other small businesses which need small amounts of financial assistance. * * *

4. In § 120.701, redesignate paragraph (h) as paragraph (i), and add new paragraph (h) to read as follows:

§ 120.701 Definitions.

* * * * * *

(h) *Non-lending technical assistance provider* (NTAP) is an entity which receives grant funds from SBA to provide technical assistance to Microloan borrowers.

* * * * * *

5. In § 120.706(a), revise the heading and second sentence to read as follows:

§ 120.706 What are the terms and conditions of an SBA loan to an intermediary?

(a) * * * In later years, the Intermediary's obligation to SBA may not exceed an aggregate of $3.5 million, subject to statutory limitations on the total amount of funds available per state.

* * * * * *

6. Revise § 120.707(a) to read as follows:

§ 120.707 What conditions apply to loans by intermediaries to Microloan borrowers?

(a) *General.* An intermediary may make Microloans to any small business eligible to receive financial assistance under this part. A borrower may also use Microloan proceeds to establish a nonprofit child care business. Proceeds from Microloans may be used only for working capital and acquisition of materials, supplies, furniture, fixtures, and equipment. SBA does not review Microloans for creditworthiness.

* * * * * *

7. In § 120.712, revise the heading and paragraphs (b)(1) and (e) to read as follows:

§ 120.712 How does an intermediary get a grant to assist Microloan borrowers?

* * * * * *

(b) * * *

(1) Up to 25 percent of the grant funds may be used to provide information and technical assistance to prospective Microloan borrowers; and

* * * * * *

(e) *Third party contracts for technical assistance.* An Intermediary may use no more than 25 percent of the grant funds it receives from SBA for contracts with third parties for the latter to provide technical assistance to Microloan borrowers.

8. In § 120.714, revise the heading, add an introductory text, and revise paragraph (b) to read as follows:

§ 120.714 How are grants made to non-lending technical assistance providers (NTAP)?

SBA selects non-lending technical assistance providers (NTAP) to receive grant funds for technical assistance to Microloan borrowers.

* * * * * *

(b) *Number and amount of grants.* In each year of the Microloan Program, SBA may make no more than 25 grants to NTAPs. A grant may not exceed $125,000.

* * * * * *

9. Revise § 120.715(a) to read as follows:

§ 120.715 Does SBA guarantee any loans an intermediary obtains from another source?

(a) SBA may guarantee not less than 90 percent of loans made by for-profit or nonprofit entities (or an alliance of such entities) to no more than 10 Intermediaries in urban areas and 10 Intermediaries in Rural Areas (as defined in § 120.10).

* * * * * *

10. Add § 120.716 to read as follows:

§ 120.716 Suspension or revocation of an intermediary or NTAP.

(a) The AA/FA may suspend or revoke the participation status of an Intermediary or NTAP from the Microloan Program, or may impose other sanctions in the best interests of the program, if it fails to comply with

the laws, regulations, and policies

procedures found in part 134 of this

on December 31, 1980, and reapproved

by reference are realized and

emergency action of immediate flight

List of Subjects in 14 CFR Part 97

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the laws, regulations, and policies governing the program or if it fails to meet any one of the following minimum performance standards.

(1) For Intermediaries only: An Intermediary must

(i) Close and fund a minimum of four microloans per year, and

(ii) Satisfactorily provide in-house technical assistance to microloan clients and prospective microloan clients.

(2) For NTAPs only: An NTAP must show that, for every thirty clients for which it provided technical assistance, one client received a loan from the private sector.

(3) For Intermediaries and NTAPs: An Intermediary and an NTAP must

(i) Cover the service territory assigned by SBA, including honoring the SBA determined boundaries of neighboring Intermediaries and NTAPs,

(ii) Fulfill reporting requirements,

(iii) Manage program funds and matching funds in a satisfactory and financially sound manner,

(iv) Communicate and file reports via the internet within six months after beginning participation in the program,

(v) Maintain a currency rate of 85% or more (that is loans that are no more than 30 days late in scheduled payments),

(vi) Maintain a default rate of 15% or less of the cumulative dollars loaned under the program, and

(vii) Attend Microloan Program training conferences offered by SBA, or such substitute training as may be approved by SBA on a case by case basis.

(b) The AA/FA, on a case by case basis, may impose pre-suspension or revocation sanctions which may include, but are not limited to, the following:

(1) Accelerated reporting requirements;

(2) Accelerated loan repayment requirements for outstanding program debt to SBA; and

(3) Imposition of a temporary lending and/or training moratorium.

(c) Revocation from the Microloan Program will include:

(1) Removal from the program;

(2) Liquidation of MRF and LLRF accounts, by SBA, and application of liquidated funds to any outstanding balance owed to SBA;

(3) Payment of outstanding debt to SBA by the Intermediary;

(4) Forfeiture or repayment of any unused grant funds by the Intermediary or NTAP;

(5) Debarment of the organization from receipt of federal funds until loan and grant repayment requirements are met.

(d) An Intermediary or NTAP may appeal a suspension or revocation under procedures found in part 134 of this chapter. The action of the AA/FA remains in effect pending resolution of the appeal.

PART 134—[AMENDED]

11. The authority citation for Part 134 continues to read as follows:

Authority: 5 U.S.C. 504; 15 U.S.C. 632(a), 634(b)(6), and 637(a).

12. In § 134.102 remove "and" at the end of paragraph (l), redesignate paragraph (m) as paragraph (n), and add a new paragraph (m) to read as follows:

§ 134.102 Jurisdiction of OHA.

* * * * *

(m) Appeals from the determination of the SBA under part 120 of this chapter to revoke or suspend a microloan intermediary or microloan non-lending technical assistance provider; and

* * * * *

Dated: August 28, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–22193 Filed 9–10–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30267; Amdt. No. 2068]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on August 31, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the date specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

EFFECTIVE UPON PUBLICATION

FDC Date	State	City	Airport	FDC Number	Subject
08/15/01	IA	Boone	Boone Muni	1/8374	NDB Rwy 33, AMDT 6A
08/16/01	NE	Fremont	Fremont Muni	1/8429	GPS Rwy 13, ORIG–A
08/16/01	NE	Fremont	Fremont Muni	1/8430	NDB Rwy 13, AMDT 2A
08/17/01	AK	Aniak	Aniak	1/8487	LOC/DME Rwy 10, ADMT 3B
08/17/01	AK	Aniak	Aniak	1/8488	ILS/DME Rwy 10, AMDT 7B
08/17/01	IA	Iowa City	Iowa City Muni	1/8490	GPS Rwy 24, ORIG–A
08/17/01	IA	Iowa City	Iowa City Muni	1/8491	VOR OR GPS Rwy 35, AMDT 10B
08/17/01	IA	Perry	Perry Muni	1/8494	GPS Rwy 31, ORIG
08/17/01	IA	Perry	Perry Muni	1/8495	GPS Rwy 13, ORIG
08/17/01	IA	Perry	Perry Muni	1/8497	NDB Rwy 31, AMDT 5
08/17/01	IA	Perry	Perry Muni	1/8498	NDB Rwy 13, AMDT 2
08/20/01	NV	Las Vegas	North Las Vegas	1/8589	GPS Rwy 12, ORIG–B
08/20/01	NV	Las Vegas	North Las Vegas	1/8595	GPS Rwy 30, ORIG
08/20/01	IL	Decatur	Decatur	1/8612	ILS Rwy 6, AMDT 13
08/20/01	RI	Newport	Newport State	1/8621	VOR/DME OR GPS Rwy 16, ORIG–A
08/20/01	RI	Newport	Newport State	1/8622	LOC Rwy 22, AMDT 7A
08/21/01	CA	Victorville	Southern California Logistics	1/8675	ILS Rwy 17, AMDT 1A
08/21/01	CA	Victorville	Southern California Logistics	1/8676	VOR/DME Rwy 17, ORIG
08/21/01	CA	Victorville	Southern California Logistics	1/8677	GPS Rwy 17, ORIG
08/22/01	CT	Meriden	Meriden Markham Muni	1/8760	GPS Rwy 36, ORIG
08/22/01	CT	Meriden	Meriden Markham Muni	1/8761	VOR Rwy 36, AMDT 4
08/22/01	CT	Meriden	Meriden Markham Muni	1/8762	NDB Rwy 36, AMDT 8A
08/22/01	VA	Chase City	Chase City Muni	1/8776	NDB OR GPS Rwy 36, AMDT 3

FDC Date	State	City	Airport	FDC Number	Subject
08/23/01 ...	PA	Toughkenamon	New Garden	1/8837	VOR Rwy 24, AMDT 7A
08/24/01 ...	OK	Ardmore	Ardmore Muni	1/8881	ILS Rwy 31, AMDT 4
08/24/01 ...	AK	Kodiak	Kodiak	1/8890	NDB–1 Rwy 25, AMDT 3A
08/24/01 ...	AK	Kodiak	Kodiak	1/8891	VOR OR TACAN–1 Rwy 25, AMDT 5
08/24/01 ...	AK	Kodiak	Kodiak	1/8892	ILS/DME–1 Rwy 25, AMDT 3
08/24/01 ...	AK	Cold Bay	Cold Bay	1/8899	ILS Rwy 14, AMDT 16A
08/27/01 ...	NH	Rochester	Skyhaven	1/8970	GPS Rwy 33, ORIG
08/27/01 ...	NH	Rochester	Skyhaven	1/9014	NDB OR GPS–B, AMDT 1
08/28/01 ...	ME	Sanford	Sanford Regional	1/9012	NDB Rwy 7, AMDT 1A
08/28/01 ...	ME	Sanford	Sanford Regional	1/9013	ILS Rwy 7, AMDT 3

[FR Doc. 01–22773 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma, Inc. The supplemental NADA provides for an increased daily dosage of lasalocid in pasture cattle.

DATES: This rule is effective September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed a supplement to NADA 96–298 that provides for the use of BOVATEC® (lasalocid sodium) Premix in cattle. The supplemental NADA provides for an increased daily dosage of lasalocid in pasture cattle. The supplemental NADA is approved as of July 25, 2001, and the regulations are amended in 21 CFR 558.311 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.311 is amended by adding paragraph (d)(7); in the table in paragraph (e)(1) by revising paragraphs (e)(1)(ix) and (e)(1)(xii); by revising paragraphs (e)(2)(iii) and (e)(3)(iii); and in paragraphs (e)(2)(iv) and (e)(3)(iv) by removing "200" and adding in its place "300" to read as follows:

§ 558.311 Lasalocid.

* * * * *

(d) * * *

(7) Each use in a free-choice Type C cattle feed as in paragraph (e)(1)(xii) of this section must be the subject of an approved NADA or supplemental NADA as provided in § 510.455 of this chapter.

(e)(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(ix)		Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain. Intakes of lasalocid in excess of 200 mg/head/day have not been shown to be more effective than 200 mg/head/day.	Feed continuously at a rate of not less than 60 mg or more than 300 mg of lasalocid per head per day when on pasture; the drug must be contained in at least 1 pound of feed.	046573

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(xii)		Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain. Intakes of lasalocid in excess of 200 mg/head/day have not been shown to be more effective than 200 mg/head/day.	Feed continuously on a free-choice basis at a rate of not less than 60 mg or more than 300 mg of lasalocid per head per day.	046573
.....		Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain.	Feed continuously on a free-choice basis at a rate of not less than 60 mg or more than 200 mg of lasalocid per head per day.	021930

(2) * * *

* * * * *

(iii) *Indications for use.* Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain. Intakes of lasalocid in excess of 200 mg/head/day have not been shown to be more effective than 200 mg/head/day.

* * * * *

(3) * * *

(iii) *Indications for use.* Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain. Intakes of lasalocid in excess of 200 mg/head/day have not been shown to be more effective than 200 mg/head/day.

* * * * *

Dated: August 24, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–22668 Filed 9–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–01–015]

RIN 2115–AE47

Drawbridge Operation Regulations; Old River, California

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District has approved a temporary deviation to the regulations governing the opening of the Burlington Northern & Santa Fe Railroad (BNSF), drawbridge at mile 10.4 across the Old River, Contra Costa County, California. The drawbridge need not open for vessel traffic between the hours of 9 a.m. and 6 p.m., 28 through 30 August, 2001 and 18 through 20 September, 2001. This deviation is to allow the bridge owner to perform essential mechanical repairs on the bridge.

DATES: The temporary deviation is effective from 9 a.m., August 28, 2001, through 6 p.m., September 20, 2001.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section; Eleventh Coast Guard District, Bldg. 50–6, Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: The BNSF drawbridge, mile 10.4, over the Old River, Contra Costa County, California provides 11.2 feet vertical clearance above Mean High Water when closed. The Coast Guard received a request from the bridge owner for the temporary deviation from the existing operating regulation in 33 CFR 117.5, which requires drawbridges to open promptly and fully when a request to open is given. This deviation has been coordinated with commercial operators and various marinas on the waterway. No objections were received. Vessels that can pass under the bridge without an opening may do so at all times. The BNSF drawbridge across Middle River provides alternative access for vessel transits as provided in 33 CFR 117.171(b). In accordance with 33 CFR 117.35(c), this work shall be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the normal operating regulations in 33 CFR 117.5 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: August 27, 2001.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 01–22779 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–01–014]

RIN 2115–AE47

Drawbridge Operation Regulations; Napa River, California

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District has approved a temporary deviation to the regulations governing the opening of the Mare Island Causeway drawbridge at mile 2.8 over the Napa River, Solano County, California. The drawbridge need not open for vessel traffic between the hours of 6 a.m. and 6 p.m., September 10 through September 14, 2001. This deviation is to allow the U.S. Navy to perform essential mechanical repairs on the bridge.

DATES: The temporary deviation is effective from 6 a.m., September 10, 2001, through 6 p.m., September 14, 2001.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section; Eleventh Coast Guard District, Bldg. 50–6, Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: The Mare Island Causeway drawbridge, mile 2.8, over the Napa River, Solano County, California provides 6 feet vertical clearance above Mean High Water when closed. On August 6, 2001, the Coast Guard received a request from the U.S. Navy for the temporary deviation from the existing operating regulation in 33 CFR 117.5, which requires drawbridges to open promptly and fully when a request to open is given. This deviation has been coordinated with commercial operators and various marinas on the waterway. No objections were received.

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Vessels that can pass under the bridge without an opening may do so at all times. In accordance with 33 CFR 117.35(c), this work shall be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the normal operating regulations in 33 CFR 117.5 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: August 29, 2001.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 01–22780 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4145a; FRL–7050–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Seven Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for seven major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on October 26, 2001, without further notice, unless EPA receives adverse written comment by October 11, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, the EPA Region III address above or by e-mail at chalmers.ray@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_X sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTG's.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_X and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_X RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO_X is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO_X to comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_X sources. For other major NO_X sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_X RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_X RACT regulations by submitting 485 case-by-case VOC/NO_X RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional

approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO_X RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA published its final approval on August 21, 2001 (66 FR 43795). Federal approval of a case by case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

II. Summary of the SIP Revisions

On August 1, 1995, February 2, 1999, July 27, 2001, and August 8, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_X. This rulemaking pertains to seven of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of operating permits (OPs) or compliance permits (CPs) which impose VOC and/or NO_X RACT requirements for each source. The table below identifies the sources and the individual permits which are the subject of this rulemaking. A summary of the VOC and/or NO_X RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Operating permit (OP #), compliance permit (CP)	Source type	"Major source" pollutant
G-Seven, Ltd.	Montgomery	OP–46–0078	Wood Furniture Plant	VOC
Kimberly-Clark Corporation	Delaware	OP–23–0014A	Paper Mill	NO_X & VOC
Leonard Kunkin Associates	Bucks	OP–09–0073	Coating Facility	VOC
PECO Energy Company—Cromby Generating Station.	Chester	OP–15–0019	Power Generating Station	NO_X & VOC
Sunoco, Inc. (R&M)—Marcus Hook Plant	Delaware	CP–23–0001 &	Refinery	NO_X & VOC
Waste Management Disposal Services of Pennsylvania, Inc. (GROWS Landfill).	Bucks	OP–09–0007	Landfill	VOC
Waste Resource Energy, Inc. (Operator) and Shawmut Bank, Conn. National Assoc. (Owner)—Delaware County Resource Recovery Facility.	Delaware	OP–23–0004	Municipal Waste Combustors & Power Generators.	NO_X & VOC

A. G-Seven, Ltd.

G-Seven, Ltd. (G-Seven) operates a wood office furniture production plant located in Hatfield, Montgomery County, Pennsylvania. G-Seven is a major source of VOC. The majority of the VOC emitting installations and processes at this source are subject to categoric specific SIP-approved requirements adopted by the Commonwealth in accordance with the applicable CTG. For the other small sources including 19 space heaters and a Rupp CFA–25 Make-up Air unit, the PADEP issued OP–46–0078 to impose RACT. OP–46–0078 limits the VOC emissions from these small units to less than 3 pounds per hour, 15 pounds per day, or 2.7 tons per year on a 12 month rolling basis. Also requires that the combustion units be operated and maintained in accordance with manufacturer's specifications and good air pollution control practices. OP–46–0078 also requires G-Seven to meet the recordkeeping requirements specified at 25 Pa. Code § 129.95.

B. Kimberly-Clark Corporation

Kimberly-Clark Corporation (Kimberly-Clark) operates a paper mill in Chester, Delaware County, Pennsylvania. Kimberly-Clark's paper mill is a major source of NO_X and VOC. Most of the installations and processes at this source are subject to categoric specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with applicable CTGs, and/or to SIP-approved presumptive RACT requirements adopted by the Commonwealth to control NO_X. Other installations and processes, including a circulating fluidized bed (CFB) boiler (the #10 boiler), two other boilers (#8 and #9), and several paper machines which are equipped with product drying hoods and associated heaters, are subject to the generic provisions of Pennsylvania's RACT regulation. The PADEP issued OP–23–0014A to impose RACT. As RACT requirements for the CFB boiler, OP–23–0014A limits NO_X emissions to 0.11 lb./MMBtu on a 30 day rolling average, and limits VOC emissions to 23.94 tons per year as a 12 month rolling sum. OP–23–0014A requires Kimberly-Clark to operate Continued In Stack NO_X monitors for this boiler. As RACT requirements for the #8 boiler, OP–23–0014A limits NO_X emissions to 91.08 lb. per hour, and limits VOC emissions to 9.90 lb. per hour. As RACT requirements for the #9 boiler, OP–23–0014A limits NO_X emissions to 114.54 lb. per hour, and limits VOC emissions to 12.45 lb. per hour. OP–23–0014A also requires the #8 and #9 boilers to be operated and maintained in a manner consistent with good operating and maintenance practices. OP–23–0014A limits the combined VOC emissions from paper machines Nos. 8, 10, 12, 16, 17, 18, and 19 to 223 tons per year as a 12 month rolling sum to be calculated monthly. OP–23–0014A also requires that the VOC emissions of any individual machine not exceed 125 tons per year, except for machine No. 10, for which the permit sets a limit of 123.6 tons per year. In addition, OP–23–0014A limits the VOC emissions from the pulp

brightening process to 28.96 tons per

emissions levels of the CFB boiler, of

rolling average, and a VOC emissions

impose RACT. CP–23–0001 also

case of boilers #2—#5 vary depending

which NO_X limits are established, and

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brightening process to 28.96 tons per year. In addition, OP–23–0014A establishes limits on NO_X and VOC emissions from the burners at paper machines #16, #18, and #19. As RACT requirements for two burners at paper machine #16, OP–23–0014A specifies that the NO_X emissions shall be limited to 0.1 lb/MM Btu and 19.71 tpy as 12 month rolling sum, and specifies that VOC emissions shall be limited to 0.54 tpy as a 12 month rolling sum. OP–23–0014A also requires the unit to be operated and maintained in a manner consistent with good operating and maintenance practices. In addition, OP–23–0014A requires that the burners at paper machine #16 be fired only with natural gas. As RACT requirements for the burners associated with paper machine #18, OP–23–0014A specifies that the NO_X emissions from the drying hood burners shall be limited to 4.80 lbs./hr. and that non-methane total organic compound emissions shall be limited to 0.16 lbs./hr. As RACT requirements for the burners at paper machine #19, OP–23–0014A specifies that the NO_X emissions shall be limited to 0.2 lb/MMBtu and 99 tpy as 12 month rolling sum, and that VOC emissions shall be limited to 1.34 tpy as 12-month rolling sum. OP–23–0014A also requires an annual adjustment or tune-up of the burners at paper machine #19. In addition, OP–23–0014A requires that the burners at paper machine #19 be fired only with natural gas or No. 2 fuel oil. As RACT requirements for the burners at the 20 inch experimental paper machine, OP–23–0014A requires that operation of the machine be limited to 2,000 hours per year, that only natural gas be used as a fuel, and that operation and maintenance be in accordance with manufacturer's specifications. OP–23–0014A also contains requirements applicable to some other miscellaneous emissions units. OP–23–0014A requires that the total emissions of VOC from tanks 036A, 050A, 064A, 065A, a generator tank, the building/grounds, and coal yards shall not exceed 4.42 tpy as a 12 month rolling sum. The permit also requires that each tank shall be operated with VOC emission rates of no greater than 3 lbs./hr., 15 lbs./day, and 2.7 tons/year. OP–23–0014A also requires that two emergency generators and an emergency fire pump be operated less than 500 hours in any consecutive 12-month period, which results in presumptive RACT requirements being applicable to these units. In addition to the in stack monitors that must be operated for the CFB boiler, the permit also requires that records be kept of the monitored emissions levels of the CFB boiler, of the firing rate of boiler, and of the fuels fired by the boiler. OP–23–0014A requires the fuel used by the No. 8 and 9 boilers to be measured by fuel meters, and the hours of operation of the boilers to be recorded. For the paper process, OP–23–0014A requires records to be kept of the various chemical compounds used in the process and their VOC contents, the emissions of VOC per paper machine, and the production in tons per day for each paper machine. OP–23–0014A also requires the Company to keep all records and other data required to demonstrate compliance with the NO_X/VOC RACT requirements of 25 Pa. Code Sections 129.91–129.95.

C. Leonard Kunkin Associates

Leonard Kunkin Associates (Leonard Kunkin) operates a coating facility located in Bucks County, Pennsylvania. Most of the VOC emitting installations and processes at this source are subject to categoric specific SIP-approved requirements adopted by the Commonwealth in accordance with applicable CTGs. The PADEP issued OP–09–0073 to impose RACT for the facility's clean-up operations. Pennsylvania determined that RACT for the clean-up operations is the use of work practices to minimize VOC emissions. OP–09–0073 requires the Company to keep records associated with the cleaning solvent accounting system.

D. PECO Energy Company's (now Exelon Generation Company's) Cromby Generating Station

PECO Energy Company (now Exelon Generation Company) operates the Cromby Power Generating Station located in Chester County, Pennsylvania. The Cromby Generating Station is a major NO_X and VOC emitting facility. The units at this facility which emit NO_X and/or VOC consist of the #1 coal fired boiler, which is rated at 1537 MMBtu/hr, the #2 oil and/or natural gas fired boiler, which is rated at 2300 MMBtu/hr, an auxiliary boiler rated at 42 MMBtu/hr, and an emergency diesel generator rated at 28.7 MMBtu/hr. The PADEP issued OP–15–0019 to impose RACT for these operations. OP–15–0019 specifies that the #1 coal fired boiler is subject to presumptive NO_X RACT requirements. OP–15–0019 notes that under Pennsylvania's presumptive NO_X RACT requirements the #1 boiler must be equipped with low NO_X burners and separate overfire air. OP–15–0019 also establishes a NO_X emission limit for the #1 boiler of 0.50 lbs/MMBtu on a 30-day rolling average, and a VOC emissions limit of 0.003 lbs/MMBtu and 25 tpy, whichever is more stringent. OP–15–0019 specifies that Cromby Unit No. 1 must use a Continuous Emissions Monitoring System (CEMS). OP–15–0019 specifies that NO_X RACT for the #2 oil-fired boiler consists of the use of an air biasing technique which involves air staging to the upper compartments in the windbox to create a function of close coupled overfire air. OP–15–0019 establishes NO_X emissions limits for the #2 boiler as follows: (1) An hourly rate of 0.30 lbs/MMBtu as a 24-hour average while burning fuel oil, or 0.21 lbs/MMBTU as a 24-hour average while burning natural gas, or a 0.28 lbs/MMBtu as a 24-hour average when co-firing both fuels; (2) 0.30 lbs/MMBtu on a 30-day rolling average while burning fuel oil or, 0.21 lbs/MMBtu on a 30-day rolling average while burning natural gas, or a 0.28 lbs/MMBtu on a 30-day rolling average while co-firing both fuels, and 1,287 tpy per year whichever is more stringent. OP–15–0019 also establishes a VOC emissions limit for the #2 boiler of 0.002 LB/MMBTU and 6.2 tpy, whichever is more stringent. OP–15–0019 specifies that a CEMS shall be installed on Cromby Unit No. 2. OP–15–0019 also notes that the auxiliary boiler and the emergency diesel generator are subject to presumptive NO_X RACT requirements. OP–15–0019 specifies that compliance with the VOC emissions requirements of both boilers are to be determined by stack test. The permit also requires records to be kept of fuel throughput and fuel characteristics. The permit also contains requirements that sufficient data and calculations be kept to clearly demonstrate compliance with the requirements of 25 Pa. Code 129.91–129.94. PECO Energy Company's (now Exelon Generation Company's) Cromby Power Generating Station is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145.

E. Sunoco, Inc. (R&M)'s Marcus Hook Refinery

Sunoco, Inc. (R&M) operates the Marcus Hook Refinery located in Delaware County, Pennsylvania. The Marcus Hook Refinery is a major NO_X and VOC emitting facility. The majority of the installations and processes at this source are subject to categoric specific SIP-approved VOC RACT requirements adopted by the Commonwealth in accordance with applicable CTGs, and/or to SIP-approved presumptive RACT requirements adopted by the Commonwealth to control NO_X. The PADEP issuedCP–23–0001 to Sunoco to

impose RACT. CP–23–0001 also establishes NO_X emission limits for the following emission units, which in the case of boilers #2—#5 vary depending on the fuel being burned. The units for which NO_X limits are established, and the applicable limits, are shown below:

Unit	Limit when burning gas (lbs. NO_X/MMBtu)	Limit when burning oil (lbs. NO_X/MMBtu)
Boiler #1 located in the #15 Boilerhouse	*0.25	N/A
Boilers #2 through #5 located in the #15 Boilerhouse	*0.25	*0.4
Boilers #6 and #7 located in the #15 Boilerhouse	*0.25	N/A
Vacuum Heater # H–301 at the 12–3 Crude and Vacuum Distillation Unit	0.064	N/A
Heater H3006 at the 12–3 Crude and Vacuum Distillation Unit	0.131	N/A
Crude Heater #3 located at the 15–1 Crude Distillation Unit	0.161	N/A
10–4 FCCU/CO Boiler	*0.25	N/A
17–2A BTX Reforming Heater	*0.25	N/A
Heater # H–101 at the 17–1A Octane Reforming Unit	*0.25	N/A
10–4 Catalytic Cracker Feed Heater	*0.25	N/A

*Pennsylvania specified that these limits apply on a 24 hour basis.

Stack testing or CEMS are required for all combustion units except for those that are designated as permanently shutdown . CP–23–0001 specifies that the 17–1A Octane Reforming Unit HTR–101, and the Nos. 2, 3, and 4 boilers were permanently removed from service on February 1, 1997 and in May 1999, respectively. CP–23–0001 identifies the following units or processes as subject to RACT requirements for VOCs: marine vessel loading, truck loading of xylene and toluene, cooling towers, the Middle Creek Wastewater Conveyance, and combustion sources. For marine vessel loading, CP–23–0001 requires that the VOC emissions be captured by the respective vapor recovery systems and be distributed via a piping network to the refinery vapor control system. All VOC vapors collected by the refinery vapor recovery system shall be fed a primary fuel to the process heaters and boilers in the refinery. CP–23–0001 requires that the VOC vapors be destroyed at a minimum of 90% by weight. With regard to benzene, CP–23–0001 also imposes the applicable requirements of 40 CFR 61.302 and 40 CFR 61.242. For tank truck loading of xylene and toluene, CP–23–0001 specifies the use of a submerged loading method to reduce vapor loss. CP–23–0001 limits emissions from the toluene and xylene truck loading operations to a maximum of 7.8 tons per year as a 12-month rolling sum. The potential emissions from all 13 cooling towers calculates to 38.30 tpy of VOC. CP–23–0001 requires that they be operated and maintained in a manner consistent with good operating and maintenance practices, and that an equipment maintenance and repair program be used to minimize and repair exchanger leaks. CP–23–0001 indicates that the Middle Creek wastewater system was an open wastewater conveyance system . CP–23–0001 explains that the Company has replaced the open system with a closed system. The pre-RACT 1990 baseline emissions were 1,105.2 tpy. CP–23–0001 establishes RACT for the wastewater conveyance system as: (1) use of a bio-treatment unit to control the No. 16 separator effluent discharge, (2) enclosing the No. 14 separator flume for discharge to the No. 16 separator, and (3) a VOC emissions limit of 509.4 tons per year. The Middle Creek Abatement Project (MCAP) was undertaken to replace the pre-existing wastewater conveyance system with enclosed piping to further reduce emissions from this system. The project was a result of the Toxicity Characteristics Rule under the Resource Conservation and Recovery Act (RCRA) and 40 CFR 61 Subpart FF. CP–23–0001 specifies the control devices and the resulting VOC emission rates.The VOC emissions are 1,825.0 lbs/yr (0.9 tpy). With respect to the combustion sources, CP–23–0001 limits their total VOC emissions to a maximum of 93.1 tons per year as a rolling sum calculated monthly. CP–23–0001 contains numerous emissions testing and monitoring provisions associated with individual emissions units. In addition, the refinery is subject to the recordkeeping requirements specified at 25 Pa. Code § 129.95.

F. Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS Landfill

Waste Management Disposal Services of Pennsylvania, Inc. owns and operates the GROWS Landfill (Waste Management) located in Bucks County, Pennsylvania. Waste Management's GROWS landfill is a major source of VOC. The landfill's VOC emissions result from materials in the landfill decomposing and generating landfill gas which contains VOCs. The landfill is subject to the generic provisions of Pennsylvania's RACT regulation because of the landfill gas emissions. The PADEP issued OP–09–0007 to impose RACT. OP–09–0007 specifies that RACT for the landfill consists of a system for collecting the landfill gas emissions, the use of a pre-treatment system to process the collected gas, and the routing of the gas through a pipeline to an off-site source or to a flare. The permit specifies that gas is to be sent to off-site sources at all times except during periods of start-up, shakedown, scheduled maintenance, testing, or malfunction in the gas transfer or pre-treatment system, or when unavoidable due to circumstances beyond the control of permitee. The off-site sources burn the gas as a fuel. During situations when the gas cannot be sent to an off-site source, the gas is required to be burned in a back-up flare. OP–09–0007 requires the flare to have a minimum destruction and removal efficiency for VOC of 98% (by weight), or the VOC concentration in the exhaust gas to be less than 20 ppmv (dry basis as hexane at 3% oxygen), whichever is less stringent. In addition, OP–09–0007 requires the flare to be operated within a temperature range of 1550 to 1700 degrees F. OP–09–0007 also requires the flare to be operated no more than 4,380 hours per year and to be used to burn a maximum of 5,000 scfm of landfill gas. OP–09–0007 requires that the landfill gas collection system be capable of handling the maximum expected gas flow rate from the entire area of the landfill. In addition, OP–09–0007 requires that the gas collection system be designed to minimize off-site migration of the subsurface gas. Further, OP–09–0007 requires that the collection efficiency of

the gas management system for the final also requires records to be kept of all air

ambiguity, minimize potential litigation, Incorporation by reference, Nitrogen 0007, effective December 19, 1997 as

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the gas management system for the final design of the landfill at closure shall be not less than a minimum of 90%. It should be noted that OP–09–0007 also imposes the applicable landfill requirements specified in EPA's "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills," which is found at 40 CFR 60, Subpart Cc. OP–09–0007 requires the Company to comply with the reporting requirements referenced in 40 CFR 60, Subpart Cc, unless alternative requirements are approved pursuant to the provisions of that Subpart. In addition, the landfill is subject to the recordkeeping requirements specified at 25 Pa. Code § 129.95.

G. Waste Resource Energy, Inc. (Operator) and Shawmut Bank, Conn. National Assoc. (Owner)—Delaware County Resource Recovery Facility

Waste Resource Energy, Inc. operates, and Shawmut Bank, Conn. National Associates owns, the Delaware County Resource Recovery Facility (the facility) located in Chester, Delaware County, Pennsylvania. The facility burns municipal waste in six combustors (incinerators), and uses the resulting heat to produce steam which drives turbine-generators which produce electricity. The facility is a major NO_X and VOC emitting facility. The facility is equipped with six Westinghouse-O'Connor municipal waste combustors (incinerators), which are subject to the generic provisions of Pennsylvania's RACT regulation. Each of the combustors is capable of burning 448 tons of municipal waste per day and each has a heat input rating of 194×10^6 Btu per hour. The PADEP issued OP–23–0004 to impose RACT. OP–23–0004 requires the facility to meet NO_X emissions limits for each combustor (expressed as NO_2) of 180 ppmv on a 24-hour daily average, 88.56 pounds per hour corrected to 7% O_2 on a dry basis, and 0.42 lbs/MMBtu. OP–23–0004 specifies that these requirements apply at all times when municipal waste is being combusted, except during periods of start-up and shutdown, provided that the duration of start-up or shutdown shall not exceed three hours per occurrence. OP–23–0004 requires the entire facility to meet a VOC RACT emissions limit of 50 tons per year, and requires the facility's combustors to meet a VOC emissions limit, expressed as total hydrocarbons, of 37.6 lbs/hr as a total emissions rate for the six combustors. OP–23–0004 requires NO_X emissions to be monitored by the use of CEMS. In addition, OP–23–0004 requires stack tests for NO_X and VOC to be done every 12 months. The permit also requires records to be kept of all air pollution control system evaluations, of calibration checks, and of adjustments and maintenance performed on all equipment subject to the permit's requirements.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving Pennsylvania's RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved RACT regulations applicable to these sources. The Commonwealth has also imposed recordkeeping, monitoring, and testing requirements on these sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for seven major of sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 26, 2001, without further notice unless EPA receives adverse comment by October 11, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section , or paragraph for that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for seven named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth's source-specific RACT requirements to control VOC and/or NO_X from seven individual sources in the Philadelphia area of Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(179) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(179) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and/or NO_X RACT for seven sources located in the Philadelphia-Wilmington-Trenton ozone nonattainment area submitted by the Pennsylvania Department of Environmental Protection on August 1, 1995, February 2, 1999, July 27, 2001, and August 8, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals, operating permits, or compliance permits on the following dates:

August 1, 1995, February 2, 1999, July 27, 2001, and August 8, 2001.

(B) Operating permits (OP), or Compliance Permits (CP) issued to the following sources:

(*1*) PECO Energy Company, Cromby Generating Station, OP–15–0019, effective April 28, 1995.

(*2*) Waste Resource Energy, Inc. (Operator); Shawmut Bank, Conn. National Assoc. (Owner); Delaware County Resource Recovery Facility, OP–23–0004, effective November 16, 1995.

(*3*) G-Seven, Ltd., OP–46–0078, effective April 20, 1999.

(*4*) Leonard Kunkin Associates, OP–09–0073, effective June 25, 2001.

(*5*) Kimberly-Clark Corporation, OP–23–0014A, effective June 24, 1998 as revised August 1, 2001.

(*6*) Sunoco, Inc. (R&M); Marcus Hook Plant; CP–23–0001, effective June 8, 1995 as revised August 2, 2001, except for the expiration date.

(*7*) Waste Management Disposal Services of Pennsylvania, Inc. (GROWS Landfill), Operating Permit OP–09–0007, effective December 19, 1997 as revised July 17, 2001.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(179)(i)(B) of this section.

[FR Doc. 01–22615 Filed 9–10–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0048a, CO–001–0049a, CO–001–0050a; FRL–7044–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Trip Reduction, and Reduction of Diesel Vehicle Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Colorado on May 10, 2000. This submittal revises Colorado's Regulation 12, Reduction of Diesel Vehicle Emissions, and repeals Colorado's Regulation 9, Trip Reduction. EPA is taking this action under section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective on November 13, 2001 without further notice, unless the EPA receives adverse comments by October 11, 2001. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mail code 8P–AR, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Colorado Air Pollution

Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 80246–1530.

FOR FURTHER INFORMATION CONTACT: Amy Platt, 8P–AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466, (303) 312–6449.

SUPPLEMENTARY INFORMATION:

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II. Analysis of State's Submittal
III. Final Action
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I. Background

Ozone is not emitted directly into the air, but is formed by reactions between oxides of nitrogen (NO_X) and volatile organic compounds (VOC) in the presence of heat and sunlight. Ozone forms readily in the lower atmosphere, usually during hot summer weather. Ozone can have harmful effects on people and animals, particularly those with impaired respiratory systems, and can damage vegetation and some man-made materials. Ozone is a regional problem that is not caused by a single source, but rather by the combination of many sources spread over a large area.

Under the CAA, EPA designates areas as attainment, nonattainment, or unclassifiable for the ozone standard. Nonattainment areas are classified as marginal, moderate, serious, severe, or extreme, depending on the severity of their ozone problem. Moderate and above nonattainment areas are required to implement reasonably available control measures (RACM), including reasonably available control technology (RACT), and to attain the standard as expeditiously as practicable but no later than certain statutory deadlines. Moderate areas must attain the standard by six years after designation as nonattainment, serious areas by nine years, severe areas by 15 or 17 years, and extreme areas by 20 years. Moderate areas must meet a rate-of-progress requirement of 15% VOC reductions in the first six years after designation. Serious and above areas must meet a rate-of-progress requirement of 9% reductions in each three-year period after the first six years. Moderate areas must implement a basic vehicle inspection and maintenance program. Serious and above areas must implement an enhanced vehicle inspection and maintenance program. Areas must also implement contingency measures to be implemented if the area fails to meet rate-of-progress requirements or to attain the standard by the statutory deadline.

The Denver area was designated nonattainment for the 1-hour ozone standard in March 1978 (43 FR 8962, March 3, 1978). The Denver area was classified as a moderate nonattainment area in November 1990 (56 FR 56694, November 6, 1991). The Denver area failed to attain the 1-hour ozone standard by the statutory deadline of November 15, 1996. The Denver area was reclassified as a serious nonattainment area for the 1-hour ozone standard in September 1998 (63 FR 49322, September 15, 1998). The Denver area failed to attain the 1-hour ozone standard by the statutory deadline of November 15, 1999. The Denver area was reclassified as a severe nonattainment area for the 1-hour ozone standard in May 2000 (65 FR 30379, May 11, 2000). The Denver area is currently designated nonattainment for the 1-hour ozone standard and is classified as severe. The Denver area is also designated nonattainment for the 8-hour ozone standard and is classified as basic. The Denver area is currently working on a SIP revision to address the 8-hour ozone standard.

Colorado's Regulation 12, Reduction of Diesel Vehicle Emissions, was adopted by the Colorado Air Quality Control Commission (AQCC) on December 9, 1999 and became state effective on January 30, 2000. Regulation 12 requires that diesel vehicles operating in the Denver area meet a 30% opacity standard. Regulation 12 also requires that diesel vehicles operating in the Denver area be inspected annually. Regulation 12 requires that diesel vehicles be inspected by a trained inspector using a snap-idle test procedure. Regulation 12 requires that diesel vehicles that fail the opacity standard be repaired and retested. Regulation 12 requires that diesel vehicles be repaired by a trained technician. Regulation 12 requires that diesel vehicles that fail the opacity standard be repaired at a cost of at least $450 for light-duty vehicles and at least $1,000 for heavy-duty vehicles

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Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, EPA, Region VIII, (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "our," or "us" is used, we mean EPA.

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B. Regulation 12, Reduction of Diesel Vehicle Emissions
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I. Summary of EPA's Actions

We are taking direct final rulemaking action to approve revisions to Colorado's SIP submitted by the Governor on May 10, 2000. This submittal updates Colorado's Regulation 12, Reduction of Diesel Vehicle Emissions. Specifically, this revision removes the program from Colorado Springs, Ft. Collins, and Greeley, or areas outside the Denver particulate matter of 10 microns in size or smaller (PM_{10}) non-attainment boundary. In addition, the May 10, 2000 submittal repeals Regulation 9, Trip Reduction. These regulations are obsolete and have been effectively replaced by other transportation programs.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

A. Regulation 9, Trip Reduction

The Colorado Air Quality Control Commission (AQCC) held a public hearing on February 17, 2000, to repeal Regulation 9, Trip Reduction, and remove it from the SIP because it has been effectively replaced by other transportation programs. The Denver Regional Council of Governments RideArrangers program, the Regional Transportation District's ECOPass program, and the Transportation Management Associations are all transportation control measures in the SIP and are federally enforceable. The AQCC repealed Regulation 9 on February 17, 2000. This SIP revision became State effective on April 30, 2000, and was submitted by the Governor to us on May 10, 2000.

B. Regulation 12, Reduction of Diesel Vehicle Emissions

The Colorado AQCC held a public hearing on March 16, 2000, for Regulation 12, Reduction of Diesel Vehicle Emissions, to remove the program from the SIP for Colorado Springs, Ft. Collins, and Greeley (areas outside the Denver PM_{10} non-attainment area). The AQCC adopted the revisions to the SIP on March 16, 2000. This SIP revision became State effective on May 30, 2000, and was submitted by the Governor to us on May 10, 2000.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's May 10, 2000, submittal became complete on November 10, 2000.

III. Evaluation of the State's Submittal

A. Regulation 9, Trip Reduction

Colorado's Regulation 9 is entitled "Trip Reduction." In this action, we are approving Colorado's May 10, 2000, repeal and removal of Regulation 9 from the SIP, as adopted by the AQCC on February 17, 2000, and State effective on April 30, 2000. The purpose of Regulation 9 was to promote alternatives to single occupancy driving, but did not itself establish alternative transportation measures. Rather, Regulation 9 required government and large businesses to provide employees with information regarding public transit, ride sharing, and other emission-reducing means of travel, as well as providing bicycle and car pool parking at the employment site. Regulation 9 was identified as one of many possible transportation control measures in the 1979 Ozone SIP; however, no emissions reduction credit was specifically assigned to Regulation 9.

Regulation 9 was partially implemented by the State between 1979 and 1983, at which point the State ceased further activity with respect to this regulation. Subsequent SIP revisions failed to identify Regulation 9 as a transportation control measure. The Governor submitted a SIP revision in 1990 to remove this regulation from the SIP, but EPA returned this SIP revision to the Governor in 1991 as incomplete. The ozone maintenance plan for Denver submitted in August 1996 demonstrated maintenance of the ozone standard without Regulation 9, and revisions to this maintenance plan recently adopted by the AQCC for hearing also demonstrate that Regulation 9 is not necessary for maintenance of the ozone standard. The regulation has been effectively superseded by several other SIP and non-SIP transportation programs such as Denver Regional Council of Government's RideArrangers program, the Regional Air Quality Council's Ozone Action Day program, the Regional Transportation District's ECOPass program, and Transportation Management Associations which develop and implement travel reduction programs, promote alternative transportation measures, and provide assistance to employers with travel reduction. The Denver Regional Council of Governments RideArrangers program, the Regional Transportation District's ECOPass program, and the Transportation Management Associations are all transportation control measures in the SIP and are federally enforceable.

On November 30, 2000, the Governor of Colorado submitted a revised redesignation request and maintenance plan for the 1-hour ozone standard for Denver. Colorado was able to demonstrate maintenance of the ozone National Ambient Air Quality Standards (NAAQS) with out emission reduction credit assigned to Regulation 9. In addition, Regulation 9 was not referred to as a transportation control measure in the ozone SIP. We are currently processing Denver's redesignation request and maintenance plan for the 1-hour ozone standard and expect approval of Denver's plan in Summer 2001.

Section 110(l) and 193 of the CAA states that no control requirement may be modified in a nonattainment area unless the modification insures equivalent or greater emission reductions of the specified air pollutant. Because we are currently redesignating Denver to attainment for the 1-hour ozone standard and expect approval of the redesignation request and maintenance plan in Summer 2001, we have determined Regulation 9 can be repealed. Furthermore, Regulation 9 does not directly affect a specific pollutant, but rather Regulation 9 was aimed at reducing vehicle miles traveled, which has been made up for by other transportation programs. Regulation 9 has been effectively

replaced by other programs, and thus, it may be removed from the SIP.

B. Regulation 12, Reduction of Diesel Vehicle Emissions

Colorado's Regulation 12 is entitled "Reduction of Diesel Vehicle Emissions." In this action, we are approving Colorado's May 10, 2000, revisions to Regulation 12, as adopted by the AQCC on March 16, 2000, and State effective on May 30, 2000, and note these revisions supersede and replace the version of Regulation 12 that we approved on November 19, 1992 (57 FR 54509). We note that the Governor submitted another revision to Regulation 12 prior to May 10, 2000, that we never approved and that the Governor's May 10, 2000, submittal also supersedes and replaces this other revision to Regulation 12.

Regulation 12 was revised to remove the "Reduction of Diesel Vehicle Emissions" program from the SIP for the areas of Colorado Springs, Ft. Collins, and Greeley (El Paso County, Larimer County, and Weld County.) Regulation 12 is a control measure relied upon to demonstrate attainment in the Denver PM_{10} SIP. The entire diesel program was included in the SIP which includes El Paso County, Larimer County, and Weld County. The program will be retained as a State only enforceable program in those areas, and will be retained in the SIP for the Denver metro area. The program is not necessary to meet the federal requirements outside the non-attainment area, and thus, the SIP revisions are approvable. The diesel inspection programs established in Regulation 12, are federally required because the State took emissions reduction credit for such program in the attainment demonstration for the 1995 Denver PM_{10} SIP.

In addition, the revision corrects the statutory reference defining the areas of applicability, as well as statutory references that specify eligible vehicles. These non-substantive, editorial corrections are approvable.

IV. Final Action

In this action, we are approving the State of Colorado's revisions to Regulation 12, Reduction of Diesel Vehicle Emissions. We are also approving the repeal of Colorado's Regulation 9, Trip Reduction. These SIP revisions were submitted by the Governor of Colorado on May 10, 2000. We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective November 13, 2001 without further notice unless the Agency receives adverse comments by October 11, 2001. If we receive adverse comments, then we will publish a timely withdrawal of the direct final rule, in the **Federal Register**, informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 13, 2001, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 13, 2001

unless EPA receives adverse written

Commission on March 16, 2000, State

Copies of the State documents

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unless EPA receives adverse written comments by October 11, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 10, 2001.

Kerrigan G. Clough,

Acting Regional Administrator, Region VIII.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(11)(i) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(11) * * *

(i) Regulation 9, "Trip Reduction," previously approved on October 5, 1979, and now deleted without replacement.

* * * * *

(91) On May 10, 2000, the Governor of Colorado submitted revisions to the Colorado State Implementation Plan consisting of: Revisions to Regulation 12 to remove the "Reduction of Diesel Vehicle Emissions" program from areas outside the Denver PM_{10} non-attainment area, and Regulation 9 "Trip Reduction," effective on January 30, 1979, is rescinded.

(i) Incorporation by reference.

(A) Revisions to Colorado Air Quality Control Commission Regulation No. 12, 5 CCR 1001–15, adopted by the Colorado Air Quality Control Commission on March 16, 2000, State effective May 30, 2000.

[FR Doc. 01–22612 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0054; FRL–7044–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver 1-Hour Ozone Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 11, 2001, EPA published a notice of proposed rulemaking (NPR) that used EPA's parallel processing procedure to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (Denver) "transitional" ozone nonattainment area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the maintenance plan for the Denver area and the additional State Implementation Plan (SIP) elements involving revisions to Colorado's Regulation No. 3 "Air Contaminant Emissions Notices" and Colorado's Regulation No. 7 "Emissions of Volatile Organic Compounds" that were previously submitted by Governor Roy Romer, for our approval, on August 8, 1996.

In this action, EPA is approving the Denver 1-hour ozone redesignation request, the maintenance plan, the revisions to Regulation No. 3 and Regulation No. 7, and the Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) transportation conformity budgets.

EFFECTIVE DATE: October 11, 2001.

ADDRESSES: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Department of Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" are used we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

In this final rulemaking action, we are approving the Denver 1-hour ozone redesignation request, maintenance plan, and the associated additional SIP elements.

With the publication of our NPR on May 11, 2001, (66 FR 24075), we utilized our parallel processing procedure for public comment to consider a proposed maintenance plan that the Colorado Air Quality Control Commission (AQCC) proposed for public comment at the State level on October 19, 2000. The AQCC adopted the maintenance plan, with minor technical changes that we did not consider significant, on January 11, 2001. Parallel processing allows EPA to propose rulemaking on a SIP revision, and solicit public comment, at the same time the State is processing the SIP revision. For further information regarding parallel processing, please see 40 CFR part 51, appendix V, section 2.3.1.

On May 7, 2001, the Governor submitted to us for approval the final Denver redesignation request and maintenance plan. The revisions to Regulation No. 3 and Regulation No. 7 were submitted on August 8, 1996, by former Governor Roy Romer.

In this final action, we are approving the change in the legal designation of the Denver area from nonattainment to attainment for the 1-hour ozone NAAQS (hereafter referred to as "ozone NAAQS" or "ozone standard"), we're approving the AQCC-adopted maintenance plan that is designed to keep the area in attainment for ozone for the next 13 years, and we're approving the changes to AQCC Regulation No. 3 and AQCC Regulation No. 7. We also note that in his November 30, 2000, letter, the Governor asked that we parallel process a potential alternative provision for the maintenance plan that had been proposed by the Colorado Department of Transportation (CDOT). CDOT's alternative provision involved the conversion of the Santa Fe Boulevard High Occupancy Vehicle (HOV) lanes to general service lanes and the provision of funds to provide additional light rail transit cars to compensate for the loss of the HOV emission reductions. However, in a December 6, 2000, letter (that we received on December 19, 2000) from CDOT to the AQCC, CDOT withdrew its request for this alternative provision indicating that it could not guarantee light rail transit cars to replace the HOV lanes. Based on our understanding that this CDOT proposed alternative provision is moot, we are not taking action on this alternative.

We originally designated the Denver area as nonattainment for ozone under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), EPA designated the Denver area as nonattainment for ozone because the area had been previously designated as nonattainment before November 15, 1990. The Denver area was classified under section 185A of the CAA as a "transitional" ozone nonattainment area as the area had not violated the ozone NAAQS in the years 1987, 1988, and 1989.[1]

Under the CAA, designations can be changed if sufficient data are available to warrant such changes and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, EPA must find, among other things, that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur prior to final approval of the redesignation request or simultaneously with final approval of the redesignation request. We note there are no outstanding SIP elements necessary for the redesignation. However, the Governor previously requested approval of revisions to Regulation No. 3 and Regulation No. 7 such that rules applicable to the Denver ozone nonattainment area will remain in effect after Denver is redesignated to attainment for the 1-hour ozone standard. Therefore, we are also approving the revisions to Regulation No. 3 and Regulation No. 7.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the final revisions being submitted by a State to us.

At the October 19, 2000, AQCC meeting, the Commission proposed for public comment the ozone redesignation request and maintenance plan. The AQCC held a public hearing on January 11, 2001, for considering public comment on the above SIP revisions. After accepting several minor technical corrections to the maintenance plan, the AQCC adopted the Denver 1-hour ozone redesignation request and maintenance plan, directly after the public hearing, on January 11, 2001. These SIP revisions became State effective March 4, 2001, and were submitted by the Governor to us on May 7, 2001. We have evaluated the Governor's May 7, 2001, submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that the Governor's submittal was administratively and technically complete. Our completeness determination was sent on June 15, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Bill Owens.

The AQCC had previously held a public hearing on March 21, 1996, for the revisions to AQCC Regulation No. 3 "Air Contaminant Emissions Notices" (hereafter, Regulation No.3) and AQCC Regulation No. 7 "Emissions of Volatile Organic Compounds" (hereafter, Regulation No. 7). The AQCC adopted the revisions to Regulation No. 3 and Regulation No. 7 directly after the hearing. These SIP revisions became State effective May 30, 1996, and were submitted by the Governor to us on August 8, 1996.

We have evaluated the Governor's prior submittal involving the revisions to Regulation No. 3 and Regulation No. 7 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's August 8, 1996, submittal of the revisions to Regulation No. 3 and Regulation No. 7 became complete on February 6, 1997.

III. EPA's Evaluation of the May 7, 2001, Final Redesignation Request and Maintenance Plan

We have reviewed the Governor's May 7, 2001, final submittal of the redesignation request and maintenance plan and we believe that approval of the request and maintenance plan are warranted. Please see our May 11, 2001, NPR (66 FR 24075) for our discussion regarding the Governor's November 30, 2000, parallel processing submittal and the January 11, 2001, AQCC hearing and actions regarding these materials.

We have also considered all public comments that were submitted in response to our May 11, 2001 (see 66 FR 24075) NPR for this action (we only received one comment letter from the Denver Regional Air Quality Council which was in support of our NPR.) We have determined that all required SIP elements, including the maintenance plan, have either been approved previously or will be fully approved with this final rule, that the area has attained the NAAQS for the 1-hour ozone standard, and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the

[1] The CAA describes areas as "transitional" if they were designated nonattainment both prior to enactment and (pursuant to CAA section 107(d)(1)(C)) at enactment, and if the area did not violate the primary ozone NAAQS in the 3-year period of 1987 through 1989. Refer to section 185A of the CAA and the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498, April 16, 1992. See specifically 57 FR 13523, April 16, 1992.

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implementation of the applicable implementation plan, applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. Thus, with the Governor's May 7, 2001, submittal, the five criteria in section 107(d)(3)(E) of the Clean Air Act (CAA) have been met and approval of the redesignation request is warranted. Detailed descriptions of how the CAA section 107(d)(3)(E) requirements have been met are provided in our May 11, 2001, NPR for this action (see 66 FR 24075) and, for the most part, will not be repeated here. Our discussion below takes into account our prior evaluation presented in our May 11, 2001, NPR and now presents our evaluation of the Governor's final submittal of May 7, 2001.

As stated above, section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation.

In this **Federal Register** action, we are approving the State of Colorado's maintenance plan for the Denver ozone nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal of May 7, 2001, meets the requirements of section 175A of the CAA and is consistent with EPA interpretations of the CAA section 175A maintenance plan requirements provided in the General Preamble to Title I of the CAA and our September 4, 1992, policy memorandum [2]. Our analysis of the pertinent maintenance plan requirements was fully described in our May 11, 2001, proposed rule (see 66 FR 24075) and is restated, in part, below, with particular reference to the Governor's May 7, 2001, submittal:

(a) Emissions Inventories—Attainment Year and Projections

Under our interpretations, areas seeking to redesignate to attainment for the 1-hour ozone NAAQS may demonstrate future maintenance of the ozone NAAQS either by showing that future VOC and NO_X emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. For the Denver area, the State selected the emissions inventory approach for demonstrating maintenance of the ozone NAAQS.

The maintenance plan that the Governor submitted on May 7, 2001, included comprehensive inventories of VOC and NO_X emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, on-road mobile sources, and biogenics (i.e., VOCs emitted from pine trees and other types of vegetation.) The State selected 1993 as the year from which to develop the attainment year inventory and included projections for 2006 and 2013. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance.

Summary emission figures from the 1993 attainment year and the projected years are provided in Table III.–1 and Table III.–2 below.

TABLE III–1.—SUMMARY OF VOC EMISSIONS IN TONS PER DAY FOR DENVER

	Rev. 1993 [1]	Rev. 2006 [1]	Rev. 2013 [1]
Point Sources ...	46	52	56
Area Sources	74	73	80
Non-Road Mobile Sources ..	58	39	38
On-Road Mobile Sources	119	84	74
Biogenics	211	211	211
Total	507	460	459

[1] These are the revised inventory figures that represent the technical corrections that were adopted by AQCC with the maintenance plan and TSD at the January 11, 2001, public hearing. They became part of the Governor's final submittal of May 7, 2001.

TABLE III–2.—SUMMARY OF NO_X EMISSIONS IN TONS PER DAY FOR DENVER

	Rev. 1993 [1]	Rev. 2006 [1]	Rev. 2013 [1]
Point Sources ...	122	123	126
Area Sources	7	10	11
Non-Road Mobile Sources ..	65	57	50
On-Road Mobil Sources	134	115	117
Biogenics	4	4	4
Total	332	309	308

[1] These are the revised inventory figures that represent the technical corrections that were adopted by AQCC with the maintenance plan and TSD at the January 11, 2001, public hearing. They became part of the Governor's final submittal of May 7, 2001.

(b) Demonstration of Maintenance—Projected Inventories

As noted above, total VOC and NO_X emissions were projected by the State for 2006 and 2013. The years 2006 and 2013 were selected by the State, with EPA's concurrence, due to the immediate availability of transportation data sets from the Denver Regional Council Of Governments (DRCOG) from the work performed on the Denver carbon mooxide (CO) redesignation request and maintenance plan.

The Denver CO redesignation request and maintenance plan were submitted to us on May 10, 2000. This maintenance plan used the latest revised transportation data sets that were developed by DRCOG for the State to model the mobile source emissions. In addition, the CO maintenance plan incorporated changes to AQCC Regulation No. 11 that would initiate a Remote Sensing Device (RSD) program in 2002 and affect the cutpoints for the enhanced I/M program. Both of these I/M program revisions would also directly affect emission reductions for the ozone maintenance plan.

The RSD program is designed to evaluate 20% of the fleet in 2003, 40% of the fleet in 2004, 60% of the fleet in 2005, and 80% of the fleet in 2006. The RSD program will continue through 2013. In conjunction with the new RSD program, Regulation No. 11's enhanced I/M program will continue to apply to evaluate the remainder of the fleet and those vehicles that did not pass evaluation by the RSD program. We have reviewed these State-adopted changes to Regulation No. 11 and are proposing approval of them in a separate rulemaking action for the Denver CO redesignation request and maintenance plan. We note that the State has properly accounted for these Regulation No. 11 revisions in the projected emission inventories for 2006 and 2013 and is able to demonstrate maintenance of the 1-hour ozone standard. In the event that we are unable to approve the Regulation No. 11 revisions that were submitted by the Governor on May 10, 2000, this would not have an adverse impact on the Denver ozone maintenance plan as the current I/M program would continue and would provide greater emission reductions than the State has projected for the amended version of Regulation No. 11. In either scenario, the maintenance demonstration would still be valid.

For the ozone maintenance plan, the 1993 attainment year inventory and the projected 2006 and 2013 inventories were all prepared in accordance with EPA guidance. As stated in the maintenance plan, the projected emission inventories show a steady downward trend in both VOC and NO_X emissions. This is due mainly to more stringent motor vehicle tailpipe emission standards and additional Federal rule requirements for non-road sources of emissions. Because of this steady downward trend in emissions and because future year emissions are projected to be considerably below the 1993 attainment year levels, the State expects there will be no increases in emissions in the years between the present and 2013 that will jeopardize the demonstration of maintenance. Based on the information in the maintenance plan and the State's TSD, we agree with this conclusion.

Therefore, as the projected 2006 and 2013 inventories show that VOC and NO_X emissions are not estimated to exceed the 1993 attainment levels during the time period from the present through 2013, the Denver area has satisfactorily demonstrated maintenance of the 1-hour ozone NAAQS.

(c) Monitoring Network and Verification of Continued Attainment

Continued attainment of the 1-hour ozone NAAQS in the Denver area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the Denver maintenance plan. In Chapter 2, section B and Chapter 3, section E the State commits to continue the operation of the ozone monitors in the Denver area and to annually review this monitoring network and make changes as appropriate. Please see our May 11, 2001, NPR (66 FR 24075) for a more detailed discussion.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that this final approval renders the State's commitments federally enforceable.

(d) Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. Please see our May 11, 2001, NPR (66 FR 24075) for a detailed discussion.

We find that the contingency measures provided in the State's Denver ozone maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

(e) Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan SIP revision eight years after the approval of the redesignation.

IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budgets in the SIP (40 CFR 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–62196) and in the sections of the rule referenced above.

The final maintenance plan, as submitted by the Governor on May 7, 2001, defines the motor vehicle emissions budgets in the Denver ozone attainment/maintenance area as 119 tons per day for VOCs and 134 tons per day for NO^X for all years 2002 and beyond. These figures reflect technical corrections to those of 124 tons per day for VOCs and 139 tons per day for NO^X that were previously submitted by the Governor on November 30, 2000. These budgets are equal to the attainment year (1993) mobile source emissions inventory for these pollutants and use some of the available safety margin in the years 2002 to 2013. The use of the safety margin is permitted by the conformity rule. See 40 CFR 93.124(a).

The State used specific inventory values for the years 2006 and 2013 to calculate and use some of the available safety margin in those years. As revised during the January 11, 2001, public hearing, in 2006 the total emissions of VOCs and NO_X are lower than the 1993 attainment year emissions inventory by 47 (was 56) tons per day and 23 (was 27) tons per day respectively. For 2006, the State added the mobile sources portion of the safety margin (35 tons per day for VOCs and 19 tons per day for NO_X) to the 2006 mobile sources emission inventories to arrive at the final budgets of 119 tons per day for VOCs and 134 tons per day for NO_X . For 2013, the State similarly allocated the safety margin to arrive at the same budgets. Although the maintenance plan does not specifically address the inventories for the other years between 2002 and 2013, the maintenance plan defines the same budgets for 2002 and all years beyond, thus evidencing the intent to apply some portion of the available safety margin in 2002 to arrive at these same budgets. We believe this is acceptable under the circumstances because we would not expect total emissions from sources other than on-road mobile sources to exceed their 1993 levels in the year 2002 or any other year before 2013. Therefore, in view of our analysis, we are approving these 1-hour ozone NAAQS VOC and NO_X budgets for the Denver area.

V. EPA's Adequacy Determination for the Maintenance Plan's Transportation Conformity Budgets

On March 2, 1999, the United States Court of Appeals for the District of Columbia issued a decision in *Environmental Defense Fund* v. *the Environmental Protection Agency*, No. 97–1637, holding that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the Court's decision, we are making most submitted SIP revisions containing motor vehicle emission budgets available for public comment and responding to these comments before announcing our adequacy determination. (We do not perform adequacy determinations for SIP revisions that only create new emission budgets for years in which an EPA-approved SIP already establishes a budget, because these new budgets cannot be used for conformity until they are approved by EPA.) We make adequacy determinations available for

[2] EPA issued maintenance plan interpretations in the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498, April 16, 1992), "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental" (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992.

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comment by posting notification of their availability on our web site (currently, these notifications are posted at www.epa.gov/otaq/transp/conform/adequacy.htm.) The adequacy process is discussed in greater detail in a May 14, 1999 memorandum from Gay MacGregor, EPA, entitled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision," which is also available on our web site (www.epa.gov/oms/transp/traqconf.htm).

As noted above, the Denver final ozone maintenance plan was submitted to EPA on May 7, 2001. Notice of the availability of this SIP revision was posted on our adequacy web site on May 30, 2001, and a 30-day comment period for adequacy was provided, following the procedures described in the May 14, 1999 memo. We did not receive any comments on the plan during the comment period which closed on June 29, 2001. In addition, as part of our review, we must also review any comments submitted to the AQCC on the maintenance plan during the public hearing process. Environmental Defense had presented comments both in their AQCC prehearing statement and at the January 11, 2001, public hearing regarding these budgets. Their concerns essentially dealt with the issue of the State allocating all of the "safety margin" to the transportation conformity budgets. The Air Pollution Control Division (APCD) explained to the AQCC that this approach is allowed under EPA's conformity rule provisions. The AQCC agreed and adopted the budgets with the maintenance plan directly after the January 11, 2001, public hearing. We note that our May 11, 2001, NPR (see 66 FR 24075) also discussed these AQCC-adopted transportation conformity budgets and the use of the available "safety margin." We did not receive any adverse comments regarding our NPR (the only comment received was from the Denver RAQC in support of our proposed action.)

The conformity rule (in 40 CFR 93.118(e)(4)) provides technical and administrative criteria that we must use in determining adequacy of submitted emissions budgets, and we have determined that these criteria have been satisfied for the NO_x and VOC emissions budgets in the maintenance plan. Our approval of these budgets in this action (see prior section) should also be considered our determination that these budgets are adequate for transportation conformity purposes. EPA will not be publishing a separate notice in the **Federal Register** documenting our adequacy determination. The Denver Regional Council of Governments and the U.S. Department of Transportation are required to use these budgets in future conformity analyses as of the effective date of this final rule.

VI. EPA's Evaluation of the Regulation No. 3 Revisions

As we described in our May 11, 2001, NPR (see 66 FR 24075), the Governor of Colorado had previously submitted minor revisions to Regulation No. 3 in conjunction with the Governor's original August 8, 1996, submittal of the Denver ozone maintenance plan.

We concur with these revisions to Regulation No. 3 and are approving them.

VII. EPA's Evaluation of the Regulation No. 7 Revisions

As we described in our May 11, 2001, NPR (see 66 FR 24075), the Governor of Colorado had previously submitted minor revisions to Regulation No. 7 in conjunction with the Governor's original August 8, 1996, submittal of the Denver ozone maintenance plan.

We concur with these revisions to Regulation No. 7 and are approving them. We again note that additional revisions to Regulation No. 7 were also submitted with the Governor's August 8, 1996, submittal and included the addition of paragraphs A.2., A.3., and A.4. to create "de minimus" exemptions. We are not taking any action on these revisions and did not consider them with our proposed approval of the Governor's November 30, 2000, submittal, nor with this final rulemaking action.

VIII. EPA's Evaluation of the Request for Revision to 40 CFR 80.27(a)(2) for RVP

The maintenance plan that was submitted by the Governor (for parallel processing) on November 30, 2000, and his final submittal of May 7, 2001, incorporate a gasoline RVP limit of 9.0 psi in the maintenance demonstration. Since maintenance of the 1-hour ozone NAAQS is shown for the entire maintenance time period of 1993 through 2013 with this 9.0 psi limit, the State of Colorado has requested that the 9.0 psi summertime RVP limit (10.0 psi for ethanol-blends) be made permanent for the Denver attainment/maintenance area once EPA approves the redesignation request and maintenance plan. We believe this change would be appropriate. However, separate rulemaking through our Headquarters office is necessary to revise the RVP requirements for Colorado as specified in 40 CFR 80.27(a)(2). We anticipate that our Headquarters office will pursue this particular rulemaking action after the effective date of this final rule.

IX. Final Rulemaking Action

In this action, we are approving the Governor's May 7, 2001, request to redesignate the Denver 1-hour ozone NAAQS nonattainment area to attainment, the Denver 1-hour ozone NAAQS maintenance plan submitted May 7, 2001 (excluding Chapter 1 "Introduction" and Appendix B "Changes to AQCC Ambient Air Quality Standards Regulation"), the revisions to Regulation No. 3 and Regulation No. 7 (excluding paragraphs A.2., A.3., and A.4.) submitted August 8, 1996, and the VOC and NO_x transportation conformity budgets contained in the maintenance plan. This final action will become effective on October 11, 2001.

Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

(b) Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

(c) Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by

consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

(d) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. In addition, redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(e) Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211 "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

(f) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final approval will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the SIP final approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Redesignation to attainment is an action that affects the legal designation of a geographical area and does not impose any regulatory requirements. Therefore, because the final approval of the redesignation does not create any new requirements, I certify that the final approval of the redesignation request will not have a significant economic impact on a substantial number of small entities.

(g) Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this final approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

(h) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective October 11, 2001.

* * * * *

FOR FURTHER INFORMATION CONTACT:

i. Responsible parties or other persons

(i) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

(j) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 15, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Title 40, chapter I, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(94) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(94) On August 8, 1996, the Governor of Colorado submitted revisions to Regulation No. 3, "Air Contaminant Emissions Notices," that exempt gasoline stations located in ozone attainment areas from construction permit requirements, with the exception of those gasoline stations located in the Denver Metro ozone attainment maintenance area. The Governor also submitted revisions to Regulation No. 7, "Emissions of Volatile Organic Compounds," that state the provisions of Regulation No. 7 shall apply only to ozone nonattainment areas and the Denver Metro Attainment Maintenance Area with the exception of Section V, Paragraphs VI.B.1 and 2., and Subsection VII.C., which shall apply statewide.

(i) Incorporation by reference.

(A) Part B, section III. D.1.f of Regulation No. 3 "Air Contaminant Emissions Notices", 5 CCR 1001–5, as adopted on March 21, 1996, effective May 30, 1996.

(B) Section I.A.1 of Regulation No. 7 "Emissions of Volatile Organic Compounds", 5 CCR 1001–9, as adopted on March 21, 1996, effective May 30, 1996.

3. New section 52.350 is added to read as follows:

§ 52.350 Control strategy: Ozone.

Revisions to the Colorado State Implementation Plan, 1-hour ozone NAAQS Redesignation Request and Maintenance Plan for Denver entitled "Ozone Redesignation Request and Maintenance Plan for the Denver Metropolitan Area,'excluding Chapter 1 and Appendix B, as adopted by the Colorado Air Quality Control Commission on January 11, 2001, State effective March 4, 2001, and submitted by the Governor on May 7, 2001.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq .

2. In § 81.306, the table entitled "Colorado-Ozone (1–Hour Standard)" is amended by revising the entry for "Denver-Boulder Area" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Denver-Boulder Area:				
Adams County (part)				
West of Kiowa Creek	10/11/2001	Attainment.		
Arapahoe County (part)				
West of Kiowa Creek		Attainment.		
Boulder County (part) excluding Rocky Mountain National Park.		Attainment.		
Denver County		Attainment.		
Douglas County		Attainment.		
Jefferson County		Attainment.		

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 01–22610 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7052–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of the Farmers' Mutual Cooperative site from the National Priorities List (NPL).

SUMMARY: The EPA, Region VII, is publishing a direct final notice of deletion of the Farmers' Mutual Cooperative site (site) located in Hospers, Iowa, from the NPL.

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the state of Iowa, through the Iowa Department of Natural Resources because EPA has determined that all appropriate response actions under CERCLA have been completed; and therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective November 13, 2001 unless EPA receives adverse comments by October 11, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to Catherine Barrett, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101.

Information Repositories: Comprehensive information on the site is available for viewing in the Deletion Docket at the information repositories located at: U.S. EPA, Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101; and the Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, IA 50319.

FOR FURTHER INFORMATION CONTACT: Catherine Barrett, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–7063 or 1–800–223–0425.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

The EPA Region VII is publishing this direct final notice of deletion of the Farmers' Mutual Cooperative Superfund site NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective November 13, 2001 unless EPA receives adverse comments by October 11, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Farmers' Mutual Cooperative Superfund site and demonstrates how it meets the deletion criteria. Section V states EPA's action to delete the site from the NPL unless adverse comments are received during the comment period.

II. NPL Deletion Criteria

Section 300.425 (e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response TrustFund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or,

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the remedy remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the site:

(1) The EPA consulted with the state of Iowa on the deletion of the site from the NPL prior to developing this direct final notice of deletion.

(2) The state of Iowa concurred with deletion of the site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Deletion Docket at the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of

this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. The EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

(6) The EPA identified the following criteria for deletion of this site: The EPA, with concurrence of the state of Iowa, has determined that all appropriate response actions under CERCLA have been completed. Therefore, further remedial action pursuant to CERCLA is not appropriate.

IV. Basis for Site Deletion

The following information provides the EPA's rationale for deleting this site from the NPL:

The Farmers' Mutual Cooperative site is located in Hospers, Iowa. The site consists of a former grain storage facility and a former petroleum bulk storage facility. Groundwater contamination was discovered in 1988 during a Phase II investigation of the petroleum bulk storage facility. Carbon tetrachloride contamination had migrated from the grain storage facility to the petroleum bulk storage facility. Groundwater and surface water monitoring included the collection of samples from 12 monitoring wells and 2 surface water locations. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1989, a Phase III investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1990, a Phase IV investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1991, a Phase V investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1992, a Phase VI investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1993, a Phase VII investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1994, a Phase VIII investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1995, a Phase IX investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1996, a Phase X investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1997, a Phase XI investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1998, a Phase XII investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 1999, a Phase XIII investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 2000, a Phase XIV investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

In 2001, a Phase XV investigation was conducted to determine the extent of groundwater contamination. Groundwater contamination was found in the shallow aquifer and the deep aquifer. Surface water contamination was found in the drainage ditch that runs through the site.

annually for the first year and annually thereafter. The remedy report is not required. The remedy

site name "Farmers' Mutual

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this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of the site from the NPL does not in any way alterEPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides EPA's rationale for deleting the site from the NPL.

Site Location

The Farmers' Mutual Cooperative site is located in Sioux County, Iowa, and is a six-acre site which lies several hundred feet east of the West Branch Floyd River in the northwestern corner of the city of Hospers.

Site History

The Farmers' Mutual Cooperative is an agricultural supply and service business now operating under a different name. Bulk fertilizer and pesticides were handled at the site until 1992. The site continues to be used for grain storage. In 1984, the state found herbicides and carbon tetrachloride in water from three shallow municipal wells located adjacent to the site.The state first restricted, then prohibited, the use of these three wells. Investigations conducted by the Farmers' Mutual Cooperative found groundwater contamination in the relatively small area between the site and the West Branch Floyd River. The herbicide contamination was the result of incidental releases during normal operations throughout the site. The carbon tetrachloride contamination of groundwater was the result of previous on-site and off-site use of carbon tetrachloride for grain fumigation. A variety of herbicides have been detected in the site groundwater including alachlor, atrazine, cyanazine, metolachlor, metribuzin, and trifluralin. Atrazine had consistently been found in concentrations above the Maximum Contaminant Level(MCL). Carbon tetrachloride was also initially found in groundwater in concentrations above MCLs; however, by 1992, carbon tetrachloride contamination had declined substantially.

Remedial Investigation and Feasibility Study (RI/FS)

In August 1986, the state of Iowa issued an Administrative Order requiring the Farmers' Mutual Cooperative to conduct a remedial investigation/feasibility study (RI/FS) to determine the nature and extent of contamination at the site and to identify alternatives for remedial action. In 1987, a Consent Order between the Farmers' Mutual Cooperative and the state of Iowa provided for groundwater investigations and completion of the RI/FS.

A remedial investigation was begun by the Farmers' Mutual Cooperative in 1986 to include the installation and sampling of four monitoring wells, surface water sampling, and soil sampling at suspected contaminant source areas. In 1989, the investigation was expanded (Phase 2) to include installation of three additional monitoring wells, sampling of all monitoring wells and the shallow city wells, and an aquifer pumping test. Phase 3 of the investigation in 1990 included installation of ten additional monitoring wells and the sampling of monitoring wells and the three shallow city wells. During 1992, Phase 4 of the investigation included thirteen soil borings in an area identified as having high levels of herbicides in groundwater and the installation and sampling of four additional groundwater monitoring wells.

The remedial investigation found that contaminants in the groundwater included volatile organic carbon compounds (VOCC) associated with grain fumigation (carbon tetrachloride and chloroform) and herbicides (alachlor, atrazine, cyanazine, metolacholor, metribuzin, and trifluralin). Carbon tetrachloride and atrazine were found in the groundwater at concentrations in excess of MCLs. Soil borings indicated that levels of contaminants in soil were not at a level which would require remediation.

Record of Decision Findings

A Record of Decision (ROD) to select a remedial action for this site was written and signed on September 29, 1992. The remedial action recommended in the ROD was natural attenuation and groundwater and surface water monitoring, with a drinking water contingency. The groundwater monitoring and surface water monitoring were required to determine the effectiveness of natural attenuation. The groundwater and surface water monitoring included the monitoring of seven groundwater wells and the sampling of the adjacent surface water, the West Branch Floyd River, at upstream and downstream locations. The drinking water contingency provided that the drinking water standards (the MCLs) for contaminants associated with the site would be achieved in the city water supply, including the shallow wells, in order that the blending of shallow and deep well water might continue. Test pumping of the shallow aquifer as prescribed in the ROD for the drinking water contingency was conducted in 1993 and 1994 and demonstrated that the Superfund contaminants of concern (carbon tetrachloride and herbicides) generally existed at levels that would allow 50 percent blending of the shallow well water with the deep well water. However, nitrate (which is not a site-related contaminant of concern), present in groundwater because of the legal application of fertilizers, was found at concentrations that would limit blending. Because the nitrate concentration would limit the blending ratio, the city did not seek to implement a blending program, and the drinking water contingency was not considered further.

Characterization of Risk

A baseline risk assessment was prepared by the IDNR and modified by EPA. Risks were identified for exposure to groundwater from city wells based on groundwater data collected, and the risk was largely due to carbon tetrachloride. There is currently no exposure to groundwater and concentrations of contaminants have been shown in sampling data to be below state action levels and MCLs.

Response Actions

On September 28, 1995, the Farmers' Cooperative Elevator Association of Sheldon, Iowa, and IDNR entered into a Consent Order for the purpose of implementing the September 1992 ROD. The Consent Order required the Farmers' Cooperative Elevator Association to submit a monitoring plan for the groundwater monitoring and surface water monitoring required under the ROD. The purpose of the monitoring program was to track the magnitude and extent of agricultural chemicals and petroleum at the site and to determine the effectiveness of natural attenuation in reducing contaminant levels in groundwater.

The Groundwater and Surface Water Monitoring Plan was prepared by the responsible party in 1995, approved by IDNR, and required monitoring semi-annually for the first year and annually thereafter to include: (1) The groundwater monitoring of seven groundwater monitoring wells; (2) the surface water monitoring of the West Branch Floyd River at upstream and downstream locations; and (3) depth-to-water measurements in groundwater monitoring wells.

The award of the remedial action contract in 1995 provided for the initiation of the remedial action work by the responsible party. The responsible party conducted groundwater monitoring and surface water monitoring in January 1996, July 1996, November 1997, September 1998, September 1999, and October 2000 in accordance with the IDNR Consent Order.

Clean-Up Standards

The site was considered to be cleaned up and all requirements of the IDNR Consent Order satisfied when the groundwater monitoring revealed no exceedance of MCLs, or state action levels, for CERCLA contaminants of concern for three consecutive groundwater sampling events at least six months apart. This condition of the Consent Order has been met and the clean-up standards have been shown to be achieved.

Operations and Maintenance

The operation and maintenance and the groundwater and surface water monitoring at the site have been conducted by the responsible party in accordance with the IDNR Consent Order. The responsible party continues to own the property which is considered the site. In April 2000, IDNR agreed with the recommendation by the responsible party to discontinue groundwater monitoring for herbicides and abandon 12 groundwater monitoring wells. During October 2000, the abandonment of monitoring wells was conducted in accordance with Iowa Administrative Code 567, Chapter 39.

Five-Year Review

A statutory Five-Year Review Report was completed on September 7, 2000, pursuant to CERCLA 121 (c) and to Section 300.430(f)(4)(ii) of the National Oil and Hazardous Substances Contingency Plan (NCP). Contaminants of concern have been shown to be below drinking water standards. The remedy of natural attenuation has been shown to be effective. Due to the fact that CERCLA hazardous substances, pollutants, or contaminants no longer remain at the site above levels that allow for unrestricted use and unlimited exposure, another five-year review report is not required. The remedy continues to be protective of human health and the environment.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the Deletion Docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the state of Iowa, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary. Therefore, EPA is deleting the site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective November 13, 2001 unless EPA receives adverse comments by October 11, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 30, 2001.

William W. Rice,

Regional Administrator, U.S. EPA Region VII.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under Iowa by removing the site name "Farmers' Mutual Cooperative" and the city "Hospers."

[FR Doc. 01–22609 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Chapter XI, Subchapter E

Institute of Museum and Library Services; Change of Agency Name; Technical Amendments

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Final rule.

SUMMARY: This final rule updates the Institute of Museum and Library Services' regulations by amending the text to reflect Congress' replacement of the Institute of Museum Services with the Institute of Museum and Library Services under The Museum and Library Services Act of 1996.

DATES: This final rule is effective September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20405. Telephone: (202) 606–8536.

SUPPLEMENTARY INFORMATION: The Museum and Library Services Act of 1996 (the "Act"), set forth at 20 U.S.C. 9101 et seq., expanded the functions of the existing Institute of Museum Services to create the Institute of Museum and Library Services. IMLS published a final rule changing the name of the agency's chapter in the Code of Federal Regulation (Dec. 19, 1997, 62 FR 66529). This rule further updates our regulations by eliminating all references to the Institute of Museum Services and replacing those references with the Institute of Museum and Library Services.

The Institute of Museum and Library Services considers this rule to be a technical amendment that is exempt from notice-and-comment under 5 U.S.C. 553(b)(3)(A). This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, the Institute certifies that these regulatory amendments will not have a significant impact on small business entities.

"SAF/AQCX". The revised text reads as

204.670–5 [Amended]

number (see 204.670–3(a)(5)). If Line A1

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List of Subjects

45 CFR Part 1180

Government contracts, Grant programs-education; Museums, Non-profit organizations, Reporting and recordkeeping requirements, Sunshine Act.

45 CFR Part 1181

Administrative practice and procedure, Civil Rights, Equal employment opportunity, Federal buildings and facilities, Individuals with disabilities.

45 CFR Part 1183

Accounting, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

45 CFR Part 1185

Administrative practice and procedure, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

For the reasons stated in the preamble and under the authority of 20 U.S.C. 9101 et seq., the Institute of Museum and Library Services amends 45 CFR, Chapter XI, Subchapter E as follows:

1. In 45 CFR chapter XI, subchapter E, revise all references to "Institute of Museum Services" to read "Institute of Museum and Library Services"; and revise all reference to "IMS" to read "IMLS".

2. In addition, in the table of sections below, remove the text indicated in the middle column and replace it with the text shown in the right column:

Section	Remove	Add
1180.2	Museum Services Act	Museum and Library Services Act
1180.4	Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462 (20 U.S.C. 961–968).	Museum and Library Services Act, Public Law 104–208 (20 U.S.C. 9101–9176
1180.16(a)	Board	Director
180.20(d)	Museum Services Act	Museum and Library Services Act
1180.20(d)	(20 U.S.C. 965(a))	(20 U.S.C. 9173(a))
1180.20(g)(2)	Board	Director
1180.78(e)(1)	Director	Director

Dated: September 4, 2001.

Nancy E. Weiss,

Federal Register Officer.

[FR Doc. 01–22679 Filed 9–10–01; 8:45 am]

BILLING CODE 7036–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 252, and 253

[DFARS Case 2001–D004]

Defense Federal Acquisition Regulation Supplement; Reporting Requirements Update

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide contract action reporting requirements for Fiscal Year 2002. The rule makes changes to the Individual Contracting Action Report and the Monthly Summary of Contracting Actions.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2001–D004.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule contains Fiscal Year 2002 requirements for completion of DD Form 350, Individual Contracting Action Report, and DD Form 1057, Monthly Summary of Contracting Actions. DoD uses these forms to collect statistical data on its contracting actions. This rule contains reporting changes related to bundled contracts, indefinite-delivery contracts, information technology products, commercial items, and recovered materials.

DD Forms 350 and 1057, and other forms prescribed by the DFARS, are not included in the Code of Federal Regulations. The forms are available electronically via the Internet at http://web1.whs.osd.mil/icdhome/ddeforms.htm.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2001–D004.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 204, 252, and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 204, 252, and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 204, 252, and 253 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.603 is revised to read as follows:

204.603 Solicitation provisions.

Use the provision at FAR 52.204–6, Data Universal Numbering System (DUNS) Number, in solicitations that'

(1) Have an estimated value exceeding $25,000; or

(2) Have an estimated value of $25,000 or less and include the clause at 252.204–7004, Required Central Contractor Registration.

3. Section 204.670–1 is amended as follows:

a. In paragraph (b) introductory text by revising the first sentence; and

b. In paragraph (c)(3) by removing "SAF/AQCI" and adding in its place "SAF/AQCX". The revised text reads as follows:

204.670–1 Definitions.

* * * * *

(b) *Contracting action* means any action related to the purchasing, renting, or leasing of supplies, services, or construction. * * *

* * * * *

4. Section 204.670–2 is amended by revising paragraph (a)(1), adding paragraphs (a)(3) and (a)(4), revising paragraph (b)(1), adding paragraph (b)(3), and revising paragraphs (c)(3) and (c)(7)(i) to read as follows:

204.670–2 Reportable contracting actions.

(a) * * *

(1) Actions that obligate or deobligate more than $25,000, except actions summarized on DD Form 1057 in accordance with paragraph (b)(2) or (3) of this subsection.

* * * * *

(3) Actions that establish an indefinite-delivery contract not reported under other paragraphs of this subsection.

(4) Actions of any dollar value that the contracting office chooses to report on a DD Form 350.

(b) * * *

(1) Actions that obligate or deobligate $25,000 or less, except actions reported on DD Form 350 in accordance with paragraph (a)(2), (3), or (4) of this subsection.

* * * * *

(3) Actions that obligate or deobligate more than $25,000, but not more than $200,000, and are placed by a contracting officer on a Navy vessel.

(c) * * *

(3) Transactions for purchase of land, or rental or lease of real property, when the General Services Administration (GSA) executes the action.

* * * * *

(7) * * *

(i) Military Traffic Management Command;

* * * * *

5. Section 204.670–3 is amended in paragraph (a)(2) by revising the first sentence to read as follows:

204.670–3 Contracting office responsibilities.

(a) * * *

(2) Complete the DD Form 350 when funds are obligated or deobligated or, in the case of actions with no funds, when the contract is established. * * *

* * * * *

204.670–5 [Amended]

6. Section 204.670–5 is amended in paragraph (a) by removing "activities" and adding in its place "offices".

204.670–6 [Amended]

7. Section 204.670–6 is amended as follows:

a. In paragraph (a) and the introductory text of paragraph (b) by removing "contracting";

b. In paragraph (b)(1)(i) in the first sentence by removing "Sealift" and adding in its place "Traffic Management"; and

c. In the first sentence of paragraphs (c)(1), (c)(2), and (c)(3) by removing "contracting".

8. Section 204.7207 is added to read as follows:

204.7207 Solicitation provision.

Use the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when—

(a) The solicitation does not include the clause at 252.204–7004, Required Central Contractor Registration; and

(b) The CAGE codes for the potential offerors are not available to the contracting office.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.204–7001 [Amended]

9. Section 252.204–7001 is amended in the introductory text by removing "204.603(1)" and adding in its place "204.7207".

PART 253—FORMS

10. Section 253.204–70 is revised to read as follows:

253.204–70 DD Form 350, Individual Contracting Action Report.

Policy on use of a DD Form 350 is in 204.670–2. This subsection contains instructions for completion of the DD Form 350.

(a) *Part A of the DD Form 350.* Part A identifies the report and the reporting activity. Complete all four lines.

(1) LINE A1, TYPE OF REPORT. Enter one of the following codes:

(i) *Code 0—Original.* Enter code 0 unless code 1 or code 2 applies.

(ii) *Code 1—Canceling.* A canceling action cancels an existing DD Form 350 in accordance with departmental data collection point instructions.

(iii) *Code 2—Correcting.* A correcting action corrects an existing DD Form 350 action in accordance with departmental data collection point instructions.

(2) LINE A2, REPORT NUMBER. Enter the six-position local control number (see 204.670–3(a)(5)). If Line A1 is coded 1 or 2, use the prior report number rather than a new one.

(3) LINE A3, CONTRACTING OFFICE.

(i) LINE A3A, REPORTING AGENCY FIPS 95 CODE. Enter one of the following codes: 2100 (Army); 1700 (Navy), 5700 (Air Force); 96CE (Army Civil Works); 97AS (DLA); 9700 (all other defense agencies).

(ii) LINE A3B, CONTRACTING OFFICE CODE. Enter the code assigned by the departmental data collection point in 204.670–1(c).

(4) LINE A4, NAME OF CONTRACTING OFFICE. Enter sufficient detail to establish the identity of the contracting office.

(b) *Part B of the DD Form 350.* Part B identifies the transaction.

(1) LINE B1, CONTRACT IDENTIFICATION INFORMATION. Do not leave any parts of Line B1 blank.

(i) LINE B1A, CONTRACT NUMBER.

(A) Enter—

(*1*) The DoD contract number; or

(*2*) For orders under contracts awarded by other Federal agencies, the contract number of that Federal agency as it appears in the contractual instrument.

(B) Do not leave spaces between characters, and do not enter dashes, slants, or any other punctuation marks.

(C) The DoD contract number is the basic (13-position alphanumeric character) procurement instrument identification number (PIIN) that was assigned in accordance with 204.7003 or constructed under an exception permitted by 204.7000. Do not enter any supplementary procurement instrument identification numbers as part of the contract number (these go on Line B2).

(ii) LINE B1B, ORIGIN OF CONTRACT. Enter the code that indicates the agency that assigned the contract number.

(A) *Code A—DoD.*

(B) *Code B—NASA.*

(C) *Code C—Other Non-DoD Agency.*

(iii) LINE B1C, BUNDLED CONTRACT. Enter one of the following codes:

(A) *Code Y—Yes.* Enter code Y when the contract meets the definition of "bundled contract" at FAR 2.101 and the contract value exceeds $5 million.

(B) *Code N—No.* Enter code N when code Y does not apply.

(iv) LINE B1D, BUNDLED CONTRACT EXCEPTION. If Line B1C is coded Y, enter one of the following codes. Otherwise, leave Line B1D blank.

(A) *Code A—Mission Critical.* Enter code A if the agency has determined that the consolidation of requirements is critical to the agency's mission, but the measurably substantial benefits do not

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meet the thresholds set forth in FAR 7.107 to determine that the consolidation is necessary and justified.

(B) *Code B—OMB Circular A–76.* Enter code B if the agency used the OMB Circular A–76 process to determine that the consolidation of requirements is necessary and justified rather than applying the substantial benefits analysis required by FAR 7.107.

(C) *Code C—Other.* Enter code C when codes A and B do not apply.

(v) LINE BIE, PERFORMANCE-BASED SERVICE CONTRACT (see FAR Subpart 37.6). Enter one of the following codes:

(A) *Code Y—Yes.* Enter code Y when—

(*1*) The contract value exceeds $100,000; and

(*2*) At least 80 percent of the contract value is for work that is performance based.

(B) *Code N—No.* Enter code N when code Y does not apply.

(2) LINE B2, MODIFICATION, ORDER, OR OTHER ID NUMBER. Enter the supplementary procurement instrument identification number (if there is one) that was assigned in accordance with 204.7004 or as permitted by 204.7000. It can be up to 19 characters. Usually calls and orders have a four-position number (see 204.7004(d)); modifications to contracts and agreements have a six-position modification number (see 204.7004(c)); and modifications to calls and orders have a two-position modification number (see 204.7004(e)). When reporting modifications to calls and orders, enter both the call or order number and the modification number.

(3) LINE B3, ACTION DATE.

(i) Enter the year, month, and day of the effective date for fiscal obligation purposes.

(ii) Enter four digits for the year, two digits for the month, and two digits for the day. Use 01 through 12 for January through December. For example, enter January 2, 2003, as 20030102.

(4) LINE B4, COMPLETION DATE.

(i) Enter the year, month, and day of the last contract delivery date or the end of the performance period. If the contract is incrementally funded, report the completion date for the entire contract. Report the completion date associated with an option quantity when the option is exercised.

(ii) Enter four digits for the year, two digits for the month, and two digits for the day. Use 01 through 12 for January through December. For example, enter January 2, 2003, as 20030102.

(5) LINE B5, CONTRACTOR IDENTIFICATION INFORMATION.

(i) Use data that relates to the contractor whose name and address appear in the contract document (Block 7 of the SF 26, Award/Contract; Block 8 of the SF 30, Amendment of Solicitation/Modification of Contract; Block 15A of the SF 33, Solicitation, Offer and Award; or Block 9 of the DD Form 1155, Order for Supplies or Services), except—

(A) For contracts placed with the Small Business Administration under Section 8(a) of the Small Business Act, use data that relates to the company that will be performing the work;

(B) For Federal schedule orders, use data that applies to the contractor whose name appears on the schedule (not the data for the agent to whom orders may be sent); and

(C) For contracts with the Canadian Commercial Corporation (CCC), use data for the appropriate CCC office.

(ii) Some of the parts of Line B5 may not apply to the action being reported. Follow the instructions for each part.

(A) LINE B5A, CONTRACTOR IDENTIFICATION NUMBER (DUNS).

(1) Enter the contractor's 9-position Data Universal Numbering System (DUNS) number (see FAR 4.602(d) and 4.603 and DFARS subpart 204.73).

(2) For U.S. Army Contracting Command, Europe, consolidated reporting of vouchers for utilities from municipalities, use DUNS number 15–390–6193 (see 204.670–6(b)(1)).

(B) LINE B5B, GOVERNMENT AGENCY. Enter one of the following codes:

(1) Code Y—Yes. Enter code Y when the contractor is a Federal, State, or local government agency of the United States and outlying areas (see 204.670–1(d)). Do not use code Y when the government agency is an educational institution.

(2) Code N—No. Enter code N when code Y does not apply.

(C) LINE B5C, Reserved.

(D) LINE B5D, CONTRACTOR NAME AND DIVISION NAME. Enter the contractor's name as stated in the offer and resultant contract. Include its division name.

(E) LINE B5E, CONTRACTOR ADDRESS. Enter the contractor's address as stated in the offer and resultant contract. Include street address or P.O. Box, city or town, state or country, and ZIP code, if applicable. Do not enter foreign postal codes.

(F) LINE B5F, TAXPAYER IDENTIFICATION NUMBER. Enter the contractor's taxpayer identification number (TIN) (see FAR subpart 4.9). Leave Line B5F blank if the contractor is—

(1) A nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the trade or business in the United States; and does not have an office or place of business or a fiscal paying agent in the United States;

(2) An agency or instrumentality of a foreign government; or

(3) An agency or instrumentality of the Federal Government.

(G) LINE B5G, PARENT TAXPAYER IDENTIFICATION NUMBER. Enter the contractor's parent company (common parent) TIN (see FAR subpart 4.9 and 52.204–3). If the contractor does not have a parent company or the parent company meets the exemption for Line B5F, leave Line B5G blank.

(H) LINE B5H, PARENT NAME. If a parent company TIN is entered on Line B5G, enter the name of the parent company (common parent) on Line B5H. Leave Line B5H blank if there is no parent company or the parent company is exempted from the requirement to have a TIN.

(6) LINE B6, PRINCIPAL PLACE OF PERFORMANCE.

(i) The place, or places, where the contract will be performed may be specified by the Government or listed by the contractor in response to the solicitation provision at FAR 52.214–14, Place of Performance—Sealed Bidding, or FAR 52.215–6, Place of Performance. Use data for the contractor's principal place of performance, which is generally the—

(A) Final assembly point for items manufactured under supply contracts;

(B) Location from where shipments from stock are made under supply contracts;

(C) Actual construction site for construction contracts;

(D) Planned construction site for architect-engineer contracts;

(E) Place of mining for mined supplies; or

(F) Place (including military installations) where a service is performed for service contracts.

(ii) When there is more than one location for any of paragraphs (b)(6)(i)(A) through (F) of this subsection (e.g., more than one construction site), use the location involving the largest dollar amount of the acquisition. Do not show more than one location on Line B6.

(iii) If places of performance are too varied or not known, enter the contractor's home office location. However, if the contractor is a domestic concern and the entire contract will be performed outside the United States, enter the most frequent place of performance.

(iv) Follow the instructions for each part of Line B6 that applies to the action being reported.

(A) LINE B6A, CITY OR PLACE CODE.

(1) For places in the United States and outlying areas, enter the numeric place code from FIPS PUB 55, Guideline: Codes for Named Populated Places, Primary Country Divisions, and Other Locational Entities of the United States and Outlying Areas. Leave Line B6A blank for places outside the United States and outlying areas.

(2) If the city or locality is not listed, look in FIPS PUB 55 for the county code of the principal place of performance. Enter that code on Line B6A. Use 50000 for Washington, DC, with a State code of 11.

(3) Paragraph 5.2, Entry Selection With the Aid of the Class Code, of FIPS PUB 55 will help in selecting the correct code. Sometimes, a class code should be used in addition to a place code to accurately identify the place of performance. Do not use place codes when the first position of the class code is X or Z.

(B) LINE B6B, STATE OR COUNTRY CODE.

(1) For places in the United States and outlying areas, enter the numeric State code from FIPS PUB 55 or FIPS PUB 5, Codes for the Identification of the States, the District of Columbia and the Outlying Areas of the United States and Associated Areas.

(2) For places outside the United States and outlying areas, enter the alpha country code from FIPS PUB 10, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions.

(C) LINE B6C, CITY OR PLACE AND STATE OR COUNTRY NAME. Enter the name of the principal place of performance. Do not leave Line B6C blank.

(7) LINE B7, TYPE OBLIGATION. Enter one of the following codes:

(i) *Code 1—Obligation.* Enter code 1 if the action obligates funds.

(ii) *Code 2—Deobligation.* Enter code 2 if the action deobligates funds.

(iii) *Code 3—No Dollars Obligated or Deobligated.* Enter code 3 if the action neither obligates nor deobligates funds.

(8) LINE B8, OBLIGATED OR DEOBLIGATED DOLLARS. Enter the net amount of funds (whole dollars only) obligated or deobligated by the action. Enter zero if Line B7 is coded 3.

(9) LINE B9, FOREIGN MILITARY SALE. Enter one of the following codes. If only part of the action is a foreign military sale, separately report the parts (see 204.670–6(c)).

(i) *Code Y—Yes.* Enter code Y when the action is under a foreign military sales arrangement, or under any other arrangement when a foreign country or international organization is bearing the cost of the acquisition.

(ii) *Code N—No.* Enter code N when code Y does not apply.

(10) LINE B10, MULTIYEAR CONTRACT. Enter one of the following codes:

(i) *Code Y—Yes.* Enter code Y when the action is a multiyear contract as defined at FAR 17.103. Do not report contracts containing options as multiyear unless the definition at FAR 17.103 applies to the contract.

(ii) *Code N—No.* Enter code N when code Y does not apply.

(11) LINE B11, TOTAL ESTIMATED CONTRACT VALUE. Enter the total estimated contract value (in whole dollars) only at the time of initial placement of the contract, including placement of an indefinite-delivery or multiyear contract. Include the total estimated value of orders and options anticipated to be placed over the life of the contract.

(12) LINE B12, PRINCIPAL PRODUCT OR SERVICE. Line B12 has five parts. Do not leave any parts of Line B12 blank. Codes for Line B12 can be found in the DoD Procurement Coding Manual (MN02) under "PRODUCT AND SERVICE CODE ASCII FILE DOWNLOADS" at the bottom of the following web page: http://web1.whs.osd.mil/peidhome/guide/mn02/mn02.htm.

(i) LINE B12A, FEDERAL SUPPLY CLASS OR SERVICE CODE. Enter the 4-character Federal supply class (FSC) or service code that describes the contract effort. There are three categories of codes to choose from. If more than one category or code applies to the action, enter the one that best identifies the product or service representing the largest dollar value.

(A) *Supplies.* If the action is for the purchase (not lease or rental) of supplies, enter an FSC code on Line B12A. FSC codes are all numeric. The Department of Defense Federal Supply Classification Cataloging Handbook (H2) may also help with the correct 4-digit code.

(B) *Services.* If the action is for services (except research, development, test, and evaluation), construction, equipment lease or rental, or facilities lease or rental, enter a service code on Line B12A.

(C) *Research, Development, Test, and Evaluation (RDT&E).* If the action is for RDT&E (as defined in FAR 35.001 and 235.001), enter an RDT&E code on Line B12A. All RDT&E codes should begin with the letter "A." Do not use an RDT&E code for—

(1) Purchase, lease, or rental of equipment, supplies, or services separately purchased in support of RDT&E work, even if RDT&E funds are cited. Instead, use an FSC or Service code under the instructions in paragraph (b)(12)(i)(A) or (B) of this subsection; or

(2) Orders under Federal schedule contracts. Instead, use an FSC or Service code under the instructions in paragraph (b)(12)(i)(A) or (B) of this subsection.

(ii) LINE B12B, DOD CLAIMANT PROGRAM CODE. Enter a code that identifies the commodity described on Line B12E. If more than one code applies to the action, enter the one that best identifies the product or service representing the largest dollar value. If the description on Line B12E is for—

(A) Research and development (R&D), enter the code that best represents the objective of the R&D. For example, if the objective of the R&D is a guided missile, enter code A20. If the R&D cannot be identified to any particular objective, enter code S10;

(B) Ship repair, inspect and repair as necessary (IRAN), modification of aircraft, overhaul of engines, or similar maintenance, repair, or modification services, enter the code that best identifies the program;

(C) Equipment rental (including rental of automatic data processing equipment), enter code S10;

(D) Utility services, enter code S10;

(E) Services that cannot be identified to any listed program, enter code S10; or

(F) Supplies or equipment that cannot be identified to any listed program, enter code C9E.

(iii) LINE B12C, PROGRAM, SYSTEM, OR EQUIPMENT CODE.

(A) Enter a code that describes the program, weapons system, or equipment. If there is no code that applies to the action, enter three zeros. If more than one code applies to the action, enter the one that best identifies the product or service representing the largest dollar value.

(B) If the action is funded by the Ballistic Missile Defense Organization, enter code CAA.

(C) If the action supports environmental cleanup programs, enter one of the codes listed in Section II of the DoD Procurement Coding Manual (MN02) under the heading "Environmental Cleanup Programs" at http://web1.whs.osd.mil/peidhome/guide/mn02/SECT2.HTM.

(D) Defense Logistics Agency and Defense Contract Management Agency activities must use the code assigned by the sponsoring military department.

(iv) LINE B12D, NAICS CODE. Enter the North American Industry

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Classification System (NAICS) code for the acquisition. Use the NAICS code in effect at the time of award. These codes are in the 1997 U.S. NAICS Manual (http://www.census.gov/pub/epcd/www/naics.html). If more than one code applies to the action, enter the code that best identifies the product or service representing the largest dollar value.

(v) LINE B12E, NAME OR DESCRIPTION. Enter the name or a brief description of the commodity or service. If the description is classified, enter only the word "Classified." Do not use "Classified" when a code name (e.g., Minuteman, Polaris, Trident, Pershing) or an identifying program number (e.g., WS–107A) can be used.

(vi) LINE B12F, EPA-DESIGNATED PRODUCT(S). Enter one of the following codes:

(1) Code A—EPA-Designated Product(s) with Minimum Recovered Material Content. Enter code A if Environmental Protection Agency (EPA)-designated product(s) were acquired and all contained the required minimum recovered material content. See the EPA Comprehensive Procurement Guidelines program list at http://www.epa.gov/cpg/.

(2) Code B—FAR 23.405(c)(1) Justification. Enter code B if EPA-designated product(s) were acquired without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) competitively within a reasonable period of time.

(3) Code C—FAR 23.405(c)(2) Justification. Enter code C if EPA-designated product(s) were acquired without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) at a reasonable price.

(4) Code D—FAR 23.405(c)(3) Justification. Enter code D if EPA-designated product(s) were acquired without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) to reasonable performance standards in the specifications.

(5) Code E—No EPA-Designated Product(s) Acquired. Enter code E if no EPA-designated products were acquired.

(vii) LINE B12G, RECOVERED MATERIAL CLAUSES. When Line B12F is coded Y, enter one of the following codes. Otherwise, leave Line B12G blank.

(1) Code A—FAR 52.223–4. Enter code A if the solicitation included the provision at FAR 52.223–4, Recovered Material Certification.

(2) Code B—FAR 52.223–4 and FAR 52.223–9. Enter code B if the solicitation included the provision at FAR 52.223–4, Recovered Material Certification, and the contract includes the clause at FAR 52.223–9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

(13) LINE B13, KIND OF ACTION. Some of the parts of Line B13 may not apply to the action being reported. Follow instructions for each part. When the action is a modification, complete Lines B13A and B13D.

(i) LINE B13A, CONTRACT OR ORDER. Enter one of the following codes:

(A) *Code 1—Letter Contract.* Enter code 1 when the action is a letter contract or a modification to a letter contract that has not been definitized.

(B) *Code 3—Definitive Contract.*

(1) Enter code 3 when the action is the award or modification of a definitive contract or a modification that definitizes a contract. Code 3 includes the following:

(i) Definitive contract awards under the Small Business Administration 8(a) program.

(ii) Notices of award.

(iii) Lease agreements.

(iv) Indefinite-delivery-definite-quantity contracts (FAR 52.216–20).

(v) Indefinite-delivery-indefinite-quantity contracts (FAR 52.216–22) when funds are obligated by the contract itself.

(2) Code 3 excludes orders from the Procurement List (see codes 6 and 8).

(C) *Code 4—Order under an Agreement.* Enter code 4 when the action is an order or definitization of an order under an agreement other than a blanket purchase agreement. Examples include an order exceeding $25,000 under a basic ordering agreement or a master ship repair agreement and a job order when the contract is created by issuing the order. An order under a blanket purchase agreement established under a Federal schedule (see FAR 8.404(b)(4)) is coded 7. An order under other blanket purchase agreements, pursuant to FAR 13.303, is coded 9. When the action is a modification to an order described in code 4 instructions, enter code 4 on Line B13A.

(D) *Code 5—Order under Indefinite-Delivery Contract.* Enter code 5 when the action is an order, including a task or delivery order, under an indefinite-delivery contract awarded by a Federal agency. For example, enter code 5 for an order under a GSA indefinite-delivery contract, such as a GSA area-wide contract for utility services, that is not a Federal schedule. When the action is a modification to an order described in code 5 instructions, enter code 5 on Line B13A.

(E) *Code 6—Order under Federal Schedule.* Enter code 6 if the action is an order under a Federal schedule. An order under a blanket purchase agreement established under a Federal schedule is coded 7. Code 6 includes orders under Federal schedules for items on the Procurement List. When the action is a modification to an order described in code 6 instructions, enter code 6 on Line B13A.

(F) *Code 7—BPA Order under Federal Schedule.* Enter code 7 if the action is an order under a blanket purchase agreement established under a Federal schedule (see FAR 8.404(b)(4)). When the action is a modification to an order described in code 7 instructions, enter code 7 on Line B13A.

(G) *Code 8—Order from Procurement List.* Enter code 8 if the action is an order placed with Federal Prison Industries (UNICOR) or a JWOD Participating Nonprofit Agency in accordance with FAR subpart 8.6 or 8.7. Use code 6 for orders from the Procurement List under Federal schedules. When the action is a modification to an order described in code 8 instructions, enter code 8 on Line B13A.

(H) *Code 9—Award under FAR Part 13.* Enter code 9 if the action, including an action in a designated industry group under the Small Business Competitiveness Demonstration Program (see FAR subpart 19.10), is an award pursuant to FAR part 13, except when the action is a blanket purchase agreement order pursuant to FAR 8.404(b)(4) (see code 7). When the action is a modification to an award described in code 9 instructions, enter code 9 on Line B13A.

(ii) LINE B13B, TYPE OF INDEFINITE-DELIVERY CONTRACT. If Line B13A is coded 3 and the ninth position of B1A is coded D, complete Line B13B. If Line B13A is coded 5, complete Line B13B. Otherwise, leave Line B13B blank.

(A) *Code A—Requirements Contract (FAR 52.216–21).*

(B) *Code B—Indefinite-Quantity Contract (FAR 52.216–22).*

(C) *Code C—Definite-Quantity Contract (FAR 52.216–20).*

(iii) LINE B13C, MULTIPLE OR SINGLE AWARD INDEFINITE-DELIVERY CONTRACT. If Line B13B is coded A, B, or C, complete Line B13C. Otherwise, leave Line B13C blank.

(A) *Code M—Multiple Award.* Enter code M if the action is a task or delivery order under a multiple award indefinite-delivery contract.

(B) *Code S—Single Award.* Enter code S if the action is a task or delivery order under a single award indefinite-delivery contract.

(iv) LINE B13D, MODIFICATION. If the action is a modification, enter one of the following codes. Otherwise, leave Line B13D blank.

(A) *Code A—Additional Work (new agreement).* Enter code A when the action is a bilateral supplemental agreement that obligates funds for additional work requiring a justification and approval (J&A).

(B) *Code B—Additional Work (other).* Enter code B when the action is a modification of an existing contract (including a letter contract) that is not covered by code A or by codes C through H (see code H for exercise of an option). Code B includes actions that—

(1) Initiate an incremental yearly buy under a multiyear contract;

(2) Amend a letter or other contract to add work that does not require a J&A; or

(3) Order under a priced exhibit or production list.

(C) *Code C—Funding Action.* Enter code C when the action is a modification (to a letter or other contract) for the sole purpose of obligating or deobligating funds. This includes—

(1) Incremental funding (other than incremental yearly buys under multiyear contracts, which are coded B);

(2) Changes to the estimated cost on cost-reimbursement contracts;

(3) Repricing actions covering incentive price revisions;

(4) Economic price adjustments; and

(5) Initial citation and obligation of funds for a contract awarded in one fiscal year but not effective until a subsequent fiscal year.

(D) *Code D—Change Order.* Enter code D if the action is a change order issued under the "Changes," "Differing Site Conditions," or similar clauses in existing contracts.

(E) *Code E—Termination for Default.* Enter code E if the action is a modification that terminates all or part of the contract for default.

(F) *Code F—Termination for Convenience.* Enter code F if the action is a modification that terminates all or part of the contract for convenience.

(G) *Code G—Cancellation.* Enter code G if the action is a modification that cancels the contract. Do not use code G to cancel a prior DD Form 350 (see Line A1).

(H) *Code H—Exercise of an Option.* Enter code H if the action is an exercise of an option.

(I) *Code J—Definitization.* Enter code J if the action is a definitization modification. For the definitization of a letter contract, enter code 3 on Line B13A.

(v) LINE B13E, MULTIPLE AWARD CONTRACT FAIR OPPORTUNITY. If Line B13C is coded M, enter one of the following codes. Otherwise, leave Line B13E blank.

(A) *Code A—Fair Opportunity Process.* Enter code A if the delivery or task order was issued pursuant to a process that permitted each contract awardee a fair opportunity to be considered (see FAR 16.505(b)(1)).

(B) *Code B—Urgency.* Enter code B if the agency need is so urgent that providing a fair opportunity would result in unacceptable delays (see FAR 16.505(b)(2)(i)).

(C) *Code C—One/Unique Source.* Enter code C if only one contract awardee is capable of providing the supplies or services at the level or quality required because the supplies or services are unique or highly specialized (see FAR 16.505(b)(2)(ii)).

(D) *Code D—Follow-On Contract.* Enter code D if the order was issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order (see FAR 16.505(b)(2)(iii)).

(E) *Code E—Minimum Guarantee.* Enter code E if it was necessary to place an order to satisfy a minimum amount guaranteed to the contractor (see FAR 16.505(b)(2)(iv)).

(vi) LINE B13F, INDEFINITE-DELIVERY CONTRACT USE. If Line B13B is coded A, B, or C, and the action is the initial placement of an indefinite-delivery contract, enter one of the following codes to indicate if the indefinite-delivery contract can be used Government-wide, within DoD only, within the department or agency only, or by the contracting office only. Otherwise, leave Line B13F blank.

(A) *Code A—Government-Wide.*

(B) *Code B—DoD-Wide.*

(C) *Code C—DoD Department or Agency Only.*

(D) *Code D—Contracting Office Only.*

(vii) LINE B13G—INDEFINITE-DELIVERY CONTRACT ORDERING PERIOD ENDING DATE. If Line B13F is coded A, B, C, or D, enter the date the ordering period ends. Otherwise, leave Line B13G blank. Enter four digits for the year, two digits for the month, and two digits for the day. Use 01 through 12 for January through December. For example, enter January 2, 2003, as 20030102.

(14) LINE B14, CICA APPLICABILITY. Enter one of the following codes:

(i) *Code A—Pre-CICA.* Enter code A if the action resulted from a solicitation issued before April 1, 1985. Modifications within the original scope of work of such awards and orders under pre-CICA indefinite-delivery type contracts also are coded A.

(ii) *Code B—CICA Applicable.* Enter code B if—

(A) The action resulted from a solicitation issued on or after April 1, 1985, or is a modification coded A on Line B13D issued on or after April 1, 1985; and

(B) Neither code C nor code D applies.

(iii) *Code C—Simplified Acquisition Procedures Other than FAR Subpart 13.5.* Enter code C if the action resulted from use of the procedures in FAR part 13, other than those in subpart 13.5.

(iv) *Code D—Simplified Acquisition Procedures Pursuant to FAR Subpart 13.5.* Enter code D if the action resulted from use of the procedures in FAR subpart 13.5.

(15) LINE B15, INFORMATION TECHNOLOGY PRODUCTS OR SERVICES. If the action is for information technology products or services, enter one of the following codes. Otherwise, leave Line B15 blank.

(i) *Code A—Commercially Available Off-the-Shelf Item.* Enter code A if the action is for an item of supply that meets the definition of commercial item in FAR 2.101, does not require any modification, and is available in the commercial marketplace.

(ii) *Code B—Other Commercial Item of Supply.* Enter code B if the action is for an item of supply that meets the definition of commercial item in FAR 2.101, but requires minor modifications, or is not yet available in the commercial marketplace, but will be available in time to meet the Government's needs.

(iii) *Code C—Nondevelopmental Item Other than Commercial Item.* Enter code C if the action is for an item of supply, other than a commercial item, that meets the definition of nondevelopmental item in FAR 2.101.

(iv) *Code D—Other Noncommercial Item of Supply.* Enter code D if the action is for an item of supply that does not meet the definition of commercial item or nondevelopmental item in FAR 2.101.

(v) *Code E—Commercial Service.* Enter code E if the action is for a service that meets the definition of commercial item in FAR 2.101.

(vi) *Code F—Noncommercial Service.* Enter code F for all other services.

(16) LINE B16, CLINGER-COHEN

following codes if Line C1 is coded N.

product or services be obtained from a

the code that matches the type with the

(3) Code C—Full and Open

(B) Enter one of the following codes if Line C8 is coded N. Otherwise, leave

VOL
66
ISS
176
SE
11
2001
UMI

(16) LINE B16, CLINGER-COHEN ACT PLANNING COMPLIANCE. Enter one of the following codes:

(i) *Code Y—Yes.* Enter code Y if the action is for information technology products or services acquired in compliance with the planning requirements of sections 5122 and 5123 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1422 and 1423).

(ii) *Code N—No.* Enter code N if code Y does not apply.

(c) *Part C of the DD Form 350.*

(1) Part C gathers data concerning contracting procedures, use of competition, financing, and statutory requirements other than socioeconomic (which are in Part D).

(2) Do not complete Part C if the action is with a government agency, i.e., Line B5B (Government Agency) is coded Y (Yes). If Line B13A is coded 6, complete only the following lines in Part C: Line C3, and Lines C13A and C13B (when applicable).

(3) In completing Part C, use codes that describe either the current action or the original contract, depending on the codes reported on Lines B13A and B13D.

(i)(A) If Line B13A is coded 1, 3, 4, 6, or 9 and Line B13D is coded A or is blank, code the lines in Part C to describe the current action.

(B) If Line B13A is coded 5 and the current action is an order under a multiple award contract (Line B13C is coded M), code Lines C6 and C7 to describe the order and code the rest of Part C to describe the original contract.

(C) Otherwise, code the lines in Part C to describe the original contract.

(ii) If there are no codes for the original contract because a DD Form 350 was not required at the time, the original action is no longer available, the definition of the original code has changed, or a data element has been added to the system after the original contract report, use codes that best describe the original action.

(4) Complete Part C as follows:

(i) LINE C1, SYNOPSIS. Enter one of the following codes:

(A) *Code A—Synopsis Only.* Enter code A only if a synopsis of the proposed action was prepared and transmitted in accordance with FAR subpart 5.2.

(B) *Code B—Combined Synopsis/Solicitation.* Enter code B if a combined synopsis/solicitation of the proposed action was prepared and transmitted in accordance with FAR subpart 5.2 and 12.603.

(C) *Code N—Not Synopsized.* Enter code N if a synopsis was not prepared.

(ii) LINE C2, REASON NOT SYNOPSIZED. Enter one of the following codes if Line C1 is coded N. Otherwise, leave Line C2 blank.

(A) *Code A—Urgency.* Enter code A if the action was not synopsized due to urgency (see FAR 6.302–2).

(B) *Code B—FAR 5.202(a)(13).* Enter code B if the action was not synopsized because the acquisition did not exceed the simplified acquisition threshold and was made through FACNET or another means that provided access to the notice of proposed action through the Governmentwide point of entry (see FAR 5.202(a)(13)).

(C) *Code Z—Other Reason.* Enter code Z if the action was not synopsized due to some other reason.

(iii) LINE C3, EXTENT COMPETED. Enter one of the following codes:

(A) *Code A—Competed Action.* Enter code A when—

(1) The action is an order under a Federal schedule (Line B13A is coded 6);

(2) Competitive procedures were used to fulfill the requirement for full and open competition (see FAR subpart 6.1);

(3) Full and open competition procedures after exclusion of sources were used in order to establish or maintain alternative sources, to set aside an acquisition for small business or HUBZone small business, or to compete Section 8(a) awards (see FAR subpart 6.2);

(4) Statutory authorities for other than full and open competition were used (see FAR subpart 6.3) and more than one offer was received (if only one offer was received, use code D);

(5) The action resulted from a contract awarded prior to the Competition in Contracting Act that used two-step sealed bidding or other sealed bidding, or that was negotiated competitively; or

(6) Simplified acquisition procedures were used and competition was obtained.

(B) *Code B—Not Available for Competition.* Enter code B for—

(1) Awards for utilities or utility systems, excluding long distance telecommunications services, when only one supplier can furnish the service (see FAR 6.302–1(b)(3));

(2) Brand name commercial products for authorized resale;

(3) Acquisitions authorized or required by statute to be awarded to a specific source pursuant to FAR 6.302–5(b)(2) or (4), e.g., qualified nonprofit agencies employing people who are blind or severely disabled (see FAR subpart 8.7) or 8(a) program (see FAR subpart 19.8);

(4) International agreements and Foreign Military Sales when the acquisition is to be reimbursed by a foreign country that requires that the product or services be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; and

(5) Other contracting actions when the Director of Defense Procurement has determined that there is no opportunity for competition.

Note: Even though Part C is not completed for actions with a government agency, the database will automatically include these actions in the category of not available for competition.

(C) *Code C—Follow-On to Competed Action.* Enter code C when the action pertains to an acquisition placed with a particular contractor to continue or augment a specific competed program, if such placement was necessitated by prior acquisition decisions. Code C applies to contracts that meet the statutory criteria for Phase III follow-on under the Small Business Innovation Research Program.

(D) *Code D—Not Competed.* Enter code D when codes A, B, and C do not apply.

(iv) LINE C4, SEA TRANSPORTATION. Enter one of the following codes when Line B1B is coded A, Line B5B is coded N, and Line B13A is coded other than 9. Otherwise, leave Line C4 blank.

(A) *Code Y—Yes—Positive Response to DFARS 252.247–7022 or 252.212–7000(c)(2).* Enter code Y when the contractor's response to the provision at 252.247–7022, Representation of Extent of Transportation by Sea, or 252.212–7000(c)(2), Offeror Representations and Certifications—Commercial Items, indicates that the contractor anticipates that some of the supplies being provided may be transported by sea.

(B) *Code N—No—Negative Response to DFARS 252.247–7022 or 252.212–7000(c)(2).* Enter code N when the contractor's response to the provision at 252.247–7022 or 252.212–7000(c)(2) indicates that the contractor anticipates that none of the supplies being provided will be transported by sea.

(C) *Code U—Unknown—No Response or Provision Not Included in Solicitation.* Enter code U when the contractor did not complete the representation at 252.247–7022 or 252.212–7000(c)(2) or the solicitation did not include either provision.

(v) LINE C5, TYPE OF CONTRACT.

(A) If the action is a letter contract, including modifications and amendments to letter contracts, enter the code that describes the anticipated type of contract the letter contract will become when it is definitized.

(B) If there is more than one type of contract involved in the action, enter the code that matches the type with the most dollars. If the type with the least dollars exceeds $500,000, fill out separate DD Forms 350 (with different report numbers) for each type.

(C) Enter one of the following codes:

(1) Code A—Fixed-Price Redetermination.

(2) Code J—Firm-Fixed-Price.

(3) Code K—Fixed-Price Economic Price Adjustment.

(4) Code L—Fixed-Price Incentive.

(5) Code M—Fixed-Price-Award-Fee.

(6) Code R—Cost-Plus-Award-Fee.

(7) Code S—Cost Contract.

(8) Code T—Cost-Sharing.

(9) Code U—Cost-Plus-Fixed-Fee.

(10) Code V—Cost-Plus-Incentive-Fee.

(11) Code Y—Time-and-Materials.

(12) Code Z—Labor-Hour.

(vi) LINE C6, NUMBER OF OFFERORS SOLICITED.

(A) Leave Line C6 blank if—

(1) The original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act);

(2) Line B1B is coded B or C and Line B13A is coded 5; or

(3) Line B13A is coded 6.

(B) Otherwise, enter—

(1) Code 1—One. Enter code 1 if only one offeror was solicited; or

(2) Code 2—More than One. Enter code 2 if more than one offeror was solicited.

(vii) LINE C7, NUMBER OF OFFERS RECEIVED.

(A) Leave Line C7 blank if—

(1) The original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act); or

(2) Line B13A is coded 6, Order or Call under Federal Schedule.

(B) Otherwise, enter the specific number of offers received (001–999).

(viii) LINE C8, SOLICITATION PROCEDURES.

(A) Leave Line C8 blank if—

(1) The original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act);

(2) The action is pursuant to simplified acquisition procedures (Line B13A is coded 9); or

(3) The action is an order or call under a Federal schedule (Line B13A is coded 6).

(B) Otherwise, enter one of the following codes:

(1) Code A—Full and Open Competition—Sealed Bid. Enter code A if the action resulted from an award pursuant to FAR 6.102(a).

(2) Code B—Full and Open Competition—Competitive Proposal. Enter code B if the action resulted from an award pursuant to FAR 6.102(b).

(3) Code C—Full and Open Competition—Combination. Enter code C if the action resulted from an award using a combination of competitive procedures (e.g., two-step sealed bidding) pursuant to FAR 6.102(c).

(4) Code D—Architect-Engineer. Enter code D if the action resulted from selection of sources for architect-engineer contracts pursuant to FAR 6.102(d)(1).

(5) Code E—Basic Research. Enter code E if the action resulted from competitive selection of basic research proposals pursuant to FAR 6.102(d)(2).

(6) Code F—Multiple Award Schedule. Enter code F if the action is an award of a multiple award schedule pursuant to FAR 6.102(d)(3) or an order against such a schedule.

(7) Code G—Alternative Sources. Enter code G if the action resulted from use of competitive procedures but excluded a particular source pursuant to FAR 6.202(a).

(8) Code K—Set-Aside. Enter code K if the action resulted from any—

(i) Set-aside for small business concerns (see FAR subpart 19.5), including small business innovation research (SBIR) actions;

(ii) Set-aside for small disadvantaged business concerns;

(iii) Set-aside for HUBZone small business concerns (see FAR 19.1305);

(iv) Set-aside for very small business concerns (see FAR 19.904);

(v) Set-aside (including portions of broad agency announcements) for historically black colleges and universities or minority institutions (see 226.7003 and 235.016);

(vi) Set-aside for emerging small business concerns (see FAR 19.1006(c)); or

(vii) Competition among Section 8(a) firms under FAR 19.805 (report noncompetitive 8(a) awards as code N).

(9) Code N—Other than Full and Open Competition. Enter code N if the action resulted from use of other than full and open competition pursuant to FAR subpart 6.3. This includes awards to qualified nonprofit agencies employing people who are blind or severely disabled (see FAR subpart 8.7) or noncompetitive awards to the Small Business Administration under Section 8(a) of the Small Business Act (see FAR 6.302–5(b)).

(ix) LINE C9, AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION.

(A) Leave Line C9 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act).

(B) Enter one of the following codes if Line C8 is coded N. Otherwise, leave Line C9 blank.

(1) Code 1A—Unique Source. Enter code 1A if the action was justified pursuant to FAR 6.302–1(b)(1).

(2) Code 1B—Follow-On Contract. Enter code 1B if the action was justified pursuant to FAR 6.302–1(a)(2)(ii) or (iii).

(3) Code 1C—Unsolicited Research Proposal. Enter code 1C if the action was justified pursuant to FAR 6.302–1(a)(2)(i).

(4) Code 1D—Patent or Data Rights. Enter code 1D if the action was justified pursuant to FAR 6.302–1(b)(2).

(5) Code 1E—Utilities. Enter code 1E if the action was justified pursuant to FAR 6.302–1(b)(3).

(6) Code 1F—Standardization. Enter code 1F if the action was justified pursuant to FAR 6.302–1(b)(4).

(7) Code 1G—Only One Source—Other. Enter code 1G if the action was justified pursuant to FAR 6.302–1 in a situation other than the examples cited in codes 1A through 1F.

(8) Code 2A—Urgency. Enter code 2A if the action was justified pursuant to FAR 6.302–2.

(9) Code 3A—Particular Sources. Enter code 3A if the action was justified pursuant to FAR 6.302–3(a)(2).

(10) Code 4A—International Agreement. Enter code 4A if the action was justified pursuant to FAR 6.302–4.

(11) Code 5A—Authorized by Statute. Enter code 5A if the action was justified pursuant to FAR 6.302–5(a)(2)(i).

(12) Code 5B—Authorized Resale. Enter code 5B if the action was justified pursuant to FAR 6.302–5(a)(2)(ii).

(13) Code 6A—National Security. Enter code 6A if the action was justified pursuant to FAR 6.302–6.

(14) Code 7A—Public Interest. Enter code 7A if the action was taken pursuant to FAR 6.302–7.

(x) LINE C10, SUBJECT TO LABOR STANDARDS STATUTES. Enter one of the following codes. When Line B13A is coded 6, leave Line C10 blank.

(A) *Code A—Walsh-Healey Act.* Enter code A when the action is subject to the provisions of FAR subpart 22.6.

(B) *Code C—Service Contract Act.* Enter code C when the action is subject to the provisions of the Service Contract Act (see FAR part 37).

(C) *Code D—Davis-Bacon Act.* Enter code D when the action is subject to the Davis-Bacon Act (see FAR 22.403–1).

(D) *Code Z—Not Applicable.* Enter code Z when codes A, C, and D do not apply.

(xi) LINE C11, COST OR PRICING DATA. Enter one of the following codes when Line B1B is coded A. Otherwise, leave Line C11 blank.

(A) *Code Y—Yes—Obtained.* Enter code Y when cost or pricing data were obtained (see FAR 15.403–4) and certified in accordance with FAR 15.406–2.

(B) *Code N—No—Not Obtained.* Enter code N when neither code Y nor code W applies.

(C) *Code W—Not Obtained—Waived.* Enter code W when cost or pricing data were not obtained because the head of the contracting activity waived the requirement (see FAR 15.403–1(c)(4)).

(xii) LINE C12, CONTRACT FINANCING. Enter one of the following codes identifying whether or not progress payments, advance payments, or other financing methods were used.

(A) *Code A—FAR 52.232–16.* Enter code A if the contract contains the clause at FAR 52.232–16, Progress Payments.

(B) *Code C—Percentage of Completion Progress Payments.* Enter code C if the contract provides for progress payments based on percentage or stage of completion, which is only permitted on contracts for construction, for shipbuilding, or for ship conversion, alteration, or repair (see 232.102(e)(2)).

(C) *Code D—Unusual Progress Payments or Advance Payments.* Enter code D if the contract provides unusual progress payments or advance payments (see FAR subpart 32.4 and 32.501–2).

(D) *Code E—Commercial Financing.* Enter code E if the contract provides for commercial financing payments (see FAR Subpart 32.2).

(E) *Code F—Performance-Based Financing.* Enter code F if the contract provides for performance-based financing payments (see FAR subpart 32.10).

(F) *Code Z—Not Applicable.* Enter code Z when codes A through F do not apply.

(xiii) LINE C13, FOREIGN TRADE DATA.

(A) The term "United States (U.S.)," as used on Line C13, excludes the Trust Territory of Palau (see 204.670–1 for definition of United States and outlying areas).

(B) LINE C13A, PLACE OF MANUFACTURE. Complete Line C13A only if the action is for a foreign end product or a service provided by a foreign concern. Otherwise, leave Line C13A blank.

(1) Code A—U.S. Enter code A if the action is for—

(i) A foreign end product that is manufactured in the United States but still determined to be foreign because 50 percent or more of the cost of its components is not mined, produced, or manufactured inside the United States or inside qualifying countries; or

(ii) Services performed in the United States by a foreign concern.

(2) Code B—Foreign. Enter code B if the action is for—

(i) Any other foreign end product; or

(ii) Services performed outside the United States by a foreign concern.

(C) LINE C13B, COUNTRY OF ORIGIN CODE.

(1) Complete Line C13B only if Line C13A is coded A or B. Otherwise, leave Line C13B blank.

(2) Enter the code from FIPS PUB 10, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions, that identifies the country where the foreign product is coming from or where the foreign company providing the services is located. If more than one foreign country is involved, enter the code of the foreign country with the largest dollar value of work under the contract.

(xiv) LINE C14, COMMERCIAL ITEM. Enter one of the following codes:

(A) *Code Y—Yes—FAR 52.212–4 Included.* Enter code Y if the contract contains the clause at FAR 52.212–4, Contract Terms and Conditions—Commercial Items.

(B) *Code N—No—FAR 52.212–4 Not Included.* Enter code N if code Y does not apply.

(d) *Part D of the DD Form 350.*

(1) Do NOT complete Part D if the action is—

(i) With a government agency, i.e., Line B5B is coded Y; or

(ii) An order or call under a Federal schedule.

(2) Use the codes on Lines B13A and B13D to determine whether the codes in Part D will describe the current action or the original contract.

(i) Code Part D to describe the current action when—

(A) Line B13A is coded 1, 3, 4, or 9 and Line B13D is coded A or is blank; or

(B) Line B5B is coded N, Line B13A is coded 8, and Line B13D is coded A or is blank.

(ii) Otherwise, code Part D to describe the original contract. If there are no codes for the original contract because a DD Form 350 was not required at the time, the original action is no longer available, the definition of the original code has changed, or a data element has been added to the system after the original contract report, use codes that best describe the original action.

(3) Determine the status of the concern (e.g., size and ownership) in accordance with FAR part 19 and DFARS part 219.

(4) Complete Part D as follows:

(i) LINE D1, TYPE OF CONTRACTOR.

(A) LINE D1A, TYPE OF ENTITY. Enter one of the following codes:

(1) Code A—Small Disadvantaged Business (SDB) Performing in U.S. Enter code A if the contractor is a small disadvantaged business concern as defined in 219.001 and the place of performance is within the United States and outlying areas.

(2) Code B—Other Small Business (SB) Performing in U.S. Enter code B if the contractor is a small business concern as defined in FAR 19.001, other than a small disadvantaged business concern, and the place of performance is within the United States and outlying areas.

(3) Code C—Large Business Performing in U.S. Enter code C if the contractor is a domestic large business concern and the place of performance is within the United States and outlying areas.

(4) Code D—JWOD Participating Nonprofit Agency. Enter code D if the contractor is a qualified nonprofit agency employing people who are blind or severely disabled (see FAR 8.701) and the place of performance is within the United States and outlying areas.

(5) Code F—Hospital. Enter code F if the contractor is a hospital and the place of performance is within the United States and outlying areas.

(6) Code L—Foreign Concern or Entity. Enter code L if the contractor is a foreign concern, the Canadian Commercial Corporation, or a non-U.S.-chartered nonprofit institution.

(7) Code M—Domestic Firm Performing Outside U.S. Enter code M if the contractor is a domestic concern or a domestic nonprofit institution and the place of performance is outside the United States and outlying areas.

(8) Code T—Historically Black College or University (HBCU). Enter code T if the contractor is an HBCU as defined at 252.226–7000 and the place of performance is within the United States and outlying areas.

(9) Code U—Minority Institution (MI). Enter code U if the contractor is an MI as defined at 252.226–7000 and the place of performance is within the United States and outlying areas.

(10) Code V—Other Educational. Enter code V if the contractor is an educational institution that does not qualify as an HBCU or MI and the place of performance is within the United States and outlying areas.

(11) Code Z—Other Nonprofit. Enter code Z if the contractor is a nonprofit organization (as defined in FAR 31.701) that does not meet any of the criteria in codes D, F, T, U, or V and the place of performance is within the United States and outlying areas.

(B) LINE D1B, WOMEN-OWNED BUSINESS. Enter one of the following codes:

(1) Code Y—Yes. Enter code Y if the contractor's response to FAR 52.204–5, 52.212–3(c), or 52.219–1(b) indicates that it is a women-owned business.

(2) Code N—No. Enter code N if the contractor's response to FAR 52.204–5, 52.212–3(c), or 52.219–1(b) indicates that it is not a women-owned business.

(3) Code U—Uncertified. Enter code U if the information is not available because the contractor did not complete the representation in FAR 52.204–5, 52.212–3(c), or 52.219–1(b).

(C) LINE D1C, HUBZONE REPRESENTATION. Enter one of the following codes when Line D1A is coded A or B. Otherwise, leave Line D1C blank.

(1) Code Y—Yes. Enter code Y if the contractor represented that it is a HUBZone small business concern (see FAR 19.1303).

(2) Code N—No. Enter code N if code Y does not apply.

(D) LINE D1D, ETHNIC GROUP.

(1) Complete Line D1D if the action is with a small disadvantaged business. Otherwise, leave Line D1D blank.

(2) Enter the code from the following list that corresponds to the ethnic group that the contractor marked in the solicitation provision at FAR 52.219–1, Small Business Program Representations, or FAR 52.212–3(c).

(i) Code A—Asian-Indian American.
(ii) Code B—Asian-Pacific American.
(iii) Code C—Black American.
(iv) Code D—Hispanic American.
(v) Code E—Native American.
(vi) Code F—Other SDB Certified or Determined by SBA.
(vii) Code Z—No Representation.

(E) LINE D1E, VETERAN-OWNED SMALL BUSINESS. Enter one of the following codes if the contractor is a veteran-owned small business. Otherwise, leave Line D1E blank.

(1) Code A—Service-Disabled Veteran. Enter code A if the contractor represented that it is a service-disabled veteran-owned small business.

(2) Code B—Other Veteran. Enter code B if the contractor represented that it is a veteran-owned small business, other than a service-disabled veteran-owned small business.

(ii) LINE D2, REASON NOT AWARDED TO SDB. Enter one of the following codes when Line D1A is coded B or C. Otherwise, leave Line D2 blank.

(A) *Code A—No Known SDB Source.*

(B) *Code B—SDB Not Solicited.* Enter code B when there was a known SDB source, but it was not solicited.

(C) *Code C—SDB Solicited and No Offer Received.* Enter code C when an SDB was solicited but it did not submit an offer, or its offer was not sufficient to cover the total quantity requirement so it received a separate award for the quantity offered.

(D) *Code D—SDB Solicited and Offer Was Not Low.* Enter code D when an SDB offer was not the low or most advantageous offer or an SDB was not willing to accept award of a partial small business set-aside portion of an action at the price offered by the Government.

(E) *Code Z—Other Reason.* Enter code Z when an SDB did not receive the award for any other reason or when Line B1B is coded B or C and Line B13A is coded 5.

(iii) LINE D3, REASON NOT AWARDED TO SB. Enter one of the following codes when Line D1A is coded C. Otherwise, leave Line D3 blank. (The term "small business" includes all categories of small businesses.)

(A) *Code A—No Known SB Source.*

(B) *Code B—SB Not Solicited.* Enter code B when there was a known small business source, but it was not solicited.

(C) *Code C—SB Solicited and No Offer Received.* Enter code C when a small business concern was solicited but it did not submit an offer, or its offer was not sufficient to cover the total quantity requirement so it received a separate award for the quantity offered.

(D) *Code D—SB Solicited and Offer Was Not Low.* Enter code D when a small business offer was not the low or most advantageous offer or a small business concern was not willing to accept award of a set-aside portion of an action at the price offered by the Government.

(E) *Code Z—Other Reason.* Enter code Z when a small business did not receive the award for any other reason or when Line B1B is coded B or C and Line B13A is coded 5.

(iv) LINE D4, SET-ASIDE OR PREFERENCE PROGRAM.

(A) LINE D4A, TYPE OF SET-ASIDE. Enter one of the following codes:

(1) Code A—None. Enter code A if there was no set-aside (i.e., codes B through L do not apply).

(2) Code B—Total SB Set-Aside. Enter code B if the action was a total set-aside for small business (see FAR 19.502–2), including actions reserved exclusively for small business concerns pursuant to FAR 13.003(b)(1), or if the action resulted from the Small Business Innovation Research Program.

(3) Code C—Partial SB Set-Aside. Enter code C if the action was a partial set-aside for small business (see FAR 19.502–3).

(4) Code D—Section 8(a) Set-Aside or Sole Source. Enter code D if the contract was awarded to—

(i) The Small Business Administration under Section 8(a) of the Small Business Act (see FAR subpart 19.8); or

(ii) An 8(a) contractor under the direct award procedures at 219.811.

(5) Code E—Total SDB Set-Aside. Enter code E if the action was a total set-aside for small disadvantaged businesses.

(6) Code F—HBCU or MI—Total Set-Aside. Enter code F if the action was a total set-aside for HBCU or MI (see 226.7003).

(7) Code G—HBCU or MI—Partial Set-Aside. Enter code G if the action was a partial set-aside for HBCU or MI under a broad agency announcement (see 235.016).

(8) Code H—Very Small Business Set-Aside. Enter code H if the action was a set-aside for very small businesses (see FAR subpart 19.9).

(9) Code J—Emerging Small Business Set-Aside. Enter code J if the action was an emerging small business set-aside within a designated industry group under the Small Business Competitiveness Demonstration Program (see FAR subpart 19.10).

(10) Code K—HUBZone Set-Aside or Sole Source. Enter code K if the action was—

(i) A set-aside for HUBZone small business concerns (see FAR 19.1305); or

(ii) A sole source award to a HUBZone small business concern (see FAR 19.1306).

(11) Code L—Combination HUBZone and 8(a). Enter code L if the action was a combination HUBZone set-aside and 8(a) award.

(B) LINE D4B, TYPE OF PREFERENCE. Enter one of the following codes, even if Line D4A is coded E:

(1) Code A—None. Enter code A if no preference was given.

(2) Code B—SDB Price Evaluation Adjustment—Unrestricted. Enter code B if the action was unrestricted but an SDB received an award as a result of a price evaluation adjustment (see FAR subpart 19.11).

(3) Code C—SDB Preferential Consideration—Partial SB Set-Aside. Enter code C if the action was a partial set-aside for small business and preferential consideration resulted in an award to an SDB.

(4) Code D—HUBZone Price Evaluation Preference. Enter code D if the contractor received the award as a result of a HUBZone price evaluation preference (see FAR 19.1307).

(5) Code E " Combination HUBZone Price Evaluation Preference and SDB

Price Evaluation Adjustment. Enter code F if the contractor received the award as a result of a combination HUBZone price evaluation preference and SDB price evaluation adjustment.

(C) LINE D4C, EXTENT COMPETED. Enter one of the following codes:

(1) Code A—Full and Open Competition. Enter code A if the action was competed and was open to all responsible sources.

(2) Code B—Not Available for Competition. Enter code B if the action was not available for competition because it was—

(i) Awarded under the authority of FAR 6.302–1, Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements;

(ii) Awarded under the authority of FAR 6.302–2, Unusual and Compelling Urgency;

(iii) Awarded under the authority of FAR 6.302–3, Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services;

(iv) Awarded under the authority of FAR 6.302–4, International Agreement;

(v) Awarded under the authority of FAR 6.302–5, Authorized or Required by Statute;

(vi) Awarded under the authority of FAR 6.302–6, National Security;

(vii) Awarded under the authority of FAR 6.302–7, Public Interest;

(viii) Awarded under the authority of FAR 8.405–6, Limited Sources Justification;

(ix) Awarded under the authority of FAR 13.106–1(b), Soliciting Competition, Limited Sources Justification;

(x) Awarded under the authority of FAR 13.501, Special Authority, Sole Source Justification;

(xi) Awarded under the authority of FAR 14.408–1, Only One Responsible Bidder;

(xii) Awarded under the authority of FAR 16.505(b)(2), Limited Sources Justification;

(xiii) Awarded under the authority of FAR 16.505(b)(3), Logical Follow-On to Task Order Already Issued;

(xiv) Awarded under the authority of FAR 16.505(b)(4), Follow-On Delivery Order Following a Competitive Initial Action;

(xv) Awarded under the authority of FAR 16.505(b)(5), Minimum Guarantee;

(xvi) Awarded under the authority of FAR 16.505(b)(6), Other Statutory Authority;

(xvii) Awarded under the authority of FAR 17.207(c)(3), Limited Sources Justification;

(xviii) Awarded under the authority of FAR 17.207(c)(4), Logical Follow-On to Contract Already Issued;

(xix) Awarded under the authority of FAR 17.207(c)(5), Follow-On Contract Following a Competitive Initial Action;

(xx) Awarded under the authority of FAR 17.207(c)(6), Other Statutory Authority;

(xxi) Awarded under the authority of FAR 19.502–4(c), Set-Aside for Small Business, Limited Sources Justification;

(xxii) Awarded under the authority of FAR 19.502–4(d), Set-Aside for Small Business, Logical Follow-On to Action Already Issued;

(xxiii) Awarded under the authority of FAR 19.502–4(e), Set-Aside for Small Business, Follow-On Action Following a Competitive Initial Action;

(xxiv) Awarded under the authority of FAR 19.502–4(f), Set-Aside for Small Business, Other Statutory Authority;

(xxv) Awarded under the authority of FAR 19.1006(b), Competitive 8(a), Limited Sources Justification;

(xxvi) Awarded under the authority of FAR 19.1006(c), Competitive 8(a), Logical Follow-On to Action Already Issued;

(xxvii) Awarded under the authority of FAR 19.1006(d), Competitive 8(a), Follow-On Action Following a Competitive Initial Action;

(xxviii) Awarded under the authority of FAR 19.1006(e), Competitive 8(a), Other Statutory Authority;

(xxix) Awarded under the authority of FAR 19.1307(a)(1), HUBZone Set-Aside, Limited Sources Justification;

(xxx) Awarded under the authority of FAR 19.1307(a)(2), HUBZone Set-Aside, Logical Follow-On to Action Already Issued;

(xxxi) Awarded under the authority of FAR 19.1307(a)(3), HUBZone Set-Aside, Follow-On Action Following a Competitive Initial Action;

(xxxii) Awarded under the authority of FAR 19.1307(a)(4), HUBZone Set-Aside, Other Statutory Authority;

(xxxiii) Awarded under the authority of FAR 19.1307(b)(1), HUBZone Sole Source, Limited Sources Justification;

(xxxiv) Awarded under the authority of FAR 19.1307(b)(2), HUBZone Sole Source, Logical Follow-On to Action Already Issued;

(xxxv) Awarded under the authority of FAR 19.1307(b)(3), HUBZone Sole Source, Follow-On Action Following a Competitive Initial Action;

(xxxvi) Awarded under the authority of FAR 19.1307(b)(4), HUBZone Sole Source, Other Statutory Authority;

(xxxvii) Awarded under the authority of FAR 19.1405(b), Small Business Competitiveness Demonstration Program, Limited Sources Justification;

(xxxviii) Awarded under the authority of FAR 19.1405(c), Small Business Competitiveness Demonstration Program, Logical Follow-On to Action Already Issued;

(xxxix) Awarded under the authority of FAR 19.1405(d), Small Business Competitiveness Demonstration Program, Follow-On Action Following a Competitive Initial Action;

(xl) Awarded under the authority of FAR 19.1405(e), Small Business Competitiveness Demonstration Program, Other Statutory Authority;

(xli) Awarded under the authority of FAR 22.404–2(b)(1), Justification for Exception to Fair Opportunity;

(xlii) Awarded under the authority of FAR 22.404–2(b)(2), Logical Follow-On to Action Already Issued;

(xliii) Awarded under the authority of FAR 22.404–2(b)(3), Follow-On Action Following a Competitive Initial Action;

(xliv) Awarded under the authority of FAR 22.404–2(b)(4), Other Statutory Authority;

(xlv) Awarded under the authority of FAR 22.404–3(b)(1), Justification for Exception to Fair Opportunity;

(xlvi) Awarded under the authority of FAR 22.404–3(b)(2), Logical Follow-On to Action Already Issued;

(xlvii) Awarded under the authority of FAR 22.404–3(b)(3), Follow-On Action Following a Competitive Initial Action;

(xlviii) Awarded under the authority of FAR 22.404–3(b)(4), Other Statutory Authority;

(xlix) Awarded under the authority of FAR 22.404–4(b)(1), Justification for Exception to Fair Opportunity;

(l) Awarded under the authority of FAR 22.404–4(b)(2), Logical Follow-On to Action Already Issued;

(li) Awarded under the authority of FAR 22.404–4(b)(3), Follow-On Action Following a Competitive Initial Action;

(lii) Awarded under the authority of FAR 22.404–4(b)(4), Other Statutory Authority;

(liii) Awarded under the authority of FAR 22.404–5(b)(1), Justification for Exception to Fair Opportunity;

(liv) Awarded under the authority of FAR 22.404–5(b)(2), Logical Follow-On to Action Already Issued;

(lv) Awarded under the authority of FAR 22.404–5(b)(3), Follow-On Action Following a Competitive Initial Action;

(lvi) Awarded under the authority of FAR 22.404–5(b)(4), Other Statutory Authority;

(lvii) Awarded under the authority of FAR 22.404–6(b)(1), Justification for Exception to Fair Opportunity;

(lviii) Awarded under the authority of FAR 22.404–6(b)(2), Logical Follow-On to Action Already Issued;

(lix) Awarded under the authority of FAR 22.404–6(b)(3), Follow-On Action Following a Competitive Initial Action;

(lx) Awarded under the authority of FAR 22.404–6(b)(4), Other Statutory Authority;

(lxi) Awarded under the authority of FAR 22.404–7(b)(1), Justification for Exception to Fair Opportunity;

(lxii) Awarded under the authority of FAR 22.404–7(b)(2), Logical Follow-On to Action Already Issued;

(lxiii) Awarded under the authority of FAR 22.404–7(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxiv) Awarded under the authority of FAR 22.404–7(b)(4), Other Statutory Authority;

(lxv) Awarded under the authority of FAR 22.404–8(b)(1), Justification for Exception to Fair Opportunity;

(lxvi) Awarded under the authority of FAR 22.404–8(b)(2), Logical Follow-On to Action Already Issued;

(lxvii) Awarded under the authority of FAR 22.404–8(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxviii) Awarded under the authority of FAR 22.404–8(b)(4), Other Statutory Authority;

(lxix) Awarded under the authority of FAR 22.404–9(b)(1), Justification for Exception to Fair Opportunity;

(lxx) Awarded under the authority of FAR 22.404–9(b)(2), Logical Follow-On to Action Already Issued;

(lxxi) Awarded under the authority of FAR 22.404–9(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxxii) Awarded under the authority of FAR 22.404–9(b)(4), Other Statutory Authority;

(lxxiii) Awarded under the authority of FAR 22.404–10(b)(1), Justification for Exception to Fair Opportunity;

(lxxiv) Awarded under the authority of FAR 22.404–10(b)(2), Logical Follow-On to Action Already Issued;

(lxxv) Awarded under the authority of FAR 22.404–10(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxxvi) Awarded under the authority of FAR 22.404–10(b)(4), Other Statutory Authority;

(lxxvii) Awarded under the authority of FAR 22.404–11(b)(1), Justification for Exception to Fair Opportunity;

(lxxviii) Awarded under the authority of FAR 22.404–11(b)(2), Logical Follow-On to Action Already Issued;

(lxxix) Awarded under the authority of FAR 22.404–11(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxxx) Awarded under the authority of FAR 22.404–11(b)(4), Other Statutory Authority;

(lxxxi) Awarded under the authority of FAR 22.404–12(b)(1), Justification for Exception to Fair Opportunity;

(lxxxii) Awarded under the authority of FAR 22.404–12(b)(2), Logical Follow-On to Action Already Issued;

(lxxxiii) Awarded under the authority of FAR 22.404–12(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxxxiv) Awarded under the authority of FAR 22.404–12(b)(4), Other Statutory Authority;

(lxxxv) Awarded under the authority of FAR 22.404–13(b)(1), Justification for Exception to Fair Opportunity;

(lxxxvi) Awarded under the authority of FAR 22.404–13(b)(2), Logical Follow-On to Action Already Issued;

(lxxxvii) Awarded under the authority of FAR 22.404–13(b)(3), Follow-On Action Following a Competitive Initial Action;

(lxxxviii) Awarded under the authority of FAR 22.404–13(b)(4), Other Statutory Authority;

(lxxxix) Awarded under the authority of FAR 22.404–14(b)(1), Justification for Exception to Fair Opportunity;

(xc) Awarded under the authority of FAR 22.404–14(b)(2), Logical Follow-On to Action Already Issued;

(xci) Awarded under the authority of FAR 22.404–14(b)(3), Follow-On Action Following a Competitive Initial Action;

(xcii) Awarded under the authority of FAR 22.404–14(b)(4), Other Statutory Authority;

(xciii) Awarded under the authority of FAR 22.404–15(b)(1), Justification for Exception to Fair Opportunity;

(xciv) Awarded under the authority of FAR 22.404–15(b)(2), Logical Follow-On to Action Already Issued;

(xcv) Awarded under the authority of FAR 22.404–15(b)(3), Follow-On Action Following a Competitive Initial Action;

(xcvi) Awarded under the authority of FAR 22.404–15(b)(4), Other Statutory Authority;

(xcvii) Awarded under the authority of FAR 22.404–16(b)(1), Justification for Exception to Fair Opportunity;

(xcviii) Awarded under the authority of FAR 22.404–16(b)(2), Logical Follow-On to Action Already Issued;

(xcix) Awarded under the authority of FAR 22.404–16(b)(3), Follow-On Action Following a Competitive Initial Action;

(c) Awarded under the authority of FAR 22.404–16(b)(4), Other Statutory Authority;

(ci) Awarded under the authority of FAR 22.404–17(b)(1), Justification for Exception to Fair Opportunity;

(cii) Awarded under the authority of FAR 22.404–17(b)(2), Logical Follow-On to Action Already Issued;

(ciii) Awarded under the authority of FAR 22.404–17(b)(3), Follow-On Action Following a Competitive Initial Action;

(civ) Awarded under the authority of FAR 22.404–17(b)(4), Other Statutory Authority;

(cv) Awarded under the authority of FAR 22.404–18(b)(1), Justification for Exception to Fair Opportunity;

(cvi) Awarded under the authority of FAR 22.404–18(b)(2), Logical Follow-On to Action Already Issued;

(cvii) Awarded under the authority of FAR 22.404–18(b)(3), Follow-On Action Following a Competitive Initial Action;

(cviii) Awarded under the authority of FAR 22.404–18(b)(4), Other Statutory Authority;

(cix) Awarded under the authority of FAR 22.404–19(b)(1), Justification for Exception to Fair Opportunity;

(cx) Awarded under the authority of FAR 22.404–19(b)(2), Logical Follow-On to Action Already Issued;

(cxi) Awarded under the authority of FAR 22.404–19(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxii) Awarded under the authority of FAR 22.404–19(b)(4), Other Statutory Authority;

(cxiii) Awarded under the authority of FAR 22.404–20(b)(1), Justification for Exception to Fair Opportunity;

(cxiv) Awarded under the authority of FAR 22.404–20(b)(2), Logical Follow-On to Action Already Issued;

(cxv) Awarded under the authority of FAR 22.404–20(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxvi) Awarded under the authority of FAR 22.404–20(b)(4), Other Statutory Authority;

(cxvii) Awarded under the authority of FAR 22.404–21(b)(1), Justification for Exception to Fair Opportunity;

(cxviii) Awarded under the authority of FAR 22.404–21(b)(2), Logical Follow-On to Action Already Issued;

(cxix) Awarded under the authority of FAR 22.404–21(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxx) Awarded under the authority of FAR 22.404–21(b)(4), Other Statutory Authority;

(cxxi) Awarded under the authority of FAR 22.404–22(b)(1), Justification for Exception to Fair Opportunity;

(cxxii) Awarded under the authority of FAR 22.404–22(b)(2), Logical Follow-On to Action Already Issued;

(cxxiii) Awarded under the authority of FAR 22.404–22(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxxiv) Awarded under the authority of FAR 22.404–22(b)(4), Other Statutory Authority;

(cxxv) Awarded under the authority of FAR 22.404–23(b)(1), Justification for Exception to Fair Opportunity;

(cxxvi) Awarded under the authority of FAR 22.404–23(b)(2), Logical Follow-On to Action Already Issued;

(cxxvii) Awarded under the authority of FAR 22.404–23(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxxviii) Awarded under the authority of FAR 22.404–23(b)(4), Other Statutory Authority;

(cxxix) Awarded under the authority of FAR 22.404–24(b)(1), Justification for Exception to Fair Opportunity;

(cxxx) Awarded under the authority of FAR 22.404–24(b)(2), Logical Follow-On to Action Already Issued;

(cxxxi) Awarded under the authority of FAR 22.404–24(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxxxii) Awarded under the authority of FAR 22.404–24(b)(4), Other Statutory Authority;

(cxxxiii) Awarded under the authority of FAR 22.404–25(b)(1), Justification for Exception to Fair Opportunity;

(cxxxiv) Awarded under the authority of FAR 22.404–25(b)(2), Logical Follow-On to Action Already Issued;

(cxxxv) Awarded under the authority of FAR 22.404–25(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxxxvi) Awarded under the authority of FAR 22.404–25(b)(4), Other Statutory Authority;

(cxxxvii) Awarded under the authority of FAR 22.404–26(b)(1), Justification for Exception to Fair Opportunity;

(cxxxviii) Awarded under the authority of FAR 22.404–26(b)(2), Logical Follow-On to Action Already Issued;

(cxxxix) Awarded under the authority of FAR 22.404–26(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxl) Awarded under the authority of FAR 22.404–26(b)(4), Other Statutory Authority;

(cxli) Awarded under the authority of FAR 22.404–27(b)(1), Justification for Exception to Fair Opportunity;

(cxlii) Awarded under the authority of FAR 22.404–27(b)(2), Logical Follow-On to Action Already Issued;

(cxliii) Awarded under the authority of FAR 22.404–27(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxliv) Awarded under the authority of FAR 22.404–27(b)(4), Other Statutory Authority;

(cxlv) Awarded under the authority of FAR 22.404–28(b)(1), Justification for Exception to Fair Opportunity;

(cxlvi) Awarded under the authority of FAR 22.404–28(b)(2), Logical Follow-On to Action Already Issued;

(cxlvii) Awarded under the authority of FAR 22.404–28(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxlviii) Awarded under the authority of FAR 22.404–28(b)(4), Other Statutory Authority;

(cxlix) Awarded under the authority of FAR 22.404–29(b)(1), Justification for Exception to Fair Opportunity;

(cl) Awarded under the authority of FAR 22.404–29(b)(2), Logical Follow-On to Action Already Issued;

(cli) Awarded under the authority of FAR 22.404–29(b)(3), Follow-On Action Following a Competitive Initial Action;

(clii) Awarded under the authority of FAR 22.404–29(b)(4), Other Statutory Authority;

(cliii) Awarded under the authority of FAR 22.404–30(b)(1), Justification for Exception to Fair Opportunity;

(cliv) Awarded under the authority of FAR 22.404–30(b)(2), Logical Follow-On to Action Already Issued;

(clv) Awarded under the authority of FAR 22.404–30(b)(3), Follow-On Action Following a Competitive Initial Action;

(clvi) Awarded under the authority of FAR 22.404–30(b)(4), Other Statutory Authority;

(clvii) Awarded under the authority of FAR 22.404–31(b)(1), Justification for Exception to Fair Opportunity;

(clviii) Awarded under the authority of FAR 22.404–31(b)(2), Logical Follow-On to Action Already Issued;

(clix) Awarded under the authority of FAR 22.404–31(b)(3), Follow-On Action Following a Competitive Initial Action;

(clx) Awarded under the authority of FAR 22.404–31(b)(4), Other Statutory Authority;

(clxi) Awarded under the authority of FAR 22.404–32(b)(1), Justification for Exception to Fair Opportunity;

(clxii) Awarded under the authority of FAR 22.404–32(b)(2), Logical Follow-On to Action Already Issued;

(clxiii) Awarded under the authority of FAR 22.404–32(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxiv) Awarded under the authority of FAR 22.404–32(b)(4), Other Statutory Authority;

(clxv) Awarded under the authority of FAR 22.404–33(b)(1), Justification for Exception to Fair Opportunity;

(clxvi) Awarded under the authority of FAR 22.404–33(b)(2), Logical Follow-On to Action Already Issued;

(clxvii) Awarded under the authority of FAR 22.404–33(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxviii) Awarded under the authority of FAR 22.404–33(b)(4), Other Statutory Authority;

(clxix) Awarded under the authority of FAR 22.404–34(b)(1), Justification for Exception to Fair Opportunity;

(clxx) Awarded under the authority of FAR 22.404–34(b)(2), Logical Follow-On to Action Already Issued;

(clxxi) Awarded under the authority of FAR 22.404–34(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxxii) Awarded under the authority of FAR 22.404–34(b)(4), Other Statutory Authority;

(clxxiii) Awarded under the authority of FAR 22.404–35(b)(1), Justification for Exception to Fair Opportunity;

(clxxiv) Awarded under the authority of FAR 22.404–35(b)(2), Logical Follow-On to Action Already Issued;

(clxxv) Awarded under the authority of FAR 22.404–35(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxxvi) Awarded under the authority of FAR 22.404–35(b)(4), Other Statutory Authority;

(clxxvii) Awarded under the authority of FAR 22.404–36(b)(1), Justification for Exception to Fair Opportunity;

(clxxviii) Awarded under the authority of FAR 22.404–36(b)(2), Logical Follow-On to Action Already Issued;

(clxxix) Awarded under the authority of FAR 22.404–36(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxxx) Awarded under the authority of FAR 22.404–36(b)(4), Other Statutory Authority;

(clxxxi) Awarded under the authority of FAR 22.404–37(b)(1), Justification for Exception to Fair Opportunity;

(clxxxii) Awarded under the authority of FAR 22.404–37(b)(2), Logical Follow-On to Action Already Issued;

(clxxxiii) Awarded under the authority of FAR 22.404–37(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxxxiv) Awarded under the authority of FAR 22.404–37(b)(4), Other Statutory Authority;

(clxxxv) Awarded under the authority of FAR 22.404–38(b)(1), Justification for Exception to Fair Opportunity;

(clxxxvi) Awarded under the authority of FAR 22.404–38(b)(2), Logical Follow-On to Action Already Issued;

(clxxxvii) Awarded under the authority of FAR 22.404–38(b)(3), Follow-On Action Following a Competitive Initial Action;

(clxxxviii) Awarded under the authority of FAR 22.404–38(b)(4), Other Statutory Authority;

(clxxxix) Awarded under the authority of FAR 22.404–39(b)(1), Justification for Exception to Fair Opportunity;

(cxc) Awarded under the authority of FAR 22.404–39(b)(2), Logical Follow-On to Action Already Issued;

(cxci) Awarded under the authority of FAR 22.404–39(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxcii) Awarded under the authority of FAR 22.404–39(b)(4), Other Statutory Authority;

(cxciii) Awarded under the authority of FAR 22.404–40(b)(1), Justification for Exception to Fair Opportunity;

(cxciv) Awarded under the authority of FAR 22.404–40(b)(2), Logical Follow-On to Action Already Issued;

(cxcv) Awarded under the authority of FAR 22.404–40(b)(3), Follow-On Action Following a Competitive Initial Action;

(cxcvi) Awarded under the authority of FAR 22.404–40(b)(4), Other Statutory Authority;

(cxcvii) Awarded under the authority of FAR 22.404–41(b)(1), Justification for Exception to Fair Opportunity;

(cxcviii) Awarded under the authority of FAR 22.404–41(b)(2), Logical Follow-On to Action Already Issued;

(cxcix) Awarded under the authority of FAR 22.404–41(b)(3), Follow-On Action Following a Competitive Initial Action;

(cc) Awarded under the authority of FAR 22.404–41(b)(4), Other Statutory Authority;

(cci) Awarded under the authority of FAR 22.404–42(b)(1), Justification for Exception to Fair Opportunity;

(ccii) Awarded under the authority of FAR 22.404–42(b)(2), Logical Follow-On to Action Already Issued;

(ccciii) Awarded under the authority of FAR 22.404–42(b)(3), Follow-On Action Following a Competitive Initial Action;

(ccciv) Awarded under the authority of FAR 22.404–42(b)(4), Other Statutory Authority;

(cccv) Awarded under the authority of FAR 22.404–43(b)(1), Justification for Exception to Fair Opportunity;

(cccvi) Awarded under the authority of FAR 22.404–43(b)(2), Logical Follow-On to Action Already Issued;

(cccvii) Awarded under the authority of FAR 22.404–43(b)(3), Follow-On Action Following a Competitive Initial Action;

(cccviii) Awarded under the authority of FAR 22.404–43(b)(4), Other Statutory Authority;

(cccix) Awarded under the authority of FAR 22.404–44(b)(1), Justification for Exception to Fair Opportunity;

(cccx) Awarded under the authority of FAR 22.404–44(b)(2), Logical Follow-On to Action Already Issued;

(cccxi) Awarded under the

Price Evaluation Adjustment. Enter code E if the contractor received the award as a result of both a HUBZone price evaluation preference and an SDB price evaluation adjustment (see FAR 19.1307).

(C) LINE D4C, PREMIUM PERCENT.

(1) Complete Line D4C if Line B1B is coded A, and—

(i) Line D4A is coded E, F, or G; or

(ii) Line D4B is coded B, C, D, or E.

(2) Otherwise, leave Line D4C blank.

(3) Calculate the premium percentage per 219.202–5 and enter it as a three-digit number rounded to the nearest tenth, e.g., enter 7.55% as 076. If no premium was paid, enter three zeros (000).

(v) LINES D5—D6. Reserved.

(vi) LINE D7, SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM. Enter one of the following codes. When Line B1B is coded B or C and Line B13A is coded 5, leave Line D7 blank.

(A) *Code A—Not a SBIR Program Phase I, II, or III.* Enter code A if the action is not in support of a Phase I, II, or III SBIR Program.

(B) *Code B—SBIR Program Phase I Action.* Enter code B if the action is related to a Phase I contract in support of the SBIR Program.

(C) *Code C—SBIR Program Phase II Action.* Enter code C if the action is related to a Phase II contract in support of the SBIR Program.

(D) *Code D—SBIR Program Phase III Action.* Enter code D if the action is related to a Phase III contract in support of the SBIR Program.

(vii) LINE D8, SUBCONTRACTING PLAN—SB, SDB, HBCU, OR MI. Enter one of the following codes:

(A) *Code A—Plan Not Included—No Subcontracting Possibilities.* Enter code A if a subcontracting plan was not included in the contract because subcontracting possibilities do not exist (see FAR 19.705–2(c)).

(B) *Code B—Plan Not Required.* Enter code B if no subcontracting plan was required (e.g., because the action did not meet the dollar thresholds in FAR 19.702(a)).

(C) *Code C—Plan Required—Incentive Not Included.* Enter code C if the action includes a subcontracting plan, but does not include additional incentives (see FAR 19.708(c)).

(D) *Code D—Plan Required—Incentive Included.* Enter code D if the action includes a subcontracting plan and also includes additional incentives (see FAR 19.708(c) and 219.708(c)).

(viii) LINE D9, SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM. When Line B13A is coded 5 or Line B13D is coded B, C, D, E, F, or G and the original action was awarded before the demonstration program began, enter code N on Line D9. When Line B1B is coded B or C and Line B13A is coded 5, enter code N on Line D9. Otherwise, code Line D9 as follows:

(A) *Code Y—Yes.* Enter code Y if this is an action with a U.S. business concern, in either the four designated industry groups or the ten targeted industry categories under the Small Business Competitiveness Demonstration Program (see FAR subpart 19.10 and DFARS subpart 219.10), where the principal place of performance is in the United States or outlying areas.

(B) *Code N—No.* Enter code N if code Y does not apply.

(ix) LINE D10, SIZE OF SMALL BUSINESS.

(A) Complete Line D10 only when Line D9 is coded Y and the contractor is a small business (Line D1A is coded A or B). Otherwise, leave Line D10 blank.

(B) Enter one of the following codes for the size of the business (number of employees or average annual gross revenue) as represented by the contractor in the solicitation provision at FAR 52.219–19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program:

(1) Code A—50 or fewer employees.
(2) Code B—51–100 employees.
(3) Code C—101–250 employees.
(4) Code D—251–500 employees.
(5) Code E—501–750 employees.
(6) Code F—751–1,000 employees.
(7) Code G—Over 1,000 employees.
(8) Code M—$1 million or less.
(9) Code N—Over $1 million—$2 million.
(10) Code P—Over $2 million—$3.5 million.
(11) Code R—Over $3.5 million—$5 million.
(12) Code S—Over $5 million—$10 million.
(13) Code T—Over $10 million—$17 million.
(14) Code U—Over $17 million.

(x) LINE D11, EMERGING SMALL BUSINESS.

(A) Complete this line only if Line D9 is coded Y and the action is in one of the four designated industry groups, not one of the targeted industry categories. Otherwise, leave Line D11 blank.

(B) Enter one of the following codes:

(1) Code Y—Yes. Enter code Y if the contractor represents in the provision at FAR 52.219–19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program, that it is an emerging small business concern.

(2) Code N—No. Enter code N if code Y does not apply.

(e) Part E of the DD Form 350. Part E gathers data on specialized items that may not become permanent reporting elements.

(1) LINE E1, CONTINGENCY, HUMANITARIAN, OR PEACEKEEPING OPERATION.

(i) Enter code Y on Line E1 if the action exceeds $200,000 and is in support of—

(A) A contingency operation as defined in 10 U.S.C. 101(a)(13); or

(B) A humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8).

(ii) Otherwise, leave Line E1 blank.

(2) LINE E2, COST ACCOUNTING STANDARDS CLAUSE. Enter code Y on Line E2 if the contract includes a Cost Accounting Standards clause (see FAR part 30). Otherwise, leave Line E2 blank.

(3) LINE E3, NON-DOD REQUESTING AGENCY CODE (FIPS 95). If making a purchase on behalf of a non-DoD agency, enter the four-position code from FIPS PUB 95 that identifies the non-DoD agency. Otherwise, leave Line E3 blank.

(4) LINE E4, REQUESTING ACTIVITY CODE. If making a purchase on behalf of a non-DoD agency, enter the non-DoD agency's office code. If making a purchase on behalf of a DoD activity, enter the DoDAAC of the activity for whom the purchase was made. DoDAACs can be found at: http://daynt6c.daas.dla.mil/dodaac/dodaac.htm. If multiple requesting activities are involved, enter the DoDAAC of the activity that provided the largest portion of funding for the action.

(5) LINE E5, NUMBER OF ACTIONS. If submitting a consolidated DD Form 350, enter the number of actions included in the consolidated report (see 204.670–6(b)). Otherwise, enter 1 on Line E5.

(f) *Part F of the DD Form 350.* Part F identifies the reporting official.

(1) LINE F1, NAME OF CONTRACTING OFFICER OR REPRESENTATIVE. Enter the name (Last, First, Middle Initial) of the contracting officer or representative.

(2) LINE F2, SIGNATURE. The person identified on Line F1 must sign.

(3) LINE F3, TELEPHONE NUMBER. Enter the telephone number (with area code) for the individual on Line F1. Installations with Defense Switched Network (DSN) must enter the DSN number.

(4) LINE F4, DATE. Enter the date that the DD Form 350 Report is submitted. Enter four digits for the year, two digits for the month, and two digits for the day. Use 01 through 12 for January through December. For example, enter January 2, 2003, as 20030102.

11. Section 253.204–71 is amended as follows:

a. In paragraph (a)(3) introductory text by revising the last sentence;

b. By revising paragraphs (c)(1) and (c)(3);

c. In paragraph (e)(2)(i)(A)(4) by removing "contract" and adding in its place "contracting" and

d. By adding paragraph (g)(1)(iii)(C) to read as follows:

253.204–71 DD Form 1057, Monthly Summary of Contracting Actions.

(a) * * *

(3) * * * Report actions exceeding $25,000 but not exceeding $200,000 that support a contingency, humanitarian, or peacekeeping operation, and actions exceeding $25,000 but not exceeding $200,000 that are placed by a contracting officer on a Navy vessel, on the monthly DD Form 1057 as follows:

* * * * *

(c) * * *

(1) LINE A1, REPORT MONTH. Enter four digits for the year and two digits for the month. Use 01 through 12 for January through December. For example, enter January 2003 as 200301.

* * * * *

(3) LINE A3, CONTRACTING OFFICE CODES.

(i) Line A3a, Reporting Agency FIPS 95 Code. Enter one of the following codes: 2100 (Army); 1700 (Navy); 5700 (Air Force); 96CE (Army Civil Works); 97AS (DLA); 9700 (all other defense agencies).

(ii) Line A3b, Contracting Office Code. Enter the code assigned by the departmental data collection point in 204.670–1(c).

* * * * *

(g) * * *

(1) * * *

(iii) * * *

(C) Line E1c, Reserved.

* * * * *

[FR Doc. 01–22420 Filed 9–10–01; 8:45 am]

BILLING CODE 5000–04–U

DEPARTMENT OF DEFENSE

48 CFR Part 207

[DFARS Case 2000–D030]

Defense Federal Acquisition Regulation Supplement; Review of Acquisition Plans for Conventional Ammunition

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy pertaining to acquisition plans for conventional ammunition. The rule requires military departments and defense agencies to submit acquisition plans to the DoD single manager for conventional ammunition (SCMA) for review.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2000–D030.

SUPPLEMENTARY INFORMATION:

A. Background

Section 806 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) provides authority for the DoD SCMA to restrict the procurement of conventional ammunition to sources within the national technology and industrial base, when the SCMA determines such limitation is necessary to maintain a facility, producer, manufacturer, or supplier for an essential item of ammunition. This final DFARS rule facilitates the implementation of Section 806 by requiring military departments and defense agencies to submit acquisition plans for conventional ammunition to the SCMA for review.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2000–D030.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 207

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 207 is amended as follows:

1. The authority citation for 48 CFR Part 207 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 207—ACQUISITION PLANNING

2. Section 207.103 is amended as follows:

a. By redesignating paragraphs (c), (d), (f), and (h) as paragraphs (d), (e), (g), and (i), respectively;

b. In newly designated paragraph (d)(i), by revising the introductory text;

c. In newly designated paragraph (d)(ii), in the second sentence, by removing "which" and adding in its place "that";

d. In newly designated paragraph (e), in the first sentence, by removing the parenthetical "(c)" and adding in its place "(d)"; and

e. By adding a new paragraph (h). The revised and added text reads as follows:

207.103 Agency-head responsibilities.

(d)(i) Prepare written acquisition plans for—

* * * * *

(h) For procurement of conventional ammunition, as defined in DoDD 5160.65, Single Manager for Conventional Ammunition (SCMA)—

(i) The department or agency—

(A) Must submit the acquisition plan to the SCMA at the following address: Deputy for Ammunition, Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology), ATTN: SAAL–ZCA, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001. Telephone: Commercial (703) 617–8001; DSN 767–8001;

(B) Also must submit an acquisition plan to the SCMA for a new procurement covered by a previously approved acquisition plan, if the SCMA did not review the previously approved acquisition plan; and

(C) Must not proceed with the procurement until the SCMA provides written concurrence with the acquisition plan.

(ii) The SCMA—

(A) Will review the acquisition plan to determine if it is consistent with retaining national technology and industrial base capabilities in accordance with 10 U.S.C. 2304(c)(3) and Section 806 of Public law 105–261; and

(B) Will notify the department or agency of concurrence or non-

comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/*

under Control Number 0704–0332, for

(iii) business entities owned and

(3) Foster the establishment of long-term

(c) From October 1, 1991, until September 30, 2005, a mentor firm may receive credit

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(B) Will notify the department or agency of concurrence or non-concurrence. In the case of a non-concurrence, the SCMA, with assistance from the Army Office of the Executive Director for Conventional Ammunition, will attempt to resolve the matter with the department or agency. If no agreement is reached, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) will make the final decision on the appropriate acquisition approach.

* * * * *

[FR Doc. 01–22422 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 219 and 252 and Appendix I to Chapter 2

[DFARS Case 2001–D006]

Defense Federal Acquisition Regulation Supplement; DoD Pilot Mentor-Protege Program

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 807 of the National Defense Authorization Act for Fiscal Year 2001. Section 807 adds women-owned small businesses to the types of concerns that may participate as protege firms in the DoD Pilot Mentor-Protege Program.

DATES: *Effective date:* September 11, 2001.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 13, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2001–D006 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Angelena Moy, OUSD (AT&l) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2001–D006.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, (703) 602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 807 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). Section 807 adds women-owned small businesses to the types of concerns that may participate as protege firms in the DoD Pilot Mentor-Protege Program. The rule also clarifies that business concerns owned and controlled by an Indian tribe or a Native Hawaiian organization are eligible to participate as protege firms in the Program.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD expects this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* An initial regulatory flexibility analysis has been prepared and is summarized as follows: This interim rule permits women-owned small business concerns to participate as protege firms in the DoD Pilot Mentor-Protege Program. DoD expects this rule to have a beneficial impact on women-owned small business concerns, as participation in the Program provides protege firms an opportunity to enhance their capabilities and increase their participation as subcontractors. Presently, there are 3,471 women-owned small business concerns that do business with DoD. Since the inception of the Pilot Mentor-Protege Program, 160 mentor firms and 509 protege firms have participated in the Program.

A copy of the analysis may be obtained from the point of contact specified herein. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2001–D006.

C. Paperwork Reduction Act

The information collection requirements of the DoD Pilot Mentor-Protege Program have been approved by the Office of Management and Budget under Control Number 0704–0332, for use through March 31, 2004.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 807 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398). Section 807 adds women-owned small businesses to the types of concerns that may participate as protege firms in the DoD Pilot Mentor-Protege Program. Section 807 became effective upon enactment on October 30, 2000. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 219 and 252

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 219 and 252 and Appendix I to Chapter 2 are amended as follows:

1. The authority citation for 48 CFR Parts 219 and 252 and Appendix I to Subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 219.7100 is revised to read as follows:

219.7100 Scope.

This subpart implements the Pilot Mentor-Protege Program established under Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note). The purpose of the Program is to provide incentives for DoD contractors to assist protege firms in enhancing their capabilities and to increase participation of such firms in Government and commercial contracts.

3. Section 219.7102 is amended by revising paragraph (b); and in paragraph (d)(2) by removing "SDB" and adding in its place "applicable". The revised text reads as follows:

219.7102 General.

* * * * *

(b) Protege firms that are—

(1)(i) small disadvantaged business concerns as defined at 219.001(1);

(ii) Business entities owned and controlled by an Indian tribe;

(iii) business entities owned and controlled by a Native Hawaiian Organization;

(iv) Qualified organizations employing the severely disabled; or

(v) Women-owned small business concerns;

(2) Eligible for receipt of Federal contracts; and

(3) Selected by the mentor firm.

* * * * *

219.7103–2 [Amended]

4. Section 219.7103–2 is amended in paragraph (c) by removing "small disadvantaged businesses" and adding in its place "protege firms".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.232–7005 is amended by revising the clause date and paragraph (a) introductory text to read as follows:

252.232–7005 Reimbursement of Subcontractor Advance Payments—DoD Pilot Mentor–Protege Program.

* * * * *

REIMBURSEMENT OF SUBCONTRACTOR ADVANCE PAYMENTS—DOD PILOT MENTOR–PROTEGE PROGRAM (SEP 2001)

(a) The Government will reimburse the Contractor for any advance payments made by the Contractor, as a mentor firm, to a protege firm, pursuant to an approved mentor-protege agreement, provided—

* * * * *

6. Appendix I to Chapter 2 is amended by revising Section I–100 to read as follows:

Appendix I—Policy and Procedures for the DoD Pilot Mentor-Protege Program

* * * * *

I–100 Purpose.

(a) This Appendix I to 48 CFR Chapter 2 implements the Pilot Mentor–Protege Program (hereinafter referred to as the "Program") established under Section 831 of Public Law 101–510, the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note). The purpose of the Program is to—

(1) Provide incentives to major DoD contractors, performing under at least one active approved subcontracting plan negotiated with DoD or another Federal agency, to assist protege firms in enhancing their capabilities to satisfy DoD and other contract and subcontract requirements;

(2) Increase the overall participation of protege firms as subcontractors and suppliers under DoD contracts, other Federal agency contracts, and commercial contracts; and

(3) Foster the establishment of long-term business relationships between protege firms and such contractors.

(b) Under the Program, eligible companies approved as mentor firms will enter into mentor-protege agreements with eligible protege firms to provide appropriate developmental assistance to enhance the capabilities of the protege firms to perform as subcontractors and suppliers. According to the law, DoD may provide the mentor firm with either cost reimbursement or credit against applicable subcontracting goals established under contracts with DoD or other Federal agencies.

(c) DoD will measure the overall success of the Program by the extent to which the Program results in—

(1) An increase in the dollar value of contract and subcontract awards to protege firms (under DoD contracts, contracts awarded by other Federal agencies, and commercial contracts) from the date of their entry into the Program until 2 years after the conclusion of the agreement;

(2) An increase in the number and dollar value of subcontracts awarded to a protege firm (or former protege firm) by its mentor firm (or former mentor firm);

(3) An increase in subcontracting with small disadvantaged business (SDB) and women-owned small business (WOSB) concerns in industry categories where SDBs and WOSBs traditionally have not participated within the mentor firm's vendor base;

(4) The involvement of emerging SDB protege firms in the Program; and

(5) An increase in the employment level of protege firms from the date of entry into the Program until 2 years after the completion of the agreement.

(d) This policy sets forth the procedures for participation in the Program applicable to companies that are interested in receiving—

(1) Reimbursement through a separate contract line item in a DoD contract or a separate contract with DoD; or

(2) Credit toward applicable subcontracting goals for costs incurred under the Program.

7. Appendix I to Chapter 2 is amended by revising Section I–101.1 to read as follows:

I–101.1 Emerging SDB protege firm.

A small disadvantaged business whose size is no greater than 50 percent of the Small Business Administration (SBA) numerical size standard applicable to the North American Industry Classification System (NAICS) code for the supplies or services that the protege firm provides or would provide to the mentor firm.

I–102 [Amended]

8. Appendix I to Chapter 2 is amended in Section I–102 in paragraph (a) by removing "SDB" and adding in its place "applicable".

9. Appendix I to Chapter 2 is amended in Section I–103 by revising paragraph (c) to read as follows:

I–103 Program duration.

* * * * *

(c) From October 1, 1991, until September 30, 2005, a mentor firm may receive credit toward the attainment of its applicable subcontracting goals, for unreimbursed costs incurred in providing developmental assistance to its protege firms, only if such costs are incurred pursuant to an approved mentor-protege agreement.

10. Appendix I to Chapter 2 is amended by revising Section I–104 to read as follows:

I–104 Eligibility requirements for a protege firm.

(a) An entity may qualify as a protege firm if it is—

(1)(i) An SDB concern as defined at 219.001, paragraph (1) of the definition of "small disadvantaged business concern";

(ii) A business entity owned and controlled by an Indian tribe as defined in Section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13));

(iii) A business entity owned and controlled by a Native Hawaiian Organization as defined in Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15));

(iv) A qualified organization employing the severely disabled as defined in Section 8064A of Public Law 102–172; or

(v) A small business concern owned and controlled by women, as defined in Section 8(d)(3)(D) of the Small Business Act (15 U.S.C. 637(d)(3)(D));

(2) Eligible for the award of Federal contracts; and

(3) A small business according to the SBA size standard for the NAICS code that represents the contemplated supplies or services to be provided by the protege firm to the mentor firm, if the firm is representing itself as a qualifying entity under paragraph (a)(1)(i) or (v) of this section.

(b) A protege firm may self-certify to a mentor firm that it meets the eligibility requirements in paragraph (a) of this section. Mentor firms may rely in good faith on a written representation that the entity meets the requirements of paragraph (a) of this section, except for a protege's status as a small disadvantaged business concern (see FAR 19.703(b)).

(c) A protege firm may have only one active DoD mentor-protege agreement.

11. Appendix I to Chapter 2 is amended in Section I–105 as follows:

a. In paragraph (a) by revising the second sentence;

b. In paragraph (c) by removing the parenthetical "(1)"; and

c. By revising paragraph (e) to read as follows:

I–105 Selection of protege firms.

(a) * * * Mentor firms are encouraged to identity and select concerns that are defined as emerging SDB protege firms.

* * * * *

(e) If at any time pursuant to paragraph (c) of this section, the SBA determines that a protege firm is ineligible, assistance that the mentor firm furnishes to such a concern after the date of the determination may not be

considered assistance furnished under the

f. In paragraph (h)(1) by removing

b. In paragraph (a)(2)(i) by removing

FOR FURTHER INFORMATION CONTACT: Ms.

D. Determination To Issue an Interim

pueblo, or community that is recognized by the Federal Government as eligible for

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considered assistance furnished under the Program.

I–106 [Amended]

12. Appendix I to Chapter 2 is amended in Section I–106 as follows:

a. In paragraph (a) in the first sentence by removing "SDB" and adding in its place "applicable";

b. In paragraph (b)(3) by removing "SDB" and adding in its place "small and disadvantaged business utilization";

c. In paragraph (b)(8) in the first sentence by adding, after "SDB", the phrase "and WOSB";

d. In paragraph (c)(1) by adding, after "SDBs", the phrase "and WOSBs";

e. In paragraph (c)(2)(iii) by removing "(1) or (2)"; and

f. In paragraph (e) in the first sentence by removing "SDB" and adding in its place "applicable".

13. Appendix I to Chapter 2 is amended in Section I–107 by revising paragraph (b)(2) and the last sentence of paragraph (f)(3) to read as follows:

I–107 Mentor-protege agreements.

* * * * *

(b) * * *

(2) The NAICS code(s) that represent the contemplated supplies or services to be provided by the protege firm to the mentor firm and a statement that, at the time the agreement is submitted for approval, the protege firm, if an SDB or WOSB concern, does not exceed the size standard for the appropriate NAICS code;

* * * * *

(f) * * *

(3) * * * Provision of progress payments by a mentor firm to a protege firm at a rate other than the customary rate for the firm must be implemented in accordance with FAR 32.504(c).

* * * * *

14. Appendix I to Chapter 2 is amended in Section I–108 by revising paragraph (c) to read as follows:

I–108 Reimbursement procedures.

* * * * *

(c) Assistance provided in the form of progress payments to a protege firm in excess of the customary progress payment rate for the firm will be reimbursed only if implemented in accordance with FAR 32.504(c).

* * * * *

15. Appendix I to Chapter 2 is amended in Section I–109 as follows:

a. By revising paragraph (a);

b. In paragraph (b) in the first sentence by removing "SDB" and adding in its place "applicable";

c. By revising paragraph (e) introductory text and paragraph (f);

d. In paragraph (g)(1) by removing "SDB";

e. In paragraph (h) introductory text by revising the first sentence;

f. In paragraph (h)(1) by removing "SDB" and adding in its place "small business"; and

g. In paragraph (m) by removing "SDB" and adding in its place "applicable". The revised text reads as follows:

I–109 Credit for unreimbursed developmental assistance costs.

(a) Developmental assistance costs incurred by a mentor firm for providing assistance to a protege firm pursuant to an approved mentor-protege agreement, that have not been reimbursed through a separate contract, cooperative agreement, or other agreement entered into between DoD and the mentor firm, or through a separately priced contract line item added to a DoD contract, may be credited as if it were a subcontract award to that protege for determining the performance of the mentor firm in attaining an applicable subcontracting goal established under any contract containing a subcontracting plan pursuant to the clause at FAR 52.219–9, Small Business Subcontracting Plan. Unreimbursed developmental assistance costs incurred for a protege firm that is a qualified organization employing the severely disabled may be credited toward the mentor firm's small disadvantaged business subcontracting goal, even if the protege firm is not a small disadvantaged business concern.

* * * * *

(e) A mentor firm may receive credit toward the attainment of an SDB subcontracting goal for each subcontract awarded for a product or a service by the mentor firm to an entity that qualifies as an SDB protege firm pursuant to I–104(a)(1)(i) through (iv). With respect to former SDB protege firm(s), a mentor may take credit for awards to such concern(s) that, except for its size would be a small business concern owned and controlled by socially and economically disadvantaged individuals, but only if—

* * * * *

(f) Amounts credited toward applicable subcontracting goal(s) for unreimbursed costs under the Program must be separately identified from the amounts credited toward the goal resulting from the award of actual subcontracts to protege firms. The combination of the two must equal the mentor firm's overall accomplishment toward the applicable goal(s).

* * * * *

(h) The mentor firm must be afforded the opportunity to explain the decline in small business subcontract awards before imposition of any such limitation on credit.

* * *

* * * * *

I–111 [Amended]

16. Appendix I to Chapter 2 is amended in Section I–111 as follows:

a. In paragraph (a)(1) by removing "SDB" and adding in its place "applicable";

b. In paragraph (a)(2)(i) by removing "SDB subcontract" and adding in its place "applicable subcontracting";

c. In paragraph (a)(3)(i) by removing "SDB" and adding in its place "applicable subcontracting", and by removing the "a" before the word "protege"; and

d. In paragraph (c)(1) by removing "SDB" and adding in its place "applicable".

[FR Doc. 01–22423 Filed 9–10–01; 8:45 am]

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DEPARTMENT OF DEFENSE

48 CFR Parts 226 and 252

[DFARS Case 2000–D024]

Defense Federal Acquisition Regulation Supplement; Utilization of Indian Organizations and Indian-Owned Economic Enterprises

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8022 of the DoD Appropriations Act for Fiscal Year 2001. Section 8022 provides for incentive payments to DoD contractors, and subcontractors at any tier, that use Indian organizations and Indian-owned economic enterprises as subcontractors.

DATES: Effective date: September 11, 2001.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 13, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2000–D024 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Angelena Moy, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–024.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Angelina Moy, (703) 602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 8022 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106–259). Section 8022 provides funding for incentive payments to DoD contractors, and subcontractors at any tier, that use Indian organizations and Indian-owned economic enterprises as subcontractors.

This rule revises DFARS 226.104 and adds a new clause at 252.226–7001. The new clause is similar to the clause at FAR 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, but contains the DoD requirement to provide for incentive payments to subcontracors at any tier.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because DoD already has been implementing the Indian Incentive Program through use of the clause at FAR 52.226–1, Indian Organizations and Indian-Owned Economic Enterprises. The FAR clause permits incentive payments to large and small contractors that use Indian organizations or enterprises as subcontractors. The new DFARS clause will expand the incentive payments to subcontractors at any tier While this expansion is expected to benefit small businesses that award lower-tier subcontracts to Indian organizations or enterprises, the economic impact is not expected to be substantial. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D024.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 8022 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106–259). Section 8022 provides that a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544). Section 8022 became effective on August 9, 2000. DoD will consider comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 226 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 226 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 226 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

2. Section 225.104 introductory text is revised to read as follows:

226.104 Contract clause.

Use the clause at 252.226–7001, Utilization of Indian Organizations and Indian-Owned Economic Enterprises-DoD Contracts, in solicitations and contracts that—

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.226–7001 is added to read as follows:

252.226–7001 Utilization of Indian Organizations and Indian-Owned Economic Enterprises-DoD Contracts.

As prescribed in 226.104, use the following clause:

Utilization of Indian Organizations and Indian-Owned Economic Enterprises-DoD Contracts (Sep 2001)

(a) *Definitions.* As used in this clause—

"Indian" means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

"Indian organization" means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C. Chapter 17.

"Indian-owned economic enterprise" means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

"Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452 (c).

"Interested party" means a contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(b) The Contract shall use its best efforts to give Indian organizations and Indian-owned economic enterprises the maximum practicable opportunity to participate in the subcontracts it awards, to the fullest extent consistent with efficient performance of the contract.

(c) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless and interested party challenges its status or the Contracting Officer has independent reason to question that status.

(d) In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs, Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street NW, MS–2626–MIB, Washington, DC 20240–4000. The BIA will determine the eligibility and will notify the Contracting Officer. No incentive payment will be made—

(1) Within 59 working days of subcontract award;

(2) While a challenge is pending; or

(3) If a subcontractor is determined to be an ineligible participant.

(e)(1) The Contractor, on its own behalf or on behalf of a subcontractor at any tier, may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee contract.

(iii) The target cost and ceiling price of a fixed-price incentive contract.

(iv) The price of a firm-fixed-price contract.

(2) The amount of the adjustment that may be made to the contract is 5 percent of the

estimated cost, target cost, or firm-fixed price

World Trade Organization Government

ACTION: Interim rule with request for

Authority: 41 U.S.C. 421 and 48 CFR

b. In paragraph (a)(1) by removing

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estimated cost, target cost, or firm-fixed price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(3) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(4) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor.

(5) If the Contractor requests and receives an adjustment on behalf of a subcontractor, the Contractor is obligated to pay the subcontractor the adjustment.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts that—

(1) Are for other than commercial items; and

(2) Are expected to exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation.

(End of clause)

[FR Doc. 01–22424 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 2001–D008]

Defense Federal Acquisition Regulation Supplement; Iceland—Newly Designated Country Under Trade Agreements Act

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add Iceland as a designated country under the Trade Agreements Act, as directed by the United States Trade Representative.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0288; facsimile (703) 602–0350. Please cite DFRARS Case 2001–D008.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the clauses at DFARS 252.227–7007, Buy American Act—Trade Agreements—Balance of Payments Program, and 252.225–7021, Trade Agreements. The rule adds Iceland to the list of designated countries under the Trade Agreements Act, as directed by the United States Trade Representative. Iceland joined the World Trade Organization Government Procurement Agreement in April 2001.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2001–D008.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 252 is amended as follows:

1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7007 [Amended]

2. Section 252.225–7007 is amended in paragraph (a)(4) by adding, in alphabetical order, "Iceland" to the list of countries.

252.225–7021 [Amended]

3. Section 252.225–7021 is amended in paragraph (a)(4) by adding, in alphabetical order, "Iceland" to the list of countries.

[FR Doc. 01–22421 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 2000–D302]

Defense Federal Acquisition Regulation Supplement; Caribbean Basin Country End Products

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 211 of the United States—Caribbean Basin Trade Partnership Act and the determination of the United States Trade Representative as to which countries qualify for enhanced trade benefits under that Act.

DATES: Effective date: September 11, 2001.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 13, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2000–D302 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0950. Please cite DFARS Case 2000–D302.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0288.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends the clauses at DFARS 252.225–7007, Buy America Act—Trade Agreements—Balance of Payments Program, and 252.225–7021, Trade Agreements, to remove Panama from the definition of "Caribbean Basin country" and to clarify which Caribbean Basin country products are subject to duty-free treatment. The rule implements Section 211 of the United States-Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) and determinations of the United States Trade Representative published at 65 FR 60236 on October 10, 2000; 65 FR 69988 on November 21, 2000; and 65 FR 78527 on December 15, 2000.

This rule was not subject to Office of Management and Budget review under

Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule affects only a limited number of textile and apparel articles from certain Caribbean Basin countries. Other statutory requirements (10 U.S.C. 2241 note) still prohibit DoD from acquiring most of these articles from other than domestic sources. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D302.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 211 of the United States-Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) and the determination of the United States Trade Representative as to which countries qualify for enhanced trade benefits under that Act. The determination of the United States Trade Representative to provide enhanced benefits to the products of certain countries became effective on October 2, 2000. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 252 is amended as follows:

1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 252.225–7007 is amended as follows:

a. By revising the clause date;

b. In paragraph (a)(1) by removing "Panama";

c. In paragraph (a)(2)(i)(B) in the last sentence by removing the period and adding in its place "; and";

d. By revising paragraph (a)(2)(ii); and

e. By adding paragraph (e) to read as follows:

252.225–7007 Buy American Act-Trade Agreements-Balance of Payments Program.

* * * * *

BUY AMERICAN ACT—TRADE AGREEMENTS—BALANCE OF PAYMENTS PROGRAM (SEP 2001)

(a) * * *

(2) * * *

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);

(B) Tuna, prepared or preserved in any manner in airtight containers; and

(C) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.

* * * * *

(e) The HTSUS is available on the Internet at *http://www.customs.ustreas.gov/impoexpo/impoexpo.htm*. The following sections of the HTSUS provide information regarding duty-free status of articles specified in paragraph (a)(2)(ii)(A) of this clause:

(1) General Note 3(c), Products Eligible for Special Tariff Treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States-Caribbean Basin Trade Partnership Act.

3. Section 252.225–701 is amended as follows:

a. By revising the clause date;

b. In paragraph (a)(1) by removing "Panama";

c. In paragraph (a)(2)(i)(B) in the last sentence by removing the period and adding in its place "; and";

d. By revising paragraph (a)(2)(ii); and

e. By adding paragraph (e) to read as follows:

252.225–7021 Trade Agreements.

* * * * *

TRADE AGREEMENTS (SEP 2001)

(a) * * *

(2) * * *

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);

(B) Tuna, prepared or preserved in any manner in airtight containers; and

(C) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.

* * * * *

(e) The HTSUS is available on the Internet at *http://www.customs.ustreas.gov/impoexpo/impoexpo.htm*. The following sections of the HTSUS provide information regarding duty-free status of articles specified in paragraph (a)(2)(ii)(A) of this clause:

(1) General Note 3(c), Products Eligible for Special Tariff Treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States-Caribbean Basin Trade Partnership Act.

[FR Doc. 01–22425 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

procedures were published over eight

We believe this comment relates to

Administration's rule (49 CFR 382.301)

agency's random rate on its Web site

Considering that revised Part 40,

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket No. RSPA–00–8417; Amdt. 199–19]

RIN 2137–AD55

Drug and Alcohol Testing for Pipeline Facility Employees

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: We are conforming our pipeline facility drug and alcohol testing regulations with DOT's "Procedures for Transportation Workplace Drug and Alcohol Testing Programs." In addition, we are changing the format of the regulations to make them easier to apply and understand. The purpose of these changes is to make the regulations clearer and consistent with DOT's drug and alcohol testing policies.

EFFECTIVE DATE: This Final Rule takes effect September 11, 2001.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow by phone at 202–366–4559, by fax at 202–366–4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, or by e-mail at buck.furrow@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

Effective Date

Federal law requires pipeline safety standards to take effect 30 days after publication unless we for good cause establish a different effective date based on the time reasonably necessary to comply with the standards. The primary purpose of this Final Rule is to conform RSPA's drug and alcohol testing regulations with DOT's revised procedures on drug and alcohol testing. A secondary purpose is to make RSPA's regulations easier to apply and understand through appropriate changes in format. Agreement between RSPA's drug and alcohol regulations and DOT's revised procedures is essential to avoid overlap, conflict, duplication, or confusion in applying the regulations, and the format changes support this aim. Because DOT's revised procedures are effective August 1, 2001, any delay in achieving agreement after publication of this Final Rule would be contrary to the public interest. So we are making this Final Rule effective upon publication, rather than 30 days from now. Because the revised DOT procedures were published over eight months ago and RSPA's regulations already incorporate the DOT procedures by reference, affected parties have had ample time to prepare to implement the revised procedures to which this Final Rule refers.

Background

Last year DOT's Office of the Secretary comprehensively revised its regulations in 49 CFR Part 40 called "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (65 FR 79462; Dec. 19, 2000). Through separate regulations published by various DOT operating administrations, including RSPA, these DOT procedures apply to all employers who must test transportation personnel for illegal drugs and alcohol. RSPA's separate regulations for drug and alcohol testing apply to operators of gas and hazardous liquid pipeline facilities (49 CFR Part 199).

To conform the Part 199 regulations with the revised DOT procedures and make other clarifying changes to Part 199, we published a notice of proposed rulemaking (NPRM) (66 FR 21506; Apr. 30, 2001). The NPRM invited interested persons to submit written comments by June 14, 2001. We published the NPRM concurrently with similar notices published by other DOT agencies. In addition, we joined these other agencies and the Office of the Secretary in publishing a Common Preamble that gave an overview of significant issues (66 FR 21491; Apr. 30, 2001).

Disposition of Comments

This section of the preamble summarizes the written comments we received in response to the NPRM. It also describes how we treated those comments in developing this Final Rule. If a proposed section is not mentioned, no significant comments were received on that section and we are adopting it as final.

Validity testing and access to information. In a joint comment, the Air Line Pilots Association and the Transportation Trades Department, AFL–CIO, expressed concerns about the new requirement in 49 CFR 40.89 that laboratories must conduct validity testing to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the urine specimen was substituted. In light of this new regulation, these commenters also questioned the adequacy of Part 40 provisions concerning release of information, and they objected to DOT agency proposals to delete their separate regulations on release of information. We believe this comment relates to across-the-board Part 40 issues that are beyond the scope of the NPRM. The NPRM did not propose to remove the separate Part 199 requirements on release of information. DOT's Office of the Secretary addressed these commenters' concerns in a separate **Federal Register** publication associated with this Final Rule entitled "Transportation Workplace Drug and Alcohol Testing Programs: Response to Comments on Pre-Employment Inquiry Requirement; Common Preamble for DOT Agency Conforming Rules" (66 FR 41955; Aug. 9, 2001).

Follow-up testing. Blair & Burke commented on the different wording that Part 199 and revised Part 40 use to state the authority of a substance abuse professional (SAP) to terminate follow-up testing. Existing §§ 199.111(f) and 199.243(c)(2)(ii) provide that a SAP may terminate follow-up testing at any time after the first six tests have been administered. In contrast, 49 CFR 40.307(f) states that SAPs may modify their determinations concerning follow-up tests but not the requirement that the employee take at least six follow-up tests within the first 12 months after returning to a safety-sensitive function. As an example, § 40.307(f) states that if the SAP recommends follow-up testing beyond the first 12 months, the SAP can terminate the testing requirement at any time after the first year of testing. Blair & Burke was concerned that if an SAP recommends more than six tests in the first 12 months, under § 40.307(f) the SAP could not terminate testing until after the first year of testing, not after the first six tests as §§ 199.111(f) and 199.243(c)(2)(ii) provide. We think Blair & Burke may have mistaken the example in § 40.307(f) for the rule. The example only concerns modification of testing that is to take place after the first 12 months, but the rule allows modification of any testing other than the minimum six tests in 12 months. So any required testing in the first 12 months beyond the minimum six tests could be terminated under § 40.307(f). We do not see any need to change §§ 199.111(f) and 199.243(c)(2)(ii) to make these rules consistent with § 40.307(f).

Affirming pre-employment testing exemptions and tests. Part 199 exempts an individual from pre-employment drug testing if the individual participates in an anti-drug program that conforms to the requirements of Part 199 (existing § 199.11(a)). To minimize erroneous exemptions, the Drug and Alcohol Testing Industry Association (DATIA) suggested that DOT agencies adopt the Federal Motor Carrier Safety Administration's rule (49 CFR 382.301) that requires employers to investigate and document the validity of such programs. DATIA further suggested that we require managers of random testing pools to have written proof of pre-employment tests, or written proof of exemptions, before enrolling persons in random testing pools. We believe this comment relates to across-the-board Part 40 issues that are beyond the scope of the NPRM. The NPRM did not propose regulations on the matter DATIA advances in this comment. DOT's Office of the Secretary addressed this commenter's concern in a separate **Federal Register** publication associated with this Final Rule entitled "Transportation Workplace Drug and Alcohol Testing Programs: Response to Comments on Pre-Employment Inquiry Requirement; Common Preamble for DOT Agency Conforming Rules" (66 FR 41955; Aug. 9, 2001).

Self-employed individuals. DATIA suggested that DOT agencies authorize any Consortium/Third-party administrator (C/TPA) to determine if a self-employed individual has refused to take a drug or alcohol test requested by the C/TPA. DATIA said this rule change would bring accountability to the testing process for small companies. We believe this comment relates to across-the-board Part 40 issues that are beyond the scope of the NPRM. The NPRM did not propose regulations on the matter DATIA advances in this comment. DOT's Office of the Secretary addressed these commenter's concern in a separate **Federal Register** publication associated with this Final Rule entitled "Transportation Workplace Drug and Alcohol Testing Programs: Response to Comments on Pre-Employment Inquiry Requirement; Common Preamble for DOT Agency Conforming Rules" (66 FR 41955; Aug. 9, 2001).

Publishing random testing rate. The Common Preamble suggested that DOT agencies may consider adopting a proposal by the Federal Motor Carrier Safety Administration (FMCSA) to publish the random testing rate only when the rate changes. At present RSPA publishes the testing rate applicable to the pipeline industry annually, as existing § 199.11(c)(2) requires. DATIA recommended that we not adopt FMCSA's proposal. We agree with DATIA that annual publication is an important source of information for the industry, and so have not changed existing § 199.11(c)(2). DATIA also suggested that DOT agencies jointly publish their random testing rates. We believe the objective of this comment is being met by DOT's Office of Drug and Alcohol Policy by publishing each agency's random rate on its Web site (http://www.dot.gov/ost/dapc/main/testrate.htm).

Stand-down waivers. Regarding the proposed procedures for seeking stand-down waivers (proposed § 199.9 or new § 199.7), Equilon Pipeline Company, LLC, asked if we would consider a waiver request for all covered employees of a company or just specific employees. The proposed procedures relate to waivers authorized by 49 CFR 40.21. This regulation prohibits employers from temporarily removing employees from performing safety-sensitive functions based on an unverified positive drug test result unless a concerned DOT agency waives this restriction. Because waiver authority under § 40.21 is not limited to particular employees or groups of employees, neither are the proposed waiver procedures. So we will consider waiver requests on a company-wide basis provided the request contains all the information required by § 40.21 and new § 199.7.

Checking previous test results. Under 49 CFR 40.25 employers who intend to use a person for a safety-sensitive function must seek certain information from former DOT-regulated employers about that person's drug and alcohol testing records. The purpose of proposed new § 199.11 was simply to call operators' attention to this new information collection requirement. However, the Iowa Utilities Board (IUB) commented that § 199.11(a) lacked guidance for operators if an employee does not consent to release of information by a former employer. IUB was also concerned that proposed new § 199.11(b) would require a person who had violated a DOT agency drug or alcohol rule to undergo the new employer's return-to-duty process even if that person had successfully completed the previous employer's return-to-duty process. Both of these concerns are answered by § 40.25. Under § 40.25(a), if a person refuses to provide written consent, the employer may not permit the person to perform a safety-sensitive function. And under §§ 40.25(e) and (j), if an employer learns the person has violated a DOT agency drug or alcohol rule, the employer may not use the person to perform a safety-sensitive function unless the employer also obtains information that the person has successfully completed the return-to-duty process. Only if that process was not successfully completed would the person have to undergo the new employer's return-to-duty process.

In light of IUB's comments, it appears that proposed § 199.11 has the potential to cause varied applications of § 40.25. Considering that revised Part 40, including § 40.25, will apply to operators through incorporation by reference in Part 199, we decided proposed § 199.11 is not necessary and dropped it from this Final Rule.

Return-to-duty testing. IUB also thought the wording of proposed § 199.105(e) could be clearer. So we edited the wording in the final rule.

Drug and alcohol plans. The Southwest Gas Corporation asked that we allow operators at least 6 months to update their written drug and alcohol plans under § 199.7 (redesignated as § 199.101) and § 199.202 to conform to the Part 40 and Part 199 revisions. DOT published revised Part 40 on December 19, 2000, but delayed the effective date until August 1, 2001, to ease the impact of the transition between the old and revised rules. This delay of more than 6 months gave all covered employers, including pipeline operators, ample time to digest the rule changes and prepare to implement them. Because §§ 199.7 and 199.202 incorporate Part 40 by reference, and the NPRM did not propose to change these sections, operators have had notice since December 19, 2000, that they would have to revise their drug and alcohol plans to conform to revised Part 40. The NPRM simplified this task by advising operators their plans would no longer have to allow for inconsistencies between Parts 40 and Part 199. So we do not feel that operators as a whole need more time to conform their plans to revised Part 40 and Part 199. Should an individual operator have good reasons for not completing its revisions before revised Part 40 takes effect, RSPA inspection personnel will take the reasons into account in evaluating the operator's level of compliance. And we will encourage State authorities who participate in the Federal pipeline safety program to do likewise.

Additionally, Southwest Gas suggested that as a guideline for preparing revised drug and alcohol plans, we develop model plans similar to the ones we developed for the old rules. The old model plans Southwest Gas referred to are posted on the Web at *http://ops.dot.gov/pub.htm#pub.* These model plans now have limited usefulness because we have not yet updated them to reflect changes to Part 40. Even if the model plans are not updated in time to help operators before the August 1 deadline, this circumstance would not lessen the duty of operators to develop and follow revised alcohol and drug plans.

Structure and Organization

Although there were no comments on the proposed changes in the structure and organization of the regulations, we have made some changes in the final rule. Because of this change, the reference to DOT Procedures in proposed

Dec. 19, 2000). However, recognizing the safety concerns of commenters

The final rules are non-significant because they merely conform Part 199 to

funding and consultation requirements of Executive Order 13084 do not apply

In consideration of the foregoing, we are amending 49 CFR part 199 as

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Structure and Organization

Although there were no comments on the proposed structural and organizational changes to Part 199, we have edited final §§ 199.1 and 199.2. In § 199.1, the title is changed from "Scope and compliance" to "Scope," and the text is limited to stating that Part 199 requires operators of pipeline facilities subject to 49 CFR Part 192, 193, or 195 to test covered employees for the presence of prohibited drugs and alcohol. As proposed, the second sentence of the present § 199.1(a), concerning the exclusion from Part 199 of master meter and petroleum gas systems, is clarified and transferred to new § 199.2, Applicability. In addition, we edited and transferred paragraphs (c) and (d) of § 199.1 to this new section because these paragraphs also concern the applicability of Part 199.

As proposed, the present Subpart B on alcohol misuse is redesignated as Subpart C. The present §§ 199.7 through 199.25 are designated as new Subpart B—Drug Testing and then redesignated as §§ 199.101 through 199.119, respectively. In new Subpart B, we have added new § 199.100, Purpose, to parallel § 199.200, which explains the purpose of redesignated Subpart C.

The NPRM proposed to amend existing § 199.23(b) [or redesignated § 199.117(b)] to make this section consistent with revised Part 40 regulations on releasing name-specific drug testing records without the employee's consent in certain legal proceedings and to RSPA and jurisdictional state agencies. Although there were no comments on this proposal, we have recognized an inconsistency between § 199.23(b) and the parallel regulation for alcohol testing, § 199.231(b). The first sentence of existing and proposed § 199.23(b) reads in part: "Information * * * may be released only upon the written consent of the individual. * * *" In contrast, the first sentence of § 199.231(b) states: "A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests." While § 199.231(b) requires operators to provide employees access to records of their alcohol testing upon written request, existing and proposed § 199.23(b) only authorize operators to provide employees access to drug testing information upon written request. To make §§ 199.23(b) and 199.231(b) consistent, in final § 199.23(b) we changed "may be released" to "must be released." Because of this change, the reference to DOT Procedures in proposed § 199.23(b), which was stated as an exception, is stated affirmatively in the final rule.

Advisory Committee Consideration

We discussed the highlights of the NPRM with the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) at a meeting in Washington, DC on February 6, 2001 (66 FR 132; Jan. 2, 2001). The committees are statutorily mandated advisory committees that advise us on proposed safety standards and other policies for gas and hazardous liquid pipelines. Each committee has an authorized membership of 15 persons, five each representing government, industry, and the public. Each member is qualified to consider the technical feasibility, reasonableness, cost-effectiveness, and practicability of proposed pipeline safety standards. A transcript of the February 6 meeting as well as other material related to the committees' consideration of the NPRM are available in Docket No. RSPA–98–4470.

Following publication of the NPRM, we asked the members of each committee to review the NPRM and vote by letter-ballot on whether the proposed rules are technically feasible, reasonable, cost-effective, and practicable. We also sent each member a copy of the Regulatory Evaluation we prepared for this Final Rule. Of the TPSSC members who returned ballots, four voted to approve the proposed rules and three voted to approve the proposed rules with changes. All THLPSSC members who returned ballots voted to approve the proposed rules and no member commented on the Regulatory Evaluation. The changes recommended by the TPSSC members are discussed next.

Eric Thomas, Director of Engineering, Southern Natural Gas Company, objected to the stand-down waiver process under 49 CFR 40.21 and proposed § 199.9. He said the ability to remove from covered positions employees with unverified positive drug tests is imperative for safety, and the waiver process will overburden operators without any guarantee waivers will be granted. The preamble to the Part 40 revisions gave the reasons DOT established the prohibition against stand down in § 40.21: "stand-down undercuts the rationale for [medical review officer] review, can compromise the confidentiality of test results, and may result in unfair stigmatization of an employee as a drug user." (65 FR 79463; Dec. 19, 2000). However, recognizing the safety concerns of commenters favoring stand-down, DOT also established a waiver process in § 40.21 to permit employers, on a case-by-case basis, to request DOT agency approval for a specific, well-founded stand-down plan that effectively protects the interests of employees. The purpose of proposed § 199.9 is merely to establish a mechanism to implement the waiver process for pipeline operators. RSPA does not have authority to change DOT policy expressed in § 40.21. Although Mr. Thomas is correct that there is no guarantee a waiver application will be successful, we will give each application full and fair consideration.

Mr. Thomas also opposed the proposal on checking previous test results (proposed new § 199.11), as did Ricky Cotton, Director of Pipeline Safety, Mississippi Public Service Commission, and John Leiss, Geologist, Federal Energy Regulatory Commission. Mr. Thomas and Mr. Cotton considered pre-employment testing alone to be a sufficient standard, and they thought requiring operators to check testing by previous employers would not be beneficial. In contrast, Mr. Leiss said we should expand the proposed rule to cover current covered employees and job applicants not previously employed by a DOT regulated employer. We proposed new § 199.11 simply to call operators' attention to the new information collection requirement in 49 CFR 40.25. We do not have authority to change DOT policy expressed in § 40.25. At the same time, we do not think the problem of illegal drug use among pipeline workers warrants establishing in Part 199 a regulation broader than § 40.25.

Because of maritime industry concerns, DOT recently opened a 30-day comment period on § 40.25 (66 FR 32248; June 14, 2001). DOT's Office of the Secretary will address the comments in a separate **Federal Register** publication associated with this Final Rule.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures

RSPA does not consider this rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has not received a copy of this rulemaking to review. RSPA also does not consider this rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034: February 26, 1979).

The final rules are non-significant because they merely conform Part 199 to revised Part 40, which has already had extensive comment and analysis, and make other clarifying and organizational changes to Part 199. The economic impact of revised Part 40 was analyzed in connection with the Part 40 rulemaking, and the final Part 199 rules will not have any incremental economic impact of their own. As to the clarifying and organizational changes not directly related to revised Part 40, we assessed the economic impact of these changes as minimal. A copy of the Regulatory Evaluation of costs and benefits is available in the docket for this proceeding.

Regulatory Flexibility Act

The final rules are consistent with revised Part 40 and have no incremental economic impacts of their own. Therefore, based on the facts available about the anticipated impacts of this proposed rulemaking, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that the final rules will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

All the information collection requirements of Part 40 have been analyzed and approved by OMB. The final rules will not impose any information collection requirements that have not already been reviewed in the Part 40 rulemaking. So no further Paperwork Reduction Act review is necessary.

Executive Order 12612

The final rules will not have a substantial direct effect on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of Government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), we have determined that the final rules will not have sufficient federalism implications to warrant preparation of a federalism assessment.

Executive Order 13084

The final rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13084, "Consultation and Coordination with Indian Tribal Governments." Because the final rules will not significantly or uniquely affect the communities of the Indian tribal governments and will not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Executive Order 13132

Revised Part 40 has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The final rules have no incremental Federalism impacts for purposes of Executive Order 13132. So no further analysis is needed for Federalism purposes.

Impact on Business Processes and Computer Systems

We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to "Y2K" or related computer problems. The final rules do not mandate business process changes or require modifications to computer systems. Because the final rules will not affect the ability of organizations to respond to those problems, we are not delaying the effectiveness of the requirements.

Unfunded Mandates Reform Act of 1995

The final rules will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. The rules will not result in costs of $100 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and are the least burdensome alternative that achieves the objective of the rules.

National Environmental Policy Act

We have analyzed the final rules for purposes of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). Because the rules parallel present requirements of revised Part 40 or involve clarifying or organizational changes, we have determined that the rules will not significantly affect the quality of the human environment.

Executive Order 13211

This rulemaking is not a "Significant energy action" under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

List of Subjects in 49 CFR Part 199

Drug testing, Pipeline safety, Reporting and recordkeeping requirements, Safety, Transportation.

In consideration of the foregoing, we are amending 49 CFR part 199 as follows:

PART 199—DRUG AND ALCOHOL TESTING

1. The authority citation for part 199 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

2. The heading for subpart A is revised to read as follows:

Subpart A—General

3. Section 199.1, is revised to read as follows:

§ 199.1 Scope.

This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.

4. Section 199.2 is added to read as follows:

§ 199.2 Applicability.

(a) This part applies to pipeline operators only with respect to employees located within the territory of the United States, including those employees located within the limits of the "Outer Continental Shelf" as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(b) This part does not apply to any person for whom compliance with this part would violate the domestic laws or policies of another country.

(c) This part does not apply to covered functions performed on—

(1) Master meter systems, as defined in § 191.3 of this chapter; or

(2) Pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.

5. In § 199.3, the introductory text is revised, the definitions of "Covered employee" and "Refuse to submit" are removed, the definitions of "Covered function," "DOT Procedures," and "Prohibited drug" are revised, and definitions of "Covered employee, employee, or individual to be tested," "Performs a covered function," and "Refuse to submit, refuse, or refuse to take" are added in alphabetical order, to read as follows:

§ 199.3 Definitions.

As used in this part—

* * * * *

Covered employee, employee, or individual to be tested means a person who performs a covered function, including persons employed by operators, contractors engaged by

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operators, and persons employed by such contractors.

Covered function means an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter that is performed on a pipeline or on an LNG facility.

DOT Procedures means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in part 40 of this title.

* * * * *

Performs a covered function includes actually performing, ready to perform, or immediately available to perform a covered function.

* * * * *

Prohibited drug means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

* * * * *

Refuse to submit, refuse, or refuse to take means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test.

* * * * *

6. Section 199.5 is revised to read as follows:

§ 199.5 DOT procedures.

The anti-drug and alcohol programs required by this part must be conducted according to the requirements of this part and DOT Procedures. Terms and concepts used in this part have the same meaning as in DOT Procedures. Violations of DOT Procedures with respect to anti-drug and alcohol programs required by this part are violations of this part.

7. Subpart B is redesignated as subpart C.

8. Existing §§ 199.7, 199.9, 199.11, 199.13, 199.15, 199.17, 199.19, 199.21, 199.23, and 199.25 are redesignated as §§ 199.101, 199.103, 199.105, 199.107, 199.109, 199.111, 199.113, 199.115, 199.117, and 199.119, respectively, in new subpart B, and a subpart B heading is added to read as follows:

Subpart B—Drug Testing

9. New § 199.7 is added to subpart A to read as follows:

§ 199.7 Stand-down waivers.

(a) Each operator who seeks a waiver under § 40.21 of this title from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590.

(b) Each application must—

(1) Identify § 40.21 of this title as the rule from which the waiver is sought;

(2) Explain why the waiver is requested and describe the employees to be covered by the waiver;

(3) Contain the information required by § 40.21 of this title and any other information or arguments available to support the waiver requested; and

(4) Unless good cause is shown in the application, be submitted at least 60 days before the proposed effective date of the waiver.

(c) No public hearing or other proceeding is held directly on an application before its disposition under this section. If the Associate Administrator determines that the application contains adequate justification, he or she grants the waiver. If the Associate Administrator determines that the application does not justify granting the waiver, he or she denies the application. The Associate Administrator notifies each applicant of the decision to grant or deny an application.

10. New § 199.100 is added to Subpart B to read as follows:

§ 199.100 Purpose.

The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to part 192, 193, or 195 of this chapter.

11. In redesignated § 199.103, paragraph (a)(1) is amended by removing the term "§ 199.15(d)(2)" and adding "DOT Procedures" in its place, and by revising paragraph (b)(2) to read as follows:

§ 199.103 Use of persons who fail or refuse a drug test.

* * * * *

(b) * * *

(2) Been considered by the medical review officer in accordance with DOT Procedures and been determined by a substance abuse professional to have successfully completed required education or treatment; and

* * * * *

12. In redesignated § 199.105, paragraph (b) is revised, paragraphs (c)(3) and (c)(4) are amended by removing the term "§ 199.25" and adding "§ 199.119" in its place wherever the term appears, and paragraph (e) is revised, to read as follows:

§ 199.105 Drug tests required.

* * * * *

(b) *Post-accident testing.* As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

* * * * *

(e) *Return-to-duty testing.* A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has complied with applicable provisions of DOT Procedures concerning substance abuse professionals and the return-to-duty process.

* * * * *

13. In redesignated § 199.109, paragraphs (b), (c), and (d) are revised to read as follows:

§ 199.109 Review of drug testing results.

* * * * *

(b) *MRO qualifications.* Each MRO must be a licensed physician who has the qualifications required by DOT Procedures.

(c) *MRO duties.* The MRO must perform functions for the operator as required by DOT Procedures.

(d) *MRO reports.* The MRO must report all drug test results to the operator in accordance with DOT Procedures.

* * * * *

14. In redesignated § 199.111, the section heading and the first sentence of paragraph (b) are revised, the second sentence of paragraph (b) and paragraph (c) are amended by removing the term "retesting" and adding "testing" in its place wherever the term appears, and the last sentence of paragraph (b) is amended by removing the term "retest" and adding "additional test" in its place, to read as follows:

§ 199.111 Retention of samples and additional testing.

(b) If the medical review officer (MRO) determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, and if timely additional testing is requested by the employee according to DOT Procedures, the split specimen must be tested. * * *

* * * * *

15. The first sentence of redesignated § 199.117(b) is revised to read as follows:

§ 199.117 Recordkeeping.

* * * * *

(b) Information regarding an individual's drug testing results or rehabilitation must be released upon the written consent of the individual and as provided by DOT Procedures. * * *

§ 199.201 [Removed and Reserved]

16. Section 199.201 is removed and reserved.

17. In § 199.202, the first sentence is revised to read as follows:

§ 199.202 Alcohol misuse plan.

Each operator must maintain and follow a written alcohol misuse plan that conforms to the requirements of this part and DOT Procedures concerning alcohol testing programs. * * *

§§ 199.203, 199.205 [Removed and Reserved]

18. Sections 199.203 and 199.205 are removed and reserved.

19. Section 199.207 is redesignated as new § 199.9 and transferred to subpart A, and redesignated § 199.9 is amended by removing the term "subpart" and adding "part" in its place wherever the term appears.

20. In § 199.209, the existing text is designated as paragraph (a) and new paragraph (b) is added to read as follows:

§ 199.209 Other requirements imposed by operators.

* * * * *

(b) Operators may, but are not required to, conduct pre-employment alcohol testing under this subpart. Each operator that conducts pre-employment alcohol testing must—

(1) Conduct a pre-employment alcohol test before the first performance of covered functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions);

(2) Treat all covered employees the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others);

(3) Conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test;

(4) Conduct all pre-employment alcohol tests using the alcohol testing procedures in DOT Procedures; and

(5) Not allow any covered employee to begin performing covered functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

§ 199.213 [Removed and Reserved]

21. Section 199.213 is removed and reserved.

§ 199.225 [Amended]

22. In § 199.225, paragraphs (a)(2)(ii) and (b)(4)(ii) are removed and reserved.

23. Section 199.231(g) is revised to read as follows:

§ 199.231 Access to facilities and records.

* * * * *

(g) An operator may disclose information without employee consent as provided by DOT Procedures concerning certain legal proceedings.

* * * * *

Issued in Washington, DC, on August 29, 2001.

Edward A. Brigham,

Acting Deputy Administrator.

[FR Doc. 01–22581 Filed 9–10–01; 8:45 am]

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Proposed Rules

Federal Register

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Proposed Rules

Federal Register
Vol. 66, No. 176
Tuesday, September 11, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, and 113

[Notice 2001–13]

Brokerage Loans and Lines of Credit

AGENCY: Federal Election Commission.

ACTION: Cancellation of public hearing.

SUMMARY: On July 25, 2001, the Federal Election Commission published proposed rules on brokerage loans and lines of credit available to candidates. 66 FR 38576 (July 25, 2001). The Notice of Proposed Rulemaking stated that the Commission would hold a public hearing on September 19, 2001, if there were sufficient requests to testify by August 24, 2001. The Commission did not receive any requests to testify. Therefore, the Commission is canceling the public hearing.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Assistant General Counsel, or Ms. Mai Dinh, Staff Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

Dated: September 5, 2001.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 01–22663 Filed 9–10–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–9559; Airspace Docket No. 01–AWP–2]

RIN 2120–AA66

Proposed Revision of VOR Federal Airway 105, and Jet Route 58 and 86; and Establishment of Jet Routes 614 and 616

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of proposed rulemaking (SNPRM).

SUMMARY: This notice supplements a notice of proposed rulemaking (NPRM) published in the **Federal Register** on June 20, 2001. In that notice, the FAA proposed to realign Federal Airway 105 (V–105) and Jet Route 86 (J–86) in the Phoenix, AZ, area. In this supplemental notice, the FAA is proposing to correct an inadvertent error in the previously proposed description of V–105. Additionally, in this notice, the FAA is proposing to modify the previously proposed descriptions for J–58 and J–86, and to rename portions of J–58 and J–86 in the state of Florida. These proposed modifications are part of the National Airspace Redesign effort to improve system efficiency.

DATES: Comments must be received on or before October 11, 2001.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2001–9559/Airspace Docket No. 01–AWP–2, at the beginning of your comments.

You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Hawthorne, CA 90261.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2001–9559/Airspace Docket No. 01–AWP–2." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of SNPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov or the Superintendent of Document's web page at http://www.access.gpo.gov/nara.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

V–105

On June 20, 2001, Airspace Docket No. 01–AWP–02, FAA–2001–9559 (66 FR 30654), was published in the **Federal Register**. In that airspace docket the FAA proposed to realign V–105 and J–86 in the Phoenix, AZ, area. The June 20, 2001 NPRM contained an inadvertent error in the proposed description of V–105. Specifically, the description transposed the magnetic and true radials of V–105. This SNPRM corrects that error.

J–58 and J–86

Currently the navigational signal in the vicinity of the Gulf of Mexico is not sufficient enough to support that segment of J–58 between the Harvey, LA, Very High Frequency Omnidirectional Radio Range and Tactical Air Navigation Aids (VORTAC), and the Sarasota VORTAC. The same dilemma affects that segment of J–86 between the Leeville VORTAC and the Sarasota, FL, VORTAC. Due to the weak navigational signal affecting these routes, they no longer pass flight inspection. The FAA is therefore proposing in this action to remove the route segments over the Gulf and terminate them at the Harvey VORTAC (for J–58) and the Leeville VORTAC (for J–86) respectively.

To replace the revoked segments, over water advanced navigation routes were established under a separate action. These over water navigation routes do not rely on ground based navigation facilities and are not subject to navigation signal coverage limitations. Additionally, in this action, the FAA is proposing to rename the route segments of J–58 and J–86 in the State of Florida to avoid confusion.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to revise V–105 and J–86 in the vicinity of Phoenix Arizona. Specifically, this notice corrects the proposed description of V–105 between the Drake and Phoenix, AZ, VORTAC. Additionally, in this action the FAA is proposing to revise J–86 between Winslow, AZ, and the Leeville, LA, VORTAC; removes the segment of J–86 between the Leeville VORTAC and the Sarasota, FL, VORTAC; renames the J–86 route segment from the Sarasota VORTAC to the Dolphin, FL, VORTAC, J–616; amend J–58 by terminating the route at the Harvey, LA, VORTAC; removing the segment of J–58 between the Harvey VORTAC and the Sarasota, FL, VORTAC; and renaming the route from the Sarasota VORTAC to the Dolphin, FL, VORTAC, J–614. These actions are necessary because J–58 and J–86 fail to pass flight inspection over the Gulf of Mexico due to gaps in navigation signal coverage. These changes are part of the National Airspace Redesign effort to improve system efficiency and safety.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Jet routes and Domestic VOR Federal airways are published in paragraphs 2004 and 6010(a), respectively, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The jet route and VOR Federal airway listed in this document would be published subsequently in the order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 2004 Jet Routes

* * * * *

J–58 [Revised]

From Oakland, CA, via Manteca, CA; Coaldale, NV; Wilson Creek, NV; Milford, UT; Farmington, NM; Las Vegas, NM; Panhandle, TX; Wichita Falls, TX; Ranger, TX; Alexandria, LA; Harvey, LA.

J–86 [Revised]

From Beatty, NV; INT Beatty 131° and Boulder City, NV, 284° radials; Boulder City; Peach Springs, AZ; INT of Peach Springs 091° (076°M) and Winslow, AZ, 301° (287°M) radials, El Paso, TX; Fort Stockton, TX; Junction, TX; Humble, TX; Leeville, LA.

J–614 [New]

Sarasota; Lee County, FL; to the INT Lee County 120° and Dolphin, FL, 293° radials; Dolphin.

J–616 [New]

Sarasota; INT Sarasota 103° and La Belle, FL, 313° radials; La Belle; to Dolphin, FL.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–105 [Revised]

From Tucson, AZ; INT Tucson 300° and Stanfield, AZ 145° radials; Stanfield; Phoenix, AZ; INT Phoenix 333° (321°M) and Drake, AZ, 182° (168°M) radials; Drake; 25 miles, 22 miles 85 MSL; Boulder City, NV; Las Vegas, NV; INT Las Vegas 266° and Beatty, NV, 142° radials; 17 miles, 105 MSL; Beatty; 105 MSL, Coaldale, NV; 82 miles, 110 MSL; to Mustang, NV.

* * * * *

Issued in Washington, DC, on September 5, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–22771 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–144]

RIN 2115–AE47

Drawbridge Operation Regulations; Back River, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge

operating regulations governing the

determine that one would aid this

significant under the regulatory policies

funds to pay those costs. This proposed

energy. It has not been designated by the

bridge to remain in the closed position

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operating regulations governing the operation of the Maine Department of Transportation (MDOT) highway bridge, at mile 4.6, between Hodgdon and Barter's Island at Boothbay, Maine. This proposed temporary change to the drawbridge operation regulations would allow the bridge to remain in the closed position from December 15, 2001 through April 15, 2002. This action is necessary to facilitate structural repairs at the bridge.

DATES: Comments must reach the Coast Guard on or before November 13, 2001.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–01–144), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

The MDOT, highway bridge, at mile 4.6, across the Back River has a vertical clearance of 6 feet at mean high water and 15 feet at mean low water. The existing regulations are listed at 33 CFR 117.523.

The bridge owner, MDOT, asked the Coast Guard to temporarily change the drawbridge operation regulations to facilitate structural repairs at the bridge. This proposed temporary rule would allow the bridge owner to keep the bridge in the closed position from December 15, 2001 through April 15, 2002. The bridge operates on a twenty-four hours advance notice from November 1 through May 31, normally. The local fishermen haul out their equipment during the month of November, after which, the bridge historically receives few requests to open.

Discussion of Proposal

This proposed temporary change to the drawbridge operation regulations would allow the bridge owner to keep the bridge in the closed position from December 15, 2001 through April 15, 2002, while structural repairs are underway at the bridge.

The number of bridge openings from December through April in past years have been relatively low. The bridge opening log data for December through April for the past three years is as follows:

	1998	1999	2000
December	4	0	0
January	0	0	0
February	0	0	0
March	0	0	0
April	0	0	0

The Coast Guard believes this rulemaking is reasonable based upon the relatively low number of bridge opening requests during past years December through April and the fact that this work is necessary maintenance required to assure continued uninterrupted operation of the bridge.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the there have been few requests to open the bridge historically, during the time period that the bridge would be closed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that there have been few requests historically, to open the bridge during the time period the bridge would be closed.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.523 [Suspended]

2. From December 15, 2001, through April 15, 2002, § 117.523 is suspended.

3. From December 15, 2001 through April 15, 2002, § 117.T524 is temporarily added to read as follows:

§ 117.T524 Back River.

The Maine Department of transportation highway bridge, mile 4.6, between Hodgdon and Barter's Island at Boothbay, need not open for the passage of vessel traffic.

Dated: August 28, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22777 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–142]

RIN 2115–AE47

Drawbridge Operation Regulations; Dorchester Bay, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the William T. Morrisey Boulevard Bridge, at mile 0.0, across Dorchester Bay at Boston, Massachusetts. This proposed temporary change to the drawbridge operation regulations would allow the bridge to remain in the closed position from November 1, 2001 through May 10, 2002. This action is necessary to facilitate rehabilitation construction at the bridge.

DATES: Comments must reach the Coast Guard on or before October 11, 2001.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–01–142), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

Regulatory Evaluation

Unfunded Mandates Reform Act

Energy Effects

SUMMARY: The proposed rule updates

1230.1 What does this part cover?

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Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) is being published with a shortened comment period of thirty days instead of the normal sixty day comment period because the bridge owner held a meeting with the members of the Dorchester Yacht Club, the sole marine facility upstream from the bridge, and the members of the yacht club agreed upon the time period that the bridge will be allowed to remain closed.

The Coast Guard anticipates that any temporary final rule enacted following public notice and comment may be effective in less than 30 days after publication.

Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest because the rehabilitation construction is necessary in order to assure continued reliable operation of the bridge.

Background

The William T. Morrisey Boulevard Bridge, at mile 0.0, across Dorchester Bay has a vertical clearance of 12 feet at mean high water and 22 feet at mean low water. The existing regulations at 33 CFR 117.597 require the draw to open on signal from April 16 through October 14; except that, the draw need not open for vessel traffic from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m. except on Saturdays, Sundays, or holidays observed in the locality. From October 15 through April 15, the draw shall open on signal if at least twenty-four hours notice is given.

The bridge owner, the Metropolitan District Commission (MDC), asked the Coast Guard to temporarily change the drawbridge operation regulations to allow the bridge to remain in the closed position from November 1, 2001 through May 10, 2002, to facilitate rehabilitation construction at the bridge. The bridge owner and the Coast Guard contacted all known waterway users to advise them of the proposed closure. No objections or negative comments were received in response to this proposal.

Discussion of Proposal

This proposed temporary change to the drawbridge operation regulations would allow the William T. Morrisey Boulevard Bridge to remain in the closed position from November 1, 2001 through May 10, 2002. The bridge normally operates on a twenty-four hour advance notice from October 15 through April 15, during the winter months.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the only marine facility effected by this proposal has agreed to the closure dates for the bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that the only marine facility effected by this proposal has agreed to the closure date for the bridge.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.597 [Suspended]

2. From November 1, 2001, through May 10, 2002, § 117.597 is suspended.

3. From November 1, 2001 through May 10, 2002, § 117.T602 is temporarily added to read as follows:

§ 117.T602 Dorchester Bay.

The draw of the William T. Morrisey Boulevard Bridge, mile 0.0, at Boston, need not open for the passage of vessel traffic.

Dated: August 28, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22778 Filed 9–10–01; 8:45 am]
BILLING CODE 4910–15–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1230

RIN 3095–AB06

Micrographic Records Management

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: The proposed rule updates the editions of standards incorporated by reference in 36 CFR part 1230 to the most current edition. In addition, the part has been rewritten in plain language format. The proposed rule will affect Federal agencies.

DATES: Comments are due by November 13, 2001.

ADDRESSES: Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–713–7270. You may also comment via email to comments@nara.gov. See the **SUPPLEMENTARY INFORMATION** for details.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: NARA periodically reviews all of its regulations. This proposed rule was developed after such a review. The only substantive changes from the current regulation are the editions of industry micrographic standards that must be used.

The proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it applies to Federal agencies. This regulation does not have any federalism or tribalism implications.

Please submit email comments within the body of your email message or attach comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: 3095–AB06" and your name and return address in your email message. If you do not receive a confirmation that we have received your email message, contact the Regulation Comment Desk at 301–713–7360, ext. 226.

List of Subjects in 36 CFR Part 1230

Archives and records.

For the reasons set forth in the preamble, NARA proposes to revise part 1230 of title 36, Code of Federal Regulations, to read as follows:

PART 1230—MICROGRAPHIC RECORDS MANAGEMENT

Subpart A—General

Sec.

1230.1 What does this part cover?
1230.2 What is the authority for this part?
1230.3 Publications incorporated by reference.
1230.4 Definitions.

Subpart B—Program Requirements

1230.7 What must agencies do to manage microform records?

Subpart C—Microfilming Standards

1230.10 Do agencies need to request NARA approval for the disposition of all microform and source records?
1230.12 What are the steps to be followed in filming records?
1230.14 What are the filming requirements for permanent and unscheduled records?
1230.16 What are the film and image requirements for temporary records, duplicates, and user copies?

Subpart D—Standards for the Storage, Use and Disposition of Microform Records

1230.20 How should microform records be stored?
1230.22 What are NARA inspection requirements for permanent and unscheduled microform records?
1230.24 What are NARA inspection requirements for temporary microform records?
1230.26 What are the use restrictions for permanent and unscheduled microform records?
1230.28 What must agencies do to send permanent microform records to a records storage facility?
1230.30 How do agencies transfer permanent microform records to the legal custody of the National Archives?

Subpart E—Centralized Micrographic Services

1230.50 What micrographic services are available from NARA?

Authority: 44 U.S.C. 2907, 3302 and 3312.

Subpart A—General

§ 1230.1 What does this part cover?

This part covers the standards and procedures for using micrographic technology to create, use, store, inspect, retrieve, preserve, and dispose of Federal records.

§ 1230.2 What is the authority for this part?

44 U.S.C. chapters 29 and 33, authorize the Archivist of the United States to:

(a) Establish standards for copying records by photographic and microphotographic means,

(b) Establish standards for the creation, storage, use, and disposition of microform records in Federal agencies; and

(c) Provide centralized microfilming services for Federal agencies.

§ 1230.3 Publications incorporated by

ANSI/AIIM MS19—1993,

(g) *Microform.* Any form containing

Subpart C—Microfilming Standards

frame 1 if the information will not fit on

of the last roll of film of a series. For

§ 1230.3 Publications incorporated by reference.

(a) General. The following publications are hereby incorporated by reference into Part 1230. They are available from the issuing organizations at the addresses listed in this section. They may also be examined at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated as they exist on the effective date of this regulation, and a notice of any change in these materials will be published in the **Federal Register**.

(b) American National Standards Institute (ANSI) and International (ISO) standards. ANSI standards cited in this part are available from the American National Standards Institute, 11 West 42nd St., New York, NY 10036. The standards can be ordered on line at http://webstore.ansi.org/ansidocstore/default.asp.

ANSI/ISO 10602:1995 or ANSI/NAPM IT9.1—1996 Imaging Materials—Processed Silver-Gelatin Type Black-and-White Film—Specifications for Stability.

ANSI/PIMA IT9.2—1998, American National Standard for Imaging Media—Photographic Processed Films, Plates, and Papers—Filing Enclosures and Storage Containers.

ANSI/NAPM IT2.19—1994, American National Standard for Photography—Density Measurements—Part 2: Geometric Conditions for Transmission Density.

ANSI/NAPM IT2.18—1996, Photography—Density Measurements—Part 3: Spectral Conditions.

ISO 18911:2000, Imaging materials—Processed safety photographic films—Storage Practices.

(c) Association of Information and Image Management (AIIM) Standards. You may obtain the following standards from the Association of Information and Image Management, 1100 Wayne Avenue, suite 1100, Silver Spring, MD 20910. The standards can be ordered on line at http://www.aiim.org/.

ANSI/AIIM MS1—1996, Recommended Practice for Alphanumeric Computer-Output Microforms—Operational Practices for Inspection and Quality Control.

ANSI/AIIM MS5—1992 (R1998), Micrographic Microfiche.

ANSI/AIIM MS14—1996, Specifications for 16mm and 35mm Roll Microfilm.

ANSI/AIIM MS19—1993, Recommended Practice for Identification of Microforms.

ANSI/AIIM MS23—1998, Microfilm of Documents, Operational Procedures/Inspection and Quality Control of First-Generation Silver-Gelatin.

ANSI/AIIM MS32—1996, Microrecording of Engineering Source Documents on 35mm Microfilm.

ANSI/AIIM MS41—1996, Unitized Microfilm Carriers (Aperture, Camera, Copy, and Image Cards).

ANSI/AIIM MS43—1998, Recommended Practice for Operational Procedures/Inspection and Quality Control for Duplicate Microforms of Documents and from COM

ANSI/AIIM MS45—1990, Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration.

ANSI/ISO 3334—1991, ANSI/AIIM MS51–1991, Micrographics—ISO Resolution Test Chart No. 2—Description and Use.

§ 1230.4 Definitions.

The following definitions apply to this part:

(a) *Archival microfilm.* A photographic film that meets the standards described in § 1230.14 and that is suitable for the preservation of permanent records when stored in accordance with § 1230.20(a). Such film must conform to film designated as LE 500 in ANSI/NAPM IT9.1—1996.

(b) *Background density.* The opacity of the area of the microform not containing information.

(c) *Computer-assisted retrieval (CAR) system.* A records storage and retrieval system, normally microfilm-based, that uses a computer for indexing, automatic markings such as blips or bar codes for identification, and automatic devices for reading those markings and, in some applications, for transporting the film for viewing.

(d) *Computer Output Microfilm (COM).* Microfilm containing data converted and recorded from a computer.

(e) *Facility.* An area used exclusively to make or copy microforms.

(f) *Microfilm.* (1) Raw (unexposed and unprocessed) fine-grain, high resolution photographic film with characteristics that make it suitable for use in micrographics;

(2) The process of recording microimages on film; or

(3) A fine-grain, high resolution photographic film containing microimages.

(g) *Microform.* Any form containing microimages.

(h) *Microimage.* A document such as a page of text or a drawing that is too small to be read without magnification.

(i) *Permanent record.* Permanent record has the meaning specified in § 1220.14 of this chapter.

(j) *Records storage facility.* Records storage facility has the meaning specified in § 1220.14 of this chapter.

(k) *Temporary record.* Temporary record has the meaning specified in § 1220.14 of this chapter.

(l) *Unscheduled record.* Unscheduled record has the meaning specified in § 1220.14 of this chapter.

(m) *Use or work copies.* Duplicates of original film made to be used for reference or for duplication on a recurring or large-scale basis. These are not preservation master copies, which must be stored unused as specified in § 1230.20.

Subpart B—Program Requirements

§ 1230.7 What must agencies do to manage microform records?

Federal agencies must manage microform records by taking the following actions:

(a) Assign responsibility for an agencywide program for managing microform records and notify the National Archives and Records Administration (NWM), 8601 Adelphi Rd., College Park, MD 20740–6001 of the name and title of the person assigned the responsibility.

(b) Manage the microform records as part of other records and information resources management programs of the agency.

(c) Include microform records management objectives, responsibilities, and authorities in pertinent agency directives and disseminate them to appropriate officials.

(d) Address records management issues, including disposition, before approving new microform records systems or enhancements to existing systems.

(e) Train the managers and users of microform records.

(f) Develop records schedules covering microform records and finding aids, secure NARA approval, and apply the disposition instructions.

(g) Schedule computerized indexes associated with microform records, such as in a computer-assisted retrieval (CAR) system, in accordance with part 1234 of this chapter.

(h) Review practices used to create and manage microform records periodically to ensure compliance with NARA standards in this part.

Subpart C—Microfilming Standards

§ 1230.10 Do agencies need to request NARA approval for the disposition of all microform and source records?

(a) *Permanent or unscheduled records.* Agencies must schedule both source documents (originals) and microforms. NARA must approve the schedule, Standard Form (SF) 115, Request for Records Disposition Authority, in accordance with part 1228 of this chapter before any records, including source documents, can be destroyed. NARA will not approve the destruction of original records that have intrinsic value, or security classified or otherwise restricted original records that are scheduled as permanent, or original records that are scheduled as permanent and that have other characteristics that would limit the usefulness of microform copies for public reference.

(1) Agencies that comply with the standards in § 1230.14 must include on the SF 115 the following certification: "This certifies that the records described on this form were (or will be) microfilmed in accordance with the standards set forth in 36 CFR part 1230."

(2) Agencies using microfilming methods, materials, and procedures that do not meet the standards in § 1230.14(a) must include on the SF 115 a description of the system and standards used.

(3) When an agency intends to retain the silver original microforms of permanent records and destroy the original records, the agency must certify in writing on the SF 115 that the microform will be stored in compliance with the standards of § 1230.20 and inspected as required by § 1230.22.

(b) *Temporary records.* Agencies do not need to obtain additional NARA approval when destroying scheduled temporary records that have been microfilmed. The same approved retention period for temporary records is applied to microform copies of these records. The original records can be destroyed once microfilm is verified, unless legal requirements prevent their early destruction.

§ 1230.12 What are the steps to be followed in filming records?

(a) Ensure that the microforms contain all information shown on the originals and that they can be used for the purposes the original records served.

(b) Arrange, describe, and index the filmed records to permit retrieval of any particular document or component of the records. Title each microform roll or fiche with a titling target or header. For fiche, place the titling information in frame 1 if the information will not fit on the header. At a minimum, titling information must include:

(1) The title of the records;

(2) The number or identifier for each unit of film;

(3) The security classification, if any; and

(4) The name of the agency and organization the inclusive dates, names, or other data identifying the records to be included on a unit of film.

(c) Add an identification target showing the date of filming. When necessary to give the film copy legal standing, the target must also identify the person who authorized the microfilming. See ANSI/AIIM MS19—1993 for standards for identification targets.

(d) The following formats are mandatory standards for microforms:

(1) *Roll film.*—(i) *Source documents.* The formats described in ANSI/AIIM MS14—1996 must be used for microfilming source documents on 16mm and 35mm roll film. A reduction ratio no greater than 1:24 is recommended for typewritten or correspondence types of documents. See ANSI/AIIM MS23—1998 for the appropriate reduction ratio and format for meeting the image quality requirements. When microfilming on 35mm film for aperture card applications, the format dimensions in ANSI/AIIM MS32—1996, Table 1 are mandatory, and the aperture card format "D Aperture" shown in ANSI/AIIM MS41—1996, Figure 1, must be used. The components of the aperture card, including the paper and adhesive, must conform to the requirements of ANSI/PIMA IT9.2—1998. The 35mm film used in the aperture card application must conform to film designated as LE500 in ANSI/NAPM IT9.1—1996.

(ii) *COM.* Computer output microfilm (COM) generated images must be the simplex mode described in ANSI/AIIM MS14—1996 at an effective ratio of 1:24 or 1:48 depending upon the application.

(2) *Microfiche.* For microfilming source documents or computer generated information (COM) on microfiche, the formats and reduction ratios prescribed in ANSI/AIIM MS5—1992 must be used as specified for the size and quality of the documents being filmed. See ANSI/AIIM MS23—1998 for determining the appropriate reduction ratio and format for meeting the image quality requirements.

(e) *Index placement.* (1) *Source documents.* When filming original (source) documents, place indexes, registers, or other finding aids, if microfilmed, either in the first frames of the first roll of film or in the last frames of the last roll of film of a series. For microfiche, place them in the last frames of the last microfiche or microfilm jacket of a series.

(2) *COM.* Place indexes on computer-generated microforms following the data on a roll of film or in the last frames of a single microfiche, or the last frames of the last fiche in a series. Other index locations may be used only if dictated by special system constraints.

§ 1230.14 What are the filming requirements for permanent and unscheduled records?

(a) *General requirements.* (1) Apply the standards in this section for microfilming of:

(i) Permanent paper records;

(ii) Unscheduled paper records, and

(iii) Permanent and unscheduled original microform records (no paper originals) produced by automation, such as computer output microfilm (COM).

(2) Do not destroy unscheduled paper records after microfilming without authorization from NARA on a SF 115.

(b) *Film stock standards.* Polyester-based silver gelatin type film that conforms to ANSI/NAPM IT9.1—1996 for LE 500 film must be used in all applications.

(c) *Processing standards.* Microforms must be processed so that the residual thiosulfate ion concentration will not exceed 0.014 grams per square meter in accordance with ANSI/NAPM IT9.1—1996. Follow processing procedures in ANSI/AIIM MS1—1996 and MS23—1998.

(d) *Quality standards.* (1) *Resolution.* (i) Source documents. Determine minimum resolution on microforms of source documents using the method in the Quality Index Method for determining resolution and anticipated losses when duplicating, as described in ANSI/AIIM MS23—1998 and MS43—1998. Perform resolution tests using an ISO 3334—1991 Resolution Test Chart, and read the patterns following the instructions of ISO 3334—1991. Use the smallest character used to display information to determine the height used in the Quality Index formula. A Quality Index of five is required at the third generation level.

(ii) COM. Computer output microforms (COM) must meet the requirements of ANSI/AIIM MS1—1996.

(2) *Background density of images.* The background ISO standard visual diffuse transmission density on microforms must be appropriate to the type of documents being filmed. The procedure for density measurement is described in ANSI/AIIM MS23—1998. The densitometer must meet with ANSI/NAPM IT2.18—1996, for spectral

conditions and ANSI/NAPM IT2.19—

(i) Recommended visual diffuse

(i) A complete description of all

(c) Include the following information

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conditions and ANSI/NAPM IT2.19—1994, for geometric conditions for transmission density.

(i) Recommended visual diffuse transmission background densities for images of documents are as follows:

Classification	Description of document	Background density
Group 1	High-quality, high contrast printed book, periodicals, and black typing	1.3–1.5
Group 2	Fine-line originals, black opaque pencil writing, and documents with small high-contrast printing.	1.15–1.4
Group 3	Pencil and ink drawings, faded printing, and very small printing, such as footnotes at the bottom of a printed page.	1.0–1.2
Group 4	Low-contrast manuscripts and drawing, graph paper with pale, fine-colored lines; letters typed with a worn ribbon; and poorly printed, faint documents.	0.8–1.0
Group 5	Poor-contrast documents (special exception)	0.7–0.85

(ii) Recommended visual diffuse transmission densities for computer generated images are as follows:

Film type	Process	Density measurement method	Min. DMax [1]	Max. Dmin [1]	Minimum density difference
Silver gelatin	Coventional	Printing or diffuse	0.75	0.15	0.60
Silver gelatin	Full reversal	Printing	1.50	0.20	1.30

[1] Character or line denisty, measured with a microdensitometer or by comaprying the film under a microscope with an image of a know denisty.

(3) *Base plus fog density of films.* The base plus fog density of unexposed, processed films must not exceed 0.10. When a tinted base film is used, the density will be increased. The difference must be added to the values given in the tables in paragraph (d)(2) of this section.

(4) *Line or stroke width.* Due to optical limitations in most photographic systems, film images of thin lines appearing in the original document will tend to fill in as a function of their width and density. Therefore, as the reduction ratio of a given system is increased, reduce the background density as needed to ensure that the copies will be legible.

§ 1230.16 What are the film and image requirements for temporary records, duplicates, and user copies?

(a) *Temporary records with a retention period over 99 years.* Follow the film and image requirements in § 1230.14.

(b) *Temporary records to be kept for less than 100 years.* NARA does not require the use of specific standards. Select a film stock that meets agency needs and ensures the preservation of the microforms for their full retention period. Consult appropriate ANSI standards, available as noted in § 1230.3, or manufacturer's instructions for processing microfilm of these temporary records. Follow the manufacturer's recommendations for production and maintenance of temporary microfilm to ensure that the image is accessible and usable for the entire retention period.

Subpart D—Storage, Use and Disposition Standards for Microform Records

§ 1230.20 How should microform records be stored?

(a) *Permanent and unscheduled records.* Store permanent and unscheduled microform records under the extended term storage conditions specified in ISO 18911:2000 and ANSI/PIMA IT9.2—1998, except that the relative humidity of the storage area must be a constant 35% RH, plus or minus 5%. Do not store non-silver copies of microforms in the same storage area as silver gelatin originals or duplicate copies.

(b) *Temporary records.* Store temporary microform records under conditions that will ensure their preservation for their full retention period. Agencies may consult Life Expectance (LE) guidelines in ANSI/AIIM standards (see § 1230.3 for availability) for measures that can be used to meet retention requirements.

§ 1230.22 What are NARA inspection requirements for permanent and unscheduled microform records?

(a) Agencies must inspect, or arrange to pay a contractor or NARA to inspect the following categories of microform records stored at the agency, at a commercial records storage facility, or at a NARA records center, when the films are 2 years old, and every 2 years thereafter, until legal custody is transferred to the National Archives and Records Administration, in accordance with ANSI/AIIM MS45—1990.

(1) Master films of permanent records microfilmed in order to dispose of the original records,

(2) Master films of permanent records originally created on microfilm,

(3) Other master films scheduled for transfer to the National Archives, and

(4) Master films of unscheduled records.

(b) To facilitate inspection, the agency must maintain an inventory of microfilm listing each microform series/publication by production date, producer, processor, format, and results of previous inspections.

(c) The elements of the inspection shall consist of:

(1) An inspection for aging blemishes following ANSI/AIIM MS45—1990;

(2) A rereading of resolution targets;

(3) A remeasurement of density; and

(4) A certification of the environmental conditions under which the microforms are stored, as specified in § 1230.20(a).

(d) The agency must prepare an inspection report, and send a copy to NARA in accordance with § 1230.28(b). The inspection report must contain:

(1) A summary of the inspection findings, including:

(i) A list of batches by year that includes the identification numbers of microfilm rolls and microfiche in each batch;

(ii) The quantity of microforms inspected;

(iii) An assessment of the overall condition of the microforms;

(iv) A summary of any defects discovered, e.g., redox blemishes or base deformation; and

(v) A summary of corrective action taken.

(2) A detailed inspection log created during the inspection that contains the following information:

(i) A complete description of all records inspected (title; roll or fiche number or other unique identifier for each unit of film inspected; security classification, if any; and inclusive dates, names, or other data identifying the records on the unit of film);

(ii) The date of inspection;

(iii) The elements of inspection (see paragraph (a)(4) of this section);

(iv) Any defects uncovered; and

(v) The corrective action taken.

(e) If an inspection shows that a master microform that is deteriorating, the agency must make a silver duplicate in accordance with § 1230.14 to replace the deteriorating master. The duplicate film will be subject to the 2-year inspection requirement before transfer to a record center or to the National Archives.

(f) Inspection must be performed in an environmentally controlled area in accordance with ANSI/AIIM MS45—1990.

§ 1230.24 What are NARA inspection requirements for temporary microform records?

NARA recommends, but does not require, that agencies use the inspection by sampling procedures described in § 1230.22(a).

§ 1230.26 What are the use restrictions for permanent and unscheduled microform records?

(a) Do not use the silver gelatin original microform or duplicate silver gelatin microform of permanent or unscheduled records created in accordance with § 1230.14 of this part (microform) for reference purposes. Agencies must ensure that the archival microform remains clean and undamaged during the process of making a duplicating master.

(b) Use duplicates for:

(1) Reference,

(2) Further duplication on a recurring basis,

(3) Large-scale duplication, and

(4) Distribution of records on microform.

(c) Agencies retaining the original record in accordance with an approved records disposition schedule may apply agency standards for the use of microform records.

§ 1230.28 What must agencies do to send permanent microform records to a records storage facility?

(a) Follow the procedures in part 1228, subpart I, of this chapter and the additional requirements in this section.

(b) Package non-silver copies separately from the silver gelatin original or silver duplicate microform copy and clearly label them as non-silver copies.

(c) Include the following information on the transmittal (SF 135 for NARA records centers), or in an attachment to the transmittal. For records sent to an agency records center or commercial records storage facility, submit this information to NARA as part of the documentation required by § 1228.154(c)(2) of this chapter:

(1) Name of the agency and program component;

(2) The title of the records and the media/format used;

(3) The number or identifier for each unit of film;

(4) The security classification, if any;

(5) The inclusive dates, names, or other data identifying the records to be included on a unit of film;

(6) Finding aids that are not contained in the microform; and

(7) The inspection log forms and inspection reports required by § 1230.22(a) (5) and (6).

(d) Agencies may transfer permanent microform records to a records storage facility meeting the storage requirements in Section 1230.20(a) (see § 1228.152(e)(3) for NARA centers) only after the first inspection or with certification that the microforms will be inspected by the agency, an agency contractor, or a NARA records center (on a reimbursable basis) when the microforms become 2 years old.

§ 1230.30 How do agencies transfer permanent microform records to the legal custody of the National Archives?

(a) Follow the procedures in part 1228, subpart L, of this chapter and the additional requirements in this section.

(b) Originate the transfer by submitting an SF 258, Agreement to Transfer Records to the National Archives of the United States, unless otherwise instructed by NARA.

(c) If the records are not in a NARA records center, submit the information specified in § 1230.28(c) of this part.

(d) Transfer the silver gelatin original (or duplicate silver gelatin microform created in accordance with § 1230.14) plus one microform copy.

(f) Ensure that the inspection of the microform is up-to-date. If the microform records were recently produced, please note that NARA will not accession permanent microform records until the first inspection (when the microforms are 2 years old) has been performed.

(g) Package non-silver copies separately from the silver gelatin original or silver duplicate microform copy and clearly label them as non-silver copies.

Subpart E—Centralized Micrographic Services

§ 1230.50 What micrographic services are available from NARA?

Some NARA records centers provide reimbursable microfilming services, including preparing, indexing, and filming of records, inspection of film, and labeling of film containers. Agencies desiring microfilming services from NARA should contact the Office of Regional Records Services (NR), 8601 Adelphi Rd., College Park, MD 20740-6001, or the director of the NARA records center serving the agency's records (see § 1228.150(a) of this chapter). The fees for microfilming services will appear in NARA bulletins, which are available on NARA's web site at http://www.nara.gov/records/policy/bulletin.html or from the Modern Records Programs (NWM), 8601 Adelphi Road, College Park, MD 20740-6001.

Dated: September 4, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01-22669 Filed 9-10-01; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4145b; FRL-7050-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Seven Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for seven major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_X). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the

approval is set forth in the direct final

hour ozone standard and carbon

help states meet federal health-based

of the Clean Air Act, because the I/M

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approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

DATES: Comments must be received in writing by October 11, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers at (215) 814–2061, the EPA Region III address above or by e-mail at chalmers.ray@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–22616 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0048b, CO–001–0049b, CO–001–0050b; FRL–7044–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Trip Reduction, and Reduction of Diesel Vehicle Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to take direct final action to approve a State Implementation Plan (SIP) revision submitted by the Governor of Colorado on May 20, 2000. These revisions incorporate changes to Colorado's Regulation 12, "Reduction of Diesel Vehicle Emissions," and repeals Colorado's Regulation 9, "Trip Reduction." EPA is taking this action under section 110 of the Clean Air Act (Act).

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments must be received in writing on or before October 11, 2001.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, EPA Region VIII, (303) 312–6493.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 10, 2001.

Kerrigan G. Clough,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–22611 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ47–227, FRL–7053–4]

Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by New Jersey. This revision consists of two elements necessary for EPA to grant final full approval of New Jersey's enhanced motor vehicle inspection and maintenance (I/M) program. The first element provides the State's final submittal for compliance with the National Highway Systems Designation Act (NHSDA), which allowed states to claim additional credit for their decentralized inspection and maintenance programs, provided they could validate that credit claim with actual program implementation data. The second element revises New Jersey's performance standard modeling to reflect the State's enhanced I/M program as it is currently implemented. This element satisfies a condition of EPA's May 14, 1997 conditional interim approval of New Jersey's enhanced I/M program SIP. The intended effect of this proposal is to approve the two evaluations of the enhanced I/M program, in addition to prior minor revisions to the enhanced I/M SIP, and to grant final full approval of the program. The enhanced I/M program will result in emission reductions that will help achieve attainment of the one-hour ozone standard and carbon monoxide standard.

DATES: Comments must be received on or before October 11, 2001. Public comments on this action are requested and will be considered before taking final action.

ADDRESSES: All comments should be addressed to Raymond Werner, Branch Chief, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866, and New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Michael P. Moltzen, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

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1. Background

The Clean Air Act Amendments of 1990 (the Clean Air Act) require certain states to implement an enhanced Inspection and Maintenance (I/M) program to detect gasoline-fueled motor vehicles which exhibit excessive emissions of certain air pollutants. The enhanced I/M program includes a tailpipe exhaust analyzer and a dynomometer test which simulates realistic driving conditions. The enhanced I/M program is intended to help states meet federal health-based national ambient air quality standards (NAAQS) for ozone and carbon monoxide by requiring vehicles with excess emissions to have their emissions control systems repaired. Specifically, the Clean Air Act requires enhanced I/M programs to be implemented by states for areas which meet one or more of the following criteria:

(1) Designated as a serious, severe or extreme ozone non-attainment area with urbanized populations of 200,000 or more;

(2) Designated as a carbon monoxide non-attainment area that exceeds a 12.7 part per million (ppm) design value with urbanized populations of 200,000 or more; or,

(3) Part of a Metropolitan Statistical Area with a population of 100,000 or more in the Northeast Ozone Transport Region.

New Jersey meets all three of these criteria, and consequently has adopted, and is implementing, an enhanced I/M program state-wide.

As required by the Clean Air Act, EPA promulgated regulations, including a performance standard and program administration features, for the implementation of enhanced I/M programs. EPA's final rule on Inspection/Maintenance Program Requirements was promulgated on November 5, 1992 at 40 CFR part 51. To comply with EPA's requirements for implementation, on June 29, 1995, New Jersey submitted to EPA a SIP revision for its adopted enhanced I/M program (N.J.A.C. 7:27–15.5). That SIP revision included provisions for an inspection program whereby all 1968 and newer gasoline fueled motor vehicles, unless specifically exempt through law or regulation, would be subject to a steady-state dynamometer-based exhaust emission test known as the ASM5015. The SIP revision provided that once the program was fully implemented, all subject motor vehicles would be inspected at least once every two years (i.e., biennially). New Jersey's enhanced I/M SIP revision also accounted for a hybrid inspection network, that is, it would utilize both centralized, test-only and decentralized, test-and-repair facilities.

Regarding the emission reduction effectiveness of decentralized enhanced I/M programs, the National Highway System Designation Act of 1995 (NHSDA) included a key change to EPA's previously developed enhanced I/M rule requirements. Under the NHSDA, EPA cannot disapprove a state I/M SIP revision, nor apply an automatic discount to a state I/M SIP revision under section 182, 184 or 187 of the Clean Air Act, because the I/M program in such plan revision is decentralized, or a test-and-repair program. Accordingly, an automatic 50 percent credit discount that was originally established for decentralized programs by EPA's I/M rule was replaced with a presumptive equivalency criterion where appropriate. That criterion places the emission reduction credits for decentralized networks on par with credit assumptions for centralized networks, based upon a state's good faith estimate of reductions as provided by the NHSDA. The NHSDA allowed states to claim any reasonable amount of credit for their decentralized programs that they deemed appropriate, so long as 18 months from the approval of their enhanced I/M SIP, the State could show full implementation enhanced I/M program data substantiating their credit claim.

On March 27, 1996, New Jersey submitted a revision to its June 29, 1995 enhanced I/M SIP, modifying its enhanced I/M program design to take advantage of the additional flexibility afforded states by Congress in the NHSDA. Consequently, as part of its March 27, 1996 enhanced I/M SIP revision, New Jersey claimed 80 percent credit for the decentralized portion of its enhanced I/M program.

On May 14, 1997, (62 FR 26401) EPA granted conditional interim approval to New Jersey's enhanced I/M program based on both the State's original June 29, 1995 enhanced I/M SIP submittal and its subsequent March 27, 1996 SIP revision. That action began the 18-month period by the end of which, as required by the NHSDA, New Jersey was to demonstrate that its decentralized program was as effective as claimed. This "NHSDA clock" thus began on the effective date of the interim approval, June 13, 1997. The conditions of the May 14, 1997 interim SIP approval included requirements that the State provide final and complete test equipment specifications, test procedures and emission standards; and that the State provide enhanced I/M performance standard modeling. New Jersey made revisions to its SIP which satisfied the conditions of this approval by rectifying the two major deficiencies in its enhanced I/M SIP by January 31, 1997 and January 30, 1998, respectively. In addition, on December 14, 1998, New Jersey cured eight de minimus deficiencies identified by EPA. Fulfillment of the conditions that New Jersey provide final and complete test equipment specifications, test procedures and emission standards and the rectification of the de minimus

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deficiencies is discussed further in section 7. of this proposal.

The performance standard modeling which was submitted on January 30, 1998, however, was completed prior to the implementation of New Jersey's enhanced I/M program on December 13, 1999. As such, in performing this modeling, the State had to make certain assumptions regarding the I/M program's parameters, some of which later proved to be inaccurate. Subsequently, on April 23, 2001, EPA informed New Jersey that an additional submittal which included performance standard modeling more reflective of the State's program's parameters as currently implemented would be required in order to grant final approval of the enhanced I/M program. That request and its subsequent fulfillment are discussed further below in this Background section and in section 6. of this proposal.

By letter dated December 12, 1997, EPA indicated that New Jersey's 15 percent Rate of Progress Plan was disapproved for failure to meet certain commitments and found that the State had failed to implement its enhanced I/M program. Notice of this letter was published in the **Federal Register** on August 26, 1998 at 63 FR 45399. As a result of EPA's finding that New Jersey failed to implement the program, the NHSDA clock was effectively stopped six months after the granting of conditional interim approval. EPA's finding of failure to implement the required enhanced I/M program also began 18 and 24 month time periods after which a two-to-one emissions offset sanction and a federal highway funding sanction would be imposed, respectively, absent implementation of the enhanced I/M program. These are referred to as "the sanctions clocks."

On November 19, 1999, New Jersey notified EPA by letter that its enhanced I/M program would be implemented on December 13, 1999. EPA had been working closely with the State during the phase-in period of the enhanced I/M program and agreed that the State would have the program implemented on December 13, 1999. Therefore, on December 17, 1999 (64 FR 70659), EPA proposed to find that the State of New Jersey had implemented its enhanced I/M program by December 13, 1999. EPA also proposed to reinstate the interim approval under Section 348 of the NHSDA of the enhanced I/M program effective on December 13, 1999. The "NHSDA clock" thus re-started on December 13, 1999 when the enhanced I/M program began being implemented; however only the remaining 12 months could be used to evaluate the program for NHSDA. This meant that New Jersey's NHSDA submittal would be due by December 13, 2000.

Also in the December 17, 1999 **Federal Register**, EPA published an interim final rule (64 FR 70593), which, as of December 13, 1999, stayed the application of the offset sanction and deferred the highway sanction. Clocks for both sanctions were originally started based on EPA's finding that New Jersey failed to implement the enhanced I/M program. Although New Jersey had numerous start-up problems, the program was implemented and has since become fully operational. On June 12, 2001 (66 FR 31554), EPA took final action to find that New Jersey has implemented its enhanced I/M program. As a result of that finding, the sanctions clocks related to the implementation of New Jersey's enhanced I/M program were terminated on July 12, 2001, the effective date of that action. The June 12, 2001 action also had the effect of reinstating the interim approval of New Jersey's enhanced I/M program.

As stated above, New Jersey started its enhanced I/M program on December 13, 1999. One year later, on December 13, 2000, in order to fulfill the requirement of the NHSDA that the State substantiate its decentralized program credit claim before expiration of the NHSDA clock, New Jersey submitted to EPA an interim analysis. The analysis was based on four months of inspection data in an attempt to demonstrate the effectiveness of the decentralized portion of its enhanced I/M program relative to its centralized test-only network. However, due to start-up issues encountered by the State at the beginning of the program, the data collected was insufficient for a qualitative evaluation. Since New Jersey was not in a position to submit an adequately representative NHSDA evaluation before the termination of the 18 month period, the interim approval of the I/M program under the NHSDA terminated. However, since EPA had approved the I/M program under section 110 of the Clean Air Act as well, the I/M program remained a part of the federally enforceable SIP.

Also as stated above, New Jersey's January 30, 1998 I/M SIP submittal included performance standard modeling completed prior to the implementation of New Jersey's enhanced I/M program, and which was based upon assumptions regarding the I/M program's parameters, some of which later proved to be inaccurate. As mentioned earlier in this section, on April 23, 2001, EPA sent a letter from Acting Regional Administrator William J. Muszynski to New Jersey Department of Environmental Protection Commissioner Robert C. Shinn, Jr., which included remaining actions to be completed before EPA could grant final approval to the State's ozone attainment demonstration. Because all required elements of the State's SIP must be in place and fully approved before the attainment demonstration can be approved, including the enhanced I/M program, the letter identified the two outstanding items related to that program. Specifically, EPA informed New Jersey that its final NHSDA evaluation report and its revised performance standard modeling were needed before we could take those approval actions.

2. What Is the Purpose and Content of New Jersey's Submittal?

New Jersey's May 4, 2001 proposed SIP revision submittal (the May 4, 2001 submittal) addresses EPA's April 23, 2001 letter requesting the two remaining enhanced I/M program SIP elements which are needed in order for EPA to grant final approval to the program. The overarching purpose of the May 4, 2001 submittal is to fulfill the remaining requirements necessary before EPA can grant final approval to New Jersey's enhanced I/M program.

First, the May 4, 2001 submittal provides the final evaluation report for compliance with the NHSDA, which allowed states to claim additional credit for their decentralized program networks, provided they could validate that credit claim with actual program implementation data. The May 4, 2001 submittal proposes to conclude that, based on the qualitative evaluation report, New Jersey's decentralized enhanced I/M network is at least 80% as effective as its centralized enhanced I/M network. Primary conclusions drawn from the analysis are that emission reductions after vehicle repairs consistently show greater incremental reductions for re-inspections conducted at private inspection facilities (PIFs) as compared to those conducted at centralized inspection facilities (CIFs), and that there is a consistent level of performance between CIFs and PIFs. The evaluation validates the State's original claim allowed by the NHSDA regarding the decentralized network's effectiveness.

Second, the May 4, 2001 submittal includes the State's revised performance standard modeling, which was originally submitted on January 30, 1998 to satisfy one of the conditions of EPA's May 14, 1997 interim approval of New Jersey's enhanced I/M program. The revised performance standard modeling reflects New Jersey's enhanced I/M program as it is currently implemented, whereas the original performance standard modeling submitted in 1998 made certain assumptions prior to the start-up of the enhanced I/M program which later proved to be inaccurate. The revised performance standard modeling demonstrates that New Jersey's enhanced I/M program, as currently implemented, successfully meets and exceeds EPA's low enhanced I/M program performance standard developed for all three criteria pollutants (volatile organic compounds (VOC), oxides of nitrogen (NO_X) and carbon monoxide or CO) as modeled for the year 2002.

3. What Are the Criteria of New Jersey's Final NHSDA Evaluation?

In New Jersey, motorists have the option of using either a CIF or a PIF for initial inspections and a CIF or PIF for re-inspections. For the time period New Jersey evaluated, approximately 80 percent of motorists who submitted their vehicles to enhanced emissions inspections in New Jersey chose to have their initial inspection performed at a CIF, whereas, only 20 percent chose to have that initial inspection performed at a PIF. New Jersey's final NHSDA evaluation report covers program data collected in both types of networks from July 1, 2000 to December 31, 2000. The final NHSDA evaluation report which was included in the May 4, 2001 submittal contains the results of the data analyses criteria described in this section for a full six months of enhanced I/M operational data. The following criteria were used to evaluate the program's effectiveness with respect to the 20% of vehicles which were tested at PIFs as compared with the remaining 80% tested at CIFs.

A. Emission Test Scores and Failure Rates

The database for I/M emissions test results analyzed under this criterion consisted of test data for enhanced emissions inspections (i.e., involving the ASM5015 exhaust emission test) that were collected and electronically stored on the State's Vehicle Information Database (VID). Average emission scores (in parts per million (ppm) for hydrocarbons (HC) and nitric oxide (NO, an indicator of overall NO_X reductions) and percent of CO) were calculated from that test data. For each network type, the State conducted these calculations for initial ASM5015 exhaust emission tests performed between July 1 and December 31, 2000 for three conditions: when the initial test result was a failure for emissions, when the initial test result was a pass for emissions, and the overall emission result (i.e. all vehicles receiving an ASM5015 exhaust emission test, regardless of pass/fail status). The analysis was aggregated by station type (i.e., CIF and PIF).

Additional analyses were conducted to further investigate the trends found when analyzing initial emission test results for each pollutant. First, average emissions were calculated by model year and station type. Second, to further explore the initial test failure rate data, an analysis was conducted which included calculating the differences in emissions before and after repair for vehicles failing their initial test.

B. Repair Success Rates

The second criterion used to evaluate the effectiveness of the decentralized network compared to the centralized network was an analysis of the repair success rate of vehicles that failed their initial tests during the time period examined. The repair success rates were determined by comparing all initial failing tests with the test results of the "first retest after repair." This criterion is useful in identifying possible differences in repair success between the different after-repair facility types.

C. Trigger Data Comparison

The last criterion used as part of the State's NHSDA evaluation was trigger data comparison. Typically, trigger analyses are conducted as part of a program's enforcement efforts. An analysis based on this criterion checks various results throughout the inspection process that might be symptomatic of program-compromising behavior. An example of a trigger checked as part of this criterion is an unusually low failure rate. For the purpose of ensuring that indicative criteria were included as part of the NHSDA evaluation, New Jersey selected trigger analyses used to allow the State to determine if the behavior in the PIFs and CIFs is comparable. Data used to satisfy this criterion was collected as part of initial vehicle inspections in New Jersey during the period July 1 through December 31, 2000 from both centralized and decentralized stations.

For each of the individual triggers analyzed, an index number on a scale of 0 to 100 was computed for each PIF and CIF emissions analyzer. For example, in general, a below-average failure rate would produce a lower index score than the mean value for the entire inspection network. Average trigger index numbers were then compared to provide an indication of relative performance of the decentralized network compared to the centralized network. EPA agrees that the criteria selected by the State to qualitatively evaluate the effectiveness of its decentralized enhanced I/M network relative to the centralized network are sufficient for the purposes of the NHSDA requirements.

4. How Have the NHSDA Evaluation Criteria Been Met, and What Are the Conclusions?

During the period of July 1, 2000 to December 31, 2000, New Jersey collected operational data regarding its enhanced I/M program, summarized as follows:

- 914,842 vehicles received an initial ASM5015 exhaust emission test
- 837,722 (91.6%) vehicles passed the initial ASM5015 exhaust emission test
- 77,120 (8.4%) failed the initial ASM5015 exhaust emission test
- 180,262 (19.7%) initial ASM5015 tests conducted by PIFs (test-and-repair)
- 734,580 (80.3%) initial ASM5015 tests conducted by CIFs (test-only)

A summary of the State's analysis of the data collected based on the criteria described above follows.

A. Emission Test Scores and Failure Rates

This analysis covered 914,842 vehicles receiving initial ASM5015 exhaust emission tests between July 1 and December 31, 2000. Overall, for both centralized and decentralized networks, the State found that vehicles failing the enhanced test are significantly more polluting than vehicles which pass the test. Furthermore, New Jersey found that there was a significant difference in overall average ASM5015 initial test failure rates (i.e., 7.6 percent for CIFs and 11.9 percent for PIFs). Another significant finding of the Emission Test Scores and Failure Rates analysis showed an average first repair success rate of approximately 83.9 percent in the PIFs for vehicles receiving their second test at a PIF, as compared to an average rate of approximately 56.9 percent in the CIFs for vehicles receiving their second test at a CIF.

The following conclusions can be drawn from the Emission Test Scores and Failure Rates analysis:

- Overall, the enhanced I/M program is achieving significant reductions in emissions through the effective repair of vehicles emitting unacceptable levels of air pollutants. The analyses show overall reductions of 55 percent for HC, 58 percent for NO_X and 84 percent for carbon monoxide.
- The analysis of emission reductions after repairs consistently show greater

incremental reductions for re-

between the facility types. While

standard, in the requirements

and decentralized networks such as the

standard modeling using the most

network of both centralized test-only

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incremental reductions for re-inspections conducted at PIFs as compared to those conducted at CIFs. New Jersey's evaluation concludes that repairs conducted by PIFs are more successful and effective on the first attempt as compared to any repairs conducted by either a vehicle owner or an untrained repair technician (e.g., subsequent to test failure at a CIF).

- The State concluded that test results for the two networks by model year track closely, indicating near equivalency between the network types when comparing similar model years.

B. Repair Success Rates

New Jersey found that 91.6 percent of the vehicles tested using the ASM5015 exhaust emission test passed their initial inspection. Following the second evaluation criterion described above, New Jersey analyzed the repair success rate of the 77,120 vehicles that failed this initial test during the time period examined.

New Jersey found an average first repair success rate of approximately 83.9 percent in the PIFs for vehicles receiving their second test at a PIF, as compared to an average rate of approximately 56.9 percent in the CIFs for vehicles receiving their second test at a CIF.

The State drew the following conclusions from the Repair Success Rates analysis:

- Repairs performed on vehicles tested exclusively at CIFs appear to be less effective when compared to repairs administered when a vehicle had one or both tests performed at a PIF. This is most likely attributable to the higher skill level of the technicians in the test and repair community.
- The overall repair success rates of the enhanced I/M program, regardless of the test facility, demonstrate that the program is significantly reducing vehicle emissions.

C. Trigger Data Comparison

Trigger data test results that were compared between the two networks included test data collected as part of initial vehicle inspections. As discussed in section 3.C. above, for each of the individual triggers analyzed, an index number was computed for each PIF and CIF emissions analyzer. In analyzing the trigger data, distribution of average index scores, on a scale of zero to 100, for PIFs verses CIFs was created for comparative purposes. New Jersey's analysis showed that the distributions for both the CIF and PIF analyzers are centered between index ratings of 70 and 85; however, the range of the distribution differs substantially between the facility types. While average CIF indexes are tightly grouped between 75 and 85, PIF indexes are more broadly grouped, most ranging from 55 to 85. As previously discussed, scores extending toward zero from the clustered majority of the scores indicate a higher probability of poor performance.

The State drew the following conclusions from the Trigger Data analysis:

i. The fraction of PIF analyzers with below-average scores account for a small fraction of the total volume of initial tests. The significance of this finding is that only a relatively small fraction of the initial test volume occurred at the facilities considered most likely to be engaging in questionable performance.

ii. Results show that there is little difference between the PIF and CIF networks on an average basis; i.e., all average trigger index values are similarly located in the upper 70s. It thus appears that, on average, CIFs and PIFs are achieving similar performance, based upon the selected trigger criteria.

Overall conclusions of NHSDA evaluation:

Although the NHSDA evaluation was qualitative in nature, it did allow the State to draw conclusions which substantiate the State's 80 percent PIF effectiveness credit claim. First, the State found that the analyses demonstrate that emission reductions after repairs consistently show greater incremental reductions for re-inspections conducted at PIFs as compared to those conducted at CIFs. Second, it found that these analysis all appear to demonstrate a consistent level of performance between CIFs and PIFs. Taking into consideration all the results from the various analyses, it is clear that the PIFs are meeting the State's 80 percent SIP credit claim estimation. In addition, these analyses seem to indicate that the State may have been conservative in that original estimation.

EPA agrees with New Jersey's conclusions regarding the analyses associated with each criterion chosen, as well as its overall conclusion regarding the results of the final NHSDA evaluation report. EPA proposes to approve this element of the May 4, 2001 SIP revision. EPA also proposes to find that New Jersey has fulfilled its requirements under the NHSDA regarding the substantiation of its decentralized enhanced I/M program credit claim.

5. What Is Performance Standard Modeling?

EPA included provisions for a model program, known as the performance standard, in the requirements established for enhanced I/M programs. The features of the enhanced I/M performance standard model program are used to generate the minimum performance target that a state must meet. When programmed into EPA's mobile source emission factor model (the MOBILE model), these features produce target emission factors, in grams per mile of vehicle travel, which a state's enhanced I/M program must not exceed to be deemed minimally acceptable for purposes of SIP approval. The performance standard provides a gauge by which EPA can evaluate the adequacy and effectiveness of each state's enhanced I/M program. As such, states are required to demonstrate that their enhanced I/M programs achieve applicable area-wide emission levels for the pollutants of interest that are equal to, or lower than, those which would be realized by the implementation of the performance standard model program. However, the combination of program features which make up the performance standard does not necessarily constitute a recommended program design. The use of the performance standard approach allows EPA to meet Congress's dual statutory requirements that EPA develops a performance standard based on certain statutory features and that the standard provide states with maximum flexibility to design I/M programs to meet local needs.

On September 18, 1995 (60 FR 48029), EPA amended the enhanced I/M final rule to establish an alternate, "low enhanced" I/M performance standard for those areas that can meet the Clean Air Act's requirements for Reasonable Further Progress (RFP) and attainment of either the CO and/or ozone ambient air quality standards without the benefits of the high enhanced I/M performance standard. This low enhanced performance standard is designed for areas that are required to implement enhanced I/M but do not have a major mobile source component to the air quality problem or can obtain adequate emission reductions from other sources to meet the 15% VOC emission reduction requirement and demonstrate attainment.

The low enhanced performance standard meets the Clean Air Act's requirement that it be based on centralized, annual testing of light duty cars and trucks, and checks for tampering and exhaust emissions. Nevertheless, this standard can be met with a comprehensive decentralized, test-and-repair program or a hybrid program comprised of both centralized and decentralized networks such as the program in New Jersey.

6. How Has New Jersey Modeled and Met the Performance Standard?

In compliance with the Clean Air Act, on January 30, 1998, New Jersey submitted modeling to EPA which was intended to satisfy the requirement that the enhanced I/M program meet the performance standard targets. At the time of that submittal New Jersey was required to meet the original enhanced performance standard, subsequently termed the "high" enhanced performance standard. This was a consequence of New Jersey's 1996 15 percent Rate of Progress plan, which relied on credit from a program which was to meet that standard, and which is discussed in the Background section, section 1. of this proposal.

On February 5, 1999, New Jersey submitted a revised 1996 15 percent ROP Plan, which no longer relied on the emission reduction benefits from the enhanced I/M program. Subsequently, on April 23, 1999 (64 FR 19913), EPA approved this revised 15 percent ROP plan. As such, New Jersey is currently demonstrating compliance with the Clean Air Act requirements for RFP. On April 11, 2001, New Jersey submitted to EPA a ROP Plan which demonstrates that it will meet reasonable further progress requirements for the milestone year 2002. That demonstration is based on a mix of measures which includes the current enhanced I/M program which meets the "low" enhanced performance standard. Therefore, New Jersey is only required to meet the low enhanced performance standard, discussed above in Section 5. The May 4, 2001 submittal includes modeling which demonstrates that New Jersey's enhanced I/M program as currently implemented meets EPA's low enhanced performance standard.

As required in the enhanced I/M final rule, in its May 4, 2001 submittal New Jersey's intent was to show through modeling that its enhanced I/M program is being implemented such that it meets or exceeds the low enhanced performance standard, expressed as emission levels in program area-wide average grams per vehicle mile (gpm). New Jersey is required to meet the low enhanced performance standard for the ozone precursors hydrocarbons (HC), NO_X and also for CO because of its non-attainment status for ozone and CO.

EPA's enhanced I/M final rule also requires that equivalency to the performance standard be demonstrated using the most current version of EPA's mobile source emission model. New Jersey has completed its performance standard modeling using the most current model applicable for its purposes, MOBILE5a-H. A subsequent version of the model, MOBILE5b, has also been released, however, EPA allows states to continue to use the MOBILE5a version for SIP submittals and transportation conformity determinations prior to, and for a limited period after, the release of EPA's next version of the model, MOBILE6.

Both the high and low enhanced performance standards and evaluations to determine a program's performance standard compliance is based on the following parameters: network type (centralized, decentralized or a hybrid network), decentralized effectiveness or credit (as a percentage of centralized network effectiveness), program start date, test frequency, emission standards (cutpoints), vehicle model year and type coverage, exhaust emission test, emission control device inspections (visual), evaporative system function checks, pre-1981 model year stringency (i.e., failure rate), waiver rate, compliance rate, evaluation date and on-road testing (as a percentage of all subject vehicles).

Although each state must model the performance standard using specific values specified by EPA (detailed in the Technical Support Document for this proposal and at 40 CFR 51.351), the performance standard emission factor results may vary from state to state. Variations will primarily result if states decide to use state-specific vehicle registration distribution and/or state-specific Vehicle Miles Traveled (VMT) mix. In the modeling included in its May 4, 2001 submittal, New Jersey used the most recently available state-specific vehicle registration data, which was from 1999. The state-specific registration data was also used to modify the VMT mix used in the modeling so that it more accurately represented the vehicle type distribution in New Jersey. Other local parameters, such as minimum, maximum and ambient temperatures were also used in determining the emission factors associated with the low enhanced performance standard. New Jersey's modeling with these state-specific and local parameters resulted in low enhanced performance standard emission factors of 1.29 gpm, 1.41 gpm and 18.33 gpm for VOC, NO_X and CO, respectively.

A discussion of the various program parameters New Jersey used to determine compliance with the low enhanced performance standard follows.

Network Type: New Jersey's enhanced I/M program is comprised of a hybrid network of both centralized test-only facilities and decentralized test-and-repair facilities. For modeling purposes, the State assumed a 70/30 split for its enhanced I/M network (that is, of those vehicles which ultimately pass inspection, either on their first test or subsequent to initial failure and repair, 70 percent of the vehicle owners passing final inspection are expected to do so at a centralized inspection facility, and the remaining 30 percent are expected to pass final inspection at a decentralized private inspection facility). As discussed in section 2. of this notice, New Jersey claimed that the decentralized portion of its enhanced I/M program would be 80 percent as effective as the centralized portion of its program. Therefore, New Jersey has assumed 80 percent credit for the decentralized portion of its program in its performance standard modeling. As discussed in Section 4. of this notice, EPA is proposing to approve the State's demonstration that its decentralized inspection network is at least 80% as effective as its centralized network. For further discussion of the methodology employed by the State in modeling its hybrid network, the reader is referred to the Technical Support Document.

Start Date: The State began implementing its enhanced I/M program on December 13, 1999. For modeling purposes, the State assumed an enhanced I/M start date of January 1, 2000.

Test Frequency: The test frequency of New Jersey's enhanced I/M program is biennial (that is, vehicle inspections are required once every two years). However, there are several types of "off-cycle" inspections which, due to their nature, result in vehicles being inspected annually, rather than biennially. Off-cycle inspections include random roadside inspections, retail and casual change of ownership inspections and courtesy inspections. In New Jersey's previous performance standard modeling, the State estimated the expected volume of "off-cycle" inspections and claimed credit for those inspections as annual, rather then biennial, inspections. The State chose to be more conservative with its current performance standard modeling, and did not include any additional benefits achieved from "off-cycle" annual inspections in the evaluation which EPA is proposing to approve in this notice.

Model Year and Vehicle Type Coverage: All gasoline-fueled vehicles in New Jersey, regardless of model year, receive some type of emissions inspection as part of the enhanced I/M program, unless specific regulatory

exemptions apply through New Jersey

dynamometer test. New Jersey's current

assessment that the collector vehicle

replacement upon failure) may claim

that this type of testing in the interim

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exemptions apply through New Jersey Division of Motor Vehicle (NJDMV) regulations at N.J.A.C. 13:20–43.1. (exemptions include collector motor vehicles, low mileage vehicles, and historic motor vehicles). However, only 1981 and newer model year vehicles which are: (1) classified as light-duty gasoline-fueled motor vehicles (LDGVs), or light-duty gasoline-fueled trucks 1 and 2 (LDGT1s and LDGT2s), (2) amenable to dynamometer-based testing, and (3) not "specifically exempted" from enhanced testing, are subjected to the enhanced inspection test procedures. A more detailed discussion of the applicable exhaust and evaporative emission test for each vehicle category can be found in the Technical Support Document.

Exhaust Emission Test Type: The majority of gasoline-fueled motor vehicles inspected as part of the State's enhanced I/M program receive either an ASM5015 test or an idle test as their exhaust emission test. Specifically, the ASM5015 exhaust emission test procedure (a single mode ASM test) is performed on all 1981 and newer LDGVs, LDGT1s and LDGT2s which are amenable to dynamometer-based testing and are not specifically exempted from enhanced testing. All pre-1981 LDGVs, LDGT1s and LDGT2s, and all HDGVs, receive an idle test. New Jersey accounted for tests applicable to those model year categories in its performance standard modeling. A more detailed discussion is found in the technical support document.

Certain 1981 and newer vehicles are exempt from the ASM5015 exhaust emission testing. Certain types of the vehicles in this exempt group are subjected to a less extensive 2500 RPM exhaust emissions test. In its previous performance standard modeling submittal, the State estimated the number of vehicles that would be exempt from the ASM5015 exhaust emission test because they were not amenable to dynamometer testing (these include vehicles which employ full-time, four-wheel drive or which are installed with non-switchable traction control). This estimation was then used to determine the loss in credit attributed to these vehicles receiving a 2500 RPM test in lieu of the ASM5015 exhaust emission test. At that time, the State estimated that fraction at one (1) percent of the total number of vehicles which otherwise meet the requirements to receive the ASM5015 test. Based on its data analysis from the enhanced I/M program as currently implemented, the State significantly underestimated this percentage of vehicles that would be exempt from the ASM5015 dynamometer test. New Jersey's current program data shows that while 1,062,311 initial ASM5015 exhaust emission tests were performed from August 2000 through March 2001, there were 96,761 2500 RPM exhaust emission tests performed during the same period. This translates to 8.4 percent of the vehicles which otherwise met the requirements to receive the ASM5015 test, instead received a 2500 RPM test. For current modeling purposes, the State assumed the percentage was 10 percent to be conservative in its estimates.

The NJDMV's regulations and State statute also specifically exempt several types of vehicles that would otherwise be subjected to enhanced I/M testing from either the enhanced tests (that is, subjecting these vehicles, instead, to a less effective exhaust emission test) or from emission testing as a whole. These vehicles include: (1) low mileage vehicles, and (2) collector motor vehicles. In addition, the NJDMV's regulations maintain a vehicle category that exempts applicable vehicles from basic I/M emission testing. These vehicles are classified by the NJDMV as historic motor vehicles.

In its original performance standard modeling submittal, the State estimated that the number of low mileage vehicles in the fleet eligible for exemption would be approximately one (1) percent. Also in that submittal, the State determined that although it was not possible to determine the number of applications the State would receive under the enhanced I/M program for designation as a collector motor vehicle, it was believed the number would be insignificant, well under 1 percent. Therefore, collector motor vehicles were not accounted for in the original performance standard modeling. New Jersey also did not account for historic motor vehicles in its original performance standard modeling, as the vehicles in this category, by definition, fall well outside the 25 model year analysis window examined by the MOBILE model.

Based on its data analysis from the enhanced I/M program as currently implemented, the State determined that the number of vehicles actually applying for a low mileage exemption was, approximately 0.3 percent, seventy percent lower than the rate that was estimated in the original performance standard modeling. Because the actual rate is so small, the State did not consider the impact of these vehicles as part of the revised performance standard modeling. In addition, actual I/M program operational data indicated that the State was correct in its original assessment that the collector vehicle category would be insignificant, and therefore New Jersey also did not account for these vehicles in the revised modeling. Historic motor vehicles are not accounted for since they fall well outside the 25 model year analysis window examined by the MOBILE5a–H model. Based on the State's determinations described above, the only vehicles receiving a 2500 RPM test that are considered in the May 4, 2001 performance standard modeling are those vehicles deemed not amenable to dynamometer-based testing. Thus, 10 percent of the 1981 and newer vehicles in the State were modeled by New Jersey as receiving a 2500 RPM test instead of the ASM5015 test. Further detail on how the State modeled the effect of that ASM5015 exemption/2500 RPM testing rate can be found in the technical support document for this proposal.

Emission Standards: New Jersey assumed implementation of initial cutpoints for the ASM5015 exhaust emission test. ASM5015 cutpoints are the numeric values of the emission levels used to determine the pass/fail status of a vehicle, as compared to the measured emission test results, under the ASM5015 test. Exceeding one or more cutpoints is considered as failing the emission test. Initial ASM5015 cutpoints are less stringent than final cutpoints would be under the program.

Emission Control Device Inspections: New Jersey performs a visual inspection to determine the presence of a catalytic converter on all 1975 and newer motor vehicles, and that inspection was modeled by the State in its performance standard modeling. In addition, the State's modeling assumes that all vehicles subject to a gas cap check also receive a visual gas cap check. New Jersey also included fuel inlet restrictor testing for all applicable model years in its revised performance standard modeling. The purpose of that test is to determine whether or not a leaded gasoline pump nozzle could fit into the vehicle's gasoline inlet, allowing for the possibility of misfueling with leaded gasoline. Use of leaded gasoline inhibits the effectiveness of vehicles' catalytic converters. Although fuel inlet restrictor testing was part of the State's annual inspections since June 1990, New Jersey stopped performing inlet restrictor tests in 1994 because it was no longer possible for New Jersey motorists to obtain leaded gasoline. However, based on EPA modeling guidance (EPA–AA–TEB–94–01, User's Guide to MOBILE5, May 1994), states that have previously performed fuel inlet tests for at least one full cycle (and have required catalyst replacement upon failure) may claim the SIP credit associated with this testing without future testing. Since New Jersey met these qualifications, the State is still permitted to take emission credit for the fuel inlet restrictor test.

Evaporative System Function Checks: New Jersey's evaporative emission testing is currently limited to a pressurized gas cap test. The gas cap check is designed to insure that the gas cap seals properly and has no leaks. All gasoline-fueled motor vehicles manufactured with a sealed gas cap are subject to this pressured gas cap inspection, which New Jersey determined comprises all 1971 and later model year vehicles. However, since the MOBILE model only looks at the last 25 model years from the evaluation date, for a 2002 evaluation year, New Jersey only evaluated emissions for model years 1977 to 2002. Further detail on which vehicle categories are subject to the State's pressurized gas cap inspection can be found in the Technical Support Document. MOBILE5 does not allow a state to estimate the benefit of a gas cap test separate from the full evaporative pressure test, which New Jersey has not yet implemented as part of its enhanced I/M program. EPA has determined that the pressurized gas cap inspection accounts for 40 percent of the full pressure test benefit. New Jersey accounted for only that fraction of emission reductions attributable to the gas cap test in its performance standard modeling. Further details on the State's methodology in determining that credit can be found in the Technical Support Document. In its performance standard modeling, New Jersey also projects future emission reductions associated with the evaporative purge test for all 1981 and newer vehicles subject to the ASM5015 exhaust emission test. The purge test was designed to inspect the ability of the vehicle's evaporative control system to properly purge stored VOC vapors from the evaporative canister. However, in-use evaluation of the purge test by EPA and several states revealed significant operational problems with the administration of the purge test. Currently, New Jersey does not implement the evaporative purge test. EPA acknowledged that problems exist with the purge test in a memorandum dated November 5, 1996 from Margo T. Oge, Director, Office of Mobile Sources, to its regional Air Division Directors. In that guidance and in an addendum memorandum issued on December 23, 1996, EPA determined that this type of testing in the interim would not be required, but that EPA is allowing states who committed to performing the purge test in the future, including New Jersey, to claim the applicable emission credit in its performance standard modeling for future years.

Stringency. For modeling purposes, New Jersey assumed a 30 percent emission test failure rate for pre-1981 vehicles. EPA agrees that this is a reasonable assumption.

Waiver Rate: In accordance with 40 CFR 51.360(d)(1), each state's enhanced I/M SIP must include "a maximum waiver rate expressed as a percentage of initially failed vehicles." The purpose of this waiver rate is to estimate emission reduction benefits in a modeling analysis. EPA's enhanced I/M performance standard assumes a 3 percent waiver rate. New Jersey also assumed a 3 percent waiver rate for 1981 and newer vehicles in its original performance standard modeling. Under New Jersey's enhanced I/M program, any vehicle that applies for a waiver must show compliance with the idle test, in addition to meeting the minimum cost expenditure. Since all pre-1981 vehicles receive the idle test as their official inspection test under the State's enhanced I/M program, these vehicles are not eligible for a waiver. Thus, New Jersey's pre-1981 model year waiver rate is effectively zero. Data from the first year of the enhanced I/M program's implementation shows that the waiver rate in New Jersey is approximately 0.3 percent, well below the 3 percent waiver rate assumed in the State's original performance standard modeling. However, for the purposes of its performance standard modeling evaluation, the State continued to assume a conservative waiver rate of 3 percent for all model years.

Compliance Rate: The compliance rate for New Jersey's basic I/M program was 96 percent. In moving to the enhanced program, the State originally assumed that transitioning from a sticker-enforced inspection program to a registration denial-enforced program increases compliance with the program by a moderate amount of 2 percent. At the time of its May 4, 2001 submittal, New Jersey did not have any validated statistical evidence which contradicted that assumed compliance rate and continues to assume a 98 percent compliance rate in the current performance standard modeling exercise. EPA believes this is a reasonable assumption.

Evaluation Date: Both the high and low enhanced performance standard model programs include evaluation dates. These were the dates by which states had to demonstrate, through modeling, that their enhanced I/M programs could attain equivalent or lower emission levels than the performance standard program. Specifically, states had to demonstrate that the emission levels achieved by their enhanced I/M program were equivalent to, or lower than, those achieved by the performance standard program by 2000 for ozone (VOC and NO_X) and 2001 for CO. At the time of the Agency's May 14, 1997, conditional interim approval of New Jersey's enhanced I/M program, EPA made the determination that based on the provisions of the NHSDA, the evaluation dates in the Federal I/M rule had been superseded. The provisions of the NHSDA allow for state development of an enhanced I/M program commencing later than those dates set forth in EPA's November 5, 1992 final rule on Inspection/Maintenance Program Requirements.

Therefore, to be consistent with the intent of the NHSDA, EPA determined that the initial program evaluation for all three criteria pollutants would be for calendar year 2002. Because of the seasonal nature of New Jersey's nonattainment for ozone and carbon monoxide, the State completed its performance standard modeling for the ozone precursors VOC and NO_X with an evaluation date of July 1, 2002, and for CO with an evaluation date of January 1, 2002.

Other Modeling Parameters and Assumptions: In addition to the parameters and assumptions discussed above, New Jersey made certain other assumptions necessary to complete its performance standard modeling. These assumptions are consistent across modeling New Jersey did for its own program as well as for the EPA model I/M 240 program which is used to generate the minimum performance target that a state must meet. Further detail on these additional assumptions can be found in the Technical Support Document.

Performance Standard Modeling Results: The following table shows the emission factors obtained from both the EPA model performance standard program and New Jersey's enhanced I/M program for January 1, 2002 for CO and July 1, 2002 for VOC and NO_X.

TABLE 1.—MODELING RESULTS

EPA is also proposing to approve the

responsibilities established in the Clean

Plan revision involving Reasonably

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TABLE 1.—MODELING RESULTS

Program type	VOC (gpm)	NO_x (gpm)	CO (gpm)
Low Enhanced Performance Standard	1.48	1.60	21.58
New Jersey Program	1.29	1.41	18.33

Overall conclusions of the performance standard modeling evaluation

Based on the State's modeling analysis, EPA agrees that New Jersey's enhanced I/M program, as currently implemented, exceeds the low enhanced I/M program performance standard for all three criteria pollutants. EPA is proposing to approve New Jersey's performance standard modeling.

7. What Are the Related Elements Associated With New Jersey's Enhanced I/M Program Which EPA Is Addressing Today?

EPA is proposing to approve certain revisions to New Jersey's enhanced I/M SIP which were made prior to the May 4, 2001 submittal. As discussed in section 1 of this notice, on May 14, 1997, EPA granted conditional interim approval to New Jersey's enhanced I/M program. In addition to the requirement that the State provide enhanced I/M performance standard modeling (which the State submitted on May 4, 2001 and which EPA is proposing to approve today), the conditions of the May 14, 1997 interim SIP approval also included additional requirements that the State provide final and complete test equipment specifications, test procedures and emission standards. On January 31, 1997, New Jersey submitted a SIP revision to satisfy those additional conditional requirements. New Jersey finalized those requirements through a succession of rule adoptions on February 3, 1997 and July 7, 1997 at New Jersey Administrative Code (N.J.A.C.) 7:27–15 (Subchapter 15, Control and Prohibition of Air Pollution from Gasoline-fueled Motor Vehicles) and N.J.A.C. 7:27B–4 (Subchapter 4, Air Test Method 4: Testing Procedures for Motor Vehicles). EPA is proposing to approve those additional requirements in today's action.

In addition to the conditional requirements discussed above, there also remained eight de minimus deficiencies related to the Clean Air Act requirements for enhanced I/M in the State's submittal. Those de minimus deficiencies did not affect the interim approval status of New Jersey's enhanced I/M program, however they did need to be rectified prior to EPA granting final approval of the program. In order to address these de minimus deficiencies, New Jersey needed to:

(1) Submit proof that adequate funding will be available throughout the life of the enhanced I/M program, as set forth in 40 CFR 51.354.

(2) Submit final requirements for inspection of fleet vehicles, as set forth in 40 CFR 51.356.

(3) Insure that quality control measures are in accordance with the requirements set forth in 40 CFR 51.359.

(4) Provide a detailed description of its motorist compliance enforcement program, as set forth in 40 CFR 51.361.

(5) Provide a description of the procedures that will ensure program quality (such as audits and training requirements), as set forth in 40 CFR 51.363.

(6) Provide final program requirements for data collection, as set forth in 40 CFR 51.365.

(7) Provide final procedures for analyzing and reporting program data, as set forth in 40 CFR 51.366.

(8) Complete the public information program, including the repair station report card, as set forth in 40 CFR 51.368.

New Jersey's December 14, 1998 enhanced I/M SIP revision was intended in part to cure these eight de minimis deficiencies identified by EPA. Two of the eight de minimus deficiencies were finalized by the State through rule adoptions on December 6, 1999 at N.J.A.C. Title 13, Chapter 20, Subchapter 43, Enhanced Motor Vehicle Inspection and Maintenance Program: de minimus deficiency #2 was cured at N.J.A.C.13:20–43.4, 43.5, and 43.6, and de minimus deficiency #4 was cured at N.J.A.C.13:20–43.16. Evidence of these corrections is contained in the docket for this rulemaking. As part of its proposal to approve New Jersey's enhanced I/M program today, EPA is now proposing to find that the State has cured the eight previously identified de minimus deficiencies.

Pertaining to de minimus deficiency #2, New Jersey has revised its regulations at N.J.A.C. 13:20–43.4 to require fleet and employee-owned motor vehicles operated on Federal facilities to comply with the I/M program requirements for the state. However, EPA is not requiring states to implement 40 CFR 51.356(a)(4), dealing with Federal installations within I/M areas, at this time. The Department of Justice has recommended to EPA that this Federal regulation be revised since it appears to grant states authority to regulate Federal installations in circumstances where the Federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. EPA will be revising this provision in the future and will review state I/M SIPs with respect to this issue when this new rule is final. Therefore, for these reasons, EPA is neither proposing approval nor disapproval of the specific requirements which apply to Federal facilities at this time.

8. Summary of Conclusions and Proposed Action

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New Jersey and submitted formally to EPA for incorporation into the SIP.

Based on the analyses included in New Jersey's May 4, 2001 submittal, EPA concludes the following. The State's NHSDA evaluation validates New Jersey's 80% decentralized test and repair effectiveness rate credit claim. New Jersey's evaluation uses actual program implementation data to show that the decentralized portion of the network is at least 80% as effective as its centralized program, as the State previously claimed. EPA also concludes, based on New Jersey's performance standard modeling which reflects the State's enhanced I/M program as it is currently implemented, that the State's program meets the low enhanced performance standard. Based on these conclusions, EPA is proposing to approve New Jersey's May 4, 2001 SIP revision.

EPA is also proposing to approve the final and complete test equipment specifications, test procedures and emission standards that New Jersey submitted to satisfy conditions of EPA's May 14, 1997 interim approval. New Jersey made a revision to its SIP on January 31, 1997 which contained those required elements.

EPA is proposing to find that New Jersey's December 14, 1998, SIP revision submittal adequately remedies the eight de minimus deficiencies previously identified.

Finally, as a consequence of EPA's conclusions regarding the approvability of the elements summarized above, EPA is proposing to change the conditional interim status of the approval of New Jersey's enhanced I/M program to final approval.

9. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Taking's" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: August 31, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–22738 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY52–228, FRL–7053–5]

Approval and Promulgation of Implementation Plans; New York's Reasonably Available Control Measure Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the New York State Implementation Plan revision involving Reasonably Available Control Measures (RACM). Specifically, EPA is proposing to approve New York's RACM Analysis and determination that there are no additional RACM that may be implemented to advance the 1-hour ozone attainment date from 2007 to 2006 in the New York portion of the New York-Northern New Jersey-Long Island severe ozone nonattainment area.

DATES: Comments must be received on or before October 11, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New York submittals and EPA's Technical Support Document (TSD) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd floor, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

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Administrative Requirements

What Are the Requirements for Reasonably Available Control Measures (RACM)?

Section 172(c)(1) of the Clean Air Act (the Act) requires State Implementation Plans (SIP) to contain RACM as necessary to provide for attainment as expeditiously as practicable. EPA interprets the RACM requirements of section 172(c)(1) in the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble), see 57 FR 13498, 13560. In that preamble, EPA

states the principle that potential measures that would not advance the attainment date for an area are not considered RACM. EPA encourages states to consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, the General Preamble provides that if the measures are reasonably available, states should adopt them as RACM. EPA also indicates that states could reject a potential RACM if it would cause substantial widespread and long-term adverse impacts. States are encouraged to consider local conditions, such as economics or implementation concerns, in evaluating potential RACM. On November 30, 1999, John S. Seitz, Director of EPA's Office of Air Quality Planning and Standards, issued a memorandum entitled, "Guidance on the Reasonably Available Control Measures Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas" which reiterated the Act's RACM requirements.

What Did New York Include in Its RACM Submittal?

On June 15, 2001, the New York State Department of Environmental Conservation (NYSDEC) submitted to EPA its assessment of whether any RACM are available to advance the attainment date, from 2007 to 2006 or sooner, for the New York portion of the New York-Northern New Jersey-Long Island (New York Metro Area) severe ozone nonattainment area. New York requested that EPA process in parallel the State's adoption of its RACM analysis, which EPA is doing in today's notice. New York held public hearings on July 30 and July 31, 2001 and established a public comment period which closed on August 6, 2001. The State will provide a copy of the public comment record and responsiveness document for EPA to consider before taking final rulemaking action.

How Does New York's Analysis Address the RACM Requirement?

New York's analysis of potential RACM considered information from the following sources:

1. Section 108(f) of the Act
2. A list of control measures completed by the State and Territorial Air Pollution Program Administrators (STAPPA)/Association of Local Air Pollution Control Officials (ALAPCO)
3. Ozone attainment suggested shortfall measures developed by the Ozone Transport Commission (OTC)
4. Control measures implemented through the California Federal Implementation Plan
5. Control measures implemented in other serious and severe ozone nonattainment areas
6. Control measures suggested by commenters during public comment periods on New York's attainment SIP, and
7. Transportation Control Measures analyzed by the New York State Department of Transportation (NYSDOT) in a document entitled, "NYSDOT Conformity Measure Analysis"

New York's analysis summed the volatile organic compound (VOC) and oxides of nitrogen (NO_X) potential emission reductions from the numerous possible measures, including all the reductions from all the measures identified in the NYSDOT study. New York's analysis of Transportation Control Measures (TCM's) examined the potential emissions reductions from measures included in the documents listed previously. As part of this evaluation, New York considered local circumstances, such as the fact that the New York Metro Area has a high population density and a well-established public transit system. Many RACM-type measures listed in these documents have already been implemented. Moreover, the New York Metro Area is not experiencing the same rate of growth as other metropolitan areas in the nation, so that RACM's which are appropriate in high growth areas may be less effective here. Of the measures examined by New York, only eight measures were identified as having any potential to provide significant emission reductions and these eight were determined to warrant further evaluation as potential RACM's.

Of the eight measures identified, the most significant portion of the potential emission reductions estimates in New York's analysis come from the night-time construction and alternative fuels programs. Despite their potential emission reductions, these measures are not RACM for the 1-hour ozone standard because they cannot be fully implemented prior to 2007, they need further analysis of air quality benefits/impacts to be considered and will not advance the attainment date.

What Were the Results of New York's RACM Assessment?

The NYSDEC's RACM analysis addresses the reasonableness and effectiveness of both additional TCM's and additional stationary source control measures. New York concludes that there are no control measures, above and beyond what the State is already implementing, that would advance the 2007 attainment date specified in the Act for severe ozone nonattainment areas, because, the reductions from any potential RACM measures in the short-term are small compared to the reductions that will be achieved by 2007 through measures that are already in place or through measures which the State has previously committed to implement. In fact, the New York 1-hour Ozone Attainment SIP for the New York Metro Area, the 15 percent Rate of Progress (ROP) plan, the 9 percent post-1996 ROP plan and the continuing 3 percent per year Reasonable Further Progress emission reductions, already require emission controls on a wide variety of sources. Nevertheless, New York clearly states that there is nothing within its RACM assessment that precludes it from adopting the measures discussed in the assessment for the purpose of meeting the requirements for motor vehicle transportation conformity, attainment of the 8-hour ozone standard or any other air quality standard, and control of certain air toxins, or for any other reason to protect public health. In fact, over the period beyond the attainment date, some of these strategies may provide significant benefit. In some instances, there are efforts already underway to implement these.

The combination of measures examined by New York indicate potential reductions, but it is important to note that the estimate did not consider practical limitations in their implementation prior to 2007. Unfortunately, many of the actions needed to bring these measures to full fruition cannot be fully implemented in time to advance the attainment date from 2007 to 2006 or sooner. For the NYSDOT study in particular, the measures are currently under interagency review and represent values at the higher end of the potential emissions reduction range and not values that could potentially be achieved before 2007.

Of the possible emission reductions identified in the State's submittal, a significant portion of those reductions are estimated from construction/ozone action days, alternate fuels and clean fuel fleet programs.

Construction/Ozone Action Day Program

The construction analysis assumes the cessation of construction operations on ozone action days or the shifting of emissions from day-time to night-time through day-time construction bans. The ozone action day reductions would be episodic, and not continuous emission reductions. While this measure may offer long term emission reductions to help achieve the 8-hour ozone standard, significant issues need to be addressed before it can be considered a RACM. These include analyses of: (1) Quantity of night-time construction which already takes place to ensure that emission reduction benefits are not "double counted;" (2) air quality impacts to ensure that the night-time emissions for New York are not contributing to ozone problems in downwind nonattainment areas; (3) air pollutant emissions from generators needed for lighting and supporting night-time activities; and (4) costs associated with implementing the construction/ozone action day program.

Alternate Fuels Consumption

New York's analysis of the impact of alternate fuel-consuming vehicles examined the benefits associated with conversion of all government vehicles in the New York Metro Area, regardless of vehicle weight, age or function, to use fuels which exhibit fewer emissions than gasoline-consuming vehicles. The analysis concluded that while replacement of all government vehicles to alternate fuel-consuming vehicles has the potential for significant emission reductions and has received strong encouragement by the Federal, state and local governments, that magnitude of vehicle replacement is not practicably achievable by the 2007 attainment date. There is a lack of sufficient infrastructure currently in place for supply of alternate fuel for all government fleets. In addition, the analysis double counts reductions from vehicles that have already been converted. The New York City Department of Transportation currently only has two compressed natural gas (CNG) bus refueling stations capable of handling 200 buses apiece, with plans to convert five more stations by 2005. This would give a total capacity of seven stations for 1400 buses, out of a fleet of 3000 buses available for conversion. Moreover, the analysis does not recognize that existing non-CNG buses may have a useful life that extends beyond 2007 and that it may not be economically feasible to replace these buses before completion of their useful life. The promise of substantial emission reductions associated with this measure is contingent on a phase-in period for fleet vehicle turnover and further infrastructure development, which can be achievable, but not in time to advance attainment by 2006 or sooner. Therefore, this measure cannot be considered a RACM. Nevertheless, EPA believes alternate fuels for government vehicle fleets does offer potential emissions reductions to help achieve long-term environmental benefits.

Clean Fuel Fleet Program

In examining the potential emission reductions for the clean fuel fleet program, it should be noted that they were estimated using MOBILE5b modeling projected for the year 2010, not 2006, and were modeled before EPA's recent heavy-duty engine regulations were promulgated (40 CFR Parts 85 and 86). The national heavy-duty engine standards which are required beginning with model year 2002 for most manufacturers, are actually more stringent than the applicable heavy-duty clean fuel fleet emission standards. Consequently, actual emission reductions from a heavy-duty clean fuel fleet program would be significantly less than those projected, and to a large extent would be occurring anyway.

Remaining Five Measures

The potential emission reductions associated with the remaining five measures that NYSDOT examined (maintenance equipment, ozone action days, commuter choice, coatings and aircraft support programs) did not consider practical limitations in their implementation prior to 2007. Many of the actions needed to bring these five measures to full fruition cannot be fully implemented in time to advance the attainment date from 2007, and therefore, are not considered RACM. In addition, some of these measures are episodic and would not represent continuous emission reductions. Although these measures may offer long term emission reductions to help achieve the 8-hour ozone standard, a number of analyses must be conducted before any one of these measures can be considered a RACM. These include: (1) An analysis that the emission reduction benefits are not "double counted" because the program may already exist in some other form; (2) an analysis that deferred emissions contribute to a reduction in ozone (e.g., limiting use of lawn equipment on ozone alert days may actually be deferring use to subsequent days in the same ozone season); and (3) an economic analysis of the costs associated with implementing the programs.

Does New York's Submittal Meet the RACM Requirement?

EPA has reviewed New York's RACM analysis documentation, the process used by the New York State agencies to review and select TCM's and other possible reduction measures for point and area sources for the New York Metro Area and has determined that New York's RACM analysis meets the Act's RACM requirement. Although EPA encourages areas to implement available RACM measures as potentially cost effective methods to achieve emissions reductions in the short term, EPA does not believe that section 172(c)(1) requires implementation of potential RACM measures that either are not economically feasible or produce relatively small emissions reductions that will not be sufficient to allow the area to achieve attainment in advance of full implementation of all other required measures. The attainment demonstration for the New York Metro Area indicates that the ozone benefit expected from regional NO_X reductions is substantial.

The term "reasonably available control measure" is not actually defined among the definitions in the Act. Therefore, the EPA interpretation that potential measures may not be RACM if they require an intensive and costly effort for numerous small area sources is based on the common sense meaning of the phrase, "reasonably available." A measure that is reasonably available is one that is technologically and economically feasible and that can be readily implemented. New York's analysis of its ability to implement RACM includes consideration of whether potential small emissions reductions, from a multitude of sources, create an undue administrative burden to the states and regulated entities. As stated in the General Preamble, EPA believes that states can reject potential measures based on local conditions including cost, see 57 FR 13561.

What Are EPA's Conclusions?

EPA has evaluated New York's submittal for consistency with the Act, applicable EPA regulations, and EPA policy. EPA is proposing to approve New York's RACM analysis and to determine that there are no additional RACM's that, when implemented, would advance the attainment date in the New York Metro Area from 2007 to 2006 or sooner. However, EPA does believes that the control strategies considered in New York's RACM analysis may offer some benefits in providing for attainment of an 8-hour ozone standard, and we recommend that New York and other states in the OTR revisit these control strategies for an 8-hour standard.

What Additional Actions Is the State Taking to Provide for Attainment of the 1-hour Ozone Standard?

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New York's 1994 attainment demonstration documented that the New York Metro Area could not attain the ozone standard without significant emission reductions from upwind sources. This documentation, along with documentation developed by EPA, led EPA to promulgate the NO_X SIP Call (63 FR 57356) to reduce the transport of pollution into downwind nonattainment areas. In the NO_X SIP Call, EPA concluded that reductions from various upwind states were necessary to provide for timely attainment in various downwind states. The NO_X SIP Call therefore established requirements for control of sources of significant emissions in all upwind states. However, these reductions are not scheduled for full implementation until May 2003. Further, the United States Court of Appeals for the District of Columbia Circuit recently ordered that EPA could not require full implementation of the NO_X SIP Call prior to May 2004. *Michigan, et al., v. EPA*, D. C. Cir. No. 98–1497, Order of Aug. 30, 2000. New York complied with the NO_X SIP Call and established a NO_X trading program as its control program. On May 22, 2001 (66 FR 28059), EPA approved New York's regulations to comply with the NO_X SIP Call. New York requires full implementation by May 2003 for its NO_X sources.

New York, in cooperation with the other OTR states, worked to consider regional control measures and strategies to bring the New York Metro Area into attainment of the ozone standard. New York has committed to adopt the measures to account for this shortfall noted previously by October 31, 2001. In fact, New York has taken a leadership role in the OTC process of identifying and developing regional control strategies that would achieve the necessary additional reductions to attain the 1-hour ozone standard. New York will be implementing regulations consistent with the OTC which include; revisions to the consumer products and architectural and industrial coatings rules, a mobile equipment refinishing rule, controls on portable fuel containers as well as the NO_X model rule (NO_X reductions from sources that are not included in the 1994 OTC NO_X Memorandum of Understanding for regional NO_X reductions or covered by EPA's NO_X SIP Call). New York has begun its regulatory development process for these measures.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 31, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–22739 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–056–2–200031; FRL–7053–2]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Alabama: Control of Gasoline Sulfur and Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve a SIP revision submitted by the State of Alabama establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the Birmingham nonattainment area (Shelby and Jefferson counties in Alabama). Alabama developed these fuel requirements to reduce emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOC) as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Birmingham nonattainment area. EPA is approving Alabama's fuel requirement into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Birmingham nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

DATES: Comments should be received on or before October 11, 2001.

ADDRESSES: All comments should be addressed to: Lynorae Benjamin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Lynorae Benjamin, (404) 562–9040

Alabama Department of Environmental Management (ADEM), 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION: The following section provides the rationale for EPA's granting Alabama a preemption waiver, as provided in Section 211(c)(4)(C) of the Act, for the low-sulfur/low-RVP requirements for gasoline sold in the Birmingham nonattainment area during the regulatory control period (June 1 through September 15) each year through 2003. After that time, the State control of sulfur terminates, and Federal controls on sulfur in gasoline will then apply. There is no termination date for the low-RVP portion of Alabama's fuel regulation.

I. Analysis of State's Submittal

What Did the State Submit?

On November 1, 2000, the State of Alabama submitted an attainment demonstration for the 1-hour ozone NAAQS for the Birmingham nonattainment area for inclusion into the Alabama SIP. The rule for the fuel program (the subject of this proposed rulemaking) is included in this submittal in Appendix I; the request for a waiver from Federal preemption pursuant to 211(c)(4)(C) of the Act (also the subject of this proposed rulemaking) is included as Appendix II of this submittal. Specifically, Appendix II of the Alabama submittal contains data and analyses to support a finding under section 211(c)(4)(C) that the State's low-sulfur and low-RVP requirements are necessary for the Birmingham nonattainment area to achieve the ozone NAAQS.

Does the State Submittal Meet the SIP Approval Requirements Under Section 110?

This SIP submittal, including the fuel rule for Alabama's low-sulfur/low-RVP fuel control program, meets the requirements outlined in section 110. The fuel rule was formally adopted by the ADEM Board on October 24, 2000, and became effective December 1, 2000.

How Does the Low-Sulfur/Low-RVP Proposal Relate to Other SIP Activities in the State?

The attainment demonstration for the Birmingham nonattainment area, submitted November 1, 2000, relies upon the emission reductions from the low-sulfur/low-RVP fuel program. The SIP submittal includes a list of controls currently in place in both Jefferson and Shelby counties, and provides additional emission reductions control measures necessary to achieve the 1-hour ozone NAAQS. Specifically, the attainment demonstration includes a low-sulfur/low-RVP fuel program (the subject of this proposed rulemaking) and controls on Alabama Power Company's Gorgas and Miller Steam Plants. EPA action on the controls for the Gorgas and Miller Steam Plants are being taken in a separate rulemaking.

What Are the Clean Air Act Requirements?

This action is pursuant to section 110 of the Clean Air Act as amended in 1990 (the Act). The approval of the State's fuel control measure must also meet the requirements of section 211(c)(4)(C). Under this section of the Act, EPA may approve a state fuel control into a SIP if it is found that the control is "necessary" to achieve a NAAQS.

The EPA's August 21, 1997, Guidance on Use of Opt-in to RFG and Low-RVP Requirements in Ozone SIPs gives further guidance on what EPA is likely to consider in making a finding of necessity. The guidance sets out four issues to be analyzed:

1. The quantity of emission reductions needed to achieve the NAAQS;
2. Other possible control measures and the reductions each would achieve;
3. The explanation for rejecting alternatives as unreasonable or impracticable; and
4. A demonstration that reductions are needed even after implementation of reasonable and practicable alternatives, and that the fuel control will provide some or all of the needed reductions.

In this notice of proposed rulemaking and accompanying Technical Support Document (TSD), EPA addresses these issues.

What Does the State's Low-Sulfur/Low-RVP Regulation Include?

The State's low-sulfur/low-RVP regulation establishes a maximum sulfur content limit of 150 ppm, averaged on a volume-weighted basis, for all gasoline sold in Jefferson and Shelby counties during the regulatory period beginning June 1 and ending September 15. The sulfur limit will remain in effect through the 2003 control period. After that time, the State control of sulfur terminates, and Federal controls on sulfur in gasoline will then apply. As Alabama noted in its submittal, EPA promulgated its newest standards for vehicle tailpipe emissions as well as a national clean fuel (Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements) on February 10, 2000. EPA's rule sets an initial corporate pool average for sulfur of 120 parts per million (ppm) beginning in 2004, and will require a refinery average of 30 ppm sulfur for all gasoline sold nationwide beginning in 2006.

The State's low-sulfur/low-RVP regulation also establishes a maximum RVP limit of 7.0 pounds per square inch (psi) for all gasoline sold in Jefferson and Shelby counties during the aforementioned regulatory period of *any* calendar year beginning in 1999. For ethanol blends meeting specified conditions sold during the regulatory period in Jefferson and Shelby counties, Alabama's regulations limits RVP to a maximum of 8.0 psi. The RVP limit on gasoline and ethanol blends is a per gallon standard. There is no termination date for the low-RVP portion of Alabama's fuel regulation.

How Will the Program Be Enforced?

ADEM will enforce the low-sulfur/low-RVP rule. Producers, importers, terminals, pipelines, truckers, rail carriers, and retail dispensing outlets are subject to provisions of this rule. Registration, recordkeeping, reporting, and certification requirements are included. ADEM will conduct sampling for the fuel program in accordance with the "Methodology for Randomized Sampling to Estimate Mean Sulfur in Gasoline During a Specified Ozone Season" (see Appendix I of the attainment demonstration) or by some EPA-approved modification of this sampling plan. Samples, the number to be determined in coordination with ADEM and EPA, will be collected and analyzed for sulfur and RVP throughout

the control period. Any sample that

for the Birmingham nonattainment area

emission reductions of 2.09 TPD and no

proposed fuel controls, the Birmingham

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the control period. Any sample that exceeds the limits specified in the fuel rule (i.e., 150 ppm sulfur and 7.0 psi—with the consideration of the allowable margin of error), will be considered a violation and may require an enforcement action. If an enforcement action is warranted, ADEM would use one of two approaches. ADEM would either issue an administrative order or consent order, or initiate a civil action. Another provision of the fuel rule provides that the seasonal sulfur average will not exceed 140 ppm. If the seasonal sulfur average exceeds 140 ppm, ADEM will require 100 percent terminal testing in lieu of testing at the retail level for future control periods.

EPA finds that this fuel rule is an acceptable approach for enforcing the State's fuel program.

Will the Low-Sulfur/Low-RVP Fuel Control Program Provide Some or All of the Needed Emission Reductions?

Implementation of the low-sulfur/low-RVP fuel program will provide 3.3 (tons per day) TPD of NO_X and 7.0 TPD of VOC emission reductions, which provides some or all of the emission reductions needed for the Birmingham nonattainment area to achieve the 1-hour ozone NAAQS. Reducing the sulfur and RVP of gasoline reduces NO_X and VOC emissions, respectively.

On May 1, 1998, EPA released a staff paper presenting EPA's understanding of the impact of gasoline sulfur on emissions from motor vehicles and exploring what gasoline producers and automobile manufacturers could do to reduce sulfur's impact on emissions. The staff paper noted that gasoline sulfur degrades the effectiveness of catalytic converters and that high sulfur levels in commercial gasoline could affect the ability of future automobiles—especially those designed for very low emissions—to meet more stringent standards that are in use. The paper also pointed out that sulfur control will provide additional benefits by lowering emissions from the current fleet of vehicles.

Lowering the RVP in gasoline reduces VOC emissions, primarily through reducing evaporative losses from vehicle fuel tanks, lines, and carburetors as well as losses from gasoline storage and transfer facilities. To a lesser degree, a reduction in the VOCs in vehicle exhaust also results from low-RVP gasoline.

Are There Any Reasonable and Practicable Alternatives to Alabama's Fuel Program?

The State conducted thorough analyses of control measures available for the Birmingham nonattainment area. The attainment demonstration for the Birmingham nonattainment area contains a long list of stationary and point source controls that are required for Jefferson and Shelby counties. In brief, this attainment demonstration discusses Alabama's implementation of VOC reasonably achievable control technology (RACT), Stage I vapor recovery controls and open burning bans, among other controls for Jefferson and Shelby counties. Further, NO_X controls for the Alabama Power Company's Gorgas and Miller plant are included in this attainment demonstration. This attainment SIP uses a weight-of-evidence analysis to show that implementation of these controls, including the low sulfur/low-RVP program, should bring the Birmingham nonattainment area into attainment of the 1-hour ozone NAAQS. The discussion below summarizes the controls that have been adopted and evaluates the reasonableness and practicability of the non-fuel alternatives that are still available.

In February 1997, ADEM formed an Advisory Committee to assist in determining the course(s) most appropriate to reduce ozone precursor emissions in the Birmingham nonattainment area. As a result of these meetings, many discussions centered on a fuel control strategy (in conjunction with other strategies). For the purpose of this fuel waiver request, ADEM referred to the results of the aforementioned meetings and reconsidered the potential implementation of an inspection and maintenance (I/M) program, and Stage II vapor recovery controls.

The conclusion drawn from ADEM's analysis of these controls was that implementing an I/M program is not practicable as a strategy to achieve attainment by the year 2003 because: (1) the implementation of an I/M program would require a modification to Alabama law; (2) full implementation of an I/M program could not be achieved by 2003 (the attainment year) and little or no emission reductions would be achieved by that year; and (3) the program would require significant funding (i.e., "start-up" costs) and human resources to implement.

ADEM did not consider implementation of the Stage II controls because, in 1994, EPA promulgated regulations for Onboard Refueling Vapor Recovery and because modeling revealed that even if the Stage II program were implemented, the fuel control program would still be necessary. Implementation of a Stage II program would only provide VOC emission reductions of 2.09 TPD and no NO_X emission reductions.

In addition to evaluating the potential for NO_X reductions from an I/M program, ADEM evaluated potential additional NO_X emission reductions from various point source groups. Of the point source groups considered, only six of these point source groups have potentially significant NO_X emissions that are reasonably evaluated for possible controls. These point source groups include the following: coke oven underfiring of coke by-product manufacturing; quenching process of coke by-product manufacturing; industrial internal combustion engines utilizing natural gas as a fuel; reheat furnaces at steel manufacturing sources; lime kilns at lime manufacturing sources; and cement kilns at cement manufacturing sources. After further analysis of each of the above sources, ADEM concluded that it was either not reasonable or practicable to further control these sources, or controls on available sources would not provide all the emission reductions needed. We concur with ADEM's assessment as described in the TSD.

Based on the State's analysis of the cost-effectiveness and the time required to implement these measures, we agree that, other than those proposed in the attainment demonstration and those described in the TSD, there are no reasonable or practicable non-fuel control measures available to the State to achieve the 1-hour ozone NAAQS in a timely manner. Compared to all of the potentially available measures outlined in the TSD, the low-sulfur/low-RVP fuel is the most reasonable and practicable measure available to reduce the emissions from ozone precursor emissions for the Birmingham nonattainment area. The low-sulfur/low-RVP fuel is readily available to the State because it is also being provided to the Atlanta nonattainment area. The benefits of this fuel program are already being felt in the Birmingham nonattainment area.

The TSD includes a detailed review of the controls that the State has already proposed or adopted and the reasonableness and practicability of the non-fuel alternatives that are still available.

Is the Low-Sulfur/Low-RVP Program Necessary for the Birmingham Nonattainment Area To Achieve the 1-Hour Ozone NAAQS?

Implementation of the low-sulfur/low-RVP fuel program will provide 3.3 TPD of NO_X and 7.0 TPD of VOC emission reductions for the Birmingham nonattainment area. Without the proposed fuel controls, the Birmingham nonattainment area subject to these controls would receive gasoline with a sulfur level in excess of 300 ppm and a RVP of up to 7.8 psi during the summer months. The State, based on modeling results using EPA's Complex Model, estimates that the proposed low-sulfur/low-RVP program will reduce NO_X emissions from automobiles by at least 6.2 percent and VOC emissions from automobiles by at least 3.6 percent. Thus, we concur with the State's conclusion that implementation of the low-sulfur/low-RVP fuel program will provide some or all of the emission reductions necessary for the Birmingham nonattainment area to achieve the ozone NAAQS in 2003.

Proposed Action by EPA

EPA is proposing to approve Alabama's low-sulfur/low-RVP fuel program into the federally enforceable SIP. The State has demonstrated that the fuel program will provide some or all of the NO_X and VOC emission reductions needed to reduce ozone levels for the Birmingham nonattainment area. Additionally, the State has demonstrated necessity for a preemption waiver as required by section 211(c)(4)(C) of the Act. Without the program, the design values for the nonattainment area will continue to exceed the 1-hour ozone NAAQS. In the Birmingham attainment demonstration, the State examined control measures, not previously implemented for this nonattainment area, and concluded that, even with adoption of all reasonable and practicable non-fuel control measures, additional VOC and NO_X reductions in the area are necessary to achieve the 1-hour ozone NAAQS. The State further demonstrated that the fuel control satisfies the requirements of section 110 and will supply some or all of the reductions needed to achieve the ozone NAAQS.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." (66 FR 28355, May 22, 2001.) This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 30, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–22735 Filed 9–10–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–056–200110; FRL–7053–1]

Approval and Promulgation of Implementation Plans; Alabama; Attainment Demonstration of the Birmingham 1-hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the additions to Alabama's Air Quality Regulations and the ground-level 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Birmingham nonattainment area submitted by the Alabama Department of Environmental Management (ADEM) on November 1, 2000. This proposed rule is based on the requirements of the Clean Air Act as amended in 1990 (CAA) related to 1-hour ozone attainment demonstrations. EPA will be proposing approval of the fuel control measure in a separate **Federal Register** action.

DATES: Written comments must be received on or before October 11, 2001.

ADDRESSES: All comments should be addressed to: Sean Lakeman at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,

ozone concentration above 0.124 ppm.

Birmingham marginal ozone area was

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Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Planning Section, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides background information on attainment demonstration SIPs for the 1-hour ozone national ambient air quality standard (NAAQS) and an analysis of the 1-hour ozone attainment demonstration SIP submittal for the Birmingham nonattainment area.

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I. Requirements for Marginal Ozone Nonattainment Areas

The CAA requires EPA to establish NAAQS for certain pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare (CAA sections 108 and 109). In 1979, EPA promulgated the 1-hour 0.12 parts per million (ppm) ground-level ozone NAAQS (44 FR 8202 (Feb. 8, 1979)). Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone.

An area exceeds the 1-hour ozone NAAQS each time an ambient air quality monitor records a 1-hour average ozone concentration above 0.124 ppm. An area is violating the NAAQS when the average of expected exceedances during a consecutive three-year period is greater than 1 at any one monitor (40 CFR Part 50, Appendix H). The CAA required EPA to designate as nonattainment any area that was violating the 1-hour ozone NAAQS, generally based on air quality monitoring data from the three-year period from 1987–1989, or any area contributing to a violation (CAA section 107(d)(4); 56 FR 56694 (Nov. 6, 1991)). The CAA further classified these areas, based on the area's design value (i.e., the 4th highest ozone value during the relevant 3 year period at the violating monitor with the highest ozone levels), as marginal, moderate, serious, severe or extreme (CAA section 181(a)). Marginal areas were suffering the least significant air pollution problems.

The control requirements and dates by which attainment needs to be achieved vary with the area's classification. Marginal areas were subject to the fewest mandated control requirements and had the earliest attainment date. Marginal areas were required to attain the 1-hour NAAQS by November 15, 1993.

Table 1 presents a summary of the CAA requirements for a marginal ozone nonattainment area for the 1-hour ozone NAAQS. These requirements are specified in sections 182(b) and 182(f) of the CAA.

TABLE 1.—CAA REQUIREMENTS FOR MARGINAL NONATTAINMENT AREAS

Submit emissions inventory for VOC and NO_X.
Corrections to the Reasonably Available Control Technology (RACT) for VOC sources.
Reasonably Available Control Measures
Submit Permit Programs.
Submit periodic emissions inventory.
Submit Emissions Statement Rule.
Submit Emissions Offset of at least 1.1 to 1 for VOC and NO_X.

II. Background on Birmingham

The Birmingham area was originally classified as a 1-hour ozone nonattainment area by EPA on March 3, 1978 (43 FR 8962). The Birmingham nonattainment area at that time, was geographically defined as Jefferson County, Alabama. On November 6, 1991, by operation of law under section 181(a) of the CAA, EPA classified the Birmingham nonattainment area as a marginal nonattainment area for ozone and added Shelby County to the nonattainment area (56 FR 56693). The nonattainment classification for the Birmingham marginal ozone area was based on ambient air sampling measurements for ozone made during 1987–1989. The area was required to attain the 1-hour ozone NAAQS by November 15, 1993, (i.e. three years from the enactment of the CAA) which is the date set forth in section 181(a)(1).

After the 1993 ozone season the area had three years of quality assured air monitoring data (1991, 1992 and 1993) which demonstrated that the 1-hour ozone NAAQS was attained, making the nonattainment area eligible for redesignation to attainment. The State submitted a final redesignation request on March 16, 1995, that was deemed administratively complete by EPA on April 11, 1995. A direct final rule proposing approval of the redesignation request was signed by the Regional Administrator and forwarded to the Office of the Federal Register on August 15, 1995, for publication. Prior to publication of the document, a violation of the 1-hour ozone NAAQS occurred on August 18, 1995. Because of the violations of the 1-hour ozone NAAQS, EPA directed the Office of the Federal Register to recall the proposed direct final rule from publication. EPA began the process to disapprove the redesignation request. The final action disapproving the redesignation request was published in the **Federal Register** on September 19, 1997, (62 FR 49154). Although exceedances of the 1-hour ozone NAAQS continued through 1998, the design values for the Birmingham nonattainment area for the three-year periods 1994–1996, 1995–1997, and 1996–1998 have remained within the range of marginal classification.

Because of these continuing violations, in a letter dated September 10, 1997, EPA requested that ADEM submit an enforceable commitment to develop an attainment demonstration SIP to attain the 1-hour ozone NAAQS. The enforceable commitment submitted by ADEM included a schedule that required them to submit a new attainment demonstration by July 1999. On August 10, 1998, the State submitted an enforceable commitment without Board adoption, preventing EPA from approving it into the federally enforceable SIP. Therefore, Region 4 informed the State that a SIP call would be initiated (to assure that the SIP provides for the attainment and maintenance of the 1-hour ozone NAAQS, pursuant to section 110(k)(5) of the CAA which authorizes EPA to find that a SIP is substantially inadequate to attain or maintain a NAAQS, and to require ("call for") the State to submit, within a specified period, a SIP revision to correct the inadequacy). EPA

published a proposal in the **Federal Register** on December 16, 1999 (64 FR 70205) to require the State to submit an attainment SIP for Birmingham within six months after final action is taken on the SIP call and to implement controls by May 1, 2003. The final rulemaking on the SIP call was published October 28, 2000, with an effective date of November 27, 2000, (65 FR 64352). ADEM submitted the 1-hour ozone attainment demonstration to EPA on November 1, 2000.

Alabama has met all the regulatory requirements for a marginal nonattainment area as specified in sections 182(b) and 182(f) of the CAA and has elected to develop a control strategy for the SIP revision based on photochemical grid modeling. Although, the model simulation for the proposed control strategy was performed for the year 2004, all control strategies proposed by the attainment demonstration will be in place by May 1, 2003, and attainment is projected in 2003 (ADEM responded to comments received during the comment period concerning the projection that Birmingham will achieve attainment in 2003).

The modeling of 2004 for the attainment year was completed prior to agreement with EPA on the appropriate attainment year. However, since the modeling was completed for 2004 and the time and resources to redo the modeling for 2003 were not available, EPA agreed that attainment for 2003 could be demonstrated with the submittal of a 2003 emissions inventory as a supplement to the 2004 demonstration provided that the 2003 emissions inventory emissions are less than or equal to the level of emissions used in the modeling. It could then be concluded that emissions concentration for 2003, if modeled, would be less than or equal to the 2004 1-hour ozone concentrations, which were modeled.

The year 2003 was determined to be the most "expeditious as practicable" based on the control strategies that are needed to bring Birmingham into attainment and can be implemented in a timely manner. Due to the large amount of NO_X reductions required, a vehicle inspection and maintenance program would not provide the reductions required to attain the standard. Additionally there is no current authority for such a program. Even if such authority existed, development of a regulation, selection of a contractor and completion of the testing sites could not be achieved by 2003. The RACM analysis and fuel waiver request (which will be published in a separate **Federal Register** notice) show that other programs would not provide the reductions required to attain the standard by 2003. Implementing NO_X controls on the Gorgas and Miller Power Plants in the area will achieve the needed reductions by 2003. Its not possible to have three years of clean air quality data prior to 2003, based on monitored violations that occurred in 2000.

EPA conducted a detailed examination of the feasibility of installing the NO_X controls and based on these findings, the EPA believes that the compliance date of May 1, 2003, for installing NO_X controls (Selective Catalytic Reduction (SCR)) on Gorgas and Miller is a feasible and reasonable deadline.

There are three basic considerations related to implementation of post-combustion controls SCR and Selective Non-Catalytic Reduction (SNCR) by the compliance date: (1) Availability of materials and labor, (2) the time needed to implement controls at plants with single or multiple retrofit requirements, and (3) the potential for interruptions in power supply resulting from outages needed to complete installations. The EPA examined each of these considerations. An adequate supply of off-the-shelf hardware (such as steel, piping, nozzles, pumps, soot blowers, fans, and related equipment), reagent (ammonia and urea), and labor would be available to complete implementation of post-combustion controls projected under the assumed control strategy. However, the catalyst used in the SCR process is not an off-the-shelf item and, therefore, requires additional consideration. EPA conservatively concludes that adequate catalyst supply should be available if SCR installations were to occur over a period of two years or more.

Implementation of a NO_X control technology on a combustion unit involves conducting facility engineering review, developing control technology specifications, awarding a procurement contract, obtaining a construction permit, completing control technology design, installation, testing, and obtaining an operating permit. The EPA evaluated the amount of time potentially needed to complete these activities for a single unit retrofit and found that about 21 months would be needed to implement SCR while about 19 months would be needed to implement SNCR.

Based on the estimated timelines for implementing NO_X controls at a plant and availability of materials and labor, the EPA estimates that the NO_X controls in the assumed control strategy could be readily implemented by September 2002, without causing an adverse impact on the electricity supply or on the cost of compliance. Taking this into consideration NO_X controls on Gorgas and Miller could be readily implemented by May 2003 but not in time to affect ozone level in 2002.

III. Relevant Policy and Guidance Documents

This proposal cites several policy and guidance memoranda. The EPA has also developed several technical documents related to the rulemaking action in this proposal. Some of the documents have been referenced. The documents and their location on EPA's web site are listed below.

Recent Documents

1. "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: *http://www.epa.gov/ttn/scram/* (file name: "ADDWOE1H").

2. "Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures." Draft Report. November 3, 1999. Ozone Policy and Strategies Group. U.S. EPA, RTP, NC. Web site: *www.epa.gov/ttn/oarpg/t1main.html.*

3. Memorandum "Guidance on Motor Vehicle Emissions Budgets in One-Hour Attainment Demonstrations," from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I–VI. November 3, 1999. Web site: *http://www.epa.gov/oms/transp/traqconf.htm*

Previous Documents

1. U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013, (July 1991). Web site: *http://www.epa.gov/ttn7scram/* (file name: "UAMREG").

2. U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007, (June 1996). Web site: *http://www.epa.gov/ttn/scram/* (file name: "O3TEST")

3. Memorandum "Guidance on Use of Opt-in to RFG and Low-RVP Requirements," from Gay McGregor, Office of Mobile Sources, to Air Division Directors, Regions I–X. August 21, 1997.

IV. Description of Revisions to

achieve attainment in 2003, the

emissions budget for transportation

those in the modeled control strategy.

resolution (i.e., size) of the receptor

complete discussion of how to

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IV. Description of Revisions to Regulations

The November 1, 2000, submittal included two regulations that will reduce emissions of NO_X and VOC in the Birmingham modeling domain. Rule 335–3–8–.03 requires utility NO_X emission reduction controls on Alabama Power Company plants Gorgas and Miller for the period May 1 through September 30, beginning in 2003. This rule includes specific NO_X emission reduction requirements as well as testing, recordkeeping and reporting requirements. Rule 335–3–20 regulates the sulfur level in gasoline sold in Jefferson and Shelby Counties (will be addressed in the fuel waiver request) which will reduce emissions of NO_X and VOC.

V. Framework for Proposing Action on the Attainment Demonstration SIPs

In general, an attainment demonstration SIP includes a modeling analysis component showing how the area will achieve the NAAQS by its attainment date and the control measures necessary to achieve those reductions.

A. Control Measures Relied on in the Modeled Attainment Demonstration SIP

To receive final approval of the attainment demonstration SIP, the State must have adopted the emission control measures required under the CAA for the area's classification or must have established negative source declarations for the source categories for which the area has no sources that are subject to the CAA area's classification requirements for such sources.

The attainment demonstration must incorporate the emission impacts of, and the SIP submittal must address the rule development for, any additional emission control measures needed to achieve attainment. The rules for the emission controls relied upon in the attainment demonstration must also have been adopted by the State and approved by EPA at the time of or prior to final approval of the attainment demonstration SIP. The emission controls for these sources must be implemented as expeditiously as practicable but no later than the beginning of the ozone control season in the attainment year.

B. Description of Controls and Reductions Projected

The demonstration shows that 71.5 tons per day (TPD) of NO_X emission reductions and 7.0 TPD of VOC emission reductions are needed to achieve attainment of the 1-hour NAAQS for ozone in 2003. In order to achieve attainment in 2003, the following modeled controls are being implemented in addition to the controls mandated and already implemented for marginal nonattainment areas.

(1) During every ozone season (between June 1 and September 15), gasoline sold in Jefferson and Shelby Counties will be required to have a volume-weighted average sulfur content no greater than 150 ppm and a Reid Vapor Pressure (RVP) no greater than 7.0 pounds per square inch. This will provide 3.3 TPD reduction of NO_X emissions and 7.0 TPD reduction of VOC emissions. A separate **Federal Register** notice will be published to approve the fuel rule and the waiver (CAA section 211(c)(4)(C)).

(2) Beginning in 2003, utility NO_X controls on Alabama Power Company plants Gorgas and Miller will commence for the period May 1 to September 30 each year beginning in 2003. These controls will provide for 68.2 TPD reduction of NO_X emissions. The corresponding NO_X emission rates for each of the Gorgas and Miller units are provided in the following table.

Plant/Unit	NO_X Emission Rate pounds/million British thermal unit (lb/mmBtu)
Gorgas Unit 6	0.35
Gorgas Unit 7	0.35
Gorgas Unit 8	0.23
Gorgas Unit 9	0.24
Gorgas Unit 10	0.24
Miller Unit 1	0.20
Miller Unit 2	0.20
Miller Unit 3	0.20
Miller Unit 4	0.20

These emission limitations will be enforced by establishing a 0.21 lb/mmBtu NO_X emission limit for the two plants based on a rolling 30 day average from May 1 through September 30 of each year. The limit is based on a two plant average and the rolling 30 day averages are based on a heat input-weighted average of NO_X emissions from all units at the two plants.

(3) National VOC and NO_X control measures on-road mobile, off-road mobile, and area sources, including the national low emission vehicle (NLEV) program, locomotive engine standards, phase 2 requirements for VOC consumer and commercial products, marine engine standards, and phase 2 and 3 non-road diesel engine standards will be in place and were assumed in the model.

C. Motor Vehicle Emissions Budget (MVEB)

Another component of the attainment demonstration SIP is a motor vehicle emissions budget for transportation conformity purposes. Transportation conformity is identification of a process for ensuring that states consider the effects of emissions associated with the transportation plan for the nonattainment area on attainment of the NAAQS. As described in section 176(c)(2)(A), attainment demonstrations necessarily include the estimates of motor vehicle emissions that are consistent with attainment, which then act as a budget or ceiling for the purposes of determining whether transportation plans, programs, and projects conform to the attainment SIP.

States must include in their attainment demonstration SIP the level of the motor vehicle emissions that will be produced in the attainment year, and demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. This level of motor vehicle emissions is used to determine the conformity of transportation plans and programs to the SIP, as described by CAA section 176(c)(2)(A). A state cannot effectively demonstrate attainment through its SIP unless they identify the level of motor vehicle emissions that can be produced while still achieving attainment. The motor vehicle emissions budgets must meet certain criteria which are listed in the Transportation Conformity Rule (40 CFR 93.118) before the budget can be determined adequate and approved as part of the attainment demonstration SIP. When a motor vehicle emissions budget is found to be adequate, it is used to determine the conformity of the transportation plans and programs to the SIP, as required by section 176(c) of the CAA. EPA's adequacy process as outlined in a May 14, 1999, guidance document, provides the public a 30 day comment period upon EPA's receipt of a SIP submittal containing a MVEB. Comments were provided by the Southern Environmental Law Center. EPA considered these comments in its determination of adequacy and provided responses. These responses are posted on the EPA MVEB web site: http://www.epa.gov/otaq/transp/conform/adequacy.htm.

On June 7, 2001, EPA published a finding of adequacy of the motor vehicle emissions budget for transportation conformity purposes (66 FR 30737). The budgets identified in the attainment demonstration are 52 TPD of VOC and 65 TPD of NO_X emissions.

D. Additional Measures To Further Reduce Emissions

If the modeling analysis indicates that emissions reductions are needed beyond

those in the modeled control strategy, the SIP must include adopted rules to achieve that additional level of control. The analysis for Birmingham indicates no further emission reductions are needed (see section V.A. of this document for further discussion).

VI. Requirements of a Modeled Attainment Demonstration

States may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment.[1] In order to have a complete modeling demonstration submission, states should submit the required modeling analysis and identify any additional evidence that EPA should consider in evaluating whether the area will attain the NAAQS.

The EPA guidance identifies the following six features of a modeling analysis that are essential to obtain credible results:

1. The state must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (state and local agencies, EPA Regional offices, the regulated community, and public interest groups).

2. For purposes of developing the information to put into the model, the state must select air pollution days, i.e., days in the past with bad air quality, that are representative of the ozone pollution problem for the nonattainment area.

3. The state needs to identify the appropriate dimensions of the area to be modeled, i.e., the domain size. The domain should be larger than the designated nonattainment area to reduce uncertainty in the boundary conditions and should include large upwind sources just outside the nonattainment area. In general, the domain is considered the local area where control measures are most beneficial to bring the area into attainment.

4. The state needs to determine the horizontal and vertical grid cell resolution (i.e., size) of the receptor network. The grid cell size is the size of one edge of a grid cell in both the X and Y directions. The units for the cell size are the same as the coordinate units (e.g., kilometers). The horizontal and vertical resolutions in the model affect the dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces.

5. The state needs to generate meteorological data that describe atmospheric conditions and emissions inputs.

6. The state needs to perform a model performance evaluation to verify that the model is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates to support an attainment demonstration.

The modeled attainment test compares model predicted 1-hour ozone daily maximum concentrations in all grid cells for the attainment year to the level of the NAAQS. A predicted concentration above 0.124 ppm ozone indicates that the area is expected to exceed the NAAQS in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to attain the NAAQS. This type of test is often referred to as an exceedance test. The EPA's guidance recommends that states use either of two modeled attainment or exceedance tests for the 1-hour ozone NAAQS: A deterministic test or a statistical test.

The deterministic test requires the State to compare predicted 1-hour daily maximum ozone concentrations for each modeled day[2] to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed. The statistical test takes into account the fact that the form of the 1-hour ozone NAAQS allows exceedances. If, over a three-year period, the area has an average of one or fewer exceedances per year, the area is not violating the NAAQS. Thus, if the state models a very extreme day, the statistical test provides that a prediction above 0.124 ppm up to a certain upper limit may be consistent with attainment of the NAAQS. (The form of the 1-hour NAAQS allows for up to three readings above the NAAQS over a three-year period before an area is considered to be in violation.) A complete discussion of how to determine the acceptable upper exceedance limit is included in the Technical Support Document (TSD).

When the modeling does not conclusively demonstrate attainment, additional analyses may be presented to help determine whether the area will attain the NAAQS. As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in some of the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely. The process by which this is done is called a weight of evidence (WOE) determination (ADEM responded to several comments received during the comment period concerning the use of WOE, modeling technique and the models ability to provide a clear demonstration of attainment).

Under a WOE determination, the state can rely on and EPA will consider factors such as other modeled attainment tests (e.g., a rollback analysis), other modeled outputs (e.g., changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value), actual observed air quality trends, estimated emissions trends, analyses of monitored air quality data, the responsiveness of the model predictions to further controls, and whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exclusive list of factors that may be considered and these factors could vary for a particular area. The EPA's guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. However, the further a modeled attainment test is from being passed, the more compelling the WOE needs to be.

VII. Technical Analysis of the Attainment Demonstration

The Urban Airshed Model, Variable Grid Version (UAM–V) was approved for use in the attainment modeling demonstration by EPA. The UAM–V model is suitable for evaluating the air quality effects of emission control scenarios because it accounts for the spacial and temporal variations in

[1] The EPA issued guidance on the air quality modeling that is used to demonstrate attainment with the 1-hour ozone NAAQS. See U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013, (July 1991). A copy may be found on EPA's web site at http://www.epa.gov/ttn/scram/ (file name: "UAMREG"). See also U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007, (June 1996). A copy may be found on EPA's web site at http://www.epa.gov/ttn/scram/ (file name: "O3TEST").

[2] The initial, "ramp-up" days for each episode are excluded from this determination.

emissions and emission reactivity. The this modeling application were number of daytime grid cell hours

and NO_X) can be calculated. A detailed The fourth analysis uses statistical to support this statement (i.e., lower

emissions and emission reactivity. The UAM–V modeling domain consists of three nested grids with approximately 36-, 12- and 4-kilometer (km) grid cell resolution (i.e. grid cell size), respectively. The 4-km fine grid, in the Birmingham urban area, encompasses north central Alabama. A modeling protocol was not developed, but, a modeling scope of work was developed for obtaining contractor assistance. This scope of work described the major steps that were used in the modeling project and reviewed and approved by the Regional Office.

One multi-day ozone episode for the July 7–15, 1995, period was modeled for the attainment demonstration. The modeling simulation period included two start-up days (to limit the influence of the initial conditions on the simulation results). The primary episode days used to develop the control strategy include the July 9–15, 1995, period. The July 1995 episode can be generally characterized as an extended period during which high pressure was a dominant meteorological feature over the eastern United States. Local meteorological conditions (high pressure, light winds, high temperatures) are typical of those associated with high ozone concentrations in the Birmingham area. The period encompasses a range of summertime meteorological conditions. It includes days with a range of maximum ozone concentrations so that the response of the modeling system to emissions reductions can be examined for low, moderate and high ozone days. Exceedances of the 1-hour ozone NAAQS were observed on three days of the episode period.

Emission inventories were developed for the base case year (i.e., 1995) for the model performance evaluation and the future year control strategy assessment (i.e., 2004). The modeling emission inventories included five emission source classes: (1) Point, (2) area, (3) on-road mobile, (4) non-road mobile, and (5) biogenic. The1995 base case inventory used in the OTAG modeling was used to develop the various inventories used in the modeling. This inventory was supplemented with local point source inventories from ADEM, emissions used in the Atlanta 1-hour ozone SIP attainment modeling, and day-specific emissions from a local utility. Bureau of Economic Analysis growth factors were used to project the 1995 inventory to 2004 for the Birmingham 4-km domain. For the outer nested grids in the remainder of the modeling domain, the 2007 OTAG base1C point source inventory was used as the 2004. Biogenic emissions used in this modeling application were generated using the EPA's Biogenic Emissions Inventory System (BEIS2). BEIS2 provides county-level area coverage of different vegetation classes that include agricultural crop types as well as individual tree genus types, and uses it along with surface temperature and solar energy to calculate emissions from biogenic sources.

The model performance evaluation involves a statistical and graphical assessment. Acceptable model performance is achieved if spatial and temporal concentrations from the model match well with observed (i.e., ambient air quality) spatial and temporal patterns, and the model performance statistics are within EPA's established ranges. The spatial patterns of simulated ozone concentrations are generally well replicated in the Birmingham area. In general the model performance is within EPA's ranges on most days for the statistical analysis. EPA has determined that the model performance is acceptable and that the days modeled can be used to evaluate future control strategies and therefore, are suitable for use in the attainment demonstration. More information on the model performance evaluation is included in the TSD.

The 2004 modeling of the Birmingham control strategy contains regulations that will be implemented by 2003 within the nonattainment area. The UAM–V 2004 simulation of the control strategy predicts modeled ozone peaks of 135, 128, 141, 132, 115, 149, and 130 parts per billion (ppb) for the July 9–15, 1995, episode days, respectively. The deterministic modeled attainment test is not passed since all but one of the episode days have predicted 1-hour ozone daily maximum concentrations above 124 ppb. ADEM applied the statistical attainment test per the EPA guidance, "On Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS (EPA, 1996)." A full explanation of this test is found in the TSD. Of the three benchmarks comprising the statistical test, only benchmark one was passed, because less than three exceedances of 124 ppb occurred in any subregion of the modeling grid. Benchmark two failed because the predicted (modeled) daily maximum ozone concentration for one of the three severe episode days exceeded the maximum exceedance limit (i.e., 133 ppb) allowed by the statistical test. On July 11, 1995, the model predicted concentration is 141 ppb which is close to the allowed exceedances of 133 ppb (within 8 ppb of passing this attainment test). Benchmark three requires that the number of daytime grid cell hours exceeding 124 ppb for the days allowed an exceedance and on which the model under predicts by 5 percent or more reduced by at least 80 percent, as compared to the base-case simulation. This benchmark is not required for the Birmingham attainment demonstration because the peak ozone concentrations are not underestimated. Nevertheless, the simulation results show significant reductions; the number of exceedance grid cell hours is reduced by 67 percent. According to the EPA guidance, if one or more of the statistical test's benchmarks is failed, a WOE analysis may be performed using corroborative information to determine if the strategy will likely provide for attainment.

The 2004 control strategy simulations indicate that ozone levels in the Birmingham area will be reduced if the currently proposed controls are implemented. The demonstration shows that 71.5 TPD of NO_X emission reductions and 7.0 TPD of VOC emission reductions are needed to achieve attainment of the 1-hour NAAQS for ozone in 2003. Even though both modeled attainment tests (the statistical test and the deterministic test) are not satisfied, there are several reasons to believe that Birmingham will attain the NAAQS. Additional analyses considered includes: (1) An estimate of additional reductions needed for attainment through application of EPA's, "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled" which included an estimate of the future design value, (2) estimates of future design values at each monitor using the Relative Reduction Factor (RRF) analysis recommended in the DRAFT 8-hour modeling guidance, (3) estimates of additional emissions reductions to be implemented that were not modeled, (4) statistical test benchmark 3, and (5) normalized air quality and emissions trends data.

The first analysis involves the use of information from the photochemical grid modeling and ambient air quality monitoring to estimate additional levels of emission reductions needed for attainment of the 1-hour NAAQS for ozone. ADEM used EPA's guidance to identify the additional percentage reduction in NO_X and VOC from the 1995 emissions, needed for attainment. This analysis strengthens the WOE and accounts for high modeled peaks by estimating the additional measures that at a minimum bring the model estimated future ozone design value to 124 ppb or below. The method is based on the assumption that the relationship between ozone and its precursors (VOC and NO_X) can be calculated. A detailed discussion of the steps to calculate the additional emission reductions needed for attainment is provided in the TSD which can be obtained from the Regional Office staff contact. ADEM's application of this procedure estimates a future design value of 124 ppb which indicates additional reductions NO_X and VOC are not needed, in accordance with EPA guidance.

The second analysis uses air quality modeling results to estimate a design value in 2003 at each ozone monitor and EPA's draft 8-hour ozone modeling guidance ("Use of Models and Other Analyses In Attainment Demonstrations for the 8-Hour Ozone NAAQS, EPA–454/R–99–004 (1999)") to develop a local relative reduction factor (RRF). A 2004 ozone design value that is less than 124 ppb is estimated at almost all monitors in the Birmingham nonattainment area. The future design value at the McAdory monitoring site was 128 ppb and the design value resulting from using the domain wide max base case design value and average of domain wide model predicted peaks was 127 ppb. This indicates that substantial progress will be made towards attainment, because design values are expected to be reduced by as much as 5 ppb.

The third analysis involves consideration of the additional VOC and NO_X reductions from three programs that were not modeled in the 2004 control strategy but are subject to an emission reduction regulation or a voluntary program (i.e., Stage 1 Vapor Recovery, Birmingham NOZONER program and open burning ban in Jefferson and Shelby counties). The Stage 1 Vapor Recovery regulations were initiated in the early nineties. Continued implementation of this program has resulted and will continue to result in reductions in VOC emission reductions from bulk gasoline plants and retail outlets. The NOZONER program focuses on collective and individual actions to reduce emissions from the mobile and area source categories. These actions include changes in vehicle volumes and traffic patterns by promoting alternative commuting options, and other actions that involve operational and maintenance activities. A ban on open burning during the ozone season has been instituted in Shelby County since 1998 and an open burning ban in Jefferson County has been in effect since 1998. These emission reductions are difficult to quantify; however it is believed that these programs will provide future emissions reductions for VOC and NO_X.

The fourth analysis uses statistical test benchmark 3. Benchmark 3 assesses the improvement in ozone exposure (i.e., reduction in grid cell hours of 124 ppb or greater). Although, benchmark 3 was not applicable in the statistical test for the Birmingham area (see previous discussion), a 67 percent reduction in the number of ozone exceedance exposure occurrences is predicted by the model. This is a significant reduction in the extent of the predicted ozone exceedances over the domain.

The last analysis considers normalized trends data for air quality and NO_X point source emissions. The changes in NO_X point source emissions from 1995 until 1998 for Birmingham nonattainment area indicate a large increase from 1995 to 1996 and a slight increase from 1996 until 1998. The normalized air quality trends analysis for the period from 1988 to 1998 indicates a decrease in the design values from 1996 (i.e., 132 ppb) until 1998 (i.e., 128 ppb) and projects a continued decrease below the 124 ppb level in the future. Air quality monitoring data in the 1998 to 2000 period indicated a 137 ppb design value which appears to temporarily deflect the projected downward trend indicated in the SIP. However, it is expected that the point source controls in the attainment strategy will support the projected downward trend in the air quality analysis.

Although, the model simulation for the proposed control strategy that demonstrates attainment was performed for the year 2004, all control strategies proposed by the attainment demonstration will be in place by the year 2003 and attainment is projected in 2003. A 2003 emissions inventory, representative of emissions expected in the attainment year was developed. The 2003 inventory represents future levels of VOC and NO_X that are less than that used in the modeling due to growth between 2003 and 2004 as well as control programs being implemented. The levels of anthropogenic NO_X and VOC that are modeled in 2004 strategy in the Birmingham nonattainment area are 249.9 TPD and 157.3 TPD, respectively. The levels of anthropogenic NO_X and VOC expected in 2003 in the Birmingham nonattainment area are 248.8 TPD and 155.6 TPD, respectively. The controls modeled in the 2004 strategy are included in the 2003 inventory. Since the VOC and NO_X emissions projected for 2003 are less than the levels modeled for 2004, it is expected that if modeled, attainment would also be projected for 2003. The SIP included several modeled sensitivity simulations to support this statement (i.e., lower VOC and NO_X emissions than that modeled in the 2004 attainment strategy can result in lower ozone concentrations). Therefore, EPA believes the area will attain the NAAQS in 2003.

VIII. Reasonably Available Control Measures (RACM)

Section 172(c)(1) of the CAA requires that SIPs provide for the implementation of all RACM as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1) (See 57 FR 13498, 13560). In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. States must consider all potentially available measures to determine whether they were reasonably available for implementation in the area prior to the attainment date and whether they will advance attainment. If measures are deemed reasonably available and they will advance the attainment date, they must be adopted as control measures in the SIP.

Finally, states can reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation issues. EPA issued a recent memorandum on this topic confirming its earlier guidance, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas," John S. Seitz, Director, Office of Air Quality Planning and Standards, November 30, 1999. Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

Pursuant to section 172(b) of the Clean Air Act as amended in 1977 (now section 172(c)(1)), Alabama conducted a RACM analysis for Jefferson County in 1985 that underwent public notice and comment. Since 1990, Birmingham's design value has not exceeded the marginal ozone concentrations, which may be attributed to improved vehicle emission technology and previously implemented control measures in the Birmingham nonattainment area to reduce NO_X and VOC emissions. This continued marginal level has occurred despite dramatic increases in the level of construction and economic activity and substantial growth in the mobile fleet.

Executive Order 13088 (61 FR 4729, appropriate response actions under

List of Subjects in 40 CFR Part 300

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The 1985 RACM analysis evaluated the following 19 measures for the purpose of reducing vehicle emissions:

—Inspection and Maintenance Program
—Vapor Recovery Program
—Improved Public Transit
—Exclusive Bus and Carpool Lanes
—Areawide Carpool Programs
—Private Car Restrictions
—Long-Range Transit Improvements
—On-Street Parking Controls
—Park-and-Ride and Fringe Parking Lots
—Pedestrian Malls and Vehicle Restricted Zones
—Employer Participation in Carpools, Vanpools, etc.
—Bicycle Lanes and Storage Facilities
—Staggered Work Hours
—Road Pricing to Discourage Single Occupancy Vehicles
—Controls on Extended Vehicle Idling
—Traffic Flow Improvements
—Conversion to Cleaner Fuels
—Emission Control Retrofit
—Reducing Extreme Cold Start Emissions

Some examples of control measures that were implemented include rideshare/carpool program, vanpool subsidy, park and ride lots, bicyle and pedestrian program, ClasTran public paratransit, incident/congestion response team, commute smart program, and ozone awareness program. Programs that are scheduled to be implemented include adding high occupancy vehicle lanes (September 2001), expanding downtown shuttle service (October 2001) and installing bicycle racks on all area buses.

As a part of this submittal ADEM evaluated the feasibility of implementing non-fuel control measures to show necessity for a fuel control measure as required by section 211(c)(4)(C) of the 1990 CAA. Under section 211(c)(4)(C), EPA may approve such a fuel control measure into a SIP if it is concluded that this fuel control is "necessary" to achieve a NAAQS. A fuel control is "necessary" if no other measures that would bring about timely attainment exist, or if other measures exist and are technically feasible, but are unreasonable or impracticable. The EPA guidance used to review a state's submittal for a fuel waiver is the August 21, 1997, Guidance on Use of Opt-in to RFG and Low-RVP Requirements. The guidance on SIP approvals of fuel controls sets out four issues to be analyzed:

1. The quantity of emissions reductions needed to achieve the NAAQS;

2. Other possible control measures and the reductions each would achieve;

3. The explanation for rejecting alternatives as unreasonable or impracticable; and

4. A demonstration that reductions are needed even after implementation of reasonable and practicable alternatives, and that the fuel control will provide some or all of the needed reductions. Although the information provided in Appendix II for the fuel waiver was not specifically identified by ADEM as a RACM analysis for this submittal, the information provided meets the intent of a RACM analysis. As part of this submittal, the fuel waiver request went through public review and comment. EPA will be proposing approval of the fuel control measure in a separate **Federal Register** action.

EPA acknowledges that the 1985 RACM analysis did not include Shelby County. However, given the large reductions (68.2 TPD reduction of NO_x emissions) from the Gorgas and Miller power plants which will begin in 2003, and the small reductions from the potential RACM measures, EPA believes that even if ADEM had conducted a new RACM analysis for both counties, they still would not have identified sufficient additional measures that would achieve enough emission reductions to advance attainment prior to 2003.

Furthermore, the process of taking additional measures through a public hearing, board approval, funding, and time needed to implement would severely limit the feasibility of obtaining emission reductions that could accelerate the attainment date. Alabama plans to continue reviewing and implementing new technologies as appropriate for the Birmingham area. The area will also benefit from EPA's requirements for cleaner vehicles and fuels in the future.

IX. Proposed Action

The EPA believes that the Birmingham attainment demonstration SIP meets the requirements of the CAA. Therefore, EPA is proposing to grant an attainment date of 2003 and approve the State's demonstration that Birmingham will attain the 1-hour ozone NAAQS by November 15, 2003. The modeling and WOE analyses of ozone and ozone precursor emissions from sources in the Birmingham area, demonstrate that the modeled control strategy will provide for attainment of the 1-hour ozone NAAQS by November 2003.

X. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of

Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed approval of the Birmingham attainment demonstration SIP does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Volatile Organic Compounds, Reporting and recordkeeping requirements.

Dated: August 24, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–22734 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7052–4]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Farmers' Mutual Cooperative Superfund site (site) from the National Priorities List (NPL).

SUMMARY: The EPA Region VII is issuing a notice of intent to delete the Farmers' Mutual Cooperative Superfund site (site) located in Hospers, Iowa, from the NPL and requests public comments on this notice of intent. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state of Iowa through the Iowa Department of Natural Resources have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Farmers' Mutual Cooperative Superfund site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this site must be received by October 11, 2001.

ADDRESSES: Written comments should be addressed to Catherine Barrett, Remedial Project Manager, Superfund Division, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT: Catherine Barrett, Remedial Project Manager, U.S. EPA, Region VII, Superfund Division, Missouri/Kansas Remedial Branch, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–7063 or 1–800–223–0425.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories

Information concerning this deletion decision can be found in the Deletion Docket at the information repositories at the following locations: U.S. EPA, Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101 and at the Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, IA 50319.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: August 30, 2001.

William W. Rice,

Acting Regional Administrator, EPA Region VII.

[FR Doc. 01–22608 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF DEFENSE

48 CFR Parts 213, 247, and 252

[DFARS Case 2000–D014]

Defense Federal Acquisition Regulation Supplement; Ocean Transportation by U.S.-Flag Vessels

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to specify that requirements for use of U.S. -flag vessels, in the transportation of supplies by sea, apply to contracts at or below the simplified acquisition threshold as well as those that exceed the simplified acquisition threshold.

DATES: Comments on its proposed rule should be submitted to the address shown below on or before November 13, 2001 to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2000–D014 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Rick Layser, OUSD (AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D014.

At the end of the comment period, interested parties may view public comments on the World Wide Web at

http://emissary.acq.osd.mil/dar/

separately and should cite DFARS Case

anticipated value at or below the

C. Paperwork Reduction Act

rule proposes to add policy for

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http://emissary.acq.oad.mil/dar/dfars.nsf.

FOR FURTHER INFORMATION CONTACT: Mr. Rich Layser, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

The clause at DFARS 252.7023, Transportation of Supplies by Sea, contains requirements for use of U.S. -flag vessels when transporting supplies by sea under a DoD contract. The clause requires a contractor to (1) submit any request for use of other than U.S. -flag vessels in writing to the contracting officer; (2) provide a copy of the bill of lading to the contracting officer and the Maritime Administration after each shipment of supplies by sea; (3) provide with the final invoice a representation as to whether ocean transportation and U.S. -flag vessels were used in performance of the contract; and (4) include the clause in subcontracts for construction supplies, noncommercial items, and certain commercial items.

The DFARS presently exempts contracts and subcontracts at or below the simplified acquisition threshold from use of the clause at 252.247–7023. In accordance with 10 U.S.C. 2631, Supplies: Preference for United States Vessels, and regulations of the Maritime Administration at 46 CFR 381, the proposed rule would eliminate this exemption. Consistent with the provisions of 41 U.S.C. 427, Simplified Acquisition Procedures, the rule prescribes an alternate version of the clause for contracts and subcontracts at or below the simplified acquisition threshold. The alternate version excludes the requirement for a contractor or subcontractor to provide a representation regarding ocean transportation with its final invoice.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because most entities that provide ocean transportation of freight are not small businesses. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D014.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. The proposed rule increases the number of contractors subject to the information collection requirements in paragraphs (d) and (e) of the clause at DFARS 252.247–7023. DoD estimates that this change will increase paperwork burden by approximately 240 hours. The additional hours were included in the estimate published at 66 FR 9070 on February 6, 2001, under OMB Control Number 0704–0245.

List of Subjects in 48 CFR Parts 213, 247, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR parts 213, 247, and 252 as follows:

1. The authority citation for 48 CFR parts 213, 247, and 252 continues to read as follows:

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

2. Section 213.301 is amended in paragraph (2)(i)(E) by removing the word "and", and by adding paragraph (2)(i)(G) to read as follows:

213.301 Governmentwide commercial purchase card.

* * * * *

(2) * * *

(i) * * *

(G) Does not require transportation of supplies by sea; and

* * * * *

PART 247—TRANSPORTATION

247.572–1 [Amended]

3. Section 247.572–1 is amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

4. Section 247.573 is amended by revising paragraph (b)(1) and adding paragraph (b)(4) to read as follows:

247.573 Solicitation provision and contract clauses.

* * * * *

(b)(1) Use the clause at 252.247–7023, Transportation of Supplies by Sea, in all solicitations and resultant contracts, except those for direct purchase of ocean transportation services.

* * * * *

(4) Use the clause with its Alternate III in solicitations and contracts with an anticipated value at or below the simplified acquisition threshold.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.247–7023 is amended by revising the clause date, paragraph (e) introductory text, paragraph (f) introductory text, and paragraph (h), and by adding Alternate III to read as follows:

252.247–7023 Transportation of Supplies by Sea.

* * * * *

Transportation of Supplies by Sea (XXX 2001)

* * * * *

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

* * * * *

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

* * * * *

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontractors that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

* * * * *

Alternate III (XXX 2001)

As prescribed in 247.573(b)(4), substitute the following paragraph (f) for paragraphs (f), (g), and (h) of the basic clause:

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in subcontracts that are for a type of supplies described in paragraph (b)(2) of this clause.

[FR Doc. 01–22427 Filed 9–10–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 2000–D020]

Defense Federal Acquisition Regulation Supplement; Balance of Payments Program

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy pertaining to the Balance of Payments Program. The DFARS policy would replace Federal Acquisition Regulation (FAR) policy on this subject that has been proposed for elimination.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before November 13, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcom.* As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil.* Please cite DFARS Case 2000–D020 in the subject line of e-mail comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L) DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D020.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0288.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule published at 65 FR 54936 on September 11, 2000, requested comments on the removal of all FAR policy pertaining to the Balance of Payments Program. This program applies to contracts for supplies to be used, and construction to be performed, outside the United States. Although the DFARS already contains policy that implements the Balance of Payments Program for acquisition of supplies for use outside the United States, DoD presently uses the FAR policy for construction contracts performed outside the United States. This DFARs rule proposes to add policy for application of the Balance of Payments Program to construction contracts that would replace the existing FAR policy for DoD.

DoD is also considering discontinuation of application of the Balance of Payments Program to construction contracts. Therefore, in addition to the request for comments on this proposed rule, DoD invites comments on the advisability of discontinuing application of the Balance of Payments Program to DoD construction contracts.

This proposed rule would streamline application of the Balance of Payments Program to DoD construction contracts by—

(1) Exempting any particular construction material that is at or below the simplified acquisition threshold;

(2) Authorizing the contracting officer to make pre-solicitation determinations as to whether a requirement can best be filled by a foreign end product or construction material; and

(3) Specifically authorizing an assessment, prior to issuance of a solicitation, as to whether an exemption to the Balance of Payments Program applies on the basis of the entire project.

In addition, this proposed rule updates the clause at DFARS 252.225–7005, Identification of Expenditures in the United States, to implement the applicable requirements of the DoD Financial Management Regulations, Vol. 6A, Chapter 13, International Balance of Payments Reporting and Estimating.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the Balance of Payments Program requirements in this rule are transferred from existing FAR requirements, with streamlining changes that are not expected to have a significant effect outside the Government. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D020.

C. Paperwork Reduction Act

This rule does not impose any information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* The information collection requirements associated with the clause at 252.225–7005, Identification of Expenditures in the United States, are already approved under OMB Clearance Number 0704–0229 for use through March 31, 2004.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 225 and 252 as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Section 225.003 is amended by revising paragraph (3) to read as follows:

225.003 Definitions.

* * * * *

(3) "Domestic concern" means—

(i) A concern incorporated in the United States (including a subsidiary that is incorporated in the United States, even if the parent corporation is a foreign concern); or

(ii) An unincorporated concern having its principal place of business in the United States.

* * * * *

Subpart 225.3—[Removed]

3. Subpart 225.3 is removed.

225.1101 [Amended]

4. Section 225.1101 is amended by removing the phrase "—Balance of Payments Program" in the following places:

a. In paragraph (1), in the first sentence, the second time it appears;

b. In paragraph (2) introductory text;

c. In paragraph (12) introductory text the second time it appears; and

d. In paragraph (13) introductory text, in the first sentence, the second time it appears.

5. Section 225.1103 is amended by revising paragraph (1) to read as follows:

225.1103 Other provisions and clauses.

(1) Unless the contracting officer knows that the prospective contractor is not a domestic concern, use the clause

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at 252.225–7005, Identification of Expenditures in the United States, in solicitations and contracts that—

(i) Exceed the simplified acquisition threshold; and

(ii) Are for the acquisition of—

(A) Supplies for use outside the United States;

(B) Construction to be performed outside the United States; or

(C) Services to be performed primarily outside the United States.

6. Subpart 225.75 is added to read as follows:

Subpart 225.75—Balance of Payments Program

Sec.

225.7500 Scope of subpart.
225.7501 Policy.
225.7502 Procedures.
225.7503 Contract clauses.

225.7500 Scope of subpart.

This subpart provides policies and procedures implementing the Balance of Payments Program. It applies to contracts for the acquisition of—

(a) Supplies for use outside the United States; and

(b) Construction to be performed outside the United States.

225.7501 Policy.

Acquire only domestic end products for use outside the United States, and use only domestic construction material for construction to be performed outside the United States, including end products and construction material for foreign military sales, unless—

(a) Before issuing the solicitation—

(1) The estimated cost of the acquisition or the value of a particular construction material is at or below the simplified acquisition threshold;

(2) The end product or particular construction material is—

(i) Listed in FAR 25.104 or 225.104(a)(iii);

(ii) An end product or construction material that, by its nature or as a practical matter, can best be acquired in the geographic area concerned, e.g., ice or books; or bulk material, such as sand, gravel, or other soil material, stone, concrete masonry units, or fired brick;

(iii) A petroleum product;

(iv) A spare part for foreign-manufactured vehicles, equipment, machinery, or systems, provided the acquisition is restricted to the original manufacturer or its supplier in accordance with DoD standardization policy (see DoD Directive 4120.3, Defense Standardization and Specification Program);

(v) An industrial gas; or

(vi) A brand drug specified by the Defense Medical Materiel Board;

(3) The acquisition of foreign end products or construction material is required by a treaty or executive agreement between governments;

(4) The end product is acquired for commissary resale; or

(5) The contracting officer determines that a requirement can best be filled by a foreign end product or construction material, including determinations that—

(i) A subsistence product is perishable and delivery from the United States would significantly impair the quality at the point of consumption;

(ii) A particular domestic construction material is not available;

(iii) The cost of domestic construction material would exceed the cost of foreign construction material by more than 50 percent, calculated on the basis of—

(A) A particular construction material; or

(B) The comparative cost of application of the Balance of Payments to the total acquisition; or

(iv) Use of a particular domestic construction material is impracticable.

(b) After receipt of offers—

(1) The evaluated low offer (see subpart 225.5) is an offer of an end product that—

(i) Is a qualifying country end product;

(ii) Is an eligible product subject to the Trade Agreements Act, NAFTA, or the Israeli Trade Act;

(iii) For acquisitions subject to the Trade Agreements Act, is an information technology product in Federal Supply Group 70 or 74 that is substantially transformed in the United States; or

(iv) Is a nonqualifying country end product, but application of the Balance of Payments Program evaluation factor would not result in award on a domestic offer; or

(2) The construction material is designated country construction material or NAFTA country construction material, and the acquisition is subject to the Trade Agreements Act or NAFTA respectively; or

(c) At any time during the acquisition process, the head of the agency determines that it is not in the public interest to apply the restrictions of the Balance of Payments Program to the end product or construction material.

225.7502 Procedures.

(a) *Solicitation of offers.* Identify, in the solicitation, supplies and construction material known in advance to be exempt from the Balance of Payments Program.

(b) *Evaluation of offers.* (1) *Supplies.* Unless the entire acquisition is exempt from the Balance of Payments Program, evaluate offers for supplies that are subject to the Balance of Payments Program using the evaluation procedures in subpart 225.5. However, treatment of duty may differ when delivery is overseas.

(i) Duty may not be applicable to nonqualifying country offers.

(ii) The U.S. Government cannot guarantee the exemption of duty for components or end products imported into foreign countries.

(iii) Foreign governments may impose duties. Evaluate offers including such duties as offered.

(2) *Construction.* Because the contracting officer evaluates the estimated cost of foreign and domestic construction material in accordance with 225.7501(a)(5)(iii) before issuing the solicitation, no special procedures are required for evaluation of construction offers.

(c) *Postaward.* For construction contracts, the procedures at FAR 25.206, for noncompliance under the Buy American Act, also apply to noncompliance under the Balance of Payments Program.

225.7503 Contract clauses.

Unless the entire acquisition is exempt from the Balance of Payments Program under 225.7501(a)(3), 225.7501(a)(5)(iii), or 225.7501(c)—

(a) Use the clause at 252.225–70XX, Balance of Payments Program—Construction Material, in solicitations and contracts for construction to be performed outside the United States with a value greater than the simplified acquisition threshold but less than $6,806,000.

(b) Use the clause at 252.225–70YY, Balance of Payments Program—Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with a value of $6,806,000 or more. For acquisitions with a value of $6,806,000 or more, but less than $7,068,419, use the clause with its Alternate I.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 252.225–7005 is revised to read as follows:

252.225–7005 Identification of Expenditures in the United States.

As prescribed in 225.1103(1), use the following clause:

Identification of Expenditures in the United States (XXX 2001)

(a) This clause applies only if the Contractor is—

(1) A concern incorporated in the United States (including a subsidiary that is incorporated in the United States, even if the parent corporation is not incorporated in the United States); or

(2) An unincorporated concern having its principal place of business in the United States.

(b) On each invoice, voucher, or other request for payment under this contract, the Contractor shall identify that part of the requested payment that represents estimated expenditures in the United States.

(1) May be expressed either as dollar amounts or as percentages of the total amount of the request for payment;

(2) Should be based on reasonable estimates; and

(3) Shall state the full amount of the payment requested, subdivided into the following categories:

(i) U.S. products-expenditures for material and equipment manufactured or produced in the United States, including end products, components, or construction material, but excluding transportation;

(ii) U.S. services-expenditures for services performed in the United States, including all charges for overhead, other indirect costs, and profit for construction or service contracts;

(iii) Transportation on U.S. carriers-expenditures for transportation furnished by U.S. flag, ocean, surface, and air carriers; and

(iv) Expenditures not identified under paragraphs (b)(3)(i) through (iii) of this clause.

(c) Nothing in this clause requires the establishment or maintenance of detailed accounting records or gives the U.S. Government any right to audit the Contractor's books or records.

(End of clause)

8. Sections 252.225–70XX and 252.225–70YY are added to read as follows:

252.225–70XX Balance of Payments Program—Construction Material.

As prescribed in 225.7503(a), use the following clause:

Balance of Payments Program—Construction Material (XXX 2001)

(a) *Definitions.* As used in this clause—

"Component" means any article, material, or supply incorporated directly into construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufactured of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

"Domestic construction material" means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

"United States" means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

(b) *Domestic preference.* This clause implements the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

_____

[Contracting Officer to list applicable excepted materials or indicate "none"]

(End of clause)

252.225–70YY Balance of Payments Program—Construction Materials Under Trade Agreements.

As prescribed in 225.7503(b), use the following clause:

Balance of Payments Program—Construction Material Under Trade Agreements (XXX 2001)

(a) *Definitions.* As used in this clause—

"Component" means any article, material, or supply incorporated directly into construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufactured of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

"Designated country" means any of the following countries:

Aruba
Austria
Bangladesh
Belgium
Benin
Bhutan
Botswana
Burkina Faso
Burundi
Canada
Cape Verde
Central African Republic
Chad
Comoros
Denmark
Djibouti
Equatorial Guinea
Finland
France
Gambia
Germany
Greece
Guinea
Guinea-Bissau
Haiti
Hong Kong
Iceland
Ireland
Israel
Italy
Japan
Kiribati
Korea, Republic of
Lesotho
Liechtenstein
Luxembourg
Malawi
Maldives

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Sierra Leone
Singapore
Somalia
Spain
Sweden
Switzerland
Tanzania U.R.
Togo
Tuvalu
Uganda
United Kingdom
Vanuatu
Western Samoa
Yemen

"Designated country construction material" means a construction material that—

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different construction material distinct from the material from which it was transformed.

"Domestic construction material" means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

"North American Free Trade Agreement (NAFTA) country" means Canada or Mexico.

"North American Free Trade Agreement (NAFTA) country construction material" means a construction material that—

(1) Is wholly the growth, product, or manufacture of a NAFTA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a NAFTA country into a new and different construction material distinct from the material distinct from which it was transformed.

"United States" means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act and the North American Free Trade Agreement (NAFTA) apply to this acquisition. Therefore, the Buy American Act and Balance of Payments Program restrictions are waived for designated country and NAFTA country construction materials.

(c) The Contractor shall use only domestic, designated country, or NAFTA country construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation; or

(2) The construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none".]

Alternate I (XXX 2001)

As prescribed in 225.7503(b), delete the definitions of "North American Free Trade Agreement country" and "North American Free Trade Agreement country construction material" from the definitions in paragraph (a) of the basic clause and substitute the following paragraphs (b) and (c) for paragraphs (b) and (c) of the basic clause:

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act applies to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country construction material.

(c) The Contractor shall use only domestic or designated country construction material in performing this contract, except for)—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation; or

(2) The construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate "none".]

[FR Doc. 01–22429 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 226

[DFARS Case 2001–D007]

Defense Federal Acquisition Regulation Supplement; Preference for Local 8(a) Contractors—Base Closure or Realignment

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify policy pertaining to preferences for local businesses in acquisitions that support a base closure or realignment. The present policy permits award under the Section 8(a) Program if "the 8(a) contractor" is located in the vicinity of the base to be closed or realigned. This proposed rule amends the text to permit use of 8(a) procedures if "at least one eligible 8(a) contractor" is located in the vicinity. This change clarifies the intent of the policy, which is to permit both competitive and noncompetitive 8(a) acquisiitons in support of a base closure or realignment. A similar clarifying amendment is made to the text pertaining to set-asides for small business concerns.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule merely clarifies existing policy pertaining to acquisitions made in support of a base closure or realignment. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2001–D007.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 226

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 226 as follows:

1. The authority citation for 48 CFR part 226 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

2. Section 226.7103 is amended by revising paragraph (c) to read as follows:

226.7103 Procedure.

* * * * *

(c) If offers can be expected from business concerns in the vicinity—

(1) Consider section 8(a) only if at least one eligible 8(a) contractor is located in the vicinity.

(2) Set aside the acquisition for small business only if at least one of the expected offers is from a small business located in the vicinity.

[FR Doc. 01–22426 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 244

[DFARS Case 2000–D028]

Defense Federal Acquisition Regulation Supplement; Subcontract Commerciality Determinations

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the responsibilities of contractors and administrative contracting officers regarding determinations as to whether a subcontract item meets the definition of "commercial item" specified in the Federal Acquisition Regulation (FAR).

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 13, 2001, to be considered in the information of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2000–D028 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulation Council, Attn: Mr. Rick Layser, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D028.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the DFARS to specify that—

(1) The contractor will determine whether a particular subcontract item meets the definition of "commercial item"; and

(2) When conducting a contractor purchasing system review, the administrative contracting officer will review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of "commercial item" in FAR 2.101.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule merely clarifies responsibilities regarding commercial item determinations for subcontracts. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D028.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 244

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 244 as follows:

1. The authority citation for 48 CFR part 244 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

2. Section 244.303 is added to read as follows:

244.303 Extent of review.

Also review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of "commercial item" in FAR 2.101.

3. Section 244.402 is added to read as follows:

244.402 Policy requirements.

(a) Contractors must determine whether a particular subcontract item meets the definition of a commercial item (but see FAR 15.403–1(c)(3)). Contractors are expected to exercise reasonable business judgment in making such determinations, consistent with the guidelines for conducting market research in FAR part 10.

[FR Doc. 01–22428 Filed 9–10–01; 8:45 am]
BILLING CODE 5000–04–M

Notices

ACTION: Scoping notice to prepare an

area. Meeting dates may be found in the

Agreement," to promote the

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Notices

Federal Register
Vol. 66, No. 176
Tuesday, September 11, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Notice of Intent to Seek Approval to Conduct an Information Collection

AGENCY: Risk Management Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Risk Management Agency's intent to request approval for an information collection, the Survey of Risk Management Practices of Specialty Crop Producers.

DATES: Written comments on this notice will be accepted until close of business November 13, 2001.

ADDRESSES: Interested persons are invited to submit written comments to David Fulk, United States Department of Agriculture (USDA), Research and Evaluation Division, Federal Crop Insurance Corporation, Risk Management Agency, 6501 Beacon Drive, Mail Stop 813, Kansas City, MO 64133.

FOR FURTHER INFORMATION CONTACT: David Fulk or Virginia Guzman, at the Kansas City, MO address listed above, telephone (816) 926–6343 or (816) 926–3843, respectively.

SUPPLEMENTARY INFORMATION:

Title: Survey of Risk Management Practices of Specialty Crop Producers.

OMB Number: 0563–NEW.

Type of Request: Intent to Seek Approval to Conduct an Information Collection.

Abstract: The goal of this project is to expand the knowledge base related to the risk management practices and preferences of specialty crop producers. Initially the survey will be limited to California, Florida, Pennsylvania, and New York.

Studies by the Economic Research Service (ERS) have indicated that the specialty crops, in general, differ in risk structure compared with the traditional crops for which the current insurance programs were primarily designed. That analysis supports the idea that the current insurance structures may need to be redesigned to provide adequate insurance programs for producers of specialty crops. Addressing the question of how existing crop insurance programs can best be adapted to specialty crops is vital since it relates directly to the core issues of participation and performance. Policy options for crop insurance reform need to be analyzed carefully by examining the risks specific to specialty crop producers and analyzing growers' demand for risk management tools. Applicable economic studies for specialty crops are generally sparse. This survey will provide essential information relating to crop insurance for California, Florida, New York, and Pennsylvania specialty crop producers.

The project addresses the following objectives: (1) To determine why (federal) crop insurance is utilized at current levels by specialty crop producers in California, New York, Florida, and Pennsylvania; (2) to identify the potential market for crop insurance for specialty crop producers in the four states; and (3) to determine how crop insurance programs could be designed to better meet the needs of specialty crop producers in California, New York, Florida, and Pennsylvania.

The survey will cover approximately 67,000 farms operated as sole proprietorships, partnerships, or family corporations. The respondent will be the operator of each farm. The projected useable responses are approximately 53,200 cases. In addition to the presolicitation request and the actual mailed questionnaire, follow-up phone interviews will be used to contact non-respondents. The California Agricultural Statistics Service, Florida Agricultural Statistics Service, Pennsylvania Agricultural Statistics Service and the New York Agricultural Statistics Service will conduct all data collection activities and be responsible for all respondent contacts. Approximately two weeks prior to the actual survey mailing, pre-survey letters will be sent to the sample members explaining the purpose of the study and alerting them to the arrival and importance of the upcoming survey.

The purpose of this notice is to solicit comments from the public concerning this information collection activity. These comments will help:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Please submit written comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

Estimate of Burden: Test interviews indicated that completion of the survey would require approximately 45 minutes. There will be a pre-survey letter mailed to 67,000 specialty crop farm operators in the four states, as well as follow-up phone interviews with non-respondents.

Respondents: Specialty crop farm operators in California, New York, Florida, and Pennsylvania.

Estimated Annual Number of Respondents: 53,600 responses.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 53,600.

Estimated Total Annual Burden on Respondents: 41,600 hours.

Signed in Washington, DC, September 4, 2001.

Craig A. Witt,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–22801 Filed 9–10–01; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northern Rockies Lynx Amendment

AGENCY: Forest Service, USDA.

ACTION: Scoping notice to prepare an Environmental Assessment.

SUMMARY: The Forest Service and Bureau of Land Management (BLM) are cooperating in the preparation of an environmental assessment on a proposal to implement new management direction for the Canada lynx for national forests and BLM units within the Northern Rocky Mountain area. More specifically, the proposal would amend 18 land and resource management plans for national forests in Idaho, Montana, Utah and Wyoming, and 18 BLM land use plans in Idaho and Utah. (Hereafter Forest Service land and resource management plans and BLM land use plans are referred to as land management plans, or plans). The Forest Service is the lead agency.

Forest Service administrative units included in this amendment are the Idaho Panhandle, Clearwater, Nez Perce, Kootenai, Flathead, Lolo, Lewis and Clark, Helena, Bitterroot, Beaverhead Deerlodge, Gallatin and Custer National Forests located in the Northern Region or Region 1; the Bighorn, and Shoshone National Forests located in the, Rocky Mountain Region or Region 2, and the Salmon-Challis, Targhee, Ashley, and Brigder-Teton National Forests located in the Intermountain Region or Region 4. BLM administrative units affected by this effort include the Salt Lake Field Office in Utah, and the Upper Snake River District, Lower Snake River District, and Upper Columbia-Salmon Clearwater District in Idaho. A more detailed description of affected BLM plans will be provided in the near future in a separate notice as required by the Department of Interior.

The purpose of the proposal is to incorporate management direction for the Canada lynx based on new information regarding lynx developed since the issuance of the land management plans. If approved, the amendment would establish management direction that conserves and promotes recovery of the Canada lynx by promoting restoration of lynx habitat, and reducing or eliminating adverse effects from management activities on these lands, while preserving the overall multiple-use direction in existing plans. This direction will ensure compliance with the requirements of the National Forest Management Act, the Federal Land Policy and Management Act, and the Endangered Species Act.

DATES: Comments concerning the scope of analysis should be postmarked on or before October 26, 2001. Open houses will be held throughout the affected area. Meeting dates may be found in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Send written comments to Northern Rockies Lynx Amendment, Attn: Jon Haber, Project Manager, Northern Region Headquarters, PO BOX 7669, Missoula, MT 59807.

FOR FURTHER INFORMATION CONTACT: Marcia Hogan, Public Affairs Officer, (406) 329–3300. Information regarding lynx and the planning process can also be found on the Northern Region website at *http://www.fs.fed.us/rl/lynx.html.*

SUPPLEMENTARY INFORMATION:

Background

Canada lynx inhabit moist coniferous forests that experience cold, snowy winters and provide a prey base of snowshoe hare. In the United States, lynx occur mostly on Federal lands, especially in the west. The lynx occupies habitat on national forest lands in Regions 1, 2, 4, 6 and 9 and BLM lands in Colorado, Idaho, Montana, Oregon, Washington, Utah and Wyoming.

On July 8, 1998 the U.S. Fish and Wildlife Service (USFWS) proposed to list the Canada lynx as a threatened species. The Forest Service and BLM responded to the declining status of lynx in 1998 by establishing a science team of international experts in lynx ecology to collect and summarize scientific data. This effort resulted in the publication of "Ecology and Conservation of Lynx in the United States." At the same time, another team of biologists developed the "Lynx Conservation Assessment and Strategy" (LCAS). Based on information compiled by the science team, the LCAS recommended conservation measures to be applied to all federal lands in the conterminous United States. The conservation measures of the LCAS focus on managing within the historic range of variability, maintaining dense understory conditions for prey, minimizing snow compaction, and identifying and maintaining connectivity within and between habitat areas.

In December 1999, the Forest Service and BLM prepared a Biological Assessment (BA) of 57 Forest Service and 56 BLM land management plans. The BA determined that the plans were likely to adversely affect lynx because they did not contain direction to conserve lynx. The agencies consulted on the plans by submitting the BA to the USFWS.

In February 2000, five Regional Foresters and four USFWS Regional Directors signed a "Lynx Conservation Agreement," to promote the conservation of lynx and its habitat. In August 2000, the BLM Assistant Director for Renewable Resources and Planning and USFWS Regional Directors in Regions 1 and 6 signed a similar Conservation Agreement. Both agreements require the agencies to review and consider the recommendations in the LCAS prior to making any new decision to undertake actions in lynx habitat. In addition, the agreements say that changes in management direction will be made through amendment or revision. In March 2001, the Forest Service developed a schedule to amend or revise plans to address the lynx.

The USFWS listed the lynx as threatened, effective April 24, 2000. The USFWS concluded that the chief threat to the lynx in the contiguous United States was the lack of guidance to conserve the species in federal land management plans.

Formal consultation, as required by the Endangered Species Act, was completed on October 25, 2000 when the USFWS issued a Biological Opinion on the plans. The USFWS concluded in its opinion that the plans as implemented in conjunction with the Conservation Agreement, are not likely to jeopardize the continued existence of the lynx.

In accordance with the agreed upon schedule, this Northern Rockies Lynx Amendment will implement the planning aspect of the Conservation Agreements for 18 national forests in Regions 1, 2, and 4, and four BLM units in the states of Idaho and Utah. The national forests included in this amendment are: The Idaho Panhandle, Clearwater, Nez Perce, Lolo, Kootenai, Flathead, Lewis and Clark, Helena, Bitterroot, Beaverhead-Deerlodge, Gallatin and Custer National Forests in Region 1; the Shoshone and Bighorn National Forests in Region 2; and the Salmon-Challis, Targhee, Ashley and Bridger-Teton National Forests in Region 4. The BLM units include the Salt Lake Field Office in Utah, and the Upper Snake River District, Lower Snake River District, and Upper Columbia-Salmon Clearwater District in Idaho.

Eleven national forests in the Northern Rocky Mountain area are not included in this amendment. In Region 4 the Payette, Boise, Sawtooth, Caribou, Wasatch-Cache, and Unita National Forests are currently revising their plans. Information from this amendment process may be used in developing those plans. In Region 6, the Colville, Umatilla, Wallowa-Whitman, Malheur, and Ochoco National Forests will

address lynx through a separate process

1. To maintain or improve Canada

October 19: Libby, Montana

is not impeded, and that certain habitat

Decision Framework

The Reviewer's Obligation To Comment

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address lynx through a separate process at a late date. The Forest Service is currently addressing lynx in the Southern Rocky Mountain area through a separate amendment process (**Federal Register**, Vol. 65, No. 127, 40601–40606.)

BLM units covered in this amendment are limited to those in Idaho and Utah. BLM units in Montana and Wyoming will address lynx in separate processes and are not included in this proposal.

The Forest Service and BLM believe that whenever practical, management direction should be developed at the local level. However, with lynx, new scientific information affecting many plans needs to be addressed promptly and consistently. The Forest Service and BLM expect this amendment process to expeditiously update the affected plans with improved lynx management direction.

Once this amendment is in place, individual plans may be amended or revised, as needed, to respond to local conditions concerning the lynx. Seventeen of the 18 national forest plans proposed to be amended by this decision will likely be revised within the next few years. (The Targhee National Forest revised their plan in 1999). The BLM has recently started revision or replacement of existing plans and anticipates that all out-of-date plans will be replaced within the next few years.

For these reasons the scope of this multi-plan amendment has been narrowly defined to provide consistent management direction that conserves and promotes recovery of the Canada lynx on a broad-scale. Future changes to individual plans could include changes to the direction contained in this amendment. Formal consultation with the USFWS would have to be re-initiated if analysis shows an amendment or revision is likely to adversely affect lynx.

Purpose and Need

The purpose and need for the proposed amendments is:

To establish management direction that conserves and promotes recovery of the Canada lynx, by reducing or eliminating adverse effects from land management activities on these national forests and BLM lands, while preserving the overall multiple-use direction in existing plans. This direction will assure compliance with the requirements of the National Forest Management Act, the Federal Land Policy and Management Act, and the Endangered Species Act (ESA).

Direction is needed to guide project level decisions:

1. To maintain or improve Canada lynx habitat so the lynx can recover; and

2. To avoid or reduce adverse effects from a spectrum of management activities.

To achieve the stated purpose, the selected amendment must provide a level of lynx conservation and recovery comparable to the LCAS.

The Forest Service and BLM expect to consider alternatives for the whole planning area, rather than treating each plan individually. Such an approach would streamline ESA consultation with USFWS. The Lynx Biological Opinion issued by the USFWS concluded that "* * * if Plans are amended or revised incorporating conservation measures in the LCAS, or the equivalent thereof * * * the plans would likely not jeopardize the continued existence of lynx" (p. 54).

Proposed Action

The Forest Service in the Northern Region, the Rocky Mountain Region, the Intermountain Region, and the Bureau of Land Management propose to amend 18 land and resource management plans for national forests in Idaho, Montana, Utah and Wyoming, and 18 BLM land use plans in Idaho and Utah. The proposed amendment would add management direction to these plans. Details of the proposed action may be found on the Internet at *http://www.fs.fed.us/r1/lynx.html.*

The proposal is designed to provide for conservation and recovery of the Canada lynx, a threatened species. It is based on management recommendations in the "Canada Lynx Conservation Assessment and Strategy" (August 2000), the "Biological Assessment of the Effects of National Forest Land and Resource Management Plans and Bureau of Land Management Land Use Plans on Canada Lynx" (December 1999), the "Lynx Biological Opinion" (October 2000), and the U.S. Fish and Wildlife Service's "Final Listing Rule," **Federal Register**, Volume 65, Number 127, 40601–40606 (March 24, 2000).

The proposed action reorganizes the LCAS conservation measures to fit into Forest and BLM land management plan format. The analysis procedures specified in the LCAS would be addressed through the use of agency directives systems or correspondence, but would not be included in the plans.

An Environmental Assessment is being prepared to evaluate and determine the significance of the effects of the proposed action, and to look at alternative ways of achieving the purpose and need.

Decision Framework

The Responsible Officials will decide:

- Whether or not an Environmental Impact Statement is warranted.
- Whether or not to amend National Forest and BLM land management plans to incorporate direction on lynx conservation and recovery, and if so what that direction would contain.

Due to agency specific planning regulations, the BLM and Forest Service will publish separate decision documents for their respective amendments.

Responsible Officials

The responsible officials are Kathleen McAllister, Acting Regional Forester, Northern Region, Region 1, PO Box 7669, Missoula, Montana 59807; Rick Cables, Regional Forester, Rocky Mountain Region, Region 2, PO Box 25127, Lakewood, CO 80225; Jack Blackwell, Regional Forester, Intermountain Region, Region 4, Federal Building, 324 25th Street, Ogden, UT 84401; Martha Hahn, BLM State Director for Idaho, 1387 South Vinnell Way, Boise, ID 83709; and Sally Wisely, BLM State Director for Utah, 324 South State Street, Salt Lake City, UT 84145.

Kathleen McAllister has been delegated the authority to direct the preparation of the environmental analysis.

Public Involvement

The Forest Service and BLM are seeking comments from individuals, organizations, tribal governments, and Federal, State, and local agencies that are interested or may be affected by the proposed action. While public participation is welcome at any time, comments received within 45 days of the publication of this notice will be especially useful in the preparation of the Environmental Assessment. Open houses associated with the project will be held to provide the public a better understanding of the proposed action and to gain an understanding of public issues and concerns. The following meetings have been scheduled at this time; others may be scheduled as needed:

September 21: Sheridan, Wyoming
September 24: Billings, Montana
September 25: Idaho Falls, Idaho
September 26: Hamilton, Montana
September 27: Helena, Montana
September 27: Great Falls, Montana
September 27: Cody, Wyoming
October 2: Challis, Idaho
October 2: Grangeville, Idaho
October 3: Orofino, Idaho
October 3: Missoula, Montana
October 4: Salmon, Idaho
October 10: Libby, Montana
October 10: Bozeman, Montana
October 10: Coeur d'Alene, Idaho
October 11: Kalispell, Montana
October 17: Dillon, Montana

Further information regarding the locations, times, changes or additions to the open houses will be announced in local newspapers, and other news media, and will be available from the local offices of the Forest Service and BLM.

Information from the meetings and public comment will be used in preparation of the Environmental Assessment. The purpose of the scoping process is to identify issues that can be used to develop alternatives and to identify the level and scope of analysis.

The scoping process will be used to evaluate whether or not an Environmental Impact Statement (EIS) is warranted. If an EIS is warranted then the written comments resulting from this notice will be used to determine the scope of alternatives and effects in the EIS.

Preliminary Issues

Some preliminary issues have been identified and are listed below. Other issues may be identified once scoping is completed.

Snowshoe hares, the lynx primary prey, require dense sapling cover. The adoption of new management direction may affect some areas where precommercial thinning may take place. The direction would defer precommercial thinning within lynx habitat until the stands no longer provide snowshoe hare habitat. This would benefit snowshoe hare by providing a necessary habitat component, but may result in increases in insect and disease damage to trees, and potentially in the long-term increased risk of stand replacing wildfires.

Lynx utilize down logs or root wads as den sites. The adoption of new management direction may affect timber harvest practices in order to provide habitat for lynx denning. The direction would provide limitations on salvage harvest under certain conditions. This would provide necessary habitat for lynx denning, but may result in increased fuel buildup in some areas.

Young aspen and lodgepole stands provide good quality habitat for snowshoe hares. In addition, shrub-steppe habitats provide an important habitat component in areas with naturally fragmented forests, particularly for movement and dispersal. The direction would require that livestock be managed to ensure that new growth of aspen and lodgepole pine is not impeded, and that certain habitat conditions in shrub-steppe habitats, riparian areas and willow carrs be maintained. This would provide necessary forage for snowshoe hares, and movement cover for lynx, but may reduce the area or timing of livestock grazing.

Packed trails created by snowmobiles, cross-country skiers, dog sleds etc. may serve as travel routes for potential competitors and predators of lynx, especially coyotes. The adoption of new management direction may affect these kinds of recreational uses. The direction would only allow increases in groomed or designated and/or permitted over-the-snow routes, and designated snow play areas where grooming or designation would serve to consolidate use and result in no net increase of snow compacted areas. This would benefit the lynx by limiting predator access, but could also result in limiting opportunities to increase winter recreation.

Ski areas and four-season resorts may affect lynx denning, foraging, security habitats and the ability for lynx to move between areas. The direction requires certain types lynx habitat be retained and that expansion not create barriers to lynx movement and dispersal. This would provide necessary habitat components, but could result in limitations on ski area expansion or new developments.

Highways, land development and other uses can fragment large tracts of land and the movement of lynx between blocks of habitat. The adoption of new management direction may affect activities within areas of National Forest and BLM lands that link blocks of lynx habitat. The direction requires that activities maintain and restore habitat connectivity, through use of highway crossings, retaining public ownership, and ensuring that new developments do not impair connectivity. This would benefit the lynx by providing movement corridors, but may affect opportunities for additional development or type of development on public lands.

Based on public comments, the issues will be refined and used to develop alternatives and determine the scope of the environmental analysis.

Estimated Dates for Filing

The Forest Service and BLM expects the Environmental Assessment to be released for public, agency, and tribal government comment in early 2002, with a final decision expected in the fall of 2002.

The Reviewer's Obligation To Comment

The Forest Service and BLM believe it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised during comment of environmental assessment but that are not raised until after a decision is issued may be waived or dismissed by the courts (*Wisconsin Heritages, Inc.* v. *Harris* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service and BLM at a time when it can meaningfully consider them and respond to them in the final environmental assessment.

To assist the Forest Service and BLM in identifying and considering issues and concerns on the proposed action, comments on the environmental assessment should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the analysis. Comments may also address the adequacy of the environmental assessment or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: August 30, 2001.

Monica J. Schwalbach,

Acting Deputy Regional Forester.

[FR Doc. 01–22599 Filed 9–10–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815 & A–580–816]

Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea; Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

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ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from four respondents and from the petitioners, the Department of Commerce ("the Department") is conducting (the seventh) administrative reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea. The corrosion-resistant carbon steel flat products review covers four manufacturers and exporters of the subject merchandise, while the cold-rolled carbon steel flat products review covers three. The period of review for cold-rolled products is August 1, 1999 through December 31, 1999, and the period of review for corrosion-resistant products is August 1, 1999 through July 31, 2000.

We preliminarily determine that a dumping margin exists for certain products and companies for their sales in the United States. *See* "Preliminary Results of the Review" section of this notice. If these preliminary results are adopted in our final results of administrative reviews, we will instruct U.S. Customs to assess antidumping duties on entries of the affected companies' merchandise during the period of review ("POR").

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Marlene Hewitt (Dongbu Steel Co., Ltd. ("Dongbu")), Robert Bolling (Pohang Iron and Steel Co. ("POSCO"), Pohang Coated Steel Co., Ltd. ("POCOS"), and Pohang Steel Industries Co., Ltd. ("PSI")—(collectively, "the POSCO Group")), Sarah Ellerman (SeAH Steel Corporation ("SeAH")), Mesbah Motamed (Union Steel Manufacturing Co., Ltd. ("Union")) or James Doyle, Enforcement Group III—Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–1385 (Hewitt), 482–3434 (Bolling), 482–6134 (Ellerman), 482–1382 (Motamed), or 482–0159 (Doyle).

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2000).

Background

The Department published antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea on August 19, 1993. *See Antidumping Duty Orders on Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 58 FR 44159 (August 19, 1993). On August 16, 2000, the Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty orders for the 1999–2000 review period. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 65 FR 49962 (August 16, 2000). On August 31, 2000, respondents Dongbu, Union, and the POSCO Group requested that the Department conduct an administrative review of the antidumping duty orders on cold-rolled carbon steel flat products from Korea. In a separate letter on August 31, 2000, the POSCO Group also requested partial revocation of the antidumping duty order of cold-rolled carbon steel flat products. On August 31, 2000, respondents Dongbu, Union, the POSCO Group, and SeAH requested that the Department conduct an administrative review of the antidumping duty orders on corrosion-resistant carbon steel flat products. On August 31, 2000, petitioners in the original less-than-fair-value ("LTFV") investigations (AK Steel Corporation; Bethlehem Steel Corporation; Inland Steel Industries, Inc.; LTV Steel Company; National Steel Corporation; and U.S. Steel Group-a-Unit of USX Corporation) requested that the Department conduct administrative reviews of the antidumping duty orders on cold-rolled and corrosion-resistant carbon steel flat products from Korea: the cold-rolled respondents; Dongbu, the POSCO Group, and Union; and the corrosion-resistant respondents; Dongbu, the POSCO Group, SeAH, and Union. We initiated these reviews on September 26, 2000. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 65 FR 58733 (October 2, 2000).

The Department issued Sections A, B, C, and D questionnaires to all respondents on October 4, 2000, with the exception of SeAH, to which the Department issued Section A, B, and C. On December 15, 2000, the Department revoked the antidumping order on cold-rolled carbon steel products from Korea pursuant to section 751(d)(2) of the Act, effective January 1, 2000. See Revocation of Antidumping and Countervailing Duty Orders on Certain Carbon Steel Products From Canada, Germany, Korea, the Netherlands, and Sweden, 65 FR 78467 (December 15, 2000). At that time, the Department instructed all interested parties to revise their submissions to reflect the new POR for cold-rolled products. The resulting POR for cold-rolled products is August 1, 1999 through December 31, 1999. The Department's revocation of the antidumping order for cold-rolled products renders the POSCO Group's request for revocation moot.

Under section 751(a)(3) of the Act the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On January 30, 2001, the Department extended the time limits for the preliminary results in these cases to August 31, 2001. See Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea: Antidumping Duty Administrative Reviews: Extension of Time Limit, 66 FR 8197 (January 30, 2001).

Dongbu

On November 8, 2000, Dongbu reported that it made sales of subject merchandise to the United States during the period of review in its response to Section A of the Department's questionnaire. On December 18, 2000, Dongbu submitted its responses to Sections B, C, and D of the Department's questionnaire. On March 15, 2001, the Department issued a supplemental questionnaire for Sections A and B of Dongbu's questionnaire response. On April 4, 2001, Dongbu submitted its response to the Department's first supplemental questionnaire. On May 30, 2001, the Department issued a supplemental questionnaire for Sections C and D of Dongbu's questionnaire response. On June 20, 2001, Dongbu submitted its response to the Department's Section C and D supplemental questionnaire. On June 22, 2001, the Department issued its second supplemental questionnaire for Sections A through D. On July 2, 2001, Dongbu submitted its response to the second supplemental questionnaire.

The POSCO Group

On November 3, 2000, POSCO requested that the Department not require it to report downstream service center sales for this POR because the facts are different from previous administrative review. On November 9, 2000, petitioners provided a letter to the Department stating that the Department should verify the POSCO Group's statement that the facts have changed in this POR, and determine whether the POSCO Group should report its downstream service center sales. On November 13, 2000, the POSCO Group reported that it made sales of subject merchandise to the United States during the period of review in its response to Section A of the Department's questionnaire. On December 18, 2000, the POSCO Group submitted its responses to Sections B, C, and D of the Department's questionnaire. On February 8, 2001, the Department determined that the POSCO Group only had to report certain of its affiliated service center sales. See Memo from Robert Bolling to Edward Yang, dated February 8, 2001. On March 2, 2001, the Department issued a supplemental questionnaire for Sections A, B, and C of the POSCO Group's questionnaire response. On March 12, 2001, the Department issued a supplemental questionnaire for Section D of the POSCO Group's questionnaire response. On March 30, 2001, the POSCO Group submitted its response to the Department's first set of supplemental questionnaires and its service center section B response. On April 9, 2001, the POSCO Group submitted its response to the Department's Section D supplemental questionnaire. On June 18, 2001, the Department issued its second supplemental questionnaire for Sections A through C and the POSCO Group's downstream sales. On July 10, 2001, the POSCO Group submitted its response to the second supplemental questionnaire.

SeAH

On November 13, 2000, SeAH submitted its response to Section A of the Department's questionnaire. On December 18, 2000, SeAH submitted its response to Sections B and C of the Department's questionnaire.

On December 26, 2001, petitioners alleged SeAH made home market sales at prices below the cost of production. On March 7, 2001, the Department issued a supplemental questionnaire regarding Sections A, B, and C of SeAH's questionnaire response. On March 12, 2001, we initiated a cost of production investigation of SeAH's sales and requested that SeAH complete Section D of the Department's questionnaire. See Memorandum from Sarah Ellerman to Edward Yang, Allegation of Sales Below the Cost of Production for SeAH Steel Corporation, dated March 12, 2001. On March 21, 2001, SeAH submitted its response to the Department's Sections A, B, and C supplemental questionnaire. On April 18, 2001, SeAH submitted its Section D response to the Department's questionnaire. On May 7, 2001, SeAH submitted its cost reconciliation. On June 15, 2001, the Department issued a supplemental questionnaire regarding Section D of SeAH's questionnaire response. On June 29, 2001, SeAH submitted its response to the Section D supplemental questionnaire. On July 3, 2001, the Department issued a verification outline to SeAH. We verified sales and cost information provided by SeAH from July 10, 2001 to July 14, 2001. On July 23 and July 30, 2001, SeAH submitted minor corrections to its response. On July 5, 2001, the Department issued a third supplemental questionnaire to SeAH. SeAH submitted its response to the third supplemental questionnaire on July 26, 2001.

Union

On November 8, 2000, Union reported that it made sales of subject merchandise to the United States during the period of review in its response to Section A of the Department's questionnaire. Union submitted its response to Sections B, C, and D on December 18, 2000. On March 2, 2001, the Department issued a supplemental questionnaire for Sections A, B, and C, and on March 13, 2001, the Department issued a supplemental questionnaire for Section D. Union submitted its Sections A, B, and C response on March 23, 2001, and its Section D response on April 10, 2001. Following the Department's second supplemental questionnaire for Sections A through D, Union submitted its supplemental response on June 6, 2001. Finally, on July 24, 2001, Union submitted its response to the Department's June 22, 2001, request for information.

The Department is conducting these administrative reviews in accordance with section 751 of the Act.

Period of Review

For corrosion-resistant carbon steel products, the POR is August 1, 1999 through July 31, 2000. As a result of the Department's recent revocation of the antidumping order for cold-rolled carbon steel products pursuant to 751(d)(2) of the Act, the POR for cold-rolled carbon steel products is August 1, 1999 through December 31, 1999. *See* discussion supra at page 4. These reviews cover entries from Dongbu, SeAH, Union, and the POSCO Group (*see* "Affiliated Parties" section below).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by SeAH for use in our preliminary results. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by SeAH. We verified sales and cost information provided by SeAH from July 10, 2001 to July 14, 2001. Our verification results are outlined in the public version of the verification report and are on file in the Central Records Unit ("CRU") located in room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. See Sales and Cost Verification Report from Sarah Ellerman and Michael Strollo through Jim Doyle to the File, dated August 31, 2001.

Scope of the Reviews

The review of "certain cold-rolled carbon steel flat products" covers cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or, if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule ("HTS") under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080,

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7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface.

The review of "certain corrosion-resistant carbon steel flat products" covers flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or, if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. as currently classifiable in the HTS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this review are: flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating; clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness; and certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

These HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

Transactions Reviewed

For these preliminary results, we have accepted PSI's reporting methodology for overruns and have excluded reported overrun sales in the home market from our sales comparisons because such sales were outside the ordinary course of trade. This is consistent with the methodology we accepted in prior reviews. However, the Department may conduct verification of PSI's overrun methodology in this review.

Dongbu

We have reviewed Dongbu's original and supplemental questionnaire submissions, and according to our analysis of those submissions, the Department has determined that Dongbu had no "downstream" sales by affiliated resellers in the home market during the POR. Therefore, the Department reviewed all home market transactions in its determination of NV.

The POSCO Group

According to 19 CFR 351.403(d), downstream sales to home market affiliates accounting for less than five percent of total sales are normally excluded from the normal value ("NV") calculation. *See also* 773(a)(5) of the Act. In a November 3, 2000 letter to the Department, POSCO stated that it sold its interest in the majority of its affiliated resellers/service centers. However, as the POSCO Group's sales to its remaining affiliated resellers exceeded the Department's five percent threshold, the Department has required the POSCO Group to report the home market downstream sales for these affiliated service centers.

The Department examined whether the sales the POSCO Group made to these affiliated service centers were comparable to the price at which POSCO Group sold the subject merchandise to unaffiliated purchasers (*i.e.* "the arm's length test"). *See* 19 CFR 351.403(c). To test whether the POSCO Group's sales were made at arm's length, we compared the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. Where prices to the affiliated parties were on average 99.5 percent or more of the price to the unaffiliated party, we determined that those sales made to the related party were at arm's length and reviewed these sales in our determination of normal value. If the sales to the affiliated service centers did not pass the arm's length test, we reviewed the resales made by these affiliated service centers in our determination of normal value. Where the arm's length test could not be applied because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. *See* Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made comparisons to the next most similar model.

SeAH

Based on our review of the submission by SeAH, the Department reviewed all home market transactions in its determination of NV.

Union

Based on our review of the submission by Union, the Department reviewed all home market transactions in its determination of NV.

Affiliated Parties

For purposes of these reviews, we are treating POSCO, POCOS, and PSI as affiliated parties and have "collapsed" them, *i.e.*, treated them as a single producer of certain cold-rolled carbon steel flat products (POSCO and PSI) and certain corrosion-resistant carbon steel flat products (POSCO, POCOS, and PSI). We refer to the collapsed respondent as the POSCO Group. POSCO, POCOS, and PSI were treated as collapsed in a previous segment of these proceedings. *See, e.g.*, Preliminary Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products from Korea, 61 FR 51882, 51884 (October 4, 1996). The POSCO Group has submitted no new information which has caused us to reconsider that determination.

As we have determined in past administrative reviews, we are treating Union and Dongkuk Industries Co., Ltd. ("DKI") as a single producer of certain cold-rolled carbon steel flat products. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Preliminary Results of Antidumping Duty Administrative Reviews, 60 FR 65284 (December 19, 1995). Additionally, we are treating Union and DKI as a single producer of certain corrosion-resistant carbon steel flat products. *See* Collapsing Memorandum from Marlene Hewitt to Edward Yang, dated August 31, 1999; Memorandum from Marlene Hewitt to the File, dated August 15, 2001. No new information has been submitted which has caused us to reconsider that determination.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all cold-rolled carbon steel flat products produced by the respondents, covered by the descriptions in the "Scope of the Reviews" section of this notice, *supra*, and sold in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of cold-rolled carbon steel flat products. Likewise, we considered all corrosion-resistant carbon steel flat products produced by the respondents and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to corrosion-resistant carbon steel flat products sold in the United States.

For the "quality" product characteristic, Dongbu reported an additional sub-code. The Department has included the additional code that Dongbu reported in the aforementioned category in the Department's product matching methodology. *See* Memorandum from Marlene Hewitt to the File: Preliminary Results Analysis Memo, dated August 31, 2001.

Where there were no sales in the ordinary course of trade of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent. Where sales were made in the home market on a different weight basis from the U.S. market (theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the respondents, before making our fair-value comparisons.

Normal-Value Comparisons

To determine whether sales of certain cold-rolled and corrosion-resistant carbon steel flat products by the respondents to the United States were made at less than normal value, we compared the export price ("EP") or constructed export price ("CEP") to the normal value ("NV"), as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Date of Sale

It is the Department's practice normally to use the invoice date as the date of sale, although we may use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i). We have preliminarily determined that there is no reason to depart from the Department's treatment of invoice date as the date of sale for respondents Dongbu, the POSCO Group, and Union. Consistent with prior reviews, for home market sales, we used the reported date of the invoice from the Korean manufacturer; for U.S. sales we have followed the Department's methodology from the prior reviews, and have based date of sale on invoice date from the U.S. affiliate, unless that date was subsequent to the date of shipment to the unaffiliated customer from Korea, in which case that shipment date is the date of sale. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results, 65 FR 54197, 54201 (September 7, 2000), and *see* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews, 66 FR 3540 (January 16, 2001). Additionally, SeAH reported its date of sale in the home market to be the invoice date and its date of sale in the U.S. market to be the purchase order date. At verification, the Department confirmed SeAH's claim that purchase order date is the proper date of sale for all of its U.S. sales because the material terms of sale are set at the purchase order date and not the invoice date. *See* Sales and Cost Verification Report from Sarah Ellerman and Michael Strollo through Jim Doyle to the File, dated August 31, 2001. Thus, we have preliminarily determined to use invoice date in the home market and purchase order date in the U.S. as date of sale for SeAH.

Export Price/Constructed Export Price

We calculated the price of U.S. sales based on constructed export price, in accordance with section 772(b) of the Act. The Act defines the term "constructed export price" as "the price at which the subject merchandise is first sold (or agreed to be sold) *in the United States* before or after the date of importation *by or for the account of* the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." In contrast, "export price" is defined as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation *by the producer or exporter* of the subject merchandise *outside of the United States*." Sections 772(a) and (b) of the Act (emphasis added).

In determining whether to classify U.S. sales as either export price ("EP") or constructed export price ("CEP"), the Department must examine the totality of the circumstances surrounding the U.S. sales process, and assess whether the reviewed sales were made "in the United States" for purposes of section 772(b) of the Act. In the instant case, the record establishes that Dongbu's, the POSCO Group's, and Union's affiliates *in the United States* (1) took title to the subject merchandise; and (2) invoiced and received payment from the unaffiliated U.S. customers. Thus, the Department has determined that these U.S. sales should be classified as CEP transactions. Additionally, the record establishes that SeAH has an affiliate in the United States which invoiced and received payment in the United States from the unaffiliated customer for SeAH's U.S. sales. Thus, the Department has determined that SeAH's U.S. sales should be classified as CEP transactions.

For Dongbu, the POSCO Group, SeAH and Union, we calculated CEP based on packed prices to unaffiliated customers in the United States. Where appropriate,

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we made deductions from the starting price for foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, marine insurance, U.S. warehousing expenses, U.S. wharfage, U.S. inland freight, U.S. brokerage and handling, loading expenses, other U.S. transportation expenses, U.S. Customs duties, commissions, credit expenses, letter of credit expenses, warranty expenses, other direct selling expenses, inventory carrying costs incurred in the United States, and other indirect selling expenses in the country of manufacture and the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Where appropriate, we added interest revenue to the gross unit price.

In order to ensure that we have accounted for all appropriate U.S. interest expenses (i.e. both imputed and actual) without double-counting, we have utilized the following interest expense methodology. As in the prior review, in our U.S. indirect selling expenses, we have included net financial expenses incurred by the respondent's U.S. affiliates; however, we added U.S. interest expenses only after deducting U.S. imputed credit expenses and U.S. inventory carrying costs, so as to eliminate the possibility of double-counting U.S. interest expenses.

Consistent with the Department's normal practice, we added the reported duty drawback to the gross unit price. We did so in accordance with the Department's long-standing test, which requires: (1) That the import duty and rebate be directly linked to, and dependent upon, one another; and (2) that the company claiming the adjustment demonstrate that there were sufficient imports of imported raw materials to account for the duty drawback received on the exports of the manufactured product. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results, 65 FR 54197, 54202 (September 7, 2000).

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, inland freight (offset, where applicable, by freight revenue), inland insurance, and packing. Additionally, only for the POSCO Group, we made a deduction for affiliated foreign service centers' adjustments. We made adjustments to NV, where appropriate, for differences in credit expenses (offset, where applicable, by interest income), warranty expenses, post-sale warehousing, and differences in weight basis. We also made adjustments, where appropriate, for home market indirect selling expenses and inventory carrying costs to offset U.S. commissions in CEP comparisons.

We also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing ("COM") of the U.S. product, we based NV on constructed value ("CV"). *See* 19 CFR 351.411.

Cost of Production/Constructed Value

At the time the questionnaires were issued in these reviews, the fifth annual administrative reviews were the most recently completed segments of these proceedings. In accordance with section 773(b)(2)(A)(ii) of the Act, and consistent with the Department's practice, because we disregarded certain below-cost sales by Dongbu, the POSCO Group, and Union in the fifth reviews (SeAH was not reviewed in the fifth administrative review), we found reasonable grounds to believe or suspect that these respondents made sales in the home market at prices below the cost of producing the merchandise. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results, 65 FR 54197, 54203 (September 7, 2000). We, therefore, initiated cost investigations with regard to Dongbu, the POSCO Group, and Union in order to determine whether these respondents made home market sales during the POR at prices below their cost of production (COP) within the meaning of section 773(b)(2)(A)(ii) of the Act. Additionally, on March 12, 2001, following petitioners' allegation of sales below the cost of production, we initiated a cost of production investigation of SeAH's sales. *See* Memorandum from Sarah Ellerman to Edward Yang, Allegation of Sales Below the Cost of Production for SeAH Steel Corporation, dated March 12, 2001; *See* Letter from Skadden, Arps, Slate, Meagher and Flom to Secretary Mineta, dated December 26, 2001.

Before making concordance matches, we conducted the COP analysis described below.

A. Calculation of COP

We calculated a company-specific COP for Dongbu, the POSCO Group, SeAH, and Union based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling expenses, general, and administrative expenses ("SG&A"), and packing costs in accordance with section 773(b)(3) of the Act. We relied on Dongbu's, the POSCO Group's, SeAH's and Union's information as submitted.

B. Test of Home-Market Prices

For the POSCO Group, SeAH, and Union, we used each of respondents' weighted-average COP, as adjusted (*see* "Calculation of COP" above), for the period July 1999 to June 2000, as reported. Dongbu's COP and CV figures were calculated based on costs incurred by Dongbu during the period July 1, 1999 through December 31, 1999 and July 1, 1999 through June 30, 2000, as reported, for cold-rolled and corrosion resistant products respectively. We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, as required under section 773(b)(1)(A) and (B) of the Act, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we found that sales of that model were made in "substantial quantities" for an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act, and were not at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated constructed value (CV) for Dongbu, the POSCO Group, SeAH, and Union based on the sum of each respondent's cost of materials, fabrication, SG&A, including interest expenses, U.S. packing costs, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the actual amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home-market selling expenses. We also made adjustments, where appropriate, for home-market indirect selling expenses to offset U.S. commissions in CEP comparisons.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market, or when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See, e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732 (November 19, 1997).

In reviewing the selling functions reported by the respondents, we examined all types of selling functions and activities reported in respondent's questionnaire response on LOT and during verification. In analyzing whether separate LOTs existed in this review, we found that no single selling function was sufficient to warrant a separate LOT in the home market. *See* Antidumping Duties; Countervailing Duties, Final Rule, 63 FR 65347 (November 25, 1998).

Dongbu

In its questionnaire response, Dongbu stated that there were no significant differences in its selling activities by customer categories within or between the home market and the United States. Therefore, Dongbu stated that it was not distinguishing between LOT for these reviews and that it was not claiming a level of trade adjustment nor claiming a CEP offset. *See* Dongbu's November 8, 2000 Section A at 16. To determine whether an adjustment is necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and home markets, including the selling functions, classes of customer, and selling expenses.

Our analysis of the questionnaire responses detailing the selling functions provided by Dongbu in the home market shows that Dongbu sold subject merchandise through one channel of distribution to two classes of customers in the home market: distributor/service centers and end user. *See* Dongbu's November 8, 2000 Section A at 12. Dongbu reported that there were no differences in its selling functions performed for the different classes of customers and its support services were the same for all classes, including limited warehousing, processing of claims for delivery of defective merchandise, after sales services and warranties, freight and delivery arrangements, and credit terms. *See* Dongbu's December 18, 2000 Response.

In the U.S. market, Dongbu reported two channels of distribution in the United States: 1) Dongbu Steel to Dongbu Corporation to Dongbu USA to U.S. customer; 2) Dongbu Steel to Dongbu USA to U.S. customer. *See* Dongbu's November 8, 2000 Section A at 12. Dongbu stated that the U.S. customers included distributors or service centers, and end users. Dongbu claimed that the scope of selling functions performed in connection with U.S. sales were identical for both end users and distributors and there were no significant difference in selling activities by customer categories within or between each market. Thus Dongbu performed the same sales-related activity in both channels of distribution, including credit terms, inventory maintenance, warranties, and freight. Based on Dongbu's record of sales related activities in its two channels of distribution, we preliminary determine that there is one LOT in the U.S. market.

We also note that the selling functions described by Dongbu in these reviews are consistent with the selling functions described for the previous reviews of these orders, in which we determined no distinct levels of trade. *See* Notice of Preliminary Results: Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea, 64 FR 48767, 48772 (September 9, 1999) and 66 FR 3540 (January 16, 2000).

We have analyzed the evidence, and determined that the selling functions performed on sales to the U.S. importer are the same as provided in the home market. As a result, we preliminary determine that the selling functions between both markets do not significantly differ, and therefore, sales in the home market and the U.S. market were made at the same level of trade. Therefore, all price comparisons are at the same level of trade and any adjustment pursuant to section 773(a)(7) of the Act is unwarranted.

The POSCO Group

In the current review, the POSCO Group stated that it is not claiming a level of trade adjustment, nor has it claimed a CEP offset. *See* The POSCO Group's December 18, 2000 Section B at 53. To determine whether an adjustment is necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and home markets, including the selling functions, classes of customer, and selling expenses.

In its questionnaire responses, the POSCO Group stated that its home-market sales by affiliated service centers were at a different level of trade than its other home-market sales and its U.S.

sales. *See* The POSCO Group's November 13, 2000 Section A at 29. The respondent indicated that the service centers provide certain selling functions to all of their customers, while POSCO, POCOS and PSI provide a different set of selling functions to all of their customers (including the service centers).

In order to confirm the presence of separate levels of trade within or between the U.S. and home markets, we examined the respondent's questionnaire responses for indications of substantive differences in selling and marketing functions. *See* the preamble to section 351.412 of the Department's regulations, 62 FR 27296, 27371 (May 19, 1997).

In its November 13, 2000 Section A responses, the POSCO Group claimed that there are two channels of distribution in the home market: one channel of distribution consists of sales made by POSCO, POCOS, and PSI, while the second channel of distribution consists of the sales made by the affiliated service centers. The Department has reviewed both channels of distribution of the POSCO Group and the related selling functions. In both channels of distribution, the POSCO Group performed the following sales-related activities in both channels of distribution: sales and marketing; freight and delivery arrangement; computer, legal, and accounting assistance and business-systems development assistance; advertising, and warranties. *See* The POSCO Group's November 13, 2000 Section A at 32–36. Next, we analyzed the selling functions of the affiliated service centers and determined that the only substantive additional function that the affiliated service centers perform is the slitting and shearing of coils. As this is not a selling function but rather a manufacturing operation, we have preliminary determined that the selling functions of the POSCO Group and affiliated service centers in the home market are essentially the same and thus made at the same level of trade. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results, 65 FR 54197, 54201 (September 7, 2000), and see Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews, 66 FR 3540 (January 16, 2001).

In the U.S. market, the POSCO Group reported one channel of distribution. *See* The POSCO Group's November 13, 2000 Section A at 31. In this U.S. channel of distribution, the POSCO Group performed the following sales-related activities: Freight and delivery arrangement; computer, legal, and accounting assistance and business-systems development assistance; market research; warranties; sales force development and end user contact and support; advertising; and quality control. *See* The POSCO Group's November 13, 2000 Section A at 32–36. We have analyzed the record and preliminary find that this is the only channel of distribution and thus level of trade in the U.S. market.

Finally, we compared the selling functions in the home market to the and U.S. market and found that the POSCO Group performed the following selling functions in both markets: freight and delivery arrangement; computer, legal and accounting assistance and business-systems development assistance; market research; warranties; sales force development and end user contact and support; advertising; and quality control. Additionally, the POSCO Group only has CEP sales in the U.S. market. As we have found the selling functions in both markets do not substantively differ (*e.g.*, freight and warranties), we have preliminary determined that the selling functions performed on sales to the U.S. importer are the same as provided in the home market. Thus, we preliminary determine that sales within or between each market are made at the same level of trade and an adjustment pursuant to section 773(a)(7) is unwarranted. This is consistent with our practices in past reviews. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results, 65 FR 54197, 54203 (September 7, 2000).

SeAH

SeAH reported, and we verified, that SeAH sold merchandise at one LOT in the home market during the POR. SeAH's one LOT involved one channel of distribution in the home market, where SeAH made sales to unaffiliated end-users or distributors. SeAH performed all sales-related activities for these home market sales, including the following: Negotiating prices, meeting with customers, processing purchase orders, invoicing, arranging for freight and delivery, inventory, market research and extending credit. In addition, we found that sales at the home market LOT was at a more advanced stage of distribution (to end-users as well as distributors) compared to the CEP sales (sold only to distributors).

SeAH reported only CEP sales, with one market channel of distribution, in the U.S. market. In order to determine the level of trade in the U.S. market, we reviewed the selling activities associated with this channel of distribution. SeAH reported, and we verified, that all of SeAH's CEP sales in the U.S. market were made through Pusan Pipe America Inc. (PPA), to unaffiliated U.S. distributors. SeAH performed the following sales-related activities regarding sales through PPA: Processing purchase orders, invoicing PPA, and arranging for international freight. Therefore, for these U.S. sales, we determined that SeAH performed fewer and different selling functions than SeAH performed in the home market.

When the NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, the Department's practice is to adjust normal value to account for this difference. SeAH requested a CEP offset due to differences in level of trade between its home market and U.S. sales. As discussed above, we found that the LOT in the home market did not match the LOT of the CEP transactions. However, we were unable to quantify the LOT adjustment in accordance with section 773(a)(7)(A) of the Act. Instead, we applied a CEP offset to the NV–CEP comparisons, in accordance with section 773(a)(7)(B) of the Act.

Union

In the present review, Union stated that it does not claim a level of trade adjustment. To determine whether an adjustment is necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and home markets, including the selling functions, classes of customer, and selling expenses.

In the home market, Union reported one level of trade. *See* Union's December 18, 2000 Section B Response at 25. Union stated that it sold subject merchandise through two channels of distribution: (1) End users; and (2) local distributors. According to Union, it performed the same sales-related activities in both channels of distribution, including inventory maintenance, after sales services and warranties, occasional post-sale warehousing, technical advice, freight and delivery arrangement, and credit terms. *See* Union's June 6, 2001 Supplemental Response at 2. Therefore, based on Union's submissions, we preliminary determine that there is one LOT in the home market.

In the U.S. market, Union reported one level of trade to its U.S. affiliate, Dongkuk International ("DKA"). *See* Union's December 18, 2000 Section C Response at 24. Union stated that DKA sold subject merchandise to U.S. customers through two channels of distribution: (1) End users; and (2) local distributors. Union claims that no differences exist between the two channels. According to Union, it performed the same sales-related activities in both channels of distribution, including occasional post-sale warehousing, technical advice, and freight and delivery arrangement. *See* Union's June 6, 2001 Supplemental Response at 2. Therefore, based on Union's submissions, we preliminarily determine that there is one LOT in the U.S. market.

As discussed above, Union reports essentially identical sales related activities in the home market and U.S. As such, the Department preliminary determines that all sales in the home market and the U.S. market were made at the same level of trade. Consequently, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7) is unwarranted.

Arm's Length Sales

Dongbu, the POSCO Group, and Union reported that they made sales in the home market to affiliated parties. To test whether these sales were made at "arm's length" (*i.e.*, at a price comparable to the price at which the exporter or producer sold the foreign like product to an unaffiliated purchaser), we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. *See* 19 CFR 351.403(c) and section 773(a)(5) of the Act. Where prices to the affiliated party were, on average, 99.5 percent or more of the price to the unrelated party, we determined that sales made to the related party were at arm's length. Where no affiliated customer ratio could be calculated because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. *See e.g.*, Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made comparisons to the next most similar model.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as published by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in effect on the date of sale of subject merchandise in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined, as a general matter, that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See, e.g.*, Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review, 61 FR 8915, 8918 (March 6, 1996) and Policy Bulletin 96–1: Currency Conversions, 61 FR 9434, (March 8, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days.

Preliminary Results of the Reviews

As a result of these reviews, we preliminarily determine that the following weighted-average dumping margins exist:

Producer/manufacturer/exporter	Weighted-average margin
Certain Cold-Rolled Carbon Steel Flat Products	
Dongbu	3.85
The POSCO Group	5.31
Union	1.15
Certain Corrosion-Resistant Carbon Steel Flat Products	
Dongbu	0.38
The POSCO Group	1.08
SeAH	0
Union	0.34

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing not later than 120 days after the date of publication of these preliminary results.

Upon issuance of the final results of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Exporter/importer-specific assessment rates shall be calculated in accordance with 19 CFR 351.212(b). This is done by dividing the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. The U.S. Customs Service shall be directed, at the issuance of the final results of this review, to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

Cash Deposit

The following deposit requirements will be effective upon publication of this notice of final results of administrative reviews only for corrosion-resistant products for all shipments of the subject merchandise from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 17.70 percent for certain corrosion-resistant carbon steel flat products, the "all others" rate established in the LTFV investigations. *See* Antidumping Duty Orders on Certain Cold-Rolled Carbon

Steel Flat Products and Certain

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15, 2001), where an additional product

measuring greater than 1.375 inches in

the date of publication of our

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Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea, 58 FR 44159 (August 19, 1993). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

As a result of a Sunset Review, the Department has revoked the antidumping duty order for cold-rolled carbon steel products from Korea, effective January 1, 2001. *See* Revocation of Antidumping and Countervailing Duty Orders on Certain Carbon Steel Products From Canada, Germany, Korea, the Netherlands, and Sweden, 65 FR 78467 (Dec. 15, 2000). Therefore, we have instructed the Customs Service to terminate suspension of liquidation for all entries of cold-rolled carbon steel products made on or after January 1, 2000, and antidumping cash deposit requirements for this merchandise are no longer necessary.

Entries of subject merchandise made prior to January 1, 2000, will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22781 Filed 9–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–857]

Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: John Drury or Helen Kramer at (202) 482–0195 and (202) 482–0405, respectively; AD/CVD, Enforcement, Office 8, Group III, Import Administration, Room 7866, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain welded large diameter line pipe from Japan is being, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was published on June 27, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Japan*, 66 FR 34151 (June 27, 2001) ("Preliminary Determination"). No case briefs were filed.

Normally, when the Department issues a final determination, the **Federal Register** notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, a separate memorandum is not required.

Based on a request by petitioners, we have amended the scope of the investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Mexico*, 66 FR 42841 (August 15, 2001), where an additional product was excluded at petitioners' request.

Period of Investigation

The POI for this investigation is January 1, 2000 through December 31, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., January 2001).

Scope of the Investigation

The product covered by this investigation is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stencilled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive. Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.

Facts Available

In the preliminary determination, the Department based the dumping margin for both Kawasaki Steel Corporation ("Kawasaki") and Nippon Steel Corporation ("Nippon"), respondents, on facts otherwise available pursuant to section 776(a)(2)(A) of the Act. The use of facts otherwise available was warranted because both Kawasaki and Nippon failed to respond to the Department's questionnaire, and failed to provide any indication that they were unable to respond. Therefore, the Department found that both Kawasaki and Nippon failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, the Department used an adverse inference in selecting from the facts available. Specifically, the Department assigned both respondents the highest margin alleged in the petition. We continue to find this margin corroborated, pursuant to section 776(c) of the Act, for the reasons discussed in the Preliminary Determination. No interested parties have objected to the use of adverse facts available for either respondent in this investigation, nor to the Department's choice of the facts available margin. Accordingly, for the final determination, the Department is continuing to use, for both Kawasaki and Nippon, the highest margin alleged in the petition. *See* Preliminary Determination. In addition, the Department has left unchanged from the preliminary determination the "All Others Rate" in this investigation.

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of large diameter line pipe from Japan, that are entered, or withdrawn from warehouse, for consumption on or after June 27, 2001, the date of publication of our preliminary determination. The Customs Service shall require a cash deposit or bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice. The dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Nippon Steel Corporation (Nippon)	30.80
Kawasaki Steel Corporation (Kawasaki)	30.80
All Others	30.80

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 4, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22783 Filed 9–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–815]

Notice of Countervailing Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds or Darla Brown, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Scope of Order

The merchandise subject to this investigation is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as

columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the *Harmonized Tariff Schedule of the United States* (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, e.g., ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise subject to this proceeding is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, on July 16, 2001, the Department published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from Argentina (66 FR 37007). On August 27, 2001, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of hot-rolled steel products from Argentina.

Therefore, countervailing duties will be assessed on all unliquidated entries of certain hot-rolled carbon steel flat products from Argentina entered, or withdrawn from warehouse, for consumption on or after February 21, 2001, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before June 21, 2001, the date the Department instructed the U.S. Customs Service to terminate the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for longer than four months. Entries of certain hot-rolled carbon steel flat products made on or after June 21, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's termination, effective June 21, 2001, of suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstate the suspension of liquidation effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rate for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rates noted below. The All Others rate applies to all producers and exporters of certain hot-rolled carbon steel flat products from Argentina not specifically listed below. The cash deposit rates are as follows:

Producer/exporter	Net Subsidy Rate Ad Valorem
Siderar	41.69%
All Others	41.69%

This notice constitutes the countervailing duty order with respect to certain hot-rolled carbon steel flat products from Argentina, pursuant to section 706(a) of the Act. Interested parties may contact the Central Records Unit, for copies of an updated list of countervailing duty orders currently in effect.

This countervailing duty order is published in accordance with section 706(a) of the Act and 19 CFR 351.211.

Dated: September 5, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22782 Filed 9–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Technology Administration

Submission for OMB Review Under the Emergency Processing Provisions of the Paperwork Reduction Act; Comment Request

The Department of Commerce (DOC) submitted to the Office of Management and Budget (OMB) for clearance the following collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This request was submitted under the emergency processing provisions of the Paperwork Reduction Act.

Agency: Technology Administration.

Title: Review of Public and Private High-Tech Workforce Training Programs.

Agency Form Numbers (s): None.

OMB Approval Number: 0692–0008.

Type of Request: Emergency submission.

Burden: 750 hours.

Number of Respondents: 420.

Average Hours Per Respondents: Approximately 1 hour, 45 minutes.

Needs and Uses: This information collection is needed to fulfill the Secretary of Commerce's responsibilities mandated in Public Law 106–313. Section 115 (a) and (b) directs the Secretary of Commerce to conduct a review of existing public and private high-tech workforce training programs in the United States, and submit a report to Congress on the study findings no later than 18 months from the bill's enactment. This information is needed to analyze how high-tech workers obtain their training, and how well the skills provided by various high-tech training models meet employer needs. An analysis of what is learned from this information collection will be contained in the report to Congress. Comparable information is not available on a standardized basis.

Affected Public: Individuals, Employers, Education and Training Providers, State and Local Government Organizations Involved in High-Tech Workforce Training, Non-profit Partnerships Involved in High-Tech Workforce Training.

Frequency: One-Time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 1401 Constitution Avenue, NW., Washington, DC, 20230 (or via the Internet at *MClayton@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: September 5, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–22682 Filed 9–10–01; 8:45 am]

BILLING CODE 3510–18–P

CONSUMER PRODUCT SAFETY COMMISSION

Meeting

AGENCY: Consumer Product Safety Commission, Washington, DC 20207

TIME AND DATE: Friday, September 14, 2001 2 p.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland

STATUS: Open to the public

MATTER TO BE CONSIDERED:

Mattresses/Bedding

The staff will brief the Commission on options to address open flame ignition of mattresses/bedding and issues related to Petitions FP 00–1 through FP 00–4, submitted by Whitney A. Davis, Director of Children's Coalition for Fire-Safe Mattresses, requesting various actions concerning mattress flammability.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway., Bethesda, MD 20207 (301) 504–0800.

Dated: September 5, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–22662 Filed 9–10–01; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of Secretary

New Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistance Secretary of Defense (Health Affairs) announces the new collection of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the new collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received November 13, 2001.

ADDRESSES: Written comments and recommendations on the information collection should be sent to Office of the Assistant Secretary of Defense (Health Affairs) TRICARE Management Activity, Skyline Five, Suite 810, 5111 Leesburg Pike, Falls Church, Virginia 22041–3206, Attn: Mr. Duaine Goodno.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call Duaine Goodno, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity at (703) 681–0039.

Title; Associated Form; and OMB Number: TRICARE Plus Enrollment Applicant and TRICARE Plus Disenrollment Request.

Needs and Uses: These collection instruments serve as an application for enrollment and disenrollment in the Department of Defense's TRICARE Plus Health Plan established in accordance with Title 10 U.S.C. Sections 1099 (which calls for a healthcare enrollment system) and 1086 (which authorizes TRICARE eligibility of Medicare Eligible Persons and has resulted in the development of a new enrollment option called TRICARE Plus) and the Assistant Secretary of Defense, Health

Affairs, Policy Memorandum to Establish the TRICARE Plus Program, June 22, 2001. The information collected hereby provides the TRICARE contractors with necessary data to determine beneficiary eligibility and to identify the selection of a health care option.

Affected Public: Individuals or household.

Annual Burden Hours: 2,933.

Number of Respondents: 25,065.

Response Per Respondent: 1.

Average Burden Per Response: .117 hours or 7 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Department of Defense established TRICARE Plus as an enrollment option for persons who are eligible for care in Military Treatment Facilities (MTF) and not enrolled in TRICARE Prime. TRICARE Plus provides an opportunity to enroll with a primary care provider at a specific MTF, to the extent capacity exists. This is a way to facilitate primary care appointments at an MTF when needed. TRICARE Plus enrollment will help MTFs maintain an adequate clinical case mix for Graduate Medical Education programs and support readiness-related medical skills sustainment activities. In order to carry out this program, it is necessary that a certain beneficiaries electing to enroll/disenroll in TRICARE Plus complete an enrollment application/disenrollment request. Completion of the enrollment forms is an essential element of the TRICARE program. There is no lock-in and no enrollment fee for TRICARE Plus.

Dated: September 5, 2001.

Patricia Toppings,

Alternative OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 01–22706 Filed 9–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Number, and OMB Number: End-Use Certificate; DLA Form 1822; OMB Number 0704–0382.

Type of Request: Extension.

Number of Respondents: 40,000.

Responses Per Respondent: 1.

Annual Responses: 40,000.

Average Burden Per Response: 20 minutes.

Annual Burden Hours: 13,200.

Needs and Uses: All individuals wishing to acquire government property identified as Munitions List Items (MLI) or Commerce Control List Items (CCLI) must complete this form each time they enter into a transaction. It is used to clear recipients to ensure their eligibility to conduct business with the Government: that they are not debarred bidders; Specially Designated Nationals (SDN) or Blocked Person; have not violated U.S. export laws; will not divert the property to denied/sanctioned countries, unauthorized destinations or sell to debarred/Bidder Experience List firms or individuals. The End-Use Certificate (EUC) informs the recipients that when this property is to be exported, they must comply with the International Traffic in Arms Regulations (ITAR), 22 CFR 120 et seq.; Export Administration Regulations (EAR), 15 CFR 730 et seq.; Office of Foreign Asset Controls (OFAC), 31 CFR 500 et seq.; and the United States Customs Service rules and regulations. The form is available electronically.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On Occasion.

Respondents Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10246, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: September 5, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22707 Filed 9–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–26]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01–26 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 31, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

24 AUG 2001
In reply refer to:
I-01/009331

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-26, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $354 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-26

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$253 million
Other	$101 million
TOTAL	$354 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Twenty-six Extended Range-Multiple Launch Rocket Systems (ER-MLRS) with fire control panels, 485 ER-MLRS rocket pods (six rockets per pod), 22 reduced range practice rocket pods (six rockets per pod), one MLRS fire control proficiency trainer, three M88A2 recovery vehicles, 30 M577A2 command post carriers, 29 AN/VRC-89E, 57 AN/VRC-90E, and 60 AN/VRC-92E SINCGARS radios, training and test devices, trucks, missile systems software, U.S. Government and contractor engineering and logistics services, a U.S. Government Quality Assurance Team, spare and repair parts, personnel training and training equipment, publications and technical data, a Cooperative Logistics Supply Support Arrangement, support equipment, maintenance support of repairable material and other related elements of program support.

(iv) Military Department: Army (UUH)

(v) Prior Related Cases, if any:
FMS case USN - $ 50 million - 28Jan01
FMS case JBM - $191 million - 18Mar98

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 24 AUG 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - Extended Range-Multiple Launch Rocket Systems

The Government of Egypt has requested the possible sale of 26 Extended Range-Multiple Launch Rocket Systems (ER-MLRS) with fire control panels, 485 ER-MLRS rocket pods (six rockets per pod), 22 reduced range practice rocket pods (six rockets per pod), one MLRS fire control proficiency trainer, three M88A2 recovery vehicles, 30 M577A2 command post carriers, 29 AN/VRC-89E, 57 AN/VRC-90E, and 60 AN/VRC-92E SINCGARS radios, training and test devices, trucks, missile systems software, U.S. Government and contractor engineering and logistics services, a U.S. Government Quality Assurance Team, spare and repair parts, personnel training and training equipment, publications and technical data, a Cooperative Logistics Supply Support Arrangement, support equipment, maintenance support of repairable material and other related elements of program support. The estimated cost is $354 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Middle East.

The proposed sale of the ER-MLRS will enable the Egypt Army to continue developing a defensive area fire capability to counter hostile long range artillery and rocket systems as well as enhance its interoperability with U.S. forces. Egypt needs the SINCGARS radios to fulfill its strategic commitments for complete communications interoperability and standardization of equipment and to be able to communicate with its various vehicles and the U.S. forces. Egypt will have no difficulty absorbing these surface-to-surface missiles in its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Missile and Fire Control of Dallas, Texas. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of a Quality Assurance team and one contractor representative for two weeks to assist in the delivery and deployment of the ER-MLRS to Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

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Transmittal No. 01-26

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vi

(vi) Sensitivity of Technology:

1. The Extended Range-Multiple Launch Rocket System (ER-MLRS) is a free flight artillery rocket system designed to deliver counter-battery fire and suppress enemy air defense systems. The basic warhead carries a load of improved conventional sub-munitions (grenades) that are scattered over a wide area of the battlefield. The ER-MLRS consists of several unclassified sub-systems; the self-propelled launcher, the preloaded launcher pods and the fire control system. A major part of the fire control element is the Lightweight Computer Unit which receives digital firing data from a forward observer, computes range and deflection information and transmits this information to the rocket launcher crew.

2. The highest level of classified information required to be released for training, operation and maintenance of the ER-MLRS rocket pods is Confidential. The highest level of information which could be revealed through reverse engineering or testing of the end item is Secret. ER-MLRS technical data and information includes Confidential and Secret reports and data, as well as performance and capability data, classified Confidential/Secret. The hardware for ER-MLRS is Unclassified. Software is classified Secret for the Fire Direction Data manager, the Fire Direction System and the Improved Fire Control System. Software for the Communications Distribution Unit is classified Confidential.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 01–22704 Filed 9–10–01; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: September 13, 2001 (0830 am to 1600 pm).

ADDRESSES: The Defense Intelligence Agency, 200 MacDill Blvd, Washington, D.C. 20340

FOR FURTHER INFORMATION CONTACT: VICTORIA J. PRESCOTT, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: Due to administrative oversight the reporting of this meeting is less then the 15 day required reporting time. The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(l), Title 5 of the U.S. Code, and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: September 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22703 Filed 9–10–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Secretary of Defense's Historical Records Declassification Advisory Panel

AGENCY: The Secretary of Defense's Historical Records Declassification Advisory Panel ("HRDAP"), Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of the forthcoming meeting of the Historical Records Declassification Advisory Panel (HRDAP). The purpose of this meeting is to discuss and form recommendations to the Secretary of Defense on issues involving the declassification and management of DoD classified, historical documents. This is the second session held in 2001. The OSD Historian will chair this meeting.

DATES: Friday, September 21, 2001.

TIME: The meeting is scheduled 9 a.m. to 3 p.m.

ADDRESSES: 1777 Kent Street, Arlington (Rosslyn), VA, Room 005, 14th Floor, Penthouse Conference Area.

FOR FURTHER INFORMATION CONTACT: LCDR James R. Van de Velde, Office of the Deputy Assistant Secretary of Defense (Security and Information Operations), Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20302–6000, telephone (703) 602–0980, ext. 175.

Dated: September 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–22702 Filed 9–10–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending four systems of records notices in its existing inventory of records systems subject to the Privacy Act of 1974, as amended. The "Retention and disposal" category within these notices are being revised to reflect the National Archives and Records Administration approved retention and disposal schedule for the records being maintained.

DATES: This proposed action will be effective without further notice on October 11, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0351 USAREUR

SYSTEM NAME:

Individual Academic Record Files (February 7, 2001, 66 FR 9298).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Destroy after 40 years. Maintain in current file area until no longer needed for conducting business, then retire to records holding area, where they will be transferred to the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5200."

* * * * *

A0351 USAREUR

SYSTEM NAME:

Individual Academic Record Files.

SYSTEM LOCATION:

Commander, Combined Arms Training Center, Unit 28038, APO AE 09112–0100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military or civilian personnel admitted as a student at a course of instruction conducted by the Combined Arms Training Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student's name, Social Security Number, race, unit of assignment, course quota status, roster number, applicable Army Classification Battery Scores, eligibility for course attendance, academic achievements, awards, and similar relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army and E.O. 9397 (SSN).

PURPOSE(S):

Arms Training Center, Unit 28038, APO

Chapter 920, Civilian Personnel-Senior

Washington, DC 20310–0111 for civilian

ACAP centers may be obtained by

secured in locked file cabinets. The

PURPOSE(S):

To determine eligibility for enrollment/attendance, monitor student progress, and record accomplishments for management studies and reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By student's Social Security Number, surname, course/class number.

SAFEGUARDS:

Records are maintained in locked rooms, accessible only to designated persons authorized to use in the performance of official duties.

RETENTION AND DISPOSAL:

Destroy after 40 years. Maintain in current file area until no longer needed for conducting business, then retire to records holding area, where they will be transferred to the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5200.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Combined Arms Training Center, Unit 28038, APO AE 09112–0100.

Individuals should provide their Social Security Number, full name, course and class dates of attendance, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Combined Arms Training Center, Unit 28038, APO AE 09112–0100.

Individuals should provide their Social Security Number, full name, course and class dates of attendance, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in the Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; his/her commander; instructors; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0360–5 SAPA

SYSTEM NAME:

Biography Files (August 30, 2000, 65 FR 52727).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroy 2 years after retirement, transfer, separation, or death, of the person concerned, or on discontinuance, whichever is first.'

* * * * *

A0360–5 SAPA

SYSTEM NAME:

Biography Files.

SYSTEM LOCATION:

Military records are located at General Officer Management Office, Office to the Chief of Staff, Army, 200 Army Pentagon, Washington, DC 20310–0200.

Civilian records are located at U.S. Army, Senior Executive Service Office, 111 Army Pentagon, Washington, DC 20310–0111.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Senior Department of the Army military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical material including name, position, rank, educational degrees/grade, summary of service, photographs, newspaper clippings, speeches, outstanding achievements may also be included and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 360–5, Public Information; Army Regulation 690–900, Chapter 920, Civilian Personnel-Senior Executive Service.

PURPOSE(S):

To respond to queries from the news media, and Army agencies/commands relating to individuals concerned.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Records may be released to the news media to use for informational purposes.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media and paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are accessed only by designated officials having need therefore in the performance of their assigned duties. Storage areas are locked during non-duty hours.

RETENTION AND DISPOSAL:

Destroy 2 years after retirement, transfer, separation, or death, of the person concerned, or on discontinuance, whichever is first.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, General Officer Management Office, Office of the Chief of Staff, Army, 200 Army Pentagon, Washington, DC 20310–0200 for military records.

Chief, Office of the Secretary of the Army, U.S. Army Senior Executive Service Office, 111 Army Pentagon, Room 2C600 Washington, DC 20310–0111 for civilian records.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, General Officer Management Office, Office to the Chief of Staff, Army, 200 Army Pentagon, Washington, DC 20310–0200 for military records or to the Chief, U.S. Army, Senior Executive Service Office, 111 Army Pentagon, Washington, DC 20310–0111 for civilian records.

For verification purposes, individual should provide full name, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in the system should address written inquiries to the Chief, General Officer Management Office, Office to the Chief of Staff, Army, 200 Army Pentagon, Washington, DC 20310–0200 for military records or to the Chief, U.S. Army, Senior Executive Service Office, 111 Army Pentagon, Washington, DC 20310–0111 for civilian records.

For verification purposes, individual should provide full name, current address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; clippings from published media; published biographical data from Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0360 TAPC

SYSTEM NAME:

Army Career and Alumni Program (ACAP XXI) (February 14, 2000, 65 FR 7365).

CHANGES:

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RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are deleted after 90 days inactivity for individual personnel records.'

* * * * *

A0360 TAPC

SYSTEM NAME:

Army Career and Alumni Program (ACAP XXI).

SYSTEM LOCATION:

Primary location: Headquarters, U.S. Army Personnel Command, ATTN: TAPC–PDT–O, 200 Stovall Street, Alexandria, VA 22332–0476. Secondary locations: Army Career and Alumni Program Centers. A complete list of ACAP centers may be obtained by writing to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (Active/reserve duty) and their spouses; U.S. Coast Guard personnel and their spouses; Department of Defense civilian employees and their spouses; U.S. Army National Guard personnel and their spouses; DoD personnel who retired no earlier than ninety (90) days prior to the date they requested ACAP services; and widows and widowers of deceased active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain individual's name, home address, Social Security Number, date of birth, job qualifications, DD Form 2648 (Pre-Separation Counseling Checklist), and similar or pre-separation/transition counseling related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C., Chapter 58; DoD Directive 1332.35; and E.O. 9397 (SSN).

PURPOSE(S):

To provide transition planning/counseling for individuals so that they may re-enter the civilian job market.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows: The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored electronically on computers and on paper in file folders.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

All records are maintained in secured areas, accessible only to designated personnel whose official duties require they have access. The personal computer system can only be accessed through a system of passwords known only to the individual and the system administrator/supervisor. Paper files are secured in locked file cabinets. The areas where the personal computer and paper files are located are secured after duty hours in locked buildings.

RETENTION AND DISPOSAL:

Records are deleted after 90 days inactivity for individual personnel records

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Personnel Command, ATTN: TAPC–PDT–O, 200 Stovall Street, Alexandria, VA 22332–0476.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in the system should address written inquiries to the Director of the ACAP Center where transition assistance was obtained or contact the system manager. Requesting individual must submit full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Director of the ACAP Center where transition assistance was obtained or contact the system manager. Requesting individual must submit full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, and the U.S. Coast Guard records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0614–100/200 USMA

SYSTEM NAME:

Evaluation/Assignment of Academic Instructors (January 8, 2001, 66 FR 1321).

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with USMA files are maintained for 25 years in current file area, and are then destroyed.

All other offices, such as administrative offices, maintain the records in current file area for 10 years

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after transfer or separation of instructor, and are then destroyed.

* * * * *

A0614–100/200 USMA

SYSTEM NAME:

Evaluation/Assignment of Academic Instructors.

SYSTEM LOCATION:

Associate Dean for Plans and Resources, Office of the Dean, U.S. Military Academy, Dean of Academic Board, West Point, NY 10996–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel who apply and/or serve on the Staff and Faculty, U.S. Military Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application consisting of name, grade or position, Social Security Number, educational and professional qualifications such as the Graduate Record Examination (GRE) or Graduate Management Admission Test (GMAT); evaluations; Officer Record Briefs (military only); personnel actions; appointments; official photographs; curriculum vitae; letters of endorsement; award recommendations; assignment orders; application/acceptance for advanced civil schooling; correspondence between the U.S. Military Academy and the Total Army Personnel Command; and other relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 4334, Command and Supervision; 10 U.S.C. 4337, Civilian Faculty and E.O. 9397 (SSN).

PURPOSE(S):

Used by the U.S. Military Academy Dean of Academic Board and department heads to assess qualifications and suitability, and manage civilian and military personnel for assignment to the Staff and Faculty, U.S. Military Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows: The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage medium.

RETRIEVABILITY:

By individual's name and Social Security Number.

SAFEGUARDS:

Information is available only to designated people who have a need-to-know.

RETENTION AND DISPOSAL:

USMA files are maintained for 25 years in current file area, and are then destroyed.

All other offices, such as administrative offices, maintain the records in current file area for 10 years after transfer or separation of instructor, and are then destroyed

SYSTEM MANAGER(S) AND ADDRESS:

Associate Dean for Plans and Resources, Office of the Dean, Dean of Academic Board, West Point, NY 10996–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Associate Dean for Plans and Resources, Office of the Dean, U.S. Military Academy, Dean of Academic Board, West Point, NY 10996–5000.

Individual should provide the full name, Social Security Number, sufficient details to locate records, current mailing address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Associate Dean for Plans and Resources, Office of the Dean, U.S. Military Academy, Dean of Academic Board, West Point, NY 10996–5000.

Individual should provide the full name, Social Security Number, sufficient details to locate records, current mailing address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; official Army or other Service records; academic institutions; letters of endorsement from third parties; U.S. Army Military Personnel Center; similar relevant documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–22705 Filed 9–10–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Ocean Research Advisory Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice of open meeting.

SUMMARY: The Ocean Research Advisory Panel (ORAP) will meet to discuss National Oceanographic Partnership Program (NOPP) activities. All sessions of the meeting will remain open to the public.

DATES: The meeting will be held on Tuesday, October 23, 2001, from 8:30 a.m. to 4:30 p.m. In order to maintain the meeting time schedule, members of the public will be limited in their time to speak to the Panel. Members of the public should submit their comments one week in advance of the meeting to the meeting Point of Contact.

ADDRESSES: The meeting will be held at Monterey Bay Aquarium Research Institute, 7700 Sandholdt Road, Moss Landing, CA, 95039–9644.

FOR FURTHER INFORMATION CONTACT: Dr. Steven E. Ramberg, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5660, telephone (703) 696–4358.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of this meeting is to discuss NOPP activities. The meeting will include discussions on ocean observations, current and future NOPP activities, and other current issues in the ocean sciences community.

Dated: August 27, 2001.

T. J. Welsh,

Lieutenant Commander, Judge Advocate General's Corp, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–22680 Filed 9–10–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability for Donation of the Destroyer ex-FORREST SHERMAN (DD 931)

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the availability for donation, under the authority of 10 U.S.C. section 7306, of the destroyer ex-FORREST SHERMAN (DD 931) located at the NAVSEA Inactive Ship Maintenance Office (NISMO), Philadelphia, PA. Eligible recipients include: (1) Any State, Commonwealth, or Possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or (3) any organization incorporated as a non-profit entity under section 501 of the Internal Revenue Code. The transfer of a ship for donation under 10 U.S.C section 7306 shall be made at no cost to the United States Government. The transferee will be required to maintain the ship as a static museum/memorial in a condition that is satisfactory to the Secretary of the Navy. Prospective transferees must submit a comprehensive application that addresses the significant financial, technical, environmental and curatorial responsibilities associated with donated Navy ships.

Other ships that are currently available for donation include:

—Destroyer ex-CONOLLY (DD 979), Philadelphia, PA.

—Cruiser ex-STERETT (CG 31), Benecia, CA.

—Guided Missile Frigate ex-OLIVER HAZARD PERRY (FFG 7), Philadelphia, PA.

—Heavy Cruiser ex-DES MOINES (CA 134), Philadelphia, PA.

—Yard Tug ex-HOGA (YTM 146), Benecia, CA.

FOR FURTHER INFORMATION CONTACT: Commander, Naval Sea Systems Command, ATTN: Ms. Gloria Carvalho (PMS 333G), 1333 Isaac Hull Ave SE., Stop 2701, Washington Navy Yard, DC 20376–2701, telephone number (202) 781–0485.

Dated: August 21, 2001.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, Federal Register Liaison Officer.

[FR Doc. 01–22681 Filed 9–10–01; 8:45 am]

BILLING CODE 3810–FF–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Privacy Act; Systems of Records

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of Systems of Records.

SUMMARY: Each Federal agency is required by the Privacy Act of 1974, 5 U.S.C. 552a, to publish a description of the systems of records containing personal information defined by the Act. In this notice the Board updates the descriptions of all seven systems it currently maintains.

FOR FURTHER INFORMATION CONTACT: Richard A. Azzaro, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, D.C. 20004–2901, (202) 694–7000.

SUPPLEMENTARY INFORMATION: The Board currently maintains seven systems of records under the Privacy Act.

DNFSB–1

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION: UNCLASSIFIED MATERIALS.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with DNFSB and DNFSB contractors; consultants; other individuals requiring access to classified materials and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security folders and requests for security clearances, Forms SF 86, 86A, 87, 312, and DOE Forms 5631.18, 5631.29, 5631.20, and 5631.21. In addition, records containing the following information:

(1) Security clearance request information;

(2) Records of security education and foreign travel lectures;

(3) Records of any security infractions;

(4) Names of individuals visiting DNFSB;

(5) Employee identification files (including photographs) maintained for access purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2286. Routine Uses of Records Maintained in the System, Including Categories of users and the Purpose of Such Uses:

DNFSB—to determine which individuals should have access to classified material and to be able to transfer clearances to other facilities for visitor control purposes. DOE—to determine eligibility for security clearances. Other Federal and State agencies—to determine eligibility for security clearances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer files.

RETRIEVABILITY:

By name, social security number, and numeric code.

SAFEGUARDS:

Access is limited to employees having a need to know. Paper records are stored in locked file cabinets, computer records are maintained on a desktop PC with password protection. The office of the system manager is locked when not in use.

RETENTION AND DISPOSAL:

Records retention and disposal requirements are contained in the "General Records Schedules" published by National Archives and Records Administration, Washington, DC. Paper records are destroyed by shredding, computer files by erasure.

SYSTEM MANAGER AND ADDRESS:

Security Management Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–1 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedure above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, Questionnaire for Sensitive Positions (SF–86), agency files, official visitor logs, contractors, and DOE Personnel Security Branch.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–2

SYSTEM NAME:

Administrative and Travel Files.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Ave., NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with DNFSB, including DNFSB contractors and consultants.

CATEGORES OF RECORDS IN THE SYSTEM:

Records containing the following information:

(1) Name, address, social security number, birth date, and passport number;

(2) Time and attendance;

(3) Payroll actions and deduction information requests;

(4) Authorizations for overtime and night differential;

(5) Credit card numbers;

(6) Official travel documents;

(7) Relocation records;

(8) Parking permit records;

(9) Public transit subsidy applications and issuance records;

(10) Miscellaneous reimbursements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 42 U.S.C. § 2286. ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

GSA—To reimburse Board employees, applicants for employment and consultants for travel related expenses and miscellaneous reimbursements.

Bureau of the Public Debt—To maintain Official Personnel Folders (OPFs), payroll, time and attendance, for Board employees.

Treasury Department—To collect withheld taxes and issue savings bonds.

Internal Revenue Service—To process Federal income tax.

State and Local Governments—To process state and local income tax.

Office of Personnel Management—Retirement records and benefits.

Social Security Administration—Social Security records and benefits.

Department of Labor—To process Workmen's Compensation claims.

Department of Defense—Military Retired Pay Offices—To adjust Military retirement.

Savings Institutions—To credit accounts for savings made through payroll deductions.

Health Insurance Carriers—To process insurance claims.

General Accounting Office—Audit—To verify accuracy and legality of disbursement.

Veterans Administration—To evaluate veteran's benefits to which the individual may be entitled.

States' Departments of Employment Security—To determine entitlement to unemployment compensation or other state benefits.

Travel Agencies—To process travel itineraries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSETM:

STORAGE:

Paper records and computer files.

RETRIEVABILITY:

By name, social security number, travel dates, relocation dates, and alphanumeric code.

SAFEGUARDS:

Access is limited to employees having a need to know. Paper records are stored in locked file cabinets, computer records are maintained on a desktop PC with password protection.

RETENTION AND DISPOSAL:

Records retention and disposal authority are contained in the "General Records Schedules" published by National Archives and Records Administration, Washington, DC. Paper records are destroyed by shredding, computer files by erasure.

SYSTEM MANAGERS AND ADDRESS:

Director of Acquisition and Finance, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–2 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORDS ACCESS PROCEDURE:

Same as Notification procedures above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, timekeepers, BPD for official personnel records, accounting and payroll, OPM for official personnel records for separated employees, IRS and State officials for withholding and tax information, and travel agency contract.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–3

SYSTEM NAME:

Drug Testing Program Records.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Human Resources, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901. Duplicate systems may exist, in whole or in part, at contractor testing laboratories and collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DNFSB employees and applicants for employment with the DNFSB.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding results of the drug testing program; requests for and results of initial, confirmatory and follow-up testing, if appropriate; additional information supplied by DNFSB employees or employment applicants in challenge to positive test results; information supplied by individuals concerning alleged drug abuse by Board employees or contractors; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12564, "Drug-Free Federal Workplace," September 17, 1986, 51 FR 32889, codified at 5 U.S.C. § 7301, note (1987).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information in these records may be used by the DNFSB management:

(1) To identify substance abusers within the agency;

(2) To initiate counseling and rehabilitation programs;

(3) To take personnel actions;

(4) To take personnel security actions; and

(5) For statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Test records are maintained on paper in file folders. Records used for initiating a random drug test are maintained on the Random Employee Selection Automation System. This is a stand-alone system resident on a desktop computer and is password-protected.

RETRIEVABILITY:

Records maintained in file folders are indexed and accessed by name and social security number. Records maintained for random drug testing are accessed by using a computer database which contains employees' names, social security numbers, and job titles. Employees are then selected from the available pool by the computer, and a list is given to the Drug Program Coordinator of employees and alternates selected for drug testing.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Records in the Division of Human Resources are stored in a locked file cabinet. Records in laboratory/collection/evaluation facilities are stored under appropriate security measures so that access is limited and controlled.

RETENTION AND DISPOSAL:

(1) Test results, whether negative or positive, and other drug screening records filed in the Division of Human Resources, will be retained and retrieved as indicated above. When an individual terminates employment with the DNFSB, negative test results will be destroyed by shredding. Positive test results will be maintained through the conclusion of any administrative or judicial proceedings, at which time they will be destroyed by shredding.

(2) Test results, whether negative or positive, on file in contractor testing laboratories, ordinarily will be maintained for a minimum of two years in the laboratories. Upon instructions provided by the Division of Human Resources, the results will be transferred to the Division of Human Resources when the contract is terminated or whenever an individual, previously subjected to urinalysis by the laboratory, terminates employment with the DNFSB. Records received from the laboratories by the Division of Human Resources will be incorporated into other records in the system, or if the individual has terminated, those records reflecting negative test results will be destroyed by shredding. Positive test results will be maintained through the conclusion of any administrative or judicial proceedings, at which time they will be destroyed by shredding.

(3) Negative specimens will be destroyed according to laboratory/contractor procedures.

(4) Positive specimens will be maintained through the conclusion of administrative or judicial proceedings.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–3 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above, except individual must show official photo identification, such as driver license or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

DNFSB employees and employment applicants who have been identified for drug testing, who have been tested, or who have admitted abusing drugs prior to being tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; individuals providing information concerning alleged drug abuse by Board employees or contractors; DNFSB contractors for processing, including but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and DNFSB staff administering the drug testing program to ensure the achievement of a drug-free workplace.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Board has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(C), (H), and (J), and (f). The exemption is invoked for information in the system of records which would disclose the identity of a person who has supplied information on drug abuse by a Board employee or contractor.

DNFSB–4

SYSTEM NAME:

Personnel Files.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Ave., NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with the DNFSB, including DNFSB consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning the following information:

(1) Name, social security number, sex, date of birth, home address, grade level, and occupational code;

(2) Federal employment application materials;

(3) Records on suggestions, awards, and bonuses;

(4) Training requests, authorization data, and training course evaluations;

(5) Employee appraisals, appeals, grievances, and complaints;

(6) Employee disciplinary actions;

(7) Employee retirement records;

(8) Records on employment transfer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2286.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Bureau of the Public Debt—Maintain official personnel records for DNFSB.

Office of Personnel Management—Transfer and retirement records and benefits, and collection of anonymous statistical reports.

Social Security Administration—Social Security records and benefits.

Federal, State, or Local government agencies—For the purpose of investigating individuals in connection with, security clearances, and administrative or judicial proceedings.

Private Organizations—For the purpose of verifying employees' employment status with the DNFSB.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer files.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Access is limited to employees having a need-to-know. Paper records are

stored in locked file cabinets, computer files are password-protected.

RETENTION AND DISPOSAL:

Records retention and disposal authority are contained in the "General Records Schedules" published by National Archives and Records Administration, Washington, DC. Paper records within DNFSB are destroyed by shredding, computer files by erasure.

SYSTEM MANAGER AND ADDRESS:

Director of Human Resources, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–4 contains information about him/her should be directed to Director of Human Resources, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above, except individual must show official photo identification, such as driver license or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals, official personnel records, OPM for official personnel records, State employment agencies, educational institutions, and supervisors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–5

SYSTEM NAME:

Personnel Radiation and Beryllium Exposure Files.

SECURITY CLASSIFICATION:

Unclassified materials.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DNFSB employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Radiation and beryllium exposure information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2286.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

DNFSB—to monitor radiation and beryllium exposure of its employees and contractors.
DOE—to monitor radiation and beryllium exposure of visitors to the various DOE facilities in the United States.
Other Federal and State Health Institutions—To monitor radiation and beryllium exposure of DNFSB personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer files.

RETRIEVABILITY:

By name, social security number, and numeric code.

SAFEGUARDS:

Access is limited to employees having a need to know. Paper records are stored in locked file cabinets in a controlled access area. Individual employees can view their radiation exposure records by entering a name and password from the desktop.

RETENTION AND DISPOSAL:

Records retention and disposal authority are contained in the "General Records Schedules" published by National Archives and Records Administration, Washington, DC. Paper records within DNFSB are destroyed by shredding, computer files by erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Security Management Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–5 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedure above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records. Current employees can view their radiation exposure record using a name and password system from the desktop.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure for viewing paper records.

RECORD SOURCE CATEGORIES:

Subject individuals, previous employee records, DOE contractors' film badges, whole body counts, bioassays, dosimetry badges, and beryllium exposure surveys.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–6

SYSTEM NAME:

DNFSB Staff Resume Book.

SECURITY CLASSIFICATION:

Unclassified materials.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Board's technical and legal staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

A summary of each employee's educational background and work experience, with emphasis on areas relevant to the individual's work at the Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2286.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Resume Book may be distributed to representatives of the press, Congressional staff, representatives of Federal, State and local governments, and to any member of the public or any organization having a legitimate interest in understanding the technical and legal qualifications of the Board's staff.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer files.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Copies of the Resume Book are sequentially numbered and all copies

will be stored under the control of a Board employee. A record will be kept of each disclosure of the book by name of the receiving party and purpose for which the information is provided. The Resume Book will not be available via Internet nor will it be placed in the Board's Public Reading Room.

RETENTION AND DISPOSAL:

The Resume Book will be periodically updated, and out-of-date copies will be destroyed when updated copies are printed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Information Technology and Security, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Board employees covered by the Resume Book may examine their entry in it at any time. They may also examine the list of disclosures maintained by the System Manager.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure.

CONTESTING RECORD PROCEDURE:

Any Board employee covered by the Resume Book may request that corrections be made in his/her resume at any time.

RECORD SOURCE CATEGORIES:

Subject individuals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–7

SYSTEM NAME:

Supervisor Files.

SECURITY CLASSIFICATION:

Unclassified materials.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Board's technical, legal and administrative staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files maintained by supervisors, indexed by employee name, containing positive or negative information used primarily to write annual or mid-year performance appraisals or to propose awards and honors. The files may contain written correspondence, examples of an employee's work, printed versions of electronic communications, private notes by the supervisor, and other records bearing on the individual's performance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2286.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records are used by supervisors to write annual or mid-year performance appraisals for their employees or to propose awards and honors. Records may also be used in connection with disciplinary and adverse actions. These records are not disclosed outside DNFSB and will not be accessed by persons other than the supervisor maintaining the record and administrative staff personnel assigned to file or retrieve records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer files.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Access is limited to the individual supervisor keeping the records and administrative personnel who may file or retrieve records. Paper records are stored in locked file cabinets or in locked desk drawers; computer files are password-protected.

RETENTION AND DISPOSAL:

Records retention and disposal authority are contained in the "General Records Schedules" published by National Archives and Records Administration, Washington, DC. Most files in DNFSB–7 are purged once per year following completion of appraisals. Paper records are destroyed by shredding, computer files by erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Information Technology and Security, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–7 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedure above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure.

RECORD SOURCE CATEGORIES:

Subject individuals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: September 5, 2001.

John T. Conway,

Chairman.

[FR Doc. 01–22802 Filed 9–10–01; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed revisions and three-year extension to Form EIA–417R, "Electric Power System Emergency Report."

DATES: Comments must be filed on or before November 13, 2001. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to John W. Makens, Electric Power Division (EI–53.1), Energy Information Administration, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585–0690. Alternatively, Mr. Makens may be contacted by telephone at (202) 287–1749, FAX at (202) 586–1934, or e-mail at John.Makens@eia.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of forms and instructions should be directed to Mr. Makens at the address listed above. Any comments will also be shared with the DOE Program Office and reviewed by Mr. James P. Mackey, Office of Emergency Operations (SO–413), Forrestal Building, U.S.

Department of Energy, Washington, DC 20585. Alternatively, Mr. Mackey may be contacted by FAX at (202) 586–3859, or e-mail at James.Mackey@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the Department of Energy Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The Federal Power Act (16 U.S.C. 791a *et seq.*) authorizes the DOE to collect information on the generation, distribution, and transmission of electric energy. The DOE collects information on emergency situations in electric energy supply systems so that appropriate Federal emergency response measures can be implemented in a timely and effective manner.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

The purpose of this Notice is to seek public comment on the revised Form EIA–417R used for reporting to DOE by the electric industry on electric emergency incidents and disturbances. The Department's Office of Emergency Operations (OEO) will use this form to obtain current information regarding emergency situations on the electric energy supply systems in the United States [1] so that appropriate Federal emergency response and national security measures can be implemented in a timely and effective manner. EIA will also use the form to consolidate monthly statistical information about electric power emergency incidents and disturbances. Other potential data uses include the development of legislative recommendations; reports to the Congress; and coordination of Federal efforts regarding activities such as incidents/disturbances in critical infrastructure protection; continuity of electric industry operations; and the continuity of operations of the government.

The information submitted may also be used by the Department's Office of Energy Efficiency and Renewable Energy, the Office of Policy and International Affairs, Energy Information Administration, and Office of Emergency Operations to conduct after-action investigations on significant interruptions to the reliability of electric power. This would be in accordance with Departmental authorities for such investigations in the Federal Power Act.

The Form EIA–417R was initially developed in the 1980's. Since that time many changes have occurred in the electric power industry and Government. Today's trends in the electric power industry include deregulation, competition, open markets and enterprise management systems. The Nation's role in the world's digital economy demands improved power reliability and quality that Government has a responsibility to assure. This is substantially different from 5 or 10 years ago. Information technology has (1) changed the way the Nation's business is transacted, (2) the way government operates, and (3) the way national defense is conducted. These three functions now depend on interdependent networks of physical and information infrastructures, the key one of which is reliable electric power. The Form EIA–417R reports will enable the Department to monitor electric emergency incidents and disturbances so Government may help prevent the physical or virtual disruption of the operation of any critical infrastructure.

Currently, DOE uses Form EIA–417R, "Electric Power System Emergency Report," to monitor major system incidents on electric power systems. The information is used to meet DOE national security responsibilities and requirements contained in the Federal Response Plan. The information may also be used in developing legislative recommendations and reports to Congress.

The existing Form EIA–417R was codified under 10 CFR part 205.350–353. Upon completion of the approval process for the new form, these regulations will no longer be necessary and it is the U.S. Department of Energy's intention to rescind the regulations at that time. The authority to conduct special investigations still applies under the Federal Power Act and allows such investigations. The Department of Energy Organization Act of 1977 and the Federal Energy Administration Act of 1974 also allow such investigations.

II. Current Actions

The DOE is proposing to revise the Form EIA–417R reporting requirements. The revisions include the following changes: (1) The name and number of the form; (2) what electric emergency incidents must be reported; (3) who must report incidents; (4) the entities with whom the form must be filed; (5) how soon after an incident must the form be submitted; and (6), the data to be reported. Each revision is discussed below.

(1) The "Form EIA–417R" report number will be changed to Form EIA–417. The new designation will clearly indicated that the Form is independent of the regulations and the title will change from, "Electric Power System Emergency Report," to "Electric Emergency Incident and Disturbance Report." The report will still monitor major incidents on electric power systems. The title change reflects that this report represents the initial notification to the Federal Government about potential impacts of incidents on electrical system operations. In addition, the form provides for reporting an alert describing actual events that have had an impact on electrical operations. The form will be divided into Parts A and B.

(2) The proposed Form EIA–417 will shift most reporting to a simple check-off that identifies known information about an incident. In the existing form, check-off boxes are not categorized. For the proposed form, the check-off boxes are now grouped by events that describe: Type of Emergency, Cause of Incident, and Actions Taken. The respondent will mark the form to indicate all known or suspected causes. In addition, a check-off box has been added to indicate the location of a disturbance, and another box was added for the respondent to provide its tracking identification number for the incident.

(3) The Department is also proposing to reduce the number of reporting entities from over 3,300 to approximately 200 reporting entities—NERC established Control Area Operators [2] (CAOs) or replacement entities, the Federal Energy Regulatory Commission established Independent System Operators (ISOs) and Regional Transmission Organizations [3] (RTOs) and the NERC established Security Coordinators [4]. However, there are special investigations of incidents affecting the electric power industry that will be initiated by DOE, which will involve more that just CAOs, ISOs/RTOs and Security Coordinators. Any utility, business entity, or energy concern that participates in the electric power industry could be notified by DOE that it needs to provide technical information concerning a particular incident.[5] These special investigations are infrequent and reports are released to the public.[6] Reporting coverage for the Form EIA–417 includes all 50 States, District of Columbia, Puerto Rico, U.S. Virgin Islands, and the U.S. Trust Territories.

(4) The data will still be filed with the U.S. Department of Energy's Emergency Operations Center. This DOE facility operates 24 hours a-day, 7-days a week. Electronic submission is the preferred method of notification. Fax, e-mail, and telephone contract are also accepted. The information will be shared in a timely fashion with the U.S. Department of Justice (cyber threat—sabotage) and the North American Electric Reliability Council (real-time reliability operations). The proposed report is intended to reduce duplicative reporting and establish a common reporting format.

(5) For routine events and/or expectations of a problem, the timing for filing the initial report is up to 1 hour after occurrence of the event. The time estimated to complete Part A of Form EIA–417 (the alert notice) should be less than 10 minutes. When the event is having a critical impact on operational events, industry must balance its operational requirements during the incident with this mandatory 1 hour reporting requirement to the DOE. In such instances, telephonic notification to the DOE 24x7 Emergency Operations Center within 1 hour is acceptable (202 586–8100) pending submission of the written Part A notification. In light of the DOE national security and emergency responsibilities, this one hour window to report such incidents will give a timely alert notice and allow DOE to start tracking this event.

(6) In Part A, the events in the Type of Emergency check-off box categories have been expanded to include major transmission system and distribution system interruption and inadequate generation supply. For the Cause category, boxes for weather or natural disaster, inadequate electric resources to serve load, equipment failure, malicious or intentional disruption of communications and/or computer support systems, system operator action, and unknown causes have been added. The Actions Taken category has added check-off boxes to identify: (1) If interruptible load was shed; (2) if a warning alert has been released or if the respondent has implemented its contingency plan; and (3) if the electrical system has been repaired or restored. In addition, the check-off box, "Other" was added to allow the respondent to identify that something is uncertain and is also intended to cover all other events, which are too unusual, abnormal, or unforeseeable to be listed as separate items. The use of the "Other" category provides an option to address uncertainties; thereby not delaying the report. The narrative filing submitted under the Form EIA–417, Part B provides the opportunity to clarify the meaning of the mark in the "Other" check-off box.

Confidentiality

DOE will consider the entire narrative on Form EIA–417, Part B, as confidential. The requested information will provide a brief description of the incident or expected system problem and actions taken to resolve it. If released, this could affect the economic operations of various electricity markets; cause competitive harm; and/or identify concerns that could be or are being reviewed by law enforcement agencies. It is proposed that the release of any narrative information be subject to a 6-month delay to mitigate market concerns. Other portions of the narrative description will be reviewed and may be released later as part of a national summary, in which the information provided does not disclose the identity of the respondent or geographical location.

The following is the provision for confidentiality of information for data in the possession of DOE that will be applied to the data submitted in the narrative in Part B. The information contained on this form may also be made available, upon request, to another component of the Department of Energy (DOE), to any Committee of Congress, the General Accounting Office, or other Congressional agencies authorized by law to receive such information. A court of competent jurisdiction may obtain this information in response to an order.

The information contained on this form will be kept confidential and not disclosed to the public to the extent that it satisfies the criteria for exemption in the Freedom of Information Act (FOIA), 5 U.S.C. 552, the DOE regulations 10 CFR 1004.11, implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. 1905.

Upon receipt of a request for this information under the FOIA, the DOE shall make a final determination whether the information is exempt from disclosure in accordance with the procedures and criteria provided in the regulations. To assist us in this determination, respondents will be asked by DOE to demonstrate to the DOE that, for example, their information contains trade secrets or commercial or financial information, whose release would be likely to cause substantial harm to their company's competitive position. A respondent's letter accompanying the submission that explains (on an element-by-element basis) the reasons why the information would be likely to cause the respondent substantial competitive harm, if released to the public, would aid in this determination. A new justification does not need to be provided each time information is submitted on the form, if the company has previously submitted a justification for that information and the justification has not changed.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

[1] This includes all 50 States, District of Columbia, Puerto Rico, U.S. Virgin Islands, and the U.S. Trust Territories.

[2] There are less than 150 CAOs and with the restructuring of the Electric Power Industry the count is expected to drop. Their responsibilities for the various operations will be reassigned to a smaller count of scheduling centers and dispatch centers in the future under proposed new industry practices. This form will address these changes and the smaller number of future respondents.

[3] There are currently 5 operational ISOs and 1 approved for operations. These will become RTOs under FERC Order 2000. At this time the FERC has also taken jurisdictional actions to establish the number of future RTOs at 4. (These proposed RTOs will cover the Northeast, West, South, and Midwest of the contiguous U.S.)

[4] There are 23 Security Coordinators spread across the U.S. Many of the physical facility sites that operate or will operate the electric power industry, will handle one or more of the NERC established operational activities; so the total count of respondents will be lower.

[5] Current authority is 10 CFR part 205.350–353. However, this is under the Federal Power Act. The Federal Energy Administration Act of 1974 (Pub. L. 93–275) and the DOE Organization Act (Pub. L. No. 95–91) provide additional authorities.

[6] the Department of Energy has initiated three special studies about incidents that happened in the 1990s and none in the 1980s. The three studies are: The Cold Weather Snap of 1992; The Electric Power Outages in the Western United States, July 2–3, 1996 (DOE/PO–0050); and the Report of the U.S. Department of Energy's Power Outage Study Team (DOE/PO—March 2000 Final Report).

General Issues

C. Are there alternate sources for the

Issued in Washington, D.C., September 6,

DEPARTMENT OF ENERGY

telephone at (202) 287–1712, FAX at

via the Internet in lieu of paper. See, 18

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Public reporting burden for this collection is estimated to average 10 minutes for the initial report (Part A) and 2 hours to cover any detailed reporting (Part B) that would be filed later (up to 48 hours), if required because of the on-going tracking of a significant incident. In your opinion, how accurate is this estimate?

D. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

H. Is the proposed treatment for narrative information as confidential appropriate? Is it appropriate for another data element? If so, then specify the data element(s) and provide an explanation for the proposed confidential status. Is the delayed release of information effective in addressing competitive market concerns?

As a Potential User of the Information to be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, D.C., September 5, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–22700 Filed 9–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review, Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: submission for OMB review, comment request.

SUMMARY: The EIA has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed on or before October 11, 2001. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to the OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. The OMB Desk Officer may be telephoned at (202) 395–7318. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mrs. Sutherland may be contacted by telephone at (202) 287–1712, FAX at (202) 287–1705, or e-mail at Grace.Sutherland@eia.doe.gov.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collections submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component); (3) the OMB docket number; (4) the type of request (i.e., new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefit); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Forms EIA–411, 412, 423, 767, 826, 860, 861, and 906, "Electric Power Program"
2. Energy Information Administration
3. OMB Number 1905–0129
4. Three-year extension and revision
5. Mandatory (all forms except EIA–411) and voluntary (EIA–411)
6. The Electric Power Surveys collect electric power information including capacity, generation, fuel consumption, fuel receipts, fuel stocks, and prices, along with financial information. Respondents include both regulated and unregulated entities that comprise the U.S. electric power industry. Electric power data collected are used by the Department of Energy for analysis and forecasting. Data are published in various EIA reports.

   EIA has modified the forms and confidentiality provisions from those described in the March 13, 2001, solicitation of public comments. For additional details, please visit EIA's Internet site at http://www.eia.doe.gov/fuelectric.html or contact Ms. Sutherland for a copy of the materials submitted to OMB.
7. Business or other for profit; State, local or tribal government; Federal government
8. Approximately 174,000 hours of burden

Statutory Authority: Section 3607(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, D.C., September 6, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group; Energy Information Administration.

[FR Doc. 01–22701 Filed 9–10–01; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–527–000]

OkTex Pipeline Company; Notice of Annual Charge Adjustment

September 5, 2001.

Take notice that on August 30, 2001, OkTex Pipeline Company (OkTex) tendered for filing its current Annual Charge Adjustment (ACA). OkTex states that the purpose of the filing is to reflect that there is a change in the currently effective ACA surcharge to OkTex's tariff rates for the period October 1, 2000 through September 30, 2002. The ACA surcharge is currently $0.0022 per Dth and will not change to $0.0021 until bills issued after September 30, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22733 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–323–001]

ANR Storage Company; Notice of Compliance Filing

September 5, 2001.

Take notice that on August 29, 2001, ANR Storage Company (ANR Storage), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of October 1, 2001:

Fourth Revised Sheet No. 1
Second Revised Sheet No. 15A
Fourth Revised Sheet No. 16
First Revised Sheet No. 57
Sheet Nos. 58–123
Third Revised Sheet No. 147
Eighth Revised Sheet No. 153
Second Revised Sheet No. 155
First Revised Sheet No. 155A
First Revised Sheet No. 155B
First Revised Sheet No. 155C
Original Sheet No. 155D
Original Sheet No. 155E
Original Sheet No. 155F
Original Sheet No. 155G

ANR Storage states that the tariff sheets are being filed in compliance with the Commission's July 30, 2001 order to modify the nomination process for prearranged releases, to remove the park and loan services and to remove the OFO penalty and crediting of penalty revenues provisions. This filing also incorporates the required language that Shippers will receive updated information related to issued OFOs, corrects various errors in references to sections of the tariff and implements a mechanism to credit the value of retained gas back to its customers under Rate Schedule IS.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22723 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–324–001]

Blue Lake Gas Storage Company; Notice of Compliance Filing

September 5, 2001.

Take notice that on August 29, 2001, Blue Lake Gas Storage Company (Blue Lake), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 2001:

Third Revised Sheet No. 1
Second Revised Sheet No. 15B
Second Revised Sheet No. 15C
Third Revised Sheet No. 16
First Revised Sheet No. 57
Sheet Nos. 58–123
Eighth Revised Sheet No. 153
Third Revised Sheet No. 147
First Revised Sheet No. 155A
Original Sheet No. 155B
Original Sheet No. 155C
Original Sheet No. 155D
Original Sheet No. 155E

Blue Lake states that the tariff sheets are being filed in compliance with the Commission's July 30, 2001 order to modify the nomination process for prearranged releases, to remove the park and loan services and to remove the OFO penalty and crediting of penalty revenues provisions. This filing also incorporates the required language that Shippers will receive updated information related to issued OFOs, corrects various errors in references to sections of the tariff and implements a mechanism to credit the value of retained gas back to its customers under Rate Schedule IS.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are

on file with the Commission and are

instructions (call 202–208–2222 for

CFR 385.2001(a)(1)(iii) and the

DEPARTMENT OF ENERGY

on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22724 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–524–000]

Chandeleur Pipe Line Company; Notice of Tariff Filing and Annual Charge Adjustment

September 5, 2001.

Take notice that on August 28, 2001, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Twelfth Revised Sheet No. 5, to become effective October 1, 2001.

Chandeleur asserts that this filing is tendered in order to adjust for changes in the ACA unit charge assessed by the Commission to Chandeleur under 18 CFR 382.202.

Chandeleur states that the purpose of this filing is to decrease, through this annual filing, the ACA unit charge collected by Chandeleur from its shippers from a rate of $0.0022 to $0.0021 as directed by the Commission and authorized by 18 CFR 154.402(c).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22730 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–525–000]

Discovery Gas Transmission LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 5, 2001.

Take notice that on August 28, 2001, Discovery Gas Transmission LLC (Discovery) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Tariff Sheet No. 20 to become effective October 1, 2001.

Discovery states that the purpose of this filing is to implement the Commission's revision to the unit rate of the Annual Charge Adjustment (ACA) clause pursuant to Docket No. RM87–3–000, Order No. 472.

Discovery states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22731 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–033]

Dominion Transmission, Inc.; Notice of Negotiated Rate

September 5, 2001.

Take notice that on August 29, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Third Revised Sheet No. 1404 and Fifth Revised Sheet No. 1300, to comply with the Commission's Letter Order issued on August 21, 2001, in Docket No. RP96–383–031.

DTI states that the Letter Order accepted for filing the tariff sheets describing DTI's negotiated rate transaction with Allegheny Energy Unit 1 and 2, LLC, subject to condition, and that its filing would comply with the conditions that the Commission placed on the acceptance of the filing. DTI also notes that the underlying service agreement has been permanently assigned to an affiliate of the original shipper and the revised tariff sheets reflect the change in shipper.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the

instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22722 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–526–000]

Dominion Transmission, Inc.; Notice of Tariff Filing and Annual Charge Adjustment

September 5, 2001.

Take notice that on August 29, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 2001:

Sixth Revised Sheet No. 31
Ninth Revised Sheet No. 32
Fifth Revised Sheet No. 35

DTI states that the purpose of this filing is to update DTI's ACA unit surcharge, consistent with its ACA clause (General Terms and Conditions, Section 14).

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22725 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–405–001 and RP00–617–002]

Gulf States Transmission Corporation; Notice of Compliance Filing

September 5, 2001.

Take notice that on August 29, 2001, Gulf States Transmission Corporation (Gulf States), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 the revised tariff sheets listed in Appendix A to the filing. Gulf States requests that the foregoing tariff sheets be made effective October 1, 2001.

Gulf States states that these sheets are being filed to comply with the Federal Energy Regulatory Commission's July 30, 2001 Order regarding Gulf States' Order No. 637 compliance filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22727 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–246–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

September 5, 2001.

Take notice that on August 15, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 196 and First Revised Sheet No. 240B, to be effective September 17, 2001.

Natural states that these tariff sheets were filed in compliance with the Commission's "Order Following Technical Conference" issued July 31, 2001 in Docket No. RP01–246–000.

Natural states that copies of the filing have been mailed to all parties set out on the Commission's official service list in Docket No. RP01–246.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22727 Filed 9–10–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–147–001]

Northern Natural Gas Company; Notice of Compliance Filing

September 5, 2001.

Take notice that on August 28, 2001, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets proposed to be effective on August 9, 2001:

Fifth Revised Volume No. 1
Seventh Revised Sheet No. 6
Original Volume No. 2
22 Revised Sheet No. 1A.1
First Revised Sheet No. 90

Northern states that the above sheets represent cancellation of Rate Schedule T–2 from Northern's Original Volume No. 2 FERC Gas Tariff, and its associated deletion from the Table of Contents in Northern's Volume Nos. 1 and 2 tariffs.

Northern states that copies of the filing were served upon the company's customers and interested state Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22715 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–408–001]

Ozark Gas Transmission, L.L.C.; Notice of Compliance Filing

September 5, 2001.

Take notice that on August 29, 2001, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, to be effective October 1, 2001.

Ozark states that the purpose of its filing is to comply with the Commission's order issued July 30, 2001, in Docket No. RP00–408–000 regarding Ozark's compliance with Order No. 637 (Ozark Gas Transmission, 96 FERC ¶ 61,160 (2001)). In that order, the Commission directed Ozark to file actual tariff sheets within thirty days regarding previously filed pro forma tariff changes that the Commission found to satisfy the requirements of Order No. 637 and to make further tariff revisions to comply with other requirements of Order No. 637.

Ozark further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22726 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–522–000]

Paiute Pipeline Company; Notice of Change in Annual Charge Adjustment and Tariff Filing

September 5, 2001.

Take notice that on August 28, 2001, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheet, to become effective October 1, 2001:

Tenth Revised Sheet No. 10

Paiute states that the purpose of this filing is to revise its annual charge adjustment surcharge in order to recover the Commission's annual charges for the 2001 fiscal year.

Paiute states that copies of this filing have been mailed to all jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22728 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–074]

Reliant Energy Gas Transmission Company; Notice of Tariff Filing and Negotiated Rate

September 5, 2001.

Take notice that on August 31, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective September 1, 2001:

First Revised Sheet No. 640
First Revised Sheet No. 641

REGT states that the purpose of this filing is to reflect the revision of an existing negotiated rate contract and the expiration of an existing negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22721 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–434–000, CP01–435–000, and CP01–436–000]

Seneca Lake Storage, Inc.; Notice of Application

September 5, 2001.

Take notice that on August 27, 2001, Seneca Lake Storage, Inc. (SLSI), 81 State Street, Binghamton, New York, 13901, filed an application in the above-referenced docket numbers pursuant to Section 7(c) of the Natural Gas Act, as amended, and Parts 157 and 284 of the Commission's Rules and Regulations, for: (1) a certificate of public convenience and necessity, pursuant to Part 157, Subpart A, authorizing SLSI to construct and operate, at market based rates, a natural gas storage facility capable of delivering 50,000 dekatherms/day, consisting of storage caverns and other associated and appurtenant facilities; (2) a blanket certificate authorizing SLSI to construct, acquire and operate additional facilities under Part 157, Subpart F following construction of the facilities for which authorization is being sought under Part 157, Subpart A; (3) a blanket certificate authorizing SLSI to provide storage services on the behalf of others under Part 284, Subpart G; and (4) a blanket certificate pursuant to Part 284, Subpart J authorizing SLSI to provide unbundled sales service for the limited purpose of disposing of gas in storage that shippers fail to remove. The application is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (please call (202) 208–2222 for assistance).

SLSI further requests approval of its FERC Gas Tariff included in Exhibit P of the application. SLSI also requests that if its request for approval of market based rates is granted, the Commission (1) waive the requirements of section 284.8(d) of its regulations, which require that rates be designed using a straight fixed-variable rate design methodology; (2) waive the requirements of 157.14 of its regulations with respect to Exhibits K, L, N, and O of the application; (3) waive the accounting and reporting requirements under Parts 201 and 260.2 of its regulations; (4) waive the requirement to provide total gas supply information, pursuant to section 157.14(a)(10) of its regulations; and (5) waive all other regulations to the extent such waivers may be necessary to grant each of the authorizations requested in the application.

Further, SLSI requests the Commission grant confidential treatment to the Resource Report 6 and Exhibit M–1 that accompany the application, pursuant to 18 CFR 388.122, because these materials contain geological, technological, and financial information.

The storage facilities which SLSI seeks to construct and operate will be located in Schuyler County, New York. The storage facilities will consist of a gallery of two connected underground storage caverns (Gallery No. 2) and approximately 600 feet of 8.625 inch diameter interconnecting pipeline to connect the storage facilities to an existing compressor station owned by New York State Electric & Gas Corporation (NYSEG). The SLSI storage facilities will be integrated into the existing NYSEG control system. Daily operations and maintenance of the storage facilities will be performed by NYSEG under an Administrative Services Agreement. The gas stored in the SLSI facilities will be transported by existing interstate pipelines. With the exception of a limited amount of brine removal, Gallery No. 2 has been completely developed through a pre-existing salt mining operation, and has been previously used by others for propane storage. The proposed storage facilities have a maximum working gas volume of approximately 595.8 MMcf.

The storage services to be offered by SLSI will be available on a firm and interruptible basis, based upon the terms and conditions that are consistent with the requirements of Order No. 636. The proposed terms and conditions, as well as the rate schedules on which service will be offered, are included in the tariff attached to the application. SLSI requests that it be permitted to charge and collect market-based rates for the storage services.

Any questions regarding the application are to be directed to Mark A. Cole, Manager Gas Engineering & Project Management, New York State Electric & Gas Corporation, Corporate Drive, Kirkwood Industrial Park, Binghamton, New York 13902–5224, telephone (607) 762–4294, or fax to (607) 762–8045.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 26, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with

the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–22717 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–112–000]

South Mississippi Electric Power Association Complainant, v. Entergy Services, Inc. Respondent; Notice of Complaint

September 5, 2001.

Take notice that on August 31, 2001, South Mississippi Electric Power Association (SMEPA) tendered for filing in the above-referenced docket a complaint under Section 206 of the Federal Power Act against Entergy Services, Inc. (Entergy Services) concerning Entergy Services' 2001 annual rate redetermination update filed by Entergy Services in accordance with its Open Access Transmission Tariff.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before September 20, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22718 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–523–000]

Southwest Gas Transmission Company, A Limited Partnership; Notice of Tariff Filing and Change in Annual Charge Adjustment

September 5, 2001.

Take notice that on August 28, 2001, Southwest Gas Transmission Company, A Limited Partnership (SGTC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, the following tariff sheet, to become effective October 1, 2001:

Second Revised Sheet No. 4

SGTC states that the purpose of this filing is to revise its annual charge adjustment surcharge in order to recover the Commission's annual charges for the 2001 fiscal year.

SGTC states that it has served copies of its filing on its affected customer and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22729 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–370–001]

Williston Basin Interstate Pipeline Company, Frontier Gas Storage Company; Notice of Tariff Filing

September 5, 2001

Take notice that on August 14, 2001, Williston Basin Interstate Pipeline Company (Williston Basin) and Frontier Gas Storage Company (Frontier) tendered for filing the following tariff sheets:

Williston Basin Interstate Pipeline Company
Second Revised Volume No. 1
Effective July 30, 2001
Second Revised Sheet No. 227C
Fifth Revised Sheet No. 228
Tenth Revised Sheet No. 229
Third Revised Sheet No. 229A
Sixth Revised Sheet No. 230
Fourth Revised Sheet No. 230A
Third Revised Sheet No. 247
Sixth Revised Sheet No. 252
Fifth Revised Sheet No. 376
Original Volume No. 2
Effective July 30, 2001
Ninth Revised Sheet No. 2
1st Rev 85th Revised Sheet No. 11B
Sheet Nos. 216–221
Sheet Nos. 272–290
Williston Basin Interstate Pipeline Company
Original Volume No. 2
Effective August 1, 2001
Sub Eighty-Sixth Revised Sheet No. 11B
Frontier Gas Storage Company
Original Volume No. 1
Effective July 30, 2001
First Revised Sheet No. 1
Original Volume No. 2
Effective July 30, 2001
Second Revised Sheet No. 1

Williston Basin and Frontier state that on May 18, 2001, they filed in the above-referenced docket, pursuant to Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder, a Joint Abbreviated Application requesting the Commission to issue an order authorizing Williston Basin to abandon transportation and storage services it provided for Frontier under Rate Schedules X–9 and X–11 of Williston Basin's FERC Gas Tariff, Original Volume No. 2 and authorizing Frontier to abandon sales of gas under its FERC Gas Tariff, Original Volume Nos. 1 and 2 (including most specifically Rate Schedule LVS–1).

As part of its Application, Williston Basin filed revised pro forma tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2 and Frontier filed pro forma tariff sheets to its FERC Gas Tariff, original Volume Nos. 1 and 2. On July 30, 2001, the Commission issued its "Order Granting Abandonment" which authorized Williston Basin and Frontier to abandon the services described above and requiring Williston Basin and Frontier to file tariff sheets in compliance with Part 154 of the Commission's Regulations.

Williston Basin and Frontier state that the referenced tariff sheets are being filed to reflect the abandonment authorized by the Commission in its July 30, 2001 order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR, 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22716 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2953.000, et al.]

Allegheny Energy Supply Company, LLC, et al.; Electric Rate and Corporate Regulation Filings

September 5, 2001.

Take notice that the following filings have been made with the Commission:

1. Allegheny Energy Supply Company, LLC

[Docket No. ER01–2953–000]

Take notice that on August 29, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 148 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply proposes to make service available as of August 1, 2001 to Wisconsin Electric Power Company.

Copies of the filing have been provided to all parties of record.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Energy Vermillion, LLC

[Docket No. ER01–2954–000]

Take notice that on August 29, 2001, Duke Energy Vermillion, LLC (Duke Vermillion) filed proposed revisions to its market-based rate tariff, FERC Electric Tariff No. 1, with changes clarifying the affiliate restrictions contained in its code of conduct. The revised rate tariff will go into effect upon the dissolution of VMC Generating Company and the transfer of the limited liability company membership interests in Duke Vermillion to Duke Energy Trenton, LLC.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PSEG Energy Resources & Trade LLC

[Docket No. ER01–2955–000]

Take notice that on August 29, 2001, PSEG Energy Resources & Trade LLC (PSEG) of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to MIECO Inc. (MIECO) pursuant to the PSEG Wholesale Power Market-Based Sales Tariff, presently on file with the Commission.

PSEG requests that the agreement be made effective as of July 30, 2001.

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Copies of the filing have been served upon MIECO and the New Jersey Board of Public Utilities.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Portland General Electric Company

[Docket No. ER01–2956–000]

Take notice that on August 29, 2001, Portland General Electric Company (PGE) tendered for filing with the Federal Energy Regulatory Commission (Commission) under PGE's FERC Electric Tariff Original Volume No. 12, an executed Service Agreement for Sale, Assignment, or Transfer of Transmission Rights with PacifiCorp Power Marketing, Inc.

PGE respectfully requests that the Service Agreement become effective August 8, 2001.

A copy of this filing was caused to be served on PacifiCorp Power Marketing, Inc. and Public Utility Commission of Oregon, as noted in the filing letter.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power Corporation

[Docket No. ER01–2957–000]

Take notice that on August 29, 2001, Florida Power Corporation (FPC) tendered for filing an executed Netting Agreement between FPC and The Energy Authority.

FPC is requesting an effective date of June 15, 2001 for this Rate Schedule.

A copy of the filing was served upon the Florida Public Service Commission.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER01–2958–000]

Take notice that on August 29, 2001, the California Independent System Operator Corporation, (ISO), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Participating Generator Agreement between the ISO and GWF Energy LLC for acceptance by the Commission.

The ISO states that this filing has been served on GWF Energy LLC and the California Public Utilities Commission.

The ISO is requesting that the Participating Generator Agreement be made effective August 22, 2001.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER01–2959–000]

Take notice that the on August 29, 2001, California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Meter Service Agreement for ISO Metered Entities between the ISO and GWF Energy LLC.

The ISO states that this filing has been served on GWF Energy LLC and the California Public Utilities Commission.

The ISO is requesting that the Service Agreement for ISO Metered Entities be made effective August 22, 2001.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Operator Corporation

[Docket No. ER01–2960–000]

Take notice that on August 29, 2001, California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Meter Service Agreement for ISO Metered Entities between the ISO and County Sanitation District No. 2 of Los Angeles County.

The ISO states that this filing has been served on County Sanitation District No. 2 of Los Angeles County and the California Public Utilities Commission.

The ISO is requesting that the Meter Service Agreement for ISO Metered Entities be made effective August 22, 2001.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER01–2961–000]

Take notice that on August 29, 2001, Southern Company Services, Inc., as agent for Georgia Power Company (Georgia Power), tendered for filing the Interconnection Agreement between Georgia Power and Southern Power Company (Southern Power) for Plant Dahlberg (the Agreement), as a service agreement under Southern Operating Companies' Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5) and is designated as Service Agreement No. 405. The Agreement provides the general terms and conditions for the interconnection and parallel operation of Southern Power's electric generating facility located in Jackson County, Georgia. The Agreement terminates forty (40) years from the effective date unless terminated earlier by mutual written agreement.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER01–2962–000]

Take notice that on August 29, 2001, California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Participating Generator Agreement between the ISO and County Sanitation District No. 2 of Los Angeles County.

The ISO states that this filing has been served on County Sanitation District No. 2 of Los Angeles County and the California Public Utilities Commission.

The ISO is requesting that the Participating Generator Agreement be made effective August 22, 2001.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Tampa Electric Company

[Docket No. ER01–2963–000]

Take notice that on August 29, 2001, Tampa Electric Company (Tampa Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission), service agreements with Exelon Generation Company, LLC (Exelon) for firm point-to-point transmission service and non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of August 1, 2001, for the tendered service agreements.

Copies of the filing have been served on Exelon and the Florida Public Service Commission.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Midwest Independent Transmission System Operator, Inc.

[Docket No. RT01–87–001]

Take notice that on August 31, 2001, the Midwest ISO submitted its compliance filing pursuant to Section 35.34(h) of the Commission's regulations, 18 CFR 35.34(h), and the Commission's directive in Illinois Power Company, et al. to supplement its Order No. 2000 RTO Compliance Filing to reflect the effect that the events since the time of its original filing have had on the Midwest ISO's scope and configuration. Illinois Power Company, et al., 95 FERC ¶ 61,183 at 61,647 (2001).

Copies of the Midwest ISO's filing were electronically served upon Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR–385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22714 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Establishing Procedures for Relicensing and Deadlines for Commenting on Alternative Procedures, and Submission of Final Amendments

September 5, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 346–037.

c. *Date Filed:* August 23, 2001.

d. *Applicant:* Minnesota Power Inc.

e. *Name of Project:* Blanchard Hydroelectric Project.

f. *Location:* On the Mississippi River near the City of Little Falls, in Morrison County, MN. The project occupies federal lands of the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Bob Bohm, Minnesota Power, Inc., P.O. Box 60, Little Falls, MN 56345, *rbohm@mnpower.com* 320–632–2318, ext. 5042.

i. *FERC Contact:* Tom Dean, *thomas.dean@ferc.fed.us*, 202–219–2778.

j. *Deadline for filing comments:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commissions, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

k. The existing Blanchard Project consists of: (1) A 750-foot-long, 62-foot-high concrete gravity dam comprising: (a) a 190-foot-long non-overflow section; (b) a 437-foot-long gated spillway section; (c) eight 44-foot-wide by 14.7-foot-high Taintor gates; and (d) a 124-foot-wide integral powerhouse; (2) approximately 3,540-foot-long earth dikes extending from both sides of the concrete dam; (3) a 1,152-acre reservoir at normal water surface elevation of 1,081.7 feet NGVD; (4) a powerhouse containing three generating units with a total installed capacity of 18,000 kW; and (5) other appurtenances.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction by contacting the applicant identified in item h above.

m. Alternative procedures schedule and final amendments: The Commission staff proposes to issue one Environmental Assessment (EA) rather than issuing a draft and final EA. Staff intends to allow at least 30 days for entities to comment on the EA before final action is taken on the license application. If any person or organization objects to the staff proposed alternative procedure, they should file comments as stipulated in item j above, briefly explaining the basis for their objection. The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing

Notice soliciting final terms and conditions

Notice of the availability of the NEPA document

Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 45 days from the issuance date of the notice soliciting final terms and conditions.

David P. Boergers,

Secretary.

[FR Doc. 01–22719 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 5, 2001.

a. *Type of Application:* Application to Convey 6 Parcels totaling 13.66 Acres of Project Land for Residential Development.

b. *Project No.:* 516–354, 516–355, 516–356, 516–357, 516–358 and 516–359.

c. *Date Filed:* August 22, 2001.

d. *Applicant:* South Carolina Electric & Gas Company.

e. *Name of Project:* Saluda.

f. *Location:* The project is located in Saluda, Lexington, Newberry and Richland Counties, SC.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Thomas G. Eppink, Esquire, Senior Attorney, South Carolina Electric & Gas Company, Legal Department—130, Columbia, SC 29218, (803) 217–9448 or, Beth Trump, Real Estate Coordinator, (803) 217–7912.

i. *FERC Contact:* Questions about this

Street, NE., Washington, DC 20426.

or documents with the Commission

Docket# ER01–2658, 000, American

EL94–12, 009, Florida Power & Light

RT01–75, 004, Entergy Services, Inc.

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i. *FERC Contact:* Questions about this notice can be answered by Jack Hannula at (202) 219–0116. The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below:

j. *Deadline for filing comments and/or motions:* 30 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, terms and conditions, motions to intervene, and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the "e-Filing" link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commissions to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency. Please include the project number (P–516–354, etc.) on any comments or motions filed.

k. *Description of the Application:* South Carolina Electric & Gas Company requests Commission approval to sell 6 parcels of project fringeland totaling 13.66 acres for residential development to:

Sub-docket number	Buyer's name	Size in acres +/–	Location
–354 ..	Phil Hamby	1.64	Near Lands End Point (Harbor Heights), Lexington County.
–355 ..	Sam Wessinger	1.92	Near Bundrick Island (Beech Road), Lexington County.
–356 ..	Kirk Rumph	2.39	Near Harbor Watch Development, Lexington County.
–357 ..	Randy and Myra Moore	0.59	Near Newberry Shores Subdivision (Key Plantation Drive), Newberry County.
–358 ..	Scott Lominick	0.57	Near Newberry Shores Subdivision (Key Plantation Drive), Newberry County.
–359 ..	Cheryee Tapp	6.55	Near Saluda Shoals Subdivision (Riverbend Point Road), Saluda County.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington DC, or by calling (202) 208–1371. This filing may also be viewed on *http://www.ferc.gov* using the "RIMS" link-select "Docket#" and follow the instructions (call (202) 208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified date for the particular application.

Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATION FOR TERMS AND CONDITIONS", "PROTESTS", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–22720 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Sunshine Act Meeting

September 5, 2001.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 12, 2001, 10:00 A.M.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, telephone (202) 208–0400 for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

773rd—Meeting September 12, 2001, Regular Meeting, 10:00 A.M.

Administrative

A–1.
Docket# AD01–1, 000, Strategic and 2002 Business Plans

A–2.
Docket# AD01–2, 000, Infrastructure Adequacy

A–3.
Docket# AD01–3, 000, California Infrastructure Update

A–4.
Docket# AD01–4, 000, Building Update

A–5.
Docket# AD01–5, 000, Delegations of Authority

Markets, Tariffs and Rates—Electric

E–1.
Excess Generation Capacity Discussion

E–2.
Significant National Transmission Constraints Discussion

E–3.
Docket# ER01–2609, 000, Southern California Edison Company

E–4.
Docket# ER01–2633, 000, PPL Montana, LLC

E–5.

Docket# ER01–2658, 000, American Electric Power Service Corporation

E–6.
Docket# ER01–2529, 000, Sierra Pacific Power Company and Nevada Power Company
Other#s ER00–3188, 001, Sierra Pacific Power Company and Nevada Power Company
ER00–3188, 002, Sierra Pacific Power Company and Nevada Power Company

E–7.
Docket# RT01–35, 002, Avista Corporation, The Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company
Other#s RT01–35, 003, Avista Corporation, The Bonneville Power Administration, Idaho Power Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc. and Sierra Pacific Power Company

E–8.
Docket# ER01–1695, 002, Cambridge Electric Light Company
Other#s ER01–1705, 002, Boston Edison Company
ER01–1782, 002, Commonwealth Electric Company

E–9.
Omitted

E–10.
Docket# ER01–315, 000, Southern California Edison Company

E–11.
Docket# ER01–316, 000, ISO New England Inc.

E–12.
Docket# ER01–312, 000, Alliant Energy Corporate Services, Inc.
Other#s ER01–312, 001, Alliant Energy Corporate Services, Inc.

E–13.
Docket# ER01–745, 000, New England Power Company
Other#s ER01–745, 001, New England Power Company

E–14.
Docket# ER00–2366, 000, Ameren Services Company

E–15.
Docket# ER01–1740, 002, New York Independent System Operator, Inc.

E–16.
Docket# EL00–105, 004 City of Vernon, California

E–17.
Omitted

E–18.
Docket# ER00–771, 004, Tucson Electric Power Company
Other#s ER00–771, 005, Tucson Electric Power Company

E–19.
Docket# OA96–39, 004, Florida Power & Light Company
Other#s OA96–39, 000, Florida Power & Light Company
ER93–465, 027, Florida Power & Light Company
ER93–922, 014, Florida Power & Light Company
EL94–12, 009, Florida Power & Light Company
ER96–2381, 002, Florida Power & Light Company

E–20.
Docket# EL93–10, 000, Boston Edison Company
Other#s EL93–10, 010, Boston Edison Company
ER93–150, 000, Boston Edison Company
ER93–150, 017, Boston Edison Company

E–21.
Docket# EC00–46, 000, Vermont Yankee Nuclear Power Corporation
Other#s EC00–46, 001, Vermont Yankee Nuclear Power Corporation
EL00–86, 000, Vermont Yankee Nuclear Power Corporation
ER00–1027, 000, Vermont Yankee Nuclear Power Corporation
ER00–1027, 001, Vermont Yankee Nuclear Power Corporation
ER00–1027, 002, Vermont Yankee Nuclear Power Corporation
ER00–1028, 000, Vermont Yankee Nuclear Power Corporation
ER00–1028, 001, Vermont Yankee Nuclear Power Corporation
ER00–1029, 000, Vermont Yankee Nuclear Power Corporation
ER00–1029, 001, Vermont Yankee Nuclear Power Corporation

E–22.
Docket# EC01–97, 000, Energy East Corporation and RGS Energy Group, Inc.

E–23.
Docket# ER01–1928, 001, Central Maine Power Company

E–24.
Docket# ER00–2309, 003, Allegheny Energy Supply Company, L.L.C., The Potomac Edison Company and West Penn Power Company

E–25.
Docket# OA96–81, 001, Indianapolis Power & Light Company

E–26.
Omitted

E–27.
Docket# ER00–3295, 002, International Transmission Company

E–28.
Docket# ER01–1810, 003, Ameren Energy Marketing Company

E–29.
Docket# EL01–51, 004, Detroit Edison Company
Other#s ER01–1649, 004, Detroit Edison Company

E–30.
Docket# ER01–1807, 002, Carolina Power & Light Company and Florida Power & Light Company
Other#s ER01–2020, 001, Carolina Power & Light Company and Florida Power & Light Company

E–31.
Docket# ER01–2021, 002, Entergy Services, Inc.
Other#s ER01–2106, 002, Entergy Services, Inc.

E–32.
Docket# RT01–34, 003, Southwest Power Pool, Inc.
Other#s EC99–101, 005, Northern States Power Company (Minnesota) and New Century Energies, Inc.
RT01–75, 004, Entergy Services, Inc.

E–33.
Docket# ER01–1989, 002, Southwest Power Pool, Inc.

E–34.
Docket# ER00–3577, 004, New England Power Pool

E–35.
Docket# EL01–97, 000, Mirant Chalk Point, LLC, Mirant Mid-Atlantic, LLC, Mirant Peaker, LLC and Mirant Potomac River, LLC
Other#s ER01–2634, 000, Mirant Americas Energy Marketing, L.P. and Potomac Electric Power Company

E–36.
Docket# EL01–73, 000, Northeast Texas Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., Upshur-Rural Electric Cooperative, Inc. and Wood County Electric Cooperative, Inc.

E–37.
Docket# EL01–104, 000, Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc.

E–38.
Docket# NJ01–4, 000, Tri-State Generation and Transmission Association, Inc.

E–39.
Omitted

E–40.
Docket# EL01–98, 000, American Ref-Fuel Company of Niagara, L.P. v. Niagara Mohawk Power Corporation

E–41.
Omitted

E–42.
Omitted

E–43.
Docket# AC99–45, 000, The Detroit Edison Company
Other#s AC99–45, 001, The Detroit Edison Company

E–44.
Docket# ER01–889, 007, California Independent System Operator Corporation
Other#s EL00–95, 041, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–98, 039, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–104, 006, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–107, 007, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL01–1, 007, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange

ER01–902, 004, California Power Exchange

C–17.
Docket# ER01–1385, 000, Northern States Power Company (Minnesota)

P–2619, 008, Nantahala Power & Light

C–3.

Robert D. Willis project is $337,932 per

ER01–902, 004, California Power Exchange Corporation
E–45.
Docket# ER01–1771, 003, Idaho Power Company
E–46.
Docket# ER01–2115, 002, New England Power Pool
Other#s ER01–2192, 001, ISO New England, Inc.
EL01–85, 001, ISO New England, Inc.
ER01–2223, 001, New England Power Pool
ER01–2329, 001, New England Power Pool and ISO New England, Inc.
RT01–99, 002, Regional Transmission Organizations

Markets, Tariffs and Rates—Gas

G–1.
Docket# RP01–350, 000, Colorado Interstate Gas Company
Other#s RP01–200, 002, Colorado Interstate Gas Company
RP01–350, 001, Colorado Interstate Gas Company
G–2.
Docket# RP01–196, 000, Venice Gathering System, L.L.C.
G–3.
Docket# RP99–518, 019, PG&E Gas Transmission, Northwest Corporation
Other#s RP99–518, 020, PG&E Gas Transmission, Northwest Corporation
RP99–518, 021, PG&E Gas Transmission, Northwest Corporation
RP99–518, 022, PG&E Gas Transmission, Northwest Corporation
G–4.
Docket# RP00–632, 003, Dominion Transmission, Inc.
G–5.
Docket# RP00–328, 000, Algonquin LNG, Inc.
G–6.
Docket# RP98–40, 028, Panhandle Eastern Pipe Line Company
Other#s RP98–40, 024, Panhandle Eastern Pipe Line Company
G–7.
Omitted
G–8.
Docket# RP00–390, 001, Granite State Gas Transmission, Inc.
G–9.
Docket# RP00–485, 001, Steuben Gas Storage Company
G–10.
Docket# OR00–1, 000, Marathon Ashland Pipe Line LLC
G–11.
Docket# RP01–278, 000, Texas Gas Transmission Corporation
G–12.
Docket# MG01–24, 000, Columbia Gas Transmission Corporation
G–13.
Docket# MG01–25, 000, Crossroads Pipeline Company
G–14.
Docket# MG01–26, 000, Granite State Gas Transmission, Inc.
G–15.
Docket# MG01–27, 000, Columbia Gulf Transmission Company
G–16.
Docket# MG01–23, 000, Florida Gas Transmission Company
G–17.
Docket# RP00–344, 001, Dominion Transmission, Inc.
Other#s RP00–601, 000, Dominion Transmission, Inc.
G–18.
Docket# RP00–514, 003, Southern Natural Gas Company
G–19.
Omitted
G–20.
Docket# OR92–8, 010, SFPP, L.P.
Other#s OR92–8, 000, SFPP, L.P.
OR93–5, 000, SFPP, L.P.
OR93–5, 007, SFPP, L.P.
OR94–3, 000, SFPP, L.P.
OR94–4, 000, SFPP, L.P.
OR94–4, 007, SFPP, L.P.
OR95–5, 000, Mobil Oil Corporation v. SFPP, L.P.
OR95–5, 006, Mobil Oil Corporation v. SFPP, L.P.
OR95–34, 000, Tosco Corporation v. SFPP, L.P.
IS99–144, 000, SFPP, L.P.
IS99–144, 001, SFPP, L.P.
IS99–144, 002, SFPP, L.P.
IS00–379, 000, SFPP, L.P.

Energy Projects—Hydro

H–1.
Docket# P–739, 013, Appalachian Power Company
Other#s P–77, 115, Pacific Gas and Electric Company
P–96, 030, Pacific Gas and Electric Company
P–175, 017, Pacific Gas and Electric Company
P–178, 014, Pacific Gas and Electric Company
P–233, 080, Pacific Gas and Electric Company
P–401, 026, Indiana Michigan Power Company
P–487, 031, PP&L, Inc.
P–606, 019, Pacific Gas and Electric Company
P–619, 092, Pacific Gas and Electric Company
P–803, 054, Pacific Gas and Electric Company
P–1025, 047, Safe Harbor Water Power Corporation
P–1061, 054, Pacific Gas and Electric Company
P–1121, 057, Pacific Gas and Electric Company
P–1175, 010, Appalachian Power Company
P–1267, 048, Greenwood County, South Carolina
P–1290, 009, Appalachian Power Company
P–1333, 036, Pacific Gas and Electric Company
P–1354, 028, Pacific Gas and Electric Company
P–1403, 041, Pacific Gas and Electric Company
P–1835, 214, Nebraska Public Power District
P–1855, 025, USGen New England, Inc.
P–1881, 036, PP&L, Inc.
P–1892, 015, USGen New England, Inc.
P–1904, 034, USGen New England, Inc.
P–1962, 037, Pacific Gas and Electric Company
P–1982, 024, Northern States Power Company
P–1988, 027, Pacific Gas and Electric Company
P–2047, 014, Erie Boulevard Hydropower, L.P.
P–2056, 024, Northern States Power Company
P–2058, 018, Avista Corporation
P–2075, 016, Avista Corporation
P–2077, 020, USGen New England, Inc.
P–2084, 029, Erie Boulevard Hydropower, L.P.
P–2105, 086, Pacific Gas and Electric Company
P–2106, 037, Pacific Gas and Electric Company
P–2107, 009, Pacific Gas and Electric Company
P–2114, 095, Public Utility District No. 2 of Grant County, Washington
P–2130, 028, Pacific Gas and Electric Company
P–2155, 021, Pacific Gas and Electric Company
P–2181, 012, Northern States Power Company
P–2210, 068, Appalachian Power Company
P–2232, 429, Duke Power, Division of Duke Energy Corporation
P–2310, 117, Pacific Gas and Electric Company
P–2318, 014, Erie Boulevard Hydropower, L.P.
P–2320, 027, Erie Boulevard Hydropower, L.P.
P–2323, 095, USGen New England, Inc.
P–2330, 045, Erie Boulevard Hydropower, L.P.
P–2331, 019, Duke Power, Division of Duke Energy Corporation
P–2332, 028, Duke Power, Division of Duke Energy Corporation
P–2376, 032, Appalachian Power Company
P–2440, 043, Northern States Power Company
P–2466, 025, Appalachian Power Company
P–2467, 015, Pacific Gas and Electric Company
P–2474, 015, Erie Boulevard Hydropower, L.P.
P–2482, 034, Erie Boulevard Hydropower, L.P.
P–2491, 028, Northern States Power Company
P–2503, 063, Duke Power, Division of Duke Energy Corporation
P–2514, 068, Appalachian Power Company
P–2538, 058, Erie Boulevard Hydropower, L.P.
P–2539, 018, Erie Boulevard Hydropower, L.P.
P–2545, 072, Avista Corporation
P–2551, 035, Indiana Michigan Power Company
P–2554, 015, Erie Boulevard Hydropower, L.P.
P–2567, 012, Northern States Power Company
P–2569, 084, Erie Boulevard Hydropower, L.P.
P–2570, 028, Ohio Power Company
P–2579, 042, Indiana Michigan Power Company
P–2616, 021, Erie Boulevard Hydropower, L.P.
P–2619, 008, Nantahala Power & Light Company
P–2639, 011, Wisconsin Electric Power Company
P–2645, 104, Erie Boulevard Hydropower, L.P.
P–2651, 019, Indiana Michigan Power Company
P–2661, 014, Pacific Gas and Electric Company
P–2669, 027, USGen New England, Inc.
P–2670, 017, Northern States Power Company
P–2686, 026, Nantahala Power & Light Company
P–2687, 020, Pacific Gas and Electric Company
P–2692, 027, Nantahala Power & Light Company
P–2696, 016, Erie Boulevard Hydropower, L.P.
P–2697, 012, Northern States Power Company
P–2698, 027, Nantahala Power & Light Company
P–2701, 041, Erie Boulevard Hydropower, L.P.
P–2713, 060, Erie Boulevard Hydropower, L.P.
P–2735, 069, Pacific Gas and Electric Company
P–2740, 045, Duke Power, a Division of Duke Energy Corporation
P–2837, 017, Erie Boulevard Hydropower, L.P.
P–4472, 022, Erie Boulevard Hydropower, L.P.
P–5984, 038, Erie Boulevard Hydropower, L.P.
P–7320, 022, Erie Boulevard Hydropower, L.P.
P–7387, 015, Erie Boulevard Hydropower, L.P.
P–11408, 036, Erie Boulevard Hydropower, L.P.
H–2.
Docket# P–18, 064, Idaho Power Company
H–3.
Docket# P–2899, 102, Idaho Power Company and Milner Dam, Inc.
H–4.
Docket# P–4515, 010, Eric R. Jacobson
Other#s P–4515, 014, Eric R. Jacobson
H–5.
Omitted
H–6.
Docket# P–2145, 041, Public Utility District No. 1 of Chelan County, Washington
H–7.
Docket# P–2114, 091, Public Utility District No. 2 of Grant County, Washington
H–8.
Docket# P–11907, 000, Town of Bristol, New Hampshire
H–9.
Docket# P–11901, 000, Town of Bristol, New Hampshire

Energy Projects—Certificates

C–1.
Omitted
C–2.
Docket# CP98–200, 004, National Fuel Gas Supply Corporation
C–3.
Docket# RM99–5, 003, Regulations Under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas and Facilities on the Outer Continental Shelf
C–4.
Docket# CP01–90, 001, El Paso Natural Gas Company
Other#s RP00–336, 004, El Paso Natural Gas Company
C–5.
Docket# CP00–387, 001, PNM Gas Services, a Division of Public Service Company of New Mexico and PNM Electric and Gas Services, Inc.
Other#s CP00–388, 001, PNM Gas Services, a Division of Public Service Company of New Mexico and PNM Electric and Gas Services, Inc.
CP00–397, 001, PNM Gas Services, a Division of Public Service Company of New Mexico and PNM Electric and Gas Services, Inc.

Miscellaneous

M–1.
Docket# RM01–10, 000, Standards of Conduct for Transmission Providers
M–2.
Docket# RM01–11, 000, Electronic Service

David P. Boergers,

Secretary.

[FR Doc. 01–22831 Filed 9–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert Douglas Willis Power Rate Schedule

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate increase.

SUMMARY: Pursuant to Delegation Order No. 0204–172, November 24, 1999, the Deputy Secretary of Energy has approved and placed into effect on an interim basis Rate Order No. SWPA–46 which increases the power rate for the Robert Douglas Willis Hydropower (Robert D. Willis) Project pursuant to the following Robert D. Willis Rate Schedule:

Rate Schedule RDW–01, Wholesale Rates for Hydro Power and Energy Sold to Sam Rayburn Municipal Power Agency (Contract No. DE–PM75–85SW00117)

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, One West Third Street, Tulsa, OK 74103–3519, (918) 595–6696, *reeves@swpa.gov*.

SUPPLEMENTARY INFORMATION: The existing hydroelectric power rate for the Robert D. Willis project is $337,932 per year. The rate was approved on a final basis by the Federal Energy Regulatory Commission on January 20, 2000, for the period ending September 30, 2003. The FY 2001 Robert D. Willis Power Repayment Studies indicates the need for an increase in the annual rate by $15,768 or 4.7 percent beginning October 1, 2001.

The Administrator, Southwestern Power Administration (Southwestern) has followed Title 10, Part 903 Subpart A, of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions" (Part 903) in connection with the proposed rate schedule. On May 11, 2001, Southwestern published notice in the **Federal Register**, 66 FR 24132, of a 90-day comment period, together with a Public Information Forum and a Public Comment Form, to provide an opportunity for customers and other interested members of the public to review and comment on a proposed rate increase for the Robert D. Willis project. Both public forums were canceled when no one expressed an intention to participate. Written comments were accepted through August 9, 2001. One comment was received from Gillis & Angley, Counsellors at Law, on behalf of Sam Rayburn Municipal Power Agency (SRMPA), which stated that SRMPA (the sole customer) had no objection to the proposed rate adjustment.

Information regarding this rate proposal, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, Suite 1400, One West Third Street, Tulsa, Oklahoma 74103.

Following review of Southwestern's proposal within the Department of Energy, I approved Rate Order No. SWPA–46, which increases the existing Robert D. Willis rate to $353,700 per year for the period October 1, 2001, through September 30, 2005.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

Order Confirming, Approving and Placing Increased Power Rate Schedule in Effect on an Interim Basis

[Rate Order No. SWPA–46]

Pursuant to sections 301(b) and 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944,16 U.S.C. 825s, for the Southwestern Power Administration

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(Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664, the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place power and transmission rates into effect on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744, revised the delegation of authority to confirm, approve and place power and transmission rates into effect on an interim basis by delegating such authority to the Under Secretary of Energy. This delegation was reassigned to the Deputy Secretary of Energy by Department of Energy (DOE) Notice 1110.29, dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89, dated August 3, 1989, and subsequent revisions. By Amendment No. 2 to Delegation Order No. 0204–108, effective August 23, 1991, 56 FR 41835, the Secretary of the Department of Energy delegated to the Assistant Secretary, Conservation and Renewable Energy, the authority which was previously delegated to the Deputy Secretary in that Delegation Order. By Amendment No. 3 to Delegation Order No. 0204–108, effective November 10, 1993, the Secretary of Energy re-delegated to the Deputy Secretary of Energy, the authority to confirm, approve and place power and transmission rates of the Power Marketing Administrations into effect on an interim basis. By notice, dated April 15, 1999, the Secretary of Energy rescinded the authority of the Deputy Secretary of Energy under Delegation Order No. 0204–108. By Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy again provided interim rate approval authority to the Deputy Secretary of Energy.

Background

Dam B (Town Bluff Dam), located on the Neches River in eastern Texas downstream from the Sam Rayburn Dam, was originally constructed in 1951 by the U.S. Army Corps of Engineers (Corps) and provides streamflow regulation of releases from the Sam Rayburn Dam. The Lower Neches Valley Authority contributed funds toward construction of both projects and makes established annual payments for the right to withdraw up to 2000 cubic feet of water per second from Town Bluff Dam for its own use. Power was legislatively authorized at the project, but installation of hydroelectric facilities was deferred until justified by economic conditions. A determination of feasibility was made in a 1982 Corps study. In 1983, the Sam Rayburn Municipal Power Agency (SRMPA) proposed to sponsor and finance the development at Town Bluff Dam in return for the output of the project to be delivered to its member municipalities and participating member cooperatives of the Sam Rayburn Dam Electric Cooperative. Since the hydroelectric facilities at the Town Bluff Dam have been completed, the facilities have been renamed the Robert Douglas Willis Hydropower Project (Robert D. Willis).

The Robert D. Willis rate is unique in that it excludes the costs associated with the hydropower design and construction performed by the Corps, because all funds for these costs were provided by SRMPA. Under the Southwestern/SRMPA power sales Contract No. DE–PM75–85SW00117, SRMPA will continue to pay all annual operating and marketing costs, as well as expected capital replacement costs, through the rate paid to Southwestern, and will receive all power and energy produced at the project for a period of 50 years.

The existing rate for the Robert D. Willis project was approved by the Federal Energy Regulatory Commission (FERC) on January 20, 2000, for the period October 1, 1999, through September 30, 2003.

Discussion

The 2001 Current Robert D. Willis PRS tests the adequacy of the existing rate, based on the latest cost evaluation period extending from FY 2001 through FY 2005, to cover annual expenses for marketing, operation and maintenance, and to amortize additions to plant and major replacements of the generating facilities. The Current PRS for the Robert D. Willis project, using the existing annual rate of $337,932, indicates that the legal requirements to repay all costs will not be met without additional revenue. This shortfall is primarily a result of increased operations and maintenance expenses estimated by the Corps. The Revised PRS shows that an additional $15,768 (4.7 percent) annually is needed to satisfy repayment criteria. Accordingly, Southwestern developed a rate schedule with a proposed annual rate of $353,700 that would satisfy repayment criteria.

Pursuant to Title 10, Part 903, Subpart A of the Code of Federal Regulations (10 CFR 903.21), "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions", 50 FR 37837, the Administrator, published notice in the **Federal Register** on May 11, 2001, 66 FR 24132, announcing a 90-day period for public review and comment concerning the proposed interim rate increase. Southwestern provided notice of the **Federal Register**, together with supporting data, to the customer and interested parties for review and comment during the formal period of public participation. In addition, prior to the formal 90-day public participation process, Southwestern met with the customer and their representative to discuss with them preliminary information on the proposed rate adjustment. As there was no request for public forums, none were held. One formal comment was received on behalf of the sole customer SRMPA, that expressed no objection to the proposed rate.

Upon conclusion of the comment period, Southwestern finalized the Power Repayment Studies and rate schedule for the proposed annual rate of $353,700 which is the lowest possible rate needed to satisfy repayment criteria. This rate represents an increase of 4.7 percent over the existing rate.

Information regarding this rate increase, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74103–3519.

Comments and Responses

Southwestern received one written comment in which the customer representative expressed no objection to the proposed rate adjustment.

Other Issues

There were no other issues raised during the informal meeting or during the formal public participation period.

Administrator's Certification

The FY 2001 Revised Robert D. Willis PRS indicates that the annual power rate of $353,700 will repay all costs of the project, including amortization of additions to plant and major replacements of the generating facilities consistent with provisions of the Department of Energy (DOE) Order No. RA 6120.2. In accordance with Delegation Order No. 0204–172, November 24, 1999, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Robert D. Willis power rate is consistent with applicable law and the lowest possible rate consistent with sound business principles.

Environment

The environmental impact of the rate increase proposal was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act, 10 CFR 1021, and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, for the period October 1, 2001, through September 30, 2005, the annual Robert D. Willis rate of $353,700 for the sale of power and energy from Robert D. Willis project to the Sam Rayburn Municipal Power Agency, under Contract No. DE–PM75–85SW00117, as amended. This rate shall remain in effect on an interim basis through September 30, 2005, or until the FERC confirms and approves the rate on a final basis.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

[FR Doc. 01–22698 Filed 9–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Power Rate Schedules

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate decrease.

SUMMARY: Pursuant to Delegation Order No. 0204–172, November 24, 1999, the Deputy Secretary of Energy has approved and placed into effect on an interim basis Rate Order No. SWPA–47 which decreases the power rate for the Sam Rayburn Dam Hydropower Project (Rayburn) pursuant to the following Sam Rayburn Dam Rate Schedule:

Rate Schedule SRD–01, Wholesale Rates for Hydro Power and EnergySold to Sam Rayburn Dam Electric Cooperative, Inc., (Contract No. DE–PM75–92SW00215)

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, One West Third Street, Tulsa, OK 74103–3519, (918) 595–6696, *reeves@swpa.gov.*

SUPPLEMENTARY INFORMATION: The existing hydroelectric power rate for the Rayburn project is $2,168,136 per year. The rate was approved on a final basis by the Federal Energy Regulatory Commission on December 7, 1994, for the period ending September 30, 1998. The rate was extended for three years, in one-year intervals, with the most recent effective October 1, 2000, through September 30, 2001, in accordance with the Secretary of Energy's interim approval, dated September 15, 2000, 65 FR 55953. The FY 2001 Rayburn Power Repayment Studies indicate the need for a decrease in the annual rate of $90,504, or 4.2 percent beginning October 1, 2001.

The Administrator, Southwestern Power Administration (Southwestern) has followed Title 10, Part 903 Subpart A, of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions" (Part 903) in connection with the proposed rate schedule. On May 11, 2001, Southwestern published notice in the **Federal Register**, 66 FR 24132, of a 90-day comment period, together with a Public Information Forum and a Public Comment Forum, to provide an opportunity for customers and other interested members of the public to review and comment on a proposed rate decrease for the Rayburn project. Both public forums were canceled when no one expressed an intention to participate. Written comments were accepted through August 9, 2001. Only one comment was received from Gillis & Angley, Counsellors at Law, on behalf of Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC), which stated that SRDEC (the sole customer) had no objection to the proposed rate adjustment.

Information regarding this rate proposal, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, Suite 1400, One West Third Street, Tulsa, Oklahoma 74103.

Following review of Southwestern's proposal within the Department of Energy, I approved Rate Order No. SWPA–47, which decreases the existing Rayburn rate to $2,077,632 per year for the period October 1, 2001, through September 30, 2005.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

Order Confirming, Approving and Placing Decreased Power Rate Schedule in Effect on an Interim Basis

[Rate Order No. SWPA–47]

Pursuant to sections 301(b) and 302(a) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664, the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place power and transmission rates into effect on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744, revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates by delegating such authority to the Under Secretary of Energy. This delegation was reassigned to the Deputy Secretary of Energy by Department of Energy (DOE) Notice 1110.29, dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89, dated August 3, 1989, and subsequent revisions. By Amendment No. 2 to Delegation Order No. 0204–108, effective August 23, 1991, 56 FR 41835, the Secretary of the Department of Energy delegated to the Assistant Secretary, Conservation and Renewable Energy, the authority which was previously delegated to the Deputy Secretary in that Delegation Order. By Amendment No. 3 to Delegation Order No. 0204–108, effective November 10, 1993, the Secretary of Energy re-delegated to the Deputy Secretary of Energy, the authority to confirm, approve and place into effect on an interim basis power and transmission rates of the Power Marketing Administrations. By notice, dated April 15, 1999, the Secretary of Energy rescinded the authority of the Deputy Secretary of Energy under Delegation Order No. 0204–108. By Delegation Order No. 0204–172, effective

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November 24, 1999, the Secretary of Energy again provided interim rate approval authority to the Deputy Secretary of Energy.

Background

The Sam Rayburn Hydropower Project (Rayburn) is located on the Angelina River in the State of Texas in the Neches River Basin. Since the beginning of its operation in 1965, it has been marketed as an isolated project, under contract with Sam Rayburn Dam Electric Cooperative, Inc. (Contract No. DE–PM75–92SW00215).

In the Federal Energy Regulatory Commission (FERC) Docket No. EF94–4021–000, issued December 7, 1994, for the period October 1, 1994, through September 30, 1998, the FERC confirmed and approved the current annual Sam Rayburn Dam rate of $2,168,135. This rate was subsequently extended for three years, in one year intervals on an interim basis by the Deputy Secretary of Energy or Secretary of Energy under the Rate Order and for the periods listed below:

Rate Order SWPA–38, October 1, 1998—September 30, 1999
Rate Order SWPA–40, October 1, 1999—September 30, 2000
Rate Order SWPA–42, October 1, 2000—September 30, 2001

Discussion

Southwestern's FY 2001 Current Power Repayment Study (PRS) indicates that the existing annual power rate of $2,168,135 did not represent the lowest possible rate needed to meet cost recovery criteria. The reduced revenue requirement is due to a decrease in the Corps of Engineers (Corps) future replacement estimates. The Revised PRS indicates that a decrease in annual revenues of $90,504 beginning in FY 2002 is sufficient to accomplish repayment of the Federal investment in the required number of years. Accordingly, Southwestern developed a proposed rate schedule based on that decreased revenue requirement.

Title 10, Part 903, Subpart A of the Code of Federal Regulations, "Procedures for Public Participation in Power and Transmission Rate Adjustment," has been followed in connection with the proposed rate adjustment. More specifically, opportunities for public review and comment during a 90-day period on the proposed Rayburn power rate were announced by notice published in the **Federal Register**, May 11, 2001, 66 FR 24132. A Public Information Forum was to be held June 14, 2001, in Tulsa, Oklahoma, and a Public Comment Forum was to be held July 18, 2001, also in Tulsa. Both forums were canceled as no one expressed an intention to participate. Written comments were due by August 9, 2001. Southwestern provided notice of the **Federal Register**, together with supporting data, to the customer and interested parties for review and comment during the formal period of public participation. In addition, prior to the formal 90-day public participation process, Southwestern met with the customer and their representative to discuss with them preliminary information on the proposed rate adjustment. Only one formal comment was received from Gillis & Angley, Counsellors at Law, on behalf of Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC), which stated that SRDEC (the sole customer) had no objection to the proposed rate adjustment.

Upon conclusion of the comment period in August 2001, Southwestern finalized the Power Repayment Study and rate schedule for the proposed annual rate of $2,077,632 which is the lowest possible rate needed to satisfy repayment criteria. This rate represents an annual decrease of 4.2 percent.

Information regarding this rate decrease, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74103–3519.

Comments and Responses

Southwestern received one written comment in which the customer representative expressed no objection to the proposed rate adjustment.

Other Issues

There were no other issues raised during the informal meeting or during the formal public participation period.

Administrator's Certification

The FY 2001 Revised Rayburn PRS indicates that the annual power rate of $2,077,632 will repay all costs of the project, including amortization of the power investment consistent with provisions of the Department of Energy (DOE) Order No. RA 6120.2. In accordance with Delegation Order No. 0204–172, November 24, 1999, and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Rayburn power rate is consistent with applicable law and the lowest possible rate consistent with sound business principles.

Environment

The environmental impact of the rate decrease proposal was evaluated in consideration of DOE's guidelines for implementing the procedural provisions of the National Environmental Policy Act, 10 CFR 1021, and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an interim basis, for the period October 1, 2001, through September 30, 2005, the annual Sam Rayburn Dam Rate of $2,077,632 for the sale of power and energy from Sam Rayburn Dam to the Sam Rayburn Electric Cooperative, Inc., under Contract No. DE–PM75–92SW00215, dated October 7, 1992.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

[FR Doc. 01–22699 Filed 9–10–01; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project—Base Charge and Rates

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of base charge and rates.

SUMMARY: The Deputy Secretary of the Department of Energy (DOE) has confirmed and approved the FY 2002 Base Charge and Rates (Rates) for the Boulder Canyon Project (BCP) electric service provided by the Western Area Power Administration (Western). The Rates will provide sufficient revenue to pay all annual costs, including interest expense, and repay required investment within the allowable period.

DATES: The Rates will be effective the first day of the first full billing period beginning on or after October 1, 2001. These Rates will stay in effect through September 30, 2002, or until other Rates replace them.

FOR FURTHER INFORMATION CONTACT: Mr. Maher Nasir, Rates Team Lead, Western Area Power Administration, Desert Southwest Customer Service Region, 615 South 43rd Avenue, Phoenix, AZ 85009, telephone (602) 352–2768, e-mail nasir@wapa.gov.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved the existing Rate Schedule BCP–F6 for BCP electric service on September 18, 2000 (Rate Order No. WAPA–94, 65 FR 60933, October 13, 2000), on an interim basis, effective on October 1, 2000, through September 30, 2005, and allowed for an annual recalculation of the Rates. On July 31, 2001, the Federal Energy Regulatory Commission (FERC) approved Rate Order No. WAPA–94 on a final basis.

Under Rate Schedule BCP–F6, the existing composite rate, effective on October 1, 2000, is 9.75 mills per kilowatthour (mills/kWh), the base charge is $47,788,574, the forecasted energy rate is 5.04 mills/kWh, and the forecasted capacity rate is $0.99 per kilowattmonth (kWmonth). The newly calculated Rates for BCP electric service to be effective October 1, 2001, will result in an overall composite rate of 10.32 mills/kWh. This is an increase of approximately 6 percent when compared with the existing BCP electric service composite rate. The increase is due to a slight increase in the annual revenue requirement and lower projected energy sales. The FY 2002 base charge is increasing slightly to $48,039,988. The slight increase is due mainly to higher operation and maintenance expenses and replacement costs. The FY 2002 forecasted energy rate of 5.33 mills/kWh is approximately a 6-percent increase from the existing forecasted energy rate of 5.04 mills/kWh. The slight increase is due mainly from a projected lower water year that results in reduced projected energy sales. The FY 2002 forecasted capacity rate of $0.99/kWmonth remains the same as the existing forecasted capacity rate.

The following summarizes the steps taken by Western to ensure involvement of all interested parties in determining the Rates:

1. On February 8, 2001, a letter was mailed from Western's Desert Southwest Customer Service Region to the BCP Contractors and other interested parties announcing the informal customer meeting, and the public information and public comment forums.

2. A **Federal Register** notice (FRN) was published on February 13, 2001 (66 FR 10018), announcing the proposed rate adjustment process, initiating the public consultation and comment period, announcing the public information and public comment forums, and presenting procedures for public participation.

3. Discussion of the proposed Rates was initiated at an informal BCP Contractor meeting held March 21, 2001, in Phoenix, Arizona. At this informal meeting, representatives from Western and the Bureau of Reclamation (Reclamation) explained the basis for estimates used to calculate the Rates. A question and answer session was held.

4. At the public information forum held on April 4, 2001, in Phoenix, Arizona, Western and Reclamation representatives explained the proposed Rates for FY 2002 in greater detail. A question and answer session was held.

5. A public comment forum was held on April 25, 2001, in Phoenix, Arizona, to give the public an opportunity to comment for the record. Two persons representing customers made oral comments.

6. Three comment letters were received during the 90-day consultation and comment period. The consultation and comment period ended May 14, 2001. All comments were considered in developing the Rates for FY 2002. Written comments were received from:

Arizona Power Authority
Irrigation & Electrical Districts Association of Arizona
Metropolitan Water District of Southern California

Comments and responses, paraphrased for brevity, are presented below.

Civil Service Retirement Costs

Comment: A Contractor requested that Western and Reclamation cease from including the civil service retirement costs in the BCP Rates until FERC has made its final ruling on the reimbursability of these costs. The Contractor argued that Western cannot use its power revenues to augment the appropriations from outside sources without specific statutory authority. The Contractor also challenged Western's authority to fund any civil service retirement costs for employees of agencies other than Western such as Reclamation, the Corps of Engineers (Corps), and the International Boundary and Water Commission (IBWC). A Contractor stated that neither the Boulder Canyon Project Act nor the Colorado River Storage Project Act allow for the removal of money from the Colorado River Dam Fund (CRDF) to specifically satisfy the liability for the civil service retirement costs. Therefore, the BCP Contractors have concerns with the authority to collect these dollars in the CRDF. A Contractor also requested a copy of the accounting for those costs collected into the CRDF, including interest, be sent to all BCP Contractors and what has already been collected from the Contractors be refunded accordingly.

Response: On July 31, 2001, FERC issued an Order approving Rate Order No. WAPA–94, including the BCP rates for capacity and energy for FY 2001. In the Order, FERC expressly approved Western's recovery of the full civil service retirement costs in these rates, finding that such recovery was not an unlawful augmentation of appropriations, was not prohibited by the pertinent BCP legislation, and was consistent with FERC's previous approval of the collection of these costs for Western's Pacific Northwest-Pacific Southwest Intertie Project rates, 87 FERC 61,346 (June 22, 1999) and for Southeastern Power Administration's rates, 90 FERC 61,266 (March 17, 2000) and 86 FERC 61,195 (February 26, 1999). Therefore, Western will continue to collect these costs in the BCP rates. As for the Contractors' challenge to Western's authority to fund any civil service retirement costs for employees of agencies other than Western, the rates for the Desert Southwest Customer Service Region's projects do not include costs from the Corps or IBWC agencies. A copy of the accounting records to date for the collection of the civil service retirement costs was provided to the BCP Contractors prior to the close of the comment period.

Allocation of Specific Costs

Comment: A Contractor requested that Western continue to determine a fair and equitable allocation of costs for (1) the potable water and fire systems at Mead Substation, (2) the Buchanan Boulevard Project at Mead Substation, and (3) the Arizona/Nevada Switchyard.

Response: Western is committed to continue working with the Contractors in developing a fair and equitable allocation of costs for these items.

Visitor Services Expense

Comment: A Contractor requested explanation of why both the revenues and expenses for the visitor services are decreasing for FY 2003 and FY 2004.

Response: The Contractor's understanding is incorrect, as both the revenues and expenses for the visitor services are increasing for FY 2003 and FY 2004 due to indexing for inflation. It should be recognized that the estimated figures for FY 2003 and FY 2004 do not impact these Rates, as the Rates are based on FY 2002 data.

Comment: An interested party raised concerns about a $1.5 million increase in the visitor center costs, a $1.2 million increase in Reclamation's administrative and general expenses, and a $0.5 million increase in Western's system operations and dispatch costs.

Response: Western and Reclamation have explained in great detail the amount of the increases, and why the increases have incurred. Visitor service costs have increased $1.6 million to provide more security, customer service,

and backlogged maintenance and repair items. Reclamation's administrative and general expenses have increased $1.2 million due mainly to transfers of personnel from operations to administrative and general expense. During the public forum presentations, Western specified in detail why its system operations and load dispatching costs were increasing approximately $450,000 in the proposed base charge from the existing base charge. The majority of the increase was due to the staffing of two additional full time positions, mandatory travel, training requirements, and additional costs incurred in keeping up with the pace of the utility industry changes. Since the closing of the comment and consultation period, Western has implemented a new cost distribution methodology for the operations' scheduling and dispatcher staff. The new charging methodology decreased the total operation and maintenance budget for FY 2002 by approximately $1.0 million in the proposed base charge from the existing base charge. Western has been reallocating its budget to cover costs where they are anticipated to occur.

Uprating Credit Program Process

Comment: A Contractor requested Western identify methods to ensure the BCP Uprating Credit process is being performed properly beginning in FY 2002, and the interest rate calculated for cash-funded Contractors is being determined in accordance with the BCP Implementation Agreement and associated resolutions.

Response: Western is administering the uprating credit process in accordance with the June 1996 uprating credits program written procedures and practices document. Western received a request in July 2000 to review the uprating credit process and ensure the interest rate is being calculated correctly for the cash-funded Contractors. On August 31, 2000, Western met with a working group of the BCP Contractors to address the discrepancies that were discovered in the review. Western's goal was to complete this review and recalculation process and implement any revisions to the uprating credit program by February or March 2001. Due to delays in receiving Contractors' revisions to their schedules and Western's workload constraints, completion of this task has been delayed. In the upcoming months Western will meet with the Contractors again to discuss the impacts of the discrepancies. Provided Western and the Contractors can meet and come to an agreement on the impacts and preferred method of resolution, the process would be properly in place beginning in FY 2002.

BCP Electric Service Rates

BCP electric service Rates are designed to recover an annual revenue requirement that includes the operation and maintenance expenses, payments to States, visitor services, uprating program, replacements, investment repayment, and interest expense. Western's power repayment study (PRS) allocates the projected annual revenue requirement for electric service between capacity and energy, 50 percent to capacity and 50 percent to energy.

Procedural Requirements

BCP electric service Rates are developed under the Department of Energy Organization Act (42 U.S.C. 7101–7352), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved, were transferred to and vested in the Secretary of Energy.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1983 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. Existing DOE procedures for public participation in electric service rate adjustments are located at 10 CFR part 903, effective September 18, 1985 (50 FR 37835). DOE procedures have been followed by Western in developing these Rates.

The Boulder Canyon Project Implementation Agreement Contract No. 95–PAO–10616 requires Western, prior to October 1 of each rate year, to determine the annual Rates for the next fiscal year. The Rates for the first rate year and each fifth rate year thereafter, shall become effective provisionally upon approval by the Deputy Secretary of Energy subject to final approval by FERC. For all other rate years, the Rates shall become effective on a final basis upon approval by the Deputy Secretary of Energy.

Western will continue to provide the Contractors annual Rates by October 1 of each year using the same rate setting formula. The Rates are reviewed annually and adjusted upward or downward to assure sufficient revenues to achieve payment of all costs and financial obligations associated with the project. Each fiscal year, Western prepares a PRS that updates actual revenues and expenses and includes future estimates of annual revenues and expenses for the BCP including inferest and capitalized costs.

Western's BCP electric service rate setting formula was submitted to FERC for confirmation and approval on October 31, 1995. On April 19, 1996, in Docket No. EF96–5091–000 at 75 FERC 62,050, FERC issued an order confirming, approving, and placing into effect on a final basis the electric service rate setting formula for BCP. The rate setting formula set forth in Rate Order No. WAPA–70 was approved for a period beginning November 1, 1995, and ending September 30, 2000. Rate Order No. WAPA–94 extends the existing rate setting formula beginning on October 1, 2000, and ending September 30, 2005.

Western proposes the FY 2002 base charge of $48,038,988, the forecasted energy rate of 5.33 mills/kilewatthour, and the forecasted capacity rate of $0.99/kilowattmonth be approved on a final basis.

In accordance with 10 CFR part 903, Western held a consultation and comment period. The notice of the proposed FY 2002 Rates for electric service was published in the Federal Register on February 13, 2001.

Following review of Western's proposal within DOE, I approve the FY 2002 Rates, on a final basis, for BCP electric service, under Rate Schedule BCP–F6, through September 30, 2002.

Dated: August 29, 2001.

Francis S. Blake,

Deputy Secretary.

[FR Doc. 01–22697 Filed 9–10–01; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7053–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS for Coal Preparation Plants.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: ICR for 40 CFR Part 60 Subpart Y—NSPS for Coal Preparation Plants; OMB Control Number 2060–0122; expiration date is September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 11, 2001.

ADDRESSES: Send comments, referencing EPA ICR No.1062.07 and, OMB Control No. 2060–0122, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by email at Auby.susan@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1062.07. For technical questions about the ICR contact Dan Chadwick at (202) 564–7054.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Coal Preparation Plants, NSPS Subpart Y, (OMB Control Number 2060–0122; EPA ICR No.1062.07); expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the actual dates of start-up; and notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate.

Owners or operators are also required to maintain records of the occurrence and duration of any start-up, shutdown, or malfunction in the operation of an affected facility. These notifications, reports, and records are required, in general for all sources subject to NSPS. There are no additional recordkeeping or reporting requirements specific to coal preparation plants.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 15, 2000; (65 FR 55955); no comments were received.

Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 69 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of coal preparation plants.

Estimated Number of Respondents: 390.

Frequency of Response: Occasionally.

Estimated Total Annual Hour Burden: 15463.

Estimated Total Annualized Capital, O&M Cost Burden: $15,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses listed above.

Please refer to EPA ICR No. 1062.07 and OMB Control No. 2060–0122 in any correspondence.

Dated: August 29, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22746 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7053–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Survey on Environmental Management of Asthma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Title: National Survey on Environmental Management of Asthma. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data-collection instrument.

DATES: Comments must be submitted on or before October 11, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1996.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Susan Auby at EPA by phone at (202) 260–4901, by E-Mail at *Auby.susan@epamail.epa.gov* or download off the internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1996.01. For technical questions about the ICR, contact Dr. Susan Conrath at EPA by phone at (202) 564–9389.

SUPPLEMENTARY INFORMATION:

Title: National Survey on Environmental Management of Asthma, EPA ICR 1996.01.

Abstract: EPA is working to integrate the management of environmental factors with the medical treatment of asthma, particularly among children and low-income populations. To evaluate the effectiveness of its current outreach efforts, EPA proposes to collect data from individual U.S. households through a telephone survey. This survey will be used to gain information regarding the number of individuals with asthma who have taken steps to

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improve the quality of their indoor environment as part of their approach to managing the disease, as well as any barriers they may have encountered while attempting to do so. EPA will compare the data gained from this survey to the Agency's established Government Performance and Results Act of 1993 (GPRA) goal. Specifically, EPA's goal is that 2.5 million people with asthma, including one million children and 200,000 low-income adults, will have taken steps to reduce their exposure to indoor environmental asthma triggers by 2005.

EPA will conduct this survey in two phases. In the first phase, EPA will contact 52,591 people who will participate in a screening survey. These individuals will be chosen randomly from U.S. households with a publicly listed telephone number. EPA expects that 10 percent, or 5,259 individuals, will either have asthma or live in a household with someone who does. After responding to several screening questions, adult asthmatics and parents of children with asthma will be invited to participate in a longer, more in-depth telephone survey. In this second phase, EPA expects to obtain completed survey responses from 3,308 individuals. This sample size will allow the Agency to draw statistically valid conclusions regarding the number of people with asthma who are taking action to reduce their exposure to environmental triggers.

EPA intends to over sample in communities known to have a high percentage of low-income households to ensure that the Agency is able to evaluate the effectiveness of its outreach efforts to this target population.

The National Survey on Environmental Management of Asthma is voluntary. EPA does not expect to receive confidential information from the individuals voluntarily participating in the Survey. However, if a respondent does consider the information submitted to be of a proprietary nature, EPA will assure its confidentiality based on the provisions of 40 CFR Part 2, Subpart B, "Confidentiality of Business Information."

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 04/17/01(FLR–6962–2); No comments were received.

Burden Statement

The annual public reporting and record-keeping burden for this collection of information is estimated to range from between 1.5 minutes and 16 minutes per response, depending on whether or not the survey respondent has asthma or lives with someone who has asthma. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: All individuals throughout the United States with publicly listed residential telephone numbers.

Estimated Number of Respondents: 52,591.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 726 hours.

Estimated Total Annualized Capital and O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the addresses listed above. Please refer to EPA ICR No. 1996.01 in any correspondence.

Dated: August 30, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22747 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7053–8]

Information Collection Activities: Submission for OMB Review; Comment Request; NESHAP for the Secondary Lead Smelter Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP for the Secondary Lead Smelter Industry, OMB No. 2060–0296, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 11, 2001.

ADDRESSES: Send comments, reference EPA ICR No. 1686.06 and OMB Control No. 2060–0296, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at Auby.susan@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR Number 1686.04. For technical questions about the ICR contact Maria Malavé in the Office of Compliance at (202) 564–7027 or via E-mail to *Malave.Maria@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

Title: NESHAP for the Secondary Lead Smelter Industry, OMB Control No. 2060–0296, EPA ICR No.1686.04, expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Lead Smelting (40 CFR part 63, Subpart X) were proposed on June 9, 1994 (59 FR 29750) and promulgated on June 23, 1995 (60 FR 32587). In response to industry petitions to reconsider, the final rule was amended on June 13, 1997 (62 FR 32209). Entities potentially affected by this rule are owners or operators of secondary lead smelters that operate furnaces to reduce scrap lead metal and lead compounds to elemental lead. The rule applies to secondary lead smelters that use blast, reverberatory, rotary, or electric smelting furnaces to recover lead metal from scrap lead, primarily from used lead-acid automotive-type batteries. These sources are emitters of several chemicals identified as hazardous air pollutants, including but not limited to lead compounds, arsenic compounds, and 1,3-butadiene. The rule provides protection to the public by requiring all secondary lead smelters to meet emission standards reflecting the application of the maximum achievable control technology (MACT). This information is being collected to assure compliance with 40 CFR part 63, Subpart X.

Owners or operators of the affected facilities described must make one-time-only notifications including: notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate, notification of the initial performance test, including information necessary to determine the conditions of the performance test, and performance test measurements and results. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Owners or operators must maintain records of initial and subsequent compliance tests for lead compounds, and identify the date, time, cause and corrective actions taken for all bag leak detection alarms. Records of continuous monitoring devices, including parametric monitoring, must be maintained and reported semiannually. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the records for at least five years following the date of such measurements and records. At a minimum, records of the previous two years must be maintained on site.

Industry and EPA records indicate that 23 sources are subject to the standard, and no additional sources are expected to become subject to the standard over the next three years. However, we assume that one furnace will be rebuilt per year and that each facility will make a major adjustment once per year which will required revising it's operational plan. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 1, 2001. No comments were received.

Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average 229 hours per response (includes time for recordkeeping activities). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of secondary lead smelters.

Estimated Number of Respondents: 23.

Frequency of Response: Semiannual reports and one-time only notifications.

Estimated Total Annual Hour Burden: 16,033 person-hours.

Estimated Total Annualized Capital, O&M Cost Burden: $150,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1686.04 and OMB Control No. 2060–0296 in any correspondence.

Dated: August 29, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22748 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing (40 CFR part 61, subpart D), EPA ICR Number 1125.03, OMB Control Number 2060–0394, expiring October 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 11, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1125.03 and OMB Control No. 2060–0394, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division, (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Susan Auby at EPA by phone at (202) 260–4901, by E-Mail at Auby.Susan@epa.gov, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1125.03. For technical questions about the ICR, contact Elson Lim at EPA by phone at (202) 564–7006, by E-Mail at Lim.Elson@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Hazardous Air Pollutants for Beryllium Rocket Motor Firing (40 CFR part 61 subpart D), OMB Control Number 2060–0394; EPA ICR No. 1125.03 expiration date October 31, 2001. This is a request for extension of a currently approved collection.

Abstract: Beryllium rocket motor firing operations result in emissions of beryllium. In the Administrator's judgment, emissions from these sources are in sufficient quantity to cause or contribute to air pollution that may endanger public health and welfare. The National Emission Standards for Hazardous Air Pollutants (NESHAP) 40 CFR part 61 subpart D establishes limits for beryllium.

In order to ensure compliance with the standards, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) Identify the sources subject to the standard; (2) ensure initial compliance with emission limits; and (3) verify continuous compliance with the standard. Specifically, the rule requires subject test sites to test ambient air for beryllium during and after firing of a rocket motor. Samples are analyzed within 30 days and results are reported to the EPA Region by registered letter by the business day following the determination. In addition, stack sampling requires sampling of beryllium combustion products, analysis and reporting within 30 days. The results are reported to EPA by the day following the determination and calculation.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 23, 2001, (66 FR 28462). No comments were received.

Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average 8 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owner/Operators of Beryllium Rocket Motor Firing Plants.

Estimated Number of Respondents: 1.

Frequency of Response: Once per test firing in 3 years (1/3).

Estimated Total Annual Hour Burden: 8 hours.

Estimated Total Annualized Cost Burden: $453.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1125.03 and OMB Control No. 2060–0394 in any correspondence.

Dated: August 29, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22749 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Clean Water Act State Revolving Fund Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Clean Water Act State Revolving Fund Program, OMB Control Number 2040–0118, and expiration date of 09/30/01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 11, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1391.06 and OMB Control No. 2040–0118, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by email at Auby.susan@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1391.06. For technical questions about the ICR contact Nelson L. Price at (202) 564–0602.

SUPPLEMENTARY INFORMATION:

Title: Clean Water Act State Revolving Fund Program; OMB Control No. 2040–0118; EPA ICR No. 1391.06; expiring on 09/30/01. This is a request for an extension of a currently approved collection.

Abstract: The Clean Water Act, as amended by "The Water Quality Act of 1987" (U.S.C. 1381–1387 *et seq.*), created a Title VI which authorizes grants to States for the establishment of State Water Pollution Control Revolving Funds (SRFs). The information activities are pursuant to Section 606 of the Act, and SRF Interim Final Rule (March 1990).

The 1987 Act declares that water pollution control revolving loan funds shall be administered by an instrumentality of the State subject to the requirements of the Act. This means that each State has a general responsibility for administering its revolving fund and must take on certain specific responsibilities in carrying out its administrative duties. The information collection activities will occur primarily at the program level through the Capitalization Grant Application and Agreement/Intended Use Plan, Annual Report, State Audit, and Financial Assistance Application Review.

The State must prepare a Capitalization Grant Application and Agreement that includes an Intended Use Plan (IUP) outlining in detail how it will use the program funds. The agreement is an instrument by which the State commits to manage its revolving fund program.

The State must agree to complete and submit an Annual Report on the uses of the fund. The report will indicate how activities financed will contribute toward meeting the goals and objectives and provides information on loan recipients, loan amounts, loan terms and project categories of eligible costs.

The State will conduct or have conducted a financial audit of its CWSRF program. The audit report will contain an opinion on the financial statements of the CWSRF, a report on its internal controls, and a report on whether the compliance requirements have been met.

Since the States provide assistance to local applicants, the States will review completed loan applications and verify that proposed projects meet all applicable Federal and State requirement.

EPA will use the Capitalization Grant Agreement and Application / Intended Use Plan, Annual Report, and Annual Audit to conduct its oversight responsibilities as mandated by the CWA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 04/03/01 (FRL–6960–6); no comments were received.

Burden Statement

The annual public reporting and record keeping burden for this collection of information is estimated to average 2,515 hours per State response and 60 hours per local community response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Fifty states, Puerto Rico, and the recipients of assistance in these jurisdictions.

Estimated Number of Respondents: 2,295.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 262,905 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1391.06 and OMB Control No. 2040–0118 in any correspondence.

Dated: August 30, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22750 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7053–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Great Lakes Water Quality Guidance Reporting Requirements

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Great Lakes Water Quality Guidance Reporting Requirements (EPA ICR Number 1639.04; OMB Control Number 2040–0180; expiration date September 30, 2001). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 11, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1639.04 and OMB Control Number 2040–0180, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (mail code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Contact Susan Auby at EPA by phone at (202) 260–4901, by e-mail at auby.susan@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1639.04. For technical questions about the ICR contact Mark Morris, Office of Water, 202–260–0312.

SUPPLEMENTARY INFORMATION:

Title: Great Lakes Water Quality Guidance Reporting Requirements (OMB Control No. 2040–0180; EPA ICR No.1639.04) expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: The Clean Water Act (CWA) section 402 establishes the National Pollutant Discharge Elimination System (NPDES) permit program to regulate the discharge of any pollutant or combination of pollutants from point sources into the waters of the United States. CWA section 402(a), as amended, authorizes the EPA Administrator to issue permits for the discharge of pollutants if those discharges meet all applicable requirements of CWA sections 301, 302, 306, 307, 308, and 403 and any conditions the Administrator determines are necessary to carry out the provisions and objectives of the CWA.

Section 101 of the Great Lakes Critical Programs Act (CPA) amends section 118 of the CWA and directs EPA to publish water quality guidance for the Great Lakes System. Provisions of the Guidance are codified in 40 CFR part 132. The Guidance establishes minimum water quality criteria, implementation procedures, and antidegradation provisions for the Great Lakes System. This ICR calculates the burden and costs associated with the implementation of the Great Lakes Water Quality Guidance (hereafter referred to as the Guidance).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 24, 2001, (66 FR 20654–20655); one comment was received.

Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 35 hours per response (in actuality, the burden will vary among dischargers and states and, depending on effluent quality, according to the requirements of the Guidance provisions). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install,

and utilize technology and systems for

restrictions under the 1984 Hazardous

ACTION: Notice of public meeting;

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and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Industries and local governments, as POTWs, discharging toxic pollutants to waters in the Great Lakes System as defined in 40 CFR 132.2; the governments of the eight Great Lakes States (Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin); and the Federal government.

Estimated Number of Respondents: 588 major industrial and POTW dischargers, and 3,207 minor dischargers.

Frequency of Response: varies depending on dischargers effluent characteristics.

Estimated Total Annual Hour Burden: 43,395 hours.

Estimated Total Annualized Operating and Maintenance Cost Burden: $2,776,407 Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No.1639.04 and OMB Control No. 2040–0180 in any correspondence.

Dated: August 29, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22751 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7051–5]

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Ticona Polymers, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on no migration petition reissuance.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Ticona Polymers, Inc. (Ticona) for three Class I injection wells located at Bishop, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Ticona, of the specific restricted hazardous wastes identified in the exemption, into Class I hazardous waste injection wells Nos. WDW–210, WDW–211, and WDW–212 at the Bishop, Texas facility, until December 31, 2020. As required by 40 CFR 148.22(b) and 124.10, a public notice of the proposed no migration exemption decision was issued June 28, 2001. The public comment period began on June 28, 2001 and closed on August 13, 2001. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal. This decision may be judicially reviewed under the Federal Administrative Procedure Act, 5 U.S.C. 704.

DATES: This action is effective as of August 28, 2001.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Sam Becker,

Acting Division Director, Water Quality Protection Division.

[FR Doc. 01–22745 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–3]

Workgroup and Study Assembly Meetings for the Longitudinal Cohort Study of Environmental Effects on Children

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting: Workgroup and Study Assembly Meetings regarding a longitudinal cohort study of environmental effects on mothers and children.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a two-day meeting co-sponsored by the Department of Health and Human Services (DHHS). IQ Solutions, Inc., a government contractor, is coordinating the logistics of the meetings. Members of Workgroups focusing on various issues related to study planning will meet on the first day, and the second day will be a meeting of the Study Assembly. The purpose of the Study Assembly meeting is to discuss the status of planning a longitudinal cohort study of environmental effects on the health and well-being of children. Content of the meeting will include development of planning for the study thus far, and reports on specific issues including, for example, proposed hypotheses for the study, issues of longitudinal cohort design, information technology, and ethical issues.

The Study Assembly is made up of all stakeholders interested in this study. Its purpose is to disseminate information to members and to serve as a conduit for bringing information and views from individuals and various organizations to the study organization. The Study Assembly is open to anyone who indicates an interest in the study, and includes representatives of all stakeholders, both inside and outside of government, advocacy groups, industry, academic institutions, state and local governments, and community groups. To become a member of the Study Assembly, interested persons should send an email to nichdcohort@mail.nih.gov, and indicate whether they would like to participate in a Workgroup and area(s) of interest or expertise. Those who are not currently members of a Workgroup are welcome as observers during the workgroup meetings on Monday, October 15.

DATES: The meeting convenes from 8:30 a.m.–5:30 p.m. each day. Workgroups meet on Monday, October 15, 2001, and the entire Study Assembly meets Tuesday, October 16, 2001. Registration opens on Sunday, October 14, 2001, from 2–7 p.m. and begins at 7:00 a.m. each day of the meeting.

ADDRESSES: The meeting site is the Sheraton Premiere Hotel, 8661 Leesburg Pike, Vienna, VA. Interested individuals can register for the Study Assembly meeting and/or to observe the Workgroup meetings. Space is limited. Advance registration is required. Those planning to attend must register no later than September 28, 2001.

FOR FURTHER INFORMATION CONTACT: To register to attend the Study Assembly meeting and/or to observe the Workgroup meetings, visit the registration website, http://lcs.iqsolutions.com, or call IQ Solutions at 301–984–1471, ext. 353, and ask for Longitudinal Registration. All meetings will take place at the Sheraton Premiere Hotel at Tysons Corner, in Vienna, Virginia, October 15–16, 2001. Discounted sleeping rooms are available. Information on hotel reservations is available on the website.

For further information about the details of the meeting itself, contact Dr. Peter Scheidt, National Institute of Child Health and Human Development, National Institutes of Health, U.S. Department of Health and Human Services, Room 7B05, 6100 Executive Blvd., Bethesda, MD 20892; telephone: 301–451–6421; facsimile: 301–402–2084; e-mail: *nichdcohort@mail.nih.gov.*

Dated: August 31, 2001.

Art Payne,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–22752 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64058; FRL–6791–6]

Notice of Receipt of Requests for Label Amendments to Delete Certain Uses in Some Pesticide Registrations Containing Dimethoate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses on cabbage, Chinese (bok choy) and kohlrabi in certain pesticide registrations containing dimethoate.

DATE: These deletions will be approved by the Agency and become effective on September 11, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Suku Oonnithan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W. Washington, DC 20460–0001; telephone number: (703) 605–0368. Office location for commercial courier delivery: Room 266A, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202–4501.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use these pesticide formulations, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically.* You may obtain electronic copies of this document and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov. To access this document, on the Home page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listing at http://www.epa.gov/fedrgstr/.

2. *In person.* Contact Suku Oonnithan at 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 209, Arlington, VA, telephone number: 703–605–0368, e-mail: oonnithan.suku@epa.gov. Available from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete certain uses in three pesticide registrations containing the active ingredient dimethoate. These registrations are listed in the following Table 1 by registration number, product name and specific uses deleted.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN DIMETHOATE PESTICIDE REGISTRATIONS

Registration No.	Product Name	Deleted Uses
051036–110	Dimethoate 4E	cabbage, Chinese (bok choy), Kohlrabi
051036–198	Cymate 267	do
067760–36	Chemathoate 267 EC Systemic Insecticide.	do

Although other uses of dimethoate on broccoli, Brussel sprouts, cabbage, cauliflower, collards, kale and mustard greens have been registered sites for residues of dimethoate under the Federal Food, Drug and Cosmetic Act (FFDCA), FIFRA Section 2(z)(bb), the use on cabbage, Chinese (bok choy) and kohlrabi represent an unreasonable adverse effect on the environment, as they could result in human dietary risk from the residues resulting from the use of dimethoate in or on food consistent with the standard under Section 408 of FIFRA. As such the Agency is hereby waving the 180–day comment period normally given for the deletion of a minor agricultural use in accordance with FIFRA section 6(f)(1)(c). The Agency has determined that, while these actions require publication for the purpose of announcement, a comment period is not warranted. The following Table 2 includes the names and addresses of record for the registrants of the products listed in Table 1.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
051036	Micro-Flo Company, P.O. Box 772099, Memphis, TN 38117–2099
067760	Cheminova Inc., 1700 Route 23, Suite 300, Wayne, NJ. 07470

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register.** Thereafter, the Administrator may approve such a request.

IV. Provisions for Disposition of CBI
I. General Information
C. How and to Whom Do I Submit

CBI or the procedures for claiming CBI,

List of Subjects

I. General Information

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IV. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after the date of use deletions.

List of Subjects

Environmental protection, Pesticides and Product Registrations.

Dated: August 27, 2001.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–22758 Filed 9–10–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50875B; FRL–6798–1]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to amend 524–EUP–93 from Monsanto Company requesting an experimental use permit (EUP) for the plant-pesticide *Bacillus thuringiensis* Cry3Bb protein and the genetic material necessary for its production (Vector ZMIR13L) in corn plants. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50875B, must be received on or before October 11, 2001.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50875B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8715; e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are interested in agricultural biotechnology or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–50875B. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50875B in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50875B. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

Monsanto Company has applied to amend their recently approved EUP number 524–EUP–93 amendment/extension in order to allow livestock feeding studies and a lifting of the crop destruct provisions. The recently approved EUP published in the **Federal Register** on July 27, 2001 (66 FR 39163) (FRL–6791–5). A tolerance exemption was established for *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production in corn on May 11, 2001. The tolerance exemption published in the **Federal Register** on May 11, 2001 (66 FR 24061) (FRL–6781–6).

III. What Action is the Agency Taking?

Following the review of the Monsanto Company application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under 40 CFR part 172.

List of Subjects

Environmental protection, Experimental use permits.

Dated: August 29, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–22757 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34246; FRL–6796–3]

Butylate; Notice of Pesticide Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: This notice constitutes the Agency's report on the Food Quality Protection Act (FQPA) tolerance reassessment progress and interim risk management decision for butylate, announces the Agency's decision, and releases the human health risk assessment and related documents supporting this decision to the public. The Agency's reassessment of dietary risk, including public exposure through food and drinking water as required by the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by FQPA, indicates that butylate, by itself, poses no risk concerns within the limits of the existing tolerances; therefore, no risk mitigation is needed, and no further actions are warranted at this time. The existing butylate tolerances remain in effect, until such time as a determination of whether a full reassessment of the cumulative risk from thiocarbamate pesticides, including butylate, may be needed and is considered.

DATES: Comments submitted on or before October 11, 2001 are most likely to be considered and will be included in the public docket.

FOR FURTHER INFORMATION CONTACT: Gary Mullins, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8044; e-mail address: mullins.gary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining information on the Agency's interim risk management and tolerance reassessment decision for butylate, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of documents related to the Agency's report on FQPA tolerance reassessment progress and interim risk management decision for butylate released to the public may also be accessed at: http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person.* The Agency has established an official record for this action under docket control numbers OPP–34246. The official record consists of the documents specifically referenced in this action, and other related information, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday,

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excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34246 in the subject line on the first page of your correspondence.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units II.A.1. and 2 above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI That I Want To Submit to the Agency?

Do not submit any information electronically that you would consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

III. Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision

The Agency has completed its assessment of the dietary risk of butylate alone, and has determined that the level of dietary risk from exposure as a result of currently registered uses of butylate is not of concern. Therefore, no mitigation measures are needed and no further actions are warranted at this time. The Agency may find, however, that further action is necessary if it is determined that thiocarbamate pesticides, such as butylate, share a common mechanism of toxicity. Such an incremental approach to the tolerance reassessment process is consistent with the Agency's goal of improving transparency in implementing FFDCA, as amended. This interim tolerance reassessment and risk management decision does not specifically address the reassessment of the existing butylate food residue tolerances as called for by FFDCA, as amended, because the Agency has not yet determined that thiocarbamate pesticides have a common mechanism of toxicity, nor considered the cumulative risk for the thiocarbamates, if so warranted. When the Agency has determined whether the thiocarbamate group of pesticides have a common mechanism of toxicity and has considered the appropriate cumulative risks, the butylate tolerances will be reassessed in that light. At this time, the established tolerances for butylate remain in effect, until such time as a full reassessment of the cumulative risk from thiocarbamate pesticides, such as butylate, may be needed and is considered.

IV. Background

FFDCA, as amended requires EPA to review all the tolerances for registered chemicals in effect on or before the date of the enactment of FQPA. In reviewing these tolerances, the Agency must consider, among other things, aggregate risks from non-occupational sources of pesticide exposure, whether there is increased susceptibility to infants and children, and the cumulative effects of pesticides with a common mechanism of toxicity. The tolerances are considered reassessed once the safety finding has been made or a revocation occurs. A reregistration eligibility decision (RED) for butylate was completed in September 1993, prior to FQPA enactment, therefore, it needed to be updated to consider the provisions of the Act.

FFDCA, as amended, requires that the Agency, when considering whether to establish, modify, or revoke a tolerance, consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency is currently examining whether and to what extent thiocarbamate pesticides may share a common mechanism of toxicity. Preliminary determinations indicate that the potential to produce a common toxic effect, neuropathy (e.g., degeneration and demylination of the sciatic nerve), and the similarities in structure and metabolism, may support grouping of the thiocarbamates based on their ability to produce a common effect by a common mechanism. Assuming these assertions are correct, preliminary screening-level chronic cumulative dietary food risk analyses do not provide evidence that cumulative exposure of the human population, including infants and children, to the neuropathic thiocarbamates would raise concern of adversely affecting human health.

The preliminary determination of whether and to what extent thiocarbamates pesticides may share a common mechanism of toxicity, and accompanying screening-level cumulative dietary analyses are to be presented to the FIFRA Science Advisory Panel for peer review on September 7, 2001. Pending their review of the information, the Agency expects to complete the cumulative risk assessment for thiocarbamate pesticides, at which time, provided the risk analyses concludes chronic cumulative dietary risks are not of concern to the Agency, the butylate tolerances will be considered reassessed, in accordance with FFDCA, as amended.

The Agency's human health findings for the thiocarbamate pesticide butylate, dicussed below, are presented fully in the documents: Butylate-HED Revised Human Health Assessment, February 26, 2001; and: GENEEC and SCI-GROW2 EEC's for the Current Use of Butylate on Corn for the Purpose of Tolerance Reassessment, August 20, 1998. These risk assessments and other documents pertaining to the butylate tolerance reassessment decision are available on the Internet at: http://www.epa.gov/pesticides/reregistration/status.htm and the public docket for viewing (see Unit I.B.2).

V. Use Summary

Butylate (S-ethyl diisobutylthiocarbamate) is a soil incorporated herbicide registered for use on corn (field, sweet, and popcorn) for control of grassy and broadleaf weeds and nutsedge. There are no registered non-food/non-feed uses, and no existing or proposed residential uses of butylate products. Butylate is formulated as a liquid emulsifiable concentrate (85.1% active ingredient), and may be applied preplant, at plant, postplant, and after harvest (fall) at a maximum single and annual application rate of 6.3 pounds of active ingredient per acre (lb a.i./acre). Because butylate is highly volatile, applications are made by ground equipment, either broadcast or band, and are immediately incorporated into the soil. The type of equipment used to apply butylate include, boom sprayer; soil injection equipment; and center pivot irrigation. Usage of butylate has declined from approximately 15 million lb a.i. in 1991 to an estimated 950,000 lb a.i. in 1998. Butylate was not produced in 1998, and both usage and production are expected to continue to decline.

VI. Dietary Food Risks

Acute dietary risk from food is calculated considering what is eaten in one day (in this instance, the full range of consumption values as well as the range of residue values in food). A risk estimate that is less than 100% of the acute Population Adjusted Dose (PAD) (the dose at which an individual could be exposed on any given day and no adverse health effects would be expected) is not of concern to the Agency. Chronic dietary risk from food is calculated by using the average consumption values for food and average residue values for those foods over a 70–year lifetime. A risk estimate that is less than 100% of the chronic PAD (the dose at which an individual could be exposed over the course of a lifetime and no adverse health effects would be expected) is not of concern to the Agency.

For the general population, the acute no observed adverse effects level (NOAEL) of 600 milligrams/kilogram/day (mg/kg/day) was established, based on clinical signs and acute neurotoxic effects (i.e., neuronal cell necrosis in the brain and degeneration of sciatic nerve) in the acute rat neurotoxicity study at the lowest observed adverse effects level (LOAEL) of 2,000 mg/kg/day. For the females (13–50 years) population subgroup, the acute NOAEL of 40 mg/kg/day was established, based on decreased fetal weights and increased incidences of misaligned sterebrae in the rat developmental study at the LOAEL of 400 mg/kg/day. In this study, both maternal and developmental toxicity were observed at the same dose (400 mg/kg/day); therefore, no increased susceptibility to offspring was observed. The chronic NOAEL of 5 mg/kg/day was established, based on decreased body weight gain (not statistically significant) and increased relative liver weight in male dogs from a 12–month dog feeding study at the LOAEL of 25 mg/kg/day. Based on available data, butylate is not carcinogenic, and has been classified as a Group E "not likely" carcinogen; therefore, no chronic (cancer) dietary risk assessment was conducted.

An uncertainty factor of 100 was applied to risk assessments to account for interspecies extrapolation (10X) and intraspecies variability (10X). The FQPA safety factor to account for enhanced sensitivity of infants and children was removed (reduced to 1X) since: The toxicology data base is complete; the developmental and reproductive toxicity data did not indicate increased sensitivity or susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; unrefined dietary exposure estimates (assuming all commodities contain tolerance level residues) will overestimate dietary exposure; modeling data are used for ground and surface source drinking water exposure assessments resulting in estimates considered to be upper-bound concentrations; and there are currently no registered residential uses for butylate. Additionally, there is no evidence to support a recommendation for a developmental neurotoxicity study.

The acute and chronic dietary exposure analyses are based on the Dietary Exposure Evaluation Model (DEEM™). The DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys for Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The acute dietary (food) assessment for butylate is a Tier I deterministic analysis at the 95th percentile, and was conducted using tolerance level residues (0.1 ppm) and 100% crop treated. Tier I analysis was also conducted for chronic assessments using tolerance level residues and 100% crop treated. The estimated acute and chronic dietary (food) exposure consumed less than 1% of the respective acute and chronic PADs for all population subgroups; therefore, dietary (food) risk is not of concern to the Agency and no risk mitigation measures are necessary.

VII. Dietary Drinking Water Risks

Drinking water exposure to pesticides can occur through surface and/or ground water contamination. EPA considers acute (1–day) and chronic (lifetime) drinking water risks and uses either modeling or actual monitoring data, if available, to estimate those risks. Modeling is carried out in tiers of further refinement, and is designed to provide a high-end estimate of exposure.

Based on environmental fate data, butylate is mobile to slightly mobile in soil. However, significant residues of butylate are not expected to reach surface water under most conditions, because it is incorporated and partitions from soil to air readily. Although, soil incorporation favors downward movement to ground water over surface runoff, significant ground water contamination is still not expected under most conditions. Drinking water concentrations were estimated using GENEEC (Tier I-surface water) and SCI-GROW (Tier I-ground water) computer models. The drinking water assessment for butylate was conducted on parent butylate only, since no degradates of concern were identified. While limited monitoring data from surface and ground water sources are available on butylate and were lower than levels predicted by models, Tier I modeling estimates were used to assess exposure from both surface and ground water sources. These estimates were low and no further refinement was needed.

For acute drinking water risk, the potential (peak) concentrations of butylate in surface water sources is 33.1 parts per billion (ppb), and in ground water sources is 0.41 ppb. For chronic drinking water risk, potential (average) concentrations of butylate in surface water sources is 10 ppb, and in ground water sources is 0.41 ppb. Neither GENEEC nor SCI-GROW Tier I drinking water models take into account volatility from soil or water. Because butylate dissipates primarily by volatility from soil, actual butylate concentrations in drinking water predicted from either model are likely lower.

VIII. Aggregate Risks

Aggregate risk looks at the combined risk from exposure through food, drinking water, and residential uses. Generally, all risks from these exposures must be less than 100% of the acute and chronic PADs. For butylate, the aggregate risks are limited to food and

water exposure, because there are no residential uses.

To determine the maximum allowable contribution from water allowed in the diet, EPA first looks at how much of the overall allowable risk is contributed by food and then determines a "drinking water level of comparison" (DWLOC) to ascertain whether modeled or monitored concentrations in drinking water exceed this level. Drinking water concentrations that are above the corresponding DWLOC are of concern to the Agency. When the acute and chronic DWLOCs are compared with the estimated concentrations of butylate in drinking water using conservative modeling, surface and ground water concentrations are substantially lower than the DWLOCs for all populations. To assess aggregate risk, the acute and chronic dietary (food) risk estimates are combined with the corresponding surface and ground water (drinking water) estimated concentrations. For butylate, both the acute and chronic aggregate (food + drinking water) risks are less than 100% of the respective acute and chronic PADs, and therefore, are not of concern to the Agency, nor do they warrant risk mitigation measures.

IX. Residential, Occupational, and Ecological Risk

Residential risks were not assessed for butylate. Butylate is not registered for home use nor is it used in and around schools, or parks. Thus, there is no residential exposure to assess nor aggregate with the dietary exposure. Additionally, worker and ecological risks were not assessed for butylate, because butylate is under review for tolerance reassessment only. Occupational and ecological risk management decisions were made as part of the 1993 Butylate RED and have been implemented.

X. Tolerance Reassessment Summary

Tolerances are established for residues of butylate (S-ethyl diisobutylthiocarbamate) in/on raw agricultural commodities as defined in 40 CFR 180.232. Because there is no reasonable expectation of finite residues in meat, milk, poultry, and eggs; tolerances for residues of butylate in meat, milk, poultry, and eggs are not required. Further, no change in the 0.1 ppb commodity tolerance expression is required; however, the Agency intends to revise the commodity definitions. These tolerance commodity name revisions are given in the table below, and will be the subject of rulemaking. Based on a review of the residue data submitted, the established tolerances of butylate remain in effect at 0.1 ppm for all registered commodities, until such time as a determination of whether a full reassessment of the cumulative risk from thiocarbamate pesticides, such as butylate, may be needed and is considered. Tolerance commodity name revisions are given in the table below in accordance with current Agency administrative practice.

BUTYLATE TOLERANCES

Commodity	Current Tolerance (ppm)	Reassessed Tolerance (ppm)	Corrected Commodity Definition
Corn, field, grain	0.1	0.1	
Corn, pop, grain	0.1	0.1	
Corn, sweet (kernels, plus cob with husk removed)	0.1	0.1	Corn, sweet, kernel plus cob with husks removed
Corn, field, fodder	0.1	0.1	Corn, field, stover
Corn, field, forage	0.1	0.1	
Corn, pop, forage	0.1	0.1	Corn, pop, stover
Corn, sweet, forage	0.1	0.1	

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 29, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–22754 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7051–7]

National Smelting and Refining Superfund Site/Atlanta, GA; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), NL Industries, Inc. and Norfolk Southern Railway Company (Respondents) entered into an Administrative Order on Consent (AOC) with the Environmental Protection Agency (EPA), whereby the Respondents agreed to perform response activities at the National Smelting and Refining Superfund Site (Site) located in Atlanta, Georgia. Section VII of the AOC provides for the reimbursement of EPA's past and future response costs by the Respondents. Under the terms of the AOC, section VII is subject to section 122(i) of CERCLA, which requires EPA to publish notice of the proposed settlement in the Federal Register for a thirty (30) day public comment period. EPA will consider public comments on section VII of the AOC for thirty days. EPA may withhold consent to all or part of section VII of the AOC if comments received disclose facts or considerations which indicate that section VII of the AOC is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: August 20, 2001.

Anita Davis, Acting Chief,

CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–22743 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7051–6]

Valley Chemical Superfund Site/ Greenville, MS; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Valley Chemical Superfund Site (Site) located in Greenville, Mississippi, with Valley Chemical Company. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: August 20, 2001.

Anita Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–22744 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51976; FRL–6800–7]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from July 23, 2001 to August 10, 2001, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51976 and the specific PMN number, must be received on or before October 11, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51976 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations"," Regulations and Proposed Rules, and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51976. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/ Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B– 607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51976 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from

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8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51976 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from July 23, 2001 to August 10, 2001, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The "S" and "G" that precede the chemical names denote whether the chemical identity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 49 PREMANUFACTURE NOTICES RECEIVED FROM: 07/23/01 TO 08/10/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0747	07/23/01	10/21/01	3M Company	(G) Coating	(G) Silicone polymer
P–01–0749	07/23/01	10/21/01	CBI	(G) Destructive use	(G) Supported methyl aluminoxane
P–01–0750	07/23/01	10/21/01	CBI	(G) Destructive use	(G) Supported methyl aluminoxane
P–01–0751	07/27/01	10/25/01	CBI	(G) Destructive use	(G) Supported metallocene catalyst
P–01–0752	07/23/01	10/21/01	CBI	(G) Destructive use	(G) Supported metallocene catalyst
P–01–0753	07/23/01	10/21/01	CBI	(G) Destructive use	(G) Methyl aluminoxanes
P–01–0754	07/23/01	10/21/01	CBI	(S) Polyurethane elastomers; polyurethane adhesives; polyurethane foams	(G) Polyol
P–01–0755	07/23/01	10/21/01	CBI	(G) Polymer for coatings	(G) Amine salted polyurethane
P–01–0756	07/23/01	10/21/01	CBI	(G) Polymer for coatings	(G) Amine salted polyurethane
P–01–0757	07/24/01	10/22/01	CBI	(G) Fuel additive	(G) Alkyl carboxylic acid amine salt
P–01–0758	07/24/01	10/22/01	CBI	(S) Additive for rubber compositions	(G) Organo silane ester
P–01–0759	07/23/01	10/21/01	Charkit Chemical Corporation	(G) Raw material for coating and sealants	(S) Dodecanedioic acid, dihydrazide
P–01–0760	07/25/01	10/23/01	CBI	(G) Adhesion promoter	(G) Tetraisopropyl titanate, polymer with ketone resin and amyl acid phosphate
P–01–0761	07/25/01	10/23/01	CBI	(S) Polyurethane elastomers; polyurethane adhesives; polyurethane foams;	(G) Polyol

I. 49 PREMANUFACTURE NOTICES RECEIVED FROM: 07/23/01 TO 08/10/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0762	07/24/01	10/22/01	Haarmann and Reimer	(G) Open, non-dispersive use with limited employee exposure	(S) 1,9-cyclohexadecadiene
P–01–0763	07/25/01	10/23/01	CBI	(G) Anti-dye transfer agent in detergent formulation	(G) Functionalized amine polymer
P–01–0764	07/25/01	10/23/01	Itochu Specialty Chemicals, Inc.	(G) Physical characteristics modifier for industrial use in certain solid composite articles	(S) Magnesium potassium titanium oxide
P–01–0765	07/26/01	10/24/01	CBI	(S) Additive for water-borne adhesives	(G) Polyester of alkane polycarboxylic acid, alkene polycarboxylic acid, aromatic polycarboxylic acid and cycloalkane diols, neutralized with aminoalkanol
P–01–0766	07/26/01	10/24/01	CBI	(G) Open, non-dispersive use	(G) Substituted carbopolycycle heteropolycycle substituted sulfo heteropolycycle, amine salt
P–01–0767	07/26/01	10/24/01	CBI	(G) Paper coatings	(G) Acryric resin
P–01–0768	07/27/01	10/25/01	Shin-etsu Silicones of America, Inc	(S) Ingredient for rubber compounds	(G) Polyfluoroalkylether
P–01–0769	07/26/01	10/24/01	CIBA Specialty Chemicals Corporation	(S) Antioxidant for lubricating oils	(G) Alkylated phenothiazine/diphenylamine mixture
P–01–0770	07/26/01	10/24/01	CIBA Specialty Chemicals Corporation	(S) Antioxidant for lubricating oils	(G) Alkylated phenothiazine/diphenylamine mixture
P–01–0771	07/26/01	10/24/01	CIBA Specialty Chemicals Corporation	(S) Antioxidant for lubricating oils	(G) Alkylated phenothiazine/diphenylamine mixture
P–01–0772	07/26/01	10/24/01	CIBA Specialty Chemicals Corporation	(S) Antioxidant for lubricating oils	(G) Alkylated phenothiazine/diphenylamine mixture
P–01–0773	07/30/01	10/28/01	Solutia Inc.	(S) Resin for industrial coatings	(G) Hydroxyalkyl substituted phenols
P–01–0774	07/30/01	10/28/01	CBI	(G) Open, non-dispersive	(G) Unsaturated epoxy acrylate resin
P–01–0775	07/27/01	10/25/01	CBI	(G) Chemical intermediate	(G) Organic zirconium compound
P–01–0776	07/27/01	10/25/01	CBI	(G) Open, non-dispersive(paper coating component)	(G) Aralkyl arly carbamate
P–01–0777	07/26/01	10/24/01	CBI	(G) Additive to electrolyte solutions for short life high capacity batteries	(G) Ammonium fluoroborate
P–01–0778	07/30/01	10/28/01	CBI	(G) Toner binder for copiers or printers	(G) Polyester resin
P–01–0779	07/30/01	10/28/01	CBI	(G) Toner binder for copiers or printers	(G) Polyester resin
P–01–0780	07/31/01	10/29/01	AOC, LLC	(S) A) polyester component for sheet molding compound for fiberglass plastic parts b)polyester component for bulk molding compound for fiberglass plastic parts	(S) 2,5-furandione (9ci) polymer with alpha-hydro-omega-hydroxypoly(oxy(methyl-1,2-ethanediyl)) and 1,2-propanediol
P–01–0781	07/31/01	10/29/01	Degussa Corporation	(G) The pmn substance is used to modify the surface properties of hydroxylated surfaces	(S) Silane, (3-(2,3-epoxypropoxy)propyl)triethoxy-
P–01–0782	07/31/01	10/29/01	Guertin Bros. USA Inc.	(S) 1. binder for industrial coatings cured through a michael addition reaction 2. binder for industrial coatings cured through reaction with aminoplasts	(S) Butanoic acid, 3-oxo-, 2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl ester, polymer with ethenylbenzene, 2-ethylhexyl 2-methyl-2-propenoate, 2-hydroxyethyl 2-methyl-2-propenoate and rel-(1r,2r,4r)-1,7,7-trimethyl bicyclo[2.2.1]hept-2-yl 2-methyl-2-propenoate, bis(1,1-dimethylpropyl) peroxide-initiated
P–01–0783	08/01/01	10/30/01	Solutia Inc.	(S) Scale inhibition, downhole use in oil fields, oil production	(G) Aminophosphonate
P–01–0784	08/01/01	10/30/01	CBI	(G) Open, non-dispersive(additive)	(G) Aqueous polyurethane dispersion
P–01–0785	08/01/01	10/30/01	CBI	(S) Dispersant for reactive dyestuffs	(G) Alkyldioic acid polymer with carboxy-alkyl-carbocycle-alkanoic acid, alkenedioic anhydride, and 3-oxapentane-1,5-diol
P–01–0786	08/02/01	10/31/01	CBI	(G) Cleaner additive	(G) Acrylic polymer
P–01–0787	08/02/01	10/31/01	CBI	(G) Chemical intermediate	(G) Modified tall-oil pitch intermediate
P–01–0788	08/02/01	10/31/01	CBI	(G) Chemical intermediate	(G) Modified tall-oil pitch intermediate
P–01–0789	08/02/01	10/31/01	CBI	(G) Dust suppressant or emulsifier	(G) Modified tall-oil pitch
P–01–0790	08/02/01	10/31/01	CBI	(G) Resin solution additive	(G) Aluminum alkoxide complex
P–01–0791	08/02/01	10/31/01	CBI	(G) Resin solution additive	(G) Aluminum alkoxide complex
P–01–0792	08/06/01	11/04/01	CBI	(G) Destructive use - plastics additive	(G) Surface modified magnesium hydroxide

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I. 49 PREMANUFACTURE NOTICES RECEIVED FROM: 07/23/01 TO 08/10/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–01–0793	08/06/01	11/04/01	CBI	(G) Destructive use - plastics additive	(G) Surface modified magnesium hydroxide
P–01–0794	08/07/01	11/05/01	CBI	(G) Monomer	(G) Acrylate ester
P–01–0795	08/07/01	11/05/01	Solutia Inc.	(S) Resin of industrial coatings	(G) Acrylate modified polyether
P–01–0796	08/07/01	11/05/01	CBI	(G) Chemical process intermediate (a destructive use)	(G) Substituted pyridinedicarboxylate
P–01–0797	08/07/01	11/05/01	CBI	(G) Chemical process intermediate (a destructive use)	(G) Substituted pyridinedicarboxylate
P–01–0798	08/07/01	11/05/01	CBI	(G) Chemical process intermediate (a destructive use)	(G) Substituted pyridinedicarboxylate
P–01–0799	08/07/01	11/05/01	CBI	(G) Chemical process intermediate (a destructive use)	(G) Substituted pyridinedicarboxylate
P–01–0800	07/31/01	10/29/01	Guertin Bros. USA Inc.	(S) 1. binder for industrial coatings cured through a michael addition reaction 2. binder for industrial coatings cured through reaction with aminoplasts	(S) 1,3-benzenedicarboxylic acid, polymer with 2,2-bis(hydroxymethyl)-1,3-propanediol, 2-butyl-2-ethyl-1,3-propanediol, 1,3-isobenzofurandione and oxirenylmethyl neodecanoate, 3-oxobutanoate
P–01–0801	08/08/01	11/06/01	CBI	(S) Base fluid for hydraulic fluids; base fluid for engine lubricants	(G) Mixed polyol - glycerol fatty acid ester
P–01–0802	08/08/01	11/06/01	CIBA Specialty Chemicals Corporation	(S) Photoselective additive for mulch and greenhouse films	(G) Pyrimidinetrione derivative
P–01–0803	08/09/01	11/07/01	The Goodyear Tire and Rubber Company	(S) Polymerization catalyst	(G) Neodymium ziegler-natta catalyst
P–01–0804	08/09/01	11/07/01	CBI	(S) Pigment for polymers (polyethylene)	(G) Substituted carbocyle
P–01–0805	08/10/01	11/08/01	The Dow Chemical Company	(G) Manufacture of polyalkoxylate, alkylamine initiated	(G) Alkylamine, alkoxylated
P–01–0806	08/10/01	11/08/01	The Cow Chemical Company	(G) Polyurethane foam	(G) Alkylamine initiated, alkylene oxide polymer
P–01–0807	08/10/01	11/08/01	CBI	(G) Open, non-dispersive	(G) Aceto acetate functional polymer
P–01–0808	08/10/01	11/08/01	Solutia Inc.	(S) Resin for industrial coatings	(G) Substituted alkanoic acid ester

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 20 NOTICES OF COMMENCEMENT FROM: 07/23/01 TO 08/10/01

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0009	08/03/01	06/22/01	(G) Copolymer of acrylic esters, acrylic acid and dibromostyrene
P–00–0629	08/02/01	07/27/01	(S) Benzoic acid, isooctadecyl ester*
P–00–0833	08/10/01	08/06/01	(G) Polyether modified polysiloxane, acrylated
P–00–1176	07/31/01	07/10/01	(G) Polyester polyol
P–00–1177	07/31/01	07/11/01	(G) Functionalized polyether
P–01–0241	07/24/01	05/18/01	(G) Polyether polyol
P–01–0300	07/25/01	07/03/01	(G) Maleinized polybutadiene
P–01–0374	07/24/01	06/27/01	(G) Polyurethane prepolymer;polyurethane adhesive
P–01–0378	07/25/01	06/26/01	(G) Substituted salicic acid ester, polymer with alkanediol, substituted polyalkanediyl, tetrasubstituted diisocyanotocyclohexane, and trisubstituted isocyanato alkysilane
P–01–0379	08/02/01	07/05/01	(G) Modified polyurethane resin
P–01–0389	08/08/01	07/18/01	(G) Modified phenolic resin
P–01–0463	08/09/01	07/24/01	(G) Polyester acrylate
P–01–0468	07/30/01	07/23/01	(G) Aliphatic dicarboxylic acid, polymer with aliphatic diamine and cycloaliphatic amide
P–01–0488	08/03/01	07/13/01	(G) Alkyl substituted heterocycle
P–01–0550	08/02/01	07/26/01	(G) Polycarbonate-polyurethane resin
P–98–0552	07/31/01	07/12/01	(G) Substance (2) polyether succinate, compd. with triethanolamine
P–98–1107	08/02/01	07/11/01	(S) 1-propanamine, n,n - dimethyl
P–99–0716	08/07/01	08/01/01	(G) Acrylic emulsion polymer
P–99–0907	07/31/01	06/28/01	(G) Alkyl aryl phenol polymer
P–99–1233	07/23/01	06/28/01	(S) 1,3-dioxol-2-one

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: August 27, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–22762 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–S

EXPORT–IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting; Notice of Open Special Meeting of the Board of Directors of the Export-Import Bank of the United States

TIME AND PLACE: Wednesday, September 12, 2001 at 8:00 AM. The meeting will be held at Ex-Im Bank in Room 1141, 811 Vermont Avenue, NW., Washington, DC 20571

AGENDA: Revised Economic Impact Procedures

PUBLIC PARTICIPATION: The meeting will be open to public participation.

FURTHER INFORMATION: For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571, (Telephone No. 202–565–3957 or 3336).

Peter B. Saba,

General Counsel.

[FR Doc. 01–22845 Filed 9–07–01; 11:09 am]

BILLING CODE 6690–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 13, 2001, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

1. Approval of Minutes

—August 7, 2001 (Closed)
—August 9, 2001 (Open and Closed)

2. Reports

—FCS Building Association's Quarterly Report
—Corporate Approvals Report

3. New Business

A. Regulation

—Electronic Commerce—12 CFR Parts 609 and 620 (Proposed Rule)

B. Other

—Unified Agenda

Dated: September 6, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–22823 Filed 9–6–01; 8:45 am]

BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

September 6, 2001.

Open Commission Meeting, Thursday, September 13, 2001

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, September 13, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No., Bureau and Subject

1. Common Carrier—*Title:* 2000 Biennial Regulatory Review; Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules (CC Docket No. 00–175). *Summary:* The Commission will consider a Notice Proposal Rule Making to reexamine the Commission's rule that establishes safeguards for the provision of in-region, interexchange services by incumbent independent local exchange carriers.
2. Mass Media—*Title:* Cross-Ownership of Broadcast Stations and Newspapers; and Newspaper/Radio Cross-Ownership Waiver Policy (MM Docket No. 96–197). *Summary:* The Commission will consider a Notice of Proposed Rule Making to modify its rule and/or waiver policies relating to common ownership of broadcast stations and newspaper in the same geographic area.
3. Cable Services—*Title:* Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992 (CS Docket No. 98–82); Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996 (CS Docket No. 96–85); and The Commission's Cable Horizontal and Vertical Ownership Limits and Attribution Rules (MM Docket No. 92–246). *Summary:* The Commission will consider a Further Notice of Proposed Rule Making concerning its cable horizontal and vertical ownership limits and certain aspects of its attribution rules as affected by the recent DC, Circuit decision in *Time Warner Entertainment Co.* v. *FCC.*
4. Office of Engineering and Technology—*Title:* Authorization and Use of Software Defined Radios (ET Docket No. 00–47). Summary: The Commission will consider a First Report and Order to streamline the equipment authorization procedures for software defined radios.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International at (202) 863–2893; fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type, digital disk, and audio tape. Qualex International may be reached by e-mail at qualexint@aol.com

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at http://www.fcc.gov/realaudio/. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170.

telephone (703) 834–0100; fax number

Dated: September 4, 2001.

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telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–22939 Filed 9–7–01; 3:53 pm]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Partially Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of partially open meeting.

SUMMARY: In accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Dates of Meeting: October 4–6, 2001.

Place: Building J, Room 102, National Emergency Training Center, Emmitsburg, Maryland.

Time: October 4, 2001, 8:30 a.m.–10:30 a.m. (Closed Meeting); October 4, 2001, 10:30 a.m.–5 p.m. (Open Meeting); October 5, 2001, 8:30 a.m.–9 p.m. (Open Meeting); October 6, 2001, 8:30 a.m.–12 noon (Open Meeting).

Proposed Agenda: October 4, (Closed Meeting from 8:30 a.m. to 10:30 a.m., to review budget and personnel information.) October 4–6, Review National Fire Academy Program Activities.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public (except as noted above) with seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before October 1, 2001.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Chief Operating Officer, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request within 60 days after the meeting.

Dated: September 4, 2001.

Kenneth O. Burris, Jr.,

Acting U.S. Fire Administrator.

[FR Doc. 01–22711 Filed 9–10–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974: Proposed New Routine Use of Existing System of Records

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of a proposed new routine use to an existing system of records.

SUMMARY: Under the Privacy Act of 1974, 5 U.S.C. 552a, we, the Federal Insurance and Mitigation Administration (FIMA) of FEMA, give notice of a proposed new routine use to be added to an existing system of records entitled FEMA/FIA–2, National Flood Insurance Application and Related Documents Files.

EFFECTIVE DATE: The proposed routine use is effective, without further notice, September 26, 2001, unless comments necessitate otherwise.

ADDRESSES: We invite your comments on this new routine use. Please send them to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, room 840, 500 C Street, SW., Washington, DC 20472; (telefax) (202) 646–4536, or (email) *rules@fema.gov*.

FOR FURTHER INFORMATION CONTACT: Eileen Leshan, FOIA/Privacy Act Specialist, Federal Emergency Management Agency, room 840, 500 C Street, SW., Washington, DC 20472, (telephone) (202) 646–4115, (telefax) (202) 646–4536, or (email) *Eileen.Leshan@fema.gov*.

SUPPLEMENTARY INFORMATION: We last published our notice of systems of records on January 5, 1987, 52 FR 324; February 3, 1987, 52 FR 3344; March 5, 1987, 52 FR 6875; September 7, 1990, 55 FR 37182; and June 7, 1991, 56 FR 26415. We previously published the system identified as FEMA/FIA–2, National Flood Insurance Application and Related Documents Files, on November 26, 1982, 47 FR 53492, which was amended on October 25, 1983, 48 FR 49376; February 17, 1984, 49 FR 6168; May 13, 1985, 50 FR 20007; January 5, 1987, 52 FR 324; July 28, 1988, 53 FR 28437; and August 9, 1988, 53 FR 29947.

We have established the Repetitive Loss Target Group (RLTG) as part of an initiative to reduce claims under the National Flood Insurance Program (NFIP) with respect to properties that have experienced multiple losses. Generally, we have defined repetitive loss properties as those that have had at least two losses of $1,000 or more within any 10-year period. The RLTG is a subset of these properties that include currently insured properties that have either:

1. Two or more losses that, in the aggregate, equal or exceed the current value of the insured property; or

2.Four or more losses.

The RLTG includes approximately 11,000 properties. Inclusion of a property in the RLTG results in the transfer of the flood insurance policy to a central facility designed to oversee claims and to coordinate and facilitate insurance mitigative actions. Owners of properties identified as RLTG properties may appeal this determination. To do so, however, may require access to the properties' loss histories under previous owners. We propose, accordingly, a new routine use to permit release of certain loss history information to a current property owner considering appealing the designation of his/her property as a RLTG property, subject to inclusion in the Repetitive Loss initiative.

Dated: September 5, 2001.

Michael D. Brown,

General Counsel.

FEMA/FIA–2

SYSTEM NAME:

National Flood Insurance Application and Related Documents Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Various offices of a servicing agent under contract to the Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, Washington, DC 20472. Copies of some of the files are also provided to the FEMA Regional offices when their respective offices request additional information.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for individual flood insurance and individuals insured.

CATEGORIES OF RECORDS IN THE SYSTEM:

Flood insurance, policy issuances and administration records and claims adjustment records, including:

Form	Title of form
FEMA Form 81–64	Applications for Participation in the National Flood Insurance Program
FEMA Form 81–16	Flood Insurance Application
FEMA Form 81–18	Flood Insurance General Change Endorsements
FEMA Form 81–23	Request for Policy Processing and Renewal Information
FEMA Form 81–17	Flood Insurance Cancellation/Nullification Request Form
FEMA Form 81–67	Flood Insurance Preferred Risk Policy Application
FEMA Form 81–31	National Flood Insurance Program Elevation Certificate
FEMA Form 81–65	National Flood Insurance Program Floodproofing Certificate
FEMA Form 81–25	V Zone Risk Factor Rating Form
FEMA Form 81–40	National Flood Insurance Program Worksheet—Contents
FEMA Form 81–41	National Flood Insurance Program Worksheet—Building
FEMA Form 41a	National Flood Insurance Program Worksheet—Building (Continuation)
FEMA Form 81–42	National Flood Insurance Proof of Loss
FEMA Form 81–43	National Flood Insurance Program Notice of Loss
FEMA 81–44	Statement as to full cost of repair or replacement under the replacement cost coverage, subject to the terms and conditions of the Standard Flood Insurance Policy
FEMA Form 81–45	Adjuster's Short Form Report
FEMA Form 81–57	National Flood Insurance Program Preliminary Report
FEMA Form 81–58	National Flood Insurance Program Final Report
FEMA Form 81–59	National Flood Insurance Program Narrative Report
FEMA Form 81–63	National Flood Insurance Program Cause of Loss/Subrogation Report

This system may also contain information regarding the name of the bank/lender, date of mortgage, address of bank/lender and if available, information on every loan placed on the property during the current owner's tenure. This system contains the taxpayer's identification number (which may be the social security number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, 42 U.S.C. 4001—4129; 5 U.S.C. 301; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; and E.O. 12127, 3 CFR, 1979 Comp, p. 376.

PURPOSE(S):

To carry out the National Flood Insurance Program and verify nonduplication of benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Category of users	Purposes
To property loss reporting bureaus, State insurance departments, and insurance companies.	investigating fraud or potential fraud in connection with claims, subject to the approval of the Office of Inspector General, FEMA.
To insurance agents, brokers, adjusters, and lending institutions	for carrying out the purposes of the National Flood Insurance Program.
To the Small Business Administration, the American Red Cross, the Farm Service Agency of USDA, State and local government individual and family grant and assistance agencies.	for determining eligibility for benefits and for verification of nonduplication of benefits following a flooding event or disaster.
To Write-Your-Own companies as authorized in 44 CFR 62.23	to avoid duplication of benefits following a flooding event or disaster and for carrying out the purposes of the National Flood Insurance Program.
To State and local government individual and family grant agencies	to permit such agencies to assess the degree of financial burdens toward residents such as States and local governments might reasonably expect to assume in the event of a flooding disaster and to further the flood insurance marketing activities of the National Flood Insurance Program.
To State and local government agencies that provide the names and addresses of policyholders and a brief general description of their plan for acquiring and relocating their flood prone properties.	for review by the Federal Insurance and Mitigation Administrator to ensure that their State or local government agency is engaged in flood plain management, improved real property acquisitions, and relocation projects that are consistent with the National Flood Insurance Program and, upon the approval by the Federal Insurance and Mitigation Administrator, that the use furthers flood plain management and hazard mitigation goals of the Agency.
To State and local government agencies and municipalities	to review National Flood Insurance Program policy claim files to assist them in hazard mitigation and flood plain management activities and in monitoring compliance with the flood plain management measures duly adopted by the community.
To State governments, federal agencies, and federal financial instrumentalities responsible for the supervision, approval, regulation or insuring of banks, savings and loan associations or similar institutions.	for carrying out the purposes of the National Flood Insurance Program.
To private companies engaged in or planning to engage in activities to market or assist lenders and mortgage servicing companies.	the property address, flood zone identifier, date of policy issue, and value of policy, solely for the purpose of geocoding the flood insurance policy addresses, may be released to aid efforts of lenders and mortgage servicing companies to comply with the requirements of the Flood Disaster Protection Act of 1973 and to market the sale of flood insurance policies under the National Flood Insurance Program.

Category of users	Purposes
To lending institutions, mortgage servicing companies and others servicing mortgage loan portfolios.	the policy numbers of NFIP policy-holders may be released to secure flood insurance protection for those properties that are a part of a lending institution's mortgage portfolio and to assure lender compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973.
To current owners of properties designated under the National Flood Insurance Program as Repetitive Loss Target Group properties.	the dates and dollar amounts of loss payments made to prior owners may be released so that owners may evaluate whether that designation is appropriate and may, if they believe the designation is not appropriate, use the information to appeal that designation.

Routine uses may include Nos. 1, 5, 6, and 8 of Appendix A.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures under 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Magnetic Tape/disc/drum and paper files.

RETRIEVABILITY:

By name of the policyholders and policy number.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures; paper records are maintained in locked containers, locked rooms, or both. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Policy records are kept as long as insurance is desired and premiums paid, and for an appropriate time thereafter and claim records are kept for 6 years and 3 months after final action, unless litigation exists. Disposition of records will accord with FEMA Records Schedule N1–311–86–1, 2a12 and 2a13.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Insurance Administrator, Federal Emergency Management Agency, Washington, DC 20472.

NOTIFICATION PROCEDURES:

If you wish to inquire whether this system of records contains information about you, please contact the Federal Insurance Administrator, as immediately above. Please clearly mark written requests "Privacy Act Request" on the envelope and letter, and include your full name, some type of appropriate personal identification, and your current address. For personal visits, you must provide some acceptable identification, such as, driver's license, employing organization's identification card, or other identification card.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above. The letter should state clearly and concisely what information you are contesting, the reasons for contesting it, and the proposed amendment to the information that you seek.

FEMA Privacy Act Regulations are published in 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A

Introduction to Routine Uses: We have identified certain routine uses as being applicable to many of the FEMA systems of record notices. We list the specific routine uses applicable to an individual system of record notice under the "Routine Use" section of the notice itself, which correspond to the numbering of the routine uses published below. We are publishing these uses only once in the interest of simplicity, economy and to avoid redundancy, rather than repeating them in every individual system notice.

1. *Routine Use—Law Enforcement:* A record from any FEMA system of records, which indicates either by itself or in combination with other information within FEMA's possession, a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, and which we may disclose as a routine use to the appropriate agency whether Federal, State, territorial, local or foreign, or foreign agency or professional organization, charged with the responsibility of enforcing, implementing, investigating, or prosecuting such violation or charged with implementing the statute, rule, regulation or order issued pursuant thereto.

2. *Routine Use—Disclosure When Requesting Information:* We may disclose as a routine use a record from a FEMA system of records to a Federal, State, or local agency maintaining civil, criminal, regulatory, licensing or other enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. *Routine Use—Disclosure of Requested Information:* We may disclose as a routine use a record from a FEMA system of records to a Federal agency, in response to a written request in connection with the hiring or retention of an employee, the issuance of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. *Routine Use—Grievance, Complaint, Appeal:* We may disclose as a routine use a record from a FEMA system of records to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, mediator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. We may disclose a record from this system of records to the Office of Personnel Management in accordance with that agency's responsibility for evaluation of Federal personnel management.

To the extent that official personnel records in the custody of FEMA are covered within systems of records published by the Office of Personnel Management as government-wide records, we will consider those records as a part of that government wide system. We may transfer as a routine use other official personnel records covered by notices published by FEMA and considered to be separate systems of records to the Office of Personnel Management in accordance with official personnel programs and activities.

5. *Routine Use—Congressional Inquiries:* We may disclose as a routine use a record from a FEMA system of records to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

6. *Routine Use—Private Relief Legislation:* We may disclose as a routine use the information contained in a FEMA system of records to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

7. *Routine Use—Disclosure to the Office of Personnel Management:* We may disclose as a routine use a record from a FEMA system of records to the Office of Personnel Management concerning information on pay and leave benefits, retirement deductions, and any other information concerning personnel actions.

8. *Routine Use—Disclosure to National Archives and Records Administration:* We may disclose as a routine use a record from a FEMA system of records to the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 12906.

9. *Routine Use—Grand Jury:* We may disclose as a routine use a record from any system of records to a grand jury agent pursuant to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

[FR Doc. 01–22710 Filed 9–10–01; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–268]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* MS Interactive Survey Tool for www.medicare.gov; *Form Nos.:* HCFA–R–268 (OMB No. 0938–0756); *Use:* HHS has developed a survey tool using MSInteractive to obtain feedback from users accessing www.medicare.gov to guide future improvements; *Frequency:* Users will have the opportunity to complete the bounceback form twice a year; *Affected Public:* Individuals or Households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 7,000; *Total Annual Responses:* 7,000; *Total Annual Hours:* 2,916.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, Attn., Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 22, 2001.

John P. Burke III,

Reports Clearance Officer Security and Standards Group Division of CMS Enterprise Standards.

[FR Doc. 01–22712 Filed 9–10–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Indian Health Service, HHS.

ACTION: Information collection activity: proposed collection: IHS Scholarship Program Application; request for public comment: 30-day notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection project was previously published in the **Federal Register** on December 7, 2000 (65 FR 76648), and allowed 60 days for public comment. No public comment was received in response to the notice. The purpose of this notice is to allow 30 days for public comment to be submitted to OMB.

Proposed Collection

Title: 0917–0006, "IHS Scholarship Program Application." This collection known formerly as, "Application for Participation in the IHS Scholarship Program." *Type of Information Collection Request:* 3-year reinstatement, with change, of previously approved information collection, 0917–0006. *Form Number(s):* IHS–856, 856–2, through 856–8, D–02, F–02, F–04, G–02, G–04, H–07, H–08, J–04, J–05, K–03, K–04, and L–03. Reporting formats are contained in the student handbook and the applicant booklet. *Need and Use of Information Collection:* The IHS Scholarship Program needs this information for program administration and uses the information to solicit, process and award IHS Pre-graduate, Preparatory and/or Health Professions Scholarship grantees and monitor the academic performance of awardees, to place awardees at payback sites, and for awardees to request additional program. The IHS Scholarship Program's plans to streamline the application to reduce the time needed by applicants to complete and provide the information and to use information technology to make the application electronically available on the Internet have been delayed until the 2003–2004 academic year. *Affected Public:* Individuals, not-for-profit institutions and State, local or Tribal Government. *Type of Respondents:* Students pursuing health care professions.

TABLE OF TOTAL ANNUAL BURDEN HOUR(S)

Data Collection Instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response *	Annual burden hours
Scholarship Application (IHS–856)	1500	1	1500	1.00 (60 min)	1,500
Checklist (856–2)	1500	1	1500	0.13 (8 min)	195
Course Verification (856–3)	1500	1	1500	0.70 (42 min)	1050
Faculty/Employer Application (856–4)	3000	1	3000	0.83 (50 min)	2490
Justication (8567–5)	1500	1	1500	0.75 (45 min)	1125
Federal Debt (856–6)	1500	1	1500	0.13 (8 min)	195
MPH only (856–7)	25	1	25	0.83 (50 min)	21
Accept/Decline (856–8)	650	1	650	0.13 (8 min)	84
Stipend Checks (D–02)	100	1	100	0.13 (8 min)	13
Enrollment (F–02)	1,300	1	1,300	0.13 (8 min)	169
Academic Problem/Change (F–04)	50	1	50	0.13 (8 min)	6
Request Assistance (G–02)	217	1	217	0.13 (8 min)	28
Summer School (G–04)	193	1	193	0.10 (6 min)	19
Placement (H–07)	250	1	250	0.18 (11 min)	45
Graduation (H–08)	250	1	250	0.17 (10 min)	43
Site Preference (J–04)	150	1	150	0.13 (8 min)	20
Travel Reimb (J–05)	150	1	150	0.10 (6 min)	15
Status Report (K–03)	250	1	250	0.25 (15 min)	63
Preferred Assignment (K–04)	200	1	200	0.75 (45 min)	150
Deferment (L–03)	20	1	20	0.13 (8 min)	3
Total	14,305				7,234

* For ease of understanding, burden hours are also provided in actual minutes.

The annual burden hour increase from 5,390 to 7,234 hours is due to the ever increasing number of applications being received for the scholarship program. There are no capital costs, operating costs and/or maintenance costs to report for this collection of information.

Comments

Requests for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

To request more information on the proposed collection or to obtain a copy of the data collection instrument(s) and/or instruction(s), contact: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Office, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601, or call non-toll free (301) 433–5938 or send via facsimile to (301) 443–2316, or send your E-mail requests, comments, and return address to: lhodahkw@hqe.ihs.gov.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before October 11, 2001.

Dated: August 31, 2001.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 01–22667 Filed 9–10–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute: Development of Inhibitors of the Hypoxia Inducible Factor (HIF–1) Transcriptional Activation Pathway

An opportunity is available for a Cooperative Research and Development Agreement (CRADA) for the purpose of collaborating with the National Cancer Institute (NCI), Division of Cancer Treatment and Diagnosis (DCTD), Developmental Therapeutics Program (DTP), Screening Technologies Branch (STB), on further research and development of small molecule inhibitors of the Hypoxia Inducible Factor 1 (HIF–1) transcriptional activation pathway.

AGENCY: National Cancer Institute, National Institutes of Health, PHS, DHHS.

ACTION: Notice of opportunities for cooperative research and development.

SUMMARY: Pursuant to the Federal Technology Transfer Act of 1986 (FTTA, 15 U.S.C. 3710, as amended; and Executive Order 12591 of April 10, 1987), the National Cancer Institute (NCI) of the National Institutes of Health (NIH) of the Public Health Service (PHS) of the Department of Health and Human Services (DHHS) seeks a Cooperative Research and Development Agreement (CRADA) with a pharmaceutical or biotechnology company to develop novel small molecule inhibitors of the Hypoxia Inducible Factor 1 (HIF–1) transcriptional activation pathway. Any CRADA for the biomedical use of this technology will be considered. The CRADA would have an expected duration of one (1) to five (5) years. The goals of the CRADA include the rapid publication of research results and timely commercialization of products, diagnostics and treatments that result from the research. The CRADA Collaborator will have an option to elect a non-exclusive or exclusive commercialization license to subject inventions arising under the CRADA and which are subject of the CRADA Research Plan.

ADDRESSES: Proposals and questions about this CRADA opportunity may be addressed to Dr. Bjarne Gabrielsen, Technology Transfer Branch, National Cancer Institute-Frederick, Fairview Center, Room 502, Frederick, MD 21701 (phone: 301–846–5465, fax: 301–846–6820).

Scientific inquiries should be directed to: Giovanni Melillo, M.D., DTP-Tumor Hypoxia Laboratory, Bldg 432, Rm 218, National Cancer Institute, Frederick, MD 21702 (phone 301–846–5050; FAX 301–846–6081; e-mail: *melillo@dtpax2.ncifcrf.gov*) or Robert H. Shoemaker, Ph.D., Screening Technologies Branch, Bldg 440, National Cancer Institute, Frederick, MD 21702.

EFFECTIVE DATE: Inquiries regarding CRADA proposals and scientific matters may be forwarded at any time. Confidential CRADA proposals, preferably two pages or less, must be submitted to the NCI on or before October 11, 2001. Guidelines for preparing full CRADA proposals will be communicated shortly thereafter to all respondents with whom initial confidential discussions will have established sufficient mutual interest.

SUPPLEMENTARY INFORMATION:

Technology Available

DHHS scientists within the DTP–STB Tumor Hypoxia Laboratory have developed a number of human tumor cell lines engineered to express the luciferase reporter gene in an HIF–1 dependent fashion. These engineered cell lines express high levels of luciferase when cultured under hypoxic conditions and can be used as a tool for discovering small molecules that inhibit HIF–1 transcriptional activity.

Technology Sought

Accordingly, DHHS now seeks collaborative arrangements for the joint elucidation, evaluation and development of small molecules that inhibit the HIF–1 pathway. The successful Collaborator should possess experience in the following areas at a minimum: preclinical research and drug development of HIF–1 inhibitors, performance of *in vitro* assays targeting HIF–1 transcriptional activity, development of *in vitro* and *in vivo* models targeting hypoxia induced angiogenesis. For collaborations with the commercial sector, a Cooperative Research and Development Agreement (CRADA) will be established to provide equitable distribution of intellectual property rights developed under the CRADA. CRADA aims will include rapid publication of research results as well as development of the technology toward commercialization.

The role of the National Cancer Institute-Screening Technologies Branch (STB) in this CRADA will include, but not be limited to:

1. Providing intellectual, scientific, and technical expertise and experience to the research project.

2. Providing the Collaborator with pertinent available reagents for investigation/evaluation.

3. Planning research studies and interpreting research results.

4. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing significant intellectual, scientific, and technical expertise or experience to the research project.

2. Planning research studies and interpreting research results.

3. Providing technical expertise and/or financial support (*e.g.* facilities, personnel and expertise) for CRADA-related research as outlined in the CRADA Research Plan.

4. Accomplishing objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.

5. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology.

6. The demonstration of expertise in the commercial development, production, marketing and sales of products related to this area of technology.

8. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

9. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

10. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern patent rights to CRADA inventions.

Dated: August 24, 2001.

Kathleen Sybert,

Chief, Technology Transfer Branch, National Cancer Institute, National Institutes of Health.

[FR Doc. 01–22793 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

New Isoform of Tyrosinase-Related Protein (TRP–2) that Contains an HLA–A2 Restricted Epitope

Hung T. Khong and Steven A. Rosenberg (NCI)

DHHS Reference No. E–033–01/0 filed 19 Mar 2001

Licensing Contact: Elaine White; 301/496–7056 ext. 282; e-mail: gesee@od.nih.gov

The current invention embodies the identification of a novel mRNA splice variant of the tumor-associated antigen Tyrosinase-Related Protein 2 (TRP–2), which is expressed in most melanoma cell lines tested. The cDNA encoding this novel TRP–2 isoform is identical to a variant of TRP–2 which was previously identified by Rong-fu Wang and Steven A. Rosenberg of the NIH (DHHS Reference No. E–183–96; also available for licensing for certain fields of use) with the exception that the novel isoform contains a 99 base pair insert between exons 6 and 7, which in turn encodes a 33 amino acid sequence. Specific peptides within this 33 amino acid sequence have been identified as melanoma antigens by the inventors. These peptides elicit a cytotoxic T lymphocyte (CTL) response against melanoma cells in the context of HLA–

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A2, which is widely distributed among patients having malignant melanoma. The peptides therefore represent potential vaccines/immunotherapeutic agents for use against malignant melanoma in HLA–A2-positive patients.

Genes Related to the Development of Refractory Cancer

S. Mousses, O. Kallioniemi, L. Bubendorf (NHGRI)
DHHS Reference No. E–205–00/0 filed 13 Oct 2000
Licensing Contact: Catherine M. Joyce; 301/496–7056 ext. 258; e-mail: joycec@od.nih.gov

This application relates to the identification of nucleic acid molecules that show temporal expression changes in prostate cancer during hormone withdrawal therapy and concomitant tumor regression and in the subsequent development of hormone-refractory prostate cancer (HPRC). More particularly, the invention relates to methods of diagnosing or prognosing the development or progression of prostate cancer by detecting abnormalities in from one to several HPRC-related genes.

This work has appeared, in part in Bubendorf et al., 2001, J. of the National Cancer Institute 91(20):1758.

Dated: September 4, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–22791 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: September 18, 2001.

Open: 8:30 am to 12:00 pm.

Agenda: Report of the Director and a presentation on the overview of the International programs of the Centers for Disease Control and Prevention. In addition, a presentation on Scientific Capacity Building to Improve Population Health: Knowledge as a Global Public Good.

Place: Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD 20892.

Closed: 1:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD 20892.

Contact Person: Irene W. Edwards, Information Officer, Fogarty International Center, National Institutes of Health, Building 31, Room B2C08, 31 Center Drive MSC 2220, Bethesda, MD 20892, 301–496–2075.

Information is also available on the Institute's/Center's home page: www.nih.gov/fic/about/advisory.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: August 31, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22788 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Commmittee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 20, 2001.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6700B Rockledge Drive, Bethesda, MD 20892–2616, (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, *nn30t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 31, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22784 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council, September 20, 2001, 1:00 p.m. to September 21, 2001, 10:00 a.m., National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 9A51, Bethesda, MD, 20892 which was published in the **Federal Register** on August 27, 2001, 66FR166.

Digestive Diseases and Nutrition Subcommittee's open session on Sept. 20th will be from 1:30 p.m.–4:00 p.m.; closed session will be from 4:00 p.m. to adjournment. On September 21, open session will be 8:00 a.m. until 9:30 a.m. The meeting is partially closed to the public.

Dated: August 31, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22785 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 21, 2001.

Time: 9:00 am to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: 6700B Rockledge Drive, Bethesda, MD 20892–2616, (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, nn30t@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 31, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22786 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 21, 2001.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6700B Rockledge Drive, Bethesda, MD 20892–2616, (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2156, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, nn301@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 31, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–22787 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Virus-Like Particles for the Induction of Autoantibodies

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in: United States Patent Application 09/835,124 and its foreign equivalents entitled "Virus-Like Particles for the Induction of Autoantibodies" filed on April 13, 2001, with priority back to U.S. S/N 60/105,132, filed October 21, 1998 to Cytos Biotechnology AG, having a place of business in Zurich, Switzerland. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before November 13, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Peter Soukas, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: ps193c@nih.gov; Telephone: (301) 496–7056, ext. 268; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: This invention claims compositions and methods for producing antibodies to tolerogens (self-antigens normally exposed to B cells that fail to induce an antibody response.) The compositions of the invention comprise multiple copies of a tolerogen (or at least one B cell epitope of a tolerogen) chimerized to viral virus-like particle in an orderly manner. This invention could potentially replace any treatment utilizing chronic administration of a monoclonal antibody that reacts with a self-antigen.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to alphavirus virus-like particle (VLP), Hepatitis B Virus (HBV)-capsid protein VLP, and bacteriophage Qβ VLP, and Ty VLP vaccines.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments

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and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 4, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–22790 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Veterinary Vaccine Against Escherichia Coli O157 Infection Composed of Detoxified LPS Conjugated to Proteins

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in: United States Patent Application 09/744,289 and its foreign equivalents entitled "Vaccine Against Escherichia Coli O157 Infection Composed of Detoxified LPS Conjugated to Proteins" filed January 22, 2001, with priority back to PCT/US98/14976, filed July 20, 1998 to Fort Dodge Animal Health, a Division of American Home Products, having a place of business in Overland Park, Kansas. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before November 13, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Peter Soukas, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: ps193c@nih.gov; Telephone: (301) 496–7056, ext. 268; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: This invention comprises the O-specific polysaccharide of Shiga toxin-producing bacteria, particularly *E. coli* O157, conjugated to a carrier protein such as *Pseudomonas aeruginosa* recombinant exoprotein A or hepatitis B surface or core antigen. This vaccine is suitable for use in humans and animals. Cattle are carriers of *E. coli* O157, and are the primary reservoir of *E. coli* O157 by shedding the bacteria into the environment. Fifty percent (50%) of cattle are estimated to be carriers of *E. coli* O157. Use of this vaccine in cattle could eliminate *E. coli* O157 and prevent contamination of meat in slaughterhouses.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to *E. coli* conjugate vaccines for veterinary use.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 4, 2001.

Jack Spiegel, Ph.D.,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–22792 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Adeno-Associated Virus with Inverted Terminal Repeat Sequence as Promoter

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the inventions embodied in any U.S. patents 5,587,308 (12/24/1996); 5,989,540 (11/23/1999); 5,866,696 (02/02/1999), and 6,165,781 (12/26/2000) or foreign applications corresponding to PCT Patent Application PCT/US93/05310, entitled "Modified Adeno-Associated Virus Vector Capable of Expression from a Novel Promoter" published as WO 93/24641 (12/09/1993) to Targeted Genetics Corporation of Seattle, Washington. The prospective exclusive license may be limited to the development of compositions and methods utilizing Adeno-Associated Viral Vectors which are useful in the treatment and prophylaxis of human and animal diseases.

DATES: Only written comments and/or applications for a license which are received by NIH on or before November 13, 2001, will be considered.

ADDRESSES: Requests for a copy of these patent applications, inquiries, comment and other materials relating to the contemplated license should be directed to Susan S. Rucker, J.D., Patent and Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext 245; fax: 301/402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The patents describe and claim compositions and methods utilizing adeno-associated viral (AAV) vectors. In particular, these vectors utilize the AAV Inverted Terminal Repeat (ITR) as the promoter element to control expression of the nucleic acid encoding the heterologous protein to be delivered to the patient. The ability of these vectors to utilize the AAV ITR as the promoter increases the capacity of the AAV vector with respect to the size of the heterologous protein which can be encoded and delivered via the vector. The methods of the patent can be used to deliver and produce therapeutic or prophylactic products which are particularly useful in the field of gene therapy.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. This prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license (i.e., a completed "Application for License to Public Health Service Inventions") in the indicated exclusive field of use filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections will not be made available for public inspection and, to the extent permitted by law, will not be subject to disclosure under the Freedom of Information Act 35 U.S.C. 552.

Dated: September 5, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–22794 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP) Board of Scientific Counselors Technical Reports Review Subcommittee Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee on October 18, 2001 in the Rodbell Auditorium, Rall Building, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 a.m. on October 18, and is open to the public. The primary agenda topic is the peer review of draft Technical Reports of rodent toxicology and carcinogenesis studies conducted by the NTP.

Agenda

Tentatively scheduled for review on October 18, are draft Technical Reports of three 2-year studies and a draft Toxicity Report of toxicity and metabolism studies. The reports are listed alphabetically in the attached table and the tentative order of review is given in the far right column.

The agenda and roster of subcommittee members will be available prior to the meeting on the NTP web homepage at http://ntp-server.niehs.nih.gov and upon request to the Executive Secretary at the address given below. Following the meeting, summary minutes will be available electronically on the NTP web homepage and in hardcopy upon request to the Executive Secretary.

Attendance at this meeting is limited only by the space available. Individuals who plan to attend and need special assistance are asked to notify the Executive Secretary in advance of the meeting.

Draft Reports Available for Public Review and Comment

Approximately one month prior to the meeting, the draft reports will be available for public review, free of charge, through the Environmental Health Information Service (EHIS) at http://ehis.niehs.nih.gov. Printed copies can be obtained, as available, from: Central Data Management (CDM), NIEHS, P.O. Box 12233, MD E1–02, Research Triangle Park, NC 27709, T: 919–541–3419, Fax: 919–541–3687, e-mail: CDM@niehs.nih.gov.

The NTP Board of Scientific Counselors Technical Reports Review Subcommittee meeting is open to the public and public comment on any of the Technical Reports is welcome. Time will be provided at the meeting for public comment on each of the Reports under review. In order to facilitate planning for the meeting, persons requesting time for an oral presentation on a particular Report are asked to notify the Executive Secretary, Dr. Mary S. Wolfe, at P.O. Box 12233, MD A3–07, Research Triangle Park, NC 27709, T: 919–541–3971, Fax: 919–541–0295, e-mail: wolfe@niehs.nih.gov. Persons registering to make comments are asked to provide, if possible, a written copy of their statement by October 11, to enable review by the Subcommittee and NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. Each speaker is asked to provide his/her name, affiliation, mailing address, phone, fax, e-mail, and supporting organization (if any). At least seven minutes will be allotted to each speaker, and if time permits, may be extended to ten minutes. Each organization is allowed one time slot per Report being reviewed. Registration for making public comments will also be available on-site. If registering on-site to speak and reading comments from printed copy, the speaker is asked to provide 25 copies of the statement. These copies will be distributed to the Subcommittee and NTP staff and will supplement the record.

Written comments, in lieu of an oral presentation, are also welcome. The comments should include name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) and preferably be received by October 11, to enable review by the Subcommittee and NTP staff prior to the meeting as well as to supplement the record.

Request for Additional Information

The NTP would welcome receiving toxicology and carcinogenesis information from completed, ongoing or planned studies as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please forward this information to CDM at the address given above. CDM will forward the information to the appropriate staff scientist.

NTP Technical and Toxicity Report Series

The NTP conducts toxicology and carcinogenesis studies of agents of public health concern. Any scientist, organization, or member of the public may nominate a chemical for NTP testing. Details about the nomination process are available on the NTP web site (http://ntp-server.niehs.nih.gov). The results of short-term rodent toxicology studies are published in the NTP Toxicity Report series. Longer-term studies, generally, two-year rodent studies, are published in the NTP Technical Report series. Study abstracts for all reports are available at the NTP web site under NTP Study Information. Hardcopies and PDF files of published reports can be obtained through subscription to the EHIS (http://ehis.niehs.nih.gov or 1–800–315–3010).

NTP Board of Scientific Counselors

The Board is a technical advisory body composed of scientists from the public and private sectors who provide primary scientific oversight and peer review to the overall Program. Specifically, the Board advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the Program for the purposes of determining and advising on the scientific merit of its activities and their overall scientific quality. The Technical Reports Review Subcommittee of the Board provides scientific peer review of the findings and conclusions of NTP Technical Reports. The Report on Carcinogens Subcommittee of the Board provides scientific peer review of nominations to the Report on Carcinogens, a Congressionally mandated listing of agents known or reasonably anticipated to be human carcinogens.

The Board's members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk

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assessment, carcinogenesis, mutagenesis, molecular biology, behavioral and neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. The NTP strives for equitable geographic distribution and minority and female representation on the Board.

Dated:

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

TECHNICAL AND TOXICITY REPORTS TENTATIVELY SCHEDULED FOR REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS TECHNICAL REPORTS REVIEW SUBCOMMITTEE ON OCTOBER 18, 2001

Chemical CAS number	Report number	Primary uses	Route & exposure levels	Review order
Diazoaminobenzene 136–35–6	TOX–73	Used as a laboratory reagent; occurs as a contaminant in some cosmetics.	17-day dermal exposure toxicity study. Rats & Mice: 12.5, 25, 50, 100, or 200 mg/kg. Intravenous, intragastric and dermal metabolism studies in rats and mice.	4
2,4-Hexadienal 142–83–6	TR–509	Occurs naturally as a peroxidation product of fatty acids; used as a flavoring agent and preservative.	Gavage (corn oil vehicle) Rats: 0, 22.5, 45, or 90 mg/kg Mice: 30, 60 or 120 mg/kg	3
Riddelliine 23246–96–0	TR–508	Plant alkaloid occurring in a range of plants in western states.	Gavage (phosphate buffer vehicle) Male Rats: mg/kg; Female Rats: 0.01, 0.033, 0.1, 0.33, or 1 mg/kg Male Mice: 0.1, 0.3, 1, or 3 mg/kg; Female Mice: 3 mg/kg	1
Vanadium Pentoxide 1314–62–1	TR–507	Used as a catalyst and in alloys; primary human exposure comes from cleaning oil-fired furnaces.	Inhalation of particulates Rats: 0.5, 1, or 2 mg/m^3 Mice: 1, 2, or 4 mg/m^3	2

[FR Doc. 01–22789 Filed 9–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Change to a Fiscal Year (FY) 2001 Funding Opportunities Notice

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), DHHS.

ACTION: Change of notice in funding availability regarding the Substance Abuse and Mental Health Services Administration, Center for Mental Health Services Cooperative Agreement to Provide Minority Community Based HIV/AIDS Related Mental Health Treatment and Education Services.

SUMMARY: Public notice of funding availability for a cooperative agreement was given in the **Federal Register** on March 20, 2001 (Vol. 66, No. 54, pages 15731–15733). The Guidance for Applicants (GFA) No. SM–01–012, Cooperative Agreement to Provide Minority Community Based HIV/AIDS Related Mental Health Treatment and Education Services—short title, Minority HIV/AIDS Mental Health Services, contained 3 Initiatives. The main purpose or objective of the first Initiative was to expand service capacity targeted to meet unmet mental health treatment needs of individuals living with HIV/AIDS who are African American, Hispanic/Latino and/or from other racial/ethnic minority communities. The second Initiative focused on conducting HIV/AIDS and mental health education and training to African American, Hispanic/Latino and or other racial/ethnic minority communities who provide mental health care and emotional support in traditional and/or non-traditional settings. Selection of a coordinating center to assure the collection and analysis of process and descriptive information/data pertaining to common measures across the sites was the third purpose of the announcement.

In response to this GFA SAMHSA received a larger number of services applications that received high scores in peer review than had been anticipated. Since the intent of the overall GFA is primarily services, SAMHSA will be funding more of the services applications than originally planned and did not peer review or fund the training component, Initiative 2 of the announcement.

Dated: September 4, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–22810 Filed 9–10–01; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4649–N–17]

Announcement of OMB Approval Number for Disaster Recovery Grant Reporting System

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB Approval Number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to Disaster Recovery Grant Reporting System.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Opper, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–3587. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to Disaster Recovery Grant Reporting System. The OMB approval number for this information collection is 2506–0165, which expires on July 31, 2004.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: September 4, 2001.

Donna M. Abenante,

General Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc. 01–22664 Filed 9–10–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4649–N–18]

Announcement of OMB Approval Number for Economic Development Initiative (EDI) and Brownfields Economic Development Initiative (BEDI) Grant Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to Economic Development Initiative (EDI) & Brownfields Economic Development Initiative (BEDI) Grant Programs.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Webster, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1871. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to Economic Development Initiative (EDI) and Brownfields Economic Development Initiative (BEDI) Grant Programs. The OMB approval number for this information collection is 2506–0153, which expire on August 31, 2004.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: September 4, 2001.

Donna M. Abbenante,

General Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc. 01–22665 Filed 9–10–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4649–N–19]

Announcement of OMB Approval Number for 24 CFR Part 55, Floodplain Management

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to 24 CFR Part 55, Floodplain Management.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Prybyla, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1201. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to 24 CFR Part 55, Floodplain Management. The OMB approval number for this information collection is 2506–0151, which expires on August 31, 2004.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: September 4, 2001.

Donna M. Abbenante,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 01–22666 Filed 9–10–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Amendment to Santa Ana Pueblo Liquor Code

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the amendment to the Santa Ana Pueblo Liquor Code. The Santa Ana Pueblo Liquor Code, originally published in the **Federal Register** on August 7, 1996, regulates the control, possession, and sale of liquor on the Santa Ana Pueblo trust lands, in conformity with the laws of the State of New Mexico, where applicable and necessary. Although the amendment to the Santa Ana Pueblo Liquor Code was adopted on May 31, 2001, it does not become effective until published in the **Federal Register** because the failure to comply with the Code may result in criminal charges.

DATES: This amendment is effective on September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Kaye Armstrong, Office of Tribal Services, 1849 C Street, NW., MS 4660–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Pub. L. 277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Santa Ana Pueblo Liquor Code, as originally published in the **Federal Register** on August 7, 1996 (61 FR 41172), is amended by Resolution No. 01–R–16, to read as follows:

Section 128: Hours and Days of Sale

A. Alcoholic beverages may be sold, offered for sale, delivered, or consumed on licensed premises within the Santa Ana Indian Reservation during the following days and hours:

1. On Mondays through Sundays, between the hours of 7 a.m. and 2 a.m. the following day.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that by Resolution No. 01–R–16, the amendment to the Santa Ana Pueblo Liquor Code was duly adopted by the Tribal Council on May 31, 2001.

Dated: August 24, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–22673 Filed 9–10–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved amendments to a Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988

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(IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendments between the Crow Creek Sioux Tribe and the State of South Dakota, which was executed on June 18, 2001.

DATES: This action is effective September 11, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: August 17, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–22672 Filed 9–10–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Medical Certification for Disability Exceptions.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 13, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–648. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The Service uses the Form N–648 medical certification issued by the licensed medical professional to substantiate a claim for an exception to the requirements of section 312(a) of the Immigration and Nationality Act. This certification is needed to support the applicant's claim of an exception to this naturalization requirements.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 2 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: September 6, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–22805 Filed 9–10–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,779; Albany Chicago Co., Pleasant Prairie, WI
TA–W–38,562; Babcock Borsig Power, Inc., Erie, PA
TA–W–39,345; Tri-State Plastic, Inc., Gastonia, NC
TA–W–38,970; Superior Lumber Co., Plywood and Veneer, Glendale, OR
TA–W–39,037; Clinton Industries, Inc., Carlstadt, NJ
TA–W–39,740; House Glass Corp., Point Marion, PA

TA–W–39,524; Tex Tech Industries, Tempe, AZ
TA–W–547; Ross Simmons Hardwood, Longview, WA
TA–W–38,889; Elk Creek Raycarl Products, Div. Of Textron Fastening Systems, Elk Creek, VA
TA–W–38,272; Technimark, Inc., Asheboro, NC
TA–W–39,117; Powder Metal Products Co., Powder Metal Products Div., St. Marys, PA
TA–W–39,437A; Agere Systems, Optoelectonics Div., Reading, PA
TA–W–39,449A; Agere Systems, Optoelectronics Div., Breinigsville, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,568; Alcatel Submarine Networks, Inc., Portland, OR
TA–W–39,057; Kolb-Lena Bresse Bleu, Watertown, WI
TA–W–39,017; Federal Mogul Ignition Products, Cambridge, OH
TA–W–39,156; CMS Hartzell Manufacturing, St. Paul, MN
TA–W–39,787; Sheldahl, Inc., Flexible Interconnect Div., Britton, SD
TA–W–39,603; Coleman Cable, Inc., McAllen, TX

The investigation revealed that criteria (2) has not been met. Sales or production did not deline during the relevant period as required for certification.

TA–W–39,476; KIP, Inc., Long Island City, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,916; Steco and Company, Birmingham, AL
TA–W–39,928; Henderson Sewing Machine Co., Inc., Andalusia, GA
TA–W–39,675; Fruit Distributing Co., Mobile, AL

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,437; Agere Systems, Integrated Circuits, Reading, PA: June 1, 2000.
TA–W–39,449 Agere Systems, Integrated Circuits Div., Allentown, PA: June 5, 2001.
TA–W–39,764; Oxford Industries, Inc., Oxford of Columbia, Columbia, SC: August 27, 2001.
TA–W–39,560; ISB Fashion, Inc., New York, NY: June 21, 2001.
TA–W–39,261; Gunite Corp., EMI Plant, Erie, PA: May 1, 2000.
TA–W–39,780; Huntsman Polymers Corp., Odessa, TX: July 16, 2002.
TA–W–39,362; Henerson Leisurewear, Inc., A Subsidiary of I. Appel, Inc., Henderson, TN: May 21, 2000.
TA–W–39,441; Mrs. Allison's Cookie Company, A Divison of Parmalot, St. Louis, MO: May 25, 2000.
TA–W–39,184; Electro Technology, Muscle Shoals, AL: April 18, 2000.
TA–W–39,299; Mowad Apparel, Inc., El Paso, TX: May 5, 2001.
TA–W–39,558; Phantom/Glendale, Inc., Seamless Division, Wilkesboro, NC: June 20, 2000.
TA–W–39,759; Delta Apparel, Washington, GA: September 4, 2000.
TA–W–39,032; Pinson Mining Company, Winnemucca, NV: May 1, 2001.
TA–W–39,763; The West Bend Company, West Bend, WI: April 1, 2001.
TA–W–39,266; TDK Ferrites Corp., Shawnee, OK: "ALL workers engaged in the production of EU core ferrites who became totally or partially separated from employment on or after April 25, 2000.
"All workers engaged in the production of CR core ferrites and micro-section ferrites are denied.
TA–W–39,538; Rich Products Corp., Winchester, VA: June 15, 2000.
TA–W–39,413; Sportswear USA, Wallace, NC: May 29, 2000.
TA–W–39,573; Cooper Wiring Devices, Assembly Department, Georgetown, SC: June 27, 2000.
TA–W–39,509; Trans Apparel Group, Michigan City, IN: June 12, 2000.
TA–W–38,870; American Bag Corp., a/k/a Sylvan Chemical, Winfield, TN: March 8, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such worker' firm or subdivision to Mexico and Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04704; Superior Lumber Company, Plywood and Veneer, Glendale, OR
NAFTA–TAA–05173; Albany-Chicago Co., Pleasant Prairie, WI
NAFTA–TAA–04983; Flextronics Enclosures, Chambersburg, PA
NAFTA–TAA–05113; C.T. Gamble Acquisition Corp., Delanco, NJ
NAFTA–TAA–05025; Coleman Cable, Inc., McAllen, TX
NAFTA–TAA–04436; Babcock Borsig Power, Inc., Erie, PA
NAFTA–TAA–04908; Gunite Corp., EMI Plant, Erie, PA
NAFTA–TAA–05109; Safari Motor Coach Corp., Hines, OR
NAFTA–TAA–04889; Quebecor World, Salem, IL.
NAFTA–TAA–05135; House Glass Corp., Point Marion, PA
NAFTA–TAA–04906; Savannah Luggage Works, Vidalia, GA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05127; Evenflo Company, Inc., Jasper, AL: July 10, 2000.

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NAFTA–TAA–05021; Rich Products Corp., Winchester, VA: June 25, 2000.
NAFTA–TAA–05144; Manitowoc Boom Trucks, Inc., York, PA: July 24, 2000.
NAFTA–TAA–05129; Rugged Sportswear, LaGrange, NC: July 18, 2000.
NAFTA–TAA–05110; O'Bryan Brothers, Inc., Leon, IA: July 19, 2000.
NAFTA–TAA–05130; Delta Apparel, Washington, GA: July 17, 2000.
NAFTA–TAA–05147; Square D Corp., Cedar Rapids, IA: July 16, 2000.
NAFTA–TAA–05116; 3Com Corporation, Santa Clara Manufacturing Operations, Santa Clara, CA: July 13, 2000.
NAFTA–TAA–05043; Cooper Wiring Devices, Assembly Department, Georgetown, SC: June 26, 2000.
NAFTA–TAA–05111; SMTC Manufacturing Corp of Wisconsin, Appleton, WI: July 12, 2000.
NAFTA–TAA–05015; Phanton/ Glendale, Inc., Seamless Division, Wilkesboro, NC: June 20, 2000.
NAFTA–TAA–05074; Plaid Clothing Company, Inc., Somerset, KY: June 4, 2001.
NAFTA–TAA–05171; Huntsman Polymers Corp., Odessa, TX: July 16, 2000.
NAFTA–TAA–04936; Sportswear USA, Wallace, NC: May 29, 2001.
NAFTA–TAA–05079; Neles Automation USA, Inc., Houston Delivery Center, Houston, TX: July 13, 2000.
NAFTA–TAA–05006; Weyerhaeuser, Fine Paper Division, Longview, WA: June 18, 2000.
NAFTA–TAA–04967; Mrs. Allison's Cookie Company, A Division of Parmalot, St. Louis, MO: May 25, 2000.

I hereby certify that the aforementioned determinations were issued during the month of August, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 4, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance

[FR Doc. 01–22683 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,632, A,B,C; JPS Apparel Fabrics Corp., Greenville, SC, South Boston, VA, New York, NY and Laurens, SC
TA–W–39,197; Alken Ziegler Novi L.L.C., Novi, MI
TA–W–38,653; TRW Automotive Electronic Group, Auburn, NY
TA–W–38,380; Spinmaker Coating Maine, Inc., Westbrook, ME
TA–W–39,036; Nooter Fabricators, Inc., St. Louis, MO
TA–W–39–002; Ohio Moulding Corp., Wickliffe, OH

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,551; Rohm and Haas, Speciality Chemical Div., Patterson, NJ
TA–W–39,559; Delong Sportswear, Inc., Mt. Jefferson Woolens Div., Jefferson, OR
TA–W–39,278; Honeywell International, Inc., Consumer Products Group, Nevada, MO
TA–W–39,706; Thermo King Corp., Div. of Ingersoll Rand, Bloomington, MN
TA–W–38,862; Pacific Tube Co., Los Angeles, CA
TA–W–39,388; Carolina Mills, Inc., Lincolnton, NC
TA–W–38,940 & A; Mayfair Mills, Ind., Lincolnton Plant, Lincolnton, GA and Starr Plant, Starr, SC

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–39,385, AMI Semiconductor, Inc., Pocatello, ID

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,730; Neles Automation USA, Inc., Houston Delivery Center, Houston, TX: July 13, 2000.
TA–W–38,895; P.J.K., Inc., Vernon, CA: March 9, 2000.
TA–W–39,061; SOLA Optical USA, Petaluma, CA: March 30, 2000.
TA–W–39,379; Savannah Luggage Works, Vidalia, GA: May 14, 2000.
TA–W–38,940B & C, D, E; Mayfair Mills, Inc., Mayfair Plant, Arcadia, SC, Bailey Plant, Arcadia, SC, Glenwood Plant, Easley, SC and Pickens Plant, Pickens, SC: March 19, 2000.
TA–W–39,756; Kimberly Clark, Conway, AR: July 24, 2000.
TA–W–39,596; Quilt Gallery, Easley, SC: June 20, 2000.
TA–W–39,494; Empire Wood Carving Co., Inc., Chicago, IL: June 1, 2000.
TA–W–39,817; AMI Doduco, Inc., Cedar Knolls, NJ: August 3, 2001.
TA–W–39,774; Meridian Beartrack Co., Formerly Beartrack Mine Meridian Gold, Salmon, ID: July 23, 2001.
TA–W–39,668; Hawley Products, Inc., Paducah, KY: July 5, 2000.
TA–W–39,550; Pasco Beverage Co., Pasco Processing LLC, Bartow, FL: June 15, 2000.
TA–W–39,754; Kellwood Co., Intimate Apparel Group, Fernwood, MS
TA–W–39,679; J and L Structural, Inc., Ambridge Div., Ambridge, PA: June 22, 2000.

TA–W–39,701 & A; Merry Maid Novelties, Bangor, PA and Tatamy, PA: July 13, 2000.
TA–W–39,295; Robinson Manufacturing Co., Pikesville, TN: May 1, 2000.
TA–W–39,224; Centis, Inc., Brea, CA: April 25, 2000.
TA–W–38,913; Littelfuse, Inc., Centralia, IL: March 11, 2000.
TA–W–39,377; Niagara Falls Bakery, Nabisco Biscuit Div., Kraft Foods North America, Niagara Falls, NY: May 28, 2000.
TA–W–39,046; Deferiet Paper Co., Deferiet, NY: March 23, 2000.
TA–W–39,090; Strandflex, Div. of Maryland Specialty Wire, Inc., Oriskany, NY: April 4, 2000.
TA–W–39,585; Bike Athletic Co., Mountain City, TN: June 28, 2000.
TA–W–39,227; Roche Diagnostics Corp., Freemont, CA: April 16, 2000.
TA–W–39,705; Lincoln Automotive Co., Jonesboro, AR: July 15, 2001.

Also, pursuant to title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determination NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04729; Nooter Fabricators, Inc., St. Louis, MO
NAFTA–TAA–04842; Technimark, Inc., Asheboro, NC
NAFTA–TAA–05059 & A, B, C; JPS Apparel Fabrics Corp., Greenville, SC, South Boston, VA, New York, NY and Laurens, SC
NAFTA–TAA–05004; Delong Sportswear, Inc., Mt. Jefferson Woolens Div., Jefferson, OR
NAFTA–TAA–04700; Alken Ziegler Novi, L.L.C., Novi, MI
NAFTA–TAA–04502; TRW Automotive Electronics Group, Auburn, NY
NAFTA–TAA–05035; Excel Group, Inc., Murray, KY
NAFTA–TAA–04954; Agere Systems, Integrated Circuits and Optoelectronics Div., Reading, PA
NAFTA–TAA–04670A, NAFTA–TAA–04670C and NAFTA–TAA–04670D; Mayfair Mills, Inc., Mayfair Plant, Arcadia, SC, Bailey Plant, Arcadia, SC and Glenwood Plant, Easley, SC.
NAFTA–TAA–04955 & A; Agrere Systems, Integrated Circuits Div., Allentown, PA and Optoelectronics Div., Breinigsville, PA
NAFTA–TAA–05188; Cooper-Standard Automotive, Rock Mount, NC

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA05118; AMI Semiconductor, Inc., Pocatello, ID

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04670, NAFTA–TAA–04670B & NAFTA–TAA–04670E; Mayfair Mills, Inc., Starr Plant, Starr, SC, Lincolnton Plant, Lincolnton, GA and Pickens Plant, Pickens, SC: March 19, 2000.
NAFTA–TAA–05091; Technotrim, Maysville, KY: July 17, 2000.
NAFTA–TAA–04745; Deferiet Paper Co., Deferiet, NY: March 28, 2000.
NAFTA–TAA–05009; Quaker Oats Co., St. Joseph, MO: May 2, 2000.
NAFTA–TAA–04867; GE Harris Harmon Railway Technology, Jacksonville, FL: March 7, 2000.
NAFTA–TAA–05101; Niagara Falls Bakery, Nabisco Biscuit Div., Kraft Foods North America, Niagara Falls, NY: June 13, 2000.
NAFTA–TAA–05092; Parker Hannifin Corp., Pneumatic Div., North America, Wake Forest, NC: July 19, 2000.
NAFTA–TAA–05040; Sheldahl, Inc., Flexible Interconnect Div., Britton, SD: June 22, 2000.
NAFTA–TAA–04743; SMTC Manufacturing, Thornton, CO: April 6, 2000.
NAFTA–TAA–04653; P.J.K., Inc., Vernon, CA: March 8, 2000.

I hereby certify that the aforementioned determinations were issued during the month of August, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 27, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–22691 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,373]

The Carbide/Graphite Group, Inc. St. Marys, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on July 26, 2001, applicable to workers of The Carbide/Graphite Group, Inc., St. Marys, Pennsylvania. The notice was published in the **Federal Register** on August 15, 2001 (FR 66 42880).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of graphite electrodes.

New findings show that there was a previous certification, TA–W–35,296, issued on February 5, 1999, for workers of The Carbide/Graphite Group, Inc., St. Marys, Pennsylvania who were engaged in employment related to the production of graphite electrodes. That

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certification expired February 5, 2001. To avoid an overlap in worker group coverage, this certification is being amended to change the impact date from May 18, 2000 to February 6, 2001, for workers of the subject firm.

The amended notice applicable to TA–W–39,373 is hereby issued as follows:

All workers of The Carbide/Graphite Group, St. Marys, Pennsylvania who became totally or partially separated from employment on or after February 6, 2001, through July 26, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 23rd day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22693 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,509A]

E-Town Sportswear Elizabethtown, KY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 25, 2001, in response to a petition filed on behalf of workers at E-Town Sportswear, Elizabethtown, Kentucky.

An active petition covering these workers remains in effect (TA–W–37,230). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 29th day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22689 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,355]

KCS Mountain Resources, Inc. Worland, WY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 29, 2001, in response to a worker petition which was filed by the company on behalf of workers at KCS Mountain Resources, Inc., Worland, Wyoming.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 29th day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22684 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–39,060

Ludlow Coated Products, Ludlow Building Products Adrian, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 16, 2001, in response to a worker petition which was filed on behalf of workers at Ludlow Coated Products, a/k/a Ludlow Building Products, Adrian, Michigan.

Workers at the subject firm were denied eligibility under TA–W–39,059, issued on April 20, 2001. The TA–W–39,060 investigation was inadvertently assigned to exactly the same petition and is thus a duplicate. Conducting a duplicate, and thus redundant, investigation would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 29th day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22685 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,660]

Rosti (Minden) Inc. Coushatta, LA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 16, 2001 in response to a petition which was filed by the company on behalf of workers at Rosti (Minden) Inc., Coushatta Annex, Coushatta, Louisiana.

The company has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 29th day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22688 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitions or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than September 21, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than September 21, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 30th day of July, 2001.

Edward A Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 07/30/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,699	Sterling Packaging Co. (Co.)	Jeannett, PA	07/13/2001	Paperboard Boxes.
39,700	Priority Finishing Corp. (Wkrs)	Fall River, MA	07/26/2001	Dye and Finishing Apparel.
39,701	Merry Maid Novelties (UNITE)	Bangor, PA	07/13/2001	Knit Slacks, Tops and Skirts.
39,702	Southern Furniture (Wkrs)	Elizabethtown, NC	07/12/2001	Wooden Bedroom Furniture.
39,703	Echo Bay Minerals (Co.)	Battle Mountain, NV	07/11/2001	Gold and Silver.
39,704	Trico Products Corp. (UAW)	Buffalo, NY	07/12/2001	Windshield Wiper System.
39,705	Lincoln Automotive (Co.)	Jonesboro, AR	07/13/2001	Lifting Equipment.
39,706	Thermo King/Ingersol Rand (Wkrs)	Bloomington, MN	07/16/2001	Refrigeration Coils.
39,707	Pillowtex Corporation (Wkrs)	Phenix City, AL	07/17/2001	Unpack & Redistribution Kitchen Items.
39,708	Globe Mettalurgical (Wkrs)	Springfield, OR	07/02/2001	Silicon Metal.
39,709	Gemtron Corporation (Co.)	Clarksville, TN	07/17/2001	Decorative Flat Glass.
39,710	Ogden Manufacturing (Co.)	Albany, WI	07/12/2001	Industrial Electrical Heating Elements.
39,711	Metallurgic Products (GMP)	Ellwood City, PA	07/18/2001	Thermocouple.
39,712	Signet Armorlite (Co.)	San Marcos, CA	07/17/2001	Ophthalmic Lenses.
39,713	J.M. Huber (Wkrs)	Houston, TX	07/18/2001	Oil and Gas.
39,714	American Drilbox (Co.)	Carathersville, MO	07/18/2001	Metal Index Box.
39,715	Ansell Healthcare (Co.)	Red Bank, NJ	07/20/2001	Latex Surgeons' Gloves.
39,716	Michigan Rag (Co.)	Grand Haven, MI	07/23/2001	Men and Women's Apparel.
39,717	Trio Tool and Die (Co.)	Meadville, PA	07/17/2001	Tools, Dyes, Molds & Machine Parts.
39,718	JTR Patterns (Wkrs)	Fall River, MA	07/13/2001	Men's, Women's & Children's Sportwear.
39,719	Philips Enabling Tech (Wkrs)	So. Plainfield, NJ	07/13/2001	Light Bulbs.
39,720	Waukesha Cherry Burrell (Co.)	Louisville, KY	07/13/2001	Ice Cream Freezers.
39,721	Parker Hannifin (USWA)	Goshen, TN	07/13/2001	Rubber O-Ring Sealing.
39,722	Rexnord Corporation (USWA)	Indianapolis, IN	07/17/2001	Roller Chain Products.
39,723	Spring Ford Industries (Co.)	Spring City, PA	07/19/2001	T-Shirt and Underwear.
39,724	L.E. Smith Glass (AFGW)	Mt. Pleasant, PA	07/08/2001	Lighting Shades.
39,725	General Mills (Wkrs)	Carlisle, PA	07/14/2001	Juice Beverage.
39,726	Act Manufacturing (Wkrs)	Corinth, MS	07/12/2001	Telephone Products.
39,727	Malbon, Inc. (Co.)	Hiram, GA	07/16/2001	Uniforms.
39,728	Graphic Controls (Co.)	Cherry Hill, NJ	07/19/2001	Catherers.
39,729	Evenflo Company (Co.)	Jasper, AL	07/10/2001	Car Seat Pads, Booster Seat Pads.
39,730	Neles Automotive USA (Co.)	Houston, TX	07/13/2001	Industrial Valves.
39,731	Matsushita Refrigeration (Co.)	Vonore, TN	07/16/2001	Refrigeration Compressors.
39,732	Innovative Home Products (Co.)	Covington, OH	07/18/2001	Garage Door Openers.

[FR Doc. 01–22690 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5115]

Hunt Forest Products, Inc. Castor Sawmill Castor, LA; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 17, 2001, in response to a petition filed on behalf of workers at Hunt Forest Products, Inc., Castor Sawmill, Castor, Louisiana.

This case is being terminated because there is a petition pending which covers the workers of the subject company of the immediate investigation, NAFTA–5086. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 20th day of August 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22694 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5039]

Louisiana Pacific Corporation Rogue River, OR; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on June 22, 2001 in response to a petition filed on behalf of workers at Louisiana Pacific Corporation, Rogue River, Oregon.

This case is being terminated because there is a petition investigation in process for this worker group, NAFTA–5001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 20th day of August 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22692 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5068]

Rosti (Minden) Inc. Coushatta Annex Coushatta, LA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 9, 2001 in response to a worker petition which was filed by the company on June 27, 2001, on behalf of workers at Rosti (Minden) Inc., Coushatta Annex, Coushatta, Louisiana.

A company official at the subject firm has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 29th day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–22686 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5029]

Winona, Inc. Nashville, IN; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on June 6, 2001 in response to a petition filed on behalf of workers at Winona, Inc., Nashville, Indiana.

This case is being terminated because there is a petition pending which covers the workers of the subject company of the immediate investigation, NAFTA–4985. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 30th day of August 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–22687 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0209 2001]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; OSHA Data Initiative (1218–0209)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of the information collection request for the OSHA Data Initiative. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before November 13, 2001. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 1218–0209 2001, U.S. Department of Labor, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210, telephone (202) 693–2350. Written comments limited to 10 pages or less in length may be transmitted by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION: Dave Schmidt, Directorate of Information Technology, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3644, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–1886. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Dave Schmidt at (202) 693–1886 or Todd Owen at (202) 693–2444. For electronic copies of the OSHA Data Initiative information collection request, contact OSHA's WebPage on the Internet at *http://www.osha-slc.gov/OCIS/Info_coll.html.*

SUPPLEMENTARY INFORMATION:

I. Background:

To meet many of OSHA's program needs, OSHA is proposing to continue its data initiative to collect occupational injury and illness data and information on the number of workers employed and the number of hours worked from establishments in portions of the private sector and from some state and local government agencies. OSHA will collect calendar year 2001 data from up to 139,000 employers already required to create and maintain records pursuant to 29 CFR Part 1904. These data will allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing series safety and health problems. Successful implementation of the data collection initiative is critical to OSHA's outreach and enforcement efforts and the data requirements tied to the Government Performance and Results Act (GPRA).

II. Current Actions

This notice requests public comment on an extension of the current OMB approval of the paperwork requirements for the OSHA Data Initiative system.

Type of Review: Extension of currently approved collection.

Agency: Occupational Safety and Health Administration.

Title: OSHA Data Initiative.

OMB Number: 1218–0209.

Agency Number: ICR 1218–0209 2001.

Affected Public: Business or other for-profit, Farms, and State, Local or Tribal Government.

Cite/Reference/Form/etc: OSHA Form 196A and OSHA Form 196B.

Total Respondents: 139,000.

Frequency: Annually.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 66,720 hours.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 5, 2001.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 01–22795 Filed 9–10–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, September 13, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Requests from Three (3) Federal Credit Unions to Convert to Community Charters.
2. Requests from Three (3) Federal Credit Unions to Expand their Community Charters.
3. Proposed Rule: Amendment to Part 704, NCUA's Rules and Regulations, Corporate Credit Unions.
4. Final Rule: Amendments to Section 701.31(d), NCUA's Rules and Regulations, Nondiscrimination in Advertising.
5. Interim Final Rule: Amendment to Part 707, NCUA's Rules and Regulations, Truth in Savings.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, September 13, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
2. Two (2) Administrative Actions under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
3. Corporate Examination Review Task Force Report and Recommendations. Closed pursuant to exemption (8).
4. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–22811 Filed 9–6–01; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND PLACE: 9:30 a.m., Tuesday, September 18, 2001

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two items are Open to the Public.

MATTERS TO BE CONSIDERED:

7385—Railroad Accident Report: Collision of Amtrak Train 304–26 with a Highway Vehicle at a Highway-Rail Grade Crossing in McLean, Illinois, on September 26, 1999

7392A—Marine Accident Report: Fire On Board the U.S. Passenger Ferry Columbia, Chatham Strait, about 30 nautical miles Southwest of Juneau, Alaska, on June 6, 2000

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

September 7, 2001.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 01–22938 Filed 9–7–01; 3:44 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on September 25, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, September 25, 2001—8:30 a.m. until the conclusion of business*

The Subcommittee will discuss the draft Safety Evaluation Report, with open items, concerning the license renewal application for Turkey Point Nuclear Plant, Units 3 and 4; and the associated Westinghouse Topical Reports. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Florida Power and Light Company, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–

6888) between 7:00 a.m. and 3:45 p.m.

and other interested persons regarding

Week of October 15, 2001—Tentative

covered by this cumulative report is

Register cited below: 66 FR 8985,

Attachment A

6888) between 7:00 a.m. and 3:45 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: August 30, 2001.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–22763 Filed 9–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Materials and Metallurgy; Notice of Meeting

The ACRS Subcommittee on Materials and Metallurgy will hold a meeting on September 26, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, September 26, 2001—8:30 a.m. until the conclusion of business*

The Subcommittee will discuss the status of the Steam Generator Action Plan and the South Texas Project, Unit 2, tube integrity issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:00 a.m. and 3:45 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: August 30, 2001.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–22764 Filed 9–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of September 10, 17, 24, October 1, 8, 15 2001

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland

STATUS: Public and Closed

MATTERS TO BE CONSIDERED:

Week of September 10, 2001

There are no meetings scheduled for the Week of September 10, 2001.

Week of September 17, 2001—Tentative

There are no meetings scheduled for the Week of September 17, 2001.

Week of September 24, 2001—Tentative

Friday, September 28, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed)
9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607)
1:30 p.m. Briefing on Threat Environment Assessment (Closed-Ex. 1)

Week of October 1, 2001—Tentative

Thursday, October 4, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

Week of October 8, 2001—Tentative

There are no meetings scheduled for the Week of October 8, 2001.

Week of October 15, 2001—Tentative

Thursday, October 18, 2001

9:00 a.m. meeting with NRC Stakeholders—Progress of Regulatory Reform (Public Meeting) (Location—Two White Flint North Auditorium)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECU/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC, 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: September 6, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–22852 Filed 9–7–01; 11:50 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 2001.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of August 1, 2001, of two deferrals contained in one special message for FY 2001. The message was transmitted to Congress on January 18, 2001.

Deferrals (Attachments A and B)

As of July 1, 2001, $1.4 billion in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 2001.

Information From Special Message

The special message containing information on the deferrals that are

covered by this cumulative report is printed in the edition of the **Federal Register** cited below: 66 FR 8985, Monday, February 5, 2001.

Attachment A

Mitchell E. Daniels, Jr.,

Director.

BILLING CODE 3110–01–P

STATUS OF FY 2001 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	1,946.7
Routine executive releases through August 1, 2001	−559.2
Overturned by the Congress	
Currently before the Congress	1,387.5

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ATTACHMENT B

Status of FY 2001 Deferrals - As of August 1, 2001

(In thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Special Message	Releases (-): Cumulative OMB/ Agency	Releases (-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8/1/01
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D01-1	145,310		1/18/01	40,033				105,277
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance Economic Support Fund	D01-2	1,801,382		1/18/01	519,149				1,282,234
TOTAL, DEFERRALS		1,946,692			559,182				1,387,510

Note: Detail may not add to totals due to rounding

[FR Doc. 01–22675 Filed 9–10–01; 8:45 am]

BILLING CODE 3110–01–C

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 10, 2001:

Closed meetings will be held on Tuesday, September 11, 2001, at 10:00 a.m. and Friday, September 14, 2001, at 11:30 a.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (8), (9)(A), 9(B), and (10) and 17 CFR 200.402(a)(5), (7), (8), (9)(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Tuesday, September 11, 2001, and Friday, September 14, 2001, will be:

- Institution and settlement of injunctive actions;
- Institution and settlement of administrative proceedings of an enforcement nature;
- Formal orders; and an
- Inspection report.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: September 6, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22818 Filed 9–6–01; 4:46 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44766; File No. SR–GSCC–2001–03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Establish a Cross-Margining Agreement with the Board of Trade Clearing Corporation

September 5, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 4, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC is seeking to establish a cross-margining arrangement with the Board of Trade Clearing Corporation ("BOTCC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 19, 1999, the Commission approved GSCC's proposed rule filing to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation ("NYCC").[3] More recently, the Commission approved GSCC's proposed rule filing to establish a similar cross-margining program with the Chicago Mercantile Exchange ("CME").[4] GSCC is now seeking to establish a similar cross-margining arrangement with the Board of Trade Clearing Corporation.[5]

This development is significant because the Chicago Board of Trade, for which BOTCC clears, is by far the largest Treasury futures exchange market, and certain of its products, such as the 10-Year Note futures contract, which will be cross-margined with GSCC products, continue to experience growth in volume. Thus, establishing the cross-margining program between GSCC and BOTCC has the potential to provide significant collateral savings to the industry in general and to GSCC's and BOTCC's common members in particular. From each clearing organization's perspective, the cross-margining program will provide important risk management benefits. These benefits include such things as providing the clearing organizations with more data concerning members' intermarket positions to enable them to make more accurate decisions regarding the true risk of the positions to the clearing organizations and encouraging coordinated liquidation processes for a joint participant, or a participant and its affiliate, in the event of an insolvency.[6]

(i) GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining programs for fixed-income and other interest rate products is to do on a multilateral basis with GSCC as the "hub." Each clearing organization that participates in a cross-margining program with GSCC (hereinafter a "Participating CO") enters into a separate cross-margining agreement between itself and GSCC, as

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[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–04]. The requisite rule changes necessary for GSCC to engage in cross-margining programs with other clearing organizations were made in the NYCC cross-margining rule filing.

[4] Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR–GSCC–00–13]. In addition to approving GSCC's cross-margining program with the CME, the order granted approval to change GSCC Rule 22, Section 4, to clarify that before GSCC credits an insolvent member for any profit realized on the liquidation of the member's final net settlement positions, GSCC will fulfill its obligations with respect to that member under cross-margining agreements.

[5] BOTCC is a Delaware corporation that acts as the clearing organization for certain futures contracts and options on futures contracts that are traded on the Chicago Board of Trade and that are regulated by the Commodity Futures Trading Commission.

[6] The GSCC–BOTCC cross-margining agreement requires ownership of 50 percent or more of the common stock of an entity to indicate control of the entity for purposes of the definition of "affiliate".

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in the case of NYCC, CME, and now BOTCC. Each of the agreements will have similar terms and no preference will be given by GSCC to one Participating CO over another.

Cross-margining is available to any GSCC netting member (with the exception of interdealer broker netting members) that is, or that has an affiliate that is, a member of a Participating CO. Any such member (or pair of affiliated members) may elect to have its margin requirements at both clearing organizations calculated based upon the net risk of its cash and repo positions at GSCC and of its offsetting and correlated positions in related contracts carried at the Participating CO. Cross-margining is intended to lower the cross-margining participant's (or pair of affiliated members') overall margin requirement. The GSCC member (and its affiliate, if applicable) will sign an agreement under which it (or they) agree to be bound by the cross-margining agreement between GSCC and the Participating CO and which allows GSCC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of GSCC to the Participating CO (or vice versa) that results from a default of the member (or its affiliate).

Margining based on the net combined risk of correlated positions is based on an arrangement under which GSCC and each Participating CO agree to accept the correlated positions in lieu of supporting collateral. Under this arrangement, each clearing organization holds and manages its own positions and collateral and independently determines the amount of margin that it will make available for cross-margining, referred to as the "residual margin amount."

GSCC computes the amount by which the cross-margining participant's margin requirement can be reduced at each clearing organization (*i.e.*, the "cross margin reduction") by comparing the participant's positions and the related margin requirements at GSCC as against those at each Participating CO. GSCC offsets each cross-margining participant's residual margin amount at GSCC against the offsetting residual margin amounts of the participant (or its affiliate) at each Participating CO. If, within a given pair of offset classes, the margin that GSCC has available for a participant is greater than the combined margin submitted by the Participating COs, GSCC will allocate a portion of its margin equal to the combined margin at the Participating COs. If, within a given pair of offset classes, the combined margin submitted by the Participating COs is greater than the margin that GSCC has available for that participant, GSCC will first allocate its margin to the Participating CO with the most highly correlated position.[7] If, within a given pair of offset classes, the positions are equally correlated, GSCC will allocate pro rata based upon the residual margin amount available at each Participating CO. GSCC and each Participating CO may then reduce the amount of collateral that they collect to reflect the offsets between the cross-margining participant's positions at GSCC and its (or its affiliate's) positions at the Participating CO.[8] In the event of the default and liquidation of a cross-margining participant, the loss sharing between GSCC and each of the Participating COs will be based upon the foregoing allocations and the cross-margin reduction.

GSCC will guarantee the cross-margining participant's (or its affiliate's) performance to each Participating CO up to a specified maximum amount which relates back to the cross-margin reduction, and each Participating CO will provide the same guaranty up to the same specified maximum amount to GSCC. The guaranty represents a contractual commitment that each clearing organization has to the other. There will always be a cap on the amount that one clearing organization is required to pay to the other clearing organization.

(ii) Information Specific to the Current Agreement between GSCC and BOTCC

(a) *Participation in the cross-margining program:* Any netting member of GSCC other than an inter-dealer broker will be eligible to participate. Any clearing member of BOTCC will be eligible to participate.

(b) *Products subject to cross-margining:* The products that will be eligible for the GSCC–BOTCC cross-margining arrangement are the Treasury securities of certain remaining maturities that fall into GSCC's Offset Classes C, E, F, and G as defined in GSCC's Rules that are cleared by GSCC and the 2–Year Note, 5–Year Note, 10–Year Note and the U.S. Treasury Bond futures contracts and options on these futures contracts that are cleared by BOTCC.[9] Initially, as a conservative measure, residual margin amounts will be applied only within the same offset class (*e.g.*, the 2–Year Note against the 2–Year Note future). Appropriate disallowance factors based on correlation studies will be applied, as well as a minimum margin factor. All eligible positions maintained by a cross-margining participant in its account at GSCC and in its (or its affiliate's) proprietary account at BOTCC will be eligible for cross-margining.[10]

(c) *Margin Rates:* GSCC and BOTCC currently use different margin rates to establish margin requirements for their respective products. Margin reductions in the GSCC–BOTCC cross-margining arrangement will always be computed based on the lower of the applicable margin rates. This methodology results in a potentially lesser benefit to the participant but ensures a more conservative result (*i.e.*, more collateral held at the clearing organization) for both GSCC and the Participating COs.

(d) *Daily Procedures:* On each business day, it is expected that BOTCC will inform GSCC of the residual margin amounts it is making available for cross-margining by approximately 11:00 p.m. New York time. GSCC will inform BOTCC by approximately 1:00 a.m. New York time how much of these residual margin amounts it will use. Reductions as computed will be reflected in the daily clearing fund calculation.

(iii) Benefits of Cross-Margining

GSCC believes that its cross-margining program enhances the safety and soundness of the settlement process for the Government securities marketplace by: (1) Providing clearing organizations with more data concerning members' intermarket positions (which is especially valuable during stressed market conditions) to enable them to make more accurate decisions regarding the true risk of such positions to the clearing organizations; (2) allowing for enhanced sharing of collateral resources; and (3) encouraging coordinated liquidation processes for a joint participant, or a participant and its affiliate, in the event of an insolvency. GSCC further believes that cross-margining benefits participating clearing members by providing members with the opportunity to more efficiently use their collateral. More important from a regulatory perspective, however, is that cross-margining programs have long been recognized as enhancing the safety and soundness of the clearing system itself. Studies of the October, 1987 market crash gave support to the concept of cross-margining. For example, The Report of the President's Task Force on Market Mechanisms (January 1988) noted that the absence of a cross-margining system for futures and securities options markets contributed to payment strains in October, 1987. The Interim Report of the President's Working Group on Financial Markets (May 1988) also recommended that the SEC and CFTC facilitate cross-margining programs among clearing organizations. This resulted in the first cross-margining arrangement between clearing organizations which was approved in 1988.[11]

GSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[12] and the rules and regulations thereunder applicable to GSCC because it will provide members with significant benefits such as greater liquidity and more efficient use of collateral in a prudent manner and will enhance GSCC's overall risk management process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC.

All submissions should refer to File No. SR–GSCC–2001–03 and should be submitted by September 26, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22713 Filed 9–10–01; 8:45 am]

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[7] GSCC has computed and tested disallowance factors that will be applicable to each potential pair of positions being offset.

[8] GSCC and each Participating CO unilaterally have the right not to reduce a participant's margin requirement by the cross-margin reduction or to reduce it by less than the cross-margin reduction. However, the clearing organizations may not reduce a participant's margin requirement by more than the cross-margin reduction.

[9] Non-mortgage backed agency securities will be added at a later date. GCF Repo products will not be included in the arrangement.

[10] At least initially, the GSCC–BOTCC cross-margining arrangement will be applicable, on the futures side, only to positions in a proprietary account of a cross-margining participant at BOTCC. The arrangement will not apply to positions in a customer account at BOTCC that would be subject to segregation requirements under the Commodity Exchange Act. This is also the case with respect to the arrangements with NYCC and the CME.

[11] Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567 (October 7, 1988) [File No. SR–OCC–86–17] (order approving cross-margining program between The Options Clearing Corporation and The Intermarket Clearing Corporation).

[12] 15 U.S.C. 78q–1.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44760; File No. SR–Phlx–2001–79]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Increase the Number of Options Included in Its Pilot Program To Disengage its Automatic Execution System ("AUTO–X") for a Period of Thirty Seconds After the Number of Contracts Automatically Executed in a Given Option Meets the AUTO–X Minimum Guarantees for That Option

August 31, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 21, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis, for the duration of the six-month pilot, which expires on November 30, 2001.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to expand the number of options eligible for inclusion in its pilot effecting a system change to the Exchange's Automated Options Market ("AUTOM") System,[3] whereby AUTO–X is disengaged for a period of thirty seconds after the number of contracts automatically executed in a given option meets the AUTO–X minimum guarantee for that option. The pilot currently includes up to 100 option classes, subject to the approval of the Options Committee. The Phlx

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO–X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

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proposes to expand the amount of options eligible for the pilot to include all Exchange-traded options on a floor-wide basis,[4] subject to the approval of the Options Committee.[5]

The pilot program was originally approved by the Commission on December 1, 2000 on a six-month pilot basis,[6] and the approval was subsequently renewed on May 29, 2001 for an additional six-month period.[7]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand the number of options eligible for inclusion in the pilot from the current amount of up to 100 options to include all Exchange-traded options on a floor-wide basis, subject to the approval of the Options Committee, for the duration of the pilot, which is scheduled to expire on November 30, 2001.

The pilot program includes the following features:

• Once an automatic execution occurs via AUTO–X in an option, the system would begin a "counting" program, which would count the number of contracts executed automatically for that option, up to the AUTO–X guarantee, regardless of the number of executions.

• When the number of contracts executed automatically for that option meets the AUTO–X guarantee within a fifteen second time frame, the system would cease to automatically execute for that option, and would drop all AUTO–X eligible orders in that option for manual handling by the specialist for a period of thirty seconds to enable the specialist to refresh quotes in that option.[8]

• Upon the expiration of thirty seconds, automatic executions would resume and the "counting" program would be set to zero and begin counting the number of contracts executed automatically within a fifteen second time frame again, up to the AUTO–X guarantee.

• Again, when the number of contracts automatically executed meets the AUTO–X guarantee within a fifteen second time frame, the system would drop all subsequent AUTO–X eligible orders for manual handling by the specialist for a period of thirty seconds.

A significant purpose of this pilot is to enable the Exchange to move towards the dissemination of options quotations with size.[9] The "counting" feature of the pilot functions to disengage AUTO–X for a period of thirty seconds in a given option once the number of contracts automatically executed meets the AUTO–X guarantee for that option within a fifteen-second time frame. A similar "counting" mechanism is expected to be utilized upon the implementation of the systems necessary for the dissemination of options quotations with size. Thus, the pilot should allow the Exchange to continue its efforts in the process of moving towards the implementation of quotations with size.

The Exchange believes that the pilot will enable specialists in the options included in the pilot to continue to provide fair and orderly markets during peak market activity by manually executing orders at correct market prices and refreshing quotations to reflect market demand. The Exchange proposes to expand the number of options eligible for inclusion in the pilot to all Exchange traded options on a floor-wide basis to further enable the Exchange to prepare for, and ascertain the readiness of its systems for, the eventual floor-wide dissemination of options quotations with size. The Exchange represents that any option(s) approved for inclusion in the pilot will be posted on the Exchange's web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act [10] in general, and with section 6(b)(5) in particular,[11] in that it is designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest and promote just and equitable principles of trade by enabling the Exchange to prepare for the dissemination of option quotes with size and by enabling Exchange specialists to maintain fair and orderly markets during periods of peak market activity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not receive or solicit any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–Phlx–2001–79 and should be submitted by October 2, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and protect investors and the public interest.[13] The Commission believes that increasing the number of options included in the pilot to all Exchange-traded options floor-wide, subject to approval of the Options Committee, should help the Exchange to test its systems in preparing for the dissemination of its options quotes with size. In addition, the Commission believes that the proposal may assist specialists in maintaining fair and orderly markets during periods of peak market activity.

The Commission notes that during the six months of the Initial Pilot Program and since the pilot's renewal for an additional six-month period, the Phlx has received no complaints from customers, floor traders, or member firms. The Exchange also clarified that orders will not be executed at an inferior price simply because they are routed to the specialist for manual handling. Rather, the orders will be handled in a manner consistent with the Exchange's rules on priority, parity, and precedence and in compliance with the SEC's Quote Rule and Phlx Rule 1082 ("Firm Quotations").

The Commission notes that the Exchange has represented that it will continue to evaluate the pilot by reviewing specialists' performance in the selected options, and by monitoring any complaints relating to the pilot program.[14] Furthermore, the Commission notes that the Exchange has represented that it will continue to post on its website a list of options included in the pilot, as well as issue a circular to this effect to members, member organizations, participants, and participant organizations explaining the pilot program and the circumstances in which the Auto-X system will not be available for customer orders.[15]

Finally, the Commission finds good cause, pursuant to section 19(b)(2) of the Act,[16] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval will enable the Exchange to increase the number of options included in its pilot, for the duration of the six-month period commencing on May 29, 2001, without undue delay and without interrupting the existing operation of its Auto-X system.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Phlx–2001–79) is hereby approved on an accelerated basis, for the duration of the six-month pilot, scheduled to expire on November 30, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22674 Filed 9–10–01; 8:45 am]

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[4] According to the Exchange, this would include all index, equity, and foreign currency options. Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Deborah L. Flynn, Assistant Director, Division of Market Regulation ("Division"), Commission, on August 31, 2001.

[5] The Exchange notes that participation in the pilot is not mandatory. Specialists may request inclusion of a particular option or options in the pilot program, subject to the approval of the Options Committee. The instant proposal would simply expand the list of options eligible for the pilot to include all Exchange-traded options.

[6] *See* Securities Exchange Act Release No. 43652 (December 1, 2000), 65 FR 77059 (December 8, 2000) (SR–Phlx–00–96) ("Initial Pilot Program").

[7] *See* Securities Exchange Act Release No. 44362 (May 29, 2000), 66 FR 30037 (June 4, 2000) (SR–Phlx–2001–56).

[8] Any orders delivered in excess of the maximum AUTO–X guarantee will be executed to the guaranteed amount and the excess will be kicked out of the system for manual handling by the specialist. *See* Initial Pilot Program, *supra* note 6.

[9] Currently, the size of any disseminated bid or offer by the Exchange is equal to the AUTO–X guarantee for the quoted option, except that the disseminated size of bids and offers of limit orders on the book is ten contracts and must be firm regardless of the actual size of such orders. *See* Exchange Options Floor Procedure Advice F–7. The Exchange has established this rule setting forth the size for which its quotes are firm, and periodically publishes that size in accordance with recently amended Rule 11Ac1–1 under the Act ("Quote Rule"). *See* Securities Exchange Act Release No. 44145 (April 2, 2001), 66 FR 18662 (April 10, 2001) (File No. SR–Phlx–2001–37).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Sonia Patton, Attorney, Division, Commission, on August 31, 2001.

[15] *Id.* Phlx also represented that it would include language in its circular clarifying that Auto-X will not be re-engaged until the expiration of the thirty-second period, even after a quote is revised, and that the Exchange is considering revising that practice prior to seeking permanent approval of the pilot program. Telephone conversation between Richard S. Rudolph, Counsel, Phlx, and Sonia Patton, Attorney, Division, Commission, on August 31, 2001.

[16] 15 U.S.C. 78s(b)(2).

[17] *Id.*

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3773]

Culturally Significant Objects Imported for Exhibition Determinations: "Cleopatra of Egypt: From History to Myth"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended by Delegation of Authority No. 236–3 of August 28, 2000 (65 FR 53795), and Delegation of Authority dated June 29, 2001, I hereby determine that the objects to be included in the exhibit, "Cleopatra of Egypt: From History to Myth," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at The Field Museum, Chicago, Illinois, from on or about October 20, 2001, to on or about March 3, 2002, and other possible venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: August 30, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22768 Filed 9–10–01; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 3772]

Culturally Significant Objects Imported for Exhibition; Determinations "Matta in America: Paintings and Drawings of the 1940s"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 et seq.), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended by Delegation of Authority No. 236–3 of August 28, 2000 (65 FR 53795), and Delegation of Authority dated June 29, 2001, I hereby determine that the objects to be included in the exhibit, "Matta in America: Paintings and Drawings of the 1940s," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at the Los Angeles Museum of Contemporary Art, Los Angeles, California, from on or about September 30, 2001, to on or about January 6, 2002, the Miami Art Museum, Miami, Florida, from on or about March 22, 2002, to on or about June 2, 2002, the Museum of Contemporary Art, Chicago, Illinois from on or about July 13, 2002, to on or about October 20, 2002, and other possible venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: August 30, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22767 Filed 9–10–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3774]

Bureau of Nonproliferation; Imposition of Missile Proliferation Sanctions Against a Chinese Entity and a Pakistani Entity

AGENCY: Bureau of Nonproliferation, Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that a Chinese entity and a Pakistani entity have engaged in activities that require the imposition of measures pursuant to the Arms Export Control Act, and the Export Administration Act of 1979, as amended (as carried out under Executive Order 13222 of August 17, 2001).

EFFECTIVE DATE: September 1, 2001.

FOR FURTHER INFORMATION CONTACT: Pamela K. Roe, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202–647–4931).

SUPPLEMENTARY INFORMATION: Pursuant to section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)); section 11B(b)(1) of the Export Administration Act of 1979 (50 U.S.C. app. 2401b(b)(1)), as carried out under Executive Order 13222 of August 17, 2001 (hereinafter cited as the "Export Administration Act of 1979"); and Executive Order 12851 of June 11, 1993; the U.S. Government determined on September 1, 2001 that the following foreign persons have engaged in missile technology proliferation activities that require the imposition of the sanctions described in section 73(a)(2)(A) of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(A)) and section 11B(b)(1)(B)(i) of the Export Administration Act of 1979 (50 U.S.C. app. 2410b(b)(1)(B)(i)) on these entities:

1. National Development Complex (Pakistan) and its sub-units and successors.

2. China Metallurgical Equipment Corporation (a/k/a CMEC, a/k/a MECC) (China) and its sub-units and successors.

Accordingly, the following sanctions are being imposed on these entities:

(A) New individual licenses for exports to the entities described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Export Administration Act of 1979 will be denied for two years;

(B) New licenses for export to the entities described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years; and

(C) No new United States Government contracts relating to MTCR Annex-controlled equipment or technology involving the entities described above will be entered into for two years.

With respect to items controlled pursuant to the Export Administration Act of 1979, the export sanctions only apply to exports made pursuant to individual export licenses.

Additionally, because China is a country with a non-market economy that is not a former member of the Warsaw Pact (as referenced in the definition of "person" in section 74(8)(B) of the Arms Export Control Act, the following sanctions shall be applied to all activities of the Chinese government relating to the development or production of missile equipment or technology and all activities of the Chinese government affecting the development or production of electronics, space systems or equipment, and military aircraft:

(A) New licenses for export to the government activities described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years; and

(B) No new U.S. Government contracts relating to MTCR Annex-controlled equipment or technology involving the government activities described above will be entered into for two years.

These measures shall be implemented by the responsible departments and agencies of the United States Government as provided in Executive Order 12851 of June 11, 1993.

Dated: September 4, 2001.

Vann H. Van Diepen,

Acting Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 01–22769 Filed 9–10–01; 8:45 am]

BILLING CODE 4710–25–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–95–246]

North American Free Trade Agreement's Land Transportation Standards Subcommittee and Transportation Consultative Group: Annual Plenary Session

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice announces the eighth annual plenary session of the North American Free Trade Agreement's (NAFTA) Land Transportation Standards Subcommittee (LTSS) and the Transportation Consultative Group (TCG) and other related meetings; and invites representatives of non-governmental entities with an interest in land transportation issues to participate in these proceedings and to attend a briefing at a later date. With the exceptions noted below, only U.S., Canadian, and Mexican government officials may attend the plenary and working group meetings.

Background

The Land Transportation Standards Subcommittee (LTSS) was established by the North American Free Trade Agreement's (NAFTA) Committee on Standards-Related Measures to examine the land transportation regulatory regimes in the United States, Canada, and Mexico, and to seek to make certain standards more compatible. The Transportation Consultative Group (TCG) was formed by the three countries' departments of transportation to address non-standards-related issues that affect cross-border movements among the countries, but that are not included in the NAFTA's LTSS work program (Annex 913.5.a–1).

Meetings and Deadlines

The eighth annual LTSS/TCG plenary session will be held from October 15 to 17, 2001, at the Chateau Laurier Hotel, Ottawa, Ontario, Canada. The following LTSS working groups are expected to meet during the same week and at the same location: (1) Compliance and Driver and Vehicle Standards; (2) Vehicle Weights and Dimensions; and (3) Hazardous Materials Transportation Standards. The following TCG working groups are expected to meet: (1) Cross-Border Operations and Facilitation; (2) Rail Safety and Operational Issues; (3) Automated Data Exchange; (4) Science and Technology; and (5) Maritime and Ports Policy. In addition, the occasion of the LTSS plenary session will also be used to convene bilateral meetings among the three parties to discuss a range of transportation issues.

During the plenary session, from 2 p.m. to 5:30 p.m. on October 15, 2001, representatives of the truck, bus, and rail industries, transportation labor unions, brokers and shippers, chemical manufacturers, insurance industry, public safety advocates, and other non-governmental organizations (NGO) who have notified us of their interest to attend by October 1, 2001, will have an opportunity to meet individually with the heads of the U.S., Canadian, and Mexican delegations. This is an opportunity for interested parties to voice their concerns, provide technical information, and offer suggestions relevant to achieving greater standards compatibility and improving cross-border trade. While written statements of any length may be submitted to the delegation heads, oral presentations will be limited to 10 minutes per presenter. After October 1, written statements may be submitted for the record, and requests to present oral comments at the meeting with the delegation heads will be accommodated only on a time-available basis.

The same interested parties also will have the opportunity to meet with the individual working groups for the purpose of making more technical presentations oriented specifically to the subjects addressed by each group. Working group sessions following these NGO presentations will be closed to all but government officials. The Working Group meeting schedule is tentatively set as follows:

Monday, October 15, 2001

10:00–11:45 a.m.: LTSS working groups on Compliance and Driver and Vehicle Standards; Vehicle Weights and Dimensions; and Hazardous Materials Transportation Standards; TCG working groups on Cross-Border Operations and Facilitation; Automated Data Exchange; and Maritime and Port Policy.

2:00–5:30 p.m.: Same working groups as morning session, except TCG Automated Data Exchange group will not meet; TCG working group on Science and Technology also will meet at this time. The working group addressing Rail Safety and Operational Issues may also meet at this time.

Tuesday, October 16, 2001

9:00 a.m.–12:15 p.m.: LTSS working groups on Compliance and Driver and Vehicle Standards; and Vehicle Weights and Dimensions; TCG working group on Cross-Border Operations and Facilitation.

2:00–6:00 p.m.: LTSS working group on Hazardous Materials Transportation; TCG working groups on Automated Data Exchange; and Science and Technology.

To make a presentation to a specific working group interested parties should directly contact the U.S. working group chair for that group, indicate the nature of the presentation to be made, and arrange a specific time for the presentation. Times will be subject to coordination among the three working group co-chairs from the United States, Canada, and Mexico. U.S. co-chairs for the LTSS and TCG working groups are as follows:

LTSS

Compliance and Driver and Vehicle Standards—Tom Kozlowski (202–366–4049)
Vehicle Weights and Dimensions—James March (202–366–9237)
Hazardous Materials Transportation Standards—Bob Richard (202–366–0586)

TCG

Cross-Border Operations and Facilitation—Maria Lameiro (202–366–2892)
Rail Safety and Operational Issues—Jane Bachner (202–493–6405)
Automated Data Exchange—Tom Kozlowski (202–366–4049)
Science and Technology—Rita Freeman-Kelly (202–366–5443)
Maritime and Ports Policy—Gregory Hall (202–366–5773)

Hotel reservations may be arranged with the Fairmont Chateau Laurier by telephoning 800–441–1414 or 613–241–1414. The hotel can be reached by fax at 613–562–7031 or by email at *clh.reservations@fairmont.com*. Reservations should be made no later than September 20, 2001. Due to a very busy conference period in Ottawa during the month of October, the hotel cannot hold rooms at conference rates beyond September 20, 2001. When making reservations, callers must identify the conference (NAFTA LTSS Plenary) in order to obtain the special rates for conference attendees. A credit card is required to guarantee payment for all rooms.

A briefing to report on the outcome of the Ottawa meetings will be conducted at DOT at the address below, on November 15, 2001, from 10:00 a.m. to noon in room 10234. Interested parties may notify DOT of their interest to attend this briefing by calling (202) 366–2892 by November 1.

SUPPLEMENTARY INFORMATION: LTSS-related documents, including past working group reports and statements received by DOT from industry associations, transportation labor unions, public safety advocates, and others are available for review in Docket No. OST–95–246, at the address below, Room PL–401, between 9:00 a.m. and 5:00 p.m., e.s.t., Monday through Friday, except national holidays. The Docket, which is updated periodically, may also be accessed electronically at *http://dms.dot.gov*.

Address and Phone Numbers

Individuals and organizations interested in participating in the LTSS and TCG sessions must send notice of their interest and copies of their

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presentations by October 1 to Allen Wiener, U.S. Department of Transportation, OST/X–20, Room 10300, 400 Seventh Street, SW., Washington, DC 20590. Respondents may also send information by fax at (202) 366–7417 or email to allen.wiener@ost.dot.gov. For additional information, call (202) 366–2892.

Dated: September 5, 2001.

Bernestine Allen,

Director, Office of International Transportation and Trade.

Louise M. Pearson,

Alternate Certifying Officer.

[FR Doc. 01–22709 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Portland International Jetport, Portland, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for Public Comments. Notice of intent of waiver with respect to land.

SUMMARY: The FAA is requesting public comment on the City of Portland, Maine's request to dispose of a portion of airport property (approximately 4.95 acres located in between Johnson Road and the Maine Turnpike in both Portland and South Portland, Maine. The land is no longer needed for aeronautical use, as shown on the Airport Layout Plan. The property requested for disposition is approach land in the Runaway 11 Runway Protection Zone. Upon disposition the property will be transferred to the State of Maine Turnpike Authority for construction of a Jetport interchange. There appear to be no impacts to the airport by allowing the disposal of the property. The property is a portion of several parcels of land acquired under FAA Project No. 9–17–001–507 in 1955.

The disposal of airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

DATES: Comments must be received on or before October 11, 2001.

ADDRESSES: Documents are available for review by appointment by contacting Jeff Schultes, Airport Manager at Portland International Jetport, 1001 Westbrook Street, Portland, Maine, Telephone 207–791–8035 and be reviewed in person by contacting Donna R. Witte, Telephone 781–238–7624 at the Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte, Airports Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on August 24, 2001.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 01–22776 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of the fourth meeting of the FAA Aircraft Repair and Maintenance Advisory Committee. The purpose of the meeting is for the Committee to continue working towards accomplishing the goals and objectives pursuant to its congressional mandate.

DATES: The meeting will be held Tuesday, September 18, 2001, 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation, 400 7th St., SW., Rooms 6200–6204, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ellen Bowie, Federal Aviation Administration (AFS–300), 800 Independence Avenue, SW., Washington, DC 20591; phone (202) 267–9952; fax (202) 267–5115; e-mail Ellen *Bowie@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aircraft Repair and Maintenance Advisory Committee to be held on September 18, at the Department of Transportation, 400 7th Street, SW., Rooms 6200–6204, Washington, DC 20590.

The agenda will include:

- Introduction of any new designated alternate members
- Committee administration
- Reading and approval of minutes
- Review of open/additional action items
- Working group status review
- Statements of members of the public
- Review of Committee workscope vs. mandate
- Review desire for Committee extension
- Plan/discuss next steps/agenda and timeline
- Closing remarks and adjournment

Attendance is open to the public but will be limited to the availability of meeting room space. Persons desiring to present a verbal statement must provide a written summary of remarks. Please focus your remarks on the tasks, specific activities, projects or goals of the Advisory Committee, and benefits to the aviation public. Speakers will be limited to 5-minute presentations. Please contact Ms. Ellen Bowie at the number listed above if you plan to attend the meeting or to present a verbal statement.

Individuals making verbal presentations at the meeting should bring 25 copies to give to the Committee's Executive Director. These copies may be provided to the audience at the discretion of the submitter.

Issued in Washington, D.C. on September 5, 2001.

James J. Ballough,

Acting Manager, Continuous Airworthiness Maintenance Division.

[FR Doc. 01–22774 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Automatic Dependent Surveillance-Broadcast (ADS–B) Link Decision

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of FAA Public Meetings on ADS–B Link Decision.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting to: (1) provide an update on the progress that has been made toward making a decision on the link architecture to be used for enabling Automatic Dependent Surveillance-Broadcast (ADS–B) as a surveillance technology within the National Airspace System; and (2) to share with industry the results of the technical assessments that will be used by the FAA as the basis for making the decision on the ADS–B link architecture.

DATES: The meeting will be held on October 19, 2001, from 9:00 am to 2:20 pm.

ADDRESSES: The meeting will be held in conference rooms 6244–6248 on the sixth floor of the Department of Transportation Headquarters Building, 400 7th Street, SW., Washington, DC. *Meeting participants should use the entrance at the southeast corner of the building.*

FOR FURTHER INFORMATION CONTACT: (1) Ron Jones, CNS Systems Branch, ADS–140, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 358–5345; e-mail *ronnie.jones@faa.gov;* Ms. Kelly Weathers, Management Assistant, ADS–140, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 358–5271; fax (202) 358–4922; e-mail *kelly.weathers@faa.gov.*

SUPPLEMENTARY INFORMATION: This will be the third public meeting held by the FAA on the subject of the ADS–B link architecture decision. The first meeting was held on June 6, 2001, and the second on June 25–26, 2001. The briefing materials from these prior ADS–B link decision meetings are available on the following website: *http://adsb.tc.faa.gov/ADS-B/186-subf.htm.* The purpose of the October 19, 2001, meeting is to: (1) review the most recent results of the evaluations of the alternative ADS–B link technologies and architectures versus the required functional, performance and operational capabilities; (2) review the results of the economic assessments of the core set of alternate ADS–B link architecture scenarios. The meeting outcome will be to provide the aviation industry better insight into the factors that are expected to be the basis for the future FAA decision on the ADS-B link architecture. The agenda for the meeting will include:

- *Introductions and Objectives*
- Baseline ADS–B Requirements
- ADS–B Link Architecture Alternatives
- Overview of the Results of the Assessment of the Funcational/Performance/Operational Capabilities of the ADS–B Link Architecture Alternatives
- Overview of the Cost Benefit Analysis of Alternative ADS–B Link Architecture Scenarios
- Summary and Plans for Moving Forward with an ADS–B Link Architecture Decision

Attendance is open to the interested public but limited to space availability. Persons wishing to attend or obtain information should contact the (2) person listed in the **FOR FURTHER INFORMATION CONTACT** section, and provide their name, company or organization, address, phone number, fax number and e-mail address.

Issued in Washington, DC, on August 31, 2001.

John A. Scardina,

Director, FAA Office of System Architecture and Investment Analysis.

[FR Doc. 01–22775 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Notice of Meeting; Aviation Security Advisory Committee

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held September 20, 2001, from 10:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, MacCracken Room, Washington, D.C. 20591, telephone 202–267–7622.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 11), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held September 20, 2001, at the Federal Aviation Administration, 800 Independence Avenue, SW., 10th floor, MacCracken Room, Washington, DC. The agenda for the meeting will include: Federal Government Resources for Weapons of Mass Destruction Response at Domestic Airports, the Nunn-Lugar Legislation on First Responders and a Review of Rulemaking Activities. The meeting is open to the public but attendance is limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time. Persons wishing to present statements or obtain information should contact the Office of the Associate Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7622.

Issued in Washington, D.C., on September 5, 2001.

Michael A. Canavan,

Associate Administrator for Civil Aviation Security.

[FR Doc. 01–22772 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10572]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BELUGA.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 11, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10572. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is

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available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties: Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement:

(1) *Name of vessel and owner for which waiver is requested:* Name of vessel: BELUGA. Owner: University of California (Berkeley) Fleet Services.

(2) *Size, capacity and tonnage of vessel:* According to the applicant: "The vessel is a 39-foot sailing vessel with auxiliary power. The beam measures 13'4" with a draft of 9'3". The net tonnage is estimated to be 21 as determined using Coast Guard formula of 90% of 50LBD/100."

(3) *Intended use for vessel, including geographic region of intended operation and trade:* According to the applicant: "The intended use of this vessel is sailing instruction, charter and recreational. The geographic region of use will be limited to San Francisco Bay, California Coast and the Sacramento River Delta."

(4) *Date and Place of construction and (if applicable) rebuilding:* Date of construction: 1982. Place of construction: Unknown.

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators.* According to the applicant: "Other commercial passenger operators in the area are: Horn Blower Yachts and the Olympic Circle Sailing Club. Horn Blower operates dinner dance cruises, and brunch cruises for up to 500 people. Olympic Circle operates 30 boats, primarily for instructional purposes with very few charters available. Granting of this waiver will have absolutely no impact on Horn Blower Yachts and a very minimal, if not negligible, impact on the Olympic Circle Sailing Club. To the best of the applicant's knowledge there are no other charter operators in the area."

(6) *A statement on the impact this waiver will have on U.S. shipyards:* According to the applicant: "This wavier will have no impact, adverse or otherwise on U.S. Shipyards."

Dated: September 5, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–22677 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10571]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel HAWAIIAN WARRIOR.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 11, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10571. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement:

(1) *Name of vessel and owner for which waiver is requested:* Name of vessel: HAWAIIAN WARRIOR. Owner: Morning Star Cruises, Inc.

(2) *Size, capacity and tonnage of vessel:* According to the applicant: "Overall Length (L)=45ft; Overall Breadth (B)=14ft; Overall Depth (D)=4ft."

(3) *Intended use for vessel, including geographic region of intended operation and trade:* According to the applicant: The vessel is being used as a platform barge to conduct scuba diving and snorkeling activities." We plan to operate on the south-west shore of Oahu, Hawaii, not more than 1000 yards off shore.

(4) *Date and Place of construction and (if applicable) rebuilding:* Date of construction: 1955. Place of construction: (owner thinks) Honolulu, Hawaii (but can't verify).

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators:* According to the applicant: "This wavier will have no impact on other commercial operators as there are no other commercial operators within a 5 mile radius."

(6) *A statement on the impact this waiver will have on U.S. shipyards:* According to the applicant: "This wavier will have no impact on U.S. Shipyards. We do utilize Hawaii shipyards to do our dry docks."

Dated: September 5, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–22678 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10573]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MAÑANA.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 11, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10573. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement:

(1) *Name of vessel and owner for which waiver is requested:* Name of vessel: MAÑANA. Owner: Mañana Services Inc.

(2) *Size, capacity and tonnage of vessel:* According to the applicant: "Documented Length 41.8, Breadth 13.7, Depth 6.5: Gross Tons (per Certificate of Documentation): 24; Net Tons (per Certificate of Documentation: 19.

(3) *Intended use for vessel, including geographic region of intended operation and trade:* According to the applicant: "Small boat handling training platform for use in the coastal waters of the Gulf of Mexico and Atlantic Ocean."

(4) *Date and Place of construction and (if applicable) rebuilding:* Date of construction: 1985. Place of construction: Kaohsiung, Taiwan, ROC.

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators:* According to the applicant: "As there are no other operators offering live aboard small boat handling training in our home waters, there is no known impact on other commercial operators."

(6) *A statement on the impact this waiver will have on U.S. shipyards:* According to the applicant: "The narrow appeal of our training classes (focused on professional people desirous of a cruising style retirement but who are lacking in sufficient boating experience to do so) makes the impact of our training classes on US shipyards negligible."

Dated: September 5, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–22676 Filed 9–10–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Sidley Austin Brown & Wood on behalf of NCR Corporation and Appleton Papers Inc. (WB592—8/21/2001), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

For more information contact: James A. Nash, (202) 565–1542

Vernon A. Williams,

Secretary.

[FR Doc. 01–22636 Filed 9–10–01; 8:45 am]

BILLING CODE 4915–00–P

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34089]

Saginaw Valley Railway Company; Joint Relocation Project Exemption; Huron and Eastern Railway Company

On August 23, 2001, Saginaw Valley Railway Company, Inc. (Saginaw Valley) filed a notice of exemption under 49 CFR 1180.2(d)(5) to participate in a joint relocation project with the Huron and Eastern Railway Company, Inc. (Huron and Eastern). The transaction was scheduled to be consummated on or after August 30, 2001.

Saginaw Valley owns and operates over 55 miles of railroad in the State of Michigan (1) between Traveler, milepost 4.5, and Brown City, milepost 55.8, and (2) between Harger, milepost 4.6, and Richville, milepost 14.1 (Harger Line).

Huron and Eastern, owns and operates about 171 miles of railroad in the State of Michigan including (1) the main line between Saginaw, milepost 0.0, and the end of track at Croswell, milepost 108.3 (including Buena Vista, at milepost 3.0); and (2) branch lines between (a) Harger, milepost 4.6, and Denmark Junction, milepost 15, (b) Munger, milepost 100.6, and Millington, milepost 79.6, (c) Vassar, milepost 0.0, and Colling, milepost 22.1 (Vassar Sub), (d) Bad Axe, milepost 0.0, and Kinde, milepost 9.4, (e) Palms, milepost 82.4, and the end of the line via Ruth, milepost 8.69, and (f) Sandusky, milepost 0.66, and the main line between Deckerville and Carsonville.

According to Saginaw Valley, the sole purpose of its Harger Line has been to access the Central Michigan Railway Company (Central Michigan) interchange at Harger, at milepost 4.6. Saginaw Valley maintains that it has no customers on its Harger Line between milepost 4.6 and milepost 13.2 but that there is an active customer east of milepost 13.2 in Richville. Saginaw Valley points out that, because of the Harger Line's poor track condition, traffic routed west from Richville to Harger moves at speeds below 10 miles per hour. Further, Saginaw Valley states that some of its Central Michigan bound traffic originates on Saginaw Valley lines and some originates on Huron and Eastern lines. Much of this traffic currently has to move via the Vassar Sub from Reese, MI, to Denmark Junction, to Harger, and return to Reese, a trip that takes up to 5 hours due to the poor track conditions of the Harger Line.[1]

A new interchange with the Central Michigan has been established at Buena Vista.[2] Under the joint relocation project, Huron and Eastern will grant Saginaw Valley haulage rights over its line. The Saginaw Valley traffic that was interchanged to the Central Michigan via Harger will be rerouted east to Denmark Junction, then onto the Saginaw Valley, north to Reese, and west to the new Buena Vista interchange. Under the relocation project, Saginaw Valley originated traffic is expected to reach the interchange point with Central Michigan at least 2 hours faster and Huron and Eastern originated traffic is expected to reach the interchange point with Central Michigan up to 5 hours faster. Upon commencing hauling operations over the Huron and Eastern, Saginaw Valley will abandon service over its Harger Line between milepost 4.6 and milepost 13.2.

The proposed joint relocation project will not disrupt service to shippers. Saginaw Valley seeks to serve its customers more efficiently and at a lower cost and Huron and Eastern seeks to increase traffic density over the line that Saginaw Valley will use and revenue from the contribution to be made from the usage fees to be paid by Saginaw Valley.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne County Port Authority* v. *ICC*, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring STB Finance Docket No. 34089, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., BALL JANIK LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: August 31, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–22634 Filed 9–10–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Saginaw Valley notes that the majority of its traffic moving via Harger to the Central Michigan originates on the Huron and Eastern.

[2] According to the verified notice of exemption, Huron and Eastern also interchanges traffic to the Central Michigan. Huron and Eastern traffic that was previously interchanged at Harger to the Central Michigan will be interchanged to Central Michigan at Buena Vista.

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for International Affairs

Survey of U.S. Ownership of Foreign Securities as of December 31, 2001

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey of ownership of foreign securities by U.S. residents as of December 31, 2001. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. United States persons who meet the reporting requirements but who do not receive a set of the survey forms and instructions should contact the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, at (212) 720–6300 to obtain a copy. Additional copies of the reporting forms and instructions may be printed from the Internet at: *http://www.treas.gov/tic/forms.htm*

Definition: A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a state, provincial, or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: The following U.S. persons must report on this survey:

- U.S. persons who manage, as custodians, the safekeeping of foreign securities for U.S. persons. These U.S. persons, who include the affiliates in the United States of foreign entities, must report on this survey if the total market value of the foreign securities whose safekeeping they manage on behalf of U.S. persons—aggregated over all accounts and for all branches and affiliates of their firm—is $100 million or more as of the close of business on December 31, 2001.
- U.S. persons who own foreign securities. These U.S. persons, who include the affiliates in the United States of foreign entities, must report on this survey if the total market value of these foreign securities—aggregated over all accounts and for all branches and affiliates of their firm—is $100 million or more as of the close of business on December 31, 2001.

What to Report: This report will collect information on U.S. resident holdings of foreign securities, including foreign equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

How to Report: Copies of the survey forms and instructions, which contain complete information on reporting procedures, can be obtained by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300, e-mail: SHC.help@ny.frb.org. The mailing address is: Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045–0001.

When to Report: Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by February 15, 2002.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505–0146. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 16 hours per respondent for exempt reporters, 40 hours per respondent reporting U.S. resident custodian information on Schedule 3, 120 hours per U.S. resident investor providing detailed information on Schedule 2, and 360 hours per U.S. resident custodian reporting detailed information on Schedule 2. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Attention Administrator, International Portfolio Investment Data Systems, Room 5205 MT, Washington, D.C. 20220, and to OMB, Attention Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

Dated: September 6, 2001.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems (202) 622–1276; e-mail: dwight,wolkow@do.treas.gov.

[FR Doc. 01–22804 Filed 9–10–01; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106012–98]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–106012–98 (TD 8936), Definition of Contribution in Aid of Construction Under Section 118(c)(§ 1.118–2).

DATES: Written comments should be received on or before November 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Definition of Contribution in Aid of Construction Under Section 118(c).

OMB Number: 1545–1639.

Regulation Project Number: REG–106012–98.

Abstract: This regulation provides guidance with respect to section 118(c), which provides that a contribution in aid of construction received by a regulated public water or sewage utility is treated as a contribution to the capital of the utility and excluded from gross income.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Average Time Per Respondent: 1 hour.

Estimated Total Annual Reporting Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

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agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 30, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–22799 Filed 9–10–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Former Prisoners of War will be held on October 22–24, 2001, at the James A. Haley VA Medical Center, 13000 Bruce B. Downs Blvd., Bldg. 32, Room 101, Tampa, FL 33612. Each day the meeting will convene at 9:00 a.m. and end at 4:30 p.m. The meeting is open to the public.

The purpose of the committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the needs of such veterans for compensation, health care and rehabilitation.

The agenda for October 22 will begin with an introduction of committee members and dignitaries, a review of Committee reports, an update of activities since the last meeting, and a period for POW veterans and/or the public to address the committee. The Committee will also discuss future plans for the VA POW Learning Seminars, and conclude with a report from the Special Panel on Presumptive Conditions. The agenda on October 23 will include a report on VA's Compensation and Pension Service activities, a discussion of VA's approval process for presumptive conditions, and a report on the activities of the Veterans Health Administration. The committee will also take up consideration of priority for POWs in Long-Term Health Care programs, and hear a report from the National Institute of Health Agency Follow-up on Morbidity and Mortality in Heart Disease and Stroke among former POWs. The session will conclude with a report from the Robert E. Mitchell Center for Prisoner of War Studies, followed by a general discussion. On October 24, the Committee's Medical and Administrative subcommittees will break out to discuss their activities and report back to the Committee.

Additionally, the Committee will review and analyze the comments discussed throughout the meeting for the purpose of assisting and compiling a final report to be sent to the Secretary.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Ronald J. Henke, Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Submitted materials must be received by October 8, 2001. A report of the meeting and roster of Committee members may be obtained from Mr. Henke.

Dated: August 31, 2001.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–22695 Filed 9–10–01; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Nursing Research Initiative Subcommittee of the Scientific Review and Evaluation Board for Health Services Research and Development Service; Notice of Meeting

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Pub. L. 92–463, that a meeting of the Nursing Research Initiative Subcommittee of the Scientific Review and Evaluation Board for Health Services Research and Development Service will be held at the Madison Hotel, 15th Street, NW., Washington, DC, on Tuesday, September 11, 2001, from 9:00 a.m. until 5:00 p.m. The purpose of the meeting is to review nursing research applications that identify effective methods for improving, maintaining, and/or preventing decline in the functional status of patients; develop and test models that integrate patient care delivery and enhance health outcomes; and improve patient care. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are prepared for the Chief Research and Development Officer.

This meeting will be open to the public at the start of the September 11 session for approximately one-half hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to frustrate significantly implementation of proposed agency action regarding such research projects). As provided by the subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact Ms. Martha R. Bryan, Review Program Manager, Health Services Research and Development Service (124F), Department of Veterans Affairs, 1400 I Street, NW., Suite 780, Washington, DC, prior to the meeting. For further information, call (202) 408–3661.

Dated: August 31, 2001.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–22696 Filed 9–10–01; 8:45 am]

BILLING CODE 8320–01–M



Federal Register

Tuesday,
September 11, 2001

Part II

Department of Housing and Urban Development

Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4401–N–05]

Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document designates "Difficult Development Areas" and "Qualified Census Tracts" for purposes of the Low-Income Housing Tax Credit ("LIHTC") under section 42 of the Internal Revenue Code of 1986 ("the Code"). The United States Department of Housing and Urban Development ("HUD") makes new Difficult Development Area designations annually and makes Qualified Census Tract Designations at this time due to changes in section 42 of the Code enacted in the Community Renewal Tax Relief Act of 2000 ("CRTRA").

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions: Steven Ehrlich, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0426, e-mail Steven_R._Ehrlich@hud.gov. For specific legal questions pertaining to section 42 and this notice: Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3260, e-mail JERRY_GROSS@hud.gov. For questions about the "HUBZones" program: Michael P. McHale, Assistant Administrator for Procurement Policy, Office of Government Contracting, Suite 8800, Small Business Administration, 409 Third Street, SW., Washington, DC 20416, telephone (202) 205–6731, fax (202) 205–7324, e-mail michael.mchale@sba.gov. A text telephone is available for persons with hearing or speech impairments at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at (800) 245–2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about Difficult Development Areas and Qualified Census Tracts are available electronically on the Internet (World Wide Web) at http://www.huduser.org/datasets/qct.html.

SUPPLEMENTARY INFORMATION:

This Document

The designations of Difficult Development Areas in this Notice are based on FY 2001 Fair Market Rents ("FMRs"), FY 2001 income limits and 2000 Census population counts as explained below. The designations of Qualified Census Tracts in this notice are based on 1990 Census data.

2000 Census

Data from the 2000 Census on total population of metropolitan areas and nonmetropolitan counties are used in the designation of Difficult Development Areas. Data from the 2000 Census necessary to make Qualified Census Tract designations have not been released in their entirety by the Census Bureau. It is anticipated that all of the 2000 Census data necessary to make Qualified Census Tract designations will be released in time to publish new designations in September 2002 for effect in 2003.

Background

The U.S. Treasury Department and the Internal Revenue Service thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the "Code"), including the Low-Income Housing Tax Credit ("LIHTC") found at section 42 of the Code (26 U.S.C. 42) as amended. The Secretary of HUD is required to designate Difficult Development Areas and Qualified Census Tracts by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Difficult Development Areas and Qualified Census Tracts for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD, as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low-income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the "credit ceiling") is limited by population. Each state is allocated credit based on a statutory formula indicated at section 42(h)(3). States may carry forward unused or returned credit derived from the credit ceiling for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit. Besides section 42 credits derived from the credit ceiling, States may also provide section 42 credits to owners of buildings based upon the percentage of certain building costs financed by tax-exempt bond proceeds. Credits provided under the tax-exempt bond "volume cap" do not reduce the credit available from the credit ceiling.

The credit allocated to a building is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20 percent of units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income ("AMGI"), or 40 percent of units must be rent restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term "rent-restricted" means that gross rent, including an allowance for utilities, cannot exceed 30 percent of the tenant's imputed income limitation (i.e., 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the "qualified basis" for new construction or substantial rehabilitation expenditures that are not federally subsidized (i.e., financed with tax-exempt bonds or below-market federal loans), or (2) 30 percent of the qualified basis for the cost of acquiring certain existing projects or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6 percent maximum marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also deduct the losses from the project.

The qualified basis represents the product of the "applicable fraction" of the building and the "eligible basis" of the building. The applicable fraction is based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space of residential units in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of buildings located in designated Qualified Census Tracts or designated Difficult Development Areas, eligible basis can be increased up to 130 percent of what it would otherwise be. This means that the available credit also can be increased by up to 30 percent. For example, if the 70 percent credit is available, it effectively could be increased up to 91 percent.

Section 42 of the Code defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20 percent of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all non-metropolitan counties.

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income less than 60 percent of the AMGI or, as amended by the Community Renewal Tax Relief Act of 2000, where the poverty rate is at least 25 percent. There is a limit on the number of Qualified Census Tracts in any Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA") that may be designated to receive an increase in eligible basis: all of the designated census tracts within a given MSA/PMSA may not together contain more than 20 percent of the total population of the MSA/PMSA. For purposes of HUD designations of Qualified Census Tracts, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area.

Explanation of HUD Designation Methodology

A. Qualified Census Tracts

In developing this list of LIHTC Qualified Census Tracts, HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget ("OMB") in OMB Bulletin No. 99–04 on June 30, 1999. Beginning with the 1990 census, tract-level data are available for the entire country. Generally, in metropolitan areas these geographic divisions are called census tracts while in most non-metropolitan areas the equivalent nomenclature is Block Numbering Area ("BNA"). BNAs are treated as census tracts for the purposes of this Notice.

The LIHTC Qualified Census Tracts were determined as follows:

1. A census tract must have 50 percent of its households with incomes below 60 percent of the AMGI or have a poverty rate of 25 percent or more to be "eligible." HUD has defined 60 percent of AMGI as 120 percent of HUD's Very Low Income Limits (VLILs) 1990 Census benchmarks, which are based on 50 percent of area median family income. The 1990 income benchmarks are used because they match the 1990 Census tract-level income data.

2. For each census tract, the percentage of households below the 60 percent income standard (the "income criterion") was determined by (a) calculating the average household size of the census tract, (b) applying the income standard after adjusting it to match the average household size, and (c) calculating the number of households with incomes below the income standard.

3. For each census tract, the poverty rate was determined by dividing the population with incomes below poverty by the population for whom poverty status has been determined.

4. Qualified Census Tracts are those in which 50 percent or more of the households meet the income criterion or 25 percent or more of the population is in poverty such that the population of all census tracts that satisfy either one or both of these criteria does not exceed 20 percent of the total population of the respective area.

5. In areas where more than 20 percent of the population resides in eligible census tracts, one of two procedures is followed.

a. If more than 20 percent of the population resides in census tracts eligible by the income criterion, eligible census tracts are ordered from the highest percentage of eligible households to the lowest. Starting with the highest percentage, census tracts are included until the 20 percent limit is exceeded. If a census tract is excluded because it raises the percentage above 20 percent, then subsequent census tracts are considered to determine if one or more census tract(s) with smaller population(s) could be included without exceeding the 20 percent limit. No census tracts eligible solely by their poverty rates are designated in these areas.

b. If less than 20 percent of the population resides in census tracts eligible by the income criterion, census tracts eligible solely by their poverty rates are ordered from the highest poverty rate to the lowest. Starting with the highest poverty rate, census tracts are included until the 20 percent limit is exceeded. If a census tract is excluded because it raises the percentage above 20 percent, then subsequent census tracts are considered to determine if one or more census tract(s) with smaller population(s) could be included without exceeding the 20 percent limit.

B. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 2000 Census population data and the MSA/PMSA definitions as published by the Office of Management and Budget in OMB Bulletin No. 99–04 on June 30, 1999, with the exceptions described in section D., below. The basis for these comparisons was the fiscal year ("FY") 2001 HUD income limits for Very Low Income households and Fair Market Rents ("FMRs") used for the section 8 Housing Assistance Payments program. The procedure used in making the Difficult Development Area calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 2001 two-bedroom FMR and the FY 2001 four-person VLIL.

a. The numerator of the ratio was the area's FY 2001 FMR. In general the FMR is based on the 40th percentile rent paid by recent movers for a two-bedroom apartment. In metropolitan areas granted a FMR based on the 50th percentile rent for purposes of improving the administration of HUD's Housing Choice Voucher program (see 66 FR 162) the 40th percentile rent is used for nationwide consistency of comparisons.

b. The denominator of the ratio was the monthly LIHTC income-based rent

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limit calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where 120 percent of the VLIL was rounded to the nearest $50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent of AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for MSAs/PMSAs and for non-metropolitan counties.

3. The Difficult Development Areas are those with the highest ratios cumulative to 20 percent of the 2000 population of all metropolitan areas and of all non-metropolitan counties.

C. Application of Population Caps to Difficult Development Area Determinations

In identifying Difficult Development Areas and Qualified Census Tracts, HUD applied various caps, or limitations, as noted above. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all metropolitan areas and the cumulative population of nonmetropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all nonmetropolitan counties.

In applying these caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains the procedure. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio as described above was identical (to four decimal places) to the last area selected, and its inclusion resulted in only a minor overrun of the cap. Thus for both the designated metropolitan and nonmetropolitan Difficult Development Areas there may be a minimal overrun of the cap. HUD believes the designation of these additional areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to determine whether the 20 percent cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting small variances above the 20 percent limit.

D. Exceptions to OMB Definitions of MSAs/PMSAs and Other Geographic Matters

As stated in OMB Bulletin 99–04 defining metropolitan areas:

> OMB establishes and maintains the definitions of the [Metropolitan Areas] solely for statistical purposes * * * OMB does not take into account or attempt to anticipate any nonstatistical uses that may be made of the definitions * * * We recognize that some legislation specifies the use of metropolitan areas for programmatic purposes, including allocating Federal funds.

HUD makes exceptions to OMB definitions in calculating FMRs by deleting counties from metropolitan areas whose OMB definitions are determined by HUD to be larger than their housing market areas.

The following counties are assigned their own FMRs and VLILs and evaluated as if they were separate metropolitan areas for purposes of designating Difficult Development Areas.

Metropolitan Area and Counties Deleted

Chicago, IL: DeKalb, Grundy, and Kendall Counties.
Cincinnati-Hamilton, OH-KY-IN: Brown County, Ohio; Gallatin, Grant, and Pendleton Counties, Kentucky; and Ohio County, Indiana.
Dallas, TX: Henderson County.
Flagstaff, AZ-UT: Kane County, Utah.
New Orleans, LA: St. James Parish.
Washington, DC-MD-VA-WV: Clarke, Culpeper, King George, and Warren Counties, Virginia; and Berkely and Jefferson Counties, West Virginia.

Affected MSAs/PMSAs are assigned the indicator "(part)" in the list of Metropolitan Difficult Development Areas. Any of the excluded counties designated as difficult development areas separately from their metropolitan areas are designated by the county name.

In the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) OMB defines MSAs/PMSAs according to county subdivisions or Minor Civil Divisions ("MCDs") rather than county boundaries. Thus, when a New England county is designated as a Nonmetropolitan Difficult Development Area, only that part of the county (the group of MCDs) not included in any MSA/PMSA is the Nonmetropolitan Difficult Development Area. Affected counties are assigned the indicator "(part)" in the list of Nonmetropolitan Difficult Development Areas. Also in the New England States, census tracts may be cut by MSA/PMSA boundaries. Only those LIHTC projects located in the part of the tract in the listed MSA/PMSA or nonmetropolitan area may be allowed the increase in basis. Affected tracts are marked with an asterisk (*) in the list of Qualified Census Tracts

For the convenience of readers of this notice, the geographic definitions of designated Metropolitan Difficult Development Areas and the MCDs included in Nonmetropolitan Difficult Development Areas in the New England states are included in the list of Difficult Development Areas.

Certain nonmetropolitan county equivalent areas in Alaska for which FMRs and VLILs are calculated and thus form the basis of Difficult Development Area designations are no longer recognized as geographic entities by the Census Bureau. Therefore, no 2000 Census population counts are produced for these areas. HUD estimates the 2000 population of these areas as follows:

1. The 2000 Population of Denali Borough (1,893) was allocated entirely to the Yukon-Koyukuk Census Area. The part of Denali Borough created from the Southeast Fairbanks Census Area was deemed uninhabited after examination of Census Block data for the area of Denali Borough formerly in the Southeast Fairbanks Census Area.

2. The population of Yakutat City and Borough (808) was allocated to the former Skagway-Yakutat-Angoon Census Area (680) and the Valdez-Cordova Census Area (128). The populations of Yakutat City and Borough Census Blocks located east of 141° longitude were allocated to the Skagway-Yakutat-Angoon Census Area. The populations of Yakutat City and Borough Census Blocks located west of 141° longitude were allocated to the Valdez-Cordova Census Area.

Future Designations

Difficult Development Areas are designated annually as updated income and FMR data become available. Qualified Census Tracts will be redesignated next year when data from the 2000 Census become available.

Effective Date

The list of Difficult Development Areas and the list of Qualified Census Tracts is effective for allocations of credit made after December 31, 2001. In the case of a building described in section 42(h)(4)(B) of the Code, the list is effective if the bonds are issued and the building is placed in service after December 31, 2001.

Interpretive Examples for Effective Date

For the convenience of readers of this Notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose Difficult Development Area status with respect to projects described in section 42(h)(4)(B) of the Code. The examples are equally applicable to Qualified Census Tract designations.

Case A

Project "A" is located in a newly-designated 2002 Difficult Development Area. Bonds are issued for Project "A" on November 1, 2001, and Project "A" is placed in service March 1, 2002. Project "A" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the bonds were issued BEFORE January 1, 2002.

Case B

Project "B" is located in a newly-designated 2002 Difficult Development Area. Project "B" is placed in service November 15, 2001. The bonds which will support the permanent financing of Project "B" are issued January 15, 2002. Project "B" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the project was placed in service BEFORE January 1, 2002.

Case C

Project "C" is located in an area which is a Difficult Development Area in 2001, but IS NOT a Difficult Development Area in 2002. Bonds are issued for Project "C" on October 30, 2001, but Project "C" is not placed in service until March 30, 2002. Project "C" is eligible for the increase in basis available to projects located in 2001 Difficult Development Areas because the first of the two events necessary for triggering the effective date for buildings described in section 42(h)(4)(B) of the Code (the two events being bonds issued and buildings placed in service) took place on October 30, 2001, a time when project "C" was located in a Difficult Development Area.

Other Matters

Environmental Impact

In accordance with 40 CFR 1508.4 of the CEQ regulations and 24 CFR 50.19(c)(6) of the HUD regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites and therefore, are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no FONSI is required.

Regulatory Flexibility Act

In accordance with 5 U.S.C. section 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of "Difficult Development Areas" and "Qualified Census Tracts" as required by section 42 of the Code, as amended, for use by political subdivisions of the States in allocating the Low-Income Housing Tax Credit. This notice places no new requirements on the States, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating policies that have federalism implications and either impose substantial direct compliance costs on State and local governments and are not required by statute, or preempt State law, unless the relevant requirements of section 6 of the Executive Order are met. As a result, the notice is not subject to review under the order. The notice merely designates "DifficultDevelopment Areas" and "Qualified Census Tracts" as required under section 42 of the Internal Revenue Code, as amended, for the use by political subdivisions of the States in allocating the Low-Income Housing Tax Credit. The notice also details the technical methodology used in making such designations.

Dated: August 30, 2001.

Mel Martinez,

Secretary.

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2002 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
AZ	YUMA, AZ Yuma County			
CA	CHICO-PARADISE, CA Butte County	LOS ANGELES-LONG BEACH, CA Los Angeles County	MERCED, CA Merced County	OAKLAND, CA Alameda County Contra Costa County
	SALINAS, CA Monteroy County	SAN DIEGO, CA San Diego County	SAN FRANCISCO, CA San Francisco County Marin County San Mateo County	SAN JOSE, CA Santa Clara County
	SAN LUIS OBISPO-ATASCADERO-PASO ROBLES, CA San Luis Obispo County	SANTA BARBARA-SANTA MARIA-LOMPOC, CA Santa Barbara County	SANTA CRUZ-WATSONVILLE, CA Santa Cruz County	SANTA ROSA, CA Sonoma County
	VALLEJO-FAIRFIELD-NAPA, CA Napa County Solano County			
CO	GREELEY, CO Weld County			
FL	MIAMI, FL Dade County	PUNTA GORDA, FL Charlotte County		
ME	PORTLAND, ME Buxton town Cumberland town Cape Elizabeth town Falmouth town Casco town Freeport town	Gorham town Limington town Gray town Long Island town Hollis town North Yarmouth town	Old Orchard Beach town Scarborough town Portland city South Portland city Raymond town	Standish town Windham town Westbrook city Yarmouth town
MA	BARNSTABLE-YARMOUTH, MA Barnstable city Harwich town Brewster town Mashpee town Chatham town Orleans town Dennis town Sandwich town Eastham town Yarmouth town	BOSTON, MA-NH Berkley town Rowley town Dighton town Salem city Mansfield town Salisbury town Norton town Saugus town Taunton city Swampscott town Amesbury town Topsfield town Beverly city Wenham town Danvers town Acton town Essex town Arlington town Gloucester city Ashland town Hamilton town Ayer town Ipswich town Belmont town Lynn city Boxborough town Lynnfield town Burlington town Manchester-by-the-Sea Cambridge city Marblehead town Carlisle town Middleton town Concord town Nahant town Everett city Newbury town Framingham town Newburyport city Holliston town Peabody city Hopkinton town Rockport town	Hudson town Waltham city Lexington town Watertown city Lincoln town Wayland town Littleton town Weston town Malden city Wilmington town Marlborough city Winchester town Maynard town Woburn city Medford city Bellingham town Melrose city Braintree town Natick town Brookline town Newton city Canton town North Reading town Cohasset town Reading town Dedham town Sherborn town Dover town Shirley town Foxborough town Somerville city Franklin city Stoneham town Holbrook town Stow town Medfield town Sudbury town Medway town Townsend town Millis town Wakefield town Milton town	Needham town Plymouth town Norfolk town Rockland town Norwood town Scituate town Plainville town Wareham town Quincy city Boston city Randolph town Chelsea city Sharon town Revere city Stoughton town Winthrop town Walpole town Berlin town Westwood town Blackstone town Weymouth town Bolton town Wrentham town Harvard town Carver town Hopedale town Duxbury town Lancaster town Hanover town Mendon town Hingham town Milford town Hull town Millville town Kingston town Southborough town Marshfield town Upton town Norwell town Seabrook town, NH Pembroke town South Hampton town, NH

2002 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
NJ	ATLANTIC-CAPE MAY, NJ Atlantic County Cape May County	JERSEY CITY, NJ Hudson County	MONMOUTH-OCEAN, NJ Monmouth County Ocean County	VINELAND-MILLVILLE-BRIDGETON, NJ Cumberland County
NY	DUTCHESS COUNTY, NY Duchess County	NASSAU-SUFFOLK, NY Nassau County Suffolk County	NEW YORK, NY Bronx County New York County Kings County Putnam County	Queens County Rockland County Richmond County Westchester County
OR	EUGENE-SPRINGFIELD, OR Lane County	MEDFORD-ASHLAND, OR Jackson County		
PA	STATE COLLEGE, PA Centre County			
PR	AGUADILLA, PR Aguada Municipio Aguadilla Municipio Moca Municipio	CAGUAS, PR Caguas Municipio Gurabo Municipio Cayey Municipio San Lorenzo Mun. Cidra Municipio	MAYAGUEZ, PR Anasco Municipio Mayaguez Municipio Cabo Rojo Mun. Sabana Grande Mu. Hormigueros Mun. San German Mun.	SAN JUAN-BAYAMON, PR Aguas Buenas Mu. Corozal Municipio Barceloneta Mun. Dorado Municipio Bayamon Mun. Fajardo Municipio Canovanas Mun. Florida Municipio Carolina Municipio Guaynabo Municipio San Juan Mun. Humacao Municipio Toa Alta Municipio Juncos Municipio Toa Baja Mun. Las Piedras Mun. Trujillo Alto Mun. Loiza Municipio Vega Alta Mun. Luquillo Municipio Vega Baja Mun. Maneti Municipio Yabucoa Municipio Morovis Municipio Catano Municipio Naguabo Municipio Ceiba Municipio Naranjito Municipio Comerio Municipio Rio Grande Municipio
TX	EL PASO, TX El Paso County			
VT	BURLINGTON, VT Burlington city Essex town Charlotte town Fairfax town Colchester town Georgia town	Grand Isle town Milton town Hinesburg town Richmond town Jericho town Shelburne town	South Burlington city St. Albans city South Hero town St. Albans town	St. George town Williston town Swanton town Winooski city

2002 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

STATE	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT
AK	ALEUTIANS EAST BOROUGH	BETHEL CENSUS AREA
	HAINES BOROUGH	DILLINGHAM CENSUS AREA
	KODIAK ISLAND BOROUGH	FAIRBANKS NORTH STAR BOROUGH
	NORTH SLOPE BOROUGH	KENAI PENINSULA BOROUGH
		KETCHIKAN GATEWAY BOROUGH
		LAKE AND PENINSULA BOROUGH
		MATANUSKA-SUSITNA BOROUGH
		NOME CENSUS AREA
		NORTHWEST ARCTIC BOROUGH
		PRINCE OF WALES-OUTER KETCHIKAN CENSUS AREA
		SITKA BOROUGH
	VALDEZ-CORDOVA CENSUS AREA	WADE HAMPTON CENSUS AREA
		WRANGELL-PETERSBURG CENSUS AREA
		YUKON-KOYUKUK CENSUS AREA
AZ	APACHE COUNTY	COCHISE COUNTY
	LA PAZ COUNTY	GILA COUNTY
		GRAHAM COUNTY
		NAVAJO COUNTY
		SANTA CRUZ COUNTY
		YAVAPAI COUNTY
AR	BAXTER COUNTY	DREW COUNTY
CA	ALPINE COUNTY	AMADOR COUNTY
	DEL NORTE COUNTY	CALAVERAS COUNTY
	INYO COUNTY	COLUSA COUNTY
	MARIPOSA COUNTY	GLENN COUNTY
	NEVADA COUNTY	HUMBOLDT COUNTY
	SISKIYOU COUNTY	IMPERIAL COUNTY
		KINGS COUNTY
		LAKE COUNTY
		LASSEN COUNTY
		MENDOCINO COUNTY
		MODOC COUNTY
		MONO COUNTY
		PLUMAS COUNTY
		SAN BENITO COUNTY
		SIERRA COUNTY
		TEHAMA COUNTY
		TRINITY COUNTY
		TUOLUMNE COUNTY
CO	ARCHULETA COUNTY	GARFIELD COUNTY
	PITKIN COUNTY	LA PLATA COUNTY
		SAN MIGUEL COUNTY
CT	LITCHFIELD COUNTY (part)	MIDDLESEX COUNTY (part)
	Canaan town	Norfolk town
	Colebrook town	Litchfield town
	Cornwall town	Morris town
	Goshen town	Sharon town
	Kent town	Torrington town
		Warren town
		NEW LONDON COUNTY (part)
		Chester town
		Deep River town
		Essex town
		Lyme town
		Old Lyme town
		Old Saybrook town
		Westbrook town
DE	SUSSEX COUNTY	
FL	CALHOUN COUNTY	CITRUS COUNTY
	FRANKLIN COUNTY	DESOTO COUNTY
	HAMILTON COUNTY	GLADES COUNTY
	HOLMES COUNTY	HENDRY COUNTY
	LAFAYETTE COUNTY	HIGHLANDS COUNTY
	OKEECHOBEE COUNTY	JACKSON COUNTY
	TAYLOR COUNTY	MADISON COUNTY
		MONROE COUNTY
		SUMTER COUNTY
		SUWANNEE COUNTY
HI	HAWAII COUNTY	MAUI COUNTY
ID	BONNER COUNTY	
KY	HARLAN COUNTY	LAUREL COUNTY
LA	NATCHITOCHES PARISH	WEST FELICIANA PARISH

2002 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

STATE	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT
ME	ANDROSCOGGIN COUNTY (part)	FRANKLIN COUNTY
	Durham town	
	Leeds town	
	Livermore town	
	Livermore Falls town	
	Minot town	
	HANCOCK COUNTY	KENNEBEC COUNTY
	OXFORD COUNTY	PISCATAQUIS COUNTY
	PENOBSCOT COUNTY (part)	SOMERSET COUNTY
	Alton town	
	Argyle unorg.	
	Bradford town	
	Bradley town	
	Burlington town	
	Carmel town	
	Carroll plantation	
	Charleston town	
	Chester town	
	Clifton town	
	Corinna town	
	Corinth town	
	Dexter town	
	Dixmont town	
	Drew plantation	
	East Central Penobscot unorg.	
	East Millinocket town	
	Edinburg town	
	Enfield town	
	Etna town	
	Exeter town	
	Garland town	
	Greenbush town	
	Greenfield town	
	Howland town	
	Hudson town	
	Kingman unorg.	
	Lagrange town	
	Lakeville town	
	Lee town	
	Levant town	
	Lincoln town	
	Lowell town	
	Mattawamkeag town	
	Maxfield town	
	Medway town	
	Millinocket town	
	Mount Chase town	
	Newburgh town	
	North Penobscot unorg.	
	Passadumkeag town	
	Patten town	
	Plymouth town	
	Prentiss plantation	
	Seboeis plantation	
	Springfield town	
	Stacyville town	
	Stetson town	
	Twombly unorg.	
	Webster plantation	
	Whitney unorg.	
	Winn town	
	Woodville town	
	WASHINGTON COUNTY	
	YORK COUNTY (part)	
	Acton town	
	Alfred town	
	Arundel town	
	Biddeford city	
	Cornish town	
	Dayton town	
	Kennebunk town	
	Kennebunkport town	
	Lebanon town	
	Limerick town	
	Limington town	
	Lyman town	
	Newfield town	
	North Berwick town	
	Ogunquit town	
	Parsonsfield town	
	Saco city	
	Sanford town	
	Shapleigh town	
	Waterboro town	
	Wells town	
MA	BARNSTABLE COUNTY (part)	DUKES COUNTY
	Bourne town	
	Falmouth town	
	Provincetown town	
	Truro town	
	Wellfleet town	
	HAMPDEN COUNTY (part)	HAMPSHIRE COUNTY (part)
	Blandford town	Chesterfield town
	Brimfield town	Cummington town
	Chester town	Goshen town
	Granville town	Middlefield town
	Holland town	Pelham town
	Monson town	Plainfield town
	Montgomery town	Westhampton town
	Russell town	Worthington town
	Tolland town	
	Wales town	
	FRANKLIN COUNTY (part)	WORCESTER COUNTY (part)
	Ashfield town	Athol town
	Bernardston town	Hardwick town
	Buckland town	Hubbardston town
	Charlemont town	Petersham town
	Colrain town	Phillipston town
	Conway town	Royalston town
	Deerfield town	Warren town
	Erving town	
	Gill town	
	Greenfield town	
	Hawley town	
	Heath town	
	Leverett town	
	Leyden town	
	Monroe town	
	Montague town	
	New Salem town	
	Northfield town	
	Orange town	
	Rowe town	
	Shelburne town	
	Shutesbury town	
	Warwick town	
	Wendell town	
	Whately town	
	NANTUCKET COUNTY	
MS	ISSAQUENA COUNTY	LAFAYETTE COUNTY

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STATE	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT
MT	BEAVERHEAD COUNTY	BIG HORN COUNTY	BLAINE COUNTY	BROADWATER COUNTY
	CARBON COUNTY	CARTER COUNTY	CHOUTEAU COUNTY	CUSTER COUNTY
	DANIELS COUNTY	DEER LODGE COUN	FERGUS COUNTY	GALLATIN COUNTY
	GARFIELD COUNTY	GLACIER COUNTY	GOLDEN VALLEY CC	GRANITE COUNTY
	JUDITH BASIN COUI	LAKE COUNTY	LINCOLN COUNTY	MADISON COUNTY
	MCCONE COUNTY	MEAGHER COUNTY	MINERAL COUNTY	MUSSELSHELL COU
	PARK COUNTY	PETROLEUM COUNT	PHILLIPS COUNTY	PONDERA COUNTY
	POWDER RIVER CO	POWELL COUNTY	PRAIRIE COUNTY	RAVALLI COUNTY
	RICHLAND COUNTY	ROOSEVELT COUNT	SANDERS COUNTY	SHERIDAN COUNTY
	TETON COUNTY	TREASURE COUNTY	VALLEY COUNTY	WHEATLAND COUN
	WIBAUX COUNTY			
NV	DOUGLAS COUNTY			
NH	BELKNAP COUNTY	CARROLL COUNTY	CHESHIRE COUNTY	GRAFTON COUNTY
	HILLSBOROUGH COUNTY (part) Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town	MERRIMACK COUNTY (part) Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town	Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town	ROCKINGHAM COUNTY (part) Deerfield town, Nottingham town, Northwood town
	STRAFFORD COUNTY (part) Middleton town, New Durham town, Strafford town			
NM	CATRON COUNTY	CIBOLA COUNTY	DEBACA COUNTY	GRANT COUNTY
	GUADALUPE COUNTY	HARDING COUNTY	LINCOLN COUNTY	LUNA COUNTY
	MCKINLEY COUNTY	MORA COUNTY	QUAY COUNTY	RIO ARRIBA COUNTY
	ROOSEVELT COUNTY	SAN JUAN COUNTY	SAN MIGUEL COUNTY	SIERRA COUNTY
	TAOS COUNTY	UNION COUNTY		
NY	CLINTON COUNTY	COLUMBIA COUNTY	CORTLAND COUNTY	ESSEX COUNTY
	GREENE COUNTY	HAMILTON COUNTY	JEFFERSON COUNTY	SULLIVAN COUNTY
	SCHUYLER COUNTY	TOMPKINS COUNTY	ULSTER COUNTY	
NC	WATAUGA COUNTY			
OR	BAKER COUNTY	CLATSOP COUNTY	COOS COUNTY	CROOK COUNTY
	CURRY COUNTY	DESCHUTES COUNTY	DOUGLAS COUNTY	GRANT COUNTY
	HARNEY COUNTY	HOOD RIVER COUNTY	JEFFERSON COUNTY	JOSEPHINE COUNTY
	KLAMATH COUNTY	LAKE COUNTY	LINCOLN COUNTY	LINN COUNTY
	MALHEUR COUNTY	MORROW COUNTY	SHERMAN COUNTY	TILLAMOOK COUNTY
	UMATILLA COUNTY	UNION COUNTY	WALLOWA COUNTY	WASCO COUNTY
	WHEELER COUNTY			
PA	MONROE COUNTY	NORTHUMBERLAND COUNTY	UNION COUNTY	WAYNE COUNTY
RI	NEWPORT COUNTY (part) Middleton town, Newport city, Portsmouth town	WASHINGTON COUNTY (part) New Shoreham town		

2002 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

STATE	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT
SD	BUTTE COUNTY	LAWRENCE COUNTY	MEADE COUNTY	
TX	ARANSAS COUNTY	BURNET COUNTY	LLANO COUNTY	RAINS COUNTY
	REAGAN COUNTY	VAL VERDE COUNTY		
UT	DAGGETT COUNTY	IRON COUNTY	WASHINGTON COUNTY	
VT	ADDISON COUNTY	BENNINGTON COUNTY	CALEDONIA COUNTY	ESSEX COUNTY
	CHITTENDEN COUNTY (part) Bolton town, Buels gore, Huntington town, Underhill town, Westford town	FRANKLIN COUNTY (part) Bakersfield town, Berkshire town, Enosburg town, Fairfield town, Fletcher town, Franklin town	Highgate town, Montgomery town, Richford town, Sheldon town	GRAND ISLE COUNTY (part) Alburg town, Isle La Motte town, North Hero town
	LAMOILLE COUNTY	ORANGE COUNTY	RUTLAND COUNTY	WASHINGTON COUNTY
	WINDHAM COUNTY	WINDSOR COUNTY		
VA	CAROLINE COUNTY	WESTMORELAND COUNTY		
WA	ADAMS COUNTY	ASOTIN COUNTY	CHELAN COUNTY	CLALLAM COUNTY
	COLUMBIA COUNTY	COWLITZ COUNTY	FERRY COUNTY	GARFIELD COUNTY
	GRANT COUNTY	GRAYS HARBOR COUNTY	JEFFERSON COUNTY	KITTITAS COUNTY
	KLICKITAT COUNTY	LEWIS COUNTY	LINCOLN COUNTY	MASON COUNTY
	OKANOGAN COUNTY	PACIFIC COUNTY	PEND OREILLE COUNTY	SAN JUAN COUNTY
	SKAGIT COUNTY	SKAMANIA COUNTY	STEVENS COUNTY	WAHKIAKUM COUNTY
WV	RALEIGH COUNTY	UPSHUR COUNTY		
PI	PACIFIC ISLANDS			
PR	ALL NONMETRO PUERTO RICO			
VI	ST. CROIX	ST.JOHN/ST.THOMAS		

2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Abilene, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Taylor County	102.00	103.00	104.00	108.00	110.00	111.00	117.00	118.00	119.00	122.00	136.00	

METROPOLITAN AREA: Aguadilla, PR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aguadilla Municipio	4001.00	4008.00	4009.00	4010.00	4011.00	4013.00	4206.98					

METROPOLITAN AREA: Akron, OH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Portage County	6012.00	6015.00										
Summit County	5011.00	5012.00	5013.01	5013.02	5014.00	5015.00	5017.00	5018.00	5019.00	5024.00	5025.00	5031.00
	5032.00	5033.00	5034.00	5035.00	5038.00	5041.00	5042.00	5043.00	5044.00	5051.00	5052.00	5053.00
	5056.00	5063.04	5065.00	5066.00	5067.00	5068.00	5069.00	5074.00	5075.00	5101.00	5103.01	

METROPOLITAN AREA: Albany, GA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dougherty County	2.00	8.00	12.00	13.00	14.01	14.02	15.00	106.01				

METROPOLITAN AREA: Albany-Schenectady-Troy, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albany County	2.00	5.01	6.00	7.00	8.00	11.00	15.00	21.00	25.00	128.00	129.00	132.00
Montgomery County	701.00	702.00	706.00	709.00								
Rensselaer County	404.00	406.00	407.00	414.02								
Schenectady County	203.00	209.00	210.01	210.02								

METROPOLITAN AREA: Albuquerque, NM MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bernalillo County	8.02	9.01	12.00	13.00	14.00	15.00	16.00	17.00	20.00	22.00	23.00	24.02
	25.00	28.00	29.00	34.00	37.97	39.00	40.01	44.01	45.01	45.02	48.00	
Sandoval County	101.00	102.00	103.00									
Valencia County	9709.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Alexandria, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Rapides Parish	105.00	111.00	112.00	117.00	119.00	120.00	127.00	128.00	129.00			

METROPOLITAN AREA: Allentown-Bethlehem-Easton, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Carbon County	204.00											
Lehigh County	4.00	5.00	8.00	9.00	10.00	11.00	13.00					
Northampton County	105.00	110.00	111.00	113.00	144.00							

METROPOLITAN AREA: Altoona, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Blair County	101.02	1005.00	1007.00	1010.00	1016.00	1017.00	1019.00					

METROPOLITAN AREA: Amarillo, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Potter County	103.00	106.00	109.00	111.00	112.00	113.00	114.00	119.00	120.00	121.00	122.00	123.00
	126.00	128.98	129.00	130.00	131.00	140.00						

METROPOLITAN AREA: Anchorage, AK MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anchorage Borough	3.00	4.00	6.00	9.01	11.00							

METROPOLITAN AREA: Ann Arbor, MI PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lenawee County	613.00	616.00										
Washtenaw County	4001.00	4002.00	4003.00	4005.00	4007.00	4008.00	4022.00	4026.00	4105.00	4106.00	4107.00	4110.00
	4111.00	4112.00										

METROPOLITAN AREA: Anniston, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Calhoun County	3.00	4.00	5.00	6.00	7.00	8.00						

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Appleton-Oshkosh-Neenah, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Outagamie County	101.00											
Winnebago County	6.00	7.00										

METROPOLITAN AREA: Arecibo, PR PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Arecibo Municipio	3001.00	3004.00	3005.00	3013.00	3018.00	3019.00	3021.00	3023.00				
Camuy Municipio	3205.00											

METROPOLITAN AREA: Asheville, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Buncombe County	1.00	2.00	3.00	7.00	9.00							
Madison County	102.00	103.00	104.00									

METROPOLITAN AREA: Athens, GA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clarke County	1.00	2.00	3.00	4.00	5.00	6.00	9.00	16.98				

METROPOLITAN AREA: Atlanta, GA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Carroll County	9905.00											
Cherokee County	912.98											
Clayton County	403.01											
Cobb County	307.00	308.00	309.02									
Coweta County	1706.00											
DeKalb County	205.00	206.00	207.00	208.00	209.00	212.04	221.00	224.02	227.00	237.00		
Fulton County	6.00	7.00	8.00	10.95	17.00	18.00	19.00	20.00	21.00	22.00	23.00	24.00
	25.00	26.00	28.00	29.00	31.00	32.00	33.00	35.00	36.00	37.00	38.00	39.00
	40.00	42.95	43.00	44.00	46.95	48.00	49.95	52.00	53.00	55.01	55.02	56.00
	57.00	58.00	60.00	62.00	63.00	64.00	66.01	66.02	67.00	68.02	70.00	71.00
	72.00	73.00	74.00	75.00	76.01	76.02	76.04	81.02	82.02	83.01	83.02	84.00
	85.00	86.01	86.02	87.01	87.02	88.00	106.01	109.00	110.00	112.01		
Newton County	1004.00	1006.00										
Spalding County	1603.00	1604.00	1607.00	1608.00	1609.00							
Walton County	1103.00	1104.00										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Atlantic-Cape May, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Atlantic County	8.00	11.00	14.00	15.00	17.00	18.00	19.00	23.00	24.00	25.00		
Cape May County	214.00	215.00										

METROPOLITAN AREA: Auburn-Opelika, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lee County	401.00	403.00	406.00	408.00	415.00	416.00						

METROPOLITAN AREA: Augusta-Aiken, GA-SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
McDuffie County	9502.00											
Richmond County	2.00	3.00	4.00	6.00	7.00	8.00	9.00	14.00	15.00	103.00	104.00	106.00
Aiken County	204.00	214.00	218.00									

METROPOLITAN AREA: Austin-San Marcos, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bastrop County	9507.00											
Caldwell County	9602.00	9604.00	9607.00									
Hays County	101.00	102.00	103.01	103.02	105.00							
Travis County	3.01	3.02	4.02	5.00	6.01	6.03	6.04	7.00	8.02	8.03	8.04	9.01
	9.02	10.00	11.00	13.05	13.07	16.06	18.04	18.05	18.06	18.12	21.05	21.09
	21.10	21.11	22.02	23.04	23.05	23.06	23.07	23.10	23.12	24.13		
Williamson County	210.00	211.00	214.02									

METROPOLITAN AREA: Bakersfield, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kern County	4.00	6.00	11.03	12.00	13.00	14.00	15.00	16.00	20.00	21.00	22.00	23.02
	25.00	39.00	40.00	42.00	46.00	48.00	63.00	64.00				

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Baltimore, MD PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anne Arundel County	7026.00	7411.00										
Baltimore County	4016.01	4016.02	4034.01	4084.00	4210.00	4507.00	4508.01	4508.02	4906.04			
Baltimore city	301.00	302.00	402.00	501.00	603.00	604.00	605.00	701.00	702.00	703.00	704.00	802.00
	803.01	804.00	805.00	806.00	807.00	808.00	904.00	908.00	909.00	1001.00	1002.00	1004.00
	1102.00	1202.00	1203.00	1204.00	1205.00	1206.00	1207.00	1301.00	1302.00	1303.00	1304.00	1401.00
	1402.00	1403.00	1501.00	1502.00	1504.00	1505.00	1506.00	1508.02	1512.00	1513.00	1601.00	1602.00
	1603.00	1604.00	1606.00	1607.00	1701.00	1702.00	1703.00	1801.00	1802.00	1803.00	1901.00	1902.00
	1903.00	2001.00	2002.00	2003.00	2004.00	2005.00	2101.01	2102.01	2301.00	2502.03	2502.04	2502.07
	2503.01	2503.02	2503.03	2505.00	2506.00	2603.03	2604.01	2604.02	2604.98	2606.04	2606.99	2711.02
	2716.00	2717.00	2718.01	2718.02	2804.04							

METROPOLITAN AREA: Bangor, ME MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Penobscot County	1.00	9.00	10.00	63.00	80.02 *							

METROPOLITAN AREA: Barnstable-Yarmouth, MA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Barnstable County	123.00	124.00										

METROPOLITAN AREA: Baton Rouge, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ascension Parish	303.99	308.00	309.00									
East Baton Rouge Parish	1.00	2.00	3.00	5.00	6.01	7.01	8.00	9.00	10.00	11.03	11.04	12.00
	13.00	14.00	15.00	16.00	21.00	22.00	24.00	25.00	27.00	28.00	30.01	30.02
	31.01	31.02	33.00	40.07								
West Baton Rouge Parish	202.00											

METROPOLITAN AREA: Beaumont-Port Arthur, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	1.03	7.00	8.00	9.00	10.00	14.00	15.00	17.00	18.00	19.00	20.00	21.00
	22.00	23.00	24.00	26.00	51.00	52.00	53.00	54.00	56.00	57.00	58.00	59.00
	60.00	61.00	62.00	64.00	66.00	112.99						
Orange County	202.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Bellingham, WA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Whatcom County	5.00	6.00	10.00									

METROPOLITAN AREA: Benton Harbor, MI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berrien County	1.00	2.00	3.00	4.00	5.00	6.00	21.00	22.00	23.00	205.00		

METROPOLITAN AREA: Bergen-Passaic, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bergen County	31.97	280.98	422.00									
Passaic County	1251.97	1251.98	1752.00	1753.00	1754.00	1755.00	1758.00	1759.00	1804.00	1805.00	1806.00	1807.00
	1808.00	1809.00	1811.00	1813.00	1814.00	1815.00	1816.01	1816.02	1817.01	1817.02	1818.00	1820.00
	1821.00	1822.00	1823.00	1827.00	1828.00	1829.00	1830.00					

METROPOLITAN AREA: Billings, MT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yellowstone County	1.00	2.00	3.00									

METROPOLITAN AREA: Biloxi-Gulfport-Pascagoula, MS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hancock County	303.00	304.00										
Harrison County	1.00	2.00	3.00	4.00	5.00	7.00	18.00	20.00	21.00	23.00	24.00	26.00
Jackson County	411.00	415.00	416.00	417.00	418.00	422.00	423.00					

METROPOLITAN AREA: Binghamton, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Broome County	2.00	3.00	5.00	6.00	10.00	11.00	12.00	13.00	14.00	135.00		

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Birmingham, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	3.00	5.00	7.00	8.00	12.00	14.00	15.00	16.00	23.03	23.04	24.00	27.00
	29.00	30.02	32.00	33.00	34.00	38.03	39.00	40.00	42.00	45.00	51.01	55.00
	57.01	101.00	103.01	103.02	104.01	106.02	130.02	131.00	133.00	138.01		

METROPOLITAN AREA: Bloomington, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Monroe County	1.00	2.02	6.00	16.00								

METROPOLITAN AREA: Bloomington-Normal, IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
McLean County	1.01	2.00	4.00	5.01	13.02	15.00	16.00					

METROPOLITAN AREA: Boise City, ID MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ada County	1.00	11.00										
Canyon County	201.00	202.00	208.00	213.00	214.00	220.00	222.00					

METROPOLITAN AREA: Boston, MA-NH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bristol County	6138.00											
Essex County	2043.00	2060.00	2061.00	2062.00	2068.00	2069.00	2070.00	2072.00	2108.00	2215.00		
Middlesex County	3522.00	3524.00	3527.00									
Norfolk County	4102.00	4178.02	7621.95									
Plymouth County	5302.00											
Suffolk County	4.01	6.02	7.01	7.02	101.01	101.02	102.00	103.00	104.01	104.02	302.00	402.00
	501.00	502.00	503.00	504.00	506.00	507.00	607.00	608.00	610.00	611.00	613.00	701.00
	702.00	704.00	711.00	712.00	801.00	802.00	803.00	804.00	805.00	806.00	807.00	808.00
	809.00	810.00	812.00	813.00	814.00	815.00	816.00	817.00	818.00	821.00	902.00	903.00
	904.00	905.00	906.00	907.00	909.00	913.00	915.00	916.00	918.00	924.00	1001.00	1002.00
	1011.01	1101.01	1102.00	1203.00	1205.00	1501.00	1602.00	1604.00	1605.00	1707.00		

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, .1999)

METROPOLITAN AREA: Boulder-Longmont, CO PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Boulder County	122.02	122.03	122.04	122.05	123.00	124.01	126.02	126.04	134.01			

METROPOLITAN AREA: Brazoria, TX PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brazoria County	604.20	616.00	628.00									

METROPOLITAN AREA: Bremerton, WA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kitsap County	808.98	810.00	813.00									

METROPOLITAN AREA: Bridgeport, CT PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	703.00	705.00	706.00	707.00	708.00	709.00	712.00	713.00	714.00	715.00	716.00	717.00
	736.00	738.00	739.00	740.00	741.00	742.00	743.00	744.00				

METROPOLITAN AREA: Brockton, MA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Plymouth County	5103.00	5104.00	5109.00	5110.00	5112.00	5114.00						

METROPOLITAN AREA: Brownsville-Harlingen-San Benito, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cameron County	109.00	111.00	126.03	127.00	131.05	133.02	134.01	138.01	138.02	139.01	139.02	140.01
	140.02	141.00										

METROPOLITAN AREA: Bryan-College Station, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brazos County	5.00	9.00	14.00	15.00	17.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Buffalo-Niagara Falls, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Erie County	3.00	4.00	5.00	12.00	13.01	13.02	14.02	15.00	16.00	18.00	20.00	21.00
	25.01	25.02	26.00	27.01	27.02	28.00	29.00	31.00	32.01	32.02	33.02	34.00
	35.00	36.00	40.01	40.02	44.02	47.00	55.00	56.00	59.00	60.00	61.00	62.02
	64.00	66.01	68.00	69.00	70.00	71.01	71.02	72.01	83.00	119.01	121.00	122.00
	127.00	148.04	162.00									
Niagara County	202.00	205.00	209.00	211.00	212.00	213.00	237.00					

METROPOLITAN AREA: Burlington, VT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chittenden County	3.00	4.00	5.00	6.00	10.00							
Franklin County	107.00											

METROPOLITAN AREA: Caguas, PR PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Caguas Municipio	2009.00	2012.00	2017.00	2019.00	2029.00							
Cayey Municipio	2606.00	2607.00	2609.00									
Cidra Municipio	2402.00											
Gurabo Municipio	2103.00											
San Lorenzo Municipio	2202.00	2205.00	2206.00	2207.00								

METROPOLITAN AREA: Canton-Massillon, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Stark County	7001.00	7015.00	7017.00	7018.00	7021.00	7023.00	7101.00	7104.00	7105.00	7138.00	7144.00	

METROPOLITAN AREA: Casper, WY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Natrona County	1.00	2.00	13.02									

METROPOLITAN AREA: Cedar Rapids, IA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Linn County	19.00	20.00	22.00	27.00								

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Champaign-Urbana, IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Champaign County	1.00	2.00	3.00	4.00	14.00	51.00	52.00	59.00	60.00			

METROPOLITAN AREA: Charleston-North Charleston, SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berkeley County	201.98	202.00										
Charleston County	4.00	6.00	7.00	8.00	9.00	10.00	11.00	12.00	13.00	14.00	15.00	23.98
	24.98	33.00	37.00	39.00	40.00	41.00	43.00	44.00	45.00	46.99	50.00	
Dorchester County	102.00	109.97										

METROPOLITAN AREA: Charleston, WV MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kanawha County	1.00	2.00	7.00	9.00	12.00	104.00	121.00					

METROPOLITAN AREA: Charlotte-Gastonia-Rock Hill, NC-SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cabarrus County	418.00	421.00										
Gaston County	319.00	320.00	330.00									
Mecklenburg County	1.00	3.00	4.00	6.00	7.00	8.00	9.00	23.00	26.00	37.00	39.01	39.02
	41.00	45.00	47.00	48.00	50.00	51.00	52.00					
Rowan County	501.00	504.00	508.00									
York County	13.02	601.01	604.01	604.02	605.01	606.00	616.01	617.02				

METROPOLITAN AREA: Charlottesville, VA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albemarle County	115.98											
Charlottesville city	2.01	2.98	4.97	6.00								

METROPOLITAN AREA: Chattanooga, TN-GA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hamilton County	1.00	2.00	3.00	4.00	8.00	10.00	11.00	12.00	13.00	14.00	15.00	16.00
	19.00	20.00	21.00	23.00	25.00	26.00	27.00	31.00				

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Cheyenne, WY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Laramie County	1.00	2.00										

METROPOLITAN AREA: Chicago, IL PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cook County	101.00	105.00	303.00	311.00	312.00	315.00	316.00	317.00	320.00	321.00	514.00	605.00
	607.00	707.00	708.00	804.00	805.00	808.00	809.00	818.00	819.00	1304.00	1401.00	1402.00
	1406.00	2005.00	2108.00	2109.00	2205.00	2207.00	2208.00	2209.00	2210.00	2211.00	2212.00	2213.00
	2214.00	2215.00	2217.00	2223.00	2224.00	2225.00	2226.00	2227.00	2228.00	2229.00	2301.00	2302.00
	2303.00	2304.00	2305.00	2306.00	2307.00	2309.00	2310.00	2311.00	2312.00	2315.00	2316.00	2317.00
	2318.00	2401.00	2405.00	2406.00	2407.00	2408.00	2409.00	2410.00	2411.00	2412.00	2413.00	2414.00
	2415.00	2416.00	2417.00	2418.00	2420.00	2421.00	2422.00	2423.00	2425.00	2426.00	2427.00	2429.00
	2431.00	2432.00	2433.00	2434.00	2436.00	2501.00	2506.00	2509.00	2510.00	2511.00	2514.00	2515.00
	2516.00	2517.00	2518.00	2519.00	2520.00	2521.00	2522.00	2523.00	2601.00	2602.00	2603.00	2604.00
	2605.00	2606.00	2607.00	2608.00	2609.00	2610.00	2701.00	2702.00	2703.00	2704.00	2705.00	2706.00
	2707.00	2708.00	2709.00	2710.00	2711.00	2712.00	2713.00	2714.00	2715.00	2716.00	2717.00	2718.00
	2719.00	2801.00	2802.00	2803.00	2804.00	2805.00	2806.00	2807.00	2808.00	2809.00	2810.00	2811.00
	2812.00	2813.00	2814.00	2815.00	2816.00	2817.00	2818.00	2826.00	2827.00	2828.00	2831.00	2832.00
	2833.00	2836.00	2837.00	2838.00	2839.00	2840.00	2841.00	2842.00	2843.00	2902.00	2903.00	2904.00
	2905.00	2906.00	2907.00	2908.00	2909.00	2910.00	2911.00	2912.00	2913.00	2914.00	2915.00	2916.00
	2917.00	2918.00	2919.00	2920.00	2921.00	2922.00	2923.00	2924.00	2925.00	2926.00	3001.00	3002.00
	3003.00	3004.00	3005.00	3006.00	3007.00	3008.00	3009.00	3010.00	3011.00	3012.00	3013.00	3014.00
	3015.00	3016.00	3017.00	3018.00	3101.00	3102.00	3105.00	3106.00	3107.00	3108.00	3109.00	3110.00
	3111.00	3112.00	3113.00	3114.00	3204.00	3301.00	3302.00	3303.00	3304.00	3305.00	3402.00	3404.00
	3405.00	3406.00	3502.00	3504.00	3506.00	3507.00	3511.00	3512.00	3513.00	3514.00	3515.00	3601.00
	3602.00	3603.00	3604.00	3605.00	3701.00	3702.00	3703.00	3704.00	3801.00	3802.00	3803.00	3804.00
	3805.00	3806.00	3807.00	3808.00	3809.00	3810.00	3811.00	3812.00	3813.00	3814.00	3815.00	3816.00
	3817.00	3818.00	3819.00	3820.00	3901.00	3902.00	3903.00	3904.00	4001.00	4002.00	4003.00	4004.00
	4005.00	4006.00	4007.00	4008.00	4102.00	4106.00	4201.00	4202.00	4203.00	4204.00	4205.00	4206.00
	4207.00	4208.00	4209.00	4210.00	4211.00	4212.00	4301.00	4302.00	4303.00	4304.00	4305.00	4306.00
	4308.00	4310.00	4313.00	4401.00	4501.00	4601.00	4602.00	4603.00	4606.00	4607.00	4608.00	4609.00
	4610.00	4901.00	4902.00	4910.00	4913.00	4914.00	5002.00	5105.00	5201.00	5202.00	5301.00	5302.00
	5401.00	5602.00	5901.00	6003.00	6007.00	6008.00	6009.00	6013.00	6101.00	6102.00	6103.00	6104.00
	6106.00	6108.00	6110.00	6111.00	6112.00	6113.00	6114.00	6115.00	6116.00	6117.00	6118.00	6119.00
	6120.00	6121.00	6122.00	6301.00	6306.00	6601.00	6602.00	6603.00	6606.00	6609.00	6701.00	6702.00
	6703.00	6704.00	6705.00	6706.00	6707.00	6708.00	6709.00	6710.00	6711.00	6712.00	6713.00	6715.00
	6716.00	6717.00	6801.00	6802.00	6803.00	6804.00	6805.00	6806.00	6807.00	6808.00	6809.00	6810.00

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Chicago, IL PMSA (continued)												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cook County (continued)	6811.00	6812.00	6813.00	6814.00	6901.00	6902.00	6903.00	6904.00	6906.00	6907.00	6908.00	6909.00
	6911.00	6912.00	6915.00	7101.00	7102.00	7103.00	7107.00	7109.00	7609.00	8030.04	8067.02	8093.00
	8133.00	8175.00	8215.00	8236.03	8243.00	8260.00	8269.01	8269.02	8273.00	8274.00	8290.00	8291.00
	8294.01	8297.00										
DeKalb County	10.00	11.00	12.00									
Kane County	8512.00	8515.00	8529.04	8536.00	8537.00	8546.98						
Lake County	8623.00	8628.00										
Will County	8812.00	8813.00	8819.00	8820.00	8825.00							

METROPOLITAN AREA: Chico-Paradise, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Butte County	6.02	10.00	11.00	12.00	13.00	28.00	30.00					

METROPOLITAN AREA: Cincinnati, OH-KY-IN PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Campbell County	501.00	502.00	504.00	505.00	506.00	512.00						
Kenton County	603.00	604.00	605.00	606.00	607.00	609.00	620.00	651.00				
Pendleton County	9903.00											
Brown County	9517.00											
Hamilton County	2.00	3.01	3.02	4.00	7.00	8.00	9.00	10.00	11.00	14.00	15.00	16.00
	17.00	19.00	21.00	22.00	23.00	25.00	26.00	27.00	28.00	29.00	30.00	32.00
	33.00	34.00	35.00	36.00	37.00	38.00	39.00	42.00	43.00	44.00	47.02	55.00
	62.02	66.00	67.00	68.00	69.00	74.00	77.00	78.00	79.00	80.00	85.02	86.01
	87.00	88.00	89.00	91.00	92.00	93.00	94.00	95.00	103.00	219.00	227.00	
Warren County	304.00											

METROPOLITAN AREA: Clarksville-Hopkinsville, TN-KY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Christian County	2001.00	2003.00	2004.00	2008.00								
Montgomery County	1001.00	1004.00	1008.00	1009.00								

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Cleveland-Lorain-Elyria, OH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ashtabula County	1.03	1.99	4.00	6.01	7.01	7.04						
Cuyahoga County	1011.01	1012.00	1013.00	1015.00	1016.00	1017.00	1018.00	1019.00	1025.00	1026.00	1027.00	1028.00
	1029.00	1031.00	1032.00	1033.00	1034.00	1035.00	1036.00	1037.00	1038.00	1039.00	1041.00	1042.00
	1043.00	1044.00	1045.00	1046.00	1047.01	1047.02	1048.00	1049.00	1051.00	1053.00	1054.00	1055.00
	1056.01	1072.00	1073.00	1074.00	1075.00	1077.00	1079.00	1081.00	1082.00	1083.00	1084.00	1085.00
	1086.00	1087.00	1088.00	1089.00	1093.00	1096.00	1097.00	1098.00	1104.00	1105.00	1106.00	1107.00
	1108.00	1111.00	1112.00	1113.00	1114.01	1114.02	1115.00	1116.00	1117.00	1118.00	1119.02	1121.00
	1122.00	1123.00	1124.00	1125.00	1126.00	1127.00	1128.00	1129.00	1131.00	1132.00	1133.00	1134.00
	1135.00	1136.00	1137.00	1138.00	1139.00	1141.00	1142.00	1143.00	1144.00	1145.00	1146.00	1147.00
	1148.00	1149.00	1151.00	1152.00	1153.00	1154.00	1155.00	1158.00	1161.00	1162.00	1163.00	1164.00
	1165.00	1166.00	1167.00	1168.00	1169.00	1171.02	1172.01	1173.00	1181.00	1182.00	1183.00	1184.00
	1185.00	1186.01	1186.02	1187.00	1189.00	1191.00	1192.01	1192.02	1193.00	1194.02	1195.02	1196.00
	1197.02	1198.00	1199.00	1201.00	1202.00	1204.00	1205.00	1206.00	1207.01	1207.02	1208.01	1208.02
	1212.00	1213.00	1214.01	1238.00	1244.00	1275.00	1503.00	1504.00	1511.00	1512.00	1513.00	1514.00
	1515.00	1516.00	1517.00	1518.00	1527.01	1915.00	1939.00					
Lake County	2042.00	2059.96	2061.97									
Lorain County	223.00	228.00	229.00	231.00	232.00	233.00	238.00	601.00	705.00	708.00	709.01	714.00

METROPOLITAN AREA: Colorado Springs, CO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
El Paso County	3.02	15.00	16.00	17.00	22.00	23.00	26.00	27.00	29.00			

METROPOLITAN AREA: Columbia, MO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Boone County	1.00	2.00	3.00	4.00	5.00	8.00	9.00					

METROPOLITAN AREA: Columbia, SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lexington County	215.97											
Richland County	1.00	2.00	3.00	5.00	9.00	10.00	13.00	14.00	15.00	16.00	18.00	19.00
	20.01	20.02	28.00	105.02	109.00	117.01	118.00					

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Columbus, GA-AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Russell County	301.00	302.00	308.00	311.00	312.00							
Muscogee County	1.00	3.00	5.00	6.00	13.00	14.00	15.00	16.00	23.00	24.00	25.00	27.00
	28.00	29.02	30.00	32.00	34.00							

METROPOLITAN AREA: Columbus, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	317.00	319.00										
Franklin County	7.30	9.20	10.00	11.10	11.20	12.00	13.00	14.00	15.00	16.00	17.00	18.10
	18.20	22.00	23.00	25.20	26.00	27.10	28.00	29.00	30.00	34.00	36.00	37.00
	38.00	39.00	40.00	41.00	42.00	43.00	44.00	47.00	50.00	51.00	53.00	54.10
	54.20	55.00	56.10	56.20	60.00	61.00	74.10	75.11	75.20	75.34	75.40	78.20
	83.50	87.30										
Licking County	7501.00	7504.00	7507.00	7525.00	7583.00							

METROPOLITAN AREA: Corpus Christi, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Nueces County	3.00	4.00	5.00	6.00	9.00	10.00	11.00	12.00	13.00	15.00	16.01	54.06
	56.02											
San Patricio County	102.00	105.00	108.00	113.00								

METROPOLITAN AREA: Corvallis, OR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Benton County	7.00	8.00										

METROPOLITAN AREA: Cumberland, MD-WV MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allegany County	5.00	7.00	9.00	10.00								
Mineral County	107.00											

NOTE: * indicates that only the part of the tract within the metropolitan area is designated as a Qualified Census Tract.

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Dallas, TX PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Collin County	309.00											
Dallas County	4.01	4.03	4.04	4.05	5.00	8.00	9.00	10.02	11.01	12.01	13.02	14.00
	15.02	15.03	15.04	16.00	19.00	20.00	22.01	22.02	24.00	25.00	27.01	27.02
	28.00	29.00	31.02	32.01	33.00	34.00	35.00	36.00	37.00	38.00	39.01	39.02
	40.00	41.00	42.00	43.00	46.00	47.00	48.00	49.00	50.00	51.00	54.00	55.00
	56.00	57.00	60.02	67.00	68.00	69.00	72.01	86.01	86.02	87.01	87.03	87.04
	87.05	88.02	89.00	91.01	93.03	93.04	100.00	101.01	101.02	102.00	103.00	104.00
	105.00	106.00	108.02	111.05	114.01	114.02	115.00	116.01	116.02	122.03	140.02	159.00
	166.05	182.01	188.02	190.13	192.09							
Denton County	206.01	207.00	209.00	210.00	211.00	212.00	213.01					
Ellis County	604.00	605.00	612.00	616.00								
Henderson County	9505.00	9507.00	9510.00	9512.00	9515.98							
Hunt County	9601.00	9605.00	9606.00	9608.00	9609.00							
Kaufman County	505.00	510.00										

METROPOLITAN AREA: Danbury, CT PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	2101.00	2306.00										

METROPOLITAN AREA: Danville, VA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Danville city	4.00	5.00	6.00	10.00	11.00	16.98						

METROPOLITAN AREA: Davenport-Moline-Rock Island, IA-IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Henry County	308.00											
Rock Island County	206.00	210.00	223.00	224.00	226.00	227.00	234.00	235.00	236.00	237.00	244.00	
Scott County	105.00	106.00	107.00	108.00	109.00	114.00	115.00					

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Dayton-Springfield, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clark County	1.00	2.00	3.00	4.00	7.00	9.01	9.02	11.01	12.00	17.00	21.00	
Greene County	2001.02	2007.00	2403.02	2406.00								
Montgomery County	2.00	3.00	7.00	10.00	12.00	13.00	14.00	15.00	17.00	18.00	19.00	20.00
	21.00	22.00	23.00	34.00	35.00	36.00	37.00	39.00	40.00	41.00	42.00	43.00
	47.00	602.00	603.00	702.01	702.02	703.00	805.00					

METROPOLITAN AREA: Daytona Beach, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Volusia County	814.00	815.00	819.00	820.00	821.00	905.00	906.00					

METROPOLITAN AREA: Decatur, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lawrence County	9792.00											
Morgan County	1.00	5.00	6.00									

METROPOLITAN AREA: Decatur, IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Macon County	1.00	2.00	3.00	5.98	6.00	7.00	8.00	9.00				

METROPOLITAN AREA: Denver, CO PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	78.00	79.00	87.03	89.52	93.18	96.06						
Arapahoe County	49.50	55.51	55.52	57.00	58.89	65.01	73.00					
Denver County	2.02	4.02	5.02	6.00	7.01	7.02	8.00	9.01	9.03	10.00	11.01	11.02
	15.00	16.00	17.01	17.02	18.00	19.00	20.00	21.00	23.00	24.01	24.02	25.00
	26.01	26.02	27.01	27.03	28.02	31.01	31.02	35.00	36.01	36.02	36.03	41.01
	41.05	45.01	45.02	54.02	83.13	119.92						
Jefferson County	104.05	115.50										

METROPOLITAN AREA: Des Moines, IA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Polk County	11.00	12.00	17.00	26.00	27.00	48.00	49.00	50.00	51.00	52.00		

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Detroit, MI PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Macomb County	2313.00	2400.00	2450.00	2471.00	2638.00							
Monroe County	8318.00	8321.00										
Oakland County	1412.00	1416.00	1417.00	1418.00	1421.00	1422.00	1423.00	1424.00	1425.00	1427.00	1724.00	1725.00
St. Clair County	6200.00	6210.00	6230.00	6240.00	6250.00							
Wayne County	5004.00	5005.00	5006.00	5013.00	5020.00	5033.00	5034.00	5035.00	5036.00	5037.00	5039.00	5040.00
	5041.00	5042.00	5043.00	5044.00	5045.00	5046.00	5047.00	5048.00	5050.00	5052.00	5053.00	5062.00
	5063.00	5064.00	5065.00	5066.00	5070.00	5071.00	5072.00	5073.00	5074.00	5075.00	5076.00	5077.00
	5078.00	5079.00	5080.00	5102.00	5103.00	5104.00	5105.00	5106.00	5107.00	5108.00	5109.00	5111.00
	5112.00	5113.00	5114.00	5115.00	5116.00	5117.00	5121.00	5122.00	5123.00	5124.00	5126.00	5129.00
	5132.00	5133.00	5134.00	5135.00	5136.00	5139.00	5140.00	5141.00	5142.00	5143.00	5145.00	5146.00
	5147.00	5148.00	5149.00	5150.00	5151.00	5152.00	5153.00	5155.00	5156.00	5161.00	5162.00	5163.00
	5164.00	5166.00	5167.00	5168.00	5169.00	5173.00	5174.00	5175.00	5176.00	5177.00	5178.00	5180.00
	5181.00	5183.00	5184.00	5185.00	5186.00	5187.00	5188.00	5201.00	5202.00	5203.00	5204.00	5205.00
	5206.00	5207.00	5209.00	5211.00	5212.00	5213.00	5214.00	5215.00	5218.00	5219.00	5220.00	5221.00
	5222.00	5223.00	5224.00	5231.00	5232.00	5233.00	5234.00	5235.00	5236.00	5237.00	5238.00	5240.00
	5241.00	5242.00	5243.00	5245.00	5247.00	5248.00	5251.00	5252.00	5253.00	5254.00	5255.00	5256.00
	5257.00	5258.00	5260.00	5261.00	5262.00	5263.00	5264.00	5265.00	5301.00	5303.00	5304.00	5307.00
	5308.00	5310.00	5311.00	5313.00	5314.00	5315.00	5316.00	5317.00	5318.00	5319.00	5322.00	5324.00
	5325.00	5326.00	5327.00	5330.00	5331.00	5332.00	5333.00	5334.00	5335.00	5336.00	5337.00	5341.00
	5342.00	5343.00	5344.00	5345.00	5346.00	5350.00	5351.00	5352.00	5354.00	5355.00	5361.00	5363.00
	5364.00	5365.00	5366.00	5367.00	5368.00	5370.00	5371.00	5372.00	5373.00	5375.00	5377.00	5378.00
	5390.00	5402.00	5411.00	5412.00	5423.00	5435.00	5436.00	5437.00	5438.00	5439.00	5442.00	5451.00
	5452.00	5453.00	5454.00	5465.00	5466.00	5467.00	5469.00	5521.00	5522.00	5523.00	5524.00	5525.00
	5626.00	5530.00	5531.00	5532.00	5533.00	5534.00	5535.00	5536.00	5537.00	5685.00	5688.00	5704.00
	5706.00	5707.00	5708.00	5710.00	5735.00	5736.00	5791.00	5792.00	5793.00	5795.00	5796.00	5798.00
	5848.00	5860.00										

METROPOLITAN AREA: Dothan, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dale County	206.00	207.00										
Houston County	406.00	412.00	413.00	414.00	415.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Dover, DE MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kent County	406.00	413.00										

METROPOLITAN AREA: Dubuque, IA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dubuque County	1.00	2.00										

METROPOLITAN AREA: Duluth-Superior, MN-WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Louis County	12.00	13.00	14.00	16.00	17.00	18.00	19.00	25.00	27.00	28.00	32.00	130.00
	137.01											
Douglas County	201.00	202.00	203.00									

METROPOLITAN AREA: Dutchess County, NY PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dutchess County	2201.00	2202.00	2203.00	2204.00	2205.00	2206.00	6300.00	6500.00				

METROPOLITAN AREA: Eau Claire, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Eau Claire County	1.00	6.00	10.00	11.00	12.00							

METROPOLITAN AREA: El Paso, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
El Paso County	4.02	16.00	17.00	18.00	19.00	20.00	21.00	22.00	26.00	27.00	28.00	29.00
	30.00	32.00	36.00	39.01	39.03	103.10	104.01	104.02	104.03	105.00		

METROPOLITAN AREA: Elkhart-Goshen, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Elkhart County	28.00	27.00	28.00									

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Elmira, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chemung County	1.00	2.00	6.00	7.00	8.00	10.00						
METROPOLITAN AREA: Enid, OK MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Garfield County	1.00	7.00										
METROPOLITAN AREA: Erie, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Erie County	1.00	3.00	4.00	6.00	7.00	8.00	9.00	12.00	13.00	14.00	15.00	18.00
	19.00	122.02										
METROPOLITAN AREA: Eugene-Springfield, OR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lane County	37.00	38.00	39.00	40.00	42.00	48.00						
METROPOLITAN AREA: Evansville-Henderson, IN-KY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Vanderburgh County	11.00	12.00	13.00	14.00	16.00	17.00	19.00	20.00	25.00	26.00	27.00	104.98
Henderson County	201.00	202.00	203.00	204.00								
METROPOLITAN AREA: Fargo-Moorhead, ND-MN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clay County	203.00	204.00										
Cass County	3.00	5.00	6.00	7.00								
METROPOLITAN AREA: Fayetteville, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	1.00	2.00	3.00	4.00	10.00	12.00	13.00	24.00	35.00			

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Fayetteville-Springdale-Rogers, AR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washington County	106.00	107.01	108.00	109.00								
METROPOLITAN AREA: Fitchburg-Leominster, MA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Worcester County	7105.00	7107.00										
METROPOLITAN AREA: Flagstaff, AZ-UT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Coconino County	10.00	18.00	22.00	24.00	25.00							
METROPOLITAN AREA: Flint, MI PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Genesee County	1.00	2.00	4.00	6.00	8.00	9.00	10.00	11.00	14.00	15.00	17.00	18.00
	20.00	21.00	22.00	25.00	28.00	29.00	32.00	34.00	37.00	38.00	103.02	103.04
	122.02											
METROPOLITAN AREA: Florence, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Colbert County	203.00											
Lauderdale County	101.00	102.00	103.00	105.00	106.00	107.00						
METROPOLITAN AREA: Florence, SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Florence County	7.00	8.00	9.00	22.01								
METROPOLITAN AREA: Fort Collins-Loveland, CO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Larimer County	1.00	2.00	4.00	5.02	6.00	13.03	17.04	20.03				

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Fort Lauderdale, FL PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Broward County	304.00	305.00	306.00	308.01	410.00	411.00	412.00	413.00	414.00	415.00	416.00	417.00
	425.00	427.00	428.00	805.00	921.00	1004.00	1005.00	1102.00	1201.00			

METROPOLITAN AREA: Fort Myers-Cape Coral, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lee County	1.00	2.00	3.02	5.01	5.02	6.00						

METROPOLITAN AREA: Fort Pierce-Port St. Lucie, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Martin County	18.00											
St. Lucie County	1.00	1.99	2.00	3.00	4.00	9.02						

METROPOLITAN AREA: Fort Smith, AR-OK MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sebastian County	3.00	4.00	9.01	9.02								
Sequoyah County	302.01	302.02	303.00									

METROPOLITAN AREA: Fort Walton Beach, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Okaloosa County	226.00											

METROPOLITAN AREA: Fort Wayne, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	307.00											
Allen County	10.00	12.00	13.00	14.00	16.00	17.00	18.00	19.00	20.00	21.00	27.00	28.98
	42.00											

NOTE: * indicates that only the part of the tract within the metropolitan area is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Fort Worth-Arlington, TX PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Johnson County	1308.00	1309.00										
Tarrant County	1002.01	1002.02	1003.00	1004.00	1005.01	1005.02	1008.00	1009.00	1010.00	1011.00	1012.02	1014.03
	1016.00	1017.00	1018.00	1020.00	1025.00	1029.00	1030.00	1031.00	1032.00	1033.00	1034.00	1035.00
	1036.01	1037.01	1037.02	1038.00	1039.00	1040.00	1041.00	1045.01	1045.02	1045.03	1046.01	1046.02
	1046.03	1046.04	1050.06	1053.00	1061.02	1062.02	1063.00	1066.00	1130.02	1134.07	1218.00	1222.00
	1223.00											

METROPOLITAN AREA: Fresno, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fresno County	1.00	2.00	3.00	4.00	5.00	6.00	9.00	10.00	11.00	13.00	14.05	23.00
	24.00	25.00	27.00	28.00	34.00	42.01	44.04	54.03	65.00	68.01	71.00	78.00
Madera County	6.02	8.00	9.00									

METROPOLITAN AREA: Gadsden, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Etowah County	1.00	3.00	7.00	8.00	14.00	15.00	101.00					

METROPOLITAN AREA: Gainesville, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alachua County	1.00	2.00	6.00	7.00	8.00	9.00	19.02					

METROPOLITAN AREA: Galveston-Texas City, TX PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Galveston County	1222.00	1225.00	1226.00	1230.00	1232.00	1233.00	1234.00	1235.00	1236.00	1237.00	1238.00	1240.00
	1241.00	1246.00	1248.00	1249.00	1254.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Gary, IN PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lake County	102.98	104.00	107.00	108.00	109.00	110.00	111.00	112.00	113.00	114.00	117.00	118.00
	119.00	120.00	122.00	123.00	124.00	125.00	126.00	127.00	128.00	129.00	130.00	133.00
	134.00	206.00	208.00	217.00	301.00	302.00	303.00	304.00	310.00	412.00	413.01	
Porter County	509.00											

METROPOLITAN AREA: Glens Falls, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Warren County	705.00											

METROPOLITAN AREA: Goldsboro, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Wayne County	7.00	14.00	15.00	16.00	17.00	18.00						

METROPOLITAN AREA: Grand Forks, ND-MN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Grand Forks County	103.00	104.00	105.00	106.00								

METROPOLITAN AREA: Grand Junction, CO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mesa County	1.00	2.00	3.00	7.00	9.00	18.00						

METROPOLITAN AREA: Grand Rapids-Muskegon-Holland, MI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allegan County	310.00											
Kent County	13.00	14.00	15.00	19.00	20.00	21.00	25.00	26.00	28.00	30.00	31.00	32.00
	36.00	38.00	39.00									
Muskegon County	1.00	2.00	3.00	5.00	6.01	6.02	7.00	11.00	12.00	13.00	14.01	14.02
Ottawa County	223.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Great Falls, MT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cascade County	4.00	5.00	6.00	7.00								

METROPOLITAN AREA: Greeley, CO PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Weld County	1.00	2.00	5.00	6.00	7.01	8.00						

METROPOLITAN AREA: Green Bay, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brown County	1.00	6.00	9.00	10.00	12.00							

METROPOLITAN AREA: Greensboro--Winston-Salem--High Point, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alamance County	201.01											
Davidson County	614.00											
Forsyth County	1.00	2.00	3.01	3.02	4.00	5.01	5.02	6.00	7.00	8.01	8.02	18.02
	19.01											
Guilford County	101.00	107.02	108.01	111.01	112.00	114.00	138.00	139.00	143.00	144.08	146.00	
Randolph County	303.02											

METROPOLITAN AREA: Greenville, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pitt County	1.00	7.00	8.00	19.00								

METROPOLITAN AREA: Greenville-Spartanburg-Anderson, SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anderson County	1.00	4.00	6.00	7.00								
Cherokee County	9705.00											
Greenville County	2.00	5.00	6.00	7.00	8.00	9.00	10.00	12.02	13.01	15.02	21.05	21.08
	23.03	23.04	25.04	25.05	36.02							
Pickens County	112.01											
Spartanburg County	201.00	202.00	203.01	204.00	205.00	208.00	209.00	210.01				

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Hagerstown, MD PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washington County	4.00	7.00										

METROPOLITAN AREA: Hamilton-Middletown, OH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Butler County	3.00	4.00	5.00	6.00	7.01	7.02	8.00	101.01	101.03	101.04	128.00	129.00
	131.00	132.00	138.00	140.00								

METROPOLITAN AREA: Harrisburg-Lebanon-Carlisle, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	122.00	132.00										
Dauphin County	201.00	203.00	205.00	206.00	207.00	211.00	212.00	213.00	214.00			
Lebanon County	3.00											

METROPOLITAN AREA: Hartford, CT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hartford County	4159.00	4161.00	4162.00	4166.00	4171.00	5001.00	5002.00	5003.00	5004.00	5005.00	5008.00	5009.00
	5010.00	5011.00	5012.00	5013.00	5014.00	5015.00	5016.00	5017.00	5018.00	5019.00	5027.00	5028.00
	5029.00	5030.00	5031.00	5032.00	5033.00	5034.00	5035.00	5038.00	5041.00	5043.00	5046.00	5049.00
Middlesex County	5416.00	5418.00										
Windham County	8001.00	8003.00										

METROPOLITAN AREA: Hattiesburg, MS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Forrest County	1.00	4.00	5.00	6.00	9.00							

METROPOLITAN AREA: Hickory-Morganton-Lenoir, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Caldwell County	301.00											
Catawba County	108.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Honolulu, HI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Honolulu County	11.00	18.01	25.00	36.98	39.00	51.00	52.00	53.00	54.00	55.00	56.00	57.00
	58.00	62.02	63.02	68.03	68.04	70.00	75.04	81.00	83.01	85.00	87.98	90.00
	95.01	95.05	96.04	97.01	108.00							

METROPOLITAN AREA: Houma, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lafourche Parish	201.00	204.00	205.00	209.00								
Terrebonne Parish	7.00	11.00	13.00	14.00								

METROPOLITAN AREA: Houston, TX PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fort Bend County	707.11	709.01	712.00									
Harris County	121.00	201.01	201.02	202.10	203.01	203.02	203.03	204.00	205.01	205.03	205.98	206.01
	206.98	207.01	207.02	207.03	207.04	208.01	208.02	208.03	209.00	210.01	210.02	213.02
	214.01	215.01	215.03	216.01	216.02	217.01	217.02	218.01	218.02	218.03	218.04	219.00
	220.01	220.02	221.00	222.01	222.02	223.02	224.01	225.03	225.04	226.01	226.02	233.00
	233.99	241.02	264.00	272.00	275.00	300.22	300.23	300.24	301.01	301.02	302.00	303.00
	304.01	304.02	305.01	305.02	306.00	307.01	307.02	308.10	308.20	309.01	309.02	309.03
	310.00	311.00	312.00	313.01	314.01	315.00	316.01	317.03	317.04	318.01	318.02	318.03
	318.04	319.01	319.02	320.01	320.02	321.01	321.02	321.03	324.01	327.02	328.01	328.02
	328.03	329.02	329.03	330.02	335.03	339.02	339.03	343.01	343.02	348.01	350.01	350.03
	356.01	362.00	400.26	414.02	416.01	419.01	419.04	419.05	419.06	424.01	430.02	435.02
	442.01	442.03	442.04	443.01	443.03	444.03	502.00	503.01	503.02	504.00	505.02	507.02
	508.00	509.01	509.02	510.00	512.00	513.00	514.01	514.02	515.02	516.01	516.02	518.02
	519.02	520.01	520.02	520.03	521.01	521.02	523.01	523.02	523.03	524.00	525.02	525.03
	525.04	531.01	531.03	533.01	533.02							
Liberty County	1001.00	1002.01	1005.00	1007.00								
Montgomery County	906.23	907.01										
Waller County	803.10	805.98										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Huntington-Ashland, WV-KY-OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Boyd County	302.00	308.00										
Carter County	9601.00	9602.00	9604.00									
Greenup County	407.00											
Lawrence County	503.00	506.00	507.00									
Cabell County	2.00	4.00	5.00	6.00	7.00	9.00	10.00	15.00	16.00	18.00		
Wayne County	208.00	209.00	210.00									

METROPOLITAN AREA: Huntsville, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Limestone County	210.00											
Madison County	1.00	2.01	8.00	11.00	12.00	16.00	21.00					

METROPOLITAN AREA: Indianapolis, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	1.00	3.00	4.00	5.00	7.00	8.00	9.00	10.00	116.00			
Marion County	3226.00	3412.00	3415.00	3416.00	3426.00	3501.00	3503.00	3504.00	3507.00	3508.00	3509.00	3510.00
	3511.00	3512.00	3515.00	3516.00	3517.00	3521.00	3523.00	3526.00	3527.00	3528.00	3531.00	3532.00
	3533.00	3535.00	3536.00	3541.00	3542.00	3544.00	3545.00	3547.00	3549.00	3550.00	3556.00	3559.00
	3562.00	3564.00	3569.00	3571.00	3572.00	3573.00	3574.00	3581.00	3601.02			

METROPOLITAN AREA: Iowa City, IA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Johnson County	4.00	10.00	11.00	16.00	106.00							

METROPOLITAN AREA: Jackson, MI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jackson County	2.00	6.00	7.00	10.00	11.00	12.00	59.00					

METROPOLITAN AREA: Jackson, MS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hinds County	6.00	8.00	9.00	10.00	11.00	12.00	17.00	18.00	19.00	20.00	21.00	25.00
	26.00	27.00	31.00	32.00	39.00	102.01	103.02	106.00	108.01			
Madison County	305.00	307.00	309.00	310.00								

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Jackson, TN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	5.00	8.00	9.00	10.00	11.00	12.00						

METROPOLITAN AREA: Jacksonville, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clay County	316.98											
Duval County	2.00	3.00	4.00	5.00	9.00	10.00	11.00	12.00	13.00	14.00	15.00	16.00
	17.00	18.00	19.00	26.00	27.00	28.00	29.00	101.99	113.00	115.00	116.00	183.00
St. Johns County	204.00											

METROPOLITAN AREA: Jacksonville, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Onslow County	20.00											

METROPOLITAN AREA: Jamestown, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chautauqua County	303.00	305.00	359.02									

METROPOLITAN AREA: Janesville-Beloit, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Rock County	1.00	3.00	15.00	16.00	18.00							

METROPOLITAN AREA: Jersey City, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hudson County	12.02	13.00	15.00	16.01	17.00	18.00	27.00	30.00	31.00	33.00	34.00	37.00
	41.02	43.00	46.00	50.00	51.00	109.00	145.00	154.00	158.00	190.00		

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Johnson City-Kingsport-Bristol, TN-VA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Carter County	704.00	715.00	717.00									
Hawkins County	502.00											
Sullivan County	401.00	402.00	405.00	406.00	431.00							
Washington County	601.00	603.00	607.00	609.00	610.00	612.00						
Scott County	303.98											
Washington County	103.00											
Bristol city	202.00	203.00										

METROPOLITAN AREA: Johnstown, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cambria County	1.00	2.00	3.00	4.00	8.00	9.00	10.00	13.00	14.00			

METROPOLITAN AREA: Jonesboro, AR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Craighead County	6.00											

METROPOLITAN AREA: Joplin, MO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jasper County	101.00	108.00	110.00									

METROPOLITAN AREA: Kalamazoo-Battle Creek, MI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Calhoun County	2.00	3.00	4.00	6.00	21.00	33.00	36.00					
Kalamazoo County	1.00	2.01	2.02	3.00	4.02	5.00	6.00	8.01	8.02	9.00	10.00	11.00
	15.04	15.07										
Van Buren County	106.00	107.00										

METROPOLITAN AREA: Kankakee, IL PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kankakee County	110.00	114.00	115.00	116.00	123.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Kansas City, MO-KS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Leavenworth County	701.00											
Wyandotte County	402.00	403.00	404.00	407.00	408.00	409.01	409.02	410.00	411.01	412.01	412.02	415.00
	417.00	418.00	420.01	420.02	421.00	423.00	424.00	425.01	425.02	426.00	427.00	428.00
	430.00	439.01	445.00	446.02	451.00							
Clay County	200.00											
Jackson County	2.00	3.00	4.00	10.00	12.00	13.00	14.00	15.00	16.00	17.00	18.00	19.00
	21.00	22.00	23.00	24.00	26.00	27.00	29.00	30.00	31.00	32.00	33.00	34.00
	35.01	35.02	36.01	36.02	37.00	38.00	39.00	40.00	41.00	42.00	43.00	45.00
	47.00	48.00	49.00	50.00	52.00	53.00	54.00	55.00	57.00	58.01	60.00	61.00
	63.00	64.00	65.00	67.00	68.00	75.00	77.00	78.01	79.00	80.00	87.00	88.00
	96.00	109.01	109.02	116.00	130.01							

METROPOLITAN AREA: Kenosha, WI PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kenosha County	9.00	10.00	11.00	16.00								

METROPOLITAN AREA: Killeen-Temple, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bell County	207.01	207.02	208.00	209.00	210.00	216.01	216.02	226.00	227.00	228.01	228.02	229.00

METROPOLITAN AREA: Knoxville, TN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anderson County	207.00											
Blount County	105.00											
Knox County	1.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	11.00	12.00
	13.00	14.00	17.00	20.00	24.00	26.00	28.00	29.00	43.00			
Union County	402.01	403.00										

METROPOLITAN AREA: Kokomo, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Howard County	1.00	2.00	4.00	9.00	12.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: La Crosse, WI-MN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
La Crosse County	3.00	4.00	5.00	9.00								
METROPOLITAN AREA: Lafayette, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Acadia Parish	9607.00	9610.00										
Lafayette Parish	1.00	2.00	4.00	7.00	8.00	9.00	11.00	13.00				
St. Landry Parish	9601.00	9602.00	9609.00	9613.00	9614.00	9616.00	9619.00					
METROPOLITAN AREA: Lafayette, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tippecanoe County	4.00	6.00	54.00	55.00	103.00	104.00	105.00					
METROPOLITAN AREA: Lake Charles, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Calcasieu Parish	1.00	2.00	3.00	4.00	12.02	14.00	15.00	16.00				
METROPOLITAN AREA: Lakeland-Winter Haven, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Polk County	101.00	102.00	112.01	112.02	126.00	136.00	137.01	152.00				
METROPOLITAN AREA: Lancaster, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lancaster County	1.00	4.00	8.00	9.00	14.00	15.00	16.00	136.02				
METROPOLITAN AREA: Lansing-East Lansing, MI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ingham County	2.00	3.00	5.00	6.00	7.00	8.00	12.00	13.00	14.00	15.00	19.00	20.00
	21.00	36.02	41.00	43.01	43.02	44.01	44.02	65.00				

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Laredo, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Webb County	1.04	3.00	4.00	8.00	12.00	13.00	18.01					
METROPOLITAN AREA: Las Cruces, NM MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dona Ana County	4.01	10.00	14.00	17.00								
METROPOLITAN AREA: Las Vegas, NV-AZ MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mohave County	9501.00	9502.00	9503.00	9504.00	9513.00	9523.00						
Clark County	3.01	3.02	4.00	5.04	7.00	8.00	9.00	11.00	22.01	35.00	36.02	38.00
	39.98	46.00										
METROPOLITAN AREA: Lawrence, KS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Douglas County	3.00	4.00										
METROPOLITAN AREA: Lawrence, MA-NH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Essex County	2501.00	2503.00	2504.00	2505.00	2506.00	2507.00	2509.00	2510.00	2511.00	2512.00	2513.00	2514.00
	2516.00	2524.00	2601.00	2602.00								
METROPOLITAN AREA: Lawton, OK MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Comanche County	8.00	11.00	12.00	13.00	14.00	15.00	16.00	17.00	18.00	19.02		
METROPOLITAN AREA: Lewiston-Auburn, ME MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Androscoggin County	101.00	201.00	204.00									

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Lexington, KY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bourbon County	301.00											
Clark County	202.00											
Fayette County	1.00	2.00	3.00	4.00	8.00	9.00	10.00	11.00	14.00	18.00	19.00	21.00
	34.04											
Jessamine County	603.00											
Madison County	102.00	103.00	104.00	105.00								

METROPOLITAN AREA: Lima, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allen County	117.00	125.00	127.00	128.00	134.00	135.00	136.00	138.00				

METROPOLITAN AREA: Lincoln, NE MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lancaster County	4.00	5.00	7.00	8.00	17.00	18.00	19.00	20.00	32.01	35.00		

METROPOLITAN AREA: Little Rock-North Little Rock, AR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Faulkner County	307.00	309.00										
Lonoke County	206.00											
Pulaski County	1.00	2.00	3.00	4.00	5.00	6.00	7.00	9.00	10.00	11.00	12.00	13.00
	17.00	25.00	26.00	28.00	29.00	30.00	31.00	36.06	40.01	40.05		

METROPOLITAN AREA: Longview-Marshall, TX MSA												
COUNTY OR COUNTY EQUIVALENT*	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Gregg County	1.00	11.00	12.00	13.00	14.00	15.00	107.00	111.98	112.98			
Harrison County	204.01	204.02										
Upshur County	9502.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Los Angeles-Long Beach, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Los Angeles County	1047.01	1200.00	1232.01	1232.02	1838.00	1853.00	1902.00	1903.01	1904.00	1905.00	1907.00	1908.00
	1909.01	1909.02	1910.00	1911.00	1912.01	1912.02	1914.00	1915.00	1916.00	1917.00	1918.00	1925.00
	1926.00	1927.00	1957.00	1975.00	1976.00	1977.00	1990.00	1991.00	1992.01	1992.02	1994.00	1997.00
	1998.00	1999.00	2031.00	2032.00	2033.00	2034.00	2036.00	2037.00	2038.00	2039.00	2041.00	2042.00
	2043.00	2044.00	2045.00	2046.00	2047.00	2049.00	2051.00	2060.00	2062.00	2063.00	2071.00	2073.00
	2077.00	2080.00	2083.00	2084.00	2085.00	2087.00	2088.00	2089.01	2089.02	2091.01	2091.02	2092.00
	2093.00	2094.01	2094.02	2094.03	2095.00	2098.00	2100.00	2112.00	2113.00	2119.00	2121.00	2122.01
	2122.02	2123.01	2123.02	2124.00	2125.00	2126.00	2129.00	2132.01	2132.02	2133.00	2134.01	2134.02
	2184.00	2186.00	2188.00	2193.00	2196.00	2199.00	2211.00	2212.00	2213.01	2213.02	2214.00	2216.00
	2216.00	2217.00	2218.00	2219.00	2220.00	2221.00	2222.00	2225.00	2226.00	2227.00	2240.00	2242.00
	2243.00	2244.00	2246.00	2247.00	2260.00	2264.00	2267.00	2270.00	2281.00	2282.00	2283.00	2284.00
	2285.00	2286.00	2287.00	2288.00	2289.00	2291.00	2292.00	2293.00	2294.00	2311.00	2312.00	2313.00
	2314.00	2316.00	2317.00	2318.00	2319.00	2321.00	2322.00	2323.00	2324.00	2325.00	2326.00	2327.00
	2328.00	2345.00	2349.00	2361.00	2362.01	2362.02	2371.00	2372.00	2375.00	2376.00	2377.00	2383.00
	2392.00	2393.00	2395.00	2396.00	2397.00	2398.00	2400.00	2402.00	2403.00	2404.00	2405.00	2406.00
	2407.00	2408.00	2409.00	2410.00	2411.00	2414.00	2420.00	2421.00	2422.00	2423.00	2426.00	2427.00
	2430.00	2431.00	2653.02	2947.00	2948.00	2949.00	2951.99	2962.00	2971.00	3022.00	4023.02	4025.01
	4026.02	4027.02	4028.00	4088.00	4334.00	4335.00	4619.00	4620.00	4622.00	4817.02	4823.02	5041.02
	5305.00	5307.00	5308.00	5309.00	5311.00	5312.01	5312.02	5313.01	5313.02	5315.01	5315.02	5316.01
	5318.02	5317.02	5319.01	5319.02	5324.00	5326.02	5327.00	5328.00	5329.00	5330.00	5331.01	5331.02
	5332.00	5333.00	5335.00	5336.00	5337.00	5338.01	5338.02	5339.00	5340.00	5341.00	5342.00	5343.00
	5344.01	5344.02	5349.00	5350.00	5351.01	5351.02	5352.00	5353.00	5354.00	5355.00	5357.00	5358.01
	5400.00	5402.00	5404.00	5405.00	5406.00	5414.00	5415.00	5416.01	5416.02	5421.01	5421.02	5426.00
	5427.00	5429.00	5552.11	5716.00	5725.00	5728.00	5732.01	5732.02	5733.00	5735.00	5752.00	5753.00
	5754.00	5755.00	5756.99	5758.00	5759.00	5760.00	5762.00	5763.00	5764.00	6001.00	6002.01	6002.02
	6003.01	6006.02	6015.00	6017.00	6019.00	9101.00						

METROPOLITAN AREA: Louisville, KY-IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clark County	502.00											
Floyd County	702.00	705.00	708.01	709.02								
Scott County	9668.00											
Jefferson County	1.00	2.00	5.00	6.00	7.00	9.00	10.00	14.00	15.00	16.00	18.00	20.00
	21.00	22.00	23.00	24.00	27.00	28.00	30.00	34.00	35.00	37.00	43.01	43.02
	49.00	50.00	51.00	52.00	53.00	55.00	56.00	59.00	62.00	63.00	65.00	66.00
	110.02	113.02	127.01									

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Lowell, MA-NH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Middlesex County	3101.00	3104.00	3107.00	3108.00	3110.00	3111.00	3112.00	3116.00	3119.00	3120.00	3121.00	3124.00
	3153.00											

METROPOLITAN AREA: Lubbock, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lubbock County	2.02	3.01	3.02	6.03	6.04	6.05	6.06	7.00	8.00	9.00	10.00	11.00
	12.00	13.00	24.00									

METROPOLITAN AREA: Lynchburg, VA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lynchburg city	2.03	4.00	5.98	6.00	7.00	11.00	12.00	13.00	14.98	23.95		

METROPOLITAN AREA: Macon, GA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bibb County	101.00	103.00	104.00	105.00	106.00	107.00	108.00	111.00	112.00	113.00	114.00	115.00
	125.00	127.00	128.00	129.00	130.00							
Houston County	201.03	204.00	205.00									
Peach County	402.00	403.02	404.00									

METROPOLITAN AREA: Madison, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dane County	11.00	12.98	14.01	15.01	16.01	16.02	17.00	25.98	32.00			

METROPOLITAN AREA: Manchester, NH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hillsborough County	5.00	14.00	17.00	20.00								

METROPOLITAN AREA: Mansfield, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Richland County	1.00	2.00	3.00	6.00	7.00	8.00						

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Mayaguez, PR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anasco Municipio	8101.00											
Cabo Rojo Municipio	8305.00											
Mayaguez Municipio	801.00	803.00	804.00	804.99	805.00	806.00	807.00	809.00	810.00	811.00	812.01	812.02
	812.03											
Sabana Grande Municipio	9605.00	9608.00										
San German Municipio	8406.98											

METROPOLITAN AREA: McAllen-Edinburg-Mission, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hidalgo County	205.03	206.00	211.00	213.01	213.02	213.03	215.00	216.00	221.02	226.00	231.01	237.00
	242.01	244.00	245.00									

METROPOLITAN AREA: Medford-Ashland, OR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jackson County	1.00	2.00	19.00	20.00								

METROPOLITAN AREA: Melbourne-Titusville-Palm Bay, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brevard County	607.00	608.00	626.00	648.00	649.02							

METROPOLITAN AREA: Memphis, TN-AR-MS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Crittenden County	304.00	305.00	306.10	306.98	307.00	309.00	310.00	311.00				
Fayette County	601.00	603.00										
Shelby County	1.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	13.00	14.00
	18.00	19.00	20.00	21.00	22.00	23.00	24.00	28.00	36.00	37.00	38.00	39.00
	40.00	41.00	44.00	45.00	46.00	47.00	48.00	49.00	50.00	51.00	53.00	54.00
	55.00	57.00	58.00	59.00	60.00	61.00	62.00	65.00	67.00	68.00	73.00	78.10
	81.10	84.00	90.00	103.00	105.00	222.20	223.10	227.98				
Tipton County	407.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Merced, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Merced County	13.00	15.00	16.00	18.00	19.98	301.00						

METROPOLITAN AREA: Miami, FL PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dade County	4.03	5.03	7.03	7.04	8.02	9.03	10.01	10.03	10.04	13.01	14.01	14.02
	15.01	15.02	16.01	17.01	17.02	17.03	18.01	18.02	18.03	19.01	19.03	19.04
	20.01	20.03	20.04	22.01	22.02	24.01	24.02	25.00	26.00	27.02	28.00	29.00
	30.01	30.02	31.00	34.00	36.01	36.02	37.01	37.02	39.01	42.00	43.00	44.00
	45.00	48.00	49.01	51.00	52.01	52.02	53.01	53.02	54.01	54.02	63.01	64.01
	64.02	64.03	66.01	66.02	72.00	75.02	89.04	105.00	106.02	113.00		

METROPOLITAN AREA: Middlesex-Somerset-Hunterdon, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Middlesex County	39.00	45.00	46.00	47.00	48.00	49.00	51.00	52.00	53.00	54.00	55.00	59.00

METROPOLITAN AREA: Milwaukee-Waukesha, WI PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Milwaukee County	12.00	18.00	19.00	21.00	24.00	28.00	40.00	42.00	44.00	45.00	46.00	47.00
	48.00	60.00	62.00	63.00	64.00	65.00	66.00	67.00	68.00	69.00	70.00	71.00
	78.00	80.00	81.00	82.00	83.00	84.00	85.00	86.00	87.00	88.00	89.00	90.00
	91.00	96.00	97.00	98.00	99.00	100.00	101.00	102.00	103.00	104.00	105.00	106.00
	107.00	108.00	110.00	111.00	112.00	113.00	114.00	115.00	116.00	117.00	118.00	119.00
	120.00	121.00	122.00	123.00	132.00	134.00	135.00	136.00	137.00	138.00	139.00	140.00
	141.00	142.00	146.00	147.00	148.00	149.00	150.00	151.00	152.00	154.00	155.00	156.00
	157.00	158.00	159.00	163.00	164.00	165.00	166.00	167.00	168.00	169.00	174.00	175.00
	177.00	178.98										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Minneapolis-St. Paul, MN-WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hennepin County	10.00	15.00	16.00	18.00	21.00	22.00	23.00	24.00	25.00	26.00	27.00	28.00
	29.00	31.00	33.00	34.00	35.00	37.00	38.00	39.00	41.00	42.00	43.00	44.00
	47.00	48.00	49.00	53.00	54.00	56.00	57.00	58.00	59.00	60.00	61.00	62.00
	63.00	64.00	68.00	69.00	70.00	71.00	72.00	73.00	74.00	77.00	78.00	79.00
	82.00	83.00	84.00	85.00	94.00	100.00	250.00					
Ramsey County	305.00	309.00	310.00	313.00	314.00	315.00	316.00	317.00	319.00	324.00	325.00	326.00
	327.00	328.00	329.00	330.00	331.00	334.00	335.00	336.00	337.00	338.00	339.00	340.00
	344.00	359.00	360.00	361.00	368.00	369.00	371.00	374.04				

METROPOLITAN AREA: Missoula, MT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Missoula County	2.01	3.00	7.00									

METROPOLITAN AREA: Mobile, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Baldwin County	106.00											
Mobile County	1.00	2.00	3.00	4.01	4.02	5.00	6.00	7.02	8.00	10.01	11.00	12.01
	12.03	12.04	13.01	13.02	14.00	15.01	15.02	16.00	23.02	26.00	27.00	34.01
	36.05	38.01	39.01	39.02	40.00	41.00	42.00	43.00	44.00	45.00	46.00	47.00
	48.00	49.00	50.00	73.00								

METROPOLITAN AREA: Modesto, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Stanislaus County	7.00	8.03	16.01	16.02	17.00	18.00	20.05	21.00	22.00	26.02		

METROPOLITAN AREA: Monmouth-Ocean, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Monmouth County	8047.97	8049.00	8056.00	8058.01	8058.02	8070.02	8070.03	8070.04	8072.97	8073.00	8076.00	8098.00
	8099.03											
Ocean County	7152.00	7153.00	7154.00	7200.00	7201.00	7222.00	7312.00					

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Monroe, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ouachita Parish	3.00	6.00	7.00	8.00	9.00	11.00	12.00	13.00	14.00	57.00	106.01	

METROPOLITAN AREA: Montgomery, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Autauga County	210.00	211.00										
Montgomery County	1.00	2.00	3.85	6.00	7.00	10.00	11.00	12.00	13.00	15.00	24.00	30.00
	51.01	57.00	58.00									

METROPOLITAN AREA: Muncie, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Delaware County	1.00	2.00	3.00	4.00	6.00	7.00	9.02	12.00	19.01			

METROPOLITAN AREA: Myrtle Beach, SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Horry County	101.00	201.00	202.00	301.00	506.00	703.00	704.00					

METROPOLITAN AREA: Naples, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Collier County	7.00	112.03	113.00	114.00								

METROPOLITAN AREA: Nashua, NH PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hillsborough County	105.00	107.00	108.00									

METROPOLITAN AREA: Nashville, TN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Davidson County	104.02	114.00	118.00	119.00	120.00	123.00	124.00	125.00	126.00	129.00	135.00	136.00
	137.00	138.00	139.00	140.00	142.00	143.00	144.00	145.00	146.00	148.00	159.00	160.00
	161.00	162.00	163.00	164.00	165.00	166.00						
Rutherford County	416.00	418.00	419.00									
Sumner County	208.00											
Wilson County	307.00											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Nassau-Suffolk, NY PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Nassau County	4070.00	4111.00	4144.00									
Suffolk County	1224.06	1225.01	1233.02	1455.00	1463.00	1473.00	1580.07	1584.06	1587.05	1591.03	1697.02	1701.01

METROPOLITAN AREA: New Bedford, MA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bristol County	6507.00	6508.00	6509.00	6511.00	6512.00	6513.00	6517.00	6518.00	6519.00	6526.00	6527.00	

METROPOLITAN AREA: New Haven-Meriden, CT PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Haven County	1402.00	1403.00	1405.00	1406.00	1407.00	1408.00	1413.00	1415.00	1416.00	1417.00	1421.00	1423.00
	1424.00	1426.02	1701.01	1701.02	1702.01	1702.02	1710.00					

METROPOLITAN AREA: New London-Norwich, CT-RI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New London County	6901.00	6905.00	6906.00	6906.99	6968.00	6969.00						

METROPOLITAN AREA: New Orleans, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson Parish	207.00	208.00	209.00	237.00	246.00	257.98	259.00	262.00	265.00	268.00	269.00	
Orleans Parish	1.00	2.00	3.00	4.00	6.01	6.03	6.11	6.13	8.00	9.01	9.02	9.03
	9.04	11.00	12.00	13.01	13.02	13.03	14.01	14.02	15.00	16.00	17.03	17.06
	17.29	17.33	17.98	18.00	19.00	20.00	22.00	27.00	28.00	29.00	30.00	31.00
	33.05	33.06	34.00	35.00	36.00	39.00	40.00	44.01	44.02	45.00	48.00	49.00
	50.00	58.00	59.00	60.00	63.00	67.00	68.00	69.00	70.00	71.00	72.00	75.01
	75.02	76.05	77.00	80.00	81.01	81.02	84.00	85.00	86.00	87.00	89.00	91.00
	92.00	93.01	93.02	94.00	100.00	102.00	104.00	111.00	131.00			
Plaquemines Parish	501.00	508.00										
St. Bernard Parish	301.01											
St. Charles Parish	621.99	626.00										
St. James Parish	404.00	405.00	406.00									
St. John the Baptist Parish	709.00											
St. Tammany Parish	405.01	409.00										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: New York, NY PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bronx County	11.00	15.00	17.00	20.00	23.00	25.00	27.01	27.02	31.00	33.00	35.00	37.00
	39.00	41.00	43.00	44.00	47.00	48.00	49.00	50.00	52.00	56.00	59.01	62.00
	65.00	67.00	69.00	71.00	73.00	75.00	77.00	79.00	81.00	83.00	85.00	86.00
	87.00	88.00	89.00	99.00	105.00	110.00	115.01	115.02	119.00	121.01	121.02	123.00
	127.01	127.02	129.01	129.02	131.00	133.00	135.00	137.00	139.00	141.00	143.00	144.00
	145.00	147.00	149.00	155.00	157.00	161.00	165.00	167.00	169.00	173.00	175.00	177.00
	179.00	187.00	189.00	193.00	195.00	197.00	199.00	201.00	205.00	206.02	211.00	213.01
	213.02	215.01	215.02	217.01	219.00	221.00	223.00	227.01	229.01	229.02	233.01	233.02
	235.01	235.02	237.01	237.02	239.00	241.00	243.00	245.00	251.00	253.00	255.00	257.00
	263.00	265.00	271.01	317.00	324.00	334.00	359.00	361.00	363.00	365.01	365.02	367.00
	369.01	369.02	371.00	373.00	375.01	375.02	375.03	377.00	379.00	381.00	383.00	385.00
	389.00	391.00	393.00	397.00	399.01	403.01	435.00	458.00				
Kings County	2.00	11.00	18.00	20.00	23.00	25.00	27.00	29.01	29.02	55.00	59.00	71.00
	85.00	112.00	120.00	125.00	127.00	185.01	185.02	214.00	217.00	221.00	222.00	225.00
	226.00	228.00	231.00	233.00	234.00	235.00	237.00	238.00	239.00	241.00	243.00	251.00
	255.00	257.00	259.01	259.02	261.00	263.00	281.00	283.00	285.01	285.02	287.00	289.00
	293.00	299.00	303.00	307.00	309.00	326.00	328.00	330.00	342.00	347.00	348.01	348.02
	351.00	352.00	353.00	357.00	359.00	360.01	360.02	363.00	365.01	365.02	367.00	369.00
	371.00	373.00	375.00	379.00	381.00	382.00	387.00	389.00	391.00	393.00	395.00	405.00
	409.00	411.00	413.00	415.00	417.00	419.00	421.00	423.00	425.00	427.00	429.00	431.00
	433.00	435.00	437.00	441.00	453.00	465.00	489.00	493.00	505.00	507.00	509.00	511.00
	513.00	523.00	525.00	527.00	529.00	531.00	533.00	535.00	537.00	539.00	545.00	547.00
	549.00	551.00	572.00	610.01	884.00	892.00	900.00	906.00	908.00	910.00	912.00	916.00
	916.00	944.02	962.00	1034.00	1058.00	1106.00	1110.00	1130.00	1134.00	1136.00	1140.00	1146.00
	1148.00	1150.00	1152.00	1154.00	1156.00	1158.00	1160.00	1164.00	1166.00	1168.00	1170.00	1172.01
	1192.00	1194.00	1210.00	1214.00								
New York County	2.01	2.02	6.00	8.00	10.02	14.02	16.00	18.00	20.00	24.00	25.00	26.01
	36.01	41.00	62.00	117.00	119.00	156.02	162.00	164.00	166.00	168.00	172.01	172.02
	178.00	180.00	182.00	184.00	186.00	188.00	190.00	192.00	194.00	196.00	198.00	201.02
	202.00	204.00	206.00	207.02	208.00	209.01	209.02	213.01	213.02	216.00	217.01	217.02
	218.00	219.97	220.00	222.00	223.97	223.98	224.00	226.00	227.02	228.00	229.00	230.00
	231.02	232.00	234.00	235.02	239.00	243.01	243.02	245.00	249.00	251.00	261.00	267.00
	269.00	277.00	291.00	293.00								
Queens County	25.00	35.00	43.00	44.02	55.00	87.00	246.00	252.00	262.00	266.00	299.00	331.00
	442.00	871.00	942.02	952.00	972.00	1010.00						
Richmond County	29.00	40.00	133.01	319.01								
Rockland County	115.03											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: New York, NY PMSA (continued)												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Westchester County	1.01	1.03	2.01	3.00	4.01	4.02	5.00	10.00	11.01	12.00	13.02	13.03
	22.03	27.00	28.00	29.00	31.00	32.00	35.00	36.00	58.00	61.00	62.00	63.00
	78.00	80.00	93.00	119.01	133.01	143.00						

METROPOLITAN AREA: Newark, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Essex County	2.00	3.00	5.00	7.00	9.00	10.00	11.00	13.00	14.00	15.00	16.00	17.00
	18.00	19.00	26.00	27.00	28.00	29.00	30.00	31.00	32.00	34.00	35.00	37.00
	38.00	39.00	40.00	41.00	44.00	46.00	48.01	48.02	49.00	53.00	54.00	55.00
	56.00	57.00	58.00	59.00	60.00	62.00	63.00	66.00	67.00	68.00	69.00	74.00
	75.01	75.02	80.00	81.00	82.00	83.00	84.00	85.00	86.00	87.00	88.00	89.00
	91.00	92.00	93.00	95.00	96.00	97.00	99.00	106.00	107.00	109.00	110.00	111.00
	112.00	113.00	115.00	131.00	132.00	171.00	182.00	184.00	186.00	187.00		
Union County	302.00	303.00	304.00	306.00	308.01	310.00	311.00	312.00	313.00	314.00	317.00	319.02
	390.00	393.00										
Warren County	309.00											

METROPOLITAN AREA: Newburgh, NY-PA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Orange County	4.00	5.00	6.00	17.00	22.00	102.99	150.00					
Pike County	9502.00											

METROPOLITAN AREA: Norfolk-Virginia Beach-Newport News, VA-NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
York County	505.00											
Chesapeake city	201.00	202.00	203.00	205.01	209.03							
Hampton city	105.00	106.02	109.00	117.00								
Newport News city	302.00	303.98	304.00	305.00	306.00	308.00	309.00	310.00				
Norfolk city	13.00	14.00	16.00	25.00	26.00	27.00	29.00	34.00	35.01	35.02	41.00	42.00
	43.00	44.00	46.00	47.00	48.00	50.00	51.00	52.00	53.00	65.02	67.00	
Portsmouth city	2105.00	2107.00	2110.00	2111.00	2113.00	2114.00	2118.00	2119.00	2120.00	2121.00	2126.00	
Suffolk city	651.00	654.00	655.00									
Virginia Beach city	450.85											
Williamsburg city	3703.00	3705.98										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Oakland, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alameda County	4005.00	4006.00	4007.00	4008.00	4009.00	4010.00	4011.00	4013.00	4014.00	4015.00	4016.00	4017.00
	4018.00	4019.00	4021.00	4022.00	4023.00	4024.00	4025.00	4026.00	4027.00	4028.00	4029.00	4030.00
	4031.00	4033.00	4034.00	4053.00	4054.00	4055.00	4057.00	4058.00	4059.00	4060.00	4061.00	4062.00
	4063.00	4071.00	4072.00	4073.00	4074.00	4075.00	4084.00	4085.00	4086.00	4087.00	4088.00	4089.00
	4090.00	4091.00	4092.00	4093.00	4094.00	4095.00	4096.00	4097.00	4103.00	4204.00	4220.00	4224.00
	4225.00	4226.00	4227.00	4228.00	4229.00	4232.00	4233.00	4236.00	4240.00	4274.00	4275.00	4276.00
	4339.00	4377.00										
Contra Costa County	3050.00	3100.00	3160.00	3260.00	3650.02	3660.00	3750.00	3760.00	3770.00	3790.00	3800.00	3810.00

METROPOLITAN AREA: Ocala, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Marion County	2.00	15.00	17.00	18.00								

METROPOLITAN AREA: Odessa-Midland, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ector County	11.00	12.00	14.00	15.00	18.00	19.00	20.00	22.00				
Midland County	14.00	15.00	16.00	17.00								

METROPOLITAN AREA: Oklahoma City, OK MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Canadian County	3004.00											
Cleveland County	2001.00	2002.00	2006.01	2012.01	2012.02	2012.03						
Logan County	6001.00	6002.00	6006.00									
Oklahoma County	1004.00	1005.00	1007.00	1010.00	1011.00	1012.00	1013.00	1014.00	1015.00	1019.00	1024.00	1025.00
	1026.00	1027.00	1028.00	1030.00	1031.01	1032.00	1033.00	1034.00	1035.00	1036.02	1037.00	1038.00
	1039.00	1040.00	1041.00	1043.00	1044.00	1046.00	1047.00	1048.00	1049.00	1052.02	1054.00	1055.00
	1056.00	1057.00	1058.00	1059.95	1069.12	1069.13	1070.01	1070.02	1071.01	1071.04	1072.16	1076.06
	1079.00	1082.07	1082.08	1088.03								
Pottawatomie County	5001.00	5002.00	5003.02									

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Omaha, NE-IA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pottawattamie County	307.00	309.00										
Douglas County	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	11.00	12.00	16.00	19.00
	21.00	29.00	32.00	38.00	39.00	40.00	41.00	51.00	52.00	53.00	54.00	59.01
	59.02	60.00	63.01									
Sarpy County	103.02											

METROPOLITAN AREA: Orange County, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Orange County	218.13	524.04	525.15	626.14	626.26	626.27	636.02	740.03	744.03	744.05	744.06	745.01
	745.02	746.01	746.02	747.01	747.02	748.01	748.02	748.05	748.06	749.01	749.02	750.01
	750.02	751.00	762.04	865.02	873.00	874.02	874.03	878.03	891.04	891.05	992.01	994.02
	995.09	995.10	998.02									

METROPOLITAN AREA: Orlando, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lake County	305.01	306.02										
Orange County	101.00	104.00	105.00	106.00	115.00	117.01	117.02	118.00	119.01	131.00	146.01	154.01
	155.02	159.01	176.00									
Seminole County	201.01	201.02	205.00	211.00								

METROPOLITAN AREA: Owensboro, KY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Daviess County	2.00	3.00	4.00	5.00								

METROPOLITAN AREA: Panama City, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bay County	10.00	16.00	17.00	18.00	20.00	22.00						

METROPOLITAN AREA: Parkersburg-Marietta, WV-OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washington County	205.00	206.00										
Wood County	6.00	7.01										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Pensacola, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Escambia County	1.00	2.00	3.00	4.00	6.00	7.00	14.01	15.00	16.00	17.00	18.00	19.00
	20.00	21.00	22.00	40.00								
Santa Rosa County	106.00											

METROPOLITAN AREA: Peoria-Pekin, IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Peoria County	1.00	2.00	3.00	5.00	6.00	7.00	8.00	9.00	11.00	12.00	13.00	14.00
	15.00	17.00	18.00	19.00								
Tazewell County	202.00	209.00										

METROPOLITAN AREA: Philadelphia, PA-NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Burlington County	7021.03	7026.04										
Camden County	6001.00	6002.00	6003.00	6004.00	6005.00	6006.00	6007.00	6008.00	6009.00	6011.00	6012.00	6013.00
	6015.00	6016.00	6017.00	6018.00	6019.00	6027.01	6082.04	6101.00				
Gloucester County	5010.02	5014.04										
Salem County	203.00	219.00	220.00	221.00								
Bucks County	1058.06											
Chester County	3026.00	3056.00	3058.00	3059.00	3102.00	3104.98						
Delaware County	4029.00	4047.00	4048.00	4049.02	4052.00	4054.00	4055.00	4056.00	4057.00	4058.01	4058.02	4059.00
	4060.00	4064.02	4097.02									
Montgomery County	2037.00	2039.02	2088.01									
Philadelphia County	2.00	5.00	6.00	9.00	13.00	14.00	18.00	19.00	20.00	21.00	22.00	23.00
	24.00	25.00	28.00	30.00	31.00	32.00	33.00	34.00	36.00	41.00	44.00	46.00
	52.00	56.00	58.00	63.00	66.00	69.00	70.00	71.00	72.00	74.00	77.00	80.00
	83.00	84.00	85.00	86.00	87.00	88.00	89.00	90.00	91.00	92.00	93.00	94.00
	95.00	96.00	102.00	103.00	104.00	105.00	106.00	107.00	108.00	109.00	110.00	111.00
	112.00	123.00	126.00	127.00	131.00	132.00	133.00	137.00	138.00	139.00	140.00	141.00
	144.00	145.00	146.00	147.00	148.00	149.00	151.00	152.00	153.00	154.00	155.00	156.00
	157.00	159.00	161.00	162.00	163.00	164.00	165.00	166.00	167.00	168.00	169.00	170.00
	171.00	172.00	173.00	174.00	175.00	176.00	177.00	178.00	179.00	181.00	192.00	194.00
	195.00	196.00	197.00	198.00	199.00	200.00	201.00	202.00	203.00	204.00	205.00	223.00
	239.00	240.00	241.00	244.00	245.00	248.00	247.00	249.00	250.00	253.00	277.00	279.00
	280.00	281.00	282.00	283.00	284.00	286.00	287.00	288.00	289.00	291.00	293.00	294.00
	296.00	297.00	304.00	327.00	346.00	364.00						

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Phoenix-Mesa, AZ MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Maricopa County	202.00	507.00	608.00	609.00	610.05	610.08	612.00	614.00	716.00	925.00	926.00	928.00
	929.00	1046.00	1072.00	1092.00	1102.00	1116.00	1126.00	1127.00	1128.00	1129.00	1130.00	1131.00
	1132.00	1133.00	1135.00	1136.00	1137.00	1138.00	1139.00	1140.00	1141.00	1142.00	1143.00	1144.00
	1145.00	1146.00	1147.00	1148.00	1149.00	1150.00	1151.00	1152.00	1153.00	1154.00	1157.00	1158.00
	1159.00	1160.00	1161.00	1163.00	1164.00	1166.02	3187.00	3188.00	3191.00	3192.00	3200.02	4201.02
	4215.01	4220.01	4226.05	5229.02	5231.02	5231.04	6232.00					
Pinal County	1.00	4.00	10.00	12.00	15.00	17.00	18.00	19.00	20.00			

METROPOLITAN AREA: Pine Bluff, AR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	5.02	6.00	9.02	10.00	11.00	12.00	13.00					

METROPOLITAN AREA: Pittsburgh, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allegheny County	101.00	103.00	302.00	305.00	314.00	402.00	403.00	404.00	405.00	406.00	409.00	411.00
	501.00	502.00	507.00	509.00	510.00	511.00	603.00	604.00	606.00	810.97	810.98	818.00
	1016.00	1017.00	1114.00	1115.00	1201.00	1203.00	1204.00	1207.00	1208.00	1301.00	1303.00	1304.00
	1305.00	1306.00	1504.00	1604.00	1606.00	1609.00	1704.00	1803.00	1805.00	1809.00	1921.00	2017.00
	2019.00	2107.00	2204.00	2205.00	2206.00	2304.00	2305.00	2306.00	2503.00	2507.00	2509.00	2603.00
	2609.98	2614.00	2620.00	2808.00	2902.97	3101.98	3102.95	4644.00	4657.97	4824.00	4838.00	4867.00
	4869.00	4923.00	4926.00	5050.00	5100.00	5128.00	5129.00	5140.00	5509.00	5512.00	5519.00	5521.00
	5523.00	5606.00	5612.00									
Beaver County	6003.00	6012.00	6013.00	6015.00	6028.00	6040.00	6041.98	6042.00	6045.00	6052.00	6054.00	
Butler County	9023.00	9024.00	9025.00	9104.00								
Fayette County	2608.00	2612.00	2614.00	2615.00	2617.00	2619.00	2621.00	2623.00	2626.00	2632.00		
Washington County	7041.00	7543.00	7544.00	7546.00	7751.00	7753.00	7831.00	7921.00	7922.00			
Westmoreland County	8001.00	8007.01	8007.02	8016.00	8028.00	8041.00	8053.00	8054.00				

METROPOLITAN AREA: Pittsfield, MA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berkshire County	9001.00	9012.00										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Pocatello, ID MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bannock County	1.00	8.00	9.00	16.01								

METROPOLITAN AREA: Ponce, PR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Guayanilla Municipio	7404.99											
Juana Diaz Municipio	719.02	7102.00	7109.01									
Penuelas Municipio	7302.00											
Ponce Municipio	702.02	703.00	704.00	706.01	707.00	708.00	709.00	710.00	713.00	716.02	721.01	721.99
	723.00	726.00	728.00									
Villalba Municipio	7201.00	7203.00										

METROPOLITAN AREA: Portland, ME MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	4.00	5.00	6.00	9.00	10.00	12.00	14.00					

METROPOLITAN AREA: Portland-Vancouver, OR-WA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Multnomah County	11.01	21.00	22.01	22.02	23.01	23.02	33.01	33.02	34.01	34.02	36.01	40.01
	42.00	44.99	48.00	49.00	50.00	51.00	52.00	53.00	54.00	55.00	56.00	74.00
	83.01											
Washington County	332.00											
Clark County	410.05	416.00	417.00	418.00	423.00	424.00	425.00	427.00				

METROPOLITAN AREA: Portsmouth-Rochester, NH-ME PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Strafford County	802.00											

METROPOLITAN AREA: Providence-Fall River-Warwick, RI-MA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bristol County	6314.00	6402.00	6403.00	6408.00	6409.00	6410.00	6411.00	6412.00	6413.00	6414.00	6442.99	
Providence County	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	11.00	12.00	13.00
	14.00	19.00	20.00	26.00	27.00	30.00	36.00	37.00	108.00	109.00	110.00	111.00
	149.00	151.00	152.00	172.00	174.00	180.00	183.00					

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Provo-Orem, UT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Utah County	14.00	16.00	17.00	18.00	19.00	23.00	25.00					

METROPOLITAN AREA: Pueblo, CO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pueblo County	2.00	6.00	7.00	8.00	12.00	13.00	14.00	20.00	21.00	26.00	29.01	30.03

METROPOLITAN AREA: Racine, WI PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Racine County	1.00	2.00	3.00	4.00	5.00	10.01	22.00					

METROPOLITAN AREA: Raleigh-Durham-Chapel Hill, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Durham County	3.01	4.02	5.00	6.01	6.02	9.00	10.01	10.02	11.00	12.01	12.02	13.01
	13.04	14.00	15.01	15.02								
Franklin County	802.00											
Johnston County	403.00	406.00	414.00									
Orange County	107.03	107.04	113.00	116.00	117.00							
Wake County	501.00	504.00	506.00	507.00	508.00	509.00	510.00	511.00	520.01	522.01	524.03	542.98

METROPOLITAN AREA: Rapid City, SD MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pennington County	101.00	102.00	103.00									

METROPOLITAN AREA: Reading, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berks County	1.00	2.00	12.00	13.00	17.00	19.00	21.00	22.00	24.00	25.00	26.00	140.00

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Redding, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Shasta County	101.00	105.00										

METROPOLITAN AREA: Reno, NV MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washoe County	1.00	9.00	18.00	33.01								

METROPOLITAN AREA: Richland-Kennewick-Pasco, WA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Benton County	112.00											
Franklin County	201.00	202.00	203.00	204.00								

METROPOLITAN AREA: Richmond-Petersburg, VA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chesterfield County	1004.06											
Henrico County	2008.05											
Hopewell city	8201.00	8203.98	8207.00									
Petersburg city	8101.00	8102.00	8103.00	8104.00	8106.00	8107.00	8108.00					
Richmond city	101.98	109.00	110.00	201.00	202.00	203.00	204.00	206.00	207.00	208.00	209.00	210.00
	211.00	301.00	302.00	401.00	402.00	403.00	404.00	412.00	413.00	415.00	601.00	602.00
	603.00	604.00	607.98	608.98								

METROPOLITAN AREA: Riverside-San Bernardino, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Riverside County	303.00	304.00	305.00	416.00	422.02	422.03	425.01	428.00	434.01	434.02	436.00	440.00
	442.00	454.00	455.00	456.01	456.02	457.01	458.00	459.00	462.00			
San Bernardino County	3.01	14.00	16.00	41.00	42.00	47.00	48.00	49.00	50.00	54.00	55.00	56.00
	57.00	58.00	59.00	60.00	64.00	65.00	68.00	69.00	70.00	74.05	75.00	80.02
	91.04	94.00	98.00	104.05	104.09	105.00	106.00	117.00				

METROPOLITAN AREA: Roanoke, VA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Roanoke city	7.00	8.00	9.00	10.00	11.00	12.00	13.00	14.00				

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Rochester, MN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Olmsted County	1.00	6.00	8.00									

METROPOLITAN AREA: Rochester, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Genesee County	9510.00	9515.00										
Livingston County	305.00											
Monroe County	2.00	7.00	10.00	13.00	14.00	15.00	16.00	17.00	23.00	27.00	32.00	33.00
	38.02	38.03	38.04	39.00	40.00	41.00	43.00	46.02	47.01	48.00	49.00	50.00
	51.00	52.00	53.00	55.00	56.00	57.00	59.00	64.00	65.00	66.00	69.00	75.00
	79.00	80.00	87.02	90.00	91.00	92.00	93.01	94.01	94.02	94.03	95.00	96.01
	96.02	96.03	96.04	131.03	153.01							
Ontario County	517.00	518.00										
Wayne County	213.00											

METROPOLITAN AREA: Rockford, IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Winnebago County	10.00	11.00	12.00	21.00	24.00	25.00	26.00	27.00	28.00	29.00		

METROPOLITAN AREA: Rocky Mount, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Edgecombe County	201.00	202.00	204.00	207.00	209.00							
Nash County	101.00	109.00										

METROPOLITAN AREA: Sacramento, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
El Dorado County	301.01											
Sacramento County	5.00	6.00	7.00	10.00	11.00	12.00	14.00	18.00	20.00	21.00	22.00	27.00
	28.00	32.01	32.02	37.00	42.02	42.03	43.00	44.01	44.02	45.00	46.01	46.02
	47.00	49.03	50.02	51.03	52.01	53.00	62.02	64.00	65.00	66.00	67.02	68.00
	69.00	70.01	96.05									

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Saginaw-Bay City-Midland, MI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bay County	2802.00	2803.00	2804.00	2807.00	2811.00							
Saginaw County	1.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00	11.00	13.00
	17.00	109.00	110.00									

METROPOLITAN AREA: St. Cloud, MN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Stearns County	1.00	2.00	3.02	103.00								

METROPOLITAN AREA: St. Joseph, MO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Buchanan County	10.00	11.00	12.00	13.00	14.00	19.00	20.00					

METROPOLITAN AREA: St. Louis, MO-IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	4005.00	4006.00	4007.00	4021.00	4024.00	4025.00	4026.00	4031.01				
St. Clair County	5004.00	5005.00	5006.00	5009.00	5010.00	5011.00	5012.00	5013.00	5014.00	5021.00	5022.00	5024.01
	5024.04	5025.00	5027.00	5028.00	5029.00	5030.00	5041.00	5042.01	5044.00			
St. Louis County	2128.00	2139.00	2140.00	2141.00	2160.00	2161.00	2169.00	2217.98				
St. Louis city	1015.00	1052.00	1053.00	1054.00	1055.00	1061.00	1062.00	1063.00	1064.00	1065.00	1066.00	1067.00
	1071.00	1072.00	1074.00	1075.00	1076.00	1077.00	1084.00	1085.00	1096.00	1097.00	1101.00	1102.00
	1103.00	1104.00	1105.00	1111.00	1112.00	1113.00	1114.00	1115.00	1122.00	1123.00	1155.00	1156.00
	1164.00	1172.00	1173.00	1181.00	1184.00	1185.00	1186.00	1192.00	1193.00	1201.00	1202.00	1203.00
	1211.00	1212.00	1213.00	1214.00	1221.00	1224.00	1231.00	1232.00	1233.00	1241.00	1242.00	1243.00
	1246.00	1257.00	1266.00	1267.00								

METROPOLITAN AREA: Salem, OR PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Marion County	1.00	7.00	9.00	10.00	19.00							
Polk County	203.01											

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Salinas, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Monterey County	5.00	7.00	10.00	13.00	106.02	108.98	137.00					

METROPOLITAN AREA: Salt Lake City-Ogden, UT MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Davis County	1256.00	1263.00										
Salt Lake County	1001.00	1007.00	1014.00	1015.00	1017.00	1019.00	1020.00	1021.00	1023.00	1024.00	1025.00	1026.00
	1027.00	1029.00	1030.00	1032.00	1115.00	1116.00	1124.01	1133.05				
Weber County	2008.00	2009.00	2011.00	2012.00	2016.00	2019.00						

METROPOLITAN AREA: San Angelo, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tom Green County	4.00	5.00	6.00	7.00	9.00							

METROPOLITAN AREA: San Antonio, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bexar County	1101.00	1102.00	1103.00	1105.00	1106.00	1107.00	1108.00	1109.00	1110.00	1301.00	1302.00	1303.00
	1304.00	1305.00	1306.00	1307.85	1308.00	1309.00	1311.00	1312.00	1401.00	1406.00	1501.00	1502.00
	1503.00	1504.00	1505.00	1507.00	1508.00	1510.00	1518.00	1519.00	1521.00	1601.00	1605.00	1606.00
	1609.00	1610.85	1612.00	1613.00	1701.00	1702.00	1703.00	1704.00	1707.00	1708.00	1709.00	1710.00
	1711.00	1712.00	1714.00	1715.00	1716.00	1804.00	1901.00	1902.00				
Guadalupe County	2102.00	2103.00										

METROPOLITAN AREA: San Diego, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Diego County	22.00	23.00	24.00	25.01	26.00	27.01	27.04	27.06	28.01	29.01	33.00	34.02
	35.00	36.00	39.00	40.00	41.00	45.00	46.00	47.00	48.00	49.00	50.00	51.00
	51.99	52.00	53.00	54.00	55.00	56.00	57.00	58.00	58.99	62.00	65.00	66.00
	83.05	86.00	100.07	100.08	100.09	114.00	115.00	116.00	117.00	118.00	120.00	122.00
	123.02	125.00	132.01	144.00	157.01	158.00	182.00	184.00	186.03	202.98	206.01	

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: San Francisco, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Marin County	1290.00											
San Francisco County	106.00	107.00	111.00	113.00	114.00	115.00	117.00	118.00	120.00	121.00	122.00	123.00
	124.00	125.00	155.00	161.00	162.98	163.00	176.98	177.00	178.00	179.02	180.00	201.98
	208.00	209.00	229.00	231.00	232.00	233.00	234.00	603.00	605.00	606.00	609.00	
San Mateo County	6102.00	6117.00	6120.00									

METROPOLITAN AREA: San Jose, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Clara County	5003.00	5008.00	5009.00	5010.00	5013.00	5014.00	5015.00	5016.00	5017.00	5031.01	5036.02	5037.02
	5037.03	5052.01	5116.02	5126.01								

METROPOLITAN AREA: San Juan-Bayamon, PR PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aguas Buenas Municipio	2303.00	2304.98										
Barceloneta Municipio	5902.00	5903.00										
Bayamon Municipio	307.00	321.00										
Canovanas Municipio	1001.98	1004.00										
Catano Municipio	201.00	202.00	203.00	204.04								
Comerio Municipio	9517.00	9518.00	9519.00	9521.00								
Corozal Municipio	5301.00	5303.00	5305.00	5306.00								
Dorado Municipio	5407.00											
Florida Municipio	5802.00											
Guaynabo Municipio	401.01	401.02	401.03									
Juncos Municipio	5004.00											
Loiza Municipio	1101.00	1102.00	1104.00	1106.00								
Manati Municipio	5701.00	5703.00	5707.00									
Morovis Municipio	9553.00	9554.00	9555.00									
Naguabo Municipio	1703.00											
Naranjito Municipio	5201.00	5202.00	5203.00									
San Juan Municipio	2.00	6.00	13.00	14.00	27.00	28.00	29.00	31.00	33.00	34.00	35.01	35.02
	36.00	37.00	38.00	40.00	41.00	42.01	42.02	43.00	44.00	45.00	46.00	47.00
	48.00	49.00	50.00	51.03	52.23	54.02	60.00	82.01	90.00	93.00	95.00	103.00
Toa Alta Municipio	5107.98											
Toa Baja Municipio	1217.00	1218.01	1221.00	1222.00	1224.00							
Vega Alta Municipio	5501.00	5503.00										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: San Juan-Bayamon, PR PMSA (continued)												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Vega Baja Municipio	5606.00	5609.00										
Yabucoa Municipio	9507.00	9508.00	9513.00									

METROPOLITAN AREA: San Luis Obispo-Atascadero-Paso Robles, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Luis Obispo County	109.00	111.00	112.00									

METROPOLITAN AREA: Santa Barbara-Santa Maria-Lompoc, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Barbara County	9.00	12.04	23.04	24.02	24.03	24.04	25.00	27.02	27.06	29.02	29.03	29.11
	29.12											

METROPOLITAN AREA: Santa Cruz-Watsonville, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Cruz County	1007.00	1008.00	1010.00	1103.00	1104.98	1201.00						

METROPOLITAN AREA: Santa Fe, NM MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Fe County	3.00	10.02	101.01									

METROPOLITAN AREA: Santa Rosa, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sonoma County	1514.00	1519.00	1520.00									

METROPOLITAN AREA: Sarasota-Bradenton, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Manatee County	1.02	1.03	7.01	15.02								
Sarasota County	2.00	3.00										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Savannah, GA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chatham County	1.00	6.01	10.00	11.00	12.00	13.00	15.00	17.00	18.00	19.00	20.00	21.00
	22.00	23.00	24.00	25.00	27.00	28.00	32.00	44.00	45.00	101.01	105.02	106.04

METROPOLITAN AREA: Scranton--Wilkes-Barre--Hazleton, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Columbia County	511.00											
Lackawanna County	1002.00	1003.00	1007.00	1014.00	1015.00	1029.00						
Luzerne County	2001.00	2009.00	2010.00	2125.00	2132.00	2135.00	2174.00					

METROPOLITAN AREA: Seattle-Bellevue-Everett, WA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Island County	9702.00	9709.00										
King County	43.00	44.00	47.00	52.00	53.01	53.02	54.99	71.00	72.00	73.00	74.00	75.00
	79.00	80.00	81.00	82.00	84.00	85.00	86.00	87.00	90.00	91.00	92.00	103.00
	107.00	109.00	110.00	112.00	259.00	263.00	265.00					
Snohomish County	402.00	404.00	407.00									

METROPOLITAN AREA: Sharon, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mercer County	302.00	306.00	307.00	308.00	321.00							

METROPOLITAN AREA: Sheboygan, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sheboygan County	5.00	6.00										

METROPOLITAN AREA: Sherman-Denison, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Grayson County	2.00	5.02	14.00	16.01	16.02							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Shreveport-Bossier City, LA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bossier Parish	103.00	104.00										
Caddo Parish	202.00	204.00	206.00	207.00	208.00	209.00	211.00	213.00	217.00	218.00	219.00	223.00
	225.00	232.00	233.00	235.00	236.00	237.00	246.00					
Webster Parish	317.00	319.00										

METROPOLITAN AREA: Sioux City, IA-NE MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Woodbury County	12.00	13.00	15.00	16.00								

METROPOLITAN AREA: Sioux Falls, SD MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Minnehaha County	7.00											

METROPOLITAN AREA: South Bend, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Joseph County	6.00	10.00	18.00	19.00	20.00	21.00	23.00	27.00	29.00	30.00		

METROPOLITAN AREA: Spokane, WA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Spokane County	1.00	2.00	16.00	20.00	22.00	23.00	24.00	25.00	27.00	28.00	30.00	31.00
	32.00	33.00	34.00	35.00	36.00	140.01	140.02					

METROPOLITAN AREA: Springfield, IL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sangamon County	8.00	9.00	14.00	15.00	16.00	17.00	23.00	24.00				

METROPOLITAN AREA: Springfield, MO MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Greene County	1.00	2.00	4.00	5.00	6.00	7.00	9.00	16.00	18.02	19.00	20.00	32.01
	32.02	33.00										

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Springfield, MA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hampden County	8006.00	8007.00	8008.00	8009.00	8011.02	8012.00	8013.00	8014.01	8015.02	8018.00	8019.00	8020.00
	8022.00	8114.00	8115.00	8116.00	8117.00	8118.00						
Hampshire County	8203.00	8204.00	8205.00	8220.00								

METROPOLITAN AREA: Stamford-Norwalk, CT PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	201.00	214.00	441.00	445.00								

METROPOLITAN AREA: State College, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Centre County	120.00	121.00	124.00	125.00	126.00							

METROPOLITAN AREA: Steubenville-Weirton, OH-WV MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	1.00	2.00	3.00	7.00	8.00	9.00	111.00					
Brooke County	302.00											

METROPOLITAN AREA: Stockton-Lodi, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Joaquin County	1.00	2.00	3.00	5.00	6.00	7.00	8.00	16.00	17.00	21.00	22.00	23.00
	25.00	27.01	31.13	33.04	34.05	34.06	34.07	38.00	39.00	45.00		

METROPOLITAN AREA: Sumter, SC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sumter County	1.00	8.97	8.98	13.00	15.00	16.00						

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Syracuse, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cayuga County	419.00											
Onondaga County	5.00	13.00	22.00	23.00	30.00	31.00	32.00	33.00	34.00	35.00	38.00	39.00
	40.00	41.00	42.00	43.00	44.00	45.00	52.00	53.00	54.00	56.02	59.00	61.02
Oswego County	216.01	218.02										

METROPOLITAN AREA: Tacoma, WA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pierce County	602.99	613.00	614.00	615.00	616.01	616.02	617.00	621.00	622.00	626.00	627.00	718.02
	720.00											

METROPOLITAN AREA: Tallahassee, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Gadsden County	207.00											
Leon County	1.00	4.00	5.00	6.00	10.01	11.01	12.00	13.00	14.00	20.01	20.02	

METROPOLITAN AREA: Tampa-St. Petersburg-Clearwater, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hillsborough County	7.00	10.00	12.00	18.00	19.00	20.00	26.00	30.00	31.00	32.00	33.00	34.00
	35.00	36.00	37.00	38.00	39.00	40.00	41.00	42.00	43.00	44.00	50.00	51.00
	53.99	108.03	108.05	108.06	108.07	109.00	129.00	139.02				
Pasco County	324.00	325.00	326.00	327.00								
Pinellas County	205.00	206.00	207.00	208.00	209.95	210.95	212.00	213.00	214.00	215.00	216.95	218.95
	259.02	262.00										

METROPOLITAN AREA: Terre Haute, IN MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Vigo County	1.00	3.00	5.00	6.00	8.00	12.00	19.00					

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Texarkana, TX-Texarkana, AR MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Miller County	203.00	204.00	205.00	206.98								
Bowie County	102.00	103.00	104.00	105.00	106.00							

METROPOLITAN AREA: Toledo, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lucas County	8.00	12.02	13.02	13.04	14.00	15.00	17.00	18.00	19.00	20.00	21.00	22.00
	23.00	24.02	25.00	26.00	27.00	28.00	29.00	30.00	32.00	33.00	34.00	35.00
	36.00	37.00	38.00	40.00	41.00	42.00	43.01	48.00	51.00	54.00	65.00	68.00
	73.03	75.00	99.99									
Wood County	217.01	217.02	218.00									

METROPOLITAN AREA: Topeka, KS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Shawnee County	1.00	2.00	3.00	4.00	5.00	6.00	11.00	29.00	31.00			

METROPOLITAN AREA: Trenton, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mercer County	1.00	8.00	9.00	10.00	11.00	14.00	15.00	16.00	17.00	19.00	20.00	21.00

METROPOLITAN AREA: Tucson, AZ MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pima County	1.00	2.00	3.00	4.00	5.00	8.00	9.00	10.00	12.00	13.01	13.02	14.00
	15.00	21.00	22.00	23.00	24.00	26.01	28.00	37.01	37.02	38.00	41.04	42.00
	43.08	44.07	48.00	49.00								

METROPOLITAN AREA: Tulsa, OK MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Creek County	208.00	210.00										
Osage County	104.00											
Tulsa County	2.00	3.00	5.00	6.00	7.00	9.00	10.00	12.00	13.00	14.00	21.00	23.00
	25.00	26.00	30.00	34.00	46.00	57.00	62.00	67.01	68.01	73.11	76.08	76.10
	79.00	80.01	80.02	88.00	91.01							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Tuscaloosa, AL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tuscaloosa County	104.04	111.00	112.00	114.00	117.01	118.00	119.00					

METROPOLITAN AREA: Tyler, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Smith County	2.01	2.02	3.00	4.00	5.00	6.00	7.00	18.98				

METROPOLITAN AREA: Utica-Rome, NY MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Herkimer County	104.00	111.00										
Oneida County	202.01	203.00	204.00	205.00	206.00	207.01	208.01	208.02	208.03	209.00	210.00	211.01
	211.03	212.01	213.01	215.00	218.00	219.00						

METROPOLITAN AREA: Vallejo-Fairfield-Napa, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Napa County	2001.00											
Solano County	2509.00	2518.02	2523.98									

METROPOLITAN AREA: Ventura, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ventura County	1.00	2.00	6.00	23.00	24.00	28.02	32.00	34.02	35.00	38.00	43.01	45.01
	46.00	49.00	50.02									

METROPOLITAN AREA: Victoria, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Victoria County	1.00	2.01	3.01	3.02	6.01							

METROPOLITAN AREA: Vineland-Millville-Bridgeton, NJ PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	201.00	203.00	205.00	401.00	402.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Visalia-Tulare-Porterville, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tulare County	2.00	3.02	6.00	11.00	16.00	29.01	32.00	40.00	41.00	43.00	44.00	

METROPOLITAN AREA: Waco, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
McLennan County	1.00	2.00	3.00	4.00	7.00	10.00	12.00	14.00	15.00	19.00	33.00	

METROPOLITAN AREA: Washington, DC-MD-VA-WV PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
District of Columbia	21.01	22.02	25.02	28.01	28.02	29.00	30.00	31.00	32.00	34.00	35.00	36.00
	37.00	38.00	43.00	45.00	46.00	47.00	48.01	48.02	49.01	49.02	50.00	52.20
	57.01	58.00	59.00	60.20	62.02	64.10	71.00	72.00	73.02	73.04	73.08	74.01
	74.04	74.06	74.07	74.08	74.09	74.30	75.02	75.03	75.04	76.01	77.03	77.08
	77.09	78.03	78.04	78.07	78.08	78.09	78.60	79.01	79.03	84.02	85.10	86.00
	87.01	87.02	88.02	88.03	88.04	89.03	89.04	90.01	91.02	92.03	92.10	92.40
	93.02	96.02	97.00	98.03	98.04	98.05	98.06	98.08	98.10	98.20	99.03	99.04
	99.05	99.06	99.07									
Charles County	8502.01											
Frederick County	7501.00	7503.00	7509.00									
Montgomery County	7009.04	7019.00	7025.00									
Prince George's County	8011.01	8029.03	8034.01	8035.09	8056.00	8071.02	8072.00					
Arlington County	1033.00											
Culpeper County	9903.00	9904.00										
Fairfax County	4216.00	4219.85										
Prince William County	9009.03											
Warren County	204.00	205.00										
Fredericksburg city	2.00	4.98										
Berkeley County	9713.00	9715.00	9716.00	9717.00	9720.00							
Jefferson County	9724.00											

METROPOLITAN AREA: Waterbury, CT PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Haven County	3501.00	3502.00	3503.00	3504.00	3505.00	3506.00	3522.00					

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Waterloo-Cedar Falls, IA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Black Hawk County	1.00	2.00	3.00	7.00	8.00	9.00	17.01	18.00				

METROPOLITAN AREA: Wausau, WI MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Marathon County	1.00											

METROPOLITAN AREA: West Palm Beach-Boca Raton, FL MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Palm Beach County	13.00	14.03	14.04	15.00	19.02	21.00	22.00	23.00	24.00	25.00	26.00	51.00
	52.02	59.13	61.00	67.00	68.02	75.02	77.12	77.13	80.01	80.02	82.01	82.02
	83.01	83.02										

METROPOLITAN AREA: Wheeling, WV-OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Belmont County	116.00	117.00	120.00	121.00								
Marshall County	205.00											
Ohio County	1.00	4.00	6.00	7.00	8.00	24.00						

METROPOLITAN AREA: Wichita, KS MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sedgwick County	1.00	4.00	6.00	7.00	8.00	9.00	18.00	24.00	26.00	27.00	37.00	41.00
	42.00	43.00	65.00	68.00	78.00							

METROPOLITAN AREA: Wichita Falls, TX MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Wichita County	101.00	102.00	103.00	104.00	105.00	106.00	110.00	111.00	112.00	113.00	114.00	116.00
	137.00											

METROPOLITAN AREA: Williamsport, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lycoming County	4.00	7.00	8.00									

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Wilmington-Newark, DE-MD PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Castle County	1.00	6.02	7.00	8.00	9.00	16.00	17.00	19.00	20.00	21.00	22.00	144.03
	145.01											

METROPOLITAN AREA: Wilmington, NC MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brunswick County	202.99											
New Hanover County	101.00	103.00	105.01	108.00	110.00	111.00	112.00	113.00	114.00			

METROPOLITAN AREA: Worcester, MA-CT PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Worcester County	7312.01	7312.02	7313.00	7314.00	7315.00	7317.00	7318.00	7319.00	7320.01	7325.00	7384.00	7421.00
	7572.00											

METROPOLITAN AREA: Yakima, WA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yakima County	1.00	2.00	6.00	15.00	24.00	25.00	27.00					

METROPOLITAN AREA: Yolo, CA PMSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yolo County	101.01	102.03	105.01	106.02	107.03	116.98						

METROPOLITAN AREA: York, PA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
York County	1.00	2.00	5.00	7.00	10.00	15.00	16.00					

METROPOLITAN AREA: Youngstown-Warren, OH MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Columbiana County	9518.00	9521.00	9522.00	9523.00	9525.98							
Mahoning County	8001.00	8002.00	8003.00	8004.00	8005.00	8006.00	8007.00	8009.00	8010.00	8017.00	8019.00	8020.00
	8021.00	8022.00	8023.00	8024.00	8031.00	8032.00	8034.00	8035.00	8037.00	8040.00	8041.00	8043.00
	8044.00	8103.00	8104.00									
Trumbull County	9201.00	9202.00	9205.00	9206.00	9207.00							

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2002 IRS SECTION 42(d)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

METROPOLITAN AREA: Yuba City, CA MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sutter County	507.00											
Yuba County	403.00	404.00	405.00									

METROPOLITAN AREA: Yuma, AZ MSA												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yuma County	1.00	105.00	106.00	110.00	114.00	115.00	116.00					

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Alabama												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Barbour County	9502.00	9504.00										
Bibb County	9516.00											
Bullock County	9521.00	9522.00										
Butler County	9527.00	9529.00	9530.00	9531.00	9533.00	9534.00						
Chambers County	9537.00	9541.00										
Choctaw County	9567.00	9570.00										
Clarke County	9578.00	9580.00										
Coffee County	109.00											
Conecuh County	9602.00	9604.00	9606.00									
Covington County	9621.00	9627.00										
Crenshaw County	9636.00											
Dallas County	9964.00	9965.00	9966.00	9968.00	9969.00	9970.00	9971.00	9972.00	9973.00	9974.00		
Escambia County	9702.00	9706.00										
Fayette County	9723.00											
Greene County	9743.00	9744.00	9745.00	9746.00								
Hale County	9744.00	9746.00	9747.00	9748.00	9749.00							
Lowndes County	9810.00	9811.00	9812.00									
Macon County	9814.00	9815.00	9816.00	9817.00	9818.00	9820.00	9821.00	9822.00	9823.00			
Marengo County	9828.00	9829.00	9830.00	9831.00								
Marshall County	311.00											
Monroe County	9856.00	9857.00	9858.00									
Perry County	9868.00	9869.00	9870.00	9871.00	9872.00							
Pickens County	9879.00	9881.00										
Pike County	9887.00	9889.00										
Sumter County	9911.00	9912.00	9913.00	9914.00	9915.00							
Talladega County	106.00	107.00	118.00									
Wilcox County	9947.00	9948.00	9949.00	9950.00	9951.00							

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Alaska												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aleutians East Borough	9900.99											
Bethel Census Area	9513.98	9514.98										
Dillingham Census Area	9716.98											
Fairbanks North Star Borough	1.00											
Kenai Peninsula Borough	9543.00											
Kodiak Island Borough	9623.99											
Matanuska-Susitna Borough	9743.00	9744.00										
Nome Census Area	9510.00											
Valdez-Cordova Census Area	9861.00											
Wade Hampton Census Area	9712.00											
Yukon-Koyukuk Census Area	9604.00	9605.00	9606.00	9607.98								

NONMETROPOLITAN PART OF STATE: Arizona												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Apache County	9760.00	9771.00	9772.00	9773.00	9774.00	9775.00	9777.00	9778.00				
Cochise County	9.00											
Gila County	9850.00	9860.00										
Graham County	9950.00											
La Paz County	201.00											
Navajo County	9650.00	9651.00	9652.00	9653.00	9660.00	9671.00	9672.00	9674.00	9675.00	9676.00		

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Arkansas

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Arkansas County	9604.00	9607.00										
Ashley County	9601.98	9604.00										
Bradley County	9503.00	9505.00										
Chicot County	9802.00	9803.00	9804.00									
Columbia County	9505.00											
Cross County	9501.00	9505.00										
Desha County	9501.98	9503.00	9504.00									
Drew County	9902.00	9904.00										
Franklin County	9501.00											
Garland County	106.00	107.00	108.00	115.00								
Greene County	9805.00	9807.00										
Hempstead County	9802.00											
Jackson County	9802.00											
Lafayette County	9701.00	9702.00	9703.00									
Lee County	9701.00	9702.00	9703.00	9704.00								
Lincoln County	9602.00											
Madison County	9804.00											
Mississippi County	101.00	103.00	109.00	110.00								
Monroe County	9501.00	9502.00	9503.00									
Newton County	9802.00											
Phillips County	9801.00	9802.00	9803.00	9804.00	9805.00	9806.00						
Poinsett County	9901.00	9903.00	9907.00									
St. Francis County	9801.00	9804.00	9806.00									
Searcy County	9701.00	9702.00	9703.00									
Sharp County	9701.00											
Union County	9501.00	9509.00	9510.00									
Van Buren County	9601.00											
White County	9706.00											
Woodruff County	9901.00	9902.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: California

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Humboldt County	1.00	5.00	10.00	101.00	113.00							
Imperial County	101.00	104.00	114.00	115.00	116.00	119.00	120.00	121.00	122.00	124.00	125.00	
Kings County	9.00	11.00	13.00	16.00	17.00							
Mendocino County	101.00	118.00										
Nevada County	10.00	11.00										
Siskiyou County	2.00											
Trinity County	3.98											

NONMETROPOLITAN PART OF STATE: Colorado

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alamosa County	9818.00	9817.00										
Baca County	9849.00											
Conejos County	9748.00	9747.00	9748.00	9749.00								
Costilla County	9826.00	9827.00										
Delta County	9648.00											
Elbert County	9911.00											
Fremont County	9784.00											
Huerfano County	9808.00											
La Plata County	9711.00											
Las Animas County	9832.00	9833.00	9834.00									
Lincoln County	9916.00											
Montezuma County	9695.00											
Otero County	9877.00	9880.00	9881.00									
Prowers County	9857.00	9859.00										
Rio Grande County	9767.00	9768.00										
Saguache County	9776.00	9777.00										

NONMETROPOLITAN PART OF STATE: Connecticut

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Litchfield County	3103.00											

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(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Florida COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bradford County	1.00											
Columbia County	9902.00	9903.00										
DeSoto County	9803.00											
Dixie County	9801.00	9802.00	9803.98									
Franklin County	9701.00	9702.00	9703.00									
Hamilton County	9801.00	9803.00										
Hardee County	9704.00											
Hendry County	9602.00											
Highlands County	9609.00	9617.00										
Holmes County	9603.00	9604.00										
Indian River County	503.01	503.02										
Jackson County	9802.00	9803.00	9806.00	9808.00								
Jefferson County	9801.98											
Lafayette County	9602.98											
Levy County	9702.00	9706.00										
Madison County	9902.00	9903.00										
Monroe County	9701.00											
Okeechobee County	9902.00	9903.00										
Putnam County	9507.00	9508.00										
Sumter County	9907.00											
Suwannee County	9701.00											
Taylor County	9503.00											
Walton County	9502.00											

NONMETROPOLITAN PART OF STATE: Georgia COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Appling County	9502.00											
Atkinson County	9603.00											
Bacon County	9702.00											
Ben Hill County	9604.00											
Brooks County	9901.00	9902.00	9904.00	9905.00	9906.00							
Bulloch County	9904.00	9905.00	9908.00									
Burke County	9502.00	9503.00	9504.00	9506.00	9507.00	9508.00						
Calhoun County	9501.00	9503.00	9504.00									
Candler County	9502.00	9503.00										
Clay County	9601.00	9602.00										
Clinch County	9702.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Georgia (continued) COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Coffee County	9908.00											
Colquitt County	9703.00											
Cook County	9802.00											
Crisp County	9802.00	9803.00										
Decatur County	9703.00	9704.00	9708.00									
Dodge County	9606.00											
Dooly County	9701.00	9702.00	9703.00									
Early County	9901.98	9902.00	9904.00									
Emanuel County	9801.00	9802.00	9804.00	9807.00								
Evans County	9703.00											
Floyd County	8.00	11.00	16.00	19.00								
Glynn County	8.00	9.00										
Grady County	9503.00											
Greene County	9503.00											
Hancock County	9801.00	9802.00										
Irwin County	9502.00											
Jefferson County	9601.00	9603.00	9604.00									
Jenkins County	9601.00	9602.00										
Johnson County	9802.00											
Lanier County	9502.00											
Laurens County	9503.00	9509.00										
Liberty County	106.00											
Lowndes County	106.00	109.00	110.00	113.00								
McIntosh County	9902.00											
Macon County	9801.00	9804.00										
Marion County	9802.00											
Meriwether County	9704.00											
Mitchell County	9802.00	9803.00	9805.00	9806.00								
Montgomery County	9502.00											
Quitman County	9801.00	9802.00										
Randolph County	9901.00	9902.00										
Screven County	9701.00	9705.00										
Seminole County	9801.00	9803.00										
Stewart County	9501.00	9502.00	9503.00									
Sumter County	9503.00											
Talbot County	9602.00	9603.00										
Taliaferro County	9901.00	9902.00										
Taylor County	9501.00	9502.00	9503.00									

NOTE: * indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Georgia (continued)												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Telfair County	9502.00	9503.00	9504.00									
Terrell County	9803.00	9805.00										
Thomas County	9601.00	9607.00	9608.00	9611.00								
Tift County	9906.00	9907.00										
Toombs County	9701.00	9702.00										
Treutlen County	9602.98											
Troup County	9606.00	9608.00										
Turner County	9701.00	9702.00										
Union County	9903.00											
Ware County	9501.00	9504.00	9507.00	9508.00								
Warren County	9701.00	9702.00	9703.00	9704.00								
Wayne County	9703.00	9704.00										
Wheeler County	9801.00	9802.00										
Wilcox County	9903.00	9904.00										
Worth County	9504.00	9505.00										

NONMETROPOLITAN PART OF STATE: Hawaii												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hawaii County	204.00	211.00										
Kalawao County	319.00											
Kauai County	410.00											
Maui County	301.00	313.00	317.00	318.00								

NONMETROPOLITAN PART OF STATE: Idaho												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bingham County	9508.00											
Bonneville County	9701.00	9712.00										
Cassia County	9504.00											
Idaho County	9604.00											
Kootenai County	9.00											
Latah County	51.00	54.00										
Lemhi County	9801.00											
Madison County	9503.00											
Owyhee County	9501.00											
Twin Falls County	9811.00											

NOTE: * indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Illinois												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	4.00	7.00	8.00									
Alexander County	9577.00	9578.00	9579.00									
Christian County	9589.00											
Coles County	4.00	7.00	8.00									
Franklin County	404.00	407.00	409.00	410.00								
Hamilton County	9731.00											
Hardin County	9709.00											
Jackson County	107.00	108.00	109.00	111.00	112.00	113.00	114.00	115.00				
Jefferson County	509.00	510.00	511.00									
Knox County	8.00	11.00										
La Salle County	9633.00											
McDonough County	104.00	105.00	106.00	108.00								
Marion County	9525.00	9527.00										
Morgan County	9520.00											
Perry County	304.00											
Pike County	9528.00											
Pope County	9712.00											
Pulaski County	9710.00	9711.00										
Richland County	9780.00											
Saline County	9555.00	9559.00										
Stephenson County	7.00											
Vermilion County	1.00	2.00	4.00	6.00								
White County	9580.00											
Whiteside County	17.00											
Williamson County	201.00											

NONMETROPOLITAN PART OF STATE: Indiana												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Grant County	2.00	9.00										
Henry County	9761.00	9763.00	9765.00									
Knox County	9553.00	9554.00										
La Porte County	402.00											
Wayne County	1.00	2.00	3.00	10.00								

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Iowa

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Buchanan County	9502.00											
Lee County	9908.00											
Story County	5.00	7.00	10.00	11.00	13.01							
Wapello County	9602.00	9605.00										
Webster County	7.00	8.00										

NONMETROPOLITAN PART OF STATE: Kansas

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bourbon County	9559.00											
Cherokee County	9585.00											
Crawford County	9571.00	9575.00										
Ellis County	9729.00											
Geary County	1.00	2.00										
Lyon County	1.00											
Montgomery County	9510.00	9512.00										
Reno County	6.00											
Riley County	4.00	5.00	8.00									
Saline County	2.00											
Seward County	9660.00											

NONMETROPOLITAN PART OF STATE: Kentucky

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adair County	9705.00											
Bell County	9601.00	9602.00	9604.00	9605.00	9609.00	9610.00						
Boyle County	9903.00											
Breathitt County	9801.00	9802.00	9803.00	9805.00	9806.00	9807.00						
Casey County	9505.00											
Clay County	9501.00	9502.00	9504.00	9505.00	9506.00							
Clinton County	9701.00	9702.00										
Elliott County	9802.00											
Estill County	9804.00											
Floyd County	9805.00	9808.00	9810.00									
Franklin County	702.00											
Fulton County	9802.00											
Hardin County	15.00											
Harlan County	9702.00	9703.00	9705.00	9706.00	9709.00	9710.00	9711.00					

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Kentucky (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jackson County	9601.00	9602.00										
Johnson County	9602.00											
Knott County	9601.00	9602.00	9603.00	9604.00	9605.00							
Knox County	9901.00	9902.00	9905.00	9906.00	9907.00	9908.00						
Laurel County	9701.00	9709.00										
Lawrence County	9902.00	9903.00	9904.00									
Lee County	9501.00	9502.00	9503.00									
Leslie County	9801.00	9802.00										
Letcher County	9503.00	9506.00										
Lewis County	9902.00											
Lincoln County	9804.00											
McCracken County	301.00	302.00	303.00	304.00	305.00	306.00						
McCreary County	9601.00	9602.00	9603.00	9604.00								
Magoffin County	9701.00	9702.00	9703.00	9704.00								
Marion County	9701.00	9708.00										
Martin County	9501.00	9502.00	9503.00									
Menifee County	9601.00											
Morgan County	9501.00	9503.00	9505.00									
Muhlenberg County	9601.00											
Owsley County	9901.00	9902.00	9903.00									
Perry County	9701.00	9702.00	9703.00	9705.00	9707.00							
Pike County	9903.00	9905.00	9917.00									
Pulaski County	9911.00											
Rockcastle County	9502.00	9504.00										
Rowan County	9503.00	9504.00										
Warren County	101.00	102.00	103.00	104.00	105.00							
Wayne County	9801.00	9803.00	9804.00	9805.00	9806.00							
Whitley County	9804.00	9805.00	9807.00	9808.00								
Wolfe County	9901.00	9902.00	9903.00									

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Louisiana												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allen Parish	9503.00											
Assumption Parish	501.98	505.00										
Avoyelles Parish	304.00	306.00	309.00									
Catahoula Parish	9801.00	9802.00										
Claiborne Parish	9504.00											
Concordia Parish	9902.00											
De Soto Parish	9505.00	9506.00										
East Carroll Parish	9901.00	9902.00	9903.00									
Evangeline Parish	9505.00	9506.00										
Franklin Parish	9503.00	9506.00										
Iberia Parish	308.00	309.00	310.00									
Jefferson Davis Parish	9806.00											
Lincoln Parish	9603.00	9608.00	9609.00									
Madison Parish	9603.00	9604.00										
Morehouse Parish	9504.00	9508.00										
Natchitoches Parish	9904.00	9907.00										
Pointe Coupee Parish	9519.00	9520.00										
Red River Parish	9602.00	9603.00										
Richland Parish	9705.00											
Sabine Parish	9805.00											
St. Mary Parish	411.00	416.00										
Tangipahoa Parish	9533.00	9534.00	9536.00	9543.00	9544.00							
Tensas Parish	9801.00	9803.00										
Vermilion Parish	9508.00											
Washington Parish	9503.00	9508.00	9509.00									
Winn Parish	9603.00											

NONMETROPOLITAN PART OF STATE: Maine												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aroostook County	9508.00											
Franklin County	9901.00											
Penobscot County	255.00											
Somerset County	9852.00	9855.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Maryland												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dorchester County	9705.00											
Somerset County	9806.00											
Wicomico County	3.00	102.00										
Worcester County	9909.00											

NONMETROPOLITAN PART OF STATE: Massachusetts												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berkshire County	9211.00	9213.00										
Franklin County	413.00											

NONMETROPOLITAN PART OF STATE: Michigan												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cass County	7.00	9.00										
Chippewa County	9703.00											
Clare County	9801.00	9802.00	9803.00	9805.00	9809.00	9810.00	9812.00					
Delta County	9710.00											
Gladwin County	9902.00	9906.00										
Houghton County	9903.00	9906.00										
Iosco County	9904.00	9905.00										
Isabella County	9505.00	9509.00	9511.00	9512.00								
Keweenaw County	9601.00											
Lake County	9604.00	9605.00	9606.00	9607.00								
Manistee County	9906.00											
Marquette County	3.00	5.00	6.00	6.99								
Mecosta County	9605.00	9606.00	9607.00	9611.00								
Montcalm County	9801.00											
Newaygo County	9702.00	9707.00										
Ogemaw County	9501.00	9507.00	9508.00									
Oscoda County	9704.00											
Presque Isle County	9502.99											
Roscommon County	9702.00											
St. Joseph County	402.00	404.00										
Shiawassee County	306.00	312.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Minnesota												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aitkin County	9902.00	9903.00										
Becker County	9510.00											
Beltrami County	9506.00	9507.00	9508.00									
Blue Earth County	9707.00	9711.00	9712.00									
Cass County	9610.00	9611.00	9612.00									
Clearwater County	9602.00											
Crow Wing County	9501.00											
Hubbard County	9706.00											
Itasca County	9811.00											
Kandiyohi County	9810.00											
Koochiching County	9906.00											
Mahnomen County	9603.00											
Mille Lacs County	9702.00											
Pennington County	9904.00											
Stevens County	9802.00											
Todd County	9902.00											
Wadena County	9801.00	9802.98										
Winona County	9705.00											

NONMETROPOLITAN PART OF STATE: Mississippi												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	3.00	4.00										
Attala County	9503.00											
Bolivar County	9501.00	9502.00	9503.00	9504.00	9507.00							
Claiborne County	9502.00	9503.00										
Clay County	9503.00											
Coahoma County	9501.00	9503.00	9506.00	9507.00								
Copiah County	9501.00											
Holmes County	9501.00	9502.00	9503.00	9504.00	9505.00							
Humphreys County	9502.00	9503.00										
Issaquena County	9501.00											
Jefferson County	9501.00	9502.00										
Jones County	9507.00											
Kemper County	9501.00											
Lafayette County	9503.00											
Lauderdale County	1.00	2.00	4.00	6.00	7.00							
Leflore County	9501.00	9502.00	9503.00	9508.00	9509.00							

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Mississippi (conintued)												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lowndes County	7.00	8.00	11.00									
Monroe County	9508.00											
Neshoba County	9503.00											
Noxubee County	9501.00	9502.00	9503.00									
Oktibbeha County	9503.00											
Panola County	9501.00											
Pike County	9503.00	9507.00										
Quitman County	9501.00	9502.00	9503.00									
Sharkey County	9501.00	9502.00										
Sunflower County	9502.00	9503.00	9505.00	9506.00								
Tallahatchie County	9502.00	9503.00	9504.00									
Tunica County	9501.00	9502.00										
Warren County	9503.00	9504.00										
Washington County	1.00	4.00	5.00	6.00	10.00	11.00	12.00	13.00	18.00	19.00	20.00	22.00
Wilkinson County	9501.00	9502.00										
Yazoo County	9503.00	9505.00										

NONMETROPOLITAN PART OF STATE: Missouri												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adair County	9503.00	9505.00	9506.00	9507.00	9509.00							
Audrain County	9503.00											
Bates County	9704.00											
Benton County	9606.00											
Bollinger County	9502.00											
Butler County	9504.00	9505.00	9506.00	9507.00	9509.00							
Cape Girardeau County	9809.00	9810.00	9814.00	9816.00								
Carter County	9601.00	9602.00										
Cedar County	9701.00											
Cole County	101.00											
Dallas County	9801.00	9802.00										
Daviess County	9702.00											
Dent County	9603.00	9604.00										
Douglas County	9501.00	9503.00										
Dunklin County	9601.00	9604.00	9605.00	9606.00	9608.00	9610.00						
Grundy County	9603.00											
Henry County	9504.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Missouri (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hickory County	9701.00											
Howell County	9901.00	9902.00	9904.00	9907.00	9908.00							
Iron County	9704.00											
Johnson County	9604.00	9606.00										
Laclede County	9606.00											
Livingston County	9805.00											
Marion County	9607.00											
Mississippi County	9502.00	9504.00										
New Madrid County	9602.00	9603.00	9604.00	9605.00	9606.00							
Nodaway County	9704.00											
Oregon County	9801.00	9802.00	9803.00									
Ozark County	9701.00											
Pemiscot County	9702.00	9703.00	9704.00	9706.00								
Phelps County	9904.00											
Polk County	9601.00											
Randolph County	9903.00											
Reynolds County	9801.00											
Ripley County	9701.00	9702.00	9703.00	9704.00								
Scotland County	9801.00											
Scott County	9807.00	9809.00										
Shannon County	9702.00											
Stoddard County	9702.00	9705.00										
Texas County	9801.00											
Vernon County	9504.00											
Washington County	9601.00	9603.00	9604.00									
Wayne County	9901.00	9902.00	9904.00									
Wright County	9902.00	9904.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Montana

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Beaverhead County	9894.00											
Big Horn County	9641.00	9642.00										
Blaine County	9723.00	9725.00										
Carbon County	9655.00											
Carter County	9602.00	9603.00										
Dawson County	9531.00	9532.00										
Flathead County	10.00											
Gallatin County	9861.00	9863.00	9864.00	9866.00								
Glacier County	9761.00	9762.00	9763.00									
Golden Valley County	9681.00											
Hill County	9735.00	9737.00										
Lake County	9954.00											
Lewis and Clark County	9788.00	9789.00	9796.00									
Madison County	9882.00											
Meagher County	9838.00											
Musselshell County	9685.00	9687.00										
Petroleum County	9691.00											
Pondera County	9771.00											
Ravalli County	9933.00											
Roosevelt County	9511.00											
Rosebud County	9627.00	9628.00										
Sanders County	9966.00											
Sheridan County	9503.00											
Silver Bow County	1.00											
Valley County	9550.00											

NONMETROPOLITAN PART OF STATE: Nebraska

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	9661.00											
Buffalo County	9696.00											
Cherry County	9559.00											
Dawes County	9507.00											
Keya Paha County	9754.00											
Lincoln County	9601.00											
McPherson County	9579.00											
Scotts Bluff County	9537.00											
Thurston County	9781.00	9782.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Nevada												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Elko County	9501.00	9505.00	9506.00	9515.00								
Humboldt County	9601.00	9603.00										
Lyon County	9606.00											

NONMETROPOLITAN PART OF STATE: New Hampshire												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Grafton County	9610.00											

NONMETROPOLITAN PART OF STATE: New Mexico												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chaves County	1.00	6.00										
Cibola County	9745.00	9746.00	9747.00									
Curry County	1.00	4.00										
Eddy County	5.00											
Guadalupe County	9617.00	9618.00	9619.00									
Hidalgo County	9882.00											
Lea County	1.00	2.00	3.00	4.00								
Lincoln County	9804.00											
Luna County	9862.00	9868.00										
McKinley County	9721.00	9722.00	9723.00	9724.00	9725.00	9726.00	9727.00	9728.00	9729.00			
Mora County	9552.00											
Otero County	1.00	8.00										
Rio Arriba County	9535.00	9538.00	9636.00									
Roosevelt County	9591.00											
San Juan County	8.00	9.00	10.01	10.02								
San Miguel County	9571.00	9577.00										
Socorro County	9782.00	9784.00										
Taos County	9524.00	9529.00										

NOTE: * indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: New York												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cattaraugus County	9619.00	9620.00	9622.00									
Clinton County	1011.00	1012.00	1013.00									
Columbia County	9912.00											
Franklin County	9913.00											
Fulton County	9908.00											
Jefferson County	620.00	621.00										
Otsego County	9910.00	9911.00										
St. Lawrence County	9909.00	9911.00	9912.00	9922.00								
Steuben County	9621.00											
Tompkins County	1.00	2.00	3.00	4.00	7.00	8.00	10.00	11.00	12.00			

NONMETROPOLITAN PART OF STATE: North Carolina												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anson County	9804.00											
Ashe County	9703.00											
Beaufort County	9903.00											
Bertie County	9601.00	9602.00	9603.00									
Bladen County	9502.00	9506.00										
Columbus County	9902.00	9906.00	9907.00	9909.00	9911.00	9912.00						
Craven County	9608.00	9609.00										
Duplin County	9903.00											
Graham County	9801.00											
Halifax County	9901.00	9907.00	9908.00	9909.00	9910.00	9911.00						
Hertford County	9501.00	9502.00	9504.00									
Hoke County	9704.00											
Jackson County	9501.00	9507.00										
Jones County	9802.00											
Lee County	302.00	303.00										
Lenoir County	102.00	103.00	104.00	105.00	107.00	111.00						
Martin County	9702.00	9704.00	9706.00									
Northampton County	9803.00											
Pasquotank County	9601.00	9603.00										
Richmond County	9706.00											
Robeson County	9603.00	9608.00	9612.00	9617.00	9619.00	9620.00						
Sampson County	9706.00	9709.00										
Scotland County	102.00	103.00										
Swain County	9601.98	9603.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: North Carolina (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tyrrell County	9601.00										
Vance County	9605.00	9606.00	9607.00								
Warren County	9502.00	9503.00	9504.00								
Watauga County	9804.00	9805.00	9806.00								
Wilson County	1.00	2.00	3.00	7.00	8.01						

NONMETROPOLITAN PART OF STATE: North Dakota

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Benson County	9567.00										
Billings County	9631.00										
Dunn County	9620.00										
Emmons County	9662.00	9664.00									
Grant County	9657.00										
Kidder County	9666.00										
McKenzie County	9626.00										
McLean County	9606.00										
Mountrail County	9553.00										
Ramsey County	9574.00										
Rolette County	9517.00	9518.00									
Sioux County	9660.00										
Towner County	9513.00										
Ward County	101.00										
Wells County	9599.00										
Williams County	9540.00										

NOTE: * indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Ohio

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	9901.00	9902.00	9904.00	9905.00	9906.00						
Athens County	9726.00	9727.00	9728.00	9730.00	9731.00	9732.00	9735.00				
Coshocton County	9914.00										
Erie County	408.00	410.00									
Gallia County	9536.00	9537.00	9538.00								
Guernsey County	9773.00	9776.00									
Harrison County	9758.00										
Highland County	9548.00										
Jackson County	9572.00	9573.00	9576.00	9577.00	9578.00						
Marion County	1.00	9.00									
Meigs County	9643.00	9644.00	9646.98								
Muskingum County	9814.00	9820.00	9821.00								
Perry County	9660.00										
Pike County	9522.00	9523.00	9526.00	9527.00							
Ross County	9564.00	9565.00									
Scioto County	9921.00	9923.00	9924.00	9926.00	9928.00	9931.00	9932.00	9934.00	9935.00	9936.00	9937.00	9939.00
	9940.00										
Vinton County	9530.00										
Wayne County	17.00										

NONMETROPOLITAN PART OF STATE: Oklahoma

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adair County	9768.00	9769.00	9770.00								
Atoka County	9676.00	9677.00	9679.00								
Beckham County	9663.00	9665.00									
Blaine County	9587.00	9590.00									
Bryan County	9958.00	9962.00	9964.00	9965.00							
Caddo County	9618.00	9621.00									
Carter County	9928.00	9931.00									
Cherokee County	9776.00	9778.00	9779.00	9780.00							
Choctaw County	9969.00	9972.00	9973.00								
Coal County	9882.00										
Cotton County	9712.00	9713.00									
Custer County	9605.00	9606.00									
Garvin County	9911.00										
Grady County	1.00	2.00									
Harmon County	9676.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Oklahoma (continued)												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Haskell County	9791.00	9794.00										
Hughes County	9846.00	9848.00										
Jackson County	9686.00	9687.00										
Jefferson County	9717.00											
Johnston County	9902.00											
Kiowa County	9637.00	9638.00	9640.00									
Latimer County	9873.00											
Le Flore County	407.00											
McCurtain County	9982.00	9983.00	9986.00	9987.00	9989.00							
McIntosh County	9799.00	9802.00										
Muskogee County	2.00	4.00	5.00	6.00	7.00							
Okfuskee County	9808.00	9809.00	9810.00									
Okmulgee County	1.00	2.00	3.00									
Ottawa County	9745.00											
Payne County	102.00	103.00	104.00	105.00	107.00							
Pittsburg County	9862.00											
Pontotoc County	9891.00	9892.00										
Pushmataha County	9976.00	9977.00	9978.00									
Seminole County	9835.00	9836.00	9839.00									
Stephens County	5.00	6.00	7.00									
Tillman County	9704.00	9706.00										
Washington County	2.00	9.00										

NONMETROPOLITAN PART OF STATE: Oregon												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clatsop County	9503.00	9508.00										
Curry County	9501.00											
Jefferson County	9604.00											
Josephine County	3601.00	3609.00	3615.98	3616.00								
Klamath County	9716.00	9717.00	9718.00	9719.00								
Malheur County	9704.00											
Union County	9707.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Pennsylvania												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Armstrong County	9811.00											
Clarion County	9908.00											
Clinton County	9706.00											
Crawford County	1116.00											
Franklin County	110.00											
Greene County	9704.00											
Indiana County	9603.00	9610.00	9611.00									
Lawrence County	4.00	5.00	6.00	9.00	118.98							
Mc Kean County	4202.00											
Northumberland County	9616.00	9617.00										
Schuylkill County	6.00											
Venango County	2003.00	2007.00										

NONMETROPOLITAN PART OF STATE: Rhode Island												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Newport County	405.00	412.00 *										

NONMETROPOLITAN PART OF STATE: South Carolina												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allendale County	9701.00	9702.00	9703.00	9704.00	9705.98							
Bamberg County	9601.00	9602.00										
Beaufort County	1.00	11.00										
Calhoun County	9503.00											
Chester County	210.00											
Chesterfield County	9506.00											
Clarendon County	9602.00	9603.00	9605.00	9608.00								
Colleton County	9703.00	9705.00										
Darlington County	107.00	114.00										
Dillon County	9701.00	9704.00	9706.00									
Georgetown County	9804.00	9806.00										
Greenwood County	9705.00											
Hampton County	9804.00	9805.00										
Lancaster County	107.00											
Lee County	9801.00	9803.00	9805.00	9806.00								
Marion County	9501.00	9503.00	9504.00	9506.00	9507.00							
Marlboro County	9602.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: South Carolina (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Orangeburg County	102.00	103.00	104.00	111.00	112.00	113.00	115.00					
Union County	302.00											
Williamsburg County	9704.00	9705.00	9707.00	9708.00	9709.00							

NONMETROPOLITAN PART OF STATE: South Dakota

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bennett County	9931.00											
Brown County	9515.00											
Buffalo County	9746.00											
Charles Mix County	9702.00	9703.00										
Clay County	9656.00											
Corson County	9881.00											
Day County	9526.00											
Dewey County	9881.00											
Edmunds County	9821.00											
Hutchinson County	9688.00											
Jackson County	9912.00											
Mellette County	9921.00											
Roberts County	9503.00											
Shannon County	9936.00	9937.00										
Spink County	9561.00											
Todd County	9926.00	9927.00										
Ziebach County	9871.00											

NONMETROPOLITAN PART OF STATE: Tennessee

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bradley County	103.00	104.00	107.00	108.00								
Campbell County	9501.00	9502.00	9503.00	9506.00	9507.00	9510.00						
Claiborne County	9701.00	9705.00	9707.00	9709.00								
Cocke County	9802.00	9804.00	9805.00	9806.00								
Coffee County	9709.00											
Cumberland County	9704.00											
Dyer County	9644.00	9647.00										
Fentress County	9651.00	9652.00	9653.00									
Gibson County	9669.00											
Grainger County	5001.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Tennessee (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Greene County	901.00	902.00										
Grundy County	9550.00	9553.00										
Hamblen County	1003.00											
Hancock County	9601.00	9602.00	9603.00	9604.00								
Hardeman County	9502.00	9506.00										
Hardin County	9804.00	9807.00										
Haywood County	9801.00	9802.00	9803.00	9804.00	9805.00	9806.00	9807.00	9808.00				
Henry County	9693.00	9694.00										
Houston County	1202.00											
Jackson County	9601.00											
Johnson County	9561.00	9562.00	9563.00	9564.00								
Lake County	9601.00	9602.00										
Lauderdale County	505.02	506.00										
Lawrence County	9603.00											
McMinn County	9702.00											
Macon County	9705.98											
Marshall County	9553.00											
Maury County	105.00											
Meigs County	9603.00											
Morgan County	1102.00											
Obion County	9656.00											
Overton County	9506.98											
Pickett County	9850.00	9852.00										
Polk County	9501.00											
Putnam County	7.00	8.00										
Roane County	305.00											
Scott County	9750.00	9752.00	9753.00	9754.00								
Sequatchie County	601.00											
Stewart County	1103.00											
Warren County	9906.00											
Wayne County	9503.00											
White County	9954.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Texas

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anderson County	9507.00											
Angelina County	5.00	7.00										
Aransas County	9504.00											
Atascosa County	9603.00	9605.00										
Bee County	9505.00											
Brewster County	9504.00											
Briscoe County	9501.00											
Brooks County	9501.00	9502.00										
Brown County	9506.00	9507.00	9508.00									
Cass County	9505.00											
Castro County	9503.00											
Cherokee County	9505.00											
Childress County	9502.00											
Cochran County	9501.00											
Collingsworth County	9502.00											
Concho County	9502.00											
Cooke County	9905.00											
Crosby County	9502.00											
Culberson County	9502.00											
Dawson County	9505.00											
Deaf Smith County	9504.00	9505.00										
DeWitt County	9702.00											
Dickens County	9502.00											
Dimmit County	9501.00	9502.00	9503.00									
Duval County	9501.00	9502.00	9503.00	9504.00								
Edwards County	9501.00	9502.00										
Falls County	9904.00											
Floyd County	9503.00	9504.00										
Freestone County	9803.00	9809.00										
Frio County	9502.00	9503.00										
Gaines County	9502.00											
Gonzales County	9903.00	9904.00										
Gray County	9508.00											
Hale County	9502.00	9507.00										
Hall County	9503.00	9504.00	9505.00									
Hill County	9606.00	9609.00										
Houston County	9502.00	9504.00										
Howard County	9503.00	9505.00										

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Texas (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hudspeth County	9501.00											
Hutchinson County	9507.00											
Jasper County	9503.00	9506.00										
Jim Hogg County	9501.00	9503.00										
Jim Wells County	9502.00	9505.00	9506.00	9507.00								
Karnes County	9702.00	9703.00	9704.00									
Kleberg County	202.00											
Lamar County	5.00	6.00	8.00									
Lamb County	9501.00	9505.00										
La Salle County	9501.00	9502.00										
Lee County	9802.00											
Limestone County	9705.00											
Lynn County	9503.00											
McCulloch County	9503.00											
Madison County	9801.00	9804.00										
Marion County	9501.00	9503.00	9504.00									
Mason County	9502.00											
Matagorda County	1301.00											
Maverick County	9501.00	9502.00	9503.00	9504.00	9505.00	9506.00						
Medina County	9903.00	9904.00										
Menard County	9502.00											
Mills County	9503.00											
Motley County	9501.00											
Nacogdoches County	9506.00	9509.00	9510.00									
Navarro County	9707.00	9708.00										
Newton County	9502.00	9503.00										
Nolan County	9503.00											
Palo Pinto County	9808.00											
Pecos County	9502.00	9503.00	9505.00									
Presidio County	9501.00	9502.00										
Real County	9501.00											
Red River County	9502.00											
Reeves County	9501.00	9502.00	9503.00	9505.00								
Robertson County	9602.00	9605.00										
San Augustine County	9502.00											
San Saba County	9502.00											
Starr County	9501.00	9502.00	9504.00	9505.00	9506.00	9507.00						
Stephens County	9503.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Texas (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Swisher County	9503.00											
Terry County	9503.00											
Titus County	9506.00											
Trinity County	9505.00											
Uvalde County	9505.00											
Val Verde County	9503.00	9504.00	9506.00	9507.00								
Walker County	1905.00	1906.00	1907.00									
Ward County	9505.00											
Wharton County	1402.00	1403.00	1410.00									
Wilbarger County	9504.00	9505.00										
Willacy County	9501.00	9502.00	9503.00	9504.00	9505.00	9506.00						
Zapata County	9502.00	9503.00										
Zavala County	9501.00	9502.00	9503.00									

NONMETROPOLITAN PART OF STATE: Utah

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cache County	6.00	7.00	8.00	16.00								
Carbon County	9716.00											
Juab County	9732.00											
San Juan County	9782.00	9783.00	9784.00									
Sanpete County	9724.00											
Uintah County	9885.98											
Wasatch County	9925.00											

NONMETROPOLITAN PART OF STATE: Vermont

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Addison County	9622.97											

NONMETROPOLITAN PART OF STATE: Virginia

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Accomack County	9903.00	9908.00										
Brunswick County	9902.00											
Buchanan County	9901.00											
Dickenson County	9901.00	9903.00	9904.00									
Lee County	9901.00	9904.00	9905.00	9906.00								

NOTE: * indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Virginia (continued)

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lunenburg County	9903.00											
Montgomery County	201.00	202.00	203.00	204.00	207.00	216.98						
Northampton County	9902.00	9903.00										
Russell County	9902.00	9905.00										
Smyth County	9906.00											
Southampton County	2006.98											
Sussex County	8704.00											
Tazewell County	9905.00											
Wise County	9909.98	9915.00	9916.00	9917.00								
Emporia city	8901.00	8904.97										
Franklin city	902.00											
Harrisonburg city	2.00											
Martinsville city	2.00											
Norton city	9901.98											
Radford city	101.00											
Staunton city	1.00											

NONMETROPOLITAN PART OF STATE: Washington

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	9504.00											
Asotin County	9803.00	9804.00										
Chelan County	9610.00											
Clallam County	9801.00	9810.00										
Cowlitz County	1.00	3.00	5.02	6.01	10.00							
Ferry County	9801.00	9803.00										
Grant County	9806.00	9808.00	9814.00									
Grays Harbor County	1.00	10.00										
Jefferson County	9501.00											
Kittitas County	9754.00	9755.00	9756.00									
Lewis County	9709.00											
Mason County	9608.00	9614.00										
Okanogan County	9702.00	9703.00	9704.00									
Pend Oreille County	9703.00											
Stevens County	9510.00											
Walla Walla County	9205.00	9206.00										
Whitman County	1.00	5.00	8.00									

NOTE: * indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: West Virginia												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Barbour County	9658.00											
Boone County	9585.00	9586.00	9588.00									
Calhoun County	9626.00	9627.00										
Clay County	9579.00	9580.00	9581.00									
Fayette County	205.00	206.00	211.00									
Gilmer County	9677.00	9678.00										
Harrison County	303.00	308.00	316.00									
Lewis County	9676.00											
Lincoln County	9555.00	9556.00	9557.00	9558.00								
Logan County	9563.00	9565.00	9567.00									
McDowell County	9536.00	9537.00	9538.00	9539.00	9540.00	9541.00	9542.00	9543.00				
Marion County	201.00	202.00	205.00									
Mercer County	9513.00	9516.00	9519.00	9520.00								
Mingo County	9571.00	9572.00	9573.00	9575.00								
Monongalia County	101.00	102.00	103.00									
Nicholas County	9803.00											
Pendleton County	9704.00											
Raleigh County	101.00	102.00										
Randolph County	9662.00											
Ritchie County	9624.00											
Summers County	9505.00											
Webster County	9701.00	9702.00	9703.00									
Wyoming County	9530.00											

NOTE: * Indicates that only the part of the tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Wisconsin												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ashland County	9501.00											
Bayfield County	9601.00											
Dunn County	9708.00											
Fond du Lac County	406.00											
Forest County	9504.00											
Grant County	9609.00											
Menominee County	9701.00											
Portage County	9603.00	9604.00	9610.00									
Sawyer County	9805.00	9807.00										
Vernon County	9602.00											
Vilas County	9509.00											
Walworth County	5.00											

NONMETROPOLITAN PART OF STATE: Wyoming												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albany County	9629.00	9630.00	9633.00	9634.00								
Converse County	9561.00	9562.00										
Fremont County	9826.00	9832.00										
Hot Springs County	9876.00											
Platte County	9592.00											
Sweetwater County	9715.00											

NONMETROPOLITAN PART OF STATE: American Samoa												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Eastern District	9501.00	9502.00										
Manu'a District	9517.00	9518.00										
Swains Island	9520.00											
Western District	9511.00											

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2002 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS
(1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1999)

NONMETROPOLITAN PART OF STATE: Guam									
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Guam	9512.00	9513.00	9514.00	9515.00					

NONMETROPOLITAN PART OF STATE: Northern Mariana Islands									
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Northern Islands Municipality	9501.00								
Saipan Municipality	9504.99	9508.00	9511.00	9514.00	9515.00				
Tinian Municipality	9501.00								

NONMETROPOLITAN PART OF STATE: Puerto Rico									
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adjuntas Municipio	9563.00	9564.00	9565.00	9566.00	9568.00				
Barranquitas Municipio	9523.00								
Guanica Municipio	9610.00	9611.00	9612.00						
Guayama Municipio	2707.00								
Lares Municipio	9578.00	9579.00	9583.00	9584.00					
Las Marias Municipio	9597.98								
Maricao Municipio	9601.98								
Orocovis Municipio	9551.00								
Patillas Municipio	2901.00	2904.00							
Salinas Municipio	9526.98	9527.00							
San Sebastian Municipio	9585.00	9591.00	9598.00	9686.00					
Santa Isabel Municipio	9533.00	9534.00	9535.00						
Utuado Municipio	9569.00	9571.00	9574.00						
Vieques Municipio	9501.00	9502.00							

NONMETROPOLITAN PART OF STATE: Virgin Islands									
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Croix	9703.00	9709.00	9711.00	9713.00	9714.00	9715.99			

NOTE: * indicates that only the part of tha tract within the nonmetropolitan part of the State is designated as a Qualified Census Tract.

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Federal Register

Tuesday,
September 11, 2001

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 103
Temporary Flight Restrictions; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 103

[Docket No. FAA–2000–8274; Amendment No. 91–270 & 103–6]

RIN 2120–AH13

Temporary Flight Restrictions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends temporary flight restriction regulations. Specifically, this action adds a new temporary flight restriction regulation to address specific traffic management procedures for aircraft operations in the vicinity of aerial demonstrations or major sporting events. In addition, this action changes the title of the regulation used to manage aircraft operations near hazard or disaster areas. This action also clarifies the operating requirements for temporary flight restrictions in the vicinity of national disaster areas in the state of Hawaii. Finally, this action amends the Ultralight Vehicle regulations to include all applicable references to temporary flight restrictions. The FAA is taking these actions to enhance the safe and efficient use of airspace and to prevent any unsafe congestion of sightseeing and other aircraft operations in the vicinity of hazard areas, disaster areas, aerial demonstrations, or major sporting events.

DATES: Effective October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through FAA's web page at http://www.faa.gov/avr/armhome.htm or the **Federal Register**'s web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the FAA Internet site, *http://www.faa.gov/avr/arm/sbrefa.htm*. For more information on SBREFA, e-mail us *9–AWA–SBREFA@faa.gov*.

Background

Petitions

On May 20, 1999, the Department of Defense (DoD) requested that the FAA establish a temporary flight restriction (TFR) to prohibit all non-participating aircraft from operating over or within airspace used by the military aerial demonstration teams such as the United States Air Force Air Demonstration Squadron (the Thunderbirds), the United States Naval Flight Demonstration Team (the Blue Angels), the United States Army Parachute Team (the Golden Knights), or other DoD aircraft teams, while practicing or performing aerial demonstrations. DoD explains that when pilots are executing aerobatic maneuvers, they operate aircraft in close formations and perform opposing solo maneuvers at high speeds. DoD contends that in those circumstances, the pilot reaction time necessary to safely "see and avoid" non-participating aircraft could be reduced. In the absence of a TFR, non-participating aircraft can enter, and have entered, airspace used for aerial demonstration practices and air shows. DoD contends that the primary potential safety hazard experienced during air shows were non-participating aircraft that enter the airspace area used for aerial demonstration events.

Operators of DoD aircraft conduct their aerial demonstrations pursuant to a waiver of the requirements listed in Title 14 Code of Federal Regulations (14 CFR) part 91, including maximum airspeed and minimum altitude restrictions. In addition, specific DoD-issued requirements are applicable. However, DoD believes that using TFRs over aerial demonstration areas will provide sanitized airspace in which to conduct their aerobatic operations and formally prohibit non-participating aircraft from entering this airspace.

On July 19, 1999, the International Council of Air Shows (ICAS) petitioned the FAA to amend 14 CFR to include regulations that would provide for a safe airspace environment for air show operations (Docket Number 29664). ICAS states that the high speeds and complex maneuvers common in today's air show performances make it impossible for the participating and nonparticipating aircraft to rely completely on the "see and avoid" method of collision avoidance. ICAS believes that TFRs would prevent a midair collision and protect spectators on the ground from possible death or injury and protect property from damage that could result from a non-participating aircraft intruding into aerial demonstration events. ICAS states that it received 48 reports of intrusions, between July 1989 and June 1997, by non-participating aircraft into airspace used by air shows or practice sessions for aerial demonstrations. As stated in the Notice of Proposed Rulemaking for this rulemaking effort (Notice No. 00–13; 65 FR 69426; November 16, 2000) the ICAS petition is now considered closed.

In addition, the FAA has received requests from Major League Baseball officials, Summer/Winter Olympics officials, the Tournament of Roses Football Game Committee, and others to temporarily restrict aircraft operations over various major sporting events such as the Olympic Games, the Tournament of Roses Football Game, and the Kodak Albuquerque International Balloon Fiesta.

Past Practices

On January 25, 1971, the FAA issued the Temporary Flight Restrictions Final Rule (36 FR 1467). This rule amended 14 CFR 91.91 (since re-codified as 14 CFR § 91.137) to provide for the issuance of a Notice to Airmen (NOTAM) that would implement a TFR over a designated disaster or hazard area. In the preamble to the final rule, the FAA stated that the intent of the rule

was to prevent hazardous congestion of sightseeing aircraft over the site of an aircraft or train accident, forest fire, earthquake, flood, or other disaster of substantial magnitude. In the past the FAA has used TFRs for major sporting events and aerial demonstrations based on an interpretation of the scope of § 91.137 (a)(3) contained in FAA Order 7210.3. The order indicates that a TFR may be issued for sporting events or aerial demonstrations generating a high degree of public interest, citing § 91.137(a)(3) as regulatory authority. The FAA has reviewed the regulatory history of § 91.137, and has concluded that it is limited to disaster or hazard areas and was not intended to be used for planned events.

Special Federal Aviation Regulations

In addition to using § 91.137 for planned events, the FAA has also issued Special Federal Aviation Regulations (SFAR) to establish TFRs in the vicinity of certain major sporting events to address the management of aircraft operations in the vicinity of such events and to prevent unsafe congestion of aircraft that are sightseeing over and around such events. These SFAR were for specific events and had a specific duration. Most recently, for example, on May 18, 1999, the FAA published a Notice of Proposed Rulemaking (NPRM) for an SFAR to establish TFRs for the Kodak Albuquerque International Balloon Fiesta in Albuquerque, NM (64 FR 27160). The proposed restrictions addressed Balloon Fiesta operations for the periods October 2 through October 10, 1999, and October 7 through October 15, 2000. The FAA did not receive any comments on the NPRM, and on August 17, 1999, the FAA published the final SFAR to institute the TFRs (64 FR 44814). The FAA previously published a proposed SFAR for the Kodak Albuquerque International Balloon Fiesta on July 15, 1998(63 FR 38236) and a final SFAR to implement the TFRs on September 28, 1998 (63 FR 51768). Again, these TFRs were for a specific event and had a short duration while the event was going on. The FAA has issued similar TFRs for other specific events such as the Olympics and Goodwill Games.

Notice of Proposed Rulemaking

On November 16, 2000, the FAA published, in the **Federal Register**, NoticeNo. 00–13 (65 FR 69426). Notice No. 00–13 proposed to add a temporary flight restriction regulation to address specific traffic management procedures for aircraft operations in the vicinity of aerial demonstrations or major sporting events; change the title of the regulation used to manage aircraft operations near hazard or disaster areas; clarify the operating requirements for temporary flight restrictions in the vicinity of national disaster areas in the state of Hawaii; and amend the Ultralight Vehicle regulations to include all applicable references to temporary flight restrictions. The FAA proposed these actions to enhance the safe and efficient use of airspace and to prevent any unsafe congestion of sightseeing and other aircraft operations in the vicinity of hazard areas, disaster areas, aerial demonstrations, or major sporting events. The comment period for the notice closed on January 16, 2001.

In response to the proposal, the FAA received approximately 130 comments, the majority of which were from aerial advertisers. All comments received were considered before making a final determination on this matter. An analysis of the substantive comments received and the FAA's responses are summarized below.

Discussion of Comments

As stated above, the FAA received approximately 130 comments in response to Notice No. 00–13. For clarity and ease of response, comments received and the FAA replies have been grouped by general themes.

Comment Period

The FAA received several comments stating that the comment period for the NPRM should have been 120 days versus 60 days.

The FAA does not agree with these comments. Generally, the comment period for FAA documents is 90 days; however, the time period may be shortened or lengthened as deemed necessary. The primary intent of the proposal was administrative, to allow the FAA to streamline its processes, clarify existing TFR regulations, and finally to propose a new type of TFR. The FAA believes that the 60-day comment period provided sufficient time for review and comment on the proposed rule.

Section 91.137 Temporary Flight Restrictions in the Vicinity of Disaster/Hazard Areas

In Notice No. 00–13, the FAA proposed to change the title of § 91.137 from "Temporary Flight Restrictions" to "Temporary Flight Restrictions in the Vicinity of Disaster/Hazard Areas." The former title of this section was not specific enough to convey the intent of the regulation, which lead to misinterpretation of the rule.

In general, those commenting supported the proposed change to the title of this section. However, one commenter, on behalf of a prison department, suggested that changing the title of Section 91.137 would prevent the use of a TFR during a prison riot or hostage situation. The commenter believes that the lights on news media helicopters could expose the positions of law enforcement officers and endanger the officers and/or hostages.

The FAA does not agree with this comment. Changing the title of § 91.137 does not alter the provisions and/or exclusions that currently exist under each sub-section of the regulation. A TFR could be issued for situations such as a prison riot or hostage situation, since these events on the ground may develop into a hazardous situation. When a TFR is implemented for a situation such as described by the commenter, access to the specific area would be coordinated with those persons having command authority on the ground for the TFR area. Part of this coordination would be to inform those authorized to enter the area about conditions on the ground and any special procedures that must be followed. The onus then will be on the pilot of such aircraft not to add to the gravity of the situation.

The Helicopter Association International (HAI) commented that operators of electronic newsgathering (ENG) helicopters have reported to them occurrences in which TFR regulations, particularly § 91.137(a)(1) have been used improperly to exclude news media aircraft from the scenes of newsworthy events. HAI believes that the ENG community operates under color of First Amendment freedoms. HAI contends that the rule, as proposed, does not protect the industry's First Amendment rights and freedoms. Others commented that the notice infringes on First Amendment rights by excluding aerial advertisers and not allowing for freedom of expression. Some commenters believe that the notice infringes on the right for commerce of commercial operators, and their right to operate a business and work.

The FAA agrees that temporary flight restrictions have been misapplied in certain instances. The current procedure is for the FAA Headquarters to provide management oversight of TFRs. Whenever Headquarters becomes aware of misapplication of TFR regulations, action is quickly taken to correct the matter. Additionally, the FAA is aggressively taking steps to educate all users (both pilots and controllers) regarding TFRs. The changing of the title of this section is one of the first steps in this education process.

Further, the FAA does not believe this rulemaking effort encroaches on First Amendment rights or freedoms. The FAA has broad authority under Title 49 of the United States Code (U.S.C.) Subtitle VII, to regulate and control the use of navigable airspace of the United States. Under 49 U.S.C. 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order, the use of navigable airspace under such terms, conditions, and limitations as deemed necessary in order to ensure the safety of aircraft and the efficient utilization of the navigable airspace. The FAA administers the navigable airspace in the public interest as necessary to ensure the safety of aircraft and the efficient utilization of that airspace. When using air traffic and airspace rules to manage the navigable airspace, the FAA considers the requirements of national defense, commercial and general aviation, and the public right of freedom of transit through the airspace.

The NPRM and the final rule continue to allow media aircraft, and other airspace users, controlled access to the airspace for "breaking news" events consistent with the use of the TFR to assure public safety and prevent the unsafe congestion of aircraft at hazard or disaster areas. The airspace used by the TFR is normally the minimum amount necessary for the event. Usually, a TFR is for a limited period of time and access to the TFR airspace is controlled by air traffic control as the event demands. With certain regulatory exceptions for law enforcement aircraft and others, the restrictions of a TFR apply to all users of the affected airspace.

One commenter suggested that the term disaster/hazard needs to be better defined, and that a hazard should not include air traffic at sporting events.

The FAA agrees, and in Notice No. 00–13, proposed a change to § 91.137 to better convey the intent of the regulation and ensure that any TFR issued under this section was related to a disaster or hazard area. Also, the FAA proposed to add a regulation to specifically address aerial demonstrations and major sporting events. That addition is discussed later in the preamble of this rule. In addition, the FAA is currently reviewing the TFR Advisory Circular and FAA Orders, which define specific types of disaster/hazard areas, and if warranted, will modify or revise these definitions as appropriate.

Accordingly, this section is adopted as proposed.

Section 91.138 Temporary Flight Restrictions in National Disaster Areas in the State of Hawaii

In Notice No. 00–13, the FAA proposed to clarify the operating requirements detailed in § 91.138 by modifying subparagraph (b) to read: "When a NOTAM has been issued in accordance with this section, no person may operate an aircraft within the designated airspace unless at least one of the following conditions is met." The language currently in § 91.138(b) could be misinterpreted to mean that all of the conditions must be met before operating an aircraft within the designated airspace.

The FAA received no comments opposing the proposed change. Accordingly, this section is adopted as proposed.

Section 91.145 Temporary Flight Restrictions in the Vicinity of Aerial Demonstrations or Major Sporting Events

In Notice No. 00–13, the FAA proposed to add a new section to part 91 that would prohibit the operation of an aircraft or device, or engage in any activity that would encroach on airspace within the designated airspace area, except in accordance with issued authorizations or terms, and conditions of the temporary flight restriction in the NOTAM, unless otherwise authorized by: (1) Air traffic control; or (2) A Flight Standards Certificate of Waiver or Authorization issued for the demonstration or event. In addition, this section also proposed to authorize the Administrator to exclude the following flights from the flight restriction: (1) Essential military; (2) Medical and rescue; (3) Presidential and Vice Presidential; (4) Visiting heads of state; (5) Law enforcement and security; (6) Public health and welfare.

In Notice No. 00–13, the FAA explained that when a temporary flight restriction is issued, aircraft management procedures for the event will be published in a National Flight Data Center (FDC) NOTAM. The NOTAM will detail, for example, general procedures to include altitudes; times; frequency; point of contact; Air Traffic Control facility; special clearances; and any other necessary information.

The majority of the comments received in response to this rulemaking effort pertained to Section 91.145.

The DoD supported the addition of a temporary flight restriction regulation to address specific traffic management procedures for aircraft operations in the vicinity of aerial demonstrations or major sporting events. DoD believes that TFRs for aerial demonstrations have greatly enhanced safety around both military and civil aerial events. DoD also believes that this initiative will have significant impact on protecting national defense assets and further assure the safety of pilots using our Nation's airspace.

The Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) supported the safety objectives of this rulemaking action. However, both AOPA and EAA recommended adding online resources to provide dynamic, real-time updates to TFR information, such as publishing TFR information in the Airport/Facility Directory and navigation charts. AOPA believes the FAA needs to take positive action to provide the general aviation community with the tools necessary to responsibly avoid established TFR airspace, and recommended improving the NOTAM system. AOPA also recommended more stringent guidelines for entities soliciting the establishment of a TFR and suggested greater clarification of the procedures used in determining the lateral and vertical boundaries of TFR airspace.

The FAA agrees with AOPA and EAA in part. Whenever possible, TFR information will be published in the Airport/Facility Directory and on applicable charts provided the information is available to meet the required cutoff dates for the printing cycle. It is current policy to review NOTAMs to ensure TFRs are correctly utilized and implemented. Additionally, it is our plan to continue to work with the airspace users to further identify any additional requirements. It should be noted that while comments relating to improvements to the NOTAM system are beyond the scope of this rulemaking effort, these comments have been forwarded to the appropriate FAA Air Traffic office for action.

Notice No. 00–13 provided examples of major sporting events and aerial demonstrations where TFRs or SFARs have been used in the past. While we anticipate using § 91.145 to implement TFRs for these types of events, there may be unique circumstances that eliminate the need for a TFR. In addition, there may be sporting events not listed in Notice No. 00–13 that may develop into events of such magnitude that a TFR may be necessary. § 91.145 is designed to provide the FAA with the flexibility to meet future contingencies and better use its rulemaking resources, which are finite.

In addition to the examples cited in the preamble and the rule, guidance concerning the type of sporting event or aerial demonstration that may warrant a TFR will continue to be placed in FAA directives. The rule is not intended to provide TFR coverage for events at which public safety and the potential for the unsafe congestion of aircraft are not interests requiring action by the FAA.

Additionally, the FAA will review current TFR guidelines and, if appropriate, will provide more stringent guidelines for the establishment of a TFR in FAA directives. As stated in Notice No. 00–13, the amount of airspace needed to provide a safe environment for aerial demonstrations/major sporting events would vary depending on the event. The area that would be restricted would normally be limited to the minimum airspace area/altitude/time required to manage participating and non-participating aircraft in the area.

EAA commented that while they did not oppose the establishment of § 91.145, they believe that public interest would be better served if the FAA management decision procedures and specific listings of events were contained within appropriate FAA directives, instead of within the regulatory language for § 91.145. EAA is also of the opinion that pilots do not need to know the management responsibilities of the FAA and event sponsors, and believes that pilots will be forced to memorize this information for written pilot exams and/or flight evaluations. Further, EAA believes that any changes to the list of events identified in Notice No. 00–13 will require regulatory action.

The FAA agrees with EAA in part. Procedural information and specific listings of events are provided as an informational tool, and as such, will be provided in both the regulatory language and in FAA directives.

Notice No. 00–13 provided, as examples only, listings of events that may or may not warrant a TFR. This was not intended to be an all-inclusive list. This notice also provided factors that the FAA utilizes in deciding whether a TFR is necessary to better inform the public, and those who request TFRs. The basis for citing examples was to identify certain events that may be of such a magnitude that would warrant the use of a TFR to prevent the unsafe congestion of aircraft operations in the affected area, and to ensure the safety of persons and property on the ground. Even though a specific event is identified in the list, a TFR may not be warranted. For example, the FAA implemented special air traffic procedures for Super Bowl XXXV, but did not implement a TFR because this event took place within the Tampa Class B airspace area. It is not the intent of the FAA for these examples to be part of written pilot exams and/or flight evaluations. In addition, since the list of events and procedures is provided as an informational tool, any addition or deletion to the list will not require regulatory action to add or delete events.

One commenter believes that it will be impossible to support TFRs until every cockpit is equipped with a Real Time Informational Display. This commenter believes that a pilot en route may not know if a TFR is implemented.

The FAA does not agree with this commenter. TFRs are utilized within the air traffic system today, without Real Time Informational Displays. Aircraft operating in accordance with instrument flight rules will be under the control of air traffic and provided separation from TFR areas. Pilots operating in accordance with visual flight rules are required to obtain pilot briefings for the area in which they will be flying. These briefings include the designation of TFR areas.

One commenter believes that the increase in paperwork alone required by this regulation would put them out of business, and does not believe there would be enough time to complete the paperwork to comply with the new rule. Several aerial advertisers commented that they should be exempt from the requirement to obtain a Flight Standards Certificate of Waiver or Authorization to operate in a TFR designated under § 91.145 because they already have a waiver to conduct banner towing operations.

The FAA does not agree with these commenters. Currently, banner towing operations require a waiver in accordance with 14 CFR 91.311. The only paperwork required by § 91.145 is if an individual chose to obtain a Flight Standards Certificate of Waiver or Authorization issued for the demonstration or event. Generally, a TFR will be published by NOTAM at least 30 days in advance of the event, which will provide ample time for an individual to obtain the aforementioned certificate of waiver or authorization. TFR areas implemented under the proposed § 91.145 would be site specific, for a limited duration, and require ATC authorization to enter the area, or a waiver specific to the event.

Several commenters are of the opinion that restrictions over major sporting events are a direct attempt to regulate where aerial advertisers are allowed to operate, and do not believe there is a safety issue. These commenters stated that aerial advertisers have historically operated safely over events, and that the proposed rule is a blatant attempt by promoters and committees of major sporting events to control access to the airspace over an event.

The FAA does not agree with these commenters. The establishment of a TFR over certain aerial demonstrations or sporting events is not aimed at regulating where aerial advertisers are allowed to operate. The FAA never surrenders control of the navigable airspace, and event promoters do not determine who can or cannot fly over an event. The sole intent of the FAA is to manage aircraft operations in an efficient and safe manner. The proposed § 91.145 continues the FAA's practice of using TFRs for certain qualifying events and clarifies that the FAA will no longer use § 91.137 as the authority for those TFRs because we believe § 91.137 should be limited to hazard or disaster areas. This final rule provides a regulation to cover TFRs for major sporting events and aerial demonstrations. Notice No. 00–13 and final rule provides examples of events where the FAA has used TFRs, to inform the public about the type of event that may qualify for a TFR. Again, a TFR will use the minimum amount of airspace necessary, based on the activity or event, to ensure public safety and prevent the unsafe congestion of aircraft.

Many commenters believe that there is potential for abuse under the proposed rule by the FAA and event promoters/coordinators. AOPA believes that thirty days advance notification is acceptable for the establishment of TFRs, but is concerned that the good cause exception could lead to notification issues and excessive TFR usage for smaller sporting events or outdoor events. AOPA states the NPRM outlines the criteria to be used for establishing TFRs; however, many of these elements are highly subjective. Several commenters recommend promoting procedures rather than limitations, and others are of the opinion that Flight Standards District Office (FSDO) inspectors are given too much power under the proposal, and have the power to stop aerial advertising at will.

The FAA does not agree with these commenters. The intent of this rulemaking effort is to prevent the unsafe congestion of aircraft operations in the affected area, and to ensure the safety of persons and property on the ground. The list of events cited in this section are for example only, and not meant to be an all-inclusive list that will

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require regulatory action to establish a TFR for an event that is not included in this list. As stated previously, the FAA monitors the issuance of TFRs, to ensure that the TFR is warranted and that regulations are complied with. The FAA Airspace and Rules Division, at Washington Headquarters, will provide management oversight of TFRs issued under Section 91.145. The good cause exception tracks the language of the Administrative Procedure Act. It allows the FAA to issue a TFR in less than thirty days, if the FAA finds that good cause exists. The good cause exception does not relate to the type or size of events covered by § 91.145. The FAA is currently working with the Flight Standards Service to clarify and review TFR procedures utilized by FSDO inspectors.

Many commenters believe that the proposed rule would result in a significant economic impact on the aerial advertising community. AOPA requested the FAA to consider the potential economic impact should TFRs be imposed in an overzealous or reckless fashion. The majority of those commenting believe that this rulemaking effort would put aerial advertisers out of business, and the FAA failed to address this point in their economic evaluation. Several commenters stated that the FAA erred in its conclusion in determining that the only major economic impact would result in traffic circumnavigating the TFR area.

The FAA does not agree with these commenters, and believes that the intent of this rulemaking effort was largely misunderstood. This rulemaking effort does not single out any specific group, and the FAA has determined that it will not have an appreciable impact on aerial advertisers. The proposed § 91.145 will streamline FAA processes, provide flexibility to meet future contingencies, and allow for better use of its rulemaking resources. A TFR imposed under § 91.145 will have the same impact on aerial advertisers as a temporary flight restriction imposed using an SFAR or § 91.137(a)(3). The FAA does not expect that limitations affecting aerial advertisers will be changed by this rulemaking.

As stated in Notice No. 00–13, the major economic impact of a TFR will be the inconvenience of circumnavigation to operators who may want to operate in the area of the TFR. Because the possibility of such occurrences is for a limited time and the restricted areas are limited in size, circumnavigation costs will be negligible. The FAA has determined the benefits will be commensurate with the costs attributed to the temporary inconvenience of the flight restrictions for operators near the TFR area. The intent of this rulemaking effort is to enable the FAA to manage aircraft operations in an efficient and safe manner.

Accordingly, except for minor editorial changes, this section is adopted as proposed.

Section 103.20 Flight Restrictions in the Proximity of Certain Areas Designated by Notice to Airmen

Notice No. 00–13 proposed to revise this section by adding references to §§ 91.137, 91.138, and 91.145, ensuring that all applicable references to temporary flight restrictions are included in the requirements.

EAA is of the opinion that the notice discriminates against ultralight vehicle activities, and stated that there are many events where the event sponsor specifically requests that ultralight vehicles take part in some or the entire event for the benefit of the general public. EAA recommends that § 103.20 be rewritten as follows: "No person may operate an ultralight vehicle in areas designated in a Notice to Airmen under §§ 91.137, 91.138, 91.141, 91.143, or 91.145 of this chapter, unless authorized by: (1) Air Traffic Control (ATC); or (2) A Flight Standards Certificate of Waiver or Authorization issued for the demonstration or event."

The FAA agrees with EAA that there are events in which ultralight vehicles participate, and that the same exclusions that apply to § 91.145 should apply to § 103.20. Accordingly, this section is adopted with EAA's recommendation.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this amendment.

The Rule

This amendment to 14 CFR amends temporary flight restriction regulations. Specifically, this action adds a temporary flight restriction regulation to address specific traffic management procedures for aircraft operations in the vicinity of aerial demonstrations or major sporting events. In addition, this action changes the title of the regulation used to manage aircraft operations near hazard or disaster areas. This action also clarifies the operating requirements for temporary flight restrictions in the vicinity of national disaster areas in the state of Hawaii. Finally, this action amends the Ultralight Vehicle regulations to include all applicable references to temporary flight restrictions. The FAA is taking these actions to enhance the safe and efficient use of airspace and to prevent any unsafe congestion of sightseeing and other aircraft operations in the vicinity of hazard areas, disaster areas, aerial demonstrations, or major sporting events.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Economic Evaluation

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing US. Standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation). The FAA does not need to do the latter analysis where the economic impact of an amendment is minimal. The major economic impact of having a temporary flight restriction is the inconvenience of circumnavigation to operators who may want to operate in the area of the temporary flight restriction. An aircraft operator could avoid the restricted airspace by flying over it or by circumnavigating the restricted airspace. Because the possibility of such occurrences is for a limited time and the restricted areas are limited in size, circumnavigation costs are negligible.

The benefits of establishing a temporary flight restriction are primarily a lowered risk of midair collisions between participating and non-participating aircraft. While benefits cannot be quantified, the FAA has determined the benefits are commensurate with the small costs attributed to the temporary inconvenience of the flight restrictions for operators near the temporary flight restriction area.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The major economic impact of having a temporary flight restriction is the inconvenience of circumnavigation to operators who may want to operate in the area of the temporary flight restriction. An aircraft operator could avoid the restricted airspace by flying over it or by circumnavigating the restricted airspace. Because the possibility of such occurrences is for a limited time and the restricted areas will be limited in size, circumnavigation costs are negligible. Consequently, the FAA certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the effect of this rule and has determined that it will have only a domestic impact and therefore no affect on any trade-sensitive activity.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private section; such a mandate is deemed to be a "significant regulatory action."

This rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 3132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 91

Aircraft flight, Airspace, Aviation safety, Air Traffic Control.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of Title 14, Code of Federal Regulations as follows:

PART 91—AIR TRAFFIC AND GENERAL OPERATING RULES

1. The authority citation for 14 CFR part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506, 46507, 47122, 47508, 47528–47531.

2. Amend § 91.137 by revising the title as follows:

§ 91.137 Temporary flight restrictions in the vicinity of disaster/hazard areas.

* * * * *

3. Amend § 91.138 by revising paragraph (b) to read as follows:

§ 91.138 Temporary flight restrictions in national disaster areas in the State of Hawaii.

* * * * *

(b) When a NOTAM has been issued in accordance with this section, no person may operate an aircraft within the designated area unless at least one of the following conditions is met:

(1) That person has obtained authorization from the official in charge of associated emergency or disaster relief response activities, and is operating the aircraft under the conditions of that authorization.

(2) The aircraft is carrying law enforcement officials.

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(3) The aircraft is carrying persons involved in an emergency or a legitimate scientific purpose.

(4) The aircraft is carrying properly accredited newspersons, and that prior to entering the area, a flight plan is filed with the appropriate FAA or ATC facility specified in the NOTAM and the operation is conducted in compliance with the conditions and restrictions established by the official in charge of on-scene emergency response activities.

(5) The aircraft is operating in accordance with an ATC clearance or instruction.

* * * * *

3. Add § 91.145 to subpart B as follows:

Subpart B—Flight Rules

* * * * *

§ 91.145 Management of aircraft operations in the vicinity of aerial demonstrations and major sporting events.

(a) The FAA will issue a Notice to Airmen (NOTAM) designating an area of airspace in which a temporary flight restriction applies when it determines that a temporary flight restriction is necessary to protect persons or property on the surface or in the air, to maintain air safety and efficiency, or to prevent the unsafe congestion of aircraft in the vicinity of an aerial demonstration or major sporting event. These demonstrations and events may include:

(1) United States Naval Flight Demonstration Team (Blue Angels);

(2) United States Air Force Air Demonstration Squadron (Thunderbirds);

(3) United States Army Parachute Team (Golden Knights);

(4) Summer/Winter Olympic Games;

(5) Annual Tournament of Roses Football Game;

(6) World Cup Soccer;

(7) Major League Baseball All-Star Game;

(8) World Series;

(9) Kodak Albuquerque International Balloon Fiesta;

(10) Sandia Classic Hang Gliding Competition;

(11) Indianapolis 500 Mile Race;

(12) Any other aerial demonstration or sporting event the FAA determines to need a temporary flight restriction in accordance with paragraph (b) of this section.

(b) In deciding whether a temporary flight restriction is necessary for an aerial demonstration or major sporting event not listed in paragraph (a) of this section, the FAA considers the following factors:

(1) Area where the event will be held.

(2) Effect flight restrictions will have on known aircraft operations.

(3) Any existing ATC airspace traffic management restrictions.

(4) Estimated duration of the event.

(5) Degree of public interest.

(6) Number of spectators.

(7) Provisions for spectator safety.

(8) Number and types of participating aircraft.

(9) Use of mixed high and low performance aircraft.

(10) Impact on non-participating aircraft.

(11) Weather minimums.

(12) Emergency procedures that will be in effect.

(c) A NOTAM issued under this section will state the name of the aerial demonstration or sporting event and specify the effective dates and times, the geographic features or coordinates, and any other restrictions or procedures governing flight operations in the designated airspace.

(d) When a NOTAM has been issued in accordance with this section, no person may operate an aircraft or device, or engage in any activity within the designated airspace area, except in accordance with the authorizations, terms, and conditions of the temporary flight restriction published in the NOTAM, unless otherwise authorized by:

(1) Air traffic control; or

(2) A Flight Standards Certificate of Waiver or Authorization issued for the demonstration or event.

(e) For the purpose of this section:

(1) *Flight restricted airspace area for an aerial demonstration*—The amount of airspace needed to protect persons and property on the surface or in the air, to maintain air safety and efficiency, or to prevent the unsafe congestion of aircraft will vary depending on the size of the event and the factors listed in paragraph (b) of this section. The restricted airspace area will normally be limited to a 5 nautical mile radius from the center of the demonstration and an altitude 17000 mean sea level (for high performance aircraft) or 13000 feet above the surface (for certain parachute operations), but will be no greater than the minimum airspace necessary for the management of aircraft operations in the vicinity of the specified area.

(2) *Flight restricted area for a major sporting event*—The amount of airspace needed to protect persons and property on the surface or in the air, to maintain air safety and efficiency, or to prevent the unsafe congestion of aircraft will vary depending on the size of the event and the factors listed in paragraph (b) of this section. The restricted airspace will normally be limited to a 3 nautical mile radius from the center of the event and 2500 feet above the surface but will not be greater than the minimum airspace necessary for the management of aircraft operations in the vicinity of the specified area.

(f) A NOTAM issued under this section will be issued at least 30 days in advance of an aerial demonstration or a major sporting event, unless the FAA finds good cause for a shorter period and explains this in the NOTAM.

(g) When warranted, the FAA Administrator may exclude the following flights from the provisions of this section:

(1) Essential military.

(2) Medical and rescue.

(3) Presidential and Vice Presidential.

(4) Visiting heads of state.

(5) Law enforcement and security.

(6) Public health and welfare.

PART 103—ULTRALIGHT VEHICLES

5. The authority citation for 14 CFR part 103 continues to read as follows:

Authority: 49 USC 106(g), 40103–40104, 40113, 44701.

6. Revise § 103.20 as follows:

§ 103.20 Flight restrictions in the proximity of certain areas designated by notice to airmen.

No person may operate an ultralight vehicle in areas designated in a Notice to Airmen under § 91.137, § 91.138, § 91.141, § 91.143 or § 91.145 of this chapter, unless authorized by:

(a) Air Traffic Control (ATC); or

(b) A Flight Standards Certificate of Waiver or Authorization issued for the demonstration or event.

* * * * *

Issued in Washington, DC on September 5, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–22770 Filed 9–10–01; 8:45 am]

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Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
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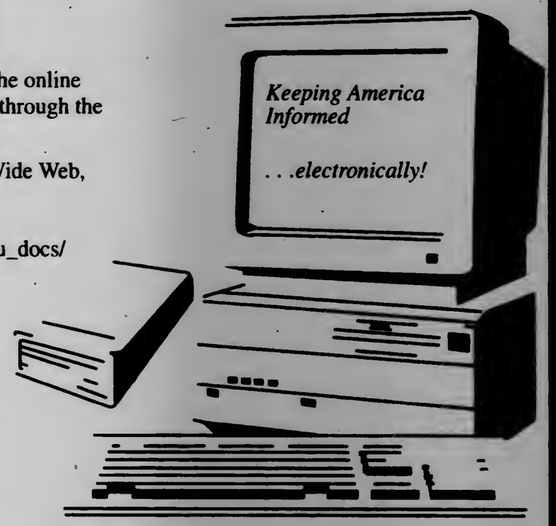
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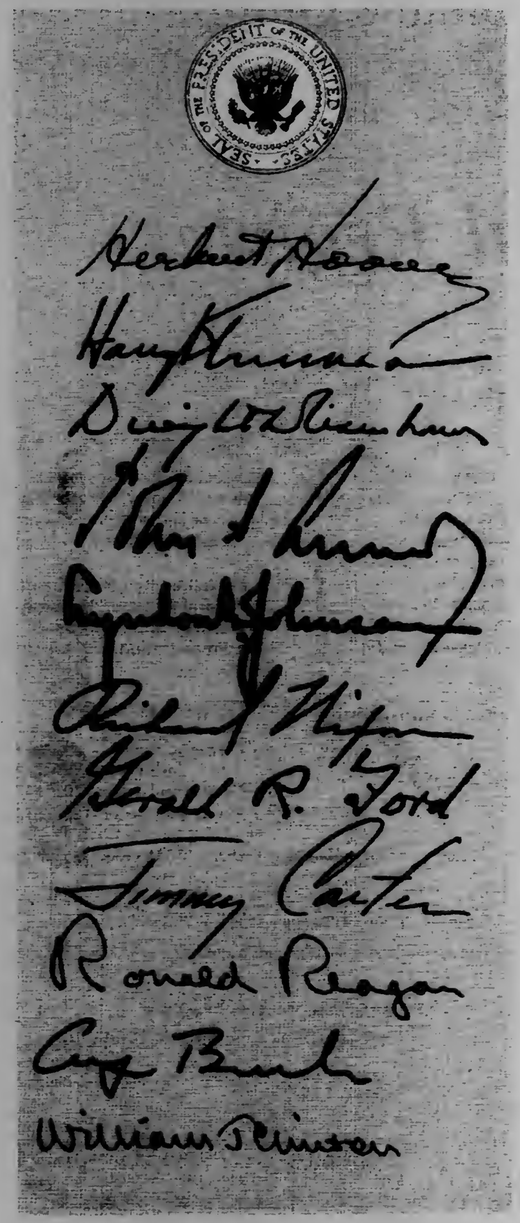
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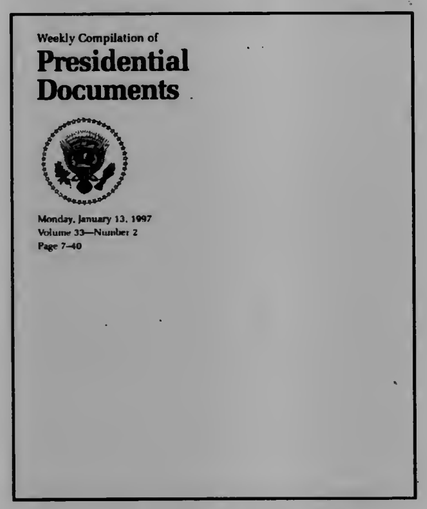
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Rules and Regulations

Federal Register
Vol. 66, No. 177
Wednesday, September 12, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

8 CFR Part 3 and 28 CFR Part 0

[EOIR No. 129F; AG Order No. 2512–2001]

RIN 1125–AA34

Executive Office for Immigration Review; Board of Immigration Appeals; 23 Board Members

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends 8 CFR part 3 and 28 CFR part 0 by adding to the Board of Immigration Appeals (Board) two Board Member positions, thereby expanding the Board to 23 permanent members. The Board is being expanded in order to maintain an effective, efficient system of appellate adjudication in the face of the Board's increasing caseload.

EFFECTIVE DATE: This final rule is effective September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041; telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION: This final rule expands the Board to 23 permanent members by adding two Board Member positions. With this change, the Board will consist of a Chairman, two Vice Chairmen, and twenty other members. This change is necessary to maintain an effective, efficient system of appellate adjudication in light of the Board's increasing caseload. This rule amends 8 CFR part 3 and 28 CFR part 0 to reflect these changes in the Board's organization.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking is not required because this rule relates to agency organization, procedure, and practice, and a delayed effective date is unnecessary because it does not substantially affect the rights or obligations of non-agency parties. *See* 5 U.S.C. 553(b)(a), (d)(3).

Regulatory Flexibility Act

The Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f). Accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Congressional Review Act

This action pertains to agency organization, practice, and procedure and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act. (Subtitle E of the Small Business Regulatory Enforcement Act of 1996 (SBREFA). Therefore, the reporting requirement of 5 U.S.C. § 801 does not apply.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, VA 22041; telephone (703) 305–0470.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Lawyers, Organizations and functions (Government agencies), Reporting and recordkeeping requirements.

28 CFR Part 0

Authority delegation (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, for the reasons set forth in the preamble, part 3 of chapter I of title 8 of the Code of Federal Regulations and part 0 of chapter I of title 28 of the Code of Federal Regulations are amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for 8 CFR part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103; 1252 note, 1252b, 1324b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

Subpart A—Board of Immigration Appeals

§ 3.1 [Amended]

2. In § 3.1, amend paragraph (a)(1) by revising the second sentence to read as follows:

* * * The Board shall consist of a Chairman, two Vice Chairmen, and twenty other members. * * *

* * * * *

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

3. The authority citation for 28 CFR part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

Subpart U—Executive Office for Immigration Review

4. Amend § 0.116 by revising the first sentence to read as follows:

§ 0.116 Board of Immigration Appeals.

The Board of Immigration Appeals shall consist of a Chairman, two Vice Chairmen, and twenty other members. * * *

* * * * *

Dated: September 6, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–22906 Filed 9–11–01; 8:45 am]

BILLING CODE 4410–30–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG75

List of Approved Spent Fuel Storage Casks: Standardized NUHOMS®–24P and –52B Revision; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of September 12, 2001, for the direct final rule that appeared in the **Federal Register** of June 29, 2001 (66 FR 34523). This direct final rule amended the NRC's regulations by revising the Standardized NUHOMS®–24P and –52B cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 3 to Certificate of Compliance Number 1004. Amendment No. 3 will modify the present cask system design to add the –61BT dry storage canister which is the storage portion of a dual purpose cask design intended to both store and transport spent fuel. This document confirms the effective date.

DATES: The effective date of September 12, 2001, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website (http://ruleforum.llnl.gov). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Gordon Gundersen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6195 (E-mail: *GEG1@nrc.gov*).

SUPPLEMENTARY INFORMATION: On June 29, 2001 (66 FR 34523), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72 by revising the Standardized NUHOMS™–24P and –52B cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 3 to Certificate of Compliance Number 1004. Amendment No. 3 will modify the present cask system design to add the –61BT dry storage canister which is the storage portion of a dual purpose cask design intended to both store and transport spent fuel. This document confirms the effective date.

For the reasons discussed above, the request for extension is denied and the direct final rule will become effective as scheduled, September 12, 2001.

Dated at Rockville, Maryland, this 6th day of September, 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–22863 Filed 9–11–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–334–AD; Amendment 39–12435; AD 2001–18–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 series airplanes, that requires inspections for cracking of the web of the horizontal and sloping pressure decks of the fuselage and certain stiffener splice angles and stiffener end fittings, and repair, if necessary. This amendment also provides an optional preventative modification, which ends the repetitive inspections. The actions specified by this AD are intended to find and fix cracking of the web of the horizontal and sloping pressure decks, which could result in rapid in-flight decompression of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 17, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 17, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 777–200 series airplanes was published in the **Federal Register** on June 27, 2001 (66 FR 34130). That action proposed to require inspections for cracking of the web of the horizontal and sloping pressure decks of the fuselage and certain stiffener splice angles and stiffener end fittings, and repair, if necessary. That action also proposed to provide an optional preventative modification, which ends the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 93 Model 777–200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 27 airplanes of U.S. registry will be affected by this AD, that it will take approximately 36 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $58,320, or $2,160 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–09 BOEING: Amendment 39–12435. Docket 2000–NM–334–AD.

Applicability: Model 777–200 series airplanes, line numbers 001 through 093 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of the web of the horizontal and sloping pressure decks, which could result in rapid in-flight decompression of the airplane, accomplish the following:

Initial Inspections

(a) Do the inspections in paragraphs (a)(1), (a)(2), and (a)(3) of this AD at the compliance times specified in those paragraphs. Do the inspections according to the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–53–0004, dated May 11, 2000.

(1) *Area 1:* Prior to the accumulation of 16,000 total flight cycles, do an internal high frequency eddy current (HFEC) inspection or an external low frequency eddy current (LFEC) inspection of the horizontal pressure deck web in Inspection Area 1, as defined in the service bulletin.

(2) *Area 2:* Prior to the accumulation of 31,000 total flight cycles, do an internal HFEC inspection or an external LFEC inspection of the horizontal pressure deck web, an internal HFEC inspection of the sloping pressure deck, and a detailed visual inspection of the stiffener end fittings at body station (BS) 1245 and the stiffener splice angles at BS 1287, in Inspection Area 2, as defined in the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(3) *Area 3:* Prior to the accumulation of 46,000 total flight cycles, do an internal HFEC inspection or an external LFEC inspection of the horizontal pressure deck web, and an internal HFEC inspection of the sloping pressure deck, in Inspection Area 3, as defined in the service bulletin.

Repetitive Inspections

(b) Repeat the inspections in paragraph (a) of this AD at least every 2,500 flight cycles for areas inspected using the HFEC or detailed visual inspection method, or at least every 1,000 flight cycles for areas inspected using the LFEC inspection method, until paragraph (d) of this AD is done.

Corrective Actions

(c) If any cracking is found during any inspection required by paragraph (a) or (b) of this AD: Before further flight, repair the affected area according to Boeing Special Attention Service Bulletin 777–53–0004, dated May 11, 2000; except, where the service bulletin says to contact Boeing for repairs, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated

Engineering Representative who has been

DEPARTMENT OF LABOR

in order to describe fully the authority

private sector, of $100 million or more

associate of a witness or potential

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Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. Repair according to this paragraph ends the repetitive inspections required by paragraph (b) of this AD for the repaired area.

Optional Preventative Modification

(d) Modification of Inspection Areas 1, 2, and 3, according to Boeing Special Attention Service Bulletin 777–53–0004, dated May 11, 2000, ends the repetitive inspections required by paragraph (b) of this AD for the modified area.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) With the exception of certain requirements in paragraph (c) of this AD, the actions shall be done in accordance with Boeing Special Attention Service Bulletin 777–53–0004, dated May 11, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on October 17, 2001.

Issued in Renton, Washington, on August 31, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22588 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Parts 1 and 30

RIN 1215–AB32

Performance of Functions Under this Chapter; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act

AGENCY: Office of Workers' Compensation Programs, Employment Standards Administration, Labor.

ACTION: Interim final rule; reopening and extension of comment period.

SUMMARY: The Department of Labor is reopening and extending the comment period for the interim final rule it published on May 25, 2001 (66 FR 28948). The comment period closed on August 23, 2001, and is being reopened (retroactive to that date) and extended for an additional period.

DATES: The Department will continue to accept written comments on the interim final rule from interested parties. Comments on the interim final rule must be received by September 24, 2001.

ADDRESSES: Submit written comments on the interim final rule to Shelby S. Hallmark, Director, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room S–3524, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Shelby S Hallmark, Director, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room S–3524, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: 202–693–0036 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In response to requests from members of the public, the Department has decided to reopen and extend the public comment period for the interim final rule it published on May 25, 2001 (66 FR 28948). The comment period closed on August 23, 2001, and is being reopened (retroactive to that date) and extended through September 24, 2001. In the interim final rule, which became effective on July 24, 2001, the Department promulgated regulations governing its administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), Pub. L. 106–398, 114 Stat. 1654, 1654A–1231 (October 30, 2000). The EEOICPA established a compensation program to provide a lump sum payment of $150,000 and medical benefits as compensation to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provided for payment of compensation to certain survivors of these covered employees, as well as for payment of a smaller lump sum ($50,000) to individuals (who would also receive medical benefits), or their survivor(s), who were determined by the Department of Justice to be eligible for compensation under section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note).

Signed at Washington, DC, this 7th day of September, 2001.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 01–22960 Filed 9–11–01; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[A.G. Order No. 2511–2001]

Organization; United States Marshals Service

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends the regulation that describes the structure, functions, and responsibilities of the United States Marshals Service of the Department of Justice. The rule will describe fully the authority delegated to the Director of the United States Marshals Service to exercise the power and authority vested in the Attorney General under 18 U.S.C. 3521 to provide for the health, safety, and welfare of Government witnesses and their families.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Gerald M. Auerbach, Senior Litigation Counsel, United States Marshals Service, 600 Army Navy Drive, CS–3, Arlington, Virginia, 22202–4210, (202) 307–9054.

SUPPLEMENTARY INFORMATION: The Department's description of the United States Marshals Service is being revised

in order to describe fully the authority delegated to the Director of the Service pursuant to 18 U.S.C. 3521. This description is contained in a new paragraph designated as § 0.111b.

Administrative Procedure Act

This rule relates to a matter of agency management or personnel, and is therefore exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. A Regulatory Flexibility Analysis was not required to be prepared for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866

This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866, Regulatory Planning and Review. The rule is limited to agency organization, management and personnel as described by section (3)(d)(3) of Executive Order 12866 and, therefore, is not a "regulation" or "rule" as defined by that Executive Oorder. Accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a "rule" for purposes of the reporting requirement of 5 U.S.C. 801.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Gerald M. Auerbach, Senior Litigation Counsel, at the address and telephone number listed above.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

Subpart T—United States Marshals Service

2. Amend Part 0 to add new section 0.111b to read as follows:

§ 0.111B Witness Security Program.

(a) In connection with the protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Director of the United States Marshals Service and officers of the United States Marshals Service designated by the Director may:

(1) Provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

(2) Provide housing for the person;

(3) Provide for the transportation of household furniture and other personal property to a new residence of the person;

(4) Provide to the person a payment to meet basic living expenses in a sum established in accordance with regulations issued by the Director, for such time as the Attorney General determines to be warranted;

(5) Assist the person in obtaining employment;

(6) Provide other services necessary to assist the person in becoming self-sustaining;

(7) Protect the confidentiality of the identify and location of persons subject to registration requirements as convicted offenders under Federal or State law, including prescribing alternative procedures to those otherwise provided by Federal or State law for registration and tracking of such persons; and

(8) Exempt procurement for services, materials, and supplies, and the renovation and construction of safe sites within existing buildings from other provision of law as may be required to maintain the security of protective witnesses and the integrity of the Witness Security Program.

(b) The identity or location or any other information concerning a person receiving protection under 18 U.S.C. 3521 et seq., or any other matter concerning the person or the Program, shall not be disclosed except at the direction of the Attorney General, the Assistant Attorney General in charge of the Criminal Division, or the Director of the Witness Security Program. However, upon request of State or local law enforcement officials, the Director shall, without undue delay, disclose to such officials the identity, location, criminal records, and fingerprints relating to the person relocated or protected when the Director knows or the request indicates that the person is under investigation for or has been arrested for or charged with an offense that is punishable by more than one year in prison or that is a crime of violence.

Dated: September 4, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–22830 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–057]

RIN 2115–AE46

Special Local Regulations for Marine Events; Atlantic Ocean, Atlantic City, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Atlantic City APBA Grand Prix, a marine event to be held on the waters of the Atlantic Ocean adjacent to Atlantic City, New Jersey. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Atlantic Ocean during the event.

DATES: This rule is effective from 11:30 a.m. eastern time on September 22, 2001 until 3:30 p.m. eastern time on September 23, 2001.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–057 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event on September 22 and 23, 2001. Because of the dangers inherent with high-speed boat races, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

Background and Purpose

The New Jersey Performance Power Boat Club will sponsor the Atlantic City APBA Grand Prix on September 22 and 23, 2001. The event will consist of 200 to 300 offshore powerboats conducting high-speed competitive races on the waters of the Atlantic Ocean adjacent to Atlantic City, New Jersey. A fleet of spectator vessels is anticipated for the event. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Atlantic Ocean adjacent to Atlantic City, New Jersey. The regulated area includes a 3-mile long section of the Atlantic Ocean south of Absecon Inlet, extending approximately 300 yards out from the shoreline. The temporary special local regulations will be enforced from 11:30 a.m. to 3:30 p.m. eastern time on September 22 and 23, 2001, and will restrict general navigation in the regulated area during the races. Except for participants in the Atlantic City APBA Grand Prix and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Although this regulation prevents traffic from transiting a portion of the Atlantic Ocean during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Atlantic Ocean during the event.

Although this regulation prevents traffic from transiting a portion of the Atlantic Ocean during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State law or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add a temporary section, § 100.35–T05–057 to read as follows:

§ 100.35–T05–057 Atlantic Ocean, Atlantic City, New Jersey.

(a) *Definitions.*

(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(2) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Group Atlantic City with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participating Vessels.* Participating vessels include all vessels participating in the Atlantic City APBA Grand Prix under the auspices of the Maine Event Application submitted by the New Jersey Performance Power Boat Club., and approved by the Commander, Coast Guard Group Atlantic City.

(4) *Regulated Area.* All waters of the Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: southeasterly from a point along the shoreline at latitude 39°21′50″ N, longitude 074°24′37″ W, to latitude 39°20′40″ N, longitude 74°23′50″ W, thence southwesterly to latitude 39°19′33″ N, longitude 074°26′52″ W, thence northwesterly to a point along the shoreline at latitude 39°20′43″ N, longitude 74°27′40″ W, thence northeasterly along the shoreline to latitude 39°21′50″ N, longitude 074°24′37″ W. All coordinates reference Datum NAD 1983.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates.* The regulated area is effective from 11:30 a.m. eastern time on September 22, 2001 until 3:30 p.m. eastern time on September 23, 2001.

(d) *Enforcement times.* This section will be enforced from 11:30 a.m. to 3:30 p.m. eastern time on September 22 and 23, 2001.

Dated: August 29, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–22813 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–139]

RIN 2115–AA97

Safety Zone; Chelsea River Blasting, Boston, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for

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the Chelsea River during daylight hours from August 13, until September 22, 2001 in Boston, MA. The safety zone is needed to protect the maritime community from the hazards caused by the detonations of explosives to clear rocks and increase the water depth. The safety zone temporarily closes all waters of the Chelsea River 300 yards around the Great Lakes dredge barge while it is involved in the detonation of explosives in the Chelsea River turning basin. The safety zone prohibits entry into or movement within this portion of the Chelsea River during the effective period without Captain of the Port authorization.

DATES: This rule is effective from 9 a.m., Monday, August 13, 2001 through 7 p.m., Saturday, September 22, 2001.

ADDRESSES: Documents as indicated in this preamble are part of docket CGD01–01–139 and are available for inspection or copying at Marine Safety Office (MSO) Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Abby Wilcox, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3006.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. Conclusive information about dredging operations requiring explosive detonations on the Chelsea River was not provided to the Coast Guard until August 6, 2001, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect the maritime community from hazards created by detonating explosives in the Chelsea River. General permissions to enter the safety zone will be given via local notice to mariners and marine information broadcasts during periods when the Captain of the Port determines it is safe to transit the zone. Detonations will only take place approximately one to three times per day, Monday through Saturday, during daylight hours of the effective period. The safety zone should have negligible impact on vessel transits because general permissions to transit the zone will be given when appropriate, the rule is for a limited time period, and vessels are not precluded from using any portion of the waterway outside the safety zone.

Background and Purpose

This regulation establishes a temporary safety zone for the Chelsea River Blasting during daylight hours from August 13, 2001, through September 22, 2001 in Boston, MA. This blasting is being conducted on the eastern bank of the Chelsea River to clear an area of rock and increase the depth of water to 40 feet. The safety zone temporarily closes all waters of the Chelsea River three hundred (300) yards around the Great Lakes dredge barge while it is involved in the detonation of explosives in the Chelsea River turning basin, at a location on the eastern bank approximately 1000 yards north of the Chelsea Street Bridge. Detonations shall occur approximately one to three times per day, Monday through Saturday, during daylight hours of the effective period. Entry into or movement within this portion of the Chelsea River during the effective period is prohibited without Captain of the Port authorization. The safety zone is needed to protect the maritime community from the hazards caused by the detonations of explosives in the Chelsea River. The safety zone should have negligible impact on vessel transits because the Captain of the Port General will grant general permissions to enter the safety zone during periods when the COTP determines it is safe to transit the zone. These general permissions will be communicated via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Chelsea River, the effect of this regulation will not be significant for several reasons: The safety zone should have negligible impact on vessel transits because the Captain of the Port will grant general permissions to enter the safety zone during periods when the COTP determines it is safe to transit the zone. Detonations will only take place one to three times per day, Monday through Saturday, during daylight hours of the effective period. Moreover, vessels are not precluded from using other portions of the Chelsea River outside the safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chelsea River between 9 a.m. on August 13, 2001 and 7 p.m. on September 22, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zone is limited in duration, and the Captain of the Port will grant general permissions to enter the safety zone during periods when the COTP determines it is safe to transit the zone.

Assistance for Small Entities

Due to the short notice of the need for this regulation the Coast Guard did not have time to assist small entities under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–139 to read as follows:

§ 165.T01–139 Safety Zone: Chelsea River Blasting, Boston, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of the Chelsea River three hundred (300) yards around the Great Lakes dredge barge, at a location on the eastern bank approximately 1000 yards north of the Chelsea Street Bridge.

(b) *Effective date.* This section is effective from 9 a.m. to 7 p.m. each day from Monday, August 13, 2001 through Saturday, September 22, 2001.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the Captain of the Port or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: August 8, 2001.

M.E. Landry,

Commander, U.S. Coast Guard, Acting Captain of the Port, Boston, Massachusetts.

[FR Doc. 01–22814 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 104

[Docket No. 010808202–1202–01]

RIN 0651–AB22

Legal Processes

AGENCY: Office of the General Counsel, United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office ("USPTO" or "Office") is implementing rules relating to civil actions and claims involving the Office. Specifically, the rules provide procedures for service of process, for obtaining Office documents and employee testimony, for indemnifying employees, and for making a claim against the Office under the Federal Tort Claims Act.

DATES: Effective September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Bernard J. Knight, Jr., Deputy General Counsel for General Law, at 703–308–2000.

SUPPLEMENTARY INFORMATION: This rule was proposed in a notice of proposed rulemaking published at 65 FR 80810 on December 22, 2000. Background information on this rule may be found in that notice.

Discussion of Comments

Comment: Proposed section 104.23 purports to prohibit "employees" (which include ex-employees) from giving expert testimony regarding "Office information, subjects, or activities." In patent infringement actions, it is common for a party to put up an ex-USPTO employee (often a very senior employee, such as a former Commissioner) as an expert witness to explain the procedures of the USPTO to

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the judge or jury. It is unclear that the Office has the authority to prohibit ex-employees from so testifying, but in any event the use of ex-USPTO employees as expert witnesses on such general subjects should not be prohibited. If this is not the intent of proposed section 104.23 then the rule should be clarified.

Response: Under the provisions of 37 CFR 104.21(b)(2), former employees are excluded from the scope and purpose of Subpart C with respect to matters in which the former employee did not participate personally while at the Office. In addition, under 37 CFR 104.23(a)(2), the General Counsel may authorize an employee to give expert testimony in exceptional circumstances and purpose. Consequently, the rule does not prohibit former employees from giving expert testimony in appropriate circumstances.

Comment: Generally, it is not clear that the Office should preclude an investigation into whether inequitable conduct or fraud on the Office had been practiced in a given patent application. Interested parties (e.g., the defendant in an infringement action) should be permitted to inquire into certain events if fraud is alleged. For instance, if an exhibit had been shown at an interview and it were alleged that the exhibit (which had since been destroyed) had fraudulently represented the invention, there would be no way to obtain that information absent interviewing the Examiner—the interview summary sheet would not be effective here. Permitting such discovery would impose only a slight burden on the Office and would not be inconsistent with the policies discussed in the notice of the proposed rule. Moreover, to the extent that permitting such inquiry would assist in uncovering and deterring fraud and inequitable conduct, other important policies would be furthered. It may be appropriate to treat requests for such discovery under proposed section 104.3 (relating to exceptional circumstances). If such is the case, then the Office is requested to respond to this comment by indicating that lawsuits in which fraud/inequitable conduct issues are raised are sufficiently "exceptional" that requests for discovery into such allegations will be favorably considered (or at least deemed appropriately raised) under this rule.

Response: The rule does not prohibit a party from calling an employee as a fact witness. The rules do prevent inquiry into an examiner's state of mind. For example, subjective state of mind of the employee is irrelevant to an inequitable-conduct inquiry. If fact testimony proves to be inadequate, then the parties may avail themselves of the provisions of section 104.3, which provides that the General Counsel may waive or suspend the rules in extraordinary circumstances.

Comment: The application of the Department of Commerce ("DOC") rules and the proposed USPTO rules to former employees is unnecessary to protect the legitimate interests of the Office. The existing USPTO rules of practice preclude former employees from taking any action which gives an appearance of impropriety. 37 CFR 10.110 and 10.111. Those rules give adequate protection to the USPTO for voluntary testimony by former employees concerning matters the former employees worked on while employed by the USPTO. *Friedman* v. *Lehman*, 40 USPQ2d 1206 (D.D.C. 1996).

Response: Part 10 only applies to registered patent practitioners and trademark attorneys practicing before the USPTO. If the former employee is not practicing before the USPTO, Part 10 does not apply. Thus, this proposed rule is intended to apply to all employees, not just those employees who practice before the USPTO. Indeed, some former employees do not practice before the Office. Further, Part 10 is intended to protect the public from improper conduct by practitioners, while these rules are intended in part to protect the USPTO's deliberative or otherwise confidential information from unauthorized disclosure.

Comment: If, however, the USPTO does adopt rules applying to former employees, it should be made clear that such rules would not have retroactive effect, so that activity that was considered proper when performed would not now become improper and subject a former employee to some type of disciplinary action. In this regard, it would be desirable to clarify what relationship any violation of the proposed rules would have to misconduct under the disciplinary rules of 37 CFR Part 10.

Response: The rules are not given retroactive effect. Under the provisions of 37 CFR 10.23, misconduct potentially could include the actions of an employee who provided testimony that was not authorized by the rules. This issue, however, is within the jurisdiction of the Director, Office of Enrollment and Discipline, and is not properly addressed in these rules. Note, however, that the DOC rules have explicitly applied to former employees since 1995.

Comment: In addition, consideration should also be given to the effect which the current DOC rules will have with respect to former USPTO employees which proposed § 104.21 (b) (2) would exempt. Such former USPTO employees are also former DOC employees and the proposed rules do not appear to address this question.

Response: While USPTO is a separate agency within the DOC, only the USPTO rules are applicable to current and former USPTO employees with respect to testimony related to official USPTO business. Of course, a former USPTO employee who is also a current or former employee of another DOC organization would be subject to the DOC rules with respect to matters related to that organization. Moreover, the exception provided by § 104.21(b)(2) for former employees, is consistent with DOC policy regarding similar testimony of former DOC employees.

Comment: With respect to information sought by subpoena addressed in § 104.22, the USPTO should be required to appear if it opposes a disclosure of information and should not be able to shift that obligation to the former employee. Thus, the commenter opposes the proposed rules insofar as they would enable the USPTO to sanction a former employee for failure to comply with proposed § 104.22(f) when the Office has been properly notified but does not send legal counsel to appear and contest the subpoena on behalf of the employee.

Response: The purpose of § 104.22(f) is not to "shift that obligation to the former employee." The USPTO intends to seek Department of Justice representation for former employees when the General Counsel makes a determination under the rules that an employee should not comply with a subpoena. In those cases where compliance with a subpoena is commanded before Department of Justice representation can be arranged, the employee must, nevertheless, refuse to comply. In order to minimize the occurrence of this event, § 104.22(a) requires employees to immediately notify the General Counsel when they are served with a subpoena.

Comment: It is noted that unlike the DOC rules which define employee as including "current or former employees" (15 CFR 15.12(f)) and then consistently use the term "employee", the proposed rules use the same definition as the DOC rules but then make a reference to "former employee" in § 104.21(b)(2). While this appears appropriate for § 104.21(b)(2), other sections seem to apply solely to a current employee but are not so limited. We believe that such potential ambiguities will render application of the rules unclear.

Response: The term "employee" is consistently used in the rules to refer to both current and former employees. The use of the term "former employee" in § 104.21(b)(2), which is the only section that does not apply to both current and former employees, does not create ambiguity.

Comment: The USPTO should clarify that proposed section 104.21(b)(2), which prohibits former employees from testifying as to matters in which they "participate[d] personally," does not prohibit former high ranking USPTO officials or employees from providing expert testimony in court on USPTO procedures during the period when the official or employee was working at the USPTO.

Response: The term "participated personally" is derived from 18 U.S.C. 207(a) and is used here in keeping with the interpretation the Office of Government Ethics has given the phrase at 5 CFR 2637.201(d).

Other Revisions to the Proposed Rule

A new section 104.4 has been added to clarify that nothing in the rules waives or limits any requirement under the Federal Rules of Criminal or Civil Procedure. Subsection 104.24(f) has been modified to clarify the Office's duty to seek Department of Justice representation for the employee involved when the General Counsel makes a decision not to comply with a subpoena. In addition, other minor changes have been made to the wording of the proposed rule.

Other Considerations

This rule is not significant under Executive Order 12866.

This final rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this final rule has been reviewed and previously approved by OMB under control number 0651–0046. The USPTO is not resubmitting an information collection package to OMB for its review and approval because the changes in this final rule do not affect the information collection requirements associated with the information collection under OMB control number 0651–0046.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), USPTO has certified that this rule will not have a significant impact on a substantial number of small businesses. The factual basis for this certification was provided in the Notice of Proposed Rulemaking published on December 22, 2000, 65 FR 80810. The factual basis for the certification remains the same for this final rule, and therefore, need not be repeated.

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

List of Subjects in 37 CFR Parts 1 and 104

Administrative practice and procedure, Claims, Courts, Freedom of information, Inventions and patents, Tort claims, Trademarks.

For the reasons stated in the preamble, the United States Patent and Trademark Office amends 37 CFR chapter I as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Section 1.17 is amended by revising paragraph (h) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(h) For filing a petition to the Commissioner under one of the following sections which refers to this paragraph	$130.00
§ 1.12—for access to an assignment record	
§ 1.14—for access to an application	
§ 1.47—for filing by other than all the inventors or a person not the inventor	
§ 1.53(e)—to accord a filing date	
§ 1.59—for expungement and return of information	
§ 1.84—for accepting color drawings or photographs	
§ 1.91—for entry of a model or exhibit	
§ 1.102—to make an application special	
§ 1.103(a)—to suspend action in an application	
§ 1.138(c)—to expressly abandon an application to avoid publication	
§ 1.182—for decision on a question not specifically provided for	
§ 1.183—to suspend the rules	
§ 1.295—for review of refusal to publish a statutory invention registration	
§ 1.313—to withdraw an application from issue	
§ 1.314—to defer issuance of a patent	
§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent	
§ 1.378(e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent	
§ 1.644(e)—for petition in an interference	
§ 1.644(f)—for request for reconsideration of a decision on petition in an interference	
§ 1.666(b)—for access to an interference settlement agreement	
§ 1.666(c)—for late filing of an interference settlement agreement	
§ 1.741(b)—to accord a filing date to an application under § 1.740 for extension of a patent term	
§ 5.12—for expedited handling of a foreign filing license	
§ 5.15—for changing the scope of a license	
§ 5.25—for a retroactive license	
§ 104.3—for waiver of a rule in Part 104 of this title	

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3. Redesignate subchapter B to read as follows:

SUBCHAPTER B—ADMINISTRATION

4. Add Part 104 to read as follows:

PART 104—LEGAL PROCESSES

Subpart A—General Provisions

Sec:

104.1 Definitions.
104.2 Address for mail and service; telephone number.
104.3 Waiver of rules.
104.4 Relationship of this Part to the Federal Rules of Civil and Criminal Procedure.

Subpart B—Service of Process

104.11 Scope and purpose.
104.12 Acceptance of Service of Process.

Subpart C—Employee Testimony and Production of Documents in Legal Proceedings

104.21 Scope and purpose.
104.22 Demand for testimony or production of documents.
104.23 Expert or opinion testimony.
104.24 Demands or requests in legal proceedings for records protected by confidentiality statutes.

Subpart D—Employee Indemnification

104.31 Scope.
104.32 Procedure for requesting indemnification.

Subpart E—Tort Claims

104.41 Procedure for filing claims.
104.42 Finality of settlement or denial of claims.

Authority: 35 U.S.C. 2(b)(2), 10, 23, 25; 44 U.S.C. 3101, except as otherwise indicated.

Subpart A—General Provisions

§ 104.1 Definitions.

Demand means a request, order, or subpoena for testimony or documents for use in a legal proceeding.

Director means the Director of the United States Patent and Trademark Office.

Document means any record, paper, and other property held by the Office, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes, and sound or mechanical reproductions.

Employee means any current or former officer or employee of the Office.

Legal proceeding means any pretrial, trial, and posttrial stages of existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings.

Office means the United States Patent and Trademark Office, including any operating unit in the United States Patent and Trademark Office, and its predecessors, the Patent Office and the Patent and Trademark Office.

Official business means the authorized business of the Office.

General Counsel means the General Counsel of the Office.

Testimony means a statement in any form, including personal appearances before a court or other legal tribunal, interviews, depositions, telephonic, televised, or videotaped statements or any responses given during discovery or similar proceedings, which response would involve more than the production of documents, including a declaration under 35 U.S.C. 25 or 28 U.S.C. 1746.

United States means the Federal Government, its departments and agencies, individuals acting on behalf of the Federal Government, and parties to the extent they are represented by the United States.

§ 104.2 Address for mail and service; telephone number.

(a) Mail under this part should be addressed to General Counsel, United States Patent and Trademark Office, P.O. Box 15667, Arlington, VA 22215.

(b) Service by hand should be made during business hours to the Office of the General Counsel, Crystal Park Two, Suite 905, 2121 Crystal Drive, Arlington, Virginia.

(c) The Office of the General Counsel may be reached by telephone at 703–308–2000 during business hours.

§ 104.3 Waiver of rules.

In extraordinary situations, when the interest of justice requires, the General Counsel may waive or suspend the rules of this part, sua sponte or on petition of an interested party to the Director, subject to such requirements as the General Counsel may impose. Any petition must be accompanied by the petition fee set forth in § 1.17(h) of this title.

§ 104.4 Relationship of this Part to the Federal Rules of Civil or Criminal Procedure.

Nothing in this part waives or limits any requirement under the Federal Rules of Civil or Criminal Procedure.

Subpart B—Service of Process

§ 104.11 Scope and purpose.

(a) This subpart sets forth the procedures to be followed when a summons and complaint is served on the Office or on the Director or an employee in his or her official capacity.

(b) This subpart is intended, and should be construed, to ensure the efficient administration of the Office and not to impede any legal proceeding.

(c) This subpart does not apply to subpoenas, the procedures for which are set out in subpart C.

(d) This subpart does not apply to service of process made on an employee personally on matters not related to official business of the Office or to the official responsibilities of the employee.

§ 104.12 Acceptance of service of process.

(a) Any summons and complaint to be served in person or by registered or certified mail or as otherwise authorized by law on the Office, on the Director, or on an employee in his or her official capacity, shall be served as indicated in § 104.2.

(b) Any employee of the Office served with a summons and complaint shall immediately notify, and shall deliver the summons and complaint to, the Office of the General Counsel.

(c) Any employee receiving a summons and complaint shall note on the summons and complaint the date, hour, and place of service and whether service was by hand or by mail.

(d) When a legal proceeding is brought to hold an employee personally liable in connection with an action taken in the conduct of official business, rather than liable in an official capacity, the employee by law is to be served personally with process. *See Fed. R. Civ. P.* 4(e). An employee sued personally for an action taken in the conduct of official business shall immediately notify and deliver a copy of the summons and complaint to the General Counsel.

(e) An employee sued personally in connection with official business may be represented by the Department of Justice at its discretion (28 CFR 50.15 and 50.16).

(f) The Office will only accept service of process for an employee in the employee's official capacity.

Subpart C—Employee Testimony and Production of Documents in Legal Proceedings

§ 104.21 Scope and purpose.

(a) This subpart sets forth the policies and procedures of the Office regarding the testimony of employees as witnesses in legal proceedings and the production or disclosure of information contained in Office documents for use in legal proceedings pursuant to a demand.

(b) *Exceptions.* This subpart does not apply to any legal proceeding in which:

(1) An employee is to testify regarding facts or events that are unrelated to official business; or

(2) A former employee is to testify as an expert in connection with a particular matter in which the former employee did not participate personally while at the Office.

§ 104.22 Demand for testimony or production of documents.

(a) Whenever a demand for testimony or for the production of documents is made upon an employee, the employee shall immediately notify the Office of the General Counsel at the telephone number or addresses in § 104.2 and make arrangements to send the subpoena to the General Counsel promptly.

(b) An employee may not give testimony, produce documents, or answer inquiries from a person not employed by the Office regarding testimony or documents subject to a demand or a potential demand under the provisions of this subpart without the approval of the General Counsel. The General Counsel may authorize the provision of certified copies not otherwise available under Part 1 of this title subject to payment of applicable fees under § 1.19.

(c)(1) *Demand for testimony or documents.* A demand for the testimony of an employee under this subpart shall be addressed to the General Counsel as indicated in § 104.2.

(2) *Subpoenas.* A subpoena for employee testimony or for a document shall be served in accordance with the Federal Rules of Civil or Criminal Procedure or applicable state procedure, and a copy of the subpoena shall be sent to the General Counsel as indicated in § 104.2.

(3) *Affidavits.* Except when the United States is a party, every demand shall be accompanied by an affidavit or declaration under 28 U.S.C. 1746 or 35 U.S.C. 25(b) setting forth the title of the legal proceeding, the forum, the requesting party's interest in the legal proceeding, the reason for the demand, a showing that the desired testimony or document is not reasonably available from any other source, and, if testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony.

(d) Failure of the attorney to cooperate in good faith to enable the General Counsel to make an informed determination under this subpart may serve as a basis for a determination not to comply with the demand.

(e) A determination under this subpart to comply or not to comply with a demand is not a waiver or an assertion of any other ground for noncompliance, including privilege, lack of relevance, or technical deficiency.

(f) *Noncompliance.* If the General Counsel makes a determination not to comply, he or she will seek Department of Justice representation for the employee and will attempt to have the subpoena modified or quashed. If Department of Justice representation cannot be arranged, the employee should appear at the time and place set forth in the subpoena. In such a case, the employee should produce a copy of these rules and state that the General Counsel has advised the employee not to provide the requested testimony nor to produce the requested document. If a legal tribunal rules that the demand in the subpoena must be complied with, the employee shall respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

§ 104.23 Expert or opinion testimony.

(a)(1) If the General Counsel authorizes an employee to give testimony in a legal proceeding not involving the United States, the testimony, if otherwise proper, shall be limited to facts within the personal knowledge of the employee. Employees, with or without compensation, shall not provide expert testimony in any legal proceedings regarding Office information, subjects, or activities except on behalf of the United States or a party represented by the United States Department of Justice.

(2) The General Counsel may authorize an employee to appear and give the expert or opinion testimony upon the requester showing, pursuant to § 104.3 of this part, that exceptional circumstances warrant such testimony and that the anticipated testimony will not be adverse to the interest of the Office or the United States.

(b)(1) If, while testifying in any legal proceeding, an employee is asked for expert or opinion testimony regarding Office information, subjects, or activities, which testimony has not been approved in advance in writing in accordance with the regulations in this subpart, the witness shall:

(i) Respectfully decline to answer on the grounds that such expert or opinion testimony is forbidden by this subpart;

(ii) Request an opportunity to consult with the General Counsel before giving such testimony; and

(iii) Explain that upon such consultation, approval for such testimony may be provided.

(2) If the tribunal conducting the proceeding then orders the employee to provide expert or opinion testimony regarding Office information, subjects, or activities without the opportunity to consult with the General Counsel, the employee shall respectfully refuse to provide such testimony, citing *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

(c) If an employee is unaware of the regulations in this subpart and provides expert or opinion testimony regarding Office information, subjects, or activities in a legal proceeding without the aforementioned consultation, the employee shall, as soon after testifying as possible, inform the General Counsel that such testimony was given and provide a written summary of the expert or opinion testimony provided.

(d) *Proceeding where the United States is a party.* In a proceeding in which the United States is a party or is representing a party, an employee may not testify as an expert or opinion witness for any party other than the United States.

§ 104.24 Demands or requests in legal proceedings for records protected by confidentiality statutes.

Demands in legal proceedings for the production of records, or for the testimony of employees regarding information protected by the confidentiality provisions of the Patent Act (35 U.S.C. 122), the Privacy Act (5 U.S.C. 552a), the Trade Secrets Act (18 U.S.C. 1905), or any other confidentiality statute, must satisfy the requirements for disclosure set forth in those statutes and associated rules before the records may be provided or testimony given.

Subpart D—Employee Indemnification

§ 104.31 Scope.

The procedure in this subpart shall be followed if a civil action or proceeding is brought, in any court, against an employee (including the employee's estate) for personal injury, loss of property, or death, resulting from the employee's activities while acting within the scope of the employee's office or employment. When the employee is incapacitated or deceased, actions required of an employee should be performed by the employee's executor, administrator, or comparable legal representative.

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§ 104.32 Procedure for requesting indemnification.

(a) After being served with process or pleadings in such an action or proceeding, the employee shall within five (5) calendar days of receipt, deliver to the General Counsel all such process and pleadings or an attested true copy thereof, together with a fully detailed report of the circumstances of the incident giving rise to the court action or proceeding.

(b)(1) An employee may request indemnification to satisfy a verdict, judgment, or award entered against that employee only if the employee has timely satisfied the requirements of paragraph (a) of this section.

(2) No request for indemnification will be considered unless the employee has submitted a written request through the employee's supervisory chain to the General Counsel with:

(i) Appropriate documentation, including copies of the verdict, judgment, appeal bond, award, or settlement proposal;

(ii) The employee's explanation of how the employee was acting within the scope of the employee's employment; and

(iii) The employee's statement of whether the employee has insurance or any other source of indemnification.

Subpart E—Tort Claims

Authority: 28 U.S.C. 2672; 35 U.S.C. 2(b)(2); 44 U.S.C. 3101; 28 CFR Part 14.

§ 104.41 Procedure for filing claims.

Administrative claims against the Office filed pursuant to the administrative claims provision of the Federal Tort Claims Act (28 U.S.C. 2672) and the corresponding Department of Justice regulations (28 CFR Part 14) shall be filed with the General Counsel as indicated in § 104.2.

§ 104.42 Finality of settlement or denial of claims.

Only a decision of the Director or the General Counsel regarding settlement or denial of any claim under this subpart may be considered final for the purpose of judicial review.

Dated: September 6, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–22854 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 249–0290a; FRL–7045–9]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Bay Area Air Quality Management District (BAAQMD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from adhesives and sealants and from other solvent containing materials. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 13, 2001 without further notice, unless EPA receives adverse comments by October 12, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
BAAQMD	8–51	Adhesive and Sealant Products.	05/02/01	05/31/01
SCAQMD	443.1	Labeling of Materials Containing Organic Solvent.	12/05/86	06/09/87

On July 20, 2001, submitted Rule 8–51 was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. Completeness was not required for rules like 443.1 that were submitted prior to 1988.

B. Are There Other Versions of These Rules?

We finalized a limited approval and limited disapproval of BAAQMD Rule 8–51 on November 4, 1999 (64 FR 60109). The limited approval portion of that rulemaking incorporated BAAQMD Rule 8–51 into the federally enforceable SIP and the limited disapproval portion of that rulemaking triggered sanctions and FIP clocks under sections 179(a) and 110(c) of the CAA. There are no previous versions of SCAQMD Rule 443.1 in the SIP. SCAQMD Rule 443.1 was originally proposed for approval on September 14, 1988 (53 FR 35528). Although we received no adverse comments, we are reproposing to approve the rule due to the length of time that has elapsed since our original action.

C. What Is the Purpose of the Submitted Rules?

The amendments to Rule 8–51 adopted by the BAAQMD on May 2, 2001 and submitted to the EPA on May 31, 2001 were intended to address deficiencies in the version of Rule 8–51 adopted on January 7, 1998. SCAQMD Rule 443.1 was adopted to institute labeling requirements for materials containing VOCs. The TSDs have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (*see* section 182(a)(2)(A)), and must not relax existing requirements (*see* sections 110(l) and 193). The BAAQMD and SCAQMD regulate ozone nonattainment areas (*see* 40 CFR part 81), so BAAQMD Rule 8–51 and SCAQMD Rule 443.1 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. The State of California Air Resources Board's *Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Adhesives and Sealants*, December 1998.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by October 12, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on November 13, 2001. This will incorporate these rules into the federally enforceable SIP and will permanently terminate all sanctions and FIP clocks associated with our November 1999 action relating to Rule 8–51.

III. Background Information

A. Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–540, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or

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on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 3, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(173)(i)(F) and (c)(282) to read as follows:

§ 52.220 Identification of plan.

(c) * * *

(173) * * *

(i) * * *

(F) South Coast Air Quality Management District.

(*1*) Rule 443.1, adopted on December 5, 1986.

* * * * *

(282) New and amended regulations for the following APCDs were submitted on May 31, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(*1*) Rule 8–51, adopted on May 2, 2001.

* * * * *

[FR Doc. 01–22736 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301163; FRL–6798–2]

RIN 2070–AB70

Bromoxynil; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of bromoxynil in or on timothy, hay and timothy, forage. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on timothy. This regulation establishes a maximum permissible level for residues of bromoxynil in these commodities. These tolerances will expire and are revoked on June 30, 2003.

DATES: This regulation is effective September 12, 2001. Objections and requests for hearings, identified by docket control number OPP–301163, must be received by EPA on or before November 13, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301163 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301163. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the insecticide bromoxynil, 3,5-dibromo-4-hydroxybenzonitrile, in or on timothy, hay at 0.50 part per million (ppm) and timothy, forage at 0.10 ppm. These tolerances will expire and are revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Bromoxynil on Timothy and FFDCA Tolerances

On May 4, 2001, the Nevada Department of Agriculture availed themselves of the authority to declare a crisis exemption for use of bromoxynil in fields planted with both timothy and alfalfa to control weeds. Very recent overplanting of aging alfalfa fields with timothy revealed a problem with weed control in that no registered herbicides are available for use on alfalfa and timothy that do not damage the other crop. Bromoxynil, which is registered for use on alfalfa, does not damage timothy. The crisis declaration was made because alfalfa growth had reached a point where applications would be ineffective if done any later in the season. EPA has authorized under FIFRA section 18 the use of bromoxynil on timothy for control of weeds in Nevada.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of bromoxynil in or on timothy, hay and timothy, forage. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on timothy, hay and timothy, forage after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance

earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether bromoxynil meets EPA's registration requirements for use on timothy or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of bromoxynil by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Nevada to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for bromoxynil, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of bromoxynil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of bromoxynil in or on timothy, hay at 0.50 ppm and timothy, forage at 0.10 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for bromoxynil used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BROMOXYNIL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for RiskAssessment	Study and Toxicological Effects
Acute Dietary females 13–50 years of age	NOAEL = 4 mg/kg/day UF = 100 Acute RfD = 0.04 mg/kg/day	FQPA SF = 10 aPAD = acute RfD ÷ FQPA SF = 0.004 mg/kg/day	Developmental toxicity study where bromoxynil phenol was administered to rats. LOAEL = 5 mg/kg/day based on an increased incidence of supernumerary ribs in rats from a developmental toxicity study.
Acute Dietary general population including infants and children	NOAEL = 8 mg/kg/day UF =100 Acute RfD = 0.08 mg/kg/day	FQPA SF = 1 aPAD = acute RfD ÷ FQPA SF = 0.08 mg/kg/day	13–Week range-finding study in which bromoxynil phenol was administered orally to dogs. LOAEL = 12 mg/kg/day based on increased incidence of panting on day 1, suggestive of a compensatory reaction to the effects of the test material, which at higher doses is expressed as elevated body temperature.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BROMOXYNIL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for RiskAssessment	Study and Toxicological Effects
Chronic Dietary all populations	NOAEL= 1.5 mg/kg/day UF = 100 Chronic RfD = 0.015 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD ÷ FQPA SF = 0.015 mg/kg/day	12–Month chronic oral toxicity study in dogs using bromoxynil phenol as the test material. Threshold NOAEL/LOAEL of 1.5 mg/kg/day based on slightly decreased body weight gain in males. At the next higher dose level (7.5 mg/kg/day), the following effects were observed in both males and females: decreased body weight gain; increased salivation, panting, liquid feces, and pale gums; decreased erythrocytes, hemoglobin, and packed cell volume; increased urea nitrogen; and increased liver weights.
Cancer (oral, dermal, inhalation)	Bromoxynil phenol has been classified as a Group C, possible human carcinogen. A low dose extrapolation model (Q1*) is applied for quantification of human risk. Q1* = 1.03×10^{-1} (mg/kg/day)$^{-1}$	10^{-6}	The weight-of-the-evidence determination was based primarily on results in two mouse carcinogenicity studies.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.324) for the residues of bromoxynil, in or on a variety of raw agricultural commodities including alfalfa, barley, corn, flax, garlic, mint, oats, onions, rye, sorghum, wheat, and cotton. Tolerances have also been established on fat, meat, and meat-by-products of cattle, goats, hogs, horses, poultry, and sheep as well as eggs and milk. Risk assessments were conducted by EPA to assess dietary exposures from bromoxynil in food as follows.

Bromoxynil is currently registered for use on alfalfa. The aggregate risks associated with the use of bromoxynil on alfalfa have been assessed previously (Reregistration Eligibility Decision (RED) document, Decmeber 1998). No residue data are available for bromoxynil on timothy. As the use directions for timothy-alfalfa stands are the same as for alfalfa alone, the state has proposed to translate the existing residue data for alfalfa (a member of Crop Group 18, Nongrass Animal Feeds) to timothy (a member of Crop Group 17; Grass Forage, Fodder and Hay). This translation would generally not be possible as the timothy, forage tolerance would be based on 0–day preharvest interval (PHI) data whereas the PHI for alfalfa, forage is 30 days. However, as the cultural practices for timothy-alfalfa stands is the same as that for alfalfa alone, for the emergency exemption only, the Agency is willing to translate the existing alfalfa residue data to timothy. Based upon the alfalfa residue data, the following tolerances are thus appropriate for timothy, hay at 0.50 ppm and timothy, forage at 0.10 ppm.

There are no human food items associated with timothy and therefore, the use of bromoxynil on timothy will not increase the potential for secondary residues in livestock (since the residues in timothy will not exceed those on alfalfa, a more significant feed item), the dietary risk associated with bromoxynil will not be effected by this use. The potential for residues in drinking water will not be effected as the use rate for timothy-alfalfa stands is the same as for alfalfa alone. Thus, revised risk assessments were not conducted for this action. The information discussed below was previously discussed in the December 1998 RED document.

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. In 1998, an acute (probabilistic) dietary analysis including the cotton use was performed by Novigen Sciences, Inc. for Rhone Poulenc. The assessment used the consumption data from the USDA 1989–1992 nationwide Continuing Survey of Food Intakes by Individuals (CSFII).

The acute dietary risk assessment was conducted as a probabilistic risk assessment, assuming single day exposure. In the assessment, each person-day of food consumption was matched with randomly selected residue values for this assessment from field trails submitted in support of the chemical. Percent crop treated data were included in the assessment as zeroes to account for portions of the crop to which bromoxynil was not applied. This process was repeated one thousand times for each person-day in consumption data base. The assessment assumed that the treated commodities were evenly distributed in the food supply. Secondary residues in meat and milk from consumption of treated feed items were included in the form of a probabilistic assessment, varying residues in the diet in accordance with the data from the field trials. The assumptions for the dietary exposure were reviewed and found to be acceptable. The assessments assumed that 10% of the cotton crop would be treated.

Anticipated residues in blended commodities (such as grains, cottonseed and mint oil) were used, without an adjustment for percent crop treated; however, tolerance level residues were used for onions, garlic, fat, meat by-products, and meat of cattle, goats, hogs, horses, sheep, and poultry, and eggs. Milk is a blended commodity, and therefore an anticipated residue was used.

ii. *Chronic/cancer exposure.* In conducting this chronic dietary risk

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assessment the Dietary Risk Evaluation System (DRES) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Field trial residues in raw agricultural commodities (RACs) consumed by people were nondetectable; anticipated residues were based on ½ the limit of quantitation (LOQ), and were further refined by percent crop treated data. Field trial residues from all forages (i.e., sorghum, wheat, oat, corn, alfalfa), and all hays were averaged, and the additional refinement for percent crop treated was applied. Although forages and hays contained detectable bromoxynil residues, the averages used were significantly lower than tolerance-level residues.

The contribution of cotton gin products (gin trash) to the dietary burden for ruminants was assumed to be 5% of the diet for beef cattle and 1% for dairy cattle. It was assumed that 10% of cotton was treated. The only commodities which contribute significantly to exposure to bromoxynil and/or DBHA in the diet for the general U.S. population (or any subpopulation) are meat, milk, poultry, and eggs, based on secondary residues resulting from consumption of livestock feed items.

iii. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a Data Call-In for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings:

- Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue.
- Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: 10% of the cereal grains (wheat, corn, oats, barley, rye, sorghum, including processed commodities) treated; 62% of onions treated; 100% garlic treated; 71% of the peppermint and spearmint treated, and 10% of the cotton treated. Refer to the December 1998 RED docucment for additional information.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which bromoxynil may be applied in a particular area.

2. *Dietary exposure from drinking water—i. Ground water.* Bromoxynil octanoate does not exhibit the mobility or persistence characteristics of pesticides that are normally found in ground water. Bromoxynil phenol (which bromoxynil octanoate readily degrades to) has the potential to leach to ground water under certain conditions; however, it rapidly degrades under aerobic and anaerobic conditions reducing the likelihood of ground water contamination. Limited monitoring information for bromoxynil in ground water is available. The "Pesticides in Ground Water Database" (EPA 1992) reports sampling for bromoxynil in 107 wells in four counties in Oregon between 1985 and 1987. The well samples in each area (public water supply and domestic) were selected based on suspected vulnerability, susceptibility to contamination, and availability of information on well construction and depth. No additional information on the details of the monitoring was available. No detections of bromoxynil were reported.

Additional monitoring data from the United States Geological Survey (USGS) National Water Quality Program (NAQWA) represent the highest quality data and most recent data available (1993–1994). The program was carefully designed to obtain monitoring data for surface and ground waters from diffuse (non-point) sources. For ground water, one detection of bromoxynil (concentration not specified) was reported from a total of 2,245 samples. Clearly, these compounds (bromoxynil phenol and octanoate) are not considered candidates for restricted use due to ground water concerns and the potential for ground water contamination (and exposure) from bromoxynil is extremely low.

DBHA, a cotton metabolite, is not expected to be found in ground water.

ii. *Surface water.* Environmental fate studies indicate that bromoxynil (phenol and octanoate) should not persist in surface waters, although water monitoring data from the USGS NAWQA program show that bromoxynil has been detected in 1.1% of surface water samples. Modeled estimated environmental concentrations (EECs) were based on the cotton use and not the small grains, corn or other uses of bromoxynil because, it has been the Agency's experience, that using cotton as opposed to these crops results in a higher estimated surface water exposure. Cotton represents the most conservative use for surface water exposure (i.e., the highest possible exposure scenario).

A Tier II analysis based on the PRZM-EXAMS model (Pesticide Root Zone Model Version 2.3 plus Exposure Analysis Modeling System Version 2.94) was conducted for the cotton use. PRZM-EXAMS uses data on the physical-chemical properties of the pesticide plus soil and topographic characteristics, weather data, and water quality parameters for the modeled site. The model uses this information to estimate runoff from a 10 hectare agricultural field into an immediately adjacent 1 hectare by 2 meter deep pond. PRZM-EXAMS considers reduction in dissolved pesticide concentrations due to adsorption of pesticide to soil or sediment, incorporation, degradation in soil before wash off to a water body, direct deposition of spray drift into the water body, and degradation of the pesticide within the water body.

Water monitoring data from the USGS NAWQA Program were reported during the 1993–1995 period from 7 of 20 river basins throughout the U.S. The NAWQA Program examined drainage basins that were primarily agricultural use. The percentage of detections was 1.1% from a total of 1,925 surface water samples. Analysis of the 20 detections >0.03 parts per billion (ppb) yielded a median value of 0.105 ppb with a mean of 0.53 ppb. The maximum concentration was one data point at 6.1 ppb (12.2 ppb when accounting for 50% recovery) measured in the South Platte River Study Unit, CO. For urban land use, bromoxynil was not detected in surface waters. It is important to note the laboratory recoveries were approximately 50%. Apparently the laboratory recoveries did not vary considerably from the 50% level.

Based on model estimates (using PRZM-EXAMS), the maximum or peak estimated concentration for bromoxynil was 12.3 ppb and the maximum estimated long-term mean was 0.24 ppb (using 36 years of weather data). These values represent what might be expected in a small water body near a cotton field highly prone to runoff. The maximum peak estimated concentration for bromoxynil from the model correlates with the highest value detected in the USGS monitoring data, when this measured value has been corrected for an analytical recovery rate of 50%.

To estimate a reasonable high end exposure for the human health risk assessment, EPA focused on the calculated time-weighted annual mean concentrations of bromoxynil at each of 11 USGS monitoring sites, which the EPA views as located in watersheds likely to have bromoxynil use. (These values were not corrected for the analytical recovery rate of 50%.) These time-weighted annual mean concentrations ranged from 0.011 ppb to 0.18 ppb, with 10 out of the 11 sites with time-weighted annual mean concentrations below 0.05 ppb. Six of the 10 sites had time weighted annual mean concentrations at or below 0.014 ppb. The highest annual time-weighted mean (0.18 ppb) was located in a relatively small watershed (approximately 100 square miles) in a relatively small water body, and the calculated annual mean value at this site was significantly influenced by the presence of a single high value (the highest value found in all of the available monitoring data). Based on this information, EPA believes that 0.05 ppb is a reasonable high end estimate for purposes of estimating drinking water exposure.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Bromoxynil is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether bromoxynil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, bromoxynil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that bromoxynil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

The bromoxynil data submitted to the Agency for review are sufficient for the assessment of hazard to the developing organism. A total of 11 developmental and 3 reproductive toxicity studies were available for review. These include oral prenatal developmental toxicity studies (three in rats, two in rabbits, and one in mice with the phenol; one in rats with the octanoate), dermal prenatal developmental toxicity studies (one each in rats and rabbits with both the phenol and the octanoate), and two dietary two-generation reproduction studies in rats (one with the phenol; one with the octanoate) and one dermal reproduction study. Developmental toxicity was observed, following *in utero* exposure to bromoxynil, in multiple studies, by two routes of exposure, and in three species. The induction of supernumerary ribs was shown to be the most sensitive indicator of developmental toxicity in fetal rats, mice, and (in certain studies) rabbits. Upon consideration of the data base in its entirety, the Agency determined that the developmental NOAEL, for the induction of supernumerary ribs, resulting from prenatal exposure to bromoxynil (phenol) is 4 mg/kg/day via the oral route and 10 mg/kg/day via the dermal route. The developmental LOAELs for bromoxynil phenol were 5 mg/kg/day by the oral route and 50 mg/kg/day by the dermal route. Other forms of developmental toxicity, including resorptions and malformations, were routinely observed in bromoxynil studies at higher dose levels.

It was determined that the FQPA safety factor should be retained for the subpopulation consisting of females 13+ for acute dietary exposures. This

decision was based upon concerns emanating from the toxicological profile, including evidence of increased susceptibility of fetuses to bromoxynil exposure, the steep dose response curve, and the demonstrated severe developmental effects at doses above the LOAEL.

The population of concern is the developing fetus and the endpoint of concern is supernumerary ribs. This endpoint, a developmental anomaly, results from *in utero* exposure; therefore the population subgroup of concern is females 13+ years old. Although some systems in infants and children continue developing, it is unlikely that supernumerary ribs, even though observed across multiple species, would result from postnatal exposure. A 10–fold safety factor, as required by FQPA, will provide additional protection for infants and children and ensure a reasonable certainty of no harm to this sensitive subpopulation.

D. Aggregate Risks and Determination of Safety

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure and dietary exposure from drinking water, the acute aggregate exposure from food and water to bromoxynil will occupy <1% of the aPAD for the U.S. population, 11% of the aPAD for females 13 years and older, 2% of the aPAD for all infants and 2% of the aPAD for children 1–6 years old. Therefore, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO BROMOXYNIL

Population Subgroup	aPAD (mg/kg)	Estimated Exposure from Food (mg/kg bw/day)	Estimated Exposure from Water (mg/kg/day)	% aPAD (Food and Water)
U.S. population	0.08	0.000137	0.00035	<1%
Females 13+ years	0.004	0.000082	0.00035	11%
Children (1–6 years old)	0.08	0.000288	0.0012	2%
All infants	0.08	0.000219	0.0012	2%

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure and dietary exposure from drinking water, EPA has concluded that exposure to bromoxynil from food and water will utilize <1% of the cPAD for the U.S. population, <1% of the cPAD for all infants, and <1% of the cPAD for children 1–6 years old. There are no residential uses for bromoxynil that result in chronic residential exposure to bromoxynil. Therefore, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.— AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO BROMOXYNIL

Population Subgroup	cPAD (mg/kg)	Estimated Exposure from Food (mg/kg bw/day)	Estimated Exposure from Water (mg/kg/day)	% cPAD (Food and Water)
U.S. population	0.015	0.000015	0.0000014	<1%
Females 13+ years	0.015	0.000012	0.0000016	<1%
Children (1–6 years old)	0.015	0.000032	0.000005	<1%
All Infants	0.015	0.000036	0.000005	<1%

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Bromoxynil is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Bromoxynil is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population.* Using the exposure assumptions described in this unit for chronic/cancer exposure and dietary exposure from drinking water, EPA has concluded that exposure to bromoxynil from food and water resulted in an estimated aggregate cancer risk to the U.S. population of 1.7×10^{-6}. Bromoxynil is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate cancer risk is the sum of the risk from food and water only.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to bromoxynil residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate analytical methodology is available for data collection and tolerance enforcement for bromoxynil per se in plants. Method I in PAM, Vol. II, is a GLC/MCD that has undergone a successful EPA method validation on wheat grain. This method involves alkaline hydrolysis in methanolic KOH to convert residues to bromoxynil, cleanup by liquid-liquid partitioning, methylation using diazomethane, further cleanup on a Florisil column, and determination by GLC/MCD. Method Ia is the same method, but uses GC/ECD for determination of methylated bromoxynil.

Method A is a GC/MCD or ECD method for the analysis of bromoxynil residues in livestock tissues and is essentially the same as Method I. Method B is a GC/ECD method that is also similar to Method I, with modifications to the cleanup procedures.

B. International Residue Limits

There are no established or proposed Codex maximum residue levels for bromoxynil residues; no compatibility questions exist with respect to U.S. tolerances and Codex.

VI. Conclusion

Therefore, the tolerance is established for residues of bromoxynil, 3,5-dibromo-4-hydroxybenzonitrile, in or on timothy, hay at 0.50 ppm and timothy, forage at 0.10 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301163 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 13, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301163, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates

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Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

Because this rule has been exempted from review under Executive Order 11866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 28, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.324 is amended by adding text to paragraph (b) to read as follows:

§ 180.324 Bromoxynil, tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the insecticide bromoxynil, 3,5-dibromo-4-hydroxybenzonitrile in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the date specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Timothy, hay	0.50 ppm	6/30/03
Timothy, forage	0.10 ppm	6/30/03

* * * * *

[FR Doc. 01–22526 Filed 9–11–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301161; FRL–6797–5]

RIN 2070–AB78

Fludioxonil; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of fludioxonil (4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile) in or on pomegranates. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on pomegranates. This regulation establishes a maximum permissible level for residues of fludioxonil in this food commodity. The tolerance will expire and is revoked on June 30, 2003.

DATES: This regulation is effective September 12, 2001. Objections and requests for hearings, identified by docket control number OPP–301161, must be received by EPA on or before November 13, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301161 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367; and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301161. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide fludioxonil, (4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile), in or on pomegranates at 5.0 parts per million (ppm). This tolerance will expire and is revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable

certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Fludioxonil on Pomegranates and FFDCA Tolerances

Losses due to *Botrytis* have increased dramatically over the course of the last 2 years for pomegranate growers and packers. In the 1999 and 2000 packing seasons, growers and packers experienced approximately a 20% loss of fruit after packing for the fresh market due to *Botrytis* mold and had never experienced such frequency of decay before. Previously, they had been able to hold pomegranates for 2 to 3 months, but now have difficulties storing much beyond 2 to 3 weeks. EPA has authorized under FIFRA section 18 the use of fludioxonil on pomegranates for control of gray mold (*Botrytis cinerea*) in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fludioxonil in or on pomegranates. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on pomegranates after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether fludioxonil meets EPA's registration requirements for use on pomegranates or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of fludioxonil by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fludioxonil, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of fludioxonil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of fludioxonil in or on pomegranates at 5.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fludioxonil used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FLUDIOXONIL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13–50 years of age)	NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1.0 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 1.0 mg/kg/day	Developmental toxicity study - rat Developmental LOAEL = 1,000 mg/kg/day based on increased incidence of fetuses and litters with dilated renal pelvis and dilated ureter
Chronic dietary (all populations)	NOAEL = 3.3 mg/kg/day UF = 100 Chronic RfD = 0.03 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.03 mg/kg/day	1 Year chronic toxicity study - dog LOAEL = 35.5 mg/kg/day based on decreased weight gain in female dogs
Short-term dermal (1–7 days) (occupational/residential)	none	No systemic toxicity was seen at the limit dose (1,000 mg/kg/day) in the 28–day dermal toxicity study in rats. This risk assessment is not required.	Endpoint was not selected
Intermediate-term (1 week - several months) dermal (occupational/residential)	Oral study NOAEL= 64 mg/kg/day (dermal penetration = 40%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	13 Week Oral Feeding Study - rat Systemic LOAEL = 428 mg/kg/day based on decreased body weight gain in both sexes, chronic nephropathy in males, and centrilobular hepatocyte hypertrophy in females
Long-term (several months-lifetime) dermal (occupational/residential)	Oral study NOAEL = 3.3 mg/kg/day (dermal penetration = 40%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	1 Year chronic toxicity study - dog LOAEL = 35.5 mg/kg/day based on decreased weight gain in female dogs
Short-term (1–7 Days) inhalation (occupational/residential)	NOAEL = 64 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	13 Week Oral Feeding Study - rat Systemic LOAEL = 428 mg/kg/day based on decreased body weight gain in both sexes, chronic nephropathy in males, and centrilobular hepatocyte hypertrophy in females
Intermediate-term (1 week - several months) inhalation (occupational/residential)	NOAEL = 64 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	13 Week Oral Feeding Study - rat Systemic LOAEL = 428 mg/kg/day based on decreased body weight gain in both sexes, chronic nephropathy in males, and centrilobular hepatocyte hypertrophy in females
Long-term (several months-lifetime) inhalation (occupational/residential)	NOAEL = 3.3 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	1 Year chronic toxicity study - dog LOAEL = 35.5 mg/kg/day based on decreased weight gain in female dogs
Cancer (oral, dermal, inhalation)	"Group D"- not classifiable as to human carcinogenicity via relevant routes of exposure	Not applicable	Acceptable oral rat and mouse carcinogenicity studies; evidence of carcinogenic and mutagenic potential.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.516) for the residues of fludioxonil, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from fludioxonil in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food

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consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: For the acute DEEM™ analysis (version 7.72), published and proposed tolerances level residues were used. Default processing factors and 100% crop treated (CT) were assumed for all commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: For the chronic DEEM™ analysis (version 7.73), published and proposed tolerances level residues were used. Default processing factors and 100% CT were assumed for all commodities.

iii. *Cancer.* Fludioxonil has been put in "Group D"- not classifiable as to human carcinogenicity via relevant routes of exposure and therefore this risk assessment is not required.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for fludioxonil in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of fludioxonil.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to fludioxonil they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the EECs of fludioxonil for acute exposures are estimated to be 46 parts per billion (ppb) for surface water and 0.35 ppb for ground water. The EECs for chronic exposures are estimated to be 11 ppb for surface water and 0.35 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fludioxonil is not currently registered for residential (outdoor, non-food) uses, however, the registrant is seeking registration for the use of fludioxonil by commercial applicators on residential lawns. For adults, post-application exposures may result from dermal contact with treated turf. For toddlers, dermal and non-dietary oral post-application exposures may result from dermal contact with treated turf as well as hand-to-mouth transfer of residues from turfgrass.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether fludioxonil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fludioxonil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fludioxonil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *Safety factor for infants and children—*i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies.* In the rat developmental study, the maternal (systemic) NOAEL was 100 mg/kg/day, based on reduction in mean body weight gain in dams during gestation period at the LOAEL of 1,000 mg/kg/day. The developmental (fetal) NOAEL was 100 mg/kg/day, based on increased fetal and litter incidence of dilated renal pelvis and dilated ureter at the LOAEL of 1,000 mg/kg/day. In the rabbit developmental toxicity study, the maternal (systemic) NOAEL was 10 mg/kg/day, based on decreased body weight gains and food efficiency at the LOAEL of 100 mg/kg/day. The developmental (pup) NOAEL was 300 mg/kg/day, the highest dose tested.

iii. *Reproductive toxicity study.* In the 2–generation reproductive toxicity study in rats, the parental (systemic) NOAEL was 22.13 mg/kg/day (males).

and 24.24 mg/kg/day (females), based on clinical signs and decreased body weight, body weight gain and food consumption at the LOAEL of 221.6 mg/kg/day (males) and 249.7 mg/kg/day (females). The reproductive/ developmental (pup) NOAEL was 22.13 mg/kg/day (males) and 24.24 mg/kg/day (females), based on reduced pup weights at the LOAEL of 221.6 mg/kg/day (males) and 249.7 mg/kg/day (females).

iv. *Prenatal and postnatal sensitivity.* The toxicological data base for evaluating prenatal and postnatal toxicity for fludioxonil is complete with respect to current data requirements. There are no prenatal or postnatal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2–generation rat reproductive toxicity study.

v. *Conclusion.* EPA concludes that reliable data support the removal of the additional uncertainty factor; the standard hundred-fold uncertainty factor is adequate to protect the safety of infants and children.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to fludioxonil in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of fludioxonil on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Because the acute endpoint applies to one population subgroup, females (13–50 years old), the acute risk assessment was conducted only for this group. An acute dose and endpoint were not selected for the U.S. population (including infants and children) because there were no effects of concern observed in oral toxicology studies, including maternal toxicity in the developmental toxicity studies in rats and rabbits, that are attributable to a single exposure (dose).

Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to fludioxonil will occupy 0.7% of the aPAD for females (13–50 years old). In addition, despite the potential for acute dietary exposure to fludioxonil in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of fludioxonil in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO FLUDIOXONIL

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females (13–50 years old)	1.0	0.7	46	0.35	30,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fludioxonil from food will utilize 5.5% of the cPAD for the U.S. population, 22% of the cPAD for all infants <1 year old) and 14% of the cPAD for children 1 to 6 years old. Based on the use pattern, chronic residential exposure to residues of fludioxonil is not expected. In addition, despite the potential for chronic dietary exposure to fludioxonil in drinking water, after calculating DWLOCs and comparing them to conservative model of EECs fludioxonil in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUDIOXONIL

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.03	5.5	11	0.35	990
All infants (<1 year old)	0.03	22	11	0.35	230
Children (1 to 6 years old)	0.03	14	11	0.35	260

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUDIOXONIL—Continued

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Children (7 to 12 years old)	0.03	8.2	11	0.35	280
Females (13–50 years old)	0.03	3.8	11	0.35	870
Males (13–19 years old)	0.03	3.2	11	0.35	1,000
Males (20+ years old)	0.03	3.5	11	0.35	1,000
Seniors (55+ years old)	0.03	5.1	11	0.35	1,000

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fludioxonil is not currently registered for residential (outdoor, non-food) uses, however, the registrant is seeking registration for the use of fludioxonil by commercial applicators on residential lawns. For adults, post-application exposures may result from dermal contact with treated turf. For toddlers, dermal and non-dietary oral post-application exposures may result from dermal contact with treated turf as well as hand-to-mouth transfer of residues from turfgrass.

For the U.S. population and all infants (<1 year old) population subgroups, the total food and residential short-term aggregate MOEs are 1,900 and 995, respectively. As these values are greater than 100, the short-term food and residential aggregate risks for the U.S. population and all infants (<1 year old) population subgroups are below the Agency's level of concern. Because the all infants (<1 year old) population subgroup has the highest exposure to fludioxonil residues from dietary sources, including all infants (<1 year old) is adequately protective of the children 1–6 and 7–12 years old population subgroups.

In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of fludioxonil in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO FLUDIOXONIL

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. population	1,900	100	11	0.35	21,000
All infants (<1 year old)	995	100	11	0.35	5,800

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Though residential exposure could occur with the use of fludioxonil, no residential exposure scenarios for fludioxonil are expected to have intermediate-term durations. Therefore, an intermediate-term aggregate risk assessment is not required.

5. *Aggregate cancer risk for U.S. population.* Fludioxonil has been put in "Group D"- not classifiable as to human carcinogenicity via relevant routes of exposure and therefore this risk assessment is not required.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fludioxonil residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example - gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRLs) for fludioxonil on pomegranates.

VI. Conclusion

Therefore, the tolerance is established for residues of fludioxonil, (4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile), in or on pomegranates at 5.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301161 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 13, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301161, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the [tolerance/exemption] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of

power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule."

Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 14, 2001.

Peter Caulkins, Acting

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.516 is amended by alphabetically adding the following commodity to the table in paragraph (b) to read as follows:

§ 180.516 Fludioxonil; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Pomegranate	5.0	6/30/03

* * * * *

[FR Doc. 01–22524 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 422

[CMS–1160–F]

RIN 0938–AK41

Medicare Program; Requirements for the Recredentialing of Medicare+Choice Organization Providers

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule changes the requirement for recredentialing providers who are physicians or other health care professionals for Medicare+Choice Organizations (M+COs) from at least every 2 years to at least every 3 years. This change is consistent with managed care industry recognized standards of practice and quality, and with standards already adopted by nationally recognized private quality assurance accrediting organizations. This change simplifies administrative requirements by retaining consistency with the private accrediting processes. This rule benefits M+COs and providers within the M+COs who must be recredentialed, while continuing to address quality issues of Medicare beneficiaries.

DATES: The effective date of this rule is October 12, 2001.

FOR FURTHER INFORMATION CONTACT: Siera Gollan, (410) 786–6664.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1851 through 1859 of the Social Security Act (the Act) established Part C of the Medicare program, known as the "Medicare+Choice (M+C) Program." On June 26, 1998, we published a comprehensive interim final rule (63 FR 34968) in the **Federal Register** to implement the M+C Program. That interim final rule set forth the M+C regulations in 42 CFR Part 422—Medicare+Choice Program. We published a subsequent final rule with comment period in the **Federal Register** on June 29, 2000 (65 FR 40170).

When these rules were promulgated, we established a 2-year recredentialing cycle consistent with standards adopted by nationally recognized private quality assurance accrediting organizations. Under § 422.204(b)(2)(ii), Medicare+Choice Organizations (M+COs) are required to recredential providers who are physicians or other health care professionals (including members of physicians groups) at least every 2 years. The recredentialing updates information obtained during initial credentialing, considers performance indicators such as those collected through quality assurance programs, utilization management systems, handling of grievances and appeals, enrollment satisfaction surveys, and other plan activities, and includes an attestation of the correctness and completeness of the new information.

Since the promulgation of these M+C rules, however, the nationally recognized private quality assurance accrediting organizations' standards for recredentialing have changed to a 3-year cycle. Therefore, our regulations are no longer consistent with standards adopted by these organizations. We believe that the change in the standards for recredentialing from a 2-year cycle to a 3-year cycle is appropriate because it lessens the administrative burdens on M+COs and their providers without negatively affecting Medicare beneficiaries or the Medicare program.

On December 27, 2000, we published a proposed rule in the **Federal Register** (65 FR 81813) proposing to change the requirement for the recredentialing of providers who are physicians or other health care professionals for M+COs in § 422.204(b)(2)(ii) from at least a 2-year cycle to at least a 3-year cycle. The proposed change to the regulation still allowed for M+COs to recredential their providers on a 2-year cycle if they wished to do so.

II. Analysis of, and Responses to, Public Comments on the Proposed Rule

We received 8 timely comments in response to the December 27, 2000 proposed rule. The majority of the comments were from health plans and credentials verification organizations. We reviewed each commenter's letter and grouped like or related comments. Some comments were identical, indicating that the commenters had submitted form letters. The comments and our responses are summarized below.

A. Change the Recredentialing Requirement From at Least Every 2 Years to at Least Every 3 Years

Comment: The majority of commenters expressed their support of changing the recredentialing cycle for M+COs from at least every 2 years to at least every 3 years. They stated that the change will decrease administrative costs and result in consistency with private accrediting organizations, while at the same time maintaining the level of quality necessary to adequately protect Medicare beneficiaries.

Response: We appreciate the support of these commenters. This change will make our regulations consistent with the recredentialing standards adopted by nationally recognized private quality assurance accrediting organizations. We agree that it will lessen the administrative burdens on M+COs and their providers without negatively affecting Medicare beneficiaries or the Medicare program.

Comment: One commenter pointed out that the proposed rule modified § 422.204(b)(2)(ii) by omitting several words in the explanation of the purpose of recredentialing. The commenter agreed with the move from at least every 2 years to at least every 3 years, but suggested that the final rule otherwise retain the existing regulatory language.

Response: Our purpose for making minor editorial changes to the language was not to change the intent of the rule, but to make the language clearer. The recredentialing process does the following:

- Updates information obtained during initial credentialing.
- Considers performance indicators such as those collected through quality assurance programs, utilization management systems, handling of grievances and appeals, enrollee satisfaction surveys, and other plan activities.
- Includes an attestation of the correctness and completeness of the new information.

We understand the commenter's concern with the regulations text in the proposed rule and we have changed the text in this final rule to more accurately distinguish between the three components of recredentialing above.

Comment: Several commenters, representing credentials verification organizations (CVOs), expressed concern about moving from a 2-year to a 3-year recredentialing cycle. These commenters cited risk management issues, such as protecting their patients from harm, on the part of the M+COs.

These commenters also stated that timely and thorough recredentialing practices ensure quality health care, while reducing the risk to health plans and reducing the probability of medical errors and substandard care. They stated that there is no definitive research showing that moving to a 3-year cycle is in the best interest of the public (pointing out that of the 32 states that require recredentialing, 12 require recredentialing every 2 years while only eight require it every 3 years), and they believe that most M+COs will choose to implement the 3-year recredentialing cycle, even though we allow them to accept a more stringent standard.

Response: The M+CO must assess any possible risks, including risk management issues, of implementing any standards in their own organizations. Since the regulation still allows for more frequent recredentialing of providers, it is the decision of the M+CO whether to implement the 3-year recredentialing cycle. We believe that, as a national policy, risk management will not be negatively effected by a 3-year recredentialing cycle.

We agree that timely and thorough recredentialing is necessary to ensure quality health care, reduce risk to health plans and members, and reduce the probability of medical errors and substandard care. However, we agree with the nationally recognized private quality assurance accrediting organizations who have determined that these factors are not compromised by moving from a 2-year recredentialing cycle to a 3-year recredentialing cycle. If a State law requires a more stringent recredentialing cycle for M+CO providers, the State law supercedes our 3-year requirement.

B. Miscellaneous Comments

Comment: Several commenters expressed the need for a form of interim monitoring of providers credentials including licensure, querying the National Practitioner Data Bank (NPDB), and sanction activity.

Response: We currently require interim monitoring in several ways. We require that all M+CO's monitor the Medicare and Medicaid sanction list published by the Office of the Inspector General as frequently as that list is published (monthly). We also require resolution and documentation of any member complaint or grievance. The M+CO is also prohibited from contracting with providers who opt out of Medicare. In addition to accessing the NPDB, M+COs are encouraged to query the Healthcare Integrity and Protection Data Bank (HIPDB). M+COs are also permitted to establish their own interim monitoring procedures, in order to ensure that unqualified providers are not providing care to Medicare beneficiaries.

Comment: One commenter suggested that we try to simplify and standardize credentialing requirements. The commenter suggested establishing a centralized credentialing provider databank and "perpetual" verifications, outside of the NPDB.

Response: Although this request is outside the scope of this regulation, we, in conjunction with other organizations, are in the process of exploring the possibility of having a centralized data bank for provider credentials.

Comment: One commenter suggested that we align our credentialing standards with those of the National Committee for Quality Assurance (NCQA). This commenter believes that a meaningful reduction in administrative burden is dependent upon comprehensive standardization. This commenter also believed that aligning

standards with the NCQA standards would not compromise the rigorous standards currently required through the Quality Improvement System for Managed Care standards. Another commenter suggested that we accept a form of provisional credentialing to remain consistent with NCQA.

Response: Although this request is not directly related to this regulation, we are currently re-examining all of our standards related to provider credentialing. We are assessing standards that are implemented by private accrediting organizations and evaluating the applicability of those standards to the Medicare program.

III. Provisions of This Final Regulation

This final rule incorporates the 3-year recredentialing cycle of the proposed rule. As discussed in section II of this preamble, we believe the requirement of a 3-year recredentialing cycle for providers who are physicians or other health care professionals for M+COs is consistent with industry standards and continues to ensure high quality care for Medicare beneficiaries.

We have made a minor editorial change to the language describing what recredentialing includes, but have not changed the substance or the intent of this language from the current regulation or the proposed rule.

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements:

Section 422.204 (Provider selection and credentialing) requires recredentialing at least every 3 years that updates information obtained during initial credentialing, considers performance indicators such as those collected through quality assurance programs, utilization management systems, handling of grievances and appeals, enrollee satisfaction surveys, and other plan activities, and includes an attestation of the correctness and completeness of the new information. While the criteria and timing of the recredentialing process is currently approved under OMB control number 0938–0753, the general recredentialing criteria of every 2 years is being revised to every 3 years.

If you comment on the information collection and recordkeeping requirements, please mail copies directly to the following:

Centers for Medicare & Medicaid Services, Office of Information Services, Information Technology Investment Management Group, Attn.: John Burke, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, CMS Desk Officer.

V. Regulatory Impact Statement

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980 Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($110 million or more in any 1 year). This rule is not a major rule, as there are no additional costs to implement the one change that results from this final rule. Since the rule changes the recredentialing requirement from a 2-year to a 3-year cycle, it decreases administrative costs for the health plan and the providers within the health plan.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals (and most other providers and suppliers) are small entities, either by nonprofit status or by having revenues of $5 million to $25 million or less annually (see 66 FR 69432). For purposes of the RFA, some M+COs are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. This rule will not have an effect on State, local, or tribal governments, nor will the rule meet the $100 million threshold.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This rule does not impose any direct requirement costs on State or local governments.

B. Anticipated Effects

1. Effects on M+COs

The effect on M+COs will be to lessen the mandated recredentialing requirements to at least once every 3 years rather than the current requirement of at least once every 2 years. If the rule is not promulgated, Medicare M+COs would be required to recredential on a schedule that is different and more demanding for Medicare contractors than private contractors, adding an administrative complexity and cost without benefit. M+COs can maintain recredentialing more often at their option; this change simply addresses consistency with standards of private accreditation agencies.

2. Effects on Other Providers

Effects on other providers are limited, except that providers in M+COs will not be required to provide credentialing material at a greater frequency than they are required to provide it by the private accreditation agencies and the M+COs' individual corporate requirements.

3. Effects on the Medicare and Medicaid Programs

This rule makes no change to the Medicaid program. The rule simplifies the recredentialing mandated cycle for consistency with the private accreditation processes for Medicare M+COs. If the rule is not promulgated, a cycle inconsistent with the private accreditation organizations will require private accreditation organizations to change their cycle in order to be deemed for Medicare and require M+COs and their providers to undergo an additional administrative cost and process without identified benefit to Medicare beneficiaries or the Medicare program.

C. Alternatives Considered

The only other alternative would be to leave the regulation unchanged. To meet our goal to be consistent, when appropriate, with the standards of the private accreditation organizations, we decided that the change is necessary.

D. Conclusion

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule does not have a significant economic impact on a substantial number of small entities, or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects Affected in 42 CFR Part 422

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Medicare+Choice, Penalties, Privacy, Provider-sponsored organizations (PSO), Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR chapter IV is amended as follows:

PART 422—MEDICARE+CHOICE PROGRAM

1. The authority citation for part 422 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Revise § 422.204(b)(2)(ii) to read as follows:

§ 422.204 Provider selection and credentialing.

* * * * *

(b) * * *

(2) * * *

(ii) Recredentialing at least every 3 years that updates information obtained during initial credentialing, considers performance indicators such as those collected through quality assurance programs, utilization management systems, handling of grievances and appeals, enrollee satisfaction surveys, and other plan activities, and that includes an attestation of the correctness and completeness of the new information; and

* * * * *

Authority: Secs. 1102, 1851 through 1857, 1859, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395w–21 through 1395w–27, and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 7, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: September 7, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–22915 Filed 9–11–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2055; MM Docket No. 01–89; RM–10094]

Television Broadcasting Services; Decatur, Plano, TX.

AGENCY: Federal Communications Commission.

ACTION: Final rule, dismissal.

SUMMARY: The Commission dismisses a petition for rule making filed by Word of God Fellowship, Inc. ("petitioner"), requesting the reallotment of Television Channel 29 from Decatur to Plano, Texas as the community's first local transmission service. Petitioner filed no comments in response to the Notice of Proposed Rulemaking.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–89 adopted August 22, 2001 and released August 31, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22834 Filed 9–11–01; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1041–02; I.D. 111500C]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 2001 Summer Flounder, Scup, and Black Sea Bass Commercial Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota adjustment; correction.

SUMMARY: NMFS publishes corrected adjustments to the 2001 commercial quotas for summer flounder, scup, and black sea bass. This action is necessary to comply with the regulations that implement the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which specify that any summer flounder landings in excess of or less than a given state's individual 2000 commercial quota be deducted from or added to that state's quota for 2001. For scup and black sea bass, the FMP specifies that landings in excess of a quota for a given period or quarter be deducted from the quota for the same period or quarter in the following year. The intent of this

action is to use the most accurate landings data to make adjustments to a state's annual quota and to correct errors in previous quota adjustments to provide fishermen the opportunity to harvest the quota available without harvesting fish in excess of the quota and requiring reduced catches in future quotas.

DATES: Effective September 7, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fisheries Policy Analyst, (978) 281–9273, fax (978) 281–9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

At 66 FR 12902, March 1, 2001, and at 66 FR 16151, March 23, 2001, NMFS published final specifications for the 2001 scup and black sea bass; and summer flounder, fisheries, respectively, which included preliminary 2000 landings and 2001 quota adjustments. Further adjustments are made to the 2001 quotas through this notification, to account for audited 2000 summer flounder, scup, and black sea bass landings data from the states and for inadvertent errors in the preliminary 2000 quota adjustments.

Summer Flounder

The 2000 quota, reported 2000 landings, and the resulting 2000 overages and underages for all states for summer flounder are given in corrected summer flounder Table 2 in this document. The following states recorded 2000 landings of summer flounder that differ from those reported in the March 23, 2001, final rule, by the following amounts: MA, -1,506 lb (683 kg); RI, +9,310 lb (4,223 kg); CT, +5,520 lb (2,504 kg); NY, -37,048 lb (16,805 kg); NJ, -305,513 lb (138,578 kg); MD, -9,456 lb (4,289 kg); and VA, -19,477 lb (8,835 kg). While the State of NC reported additional landings, this action makes no quota adjustments because it is forbidden by a Court Order (*North Carolina Fisheries Association* v.*Evans*, July 30, 2001).

The resulting corrected and adjusted 2001 commercial quota for each state is given in corrected summer flounder Table 3 of this document.

Scup

The 2000 quotas (by period), reported 2000 landings (by period) and resulting overages for scup for all periods are given in corrected scup Table 2 of this document. Changes in 2000 landings from those reported in the March 1, 2001, final rule are as follows: Winter I, +17,661 lb (8,011 kg); Summer, +19,029 lb (8,631 kg); and Winter II, -357 lb (162 kg). This information resulted in total overages and resulting decreases to the 2001 Winter I and Summer quotas by 346,999 lb (157,396 kg) and 602,340 lb (273, 217 kg), respectively.

The resulting adjusted 2001 quota for each period is given in corrected scup Table 3 of this document.

Black Sea Bass

The 2000 quotas (by quarter), reported 2000 landings (by quarter) and resulting overages for black sea bass for all quarters are given in corrected black sea bass Table 5 of this document. Changes in 2000 landings from those reported in the March 1, 2001, final rule are as follows: Quarter 1, -555 lb (252 kg); Quarter 2, +33,577 lb (15,230 kg); Quarter 3, -35,027 lb (15,888 kg); and Quarter 4, -58,292 lb (26,441 kg). This information resulted in total overages and resulting decreases to the 2001 Quarter 2, 3, and 4 quotas by 239,098 lb (108,453 kg), 61,049 lb (27,691 kg), and 22,760 lb (10,324 kg), respectively.

The resulting adjusted 2001 quota for each quarter is given in corrected black sea bass Table 6 of this document.

Corrections

1. In the document published at 66 FR 16151, March 23, 2001, the following corrections are made:

On page 16153, Tables 2 and 3 are revised in their entirety as follows:

TABLE 2. SUMMER FLOUNDER PRELIMINARY 2000 LANDINGS BY STATE

State	2000 Quota[1]		Preliminary 2000 landings		2000 Overages and Underages[3]	
	lb	kg[2]	lb	kg[2]	lb	kg[2]
ME	3,956	1,794	6,922	3,140	2,966	1,345
NH	51	23	0	0	(51)[3]	(23)[3]
MA	703,136	318,937	788,998	357,883	85,862	38,946
RI	1,742,566	790,415	1,703,593	772,737	(38,973)[3]	(17,678)[3]
CT	244,085	110,715	245,148	111,197	(1,063)	(482)
NY	849,672	385,405	836,936	379,628	(12,736)[3]	(5,777)[3]
NJ	1,794,299	813,880	1,848,119	838,293	53,820	24,412
DE	(31,303)[4]	(14,199)[4]	12,317	5,587	43,620	19,786
MD	226,568	102,770	251,751	114,192	25,183	11,423
VA	2,293,410	1,040,273	2,206,715	1,000,949	(86,695)[3]	(39,324)[3]
NC	3,049,560	1,383,257	3,347,841[5]	1,518,555	298,281	135,298
Total	10,876,000	4,933,271	11,248,340	5,102,161		

[1]Reflects quotas as published on December 29, 2000 (65 FR 82945).
[2]Kilograms as converted from pounds and may not add to the converted total due to rounding.
[3]Numbers in parentheses are underages.
[4]Parentheses indicate a negative number.
[5]State of NC reports that 3,386,578 lb were landed; further quota adjustment forbidden by Court Order

TABLE 3. SUMMER FLOUNDER FINAL 2001 ADJUSTED QUOTAS

State	20001 Initial quota		2001 Adjusted quota	
	lb	kg[1]	lb	kg[1]
ME	5,112	2,319	2,146	973
NH	49	22	100	45
MA	733,031	332,497	647,169	293,551
RI	1,685,534	764,545	1,724,507	782,223

TABLE 3. SUMMER FLOUNDER FINAL 2001 ADJUSTED QUOTAS—Continued

State	20001 Initial quota		2001 Adjusted quota	
	lb	kg[1]	lb	kg[1]
CT	242,580	110,032	241,517	109,550
NY	821,863	372,791	834, 599	378,568
NJ	1,797,524	815,343	1,743,704	790,931
DE	1,912	867	(41,708)	(18,918)
MD	219,153	99,406	193,970	87,983
VA	2,291,026	1,039,192	2,377,721	1,078,516
NC	2,949,751	1,337,985	2,651,470	1,202,687
Total[2]	10,747,535	4,875,000	10,416,903	4,725,028

Note: Parentheses indicate a negative number.
[1]Kilograms are as converted from pounds and may not add to the converted total due to rounding.
[2]Total adjusted quota accounts for DE as zero.

2. In the document published at 66 FR 12902, March 1, 2001, the following corrections are made:

On pages 12904, 12905, and 12906, Tables 2, 3, 5, and 6 are revised in their entirety as follows:

TABLE 2. SCUP PRELIMINARY 2000 LANDINGS BY PERIOD

Period	2000 Quota[1]		2000 Landings		2000 Overage	
	lb	kg[2]	lb	kg[2]	lb	kg[2]
Winter I	1,037,253	470,490	1,384,252	627,886	346,999	157,396
Summer	637,878	289,337	1,240,218	562,553	602,340	273,217
Winter II	70,356	31,913	34,582	15,686	0	0
Total	1,745,487	791,740	2,659,052	1,206,126	949,339	430,613

[1]Reflects quotas as published on August 18, 2000 (65 FR 50463).
[2]Kilograms are as converted from pounds and may not add to the converted total due to rounding.

TABLE 3. SCUP FINAL 2001 ADJUSTED QUOTAS

Period	2000 Initial Quota		2000 Adjusted quota[1]	
	lb	kg[2]	lb	kg[2]
Winter I	2,004,959	909,434	1,675,960	752,038
Summer	1,731,172	785,246	1,128,832	512,030
Winter II	708,469	321,356	708,469	321,356
Total	4,444,600	2,016,037	3,495,261	1,585,424

[1]Possession limits specified in Table 1.
[2]Kilograms are as converted from pounds and may not add to the converted total due to rounding.

* * * * *

TABLE 5. BLACK SEA BASS PRELIMINARY 2000 LANDINGS BY QUARTER

Period	2000 Quota		2000 Landings		2000 Overage	
	lb	kg[1]	lb	kg[1]	lb	kg[1]
1	1,168,760	530,141	847,463	384,403	0	0
2	734,088	332,982	973,186	441,430	239,098	108,453
3	238,795	108,317	299,844	136,007	61,049	27,691
4	490,038	222,281	512,798	232,601	22,760	10,324
Total	2,631,681	1,193,721	2,633,291	1,194,441	322,907	146,468

[1]Kilograms are as converted from pounds and may not add to the converted total due to rounding.

TABLE 6. BLACK SEA BASS FINAL 2001 ADJUSTED QUOTAS

Period	2001 Initial quota		2001 Adjusted quota[1]	
	lb	kg[2]	lb	kg[2]
1	1,168,760	530,141	1,168,760	530,141

TABLE 6. BLACK SEA BASS FINAL 2001 ADJUSTED QUOTAS—Continued

Period	2001 Initial quota		2001 Adjusted quota[1]	
	lb	kg[2]	lb	kg[2]
2	885,040	401,447	645,942	292,994
3	372,951	169,168	311,902	141,476
4	597,991	271,244	575,231	260,920
Total	3,024,742	1,372,000	2,701,835	1,225,532

[1] Trip limits specified in Table 4.
[2] Kilograms are as converted from pounds and may not add to the converted total due to rounding.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 7 , 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22920 Filed 9–7–01; 3:17 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010510121–1210–02; I.D. 012601B]

RIN 0648–AN23

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Definition of Length Overall of a Vessel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to clarify the definition of length overall (LOA) of a vessel for the purposes of the regulations governing the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska. The action is intended to clarify the existing definition of LOA and thus prevent any misunderstanding or equivocation by vessel owners in determining a vessel's LOA. Also, the action is intended to further the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

DATES: Effective October 12, 2001.

ADDRESSES: Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and supplemental Final Regulatory Flexibility Analysis (FRFA) are available from the Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the EEZ off Alaska are managed by NMFS under the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the Alaska groundfish fisheries appear at 50 CFR parts 600 and 679.

This final rule clarifies the definition of vessel LOA by removing the definitions of stem and stern, revising the definition of LOA at 50 CFR 679.2 to include bulwarks explicitly, and adding a definition for bulwarks. Further information on this action may be found in the preamble to the proposed rule published at 66 FR 28883, May 25, 2001. The proposed rule invited public comment on this action through June 25, 2001. No comments were received on the proposed rule.

The final rule makes one change to the proposed rule. The proposed rule would have added to the regulations a definition of "bulwark" to read as follows: "Bulwark means a section of a vessel's side, continued above the main deck as a protection against heavy weather." This final rule revises that definition to delete the phrase "as a protection against heavy weather." That phrase is merely descriptive, not essential to defining a bulwark, and, as such, is inappropriate for the regulatory definition.

Explanation of Rounding Conventions

The following conventions will be used when rounding the LOA to the nearest foot:

(1) When the amount exceeding a whole foot measurement is less than 6 inches (15.2 cm), the LOA would be equal to that whole foot measurement. For example, if the horizontal distance of a vessel is 124 ft, 5–3/4 inches (37.9 m), the LOA of the vessel would be 124 ft (37.8 m).

(2) When the amount exceeding a whole foot measurement is greater than 6 inches (15.2 cm), the LOA would be equal to the next whole foot measurement. For example, if the horizontal distance of a vessel is 124 ft, 6–1/8 inches (38.0 m), the LOA of the vessel would be 125 ft (38.1 m).

(3) When the amount exceeding a whole foot measurement is exactly 6 inches (15.2 cm), the LOA would be equal to that whole foot measurement if the number is even; however, if the number is odd, the LOA would be equal to the next whole foot measurement. For example, if the horizontal distance of a vessel is 124 ft, 6 inches (37.9 m), the LOA of the vessel would be 124 ft (37.8 m), but, if the horizontal distance of the vessel is 59 ft, 6 inches (18.1 m), the LOA of the vessel would be 60 ft (18.3 m).

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a supplemental FRFA that analyzes the potential impact of this action on small entities for purposes of the Regulatory Flexibility Act (RFA). NMFS considered the status quo or "no action" alternative of retaining the present definition of LOA without change. However, this was rejected in order to define LOA unambiguously and provide clear and certain regulatory guidance for measuring LOA of fishing vessels operating in the EEZ off Alaska. While this action is intended simply to clarify the existing definition of LOA and thus prevent any misunderstanding or equivocation by vessel owners in determining a vessel's LOA, some vessels currently operating in the EEZ off Alaska under Federal Fisheries Permits may find their registered LOAs to be inconsistent with the regulatory definition of LOA. At present, approximately 1,613 vessels are registered to operate in the EEZ off Alaska under Federal Fisheries Permits. NMFS has taken steps to mitigate the impact of this action on small entities by not requiring vessel owners to determine whether their registered LOAs are consistent with the revised definition. Nevertheless, some of the 1,613 vessels currently operating in the EEZ off Alaska under Federal Fisheries Permits may find their registered LOAs to be inconsistent with the regulatory definition of LOA. Vessels failing to have correct LOA measurements may incur costs associated with remeasuring their LOA. Unfortunately, at this time, NMFS has insufficient data to assess the actual number of such vessels affected in this manner, but it believes most LOAs are accurate.

However, vessels that are near observer coverage thresholds (125 ft (38.1 m) or 60 ft (18.3 m), as applicable) may incur considerable cost if it is determined that their LOA is incorrect and if a higher level of observer coverage would be required. Approximately 38 vessels with recorded LOA measurements of 122 ft (37.2 m), 123 ft (37.5 m), and 124 ft (37.8 m), may be subject to more stringent observer requirements if their LOAs are actually 125 ft (38.1 m), or greater. Approximately 156 vessels with LOA measurements of 57 ft (17.4 m), 58 ft (17.7 m), and 59 ft (18.0 m) may be subject to more stringent observer requirements if their LOAs are actually 60 ft (18.3 m) or greater. Such vessels could incur costs of $300/day for an observer.

The FRFA provides some evidence that bulwarks are typically included in measurements of LOA by marine surveyors.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: September 5, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U.S.C. 1540(f).

2. In § 679.2, the definition for "Bulwark" is added in alphabetical order, the definition for "Length overall of a vessel" is revised; and the definitions for "Stem" and "Stern" are removed as follows:

§ 679.2 Definitions.

* * * * *

Bulwark means a section of a vessel's side continuing above the main deck.

* * * * *

Length overall (LOA) of a vessel means the centerline longitudinal distance, rounded to the nearest foot, measured between:

(1) The outside foremost part of the vessel visible above the waterline, including bulwarks, but excluding bowsprits and similar fittings or attachments, and

(2) The outside aftermost part of the vessel visible above the waterline, including bulwarks, but excluding rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 to this part).

* * * * *

[FR Doc. 01–22807 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 090701A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock In Statistical Area 610 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the pollock total allowable catch (TAC) for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 7, 2001, until 1200 hrs, A.l.t., October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Within any fishing year, under harvest or over harvest of a seasonal allowance of pollock may be added to or subtracted from the subsequent seasonal allowances of pollock in a manner to be determined by the Administrator, Alaska Region, NMFS (Regional Administrator), provided that a revised seasonal allowance does not exceed 30 percent of the annual TAC apportionment (§ 679.20(A)(5)(ii)(C)). The combined A, B, and C season allowance of the pollock TAC in Statistical Area 610 is 22,559 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001). The Regional Administrator has determined that the A and B seasonal catch was in excess of the allowances by 170 mt and that the excess shall be proportionately subtracted from the subsequent seasonal allowances. The Regional Administrator hereby reduces the C season pollock TAC by 93 mt. In accordance with § 679.20(a)(5)(ii)(C), the C season allowance of pollock TAC in Statistical Area 610 is 10,905 mt.

In accordance with § 679.20(d)(1)(i), the Regional Administrator, has determined that the C season allowance of the pollock TAC in Statistical Area 610 will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,705 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the seasonal allocation of pollock in Statistical Area 610 constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would

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be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the seasonal allocation of pollock in Statistical Area 610 constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553 (d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 7, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22904 Filed 9–7–01; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 090701B]

Fisheries of the Exclusive Economic Zone Off Alaska; Trawling in Steller Sea Lion Protection Areas in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting trawling within Steller sea lion protection areas in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the B season critical habitat limit of the 2001 total allowable catch (TAC) of Atka mackerel allocated to the Central Aleutian District.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 9, 2001, through 2400 hrs. A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2001 B season apportionment of TAC for Atka mackerel in the Central Aleutian District is 15,540 metric tons (mt), of which no more than 7,148 mt may be harvested from Steller Sea lion protection areas (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001). See §§ 679.20 (a)(8)(ii)(A) and 679.22 (a)(12)(iii)(B).

In accordance with § 679.22 (a)(12)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the allowable harvest of Atka mackerel in the Steller Sea lion protection areas in the Central Aleutian District has been reached. Consequently, NMFS is prohibiting trawling in selected rookery and haul out sites, as defined at Table 21 of 50 CFR 679.22 and described at 50 CFR 679.22 (a)(12)(iii)(A) in the Central Aleutian District of the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2001 Atka mackerel critical habitat limit in the Central Aleutian District of the BSAI constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 Atka mackerel critical habitat limit in the Central Aleutian District of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553 (d), a delay in the effective date is hereby waived.

This action is required by §§ 679.20 and 679.22 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 7, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22903 Filed 9–7–01; 3:17 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 177
Wednesday, September 12, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 249–0290b; FRL–7046–1]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Bay Area Air Quality Management District (BAAQMD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from adhesives and sealants and from other solvent containing materials. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by October 12, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (Air-4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: BAAQMD 8–51 and SCAQMD 443.1. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 3, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–22737 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2; Docket No. NJ46–226, FRL–7055–6]

Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans and Transportation Conformity Budgets for 2002, 2005 and 2007

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a New Jersey State Implementation Plan (SIP) revision involving the State's 1-hour Ozone Plan which is intended to meet several Clean Air Act requirements including the separate requirement for enforceable commitments for the 1-hour ozone attainment demonstration. Specifically, EPA is proposing approval of the: 1996 periodic emission inventory; 2002, 2005 and 2007 ozone projection year emission inventories; Reasonable Further Progress Plans for milestone years 2002, 2005 and 2007; transportation conformity budgets for 2002, 2005 and 2007; and contingency measures. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the 1-hour national ambient air quality standard for ozone.

DATES: Comments must be received on or before October 12, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New Jersey submittals and EPA's Technical Support Document are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan concerning general questions or RFP Plans and Demian Ellis concerning emission inventories, both of the Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

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I. Overview

A. What Action Is EPA Taking Today?

On April 11, 2001, New Jersey submitted a revision to its 1-hour ozone SIP which addressed several Clean Air Act (Act) requirements. After reviewing this submittal compared to EPA policy and guidance, EPA is proposing approval of this submittal which includes: the 1996 periodic emission inventory; 2002, 2005 and 2007 ozone projection year emission inventories; Reasonable Further Progress (RFP) Plans for milestone years 2002, 2005 and 2007; transportation conformity budgets for 2002, 2005 and 2007; and contingency measures. This submittal applies to the New Jersey portions of two severe ozone nonattainment areas—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For purposes of this action these areas will be referred to as, respectively, the Northern New Jersey ozone nonattainment area (NAA) and the Trenton ozone NAA. The counties located within the Northern New Jersey NAA are: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union. The counties within the Trenton NAA are: Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem.

This SIP revision is intended to fulfill the Act's three percent per-annum reasonable further progress (RFP) plan requirement. It also includes: ozone projection year emission inventories, contingency measures and transportation conformity budgets and fulfills the periodic emission inventory requirement for 1996.

B. What Is Required by the Clean Air Act and How Does it Apply to New Jersey?

Section 182 of the Act specifies the required State Implementation Plan (SIP) submissions and requirements for areas designated nonattainment for the 1-hour ozone standard and when the states must make these submissions to EPA. EPA has issued the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) describing in detail EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal.

New Jersey has four ozone nonattainment areas (NAAs). These areas are the Allentown-Bethlehem Easton Area (Warren County), Atlantic City Area, the Trenton Area, and the Northern New Jersey Area. For the Atlantic City and Allentown-Bethlehem Easton areas, the most recent three years of data continue to demonstrate attainment of the 1-hour ozone standard and, therefore, RFP Plans are not necessary. As for the Northern New Jersey and Trenton NAAs, which are classified as severe ozone nonattainment areas, the most recent three years of data, while showing improved air quality, continues to show nonattainment. The primary focus of this **Federal Register** action is the Northern New Jersey and Trenton NAAs. Additional details of EPA's review are included in the Technical Support Document.

II. Emission Inventories

A. What Is Contained in New Jersey's 1996 Periodic Emission Inventory?

New Jersey developed a 1996 actual inventory consisting of point, area, on-road mobile, nonroad mobile, and biogenic source emissions. The point source inventory was based on data from New Jersey's annual Emission Statement Program which requires sources (which have the potential to emit greater than 10 tons per year of volatile organic compounds (VOCs) or 25 tons of oxides of nitrogen (NO_X)) to report actual emissions. The area source inventory was based on the latest factors and methodologies recommended by EPA. The on-road mobile source inventory was developed using data on vehicle miles traveled provided by the Metropolitan Planning Organizations in conjunction with emission factors generated using EPA's MOBILE5 emissions model for the eight on-road vehicle classes. Vehicle registration data for 1996 was used in the modeling. The nonroad mobile source inventory was developed using EPA's draft NONROAD model to generate emissions for the nonroad engines and equipment category; landing and takeoff data to generate aircraft emissions; estimated fuel consumption data for locomotive emissions; and estimated fuel consumption and vessel trips for commercial marine vessel emissions. The biogenic source inventory was developed using the USEPA's Biogenic Emission Inventory System (BEIS) Version 2.3. Table 1 below provides a summary of 1996 VOC and NO_X emissions in tons per summer day (tpd) statewide and by nonattainment area.

TABLE 1.—SUMMARY OF 1996 VOC AND NO_X EMISSIONS IN NEW JERSEY BY STATE AND NONATTAINMENT AREA
[tons per day]

Category	Point	Area	On-Road	Nonroad	Biogenic	Total
VOC Emissions						
Atlantic City	0.43	13.02	13.38	20.29	114.07	161.19
Northern N.J.	140.87	215.27	206.52	138.41	310.70	1011.77
Trenton	28.73	72.35	82.70	41.99	241.91	467.68
Allentown	3.19	4.34	6.41	3.04	20.84	37.82
State Total	173.22	304.98	309.01	203.73	687.52	1678.46

TABLE 1.—SUMMARY OF 1996 VOC AND NO_X EMISSIONS IN NEW JERSEY BY STATE AND NONATTAINMENT AREA—Continued
[tons per day]

Category	Point	Area	On-Road	Nonroad	Biogenic	Total
NO_X Emissions						
Atlantic City	39.91	1.81	23.80	11.46	0.85	77.83
Northern N.J.	154.20	29.57	302.92	202.07	3.87	692.63
Trenton	94.47	7.86	112.94	52.18	3.09	270.54
Allentown	2.47	0.42	14.17	3.53	0.99	21.58
State Total	291.05	39.66	453.83	269.24	8.80	1062.58

EPA proposes to find New Jersey's 1996 periodic emission inventory to be consistent with EPA's policy and guidance and is approvable.

B. How Were New Jersey's 2002, 2005, and 2007 Projection Year Inventories Developed and What Were the Results?

In order to project its VOC and NO_X emissions out to future years, New Jersey based its projections on the 1996 periodic emission inventory. The point source projections were developed by applying growth factors generated either from the Economic Growth Analysis System (EGAS) or the Department of Energy's Energy Information Administration (EIA). The area source projections were developed by applying growth factors which were based on a variety of indicators including but not limited to: population, vehicle miles traveled, fuel combustion, pesticide use, traffic paint use, asphalt applied, value added, etc. The on-road mobile source projections were developed for the eight vehicle classes by multiplying emission factors generated from MOBILE5 by VMT projections supplied by the Metropolitan Planning Organizations within the State. The nonroad mobile source projections were derived in several ways: for the nonroad equipment and engine category, EPA's draft NONROAD model was used to generate the projections. For commercial marine vessels, the State determined growth factors from the rulemaking document entitled, "Control of Emissions of Air Pollution from New Compression-Ignition Marine Engines at or above 37 Kilowatts," and applied the factors by pollutant and vessel category. For locomotive emission projections, the State based its projections upon the regulatory support document for the rulemaking entitled, "Emission Standards for Locomotives and Locomotive Engines." The State determined the emission factors and applied them by the percent of the locomotive engines covered by the EPA rulemaking. Locomotive engines not covered by the rulemaking were projected by population. For aircraft emission projections, the State based these on either the number of landing and take-off operations, EGAS model calculations, or flight facility specific information, depending upon the aircraft and the availability of the data. Table 2 below provides a summary of projected VOC and NO_X emissions for the Northern New Jersey and Trenton NAAs.

TABLE 2.—SUMMARY OF 2002, 2005, AND 2007 PROJECTED VOC AND NO_X EMISSIONS IN NEW JERSEY BY NONATTAINMENT AREA [1] (TPD)

Category	Point	Area	On-Road	Nonroad	Total
2002					
Northern New Jersey					
VOC	149.01	225.15	135.48	106.70	616.34
NO_X	94.01	29.58	229.28	220.65	573.52
Trenton					
VOC	30.42	76.34	61.63	33.31	201.70
NO_X	84.69	7.85	86.14	55.30	233.98
2005					
Northern New Jersey					
VOC	156.27	234.03	94.58	93.23	578 11
NO_X	85.27	29.77	178.75	217.72	511.51
Trenton					
VOC	31.83	79.42	42.64	29.62	183.51
NO_X	71.34	7.89	66.04	54.12	199.39
2007					
Northern New Jersey					
VOC	162.13	238.40	89.83	83.51	573.87

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TABLE 2.—SUMMARY OF 2002, 2005, AND 2007 PROJECTED VOC AND NO_X EMISSIONS IN NEW JERSEY BY NONATTAINMENT AREA [1] (TPD)—Continued

Category	Point	Area	On-Road	Nonroad	Total
NO_X	93.64	30.14	165.12	212.72	501.62
Trenton					
VOC	[2] n/a	n/a	n/a	n/a	n/a
NO_X	n/a	n/a	n/a	n/a	n/a

[1] Emissions include growth and application of controls.
[2] Not applicable.

EPA proposes to find New Jersey's 2002, 2005, and 2007 projection year emission inventories to be consistent with EPA's policy and guidance and finds them approvable.

III. Reasonable Further Progress Plans

A. What Is a Reasonable Further Progress (RFP) Plan?

A RFP Plan is a plan developed by a state for reducing VOC emissions by three percent per year averaged over each consecutive three-year period beginning six years after enactment of the Act (1996) until the area attains the 1-hour ozone standard (2005 for the Trenton NAA and 2007 for the Northern New Jersey NAA). EPA previously approved the 15 and 9 Percent ROP Plans for New Jersey (64 FR 19913, April 23, 1999). Those plans identified the control measures and the VOC and NO_X emission reduction credits associated with those measures that would be achieved from 1990 through 1999. This proposal takes action on the RFP Plans for the Trenton NAA for milestone years 2002 through the attainment year 2005; and the Northern New Jersey NAA for milestone year 2002, 2005, through the attainment year 2007.

B. How Does New Jersey Demonstrate RFP?

Using 1990 base year emission inventory which EPA approved on April 23, 1999 (64 FR 19913), New Jersey calculated an "adjusted baseline inventory" by removing the biogenic and non-creditable reductions (Federal Motor Vehicle Control Program and Federal Gasoline Reid Vapor Pressure regulations) from the base year emissions. The required RFP percent reduction was then applied to the adjusted baseline year inventory to yield the VOC emission target levels. New Jersey used a cumulative percent reduction methodology for the RFP demonstration. Instead of showing a 9% reduction between 2000–2002, a 9% reduction between 2003–2005 and a 6% between 2006–2007, the State showed it would achieve 33% by 2002 (15% from the 15 Percent ROP Plan plus 9% from the Post 1996 ROP Plan plus 9% from the Post 1999 RFP Plan equaling a total of 33%), similarly, a 42% reduction by 2005 and 48% reduction by 2007. These are summarized in Table 3.

TABLE 3.—VOC REASONABLE FURTHER PROGRESS TARGET LEVELS

Nonattainment Area New Jersey Portion	Base Year (tpd)	VOC Emission Target levels (tpd)		
	1990	2002	2005	2007
Northern New Jersey	957.03	593.91	512.90	459.89
Trenton	358.15	229.35	196.27	

The VOC target emission level is the level the State must be at or below in order to achieve RFP. The State selected the control measures which will reduce the projected VOC emissions to this target level or below. The projected VOC and NO_X emissions include growth that occurs from the 1990 base year. These measures must result in attainment as soon as practicable, but no later than the attainment date based on the nonattainment areas' classification.

Using the projection year emission inventories (discussed above) along with the selected control measures, the State then checked its control strategy selection by determining what the emissions would be in the milestone years and compares it to the target VOC emission levels.

C. Can Control Measures That Reduce NO_X Be Used To Demonstrate RFP?

New Jersey has shown using photochemical grid modeling that NO_X reductions will contribute toward attaining the ozone standard. Section 182(c)(2)(C) of the Act allows NO_X reductions to be substituted for VOC reductions in RFP demonstrations in accordance with EPA guidance. New Jersey has shown that NO_X reductions may appropriately be counted towards the RFP requirements. A full explanation of how New Jersey satisfied EPA's guidance is included in the TSD.

Based on EPA guidance, New Jersey has demonstrated that every ton of NO_X is equivalent to approximately 0.91 tons of VOC in the Northern New Jersey NAA on a percent of total inventory basis. In the Trenton NAA New Jersey only used VOC reductions to demonstrate RFP.

D. What Are the Results of New Jersey's RFP Plan Demonstration?

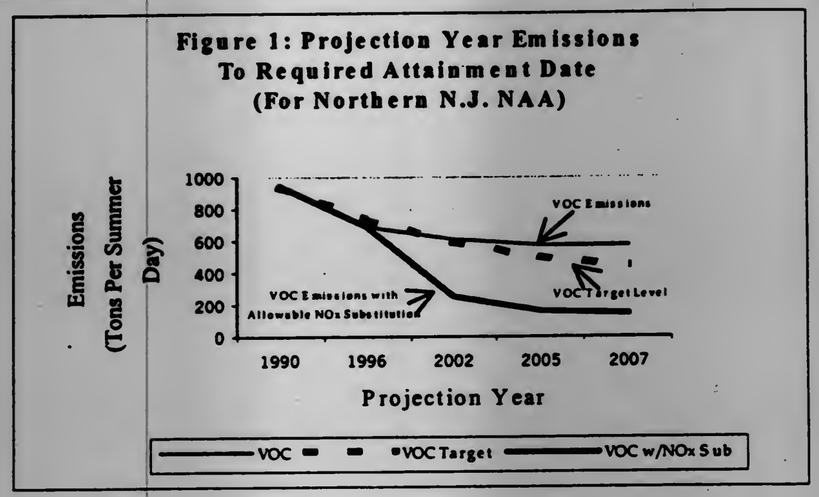
New Jersey demonstrated RFP based on a cumulative methodology. It incorporated growth in point, area and mobile source categories, and benefits from State and federal control measures. New Jersey also adjusted the NO_X reductions to account for growth that is projected to occur by the target years. NO_X emission reductions were used along with VOC emission reductions in the Northern New Jersey NAA to demonstrate RFP.

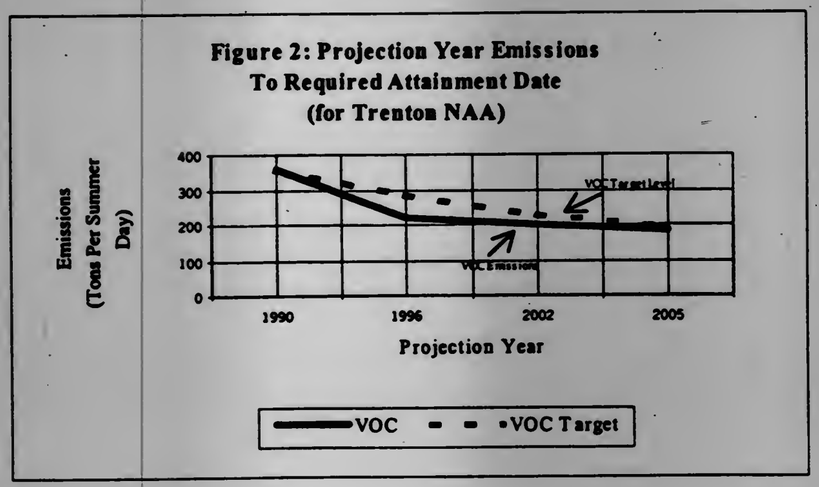
Figure 1 plots the VOC target out to 2007 for the Northern New Jersey NAA. The projected VOC emissions including growth and applying control measures is also plotted and a third line

represents the sum of the VOC emissions and VOC equivalent reductions resulting from NO_X reductions (NO_X equivalent). As can be seen from Figure 1, the sum of the VOC emissions with NO_X equivalent reductions falls below the VOC target level. This demonstrates that RFP will be achieved. The projected controlled level of emissions in milestone years 2002, 2005 and 2007 are 250.41, 158.84, and 145.84 tons per summer day, respectively.

Figure 2 shows the results of applying the RFP Plans for the Trenton NAA. It demonstrates that RFP is achieved with only VOC control measures. The projected controlled level of emissions in milestone years 2002 and 2005 are 201.71 and 183.53 tons per summer day, respectively. New Jersey adopted the NO_X control measures with statewide applicability and the NO_X controls are needed to demonstrate attainment of the 1-hr ozone NAAQS, but not to meet RFP requirements in the Trenton NAA.

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E. How Will New Jersey Achieve the Necessary Emission Reductions?

New Jersey provided a plan which contains control measures sufficient to achieve the RFP reductions required for the Northern New Jersey and Trenton NAAs. Table 4 identifies the specific control measures New Jersey will rely on between 2000–2007. Some of those control measures were utilized in the federally approved 15 and 9 Percent ROP plans, however, due to the nature of the control measures/programs these measures achieve additional emission reduction credits beyond those used in the 15 and 9 Percent ROP Plans. These unused reductions are being applied to these RFP Plans. For a concise description of those control measures and emission reduction credits used in the 15 and 9 Percent Plans, the reader is referred to EPA's proposed rulemaking actions on the New Jersey 15 and 9 Percent ROP plans, published in the **Federal Register** on April 30, 1997 (62 FR 23410) and March 1, 1999 (64 FR 9952). All of the measures identified in Table 4 have either been adopted by New Jersey and approved by EPA as SIP revisions or are promulgated federal measures.

Table 5 contains a list of the new measures that were not previously included in New Jersey's 15 and 9 Percent Plans. A brief description of these new measures follows the table.

TABLE 4.—CONTROL MEASURES INCLUDED IN NEW JERSEY RFP PLANS

Stationary Sources:
Pre-1996 Controls Applied to New Sources
NO_X Budget Program
Area Sources:
Marine Vessel Ballasting and Loading of Gasoline (Barge & Tanker)
Architectural Surface Coatings
Consumer and Commercial Solvents
Auto Refinishing
Landfills
On-road:
New Vehicle Standards—Tier 1
New Vehicle Standards—Tier 2
National Low Emission Vehicle Program—NLEV
Reformulated Gasoline—Phase II
Enhanced Inspection and Maintenance (I/M)
Heavy Duty Diesel Vehicle Defeat Device & New Engine Standards
Nonroad:
Spark Ignition, Small Engines
New Marine Gas Engines
Nonroad Diesel Engines
Locomotive Engines
Commercial Marine Diesel Engines

TABLE 5.—NEW CONTROL MEASURES NOT INCLUDED IN NEW JERSEY'S 15 AND 9 PERCENT ROP PLANS

NO_X Budget Program
Reformulated Gasoline Phase II—On-Road
Enhanced Inspection and Maintenance (I/M) Program
Heavy Duty Diesel Vehicle Defeat Device & New engine standards
New Vehicle Standards—Tier 2
Nonroad measures:
Spark Ignition, Small Engines
New Marine Gas Engines
Nonroad Compression Engines
Locomotive Engines
Commercial Marine Diesel Engines

1. NO_X Budget Program

New Jersey's NO_X reduction programs began with adopting regulations requiring NO_X reasonably available control technology (RACT) for stationary sources emitting NO_X. This was approved by EPA on March 29, 1999 (64 FR 14834). It was further expanded to incorporate the Ozone Transport Commission (OTC) Memorandum of Understanding recommendations which were effective starting in 1999 and additional requirements in 2003 for major NO_X sources. These were approved by EPA on September 5, 2000 (65 FR 53599).

On October 27, 1998, EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_X SIP Call." See 63 FR 57356. At that time, the NO_X SIP Call required 22 states and the District of Columbia [1] to meet statewide NO_X emission budgets during the five month period from May 1 through September 30 in order to reduce the amount of ground level ozone that is transported across the eastern United States. The NO_X SIP Call set out a schedule that required the affected states, including New Jersey, to adopt regulations by September 30, 1999, and to implement control strategies by May 1, 2003.[2]

The NO_X SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. However, the SIP Call notice suggested that imposing statewide NO_X emission caps on large fossil-fuel fired industrial boilers and electricity generators would provide a highly cost-effective means for states to meet their NO_X budgets. On December 10, 1999 and July 31, 2000, New Jersey submitted SIP revisions which included revisions to Subchapter 31, "NO_X Budget Program," (adopted July 28, 2000) and a narrative explaining the Regional NO_X Cap Program requirements in New Jersey. These submittals were made to strengthen its 1-hour ozone SIP and to comply with EPA's NO_X SIP Call during each ozone season, i.e., May 1 through September 30, beginning in 2003. On May 22, 2001 (66 FR 28063) EPA approved New Jersey's NO_X control program and found it complied with the NO_X SIP Call.

[1] Alabama, Connecticut, District of Columbia, Delaware, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, virginia, Wisconsin, and West Virginia.

[2] On May 25, 1999, the D.C. circuit issued a stay of the submission requirement of the SIP Call pending further order of the court. Michigan v. EPA, No. 98–1497 (D.C. Cir. May 25, 1999) (order granting stay in part). On December 10, 1999 and July 31, 2000, New Jersey voluntarily submitted this revision to EPA for approval notwithstanding the court's stay of the SIP submission deadline. On March 3, 2000, the D.C. Circuit ruled on Michigan v. EPA, affirming most aspects of the SIP Call and remanding limited portions to the Agency. On June 22, 2000, the DC circuit lifted the stay of the SIP submission obligations and provided states until October 30, 2000 to adopt regulations.

2. Reformulated Gasoline Phase II—On-Road

The second phase of the federal reformulated gasoline program (RFG Phase II) began on January 1, 2000 and applied statewide. RFG Phase II reduces emissions further than the first phase of the program, requiring minimum ozone season VOC reductions of 27 percent from VOC levels based on average 1990 gasoline formulations. The second phase of the program also requires that refiners reduce NO_X levels by a minimum of seven percent from average 1990 levels. New Jersey has accounted for the emissions reduction effects of RFG Phase II in its most recent RFP Plans.

3. Enhanced I/M Program

The implementation phase of New Jersey's Enhanced I/M program was delayed and the emission reductions were unavailable for use in the 15 and 9 Percent Rate of Progress Plans. It is currently operational and EPA reinstated the interim approval on June 12, 2001 (66 FR 31544). New Jersey has submitted its proposed final National Highway Systems Designations Act evaluation report and its revised performance standard modeling for parallel processing as a SIP revision. EPA will be proposing action on this submittal in a separate **Federal Register**.

4. Heavy-Duty Diesel Vehicle (HDDV) Defeat Devices Settlement

On October 22, 1998, the Department of Justice and the EPA announced a settlement with seven major diesel engine manufacturers to resolve claims that they illegally installed software that resulted in increased emissions. New Jersey has accounted for the decrease in emission reductions from this program by identifying additional credits from other programs. While the settlement will result in lower emissions, these lower emissions will not occur in the time frame the RFP Plans cover.

5. New Vehicle Standards—Tier 2

On February 10, 2000, EPA promulgated more stringent motor vehicle emission standards and low sulfur gasoline limits as part of the Federal Motor Vehicle Control Program (FMVCP). These are refered to as the Tier 2/Low Sulfur Gasoline Program and

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go into effect beginning in 2004. The benefit from these regulations increase as new vehicles replace old ones. New Jersey has accounted for the emissions reduction effects of Tier 2/Low Sulfur Gasoline Program in its most recent RFP Plans.

6. Nonroad Measures

New Jersey has included emission reductions from several promulgated federal regulations: spark ignition small engine, Phase I and II; new gasoline spark ignition marine engines; nonroad compression ignition engines (Tiers 1, 2 and 3); locomotives and locomotive engines; and commercial marine diesel engines. The benefit from these regulations increase as new engines replace old ones. New Jersey used EPA's National Nonroad Emissions Model to calculate the emissions and benefits from the first three categories, for the last two categories the regulatory support documents were used from EPA's rulemakings to calculate the emission reduction benefit. The benefit from Reformulated Gasoline Phase II in nonroad gasoline engines is included in these emission calculations.

New Jersey based its emissions reductions from the first three categories using EPA's draft NONROAD computer model. New Jersey believed this method was more accurate than allocating national emissions and reductions for each engine type to each of New Jersey's nonattainment areas. EPA has determined that New Jersey's methods for predicting emissions benefits from this source category are acceptable. However, New Jersey should be aware that it may need to recalculate the nonroad emission inventory once the model has been officially released for use. Recalculation would be necessary if, at that time, there is reason to believe that results predicted by the final NONROAD model would affect the outcome of the RFP Plans conclusions. This is because EPA guidance does not recommend use of draft models for SIP purposes.

F. Summary of 2002, 2005 and 2007 RFP Plans Evaluation

New Jersey has identified the control measures necessary for achieving the required emission reductions and all the measures have been adopted and implemented or adopted and scheduled for implementation. EPA is proposing to find that the RFP Plans contain sufficient control measures as identified in Table 4 to achieve the required emission reductions. EPA proposes to approve these emission reduction credits as part of the RFP Plans.

G. How Do the RFP Plans Relate to the 1-Hour Ozone Attainment Demonstration?

New Jersey's attainment demonstration was based on photochemical grid modeling and demonstrated that NO_X reductions are beneficial in reducing ozone concentrations. The RFP Plans demonstration contained the same control measures included in the 1-hour ozone attainment demonstrations, dated August 31, 1998. The projected controlled emission levels will decrease further when the State adopts the measures needed to meet the additional emissions reduction which EPA identified in its December 16, 1999 proposed approval of the 1-hour ozone attainment demonstrations. In addition, because New Jersey historically applies control measures statewide, additional emission reductions from three counties not included in the two severe nonattainment areas will lower ozone precursor emissions transported into the severe nonattainment areas.

H. How Did New Jersey Address the Contingency Measure Requirement?

The New Jersey submittal also addresses contingency measures required under the Act. Section 172(c)(9) of the Act requires states with ozone nonattainment areas classified as moderate and above to adopt contingency measures by November 15, 1993. Such measures must provide for the implementation of specific emission control measures if an ozone nonattainment area fails to achieve RFP or fails to attain the NAAQS within the time-frames specified under the Act. Section 182(c)(9) of the Act requires that, in addition to the contingency measures required under section 172(c)(9), the contingency measure SIP revision for serious and above ozone nonattainment areas must also provide for the implementation of specific measures if the area fails to meet any applicable milestone in the Act. As provided by these sections of the Act, the contingency measures must take effect without further action by the state or by the EPA Administrator upon failure by the state to: meet RFP emission reduction milestones; attain the NAAQS by the required deadline; or meet other applicable milestones of the Act. EPA's policy, as provided in the April 16, 1992, "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498), states that the contingency measures, in total, must generally be able to provide for 3% reduction of the 1990 adjusted baseline emissions beyond the reduction required for a particular milestone year. While all contingency measures must be fully adopted rules or measures, states can use the measures in two different ways. A state can choose to implement contingency measures before the milestone deadline.

Alternatively, a state may decide not to implement a contingency measure until an area has actually failed to achieve a RFP or attainment milestone. In the latter situation; the contingency measure emission reduction must be achieved within one year following identification of a milestone failure. The General Preamble indicates that the 3% reduction "buffer" must be maintained through each RFP milestone. Therefore, New Jersey must demonstrate that the two severe nonattainment areas have enough contingency measure reductions in addition to the reductions claimed for the 2002, 2005 and 2007 RFP Plans.

Consistent with EPA guidance, New Jersey used a combination of excess VOC and NO_X emission reductions (0.3% VOC and 2.7% NO_X) resulting from the implementation of New Jersey's Subchapter 24, "Control and Prohibition of Volatile Organic Compounds from Consumer and Commercial Products" and Subchapter 31, "Ozone Transport Commission NO_X Budget Program" to provide for the contingency reductions.

The New Jersey RFP Plans achieve, in addition to the RFP ozone precursor reduction, a 3% reduction in VOC and NO_X through creditable control measures. For this reason, the contingency measure portion of the 2002, 2005 and 2007 RFP Plans satisfy the contingency measure requirements of the Act. EPA proposes to approve the contingency measure portion of the SIP revision.

IV. Are Conformity Budgets Contained in These Plans and Are They Approvable?

The tables below summarize New Jersey's Emission Budgets contained in the April 11, 2001 SIP revision. They are based on 1999 vehicle registration data. On June 1, 2001 (66 FR 29797), EPA found these budgets to be adequate for conformity purposes effective June 18, 2001.

For the South Jersey Transportation Planning Organization (SJTPO) and Delaware Valley Regional Planning Commission (DVRPC) the 2002 budgets are new budgets based on the RFP Plans, while the 2005 budgets are revised attainment year budgets. For the North Jersey Transportation Planning Authority (NJTPA) the 2002 budgets are new budgets based on the RFP Plans, the 2005 budgets are revised budgets also based on the RFP Plans, while the 2007 budgets are revised attainment year budgets.

By virtue of proposing approval of the 2002, 2005 and 2007 RFP Plans, EPA is also proposing approval of the motor vehicle emissions budgets for VOC and NO_X. In addition, since New Jersey's 2005 RFP Plan for the Trenton NAA and 2007 RFP Plan for the Northern New Jersey NAA are consistent with the 1-hour attainment demonstrations, which EPA proposed to approve on December 19, 1999, these emission budgets also represent attainment year budgets.

TABLE 6.—NEW JERSEY TRANSPORTATION CONFORMITY BUDGETS

Transportation planning area	2002		2005		2007	
	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)
North Jersey Transportation Planning Authority (NJTPA)	140.15	240.19	98.11	187.70	93.20	175.51
South Jersey Transportation Planning Organization (SJTPO)	17.49	33.02	13.36	26.42	[1] n/a	n/a
Delaware Valley Regional Planning Commission (DVRPC)	55.28	73.05	38.03	55.62	n/a	n/a

[1] Not applicable.

TABLE 7.—MCGUIRE AIR FORCE BASE GENERAL CONFORMITY EMISSION BUDGETS

	VOC tons/year	NO_X tons/year
1990 Baseline	1,112	1,038
1996	1,186	1,107
1999	1,223	1,142
2002	1,405	875
2005	1,406	884

On April 11, 2000, New Jersey provided an enforceable commitment to revise its attainment year motor vehicle emission budgets within one year of the official issuance of the MOBILE6 motor vehicles emissions model for regulatory purposes. The revised budgets that will result from MOBILE6 will be based on a more appropriate estimation of the benefits from EPA's Tier 2 vehicle and fuel standards. New Jersey also provided an enforceable commitment to revise its attainment year motor vehicle emission budgets if additional mobile source control measures are adopted.

Since New Jersey has committed to revise the emissions budgets which EPA is proposing to approve today, EPA's approval of the emissions budgets will last only until adequate revised budgets are submitted pursuant to the above commitments. The revised budgets will apply as soon as they are found adequate. It is not necessary to wait until the revised budgets are approved as revisions to the respective Plans because EPA recognizes that if the revised budgets are revised according to MOBILE6, they will be based on a more technical understanding of motor vehicle emission control programs and therefore more appropriate than the originally approved budgets for conformity purposes. See EPA's July 28, 2000 supplemental proposal (65 FR 46383) for the ozone attainment demonstrations for more background information.

Therefore, EPA finds that these budgets are consistent with the control measures included in the RFP Plans and attainment demonstrations. EPA is proposing to approve New Jersey's emission budgets. In the case of the attainment budgets, this approval will remain in effect only until the State submits and EPA finds adequate revised budgets meeting the commitments New Jersey has made with respect to submission of mobile source and shortfall measure budgets.

V. Are New Jersey's RFP Plans Consistent With EPA's Proposed Approval of New Jersey's 1-Hour Ozone Attainment Demonstration?

On December 16, 1999 (64 FR 70380), EPA proposed approval of New Jersey's 1-hour ozone attainment demonstrations SIP. However, EPA proposed that New Jersey's attainment demonstrations needed additional emission reductions in order to attain the 1-hour ozone standard with sufficient surety. EPA also identified the need for several other enforceable commitments. On April 26, 2000, New Jersey submitted to EPA the necessary enforceable commitments, including the one to adopt additional measures by October 31, 2001 which would achieve the additional emission reductions EPA identified. New Jersey has been an active participant in the Ozone Transport Commission's process of developing regional control strategies that would achieve the necessary additional reductions to attain the 1-hour ozone standard. EPA proposes to approve the enforceable commitments that New Jersey submitted on April 26, 2000, and that New Jersey has met the conditions EPA identified in the December 16, 1999 **Federal Register**.

VI. What Are EPA's Conclusions?

EPA has evaluated these submittals for consistency with the Act, applicable EPA regulations, and EPA policy. EPA proposes approval of New Jersey's: 1996 periodic emission inventory; 2002, 2005 and 2007 ozone projection year emission inventories; 2002, 2005 and 2007 RFP Plans; transportation conformity budgets; contingency measures; and the enforceable commitments for the 1-hour ozone attainment demonstration.

VII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves State law as meeting federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant

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economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 31, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–22908 Filed 9–11–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[KY–T5–2001–01; FRL–7055–3]

Clean Air Act Proposed Full Approval of Operating Permit Program; KY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: EPA proposes to fully approve the operating permit program of the Kentucky Department of Environmental Protection. This program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to Kentucky's operating permit program on November 14, 1995. Kentucky revised its program to satisfy the conditions of the interim approval and this action proposes approval of those revisions and other program changes made since the interim approval was granted.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by EPA on or before October 12, 2001.

ADDRESSES: Written comments on the program revisions discussed in this action should be addressed to Ms. Kim Pierce, Regional Title V Program Manager, Air & Radiation Technology Branch, EPA, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Copies of the Kentucky submittals and other supporting documentation used in developing the proposed full approval are available for inspection during normal business hours at EPA, Air & Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Interested persons wanting to examine these documents, which are contained in EPA docket file numbered KY–T5–2001–01, should make an appointment at least 48 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kim Pierce, EPA Region 4, at (404) 562–9124 or pierce.kim@epa.gov/.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
What is being addressed in this document?
What are the program changes that EPA proposes to approve?
What is involved in this proposed action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: "Major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the

National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO_X.

What Is Being Addressed in This Document?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the Kentucky program substantially, but not fully, met the requirements of part 70, EPA granted interim approval in a rulemaking (60 FR 57186) published on November 14, 1995. The interim approval notice described the conditions that had to be met in order for the Kentucky program to receive full approval. Kentucky submitted a revision to its interimly approved operating permit program on February 13, 2001. This document describes changes that have been made to the Kentucky operating permit program since interim approval was granted.

What Are the Program Changes That EPA Proposes To Approve?

As stipulated in the interim approval notice, full approval of the Kentucky title V operating permit program was made contingent upon the following rule changes:

(1) Revise the definitions of "emissions unit" and "stationary source" in 401 KAR 52:001 (previously 401 KAR 50:035, Section 1) to include the emissions of all HAPs listed in section 112(b) of the CAA for the purposes of determining title V applicability. Since both definitions reference the term "regulated air pollutant," Kentucky addressed the deficiencies by revising the definition of "regulated air pollutant" to include HAPs subject to a standard or other requirement established pursuant to section 112 of the CAA. The state-effective rule change was submitted to EPA on February 13, 2001.

(2) Revise the definition of "regulated air pollutant" in 401 KAR 52:001 (previously 401 KAR 50:035, Section 1) to include all HAPs subject to requirements established under section 112 of the CAA in order to ensure permit issuance to all major sources. As indicated above, Kentucky revised the definition to include HAPs subject to a standard or other requirement established pursuant to section 112. The state-effective rule change was submitted to EPA on February 13, 2001.

(3) Revise Rule 401 KAR 52:020, Section 13(1)(e) (previously 401 KAR 50:035 Section 5(2)(a)) to provide for EPA review of administrative permit amendments incorporating requirements from preconstruction review permits, as required by 40 CFR 70.8. Kentucky responded by revising its rules to allow for EPA review of administrative permit amendments that incorporate preconstruction review permits. The state-effective rule change was submitted to EPA on February 13, 2001.

Kentucky made other program changes after EPA granted interim approval on November 14, 1995. These changes include reorganizing the title V operating permit program requirements and promulgating them in the following new rules on January 15, 2001: 401 KAR 52:001 "Definitions for 401 KAR Chapter 52," 401 KAR 52:020 "Title V permits," 401 KAR 52:050 "Permit application forms," 401 KAR 52:060 "Acid rain permits," and 401 KAR 52:100 "Public, affected state, and U.S. EPA review." The requirements of part 70 are now addressed as follows:

(1) the applicability provisions of 40 CFR 70.3 and 70.4 are addressed in 401 KAR 52:020 Sections 1 and 2;

(2) 401 KAR 52:020 Sections 4–9, 23, and 401 KAR 52:050 address the permit application requirements in 40 CFR 70.5;

(3) the permit content requirements in 40 CFR 70.6 are addressed in 401 KAR 52:001 Section 1; 401 KAR 52:020 Sections 11, 12, 20, and 24; 401 KAR 52:100 Section 12; and Sections 1a–1c of the document entitled "Cabinet Provisions and Procedures for Issuing Title V Permits," which is incorporated by reference in 401 KAR 52:020. However, 401 KAR 52:020, Section 24(1)(d) allows sources ten workdays after an emergency has occurred to submit a written report. Because this provision conflicts with 40 CFR 70.6(g)(3)(iv), EPA regards it as wholly external to the program revisions submitted for approval. Consequently, EPA proposes to take no action on this provision of Kentucky law and the Commonwealth must continue implementing the two-day emergency notification requirement contained in 401 KAR 50:035, Section 4(7)(b)4. of its interimly approved program;

(4) the operational flexibility and off-permit provisions of 40 CFR 70.4(b)(12) and (15), respectively, are addressed in 401 KAR 52:001 Section 1; 401 KAR 52:020 Sections 5, 17, and 18; and Sections 1a–1c of the "Cabinet Provisions and Procedures for Issuing Title V Permits" document;

(5) the permit issuance, renewal, reopenings, and revisions requirements in 40 CFR 70.7 are addressed in 401 KAR 52:020 Sections 3, 7–9, 12–16, 19, and 25; 401 KAR 52:100; and Sections 1a and 2 of the "Cabinet Provisions and Procedures for Issuing Title V Permits" document; and

(6) the requirements in 40 CFR 70.8 regarding permit review by EPA and affected states are addressed in 401 KAR 52:100 and Section 2 of the "Cabinet Provisions and Procedures for Issuing Title V Permits" document.

The new rules, along with sufficient evidence of their procedurally correct adoption, were submitted to EPA on February 13, 2001. A detailed analysis showing how the operating permit program requirements of part 70 are addressed by Kentucky's new rules is available for review at the EPA Region 4 office.

Kentucky also amended its audit privilege and immunity law, KRS 224.01–040, to remove language that restricted its ability to adequately administer and enforce the criminal enforcement, civil penalty, and public access provisions of the title V operating permits program. The law was amended in response to EPA's Notice of Deficiency (see 65 FR 76230, December 6, 2000), and the amendments became effective in June 2001.

What Is Involved in This Proposed Action?

Kentucky has fulfilled the conditions of the interim approval granted on November 14, 1995, and EPA proposes full approval of Kentucky's title V operating permit program. EPA also proposes approval of the other program changes described above. The regulations in Kentucky's federally approved title V program include 401 KAR 50:038 "Air emissions fee," 401 KAR 52:001 "Definitions for 401 KAR Chapter 52," 401 KAR 52:020 "Title V permits" (except 401 KAR 52:020, Section 24(1)(d)), 401 KAR 52:050 "Permit application forms," 401 KAR 52:060 "Acid rain permits," 401 KAR 52:100 "Public, affected state, and U.S. EPA review," and 401 KAR 50:035, Section 4(7)(b)4.

Administrative Requirements

A. Request for Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Kentucky

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submittals and other supporting documentation used in developing the proposed full approval are contained in a docket file numbered KY–T5–2001–01 that is maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document. EPA will consider any comments received in writing by October 12, 2001.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

This rule does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

E. Executive Order 13175

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000).

F. Executive Order 13211

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

H. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

J. Paperwork Reduction Act

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 4, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–22912 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 67 and 68

[USCG 2001–10048]

Vessel Documentation: "Sold Foreign"

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard seeks comments from the public on its interpretation of the term "sold foreign". Its current interpretation may disqualify from eligibility for coastwise trade certain vessels whose ownership has become "foreign" in technical ways. Some affected parties feel that this interpretation imposes a harsh penalty for slight, often unintended foreign involvement while others feel that it just preserves the privilege of coastwise trade for the domestic fleet.

DATES: Comments and related material must reach the Docket Management Facility on or before December 11, 2001.

ADDRESSES: To make sure your comments and related material do not enter the docket (USCG 2001–10048) more than once, please refer them to the docket and submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this Request for Comments, call LCDR Don Darcy, Project Manager, Office of Standards Evaluation and Development Division, Coast Guard Headquarters, 202–267–1200. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related material. If you do so, please include your name and address, identify the docket number of this Request for Comments (USCG 2001–10048), indicate the specific question(s) listed under Questions of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. Your comments and materials may influence the interpretation that we propose. We will consider all of them received during the comment period.

The Coast Guard may hold a public meeting. Whether it does will depend on the response to this notice. You may seek a meeting by submitting a request to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that it should hold a public meeting, it will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as amended, provides, among other things, that a vessel of more than 200 gross tons as measured under chapter 143 of Title 46, United States Code (46 U.S.C. 14301 *et seq.*), and otherwise qualified for coastwise trade, may not be documented for coastwise trade if it has been "* * * sold foreign in whole or in part * * *". The Coast Guard has interpreted the term "sold foreign" to mean that the vessel has transferred from one business entity, to a newly restructured business entity, to (1) an owner who is no longer a U.S. citizen or (2) an owner who is no longer eligible to document a vessel under the laws of the U.S. If the owner is a business entity, it must meet the requirements for documentation under § 12102 of Title 46 U.S.C., and for a coastwise-trade endorsement under § 12106. (There are limited exceptions under the Oil Pollution Act of 1990 (33 U.S.C. 1321) and under the Act of September 2, 1958 (46 App. U.S.C. 883–1).) The Coast Guard has held that, once a business entity no longer meets these statutory requirements, its vessels have "sold foreign." In the case of a corporation, any vessel transferred to a business entity that does not meet the quorum requirements for a board of directors or that has a noncitizen chairman of the board is permanently barred from coastwise trade. The Coast Guard has held that no business entity can reverse or cure the loss of the privilege of coastwise trade by reorganizing so as to satisfy 46 U.S.C. 12102. The only way a vessel which has run afoul of the strictures of the first proviso has regained the privilege has been through enactment of special legislation.

Questions

We especially need the public's assistance in answering the following questions, and welcome any added information on this topic. In responding to each question, please explain your reasons for each answer as specifically as possible so that we can carefully weigh the consequences and impacts of any actions we may take.

At this time the Coast Guard is reconsidering its interpretation of the effect of the first proviso. For it to do so, it invites comments on the following questions:

1. Should the Coast Guard issue a formal letter-ruling addressing the proposed reorganization of a business entity before the entity undertakes the reorganization?

2.a. If a qualified owner sells a vessel to an owner unqualified because foreign, should the unqualified owner be able to cure the defect through its own reorganization?

b. Should the Coast Guard count as accomplishing a "sale" the

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reorganization of an owner that, until the reorganization, qualified to document vessels in accordance with 46 U.S.C. 12102? If so, should the owner be able to cure the defect through a second reorganization?

c. If a business entity can reorganize to satisfy 46 U.S.C. 12102, so as to avoid a permanent loss of the privilege of coastwise trade, should a vessel sold to a natural person other than a citizen be able to regain the privilege upon the naturalization of that person?

3. Should there be a time by which the reorganization posited in paragraph 2.a, the second reorganization posited in paragraph 2.b, or the naturalization posited in paragraph 2.c must either start or finish?

Dated: June 27, 2001.

Joseph J. Angelo,

Acting Assistant Commandant for Marine, Safety and Environmental Protection.

[FR Doc. 01–22815 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2057; MM Docket No. 01–217, RM–10236; MM Docket No. 01–218, RM–10237; MM Docket No. 01–219, RM–10238; MM Docket No. 01–220, RM–10239]

Radio Broadcasting Services; Hollis, OK; Mangum, OK; Rule, TX; and Santa Anna, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes four allotments in Hollis, OK, Mangum, OK, Rule, TX, and Santa Anna, TX. The Commission requests comments on a petition filed by Jeraldine Anderson, proposing the allotment of Channel 274C2 at Hollis, Oklahoma, as the community's second FM allotment. There is currently one vacant FM allotment at Hollis for Channel 223A. Channel 274C2 can be allotted to Hollis in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.7 km (9.7 miles) south of Hollis. The coordinates for Channel 274C2 at Hollis are 34–32–55 North Latitude and 99–56–12 West Longitude. *See* **SUPPLEMENTARY INFORMATION** infra.

DATES: Comments must be filed on or before October 22, 2001, and reply comments on or before November 6, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Mass Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos. 01–217, 01–218, 01–219, and 01–220; adopted August 22, 2001, and released August 31, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

The Commission requests comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 259C2 at Mangum, Oklahoma, as the community's first competing FM transmission service. Channel 259C2 can be allotted to Mangum in compliance with the Commission's minimum distance separation requirements with a site restriction of 25 km (15.5 miles) west of Mangum. The coordinates for Channel 259C2 at Mangum are 34–53–28 North Latitude and 99–46–33 West Longitude.

The Commission further requests comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 253A at Rule, Texas, as the community's first competing FM transmission service. (A rulemaking is pending in another proceeding to consider allocation of Channel 239A as a first FM transmission service.) Channel 253A can be allotted to Rule in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.2 km (2 miles) southwest of Rule. The coordinates for Channel 253A at Rule are 33–10–17 North Latitude and 99–55–24 West Longitude.

The Commission further requests comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 282A at Santa Anna, Texas, as the community's first competing FM transmission service. Channel 282A can be allotted to Santa Anna in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.5 km (5.3 miles) southeast of Santa Anna. The coordinates for Channel 282A at Rule are 31–40–36 North Latitude and 99–16–25 West Longitude. The proposed allotment will require concurrence by Mexico because Santa Anna is located within 320 kilometers (199 miles) of the Mexican border.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1.The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Channel 274C2 at Hollis and by adding Channel 259C2 at Mangum.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Rule, Channel 253A and by adding Channel 282A at Santa Anna.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22836 Filed 9–11–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2056, MM Docket No. 01–221, RM–10171]

Radio Broadcasting Services; Buffalo Gap, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 227A at Buffalo Gap, Texas, as that community's first local FM service. The coordinates for Channel 227A at Buffalo Gap are 32–16–55 and 99–53–54. There is a site restriction 6.5 kilometers (4.03 miles) west of the community.

DATES: Comments must be filed on or before October 22, 2001, and reply comments on or before November 11, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Katherine Pyeatt, 6655 Aintree circle, Dallas, Texas 75214.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–221, adopted August 22, 2001, and released August 31, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CRF part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Buffalo Gap, Channel 227A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22835 Filed 9–11–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–1997; MM Docket No. 01–112; RM–10115]

Radio Broadcasting Services; Waitsburg, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, withdrawal.

SUMMARY: This document dismisses a petition for rule making filed by Jeffrey Bruton requesting the allotment of Channel 272A at Waitsburg, Washington. *See* 66 FR 30365, June 6, 2001. Neither Bruton nor any other party filed comments supporting an allotment at Waitsburg. As it is the Commission's policy to refrain from making an allotment absent supporting comments, we will dismiss Bruton's proposal. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–112, adopted August 22, 2001, and released August 31, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22833 Filed 9–11–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2058; MM Docket No. 01–209, RM–10224; MM Docket No. 01–210, RM–10225; MM Docket No. 01–211, RM–10221; MM Docket No. 01–212, RM–10222; MM Docket No. 01–213, RM–10226; MM Docket No. 01–214, RM–10227; MM Docket No. 01–215, RM–10228; MM Docket No. 01–216, RM–10223]

Radio Broadcasting Services: Broken Bow, OK; Crowell, TX; Holly Springs, MS; Kiowa, OK; McBain, MI; Menard, TX; Sparkman, AR; and Valliant, OK.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes new allotments to Broken Bow, OK; Crowell, TX; Holly Springs, MS; Kiowa, OK; McBain, MI; Menard, TX; Sparkman, AR; and Valliant, OK. The Commission requests comments on a petition filed by Maurice Salsa, proposing the allotment of Channel 285A at Broken Bow, Oklahoma, as the community's second local aural transmission service. Channel 285A can be allotted to Broken Bow in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.9 kilometers (3.7 miles) northwest of Broken Bow. The coordinates for Channel 285A at Broken Bow are 34–04–41 North Latitude and 94–45–53 West Longitude. *See* Supplementary Information.

DATES: Comments must be filed on or before October 22, 2001, and reply comments on or before November 6, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, as follows: Maurice Salsa, 5615 Evergreen Valley Drive, Kingwood, Texas 77345 (Petitioner for Broken Bow, Oklahoma; Kiowa, Oklahoma; and Valliant, Oklahoma); Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214 (Petitioner for Crowell, Texas; and Menard, Texas); Holly Springs Radio, P.O. Box 165, Winona, Mississippi

(Petitioner for Holly Springs, Mississippi); Arthur Belendiuk, Smithwick & Belendiuk, P.C.; 5028 Wisconsin Avenue, N.W., Suite 301; Washington, D.C. 20016 (Counsel for petitioner for McBain, Michigan); and Big Country Radio, Inc., P.O. Box 11196, College Station, Texas 77842 (Petitioner for Sparkman, Arkansas).

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–209; MM Docket No. 01–210; MM Docket No. 01–211; MM Docket No. 01–212; MM Docket No. 01–213; MM Docket No. 01–214; MM Docket No. 01–215; and MM Docket No. 01–216, adopted August 22, 2001, and released August 31, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

The Commission requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 293C3 at Crowell, Texas, as the community's first local aural transmission service. Channel 293C3 can be allotted to Crowell in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.7 kilometers (6.0 miles) west of Crowell. The coordinates for Channel 293C3 at Crowell are 34–00–00 North Latitude and 99–49–40 West Longitude.

The Commission requests comments on a petition filed by Holly Springs Radio proposing the allotment of Channel 243A at Holly Springs, Mississippi, as that community's fourth local aural FM transmission service. Channel 243A can be allotted to Holly Springs in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.6 kilometers (7.9 miles) southwest of Holly Springs. The coordinates for Channel 243A at Holly Springs are 34–41–32 North Latitude and 89–32–33 West Longitude.

The Commission requests comments on a petition filed by Maurice Salsa proposing the allotment of Channel 254A at Kiowa, Oklahoma, as that community's first local aural transmission service. Channel 254A can be allotted to Kiowa in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.1 kilometers (4.4 miles) west of Kiowa. The coordinates for Channel 254A at Kiowa are 34–42–23 North Latitude and 95–58–48 West Longitude.

The Commission requests comments on a petition filed on behalf of McBain Broadcasting Company proposing the allotment of Channel 300A at McBain, Michigan, as that community's first local aural transmission service. Chanel 300A can be allotted to McBain in compliance with the Commission's minimum distance separation requirements with a site restriction 9.1 kilometers (5.6 miles) east of McBain. The coordidnates for Channel 300A at McBain are 44–12–09 North Latitude and 85–06–02 West Longitude. Since McBain is located within 320 kilometers of the U.S.-Canada border, concurrence of the Canadian Government will be requested for this allotment.

The Commission requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 242A at Menard, Texas, as that community's second local FM transmission service. Channel 242A can be allotted to Menard in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.8 kilometers (7.3 miles) northwest of Menard, Texas. The coordinates for Channel 242A at Menard are 30–59–47 North Latitude and 99–52–06 West Longitude. Since Menard is located within 320 kilometers of the U.S.-Mexico border, concurrence of the Mexican government will be requested for this allotment.

The Commission requests comments on a petition filed by Big Country Radio, Inc. proposing the allotment of Channel 259A at Sparkman, Arkansas, as that community's first local aural transmission service. Channel 259A can be allotted to Sparkman in compliance with the Commission's minimum distance separation requirements at the city's reference coordinates. The coordinates for Channel 259A at Sparkman are 33–55–00 North Latitude and 92–50–53 West Longitude.

The Commission requests comments on a petition filed by Maurice Salsa proposing the allotment of Channel 234C3 at Valliant, Oklahoma, as that community's first local aural transmission service. Chanel 234C3 can be allotted to Valliant in compliance with the Commission's minimum distance separation requirements at the city's reference coordinates. The coordinates for Channel 234C3 at Valliant are 34–00–06 North Latitude and 95–05–42 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Sparkman, Channel 259A.

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding McBain, Channel 300A.

3. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Channel 243A at Holly Springs.

4. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Channel 285A at Broken Bow; Kiowa, Channel 254A; and Valliant, Channel 234C3.

5. Section 73.202(b) of the Table of FM Allotments under Texas, is amended by adding Crowell, Channel 293C3, and Channel 242A at Menard.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–22832 Filed 9–11–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 01–146; RM–9966; FCC 01–199]

Amendment of Part 90 of the Commission's Rules and Policies for Applications and Licensing of Low Power Operations in the Private Land Mobile Radio 450–470 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes changes to the Commission's Rules concerning low power operations in the private land mobile radio (PLMR) 450–470 MHz band. Many of these proposals reflect a consensus plan and are intended to address a diversity of low power communication requirements.

DATES: Comments are due on or before October 12, 2001; reply comments are due on or before November 13, 2001.

ADDRESSES: Comments should be filed to the Commission's Secretary, Magalie Roman Salas, Office of Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–A325, Washington, DC 20554. Comments may also be filed using the Commission's Electronic Filing System, which can be accessed via the Internet at www.fcc.gov/e-file/ecfs.html.

FOR FURTHER INFORMATION CONTACT: Guy Benson, Esq. (202) 418–2946, <gbenson@fcc.gov>, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making, (NPRM)*, FCC 01–199 in WT Docket No. 01–146, adopted on July 2, 2001, and released on July 24, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365, *bmillin@fcc.gov*.

Summary of the Notice of Proposed Rule Making

1. Section 90.267 of the Commission's Rules provides that any regularly assignable channel in the 450–470 MHz PLMR band may be designated by the frequency coordinators as a low power channel in a defined geographic area. Low power stations authorized under this section are limited to two (2) watts output power. The Low Power Plan currently in effect designates 104 "12.5 kHz offset" channel pairs (hereinafter "channel pairs") for low power operation nationwide: ninety (90) in the Industrial/Business Pool and fourteen (14) in the Public Safety Pool. The 6.25 kHz "drop in" channels directly adjacent to each designated 12.5 kHz channel are also designated for low power use.

2. On September 11, 2000, the Land Mobile Communications Council (LMCC) filed a Petition for Rule Making requesting the commencement of a proceeding to consider revisions to the Commission's Rules and policies for low power operations in the 450–470 MHz band. The LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. LMCC's membership includes all of the Commission's certified part 90 frequency coordinators. The Petition for Rule Making reflects the LMCC's Consensus Plan for low power PLMR frequencies in 450–470 MHz band. This *Notice of Proposed Rule Making* seeks comment on the proposals set forth in the LMCC's Petition as well as other matters related to low power operations in the private land mobile radio (PLMR) 450–470 MHz band.

3. For the ninety (90) Industrial/Business Pool channel pairs, the Commission proposes to adopt the LMCC's proposal to divide these channel pairs into four groups (A, B, C and D) each with differing technical and operational limitations. Group A consisting of fifty (50) channel pairs, would be allowed a maximum power of 20 watts ERP for base stations and 5 watts total power output (TPO) for mobile/portable units. In addition, antenna height for fixed stations would be restricted to 23 meters (75 feet above ground level). Forty (40) of the fifty (50) channel pairs in Group A would be designated for low power use only within 80 km (50 miles) of the top 100 urban areas. Outside of these areas, the 40 channel pairs would be available for use at higher power limits. The ten (10) remaining Group A channel pairs would be designated nationwide for low power (20 watts/5 watts) operation, and would not be available for higher power use outside the top 100 urban areas. The Commission seeks comment as to, where higher power is proposed outside the top 100 urban areas, whether an intermediate power (such as 21–100 watts) should be considered instead. The Commission also seeks comment on how to define the top 100 urban areas.

4. Additionally, the Commission seeks comment on whether to amend the rules so that ten (10) Industrial/Business Pool channel pairs (Group B) would be restricted to low power non-voice operations, and whether voice operations should be allowed on a secondary, non-interfering basis to data.

5. The Commission also seeks comment on whether to amend the rules so that twenty-five (25) channel pairs (Group C) would be available for non-coordinated, itinerant use. Four of the frequencies that LMCC suggested for Group C, however, are currently designated under 47 C.F.R. part 90 for dockside operations on a primary basis. These four frequencies are authorized for mobile operation for radio remote control and telemetering functions, and also may be operated in the continuous carrier transmit mode. We do not believe that sharing between these currently authorized uses and the proposed non-coordinated, itinerant operations is advisable due to the potential for harmful interference. Consequently, we seek comment as to what alternate channels might replace the four frequencies listed by LMCC. Also, the Commission tentatively concludes that ten channel pairs that LMCC suggested for Group C should not be made available for such itinerant use until the end of the wireless medical telemetry transition period (October 2003).

6. The Commission also seeks comment on LMCC's suggestion to retain current rules for the five (5) channel pairs that comprise Group D. Current rules designate these channels, in all areas or specified areas of the nation, for central station alarm use.

7. For the fourteen (14) Public Safety Pool channel pairs, the Commission seeks comment on whether to amend the rules to increase the maximum operating power for the fourteen (14) channel pairs allocated to the Public Safety Pool to five (5) watts TPO.

8. The Commission seeks comment on a number of issues related to LMCC's Petition/Consensus Plan and the Commission's low power rules and policies. For example, comment is sought on whether to amend the rules to codify the Consensus Plan. We also

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ask questions about whether to use "effective radiated power" or "total power output" for power limitations. The Commission seeks comment on whether to amend the rules to limit low power, non-voice communications to the ten channels in Group B, and whether Group A and/or C channels should be designated primarily for voice operations, with non-voice operations authorized on a secondary basis in either group.

9. Finally, the Commission seeks comment on how to treat entities licensed for high power operation (as well as other incumbents) on the channel pairs that are specifically designated for low power operation.

Regulatory Flexibility Act

10. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in the *Notice of Proposed Rule Making*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this *Notice of Proposed Rule Making*.

Reason for, and Objectives of, the R&O

11. The Commission tasked the PLMR frequency coordinators to develop a plan for low power operations, through industry consensus, on what was formerly known as the 450–470 MHz low power offset channels. On June 4, 1997, the Land Mobile Communications Council (LMCC) filed this plan (Consensus Plan). Because the LMCC's Consensus Plan required changes to the Commission's Rules, on September 11, 2000, the LMCC submitted a petition for rule making in which it asks the Commission to adopt these rule changes. Therefore, the Commission proposes to amend part 90 of its rules in order to effectuate the changes suggested in the Consensus Plan.

12. These rule changes are needed in order to facilitate the viability of important low power operations in the 450–470 MHz band. Previously, low power operators were licensed on channels that were 12.5 kHz removed from regularly assignable channels in this band ("12.5 kHz offset channels"). These offset channels, however, were reclassified by the Commission for high power operation. Because of the continuing need for low power channels, we believe that implementation of the rule changes proposed in this Notice is in the public interest.

Legal Basis

13. Authority for the proposed rules included in this issuance of this Notice is contained in Sections 1, 4(i), 302, 303(f), and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 1, 154(i), 302, 303(f) and (r), and 332.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

14. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (ninety-one percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

15. Public Safety radio services and Governmental entities. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for small radiotelephone (wireless) companies, which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 81,600 (91 percent) are small entities.

16. Estimates for PLMR Licensees. Private land mobile radio systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed a definition of small entities specifically applicable to PLMR users, nor has the SBA developed any such definition. The SBA rules do, however, contain a definition for small radiotelephone (wireless) companies. Included in this definition are business entities engaged in radiotelephone communications employing no more that 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz.

17. Equipment Manufacturers. The Commission anticipates that radio equipment manufacturers will be affected by the proposals in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.

Reporting, Recordkeeping, and Other Compliance Requirements

18. Reporting, record keeping, and compliance requirements under these proposed rules are nominal. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the actions proposed in this rule making proceeding.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

19. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule or any part thereof for small entities.

20. Regarding the proposal to increase the power limits and antenna height for low power users operating on the fifty channels in Group A, there should be no significant adverse impact on small entities. Although increasing the power and antenna height limits for low power users on these channels could decrease the number of operators possible in a given area, the Commission believes that the need for higher power and antenna height on these channels outweighs the potential losses. An alternative to this proposal would be to maintain the current power restriction of 2 watts output power and 7 meters antenna height, or impose power limitations less than 20 watts for base stations and 5 watts for mobile/portable stations and less than 23 meters antenna height above ground level. These alternatives, however, would not address the need, especially in hostile communications areas, for more than 2 watts output power and antenna heights of 7 meters.

21. In addition, regarding the proposal to designate 25 channels for low power, itinerant use in Group C, incumbent licensees, some of which may be small entities, could face interference from itinerant users that will not be required to coordinate their operations through a certified frequency coordinator. Such potential interference, however, is balanced against the need for itinerant operations in the PLMR services. In this connection, small businesses that require itinerant operations will be eligible for these channels and may benefit from the proposal. Although comment is sought as to how to treat incumbents generally in Group C, commenters should specifically discuss those incumbents that are considered to be small businesses.

22. Regarding the proposal to require manufacturers of radios that are capable of working on these Group C channels to construct the radios so that they only work on these 25 channels and other UHF color dot and star dot frequencies, there should be no significant adverse impact on small entities. An alternative to this proposal would be to not require manufacturers to construct the radios so as to limit the frequencies that they are capable of working on. This alternative would not, however, help protect full power coordinated channels from additional co-channel conflicts that might occur from uncoordinated users.

23. Regarding the proposal to allow 5 watts ERP for the fourteen channels in the Public Safety Pool, there should be no significant adverse impact on small entities. An alternative to this proposal would be to maintain the current limitation of 2 watts output power or to impose a power limitation of less than 5 watts ERP. Neither of these alternatives, however, would be sufficient to promote flexibility for Public Safety Pool licensees that require more than 2 watts output power for their operations.

24. Finally, comment is sought on how the changes proposed in the Notice will effect small entities.

Report to Congress

25. The Commission will send a copy of the *NPRM*, including this IRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *NPRM* and IRFA (or summaries thereof) will also be published in the **Federal Register**.

Administrative Matters

Ex Parte Rules—Permit-but-Disclose Proceeding

26. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, if they are disclosed as provided in the Commission's Rules. *See generally* 47 CFR 1.1200(a), 1.1203, and 1.1206.

Alternative Formats

27. Alternative formats (computer diskette, large print, audio cassette and Braille) are available from Brian Millin at (202) 418–7426, TTY (202) 418–7365, or at *bmillin@fcc.gov*. This Notice can also be downloaded at *http://www.fcc.gov/dtf/*.

Pleading Dates

28. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before October 12, 2001 and reply comments on or before November 13, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), *http://www.fcc.gov/e-file/ecfs.html*, or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 23,121 (1998).

29. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

30. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW–A325, Washington, D.C. 20554.

Ordering Clauses

31. Accordingly, *It is ordered* that, pursuant to Sections 1, 4(i), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), 332, the Petition for Rule Making filed by the Land Mobile Communications Council

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on September 11, 2000, Is Granted to the extent indicated herein.

32. It Is Further Ordered that, pursuant to Sections 1, 4(i), 302, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 302, 303(f) and (r), 332, Notice is Hereby given of the proposed regulatory changes described in this Notice of Proposed Rule Making, and that Comment Is Sought on these proposals.

33. It Is Further Ordered that the Commission's Consumer Information Bureau, Reference Information Center, Shall Send a copy of this *Notice of Proposed Rule Making*, WT Docket No. 01–146, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.20 is amended as follows:

A. The table in paragraph (c)(3) is amended by revising the entries for the following frequencies to include new limitation number 84 (Note: In the final rule, we will set out the full entry for each frequency listed):

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

453.03125 MHz, 453.0375 MHz, 453.04375 MHz, 453.05625 MHz, 453.0625 MHz, 453.06875 MHz, 453.08125 MHz, 453.0875 MHz, 453.09375 MHz, 453.10625 MHz, 453.1125 MHz, 453.11875 MHz, 453.13125 MHz, 453.1375 MHz, 453.14375 MHz, 453.88125 MHz, 453.8875 MHz, 453.89375 MHz, 453.90625 MHz, 453.9125 MHz, 453.91875 MHz, 453.93125 MHz, 453.9375 MHz, 453.94375 MHz, 453.95625 MHz, 453.9625 MHz, 453.96875 MHz, 453.98125 MHz, 453.9875 MHz, 453.99375 MHz, 458.03125 MHz, 458.0375 MHz, 458.04375 MHz, 458.05625 MHz, 458.0625 MHz, 458.06875 MHz, 458.08125 MHz, 458.0875 MHz, 458.09375 MHz, 458.10625 MHz, 458.1125 MHz, 458.11875 MHz, 458.13125 MHz, 458.1375 MHz, 458.14375 MHz, 458.88125 MHz, 458.8875 MHz, 458.89375 MHz, 458.90625 MHz, 458.9125 MHz, 458.91875 MHz, 458.93125 MHz, 458.9375 MHz, 458.94375 MHz, 458.95625 MHz, 458.9625 MHz, 458.96875 MHz, 458.98125 MHz, 458.9875 MHz, 458.99375 MHz, 460.48125 MHz, 460.4875 MHz, 460.49375 MHz, 460.50625 MHz, 460.5125 MHz, 460.51875 MHz, 460.53125 MHz, 460.5375 MHz, 460.54375 MHz, 460.55625 MHz, 460.5625 MHz, 460.56875 MHz, 465.48125 MHz, 465.4875 MHz, 465.49375 MHz, 465.50625 MHz, 465.5125 MHz, 465.51875 MHz, 465.53125 MHz, 465.5375 MHz, 465.54375 MHz, 465.55625 MHz, 465.5625 MHz, 465.56875 MHz.

B. A new paragraph (d)(84) is added to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(d) * * *

(84) These frequencies are low power frequencies governed by § 90.267.

3. Section 90.35(b)(3) is amended as follows:

§ 90.35 Industrial/Business Pool.

A. The table in paragraph (b)(3) is amended by revising the entries for the following frequencies to include new limitation number 83 (Note: In the final rule, we will set out the full entry for each frequency listed):

451.18125 MHz, 451.1875 MHz, 451.19375 MHz, 451.23125 MHz, 451.2375 MHz, 451.24375 MHz, 451.28125 MHz, 451.2875 MHz, 451.29375 MHz, 451.30625 MHz, 451.3125 MHz, 451.31875 MHz, 451.33125 MHz, 451.3375 MHz, 451.34375 MHz, 451.35625 MHz, 451.3625 MHz, 451.36875 MHz, 451.38125 MHz, 451.3875 MHz, 451.39375 MHz, 451.40625 MHz, 451.4125 MHz, 451.41875 MHz, 451.43125 MHz, 451.4375 MHz, 451.44375 MHz, 451.45625 MHz, 451.4625 MHz, 451.46875 MHz, 451.48125 MHz, 451.4875 MHz, 451.49375 MHz, 451.50625 MHz, 451.5125 MHz, 451.51875 MHz, 451.53125 MHz, 451.5375 MHz, 451.54375 MHz, 451.55625 MHz, 451.5625 MHz, 451.56875 MHz, 451.58125 MHz, 451.5875 MHz, 451.59375 MHz, 451.60625 MHz, 451.6125 MHz, 451.61875 MHz, 451.63125 MHz, 451.6375 MHz, 451.64375 MHz, 451.65625 MHz, 451.6625 MHz, 451.66875 MHz, 451.68125 MHz, 451.6875 MHz, 451.69375 MHz, 451.70625 MHz, 451.7125 MHz, 451.71875 MHz, 451.73125 MHz, 451.7375 MHz, 451.74375 MHz, 451.75625 MHz, 451.7625 MHz, 451.76875 MHz, 452.03125 MHz, 452.0375 MHz, 452.04375 MHz, 452.05625 MHz, 452.0625 MHz, 452.06875 MHz, 452.08125 MHz, 452.0875 MHz, 452.09375 MHz, 452.10625 MHz, 452.1125 MHz, 452.11875 MHz, 452.13125 MHz, 452.1375 MHz, 452.14375 MHz, 452.15625 MHz, 452.1625 MHz, 452.16875 MHz, 452.18125 MHz, 452.1875 MHz, 452.19375 MHz, 452.28125 MHz, 452.2875 MHz, 452.29375 MHz, 452.30625 MHz, 452.3125 MHz, 452.31875 MHz, 452.40625 MHz, 452.4125 MHz, 452.41875 MHz, 452.48125 MHz, 452.4875 MHz, 452.49375 MHz, 452.50625 MHz, 452.5125 MHz, 452.51875 MHz, 452.53125 MHz, 452.5375 MHz, 452.54375 MHz, 452.63125 MHz, 452.6375 MHz, 452.64375 MHz, 452.65625 MHz, 452.6625 MHz, 452.66875 MHz, 452.68125 MHz, 452.6875 MHz, 452.69375 MHz, 452.70625 MHz, 452.7125 MHz, 452.71875 MHz, 452.75625 MHz, 452.7625 MHz, 452.76875 MHz, 452.78125 MHz, 452.7875 MHz, 452.79375 MHz, 452.80625 MHz, 452.8125 MHz, 452.81875 MHz, 452.83125 MHz, 452.8375 MHz, 452.84375 MHz, 452.85625 MHz, 452.8625 MHz, 452.86875 MHz, 452.88125 MHz, 452.8875 MHz, 452.89375 MHz, 452.98125 MHz, 452.9875 MHz, 452.99375 MHz, 456.18125 MHz, 456.1875 MHz, 456.19375 MHz, 456.23125 MHz, 456.2375 MHz, 456.24375 MHz, 456.28125 MHz, 456.2875 MHz, 456.29375 MHz, 456.30625 MHz, 456.3125 MHz, 456.31875 MHz, 456.33125 MHz, 456.3375 MHz, 456.34375 MHz, 456.35625 MHz, 456.3625 MHz, 456.36875 MHz, 456.38125 MHz, 456.3875 MHz, 456.39375 MHz, 456.40625 MHz, 456.4125 MHz, 456.41875 MHz, 456.43125 MHz, 456.4375 MHz, 456.44375 MHz, 456.45625 MHz, 456.4675 MHz, 456.46875 MHz, 456.48125 MHz, 456.4875 MHz, 456.49375 MHz, 456.50625 MHz, 456.5125 MHz, 456.51875 MHz, 456.53125 MHz, 456.5375 MHz, 456.54375 MHz, 456.55625 MHz, 456.5625 MHz, 456.56875 MHz, 456.58125 MHz, 456.5875 MHz, 456.59375 MHz, 456.60625 MHz, 456.6125 MHz, 456.61875 MHz, 456.63125 MHz, 456.6375 MHz, 456.64375 MHz, 456.65625 MHz, 456.6625 MHz, 456.66875 MHz, 456.68125 MHz, 456.6875 MHz, 456.69375 MHz, 456.70625 MHz, 456.7125 MHz, 456.71875 MHz, 456.73125 MHz, 456.7375 MHz, 456.74375 MHz, 456.75625 MHz, 456.7625 MHz, 456.76875 MHz, 457.03125 MHz, 457.0375 MHz, 457.04375 MHz, 457.05625 MHz, 457.0625 MHz, 457.06875 MHz,

457.08125 MHz, 457.0875 MHz, 457.09375 MHz, 457.10625 MHz, 457.1125 MHz, 457.11875 MHz, 457.13125 MHz, 457.1375 MHz, 457.14375 MHz, 457.15625 MHz, 457.1625 MHz, 457.16875 MHz, 457.18125 MHz, 457.1875 MHz, 457.19375 MHz, 457.28125 MHz, 457.2875 MHz, 457.29375 MHz, 457.30625 MHz, 457.3125 MHz, 457.31875 MHz, 457.40625 MHz, 457.4125 MHz, 457.41875 MHz, 457.48125 MHz, 457.4875 MHz, 457.49375 MHz, 457.50625 MHz, 457.5125 MHz, 457.51875 MHz, 457.53125 MHz, 457.5375 MHz, 457.54375 MHz, 457.63125 MHz, 457.6375 MHz, 457.64375 MHz, 457.65625 MHz, 457.6625 MHz, 457.66875 MHz, 457.68125 MHz, 457.6875 MHz, 457.69375 MHz, 457.70625 MHz, 457.7125 MHz, 457.71875 MHz, 457.75625 MHz, 457.7625 MHz, 457.76875 MHz, 457.78125 MHz, 457.7875 MHz, 457.79375 MHz, 457.80625 MHz, 457.8125 MHz, 457.81875 MHz, 457.83125 MHz, 457.8375 MHz, 457.84375 MHz, 457.85625 MHz, 457.8625 MHz, 457.86875 MHz, 457.88125 MHz, 457.8875 MHz, 457.89375 MHz, 457.98125 MHz, 457.9875 MHz, 457.99375 MHz, 460.9125 MHz, 460.90625 MHz, 460.93125 MHz, 460.91875 MHz, 460.94375 MHz, 460.9375 MHz, 460.9625 MHz, 460.95625 MHz, 460.98125 MHz, 460.96875 MHz, 460.99375 MHz, 460.9875 MHz, 461.0125 MHz, 461.00625 MHz, 461.03125 MHz, 461.01875 MHz, 461.04375 MHz, 461.0375 MHz, 461.0625 MHz, 461.05625 MHz, 461.08125 MHz, 461.06875 MHz, 461.09375 MHz, 461.0875 MHz, 461.1125 MHz, 461.10625 MHz, 461.13125 MHz, 461.11875 MHz, 461.14375 MHz, 461.1375 MHz, 461.1625 MHz, 461.15625 MHz, 461.18125 MHz, 461.16875 MHz, 461.19375 MHz, 461.1875 MHz, 461.2125 MHz, 461.20625 MHz, 461.21875 MHz, 461.23125 MHz, 461.2375 MHz, 461.24375 MHz, 461.25625 MHz, 461.2625 MHz, 461.26875 MHz, 461.28125 MHz, 461.2875 MHz, 461.29375 MHz, 461.30625 MHz, 461.3125 MHz, 461.31875 MHz, 461.33125 MHz, 461.3375 MHz, 461.34375 MHz, 461.35625 MHz, 461.3625 MHz, 461.36875 MHz, 462.18125 MHz, 462.1875 MHz, 462.19375 MHz, 462.20625 MHz, 462.2125 MHz, 462.21875 MHz, 462.23152 MHz, 462.2375 MHz, 462.24375 MHz, 462.25625 MHz, 462.2625 MHz, 462.26875 MHz, 462.28125 MHz, 462.2875 MHz, 462.29375 MHz, 462.30625 MHz, 462.3125 MHz, 462.31875 MHz, 462.33125 MHz, 462.3375 MHz, 462.34375 MHz, 462.35625 MHz, 462.3625 MHz, 462.36875 MHz, 462.38125 MHz, 462.3875 MHz, 462.39375 MHz, 462.40625 MHz, 462.4125 MHz, 462.41875 MHz, 462.43125 MHz, 462.4375 MHz, 462.44375 MHz, 462.45625 MHz, 462.4625 MHz, 462.46875 MHz, 462.48125 MHz, 462.4875 MHz, 462.49375 MHz, 462.50625 MHz, 462.5125 MHz, 462.51875 MHz, 462.8625 MHz, 462.8875 MHz, 462.9125 MHz, 464.48125 MHz, 464.4875 MHz, 464.5125 MHz, 464.51875 MHz, 464.53125 MHz, 464.5375 MHz, 464.5625 MHz, 464.56875 MHz, 465.90625 MHz, 465.9125 MHz, 465.91875 MHz, 465.93125 MHz, 465.9375 MHz, 465.94375 MHz, 465.95625 MHz, 465.9625 MHz, 465.96875 MHz, 465.98125 MHz, 465.9875 MHz, 465.99375 MHz, 466.00625 MHz, 466.0125 MHz, 466.01875 MHz, 466.03125 MHz, 466.0375 MHz, 466.04375 MHz, 466.05625 MHz, 466.0625 MHz, 466.06875 MHz, 466.08125 MHz, 466.0875 MHz, 466.09375 MHz, 466.10625 MHz, 466.1125 MHz, 466.11875 MHz, 466.13125 MHz, 466.1375 MHz, 466.14375 MHz, 466.15625 MHz, 466.1625 MHz, 466.16875 MHz, 466.18125 MHz, 466.1875 MHz, 466.19375 MHz, 466.20625 MHz, 466.2125 MHz, 466.21875 MHz, 466.23125 MHz, 466.2375 MHz, 466.24375 MHz, 466.25625 MHz, 466.2625 MHz, 466.26875 MHz, 466.28125 MHz, 466.2875 MHz, 466.29375 MHz, 466.30625 MHz, 466.3125 MHz, 466.31875 MHz, 466.33125 MHz, 466.3375 MHz, 466.34375 MHz, 466.35625 MHz, 466.3625 MHz, 466.36875 MHz, 467.18125 MHz, 467.1875 MHz, 467.19375 MHz, 467.20625 MHz, 467.2125 MHz, 467.21875 MHz, 467.23152 MHz, 467.2375 MHz, 467.24375 MHz, 467.25625 MHz, 467.2625 MHz, 467.26875 MHz, 467.28125 MHz, 467.2875 MHz, 467.29375 MHz, 467.30625 MHz, 467.3125 MHz, 467.31875 MHz, 467.33125 MHz, 467.3375 MHz, 467.34375 MHz, 467.35625 MHz, 467.3625 MHz, 467.36875 MHz, 467.38125 MHz, 467.3875 MHz, 467.39375 MHz, 467.40625 MHz, 467.4125 MHz, 467.41875 MHz, 467.43125 MHz, 467.4375 MHz, 467.44375 MHz, 467.45625 MHz, 467.4675 MHz, 467.46875 MHz, 467.48125 MHz, 467.4875 MHz, 467.49375 MHz, 467.50625 MHz, 467.5125 MHz, 467.51875 MHz, 467.8625 MHz, 467.8875 MHz, 467.9125 MHz, 469.48125 MHz, 469.4875 MHz, 469.5125 MHz, 469.51875 MHz, 469.53125 MHz, 469.5375 MHz, 469.5625 MHz, 469.56875 MHz.

B. A new paragraph (c)(83) is added to read as follows:

§ 90.35 Industrial/business pool.

* * * * *

(c) * * *

(83) These frequencies are low power frequencies governed by § 90.267.

4. Section 90.35 is amended by revising paragraph (c)(67) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(c) * * *

(67) Use of this frequency is on a secondary basis and subject to the provisions of § 90.267(a)(4), (a)(7), (a)(8) and (a)(9).

5. Section 90.203 is amended by adding paragraph (m) to read as follows:

§ 90.203 Certification required.

* * * * *

(m) Transmitters for use on low power itinerant channels must be certificated, in accordance with the provisions of Part 2 of the Commission's Rules, and designed so that their operation is limited to the frequencies listed in § 90.267(a)(4) and/or frequencies 464.500 MHz, 464.550 MHz, 467.850 MHz, 467.875 MHz, 467.900 MHz , and 467.925 MHz.

6. Section 90.267 is amended by revising paragraph (a) to read as follows:

§ 90.267 Assignment and use of frequencies in the 450–470 MHz band for low power use.

(a) The following frequencies between 450–470 MHz are designated for low-power use subject to the provisions of this section. Pairs are shown but single frequencies are available for simplex operations.

(1) Group A1 Frequencies. The Industrial/Business Pool frequencies listed in Group A1 are available on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b), as follows:

(i) Within 80 kilometers of the top [xxx] urban areas, operation on these frequencies is limited to 5 watts output power for mobile stations and 20 watts effective radiated power for fixed stations. A maximum antenna height of 23 meters (75 feet) above ground is authorized for fixed stations.

(ii) Outside 80 kilometers of the top [xxx] urban areas, operation on these frequencies is available for full power operation pursuant to the power and antenna height limits listed in § 90.205.

INDUSTRIAL/BUSINESS POOL GROUP A1 LOW POWER FREQUENCIES

451.18125	451.58125	452.10625	452.70625
456.18125	456.58125	457.10625	457.70625
451.1875	451.5875	452.1125	452.7125
456.1875	456.5875	457.1125	457.7125
451.19375	451.59375	452.11875	452.71875
456.19375	456.59375	457.11875	457.71875
451.28125	451.60625	452.13125	452.78125
456.28125	456.60625	457.13125	457.78125
451.2875	451.6125	452.1375	452.7875
456.2875	456.6125	457.1375	457.7875
451.29375	451.61875	452.14375	452.79375
456.29375	456.61875	457.14375	457.79375
451.30625	451.65625	452.15625	452.80625
456.30625	456.65625	457.15625	457.80625
451.3125	451.6625	452.1625	452.8125
456.3125	456.6625	457.1625	457.8125
451.31875	451.66875	452.16875	452.81875
456.31875	456.66875	457.16875	457.81875
451.35625	451.68125	452.18125	452.83125
456.35625	456.68125	457.18125	457.83125
451.3625	451.6875	452.1875	452.8375
456.3625	456.6875	457.1875	457.8375
451.36875	451.69375	452.19375	453.84375
456.36875	456.69375	457.19375	457.84375
451.38125	451.70625	452.28125	452.88125
456.38125	456.70625	457.28125	457.88125
451.3875	451.7125	452.2875	452.8875
456.3875	456.7125	457.2875	457.8875
451.39375	451.71875	452.29375	452.89375
456.39375	456.71875	457.29375	457.89375
451.40625	451.73125	452.48125	452.98125
456.40625	456.73125	457.48125	457.98125
451.4125	451.7375	452.4875	452.9875
456.4125	456.7375	457.4875	457.9875
451.41875	451.74375	452.49375	452.99375
456.41875	456.74375	457.49375	457.99375
451.45625	451.75625	452.53125	462.18125
456.45625	456.75625	457.53125	467.18125
451.4625	451.7625	452.5375	462.1875
456.4625	456.7625	457.5375	467.1875
451.46875	451.76825	452.54375	462.19375
456.46875	456.76875	457.54375	467.19375
451.48125	452.03125	452.63125	462.45625
456.48125	457.03125	457.63125	467.45625
451.4875	452.0375	452.6375	462.4625
456.4875	457.0375	457.6375	467.4625
451.49375	452.04375	452.64375	462.46875
456.49375	457.04375	457.64375	467.46875
451.50625	452.05625	452.65625	462.48125
456.50625	457.05625	457.65625	467.48125
451.5152	452.0625	452.6625	462.4875
456.5125	457.0625	457.6625	467.4875
451.51875	452.06875	452.66875	462.49375
456.51875	457.06875	457.66875	467.49375
451.55625	452.08125	452.68125	462.50625
456.55625	457.08125	457.68125	467.50625
451.5625	452.0875	452.6875	462.5125
456.5625	457.0875	457.6875	467.5125
451.56875	452.09375	452.69375	462.51875
456.56875	457.09375	457.69375	467.51875

(2) Group A2 Frequencies. The Industrial/Business Pool frequencies listed in Group A2 are available nationwide on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b). Operation on these frequencies is limited to 5 watts output power for mobile stations and 20 watts effective radiated power for fixed stations. A maximum antenna height of 23 meters (75 feet) above ground is authorized for fixed stations.

INDUSTRIAL/BUSINESS POOL GROUP A2 LOW POWER FREQUENCIES

451.23125	451.53125	452.40625	452.85625
456.23125	456.53125	457.40625	457.85625
451.2375	451.5375	452.4125	452.8625
456.2375	456.5375	457.4125	457.8625
451.24375	451.54375	452.41875	452.86875
456.24375	456.54375	457.41875	457.86875
451.33125	451.63125	452.50625	
456.33125	456.63125	457.50625	
451.3375	451.6375	452.5125	
456.3375	456.6375	457.5125	
451.34375	451.64375	452.51875	
456.34375	456.64375	457.51875	
451.43125	452.30625	452.75625	
456.43125	457.30625	457.75625	
451.4375	452.3125	452.7625	
456.4375	457.3125	457.7625	
451.44375	452.31875	452.76875	
456.44375	457.31875	457.76875	

(3) Group B Frequencies. The Industrial/Business Pool frequencies listed in Group B are available nationwide on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b), for data operations. Operation on these frequencies is limited to 2 watts output power for mobile or fixed stations. A maximum antenna height of 23 meters (75 feet) above ground is authorized for fixed stations.

INDUSTRIAL/BUSINESS POOL GROUP B LOW POWER FREQUENCIES

462.20625	462.28125	462.35625	462.43125
467.20625	467.28125	467.35625	467.43125
462.2125	462.2875	462.3625	462.4375
467.2125	467.2875	467.3625	467.4375
462.21875	462.29375	462.36875	462.44375
467.21875	467.29375	467.36875	467.44375
462.23152	462.30625	462.38125	
467.23152	467.30625	467.38125	
462.2375	462.3125	462.3875	
467.2375	467.3125	467.3875	
462.24375	462.31875	462.39375	
467.24375	467.31875	467.39375	
462.25625	462.33125	462.40625	
467.25625	467.33125	467.40625	
462.2625	462.3375	462.4125	
467.2625	467.3375	467.4125	
462.26875	462.34375	462.41875	
467.26875	467.34375	467.41875	

(4) Group C Frequencies. The Industrial/Business Pool frequencies listed in Group C are available nationwide for non-coordinated itinerant use. Operation on these frequencies is limited to 2 watts output power for mobile or fixed stations. A maximum antenna height of 7 meters (20 feet) above ground is authorized for fixed stations. The frequencies in Group C that are subject to the provisions of § 90.35(c)(67) will not be available for itinerant use until October 17, 2003.

INDUSTRIAL/BUSINESS POOL GROUP C LOW POWER FREQUENCIES

461.03125	461.15625	461.28125	
466.03125	466.15625	466.28125	
461.0375	461.1625	461.2875	462.8625
466.0375	466.1625	466.2875	467.8625
461.04375	461.16875	461.29375	462.8875
466.04375	466.16875	466.29375	467.8875
461.05625	461.18125	461.30625	462.9125
466.05625	466.18125	466.30625	467.9125
461.0625	461.1875	461.3125	464.48125
466.0625	466.1875	466.3125	469.48125
461.06875	461.19375	461.31875	464.4875
466.06875	466.19375	466.31875	469.4875
461.08125	461.20625	461.33125	464.5125
466.08125	466.20625	466.33125	469.5125
461.0875	461.2125	461.3375	464.51875
466.0875	466.2125	466.3375	469.51875
461.09375	461.21875	461.34375	464.53125
466.09375	466.21875	466.34375	469.53125
461.10625	461.23125	461.35625	464.5375

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INDUSTRIAL/BUSINESS POOL GROUP C LOW POWER FREQUENCIES—Continued

466.10625	466.23125	466.35625	469.5375
461.1125	461.2375	461.3625	464.5625
466.1125	466.2375	466.3625	469.5625
461.11875	461.24375	461.36875	464.56875
466.11875	466.24375	466.36875	469.56875
461.13125	461.25625		
466.13125	466.25625		
461.1375	461.2625		
466.1375	466.2625		
461.14375	461.26875		
466.14375	466.26875		

(5) Group D Frequencies. The Industrial/Business Pool frequencies listed in Group D are available for central station alarm operations in urban areas as defined in § 90.35(c)(63) and § 90.35(c)(64). Central alarm stations may utilize antennas mounted not more than 7 meters (20 feet) above a man-made supporting structure. Outside the urban areas described in § 90.35(c)(63), Group D frequencies are available for general industrial/business use on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b). Non-central station alarm operation on these frequencies is limited to 2 watts output power for mobile or fixed stations. Non-central station alarm stations are limited to a maximum antenna height of 7 meters (20 feet) above ground.

INDUSTRIAL/BUSINESS POOL GROUP D LOW POWER FREQUENCIES

460.90625	460.95625	461.00625
465.90625	465.95625	466.00625
460.9125	460.9625	461.0125
465.9125	465.9625	466.0125
460.91875	460.96875	461.01875
466.91875	465.96875	466.01875
460.93125	460.98125	
465.93125	465.98125	
460.9375	460.9875	
465.9375	465.9875	
460.94375	460.99375	
465.94375	465.99375	

(6) Low Power Public Safety Frequencies. The frequencies listed in the Public Safety Pool Low Power Group are available nationwide on a coordinated basis, pursuant to § 90.20(c)(2) and § 90.175(b). Operation on these frequencies is limited to 5 watts output power for mobile or fixed stations. A maximum antenna height of 7 meters (20 feet) above ground is authorized for fixed stations.

PUBLIC SAFETY POOL LOW POWER FREQUENCIES

453.03125	453.13125	453.95625	460.53125
458.03125	458.13125	458.95625	465.53125
453.0375	453.1375	453.9625	460.5375
458.0375	458.1375	458.9625	465.5375
453.04375	453.14375	453.96875	460.54375
458.04375	458.14375	458.96875	465.54375
453.05625	453.88125	453.98125	460.55625
458.05625	458.88125	458.98125	465.55625
453.0625	453.8875	453.9875	460.5625
458.0625	458.8875	458.9875	465.5625
453.06875	453.89375	453.99375	460.56875
458.06875	458.89375	458.99375	465.56875
453.08125	453.90625	460.48125	
458.08125	458.90625	465.48125	
453.0875	453.9125	460.4875	
458.0875	458.9125	465.4875	
453.09375	453.91875	460.49375	
458.09375	458.91875	465.49375	
453.10625	453.93125	460.50625	
458.10625	458.93125	465.50625	
453.1125	453.9375	460.5125	
458.1125	458.9375	465.5125	
453.11875	453.94375	460.51875	
458.11875	458.94375	465.51875	

(7) Wide area operations will not be authorized. The area of normal day-to-day operations will be described in the application in terms of maximum distance from a geographic center (latitude and longitude).

(8) A hospital or health care institution holding a license to operate a radio station under this part may operate a medical radio telemetry device with an output power not to exceed 20 milliwatts without specific authorization from the Commission. All licensees operating under this authority must comply with the requirements and limitations set forth in this section.

(9) Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB.

(i) No limit shall be placed on the length or height above ground level of any commercially manufactured radiating transmission line when the transmission line is terminated in a non-radiating load and is routed at least 7 meters (20 feet) interior to the edge of any structure or is routed below ground level.

(ii) Sea-based stations may utilize antennas mounted not more than 7 meters (20 feet) above a man-made supporting structure, including antenna structures.

* * * * *

[FR Doc. 01–22439 Filed 9–11–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 174, 175, 176, and 177

[Docket No. RSPA–01–10568 (HM–207B)]

RIN 2137–AC64

Hazardous Materials: Retention of Shipping Papers

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA is proposing to amend the Hazardous Materials Regulations to require shippers and carriers to retain a copy of each hazardous material shipping paper, or an electronic image thereof, for a period of 375 days after the date the hazardous material is accepted by a carrier.

DATES: Comments must be received by November 13, 2001.

ADDRESSES: You must address comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh Street SW., Washington, DC 20590–0001. You should identify the docket number (RSPA–01–10568 (HM–207B)) and submit your comments in two copies. If you want to confirm that we received your comments, you should include a self-addressed, stamped postcard. You may submit comments by e-mail by accessing the Dockets Management System website at: *http://dms.dot.gov.* Click on "Electronic Submission" to obtain instructions for filing a document electronically. The Dockets Management System is located on the Plaza Level of the Department of Transportation headquarters building (Nassif building) at the above address. You may review public dockets there between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. You may also review comments on-line at the DOT Dockets Management System web site at: *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Deborah Boothe of the Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation.

SUPPLEMENTARY INFORMATION:

I. Background

Any person who offers a hazardous material for transportation in commerce must describe the hazardous material on a shipping paper in the manner required in 49 CFR part 172, subpart C. A shipping paper includes "a shipping order, bill of lading, manifest or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203 and 172.204." 49 CFR 171.8 (definition of "shipping paper"). A hazardous waste manifest "may be used as the shipping paper" if it contains all the information required by 49 CFR part 172, subpart C. 49 CFR 172.205(h).

Since 1980, generators and transporters of hazardous waste have been required to retain a copy of the hazardous waste manifest "for three years from the date the waste was accepted by the initial carrier." 49 CFR 172.205(e)(5), adopted in RSPA's May 22, 1980 final rule, 45 FR 34560, 34698. *See also* regulations of the U.S. Environmental Protection Agency at 40 CFR 262.40(a), 263.22(a). In 1994, Congress amended Federal hazardous material transportation law to require that, after a hazardous material "is no longer in transportation," each offeror and carrier of a hazardous material must retain the shipping paper "or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business." 49 U.S.C. 5110(e), added by Pub. L. 103–311, Title I, § 115, 108 Stat. 1678 (Aug. 26, 1994). That section also provides that the offeror and carrier "shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations."

RSPA proposes to amend the HMR to conform with § 5110(e). A paper copy of the shipping paper must accompany a hazardous material during transportation. We propose to add a new § 172.201(e) and amend §§ 174.24, 175.30, 176.24, and 177.817 to require each shipper and carrier to retain a copy of the shipping paper, or an electronic image thereof, for a period of 375 days after the date a hazardous material is offered for transportation by the shipper and accepted by the carrier. For purposes of the 375-day retention requirement, an electronic image includes an image transmitted by a facsimile (FAX) machine, an image on the screen of a computer, or an image generated by an optical imaging machine.

The statute requires that each shipper and carrier of a hazardous material retain the shipping paper or electronic image thereof for a period of one year after the hazardous material is no longer in transportation. However, the shipper may not know the exact date when transportation ends, nor will an originating or intermediate carrier know when transportation ends if it does not deliver the hazardous material to the consignee. Therefore, we are proposing that the 375-day retention period begin from the date the shipment is offered and accepted by the initial carrier for transportation. This is the same date that the three-year retention period for hazardous waste manifests starts. (49 CFR 172.205(e)(5)). Well over 95 percent of hazardous materials shipments are delivered within 10 days after they are offered to a carrier. Thus, for these shipments, our proposal to begin the 375-day retention period on the date a shipment is offered and accepted by the initial carrier is consistent with the statutory requirement for retention of shipping documents for one year after transportation ends. For the small percentage of shipments that take longer than 10 days to deliver, especially those shipments involving interlining and international transportation, the shipper and initial and intermediate carriers will likely not know the delivery date for the shipment and will therefore be uncertain about the retention period if the retention period begins with the delivery date. To require shippers and carriers to determine an exact delivery

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date would impose an unreasonable recordkeeping and reporting burden that was not intended by the statute.

In order to facilitate compliance with and enforcement of the requirement, we propose that the copy be dated. For shippers, the shipping paper copy must include the date that the shipment is accepted for transportation by the initial carrier. For carriers, the shipping paper copy must include the date that the carrier accepts the shipment for transportation. The shipping paper may be electronically filed; however, it must be made available on paper if requested by an authorized federal, state, or local government official.

The shipping paper copy or its electronic image must be accessible at or through the principal place of business of each person required to prepare or maintain it during transportation. (For a motor carrier, "principal place of business" has the same meaning as in § 390.5 of the Federal Motor Carrier Safety Regulations.) In this context, "accessible" means readily and easily obtained, i.e., with the same speed of availability as that required to retrieve a paper record from a filing cabinet holding records of the business.

Except for hazardous waste manifests, *see* 49 CFR 172.205(a), the HMR do not require a shipping paper to be in any specific form or format. We understand that different types of documents are used by offerors of hazardous material to meet the requirement to describe the hazardous material on a "shipping paper." Some private motor carriers use the same shipping paper for multiple shipments of a hazardous material. Typically, these permanent shipping papers are used by private motor carriers who transport a single hazardous material on a regular basis over an extended period, such as one cargo tank of gasoline. We are proposing to permit operators to retain a single copy of such permanent shipping papers for the period in which the shipping paper is used and 375 days thereafter to meet the shipping paper retention requirements in this NPRM provided that the operator also retains a record of each shipment made under the shipping paper. The record must include shipping name, identification number, quantity transported, and date of shipment.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This proposed rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034).

This proposed rule implements a statutory requirement that has been in effect since 1994. We do not anticipate any additional costs on offerors and carriers of hazardous materials, and, therefore, preparation of a regulatory evaluation is not warranted. This determination may be revised based on comments received.

B. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). Federal hazardous material transportation law would preempt any State, local, or Indian tribe requirement on the preparation, execution, and use of shipping documents related to hazardous materials that is not substantively the same as this proposed rule, 49 U.S.C. 5125(b)(1)(B), but this proposed rule would not have substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Federal hazardous materials transportation law provides that, if DOT issues a regulation on the preparation, execution, and use of shipping documents related to hazardous material, DOT must determine and publish in the **Federal Register** the effective date of federal preemption. 49 U.S.C. 5125(b)(2). The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. We propose that the effective date of federal preemption be 90 days from publication of a final rule in the **Federal Register**.

C. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to assess the impact of its regulations on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule implements a statutory requirement that has been in effect since 1994. Therefore, this proposed rule will not impose additional costs on offerors and carriers of hazardous material. I hereby certify that, while the proposed rule would apply to a substantial number of small entities, there would not be a significant economic impact on those small businesses.

E. Unfunded Mandates Reform Act of 1995

This NPRM imposes no mandates and thus does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. No new burdens are proposed under this rule. RSPA has a current information collection approval under OMB No. 2137–0034, "Shipping Papers and Emergency Response Information" which includes the shipping paper retention requirement in the burden estimates.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Environmental Assessment

This proposed rule does not affect packaging or hazard communication requirements for shipments of hazardous materials transported in commerce. We find that there are no significant environmental impacts associated with this proposed rule.

List of Subjects

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 175

Air Carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR parts 172, 174, 175, 176, and 177 as follows:

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

1. The authority citation for part 172 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 172.201, the section heading would be revised and a new paragraph (e) would be added to read as follows:

§ 172.201 Preparation and retention of shipping papers.

* * * * *

(e) Each person required to describe a hazardous material on a shipping paper must retain a copy of the shipping paper, or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper immediately available, upon request, to an authorized official of a Federal, State, or local government agency at reasonable times and locations. For a hazardous waste, the shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, the shipping paper copy must be retained for 375 days after the material is accepted by the initial carrier. Each shipping paper copy must include the date of acceptance by the initial carrier. A private motor carrier (as defined in § 390.5 of subchapter B of this title) that uses a shipping paper without change for multiple shipments of a single hazardous material (i.e., one having the same shipping name and identification number) may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made, to include shipping name, identification number, quantity transported, and date of shipment.

PART 174—CARRIAGE BY RAIL

3. The authority citation for part 174 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

4. Section 174.24 would be revised to read as follows:

§ 174.24 Shipping papers.

(a) A person may not accept a hazardous material for transportation or transport a hazardous material by rail unless that person receives a shipping paper prepared in accordance with part 172 of this subchapter, unless the material is excepted from shipping paper requirements as provided in § 172.200(b) of this subchapter. Only an initial carrier within the United States must receive and retain a copy of the shipper's certification as required by § 172.204 of this subchapter.

(b) Each person receiving a shipping paper required by this section must retain a copy of the shipping paper, or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper immediately available, upon request, to an authorized official of a Federal, State, or local government agency at reasonable times and locations. For a hazardous waste, each shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, each shipping paper copy must be retained for 375 days after the material is accepted by the initial carrier. Each shipping paper copy must include the date of acceptance by the initial carrier.

PART 175—CARRIAGE BY AIRCRAFT

5. The authority citation for part 175 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

6. In § 175.30, paragraph (a)(2) would be revised to read as follows:

§ 175.30 Accepting and inspecting shipments.

(a) * * *

(1) * * *

(2) Described and certified on a shipping paper prepared in duplicate in accordance with part 172 of this subchapter or as authorized by § 171.11 of this subchapter. Each person receiving a shipping paper required by this section must retain a copy of the shipping paper, or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper immediately available, upon request, to an authorized official of a federal, state, or local government agency at reasonable times and locations. For a hazardous waste, each shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, each shipping paper copy must be retained for 375 days after the material is accepted by the carrier. Each shipping paper copy must include the date of acceptance by the carrier.

PART 176—CARRIAGE BY VESSEL

7. The authority citation for part 176 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

8. Section 176.24 would be revised to read as follows:

§ 176.24 Shipping papers.

(a) A person may not accept a hazardous material for transportation or transport a hazardous material by vessel unless that person has received a shipping paper prepared in accordance with part 172 of this subchapter, unless the material is excepted from shipping paper requirements as provided in § 172.200(b) of this subchapter.

(b) Each person receiving a shipping paper required by this section must retain a copy of the shipping paper, or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper immediately available, upon request, to an authorized official of a Federal, State, or local government agency at reasonable times and locations. For a hazardous waste, each shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, each shipping paper copy must be retained for 375 days after the material is accepted by the carrier. Each shipping paper copy must include the date of acceptance by the carrier.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

9. The authority citation for part 177 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

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10. In § 177.817, paragraph (a) would be revised and new paragraph (f) would be added, to read as follows:

§ 177.817 Shipping papers.

(a) *General requirements.* A person may not accept a hazardous material for transportation or transport a hazardous material by highway unless that person has received a shipping paper prepared in accordance with part 172 of this subchapter, unless the material is excepted from shipping paper requirements as provided in § 172.200(b) of this subchapter.

* * * * *

(f) *Retention of shipping papers.* Each person receiving a shipping paper required by this section must retain a copy of the shipping paper, or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper immediately available, upon request, to an authorized official of a Federal, State, or local government agency at reasonable times and locations. For a hazardous waste, the shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, the shipping paper copy must be retained for 375 days after the material is accepted by the carrier. Each shipping paper copy must include the date of acceptance by the carrier. A private motor carrier (as defined in § 390.5 of subchapter B of this title) that uses a shipping paper without change for multiple shipments of a single hazardous material (i.e., one having the same shipping name and identification number) may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made, to include shipping name, identification number, quantity transported, and date of shipment.

Issued in Washington, DC on September 6, 2001, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–22851 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 66, No. 177
Wednesday, September 12, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

RIN 0560–AG48

Sugar Payment-In-Kind (PIK) Diversion Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of program Implementation.

SUMMARY: This notice implements section 1009(e) of the Food Security Act of 1985 with respect to existing Commodity Credit Corporation (CCC) inventories of sugar. Based on the combination of relatively low market prices, CCC holding sugar inventory with no other specific disposal plan, and U.S. sugar producers' growing realization of the major market problems facing the sugar sector, CCC is implementing a Sugar Payment-In-Kind (PIK) Diversion Program to help reduce CCC's sugar inventory and related storage costs.

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas W. Bickerton, Economist, Dairy and Sweetener Analysis, Farm Service Agency, USDA, STOP 516, 1400 Independence Avenue, SW., Washington, DC 20250–0516.

SUPPLEMENTARY INFORMATION:

Authority for a Sugar PIK Diversion Program

Authority for CCC to conduct a Sugar PIK Diversion Program is based on section 1009(e) of the Food Security Act of 1985, which provides that when a loan program is in effect, the Secretary may, at any time before harvest, accept bids from producers to convert planted acreage to diverted acreage in return for payment in kind from CCC surplus stocks of the commodity to which the acreage was planted. Subsection (e) also states that no producer may receive over $20,000 worth of in-kind payments. Such action can be taken only if: (1) Changes in domestic or world supply or demand conditions occurred after the announcement of the loan program for the crop and (2) without action to further adjust production, the Government and producers will be faced with a burdensome and costly surplus. Overall, the measures addressed in section 1009(e) and other subsections can be taken under the terms of the statute only if they would reduce direct and indirect costs to the Government without adversely affecting the income of participating small- and medium-size producers.

Basis for Implementing a Sugar PIK Diversion Program

CCC is implementing a Sugar PIK Diversion Program to reduce the cost of the sugar loan program by eliminating up to 200,000 tons of CCC's sugar inventory and related Government storage costs.

Program Design

Administration

This program will be administered by the Executive Vice President, CCC as follows.

1. Bid Submission Procedures

(a) Producers wishing to participate in the program must submit a bid to their local Farm Service Agency Service Center during the period between September 10 and 21, 2001. The bid must be on form CCC–744. The contract will provide for the diversion of acreage planted to sugar beets or sugar cane which are under contract for delivery to a sugar processor. Diverted acreage may not be harvested for sugar or used for any other commercial purposes. In return, producers will receive in-kind payments of sugar from CCC's inventory.

(b) The bid must provide information necessary for conducting the program, including but not limited to, the number of acres that the producer will divert; the producer's 1997–1999 simple average sugar beet or sugar cane yield, the 1997–1999 simple average sugar content of the producer's beets or cane, the processor's 1997–1999 simple average recovery rate, and the value of CCC sugar sought as payment.

(c) Notification of acceptable bids, unless otherwise determined by CCC, will be published on or about September 28, 2001.

2. In-Kind Payments

(a) CCC will, through such methods as CCC deems appropriate, make in-kind payments in the form of sugar held in CCC inventory.

(b) Subject to CCC approval, producers will have the option of receiving either refined beet sugar or raw cane sugar.

(c) The value of CCC-owned inventory is dependent upon the storage location of the sugar and the type of sugar (raw or refined). Accordingly, the quantity of sugar to be paid by CCC as an in-kind payment to a producer will be determined by dividing: (1) The total of the bid amount submitted by the producer and accepted by CCC, by (2) the value per unit of CCC's inventory at the storage location where title will transfer from CCC to the producer, or the producer's assignee.

(d) Producers may assign their in-kind payments only to the processor with whom the producer has a 2001-crop sugar contract.

(e) CCC will transfer title of the sugar to the producer, or the producer's assignee, no earlier than October 1, 2001, and no later than March 31, 2002, as determined by CCC, by notifying the producer or assignee that the sugar is available to them. CCC will stop storage payments on this sugar on the date of transfer.

3. Payment Limitation

(a) A $20,000 payment limitation applies separately to each "producer," defined as an individual, and each individual member of a joint operation or joint venture. However, minors are combined with their guardian or parent for payment limitation purposes.

(b) This payment limitation is separate and distinct from all other CCC program payment limitations. In the case of current verbal contracts with processors, proof of payment as multiple persons may be required for multiple program eligibilities. Also, husbands and wives may be required to be separate signatories to written contracts in order to be separately eligible for payments.

4. Planting Limitation to the 2001 Crop

(a) Participation in the 2001 PIK Program is open to all producers,

regardless of whether or not they participated in the 2000 PIK Program.

(b) Participants in the 2001 PIK Program will be ineligible to participate in any future sugar PIK diversion program if they plant or have an interest in, directly or indirectly, more total acres to sugar beets or sugar cane in future years than in 2001.

5. Bid Rankings

CCC will rank eligible bids on the basis of the bid amount as a percentage of the bid cap, which is CCC's estimate of the value of the diverted sugar production. Eligible bids with the lowest of such percentages will be selected first. In the case of bids with identical ranking, selection will be based on random selection or pro rata shares, as CCC deems appropriate.

Signed in Washington, D.C., on September 7, 2001.

James R. Little,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01–22940 Filed 9–7–01; 4:28 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Transfer of Administrative Jurisdiction: Fort Leonard Wood Military Reservation Interchange, Mark Twain National Forest, MO

AGENCY: Forest Service, USDA.

ACTION: Notice of land interchange.

SUMMARY: On June 18, 2001, and June 29, 2001, respectively, the Secretary of the Army and the Secretary of Agriculture signed a joint interchange order authorizing the transfer of administrative jurisdiction from the Department of Agriculture to the Department of the Army for 9,990 acres, more or less (Exhibit B), lying within the Fort Leonard Wood Military Reservation and the Mark Twain National Forest, Pulaski County, Missouri. Furthermore, the order transfers from the Department of the Army to the Department of Agriculture for inclusion in the Mark Twain National Forest 1,819 acres, more or less (Exhibit A), within the boundaries of the Mark Twain National Forest, Pulaski and Laclede Counties, Missouri. At this time, however, only 1,769 acres, more or less, are being transferred to the Department of Agriculture, Forest Service, and 50 acres are being retained under the jurisdiction of the Army. These 50 acres (Exhibit C) have been identified as possibly containing ordnance, explosives, or other hazardous materials and will not be transferred until necessary response actions have been completed as acceptable to the Department of Agriculture, Forest Service. Upon completion of the environmental response activities, as agreed by the Army and the Forest Service, the Forest Service will publish a notice in the **Federal Register** that the lands described in Exhibit C are deemed transferred to the jurisdiction of the Secretary of Agriculture as provided in the joint interchange order. Copies of the joint order, as signed, and Exhibits A, B and C, which describe the lands therein being conveyed and those lands excluded from jurisdictional change to the Forest Service until completion of investigation and remediation by the Army, are set out at the end of this notice.

DATES: The 45-day Congressional oversight requirement of the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b) has been met. The order is effective September 12, 2001.

ADDRESSES: Copies of the maps showing the lands included in this joint interchange are on file and available for public inspection in the Office of the Director, Lands Staff, 4th Floor—South, Sidney R. Yates Federal Building, Forest Service, USDA, 201 14th Street, SW., Washington, DC 20250, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect the maps are encouraged to call ahead to (202) 205–1248 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: David M. Sherman, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, Telephone: (202) 205–1362.

Dated: September 5, 2001.

James R. Furnish,

Deputy Chief for National Forest System.

Department of the Army

Department of Agriculture

Fort Leonard Wood, Missouri—Joint Order Interchanging Administrative Jurisdiction of Departmeni of the Army Lands and National Forest System Lands

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by the Act of July 26, 1956, (70 Stat. 656; 16 U.S.C. 505a, 505b), it is ordered as follows:

1. The lands under the jurisdiction of the Department of the Army described in Exhibit A and shown on a map on file and available for public inspection in the Office of the Chief, U.S. Department of Agriculture (USDA), Forest Service, Washington, DC, which lie within the boundary of Fort Leonard Wood Military Reservation, Missouri, are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture, subject to outstanding rights or interests of record.

2. The lands under the jurisdiction of the USDA Forest Service described in Exhibit B and shown on a map on file and available for public inspection in the office of the Chief, USDA Forest Service, Washington, DC, which lie within the Mark Twain National Forest, Missouri, are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army, subject to outstanding rights or interests of record.

3. All lands described in Exhibit C that have been identified as possibly containing ordnance, explosives, or other hazardous materials will be retained under Army jurisdiction until necessary response actions are completed as acceptable to the USDA Forest Service. Upon completion of the environmental response activities, as agreed upon by the Army and the Forest Service pursuant to a Memorandum of Understanding dated May 23, 2001 and June 6, 2001, the Forest Service shall publish a notice in the **Federal Register** that the lands described in Exhibit C are deemed transferred to the jurisdiction of the Secretary of Agriculture as provided in this Joint Interchange Order.

4. Subject to the condition in Paragraph 3 and pursuant to section 2 of the aforementioned Act of July 26, 1956, the National Forest System lands transferred to the Secretary of Army by this Joint Interchange Order, are hereby subject only to the laws applicable to the Department of the Army lands comprising Fort Leonard Wood Military Reservation, Missouri. The Department of the Army lands transferred to the Secretary of Agriculture by this order are hereafter subject only to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended. Subject to the condition in Paragraph 3, the boundary of Fort Leonard Wood Military Reservation is hereby adjusted to exclude all of the lands transferred to the Secretary of Agriculture and include all lands received by the Secretary of Army, subject to outstanding rights or interests of record. Also subject to paragraph 3, pursuant to section 11 of the Weeks Act (16 U.S.C. 521), the boundary of the Mark Twain National Forest is hereby modified to include those lands transferred from the Secretary of the Army to the Secretary of Agriculture.

5. Any environmental liability created by the Department of the Army's use of the lands described in Exhibits A, and B, and C shall be the Army's sole responsibility as provided for in the Memorandum of Understanding entered into by the Department of the Army and the USDA Forest Service and signed by each on May 23, 2001 and June 6, 2001, respectively. After the effective date of this Joint Interchange Order, the Department of the Army shall remain responsible for the response to any ordnance, explosives, hazardous substances, or pollutants or contaminants discovered on all lands described in Exhibits A and B that are the result of past Army operations on those lands or that occurred during the Army's administration of those lands.

This Joint Interchange Order will be effective as of the date of publication in the **Federal Register.**

Dated: June 18, 2001.

Thomas E. White,
Secretary of the Army.

Dated: June 29, 2001.

Ann M. Veneman,
Secretary of Agriculture.

Exhibit A—Department of Army Lands To Be Transferred to Mark Twain National Forest

Township 35 North, Range 10 West, 5th Principal Meridian:

Section 21: West ½ lying east of the Big Piney River and west of State Highway "J".
Containing 182.38 acres, more or less.
Section 28: North ½ lying east of the Big Piney River and west of State Highway "J".
Containing 164.40 acres, more or less.

Township 34 North, Range 12 West, 5th Principal Meridian:

Section 3: Southeast ¼ of the Southeast ¼ except approximately 8 acres north and west of the road crossing the northwest corner of the SESE.
Containing 32.00 acres, more or less.
Section 10: East ½ of the East ½
Containing 160.00 acres, more or less.
Section 16: East ½
Containing 320.00 acres, more or less.
Section 21: East ½
Containing 320.00 acres, more or less.
Section 28: East ½
Containing 320.00 acres, more or less.
Section 33: East ½
Containing 320.00 acres, more or less.
Containing in the aggregate 1818.78 acres, more or less.

Exhibit B—Forest Service Lands To Be Transferred to Fort Leonard Wood

Township 35 North, Range 11 West, 5th Principal Meridian:

Section 1: West ½ of the West ½ lying west of Decker Ridge Road.
Containing an estimated 73.17 acres, more or less.
Section 12: West ½ of the Northwest ¼ lying west of Decker Ridge Road.
Containing an estimated 43.04 acres, more or less.
Also the West ½ of the Southeast ¼, and the Southeast ¼ of the Southeast ¼.
Containing 125.31 acres, more or less.
Section 6: Entire section.
Containing 655.69 acres, more or less.
Section 7: Entire section.
Containing 646.00 acres, more or less.
Section 18: Entire section.
Containing 644.20 acres, more or less.
Section 19: Entire section.
Containing 648.94 acres, more or less.
Section 30: Entire section.
Containing 647.30 acres, more or less.

Township 36 North, Range 12 West, 5th Principal Meridian:

Section 36: That part of the South Half of the Southeast Quarter described as follows: Commencing at the Township Corner to Townships 35 and 36 North, Ranges 11 and 12 West, thence North 79° West 1.9 chains to the true point of beginning: Thence North 79° West 38.82 chains to the intersection with the North-South centerline of Section 36, Township 36 North, Range 12 West; Thence South along said line 7.03 chains to the South Quarter Corner of Section 36; Thence South 88°58′ East along the Township Line 38.00 chains; Thence North 15°30′ East 0.36 chains to the point of beginning.
Containing 14.00 acres, more or less.

Township 35 North, Range 12 West, 5th Principal Meridian:

Section 1: Entire section except 0.73 acres in the southwest quarter described as follows: Commencing at the southwest corner of the southwest quarter of said Section 1; Thence along the west boundary of said southwest quarter N 01°09′E, 627.2 Feet to the Point of Beginning;
Thence S 88°45′E, 174.8 Feet;
Thence N 01°15′E, 190.0 Feet;
Thence N 88°45′W, 126.4 Feet;
Thence S 39°18′W, 78.9 Feet to west boundary;
Thence S 01°09′W 127.9, Feet along said boundary to the Point of Beginning.
Containing 647.34 acres, more or less.
Section 12: Entire section except 1 acre cemetery in the Northwest ¼ of the Southwest ¼.
Containing 639.00 acres, more or less.
Section 13: East ½ east of Roubidoux Creek
Containing 246.77 acres, more or less.
Section 24: East ½, and the East ½ of the Southwest ¼.
Containing 400.00 acres, more or less.
Section 25: Entire section.
Containing 640.00 acres, more or less.
Section 26: East ½ of the East ½.
Containing 160.00 acres, more or less.
Section 35: East ½, the East ½ of the Southwest ¼, the Southwest ¼ of the Southwest ¼, and the Southeast ¼ of the Northwest ¼.
Containing 480.00 acres, more or less.
Section 36: North ½, the Southwest ¼, and the West ½ of the Southeast ¼.
Containing 554.62 acres, more or less.

Township 34 North, Range 42 West, 5th Principal Meridian:

Section 1: All of Lots 1 through 6 and the West ½ of Lot 7 of the Northeast ¼, and all of Lots 1 through 7 of the Northwest ¼.
Containing 1,046.54 acres, more or less.
Section 2: All of Lots 1 through 7 of the Northeast ¼, and all of Lots 1 through 7 of the Northwest ¼.
Containing 1,108.01 acres, more or less.
Section 3: All of the Northeast ¼ lying east of Roubidoux Creek (including all of the East ½ of Lots 6 and 7).
Containing an estimated 570.00 acres, more or less.
Containing in the aggregate 9,989.93 acres, more or less.

Exhibit C—Department of Army Lands To Be Excluded From Jurisdictional Change to the Forest Service Until Completion of Investigation and Remediation by the Army

Township 34 North, Range 12 West, 5th Principal Meridian:

Section 33: a portion of the East ½ of the East ½ of the Northeast ¼
Section 28: a portion of the East ½ of the East ½ of the Southeast ¼
Specifically located within the following longitude and latitude coordinates:
Northwest corner, North 37°37.299, West 92°15.123
Northeast corner North 37°37.301, West 92°14.975
Southwest corner North 37°36.810, West 92°15.123
Southeast corner North 37°36.809, West 92°14.975
Containing 50 acres more or less.

[FR Doc. 01–22846 Filed 9–11–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on September 20–21. The first day will be a field trip starting at 9 a.m. at the Prineville BLM Office for a tour of water quality-related issues in the basin. The second day will be a business meeting starting at 9 a.m. at the Satafford Inn at 1773 NE 3rd St. in Prineville, Oregon. Agenda items will include: Water Quality Restoration Plans in the Deschutes Basin, a Wrap up of PAC Goals, Info Sharing and a Public Forum from 3:30 p.m. till 4 p.m. All Deschutes Province Advisory

Committee Meetings are open to the

DEPARTMENT OF COMMERCE

Notice of Final Determination of Sales

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Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 NE 3rd, Bend, OR 97701, Phone (541) 416–6872.

Dated: September 4, 2001.

Leslie A.C. Weldon,

Deschutes National Forest Supervisor.

[FR Doc. 01–22853 Filed 9–11–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–501]

Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China; Notice of Rescission in Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission in part of the antidumping duty administrative review for the period February 1, 2000–January 31, 2001.

SUMMARY: In accordance with 19 CFR 351.213(b)(2), the Department received a timely request from petitioner, Paint Applicator Division of the American Brush Manufacturers Association (Paint Applicator Division), that we conduct an administrative review of the sales of Hebei Founder Import & Export Company (Founder) and Hunan Provincial Native Products Import & Export Corp. (Hunan). On March 22, 2001, the Department initiated an administrative review of the antidumping duty order on natural bristle paintbrushes and paint brush heads for the period of review (POR) of February 1, 2000 through January 31, 2001. We are now rescinding this review with respect to Founder because Founder did not have any sales, shipments or entries during the POR.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Sally C. Gannon, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, D.C. 20230; telephone: 202–482–4052 and 202–482–0162, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Background

On February 14, 2001, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on natural bristle brushes and brush heads from the People's Republic of China (PRC) (66 FR 10269). On February 28, 2001, the Department received a timely request from the Paint Applicator Division for administrative reviews of Hunan Provincial Native Produce and Animal By-Products Import and Export Corporation (Hunan) and Hebei Founder Import and Export Company (Founder). On March 22, 2001, the Department initiated an administrative review of the antidumping duty order on natural bristle paintbrushes and paintbrush heads, for the period from February 1, 2000 through January 31, 2001, in order to determine whether merchandise imported into the United States is being sold at less than fair value prices. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part* (66 FR 16037). We received a letter from Founder, on April 9, 2001, stating that it did not make any sales or shipments during the POR. On April 24, 2001, we received a letter from Hunan stating that no entries of subject merchandise exported by Hunan were made during the POR. On May 8, 2001, we issued the questionnaire to Founder and Hunan.

The Department performed a U.S. Customs Service (Customs) query for entries of natural bristle paintbrushes and brush heads, classified under the Harmonized Tariff Schedule of the United States (HTSUS) number 9603.40.40.40, from the PRC during the POR. We found no entries or shipments from Founder during the POR. However, we did find evidence of a potential entry from Hunan. In its June 22, 2001 response to our section A questionnaire, Hunan stated that it had one sample sale during the POR.

Rescission, in Part, of Antidumping Administrative Review

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of subject merchandise. On July 26, 2001, the Department issued a memorandum stating our intent to rescind the review, in part, with regard to Founder in light of the information on the record that Founder did not sell, ship or enter the subject merchandise during the POR. The Department circulated this memorandum among the parties and received no comments. *See Memorandum For the File From Jacqueline Arrowsmith Through Barbara E. Tillman: Partial Rescission of Antidumping Duty Administrative Review* (July 26, 2001) (on file in the Department's Central Records Unit in Room B–099). Therefore, the Department has determined that it is reasonable to rescind, in part, the administrative review of the antidumping duty order on natural bristle paintbrushes and paintbrush heads with respect to Founder for the period February 1, 2000 through January 31, 2001. The Department will issue appropriate assessment instructions to Customs.

The Department is not rescinding its review of the antidumping duty order on natural bristle paintbrushes and paintbrush heads with respect to Hunan, for the period February 1, 2000 through January 31, 2001, because there is evidence on the record of a sale, made by Hunan to the United States market during the POR.

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(3) and sections 751(a) and 777(i)(1) of the Act.

Dated: September 6, 2001.

Edward C. Yang,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–22933 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–810]

Antidumping Duty Order: Solid Agricultural Grade Ammonium Nitrate From Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder, Melani Miller, or Anthony Grasso, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0189, (202) 482–0116, or (202) 482–3853, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the regulations at 19 CFR part 351 (April 2000).

Scope of Order

The products covered by this antidumping duty order are solid, fertilizer grade ammonium nitrate ("ammonium nitrate" or "subject merchandise") products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and for purposes of the Customs Service, the written description of the merchandise under investigation is dispositive.

Antidumping Duty Order

On July 25, 2001, the Department published in the **Federal Register** the *Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine*, 66 FR 38632 (July 25, 2001) ("*Final Determination*").

On August 31, 2001, in accordance with section 735(d) of the Act, the U.S. International Trade Commission ("ITC") notified the Department that a U.S. industry is "materially injured," within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of less-than-fair-value imports of ammonium nitrate from Ukraine.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the subject merchandise exceeds the export price or constructed export price of the subject merchandise for all entries of ammonium nitrate from Ukraine. Antidumping duties will be assessed on all unliquidated entries of ammonium nitrate from Ukraine entered, or withdrawn from warehouse, for consumption on or after March 5, 2001, the date of publication of the Department's preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate From Ukraine*, 66 FR 13286 (March 5, 2001).

The ITC further found that critical circumstances do not exist with respect to imports of the subject merchandise from Ukraine. As a result, the Department will direct Customs officers to refund any cash deposits made, or bonds posted, pursuant to the Department's affirmative determination of critical circumstances for all merchandise produced/exported by all Ukrainian companies which were entered on or after December 5, 2000 (which is 90 days prior to the Department's preliminary determination publication date of March 5, 2001) and before March 5, 2001.

On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits for the subject merchandise equal to the weighted-average antidumping duty margins as noted below. The "Ukraine-wide Rate" applies to all exporters of ammonium nitrate not specifically listed below:

Exporter/manufacturer	Weighted-average margin percentage
J.S.C. "Concern" Stirol	156.29
Ukraine-wide Rate	156.29

This notice constitutes the antidumping duty order with respect to ammonium nitrate from Ukraine, pursuant to section 735(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with sections 736(a) and 19 CFR 351.211.

Dated: September 6, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–22934 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Thursday, September 20, 2001. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review the consensus process, select applicants for site visits, determine possible conflict of interest for site visited companies, begin stage III of the judging process, review feedback to first stage applicants, a debriefing on the State and Local Workshop, an E-Baldrige demonstration, and 2001 Regionals Sign-Up. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene September 20, 2001 at 9 a.m. and adjourn at 4:30 p.m. on September 20, 2001. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and

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Technology, Red Training Room, Chemistry Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 12, 2001, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: September 4, 2001.

Karen H. Brown,

Deputy Director.

[FR Doc. 01–22857 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090501A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has submitted a Fisheries Management and Evaluation Plan (FMEP) pursuant to the protective regulations promulgated for Lower Columbia River (LCR) chum salmon under the Endangered Species Act (ESA). The FMEP specifies the future management of inland fisheries potentially affecting the LCR chum salmon in the State of Oregon. This document serves to notify the public of the availability of the FMEP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEP must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on October 12, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEP should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to 503–872–2737. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR at phone number 503-736-4737 or e-mail: *rich.turner@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Lower Columbia River chum salmon (*Oncorhynchus keta*) Evolutionarily Significant Unit (ESU).

Background

ODFW has submitted to NMFS an FMEP for inland recreational and commercial fisheries potentially affecting listed adults and juveniles of the LCR chum salmon ESU. These include all freshwater fisheries managed under the sole jurisdiction of the State of Oregon occurring within the boundaries of the LCR chum salmon ESU including the anadromous portions of the Lower Columbia River mainstem and tributaries, from the mouth upstream to Bonneville Dam. The objective of the fisheries is to harvest hatchery-origin salmon and steelhead, and other fish species in a manner that does not jeopardize the survival and recovery of the listed LCR chum salmon ESU. All Oregon tributaries to the Columbia River are closed to the retention of chum salmon but chum salmon may be handled during fisheries for steelhead, salmon and other species in these tributaries. Impact levels to the listed LCR chum salmon ESU are specified in the FMEP. Population risk assessments in the FMEP indicate the extinction risk for the listed ESU under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEP to assess the abundance of LCR chum salmon, determine fishery effort, and angler compliance. ODFW will annually conduct a population status and a review of the fisheries within the provisions of the FMEP. ODFW will conduct, at a minimum of every 5 years, a comprehensive review to evaluate the effectiveness of the FMEP.

As specified in the July 10, 2000, ESA 4 (d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (l). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4 (d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4 (d) rule.

Dated: September 6, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources,, National Marine Fisheries Service.

[FR Doc. 01–22932 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. No. 082301A]

Endangered and Threatened Wildlife and Plants; Recovery Plan Preparation for the Gulf of Maine Distinct Population Segment of Atlantic Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for information.

SUMMARY: The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS)(the Services) are developing a recovery plan for the Gulf of Maine Distinct Population Segment of Atlantic Salmon. The Services are required by the Endangered Species Act (ESA) to develop plans for the conservation and survival of federally listed species, i.e., recovery plans.

FOR FURTHER INFORMATION CONTACT: Mark Minton, NMFS, telephone 978–281–9355; Anne Hecht, FWS 978–443–4325.

SUPPLEMENTARY INFORMATION: The ESA specifies that recovery plans must include: (1) a description of management actions necessary to achieve the plan's goals for the conservation and survival of the species; (2) objective, measurable criteria which, when met, would result in the species being removed from the list; and (3) estimates of the time and costs required to achieve the plan's goal and achieve intermediate steps toward that goal.

The Services have developed an interim, draft schedule for the completion of the recovery plan. The interim schedule for plan development includes completion of technical draft recovery plan (December 2001); completion and distribution of draft recovery plan (May 2002); completion of final recovery plan (May 2003).

The NMFS hereby requests relevant information on the species and/or comments on the impacts to the species that should be addressed during plan development. Comments must be received within 60 days of the publication of this notice. Comments should be sent to:

National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, Attn: Atlantic Salmon Recovery Plan Coordinator.

Dated: September 5, 2001.

Ann D. Terbush,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–22930 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082001B]

Small Takes of Marine Mammals Incidental to Specified Activities; Repairs at the Carpinteria Oil and Gas Processing Facility, Carpinteria, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from Venoco, Inc. for an authorization to take small numbers of marine mammals by harassment incidental to repairs at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize Venoco to incidentally take, by harassment, small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) from November 1, 2001, through November 1, 2002.

DATES: Comments and information must be received no later than October 12, 2001.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application, the Project Execution Plan, and Wildlife Protection Plan may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, (301) 713–2322, ext. 106 or Christina Fahy, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made, the taking is limited to harassment, and notice of a proposed authorization is provided to the public for review.

Authorization may be granted if NMFS finds, based on the best available scientific evidence, that the taking will have a negligible impact on the marine mammal species or stock(s). Where negligible impact is defined in regulation (50 CFR 216.103) as: "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival".

Summary of Request

On June 17, 2001, NMFS received an application from Venoco, Inc., the owner and operator of the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA, requesting an authorization for the harassment of small numbers of Pacific harbor seals incidental to repair of gas pipeline supports and pier pilings at Casitas Pier. A detailed description of the work proposed for 2001 is contained in the Project Execution Plan and application which is available upon request (see **ADDRESSES**).

Venoco plans to complete all repair activities in a 3–week period beginning in early November 2001. To account for potential weather and logistical delays and reduce further paperwork, the proposed IHA would be issued for a full 1–year period (November 2001–November 2002).

Description of Marine Mammals and Habitat Potentially Affected by the Activity

Harbor seals generally are non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction(Scheffer and Slipp, 1944; Fisher, 1952; Bigg, 1969, 1981). They haul out on rocks, reefs, beaches, and drifting glacial ice, and feed in marine, estuarine, and occasionally fresh waters. Harbor seals have also displayed strong fidelity for haulout sites (Pitcher and Calkins, 1979; Pitcher and McAllister, 1981). The eastern Pacific harbor seal has an estimated population of 285,000 individuals distributed along the entire west coast of North America from the Pribilof and Aleutian Islands in Alaska to Baja California.

In Carpinteria, Pacific harbor seals haul out year round. This area is one of two along the mainland coast of southern California that is readily accessible to the public. The other haul out is in La Jolla, CA. There are four other sizable haul outs along the mainland coast of Santa Barbara County, one at Naples, one at Point Conception, and two at Vandenberg Air Force Base. However, unlike the Carpinteria haul out, these sites are on private land and not readily accessible to the public.

In Carpinteria, peak numbers are reached during the pupping season (late February through March) and molting season (summer months). The pups born at these sites are weaned in 4 to 6 weeks, so nearly all pups are independent by the end of May. 20 to 30 pups are usually born there each year (Howorth, 1995, 1998). A peak abundance count made during the 1998 pupping season was 345 seals (Howorth, 1998).

The project site is adjacent to a small beach used by harbor seals as a haul-out and rookery area. Harbor seals continue to use this area despite pier activity and human presence (Howorth, 1995, 1998). 265 feet (ft) (81 meters (m)) east of Casitas Pier, a small sandy beach and offshore rock area marks the western limits of the local harbor seal haul outs.

California sea lions (*Zalophus californianus*) do occasionally haul out on the beach or rocks adjacent to the

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project site. However, such individuals are usually not healthy and are taken to the Santa Barbara Marine Mammal Center (Howorth, 1995, 1998).

Bottlenose dolphins (*Tursiops truncatus*) and the eastern North Pacific gray whale (*Eschrichtius robustus*) have been reported near the project site (Howorth, 1995, 1998). Both species, when sighted near the project site, have consistently avoided the pier. Years of data from previous projects and from the Carpinteria Seal Watch have not observed any instances of cetaceans within the project area.

Potential Effects on Marine Mammals and their Habitat

Potential harassment may result from noise generated by repair activities to the pipeline and pier as well as from the physical presence of people on the beaches.

Seals may be disturbed and leave the beach when pile driving activities are underway; however, previous monitoring has shown that all seals returned when activities ceased (Venoco, 2001).

Number of Marine Mammals Potentially Harassed

During repair work carried out by Venoco an estimated 364 Pacific harbor seals have the potential to be incidentally harassed. This number is the maximum count documented by Howorth (1995, 1998) during the summer molting season.

Mitigation

Mitigation measures described in this section and still under development by Venoco are being proposed to reduce the potential for harassment and eliminate the potential for incidental injury and mortality due to repair activities.

If operationally feasible, all repairs will take place during daylight hours in a three-week period commencing November 1, 2001, before the harbor seal pupping period and while the beach is open to the public. During this period few, if any, seals are present on shore because beachwalkers, dogs, joggers, kayakers, and others frequent the beach during daylight hours. During November, early storms and currents erode the sand covering the rocks and reefs, which will also reduce the amount of excavation necessary to expose the base of the pier pilings.

Work on pilings closest to the haul-out site will be conducted at the beginning of the project and only during low tides (American Marine Corp., 2000). Therefore, any potential for disturbing harbor seals would be limited to approximately 4 hours each 24–hour period.

To reduce the potential for visual disturbance to the seals, mitigation measures will include, but will not be limited to: the diving air compressor, trucks, and equipment motors will be equipped with quiet mufflers; backup alarms on trucks will be disconnected; all lines, floats, cables, etc. used in handling materials will be secured to the pier; a large, weighted down tarp will be placed to hide workers on the beach from view; all personnel will be instructed to avoid rapid or sudden movements, shouting, throwing objects or other actions that could startle the seals; only the minimum number of people needed to perform the work on the beach at one time will be allowed; divers will be instructed to stay submerged while performing their tasks; and verbal communications from the pier or other project site to divers or workers will be via radio.

Successful implementation of additional mitigation measures by Venoco and their contractors would further reduce the potential for adverse impacts on Pacific harbor seals in the area.

Monitoring

NMFS will require Venoco to monitor the impact of pile driving and other repair activities on harbor seals. Monitoring will be conducted by one or more NMFS-approved biologists. Before an incidental harassment authorization can be issued to Venoco for this activity, NMFS must receive and accept a complete monitoring plan that includes: (1) a description of the proposed survey techniques that would be used to determine the movement and activity of harbor seals near the construction areas; and (2) scientific rigor that will allow NMFS to verify that any impacts on marine mammal populations from this specific activity are small in number and negligible.

Reporting

Venoco will provide monthly reports to the Southwest Regional Administrator, NMFS, including a summary of the previous month's monitoring activities and an estimate of the number of harbor seals that may have been harassed as a result of repair activities. These reports will provide dates, time, tidal height, weather, number of harbor seals seen (including sex and age class if possible), and any observed disturbances. A description of the repair activities at the time of observation will also be provided.

The final monitoring report is due within 90 days of completion of the activity. This report will contain a description of the methods, results, and interpretation of all monitoring tasks.

Endangered Species Act (ESA) Consultation

This proposed authorization would not allow the take of any species listed as endangered or threatened under the ESA.

Preliminary Conclusions

NMFS has preliminarily determined that the impact of conducting repair activities at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA will have a negligible impact on Pacific harbor seals in California. While behavioral modifications may be made by this species to avoid the resultant noise and activities, the avoidance of the area is not reasonably expected to, and is not reasonably likely to, adversely affect the annual rates of recruitment or survival of the stock.

The number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for such taking will be avoided through the incorporation of the mitigation measures mentioned in this document. Haul-out sites, rookeries, mating grounds, areas of concentrated feeding, and other areas of special significance for harbor seals within or near the planned area of operations will be avoided in order to avoid any potential impacts.

Proposed Authorization

NMFS proposes to issue an IHA for repair activities at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA from November 1, 2001 until November 1, 2002, provided the mitigation and monitoring plan proposed by the City and the reporting requirements defined by NMFS are implemented successfully: NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of Pacific harbor seals and would have a negligible impact on these marine mammal stocks.

Information Solicited

NMFS requests interested persons to submit comments, and information, concerning this request Donna Wieting, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225.

Dated: September 5, 2001.

Ann D. Terbush,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–22931 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082901E]

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's and the New England Fishery Management Council's Joint Dogfish Committee will hold a public meeting.

DATES: The meeting will be held on Friday, September 28, 2001, from 10 a.m. until 5 p.m.

ADDRESSES: This meeting will be held at the Comfort Inn at the Airport, 1940 Post Road, Warwick, RI; telephone: 401–732–0470.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904. New England Fishery Management Council, 50 Water Street, The Tannery-Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19, or Paul Howard, Executive Director, New England Fishery Management Council; telephone: 978–465–0492.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review updated fisheries and stock assessment information and to develop 2002-03 management measures for spiny dogfish. In addition, the Committee will review the Spiny Dogfish Amendment 1 Issues Paper.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 4, 2001.

Peter H. Fricke,

Acting Director, Office of Sustainoble Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22809 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082901D]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Scientific and Statistical Committee's Ad Hoc Marine Reserves Subcommittee will hold a public meeting.

DATES: The subcommittee will meet Monday, October 1, 2001, from 10 a.m. to 5 p.m., and Tuesday, October 2, 2001, from 8:30 a.m. until business for the day is completed.

ADDRESSES: The meeting will be held in Santa Barbara, CA. Contact the Council office for meeting location information, 503–326–6352.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger or Mr. Dan Waldeck, Pacific Fishery Management Council, 503–326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the work session will be to evaluate the scientific basis for determining reserve size. As time permits, other scientific issues relative to marine reserves may also be discussed.

Although nonemergency issues not contained in the meeting agenda may come before the subcommittee for discussion, those issues may not be the subject of formal subcommittee action during this meeting. Subcommittee action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the subcommittee's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–326–6352 at least 5 days prior to the meeting date.

Dated: September 5, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–22808 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

[I.D. 083101A]

Marine Mammals and Endangered Species; National Marine Fisheries Service File No. 989–1602; U.S. Fish and Wildlife Service File No. 033958

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; U.S. Fish and Wildlife Service, Interior.

ACTION: Return of application.

SUMMARY: Notice is hereby given that the application submitted by Geo-Marine, Inc., 550 East 15th St., Plano, TX 75074, for a permit to take all marine mammal species (*Cetacea,Pinnipedia,* and *Sirenia*) and sea turtle species occurring in waters of Puerto Rico for purposes of scientific research has been returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, Office of Protected Resources, NMFS, 301/713–2289.

SUPPLEMENTARY INFORMATION: On February 22, 2001, a notice was published in the **Federal Register** (66 FR 11155) that an application for a

scientific research permit had been filed by Geo-Marine, Inc.

The Applicant requested authorization to conduct aerial surveys for marine mammals and sea turtles in near-shore waters of Vieques, Puerto Rico. The objectives of the surveys were to determine occurrence, migration routes, and habitat utilization for the species occurring in the Inner Range, Atlantic Fleet Weapons Training Facility, Vieques. The applicant failed to respond within 60 days to reviewer comments in order to complete their application, and thus, the application has been returned.

Dated: August 31, 2001.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: September 4, 2001.

Lisa J. Lierheimer,

Acting Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 01–22806 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

September 6, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used and the rescinding of carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 75674, published on December 4, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 6, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 28, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Hong Kong and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 12, 2001, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevel in Group I 218/225/317/326	78,707,824 square meters of which not more than 4,341,659 square meters shall be in Category 218(1) [2] (yarn dyed fabric other than denim and jacquard).
Sublevels in Group II 338/339 [3] (shirts and blouses other than tank tops and tops, knit).	2,955,671 dozen.
631	749,409 dozen pairs.
648	1,208,635 dozen of which not more than 1,208,635 dozen shall be in Category 648–W. [4]
649	957,348 dozen.
650	197,976 dozen.
Within Group II subgroup 350	149,808 dozen.
Sublevels in Group III 834	14,246 dozen.
835	118,723 dozen.
836	183,031 dozen.
840	698,574 dozen.
842	282,360 dozen.
847	378,733 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 218(1): all HTS numbers except 5209.42.0060, 5209.42.0080, 5211.42.0060, 5211.42.0080, 5514.32.0015 and 5516.43.0015.

[3] Category 338/339: all HTS numbers except 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[4] Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–22837 Filed 9–11–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Announcement of Intent To Grant a Limited Field Exclusive License to the Interests of the U.S. Government in Certain Inventions Generated Through Efforts of the U.S. Army, and U.S. Patent Applications, and for Patents Based Thereon

AGENCY: U.S. Army Tank-automotive and Armaments Command—Armament Research Development and Engineering Center (TACOM–ARDEC), DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces, that unless there is objection, in fifteen days it will grant an Exclusive license to InvenCom LLC, 800 East Boulevard, Charlotte, NC 28203, limited to the field of application for any "Forcible Entry Apparatus" of the type that is placed in contact with the structure to be breached when utilizing the device, of the U.S. Government's interests in the following four inventions and in all patent applications and patents that result from or are based on same: (i) "Liquid Eject Propulsion Forcible Entry Device Power Supply" by Charles A. Mossey, et al., Army docket no. 2001–005; (ii) "Liquid Eject Propulsion Forcible Entry Device Firing Circuit" by Charles A. Mossey, et al., Army docket no. 2001–026; (iii) "Liquid Eject Propulsion Forcible Entry Device And Burst Disc Mechanism Thereof" by Charles A. Mossey, et al., Army docket no. 2001–027; and (iv) "Recoilless Impact Device" by Charles A. Mossey, et al., U.S. patent application number 09/710,073, filed on November 10, 2000 (Army docket no. 2001–028).

FOR FURTHER INFORMATION CONTACT: Mr. John Moran, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army TACOM–ARDEC, Picatinny Arsenal, NJ 07806–5000, e-mail: *jfmoran@pica.army.mil* telephone (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed on or before September 27, 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–22917 Filed 9–11–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Draft Programmatic Environmental Impact Statement for the Nationwide Permit Program

AGENCY: Army Corps of Engineers, DoD.

ACTION: Extension of comment period.

SUMMARY: In the July 31, 2001, issue of the **Federal Register** (66 FR 39499) the Corps of Engineers (Corps) announced the availability of the draft Programmatic Environmental Impact Statement (PEIS) for the Nationwide Permit (NWP) Program. The overall purpose of the draft PEIS is to review and evaluate the NWP program as a whole to ensure that the NWP program authorizes only activities with no more than minimal individual and cumulative adverse effects on the aquatic environment. We have received several requests to extend the comment period, which ends September 14, 2001. To ensure ample opportunity to review the draft PEIS and to provide meaningful comments, we are extending the comment period 45 days to October 29, 2001. We have submitted a copy of the draft PEIS to EPA's Office of Federal Activities which is also publishing a Notice of Availability in September 14, 2001 **Federal Register**.

DATES: Comments on the draft PEIS must be received by October 29, 2001.

ADDRESSES: Mail comments to the U.S. Army Corps of Engineers, Institute for Water Resources, CEIWR–PD, 7701 Telegraph Road, Casey Building, Alexandria, Virginia 22315–3868. Submit electronic comments to *NWPPEIS@usace.army.mil*. See **SUPPLEMENTARY INFORMATION** for file formats and other information about filing electronic comments.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Brumbaugh, CEIWR–PD, at 703–428–6370 or to download a copy of the draft PEIS access *http://www.iwr.usace.army.mil/iwr/Regulatory/regulintro.htm* or for information on the Corps Regulatory program access *http://www.usace.army.mil/inet/functions/cw/cecwo/reg/*

SUPPLEMENTARY INFORMATION: The Corps has decided to prepare a voluntary PEIS on the Corps NWP Program, even though the Corps has determined that it is not legally required to do so. The PEIS will evaluate the NWP process (requirements and procedures) and examine and compare programmatic and procedural alternatives to the NWP Program. To accomplish this, the PEIS will look at the structure, implementation, and performance (in terms of achieving the stated goals) of the NWP Program as a whole. It will identify, evaluate, and compare programmatic alternatives and procedural changes to ensure that the adverse environmental effects of activities authorized by NWPs will be no more than minimal, individually and cumulatively. The PEIS will also examine how the procedures have been implemented in the Corps field offices to ensure that the adverse environmental effects of activities authorized by NWPs will be no more than minimal, individually and cumulatively. The PEIS will address the NWP Program and will not address the impacts of any specific NWP(s) (neither the existing NWPs nor the Corps current proposed reissuance of NWPs). The Corps of Engineers prepared an Environmental Assessment on the NWP Program that resulted in the issuance of a FONSI on June 23, 1998. There is no change in the proposal or the environmental aspect of the proposal examined in the EA; therefore, the Corps has determined that it is not required to prepare an EIS or a PEIS in order to comply with the National Environmental Policy Act (NEPA). The FONSI is available for review on the Corps Regulatory Program webpage *http://www.usace.army.mil/inet/functions/cw/cecwo/reg/*. The NWP Program is designed and implemented to ensure that the NWPs do not reach the threshold of environmental impacts that would require that an EIS be prepared. The Corps prepares an Environmental Assessment (EA) on each specific NWP when the Corps issues or reissues that NWP. These EAs are prepared at the Office of the Chief of Engineers, and are supplemented by the Division Engineers with regional information on potential environmental impacts, including adding regional conditions where necessary to ensure that the impacts of each NWP are minimal both individually and cumulatively.

As indicated above, the Corps has determined that the PEIS is not a legally required Environmental Impact Statement. The Corps is preparing the voluntary PEIS in accordance with Corps regulations at 33 CFR part 325, appendix B, and with CEQ regulations at 40 CFR parts 1500–1508. The Corps had hoped to complete the PEIS prior to the reissuance of the NWPs that were proposed on August 9, 2001, in the **Federal Register** at 66 FR 42070, even though the Corps has determined that completing the voluntary PEIS prior to reissuance is not legally required. However, with the extension of the comment period the Corps will not be able to complete the PEIS before the NWPs will need to be issued in order to ensure that the existing NWPs do not expire without new NWPs to take their place. The CEQ regulations at 40 CFR 1506.1(c) do not prohibit the Corps from issuing the NWPs prior to completing the voluntary PEIS, because the Corps has determined that the PEIS is not a required PEIS. We will thus be in full compliance with NEPA for the reissuance of the NWPs through preparation of an EA on each NWP prior to issuance. Moreover, the issuance of the NWPs by the end of this year will not preclude or limit the ability of the Corps to make modifications to the NWP Program or to make changes to the NWPs in accordance with any need for changes identified in the PEIS. The Corps can, and has in the past, issued revisions to existing NWPs and new NWPs prior to the expiration of NWPs five years from the date of issuance. The Corps has submitted this voluntary draft PEIS to EPA's Office of Federal Affairs (OFA) for review. In accordance with procedures specified in NEPA regulations, OFA is publishing in September 14, 2001, **Federal Register** a Notice of Availability of the draft PEIS for public review through October 29, 2001. In The draft PEIS can be downloaded from the Institute for Water Resources homepage at *http://*

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www.iwr.usace.army.mil/iwr/Regulatory/regulintro.htm For those interested parties who cannot download documents from the Internet, a limited number of copies of the draft PEIS can be obtained by contacting the Institute for Water Resources at the address or telephone number above. You may submit comments by sending electronic mail (e-mail) to: *NWPPEIS@usace.army.mil* Submit electronic comments as a text file and avoid the use of any special characters; do not use any form of encryption. Comments sent as attachments to electronic mail messages must be in text format to ensure that those attachments can be read by IWR. Comments sent electronically as attachments in word processing program formats will not be accepted.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–22919 Filed 9–11–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Joint Environmental Impact Statement and Environmental Impact Report for the Sutter County Feasibility Study, Sutter County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is a feasibility investigation to (1) address improvements for the existing flood management systems, (2) investigate additional areas of flood protection for Sutter County, and (3) integrate ecosystem restoration. The study area is located within the boundaries of the Sacramento River Flood Control Project in Sutter County and includes the Sacramento, Feather, and Bear Rivers; Natomas Cross Canal; Sutter and Tisdale Bypasses; Wadsworth Canal; Yuba City and communities of Live Oak, Meridian, Robbins, Pleasant Grove, and Nicolaus.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS/EIR should be addressed to Liz Holland at (916) 557–6763 or by mail to U.S. Army Corps of Engineers, ATTN CESPK–PD–R, 1325 J Street, Sacramento, California 95814–2922.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The U.S. Army Corps of Engineers, The Reclamation Board of the State of California, and the County of Sutter are conducting a feasibility investigation. The study focuses on reducing flood damages within the county of Sutter, California. The study area includes the Sacramento, Feather, and Bear Rivers; Sutter and Tisdale Bypasses; Natomas Cross Canal; and Wadsworth Canal. County population centers include Yuba City and the communities of Live Oak, Meridian, Robbins, Pleasant Grove, and Nicolaus.

2. Alternatives

The feasibility report will address an array of alternatives. Alternatives analyzed during the feasibility investigation will be a combination of one or more flood reduction measures identified during the reconnaissance phase; additional measures may be considered. These alternative measures include enlarge existing levees, levee realignment, ring levees, interceptor-levee/channel, reservoir reoperation, floodway protection program, dredging, vegetation management, and bypass reoperation/modification. Although an ecosystem restoration alternative has not been defined at this time, the alternatives currently identified would likely include ecosystem restoration components.

a. No Action. There will be no flood control projects implemented for Sutter County.

b. Enlarge existing levees along the Feather and Sacramento Rivers, and the Natomas Cross Canal.

c. Realign levees along the Feather, Bear, and Sacramento Rivers.

d. Construct a ring levee to the east of Yuba City.

e. Construct a channel or levee intercepting flows above Yuba City.

f. Reoperate Feather and Yuba River upstream reservoirs.

g. Adopt local flood plain management plan.

h. Remove sediment from the Sutter Bypass, Feather and Sacramento River, and canal systems.

i. Reoperate State pumps and drain lines.

j. Improve levees along the Sutter Bypass.

k. Modify Tisdale Bypass to convey higher flows earlier.

3. Scoping Process

a. The project study plan provides for a public scoping meeting and comment. The Corps has initiated a process of involving concerned individuals, and local, State, and Federal agencies.

b. Significant issues to be analyzed in depth in the EIS/EIR include appropriate levels of flood damage reduction, adverse effects on vegetation and wildlife resources, special-status species, esthetics, cultural resources, recreation, land use, fisheries, water quality, air quality, transportation, socioeconomic, and cumulative effects of related projects in the study area.

c. The Corps will consult with the State Historic preservation Officer, and the U.S. Fish and Wildlife Service to provide a Fish and Wildlife Coordination Act Report as an appendix to the EIS/EIR.

d. A 45-day public review period will be provided for individuals and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the EIS/EIR circulation.

4. Availability

The draft EIS/EIR is scheduled to be available for public review and comment late in calendar year 2002.

Dated: August 23, 2001.

Colonel Michael J. Conrad, Jr.,

Commanding.

[FR Doc. 01–22916 Filed 9–11–01; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF ENERGY

(Docket No. EA–234)

Application To Export Electric Energy; Energia de Baja California

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

SUMMARY: Energia de Baja California (EBC) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before October 13, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On August 22, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from EBC to transmit electric energy from the United States to Mexico. In a related proceeding currently before DOE (FE Docket PP–234), EBC has applied for a Presidential permit to construct, operate, maintain, and connect a new electric transmission facility between San Diego Gas and Electric Company's (SDG&E's) Imperial Valley Substation in Imperial County, California, and a merchant powerplant EBC is proposing to construct in the vicinity of Mexicali, Baja California, Mexico. The electric energy EBC proposes to export to Mexico would be for the purpose of providing start-up and other station use power. Exports from the United States to the EBC plant for these purposes is expected to be less than 17 megawatts.

The electric energy EBC proposes to export to Mexico would be purchased on the open market and delivered to SDG&E's Imperial Valley Substation using the existing domestic transmission system. The exported electricity would be transmitted to Mexico over the facilities proposed in FE Docket PP–234.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the EBC application to export electric energy to Mexico should be clearly marked with Docket EA–234. Additional copies are to be filed directly with Orlando Martinez, Manager, Development, InterGen, Two Alhambra Plaza, Suite 1100, Coral Gables, FL , 33134–5202 AND Russell Wood, Hunton & Williams, 1900 K Street, NW, Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select "Electricity Regulation" and then "Pending Proceedings" from the options menus.

Issued in Washington, D.C., on September 6, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–22844 Filed 9–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–249]

Application To Export Electric Energy; Exelon Generation Company, LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Exelon Generation Company, LLC (Exelon) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before October 12, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Rosalind Carter (Program Office) 202–586–7983 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On August 20, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from Exelon to transmit electric energy from the United States to Canada. Exelon, a Pennsylvania corporation with its principal place of business in Kennett Square, Pennsylvania, is a power marketer and wholly-owned subsidiary of Exelon Corporation, an electric utility holding company. Exelon owns generation facilities but does not have a franchised service area. The power to be exported will be generated by Exelon or will be purchased from electric utilities, power marketers, and federal power marketing agencies in the United States.

Exelon proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizen Utilities, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by Exelon, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the Exelon application to export electric energy to Canada should be clearly marked with Docket EA–249. Additional copies are to be filed directly with Majorie R. Philips, Attorney, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at *http://www.fe.de.gov*. Upon reaching the Fossil Energy Home page, select "Electricity

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Regulation," and then "Pending Procedures" from the options menus.

Issued in Washington, DC, on September 6, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–22842 Filed 9–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–210–A]

Application To Export Electric Energy; PPL EnergyPlus, LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: PPL EnergyPlus, LLC (PPL EnergyPlus) has applied for renewal of its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before October 12, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On July 19, 1999, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued Order No. EA–210 authorizing PPL EnergyPlus to transmit electric energy from the United States to Canada as a power marketer using the international electric transmission facilities owned and operated by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, International Transmission Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Inc., Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power, New York Power Authority, Niagara Mohawk Power Corp., Northern States Power, and Vermont Electric Transmission Company. That two-year authorization expired on July 19, 2001.

On August 21, 2001, PPL EnergyPlus filed an application with FE for renewal of this export authority and requested that the authorization be granted for a five-year term.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the PPL EnergyPlus request to export to Canada should be clearly marked with Docket EA–210–A. Additional copies are to be filed directly with, Jesse A. Dillon, Esq., Senior Counsel, PPL Services Corporation, Two North Ninth Street, Allentown, PA 18101, Lisa H. Tucker, Esq., Preston Gates Ellis & Rouvelas Meeds LLP, 1735 New York Avenue, NW., Suite 500, Washington, DC 20006 and John F. Cotter, Vice President—Energy Marketing and Trading, PPL EnergyPlus, LLC, Two North Ninth Street, Allentown, PA 18101.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order No. EA–210. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA–210 proceeding.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at *http://www.fe.doe.gov*. Upon reaching the Fossil Energy Home page, select "Electricity," from the Regulatory Info menu, and then "Pending Proceedings" from the options menus.

Issued in Washington, DC, on September 6, 2001.

Anthony Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–22843 Filed 9–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Transmission Grid Study 2001

AGENCY: Department of Energy.

ACTION: Notice of public workshops.

SUMMARY: This notice announces the National Transmission Grid Study, a set of public workshops, and request comments. President George W. Bush unveiled his National Energy Policy (NEP) on May 17, 2001. Included in the NEP were 105 recommendations to produce more reliable, affordable and environmentally clean energy. One of the recommendations directed the Secretary of Energy to examine the benefits of establishing a national electrical grid, identifying major transmission bottlenecks and remedies to remove them. This National Transmission Grid Study 2001 (NTGS 2001) will identify the major transmission bottlenecks across the U.S. It will examine both the technical and economic issues resulting from these transmission constraints and provide innovative solutions to reverse these trends. A 21st century transmission super highway that utilizes new technology to ensure reliability will be the driver that serves the growing needs of our economy. A vibrant and reliable transmission system is essential to lowering the cost of electricity for customers all across the country. The NTGS 2001 will recommend regulatory and market based approaches that will stimulate new investment in our interstate bulk power transmission systems. The NTGS 2001 team will work with our nation's Governors to ensure that state's views are heard in the process of developing this study.

DATES: DOE will host public workshops at the following dates, times and locations. The agenda and subject matter will be the same for each workshop. Those planning to attend the workshops should register at *www.ntgs.doe.gov*

—September 24th/9 a.m.—4 p.m./ Detroit, Michigan.
Detroit Marriott Romulus, Metro Airport, 30559 Flynn Drive, Romulus, MI 48174.

—September 26th/9:00 a.m.—4:00 p.m./ Atlanta, GA.
Hyatt Regency, 265 Peachtree Street NE, Atlanta, GA 30303.

—September 28th/9:00 a.m.—4:00 p.m./ Phoenix, Arizona.
Phoenix Airport Marriott, 1101 North 44th Street, Phoenix, AZ 85008.

Public Participation: The workshops are open to the public. If you would like to submit written comments, they can be submitted at a workshop or to either address below on or before October 10, 2001. E-mailed comments are recommended.

ADDRESSES: Send comments to: *www.ntgs.doe.gov* or Paul Carrier, Office of Policy and International Affairs (PI–22), US Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: NTGS 2001's web site at www.ntgs.doe.gov or contact Paul Carrier, NTGS 2001 DOE Program Office of Policy and International Affairs (202) 586–5659. Vincent DeVito, NTGS 2001 Counsel (202) 586–8660.

SUPPLEMENTARY INFORMATION: The purpose of the workshops is to address and solicit comments on the NTGS 2001 and, in particular, on the following issues identified by the study team to facilitate discussion.

Transmission Planning and the Need for New Capacity

The character of transmission planning is changing dramatically as the structure of the U.S. electricity industry shifts from one dominated by vertically integrated utilities to one in which new and evolving regional transmission organizations will be primarily responsible for these plans. In addition, the emergence of wholesale electricity markets changes the details of transmission planning in many ways, most of which are still in flux. These changes in industry structure raise important issues about transmission planning and the need for new transmission capacity, including: (1) The need for clear transmission-planning criteria, which includes appropriate measures and consideration of reliability and commerce as well as siting and other environmental effects; (2) the integration of planning for transmission, generation, and demand-side management programs (including consideration of nontransmission alternatives that can meet reliability requirements and commercial needs); (3) the role of new technologies that might reduce the need to build large transmission facilities; (4) the need for high-quality data and projections on the types, timing, size and locations of new generating units and on the magnitudes and shapes of customer loads; (5) the need for advanced planning methods that can deal with a multiplicity of alternative futures; (6) the role of merchant (unregulated, for-profit) transmission projects; (7) the possible effects of new transmission facilities on the ability of some generators to artificially raise market prices for energy; and (8) the potential benefits of proactive transmission plans that can guide future investments in, and the locations, of generation and demand-management programs.

Transmission Siting and Permitting

In recent years, two conflicting trends have caught the attention of energy policy officials and the electricity industry. One is that across the nation the need for electricity transmission system improvements is growing; in fact, it has already become urgent in some areas. The other is that it has become increasingly difficult to obtain approvals from pertinent state and federal agencies for the siting and construction of proposed major additions or upgrades of the nation's electric transmission grids. Further, although bulk power markets now span large multistate regions, the existing regime for siting and permitting of transmission facilities remains fundamentally state based. This regime may not be well adapted to reviewing proposed new transmission facilities from a regional perspective. The policy options for addressing transmission siting and permitting in a restructured electricity industry fall into three major categories: (1) Options to establish regional or federal siting institutions with authority to obtain rights-of-way for new transmission projects; (2) options to improve the existing state-based regime for transmission siting; and (3) options that could improve siting practices by government agencies and the electricity industry under any governance structure.

Business Models for Transmission Investment and Operation

A common theme in restructured electricity systems around the world is the unbundling of generation, transmission, and distribution and the creation of independent transmission entities that link competitive generation to regulated distribution. The restructured transmission entities can encompass three business functions: system operation, market operation, and grid ownership. To a large extent, current transmission sector business models are based on the previous grid ownership structure and on political expediency. In the U.S. where a large portion of the electricity grid is owned by investor-owned utilities, formation of non-profit Independent System Operators (ISOs) to control but not own deregulated transmission assets was a convenient approach that enabled restructuring to move forward without requiring utilities to divest their transmission assets. By contrast, in countries such as the U.K. or Spain where the government or private entities previously owned the transmission assets, restructuring entailed formation of for-profit independent transmission companies (ITCs). Both the ISO and ITC business models have strengths, weaknesses, and multiple variants. Federal Energy Regulatory Commission (FERC) order 2000 and subsequent orders concerning the formation of Regional Transmission Organizations (RTOs) do not identify a preferred business model for transmission functions. The need to evaluate alternative business models for transmission enterprises is prompted by the moves toward large RTOs, current experiences with the ISO structure and the development of RTO proposals that advocate formation of for-profit ITCs. Key issues related to the choice of business model for RTOs include the political feasibility of different models as well as their effects on: (1) market efficiency; (2) system reliability; (3) operational efficiency; (4) transmission access and interconnection policies; (5) transmission system investment and innovation; and (6) governance and regulatory oversight.

Operation of Interconnected Transmission Systems

Electric power systems were originally interconnected for two purposes: reliability and economy. Operation protocols evolved for the interconnected system that permitted maintenance of system frequency, monitoring of trades between regions, and the prevention of major power outages as the result of single contingencies such as the sudden loss of any system component. Interconnection also led to a variety of problems: loop flows, inter-regional stability concerns, and issues associated with management and coordination of a very large, diverse set of generators and loads. The advent of competitive energy markets has blurred the sharp distinction between reliability and economy so that reliable service may become a commodity. In addition, the voluntary cooperation by which utilities and others involved in system operation performed their tasks has been difficult to maintain as former partners become competitors. Two main approaches for dealing with short-term reliability issues (particularly congestion of components) have evolved: the first approach is a system whereby parties that are engaging in transactions curtail them according to prescribed rules whenever reliability becomes a concern. The transmission loading relief (TLR) protocol is the embodiments of this approach. The second approach is market-based in

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which spatial price patterns are created that lead market participants to relieve congestion through actions taken in their own self-interest. Locational pricing, such as nodal pricing, "flowgate" pricing, and to a lesser extent zonal pricing, are embodiments of this second approach. Issues of concern for operation of interconnected power systems include: (1) Could the entire U.S. electricity grid be operated as one integrated whole or a few large integrated markets? (2) How could we assure reliability of such an integrated or national electricity grid? (3) What are the merits of and appropriate relationship between "mandated" approaches (e.g., reliance on TLR protocols), and "market-based" approaches, such as real-time and day-ahead markets to ensure system reliability?

Reliability Management and Oversight

Assuring power system reliability is both a physical and organizational activity. Specific activities must take place but they do so within a commercial and political framework. Determining who sets the rules for power system reliability and how may be the most challenging aspect of maintaining reliability in a restructured electricity industry. Historically, the vertically integrated utility industry utilized the North American Electric Reliability Council (NERC) a bottom-up, industry-dominated, volunteer organization to establish reliability rules and monitor compliance. The restructured industry will require a more open and inclusive process for establishing mandatory standards and monitoring and enforcing compliance. To assure reliability the following issues need to be addressed: (1) The physical constraints and requirements of the electricity system; (2) who should make decisions about reliability and the technical and economic bases for those decisions; (3) who takes what risk (communal versus individual risks); (4) how reliability costs are assessed; (5) how to address the inevitable disputes that will arise over reliability decisions; (6) what should be the scope of reliability decisions (regional vs. national); (7) how to assess alternative means of supplying reliability services (including the use of customer loads as reliability resources), and how technology is expanding these options; and (8) evaluating proposed institutional structures for insuring reliability.

New Transmission Technologies

Electric industry restructuring is based in part on the assumption of a transmission system that is flexible, reliable, and open to all exchanges no matter where the suppliers and consumers of energy are located. However, neither the existing transmission system nor its management infrastructure can fully support this open exchange. Some desirable market transactions are quite different from those envisioned when the transmission system was designed, and they may stress the limits of safe operation. The risk posed by such transactions may not be recognized in time to avert major system emergencies, which may be difficult to manage without loss of customer load. It is also increasingly common for one transaction to interfere with others, producing "congestion" in the system. These problems can be remedied in part by direct technical reinforcements to the transmission system, in the form of improved hardware technology. Another need is for indirect reinforcements to the general infrastructure for grid operations and planning. Progress in both areas has, for many years, been hampered by electricity restructuring. This process is far from complete, and it has greatly weakened the essential dialog between technology developers and technology users. Development of new technology must be closely linked to its actual deployment for operational use. Together, both activities should reflect, serve, and keep pace with the evolving infrastructure needs of transmission organizations. This is not happening. Neither the details nor the needs of this infrastructure are well known, and all parties are understandably averse to investments that may not be promptly and directly beneficial to them. As a result many promising technologies are stuck at various points in the "pipeline" from concept to practical use. Included among them are superconducting equipment, large scale devices for routing power flow on the grid (HVDC and FACTS), real time operating tools for enhanced management of grid assets, and a new generation of system planning methods that are robust against uncertainty. A critical issue is that some enabling technologies for healthy and reliable electricity commerce are not attractive to individual commercial entities, but should be developed and deployed in furtherance of the public good. To summarize, key issues include: (1) The capability and cost of new technologies to improve operation of the transmission system; and (2) the requirements of and institutional options available to support timely development and deployment of these technologies through the current period of industry restructuring.

Issued in Washington, DC, on September 6, 2001.

Margot Anderson,

Deputy Assistant Secretary, Office of Policy and International Affairs.

[FR Doc. 01–22841 Filed 9–11–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–533–000]

ANR Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 30, 2001, ANR Pipeline Company ("ANR"), 9 Greenway Plaza, Houston, Texas 77046, tendered for filing Thirty First Revised Sheet No. 17 from its FERC Gas Tariff, Second Revised Volume No. 1 and Seventeenth Revised Sheet No. 14 from its FERC Gas Tariff Original Volume No. 2, to be effective October 1, 2001.

ANR state that the purpose of the filing is to reflect a decrease in the ACA rate adjustment to ANR's commodity rates effective October 1, 2001. The tariff sheets reflect a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021 per Dth for fiscal year 2001.

ANR state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22873 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–562–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 2001.

Take notice that on August 31, 2001, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective September 1, 2001:

Forty-eighth Revised Sheet No. 8
Forty-eighth Revised Sheet No. 9
Forty-seventh Revised Sheet No. 13
Fifty-eighth Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately $2.0 million of above-market costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR advises that the proposed changes would decrease current quarterly Above-Market Dakota Cost recoveries from $2,995,512 to $1,968,858.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22898 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–529–000]

ANR Storage Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 30, 2001, ANR Storage Company ("ANR Storage"), 9 Greenway Plaza, Houston, Texas 77046, tendered for filing Seventh Revised Sheet No. 5 from its FERC Gas Tariff, Original Volume No. 1 and Tenth Revised Sheet No. 1(a) from its FERC Gas Tariff Original Volume No. 2, to be effective October 1, 2001.

ANR states the purpose of the filing is to reflect a decrease in the ACA rate adjustment to ANR Storage's commodity rates effective October 1, 2001. The tariff sheets reflect a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021 per Dth for fiscal year 2001.

ANR state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22870 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–531–000]

Blue Lake Gas Storage Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 30, 2001, Blue Lake Gas Storage Company ("Blue Lake"), 9 Greenway Plaza, Houston, Texas 77046, tendered for filing Seventh Revised Sheet No. 5 from its FERC Gas Tariff, First Revised Volume No. 1 to be effective October 1, 2001.

Blue Lake states that the purpose of the filing is to reflect a decrease in the ACA rate adjustment to Blue Lake's commodity rates effective October 1, 2001. The tariff sheet reflects a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021 per Dth for fiscal year 2001.

Blue Lake states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link,

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select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22871 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–537–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 2001.

Take notice that on August 31, 2001, Colorado Interstate Gas Company ("CIG") tendered for filing and acceptance by the Federal Energy Regulatory Commission ("Commission") the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 2001:

Original Sheet No. 11C
Original Sheet No. 11D

CIG states that the above tariff sheets are being filed to implement new negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

CIG states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22876 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–550–000]

Columbia Gas Transmission Corporation; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of October 1, 2001:

Fifty-first Revised Sheet No. 25
Fifty-first Revised Sheet No. 26
Fifty-first Revised Sheet No. 27
Forty-sixth Revised Sheet No. 28

Columbia states that the purpose of this filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2001, of $0.0021 per Dth.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22887 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–547–000]

Columbia Gulf Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets bearing a proposed effective date of October 1, 2001:

Twenty-sixth Revised Sheet No. 18
Sixteenth Revised Sheet No. 18A
Twenty-seventh Sheet No. 19

Columbia Gulf states that the purpose of this filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2001, of $0.0021 per Dth.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22885 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–559–000]

Cove Point LNG Limited Partnership; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Cove Point LNG Limited Partnership (Cove Point) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing. The tariff sheets are proposed to be effective October 1, 2001.

Cove Point states that the purpose of the instant filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Cove Points rates. Pursuant to Order No. 472, the Commission has assessed Cove Point its ACA unit Rate of $.0021/dt, effective October 1, 2001.

Cove Point states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22895 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–546–000]

Crossroads Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 5, with a proposed effective date of October 1, 2001.

Crossroads states that the purpose of this filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2001, of $0.0021 per Dth.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22884 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–561–000]

Egan Hub Partners, L.P.; Notice of Proposed Changes in FERC Gas Tariff

September 6, 2001.

Take notice that on August 31, 2001, Egan Hub Partners, L.P. (Egan Hub) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective on October 1, 2001.

Egan Hub states that the purpose of this filing is to clarify certain tariff provisions and correct omissions and typographical errors in the tariff that Egan Hub has identified during its first several months of operations as part of Duke Energy Gas Transmission.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

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instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22897 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–549–000]

Granite State Gas Transmission; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Granite State Gas Transmission (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of October 1, 2001:

Twenty-fourth Revised Sheet No. 21
Twenty-fifth Revised Sheet No. 22
Sixteenth Revised Sheet No. 23

Granite State states that the purpose of this filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2001, of $0.0021 per Dth.

Granite State states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22886 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–534–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes in FERC Gas Tariff

September 6, 2001.

Take notice that on August 30, 2001, Gulf South Pipeline Company, LP ("Gulf South") tendered for filing as part of its Sixth Revised Volume No. 1 FERC Gas Tariff, the following tariff sheets to become effective October 1, 2001.

Sixth Revised Volume No. 1
First Revised Sheet No. 20
First Revised Sheet No. 21
First Revised Sheet No. 22
First Revised Sheet No. 23
First Revised Sheet No. 24

Gulf South states that the purpose of this filing is to update Gulf South's tariff to reflect the Annual Charge Adjustment (ACA) factor to be effective for the twelve-month period beginning October 1, 2001.

Gulf South states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22874 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–541–000]

Iroquois Gas Transmission System, L.P.; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 4A . The proposed effective date of this revised tariff sheet is October 1, 2001.

Iroquois states that, pursuant to Section 154.02 of the Commission's regulations and Section 12.2 of the General Terms and Conditions of its tariff, it is filing the referenced tariff sheet to reflect a decrease in the Annual Charge Adjustment surcharge to $0.0021 per Dth.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22879 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–560–000]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Kinder Morgan Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–A, Fourth Revised Sheet No. 4D, with an effective date of October 1, 2001.

KMIGT is filing the above-referenced tariff sheet in order to reflect the Commission's authorized ACA charge to be in effect for the twelve-month period effective October 1, 2001.

KMIGT states that a copy of this filing has been served upon all of its customers, interested state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22896 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–553–000]

Michigan Gas Storage Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Michigan Gas Storage Company (MGS) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Seventh Revised Sheet No. 5, to be effective October 1, 2001.

MGS states that the purpose of this filing, which is made in accordance with Section 154.402 of the Commission's Regulations, is to reflect the Federal Energy Regulatory Commission's change in the unit rate for the Annual Charge Adjustment surcharge to be applied to rates in FY 2002 for recovery of Annual Charges pursuant to Order No. 472 in Docket No. RM87–3–000. The new surcharge is $0.0021 per Dt. of natural gas transported.

MGS state that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22890 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–542–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

September 6, 2001.

Take notice that on August 31, 2001, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become effective September 1, 2001.

Thirty Ninth Revised Sheet No. 9

National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of $0.24 per dth. In addition, Article III, Section 1 states that any overruns of the Firm Gathering service provided by National shall be priced at the maximum IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.
[FR Doc. 01–22880 Filed 9–11–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

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CFR 385.2001(a)(1)(iii) and the

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–552–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001 National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets, to be effective on October 1, 2001:

Seventeenth Revised Sheet No. 8
Fortieth Revised Sheet No. 9
Seventh Revised Sheet No. 10
Fifth Revised Sheet No. 11

National declares that the purpose of this filing is to state the Annual Charge Adjustment (ACA) unit surcharge authorized by the Commission for Fiscal 2002 is $.0021 per Dth.

National states that copies of this filing were served on National's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22889 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–556–000]

Panhandle Eastern Pipe Line Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets proposed to become effective October 1, 2001:

Sixty-Second Revised Sheet No. 4
Sixty-Second Revised Sheet No. 5
Sixty-Second Revised Sheet No. 6
Sixty-Fifth Revised Sheet No. 7
Sixty-Fifth Revised Sheet No. 8
Forty-First Revised Sheet No. 15
Sixth Revised Sheet No. 17
Twenty-Seventh Revised Sheet No. 19

Panhandle states the filing is made in accordance with Section 18.2 (Annual Charge Adjustment Provision) of the General Terms and Conditions in its FERC Gas Tariff, First Revised Volume No. 1. These revised tariff sheets reflect the surcharge attributable to fiscal year 2001 program costs of $0.0021 per Dt of natural gas transported.

Panhandle states that copies of this filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22893 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–532–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, PG&E Gas Transmission, Northwest Corporation ("GTN") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A Thirty-third Revised Sheet No. 4, Eighteenth Revised Sheet No. 4A, Fifth Revised Sheet No. 5B, and Thirteenth Revised Sheet No. 6C in order to adjust the Annual Charge Adjustment ("ACA") surcharge for jurisdictional transportation customers in accordance with the Commission's most recent Annual Charge billing to GTN. GTN requests that these tariff sheets become effective October 1, 2001.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22872 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–558–000]

Pine Needle LNG Company, LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001 Pine Needle LNG Company, LLC (Pine Needle) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised First Revised Sheet No. 4. The tariff sheet is proposed to be effective October 1, 2001.

Pine Needle states that the purpose of the instant filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Pine Needle's rates. Pursuant to Order No. 472, the Commission has assessed Pine Needle its ACA unit Rate of $.0021/dt, effective October 1, 2001.

Pine Needle states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22894 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–555–000]

Sea Robin Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets proposed to become effective October 1, 2001:

Seventh Revised Sheet No. 7
Third Revised Sheet No. 7a
Seventh Revised Sheet No. 8

Sea Robin states the filing is made in accordance with Section 19 (Annual Charge Adjustment Clause) of the General Terms and Conditions in its FERC Gas Tariff, First Revised Volume No. 1. These revised tariff sheets reflect the surcharge attributable to fiscal year 2001 program costs of $0.0021 per Dt of natural gas transported.

Sea Robin states that copies of this filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22892 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–543–000]

Southwest Gas Storage Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet proposed to become effective October 1, 2001:

Fourth Revised Sheet No. 5

Southwest states the filing is made in accordance with Section 3.5 of Rate Schedules FSS and ISS in its FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheet reflects the surcharge attributable to fiscal year 2001 program costs of $0.0021 per Dt.

Southwest states that copies of this filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

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instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22881 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–429–000]

Tennessee Gas Pipeline Company; Notice of Application

September 6, 2001.

Take notice that on August 22, 2001, Tennessee Gas Pipeline Company (Tennessee), Nine Greenway Plaza, Houston, Texas 77046, filed in Docket No. CP01–429–000, an application, pursuant to section 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's Regulations for abandonment authorization for compression facilities in Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to abandon an 8,000 horsepower compressor unit at its Compressor Station 538 located near Heidelberg, Jones County, Mississippi. It is stated that the compressor unit was installed to increase long-haul throughput capacity on Tennessee's Delta-Portland Line to meet the system requirements of existing customers. It is explained that the compressor is no longer needed because capacity on the system has been increased by means of additional pipeline looping and compression, as well as a pigging program that resulted in greater pipeline efficiencies. It is further explained that changing markets and a decline in production in the southeastern Louisiana supply areas have lessened the need for the compressor. Tennessee proposes to abandon the compressor unit and related auxiliary facilities, including a fuel meter, by removal. It is estimated that the cost of removal of the facilities is $300,000. Tennessee asserts that the removal of the compressor unit will not impact current firm commitments on Tennessee's system.

Any questions regarding this application should be directed to Jay V. Allen, at (832)676–5589, or Veronica Hill at (832)676–3295.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 27, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the Commission's website at *http://www.ferc.fed.us/efi/doorbell.htm.*

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–22869 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–539–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 6, 2001.

Take notice on August 31, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective November 1, 2001.

Tenth Revised Sheet No. 14

Texas Gas states that the tariff sheet is being filed to establish a revised Effective Fuel Retention Percentage (EFRP) under the provisions of Section 16 "Fuel Retention" as found in the General Terms and Conditions of the Texas Gas's FERC Gas Tariff, First Revised Volume No. 1. The revised EFRP may be in effect for the annual period November 1, 2001, through October 31, 2002. In general, the instant filing results in a minimal overall annual impact on most customers due to the fact each season and each zone of delivery has some EFRPs that increase and some that decrease from percentages charged during the last annual period.

Texas Gas states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22877 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–540–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1. The tariff sheets are proposed to be effective October 1, 2001.

Transco states that the purpose of the instant filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Transco's rates. Pursuant to Order No. 472, the Commission has assessed Transco its ACA unit Rate of $.0021/dt, effective October 1, 2001.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22878 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–554–000]

Trunkline Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets proposed to become effective October 1, 2001:

Thirty-Ninth Revised Sheet No. 6
Thirty-Eighth Revised Sheet No. 7
Thirty-Ninth Revised Sheet No. 8
Thirty-Ninth Revised Sheet No. 9
Twenty-First Revised Sheet No. 9A
Eleventh Revised Sheet No. 9B
Thirty-Eighth Revised Sheet No. 10
Twenty-Fourth Revised Sheet No. 10A

Trunkline states the filing is made in accordance with Section 21 (Annual Charge Adjustment Provision) of the General Terms and Conditions in its FERC Gas Tariff, First Revised Volume No. 1. These revised tariff sheets reflect the surcharge attributable to fiscal year 2001 program costs of $0.0021 per Dt of natural gas transported.

Trunkline states that copies of this filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22891 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–545–000]

Venice Gathering System, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Venice Gathering System, L.L.C. (VGS), filed as part of its FERC Gas Tariff, Original Volume No. 1, the following proposed tariff sheet, with an effective date of October 1, 2001:

Third Revised Sheet No. 4

VGS states that this filing is submitted pursuant to Section 154.402(c) of the Commission's Regulations and Section 12.4 of the General Terms and Conditions of VGS' FERC Gas Tariff. VGS states that this is its first ACA charge filing, and that it has revised Sheet No. 4 to reflect the ACA unit charge of $.0021 per Dekatherm specified by the Commission in Bill No. M1G10033.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's

Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22883 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–551–000]

WestGas Interstate, Inc.; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, WestGas InterState, Inc. (WGI), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 5, with a proposed effective date of October 1, 2001.

WGI states that, pursuant to Section 154.402 of the Commission's regulations and Section 21 of the General Terms and Conditions of its tariff, WGI is making its Annual Charge Adjustment (ACA) filing to reflect a decrease of $0.0001 per Dth, from $0.0022 to $0.0021 per Dth, in its ACA surcharge.

WGI states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22888 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–535–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 6, 2001.

Take notice that on August 30, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No.1, the revised tariff sheets to become effective October 1, 2001:

Eighteenth Revised Sheet No. 6A

The revised tariff sheets are being filed pursuant to Section 26 of the General Terms and Conditions of Williams' Gas Tariff, Original Volume No. 1, which affords Williams the right to recover the costs billed to Williams by the FERC via the FERC ACA Unit Charge method. That unit charge, as determined by the Commission, is $.0021/Dth as set forth on Williams' Annual Charges Bill for fiscal year 2001, to be effective October 1, 2001.

Williams states that the copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22875 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–544–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 6, 2001.

Take notice that on August 31, 2001, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets, to become effective October 1, 2001:

Second Revised Volume No. 1

Forty-Third Revised Sheet No. 15
Forty-Fourth Revised Sheet No. 16
Forty-Second Revised Sheet No. 18
Thirty-Eighth Revised Sheet No. 21

Original Volume No. 2

Eighty-Seventh Revised Sheet No. 11B

Williston Basin states that the filing reflects a revision to the Federal Energy Regulatory Commission's Annual Charge Adjustment (ACA) unit charge amount pursuant to the Commission's Statement of Annual Charges under 18 CFR part 382 and Section 41 of the General Terms and Conditions of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1. The filing reflects the Commission-approved Annual Charge Adjustment unit charge of $.0021 per dth.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22882 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1099–006, et al.]

Cleco Power LLC, et al.; Electric Rate and Corporate Regulation Filings

September 6, 2001.

Take notice that the following filings have been made with the Commission:

1. Cleco Power LLC

[Docket No. ER01–1099–006]

Take notice that on August 31, 2001, Cleco Power LLC (Cleco Power), tendered for filing a second substitute original Rate Schedule 12 and a substitute original Rate Schedule 13. On June 23, 2001, Cleco Utility Group Inc.'s Rate Schedules 15 and 16 were canceled and refiled as Cleco Power's Rate Schedules 12 and 13, respectively. Cleco Power filed a second substitute original Rate Schedule 12 and a substitute original Rate Schedule 13 to include the whereas clauses that were in Cleco Utility Group Inc.'s Rate Schedules 15 and 16 but were omitted from Cleco Power's original Rate Schedules 12 and 13.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Company

[Docket No. ER01–2648–001]

Take notice that on August 31, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a compliance filing as requested in docket ER01–2648–000 to address Order 614 First Revised Service Agreement No. 12.

Copies of the filing have been served on Excelon Generation Company, LLC, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Company Services, Inc.

[Docket No. ER01–2863–001]

Take notice that on August 31, 2001, Southern Company Services, Inc. (SCS), on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies), tendered for filing certain revised sheets in connection with a Notice of Cancellation of rate schedules filed on August 20, 2001.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Pool

[Docket No. ER01–2983–000]

Take notice that on August 31, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials (1) to permit NEPOOL to expand its membership to include Poquonock River Funding, L.L.C. (PRF); and (2) to terminate the membership of DukeSolutions, Inc. The Participants Committee requests an effective date of November 1, 2001 for commencement of participation in NEPOOL by PRF and September 1, 2001 for the termination of DukeSolutions, Inc.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER01–2984–000]

Take notice that on August 31, 2001, Cinergy Services, Inc. tendered for filing an unexecuted Interconnection Agreement by and between Cinergy Services, Inc. (Cinergy) and Duke Energy Vigo, LLC (Duke Energy Vigo), and an unexecuted Facilities Construction Agreement by and between Cinergy and Duke Energy Vigo.

Cinergy requests an effective date of August 31, 2001 for both the unexecuted Interconnection Agreement and the unexecuted Facilities Construction Agreement.

Cinergy states that it has served a copy of its filing upon the Indiana Utility Regulatory Commission and Duke Energy Vigo.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER01–2985–000]

Take notice that on August 31, 2001, Commonwealth Edison (ComEd) filed in unexecuted form an interconnection agreement between ComEd and Zion Energy, LLC.

ComEd has requested an effective date of September 1, 2001 for this agreement.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Company

[Docket No. ER01–2987–000]

Take notice that on August 31, 2001, Oklahoma Gas and Electric Company (OGE) submitted for filing a revised Interconnection Agreement between OGE and Redbud Energy LP. (Redbud). OGE requests an effective date for the revised Interconnection Agreement of July 30, 2001, and, accordingly, seeks waiver of the Commission's notice requirements.

OGE states that a copy of the filing was served on Redbud, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER01–2989–000]

Take notice that on August 31, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing with the Federal Energy Regulatory Commission (Commission), an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Industrial Power Generating Corporation (Ingenco). The Interconnection Agreement sets forth the terms and conditions under which Dominion Virginia Power will provide interconnection service for Ingenco's generating facility.

Dominion Virginia Power respectfully requests that the Commission waive its

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notice of filing requirements and requests an effective date of August 24, 2001 for the Interconnection Agreement.

Copies of the filing were served upon Industrial Power Generating Corporation and the Virginia State Corporation Commission.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Ameren Services Company

[Docket No. ER01–2990–000]

Take notice that on August 31, 2001, Ameren Services Company (ASC) tendered for filing a Transmission System Interconnection Agreement and Parallel Operating Agreement between ASC and Kinder Morgan Missouri, LLC. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Kinder Morgan Missouri, LLC pursuant to Ameren's Open Access Transmission Tariff.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Public Service Corporation

[Docket No. ER01–2991–000]

Take notice that on August 31, 2001, Wisconsin Public Service Corporation (WPSC), tendered for filing revisions to its W–2A Tariff, "Partial Requirements Service to Interconnected Utility Customers" (the Tariff). The purpose of this filing is to terminate the option to provide bundled service under the Tariff. WPSC will continue to offer unbundled partial requirements service under the Tariff. WPSC requests that the Commission make the Tariff revisions effective on September 1, 2001.

Copies of the filing were served upon the WPSC's customers under the Tariff, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Company; Commonwealth Edison Company of Indiana

[Docket No. ER01–2992–000]

Take notice that on August 31, 2001, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (collectively, ComEd) tendered for filing its rates which set forth ComEd's costs of providing transmission and scheduling services to the Alliance Regional Transmission Organization (Alliance RTO). ComEd requests an effective date of the later of December 15, 2001, the date the Alliance RTO intends to commence operations, or the actual date on which the Alliance RTO commences operations.

Copies of the filing were served upon ComEd's jurisdictional customers, Alliance RTO Companies, and upon the affected state commissions.

12. Virginia Electric and Power Company

[Docket No. ER01–2993–000]

Take notice that on August 31, 2001, Virginia Electric and Power Company, doing business as Dominion Virginia Power (Dominion Virginia Power or the Company), tendered for filing its proposed rates for transmission service and certain ancillary services within the Dominion Virginia Power pricing zone of the Alliance Regional Transmission Organization (Alliance RTO). Dominion Virginia power requests that these rates take effect on the date on which the Alliance RTO Open Access Transmission Tariff (OATT) takes effect, which is expected to be December 15, 2001.

Copies of the filing were served upon the public utility's jurisdictional customers, all wholesale requirements customers of the Company and the Virginia State Corporation Commission and the North Carolina Utilities Commission; and a list of recipients of this transmittal letter, which includes all customers who have executed service agreements under the Company's OATT.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company; El Paso Electric Company; Public Service Company of New Mexico; Southern California Edison Company

[Docket No. ER01–2994–000]

Take notice that on August 31, 2001, Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, and Southern California Edison Company (collectively, the ANPP Switchyard Jurisdictional Participants), each tendered for filing with the Federal Energy Regulatory Commission (Commission) an ANPP Hassayampa Switchyard Interconnection Agreement for each of Duke Energy Arlington Valley, LLC, Pinnacle West Energy Corporation, Mesquite Power, LLC, Harquahala Generating Company, LLC, and Gila Bend Power Partners, LLC.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. American Electric Power Corporation On behalf of: Appalachian Power Company; Columbus Southern Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company; Wheeling Power Company

[Docket No. ER01–2995–000]

Take notice that on August 31, 2001, American Electric Power Service Corporation, on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (collectively AEP) filed with the Federal Energy Regulatory Commission (Commission) proposed changes for electric transmission rates.

AEPSC requests an effective date of December 15, 2001 or the Transmission Service Date of the Alliance RTO, whichever is later.

Copies of the transmittal letter to AEP's filing have been served upon AEP's transmission customers and copies of the complete filing have been served on the public service commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Electric Power Company

[Docket No. ER01–2996–000]

Take notice that on August 31, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), a fully executed Second Revised Power Sale Agreement, designated as Second Revised Rate Schedule FERC No. 90, between Wisconsin Electric and Wisconsin Public Power Inc. The changes to the Revised Power Sales Agreement include: increasing the future power supply commitments under the agreement, setting the charged rates for a five-year period, establishing a rate structure for a period following the five-year period and extending the term of the agreement.

Copies of the filing have been sent to Wisconsin Public Power Inc., the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

16. The Dayton Power and Light Company

[Docket No. ER01–2997–000]

Take notice that on August 31, 2001, The Dayton Power and Light Company (Dayton) submitted a filing with the Federal Energy Regulatory Commission (Commission or FERC), in support of new rates for jurisdictional transmission and ancillary services. Dayton states that the filing is made for the purposes of implementing in relevant part the Commission's orders on the Alliance Regional Transmission Organization (ARTO) and effecting the transition from the provision of services by Dayton using its own facilities under its Open Access Transmission Tariff (Tariff) (designated by the Commission as Dayton's FERC Electric Tariff, Original Volume No. 5) to the provision of new services on a regional basis by the ARTO. Dayton states that the filing provides the Dayton-specific cost of service and other data that support in relevant part the rates for service under the ARTO tariff being filed concurrently with Dayton's filing.Dayton states that a copy of this filing has been served on all customers under its current Tariff and the Public Utilities Commission of Ohio.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER01–2999–000]

Take notice that on August 31, 2001, Illinois Power Company (Illinois Power) tendered for filing with the Federal Energy Regulatory Commission (Commission), proposed rate changes for wholesale electric transmission rates. The proposed changes seek to recover a total of $38.3 million in revenue in 2001, a 54.8 percent increase in revenues from jurisdictional sales and service based on the 12-month period ending December 31, 2000, as compared to current rates under Illinois Power's open access transmission tariff (OATT).

In order to meet the Alliance Regional Transmission Organization's (Alliance RTO) proposed operational date of on or about December 15, 2001, the transmission owners participating in the Alliance RTO (Alliance Companies), including Illinois Power, are submitting contemporaneously with this filing, a Section 205 filing to establish the transmission rates for the Alliance RTO. In that filing, the Alliance Companies are submitting the rates to be charged under the approved non-pancaked rate structure that provides for zonal rates for loads in the zone, and a single regional through and out rate.

Copies of the filing were served upon all affected customers under Illinois Power's OATT and upon the Illinois Commerce Commission.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–22868 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Site Visit; Notice of Scoping Period

September 6, 2001.

Take notice that on October 11, 2001, the Commission staff will visit the Hailesboro #4 Hydroelectric Project No. 6058, to view the project area.

a. *Type of Application:* New Minor License.

b. *Project No.:* P–6058–005.

c. *Date Filed:* January 2, 2001.

d. *Applicant:* Hydro Development Group, Inc.

e. *Name of Project:* Hailesboro #4.

f. *Location:* On the Oswegatchie River in St. Lawrence County, near the Town of Gouverneur, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kevin M. Webb, Hydro Development Group, Inc., 200 Bulfinch Drive, Andover, MA 01810. (978) 681–1900 ext. 1214.

i. *FERC Contact:* Charles T. Raabe (202) 219–2811 or E-mail address at Charles.Raabe@FERC.fed.us.

j. *Deadline Date:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site *(http://www.ferc.gov)* under the "e-Filing" link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The existing, operating Hailesboro #4 Project consists of: (1) A concrete gravity-type dam comprising: (i) the 92-foot-long, 14-foot-high Dam #1 surmounted by a pneumatic gate; and (ii) the 58-foot-long, 5-foot-high Dam #2 surmounted by flashboards; (2) a reservoir with a 2.0-acre surface area and a gross storage volume of 20 acre-feet at normal water surface elevation 461 feet NGVD; (3) a gated intake structure with trashracks; (4) a 170-foot-long concrete-lined forebay canal; (5) a powerhouse containing a 640-kW gerating unit and an 850-kW generating unit for a total installed capacity of 1,490 kW; (6) a 2.4/23-kV substation; (7) a 50-foot-long, 23-kV transmission line; (8) a tailrace; and (9) appurtenant facilities. The applicant estimates that the total average annual generation would be 11.0 MWh. All generated power is sold to Niagara Mohawk Power Corporation.

l. *Locations of the Application:* A copy of the application is available for inspection or reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Room 2A–1, Washington, DC 20426, or by calling (202) 208–2326. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for

inspection and reproduction at the

i. *Deadline Date:* 60 days from the

m. *Status of the Application and*

ADDRESSES: Written comments should

EPA will take final action granting or

DATES: Access to the confidential data

inspection and reproduction at the Hydro Development Group, Inc., 200 Bulfinch Drive, Andover, MA 01810, (978) 681–1900 ext. 1214.

m. *Status of the Application and Environmental Analysis:* This application has been accepted for filing, but it is not ready for environmental analysis.

n. *Site visit:* On October 11, the participants will meet at 9:00 a.m. at the Hailesboro #4 powerhouse. Those interested in participating should contact Mr. Kevin Webb at (978) 681–1900 ext. 1214 in advance. Participants should provide their own transportation for the site visit. Further, for the October 11 site visit, participants should bring their own lunches, water, and boots.

o. *Scoping:* Scoping Document 1 has been mailed. It provides information on the Hailesboro #4 and Fowler #7 Projects, the environmental analysis process we will follow to prepare the EA, and our preliminary identification of issues that we will address in the EA. Comments and suggestions on the issues we have identified are encouraged and should be filed by the deadline identified in paragraph (j) above.

David P. Boergers,

Secretary.

[FR Doc. 01–22899 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Site Visit; Notice of Scoping Period

September 6, 2001.

Take notice that on October 11, 2001, the Commission staff will visit the Fowler #7 Hydroelectric Project No. 6059, to view the project area.

a. *Type of Application:* New Minor License.

b. *Project No.:* P–6059–006.

c. *Date Filed:* January 2, 2001.

d. *Applicant:* Hydro Development Group, Inc.

e. *Name of Project:* Fowler #7.

f. *Location:* On the Oswegatchie River in St. Lawrence County, near the town of Gouverneur, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kevin M. Webb, Hydro Development Group, Inc., 200 Bulfinch Drive, Andover, MA 01810, (978) 681–1900 ext. 1214.

i. *FERC Contact:* Charles T. Raabe (202) 219–2811 or e-mail address at *Charles.Raabe@FERC.fed.us.*

j. *Deadline Date:* 60 days from the date of issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The existing, operating Fowler #7 Project consists of: (1) A concrete gravity-type dam surmounted by flashboards comprising; (i) the 75-foot-long, 25-foot-high Dam #1; (ii) the 192-foot-long, 20-foot-high Dam #2; and (iii) the 154-foot-long, 15-foot-high Dam #3; (2) a reservoir with a 3.0-acre surface area and a gross storage volume of 30-acre-feet at normal water surface elevation 542 feet NGVD; (3) an intake structure with trashracks; (4) a powerhouse containing three, 300-kW generating units for a total installed capacity of 900-kW; (5) a 1,000-kVA 2.3/23-kV transformer; (6) a 4,000-foot-long, 23-kV overhead transmission line; (7) a tailrace; and (8) appurtenant facilities. The applicant estimates that the total average annual generation would be 6.0 MWh. All generated power is sold to Niagara Mohawk Power Corporation.

l. *Locations of the Application:* A copy of the application is available for inspection or reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Room 2A–1, Washington, DC 20426, or by calling (202) 208–2326. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the Hydro Development Group, Inc., 200 Bulfinch Drive, Andover, MA 01810, (978) 681–1900 ext. 1214.

m. *Status of the Application and Environmental Analysis:* This application has been accepted for filing, but it is not ready for environmental analysis.

n. *Site visit:* On October 11, the participants will meet at 9:00 a.m. at the Hailesboro #4 powerhouse. Those interested in participating should contact Mr. Kevin Webb at (978) 681–1900 ext. 1214 in advance. Participants should provide their own transportation for the site visit. Further, for the October 11 site visit, participants should bring their own lunches, water, and boots.

o. *Scoping:* Scoping Document 1 has been mailed. It provides information on the Hailesboro #4 and Fowler #7 Projects, the environmental analysis process we will follow to prepare the EA, and our preliminary identification of issues that we will address in the EA. Comments and suggestions on the issues we have identified are encouraged and should be filed by the deadline identified in paragraph (j) above.

David P. Boergers,

Secretary.

[FR Doc. 01–22900 Filed 9–11–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, which was lodged with the United States District Court for the Southern District of New York by the United States Environmental Protection Agency ("EPA") on August 31, 2001, to address a lawsuit filed by the New York Public Interest Research Group "NYPIRG"). NYPIRG filed a complaint pursuant to section 304(a)(2) of the Act, 42 U.S.C. 7604(a)(2), alleging that EPA had failed to perform an act which is not discretionary. Specifically, NYPIRG alleged that EPA failed to respond to citizen petitions to object to three operating permits within the time provided in section 505(b)(2) of the Act, 42 U.S.C. 7661d((b)(2). *NYPIRG, Inc.* v. *Whitman*, No. 00 Civ. 9394 (S.D.N.Y.).

DATES: Written comments on the proposed consent decree must be received by October 12, 2001.

ADDRESSES: Written comments should be sent to Apple Chapman, Air and Radiations Law Office (2344), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Copies of the proposed agreement are available from Phyllis J. Cochran, (202) 564–5566.

SUPPLEMENTARY INFORMATION: The relevant statutory provisions are as follows. Section 304(a)(2) of the Clean Air Act provides a cause of action and jurisdiction in federal district court "against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator." Title V of the Clean Air Act sets forth an operating permit program for stationary sources of air pollution. Section 505(b)(1) of the Act provides EPA with an opportunity to object to a permit that a state proposes to issue within 45 days after receiving a copy of the proposed permit if EPA determines that the permit is not in compliance with the applicable requirements of the Act. Under section 505(b)(2), if EPA does not object to a permit on its own initiative, citizens may, within 60 days after the expiration of EPA's 45-day review period, petition the Administrator to issue an objection. Section 113(g) of the Act provides that before a consent order or settlement agreement under the Act to which the United States is a party may become final, EPA must provide a reasonable opportunity by notice in the **Federal Register** for persons to comment in writing. EPA or the Department of Justice may withdraw or withhold consent to the proposed Settlement Agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate,, improper, inadequate, or inconsistent with the requirements of the Act.

These are the key facts pertaining to this notice. The New York State Department of Environmental Conservation issued Title V permits to Yeshiva University, Action Packaging Corp., and Kings Plaza. EPA did not object to those permits on its own initiative, and NYPIRG filed citizen petitions requesting that EPA object. Those petitions were filed well over 60 days ago, and to date EPA has not taken final action to grant or deny them. In *NYPIRG, Inc.* v. *Whitman*, NYPIRG alleges that EPA failed to perform a duty which is not discretionary by not responding to these three petitions within the 60 days provided by statute.

The core of the proposed settlement is the agreement between the parties that EPA will take final action granting or denying NYPIRG's Yeshiva, Acting Packaging, and Kings Plaza petitions to object by October 340, 2001. The agreement further provides that the parties will request the court to stay its consideration of the case pending implementation of, and subject to, the terms of the agreement. One of those terms provides that NYPIRG may request the court to lift the stay of the litigation if EPA fails to complete the section 113(g) notice and comment process and make the agreement final within 45 days of its execution. In addition, the agreement provides that one it becomes final, the parties will file a joint motion requesting that the court enter the agreement as a consent order.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed Settlement Agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed Settlement Agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, following the comment period, that consent is inappropriate, the Settlement Agreement will be final.

Dated: September 5, 2001.

Alan W. Eckert,

Associate General Counsel.

[FR Doc. 01–22907 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140291; FRL–6798–4]

Access to Confidential Business Information by Science Applications International Corporation (SAIC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Science Applications International Corporation (SAIC) of Reston, VA access to information which has been submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of the Toxic Substances Control Act (TSCA), and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992. Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992 occurred as a result of an approved waiver dated July 31, 2001, which requested granting SAIC immediate access to sections 4, 5, 6, 8, 12, and 13 of TSCA CBI, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992.

FOR FURTHER INFORMATION CONTACT: Barbara A. Cunningham, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to "those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA)." Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

III. What Action Is the Agency Taking?

Under contract number 68–W–99–060, SAIC of 11251 Roger Bacon Drive, Reston, VA, will assist the Office of Pollution Prevention and Toxics (OPPTS) in performing inspections and collecting documentation from the residential real estate sales and rental industry, that could potentially be subject to TSCA CBI claims.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA

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contract number 68–W–99–060, SAIC will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992 to perform successfully the duties specified under the contract.

SAIC personnel was given access to information submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992. Some of the information may be claimed or determined to be CBI.

Access to the confidential data submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992 occurred as a result of an approved waiver dated July 31, 2001, which requested granting SAIC immediate access to sections 4, 5, 6, 8, 12, and 13 of TSCA CBI, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992. This waiver was necessary to allow SAIC to assist EPA in performing inspections and collecting documentation from the residential real estate sales and rental industry, that could potentially be subject to TSCA CBI claims.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 12, and 13 of TSCA, and section 1018 of the Residential Lead-Based Paint Reduction Act of 1992, that the Agency will provide SAIC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and at the SAIC site located at 11251 Roger Bacon Drive, Reston, VA. No access will occur at the Reston, VA facility until after it has been approved for the storage of TSCA CBI.

SAIC will be required to adhere to all provisions of EPA's *TSCA Confidential Business Information Security Manual.*

Clearance for access to TSCA CBI under this contract may continue until September 30, 2004.

SAIC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: August 29, 2001.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–22759 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00740; FRL–6801–6]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of issues being considered by the Agency pertaining to the regulatory applicability of the local lymph node assay. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Paul Lewis at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting so that appropriate arrangements can be made.

DATES: The meeting will be held on October 22, 2001, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202. The telephone number for the Sheraton Crystal City Hotel is (703) 486–1111.

Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your request must identify docket control number OPP–00740 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Designated Federal Official, Office of Science Coordination and Policy, (7202), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5369; fax number: (703) 605–0656; e-mail address: lewis.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), FIFRA, and FQPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* A meeting agenda and several background documents relevant to this meeting are now available. EPA's primary position paper and questions to the FIFRA SAP should be available as soon as possible, but no later than late September. In addition, the Agency may provide additional background documents as the materials becomes available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap. To access this document on the Home Page select **Federal Register** notice announcing this meeting. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–00740. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other material information, including any information claimed as Confidential Business Information (CBI). This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. In addition, the Agency may provide additional background documents as the material becomes available. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your request electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00740. You may also file a request online at many Federal Depository Libraries.

III. How Can I Request To Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00740 in the subject line on the first page of your request. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advance written request to the person listed under **FOR FURTHER INFORMATION CONTACT**, interested persons may be permitted by the Chair of the FIFRA Scientific Advisory Panel to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard, etc.). There is no limit on the extent of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements at the meeting should contact the person listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies of their presentation and/or remarks to the Panel. The Agency encourages that written statements be submitted before the meeting to provide Panel Members the time necessary to consider and review the comments.

1. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

IV. Background

A. Purpose of the Meeting

The purpose of this meeting is to seek the SAP's comments on the regulatory applicability of the local lymph node assay (LLNA). The LLNA is a test method for assessing the allergic contact dermatitis (skin sensitization) potential of chemicals and compounds. The assay was found to be scientifically valid by an Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) external peer review as an alternative to traditional guinea pig tests (e.g., Buehler test and Guinea Pig Maximization test). It was also found to provide animal welfare advantages.

In 1996, the SAP gave approval to the incorporation of the LLNA in the Agency's harmonized OPPTS test guidelines (e.g., 870.200 Skin Sensitization) as a screening method. The Agency has now revised its harmonized OPPTS test guidelines to incorporate the LLNA for use as a stand alone method for assessing skin sensitization potential under the appropriate circumstances. These revisions and details of how the LLNA is proposed to fit into both EPA, Office of Pesticide Programs and EPA, Office of Pollution Prevention and Toxics evaluations of skin sensitization will be presented to the SAP for comment.

B. Panel Report

The Panel will prepare a report of its recommendations to the Agency in approximately 60 days. The report will be posted on the FIFRA SAP web site or may be obtained by contacting the PIRIB at the address or telephone number listed in Unit I.

List of Subjects

Environmental protection.

Dated: August 31, 2001.

Vanessa Vu,

Director, Office of Science Coordination and Policy.

[FR Doc. 01–22760 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00439K; FRL–6800–4]

Pesticide Program Dialogue Committee, Inert Disclosure Stakeholder Workgroup; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces a conference call meeting of the Inert Disclosure Stakeholder Workgroup. The workgroup was established to advise the Pesticide Program Dialogue Committee (PPDC) on ways of making information on inert ingredients more available to the public while working within the mandates of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and related Confidential Business Information (CBI) concerns.

DATES: The meeting will be held by conference call on Wednesday, September 26, 2001, from noon to 3 p.m., eastern standard time.

Written public statements, identified by docket control number OPP–00439A, may be submitted before or after the conference call.

ADDRESSES: Members of the public may listen to the meeting discussions on site at Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA; conference room 1123. Seating is limited and will be available on a first come first serve basis.

Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00439A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cameo Smoot, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Office location: 11th floor, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA; telephone number: (703) 305–5454; e-mail smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general and to persons interested in the availability of public information

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regarding inert or "other" ingredients in pesticide products regulated under FIFRA.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access general background information about the Inert Disclosure Stakeholder Workgroup, its mission and a list of its members, go to http://www.epa.gov/pesticides/ppdc/inert/.

2. *In person.* The Agency has established an administrative record for this workgroup under docket control number OPP–00439A. The administrative record consists of the workgroup documents including discussion papers, meeting agenda, as well as comments submitted to the workgroup by members of the public. This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00439A in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00439A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

The Inert Disclosure Stakeholder Workgroup was established to advise the EPA, through the PPDC, on potential measures to increase the availability to the public of information about inert ingredients (also called "other ingredients") under FIFRA. Among the factors the workgroup has been asked to consider in preparing its recommendations are: Existing law regarding inert ingredients and CBI; current Agency processes and policies for disseminating inert ingredient information to the public, including procedures for the protection of CBI; informational needs for a variety of stakeholders; and business reasons for limiting the disclosure of inert ingredient information.

The Inert Disclosure Stakeholder Workgroup is composed of participants from the following sectors: Environmental/public interest and consumer groups; industry and pesticide users; Federal, State, and local governments; the general public; academia and public health organizations.

The Inert Disclosure Stakeholder Workgroup meeting is open to the public. Written public statements are also welcome and should be submitted to the OPP Docket. Any person who wishes to file a written statement can do so before or after the conference call. These statements will become part of the permanent file and will be provided to the Workgroup members for their information. If you have any questions about the workgroup, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Inerts, Pesticides and pests.

Dated: August 27, 2001.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

[FR Doc. 01–22755 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34203I; FRL–6799–7]

Chlorpyrifos; End-Use Products Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the use deletions and cancellations as requested by the companies that hold the registrations of pesticide end-use products containing the active ingredient chlorpyrifos and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a June 27, 2001, notice of receipt of requests for amendments to delete uses and receipt of requests for registration cancellations. In that notice, EPA indicated that it would issue an order confirming the voluntary use deletions and registration cancellations. Any distribution, sale, or use of canceled chlorpyrifos products is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–8589; fax number: (703) 308–8041; e-mail address: myers.tom@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use chlorpyrifos products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for chlorpyrifos, go to the Home Page for the Office of Pesticide Programs or go directly http://www.epa.gov/pesticides/op/chlorpyrifos.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34203F. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

In a memorandum of agreement ("Agreement") effective June 7, 2000, EPA and the basic manufacturers of the active ingredient chlorpyrifos agreed to several voluntary measures that will reduce the potential exposure to children associated with chlorpyrifos containing products. EPA initiated the negotiations with registrants after finding chlorpyrifos, as currently registered, was an exposure risk especially to children. As a result of the Agreement, registrants that hold the pesticide registrations of end-use products containing chlorpyrifos (who are in large part the customer of these basic manufacturers) have asked EPA to cancel or amend their registrations for these products. Pursuant to section 6(f)(1) of the FIFRA, EPA announced the Agency's receipt of these requests from the registrants on June 27, 2001 (66 FR 34184) (FRL–6780–6). With respect to the registration amendments, the registrants have asked EPA to amend end-use product registrations to delete the following uses: All termite control uses (these will be phased out); all residential uses (except for ant and roach baits in child resistant packaging (CRP) and fire ant mound drenches for public health purposes by licensed applicators and mosquito control for public health purposes by public health agencies); all indoor non-residential uses (except ship holds, industrial plants, manufacturing plants, food processing plants, containerized baits in CRP, and processed wood products treated during the manufacturing process at the manufacturing site or at the mill); all outdoor non-residential sites (except golf courses, road medians, industrial plant sites, fence posts, utility poles, railroad ties, landscape timbers, logs, pallets, wooden containers, poles, posts, processed wood products, manhole covers, underground utility cable conduits, and fire ant mound drenches for public health purposes by licensed applicators and mosquito control for public health purposes by public health agencies). In addition, the companies agreed to limit the maximum chlorpyrifos end-use dilution to 0.5% active ingredient (a.i.) for termiticide uses that will be phased out, limit the maximum label application rate for outdoor non-residential use on golf courses, road medians, and industrial plant sites to 1 lb a.i./per acre, and either classify all new/amended chlorpyrifos products (except baits in CRP) as Restricted Use or package the products in large containers, depending on the formulation type, to ensure that remaining chlorpyrifos products are not available to homeowners. In return, EPA stated that with this Agreement, it had no current intention to initiate any

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cancellation or suspension proceedings under section 6(b) or 6(c) of FIFRA with respect to the issues addressed in the Agreement.

In the **Federal Register** notice published on June 27, 2001, EPA published a notice of the Agency's receipt of end-use product amendments and cancellations from registrants that hold the pesticide registrations containing chlorpyrifos (who are in large part the customer of the basic manufacturers). These requests were submitted as a result of the Memorandum of Agreement that was signed on June 7, 2000, between EPA and the basic manufacturers of chlorpyrifos. A copy of the Memorandum of Agreement that was signed on June 7, 2000, is located in OPP docket control number 34203D.

B. Requests for Voluntary Cancellation of End-Use Products

Pursuant to the Agreement and FIFRA section 6(f)(1)(A), several registrants have submitted requests for voluntary cancellation of registrations for their end-use products. The registrations for which cancellations were requested are identified in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration Number	Product
P.F. Harris Manufacturing Company	3–5	Formula BF–101 (Roach and Ant Killer)
Bonide Products, Inc.	4–207 4–308 4–319 4–320 4–364 4–421	Bonide Dursban 5 Lawn Insect Control Granules Bonide Home Pest Control Bonide Home Pest Control Concentrate Bonide Termite and Carpenter Ant Control Pyrenone Dursban Roach and Ant Spray Dursban
Dexol, a Division of Verdant Brands, Inc.	192–207	Dexol Pest Free Insect Killer
Prentiss Incorporated	655–696 655–792 655–793	Prentox Pyrifos 0.50 RTU Prentox D + 2 Insecticide Prentox Super Brand D + 2 Insecticide
Lebanon Seaboard Corporation	961–261 961–275 961–326	Greenskeeper Chinch Bug Control Lebanon Lawn Food 19–4–4 w/Insect and Grub Control Agrico Country Club Insect Control
NCH Corporation	1769–281 1769–330	Trail-Blazer Dichloran L.O.
Wellmark International	2724–471	Methoprene/Chlorpyrifos Combination Collar for Dogs
Happy Jack, Inc.	2781–20 2781–35 2781–47	Happy Jack Tri-Plex Flea and Mange Collar Happy Jack 3x Flea, Tick and Mange Collar for Cats Sardex
PIC Corporation	3095–46 3095–54 3095–64	PIC Roach, Ant and Spider Killer #2 PIC Pest Control PIC Roach Control III
Combe, Incorporated	4306–16	Sulfodene Scratchex Flea and Tick Collar for Cats
J.C. Ehrlich Chemical Company, Inc.	4704–41	Roach and Ant Killer #2
Hub States, LLC	5602–204	Hub States Residual Crack/Crevice
Voluntary Purchasing Group	7401–293 7401–294 7401–296 7401–313 7401–314 7401–347 7401–350 7401–364 7401–371 7401–416 7401–417 7401–419 7401–423 7401–448	Hi-Yield Special Kill-A-Bug Lawn Granules Hi-Yield Dursban Spray Hi-Yield Mole Cricket Bait Containing Dursban Ferti-Lome Spider Spray Ferti-Lome Flea and Tick Spray Hi-Yield Dursban Garden Dust Hi-Yield Borer Killer Containing Dursban Ferti-Lome Fire Ant Killer Improved Ferti-lome Cricket and Grasshopper Bait Hi-Yield Termite and Soil Insect Killer Hi-Yield Ready to Use Flea and Tick Killer Hi-Yield Mole Cricket Killer Hi-Yield Kill-A-Bug Lawn Granules Dursban-1E Insect Control
Spectrum Group, Division of United Industries Corp.	8845–21 8845–30 8845–31	Rid-A-Bug Home Insect Killer Brand AZ5 Rid-A-Bug Concentrate Brand DD7–2 Home Insect Killer Rid-A-Bug Flea and Tick Brand TF–5 Killer
Theochem Laboratories, Inc.	9367–29	Aqua-Sect Water Base Insecticide

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Registration Number	Product
Waterbury Companies Inc.	9444–90 9444–93 9444–103	CB Aqueous Crack and Crevice Insecticide Dursban Crack and Crevice Insecticide CB Flea and Tick Spray
Chemisco, Division of United Industries Corp.	9688–42 9688–47 9688–62 9688–75 9688–88 9688–95 9688–96	Chemisco Ant and Roach Killer A Ant and Roach Killer IV Chemisco Wasp and Hornet Killer IV Chemisco Microencapsulated Ant and Roach Killer Chemisco Lawn and Garden Granules Chemisco Insect Control Concentrate A Chemisco Insect Control Concentrate B
Lesco, Inc.	10404–30	Lesco Lawn and Ornamental 4.E Plant Insecticide
Hi-Yield Chemical Company	34911–12 34911–17 34911–18	Hi-Yield Kill-A-Bug Lawn Granules Hi-Yield Kill-A-Bug Hi-Yield Fire Ant Killer
St. Jon Laboratories, Inc.	45087–40	Zema 11 Month Collar for Dogs
Celex, Division of United Industries Corp.	46515–13 46515–51	Super K-Gro Home Pest Insect Control Dursban Insect Spray
Chem-Tech, Ltd.	47000–60	Household Insecticide (with Dursban)
Alljack, Division of United Industries Corp.	49585–16 49585–17 49585–18	Super K Gro Dursban ł G Granular Insecticide Super K Gro Dursban Grub and Insect Control Super K Gro Mole Cricket Bait
PM Resources, Inc.	67517–28	Roach and Ant Insecticide
Black Flag	69421–31 69421–54	Black Flag Roach Control System Black Flag Liquid Roach and Ant Killer
Health and Environmental Horizons, Ltd.	71076–1	The Sprinklelizer System
OMS Investments, Inc.	71949–1 71949–4 71949–5 71949–6 71949–7 71949–8 71949–9	Ford's Dursban ł G Ford's Lawn Granules Ford's Roach Bait Ford's Dursban 2.5% G Granular Insecticide Ford's Aquakill Plus Roach Spray Ford's Marine Control Multi Purpose Insecticide Ford's Dursban 1% Dust Insecticide

In the June 27, 2001 **Federal Register** notice, EPA requested public comment on the voluntary cancellation and use deletion requests, and provided a 30–day comment period. The registrants requested that the Administrator waive the 180–day comment period provided under FIFRA section 6(f)(1)(C).

Three public comments were submitted to the docket in response to EPA's request for comments. Two of these comments focused on the continued use of chlorpyrifos in ant and roach baits in child resistant packaging and the third comment focused on the potential effects of exposure to chlorpyrifos.

C. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, several registrants have also submitted requests to amend their end-use registrations of pesticide products containing chlorpyrifos to delete the aforementioned uses. The registrations for which amendments to delete uses were requested are identified in the following Table 2.

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration Number	Product
Riverdale Chemical Company	228–161	Riverdale Grub Out Plus Fertilizer
Hub States, LLC	5602–97 5602–151	Di-Tox E Di-Tox Plus
Clark Mosquito Control	8329–26 8329–29	Dursban ł G Dursban 1% G

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TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration Number	Product
Knox Fertilizer Company, Inc.	8378–42 8378–43 8378–44 8378–46	Dursban 70 with Plant Food Shaw's Dursban 50 with Plant Food Shaw's Dursban 60 with Plant Food Shaw's Dursban 100 Granules
Waterbury Companies, Inc.	9444–184 9444–202	CB Strikeforce I Residual With Dursban Strikeforce II Residual with Dursban
Athea Laboratories, Inc.	10088–84 10088–85 10088–94	Residual Insecticide Surface Insecticide Banish Residual Insect Spray
Howard Fertilizer Company, Inc	35512–27 35512–36	Turf Pride Fertilizer with Dursban Turf Pride with 0.67% Dursban
Harrell's Inc.	52287–5	0.4% Chlorpyrifos Plus Fertilizer
Troy E. Fox and Mariene R. Fox	55773–1	Score Roach Bait

In the June 27, 2001, **Federal Register** notice, EPA requested public comment on the voluntary cancellation and use deletion requests, and provided a 30–day comment period. The registrants requested that the Administrator waive the 180–day comment period provided under FIFRA section 6(f)(1)(C).

III. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA is approving the requested use deletions and the requested registration cancellations. Accordingly, the Agency orders that the registrations identified in Table 2 are hereby amended to delete the following uses: All post-construction termite control uses, except spot and local treatment (use of such products for spot and local treatment will be prohibited after December 31, 2002 by product labeling); all other termite control uses, effective December 31, 2004 (unless EPA has made a decision prior to that date that preconstruction use may continue); all residential uses (except for ant and roach baits in CRP and fire ant mound drenches for public health purposes by licensed applicators and mosquito control for public health purposes by public health agencies); all indoor non-residential, non-agricultural uses (except ship holds, industrial plants, manufacturing plants, food processing plants, containerized baits in CRP, and processed wood products treated during the manufacturing process at the manufacturing site or at the mill); all outdoor non-residential, non-agricultural sites (except golf courses, road medians, industrial plant sites, fence posts, utility poles, railroad ties, landscape timbers, logs, pallets, wooden containers, poles, posts, processed wood products, manhole covers, and underground utility cable and conduits; and fire ant mound drenches for public health purposes by licensed applicators and mosquito control for public health purposes by public health agencies). The Agency also orders that the registrations identified in Table 1 are hereby canceled. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this **Federal Register** notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this Order, the term "existing stocks" is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation.

1. Distribution or sale by registrants of products bearing other uses.

(i) *Restricted use and package size limitations.* Except for the purposes of returns for relabeling consistent with the June 7, 2000 Memorandum of Agreement, shipping for export consistent with the requirements of section 17 of FIFRA, or proper disposal:

(a) The distribution or sale by registrants of existing stocks of any EC formulation product listed in Table 1 or 2 will not be lawful under FIFRA after September 12, 2001, unless the product is labeled as restricted use.

(b) The distribution or sale by registrants of existing stocks of any product listed in Table 1 or 2 labeled for any agricultural use and that is not an EC, will not be lawful under FIFRA after September 12, 2001, unless the product is either labeled for restricted use or packaged in containers no smaller than 15 gallons of a liquid formulation, 50 pounds of a granular formulation, or 25 pounds of any other dry formulation.

(c) The distribution or sale by registrants of existing stocks of any product listed in Table 1 or 2 labeled solely for non-agricultural uses (other than containerized baits in CRP) and that is not an EC, will not be lawful under FIFRA after September 12, 2001, unless the product is either labeled for restricted use or packaged in containers no smaller than 15 gallons of a liquid formulation or 25 pounds of a dry formulation.

(ii) *Prohibited uses.* Except for the purposes of returns for relabeling consistent with the June 7, 2000 Memorandum of Agreement, shipping for export consistent with the requirements of section 17 of FIFRA, or proper disposal, the distribution or sale of existing stocks by registrants of any product identified in Table 1 or 2 that bears instructions for any of the following uses will not be lawful under FIFRA after February 1, 2001:

(a) Termite control, unless the product bears directions for use of a maximum 0.5% active ingredient chlorpyrifos end-use dilution.

(b) Post-construction termite control, except for spot and local termite treatment, provided the label of the product states that the product may not be used for spot and local treatment after December 31, 2002.

(c) Indoor residential except for containerized baits in CRP.

(d) Indoor non-residential except for containerized baits in CRP and products with formulations other than EC that bear labeling solely for one or more of the following uses: Warehouses, ship holds, railroad boxcars, industrial plants, manufacturing plants, food processing plants, or processed wood products treated during the manufacturing process at the manufacturing site or at the mill.

(e) Outdoor residential except for products bearing labeling solely for one or more of the following public health uses: Individual fire ant mound treatment by licensed applicators or mosquito control by public health agencies.

(f) Outdoor non-residential, non-agricultural except for products that bear labeling solely for one or more of the following uses: Golf courses, road medians, and industrial plant sites, provided the maximum label application rate does not exceed 1 lb a.i./per acre; mosquito control for public health purposes by public health agencies; individual fire ant mound treatment for public health purposes by licensed applicators; and fence posts, utility poles, railroad ties, landscape timbers, logs, pallets, wooden containers, poles, posts, processed wood products, manhole covers, and underground utility cable and conduits.

3. *Retail and other distribution or sale.* The retail sale of existing stocks of products listed in Table 1 or 2 bearing instructions for the prohibited uses set forth above in Units IV.1.ii.a. thru f. will not be lawful under FIFRA after December 31, 2001. Except as otherwise provided in this order, any other distribution or sale (for example, return to the manufacturer for relabeling) is permitted until stocks are exhausted.

4. *Final distribution, sale and use date for preconstruction termite control.* The distribution, sale or use of any product listed in Table 1 or 2 bearing instructions for pre-construction termiticide use will not be lawful under FIFRA after December 31, 2005, unless, prior to that date, EPA has issued a written determination that such use may continue consistent with the requirements of FIFRA.

5. *Use of existing stocks.* Except for products bearing those uses identified above in Units IV.1. and IV.4., EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

List of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: August 29, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–22756 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30122; FRL–6788–8]

Pesticide Product Registrations; Conditional Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, to conditionally register the pesticide product Callisto Herbicide containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305– 6224; and e-mail address: Miller.Joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access a fact sheet which provides more detail on this registration, go to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/, and select "fact sheet."

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30122. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information

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claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, Arlington, VA (703) 305–5805. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of mesotrione, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of mesotrione during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Conditionally Approved Registrations

EPA issued a notice published in the **Federal Register** of June 15, 1998 (63 FR 32658) (FRL–5792–6) which announced that Zenaca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850–5458 had submitted an application to register the pesticide product ZA1296 4-SC Herbicide containing [2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione at 40% an active ingredient not included in any previosly registered product. Prior to conditional approval of this application, Zenaca Ag Products merged with Norvatis. Zenaca and Norvatis later formed Syngenta. The company file symbol was redesignated and the product name was changed.

The application was conditionallly approved on June 4, 2001, for the product listed below:

EPA File Symbol: 100–1131. Company name: Syngenta. Product name: Callisto Herbicide. Product type: Herbicide. Active Ingredient: Mesotrione, [2-[4-(methylsulfonyl)-2-nitrobenzoyl]-1,3-cyclohexanedione. Use: Conditionally registered to control broadleaf weeds in field corn.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: August 24, 2001.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 01–22761 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–9]

Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986; In Re: Elizabeth Mine Superfund Site, Strafford, VT

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9601, *et. seq.*, as amended, notice is hereby given of a proposed Agreement and Covenant Not to Sue between the United States, on behalf of the U.S. Environmental Protection Agency ("EPA") and the U.S. Department of Interior ("DOI"), the State of Vermont, and the George D. Aiken Resource Conservation and Development Council, Inc ("Purchaser"). The Purchaser plans to acquire 6.33 acres of property that may be contaminated by leach heaps and tailings piles originating from the Elizabeth Mine Superfund Site. The proposed agreement will allow the Purchaser to further its goals of ensuring historical status for the Elizabeth Mine and preserving community access to Site property. In return, the Purchaser agrees to provide an irrevocable right of access to representatives of EPA and DOI and to comply with any Institutional Controls that EPA may require as part of the remediation. In addition, the Purchaser agrees to fully cooperate with any natural resource damage assessment and/or restoration activities conducted by or on behalf of DOI.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214.

DATES: Comments must be submitted on or before October 12, 2001.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02203, and should refer to: In re: Elizabeth Mine Superfund Site, U.S. EPA Docket No. CERCLA–01–2001–0054.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed Agreement and Covenant Not to Sue can be obtained from Steven Schlang, U.S. Environmental Protection Agency, Region I, One Congress Street, Mailcode SES, Boston, Massachusetts 02214, (617) 918–1773.

Dated: July 25, 2001.

Ira W. Leighton,

Acting Regional Administrator, Region I.

[FR Doc. 01–22911 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7055–2]

Proposed Agreement Pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act for the Lewis Terry Residence Site

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended ("CERCLA"), notification is hereby given of a proposed administrative agreement concerning the Lewis Terry Residence hazardous waste site at 304 Stephens Street in Lemont, Illinois (the "Site"). EPA proposes to enter into this agreement under the authority of section 122(h) and 107 of CERCLA. The proposed agreement has been executed by Lewis I. Terry (the "Settling Party").

Under the proposed agreement, the Settling Party will pay $8,000 to the Hazardous Substances Superfund to resolve EPA's claims against him for response costs incurred by EPA at the Site. EPA incurred response costs mitigating an imminent and substantial endangerment to human health or the environment present or threatened by hazardous substances present at the Site.

For thirty days following the date of publication of this notice, the Environmental Protection Agency will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter this proposed agreement if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before October 12, 2001.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, and should refer to: In the Matter of Lewis Terry Residence Site, Chicago, Illinois, U.S. EPA Docket No. V–W–01C–656.

FOR FURTHER INFORMATION CONTACT: Thomas J. Krueger, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, (312) 886–0562.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

Thomas W. Mateer,

Acting Director, Superfund Division, Region 5.

[FR Doc. 01–22913 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7051–2]

Public Water System Supervision Program Revision for the State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Missouri is revising its approved Public Water System Supervision Program. The State of Missouri has adopted drinking water regulations requiring Consumer Confidence Reporting, that correspond to federal regulations published by EPA on August 19, 1998 (63 FR 44512); Administrative Penalty authority, that correspond to federal regulations published by EPA on April 28, 1998, (63 FR 23361); and variance and exemption requirements. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these State program revisions.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by October 12, 2001 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if there is a substantial request, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on October 12, 2001.

Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; (3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m., and 4 p.m., Monday through Friday, at the following office; U.S. Environmental Protection Agency, Region 7, Drinking Water/Ground Water Management Branch, 901 N. Fifth Street, Kansas City, Kansas, 66101.

FOR FURTHER INFORMATION CONTACT: Robert Dunlevy at (913) 551–7798.

Reference: The Safe Drinking Water Act as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: July 19, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–22740 Filed 9–11–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of

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1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011117–028

Title: United States/Australasia Interconference and Carrier Discussion Agreement.

Parties:
A.P. Moller-Maersk Sealand
Australia-New Zealand Direct Line
CMA CGM, S.A.
Compagnie Marseille Fret
FESCO Ocean Management Limited
Hamburg-Sud
Ocean Star Container Line, A.G.
P&O Nedlloyd Limited
United States Australasia Agreement
Wallenius Wilhelmsen AS

Synopsis: The proposed agreement modification clarifies that the agreement parties may charter space among themselves on an ad hoc, emergency, or interim basis. It also adds minimum service levels that will be provided by the parties in the agreement trade.

Dated: September 7, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–22921 Filed 9–11–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.: 4428NF.

Name/Address: A A Shipping LLC, 15675 Hawthorne Blvd., #A, Lawndale, CA 90260.

Date Reissued: July 15, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–22923 Filed 9–11–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

DW Associates Inc. dba ABLECARGO.COM, 2445 Morena Blvd., Suite 203, San Diego, CA 92110–4157, Officer: Douglas B. White, President (Qualifying Individual)

LN Navigation (USA), Inc., 1120 Walnut Street, San Gabriel, CA 91776, Officers: Wendy Luong, President (Qualifying Individual) Barry Lam, CFO

KTL International, Inc., 2613 Greenleaf Avenue, Elk Grove Village, IL 60007, Officer: Hyung Sup Kim, President (Qualifying Individual)

Gateway Logistics International Inc., 147–31 176th Street, Jamaica, NY 11434, Officers: Smit Intarapuvasak, President (Qualifying Individual) Ittinan Intarapuvasak, Secretary

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant

ECO Freight International Corporation, 5422 W. Rosecrans Avenue, Hawthorne, CA 90250, Officers: Takaaki Yagi, President (Qualifying Individual) Hiroko Yaki, Director

Dated: September 7, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–22922 Filed 9–11–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 26, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. John D. Doherty, Somerville, Massachusetts; to acquire additional voting shares of Central Bancorp, Inc., Somerville, Massachusetts, and thereby acquire shares of Central Co-Operative Bank, Somerville, Massachusetts.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. William Thomas Robertson, Jr., Indianola, Mississippi; to retain voting shares of Planters Holding Company, Indianola, Mississippi, and thereby indirectly retain voting shares of Planters Bank & Trust Company, Indianola, Mississippi.

C. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Joseph D. Freund Irrevocable Trust, the Duane M. Freund Irrevocable Trust, the Kenneth J. Freund Irrevocable Trust, the Michael R. Freund Irrevocable Trust, all of Aurora, Colorado, and the following individuals who serve as co-trustees of one or more of the trusts: Joseph Freund, Jr., Elizabeth, Colorado, Richard Campbell, Denver, Colorado, Laura Freund Buddington, Denver, Colorado, Scott Freund, Elizabeth, Colorado, Phillip Pasion, Parker, Colorado, Angela Freund Bennett, Denver, Colorado, and Kenneth Freund, Jr, Aurora, Colorado, to retain voting shares of Commerce Bankshares, Inc., Aurora, Colorado, and thereby indirectly retain voting shares of Commerce Bank, Aurora, Colorado.

Board of Governors of the Federal Reserve System, September 6, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22816 Filed 9–11–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 27, 2001.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Carl J. Sjulin, Lincoln, Nebraska; as trustee of the Carl J. Sjulin Revocable Trust and trustee of a Voting Trust agreement, to acquire voting shares of West Gate Banshares, Inc., Lincoln, Nebraska, and thereby indirectly acquire voting shares of West Gate Bank, Lincoln, Nebraska.

Board of Governors of the Federal Reserve System, September 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22936 Filed 9–11–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 5, 2001.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Sun Bancorp, Inc., Vineland, New Jersey; to acquire Delaware City Bank, Delaware City, Delaware.

In connection with this application, Applicant has applied to acquire the Delaware City Building and Loan Association, Delaware City, Delaware ("Association"), and engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Association proposes to merge with Sun's existing subsidiary, Sun National Bank, Delaware, Wilmington, Delaware.

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with Community First Banking Company, Carrollton, Georgia, and thereby indirectly acquire Community First Bank, Carrollton, Georgia.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Overton Financial Corporation, Overton, Texas and Overton Delaware Corporation, Dover, Delaware; to acquire .93 percent, for a total of 25.3 percent, the voting shares of Longview Financial Corporation, Longview, Texas, and thereby indirectly acquire shares of Longview Bank and Trust, Longview, Texas, and First State Bank, Van, Texas.

Board of Governors of the Federal Reserve System, September 6, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22817 Filed 9–11–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 8, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. DNB Financial Services, Inc., Douglas, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Douglas National Bank, Douglas, Georgia (in organization).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

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1. First Banks, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Union Financial Group, Ltd., Swansea, Illinois, and thereby indirectly acquire Union Bank of Illinois, Swansea, Illinois, and The State Bank of Jerseyville, Jerseyville, Illinois.

Board of Governors of the Federal Reserve System, September 7, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–22937 Filed 9–11–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—07/23/2001			
20011905	Hanover Compressor Company	Schlumberger Limited	Production Operators Corporation
20011906	Schlumberger Limited	Hanover Compressor Company	Hanover Compressor Company
20012136	J.W. Childs Equity Partners II, L.P	InSight Health Services Corp	InSight Health Services Corp.
20012141	Roland Duchatelet	LSI Logic Corporation	X-Fab LLC
20012152	J.W. Childs Equity Partners II, L.P	InSight Health Services Holdings Corp	InSight Health Services Holdings Corp.
20012155	General Electric Company	SAFECO Corporation	SAFECO Credit Company, Inc.
Transactions Granted Early Termination—07/25/2001			
20012116	H.J. Heinz Company	Fenway Partners Capital Fund, L.P.	Delimex Holdings, Inc.
20012121	CRH plc	W.R. Bonsal Company	W.R. Bonsal Company
20012138	Tyco International Ltd	Edison International	Edison Select
Transactions Granted Early Termination—07/26/2001			
20012071	DENTSPLY International Inc	E.ON AG	Degussa Dental GmbH & Co. KG Degussa-Ney Dental, Inc
20012145	Nestle' S.A	Dreyer's Grand Ice Cream, Inc	Dryer's Grand Ice Cream, Inc.
Transactions Granted Early Termination—07/27/2001			
20012095	Werner Enterprises	Transplace, Inc	Transplace, Inc.
20012097	Swift Transportation Co., Inc	Transplace, Inc	Transplace, Inc.
20012098	J.B. Hunt Transport Services	Transplace, Inc	Transplace, Inc.
20012113	Cinergy Corp	Duke Energy Corporation	Cadiz Project Company Madison Project Company
20012118	Duke Energy Corporation	Cinergy Corp	Duke Energy Vermillion, LLC
20012126	Kmart Corporation	Kmart Corporation	BlueLight.com LLC
20012130	Land O' Lakes, Inc	Purina Mills, Inc	Purina Mills, Inc.
20012146	B.N. Bahadur	Jay Alix	Peregrine Incorporated
20012149	Allied Capital Corporation	SunSource Inc	SunSource Inc.
20012169	Sun Life Financial Services of Canada Inc	Liberty Mutual Insurance Company	Independent Financial Marketing Group Keyport Life Insurance Company Liberty Securities Corporation LSC Insurance Agency of Arizona, Inc. LSC Insurance Agency of Nevada, Inc. LSC Insurance Agency of New Mexico, Inc.
20012173	Berkshire Fund V, Limited Partnership	Carter Holdings, Inc	Carter Holdings, Inc.
20012181	SAP Aktiengesellschaft Systeme, Anwendungen Produckte in der	Commerce One, Inc	Commerce One, Inc.
20012183	Omnicom Group Inc	Marketing Services Group, Inc	Grizzard Communications Group, Inc.
20012184	Barry Diller	National Leisure Group, Inc	National Leisure Group, Inc.
20012185	Amerada Hess Corporation	Triton Energy Limited	Triton Energy Limited
20012187	Dean Vanech	Dean Vanech	Salmon Energy, LLC
20012188	Education Management Corporation	Michael C. Markovitz, Ph.D	Argosy Education Group, Inc.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—07/30/2001			
20011563	W. Galen Weston	Unilever N.V	Bestfoods Baking Co., Inc., Thomas Trademark Holding BV
20012106	Novartis AG	Dr. Reddy's Laboratories Limited	Dr. Reddy's Laboratorires Limited
20012142	PRIMEDIA Inc	Emap plc	Emap, Inc.
20012179	Penauille Polyservices, S.A	Deutsche Lufthansa AG	GlobeGround GmbH
Transactions Granted Early Termination—08/01/2001			
20012144	Duke Energy Corporation	Enron Corp	New Albany Power I, L.L.C.
20012150	Technip	Coflexip, S.A	Coflexip, S.A.
20012176	XCare.net, Inc	Healthcare.com Corporation	Healthcare.com Corporation
20012186	Conectiv	Chris D. Galligan, a natural person	Haymoor, LLC
Transactions Granted Early Termination—08/02/2001			
20012143	Barrick Gold Corporation	Homestake Mining Company	Homestake Mining Company
20012170	Sanmina Corporation	Alcatel	Alcatel USA Sourcing, L.P.
Transactions Granted Early Termination—08/03/2001			
20012166	Florida Rock Industries, Inc	Golder, Thoma, Cressey, Rauner Fund IV, L.P	Bama Crushed Corporation BHY Ready Mix, Inc. Bradley Stone & Sand, Inc. Deklab Stone, Inc. Gove Materials Corporation Mulberry Rock Corporation SRM Aggregates, Inc.
20012167	Cargill Incorporated	Emmpak Foods, Inc	Emmpak Foods, Inc.
20012192	Centerpoint Broadband Technologies, Inc	Zaffire, Inc	Zaffire, Inc.
20012193	G. Drew Conway	Renaissance Worldwide, Inc	Renaissance Worldwide, Inc.
20012196	CAE Inc	Schreiner Luchtvaart Groep B.V	Schreiner Aviation Training B.V.
20012202	aaiPharma Inc	AstraZeneca plc	AstraZeneca plc
20012217	William B. Turner	Synovus Financial Corp	Synovus Financial Corp.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–22855 Filed 9–11–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans#	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/06/2001			
20012163	Madison Dearborn Capital Partners IV, L.P.	Thomas O. Hicks	Southwest Sports Television, L.P.
20012197	Atlas Air Worldwide Holdings, Inc	General Electric Company	Polar Air Cargo, Inc.
20012199	Kinder Morgan Energy Partners, L.P.	Occidental Petroleum Corporation	Occidental Texas Pipeline, L.P.

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Trans#	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/08/2001			
20010071	Premdor Inc	International Paper Company	International Paper Investment Corporation; International Paper Masonite Holdings Co., Ltd; International Paper Trademark Company; Masonite Corporation; Pintu Acquisition Company, Inc.
20012161	The Limited, Inc	Charming Shoppes, Inc	Charming Shoppes, Inc.
20012162	Charming Shoppes, Inc	The Limited, Inc	LBH, Inc.
20012175	AutoNation, Inc	Robert S. Cuillo	Luxury Imports of Palm Beach, Inc.; Palm Beach Lincoln, Mercury, Inc.
20012180	S.A. Louis Dreyfus et Cie	BNP Paribas	Via North America, Inc.
20012194	Affiliated Computer Services, Inc	Lockheed Martin Corporation	Lockheed Martin IMS Corporation.
20012206	First Horizon Pharmaceutical Corporation.	Sanofi-Synthelabo	Sanofi-Synthelabo, Inc.
20012207	Osburne Jay Call	Robert J. Welsh	Welsh, Inc.
Transactions Granted Early Termination—08/10/2001			
20012148	Blue Cross and Blue Shield of North Carolina.	Novant Health, Inc	PARTNERS National Health Plans of North Carolina, Inc.
20012201	Citigroup, Inc	DaimlerChrysler AG	debris Financial Services, Inc.
20012205	Toyota Motor Corporation	Hino Motors, Ltd	Hino Motors, Ltd.
20012218	United Business Media plc	Roper Starch Worldwide, Inc	Roper Starch Worldwide, Inc.
20012219	Cisco Systems, Inc	Allegro Systems, Inc	Allegro Systems, Inc.
20012224	EQT Northern Europe AG	AB Bonnierforetagen	Duni AB.
20012227	The Profit Recovery Group International, Inc.	Howard Schultz	Howard Schultz & Association International, Inc.
20012228	Howard Schultz	The Profit Recovery Group International, Inc.	The Profit Recovery Group International, Inc.
20012229	Calpine Corporation	Edison International	Gordonsville Energy, L.P.
20012233	Barry Diller	Microsoft Corporation	Expedia, Inc.
20012237	New York Life Insurance Company.	Thomas A. Morton Family Trust	McMorgan & Co.
20012238	Forstmann Little & Co. Equity Partnership—VII, L.P.	McLeodUSA Incorporated	McLeodUSA Incorporated.
20012244	Gerald W. Schwartz	Lucent Technologies Inc	Lucent Technologies Inc.
20012249	Compass Group PLC	Voting Trust dated December 10, 1998.	Crothall Services Group.
Transactions Granted Early Termination—08/13/2001			
20011943	First Health Group Corp	HCA-The Healthcare Company	CCN Managed Care, Inc.
20012198	General Motors Corporation	The 1960 Trust	Cooper River Funding, Inc.
20012215	Nokia Corporation	Amber Networks, Inc	Amber Networks, Inc.
Transactions Granted Early Termination—08/14/2001			
20012164	Sonoco Products Company	Robert J. Cloud	U.S. Paper Mills Corporation.
20012165	Sonoco Products Company	Thomas L. Olson	U.S. Paper Mills Corporation.
20012213	Conexant Systems, Inc	SiRF Holdings, Inc	SiRF Holdings, Inc.
20012222	OCM/GFI Power Opportunities Fund, L.P.	Enron Corp	UtiliQuest, LLC.
20012223	Cox Enterprises, Inc	Cox Enterprises, Inc	Manheim Remarketing Limited Partnership.
20012240	The Governor and Company of the Bank of Scotland.	Halifax Group plc	Halifax Group plc.
20012241	Halifax Group plc	The Governor and Company of the Bank of Scotland.	The Governor and Company of the Bank of Scotland.
20012243	Reuters plc	ProTrader Group Limited Partnership.	ProTrader Group Limited Partnership.
20012248	Brinker International, Inc	The Sydran Group, LLC	Sydran Foods Services III, L.P.
Transactions Granted Early Termination—08/16/2001			
20012236	RSA Security Inc	Securant Technologies, Inc	Securant Technologies, Inc.
Transactions Granted Early Termination—08/17/2001			
20011962	LSI Logic Corporation	Subramonian Shankar	American Megatrends, Inc.
20012251	Mitsubishi Chemical Corporation	Welfide Corporation	Welfide Corporation.

Trans#	Acquiring	Acquired	Entities
20012272	Pegasus Partners II, L.P	Golden Books Family Entertainment, Inc., debtor-in-possession.	Golden Books Family Entertainment, Inc., debtor-in-possession.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–22856 Filed 9–11–01: 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the U.S. Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 9:00 a.m.—5:30 p.m., September 24, 2001, 9:00 a.m.—4:00 p.m., September 25, 2001.

Ploce: Conference Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington D.C. 20201.

Status: Open.

Purpose: The National Committee on Vital and Health Statistics is scheduled to meet on September 24–25, 2001. The NCVHS is the Department's statutory public advisory body on health data, statistics, and health information policy. In addition, the Committee advises HHS on the implementation of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPPA). The meeting will focus on a variety of health data policy and privacy issues. Department officials will update the Committee on recent activities of the HHS Data Council and the status of HHS activities in implementing the administrative simplification provisions of HIPAA. A briefing from the HHS Deputy Chief Information Officer is planned, and GAO staff will brief the Committee on confidentiality practices and issues in record linkage for research purposes.

The Committee is also expected to discuss and take action on recommendations to HHS from the Privacy and Confidentiality Subcommittee relating to the implementation of the HIPAA Health Information Privacy regulation, following a subcommittee public hearing on the subject in August. Subcommittee breakout sessions also are planned.

All topics are tentative and subject to change. Prior to the meeting, please check the NCVHS web site, where a detailed agenda will be posted when available.

FOR FURTHER INFORMATION CONTACT: Substantive information as well as summaries of NCVHS meetings and a roster of committee members may be obtained by visiting the NCVHS website (http://ncvhs.hhs.gov) where an agenda for the meeting will be posted when available. Additional information may be obtained by calling James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245.

Note: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, individuals without a government identification card may need to have the guard call for an escort to the meeting room.

Dated: September 4, 2001.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 01–22820 Filed 9–11–01; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2119–N]

Medicare, Medicaid, and CLIA Programs; Continuance of the Approval of the College of American Pathologists as a CLIA Accreditation Organization

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the continuance of the approval of the College of American Pathologists (CAP) as an accreditation organization for laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA). We found that the accreditation process of this organization provides reasonable assurance that the laboratories accredited by it meet the conditions required by CLIA statute and regulations. Consequently, laboratories that voluntarily become accredited by CAP in lieu of direct Federal oversight and continue to meet CAP requirements would meet the CLIA condition level requirements for laboratories and, therefore, are not subject to routine inspection by State survey agencies to determine their compliance with CLIA requirements. However, they are subject to Federal validation and complaint investigation surveys.

EFFECTIVE DATE: This notice is effective for the period September 12, 2001 through September 30, 2007.

FOR FURTHER INFORMATION CONTACT: Val Coppola, (410) 786–3531.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On July 31, 1992, we published a final rule in the **Federal Register** (57 FR 33992) that implemented section 353(e)(2) of the Public Health Service Act. Under this rule CMS may approve a private, nonprofit organization to accredit clinical laboratories (that is, an approved accreditation organization) under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) if the organization meets certain requirements. An organization's requirements for accredited laboratories must be equal to, or more stringent than, the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). A laboratory accredited by an approved accreditation organization that meets and continues to meet all of the accreditation organization's requirements would be considered to meet CLIA condition level requirements as if it was inspected against CLIA regulations. The regulations in 42 CFR part 493, subpart E (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specify the requirements an accreditation organization must meet in order to be approved. CMS approves an accreditation organization for a period not to exceed 6 years.

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In general, an approved accreditation organization must, among other conditions and requirements:

• Use inspectors qualified to evaluate laboratory performance and agree to inspect laboratories with the frequency determined by CMS.

• Apply standards and criteria that are equal to, or more stringent than, those condition level requirements established by CMS when taken as a whole.

• Provide reasonable assurance that these standards and criteria are continuously met by its accredited laboratories.

• Provide CMS with the name of any laboratory that has had its accreditation denied, suspended, withdrawn, limited, or revoked within 30 days of the action taken.

• Notify CMS in writing at least 30 days before the effective date of any proposed change in its standards.

• Notify the accredited laboratories of CMS's decision to withdraw its approval within 10 days of the withdrawal. A laboratory can be accredited if, among other things, it meets the standards of an approved accreditation organization and authorizes the accreditation body to submit records and other information to CMS as required.

In addition to requiring the promulgation of criteria for approving and withdrawing the approval of an accreditation body, CLIA requires CMS to perform an annual evaluation by inspecting a sufficient number of laboratories accredited by an accreditation organization, as well as, by any other means that CMS determines appropriate.

I. Notice of Continued Approval of CAP as an Accreditation Organization

In this notice, we approve CAP as an organization that may continue to accredit laboratories for purposes of establishing their compliance with CLIA. The Centers for Disease Control and Prevention and CMS (hereinafter referred to as "we") have examined the CAP application and all subsequent submissions to determine equivalency with the requirements under 42 CFR part 493, subpart E that an accreditation organization must meet to be granted approved status under CLIA. We have determined that CAP has complied with the applicable CLIA requirements and grant CAP approval as an accreditation organization under 42 CFR part 493, subpart E, September 12, 2001 through September 30, 2007, for all specialty and subspecialty areas under CLIA.

As a result of this determination, any laboratory that is accredited by CAP during this time period for an approved specialty or subspecialty is deemed to meet the applicable CLIA condition level requirements for laboratories found in 42 CFR part 493 and, therefore, is not subject to routine inspection by a State survey agency to determine compliance with CLIA requirements. However, the accredited laboratory is subject to validation and complaint investigation surveys performed by CMS, or any other Federal, State, local public agency, or nonprofit organization under an agreement with the Secretary.

III. Evaluation of CAP

The following describes the process used to determine that CAP, as a private, nonprofit organization, provides reasonable assurance that the laboratories it accredits will meet the applicable requirements of CLIA.

A. Requirements for Approving an Accreditation Organization Under CLIA

To determine whether CMS should grant approval to CAP as a private, nonprofit organization for accrediting laboratories under CLIA for all requested specialty, and subspecialty areas of human specimen testing, we conducted a detailed and in-depth comparison of CAP's laboratory requirements to CLIA laboratory requirements. Our evaluation determined whether CAP meets the following requirements:

• Provides reasonable assurance to us that it requires the laboratories it accredits to meet requirements that are equal to, or more stringent than, the CLIA condition level requirements (for the requested specialties and subspecialties) and would therefore, meet the condition level requirements of CLIA if those laboratories had not been granted deemed status, and had been inspected against condition level requirements.

• Meets the applicable requirements of 42 CFR part 493, subpart E.

As specified in the regulations of 42 CFR part 493, subpart E, our review of a private, nonprofit accreditation organization seeking approved status under CLIA, includes, but is not limited to, an evaluation of the following:

• Whether the organization's requirements for its accredited laboratories are equal to, or more stringent than, the condition level requirements of the CLIA regulations.

• The organization's inspection process to determine the:

—Composition of the inspection teams, qualifications of the inspectors, and the ability of the organization to provide continuing education and training to all of its inspectors.

—Comparability of the organization's full inspection and complaint inspection requirements to the Federal requirements including, but not limited to inspection frequency, and the ability to investigate and respond to complaints against its accredited laboratories.

—Organization's procedures for monitoring laboratories that are out of compliance with its requirements.

—Organization's ability to provide CMS with electronic data and reports that are necessary for effective validation and assessment of the organization's inspection process.

—Organization's ability to provide CMS with electronic data related to the adverse actions resulting from unsuccessful proficiency testing (PT) participation in CMS-approved PT programs, as well as, data related to the PT failures, within 30 days of the initiation of the action.

—Ability of the organization to provide CMS with electronic data for all its accredited laboratories, and the areas of specialty and subspecialty testing.

—Adequate numbers of staff and other resources.

—Organization's ability to provide adequate funding for performing the required inspections.

• The organization's agreement with CMS that requires it, among other things, to meet the following requirements:

—Notify CMS of any laboratory that has had its accreditation denied, limited, suspended, withdrawn, or revoked by the accreditation organization, or any other adverse action taken against it by the accreditation organization within 30 days of such action.

—Notify CMS within 10 days of a deficiency identified in an accredited laboratory if the deficiency poses an immediate jeopardy to the patients of the laboratory or a hazard to the general public.

—Notify CMS of all newly accredited laboratories, or laboratories whose areas of specialty or subspecialty are revised, within 30 days.

—Notify each laboratory accredited by the organization within 10 days of CMS's withdrawal of approval of the organization as an accreditation organization.

—Provide CMS with inspection schedules as requested, for the purpose of conducting onsite validation inspections.

—Provide our agent, the State survey agency, or CMS with any facility-specific data that includes, but is not limited to, PT results that constitute unsuccessful participation in an approved PT program and notification of the adverse actions or corrective actions imposed by the accreditation organization as a result of unsuccessful PT participation.

—Provide CMS with written notification at least 30 days in advance of the effective date of any proposed changes in its requirements.

—Provide upon the request by anyone, on a reasonable basis (and subject to applicable State law concerning disclosure of confidential information), any laboratory's PT results with the explanatory information needed to assist in the interpretation of the results.

Laboratories that are accredited by an approved accreditation organization, among other things must comply with the following requirements:

• Authorize the organization to release to CMS all records and information required.

• Permit inspections as required by the CLIA regulations at 42 CFR part 493, subpart Q (Inspection).

• Obtain a certificate of accreditation as required by § 493.55 (Application for registration certificate and certificate of accreditation).

B. Evaluation of the CAP Request for Continued Approval as an Accreditation Organization Under CLIA

CMS has examined CAP's assurance that it requires the laboratories it accredits to be, and that the organization is in compliance with the following subparts of part 493:

1. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

CAP has requested continued approval to accredit all specialties and subspecialties, and has submitted the following:

• Description of its inspection process, policies, PT monitoring process, and data management and analysis system.

• List of its inspection team size, composition, and education and experience.

• Investigative and complaint response procedures.

• CMS's notification agreements.

• Procedures for the removal or withdrawal of accreditation from a laboratory.

• Current list of accredited laboratories with announced or unannounced inspection process.

We have determined that CAP has complied with the requirements under CLIA for approval as an accreditation organization under this subpart.

Our evaluation identified areas of the CAP requirements that are more stringent than the CLIA requirements and apply to the laboratory as a whole. Rather than include them in the appropriate subparts multiple times, we list them here:

• CAP requires the directors of its accredited laboratories to sign an attestation that their laboratory(ies) are in compliance with all applicable Federal, State, and local laws.

• CAP lists extensive requirements for the Laboratory Information System (LIS) that include but, are not limited to the following areas:

—Preservation, storage, and retrieval of laboratory and patient data.

—Review of LIS programs for appropriate content and testing before use, when a new program is to be put in place, or when changes are made to existing programming.

—Maintenance of the LIS facility (must be clean, well ventilated, and at proper temperature and humidity).

—Protection of LIS against power interruptions and surges.

—Readily available procedure manuals for LIS operators, adequately trained operators that know how to preserve data and equipment in emergency situations (for example, fire, software or hardware failure).

—Protection of the LIS, its data, patient information, and programs from unauthorized use.

—Entry of data and result reporting.

—Verification and maintenance of LIS hardware and software.

—Routine and emergency service and maintenance of the LIS.

—Evaluation from the laboratory director of the LIS performance as it pertains to patient and clinician needs.

• CAP accredits laboratories that perform testing for any of the following areas and sets specific standards with which accredited laboratories must comply:

—Athletic drug testing (for anabolic steroids, beta-blackers, cannabinoids, narcotics, and stimulants).

—Forensic urine drug testing.

—Parentage testing.

—Reproductive laboratory testing (embryology).

2. Subpart H—Participation in Proficiency Testing for Laboratories Performing Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

The CAP requirements for PT are in conformance with the CLIA statute that states the standards accreditation organizations must require all laboratories be tested by PT for each examination for which PT is available. The CAP PT requirements are more stringent than the CLIA regulations in Subpart I that lists specific tests in which the laboratory must enroll and participate in a CMS-approved PT program. CLIA exempts waived testing from PT, whereas CAP requires its accredited laboratories to participate in a CMS-approved PT program for all testing, including procedures waived under CLIA.

We have determined that the actions taken by CAP to correct unsatisfactory (one failure) PT performance are equivalent to those of CLIA and that the actions taken to correct unsuccessful (2 in a row or 2 out of 3 failures) PT performance of its laboratories are more stringent than those of CLIA. CAP utilizes an on-going electronic monitoring process that flags both unsatisfactory and unsuccessful results for all PT performance, both CLIA required analytes and all other testing for which PT is available and is required by CAP.

CAP accredited laboratories are allowed 15 days to respond in writing to each unsatisfactory result. The response must indicate how the problem was investigated, the cause of the problem, the specific corrective action that was taken to prevent recurrence, and evidence that the problem was successfully corrected. CLIA regulations state that the laboratory must undertake appropriate training and employ the technical assistance that is necessary to correct problems associated with an unsatisfactory score, take remedial action, and document all steps taken.

Unsuccessful PT performance, when identified by CAP, initiates immediate communication with the laboratory director. A written response must be submitted to CAP, explaining why the adverse results occurred, a description of the problem, and the actions taken to correct the problem. The laboratory must submit this information within 10 working days. If, after review by CAP, it is determined that the laboratory's subsequent PT performance is within acceptable limits, no further action is taken. If the laboratory does not respond, fails to seriously address the problem, or cannot bring performance into acceptable limits, the CAP would evaluate the situation and either request that the laboratory cease testing for the analyte, specialty, or subspecialty in question, or, if warranted, revoke accreditation.

CLIA regulations allow a laboratory to undertake training of its personnel or to obtain technical assistance or both, when the initial unsuccessful PT performance occurs instead of imposing alternative or principal sanctions.

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CAP also requires its accredited laboratories performing GYN cytology to participate in its external quality assurance program for PAP smear cytology. The Interlaboratory Comparison Program in Cervicovaginal Cytopathology currently enrolls all of CAP's 2,793 accredited laboratories that perform GYN cytology. This program is a cervicovaginal cytopathology proficiency testing survey, in which all CAP accredited laboratories are required to participate. Currently there is no CMS-approved cytology PT program capable of enrolling all CLIA certified laboratories that perform GYN cytology testing.

3. Subpart J—Patient Test Management for Moderate Complexity (Including the Subcategory), High Complexity or Any Combination of These Tests

The CAP requirements are equivalent to the CLIA requirements at §§ 493.1101 through 493.1111. We have determined that CAP's requirements for an accredited laboratory include on report forms the dates and times of specimen collection (when appropriate), is more stringent than the requirements under CLIA.

4. Subpart K—Quality Control for Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

The quality control (QC) requirements of CAP have been evaluated against the phased-in, complexity based requirements of the CLIA regulations. We have determined that the QC requirements of CAP are more stringent than the CLIA requirements, when taken as a whole. Some specific areas of QC that are more stringent are as follows:

- The CAP laboratory safety requirements are specific and detailed.

—Environmental safety requirements address electrical voltage, facility ventilation, lighting, temperature, humidity, emergency power source, and require remedial actions to be taken when necessary.

—Requirements are in place for handling and disposal of biohazardous materials, fire safety and prevention of fire hazards, and OSHA regulations related to laboratories.

- The CAP requires procedure manuals to include the principal and clinical significance for each test, and their procedure manuals must include documentation of initial and annual reviews.
- CLIA regulations allow cytology slide preparations made using automated, semi-automated, or other liquid-based slide preparations that cover half or less of a slide to be counted as one half slide for cytology workload purposes. This allows a maximum of 200 preparations to be examined by an individual in a 24-hour period. The CAP does not recognize these preparations as half slides, but rather as full slides to be included in an individual's 100 slide, 24-hour maximum allowable workload.
- CAP requires its accredited laboratories to use the appropriate reagent grade water for the testing performed, stating which type of water (from type I through type III) must be used in specific tests. Source water also must be evaluated for silicone levels.
- CAP accredited laboratories must verify all volumetric glassware and pipettes for accuracy and reproductability before use, and must recheck them periodically. These activities must be documented.
- CAP accredited laboratories that perform maternal serum alpha-fetoprotein, and amniotic fluid alpha-fetoprotein have specific requirements that must be met. These include a qualitative specimen evaluation, requesting and reporting information necessary for interpretation of results, for example, gestational age, maternal birth date, race, maternal weight, insulin-dependent diabetes mellitus, multiple gestations, median ranges calculated and recalculated yearly, results reported in multiples of the mean.
- The CAP lists specific requirements for newer methodologies. Molecular pathology and flow cytometry standards are presented in separate checklists and immunohistochemistry has specific requirements within histology.
- CAP retention requirements are the same or longer than those of CLIA.

5. Subpart M—Personnel for Moderate and High Complexity (Including the Subcategory) and High Complexity Testing

The Standards for Laboratory Accreditation of the CAP states at Standard I, Director and Personnel Requirements (under item D, Personnel), that all laboratory personnel must be in compliance with applicable Federal, State, and local laws and regulations. This standard is implemented in the general laboratory requirement that there must be evidence in personnel records that all testing personnel have been evaluated against CLIA regulatory requirements for high complexity testing, and that all individuals qualify. CAP holds all technical personnel in its accredited laboratories to the CLIA high complexity personnel requirements. Therefore, we have determined that the personnel requirements of the CAP are more stringent than the personnel requirements of CLIA, when taken as a whole.

6. Subpart P—Quality Assurance for Moderate Complexity (Including the Subcategory) or High Complexity Testing, or Any Combination of These Tests

We have determined that CAP's requirements are equal to, or more stringent than, the CLIA requirements of this subpart. CAP also offers an educational program (Q-Probes) to its accredited laboratories, that provides further information on quality assurance to the large, full service laboratories, that allows peer review and comparisons between facilities.

7. Subpart Q—Inspection

We have determined that the CAP inspection requirements, taken as a whole, are equivalent to the CLIA inspection requirements. CAP has continued its Laboratory Accreditation Programs Inspection Training Seminars program. In the year 2000, there were 8 regional training programs held (hosting 747 participants) and 13 national training programs (hosting 433 participants) with 12 ad hoc training sessions presentations. In addition, 4 audio training conferences were held in which 6,351 inspection team leaders and team members participated.

The CAP will continue its policy of biennial on-site announced inspections. An unannounced inspection would be performed when a complaint, lodged against a CAP accredited laboratory, indicates that problems exist within that laboratory that are likely to have serious and immediate effects on patient care.

CAP requires a mid-cycle self-inspection of all accredited laboratories. All requirements for the mid-cycle self-inspection must be responded to in writing, and the responses must be submitted to CAP within a specified timeframe. CLIA regulations do not have this requirement.

8. Subpart R—Enforcement Procedures

CAP meets the requirements of Subpart R to the extent that it applies to accreditation organizations. CAP policy stipulates the actions it takes when laboratories it accredits do not comply with its requirements and standards for accreditation. As demonstrated during its first period of approval, CAP denies accreditation to a laboratory when appropriate, and reports the denial to CMS within 30 days. CAP also provides an appeal process for laboratories that have had accreditation denied.

Some specific actions CAP takes in response to non-compliance or violation of its requirements or standards for accreditation include:

- When an accredited laboratory is identified as having intentionally referred a PT specimen to another laboratory for analysis, the CAP laboratory will be denied accreditation and be ineligible for CAP accreditation for 1 year. This action is similar to the CMS action of denial of certification for 1 year.
- When a CAP accredited laboratory participates unsuccessfully in PT for an analyte, subspecialty, or specialty, the laboratory must initiate corrective actions. The laboratory must submit to CAP documentation of a detailed investigation of the problem causing the unsuccessful performance with a corrective action plan within 10 working days. Specific educational activity or the retention of the services of a consultant may be imposed. Failure to bring PT performance into acceptable limits or failure to seriously address the PT problem would cause CAP to request the laboratory to cease testing for the procedure(s) in question or, if warranted, revoke the laboratory's accreditation. This action is equivalent to the actions that CMS may take under this section.
- When CAP becomes aware of a problem in an accredited laboratory that is so severe and extensive that it could cause a serious risk of harm (immediate jeopardy) situation, an expedited evaluation is immediately undertaken by the Chair and Vice Chair of the Accreditation Committee, the Regional Commissioner and the Director of the Laboratory Accreditation Program. If it is determined that an immediate jeopardy situation exists, the laboratory is required to remove the jeopardy situation immediately or accreditation would be revoked. An on-site focused re-inspection may be performed to verify that the immediate jeopardy no longer exists. These actions are similar to CMS actions for immediate jeopardy.
- The CAP requires its accredited laboratories to correct all deficiencies within 30 days. CLIA deficiencies that are not condition level must be corrected in a timeframe that is acceptable to CMS, but no longer than 12 months. CLIA deficiencies that are condition level that are not considered immediate jeopardy must be corrected in an acceptable timeframe; however, CMS may impose one or more alternate sanctions or a principal sanction to motivate laboratories to correct these deficiencies. The CAP timeframe for correction of deficiencies, when taken as a whole, is more stringent than CLIA.

We have determined that CAP's laboratory enforcement and policies are equivalent to the requirements of this subpart as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of CAP accredited laboratories may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (complaint inspections). The outcome of those validation inspections, performed by our agent, the State survey agency, or us, will be CMS's principal means for verifying that the laboratories accredited by CAP remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may remove the approval of an accreditation organization (for example, CAP) for cause, before the end of the effective date of approval. If validation inspection outcomes, and the comparability, or validation review produce findings as described in § 493.573 (Continuing Federal oversight of private nonprofit accreditation organizations and approved State licensure program), CMS will conduct a review of an approved accreditation organization's program. In addition, we will conduct a review, when the validation review findings, irrespective of the rate of disparity (as defined in § 493.2), indicate systematic problems in the organization's processes that provide evidence that the organization's requirements, taken as a whole, are no longer equivalent to the CLIA requirements, taken as a whole.

If CMS determines that CAP has failed to adopt or maintain requirements that are equal to, or more stringent than, the CLIA requirements, or systematic problems exist, CMS may give a probationary period, not to exceed 1 year, to CAP to adopt equal, or more stringent requirements. CMS will determine whether CAP retains its approved status as an accreditation organization under CLIA. If approved status is withdrawn, an accreditation organization such as CAP may resubmit its application to CMS if it revises its program to address the rationale for the denial, demonstrates that it can reasonably assure that its accredited laboratories meet CLIA condition level requirements, and resubmits its application for approval as an accreditation organization in its entirety. However, if an approved accreditation organization requests reconsideration of an adverse determination in accordance with subpart D (Reconsideration of Adverse Determinations—Deeming Authority for Accreditation Organizations and CLIA Exemption of Laboratories Under State Programs) of part 488 (Survey, Certification, and Enforcement Procedures) of our regulations, it may not submit a new application until CMS issues a final reconsideration determination. If circumstances result in CAP having its approval withdrawn, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

Federalism

We have reviewed this notice under the threshold criteria of Executive Order 13132, Federalism, and have determined that this notice will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

OMB Review

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: July 18, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–22822 Filed 9–11–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), (**Federal Register**, Vol. 62, No. 85, pp. 24120–24126 dated Friday, May 2, 1997) is amended to reflect changes to the organizational structure of CMS by replacing the Center for Beneficiary Services and the Center for Health Plans and Providers with the Center for Beneficiary Choices and the Center for Medicare Management. Also, it transfers managed care audit responsibility from the Office of Financial Management to the Center for Beneficiary Choices, and

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also transfers the Quality Measurement and Health Assessment Group from the Office of Clinical Standards and Quality to the Center for Beneficiary Choices.

The specific amendments to part F are described below:

• Section F.10. (Organization) is amended to read as follows:

1. Press Office (FAC)
2. Center for Beneficiary Choices (FAE)
3. Office of Legislation (FAF)
4. Center for Medicare Management (FAH)
5. Office of Equal Opportunity and Civil Rights (FAJ)
6. Office of Strategic Planning (FAK)
7. Office of Communications and Operations Support (FAL)
8. Office of Clinical Standards and Quality (FAM)
9. Office of the Actuary (FAN)
10. Center for Medicaid and State Operations (FAS)
11. Northeastern Consortium (FAU)
12. Southern Consortium (FAV)
13. Midwestern Consortium (FAW)
14. Western Consortium (FAX)
15. Office of Internal Customer Support (FBA)
16. Office of Information Services (FBB)
17. Office of Financial Management (FBC)

• Section F.20. (Functions) is amended by deleting the functional statements in their entirety for the Center for Beneficiary Services, Center for Health Plans and Providers, and the Quality Measurement and Health Assessment Group within the Office of Clinical Standards and Quality. The new functional statements read as follows:

2. Center for Beneficiary Choices (FAE)

• Serves as the focal point for all Agency interactions with beneficiaries, their families, care givers, health care providers, and others operating on their behalf concerning improving beneficiary ability to make informed decisions about their health and about program benefits administered by the Agency. These activities include strategic and implementation planning, execution, assessment, and communications.

• Assesses beneficiary and other consumer needs, develops and oversees activities targeted to meet these needs, and documents and disseminates results of these activities. These activities focus on Agency beneficiary service goals and objectives and include: development of baseline and ongoing monitoring information concerning populations affected by Agency programs; development of performance measures and assessment programs; design and implementation of beneficiary services initiatives; development of communications channels and feedback mechanisms within the Agency and between the Agency and its beneficiaries and their representatives; and close collaboration with other Federal and state agencies and other stakeholders with a shared interest in better serving our beneficiaries.

• Develops national policy for all Medicare Parts A, B, and C beneficiary eligibility, enrollment, and entitlement; rights and protections; dispute resolution process; as well as policy for managed care enrollment and disenrollment to ensure the effective administration of the Medicare program, including the development of related legislative proposals.

• Oversees the development of privacy and confidentiality policies pertaining to the collection, use, and release of individually identifiable data.

• Coordinates beneficiary centered information, education, and service initiatives.

• Develops and tests new and innovative methods to improve beneficiary aspects of health care delivery systems through Title XVIII, XIX, and XXI demonstrations and other creative approaches to meeting the needs of Agency beneficiaries.

• Ensures that, in coordination with other Centers and Offices, the activities of Medicare contractors, including managed care plans, agents, and state agencies, meet the Agency's requirements on matters concerning beneficiaries and other consumers.

• Plans and administers the contracts and grants related to beneficiary and customer service, including the State Health Insurance Assistance Program grants.

• Formulates strategies to advance overall beneficiary communications goals and coordinates the design and publication process for all beneficiary centered information, education, and service initiatives.

• Builds a range of partnerships with other national organizations for effective consumer outreach, awareness, and education efforts in support of Agency programs.

• Serves as the focal point for all Agency interactions with managed health care organizations for issues relating to Agency programs, policy, and operations.

• Develops national policies and procedures related to the development, qualification, and compliance of health maintenance organizations, competitive medical plans and other health care delivery systems and purchasing arrangements (such as prospective pay, case management, differential payment, selective contracting, etc.) necessary to ensure the effective administration of the Agency's programs, including the development of statutory proposals.

• Handles all phases of contracts with managed health care organizations eligible to provide care to Medicare beneficiaries.

• Coordinates the administration of individual benefits to ensure appropriate focus on long-term care, where applicable, and assumes responsibility for the operational and demonstration efforts related to the payment aspects of long-term care and post-acute care services.

• Designs and conducts payment, purchasing, and benefits demonstrations.

4. Center for Medicare Management (FAH)

• Serves as the focal point for all Agency interactions with health care providers, intermediaries, and carriers for issues relating to Agency fee-for-service (FFS) policies and operations.

• Monitors providers' and other entities' conformance with quality standards (other than those directly related to survey and certification); policies related to scope of benefits; and other statutory, regulatory, and contractual provisions.

• Based on program data, develops payment mechanisms, administrative mechanisms, and regulations to ensure that CMS is purchasing medically necessary services under FFS.

• Writes payment and benefit-related instructions for Medicare contractors.

• Defines the scope of Medicare benefits and develops national FFS payment policies, as necessary, to ensure the effective administration of the Agency's programs, including the development of related statutory proposals.

• Develops Agency medical coding policies related to FFS payments.

• Provides administrative support to the Practicing Physician Advisory Council.

• Coordinates provider, physician, and contractor centered information, education, and service initiatives.

• Serves as the CMS lead for Medicare carrier and fiscal intermediary (FI) management, oversight, budget, and performance issues.

• Functions as CMS liaison for all Medicare carrier and FI program issues and, in close collaboration with the regional offices and other CMS components, coordinates the agency-wide contractor activities.

• Manages contractor instructions, workload, and change management process.

• Collaborates with other CMS components to establish ongoing performance expectations for Medicare contractors (carriers and FIs) consistent with the agency's goals; interprets, evaluates, and provides information on Medicare contractors in terms of ongoing compliance with performance requirements and expectations; evaluates compliance with issued instructions; evaluates contractor-specific performance and/or integrity issues; and evaluates/monitors corrective action, if necessary.

• Manages, monitors, and provides oversight of contractor (carriers and FIs) transition activities including replacement of departing contractors and the resulting transfer of workload, functional realignments, and geographic workload carveouts.

• Maintains and provides accurate contractor specific information. Develops and implements long-term FFS contractor strategy, tactical plans, and other planning documents.

• Serves as lead on current/proposed legislation in order to determine impact on provider and contractor operations.

• Develops national policy and implementation of all Medicare Part A, Part B, and Part C premium billing and collection activities and coordination of benefits to assure effective administration of FFS aspects of the Medicare program.

Dated: September 6, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–22821 Filed 9–11–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: The Dallas World Aquarium, Dallas, TX, PRT–043800.

The applicant requests a permit to import 1.1 captive held giant river otter, *Pteronura brasiliensis*, currently being held in Venezuela, for the purpose of enhancement of the survival of the species through captive propagation and conservation education.

Applicant: Edward E. Seager, Bedford, PA, PRT–047589.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Richard M. Welch, Mechanicsville, TX, PRT–047505.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Patrick B. Sands, Dallas, TX, PRT–047504.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: August 31, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–22902 Filed 9–11–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Central and Western Gulf of Mexico, Oil and Gas Lease Sales for Years 2002–2007

AGENCY: Minerals Management Service, Interior.

ACTION: Call for information and nominations, Notice of intent to prepare an environmental impact statement.

SUMMARY: MMS proposes to adopt a multisale process for the Central and Western Gulf of Mexico (GOM) sales in the 2002–2007 OCS Oil and Gas Leasing Program. This single multisale process will cover all proposed sales in both planning areas. The Call, the initial step in the process, will cover ten sales—five Central GOM sales and five Western GOM sales. There will also be complete National Environmental Policy Act, OCS Lands Act, and Coastal Zone Management Act coverage for each sale. We propose to prepare an Environmental Assessment for Sale 184, Western GOM, tiering off the previous multisale EIS for Western GOM Sales. We propose to prepare one multisale EIS for the remaining nine Central and Western GOM sales in the 2002–2007 OCS Leasing Program.

DATES: Nominations and comments must be received no later than October 12, 2001.

FOR FURTHER INFORMATION CONTACT: For information on the Call for Information and Nominations, please contact Ms. Jane Burrell Johnson, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2811. For information on the Notice of Intent to Prepare an EIS, please contact, Mr. Joseph Christopher, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2788.

SUPPLEMENTARY INFORMATION: In 1996, MMS adopted multisale processes for sales in the Central and Western GOM. The multisale process for each planning area incorporated prelease planning and analysis steps for all sales proposed in the 1997–2002 OCS Oil and Gas Leasing Program (except for the first sale in the Western GOM, which was covered in a previous Call and EIS). MMS proposes to adopt a similar process for the Central and Western GOM sales in the 2002–2007 OCS Oil and Gas Leasing Program. For the Proposed 5-Year Program, a single multisale process will cover all proposed sales in both planning areas.

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Call for Information and Nominations

1. Authority

This Call is published pursuant to the OCS Lands Act as amended (43 U.S.C. 1331–1356, (1994), and the regulations issued thereunder (30 CFR part 256).

2. Purpose of Call

The purpose of the Call is to gather information for the following tentatively scheduled OCS Lease Sales in the Central and Western GOM:

Sale, OCS planning area	Tentative sale date
Sale 184, Western GOM ...	August 2002.
Sale 185, Central GOM	March 2003.
Sale 187, Western GOM ...	August 2003.
Sale 190, Central GOM	March 2004.
Sale 192, Western GOM ...	August 2004.
Sale 194, Central GOM	March 2005.
Sale 196, Western GOM ...	August 2005.
Sale 198, Central GOM	March 2006.
Sale 200, Western GOM ...	August 2006.
Sale 201, Central GOM	March 2007.

Information and nominations on oil and gas leasing, exploration, and development and production within the Central and Western GOM are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, and regulations at 30 CFR part 256.

Please note this is the third issuance of a multisale Call by MMS and the first Call in the Proposed 5-Year Program for 2002–2007. Responses are requested relative to proposed sales in both the Central and Western GOM OCS Planning Areas. Eighteen years of experience with leasing at an annual areawide pace has shown that the sale proposals in the Central and Western GOM are very similar from year to year. This makes possible the use of a multisale process, described herein, to address decisions for all ten lease sales proposed for both the Central and Western GOM Planning Areas. This Call covers five sales in the Central Planning Area and five sales in the Western Planning Area. We propose to prepare an Environmental Assessment for Sale 184, Western GOM, tiering off the previous multisale EIS for Western GOM Sales. We propose to prepare one multisale EIS for the remaining nine sales in the 2002–2007 OCS Leasing Program. There will be complete NEPA coverage for each sale—an EIS, an EA, or a Supplemental EIS focusing primarily on new issues. We will prepare a Consistency Determination and proposed and final Notices of Sale for each proposed sale in accordance with Coastal Zone Management Act and OCS Lands Act requirements.

This Call does not indicate a preliminary decision to lease in the areas described below. Final delineation of each area for possible leasing will be made at a later date and in compliance with applicable laws including all requirements of the NEPA and OCS Lands Act. Established Departmental procedures will be employed.

3. Description of Areas

The general areas of this Call cover the entire Central and Western GOM, except for those exclusions listed in Item 4, "Areas Excluded from this Call," under the Call for Information and Nominations. The Central GOM is bounded on the east by approximately 88 degrees W. longitude. Its western boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeasterly to approximately 28 degrees N. latitude, thence east to approximately 92 degrees W. longitude, thence south to the continental shelf boundary with Mexico as established by the "Treaty Between The Government Of The United States Of America And The Government Of The United Mexican States On The Delimitation Of The Continental Shelf In The Western Gulf Of Mexico Beyond 200 Nautical Miles," which took effect in January 2001, thence generally eastward to approximately 88 degrees W. longitude. The planning area is bounded on the north by the Federal-State boundary offshore Louisiana, Mississippi, and Alabama. The area available for nominations and comments at this time consists of approximately 47.80 million acres, of which approximately 25.15 million acres are currently unleased.

The Western GOM is bounded on the west and north by the Federal-State boundary offshore Texas; the eastern boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeasterly to approximately 28 degrees N. latitude, thence east to approximately 92 degrees W. longitude, thence south to the maritime boundary with Mexico as established by the "Treaty Between The Government Of The United States Of America And The Government Of The United Mexican States On The Delimitation Of The Continental Shelf In The Western Gulf Of Mexico Beyond 200 Nautical Miles," which took effect in January 2001. The planning area lies offshore Texas and, in deeper water, offshore Louisiana. The area available for nominations and comments at this time consists of approximately 35.90 million acres, of which approximately 13.42 million acres are currently unleased.

A standard Call for Information Map depicting the Central and Western GOM on a block-by-block basis is available without charge from: Minerals Management Service, Public Information Unit (MS 5034), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone: 1–800–200–GULF.

4. Areas Excluded From This Call

A.The entire Central GOM will be considered for possible leasing except:

1. The following blocks which are beyond the United States Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap: Lund South (Area NG16–07) Blocks 172 and 173; 213 through 217; 252 through 261; 296 through 305; and 349.

2. The following whole and partial blocks which are beyond the United States Exclusive Economic Zone in the area formerly known as the northern portion of the Western Gap and which lie within the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico:

Partial blocks: Amery Terrace (Area NG15–09) Blocks 235 through 238; 273 through 279; 309 through 317; and

Whole blocks: Amery Terrace (Area NG15–09) Blocks 280, 281; 318 through 320; and 355 through 359.

B. The entire Western GOM will be considered for possible leasing except:

1. Two blocks in the High Island Area, East Addition, South Extension, Blocks A–375 and A–398 (at the Flower Garden Banks), and the portions of other blocks within the boundary of the Flower Garden Banks National Marine Sanctuary.

2. The following whole and partial blocks which are beyond the United States Exclusive Economic Zone in the area formerly known as the Northern Portion of the Western Gap and which lie within the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico:

Whole blocks: Sigsbee Escarpment (Area NG15–08) Blocks 11, 57, 103, 148, 149, 194, 239, 284, and 331 through 341; and

Partial blocks: Keathley Canyon (Area NG15–05) Blocks 978 through 980; and Sigsbee Escarpment (Area NG15–08) Blocks 12 through 14; 58 through 60; 104 through 106; 150, 151, 195, 196, 240, 241; 285 through 298; and 342 through 349.

5. Instructions on Call

The standard Call for Information Map and indications of interest and comments must be submitted to: Ms. Jane Burrell Johnson, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Envelopes should be labeled "Nominations for Proposed 2002–2007 Lease Sales in the Central and Western Gulf of Mexico" or "Comments on the Call for Information and Nominations for Proposed 2002–2007 Lease Sales in the Central and Western Gulf of Mexico."

The standard Call for Information Map delineates the Call area, all of which has been identified by MMS as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have included in each of the proposed sales in the Central and Western GOM.

Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are required to do so on the standard Call for Information Map by outlining the areas of interest along block lines.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 [high], 2 [medium], or 3 [low]). Respondents are encouraged to be specific in indicating blocks by priority, as blanket nominations on large areas are not useful in the analysis of industry interest. Areas where interest has been indicated but on which respondents have not indicated priorities will be considered priority 3 (low).

Respondents may also submit a detailed list of blocks nominated (by Official Protraction Diagram and Leasing Map designations) to ensure correct interpretation of their nominations. Official Protraction Diagrams and Leasing Maps can be purchased from the Public Information Unit referred to above.

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological and socioeconomic conditions or conflicts, or other information that might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and State Coastal Management Programs. If possible, these comments should identify specific Coastal Management Plans policies of concern, the nature of the conflict foreseen, and steps that MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

6. Use of Information From Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this Call is to use the comments collected in the scoping process for the EIS and to develop proposed actions and alternatives. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore operations. And, fifth, comments may be used to assess potential conflicts between offshore gas and oil activities and a State Coastal Management Plan.

7. Existing Information

MMS routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on tentatively scheduled lease sales. As a result of this continually ongoing assessment, it has been determined that the status of the existing data available for planning, analysis, and decisionmaking is adequate and extensive.

An extensive environmental studies program has been underway in the GOM since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports, and information for ordering copies, can be obtained from the Public Information Unit referenced under Item 3, "Description of Area." The reports may also be ordered, for a fee, from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 487–4650. In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Sciences Section (MS 5430), Gulf of Mexico OCS Region (see address under Item 3, "Description of Areas"), or telephone (504) 736–2752.

Summary Reports and Indices and technical and geological reports are available for review at the MMS, Gulf of Mexico OCS Region. Copies of the Gulf of Mexico OCS Regional Summary Reports may be obtained from the Technical Communication Service, Minerals Management Service, 381 Elden Street, MS 4063, Herndon, Virginia 20170, phone: (703) 787–1080.

8. Tentative Schedule

The following is a list of tentative milestone dates applicable to sales covered by this Call:

Multisale Process Milestones for Proposed 2002–2007 Central and Western GOM Sales

Call/NOI
  September 2001
Comments received on Call/NOI
  October 2001
Area Identification Decision for 10 sales (5 Western GOM and 5 Central GOM)
  October 2001
EA completed for Western GOM Sale 184
  March 2002
Draft EIS published for 9 sales (5 Central GOM and 4 Western GOM)
  April 2002
Public Hearings on Draft EIS
  June 2002
Final EIS for 9 sales (5 Central GOM and 4 Western GOM)
  November 2002

Sale-specific Process Milestones for Proposed 2002–2007 Central and Western GOM Sales

Request for Information to Begin Sale-Specific Process
  12 months before each sale
Environmental Review (EA/Finding of No Significant Impact/Supplemental EIS (EA/FONSI/SEIS)) published
  4 to 7 months before each sale
Proposed Notice and Consistency Determination
  4 months before each sale
Final Notice of Sale
  1 month before each sale
Tentative Sale Dates
  March (Central GOM) and August (Western GOM) of each year

Notice of Intent To Prepare an EIS

1. Authority

The Notice of Intent is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of

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the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

2. Purpose of Notice of Intent

Pursuant to the regulations implementing the procedural provisions of the NEPA, MMS is announcing its intent to prepare an EIS on the tentatively scheduled 2002–2007 oil and gas leasing proposals in the Central and Western GOM, off the States of Texas, Louisiana, Mississippi, and Alabama. The NOI also serves to announce the scoping process for this EIS. Throughout the scoping process, Federal, State, and local government agencies, and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The EIS analysis will focus on the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the areas identified through the Area Identification procedure as the proposed lease sale areas. Alternatives that may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

Federal regulations allow for several proposals to be analyzed in one EIS (40 CFR 1502.4). Since each sale proposal and projected activities are very similar each year for each planning area, MMS is proposing to prepare a single EIS (multisale EIS) for the nine Central and Western Planning Area lease sales scheduled for 2002–2007 in the draft proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007.* The multisale approach is intended to focus the NEPA/EIS process on differences between the proposed sales and on new issues and information. The multisale EIS will eliminate the repetitive issuance of complete draft and final EISs for each planning area. The resource estimates and scenario information for the EIS analyses will be presented as a range that would encompass the resources and activities estimated for any of the nine proposed lease sales. At the completion of this EIS process, decisions will be made only for proposed Sales 185 and 187, scheduled to be held in 2003. Subsequent to these first sales in the planning areas, a NEPA review will be conducted for each of the other proposed lease sales in the 2002–2007 Leasing Program. Formal consultation with other Federal Agencies, the affected States, and the public will be carried out to assist in the determination of whether or not the information and analyses in the original multisale EIS are still valid. These consultations and NEPA reviews will be completed before decisions are made on the subsequent sales.

3. Comments

We request that Federal, State, local government agencies, and other interested parties send their written comments on the scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, 70123–2394, telephone (504) 736–2788 or 1–800–200–GULF. Please enclose your comments in an envelope labeled "Comments on the Multisale EIS." MMS will hold scoping meetings in appropriate locations to obtain additional comments and information regarding the scope of the EIS. We will announce the scoping meetings in the **Federal Register** and advertise the meetings in local community newspapers.

Dated: August 29, 2001.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

[FR Doc. 01–22918 Filed 9–11–01; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–445]

In the Matter of Certain Plasma Display Panels and Products Containing Same; Notice of Decision to Extend the Deadline for Determining Whether To Review an Initial Determination Granting-In-Part a Motion To Declassify Certain Documents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by forty-five (45) days, or until November 2, 2001, the deadline for determining whether to review an initial determination (ID) (Order No. 30) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3104. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol.public.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 16, 2001, based on a complaint filed by the Board of Trustees of the University of Illinois of Urbana, Illinois, and Competitive Technologies of Fairfield, Connecticut. The respondents named in the investigation are Fujitsu Limited, Fujitsu General Limited, Fujitsu General America Corp., Fujitsu Microelectronic, Inc. and Fujitsu Hitachi Plasma Display Ltd. (collectively, "Fujitsu"). The complaint, now withdrawn, alleged that Fujitsu violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain plasma display panels and products containing same by reason of infringement of certain claims of U.S. Letters Patent Nos. 4,866,349 and 5,0821,400.

On June 26, 2001, complainant moved to withdraw its complaint and terminate the investigation. On July 10, 2001, the presiding ALJ issued an ID granting the motion and terminating the investigation. The Commission decided not to review this ID on July 31, 2001, and it therefore became the Commission's final determination under Commission rule 210.42, 19 CFR 210.42. 66 FR 40722 (August 3, 2001).

On July 3, 2001, Fujitsu moved pursuant to Commission rule 210.20, 19 CFR 210.20, and paragraphs 2(b) and 3 of the protective order issued in this investigation for an order declassifying two documents. Complainant opposed the motion. The Commission investigative attorney supported the motion as to one document and opposed as to the other. On August 17, 2001, the presiding ALJ issued an ID granting the motion to declassify one document. He denied the motion to declassify the other document at issue. Complainant filed a petition for review of the ID on August 30, 2001.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42(h) of the Commission Rules of Practice and Procedure, 19 CFR 210.42(h).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000.

By order of the Commission.

Issued: September 6, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22824 Filed 9–11–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL3–93]

Factory Mutual Research Corporation, Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the application of Factory Mutual Research Corporation (FMRC) for renewal of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

EFFECTIVE DATE: This renewal becomes effective on September 12, 2001 and will be valid until September 12, 2006, unless terminated or modified prior to that date, in accordance with 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the renewal of recognition of Factory Mutual Research Corporation (FMRC) as a Nationally Recognized Testing Laboratory (NRTL). FMRC's renewal covers its existing scope of recognition, which may be found in OSHA's informational web page for the NRTL (*http://www.osha-slc.gov/dts/otpca/nrtl/fmrc.html*). We maintain such a web page for each NRTL.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products "properly certified" by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope.

When OSHA published its regulations for the NRTL Program at 29 CFR 1910.7, it temporarily recognized FMRC as a nationally recognized testing laboratory for a five year period from June 13, 1988, through June 13, 1993 (see Appendix A to 1910.7). In Appendix A, OSHA also required that FMRC apply for renewal of its OSHA recognition at the end of this temporary period. FMRC did apply for the renewal, which OSHA announced on March 29, 1995 (60 FR 16167). In its renewal application, FMRC stated that it began testing products in 1886 and that its first published listings of approved fire hose appeared in 1907.

FMRC received its first renewal of recognition on August 16, 1995 (60 FR 42590), for a period of five years ending on August 16, 2000. Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. FMRC submitted a request to renew its recognition on November 9, 1999 (see Exhibit 11), within the time allotted, and retains its recognition pending OSHA's final decision in this renewal process.

OSHA published the required notice in the **Federal Register** on May 4, 2001 (66 FR 22605). The May 2001 notice included a preliminary finding that FMRC could meet the requirements in 29 CFR 1910.7 for renewal of its recognition and invited public comment on the applications by May 18, 2001. OSHA received no comments concerning this notice.

In processing FMRC's request for renewal of recognition, OSHA performed on-site reviews (audits) of FMRC's facilities. NRTL Program assessment staff reviewed information from these reviews and, in a memo dated October 30, 2000 (see Exhibit 12), recommended the renewal of FMRC's recognition.

The other **Federal Register** documents published by OSHA concerning FMRC's recognition covered an expansion for additional test standards, which the Agency announced on April 16, 1999 (64 FR 18939) and granted on August 13,1999 (64 FR 44240).

You may obtain or review copies of all public documents pertaining to the FMRC application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N2625, Washington, DC 20210. You should refer to Docket No. NRTL3–93, the permanent record of public information on the FMRC recognition.

The current addresses of the FMRC testing facilities (sites) recognized by OSHA are:

Factory Mutual Research Corporation, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062

Factory Mutual Research Corporation, 743 Reynolds Road, West Gloucester, Rhode Island 02814

Programs and Procedures

The renewal of recognition includes FMRC's continued use of the following supplemental programs, based upon the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs), eight of which an NRTL may use to control and audit, but not actually to generate, the data relied upon for product certification. An NRTL's initial recognition will always include the first or basic program, which requires that all product testing and evaluation be performed in-house by the NRTL that will certify the product. OSHA previously granted FMRC recognition to use these programs, which are listed, as shown below, in OSHA's informational web page on the FMRC recognition (http://

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www.osha-slc.gov/dts/otpca/nrtl/fmrc.html).

Program 2: Acceptance of testing data from independent organizations, other than NRTLs

Program 3: Acceptance of product evaluations from independent organizations, other than NRTLs

Program 4: Acceptance of witnessed testing data

Program 5: Acceptance of testing data from non-independent organizations

Program 6: Acceptance of evaluation data from non-independent organizations (requiring NRTL review prior to marketing)

Program 7: Acceptance of continued certification following minor modifications by the client

Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC–CB) Scheme

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents

OSHA developed these programs to limit how an NRTL may perform certain aspects of its work and to permit the activities covered under a program only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, these programs help to define the scope of that recognition.

Final Decision and Order

The NRTL Program staff has examined the applications, the auditor's report, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that Factory Mutual Research Corporation has met the requirements of 29 CFR 1910.7 for renewal of its NRTL recognition. The renewal applies to the sites listed above. In addition, it covers the test standards listed below, and it is subject to the limitations and conditions, also listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby renews the recognition of FMRC, subject to these limitations and conditions.

Limitations

Renewal of Recognition of Facilities

OSHA limits the renewal of recognition of FMRC to the 2 sites listed above. In addition, similar to other NRTLs that operate multiple sites, the Agency's recognition of any FMRC testing site is limited to performing testing to the test standards for which OSHA has recognized FMRC, and for which the site has the proper capability and control programs.

Renewal of Recognition of Test Standards

OSHA further limits the renewal of recognition of FMRC to testing and certification of products for demonstration of conformance to the test standards listed below (see Listing of Test Standards). OSHA has determined that each test standard meets the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c). Some of the test standards for which OSHA previously recognized FMRC were no longer appropriate at the time of preparation of the preliminary notice, primarily because they had been withdrawn by the standards developing organization. Also, OSHA recently learned that one test standard listed in the preliminary notice, ANSI S12.15 Hydrogen Sulfide Detection Instruments, was withdrawn after publication of that notice. As a result, we have excluded these test standards in the listing below. However, under OSHA policy, the NRTL may request recognition for comparable test standards, i.e., other appropriate test standards covering comparable product testing. Since a number of NRTLs are similarly affected, OSHA will publish a separate notice to make the appropriate substitutions for FMRC and other NRTLs that were recognized for these standards. The Agency has contacted these NRTLs regarding this matter.

The Agency's recognition of FMRC, or any other NRTL, for a particular test standard is always limited to equipment or materials (products) for which OSHA standards require third party testing and certification before use in the workplace. Consequently, an NRTL's scope of recognition excludes any product(s) falling within the scope of the test standard for which OSHA has no testing and certification requirements.

Listing of Test Standards

ANSI ICS 2 Industrial Control Devices, Controllers and Assemblies
ANSI S12.12 Electrical Equipment for Use in Class I, Division 2, Hazardous (Classified) Locations
ANSI S82.02.01 Electric and Electronic Test, Measuring, Controlling, and Related Equipment: General Requirements
ANSI S82.02.02 Electrical Equipment for Measurement, Control, and Laboratory Use
ANSI Z8.1 Commercial Laundry and Drycleaning Equipment and Operations
UL 8 Foam Fire Extinguishers
ANSI 11 Low Expansion Foam and Combined Agent Systems
ANSI 11A Medium- and High-Expansion Foam Systems
ANSI 12 Carbon Dioxide Extinguishing Systems
ANSI 12A Halon 1301 Fire Extinguishing Agent Systems
ANSI 13 Installation of Sprinkler Systems
ANSI 16 Deluge Foam-Water Sprinkler and Spray Systems
ANSI 17 Dry Chemical Extinguishing Systems
ANSI 20 Centrifugal Fire Pumps
UL 38 Manually Actuated Signaling Boxes for Use With Fire-Protective Signaling Systems
ANSI 72 Installation, Maintenance, and Use of Protective Signaling Systems
UL 154 Carbon-Dioxide Fire Extinguishers
UL 162 Foam Equipment and Liquid Concentrates
ANSI 250 Enclosures for Electrical Equipment
UL 299 Dry Chemical Fire Extinguishers
UL 346 Waterflow Indicators for Fire Protective Signaling Systems
UL 347 High-Voltage Industrial Control Equipment
UL 508 Electric Industrial Control Equipment
UL 558 Industrial Trucks, Internal Combustion Engine-Powered
UL 583 Electric-Battery-Powered Industrial Trucks
UL 626 2 ½ Gallon Stored-Pressure, Water-Type Fire Extinguishers
UL 664 Commercial (Class IV) Electric Dry-Cleaning Machines
UL 674 Electric Motors and Generators for Use in Hazardous (Classified) Locations
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations
UL 711 Rating and Fire Testing of Fire Extinguishers
UL 753 Alarms Accessories for Automatic Water-Supply Control Valves
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations
UL 823 Electric Heaters for Use in Hazardous (Classified) Locations
UL 827 Central-Stations for Watchmen, Fire-Alarm, and Supervisory Services
UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations
UL 863 Time-Indicating and -Recording Appliances
UL 864 Control Units for Fire-Protective Signaling Systems
UL 877 Circuit Breakers and Circuit-Breaker Enclosure for Use in Hazardous (Classified) Locations
UL 886 Electrical Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations
UL 894 Switches for Use in Hazardous (Classified) Locations
UL 913 Intrinsically Safe Apparatus and Associated Apparatus for Use In Class I, II, and III, Division I, Hazardous (Classified) Locations
UL 1002 Electrically Operated Valve for Use in Hazardous (Classified) Locations
UL 1058 Halogen Agent Extinguishing System Units
UL 1093 Halogenated Agent Fire Extinguishers
FMRC 1110 Indicator Posts
UL 1203 Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations
UL 1206 Electrical Commercial Clothes-Washington Equipment
UL 1207 Sewage Pumps for Use in Hazardous (Classified) Locations
FMRC 1221 Backflow Preventers
UL 1236 Battery Chargers for Charging Engine-Starter Batteries
UL 1240 Electric Commercial Clothes-Drying Equipment
UL 1254 Pre-Engineered Dry Chemical Extinguishing System Units
UL 1262 Laboratory Equipment
FMRC 1321 Controllers for Electric Motor Driven Fire Pumps
FMRC 1333 Diesel Engine Fire Pump Drivers
FMRC 1635 Plastic Pipe and Fittings for Automatic Sprinkler Systems
UL 1950 Information Technology Equipment Including Electrical Business Equipment
FMRC 2000 Automatic Sprinklers for Fire Protection
FMRC 2008 Early Suppression-Fast Response (ESFR) Automatic Sprinklers
FMRC 3260 Flame Radiation Detectors for Automatic Fire Alarm Signaling
FMRC 3600 Electrical Equipment for Use in Hazardous (Classified) Locations, General Requirements
FMRC 3610 Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, I and III, Division 1 Hazardous (Classified) Locations
FMRC 3611 Electrical Equipment for Use in Class I, Division 2; Class II, Division 2; and Class III, Division 1 and 2 Hazardous Locations
FMRC 3615 Explosion proof Electrical Equipment, General Requirements
FMRC 3620 Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations
FMRC 3810 Electrical and Electronic Test, Measuring, and Process Control Equipment
FMRC 3990 Less or nonflammable Liquid-Insulated Transformers
FMRC 6051 Safety Containers and Filing, Supply and Disposal Containers
FMRC 6310 Combustible Gas Detectors
FMRC 7812 Industrial Trucks—LP-Gas
FMRC 7816 Industrial Trucks—LP-Gas Dual Fuel
FMRC 7820 Industrial Trucks—Electric

Note: Testing and certification of gas operated equipment is limited to equipment for use with "liquefied petroleum gas" ("LPG" or "LP–Gas")

The designations and titles of the above test standards were current at the time of the preparation of the notice of the preliminary finding.

Many of the test standards listed above are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we show the designation of the standards developing organization (e.g., UL 1950) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1950). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site (*http://www.ansi.org*) and click "NSSN" to find out whether or not a test standard is currently ANSI-approved.

Conditions

FMRC must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to FMRC's facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If FMRC has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

FMRC must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, FMRC agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

FMRC must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

FMRC will meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

FMRC will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, D.C. this 27 day of August, 2001.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 01–22827 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Nos. NRTL1–88, NRTL1–89, NRTL2–90, NRTL3–90, NRTL2–92, NRTL3–92, NRTL1–93, NRTL2–93, NRTL3–93, NRTL4–93, NRTL1–97, NRTL1–98]

Modify Scope of Recognition of NRTLs

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice modifies the scope of recognition of certain Nationally Recognized Testing Laboratories (NRTLs).

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration (OSHA) hereby gives notice of changes to the scope of recognition of the Nationally Recognized Testing Laboratories (NRTLs) listed below. Specifically, some of the test standards for which OSHA

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previously recognized each NRTL are no longer "appropriate test standards", primarily because they have been withdrawn or superseded. As a result, we will remove them from the listing of test standards in our informational web page for each NRTL, which detail OSHA's official scope of recognition for the NRTL. These web pages can be accessed at http://www.osha-slc.gov/dts/otpca/nrtl/index.html. In this notice, we list the test standards to be removed for each NRTL below under the heading "Withdrawn or Superseded Standards." We provide the following information for those who may be unfamiliar with OSHA requirements concerning NRTLs.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products "properly certified" by the NRTL to meet OSHA standards that require testing and certification.

In testing and certifying (i.e., approving) such products, NRTLs must demonstrate that the products conform to "appropriate test standards." This term is defined under 29 CFR 1910.7(c) and essentially means consensus-based product safety test standards developed and maintained current by U.S.-based standards developing organizations (SDOs). Such test standards are not OSHA standards, which are general requirements that employers must meet, but, individually, specify the safety technical requirements that a particular type of product must meet.

OSHA recognizes each NRTL for a particular scope of recognition, which includes a list of those product safety test standards that the NRTL may use in approving products. As a normal part of its operations, an SDO occasionally withdraws existing test standards or adopts superseding test standards. In such cases, OSHA can no longer consider the withdrawn or superseded standards as "appropriate," and as a result, the Agency can no longer recognize NRTLs for the standard.

To replace the test standards we are removing, under our policy, the NRTL may request or OSHA can provide recognition for comparable test standards, i.e., other appropriate test standards covering comparable product testing. We list these test standards below for each NRTL under the headings "Comparable Replacement Standards." In some cases (noted by a double asterisk in the particular heading), OSHA may already recognize the NRTL for the comparable test standard. In such cases, we do not list the replacement test standards below. In other cases, there is no replacement standard or the NRTL did not request one prior to publication of this notice. However, if we receive such a request after publication of this notice and determine the test standard is "comparable," as described above, OSHA will add it to the NRTL's scope of recognition and therefore to OSHA's informational web page for the NRTL.

Applied Research Laboratories, Inc. (ARL)

[Docket No. NRTL1–97]

Withdrawn or Superseded Standards

ASTM E152 Standard Methods of Fire Tests of Door Assemblies
ANSI Z83.12 Gas Food Service Equipment—Baking and Roasting Ovens

Comparable Replacement Standards (if applicable)

ASTM E2074 Standard Method for Fire Tests of Door Assemblies
ANSI Z83.11 Gas Food Service Equipment—Ranges and Unit Broilers
UL 10A Tin-Clad Fire Doors
UL 10B Fire Tests of Door Assemblies
UL 1598 Luminaries (see Note on UL 1598 below; currently, ARL is recognized for UL 1570, UL 1571, and UL 1572)

Canadian Standards Association (CSA)

[Docket No. NRTL2–92]

Withdrawn or Superseded Standards

ANSI Z21.5 Gas Clothes Dryers
ANSI Z21.10 Gas Water Heaters
ANSI Z21.11 Gas-Fired Room Heaters
ANSI Z21.44 Gas-Fired Gravity and Fan Type Direct Vent Wall Furnaces
ANSI Z21.64 Direct Vent Central Furnaces
ANSI Z83.9 Gas-Fired Duct Furnaces
ANSI Z83.12 Gas Food Service Equipment—Baking and Roasting Ovens
ANSI Z83.13 Gas Food Service Equipment—Deep Fat Fryers
ANSI Z83.14 Gas Food Service Equipment—Counter Appliances
ANSIZ83.15 Gas Food Service Equipment—Kettles, Steam Cookers, and Steam Generators
ANSI Z83.16 Gas-Fired Unvented Commercial and Industrial Heaters
ANSI/UL 114 Electric Office Appliances and Business Equipment
ANSI/UL 133 Wires and Cables With Varnished Cloth Insulation
ANSI/UL 303 Refrigeration and Air-Conditioning Condensing and Compressor Units
ANSI/UL 465 Central Cooling Air Conditioners
ANSI/UL 478 Information-Processing and Business Equipment
ANSI/UL 519 Impedance-Protected Motors
ANSI/UL 543 Electrical Conduit
ANSI/UL 547 Thermal Protectors for Electric Motors
ANSI/UL 559 Heat Pumps
ANSI/UL 560 Electric Home-Laundry Equipment
ANSI/UL 611 Central-Station Burglar-Alarm Systems
ANSI/UL 869 Electrical Service Equipment
ANSI/UL 883 Fan-Coil Units and Room-Fan Heater Units
ANSI/UL 1025 Electric Air Heaters
UL 1092 Process Control Equipment
ANSI/UL 1096 Electric Central Air-Heating Equipment
ANSI/UL 1438 Household Electric Drip-Type Coffee Makers
ANSI/UL 1555 Electric Coin-Operated Clothes-Washing Equipment
ANSI/UL 1556 Electric Coin-Operated Clothes-Drying Equipment
ANSI/UL 1624 Light Industrial and Fixed Electric Tools
ANSI/UL 1663 Electric Hot Tubs, Spas, and Associated Equipment

*Comparable Replacement Standards (if applicable)***

ANSI Z21.10.2 Water Heaters—Sidearm Type Water Heaters
ANSI Z21.11.1 Gas-Fired Room Heaters—Volume I—Vented Room Heaters
ANSI Z21.11.2 Gas-Fired Room Heaters—Volume II—Unvented Room Heaters
UL 1598 Luminaries (see Note on UL 1598 below; currently, CSA is recognized for UL 1570, UL 1571, and UL 1572)

Entela, Inc. (ENT)

[Docket No. NRTL2–93]

Withdrawn or Superseded Standards

ANSI/UL 559 Heat Pumps
ANSI/UL 560 Electric Home-Laundry Equipment
ANSI/UL 869 Electrical Service Equipment
ANSI/UL 883 Fan-Coil Units and Room-Fan Heater Units
UL 962 Household and Commercial Furnishing
ANSI/UL 1096 Electric Central Air-Heating Equipment
ANSI/UL 1438 Household Electric Drip-Type Coffee Makers

ANSI/UL 1555 Electric Coin Operated Clothes Washing Equipment
ANSI/UL 1556 Electric Coin Operated Clothes Drying Equipment

Comparable Replacement Standards (if applicable)

UL 1082 Household Electric Coffee Makers and Brewing-Type Appliances
UL 1598 Luminaries (see Note on UL 1598 below; currently, Entela is recognized for UL 1570, UL 1571, and UL 1572)
UL 1995 Heating and Cooling Equipment
UL 2157 Electric Clothes Washing Machines and Extractors
UL 2158 Electric Clothes Dryers

Factory Mutual Research Corporation (FMRC)

[Docket No. NRTL3–93]

Withdrawn or Superseded Standards

ANSI/ISA S12.13.1 Performance Requirements for Combustible Gas Detectors
ANSI S12.15 Hydrogen Sulfide Detection Instruments
ANSI S82.03 Electrical and Electronic Process Measuring and Control
ANSI/UL 1555 Electric Coin-Operated Clothes-Washing Equipment
ANSI/UL 1556 Electric Coin-Operated Clothes-Drying Equipment

Comparable Replacement Standards (if applicable)

UL 2157 Electric Clothes Washing Machines and Extractors
UL 2158 Electric Clothes Dryers

Intertek Testing Services NA, Inc. (ITSNA)

[Docket No. NRTL1–89]

Withdrawn or Superseded Standards

ANSI S12.13 Performance Requirements for Combustible Gas Detectors
ANSI Z21.64 Direct Vent Central Furnaces
ANSI Z83.9 Gas-Fired Duct Furnaces
ANSI Z83.12 Gas Food Service Equipment—Baking and Roasting Ovens
ANSI Z83.13 Gas Food Service Equipment—Deep Fat Fryers
ANSI Z83.14 Gas Food Service Equipment—Counter Appliances
ANSI Z83.15 Gas Food Service Equipment—Kettles, Steam Cookers, and Steam Generators
ANSI Z83.16 Gas-Fired Unvented Commercial and Industrial Heaters
ANSI/UL 114 Electric Office Appliances and Business Equipment
ANSI/UL 303 Refrigeration and Air Conditioning Condensing and Compressor Units
ANSI/UL 465 Central Cooling Air Conditioners
ANSI/UL 478 Information-Processing and Business Equipment
ANSI/UL 519 Impedance-Protected Motors
ANSI/UL 543 Impregnated-Fiber Electrical Conduit
ANSI/UL 547 Thermal Protectors for Electric Motors
ANSI/UL 559 Heat Pumps
ANSI/UL 560 Electric Home-Laundry Equipment
ANSI/UL 869 Electric Service Equipment
ANSI/UL 883 Fan-Coil Units and Room-Fan-Heater Units
ANSI/UL 1025 Electric Air Heaters
ANSI/UL 1096 Electric Central Air-Heating Equipment
ANSI/UL 1438 Household Electric Drip-Type Coffee Makers
ANSI/UL 1555 Electric Coin-Operated Clothes-Washing Equipment
ANSI/UL 1556 Electric Coin-Operated Clothes-Drying Equipment
ANSI/UL 1624 Light Industrial and Fixed Electric Tools

*Comparable Replacement Standards (if applicable)***

ASTM E2010 Standard Test Method for Positive Pressure Fire Tests of Window Assemblies (OSHA previously recognized ITSNA for ASTM E163, which was superseded by ASTM E2010)
ASTM E2074 Standard Method for Fire Tests of Door Assemblies (OSHA previously recognized ITSNA for ASTM E152, which was superseded by ASTM E2074)
UL 869A Standard for Service Equipment
UL 2111 Overheating Protection for Motors
UL 1598 Luminaries (see Note on UL 1598 below; currently, ITSNA is recognized for UL 1570, UL 1571, and UL 1572)

MET Laboratories, Inc. (MET)

[Docket No. NRTL1–88]

Withdrawn or Superseded Standards

ANSI/UL 114 Electric Office Appliances and Business Equipment
ANSI/UL 465 Central Cooling Air Conditioners
ANSI/UL 478 Information-Processing and Business Equipment
ANSI/UL 559 Heat Pumps
ANSI/UL 869 Electrical Service Equipment
ANSI/UL 883 Fan-Coil Units and Room Fan-Heater Units
ANSI/UL 1025 Electric Air Heaters

Comparable Replacement Standards (if applicable)

UL 869A Standard for Service Equipment
UL 1248 Engine-Generator Assemblies for Use in Recreational Vehicles
UL 1598 Luminaries (see Note on UL 1598 below; currently, MET is recognized for UL 1570 and UL 1571)

National Technical Systems, Inc. (NTS)

[Docket No. NRTL1–98]

Withdrawn or Superseded Standards

ANSI/UL 465 Central Cooling Air Conditioners

Comparable Replacement Standards (if applicable)

UL 1995 Heating and Cooling Equipment

Southwest Research Institute (SWRI)

[Docket No. NRTL3–90]

Withdrawn or Superseded Standards

ASTM E152 Standard Methods of Fire Tests of Door Assemblies

Comparable Replacement Standards (if applicable)

ASTM E2074 Standard Method for Fire Tests of Door Assemblies

SGS U.S. Testing Company, Inc. (SGSUS)

[Docket No. NRTL2–90]

Withdrawn or Superseded Standards

None.

Comparable Replacement Standards (if applicable)

UL 1598 Luminaries (see Note on UL 1598 below; currently, SGSUS is recognized for UL 1571)

TUV Rheinland of North America, Inc. (TUV)

[Docket No. NRTL3–92]

Withdrawn or Superseded Standards

None.

Comparable Replacement Standards (if applicable)

UL 1598 Luminaries (see Note on UL 1598 below; currently, TUV is recognized for UL 1570 and UL 1571)

Underwriters Laboratories Inc. (UL)

[Docket No. NRTL4–93]

Withdrawn or Superseded Standards

ANSI/IEEE C57.13.2 Instrument Transformers—Conformance Test Procedures

ANSI Z21.44 Gas-Fired Gravity and Fan Type Direct Vent Wall Furnaces
ANSI Z21.64 Direct Vent Central Furnaces
ANSI Z83.9 Gas-Fired Duct Furnaces
ANSI Z83.12 Gas Food Service Equipment—Baking and Roasting Ovens
ANSI Z83.13 Gas Food Service Equipment—Deep Fat Fryers
ANSI Z83.14 Gas Food Service Equipment—Counter Appliances
ANSI Z83.15 Gas Food Service Equipment—Kettles, Steam Cookers, and Steam Generators
ANSI Z83.16 Gas-Fired Unvented Commercial and Industrial Heaters
ANSI/UL 303 Refrigeration and Air-Conditioning Condensing and Compressor Units
UL 408 Stationary Medium Pressure Acetylene Generators
UL 409 Stationary Low-Pressure Acetylene Generators
ANSI/UL 465 Central Cooling Air Conditioners
ANSI/UL 519 Impedance-Protected Motors
ANSI/UL 543 Impregnated-Fiber Electrical Conduit
ANSI/UL 547 Thermal Protectors for Electric Motors
ANSI/UL 559 Heat Pumps
ANSI/UL 560 Electric Home-Laundry Equipment
ANSI/UL 611 Central-Station Burglar-Alarm Systems
ANSI/UL 869 Electrical Service Equipment
ANSI/UL 883 Fan-Coil Units and Room-Fan Heater Units
UL 962 Household and Commercial Furnishings
ANSI/UL 1025 Electric Air Heaters
ANSI/UL 1096 Electric Central Air-Heating Equipment
ANSI/UL 1438 Household Electric Drip-Type Coffee Makers
ANSI/UL 1555 Electric Coin-Operated Clothes-Washing Equipment
ANSI/UL 1556 Electric Coin-Operated Clothes-Drying Equipment
ANSI/UL 1624 Light Industrial and Fixed Electric Tools

Comparable Replacement Standards (if applicable) * *

UL 1598 Luminaries (see Note on UL 1598 below; currently, UL is recognized for UL 1570 and UL 1571)

Wyle Laboratories, Inc. (WL)

[Docket No. NRTL1–93]

Withdrawn or Superseded Standards

None.

Comparable Replacement Standards (if applicable)

UL 1598 Luminaries (see Note on UL 1598 below; currently, WL is recognized for UL 1570 and UL 1571)

* * Note: The NRTL has already received recognition for some of the replacement standards.

Note on UL 1598: UL 1598 Luminaries is the superseding test standard for three current UL standards: UL 1570, UL 1571, and UL 1572. Although these three standards have not been withdrawn at the date of this notice, UL 1598 is now in effect. OSHA has received a request for recognition of this new standard. In anticipation of the withdrawal, we are granting this request now for any NRTL recognized for one of the three superseded standards.

In accordance with OSHA policy pertaining to recognition of replacement standards, the Agency only publishes one **Federal Register** notices to note the changes to the NRTL's scope of recognition. Changes to each NRTL's recognition are limited to those described in this notice. All other terms and conditions of each NRTL's recognition remain the same.

Signed at Washington, D.C. this 27 day of August, 2001.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 01–22828 Filed 9–11–01; 8:45 am]

BILLING CODE 4510–26–P

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Notice

Notice: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552(b)), notice is hereby given that the Merit Systems Protection Board held a closed meeting on Friday, September 7, 2001, at 2 p.m., in the Board's conference room at 1615 M Street, NW., 6th Floor, Washington, DC 20419. In calling the meeting, the Board determined that Board business required its consideration of the agenda items on less than seven days' notice to that public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered by authority of subsections (c)(10) and (c)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(10) and 5 U.S.C.b(c)(2)).

Matters Considered:

(1) MSPB FY2002–2003 Performance Plan;

(2) Status of *Azdell* v. *Office of Personnel Management*, Docket No. DC–0731–97–0367–C–1;

(3) Discussion of target group of cases (cases expected to be over 300 days old by September 30th), if any;

(4) Appreciation of efforts in accomplishing 2001 goals;

(5) Expedited Petition for Review Pilot.

Contact Person for Additional Information: Shannon McCarthy or Matthew Shannon, Office of the Clerk of the Board, (202) 653–7200.

Dated: September 7, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–23045 Filed 9–10–01; 2:52 pm]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–109)]

NASA Advisory Council (NAC), Earth Systems Science and Applications Advisory Committee (ESSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Earth Systems Science and Applications Advisory Committee.

DATES: Tuesday, October 16, 2001, 8:30 a.m. to 5:30 p.m.; and Wednesday, October 17, 2001, 8:30 a.m. to 5:30 p.m.

ADDRESSES: NASA Headquarters, 300 E Street SW, Room 9H40,-Washington, DC, 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Schiffer, Code YS, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1876.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Introduction/Comments
—State-of-the-Enterprise
—Sub-Committee Reports
Data & Information Sub-Committee report
Technology Sub-Committee report
—Budget Perspectives
Earth Science Enterprise (ESE) Budget Status
OMB Perspective
—Earth System Science Pathfinder (ESSP) Program Status Report
—Science Planning Update—Carbon Cycle Research
—Science Planning Update—Water & Energy Cycle Research
—Applications Strategic Planning Update
—Summary of first day
—Earth Science Information Partners (ESIP) Planning Status
—Overview of ESE Data Systems and Services
—New Data and Information Systems and Services (NewDISS) Strategic Planning Status
—ESE Response to President's Climate Change Research Initiative
—ESE Instrument Incubator Program
—General Discussion/Closing Remarks and Adjournment
—Committee Writing Session

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors' register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–22838 Filed 9–11–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–111)]

NASA Advisory Council, Minority Business Resource Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: Thursday, October 11, 2001, 9:00 a.m. to 4:00 p.m., and Friday, October 12, 2001, 9:00 a.m. to 12:00 noon.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 9H40, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas III, Code K, National Aeronautics and Space Administration, Room MIC 7 (A&B), 300 E Street, SW., Washington, DC 20546–0001, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review of Previous Meeting
—Office of Small and Disadvantaged Business Utilization Update of Activities
—NAC Meeting Report
—Overview of NASA Enterprises and Functional Staff Offices
—Public Comment
—Panel Discussion and Review
—Goals for MBRAC V Review
—Status of Open Committee Recommendations
—New Business

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–22840 Filed 9–11–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–110)]

U.S. Centennial of Flight Commission

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the U.S. Centennial of Flight Commission.

DATES: Thursday, October 4, 2001, 1:00 p.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room 9H40 (Program Review Center), Washington, DC 20546. Attendees must check in at the Security Desk to be cleared to the 9th floor conference room.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Farmarco, Code ZC, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1903.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Opening Comments
—Advisory Board Feedback
—Presentation by Mr. Ken Hyde, Experimental Aircraft Association
—Ohio Activities Update
—Outreach Plan
—Discussion
—Closing Comments
—Adjourn

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–22839 Filed 9–11–01; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Advisory Panel Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that four meetings of the Combined Arts Advisory Panel to the National Council on the Arts (Arts Learning section) will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506 as follows:

Arts Learning Panel A: October 15–19, 2001, Room 716 (section 1) & Room 714 (section 2). A portion of this meeting, from 10 a.m. to 12 p.m. on October 19th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6 p.m. on October 15th–18th, from 9 a.m. to 10 a.m. and 12 p.m. to 4 p.m. on October 19th, will be closed.

Arts Learning Panel B : October 9–12, 2001, Room 716. A portion of this meeting, from 10:30 a.m. to 12 p.m. on October 12th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 5:30 p.m. on October 9th, from 9 a.m. to 6:30 p.m. on October 13th–14th, and from 9 a.m. to 10 a.m. and 12 p.m. to 3 p.m. on October 12th, will be closed.

Arts Learning Panel C : October 22–26, 2001, Room 716. A portion of this meeting, from 2:45 p.m. to 4 p.m. on October 26th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 5:30 p.m. on October 22nd, from 9:30 a.m. to 6 p.m. on October 23rd–25th, and from 9 a.m. to 2:45 p.m. and 4 p.m. to 5 p.m. on October 26th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National

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Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: September 6, 2001.

Kathy Plowitz-Worden,

Panel Coordinator.

[FR Doc. 01–22819 Filed 9–11–01; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On July 17, 2001, the National Science Foundation published a notice in the **Federal Register** of a permit application received. Permits were issued on August 30, 2001 to:

Jerry L. Mullins—Permit No. 2002–001.
Robert L. Pitman—Permit No. 2002–002.
Randall Davis—Permit No. 2002–003.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–22901 Filed 9–11–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material—Revision to include burden for license conditions and additional burden for transferring a license.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* On occasion. Reports are submitted upon license transfer or as events occur. Recordkeeping must be performed on an on-going basis.

5. *Who will be required or asked to report:* Persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

6. *An estimate of the number of responses:* 567 (162 responses for NRC licensees and 405 responses for Agreement State licensees).

7. *The estimated number of annual respondents:* 6552 (1872 NRC licensees and 4680 Agreement State licensees).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 2131 (an average of 2 hours per response for 567 responses and 9 minutes for each of 6552 recordkeepers).

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* The NRC's regulations in 10 CFR Part 30 establish rules, applicable to all persons in the United States, governing domestic licensing of radioactive byproduct material. The NRC has identified two Sections of 10 CFR Part 30 that contain burden that has not been previously captured in the supporting statement for 10 CFR Part 30. This burden is submitted as an addition to the current 10 CFR Part 30 clearance. In 10 CFR 30.34(b), the NRC requires the submittal of information that may not have been required on the previously submitted Form 313, "Application for Material License." In addition, 10 CFR 30.34(e)(4) permits the NRC to impose additional conditions in the license under certain circumstances. These conditions may require additional reporting and recordkeeping requirements. The conditions are used in conjunction with the requirements in Title 10 of the Code of Federal Regulations (10 CFR).

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 12, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0017), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 6th day of September 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22862 Filed 9–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9027; License No. SMC–1562]

Removal of the Cabot Corporation, Inc., Site in Revere, Pennsylvania From the Cabot License and the Site Decommissioning Management Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment.

This notice is to inform the public that the United States Nuclear Regulatory Commission (the Commission) is amending Source Material License SMC–1562 issued to Cabot Corporation, Inc. (Cabot, formerly Kawecki Chemical Company—Penn Rare Division, and Kawecki Berylco Industries) to remove the Revere, Pennsylvania, site. Cabot processed pyrochlore-bearing ores to extract columbium and tantalum metals for use in high-strength alloys and electronic component manufacture. The ore processing generated waste slag contaminated with natural uranium and thorium. The Commission is releasing the Cabot site in Revere, Pennsylvania, for unrestricted use, is removing the site from the Site Decommissioning Management Plan (SDMP), and is removing the site from License SMC–1562. In 1990, the Commission developed the SDMP program for sites that warranted special attention to ensure timely decommissioning. This list included the Cabot Revere site. Cabot has supplied, and the Commission has reviewed, site characterization and dose assessment information. Based on the Commission's review, the Commission concludes that the unrestricted release dose criteria in 10 CFR 20.1402 have been met. Therefore the Commission concludes that the site is suitable for release for unrestricted use, and the Revere site is being removed from the SDMP and License SMC–1562.

This termination will be reopened only if additional contamination is found indicating a significant threat to the health and safety of the public and the environment, or if the licensee had provided false information.

Dated at Rockville, Maryland, this 4th day of September, 2001.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–22865 Filed 9–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Exelon Generation Company, LLC; PSEG Nuclear LLC, Atlantic City Electric Company; Peach Bottom Atomic Power Station, Unit Nos. 2 and 3; Exemption

1.0 Background

Exelon Generation Company, LLC, PSEG Nuclear LLC, and Atlantic City Electric Company (the licensees) are the holders of Facility Operating License Nos. DPR–44 and DPR–56 which authorize operation of the Peach Bottom Atomic Power Station (PBAPS), Unit Nos. 2 and 3. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of dual unit boiling water reactors located in York County in Pennsylvania.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), Section 50.71 "Maintenance of records, making of reports," paragraph (e)(4) states, in part, that "Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates [to the UFSAR] does not exceed 24 months." The two units at PBAPS share a common UFSAR, therefore, this rule requires the licensees to update the same document annually or within 6 months after each unit's refueling outage. Since each unit is on a staggered 24 month refueling cycle, updating after each refueling outage also results in an annual update. Single unit sites using a 24 month refueling cycle would only be required to update the UFSAR on a 24 month periodicity. The proposed exemption would allow updates to the combined UFSAR for PBAPS, Unit Nos. 2 and 3, to be submitted within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal.

In summary, the licensees have requested an exemption that would allow updates to the PBAPS UFSAR at a periodicity not to exceed 24 months, similar to the periodicity permitted for single unit sites.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The last change to 10 CFR 50.71(e)(4) was published in the **Federal Register** (57 FR 39358) on August 31, 1992, and became effective on October 1, 1992. The underlying purpose of the rule change was to relieve licensees of the burden of filing annual UFSAR revisions, especially if there had been no refueling outages since the previous revision. Most of the changes which lead to revision of the UFSAR occur during refueling outages. The revised 10 CFR 50.71(e)(4) also assured that such revisions are made at least every 24 months. However, as written, the burden reduction can only be realized by single-unit facilities, or multiple-unit facilities that maintain separate UFSARs for each unit. In the Summary and Analysis of Public Comments accompanying the 10 CFR 50.71(e)(4) rule change published in the **Federal Register** (57 FR 39355, 1992), the NRC acknowledged that the final rule did not provide burden reduction to multiple-unit facilities sharing a common UFSAR. The NRC stated: "With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." Granting this exemption would provide burden reduction to PBAPS while still assuring that revisions to the PBAPS UFSAR are made at least every 24 months.

The NRC staff examined the licensee's rationale to support the exemption request and concluded that updating the PBAPS UFSAR within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal, meets the underlying purpose of 10 CFR 50.71(e)(4), since the PBAPS UFSAR would be updated at least every 24 months, similar to the UFSAR at a single unit site. The requirement to revise the UFSAR annually or within 6 months after the refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule. In addition, the NRC previously acknowledged that the revision to 10 CFR 50.71(e)(4) did not directly address burden reduction for multiple-unit facilities that share a common UFSAR, but that such situations could be addressed on a case-by-case basis. The

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NRC staff has reviewed the licensee's request and has concluded that application of the regulation in these circumstances is not necessary to achieve the underlying purpose of the rule.

Therefore, the NRC staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present.

In addition, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

4.0 Conclusion

Accordingly, the Commission hereby grants the licensees an exemption from the requirements of 10 CFR 50.71(e)(4) for PBAPS Unit Nos. 2 and 3, in that updates to the combined UFSAR for PBAPS, Unit Nos. 2 and 3, may be submitted within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 41054).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of September 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22866 Filed 9–11–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Public Meeting to Solicit Stakeholder Input on the Use of Risk Information in the Nuclear Materials and Waste Regulatory Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting

SUMMARY: The U.S. Nuclear Regulatory Commission's (NRC's) Office of Nuclear Materials Safety and Safeguards (NMSS) is developing an approach for using risk information in the nuclear materials and waste regulatory process. As part of this effort, the NRC staff conducted case studies on a spectrum of activities in the nuclear materials and waste arenas to (1) determine what has been done and what could be done in NMSS to alter the regulatory approach in a risk-informed manner and (2) establish a framework for using a risk-informed approach in the materials and waste arenas by testing a set of draft screening criteria, and determining the feasibility of safety goals.

NRC staff is in the process of completing the case studies and finalizing the screening criteria. The staff is also beginning to formulate draft safety goals for materials and waste applications. The purpose of this meeting is to: (1) Present to stakeholders the integrated outcome of the case studies, including the final screening considerations and an early draft of safety goals, and (2) solicit recommendations and comments on how NRC should proceed with incorporating risk information into its regulatory framework. The tentative outline for the meeting is as follows:

1. Poster exhibition of case studies
2. Opening remarks
3. Discuss case study insights and integrated outcome
   a. Final screening considerations
   b. Process improvements
   c. Tools, data, and methods
   d. Draft safety goals
4. Receive comments, feedback, and recommendations
5. Closing remarks

The meeting is open to the public; all interested parties may attend and provide comments. Persons who wish to attend the meeting should contact Marissa Bailey no later than October 19, 2001.

DATES: The meeting will be held on October 25, 2001, from 9 a.m. to 4 p.m., in the U.S. Nuclear Regulatory Commission Auditorium, 11545 Rockville Pike, Rockville, MD 20852. From 8 a.m. to 9 a.m., a poster exhibition session will be held in the Auditorium lobby so that participants can discuss specific case study results with the staff.

FOR FURTHER INFORMATION CONTACT: Marissa Bailey, Mail Stop T–8–A–23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–7648; Internet: MGB@NRC.GOV.

SUPPLEMENTARY INFORMATION: The NRC staff's case study approach, the draft screening criteria, and the case study areas under consideration are described in the "Plan for Using Risk Information in the Materials and Waste Arenas: Case Studies" which has been published in the **Federal Register** (65 FR 66782, November 7, 2000). Copies of this plan are also available on the Internet at http://www.nrc.gov/NMSS/IMNS/riskassessment.html. Written requests for single copies of the case study plan and draft case study reports may also be submitted to the U. S. Nuclear Regulatory Commission, Office of Nuclear Materials Safety and Safeguards, Risk Task Group, Mail Stop T–8–A–23, Washington, DC 20555–0001.

Draft reports for each of the case studies will also be available on the Internet at http://www.nrc.gov/NMSS/IMNS/riskassessment.html by October 1, 2001.

Dated at Rockville, MD, this 6th day of September, 2001.

For the Nuclear Regulatory Commission.

Lawrence E. Kokajko,

Section Chief, Risk Task Group, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–22864 Filed 9–11–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25151; 812–12596]

BHF Finance (Delaware) Inc.; Notice of Application

September 6, 2001

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant, BHF Finance (Delaware) Inc. ("BHF Finance"), seeks an order to permit BHF Finance to sell securities and use the proceeds to finance the business activities of its prospective parent company, Deutsche Postbank ("Postbank"), and certain companies controlled by Postbank.

FILING DATES: The application was filed on July 30, 2001. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 27, 2001, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, Applicant, 590 Madison Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: John L. Sullivan, Senior Counsel, at (202) 942–0681, or Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. Postbank is a commercial bank organized under the laws of the Federal Republic of Germany ("Germany"). Postbank provides, directly or through its subsidiaries, a broad spectrum of financial services to corporations and private clients. Postbank has established itself as one of Germany's leading retail banks with consolidated total assets, as of December 31, 2000, of approximately DM 134 billion.

2. BHF Finance, a Delaware corporation, is the wholly-owned subsidiary of BHF (USA) Holdings, Inc. ("BHF Holdings"), a Delaware corporation, which is the wholly-owned subsidiary of BHF-Bank Aktiengesellschaft ("BHF-Bank"), BHF (USA) Capital Corporation ("BHF Capital"), a Delaware corporation that extends commercial credit to third parties, is also a wholly-owned subsidiary of BHF Holdings. Pursuant to a stock purchase agreement between BHF-Bank and Postbank, dated June 29, 2001, BHF-Bank will sell all of the issued and outstanding shares of common stock of BHF Holdings to Postbank. Upon the closing of this stock purchase agreement ("Closing"), Postbank will own all of the outstanding shares of common stock of BHF Holdings, and BHF Finance and BHF Capital will be indirect wholly-owned subsidiaries of Postbank.[1] Applicant anticipates the Closing to occur on September 30, 2001.

[1] After the Closing, BHF Finance and BHF Capital will change their names to PB Finance (Delaware) Inc. and PB (USA) Capital Corporation, respectively.

3. BHF Finance proposes to issue commercial paper in the United States pursuant to the exemption contained in section 3(a)(3) of the Securities Act of 1933 ("1933 Act"). BHF Finance may also offer debt securities other than commercial paper or non-voting preferred stock in the United States. After the Closing, BHF Finance intends to lend the proceeds to or invest the proceeds in Postbank, BHF Capital, and other companies controlled by Postbank within the meaning of rule 3a–5(b)(3) under the Act ("Controlled Companies"). Rule 3a–5 generally exempts finance subsidiaries of operating companies from the definition of investment company.

4. Any issuance of debt securities or non-voting preferred stock by BHF Finance will be guaranteed unconditionally by Postbank with a guarantee that meets the requirements of rule 3a–5(a)(1) or (2), respectively ("Guarantee"). In accordance with rule 3a–5(a)(5), at least 85% of any cash or cash equivalents raised by BHF Finance will be invested in or loaned to Postbank, Controlled Companies, and after the order requested by the application has been issued, BHF Capital, as soon as practicable, but in no event later than six months after BHF Finance's receipt of such cash or cash equivalents. In accordance with rule 3a–5(a)(6), all investments by BHF Finance, including temporary investments, will be made in Government Securities (as defined in the Act), securities of Postbank or of Controlled Companies and, after the order requested by the application has been issued, BHF Capital, or debt securities that are exempted from the provisions of the 1933 Act by section 3(a)(3) of the 1993 Act.

5. In connection with BHF Finance's offering of securities guaranteed by Postbank, Postbank will submit to the jurisdiction of the Supreme Court of New York or the Federal court located in the County of New York, State of New York and will appoint an agent to accept any process which may be served in any action based upon Postbank's obligations to BHF Finance as described in the application. Such consent to jurisdiction and such appointment of an authorized agent to accept service of process will be irrevocable until all accounts due and to become due with respect to securities issued by BHF Finance as described in the application have been paid.

Applicant's Legal Analysis

1. BHF Finance requests relief under section 6(c) of the Act for an exemption from all provisions of the Act. Rule 3a–5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

2. Rule 3a–5(b)(3)(i) in relevant part defines a "company controlled by the parent company" to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) of the Act or that is excepted or exempted by order from the definition of investment company by section 3(b) of the Act or by the rules and regulations under section 3(a). Certain of Postbank's subsidiaries, after the Closing, will not fit within the definition of "companies controlled by the parent company" because they derive their non-investment company status from section 3(c) of the Act. In addition, after the Closing, Postbank will engage in certain activities (including certain investment activities) through BHF Capital. BHF Capital has no outstanding securities other than those owned indirectly by Postbank (excluding short-term paper, directors' qualifying shares, and debt securities owned by the Small Business Administration). BHF Capital would be eligible for exemption under rule 3a–3 under the Act, except that Postbank is a foreign bank.[2] Accordingly, BHF Finance requests exemptive relief to permit it to lend the proceeds of its debt offerings to certain subsidiaries of Postbank that are excluded from the definition of investment company by virtue of section 3(c) and subsidiaries that would be excluded by virtue of rule 3a–3, but for Postbank's status as their parent company. BHF Finance states that, after the Closing, neither itself, nor Postbank, nor BHF Capital will engage primarily in investment company activities.

3. Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act

[2] Rule 3a–3 generally exempts an issuer from the definition of investment company if all of its outstanding securities (other than short-term paper, directors' qualifying shares, and debt securities owned by the Small Business Administration) are owned by an eligible parent company. A parent company generally is eligible if it meets certain asset and income tests and it is (i) not an investment company as defined in section 3(a) of the Act; (ii) excluded from the definition of investment company by section 3(b) of the Act; or (iii) deemed not to be an investment company under rule 3a–1 of the Act.

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to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. BHF Finance submits that its exemptive request meets the standards set out in section 6(c).

Applicant's Condition

BHF Finance agrees that the order granting the requested relief will be subject to the following condition:

BHF Finance will comply with all of the provisions of rule 3a–5 under the Act, except paragraph (b)(3)(i) to the extent that BHF finance will be permitted to invest in or make loans to entities that do not meet the portion of the definition of "company controlled by the parent company" solely because they are:

(1) subsidiaries of Postbank that would be excluded from the definition of investment company by virtue of rule 3a–3 under the Act, but for Postbank's status as their parent company; or

(2) corporations, partnerships, and joint ventures that are excluded from the definition of investment company by section 3(c)(1), (2), (4), (6) or (7) of the Act, provided that any such entity:

(a) if excluded from the definition of investment company pursuant to section 3(c)(1) or section 3(c)(7) of the Act, will be engaged solely in lending, leasing or related activities (such as entering into credit derivatives to manage the credit risk exposures of its lending and leasing activities) and will not be structured as means of avoiding regulation under the Act; and

(b) if excluded from the definition of investment company pursuant to section 3(c)(6) of the Act, will not be engaged primarily, directly or indirectly, in one or more of the businesses described in section 3(c)(5) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22858 Filed 9–11–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register citation of previous announcement: [to be published]

Status: Closed meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date Previously Announced: September 6, 2001.

Change in the Meeting: Time change.

The closed meeting scheduled for Tuesday, September 11, 2001 at 10 a.m. time has been changed to Tuesday, September 11, 2001, at 9:30 a.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: September 10, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–22979 Filed 9–10–01; 12:03 pm]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–213]

WTO Dispute Settlement Proceedings Regarding Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat products From Germany

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on August 8, 2001, the European Communities (EC) requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). The request relates to countervailing duties imposed by the United States Department of Commerce (Commerce) with respect to the countervailing duty order on certain corrosion-resistant carbon steel flat products from Germany (corrosion-resistant steel order), and Commerce's decision not to revoke that order. The EC alleges that the decision not to revoke the order, as well as certain aspect of Commerce's sunset review procedure which led to the decision, are inconsistent with Articles 10, 11.9, 21 (notably paragraphs 1 and 3), and 32.5 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), and Article XVI:4 of the WTO Agreement. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before October 12, 2001, to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, 20508, Attn: Corrosion-Resistant Steel Dispute. Telephone: (202) 395–3582.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, 20508. Telephone: (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the EC has requested the establishment of a dispute settlement panel pursuant to the WTO Dispute Settlement Understanding. Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the EC

In its sunset review of the corrosion-resistant steel order, Commerce determined that revocation of the order would be likely to lead to continuation or recurrence of countervailable subsidies at a rate of 0.54 *ad valorem*. The EC alleges that this rate is below the 1 percent de minimis standard applicable to countervailing duty investigations of Article 11.9 of the SCM Agreement, which, the EC asserts, applies to sunset reviews. Accordingly, the EC alleges that Commerce's decision not to revoke the order was inconsistent with Article 11.9. In addition, the EC alleges that because Commerce did not demonstrate that subsidies would increase above the de minimis level if the order were revoked, Commerce acted inconsistently with Article 21.3 of the SCM Agreement.

The EC also alleges that certain provisions of U.S. countervailing duty law authorizing the self-initiation of sunset reviews by Commerce are inconsistent with Article 21.3. Specifically, the EC refers to section 751(c) of the Tariff Act of 1930, as amended, 19 U.S.C. 1675(c), and section 351.218 of Commerce's regulations, 19 C.F.R. 351.218. According to the EC, investigating authorities may self-initiate sunset reviews only on the basis of a similar level of positive evidence as would be required if a domestic industry requested the initiation of a sunset review.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked **BUSINESS CONFIDENTIAL** in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as **SUBMITTED IN CONFIDENCE** in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–213, Corrosion-Resistent Steel Dispute) may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 01–22825 Filed 9–11–01 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–212]

WTO Dispute Settlement Proceedings Regarding Countervailing Duty Measures Concerning Certain Products From the European Communities

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on August 8, 2001, the European Communities (EC) requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). The request relates to the continued application by the United States of countervailing duties based upon the "change-in-ownership" methodologies used by the U.S. Department of Commerce (Commerce). The EC alleges that the methodologies used by Commerce in certain identified countervailing duty proceedings is inconsistent with various provisions of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), and Article XVI:4 of the WTO Agreement. The EC also alleges that section 771(5)(F) of the Tariff Act of 1930, as amended, 19 U.S.C. 1677(5)(F), is also inconsistent with these provisions to the extent that it allows Commerce to apply the disputed methodologies. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before October 12, 2001, to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, Attn: Change in Ownership in Methodology Dispute. Telephone: (202) 395–3582.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. Telephone: (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the EC has requested the establishment of a dispute settlement panel pursuant to the WTO Dispute Settlement Understanding. Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the EC

In its panel request, the EC alleges that in United States—Imposition of Countervailing Duties on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products Originating in the United Kingdom, WT/DS138/AB/R ("U.K. Lead Bar"), the WTO Appellate Body found the change-in-ownership methodology applied by Commerce for purposes of the U.S. countervailing duty law to be inconsistent with the SCM Agreement. The EC also alleges that the Appellate Body found that a change of ownership at fair market value eliminated the benefit of any prior subsidies to the privatized company. Therefore, the EC alleges that the continued application by Commerce of the change-in-ownership methodology at issue in U.K. Lead Bar, and the continued imposition of countervailing duties based upon that methodology, is consistent with Articles 1.1, 10 (including footnote 36), 14(d), 19.1, 19.3, 19.4, 21.1, 21.2, 21.3, and 32.5 of the SCM Agreement , and Article XVI:4 of the WTO Agreement. According to the EC in its panel request, this pre-U.K. Lead Bar methodology "fails to examine whether there is a subsidy to the producer concerned in circumstances where a financial contribution was grant to a previous owner of a company or its productive assets and there has been a change of ownership or privatization thereof at arm's-length for fair market value."

Following the Appellate Body report in U.K. Lead Bar and a related decision by the U.S. Court of Appeals for the Federal Circuit, Commerce revised its change-in-ownership methodology. Under its new methodology, Commerce

examines whether the entity existing

that it allows [Commerce] to impose

from 9:30 a.m. to 12 noon and 1 p.m.

158 of the Federal Aviation Regulations

subsidiary, at its Monterrey, Mexico

attempting to fit a 20-inch diameter ring

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examines whether the entity existing after a change-in-ownership transaction is the same legal person that existed prior to the transaction and that received subsidies. The EC alleges that this new methodology also is inconsistent with the provisions of the SCM Agreement and the WTO Agreement cited above. According to the EC in its panel request, this methodology "ignores the consideration paid by the current producer in the privatisation or change of ownership, instead purporting to undertake an analysis of whether the buyer is 'for all intents and purposes' the 'same person' as the company which had received a financial contribution before privatisation."

The measures identified by the EC (including the relevant Comerce case nuber) are as follows:

- Original Imposition of Countervailing Duties
  - Stainless Steel Sheet and Strip in Coils from France (C–427–815)
  - Certain Cut-to-Length Carbon Quality Steel from France (C–427–817)
  - Stainless Steel Sheet and Strip in Coils from Italy (C–475–825)
  - Certain Stainless Steel Wire Rod from Italy (C–475–821)
  - Stainless Steel Plate in Coils from Italy (C–475–823)
  - Certain Cut-to-Length Carbon-Quality Steel Plate from Italy (C–475–827)
- Administrative Reviews
  - Cold-rolled Carbon Steel Flat Products from Sweden (C–401–401)
  - Cut-to-Length Carbon Steel Plate from Sweden (C–401–804)
  - Grain-Oriented Electrical Steel from Italy (C–475–812)

(With respect to case C–475–812, the EC panel request refers to a "Definitive determination in administrative review 2nd request; final sunset results ... .").

- Sunset Reviews
  - Cut-to-Length Carbon Steel Plat from the United Kingdom (C–412–815)
  - Certain Corrosion-Resistant Carbon Steel Flat Products from France (C–427–810)
  - Cut-to-Length Carbon Steel Plate from Germany (C–428–817)
  - Cut-to-Length Carbon Steel Plate from Spain (C–469–804)

In addition, the EC also cites section 771(5)(F) of the Tariff Act of 1930, as amended, which is entitled "Change in ownership". According to the EC in its panel request, section 771(5)(F) is inconsistent with the provisions of the SCM Agreement and the WTO Agreement cited above "to the extent that it allows [Commerce] to impose countervailing duties without assessing the existence of a countervailable subsidy after a privatisation or change of ownership ... ."

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked **BUSINESS CONFIDENTIAL** in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155 (g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as **SUBMITTED IN CONFIDENCE** in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537 (e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–212, Change in Ownership Methodology Dispute) may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 01–22826 Filed 9–11–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (01–07–I–00–YKM) To Impose a passenger facility charge (PFC) at Yakima Air Terminal-McAllister Field, submitted by the Yakima Air Terminal Board, Yakima Air Terminal-McAllister Field, Yakima, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Yakima Air Terminal-McAllister Field under the provision of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulation (14 CFR part 158).

DATES: Comments must be received on or before October 12, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington, 98055.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bob Clem, Airport Manager, at the following address: 2400 West Washington Avenue, Yakima, Washington 98903.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yakima Air Terminal-McAllister Field, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington, 98055. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 01–07–I–00–YKM to impose a PFC at Yakima Air Terminal-McAllister Field, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 5, 2001, the FAA determined that the application to impose a PFC, submitted by Yakima Air Terminal Board, Yakima, Washington, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 8, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 2002.

Proposed charge expiration date: February 1, 2004.

Total requested for impose authority: $456,000.

Brief description of proposed project: Runway 27 Safety Area Improvement, Phase II.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: air taxi/commercial operators enplaning less than 1% of airport's total enplanements.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germae to the application in person at the Yakima Air Terminal-McAllister Field.

Issued in Renton, Washington, on September 5, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–22914 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–8105; Notice 2]

Accuride Corporation; Grant of Application for Decision of Inconsequential Noncompliance

Accuride Corporation of Evansville, Indiana, a manufacturer of truck rims and wheels, has determined that approximately 3,700 20 × 7.5 FL side rings produced by Accuride de Mexico (AdM), Accuride's wholly-owned subsidiary, at its Monterrey, Mexico plant, and by Industria Automotriz S.A. de C.V. (IaSa), a Mexican corporation and Accuride's Mexican joint venture partner, fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) 120, "Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars." Accuride filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Accuride has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on March 2, 2001, in the **Federal Register** (66 FR 13126). NHTSA received no comments.

The purpose of FMVSS No. 120, according to S2, is "to provide safe operational performance by ensuring that vehicles to which it applies are equipped with tires of adequate size and load rating and with rims of appropriate size and type designation." Paragraph S5.2 of FMVSS No. 120 requires that each piece, other than the rim base of a multipiece rim, be marked with specific information, including the rim size designation, and a designation that identifies the manufacturer of the rim by name, trademark, or symbol.

Accuride's noncompliance relates to the mis-stamping of the marking on the multipiece rim rings. The stamped rim size designation and type designation on the ring, was transposed as "R7.5 × 20 FL" instead of "20 × 7.5 FL." Accuride states, "All other stampings and markings required by FMVSS 120 and Accuride, including the part number and load rating, are correctly identified on each of the components in question." AdM produced a total of approximately 896 rings from January 3, 2000 to February 18, 2000, and approximately 2,804 rings were produced by IaSa and sold by Accuride prior to January 3, 2000. Accuride believes that there is no safety-related issue with respect to this equipment.

These rings, marked with transposed numbers, were sent to original equipment manufacturers and were fitted to Class 8 conventional trucks and trailers. Accuride argues that an individual in a heavy truck repair facility would quickly realize that this marking is incorrect and would be unlikely to attempt to fit this ring on a rim of the size marked. The probability of one of these rings being placed on a rim by an individual believing that the marking is correct is highly unlikely, if not physically impossible, would be attempting to fit a 20-inch diameter ring on to a 7.5-inch diameter base rim.

According to the petitioner, senior Accuride management has extensively reviewed the processes, the causes of these noncompliances have been isolated, and changes in the processes have been instituted to prevent any future occurrences. In addition, the noncompliance is limited to the equipment addressed in this notice, and Accuride stated that its future products would comply with the requirements of FMVSS No. 120.

The agency agrees with Accuride's verbal statements, provided in a telephone conversation, that an individual working in a heavy truck repair shop or tire shop would quickly realize that the size on the ring is mis-labeled by examining the matching rim and mounted tire. Accuride provides the correct size information; however, that information is transposed. These rings and matching rims will be serviced in Class 8 capable facilities with trained heavy truck personnel. The probability of these rings being placed on a rim by a trained individual believing that the marking is correct is remote.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Accordingly, Accuride's application is hereby granted, and the applicant is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(49 U.S.C. 30118; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: September 7, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–22849 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–9116; Notice 2]

Hankook Tire Corporation; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Hankook Tire Manufacturing Company, Ltd. (Hankook), a Korean corporation, has determined that approximately 7,600 P205/75R14 Dayton Thorobred tires, produced in the Hankook Daejun Plant during August

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2000 through January 2001, do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Hankook has petitioned for a determination that the noncompliance is inconsequential to motor vehicle safety. It has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of application was published, with a 30-day comment period, on April 3, 2001, in the **Federal Register** (66 FR 17747). NHTSA received no comments on this application.

The noncompliance with FMVSS No., 109, paragraph S4.3 (a) relates to a mismarking of the tire size on one mold, Serial Number 24383. The actual stamping in the bead area of the DOT serial side (normally mounted in-board) is P205/75R15 and the correct stamping should have been P205/75R14, which is stamped on the customer side of the tires (normally mounted outboard).

Hankook stated that the estimated 7,600 affected P205/75R14 Dayton Thorobred tires meet all other requirements of FMVSS No. 109. According to Hankook, there is a larger, predominant P205/75R14 correct marking on the mid-sidewall of both sides of the tires and the tire labels supplied to tire dealers with the tires are also marked with the correct tire size information. Furthermore, Hankook stated that an attempt by the company to mount the P205/75R14 tire on a 15-inch rim was unsuccessful since the mounting machine could not apply sufficient force to accomplish the mismatch. Hankook submitted that it was unaware of any adverse effects of this noncompliance and, as a result, believes the noncompliance is inconsequential to motor vehicle safety.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on tire and rim safety. Tire and rim safety would be adversely affected if these tires, which are 14 inches in diameter, were to be mounted on 15-inch rims. Hankook stated in its petition for inconsequential noncompliance that the tires are mislabeled on one side only, the DOT serial side, which is generally mounted in-board. In addition to the labeling information in the bead area required by FMVSS No. 109, the tire size is marked in large characters in the mid-sidewall area. According to Hankook, these mid-sidewall tire size markings on both sides of the tires are correct and the new tire label supplied to tire dealers with the tires is also marked with the correct tire size. Since the tire size is marked incorrectly in one location (in-board bead) only, and correctly marked in several other locations, the agency believes it is highly unlikely that the tire size could be misunderstood by a tire service technician. According to Hankook, an attempt to mount one of these 14-inch tires on a 15-inch rim was unsuccessful because the tire-mounting machine could not generate sufficient force to mount the tire on an oversized rim. The agency believes it would highly unlikely that 14-inch diameter tires could be mounted on 15-inch rims in the event they were mistaken to be 15-inch tires. The agency has no knowledge of safety problems that have arisen as a result of tire size mislabeling when the incorrect label indicated that the tire was larger than its actual size. Based on the information provided by Hankook, the agency believes the noncompliance is inconsequential to motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Hankook's application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: September 7, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–22850 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–8557; Notice 2]

Uniroyal Goodrich Tire Manufacturing; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Uniroyal Goodrich Tire Manufacturing (Uniroyal) has determined that a total of 284 P205/60R15 Regul Sport Challenger passenger tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Uniroyal has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published, with a 30-day comment period, on January 4, 2001, in the **Federal Register** (66 FR 845). NHTSA received no comments on this application.

FMVSS No. 109, paragraph S4.3(d), requires that each tire have permanently molded into or onto both sidewalls the generic name of each cord material used in the plies (both sidewall and tread area) of the tire. Paragraph S4.3(e) requires that each tire have permanently molded into or onto both sidewalls the actual number of plies in the sidewall, and the actual number of plies in the tread area if different.

The noncompliance with paragraph S4.3 (d) and (e) involves tires that were marked: Tread Plies: 2 Polyester + 2 Steel + 1 Nylon, Sidewall Plies: 2 Polyester, instead of the correct marking of: Tread Plies: 1 Polyester +2 Steel, Sidewall Plies: 1 Polyester.

Uniroyal states that of the total (284) tires produced, no more than 17 may have been delivered to end users. The remaining tires have been isolated in their warehouses and are being scrapped. Uniroyal does not believe that this marking error will impact motor vehicle safety because the tires meet all applicable Federal motor vehicle safety standards.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act of November 2000 required, among other things, that the agency initiate rulemaking to improve tire label information. In response to Section 11 of the TREAD Act, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The agency received more than 20 comments addressing the ANPRM, which sought comments on the tire labeling information required by 49 CFR part 571.109 and 119, part 567, part 574, and part 575. Most of the comments were from motor vehicle and tire manufacturers, although several private citizens and consumer interest organizations responded to the ANPRM. With regard to the tire construction (number of plies and type of ply cord material in the tread and sidewall) labeling requirements of FMVSS 109, paragraphs S4.3 (d) and (e), most commenters indicated that the information was of little or no safety value to consumers. However, the tire construction information is valuable to the tire re-treading, repair, and recycling industries, according to several trade groups representing tire manufacturing. The International Tire and Rubber Association, Inc. (ITRA) indicated that the tire construction information is used by tire technicians to determine the steel content of a tire and to select proper retread, repair, and recycling procedures.

In addition to the written comments solicited by the ANPRM, the agency conducted a series of focus groups, as required by TREAD, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire label information beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we concur that it is likely that few consumers are influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when making a motor vehicle or tire purchase decision. However, the tire repair, retread, and recycling industries do use the tire construction information.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered. Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgement, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. The agency believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries, according to ITRA. In this case, the steel used in the construction of the tires is properly labeled.

In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Uniroyal's application is granted and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: September 7, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–22848 Filed 9–11–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 6, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 12, 2001 to be assured of consideration.

Departmental Offices/Community Development Financial Institutions Fund

OMB Number: 1559–0005.
Form Number: CDFI–0002.
Type of Review: Reinstatement.
Title: Bank Enterprise Award (BEA) Program Application and Final Report.
Description: The CDFI Fund implements a Bank Enterprise Award Program that provides incentives to insured depository institutions to increase their support of CDFIs and their activities in economically distressed communities.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 200.
Estimated Burden Hours Per Recordkeeper:
Application—10 hours.
Final Report—7 hours.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 3,400 hours.

OMB Number: 1559–0007.
Form Number: CDFI–0003.
Type of Review: Reinstatement.
Title: Presidential Awards for Excellence in Microenterprise Development.
Description: The Community Development Financial Institutions (CDFI) Fund implements the Presidential Awards of Excellence in Microenterprise Development Program to recognize outstanding microenterprise development and support organizations and to advance an understanding of "best practices in the field of microenterprise development and bring wider attention to its importance.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 80.
Estimated Burden Hours Per Respondent/Recordkeeper: 35 hours.
Frequency of Response: Annually.
Estimated Total Recordkeeping Burden: 2,800 hours.

OMB Number: 1559–0008.
Form Number: CDFI–0014.
Type of Review: Bank Enterprise Award (BEA) Program Annual Survey.
Description: The CDFI Fund's BEA Program helps to promote economic revitalization and community development through an incentive system for insured depository institutions to, among other things, increase their lending to and investment in CDFIs by rewarding participating institutions with awards.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 180.
Estimated Burden Hours Per Recordkeeper: 30 minutes.
Frequency of Response: Annually.
Estimated Total Recordkeeping Burden: 90 hours.
Cleamnce Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–22859 Filed 9–11–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 4, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 12, 2001 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–0150.
Form Number: IRS Form 2848.
Type of Review: Extension.
Title: Power of Attorney and Declaration of Representative.
Description: Form 2848 is used to authorize someone to act for the respondent in tax matters. It grants all powers that the taxpayer has except signing a return and cashing refund checks. Data is used to identify representatives and to ensure that confidential information is not divulged to unauthorized persons. Also used to input representative on CAF (Central Authorization File).
Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms.
Estimated Number of Respondents/ Recordkeepers: 800,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—19 min.
Learning about the law or the form—28 min.
Preparing the form—29 min.
Copying, assembling, and sending the form to the IRS—34 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 1,504,000 hours.
OMB Number: 1545–0531.
Form Number: IRS Form 70–NA.
Type of Review: Revision.
Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of Non-Resident Not a Citizen of the United States.
Description: Under section 6018, executors must file estate tax returns for nonresident noncitizens who had property in the United States. Executors use Form 706–NA for this purpose. IRS uses the information to determine correct tax and credits.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 1,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—1 hr., 38 min.
Learning about the law or the form—40 min.
Preparing the form—1 hr., 58 min.
Copying, assembling, and sending the form to the IRS—54 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 4,607 hours.
OMB Number: 1545–1119.
Form Number: IRS Forms 8804, 8805 and 8813.
Type of Review: Extension.
Title: Form 8804: Annual Return for Partnership Withholding Tax (Section 1446); Form 8805: Foreign Partner's Information Statement of Section 1446 Withholding Tax; and Form 8813: Partnership Withholding Tax Payment Voucher (Section 1446)
Description: Code section 1446 requires partnerships to pay a withholding tax if they have effectively connected taxable income allocable to foreign partners. Forms 8804, 8805 and 8813 are used by withholding agents to provide IRS and affected partners with data to assure proper withholding, crediting to partners' accounts and compliance.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 5,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form	8804 (min.)	8805 (min.)	8813 (min.)
Recordkeeping	58	58	26
Learning about the law or the form	57	54	49
Preparing the form	30	16	15
Copying, assembling, and sending the form to the IRS	20	16	10

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 121,200 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–22860 Filed 9–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 6, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 12, 2001 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–0128.
Form Number: IRS Form 1120–L.
Type of Review: Revision.
Title: U.S. Life Insurance Company Income Tax Return.
Description: Life Insurance companies are required to file an annual return of income and compute and pay the tax due. The data is used to insure that companies have correctly reported taxable income and paid the correct tax.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 2,440.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—83 hr., 27 min.
Learning about the law or the form—27 hr., 57 min.
Preparing the form—48 hr., 13 min.
Copying, assembling, and sending the form to the IRS—5 hr., 5 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 401,966 hours.
OMB Number: 1545–1343.
Regulation Project Number: PS–100–88 Final.
Type of Review: Extension.
Title: Valuation Tables.
Description: The regulations require individuals or fiduciaries to report information on Forms 706 and 709 in connection with the valuation of an annuity, an interest for life or a term of years, or a remainder or reversionary interest.
Respondents: Individuals or households.
Estimated Number of Respondents: 6,000.
Estimated Burden Hours Per Respondent: 45 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,500 hours.
OMB Number: 1545–1361.
Regulation Project Number: PS–89–91.
Type of Review: Extension.
Title: Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer.
Description: Section 4681 imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof. This regulation provides reporting and recordkeeping rules.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 1,305.
Estimated Burden Hours Per Respondent/Recordkeeper: 12 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 201 hours.
OMB Number: 1545–1362.
Form Number: IRS Forms 8835.
Type of Review: Extension.
Title: Renewable Electricity Production Credit.
Description: Filers claiming the general business credit for electricity produced from certain renewable resources under code section 38 and 45 must file 8835.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 70.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—11 hr., 14 min.
Learning about the law or the form—24 min.
Preparing and sending the form to the IRS—35 min.
Frequency of Response: On occasion, Annually.
Estimated Total Reporting/ Recordkeeping Burden: 857 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–22861 Filed 9–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Docket No. 928; ATF O 1130.20]

Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 170, Miscellaneous Regulations Relating to Liquor

To: All Bureau Supervisors

1. *PURPOSE.* This order delegates certain authorities of the Director to subordinate ATF officers and prescribes the subordinate ATF officers with whom persons file documents which are not ATF forms.

2. *CANCELLATION.* This order cancels ATF O 1100.85B, Delegation Order—Delegation to the Associated Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 170, Miscellaneous Liquor Regulations.

3. *BACKGROUND.* Under current regulations, the Director has authority to take final action on matters relating to the manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements established under Chapter 51 of the Internal Revenue Code of 1986. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

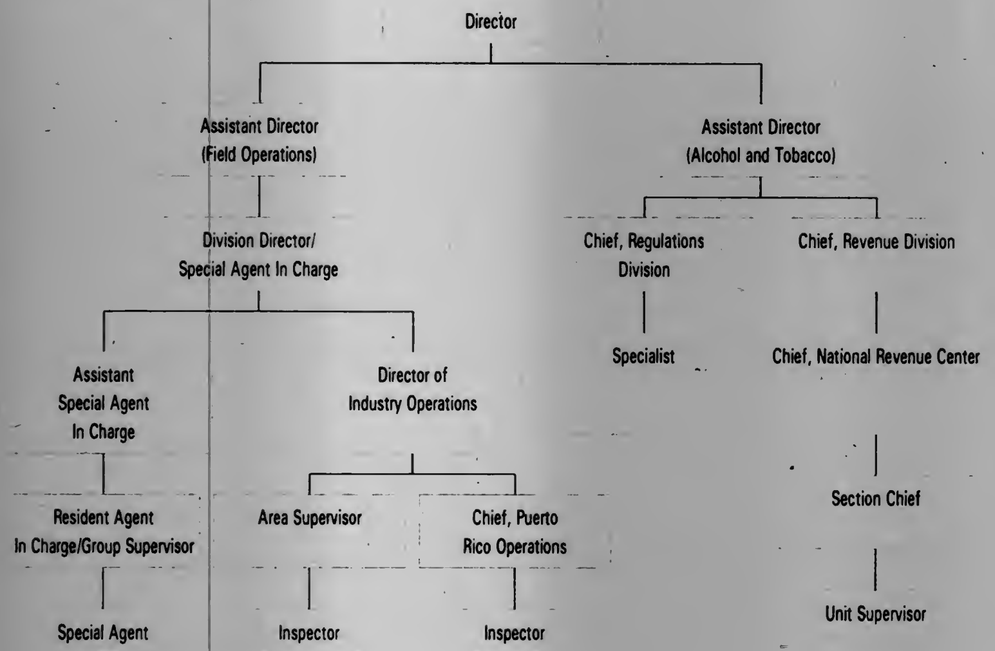
4. *DELEGATIONS.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–1 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR part 170 to subordinate officers. Also, this ATF Order prescribes the subordinate ATF officers with whom applications, notices, and reports required by 27 CFR part 170, which are not ATF forms, are filed. The attached table identifies the regulatory sections, documents and authorized ATF officers. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates involved in this delegation order has been attached.

5. *QUESTIONS.* Any questions concerning this order should be directed to the Regulations Division at 202–927–8210.

Bradley A. Buckles,

Director.

ATF Organization Chart



This is not a complete organizational chart of ATF

[FR Doc. 01–22847 Filed 9–11–01; 8:45 am]
BILLING CODE 4810–31–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 10574

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 10574, Community Based Outlet Program.

DATES: Written comments should be received on or before November 13, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Community Based Outlet Program.

OMB Number: 1545–1753.

Form Number: Form 10574.

Abstract: Form 10574 will be used by both internal and external customers to provide contact information for follow up by Community Based Outlet Program (CBOP) representatives. The form may be utilized as an order blank or as a request for additional information. The form will indicate to the customer service representatives what products the customer wants to receive or the subject matter of additional information. The form would be returned to the Western Area Distribution Center by mail or fax for processing.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Responses: 500.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 42.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 4, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–22935 Filed 9–11–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Nomination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Request for nominations.

SUMMARY: The Internal Revenue Service (IRS) requests nominations of individuals to be considered for selection as Internal Revenue Service Advisory Council (IRSAC) members. Interested parties may nominate themselves and/or at least one other qualified person for membership. Nominations will be accepted for current vacancies and vacancies that will or may occur during the next twelve (12) months, and should describe and document the applicant's qualifications for membership. Comprised of twenty-three (23) members, approximately half of these IRSAC appointments will expire in 2001. It is important that the IRSAC continue to represent a diverse taxpayer and stakeholder base. Accordingly, to maintain membership diversity, selection is based on an applicant's qualifications as well as the segment or group he/she represents.

DATES: Written nominations must be received on or before September 30, 2001.

ADDRESSES: Nominations should be sent to Ms. Lorenza Wilds, National Public Liaison, CL:NPL:PAC, Room 7565 IR, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attn: IRSAC Nominations; e-mail: **public_liaison@irs.gov.* Applications may be submitted by mail to the address above or faxed to 202–927–5253. However, if submitted vis-à-vis facsimile, the original application must be received by mail, as National Public Liaison cannot consider an applicant nor process his/her application prior to receipt of an original signature. Application packages are available on the Tax Professional's Corner and Small Business Corner, which are located on the IRS" Internet Web site at *http://www.irs.gov/prod/bus_info/tax_pro/index.html* and *http://www.irs.gov/prod/bus_info/sm_bus/index.html* respectively. Application packages may also be requested by telephone from National Public Liaison, 202–622–6440.

FOR FURTHER INFORMATION CONTACT: Ms. Lorenza Wilds, 202–622–6440 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Authorized under the Federal Advisory Committee Act, Public Law No. 92–463, the first Advisory Group to the Commissioner of Internal Revenue—or the Commissioner's Advisory Group (CAG)—was established in 1953 as a "national policy and/or issue advisory committee." Renamed in 1998 to reflect the agency-wide scope of its focus as an advisory body, the IRSAC's primary purpose is to provide an organized public forum for senior IRS executives and representatives of the public to discuss relevant tax administration issues. As an advisory body designed to focus on broad policy matters, the IRSAC reviews existing tax policy and/or recommends policies with respect to emerging tax administration issues. As such, the IRSAC suggests operational improvements, offers constructive observations regarding current or proposed IRS policies, programs, and procedures, and advises the Commissioner with respect to issues having substantive effect on federal tax administration. The commentary and assistance provided by the IRSAC during the recent IRS modernization effort were particularly helpful, and it is contemplated that similar significance will attach to the Council's advice in addressing new challenges as the restructured IRS moves forward.

Conveying the public's perception of IRS activities to the Commissioner, the IRSAC is comprised of individuals who bring substantial, disparate experience and diverse backgrounds to bear on the Council's activities. Membership is balanced to include representation from the taxpaying public, the tax professional community, small and large businesses, state tax administration, and the payroll community.

IRSAC members are appointed by the Commissioner and serve a term of two years, with the possibility of a one-year renewal, subject to the Commissioner's approval. The Commissioner determines the size of the IRSAC and the organizations represented on the Council. Working groups that mirror the reorganized IRS address policies and administration issues specific to the four Operating Divisions. While Council members are not paid for their time or services, members residing outside of the Washington, DC metropolitan area will be reimbursed for travel-related expenses incurred to attend an average of two public meetings and one orientation session per year; in accordance with 5 U.S.C. 5703. IRSAC members, their employers, or their sponsoring associations/organizations are responsible for travel-related expenses to all scheduled working sessions or other meetings.

Receipt of nominations will be acknowledged, nominated individuals contacted, and immediately thereafter, biographical information must be completed and returned to Ms. Lorenza Wilds in National Public Liaison within fifteen (15) days of receipt. In accordance with Department of Treasury Directive 21–03, a clearance process including, *inter alia*, pre-appointment and annual tax checks, a Federal Bureau of Investigation criminal and subversive name check, and a security clearance will be conducted.

Equal opportunity practices will be followed for all appointments to the IRSAC in accordance with the Department of Treasury and IRS policies. To ensure that the recommendations of the IRSAC have taken into account the needs of the diverse groups served by the IRS, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

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Dated: September 4, 2001.

Cathy VanHorn,

Designated Federal Official, Acting Director, National Public Liaison.

[FR Doc. 01–22800 Filed 9–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: A meeting of the Midwest Citizen Advocacy Panel will be held in Milwaukee, Wisconsin.

DATES: The meeting will be held Wednesday, September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra McQuin at 1–888–912–1227 (in Wisconsin, Iowa, Nebraska and Illinois), or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel (CAP) will be held Wednesday, September 26, 2001, from 8:00 a.m. to Noon at the Hyatt Regency Hotel, 333 West Kilbourn Avenue, Milwaukee, WI. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. Public comments will be welcome during the meeting, or you can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Citizen Advocacy Panel, Mail Stop 1006 MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221.

The Agenda will include the following: Introduction of new panel members, miscellaneous reports.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: September 5, 2001.

Cindy Vanderpool,

Acting Director, CAP, Communication and Liaison.

[FR Doc. 01–22797 Filed 9–11–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open meeting of Citizen Advocacy Panel, Pacific Northwest Panel

ACTION: Notice.

SUMMARY: An open meeting of the Pacific-Northwest Citizen Advocacy Panel will be held in Fairbanks, Alaska.

DATES: The meeting will be held Friday September 21, 2001 and Saturday September 22, 2001.

FOR FURTHER INFORMATION CONTACT: Judi L. Nicholas at 1–888–912–1227 or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday January 12, 2001, from 9:00 a.m. to 4:30 p.m. at the Federal Building located at 101 12th Avenue, Fairbanks, AK, 99701; Saturday, September 22, 2001, from 9:30 a.m. to 12:30 p.m. at the Fairbanks Public Library located at 1215 Cowles Street, Fairbanks, AK. The public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write Judi L. Nicholas, CAP Office, 915 2nd Avenue, Room 442, Seattle, WA 98174. Due to limited conference space, notification of intent to attend the meeting must be made with Judi L. Nicholas. Ms. Nicholas can be reached at 1–888–912–1227 or 206–220–6096.

The Agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: September 5, 2001.

Cindy Vanderpool,

Acting Director, CAP, Communications and Liaison.

[FR Doc. 01–22798 Filed 9–11–01; 8:45 am]

BILLING CODE 4830–01–P



Federal Register

Wednesday,
September 12, 2001

Part II

Federal Emergency Management Agency

Radiological Emergency Preparedness: Exercise Evaluation Methodology and Alert and Notification; Notices

FEDERAL EMERGENCY MANAGEMENT AGENCY

Radiological Emergency Preparedness: Exercise Evaluation Methodology and Alert and Notification

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice announces the availability of the Exercise Evaluation Methodology and Alert and Notification for the Radiological Emergency Preparedness Program.

DATES: Effective October 12, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis Kwiatkowski, Chief, Technological Hazards Branch, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2857.

SUPPLEMENTARY INFORMATION:

Emergency Preparedness Exercise Evaluation Methodology

Background on Exercise Evaluation

The Federal Emergency Management Agency (FEMA) and the Nuclear Regulatory Commission (NRC) have jointly published regulations and guidance for offsite emergency preparedness around commercial nuclear power plants. These regulations require that offsite radiological emergency preparedness plans be exercised periodically to ensure adequate protection of the public health and safety in the event of a radiological emergency. The regulations require that exercises be evaluated by FEMA and NRC and that findings on the adequacy of the plans and preparedness be made after each exercise.

The regulations require that a full-participation exercise be conducted biennially for each site. Exercises are conducted annually for each site with deficiencies identified in the biennial exercise. Exercises are conducted annually for each site with areas requiring corrective action identified in the biennial exercise. Exercises are conducted annually for each site with areas requiring corrective action identified in the annual

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Radiological Emergency Preparedness: Exercise Evaluation Methodology.

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) is revising the Radiological Emergency Preparedness Exercise Manual (REP–14) dated September 1991 by adopting the six Exercise Evaluation Areas described in this notice in place of the 34 REP–14 Objectives that are set out in Section D of REP–14. The minimum frequency with which each of the Exercise Evaluation Areas will be evaluated is also contained in this notice. Adoption of the changes to REP–14 renders a companion manual entitled Radiological Emergency Preparedness Exercise Evaluation Methodology (REP–15) dated September 1991 obsolete. FEMA is rescinding REP–15 and will utilize a new form entitled "Evaluation Module" to document evaluations conducted under the new criteria.

DATES: This notice is effective on October 1, 2001. Exercises conducted pursuant to 44 CFR § 350.9 between October 1, 2001 and December 31, 2001 may be (a) evaluated under the 34 Objectives enumerated in the September 1991 version of REP–14 and utilizing the points of review set out in REP–15 or (b) evaluated under the new criteria using the Evaluation Module form. The decision on which to use will be made by the appropriate FEMA Regional Assistance Committee Chair after consulting with the affected State or States. Effective January 1, 2002, exercises conducted pursuant to 44 CFR § 350.9 shall be evaluated using the criteria described in this notice and shall be documented using the Evaluation Module form. The 34 Objectives enumerated in the September 1991 version of REP–14 and the points of review set out in REP–15 shall not be used in exercises that take place on or after January 1, 2002.

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SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) is revising the Radiological Emergency Preparedness Exercise Manual (REP–14) dated September 1991 by adopting the six Exercise Evaluation Areas described in this notice and deleting the thirty-four REP–14 Objectives that are set out in Section D of REP–14.[1] This is an interim measure. FEMA is currently working on a REP Handbook, a comprehensive compilation of REP guidance. The REP Handbook will incorporate the new Exercise Evaluation Areas and portions of REP–14 that pertain to the conduct of exercises. When the new reference book is issued, REP–14 will be withdrawn.

Adoption of the new Evaluation Areas renders a companion manual entitled Radiological Emergency Preparedness Exercise Evaluation Methodology (REP–15) dated September 1991 obsolete. The "Evaluation Module" will be used to document exercise evaluations carried out under the new evaluation areas.[2] REP–15 is rescinded effective January 1, 2002, which is the date upon which all exercises will be evaluated in accordance with the new criteria.

FEMA published the proposed evaluation areas and the Evaluation Module in the **Federal Register** on June 11, 2001 for sixty days of public comment [66 FR 31342]. The public comment period closed on August 10, 2001. Eighty-three comments were submitted by the deadline. The majority of comments were submitted by representatives of State and local public health, environmental and emergency management agencies. FEMA also received comments from licensees of nuclear power plants, the general public and a public interest group. We found the comments to be thoughtful and constructive.

Pursuant to a Memorandum of Understanding between FEMA and the Nuclear Regulation Commission (NRC), 44 CFR 353 App. A (2000 edition), FEMA provides the NRC with an opportunity to review and comment on emergency planning and preparedness guidance issued by FEMA's Radiological Emergency Preparedness (REP) program. The NRC was provided with a copy of the **Federal Register** notice and asked to provide comments. The NRC staff provided comments on August 10, 2001.

[1] Adoption of the proposed Evaluation Criteria renders much of Section C.2 of REP–14 obsolete. Pages C.2–3 and C.2–4 of REP–14 speak to the frequency with which particular REP–14 objectives will be exercised. FEMA is adopting the Federal Exercise Evaluation Matrix, which appears later in this document as Table 2, in place of the exercise objective groupings which appear on Pages C.2–3 and C–2.4 of REP–14.

[2] We are not republishing the sample "Evaluation Module" in this notice because no changes have been made.

Background on Exercise Evaluation

FEMA, through the REP program, evaluates exercises to assess the capability of Offsite Response Organizations (ORO) to respond to an emergency involving a commercial nuclear power plant. These exercises are conducted in accordance with FEMA regulations, which appear in 44 CFR Part 350.[3] Although section 350.9 is the portion of Part 350 that primarily speaks to exercises, it does not specifically address the standards under which exercises are to be conducted and performance is to be evaluated. These standards are addressed in 44 CFR 350.5(a) which states,

> Section 50.47 of [the NRC's] Emergency Planning Rule [10 CFR Parts 50 [Appendix E] and 70 as amended and the joint FEMA-Nuclear Regulatory Commission Criteria for Preparation and Evaluation of Radiological Response Plants and Preparedness In Support of Nuclear Power Plants (NUREG–0654/FEMA REP–1, Rev 1 November, 1980)[4] * * * are to be used in reviewing, evaluating and approving State and local radiological emergency plans and preparedness and in making any findings and determinations with respect to the adequacy of the plans and the capabilities of State and local government to implement them. Both the planning and preparedness standards and related criteria contained in NUREG–0654 are to be used by FEMA and the NRC in reviewing and evaluating State and local government radiological emergency plans and preparedness.[5]

Planning Standard N of NUREG–0654 addresses the conduct of exercises. The Planning Standard states that "Periodic exercises are (will be) conducted to evaluate major portions of emergency response capabilities * * * and deficiencies identified as a result of exercises * * * are (will be) corrected." Evaluation criterion N.1.a of NUREG–0654 defines an exercise as "an event that tests the integrated capability and a major portion of the basic elements existing within emergency preparedness plans and organizations." The Planning Standard N criteria contain several requirements for exercises. All exercises must simulate an emergency that results in offsite radiological emergency releases that would require response by offsite authorities.[6] Scenarios should be

[3] The preamble to 44 CFR Part 350 is published at 46 FR 44332 [September 28,1983].

[4] This document is hereafter referred to as NUREG–0654.

[5] *See also,* 44 CFR 350.13(a) which states in relevant part "The basis upon which [FEMA] makes the determination for withdrawal of approval [of a State or local radiological emergency plan] is the same basis used in reviewing plans and exercises, i.e., the planning standards and related criteria in NUREG 0654/FEMA REP–1, Rev. 1."

[6] The NRC staff comment noted that an acceptable exercise scenario could involve a sufficient fission product accumulation in containment without a release, notwithstanding the language of Planning Standard N. FEMA believes that exercise scenarios that involve offsite radiological emergency releases provide a better test of an ORO's integrated response capability.

[7] *See,* Planning Standard N, evaluation criteria 1.a and 1.b.

[8] *See,* Planning Standard N, evaluation criteria 1.a (rules) and 3 (exercise evaluation guidance).

[9] On March 27, 1991, FEMA noticed the availability of REP–14 and REP–15 for public comment in the **Federal Register** [56 FR 12734. FEMA announced that REP–14 and REP–15 were final and effective in subsequent **Federal Register** notices, 57 FR 4880 (February 10, 1992) corrected by 57 FR 10956 (March 31, 1992].

[10] *See,* REP–14, pages C–2.3 to C–2.4. REP–14 Objective 34 was not included in any of the three groups because it is not demonstrated by OROs. Objective 34 addresses demonstration of emergency response capability by nuclear power plant licensees in the event that State and local government decline to participate in radiological emergency planning and preparedness.

varied from year to year and conducted under various weather conditions; some exercises or drills should be off-hours and unannounced.[7] In other respects, the Planning Standard N criteria contemplate that exercises will be conducted as set forth in NRC and FEMA rules and in exercise evaluation guidance.[8]

In September 1991, FEMA published the current exercise evaluation guidance, which is REP–14. REP–14 established a series of 34 objectives (REP–14 Objectives) that interpret and apply the guidance contained in NUREG–0654. A companion document, REP–15, contained a series of forms and checklists keyed to the 34 REP–14 Objectives for use by exercise evaluators in documenting performance. FEMA circulated both documents for public comment.[9]

REP–14 also established the frequency with which each of the objectives would be demonstrated in exercises. The REP–14 Objectives were divided into three groups. Thirteen objectives in the first group would need to be demonstrated in every exercise. Nine objectives in the second group should be demonstrated in every exercise by some but not all responding organizations as the scenario dictates, provided that all responding organizations must demonstrate the objective once every six years. Another eleven objectives must be demonstrated once every six years.[10]

Public Comment on the Proposed Evaluation Areas

The new approach to exercise evaluation discussed in this notice is the outgrowth of a multi-year strategic review of the REP program. The strategic review process that led to the formulation of this approach was explained in the June 11, 2001 **Federal Register** notice [66 FR 31343–31344]. A key recommendation of the strategic review process was that FEMA streamline the exercise evaluation process by making the criteria less prescriptive and more "results-oriented."

A number of commenters felt that the proposal published on June 11 substantially met this objective. A State emergency management agency, writing for itself and two counties noted, "In general, we feel that the proposals are a substantial improvement over previous evaluation methodologies. The document is much less prescriptive and establishes the basis for an outcome-based evaluation." Another State observed. "This proposal showed that FEMA not only listened to the OROs' concerns, but took our advice to heart and followed through with its commitment to make the exercise evaluation process more performance-based and less subjective." However, several other commenters felt that the document remained too prescriptive. We have examined their suggestions and have made adjustments to certain of the criteria where appropriate. A public interest group suggested that certain of the evaluation criteria appear to significantly lower performance standards. We considered each of their examples, but we disagree with their conclusions.

The NRC staff observed, "As a result of a staff level review of the [**Federal Register** notice] and our participation in the strategic review process, it is our belief that exercises conducted and evaluated pursuant to the revised methodology will continue to provide FEMA with sufficient basis to support reasonable assurance recommendations to the NRC."

Two commenters, representing State agencies, suggested that FEMA periodically review the evaluation criteria to determine whether further improvements are needed. FEMA accepts the suggestion. The initial review of the evaluation criteria will commence in January 2003 when data from the first full year of exercises conducted under the new criteria will be available.

Discussion of the New Evaluation Criteria

Evaluation Area 1—Emergency Operations Management

Evaluation Area 1 has five sub-elements: (a) Mobilization, (b) facilities, (c) direction and control, (d) communications equipment and (e) equipment and supplies to support operations.

Criterion 1.a.1 requires that the OROs use effective procedures to alert, notify and mobilize emergency personnel and activate facilities in a timely manner. FEMA previously noted that one of the more difficult issues to arise from the strategic review is how OROs demonstrate their twenty-four hour staffing capability in an exercise. The evaluation criteria associated with Planning Standard "A" of NUREG–0654 require that "each principal organization shall be capable of continuous (twenty-four-hour) operations for a protracted period."[11] These criteria also require that each State and local response organization be capable of twenty-four-hour emergency response, including 24 hour per day staffing of communications links.[12]

REP–14 Objective 30.1,[13] which implemented these criteria, required all agencies responsible for providing twenty-four-hour staffing to demonstrate a shift change once every six years. The shift change was demonstrated by providing a "one-for-one replacement * * * of key staff" responsible for communications, direction and control of operations, alert and notification of the public, accident assessment, information for the public and the media, radiological monitoring, protective response and medical and public health support.[14]

REP–14 Objective 30.2 requires outgoing staff members to demonstrate the capability to brief their replacements on the current status of the simulated emergency. The purpose of this demonstration is to assure that the transition from the outgoing to the incoming shift is accomplished without discontinuity in operations.

The dissatisfaction within the REP community about Objective 30 seemed to stem from time constraints associated with the exercise. OROs will bring a second shift (often composed of volunteers who must take time away from other responsibilities) in for the exercise, only to discover that there is little time left in the exercise for the second shift to actually demonstrate their capabilities.

In response to these concerns, new evaluation criterion 1.a.1 eliminates the requirement that OROs demonstrate a shift change once every six years. In order to assure that OROs have sufficient staffing to support twenty-four hour operations, we will require that

[11] Planning Standard A, evaluation criterion A.4.

[12] Planning Standard A, evaluation criterion A.1.e.

[13] Objective 30.1 is criterion 1 under Objective 30. REP–14 evaluation criteria will be referred to in this manner throughout the document.

[14] REP–14 page D.30–1.

they certify this capability in the Annual Letter of Certification. Additionally, FEMA REP site specialists will review ORO 24-hour staffing capabilities during Staff Assistance visits. This approach is consistent with Planning Standard "A" of NUREG–0654 and its associated criteria, neither of which requires the demonstration of a shift change. Many comments suggested that FEMA approach verification of 24-hour capability in this manner.

However we also expressed concern in the June 11 **Federal Register** notice over whether key personnel on the off-hours shifts can perform as well as the primary responders. FEMA sought comment on whether the evaluation criteria should require OROs to demonstrate their twenty-four hour response capability by alternating the key staff that participate in the biennial exercises from among the shifts.[15]

The commenters overwhelmingly opposed FEMA's proposal to rotate exercise participation among shifts. Several of these commenters noted that they do rotate REP exercise participation among their shifts but would prefer that FEMA not prescribe that this be done. Other commenters suggested that given the frequent turnover of personnel in the emergency management community, most responders have an opportunity to participate in evaluated exercises at one time or another. Some commenters argued that they should be graded on the performance of their primary team and noted that people who occupy most key functions have adequate opportunities to train in non-graded exercises and exercises to prepare for non-radiological incidents. Commenters also argued that those who occupy key positions in their organizations would remain in place throughout the emergency response, except for relatively brief rest and sanitation breaks. Even then, they could be called back to address a critical issue. Still other commenters expressed concern that emergency management volunteers are being asked to participate in an increasing number of exercises, each directed at a specific hazard. These commenters were concerned that the cumulative exercise burden might cause volunteers to drop out. Others noted the availability of interstate mutual aid personnel to supplement local staff. FEMA generally found these arguments to be valid.

In the June 11 **Federal Register** notice, FEMA proposed that a shift change briefing occur during every exercise, regardless of whether a shift change is actually demonstrated. After considering the comments we have concluded that we will not require the demonstration of shift change briefings. Evaluation criterion 1.c.1 already requires that periodic briefings occur during the course of an exercise. To require a simulated shift change briefing would not only lengthen the exercise but also require a redundant demonstration of a briefing capability.

We sought comments about whether FEMA should commence exercises on weekends, holidays or off-hours. The comments from the emergency management community were uniformly negative. Some commenters responded that emergency management has advanced to the level that off-hours response to actual incidents is routine. Other commenters felt that the cumulative burden of actual off-hours responses and off-hours exercises on volunteers was too great.

The NRC staff, on the other hand, suggested that off-hours and unannounced exercises were helpful since actual events happen in the off-hours. Evaluation Criterion 1.b of Planning Standard "N", as interpreted by subsequent guidance, requires off-hours exercises. Additionally Planning Standard "N" suggests that some exercises should be unannounced. In light of this language, FEMA believes that the new exercise evaluation criteria should provide for off-hours and unannounced exercises, but will defer consideration of a standard until it has finalized a policy on granting exercise credit for participation in actual emergency response activities and equivalent drills and exercises. We believe that many OROs will be able to demonstrate their ability to quickly mobilize personnel at any time of the day, which is the reason that Planning Standard "N" suggests unannounced and off-hours exercises, through documented performance in actual emergency responses and other equivalent drills and exercises. We will publish the proposed credit policy and off-hours, unannounced exercise criteria in the **Federal Register** for comment before any are implemented.

Criterion 1.b.1 requires that the ORO demonstrate that its facilities are sufficient to support the emergency response. Under the proposed exercise methodology, facilities will only be evaluated if they are new or have substantial changes in structure or mission. It seems redundant to require the re-evaluation of a facility every two years if the facility has not changed. FEMA will require that OROs certify in the Annual Letter of Certification that their facilities are available and adequate to meet emergency response needs.[16] FEMA reserves the right to audit the representations made in the Annual Letter of Certification.

Criterion 1.d requires that communications capabilities be managed in support of emergency operations with communication links established and maintained with appropriate locations. The proper functioning of communications equipment is essential to success in any exercise, just as it is essential to success in any response to a real event. FEMA expects that both the primary and backup communications systems, which are required by Planning Standard F, Evaluation Criterion F.1 of NUREG–0654, will be fully functional at the commencement of an exercise. FEMA will continue to require that the ORO demonstrate the functionality of the primary and at least one backup system at each exercise. If one of the two communications systems fails, but there was no adverse effect on exercise performance, then there will be no exercise issue. If the primary and a backup communications system fail, the ORO can prevent an exercise issue by utilizing additional backup communications resources. However, if failure of communications systems has an adverse or potentially adverse effect on exercise performance, then FEMA will assess an exercise issue. In all cases, a failure in a communications system must be remedied no later than the next scheduled communications drill. OROs are expected to advise the REP program site specialist when a communications failure noted during an exercise has been corrected.

A commenter noted that new Evaluation Criterion 1.d.1 requires that primary and backup communications systems rely on separate power sources. This language does not appear in NUREG–0654 and has been deleted.

Criterion 1.e.1 requires that equipment, dosimetry,[17] supplies of potassium iodide (KI) and other required supplies are sufficient to support emergency operations. FEMA may or may not verify that these items are available and in good repair as a stand-alone item in every exercise. A commenter suggested that this represented a lowering of standards. We disagree. Exercise scenarios ordinarily require that equipment and supplies be put to use. If equipment and supplies are unavailable or non-functional, then the ORO may not be able to perform the emergency response activity at an acceptable level. Equipment and supplies that are not checked during an exercise will be checked during a Staff Assistance Visit. Additional assurance that equipment and supplies are available in appropriate quantities and are properly maintained will be obtained in the Annual Letter of Certification. The representations contained in the Annual Letter of Certification are subject to audit.

A number of comments addressed technical provisions of Evaluation Criterion 1.e.1. Three comments addressed the shelf life of KI supplies. KI is a non-prescription thyroid-blocking agent that is thought to provide protection to the thyroid from the uptake of radioiodines. The commenters observed that, if properly stored, KI retains its potency for a longer period than the manufacturer's expiration date would indicate. Current Food and Drug Administration (FDA) guidance authorizes the extension of the expiration date of KI supplies if a certified laboratory renders an opinion that potency remains. FEMA does not have an independent basis to determine if KI supplies remain potent past their expiration date. Accordingly, FEMA will defer to the prevailing FDA guidance when evaluating the availability of KI supplies under Criterion 1.e.1.

Several comments also addressed emergency worker protective equipment. This was an area in which some commenters thought FEMA was too prescriptive. We considered each of the comments carefully. Evaluation criterion 1.e.1 previously required that CDV–700 survey instruments be calibrated annually. This is the generally accepted standard for unmodified CDV–700 instruments. We understand that a number of CDV–700 instruments have been modified. Modified CDV–700 instruments should be calibrated in accordance with the recommendation of the manufacturer of the modification.

Evaluation criterion 1.e.1 previously provided that all instruments should be operationally checked once each calendar quarter and after each use. We have revised this criterion to provide that instruments be checked before each use in an exercise. We will observe this check during exercises. We will not verify during exercises that instruments were checked quarterly. To assure compliance with Planning Standard H of NUREG–0654, we will require that the ORO represent that instruments have been checked in accordance with the requirements of NUREG–0654 and its plans and procedures in the Annual Letter of Certification.

Evaluation Area 2—Protective Action Decisionmaking

Evaluation Area 2 assesses the ORO's ability to render decisions about what protective actions members of the public and emergency workers need to take in the wake of an incident. It has five sub-elements: Emergency worker exposure control, radiological assessment and protective action recommendations and decisions for the plume phase of the emergency,[18] protective action decision considerations for the protection of special populations, radiological assessment and decisionmaking for the ingestion pathway exposure[19] and radiological assessment and decisionmaking concerning relocation, re-entry and return.

Evaluation criterion 2.a.1 addresses radiation exposure control for emergency workers. In response to comments we have deleted language in the first two paragraphs of the extent of play that was regarded as unduly prescriptive by commenters.

Various commenters suggested that FEMA not require a demonstration of the capacity to make decisions about authorizing emergency workers to receive radiation doses above the preauthorized levels and to manage workers who have received higher-level doses. FEMA believes that this capability should continue to be demonstrated.[20]

Evaluation criterion 2.b.2 requires OROs to demonstrate a decision making process for recommending the use of KI for the general public. The NRC staff suggested that this criterion should read, "OROs should demonstrate the capability to make decisions on the distribution and administration of KI as a protective measure for the general public to supplement sheltering and evacuation if the offsite planning authorities generally have determined that KI will be used as a protective measure for the general public under offsite plans." We agree in principle and have revised the criterion; however, it is important to emphasize that we will only evaluate an ORO's plan to distribute and administer KI to the general public if the ORO has voluntarily decided to utilize KI as a protective measure for the general public.

Sub-element 2.d establishes procedures for ingestion pathway exercises. A number of comments suggested that FEMA not require ingestion pathway exercises unless federal agency participation is sufficient to support State and local efforts. As Chair of the Federal Radiological Preparedness Coordinating Committee, FEMA is taking the lead in encouraging increased federal participation in ingestion pathway exercises. However, the OROs are still obligated to demonstrate that they can make ingestion pathway decisions independent of federal participation under Planning Standards J and N of NUREG–0654. 44 CFR 350.9(c)(4) requires ingestion pathway exercises to be conducted whether or not the federal agencies elect to participate.[21]

Evaluation criterion 2.e.1 requires demonstration of the capability to make decisions on the relocation, re-entry and return of the general public following a severe accident at a nuclear power plant. One commenter inquired whether the criterion requires that the ORO provide dosimetry to members of the public entering a restricted zone who are escorted by personnel wearing dosimetry. FEMA believes that everyone in the restricted zone needs to be able to track his or her dose. Accordingly, we believe that this criterion, which is based in part on evaluation criterion K.3.a of Planning Standard "K," requires that each individual in the restricted zone have a non-self-reading (permanent-record) dosimeter. It is sufficient for the escorts to possess direct reading dosimetry.

A commenter suggested that FEMA retain the standard and optional approaches to re-entry and relocation decisionmaking in REP–14. We understand that the optional approach is more conservative than the standard approach, which we have incorporated in the new evaluation areas. If the ORO's plan and procedures provide that the optional approach will be employed in re-entry and relocation decisionmaking, then FEMA will evaluate performance under the optional approach.

[15] We defined key positions in this proposal in the same way that they were defined in REP–14 Objective 30.1.

[16] This notice contains several new requirements for the Annual Letter of Certification. These requirements are effective for Annual Letters of Certification due January 31, 2002.

[17] The terms permanent-record dosimeter, non-self-reading dosimeter, and non-direct-reading dosimeter, which are used in various of this document, are intended to be synonymous.

[18] The plume phase of the emergency focuses on preventing exposure of a population to radiation through direct contact with the plume.

[19] The ingestion pathway phase focuses on preventing exposure of a population to radiation through ingestion of food and water that may have been contaminated by radiation.

[20] This observation also applies to comments arguing the same point in connection with sub-elements 3.c.

[21] These observation also apply to comments submitted with respect to Evaluation Criteria 3.e.1 and 3.e.2, 4.b.1 and 4.b.2.

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Evaluation Area 3—Protective Action Implementation

Evaluation Area 3 assesses the ORO's ability to implement protective actions, including evacuation. It contains six sub-elements: implementation of emergency worker exposure control, implementation of KI decisions, implementation of protective actions for special populations, implementation of traffic and access control, implementation of ingestion pathway decisions, and implementation of relocation, re-entry and return decisions.

Criterion 3.a.1 provides that OROs should demonstrate the capability to provide appropriate dosimetry, dosimeter chargers, and instructions on the use of dosimetry to emergency workers. One commenter suggested that each emergency worker in the field does not require a personal dosimeter charger. We agree; however, every emergency worker should have reasonable access to a dosimeter charger. OROs should demonstrate the ability to provide dosimetry that is appropriate in relation to the responsibilities of the emergency workers.

The new criterion makes it clear that emergency workers can refer to published procedures and confer with co-workers in responding to evaluator inquiries about dosimetry, just as they would, if necessary, in a real incident. One commenter thought that this amounted to a "monumental lowering of standards" and suggested that some emergency workers may be "clueless" about how to read dosimetry. We disagree. Emergency workers are trained in the proper use of dosimetry. It is anticipated that in a real situation they would refer to printed materials and confirm readings with other members of their team.

Criterion 3.c.1 evaluates implementation of protective actions for special populations other than schools. OROs must demonstrate a capability to alert and notify special populations, transportation providers (including special resources for people with disabilities), and establish reception facilities. The availability of resources to transport special populations out of the plume exposure pathway is key. For this reason, we proposed that OROs actually contact at least ⅓ of their transportation providers during each exercise to determine whether buses and drivers would be available if the exercise were an actual emergency. We received a significant number of comments that suggested we delete this requirement. Some commenters thought the demonstration proves only that their list of telephone numbers is correct. Other commenters felt that some actual contacts should be demonstrated but that the number of contacts should be negotiated in the extent of play agreement. We agree with these commenters and have modified Criterion 3.c.1 accordingly.

Criterion 3.c.2 evaluates the capability to implement protective action decisions for schools and day care centers. The criterion requires that OROs alert and notify every public school system or district, in every exercise, using whatever method would be used to make the notification in the event of a real incident. A number of commenters who use technology such as auto-dialers and tone alert radios to make actual notifications objected to demonstrating the technology during exercises. The concern expressed was that some would not understand that the activation was part of an exercise and would panic. Since the systems are regularly tested, the argument that an activation in connection with an exercise would cause panic seems improbable.

A number of comments addressed the extent to which private schools and day care centers must participate in REP exercises. We note that there are variations in the amount of control that OROs exercise over private schools and day care centers. A number of commenters suggested that FEMA should not require demonstration of actual or simulated contacts with day care centers. If the ORO's plan provides that private schools and/or day care providers are to be treated as special populations for the purpose of notification, then FEMA believes it is reasonable to ask that the ORO demonstrate the ability to execute this portion of the plan. However, if the plan regards some or all private schools and/or day care centers (such as those located in private homes) as part of the general population, rather than a special population, these facilities fall outside of Criterion 3.c.2. Therefore, the ability to make individual contacts need not be demonstrated. Since there are considerable differences in the way that ORO plans and procedures relate to private schools and day care centers, we believe it is more appropriate to address whether and how these facilities will participate in exercises through the Extent of Play agreement rather than the evaluation criteria.

In the June 11 **Federal Register** notice FEMA reserved the right to interview bus drivers and/or bus escorts (if a plan provides that the buses will be escorted) to determine their familiarity with evacuation routes. In response to comments, we will make every effort to interview bus drivers and/or escorts out of sequence from the exercise, during their regular duty day, in order to reduce costs to OROs.

Criterion 3.d.1 evaluates the capability to establish and maintain appropriate traffic control and access points. A commenter suggested that FEMA should not interview public safety personnel about traffic and access control plans but confine these interviews to determining whether the public safety workers can adequately utilize personal protective equipment. We believe that both topics are equally important. Interviews may include such topics as re-entry criteria, location of congregate care centers and evacuation routes.

Evaluation Area 4—Field Measurement and Analysis

Evaluation Area 4 assesses the capability of OROs to conduct and analyze field radiation measurements. It has three sub-elements: plume phase field measurements and analysis, post plume phase field measurements and sampling, and laboratory operations. A commenter asked how high range instruments referred to in Criterion 4.a.1 should be operationally tested. The criterion requires that the ORO demonstrate their established policy. FEMA will observe that the operational check is performed in accordance with the ORO's policy. The location where these operational checks will occur can be negotiated in the extent of play agreement.

Another commenter suggested that the ORO should not be required to send field teams to measure the plume centerline or peak plume measurement under Criterion 4.a.2. The commenter observed that protective action decisions could be formulated based upon plant conditions prior to release and measurements at the plume edges. Criterion 4.a.2 allows the ORO to rely on plume centerline and peak plume measurements collected by the nuclear power plant licensee. However, if this data is not available from the licensee, then the decision as to whether this data is necessary to sufficiently characterize the plume rests with the ORO. A commenter thought Criterion 4.a.2 was too prescriptive in describing how the transfer of samples to a radiological laboratory should occur. The criterion requires that standard chain of custody procedures be observed in transferring samples. We do not believe that it is unduly prescriptive.

Evaluation Area 5—Emergency Notification and Public Information

Evaluation Area 5 looks at the ORO's ability to notify the public of an incident and to effectively communicate protective action decisions. It contains two sub-elements: activation of the prompt alert and notification system and emergency information and instructions for the public and the media.

Proposed Criteria 5.a.1, 5.a.2 and 5.a.3 address activation of the prompt alert and notification system. We are publishing criteria 5.a.1 and 5.a.3 in final form, but are deferring final publication of proposed Criterion 5.a.2. Criterion 5.a.1 requires that the alert and notification system be activated in a timely manner following notification to the ORO by the nuclear power plant of an incident that requires activation of the alert and notification system but does not immediately require urgent action by the public. Whether decisionmakers initiate the alert and notification system in a "timely manner" will be judged in relation to the scenario. We will also evaluate the quality of the public notification. A commenter felt that the term "timely manner" is too subjective. We disagree. The decision on whether and when to initiate the alert and notification sequence in situations where no urgent action is required by the public is a matter of judgment. The ORO is expected to exercise this judgment in accordance with its plans and procedures.

Proposed criterion 5.a.2 required that activities associated with the alert and notification system in a "fast breaker" situation must be completed within fifteen minutes of the time that ORO officials have received verified notification from the nuclear power plant of a situation that immediately requires urgent public action. The proposed criterion was based on NRC regulations that appear in 10 CFR Part 50, Appendix E.IV.D. Many commenters addressed the "fast breaker" provision in the June 11 **Federal Register** notice. Pursuant to Section III.E of the Memorandum of Understanding between FEMA and the NRC, the NRC has requested that FEMA defer publishing Criterion 5.a.2 in final at this time. Since Criterion 5.a.2 derives from NRC regulations, it is especially appropriate that FEMA honor this request.

Proposed criteria 5.a.1 and 5.a.2 indicated that the content of the initial informational message should be consistent with current FEMA guidance. FEMA is publishing a companion notice in today's edition of the **Federal Register** addressing the minimum required content for initial informational messages.

Criterion 5.a.3 addresses backup alerting and notification of the general public in the event of a failure in the primary alert and notification system. It also addresses alerting of people who are located in "exception areas" and are not notified by the Emergency Alert System, tone alert radios or other technology. Criterion 5.a.3 requires that the completion of the alert and notification sequence for exception areas and backup alerting and notification be completed within 45 minutes of the decision by offsite emergency officials to notify the public of an emergency situation. REP–14 required completion of the notification within "approximately" 45 minutes for backup alerting and within 45 minutes for exception areas. The new criterion, which sets a 45-minute standard for both, more closely conforms to the requirements set forth in Appendix 3 to NUREG–0654 and in FEMA REP–10. One commenter suggested that the REP–14 criterion be retained. Another suggested that FEMA establish a "goal of 45 minutes" for completion of the sequence. We will not require that this capability be demonstrated during periods in which weather or road conditions create a safety hazard for mobile teams attempting to meet the 45-minute deadline.

Criterion 5.b.1 tests whether OROs provide accurate emergency information and instructions to the public and the news media in a timely fashion. While FEMA has determined that technical information such as Emergency Classification Levels need not be included in the initial alert and notification system message, this information should be made available to the news media with a plain language explanation for use in subsequent emergency information and instructions.

The preamble to the June 11 **Federal Register** notice stated that the ORO should be prepared to explain the Emergency Classification Level and related technical information in plain language during an exercise. We agree with a commenter who observed that it is the obligation of the nuclear power plant licensee to explain the plant conditions that caused the Emergency Classification Level to be triggered. However, the ORO is required to explain the significance of the Emergency Classification Level and why protective action decisions have been made based upon the Emergency Classification Level. We also accepted comments that the so-called "rumor control" telephone line hereafter be referred to as the "public inquiry hotline" and that the term "press release" be replaced with "media release."

Evaluation Area 6: Support Operations/ Facilities

Evaluation Area 6 assesses the capability of OROs to account for, monitor and decontaminate evacuees, emergency workers, and emergency worker equipment, to provide temporary care of evacuees and to assure that capabilities exist for transporting and treating injured individuals who have been exposed to radiation. These competencies are tested in the four sub-elements associated with Evaluation Area 6. We agree with a commenter who indicated that Criterion 6.a.1 does not require that an ORO demonstrate the ability to monitor the entire population of an Emergency Planning Zone within 12 hours of the incident. The new evaluation areas do not affect longstanding guidance that requires OROs to plan for and to demonstrate the ability to monitor 20% of the Emergency Planning Zone population within the twelve-hour timeframe.

Several comments addressed the monitoring of vehicles that may need to be decontaminated. One commenter asked whether FEMA requires that vehicles used by members of the general public be monitored. NUREG–0654 does not require that vehicles operated by members of the general public be monitored or decontaminated. FEMA has nevertheless required that procedures be in place to monitor and decontaminate vehicles if an occupant is found to be contaminated. During an exercise these procedures at a minimum must be described to the evaluator.

Other commenters thought that Criterion 6.b.1, which pertains to emergency worker vehicles, is too prescriptive about how vehicles are to be monitored. The criterion offers examples of places where radiation can accumulate. It is not intended to require that all of these areas be inspected. Another commenter suggested that we not mention air filters in Criterion 6.b.1 since they are inaccessible in modern cars. We have deleted this reference.

In response to a comment concerning Criterion 6.d.1, we note that a person who has suffered a critical injury may be transported to a hospital that does not have the capability to monitor for radiation exposure. Under such circumstances, it is acceptable for the ORO to provide the monitoring capability at the hospital.

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TABLE 1—COMPARISON OF PROPOSED EVALUATION AREAS WITH NUREG–0654/FEMA REP–1, REV. 1 PLANNING CRITERIA AND REP 14/15 OBJECTIVES AND CRITERIA

Evaluation area/Sub-element/Criterion	NUREG 0654 criteria	REP–14/15 objective & criterion
1—EMERGENCY OPERATIONS MANAGEMENT	.....	1, 2, 3, 4, 5, 8, 14, 30
1.a—Mobilization		
1.a.1: OROs use effective procedures to alert, notify, and mobilize emergency personnel and activate facilities in a timely manner.	A.4; D.3, 4; E.1,2; H.4	1.1, 1.2; 30
1.b—Facilities		
1.b.1: Facilities are sufficient to support the emergency response	H3	2.1
1.c—Direction and Control		
1.c.1: Key personnel with leadership roles for the ORO provide direction and control to that part of the overall response effort for which they are responsible.	A.1.d; A.2 a,b	3.1
1.d—Communications Equipment		
1.d.1: At least two communication systems are available, at least one operates properly, and communication links are established and maintained with appropriate locations. Communications capabilities are managed in support of emergency operations.	F.1, 2	4.1
1.e—Equipment and Supplies to Support Operations		
1.e.1: Equipment, maps, displays, dosimetry, potassium iodide (KI), and other supplies are sufficient to support emergency operations.	H. 7, 10; J.10.a,b,e, J.11; K.3.a.	2.1; 5.1; 8.2; 14.2
2—PROTECTIVE ACTION DECISION MAKING	.....	5, 7, 9, 14, 15, 16, 26, 28
2.A—Emergency Worker Exposure Control		
2.a.1: OROs use a decision-making process, considering relevant factors and appropriate coordination, to ensure that an exposure control system, including the use of KI, is in place for emergency workers including provisions to authorize radiation exposure in excess of administrative limits or protective action guides.	J.10.e,f; K.4	5.1, 5.3; 14.1
2.b—Radiological Assessment and Protective Recommendations and Decisions for the Plume Phase of the Emergency		
2.b.1: Appropriate protective action recommendations are based on available information on plant conditions, field monitoring data, and licensee and ORO dose projections, as well as knowledge of onsite and offsite environmental conditions.	I.8, 10; Supp. 3	7.1
2.b.2: A decision-making process involving consideration of appropriate factors and necessary coordination is used to make protective action decisions (PADs) for the general public (including the recommendation for the use of KI, if ORO policy).	J.9; J.10.f,m	9.1; 14.1
2.c—Protective Action Decisions Consideration for the Protection of Special Populations		
2.c.1: Protective action decisions are made, as appropriate, for special population groups.	J.9; J.10.d,e	9.1; 15.1; 16.1
2.d—Radiological Assessment and Decision-Making for the Ingestion Exposure Pathway		
2.d.1: Radiological consequences for the ingestion pathway are assessed and appropriate protective action decisions are made based on the ORO planning criteria.	J.11	26.1, 26.2
2.e—Radiological Assessment and Decision-Making Concerning Relocation, Re-entry, and Return		
2.e.1: Timely relocation, re-entry, and return decisions are made and coordinated as appropriate, based on assessment of radiological conditions and criteria in the ORO's plan and/or procedures.	I.10; M.1	28.1, 28.2, 28.3, 28.4, 28.5
3. PROTECTIVE ACTION IMPLEMENTATION	.....	5, 11, 14, 15, 16, 17, 27, 29
3.a—Implementation of Emergency Worker Exposure Control		
3.a.1: The OROs issues appropriate dosimetry and procedures, and manages radiological exposure to emergency workers in accordance with the plan and procedures. Emergency workers periodically and at the end of each mission read their dosimeters and record the readings on the appropriate exposure record or chart.	K.3.a, 3.b	5.1, 5.2
3.b—Implementation of KI Decision		
3.b.1: KI and appropriate instructions are made available should a decision to recommend use of KI be made. Appropriate record keeping of the administration of KI for emergency workers and institutionalized individuals (not the general public) is maintained.	J.10.e	14.1, 14.3
3.c—Implementation of Protective Actions for Special Populations		
3.c.1: Protective action decisions are implemented for special populations other than schools within areas subject to protective actions.	J.10.c,d,g	15.1, 15.2
3.c.2: OROs/School officials decide upon and implement protective actions for schools.	J.10.c,d,g	16.1, 16.2, 16.3
3.d—Implementation of Traffic and Access Control		
3.d.1: Appropriate traffic and access control is established. Accurate instructions are provided to traffic and access control personnel.	J.10.g,j	17.1, 17.2, 17.3
3.d.2: Impediments to evacuation are identified and resolved	J.10.k	17.4
3.e—Implementation of Ingestion Pathway Decisions		
3.e.1: The ORO demonstrates the availability and appropriate use of adequate information regarding water, food supplies, milk and agricultural production within the ingestion exposure pathway emergency planning zone for implementation of protective actions.	J.9, 11	27.1
3.e.2: Appropriate measures, strategies and pre-printed instructional material are developed for implementing protective action decisions for contaminated water, food products, milk, and agricultural production.	J.9, 11	11.4; 27.2; 27.3
3.f—Implementation of Relocation, Re-entry, and Return Decisions		
3.f.1: Decisions regarding controlled re-entry of emergency workers and relocation and return of the public are coordinated with appropriate organizations and implemented.	M.1, 3	29.1, 29.2, 29.3, 29.4
4—FIELD MEASUREMENT AND ANALYSIS	.....	6, 8, 24, 25
4.a—Plume Phase Field Measurement and Analyses		
4.a.1: The field teams are equipped to perform field measurements of direct radiation exposure (cloud and ground shine) and to sample airborne radioiodine and particulates.	H.10; I.7, 8, 9	6.1; 8.1, 8.2
4.a.2: Field teams are managed to obtain sufficient information to help characterize the release and to control radiation exposure.	I.8,11; J.10.a; H.12	6.3, 6.4
4.a.3: Ambient radiation measurements are made and recorded at appropriate locations, and radioiodine and particulate samples are collected. Teams will move to an appropriate low background location to determine whether any significant (as specified in the plan and/or procedures) amount of radioactivity has been collected on the sampling media.	I.9	6.4,6.5; 8.3, 8.4, 8.5, 8.6
4.b—Post Plume Phase Field Measurements and Sampling		
4.b.1: The field teams demonstrate the capability to make appropriate measurements and to collect appropriate samples (e.g., food crops, milk, water, vegetation, and soil) to support adequate assessments and protective action decision-making.	I.8; J.11	24.1
4.c—Laboratory Operations		
4.c.1: The laboratory is capable of performing required radiological analyses to support protective action decisions.	C.3; J.11	25.1, 25.2
5—EMERGENCY NOTIFICATION AND PUBLIC INFORMATION	.....	10, 11, 12, 13
5.a—Activation of the Prompt Alert and Notification System		
5.a.1: Activities associated with primary alerting and notification of the public are completed in a timely manner following the initial decision by authorized offsite emergency officials to notify the public of an emergency situation. The initial instructional message to the public must include as a minimum the elements required by current FEMA REP guidance.	10 CFR Part 50, Appendix E.IV.D; E.5, 6, 7.	10.1
5.a.2: [RESERVED]		
5.a.3: Activities associated with FEMA approved exception areas (where applicable) are completed within 45 minutes following the initial decision by authorized offsite emergency officials to notify the public of an emergency situation. Backup alert and notification of the public is completed within 45 minutes following the detection by the ORO of a failure of the primary alert and notification system.	Appendix 3: B.2.c; E.6	10.2, 10.3
5.b—Emergency Information and Instructions for the Public and the Media		
5.b.1: OROs provide accurate emergency information and instructions to the public and the news media in a timely manner.	E.5,7; G.3.a; G.4.c	11.1, 11.2, 11.3; 12.1, 12.2; 13.1, 13.2
6—SUPPORT OPERATIONS/FACILITIES	.....	18, 19, 20, 21, 22
6.a—Monitoring and Decontamination of Evacuees and Emergency Workers and Registration of Evacuees		
6.a.1: The reception center/emergency workers facility has appropriate space, adequate resources, and trained personnel to provide monitoring, decontamination, and registration of evacuees and/or emergency workers.	J.10.h; J.12; K.5.a	18.1, 18.2, 18.3, 18.4, 18.5, 22.1, 22.2
6.b—Monitoring and Decontamination of Emergency Worker Equipment		
6.b.1: The facility/ORO has adequate procedures and resources for the accomplishment of monitoring and decontamination of emergency worker equipment, including vehicles.	K.5b	22.1; 22.3
6.c—Temporary Care of Evacuees		
6.c.1: Managers of congregate care facilities demonstrate that the centers have resources to provide services and accommodations consistent with American Red Cross planning guidelines. (Found in MASS CARE—Preparedness Operations, ARC 3031) Managers demonstrate the procedures to assure that evacuees have been monitored for contamination and have been decontaminated as appropriate prior to entering congregate care facilities.	J.10.h; J.12	19.1, 19.2
6.d—Transportation and Treatment of Contaminated Injured Individuals		
6.d.1: The facility/ORO has the appropriate space, adequate resources, and trained personnel to provide transport, monitoring decontamination, and medical services to contaminated injured individuals.	F.2; H.10l K.5,a,b; L.1; L.4	20.1, 20.2 20.3, 20.4; 20.5; 21.1, 21.2, 21.3, 21.4

TABLE 1—COMPARISON OF PROPOSED EVALUATION AREAS WITH NUREG–0654/FEMA REP–1, REV. 1 PLANNING CRITERIA AND REP 14/15 OBJECTIVES AND CRITERIA—Continued

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Evaluation Area 1

Emergency Operations Management

Sub-Element 1.a—Mobilization

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to alert, notify, and mobilize emergency personnel and to activate and staff emergency facilities.

Criterion 1.a.1: OROs use effective procedures to alert, notify, and mobilize emergency personnel and activate facilities in a timely manner. (NUREG–0654, A.4; D.3, 4; E.1, 2; H.4)

Extent of Play

Responsible OROs should demonstrate the capability to receive notification of an emergency situation from the licensee, verify the notification, and contact, alert, and mobilize key emergency personnel in a timely manner. Responsible OROs should demonstrate the activation of facilities for immediate use by mobilized personnel when they arrive to begin emergency operations. Activation of facilities should be completed in accordance with the plan and/or procedures. Pre-positioning of emergency personnel is appropriate, in accordance with the extent of play agreement, at those facilities located beyond a normal commuting distance from the individual's duty location or residence. Further, pre-positioning of staff for out-of-sequence demonstrations is appropriate in accordance with the extent of play agreement.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 1.b—Facilities

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have facilities to support the emergency response.

Criterion 1.b.1: Facilities are sufficient to support the emergency response. (NUREG–0654, H.3)

Extent of Play

Facilities will only be specifically evaluated for this criterion if they are new or have substantial changes in structure or mission. Responsible OROs should demonstrate the availability of facilities that support the accomplishment of emergency operations. Some of the areas to be considered are: adequate space, furnishings, lighting, restrooms, ventilation, backup power and/or alternate facility (if required to support operations).

Facilities must be set up based on the ORO's plans and procedures and demonstrated as they would be used in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 1.c—Direction and Control

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to control their overall response to an emergency.

Criterion 1.c.1: Key personnel with leadership roles for the ORO provide direction and control to that part of the overall response effort for which they are responsible. (NUREG–0654, A.1.d; A.2.a, b)

Extent of Play

Leadership personnel should demonstrate the ability to carry out essential functions of the response effort, for example: keeping the staff informed through periodic briefings and/or other means, coordinating with other appropriate OROs, and ensuring completion of requirements and requests.

All activities associated with direction and control must be performed based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless otherwise noted above or indicated in the extent of play agreement.

Sub-Element 1.d—Communications Equipment

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should establish reliable primary and backup communication systems to ensure communications with key emergency personnel at locations such as the following: appropriate contiguous governments within the emergency planning zone (EPZ), Federal emergency response organizations, the licensee and its facilities, emergency operations centers (EOC), and field teams.

Criterion 1.d.1: At least two communication systems are available, at least one operates properly, and communication links are established and maintained with appropriate locations. Communications capabilities are managed in support of emergency operations. (NUREG–0654, F.1, 2)

Extent of Play

OROs will demonstrate that a primary and at least one backup system are fully functional at the beginning of an exercise. If a communications system or systems are not functional, but exercise performance is not affected, no exercise issue will be assessed. Communications equipment and procedures for facilities and field units should be used as needed for the transmission and receipt of exercise messages. All facilities and field teams should have the capability to access at least one communication system that is independent of the commercial telephone system. Responsible OROs should demonstrate the capability to manage the communication systems and ensure that all message traffic is handled without delays that might disrupt the conduct of emergency operations. OROs should ensure that a coordinated communication link for fixed and mobile medical support facilities exists. The specific communications capabilities of OROs should be commensurate with that specified in the response plan and/or procedures. Exercise scenarios could require the failure of a communications system and the use of an alternate system, as negotiated in the extent of play agreement.

All activities associated with the management of communications capabilities must be demonstrated based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless otherwise noted above or in the extent of play agreement.

Sub-Element 1.e—Equipment and Supplies To Support Operations

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have emergency equipment and supplies adequate to support the emergency response.

Criterion 1.e.1: Equipment, maps, displays, dosimetry, potassium iodide (KI), and other supplies are sufficient to support emergency operations. (NUREG–0654, H.7,10; J.10.a, b, e, J.11; K.3.a)

Extent of Play

Equipment within the facility (facilities) should be sufficient and consistent with the role assigned to that facility in the ORO's plans and/or procedures in support of emergency

operations. Use of maps and displays is encouraged.

All instruments, including air sampling flow meters (field teams only), should be inspected, inventoried, and operationally checked before each use. They should be calibrated in accordance with the manufacturer's recommendations (or at least annually for the unmodified CDV–700 series or if there are no manufacturer's recommendations for a specific instrument; modified CDV–700 instruments should be calibrated in accordance with the recommendation of the modification manufacturer.). A label indicating such calibration should be on each instrument or verifiable by other means. Note: Field team equipment is evaluated under 4.a.1; radiological laboratory equipment under 4.c.1; reception center and emergency worker facilities' equipment is evaluated under 6.a.1; and ambulance and medical facilities' equipment is evaluated under 6.d.1.

Sufficient quantities of appropriate direct-reading and permanent record dosimetry and dosimeter chargers should be available for issuance to all categories of emergency workers that could be deployed from that facility. Appropriate direct-reading dosimetry should allow individual(s) to read the administrative reporting limits and maximum exposure limits contained in the ORO's plans and procedures.

Dosimetry should be inspected for electrical leakage at least annually and replaced, if necessary. CDV–138s, due to their documented history of electrical leakage problems, should be inspected for electrical leakage at least quarterly and replaced if necessary. This leakage testing will be verified during the exercise, through documentation submitted in the Annual Letter of Certification, and/or through a staff assistance visit.

Responsible OROs should demonstrate the capability to maintain inventories of KI sufficient for use by emergency workers, as indicated on rosters; institutionalized individuals, as indicated in capacity lists for facilities; and, where stipulated by the plan and/or procedures, members of the general public (including transients) within the plume pathway EPZ.

Quantities of dosimetry and KI available and storage locations(s) will be confirmed by physical inspection at storage location(s) or through documentation of current inventory submitted during the exercise, provided in the Annual Letter of Certification submission, and/or verified during a Staff Assistance Visit. Available supplies of KI should be within the expiration date indicated on KI bottles or blister packs. As an alternative, the ORO may produce a letter from FEMA indicating that the KI supply remains potent, in accordance with Food and Drug Administration (FDA) guidance. FEMA issues these letters based upon the findings of the certified laboratory that performed the analysis at the ORO's request and expense.

At locations where traffic and access control personnel are deployed, appropriate equipment (e.g., vehicles, barriers, traffic cones and signs, etc.) should be available or their availability described.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Evaluation Area 2

Protective Action Decision-Making

Sub-Element 2.a—Emergency Worker Exposure Control

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to assess and control the radiation exposure received by emergency workers and have a decision chain in place, as specified in the ORO's plans and procedures, to authorize emergency worker exposure limits to be exceeded for specific missions.

Radiation exposure limits for emergency workers are the recommended accumulated dose limits or exposure rates that emergency workers may be permitted to incur during an emergency. These limits include any pre-established administrative reporting limits (that take into consideration Total Effective Dose Equivalent or organ-specific limits) identified in the ORO's plans and procedures.

Criterion 2.a.1: OROs use a decision-making process, considering relevant factors and appropriate coordination, to ensure that an exposure control system, including the use of KI, is in place for emergency workers including provisions to authorize radiation exposure in excess of administrative limits or protective action guides. (NUREG–0654, K.4, J.10. e, f)

Extent of Play

OROs authorized to send emergency workers into the plume exposure pathway EPZ should demonstrate a capability to meet the criterion based on their emergency plans and procedures.

Responsible OROs should demonstrate the capability to make decisions concerning the authorization of exposure levels in excess of pre-authorized levels and to the number of emergency workers receiving radiation dose above pre-authorized levels.

As appropriate, OROs should demonstrate the capability to make decisions on the distribution and administration of KI as a protective measure, based on the ORO's plan and/or procedures or projected thyroid dose compared with the established Protective Action Guides (PAGs) for KI administration.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 2.b.—Radiological Assessment and Protective Action Recommendations and Decisions for the Plume Phase of the Emergency

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to independently project integrated dose from exposure rates or other information and compare the estimated dose savings with the protective action guides. OROs have the capability to choose, among a range of protective actions, those most appropriate in a given emergency situation. OROs base these choices on PAGs from the ORO's plans and procedures or EPA 400–R–92–001 and other criteria, such as, plant conditions, licensee protective action recommendations, coordination of protective action decisions with other political jurisdictions (e.g., other affected OROs), availability of appropriate in-place shelter, weather conditions, evacuation time estimates, and situations that create higher than normal risk from evacuation.

Criterion 2.b.1: Appropriate protective action recommendations are based on available information on plant conditions, field monitoring data, and licensee and ORO dose projections, as well as knowledge of onsite and offsite environmental conditions. (NUREG–0654, I.8, 10 and Supplement 3)

Extent of Play

During the initial stage of the emergency response, following notification of plant conditions that may

warrant offsite protective actions, the ORO should demonstrate the capability to use appropriate means, described in the plan and/or procedures, to develop protective action recommendations (PAR) for decision-makers based on available information and recommendations from the licensee and field monitoring data, if available.

When release and meteorological data are provided by the licensee, the ORO also considers these data. The ORO should demonstrate a reliable capability to independently validate dose projections. The types of calculations to be demonstrated depend on the data available and the need for assessments to support the PARs appropriate to the scenario. In all cases, calculation of projected dose should be demonstrated. Projected doses should be related to quantities and units of the PAG to which they will be compared. PARs should be promptly transmitted to decision-makers in a prearranged format.

Differences greater than a factor of 10 between projected doses by the licensee and the ORO should be discussed with the licensee with respect to the input data and assumptions used, the use of different models, or other possible reasons. Resolution of these differences should be incorporated into the PAR if timely and appropriate. The ORO should demonstrate the capability to use any additional data to refine projected doses and exposure rates and revise the associated PARs.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Criterion 2.b.2: A decision-making process involving consideration of appropriate factors and necessary coordination is used to make protective action decisions (PAD) for the general public (including the recommendation for the use of KI, if ORO policy). (NUREG–0654, J.9, 10.f,m)

Extent of Play

Offsite Response Organizations (ORO) should have the capability to make both initial and subsequent PADs. They should demonstrate the capability to make initial PADs in a timely manner appropriate to the situation, based on notification from the licensee, assessment of plant status and releases, and PARs from the utility and ORO staff.

The dose assessment personnel may provide additional PARs based on the subsequent dose projections, field monitoring data, or information on plant conditions. The decision-makers should demonstrate the capability to change protective actions as appropriate based on these projections.

If the ORO has determined that KI will be used as a protective measure for the general public under offsite plans, then the ORO should demonstrate the capability to make decisions on the distribution and administration of KI as a protective measure for the general public to supplement sheltering and evacuation. This decision should be based on the ORO's plan and/or procedures or projected thyroid dose compared with the established PAG for KI administration. The KI decision-making process should involve close coordination with appropriate assessment and decision-making staff.

If more than one ORO is involved in decision-making, OROs should communicate and coordinate PADs with affected OROs. OROs should demonstrate the capability to communicate the contents of decisions to the affected jurisdictions.

All decision-making activities by ORO personnel must be performed based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 2.c—Protective Action Decisions Consideration for the Protection of Special Populations

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to determine protective action recommendations, including evacuation, sheltering and use of potassium iodide (KI), if applicable, for special population groups (e.g., hospitals, nursing homes, correctional facilities, schools, licensed day care centers, mobility impaired individuals, and transportation dependent individuals). Focus is on those special population groups that are (or potentially will be) affected by a radiological release from a nuclear power plant.

Criterion 2.c.1: Protective action decisions are made, as appropriate, for special population groups. (NUREG–0654, J.9, J.10.d,e)

Extent of Play

Usually, it is appropriate to implement evacuation in areas where doses are projected to exceed the lower end of the range of PAGs, except for situations where there is a high-risk environment or where high-risk groups (e.g., the immobile or infirm) are involved. In these cases, examples of factors that should be considered are: weather conditions, shelter availability, Evacuation Time Estimates, availability of transportation assets, risk of evacuation vs. risk from the avoided dose, and precautionary school evacuations. In situations where an institutionalized population cannot be evacuated, the administration of KI should be considered by the OROs.

All decision-making activities associated with protective actions, including consideration of available resources, for special population groups must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 2.d.—Radiological Assessment and Decision-Making for the Ingestion Exposure Pathway

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the means to assess the radiological consequences for the ingestion exposure pathway, relate them to the appropriate PAGs, and make timely, appropriate protective action decisions to mitigate exposure from the ingestion pathway.

During an accident at a nuclear power plant, a release of radioactive material may contaminate water supplies and agricultural products in the surrounding areas. Any such contamination would likely occur during the plume phase of the accident and, depending on the nature of the release, could impact the ingestion pathway for weeks or years.

Criterion 2.d.1: Radiological consequences for the ingestion pathway are assessed and appropriate protective action decisions are made based on the ORO's planning criteria. (NUREG–0654, J.11)

Extent of Play

It is expected that the Offsite Response Organizations (ORO) will take precautionary actions to protect food and water supplies, or to minimize exposure to potentially contaminated water and food, in accordance with their respective plans and procedures. Often such precautionary actions are initiated by the OROs based on criteria related to the facility's Emergency Classification Levels (ECL). Such actions may include recommendations to place milk animals on stored feed and to use protected water supplies.

The ORO should use its procedures (for example, development of a sampling plan) to assess the radiological consequences of a release on the food and water supplies. The ORO's assessment should include the evaluation of the radiological analyses of representative samples of water, food, and other ingestible substances of local interest from potentially impacted areas, the characterization of the releases from the facility, and the extent of areas potentially impacted by the release. During this assessment, OROs should consider the use of agricultural and watershed data within the 50-mile EPZ. The radiological impacts on the food and water should then be compared to the appropriate ingestion PAGs contained in the ORO's plan and/or procedures. (The plan and/or procedures may contain PAGs based on specific dose commitment criteria or based on criteria as recommended by current Food and Drug Administration guidance.) Timely and appropriate recommendations should be provided to the ORO decision-makers group for implementation decisions. As time permits, the ORO may also include a comparison of taking or not taking a given action on the resultant ingestion pathway dose commitments.

The ORO should demonstrate timely decisions to minimize radiological impacts from the ingestion pathway, based on the given assessments and other information available. Any such decisions should be communicated and, to the extent practical, coordinated with neighboring and local OROs.

OROs should use Federal resources, as identified in the Federal Radiological Emergency Response Plan (FRERP), and other resources (e.g., compacts, nuclear insurers, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 2.e.—Radiological Assessment and Decision-Making Concerning Relocation, Re-Entry, and Return

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to make decisions on relocation, re-entry, and return of the general public. These decisions are essential for the protection of the public from the direct long-term exposure to deposited radioactive materials from a severe accident at a nuclear power plant.

Criterion 2.e.1: Timely relocation, re-entry, and return decisions are made and coordinated as appropriate, based on assessments of the radiological conditions and criteria in the ORO's plan and/or procedures. (NUREG–0654, I.10; M.1)

Extent of Play

Relocation: OROs should demonstrate the capability to estimate integrated dose in contaminated areas and to compare these estimates with PAGs, apply decision criteria for relocation of those individuals in the general public who have not been evacuated but where projected doses are in excess of relocation PAGs, and control access to evacuated and restricted areas. Decisions are made for relocating members of the evacuated public who lived in areas that now have residual radiation levels in excess of the PAGs. Determination of areas to be restricted should be based on factors such as the mix of radionuclides in deposited materials, calculated exposure rates vs. the PAGs, and field samples of vegetation and soil analyses.

Re-entry: Decisions should be made regarding the location of control points and policies regarding access and exposure control for emergency workers and members of the general public who need to temporarily enter the evacuated area to perform specific tasks or missions.

Examples of control procedures are: the assignment of, or checking for, direct-reading and non-direct-reading dosimetry for emergency workers; questions regarding the individual's objectives and locations expected to be visited and associated time frames; availability of maps and plots of radiation exposure rates; advice on areas to avoid; and procedures for exit including: monitoring of individuals, vehicles, and equipment; decision criteria regarding decontamination; and proper disposition of emergency worker dosimetry and maintenance of emergency worker radiation exposure records.

Responsible OROs should demonstrate the capability to develop a strategy for authorized re-entry of individuals into the restricted zone, based on established decision criteria. OROs should demonstrate the capability to modify those policies for security purposes (e.g., police patrols), for maintenance of essential services (e.g., fire protection and utilities), and for other critical functions. They should demonstrate the capability to use decision making criteria in allowing access to the restricted zone by the public for various reasons, such as to maintain property (e.g., to care for farm animals or secure machinery for storage), or to retrieve important possessions. Coordinated policies for access and exposure control should be developed among all agencies with roles to perform in the restricted zone. OROs should demonstrate the capability to establish policies for provision of dosimetry to all individuals allowed to re-enter the restricted zone. The extent that OROs need to develop policies on re-entry will be determined by scenario events.

Return: Decisions are to be based on environmental data and political boundaries or physical/geological features, which allow identification of the boundaries of areas to which members of the general public may return. Return is permitted to the boundary of the restricted area that is based on the relocation PAG.

Other factors that the ORO should consider are, for example: conditions that permit the cancellation of the Emergency Classification Level and the relaxation of associated restrictive measures; basing return recommendations (i.e., permitting populations that were previously evacuated to reoccupy their homes and businesses on an unrestricted basis) on measurements of radiation from ground deposition; and the capability to identify services and facilities that require restoration within a few days and to identify the procedures and resources for their restoration. Examples of these services and facilities are: medical and social services, utilities, roads, schools, and intermediate term housing for relocated persons.

Evaluation Area 3

Protective Action Implementation

Sub-Element 3.a—Implementation of Emergency Worker Exposure Control

Intent

This sub-element is derived from NUREG–0654, which provides that OROs should have the capability to provide for the following: distribution, use, collection, and processing of direct-reading dosimetry and permanent record dosimetry; the reading of direct-reading dosimetry by emergency workers at appropriate frequencies; maintaining a radiation dose record for each emergency worker; and establishing a decision chain or authorization procedure for emergency workers to incur radiation exposures in

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excess of protective action guides, always applying the ALARA (As Low As is Reasonably Achievable) principle as appropriate.

Criterion 3.a.1: The OROs issue appropriate dosimetry and procedures, and manage radiological exposure to emergency workers in accordance with the plans and procedures. Emergency workers periodically and at the end of each mission read their dosimeters and record the readings on the appropriate exposure record or chart. (NUREG–0654, K.3.a,b)

Extent of Play

OROs should demonstrate the capability to provide appropriate direct-reading and permanent record dosimetry, dosimeter chargers, and instructions on the use of dosimetry to emergency workers. For evaluation purposes, appropriate direct-reading dosimetry is defined as dosimetry that allows individual(s) to read the administrative reporting limits (that are pre-established at a level low enough to consider subsequent calculation of Total Effective Dose Equivalent) and maximum exposure limits (for those emergency workers involved in life saving activities) contained in the ORO's plans and procedures.

Each emergency worker should have the basic knowledge of radiation exposure limits as specified in the ORO's plan and/or procedures. Procedures to monitor and record dosimeter readings and to manage radiological exposure control should be demonstrated.

During a plume phase exercise, emergency workers should demonstrate the procedures to be followed when administrative exposure limits and turn-back values are reached. The emergency worker should report accumulated exposures during the exercise as indicated in the plans and procedures. OROs should demonstrate the actions described in the plan and/or procedures by determining whether to replace the worker, to authorize the worker to incur additional exposures or to take other actions. If scenario events do not require emergency workers to seek authorizations for additional exposure, evaluators should interview at least two emergency workers, to determine their knowledge of whom to contact in the event authorization is needed and at what exposure levels. Emergency workers may use any available resources (e.g., written procedures and/or co-workers) in providing responses.

Although it is desirable for all emergency workers to each have a direct-reading dosimeter, there may be situations where team members will be in close proximity to each other during the entire mission and adequate control of exposure can be effected for all members of the team by one dosimeter worn by the team leader. Emergency workers who are assigned to low exposure rate areas, e.g., at reception centers, counting laboratories, emergency operations centers, and communications centers, may have individual direct-reading dosimeters or they may be monitored by dosimeters strategically placed in the work area. It should be noted that, even in these situations, each team member must still have their own permanent record dosimetry. Individuals without specific radiological response missions, such as farmers for animal care, essential utility service personnel, or other members of the public who must re-enter an evacuated area following or during the plume passage, should be limited to the lowest radiological exposure commensurate with completing their missions.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 3.b—Implementation of KI Decision

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to provide radioprotective drugs for emergency workers, institutionalized individuals, and, if in the plan and/or procedures, to the general public for whom immediate evacuation may not be feasible, very difficult, or significantly delayed. While it is necessary for OROs to have the capability to provide KI to emergency workers and institutionalized individuals, the provision of KI to the general public is an ORO option and is reflected in ORO's plans and procedures. Provisions should include the availability of adequate quantities, storage, and means of the distribution of radioprotective drugs.

Criterion 3.b.1: KI and appropriate instructions are available should a decision to recommend use of KI be made. Appropriate recordkeeping of the administration of KI for emergency workers and institutionalized individuals (not the general public) is maintained. (NUREG–0654, J.10.e)

Extent of Play

Offsite Response Organizations (ORO) should demonstrate the capability to make KI available to emergency workers, institutionalized individuals, and, where provided for in the ORO plan and/or procedures, to members of the general public. OROs should demonstrate the capability to accomplish distribution of KI consistent with decisions made. Organizations should have the capability to develop and maintain lists of emergency workers and institutionalized individuals who have ingested KI, including documentation of the date(s) and time(s) they were instructed to ingest KI. The ingestion of KI recommended by the designated ORO health official is voluntary. For evaluation purposes, the actual ingestion of KI is not necessary. OROs should demonstrate the capability to formulate and disseminate appropriate instructions on the use of KI for those advised to take it. If a recommendation is made for the general public to take KI, appropriate information should be provided to the public by the means of notification specified in the ORO's plan and/or procedures.

Emergency workers should demonstrate the basic knowledge of procedures for the use of KI whether or not the scenario drives the use of KI. This can be accomplished by an interview with the evaluator.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-element 3.c—Implementation of Protective Actions for Special Populations

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to implement protective action decisions, including evacuation and/or sheltering, for all special populations. Focus is on those special populations that are (or potentially will be) affected by a radiological release from a nuclear power plant.

Criterion 3.c.1: Protective action decisions are implemented for special populations other than schools within areas subject to protective actions. (NUREG–0654, J.10.c,d,g)

Extent of Play

Applicable OROs should demonstrate the capability to alert and notify (e.g., provide protective action recommendations and emergency information and instructions) special populations (hospitals, nursing homes, correctional facilities, mobility impaired individuals, transportation dependent, etc.). OROs should demonstrate the capability to provide for the needs of special populations in accordance with the ORO's plans and procedures.

Contact with special populations and reception facilities may be actual or simulated, as agreed to in the Extent of Play. Some contacts with transportation providers should be actual, as negotiated in the extent of play. All actual and simulated contacts should be logged.

All implementing activities associated with protective actions for special populations must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Criterion 3.c.2: OROs/School officials decide upon and implement protective actions for schools. (NUREG–0654, J.10.c,d,g)

Extent of Play

Applicable OROs should demonstrate the capability to alert and notify all public school systems/districts of emergency conditions that are expected to or may necessitate protective actions for students. Contacts with public school systems/districts must be actual.

In accordance with plans and/or procedures, OROs and/or officials of public school systems/districts should demonstrate the capability to make prompt decisions on protective actions for students. Officials should demonstrate that the decision making process for protective actions considers (i.e., either accepts automatically or gives heavy weight to) protective action recommendations made by ORO personnel, the ECL at which these recommendations are received, preplanned strategies for protective actions for that ECL, and the location of students at the time (e.g., whether the students are still at home, en route to the school, or at the school).

Public school systems/districts shall demonstrate the ability to implement protective action decisions for students. The demonstration shall be made as follows: At least one school in each affected school system or district, as appropriate, needs to demonstrate the implementation of protective actions. The implementation of canceling the school day, dismissing early, or sheltering should be simulated by describing to evaluators the procedures that would be followed. If evacuation is the implemented protective action, all activities to coordinate and complete the evacuation of students to reception centers, congregate care centers, or host schools may actually be demonstrated or accomplished through an interview process. If accomplished through an interview process, appropriate school personnel including decision making officials (e.g., superintendent/principal, transportation director/bus dispatcher), and at least one bus driver (and the bus driver's escort, if applicable) should be available to demonstrate knowledge of their role(s) in the evacuation of school children. Communications capabilities between school officials and the buses, if required by the plan and/or procedures, should be verified.

Officials of the school system(s) should demonstrate the capability to develop and provide timely information to OROs for use in messages to parents, the general public, and the media on the status of protective actions for schools.

The provisions of this criterion also apply to any private schools, private kindergartens and day care centers that participate in REP exercises pursuant to the ORO's plans and procedures as negotiated in the Extent of Play Agreement.

All activities must be based on the ORO's plans and procedures and completed, as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 3.d.—Implementation of Traffic and Access Control

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to implement protective action plans, including relocation and restriction of access to evacuated/sheltered areas. This sub-element focuses on selecting, establishing, and staffing of traffic and access control points and removal of impediments to the flow of evacuation traffic.

Criterion 3.d.1: Appropriate traffic and access control is established. Accurate instructions are provided to traffic and access control personnel. (NUREG–0654, J.10.g,j)

Extent of Play

OROs should demonstrate the capability to select, establish, and staff appropriate traffic and access control points, consistent with protective action decisions (for example, evacuating, sheltering, and relocation), in a timely manner. OROs should demonstrate the capability to provide instructions to traffic and access control staff on actions to take when modifications in protective action strategies necessitate changes in evacuation patterns or in the area(s) where access is controlled.

Traffic and access control staff should demonstrate accurate knowledge of their roles and responsibilities. This capability may be demonstrated by actual deployment or by interview, in accordance with the extent of play agreement.

In instances where OROs lack authority necessary to control access by certain types of traffic (rail, water, and air traffic), they should demonstrate the capability to contact the State or Federal agencies with authority to control access.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Criterion 3.d.2: Impediments to evacuation are identified and resolved. (NUREG–0654, J.10.k)

Extent of Play

OROs should demonstrate the capability, as required by the scenario, to identify and take appropriate actions concerning impediments to evacuation. Actual dispatch of resources to deal with impediments, such as wreckers, need not be demonstrated; however, all contacts, actual or simulated, should be logged.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 3.e—Implementation of Ingestion Pathway Decisions

Intent

This sub-element is derived from NUREG–0654, which provides that OROs should have the capability to implement protective actions, based on criteria recommended by current Food and Drug Administration guidance, for the ingestion pathway zone (IPZ), the area within an approximate 50-mile radius of the nuclear power plant. This sub-element focuses on those actions required for implementation of protective actions.

Criterion 3.e.1: The ORO demonstrates the availability and appropriate use of adequate information regarding water, food supplies, milk, and agricultural production within the ingestion

exposure pathway emergency planning zone for implementation of protective actions. NUREG–0654, J.9, 11)

Extent of Play

Applicable OROs should demonstrate the capability to secure and utilize current information on the locations of dairy farms, meat and poultry producers, fisheries, fruit growers, vegetable growers, grain producers, food processing plants, and water supply intake points to implement protective actions within the ingestion pathway EPZ. OROs should use Federal resources as identified in the FRERP, and other resources (e.g., compacts, nuclear insurers, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating in the exercise.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Criterion 3.e.2: Appropriate measures, strategies, and pre-printed instructional material are developed for implementing protective action decisions for contaminated water, food products, milk, and agricultural production. (NUREG–0654, J.9, 11)

Extent of Play

Development of measures and strategies for implementation of IPZ protective actions should be demonstrated by formulation of protective action information for the general public and food producers and processors. This includes the capability for the rapid reproduction and distribution of appropriate reproduction-ready information and instructions to pre-determined individuals and businesses. OROs should demonstrate the capability to control, restrict or prevent distribution of contaminated food by commercial sectors. Exercise play should include demonstration of communications and coordination between organizations to implement protective actions. However, actual field play of implementation activities may be simulated. For example, communications and coordination with agencies responsible for enforcing food controls within the IPZ should be demonstrated, but actual communications with food producers and processors may be simulated.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 3.f—Implementation of Relocation, Re-Entry, and Return Decisions

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should demonstrate the capability to implement plans, procedures, and decisions for relocation, re-entry, and return. Implementation of these decisions is essential for the protection of the public from the direct long-term exposure to deposited radioactive materials from a severe accident at a commercial nuclear power plant.

Criterion 3.f.1: Decisions regarding controlled re-entry of emergency workers and relocation and return of the public are coordinated with appropriate organizations and implemented. (NUREG–0654, M.1, 3)

Extent of Play

Relocation: OROs should demonstrate the capability to coordinate and implement decisions concerning relocation of individuals, not previously evacuated, to an area where radiological contamination will not expose the general public to doses that exceed the relocation PAGs. OROs should also demonstrate the capability to provide for short-term or long-term relocation of evacuees who lived in areas that have residual radiation levels above the PAGs.

Areas of consideration should include the capability to communicate with OROs regarding timing of actions, notification of the population of the procedures for relocation, and the notification of, and advice for, evacuated individuals who will be converted to relocation status in situations where they will not be able to return to their homes due to high levels of contamination. OROs should also demonstrate the capability to communicate instructions to the public regarding relocation decisions.

Re-entry: OROs should demonstrate the capability to control re-entry and exit of individuals who need to temporarily re-enter the restricted area, to protect them from unnecessary radiation exposure and for exit of vehicles and other equipment to control the spread of contamination outside the restricted area. Monitoring and decontamination facilities will be established as appropriate.

Examples of control procedure subjects are: (1) The assignment of, or checking for, direct-reading and non-direct-reading dosimetry for emergency workers; (2) questions regarding the individuals' objectives and locations expected to be visited and associated timeframes; (3) maps and plots of radiation exposure rates; (4) advice on areas to avoid; and procedures for exit, including monitoring of individuals, vehicles, and equipment, decision criteria regarding contamination, proper disposition of emergency worker dosimetry, and maintenance of emergency worker radiation exposure records.

Return: OROs should demonstrate the capability to implement policies concerning return of members of the public to areas that were evacuated during the plume phase. OROs should demonstrate the capability to identify and prioritize services and facilities that require restoration within a few days, and to identify the procedures and resources for their restoration. Examples of these services and facilities are medical and social services, utilities, roads, schools, and intermediate term housing for relocated persons.

Communications among OROs for relocation, re-entry, and return may be simulated; however all simulated or actual contacts should be documented. These discussions may be accomplished in a group setting.

OROs should use Federal resources as identified in the FRERP, and other resources (e.g., compacts, nuclear insurers, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating in the exercise.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Evaluation Area 4

Field Measurement And Analysis

Sub-Element 4.a—Plume Phase Field Measurements and Analyses

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to deploy field teams with the equipment, methods, and expertise necessary to determine the location of airborne radiation and particulate deposition on the ground from an airborne plume. In addition, NUREG–0654 indicates that OROs should have the capability to use field teams within the plume emergency planning zone to measure airborne radioiodine in the presence of noble gases and to measure radioactive particulate material in the airborne plume. In the event of an accident at a nuclear power plant, the possible release of radioactive material may pose a risk to the nearby population and environment. Although accident assessment methods are available to project the extent and magnitude of a release, these methods are subject to large uncertainties. During an accident, it is important to collect field radiological data in order to help characterize any radiological release. This does not imply that plume exposure projections should be made from the field data. Adequate equipment and procedures are essential to such field measurement efforts.

Criterion 4.a.1: The field teams are equipped to perform field measurements of direct radiation exposure (cloud and ground shine) and to sample airborne radioiodine and particulates. (NUREG–0654, H.10; I.7, 8, 9)

Extent of Play

Field teams should be equipped with all instrumentation and supplies necessary to accomplish their mission. This should include instruments capable of measuring gamma exposure rates and detecting the presence of beta radiation. These instruments should be capable of measuring a range of activity and exposure, including radiological protection/exposure control of team members and detection of activity on the air sample collection media, consistent with the intended use of the instrument and the ORO's plans and procedures. An appropriate radioactive check source should be used to verify proper operational response for each low range radiation measurement instrument (less than 1 R/hr) and for high range instruments when available. If a source is not available for a high range instrument, a procedure should exist to operationally test the instrument before entering an area where only a high range instrument can make useful readings.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Criterion 4.a.2: Field teams are managed to obtain sufficient information to help characterize the release and to control radiation exposure. (NUREG–0654, H.12; I.8, 11; J.10.a)

Extent of Play

Responsible Offsite Response Organizations (ORO) should demonstrate the capability to brief teams on predicted plume location and direction, travel speed, and exposure control procedures before deployment.

Field measurements are needed to help characterize the release and to support the adequacy of implemented protective actions or to be a factor in modifying protective actions. Teams should be directed to take measurements in such locations, at such times to provide information sufficient to characterize the plume and impacts.

If the responsibility to obtain peak measurements in the plume has been accepted by licensee field monitoring teams, with concurrence from OROs, there is no requirement for these measurements to be repeated by State and local monitoring teams. If the licensee teams do not obtain peak measurements in the plume, it is the ORO's decision as to whether peak measurements are necessary to sufficiently characterize the plume. The sharing and coordination of plume measurement information among all field teams (licensee, Federal, and ORO) is essential. Coordination concerning transfer of samples, including a chain-of-custody form, to a radiological laboratory should be demonstrated. OROs should use Federal resources as identified in the Federal Radiological Emergency Response Plan (FRERP), and other resources (e.g., compacts, utility, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating in the exercise.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Criterion 4.a.3: Ambient radiation measurements are made and recorded at appropriate locations, and radioiodine and particulate samples are collected. Teams will move to an appropriate low background location to determine whether any significant (as specified in the plan and/or procedures) amount of radioactivity has been collected on the sampling media. (NUREG–0654, I. 9)

Extent of Play

Field teams should demonstrate the capability to report measurements and field data pertaining to the measurement of airborne radioiodine and particulates and ambient radiation to the field team coordinator, dose assessment, or other appropriate authority. If samples have radioactivity significantly above background, the appropriate authority should consider the need for expedited laboratory analyses of these samples. OROs should share data in a timely manner with all appropriate OROs. All methodology, including contamination control, instrumentation, preparation of samples, and a chain-of-custody form for transfer to a laboratory, will be in accordance with the ORO's plan and/or procedures.

OROs should use Federal resources as identified in the FRERP, and other resources (e.g., compacts, utility, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating in the exercise.

All activities must be must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 4.b—Post Plume Phase Field Measurements and Sampling

Intent

This sub-element is derived from NUREG–0654, which provides that OROs should have the capability to assess the actual or potential magnitude and locations of radiological hazards in the IPZ and for relocation, re-entry and return measures. This sub-element focuses on the collection of environmental samples for laboratory analyses that are essential for decisions on protection of the public from contaminated food and water and direct radiation from deposited materials.

Criterion 4.b.1: The field teams demonstrate the capability to make appropriate measurements and to collect appropriate samples (e.g., food crops, milk, water, vegetation, and soil) to support adequate assessments and protective action decision-making. (NUREG–0654, I.8; J.11)

Extent of Play

The ORO's field team should demonstrate the capability to take measurements and samples, at such times and locations as directed, to enable an adequate assessment of the ingestion pathway and to support re-entry, relocation, and return decisions. When resources are available, the use of aerial surveys and in-situ gamma measurement is appropriate. All methodology, including contamination control, instrumentation, preparation of samples, and a chain-of-custody form for transfer to a laboratory, will be in

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accordance with the ORO's plan and/or procedures.

Ingestion pathway samples should be secured from agricultural products and water. Samples in support of relocation and return should be secured from soil, vegetation, and other surfaces in areas that received radioactive ground deposition.

OROs should use Federal resources as identified in the FRERP, and other resources (e.g., compacts, utility, nuclear insurers, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating in the exercise.

All activities must be must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 4.c—Laboratory Operations

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to perform laboratory analyses of radioactivity in air, liquid, and environmental samples to support protective action decision-making.

Criterion 4.c.1: The laboratory is capable of performing required radiological analyses to support protective action decisions. (NUREG–0654, C.3; J.11)

Extent of Play

The laboratory staff should demonstrate the capability to follow appropriate procedures for receiving samples, including logging of information, preventing contamination of the laboratory, preventing buildup of background radiation due to stored samples, preventing cross contamination of samples, preserving samples that may spoil (e.g., milk), and keeping track of sample identity. In addition, the laboratory staff should demonstrate the capability to prepare samples for conducting measurements.

The laboratory should be appropriately equipped to provide analyses of media, as requested, on a timely basis, of sufficient quality and sensitivity to support assessments and decisions as anticipated by the ORO's plans and procedures. The laboratory (laboratories) instrument calibrations should be traceable to standards provided by the National Institute of Standards and Technology. Laboratory methods used to analyze typical radionuclides released in a reactor incident should be as described in the plans and procedures. New or revised methods may be used to analyze atypical radionuclide releases (e.g., transuranics or as a result of a terrorist event) or if warranted by circumstances of the event. Analysis may require resources beyond those of the ORO.

The laboratory staff should be qualified in radioanalytical techniques and contamination control procedures.

OROs should use Federal resources as identified in the FRERP, and other resources (e.g., compacts, utility, nuclear insurers, etc.), if available. Evaluation of this criterion will take into consideration the level of Federal and other resources participating in the exercise.

All activities must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Evaluation Area 5

Emergency Notification and Public Information

Sub-Element 5.a—Activation of the Prompt Alert and Notification System

Intent

This sub-element is derived from NUREG–0654, which provides that OROs should have the capability to provide prompt instructions to the public within the plume pathway EPZ. Specific provisions addressed in this sub-element are derived from the Nuclear Regulatory Commission (NRC) regulations (10 CFR Part 50, Appendix E.IV.D.), and FEMA–REP–10, "Guide for the Evaluation of Alert and Notification systems for Nuclear Power Plants."

Criterion 5.a.1: Activities associated with primary alerting and notification of the public are completed in a timely manner following the initial decision by authorized offsite emergency officials to notify the public of an emergency situation. The initial instructional message to the public must include as a minimum the elements required by current FEMA REP guidance. (10 CFR Part 50, Appendix E.IV.D and NUREG–0654, E.5, 6,7)

Extent of Play

Responsible Offsite Response Organizations (ORO) should demonstrate the capability to sequentially provide an alert signal followed by an initial instructional message to populated areas (permanent resident and transient) throughout the 10-mile plume pathway EPZ. Following the decision to activate the alert and notification system, in accordance with the ORO's plan and/or procedures, completion of system activation should be accomplished in a timely manner (will not be subject to specific time requirements) for primary alerting/notification. The initial message should include the elements required by current FEMA REP guidance.

For exercise purposes, timely is defined as "the responsible ORO personnel/representatives demonstrate actions to disseminate the appropriate information/instructions with a sense of urgency and without undue delay." If message dissemination is to be identified as not having been accomplished in a timely manner, the evaluator(s) will document a specific delay or cause as to why a message was not considered timely.

Procedures to broadcast the message should be fully demonstrated as they would in an actual emergency up to the point of transmission. Broadcast of the message(s) or test messages is not required. The alert signal activation may be simulated. However, the procedures should be demonstrated up to the point of actual activation. The capability of the primary notification system to broadcast an instructional message on a 24-hour basis should be verified during an interview with appropriate personnel from the primary notification system.

All activities for this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, except as noted above or otherwise indicated in the extent of play agreement.

Criterion 5.a.2: [Reserved]

Criterion 5.a.3: Activities associated with FEMA approved exception areas (where applicable) are completed within 45 minutes following the initial decision by authorized offsite emergency officials to notify the public of an emergency situation. Backup alert and notification of the public is completed within 45 minutes following the detection by the ORO of a failure of the primary alert and notification system. (NUREG–0654, E. 6, Appendix 3.B.2.c)

Extent of Play

Offsite Response Organizations (ORO) with FEMA-approved exception areas (identified in the approved Alert and Notification System Design Report) 5–10 miles from the nuclear power plant should demonstrate the capability to accomplish primary alerting and notification of the exception area(s) within 45 minutes following the initial decision by authorized offsite emergency officials to notify the public of an emergency situation. The 45-minute clock will begin when the OROs make the decision to activate the alert and notification system for the first time for a specific emergency situation. The initial message should, at a minimum, include: a statement that an emergency exists at the plant and where to obtain additional information.

For exception area alerting, at least one route needs to be demonstrated and evaluated. The selected route(s) should vary from exercise to exercise. However, the most difficult route should be demonstrated at least once every six years. All alert and notification activities along the route should be simulated (that is, the message that would actually be used is read for the evaluator, but not actually broadcast) as agreed upon in the extent of play. Actual testing of the mobile public address system will be conducted at some agreed-upon location.

Backup alert and notification of the public should be completed within 45 minutes following the detection by the ORO of a failure of the primary alert and notification system. Backup route alerting only needs to be demonstrated and evaluated, in accordance with the ORO's plan and/or procedures and the extent of play agreement, if the exercise scenario calls for failure of any portion of the primary system(s), or if any portion of the primary system(s) actually fails to function. If demonstrated, only one route needs to be selected and demonstrated. All alert and notification activities along the route should be simulated (that is, the message that would actually be used is read for the evaluator, but not actually broadcast) as agreed upon in the extent of play. Actual testing of the mobile public address system will be conducted at some agreed-upon location.

All activities for this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, except as noted above or otherwise indicated in the extent of play agreement.

Sub-Element 5.b—Emergency Information and Instructions for the Public and the Media

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to disseminate to the public appropriate emergency information and instructions, including any recommended protective actions. In addition, NUREG–0654 provides that OROs should ensure that the capability exists for providing information to the media. This includes the availability of a physical location for use by the media during an emergency. NUREG–0654 also provides that a system should be available for dealing with rumors. This system will hereafter be known as the public inquiry hotline.

Criterion 5.b.1: OROs provide accurate emergency information and instructions to the public and the news media in a timely manner. (NUREG–0654, E. 5, 7; G.3.a, G.4.c)

Extent of Play

Subsequent emergency information and instructions should be provided to the public and the media in a timely manner (will not be subject to specific time requirements). For exercise purposes, timely is defined as "the responsible ORO personnel/representatives demonstrate actions to disseminate the appropriate information/instructions with a sense of urgency and without undue delay." If message dissemination is to be identified as not having been accomplished in a timely manner, the evaluator(s) will document a specific delay or cause as to why a message was not considered timely.

The ORO should ensure that emergency information and instructions are consistent with protective action decisions made by appropriate officials. The emergency information should contain all necessary and applicable instructions (e.g., evacuation instructions, evacuation routes, reception center locations, what to take when evacuating, information concerning pets, shelter-in-place instructions, information concerning protective actions for schools and special populations, public inquiry telephone number, etc.) to assist the public in carrying out protective action decisions provided to them. The ORO should also be prepared to disclose and explain the Emergency Classification Level (ECL) of the incident. At a minimum, this information must be included in media briefings and/or media releases. OROs should demonstrate the capability to use language that is clear and understandable to the public within both the plume and ingestion pathway EPZs. This includes demonstration of the capability to use familiar landmarks and boundaries to describe protective action areas.

The emergency information should be all-inclusive by including previously identified protective action areas that are still valid, as well as new areas. The OROs should demonstrate the capability to ensure that emergency information that is no longer valid is rescinded and not repeated by broadcast media. In addition, the OROs should demonstrate the capability to ensure that current emergency information is repeated at pre-established intervals in accordance with the plan and/or procedures.

OROs should demonstrate the capability to develop emergency information in a non-English language when required by the plan and/or procedures.

If ingestion pathway measures are exercised, OROs should demonstrate that a system exists for rapid dissemination of ingestion pathway information to pre-determined individuals and businesses in accordance with the ORO's plan and/or procedures.

OROs should demonstrate the capability to provide timely, accurate, concise, and coordinated information to the news media for subsequent dissemination to the public. This would include demonstration of the capability to conduct timely and pertinent media briefings and distribute media releases as the situation warrants. The OROs should demonstrate the capability to respond appropriately to inquiries from the news media. All information presented in media briefings and media releases should be consistent with protective action decisions and other emergency information provided to the public. Copies of pertinent emergency information (e.g., EAS messages and media releases) and media information kits should be available for dissemination to the media.

OROs should demonstrate that an effective system is in place for dealing with calls to the public inquiry hotline. Hotline staff should demonstrate the capability to provide or obtain accurate information for callers or refer them to an appropriate information source. Information from the hotline staff, including information that corrects false or inaccurate information when trends are noted, should be included, as appropriate, in emergency information provided to the public, media briefings, and/or media releases.

All activities for this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 6.c—Temporary Care of

cots, blankets, sundries, and large-scale

ambulance crew should demonstrate, by

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Evaluation Area 6

Support Operation/Facilities

Sub-Element 6.a—Monitoring and Decontamination of Evacuees and Emergency Workers and Registration of Evacuees

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to implement radiological monitoring and decontamination of evacuees and emergency workers, while minimizing contamination of the facility, and registration of evacuees at reception centers.

Criterion 6.a.1: The reception center/emergency worker facility has appropriate space, adequate resources, and trained personnel to provide monitoring, decontamination, and registration of evacuees and/or emergency workers. (NUREG–0654, J.10.h; J.12; K.5.a)

Extent of Play

Radiological monitoring, decontamination, and registration facilities for evacuees/emergency workers should be set up and demonstrated as they would be in an actual emergency or as indicated in the extent of play agreement. This would include adequate space for evacuees' vehicles. Expected demonstration should include ⅓ of the monitoring teams/portal monitors required to monitor 20% of the population allocated to the facility within 12 hours. Prior to using monitoring instrument(s), the monitor(s) should demonstrate the process of checking the instrument(s) for proper operation.

Staff responsible for the radiological monitoring of evacuees should demonstrate the capability to attain and sustain a monitoring productivity rate per hour needed to monitor the 20% emergency planning zone (EPZ) population planning base within about 12 hours. This monitoring productivity rate per hour is the number of evacuees that can be monitored per hour by the total complement of monitors using an appropriate monitoring procedure. A minimum of six individuals per monitoring station should be monitored, using equipment and procedures specified in the plan and/or procedures, to allow demonstration of monitoring, decontamination, and registration capabilities. The monitoring sequences for the first six simulated evacuees per monitoring team will be timed by the evaluators in order to determine whether the twelve-hour requirement can be met. Monitoring of emergency workers does not have to meet the twelve-hour requirement. However, appropriate monitoring procedures should be demonstrated for a minimum of two emergency workers.

Decontamination of evacuees/emergency workers may be simulated and conducted by interview. The availability of provisions for separately showering should be demonstrated or explained. The staff should demonstrate provisions for limiting the spread of contamination. Provisions could include floor coverings, signs and appropriate means (e.g., partitions, roped-off areas) to separate clean from potentially contaminated areas. Provisions should also exist to separate contaminated and uncontaminated individuals, provide changes of clothing for individuals whose clothing is contaminated, and store contaminated clothing and personal belongings to prevent further contamination of evacuees or facilities. In addition, for any individual found to be contaminated, procedures should be discussed concerning the handling of potential contamination of vehicles and personal belongings.

Monitoring personnel should explain the use of action levels for determining the need for decontamination. They should also explain the procedures for referring evacuees who cannot be adequately decontaminated for assessment and follow up in accordance with the ORO's plans and procedures. Contamination of the individual will be determined by controller inject and not simulated with any low-level radiation source.

The capability to register individuals upon completion of the monitoring and decontamination activities should be demonstrated. The registration activities demonstrated should include the establishment of a registration record for each individual, consisting of the individual's name, address, results of monitoring, and time of decontamination, if any, or as otherwise designated in the plan. Audio recorders, camcorders, or written records are all acceptable means for registration.

All activities associated with this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless otherwise indicated in the extent of play agreement.

Sub-Element 6.b—Monitoring and Decontamination of Emergency Worker Equipment

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) have the capability to implement radiological monitoring and decontamination of emergency worker equipment, including vehicles.

Criterion 6.b.1: The facility/ORO has adequate procedures and resources for the accomplishment of monitoring and decontamination of emergency worker equipment, including vehicles. (NUREG–0654, K.5.b)

Extent of Play

The monitoring staff should demonstrate the capability to monitor equipment, including vehicles, for contamination in accordance with the Offsite Response Organizations (ORO) plans and procedures. Specific attention should be given to equipment, including vehicles, that was in contact with individuals found to be contaminated. The monitoring staff should demonstrate the capability to make decisions on the need for decontamination of equipment, including vehicles, based on guidance levels and procedures stated in the plan and/or procedures.

The area to be used for monitoring and decontamination should be set up as it would be in an actual emergency, with all route markings, instrumentation, record keeping and contamination control measures in place. Monitoring procedures should be demonstrated for a minimum of one vehicle. It is generally not necessary to monitor the entire surface of vehicles. However, the capability to monitor areas such as air intake systems, radiator grills, bumpers, wheel wells, tires, and door handles should be demonstrated. Interior surfaces of vehicles that were in contact with individuals found to be contaminated should also be checked.

Decontamination capabilities, and provisions for vehicles and equipment that cannot be decontaminated, may be simulated and conducted by interview.

All activities associated with this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 6.c—Temporary Care of Evacuees

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) demonstrate the capability to establish relocation centers in host areas. Congregate care is normally provided in support of OROs by the American Red Cross (ARC) under existing letters of agreement.

Criterion 6.c.1: Managers of congregate care facilities demonstrate that the centers have resources to provide services and accommodations consistent with American Red Cross planning guidelines. (Found in MASS CARE—Preparedness Operations, ARC 3031) Managers demonstrate the procedures to assure that evacuees have been monitored for contamination and have been decontaminated as appropriate prior to entering congregate care facilities. (NUREG–0654, J.10.h, J.12)

Extent of Play

Under this criterion, demonstration of congregate care centers may be conducted out of sequence with the exercise scenario. The evaluator should conduct a walk-through of the center to determine, through observation and inquiries, that the services and accommodations are consistent with ARC 3031. In this simulation, it is not necessary to set up operations as they would be in an actual emergency. Alternatively, capabilities may be demonstrated by setting up stations for various services and providing those services to simulated evacuees. Given the substantial differences between demonstration and simulation of this objective, exercise demonstration expectations should be clearly specified in extent-of-play agreements.

Congregate care staff should also demonstrate the capability to ensure that evacuees have been monitored for contamination, have been decontaminated as appropriate, and have been registered before entering the facility. This capability may be determined through an interview process.

If operations at the center are demonstrated, material that would be difficult or expensive to transport (e.g., cots, blankets, sundries, and large-scale food supplies) need not be physically available at the facility (facilities). However, availability of such items should be verified by providing the evaluator a list of sources with locations and estimates of quantities.

All activities associated with this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Sub-Element 6.d—Transportation and Treatment of Contaminated Injured Individuals

Intent

This sub-element is derived from NUREG–0654, which provides that Offsite Response Organizations (ORO) should have the capability to transport contaminated injured individuals to medical facilities with the capability to provide medical services.

Criterion 6.d.1: The facility/ORO has the appropriate space, adequate resources, and trained personnel to provide transport, monitoring, decontamination, and medical services to contaminated injured individuals. (NUREG–0654, F.2; H.10; K.5.a, b; L.1, 4)

Extent of Play

Monitoring, decontamination, and contamination control efforts will not delay urgent medical care for the victim.

Offsite Response Organizations (ORO) should demonstrate the capability to transport contaminated injured individuals to medical facilities. An ambulance should be used for the response to the victim. However, to avoid taking an ambulance out of service for an extended time, any vehicle (e.g., car, truck, or van) may be utilized to transport the victim to the medical facility. Normal communications between the ambulance/dispatcher and the receiving medical facility should be demonstrated. If a substitute vehicle is used for transport to the medical facility, this communication must occur prior to releasing the ambulance from the drill. This communication would include reporting radiation monitoring results, if available. Additionally, the ambulance crew should demonstrate, by interview, knowledge of where the ambulance and crew would be monitored and decontaminated, if required, or whom to contact for such information.

Monitoring of the victim may be performed prior to transport, done enroute, or deferred to the medical facility. Prior to using a monitoring instrument(s), the monitor(s) should demonstrate the process of checking the instrument(s) for proper operation. All monitoring activities should be completed as they would be in an actual emergency. Appropriate contamination control measures should be demonstrated prior to and during transport and at the receiving medical facility.

The medical facility should demonstrate the capability to activate and set up a radiological emergency area for treatment. Equipment and supplies should be available for the treatment of contaminated injured individuals.

The medical facility should demonstrate the capability to make decisions on the need for decontamination of the individual, to follow appropriate decontamination procedures, and to maintain records of all survey measurements and samples taken. All procedures for the collection and analysis of samples and the decontamination of the individual should be demonstrated or described to the evaluator.

All activities associated with this criterion must be based on the ORO's plans and procedures and completed as they would be in an actual emergency, unless noted above or otherwise indicated in the extent of play agreement.

Frequency for Evaluation of New Criteria

The REP–14 objectives are currently evaluated at the frequency described on Pages C–2.3 and C–2.4 of REP–14. Adoption of the new Exercise Evaluation Areas renders these pages obsolete. Table 2 establishes the minimum frequency with each of the Exercise Evaluation Areas would be exercised. FEMA is open to ORO proposals to voluntarily exercise certain criteria more frequently than the minimums listed below.

TABLE 2.—FEDERAL EVALUATION PROCESS MATRIX

Evaluation Area and Sub-Elements	Consolidates REP–14 objective	Minimum frequency [6]
1. Emergency Operations Management	1, 2, 3, 4, 5, 8, 14, 17, 30.	
a. Mobilization		Every Exercise
b. Facilities		Every Exercise [1]

TABLE 2.—FEDERAL EVALUATION PROCESS MATRIX—Continued

Evaluation Area and Sub-Elements	Consolidates REP–14 objective	Minimum frequency [6]
c. Direction and Control		Every Exercise [1]
d. Communications Equipment		Every Exercise [1]
e. Equipment and Supplies to Support Operations		Every Exercise [1]
2. Protective Action Decisionmaking	5, 7, 9, 14, 15, 16, 26, 28.	
a. Emergency Worker Exposure Control		Every Exercise
b. Radiological Assessment & Protective Action Recommendations & Decisions for the Plume Phase of the Emergency.		Every Exercise
c. Protective Action Decisions for the Protection of Special Populations.		Every Exercise
d. Radiological Assessment & Decisionmaking for the Ingestion Exposure Pathway [2].		Once in 6 yrs.
e. Radiological Assessment & Decisionmaking Concerning Relocation, Re-entry, and Return [2].		Once in 6 yrs.
3. Protective Action Implementation	5, 11, 14, 15, 16, 17, 27, 29.	
a. Implementation of Emergency Worker Exposure Control		Every Exercise
b. Implementation of KI Decision		Once in 6 yrs.
c. Implementation of Protective Actions for Special Populations.		Once in 6 yrs.[3]
d. Implementation of Traffic and Access Control [4]		Every Exercise
e. Implementation of Ingestion Pathway Decisions		Once in 6 yrs.
f. Implementation of Relocation, Re-entry, and Return Decisions.		Once in 6 yrs.
4. Field Measurement and Analysis	6, 8, 24, 25.	
a. Plume Phase Field Measurements & Analysis		Every Full Participation Exercise [6]
b. Post Plume Phase Field Measurements and Sampling		Once in 6 yrs.
c. Laboratory Operations		Once in 6 yrs.
5. Emergency Notification and Public Information	10, 11, 12, 13.	
a.1 Activation of the Prompt Alert and Notification System		Every Exercise
a.3 Notification of exception areas and/or Back-up Alert and Notification System within 45 minutes.		Every Exercise-as needed
b. Emergency Information & Instructions for the Public and the Media.		Every Exercise
6. Support Operations/Facilities	18, 19, 20, 21, 22.	
a. Monitoring & Decontamination of Evacuees and Emergency Workers & Registration of Evacuees.		Once in 6 yrs.[3]
b. Monitoring & Decontamination of Emergency Worker Equipment [3].		Once in 6 yrs.[3]
c. Temporary Care of Evacuees [5]		Once in 6 yrs.[5]
d. Transportation and Treatment of Contaminated Individuals.		Every Exercise

[1] See evaluation criteria for specific requirements.
[2] The plume phase and the post-plume phase (ingestion, relocation, re-entry and return) can be demonstrated separately.
[3] All facilities must be evaluated once during the six-year exercise cycle.
[4] Physical deployment of resources is not necessary.
[5] Facilities managed by the American Red Cross (ARC), under the ARC/FEMA Memorandum of Understanding, will be evaluated once when designated or when substantial changes occur; all other facilities not managed by the ARC must be evaluated once in the six-year exercise cycle.
[6] Each State within the 10-mile EPZ of a commercial nuclear power site shall fully participate in an exercise jointly with the licensee and appropriate local governments at least every two years. Each State with multiple sites within its boundaries shall fully participate in a joint exercise at some site on a rotational basis at least every two years. When not fully participating in an exercise at a site, the State shall partially participate at that site to support the full participation of the local governments.

Dated: September 6, 2001.

Lacy E. Suiter,

Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–22928 Filed 9–11–01; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Radiological Emergency Preparedness: Alert and Notification

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: FEMA is issuing revised guidance concerning the required content of an initial notification to the public in a plume Emergency Planning Zone (EPZ) following an incident at a nuclear power plant.

DATES: This guidance is effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Vanessa E. Quinn, Chief, Radiological Emergency Preparedness Branch, Technological Hazards Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; (202) 646–3664, or (e-mail) *vanessa.quinn@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA), through its Radiological Emergency Preparedness (REP) program, reviews the emergency response plans of Offsite Response Organizations (OROs), which are the State and local emergency management agencies responsible for responding to incidents involving nuclear power plants. FEMA also evaluates exercises that test the capability of OROs to perform in accordance with the provisions of their plans. These activities are undertaken

pursuant to FEMA regulations, which appear in Part 350 of Title 44 of the Code of Federal Regulations, and a Memorandum of Understanding between FEMA and the Nuclear Regulatory Commission, which appears at 44 CFR Part 353, Appendix A.

FEMA requires that OROs demonstrate their ability to communicate effectively with the public following an incident at a nuclear power plant. One of the components of effective communications is the delivery of an initial alert and notification message directed to persons in the EPZ.[1] We address how this initial notification should be given to the public in an EPZ in several guidance documents. These include the joint *FEMA/Nuclear Regulatory Commission Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (NUREG–0654/REP–1, Rev. 1),* dated November 1980 [2] and FEMA's *Guidance for Providing Emergency Information and Instructions to the Public for Radiological Emergencies Using the New Emergency Alert System (EAS),* dated February 2, 1999.[3]

FEMA regulations require that planning standards and evaluation criteria in NUREG–0654/FEMA–REP–1, Rev. 1,[4] and the Nuclear Regulatory Commission's emergency planning rule [5] are to be used in evaluating ORO plans and capabilities. While both the Nuclear Regulatory Commission's emergency planning rule and NUREG–0654/FEMA REP–1, Rev. 1 contemplate that initial notification messages will be made in a timely manner, neither prescribe the content of the initial notification message.[6]

[1] The term EPZ is defined in 44 CFR § 350.2(g). The plume EPZ is generally a 10-mile radius around the nuclear power plant.

[2] Planning Standard E, evaluation criterion E.7.

[3] Attachment "B" to Memorandum for FEMA Regional Directors and Regional Assistance Committee Chairs from Kay C. Goss, Associate Director for Preparedness, Training and Exercises. The attachment can be viewed at *http://www.fema.gov/pte/rep/easrep.htm.* (viewed August 31, 2001). This document is referred to as the "February 2, 1999 Guidance."

[4] 44 CFR 350.5.

[5] 10 CFR 50.47, 10 CFR Part 50 (Appendix E) and Part 70.

[6] Planning Standard E, evaluation criteria E.7 provides that "Each [ORO] shall provide written messages intended for the public, consistent with the [nuclear power plant's classification scheme. In particular, draft messages to the public giving instructions with regard to specific protective actions to be taken by occupants of affected areas shall be prepared and included as part of the State and local [emergency response plans]. Such messages should include the appropriate aspects of sheltering, ad hoc respiratory protection, e.g., bandkerchief over mouth, thyroid blocking or evacuation * * *"

Former Guidance

On February 2, 1999, the Associate Director of FEMA for Preparedness, Training, and Exercises issued guidance indicating that initial messages transmitted through the EAS must contain the following five items:

1. Identification of the State or local government organization and the official with the authority for providing the EAS alert and message.

2. Identification of the commercial nuclear power plant, appropriate conditions at the plant (e.g., no release, potential for release or actual release and wind direction);

3. Call attention to REP-specific emergency information (e.g., brochures and information in telephone books) for use by the general public during an emergency.

4. Call attention to the possibility that a protective action may need to be taken by affected populations; and

5. Include a closing statement asking the affected and potentially affected population to stay tuned to [the] EAS station(s) for additional information. This additional information, when necessary, could be in the form of a "Special News Broadcast" that would, as soon as possible, follow the EAS message.

Revised Guidance

Effective October 1, 2001, the initial notification to the public in an EPZ of an incident at a nuclear power plant must contain the following elements:

1. Identification of the State or local government organization and the official with the authority for providing the alert signal and instructional message;

2. Identification of the commercial nuclear power plant and a statement that an emergency exists at the plant;

3. Reference to Radiologocal Emergency Preparedness specific emergency information (e.g. brochures and information in telephone books) for use by the general public during an emergency; and

4. A closing statement asking that the affected and potentially affected population stay tuned for additional information or that the population tune to another station for additional information.

The revised guidance addresses the minimum content of the initial message that must be given to the EPZ population. This message is intended to alert the public in the EPZ of the need to be attentive to the situation at the nuclear power plant. Other information that supports public health and safety objectives, including the ECL and information concerning protective actions, may also be included in the initial message at the ORO's discretion.

This guidance does not diminish the ORO's obligation to provide complete and candid information—including a plain language explanation of the situation at the plant, the ECL, an explanation of the ECL, and details concerning any protective action decisions—to the news media for use in special news broadcasts that provide more detailed information to the population of an EPZ and general news coverage. This guidance addresses only the information that must be disseminated in the initial notification message.

Consideration of Public Comments

FEMA sought public comment in the June 11, 2001 edition of the **Federal Register** (66 FR 31362) about whether it should revise the February 2, 1999 guidance. We indicated that we were specifically considering whether to continue to require that OROs refer to the ECL and alert the public to the possibility that a protective action decision (sometimes also referred to as a "protective action recommendation") will be subsequently issued by the ORO. However, we also encouraged commenters to suggest other appropriate revisions to the February 2, 1999 guidance.

We received twenty-five comments in response to the **Federal Register** notice. Seventeen commenters supported the proposal published in the June 11 **Federal Register**. Six opposed the proposal. The position of the remaining two commenters could not be determined.

The commenters that supported the proposal noted:

- The initial message should be used principally as an alerting mechanism, not as an informational tool;
- The public should not be expected to understand the meaning of an ECL. Identification of the ECL might even unduly alarm members of the public. This information can be included in follow-up public information, which is more detailed.
- Announcing an ECL in the initial message will result in a large number of unnecessary, non-emergency 911 calls, especially from people outside of the EPZ who do not receive the public information materials that are distributed to people within the EPZ.
- Information accompanying protective action decisions is normally detailed and not suitable for inclusion in the Emergency Alert System format.
- FEMA should allow the OROs to include in the initial EAS message the information that they deem necessary.

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Two of the six opposing comments came from individuals. One of these comments stated, "Nothing would be gained by giving the public less information in the initial message following a nuclear disaster." We respectfully disagree with the commenter. The initial message is intended to alert people in the EPZ of the need to be attentive to the situation at the nuclear power plant. We believe it is more important that the OROs utilize the EAS to provide the most essential information, rather than the greatest quantity of information.

Another commenter suggested that FEMA should be more stringent in the information that it requires OROs to give the public. This commenter, who appears to reside outside of the applicable plume EPZ, suggested that the public was not provided with sufficient information about a February 2000 incident at the Indian Point nuclear power plant in New York State. As noted in the June 11 **Federal Register** notice, FEMA's proposal to change the required content of the initial message does not detract from an ORO's obligation to provide the news media and the public with complete and candid information.

Several emergency management agencies also opposed the proposal. These commenters argued that exclusion of the ECL and warnings that a protective action decision may be forthcoming provides the public with an ambiguous picture and may cause inappropriate responses. A State argued that the ECL informed parents of school children that the school was taking certain predetermined actions. However, two counties in that State submitted comments urging FEMA to not require a reference to the ECL in the initial message. Another commenter stated "Nothing less than the five elements currently in place are acceptable."

FEMA's decision accommodates these commenters. We believe that the OROs are in a better position than FEMA to decide which information must be included in the initial message to the OROs' constituents. However, we are concerned about the apparent disagreement between a State and two of its counties about what information should be included. We encourage the State and the affected counties to come to a common understanding on this issue.

Coordination With the Nuclear Regulatory Commission

FEMA conducts the REP program, in part, under authority of a Memorandum of Understanding with the Nuclear Regulatory Commission. The text of the current Memorandum of Understanding is published in Appendix A to 44 CFR Part 353. Section E of the Memorandum of Understanding specifies that each agency will provide an opportunity for the other agency to review and comment on emergency planning and preparedness guidance (including interpretations of agreed joint guidance) prior to 2 adoption as formal agency guidance. On August 10, 2001, the Nuclear Regulatory Commission staff provided written comments on the June 11, 2001, **Federal Register** alert and notification notice. These comments were supportive of the revised guidance.

Dated: September 6, 2001.

Lacy E. Suiter,

Assistant Director, Readiness, Response and Recovery Directorate

[FR Doc. 01–22929 Filed 9–11–01; 8:45 am]

BILLING CODE 6718–06–P

Federal Register

Wednesday,
September 12, 2001

Part III

Department of Housing and Urban Development

Office of Federal Housing and Enterprise Oversight

12 CFR Parts 1710 et al.

Executive Compensation, Corporate Governance and Flood Insurance; Final Rule and Proposed Rules

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1770

RIN 2550–AA13

Executive Compensation

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight ("OFHEO") is issuing a final regulation that clarifies the procedures OFHEO employs in overseeing compensation provided by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, "the Enterprises") to their executive officers. The final regulation formalizes processes by which OFHEO performs its separate reviews of executive compensation and termination benefits. The processes require the submission of relevant information by the Enterprises on a timely basis to enable OFHEO to efficiently carry out its executive compensation functions.

EFFECTIVE DATE: The effective date of this regulation is October 29, 2001.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, telephone (202) 414–3804; Christine C. Dion, Associate General Counsel, telephone (202) 414–3838 (not a toll-free number); or Brian M. Doherty, Senior Policy Analyst, telephone (202) 414–8922, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street NW, Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, entitled the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992" (the "Act"),[1] established the Office of Federal Housing Enterprise Oversight ("OFHEO") as an independent office within the Department of Housing and Urban Development. OFHEO is the safety and soundness regulator of two of the nation's largest housing-related government sponsored enterprises: the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively, the "Enterprises"). In addition to establishing OFHEO, the Act made amendments to the Enterprises' enabling statutes (collectively, the "charter acts"),[2] in part to accommodate OFHEO's statutory supervisory powers.

Included in the supervisory responsibilities of the Director of OFHEO (the "Director") is oversight of compensation provided by the Enterprises to their respective executive officers. Briefly, the Director's statutory oversight of executive compensation involves two statutory mandates: (1) The prohibition of excessive compensation, as required by the Act; and (2) the prior review of termination benefits, as required by the charter acts. Notably, the differing statutes use similar but not identical terms in delineating the standards and identifying the different comparator groups to be used in these matters.

Specifically, the Act requires the Director to prohibit the Enterprises from providing compensation to any executive officer that is not reasonable and comparable with that paid by similar businesses to executives doing similar work. Businesses used for comparison purposes include publicly held financial institutions or major financial services companies.[3]

The charter acts were amended by the Act to similarly provide that an Enterprise may only pay compensation that it determines is reasonable and comparable with compensation for employment in other similar businesses, and that the Enterprise must report annually to Congress on the comparability of the compensation policies for their employees with the compensation policies of other similar businesses.[4] The Enterprises have the general power to select the individuals who will work for them and to set their specific compensation. The Act explicitly provides that OFHEO may not prescribe or set a specific level or range of compensation for executive officers of the Enterprises.[5]

To effectuate OFHEO's charge to prohibit excessive compensation, the Act requires OFHEO to take such actions and perform such functions as the Director determines to be necessary.[6] OFHEO may also require an Enterprise to submit reports and special reports as deemed appropriate and in such form as the Director may require.[7] Moreover, OFHEO has express statutory authority to retain any consultant that the Director determines is necessary to assist in such matters.[8] The Act also grants OFHEO a wide array of enforcement powers. Thus, without regard to the capital condition of an Enterprise, the Director can undertake enforcement actions, both formal and informal, including the issuance of a notice of charges, for conduct in violation of the compensation provisions of the Act, the charter acts or this regulation.[9] The Director can require an Enterprise, or any executive officer or member of the board of directors ("Board") to correct or remedy any violation in such manner as the Director determines to be appropriate.[10]

In addition to prohibiting the payment of excessive executive compensation, OFHEO is required to review termination benefits provided by the Enterprises to their executive officers. The respective charter acts of the Enterprises were identically amended by the Act to provide that an Enterprise may not enter into an agreement or contract to provide for payment of money or other thing of current or potential value in connection with the termination of employment of an executive officer unless the agreement or contract is approved in advance by OFHEO.[11] The Act further amended the charter acts to prohibit the Director from approving termination benefits that are not comparable to such benefits provided by other public or private entities involved in financial services and housing interests to executives with comparable duties and responsibilities.

These amendments to the charter acts were effective after October 28, 1992. Therefore, agreements to provide termination payments to executives that were entered into before that date are not subjected to retroactive review for approval or disapproval by OFHEO. However, the amended charter acts provide that any subsequent renegotiation, amendment or change to any such agreement entered into on or before October 28, 1992, is to be considered as entering into an agreement subject to approval by OFHEO. An extension of such an agreement is deemed to constitute a change subject to OFHEO's prior approval. OFHEO's approval is required regardless of how such an extension is structured, *e.g.*, by a written agreement or by a resolution adopted by the Board of the Enterprise.

OFHEO published a notice of proposed rulemaking for public comment relating to its executive compensation oversight responsibilities.[12] Comments on the proposed regulation were received only from the two Enterprises. Those comments were carefully considered in developing this final regulation. A discussion of those comments and OFHEO's response to those comments follows.

II. Comments on the Proposed Executive Compensation Regulation

General Comments

OFHEO's Role and Authority

Both Enterprises commented that OFHEO has a narrow and precisely defined role with regard to executive compensation oversight. They described OFHEO's role as reviewing Board-established executive compensation decisions to determine whether they meet the comparability standards contained in the Enterprises' charter acts. One Enterprise stated that OFHEO cannot regulate what an Enterprise's Board chooses to pay senior executives or the Board's choice of a compensation structure. The Enterprise suggested that such regulation by OFHEO would interfere with management prerogatives; would amount to an undue regulatory interference; and would be contrary to a balance intended by Congress between regulatory action and the Enterprises' independence.

Both Enterprises noted other constraints on their executive compensation in addition to OFHEO's review. They stated that their executive compensation practices are subject to public disclosure under ERISA and other benefit laws and regulations. One Enterprise commented that extensive public disclosure also results from conformance with federal securities laws and stock exchange rules, responsiveness to market discipline, and compliance with reporting requirements to Congress.

OFHEO agrees that it has a defined role with regard to oversight of Enterprise executive compensation practices. Under the Act, OFHEO is required to prohibit executive compensation that exceeds certain standards. Under the charter acts, OFHEO cannot approve termination benefits provided by an Enterprise to an executive officer that are not comparable to the requisite standards. In the event that OFHEO determines that compensation is excessive or that termination benefits are not similar, the Enterprise would have to revise the executive officer's compensation in order to render it reasonable and comparable. In fulfilling its congressionally defined role, OFHEO does not set executive salaries or dictate an Enterprise's choice of a compensation structure. OFHEO seeks to carry out its responsibilities in this area in the most efficient and least burdensome manner. The regulation sets forth clear processes designed to meet OFHEO's oversight needs, including the submission by the Enterprises of relevant information on a timely basis.

Safety and Soundness Issues

Both Enterprises asserted that OFHEO's executive compensation authority is separate and distinct from its safety and soundness authority. One Enterprise referred to the legislative history of OFHEO's enabling statute, suggesting that Congress was not concerned that excessive compensation practices pose a financial threat to the Enterprises, *i.e.*, asserting that such practices do not present a safety and soundness concern. The other Enterprise stated that, unlike the federal bank regulators, OFHEO's executive compensation oversight is not tied to the regulated entities' financial condition.

One Enterprise argued that OFHEO does not have broad authority under its executive compensation oversight authorities and that OFHEO's rulemaking should not take the same approach to remedial and corrective actions employed to address safety and soundness concerns, *i.e.*, remedies that address a threat to the financial integrity or stability of a regulated institution.

OFHEO disagrees. The executive compensation practices of corporations are widely acknowledged to reflect the integrity of management and soundness of corporate governance practices, as indicators of safe and sound operation. OFHEO recognizes that in addition to its broad authority to oversee the safety and soundness of the Enterprises policies and practices, including executive compensation matters, the agency has specific responsibilities unlike those of the banking agencies to review compensation and termination benefits of the Enterprises' executive officers. OFHEO may use its full range of preventative and remedial tools to address problems in this area, including rescission agreements and recovery. OFHEO has modified the language of the final rule to clarify the special nature of executive compensation under the statute and the range of supervisory tools it may employ, both formal and informal.

Confidentiality Concerns

One Enterprise stated that inadvertent release of nonpublic executive compensation information may cause competitive and economic harm. The Enterprise suggested that such information only be subject to on-site review.

OFHEO recognizes the sensitive, nonpublic nature of certain information submitted by the Enterprises regarding their executive compensation practices and OFHEO has established appropriate safeguards under its internal procedures and regulations and in line with applicable federal law. Restricted review of executive compensation information at an Enterprise would be contrary to past and current practice. The suggested restriction would result in a less effective and inefficient implementation of OFHEO's oversight responsibilities and could delay timely reviews sought by the Enterprises. The final regulation continues to require the timely submission of all relevant information by the Enterprises to OFHEO in the manner and format specified by OFHEO.

Section Comments

Definitions (§ 1770.3(g))

Both Enterprises made several suggestions to narrow the definition of the term "executive officer" in the proposed regulation. The proposed definition of the term "executive officer" included the chairman of the Board, chief executive officer, chief financial officer, president, vice chairman and any executive vice president, and added the position of chief operating officer, and any individual who performs functions similar to such positions whether or not the individual has an official title. Additionally, the proposed definition of term "executive officer" covered any senior vice president ("SVP") or other individual with similar responsibilities, without regard to title, who is in charge of a principal business unit, division or function, or who reports directly to the Enterprise's chairman of the Board, vice

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[1] 12 U.S.C. 4501 *et seq.*

[2] Federal National Mortgage Association Charter Act (12 U.S.C. 1716–1723i) and Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451–1459).

[3] Section 1318(a) (12 U.S.C. 4518(a)).

[4] Section 309(d)(2) and (3) of Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)(2) and (3)) and section 303(c) and (h) of Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c) and (h)).

[5] Section 1318(b) (12 U.S.C. 4518(b)).

[6] Section 1313(8) (12 U.S.C. 4513(8)).

[7] Section 1314(a) (12 U.S.C. 4514(a)).

[8] Section 1315(e) (12 U.S.C. 4515(e)).

[9] Section 1371(a)(3) (12 U.S.C. 4631) and section 1372 (12 U.S.C. 4632).

[10] Section 1371(d)(7) (12 U.S.C. 4631(d)(7)).

[11] Section 310(d)(3)(B) of Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)(3)(B)), and section 303(h)(2) of Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)(2)).

[12] 65 FR 81771 (December 27, 2000).

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chairman, president or chief operating officer.

One Enterprise argued that the proposed definition of executive officer is inconsistent with the plain language and intent of the Act and suggested a narrower definition. The Enterprise objected to defining the term "executive officer" by reference to job function and including consideration of individuals performing "similar responsibilities, without regard to title." The Enterprise suggested that the definition of "executive officer" be confined to those titled SVPs in charge of a principal business unit, division or function; and that all other provisions in the proposed definition should be deleted. It further stated that the statutory language "in charge of" should be read narrowly to mean managerial and policymaking authority and responsibilities; and that "principal" business means of "highest importance," similar to the term's definition as used in accounting.

Both Enterprises noted the past use by OFHEO of a reporting function to define the term "executive officer." They suggested that, if OFHEO determines to use a broad standard, OFHEO should look to the Enterprises' principal lines of business to identify officers who play a key role in management and policymaking decisions. They asserted that an approach limiting review to officers managing key business units would avoid unnecessary reviews of officers engaged in support or subsidiary functions.

After consideration of the comments, OFHEO has determined to retain the definition of the term "executive officer" set forth in the proposed regulation, with one modification. The final regulation adds a provision that the Director shall inform the Enterprises of those officers covered by the definition. This is intended to allow continued discussion between OFHEO and the Enterprises as to the appropriate coverage of particular officers under the regulation.

OFHEO has retained from the proposed regulation the determination that, under the Enterprises' current organizational structure, any officer who reports directly to the chairman of the Board, vice chairman, president or chief operating officer is deemed to be in charge of a principal business unit, division, or function and has an important policymaking role, regardless of his or her title. The Director of OFHEO has discretion to define coverage of SVPs under the term "executive officer" whenever warranted by changes in either Enterprise's organizational structure, position responsibilities or other relevant factors.

In response to one Enterprise's request for clarification, it is noted here that administrative and support staff, such as secretaries and special assistants who report directly to the chairman, vice chairman, *etc.*, are not considered to be executive officers for purposes of this regulation.

Submissions Requirements (§ 1770.4) Categories of Information Relating to Prohibition of Excessive Compensation (§ 1770.4(b))

Both Enterprises commented that § 1770.4(b)(1) and (2) of the proposed regulation appear to require the submission of committee and board minutes within a week after the meeting of either. The Enterprises recommended that OFHEO amend both paragraphs to require the submission of minutes only after they are finalized, that is, after the adoption of minutes at the next board or committee meeting.

For purposes of clarification, paragraph (b) has been amended in this final regulation to provide that information on actions relating to compensation by the board of directors or the committee of the board responsible for compensation that are *effective immediately* upon board or committee action should be submitted to OFHEO within a week (along with supporting materials). Otherwise, OFHEO expects information regarding compensation to be submitted within a week of adoption of minutes by the board or the committee responsible for compensation, as this is the normal effective date for board or committee actions, usually taken at the next meeting of these bodies.

In response to one Enterprise's request for clarification, the term "supporting materials" as used in § 1770.4(b)(1) and (2) of the proposed regulation is defined here to mean copies of compensation documents that are referenced in or are incorporated by reference in the board or in committee resolutions, *e.g.*, human resources documents and benefit plans of the Enterprise. Continuing existing OFHEO practice, the regulation excepts individual performance ratings from its submission requirements.

Both Enterprises objected to proposed paragraph (b)(8) of § 1770.4, which requires submission to OFHEO of information regarding the hiring and payment of compensation to an executive for whom a contract remains under negotiation. One Enterprise suggested that proposed paragraph (b)(8) is not consistent with § 1770.5(a), which authorizes employment contracts to be entered into prior to OFHEO approval, provided they contain notice of the approval requirement. The Enterprise recommended that paragraph (b)(8) be deleted.

OFHEO agrees that paragraph (b)(8) is unnecessary and has deleted the paragraph from the final regulation. The requirements contained in § 1770.5(a) will govern any contract negotiated and entered into prior to OFHEO's approval.

Revisions to paragraph (b) in this final regulation include the following: materials required for submission under paragraphs (b)(1) and (2) of the proposed regulation are now contained in paragraphs (b)(1) through (3) of the final regulation, and paragraphs (b)(3) through (7) of the proposed regulation are redesignated as paragraphs (b)(4) through (8) in the final regulation.

Timing of Submissions Related to Prior Approval of Termination Benefits (§ 1770.4(c))

Both Enterprises made extensive comment regarding paragraph (c) of § 1770.4. The paragraph sets out when information relevant to the Director's prior approval of termination benefits should be submitted by an Enterprise to OFHEO. As proposed, the paragraph requires that the relevant information be provided to OFHEO when the Enterprise: (1) Enters into any agreement or contract with a new or existing executive officer that includes termination benefits; (2) makes any extension or other amendment to such an agreement or contract; (3) takes any other action to provide termination benefits to a specific executive officer, regardless of how effected; (4) makes any changes in post-employment benefit programs affecting multiple executive officers; or (5) changes the termination provisions of other compensation programs affecting multiple executive officers.

One Enterprise recommended the deletion of the requirement in § 1770.4(c)(1) that requires submission of information on an agreement between an Enterprise and a new or existing officer because, assertedly, most executive officers "are not terminated," but rather leave voluntarily. The commenter suggested that this would save OFHEO from reviewing hypothetical terminations. The Enterprise noted that it could choose to submit a termination agreement for a current executive officer for review by OFHEO at any time.

OFHEO disagrees with this argument. Prior approval by OFHEO is mandatory whenever an Enterprise enters into or changes an agreement or contract with a new or existing executive that contains provisions providing termination benefits. The legislative history of the Act contains no indication that the term "termination" is limited to involuntary situations. OFHEO considers the specific benefits to which an officer would be entitled under those provisions at the end of his or her employment term and compares those termination benefits to the applicable standard. This determination includes consideration of the effect on termination benefits if the executive departs prior to the expiration of the employment term, either on a voluntary or an involuntary basis. The proposed submission requirements of § 1770.4(c)(1) are therefore retained in the final regulation.

Both Enterprises objected to the language of paragraphs (c)(4) and (5) of § 1770.4 relating to changes in post-employment programs and in the termination provisions of other compensation programs affecting multiple executive officers. They noted that, as drafted, the provisions suggest that OFHEO has prior approval authority over changes in any compensation or benefit plan or program provided to all officers or corporate-wide. The Enterprises requested clarification that the provisions cover only individual termination packages that provide special benefits to an executive officer under so-called "top hat" plans, as opposed to benefits provided to multiple officers under general welfare and benefit plans. One Enterprise further stated that prior approval by OFHEO is not required for executive compensation generally available to similarly situated executives which is received as part of annual compensation, even if it is to be paid post-employment, *e.g.*, pensions, deferred compensation, stock option plans, and retirees' health benefits. It recommended deleting reporting requirements for general welfare and benefit plans and relocating provisions (4) and (5) from paragraph (c) to paragraph (b), which addresses review of "excessive" compensation. The Enterprise also recommended that only "material" changes to covered plans and programs be submitted to OFHEO.

OFHEO has made several clarifications and modifications to the submissions section of the final regulation. Section 1770.4(c), addressing timing of submissions of information for review of termination benefits, has been revised. The revisions indicate that, except as provided under § 1770.5(a), an Enterprise must submit certain delineated information before entering into agreements, making amendments or taking other actions on termination benefits and when changes to termination benefits are made that affect multiple executive officers. Paragraph (d) of § 1770.4 has been revised to make clear that such submissions need not include information on benefit plans of general applicability, as the statute only contemplates review of "golden parachute" and similar contracts or grants.

Further, for purposes of clarification, OFHEO notes that information submissions under paragraph (c), at the times stated under provisions (1) through (4)—paragraphs (4) and (5) being consolidated in the final regulation—enable OFHEO to determine an individual executive officer's termination benefits. The total payment or value derived from all such termination benefits are included in OFHEO's consideration of compensation. The final regulation makes clear that, while OFHEO has access to benefit plans of general applicability under its oversight authorities, they are not required to be submitted for purposes of prior approval under the consideration of termination benefits. As noted earlier, the intent of the statute and the regulation is to focus on so-called "top hat plans," golden parachutes and similar arrangements. Any change in such benefits may alter the value of the total termination benefits package. Notably, if a change in termination benefits affects an executive officer, the Enterprise may request OFHEO's consideration of the change in officer termination benefits, in the context of previously-granted termination benefits, either at that time or when the officer leaves the Enterprise.

Additionally, both Enterprises expressed concern that the language of paragraphs (c)(4) and (5) appears to suggest that OFHEO can review an officer's compensation twice (under the "excessive" standard in the Act and under the standard for prior approval of termination benefits in the charter acts). One Enterprise stated that such review could result in retroactive disapproval of previously awarded compensation, creating recruitment, retention, and constitutional issues. The other Enterprise asserted that reviewing twice would be contrary to congressional intent.

OFHEO's review authority extends both to the "compensation" and to the individualized termination benefits package provided to an executive officer by an Enterprise. The term "compensation" is broadly defined to include benefits to an executive officer that are derived from post-employment benefit plans or programs and other compensatory benefit arrangements containing termination benefits, which affect the executive officer individually or as part of a group. As a result, OFHEO reviews the value of benefits provided under such plans, programs and arrangements on an ongoing basis in exercising its dual review authorities. OFHEO aggregates the benefits provided under such plans, programs and arrangements with all other payments of money or any other thing of current or potential value to determine whether an officer's overall "compensation" is excessive.

OFHEO also reviews termination benefits provided by such plans, programs and arrangements in exercising its prior approval authority. Such a review is performed when any agreement that includes termination benefits is entered into, as well as at the time the executive officer leaves his or her employment with an Enterprise, if there have been benefit enhancements or modifications since the time the package was agreed upon. Upon determining that an officer's termination benefits package, as previously approved by OFHEO, has not changed in structure or terms, such package will not be subject to subsequent review or disapproval.

Specific Information to Calculate Termination Benefits (§ 1770.4(d))

Paragraph (d) of § 1770.4 of the proposed regulation specifies what information the Enterprise is to submit and when in order for OFHEO to calculate an executive officer's termination benefits package. Both Enterprises commented that paragraph (d) seems to prevent them from entering into an agreement with a new or departing officer prior to OFHEO approval if that agreement contains individualized termination provisions. They suggested that this would be a departure from current practice and would impede their ability to hire expeditiously. They also asserted that such a requirement would be inconsistent with proposed § 1770.5(a), which authorizes employment contracts to be entered into prior to OFHEO approval, provided they contain notice of the approval requirement.

As noted above in response to the Enterprises' comments on proposed § 1770.4(b)(8), an employment agreement subject to OFHEO's prior approval may be entered into prior to that approval, provided that such agreement satisfies the notice requirements set forth in § 1770.5(a).

One Enterprise requested clarification on paragraph (d)(1), which requires submission of details of a program change before entering into an

agreement containing termination

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agreement containing termination provisions. The Enterprise suggested that the requirement not apply to programmatic benefits available to executives as part of their total compensation, but to "individualized departures" from programmatic termination benefits.

As noted above, in response to the Enterprises' comments on proposed § 1770.4(c)(4) and (5), paragraph (d) has been clarified in the final regulation to provide that submissions need not include information on benefit plans of general applicability, such as so-called 401(k) plans or general health plans.

Compliance (§ 1770.5)

One Enterprise requested deletion of proposed § 1770.5(b), which would require the Enterprises to adopt written procedures implementing the regulation's submission requirements, as unwarranted "micro-management" of the Enterprises' internal procedures. It further asserted that the regulation's force of law and the enforcement remedies of paragraph (d) are sufficient to ensure compliance without the need for written procedures.

OFHEO agrees that the regulation need not require written procedures implementing the submission requirements contained in § 1770.4. Therefore, paragraph (b) has been deleted from this final regulation. Paragraphs (c) and (d) have been consolidated and redesignated as paragraph (b) in the final regulation. Failure by an Enterprise to comply with the requirements of this regulation may warrant remedial action. OFHEO has broad formal and informal authorities to remedy problems and to enforce its determinations, including rescission agreements and recovery.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

This regulation is not classified as a significant rule under Executive Order 12866 because it will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this final regulation has not been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of this final regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the rule, as herein adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation only affects the Enterprises.

Paperwork Reduction Act

This final regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

This final regulation does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. Assessment statements are not required for regulations that incorporate requirements specifically set forth in law. As explained in the preamble, this regulation implements specific statutory requirements. In addition, this regulation does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

List of Subjects in 12 CFR Part 1770

Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, OFHEO adds 12 CFR part 1770 to subchapter C to read as follows:

PART 1770—EXECUTIVE COMPENSATION

Sec.
1770.1 Authority and scope.
1770.2 Purpose.
1770.3 Definitions.
1770.4 Submission requirements.
1770.5 Compliance.

Authority: 12 U.S.C. 1452(h)(2), 1723a(d)(3)(B), 4501(6), 4502(3), 4502(7), 4513, 4514, 4517, 4518(a), 4631, 4632, 4636, 4641.

§ 1770.1 Authority and scope.

(a) *Authority.* Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, entitled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 ("the Act") (12 U.S.C. 4501 *et seq.*), established the Office of Federal Housing Enterprise Oversight ("OFHEO") as an independent office within the Department of Housing and Urban Development. In general, OFHEO is the safety and soundness regulator of two housing-related government sponsored enterprises: the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively, "the Enterprises"). The supervisory responsibilities of the Director of OFHEO (the "Director") include oversight of compensation provided by the Enterprises to their executive officers.

(b) *Scope.* The procedures set forth in this part apply to OFHEO's oversight of executive compensation under the following two statutory mandates:

(1) *Prohibition of excessive compensation.* The Act requires the Director to prohibit an Enterprise from providing compensation to any executive officer that is not reasonable and comparable with that paid by other similar businesses to executives doing similar work, *i.e.*, having similar duties and responsibilities. Businesses used for comparison purposes include publicly held financial institutions or major financial services companies. (12 U.S.C. 4518(a)). To effectuate this compensation oversight responsibility, the Act provides that the Director has full authority to take such actions as the Director determines are necessary. (12 U.S.C. 4513(8)). However, the Director may not prescribe or set a specific level or range of compensation for executive officers of the Enterprises. (12 U.S.C. 4518(b)).

(2) *Prior approval of termination benefits.* The Enterprises' enabling statutes ("charter acts") similarly provide that an Enterprise may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of an executive officer unless the agreement or contract is approved in advance by the Director. The Director may only approve termination benefits that are comparable to benefits provided by other public or private entities involved in financial services and housing interests to executives with comparable duties and responsibilities. Agreements or contracts that provide for termination payments to executives that were entered into before October 28, 1992 are not retroactively subject to approval or disapproval by the Director. However, a renegotiation, amendment or change to such an agreement or contract entered into on or before October 28, 1992 shall be considered as entering into an agreement or contract that is subject to approval by the Director. (Section 309(d)(3)(B); 12 U.S.C. 1723a(d)(3)(B) of Fannie Mae's Charter Act; Section 303(h)(2); 12 U.S.C. 1452(h)(2) of Freddie Mac's Corporation Act)

§ 1770.2 Purpose.

In exercising responsibilities related to executive compensation, the Director has established a structured process for the submission of relevant information by each Enterprise. This part codifies those procedures and clarifies the terms used therein in order to facilitate and enhance the efficiency of OFHEO's oversight.

§ 1770.3 Definitions.

The following definitions apply to the terms used in this part:

(a) *The Act* is Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, Oct. 28, 1992, 106 Stat. 3672, 3941 through 4012 (1993), 12 U.S.C. 4501 *et seq.*, separately entitled the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992."

(b) *Affiliate* means, except as provided by the Director, any entity that controls, is controlled by, or is under common control with, an Enterprise.

(c) *Charter acts* mean the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act, which are codified at 12 U.S.C. 1716 through 1723i and 12 U.S.C. 1451 through 1459, respectively.

(d) *Compensation* means any payment of money or the provision of any other thing of current or potential value in connection with employment. Compensation includes all direct and indirect payments of benefits, both cash and non-cash, granted to or for the benefit of any executive officer, including, but not limited to, payments and benefits derived from an employment contract compensation or benefit agreement, fee arrangement, perquisite, stock option plan, post employment benefit or other compensatory arrangement.

(e) *Director* means the Director of OFHEO or his or her designee.

(f) *Enterprise* means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and, except as provided by the Director, any affiliate thereof.

(g)(1) *Executive officer* means, with respect to an Enterprise:

(i) The chairman of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairman, any executive vice president, and any individual who performs functions similar to such positions whether or not the individual has an official title; and

(ii) Any senior vice president (SVP) or other individual with similar responsibilities, without regard to title:

(A) Who is in charge of a principal business unit, division or function, or

(B) Who reports directly to the Enterprise's chairman of the board of directors, vice chairman, president or chief operating officer.

(2) The Director shall inform the Enterprises of those officers covered by this definition.

(h) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

§ 1770.4 Submission requirements.

(a) *Submission of information to OFHEO.* All information required to be filed for purposes of this part is to be provided in a timely fashion by each Enterprise to OFHEO's Associate Director of the Office of Policy Analysis and Research, as specified in this section, or as designated by the Director.

(b) *Categories of information relating to prohibition of excessive compensation.* The following materials, unless otherwise specified, shall be provided by each Enterprise to OFHEO for review within one week after the specified action or event:

(1) Resolutions, including supporting materials and related reports, from meetings of the Enterprise's committee responsible for compensation when the committee takes any action regarding a compensation matter that under the committee's authority is effective without further action by the committee or the board of directors;

(2) Resolutions, including supporting materials and related reports (not otherwise provided to OFHEO under paragraph (b)(1) of this section), from meetings of the board of directors relating to executive compensation when the board of directors takes any action regarding a compensation matter that is effective without any further action by the board of directors;

(3) Minutes, including supporting materials and related reports, when adopted by the committee responsible for compensation and those portions of minutes of the board of directors, including supporting materials and related reports, related to compensation matters (except for materials previously provided under paragraphs (b)(1) or (2) of this section);

(4) General benefit plans applicable to executive officers when adopted or amended;

(5) Any study conducted by or on behalf of an Enterprise with respect to compensation of executive officers;

(6) The Enterprise's annual compensation report to Congress when submitted;

(7) A current organizational chart when changes occur affecting the status of executive officers under this part;

(8) Proxy statements when issued; and,

(9) Such other information as deemed appropriate by the Director, except that submissions required under this paragraph shall not include materials related to the performance of specific individuals.

(c) *Timing of submissions related to prior approval of termination benefits.* All relevant information, except as provided under § 1770.5(a), should be provided to OFHEO, unless already provided under paragraph (b) of this section:

(1) Before an Enterprise enters into any agreement or contract with a new or existing executive officer that includes termination benefits;

(2) Before an Enterprise makes any extension or other amendment to such an agreement or contract;

(3) Before an Enterprise takes any other action to provide termination benefits to a specific executive officer, regardless of how effected; or

(4) When an Enterprise makes any changes to the termination provisions of any compensation or benefit program affecting multiple executive officers.

(d) *Specific information required for calculation of termination benefits.* For submissions under paragraph (c) of this section, an Enterprise shall submit to OFHEO the following materials:

(1) The details of the agreement or program change, e.g., employment agreements, termination agreements, severance agreements, and portions of minutes of the board of directors relating to executive compensation and minutes and supporting materials of the

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compensation Committee of the board of directors;

(2) All information, data, assumptions and calculations for the potential total dollar value or range of values of the benefits provided, such as but not limited to salary, bonus opportunity, short-term incentives, long-term incentives, special incentives and pension provisions or related contract or benefit terms; and

(3) Such other information deemed appropriate by the Director, except that information required to be submitted under paragraph (c) of this section or under this paragraph shall not include information on benefit plans of general applicability.

§ 1770.5 Compliance.

(a) An employment agreement or contract subject to the Director's prior approval, as set forth in § 1770.1(b)(2), may be entered into prior to that approval, *provided that* such agreement or contract specifically provides that termination benefits under the agreement or contract shall not be effective and no payments shall be made thereunder unless and until approved by OFHEO. Such notice should make clear that alteration of benefit plans subsequent to OFHEO approval under this section, that affect final termination benefits of an executive officer, requires review at the time of the individual's termination from the Enterprise and prior to the payment of any benefits.

(b) Failure by an Enterprise to comply with the requirements this regulation may warrant remedial action by OFHEO. Such action may be taken in the form determined appropriate by the Director and may be taken separately from, in conjunction with, or in addition to any other corrective or remedial action, including an enforcement action to require an individual to make restitution to or reimbursement to the Enterprise of excessive compensation or inappropriately paid termination benefits.

Dated: September 4, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–22926 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1710

RIN 2550–AA20

Corporate Governance

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is responsible for ensuring the safety and soundness of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (Enterprises). In furtherance of that responsibility, OFHEO is proposing a regulation to set forth minimum requirements with respect to corporate governance practices and procedures of the Enterprises.

DATES: Written comments on the proposed regulation must be received by November 13, 2001.

ADDRESSES: Send written comments concerning the proposed regulation to Alfred M. Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. Written comments may also be sent to Mr. Pollard by electronic mail at *RegComments@OFHEO.gov*. OFHEO requests that written comments submitted in hard copy also be accompanied by the electronic version in MS Word© or in portable document format (PDF) on 3.5″ disk.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, telephone (202) 414–3804 (not a toll-free number); or Isabella W. Sammons, Associate General Counsel, telephone (202) 414–3790 (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Comments

OFHEO invites comments on all aspects of the proposed regulation, including legal and policy considerations, and will take all comments into consideration before issuing the final regulation. Copies of all comments will be posted on the OFHEO Internet web site at http://www.ofheo.gov. In addition, copies of all comments received will be available for examination by the public at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

Background

Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, titled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), established OFHEO as an independent office within the Department of Housing and Urban Development to ensure that the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises) are adequately capitalized and operate safely and in compliance with applicable laws, rules, and regulations.

Corporate governance involves the relationships between an Enterprise, its management, board of directors, shareholders, regulators, and other stakeholders. It provides the structure through which the business objectives and strategies of the Enterprises are set as well as the means of attaining those objectives and monitoring performance. In recent years, regulators, investor organizations, stock exchanges, and corporations themselves have increased their focus on the importance of good corporate governance practices and procedures to ensure the long-term success of corporations.

OFHEO recognizes that good corporate governance practices and procedures are essential to the safe and sound operations of the Enterprises and accomplishment of their public policy purposes. Thus, corporate governance is one category of risk and risk management that is examined by OFHEO under its annual risk-based examination program. The proposed regulation builds upon the annual risk-based examination program in that it sets forth basic safety and soundness standards for corporate governance with which the Enterprises are required to comply. The proposed corporate governance practices and procedures are substantively similar to those required by Federal banking agencies with respect to the regulated financial institutions. To a large extent, the corporate governance requirements set forth in the proposed regulation reflect the current practices of the Enterprises and the supervisory standards of OFHEO. The Enterprises must be able to continue to attract and retain the highest caliber of board members and executive officers.

Section-by-Section Analysis

Subpart A—General

Section 1710.1 Purpose

OFHEO is responsible under the Act for ensuring the safety and soundness of the Enterprises. In furtherance of that responsibility, proposed § 1710.1 provides that the purpose of the proposed regulation is to set forth minimum requirements with respect to the corporate governance practices and procedures of the Enterprises.

Section 1710.2 Definitions

Proposed § 1710.2 sets forth the definitions of terms used in the proposed regulation. The term:

Act is proposed to mean the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Pub.L. 102–550, section 1301, Oct. 28, 1992, 106 Stat. 3672, 3941 through 4012 (1993) (12 U.S.C. 4501 *et seq.*).

Agent is proposed to mean any person, other than a board member, executive officer, or employee of an Enterprise, who acts on behalf or for the benefit of an Enterprise, such as representing an Enterprise in contacts with third parties or providing professional services to an Enterprise.

Board member is proposed to mean a member of the board of directors; and, for purposes of subpart D, "board member" is proposed to include a current or former board member.

Board of directors is proposed to mean the board of directors of an Enterprise.

Chartering acts is proposed to mean the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act, which are codified at 12 U.S.C. 1716 through 1723i and 12 U.S.C. 1451 through 1459, respectively.

Compensation is proposed to mean any payment of money or the provision of any other thing of current or potential value in connection with employment. The term "compensation" is also proposed to include all direct and indirect payments of benefits, both cash and non-cash, including, but not limited to, payments and benefits derived from compensation or benefit agreements, fee arrangements, perquisites, stock option plans, post employment benefits, or other compensatory arrangements.

Conflict of interest is proposed to mean an interest in a transaction, relationship, or activity that might affect adversely, or appear to affect adversely, the ability to perform duties and responsibilities on behalf of the

Enterprise in an objective and impartial manner.

Director means the Director of OFHEO or his or her designee.

Employee is proposed to mean a salaried individual, other than an executive officer, who works part-time, full-time, or temporarily for an Enterprise.

Enterprise is proposed to mean the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term "Enterprises" is proposed to mean, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Entity is proposed to mean a corporation, company, association, firm, joint venture, general or limited partnership, society, joint stock company, fund, or other organization or institution.

Executive officer is proposed to mean any senior executive officer and any senior vice president or individual with similar responsibilities, without regard to title, who is in charge of a principal business unit, division, or function, or who reports directly to the chairperson, vice chairperson, chief operating officer, or president; and, for purposes of subpart D, "executive officer" is proposed to include a current or former executive officer.

Independent board member is proposed to mean a board member who meets the criteria for independence under the NYSE rules for audit committee members, regardless of the committee(s) on which the board member serves.

Legal expenses is proposed to mean, with respect to a claim, proceeding, or action, the amount of legal or other professional fees and expenses, and the amount of, and any cost incurred in connection with a penalty, fine, assessment, judgment, or settlement.

NYSE means the New York Stock Exchange.

OFHEO means the Office of Federal Housing Enterprise Oversight.

Payment, for purposes of subpart D of this part, is proposed to mean:

(1) Direct or indirect transfer of funds or assets;

(2) Forgiveness of a debt or other obligation;

(3) Conferment of a benefit, including but not limited to stock options and stock appreciation rights; and

(4) Segregation of funds or assets, establishment or funding of a trust, or purchase of or arrangement for a letter of credit or other instrument, for the purpose of making, or pursuant to an agreement to make, a payment on or after the date on which such funds or assets are segregated, such trust is established, or such letter of credit or other instrument is made available, without regard to whether the obligation to make such payment is contingent on the determination, after such date, of the liability for the payment of such amount or the liquidation of the amount of such payment.

Person is proposed to mean an individual or entity.

Senior executive officer is proposed to mean the chairperson of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairperson, any executive vice president of an Enterprise, and any individual, without regard to title, who has similar responsibilities.

Sections 1710.3–1710.9

Sections 1710.3 through 1710.9 are proposed to be reserved.

Subpart B—Corporate Practices and Procedures

Section 1710.10 Applicable Law

Congress established the Enterprises as privately owned corporations, imbued with private and public purposes, to be managed by their respective boards of directors. To dispel any legal uncertainty as to whether and to what extent State or Federal law applies to corporate governance practices and procedures of the Enterprises, proposed § 1710.10 would require that each Enterprise elect to follow and be bound by a specified body of corporate governance law to the extent such law is not inconsistent with applicable Federal law, rules, or regulations, including the standards proposed here. Specifically, the proposal requires the Enterprise to elect either the law of the jurisdiction in which its principal office is located, Delaware General Corporation Law, or the Model Business Corporation Act. The Enterprise is required to specify its election in its bylaws.

The proposed approach provides the Enterprises with flexibility in structuring their corporate governance practices and procedures while at the same time providing shareholders and other interested parties with certainty as to the body of corporate law applicable to each Enterprise.

OFHEO requests comments as to whether the choice of law to be elected should be narrower or broader than proposed. More particularly, should the law of the jurisdiction where the principal office of the Enterprise is located be the applicable law? Should the Delaware General Corporation Law and the Model Business Corporation Act be permissible alternatives? Should Federal law or agency-promulgated standards be the sole legal basis for corporate governance practices and procedures of the Enterprises?

Section 1710.11 Committees of Board of Directors

Proposed § 1710.11 provides that an Enterprise may establish committees of the board of directors, in addition to the minimally required audit and compensation committees. No committee is to have the authority of the board of directors to amend the bylaws and no committee is to operate to relieve the board of directors or any board member of any responsibility imposed by applicable laws, rules, and regulations. In addition, proposed § 1710.11 requires that each Enterprise provide in its bylaws for the establishment of audit and compensation committees, however styled.[1]

The proposed section requires that the audit committee comply with all NYSE rules with respect to the audit committee, including charter, independence, composition, and expertise requirements.[2] The NYSE rules are adequate to ensure an effective and independent audit committee without further supplementation by OFHEO. Furthermore, since both Enterprises are listed with the NYSE, the Enterprises should not need to make changes to their respective audit committees to comply with the requirements of proposed § 1710.11.

The compensation committee is proposed to be comprised of at least three independent board members. The proposed duties of the compensation committee include ensuring that compensation plans for executive officers and employees comply with applicable laws, rules, and regulations and approving the compensation of senior executive officers.

OFHEO specifically requests comments as to whether the definition of the term "independent board member" in proposed § 1710.2 is appropriate to use with respect to the independence of board members of the compensation committee.

[1] The importance of an independent audit committee has received increased attention by recent publications, including the *Recommendation of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees*, sponsored by the NYSE and the National Association of Securities Dealers, which can be accessed at http://www.nyse.com or http://www.nasd.com.

[2] The NYSE rules applicable to audit committees are in sections 303.01 and 303.02 of the NYSE Listed Company Manual, which can be accessed at http://www.nyse.com.

Section 1710.12 Compensation of Board Members, Executive Officers, and Employees

Proposed § 1710.12 requires that the compensation of board members, executive officers, and employees be reasonable and commensurate with their duties and responsibilities and comply with applicable laws, rules, and regulations.[3]

Section 1710.13 Quorum of Board of Directors; Proxies Not Permissible

Proposed § 1710.13 requires that each Enterprise provide in its bylaws that, for the transaction of business, a quorum of the board of directors is a majority of the entire board of directors and that a board member may not vote by proxy.

Section 1710.14 Conflict-of-Interest Standards

Proposed § 1710.14 requires that each Enterprise establish and administer written conflict-of-interest standards that will provide reasonable assurance that the board members, executive officers, employees, and agents of the Enterprise discharge their responsibilities in an objective and impartial manner.

Sections 1710.15–1710.19

Sections 1710.15 through 1710.19 are proposed to be reserved.

Subpart C—Responsibilities of Board of Directors

Section 1710.20 Conduct of Board Members

Proposed § 1710.20 sets forth the standards that board members must follow in conducting the business of the Enterprise. In addition to devoting sufficient time to his or her duties and responsibilities, each board member is to act:

(1) On a fully informed, impartial, objective, and independent basis;

(2) In good faith and with due diligence, care, and loyalty;

(3) In the best interests of the shareholders and the Enterprise; and

(4) In compliance with the chartering acts of the Enterprises and other applicable laws, rules, and regulations.

This proposed section is based on current legal standards embodied in State law and the Model Business Corporation Act.

[3] OFHEO has issued a proposed regulation with respect to the compensation of executive officers at 65 FR 81771 (Dec. 27, 2000).

Section 1710.21 Responsibilities of Board of Directors

Proposed § 1710.21 sets forth the responsibilities of the board of directors. The board of directors is responsible for managing the conduct and affairs of the Enterprise to ensure that the Enterprise is operated in a safe and sound manner, including, at a minimum:

(1) Reviewing and overseeing corporate strategy, major plans of action, and risk policy as well as monitoring corporate performance;

(2) Hiring and retaining qualified senior executive officers and overseeing succession planning for such senior executive officers;

(3) Ensuring that compensation plans for executive officers and employees comply with applicable law, rules, and regulations and approving the compensation of board members and senior executive officers.

(4) Ensuring the integrity of the accounting and financial reporting systems of the Enterprise, including independent audits, and that appropriate systems of control are in place to identify and monitor risk and compliance with the chartering acts of the Enterprises and other applicable laws, rules, and regulations;

(5) Remaining informed of the condition, activities, and operations of the Enterprise;

(6) Overseeing the process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors; and

(7) Ensuring the responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

The proposed section also notes that the board of directors should refer to publications of and formal pronouncements by OFHEO for guidance on the responsibilities of the board of directors.[4] The proposed section is based on current OFHEO supervisory standards as well as State laws and the Model Business Corporation Act.

Sections 1710.22–1710.29

Sections 1710.22 through 1710.29 are proposed to be reserved.

[4] For example, the *OFHEO Examination Handbook*, published at http://www.ofheo.gov, provides information and sets forth the examination criteria with respect to responsibilities of the board of directors.

Subpart D—Indemnification Payments

§ 1710.30 Permitted Indemnification Payments

Proposed § 1710.30 delineates the circumstances under which an Enterprise may make or agree to make indemnification payments. In proposing this section, OFHEO has considered the likely effect of such delineation on the ability of the Enterprises to attract and retain competent board members, executive officers, employees, and agents, and defers to applicable law in connection with actions not initiated or undertaken by OFHEO.

OFHEO considers an administrative proceeding to be initiated or undertaken by the issuance of a notice of charges. With respect to administrative proceedings initiated or undertaken by OFHEO, the proposed section permits an Enterprise to make or to agree to make indemnification payments, which are not prohibited under proposed § 1710.31, to a board member or executive officer, if the following two criteria are met:

(1) The board of directors of the Enterprise, in good faith, determines in writing after due investigation and consideration that the board member or executive officer acted in good faith and in a manner he or she believed to be in the best interests of the Enterprise and that the indemnification payment will not materially adversely affect the safety and soundness of the Enterprise; and

(2) The board member or executive officer agrees in writing to reimburse the Enterprise, to the extent the Enterprise is not covered by a commercial insurance policy or similar coverage, for that portion of any indemnification payment that subsequently becomes a prohibited indemnification payment under proposed § 1710.31.

In connection with an administrative proceeding initiated or undertaken by OFHEO, proposed § 1710.30 provides that the board member or executive officer requesting an indemnification payment is not to participate in any way in the discussion of the board of directors and approval of such payment. It does, however, provide that the board member or executive officer may present the request for indemnification to the board of directors and respond to any inquiries from the board of directors concerning his or her involvement in the circumstances giving rise to the administrative proceeding.

If a majority of board members are named as respondents in an administrative proceeding initiated or undertaken by OFHEO and request indemnification, proposed § 1710.30 provides that the remaining board

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members may authorize independent legal counsel to review the indemnification request and provide the remaining board members with a written opinion of counsel as to whether the two criteria for payment, noted above, are met. If the opinion of counsel concludes that the criteria have been met, the remaining board members may rely on the opinion in authorizing the requested indemnification.

Likewise, if all of the board members are named as respondents in an administrative proceeding and request indemnification, proposed § 1710.30 provides that the board of directors is to authorize independent legal counsel to review the indemnification request and provide the board of directors with a written opinion of counsel as to whether the two criteria have been met. If the opinion of counsel concludes that the criteria have been met, the board of directors may rely on such opinion in authorizing the requested indemnification.

These proposed procedures address the conflicts inherent in situations where the majority or all of the board members are subjects of an administrative proceeding. The use of independent legal counsel provides for an unbiased review of the two criteria necessary to approve indemnification and does not impose an undue hardship on the Enterprise. The board members may, of course, decline to approve the indemnification request despite a favorable opinion of legal counsel. OFHEO would consider legal counsel to be independent for purposes of the proposed section if the legal counsel is not a member of the legal staff of the Enterprise, does not have a recent or ongoing relationship with the Enterprise or any of its board members or senior executive officers, and has no other conflict of interest.

In a civil action or an administrative proceeding not initiated or undertaken by OFHEO, the proposed section authorizes an Enterprise to provide for payment to any board member, executive officer, employee, or agent of the Enterprise of legal expenses, in accordance with applicable law, provided that such payment is consistent with the safe and sound operations of the Enterprise.

Section 1710.31 Prohibited Indemnification Payments

Proposed § 1710.31 addresses when indemnification is prohibited in connection with an administrative proceeding that OFHEO initiates or undertakes. Thus, the proposed section does not permit an Enterprise or any affiliate of an Enterprise to make or agree to make, with certain exceptions, any payment to indemnify a board member or executive officer for any legal expense incurred in connection with an administrative proceeding initiated or undertaken by OFHEO that results in a final order or settlement pursuant to which such board member or executive officer is assessed a civil money penalty or is required to cease and desist from or take any affirmative action with respect to the Enterprise.

The proposed exceptions to this prohibition are that an Enterprise may make a reasonable payment that:

(1) Is used to purchase a commercial insurance policy or similar coverage; provided, that such insurance policy or similar coverage is not used to indemnify a board member or executive officer for the cost of any civil money penalty assessed against him or her in an administrative proceeding initiated or undertaken by OFHEO, but may be used to pay other legal expenses incurred in connection with such administrative proceeding or the amount of any restitution to the Enterprise; or

(2) Represents partial indemnification for legal expenses specifically attributable to particular charges for which there has been a formal and final adjudication or finding in connection with a settlement that the board member or executive officer has not violated certain laws or regulations or has not engaged in certain unsafe or unsound practices or breaches of fiduciary duty.

With respect to the second exception noted above, OFHEO recognizes that the appropriate amount of any partial indemnification may be difficult to ascertain with certainty. OFHEO, nevertheless, is of the opinion that the permissibility of partial indemnification is more equitable than an all or nothing approach.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The proposed regulation is not classified as a significant rule under Executive Order 12866 because it would not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this proposed regulation has not been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the proposed regulation, if adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1710

Administrative practice and procedure, Government Sponsored Enterprises.

Accordingly, for the reasons stated in the preamble, OFHEO proposes to add subchapter B to 12 CFR chapter XVII as follows:

Subchapter B—Corporate Governance

PART 1710—CORPORATE GOVERNANCE

Subpart A—General

Sec.
1710.1 Purpose.
1710.2 Definitions.
1710.3–1710.9 [Reserved]

Subpart B—Corporate Practices and Procedures

1710.10 Applicable law.
1710.11 Committees of board of directors.
1710.12 Compensation of board members, executive officers, and employees.
1710.13 Quorum of board of directors; proxies not permissible.
1710.14 Conflict-of-interest standards.
1710.15–1710.19 [Reserved]

Subpart C—Responsibilities of Board of Directors

1710.20 Conduct of board members.
1710.21 Responsibilities of board of directors.
1710.22–1710.29 [Reserved]

Subpart D—Indemnification Payments

1710.30 Permitted indemnification payments.
1710.31 Prohibited indemnification payments.

Authority: 12 U.S.C. 4513(a) and 4513(b)(1).

Subpart A—General

§ 1710.1 Purpose.

OFHEO is responsible under the Act for ensuring the safety and soundness of the Enterprises. In furtherance of that responsibility, this part sets forth minimum requirements with respect to the corporate governance practices and procedures of the Enterprises.

§ 1710.2 Definitions.

For purposes of this part, the term:

(a) *Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102–550, section 1301, Oct. 28, 1992, 106 Stat. 3672, 3941 through 4012 (1993) (12 U.S.C. 4501 *et seq.*).

(b) *Agent* means any person, other than a board member, executive officer, or employee of an Enterprise, who acts on behalf or for the benefit of an Enterprise, such as representing an Enterprise in contacts with third parties or providing professional services to an Enterprise.

(c) *Board member* means a member of the board of directors; and, for purposes of subpart D of this part, the term "board member" includes a current or former board member.

(d) *Board of directors* means the board of directors of an Enterprise.

(e) *Chartering acts* mean the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act, which are codified at 12 U.S.C. 1716 through 1723i and 12 U.S.C. 1451 through 1459, respectively.

(f) *Compensation* means any payment of money or the provision of any other thing of current or potential value in connection with employment. The term "compensation" includes all direct and indirect payments of benefits, both cash and non-cash, including, but not limited to, payments and benefits derived from compensation or benefit agreements, fee arrangements, perquisites, stock option plans, post employment benefits, or other compensatory arrangements.

(g) *Conflict of interest* means an interest in a transaction, relationship, or activity that might affect adversely, or appear to affect adversely, the ability to perform duties and responsibilities on behalf of the Enterprise in an objective and impartial manner.

(h) *Director* means the Director of OFHEO or his or her designee.

(i) *Employee* means a salaried individual, other than an executive officer, who works part-time, full-time, or temporarily for an Enterprise.

(j) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term "Enterprises" means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(k) *Entity* means a corporation, company, association, firm, joint venture, general or limited partnership, society, joint stock company, fund, or other organization or institution.

(l) *Executive officer* means any senior executive officer and any senior vice president of an Enterprise and any individual with similar responsibilities, without regard to title, who is in charge of a principal business unit, division, or function of an Enterprise, or who reports directly to the chairperson, vice chairperson, chief operating officer, or president of an Enterprise; and, for purposes of subpart D of this part, the term "executive officer" includes a current or former executive officer.

(m) *Independent board member* means a board member who meets the criteria for independence under the NYSE rules for audit committee members, regardless of the committee(s) on which the board member serves.

(n) *Legal expenses* means, with respect to a claim, proceeding, or action, the amount of legal or other professional fees and expenses, and the amount of, and any cost incurred in connection with a penalty, fine, assessment, judgment, or settlement.

(o) *NYSE* means the New York Stock Exchange.

(p) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

(q) *Payment*, for purposes of subpart D of this part, means:

(1) Direct or indirect transfer of funds or assets;

(2) Forgiveness of a debt or other obligation;

(3) Conferment of a benefit, including but not limited to stock options and stock appreciation rights; and

(4) Segregation of funds or assets, establishment or funding of a trust, or purchase of or arrangement for a letter of credit or other instrument, for the purpose of making, or pursuant to an agreement to make, a payment on or after the date such funds or assets are segregated, such trust is established, or such letter of credit or such other instrument is made available, without regard to whether the obligation to make such payment is contingent on the determination, after such date, of the liability for such payment or the liquidation of the amount of such payment.

(r) *Person* means an individual or entity.

(s) *Senior executive officer* means the chairperson of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairperson, any executive vice president of an Enterprise, and any individual, without regard to title, who has similar responsibilities.

§§ 1710.3–1710.9 [Reserved]

Subpart B—Corporate Practices and Procedures

§ 1710.10 Applicable law.

(a) *Election.* Each Enterprise shall elect to follow and be bound by the corporate governance practices and procedures of one of the following bodies of law, to the extent such procedures are not inconsistent with safety and soundness and applicable Federal law, rules, and regulations:

(1) Law of the jurisdiction in which the principal office of the Enterprise is located;

(2) Delaware General Corporation Law, Del. Code Ann. tit. 8, as amended; or

(3) Model Business Corporation Act, as amended.

(b) *Designation.* Each Enterprise shall designate in its bylaws the body of law elected pursuant to paragraph (a) of this section within 90 calendar days from the effective date of this part.

§ 1710.11 Committees of board of directors.

(a) *Committees.* An Enterprise may provide in its bylaws for the establishment of committees of the board of directors, in addition to the audit and compensation committees required under paragraph (b) of this section. No committee of the board of directors shall have the authority of the board of directors to amend the bylaws and no committee shall operate to relieve the board of directors or any board member of any responsibility imposed by applicable laws, rules, and regulations.

(b) *Audit and compensation committees.* Each Enterprise shall provide in its bylaws, within 90 calendar days after the effective date of this part, for the establishment of the following committees, however styled:

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(1) An audit committee that is in compliance with the charter, independence, composition, expertise, and all other requirements of the audit committee rules of the NYSE.

(2) A compensation committee, comprised of at least three independent board members, whose duties include, at a minimum, ensuring that compensation plans for executive officers and employees comply with applicable laws, rules, and regulations and approving the compensation of senior executive officers.

§ 1710.12 Compensation of board members, executive officers, and employees.

Compensation of board members, executive officers, and employees shall not be in excess of that which is reasonable and commensurate with their duties and responsibilities and comply with applicable laws, rules, and regulations.

§ 1710.13 Quorum of board of directors; proxies not permissible.

Each Enterprise shall provide in its bylaws, within 90 calendar days from the effective date of this part, that, for the transaction of business, a quorum of the board of directors is a majority of the entire board of directors and that a board member may not vote by proxy.

§ 1710.14 Conflict-of-interest standards.

Each Enterprise shall establish and administer written conflict-of-interest standards that will provide reasonable assurance that the board members, executive officers, employees, and agents of the Enterprise discharge their responsibilities in an objective and impartial manner.

§§ 1710.15–1710.19 [Reserved]

Subpart C—Responsibilities of Board of Directors

§ 1710.20 Conduct of board members.

(a) *Actions.* Each member of the board of directors of an Enterprise, in conducting the business of the Enterprise, shall act:

(1) On a fully informed, impartial, objective, and independent basis;

(2) In good faith and with due diligence, care, and loyalty;

(3) In the best interests of the shareholders and the Enterprise; and

(4) In compliance with the chartering act of the Enterprise and other applicable laws, rules, and regulations.

(b) *Time.* Each board member of an Enterprise shall devote sufficient time and attention to his or her responsibilities in conducting the business of the Enterprise.

§ 1710.21 Responsibilities of board of directors.

(a) *Responsibilities.* The board of directors is responsible for managing the conduct and affairs of the Enterprise to ensure that the Enterprise is operated in a safe and sound manner, including, at a minimum:

(1) Reviewing and overseeing corporate strategy, major plans of action, risk policy, as well as monitoring corporate performance;

(2) Hiring and retaining qualified senior executive officers and overseeing succession planning for such senior executive officers;

(3) Ensuring that compensation plans for executive officers and employees comply with applicable law, rules, and regulations and approving the compensation of board members and senior executive officers;

(4) Ensuring the integrity of the accounting and financial reporting systems of the Enterprise, including independent audits, and that appropriate systems of control are in place to identify and monitor risk and compliance with the chartering act of the Enterprise and other applicable laws, rules, and regulations;

(5) Remaining informed of the condition, activities, and operations of the Enterprise;

(6) Overseeing the process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors; and

(7) Ensuring the responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

(b) *Additional guidance.* The board of directors should refer to publications of and formal pronouncements of OFHEO for guidance on the responsibilities of the board of directors.

§§ 1710.22–1710.29 [Reserved]

Subpart D—Indemnification Payments

§ 1710.30 Permitted indemnification payments.

(a) *OFHEO administrative proceedings.* (1) Except as provided in § 1710.31, an Enterprise may make or agree to make indemnification payments to a board member or executive officer of the Enterprise with respect to legal expenses incurred in connection with an administrative proceeding initiated or undertaken by OFHEO, if:

(i) The board of directors of the Enterprise, in good faith, determines in writing after due investigation and consideration that the board member or executive officer acted in good faith and in a manner he or she believed to be in the best interests of the Enterprise and that the indemnification payment will not materially adversely affect the safety and soundness of the Enterprise; and

(ii) The board member or executive officer agrees in writing to reimburse the Enterprise, to the extent the Enterprise is not covered by any commercial insurance policy or similar coverage, for that portion of an indemnification payment that subsequently becomes a prohibited indemnification payment under § 1710.31.

(2) In connection with an administrative proceeding initiated or undertaken by OFHEO:

(i) The board member or executive officer requesting an indemnification payment shall not participate in any way in the discussion of the board of directors and approval of such payment; provided, however, that such board member or executive officer may present the request for indemnification to the board of directors and respond to any inquiries from the board of directors concerning his or her involvement in the circumstances giving rise to the administrative proceeding.

(ii) In the event that a majority of the board members are named as respondents, the remaining board members may authorize independent legal counsel to review the indemnification request and provide the remaining board members with a written opinion of counsel as to whether the conditions delineated in paragraph (a)(1) of this section have been met. If the opinion of counsel concludes that such conditions have been met, the remaining members of the board of directors may rely on the opinion in authorizing the requested indemnification.

(iii) In the event that all of the board members are named as respondents, the board of directors shall authorize independent legal counsel to review the indemnification request and provide the board with a written opinion of counsel as to whether the conditions delineated in paragraph (a)(1) of this section have been met. If the opinion of counsel concludes that such conditions have been met, the board of directors may rely on the opinion in authorizing the requested indemnification.

(b) *Other civil actions or administrative proceedings.* In cases involving a civil action or an administrative proceeding not initiated or undertaken by OFHEO, an Enterprise may provide for payment to any board member, executive officer, employee, or agent of the Enterprise of legal expenses in accordance with applicable law, provided that such payment will not materially adversely affect the safety and soundness of the Enterprise.

§ 1710.31 Prohibited indemnification payments.

(a) *Prohibited indemnification payments.* An Enterprise or any affiliate of an Enterprise may not make, except as provided in paragraph (b) of this section, any payment to indemnify any board member or executive officer for any legal expense incurred in connection with an administrative proceeding initiated or undertaken by OFHEO that results in a final order or settlement pursuant to which the board member or executive officer is assessed a civil money penalty or is required to cease and desist from or take any affirmative action with respect to the Enterprise.

(b) *Exceptions.* An Enterprise may make a reasonable payment that:

(1) Is used to purchase any commercial insurance policy or similar coverage; provided, however, that such insurance policy or similar coverage shall not be used to indemnify a board member or executive officer for the cost of any civil money penalty assessed against him or her in an administrative proceeding initiated or undertaken by OFHEO, but may be used to pay other legal expenses incurred in connection with such administrative proceeding or to pay the amount of any restitution to the Enterprise; or

(2) Represents partial indemnification for legal expenses specifically attributable to particular charges for which there has been a formal and final adjudication or a finding in connection with a settlement that the board member or executive officer has not violated certain laws or regulations or has not engaged in certain unsafe or unsound practices or breaches of fiduciary duty.

Dated: September 4, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–22925 Filed 9–11–01; 8:45 am]

BILLING CODE 4220–01–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1773

RIN 2550–AA21

Flood Insurance

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight ("OFHEO") is proposing a regulation to codify the authority and responsibility of OFHEO to oversee and enforce the statutory requirements affecting the operations of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under the National Flood Insurance Reform Act of 1994, and to effect congressionally mandated adjustments to the civil money penalties applicable to violations of that law.

DATES: Comments regarding this notice of proposed rulemaking must be received in writing on or before October 12, 2001.

ADDRESSES: Send written comments to Alfred M. Pollard, General Counsel, Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Written comments may also be sent by electronic mail at *RegComments@ofheo.gov*. OFHEO requests that written comments submitted in hard copy also be accompanied by the electronic version in MS Word or in portable document format (pdf) on 3.5" disk.

FOR FURTHER INFORMATION CONTACT: David A. Felt, Associate General Counsel, Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–3750 (not a toll-free number). The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Comments

OFHEO invites comments on all aspects of the proposed regulation, including legal and policy considerations, and will take all comments into consideration before issuing the final regulation. Copies of all comments will be posted on the OFHEO Internet web site at http://www.ofheo.gov. In addition, copies of all comments received will be available for examination by the public at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

I. Statutory Framework

Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, entitled the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992" (the "Act"),[1] established the Office of Federal Housing Enterprise Oversight ("OFHEO") as an independent office within the Department of Housing and Urban Development. OFHEO is the financial safety and soundness regulator of the nation's two largest housing-related Government-sponsored enterprises: the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively, the "Enterprises"). In addition to establishing OFHEO, the Act made amendments to the Enterprises' enabling statutes (collectively, "the Charter Acts")[2] among other things, accommodate the restructured regulatory regime under the Act.

The National Flood Insurance Act of 1968 ("NFIA")[3] and the Flood Disaster Protection Act of 1973 ("FDPA"),[4] as amended by the National Flood Insurance Reform Act of 1994 ("NFIRA"),[5] together create a comprehensive National Flood Insurance Program ("NFIP") that includes various provisions designed to ensure that structures built in flood plains are covered by statutory minimum amounts of flood insurance. NFIRA added specific requirements explicitly applicable to the Enterprises,[6] designated OFHEO as the Federal agency responsible for determining compliance of the Enterprises' flood insurance responsibilities, required OFHEO to report their compliance in the agency's 1996, 1998 and 2000 annual reports,[7] and provided OFHEO with the authority to issue any regulations necessary to carry out the applicable provisions of NFIRA.[8] NFIRA also authorized OFHEO to impose civil money penalties upon an Enterprise that fails to implement procedures reasonably designed to ensure that the loans it purchases comply with the mandatory flood insurance purchase requirements.[9]

More specifically, NFIRA requires that the Enterprises each implement procedures reasonably designed to ensure that any mortgage loan that is purchased and is secured by property located in a designated flood hazard

[1] 12 U.S.C. 4501 *et seq.*

[2] Federal National Mortgage Association Charter Act (12 U.S.C. 1716–1723i) and Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451–1459).

[3] Codified at 42 U.S.C. 4001 *et seq.* and other scattered sections of 42 U.S.C.

[4] Codified at 42 U.S.C. 4002 *et seq.* and other scattered sections of 42 U.S.C.

[5] Pub. L. No. 103–325 (Sept. 23, 1994) (codified, as amended, at 42 U.S.C. 4001–4129).

[6] 42 U.S.C. 4012a(b)(3).

[7] 12 U.S.C. 4521(a)(4).

[8] 42 U.S.C. 4001 note.

[9] 42 U.S.C. 4012a(f)(c).

area is covered for the term of the loan

flood insurance is available under the

Section 1773.3(f) provides that no

requirements specifically set forth in

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area is covered for the term of the loan by flood insurance in an amount at least equal to the lesser of (1) the outstanding principal balance of the loan or (2) the maximum limit of coverage made available for that type of property under the NFIP. OFHEO is authorized under NFIRA to levy a civil money penalty of $350 per violation, not to exceed $100,000 per year, against an Enterprise that it finds to have engaged in a pattern or practice of purchasing loans in violation of the procedures.[10]

II. Background

The Enterprises have a key role in the implementation of the Federal Government's flood insurance program, particularly with regard to lenders that are not subject to direct supervision by a Federal regulatory agency. The Enterprises use their seller/servicer guidelines and other quality control review procedures to ensure that lenders with whom they contract comply with the applicable flood insurance laws. The Enterprises are required to establish procedures designed to prevent their purchase of loans that do not comply with these laws. NFIRA tasks OFHEO with reviewing the adequacy of such procedures as well as the Enterprises' compliance with them.

A primary purpose of the proposed regulation is to reiterate the relevant statutory provisions specifically applicable to the Enterprises and to OFHEO and to codify them in OFHEO's regulations. The proposed regulation is intended to provide guidance as to the procedures to be applied if an enforcement action were to be required, to add statutory civil money penalty amounts for infractions of the flood insurance requirements to the schedule of penalties in OFHEO's regulations and to adjust such penalty amounts as contemplated by law for inflation.

The Inflation Adjustment Act

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (the Inflation Adjustment Act),[11] requires Federal agencies with the authority to issue civil money penalties, to adopt regulations to adjust each civil money penalty authorized by law that the agency has jurisdiction to administer. The purpose of these adjustments is to maintain the deterrent effect of civil money penalties and promote compliance with the law. The Inflation Adjustment Act requires agencies to make an initial adjustment of their civil money penalties upon the statute's enactment, and to make additional adjustments on an ongoing basis, at least once every four years following the initial adjustment.

Under the Inflation Adjustment Act, the inflation adjustment for each applicable civil money penalty is determined by increasing the maximum civil money penalty amount by a cost-of-living adjustment. As is described in detail below, the Inflation Adjustment Act provides that this cost-of-living adjustment is to reflect the percentage increase in the Consumer Price Index since the civil money penalties were last adjusted or established.

NFIRA sets forth the procedures under which the Director of OFHEO could impose civil money penalties against an Enterprise and the amounts of these civil money penalties. In this rulemaking, the amounts of these civil money penalties are being adjusted in accordance with the requirements of the Inflation Adjustment Act. The increases in maximum civil money penalty amounts contained in this proposed rule do not mandate the amount of any civil money penalty that OFHEO may seek for a particular violation; OFHEO would determine each civil money penalty on a case-by-case basis in light of the circumstances of the case.

The Inflation Adjustment Act directs Federal agencies to calculate each civil money penalty adjustment as the percentage by which the CPI–U for June of the calendar year preceding the adjustment exceeds the CPI–U for June of the calendar year in which the amount of such civil money penalty was last set or adjusted pursuant to law. OFHEO has not previously adjusted these CMP amounts, so the base period is 1994, the year in which the CMPs were enacted into law by NFIRA. Because OFHEO is making these adjustments in calendar year 2001, and NFIRA was enacted in 1994, the inflation adjustment amount for each civil money penalty was calculated by comparing the CPI–U for June 1994 (148.0) with the CPI–U for June 2000 (172.4), resulting in an inflation adjustment of 16.5 percent. For each civil money penalty, the product of this inflation adjustment and the previous maximum penalty amount was then rounded in accordance with the specific requirements of the Inflation Adjustment Act,[12] then added to the previous maximum penalty amount to determine the new adjusted maximum penalty amount. However, the Inflation Adjustment Act further specifies that the first adjustment of any CMP pursuant to such Act may not exceed ten percent of the penalty. Accordingly, the original civil money penalty maximum of $350 under NFIA is increased to $385 for each violation and the civil money penalty maximum of $100,000 is increased to $110,000 for the total assessed penalties against any Enterprise during any calendar year.

Section-By-Section Analysis

Section 1773.1 Authority and Scope

Section 1773.1 sets forth the authority upon which this proposed regulation is based, namely the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Reform Act of 1994 requires OFHEO to examine the Enterprises to ascertain their compliance with these statutes and to report to Congress on their compliance, and provides OFHEO with the authority to issue any regulations necessary to carry out the applicable provisions of NFIRA. OFHEO is authorized to impose civil money penalties on an Enterprise for violation of procedures established pursuant to the National Flood Insurance Act of 1968, as amended, or rules or regulations adopted pursuant thereto.[13]

Section 1773.2 Requirements

Section 1773.2(a) sets forth the requirement that each Enterprise is to implement procedures reasonably designed to ensure that the properties securing particular loans described in paragraph (a) are properly insured in accordance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994. This requirement applies to any loan purchased by an Enterprise that is secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director of the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Program. As explained in paragraph (a), the Enterprise is required to ensure that a building or mobile home, and any personal property securing such loan are covered for the term of the loan by flood insurance in an amount at least equal to the lesser of the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Program.

Section 1773.2(b) proposes that the procedures in paragraph (a) need apply only to loans made, increased, extended, or renewed after September 22, 1995. It further provides that paragraph (a) does not apply to any loan having an original outstanding principal balance of $5,000 or less and a repayment term of one year or less.

Section 1773.3 Civil Money Penalties

Section 1773.3 sets forth procedures under this proposed section under which the Director of OFHEO may impose civil money penalties against an Enterprise. Section 1773.3(a) sets forth that the Director of OFHEO may assess a civil money penalty against an Enterprise determined by the Director to have engaged in a pattern or practice of purchasing loans in violation of the procedures established pursuant to § 1773.2.

Section 1773.3(b) sets forth notice and hearing requirements prior to the imposition of civil money penalties under this section. A civil money penalty may be issued only after notice and an opportunity for a hearing on the record has been provided under 12 CFR part 1780.

Section 1773.3(c) sets forth the maximum amount of civil money penalties that may be imposed on an Enterprise under this section. A civil money penalty under this section may not exceed the adjusted statutory amount of $385 for each violation and the total amount of penalties assessed under this section against an Enterprise during any calendar year may not exceed the adjusted statutory cap of $110,000 for such total penalties.

Section 1773.3(d) sets forth procedures for the deposit of civil money penalties. Any civil money penalties collected under this section shall be paid into the National Flood Mitigation Fund in accordance with 42 U.S.C. 4104d.

Section 1773.3(e) provides that any civil money penalty under this section shall be in addition to any civil remedy or criminal penalty otherwise available.

Section 1773.3(f) provides that no penalty may be imposed under this section after the expiration of the four-year period beginning on the date of the occurrence of the violation for which the penalty is authorized.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not deemed to be a significant rule under Executive Order.12866 because it will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this proposed rule has not been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a rule that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of this proposed rule under the Regulatory Flexibility Act. The General Counsel certifies that this proposed rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

This proposed rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. Assessment statements are not required for regulations that incorporate requirements specifically set forth in law. As explained in the preamble, this rule implements specific statutory requirements. In addition, this rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

List of Subjects in 12 CFR Part 1773

Administrative practice and procedure, Flood insurance, Penalties, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, OFHEO proposes to add 12 CFR part 1773 to subchapter C of chapter XVII as follows:

PART 1773—FLOOD INSURANCE

Sec.
1773.1 Authority and scope.
1773.2 Requirements.
1773.3 Civil money penalties.

Authority: 12 U.S.C. 4521(a)(4); 42 U.S.C. 4001 note; 28 U.S.C. 2461 note; 42 U.S.C. 4012a(f)(3), (4), (8), (9), (10).

§ 1773.1 Authority and scope.

(a) *Authority.* The National Flood Insurance Act of 1968, title XII of Pub. L. No. 90–448, Aug. 1, 1968, 42 U.S.C. 4002 *et seq.*, and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4002 *et seq.*, as amended by the National Flood Insurance Reform Act of 1994 ("NFIRA"), Pub. L. No. 103–325, Sept. 23, 1994, 42 U.S.C. 4001–4129, together create the National Flood Insurance Program ("NFIP") which established specific requirements applicable to the Enterprises. NFIRA designates OFHEO as the Federal agency responsible for determining compliance by the Enterprises with these statutes and with reporting to Congress biannually for six years on the Enterprises' compliance. OFHEO with the authority to issue any regulations necessary to carry out the applicable provisions of NFIRA. OFHEO is also charged with enforcing the requirements of NFIRA as to the Enterprises and provides for the assessment of civil money penalties for violations of the procedures established by the Enterprises pursuant to the law or implementing regulations.

(b) *Scope.* This part sets forth the responsibilities of the Enterprises under NFIRA and the procedures to be used in any proceeding to assess civil money penalties against an Enterprise under NFIRA.

§ 1773.2 Requirements.

(a) *Procedures.* Each Enterprise shall implement procedures reasonably

[10] 42 U.S.C. 4012a(f)(3),(5).

[11] 28 U.S.C. 2461 note.

[12] The statute's rounding rules require that each increase be rounded to the nearest multiple as follows: $10 in the case of penalties less than or equal to $100; $100 in the case of penalties greater than $100 but less than or equal to $1,000; $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000; $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000; $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and $5,000 in the case of penalties greater than $200,000.

[13] 42 U.S.C. 4012a(f)(3).

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designed to ensure for any loan that is secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director of the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance is available under the NFIP, and purchased by such entity, the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in an amount at least equal to the lesser of the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the NFIP.

(b) *Applicability.* (1) Paragraph (a) of this section shall apply only with respect to any loan made, increased, extended, or renewed after September 22, 1995.

(2) Paragraph (a) of this section shall not apply to any loan having an original outstanding balance of $5,000 or less and a repayment term of one year or less.

§ 1773.3 Civil money penalties.

(a) *In general.* If an Enterprise is determined by the Director of OFHEO to have engaged in a pattern or practice of purchasing loans in violation of the procedures established pursuant to the NFIA, as amended, or to § 1773.2, the Director may assess civil money penalties against such Enterprise in such amount or amounts as deemed to be appropriate under paragraph (c) of this section.

(b) *Notice and hearing.* A civil money penalty under this section may be assessed only after notice and an opportunity for a hearing on the record has been provided under 12 CFR part 1780.

(c) *Amount.* A civil money penalty under this section may not exceed $385 for each violation. The total amount of penalties assessed under this section against an Enterprise during any calendar year may not exceed $110,000.

(d) *Deposit of penalties.* Any penalties collected under this section shall be paid into the National Flood Mitigation Fund in accordance with 42 U.S.C. 4104d.

(e) *Additional penalties.* Any penalty under this section shall be in addition to, and shall not preclude, any civil remedy or criminal penalty otherwise available.

(f) *Statute of limitations.* No civil money penalty may be imposed under this section after the expiration of the four-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this section.

Dated: September 4, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–22927 Filed 9–11–01; 8:45 am]

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September 12, 2001

Part IV

The President

Proclamation 7460—National Birmingham Pledge Week, 2001

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Presidential Documents

Title 3—

The President

Proclamation 7460 of September 8, 2001

National Birmingham Pledge Week, 2001

By the President of the United States of America

A Proclamation

The United States has grown strong and vibrant because of its diversity and common values. Representing different religions, cultures, ethnic groups, and backgrounds, our citizens have laid the foundation for our country's remarkable achievements.

As a Nation, we celebrate those achievements and look forward to new challenges. At the same time, we also recognize that racism still exists in America.

One of the darkest days for the cause of civil rights was September 15, 1963, when a bomb exploded in the basement of the Sixteenth Street Baptist Church in Birmingham, Alabama. The blast ended the lives of four young African-American girls, and ultimately demonstrated the tragic human costs of bigotry and intolerance.

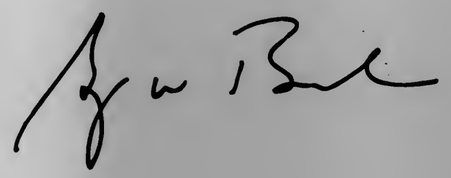
Through the efforts of heroes like Martin Luther King, Jr., and other brave men and women of the civil rights movement, our Nation has made progress in battling racism and building a society that more fully lives up to its democratic ideals. However, regardless of the decades that have passed, despicable acts such as the Birmingham bombing remain an unforgettable reminder of the need for continued vigilance against those who would infest our society with hate.

The Birmingham Pledge, started in 1998, forges a positive legacy from the lessons of the Birmingham tragedy. The Pledge encourages people to take personal responsibility for conducting themselves in ways that will achieve greater racial harmony in our communities. It calls for a commitment to "treat all people with dignity and respect." This is our solemn duty as citizens.

As part of National Birmingham Pledge Week, I encourage all Americans to join me in renewing our commitment to fight racism and uphold equal justice and opportunity. We also must strive to treat each other with civility, to love our neighbors, and to extend the American dream to every willing heart. By doing so, we can fulfill our Nation's promise and build brighter futures for all our citizens as we look forward to the challenges of tomorrow.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 9–15, 2001, as National Birmingham Pledge Week. I call upon the people of the United States to mark this observance with appropriate programs and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01-23078
Filed 9-11-01; 9:02 am]
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H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–321–AD; Amendment 39–12436; AD 2001–18–10]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes, that requires replacement of the engine oil pressure sensors with new sensors, and installation of an oil tank pressure relief kit. Additionally, this amendment requires revision of the Airplane Flight Manual that would specify new oil pressure limits. This action is necessary to prevent rejected takeoffs due to exceeding engine oil pressure limits, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 18, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 18, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda M. Haynes, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6091; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and EMB–145 series airplanes was published in the **Federal Register** on December 19, 2000 (65 FR 79323). That action proposed to require replacement of the engine oil pressure sensors with new sensors, and installation of an oil tank pressure relief kit. Additionally, that action proposed to require revision of the Airplane Flight Manual (AFM) that would specify new oil pressure limits.

Public Comment

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Withdraw the Proposed Rule

One commenter states that 96% of the applicable airplanes registered in the United States are already in compliance with the proposed requirements. Therefore, the commenter requests that the proposed rule be withdrawn.

The FAA does not agree with the commenter's request. Even if the current U.S.-registered fleet may be in compliance with the requirements of the AD, the issuance of the rule is still necessary to ensure that any affected airplane that is imported and placed on the U.S. register in the future will be required to be in compliance as well. Issuance of this AD will ensure that the airplane is modified and contains the appropriate AFM revision prior to the time it is permitted to operate in the U.S.

Request To Require Terminating Action

One commenter states that the terminating modification referenced in the "Interim Action" paragraph of the preamble of the proposed rule has been developed and approved. That terminating action includes accomplishing certain modifications of the Full Authority Digital Engine Control (FADEC) software system, Engine Indication and Crew Alerting System (EICAS), and Engine Indication and Electronic Flight Instrument System (EFIS), and replacing the existing oil pressure sensor, as specified in certain EMBRAER and Rolls-Royce service bulletins. The commenter requests that the terminating action be added as a requirement in the final rule.

The FAA does not agree with the commenter's requests, although we do acknowledge that a terminating action has been developed and approved. However, the specific modifications included in the terminating action were not available at the time the proposed rule was issued. Requiring such modifications in the final rule would substantially alter the requirements and increase the scope of the proposed rule, which would require us to provide opportunity for public comment of those additional requirements. In this case, we find that to delay this action to allow for public opportunity to comment would be inappropriate in light of the identified unsafe condition. Therefore, we have added the three modifications as an optional terminating action in new paragraph (c) of the final rule, specifying that accomplishment of all three optional modifications constitutes terminating action for the requirements of this AD.

Further Rulemaking

The FAA is considering further rulemaking to require accomplishment of the three modifications mentioned above.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Transport Airplane Directorate, 1601 Lind

Administration (FAA), Transport

cabin, and failure of certain systems

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Cost Impact

The FAA estimates that 185 EMBRAER Model EMB–135 and EMB–145 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to install the oil pressure sensor, and that the average labor rate is $60 per work hour. Required parts will cost approximately $3,562 per airplane. The FAA estimates that it will take approximately 2 work hours per airplane to install the oil tank pressure relief kit. Required parts will cost approximately $2,421 per airplane. Additionally, it will take approximately 1 work hour per airplane to accomplish the revision of the AFM. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,151,255, or $6,223 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–10 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–12436. Docket 2000–NM–321–AD.

Applicability: Model EMB–135 and EMB–145 airplanes, serial numbers 145001 through 145369 inclusive, equipped with Rolls-Royce/Allison engine Models AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1, and AE 3007A1P; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Required as indicated, unless accomplished previously.

To prevent rejected takeoffs due to exceeding engine oil pressure limits, which could result in reduced controllability of the airplane, accomplish the following:

Required Actions

(a) Within 6 months after the effective date of this AD: Accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD concurrently.

(1) Replace the engine oil pressure sensors with new sensors, per EMBRAER Service Bulletin 145–31–0021, dated August 1, 2000.

(2) Install an oil tank pressure relief kit per Rolls-Royce Service Bulletin AE 3007A–79–025, dated August 1, 2000.

(b) After completion of the actions required by paragraphs (a)(1) and (a)(2) of this AD and before further flight: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting a copy of Revision 40 of the EMBRAER Model EMB–145 AFM, dated August 11, 2000, into the AFM.

Optional Terminating Action

(c) Accomplishment of all of the actions specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD constitutes terminating action for the requirements of paragraphs (a) and (b) of this AD.

(1) Upgrade the Full Authority Digital Engine Control (FADEC) software system in accordance with Embraer Service Bulletins 145–73–0011, Change 01, dated January 9, 2001, and Change 02, dated April 24, 2001; and 145–73–0012, 145–73–0013, 145–73–0014, all dated January 9, 2001.

(2) Upgrade the Engine Indication and Crew Alerting System (EICAS) and Engine Indication and Electronic Flight Instrument System (EFIS) in accordance with Embraer Service Bulletins 145–31–0014, Change 03, dated March 2, 2001; and 145–31–0020, Change 01, dated January 26, 2001.

(3) Remove the existing oil pressure sensor and replace it with a new sensor having part number 23073715, in accordance with Rolls-Royce Service Bulletin AE 3007A–79–029, dated November 9, 2000.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Atlanta ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions specified in paragraphs (a)(1), (a)(2), and (b) of this AD shall be done in accordance with EMBRAER Service Bulletin 145–31–0021, dated August 1, 2000; Rolls-Royce Service Bulletin AE 3007A–79–025, dated August 1, 2000; and page 2–11, Revision 40 of the EMBRAER Model EMB–145 Airplane Flight Manual, dated August 11, 2000.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian Notice of Proposed Regulations NPR/AD–2000–145–05, dated August 23, 2000, and NPR/AD–2000–AE3007–01, dated August 24, 2000.

Effective Date

(g) This amendment becomes effective on October 18, 2001.

Issued in Renton, Washington, on September 4, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22670 Filed 9–12–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–265–AD; Amendment 39–12438; AD 2001–18–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, –300F and –400ER Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200, –300, –300F and –400ER series airplanes. This action requires repetitive inspections to find discrepancies of the wire bundles located between the P50 panel and the nose wheel well structure, and corrective actions, if necessary. This action is necessary to find and fix such discrepancies, which could result in electrical arcing, smoke, or fire in the cabin, and failure of certain systems essential to safe flight and landing of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 28, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 28, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–265–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–265–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tony Castillos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2864; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that, during the approach to landing of a Boeing Model 767–200 series airplane, the flight crew received several Engine Indication and Crew Alerting System warning messages, and circuit breakers popped, resulting in a burnt smell and smoke in the cabin area. Investigation revealed that the W451 wire bundle located in the Electronic Equipment Center, just forward of the P51 panel, had caught fire and burned at station 266, right buttock line 35. The fire was due to a #2-gage power output wire of the transformer rectifier unit that had chafed against the right aft corner of the nose landing gear box, which caused a short in the wire. The fire resulted in damage to multiple wire bundles, and significant damage to more than 200 wires. Subsequent inspections done on certain Boeing Model 767–300, –300F and –400ER series airplanes revealed a potential chafing condition of similar wiring against the nose wheel well structure was likely to develop. Such chafing was found on one airplane in that group of inspected airplanes. These conditions, if not corrected, could result in electrical arcing, smoke, or fire in the cabin, and failure of certain systems essential to safe flight and landing of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletins 767–24A0140 (for 767–400ER series airplanes), and 767–24A0139 (for Model 767–200, –300, and –300F series airplanes), both dated February 9, 2001. The service bulletins describe procedures for repetitive inspections for discrepancies of the wire bundles located between the P50 panel and the nose wheel well structure (*i.e.*, chafed or broken wires, damaged insulation or conductors, inadequate clearance between the wire bundle, insulation, and nose wheel well structure), and corrective actions, if necessary. The corrective actions include, but are not limited to, the following:

- Repair or replacement of any damaged wires or worn components
- Installation of protective sleeving over the wire bundles
- Relocation of the wire bundle to provide adequate clearance if less than 0.25 inch exists between the wire bundle, insulation, and nose wheel well structure
- A system test for any wire that is replaced or spliced to repair damage

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Model 767–200, -300, -300F and -400ER series airplanes of the same type design, this AD is being issued to find and fix discrepancies (*i.e.*, chafed or broken wires, damaged insulation or conductors; inadequate clearance between the wire bundle, insulation, and nose wheel well structure), this AD would require a

Differences Between This AD and the Service Bulletins

While the service bulletins do not specify the type of inspection of the wire bundles to find discrepancies (*i.e.*, chafed or broken wires; damaged insulation or conductors; inadequate clearance between the wire bundle, insulation, and nose wheel well structure), this AD would require a

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detailed visual inspection to find such discrepancies. A note has been included in this AD to define that inspection.

Additionally, although the service bulletins specify that the initial inspection is to be completed "at the earliest opportunity when manpower and facilities are available," the FAA finds that such a compliance time will not ensure that the inspection is accomplished in a timely manner. In developing an appropriate compliance time for the inspection, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the amount of time necessary to accomplish the inspection, and the practical aspect of accomplishing the inspection within an interval of time that parallels normal scheduled maintenance for the affected operators. In consideration of these factors, the FAA has determined that 90 days after the effective date of this AD represents an appropriate interval of time allowable wherein an acceptable level of safety can be maintained.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–265–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–12 Boeing: Amendment 39–12438. Docket 2001–NM–265–AD.

Applicability: Model 767–200, –300, and –300F series airplanes, as listed in Boeing Alert Service Bulletin 767–24A0139, and Model 767–400ER series airplanes as listed in Boeing Alert Service Bulletin 767–24A0140, both dated February 9, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Required as indicated, unless accomplished previously.

To find and fix discrepancies of the wire bundles located between the P50 panel and the nose wheel well structure, which could result in electrical arcing, smoke, or fire in the cabin, and failure of certain systems essential to safe flight and landing of the airplane; accomplish the following:

Repetitive Inspections/Corrective Actions

(a) Within 90 days after the effective date of this AD: Do a detailed visual inspection of the wire bundles between the P50 panel and the nose wheel structure to find discrepancies (i.e., chafed or broken wires, damaged insulation or conductors, inadequate clearance between the wire bundle, insulation, and nose wheel well structure), according to Boeing Alert Service Bulletin 767–24A0139 (for Model 767–200, –300, and –300F series airplanes), or 767–24A0140 (for Model 767–400ER series airplanes), both dated February 9, 2001; as applicable. Repeat the inspection every 6,000 flight hours or 18 months, whichever comes first.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(b) If any discrepancy is found after doing the inspection required by paragraph (a) of this AD: Before further flight, do the applicable corrective actions (i.e., repair or replace any damaged wires or worn components, install protective sleeving over the wire bundles, relocate the wire bundle to provide adequate clearance), according to Figure 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–24A0139 (for Model 767–200, –300, and –300F series airplanes), or 767–24A0140 (for Model 767–400ER series airplanes), both dated February 9, 2001; as applicable. Then repeat the inspection required by paragraph (a) of this AD at the time specified.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–24A0140, dated February 9, 2001; or Boeing Alert Service Bulletin 767–24A0139, dated February 9, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on September 28, 2001.

Issued in Renton, Washington, on September 4, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22671 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–13–AD; Amendment 39–12432; AD 2001–18–06]

RIN 2120–AA64

Airworthiness Directives; General Electric Company T58 and CT58 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD's), applicable to General Electric Company (GE) T58 and CT58 series turboshaft engines. The current AD's revised the counting method for hours in repetitive heavy-lift (RHL) service and reduced the life limit for rotating components. Life-limited rotating components must be removed from service in accordance with the multiplying factors and retirement lives contained in General Electric Alert Service Bulletin (ASB) CT58 A72–162 (CEB–258), dated July 9, 1979. This amendment requires applying an additional multiplying factor to life-limited rotating parts when the engine is used in heavy lifting operations. This amendment is prompted by a review of the current AD's, AD–69–23–02 and AD–79–23–04, and a determination that the requirements of those AD's may conflict. This amendment will prevent RHL and utility service multiplier factors from being applied incorrectly. The actions specified in this AD are intended to prevent low-cycle fatigue failure of rotating parts that could result in uncontained engine failure and damage to the rotorcraft.

DATES: Effective October 18, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 18, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from from GE Aircraft Engines, General Electric Company, 1000 Western Avenue, Lynn, MA 01910. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 69–23–02, Amendment 39–1086 (34 FR 18296, November 15, 1969); and AD 79–23–04, Amendment 39–3610 (44 FR 72103, December 13, 1979) that are applicable to General Electric Company CT58 turboshaft engines was published in the **Federal Register** on April 3, 2000 (64 FR 17471). That action proposed to require that the life limits of certain life-limited rotating parts be revised based on multiplying factors specified in GEAE Alert Service Bulletin (ASB) (CT58) 72–162 CEB 258, dated July 9, 1979, for RHL operations.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Differences Between the NPRM and the Amendment

Since the publication of the NPRM, the FAA has been informed that there are restricted category aircraft involved in RHL operations. As a result, the T58 models have been added to the Applicability of this amendment.

Economic Impact

There are approximately 380 engines of the affected design in the worldwide fleet. The FAA estimates that 130 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 0.25 work hour per engine to accomplish the proposed calculations, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,950.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it does not have a substantial direct effect on

the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–1086 (34 FR 18296, October 15, 1970) and Amendment 39–3610 (44 FR 72103, December 13, 1979), and by adding a new airworthiness directive (AD) to read as follows:

AD 2001–18–06 GE Aircraft Engines: Amendment 39–12432. Docket No. 99–NE–13–AD. Supersedes AD 69–23–02, Amendment 39–1086 and AD 79–23–04, Amendment 39–3610.

Applicability: GE Aircraft Engines T58 and CT58 series turboshaft engine installed on, but not limited to Boeing—Vertol V–107 series, Kaman H–2, Bell UH–1F series; and Sikorsky CH/HH–3 series, S–61 A/H–3/CH124/CH–3/HH–3L/N/R series, and S–62 series rotorcraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already accomplished.

To prevent low-cycle fatigue failure of rotating parts that could result in uncontained engine failure and damage to the rotorcraft, accomplish the following:

Calculating New Life Limits for Rotating Parts

(a) Within 50 hours time-in-service after the effective date of this AD, calculate the new cycles-since-new for life-limited rotating parts in accordance with the Accomplishment Instructions, 2.A. through 2.G. of GEAE Service Bulletin (CT58) 72–162 CEB–258, revision 9, dated October 6, 1998.

(b) Remove any part from service that exceeds the new calculated life limit and replace it with a serviceable part.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the rotorcraft to a location where the requirements of this AD can be accomplished.

Documents That Have Been Incorporated By Reference

(e) The calculation shall be done in accordance with the Accomplishment Instructions, 2.A. through 2.G. of GEAE Service Bulletin (CT58) 72–162 CEB–258, revision 9, dated October 6, 1998 as follows:

Document No.	Pages	Revision	Date
(CT58) 72–162 CEB–258	1–4	9	October 6, 1998.
(CT58) 72–162 CEB–258	5	5	May 12, 1994.
(CT58) 72–162 CEB–258	6	7	April 25, 1997.
(CT58) 72–162 CEB–258	7–8	5	May 12, 1994.
(CT58) 72–162 CEB–258	9–11	7	April 25, 1997.
(CT58) 72–162 CEB–258	12–16	5	May 12, 1994.
(CT58) 72–162 CEB–258	17	7	April 25, 1997.
(CT58) 72–162 CEB–258	18	9	October 6, 1998.
(CT58) 72–162 CEB–258	19–20	5	May 12, 1994.
(CT58) 72–162 CEB–258	21	8	June 16, 1997.
(CT58) 72–162 CEB–258	22–24	5	May 12, 1994.
(CT58) 72–162 CEB–258	25–26	9	October 6, 1998.
(CT58) 72–162 CEB–258	27	5	May 12, 1994.

Total pages: 27.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines, General Electric Company, 1000 Western Avenue, Lynn, MA 01910. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on October 18, 2001.

Issued in Burlington, Massachusetts, on August 24, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–22312 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ANM–12]

Establishment of Class D Airspace; Kalispell, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class D surface area at Glacier Park International Airport, Kalispell, MT. The effect of this action is to provide controlled airspace to accommodate the procedures associated with the operation of a new Airport Traffic Control Tower (ATCT).

EFFECTIVE DATE: 0901 UTC, November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 01–ANM–12, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On July 10, 2001, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by establishing the Kalispell, MT, Class D surface area (66 FR 35914). This establishment of the Class D area is in support of a new ATCT under construction at the Glacier Park International Airport, Kalispell, MT. The FAA establishes Class D airspace where necessary to protect aircraft transitioning between the terminal and en route environments, and to provide local Visual Flight Rules (VFR) sequencing by ATCT personnel. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class D surface airspace areas are published in Paragraph 5000 of FAA Order 7400.91, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes a Class D surface area in the vicinity of Kalispell, MT. The intended effect of this rule is to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) and VFR at Glacier Park International Airport and between the terminal and en route transition states.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CCFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9I, Airspace Designations and Reporting Points, dated September 1,2 000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 General.

* * * * *

ANM MT D Kalispell, MT [New]

Glacier Park International Airport, Kalispell, MT

(Lat. 48°18′41″ N, long. 114°15′17″ W)

That airspace extending upwards from the surface to and including 5,500 feet MSL within a 4.3-mile radius of the Glacier Park International Airport. The Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on September 6, 2001.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–23034 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–146]

Drawbridge Operation Regulations: Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation for the Atlantic Beach Bridge, at mile 0.4, across the Reynolds Channel in New York. This deviation from the regulations allows the bridge to remain closed at various times between September 11, 2001 and October 30, 2001, to facilitate maintenance at the bridge.

DATES: This deviation is effective from September 11, 2001 through October 30, 2001.

FOR FURTHER INFORMATION CONTACT: Joe Schmied, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Atlantic Beach Bridge, mile 0.4, across the Reynolds Channel has a vertical clearance of 25 feet at mean high water, and 30 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.799(e).

The bridge owner, the Nassau County Bridge Authority, requested a temporary deviation from the operating regulations to facilitate necessary submarine power cable replacement, install new span lock machinery, and replace the bridge deck surface at the bridge.

This deviation to the operating regulations, in effect from September 11, 2001 through October 30, 2001, allows the Atlantic Beach Bridge to operate as follows:

(a) Remain closed from 8 a.m. on September 11, 2001 through 8 a.m. on September 15, 2001.

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(b) Remain closed from 11 p.m. to 5 a.m., Monday through Friday, October 9, 2001 through October 24, 2001.

(c) Open only on the hour after at least a one-hour advance notice is given from 8 a.m. to 4:30 p.m., Monday through Friday, from September 24, 2001 through October 30, 2001.

(d) Open only one of the two spans for the passage of vessel traffic from 8 a.m. to 4:30 p.m. from October 1, 2001 through October 8, 2001.

This deviation from the operating regulations is authorized under 33 CFR 117.35 and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: August 30, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22985 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–137]

Drawbridge Operation Regulations: Annisquaim River, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Gloucester (AMTRAK) railroad bridge, mile 0.7, across the Annisqualm River in Gloucester, Massachusetts. This deviation from the regulations will allow the bridge to remain in the closed position from 12:01 a.m. on November 17, 2001 through 5 a.m. on November 19, 2001 and from 12:01 a.m. on November 24, 2001 through 5 a.m. on November 26, 2001. This temporary deviation is necessary to facilitate necessary repairs at the bridge.

DATES: This deviation is effective from November 17, 2001 through November 26, 2001.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The Gloucester (AMTRAK) railroad bridge, mile 0.7, across the Annisqualm River has a vertical clearance in the closed position of 16 feet at mean high water and 25 feet at mean low water. The existing drawbridge operating regulations require the draw to open on signal at all times.

The bridge owner, National Railroad Passenger Corporation (AMTRAK), requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled maintenance, replacement of the rails, ties, conley frogs, and timbers, at the bridge.

This deviation to the operating regulations will allow the bridge to remain in the closed position from 12:01 a.m. on November 17, 2001 through 5 a.m. on November 19, 2001 and from 12:01 a.m. on November 24, 2001 through 5 a.m. on November 26, 2001.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: August 30, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22986 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–147]

Drawbridge Operation Regulations: Shaw Cove, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Amtrak Bridge, at mile 0.0, across the Shaw Cove at New London, Connecticut. This deviation allows bridge to remain closed from 10 p.m. on September 16, 2001 through 10 p.m. on September 19, 2001. This action is necessary to facilitate necessary maintenance at the bridge.

DATES: This deviation is effective September 16, 2001 through September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Amtrak Bridge, at mile 0.0, across the Shaw Cove has a vertical clearance of 3 feet at mean high water, and 6 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.223.

The bridge owner, the National Railroad Passenger Corporation (Amtrak), requested a temporary deviation from the drawbridge operating regulations to facilitate necessary maintenance, to replace the vertical couplers, at the bridge. This deviation from the operating regulations allows the bridge owner to keep the bridge in the closed position from 10 p.m. on September 16, 2001 through 10 p.m. on September 19, 2001. Vessels that can pass under the bridge without an opening may do so at all times during the closed period.

This deviation from the operating regulations is authorized under 33 CFR 117.35 and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: August 30, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22987 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 039–PSD; FRL–7053–3]

Notice of Prevention of Significant Deterioration Final Determination for Metcalf Energy Center

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this document is to announce that, on August 10, 2001, the U.S. Environmental Protection Agency (EPA) Environmental Appeals Board ("Board") dismissed the petition for review filed by the City of Morgan Hill, Santa Teresa Citizen Action Group, Demand Clean Air, and Californians for Renewable Energy, Inc. of a permit issued to Metcalf Energy Center (MEC) by the Bay Area Air Quality Management District (BAAQMD or "District") pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations under 40 CFR 52.21. This document also announces that a final PSD permit has been issued to MEC by the BAAQMD pursuant to the terms and conditions of the District's delegation of authority from the U.S. EPA under 40 CFR 52.21(u).

DATES: The effective date for the Board's decision is August 10, 2001.

FOR FURTHER INFORMATION CONTACT: David Wampler, Permits Office (AIR3), Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1259.

SUPPLEMENTARY INFORMATION: On May 4, 2001, the District issued a final PSD permit to MEC for the construction of a new electricity generating plant in San Jose, California. The PSD permit was issued pursuant to 40 CFR 52.21, the terms and conditions of the District's delegation of authority from the U.S. EPA under 40 CFR 52.21(u), and section 7 of the federal Endangered Species Act. Subsequent to the issuance of the PSD Permit, the Petitioners filed petitions for review of the PSD Permit with the Board on June 18, 2001. On August 10, 2001, the Board denied review of the petition because Petitioners failed to show clear error or other reason for the Board to grant review with respect to: (1) The District's BACT determinations for NO_X and CO (2.5 ppm averaged over 1 hour and 6 ppm averaged over 3 hours, respectively); (2) the District's treatment of collateral issues, including an ammonia slip limit of 5 ppm, possible formation of secondary particulate matter, and the potential for accidental releases of ammonia during transport and storage; (3) the District's failure to reopen the public comment period to allow public comment on a supplemental BACT analysis that was submitted after the closure of the original public comment period; (4) the District's failure to respond to certain comments that do not rise to the level necessary to justify a remand; (5) the District's bifurcation of the PSD Permit and the Final Determination of Compliance (a licensing document issued by the California Energy Commission); and (6) miscellaneous other issues including the Bay Area's ozone attainment plan, meteorological data, the Endangered Species Act, state laws, air toxics, and environmental justice. For a complete discussion of the EAB's decision, see *In re: Metcalf Energy Center*, PSD Appeal Nos. 01–07 and 01–08.

Pursuant to 40 CFR 124.19(f)(1), for purposes of judicial review, final Agency action occurs when a final PSD permit is issued and Agency review procedures are exhausted. This document is being published pursuant to 40 CFR 124.19(f)(2), which requires notice of any final agency action regarding a permit to be published in the **Federal Register**. This document being published today in the **Federal Register** constitutes notice of the final Agency action denying review of the PSD permit and, consequently, notice of the District's issuance of final PSD permit No. 99–AFC–3 to Metcalf Energy Center on May 4, 2001.

The proposed power plant, located near San Jose, California, will have a nominal electrical output of 600 MW and will be fired on natural gas. The proposed facility is subject to PSD for Nitrogen Oxides (NO_X), Carbon Monoxide (CO), Sulfur Dioxide (SO_2), and Particulate Matter (PM_{10}). The permit includes the following Best Available Control Technology (BACT) emission limits: NO_X at 2.5 ppmvd (based on 1-hour averaging at 15% O_2); 6 ppmvd CO (based on 3-hour averaging at 15% O_2); SO at 1.28 pounds per hour or 0.0006 lb/MM BTU of natural gas fired; and PM_{10} at 12 pounds per hour or 0.00565 lb/MM BTU of natural gas fired when duct burners are in operation. The BACT requirements include use of Selective Catalytic Reduction (SCR) for the control of NO_X emissions and a combination of good combustion control and natural gas for the control of CO and PM_{10} emissions. Continuous emission monitoring is required for NO_X and CO. The facility is also subject to New Source Performance Standards, subparts AA and GG, and the Acid Rain program under title IV of the Clean Air Act.

If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which this document is published in the **Federal Register**. Under section 307(b)(2) of this Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: August 20, 2001.

Jack P. Broadbent,

Director, Air Division, Region IX.

[FR Doc. 01–23000 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[PA001–1000; FRL–7055–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Pennsylvania; Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve Pennsylvania Department of Environmental Protection's (PADEP's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations. In addition, EPA is taking direct final action to approve of PADEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both PADEP and EPA. This action pertains only to sources which are not required to obtain a Clean Air Act operating permit. The PADEP's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at sources which are required to obtain a Clean Air Act operating permit was approved on January 5, 1998. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective November 13, 2001 unless EPA receives adverse or critical comments by October 15, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and James M. Salvaggio, Director, Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Pennsylvania Department of

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Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297).

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the CAA and 40 Code of Federal Regulations (CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) A schedule demonstrating expeditious implementation of the regulation; and

(c) A plan that assures expeditious compliance by all sources subject to the regulation.

On November 28, 2000, PADEP submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T and X, respectively. The PADEP also requested that EPA automatically delegate future amendments to these regulations and approve PADEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. The PADEP requested these approvals for sources not subject to the permitting requirements of 40 CFR part 70. On January 5, 1998, PADEP received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70.

II. EPA's Analysis of PADEP's Submittal

Based on PADEP's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that PADEP has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), PADEP submitted a written finding by the State Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), PADEP submitted copies of its statutes, regulations and requirements that grant authority to PADEP to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), PADEP submitted documentation of adequate resources and a schedule and plan to assure expeditious State implementation and compliance by all sources. Therefore, the PADEP program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T and X, as well as any future emission standards, should PADEP seek delegation for these standards. The PADEP automatically adopts the emission standards promulgated in 40 CFR part 63 into its permitting program under section 6.6(a) of the Pennsylvania Air Pollution Control Act, 35 P.S. section 4006.6(a). The PADEP has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Pennsylvania, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for PADEP to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting emission standards, as they apply to facilities not required to obtain a permit under 40 CFR part 70, each amendment must be legally adopted by the State of Pennsylvania. As stated earlier, these amendments are automatically adopted into PADEP's permitting program under section 6.6(a) of the Pennsylvania Air Pollution Control Act, 35 P.S. section 4006.6(a).

EPA has also determined that PADEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities not required to obtain a permit under 40 CFR part 70, can be approved. This mechanism will require PADEP to submit a delegation request letter to EPA following EPA notification of a new Federal requirement. EPA will grant the delegation request, if appropriate, by sending a letter to PADEP outlining the authority to implement and enforce the standard. The delegation will be finalized within 10 days of receipt of the delegation letter unless PADEP files a negative response. The official notice of delegation of additional emission standards will be published in the **Federal Register.** As noted earlier, PADEP's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to sources subject to the permitting requirements of 40 CFR part 70, was previously approved on January 5, 1998.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to PADEP and EPA Region III.

If at any time there is a conflict between a PADEP regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of PADEP. EPA is responsible for determining stringency between conflicting regulations. If PADEP does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that PADEP's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the "Delegation of Authorities" section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, e.g., 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, e.g., 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, PADEP must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, e.g., 40 CFR 63.1 and applicable sections of relevant standards [1];

(2) Responsibility for determining compliance with operation and maintenance requirements, e.g., 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, e.g., 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, e.g., 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans [2], e.g., 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, e.g., 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, e.g., 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans [3], e.g., 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, PADEP and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a PADEP interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of PADEP. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Pennsylvania. The PADEP will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii).

Quarterly reports will be submitted to EPA by PADEP to identify sources determined to be applicable during that quarter.

Although PADEP has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving PADEP's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T and X, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of PADEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. This action pertains only to sources which are not required to obtain an operating permit, in accordance with 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99. In addition, PADEP's delegation of authority to implement and enforce 40 CFR part 63 emission standards at sources required to obtain an operating permit in accordance with 40 CFR part 70, approved by EPA

[1] Applicability determinations are considered to be nationally significant when they:

(i) Are unusually complex or controversial;

(ii) Have bearing on more than one state or are multi-Regional;

(iii) Appear to create a conflict with previous policy or determinations;

(iv) Are a legal issue which has not been previously considered; or

(v) Raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring*, dated February 1999. The PADEP may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[2] The PADEP will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[3] The PADEP will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

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Region III on January 5, 1998 is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because PADEP's request for delegation of the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting and it's request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of PADEP's request for delegation if adverse comments are filed. This rule will be effective on November 13, 2001 without further notice unless EPA receives adverse comment by October 15, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the approval of PADEP's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning and secondary lead smelters (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Environmental proteciton, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: September 5, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(38) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(38) Pennsylvania.

(i) Pennsylvania is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the Pennsylvania Department of Environmental Protection, dated January 5, 1998, and any mutually acceptable amendments to that agreement.

(ii) Pennsylvania is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is requested by the Pennsylvania Department of Environmental Protection and approved by EPA Region III, at sources not subject to the permitting requirements of 40 CFR part 70, in accordance with the final rule, dated September 13, 2001, effective November 13, 2001, and any mutually acceptable amendments to the terms described in the direct final rule.

* * * * *

[FR Doc. 01–22990 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7054–5]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds 11 new sites to the NPL; all to the General Superfund Section of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 15, 2001.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see section II, "Availability of Information to the Public" in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center; Office of Emergency and Remedial Response (mail code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil

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and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action." ("Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases 42 U.S.C. 9601(23).)

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites that are owned or operated by other Federal agencies (the "Federal Facilities Section"). With respect to sites in the Federal Facilities Section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (see 42 U.S.C. 9605(a)(8)(B)); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on June 14, 2001 (66 FR 32235).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions * * *." 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which that contamination has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the "Jones Co. plant site") in terms of the property owned by a particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the name "Jones Co. plant site," does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the "nature and extent of the problem presented by the release" will be determined by a remedial investigation/feasibility study (RI/FS) as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

As of August 23, 2001, the Agency has deleted 239 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of August 23, 2001, EPA has deleted 24 portions of 23 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL.

As of August 23, 2001, there are a total of 773 sites on the CCL. For the most up-to-date information on the CCL, see EPA's Internet site at http://www.epa.gov/superfund.

II. Availability of Information to the Public

A. Can I Review the Documents Relevant to This Final Rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the Regional offices.

B. What Documents Are Available for Review at the Headquarters Docket?

The Headquarters docket for this rule contains, for each site, the HRS score sheets, the Documentation Record describing the information used to compute the score, pertinent information regarding statutory requirements or EPA listing policies that affect the site, and a list of documents referenced in the Documentation Record. The Headquarters docket also contains comments received, and the Agency's responses to those comments. The Agency's responses are contained in the "Support Document for the Revised National Priorities List Final Rule—September 2001."

C. What Documents Are Available for Review at the Regional Dockets?

The Regional dockets contain all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score for the sites located in their Region. These reference documents are available only in the Regional dockets.

D. How Do I Access the Documents?

You may view the documents, by appointment only, after the publication of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional dockets for hours.

Following is the contact information for the EPA Headquarters: Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA, 703/603–8917.

The contact information for the Regional dockets is as follows:

Ellen Culhane, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1225.

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Lauren Brantley, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; 404/562–8127.

Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–7570.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue,

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Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335.

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757.

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/744–2343.

Robert Phillips, Region 10 (AK, ID, OR, WA), U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop ECL–115, Seattle, WA 98101; 206/553–6699.

E. How Can I Obtain a Current List of NPL Sites?

You may obtain a current list of NPL sites via the Internet at http://www.epa.gov/superfund/ (look under the Superfund sites category) or by contacting the Superfund Docket (see contact information above).

III. Contents of This Final Rule

A. Addition to the NPL

This final rule adds 11 sites to the NPL; all to the General Superfund Section of the NPL. Table 1 presents the 11 sites in the General Superfund Section. Sites in the tables are arranged alphabetically by State.

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION

State and site name	City/County
CA Casmalia Resources	Casmalia.
MS American Creosote Works, Inc.	Louisville.
MT Barker Hughesville Mining District	Barker.
MT Carpenter Snow Creek Mining District	Neihart.
NC Barber Orchard	Waynesville.
NY MacKenzie Chemical Works, Inc	Central Islip.
PA Valmont TCE	Hazle Township and West Hazleton.
PA Watson Johnson Landfill	Richland Township.
UT Bountiful/Woods Cross 5th South PCE Plume	Bountiful/Woods Cross.
VT Ely Copper Mine	Vershire.
WA Lower Duwamish Waterway	Seattle.

Number of Sites Added to the General Superfund Section: 11.

B. Status of NPL

With the 11 new sites added to the NPL in today's final rule; the NPL now contains 1,240 final sites; 1,080 in the General Superfund Section and 160 in the Federal Facilities Section. With a separate rule (published elsewhere in today's **Federal Register**) proposing to add 17 new sites to the NPL, there are now 72 sites proposed and awaiting final agency action, 65 in the General Superfund Section and 7 in the Federal Facilities Section. Final and proposed sites now total 1,312. (These numbers reflect the status of sites as of August 23, 2001. Site deletions occurring after this date may affect these numbers at time of publication in the **Federal Register**.)

C. What Did EPA Do With the Public Comments It Received?

EPA reviewed all comments received on the sites in this rule. The Barker-Hughesville Mining District, Bountiful/Woods Cross 5th South PCE Plume, Carpenter Snow Creek Mining District, and Lower Duwamish Waterway sites were proposed on December 1, 2000 (65 FR 75215). The Barber Orchard site was proposed on January 11, 2001 (66 FR 2380). The remaining sites were proposed on June 14, 2001 (66 FR 32287).

For the Casmalia Resources site, EPA received several comments supporting listing and one comment opposing listing from the Casmalia Community Group. None of the comments raised concerns with the HRS score or the technical basis for listing. The spokesperson for the Casmalia Community Group opposed listing on the basis of the perceived Superfund stigma and remedial funding issues. EPA will continue to work with the community to address these issues throughout the remedial process.

For the Ely Copper Mine site, EPA received one comment from the West Fairlee Historical Society concerning future response activities. The West Fairlee Historical Society requested that EPA protect the historical sites, landmarks, and artifacts presently found at the site. The comment did not address the NPL listing of the site.

EPA responded to all relevant comments received on the following sites: Barker-Hughesville Mining District, Bountiful/Woods Cross 5th S. PCE Plume, Lower Duwamish Waterway, and Barber Orchard. EPA's responses to site-specific public comments are addressed in the "Support Document for the Revised National Priorities List Final Rule—September 2001."

For the remaining sites, EPA received no comments or only comments supporting the listing of the sites to the NPL and therefore, EPA is placing them on the final NPL at this time.

D. Clarification of Boundaries for Phoenix-Goodyear Airport Site

The Phoenix-Goodyear Airport (PGA) site was proposed to the NPL on September 3, 1983 (48 FR 40658). EPA is clarifying the land north of Van Buren Road in Goodyear, Arizona, is not part of the PGA Superfund site. Although the contaminated groundwater plume, which is part of the site, has migrated under the land north of Van Buren Road, the land has not been identified as contaminated with hazardous substances. Superfund maps of the site should reflect the clarification published in this notice.

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Is This Final Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Final Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. How Has EPA Complied With the Regulatory Flexibility Act?

This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of a hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this rule does not impose any requirements on any small entities. For the foregoing reasons, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Possible Changes to the Effective Date of the Rule

A. Has This Rule Been Submitted to Congress and the General Accounting Office?

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

B. Could the Effective Date of This Final Rule Change?

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation.

Under the CRA, 5 U.S.C. 801(a), before a rule can take effect the federal agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any),

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the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements and any relevant Executive Orders.

EPA has submitted a report under the CRA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Section 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted.

C. What Could Cause the Effective Date of This Rule to Change?

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha*, 462 U.S. 919,103 S. Ct. 2764 (1983) and *Bd. of Regents of the University of Washington* v. *EPA*, 86 F.3d 1214, 1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, EPA will publish a document of clarification in the **Federal Register**.

VIII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Final Rule?

No. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

IX. Executive Order 12898

A. What Is Executive Order 12898?

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to This Final Rule?

No. While this rule revises the NPL, no action will result from this rule that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

X. Executive Order 13045

A. What Is Executive Order 13045?

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

B. Does Executive Order 13045 Apply to This Final Rule?

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this section present a disproportionate risk to children.

XI. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Final Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection

requirements that require approval of the OMB.

XII. Executive Orders on Federalism

What Are The Executive Orders on Federalism and Are They Applicable to This Final Rule?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

XIII. Executive Order 13084

What Is Executive Order 13084 and Is It Applicable to This Final Rule?

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Under section 3(b) of Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments, or EPA consults with those governments. The addition of sites to the NPL will not impose any substantial direct compliance costs on Tribes. While Tribes may incur costs from participating in the investigations and cleanup decisions, those costs are not compliance costs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this final rule.

XIV. Executive Order 13175

A. What Is Executive Order 13175?

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

B. Does Executive Order 13175 Apply to This Final Rule?

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this final rule.

XV. Executive Order 13211

A. What Is Executive Order 13211?

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action."

B. Is This Rule Subject to Executive Order 13211?

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866 (See discussion of Executive Order 12866 above.)

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 5, 2001

Michael H. Shapiro,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

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PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Table 1 of appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes[a]
CA	Casmalia Resources	Casmalia	
MS	American Creosote Works, Inc	Louisville	
MT	Barker Hughesville Mining District	Barker	
MT	Carpenter Snow Creek Mining District	Neihart	
NC	Barber Orchard	Waynesville	
NY	MacKenzie Chemical Works, Inc	Central Islip	
PA	Valmont TCE	Hazle Township and West Hazleton	
PA	Watson Johnson Landfill	Richland Township	
UT	Bountiful/Woods Cross 5th South PCE Plume	Bountiful/Woods Cross	
VT	Ely Copper Mine	Vershire	
WA	Lower Duwamish Waterway	Seattle	

[a] A=Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (if scored, HRS score need not be ≤ 28.50).
C=Sites on Construction Completion list.
S=State top priority (included among the 100 top priority sites regardless of score).
P=Sites with partial deletion(s).

* * * * *

[FR Doc. 01–22741 Filed 9–12–01; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket Nos. 00–258 and 95–18, IB Docket No. 99–81; FCC 01–224]

Introduction of New Advanced Mobile and Fixed Terrestrial Wireless Services; Use of Frequencies Below 3 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document resolves issues raised in petitions for reconsideration of a prior Commission decision adopting a band arrangement for the 1990–2025 MHz and 2165–2200 MHz Mobile Satellite Service bands. The action is taken to coordinate our actions in this proceeding with various pending matters involving the Mobile Satellite Service and to respond to the outstanding petitions.

DATES: Effective September 13, 2001.

FOR FURTHER INFORMATION CONTACT: John Spencer, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Memorandum Opinion and Order (MO&O) portion of the Commission's Memorandum Opinion and Order and Further Notice of Proposed Rulemaking in ET Docket No. 00–258, ET Docket No. 95–18, and IB Docket No. 99–81, adopted August 9, 2001, and released August 20, 2001. The Further Notice of Proposed Rulemaking portion of this decision is published elsewhere in this edition of the **Federal Register**. The complete text of this Memorandum Opinion and Order and Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554.

Synopsis of the MO&O

1. In this MO&O, together with the associated Further Notice of Proposed Rulemaking, the Commission continues to explore possible use of frequency bands below 3 GHz to support the introduction of new advanced mobile and fixed terrestrial wireless services (advanced wireless services), including third generation (3G) and future generations of wireless systems. The MO&O resolves in part two petitions for reconsideration of decisions the Commission made in a Report and Order in August 2000 (R&O), which adopted licensing and service rules for the 2 GHz Mobile Satellite Service (MSS), and which provided spectrum for all then-pending systems. The R&O can be found at 65 FR 59140, October 4, 2000. Two parties, Globalstar, L.P. (Globalstar) and Final Analysis Communication Services, Inc. (Final Analysis) filed timely requests for reconsideration of the R&O.

2. Globalstar sought reconsideration of the Commission's decisions that two blocks of 3.5 megahertz each is a sufficient minimum amount of spectrum for each operator, to defer establishing a mechanism for redistributing abandoned spectrum, and not to adopt Globalstar's proposed "all-shared" licensing arrangement. Final Analysis argued that the Commission should have made abandoned spectrum available not just for 2 GHz MSS systems proposing voice (among other) services, but to all MSS proponents, including those proposing or providing exclusively non-voice services. Globalstar and Final Analysis also sought reconsideration of the Commission's decision to reserve spectrum for system expansion by systems that target service to unserved areas. Final Analysis asked that eligibility to apply for the expansion spectrum not be limited to 2 GHz MSS systems, and that other MSS systems be permitted to apply for the reserved spectrum.

3. The MO&O grants in part Globalstar's and Final Analysis's petitions for reconsideration. Specifically, the Commission reconsiders the decision in the R&O to defer "until after achievement of each of our system implementation milestones" evaluation of whether to redistribute abandoned spectrum or make it available to new entrants. The Commission also reconsiders its decision to reserve a segment of the 2 GHz MSS spectrum for system expansion.

4. The MO&O denies, however, Globalstar's petition for reconsideration insofar as it sought adoption of its "all-shared" licensing arrangement. The MO&O also denies Final Analysis's request for reconsideration of the Commission's decision to defer the issue of enhanced 911 (E911) requirements for 2GHz MSS proponents until the matter can be more appropriately addressed in the Global Mobile Personal Communications by Satellite Proceeding. (See Notice of Proposed Rulemaking in IB Docket No. 99–67, 64 FR 16687, April 6, 1999.)

Ordering Clauses

5. The petition for reconsideration of the 2 GHZ MSS R&O filed by Globalstar, L.P. is granted to the extent indicated and is otherwise denied.

6. The petition for reconsideration of the 2 GHz MSS R&O filed by Final Analysis Communications Services, Inc., is granted to the extent indicated and is otherwise denied.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23046 Filed 9–12–01; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

Toll Free Service Access Codes

CFR Correction

In Title 47 of the Code of Federal Regulations, parts 40 to 69, revised as of October 1, 2000, part 52 is corrected by adding § 52.111, to read as follows:

§ 52.111 Toll free number assignment.

Toll free numbers shall be made available on a first–come, first–served basis unless otherwise directed by the Commission.

[FR Doc. 01–55527 Filed 9–12–01; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 091001A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the pollock

total allowable catch (TAC) for Statistical Area 630.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 10, 2001, until 1200 hrs, A.l.t., October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Within any fishing year, under harvest or over harvest of a seasonal allowance of pollock may be added to or subtracted from the subsequent seasonal allowances of pollock in a manner to be determined by the Administrator, Alaska Region, NMFS (Regional Administrator), provided that a revised seasonal allowance does not exceed 30 percent of the annual TAC apportionment (§ 679.20(a)(5)(ii)(C)). The combined A, B, and C season allowance of the pollock TAC in Statistical Area 630 is 16,821 metric tons (mt), as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001). The Regional Administrator has determined that the A and B seasonal catch was in excess of the allowances by 2,050 mt and that the excess shall be proportionately subtracted from the subsequent seasonal allowances. The Regional Administrator hereby decreases the C season pollock TAC by 1,118 mt. In accordance with § 679.20(a)(5)(ii)(C), the C season allowance of pollock TAC in Statistical Area 630 is 7,492 mt.

In accordance with § 679.20(d)(1)(i), the Regional Administrator, has determined that the C season allowance of the pollock TAC in Statistical Area 630 will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 7,292 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the seasonal allocation of pollock in Statistical Area 630 constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the seasonal allocation of pollock in Statistical Area 630 constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 10, 2001.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23006 Filed 9–10–01; 2:46 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 178
Thursday, September 13, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 00–002–1]

Brucellosis in Sheep, Goats, and Horses; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis indemnity regulations to allow us to pay indemnity for sheep, goats, and horses destroyed because of brucellosis. This action would make it easier to eliminate affected herds/flocks and infected animals as sources of infection by encouraging herd and flock owners to cooperate with our brucellosis eradication program. This action is intended to help reduce the incidence of brucellosis and the likelihood of it spreading within the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 13, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–002–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 00–002–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7708.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella*. It affects both animals and humans. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.

Brucellosis is mainly a disease of cattle, bison, and swine. *Brucella abortus* affects mainly bovines; *B. suis* affects mainly swine. Goats, sheep, and horses are also susceptible to *B. abortus*. In horses, the disease is known as fistulous withers. A third strain, *B. melitensis*, affects mainly goats and sheep.

In the United States, goats, sheep, and horses are rarely infected with *B. abortus* or *B. melitensis*. When they are, it is almost always because they have been in direct contact with infected animals or in an environment contaminated by discharges from infected animals.

The continued presence of brucellosis in a herd or flock seriously threatens the health of other animals. To prevent any possible spread of infection, we ask livestock owners to promptly destroy all infected and exposed animals. To encourage them, we pay Federal indemnity for certain cattle, bison, and swine destroyed because of brucellosis. Regulations governing indemnity for cattle, bison, and swine are contained in 9 CFR part 51.

Animals infected with brucellosis must be quarantined. Quarantining is lengthy and expensive for both the owner and the U.S. Department of Agriculture (USDA). USDA must pay to have the quarantined herd or flock tested periodically, until it is found to be free of brucellosis. In the interim, the owner may not sell or move any breeding animals, except for slaughter. This means a financial loss for the animal owner, as slaughter animals generally receive lower prices than breeding animals. Without financial incentives to destroy infected animals, some owners choose to keep their affected herds or flocks, even though the animals must remain under quarantine.

Maintaining herds/flocks under quarantine also has another major drawback—it does not guarantee that brucellosis will not spread. Brucellosis spreads both directly and indirectly. For example, a quarantined animal may jump the fence and spread disease directly to adjacent herds, or a fox, dog, vulture, or other animal may move infective materials, such as placentas, from the quarantined area to other pastures where nonquarantined livestock can come in contact with it. For these reasons, it is important to remove infected animals rapidly.

State, Federal, and industry efforts have almost completely eliminated brucellosis in the United States. *B. abortus* and *B. suis* are now present only in a few areas. As of December 2000, there were no longer any cattle herds in the United States affected with *B. abortus*. *B. melitensis* is not known to exist in the United States at this time. However, *B. melitensis* does exist in Mexico. In 1999, one herd of mixed goats and sheep in southern Texas was destroyed because they were found to be infected with *B. melitensis*. This was the first known case of *B. melitensis* in the United States since the 1970's.

We believe our current indemnity program is sufficient to encourage owners of affected cattle herds to allow them to be destroyed. However, goats, sheep, and horses can spread brucellosis to other livestock and to humans. The brucellosis eradication program is in its final critical stages. Removing all infected animals and herds is ultimately the only effective means of eradicating the disease. Being able to pay indemnity for goats, sheep, and horses, as we do for cattle, bison, and swine, is a crucial tool to encourage livestock owners to

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destroy infected or exposed animals and eliminate the last sources of infection.

The proposed indemnity program for goats, sheep, and horses that is the subject of this proposed rule would be a voluntary program. If producers respond positively, animals that pose a disease threat would be destroyed. This would advance our program to eradicate brucellosis in the United States. If brucellosis is eradicated, U.S. livestock will be valued higher in international markets. In addition, brucellosis-related restrictions on the movement of livestock within the United States will also be removed, reducing costs for U.S. producers. These factors together indicate that U.S. livestock and livestock products will be more competitive in both national and international markets.

Therefore, we are proposing to amend the regulations in part 51 by adding a new subpart containing provisions for an indemnity program for goats, sheep, and horses.

We modeled these proposed regulations on our existing indemnity regulations for cattle and bison, making adjustments as necessary to better address brucellosis in goats, sheep, and horses, and we reorganized and rewrote the requirements to make them easier to understand. Definitions of words used in the subpart are contained in proposed § 51.20. Proposed § 51.21 contains a statement that we will cooperate with State authorities to eradicate brucellosis and pay indemnity for animals destroyed because of brucellosis. The remainder of the proposed regulations are contained in §§ 51.22 through 51.33.

Goats and sheep are herd/flock animals. A single infected animal in a herd or flock exposes all the animals in that herd/flock to the disease, and goats and sheep infected with brucellosis can easily spread it to other members of the herd/flock. Therefore, in order to eliminate any possibility of brucellosis spreading from a herd of goats, flock of sheep, or herd of mixed goats and sheep, all animals in the herd or flock must be destroyed, or depopulated. As a result, under our proposed regulations we would pay brucellosis indemnity for goats and sheep only if they are destroyed as part of a whole herd/flock depopulation (§§ 51.22(a) and 51.23(a) and (b)). An epidemiologist would have to determine if the herd/flock was affected. Whether to depopulate a herd/flock would be decided based on all available information about the affected herd/flock, including blood test results, culture results, and exposure to other animals.

Horses infected with brucellosis almost always become infected by contact with brucellosis-infected cattle, bison, swine, goats, or sheep. There is little evidence that horses play a significant role in spreading brucellosis, and we do not know of any case in the United States where an entire herd of horses has been affected with brucellosis. Therefore, horses would not be subject to the same whole herd depopulation requirement as sheep and goats. Rather, under our proposed regulations, individual horses tested and found to be infected with brucellosis would be eligible for indemnity (§ 51.23(c)).

Under the proposed regulations, the Administrator would authorize the payment of indemnity for approved herds/flocks or horses as long as: (1) Sufficient funds are available, (2) the State or area in which the animal is located is not under Federal quarantine, (3) the State has requested payment of Federal indemnity, or (4) the State has not requested a rate lower than the maximum. Prior to paying indemnity, the Veterinarian in Charge would have to have received proof that the animal or animals had been destroyed (§ 51.22(c)). These proposed regulations are the same as our current requirements for paying indemnity for cattle and bison destroyed because of brucellosis.

We would pay indemnity only for those animals that had been identified and disposed of according to our regulations. Proposed § 51.24 states that animals must be individually appraised, and that the indemnity amount will be the appraised fair market value minus the salvage value of the animal. The USDA will select and pay for an independent appraiser to determine that amount. There would be an upper limit of $20,000 on the amount of indemnity that would be paid for an individual horse. As the 1997 average U.S. sales price for a horse was $3,165, with State average sales prices ranging between $794 and $18,795, this proposed cap of $20,000 would potentially affect the owners of only the most expensive horses (e.g., purebred horses). Given that the proposed indemnity program would be voluntary, the owner of any horse would have the option of maintaining the horse in quarantine rather than destroying the horse and accepting an indemnity payment. The proposed regulations include instructions on how to prove that animals have been destroyed (§ 51.25), how to compile test records and identify animals for testing (§ 51.26), how to mark animals with identification showing they are to be destroyed (§ 51.27), how to move animals to slaughter or other locations (§ 51.28), and how to destroy animals (§ 51.29). There are time limits for marking animals with identification showing they are to be destroyed, specified in proposed § 51.27, and for destroying animals, specified in proposed § 51.29.

The regulations in proposed § 51.29 are modeled on our indemnity requirements for cattle affected with *B. abortus*. The only significant difference is that goats and sheep infected with *B. melitensis* could not be sent to slaughter. Instead, they would have to be destroyed and then buried, incinerated, or rendered in accordance with applicable State law. *B. melitensis* is easily transmitted by handling the carcasses of infected animals. Therefore, to protect slaughterhouse workers, we would require these animals to be disposed of by other means. *B. abortus* poses a very minimal risk to slaughterhouse workers, and infected animals can be safely slaughtered. Owners may, however, choose to bury, incinerate, or render carcasses of animals infected with *B. abortus*.

The proposed regulations require records on each animal destroyed. We would require records of tests and test results, and records showing the individual identification of animals tested and destroyed. These records would help us do three things: Ensure that the animals intended for destruction are actually infected or exposed to brucellosis; track individual animals intended for destruction to be sure they are actually destroyed; and ensure that the animals we would be paying indemnity for are the same animals that were destroyed (§§ 51.26, 51.27, and 51.29).

In addition, we would require infected and exposed animals moving interstate to do so only under permit. The animals could only be moved interstate to slaughter. This is consistent with our regulations for cattle and bison. The animals would have to be accompanied directly to slaughter by an Animal and Plant Health Inspection Service (APHIS) or State representative, or moved in vehicles closed with official seals (§ 51.28). This would help ensure that animals are not diverted en route.

All the requirements for filing an indemnity claim are in proposed § 51.30. These proposed requirements are the same as under our indemnity program for cattle.

The regulations would also include cleaning and disinfecting requirements. Premises where infected animals have been held would have to be cleaned and disinfected within a stated time limit to ensure that new animals brought there do not contract brucellosis. These proposed requirements, which are found in § 51.31, are the same as our requirements under the cattle, bison, and swine indemnity program.

Proposed § 51.32 contains a lists of claims we would not allow. Proposed § 51.33 states that if an indemnity claim is paid for animals destroyed because of brucellosis, no other claims for indemnity will be paid for the same animals. These two sections are modeled on our current requirements concerning the payment of indemnity for cattle, bison, and swine destroyed because of brucellosis.

Miscellaneous

We are also proposing to make a minor, nonsubstantive change in part 51 to reflect the creation of new subparts A and B.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Brucellosis is a contagious, costly disease of livestock. It affects mainly ruminants and swine. However, it may also infect other animals, including horses. In addition, it is contagious to humans. Because of the serious consequences of infection in its animal hosts, which include loss of young through abortion or birth of weak offspring, reduced milk production, infertility, weight loss, and lameness, and its rapid spread among animals and potential for human infection, brucellosis is considered one of the most serious livestock diseases. At present, there is no effective treatment for animals. Affected herds/flocks and infected animals can be quarantined. However, quarantining does not eliminate possible spread; only destroying infected and exposed animals ensures that the disease is not transmitted to other animals.

We are proposing to amend the brucellosis indemnity regulations to allow us to pay indemnity for sheep, goats, and horses destroyed because of brucellosis, which would make it easier to eliminate affected herds/flocks and infected animals as sources of infection and would encourage herd and flock owners to cooperate with our brucellosis eradication program. This proposed action is intended to help reduce the incidence of brucellosis and the likelihood of it spreading within the United States.

Goats and Sheep—Operations, Inventory, and Trade

It is estimated that there were approximately 9.8 million sheep and lambs in the United States in 1999.[1] Small farms[2] account for over 99 percent of farms raising sheep and lambs, while farms considered to be large account for less than 0.3 percent of farms raising sheep and lambs. About 85 percent of all farms raising sheep and lambs have fewer than 100 animals each; these farms collectively accounted for about 17 percent of domestic sheep and lamb holdings. On the other hand, large sheep operations with 5,000 or more sheep accounted for about 26 percent of domestic sheep and lamb holdings.

According to the most recent figures available, there were approximately 57,925 goat producers in the United States in 1997, who raised about 1,989,799 goats, valued at approximately $74 million.[3] With an average holding of about 35 goats, most, if not all, goat operations are relatively small and earn less than $500,000.

The United States has limited foreign trade in live sheep, live goats, and their products. Figures for 1999 are shown in table 1.

TABLE 1.—SHEEP AND GOAT IMPORTS AND EXPORTS, 1999

Item	Imports		Exports	
	Number	Value, in millions	Number	Value, in millions
Sheep	51,999	$5.01	445,307	$18.96
Goats	1,166	0.32	72,950	3.03
Total	53,165	5.33	518,257	21.99

Source: *World Trade Atlas*, June 2000.

The United States also imports and exports sheep and goat meat. During 1999, U.S. imports totaled 111 million pounds of sheep and goat meat, valued at $183.74 million. Exports totaled 5.6 million pounds, valued at $6.46 million.

Horses—Operations, Inventory, and Trade

According to the *1997 Census of Agriculture*, there were 375,218 farms in the United States with a total 2,427,277 horses. During 1997, 79,516 of these farms sold 325,306 horses for about $1.03 billion, with an average value per horse of $3,165.[4] Using this average value, the total market value of horses in the United States was $10.847 billion in 1997. Over 98 percent of farms with horses had gross annual sales of less than $500,000 and thus are considered to be small entities according to the Small Business Administration size standards.[5]

The contribution of horses to the economy of the Nation is substantial. A study for the American Horse Council showed that the horse industry directly contributed about $25.3 billion to the gross domestic product. The horse industry's indirect and induced impact on the national economy is about $112 billion.

Horses also play an important role in the international trade of the United States. Figures for 1999 are shown in table 2.

[1] USDA, National Agricultural Statistics Service (NASS), *Agricultural Statistics 2000*, United States Government Printing Office, Washington, DC.

[2] Based on size standards established by the Small Business Administration (SBA) for animal production, a sheep and goat business with less than $0.5 million gross annual sales qualifies as a small entity (13 CFR part 121).

[3] USDA, NASS, *1997 Census of Agriculture*, Tables 19, 20, and 25.

[4] USDA, NASS, *1997 Census of Agriculture*, Washington, DC, 1997.

[5] Horse farms with less than $0.5 million in annual sales are classified as small entities according to the SBA size standards for animal production (13 CFR part 121). According to the *1997 Census of Agriculture*, an average farm had 6.5 horses, while according to the American Horse Council, 1.9 million people owned 6.9 million horses, yielding an average of 3.6 horses per owner.

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TABLE 2.—HORSE IMPORTS AND EXPORTS, 1999

Animals	Imports		Exports	
	Number	Value, in millions	Number	Value, in millions
Purebred	3,677	$24.33	26,494	$132.69
Nonpurebred	28,081	301.42	52,206	160.17
Total	31,758	325.75	78,700	292.86

Source: *World Trade Atlas*, June 2000.

Amount of Indemnity

Under this proposed rule, the amount of indemnity would be the fair market value of each animal, minus salvage, if any, received for the animal. There would usually be no salvage value for sheep and goats destroyed because of *B. melitensis*, as the carcass would have to be buried, incinerated, or rendered after the animal was destroyed. Animals would have to be individually appraised before destruction to determine their fair market value. An independent appraiser selected by the Administrator and paid by USDA would conduct all appraisals.

It is impossible to estimate indemnity expenditures, as market values vary depending upon the specific animal. However, as of January 1, 1999, the average national sales price of a sheep was $88, while as of January 1, 1998, it was $102. These prices reflect the average of the sale of millions of slaughter sheep, and the sale of a few thousand registered breeding sheep.[6]

As of January 1, 1999, the average sales price for goats was $35 per head. As in the case of sheep, market values vary, depending whether the animal is a slaughter goat, angora goat, dairy goat, crossbred or purebred, etc.

There is much variation in the price of horses. In 1997, the average U.S. sales price for a horse was $3,165. Purebred horses are more expensive than nonpurebred. State average sales prices ranged between $794 and $18,795, with a median price of about $1,860 per horse. The median indicates that the market value of a horse in 50 percent of States was above $1,860 per head and in 50 percent below it.

At this time, there are no goats, sheep, or horses in the United States known to be infected with *B. abortus* or *B. melitensis*. We estimate that fewer than a dozen herds, flocks, or individual animals would be eligible for indemnity under this proposed rule by the time brucellosis is eradicated from the United States.

[6] The average price for registered breeding sheep is in the range of $300, with some selling for thousands of dollars.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 00–002–1. Please send a copy of your comments to: (1) Docket No. 00–002–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would provide for the Department to pay indemnity for the voluntary depopulation of herds of goats, flocks of sheep, and mixed herds of goats and sheep affected with *B. abortus* or *B. melitensis* and for the voluntary slaughter of individual horses infected with brucellosis. Implementing the proposed indemnity program would necessitate the use of several information collection activities, including the completion of indemnity claims, test records, and permits; the use of official seals and animal identification; and the submission of proof of destruction and requests for the extension of certain program-related deadlines.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Sheep, goat, and horse owners who may be eligible to participate in a brucellosis indemnity program; State and accredited veterinarians; and slaughter plant operators.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 4.

Estimated total annual burden on respondents: 1 hour.

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 9 CFR Part 51

Animal diseases, Cattle, Goats, Hogs, Horses, Indemnity payments, Reporting and recordkeeping requirements, Sheep.

Accordingly, we propose to amend 9 CFR part 51 as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for part 51 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.22, 2.80, and 371.4.

§§ 51.1 through 51.10 [Designated as subpart A]

2. Sections 51.1 through 51.10 would be designated as Subpart A—Indemnity for Cattle, Bison, and Swine.

§ 51.1 [Amended]

2. In § 51.1, in the definition of *Permit*, the word "Part" would be removed and the word "subpart" added in its place.

3. A new Subpart B—Indemnity for Sheep, Goats, and Horses, §§ 51.20 through 51.33, would be added to read as follows:

Subpart B—Indemnity for Sheep, Goats, and Horses

Sec.

51.20 Definitions.
51.21 Cooperation with States.
51.22 Payment to owners for goats, sheep, and horses destroyed.
51.23 Eligibility for indemnity.
51.24 Maximum per-head indemnity amounts.
51.25 Proof of destruction.
51.26 Record of tests.
51.27 Identification of goats, sheep, and horses to be destroyed.
51.28 Moving goats, sheep, and horses to be destroyed.
51.29 Destruction of animals; time limit.
51.30 Claims for indemnity.
51.31 Disinfecting premises, conveyances, and materials.
51.32 Claims not allowed.
51.33 Multiple indemnity payments.

§ 51.20 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Affected Herd/Flock. Any herd or flock in which any cattle, bison, breeding swine, sheep, or goat has been classified as a brucellosis reactor and which has not been released from quarantine.

Animal. Sheep, goats, and horses.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Appraisal. An estimate of the fair market value of an animal to be destroyed because of brucellosis.

Brucellosis exposed. Except for brucellosis reactors, animals that are part of a herd known to be affected, or are in a quarantined feedlot or a quarantined pasture, or are brucellosis suspects, or that have been in contact with a brucellosis reactor for a period of 24 hours or more, or for a period of less than 24 hours if the brucellosis reactor has aborted, calved, or farrowed within the past 30 days or has a vaginal or uterine discharge.

Brucellosis reactor animal. Any cattle, bison, or swine classified as a brucellosis reactor as provided in the definition of official test in § 78.1 of this chapter, and any sheep, goat, or horse classified as a brucellosis reactor as provided in § 51.23 of this subpart.

Condemn. The determination made by an APHIS representative, State representative, or accredited veterinarian that animals for which indemnity is sought under this subpart will be destroyed.

Designated brucellosis epidemiologist. An epidemiologist selected by the State animal health official and the Veterinarian in Charge to perform the functions required. The regional epidemiologist and the APHIS brucellosis staff must concur in the selection and appointment of the designated epidemiologist.

Destroyed. Condemned under State authority and slaughtered or otherwise dies.

Flock. Any group of sheep maintained on common ground for any purpose, or two or more groups of sheep under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

Herd. Any group of goats, or mixed sheep and goats, maintained on common ground for any purpose, or two or more groups of goats, or two or more groups of mixed sheep and goats, under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

Herd Depopulation. Removal by slaughter or other means of destruction of all sheep or goats in a flock or herd, or from a specific premises or under common ownership prior to restocking such premises with new animals.

Mortgage. Any mortgage, lien, or interest that is recorded under State law or identified in the indemnity claim form filed in accordance with this subpart, and held by any person other than the one claiming indemnity.

Official seal. A serially numbered metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and which cannot be reused if opened, and is applied by a representative of the Veterinarian in Charge or the Sate animal health official.

Owner. Any person who has legal or rightful title to sheep, goats, and horses, whether or not the animals are subject to a mortgage.

Permit. An official document for movement of animals under this subpart issued by an APHIS representative, State representative, or accredited veterinarian listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements and proof of slaughter certification.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

Registered sheep and goats. Sheep and goats for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the species, and for which individual registrafion certificates are issued and recorded by such breed association.

State. Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States.

State representative. An individual employed in animal health activities by a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative

agreement with the United States Department of Agriculture.

Veterinarian in Charge. The APHIS veterinary official who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State or area concerned, or any person authorized to act for the Veterinarian in Charge.

§ 51.21 Cooperation with States.

The Administrator has been delegated the authority to cooperate with the proper State authorities in the eradication of brucellosis and to pay indemnities for the destruction of brucellosis-reactor animals or brucellosis-exposed animals.

§ 51.22 Payment to owners for goats, sheep, and horses destroyed.

(a) The Administrator may authorize the payment of Federal indemnity by the U.S. Department of Agriculture to any owner whose goats, sheep, or horses are destroyed after having been approved for destruction by APHIS.[1] Goats or sheep must be destroyed as part of a whole herd/flock depopulation to be eligible for Federal indemnity.

(b) The amount of Federal indemnity will be determined in accordance with the regulations in this part that were in effect on the date infected animals were found, or the date that the whole-herd/flock depopulation or destruction of individual animals was approved.

(c) Prior to payment of indemnity, proof of destruction must be furnished to the Veterinarian in Charge.

§ 51.23 Eligibility for indemnity.

Owners of animals destroyed because of brucellosis are eligible to receive Federal indemnity for their animals if the animals are:

(a) Sheep and goats in a herd or flock that has been approved for whole herd/flock depopulation because of *B. abortus* or *B. melitensis.* A diagnosis of brucellosis must be made by a designated brucellosis epidemiologist,[2] based on test results, herd/flock history, and/or culture results. Any test used for cattle and bison under the APHIS official brucellosis eradication program (see part 78 of this chapter) may be used, but test results must be interpreted by a designated brucellosis epidemiologist;

(b) Sheep and goats that were obtained from a herd or flock that was subsequently found to be affected with *B. abortus* or *B. melitensis.* Epidemiological information such as test results, herd/flock history, and related evidence will be used to establish a probable date when the herd or flock was first affected with brucellosis. Animals removed from the herd or flock after that date will be considered exposed to the disease and eligible for indemnity; those removed before that date will not;

(c) Individual horses diagnosed with brucellosis. A diagnosis must be made by a designated brucellosis epidemiologist, based on epidemiological information or culture results, or positive results for brucellosis in accordance with one of the following tests:

Test	Positive results
Standard plate test (SPT)	If antibody titer positive at 1:100 dilution or higher
Standard tube test (STT)	If antibody titer positive at 1:100 dilution or higher
Rivanol test	If antibody titer positive at 1:50 dilution or higher
Particle concentration fluorescence immunoassay (PCFIA)	If reading is 0.3 or lower
Complement fixation test (CF)	If reading is 2+:20 dilution

§ 51.24 Maximum per-head indemnity amounts.

Owners of the types of animals listed in § 51.22 of this subpart are eligible to receive Federal indemnity for their animals. All animals must be individually appraised to determine their fair market value. The indemnity amount will be the appraised value minus the salvage value of the animal, up to a maximum of $20,000 per animal in the case of horses. An independent appraiser selected by the Administrator will conduct appraisals. APHIS will pay the cost of appraisals.

§ 51.25 Proof of destruction.

The Veterinarian in Charge will accept any of the following documents as proof of destruction:

(a) A postmortem report;

(b) A meat inspection certification of slaughter;

(c) A written statement by a State representative, APHIS representative, or accredited veterinarian attesting to the destruction of the animals;

(d) A written, sworn statement by the owner or caretaker of the animal attesting to the destruction of the animals;

(e) A permit (VS Form 1–27) consigning the animal from a farm or livestock market directly to a slaughter establishment; or

(f) In unique situations where none of the documents listed above are available, other similarly reliable forms of proof of destruction.

§ 51.26 Record of tests.

An APHIS representative, State representative, or accredited veterinarian will compile, on an APHIS-approved form, a complete test record for each animal. The claimant must provide any information necessary to complete the form. The test record must include the type of test and the test results for each animal. It must also include the individual identification of each tested animal. Any unique identification is acceptable. The animal's owner and the appropriate State veterinarian's office will each receive a copy of the test record.

§ 51.27 Identification of goats, sheep, and horses to be destroyed.

The claimant must ensure that any goats, sheep, and horses for which indemnity is claimed are marked with unique, individually numbered identification showing they are to be destroyed. This must be done within 15 days after the animals are condemned. The Veterinarian in Charge may extend the time limit to 30 days when the Veterinarian in Charge receives a request for extension prior to the expiration date of the original 15-day period, and when the Veterinarian in Charge determines that the extension will not adversely affect the brucellosis eradication program. However, the Administrator may extend the time limit beyond 30 days when unusual or unforeseen circumstances occur that prevent or hinder the identification of the animal within 30 days, such as, but not limited to, floods, storms, or other Acts of God, which are beyond the control of the owner, or when identification is delayed due to requirements of another Federal agency.

§ 51.28 Moving goats, sheep, and horses to be destroyed.

Goats, sheep, and horses to be destroyed because of brucellosis must be accompanied by a permit and either:

(a) Accompanied directly to slaughter by an APHIS or State representative; or

(b) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit.

§ 51.29 Destruction of animals; time limit.

(a) The claimant must ensure that goats, sheep, and horses infected with or exposed to *B. abortus* are either:

(1) Sold under permit to a recognized slaughtering establishment;

(2) Moved to an approved stockyard for sale to a recognized slaughtering establishment; or

(3) Destroyed and buried, incinerated, or rendered in accordance with applicable State law.

(b) The claimant must ensure that goats and sheep destroyed because of *B. melitensis* are destroyed and buried, incinerated, or rendered in accordance with applicable State law.

(c) Indemnity will be paid under this part only if the animals are destroyed within 15 days after the date they are marked with identification showing they are to be destroyed. However, the Veterinarian in Charge may extend the time limit to 30 days if:

(1) The animals' owner asks the Veterinarian in Charge for an extension before the initial 15-day period expires, or the animals were sold for slaughter before the original 15-day period expires; and

(2) The Veterinarian in Charge determines that extending the time limit will not adversely affect the Brucellosis Eradication Program.

(d) The Administrator may extend the time limit beyond 30 days when unusual and unforeseen circumstances occur that prevent or hinder the destruction of the animals within 30 days, such as, but not limited to, floods, storms, or other Acts of God, which are beyond the control of the owner, or when destruction is delayed due to requirements of another Federal agency.

§ 51.30 Claims for indemnity.

(a) Claims for indemnity for goats, sheep, and horses destroyed because of brucellosis must be made using an indemnity claim form furnished by APHIS. On the form, the owner of the animals must certify whether the animals are subject to a mortgage. If the owner states there is a mortgage, the claim form must be signed by the owner and by each mortgage holder, consenting to the payment of any indemnity allowed to the owner. Payment will be made only if the claimant has submitted a complete indemnity claim form to the Veterinarian in Charge and the claim has been approved by the Veterinarian in Charge or by an APHIS representative designated by him or her. The Veterinarian in Charge or an APHIS representative designated by the Veterinarian in Charge will record on the APHIS indemnity claim form the amount of Federal and State indemnity payments that appear to be due to the owner of the animals. The owner of the animals will receive a copy of the completed APHIS indemnity claim form. The owner is responsible for paying all fees for holding the animals on the farm pending disposal and for all trucking fees.

(b) Claims for indemnity for registered sheep and registered goats must be accompanied by the animal's registration papers, issued in the name of the owner. If the registration papers are unavailable or if the animal is less than 1 year old and not registered at the time the claim for indemnity is submitted, the Veterinarian in Charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers. Any animal that is not registered but is eligible for registration at the time the claim is submitted will be considered unregistered unless the animal has been in the flock for less than 12 months.

§ 51.31 Disinfecting premises, conveyances, and materials.

All premises, including all structures, holding facilities, conveyances, and materials contaminated because they have been used by animals destroyed because of brucellosis, must be properly cleaned and disinfected in accordance with recommendations of the APHIS or State representative. Cleaning and disinfecting must be completed within 15 days from the date the animals were removed from the premises, except that the Veterinarian in Charge may extend the time limit for disinfection to 30 days when he or she receives a request prior the expiration date of the original 15 days, and when the Veterinarian in Charge determines that an extension will not adversely affect the Brucellosis Eradication Program. The Administrator may extend the time limit beyond 30 days when unusual and unforeseen circumstances occur that prevent or hinder disinfection of the premises, conveyances, and materials within 30 days, such as, but not limited to floods, storms, or other Acts of God, which are beyond the control of the owner. A premises may be exempted from such cleaning and disinfecting requirements if the APHIS or State representative recommends it in writing and the Veterinarian in Charge approves.

§ 51.32 Claims not allowed.

Claims for indemnity for goats, sheep, and horses destroyed because of brucellosis will not be allowed if any of the following circumstances exist:

(a) The claimant has failed to comply with any of the requirements of this part;

(b) The claim is based on a brucellosis test, and the person who administered the test was not properly trained, authorized, or certified at the time of the test;

(c) Testing of goats, sheep, and horses in the herd or flock for brucellosis was not done under APHIS or State supervision, or by an accredited veterinarian;

(d) There is substantial evidence that the claim is an unlawful or improper attempt to obtain indemnity; or

(e) If, at the time of test or condemnation, the animals belonged to or were upon the premises of any person to whom they had been sold for slaughter, shipped for slaughter, or delivered for slaughter.

§ 51.33 Multiple indemnity payments.

APHIS has indemnity programs for several other livestock diseases. However, if a claim is paid for indemnity for animals destroyed because of brucellosis, no other claims for indemnity will be paid for the same animals.

Done in Washington, DC, this 6th day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22981 Filed 9–12–01; 8:45 am]

BILLING CODE 3410–34–U

[1] The Administrator will authorize payment of Federal indemnity by the U.S. Department of Agriculture as provided in § 51.24: (a) As long as sufficient funds appropriated by Congress appear to be available for this purpose for the remainder of the fiscal year; (b) in States or areas not under Federal quarantine; (c) in States requesting payment of Federal indemnity; and (d) in States not requesting a lower rate.

[2] Requirements for designated brucellosis epidemiologists are contained in Veterinary Services Memorandum No. 551.10. A copy of this memorandum may be obtained from an APHIS representative, the State Animal Health Official, or a State representative.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–ASW–27]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise an existing airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters that currently establishes a retirement life for the main rotor trunnion (trunnion) based on hours time-in-service (TIS). This action would retain those requirements but would revise the AD to remove the trunnion, part number (P/N) 206–011–120–103, from the applicability. This proposal is prompted by the issuance of another AD for the BHTI Model 206L and 206L–1 helicopters that requires a different method of calculating the retirement life for the trunnions. The actions specified by this AD are intended prevent failure of the trunnion due to fatigue cracks and subsequent loss of control of the helicopter.

DATES: Comments must be received by November 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 81–ASW–27, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9–asw–adcomments@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 81–ASW–27." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 81–ASW–27, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The FAA issued AD 81–18–01, Amendment 39–4192 (46 FR 42651, August 24, 1981), to require a retirement life on the trunnions installed on BHTI Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters. That action was prompted by the FAA's determination that a retirement life should be imposed on the trunnion based on fatigue testing, fatigue analysis, and service experience. That condition, if not corrected, could result in failure of the trunnion due to fatigue cracks and subsequent loss of control of the helicopter.

Since the issuance of AD 81–18–01, the FAA has issued AD 99–17–19 (64 FR 45433, August 20, 1999) that required a different method of calculating the retirement life for the trunnion, part number (P/N) 206–011–120–103, installed on BHTI Model 206L series helicopters. AD 81–18–01 established a retirement life for certain trunnions based on hours TIS. AD 99–17–19 requires a retirement life based on a Retirement Index Number (RIN) for the trunnion, P/N 206–011–120–103, installed on the Model 206L series helicopters. This AD revises AD 81–18–01 to remove the trunnion, P/N 206–011–120–103, from the applicability of that AD so that the trunnions for those models will only be affected by the RIN retirement life as required by AD 99–17–19. However, the model 206L and 206L–1 helicopters must be included in this AD because the other trunnions affected by the AD may be installed on these helicopters.

Since we have identified an unsafe condition that is likely to exist or develop on other BHTI Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters of the same type designs, the proposed AD would revise AD 81–18–01. This AD would contain the same requirements as AD 81–18–01 but would remove trunnion, P/N 206–011–120–103, from the applicability of that AD.

The FAA estimates that since the requirements of the AD are not changed and fewer helicopters of U.S. registry will be affected by this proposed AD revision, there will be no additional cost impact from the AD revision on U.S. operators.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–4192 (46 FR 42651, August 24, 1981), and by adding a new airworthiness directive (AD) to read as follows:

Bell Helicopter Textron, Inc.: Docket No. 81–ASW–27. Revises AD 81–18–01, Amendment 39–4192, Docket No. 81–ASW–27.

Applicability

Model 206A, 206B, 206A–1, 206B–1, 206L, and 206L–1 helicopters, with main rotor (trunnion), part number (P/N) 206–010–104–3, 206–011–113–001, 206–011–120–001, or 206–011–113–103, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Required as indicated, unless accomplished previously.

To prevent failure of the trunnion due to fatigue cracks, accomplish the following:

(a) Any trunnion, P/N 206–011–120–001, with 1100 or more hours time-in-service (TIS) must be retired from service within the next 100 hours TIS.

(b) Any trunnion, P/N 206–011–120–001, with less than 1100 hours TIS must be retired from service on or before attaining 1200 hours TIS.

(c) Any trunnion, P/N 206–010–104–3, and 206–011–113–001, with 2300 or more hours TIS must be retired from service within the next 100 hours TIS.

(d) Any trunnion, P/N 206–010–104–3, and 206–011–113–001, with less than 2300 hours TIS must be retired from service on or before attaining 2400 hours TIS.

(e) Any trunnion, P/N 206–011–113–103, with 4700 or more hours TIS must be retired from service within the next 100 hours TIS.

(f) Any trunnion, P/N 206–011–113–103, with less than 4700 hours TIS must be retired from service on or before attaining 4800 hours TIS.

(g) The retirement times, for the trunnions, established by this AD, are as follows:

P/N	Service life hours TIS
206–011–120–001	1200
206–010–104–3	2400
206–011–113–001	2400
206–011–113–103	4800

Note 2: The FAA issued AD 99–17–19 (64 FR 45433, August 20, 1999) to establish a retirement life for trunnion, P/N 206–011–120–103.

(h) This AD revises the Limitations section of the maintenance manual by establishing a retirement life of 1200 hours TIS for trunnion, P/N 206–011–120–001; 2400 hours TIS for P/N 206–010–104–3 and 206–011–113–001; and 4800 hours TIS for P/N 206–011–113–103.

Note 3: Bell Helicopter Textron Alert Service Bulletins 206–80–7 and 206L–80–9, both Revision B, and dated October 15, 1980, pertain to the subject of this AD.

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(j) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on September 4, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–22947 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 161

Announcement of Receipt of Notice of Proposed Restriction on Stage 2 Operations Supplemental Analysis at Naples Municipal Airport, Naples, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed restriction on Stage 2 operations.

The Federal Aviation Administration (FAA) has been notified by the Naples Municipal Airport. That it proposes to prohibit operations by aircraft certificated as Stage 2 under the Federal Aviation Regulations (FAR) Part 36. The Naples Municipal Airport has provided notice of the proposed restriction and an opportunity to comment to the public pursuant to the Airport Noise and Capacity Act of 1990 and 14 CFR Part 161.

In its notice published on August 27, 29, and September 1, 2001, in the Naples Daily News and the Fort Myers News Press, the Naples Municipal Airport proposes to prohibit all Stage 2 jet aircraft operations effective March 1, 2002.

Further information, copies of the complete text of the proposed restriction, and copies of the supporting analysis may be obtained at the offices of the City of Naples Airport Authority, 160 Aviation Drive North, Naples, Florida 34104–3568 during regular business hours.

Comments on the proposed restriction may be submitted to: City of Naples Airport Authority, ATTN: Lisa LeBlanc-Hutchings, 160 Aviation Drive North, Naples, Florida 34104–3568, Email: *administration@flynaples.com*. All comments must be received by October 31, 2001, to be considered.

Issued in Orlando, Florida on September 4, 2001.

John W. Reynolds, Jr.,

Acting Manager, Orlando Airports District Office.

[FR Doc. 01–23033 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–048]

RIN 2115–AE47

Drawbridge Operation Regulations; Harlem River, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations which govern the Metro North (Park Avenue) Bridge, at mile 2.1, across the Harlem River at New York City, New York. This proposed rule would allow the bridge owner to require a four-hour advance notice for bridge openings, from 10 a.m. to 5 p.m., daily. It is expected that this proposed change to the regulations will meet the needs of navigation.

DATES: Comments must reach the Coast Guard on or before November 13, 2001.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard

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District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except, Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Arca, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–01–048), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Metro North (Park Avenue) Bridge, at mile 2.1, across the Harlem River, has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water. The existing drawbridge operation regulations listed at 33 CFR 117.789(e) require the bridge to open on signal, from 10 a.m. to 5 p.m., except as provided in paragraph (b).

The owner of the bridge, Metro North, requested a change to the operating regulations to allow the bridge to open on signal, from 10 a.m. to 5 p.m., after a four-hour advance notice is given.

Metro North advised the Coast Guard that all the bridge openings during the last five years were for either vessel traffic employed in the construction of the Oak Point Link railroad Bridge located upstream or Metro North test openings at the bridge. The large construction barges, with equipment such as cranes on board, generally require a bridge opening.

The vessels that frequently use this waterway on a regular basis fit under the bridges without requiring bridge openings, with the exception of the Spuyten Duyvil railroad bridge, which has only 5 feet of vertical clearance at mean high water. All the upstream bridges, with the exception of the Spuyten Duyvil railroad bridge, presently require a four-hour advance notice for bridge openings, from 10 a.m. to 5 p.m., daily.

The existing drawbridge operation regulations are consistent with regard to the four-hour advance notice requirement, from 10 a.m. to 5 p.m., daily.

In addition, all the bridges, except Spuyten Duyvil, have similar or greater vertical clearances at mean high water (MHW) and at mean low water (MLW). The clearances for the bridges on the Harlem River are as follows.

	Bridge name	Mile	MHW & MLW
Metro North (Park Ave)	2.1	25	30
Madison Avenue	2.3	25	29
145 Street	2.8	25	30
Macombs Dam	3.2	27	32
207 Street	6.0	26	30
Broadway	6.8	24	29
Spuyten Duyvil	7.9	5	9

As a result of all the above information the Coast Guard believes that it is reasonable to allow the Metro North (Park Avenue) railroad bridge to open on signal, from 10 a.m. to 5 p.m., after a four-hour advance notice is given, except as provided in paragraph (b).

Discussion of Proposal

The Coast Guard proposes to revise the operating regulations at 33 CFR 117.789(e) to require that the draw of the Metro North (Park Avenue) Bridge, mile 2.1, shall open on signal, except as provided in paragraph (b) of this section, from 10 a.m. to 5 p.m., if at least a four-hour advance notice is given by calling the number posted at the bridge.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridge will continue to open for vessel traffic after the advance notice is given.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the bridge will open on signal after the advance notice is given.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that the bridge will open on signal after the advance notice is given.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this rule.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.789 is amended by revising paragraph (e) to read as follows:

§ 117.789 Harlem River

* * * * *

(e) The draw of the Metro North (Park Avenue) Bridge, mile 2.1, shall open on signal, except as provided in paragraph (b) of this section, from 10 a.m. to 5 p.m., if at least a four-hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: August 30, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–22988 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 036–REC; FRL–7056–5]

Corrections to the California State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to delete various local rules from the California State Implementation Plan (SIP) that were incorporated into the SIP in error. These primarily include rules concerning local fees, enforcement authorities, New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). EPA has determined that the continued presence of these rules in the SIP is potentially confusing and thus harmful to affected sources, local agencies and to EPA. The intended effect of this proposal is to delete these rules and make the SIP consistent with the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments must arrive by October 15, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75

Hawthorne Street, San Francisco, CA 94105.

You may inspect copies of the rules to be deleted at our Region IX office during normal business hours. You may also see copies at the locations listed in **SUPPLEMENTARY INFORMATION** under "Public Inspection."

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1184. Email: rose.julie@EPA.gov

SUPPLEMENTARY INFORMATION:

Public Inspection

California Air Resources Board
Stationary Source Division
Rule Evaluation Section
1001 "I" Street
Sacramento, CA 95814
Amador County Air Pollution Control District
500 Argonaut Lane
Jackson, CA 95642
Antelope Valley Air Pollution Control District
43301 Division Street, Suite 206
Lancaster, CA 93539–4409
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
Butte County Air Quality Management District
2525 Dominic Drive, Suite J
Chico, CA 95928–7184
Calaveras County Air Pollution Control District
891 Mountain Ranch Road
San Andreas, CA 95249–9709
Colusa County Air Pollution Control District
100 Sunrise Blvd. Suite F
Colusa, CA 95932–3246
El Dorado County Air Pollution Control District
2850 Fairlane Court, Building C
Placerville, CA 95667–4100
Feather River Air Quality Management District
938—14th Street
Marysville, CA 95901–4149
Glenn County Air Pollution Control District
720 North Colusa Street
Willows, CA 95988–0351
Great Basin Unified Air Pollution Control District
157 Short Street, Suite 6
Bishop, CA 93514
Imperial County Air Pollution Control District
150 South Ninth Street
El Centro, CA 92243–2801
Kern County (Southeast Desert) Air Pollution Control District
2700 M. Street, Suite 302
Bakersfield, CA 93301–2370
Lake County Air Quality Management District
883 Lakeport Blvd.
Lakeport, CA 95453–5405
Lassen County Air Pollution Control District
175 Russell Avenue
Susanville, CA 96130–4215
Mariposa County Air Pollution Control District
5110 Bullion Street
Mariposa, CA 95338
Mendocino County Air Quality Management District
306 E. Gobbi Street
Ukiah, CA 95482
Modoc County Air Pollution Control District
202 W. Fourth Street
Alturas, CA 96101
Mojave Desert Air Quality Management District
14306 Park Avenue
Victorville, CA 92392–2310
Monterey Bay Unified Air Pollution Control District
24580 Silver Cloud Ct.
Monterey, CA 93940–6536
North Coast Unified Air Quality Management District
2300 Myrtle Avenue
Eureka, CA 95501–3327
Northern Sierra Air Quality Management District
200 Litton Drive, Suite 320
Grass Valley, CA 95945–2509
Northern Sonoma County Air Pollution Control District
150 Matheson Street
Healdsburg, CA 95448–4908
Placer County Air Pollution Control District
11464 B Avenue
Auburn, CA 95603
San Diego County Air Pollution Control District
9150 Chesapeake Drive
San Diego, CA 92123–1096
San Joaquin Valley Unified Air Pollution Control District
1990 East Gettysburg
Fresno, CA 93726
San Luis Obispo County Air Pollution Control District
3433 Roberto Court
San Luis Obispo, CA 93401–7126
Santa Barbara County Air Pollution Control District
26 Castilian Drive, B–23
Goleta, CA 93117
Shasta County Air Quality Management District
1855 Placer Street, Suite 101
Redding, CA 96001–1759
Siskiyou County Air Pollution Control District
525 South Foothill Drive
Yreka, CA 96097–3036
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, CA 91765
Tehama County Air Pollution Control District
1750 Walnut Street
Red Bluff, CA 96080
Tuolumne County Air Pollution Control District
22365 Airport
Columbia, CA 95310
Ventura County Air Pollution Control District
669 County Square Drive
Ventura, CA 93003
Yolo-Solano Air Quality Management District
1947 Galileo Court, Suite 103
Davis, CA 95616

Throughout this document wherever "we," "us," or "our" are used, we mean EPA.

Table of Contents

I. Why is EPA proposing to correct the SIP?
II. What rules are proposed for deletion?
III. Proposed action, public comment and final action
IV. Administrative Requirements

I. Why Is EPA Proposing To Correct the SIP?

The Clean Air Act was first enacted in 1970. In the 1970s and early 1980s, thousands of state and local agency regulations were submitted to EPA for incorporation into the SIP in order to fulfill the new federal requirements. In many cases, states submitted entire regulatory air pollution programs, including many elements not required by the Act. Due to time and resource constraints, EPA's review of these submittals focussed primarily on the new substantive requirements and we approved many other elements into the SIP with minimal review.

We now recognize that many of these elements were not appropriate for approval into the SIP. In general, these elements are appropriate for state and local agencies to adopt and implement, but it is not necessary or appropriate to make them federally enforceable by incorporating them into the applicable SIP. These include:

A. Various local fee provisions that are not economic incentive programs and are not designed to replace or relax a SIP emission limit. While it is appropriate for local agencies to implement fee provisions, for example, to recover costs for issuing permits, it is generally not appropriate to make local fee collection federally enforceable.

B. Various provisions describing local agency investigative or enforcement authority such as some rules titled enforcement, authority to inspect, authority to arrest, violation notices, and orders for abatement. States may need to adopt such rules to demonstrate adequate enforcement authority under section 110(a)(2) of the Act, but they should not be approved into the applicable SIP to avoid potential conflict with EPA's independent authorities provided in sections 113, 114 and elsewhere.

C. Local adoption of federal NSPS requirements either by reference or by adopting text identical or modified from the requirements found in 40 CFR part 60. Since EPA has independent authority to implement 40 CFR part 60, it is not appropriate to make parallel local authorities federally enforceable by approving them into the applicable SIP.

D. Local adoption of NESHAP requirements found in 40 CFR part 61 as similarly discussed regarding NSPS.

II. What Rules Are Proposed for Deletion?

EPA has determined that the California rules listed in the tables below are inappropriate for inclusion in the SIP, but were previously approved into the SIP in error. Dates that these rules were submitted by the State and approved by EPA are provided. We are proposing deletion of these rules and any earlier versions of these rules from the individual air pollution control district portions of the California SIP under section section 110(k)(6) as inconsistent with the requirements of CAA section 110 and part D.

Rule	Title	Submittal date	Approval date
	Amador County Air Pollution Control District		
103	Enforcement	10/15/79	05/18/81
105	Civil Action	04/21/76	06/14/78
318	Enforcement Responsibility	10/16/85	04/17/87
319	Penalty	10/16/85	04/17/87
402	Authority to Inspect	10/15/79	05/18/81
509	Authority to Inspect	10/16/85	04/17/87
Reg. 6	Fees (Rules 601 to 604)	10/15/79	05/18/81
	Antelope Valley Air Pollution Control District		
302	Fees for Publications	02/03/83	11/18/83
304	Analysis Fees	02/03/83	10/19/84
	Los Angeles County		
42	Hearing Board Fees	06/06/77	09/08/78
43	Analysis Fees	06/30/72	09/22/72
44	Technical Reports, Charges for	06/30/72	09/22/72
45	Permit Fees—Open Burning	07/25/73	09/08/78
105	Authority to Arrest	06/06/77	09/08/78
120	Fees	06/30/72	09/22/72
	Southern California APCD		
105	Authority to Arrest	04/21/76	06/14/78
	Bay Area Air Quality Management District		
Reg. 3	Fees	08/30/83	05/03/84
	Fees—Schedules A through Schedule I	08/30/83	05/03/84
Reg. 7	New Source Performance Standards (01–13)	01/10/75	05/11/77
	Butte County Air Quality Management District		
04–03	Permit Fees	04/11/83	11/18/83
04–11	Appeal Fee	04/11/83	11/18/83
05–03	Application Fee	04/11/83	11/18/83
701	Violation of Rules	02/10/86	02/03/87
702	Violation of Orchard Heater or Open Burning Regulations	02/10/86	02/03/87
703	Citations	02/10/86	02/03/87
902	Empower to Enter Upon Private Property	02/10/86	02/03/87
	Calaveras County Air Pollution Control District		
109	Penalty	06/30/72	09/22/72
216	Enforcement	10/13/77	11/07/78
324	Penalty	10/13/77	11/07/78
402	Authority to Inspect	10/13/77	11/07/78
602	Permit Fee Schedules (1 to 6)	10/13/77	11/07/78
603	Analysis Fees	10/13/77	11/07/78
604	Technical Reports	10/13/77	11/07/78
	Colusa County Air Pollution Control District		
1.4	Enforcement	06/30/72	09/22/72

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Rule	Title	Submittal date	Approval date
2.13	Appeal Fee	06/30/72	09/22/72
6.11	Enforcement	06/30/72	09/22/72
6.12	Penalty	06/30/72	09/22/72
	El Dorado County Air Pollution Control District		
	El Dorado County		
216	Enforcement	11/04/77	11/06/78
323	Enforcement Responsibility	04/10/75	06/14/78
324	Penalty	11/04/77	11/06/78
402	Authority to Inspect	11/04/77	11/06/78
601	Analysis Fees	04/10/75	06/14/78
602	Technical Reports—Charges for	04/10/75	06/14/78
	Lake Tahoe Air Basin		
Reg. 6	Fees (Rules 601 to 613)	08/15/80	05/27/82
Reg. 8	Enforcement (Rules 801 to 804)	05/23/79	05/18/81
	Mountain Counties Air Basin		
226	Enforcement	10/27/83	05/03/84
318	Enforcement Responsibility	10/23/81	05/27/82
319	Penalty	10/23/81	05/27/82
509	Authority to Inspect	04/17/80	05/27/82
Reg. 6	Fees (Rules 601 to 608)	08/15/80	05/27/82
Reg. 6	Fees (Rules 609 to 612)	04/11/83	11/18/83
	Feather River Air Quality Management District—Sutter County		
1.4	Enforcement	02/25/80	01/26/82
2.20	Payment of Order Charging Costs	06/30/72	09/22/72
Reg. 8	Penalties and Abatement (Rules 8.0 to 8.2)	01/28/81	04/12/82
Reg. 9	Enforcement Procedure (Rules 9.0 to 9.4)	01/28/81	04/12/82
	Yuba County		
Reg. 7	Fees (Rules 7.0 to 7.1)	10/15/79	01/26/82
8.0	Penalties	03/30/81	04/12/82
8.1	Arrest, Notice to Appear	10/15/79	01/26/82
8.2	Orders for Abatement	03/30/81	04/12/82
Reg. 9	Enforcement Procedures (Rules 9.0 to 9.4)	03/30/81	04/12/82
	Glenn County Air Pollution Control District		
3	Enforcement	11/03/80	01/26/82
3.1	Right of Entry	01/10/75	08/22/77
151	Hearing Transcript Cost	06/30/72	09/22/72
152	Analysis Fees	11/04/77	09/14/78
153	Technical Reports and Regulations: Charges for	06/30/72	09/22/72
154	Authorization to Construct Fees	11/04/77	09/14/78
155	Permit to Operate Fee Schedules (1 to 7)	01/10/75	05/11/77
	Great Basin Unified Air Pollution Control District		
105	Arrests and Notices to Appear	04/21/76	06/06/77
300	Permit Fees	05/28/81	04/13/82
301	Permit Fee Schedules (1 to 7)	10/23/81	04/13/82
302	Analysis Fees	04/21/76	06/06/77
303	Technical Reports—Charges For	04/21/76	06/06/77
	Imperial County Air Pollution Control District		
104	Violations	11/04/77	08/11/78
105	Enforcement	06/09/87	02/03/89
106	Abatement	11/04/77	08/11/78
108	Inspections	06/09/87	02/03/89
Reg. 3	Fees (Rules 301, 302, 305, 306, and 307)	10/23/81	05/27/82
Reg. 3	Fees (Rule 303)	11/04/77	08/11/78
Reg. 3	Fees (Rule 304)	10/15/79	01/27/81
706	Penalty Clause	10/15/79	01/27/81

Rule	Title	Submittal date	Approval date
	Kern County Air Pollution Control District—Southeast Desert		
104	Enforcement	11/10/76	03/22/78
107	Inspections	06/30/72	09/22/72
109	Penalty	06/30/72	9/22/72
110	Arrests and Notices to Appear	12/15/80	07/06/82
Reg. 3	Fees (Rules 301 and 305)	07/30/81	07/06/82
Reg. 3	Fees (Rules 301.1 and 302, Schedule 9)	07/19/83	02/01/84
Reg. 3	Fees Rule 302 (Schedules 1 to 8)	07/30/81	07/06/82
Reg. 3	Fees (Rules 303 and 304)	06/30/72	09/22/72
422	New Source Performance Standards	07/22/75	08/22/77
423	Emission Standards for Hazardous Air Pollutants	07/22/75	08/22/77
	Lake County Air Quality Management District		
531	Credentials for Entry	02/10/77	08/04/78
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Reg. 3	Fees, Rules 40, 42, 43, and 44	02/21/72	05/31/72
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104	Enforcement	11/10/76	10/4/77
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1.7	Arrest, Notice to Appear	02/21/72	05/31/72
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III. Proposed action, public comment and final action

EPA has reviewed the rules listed in the tables above and determined that they were previously approved into the applicable California SIP in error. Deletion of these rules will not relax the applicable SIP and is consistent with the Act. Therefore, EPA is proposing to delete these rules under section 110(k)(6) of the Act, which provides EPA authority to remove these rules without additional State submission. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final action that will delete these rules from the federally enforceable SIP.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In this proposed rule, EPA is not developing or adopting a technical standard. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 31, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–22999 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63

[PA001–1000; FRL–7056–1]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Pennsylvania; Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Pennsylvania Department of Environmental Protection's (PADEP's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations. In addition, EPA is proposing to approve of PADEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. This action pertains only to sources which are not required to obtain a Clean Air Act operating permit. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before October 15, 2001.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and James M. Salvaggio, Director, Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of PADEP's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning and secondary lead smelters (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: September 5, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 01–22991 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7054–4]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 37

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "the Act"), requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule proposes to add 17 new sites to the NPL; 16 sites to the General Superfund Section of the NPL and one site to the Federal Facilities Section. (Please note that one of the sites is being reproposed to the NPL.)

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before November 13, 2001.

ADDRESSES: *By Postal Mail:* Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5201G); 1200 Pennsylvania Avenue NW., Washington, DC 20460.

By Express Mail or Courier: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1235 Jefferson Davis Highway; Crystal Gateway #1, First Floor; Arlington, VA 22202.

By E-Mail: Comments in ASCII format only may be mailed directly to *superfund.docket@epa.gov.* E-mailed comments must be followed up by an original and three copies sent by mail or express mail.

For additional Docket addresses and further details on their contents, see section II, "Public Review/Public Comment," of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Yolanda Singer, phone (703) 603–8835, State, Tribal and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington, DC 20460; or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What Are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What Is the NCP?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases (42 U.S.C. 9601(23)).

C. What Is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), 48 FR 40659 (September 8, 1983).

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites that are owned or operated by other Federal agencies (the "Federal Facilities Section"). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

D. How Are Sites Listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (see 42 U.S.C. 9605(a)(8)(B)); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on June 14, 2001 (66 FR 32235).

E. What Happens to Sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions. * * *" 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

F. How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which contamination from that area has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the "Jones Co. plant site") in terms

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of the property owned by a particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the "Jones Co. plant site," does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the "nature and extent of the problem presented by the release" will be determined by a Remedial Investigation/Feasibility Study ("RI/FS") as more information is developed on site contamination (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How Are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met: (i) Responsible parties or other persons have implemented all appropriate response actions required; (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate. As of August 23, 2001, the Agency has deleted 239 sites from the NPL.

H. Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of August 23, 2001, EPA has deleted 24 portions of 23 sites.

I. What Is the Construction Completion List (CCL)?

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) The site qualifies for deletion from the NPL.

As of August 23, 2001, there are a total of 773 sites on the CCL. For the most up-to-date information on the CCL, see EPA's Internet site at *http://www.epa.gov/superfund*.

II. Public Review/Public Comment

A. Can I Review the Documents Relevant to This Proposed Rule?

Yes, documents that form the basis for EPA's evaluation and scoring of the sites in this rule are contained in dockets located both at EPA Headquarters in Washington, DC and in the Regional offices.

B. How Do I Access the Documents?

You may view the documents, by appointment only, in the Headquarters or the Regional dockets after the appearance of this proposed rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact the Regional dockets for hours.

Following is the contact information for the EPA Headquarters docket: Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603–9232. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the Regional dockets is as follows:

Ellen Culhane, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records Center, Mailcode HSC, One Congress Street, Suite 1100, Boston, MA 02114–2023; 617/918–1225.

Dennis Munhall, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4343.

Dawn Shellenberger (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3PM52, Philadelphia, PA 19103; 215/814–5364.

Lauren Brantley, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, 9th floor, Atlanta, GA 30303; 404/562–8127.

Janet Pfundheller, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Superfund Division SMR–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/353–5821.

Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mailcode 6SF–RA, Dallas, TX 75202–2733; 214/665–7436.

Michelle Quick, Region 7 (IA, KS, MO, NE), U.S. EPA, 901 North 5th Street, Kansas City, KS 66101; 913/551–7335.

David Williams, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Mailcode 8EPR–SA, Denver, CO 80202–2466; 303/312–6757.

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105; 415/744–2343.

Robert Phillips, Region 10 (AK, ID, OR, WA), U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop ECL–110, Seattle, WA 98101; 206/553–6699.

You may also request copies from EPA Headquarters or the Regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

C. What Documents Are Available for Public Review at the Headquarters Docket?

The Headquarters docket for this rule contains: HRS score sheets for the proposed sites; a Documentation Record for the sites describing the information used to compute the score; information for any sites affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

D. What Documents Are Available for Public Review at the Regional Dockets?

The Regional dockets for this rule contain all of the information in the Headquarters docket, plus, the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the Regional dockets.

E. How Do I Submit My Comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble in the **ADDRESSES** section. Please note that the addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What Happens to My Comments?

EPA considers all comments received during the comment period. Significant comments will be addressed in a support document that EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What Should I Consider When Preparing My Comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas*, 849 F.2d 1516 (D.C. Cir. 1988)). EPA will not address voluminous comments that are not specifically cited by page number and referenced to the HRS or other listing criteria. EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in EPA's stated eligibility criteria is at issue.

H. Can I Submit Comments After the Public Comment Period Is Over?

Generally, EPA will not respond to late comments. EPA can only guarantee that it will consider those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

I. Can I View Public Comments Submitted by Others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes.

J. Can I Submit Comments Regarding Sites Not Currently Proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

With today's proposed rule, EPA is proposing to add 17 new sites to the NPL; 16 sites to the General Superfund Section of the NPL and one site to the Federal Facilities Section. (Please note that the Sauget 1 site in Illinois is being reproposed to the NPL.) The sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above. The sites are presented in Table 1 and Table 2 which follow this preamble.

B. Status of NPL

A final rule published elsewhere in today's **Federal Register** finalizes 11 sites to the NPL; resulting in an NPL of 1,240 final sites; 1,080 in the General Superfund Section and 160 in the Federal Facilities Section. With this proposal of 17 new sites, there are now 72 sites proposed and awaiting final agency action, 65 in the General Superfund Section and 7 in the Federal Facilities Section. (Please note that one of the 17 sites is being reproposed to the NPL.) Final and proposed sites now total 1,312. (These numbers reflect the status of sites as of August 23, 2001. Site deletions occurring after this date may affect these numbers at time of publication in the **Federal Register**.)

IV. Executive Order 12866

A. What Is Executive Order 12866?

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Is This Proposed Rule Subject to Executive Order 12866 Review?

No. The listing of sites on the NPL does not impose any obligations on any entities. The listing does not set standards or a regulatory regime and imposes no liability or costs. Any liability under CERCLA exists irrespective of whether a site is listed. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

V. Unfunded Mandates

A. What Is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit

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analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

B. Does UMRA Apply to This Proposed Rule?

No, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or by the private sector in any one year. This rule will not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. Listing a site on the NPL does not itself impose any costs. Listing does not mean that EPA necessarily will undertake remedial action. Nor does listing require any action by a private party or determine liability for response costs. Costs that arise out of site responses result from site-specific decisions regarding what actions to take, not directly from the act of listing a site on the NPL.

For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

A. What Is the Regulatory Flexibility Act?

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

B. How Has EPA Complied With the Regulatory Flexibility Act (RFA)?

This proposed rule listing sites on the NPL, if promulgated, would not impose any obligations on any group, including small entities. This proposed rule, if promulgated, also would establish no standards or requirements that any small entity must meet, and would impose no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking. Thus, this proposed rule, if promulgated, would not impose any requirements on any small entities. For the foregoing reasons, I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

VII. National Technology Transfer and Advancement Act

A. What Is the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

B. Does the National Technology Transfer and Advancement Act Apply to This Proposed Rule?

No. This proposed rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

VIII. Executive Order 12898

A. What Is Executive Order 12898?

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities.

B. Does Executive Order 12898 Apply to This Proposed Rule?

No. While this rule proposes to revise the NPL, no action will result from this proposal that will have disproportionately high and adverse human health and environmental effects on any segment of the population.

IX. Executive Order 13045

A. What Is Executive Order 13045?

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

B. Does Executive Order 13045 Apply to This Proposed Rule?

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

X. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Proposed Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

XI. Executive Orders on Federalism

What Are The Executive Orders on Federalism and Are They Applicable to This Proposed Rule?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

XII. Executive Order 13084

What Is Executive Order 13084 and Is It Applicable to This Proposed Rule?

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments because it does not significantly or uniquely affect their communities. The addition of sites to the NPL will not impose any substantial direct compliance costs on Tribes. While Tribes may incur costs from participating in the investigations and cleanup decisions, those costs are not compliance costs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

XIII. Executive Order 13175

A. What Is Executive Order 13175?

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

B. Does Executive Order 13175 Apply to This Proposed Rule?

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

XIV. Executive Order 13211

A. What Is Executive Order 13211?

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as "significant energy actions." Section 4(b) of

Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action."

B. Is This Rule Subject to Executive Order 13211?

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866 (See discussion of Executive Order 12866 above.)

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 37, GENERAL SUPERFUND SECTION

State	Site name	City/County
IA	Railroad Avenue Groundwater Contamination	Des Moines.
ID	Stibnite/Yellow Pine Mining Area	Yellow Mine.
IL	Sauget Area 1	Sauget and Cahokia.
IL	Sauget Area 2	Sauget.
MA	Hatheway and Patterson Company	Mansfield.
ME	Callahan Mine	Brooksville.
MO	Oak Grove Village Well	Oak Grove Village.
NC	Reasor Chemical Company	Castle Hayne.
NJ	Atlantic Resources Corporation	Sayreville.
NJ	Woodbrook Road Dump	South Plainfield.
NM	McGaffey and Main Groundwater Plume	Roswell.
NY	Cayuga County Ground Water Contamination	Cayuga County.
NY	Crown Cleaners of Watertown, Inc	Carthage.
NY	Ellenville Scrap Iron and Metal	Ellenville.
PA	Franklin Slag Pile (MDC)	Philadelphia.
TX	Brine Service Company	Corpus Christi.

Number of Sites Proposed to General Superfund Section: 16.

TABLE 2.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 37, FEDERAL FACILITIES SECTION

State	Site name	City/County
MD	Curtis Bay Coast Guard Yard	Anne Arundel County.

Number of Sites Proposed to Federal Facilities Section: 1.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: September 5, 2001.

Michael H. Shapiro,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 01–22742 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket Nos. 00–258 and 95–18 and IB Docket No. 99–81; FCC 01–224]

Introduction of New Advanced Mobile and Fixed Terrestrial Wireless Services; Use of Frequencies Below 3 GHz

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission seeks comment on additional options and issues in its continuing study of the possible use of frequency bands below 3 GHz to support the introduction of new advanced mobile and fixed terrestrial wireless services, including third generation and future generations of wireless systems.

DATES: Comments are due on or before October 11, 2001, and reply comments are due on or before October 25, 2001.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Spencer, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Further Notice of Proposed Rulemaking (FNPRM) portion of the Commission's Memorandum Opinion and Order (MO&O) and FNPRM in ET Docket Nos. 00–258 and 95–18, and IB Docket No. 99–81, FCC 01–224, adopted August 9, 2001, and released August 20, 2001. The complete text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554.

Synopsis of the FNPRM

1. This FNPRM continues our exploration of the possible use of frequency bands below 3 GHz to support the introduction of new advanced mobile and fixed terrestrial wireless services (advanced wireless services), including third generation (3G) and future generations of wireless systems. The Commission initiated this proceeding by Notice of Proposed Rulemaking in ET No. 00–258, which can be found at 66 FR 18740, April 11, 2001. The FNPRM also resolves a petition for rulemaking filed by the Cellular Telecommunications & Internet Association (CTIA). The MO&O portion of this decision is published elsewhere in this edition of the **Federal Register**.

2. The Commission, in the FNPRM, explores the possibility of introducing new advanced wireless services in frequency bands not identified in the NPRM, including bands currently designated for the Mobile Satellite Service (MSS), the Unlicensed Personal Communications Service (UPCS), the Amateur Radio Service (ARS), and the Multipoint Distribution Service (MDS). Specifically, the Commission seeks comment on reallocating spectrum in the 1910–1930 MHz, 1990–2025 MHz, 2150–2160 MHz, 2165–2200 MHz, and 2390–2400 MHz bands for new advanced wireless services.

3. The purpose of this FNPRM is to supplement the record by providing new allocation options that were not addressed in the NPRM, and by seeking comment on the benefits and costs of each new allocation option. These spectrum options complement rather than substitute for options identified previously in the NPRM. The FNPRM solicits comment on the potential for commercial use of these additional spectrum bands directly for new advanced wireless services, both paired and unpaired. The FNPRM also invites comment on the use of these or other bands for the relocation of incumbent licensees or operators who could be displaced by the final allocation established in this proceeding. The FNPRM seeks comment on the advantages and disadvantages of these options, including the potential for new advanced wireless services in these bands. Further, the FNPRM seeks comment on the potential effect of the allocation proposals described in the full text of the FNPRM on existing and prospective users of these bands and the services they provide (e.g., MSS, UPCS, ARS, and MDS). Finally, the FNPRM seeks comment on the costs and benefits to the United States of regional or global spectrum harmonization for advanced wireless services.

4. In its petition for rulemaking, CTIA asked that the 2 GHz MSS bands be reallocated for other uses and that the Commission withhold grant of 2 MHz licenses while it considers CTIA's petition. The FNPRM grants CTIA's petition in part, but denies the petition insofar as it requests reallocation of the entire 2 GHz MSS band and a delay in authorizing 2 GHz MSS systems.

Initial Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this FNPRM. The Commission requests written public comment on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, the Commission asks a number of questions in the IRFA regarding the prevalence of small businesses in the affected industries. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments filed on the FNPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Analysis

6. The Further Notice of Proposed Rulemaking does not contain a proposed information collection.

Ex Parte Presentations

7. For purposes of this permit-but-disclose notice and comment rulemaking proceeding, members of the public are advised that ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed under the Commission's Rules. (*See generally* 47 CFR 1.1202, 1.1203, 1.1206(a).)

Comment Dates

8. Pursuant to applicable procedures set forth in 47 CFR 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before October 11, 2001, and reply comments on or before October 25, 2001. The Commission asks that comments to the IRFA be submitted to all three dockets listed in the caption of the FNPRM, ET Docket No. 00–258, ET Docket No. 95–18, and IB Docket No. 99–81.

9. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters who file by paper must submit two additional copies for each additional docket or rulemaking number. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW, Washington, DC 20554, with a copy to John Spencer, Wireless Telecommunications Bureau, 445 Twelfth Street, SW, Washington, DC 20554. Parties are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

10. Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

11. Comments and reply comments will be available for public inspection during regular business hours at the FCC Reference Center, Room CY–A257, at the Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, 202–863–2893.

Ordering Clauses

12. Pursuant to the authority contained in sections 1, 4(j), 7(a), 301,

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303(c), 303(f), 303(g), 303(r), 308, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j), this Further Notice of Proposed Rulemaking is adopted.

13. The Petition for Rulemaking filed by the Cellular Telecommunications & Internet Association is granted to the extent indicated in the Further Notice of Proposed Rule Making, and is otherwise denied.

14. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Regulatory Flexibility Analysis

15. This is a summary of the Initial Regulatory Flexibility Analysis for the FNPRM. The full text of the Initial Regulatory Flexibility Analysis may be found in Appendix A of the full FNPRM.

16. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this FNPRM, ET Docket No. 00–258, ET Docket No. 95–18, and IB Docket No. 99–81. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission further asks that comments to the IRFA be submitted to all three dockets listed in the caption of the FNPRM, ET Docket No. 00–258, ET Docket No. 95–18, and IB Docket No. 99–81.

A. Need for, and Objectives of, the Proposed Rules

17. The objective of the proposed actions is to consider reallocating spectrum that could be used to provide a wide range of voice, data, and broadband services over a variety of mobile and fixed networks, thus offering all entities, including small entities, greater opportunity to participate in the telecommunications industry and greater flexibility.

B. Legal Basis for Proposed Rules

18. The proposed action is authorized under sections 1, 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

19. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."

20. The term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, as of 1992 there were approximately 4.44 million small business firms, according to SBA reporting data.

21. A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations.

22. The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000. As of 1992, there were approximately 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number have populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our proposed rules.

23. *Geostationary, Non-Geostationary Orbit, Fixed Satellite, or Mobile Satellite Service Operators.* The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit, fixed-satellite or mobile-satellite service operators. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified, which provides that a small entity is one with $11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under this category. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities. Small businesses may not have the financial ability to become geostationary or non-geostationary, fixed-satellite or mobile-satellite service system operators because of the high implementation costs associated with satellite systems and services. At this time, at least one of the 2 GHz MSS applicants may be considered a small business. The Commission expects, however, that by the time of implementation it will no longer be considered a small business due to the capital requirements for launching and operating its proposed system. Because there are limited spectrum and orbital resources available for assignment, the Commission estimates that no more than nine entities will be approved by the Commission as operators providing these services.

24. *Multipoint Distribution Service (MDS).* In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million. The SBA has approved this definition of a small entity in the context of MDS auctions. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities. Of the 67 auction winners, 61 meet the definition of a small business.

25. MDS is also heavily encumbered with licensees of stations authorized prior to the MDS auction. SBA has developed a definition of small entities for pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes MDS systems, and thus applies to incumbent MDS licensees and wireless cable operators which may not have participated or been successful in the MDS auction. For purposes of this analysis, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, all of which could be affected by the Commission's proposed action.

26. *Amateur Radio Service (ARS).* Incumbent licensees in the ARS could be affected by actions taken in this proceeding. However, because the ARS is comprised of individuals, no small entities will be affected.

27. *Unlicensed Personal Communications Service (UPCS).* As its name indicates, UPCS is not a licensed service. There is no accurate source for the number of operators in the UPCS. Manufacturers could be affected if UPCS frequencies are transferred for other uses, however, because need for their product could be minimized or eliminated, depending on the final action taken. This hardship could be offset if UPCS operators are moved to other frequencies or if manufacturers can sell equipment to new services occupying the UPCS frequencies. The Commission has not developed a definition of small entities applicable to UPCS equipment manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified, which provides that a small entity is one with $11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under this category. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities. There are currently 15 manufacturers that have 45 equipment authorizations for devices that operate in the 1910–1930 MHz band. No equipment authorizations have been issued for devices operating in the 2390–2400 MHz band.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

28. This FNPRM deals only with the possible reallocation of frequency bands below 3 GHz to support the introduction of new wireless services, and does not propose assignment or service rules. Thus, the item proposes no new reporting, recordkeeping, or other compliance requirements. Once it has been decided whether to reallocate this spectrum, the Commission will consider adoption of implementing rules, some of which might entail compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered and Rejected

29. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. Providing spectrum to support the introduction of new advanced mobile and fixed terrestrial wireless services is critical to the continuation of technological advancement. First and foremost, the Commission believes that our proposal to explore the possible use of several frequency bands that could offer a wide range of voice, data, and broadband services over a variety of mobile and fixed networks may provide substantial new opportunities for small entities.

31. However, depending on the final action taken in this proceeding, small incumbent entities could be affected in a negative way as well, because some entities must be displaced to clear spectrum for new uses. The Commission endeavored to avoid this effect by identifying unencumbered spectrum, but spectrum in the suitable frequency range is heavily used already and sufficient unencumbered spectrum simply does not exist. The Commission has therefore sought to minimize an adverse impact by proposing to reallocate frequency bands for those incumbents, including small entities, which might be accommodated in other spectrum and could be relocated more easily. The Commission is also considering compensation of displaced incumbents, including any small entity, which is displaced. At this nascent stage of the proceeding, the Commission is soliciting comment on a variety of issues relevant to these possibilities.

32. Paragraph 40 of the full text of the FNPRM further suggests the alternative of grandfathering incumbent licensees who qualify as small entities, until they are ready to move to new frequencies, thus easing their transition to new spectrum. Another alternative that the Commission believes has worked in the past, would be to encourage small entities to participate by offering them bidding credits if the reallocation is adopted and the spectrum is auctioned.

33. The FNPRM more specifically considers a variety of alternatives that could make frequencies available to incumbents, including small entities, who could be subject to relocation. For example, one alternative discussed in paragraphs 11–13 of the FNPRM would be to use spectrum in the 1910–1930 MHz or 2390–2400 MHz bands for relocation. A second alternative, discussed in paragraphs 27–28 of the FNPRM, would be to use some of the 2 GHz MSS spectrum for relocation. Paragraph 38 of the full FNPRM seeks comment on using the 2150–2160 MHz MDS band for relocation purposes. Any of these alternatives would facilitate the relocation of displaced incumbents, including small entities.

34. Finally, the Commission has already received extensive comments on issues related to the possible reallocation of the 2150–2160 MHz (2.1 GHz) spectrum for advanced wireless purposes. Comments filed by the multipoint distribution/instructional television fixed services industry and several equipment manufacturers argue that the 2.1 GHz band is necessary for the continued roll-out of fixed wireless services across the country. Other commenters support the use of 2.1 GHz for advanced wireless services.

We are considering both alternatives, and are attempting to minimize any negative impact on licensees, including small entities, in the 2150–2160 band. These alternatives are discussed in paragraphs 37–41of the FNPRM, and include the possibility of providing displaced incumbents with relocation spectrum or compensating such licensees.

F. Federal Rules That May Duplicate, Overlap, or Conflict with the Proposed Rules

35. None.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23047 Filed 9–12–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[IB Docket No. 01–185, ET Docket No. 95–18; FCC 01–225]

Flexibility for Delivery of Communications By Mobile Satellite Service Providers in the 2 GHz Band, the L-Band and the 1.6/2.4 GHz Band; Amendment of Section 2.106 of the Commission's Rules To Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document addresses proposals made by two Mobile Satellite Service (MSS) operators to allow Mobile Satellite operators to reuse their assigned spectrum over land-based transmitters to improve service quality, particularly where the satellite signals are blocked by buildings or other

obstacles. This document also addresses other means by which the Commission could permit flexible use of MSS spectrum.

The MSS operators claim that permitting MSS operators the flexibility to use their assigned spectrum for ancillary terrestrial operations would bolster the commercial viability of MSS systems by allowing MSS operators to extend service to indoor and urban areas that otherwise would remain unserved by a satellite-only MSS network. The MSS operators claim that the improved service and customer base would, in turn, enable the MSS industry to offer lower prices and higher quality of service to rural and underserved areas. The NPRM seeks comment on approaches by which the Commission could permit more flexible use of MSS spectrum.

DATES: Submit comments on or before October 11, 2001; reply comments due on or before October 25, 2001. Written comments by the public on the proposed information collections are due on or before October 11, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before November 13, 2001.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*, and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *edward.springer@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: James L. Ball, Associate Chief, International Bureau (202) 418–0427, or Breck Blalock, Deputy Chief, Planning and Negotiations Division, International Bureau (202) 418–8191. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking*, IB Docket No. 01–185, ET Docket No. 95–18, adopted August 9, 2001 and released August 17, 2001. The full text of this *Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY–A257, Portals II, 445 12th Street, SW, Washington, DC and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS"), Portals II, 445 12th Street, SW Room CY–B402, Washington, DC 20554.

Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Parties not filing via ECFS are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message: "get form <your e-mail address." A sample form and directions will be sent in reply.

Paperwork Reduction Act

This NPRM contains proposed information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due November 13, 2001. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–XXXX.
(New collection).

Title: Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 143.

Number of Responses: 440.

Estimated Time Per Response: 4–31 hours.

Frequency of Response: On occasion reporting and third party disclosures.

Total Annual Burden: 3,082 hours.

Total Annual Costs: $141,000.

Needs and Uses: In this proceeding, the Commission releases an NPRM that seeks comment on issues regarding whether and how the Commission might bring flexibility to the delivery of Mobile Satellite Service. The proposals contained in this NPRM would result in new or modified information collection requirements that would be necessary to facilitate the proposed rules if and when they become definitive. The information collections would be used by the Commission under its authority to license commercial satellite services in the U.S.

Synopsis

On August 9, 2001 the Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on: (1) Proposals submitted by two satellite operators to allow flexibility in the delivery of communications by mobile satellite service (MSS) providers, and (2) other options pertaining to flexible use of MSS spectrum. Specifically, the Commission seeks comment on: (1) The specific proposals made by MSS operators outlined below, (2) an alternative proposal that would allow an entity to use MSS spectrum to provide terrestrial service in conjunction with (or alternatively to) MSS, and (3) whether the Commission should consider allowing MSS operators in Big LEO bands to provide terrestrial services in these bands.

In the NPRM, the Commission seeks comment on approaches by which the Commission may permit more flexible use of MSS spectrum. The Commission recognizes that this concept raises new issues regarding allocation and licensing of spectrum-based services, particularly different approaches for licensing satellite and terrestrial services. The Commission intends to establish a record on a variety of policy, economic, and technical issues raised by the MSS Petitioners' proposals, including potentially innovative ideas that may result in improved quality and availability of services to the public.

First, both New ICO Global Communications (Holdings) Ltd. (New ICO) and Motient Services, Inc. (Motient) (collectively, the MSS Petitioners) filed proposals with the Commission, suggesting incorporation of a wireless "ancillary terrestrial component" (ATC) in their MSS networks. To date, MSS operators have not been allowed to provide terrestrial operations. These parties contend that although a satellite system is ideally suited to serve rural areas, it is technically more difficult for MSS systems to deliver service in urban areas where satellite signals may be blocked. In initiating the proceeding, the Commission recognizes the potential long-term benefits of expanded use of MSS, such as deployment of broadband services to rural areas.

The NPRM seeks comment on the MSS Petitioners' claims that allowing terrestrial operations in conjunction with MSS networks is important to ensure the commercial viability of MSS systems, and that such flexibility will promote the Commission's goal of bringing access to advanced communications services to rural and underserved areas of the country. The NPRM seeks comment on the severity of the signal problems that underlie the MSS Petitioners' proposals. Further, the NPRM asks: should we view the MSS Petitioners' proposals as indicating that too much spectrum has been allocated for MSS? Would using this spectrum for terrestrial service in urban areas diminish spectrum capacity for satellite service to rural and unserved areas? Does the technology exist to provide this integrated service? Would it be in the public interest to adopt a segmentation plan wherein separated bands for terrestrial services would be identified and available for licensing to a larger group of parties, for example, through an auctions process? Are technological advances likely to occur in the next few years that will change the nature of the sharing relationship between terrestrial and satellite services in the near future?

The NPRM also seeks comment on the following issues that would arise if the MSS Petitioners' proposal were adopted: (1) Conditions on the use of terrestrial components to ensure ancillary operation, such that 2 GHz band MSS operators would be required to demonstrate that they can provide space segment service covering all 50 states, Puerto Rico, and the Virgin Islands 100% of the time, and L-band operators would be required to demonstrate that they can provide space segment service across their entire satellite coverage area, (2) licensing requirements, such that for U.S.-licensed systems, the licenses would permit these additional operations, and for non-U.S. licensed systems, authority for such operations would be provided for in Declaratory Orders reserving spectrum for the non-U.S. licensed systems, (3) technical issues and rules modeled on rules in place for broadband PCS[1], (4) modifications to the Table of Allocations, and (5) the impact on existing relocation and reimbursement rules.

With respect to technical issues, the NPRM seeks comment in the following specific areas relating to terrestrial operations in MSS bands: (1) Protection of adjacent and intra-band operations, (2) coordination with co-frequency systems, (3) frequency stability, (4) use of handheld terminals aboard aircraft, (5) system architecture, and (6) technical requirements specific to the L-band including extending special requirements relating to the protection of emergency operations and global radiolocation operations.

Second, the Commission seeks comment on an alternate plan: Making some MSS spectrum available for use by any entity to provide terrestrial service either in conjunction with MSS systems or as an alternative mobile service. Under this approach, portions of the spectrum currently designated for 2 GHz and L-band MSS would be made available for use by terrestrial operations, separated from the MSS operations in the bands, and possibly assigned by auction. The NPRM seeks comment on how such an identification and assignment process might work from the perspective of MSS operators and others interested in providing terrestrial services in this spectrum. The NPRM also seeks comment on the implications of section 309(j) with regard to this option.

Third, the NPRM seeks comment on whether the Commission should consider extending to Big LEOs MSS licensees the opportunity to incorporate terrestrial operations within the Big LEO MSS bands into their respective MSS networks. In particular, the NPRM seeks comment on whether the general approach discussed for 2 GHz and L-band MSS could be adopted for Big LEO MSS. In the alternative, the NPRM asks whether the Commission should consider opening the Big LEO MSS band to parties other than Big LEO licensees to provide services either in conjunction with Big LEO MSS operators or to provide additional alternative services.

Paperwork Reduction Analysis

The NPRM contains a proposed information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13.[2] Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due November 13, 2001. Comments should address:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility.
- The accuracy of the Commission's burden estimates.
- Ways to enhance the quality, utility, and clarity of the information collected.
- Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments by the public on the proposed information collections are due November 13, 2001. In addition to filing comments with the Secretary, a copy of any comments on the proposed information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jboley@fcc.gov*, and to Virginia Huth, OMB Desk Officer, 10236 New Executive Office Building, 725 17th Street, NW., Washington, DC

[1] The NPRM seeks comment on these specific technical issues: (1) protection of adjacent and intra-band operations, (2) coordination with co-frequency systems, (3) frequency stability, (4) use of handheld terminals aboard aircraft, (5) system architecture, and (6) technical requirements specific to the L-band including extending special requirements relating to the protection of emergency operations and global radiolocation operations.

[2] *See generally* 44 U.S.C. 3501–3520.

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20503, or via the Internet to *fain_t@al.eop.gov*.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),[3] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines provided in the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for and Objectives of the Proposed Rules

This NPRM seeks comment on proposals to bring flexibility to delivery of MSS. The NPRM seeks comment on issues regarding whether and how we might bring flexibility to MSS either by: (1) permitting MSS operators to provide coverage to areas where the MSS system is attenuated by integrating terrestrial operations within their networks using assigned MSS frequencies, as has been proposed by two operators, or (2) opening up portions of the 2 GHz and L-band for MSS or terrestrial operators to provide a stand-alone terrestrial service offered in conjunction with MSS or use it for additional alternative services. We believe that permitting greater flexibility would reduce regulatory burdens and, with minimal disruption to existing permittees and licensees, result in the continued development of 2 GHz and L-band MSS and other satellite services to the public.

2. Legal Basis

This action is taken pursuant to sections 1, and 4(i) and (j) of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), and section 201(c)(11) of the Communications Satellite Act of 1962, as amended, 47 U.S.C. 721(c)(11), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

[3] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Would Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" under section 3 of the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[6]

The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit fixed-satellite or mobile satellite service operators. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified.[7] This definition provides that a small entity is one with $11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified which could potentially fall into the 2 GHz, L-band, or Big LEO MSS category. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities. The rules proposed in this NPRM apply only to entities providing 2 GHz, L-band, or Big LEO mobile satellite service. Small businesses may not have the financial ability to become 2 GHz MSS system operators because of the high implementation costs associated with satellite systems and services. At least one of the 2 GHz MSS licensees and one of the Big LEO licensees may be considered a small business at this time. We expect, however, that by the time of implementation they will no longer be considered small businesses due to the capital requirements for launching and operating its proposed system. Since there is limited spectrum and orbital resources available for assignment at 2 GHz, we estimate that no more than eight entities will be approved by the Commission as operators providing these services. Therefore, because of the high implementation costs and the limited spectrum resources, we do not believe that small entities will be impacted by this rulemaking to a great extent.

[4] 5 U.S.C. 603(b)(3).

[5] 5 U.S.C. 601(3).

[6] 5 U.S.C. 632.

[7] 13 CFR 121.201, NAICS Code 51334.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The proposed action in this NPRM would affect those entities applying for 2 GHz, L-band, and Big LEO MSS space station authorizations and those applying to participate in assignment of 2 GHz, L-band, and Big LEO MSS spectrum. In this NPRM, we seek comment on requiring U.S.-licensed operators to file an authorization request to use terrestrial facilities and to demonstrate that the eligibility criteria have been met. Foreign-licensed operators would be required to file a Letter of Intent and/or an appropriate earth station authorization, including the terrestrial facilities as part of the application, demonstrating compliance with the eligibility and coverage requirements. We seek comment on alternatives to these proposed licensing requirements.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

In developing the proposals contained in this NPRM, we have attempted to allow flexibility for efficient operations by all participants in the 2 GHz, L-band, and Big LEO MSS market, regardless of size, consistent with our other objectives. We believe the proposed conditions under which these entities would be granted this additional flexibility would not impose a significant economic impact on small entities because: (1) The conditions are reasonable and not overly burdensome and (2) as mentioned above, we do not expect small entities to be impacted by this rulemaking due to the substantial implementation costs involved. Nonetheless, we seek comment on the impact of our proposals on small entities and on any possible alternatives that could minimize any such impact.

6. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules

None.

Deadlines and Instructions for Filing Comments

Under §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rule Making on or before October 11, 2001. Reply comments are due October 25, 2001. Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[8] The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties not filing via ECFS are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

Ordering Clauses

Accordingly, It Is Ordered that pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, this *Notice of Proposed Rulemaking* is adopted.

It Is Further Ordered that the Commission's Consumer Information Bureau, Reference Information Center, Shall Send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23048 Filed 9–12–01; 8:45 am]

BILLING CODE 6712–01–P

[8] *See Electronic Filing of Documents in Rulemaking Proceedings*, Memorandum Opinion and Order, 13 FCC Rcd 21,517 (1998); *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11,322 (1998).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. 050101B]

Endangered and Threatened Species; Notice of Public Hearings on Proposed Rule Governing Take of Four Threatened Evolutionarily Significant Units (ESUs) of West Coast Salmonids: California Central Valley Spring-run chinook; California Coastal chinook; Northern California steelhead; Central California Coast coho

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request for comment and announcement of public hearings.

SUMMARY: On August 17, 2001, NMFS proposed an Endangered Species Act (ESA) 4(d) protective rule for four threatened salmonid ESUs that occur in California. The proposed 4(d) rule would apply the take prohibitions in section 9(a)(1) of the ESA in most circumstances to California Central Valley spring chinook, California Coastal chinook, and Northern California steelhead which currently have no 4(d) protective regulation in place. However, for these three threatened ESUs, NMFS is proposing 10 categories of activities for which the take prohibitions would not apply. For the threatened Central California Coast coho salmon ESU, NMFS is proposing to amend the existing 4(d) rule to establish the same 10 limitations on the take prohibitions that are being proposed for the other threatened ESUs covered by this rule.

This **Federal Register** document announces three public hearings that NMFS has scheduled to provide the public with opportunities to comment on the proposed protective rule and to provide information to the public about the rule.

DATES: Comments on the proposed 4(d) rule must be received on or before October 1, 2001. Public hearings on the proposed ESA 4(d) rule will be held as follows: (1) September 13, 2001, 6–9 p.m., Chico, CA; (2) September 18, 2001, 6–9 p.m., Eureka, CA; and (3) September 20, 2001, 6–9 p.m., Ukiah, CA.

ADDRESSES: Comments on the proposed 4(d) rule should be sent to the Assistant Regional Administrator, Protected Resources Division, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Comments will not be accepted via e-mail or Internet

The hearings will be held at the following locations:

(1) Chico, CA—Chico Masonic Family Center' 1110 West East Avenue, Chico, CA 95926;

(2) Eureka, CA—Eureka Inn, 518 7th Street, Eureka, CA, 95501; and

(3) Ukiah, CA—Ukiah Valley Conference Center, 200 South School Street, Ukiah, CA 95482.

FOR FURTHER INFORMATION CONTACT: Craig Wingert at 562–980–4021; Miles Croom at 707–575–6068; Diane Windham at 916–930–3601, Greg Bryant at 707–825–5162, or Chris Mobley at 301–713–1401. Copies of the **Federal Register** documents cited herein and additional salmon-related materials are available via the Internet at *http://swr.nmfs.noaa.gov* or *http://nwr.nmfs.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 1999, NMFS published a final rule listing the California Central Valley spring-run chinook and California Coastal chinook ESUs as threatened species (64 FR 50394). In a final rule published on June 7, 2000, NMFS also listed the Northern California steelhead ESU as a threatened species (65 FR 36074). These final rules describe the background for the listing actions and provide a summary of NMFS' conclusions regarding the status of the three ESUs. No protective regulations, pursuant to section 4(d) of the ESA, have been promulgated for these three ESUs. On October 31, 1996, NMFS listed the Central California Coast coho salmon ESU as a threatened species and simultaneously promulgated a 4(d) which imposed the section 9(a)(1) take prohibitions on this ESU (61 FR 56138). This 4(d) rule, however, does not include any of the take limitations which NMFS has incorporated into subsequent 4(d) rules for threatened salmonid ESUs (65 FR 42422).

On August 17, 2001, NMFS proposed an ESA 4(d) protective rule for these four threatened salmonid ESUs (66 FR 43150). The proposed 4(d) rule would apply the take prohibitions in section 9(a)(1) of the ESA, in most circumstances, to the California Central Valley spring chinook, California Coastal chinook, and Northern California steelhead ESUs. In addition to applying the section 9 take prohibitions, the proposed 4(d) rule would establish 10 categories of activities for which the take prohibitions would not apply for each of

these three ESUs. NMFS believes these activities, if conducted as described in the proposed rule, would contribute to the conservation of the threatened salmonid ESUs. For the threatened Central California Coast coho salmon ESU, NMFS is proposing to amend the existing 4(d) rule which applies the section 9 take prohibitions to this ESU in order to establish the same 10 limitations on the take prohibitions that are being proposed for the other threatened ESUs covered by the rule.

Public Hearings

Public hearings on the proposed ESA 4(d) rule provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. NMFS encourages public involvement in such ESA matters and has decided to schedule hearings on these proposals prior to being requested to do so.

NMFS is soliciting specific information, comments, data, and/or recommendations on any aspect of the proposed 4(d) rule from all interested parties. In particular, NMFS is requesting information or data as described in the **Federal Register** documents announcing the proposed 4(d) rule. NMFS will consider all information, comments, and recommendations received before reaching a final decision.

The public will have the opportunity to provide oral and written testimony at the public hearings. Written comments on the proposals may also be submitted (see **DATES** and **ADDRESSES**).

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other aids should be directed to Craig Wingert (see **ADDRESSES**) by 7 days prior to each hearing date.

Dated: September 10, 2001.

Phil Williams,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–23007 Filed 9–10–01; 2:46 pm]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 178

Thursday, September 13, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; WIC Farmers' Market Nutrition Program (FMNP) Financial Report (Form FNS–683); WIC Farmers' Market Nutrition Program Recipient Report (Form FNS–203); and WIC Farmers' Market Nutrition Program Regulations

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of FNS to request revisions to currently approved information collections, Form FNS–683 and Form FNS–203.

DATES: Written or faxed comments on this notice must be received by November 13, 2001.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Patricia N. Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be faxed to the attention of Patricia N. Daniels at (703) 305–2196.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 1414.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Debra Whitford, (703) 305–2746.

SUPPLEMENTARY INFORMATION:

Title: The WIC Farmers' Market Nutrition Program Financial Report (Form FNS–683); WIC Farmers' Market Nutrition Program Recipient Report (Form FNS–203); and WIC Farmers' Market Nutrition Program Regulations.

OMB Number: 0584–0447.

Form Numbers: Form FNS–683, Form FNS–203, and FMNP regulations.

Expiration Date: October 31, 2001.

Type of Request: Revision to a Currently Approved Collection Form.

Abstract: Pursuant to Section 17(m)(8) of the Child Nutrition Act of 1966, 42 U.S.C. § 1786(m)(8), 7 CFR 248.23 of the WIC Farmers' Market Nutrition Program (FMNP) regulations requires that certain Program-related information be compiled and submitted to FNS. Each State agency administering the FMNP is required to use FNS–683 and FNS–203 to report financial and participation data to the Secretary as required by 7 CFR Part 3016. FNS will use this information for funding and program management decisions. Based on the previous submission of reporting and recordkeeping requirements for the FMNP, 35 State agencies were operating the program. However, currently 41 State agencies operate the FMNP. No new program requirements have been added to change or increase the number of hours per response. Therefore, based on an increase in respondents, a revision to the reporting and recordkeeping burden is necessary.

Respondents: State Directors or Administrators of the FMNP.

Estimated Number of Respondents: 41 respondents for FNS Forms and 2009 for FMNP Regulations.

Number of Responses per Respondent: 2.

Form FNS–683

Number of Responses per Respondent: One.

Estimated Time per Response: 3 hours.

Total Reporting Burden: 41 × 1 × 3 = 123 hours.

Form FNS–203

Number of Responses per Respondent: One.

Estimated Time per Response: 1 hour.

Total Reporting Burden: 41 × 1 × 1 = 41 hours.

FMNP Regulations

Reporting Burden

Estimated Number of Respondents: 2009.

Estimated Number of Responses per Respondent: One.

Estimated Time per Response: 2.2205 hours.

Total Reporting Burden: 2009 × 1 × 2.2205 = 4461 hours.

Recordkeeping Burden

Estimated Number of Respondents: 41.

Estimated Number of Responses per Respondent: 4.

Estimated Time per Recordkeeping: 1.75 hours.

Total Recordkeeping Burden: 41 × 4 × 1.75 = 287 hours.

Total Reporting and Recordkeeping Burden: 123 + 41 + 4461 + 287 = 4912 hours.

These requirements, together with the financial and recipient reporting requirements give an overall total of 80.5 hours per response. These totals include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. As noted above, these hours remain unchanged from the previous submission.

Estimated Total Annual Burden on Respondents: 4912 hours.

Dated: September 7, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

BILLING CODE 3410-30-U

ICB Accounting Requirements

July 17,2001
WIC Farmers' Market Nutrition Program
Reporting and Recordkeeping Requirement

Section of the FMNP Regulation	Title	Form No.	Estimated No. of Respondents	Reports Filed Annually	Total Annual Responses	No. of Manhours per Response	Estimated Manhours
Reporting:							
248.4	State Plan	None	41	1	41	40	1640
248.10 (a) (2),(3)	Selection of Farmers/Farmers' Markets	None	1622	1	1622	1	1622
248.0 (e)	Monitoring/Review of Farmers/Farmers' Markets	None	162	1	162	2	324
248.10 (f)	Coupon Management System	None	41	1	41	5	205
248.11	Financial Management System	None	41	1	41	10	410
248.17(b) (2) (ii)	State Agency Corrective Action Plan	None	8	1	8	10	80
248.18 (b)	Audit Responses	None	12	1	12	15	180
248.23 (b)	Financial and Recipient Reports	FNS 883	41	1	41	3	123
		FNS 203	41	1	41	1	41
Total			2009	9	2009	87	4625
Recordkeeping:							
248.9	Nutrition Education (3 years)	None	41	1	41	1	41
248.10 (b)	Farmer/Farmers Market Agreements (3years)	None	41	1	41	2	82
248.10 (e)	Summary of Market Monitoring (3 years	None	41	1	41	2	82
248.11 (c)	Record of Financial Expenditures (3 years)	None	41	1	41	2	82
Total			164	4	164	7	287
Total Reporting and Recordkeeping for FMNP Regulations							4912

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[FR Doc. 01–22980 Filed 9–12–01; 8:45 am]
BILLING CODE 3410–30–C

DEPARTMENT OF COMMERCE

Economic Development Administration

Petition by a Firm for Certification of Eligibility To Apply for Trade Adjustment Assistance

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 13, 2001.

ADDRESSES: Direct all written comments to Madeleine G. Clayton, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 or via e-mail at mclayton@doc.com.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia A. Flynn, Director, Operations Review and Analysis Division, Economic Development Administration, Room 7015, Washington, DC 20230, telephone: (202) 482–5353.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is needed to ascertain whether a firm is eligible to apply for trade adjustment assistance. To be certified eligible, a firm must demonstrate that increased imports of articles directly competitive with its products contributed importantly to declines in sales or production and to actual or threatened job loss impact of increased imports. The information is required under Chapter 3 of Title II of the Trade Act of 1974, as amended.

II. Method of Collection

The form is used by firms affected by import competition to petition EDA for certification of impact. Information submitted in the petition form is a major phase in obtaining a firm's history, including sales, production and employment data (the firm provides quarterly unemployment security forms submitted to the state, a description of the products produced by such firm, tax returns and/or financial statements, a firm's decline in sales accounts, and brochures of such firm's production).

III. Data

OMB Number: 0610–0091.

Agency Form Number: ED–840P.

Type of Review: Extension of a currently approved collection.

Burden: 1,576 hours.

Affected Public: Business firms which vary in size, including small firms.

Estimated Number of Respondents: 197.

Estimated Time per Response: 8 hours.

Estimated Total Annual Burden Hours: 1,576.

Estimated Total Annual Cost: $230,274.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the equality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; and they also will become a matter of public record.

Dated: September 7, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–22955 Filed 9–12–01; 8:45 am]
BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Infocom Corporation, Inc., Tetrabal Corporation, Inc., Bayan Medhat Elashi, Ghassan Elashi, Basman Medhat Elashi, Ihsan Medhat, Ishan Medhat "Sammy" Elashi, Hazim Elashi, Fadwa Elafrangi

In the Matter of: Infocom Corporation, Inc., 630 International Parkway, Suite 100, Richardson, Texas 75081; Respondent and Tetrabal Corporation, Inc., 316 Candlewood Place, Richardson, Texas 75081; Bayan Medhat Elashi, 1810 Auburn, Richardson, Texas 75081; Ghassan Elashi, 304 Town House Lane, Richardson, Texas 75081; Basman Medhat Elashi, 1506 Willow Crest Drive, Richardson, Texas 75081; Ihsan Medhat "Sammy" Elashi, 316 Candlewood Place, Richardson, Texas 75081; Hazim Elashi, 937 Stone Trail Drive, Plano, Texas 75023; Fadwa Elafrangi, 306 Town House Lane, Richardson, Texas 75081, Related persons.

Order Temporarily Denying Export Privileges

Through the Office of Export Enforcement ("OEE"), the Bureau of Export Administration ("BXA"), U.S. Department of Commerce, has asked me to issue an order pursuant to § 766.24 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2001)) ("EAR" or "Regulations")[1], temporarily denying all U.S. export privileges to Infocom Corporation, Inc., 630 International Parkway, Suite 100, Richardson, Texas 75081 ("Infocom"). BXA has also asked that, pursuant to §§ 766.24(c) and 766.23 of the regulations, the order apply to the following persons who are related to Infocom:

Tetrabal Corporation, Inc., 316 Candlewood Place, Richardson, Texas 75081

Bayan Medhat Elashi, 1810 Auburn, Richardson, Texas 75081

Ghassan Elashi, 304 Town House Lane, Richardson, Texas 75081

Basman Medhat Elashi, 1506 Willow Crest Drive, Richardson, Texas 75081

Ihsan Medhat "Sammy" Elashi, 316 Candlewood Place, Richardson, Texas 75081

Hazin Elashi, 937 Stone Trail Drive, Plano, Texas 75023

[1] The Regulations were issued pursuant to the Export Administration Act of 1979 ("Act"), 50 U.S.C. app. secs. 2401–2420 (1994 & Supp. IV 1998), as reauthorized by Act of November 13, 2000, Pub. L. 106–508, 114 Stat. 2360. The Act lapsed on August 20, 2001. Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. IV 1998)), the President, through Executive Order 13222 of August 17, 2001 (66 FR 44025 (August 22, 2001)), has continued the Regulations in force.

Fadwa Elafrangi, 306 Town House Lane, Richardson, Texas 75081

In its request, BXA states that, based upon an investigation by OEE, it believes that Infocom has violated the Regulations by shipping and attempting to ship goods to Libya and Syria without obtaining the necessary authorizations from BXA. Specifically, BXA has determined that Infocom made three shipments of computer equipment without the required export licenses from BXA. These were:

(1) A 1997 shipment of computer accessories to Malta that was, immediately upon its arrival in Malta, shipped to Libya. Infocom had dealt with a representative of the ultimate end-user in Libya in a manner that suggests that Infocom was aware that the goods were ultimately intended for that country. Infocom did not have the appropriate U.S. Government authorization to ship the goods to Libya. Additionally, Infocom did not disclose the identity of the ultimate consignee on the shipper's export declaration it filed for the shipment, listing instead a forwarder in Malta.

(2) An April 1999 shipment of one computer as well as memory chips and central processing units ("CPUs") to Syria. Infocom made this shipment directly from Texas to Syria. The Regulations required Infocom to obtain an export license from BXA to make the shipment to Syria because the shipment contained items that were controlled for anti-terrorism reasons. Infocom did not receive an export license for this transaction.

(3) An August 2000 shipment of a computer to Syria without the required export license from BXA. In addition, Infocom undervalued the goods in this shipment on the export control documents.

Additionally, in June 1999, Infocom made an attempted shipment of CPUs to Syria. It used the same freight forwarder as the April 1999 shipment above. When the freight forwarder questioned whether the shipment required an export license, Infocom's Logistics Manager, Basman Elashi, stated that he had checked, and that it did not. Infocom did not complete the shipment through this freight forwarder. In fact, the shipment would have required a license from BXA.

In addition to these transactions, OEE's investigation also establishes that Infocom offered price quotations to other customers in Syria. It also suggests that Infocom has many contacts in third countries through whom it could send goods to Syria and Libya as it did the 1997 shipment through Malta.

Thus, OEE's investigation demonstrates that Infocom has made repeated exports without the required U.S. government authorization, and that it has attempted to conceal these shipments by undervaluing goods, filing false and deceptive SEDs, and avoiding freight forwarders that ask uncomfortable questions.

OEE's investigation has disclosed that one corporation and six natural persons are closely related by their ownership, control, affiliation, or connection with Infocom. All of the natural persons have received wages from Infocom. Their names, addresses, and relationships to Infocom are set out below as listed in documents available to OEE:

Tetrabal Corporation, Inc., 316 Candlewood Place, Richardson, Texas 75081
A business owned and operated by the same principals as Infocom and located at the same address.

Bayan Medhat Elashi, 1810 Auburn, Richardson, Texas 75081
Chief Executive Officer of Infocom

Ghassan Elashi, 304 Town House Lane, Richardson, Texas 75081
Vice President of Marketing of Infocom

Basman Medhat Elashi, 1506 Willow Crest Drive, Richardson, Texas 75081
Logistics Manager of Infocom

Ihsan Medhat "Sammy" Elashi, 316 Candlewood Place, Richardson, Texas 75081
Systems Consultant for Infocom

Hazim Elashi, 937 Stone Trail Drive, Plano, Texas 75023
Manager of Personal Computers Division of Infocom

Fadwa Elafrangi, 306 Town House Lane, Richardson, Texas 75081
Majority owner of Infocom

(During the course of the investigations, OEE investigators discovered different spellings for "Elashi" including: "El Ashi," "Elashyi," "Elashye," and "Ashi.")

In light of the evidence cited above that Infocom has committed repeated violations of the regulations that are deliberate and covert, that its principals have actively sought to engage in further export transactions, and that, given the nature of the items shipped, future violations could go undetected. In addition, a temporary denial order is needed to give notice to companies in the United States and abroad that they should cease dealing with Infocom in export transactions involving U.S.-origin items. Such a temporary denial order is clearly consistent with the public interest to preclude future violations of the Regulations.

Accordingly, I am issuing this order because I have concluded that a TDO is necessary, in the public interest, to prevent an imminent violation of the regulations. This order is issued on an *ex parte* basis without a hearing based upon BXA's showing that expedited action is required.

It Is Therefore Ordered:

First, that Infocom Corporation, Inc., 630 International Parkway, Suite 100, Richardson, Texas 75081 ("the denied person") and the following persons subject to the order by their relationship to the denied person, Tetrabal Corporation, Inc., 316 Candlewood Place, Richardson, Texas 75081; Bayan Medhat Elashi, 810 Auburn, Richardson, Texas 75081; Ghassan Elashi, 304 Town House Lane, Richardson, Texas 75081; Basman Medhat Elashi, 1506 Willow Crest Drive, Richardson, Texas 75081; Ihsan Medhat "Sammy" Elashi, 316 Candlewood Place, Richardson, Texas 75081; Hazim Elashi, 937 Stone Trail Drive, Plano, Texas 75023; Fadwa Elafrangi; 306 Town House Lane; Richardson, Texas 75081 ("the related persons") (together, the denied person and the related persons are "persons subject to this order") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations (EAR), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a person subject to this order any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a person subject to this order of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a person subject to this order

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acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a person subject to this order of any item subject to the EAR that has been exported from the United States;

D. Obtain from a person subject to this order in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a person subject to this order, or service any item, of whatever origin, that is owned, possessed or controlled by a person subject to this order if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, in addition to the related persons named above, after notice and opportunity for comment as provided in § 766.23 of the EAR, any other person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this order.

Fourth, that this order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of § 766.24(e) of the regulations, Infocom may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. A related person may appeal to the Administrative Law Judge at the aforesaid address in accordance with the provisions of § 766.23(c) of the regulations.

This Order is effective immediately and shall remain in effect for 180 days.

In accordance with the provisions of § 766.24(d) of the regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Infocom may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on Infocom and each related person and shall be published in the **Federal Register**.

Entered this 6th day of September, 2001.

Michael J. Garcia,

Assistant Secretary for Export Enforcement.

[FR Doc. 01–22948 Filed 9–12–01; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and rescission in part of antidumping duty administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of subject merchandise to the United States during the period August 1, 1999, through July 31, 2000, and one firm, CEMEX, S.A. de C.V., and its affiliate, GCC Cemento, S.A. de C.V. We have preliminarily determined that, during the period of review, sales were made below normal value.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issues, and (2) a brief summary of the argument.

EFFECTIVE DATE: September 13, 2001.

FOR FURTHER INFORMATION CONTACT: Davina Hashmi or Mark Ross, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5760, (202) 482–4794, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Background

On August 16, 2000, the Department published in the **Federal Register** a *Notice of Opportunity to Request Administrative Review* concerning the antidumping duty order on gray portland cement and clinker from Mexico (65 FR 49962). In accordance with 19 CFR 351.213, the petitioner, the Southern Tier Cement Committee (STCC), requested a review of CEMEX, S.A. de C.V. (CEMEX), CEMEX's affiliate, GCC Cemento, S.A. de C.V. (GCCC), and Apasco, S.A. de C.V. (Apasco). In addition, CEMEX and GCCC requested reviews of their own entries. On September 26, 2000, we published a *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews* (65 FR 58733) initiating this review. The period of review is August 1, 1999, through July 31, 2000. We determined that Apasco did not have any sales or shipments of subject merchandise to the United States during the period of review. Our review of Customs import data indicated that there were no entries of subject merchandise made by Apasco during the period of review. See Memorandum from Analyst to the File, dated March 27, 2001. Therefore, we are rescinding this review with respect to this manufacturer/exporter. We are now conducting a review of CEMEX and GCCC pursuant to section 751 of the Act.

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement. Gray portland cement is currently classifiable under Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and customs purposes only. Our written description of the scope of the proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by CEMEX using standard verification procedures, including an examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in public versions of the verification reports.

Collapsing

Section 771(33) of the Act defines when two or more parties will be considered affiliated for purposes of an antidumping analysis. Moreover, 19 CFR 351.401(f) describes when we will treat two or more affiliated producers as a single entity (*i.e.*, "collapse" the firms) for purposes of calculating a dumping margin. In the five previous administrative reviews of this order, we analyzed and determined to collapse CEMEX and GCCC in accordance with our regulations. See, *e.g.*, *Gray Portland Cement and Clinker from Mexico; Final Results of Antidumping Duty Administrative Review*, 66 FR 14889 (March 14, 2001), and accompanying decision memorandum at Comment 12.

The regulations state that we will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the factors we may consider include the following: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. See 19 CFR 351.401(f).

Having reviewed the current record, we find that the factual information underlying our decision to collapse these two entities has not changed from previous administrative reviews. CEMEX's indirect ownership of GCCC exceeds five percent, such that these two companies are affiliated pursuant to section 771(33)(E) of the Act. In addition, both CEMEX and GCCC satisfy the criteria for treatment of affiliated parties as a single entity described at 19 CFR 351.401(f)(1); both producers have production facilities for similar and identical products such that substantial retooling of their production facilities would not be necessary to restructure manufacturing priorities. Consequently, any minor retooling required could be accomplished swiftly and with relative ease.

We also find that there exists a significant potential for manipulation of prices and production as outlined under 19 CFR 351.401(f)(2). CEMEX indirectly owns a substantial percentage of GCCC. Also, CEMEX's managers or directors sit on the board of directors of GCCC and its affiliated companies. Accordingly, the percentage of ownership and interlocking boards of directors give rise to a significant potential for affecting GCCC's pricing and production decisions. See the Department's memorandum from Analyst to File, Collapsing CEMEX, S.A. and GCC Cemento, S.A. de C.V. for the Current Administrative Review, dated March 8, 2001 [1]. Therefore, we have collapsed CEMEX and GCCC into one entity and calculated a single weighted-average margin using information provided by CEMEX and GCCC in this review.

Export Price and Constructed Export Price

GCCC reported both constructed export price (CEP) and export price (EP) sales. On September 12, 2000, the Court of Appeals for the Federal Circuit (CAFC) ruled in *AK Steel Corp.* v. *United States*, 226 F.3d 1361, 1374 (Fed. Cir. 2000) (*AK Steel*), that, "* * * if the contract for sale was between a U.S. affiliate of a producer or exporter and an unaffiliated U.S. purchaser, then the sale must be classified as a CEP sale." Having examined information on the record in this review we determined that GCCC's affiliated entity in the United States, Rio Grande Portland Cement Corporation (RGPCC), receives consideration for the subject merchandise that GCCC ships to its U.S. customers. We base this conclusion on the fact that the ordering, invoicing, and payment processes all take place between the unaffiliated U.S. customers and RGPCC. Therefore, in accordance with the CAFC's decision in *AK Steel*, we treated GCCC's reported EP sales as CEP sales. For further discussion, see the Preliminary Analysis Memorandum from Davina Hashmi to The File, dated August 30, 2001.

CEMEX reported CEP sales. For these sales transactions, we used CEP in accordance with section 772(b) of the Act for those sales to the first unaffiliated purchaser that took place after importation into the United States.

For both CEMEX and GCCC, we calculated CEP based on delivered prices to unaffiliated customers. Where appropriate, we made adjustments to the starting price for discounts and billing adjustments to the invoice price. In accordance with section 772(d) of the Act and 19 CFR 351.402(b), we deducted those selling expenses, including inventory carrying costs, that were associated with commercial activities in the United States and relate to the sale to an unaffiliated purchaser. We also made deductions for foreign brokerage and handling, foreign inland freight, U.S. inland freight and insurance, U.S. brokerage and handling, and U.S. duties, pursuant to section 772(c)(2)(A) of the Act. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act. No other adjustments to EP or CEP were claimed or allowed.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers (*i.e.*, cement that was imported and further-processed into finished concrete by U.S. affiliates of foreign exporters), we preliminarily determine that the special rule under section 772(e) of the Act for merchandise with value added after importation is applicable.

Section 772(e) of the Act provides that, where the subject merchandise is imported by a person affiliated with the exporter or producer and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. Section 351.402(c)(2) of the regulations provides that normally we will determine that the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise if we estimate the value added to be at least 65 percent of the price charged to the

[1] Our decision to collapse both companies and treat them as a single entity is consistent with our decisions in earlier segments of this proceeding. See the Department's memoranda from Roland L. MacDonald to Joseph A. Spetrini pertaining to the 95/96 and 96/97 administrative reviews, dated August 20, 1998, and August 31, 1998, respectively. See, also the Department's memoranda from Analyst to File, Collapsing CEMEX, S.A. and GCC Cemento, S.A. de C.V. for the Current Administrative Review pertaining to the 97/98 and 98/99 administrative reviews, dated April 6, 1999, and July 28, 2000, respectively.

first unaffiliated purchaser for the merchandise as sold in the United States. Normally we will estimate the value added based on the difference between the price charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the price paid for the subject merchandise by the affiliated person. We will base this determination normally on averages of the prices and the value added to the subject merchandise. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP. See section 772(e) of the Act.

During the course of this administrative review, the respondent submitted information which allowed us to determine whether, in accordance with section 772(e) of the Act, the value added in the United States by its U.S. affiliates is likely to exceed substantially the value of the subject merchandise. To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for subject merchandise by the affiliated person. Based on this analysis, we estimate that the value added was at least 65 percent of the price the respondent charged to the first unaffiliated purchaser for the merchandise as sold in the United States. Therefore, we preliminarily determine that the value added is likely to exceed substantially the value of the subject merchandise. Also, the record indicates that there is a sufficient quantity of subject merchandise to provide a reasonable and appropriate basis for comparison. Accordingly, for purposes of determining dumping margins for the further-manufactured sales, we have assigned the respective preliminary weighted-average margin reflecting the rate calculated for sales of identical or other subject merchandise sold to unaffiliated purchasers.

Normal Value

A. Comparisons

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (NV), we compared the respondent's volume of home-market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Since the respondent's aggregate volume of home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home-market sales.

During the period of review, the respondent sold Type II LA and Type V LA cement in the United States. The statute expresses a preference for matching U.S. sales to identical merchandise in the home market. The respondent sold cement produced as Type I, II LA, Type III, Type V, Type V LA, CPC 30 R, CPC 40, and CPO 40 cement in the home market. We have attempted to match the subject merchandise to identical merchandise in the home market. In situations where identical product types cannot be matched, we have attempted to match the subject merchandise to sales of similar merchandise in the home market. See sections 773(a)(1)(B) and 771(16) of the Act.

We have preliminarily determined that Type V LA, Type V, and Type III cement sales were made outside the ordinary course of trade. For further discussion concerning our ordinary-course-of-trade determination, see the "Ordinary Course of Trade" section in the decision memorandum from Laurie Parkhill, Office Director, to Richard Moreland, Deputy Assistant Secretary, Import Administration, dated August 30, 2001. Notwithstanding this fact, we found identical models upon which to base NV. We determined that CPO 40 cement produced and sold in the home market is the identical match to Type V LA cement sold in the United States during this review period. We also determined that Type II LA cement produced and sold in Mexico is the identical match to Type II LA cement sold in the United States during this review period. If we could not find an identical match to the cement types sold in the United States in the same month in which the U.S. sale was made or during the contemporaneous period, we based NV on similar merchandise. For further discussion of model matching, see the "Model Matching" section in the decision memorandum from Laurie Parkhill, Office Director, to Richard Moreland, Deputy Assistant Secretary, Import Administration, dated August 30, 2001.

On June 18, 1999, the North American Free Trade Agreement Binational Panel reviewing the final results of the 1994/95 administrative review found that the respondent's Type I bagged cement should not have been compared with sales of Type I cement sold in bulk to the United States in the calculation of normal value and remanded the results of the 1994/95 review to the Department for a recalculation of the margin. However, that proceeding has not yet been completed and the record in this review supports our continued practice of finding the respondent's sales of bagged cement in the home market comparable with sales of bulk cement in the United States, within the meaning of section 771(16)(B) of the Act, to U.S. sales. Specifically, in accordance with section 771(16)(B) of the Act, we find that both bulk and bagged cement are produced in the same country and by the same producer as the types sold in the United States, both bulk and bagged cement are like the types sold in the United States in component materials and in the purposes for which used, and both bulk and bagged cement are approximately equal in commercial value to the types sold in the United States. The questionnaire responses submitted by the respondent indicate that, with the exception of packaging, cement sold in bulk and in bags are physically identical and both are used in the production of concrete. Also, since there is no difference in the cost of production between cement sold in bulk or in bagged form (again with the exception of packaging), both are approximately equal in commercial value. See CEMEX's and GCCC's responses to the Department's original and supplemental questionnaires.

B. Ordinary Course of Trade

Section 773(a)(1)(B) of the Act requires the Department to base NV on "the price at which the foreign like product is first sold (or in the absence of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade." Ordinary course of trade is defined as "the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind." See section 771(15) of the Act.

In the instant review, we analyzed home-market sales of cement produced as Type V LA, Type V, and Type III cement. Pursuant to section 773(a)(1)(B) of the Act, we based our examination on the totality of circumstances surrounding the respondent's sales in Mexico that are produced as Type V LA, Type V, and Type III cement and, as in previous reviews of this order, we continue to find that the respondent's home-market sales of Type V LA, Type V, and Type III cement made during the instant review period are outside the ordinary course of trade. See Decision Memorandum to Laurie Parkhill, Office Director, concerning Ordinary Course of Trade—Cement from Mexico (August 30, 2001). For the majority of the period of review, however, where there were contemporaneous sales of identical merchandise, we have used such sales in our analysis. See Comparison section above.

C. Arm's-Length Sales

To test whether sales to affiliated customers were made at arm's length, where we could test the prices, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. Consistent with 19 CFR 351.403, we included these sales in our analysis. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27355 (May 19, 1997).

D. Cost of Production

The petitioner alleged on December 18, 2000, that the respondent sold gray portland cement and clinker in the home market at prices below the cost of production (COP). After examining the allegation, we determined that there were reasonable grounds to believe or suspect that the respondent had sold the subject merchandise in the home market at prices below the COP. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation in order to determine whether the respondent made home-market sales during the period of review at below-cost prices. See the memorandum from case analysts to Laurie Parkhill entitled Gray Portland Cement and Clinker from Mexico: Request to Initiate Cost Investigation (March 22, 2001).

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus amounts for home-market selling, general and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. We used the home-market sales data and COP information provided by the respondent in its questionnaire response.

After calculating a weighted-average COP, in accordance with section 773(b)(3) of the Act, we tested whether the home-market sales of the respondent were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted recovery of all costs within a reasonable period of time. We compared type-specific COPs to the reported home-market prices less any applicable movement charges, discounts and rebates, indirect selling expenses, commissions, and packing.

Pursuant to section 773(b)(2)(C) of the Act, if less than 20 percent of the respondent's sales of a certain type were at prices less than the COP, we do not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. If 20 percent or more of the respondent's sales of a certain type during the period of review were at prices less than the COP, such below-cost sales were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act. Based on comparisons of home-market prices to weighted-average COPs for the period of review, we determined that below-cost sales of all types of cement were not made in substantial quantities within an extended period of time, and, therefore, we did not disregard any below-cost sales.

E. Adjustments to Normal Value

Where appropriate, we adjusted home-market sales of cement produced as Type I, Type II LA, CPO 40, CPC 40, and CPC 30 R for discounts, rebates, packing, handling, interest revenue, and billing adjustments to the invoice price. In addition, we adjusted the starting price for inland freight, inland insurance, and pre-sale warehousing expenses. We also deducted home-market direct selling expenses from the home-market price and home-market indirect selling expenses as a CEP-offset adjustment (see Level of Trade/CEP Offset section below). In addition, in accordance with section 773(a)(6) of the Act, we deducted home-market packing costs and added U.S. packing costs.

Section 773(a)(6)(C)(ii) of the Act directs us to make an adjustment to NV to account for differences in the physical characteristics of merchandise where similar products are compared. Section 351.411(b) of the regulations directs us to consider differences in variable costs associated with the physical differences in the merchandise. Where we matched U.S. sales of subject merchandise to similar models in the home market, we adjusted for differences in merchandise.

F. Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade as the CEP. The NV level of trade is that of the starting-price sales in the home market or, when NV is based on constructed value (CV), that of sales from which we derive selling, general and administrative (SG&A) expenses and profit. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under Section 772(d) of the Act.

To determine whether NV sales are at a different level of trade than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–33 (November 19, 1997).

With respect to U.S. sales, we conclude that CEMEX's and GCCC's sales to various classes of customers which purchase both bulk and bagged cement constituted two separate levels of trade, one CEMEX U.S. level of trade and one GCCC U.S. level of trade. We based our conclusion on our analysis of each company's reported selling functions and sales channels after making deductions for selling expenses under section 772(d) of the Act. We found that CEMEX and GCCC performed different sales functions for sales to their respective U.S. affiliates. For instance, CEMEX reported that it performed technical advice, solicitation of orders/customer visits, account receivable management, post-sale warehousing, and communication activities whereas GCCC reported that it did not perform any of these activities.

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parties are invited to submit written

supporting evidence, if any, not later

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Based on our analysis of the respondent's reported selling functions and sales channels, we conclude that the respondent's home-market sales to various classes of customers which purchase both bulk and bagged cement constitute one level of trade. We found that, with some minor exceptions, CEMEX and GCCC performed the same selling functions to varying degrees in similar channels of distribution. We also concluded that the variations in selling functions were not substantial when all selling expenses were considered as a whole. See the memorandum entitled Gray Portland Cement and Clinker from Mexico: Level-of-Trade Analysis for the Tenth Administrative Review, dated August 30, 2001.

Furthermore, the respondent's home-market sales occur at a different and more advanced stage of distribution than its sales to the United States. For example, the CEMEX U.S. level of trade does not include activities such as market research, after-sales service/warranties, advertising, and packing whereas the home-market level of trade includes these activities. Similarly, the GCCC U.S. level of trade does not include activities such as market research, technical advice, advertising, customer approval, solicitation of orders, computer/legal/accounting/business systems, sales promotion, sales forecasting, strategic and economic planning, personnel training/exchange, and procurement and sourcing services whereas the home-market level of trade includes these activities.

As a result of our level-of-trade analysis, we could not match U.S. sales at either of the two U.S. levels of trade to sales at the same level of trade in the home market because there are no home-market sales at the same level of trade. Moreover, we determined that the level of trade of the home-market sales is more advanced than the levels of the U.S. sales. In addition, because we found only one home-market level of trade, we could not determine a level-of-trade adjustment based on the collapsed entity's home-market sales of merchandise under review. Therefore, we have determined that the data available do not provide an appropriate basis on which to calculate a level-of-trade adjustment. Thus, we made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act for the respondent's CEP sales. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the lesser of the following: (1) The indirect selling expenses on the home-market sale, or (2) the indirect selling expenses deducted from the starting price in calculating CEP. See the Level-of-Trade Analysis memorandum.

Currency Conversion

Pursuant to section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin for the collapsed parties, CEMEX and GCCC, for the period August 1, 1999, through July 31, 2000, to be 48.53 percent.

We will disclose calculations performed in connection with these preliminary results to parties within five days of the date of publication of this notice. See 19 CFR 351.224(b). Interested parties may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held at the main Commerce Department building three days after submission of rebuttal briefs.

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.

Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument with an electronic version included.

Upon completion of this review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific assessment rates based on the entered value for subject merchandise sold during the period of review. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the respondent will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will be 61.35 percent, the all-others rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double dumping duties. We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–23031 Filed 9–12–01; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation 332–433]

NAFTA: Probable Economic Effect of Accelerated Tariff Elimination

AGENCY: International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: September 10, 2001.

SUMMARY: Following receipt of a request from the United States Trade Representative (USTR) on August 30, 2001, the Commission instituted Investigation No. 332–433, NAFTA: Probable Economic Effect of Accelerated Tariff Elimination, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice to the President and the USTR with respect to each article listed in an attachment to the USTR letter as to the probable economic effect of the elimination of the U.S. tariff under the North American Free Trade Agreement (NAFTA) on domestic industries producing like or directly competitive articles, workers in these industries, and on consumers of the affected goods. All of the listed articles are footwear products. The USTR asked that the Commission provide its advice no later than October 12, 2001.

FOR FURTHER INFORMATION CONTACT: For general information, contact Laura Rodriguez (202–205–3499; *lrodriguez@usitc.gov*), of the Office of Industries; for information on legal aspects, contact William Gearhart (202–205–3091; *wgearhart@usitc.gov*) of the Office of the General Counsel. The media should contact Margaret O'Laughlin, Public Affairs Officer (202–205–1819). Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information about the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*).

Background

The letter from the USTR stated that the United States and Mexico have agreed to enter into consultations to consider acceleration of the elimination of tariffs on certain articles. Section 201(b)(1) of the North American Free Trade Agreement Implementation Act (the "Act") authorizes the President, subject to the consultation and layover requirements of section 103(a) of the Act, to proclaim such modifications as the United States may agree to with Mexico or Canada regarding the staging of any duty treatment set forth in Annex 302.2 of the NAFTA. One of the requirements set out in section 103(a) of the Act is that the President obtain advice regarding the proposed action from the Commission. The USTR requested advice with respect to NAFTA-qualifying articles from Mexico entered under the following subheadings of the Harmonized Tariff Schedule of the United States: 6402.3090, 6404.1120, 6404.1950, 6404.2040, 6406.1045, 6402.9160, 6404.1915, 6404.1960, 6404.2060, 6402.9170, 6404.1925, 6404.1970, 6406.1005, 6402.9960, 6404.1930, 6404.1980, 6406.1010, 6402.9970, 6404.1935, 6404.2020, 6406.1020.

Written Submissions

The Commission will not hold a public hearing in connection with the advice provided under this investigation. However, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). The Commission's rules do not authorize filing of submissions by facsimile or electronic means. All written submissions, except for confidential business information, will be made 2 available for inspection by interested persons in the Office of the Secretary to the Commission. Written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than the close of business on September 28, 2001. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Issued: September 10, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23030 Filed 9–12–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Codeon Corporation

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Codeon Corporation, a revocable, non-assignable, exclusive license to practice in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 5,195,163 (Navy Case No. 73,281) issued March 16, 1993, entitled "Fabrication and Phase Tuning of an Optical Waveguide Device," and U.S. Patent No. 5,259,061 (Navy Case No. 75,085) issued November 2, 1993, entitled "Fabrication and Phase Tuning of an Optical Waveguide Device."

DATES: Anyone wishing to object to the granting of these licenses must file written objections along with supporting evidence, if any, not later than November 13, 2001.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: August 30, 2001.

Robert E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 01–23025 Filed 9–12–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Student Financial Assistance; Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Notice of interest rates for the Federal Family Education Loan Program for the period July 1, 2001, through June 30, 2002.

SUMMARY: The Chief Operating Officer for the Office of Student Financial Assistance announces the interest rates for variable-rate loans made under the Federal Family Education Loan (FFEL) Program for the period July 1, 2001, through June 30, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith, Program Specialist. Mailing address: Program Development Division, Student Financial Assistance, U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW, Washington, DC 20202–5345. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

General

Under title IV, part B of the Higher Education Act of 1965, as amended, (HEA), 20 U.S.C. Section 1071, *et seq.*, most loans made to student and parent borrowers under the FFEL Program have variable interest rates.

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The formulas for determining the interest on variable rate FFEL Program loans are established in section 427A of the HEA (20 U.S.C. 1077a).

The interest rates on variable-rate loans are determined annually and apply to the following 12-month period beginning July 1 and ending June 30.

As described below, interest rate caps apply to most FFEL Program loans.

FFEL interest rate formulas use the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held before June 1 of each year plus a statutorily established add-on to determine the variable interest rate for—

- FFEL fixed-rate Stafford loans first disbursed before October 1, 1992 that have been converted to variable-rate loans;
- All FFEL Subsidized and Unsubsidized Stafford Loans first disbursed after October 1, 1992;
- FFEL PLUS loans first disbursed on or after July 1, 1998; and
- FFEL Consolidation Loans for which the Consolidation Loan application was received by the lender on or after November 13, 1997 and before October 1, 1998.

The bond equivalent rate of the 91-day Treasury bills auctioned on May 29, 2001, which is used to calculate the interest rates for the one year period beginning on July 1, 2001, is 3.688 percent (rounded to 3.69 percent).

For FFEL PLUS loans first disbursed before July 1, 1998, interest rates are calculated based on the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26.

On June 22, 2001, the Board of Governors of the Federal Reserve System published the 1-year constant maturity Treasury yield average as 3.46 percent.

Interest Rates for "Converted" Variable-Rate FFEL Stafford Loans

1. Under section 427A(i)(7) of the HEA, loans that were originally made with a fixed interest rate of eight percent with an increase to ten percent four years after commencement of the repayment period were converted to a variable interest rate that may not exceed 10 percent: The interest rate for these loans for the period from July 1, 2001, through June 30, 2002, is 6.94 percent (3.69 percent plus 3.25 percent equals 6.94 percent).

2. Loans with fixed interest rates of seven percent, eight percent, nine percent, or eight percent with an increase to ten percent four years after commencement of the repayment period, that were subject to the provisions of section 427A(i)(3) of the HEA and were converted to variable-rate loans—the interest rate may not exceed seven percent, eight percent, nine percent, or ten percent, respectively: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.79 percent (3.69 percent plus 3.1 percent equals 6.79 percent).

Interest Rates for Variable-Rate FFEL Stafford Loans

1. FFEL Stafford loans made to "new" borrowers for which the first disbursement was made (a) on or after October 1, 1992, but before July 1, 1994, or (b) on or after July 1, 1994, for a period of enrollment ending before July 1, 1994—the interest rate may not exceed 9 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.79 percent (3.69 percent plus 3.1 percent equals 6.79 percent).

2. FFEL Stafford loans made to all borrowers, regardless of prior borrowing, for periods of enrollment that include or begin on or after July 1, 1994, for which the first disbursement was made on or after July 1, 1994, but before July 1, 1995—the interest rate may not exceed 8.25 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.79 percent (3.69 percent plus 3.1 percent equals 6.79 percent).

3. FFEL Stafford loans made to all borrowers, regardless of prior borrowing, on or after July 1, 1995, but before July 1, 1998—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, or deferment period: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.19 percent (3.69 percent plus 2.5 percent equals 6.19 percent); and

(b) During all other periods: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.79 percent (3.69 percent plus 3.1 percent equals 6.79 percent).

4. FFEL Stafford loans, first disbursed on or after July 1, 1998, but before July 1, 2003—the interest rate may not exceed 8.25 percent:

(a) During the in-school, grace, and deferment periods: The interest rate for the period from July 1, 2001, through June 30, 2002, is 5.39 percent (3.69 percent plus 1.7 percent equals 5.39 percent); and

(b) During all other periods: The interest rate for the period from July 1, 2001, through June 30, 2002, is 5.99 percent (3.69 percent plus 2.3 percent equals 5.99 percent).

Interest Rates for FFEL PLUS and FFEL Supplemental Loans for Students (SLS) Loans

1. Variable-rate FFEL PLUS and FFEL SLS loans first disbursed before October 1, 1992—the interest rate may not exceed 12 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.71 percent (3.46 percent plus 3.25 percent equals 6.71 percent).

2. FFEL SLS loans first disbursed on or after October 1, 1992, for a period of enrollment beginning before July 1, 1994—the interest rate may not exceed 11 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.56 percent (3.46 percent plus 3.1 percent equals 6.56 percent).

3. FFEL PLUS loans first disbursed on or after October 1, 1992, but before July 1, 1994—the interest rate may not exceed 10 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.56 percent (3.46 percent plus 3.1 percent equals 6.56 percent).

4. FFEL PLUS loans first disbursed on or after July 1, 1994, but prior to July 1, 1998—the interest rate may not exceed 9 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.56 percent (3.46 percent plus 3.1 percent equals 6.56 percent).

5. FFEL PLUS loans first disbursed on or after July 1, 1998, and before July 1, 2003—the interest rate may not exceed 9 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.79 percent (3.69 percent plus 3.1 percent equals 6.79 percent).

Interest Rates for FFEL Consolidation Loans

1. FFEL Consolidation loans for which the consolidation loan application was received by the lender on or after November 13, 1997, and before October 1, 1998—the interest rate may not exceed 8.25 percent: The interest rate for the period from July 1, 2001, through June 30, 2002, is 6.79 percent (3.69 percent plus 3.1 percent equals 6.79 percent).

2. If a portion of a Consolidation loan is attributable to a loan made under subpart I of part A of title VII of the Public Health Service Act, the maximum interest rate for that portion of a Consolidation loan is determined annually, for each 12-month period beginning on July 1 and ending on June 30. The interest rate equals the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter ending prior to July 1, plus 3 percent. For the quarter ending prior to July 1, 2001, the average 91-day Treasury bill rate was 3.77 percent. The maximum interest rate for the period from July 1, 2001, through June 30, 2002, is 6.77 percent (3.77 percent plus 3.0 percent equals 6.77 percent).

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To use PDF you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, D.C., area at (202) 512–1530.

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Program Authority: 20 U.S.C. 1077a and 20 U.S.C. 1087e.

Dated: September 10, 2001.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

[FR Doc. 01–23040 Filed 9–12–01; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Notice of interest rates for the William D. Ford Federal Direct Loan Program for the period from July 1, 2001 through June 30, 2002.

SUMMARY: The Chief Operating Officer for Student Financial Assistance announces the interest rates for loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program for the period from July 1, 2001 through June 30, 2002.

SUPPLEMENTARY INFORMATION:

Section 455(b) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1087e(b), provides formulas for determining the interest rates charged to borrowers of loans made under the Direct Loan Program including Federal Direct Stafford Loans (Direct Subsidized Loans), Federal Direct Unsubsidized Stafford Loans (Direct Unsubsidized Loans), Federal Direct PLUS Loans (Direct PLUS Loans) and Federal Direct Consolidation Loans (Direct Consolidation Loans).

The Direct Loan Program includes loans with variable interest rates and loans with fixed interest rates. Most loans made under the Direct Loan Program have variable interest rates that change each year. The variable interest rate formula that applies to a particular loan depends on the date of the first disbursement of the loan. The variable rates are determined annually and are effective for each 12-month period beginning July 1 of one year and ending June 30 of the following year.

In the case of some Direct Consolidation Loans, the interest rate is determined by the date on which the Direct Consolidation Loan application was received. Direct Consolidation Loans for which the application was received on or after February 1, 1999 have a fixed interest rate based on the weighted average of the loans that are consolidated rounded up to the nearest higher ⅛ of one percent.

Pursuant to section 455(b) of the HEA, 20 U.S.C. 1087e(b) the Direct Loan interest rate formulas use the bond equivalent rates of the 91-day Treasury bills at the final auction held before June 1 of each year plus a statutory add-on percentage to determine the variable interest rate for—

- All Direct Subsidized Loans and Direct Unsubsidized Loans;
- Direct Consolidation Loans for which the application was received on or after July 1, 1998 and before February 1, 1999; and
- Direct PLUS Loans disbursed on or after July 1, 1998.

The bond equivalent rate of the 91-day Treasury bills auctioned on May 29, 2001, which is used to calculate the interest rates on these loans is 3.688 percent (rounded to 3.69 percent).

In addition, pursuant to section 455(b) of the HEA, 20 U.S.C. 1087e(b), as amended by Public Law 106–554, the Consolidated Appropriations Act 2001, the interest rate for Direct PLUS Loans that were disbursed on or after July 1, 1994 and on or before July 1, 1998, is calculated based on the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26 plus a statutory add-on percentage.

The last calendar week ending on or before June 26 2001, was June 22, 2001. On that date, the Board of Governors of the Federal Reserve System published the 1-year constant maturity Treasury yield average as 3.46 percent.

Below is specific information on the calculation of the interest rates for the Direct Loan Program. This information is listed in order by the date a loan was first disbursed or by the date that the Consolidation Application was received.

In addition, a summary of the interest rates that are effective for the period July 1, 2001 through June 30, 2002, is included on charts at the end of this notice. These charts are organized by loan type. In each chart, the interest rates are arranged by the date a loan was first disbursed or by the date that the consolidation application was received.

FOR FURTHER INFORMATION CONTACT: Don Watson, U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–5400. Telephone: (202) 708–8242. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

For Direct Loan Program Loans Disbursed On Or After July 1, 1994, and Before July 1, 1998

The interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. However, for loans disbursed on or after July 1, 1995, and before July 1, 1998, during in school, grace, and deferment periods, the interest rate is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.5 percent. These interest rates may not exceed 8.25 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans and Direct Subsidized and Unsubsidized Consolidation Loans that were disbursed on or after July 1, 1994, and before July 1, 1998, is 6.19 percent during in-school, grace, and deferment periods and 6.79 percent during all other periods.

The interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans is the weekly average of a 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before June 26 plus 3.1 percent. However, these

interest rates may not exceed 9.0 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans that were disbursed on or after July 1, 1995 and before July 1, 1998, is 6.56 percent.

For Direct Loans Disbursed On Or After July 1, 1998, and Before October 1, 1998

The interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. During in-school, grace, and deferment periods, the interest rate formula is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 1.7 percent. However, these interest rates may not exceed 8.25 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct Subsidized and Unsubsidized Consolidation Loans that were disbursed on or after July 1, 1998 and before October 1, 1998, is 5.39 percent during in-school, grace, and deferment periods and 5.99 percent during all other periods.

The interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. However, these interest rates may not exceed 9.0 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct PLUS Loans and Direct PLUS Consolidation Loans that were disbursed on or after July 1, 1998, and before October 1, 1998, is 6.79 percent.

For Direct Subsidized Loans, Direct Unsubsidized Loans, Direct PLUS Loans Disbursed On Or After October 1, 1998, and Before July 1, 2003

The interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. During in-school, grace, and deferment periods, the interest rate is the bond equivalent rate of the 91-day Treasury bills plus 1.7 percent. However, these interest rates may not exceed 8.25 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans that were disbursed after July 1, 1998 is 5.39 percent during in-school, grace, and deferment periods and 5.99 percent during all other periods.

The interest rate for Direct PLUS Loans is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 3.1 percent. However, these interest rates may not exceed 9.0 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct PLUS Loans that were disbursed after July 1, 1998, is 6.79 percent.

For Direct Consolidation Loans For Which The Application Was Received On Or After October 1, 1998, and Before February 1, 1999

The interest rate for Direct Consolidation Loans for which the application was received during this period is the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction held before June 1 plus 2.3 percent. However, these interest rates may not exceed 8.25 percent during any period. From July 1, 2001, to June 30, 2002, the interest rate for Direct Consolidation Loans for which the application was received on or after October 1, 1998 and before February 1, 1999, these loans is 5.99 percent.

For Direct Consolidation Loans For Which The Application Was Received On Or After February 1, 1999, and Before July 1, 2003

The interest rate for Direct Consolidation Loan for which the application was received on or after February 1, 1999, and before July 1, 2003, is the lesser of 8.25 percent, or the weighted average of the loans consolidated, rounded to the nearest higher ⅛ of one percent.

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(Catalog of Federal Domestic Assistance Number 84.268 William D. Ford Federal Direct Loan Program)

Program Authority: 20 U.S.C. 1087 *et seq.*

Dated: September 10, 2001.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

BILLING CODE 4000–01–P

Direct Loan Program's Interest Rates from July 1, 2001 to June 30, 2002

Federal Direct Subsidized Loans and Federal Direct Unsubsidized Loans

Date the loan was first disbursed between:	Status	Treasury Instrument	Add-on	Interest Rate for 7/1/2001 to 6/30/2002	Maximum Interest Rate
7/1/1994 and 6/30/1995	All periods	91-day T-bill 3.69	+ 3.1 =	6.79	8.25
7/1/1995 and 6/30/1998	In school, grace, deferment	91-day T-bill 3.69	2.5	6.19	8.25
	All others periods		3.1	6.79	
7/1/1998 and 6/30/2003	In school, grace, deferment	91-day T-bill 3.69	1.7	5.39	8.25
	All others periods		2.3	5.99	

Direct Loan Program's Interest Rates from July 1, 2001 to June 30, 2002

Federal Direct PLUS Loans

Date the loan was first disbursed between:	Status	Treasury Instrument	Add-on	Interest Rate for 7/1/2001 to 6/30/2002	Maximum Interest Rate
7/1/1994 and 6/30/1998	All periods	1-year constant maturity Treasury yield 3.46	+ 3.1 =	6.56	9.00
7/1/1998 and 6/30/2003	All periods	91-day T-bill 3.69	+ 3.1 =	6.79	9.00

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Direct Loan Program's Interest Rates from July 1, 2001 to June 30, 2002					
Federal Direct Subsidized and Unsubsidized Consolidation Loans					
Date the loan was first disbursed between:	Status	Treasury Instrument	Add-on	Interest Rate for 7/1/2001 to 6/30/2002	Maximum Interest Rate
7/1/1994 and 6/30/1995	In school, grace, deferment	91-day T-bill 3.69	+ 3.1 =	6.79	8.25
	All other periods				
7/1/1995 and 6/30/1998	In school, grace, deferment	91-day T-bill 3.69	+ 2.5 =	6.19	8.25
	All other periods		+ 3.1 =	6.79	8.25
Applications received between:	Status	Treasury Instrument	Add-on	Interest Rate for 7/1/2001 to 6/30/2002	Maximum Interest Rate
7/1/1998 and 9/30/1998	In school, grace, deferment	91-day T-bill 3.69	+ 1.7 =	5.39	8.25
	All other periods		+ 2.3 =	5.99	8.25
10/1/1998 and 1/31/1999	In school, grace, deferment	91-day T-bill 3.69	+ 2.3 =	5.99	8.25
	All other periods				
2/1/1999 and 6/30/2003	All periods	The lesser of 8.25 percent or weighted average of the loans consolidated, rounded to the next higher 1/8 of one percent.			8.25

Direct Loan Program's Interest Rates from July 1, 2001 to June 30, 2002					
Federal Direct PLUS Consolidation Loans					
Date the loan was first disbursed between:	Status	Treasury Instrument	Add-on	Interest Rate for 7/1/2001 to 6/30/2002	Maximum Interest Rate
7/1/1994 and 6/30/1998	All periods	1-year constant maturity Treasury yield 3.46	+ 3.1 =	6.56	9.00
Applications received between:	Status	Treasury Instrument	Add-on	Interest Rate for 7/1/2001 to 6/30/2002	Maximum Interest Rate
7/1/1998 and 9/30/1998	All periods	91-day T-bill 3.69	+ 3.1 =	6.79	9.00
10/1/1998 and 1/31/1999	All periods	91-day T-bill 3.69	+ 2.3 =	5.99	8.25
2/1/1999 and 6/30/2003	All periods	The lesser of 8.25 percent or weighted average of the loans consolidated, rounded to the next higher 1/8 of one percent.			8.25

[FR Doc. 01-23041 Filed 9-12-01; 8:45 am]
BILLING CODE 4000-01-C

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DEPARTMENT OF ENERGY

Idaho Operations Office

Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Availability of Solicitation Number DE–PS07–02ID14200 Nuclear Engineering Education Research (NEER) Program.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is soliciting applications for research and development grant awards in nuclear engineering topics. It is anticipated that on September 12, 2001, a full text for Solicitation Number DE–PS07–02ID14200 for the 2002 NEER Program will be made available at the Industry Interactive Procurement System (IIPS) Website at: *http://e-center.doe.gov:* The deadline for receipt of applications will be on November 1, 2001. Applications are to be submitted via the IIPS Website. Directions on how to apply and submit applications are detailed under the solicitation on the Website.

FOR FURTHER INFORMATION CONTACT: Dallas Hoffer, Contracting Officer at *hofferdl@id.doe.gov.*

SUPPLEMENTARY INFORMATION: The solicitation will be issued in accordance with 10 CFR Part 600.6(b), eligibility for awards under this program will be restricted to U.S. colleges and universities with nuclear engineering degree programs or options or an operating research reactor, because the purpose of the Nuclear Engineering Education Research (NEER) program is to (1) support basic research in nuclear engineering; (2) assist in developing nuclear engineering students; and (3) contribute to strengthening the academic community's nuclear engineering infrastructure.

The statutory authority for this program is Public Law 95–91.

Issued in Idaho Falls on September 5, 2001.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–22971 Filed 9–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Wednesday, September 26, 2001; 1 p.m.–8:30 p.m.

ADDRESSES: Cities of Gold Hotel, Conference Room, Pojoaque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone (505) 989–1662; fax (505) 989–1752 or e-mail: *adubois@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative agenda:

1:00–4:30 p.m.
Board Business.
Election of Officers.
Consideration of 2002 FY Budget.
Openness Plan.
Recruitment/Membership.
4:30–6:00 p.m.—Dinner Break.
6:00–8:30 p.m.—Environmental Restoration and Waste Management Presentations.
Other Board business will be conducted as necessary

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting. This federal register notice is being published less than 15 days prior to the meeting due to programmatic issues that had to be resolved prior to the meeting date. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1640 Old Pecos Trail, Suite H, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http:www.nnmcab.org.*

Issued at Washington, DC on September 7, 2001.

Belinda G. Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–22970 Filed 9–12–01; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Announcement of Extension of Public Comment Period; Possible Recommendation of Yucca Mountain for Development as a Geologic Repository

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of extension of public comment period; correction of an address for a hearing.

SUMMARY: The Department of Energy (the Department) announces the extension by 15 days of the public comment period concerning consideration of Yucca Mountain as a potential site for a geologic repository. The comment period, which was to end on September 20, 2001, will be extended to end on October 5, 2001. The Department also wishes to correct the address of a hearing in Amargosa Valley, Nevada.

DATES: Written comments must be received by October 5, 2001. DOE will consider comments after October 5, 2001 to the extent practicable. DOE requests one copy of the written comments.

ADDRESSES: Written comments should be addressed to Carol Hanlon, U.S. Department of Energy, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307. The Department also wishes to correct the address of a

September 12, 2001, hearing in Amargosa Valley, Nevada. The correct address is: Longstreet Inn and Casino, Highway 373, Amargosa Valley, Nevada 89020.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, 1–800–967–3477.

SUPPLEMENTARY INFORMATION: On May 7, 2001, the Department announced in the **Federal Register** (66 FR 23013–23016) the initiation of a public comment period on the Secretary's consideration of the Yucca Mountain site for recommendation as a spent nuclear fuel and high-level radioactive waste repository. In conjunction with the initiation of the comment period, the Department issued a report, the Yucca Mountain Science and Engineering Report (YMS&ER), summarizing the scientific and technical information compiled by the Department to date outlining the preliminary design and performance attributes of a potential geologic repository at the Yucca Mountain site. On August 21, 2001, the Department announced in the **Federal Register** (66 FR 43850–43851) the issuance of another report, the Preliminary Site Suitability Evaluation (PSSE). Each of these documents is intended to inform the public and facilitate public review and comment on a possible site recommendation. Also, in the August 21, 2001, **Federal Register** Notice the Department announced that the comment period would close on September 20, 2001. That comment period is now extended 15 days to October 5, 2001.

Issued in Washington, D.C. on September 10, 2001.

James H. Carlson,

Acting Director Office of Civilian Radioactive Waste Management.

[FR Doc. 01–23037 Filed 9–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for the disbursement of $6,672,934, plus accrued interest, in refined petroleum product overcharges obtained by the DOE pursuant to a remedial order OHA issued to Hudson Oil Company, Inc., Case No. VEF–0011. The OHA has determined that the funds will be distributed in accordance with the provisions of 10 CFR part 205, Subpart V.

DATE AND ADDRESS: Applications for Refund should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0107. All comments should conspicuously display a reference to Case No. VEF–0011.

FOR FURTHER INFORMATION CONTACT: Richard A. Cronin, Jr., Assistant Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585–0107, (202) 287–1562, *richard.cronin@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute to eligible claimants $6,672,934, plus accrued interest, obtained by the DOE pursuant to a Remedial Order OHA issued to Hudson Oil Company, Inc. (Hudson) and Hudson Refining Company, Inc. (Hudson Refining), on March 15, 1985. Under the Remedial Order, Hudson and Hudson Refining were found to have violated the federal petroleum price regulations involving the sale of refined petroleum products during the relevant audit periods.

The OHA will distribute the Remedial Order funds in a refund proceeding described in the Decision and Order. Purchasers of motor gasoline from Hudson, Hudson Refining or its affiliated firms will have the opportunity to submit refund applications. Refunds will be granted to applicants who satisfactorily demonstrate that they were injured by the pricing violations and who document the volume of refined petroleum products they purchased from one of the Hudson-affiliated firms during the relevant audit period.

All applications must be postmarked by November 30, 2001. All applications received in this proceeding will be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal Holidays, in Room 7132 (the public reference room), 950 L'Enfant Plaza, Washington, DC.

Dated: September 6, 2001.

George Breznay,

Director, Office of Hearings and Appeals.

Department of Energy, Washington, DC 20585,

September 6, 2001.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Hudson Oil Company, Inc.
Date of Filing: March 20, 1995.
Case Number: VEF–0011.

On March 20, 1995, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute the funds received pursuant to an OHA Remedial Order issued to Hudson Oil Company, Inc. (Hudson) and Hudson Refining Company, Inc. (Hudson Refining). *See Hudson Oil Company, Inc.*, 12 DOE ¶ 83,035 (1985). In accordance with the provisions of the procedural regulations at 10 CFR part 205, Subpart V (Subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of regulatory violations set forth in the Remedial Order.

I. Background

ERA audits of Hudson, a retailer with headquarters in Kansas City, Kansas and Hudson Refining, a refiner located in Cushing, Oklahoma, revealed possible violations of the Mandatory Petroleum Price Regulations in Hudson's sales of gasoline during the period of price controls.[1] Subsequently, ERA issued a proposed remedial order (PRO) alleging that Hudson and its affiliated firms had violated the petroleum price regulations. Hudson challenged the PRO before OHA. In our March 15, 1985 Remedial Order, we found that Hudson had violated the price regulations and had overcharged its motor gasoline customers by $10,670,000 during the period June 1979 through August 1979 (refund period). *See Hudson*, 12 DOE at 86,479. Hudson and its affiliates were found to be jointly and severally liable for the overcharge amount.[2] Id. at 86,481. On March 20, 1995, the Office of General Counsel filed a Petition for the Implementation of Special Refund Proceeding for the $6,672,934 in funds Hudson has remitted to the DOE.[3]

[1] Hudson and its affiliates operated a widespread retail operation. While information in the available files is incomplete, Hudson gasoline may have been sold by retailers in Virginia, Florida, Pennsylvania, Maryland, New York, West Virginia and Georgia.

[2] The Remedial Order references Hudson Van Oil Company, Hudson Van Oil Company of Kansas City, Inc., Hudson Van Oil Company of Florida, Inc., Hudson Van Oil Company of California, Inc., Hudson Stations, Inc., Wind Stations, Inc., News, Inc. and Hudson Petroleum, Inc. as Hudson affiliates covered in ERA's PRO. *See Hudson*, 12 DOE at 86,483 n.1.

[3] Hudson and Hudson Refining filed for bankruptcy in 1984. In addition to the March 1985

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II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (Vickers).

On July 5, 2001, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the Consent Order funds. That PD&O was published in the **Federal Register**, and a 30-day period was provided for the submission of comments regarding our proposed refund plan. See 66 FR 36764 (July 13, 2001). More than 30 days have elapsed and OHA has received no comments concerning these proposed refund procedures. Consequently, the procedures will be adopted as proposed except for the deadline to submit applications for refund. The deadline will be extended to November 30, 2001.

III. Refund Procedures

A. Standards for the Evaluation of Claims

This section sets forth the standards to be used in evaluating refund claims in the Hudson refund proceeding. From our experience with Subpart V proceedings, we expect that refund applicants will fall into the following categories: (i) End-users; (ii) regulated entities, such as public utilities and cooperatives; (iii) refiners, resellers and retailers (collectively referred to as "resellers") and (iv) consignees.

In order to receive a refund, each claimant will be required to submit a schedule of its gasoline purchases from Hudson during the refund period. If the gasoline was not purchased directly from Hudson, the claimant must establish that the gasoline originated from Hudson.[4]

In addition, a reseller, except one who chooses to utilize the injury presumptions set forth below, will be required to make a detailed showing that it was injured by Hudson's regulatory violations. This showing will consist of two distinct elements. First, a reseller claimant will be required to show, through credible, firm-specific data, that it had "banks" of unrecouped increased product costs beginning in June 1979 through August 1979. In addition, such a claimant must demonstrate that market conditions would not have allowed those costs to be passed through to its customers. This showing may be made in a comparative disadvantage analysis, which compares the price paid by the applicant with the average price paid for the same product at the relevant level of distribution. *See, e.g., Enron Corp./MAPCO, Inc.*, 27 DOE ¶ 85,018 (1998).

A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads us to conclude that it passed through all of the overcharges, or is eligible for a refund of less than the applicable presumption-level amount, will not then be eligible for a presumption-based refund. Instead, such a claimant will receive a refund which reflects the level of injury established in its Application. No refund will be approved if its submission indicates that it was not injured as a result of its gasoline purchases from Hudson.

1. Presumptions for Claims Based Upon Hudson Gasoline Purchases

Our general practice is to grant refund on a pro-rata or volumetric basis. In order to calculate the volumetric refund amount, the OHA divides the amount of money available for direct restitution by the number of gallons sold by the firm during the period covered by the consent order.

Based on the available ERA workpapers, we estimate that during the period June 1979 through August 1979 Hudson sold 80,207,000 gallons of gasoline. See Schedule II–Q–Summary of allowable cost recoveries at 3. Dividing the recovered overcharge amount of $6,672,934 by this estimated number of gallons sold by Hudson results in a volumetric refund amount (or allocable share) of $0.0832 per gallon. In addition, each successful applicant is entitled to receive a proportionate share of accrued interest.[5]

In order to expedite the processing of applications in this proceeding and to ensure that refund claims are evaluated in the most efficient and equitable manner possible, we will use the following presumptions in addition to the volumetric presumption described above.

a. End-Users

End-users of Hudson gasoline, i.e., consumers, whose use of the gasoline was unrelated to the petroleum business are presumed injured and need only document their purchase volumes from Hudson during the refund period to be eligible to receive a full allocable share.

b. Refiners, Resellers and Retailers Seeking Refunds of $10,000 or Less

Any reseller claimant whose allocable share is $10,000 or less, i.e. who purchased 120,192 gallons or less of Hudson gasoline during the refund period will be presumed injured and therefore need not provide a further demonstration of injury, besides documentation of its volumes, to receive its full allocable share.

c. Medium-Range Refiners, Reseller and Retailer Claimants

In lieu of making a detailed showing of injury, a reseller claimant whose allocable share exceeds $10,000 may elect to receive as its refund the larger of $10,000 or 40 percent of its allocable share up to $50,000.[6] An applicant in this group will only be required to provide documentation of its purchase volumes of Hudson gasoline during the refund period in order to receive a refund of 40 percent of its total volumetric share, or $10,000, whichever is greater.

d. Regulated Firms and Cooperatives

We have determined that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or by the terms of a cooperative agreement, needs only to submit documentation of Hudson gasoline used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or cooperative whose allocable share is greater that $10,000 will also be required to certify that it will pass through any refund received to its customers or member-customers, provide us with a full explanation of how it plans to accomplish that restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund.

e. Spot Purchasers

We will establish a rebuttable presumption that a reseller that made only irregular or sporadic, i.e., spot, gasoline purchases from Hudson did not suffer injury as a result of those purchases. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases of Hudson gasoline. In prior proceedings, we have stated that refunds will be approved for spot purchasers who demonstrate that (i) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (ii) they were forced by market conditions to resell the product at a loss that was not sufficiently recouped through draw down of banks. See Texaco, 20 DOE at 88,320–21.

f. Consignees

Finally, as in previous cases, we will presume that consignees of Hudson gasoline, if any exist, were not injured by the Hudson overcharges. *See Atlantic Richfield Company*, 17 DOE ¶ 85,069 at 88,153 (1988). A consignee agent is an entity that distributed its products pursuant to an agreement whereby its supplier established the prices to be paid and charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products distributed. This presumption may be rebutted by showing that the consignee's sales volumes and corresponding commission declined due to the alleged uncompetitiveness of Hudson's gasoline pricing practices. *See Gulf Oil Corporation/C.F. Canter Oil Company*, 13 DOE ¶ 85,388 at 88,962 (1986).

B. Refund Application Requirements

To apply for a refund from the Hudson monies paid to the DOE, a claimant should submit an Application for Refund containing the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for additional information, and the name and address of the person who should receive any refund check.[7]

(2) A monthly purchase schedule covering the refund period. The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit estimates of its Hudson gasoline purchases, but the estimation method must be reasonable and must be explained;

(3) A statement whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in the Hudson refund proceeding. If so, an explanation of the circumstances of the other filing or authorization should be submitted;

(4) If the applicant is or was in any way affiliated with Hudson, it should explain this affiliation, including the time period in which it was affiliated;[8]

(5) The statement listed below signed by the individual applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled with Hudson Oil Company, Inc. and Case No. VEF–0011. Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for that information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked on or before November 30, 2001,[9] and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

We will adopt the standard OHA procedures relating to refund applications filed on behalf of applicants by "representatives," including refund filing services, consulting firms, accountants, and attorneys. *See, e.g., Texaco; Starks Shell Service*, 23 DOE ¶ 85,017 (1993); *Shell Oil Co.*, 18 DOE ¶ 85,492 (1989). We will also require strict compliance with the filing requirements as specified in 10 CFR 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant. The OHA reiterates its policy to scrutinize applications filed by filing services closely. Applications submitted by a filing service should contain all of the information indicated above.

Additionally, the OHA reserves the authority to require additional information to be submitted before granting any particular refund in the Hudson proceeding.

C. Impact of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) Amendments on Hudson Refund Claims

The Interior and Related Agencies Appropriations Act for FY 1999 amended certain provisions of the Petroleum Overcharge and Distribution and Restitution Act of 1986 (PODRA). These amendments extinguished rights that refund applicants had under PODRA to refunds for overcharges on the purchases of refined petroleum products. They also identified and appropriated a substantial portion of the funds being held by the DOE to pay refund claims (including the funds paid by Hudson). Congress specified that these funds were to be used to fund other DOE programs. As a result, the petroleum overcharge escrow accounts in the refined product area contain substantially less money than before. In fact they may not contain sufficient funds to pay in full all pending and future refund claims (including those in litigation) if they should all be found to be meritorious. *See Enron Corp./Shelia S. Brown*, 27 DOE ¶ 85,036 at 88,244 (2000) (Brown). Congress directed OHA to "assure the amount remaining in escrow to satisfy refined petroleum product claims for direct restitution is allocated equitably among all claimants." *Omnibus Consolidated and Emergency Supplemental Appropriation Act, 1999*, Pub. L. No. 105–277 § 337, 112 Stat 2681, 2681–295 (1998) (language added to PODRA); *Brown*, 27 DOE at 88,244. In view of this Congressional directive and the limited amount of funds available, it may become necessary to prorate the funds available among the meritorious Hudson claims. However, it could be several years before we know the full value of the meritorious claims and the precise total amount available for distribution. It will be some time before we are able to determine the amount that is available for distribution for each claimant.

In light of the considerations described above, we will pay successful claimants using the following mechanism. All successful small claimants (refunds under $10,000) will be paid in full. To require small claimants to wait several more years for their refunds would constitute an inordinate burden and would be inequitable. *See Brown*, 27 DOE at 88,244. For all others granted refunds, including reseller claimants who have elected to take presumption refunds, we will immediately pay the larger of $10,000 or 50 percent of the refund granted. Once the other pending refund claims have been resolved, the remainder of the Hudson claims will be paid to the extent that it is possible through an equitable distribution of the funds remaining in the petroleum overcharge escrow account.

It Is Therefore Ordered That:

(1) The payments remitted to the Department of Energy by Hudson Oil Company, Inc., pursuant to the remedial order issued on March 15, 1985, will be distributed in accordance with the forgoing Decision.

(2) Applications for Refund in the Hudson Oil Company, Inc. Refund Proceeding, Case No. VEF–0011, must be postmarked no later than November 30, 2001.

Remedial Order discussed above OHA issued another Remedial Order to Hudson on July 1, 1985, finding that Hudson had violated the price regulations concerning sales of crude oil and was liable for overcharges of $6,380,506. *See Hudson Oil Company*, 13 DOE ¶ 83,022 (1985). ERA's petition requests that we institute a refund proceeding covering both Remedial Orders. However, since Hudson has failed to remit sufficient money to fully comply with the March 1985 Remedial Order, and this Remedial Order was first in time, we will institute a refund proceeding that covers only Hudson's violation of price regulations concerning its sales of motor gasoline detailed in the March 1985 Remedial Order.

[4] Indirect purchasers who establish that their gasoline purchases originated with Hudson will be eligible for a refund unless the direct purchaser has filed a refund claim and established that it did not pass through the Hudson overcharges to its customers. See Texaco, 20 DOE ¶ 85,147 at 88,319 n.39 (1990)(Texaco). As a result, applications from indirect purchasers will generally be considered only after evalauting the applications of their suppliers.

[5] The minimum refund amount that will be paid to a claimant is $15.00. We have found through our experience that the cost of processing claims for less than $15.00 outweighs the benefits of restitution in these cases. *See, e.g., Texaco*, 20 DOE at 88,320 n. 43.

[6] That is, claimants who purchased between 120,192 gallons and 1,502,404 gallons of Hudson gasoline during the refund period may elect to utilize the presumption. Claimants who purchased more than 1,502,404 gallons from Hudson may elect to limit their claims to $50,000.

[7] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the regulations codified at 10 CFR part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

[8] As in other refund proceedings involving alleged refined product violations, the DOE will presume that affiliates of Hudson were not injured by the firm's overcharges. *See, e.g., Marathon Petroleum Co./EMRO Propane Co.*, 15 DOE ¶ 85,288 (1987). This is because Hudson presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. *See Marathon Petroleum Co./Pilot Oil Corp.*, 16 DOE ¶ 85,611 (1987), *amended claim denied*, 17 DOE ¶ 85,291 (1988), *reconsideration denied*, 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of Hudson were granted a refund, Hudson would be indirectly compensated from a remedial order fund remitted to settle its own alleged violations.

[9] We originally proposed a deadline of October 31, 2001. Given the date of our final decision establishing the Hudson refund proceeding, we will extend this deadline to November 30, 2001.

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Dated: September 6, 2001.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 01–22974 Filed 9–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for the disbursement of $528,941, plus accrued interest, in crude oil and refined petroleum product overcharges obtained by the DOE pursuant to consent orders signed by Intercoastal Oil Corporation, Case No. LEF–0057, and Gulf States Oil & Refining, Case No. LEF–0073. The OHA has determined that the funds will be distributed in accordance with the provisions of 10 CFR part 205, subpart V and DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases.

DATE AND ADDRESS: Applications for Refund should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585–0107. All applications should display a reference to Case Nos. LEF–0057 or LEF–0073.

FOR FURTHER INFORMATION CONTACT: Richard A. Cronin, Jr. Assistant Director Office of Hearings and Appeals 1000 Independence Ave., SW. Washington, DC 20585–0107 (202) 287–1562 *richard.cronin@hq.doe.gov*

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute to eligible claimants $528,941, plus accrued interest, obtained by the DOE pursuant to Consent Orders entered into with Intercoastal Oil Corporation (Intercoastal) and Gulf States Oil & Refining (Gulf States). Under the Consent Orders, Intercoastal and Gulf States resolved all allegations concerning violations of the federal petroleum price regulations involving the sale of refined petroleum products and crude oil during the relevant audit periods.

The OHA will distribute one-half of the Consent Order funds in a refund proceeding described in the Decision and Order to provide restitution for those parties injured by Intercoastal's or Gulf States' alleged violations of pricing regulations for refined petroleum products. Purchasers of refined petroleum products from Intercoastal or Gulf States will have the opportunity to submit refund applications. Refunds will be granted to applicants who satisfactorily demonstrate that they were injured by the pricing violations and who document the volume of refined petroleum products they purchased from one of the firms during the relevant consent order period.

The remaining one-half of the Consent Order funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases. Because the deadline for filing crude oil refund applications has passed, no new applications for refund for the alleged crude oil pricing violations of Intercoastal and Gulf States will be accepted for these funds.

Applications should be postmarked by November 30, 2001. Applications so received will be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal Holidays, in Room 7132 (the public reference room), 950 L'Enfant Plaza, Washington, DC

Dated: September 6, 2001.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy, Washington, DC 20585

September 6, 2001.

Decision and Order, Department of Energy

Implementation of Special Refund Procedures

Names of Firms: Intercoastal Oil Corporation, Gulf States Oil & Refining.

Dates of Filing: July 20, 1993, July 20, 1993.

Case Numbers: LEF–0057, LEF–0073.

The Office of General Counsel (OGC) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement Subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 CFR § 205.280. We have considered OGC's request to formulate refund procedures for the disbursement of monies remitted by Intercoastal Oil Corporation (Intercoastal) and Gulf States Oil & Refining (Gulf States) pursuant to Consent Orders (the Consent Orders) the firms have entered into with the DOE and have determined that such procedures are appropriate.

Under the terms of the Consent Orders, a total of $528,941 has been remitted to DOE to remedy pricing violations which occurred during the relevant audit periods.[1] These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. This Decision sets forth OHA's plan to distribute those funds. The specific application requirements appear in Section III of this Decision.

I. Background

Gulf States, a firm with its home office in Houston, Texas, was a refiner during the period of price controls, August 13, 1973 through January 27, 1981. During this period, Intercoastal, a California corporation, was a reseller of crude oil and refined petroleum products. Economic Regulatory Administration audits of Intercoastal and Gulf States revealed possible violations of the Mandatory Petroleum Price Regulations (MPPR). Subsequently, each firm entered into a Consent Order to settle its disputes with the DOE concerning sales of crude oil and refined petroleum products. Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability with respect to sales to their customers during the settlement periods. The settlement period referenced in the Intercoastal Consent Order is the period October 25, 1973 through January 17, 1981.[2] For the Gulf States Consent Order the settlement period is August 19, 1973 through January 27, 1981.

II. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR part 205, Subpart V. These procedures apply in situations where the DOE cannot readily identify the persons who were injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981) and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

On July 16, 2001, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the Consent Order funds. That PD&O was published in the **Federal Register**, and a 30-day period was provided for the submission of comments regarding our proposed refund plan. *See* 66 FR 38670 (July 25, 2001). More than 30 days have elapsed and OHA has received no comments concerning these proposed refund procedures. Consequently, the procedures will be adopted as proposed.

[1] Pursuant to the Consent Orders, Gulf States remitted $500,000 to DOE and Intercoastal has remitted $28,941.

[2] The Intercoastal Consent Order resolves all possible violations of the petroleum price regulations for the period August 19, 1973 through January 27, 1981. However, the consent order goes on to state that Intercoastal was active as a reseller of crude oil and refined petroleum products from October 25, 1973 through January 27, 1981. *See Consent Order with Intercoastal Oil Corporation*, Case No. HRO–0083 (January 25, 1983) at ¶ 301.

III. Refund Procedures

A. Allocation of Consent Order Funds

Both firms sold crude oil and refined petroleum products. We have been unable to discover factual information concerning the actual amounts of the alleged pricing violations or the distribution of the violations between either firm's sales of crude oil and refined petroleum products. Under the circumstances, i.e., with no factual basis for a decision as to allocation of the consent order funds between crude oil and refined products, one-half of the Intercoastal and Gulf States consent order funds ($264,471 total plus accrued interest) be allocated for restitution for parties injured by Intercoastal's and Gulf States' alleged violations of the pricing regulations for crude oil. The remaining portion of each of the sums remitted by Intercoastal and Gulf States ($264,470 total plus interest) will be allocated for restitution for those parties injured by the firms' alleged violations of the pricing regulations for refined petroleum products.

B. Refined Petroleum Product Refund Procedures

1. Application Requirements

In cases where the ERA is unable to identify parties injured by the alleged overcharges or the specific amounts to which they may be entitled, we normally implement a two-stage refund procedure. In the first stage, those who bought refined petroleum products from the consenting firms may apply for refunds, which are typically calculated on a pro-rata or volumetric basis. In order to calculate the volumetric refund amount, the OHA divides the amount of money available for direct restitution by the number of gallons sold by the firm during the period covered by the consent order.

In the present case, however, we lack much of the information that we normally use to provide direct restitution to injured customers of the consenting firms. In particular, we have been unable to obtain any information on the volumes of the relevant petroleum products sold by the consenting firms during the settlement period. Nor do we have any information concerning the customers of these firms. Based on the present state of the record in these cases, it would be difficult to implement a volumetric refund process. Nevertheless, we will accept any refund claims submitted by persons who purchased refined petroleum products from Intercoastal or Gulf States during the settlement periods discussed above. We will work with those claimants to develop additional information that would enable us to determine who should receive refunds and in what amounts.[3]

To apply for a refund from the Intercoastal or Gulf States Consent Order funds, a claimant should submit an Application for Refund containing the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for additional information, and the name and address of the person who should receive any refund check.[4]

(2) A monthly gallonage purchase schedule covering the relevant consent order period. The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit estimates of its refined petroleum product purchases, but the estimation method must be reasonable and must be explained;

(3) A statement whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in that refund proceeding. If so, an explanation of the circumstances of the other filing or authorization must be submitted;

(4) If the applicant is or was in any way affiliated with the consenting firm, it must explain this affiliation, including the time period in which it was affiliated;[5]

(5) The statement listed below signed by the individual applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled with the name and case number of the relevant firm (Intercoastal Oil Corporation, Case No. LEF–0057 or Gulf States Oil & Refining, Case No. LEF–0073). Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for that information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications must be postmarked by November 30, 2001 and should be sent to the address below:

Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585–0107.

We will adopt the standard OHA procedures relating to refund applications filed on behalf of applicants by "representatives," including refund filing services, consulting firms, accountants, and attorneys. *See, e.g., Starks Shell Service*, 23 DOE ¶ 85,017 (1993); *Texaco Inc.*, 20 DOE ¶ 85,147 (1990) *(Texaco); Shell Oil Co.*, 18 DOE ¶ 85,492 (1989). We will also require strict compliance with the filing requirements as specified in 10 CFR 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant. The OHA reiterates its policy to scrutinize applications filed by filing services closely. Applications submitted by a filing service should contain all of the information indicated above.

Finally, the OHA reserves the authority to require additional information from an applicant before granting any refund in these proceedings.

2. Allocation Claims

We may receive claims based upon Intercoastal's or Gulf States's failure to furnish petroleum products that they were obliged to supply under the DOE allocation regulations that became effective in January 1974. *See* 10 CFR part 211. Any such application will be evaluated with reference to the standards set forth in *Texaco* (and cases cited therein). *See Texaco*, 20 DOE at 88,321.

3. Impact of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) Amendments on Intercoastal and Gulf States Refined Product Refund Claims

The Interior and Related Agencies Appropriations Act for FY 1999 amended certain provisions of the Petroleum Overcharge and Distribution and Restitution Act of 1986 (PODRA). These amendments extinguished rights that refund applicants

[3] Applications for Refund from will be accepted only for refined product pricing violations. With regard to crude oil pricing violations the deadline for filing applications for refund has passed. *See infra.*

[4] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

[5] As in other refund proceedings involving alleged refined product violations, the DOE will presume that affiliates of a consenting firm were not injured by the firm's overcharges. *See, e.g., Marathon Petroleum Co./EMRO Propane Co.*, 15 DOE ¶ 85,288 (1987). This is because the consenting firm presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. *See Marathon Petroleum Co./Pilot Oil Corp.*, 16 DOE ¶ 85,611 (1987), *amended claim denied*, 17 DOE ¶ 85,291 (1988), *reconsideration denied*, 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of the consenting firm were granted a refund, the consenting firm would be indirectly compensated from a Consent Order fund remitted to settle its own alleged violations.

had under PODRA to refunds for overcharges on the purchases of refined petroleum products. They also identified and appropriated a substantial portion of the funds being held by the DOE to pay refund claims (including the funds paid by Intercoastal and Gulf States). Congress specified that these funds were to be used to fund other DOE programs. As a result, the petroleum overcharge escrow accounts in the refined product area contain substantially less money than before. In fact they may not contain sufficient funds to pay in full all pending and future refund claims (including those in litigation) if they should all be found to be meritorious. *See Enron Corp./Shelia S. Brown*, 27 DOE ¶ 85,036 at 88,244 (2000) (*Brown*). Congress directed OHA to "assure the amount remaining in escrow to satisfy refined petroleum product claims for direct restitution is allocated equitably among all claimants." *Omnibus Consolidated and Emergency Supplemental Appropriation Act, 1999*, Pub. L. No. 105–277 § 337, 112 Stat 2681, 2681–295 (1998) (language added to PODRA); *Brown*, 27 DOE at 88,244. In view of this Congressional directive and the limited amount of funds available, it may become necessary to prorate the funds available for the meritorious claimants in the Intercoastal and Gulf States refund proceedings. However, it could be several years before we know the full value of the meritorious claims and the precise total amount available for distribution. It will be some time before we are able to determine the amount that is available for distribution for each claimant.

In light of the above considerations, we will pay successful applicants using the following mechanism. All successful small claimants (refunds under $10,000) will be paid in full. To require small claimants to wait several more years for their refunds would constitute an inordinate burden and would be inequitable. *See Brown*, 27 DOE at 88,244. For all others granted refunds, including reseller claimants who have elected to take presumption refunds, we will immediately pay the larger of $10,000 or 50 percent of the refund granted. Once the other pending refund claims have been resolved, the remainder of the Intercoastal and Gulf States claims will be paid to claimants to the extent that it is possible through an equitable distribution of the funds remaining in the petroleum overcharge escrow account.

C. Refund Procedures for Crude Oil Pricing Violations

With regard to the portion of the consent order funds arising from alleged pricing violations of crude oil ($264,471 plus accrued interest), these funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, (MSRP), *see* 51 FR 27899 (August 4, 1986).[6] Pursuant to the MSRP, OHA will distribute 40 percent of crude oil overcharge funds will be disbursed to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specified that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 Fed. Reg. 11,737 (April 10, 1987) (April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *See City of Columbus Georgia*, 16 DOE ¶ 85,550 (1987).

1. Individual Refund Claims

The amount of money attributed for restitution of crude oil pricing violations is $264,471 plus accrued interest. In accordance with the MSRP, we shall initially reserve 20 percent of those funds ($52,894 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds on a volumetric amount which has been calculated in accordance with the methodology described in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. *See* 57 FR 15562 (March 24, 1995).

The filing deadline for refund applications in the crude oil refund proceeding was June 30, 1994. This was subsequently changed to June 30, 1995. *See* Filing Deadline Notice, 60 FR 19914 (April 20, 1995); *see also* DMLP PDO, 60 FR 32004, 32007 (June 19, 1995). Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications for restitution from purchasers of refined petroleum products for the alleged crude oil pricing violations of Intercoastal and Gulf States will be accepted for these funds. Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.

2. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the crude oil violation amounts subject to this Decision, or $211,577 plus accrued interest, should be disbursed in equal shares to the states and federal government, for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

Accordingly, we will direct the DOE's Office of the Controller to transfer one-half of that amount, or $105,788 plus interest, into an interest bearing subaccount for the states, and one-half or $105,789 plus interest, into an interest bearing subaccount for the federal government.

It Is Therefore Ordered That:

(1) The payments remitted to the Department of Energy by Intercoastal Oil Corporation and Gulf States Oil & Refining, pursuant to consent orders signed on January 25, 1983 and February 1, 1983 respectively, will be distributed in accordance with the forgoing Decision.

(2) Applications for Refund in the Intercoastal Oil Corporation Refund Proceeding, Case No. LEF–0057, and the Gulf States Oil and Refining Refund Proceeding, Case No. LEF–0073, must be postmarked no later than November 30, 2001.

Dated: September 6, 2001.

George B. Breznay,

Director, Office of Hearings and Appeals.

(FR Doc. 01–22975 Filed 9–12–01; 8:45 am)

BILLING CODE 6450–01–P

[6] The MSRP was issued as a result of the Settlement Agreement approved by the court in *The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 FR 29,689 (August 20, 1986) (the August 1986 Order).

DEPARTMENT OF ENERGY

Western Area Power Administration

Casper Creek Crossing, Spence-Thermopolis 230-kV and Alcova-Copper Mountain 115-kV Transmission Lines

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Floodplain Statement of Findings.

SUMMARY: This Floodplain Statement of Findings for the Casper Creek Crossing, Spence-Thermopolis 230-kilovolt (kV) and Alcova-Copper Mountain 115-kV Transmission Lines was prepared in accordance with the U.S. Department of Energy's (DOE) Floodplain/Wetland Review Requirements (10 CFR part 1022). Western Area Power Administration (Western), a power marketing agency of the U.S. Department of Energy (DOE), is the lead Federal agency for a proposal to make repairs and correct erosion problems at the Casper Creek Crossing for the Spence-Thermopolis 230-kV and Alcova-Copper Mountain 115-kV Transmission Lines. This project is located in Natrona County, Wyoming, approximately 40 miles west of Casper, Wyoming. Western plans to replace an existing culvert crossing at the Casper Creek with a rock filled gabion type structure. Approximately 50 yards downstream, additional rock filled gabion type structures will be placed in the creek. A crossing at Casper Creek is necessary to provide access for transmission line inspection and transmission line maintenance. All proposed work will occur within the floodplain of the Middle Fork Casper Creek.

Western prepared a floodplain assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. This action is categorically excluded under DOE's National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR part 1021). A 15-day public review period will be provided before the action is taken.

DATES: Comments on the floodplain action are due September 28, 2001.

ADDRESSES: Comments should be sent to Mr. Rodney Jones, Environmental Specialist, Rocky Mountain Customer Service Region, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003; fax: (970) 461–7213, e-mail rjones@wapa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney Jones, at the above address, telephone (970) 461–7371. For further information on DOE Floodplain/Wetlands Environmental Review Requirements, contact: Ms. Carol M. Borgstrom, Director, NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This Statement of Findings for the proposal to make repairs and correct erosion problems at the Casper Creek Crossing for the Spence-Thermopolis 230-kV and Alcova-Copper Mountain 115-kV Transmission Lines was prepared in accordance with 10 CFR part 1022. A notice of floodplain involvement was published in the **Federal Register** (FR) on June 25, 2001 (66 FR 33678). The State of Wyoming, Office of Federal Land Policy, responded to the notice stating that no State agencies brought up concerns to be addressed in the floodplain assessment. The State of Wyoming requested a copy of the floodplain assessment when it was completed.

The Casper Creek Crossing is located at the Middle Fork Casper Creek, in Natrona County, Wyoming, in T.3 N., R. 86 W., Sections 3 and 4. The road used to access and maintain Western's Spence-Thermopolis 230-kV and Alcova-Copper Mountain 115-kV Transmission Lines has been washed out by flows within the Middle Fork Casper Creek. Since construction of the power lines, the culverts at the stream crossings have been washed out and replaced numerous times. After each wash out, it was necessary to move the stream crossings further upstream to avoid the deeply incised stream channel. The proposed project would construct drop structures and a stream crossing that are designed to stabilize the stream channel, dissipate stream flow velocities during peak flow events, minimize erosion, restore stream banks to reasonable slopes, and allow continued access by Western to inspect and maintain its transmission lines.

Drop structures would be placed at two locations on the Middle Fork Casper Creek. The uppermost location will be approximately 350 feet west (upstream) of the transmission line's rights-of-way. A series of three drop structures is anticipated at the uppermost location. The low water crossing, consisting of riprap, will be located immediately upstream of first drop structure. Drop structures will also be placed at or near the original road crossing (downstream) directly below the existing power lines. A series of four drop structures is anticipated at the downstream location.

The drop structures will be constructed of one-quarter inch thick steel plate, rock riprap, gabion wire, silt liner, and steel pipe. Additionally, riprap will be placed upstream and downstream of the drop structures to provide grade stabilization upstream and downstream of the drop structures. The stream banks between the upper and lower drop structures will be contoured and vegetated. Slopes along this stream reach will be cut back to a 2 to 1 slope ratio (2:1) or less. Upon completing the bank contouring, the slopes will be seeded with native vegetation to promote slope stability.

Western considered an alternative to the proposed project that would involve reinstallation of larger culverts at the present crossing site. However, given the past experience with culverts washing out during heavy rain events, this was not considered a long-term solution to the problem. Repeated culvert washouts were contributing to stream bank erosion and stream channel degradation downstream.

Environmental impacts associated with the proposed project are expected to be minimal. Based on the hydrology of the Middle Fork Casper Creek and apparent lack of hydrophytic vegetation and hydric soils, wetlands are not present at the site. Implementation of the proposed project will stabilize the stream channel, dissipate stream flow velocities, stabilize stream banks, and maintain the chemical, physical, and biological integrity of the Middle Fork Casper Creek. Direct and indirect impacts to other resources (*e.g.*, wildlife and air quality) are expected to be negligible as well.

The project is located within the boundaries of a National Register of Historic Places-eligible archaeological site. Through a conversation between the Western Historic Preservation Officer and the Wyoming State Historic Preservation Office (SHPO), Western contracted to perform archaeological testing to determine if this project will have an effect on the eligibility of the site. A field visit indicated that it is unlikely intact buried features are located in the project area. An extensive augering program will be done within the area to be impacted along the creek, as well as along the access road to the east. Western will consult with the SHPO on the findings of this augering program prior to implementation of the project.

The construction of the project would not affect existing flood characteristics. No measurable change in flood stage is anticipated. Construction activities, which will take approximately 14 days to complete, will be scheduled during late summer to early fall, under low flow conditions. The action conforms to all applicable State and local floodplain protection standards.

A small increased risk of pollution could result from having construction equipment working in the floodplain. This includes the risk of accidental oil or fuel spills from malfunctioning equipment. Given the size of equipment involved and the amount of potential spill material, this risk is considered very low. If a spill were to occur it would be minor and could be readily contained and cleaned up.

Dated: September 5, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01–22973 Filed 9–12–01; 8:45 am]

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DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2004 Resource Pool-Loveland Area Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), published on May 11, 2001, in the **Federal Register**, a notice announcing the Post-2004 Loveland Area Projects Resource Pool Proposed Allocation of Power.

This notice extends the comment period from September 10, 2001, to close of business October 12, 2001. Western held public information and comment forums on the proposed allocations on August 2, 2001, August 7, 2001, and August 9, 2001. As a result of these meetings, several requests were made to extend the comment period to allow for further review of data for those entities receiving an allocation from two projects. This will also allow those entities to submit more in-depth comments on both projects.

DATES: To be assured of consideration, Western must receive all written comments by close of business October 12, 2001.

ADDRESSES: Send written comments about these proposed allocations to: Mr. Joel K. Bladow, Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003. Comments may also be faxed to 970–461–7213 or e-mailed to *post2004lap@wapa.gov*. All documentation developed or retained by Western in developing the proposed allocations is available for inspection and copying at the Rocky Mountain Customer Service Region Office, at 5555 East Crossroads Boulevard, Loveland, CO 80538–8986.

FOR FURTHER INFORMATION CONTACT: Ron Steinbach, Power Marketing Manager, 970–461–7322; David Holland, Project Manager, 970–461–7505; or Susan Steshyn, Public Utilities Specialist, 970–461–7237. Written requests for information should be sent to Rocky Mountain Customer Service Region, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003, faxed to 970–461–7213, or e-mailed to *post2004lap@wapa.gov*.

Dated: September 6, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01–22972 Filed 9–12–01; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7055–8]

Agency Information Collection Activities; EPA ICR No. 1669.03; OMB No. 2070–0158; ICR Renewal Submission to OMB; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the Information Collection Request (ICR) entitled: Lead-based Paint Pre-Renovation Information Dissemination—TSCA Sec. 406(b) (EPA ICR No. 1669.03; OMB Control No. 2070–0158), has been forwarded to the Office of Management and Budget (OMB) for review and approval pursuant to 5 CFR 1320.12. The ICR describes the nature of the information collection activity and its expected burden and cost. The **Federal Register** notice announcing the Agency's intent to seek OMB approval for this ICR, which also provided a 60-day comment period, was issued on January 2, 2001 (66 FR 105). EPA did not receive any comments on this ICR during the comment period.

DATES: Additional comments may be submitted on or before October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on (202) 260–2740 or by e-mail: *farmer.sandy@epa.gov* or access the ICR at *http://www.epa.gov/icr/*. Refer to EPA ICR No. 1669.03 and OMB Control No. 2070–0158.

ADDRESSES: Send your comments, referencing EPA ICR #1669.03, to: Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (MC 2822), 1200 Pennsylvania Ave, NW., Washington, DC 20460.

And send a copy of your comments to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Title: Lead-based Paint Pre-Renovation Information Dissemination—TSCA Sec. 406(b) (EPA ICR No. 1669.03; OMB No. 2070–0158). This is a request to extend an existing approval for a collection of information that is currently scheduled to expire on September 30, 2001. Under 5 CFR 1320.10(e)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

Abstract: This information collection involves third-party notification to owners and occupants of housing that will allow these individuals to avoid exposure to lead-contaminated dust and lead-based paint debris that are sometimes generated during renovations of housing where lead-based paint is present, thereby protecting public health. Since young children are especially susceptible to the hazards of lead, owners and occupants with children can take action to protect their children from lead poisonings. Section 406(b) of the Toxic Substances Control Act (TSCA) requires EPA to promulgate regulations requiring certain persons who perform renovations of target housing for compensation to provide a lead hazard information pamphlet (developed under TSCA section 406(a)) to the owner and occupants of such housing prior to beginning the renovation. Responses to the collection of information are mandatory (see 40 CFR part 745, subpart E). Those who fail to provide the pamphlet as required may be subject to both civil and criminal sanctions.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approved numbers in 40 CFR part 9.

Burden Statement

The annual public reporting burden for this collection of information is estimated to average 0.96 hours per response. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the collection activity and the estimated burden and costs associated with that collection activity, which are only briefly summarized here:

Respondents/Affected Entities: You may be potentially affected by this action if you perform renovations of certain types of housing, constructed prior to 1978, for compensation. Potentially affected categories and entities may include, but are not limited to: Single family housing construction (223321), Multifamily housing construction (23322), Plumbing, heating, and air-conditioning contractors, Painting and wall covering contractors (23521), Electrical contractors (23531), Masonry and stone contractors (23551), Carpentry contractors (23551), Lessors of residential buildings and dwellings (53111), Offices of real estate agents and brokers (53121), and, Residential property managers (53131). Other types of entities not listed could also be affected.

Frequency of Collection: On occasion.

Estimated burden/cost per response: 0.96 hours

Estimated annual number of potential responses: 3,046,000.

Estimated total annual burden hours: 2,938,546 hours.

Estimated annual capital costs: $9,231,000

Estimated total annual burden costs: $95,464,291.

Changes in Estimates From the Last Approval

The total burden associated with this ICR has increased from 2,331,597 hours in the previous ICR to 2,938,546 hours for this ICR. This adjustment in burden reflects adjustments in disclosure burden, with the current renewal assuming a higher disclosure burden for the rule. This increase is offset in part by decreases in first year start-up burden resulting from the elimination of start-up burden estimates for existing renovators and rental property managers (but not new entrants to these occupations), and an increase in the estimated number of renovation events.

Next Step in the Process for this ICR

After providing a 30 day opportunity for additional comments from the public, OMB will review and take action on the Agency's request. OMB may extend the expiration date month-to-month until they take action (see 5 CFR 1320.10(e)(2) and 1320.12(b)(2)). Periodically, EPA publishes a notice in the **Federal Register** listing recent OMB actions on the Agency's ICR submittals.

Dated: September 5, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–22997 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–7]

Supplemental Guidelines for the Award of Section 319 Nonpoint Source Grants to States and Territories in FY 2002 and Subsequent Years

September 5, 2001.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA has developed guidelines for the award of Clean Water Act section 319 nonpoint source grants in FY 2002 and subsequent years. The guidelines are intended to assist States and Territories in identifying the process and criteria to be used in distributing section 319 grants in FY 2002 and subsequent years. The process and criteria for FY 2002 are generally the same as for FY 2001, with only slight modifications. The process and criteria for FY 2003 and beyond provide for a more concentrated focus on the implementation of Total Maximum Daily Loads (TMDLs) related to NPS pollution.

DATES: The guidelines are effective September 13, 2001.

ADDRESSES: Persons requesting additional information should contact Romell Nandi at (202) 260–2324; *nandi.romell@epa.gov;* or U.S. Environmental Protection Agency (4503–F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

The complete text of today's guidelines is also available at EPA's Nonpoint Source website: *http://www.epa.gov/owow/nps/cwact.html*

Dated: September 5, 2001.

Carl F. Myers,

Acting Director, Office of Wetlands, Oceans, and Watersheds.

Memorandum

Subject: Supplemental Guidelines for the Award of Section 319 Nonpoint Source Grants to States and Territories in FY 2002 and Subsequent Years.

From: Carl F. Myers (for) Robert H. Wayland III, Director Office of Wetlands, Oceans, and Watersheds.

To: EPA Regional Water Division Directors State and Interstate Water Quality Program Directors.

To provide States and Territories (hereafter "States") with sufficient lead time to develop FY 2002 grant applications for nonpoint source funding (NPS) under Section 319 of the Clean Water Act (CWA), I am providing you the FY 2002 guidelines at this time. When the President signs EPA's FY 2002 appropriations bill later this year, my staff will immediately send you the State-by-State allocations based upon the long-standing 319 allocation formula. We also intend to publish guidance addressing Tribal allocations later this year.

Introduction

EPA and the States have held several significant meetings around the country during recent months in which we discussed the most appropriate means to restore waters that are listed as impaired by NPS pollution. In the national meetings of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) held in March and August of 2001, the States and EPA discussed the opportunities that exist to more effectively utilize CWA Section 319 funds to help implement TMDLs related to nonpoint source pollution (NPS TMDLs). In those meetings, State representatives expressed the view that Section 319 provides an appropriate and effective programmatic framework for States to develop and implement NPS TMDLs. This guidance is intended to strengthen the link between the Section 319 NPS program and the development and implementation of NPS TMDLs and to promote the use of Section 319 dollars to assist in the development and implementation of NPS TMDLs.

I appreciate the many helpful comments that we received from the States and EPA Regions in response to the draft guidelines that we provided to you for your review on May 24, 2001. The final guidelines make a number of significant changes in response to your comments. Most importantly, as explained in detail below, we have

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established FY 2002 guidelines as a transition year towards increasing the program's focus on implementing TMDLs; the full transition as envisioned in the draft guidelines will not take place until FY 2003. This will provide States with more time to complete the development of TMDLs and watershed-based plans that will provide a strong foundation for implementation activities.

Beginning in FY 2002, the U.S. Environmental Protection Agency (EPA) intends to promote increased use of Section 319 funds to develop and implement NPS TMDLs or the NPS components of mixed-source TMDLs (hereafter, both of these types of TMDLs will be referred to as "NPS TMDLs"). NPS TMDLs, together with watershed-based plans designed to implement the NPS TMDLs, provide the necessary analytic link between actions on the ground and the water quality results to be achieved. In the absence of such an analytic framework, it is difficult to develop and implement a watershed project that will achieve water quality standards, or to determine causes of failure when that occurs. Therefore, EPA believes that improving the integration of NPS TMDLs and watershed plans to implement these NPS TMDLs will provide the most effective means to accelerate achievement of water quality standards.

The approach outlined below is intended to be used for the foreseeable future. However, as mentioned above, EPA has heard the States' concerns that States need more time to increase their focus upon implementing NPS TMDLs. Therefore, EPA will treat FY 2002 as a transitional year, so that full implementation of the new features of these guidelines will begin in FY 2003. I will first discuss the overall approach to be taken over FY 2003 and beyond, and then I will discuss the steps that we are asking the States to take in FY 2002.

Several earlier guidance documents govern the Section 319 grants process, and they remain in effect except to the extent that they are specifically modified in this memorandum. These are summarized in Appendix A to this memorandum. Next year, EPA will consolidate all current requirements and recommendations into a single document to make reference easier.

Focus on Restoring Waters Impaired by NYPS Pollution

In FY 1999 and 2000, EPA directed that $100 million (referred to as "incremental funds") be used to develop and implement watershed restoration action strategies ("WRASs") in "Category I" watersheds that the states identified as most in need of attention. In FY 2001, EPA recognized the need to increasingly focus Section 319 grant dollars on implementing approved NPS TMDLs, under EPA's existing effective TMDL regulations and guidance. Based on this need, EPA stated that incremental funds may be used to develop and implement approved NPS TMDLs for any 303(d)-listed waterbodies (whether or not these were located within a Category I watershed), as well as to develop and implement WRASs.

Beginning in FY 2002, EPA will continue to strengthen its support for State efforts to implement NPS TMDLs. A focused and sustained effort to restore impaired waters is essential. NPS TMDLs, together with watershed-based plans to implement NPS TMDLs, provide the technical underpinning for defining the problems and designing the solutions to our nation's most pressing water quality problems. EPA has been pleased to observe that all of the upgraded State nonpoint source programs now place emphasis on the restoration of impaired waters.

For these reasons, EPA has decided to strengthen support for the State efforts with the steps outlined below. These steps are designed to promote the development and implementation of NPS TMDLs based upon the TMDL regulations that have been published at 40 CFR 130.7 in 1985 and 1992, as well as guidance published by EPA to assist in the implementation of those regulations.

FY 2003 and Beyond

Beginning in FY 2003, the following three principles will be applied:

1. States may continue to use up to 20% of the "base" funds (i.e., funds other than the incremental funds) to develop NPS TMDLs and watershed-based plans to implement NPS TMDLs, or to conduct other NPS monitoring and program assessment/development activities, as in the past. EPA anticipates that States will prioritize their NPS TMDL development activities in accordance with their TMDL schedules that they have developed pursuant to their Section 106 grants. (See pages 2–3 of the February 16, 2001, memorandum from Michael Cook, Director of EPA's Office of Wastewater Management, entitled "FY 2001 Clean Water Act Section 106 Grant Guidance.")

2. States may use 20% of the "incremental" $100 million funds to develop NPS TMDLs as well as watershed-based plans that describe the actions that are necessary to implement NPS TMDLs. In doing so, EPA asks the States to bear in mind that developing sets of NPS TMDLs on a watershed basis as a unified whole, and implementing those NPS TMDLs holistically, usually provides the most technically sound and economically efficient means of addressing water quality problems. Therefore, EPA encourages States to include in their watershed-based plans approaches that will address all of the sources of impairments and threats to the watersheds in question. Thus, the watershed-based plans should address not only NPS TMDLs, but also any pollutants and sources of pollution that must be addressed to assure the long-term health of the watershed.

We recognize that some States have not yet developed sufficiently detailed watershed-based plans to help the States and their partners determine which management measures or practices should be implemented in particular places in the watershed to assure that the load reduction identified in a NPS TMDL is achieved and that all significant water quality problems in the watershed are successfully addressed. In such cases, a State may need to use more than 20% of its incremental funds to develop sound watershed-based plans that can then be implemented successfully. Where this is the case, the State and the Region should discuss the State's need to devote greater resources to completing watershed-based plans, recognizing at the same time the urgent need to focus most 319 funds on actual implementation efforts to achieve water quality improvements. Based on these discussions, the Region may authorize the State to use more than 20% of the incremental funds to develop these watershed-based plans.

To ensure that Section 319 projects succeed in restoring waters impaired by nonpoint source pollution, watershed-based plans that are developed with Section 319 funds should include the following elements. These elements will help provide reasonable assurance that the nonpoint source load allocations identified in the NPS TMDL will be achieved, as discussed in the Assistant Administrator's August 8, 1997 memorandum, "New Policies for Establishing and Implementing Total Maximum Daily Loads (TMDLs)." (See also Appendix C of the May 1996 Nonpoint Source Guidance for more discussion of a "well-designed watershed implementation plan", which specifically discusses most of the elements listed below):

a. An identification of the sources or groups of similar sources that will need to be controlled to achieve the load reductions established in the NPS TMDL (and to achieve any other watershed goals identified in the watershed-based plan);

b. A description of the NPS management measures that will need to be implemented to achieve the load reductions established in the NPS TMDL (as well as to achieve other watershed goals identified in the watershed-based plan); an estimate of the load reductions expected for these management measures (recognizing the natural variability and the difficulty in precisely predicting the performance of management measures over time); and an identification of the critical areas in which those measures will need to be implemented to achieve the NPS TMDL;

c. An estimate of the sources of technical and financial assistance needed, and/or authorities that will be relied upon, to implement the plan. As sources of funding, States should consider the use of their 319 programs, State Revolving Funds, USDA's Environmental Quality Incentives Program and Conservation Reserve Program, and other relevant Federal, State, local and private funds that may be available to assist in implementing the plan;

d. An information/education component that will be used to enhance public understanding of the project and encourage their participation in selecting, designing, and implementing the NPS management measures;

e. A schedule for implementing the NPS management measures identified in the plan that is reasonably expeditious;

f. A description of interim, measurable milestones (e.g., amount of load reductions, or improvement in biological or habitat parameters) for determining whether NPS management measures or other control actions are being implemented;

g. A set of criteria that can be used to determine whether substantial progress is being made towards attaining water quality standards and, if not, the criteria for determining whether the NPS TMDL needs to be revised.

h. A monitoring component to evaluate the effectiveness of the implementation efforts, measured against the criteria established under item (g) immediately above.

3. States should use any remaining incremental funds to implement NPS TMDLs for which watershed-based plans have been completed. To assure that the implementation of NPS TMDLs actually results in the restoration of watersheds, as well as to maximize efficiencies, we recommend that States use these incremental 319 funds on a watershed basis to develop and implement the NPS TMDLs for all the waters impaired by nonpoint source pollution in a watershed. In addition, as in the plan development stage, we recommend that States' implementation activities funded by the grant also address other significant nonpoint sources and pollutants in these watersheds that are not addressed in the NPS TMDL, but that nonetheless should be controlled to assure a successful long-term solution to the watershed's existing and threatened water quality problems.

We recognize that States already have in place or have been developing watershed plans and strategies of varying levels of scale, scope, and specificity that may contribute significantly to the process of developing and implementing watershed-based plans. We encourage States to use these plans and strategies, where appropriate, as building blocks for developing and implementing the watershed-based plans. In particular, we recommend that States use their WRASs, water quality management plans (WQMPs), comprehensive coastal management plans (CCMPs), and other similar holistic watershed documents, to help guide their watershed-based approaches to NPS TMDL development and implementation.

We further recommend that States give their highest funding priority to projects that are supported by additional funding by other Federal, State, and local agencies, SRF funds, or private sector funding. Additionally, States should consult their SRF Program's, Integrated Planning and Priority Setting System, if such system is in use, to address the highest priority water quality improvement projects (see www.epa.gov/owm/finan.html). Given the significant expense of many watershed projects, such an approach will help expedite successful implementation of needed practices and thus speed the restoration of water quality. It will also help assure that watersheds are addressed in a holistic manner that accounts for the broad variety of stressors in each watershed.

FY 2002: Transition to Increased Focus on Implementing TMDLs

EPA recognizes that the approach outlined above cannot be implemented immediately in all States. Some States are already implementing well-designed watershed projects in impaired waters for which no NPS TMDL has yet been established, and halting such a project pending development of a NPS TMDL and a watershed-based plan to implement the NPS TMDL may well be counterproductive. Furthermore, some States have already published requests for new project proposals to be submitted by local watershed groups and conservation districts for FY 2002 funding, and watershed projects have already been planned and submitted to the State by such groups.

To enable such projects to go forward and provide States and their local partners an adequate opportunity to transition into the use of a TMDL-based framework, EPA will use the following approach for the incremental 319 funds in FY 2002:

Step 1. If a State has developed any watershed-based plans to implement TMDLs, implementation of the TMDLs in those watersheds will receive the highest funding priority.

Step 2. A State may use any incremental 319 funds remaining after Step 1 to address Section 303(d)—listed waterbodies even in the absence of a NPS TMDL, provided that a watershed-based plan has already been developed which identifies the pollutants that are causing the water quality impairment and generally describes the types of measures or practices to be implemented to solve the water quality problem.

Step 3. For any watershed project addressing Section 303(d)-listed waterbodies and funded under the Section 319 grant, the State must commit in the work plan (and may use 319 funding) to develop a NPS TMDL and a watershed-based plan to implement the NPS TMDL. Continued funding of the project in FY 2003 would be contingent upon completion of the NPS TMDL and watershed-based plan.

Protection of Threatened Waters

While States need to place very high priority on the need to restore waters impaired by nonpoint source pollution, as described above, I wish to recognize and emphasize the continued need to protect waters that currently are not impaired by nonpoint source pollution to assure that they remain unimpaired. This particularly includes waters whose good quality is threatened by such factors as changing land uses. EPA recommends that States place a high priority for the use of their base Section 319 funding on such protective activity. This includes both on-the-ground projects and broader educational and regulatory programs established by the State to promote broad awareness and implementation of activities that can help protect these waters from degradation by new and expanded land use activities which cause nonpoint source pollution.

Operation and Maintenance

The question has arisen as to grantees' obligations to continue operating and

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maintaining measures and practices that have been funded with Section 319 dollars. Each Section 319 grant should contain a condition requiring that the State assure that its project sub-awards (e.g., sub-contracts and sub-grants) include a provision that any management practices implemented for the project be properly operated and maintained. For assistance in developing appropriate grant condition language, Regions should work with their Office of Regional Counsel. States may wish to consult with colleagues implementing similar programs, such as USDA's Environmental Quality Incentives Program, for information on how to develop appropriate contract language that is tailored to the types of practices expected to be funded in a particular project.

Reporting NPS Results

Section 319(h)(8) of the CWA requires EPA to determine, prior to awarding a Section 319 grant, that the State has made "satisfactory progress" in meeting the schedule set forth in its NPS management program. In addition, Section 319(h)(11) requires that States report annually to EPA concerning their progress in meeting their schedules of milestones contained in their nonpoint source management programs and, to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality. These annual reports in turn can assist the Region in making the satisfactory determination required by Section 319(h)(8).

To provide tools that facilitate these determinations and reports, EPA is in the process of modifying the nonpoint source grants computer-based data system, the Grants Reporting and Tracking System (GRTS), which will include new and modified data elements to be reported by States.

The most significant new mandated fields will be to: (1) Identify the location of the stream (or other waterbody) reach or reaches that are intended to be affected by each 319-funded project; (2) describe the project; (3) state whether the project consists of one or more of (a) the development of a NPS TMDL, (b) the development of a NPS TMDL implementation plan to achieve specific load-reduction goals, (c) the actual implementation of such a plan or (d) none of the above; and (4) annually provide (for nitrogen, phosphorus, and/or sediments) an estimate of load reductions achieved by the project. EPA intends to use these data as a means of tracking and reporting to Congress and the public the progress being made by States to successfully implement their NPS TMDLs and other projects to improve water quality.

We have now web-enabled GRTS, with appropriate password protections, to make it easier for States to use the system and to enable State sub-grantees to use GRTS as well (if the State chooses to allow them access). Furthermore, EPA has released the first version of WATERS (a new data system that currently contains 303(d) and water quality standards data), and we will now begin to link GRTS to WATERS through common geolocational identifiers. Thus, 319-funded watershed projects will be linked through geolocational data to water quality status and, over time, to water quality improvement information contained in WATERS. While there are likely to be a number of factors contributing to improvements in a particular waterbody's quality (e.g., point source controls as well as various non-319 funds and programs that address nonpoint sources), the geolocational link will enable EPA, States, and the public to at least note the contribution that 319-funded projects are making to such improvements.

To ensure that required information is input into GRTS, each Section 319 grant award must include a condition requiring that the State enter all mandated data elements into GRTS. Information that is available at the time of grant award (e.g., project location and description) should generally be entered into GRTS within 3 months of the receipt of the grant or by a specific date agreed to by the Region and State. Other information should be entered at the appropriate time after project implementation has begun (e.g., load reductions would be reported annually once project implementation has begun).

Conclusion

Significant challenges remain in our efforts to abate NPS pollution, protect threatened waters, and restore impaired aquatic resources. EPA will work with States to make the most effective use of Federal resources to meet these challenges.

If you have any questions or comments, please contact me at 202–260–7166 or *wayland.robert@epa.gov*, or have your staff contact Dov Weitman, Chief of the Nonpoint Source Control Branch, at 202–260–7088 or *weitman.dov@epa.gov*.

cc: State Nonpoint Source Coordinators
EPA Regional Water Quality Branch Chiefs
EPA Regional Nonpoint Source Coordinators
EPA Regional Clean Lakes Coordinators
EPA Regional TMDL Coordinators
Robbi Savage (ASIWPCA)

Appendix A—Significant Nonpoint Source Grants Guidance Documents

EPA has published several guidance documents that apply to the Section 319 grants guidance process. These documents are listed and briefly summarized below. Each of them may be reviewed online from the following address at EPA's nonpoint source website: www.epa.gov/owow/nps/cwact.html

(1) *Nonpoint Source Program and Grants Guidance for Fiscal Years 1997 and Future Years* (May 1996). This 33-page document is the chief national nonpoint source program document. It describes criteria and processes for States and Territories to upgrade their nonpoint source management programs; summarizes statutory and regulatory provisions that apply to the award of nonpoint source grants; and provides guidance designed to assist States and Territories in implementing effective programs and projects.

(2) *Process and Criteria for Funding State and Territorial Nonpoint Source Management Programs in FY 1999* (August 18, 1998). This 6-page document established guidelines for the use of incremental dollars ($100 million) that were anticipated to be appropriated later that year. The guidance (1) authorized States and Territories to use up to 20 percent of their Section 319 funds to upgrade and refined their nonpoint source programs and assessments; (2) directed that the incremental dollars be focused upon implementation of watershed restoration action strategies in high-priority watersheds identified by the States and Territories as not meeting clean water and other natural resource goals; and (3) established a schedule for the award of the incremental funds.

(3) *Funding the Development and Implementation of Watershed Restoration Action Strategies under Section 319 of the Clean Water Act* (December 4, 1998). This 4-page document reiterated the priority placed on using the incremental $100 million to address the States' and Territories' high-priority watersheds that do not meet clean water and other natural resource goals, focused particularly in sub-watershed where NPS control activities are likely to have the greatest positive impact. It identified 303(d) sub-watersheds as high-priorities for such work.

(4) *Supplemental Guidance for the Award of Section 319 Nonpoint Source Grants in FY 2000* (December 21, 1999). This 10-page document (1) asked Regions to assure that, for all 319-funded programs or projects that assist animal feeding operations (AFOs), the 319 grants include a provision (either as a grant condition or through a separate document such as a work plan or BMP implementation plan) to assure that any AFO that receives financial assistance pursuant to the grant has and will implement a comprehensive nutrient management plan; (2) recommended steps intended to achieve a suggestion by the congressional appropriations committees that 5 percent of the Section 319 funds be allocated to clean lakes; and (3) announced and discussed EPA's intention to work with the States to consider changes to the Section 319 reporting/tracking system to support program needs, including promoting better integration with Section 305(b) data and Section 303(d) lists.

(5) *Supplemental Guidance for the Award of Section 319 Nonpoint Source Grants in FY 2001* (65 FR 70899–70905, Nov. 28, 2000). This document (1) discussed how States and Territories may use funding increases appropriated in FY 2001; (2) broadened the use of the "incremental" ($100 million) to authorize their use to develop and implement TMDLs for any 303(d)-listed waterbodies throughout the State; and (3) directed EPA Regional offices to condition grants to those States with conditional approval under Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 ("CZARA") devote at least $100,000 of its FY 2001 319 grant dollars to specific actions that are designed to meet all outstanding conditions for NOAA and EPA approval.

[FR Doc. 01–22994 Filed 9–12–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34248; FRL–6802–7]

Availability of Phosmet Partial Interim Reregistration Eligibility Decision Document for Comment and Availability of Benefits Assessments for Azinphos-methyl and Phosmet

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60–day public comment period on the partial Interim Reregistration Eligibility Decision document (IRED) for the pesticide active ingredient phosmet. The document represents EPA's partial formal regulatory assessment of the health and environmental data base of the subject chemical and presents the Agency's determination on a partial list of uses (17 use sites) for which phosmet is eligible for reregistration. This notice also announces the availability of twenty-four Benefits Assessments for azinphos-methyl and phosmet. These documents provide a biological assessment of the use of azinphos-methyl and phosmet, and an economic assessment of the impacts on revenue and crop production caused by potential modification to existing use patterns. Any comments on the benefits assessments should be provided to EPA as soon as possible to ensure their consideration in the Agency's decisions.

DATES: Comments, identified by docket control number OPP–34248, must be received on or before November 13, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**: To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34248 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Carol Stangel, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; and e-mail address: *stangel.carol@epa.gov*.

For technical questions contact: Diane Isbell, Chemical Review Manager, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8154; and e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticide users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/*. To access this document, on the homepage select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. To access RED and IRED documents electronically, go directly to information on the EPA Office of Pesticide Programs homepage, at *http://www.epa.gov/pesticides/reregistration/status.htm*.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34248. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34248 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records

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Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to:*opp-docket@epa.gov*, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34248. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued a partial Interim RED for the pesticide active ingredient phosmet. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. This IRED is a partial decision on 17 of the 43 use sites for phosmet. The Agency is making a partial decision on this pesticide because phosmet and azinphos-methyl benefits are linked. The phosmet use sites that are not addressed in this document will be addressed once the azinphos-methyl IRED is completed. The data base to support the reregistration of this partial list of use sites for phosmet is substantially complete, and the pesticide's risks have been mitigated so that it will not pose unreasonable risks to people or the environment when mitigation is implemented. In addition, EPA is reevaluating existing pesticides and reassessing tolerances under the Food Quality Protection Act (FQPA) of 1996. The pesticides included in this notice also are being evaluated to ensure that they meet the FQPA safety standard.

All registrants of pesticide products containing phosmet have been sent the partial IRED. The label requirements and product specific data requirements are not included in the partial Interim RED for phosmet, but will be included once the entire phosmet Interim RED is completed.

The reregistration program is being conducted under Congressionally-mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this partial Interm RED with a 60–day comment period. It is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the partial IRED. All comments will be carefully considered by the Agency. If any comment significantly affects the Agency's findings or decisions on phosmet, EPA will reflect the appropriate changes in issuing the complete IRED for phosmet.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this partial IRED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product specific data on individual end-use products, and either reregistering products or taking "other appropriate regulatory action."

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 5, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23004 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34225F; FRL–6800–6]

Diazinon; Receipt of Requests For Amendments, and Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Several companies that manufacture diazinon [O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate) pesticide products have asked EPA to cancel or amend the registrations for their end-use products containing diazinon to delete all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requests for voluntary termination of the above mentioned uses through registration cancellations or amendments were submitted to EPA in May, June, and August 2001. EPA intends to grant these requests by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon the issuance of the cancellation order, any distribution, sale, or use of diazinon products listed in this Notice will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments on the requested amendments to delete uses and the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34225. Comments must be received on or before October 15, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34225 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: John Hebert, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–6249; fax number: (703) 308–7042; e-mail address: *hebert.john@epa.gov.*

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stocks provisions that will be set forth in the cancellation order that the Agency intends to issue at the close of the comment period for this announcement.

General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use diazinon products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/.* To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the **Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* To access information about the risk assessment for diazinon, go to the homepage for the Office of Pesticide Programs or go directly to *http://www.epa.gov/pesticides/op/diazinon.htm.*

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34225. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34225 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *opp-docket@epa.gov*, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34225. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

Certain registrants requested in letters dated May, June, and August 2001, that their diazinon registrations be amended to delete all indoor uses, certain agricultural uses, and any other uses that the registrants do not wish to maintain. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, other diazinon end-use registrants requested voluntary cancellation of their diazinon end-use registrations with indoor use and/or certain outdoor non-agricultural uses, and any other uses that the registrants do not wish to maintain. Pursuant to section 6(f)(1) of the FIFRA, EPA is announcing the Agency's receipt of these requests.

These requested cancellations and amendments are consistent with the requests in December 2000, by the manufacturers of diazinon technical products, and EPA's approval of such requests, to terminate all indoor uses and certain agricultural uses from their diazinon product registrations because of EPA's concern with the potential exposure risk, especially to children. The indoor uses and agricultural uses subject to cancellation are identified in List 1 below:

List 1.—Uses to be Canceled

Indoor uses. Pet collars, or inside any structure or vehicle, vessel, or aircraft or any enclosed area, and/or on any contents therein (except mushroom houses), including, but not limited to food/feed handling establishments, greenhouses, schools, residences, commercial buildings, museums, sports facilities, stores, warehouses, and hospitals.

Agricultural uses. Alfalfa, bananas, Bermuda grass, dried beans, dried peas, celery, red chicory (radicchio), citrus, clover, coffee, cotton, cowpeas, cucumbers, dandelions, forestry, (ground squirrel/rodent burrow dust stations for public health use), kiwi, lespedeza, parsley, parsnips, pastures, peppers, potatoes (Irish and sweet), sheep, sorghum, squash (winter and summer), rangeland, Swiss chard, tobacco, and turnips (roots and tops).

As mentioned above, the requests announced in this **Federal Register** notice also include registration cancellations and/or amendments to terminate certain uses that the registrants do not wish to maintain. The specific requests are identified in Tables 1 and 2 of this notice.

EPA has begun the process of reviewing the requested amendments which cannot be finalized until the end of the public comment period and provided that no substantial comments need to be addressed. EPA also intends to grant the requested product and use cancellations by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests.

B. Requests for Voluntary Cancellation of End-Use Products

The registrants and end-use product registrations containing diazinon for which cancellation was requested are identified in the following Table 1.

TABLE1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration Number	Product Name: Use Deletions
Value Garden Supply, LLC	70–177	Kill-Ko Diazinon 2E Insect Spray
	70–249	Rigo Diazinon AG500 Insecticide
	70–252	Rigo Diazinon 5% Granules
	192–145	Dexol Diazinon 25% Insect Spray
	192–165	Dexol Diazinon 2% Granules
	192–194	Dexol Ant and Roach Killer
	192–208	Dexol Diazinon Insect Spray
	769–569	Stephenson Chemicals D.P.S. Roach Powder
	769–571	Suregard Diazinon Spray
	769–630	SMCP Special Residual Insect Spray
	769–750	PCE Diazinon-Pyrethrum Residual Spray
	769–754	PCE Diazinon DDVP Residual Spray
	769–755	X-It Formula 120
	769–768	PCE Diazinon Roach Dust
	769–769	Formulation 050
	769–784	Di-Azz Ready-to-Use
	769–791	Superior Dy-All
	769–824	PCO Crack and Crevice
	769–861	Pratt Diazinon 25E Insect Spray
	769–862	Pratt Diazinon 5% Granular Lawn Insect Control
	769–863	Pratt Diazinon 2% Granular Lawn Insect Control
	769–890	Agrisect Diazinon 5% Granular
	769–891	Agrisect Brand Insecticide Diazinon 2% Dust for Military Use
	769–922	Science 5% Diazinon Dust
	769–930	Warner Enterprises Ant, Roach, and Spider Spray
	769–956	Pratt 14% Diazinon
	769–974	Diazinon 22.4% Lawn and Garden Water Based Insecticide
	5887–104	Black Leaf 5% Diazinon Dust
	5887–124	Black Leaf 5% Diazinon Granules
	5887–132	Black Leaf 25% Diazinon
Whitmire Micro-Gen	499–228	PT 265-A Knox Out Microencapsulated Diazinon Research Laboratories, Inc.
	499–330	Whitmire TKO Microencapsulated Diazinon (PT 265)
	499–422	TC 132 (TKO PT 265-Greenhouse)
Prentiss Incorporated	655–457	Prentox® Diazinon 4E Insecticide
	655–462	Prentox® Diazinon 4S Insecticide
	655–465	Prentox® Diazinon 2D Insecticide Dust
	655–519	Prentox® Liquid Household Spray #1
	655–645	Prentox® Diazinon Emulsifiable Concentrate
	655–799	Prentox® Diazinon Lawn and Garden Insecticide
Green Light Company	869–219	Green Light Diazinon 25
PBI Gordon Corporation	2217–496	Gordon's Wasp and Hornet Bomb
Sergeant's Pet Products, Inc.	2517–24	Double Duty Plus Flea and Tick Collar with Nutrisorb for Dogs
	2517–25	Double Duty Plus Flea and Tick Collar with Nutrisorb for Cats
	2517–29	Double Duty Reflecting Flea and Tick Collar for Cats
	2517–30	Double Duty Reflecting Flea and Tick Collar
Cerexagri, Inc.	4581–379	KNOX OUT® GH
Helena Chemical Company	5905–441	Omni-Diazinon
	5905–444	Helena Diazinon 40W
	5905–525	Diazinon 4EC
Chemical Packaging Corp.	7405–2	Chemi-Cap Roach and Ant Killer
Pursell Industries, Inc.	8660–46	VertaGreen Household Insecticide
	8660–59	VertaGreen Sod Webworm Spray
	8660–79	VertaGreen Diazinon 12.5% Insect Spray
	8660–89	VertaGreen Diazinon 500 Insecticide
	8660–91	VertaGreen Diazinon Insecticide 25 Emulsifiable Concentrate
	8660–95	VertaGreen for Pro Use Diazinon 14G
	8660–103	VertaGreen Lawn Food and Insecticide
	8660–124	VertaGreen Diazinon AG 500 Insecticide
	8660–206	Koos Nature's Best Lawn and Garden Insect Control
	8660–233	Vigro 5% Diazinon Granules Lawn and Garden Insect Control

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TABLE1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Registration Number	Product Name: Use Deletions
Spectrum Group, Division of United Industries Corp.	8845–94 8845–124	Sprectracide Crawling Insect Control Granules Sprectracide Granules Formula 2
Safeguard Chemical Corp.	8848–4 8848–55 8848–56 8848–57 8848–58	5–11 Roach and Bug Killer Black Jack Roach and Ant Killer IV 707 Residual Formula-4 Roach Bomb 707 Landlord's Formula Two 707 Residual Formula #2
Sunniland Corporation	9404–65	25% Diazinon Liquid Concentrate
Chemsico, Division of United Industries Corp.	9688–92 9688–128 9688–132	Chemsico Granules Formula 1 Chemsico Diazinon Insect Spray Chemsico Insecticide PD
Agriliance	9779–212	Diazinon 4E
The Sherman Williams Co.	10900–96	Rescue Ant and Roach
Sungro Chemicals, Inc.	11474–31 11474–34 11474–72	Sungro Residual Roach Dope Sunbugger Residual Ant and Roach Aqueous Power Residual Spray
Speer Products Incorporated	11715–3 11715–16 11715–51 11715–90 11715–124 11715–216 11715–296	Speer Bug Killer Speer Professional Formulation Diazion Bug Killer Speer Insecticide Diazinon Speer Professional Home Pest Control Better World Multi-Purpose Aqueous Spray Sudbury Diazinon Insect Spray 5% Diazinon Granules Lawn and Garden Insect Control
Louisiana Chemical U.S.A., Incorporated	11746–32 11746–33 11746–42	Davis Kill-A-Bug III Davis Kill-A-Bug IV Davis Kill-A-Bug 4E
Drexel Chemical Company	19713–92	Drexel D-264 4E
Unicorn Laboratories	28293–229 28293–240 28293–241 28293–242 28293–243 28293–244 28293–245 28293–246 28293–247 28293–248 28293–249 28293–250 28293–251	Unicorn Diazinon 4E Unicorn Diazinon Granular Lawn Insect Control Unicorn Diazinon 1% EW Insecticide Unicorn Diazinon Home Pest Control Insecticide Unicorn Diazinon Home Pest Control Insecticide II Unicorn Diazinon Home Pest Control Pressurized Insecticide Unicorn Diazinon 1% ME Insecticide Unicorn Diazinon 0.5 RTU Insecticide Unicorn Diazinon 2.0 Insecticide Unicorn Diazinon 1% ME Insecticide Unicorn Diazinon 1% EW Insecticide Unicorn Diazinon 5.0 EW Insecticide Unicorn Diazinon 2D Insecticide Dust
Professional Supply, Inc.	37915–4	Professional Brand Pest Control Formula D 4E
Quest Chemical Corp.	44446–7 44446–44	CS 101 Roach and Ant Spray Double Trouble Water Base Diazinon Roach and Ant Spray
Celex, Division of United IndustriesCorp.	46515–17	Super K-GRO Fruit and Vegetable Insect Control
Marman USA, Inc.	48273–24	Marman Diazinon 48 EC
Alljack, Division of United Industries Corp.	49585–3 49585–5	Diazinon Granules Diazinon Soil and Turf
MicroFlo Company	51036–64 51036–197	Diazinon 4E Diazinon 4E AG
ProGuard, Inc.	58866–10	Master Nurseyman Diazinon-25 Insect Control
PM Resources, Inc.	67517–18 67517–29 67517–62	Diazinon Insecticide 25E Diazinon Granules 5% Diazinon Lawn and Garden WBC

TABLE1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Registration Number	Product Name: Use Deletions
Contract Packaging, Inc.	67572–79	CP Diazinon Lawn and Garden WB Concentrate

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless:

i. The registrants request a waiver of the comment period.

ii. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

In this case, all of the registrants have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested cancellations. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested cancellations at the close of the comment period for this announcement unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

C. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend the registrations of their pesticide end-use products containing diazinon to delete certain uses from certain products. The following Table 2 identifies the registrants, the product registrations that they wish to amend, and the uses that they wish to delete through registration amendments. Table 2.

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration Number	Product Name: Use Deletions
The Scotts Company	239–2479	Ortho Diazinon Soil and Turf Insect Control: Celery
Prentiss Incorporated	655–556 655–557	Diazinon 5G Insecticide: Celery Prentox Diazinon 14G: Beans (lima, pole, snap; succulent varieties only), Celery, Cucumbers, Parsley, Peas (succulent varieties only), Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, and Turnips
Southern Agricultural Insecticides, Incorporated	829–262	SA–50 Diazinon AG 500 Insecticide: Cucumbers, Peppers, Potatoes, Squash (summer and winter), Swiss Chard, Lawns, Grasslands Insects, and Nuisance Pests in Outside Areas
The Green Light Company	869–139 869–231	Green Light Diazinon 5 Granules: Celery Green Light Diazinon: Almonds
Lebanon Seaboard Corporation	961–358	Lebanon Lawn and Garden Insecticide with Diazinon 5G: Celery
Wilbur-Ellis Company	2935–388 2935–408	Diazinon 4 Spray: Beans, Cucumbers, Parsley, Parsnips, Peas, Peppers, Potatoes, Squash, Sweet Potatoes, Swiss Chard,Turnips, Grasslands, Ditch Banks, Roadsides, Wasteland, Non-crop Areas, Barrier Strips, Ornamental (not grown outdoor in nurseries), Lawn Pest Control, and Nuisance Pests in Outside Areas Diazinon 14G: Beans, Celery, Cucumbers, Parsley, Peas, Peppers, Potatoes, Squash, Sweet Potatoes, Swiss Chard, and Turnips
Cerexagri Incorporated	4581–392	KNOX OUT® NL: Commercial Landscape Uses (ornamentals in landscaped, mulched, or plant bed areas of commercial properties)

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TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration Number	Product Name: Use Deletions
Helena Chemical Company	5905–248	Diazinon AG500 Insecticide: Beans (lima, snap, and pole; succulent only), Parsley, Parsnips, Peas (succulent only), Peppers, Potatoes (Irish), Squash (summer and winter), Sweet Potatoes, Swiss Chard, Ornamentals (outdoor nurseries only), Lawns, and Nuisance Pests in Outdoor Areas
	5905–262	Diazinon 14G: Beans (lima, snap, and pole; succulent only), Parsley, Peas (succulent only), Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, and Swiss Chard
	5905–474	Helena Diazinon 7E Insecticide: Beans (lima, snap, and pole; succulent only), Parsley, Parsnips, Peas (succulent only), Peppers, Potatoes (Irish), Squash (summer and winter), Sweet Potatoes, Swiss Chard, Ornamentals (outdoor nurseries only), Lawns, Grassland Insects, and Nuisance Pests in Outside Areas
	5905–526	Diazinon 50 WP Insecticide: Beans (lima, snap, and pole; succulent only), Parsley, Parsnips, Peas (succulent only), Peppers, Potatoes (Irish), Squash (summer and winter), Sweet Potatoes, Swiss Chard, Ornamentals (outdoor nurseries only), Lawns, Livestock Insects, Fly Control in Livestock Structures, Lawns, and Nuisance Pests in Outside Areas
Chemsico, Division of United Industries Corporation	8845–92	Spectracide Lawn and Garden Insect Control Concentrate: Almonds
	8845–95	Spectracide 6,000 Lawn and Garden Insect Control: Celery
The Andersons, Incorporated	9198–62	The Andersons Lawn and Garden Insecticide 5% Diazinon: Celery
Lesco	10404–23	LESCO Diazinon 5G Granular Insecticide: Celery
Howard Johnson's Enterprises, Incorporated	32802–5	All Season Diazinon 5G Insecticide: Celery
PBI Gordon Corporation	33955–556	Acme Diazinon 25% Emulsifiable Concentrate: Almonds
	33955–557	Acme Diazinon 5G Lawn and Garden Insect Control: Celery
Platte Chemical Company	347047–41	Clean Crop Diazinon AG500 Insecticide: Cucumbers, Parsley, Parsnips, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, Grassland Insects, Lawns, and Nusiance Pests in Outside Areas
	34704–57	Clean Crop Diazinon 5 Lawn and Garden: Celery
	34704–230	Diazinon G–14: Celery, Cucumbers, Parsley, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, and Turnips
	34704–231	Diazinon 500–AG: Cucumbers, Parsley, Parsnips, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, Grassland Insects, Lawn Pest Control, and Nuisance Pests in Outside Areas
	34704–435	Clean Crop Diazinon 50WP Insecticide: Cucumbers, Parsley, Parsnips, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, Grassland Insects, Livestock Insects, Fly Control in Livestock Structures, Lawns, and Nusiance Pests in Outside Areas
	34704–493	Diazinon 5 Granules: Celery, Collards, Cucumbers, Parsley, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, Lawns, and Band Treatment Around House Foundation
Professional Supply, Incorporated	37915–6	Professional Brand Pest Control Formula DC–500: Pole Beans
Enforcer Products, a Division of National Service Industries, Incorporated	40849–30	Enforcer Ant Kill Granules II: Pole Beans and Celery

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration Number	Product Name: Use Deletions
Morgro, Incorporated	42057–90	Morgro Diazinon 25% Spray: Oranges
	42057–107	Morgro 5% Diazinon Granules: Celery
Walla Walla Environmental	47332–4	CPF 2D: farm buildings including dairy barns and milk parlors warehouses, office buildings, theaters, schools, motels, hotels, factories, and out buildings
Mircro Flo Company	51036–97	Diazinon 5G Homeowner: Celery
Gro Tec, Incorporated	59144–2	5% Diazinon Granules: Pole Beans and Celery
	59144–28	Diazinon Lawn and Garden Insecticide: Almonds and Pole Beans
Hacco, Incorporated	61282–25	Diazinon Lawn and Garden WBC: Almonds
Guardsman Products, Incorporated	62366–2	Bug Stuff: Office Buildings, Schools, Hotels, Motels, Warehouses, Theaters, Barns, Farm Buildings (including dairy barns and milk parlors), Factories, and Outbuildings
Contract Packaging, Inc.	67572–1	CP Diazinon Lawn and Garden WB Ready-to-Use: Almonds and Pole Beans

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. The aforementioned companies have requested to amend their registrations and have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested amendments to delete uses at the close of the comment period for this announcement, unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

III. Proposed Existing Stocks Provisions

EPA received requests for voluntary cancellation of the diazinon registrations identified in Tables 1 and requests for amendments to terminate certain uses of the diazinon registrations identified in Table 2. Pursuant to section 6(f) of FIFRA, EPA intends to grant these requests by issuing a cancellation order at the end of the 30–day comment period unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests. In the event that EPA issues a cancellation order, EPA intends to include in that order the existing stocks provisions set forth in this section. For purposes of that cancellation order, the term "existing stocks" will be defined, pursuant to EPA's existing stocks policy at 56 FR 29362, June 26, 1991, as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

EPA intends that the cancellation order includes the following existing stocks provisions:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on the agricultural crops identified in List 1 will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for any of the agricultural uses identified in List 1 after the effective date of the cancellation order. However, it is lawful to ship such stocks for export consistent with the requirements of section 17 of FIFRA, or to properly dispose of the existing stocks in accordance with all applicable law.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order. However, it is lawful to ship such stocks for export consistent with the requirements of section 17 of FIFRA, or to properly dispose of the existing stocks in accordance with all applicable law.

3. *Distribution or sale of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites (except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for shipping stocks for export consistent with the requirements of section 17 of FIFRA, or properly disposing of the existing stocks in accordance with all applicable law.

4. *Retail and other distribution or sale of existing stock of products for indoor use.* The retail sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for shipping stocks for export consistent with the requirements of section 17 of FIFRA, or properly

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disposing of the existing stocks in accordance with all applicable law.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

List of Subjects

Environmental protection, Pesticides and pests.

Dated:August 31, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23005 Filed 9–12–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34242; FRL–6789–5]

Endosulfan Pesticides; Availability of Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of risk assessments that were developed as part of EPA's process for making pesticide Reregistration Eligibility Decisions (REDs) and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These risk assessments are the human health and ecological risk assessments and related documents for endosulfan. This notice also starts a 60–day public comment period for the risk assessments and risk management strategies. By allowing access and opportunity for comment on the risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure decisions made under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply.

DATES: Comments, identified by the docket control number OPP–34242 for endosulfan, must be received on or before November 13, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify the docket control number OPP–34242 for endosulfan in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Stacey Milan, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–2505; e-mail address: milan.stacey@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessments for endosulfan, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the **Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide risk assessments released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person.* The Agency has established an official record for this action under docket control numbers OPP–34242. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed,paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number for the specific chemical of interest in the subject line on the first page of your response.

1. *By mail.* Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* Submit electronic comments by e-mail to: opp-docket@epa.gov or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by the docket control number of the chemical of specific interest. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

III. What Action is the Agency Taking?

EPA is making available to the public the risk assessments that have been developed as part of the Agency's interim public participation process for tolerance reassessment and reregistration. During the next 60 days, EPA will accept comments on the human health and ecological risk assessments and other related documents for endosulfan, available in the individual pesticide docket. Like other REDs for pesticides developed under the interim process, the Endosulfan RED will be made available for public comment.

EPA and USDA have been using a pilot public participation process for the assessment of organophosphate pesticides since August 1998. In considering how to accomplish the movement from the current pilot being used for the organophosphate pesticides to the public participation process that will be used in the future for non-organophosphates, such as endosulfan, EPA and USDA have adopted an interim public participation process. EPA is using this interim process in reviewing the non-organophosphate pesticides scheduled to complete tolerance reassessment and reregistration in 2001 and 2002. The interim public participation process ensures public access to the Agency's risk assessments while also allowing EPA to meet its reregistration commitments. It takes into account that the risk assessment development work on these pesticides is substantially complete. The interim public participation process involves: A registrant error correction period; a period for the Agency to respond to the registrant's error correction comments; the release of the refined risk assessments and risk characterizations to the public via the docket and EPA's internet website; a significant effort on stakeholder consultations, such as meetings and conference calls; and the issuance of the risk management decision document (i.e., RED) after the consideration of issues and discussions with stakeholders. USDA plans to hold meetings and conference calls with the public (i.e., interested stakeholders such as growers, USDA Cooperative Extension Offices, commodity groups, and other Federal government agencies) to discuss any identified risks and solicit input on risk management strategies. EPA will participate in USDA's meetings and conference calls with the public. This feedback will be used to complete the risk management decisions and the RED. EPA plans to conduct a close-out conference call with interested stakeholders to describe the regulatory decisions presented in the RED. REDs for pesticides developed under the interim process will be made available for public comment.

Included in the public version of the official record are the Agency's risk assessments and related documents for endosulfan. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed. The endosulfan risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: June 22, 2001.

Lois Rossi

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23002 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34171D; FRL–6801–9]

Ethyl Parathion; Notice of Use Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order of product and use cancellations, as requested by Cheminova, Inc., Universal Cooperatives, Inc., Wilbur-Ellis, Co., Amvac Chemical Co., Helena Chemical, Agriliance LLC and Micro-Flo Co., for their registrations containing *O,O*-diethyl-*O*-p-nitrophenyl thiophosphate, or ethyl parathion, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows up a May 2, 2001, notice of receipt of requests to cancel ethyl parathion product registrations by certain dates and to immediately terminate the use of ethyl parathion on corn grown for seed. EPA has considered the comments received in response to the May 2, 2001 notice prior to its issuance of this cancellation order. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective September 13, 2001.

FOR FURTHER INFORMATION CONTACT: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5776; fax number: (703) 308–7042; e-mail address: *parsons.laura@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use ethyl parathion products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at *http://www.epa.gov/.* To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the

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entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. To access information about the risk assessment and Reregistration Eligibility Decision for ethyl parathion, go to the homepage for the Office of Pesticide Programs, or go directly to *http://www.epa.gov/pesticides/reregistration/ethyl_parathion*.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34171D. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Amend Registrations to Delete Uses

A. Background

Ethyl parathion is an organophosphate insecticide/miticide currently registered for use on alfalfa, barley, corn, cotton, canola, sorghum, soybean, sunflower, and wheat crops. In 1991, EPA and the registrants reached an agreement that limited ethyl parathion use to these nine current crop sites, and restricted application and postapplication practices to mitigate extreme acute toxicity risks to workers. As a result, to protect workers, ethyl parathion may only be handled by trained certified applicators, using closed mixing and loading systems, may only be applied aerially, and crops treated with the pesticide may only be harvested mechanically.

Even with the post–1991 use restrictions, EPA's revised risk assessment completed in September 1999, showed high levels of worker and ecological risk from legal uses of ethyl parathion. There were also several unfulfilled data requirements. After viewing the revised risk assessment and outstanding data requirements, Cheminova, Inc.; Cheminova, A/S, and EPA signed a memorandum of agreement (MOA) effective October 10, 2000. In accordance with this MOA, Cheminova, Inc., has requested to amend their end-use product registrations to immediately terminate the use on corn grown for seed which can result in higher exposures to workers. Further, Cheminova, A/S, the only registrant with an ethyl parathion manufacturing-use product registration, has requested to immediately cancel that registration. Also, these registrants have requested voluntary cancellation of all their ethyl parathion end-use product registrations effective as of December 31, 2002. Most other companies holding registrations for ethyl parathion products have also written letters to the EPA requesting voluntary cancellation of all their ethyl parathion products effective immediately.

EPA announced these registration cancellation and amendment requests in a **Federal Register** notice (66 FR 21964; May 2, 2001) (FRL–6770–9) and asked for public comments. In response, one comment was received from the Oklahoma Cooperative Extension Service, requesting that the last legal use date be extended from October 31, 2003 to December 31, 2003. This comment stated that this extension would provide extra time for use and that it would be easier for users to identify the end of use with the end of the calendar year.

October 31, 2003 was chosen as the last date for use of ethyl parathion after consultations with the registrants to estimate when stocks would be depleted. According to historical use information, there is little ethyl parathion use in November and December, consequently extending the date would be of little practical value. Additionally, it was expected that little or no existing stocks would be available by this date. EPA acknowledges that there is merit in users identifying with the end of the year. However, the October 31, 2003 date has been widely publicized; changing the date may generate more confusion than using the originally published date.

B. Requests for Voluntary Cancellation

Registrants have requested voluntary cancellation of all their ethyl parathion registrations either by signing a MOA or by submitting a letter to the Agency. Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless the registrants request a waiver of the comment period, or the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant has requested that EPA waive the 180–day comment period. EPA granted the registrants' request to waive the 180–day comment period and provided a 30–day public comment period before taking action on the requested cancellations. Given the potential worker and ecological risk that ethyl parathion use poses, EPA has decided to issue a cancellation order in this notice granting the requested cancellations. The specific cancellation requests are set forth below.

1. Requests for termination of use on corn grown for seed. In accordance with the MOA, Cheminova, Inc., has requested that its end-use product registrations be amended to immediately terminate the use on corn grown for seed. The requested use termination of the end-use products identified in Table 1 is granted by EPA's cancellation order in this notice.

TABLE 1. — END-USE PRODUCT REGISTRATION DELETING USE ON CORN GROWN FOR SEED.

Company	Registration No.	Product Name
Cheminova, Inc.	67760–37	Parathion 4EC
	67760–38	Parathion 8EC
	67760–39	Ethyl-Methyl Parathion 6–3 EC

2. Requests for voluntary cancellation of manufacturing–use product registrations. Pursuant to the Agreement and FIFRA section 6(f)(1)(A), Cheminova, A/S, the only registrant with a manufacturing-use product registration, has submitted a request for voluntary cancellation of registration for its one and only ethyl parathion manufacturing-use product. This cancellation request is granted by EPA's cancellation order in this notice. The registration for which cancellation was requested is identified in the following Table 2.

TABLE 2. — MANUFACTURING-USE PRODUCT REGISTRATION CANCELLATION REQUESTS.

Company	Registration No.	Product Name
Cheminova, A/S	4787–17	Parathion Technical

3. Requests for voluntary cancellation of end-use product registrations. Several registrants have submitted letters of requests for immediate voluntary cancellation of their registrations for end-use pesticide products containing ethyl parathion. The registrants who signed the MOA requested for cancellation of their ethyl parathion end-use product registrations effective as of December 31, 2002. These cancellation requests are granted by EPA's cancellation order in this notice. The end-use product registrations for which cancellation was requested by MOA are identified in the following Table 3, and end-use product registrations for which cancellation was requested by separate letters of requests are identified in the following Table 4.

TABLE 3. — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS BY MOA.

Company	Registration No.	Product Name
Cheminova, Inc.	67760–37	Parathion 4EC
	67760–38	Parathion 8EC
	67760–39	Ethyl-Methyl Parathion 6–3 EC

TABLE 4. — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS BY LETTER.

Company	Registration No.	Product Name
Universal Cooperatives, Inc.	1386–646	Red Panther Parathion 8
Wilbur Ellis, Co.	2935–481	Parathion 4 Spray
	2935–483	Parathion 8 Aqua
Amvac, Chemical Co.	5481–435	Parathion 8
	5481–436	Parathion 4E
Helena Chemical	5905–513	Parathion 4E Emulsifiable Insecticide Concentrate
	5905–514	Parathion 8E Emulsifiable Insecticide Concentrate
	5905–515	Parathion - Methyl Parathion 6–3 Insecticide Concentrate
	5905–516	Helena Parathion 8 Flowable Insecticide Concentrate
Agriliance, LLC	9779–322	Parathion 8
Micro-Flo, Co.	51036–180	Micro Flo Co./Parathion 8E

III. Potential Actions Relative to Remaining End-Use Product Registrations

EPA is contemplating various enforcement and regulatory actions with respect to the remaining end-use product registrations after EPA grants the voluntary cancellation requests set forth in Unit II of this notice. These remaining registrations cite the manufacturing–use product listed in Table 2 as the source of active ingredient in these products. Because EPA will limit the sale, distribution and use of the existing stocks of this source with this order canceling its registration, production of these remaining end-use products may be illegal under the cancellation order or the current registrations for these end-use products. Accordingly, EPA may initiate appropriate enforcement actions to ensure that the remaining end-use products are not being produced illegally after the source is canceled. As shown in the Agency's revised risk assessment dated September 1999, EPA is concerned with the risks associated with the use of pesticide products containing ethyl parathion. Because of these concerns, EPA is contemplating initiating a proceeding to cancel these remaining registrations. The remaining end-use product registrations that may be subject to enforcement and regulatory actions discussed in this section are identified in the following Table 5.

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Dedham Shell Inc. d/b/a Marshfield

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TABLE 5. — END-USE PRODUCT REGISTRATIONS POTENTIALLY SUBJECT TO INVOLUNTARY CANCELLATION.

Company	Registration No.	Product Name
Drexel Chemical Co.	19713–322	Seis—Tres 6–3
	19713–323	Drexel Parathion 8
	19713–324	Ida Seis—Tres 6–3
	19713–325	Drexel Parathion 4EC

IV. Cancellation Order

Pursuant to FIFRA section 6(f)(1)(A), EPA hereby grants the requested voluntary product and use cancellations of the registrations ethyl parathion products as described in Unit II of this notice. Accordingly, any distribution, sale, or use of existing stocks in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit V of this notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

V. Existing Stocks Provisions

Pursuant to section 6(f) of FIFRA, EPA is granting the requests for voluntary product and use cancellations. For purposes of the cancellation order, the term "existing stocks" will be defined, pursuant to EPA's existing stocks policy published in the **Federal Register** at (56 FR 29362, June 26, 1991) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

A. Sale, Distribution and Use of Manufacturing–Use Products Imported into the United States prior to July 7, 2000

All sale, distribution, and use of existing stocks of manufacturing–use products imported into the United States prior to July 7, 2000 will not be lawful as of December 31, 2002, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

B. Sale and Distribution by Registrants of End-Use Products Subject to the MOA

All sale and distribution by the registrants of existing stocks of end-use products identified in Table 3 will not be lawful under FIFRA as of the effective date of their cancellations (i.e., December 31, 2002), except for the purposes of shipping such stocks for export consistent with the requirements of section 17 of FIFRA, or for proper disposal.

C. Sale and Distribution by Registrants of End-Use Products not Subject to the MOA

All sale and distribution by the registrants of existing stocks of end-use products identified in Table 4 are not lawful under FIFRA as of the effective date of this cancellation order, except for the purposes of shipping such stocks for export consistent with the requirements of section 17 of FIFRA, or for proper disposal.

D. Sale and Distribution of End-Use Products by Other Persons

All sale and distribution by persons other than the registrants of existing stocks of end-use products identified in Tables 3 and 4 will not be lawful under FIFRA as of August 31, 2003, except for the purposes of shipping such stocks for export consistent with the requirements of section 17 of FIFRA, or for proper disposal.

E. Use of End-Use Products

All use of existing stocks of end-use products identified in Tables 3 and 4 will not be lawful under FIFRA as of October 31, 2003.

List of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: August 31, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs

[FR Doc. 01–23003 Filed 9–12–01; 8:45 a.m.]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–6]

Proposed Administrative Cashout Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Beede Waste Oil Superfund Site, Plaistow, NH

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Beede Waste Oil Superfund Site in Plaistow, New Hampshire with the settling parties listed in the Supplementary Information portion of this notice. The U.S. Environmental Protection Agency—Region I (EPA) is proposing to enter into an early de minimis settlement agreement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9601 *et seq.* Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement, embodied in a CERCLA section 122(g) Administrative Order on Consent ("AOC"), is designed to resolve each settling party's liability at the Site for past work, past response costs and specified future work and response costs through covenants under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. The proposed AOC requires the settling parties listed in the Supplementary Information section below to pay an aggregate total of approximately $1,651,082.40. For thirty (30) days following the date of publication of this notice, the EPA will receive written comments relating to the settlement. The EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The EPA's response to any comments received will be available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023 (Telephone Number: 617–918–1440).

DATE: Comments must be submitted on or before October 15, 2001.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023. Please call 617–918–1440 to schedule an appointment. A copy of the proposed settlement may be obtained from Kristin Balzano, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone Number: 617–918–1772). Comments should reference the Beede Waste Oil Superfund Site in Plaistow, New Hampshire and EPA Docket No. CERCLA–1–2001–0041 and should be addressed to Kristin Balzano, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023.

FOR FURTHER INFORMATION CONTACT: Cindy Lewis, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone Number: 617–918–1889).

SUPPLEMENTARY INFORMATION: The following is a list of the approximately 493 settling parties, including settling federal agencies, to the proposed settlement: 3A Auto Service Inc., A.F. German Company Inc., A J's Inc., A.R. Belli Inc., A&M Service, Inc., ABC Bus Company, ABC Relocation Services, Acorn Motors Inc., AGFA Corporation, AL LI Service Center, Alden Buick Pontiac, Alden Research Laboratory, Allen Harbor Marine Service Inc., Allen Mello Dodge Inc., Allied Auto Parts Company Inc., AL–N Auto Repair, Alpha Oil Company Inc., Amesbury Machine, Anderson-Chrysler Plymouth, Andrews Gunite Company Inc., Arc Source Inc., Archers Mobil, Art's Texaco, Atlantic Equipment & Leasing, August A. Busch & Company of MA, Autolab, Inc., Automotive Service Plus, Inc., Automotive Supply Associates Inc. d/b/a Sanel Auto Parts, Avenue Motor Mart Garage, Inc., B & T Construction Corporation, B.L. Oglivie's & Sons, Inc., Babb Motors, Bailey's Service Station Inc., Baker Cadillac Oldsmobile, Inc., Baldarelli Bros., Ball Square Auto Repair, Barry Transport, Inc., Bartlett's Garage Inc., Bateson Enterprises Inc., Bay View Realty Trust, Beal Companies LLP, Bellingham Lumber, Bentons Inc. d/b/a Northgate Mobil, Bernardi's Inc., Bezema Buick, Biondis Service Center, Bixby International Company, Black Swamp Garage Inc., Blue Circle Inc., Blue Line Garage, Bob Bonsaint & Sons, Bob Graham Auto Sales and Service Inc., Bob Lucey's Service Station Inc., Bob's Auto Repair, Bob Mariano Pontiac Jeep Eagle, Inc., Bob's Truck & Auto Repair, G. Bonazzoli & Sons Inc., Bonfiglioli's Auto Service Inc., Bonnell Motors, Inc., Charles Booth, Boston Properties, Boston Thermo King, Boucher's Automotive Machine Shop Inc., Brewer Petroleum Service, Inc., Brick Ends Farm Inc., Brickstone Properties, Inc., Brigham Gill Motorcars Inc. d/b/a Brigham-Gill Jeep, British Petroleum Exploration & Gas, Brooks Machine & Equipment Company Inc., John Brown d/b/a J&K Auto, Brown's Garage & Service Station Inc., Brox Industries, Bruce's Auto Service, Buddenhagaen Inc. d/b/a Wilson & Rand Service Station, Burt's Cycle Shop Inc., C&L Auto Repair and Parts Inc., C&R Tire Company Inc., C.C. Fillmore Truck Repair Inc., C.K. Smith & Company, Inc., Cambridge Landscape Company, Cambridge Street Auto Body, Cape Pond Ice Company, Inc., Carlos Auto Body, Catalano Bros Inc., Caterair International Corporation, Central Dodge Motors of Norwood, Central Welding Company, Inc., Century Tire, Certified Foreign Repair, Chadwick-BaRoss, Charles River Laboratories, Inc., Charlie's Auto Body, Checkoway Oil Company d/b/a Holmes Tire, Chick Packaging, Inc., Christmas Motors, Inc., City of Chelsea, MA, City of Gardner, MA, City of Laconia, NH, City of Malden, MA, City of Medford, MA, City of Melrose, MA, City of Nashua, NH, City of Revere, MA, City of Worcester, MA, Clampa-All Corp., Clark & White Inc., Donald J. Clark, Coca-Cola Bottling of Lowell, Coca-Cola Bottling of Northern New England, Inc. (for Seacoast Coca-Cola Bottling Company), Collins Crane and Rigging Service Inc., Colonial Auto Body & Sales Company, Inc., Colvin's Inc., Compressed Air Systems, Concord-Carlisle Regional School District, Concordia, Inc., Congregational Retirement Homes, Inc., Coots Bros. Inc., Courier Westford Inc., Crystal Springs Golf, Inc., John P. Curley d/b/a Curley's Auto Repair, Custom Auto Repair, Inc., Custom Service Inc., Cypress Equipment Corp., D&R Auto Repairs d/b/a Helco Automotive, D&R General Contracting Inc., D&S Service Station, Inc., D.F. Clark Inc., Dalzell Motor Sales, Inc., Danversport Yacht Club, Davis Auto Electric, Deck House, Inc., Dedham Country Day School, Dedham Shell Inc. d/b/a Marshfield Auto Center/Pembroke Shell, DeLoury Construction Company, Inc., Dennisport Mobil, DeVincent Associates Limited Partnership, Dick's Foreign Car Service, Distrigas of Massachusetts LLC, Don & Dave's Automotive Inc., Don Allen Auto Service Inc., Don Wheeler Construction, Inc., Donald F. Knowles, Inc., Don's Auto Repair, Don's Automotive, Doyle's Exxon Station, Draper Energy Co., Dror Village Inc. (for Village Shell), Duarte Motors Inc., Durand Chevrolet, Inc., E R Pickett Company Inc., East Coast Auto Sales, Eastern Propane Gas, Inc., Eastland Motor Service Corporation, Eddie Bailey's Garage, Inc., Ed's Service Center, Inc., Ed's Service Inc., Elie Investment Management Company d/b/a Groveland Getty, Emerson Auto Service Inc., Energy Retailers, Inc., Ernest T. Pappas d/b/a Central Ave. Auto Repair, European Car Doctors Inc., Excavating Enterprises, Inc., F B Rich & Sons, Inc., Falmouth Motor Car Co., Far East Automotive Services, Inc., Federal Furnace Cranberry, Fenway Texaco Inc., Ferry's Automotive Inc., Fidelity Sportwear Inc., James Filandrianos, Inc. d/b/a Oak Square Sunoco, First C.G.L.P., Fitchburg Colonial Aviation, Flatley Company, Foilmark Manufacturing Corp., Foreign Autopart, Inc. (n/k/a Autopart International, Inc.), Framingham Chrysler Plymouth, Inc., Framingham State College, Frazee Automotive Inc., Fred Hubbard's Gulf, Fredrickson Bros. Inc., Freeman Cycles, Inc., Furlong's Auto Repair, Galloway's Grocerette, Gaskell's Service Station & Muffler Shop, General Electric Company, George DeCoste & Sons Inc., Gerber Radio Supply d/b/a Gerber Electronics, Getov Machine Inc., Getty Properties Corporation, Ghasadafa, Inc. d/b/a Main Street Shell, Goldberg Energy Management, Gordon Conwell Theodoycs/Seminary (Gordon Conwell Theological Seminary), Granite State Tire & Battery Co., Inc., Granz Inc., John Grappone Inc. d/b/a Grappone Ford, Grattan Line Construction Corporation, Gray Excavation, Inc., Great Road Dodge, Inc., Greenwood Fire Apparatus, Inc., Grossman Companies, Grota's Motors, Inc., R.S. Guerette Corporation, H.H. Snow & Sons, Inc., Hallamore Corporation, Hancock Village LLC, Hansen Marine Engineering, Inc., Harold Lunnin d/b/a Hap's Auto Service, Harborside Marine Service, Hargreaves Garage, Havencraft of New England, Haverhill Golf and Country Club, Henry J. Pleiss, Jr. d/b/a Hank's Garage, Hewlett Packard Company, High Street Service Inc., Highland Service

Center of Newton Inc., Hodgdon Navco Shop, Mirak Chevrolet, Mission Jag, Pitt-M-Sherman, Pixie Street

United States Army Reserve (Marine

Dated: September 4, 2001.

Water Quality Protection Division, U.S.

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Center of Newton Inc., Hodgden-Noyes Buick-Pontiac GMC Truck Inc., Richard Willis Wheeler d/b/a Hudson Cycle Center, Inc., Hudson's Outboard Inc., Hy Test Oil Co., Inc., Ideal Tape Company (a division of American Biltrite Inc.), Imperia Corporation, Imports Limited Inc., Ingersoll Rand Company, Ipswich Outboard Motor & Boat Inc., Ira Korean Cars LLC d/b/a Ira Hyundai, J&M Santoian Realty Trust, J.A. Polito & Sons, Inc., J.R.A. Auto Repair, Inc., J.R. Service (n/k/a Dave's Automotive), J. Schwartz Motor Transportation Inc., J.J. Donovan & Sons, Inc., Jackson Lumber & Millwork Co., Inc., James R. Lee d/b/a Lee Auto Repair, James Russell Engineering Works, Inc., Jamieson Services Inc. d/b/a Concord Avenue Mobil, Jefferson Rubber Works, Jefferson Service Station, Inc., Jiffy Lube International Inc. (for Pennzoil-Quaker State Company), Jiffy Lube International Inc., John T. Clark & Son of Boston, Inc., John's Auto Repair Service, Inc., Kagan's Service Station, Inc., KAO Infosystems Company, Kayem Foods Inc., Kingsley Orchard Realty Corp., Kinney's Garage, Inc., Kyle Equipment Company Inc., L. Knife & Son, Inc., LAB Motors Ltd., Lance Buick Pontiac-Cadillac, Landry Hire-A-Tool & Supply Co., Larry Palmer's Mobil, Lawless Chrysler Plymouth Inc., Lawrence Pumps, Inc., Lawrence Tank Inc., Lee Imported Cars, Inc., Leo J. Fiori & Sons, Inc., Levis Realty, Liberty Chevrolet, Inc., Limbach Company, Litecontrol Corp., Londonderry Car Wash Inc. d/b/a Londonderry Car Care, Loomis Fargo & Co., Louie's Service Center, Magnolia Service Station, Mahoney Oil Company, Inc., Majestic Cars, Malio Auto Service, Malone Fence Co. Inc., Manley-Berenson Associates, Inc., Marblehead Municipal Light Department, Marine Services and Electronics Inc., Martel Welding & Sons, Inc., Martin Welding Northeast, Inc., Masconomet Regional School District, Mason Tanning Co., Mass Ave. Firestone, Inc., Mastria Buick Pontiac GMC Truck Company Inc., McGovern Auto, McKinney Artesian Well & Pump Supply, Inc., Mears Trust, Mecca Motors Inc., Mello's Service Station, Merrimack Auto Center, Merrimack Street Garage, Inc., Ronald C. Meservey, Methuen Getty, Inc., Mibrock, Inc. d/b/a Brockton Midas Muffler & Brake Shop, Middlesex Auto Repair, Mihold Inc. d/b/a Fall River Midas Muffler & Brake Shop, Mike Mobil, Mike's Auto Repair, Mike's Garage, Miles River Sand & Gravel Inc., Miller Auto Service Inc., Miller's Garage, Milton Garage, Inc., Miman Inc. d/b/a Laconia Midas Muffler & Brake Shop, Mirak Chevrolet, Miriam Hospital, Mister Tire Inc., Modern Continental Construction Co., Inc., Modern Continental Equipment Co., Inc., Mongony Service Station, Donald E.W. Morgan, Jr. d/b/a Meadow Park Motors, Morton International, Inc., Motiva Enterprises LLC, Motor Mart Auto Sales, Inc., Moulton Company, Murray Hills Construction, Nardone Sand & Gravel Co., Nardone Sand & Gravel, Narragansett Bay Commission, Nashoba Valley Technical High School, Nault's Lincoln-Mercury Inc., New England Sealcoating Co., Inc., New Hampshire Electric Cooperative, Inc., New Hampshire Peterbilt Inc., Newman Service Station, Newtonville Exxon, Newtonville Sunoco Service Station, Inc., NHE Associates Inc. d/b/a Motor Town NAPA Auto Parts, Nick Dee Chevrolet, Inc., Nickerson Service Center, Norlantic Diesel Inc., North Shore Recycled Fibers, Northeast Metropolitan Regional Vocational School District, Northland Willette Inc., Northshore Mall LP, Northwest Airlines, Inc., Norwood Central Gas & Repair Corp., Nyman Manufacturing Company Inc. (n/k/a Huhtamaki-East Providence, Inc.), Old Colony Regional Vocational Technical High School District, Otis Elevator Company (a subsidiary of United Technologies Corporation), Palmer's Garage, Inc., Paquette Service, Park Transportation Corporation, Inc., Paroto Equipment Company, Inc., Paul's Auto Service Inc., Peabody Auto Clinic, Pembroke Automotive Service, Inc., Pepsi-Cola Metropolitan Bottling Company Inc., Persons Concrete, Peter D. Dickman, Peter's Auto Repair, Inc., Petroleum Heat & Power Company Inc., Phillips & Lee Gulf Station Inc., Phillips Academy (Andover), Phill's Service & Auto Body, Pilgrim Screw Corporation, Pioneer Garage Company Inc., Plumb House Corporation, Plympton Sand & Gravel Corporation, Policy Well & Pump Company Inc., Powder Tech Associates, Inc., Powell Corporation, Power Equipment Company, George E. Power, Jr., Inc. d/b/a Johnny's Texaco Station, Previtt Oil Company, Inc., Process Cooling Systems Inc., PT Marine Inc. d/b/a Ryder Cove Boat Yard, Quest Diagnostics Incorporated, Quincy Automatic Transmission, R&A Auto Service, R&R American Service Station Inc., R.C. Olsen Cadillac, Inc., R.E. Walters Inc., R.H. Long Motor Sales Company, R.M. Towing Company, RAB Old Right, Inc., Radford Trans, Inc., Ralph Mahoney & Sons Inc., Ralph's Truck Sales Inc., Rauseo's Auto Inc., Ray Plastic Inc., Read Sand & Gravel, Inc., Reading Municipal Light Department, Regal Motors, Regan & Stapleton Inc., Ricky Smith Pontiac, Inc., Rita M. Sherman, River Street Automotive Center, Robbie Fuels, Inc., Robert B. Our Company, Rollen Ltd. d/b/a Direct Tire and Auto Service, James R. Rosencrantz & Sons, Inc., Rosenfeld Concrete Corporation, Route 38 Ltd. d/b/a Midas Muffler, Rowley Ready-Mix Inc., S. Benedetto Sons Inc., Sacco's, Saint Elizabeth's Medical Center of Boston, Inc., Salem and Beverly Water Supply Board, Salvadore Auto Exchange, Inc., Salvation Army Adult Rehabilitation Center, Saugus Heavy Equipment Repair, Inc., Sawin Motors Inc., Schmidt Equipment, Inc., Senter Brothers, Inc., Shawsheen Valley Technical High School, Shea Concrete Products, Inc., Shell Oil Company, Smith's Sales Inc., Sonny D. Construction, Inc., South Avenue Motors Inc., South Essex Sewerage District, South Shore Auto Parts Co., Inc., Speedy Lube Inc., Spir-it Inc., St. James Company LP, St. Joseph Hospital of Nashua, N.H., Standley's Garage, Inc., Star Auto Service, Star Fisheries Corporation, Starkey Ford, Stedt Hydraulic Crane Corp., Steve's Automotive, Stewie's Oil Inc., Sun Transportation Inc., Sunoco Incorporated (R&M), Superior Auto Sales & Service, Swanson Pontiac Buick GMC, Truck Inc., Sylvester A. Ray Inc., T.E. Andresen, Inc., Tate Bros. Paving Co., Inc., Tate's Garage, Ted's Farm Equipment Inc., The Doctor Inc., Thomas Glaser d/b/a Automotion, Thorny Lea Golf Club, Inc., Timberlane Regional School District, Tire Specialist, Inc., Tom Chevrolet, Inc., Tommy Jenkins, Inc., Toothakers Service Station, Torres Service Station, Town of Arlington, MA, Town of Belmont, MA, Town of Essex, MA, Town of Framingham, MA, Town of Halifax, MA, Town of Holden, MA, Town of Hopedale, MA, Town of Hull, MA, Town of Manchester-by-the-Sea, MA, Town of Merrimac, MA, Town of Middleton, MA, Town of North Reading, MA, Town of Pembroke, MA, Town of Rye, NH, Town of Sandwich, MA, Town of South Easton, MA, Town of Stoneham, MA, Town of Topsfield, MA, Town of Watertown, MA, Town of Weston, MA, Town of Winthrop, MA, Trailblazer Kawasaki Inc. and Trailsport Cycles Inc. d/b/a North Reading Honda Kawasaki, Triangle Transmission & Brake, Truckers Maintenance Service, TruGreen Limited Partnership, TruGreen LP, Tucker's Auto Supply Inc., Tully Buick Pontiac Company, Inc. d/b/a Tully Buick et al., Tuxbury's Garage, Uhlman Excavating Co., Umbro and Sons Construction Company, Union Ave. Automotive (f/k/a Union Avenue Esso & Union Avenue Exxon), Union Coal & Oil Co. Inc., United Airlines Inc., United States Army Reserve (Marine Corps), United States Department of the Interior (for Parker River NWR, Cape Cod NS, National Park Serv.(Lowell), Lowell NHP, Cape Cod NS), UTEC Constructors Inc., Valu-Ent Inc. d/b/a Webnik Motors, Village Garage/Lee F. Mainhold, Volpone Towing Services, Inc., Walsh's Garage, Waltham Central School Transportation Inc., Washington Mills Transport Corporation, Waugh's Inc., Waverley Square Service, Inc., Wayne & Company, Inc., Wheels Corporation d/b/a Bud's Sunoco, Whitehall Company, LTD., John M. Wilkes d/b/a Wilkes Mobil, Willwerth Enterprises, Inc., Wilmington Cold Storage Inc., Winco Inc., William Wooding d/b/a Wooding's Garage, Woodside Corporation, Woodville Service, WWF Paper Corporation New England, and Yankee Pine Corporation.

In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, notice is hereby given of a proposed early de minimis settlement agreement under section 122(g) of CERCLA concerning the Beede Waste Oil Superfund Site in Plaistow, NH. The settlement was approved by EPA Region I, subject to review by the public pursuant to this Notice.

The proposed settlement has been approved by the United States Department of Justice. EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

Dated: September 4, 2001.

Patricia L. Meaney,

Director, Office of Site Remediation and Restoration, EPA—Region I.

[FR Doc. 01–22909 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7055–6]

Clean Water Act Section 303(d): Availability of Total Maximum Daily Loads (TMDLs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the administrative record file for TMDLs, prepared by EPA Region 6, addressing pesticides listings in Louisiana's Mermentau and Vermilion/Teche river basins. These TMDLs include 22 waters listed with pesticides as a cause of impairment under section 303(d) of the Clean Water Act (CWA). EPA prepared these TMDLs in response to a Court Order dated October 1, 1999, in the lawsuit *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Under this court order, EPA is required to prepare TMDLs when needed for waters on the Louisiana 1998 section 303(d) list by December 31, 2007.

DATES: Comments on the TMDLs must be submitted in writing to EPA on or before October 15, 2001.

ADDRESSES: Comments on the TMDLs should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, contact Ellen Caldwell at (214) 665–7513. The administrative record file for these TMDLs is available for public inspection at this address as well. Copies of the TMDLs and their respective calculations may be viewed at *www.epa.gov/region6/water/tmdl.htm*. The administrative record files may be obtained by calling or writing Ms. Caldwell at the above address. Please contact Ms. Caldwell to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the United States Environmental Protection Agency (EPA), styled *Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. Discussion of the court order may be found at 65 FR 54032 (September 6, 2000).

EPA Seeks Comments on 27 TMDLs

By this notice EPA is seeking comments on the following 23 pesticides TMDLs on the 1999 court-ordered 303(d) list within the Mermentau and Vermilion/Teche basins and 4 newly identified TMDLs for waters located within the Mermentau basin. The pesticides of concern identified were carbofuran and fipronil.

Subsegment	Waterbody name	Pollutants
050101	Bayou Des Cannes—Headwaters to Mermentau River	Pesticides (carbofuran & fipronil)
050701	Grand Lake	Pesticides (carbofuran)
050702	Intracoastal Waterway	Pesticides (carbofuran)
050901	Bays and Gulf Waters to State 3-mile Limit	Pesticides (carbofuran)
060205	Bayou Teche—Headwaters At Bayou Courtableau to I–10	Pesticides (carbofuran)
060207	Bayou des Glaises Diversion Canal	Pesticides (carbofuran)
060301	Bayou Teche—I–10 to Keystone Locks and Dam	Pesticides (carbofuran)
060401	Bayou Teche—Keystone Locks and Dam to Charenton Canal	Pesticides (carbofuran)
060701	Tete Bayou	Pesticides (carbofuran)
060801	Vermilion River—Headwaters at Bayou Fusilier-Bourbeaux Junction to New Flanders (Ambassador Caffery Bridge At Hwy 3073).	Pesticides (carbofuran)
060802	Vermilion River—From New Flanders (Ambassador Caffery Bridge) at Hwy 3073 to Intracoastal Waterway.	Pesticides (carbofuran)
060803	Vermilion River Cutoff	Pesticides (carbofuran)
060901	Bayou Petite Anse	Pesticides (carbofuran)
060902	Bayou Carlin (Delcambre Canal)—Lake Peigneur to Bayou Petite Anse (Estuarine).	Pesticides (carbofuran)
060903	Bayou Tigre	Pesticides (carbofuran)
060904	Vermilion River B890 Basin New Iberia Southern Drainage Canal	Pesticides (carbofuran)
060906	Intracoastal Waterway	Pesticides (carbofuran)
060907	Franklin Canal	Pesticides (carbofuran)
060910	Boston Canal and Associated Canals (Estuarine)	Pesticides (carbofuran)
060911	Vermilion-Teche River Basin	Pesticides (carbofuran)
061101	Bayou Petite Anse	Pesticides (carbofuran)

Subsegment	Waterbody name	Pollutants
061102	Intracoastal Waterway	Pesticides (carbofuran)
050201	Bayou Plaquemine Brule—headwaters to Bayou Des Cannes	Pesticides (fipronil)
050401	Mermentau River—origin to Lake Arthur	Pesticides (fipronil)
050501	Bayou Queue de Tortue—headwaters to Mermentau River	Pesticides (fipronil)
050603	Bayou Chene—includes Bayou Grand Marais	Pesticides (fipronil)

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for these TMDLs, or any other comments relevant to these TMDLs. EPA will review all data and information submitted during the public comment period and revise the TMDLs where appropriate. EPA will then forward the TMDLs to the Court and the Louisiana Department of Environmental Quality (LDEQ). LDEQ will incorporate the TMDLs into its current water quality management plan.

Dated: September 4, 2001.

Richard G. Hoppers,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–22910 Filed 9–12–01; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0093]

Submission for OMB Review; Comment Request Entitled Transportation Discrepancy Report, Standard Form 361

AGENCY: General Services Administration (GSA).

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Transportation Discrepancy Report, Standard Form 361. A request for public comments was published at 66 FR 34683, June 29, 2001. No comments were received.

DATES: Comments may be submitted on or before October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Richard J. Johnson, Jr., National Customer Service Center, Federal Supply Service, GSA (816) 926–2932.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0093, concerning Transportation Discrepancy Report, Standard Form 361. This form is prepared by Government shippers or receivers to document loss, damage, or other discrepancy resulting from the movement of freight by commercial transportation companies.

B. Annual Reporting Burden.

Respondents: 1,434.
Annual Responses: 1,434.
Average Hours Per Response: 1.
Burden Hours: 1.434.

Obtaining Copies of Proposals.

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0093 Transportation Discrepancy Report, Standard Form 361, in all correspondence.

Dated: September 7, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy

[FR Doc. 01–23036 Filed 9–12–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

White House Commission on Complementary and Alternative Medicine Policy; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the White House Commission on Complementary and Alternative Medicine Policy.

The purpose of this public meeting is to convene the Commission to discuss possible Federal policy regarding complementary and alternative medicine (CAM). The main focus of the meeting is the discussion of key issues before the Commission and the development of draft recommendations that may be included in the Final Report of the White House Commission on Complementary and Alternative Medicine Policy. Major issue areas to be considered by the Commission prior to preparation of its Final Report include the following: Coordination of CAM Research; Access to and Delivery of CAM Practices and Products; Coverage and Reimbursement for CAM Practices and Products; Training and Education of Health Care Practitioners in CAM; Development and Dissemination of CAM Information for Health Care Providers and the Public; CAM in Wellness, Self-Care, Health Promotion, and Disease Prevention; Coordinating and Centralizing Private Sector and Federal Sector CAM Efforts; and the Definition of CAM and Guiding Principles for the preparation of the Final Report from the Commission. Comments received at the meeting may be used by the Commission to prepare the Report to the President as required by the Executive Order.

Opportunities for oral statements by the public will be provided on October 5, from 5 p.m.–6 p.m. (Time approximate).

Name of Committee: The White House Commission on Complementary and Alternative Medicine Policy.

Date: October 4–6, 2001.

Time: October 4—8 a.m.–6—p.m.; October 5—8 a.m.–6 p.m.; October 6—8:30 a.m.–12:30 p.m.

Place: Neuroscience Office Building, National Institutes of Health, Conference Rooms C–D, 6001 Executive Boulevard, Bethesda, MD 20892.

Contact Persons: Michele M. Chang, CMT, MPH, Executive Secretary; OR Stephen C. Groft, Pharm.D., Executive Director, 6707 Democracy Boulevard, Room 880, MSC–5467, Bethesda, MD 20892–5467, Phone: (301) 435–7592, Fax: (301) 480–1691, E-mail: *WHCCAMP@mail.nih.gov.*

Because of the need to obtain the views of the public on these issues as soon as possible and because of the early deadline for the report required of the Commission, this notice is being provided at the earliest possible time.

Supplementary Information: The White House Commission on Complementary and Alternative Medicine Policy was established on March 7, 2000 by Presidential Executive Order 13147. The mission of the White House Commission on Complementary and Alternative Medicine Policy is to provide a report, through the Secretary of the Department of Health and Human Services, on legislative and administrative recommendations for assuring that public policy maximizes the benefits of complementary and alternative medicine to Americans.

Public Participation

The meeting is open to the public with attendance limited to the availability of space on a first come, first served basis. Members of the public who wish to present oral comments may register by faxing a request to register at 301–480–1691 or by accessing the website of the Commission at *http://whccamp.hhs.gov* no later than September 27, 2001.

Oral comments will be limited to five minutes, three minutes to make a statement and two minutes to respond to questions from Commission members. Due to time constraints, only one representative from each organization will be allotted time for oral testimony. The number of speakers and the time allotted may also be limited by the number of registrants. Priority may be given to participants who have not yet addressed the Commission at previous meetings. All requests to register should include the name, address, telephone number, and business or professional affiliation of the interested party, and should indicate the area of interest or issue to be addressed.

Any person attending the meeting who has not registered to speak in advance of the meeting will be allowed to make a brief oral statement during the time set aside for public comment if time permits, and at the Chairperson's discretion. Individuals unable to attend the meeting, or any interested parties, may send written comments by mail, fax, or electronically to the staff office of the Commission for inclusion in the public record.

When mailing or faxing written comments, please provide your comments, if possible, as an electronic version on a diskette. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact the Commission staff at the address or telephone number listed above no later than September 27, 2001.

Dated: September 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23011 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Management and Budget; Statement of Delegation

Notice is hereby given that I have delegated to the Assistant Secretary for Management and Budget (ASMB), with authority to redelegate, the responsibility to coordinate the implementation and enforcement of Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d, as amended, relating to employment and electronic and information technology programs and activities conducted by the Department.

Pursuant to this delegation, the Assistant Secretary for Management and Budget shall have the authority to:

(1) Accept and investigate employment discrimination complaints filed by Federal employees and applicants for employment at the Department alleging a failure to comply with Section 508 consistent with the procedures at 29 CFR part 1614;

(2) Provide technical assistance to other departmental components regarding the processing and resolution of Section 508 employment discrimination complaints;

(3) Evaluate the effectiveness of Section 508 employment discrimination complaint processing and provide reports to appropriate oversight organizations; and

(4) Initiate such other actions as may be necessary to facilitate and ensure compliance with Section 508 of the Rehabilitation Act consistent with the procedures at 29 CFR part 1614.

This delegation is effective immediately.

Dated: August 30, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–22957 Filed 9–12–01; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office for Civil Rights; Statement of Delegation

Notice is hereby given that I have delegated to the Director of the Office for Civil Rights (OCR), with authority to redelegate, the responsibility to coordinate the implementation and enforcement of Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d, as amended, relating to programs and activities conducted by the Department.

Pursuant to this delegation, the Director of the office for Civil Rights shall have the authority to:

(1) accept and investigate complaints, other than employment discrimination complaints of employees or applicants for employment at the Department, filed by individuals alleging a failure to comply with Section 508 of the Rehabilitation Act consistent with the procedures at 45 CFR part 85;

(2) provide technical assistance to other departmental components regarding the processing and resolution of Section 508 non-employment discrimination complaints;

(3) evaluate the effectiveness of Section 508 complaint processing by OCR and provide reports to appropriate oversight organizations; and

(4) initiate such other actions as may be necessary to facilitate and ensure compliance with Section 508 of the Rehabilitation Act consistent with the procedures at 45 CFR part 85.

If the OCR Director chooses to redelegate this authority, the OCR Director will maintain primary responsibility and accountability for implementation of this section.

This delegation is effective immediately.

Dated: August 30, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–22958 Filed 9–12–01; 8:45 am]

BILLING CODE 4153–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01148]

Capacity-Building Assistance (CBA) To Develop and Implement Effective HIV/AIDS Prevention Education Programs for South Africa Trade Unions; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to develop and implement effective HIV/AIDS prevention education programs for South Africa Trade Unions, was published in the **Federal Register** on August 21, 2001, [Vol. 66, No. 162, Page 43872]. The notice is amended as follows:

On page 43872, second column, under Submission and Deadline, delete: "On or before September 7, 2001, submit the application to the Grants Management

Specialist identified in the Where to Obtain Additional Information of this announcement." and change to "On or before October 10, 2001, submit the application to the Grants Management Specialist identified in the Where to Obtain Additional Information of this announcement."

Dated: September 7, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 01–22976 Filed 9–12–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Medicare and Medicaid Services

[Document Identifier: CMS–R–13]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Conditions of Coverage for Organ Procurement Organizations (OPOs) and Supporting Regulations in 42 CFR, Section 486.301–.325; *Form No.:* CMS–R–13 (OMB# 0938–0688); *Use:* OPOs are required to submit accurate data to CMS concerning population and information on donors and organs on an annual basis in order to assure maximum effectiveness in the procurement and distribution of organs.; *Frequency:* Annually; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 59; *Total Annual Responses:* 59; *Total Annual Hours:* 1.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326, Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Melissa Musotto, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 4, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–22951 Filed 9–12–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0384]

Preparation for Global Harmonization Task Force Conference in Barcelona, Spain, Including a Discussion of Guidance Proposed for Comment and Currently Under Development and Possibilities for New Topics; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting entitled "Preparation for Global Harmonization Task Force Conference in Barcelona, Spain, Including a Discussion of Guidance Proposed for Comment and Currently Under Development and Possibilities for New Topics." The purpose of this meeting is to solicit information and receive comments on FDA's future participation in the Global Harmonization Task Force (GHTF) as well as the upcoming meetings in Barcelona, Spain. The topics to be discussed are an overview of GHTF, guidance proposed for comment and currently under development, and possibilities for new topics. This meeting is being held to solicit public input prior to the next meeting of the GHTF Steering Committee and Study Groups in Barcelona, Spain, from October 11 to 16, 2001, at which discussion of the guidance proposed for comment and under development and possible new topics will be continued.

Comments: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments are to be identified with the docket number found in brackets in the heading of this document.

Date and Time: The public meeting will be held on October 1, 2001, from 1:30 p.m. to 4:30 p.m.

Location: The public meeting will be held at 5630 Fishers Lane, rm. 1056, Rockville, MD.

Contact: Kimberly Topper, Center for Drug Evaluation and Research, Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20852, 301–827–7001, FAX 301–827–6801, or e-mail: Topperk@cder.fda.gov.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm or organization name, address, telephone, and fax number), and written material and requests to make oral presentations to the contact person by September 26, 2001.

If you need special accommodations due to a disability, please contact Kimberly Topper at least 7 days in advance.

SUPPLEMENTARY INFORMATION:

I. Background

The GHTF was established in 1992 as a joint regulatory/industry project to encourage convergence in regulatory practices related to ensuring the safety, effectiveness/performance and quality of medical devices; promote technological innovation; and facilitate international trade. The GHTF works to achieve these objectives by disseminating guidance documents on basic regulatory practices. These documents, which are developed by four different GHTF Study Groups, can be adopted/implemented by member national regulatory authorities. Other national regulatory authorities that are not GHTF members also are encouraged to adopt and implement GHTF guidance documents.

In recent years, regulatory authorities and industry associations have undertaken many important initiatives to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization. FDA is committed to seeking scientifically based harmonized technical procedures for medical device regulation. One of the goals of harmonization is to identify similarities and differences in technical requirements for medical devices, increase the similarities, and reduce the differences. The GHTF was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives.

The GHTF is concerned with harmonization among three regions: the European Union, Asia-Pacific, and North America. The members of the GHTF are the European Union, Australia, Japan, Canada, and the United States. The GHTF Steering Committee is composed of four regulatory and four industry representatives from each region for a total of 12 regulatory and 12 industry representatives. The secretariat rotates from one region to another every 3 years. The Therapeutic Goods Administration of Australia currently serves as the secretariat for GHTF. Health Canada previously served as the secretariat. The Ministry of Health and Welfare of Japan will serve as the next secretariat.

GHTF study groups develop guidance documents on device regulation. There are currently four study groups: Study Group 1—premarket issues; Study Group 2—postmarket vigilance; Study Group 3—quality systems; and Study Group 4—auditing of quality systems.

The GHTF process is intended to achieve harmonization of the technical requirements for approval or clearance of medical devices, quality system requirements, procedures for auditing quality systems, and postmarket vigilance in the three regions. Information about the GHTF, its structure, proposed and final study group guidance documents, and the upcoming conference in Barcelona, Spain, can be found on the Internet at http://www.ghtf.org.

II. Issues To Be Discussed at the Public Meeting

The issues to be discussed include the following: (1) GHTF overview and procedures, (2) overview of GHTF Study Group work, (3) medical device nomenclature, and (4) possibilities for new topics.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Oral presentations from the public will be scheduled. Time allotted for oral presentations may be limited to 10 minutes. Anyone desiring to make an oral presentation should notify the contact person by September 20, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the name and address, phone number, fax and e-mail of the proposed participant, and an indication of the approximate time requested to make the presentation.

The agenda for the public meeting will be available on September 17, 2001, at the Dockets Management Branch (address above) under Docket No. 01N–0384.

Transcripts: A transcript of the meeting will be posted on the Internet at: http://www.fda.gov/ohrms/dockets/dockets/docwhatsnew.htm under Docket No. 01N–0384. A transcript of the meeting also may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: September 6, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–22941 Filed 9–12–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Phase II (SBIR)—Internet-Based Tools to Enhance Use of Online Health Resources.

Date: September 13, 2001.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute, Executive Plaza North Building, Conference Room C, 6130 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Kirt Vener, PhD, Branch Chief, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6166 Executive Boulevard, Room 8061, Bethesda, MD 20892, (301) 496–7174.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23010 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

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Name of Committee: National Center for Research Resources Special Emphasis Panel. Research Infrastructure.

Date: September 5–6, 2001.

Time: September 5, 2001, 8:30 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Marriott Crystal City, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Contract Person: C. William Angus, PhD., Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965 301/435–0812, angusw@ncrr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine. 93.306; 93.333, Clinical Research, 93,333; 93,371, Biomedical Technology; 93,389, Research Infrastructure, National Institutes of Health, HHS)

Dated: September 05, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23018 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–15, Review of R13 Grants.

Date: October 3, 2001.

Time: 11 a.m to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Chief, 4500 Center Drive, Natcher Building, RM. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–03, Review of P01, Applicant Interview.

Date: October 21–22, 2001.

Time: 8 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–27, Review of R13 Grants.

Date: October 22, 2001.

Time: 3:30 p.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Chief, 4500 Center Drive, Natcher Building, RM. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–23, Review of R44 Grants.

Date: October 31, 2001.

Time: 11:30 a.m to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Bldg., Conf. Rms. A & D, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–13, Review of R13 Grants.

Date: October 31, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E½, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–02, Review of K12 Grants.

Date: November 1, 2001.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Confernece Call).

Contact Person: H. George Hausch, PhD., Chief, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–21, Review of R44 Grants.

Date: November 5, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E½, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–04, Review of PO1, Applicant Interview.

Date: November 14–15, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Yasaman Shirazi, PhD., Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res., Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Empahsis Panel 02–28, Review of R42 Grant.

Date: November 20, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–08, Review of P01 Grant, Applicant Interview.

Date: November 29–30, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Yasaman Shirazi, PhD, Scientific Review Administator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res., Bethesda, MD 20892 (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Disease and Disorders Research, National Institutes of Health, HHS)

Dated: September 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23009 Filed 9–19–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: September 25, 2001.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6100 Executive Blvd., DSR Conf. Rm., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hameed Khan, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01; Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: September 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23012 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.

Date: October 10–12, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, Washington, DC 20036.

Contact Person: Melissa Stick, PHD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23013 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee, Review of R03, F30, K08 Grants.

Date: October 18–19, 2001.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, PhD, MD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23014 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of RFA ES 0–001—Transition to Independent Positions (K22s).

Date: October 9–10, 2001.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

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Place: Radisson Governors Inn, I–40 & Davis Dr., Exit 280, Research Triangle Park, NC 27709.

Contact Person: Linda K Bass, PhD., Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30. Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of RFP NIH–ES–01–09—Studies of Chemical Disposition in Mammals.

Date: October 9, 2001.

Time: 10:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Zoe E Huang, MD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle, Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of RFP NIH–EX–01–02—DNA Isolation and Molecular Analysis

Date: October 14, 2001.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: September 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23015 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 2–3, 2001.

Time: 9 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Rd, Bethesda, MD 20814.

Contact Person: David I. Sommers, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23017 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: October 22–23, 2001.

Time: October 22, 2001, 8 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave. NW., Washington, DC 20007.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23019 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 18, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeanne N. Ketley, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 24, 2001.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Prabha L. Atreya, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 26, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, ngas@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 26–28, 2001.

Time: 7:30 p.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications..

Place: Ritz-Carlton Hotel, Tysons Corner, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, 301–435–1217, *byrnesn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23016 Filed 9–12–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–65]

Notice of Submission of Proposed Information Collection to OMB; State Community Development Block Grant (CDBG) Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 15, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506–0085) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, OFfice of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estiimate of the total number of hours needed to prepare the information submissions including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: State Community Development Block Grant (CDBG) Program.

OMB Approval Number: 2506–0085.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: State CDBG Program requires states to submit to HUD a Final Statement, Performance and Evaluation Report (PER), and maintain records to statutory compliance.

Respondents: Federal Government, State, local or tribal government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	50		1		2148		107,400

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Total Estimated Burden Hours: 107,400.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 30, 2001.

Wayne Eddins,

Departmental Reports Management Office, Office of the Chief Information Officer.

[FR Doc. 01–22949 Filed 9–12–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–66]

Notice of Submission of Proposed Information Collection to OMB; Data Collection for The Interim Impact Evaluation for the Moving to Opportunity Demonstration

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 15, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Data Collection for The Interim Impact Evaluation for the Moving to Opportunity Demonstration.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: This request is for the clearance of several survey instruments for the Interim Evaluation of the Moving to Opportunity (MTO) demonstration program. MTO is a unique experimental research demonstration designed to learn whether moving from a high-poverty neighborhood to a low-poverty neighborhood significantly improves the social and economic prospects of poor families. This data collection is necessary to measure impacts approximately 5-years after families were randomly assigned to the two treatment groups and the control group.

Respondents: Individuals or households, State, Local or Tribal Government.

Frequency of Submission: One time.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden:	10,277		1		1.35		13,933

Total Estimated Burden Hours: 13,933.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 6, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–22950 Filed 9–12–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On May 22, 2001, a notice was published in the **Federal Register** (66 FR 28195), that an application had been filed with the Fish and Wildlife Service by Lee Anderson, Jr., for a permit (PRT–042060) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 15, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On May 22, 2001, a notice was published in the **Federal Register** (66 FR 28195), that an application had been filed with the Fish and Wildlife Service by David Polke for a permit (PRT–042518) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 16, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On May 7, 2001, a notice was published in the **Federal Register** (66 FR 23043), that an application had been filed with the Fish and Wildlife Service by Karl W. Minor for a permit (PRT–041679) to import one polar bear taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 21, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On May 22, 2001, a notice was published in the **Federal Register** (66 FR 28195), that an application had been filed with the Fish and Wildlife Service by Robert V. Polito for a permit (PRT–041826) to import one polar bear taken from the Northern Beaufort population, Canada, for personal use.

Notice is hereby given that on August 15, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: August 31, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–22989 Filed 9–12–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–015–1610–DP; GP–01–0272]

Availability for the Draft Lakeview Resource Management Plan (RMP) and Environmental Impact Statement (EIS)

AGENCY: Lakeview District (Oregon), Bureau of Land Management: (OR–015–1610–DP; GP–01–0272, DOI.

ACTION: Notice of availability for the Draft Lakeview Resource Management Plan (RMP) and Environmental Impact Statement (EIS).

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), this document provides notice that the Bureau of Land Management (BLM) intends to make the draft RMP/EIS available for public review and comment. This planning activity encompasses approximately 3.2 million acres of public land managed by the Lakeview Resource Area, Lakeview District and located in Lake and Harney Counties in southeastern Oregon. In addition, a small, contiguous portion of Modoc and Washoe Counties located in northeastern California and northwestern Nevada falling within the administrative boundary of the Surprise Field Office in Cedarville, California, but managed by the Lakeview Resource Area is also included for analysis purposes. The BLM has and will continue to work closely with all interested parties to identify the management decisions that are best suited to the needs of the public. This collaborative process will take into account local, regional, and national needs and concerns. This notice initiates the public review process on the draft RMP/EIS. The public is invited to review and comment on the range and adequacy of the draft alternatives and associated environmental effects.

DATES: The comment period will end 90 days after publication of the Environmental Protection Agency's Notice of Availability of this draft plan and environmental impact statement in the **Federal Register**. Comments on the draft RMP/EIS should be received on or before the end of the comment period at the address listed below.

Public Participation: Public meetings will be held during the comment period. In order to ensure local community participation and input, public meetings will be held in Lakeview, North Lake County, and Bend, Oregon. Early participation by all those interested is encouraged and will help determine the future management of public lands in the Lakeview Resource Area. At least 15 days public notice will be given for activities where the public is invited to attend. All individuals, organizations, agencies, and tribes with a known interest in this planning effort have been sent a copy of the document for review. Written comments will be accepted throughout the planning process at the address shown below. For comments to be most helpful, they should relate to specific concerns or conflicts that are within the legal responsibilities of the BLM and they must be able to be resolved in this planning process. Specific dates and locations of meetings and comment deadlines will be announced through the local news media, newsletters and the BLM Web site (*www.or.blm.gov/Lakeview*).

ADDRESSES: Written comments should be sent to Dwayne Sykes, RMP Team Leader, Bureau of Land Management, HC 10 Box 337, Lakeview, Oregon 97630. Documents pertinent to this proposal may be examined at the Lakeview Resource Area office in Lakeview, Oregon and local libraries. Comments, including names and street addresses of respondents, will be available for public review at the Lakeview Resource Area office during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the Final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION: For further information and/or to have your name added to our mailing list, contact Dwayne Sykes at (541) 947–2177 (Phone), (541) 947–6399 (Fax), or e-mail at *d1sykes@or.blm.gov.*

SUPPLEMENTARY INFORMATION: This land use plan focuses on the principles of multiple use management and sustained yield as prescribed by Section 202 of the FLPMA. This plan will provide direction for management of the public lands within the Lakeview Resource Area for 15–20 years after the plan is completed. It will replace all or portions of three nearly 20 year old existing land use plans covering the Lakeview

Resource Area. The draft RMP/EIS considers and analyzes five (5) alternatives (A–E), including the No Action or Present Management alternative, with Alternative D identified as the agency's Preferred Alternative. These alternatives have been developed based on extensive public input following scoping (July 1999), review of the summary of the Analysis of the Management Situation (July 2000) and numerous meetings with local governments, tribes and the Southeast Oregon Resource Advisory Council (RAC). The alternatives provide for a wide array of alternative land use allocations and management direction. The alternatives provide for variable levels of commodity production, resource protection, and authorized land and resource uses, including utility corridors, energy and non-energy mineral leasing, livestock grazing and various forms of recreation. A final environmental impact statement and proposed Lakeview Resource Management Plan is expected to be available for public review in early 2002.

Dated: August 23, 2001.

Scott R. Florence,

Field Manager, Lakeview Resource Area.

[FR Doc. 01–22943 Filed 9–12–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–920–01–1310–FI–P; (MTM 82821, MTM 84944, NDM 86224]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases MTM 82821, MTM 84944, NDM 86224

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Public Law 97–451, the lessee timely filed a petition for reinstatement of oil and gas leases MTM 82821 and MTM 84944, Sheridan County, Montana, and NDM 86224, Billings County, North Dakota. The lessee paid the required rentals accruing from the date of termination.

We haven't issued any leases affecting the lands. The lessee agrees to new lease terms for rentals and royalties of $5 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate on lease MTM 82821 and $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate on leases MTM 84944 and NDM 86224. The lessee paid the $500 administration fee for the reinstatement of each lease and $148 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the leases per section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $5 per acre for lease MTM 82821;
- The increased rental of $10 per acre for leases MTM 84944 and NDM 86224;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $148 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, 406–896–5098.

Dated: August 16, 2001.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 01–22945 Filed 9–12–01; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–ET; COC–28260]

Public Land Order No. 7499; Revocation of Secretarial Order dated April 10, 1935; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in its entirety as it affects the remaining 80.57 acres of public land withdrawn for the San Luis Drainage Reclamation Project. The land is no longer needed for reclamation purposes. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3706.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated April 10, 1935, which withdrew public land for the Bureau of Reclamation San Luis Drainage Project, is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 42 N., R. 10 E.,
Sec. 18, lot 1 and SE¼NW¼.

The area described contains 80.57 acres in Saguache County.

2. At 9 a.m. on October 15, 2001, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on October 15, 2001, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a. m. on October 15, 2001, the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 21, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–22942 Filed 9–12–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–ET; COC–28263]

Public Land Order No. 7496; Revocation of Three Secretarial Orders; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Secretarial Orders which withdrew National Forest System lands for the Bureau of Reclamation South Platte Reclamation Project. The lands are no longer needed for reclamation purposes and this order will open 9,943 acres to Forest Service management and to mining. All of the lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3706.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. (1994), it is ordered as follows:

1. The three Secretarial Orders dated May 13, 1943, which withdrew National Forest System lands for the Bureau of Reclamation South Platte Reclamation Project, are hereby revoked in their entireties as to certain lands in the following Townships:

Sixth Principal Meridian

Pike National Forest

Tps. 7 and 8 S., R. 69 W., Tps. 7, 8, and 9 S., R. 70 W., and T. 6 S., R. 77 W.

The areas identified aggregate approximately 9,943 acres of National Forest System lands in Douglas, Jefferson, and Summit Counties. More specific legal descriptions showing sections and subdivisions may be obtained by contacting Doris Chelius at the address or phone number listed above. The documents may also be examined by the public during regular working hours at the Bureau of Land Management Colorado State Office.

2. At 9 a.m. on October 15, 2001, these lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994) shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: August 15, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–22944 Filed 9–12–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

American River Pump Station Project, Placer County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Draft Environmental Impact, DES 01–26 Statement/Environmental Impact Report (Draft EIS/EIR) and notice of public hearing.

SUMMARY: The U.S. Bureau of Reclamation (Reclamation) and the Placer County Water Agency (PCWA) have made available for public review and comment the Draft EIS/EIR for the American River Pump Station Project.

The proposed project would develop a pump station and related facilities on the North Fork American River near Auburn, California. The project would allow PCWA to convey its Middle Fork Project (MFP) water entitlement to the Auburn Ravine tunnel to meet demands within its service area; eliminate safety concerns associated with the Auburn Dam bypass tunnel; restore the dewatered portion of the North Fork American River at the Auburn Dam construction site; and provide river access sites in the project area. Both facilities- and diversion-related impacts are addressed in the Draft EIS/EIR.

DATES: Submit written comments on the Draft EIS/EIR on or before November 13, 2001 at the address provided below. A public hearing will be held from 7 p.m. to 9 p.m. on October 11, 2001. Oral or written comments will be received regarding the project's environmental effects.

ADDRESSES: The public hearing will be held at the Placer County Water Agency, 144 Ferguson Road, Auburn, CA 95604.

Written comments on the Draft EIS/EIR should be addressed to Ms. Carol Brown, Surface Water Resources, Inc., 2031 Howe Avenue, Suite 110, Sacramento, California 95825.

Copies of the Draft EIS/EIR may be requested from Ms. Brown at the above address or by calling (916) 563–6360. See **SUPPLEMENTARY INFORMATION** section for locations where copies of the Draft EIS/EIR are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. Roderick Hall, Reclamation, at (916) 989–7279, TDD (916) 989–7285, or e-mail: *rhall@mp.usbr.gov;* or Mr. Brent Smith, PCWA, at (530) 823–4889, or e-mail at *Bsmith@pcwa.net.*

SUPPLEMENTARY INFORMATION: The Draft EIS/EIR will address facilities-related impacts including the effects of project construction and operation on fish resources, vegetation and wildlife, water quality, recreation, visual and cultural resources, land use, geology and soils, traffic and circulation, air quality, noise, and public health and worker safety. Diversion-related impacts include the effects of increased diversions from the American River and associated changes in Reclamation's operation of Central Valley Project (CVP) facilities. Project diversions therefore may directly or indirectly affect the American and Sacramento River (including the Delta) resources including water supply, fish and aquatic habitat, riparian vegetation and habitat, water quality, recreation, visual and cultural resources, and power supply. The Draft EIS/EIR also evaluates potential urban development impacts for the PCWA water service area. An evaluation of cumulative hydrologic and water service area impacts associated with reasonably foreseeable American River actions is also included.

Copies of the Draft EIS/EIR are available for public inspection and review at the following locations:

- Auburn-Placer County Library, 350 Nevada Street, Auburn, CA 95603.
- El Dorado County Main Library, 345 Fair Lane, Placerville, CA 95667.
- Georgetown Divide Public Utility District, 6425 Main Street, Georgetown, CA 95634.
- Lincoln Library, 590 5th Street, Lincoln, CA 95648.
- Loomis Branch Library, 6050 Library Drive, Loomis, CA 95650.
- Penryn Library, 2215 Rippey Road, Penryn, CA 95663.
- Placer County Water Agency, 144 Ferguson Road, Auburn, CA 95604.
- Rocklin Library, 5460 5th Street, Rocklin, CA 95677.
- Sacramento Public Library, 828 I Street, Sacramento, CA 95814.
- U.S. Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, CA 95630.
- U.S. Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225; telephone: (303) 445–2072.
- U.S. Bureau of Reclamation, Office of Public Affairs, 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: (916) 978–5100.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street

NW, Main Interior Building, Washington, DC 20240–0001.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Hearing Process Information

The purpose of the public hearing is to provide the public with an opportunity to comment on environmental issues addressed in the Draft EIS/EIR. Written comments will also be accepted.

Dated: August 21, 2001.

Kirk C. Rodgers,

Acting Regional Director.

[FR Doc. 01–22977 Filed 9–12–01; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–454]

In the Matter of Certain Set-Top Boxes and Components Thereof; Notice of a Commission Determination not to Review an Initial Determination Allowing an Amendment to the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting a motion to amend the complaint in the above-captioned investigation to add license agreements and licensees.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Jones, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3106. Copies of the subject ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TTD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 16, 2001, based on a complaint by Gemstar-TV Guide International, Inc. of Pasadena, California, and StarSight Telecast, Inc. of Fremont, California, alleging violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes and components thereof by reason of infringement of claims 18–24, 26–28, 31–33, 36, 42–43, 48–51, 54, 57–61, and 66 of U.S. Letters Patent 5,253,066; claims 1, 3, 8, and 10 of U.S. Letters Patent 5,479,268; and claims 14–17, 19, and 31–35 of U.S. Letters Patent 5,809,204.

On August 7, 2001, complainants Gemstar-TV Guide International, Inc. and StarSight Telecast, Inc. moved to amend the complaint to add license agreements and licensees. No party opposed the motion to amend.

On August 23, 2001, the presiding ALJ issued an ID (Order No. 24) granting the motion. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Issued: September 7, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22962 Filed 9–12–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–73]

Steel

AGENCY: United States International Trade Commission.

ACTION: Change in scheduled date for posthearing briefs on injury.

SUMMARY: On September 5, 2001, the Commission published notice of the schedule for the public hearings to be conducted during the injury phase of investigation No. TA–201–73, Steel (66 FR 46469, September 5, 2001). That notice set September 27, 2001 as the deadline for posthearing briefs on injury regarding carbon and alloy flat products. The Commission has changed that deadline to 2 p.m. on September 28, 2001.

EFFECTIVE DATE: September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Media should contact Peg O'Laughlin (202–205–1819), Office of External Relations. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

Issued: September 7, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–22963 Filed 9–12–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0075(2001)]

Standard on Fire Brigades; Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits public comment concerning the proposed extension of the information-collection requirements contained in the Standard on Fire Brigades (29 CFR 1910.156).

DATES: Submit written comments on or before November 13, 2001.

ADDRESSES: Submit written comments to the Docket No. ICR–1218–0075(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to: (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified in the Standard on Fire Brigades is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693–2222 or Todd Owen at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at http://www.osha.gov and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information-collection burden is correct. The Standard imposes the following paperwork requirements on each employer who establishes a fire brigade: Write an organizational statement; ascertain the fitness of employees with specific medical conditions to participate in fire-related operations; and provide appropriate training and information to fire-brigade members.

Although OSHA does not mandate that employers establish fire brigades, if they do so, they must comply with the provisions of the Standard. The provisions of the Standard, including the paperwork requirements, apply to fire brigades, industrial fire departments, and private or contract fire departments, but not to airport crash-rescue units or forest fire-fighting operations. Paragraphs (b)(1), (b)(2), (c)(1), (c)(2), and (c)(4) contain the paperwork requirements of the Standard.

Under paragraph (b)(1) of the Standard, employers must develop and maintain an organizational statement that establishes the: Existence of a fire brigade; the basic organizational structure of the brigade; type, amount, and frequency of training provided to brigade members; expected number of members in the brigade; and functions that the brigade is to perform. This paragraph also specifies that the organizational statement must be available for review by employees, their designated representatives, and OSHA compliance officers. The organizational statement delineates the functions performed by the brigade members and, therefore, determines the level of training and type of personal protective equipment (PPE) necessary for these members to perform their assigned functions safely. Making the statement available to employees, their designated representatives, and OSHA compliance officers ensures that the elements of the statement are consistent with the functions performed by the brigade members and the occupational hazards they experience, and that employers are providing training and PPE appropriate to these functions are hazards.

To permit an employee with known heart disease, epilepsy, or emphysema to participate in fire-brigade emergency activities, paragraph (b)(2) of the Standard requires employers to obtain a physician's certificate of the employee's fitness to do so. This provision provides employers with a direct and efficient means of ascertaining whether or not they can safely expose employees with these medical conditions to the hazards of fire-related operations.

Paragraph (c)(1) of the Standard requires employers to provide training and education for fire-brigade members commensurate with the duties and functions they perform, with brigade leaders and training instructors receiving more comprehensive training and education than employers provide to the general membership. Under paragraph (c)(2) of the Standard, employers must conduct training and education frequently enough, but at least annually, to assure that brigade members are able to perform their assigned duties and functions satisfactorily and safely; employers must provide brigade members who perform interior structural fire fighting with educational and training sessions at least quarterly. In addition, paragraph (c)(4) specifies that employers must: Inform brigade members about special hazards such as storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, and water-reactive substances that may be present during fires and other emergencies; advise brigade members of changes in the special hazards; and develop written procedures that describe the actions brigade members must take when special hazards are present, and make these procedures available in the education and training program and for review by the brigade members.

Providing appropriate training to brigade members at the specified frequencies, informing them about special hazards, developing written procedures on how to respond to special hazards, and making these procedures available for training purposes and review by the members enables them to use operational procedures and equipment in a safe manner to avoid or control dangerous exposures to fire-related hazards. Therefore, the training and information requirements specified by paragraphs (c)(1), (c)(2), and (c)(4) of the Standard prevent serious injuries and death among members of fire brigades.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other

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technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA proposes to increase the existing burden-hour estimate, and to extend the Office of Management and Budget's (OMB) approval, of the collection-of-information requirements specified in the Standard on Fire Brigades (29 CFR 1910.156). OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently-approved information-collection requirement.

Title: Fire Brigades (29 CFR 1910.156).

OMB Number: 1218–0075.

Affected Public: Business or other for-profit; not-for-profit institution; Federal government; State, local or tribal governments.

Number of Respondents: 55,939.

Frequency: On occasion.

Average Time per Response: Varies from 5 minutes (.08 hour) to 2 hours.

Estimated Total Burden Hours: 6,042.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on September 7, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–23020 Filed 9–11–01; 8:45 am]

BILLING CODE 4510–26–M

LEGAL SERVICES CORPORATION

Property Acquisition and Management Manual

AGENCY: Legal Services Corporation.

ACTION: Issuance of Property Acquisition and Management Manual.

SUMMARY: This Notice sets forth the text of a Property Acquisition and Management Manual that governs the use by recipients of LSC funds to acquire, use and dispose of real and nonexpendable personal property. The Property Acquisition and Management Manual is intended to provide recipients with a single complete and consolidated set of policies and procedures related to property acquisition, use and disposal and supercedes guidance currently contained in several LSC documents.

EFFECTIVE DATE: This Property Acquisition and Management Manual is effective on October 15, 2001.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002–4250; 202/336–8817 (phone); 202/336–8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Legal Services Corporation's ("LSC") policies and procedures regarding LSC-funded recipients' property acquisition, use and disposal are incomplete, outdated and disbursed among several different LSC documents. In 1975 and again in 1979, LSC published Instructions in the **Federal Register** setting out procedures for the procurement, inventory control and disposal of nonexpendable personal property by LSC recipients. See 44 FR 22525, April 16, 1979. In 1981, the 1979 Instruction was superseded by the Property Management Manual for LSC Programs ("1981 Property Manual").[1]

LSC also addressed property acquisition and management issues in the 1981 version of the Audit and Accounting Guide for Recipients and Auditors ("1981 Audit Guide"). The 1981 Audit Guide included provisions requiring LSC's prior approval of certain purchases and leases of property (real and personal). These provisions were superseded by the LSC rule on cost standards and procedures, 45 CFR part 1630, which was adopted in 1986. See 51 FR 29082, August 13, 1986. Under the current part 1630 rule, adopted in 1997, LSC must approve in advance all purchases of real property, purchases or leases of personal property with a value of over $10,000 and capital expenditures of more than $10,000 to improve real property. 45 CFR 1630.5(b).

Notwithstanding the 1981 Audit Guide (or the current part 1630 requirements), the 1981 Property Manual, like its predecessor Instructions, does not address the acquisition, use or disposal of real property.[2] LSC has instead established its policies relating to real property in a variety of internal memoranda, Program Letters, regulations, grant assurances and individual agreements with recipients purchasing real property which have either restricted the use or regulated the disposal of the property in the event of cessation of LSC funding. Having policies related to real property in such unconnected and disparate sources has become untenable. For example, grant assurances on property have not been consistent over time and have on occasion been challenged as lacking legal authority.

Accordingly, LSC has decided that all of the relevant policies and requirements related to the acquisition, use and disposal of real and personal property should be consolidated and issued in one document. LSC published a proposed Property Acquisition and Management Manual (PAMM) for comment on September 28, 2000 (65 FR 58288). The comments received and the final version of the PAMM are discussed below.

Proposed Property Acquisition and Management Manual

Generally

The PAMM contains both existing and new or revised standards and procedures. In developing the new or revised standards and procedures, LSC looked to three existing Federal sources of property acquisition and management policy: the Federal Acquisition Regulations (FAR); the Federal Property Management Regulations; and Office of Management and Budget (OMB) Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" which contains standards governing the use and disposition of personal and real property by non-profit recipients of Federal funding. While many provisions of the PAMM are based on equivalent sections on these sources, LSC has revised these provisions as necessary to be consistent with LSC law and practice. In addition, this final version of the PAMM reflects some additional changes suggested by the comments LSC received on the proposed PAMM, as discussed below.

The personal property use standards are intended to give recipients flexibility in using such property acquired with LSC funds, provided that the primary use of the property is for the delivery of legal services to eligible clients in accordance with the requirements of the LSC Act and regulations. The standards governing the disposal of personal property revise existing policy to reflect the heightened need, in this era of reduced funding and competition for grants, for LSC to receive reimbursement to ensure that the scare funds available are serving their original intended purpose to the maximum extent possible. Accordingly, in the event that a recipient owning personal property purchased with LSC funds ceases to receive LSC funding, these standards require LSC approval prior to dispose of the property. The PAMM also provides for transfer of personal property in the case of a merger with or the succession of another recipient.

The PAMM retains LSC's longstanding policy to permit recipients, with LSC's approval, to use LSC funds to purchase real property for the primary purpose of delivery of legal services to eligible clients. The procedures, which incorporate provisions from Program Letter 98–4, require recipients to demonstrate that purchasing is more economical than leasing. Recipients are also required to agree to reimburse LSC in the event of a discontinuation of funding, unless a transfer of the property is made to a merged or successor entity in the case of a merger with or the succession of another recipient.

Most of the comments LSC received addressed specific sections of the proposed PAMM. These comments are addressed in the section-by-section analysis portions of this notice. There was one suggestion, however, which affects most of the sections of the PAMM, and which, therefore, LSC wishes to address at the outset. Many commenters objected to application of the PAMM to leases of personal property. Among the reasons given for this objection were: (1) Leases and leased property is generally not considered "assets" and, as such, should not be subject to the PAMM; (2) the negotiation of leases may not be "amenable" to the competition requirements of the PAMM; (3) the recipient Board of Directors is already charged with the fiduciary duty to ensure that leases of personal property are appropriate; (4) leases of personal property are often for items which are shared operating expenses, allocated among the recipient's funding sources and it could become problematic to have differing procedural requirements relating to the same property; and (5) as monthly lease payments may be small, representing a small amount of LSC resources, and since Part 1630 already requires program resources to meet a reasonableness standard, there is no need to include them in the PAMM.

LSC proposed to include leases of personal property under the coverage of the PAMM because recipients are increasingly spending sizable sums of LSC funds on leases of personal property and LSC believes that some measure of accountability to LSC for such expenditures is appropriate. The fact that a leased item may not be considered an "asset" of the recipient for an accounting purpose is not germane; the requirements of the PAMM are not intended to track assets, but rather to ensure that LSC funds are being expended on property in an efficient manner to best meet the legal services needs served by the recipient. LSC disagrees that it not feasible, as a general matter, to seek competitive quotes on large scale leases of equipment and other nonexpendable personal property and none of the commenters provided any factual evidence to back up this claim. Moreover, if the seeking of competitive quotes is not feasible in a particular instance, the PAMM provides a safe harbor for recipients to engage in sole source acquisitions.

LSC appreciates that recipient Boards already exercise fiduciary responsibilities relating to expenditures of LSC funds and that LSC regulations at 45 CFR part 1630 require a rule of reason in relation to expenditures of funds. However, part 1630 applies to all costs and Boards exercise fiduciary responsibility related to all expenditures of funds. If these facts were sufficient to ameliorate the need to apply the PAMM to leases of personal property, they would suffice to ameliorate the need to have the PAMM at all. The commenters, however, do not appear to question the propriety of having acquisition, use and disposal standards for purchased property.

LSC also disagrees that the fact that a lease may be funded from other than just LSC funds is likely to cause practical problems. First, the competition (and for individual items, the prior approval) requirements only apply to leases in which more than $10,000 of LSC funds are used. It is unlikely that such a lease would be one in which LSC funds are the minority source of funds and that other, inconsistent, competition requirements would apply and no such examples were specifically identified in any of the comments received. Second, the use requirements are broad enough that it is hard to imagine a inconsistent requirement stemming from another funding source. Finally, the disposition requirements only note that leased property is to be disposed of in accordance with the terms of the lease. Again, none of the comments received provided specific instances in which these requirements would be burdensome or inconsistent in reference to other directives attached to use of other funds.

LSC also notes that in the extensive comment process leading to the development of the proposed PAMM, no objection was raised to including leased personal property under coverage of the PAMM.

Section-by-Section Analysis

Section 1—Purpose and Scope

The section contains a statement indicating that the purpose of this PAMM is to set forth standards governing the acquisition, retention, use and disposal of personal and real property acquired in whole or in part with LSC funds. The section also specifies that LSC intends the standards in this PAMM to apply to both real and nonexpendable personal property, but not to expendable personal property or services, except services for capital improvements which are subject to the requirements of section 4(f). LSC has not previously applied the 1981 Property Manual standards to supplies and LSC does not believe that it is necessary to enlarge the scope of its oversight in such a manner. Finally, this section makes clear that LSC will apply the requirements of the PAMM to acquisitions made on or after the PAMM's effective date as set forth in this notice. For acquisitions of real property prior to the PAMM's effective date, the written agreement between the program and LSC will control. For prior acquisitions of personal property, the 1981 Property Manual will control.

LSC received three comments specifically related to this section. One comment suggested that the parenthetical reference to "equipment" should either be removed or clarified since there is nonexpendable personal property other than what is generally thought of as equipment. LSC agrees. References to "equipment" and "supplies" have been removed from this section. The definitions of nonexpendable personal property and expendable personal property have been

[1] The Introduction to the 1981 Property Manual states that it was intended to supersede the 1975 Instruction. No mention is made of the 1979 Instruction. However, because the Manual was finalized as a slightly revised version of the 1979 Instruction, longstanding LSC policy has been that the 1981 Property Manual superseded the 1979 Instruction as well. Current LSC grant assurances and the current Accounting Guide for LSC Recipients reference the Property Manual "or its duly adopted successor."

[2] There have been suggestions to LSC that the 1981 Property Manual was originally intended to apply to real property and was so applied at sometime in the past. LSC's reading of the terms of the Manual, however, and LSC's practice over the last several years applying the requirements of the 1981 Property Manual only to personal property, indicate that it does not, in fact, apply to real property.

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clarified. These issues are discussed further under Section 2—Definitions, below.

The second comment LSC received on this section suggested that the reference to services for capital improvements should specify "contracted" services. This was certainly LSC's intent and the section has been modified to make this clarification.

LSC also received a request with regard to acquisitions of real property prior to the PAMM's effective date. The comment requested that LSC clarify its intent with regard to property for which there is no written agreement. LSC is aware of instances in which recipients have acknowledged through documented evidence that LSC funds have been used towards the acquisition of real property, without, however, a real property interest agreement having been executed. In the event of cessation of funding in these instances, disposition of the property will be handled on a case-by-case basis.

Section 2—Definitions

This section sets forth definitions of key terms used throughout the PAMM.

Section (2)(a) defines acquisition as a purchase of real property or a purchase or lease of personal property. It can consist of a single item or it can consist of multiple items obtained simultaneously through a single contract. This definition of acquisition is adapted from the definition of acquisition appearing in the FAR. The FAR definition of acquisition includes leases of real property as well, but LSC has chosen to leave real property leases out of the definition of acquisition because LSC is excluding leases of real property from the coverage of the PAMM. The term "acquisition" is used throughout the PAMM, except in those instances in which it is necessary to differentiate between personal property which is leased and personal property which has been purchased. In those cases, the term "lease" or "purchase" is used, as appropriate.

LSC received one comment suggesting that the term "single acquisition" as it is used in the definition is confusing. The commenter suggests replacing it with the term "individual item." LSC does not agree that this term is confusing. Further, substituting the term "individual item" for "single acquisition" would alter the meaning of the definition. As noted above, the term "single acquisition" includes transactions in which more than one item is procured in a single contract, while "individual item" does not. Since many acquisitions are for multiple items acquired under a single contract, excluding these acquisitions from the PAMM (which would be the result if LSC were to make the suggested change) would seriously undermine the object of the PAMM of ensuring accountability and the efficient use of LSC funds. Accordingly, the definition is being adopted as proposed.

In addition, as discussed above, several commenters suggested that the PAMM not apply to leases of personal property, and these commenters, accordingly, suggested amending this section. For the reasons discussed above, LSC is retaining the requirement that leases of personal property be subject to the PAMM. Therefore, references to leases in the definition in 2(a) are retained as proposed.

LSC received a comment suggesting the addition of a definition for "acquisition costs for real property." The commenter stated that LSC currently has no such definition. LSC disagrees. The preamble to the current part 1630 final rule, 62 FR 68219, addresses this matter, stating that the acquisition costs associated with the purchase of real property include principal and interest payments and initial down payments. However, LSC agrees that including that definition in the PAMM would be useful in as much as the PAMM is intended to be a single source for information. Accordingly, a definition of "acquisition costs for real property" is added as section 2(b). This definition reproduces and explicitly references the definition found in the December 31, 1997 preamble to the part 1630 final rule.

Section 2(c), capital improvement, incorporates the $10,000 capitalization threshold of LSC's regulation governing cost standards and procedures, 45 CFR 1530.5(b)(2). One commenter suggested that this section be clarified to specify that it applies only to amounts of over $10,000 of LSC funds. This has been and continues to be LSC's policy and this clarifying change has been made.

Section 2(d) defines lease as a contract for the use of property during a specified period for a specified price. Under a lease, the lessee does not take ownership of or title to the property. As discussed above, several commenters suggested that the PAMM not apply to leases of personal property, and these commenters, accordingly, suggested deleting this section. For the reasons discussed above, LSC is retaining the requirement that leases of personal property be subject to the PAM. Therefore, the definition is retained as proposed, although to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(c) to 2(d) in this final PAMM.

Section 2(e) contains a definition for LSC property interest agreement, a term used in sections 4(e) and 8(d) of this PAMM. The definition is consistent with section 2–2.4 of the Accounting Guide for LSC Recipients, which sets forth the principle that LSC possesses a reversionary interest in real property purchased in whole or in part with LSC funds.

LSC received no comments on this section and the definition is adopted as proposed. LSC notes that it is not using the term "reversionary interest" in the PAMM because LSC believes that the use of "reversionary interest" might be confusing. Although LSC's recipients who have entered into agreements with LSC pursuant to the purchase of real property understand what reversionary interest means in the context of their agreements, the term is a widely used term of art in the property law context with a somewhat broader and different meaning. To avoid potential confusion, LSC will use the more accurate "LSC property interest agreement." In addition, to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(d) to 2(e) in this final PAMM.

Section 2(f) contains a definition of personal property adapted from OMB Circular A–110. LSC is, however, omitting supplies, which are considered to be personal property in the OMB Circular, from the definition because LSC does not intend to apply its property acquisition and management standards to the purchase, retention or use of supplies. As noted above, LSC has clarified the definition to provide more detailed examples of the types of things which are considered nonexpendable personal property or expendable personal property. Thus, the definition now notes that nonexpendable personal property includes such things as furniture and books in addition to equipment and that supplies include items such as stationery, paper clips, and pens. The items do not represent an exhaustive list, but rather are intended to signify the most common examples of each type of property. In addition, to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(e) to 2(f) in this final PAMM.

Section 2(g) limits the definition of real or personal property to property with a market value of over $5000 and a useful life of more than one year. This definition is consistent with OMB Circular A–110. With this definition, LSC intends that property acquisition and management standards not apply to property excluded from the definition.

LSC originally proposed a definition of property with a $1000 threshold. LSC received several comments opposing the capitalization threshold of $1,000. These commenters noted that other Federal grants they receive are subject to the $5,000 OMB definition and that raising the limit would provide a greater measure of consistency to them in meeting property acquisition standards across grants. These commenters also noted that the $1,000 threshold seems artificially low in the current economy and that a $5,000 threshold would more appropriately reflect the point at which additional program oversight is justified. Raising the threshold, it is argued, would increase recipient flexibility. To the extent that LSC desires to maintain consistency with the LSC Accounting Guide, these comments suggest raising the capitalization threshold in the Guide to $5,000 as well.

In light of the above, LSC is adopting a $5000 threshold for the definition of property. To allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(f) to 2(g) in this final PAMM.

Section 2(h) contains a definition of purchase which uses the term purchase in reference to personal property of which the recipient obtains ownership, as distinguished from leasing. As discussed above, several commenters suggested that the PAMM not apply to leases of personal property, and these commenters, accordingly, suggested amending this section. For the reasons discussed above, LSC is retaining the requirement that leases of personal property be subject to the PAMM. Therefore, the definition is retained as proposed, although to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(g) to 2(h) in this final PAMM.

Section 2(i) sets forth a definition for quote which incorporates language from the definition of "offer" in the FAR. For the purposes of the PAMM, a quote is intended to be the basis for informal negotiation which results in an offer by the recipient, typically in the form of a purchase order, which a source may accept or reject.

In response to a suggestion that the word "bid" be substituted for "quote" in section 4(f), LSC has instead chosen to amend section 2(l) to explicitly include competition for capital improvement services contracts in the definition of "quote." LSC agrees with the commenter that this clarification is appropriate, but LSC thinks it is better accomplished in the definitions section. In addition, to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(h) to 2(I) in this final PAMM.

Section 2(j) sets forth a definition of real property taken from the definition of the same term in OMB Circular A–110. LSC received no comments on this definition and it is adopted as proposed, although to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(I) to 2(j) in this final PAMM.

Section 2(k) contains a definition of source as a supplier, vendor or contractor who has agreed to provide property to a recipient through a purchase or lease agreement. LSC received no comments on this definition and it is adopted as proposed, although to allow for the insertion of a new definition of "acquisition costs for real property," as discussed above, the definition has been redesignated from 2(j) to 2(k) in this final PAMM.

Section 3—Acquisition Procedures for Personal Property

This section sets forth the procedures governing the acquisition of personal property with LSC funds. The requirements herein are based on both the FAR and OMB Circular A–110. Through the use of these procedures, LSC intends to encourage recipients to conduct their property acquisitions in a manner that provides free and open competition to the maximum extent practical.

LSC received a number of comments on the various aspects of this section, several of which indicated a significant misunderstanding of the proposed requirements. Specifically, several commenters objected to what they took to be LSC's proposal to require prior approval of aggregate acquisitions of over $10,000. However, LSC did not propose to require prior approval of aggregate acquisitions of over $10,000, but rather, only to require certain minimum competition standards for such large acquisitions. Under both the proposed and this final PAMM, prior approval is required, as specified in 45 CFR part 1630, for individual item acquisitions of over $10,000, but not for aggregate acquisitions of over $10,000.

A variant of this objection was contained in one comment which suggested deleting Section 3(a)–(d) as redundant, given the need for prior approval of large acquisitions referenced in Section 3(e). However, since section 3(e) refers only to the showing a recipient must make to obtain prior approval and sections 3(a)–(d) apply to acquisitions not requiring prior approval, the competition requirements of 3(a)–(d) are not redundant. Further, to the extent that, for acquisitions requiring prior approval, 3(e) recapitulates the requirements of 3(a)–(d), it does not place any additional substantive burden on recipients.

One commenter suggested that the competition requirements not apply to aggregate acquisitions of over $10,000, but only to individual item acquisitions of over $10,000. Acquisitions using over $10,000 of LSC funds represent a significant investment of funds, whether for a single item or multiple items in a single acquisition. As noted elsewhere herein, one of LSC's responsibilities is to act as a steward, ensuring the public funds it is entrusted to distribute are used for the purpose and in the manner which Congress made them available. Thus, LSC has a responsibility to ensure that recipients are, to the extent possible, "getting a good deal" on large acquisitions. Limiting the competition requirement to individual item purchases does not meet this objective and would undermine LSC's ability to exercise effective oversight over the use of LSC funds.

As proposed, acquisitions of over $10,000 would have to have been accomplished by written competitive quote. This proposed requirement was based on the FAR and OMB Circular A–110, each of which require that requests for quotes clearly identify the salient characteristics of the property to be acquired, as well as the basis for evaluating quotes and selecting a source. LSC received comments suggesting that the requirement for three written quotes could be relaxed or otherwise redesigned to allow recipients greater flexibility in competing and completing procurements. In this area, a few commenters suggested the language of this section take into account the increasing use of catalogs and internet sites in procurement.

LSC agrees with these commenters that LSC could make changes to provide more options to recipients while still meeting LSC's objective that recipients seek to obtain competitive prices on the items they acquire. An as initial matter, LSC notes that, even as proposed, the use of electronic media would have been permissible to secure written quotes. However, LSC believes that this section was susceptible to improvement beyond simply making this point more explicit. Accordingly, section 3(a) has been significantly revised to require a

recipient to consider competitive quotes from at least three potential sources for the property. Under the revised language, a recipient may make individual requests for quotes and/or may use quotes listed in suppliers' online or printed catalogs, posted on electronic websites or contained in other publicly available materials.

Individual item acquisitions of over $10,000 will have to be approved in advance by LSC. This includes acquisitions made to replace already-existing property, the original acquisition of which LSC may have approved at a prior point in time. Consistent with previous LSC guidance, requests for prior approvals will have to include a justification stating the need for the acquisition, a brief description of the property to be acquired and a description of the acquisition process used, including the quotes received by the recipient.

LSC has added language to this section to allow a recipient making a grant application to include a prior approval request in the grant application. The provision specifies that any such request must identify the particular item proposed to be acquired and include a justification which complies with the requirements of this section. In such a case, the grant approval will serve as the notice of the approval of the acquisition request. LSC believes that this will save time and effort for recipients, particularly (but not exclusively) those seeking funds under the Technology Grants program, who know that they intend to acquire a large individual item with the grant funds for which they are applying. Thus, by allowing a recipient to include the prior approval request in the grant application instead of having to make a separate request once the grant is awarded, LSC hopes to lessen the burdens on recipients, while still ensuring compliance with the requirements of Part 1630. Any prior approvals granted in this manner would, like all grants, be conditional upon the availability of the grant funds, and like app prior approvals, be subject to the duration requirements of 45 CFR 1630.5(c).

Other comments LSC received on this section noted concerns about situations in which exceptions to the basic policy would be necessary. LSC notes that the procedures permit sole source acquisitions if circumstances prevent requesting competitive quotes. In such cases, recipients would have to document the reason(s) for conducting the acquisition on a sole source basis. LSC believes that this language is sufficient to alleviate concerns in this area. This is particularly so in light of the fact that the language reflects current LSC policy, which has worked well up to this point.

In addition, as discussed above, several commenters suggested that the PAMM not apply to leases of personal property, and these commenters, accordingly, suggested amending this section. For the reasons discussed above, LSC is retaining the requirement that leases of personal property be subject to the PAMM. Therefore, references to leases in this section are retained as proposed.

Section 4—Acquisition Procedures for Real Property

Section 4 contains the procedures for the acquisition of real property. Under this section, prior to acquiring real property, a recipient is required to identify and evaluate at least three potential sites. This section draws upon a similar requirement in the FAR relating to the selection of sources for the leasing of real property. The types of costs to be considered in an analysis of an acquisition of real property would be those which LSC asks recipients to describe when seeking prior approval of an acquisition of real property pursuant to LSC Program Letter 98–4, dated July 1, 1998. Recipients are encouraged to negotiate with potential sources prior to entering a contract in order to obtain the most favorable contract terms possible.

LSC received a variety of comments on the proposed requirements in this section. One comment suggested that the competition requirements not be applied to purchases of real property, while others suggested that the competition factors be broadened to allow recipients to take into account certain non-monetary factors (i.e., accessibility of facility to public transportation), and that the required cost analysis include occupancy costs.

For many recipients, such a purchase may represent the single largest acquisition they ever make. Hence, LSC does not believe it is unreasonable to expect recipients to consider alternate properties and gain the benefits of competition in making real estate purchases. However, LSC does agree that many factors other than price alone are appropriately considered in making the choice of selecting one property over another. Indeed, past practice in reviewing and granting prior approvals demonstrates that recipients do consider factors other than price and LSC approves of such practices. Accordingly, LSC has revised section 4 to make explicit the ability of recipients to consider a range of qualitative factors when considering real property acquisition alternatives and that the required cost analysis includes occupancy costs.

One commenter requested that LSC clarify the time period over which the average annual cost analysis should be done. Section 4(c), as proposed, stated that the cost analysis should be for the life of the financing. LSC believes this is sufficiently clear and has made no changes to this language.

This section retains LSC's prior approval requirement for acquisitions of real property.[3] Sections 4(d)(1) through (7) reflect provisions from Program Letter 98–4 setting forth the types of information which LSC requires recipients to submit in support of a request for prior approval of an acquisition of real property. LSC received no comments on this section and LSC retains the language as proposed.

Section 4 also retains LSC's longstanding practice of requiring, as a condition of LSC's approval of the acquisition of real property, a formal agreement between LSC and the recipient setting forth the terms of LSC's approval. These agreements have included provisions governing the disposal of property purchased with LSC funds, both during the grant term and upon cessation of funding and requiring the recipient to record LSC's interest in the property. LSC received a few comments on this provision.

One commenter requested that LSC clarify 4(e)(1) relating to property agreements, on the basis that the reference to "delivering legal services to eligible clients" was somewhat confusing because it could be interpreted to require that real property could be used only for the delivery of legal services to eligible clients and not for any other purpose or for services to ineligible clients who are otherwise lawfully served by the recipient (with non-LSC funds). LSC agrees that such an interpretation would be overbroad and unnecessary. However, LSC does not believe that the section 4(e)(1), as proposed, lends itself to such an interpretation. Moreover, LSC notes that other sections of the property manual contemplate use of property for other purposes (see, e.g., section 5(f) on conditions under which property may be used by organizations engaging in LSC-restricted activities). Rather, the language was intended to convey the message that recipients are not to use LSC funds to purchase real estate simply for investment purposes, but that rather, any real estate purchased is to be acquired primarily as office space for the recipient. Although LSC has not made any changes to the language in section 4(e), LSC has clarified the language elsewhere in the PAMM to make explicit that property acquired with LSC funds is to be acquired and used for the primary purpose of delivering legal services to eligible clients in accordance with the requirements of the LSC Act, as amended, applicable appropriations acts and LSC regulations.

Another commenter suggested that the PAMM should more fully explicate LSC's interest in real property. Individual property agreements, which are expressly required by the PAMM, currently do and will continue to serve this functions. Accordingly, LSC has made no changes in section 4 in regard to this matter.

Finally, LSC restates in the PAMM LSC's requirement in 45 CFR 1630.5(b)(4) that recipients obtain prior approval of expenditures for capital improvements. This requirement applies to leasehold improvements as well as improvements to recipient-owned property. LSC retains the existing requirement from Program Letter 98–4 that recipients submit certain information in support of requests for prior approval of capital improvements. LSC did receive one comment on this section, requesting that LSC allow for emergency approval of acquisitions related to capital expenditures. LSC has traditionally permitted recipients to make such arrangements as are necessary in emergency situations, such as in response to natural disasters or other such occurrences which require emergency repairs and there was no intention to change this policy in the proposed PAMM. Accordingly, section 4(f) has been revised to permit a recipient to seek emergency approval of expenditures for capital improvements prior to providing the full written justification. In such cases, recipients will have to provide the required information to LSC in a timely manner.

Another commenter suggested substituting the word "bid" for "quote" in section 4(f). As noted above, while a clarification is appropriate, LSC thinks the clarification is better accomplished in the definitions section. Accordingly section 2(l) is amended to explicitly include competition for capital improvement services contracts.

Section 5—Retention and Use of Property Acquired With LSC Funds

Section 5 sets forth the standards for the management of real and personal property acquired with LSC funds. These standards build upon the principle contained in OMB Circular A–110, that grant recipients should possess full ownership of personal and real property purchased in whole or in part with grant funds. With regard to leased personal property, the PAMM reflects current LSC policy that leased property may be used according to the lease terms during the term of an LSC grant or contract, and must be disposed of according to the lease terms in the event that there is a cessation of LSC funding.

Under the provisions of this section, recipients are permitted to retain property as long as they continue to receive LSC funding. This represents a change from the prior policy which permitted recipients to retain property as long as it was needed for civil legal assistance. This change reflects the heightened need, in the competitive grant environment, for LSC to ensure that its funds are available to the maximum extent possible for LSC recipients and programs.

Notwithstanding the above, under the PAMM a recipient may use property acquired with LSC funds for permissible non-LSC activities, such as the representation of income-ineligible clients, provided that such other use does not interfere with the performance of the recipient's duties under its LSC grant. This flexibility parallels similar provisions in OMB Circular A–110. Further, a recipient is permitted to lease space to others or otherwise allow the use of its property for restricted activities, provided that the recipient charges a fair market price for such lease or property use. Any such use will also have to be consistent with the program integrity requirements of 45 CFR Part 1610.

LSC received one comment specifically addressing this particular provision. The commenter suggested that LSC replace the phrase "shall not be less than" with "shall be reasonable and comparable to" in 5(e) and (f). The phrase "shall not be less than" was derived from OMB Circular A–110 and chosen to ensure that the provisions would be consistent with IRS rules. As such, LSC does not believe that changing this language is desirable or advisable. Accordingly, the language has not been changed.

Section 5(f) addresses the use of a particular subset of personal property—copyrights. Incorporating language from OMB Circular A–110, this paragraph provides that recipients be permitted to own copyrights to publications, software, and other copyrightable works created in whole or part with LSC funds. However, in conformance with longstanding LSC policy, recipients creating or otherwise obtaining copyrightable materials with LSC funds will have to provide LSC free access to and use of such materials, including the right to make such materials available to other LSC recipients.

Other than the comments relating to paragraphs (e) and (f) discussed above, the only other comments LSC received on section 5 suggested amendments to this section reflecting the suggestion that the PAMM not apply to leases of personal property. For the reasons discussed above, LSC is retaining the requirement that leases of personal property be subject to the PAMM. Therefore, references to leases in this section are retained as proposed. All other provisions are also retained as proposed.

Section 6—Disposal of Personal Property Acquired With LSC Funds

This section establishes requirements governing the disposal of personal property. Generally, recipients have considerable discretion in selecting methods of disposing of personal property purchased with LSC funds, except at the point which a recipient ceases to receive LSC funds. At the cessation of LSC funding, recipients have an obligation to LSC with respect to items of personal property.

LSC received a comment asking LSC to clarify section 6 with regard to the proper standards for disposing of property having a value of less than the definitional threshold standard in Section 2(g). Property is defined in the PAMM as having a threshold value of $5,000. Thus, property with a current market value at the time of disposition of less than $5,000 is not, by its own terms, subject to the PAMM. Recipients are, accordingly, free to dispose of property having a value of less than $5,000 in any manner in which the recipient sees fit. LSC reminds recipients that the relevant dollar value is the current market value. Thus, property with a current market value of less than $5,000 at the time of disposal is not subject to the PAMM, regardless of the value of the property at the time of acquisition.

In the notice setting forth the proposed PAMM, LSC requested comment on the proposal to prohibit the sale of excess property to recipient Board members or employees. None of the commenters affirmatively supported this proposal, while one commenter stated that it did "not disagree" with the proposal and several commenters stated that they disagreed with the proposal. It was not altogether clear, however, whether those commenters opposing the

[3] LSC's longstanding policy is that leases of real property do not require prior approval and LSC does ot propose any change to that policy.

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proposal were considering that the prohibition, as proposed, would only apply to property with a value of over $1,000. Given the definition of property in the PAMM, property with a current market value of less than $5,000 would, as noted above, be subject to disposal by the recipient without restriction, including by sale to Board members or employees. In light of the above, LSC believes that the proposed restriction should be adopted. As written, the prohibition will only apply items of significant value. LSC believes this is appropriate, yet still allows recipients flexibility in disposing of items of lesser value.

The PAMM, as noted above, permits recipients considerable latitude in disposing of personal property purchased with LSC funds during the term of an LSC grant. Specifically, under this section, recipients may: (1) Trade property to suppliers or vendors in return for reductions in the acquisition price of new or replacement property; (2) sell the property, by the solicitation of formal quotes for property with a value of over $15,000, or by negotiation where the property has a value $15,000 or less or where advertising for bids has not resulted in reasonable bid prices;[4] (3) transfer the property to third parties which are eligible under statute to receive support from LSC; (4) transfer the property to non-LSC programs, subject to LSC approval; or (5) transfer the property to other nonprofit programs serving the poor in the same community. These options are consistent with current Federal practice as reflected in OMB Circular A–110, the Federal Property Management Regulations (41 CFR Chapter 101) and the 1981 Property Manual.

Another comment addressing the disposal procedures suggested that the requirements should apply only in situations in which the recipient had to get prior approval of the acquisition and in which the property had a current market value (at the time of disposition) of greater than $10,000 and that LSC should limit its interest in such property to a period of one year. If LSC were to adopt this suggestion, almost all personal property dispositions would no longer be subject to any standards. Under such circumstances, LSC would lose its ability to exercise effective oversight over the use of LSC funds. As noted above, one of LSC's responsibilities is to act as a steward, ensuring the public funds it is entrusted to distribute are used for the purpose and in the manner which Congress made them available and the lack of accountability over most funds cannot be justified.

The PAMM provides for different options for the disposal of personal property at the point that a recipient ceases to receive LSC funding. Recipients are permitted to transfer or retain personal property purchased with LSC funds, provided that LSC would be compensated in an amount equal to the percentage of the property's acquisition cost funded with LSC monies. These provisions are based on disposal options set forth in OMB Circular A–110. It is anticipated that LSC and recipients will identify, on a case by case basis at the time of cessation of funding, the best method for disposing of personal property purchased with LSC funds.

One commenter also suggested that LSC should delete references to LSC being entitled to compensation in the case of disposal of property by sale by the recipient. This commenter suggested that such an action would make it appear that LSC was interested in profit-making. As LSC noted in the notice of the proposed PAMM, funding is limited and available only on a competitive basis. Thus, rather that seeking some undue "windfall" from the disposition of property acquired with LSC funds, LSC is seeking to recoup funds in order to redistribute them to ensure that the scarce funds available are serving their original purpose to the maximum extent possible. If LSC were to permit recipients to retain all the proceeds from a disposition of property once they ceased being funded by LSC, it could be argued that the recipient would be reaping an undue windfall. At the least, the benefits of those dollars would no longer be assured of serving the original intended purpose. Accordingly, these provisions have not been changed. A provision has been, however, to reflect the current LSC policy that reimbursed funds are to be used to make additional grants to the field and that grants will generally be to recipients in the same service area which the funds originally supported.

With respect to leased personal property, the PAMM provides that during the term of an LSC grant or contract, recipients be permitted to dispose of such leased with LSC funds in accordance with the terms of the lease. When a recipient ceases to receive LSC funding, the recipient would be required to dispose of items of personal property leased with LSC funds in accordance with the terms of the lease.

LSC was asked provide additional clarification regarding it what it intended by requiring disposal of leased property in conformance with the terms of the lease. The other disposal-related requirements all apply to property purchased and owned by recipients. Leased property is, by definition, not owned by the recipient and the recipient is not at liberty to dispose of the property by giving it away or selling it. However, since LSC anticipates that there will occasionally be a need for recipients to divest themselves of leased property, it was appropriate that this circumstance be included in the PAMM. Since, the use and disposal of leased property is generally governed by the terms of the lease itself, LSC thought it was sufficient to note that any such property should be disposed of as required by the terms of the lease under which the property was obtained. This provision is retained as proposed.

A number of commenters noted that the requirements related to disposal in the case where a recipient ceases to receive funding are unclear if the recipient is undergoing a merger or takeover. In such a case, while the recipient may itself become a different (or non-existent) legal entity, the successor organization will be a funded recipient.

LSC agrees that this is a special circumstance which merits specific treatment in the PAMM. Accordingly, LSC has added a new provision to Section 6 to provide that when a recipient ceases to receive LSC funding because the recipient has merged with or is succeeded by another recipient, the recipient may transfer the property to the merged or successor recipient, provided that the recipient and the merged or successor recipient execute a successor in interest agreement, approved by LSC, which requires the merged or successor recipient to use the property for the primary purpose of delivering legal services to eligible clients in accordance with the requirements of the LSC Act, as amended, applicable appropriations acts, and LSC regulations.

Section 7—Disposal of Real Property Acquired With LSC Funds

Section 7 sets forth the proposed standards for the disposal of real property purchased with LSC funds. As with the personal property disposal standards in Section 6, LSC proposes to provide different options for disposals occurring during the grant term and at the cessation of LSC funding.

[4] By reference to 45 CFR 1630.12, section 6(c) would clarify that income from the state of property purchased with LSC funds is LSC derivative income subject to the requirements of the LSC Act, regulations, and other applicable law. As such, LSC derivative income becomes part of the LSC fund balance which may need to be returned to LSC if the fund balance amount exceeds limits established by 45 CFR part 1628.

For recipients seeking to dispose of real property during the grant term, LSC retains the longstanding LSC policy whereby recipients are permitted to sell real property acquired with LSC funds.[5] Recipients are also permitted to transfer real property to other LSC recipients. This is consistent with most LSC property interest agreements between LSC and recipients using LSC funds to purchase real property.

LSC also received a couple of comments suggesting limiting section 7 to "acquisition costs." The PAMM, as proposed, reflected current policy related to disposition of property and is what LSC is currently requiring in property agreements. LSC sees no reason to change the policy at this time.

At the point of cessation of LSC funding, the PAMM permits recipients to sell, transfer or retain real property acquired with LSC funds, provided that LSC is compensated in an amount equal to the percentage of the property's acquisition cost funded by LSC monies. LSC will have to approve any such disposition in advance.

One commenter suggested that LSC should delete references to LSC being entitled to compensation in the case of disposal of property by sale by the recipient. This commenter suggested that such an action would make it appear that LSC was interested in profit-making. As LSC noted in the notice of the proposed PAMM, funding is limited and available only on a competitive basis. Thus, rather that seeking some undue "windfall" from the disposition of property acquired with LSC funds, LSC is seeking to recoup funds in order to redistribute them to ensure that the scarce funds available are serving their original purpose to the maximum extent possible. If LSC were to permit recipients to retain all the proceeds from a disposition of property once they ceased being funded by LSC, it could be argued that the recipient would be reaping an undue windfall. At the least, the benefits of those dollars would no longer be assured of serving the original intended purpose. Accordingly, these provisions have not been changed. A provision has been, however, to reflect the current LSC policy that reimbursed funds are to be used to make additional grants to the field and that grants will generally be to recipients in the same service area which the funds originally supported.

A number of commenters noted that the requirements related to disposal in the case where a recipient ceases to receive funding are unclear if the recipient is undergoing a merger or takeover. In such a case, while the recipient may itself become a different (or non-existent) legal entity, the successor organization will be a funded recipient.

LSC agrees that this is a special circumstance which merits specific treatment in the PAMM. Accordingly, LSC has added a new provision to Section 7 to provide that when a recipient ceases to receive LSC funding because the recipient has merged with or is succeeded by another recipient, the recipient may transfer the property to the merged or successor recipient, provided that the recipient and the merged or successor recipient execute a successor in interest agreement, approved by LSC, which requires the merged or successor recipient to use the property for the primary purpose of delivering legal services to eligible clients in accordance with the requirements of the LSC Act, as amended, applicable appropriations acts, and LSC regulations.

Section 8—Documentation and Recordkeeping Requirements

Section 8 contains requirements for the documentation of property acquisitions and disposals. This section is intended to ensure that recipients create and retain the required records in support of property acquisition and disposal decisions and LSC fund expenditures related thereto.

LSC received no comments addressing this section and it is adopted as proposed.

Section 9—Recipient Policies and Procedures

This section requires that recipients adopt written procurement procedures. This requirement stems from OMB Circular A–110 and is intended to ensure that recipients have standardized procurement procedures that are consistent with LSC requirements. LSC will not collect, review or approve such procedures, although a recipient will have to make them available to LSC upon request for LSC oversight and compliance purposes.

LSC received no suggestions for changing this section and it is adopted as proposed. One commenter, however, did pose a question about when LSC expects recipients to have developed and implemented their written procedures as required by Section 9. LSC expects recipients to comply with this section within 90 days of the effective date of this notice.

[5] By reference to 45 CFR 1630.12, Section 7(b) would clarify that income from the sale of property acquired with LSC funds is LSC derivative income subject to the requirements of the LSC Act, regulations, and other applicable law. As such, LSC derivative income becomes part of the LSC fund balance which may need to be returned to LSC if the fund balance amount exceeds the limits established by 45 CFR part 1628.

Property Acquisition and Management Manual

Sec. 1 Purpose and Scope.
Sec. 2 Definitions.
Sec. 3 Acquisition Procedures for Personal Property.
Sec. 4 Acquisition Procedures for Real Property.
Sec. 5 Retention and Use of Property Acquired with LSC Funds.
Sec. 6 Disposal of Personal Property Acquired with LSC Funds.
Sec. 7 Disposal of Real Property Acquired with LSC Funds.
Sec. 8 Documentation and Recordkeeping Requirements.
Sec. 9 Recipient Policies and Procedures.

Section 1 Purpose and Scope

The purpose of this PAMM is to set forth standards governing the acquisition, retention, use and disposal of personal and real property acquired in whole or in part with LSC funds. The standards set forth herein apply to both real and non-expendable personal property, but not apply to expendable personal property or services, except for contracts for services for capital improvements which are subject to the requirements of Section 4(f) herein.

The requirements set forth herein apply to acquisitions made on or after the PAMM's effective date as published in the **Federal Register**. For purchases of real property prior to the PAMM's effective date, the written agreement between the program and LSC will control. For prior acquisitions of personal property, the 1981 Property Manual will control.

Section 2 Definitions

(a) *Acquisition* means a purchase of real property or a purchase or lease of personal property made in whole or in part with LSC funds. For the purposes of this PAMM, recipients should treat a purchase or lease of related property as a single acquisition when the property can be readily obtained through a single contract with a single source.

(b) *Acquisition costs for real property* means the initial down payment and principle and interest on debt secured to finance the acquisition of the property, as provided in the December 31, 1997 preamble to the final rule on cost accounting, 45 CFR Part 1630.

(c) *Capital improvement* means an expenditure of an amount of LSC funds exceeding $10,000 to improve real property through construction or the purchase of immovable items which become an integral part of real property.

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(d) *Lease* means a contract for the use of property during a specified period for a specified price.

(e) *LSC property interest agreement* means a formal written agreement between LSC and a recipient setting forth the terms of LSC's approval of the recipient's use of LSC funds to acquire real property.

(f) *Personal Property* means property of any kind, including tangible property (having physical existence), such as equipment, furniture, or books, or intangible (having no physical existence), such as copyrights or patents, but does not include supplies, such as stationery, paper clips, pens, etc., or real property or improvements to real property.

(g) *Property* means any real or personal property having a market value greater than $5,000 and a useful life of more than one year. For the purposes of Sections 6 and 7 related to the disposal of property, the relevant market value is the value at the time of disposal.

(h) *Purchase* means to obtain and take ownership of property through the payment of money or its equivalent.

(i) *Quote* means a quotation or bid from a potential source interested in selling or leasing property to a recipient, or providing services to a recipient for capital improvements.

(j) *Real property* means land, buildings, and appurtenances, including capital improvements thereto, but not including moveable personal property.

(k) *Source* means a supplier, vendor, or contractor who has agreed to provide property to a recipient through a purchase or lease agreement.

Section 3 Acquisition Procedures for Personal Property

(a) Before using more than $10,000 of LSC funds to make an acquisition of personal property, including, but not limited to, acquisitions of single items of over $10,000, a recipient shall consider competitive quotes from at least three potential sources for the property. A recipient may make individual requests for quotes and/or may use quotes listed in suppliers' online or printed catalogs, posted on electronic websites or contained in other publicly available materials.

(b) The selection of a source shall be on the basis of criteria established and documented by the recipient. Such criteria may include price alone or price in combination with other factors.

(c) Notwithstanding paragraph (a) of this section, a recipient may make a sole source acquisition when circumstances prevent the requesting of competitive quotes. When an acquisition is made on a sole source basis, the recipient shall maintain written documentation of the reason(s) for not obtaining competitive quotes.

(d) A recipient using more than $10,000 of LSC funds to acquire an individual item of personal property must request and receive LSC's prior approval pursuant to 45 CFR 1630.5(b)(2), whether or not the acquisition is to replace existing property, before making the expenditure.

(1) A request for prior approval shall include:

(i) Three quotes, if obtained; and

(ii) A letter or memorandum containing:

(A) A statement of need explaining how the acquisition will further the delivery of legal services to eligible clients;

(B) A brief description of the property to be acquired, including the make and manufacture of the item, the name of the source supplying the item, the quantity to be acquired, and the total dollar amount of the acquisition; and

(C) A brief description of the acquisition process, including the names of the potential sources who submitted quotes, the amounts of the quotes, the quantity of items offered by the potential sources, and a brief explanation of the reasons for selecting a particular source to supply the item(s). In the absence of quotes, the description should explain what circumstances prevented the recipient from obtaining quotes.

(2) A recipient making a grant application may include a prior approval request in the grant application. Any such request must identify the specific item proposed to be acquired and include a justification which complies with the requirements of paragraph (d)(1) of this section. In such a case, approval of the grant application shall be deemed an approval of the acquisition request, in accordance with 45 CFR 1630.5(b)(2) and 1630.5(c).

Section 4 Acquisition Procedures for Real Property

(a) Prior to acquiring real property with LSC funds, recipients shall conduct an informal market survey in order to identify and evaluate at least three potential sources. Recipients may retain a real estate agent or broker for the purposes of conducting a market survey, provided that the cost is reasonable.

(b) The evaluation of potential acquisitions of real property shall include consideration of:

(1) The total cost of the acquisition;

(2) The quality of the property to be acquired; and

(3) Other factors affecting the appropriateness of the property for the delivery of legal services, such as location, accessibility to the client population and public transportation, and proximity to courts and/or other government or social services agencies.

(c) Recipients shall conduct an analysis of the average annual cost of the acquisition, including the costs of a down payment, interest and principal payments on debt acquired to finance the acquisition, closing costs, renovation costs, and the costs of utilities, maintenance, and taxes, where applicable. The cost analysis shall include a comparison of:

(1) The estimated total costs of acquiring and occupying the property over the life of the financing of the acquisition; with

(2) The estimated total costs of leasing and occupying similar property over the same period of time.

(d) The use of LSC funds to acquire real property requires LSC's prior approval pursuant to 45 CFR 1630.5(b)(3). When requesting LSC prior approval of an acquisition of real property, recipients shall provide to LSC in writing:

(1) a statement of need explaining how the acquisition will further the delivery of legal services to eligible clients in terms of:

(i) The location of the property in terms of accessibility to program clients;

(ii) Trends in funding and program staffing levels in relation to space needs; and

(iii) Whether the property will replace or be in addition to existing program offices;

(2) a brief analysis comparing:

(i) The estimated average annual cost of the planned acquisition over the life of the financing of the acquisition, including the costs of maintenance, utilities, and taxes; with

(ii) The estimated average annual cost of leasing or purchasing other, similar property over the same period of time;

(3) A current, independent appraisal of a type sufficient to secure a mortgage;

(4) Documentation of board approval consisting of either a board resolution or board minutes demonstrating approval of the acquisition;

(5) A statement of handicapped accessibility sufficient to meet the requirements of 45 CFR 1624.5(c);

(6) A copy of an acquisition agreement, contract, or other document containing a description of the property and the terms of the acquisition; and

(7) An explanation of the anticipated financing of the acquisition including:

(i) The estimated total cost of the acquisition, including renovations, moving, and closing costs;

(ii) The source and amount of funds to be applied toward a down payment;

(iii) The source of funds to be applied toward a monthly mortgage payment, if any;

(iv) The monthly amount of principal and interest payments on debt secured to finance the acquisition, if any; and

(v) The source and estimated amounts of funds needed to cover moving, renovations, and closing costs.

(e) At the time of approving a recipient's use of LSC funds to acquire real property, LSC and the recipient shall enter into a written LSC property interest agreement, which shall include, at a minimum:

(1) Provisions consistent with Sections 5(a), 7(a) and 7(b) herein;

(2) An agreement by the recipient not to encumber the property without prior approval of LSC;

(3) An agreement by the recipient to record, in accordance with appropriate and applicable state law, LSC's interest in the property.

(f) Expenditures for capital improvements require LSC's prior approval pursuant to 45 CFR 1630.5(b)(4).

(1) When requesting LSC's prior approval of such expenditures, recipients shall provide to LSC in writing, the following:

(i) A statement of need explaining how the improvement will further the delivery of legal services to eligible clients;

(ii) A brief description of the improvement, including the nature of the work to be done, the name of the contractor performing the work, and the total expected cost of the improvement; and

(iii) A brief description of the contractor selection process, including the names of the contractors who submitted quotes, the amounts of the quotes, and a brief explanation of the reason(s) for selecting a particular contractor to perform the work.

(2) If an expenditure for capital improvements must be made on an emergency basis (i.e., to repair major structural elements of a building after a hurricane or earthquake, flooding, etc.), a recipient may seek an approval to move ahead with the project prior to providing the information provided in paragraph (f)(1) of this section. If such approval has been granted, the recipient must follow up with LSC by providing the required information in a timely manner.

Section 5 Retention and Use of Property Acquired With LSC Funds

(a) Subject to the requirements herein, recipients may use LSC funds to acquire and use personal and real property for the primary purpose of delivering legal services to eligible clients in accordance with the requirements of the LSC Act, as amended, applicable appropriations acts and LSC regulations. Title to personal and real property purchased in whole or in part with LSC funds vests in the recipient subject to the conditions set out in paragraphs (b) through (f) of this section.

(b) Recipients may retain personal and real property purchased with LSC funds for as long as they continue to receive LSC funding. When a recipient ceases to receive LSC funding, property purchased with LSC funds shall be disposed of in accordance with the requirements of sections 6(d) or (e) and 7(c) or (d) herein, as appropriate.

(c) Recipients may retain personal property obtained through a lease using LSC funds for as long as they continue to receive LSC funds, subject to the terms of the lease. When a recipient ceases to receive LSC funding, property leased with LSC funds shall be disposed of in accordance with Section 6(b) herein.

(d) When using personal or real property acquired in whole or in part with LSC funds for the performance of an LSC grant or contract, recipients may use such property for other activities, provided that such other activities do not interfere with the performance of the LSC grant or contract, and provided that such other uses meet the requirements of paragraphs (e) and (f) of this section.

(e) If a recipient uses personal property acquired in whole or in part with LSC funds to provide services to another organization which engages in activity restricted by the LSC Act, regulations, or other applicable law, the recipient shall charge the other organization a fee which shall not be less than that which private non-profit organizations in the same locality charge for the same services under similar conditions.

(f) If a recipient uses real property acquired in whole or in part with LSC funds to provide space to another organization which engages in activity restricted by the LSC Act, regulations, or other applicable law, the recipient shall charge the other organization an amount of rent which shall not be less than that which private non-profit organizations in the same locality charge for the same amount of space under similar conditions.

(g) Recipients may copyright any work that is subject to copyright and was developed, or for which ownership was obtained, under an LSC grant or contract, provided that LSC reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use work copyrighted by recipients, when the work is obtained or developed in whole or in part with LSC funds.

Section 6 Disposal of Personal Property Acquired With LSC Funds

(a) During the term of an LSC grant or contract, recipients may dispose of items of personal property leased with LSC funds in accordance with the terms of the lease.

(b) When a recipient ceases to receive LSC funding, the recipient shall dispose of items of personal property leased with LSC funds in accordance with the terms of the lease.

(c) During the term of an LSC grant or contract, recipients may dispose of items of personal property purchased with LSC funds by:

(1) Trading in the property at the time of acquiring replacement property;

(2) Selling the property at a reasonable negotiated price, without advertising for quotes, where the property item has a current fair market value not exceeding $15,000;

(3) Selling the property after having advertised for and received quotes, where the current fair market value of the property item exceeds $15,000;

(4) Transferring the property to another recipient of LSC funds; or

(5) With the approval of LSC, transferring the property to another nonprofit organization serving the poor in the same service area.

(d) Recipients shall not dispose of items of personal property by sale, donation or other transfer of the property to the recipients' board members and employees.

(e) During the term of an LSC grant or contract, recipients selling personal property purchased with LSC funds may retain and use income from the sale according to the requirements of 45 CFR 1630.12 and 45 CFR 1628.3.

(f)(1) Except as provided in paragraph (g) of this section, when a recipient ceases to receive LSC funding, subject to the approval of LSC, recipients shall dispose of individual items of personal property purchased with LSC funds according to one of the following methods:

(i) The recipient may transfer the property to another recipient of LSC funds, in which case the recipient transferring the property shall be entitled to compensation in the amount of that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by non-LSC funds;

(ii) The recipient may transfer the property to another nonprofit organization serving the poor in the same service area, in which case LSC shall be entitled to compensation for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by LSC funds;

(iii) The recipient may sell the property and retain the proceeds from the sale after compensating LSC for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by LSC funds;

(iv) The recipient may retain the property, in which case LSC shall be entitled to compensation from the recipient for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by LSC funds.

(2) Funds returned to LSC upon a disposition of property under this section shall be used by LSC to make emergency and other special grants to recipients. Such grants will generally be made to the same service area the returned funds originally supported.

(g) When a recipient ceases to receive LSC funding because the recipient has merged with or is succeeded by another recipient, the recipient may transfer the property to the merged or successor recipient, provided that the recipient and the merged or successor recipient execute a successor in interest agreement, approved by LSC, which requires the merged or successor recipient to use the property for the purpose of providing legal services for primary purpose of delivering legal services to eligible clients in accordance with the requirements of the LSC Act, as amended, applicable appropriations acts, and LSC regulations.

Section 7 Disposal of Real Property Acquired With LSC Funds

(a) During the term of an LSC grant or contract, recipients may dispose of real property acquired with LSC funds by:

(1) Selling the property after having advertised for and received offers, in which case the recipient may retain and use the proceeds from the sale of the property for the purpose of delivering legal services to eligible clients; or

(2) Transferring the property to another recipient of LSC funds, in which case the recipient transferring the property shall be entitled to compensation in the amount of that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by non-LSC funds.

(b) During the term of an LSC grant or contract, recipients selling real property acquired with LSC funds may retain and use income from the sale of the property according to the requirements of 45 CFR 1630.12 and 45 CFR 1628.3.

(c)(1) When a recipient owning real property acquired with LSC funds ceases to receive funding from LSC, the recipient shall, with the approval of LSC, dispose of the real property according to one of the following methods:

(i) The recipient may transfer title to the property to another recipient of LSC funds, in which case the recipient transferring the property shall be entitled to compensation for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by non-LSC funds;

(ii) The recipient may retain title to the property without further obligation to LSC after the recipient compensates LSC for that percentage of the property's current fair market value which is equal to the percentage of the property's acquisition cost which was borne by LSC funds;

(iii) The recipient may sell the property and compensate LSC for that percentage of the property's current fair market value which is equal to the percentage of the property's acquisition cost that was borne by LSC funds, after the deduction of actual and reasonable selling and fix-up expenses, if any.

(2) Funds returned to LSC upon a disposition of property under this section shall be used by LSC to make emergency and other special grants to recipients. Such grants will generally be made to the same service area the returned funds originally supported.

(d) When a recipient ceases to receive LSC funding because the recipient has merged with or is succeeded by another recipient, the recipient may transfer the property to the merged or successor recipient, provided that the recipient and the merged or successor recipient execute a successor in interest agreement, approved by LSC, which requires the merged or successor recipient to use the property for the primary purpose of delivering legal services to eligible clients in accordance with the requirements of the LSC Act, as amended, applicable appropriations acts, and LSC regulations.

Section 8 Documentation and Recordkeeping Requirements

(a) Recipients shall account for personal property acquired with LSC funds according to the requirements of Sections 2–2.4 and 3–5.4(c) of the Accounting Guide for LSC Recipients.

(b) Recipients acquiring real property with LSC funds shall keep such records as are customary for the retention of real property in the jurisdiction where the property is located.

(c) Recipients shall account for income earned from the sale of real or personal property purchased with LSC funds in accordance with the requirements of 45 CFR 1630.12.

(d) Documentation of real property acquisitions shall consist of the acquisition contract, evidence of a market survey, cost or price analysis, and an explanation of the reason(s) for selecting a particular source, a copy of an independent appraisal of the property's market value, evidence of board approval of the acquisition, a statement of handicapped accessibility sufficient to meet the requirements of 45 CFR 1624.5(c), and a copy of the LSC property interest agreement required by Section 4(e) herein.

Section 9 Recipient Policies and Procedures

Recipients shall develop written policies and procedures which implement, at a minimum, the requirements of Sections 3 and 4 herein.

Victor M. Fortuno

General Counsel and Vice President for Legal Affairs

[FR Doc. 01–23008 Filed 9–12–01; 8:45 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

LSC Regulations Review

AGENCY: Legal Services Corporation.

ACTION: Final Report of the LSC Regulations Review Task Force—Notice of Availability and Request for Public Comment.

SUMMARY: As part of its ongoing efforts to improve the administration of regulatory programs and requirements, Legal Services Corporation is providing notice of the availability of the Final Report of the LSC Regulations Review Task Force. LSC is also soliciting public comment on this Final Report. The Final Report and public comment thereon will be used toward the development of a regulatory agenda for 2001 and beyond.

DATES: Written comments must be received on or before October 29, 2001.

ADDRESSES: Written comments may be submitted by mail, fax or email to Mattie C. Condray at the addresses listed below.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002–4250; 202/336–8817 (phone); 202/336–8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION: LSC is issuing this notice to advise the public of the availability of the LSC Regulations Review Task Force Final Report, and to request public comment thereon.

The Regulations Review Task Force was an internal LSC staff task force charged with conducting a comprehensive review of LSC's regulations to support the LSC Board of Directors' Operations & Regulations Committee in the development of a Regulatory Agenda for 2001 and beyond. The members of the Task Force were Victor Fortuno, Vice President for Legal Affairs & General Counsel, Co-Chair; Randi Youells, Vice President for Programs, Co-Chair; John Eidleman, Program Counsel—Office of Program Performance; John Meyer, Acting Director—Office of Information Management; Bertrand Thomas, Program Counsel III—Office of Compliance and Enforcement and Mattie Condray, Senior Assistant General Counsel—Office of Legal Affairs. Laurie Tarantowicz, Assistant Inspector General and Legal Counsel, served as the OIG Liaison to the Task Force.

The Task Force conducted its work over the period of October, 2000, through August, 2001. The Final Report of the Task Force contains a review of LSC regulations to make sure that they properly implement current law and an analysis to determine whether any of LSC's regulations are confusing, unduly burdensome or pose interpretation or enforcement problems. The Final Report also suggest basic prioritization categories for action. The conclusions of the Task Force, as embodied in the Final Report, are endorsed by LSC senior management. The Final Report, dated August 24, 2001, was presented to the Operations and Regulations Committee at a meeting on September 7, 2001, in Alexandria, Virginia.

With the issuance of the Final Report of the Task Force, LSC is now seeking public comment on the Report. Interested parties are encouraged to review the Final Report and provide comments thereon. Comments will be accepted through the date listed in this notice. A full copy of the Final Report can be found on the LSC website at: http://www.lsc.gov/FOIA/other/rrtf_frpt.pdf. Interested parties may also request a copy by contacting Mattie Condray at the addresses listed above.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 01–23039 Filed 9–12–01; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

Firstenergy Nuclear Operating Company, Ohio Edison Company; Pennsylvania Power Company: Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License (FOL) Nos. DPR–66 and NPF–73, issued to FirstEnergy Nuclear Operating Company, *et al.* (the licensee), for operation of BVPS–1 and 2, located in Shippingport, Pennsylvania. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed

The proposed action would revise the FOL and the technical specifications (TSs) to reflect an increased licensed maximum steady state reactor core power level of 2689 megawatts thermal (MWt), an increase of approximately 1.4% as compared to the current licensed maximum steady state reactor core power level of 2652 MWt. This increase is facilitated by taking advantage of the reduced feedwater flow measurement uncertainty associated with utilization of the Caldon Leading Edge Flowmeter.

The proposed action is in accordance with the licensee's application dated January 18, 2001 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML010230096), as supplemented by letters dated February 20 (ADAMS Accession No. ML010540305), April 12 (ADAMS Accession No. Ml011130105), May 7 (ADAMS Accession No. ML011340076), May 18 (ADAMS Accession No. ML011440046), June 9 (3 letters) (ADAMS Accession Nos. ML011640192, ML011640189, and ML011640086), June 26 (ADAMS Accession No. ML011840215), and June 29 (ADAMS Accession No. ML011870434), 2001.

The Need for the Proposed Action

The proposed action would allow an increase in power generation at BVPS–1 and 2 to provide additional electrical power for distribution to the grid. Power uprate has been widely recognized by the industry as a safe and cost-effective method to increase generating capacity.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action does not present a significant environmental impact.

The Commission has previously evaluated the environmental impacts of operation of BVPS–1 and 2, as described in the final environmental statements (FESs) for BVPS–1 and 2, dated July 31, 1973, and September 30, 1985, respectively (Nuclear Documents Systems [NUDOCS] Accession Nos. 8907200125 and 8509300559, respectively). The findings and conclusions of the BVPS–1 and 2 FESs remain bounding and valid for the proposed power uprate conditions.

With regard to dose consequences of postulated design-basis accidents (DBAs), the licensee has confirmed that the calculated dose consequences resulting from a postulated DBA at the exclusion area boundary, low population zone, and the control room remain within the acceptable regulatory guidelines of Title 10 of the Code of Federal Regulations (10 CFR) part 20, 10 CFR part 100, and 10 CFR part 50, appendix A, General Design Criterion 19. The NRC staff found the calculated dose consequence results of a postulated BVPS–1 Main Steam Line Break DBA acceptable in License Amendment No. 236 dated March 12, 2001 (ADAMS Accession No. ML010460384). The NRC staff found all other calculated dose consequence results for postulated BVPS–1 and 2 DBAs acceptable in License Amendments Nos. 237 and 119, dated March 22, 2001 (ADAMS Accession No. ML010610212) for BVPS–1 and 2, respectively (the environmental assessment for this action was published in the **Federal Register** on March 15, 2001 (66 FR 15147)). The licensee's current shielding and DBA dose consequence analyses assume a maximum steady state power level of 2766 MWt and 2705 MWt, respectively. These values bound the proposed increase in the maximum licensed steady state reactor core power level to 2689 MWt and the .6% core power measurement uncertainty that will result from the use of the Caldon Leading Edge Flowmeter technology.

Occupational doses for normal operations will be maintained within acceptable limits by the site ALARA (as-low-as-reasonably-achievable) program.

With regard to potentially increased normal radiological releases, the BVPS–1 and 2 gaseous and liquid waste system designs were based on operation at a maximum steady state reactor core power level of 2766 MWt and, consequently, can accommodate the effects of the power uprate satisfactorily. The gaseous and liquid effluent releases are expected to increase from current values by no more than the percentage increase in power level. Effluents are controlled administratively by the Offsite Dose Calculation Manual which ensures that offsite release concentrations and doses are maintained well within the limits of 10 CFR part 50, Appendix I. Normal average gaseous releases remain limited to a small fraction of 10 CFR part 20, appendix B, Table 2 limits.

With respect to potentially increased normal solid waste generation, the volume of solid waste would not be expected to increase significantly as compared to that generated at the current power levels, since the power uprate neither appreciably impacts installed equipment performance nor does it require drastic changes in system operation. Only minor, if any, changes in solid waste generation volume are expected. As the estimated coolant activity does not change appreciably and maintenance and operational practices are not expected to change, the calculated specific activity of solid waste is not expected to change.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. BVPS–1 and 2 employ a closed-loop cooling system that includes natural draft cooling towers (one per unit) to dissipate waste heat to the atmosphere. All water used at the plant is recycled within the closed-loop cooling system except station makeup that comes from the Ohio River via the service water system. The Beaver Valley National Pollutant Discharge Elimination System Permit Impact (NPDES) permit (Permit No. PA0025615) does not place any absolute operating limits on either flow or temperature for discharging into the Ohio river. Due to the design of the closed-loop cooling system and the relatively small increase in waste heat generated due to the power uprate, the minimal potential increase in flow and temperature to the Ohio river will have no adverse impact on the environment. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the FESs for BVPS–1 and 2, dated July 31, 1973, and September 30, 1985, respectively.

Agencies and Persons Consulted

On August 10, 2001, the NRC staff consulted with the Pennsylvania State official, Mr. Larry Ryan of the Pennsylvania Department of Environmental Protection, Bureau of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action may be found in the licensee's letter dated January 18, 2001, as supplemented by letters dated February 20, April 12, May 7, May 18, June 9 (3 letters), June 26, and June 29, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 7th day of September 2001.

For the Nuclear Regulatory Commission.

Lawrence J. Burkhart,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–22978 Filed 9–12–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Resolution of Degraded and Nonconforming Conditions; ("Generic Letter 91–18 Process")—(MB2530)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to issue a regulatory issue summary (RIS) to make available to the nuclear power industry updated staff guidance on the resolution of degraded and nonconforming conditions. Earlier guidance on this subject was provided to the industry as an attachment to Generic Letter 91–18, Revision 1, issued on October 8, 1997. The updated guidance will reflect relevant NRC regulatory process and regulation changes that have occurred since 1997. The NRC is seeking comment from interested parties on the clarity and utility of the proposed RIS and the draft updated guidance under the **SUPPLEMENTARY INFORMATION** heading. The NRC will consider the comments received in its final evaluation of the proposed RIS and updated guidance. Comments should address the contents of the guidance but not the regulations associated with it.

This **Federal Register** notice is available through the NRC's document management system (ADAMS) under accession number ML012420393. The draft updated guidance under the **SUPPLEMENTARY INFORMATION** heading is also provided in comparative text format on the NRC Web site at *http://www.nrc.gov/NRC/GENACT/GC/RI/DRAFT/index.html* to better show the substantive revisions to the 1997 version of the guidance.

DATES: Comment period expires October 29, 2001. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSEES: Submit written comments to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T6–D59, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to NRC Headquarters, 11545 Rockville Pike (Room T–6D59), Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

FOR FURTHER INFORMATION, CONTACT: Eileen McKenna at (301) 415–2189 or by e-mail to *emm@nrc.gov*.

SUPPLEMENTARY INFORMATION:

NRC Regulatory Issue Summary 2001–xx Resolution of Degraded and Nonconforming Conditions "Generic Letter 91–18 Process"

Addressees

All holders of operating licenses for nuclear power reactors, including those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, and all holders of operating licenses for nonpower reactors, including those whose licenses no longer authorize operation.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform licensees that NRC Inspection Manual Part 9900, Technical Guidance, "Resolution of Degraded and Nonconforming Conditions," has been revised. The revised inspection guidance reflects relevant changes that have been made to NRC regulations and NRC policies and practices since 1997. This RIS requires no action or written response on the part of an addressee.

Background Information

NRC staff inspection guidance on the resolution of degraded and nonconforming conditions at licensed reactor facilities is contained in NRC Inspection Manual Part 9900, Technical Guidance, "Resolution of Degraded and Nonconforming Conditions." This guidance has previously been provided to licensees for information, most recently in Revision 1 of Generic Letter (GL) 91–18, which was issued on October 8, 1997.

The NRC reviewed this inspection guidance to assess its currency and concluded that the guidance needed to be updated to reflect regulatory changes that have occurred since 1997, including the implementation of the revised reactor oversight process, the requirement that licensees appropriately assess and manage the increase in risk related to proposed maintenance activities (10 CFR 50.65(a)(4)), and the revision of 10 CFR 50.59 to remove ambiguity in the change control process. The attachment to this RIS contains the revised Part 9900 section on the resolution of degraded and nonconforming conditions. This guidance supersedes in its entirety the guidance previously provided in Revision 1 of GL 91–18. The Part 9900 guidance on operability that was originally provided in GL 91–18 has not been revised.

Summary of Issue

NRC Inspection Manual, Part 9900, Technical Guidance, "Resolution of Degraded and Nonconforming Conditions," provides guidance to NRC inspectors for reviewing the actions of licensees to restore or establish acceptable conditions following the discovery of degraded or nonconforming conditions in plant structures, systems, or components (SSCs). The governing NRC requirements for degraded or nonconforming conditions affecting the SSCs may collectively be viewed as a process for licensees to develop a basis for continued operation or to place the facility in a safe condition and take prompt corrective action. This process has not fundamentally changed from that outlined in the previous version of the Part 9900 guidance on resolution of degraded or nonconforming conditions. The attached revised Part 9900 guidance addresses related guidance and requirements for resolution of degraded and nonconforming conditions, and updates information that has changed as a result of changes to regulations or to NRC policies and procedures.

Backfit Discussion

This RIS requires no action or written response and, therefore, is not a backfit under 10 CFR 50.109. Consequently, the staff did not perform a backfit analysis.

Federal Register Notification

A notice of opportunity for public comment was published in the **Federal Register** on September xx, 2001 (66 FR xxxxx), to give interested parties an opportunity to suggest ways for improving the guidance. The staff concludes that this RIS and the attached NRC inspection guidance are informational and pertain to a staff position that does not represent a departure from current regulatory requirements and practice.

Paperwork Reduction Act Statement

This RIS does not request any information collection.

Please refer any questions that you may have about this matter to the technical contact identified below.

David B. Matthews,

Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

Technical Contact: Eileen McKenna, NRR, 301–415–2189, E-mail: *emm@nrc.gov*.

Attachments:

1. NRC Inspection Manual Part 9900, Technical Guidance, "Resolution of Degraded and Nonconforming Conditions"
2. List of Recently Issued NRC Regulatory Issue Summaries

Attachment 1

NRC Inspection Manual

Part 9900: Technical Guidance

Resolution of Degraded and Nonconforming Conditions

Draft—August 2001

Resolution of Degraded and Nonconforming Conditions

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Resolution of Degraded and Nonconforming Conditions

1.0 Purpose and Scope

To provide guidance to NRC inspectors on resolution of degraded and nonconforming conditions affecting the following systems, structures, or components (SSCs) normally described in the updated final safety analysis report (UFSAR):

(i) Safety-related SSCs, which are those relied upon to remain functional during and following design basis events (a) to ensure the integrity of the reactor coolant pressure boundary, (b) to ensure the capability to shut down the reactor and maintain it in a safe shutdown condition, or (c) to ensure the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the 10 CFR part 100 guidelines. Design basis events are defined the same as in 10 CFR 50.49(b)(1).

(ii) All SSCs whose failure could prevent satisfactory accomplishment of any of the required functions identified in (i) (a), (b), and (c).

(iii) All SSCs relied on in the safety analyses or plant evaluations that are a part of the plant's licensing basis. These analyses and evaluations include those submitted to support license amendment requests, exemption requests, or relief requests, and those submitted to demonstrate compliance with the Commission's regulations, such as the regulations for fire protection (10 CFR 50.48), environmental qualification (10 CFR 50.49), pressurized thermal shock (10 CFR 50.61), anticipated transients without scram (10 CFR 50.62), and station blackout (10 CFR 50.63).

(iv) Any SSCs subject to 10 CFR part 50, appendix B.

(v) Any SSCs subject to 10 CFR part 50, appendix A, criterion 1.

(vi) Any SSCs explicitly subject to facility Technical Specifications (TS).

(vii) Any SSCs subject to facility TS through the definition of operability (i.e., support SSCs outside TS).

This guidance is intended for NRC inspectors who are reviewing actions of licensees that hold an operating license. Although this guidance generally reflects existing staff practices, application to specific plants may constitute a backfit. Consequently, significant differences in licensee practices should be discussed with NRC management to ensure that the guidance is applied in a reasonable and consistent manner for all licensees.

If, during an inspection, an NRC inspector obtains information reasonably indicating a possible degraded or nonconforming condition affecting any of the SSCs listed above, the inspector should promptly inform the licensee so the licensee can promptly evaluate the SSC's status.

This guidance is only applicable to the discovery of degraded or nonconforming conditions. In some instances, however, a licensee may find it necessary to take actions that reduce the functional capability of SSCs in order to perform maintenance. For these cases, applicable guidance on the conduct of the pre-maintenance risk assessment and the management of the increase in risk caused by the maintenance activities (including the relationship with TS, risk assessment in accordance with 10 CFR 50.65(a)(4), and compensatory measures) is contained in Regulatory Guide 1.182 (see also Inspection Manual Part 9900, "Guidance on Voluntary Entry Into Limiting Conditions for Operation Action Statements To Perform Preventive Maintenance").

2.0 Definitions

2.1 Licensing Basis

The licensing basis comprises the set of NRC requirements applicable to a specific plant, and a licensee's written commitments for assuring compliance with and operation within applicable NRC requirements and the plant-specific design basis (including all docketed and still effective modifications and additions to such commitments over the life of the license). The licensing basis includes the NRC regulations contained in 10 CFR parts 2, 19, 20, 21, 30, 40, 50, 51, 55, 72, 73, and 100 and the appendices thereto; orders; license conditions; exemptions; and TS. It also includes the plant-specific design basis information defined in 10 CFR 50.2 and documented in the most recent UFSAR (as required by 10 CFR 50.71) and the licensee's commitments remaining in effect that were made in docketed licensing correspondence such as licensee responses to NRC bulletins, generic letters, and enforcement actions, as well as licensee commitments documented in NRC safety evaluations and licensee event reports.

2.2 Design Basis

Design basis is that body of plant-specific design basis information defined in 10 CFR 50.2.[1]

2.3 Degraded Condition

A condition of an SSC, potentially affecting operability, in which quality or functional capability has been reduced by mechanisms such as aging, erosion, corrosion, or improper operation or maintenance.

2.4 Nonconforming Condition

A condition of an SSC, potentially affecting operability, that involves a failure to meet requirements or licensee commitments because of such factors as improper design, testing, construction, or modification. The following are examples of nonconforming conditions:

1. A condition fails to conform to one or more applicable codes or standards specified in the UFSAR.

2. As-built equipment or as-modified equipment does not meet UFSAR descriptions.

3. Operating experience or engineering reviews demonstrate a design inadequacy.

4. Documentation required by NRC requirements such as 10 CFR 50.49 is unavailable or deficient.

[1] Guidance and examples for identifying 10 CFR 50.2 design bases are contained in Regulatory Guide 1.186, which endorses Appendix B to the Nuclear Energy Institute (NEI) document NEI 97–04, "Guidance and Examples for Identifying 10 CFR 50.2 Design Bases."

2.5 Full Qualification

Full qualification is conformance to all aspects of the licensing basis, including codes and standards, design criteria, safety analyses, and commitments.

2.6 Operable/Operability

The Standard Technical Specifications define operable or operability as follows:

A system, subsystem, train, component, or device shall be operable or have operability when it is capable of performing its specified functions and when all necessary attendant instrumentation, controls, electrical power, cooling or seal water, lubrication or other auxiliary equipment that are required for the system, subsystem, train, component, or device to perform its function(s) are also capable of performing their related support function(s).

This definition of operable and operability specifically applies to SSCS covered by its and to those support systems that fall within the definition. However, the same definition may be applied generically to all SSCs covered by this guidance when discussing their operability (ability to perform their functions).

3.0 Background

A nuclear power plant's SSCs are designed to meet NRC requirements, satisfy the licensing basis, and conform to specified codes and standards. For degraded or nonconforming conditions of these SSCs, the TS may require the licensee to take actions. The provisions of Criterion XVI of 10 CFR Part 50, Appendix B, may apply, requiring the licensee to promptly identify and correct conditions adverse to safety or quality. Collectively, these requirements may be viewed as a process for licensees to develop a basis to continue operation or to place the plant in a safe condition and take prompt corrective action. Reporting may also be required in accordance with 10 CFR 50.72, 50.73, and 50.9(b), 10 CFR part 21, and the TS.

Changes to the facility in accordance with 10 CFR 50.59 may be made as part of the corrective action required by Appendix B. The process displayed in the attached chart, "Resolution of Degraded and Nonconforming Conditions," identifies these and other provisions that a licensee may follow to restore or establish acceptable conditions. These provisions are success paths that enable licensees to continue safe operation of their facilities.

4.0 Discussion of Notable Provisions

4.1 Public Health and Safety

All success paths, whether specifically stated or not, are directed first at ensuring public health and safety and second at restoring the SSCs to the licensing basis of the plant as an acceptable level of safety. Identification of a degraded or nonconforming condition that may pose an immediate threat to public health and safety requires the plant to be placed in a safe condition.

Technical Specifications address the safety systems, installed instrumentation, and process variables and provide Limiting Conditions for Operation (LCOs), Actions, Surveillance Requirements, Design Features, and Administrative Controls required to ensure public health and safety.

4.2 Operability Determinations

NRC Inspection Manual Part 9900, "Operable/Operability: Ensuring the Functional Capability of a System or Component," provides guidance on licensee responsibilities to assess whether systems or components continue to be operable when degraded or nonconforming conditions have been identified. The basis for continued operation (as supported by an operability determination) is further discussed in Sections 4.5 and 4.6 below.

Other situations where operability must be assessed include the discovery of an error in a design calculation, nonconformance with an industry standard, or an incorrect underlying assumption for ensuring the operability of a structure, system, or component. With the explicit inclusion of an affected requirement in facility TS, the introduction of any discrepancies can result in the affected requirement being nonconservative or the inability of a licensee to satisfy an LCO or surveillance requirement (depending upon the nature of the issue). Guidance related to non-conservative TS is provided in Administrative Letter 98–10, "Dispositioning of Technical Specifications That Are Insufficient to Assure Plant Safety." If a licensee does not satisfy an LCO or surveillance requirement that is included explicitly in the TS, then associated actions are taken or relief is sought (see section 4.6 below).

In some cases, a design calculation or industry standard is used to define surveillance acceptance criteria but the specifics are not explicitly included in the TS (e.g., the TS surveillance requirement is to verify a capability for providing power or cooling and a reference document or the TS bases discuss the details of how this is determined). If an error in a calculation or nonconformance with an industry standard is found in these cases, the licensee should assess operability. If the affected SSC is determined to be inoperable, the TS define the appropriate actions. If, however, the affected SSC is determined to be operable, plant operation may continue, and the discrepancy resolved as further discussed in this guidance.

4.3 The Licensing Basis and 10 CFR 50, Appendix B

The design and operation of a nuclear plant must be consistent with its licensing basis. Whenever degraded or nonconforming conditions of SSCs subject to Appendix B [2] are identified, Appendix B requires prompt corrective action to correct or resolve the condition. The licensee must establish a schedule for completing the corrective action. The timeliness of the corrective action should be commensurate with the safety significance of the issue. The time period within which corrective action must be completed begins with the discovery of the condition, not when it is reported to the NRC.

In determining whether the licensee is making reasonable efforts to complete corrective action promptly, NRC will consider whether corrective action was taken at the first opportunity, taking into account safety significance, effects on operability, significance of degradation, and what is necessary to implement the corrective action. Factors that the NRC may consider are the amount of time required for design, review, approval, or procurement of the repair or modification; the availability of specialized equipment to perform the repair or modification; and whether the plant must be in hot or cold shutdown to implement the actions. The NRC expects licensees to explicitly justify time periods longer than the next refueling outage in the deficiency tracking documentation.

4.4 Discovery of an Existing But Previously Unanalyzed Condition or Accident

In the course of its activities, the licensee may discover a previously unanalyzed condition or accident. Upon discovery of an existing but previously unanalyzed condition or accident that significantly degrades plant safety, the licensee is required to report it in accordance with 10 CFR 50.72 and 50.73, and put the plant in a safe condition. (See NUREG–1022, Revision 2, for guidance on conditions considered to significantly degrade plant safety.)

For a previously unanalyzed condition or accident that is considered a significant safety concern but is not part of the design or licensing basis, the licensee may subsequently be required to take additional action after consideration of backfit issues (see 10 CFR 50.109(a)(5)).

4.5 Establishing a Basis for Continued Operation

The license authorizes the licensee to operate the plant in accordance with applicable regulations, license conditions, and the TS. If an SSC is degraded or nonconforming but operable, the TS establish an acceptable basis to continue to operate.[3] When safety-related equipment is affected, the licensee must promptly identify and correct the condition adverse to safety or quality in accordance with 10 CFR part 50, appendix B, criterion XVI.

The basis for a licensee's authority to continue to operate arises because the TS contain the specific characteristics and conditions of operation necessary to avoid the possibility that an abnormal situation or event will give rise to an immediate threat to public health and safety. If the TS are satisfied, and required equipment is operable, and the licensee is correcting the degraded or nonconforming condition in a timely manner, continued plant operation does not pose an undue risk to public health and safety.

When a licensee finds itself in noncompliance with a regulation, immediate action such as shutting down the plant is not necessarily required, unless otherwise specified by NRC requirements. In such situations, the licensee should first determine if there is an immediate safety issue as a result of the noncompliance with a regulation. The licensee should further determine what other NRC requirements apply to the situation (e.g., 10 CFR part 50, appendix B, criterion XVI, or 10 CFR 50.12) and take the required action.

In developing a basis for continued operation, licensees should consider matters such as the following:

- The availability, reliability, and operability of redundant or backup equipment
- Compensatory measures, including limited reliance on administrative controls
- The safety function and the events protected against
- Conservatism and margins
- Probability of needing the safety function
- Probabilistic risk assessment (PRA) or Individual Plant Evaluation (IPE) results that determine how operating the facility in the proposed manner will impact the core damage frequency or conditional core damage probability
- Plant-specific and industry experience, testing, and research

The NRC concern with respect to a licensee's basis for continued operation is that the operability decision be correct, the documentation of the licensee's actions be appropriate, and any required submittals to the NRC (see below) be complete. The licensee's documentation of its basis for continued operation is normally proceduralized through the existing plant record system and is subject to NRC inspection (Inspection Procedure 71111.15).

4.6 Justification for Continued Operation

Under certain defined and limited circumstances, the licensee may find that strict compliance with the TS or a license condition would cause an unnecessary plant action not in the best interest of public health and safety. NRC review and action is required before the licensee takes actions that are not in compliance with the license conditions or the TS, except in certain emergency situations when 10 CFR 50.54(x) and (y) are applied. A Justification for Continued Operation (JCO) is the licensee's technical basis for requesting authorization from the NRC to operate in a manner that is prohibited (e.g., outside TS or license conditions). The preparation of a JCO does not constitute authorization to continue operation. See Part 9900 guidance on Notices of Enforcement Discretion (NOED) for information on the NRC process for exercising enforcement discretion with regard to limiting conditions for operation in power reactor TS or license conditions.

Other documents or processes that are not equivalent to and do not perform the same function as the JCO defined above may also be referred to as JCOs. For example, NRC generic communications may provide direction on how to establish bases for continued operation for specific issues, and licensees may not be required to submit these

[2] Appendix B is only applicable to safety-related SSCs. However, NRC expects licensees to take corrective action for any nonconformances with the UFSAR consistent with Appendix B, Criterion XVI, in a time frame commensurate with safety.

[3] An exception to this general statement is the case of a facility that is experiencing significant performance problems that have led to issuance of a confirmatory action letter or order preventing that licensee from continuing to operate or resuming operation until approval is granted by the NRC.

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determinations to the NRC. In Generic Letter 88–07, "Environmental Qualification of Electrical Equipment," and Generic Letter 87–02, "Seismic Adequacy," these determinations are referred to as "JCOs." Licensees should continue to follow earlier guidance regarding the preparation and use of these determinations for specific issues. When reviewing licensee actions in response to a degraded or nonconforming condition, the NRC considers the content of the documentation, not its name.

4.7 Reasonable Assurance of Safety

For SSCs that are not expressly subject to TS and are determined to be inoperable, the licensee should assess the reasonable assurance of safety using considerations similar to those discussed in Section 4.5 above. If reasonable assurance of safety exists, then the facility may continue to operate while prompt corrective action is taken.

4.8 Evaluation of Compensatory Measures

When evaluating the impact of a degraded or nonconforming condition on plant operation and on the operability of SSCs, a licensee may decide to implement a compensatory measure as an interim step to restore operability or to otherwise enhance the capability of SSCs until the final corrective action is completed. This guidance concerns interim measures implemented before maintenance to restore the condition of the SSC has begun (also see Section 4.9 below).

Reliance on a compensatory measure for operability should be an important consideration in establishing the "reasonable time frame" for completing the corrective action process. The NRC normally expects that conditions requiring interim compensatory measures to demonstrate operability will be resolved more quickly than conditions that do not require compensatory measures to show operability, since reliance on interim measures suggests a greater degree of degradation. Similarly, if an operability determination relies upon operator action, NRC expects the nonconforming condition to be resolved expeditiously.

With respect to the use of compensatory measures, the approved regulatory guidance (Regulatory Guide 1.187, endorsing NEI 96–07, Revision 1) for implementating the revised 10 CFR 50.59 rule states:

If an interim compensatory action is taken to address the condition and involves a temporary procedure or facility change, 10 CFR 50.59 should be applied to the temporary change. The intent is to determine whether the temporary change/compensatory action itself (not the degraded condition) impacts other aspects of the facility or procedures described in the UFSAR.

In considering whether a compensatory measure may affect other aspects of the facility, a licensee should pay particular attention to ancillary aspects of the compensatory measure that may result from actions taken to directly compensate for the degraded condition.

As an example, suppose a licensee plans to close a valve to isolate a leak. Although that action would stop the leak, it may affect flow distribution to other components or systems, complicate required operator responses, or have other effects that should be evaluated before the compensatory measure is implemented. In accordance with 10 CFR 50.59, if the evaluation determines that implementation of the compensatory action itself would involve a TS change or otherwise require NRC approval under the evaluation criteria, NRC approval, in accordance with 10 CFR 50.90 and 50.92, is required before implementation of the compensatory action. If any SSC would not be operable (in accordance with the TS) unless the compensatory measure was in place, the licensee must follow the TS requirements (see also Section 4.6 above).

4.9 Maintenance Activities

After identifying a degraded or nonconforming condition, a licensee will typically perform corrective maintenance to restore the facility to its as-designed condition. Paragraph 50.65(a)(4) requires licensees to assess and manage the increase in risk that may result from proposed maintenance activities. The conduct of maintenance may also involve other temporary procedure or facility alterations to allow the maintenance to be performed or to reduce risk. Such alterations include jumpering terminals, lifting leads, and using temporary blocks, bypasses, or scaffolding. These temporary alterations associated with maintenance are to be assessed as part of the 10 CFR 50.65(a)(4) risk assessment and, consistent with NRC regulatory guidance, a separate 10 CFR 50.59 review of the risk reduction measures is not required (except under limited conditions; see Regulatory Guide 1.182 endorsing Section 11 of the NEI (formerly the Nuclear Management and Resources Council (NUMARC)) document NUMARC 93–01, "Assessment of Risk Resulting From Performance of Maintenance Activities," for further information).

4.10 Final Corrective Action

The licensee is responsible for corrective action. A licensee's range of corrective action may involve (1) full restoration to the UFSAR-described condition such as through performance of corrective maintenance (see Section 4.9 above), (2) NRC approval for a change to the licensing basis to accept the as-found condition as is, or (3) some modification of the facility other than restoration to the condition as described in the UFSAR. If corrective action is taken to restore the degraded or nonconforming condition, no 10 CFR 50.59 evaluation is required. The 10 CFR 50.59 process applies when the final resolution of the degraded or nonconforming condition differs from the established UFSAR requirement. At this point, the licensee plans to make a change to the facility or procedures as described in the UFSAR. The proposed change is now subject to the review process established by 10 CFR 50.59. A change can be safe, but still require NRC approval. The proposed final resolution may require staff review and approval without affecting the continued operation of the plant, because interim operation is being governed by the processes for determining operability and taking corrective action (Appendix B).

In two situations, the identification of a final resolution or final corrective action triggers a 10 CFR 50.59 review, unless another regulation applies (e.g., 10 CFR 50.55a): (1) when a licensee decides as the final corrective action to change its facility or procedures to something other than full restoration to the UFSAR-described condition, and (2) when a licensee decides to change its licensing basis, as described in the UFSAR, to accept the degraded or nonconforming condition as its revised licensing basis. Each of these situations is discussed in greater detail below.

Change to Facility or Procedures

In the first situation, the licensee's proposed final resolution of the degraded or nonconforming condition includes other changes to the facility or procedures to cope with the uncorrected or only partially corrected nonconforming condition. Rather than fully correcting the nonconforming condition, the licensee decides to restore capability or margin by making another change. In this case, the licensee must evaluate the change from the UFSAR-described condition to the final condition in which the licensee proposes to operate its facility. If the 10 CFR 50.59 evaluation concludes that a change to the TS is involved or the change meets any of the evaluation criteria specified in the rule for prior NRC approval, a license amendment must be requested, and the corrective action process is not complete until the approval is received or some other resolution occurs.

Change to the Licensing Bosis

In the other situation the licensee proposes to change the licensing basis to accept the as-found nonconforming condition. In this case, the 10 CFR 50.59 review covers the change from the UFSAR-described condition to the existing condition in which the licensee plans to remain (i.e., the licensee will exit the corrective action process by revising its licensing basis to document acceptance of the condition). If the 10 CFR 50.59 evaluation concludes that a change to the TS is involved or the change meets any of the evaluation criteria specified in the rule for prior NRC approval, a license amendment must be requested and the corrective action process is not complete until the approval is received or some other resolution occurs. To resolve the degraded or nonconforming condition without restoring the affected equipment to its original design, a licensee may need to obtain an exemption from 10 CFR Part 50 in accordance with 10 CFR 50.12 or relief from a design code in accordance with 10 CFR 50.55a. The use of 10 CFR 50.59, 50.12, or 50.55a in fulfillment of Appendix B corrective action requirements does not relieve the licensee of the responsibility to determine the root cause, to examine other affected systems, and to report the original condition, as appropriate.

In both of these situations, the need to obtain NRC approval for a change does not affect the licensee's authority to operate the plant. The licensee may make mode changes, restart from outages, etc., provided that necessary equipment is operable and the degraded condition does not violate the TS or the license. The basis for this position was previously discussed in Section 4.5.

5.0 Enforcement

If the licensee, without good cause, does not correct the degraded or nonconforming condition at the first available opportunity, the staff will determine whether the licensee has failed to take prompt corrective action in accordance with 10 CFR part 50, appendix B, criterion XVI. If the NRC concludes that the appendix B requirements were not met or the operability determination is not valid, the NRC staff will take appropriate regulatory action, consistent with the NRC oversight process and the enforcement policy for reactors.

Completing corrective action within a reasonable time frame does not prevent the NRC from taking action for the root causes of the degraded or nonconforming condition or for violations of other regulatory requirements. The nonconforming condition may have resulted from earlier changes performed without a 10 CFR 50.59 evaluation or from inadequate reviews. The staff may determine that the discovered nonconforming condition involves a change to the TS or otherwise requires prior approval as specified in 10 CFR 50.59. In such cases, enforcement action is appropriate to address the time from when the degraded or non-conforming conditions were created until the time of discovery. The NRC's action will take into account the safety significance of the facility conditions that existed while the SSC was in the degraded or nonconforming condition.

6.0 Reference

See the attached chart, "Resolution of Degraded and Nonconforming Conditions." END

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 5th day of September 2001.

For the Nuclear Regulatory Commission.

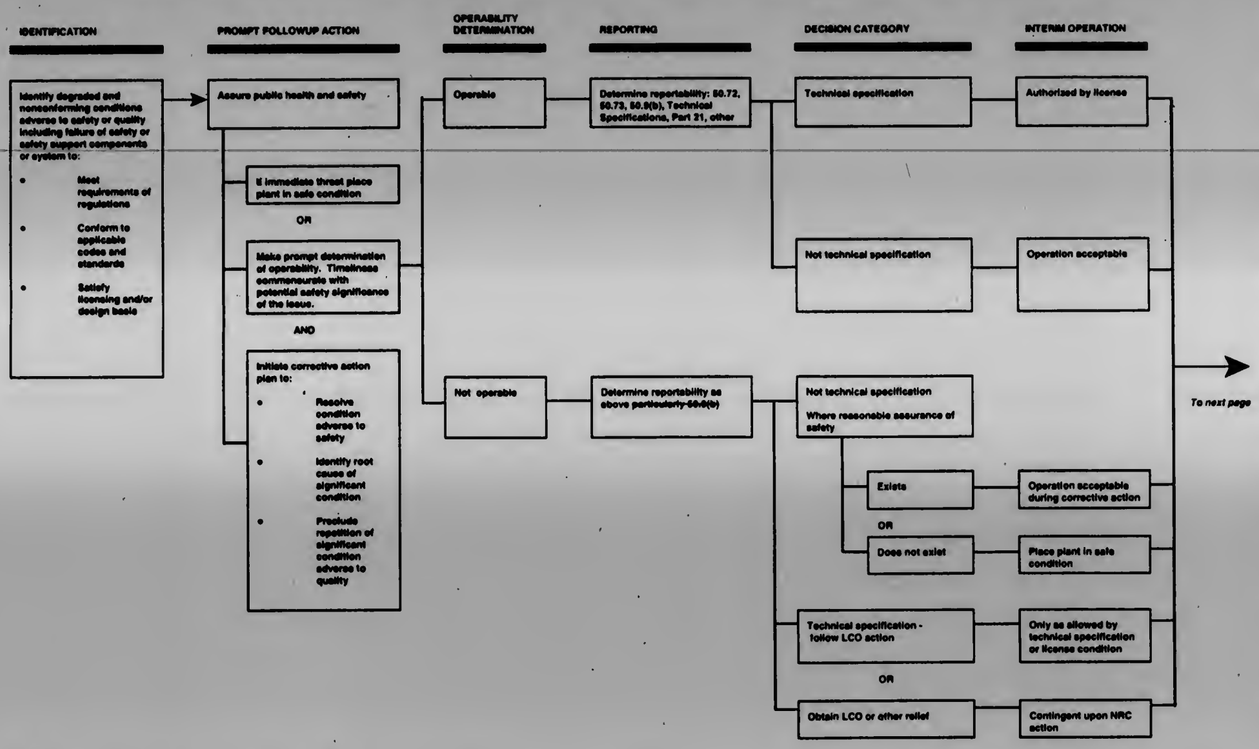
David B. Matthews,

Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

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UMI 2001 SE 13 178 ISS VOL 66

RESOLUTION OF DEGRADED AND NONCONFORMING CONDITIONS

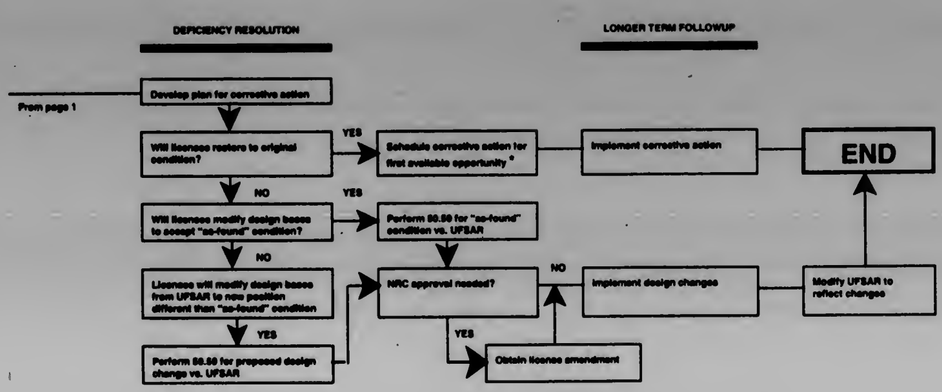


Notes:

- Generic communications may provide guidance specific to an issue but counter to the generally accepted approach herein. Examples of deviations from the above approach include NRC Generic Letter 88-07 on environmental qualification of electrical equipment and NRC Generic Letter 87-02 on seismic adequacy (see Section 4.6)
- For guidance on compensatory actions taken to maintain operability see Section 4.5

Attachment 2

RESOLUTION OF DEGRADED AND NONCONFORMING CONDITIONS
(continued)



* See Section 4.3

Attachment 2 (continued)

[FR Doc. 01–22867 Filed 9–12–01; 8:45 am]
BILLING CODE 7590–01–C

POSTAL RATE COMMISSION

Printing Plant Tour

AGENCY: Postal Rate Commission.
ACTION: Notice of commission visit.

SUMMARY: Postal Rate Commission members and staff will tour the Thurmont, MD facility of Moore's Communications on Tuesday, September 11, 2001. The tour will entail observation of mail preparation activities.

DATES: The tour is scheduled for Tuesday, September 11, 2001, at 11:30 a.m.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

Dated: September 7, 2001.
Steven W. Williams,
Acting Secretary.
[FR Doc. 01–22961 Filed 9–10–01; 11:01 am]
BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27437]

Filing Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

September 7, 2001.

Notice is hereby given that the following filings(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 2, 2001, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 2, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Appalachian Power Company (70–5503)

Appalachian Power Company ("Appalachian"), 40 Franklin Road, S.W., Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 9(a), 10 and 12(d) of the Act and rules 44 and 54 under the Act.

By order dated December 10, 1974 (HCAR No. 18703) ("Order"), the Commission authorized Appalachian, among other things, to enter into an agreement of sale ("Agreement") with the Industrial Development Authority of Russell County, Virginia ("Authority"), concerning the financing of pollution control facilities ("Facilities") at Appalachian's Glen Lyn and Clinch River plants. Under the Agreement, the Authority may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds" and, together with Revenue Bonds, "Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the Authority and the Trustee. The Trustee applies the proceeds to the payment of the costs of construction of the Facilities or, in the case of proceeds from the sale of Refunding Bonds, to the payment of principal, premium (if any) and/or interest on Bonds to be refunded.

The Order also authorized Appalachian to convey an undivided interest in a portion of the Facilities to the Authority, and to reacquire that interest under an installment sales arrangement ("Sales Agreement") requiring Appalachian to pay as the purchase price semi-annual installments in an amount that, together with other funds held by the Trustee under the Indenture for that purpose, will enable the Authority to pay, when due, the interest and principal on the Bonds. To date, the Authority has issued and sold eight series of Bonds in an aggregate principal amount of $116.24 million of which $37.0 million presently are outstanding.

The Authority now intends to issue and sell an additional series of bonds in the aggregate principal amount of up to $17.5 million ("Series I Refunding Bonds"), the proceeds of which will be used to provide for the redemption on or prior to maturity of $17.5 million principal amount of the Series G Bonds of the Authority. It is contemplated that the Series I Refunding Bonds will be issued and secured under a supplemental indenture between the Authority and the Trustee. Appalachian proposes to enter into an amended Sales Agreement in connection with the Series I Refunding Bonds under essentially the same terms and conditions of the original Sales Agreement. It is contemplated that the Series I Refunding Bonds will be sold under arrangements with a group of underwriters with such terms as shall be specified by Appalachian. The Series I Refunding Bonds shall have a state maturity of no more than forty years, a fixed rate of interest that shall not exceed 8% per annum or an initial rate of interest by any fluctuating rate Bonds that shall not exceed 8%. If it is deemed advisable, the Series I Refunding Bonds may be provided some form of credit enhancement, including, but not limited to, a letter of credit, bond insurance, standby purchase agreement or surety bond.

Appalachian Power Company (70–6171)

Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24011, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment under sections 9(a), 10 and 12(d) of the Act and rules 44 and 54 under the Act to its application-declaration previously filed under the Act.

By order dated June 30, 1978 (HCAR No. 20610) ("Order"), Appalachian was authorized to enter into an agreement of sale ("Agreement") with Mason County, West Virginia ("County"). The Agreement provided for the construction, installation, financing and sale of certain pollution control facilities ("Facilities") at Appalachian's Philip Sporn and Mountaineer Plants. Under the Agreement, the County may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds are applied by the Trustee to the payment of the costs of construction of the Facilities, or in the case of proceeds from the sale of Refunding Bonds, to the payment of the principal, premium (if any) and/or interest on Revenue Bonds to be refunded.

The Order also authorized Appalachian to convey an undivided interest in a portion of the Facilities to the County, and to reacquire that interest under an installment sales arrangement ("Sales Agreement") requiring Appalachian to pay as the purchase price semi-annual installments in an amount that, together with other funds held by the Trustee under the Indenture for that purpose, will enable the County to pay, when due, the interest and principal on the Revenue Bonds. The County has issued and sold eight series of bonds in the aggregate principal amount of $350 million of which $130 million presently are outstanding.

It is now proposed that the County will issue and sell an additional series of Bonds in the aggregate principal amount of up to $10 million ("Series L Refunding Bonds") the proceeds of which will be used to provide for the redemption on or prior to maturity of $10 million principal amount of the Series H Bonds of the County. Appalachian proposes to enter into an amended Sales Agreement in connection with the Series L Refunding Bonds under essentially the same terms and conditions of the original Sales Agreement.

It is contemplated that the Series L Refunding Bonds will be sold under arrangements with a group of underwriters with such terms as shall be specified by Appalachian. The Series L Refunding Bonds shall have a stated maturity of no more than forty years, a fixed rate of interest that shall not exceed 8% per annum or an initial rate of interest by any fluctuating rate Bonds that shall not exceed 8%. If it is deemed advisable, the Series L Refunding Bonds may be provided some form of credit enhancement, including, but not limited to, a letter of credit, bond insurance, standby purchase agreement or surety bond.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 01–22982 Filed 9–12–01; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44768; File No. SR–Amex–2001–36]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange LLC Relating to Hearing Fees for Issuer Requests for Review of Initial Listing and Delisting Decisions

September 6, 2001.

On June 1, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, a proposed rule change relating to hearing fees for issuer requests for review of initial listing and delisting decisions. Specifically, the proposed rule change would amend Amex Rules 1010(c), 1203(a), and 1204(c) of the Amex Company Guide to impose hearing fees on issuers in connection with issuer requests for review of Exchange initial listing or delisting decisions.

The proposed rule change was published for comment in the **Federal Register** on August 1, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires, among other things, that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among issuers. The Commission believes that the fees are reasonable because they are designed to recoup the costs of processing requests for review and holding the subsequent proceedings.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–AMEX–2001–36) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 01–22983 Filed 9–12–01; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44772; File No. SR–CBOE–2001–36]

Self-Regulatory Organizations; the Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 To Exempt Certain Spread Transactions From the Marketing Fee and To Amend the Definition of Deep-in-the-Money Options To Include a Spread Traded at Maximum Value

September 7, 2001.

On June 21, 2001, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to exempt certain spread transactions from its marketing fee and to amend the definition of deep-in-the-money options to include a spread traded at maximum value. The CBOE filed Amendment No. 1 to the proposed rule change on July 18, 2001.[3]

The proposed rule change, as amended, was published for comment in the **Federal Register** on August 8, 2001.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of Section 6 of the

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] *See* Securities Exchange Act Release No. 44589 (July 26, 2001), 66 FR 39806 (August 1, 2001).
[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).
[5] 15 U.S.C. 78f.
[6] 15 U.S.C. 78f(b)(4).
[7] 15 U.S.C. 78s(b)(2).
[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] See letter from Steve Youhn, Legal Department, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated July 17, 2001. The CBOE originally submitted the filing pursuant to Section 19(b)(3)(A) of the Act, but submitted the amended filing pursuant to Section 19(b)(2) of the Act.
[4] *See* Securities Exchange Act Release No. 44629 (July 31, 2001), 66 FR 41639.
[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Act[6] and the rules and regulations thereunder. The Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(4) of the Act[7] because its is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[8], that the proposed rule change, as amended, (File No. SR–CBOE–2001–36) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22984 Filed 9–12–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44769; File No. SR–NYSE–99–25]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to Proposed Rule Change Relating to Error Accounts, Floor Member Account Disclosure, and Erroneous Transaction Reports

September 6, 2001.

I. Introduction

On June 15, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require that each member maintain an error account, and to require each member to report to the Exchange any securities account in which the member has a financial interest or over which the member has discretionary authority. The proposed rule change also includes provisions concerning error transaction procedures, recordkeeping, and other related matters. On December 13, 1999, the NYSE filed Amendment No. 1 to the proposed rule change with the Commission.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on February 10, 2000.[4] The Commission received no comments on the proposal.

On January 8, 2001, the NYSE filed Amendment No. 2 to the proposed rule change with the Commission. Amendment No. 2 added provisions to the proposed rule change to: (a) specify that no non-error trading may take place in a member's error account; (b) require a member to inform the NYSE anytime the member closes a securities account in which the member has an interest; and (c) provide a means for an error to be accepted, under certain conditions, where an order has been correctly executed, but the wrong price and/or the wrong size has been reported to the customer. Amendment No. 2 was published for comment in the **Federal Register** on July 14, 2001.[5] The Commission received no comments on Amendment No. 2.

On August 13, 2001, the NYSE filed Amendment No. 3 to the proposed rule change with the Commission. Amendment No. 3 would amend NYSE Rule 134 to require each member who initiates a transaction on the Floor of the Exchange to offset an error to create a time-stamped order ticket to evidence the transaction and to indicate that the transaction is to cover an error.

This order approves the proposed rule change as amended, accelerates approval of Amendment No. 3, and solicits comments from interested persons on that amendment.

II. Discussion

The Commission finds that the proposed rule change as amended is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, the requirements of section 6 of the Act[7] and the rules and regulations thereunder. The Commission finds specifically that the provisions of the proposed rule change contained in the original filing and the amendments are consistent with section 6(b)(5) of the Act[8] because they will enable the NYSE to more effectively monitor the activities of its members and investigate circumstances of suspected abuse.[9]

The Commission also notes that these provisions are likely to aid the NYSE in fulfilling some of the requirements of the undertakings included in the order issued by the Commission relating to the settlement of an enforcement action against the NYSE for failure to enforce compliance with section 11(a)[10] and Rule 11a–1[11] under the Act and NYSE Rules 90, 95, and 111.[12]

The Commission finds that Amendment No. 3 is consistent with the Act because it will help provide a more complete and accurate record of errors that occur on the Floor and enhance the ability of the Exchange to examine a member's error account activities. The Commission finds good cause to approve Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of Amendment No. 3 in the **Federal Register**. The Commission believes that Amendment No. 3 will improve the overall effectiveness of the proposed rule change, while imposing no significant additional regulatory burden. Accelerated approval of the amendment will enable the Exchange to implement its several changes related to error transactions and erroneous reports at once.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3, including whether the amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–25 and should be submitted by October 4, 2001.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal, as amended, is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–NYSE–99–25), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–22953 Filed 9–12–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 added further procedures and recordkeeping requirements to the proposed rule change, as well as a provision concerning the reporting of profitable errors.

[4] *See* Securities Exchange Act Release No. 42381 (February 3, 2000), 65 FR 6673.

[5] *See* Securities Exchange Act Release No. 44427 (June 21, 2001), 66 FR 33282.

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] The Commission notes that the recordkeeping provision of the proposed rule change requires a member or member organization to maintain, besides the information specifically identified in the rule, "such other information [with respect to errors] as the Exchange may from time to time require." To adopt any such additional requirement, the Exchange would need to file a rule change proposal with the Commission pursuant to the provisions of Rule 19b–4 under the Act.

[10] 15 U.S.C. 78k(a).

[11] 17 CFR 240.11a—1.

[12] *See* In the Matter of New York Stock Exchange, Inc., Securities Exchange Act Release No. 41574 (June 29, 1999); Administrative Proceeding File No. 3–9925.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3354]

Commonwealth of Virginia; Amendment #3

In accordance with a notice received from the Federal Emergency Management Agency, dated August 27, 2001, the above numbered declaration is hereby amended to establish the incident period as occurring on July 8, 2001 and continuing through August 27, 2001.

All other information remains the same, i.e., the deadline for filing applications for physical damage is September 10, 2001, and for loans for economic injury the deadline is April 12, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 31, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–22967 Filed 9–12–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3363]

Commonwealth of Kentucky

Scott County and the contiguous counties of Bourbon, Fayette, Franklin, Harrison, Grant, Owen and Woodford in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe thunderstorms that occurred on July 22, 2001, and continued through July 27, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 29, 2001 and for economic injury until the close of business on May 29, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336311 and for economic injury the number assigned is 9M4600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 29, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–22968 Filed 9–12–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3347; State of Texas Amendment #5]

State of Texas

In accordance with a notice received from the Federal Emergency Management Agency, dated August 30, 2001, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to October 7, 2001.

All other information remains the same, *i.e.*, the deadline for filing applications for loans for economic injury is March 8, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 4, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–22964 Filed 9–12–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3354]

Commonwealth of Virginia (Amendment #4)

In accordance with a notice received from the Federal Emergency Management Agency, dated August 28, 2001, the above numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to October 10, 2001.

All other information remains the same, i.e., the deadline for filing applications for loans for economic injury is April 12, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 4, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–22966 Filed 9–12–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3345; Amendment #8]

State of West Virginia

In accordance with notices received from the Federal Emergency Management Agency, dated September 4 and September 5, 2001, the above numbered declaration is hereby amended to establish the incident period for this disaster as occurring May 15, 2001 and continuing through September 4, 2001. The above numbered declaration is also amended to extend the deadline for filing applications for physical damages as a result of this disaster to October 10, 2001.

All other information remains the same, i.e., the deadline for filing

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applications for loans for economic injury is March 4, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 6, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–22965 Filed 9–12–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3781]

Culturally Significant Objects Imported for Exhibition Determinations: "Brazil: Body and Soul"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Brazil: Body and Soul," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Solomon R. Guggenheim Museum, New York, NY from on or about October 11, 2001, to on or about January 27, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 30, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–23028 Filed 9–12–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3782]

Culturally Significant Objects Imported for Exhibition; Determinations: "Scream the Truth at the World: Emanuel Ringelblum and the Secret Archive of the Warsaw Ghetto"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Scream the Truth at the World: Emanuel Ringelblum and the Secret Archive of the Warsaw Ghetto," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Museum of Jewish Heritage, New York, NY from on or about November 6, 2001 to on or about February 10, 2002 and at possible additional venues yet to be determined is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 30, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–23029 Filed 9–12–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3768]

Bureau of Educational and Cultural Affairs; Request for Grant Proposals: NIS Community College Partnerships Program (NISCCPP)

SUMMARY: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs in the Department of State announces an open competition for the NIS Community College Partnerships Program. Accredited educational institutions offering the two-year Associate's degree and meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to pursue institutional or departmental objectives in partnership with foreign counterpart institutions with support from the NIS Community College Partnerships Program. These objectives should support the overall goals of the Program: to support the transition of the New Independent States to democratic systems based on market economies, and to strengthen mutual understanding and cooperation between the United States and the New Independent States on subjects of enduring common interest to the participating countries and institutions. The means for achieving these objectives may include teaching, scholarship, and outreach to professionals and other members of the communities served by the participating institutions.

Program Overview

The NIS Community College Partnerships Program supports institutional linkages in higher education with partners from the New Independent States of the former Soviet Union with funding available through the FREEDOM Support Act. The Bureau also anticipates issuing a separate and additional Request for Grant Proposals for the NIS College and University Partnerships Program which may include eligible fields and partner countries in addition to those listed in this RFGP. Eligible community colleges may apply for grants under either or both of these two competitions.

The Bureau also supports institutional linkages in higher education with partners worldwide through the Educational Partnerships Program (formerly College and University Affiliations Program); the Educational Partnerships Program Request for Grant Proposals was announced separately and has a deadline of January 11, 2002. Applicants interested in the Bureau's Educational Partnerships Program should contact the Bureau's Humphrey Fellowships and Institutional Linkages Branch at (202) 619–5289. Other RFGPs for educational partnerships may also be published in Fiscal Year 2002.

Program Objectives and Eligible Fields

This RFGP for the NIS Community College Partnerships Program does not prescribe specific project objectives, but establishes the parameters within which applicants are invited to propose projects. Institutional objectives should be consistent with the Program's goals of supporting the transition of the New Independent States to democratic systems based on market economies and of equipping the participating institutions with a stronger ability to address, through teaching, research, or outreach, critical issues in the fields eligible in FY 2002:

Business, accounting and trade; Journalism and media studies; and education, continuing education, and educational administration.

Institutional Objectives for Applicants

While the benefits of the project to each of the participating institutions may differ significantly in nature and scope based on their respective needs and resource bases, proposals should outline well-reasoned strategies that are designed to meet specific objectives for each participating U.S. and foreign department or institution as a whole.

For example, proposals may outline the parameters and possible content of new courses, new research or teaching specializations or methodologies, new or revised curricula, new programs for educational outreach, or other changes specifically anticipated as a result of the project. Proposals to pursue a limited number of related thematic objectives at each institution are preferred to proposals addressing a large number of unrelated objectives. Proposals that do not benefit all institutional partners are not eligible for funding from this Program. Proposals should focus clearly on strategies to promote curriculum, faculty, and staff development, as well as administrative reform, at the NIS partner institution(s) in one or more of the eligible disciplines. Projects may result in the development of a new academic program or the restructuring of an existing program, and should equip institutions of higher education to contribute to the transitions in the New Independent States to market economies and open democratic systems. Plans to enable participants to extend the benefits of the project to larger audiences through outreach to government, NGO, and business representatives are especially encouraged.

In addition to demonstrating how each participating institution can assist its partner(s) to meet institutional goals, proposals should also explain how this cooperation will enable each institution to address its own needs. Accordingly, applicants are encouraged to describe the needs and deficiencies as well as the capabilities and strengths of each participating department and institution, and how each institution will contribute to and benefit from the achievement of project objectives. Proposals that realistically assess institutional capacities will be better able to outline compelling objectives that address institutional needs and justify a request for support. To be competitive, proposals should demonstrate that the participating institutions understand one another and are committed to mutual support and cooperation in project implementation.

If the proposed partnership would occur within the context of a previous or ongoing project, the proposal should explain how the request for Bureau funding would build upon the pre-existing relationship or complement previous and concurrent projects. Previous projects should be described, with details about the amounts and sources of support and the results of previous cooperative efforts.

Institutions receiving partnership grant awards will be expected to submit periodic reports on the results of program activities. Proposals should outline and budget for a methodology for project evaluation. The evaluation plan should include an assessment of the current status of each participating department's and institution's needs at the time of program inception with specific reference to project objectives; formative evaluation to allow for mid-course revisions in the implementation strategy; and, at the conclusion of the project, summative evaluation of the degree to which the project's objectives have been achieved together with observations about the project's continuing potential to influence the participating institutions and their surrounding communities or societies. The final evaluation should also include recommendations about how to build upon project achievements. Evaluative observations by external consultants with appropriate subject and regional expertise are especially encouraged.

Budget Guidelines

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

The commitment of all partner institutions to the proposed project should be reflected in the cost-sharing which they offer in the context of their respective institutional capacities. Although the contributions offered by U.S. and foreign institutions with relatively few resources may be less than those offered by applicants with greater resources, all participating institutions should identify appropriate cost-sharing. These costs may include estimated in-kind contributions. Consistent with the review criteria listed elsewhere in this RFGP and with specific reference to cost-sharing and institutional commitment to cooperation, proposed cost-sharing will be considered an important indicator of each participating institution's interest in the project and potential to benefit from it.

A U.S. college must submit the proposal and must be prepared to serve as grant recipient with responsibility for project coordination. Proposals must include letters of commitment from all institutional partners. Each letter must be signed by an official who is authorized to commit institutional resources to the project.

The Bureau's support may be used to assist with the costs of the exchange visits as well as the costs (up to a maximum of 25 percent of the total grant) of the administration of the project at any partner institution. However, governmental institutions except universities may not charge administrative costs to the grant. Administrative costs include administrative salaries and direct administrative costs such as rent, telephones, and postage. Indirect costs are not eligible for Bureau support under this competition. Although each grant will be awarded to a single U.S. institutional partner, adequate provision in the proposal for the administrative costs of the project at all non-governmental partner institutions, including the foreign partner(s), is encouraged. More information on partner institution eligibility in this competition is found in this RFGP under the headings "U.S. Partner and Participant Eligibility" and "Foreign Partner and Participant Eligibility."

Salary support for administrative activity may be included within the 25 percent maximum.

The proposal may include a request for funding to reinforce the activities of exchange participants through the establishment and maintenance of Internet and/or electronic mail facilities

as well as through interactive technology or non-technology-based distance-learning programs. However, the establishment and maintenance of these facilities at governmental organizations in the U.S. or at foreign governmental organizations other than universities is not eligible for funding. Projects focusing primarily on technology or physical infrastructure development are not encouraged, and the amount that may be requested for educational and technical materials should not exceed 25 percent of the Bureau's funding for the project. Proposals that include Internet, electronic mail, and other interactive technologies in countries where these technologies are not easily maintained or financed should discuss how the foreign partner institution will cover their costs after the project ends. Applicants may propose other project activities not specifically mentioned in this solicitation if the activities reinforce the impact of the project.

The maximum award in the FY 2002 competition will be $200,000. The program awards grants for approximately three years. Awards may be extended on a no-cost basis beyond the initial grant period by mutual agreement if progress toward project goals is satisfactory. Requests for amounts smaller than the maximum are eligible. Budgets and budget notes should carefully justify the amounts requested. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Grants are subject to the availability of funds for FY 2002. The amount of funding available for proposals to the NIS Community College Partnerships Program in FY 2002 has not yet been determined. In FY 2001, ten proposals were received under this competition. Of this number, approximately two proposals are anticipated to be funded.

U.S. Institution And Participant Eligibility

The lead institution and grant recipient in the project must be an accredited U.S. community college. The lead U.S. organization in a consortium or other combination of cooperating institutions is responsible for submitting the application. Each application must document the lead organization's authority to represent all U.S. cooperating partners. Secondary U.S. partners may include governmental or non-governmental organizations as well as non-profit service and professional organizations.

With the exception of translators and outside consultants reporting on the status of project objectives, participation is limited to teachers, staff, and administrators from the participating U.S. institution(s). All participants who are funded by the Bureau under the program budget and represent the U.S. institution must be U.S. citizens.

Foreign Institution and Participant Eligibility

In other countries, participation as a primary partner is open to recognized degree granting institutions of post-secondary education. Applicants are encouraged to identify partners which share community colleges' mission of serving the local community. Secondary partners may include independent research institutes, relevant governmental organizations, and private non-profit organizations with project-related educational objectives. Except for translators and outside consultants reporting on the status of project objectives, participation is limited to teachers, administrators, researchers, or advanced students from the participating foreign institution(s). Any advanced student participant must either have teaching responsibilities or be preparing for such responsibilities. Foreign participants must be citizens, nationals, or permanent residents of the country of the foreign partner, and must be both qualified to receive U.S. J–1 visas and willing to travel to the U.S. under the provisions of a J–1 visa during the exchange visits funded by this Program. If participants are not identified in the proposal, the proposal narrative should outline the procedure through which individuals will be selected to participate in exchange activities. The U.S. partner should participate actively in the selection of foreign participants whether they are identified in the proposal or selected during the course of project implementation. All participants should be selected because of their demonstrable qualifications to contribute to overall project goals.

Foreign Country And Location Eligibility

Foreign partners from the following countries are eligible:

Armenia;
Moldova;
Ukraine;
Uzbekistan.

Partnerships including a secondary foreign partner from a non-NIS country are eligible; however, with the exception noted below under the heading "Central European Partners", the Bureau will not cover overseas non-NIS partner institution costs.

Central European Partners

The Bureau encourages proposals which build upon established collaboration between U.S. institutions and their partners in Central and Eastern Europe in order to support faculty and curriculum development in the NIS and to promote regional cooperation. Funds may be budgeted for the exchange of faculty between NIS institutions and institutions of higher learning in Central and Eastern Europe (applicants planning to submit proposals for trilateral partnerships with a partner from Central and Eastern Europe are encouraged to contact the program office).

Ineligibility

A proposal may be deemed technically ineligible if:

(1) It does not fully adhere to the guidelines established in this document and in the Solicitation Package;
(2) It is not received by the deadline;
(3) It is not submitted by the U.S. partner;
(4) One of the partner institutions is ineligible;
(5) The foreign country or geographic location is ineligible;
(6) The amount requested from the Bureau exceeds $200,000.

Grant-Making Authority

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program cited above is provided through the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act).

Projects must conform with the Bureau's requirements and guidelines outlined in the solicitation package for this RFGP. The Project Objectives, Goals, and Implementation (hereafter, POGI) and the Proposal Submission Instructions (hereafter, PSI), which contain additional guidelines, are included in the Solicitation Package. Proposals that do not follow RFGP requirements and the guidelines appearing in the POGI and PSI may be excluded from consideration due to technical ineligibility.

Announcement Title and Number

All communications with the Bureau concerning this announcement should refer to the NIS Community College Partnerships Program and reference number ECA/A/S/U–02–08.

Deadline for Proposals

All copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, January 25, 2002. Faxed documents will not be accepted (although faxed letters of commitment from non-U.S. institutional partners may be submitted as part of the original proposal), nor will documents postmarked on Friday, January 25, 2002 but received on a later date.

Approximate Grant Duration

Grants should begin on or about September 1, 2002 and last approximately three years. Please note that this date represents the approximate date that successful applicants will be informed. The program office understands that due to the short notice, it may not be feasible to schedule activities beyond brief planning visits during the first semester.

For Further Information

To request a solicitation package, contact the Humphrey Fellowships and Institutional Linkages Branch (NIS Community College Partnerships Program); Office of Global Educational Programs; Bureau of Educational and Cultural Affairs; ECA/A/S/U, Room 349; U.S. Department of State; SA–44, 301 Fourth Street, SW.; Washington, DC 20547; phone: (202) 619–5289, fax: (202) 401–1433. The solicitation package includes more detailed award criteria, all application forms, and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Applicants desiring more information may contact one of the following program officers: Jonathan Cebra (telephone: (202) 205–8379, e-mail: jcebra@pd.state.gov) on all inquiries and correspondence regarding partnerships with institutions in Ukraine and Moldova; Alanna Bailey (telephone: (202) 205–8266, e-mail: abailey@pd.state.gov) on all inquiries and correspondence regarding partnerships with institutions in Uzbekistan or Armenia.

To Download a Solicitation Package via Internet

The entire Solicitation Package, consisting of the RFGP, POGI, and PSI, may be downloaded from the Bureau's website at: *http://exchanges.state.gov/education/rfgps*. Please read all information before downloading.

Prospective applicants should read the complete Request for Grant Proposals as published in the **Federal Register** and available on the Bureau's website before addressing inquiries to the NIS Community College Partnerships Program staff or submitting their proposals. Once the RFGP deadline has passed, Department staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the complete application should be sent by the project's lead U.S. college to:

U.S. Department of State
SA–44
Bureau of Educational and Cultural Affairs
Ref: ECA/A/S/U–02–08
Program Management, ECA/EX/PM,
Room 534
301 4th Street, SW.
Washington, DC 20547

Applicants must also submit the "Proposal Title Sheet," "Executive Summary," "Proposal Narrative" and "Calendar of Activities" sections of the proposal as e-mail attachments in Microsoft Word (preferred) or as ASCII text files to the following e-mail address: *partnerships@pd.state.gov*. In the e-mail message subject line, include the following: ECA/A/S/U–02–08 and the country or countries of the foreign partner(s) together with the names of the U.S. and foreign partner institutions. To reduce the time needed to obtain advisory comments from the Public Affairs Sections of U.S. Embassies overseas the Bureau will transmit these files electronically to these offices.

Diversity, Freedom And Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support of Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals may be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be evaluated by independent external reviewers. These reviewers, who will be professional, scholarly, or educational experts with appropriate regional and thematic knowledge, will provide recommendations and assessments for consideration by the Bureau. The Bureau will consider for funding only those proposals which are recommended for funding by the independent external reviewers.

Proposals may also be reviewed by the Office of the Legal Advisor or by other offices of the U.S. Department of State. In addition, U.S. Embassy officers may provide advisory comment. Funding decisions will be made at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) will reside with the Bureau's grants officer.

Review Criteria

All reviewers will use the criteria below to reach funding recommendations and decisions. Technically eligible applications will be reviewed competitively according to these criteria, which are not rank-ordered or weighted.

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(1) *Broad and Enduring Significance of Institutional Objectives:* Project objectives should have significant and ongoing results for the participating institutions and for their surrounding societies or communities by providing a deepened understanding of critical issues in one or more of the eligible fields. Project objectives should relate clearly to institutional and societal needs, including the transition of the New Independent States to democratic systems based on market economies.

(2) *Creativity and Feasibility of Strategy to Achieve Project Objectives:* Strategies to achieve project objectives should be feasible and realistic within the projected budget and timeframe. These strategies should utilize and reinforce exchange activities creatively to ensure an efficient use of program resources.

(3) *Institutional Commitment to Cooperation:* Proposals should demonstrate significant understanding by each institution of its own needs and capacities and of the needs and capacities of its proposed partner(s), together with a strong commitment by the partner institutions, during and after the period of grant activity, to cooperate with one another in the mutual pursuit of institutional objectives.

(4) *Project Evaluation:* Proposals should outline a methodology for determining the degree to which a project meets its objectives, both while the project is underway and at its conclusion. The final project evaluation should include an external component and should provide observations about the project's influence within the participating institutions as well as their surrounding communities or societies.

(5) *Cost-effectiveness:* Administrative and program costs should be reasonable and appropriate with cost-sharing provided by all participating institutions within the context of their respective capacities. We view cost-sharing as a reflection of institutional commitment to the project. Although indirect costs are eligible for inclusion as cost-sharing by the applicant, contributions should not be limited to indirect costs.

(6) *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity by explaining how issues of diversity are included in project objectives for all institutional partners. Issues resulting from differences of race, ethnicity, gender, religion, geography, socio-economic status, or physical challenge should be addressed during project implementation. In addition, project participants and administrators should reflect the diversity within the societies which they represent (see the section of this document on "Diversity, Freedom, and Democracy Guidelines"). Proposals should also discuss how the various institutional partners approach diversity issues in their respective communities or societies.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any State Department representative. Explanatory information provided by the Department of State that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: August 30, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural, Affairs, Department of State.

[FR Doc. 01–22765 Filed 9–12–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3769]

Bureau of Educational and Cultural Affairs; Request for Grant Proposals: NIS College and University Partnerships Program (NISCUPP)

SUMMARY: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs in the Department of State announces an open competition for the NIS College and University Partnerships Program. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to pursue institutional or departmental objectives in partnership with foreign counterpart institutions with support from the NIS College and University Partnerships Program. These objectives should support the overall goals of the Program: to support the transition of the New Independent States to democratic systems based on market economies, and to strengthen mutual understanding and cooperation between the United States and the New Independent States on subjects of enduring common interest to the participating countries and institutions. The means for achieving these objectives may include teaching, scholarship, and outreach to professionals and other members of the communities served by the participating institutions.

Program Overview

The NIS College and University Partnerships Program supports institutional linkages in higher education with partners from the New Independent States of the former Soviet Union with funding available through the FREEDOM Support Act. The Bureau also anticipates issuing a separate and additional Request for Grant Proposals for a partnership program for community colleges interested in cooperating with institutions in some or all of the New Independent States. Eligible community colleges may apply for grants under either or both of these two competitions.

The Bureau also supports institutional linkages in higher education with partners worldwide through the Educational Partnerships Program (formerly College and University Affiliations Program); the Educational Partnerships Program Request for Grant Proposals was announced separately and has a deadline of January 11, 2002. Applicants interested in the Bureau's Educational Partnerships Program should contact the Bureau's Humphrey Fellowships and Institutional Linkages Branch at (202)619–5289. Other RFGPs for educational partnerships may also be published in Fiscal Year 2002.

Program Objectives and Eligible Fields

This RFGP for the NIS College and University Partnerships Program does not prescribe specific project objectives, but establishes the parameters within which applicants are invited to propose projects. Institutional objectives should be consistent with the program's goals of supporting the transition of the New Independent States to democratic systems based on market economies and of equipping the participating institutions with a stronger ability to address, through teaching, research, or outreach, critical issues in the fields eligible in FY 2002:

The social, political, and economic sciences;

Business, accounting and trade;

Journalism and media studies;

Law;

Public administration and public policy analysis; and education, continuing education, and educational administration.

Institutional Objectives for Applicants

While the benefits of the project to each of the participating institutions may differ significantly in nature and scope based on their respective needs and resource bases, proposals should outline well-reasoned strategies that are designed to meet specific objectives for each participating U.S. and foreign department or institution as a whole.

For example, proposals may outline the parameters and possible content of new courses, new research or teaching specializations or methodologies, new or revised curricula, new programs for educational outreach, or other changes specifically anticipated as a result of the project. Proposals to pursue a limited number of related thematic objectives at each institution are preferred to proposals addressing a large number of unrelated objectives. Proposals that do not benefit all institutional partners are not eligible for funding from this Program. Proposals should focus clearly on strategies to promote curriculum, faculty, and staff development, as well as administrative reform, at the NIS partner institution(s) in one or more of the eligible disciplines. Projects may result in the development of a new academic program or the restructuring of an existing program, and should equip institutions of higher education to contribute to the transitions in the New Independent States to market economies and open democratic systems. Plans to enable participants to extend the benefits of the project to larger audiences through outreach to government, NGO, and business representatives are especially encouraged.

In addition to demonstrating how each participating institution can assist its partner(s) to meet institutional goals, proposals should also explain how this cooperation will enable each institution to address its own needs. Accordingly, applicants are encouraged to describe the needs and deficiencies as well as the capabilities and strengths of each participating department and institution, and how each institution will contribute to and benefit from the achievement of project objectives. Proposals that realistically assess institutional capacities will be better able to outline compelling objectives that address institutional needs and justify a request for support. To be competitive, proposals should demonstrate that the participating institutions understand one another and are committed to mutual support and cooperation in project implementation.

If the proposed partnership would occur within the context of a previous or ongoing project, the proposal should explain how the request for Bureau funding would build upon the pre-existing relationship or complement previous and concurrent projects. Previous projects should be described, with details about the amounts and sources of support and the results of previous cooperative efforts.

Institutions receiving partnership grant awards will be expected to submit periodic reports on the results of program activities. Proposals should outline and budget for a methodology for project evaluation. The evaluation plan should include an assessment of the current status of each participating department's and institution's needs at the time of program inception with specific reference to project objectives; formative evaluation to allow for mid-course revisions in the implementation strategy; and, at the conclusion of the project, summative evaluation of the degree to which the project's objectives have been achieved together with observations about the project's continuing potential to influence the participating institutions and their surrounding communities or societies. The final evaluation should also include recommendations about how to build upon project achievements. Evaluative observations by external consultants with appropriate subject and regional expertise are especially encouraged.

Budget Guidelines

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

The commitment of all partner institutions to the proposed project should be reflected in the cost-sharing which they offer in the context of their respective institutional capacities. Although the contributions offered by U.S. and foreign institutions with relatively few resources may be less than those offered by applicants with greater resources, all participating institutions should identify appropriate cost-sharing. These costs may include estimated in-kind contributions. Consistent with the review criteria listed elsewhere in this RFGP and with specific reference to cost-sharing and institutional commitment to cooperation, proposed cost-sharing will be considered an important indicator of each participating institution's interest in the project and potential to benefit from it.

A U.S. college or university must submit the proposal and must be prepared to serve as grant recipient with responsibility for project coordination. Proposals must include letters of commitment from all institutional partners. Each letter must be signed by an official who is authorized to commit institutional resources to the project.

The Bureau's support may be used to assist with the costs of the exchange visits as well as the costs (up to a maximum of 25 percent of the total grant) of the administration of the project at any partner institution. However, governmental institutions except universities may not charge administrative costs to the grant. Administrative costs include administrative salaries and direct administrative costs such as rent, telephones, and postage. Indirect costs are not eligible for Bureau support under this competition. Although each grant will be awarded to a single U.S. institutional partner, adequate provision in the proposal for the administrative costs of the project at all non-governmental partner institutions, including the foreign partner(s), is encouraged. More information on partner institution eligibility in this competition is found in this RFGP under the headings "U.S. Partner and Participant Eligibility" and "Foreign Partner and Participant Eligibility."

Salary support for administrative activity may be included within the 25 percent maximum. Fees for translation services and for outside consultants reporting on the status of project objectives are allowable as program expenses.

The proposal may include a request for funding to reinforce the activities of exchange participants through the establishment and maintenance of Internet and/or electronic mail facilities as well as through interactive technology or non-technology-based distance-learning programs. However, the establishment and maintenance of these facilities at governmental organizations in the U.S. or at foreign governmental organizations other than universities is not eligible for funding. Projects focusing primarily on technology or physical infrastructure development are not encouraged, and the amount that may be requested for educational and technical materials should not exceed 25 percent of the Bureau's funding for the project. Proposals that include Internet, electronic mail, and other interactive technologies in countries where these technologies are not easily maintained or financed should discuss how the foreign partner institution will cover

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their costs after the project ends. Applicants may propose other project activities not specifically mentioned in this solicitation if the activities reinforce the impact of the project.

The maximum award in the FY 2002 competition will be $300,000. The program awards grants for approximately three years. Awards may be extended on a no-cost basis beyond the initial grant period by mutual agreement if progress toward project goals is satisfactory. Requests for amounts smaller than the maximum are eligible. Budgets and budget notes should carefully justify the amounts requested. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Grants are subject to the availability of funds for FY 2002. The amount of funding available for proposals to the NIS College and University Partnerships Program in FY 2002 has not yet been determined. In FY 2001, 77 proposals were received under this competition. Of this number, 18 proposals are anticipated to be funded.

U.S. Institution and Participant Eligibility

The lead institution and grant recipient in the project must be an accredited U.S. college or university.

Applications from community colleges, minority-serving institutions, undergraduate liberal arts colleges, comprehensive universities, research universities, and combinations of these types of institutions are eligible. The lead U.S. organization in a consortium or other combination of cooperating institutions is responsible for submitting the application. Each application must document the lead organization's authority to represent all U.S. cooperating partners. Secondary U.S. partners may include governmental or non-governmental organizations as well as non-profit service and professional organizations.

With the exception of translators and outside consultants reporting on the status of project objectives, participation is limited to teachers, advanced graduate students, staff, and administrators from the participating U.S. institution(s). All participants who are funded by the Bureau under the program budget and represent the U.S. institution must be U.S. citizens. Advanced graduate students at the U.S. institution(s) are eligible for support from the project only as visiting instructors or researchers at a foreign partner institution.

Foreign Institution and Participant Eligibility

In other countries, participation as a primary partner is open to recognized degree granting institutions of post-secondary education. Secondary partners may include independent research institutes, relevant governmental organizations, and private non-profit organizations with project-related educational objectives. Except for translators and outside consultants reporting on the status of project objectives, participation is limited to teachers, administrators, researchers, or advanced students from the participating foreign institution(s). Any advanced student participant must either have teaching responsibilities or be preparing for such responsibilities. Foreign participants must be citizens, nationals, or permanent residents of the country of the foreign partner, and must be both qualified to receive U.S. J–1 visas and willing to travel to the U.S. under the provisions of a J–1 visa during the exchange visits funded by this Program. If participants are not identified in the proposal, the proposal narrative should outline the procedure through which individuals will be selected to participate in exchange activities. The U.S. partner should participate actively in the selection of foreign participants whether they are identified in the proposal or selected during the course of project implementation. All participants should be selected because of their demonstrable qualifications to contribute to overall project goals.

Foreign Country and Location Eligibility

Foreign partners from the following countries are eligible:

Armenia;

Azerbaijan;

Belarus—potential applicants for partnerships with institutions in Belarus are encouraged to contact the program office;

Georgia;

Kazakhstan—partnerships that include a partner in Almaty or Astana as well as a partner in another region of Kazakhstan are encouraged;

Kyrgyzstan;

Moldova;

Russia—proposals for partnerships with institutions located in Moscow or St. Petersburg should clearly indicate how those partnerships will have an impact on other regions. Proposals which designate a partner institution in the Russian Far East are encouraged.

Tajikistan—in consideration of the State Department Warning advising U.S. citizens to defer travel to Tajikistan, proposals should not include travel to Tajikistan by U.S. participants;

Ukraine—proposals which designate partner institutions outside Kiev are encouraged; Uzbekistan.

Partnerships including a secondary foreign partner from a non-NIS country are eligible; however, with the exception noted below under the heading "Central European Partners," the Bureau will not cover overseas non-NIS partner institution costs.

Central European Partners

The Bureau encourages proposals which build upon established collaboration between U.S. institutions and their partners in Central and Eastern Europe in order to support faculty and curriculum development in the NIS and to promote regional cooperation. Funds may be budgeted for the exchange of faculty between NIS institutions and institutions of higher learning in Central and Eastern Europe (applicants planning to submit proposals for trilateral partnerships with a partner from Central and Eastern Europe are encouraged to contact the program office).

Ineligibility

A proposal may be deemed technically ineligible if:

(1) It does not fully adhere to the guidelines established in this document and in the Solicitation Package;

(2) It is not received by the deadline;

(3) It is not submitted by the U.S. partner;

(4) One of the partner institutions is ineligible;

(5) The foreign country or geographic location is ineligible;

(6) The amount requested from the Bureau exceeds $300,000.

Grant-Making Authority

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program cited above is provided through the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Freedom Support Act).

Projects must conform with the Bureau's requirements and guidelines outlined in the solicitation package for this RFGP. The Project Objectives, Goals, and Implementation (hereafter, POGI) and the Proposal Submission Instructions (hereafter, PSI), which contain additional guidelines, are included in the Solicitation Package. Proposals that do not follow RFGP requirements and the guidelines appearing in the POGI and PSI may be excluded from consideration due to technical ineligibility.

Announcement Title and Number

All communications with the Bureau concerning this announcement should refer to the NIS College and University Partnerships Program and reference number ECA/A/S/U–02–07.

Deadline for Proposals

All copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, January 18, 2002. Faxed documents will not be accepted (although faxed letters of commitment from non-U.S. institutional partners may be submitted as part of the original proposal), nor will documents postmarked on Friday, January 18, 2002 but received on a later date.

Approximate Grant Duration

Grants should begin on or about September 1, 2002 and last approximately three years. Please note that this date represents the approximate date that successful applicants will be informed. The program office understands that due to the short notice, it may not be feasible to schedule activities beyond brief planning visits during the first semester.

For Further Information

To request a solicitation package, contact the Humphrey Fellowships and Institutional Linkages Branch (NIS College and University Partnerships Program); Office of Global Educational Programs; Bureau of Educational and Cultural Affairs; ECA/A/S/U, Room 349; U.S. Department of State; SA-44, 301 Fourth Street, SW.; Washington, DC 20547; phone: (202) 619–5289, fax: (202) 401–1433. The solicitation package includes more detailed award criteria, all application forms, and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Applicants desiring more information may contact one of the following NIS College and University Partnerships regional program officers: Michelle Johnson (telephone: (202) 205–8434 or 619–4097, e-mail: *johnsonmi@pd.state.gov*) on all inquiries and correspondence regarding partnerships with institutions in Russia; Jonathan Cebra (telephone: (202) 205–8379 or 619–4126, e-mail: *jcebra@pd.state.gov*) on all inquiries and correspondence regarding partnerships with institutions in Ukraine, Belarus, and Moldova; Alanna Bailey (telephone: (202) 205–8266 or 619–6492, e-mail: *abailey@pd.state.gov*) on all inquiries and correspondence regarding partnerships with institutions in any other eligible country (in the Central Asia or Caucasus regions).

To Download a Solicitation Package Via Internet

The entire Solicitation Package, consisting of the RFGP, POGI, and PSI, may be downloaded from the Bureau's website at: *http://exchanges.state.gov/education/rfgps*. Please read all information before downloading.

Prospective applicants should read the complete Request for Grant Proposals as published in the **Federal Register** and available on the Bureau's website before addressing inquiries to the NIS College and University Partnerships Program staff or submitting their proposals. Once the RFGP deadline has passed, Department staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions

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U.S. Department of State
SA–44
Bureau of Educational and Cultural Affairs
Ref: ECA/A/S/U–02–07
Program Management, ECA/EX/PM, Room 534
301 4th Street, SW
Washington, DC 20547

Applicants must also submit the "Proposal Title Sheet," "Executive Summary," "Proposal Narrative" and "Calendar of Activities" sections of the proposal as e-mail attachments in Microsoft Word (preferred) or as ASCII text files to the following e-mail address: *partnerships@pd.state.gov*. In the e-mail message subject line, include the following: ECA/A/S/U–02–07 and the country or countries of the foreign partner(s) together with the names of the U.S. and foreign partner institutions. To reduce the time needed to obtain advisory comments from the Public Affairs Sections of U.S. Embassies overseas the Bureau will transmit these files electronically to these offices.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support of Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals may be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be evaluated by independent external reviewers. These reviewers, who will be professional, scholarly, or educational experts with appropriate regional and thematic knowledge, will provide recommendations and assessments for consideration by the Bureau. The Bureau will consider for funding only those proposals which are recommended for funding by the independent external reviewers.

The agenda for the meeting will

Carolina Department of Transportation

are invited from all interested parties

Proposals may also be reviewed by the Office of the Legal Advisor or by other offices of the U.S. Department of State. In addition, U.S. Embassy officers may provide advisory comment. Funding decisions will be made at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) will reside with the Bureau's grants officer.

Review Criteria

All reviewers will use the criteria below to reach funding recommendations and decisions. Technically eligible applications will be reviewed competitively according to these criteria, which are not rank-ordered or weighted.

(1) *Broad and Enduring Significance of Institutional Objectives:* Project objectives should have significant and ongoing results for the participating institutions and for their surrounding societies or communities by providing a deepened understanding of critical issues in one or more of the eligible fields. Project objectives should relate clearly to institutional and societal needs, including the transition of the New Independent States to democratic systems based on market economies.

(2) *Creativity and Feasibility of Strategy to Achieve Project Objectives:* Strategies to achieve project objectives should be feasible and realistic within the projected budget and timeframe. These strategies should utilize and reinforce exchange activities creatively to ensure an efficient use of program resources.

(3) *Institutional Commitment to Cooperation:* Proposals should demonstrate significant understanding by each institution of its own needs and capacities and of the needs and capacities of its proposed partner(s), together with a strong commitment by the partner institutions, during and after the period of grant activity, to cooperate with one another in the mutual pursuit of institutional objectives.

(4) *Project Evaluation:* Proposals should outline a methodology for determining the degree to which a project meets its objectives, both while the project is underway and at its conclusion. The final project evaluation should include an external component and should provide observations about the project's influence within the participating institutions as well as their surrounding communities or societies.

(5) *Cost-effectiveness:* Administrative and program costs should be reasonable and appropriate with cost-sharing provided by all participating institutions within the context of their respective capacities. We view cost-sharing as a reflection of institutional commitment to the project. Although indirect costs are eligible for inclusion as cost-sharing by the applicant, contributions should not be limited to indirect costs.

(6) *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity by explaining how issues of diversity are included in project objectives for all institutional partners. Issues resulting from differences of race, ethnicity, gender, religion, geography, socio-economic status, or physical challenge should be addressed during project implementation. In addition, project participants and administrators should reflect the diversity within the societies which they represent (see the section of this document on "Diversity, Freedom, and Democracy Guidelines"). Proposals should also discuss how the various institutional partners approach diversity issues in their respective communities or societies.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any State Department representative. Explanatory information provided by the Department of State that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: August 31, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–22766 Filed 9–12–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Biz Jet Services, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 2001–9–4) Dockets OST–01–9880 and OST–01–9881.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Biz Jet Services, Inc., fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than September 24, 2001.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–01–9880 and OST–01–9881 and addressed to the Department of Transportation Dockets (SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

Dated: September 7, 2001.

Robert S. Goldner,

Special Assistant for Aviation and International Affairs.

[FR Doc. 01–23032 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, October 18, 2001, from 8:00 a.m. to 1:00 p.m. at the Federal Aviation Administration Headquarters Building, 800 Independence Avenue SW, Washington, DC, in the Bessie Coleman Conference Center (second floor). This will be the thirty-fourth meeting of the COMSTAC.

The agenda for the meeting will include a legislative update on Congressional activities involving commercial space transportation; an activities report from FAA's Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); and a status report on the FAA Notice of Proposed Rulemaking on Licensing and Safety Requirements for Launch.

Meetings of the Technology and Innovation, Reusable Launch Vehicle, Risk Management, and Launch Operations and Support Working Groups will be held on Wednesday, October 17, 2001. For specific information concerning the times and locations of these meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Brenda Parker (AST–200), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW, Room 331, Washington, DC 20591, telephone (202) 385–4713; E-mail brenda.parker@faa.dot.gov.

Issued in Washington, DC, September 4, 2001.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 01–23035 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Chatham County, NC

AGENCY: Federal Highway Administration (FHWA), Department of Transporation (DOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Chatham County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Lawton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone: (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to construct the Pittsboro Bypass. The Pittsboro North-South Bypass is a proposed multi-lane, controlled access freeway on new location that begins at US 15–501 south of Pittsboro and ends at the US 64 Bypass. The proposed improvements are expected to be implemented in multiple stages. The project would begin with the construction of a two-lane shoulder section for the entire project length, an interchange at US 64 Bypass, acquisition of right-of-way to accommodate an ultimate four-lane divided facility with full control of access, and acquisition of right-of-way for three future interchanges. The final stages of the project would include the remaining construction to provide a four-lane, median-divided section with additional interchanges at locations to be determined.

Construction of the proposed freeway is considered necessary to accommodate the existing and projected traffic demand through the Town of Pittsboro, in Chatham County. The preliminary study area encompasses the entire Town of Pittsboro, as well as outlying rural areas. The study area is bounded by the Haw River to the east, Rocky River and Deep River to the south, Harlands Creek to the west, and Russell Chapel Road (SR 1520) to the north. Study alternatives will be chosen that best suit the Purpose and Need for the Project. Potential alternatives to be considered include (1) taking no action; (2) using alternative travel modes; (3) improving the existing facilities through the Town of Pittsboro (US 15–501 and US 64); and, (4) construction of a multi-lane, controlled access facility on new location. Design variations of alignment and grade will be incorporated into the study of each of the build alternatives.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Citizen informational workshops will be held in the project area throughout the study process. In addition, a public hearing will be held. Public notice will be given of the time and place of the workshops and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provide above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Emily Lawton,

Operations Engineer, Raleigh, NC.

[FR Doc. 01–23026 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Erie County, NY

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that the Southtowns Connector/Buffalo Outer Harbor scoping process has resulted in a major revision to the project's alternatives. Previously, the range of 'Build Alternatives' included new freeway extensions, added freeway capacity or a new transit way. The environmental impact statement will now be progressed with a combination of a new arterial, existing local street/arterial improvements and improved transit/pedestrian/bicyclist facilities.

FOR FURTHER INFORMATION CONTACT: Robert E. Arnold, Division Administrator, Federal Highway Administration, Leo O'Brien Federal Building—7th Floor, Albany, New York 12207, Telephone (518) 431–4127 or Brian O. Rowback, Regional Director, New York State Department of Transportation, 125 Main Street, Buffalo, New York 14203, Telephone: (716) 847–3238.

SUPPLEMENTARY INFORMATION: The Federal Administration, in cooperation with the New York State Department of Transportation (NYSDOT), will prepare an environmental impact statement (EIS) for the proposed Southtowns Connector/Buffalo Outer Harbor Project in Erie County, New York. The proposed improvements could include existing street and arterial road system consolidation, additional arterial street capacity and improved transit/pedestrian/bicyclist facilities. These

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improvements are considered necessary because the existing transportation facilities do not provide for waterfront access, adequately connect development sites, provide sufficient capacity or include provisions for multi-modal uses. Alternatives under consideration are: (1) taking no action, (2) transportation systems management (improvement existing facility efficiency) and (3) provide existing street and arterial improvements and a new arterial street. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, local agencies and to private organizations and citizens who have previously expressed interest or are known to have an interest in this proposal. A formal scoping process will be followed for this revised project proposal. This process will include public and agency meetings to be scheduled. Advance notice will be provided through the media. In addition, public hearings will be held. The draft EIS will be available for public and agency review and comment prior to these public hearings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all agencies and interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the address provided above.

Authority 23 U.S.C. 315, 23 CFR 771.123.

Issued on: September 5, 2001.

Douglas P. Conlan,

District Engineer, Federal Highway Administration, Albany, New York.

[FR Doc. 01–22952 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Highway Administration

Environmental Impact Statement: St. Charles, Jefferson and Orleans Parishes, Louisiana Agencies: Federal Transit Administration (FTA) and Federal Highway Administration (FHWA), Department of Transportation (DOT)

ACTION: Notice of intent to prepare environmental documents, including an environmental impact statement for highway component and an environmental impact statement for transit rail component.

SUMMARY: The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), in cooperation with the Louisiana Department of Transportation and Development (LDOTD) and the Regional Planning Commission (RPC) are issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for the following projects in the East-West Corridor in St. Charles, Jefferson and Orleans Parishes in Louisiana:

1. A rail transit connector between the New Orleans Central Business District (CBD) and the Louis Armstrong New Orleans International Airport (LANOIA); and

2. Extending the existing Earhart Expressway from its terminus at LA 3154 (Dickory Avenue) to the vicinity of Interstate 310.

These proposed transportation projects were identified in a Major Investment Study (MIS) completed in 1999. In addition to the proposed improvements identified as the Locally Preferred Alternative in the MIS, the No-Build Alternative and new alternatives generated through the Scoping Process will be evaluated. Scoping will be accomplished through coordination with interested persons, organizations and federal, state and local agencies. Four (4) public scoping meetings and one (1) interagency scoping meeting are currently planned.

Based on the results of the Scoping Process, FHWA and FTA will make the following determinations regarding the preparation of environmental documentation under NEPA:

1. Identification of environmental issues to be addressed;

2. Identification of appropriate alternatives for evaluation;

3. How cumulative environmental effects of the projects will be addressed; and

4. The need for a separate Environmental Impact Statement for each of the proposed projects, or for a single, combined Environmental Impact Statement for both projects.

FHWA and FTA currently propose to proceed with the preparation of separate environmental documents for each project. FHWA is serving as the federal lead agency for the extension of the existing Earhart Expressway. FTA is serving as the federal lead agency for the rail transit connector between the CBD and the LANOIA. At the conclusion of the Scoping Process, based on the agency and public comment received, FHWA and FTA will either continue with the preparation of two individual Environmental Impact Statements, will proceed with a single Environmental Impact Statement for both projects, or may proceed with an Environmental Assessment for either of the projects, if appropriate.

DATES: Interagency and public scoping and information meetings will be held during the week of October 8th.

Interagency Scoping Meeting: Wednesday, October 10th, 2001 from 10 a.m. to noon, at the Regional Planning Commission's 21st Floor Conference Room at 1340 Poydras Street in New Orleans, Louisiana 70122.

Public Scoping Meetings: Wednesday, October 10th, 2001 from 7 p.m. to 9 p.m. at Xavier University Auditorium in the Xavier University Administration Building at 1 Drexel Drive in New Orleans, Louisiana 70125; Thursday, October 11th, 2001 from 7 p.m. to 9 p.m. at the Joseph S. Yenni Building Council Chambers at 1221 Elmwood Park Boulevard in Jefferson, Louisiana 70123; Saturday, October 13th, 2001 from 9 a.m. to 11 a.m. at the R.J. Bunche Middle School Gymnasium at 8101 Simon Street in Metairie, Louisiana 70003; and Saturday, October 13th, 2001 from 11 a.m. to 1 p.m. at the R.J. Bunche Middle School Gymnasium at 8101 Simon Street in Metairie, Louisiana 70003.

ADDRESSES: Written comments on the scope should be sent by November 1, 2001, to either Mr. William Farr, Programs Operations Manager, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, Louisiana 70808, or Mr. John Sweek, Community Planner, Federal Transit Administration, Region VI, 819 Taylor Street, Fort Worth, Texas, 76102. See **DATES** above for addresses of scoping meeting locations.

FOR FURTHER INFORMATION CONTACT: Mr. William Farr, Programs Operations Manager, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, Louisiana 70808, Telephone: (225) 757–7600; or Mr. John Sweek, Community Planner, Federal Transit Administration, Region VI, 819 Taylor Street, Fort Worth, Texas, 76102, Telephone: (817) 978–0571.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FHWA and FTA will hold a total of four public scoping meetings on Wednesday, Thursday, and Saturday, October 10, 11, and 13. Two evening public scoping meetings will be held between 7 p.m. and 9 p.m. on Wednesday and Thursday, October 10 and 11, in the Xavier University Auditorium in New Orleans and Joseph S. Yenni Building Council Chambers in Jefferson, respectively on these dates. Two morning public scoping meeting sessions will be held on Saturday, October 13, at 9 a.m. and at 11 a.m. in the R.J. Bunch Middle School Gymnasium in Metairie. An Open House Session will be made available in the R.J. Bunch Middle School Gymnasium from 1 p.m until 3 p.m., following the public scoping meeting sessions. All meeting locations are accessible to individuals with disabilities. Individuals with special needs should contact the project's public participation coordinator at 504–488–6100.

Interested individuals, organizations, and public agencies are invited to attend the scoping meetings and participate in identifying any important environmental issues related to the proposed alternatives and suggesting alternatives which are more economical or which have less environmental effects while achieving similar transportation objectives. An information packet, referred to as the Scoping Booklet, will be distributed to all public agencies and interested individuals and will be available at the meetings. Others may request the Scoping Booklet by contacting Mr. William Farr or Mr. John Sweek at the addresses listed above in **ADDRESSES**. Comments regarding preferences for a particular alternative should be reserved for the comment period for the draft environmental documentation. Comments during the scoping period should focus on the issues and alternative for analysis and not on a preference for a particular alternative.

Scoping comments may be made a the scoping meetings or directed to Mr. William Farr on Mr. John Sweek at the addresses listed above in **ADDRESSES** by November 1, 2001.

II. Description of the Project Area and Need

The East-West Corridor is located in St. Charles, Jefferson and Orleans Parishes, Louisiana. It extends approximately 17 miles from the vicinity of I–310 in St. Charles Parish to the New Orleans CBD, serving an area that contains more than one million residents, including several neighborhoods with large numbers of transit-dependent residents. Major destinations within the Corridor include LANOIA, Louisiana Technical College, Zephyr Stadium, Elmwood Industrial Area, and Xavier University. Key destinations in the CBD include the Louisiana Superdome, the Ernest Morial Convention Center, the New Orleans Arena, and the New Orleans Regional Medical Center. The corridor is currently served by taxi service and one bus transit route from the Louis Armstrong New Orleans International Airport in Jefferson Parish to the New Orleans CBD.

The East-West Corridor has the highest volume of travel demand and bus ridership within the New Orleans metropolitan area. The major east-west arteries (I–10 and US 61) have serious congestion, and Earhart Expressway abruptly ends at LA 3154 (Dickory Avenue), a minor arterial at its western terminus, rendering it ineffective as a viable east-west route. The existing bus route is not sufficient to address the mobility needs in the corridor and the large numbers of transit-dependent riders and commuters. As a result, travelers in the East-West Gorridor often experience excessive travel times and delay. These travel times are expected to increase as travel demand increases in the East-West Corridor.

A Major Investment Study (MIS) completed in 1999 for the RPC identified a (LPA) locally preferred alternative with two primary components: A rail transit system linking the LANOIA to downtown New Orleans; and (2) extending LA Route 3139, also known as Earhart Expressway, west to the vicinity of Interstate 310. Both of the proposed projects were deemed necessary to alleviate congestion within the corridor. However, each project has its own unique objectives.

The objectives of the proposed rail transit component include:

- Address the increasing mobility needs within the corridor
- Increase and improve mobility choice for New Orleans, East Jefferson parish, and River Parishes commuters
- Increase access to and from major regional trip generators and attractions
- Promote compatible land use
- Increase and improve the mobility access opportunities to disadvantaged populations
- Promote economic development by increasing labor productivity through travel efficiencies
- Decrease local dependence on automobiles and reduce energy usage
- Provide flexibility in future regional planning transit efforts
- Improve access to and from the airport

The objectives of the proposed roadway expansion are to:

- Improve East-West Corridor system linkage for roadway passenger traffic
- Improve the efficiency of commercial vehicle operations within the New Orleans metro region
- Promote economic development and associated with goods movement
- Improve efficiency in modal relationships in the region by improving bus transit times, shuttle vehicle transit times, and overall travel costs
- Improving access to transit park-n-ride

III. Alternatives

It is anticipated that several alternatives will be identified during the scoping and environmental analysis processes. However, at this time, alternatives to be considered for the rail transit include:

- A "no-build" alternative. There will be no changes in transportation services or facilities in the Corridor beyond already committed projects. This includes only those transit improvements defined in the appropriate agencies' Long Range Transportation Plans and Transit Development Plans for which funding has been committed.
- Transportation Systems Management Alternative—Low cost infrastructure and bus transit improvements, Intelligent Transportation Systems (ITS), bus operations, and Transportation Systems Management improvements will be included in this alternative.
- The construction of a rail transit system. The eastern terminus of the proposed rail transit alternative would be the CBD in Orleans Parish and the western terminus would be the LANOIA in Jefferson Parish. It would follow the abandoned Kansas City Southern Railroad for approximately 5 miles, where it would connect to the rail owned by the Union Passenger Terminal via right-of-way owned by Canadian National Illinois Central Railroad and follow this existing alignment or some other alignment to the CBD. Light rail transit (LRT) and diesel multiple units (DMU), among others will be considered. This alternative would also include all facilities associated with the construction and operations of a light rail transit line, including right of way, structures, track, stations, park-and-ride lots, storage, and maintenance facilities as well as respective rail and bus operating plans.

Alternatives to be considered for Earhart Expressway include:

- A "no-build" alternative. Existing conditions will remain as they are. Only those improvements that have already been approved will be implemented.
- Transportation Systems Management Improvements-Low cost infrastructure and traffic management improvements, including signalization, ITS, and similar.
- Improvement alternatives including the upgrade of US 61 (Airline Drive) or

the extension of LA 3139 (Earhart Expressway) from LA 3154 (Dickory Avenue) would be considered. The road expansion will follow a westward alignment and terminate in the vicinity of I–310. The approximate length of the proposed road component is 10 miles.

IV. Probable Effects

The environmental documents will be prepared in accordance with the 1969 National Environmental Policy Act (NEPA). Accordingly, all potential impacts to the physical, natural, and socioeconomic environments will be evaluated. Concerns to be addressed in NEPA Documents include: aesthetics/visual resources, property value effects, local traffic and travel patterns, land use, noise and vibration, wetlands, construction impacts, Environmental Justice/Title VI issues, and cumulative impacts of concurrent and consecutive implementation of both alternatives.

V. Procedures

In accordance with the regulations and guidance by the Council on Environmental Quality (CEQ), as well as 23 CFR part 450 and 23 policies, the NEPA Documents will include an evaluation of the social, economic, and environmental impacts of the alternatives. The NEPA Documents will also comply with the requirements of the Clean Air Act Amendments of 1990 (CAAA) and with Executive Order 12898 on Environmental Justice. The NEPA Documents will also meet the requirements of the U.S. Environmental Protection Agency's transportation conformity regulations (40 CFR part 93 and 23 CFR 450.322(b)(8)). After their publication, the draft NEPA Documents will be available for public agency review and comment.

The Final NEPA Documents will consider the public and agency comments received during the public and agency circulation of the NEPA Documents and will identify the preferred alternatives. Opportunity for additional public comment will be provided throughout all phases of the project development.

Issued on: September 5, 2001.

William A. Sussman,

Division Administrator, Federal Highway Administration.

[FR Doc. 01–23027 Filed 9–12–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 590X)]

CSX Transportation, Inc.—Abandonment Exemption—Between Memphis and Cordova, in Shelby County, TN

On August 24, 2001, CSX Transportation, Inc. (CSXT), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Memphis to Cordova Branch, extending from milepost ONI 224.00 near Memphis to milepost ONI 210.66 near Cordova, in Shelby County, TN, a distance of 13.34 miles. The line traverses U.S. Postal Service Zip Codes 38111, 38112, 38117, 38120, 38122, and 38018, and includes the station of Cordova at milepost ONI 210.66.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 12, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 3, 2001. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 590X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Louis E. Gitomer, Esq., Ball Janik, LLP, 1455 F Street, NW., Washington, DC 20005. Replies to the CSXT petition are due on or before October 3, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: September 6, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–22924 Filed 9–12–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 5, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 15, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1205.

Form Number: IRS Form 8826.

Type of Review: Extension.

Title: Disabled Access Credit.

Description: Code section 44 allows eligible small businesses to claim a non-refundable income tax credit of 50% of the amount of eligible access expenditures for any tax year that exceed $250 but do not exceed $10,250. Form 8826 figures the credit and the tax limit.

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/Recordkeeper: 26,133.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 hr., 39 min.

Learning about the law or the form—42 min.

Preparing and sending the form to the IRS—51 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 240,424 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–22956 Filed 9–12–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before November 13, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov*. OTS will post any comments and the related index on the OTS Internet Site at www.ots.treas.gov.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Sonja White, National Coordinator, Community Affairs, (202) 906–7857, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Minority Thrift Certification Form.

OMB Number: 1550–0096.

Form Number: OTS Form 1661.

Regulation requirement: N/A.

Description: This information is needed to help OTS maintain a reliable source of information regarding the universe of minority-owned thrifts, in accordance with our responsibilities under Section 308 of FIRREA.

Type of Review: Renewal.

Affected Public: Savings Associations and Savings Banks.

Estimated Number of Respondents: 32.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .5 hours.

Estimated Total Burden: 16 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: September 7, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–22954 Filed 9–12–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, Amendment of Three Systems of Records

ACTION: Notice.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) proposes amending three existing systems of records (44VA01, 58VA21/22 and 81VA01) to: (1) Amend a routine use in one system (44VA01) to clarify that information released under the routine use is at VA's initiative and that certain names and address are released only to Federal law enforcement entities under the routine use; (2) add a routine use relating to release of information about representative misconduct to each of the systems; (3) amend two of the systems (58VA21/22 and 81VA01) to clarify what individuals are covered by the systems; (4) add a statement of purpose to each of the systems; and (5) to update information such as citations and contact information in each of the systems.

DATES: The proposed amendments will be effective 30 calendar days from the date this publication, September 13, 2001, unless comments are received before this date which would result in a contrary determination.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to "OGCRegulations@mail.va.gov". All relevant material received before October 15, 2001, will be considered. All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30

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p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–5978.

SUPPLEMENTARY INFORMATION: VA provides benefits and services to many of America's approximately 25 million living veterans, as well as to veterans' survivors and dependents.

Amendment of Routine Use: VA proposes 2 amendments to routine use number 2 in system of records 44VA01. This routine use concerns referral of agency records showing violation of law to law enforcement authorities. One amendment clarifies that the referral referenced is referral on VA's initiative. In addition to requirements of the Privacy Act, 5 U.S.C. 552a, VA must comply with information disclosure limitations in 38 U.S.C. 5701 which, among other things, restrict release of the names and address of veterans and their dependents. The second proposed amendment to this routine use clarifies that, except for referral to other Federal entities, the information referred under this routine use does not include such names and addresses.

Additional Routine Use: Claimants for VA benefits are entitled to representation throughout the VA claims adjudication process. VA regulates representatives appearing in VA claims matters to promote representational competency and the ethical treatment of represented VA claimants. *See generally* 38 U.S.C. 5901–05; 38 CFR 14.626–.643, 20.600–.610.

In the great majority of cases, representational services are ably provided by well-trained, responsible representatives of State and national veterans' service organizations, agents recognized by VA as qualified to act as representatives, attorneys-at-law and others. Occasionally, however, representatives may engage in unethical or illegal conduct; for example by charging fees where none are authorized by law, willfully and deliberately violating agency rules of practice and procedure, or defrauding VA claimants.

The routine use added to these three systems of records would permit VA to disclose information in its files concerning a representative's misconduct to Federal, State, or local law enforcement authorities and to authorities responsible for the professional licensing and discipline of representatives, such as State or local bar associations.

Changes to update these systems: System 44VA01 already provides that representatives are included in the categories of individuals covered by the system. These amendments clarify that that is also true of systems 58VA21/22 and 81VA01.

The Office of the Federal Register of the National Archives and Records Administration now includes "Purpose(s)" among the required data elements in published systems of records notices. These amendments add purpose sections to each of the three systems amended.

Citations to title 38, United States Code, have been revised throughout to reflect renumbering of that title that occurred after these systems were originally established. A citation to 42 U.S.C. 209dd–3 and 290ee–3 has been removed from a note in 44VA01. The note concerns special protection afforded by 38 U.S.C. 7332 (formerly § 4132) to records concerning drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus or sickle cell anemia. The cited title 42 provisions were the authority for regulations of the Secretary of Health and Human Services concerning the confidentiality of alcohol and drug abuse patient records which VA followed prior to the adoption of its own regulations at 38 CFR 1.460–.494. For additional information, see 60 FR 63926 (1995).

Finally, these proposed amendments update addresses and telephone numbers that have changed since notices of these systems were published.

VA has determined that release of information under circumstances such as those described above is a necessary and proper use of information in these systems of records and that the specific routine use proposed for the transfer of this information is appropriate.

The systems of records VA proposes to amend, which are contained in the **Federal Register** at the pages indicated, are:

44VA01, Veterans Appellate Records System-VA, established at 40 FR 38095 (8/26/75) and amended at 56 FR 15663 (4/17/91) and 63 FR 37941 (7/14/98).

58VA21/22, Compensation, Pension, Education and Rehabilitation Records—VA, established at 41 FR 9294 (3/3/76) and last amended at 63 FR 37941 (7/14/98) and 65 FR 37605 (6/15/00), with other amendments as cited therein.

81VA01, Representatives' Fee Agreement Records System—VA, established at 56 FR 18874 (4/24/91) and amended at 57 FR 8792 (3/12/92) and 63 FR 37941 (7/14/98).

A "Report of Altered System" and an advance copy of the revised system have been sent to the chairmen and ranking members of the Committee on Governmental Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the Office of Management and Budget, as required by 5 U.S.C. 552a(o) (Privacy Act) and guidelines issued by the Office of Management and Budget.

Approved: August 27, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

Notice of Amendment of Systems of Records

1. In the system identified as 44VA01, "Veterans Appellate Records System—VA", established at 40 FR 38095 (8/26/75) and amended at 56 FR 15663 (4/17/91) and 63 FR 37941 (7/14/98), authority citations are updated, a routine use is amended, a purpose section and a routine use are added, and telephone and address information are updated as follows:

44VA01

SYSTEM NAME:

Veterans Appellate Records System—VA.

SYSTEM LOCATION:

Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420, and its contractor, Promisel & Korn, Inc., 7012 West Greenvale Parkway, Chevy Chase, MD 20815.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 7101(a), 7104; 5 U.S.C. 552.

PURPOSE(S):

Initial decisions on claims for Federal veterans' benefits are made at VA field offices throughout the nation. Claimants may appeal those decisions to the Board of Veterans' Appeals. See 38 U.S.C. Chapter 71. The Board gathers, or creates, these records in carry out its appellate functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, VA may refer the relevant records in the system of records, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. Names and home addresses of veterans and their dependents will be released on VA's initiative under this routine use only to Federal entities.

* * * * *

7. Where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person or organization representing a person in a matter before VA, a record from this system may be disclosed, on VA's initiative, to any or all of the following: (1) Applicable civil or criminal law enforcement authorities and (2) a person or entity responsible for the licensing, supervision, or professional discipline of the person or organization acting as representative. Names and home addresses of veterans and their dependents will be released on VA's initiative under this routine use only to Federal entities.

Note: Any record maintained in this system of records which may include information relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus or sickle cell anemia will be disclosed pursuant to an applicable routine use for the system only when permitted by 38 U.S.C. 7332.

* * * * *

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to information contained in this system of records may write, call or visit the Board of Veterans' Appeals Freedom of Information Act Officer whose address and telephone number are as follows: Freedom of Information Act Officer (01C1), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–9252.

* * * * *

2. In the system identified as 58VA21/22, "Compensation, Pension, Education and Rehabilitation Records—VA", established at 41 FR 9294 (March 3, 1976) and last amended at 63 FR 37941 (7/14/98) and 65 FR 37605 (6/15/00), with other amendments as cited therein, the description of the categories of individuals covered by the system is amended, the authority for maintenance of the system is updated, and a purpose section and a routine use are added as follows:

58VA21/22

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

* * * * *

20. Representatives of individuals covered by the system.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 501(a) and Chapters 11, 13, 15, 18, 23, 30, 31, 32, 34, 35, 36, 39, 51, 53, 55.

PURPOSE(S):

Veterans, and their survivors and dependents, file claims for a wide variety of Federal veterans' benefits administered by VA at VA facilities located throughout the nation. See the statutory provisions cited in "Authority for maintenance of the system." VA gathers, or creates, these records in order to enable it to administer these statutory benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

63. Where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person or organization representing a person in a matter before VA, a record from this system may be disclosed, on VA's initiative, to any or all of the following: (1) Applicable civil or criminal law enforcement authorities and (2) a person or entity responsible for the licensing, supervision, or professional discipline of the person or organization acting as representative. Names and home addresses of veterans and their dependents will be released on VA's initiative under this routine use only to Federal entities.

3. In the system identified as 81VA01 "Representatives' Fee Agreement Records System—VA," appearing at 56 FR 18874 (4/24/91) and amended at 57 FR 8792 (3/12/92) and 63 FR 37941 (7/14/98), the description of the categories of individuals covered by the system is amended, a purpose statement and a routine use are added, and contact information is updated as follows:

81VA01

SYSTEM NAME:

Representatives' Fee Agreement Records System—VA.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

* * *

PURPOSE(S):

Claims agents and attorneys-at-law who charge fees for representing veterans and their survivors and dependents in pursuing their claims for Federal veterans' benefits are required to file copies of their fee agreements with the Board. The Board, on its own motion or the motion of a party to the agreement, may then review the agreement and "may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. 38 U.S.C. 5904(c)(2). The Board gathers, or creates, these records in order to enable it to carry out these fee agreement filing and review functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons seeking, receiving, or who have received benefits from the Department of Veterans Affairs who utilize the services of attorneys-at-law or accredited agents to represent them; such attorneys-at-law and accredited agents; and VA employees whose duties involve the processing of matters related to representatives' fee agreements.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

6. Where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person or organization representing a person in a matter before VA, a record from this system may be disclosed, on VA's initiative, to any or all of the following: (1) applicable civil or criminal law enforcement authorities and (2) a person or entity responsible for the licensing, supervision, or professional discipline of the person or organization acting as representative. Names and home addresses of veterans and their dependents will be released on VA's initiative under this routine use only to Federal entities.

* * * * *

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to information contained in this system of records may write, call or visit the Board of Veterans' Appeals Freedom of Information Act Officer whose address and telephone number are as follows: Freedom of Information Act Officer (01C1), Board of Veterans' Appeals, 810 Vermont

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Federal Register

Thursday,
September 13, 2001

Part II

Department of Housing and Urban Development

Office of Federal Housing Enterprise Oversight

12 CFR Part 1750
Risk-Based Capital; Final Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1750

RIN 2550–AA02

Risk-Based Capital

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is directed by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to issue a risk-based capital regulation for the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association (collectively, the Enterprises). The regulation specifies the risk-based capital stress test that will be used to determine each Enterprise's risk-based capital requirement and, along with the minimum capital requirement, to determine each Enterprise's capital classification for purposes of possible supervisory action.

EFFECTIVE DATE: September 13, 2001.

FOR FURTHER INFORMATION CONTACT: Edward J. Szymanoski, Acting Associate Director, Office of Risk Analysis and Model Development; Dorothy J. Acosta, Deputy General Counsel; or David A. Felt, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–3800 (not a toll-free number). The telephone number for the telecommunications device for the deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Office of Federal Housing Enterprise Oversight (OFHEO) was established by title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (1992 Act). OFHEO is an independent office within the U.S. Department of Housing and Urban Development (HUD) with responsibility for examining and regulating the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae) (collectively, the Enterprises) and ensuring that they are adequately capitalized. The 1992 Act expressly directs OFHEO's Director (the Director) to issue a regulation establishing the risk-based capital standard.[1]

Fannie Mae and Freddie Mac are government-sponsored Enterprises that engage in two principal businesses: investing in residential mortgages and guaranteeing securities backed by residential mortgages. The securities the Enterprises guarantee and the debt instruments they issue are not backed by the full faith and credit of the United States and nothing in this document should be construed otherwise.[2] Nevertheless, financial markets treat Enterprise securities more favorably than securities issued by comparable firms. The market prices for Enterprise debt and mortgage-backed securities (MBS) and the fact that the market does not require that those securities be rated by a nationally recognized rating statistical organization suggest that investors perceive that the government implicitly guarantees those securities. Factors contributing to this perception include the Enterprises' public purposes, their Congressional charters, their potential direct access to U.S. Department of Treasury (Treasury) funds, and the statutory exemptions of their debt and MBS from otherwise mandatory investor protection provisions.[3]

B. Statutory Requirements for Risk-Based Capital

The final rule implements the 1992 Act's requirement to establish, by regulation, a risk-based capital "stress test" to determine the amount of capital each Enterprise needs to survive a ten-year period characterized by large credit losses and large movements in interest rates (stress period).[4] The 1992 Act also provides that, in order to meet its risk-based capital standard, each Enterprise is required to maintain an additional 30 percent of this amount to protect against management and operations risk.[5] The level of capital[6] required under this standard for an Enterprise will reflect that Enterprise's specific risk profile at the time the stress test is run.

The 1992 Act requires that the stress test subject each Enterprise to large credit losses on the mortgages it owns or guarantees. The rates of default and severity that yield these losses must be reasonably related to the highest rates of default and severity of mortgage losses experienced during a period of at least two consecutive years in contiguous areas of the United States that together contain at least five percent of the total U.S. population (benchmark loss experience).[7] The 1992 Act also prescribes two interest rate scenarios, one with rates falling and the other with rates rising.[8] The risk-based capital amount is based on whichever scenario requires more capital for the Enterprise. In prescribing the two scenarios, the 1992 Act describes the path of the ten-year constant maturity yield (CMT) for each scenario and directs OFHEO to establish the yields on Treasury instruments of other maturities in a manner reasonably related to historical experience and judged reasonable by the Director.

Congress provided OFHEO significant discretion to determine many aspects of the risk-based capital test. This flexibility is evidenced by section 1361(b), which states that "[i]n establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate."[9] The subsection further states that other non-specified characteristics of the stress period, "such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period."[10] The statute also provides OFHEO flexibility in establishing other aspects of the stress test, including "the rate of default and severity,"[11] the yields on Treasury securities relative to the ten-year CMT yield,[12] and the definition of "type of mortgage product."[13]

[1] 12 U.S.C. 4513(b)(1).

[2] *See* Federal Home Loan Mortgage Corporation Act, section 306(h)(2) (12 U.S.C. 1455(h)(2)); Federal National Mortgage Association Charter Act, section 304(h) (12 U.S.C. 1719(b)); and 1992 Act, section 1302(4) (12 U.S.C. 4501(4)).

[3] *See, e.g.*, 12 U.S.C. 24 (authorizing unlimited investment by national banks in obligations of or issued by the Enterprises); 12 U.S.C. 1455(g), 1719(d), 1723(c) (exempting securities from oversight from Federal regulators); 15 U.S.C. 77r–1(a) (preempting State law that would treat Enterprise securities differently from obligations of the United States for investment purposes); 15 U.S.C. 77r–1(c) (exempting Enterprise securities from State blue sky laws).

[4] 12 U.S.C. 4611.

[5] 12 U.S.C. 4611(c)(2).

[6] For purposes of the risk-based capital standard, the term "capital" means "total capital" as defined under section 1303(18) of the 1992 Act (12 U.S.C. 4502(18)).

[7] 12 U.S.C. 4611(a)(1).

[8] 12 U.S.C. 4611(a)(2).

[9] 12 U.S.C. 4611(b)(1).

[10] 12 U.S.C. 4611(b)(2).

[11] 12 U.S.C. 4611(a)(1).

[12] 12 U.S.C. 4611(a)(2).

[13] 12 U.S.C. 4611(d)(2).

The 1992 Act requires that, initially, the stress test not provide for the conduct of new business by the Enterprises during the stress period, except to fulfill contractual commitments to purchase mortgages or issue securities. Four years after the final risk-based capital regulation is issued, OFHEO may modify the stress test to incorporate assumptions about additional new business conducted during the stress period.[14] In doing so, OFHEO is required to take into consideration the results of studies conducted by the Congressional Budget Office and the Comptroller General of the United States on the advisability and appropriate form of new business assumptions. The 1992 Act requires that the studies be completed within the first year after issuance of the final regulation.[15]

C. Rulemaking Chronology

OFHEO has issued a series of **Federal Register** notices soliciting comment on the development of the risk-based capital regulation. The first notice, an Advance Notice of Proposed Rulemaking (ANPR),[16] sought public comment on a number of issues relating to the development of the regulation.[17] OFHEO received 17 comments on the ANPR from a variety of interested parties, including other Federal agencies, Fannie Mae, Freddie Mac, trade associations, and financial organizations. OFHEO considered these comments in the development of two subsequent Notices of Proposed Rulemaking (NPRs), each addressing different components of the risk-based capital regulation. The first Notice of Proposed Rulemaking (NPR1)[18] addressed two issues: (1) The methodology for identifying the benchmark loss experience, and (2) the use of OFHEO's House Price Index (HPI) to update original loan-to-value ratios (LTVs) and to determine house price appreciation paths during the stress period.[19] NPR1 included OFHEO's responses to all of the ANPR comments that related to those two areas.[20] The second Notice of Proposed Rulemaking (NPR2) proposed the remaining specifications of the stress test, including how the HPI would be used and how losses predicted by the stress test would be calibrated to the benchmark loss experience.[21] In addition, OFHEO issued a notice soliciting reply comments to provide interested parties an opportunity to respond to other commenters that addressed NPR2.[22]

OFHEO received comments from 11 commenters on NPR1 and 48 commenters on NPR2. These commenters included Fannie Mae, Freddie Mac, housing and financial trade associations, financial services companies, housing advocacy groups, and other interested parties. Approximately 12 commenters, including the Enterprises, GE Capital Mortgage Corporation, Mortgage Insurance Companies of America, The Consumer Mortgage Coalition, and the Mortgage Bankers Association of America submitted reply comments to NPR2.

The final rule reflects OFHEO's consideration of all of the comments on NPR1 and NPR2, including the reply comments. A summary of the comments by topic and OFHEO's response is set forth below in III., Comments and Responses.

II. Summary of the Stress Test

A. Overview

OFHEO's risk-based capital regulation is part of a larger regulatory framework for the Enterprises that includes a minimum capital requirement and a comprehensive examination program. The purpose of this regulatory framework is to reduce the risk that an Enterprise will fail by ensuring that the Enterprises are capitalized adequately and operating safely, in accordance with the 1992 Act. The 1992 Act requires OFHEO to develop a stress test that simulates the effects of ten years of adverse economic conditions on the existing assets, liabilities, and off-balance-sheet obligations of the Enterprises. OFHEO issued for comment two proposals that implement this requirement.

This summary describes the stress test adopted in the final rule after considering extensive comments from interested parties on the risk-based capital proposals. It includes changes made to the stress test to address the concerns of the commenters where possible and appropriate. These changes are consistent with applicable statutory requirements and with OFHEO's obligation to promote safety and soundness of the housing finance system and to ensure the Enterprises' ability to fulfill their important public missions. These changes are discussed in section III., Comments and Responses. In addition, the final rule includes technical and clarifying changes to the risk-based capital proposals.

The final rule describes a stress test that meets the statutory requirements of the 1992 Act and captures accurately and appropriately the risks of the Enterprises' businesses. The stress test determines, as of a point in time, how much capital each Enterprise would require to survive the economically stressful conditions outlined by the 1992 Act. At a minimum, the stress test will be run quarterly using data on interest rates, housing markets, and an Enterprise's assets, liabilities, off-balance-sheet items, and operations. The stress test is comprised of econometric, financial, and accounting models used to simulate Enterprise financial performance over a ten-year period called the "stress period." The final regulation determines the risk-based capital requirement by computing the amount of starting capital that would permit an Enterprise to maintain a positive capital position throughout the stress period (stress test capital) and adding 30 percent of that amount to cover management and operations risk.

B. Data

OFHEO uses data from the Enterprises and public sources to run the stress test. The stress test utilizes data that characterize, at a point in time, an Enterprise's assets, liabilities, and off-balance sheet obligations, as well as data on economic conditions, such as interest rates and house prices. OFHEO obtains data on economic conditions from public sources. The Enterprises are required to submit data to OFHEO at least quarterly for all on- and off-balance-sheet instruments in a specified format, which is input directly into the computer model. This data submission is called the Risk-Based Capital Report (RBC Report) and serves as the financial "starting position" of an Enterprise for the date for which the stress test is run.

[14] 12 U.S.C. 4611(a)(3)(B) and (D).

[15] 12 U.S.C. 4611(a)(3)(C).

[16] Risk-Based Capital, ANPR, 60 FR 7468, February 8, 1995.

[17] The comment period for the ANPR ended on May 9, 1995, and was extended through June 8, 1995. Risk-Based Capital, Extension of Public Comment Period for ANPR, 60 FR 25174, May 11, 1995.

[18] Risk-Based Capital, NPR1, 61 FR 29592, June 11, 1996.

[19] 61 FR 29616, June 11, 1996.

[20] The comment period for NPR1 ended on September 9, 1996, and was extended through October 24, 1996. Risk-Based Capital, Extension of Public Comment Period for NPR1, 61 FR 42824, August 19, 1996.

[21] Risk-Based Capital, Second Notice of Proposed Rulemaking (NPR2), 64 FR 18084, April 13, 1999. The agency extended the comment period twice. The first extension was until November 10, 1999 (64 FR 31756, June 14, 1999), and the second extension was until March 10, 2000 (64 FR 56274, October 19, 1999).

[22] Risk-Based Capital, Solicitation of Reply Comments, 65 FR 13251, March 13, 2000.

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As a part of the RBC Report, the Enterprises report aggregated data from groups of loans having similar risk characteristics. The loans within these groups share common values for a set of classification variables. For single family loans, classification variables are original interest rate, current interest rate, original loan-to-value ratio (LTV), mortgage age, Census Division, loan size, status as securitized or unsecuritized, status as government or conventional loan, and product type (e.g., fixed rate, adjustable rate, balloons). Classification variables for multifamily loans are product type, original interest rate, current interest rate, original LTV, debt coverage ratio (DCR);[23] book of business designation,[24] status as securitized or unsecuritized, status as Government or conventional loan, status as interest only or amortizing, and a ratio update flag, which indicates whether LTV and DCR were updated at acquisition. Both single family and multifamily ARM loans are also classified by index, rate reset period, payment reset period, and cap type. These distinctions are associated with different risk characteristics. In this way, over 24 million loans can be aggregated into the minimum number of loan groups that captures important risk characteristics.

Loan groups of new mortgages are also created to simulate the fulfillment of commitments to purchase and/or securitize mortgages that are outstanding at the start of the stress test. The stress test adds new single family mortgages in one of four product types: 30-year fixed-rate, 15-year fixed-rate, one-year CMT adjustable-rate, and 7-year balloon. The percentage of each type added is based on the relative proportions of those types of loans securitized by an Enterprise that were originated during the six months preceding the start of the stress period. The mix of characteristics of these new loans also reflects the characteristics of the loans originated during the preceding six months. All new mortgages are considered to be securitized.

In the down-rate scenario, described below, the stress test specifies delivery of 100 percent of the loans that the Enterprise is obligated to accept under outstanding commitment agreements. These loans are added during the first three months of the stress period. In the up-rate scenario, described below, only 75 percent of these loans are added and deliveries are phased in during the first six months of the stress period. The new loan groups are then treated like the loan groups reported by the Enterprise in the RBC Report.

Because of the smaller number and greater diversity of the Enterprises' nonmortgage financial instruments, the stress test projects these cash flows at the individual instrument level, rather than at a group level. The RBC Report includes the instrument characteristics necessary to model the terms of the instruments, which include both investment and debt securities and derivative contracts.

C. Stress Test Conditions

1. Benchmark Loss Experience

To identify the stressful credit conditions that are the basis for credit losses in the stress test, (benchmark loss experience), OFHEO uses a methodology based on historical analysis of newly originated, 30-year, fixed-rate, first-lien mortgages on owner-occupied, single family properties. Using this methodology, OFHEO identifies the worst cumulative credit losses experienced by loans originated during a period of at least two consecutive years in contiguous states comprising at least five percent of the U.S. population, as required by the 1992 Act. Loans originated in Arkansas, Louisiana, Mississippi and Oklahoma in 1983 and 1984 currently serve as the benchmark loss experience. These loans (benchmark loans) had an average ten-year cumulative default rate of 14.9 percent and an average ten-year loss severity of 63.3 percent. The loss rate (default incidence times loss severity in the event of default, without considering the effect of credit enhancements) for this region and time period was 9.4 percent. OFHEO will continue to monitor loss data and may choose to establish a new benchmark loss experience if a higher loss rate for a different region and time period is determined using this methodology.

When the single family models of default and prepayment are applied to the benchmark loans, using the pattern of interest rates from the benchmark time and place, losses are close to those of benchmark loans. The difference results from the fact that OFHEO based its single family default and prepayment models on all Enterprise historical loan data, not just the limited data for benchmark loans for which the losses were particularly severe. This difference provides the basis for calibration factors for each LTV category, which the stress test applies to adjust the single family default rates upward or downward, making them more consistent with the benchmark loss experience. However, because the stress test simulates the performance of an Enterprise's entire mortgage portfolio at a point in time and includes loans of all types, ages, and characteristics, overall Enterprise mortgage loss rates in the stress test can be lower or higher than the loss rates for benchmark loans, even with the calibration adjustment.

Because there were very few Enterprise multifamily loans in the benchmark region and time period, the stress test uses patterns of vacancy rates and rent growth rates that are consistent with the benchmark time and place to determine property income, a key factor in determining defaults for multifamily loans. In this way, the stress test relates the performance of multifamily loans to the benchmark loss experience.

2. Interest Rates

Interest rates are a key component of the adverse economic conditions of the stress test. The 1992 Act specifies two paths for the ten-year Constant Maturity Treasury yield (CMT) during the stress period. During the first year of the stress period, the ten-year CMT:

- Falls by the lesser of 600 basis points below the average yield during the nine months preceding the stress period, or 60 percent of the average yield during the three years preceding the stress period, but in no case to a yield less than 50 percent of the average yield during the preceding nine months (down-rate scenario); or
- Rises by the greater of 600 basis points above the average yield during the nine months preceding the stress period, or 160 percent of the average yield during the three years preceding the stress period, but in no case to a yield greater than 175 percent of the average yield during the preceding nine months (up-rate scenario).

The ten-year CMT changes in twelve equal monthly increments from the starting point, which is the average of the daily ten-year CMT yields for the month preceding the stress period. The ten-year CMT stays at the new level for the remainder of the stress period.

The stress test establishes the Treasury yield curve for the stress period in relation to the prescribed movements in the ten-year CMT. In the down-rate scenario, the yield curve is upward sloping during the last nine years of the stress period; that is, short term rates are lower than long term rates. In the up-rate scenario, the Treasury yield curve is flat for the last nine years of the stress period; that is, yields of other maturities are equal to that of the ten-year CMT.

Because many different interest rates affect the Enterprises' business performance, the ten-year CMT and the Treasury yield curve are not the only interest rates that must be determined. For example, current mortgage rates impact prepayment rates; adjustable-rate mortgages periodically adjust according to various indexes; floating rate securities (assets and liabilities) and many rates associated with derivative contracts also adjust; and appropriate yields must be established for new debt and investments issued during the stress test. Thus, the stress test requires rates and indexes other than Treasury yields for the entire stress period. Some of the key rates that are used in the stress test are the Federal Funds Rate, London Inter-Bank Offered Rate (LIBOR), Federal Home Loan Bank 11th District Cost of Funds Index (COFI), and the Enterprise Cost of Funds. The stress test establishes these rates and indexes using an average of the ratio of each non-Treasury spread to its comparable CMT (the proportional spread) for the two-year period prior to the start of the stress test. Indexes of mortgage interest rates are calculated using the average absolute basis-point spread for the same two-year period.

3. Property Values

The 1992 Act requires OFHEO to consider the effect of loan "seasoning," which is defined as the change in LTVs over time.[25] The analogous multifamily measure is current debt-service-coverage ratio (DCR).

For single family loans, the stress test updates the original LTV to the start of the stress period, using the amortized loan balance and a house price growth factor for the period between origination and the start of the stress period. The house price growth factor is derived from OFHEO's House Price Index (HPI) for the Census Division in which the property is located. The stress test then applies the pattern of house price changes from the benchmark time and place to compute changes in property values during the stress period. The HPI values represent average property value appreciation. In simulating mortgage performance, the stress test also captures variations from average house price movements, called dispersion. For this purpose, the stress test uses dispersion parameters for the Census Division containing most benchmark states, which OFHEO published along with the HPI for the third quarter, 1996.

Multifamily property values are not updated in the stress test. LTV at loan origination is the only variable that measures property values directly in the multifamily model. If the original LTV is unknown, LTV at loan acquisition is substituted. The effect of seasoning on multifamily loans is captured by projecting changes in property income during the stress period, based upon rent and vacancy indexes consistent with the benchmark time and place.

When the ten-year CMT increases by more than 50 percent over the average yield during the nine months preceding the stress period, the stress test takes general price inflation into consideration. In such a circumstance, adjustments are made to the house price and rent growth paths during the stress period that correspond to the difference between the ten-year CMT and the level reflecting a 50 percent increase in the ten-year CMT. The stress test phases in this increase in equal monthly increments during the last five years of the stress period.

D. Mortgage Performance

To simulate mortgage performance during the adverse conditions of the stress period, the stress test uses statistical models that project default, prepayment and loss severity rates during the stress period. These models simulate the interaction of the patterns of house prices, residential rents, and vacancy rates from the benchmark time and place with stress test interest rates and mortgage risk characteristics, to predict the performance of Enterprise loans throughout the stress test. The default and prepayment models calculate the proportion of the outstanding principal balance for each loan group that defaults or prepays in each of the 120 months of the stress period. As described below in further detail, the models are based on the historical relationship of economic conditions, mortgage risk factors, and mortgage performance, as reflected in the historical experience of the Enterprises.

1. Single Family Default and Prepayment

The single family mortgage performance models were estimated using available historical data for the performance of Enterprise loans in the years 1979–1999. To simulate defaults and prepayments, the stress test uses a 30-year fixed-rate loan model, an adjustable-rate loan (ARM) model, and a third model for other products, such as 15-year loans and balloon loans. Each of the three single family models was separately estimated based on data for the relevant product types[26] and includes a calibration adjustment by LTV category, so that the results properly reflect a reasonable relationship to the benchmark loss experience, as described earlier.

All three single family models simulate defaults and prepayments based on the projected interest rates and property values, as described above, and variables capturing the mortgage risk characteristics described below. Certain variables are used only in prepayment equations. The single family default and prepayment variables are listed in Table 1.

TABLE 1.—SINGLE FAMILY DEFAULT & PREPAYMENT VARIABLES

Variables for All Single Family Models	Single Family Default Variables	Single Family Prepayment Variables
Mortgage Age	X	X
Original LTV	X	X
Probability of Negative Equity	X	X
Burnout	X	X
Occupancy Status	X	X
Relative Spread	.....	X
Yield Curve Slope	.....	X
Relative Loan Size	.....	X
Product Type (ARMs, Other Products only)	X	X
Payment Shock (ARMs only)	X	X
Initial Rate Effect (ARMs only)	X	X

- Mortgage Age—Patterns of mortgage default and prepayment have characteristic age profiles; defaults and prepayments increase during the first years following loan origination, with a peak between the fourth and seventh years.
- Original LTV—The LTV at the time of mortgage origination serves as a proxy for factors relating to the financial status of a borrower, which reflects the

[23] DCR is the ratio of net operating income to mortgage payment for a specific property.

[24] "Old book" loans are those originated before 1988 for Fannie Mae and before 1993 for Freddie Mac. All other multifamily loans are considered "new book" loans.

[25] 12 U.S.C. 4611(d)(1).

[26] Historical data sets for the ARM and other single family product models were pooled with data for 30-year fixed-rate loans to capture performance differences specific to product types relative to 30-year fixed-rate loans.

borrower's future ability to make loan payments. Higher original LTVs, which generally reflect fewer economic resources and greater financial risk, increase the probability of default and lower the probability of prepayment. The reverse is true for lower original LTVs.

• Probability of Negative Equity—Borrowers whose current loan balance is higher than the current value of their mortgaged property (reflecting negative borrower equity) are more likely to default than those with positive equity in their properties. The probability of negative borrower equity within a loan group is a function of (1) house price changes (based on the HPI), and amortization of loan principal, which together establish the average current LTV, and (2) the dispersion of actual house prices around the HPI value. Thus, even when the average current LTV for a loan group is less than one (positive equity), some percentage of the loans will have LTVs greater than one (negative equity).

• Burnout—This variable reflects whether a borrower has passed up earlier opportunities to refinance at favorable interest rates during the previous eight quarters. Such a borrower is less likely to prepay the current loan and refinance, and more likely to default in the future.

• Occupancy Status—This variable reflects the higher probability of default by investor-owners compared with that of owner-occupants. The RBC Report specifies the proportion of investor loans for each loan group.

• Relative Spread—The stress test uses the relative spread between the interest rate on a loan and the current market rate on loans as a proxy for the mortgage premium value, which reflects the value to a borrower of the option to prepay and refinance.

• Yield Curve Slope—This variable measures the relationship between short and long term interest rates. The shape of the yield curve, which reflects expectations for the future levels of interest rates, influences a borrower's decision to prepay a mortgage.

• Relative Loan Size—This variable reflects whether a loan is significantly larger or smaller than the State average. Generally, lower balance loans are less likely to refinance (and therefore prepay) because refinancing costs are proportionately larger, and the interest savings are proportionately smaller, than a larger balance loan.

• Product Type—The differences in performance between 30-year fixed-rate loans and other products, such as ARM and balloon loans, are captured by this variable.

• Payment Shock—This variable captures the effect of increasing or decreasing interest rates on the payments for ARMs. Although a borrower with an ARM loan may still have positive equity in the mortgaged property, the borrower may be unable to make a larger monthly payment when interest rates increase, resulting in increases to ARM default and prepayment rates. Conversely, decreasing interest rates make it easier for borrowers to make monthly payments, resulting in lower ARM default and prepayment rates.

• Initial Rate Effect—Borrowers with ARM loans with a "teaser rate" (an initial interest rate lower than the market rate) may experience payment shock even if market rates do not rise, as the low teaser rate adjusts to the market rate over the first few years of the loan. The stress test includes a variable which captures this effect in the first three years of the life of the loan.

2. Multifamily Default and Prepayment

The stress test uses a statistical model for multifamily default and a set of simple rules for multifamily prepayment. The default model was estimated using historical data through 1999 on the performance of Enterprise multifamily loans. As with the models of single family mortgage performance, the multifamily default model simulates the probability of default based on stress test conditions and loan group risk characteristics. To account for specific risks associated with multifamily loans, these loans are grouped somewhat differently than are single family loans and have somewhat different explanatory variables, to characterize stress test conditions. To characterize stress test conditions, the multifamily model specifies interest rates, rent growth rates, and vacancy rates.

The following variables are factors in determining the probability of default for multifamily loan groups:

• Mortgage Age—As with single family loans, the risk of default on multifamily loans varies over their lives.

• New Book Flags—These variables capture the performance differences between the Enterprises' original multifamily programs and their current, restructured programs. The reduced default risk under the "new book of business" is more pronounced for fixed rate loans than for balloon loans and ARMs, which are flagged separately.

• Current DCR and Underwater DCR Flag—Rental property owners tend not to default unless a property's debt coverage ratio (DCR) is less than one, indicating insufficient net cash flow to service the mortgage debt. The stress test updates the DCR of multifamily loans during the stress period using rent and vacancy indexes consistent with the benchmark loss experience. The higher the DCR, the less likely that the borrower will default. Conversely, a DCR below one indicates that the borrower cannot cover the mortgage payment, significantly increasing the risk of default.

• Original LTV—As with single family loans, the risk of default for multifamily loan borrowers is greater for higher original LTV loans than for lower original LTV loans.

• Balloon Maturity Risk—When a balloon mortgage matures, the borrower is required to pay off the outstanding balance in a lump sum. This variable captures the greater risk of default in the year before a balloon mortgage matures.

• Ratio Update Flag—This variable captures the decreased probability of default if the DCR and LTV were either calculated at loan origination, or recalculated at Enterprise acquisition, in accordance with current Enterprise standards.

To project prepayment rates for multifamily loans, the stress test implements a simple set of prepayment rules. In the up-rate scenario, multifamily loans do not prepay. In the down-rate scenario, two percent of multifamily loan balances prepay each year if they are inside the prepayment penalty time period. Outside the prepayment penalty period, multifamily loans prepay at an annual rate of 25 percent.

3. Loss Severity

Loss severity is the net cost to an Enterprise of a loan default. The stress test uses the costs associated with different events following the default of a mortgage to determine the total loss or cost to an Enterprise. Loss severity rates are computed as of the date of default, and are expressed as a percentage of the unpaid principal balance (UPB) of a defaulting loan.

In general, losses are composed of three elements associated with loan foreclosure and disposition (sale) of the property: loss of principal, transactions costs, and funding costs. Transaction costs include expenses related to foreclosure, property holding costs (real estate owned or REO costs) and disposition costs. For single family loans, transactions costs are fixed percentages based on historical averages computed from Enterprise data. For multifamily loans, transactions costs are based on the average costs through 1995 from Freddie Mac old book loans (*See* Footnote 24).

Loss of principal is the amount of defaulting loan UPB, offset by the net proceeds of the sale (disposition) of the foreclosed property. For single family loans, sale proceeds of foreclosed properties are a fixed percentage of defaulting UPB, based on benchmark recovery rates for real estate owned as a result of loan defaults (REO).[27] For multifamily loans, sale proceeds are a fixed percentage of the defaulting UPB, based on REO recovery rates from Freddie Mac old book loans through 1995.

Since foreclosure, property holding, disposition and associated costs occur over time, the stress test calculates loss severity rates by discounting the different elements of loss back to the time of default, based on stress period interest rates. This discounting also captures losses associated with funding costs, including passthrough interest on sold loans, at appropriate interest rates. For single family loans, the timing of each element is based on averages for the benchmark loans; for multifamily loans it is based on the average for Freddie Mac Old Book loans, using REO data through 1995. The loss severity rates are used in the cash flow components of the stress test to calculate credit losses for the Enterprises.

E. Other Credit Factors

1. Mortgage Credit Enhancements

A portion of Enterprise mortgage losses are offset by some form of credit enhancement. Credit enhancements are contractual arrangements with third parties that reduce Enterprise losses on defaulted loans. By including the effect of mortgage credit enhancements, the stress test more realistically reflects Enterprise risks related to mortgage defaults and credit losses during the stress period.

The stress test captures many types of credit enhancements, with differing depths and methods of coverage, for both single family and multifamily loans. The stress test divides mortgage credit enhancements into two categories—loan limit and aggregate limit. Loan limit credit enhancements cover a specified percentage of losses on individual loans with no limit on the aggregate amount paid under the contract. This category includes mortgage insurance for single family loans and loss-sharing agreements for multifamily loans. Aggregate limit credit enhancements cover losses on a specified set of loans, up to a specified aggregate amount. This category includes limited and unlimited recourse to seller/servicers, indemnification, pool insurance and modified pool insurance, cash or collateral accounts, third-party letters of credit, spread accounts, subordination agreements, and FHA risk-sharing.

The amount by which credit enhancements reduce monthly loss severity rates is based on information reported by the Enterprises in the RBC Report for the level of coverage for both loan limit and aggregate limit credit enhancements for each loan group. The stress test applies loan limit credit enhancements first. Then aggregate limit credit enhancements are applied to the remainder of the loss balance, up to the contractual limit. The stress test reduces the loss severity rate for a specific loan group based on the combined loan limit and aggregate limit credit enhancements associated with loans in that group.

2. Counterparty Default

In addition to mortgage credit quality, the stress test considers the creditworthiness of companies and financial instruments to which the Enterprises have credit exposure. These include most mortgage credit enhancement counterparties, securities held as assets, and derivative contract counterparties.

For these contract or instrument counterparties, the stress test reduces—or applies "haircuts" to—the amounts due from these instruments or counterparties according to their level of risk. The level of risk is determined by public credit ratings at the start of the stress test, classified into five categories: AAA, AA, A, BBB and unrated/below BBB. When no rating is available or the instrument or counterparty has a rating below BBB (below investment grade), the stress test applies a 100 percent haircut in the first month of the stress test, with the exception of unrated seller/servicers, which are treated as BBB, and unrated, unsubordinated obligations of government sponsored enterprises, which are treated as AAA. For other categories, the stress test phases in the haircuts monthly in equal increments until the total reduction listed in Table 2 is reached five years into the stress period. For the remainder of the stress period the haircut applies.

TABLE 2.—STRESS TEST FINAL HAIRCUTS BY CREDIT RATING CATEGORY

Ratings Classification	Derivative	Non-derivative
AAA	2%	5%
AA	4%	15%
A	8%	20%
BBB	16%	40%
Unrated/Below BBB [1]	100%	100%

[1] Unrated, unsubordinated obligations issued by government sponsored enterprises other than the reporting Enterprise are treated as AAA. Unrated seller/servicers are treated as BBB. Other unrated counterparties and securities are subject to a 100% haircut applied in the first month of the stress test, unless OFHEO specifies another treatment, on a showing by an Enterprise that a different treatment is warranted.

Because the stress test does not model currency exchange rates through the stress period, the stress test reflects the associated risk by modeling the debt and the swap as a single debt transaction that pays the dollar-denominated net interest rate paid by the Enterprise, and no haircut is applied.

F. Cash Flows

For each month of the stress period, the stress test calculates cash flows for every loan group and individual instrument reported in the RBC Report and applies the haircuts to cash flows to reflect the credit risk of securities and counterparties. These cash flows are used to create pro forma financial statements that reflect an Enterprise's total capital in each month of the stress period.

1. Mortgage Cash Flows

The cash flow component of the stress test applies projected default, prepayment, and loss severity rates net of credit enhancements to amortized loan group balances to produce mortgage cash flows for each month of the stress period. Cash flows are generated for each single family and multifamily loan group. For retained loan groups, cash flows consist of scheduled principal, prepaid principal, defaulted principal, credit losses, and interest. For sold loans, cash flows consist of credit losses, guarantee fee income, and float income.

2. Mortgage-Related Security Cash Flows

Because losses on sold loans are absorbed by the Enterprises directly and are not passed through to security holders, no additional credit losses are

[27] Recovery rate is the proportion of defaulted UPB that is recovered through the sale of the property.

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reflected in cash flows calculated for an Enterprise's own mortgage-backed securities (MBSs) held as investments. Cash flows for single-class MBSs issued by an Enterprise and held as investments consist only of principal and interest payments. Cash flows for mortgage securities not issued by the Enterprise consist of principal and interest payments and credit losses based on haircuts according to rating level. Principal payments are calculated by applying default and prepayment rates that are appropriate for the loans underlying the MBS. The stress test specifies that defaulted and prepaid principal and scheduled amortization are passed through to investors. Interest is computed by multiplying the security principal balance by the coupon rate.

Multiclass mortgage securities such as Real Estate Mortgage Investment Conduit securities (REMICs) and stripped MBS (strips) are treated in the same manner as single class MBS. The stress test generates cash flows for the underlying collateral, usually single-class MBSs, and applies the cash flow allocation rules of the particular multiclass security to determine cash flows of the specific class(es) held by an Enterprise. In generating cash flows for mortgage-linked derivative contracts, where the notional amount of the contract is based on the declining principal balance of a specified MBS, the stress test applies the terms of each contract and tracks the appropriate changing balances. The stress test generates cash flows for mortgage revenue bonds by treating each bond as a single-class MBS backed by 30-year, fixed-rate single family mortgages maturing on the bond's stated maturity date.

3. Nonmortgage Instrument Cash Flows

The stress test calculates cash flows for securities that the Enterprises hold as assets, or have issued as liabilities. The stress test also generates cash flows for derivative instruments such as interest rate swaps, caps, and floors. For nonmortgage investments, outstanding debt securities, and liability-linked derivative contracts, payments of principal and interest are calculated for each instrument based on contractual terms and stress test interest rates. For fixed-rate asset-backed securities, the stress test applies a 3.5 percent collateral prepayment speed; for floating-rate securities a two percent speed is applied in both interest rate scenarios.

For each month during the stress period that a security is subject to early redemption (put/call), the stress test calculates the effective remaining yield-to-maturity [28] of that instrument and compares it to the yield of a replacement security, under the given stress period interest rate scenario. If the yield on the replacement instrument is more than 50 basis points below the cost of the existing instrument, the call or cancellation option is exercised. The stress test applies a similar rule to derivative contracts that are subject to cancellation.

G. New Products or Activities

Given the continuing evolution and innovation in the financial markets, OFHEO recognizes that the Enterprises will continue to develop and purchase new products and instruments and engage in other new activities. To the extent that the current stress test treatments are not applicable directly, OFHEO will combine and adapt current stress test treatments in an appropriate manner in order to ensure that the risks of these activities are adequately captured in the risk-based capital requirement. For example, OFHEO might employ the mortgage performance models and adapt its cash flow components to simulate accurately the loss mitigating effects of credit derivatives. Where there is no reasonable approach using existing combinations or adaptations, the stress test will employ an appropriately conservative treatment, consistent with OFHEO's role as a safety and soundness regulator. Similarly, the Director has discretion to treat an existing instrument as a new activity if OFHEO determines there have been significant increases in volume that change the potential magnitude of the risk of the instrument, or where other information indicates that the risk characteristics of the instrument are not appropriately reflected in a treatment previously applied.

An Enterprise that has a new activity is encouraged to suggest a treatment which will be considered by OFHEO. The Enterprise will also be able to comment on OFHEO's treatment before it is used for a final capital classification. The public will have a subsequent opportunity to submit views on these treatments, which will be considered for future stress test applications.

H. Other Off-Balance-Sheet Guarantees

In addition to guaranteeing mortgage-backed securities they issue as part of their main business, the Enterprises occasionally provide guarantees for other mortgage-related securities to enhance the liquidity and appeal of these securities in the marketplace. These securities, notably single family and multifamily whole-loan REMIC [29] securities and tax-exempt multifamily housing bonds, represent a small part of the Enterprises' businesses and have a significant level of credit enhancement that protects the Enterprises from losses. Consequently, the stress test does not explicitly model the performance of these securities, but uses an alternative modeling treatment. As a proxy for the present value of net losses on these guarantees during the stress period, the outstanding balance of these instruments at the beginning of the stress period is multiplied by 45 basis points. The resulting amount is subtracted from the lowest discounted monthly capital balance for the calculation of stress test capital, as described below in II.K., Calculation of the Risk-based Capital Requirement.

I. Alternative Modeling Treatments

The stress test also assigns alternative modeling treatments to any items for which data are incomplete, and any on- or off-balance sheet items for which there is neither a specified treatment in the final regulation nor a computationally equivalent proxy. An alternative modeling treatment is a series of rules that assigns simple, appropriately conservative assumptions, based on the interest rate scenario, to an asset, liability, or off-balance-sheet item in the stress test. Missing data elements are assigned a conservative default value. This treatment will only be needed for extremely unusual items or when all the necessary data for modeling an instrument are not included in the RBC Report.

J. Enterprise Operations, Taxes and Accounting

The stress test simulates the issuance of new debt or purchase of new investments, exercise of options to retire debt early or cancel derivative contracts, payment of dividends by the Enterprises, operating expenses, and income taxes. The stress test computes Federal income taxes using an effective tax rate of 30 percent. Estimated income tax is paid by the Enterprises quarterly in the stress test.

When necessary, the stress test simulates the issuance of new debt or purchase of new investments by an Enterprise. A mix of short- and long-term debt is issued in months when there is a shortfall of cash. New short-term debt is six-month discount notes at the simulated Enterprise Cost of Funds. New long-term debt is five-year debt, callable after the first year, at the five-year Enterprise Cost of Funds, plus a 50 basis-point premium for the call option. Short- and long-term debt issuance is targeted to achieve and maintain a total liability mix of 50 percent short-term debt and 50 percent long-term debt. Excess cash is invested in one-month securities bearing the six-month Treasury rate.

Capital distributions are made during the stress period. If an Enterprise's core capital [30] exceeds the minimum capital requirement in any quarter, dividends on preferred stock are paid based on the coupon rates of the issues outstanding. Common stock dividends are paid only in the first four quarters of the stress period. The amount paid is directly related to the earnings trend of the Enterprise. Generally, if the trend is positive, the dividend payout ratio is the same as the average of the four quarters preceding the stress test. Otherwise, dividends are based on the dollar amount per share paid in the last quarter preceding the stress test. Share repurchases are made in the first two quarters of the stress period, based on the average stock repurchase for the four quarters preceding the stress test. No capital distribution is made if core capital is below the minimum capital requirement. If a capital distribution would cause core capital to fall below the minimum capital requirement, the distribution is made only to the extent of the core capital that exceeds the minimum capital requirement.

Operating expenses decline during the stress test as the Enterprise's mortgage portfolios decline, but the decline is not strictly proportional. The baseline level from which they decline is the average monthly operating expenses of the Enterprise for the three months preceding the start of the stress test. In each month of the stress test, the amount of the decline is determined by computing a base amount comprised of a fixed component and a variable component. The fixed component is one third of the baseline level, and the variable component begins as the remaining two thirds of the baseline level and declines in direct proportion to the decline in the UPB of the combined portfolios of retained and sold loans during the stress period. The base amount is further reduced by one-third, except that this further reduction is gradually phased in during the first 12 months of the stress test.

To the extent possible, the stress test makes use of Generally Accepted Accounting Principles (GAAP). However, the stress test does not reflect certain securities and derivatives at their fair value, as required by the Financial Accounting Standards Board's Statement of Financial Accounting Standard (FAS) Nos. 115 and 133. In the first month of the stress test, these assets are adjusted to an amortized cost basis.

K. Calculation of the Risk-Based Capital Requirement

The stress test determines the amount of capital that an Enterprise must hold at the start date in order to maintain positive capital throughout the ten-year stress period (stress test capital). Once stress test capital has been calculated, an additional 30 percent is added to protect against management and operations risk. This total is the risk-based capital requirement.

In order to calculate stress test capital, the capital balance for each month is discounted back to the start of the stress period, using capital as calculated in the pro forma financial statements and interest rates for both stress test scenarios. The stress test uses the six-month Treasury rate when the Enterprise is a net lender and the six-month Enterprise Cost of Funds when the Enterprise is a net borrower. The lowest discounted monthly capital balance is then decreased as described above to account for certain items given alternative modeling treatments, including the other off-balance-sheet obligations described above in II.H., Other Off-Balance-Sheet Guarantees. This lowest discounted monthly balance, if positive, represents a surplus of initial capital, that is, capital that was not "used" during the stress period. If negative, it represents a deficit of initial capital. The lowest discounted monthly balance is then subtracted from the Enterprise's initial capital. The resulting amount is the smallest amount of starting capital required to maintain positive capital throughout the stress period.

For example, if an Enterprise holds starting capital of $10 billion and the lowest discounted monthly balance is $1 billion (representing a positive capital balance in the worst month of the stress period), then the amount of starting capital necessary to maintain positive capital throughout the stress period is $9.0 billion. If, on the other hand, the lowest discounted monthly balance is −$1 billion (representing a negative capital balance in the worst month), the necessary starting capital to maintain positive capital throughout the stress period is $11.0 billion.

Finally, required starting capital is multiplied by 1.3 to complete the calculation of the risk-based capital requirement required by the 1992 Act.

III. Comments and Responses

The final rule reflects OFHEO's consideration of all the comments on NPR1 and NPR2, including responses from those commenters who replied to the initial comments on NPR2. After careful review and analysis of the comments, OFHEO determined that a number of recommendations had merit. OFHEO accepted these recommendations and made changes in the stress test accordingly. In other cases where commenters recommended changes, OFHEO did not accept the specific suggestion, but modified the stress test to address the commenters' concerns. Other recommendations proved to be contrary to the 1992 Act, did not offer a better alternative to the existing stress test, or had merit but required further study before they could be implemented.

The commenters on NPR1 and NPR2 included the Enterprises, financial services and housing-related trade associations, financial service companies, affordable housing groups and agencies, a governmental agency, a private rating agency and several individuals.

Trade associations commenting included American Bankers Association (ABA), America's Community Bankers (ACB), Consumer Mortgage Coalition (CMC), Mortgage Bankers Association of America (MBA), Mortgage Insurance Companies of America (MICA), National Association of Home Builders (NAHB), National Association of Realtors (NAR), Credit Union National Association (CUNA), National Bankers Association (NBA), National Association of Real Estate Brokers (NAREB), and National Home Equity Mortgage Association (NHEMA).

Financial services companies commenting included GE Capital Mortgage Corporation (GE Capital), Chase Manhattan Mortgage Corporation, Charter One Bank, Goldman Sachs, Newport Mortgage Company L.P., J.P. Morgan & Co. Incorporated, Bear Stearns & Co. Inc., Morgan Stanley Dean Witter (Morgan Stanley), Lehman Brothers, Salomon Smith Barney, Triad Guaranty Insurance Corporation, Merrill Lynch, Promontory Financial Group LLC, PW

[28] Yields are calculated based on the outstanding principal balances for securities and notional amounts for derivative contracts.

[29] Real Estate Mortgage Investment Conduit (REMIC) securities are multiclass mortgage passthrough securities. The classes of a REMIC security can take on a wide variety of attributes with regard to payment of principal and interest, cashflow timing, (un)certainty and maturity, among others.

[30] Core capital, as defined at 12 U.S.C. 4502(4) consists of par value or stated value of outstanding common, and perpetual, noncumulative, preferred stock, paid-in capital, and retained earnings, determined in accordance with Generally Accepted Accounting Principles.

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Funding Inc., Amresco Capital, L.P., Golden West Financial Corporation (World Savings), Countrywide (Mid-America Bank FSB), American International Group Inc. (AIG), the Federal Home Loan Bank of Chicago, and WMF Group.

Affordable housing groups and agencies included The Enterprise Foundation and the Local Initiatives Support Corporation, National Center for Community Self Help, National Council of State Housing Agencies (NCSHA), Association of Local Housing Finance Agencies, Nebraska Investment Finance Authority, Neighborhood Housing Services of America, Inc., National Association of Affordable Housing Lenders (NAAHL), PT & Associates Community Development Consulting, National Neighborhood Housing Network, National Community Reinvestment Coalition, and Coalition on Homelessness & Housing in Ohio.

Other commenters included Office of Thrift Supervision, Fitch ICBA, Nelson Yu, O'Melveny & Myers LLP, and L. William Seidman.

A summary of the comments and OFHEO's responses are set forth below, by topic.

A. Approach

Commenters generally agreed on the basic premises underlying OFHEO's proposal to implement a risk-based capital requirement for the Enterprises: the importance to the nation's housing finance system of financially strong Enterprises, and the appropriateness of the weight the 1992 Act places on a risk-based capital requirement to protect the Enterprises' capital adequacy. The views of commenters, however, diverged on the question of whether a stress test, such as the one proposed in NPR2, provided the best approach to setting a risk-based capital requirement for the Enterprises. Among the commenters who agreed that a stress test was the best approach, the views diverged on the question of how the stress test should be implemented. The general comments on OFHEO's approach are discussed below by topic.

1. Bank and Thrift Approach

a. Comments

Some commenters suggested that OFHEO take an overall approach to capital regulation similar to that emerging among the bank and thrift regulators and the Basel Committee on Banking Supervision. The suggestions of these commenters included using ratios to set capital requirements for credit risk and Value at Risk (VaR) methodologies for market risk rather than a stress test. One Enterprise and one commenter, however, noted that although VaR methodology is a valuable analytical tool, it is not appropriate for determining risk-based capital as prescribed by the 1992 Act.

The approach evolving in the bank regulatory community applies ratios to categories of on- and off-balance-sheet items to derive capital requirements, but also begins to incorporate VaR and other methodologies that financial institutions employ in their proprietary models. The approach, which is outlined in the June 1999 report by the Basel Committee on Banking Supervision (Committee) titled "A New Capital Adequacy Framework," also puts more emphasis on supervisory review and greater market discipline based on expanded disclosure of risk. The June 1999 report discusses a new capital framework consisting of three "pillars": minimum capital requirements, a supervisory review process, and market discipline.

The three pillars approach to bank regulatory capital seeks to improve the relationship of bank capital requirements to risk that was set out in the 1988 Accord. The 1988 Accord was itself a major departure from the simple leverage ratios applied by regulators to total assets. It introduced a capital framework that applied ratios to broad categories of assets according to their relative riskiness as reflected by type of instrument (e.g., residential mortgages, commercial loans, or lines of credit) or by obligor (e.g., sovereign government, national bank, or industrial company). At the time the Accord was introduced, the Committee recognized the limitations inherent in quantifying credit risk by applying ratios to such broad categories of assets. The Committee also recognized that credit risk was only one element of the risk profile of a financial institution. Subsequent enhancements, most notably permitting the use of proprietary models to calculate a supplemental capital requirement reflecting the market risk of a large financial institution's trading portfolio, have continued to improve the process of quantifying risk and calculating an appropriate level of capital based on risk.

In January of 2001, the Committee published for comment a proposal embodying the three pillars to replace the 1988 Accord.[31] The proposal is intended to be a more risk-sensitive framework containing a range of new options for measuring both credit and operational risk. Key elements of the proposal were a refinement of the minimum capital requirement to make it more risk-sensitive, a greater emphasis on the bank's own assessment of its risk, and a decision to treat interest rate risk under the second pillar, the supervisory review process. The proposal described a "foundation" or standardized approach to credit risk, which was a refinement of the 1988 approach to minimum capital, and an "advanced" internal ratings-based approach for banks that meet more rigorous supervisory standards. The latter made use of internal estimates, subject to supervisory review, but stopped short of permitting banks to calculate their capital requirements on the basis of their own portfolio credit risk models. Separate disclosure requirements were set forth as prerequisites for supervisory recognition of internal methodologies for credit risk, credit risk mitigation techniques, and asset securitization. The Committee indicated that similar disclosure prerequisites would attach to the use of advanced approaches to operational risk.

After reviewing the comments on the January 2001 proposal, the Committee announced in June of 2001 that the proposal needs further adjustment to maintain equivalency between the two approaches and to ensure that the capital incentives are appropriate to encourage banks to adopt the more advanced approaches.[32] The Committee reaffirmed its support for the three pillars approach and announced that it would release a complete and fully specified proposal for an additional round of consultation in early 2002, with a target implementation date of 2005.

b. OFHEO's Response

Although the 1992 Act requires a risk-based capital standard for the Enterprises that is based on a stress test, OFHEO's overall approach to regulation is broadly parallel to the three pillars approach proposed by the Committee. OFHEO already pursues a "multidimensional" approach to regulating the Enterprises' capital, as one commenter urged. OFHEO's minimum and risk-based capital requirements are quantifiable capital requirements, which are the goals of the Committee's first pillar; OFHEO employs risk-based examination and

[31] Committee on Banking Supervision, "Overview of the New Basel Capital Accord," Bank for International Settlements, Basel, Switzerland (January 2001). A copy of this document can be obtained from the BIS website at *http://www.bis.org.*

[32] See press release of June 25, 2001, "Update of the New Basel Accord." A copy of this document may be obtained on the BIS website at *http://www.bis.org.*

oversight of the Enterprises that provides the type of oversight contemplated in the second pillar; and OFHEO is currently reviewing the Enterprises' public disclosures to determine whether they would provide an adequate basis for market discipline as contemplated in the third pillar.

Although OFHEO will follow with interest the Committee's progress in developing a new regulatory capital framework and, where appropriate, consider incorporating aspects of this new framework into its regulation of the Enterprises, OFHEO believes that its stress test is appropriate to implement the statutory requirements and ties capital more closely to risk than either the current Basel Accord or recent proposals. The current capital adequacy regime for large banks quantifies credit risk by applying ratios to risk-weighted asset and off-balance-sheet amounts and quantifies market risk only to the extent of the interest rate risk in the banks' trading portfolios. In refining the treatment of credit risk, the Committee's three pillars approach would continue to rely on ratios. Interest rate risk would be addressed under the second pillar, the supervisory review process. By contrast, OFHEO's stress test simultaneously captures credit risk and interest rate risk of an Enterprise's entire business.

OFHEO also believes that VaR methodologies that large banks use to evaluate the interest rate risk of their trading portfolios are not adequate to implement the requirements of the 1992 Act. VaR approaches are best used to evaluate risk over relatively short time periods and are, therefore, appropriate for evaluating trading portfolios. The Enterprises' asset portfolios, however, are not a "trading book," as one commenter suggested. Rather, these portfolios are comprised largely of assets that are held to maturity. The Enterprises' actual trading portfolios are, in fact, a small part of the Enterprises' balance sheets. Further, although large banks continue to use VaR models for calculating day-to-day trading risk, since the disruptions in the global financial markets in 1997 and 1998, these banks increasingly have employed stress tests to measure their market exposure.[33] These banks found that VaR models were less able to measure risk under extreme market conditions than stress tests.

2. Proprietary/Internal Models

a. Comments

Some of the commenters who recommended the bank and thrift regulatory approach urged that OFHEO permit the Enterprises to use their proprietary models to determine interest rate risk. A number of other commenters contended that each Enterprise should calculate its own risk-based capital requirement using a stress test model specified by OFHEO but developed by the Enterprise. Each Enterprise would then report its risk-based capital requirement to OFHEO in the same manner as the minimum capital requirement is reported. All of these commenters suggested that OFHEO could ensure the integrity of the capital calculation process through its examination function. In arguing for the use of internal models, one commenter also noted that the risk-based capital proposals of the Farm Credit Administration (FCA) and the Federal Housing Finance Board (FHFB) also permit the use of proprietary and/or internal models to varying degrees.

Both Enterprises agreed that they should calculate their own risk-based capital requirement, contending that it is sufficient for OFHEO to publish the specifications for the model. They recommended that they should run the stress test as specified by OFHEO on their own internal systems, at least as a transitional measure. The Enterprises believe this would be the fastest and most efficient way to implement a risk-based capital rule that would produce capital numbers in a timely way.

Other commenters believed that allowing an Enterprise to calculate its own capital requirement using its proprietary models or a model that OFHEO specifies would undermine OFHEO's regulatory independence and impede the transparency of the stress test for third parties. These commenters felt that OFHEO must retain control of both the model and the process for determining the Enterprises' risk-based capital requirements to ensure the integrity of the calculation of risk-based capital.

The Congress has required FCA, which regulates the Federal Agricultural Mortgage Corporation (Farmer Mac), and FHFB, which regulates the Federal Home Loan Banks, to establish risk-based capital standards for the entities they regulate. The statutory requirements for FCA's risk-based capital regulation,[34] which parallel the requirements of the 1992 Act, include a ten-year stress test, a worse-case historical credit loss experience, and stressful interest rate scenarios. The FCA rule specifies the basic structure and parameters of the risk-based capital stress test and allows Farmer Mac to use FCA's spread sheet model or implement the stress test using an internal model built to FCA's specifications to determine its risk-based capital requirement.[35]

The statutory requirements for FHFB's recently adopted capital regulation,[36] which takes an approach similar to that of the bank and thrift regulators, are much less specific than either OFHEO's or FCA's, but direct FHFB to take OFHEO's stress test into consideration. In the FHFB rule, each Federal Home Loan Bank calculates its own risk-based capital charge.[37]

b. OFHEO's Response

The final rule continues to provide for capital classifications to be determined based on a stress test specified, developed, and administered by OFHEO. OFHEO believes this approach best fulfills the statutory purposes and maintains the integrity of the risk-based capital regulation. Allowing the Enterprises to use their proprietary models or models they develop based

[33] Committee on the Global Financial System, "Stress Testing by Large Financial Institutions: Current Practice and Aggregation Issues," 14 Bank for International Settlements, Basel, Switzerland (April 8, 2000). A copy of this document may be obtained from the BIS website at *http://www.bis.org.*

[34] 66 FR 19048, April 12, 2001. FCA's rule determines stressful credit conditions by applying loss frequency and severity equations to Farmer Mac's loan-level data. From these equations, FCA's test calculates loan losses, assuming Farmer Mac's portfolio remains at a "steady state," and allocates the calculated losses to each of the ten years. Interest rate risk is quantified using the results of Farmer Mac's interest rate risk shock-test to determine the change in the market value of equity (MVE). The change in MVE is posted to the first period in the stress test.

[35] In its notice of proposed rulemaking, FCA noted "that because of the proprietary nature of specific, transaction loan level and financial data used in the risk-based capital stress test, it is unlikely that results of the test will be fully reproducible by parties other than Farmer Mac and us. Other parties, however, will be able to approximate the test results on an aggregate basis using publicly available information." 64 FR 61741, November 12, 1999.

[36] 12 FR 8262, Jan. 30, 2001; 12 CFR parts 915, 917, 925, 930, 931, 932, 933, 956, and 960.

[37] Capital to cover credit risk is calculated from leverage ratios that are based upon the credit ratings of counterparties and collateral supporting the credit. 66 FR 8313 (Jan. 30, 2001). Market risk capital is based on internal VaR models or stress tests and a determination of the amount by which the current market value of a Federal Home Loan Bank's total capital is less than 85 percent of the book value of total capital. *Id.* at 8317. Capital for operations risk is 30 percent of credit risk capital, although the FHFB may approve a lesser amount (not less than 10 percent) where the Federal Home Loan Bank obtains appropriate insurance or provides an acceptable alternative method for assessing and quantifying operations risk capital. *Id.* at 8318.

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on OFHEO's specifications to calculate their own capital requirements could result in a weaker and inconsistently applied standard. However, each Enterprise will receive the source code for the stress test, which will enable it to compute its own capital requirement for internal purposes and to comment on its proposed capital classification.

Although FCA's statutory framework is similar to the 1992 Act, statutory interpretations that are appropriate for FCA's statute are not necessarily appropriate interpretations of the 1992 Act, and differences in regulatory responsibilities make the FCA approach unworkable for OFHEO. FCA is charged with developing a stress test for a single entity, while OFHEO regulates two entities, both of which must be subject to the same stress test.[38] Models that the Enterprises develop themselves would inevitably differ in their details, which could result in significant variations, and make it difficult to apply the stress test consistently to both Enterprises. In addition, the 1992 Act requires that the stress test be set forth in a regulation subject to notice and comment rulemaking,[39] that the risk-based capital regulation be sufficiently specific to permit someone other than the Director to apply the test,[40] and that OFHEO make the stress test model publicly available.[41] For these reasons, OFHEO concluded that the most practical way to comply with these statutory provisions was to develop and administer its own model on its own systems and apply the stress test even-handedly to both Enterprises.

Use of the FHFB approach is not viable for OFHEO under the 1992 Act, which requires a specific stress test, and does not provide the option of allowing each institution to design an appropriate risk-based capital test. The FHFB compared the agencies' approaches in the preamble to its final rule, noting that "[f]or example, the GLB Act requires that the [FHFB] develop a stress test that rigorously tests for changes in interest rates, interest rate volatility and changes in the shape of the yield curve, while the statutory requirements governing Fannie Mae and Freddie Mac set forth specific scenarios for downward and upward shocks in interest rates."[42] Other examples of statutory differences include the requirement in the 1992 Act that credit losses be related to the benchmark loss experience and an extensive list of factors that OFHEO must consider in designing the stress test. Further, the procedural requirements that the details of the stress test be published by regulation and made available to the public also make an internal models approach impractical for OFHEO.

OFHEO also finds that regulatory independence and rigor is best served by OFHEO's approach. The availability of the stress test on OFHEO's systems allows OFHEO greater flexibility to run the stress test whenever it may be needed. Maintaining the infrastructure to support the stress test also gives OFHEO the ability to independently test alternative risk scenarios in addition to the two stress test scenarios, which ensures the integrity of the stress test. This capability will also permit OFHEO to test possible improvements and adjustments to the stress test.

In sum, OFHEO concurs with the concerns of the commenters who recommended that OFHEO develop and maintain a single stress test model and require the Enterprises to provide the necessary data for the stress test. The Enterprises certainly may replicate that model from OFHEO's model specifications and computer code and use it to determine the capital impact of various business decisions. For the purposes of determining the capital classifications, however, OFHEO will run its own model using data submitted by the Enterprises. To alleviate some of the Enterprises' concern about the ability of the model to produce accurate capital numbers in a timely way, the final regulation establishes a standardized data reporting format for the RBC Report. This Report will enable OFHEO to produce capital numbers within the regulatory time frame. *See* sections III.B., Operational Workability of the Regulation and III.E., Enterprise Data.

3. Mark to Market for "Tail Risk"

a. Comments

Two commenters said that OFHEO should consider losses beyond the end of the stress test period, either by marking to market remaining positions or otherwise requiring additional capital to cover the risk that remained at the end of the ten-year stress period. One Enterprise responded that marking to market to capture this "tail risk" would be contrary to the 1992 Act.

b. OFHEO's Response

The final regulation does not adopt the commenters' suggestions to require capital for on- and off-balance-sheet items that remain at the end of the ten-year stress period or to mark these items to their market value. The 1992 Act specifies that the stress period is ten years and that total capital must meet or exceed the amount of capital necessary to survive the stress period with positive capital. Marking to market balance sheet items that remain at the end of the 120 month period would bring into the stress test period earnings or losses beyond the ten-year period and would be inconsistent with the 1992 Act.

4. Additional Interest Rate Scenarios

a. Comments

Several commenters suggested that OFHEO study additional interest rate scenarios to ensure that smaller changes in interest rates do not result in risk-based capital requirements that are larger than the requirements generated by the interest rate scenarios in the 1992 Act. These commenters expressed concern that the risk-based capital rule will be inadequate unless OFHEO runs more than two interest rate scenarios. They also urged OFHEO to monitor any attempts by the Enterprises to take advantage of the limited number of interest rate scenarios in the stress test. The comment implies, for example, that an Enterprise could enter into inexpensive interest rate derivatives contracts that would allow the Enterprise to easily pass the two interest rate scenarios of the stress test. Under slightly different and possibly less stressful interest rate scenarios, these derivatives might be useless, but a stress test based on only two interest rate scenarios would not uncover this deficiency. To prevent this problem, the commenters said that OFHEO should run additional scenarios with a variety of assumptions, including combinations of smaller interest rate changes, more volatile interest rates, different yield curves, and alternative changes in house prices. They recommended that OFHEO set the risk-based capital requirement for an Enterprise at the highest amount generated by any additional scenarios. One Enterprise disagreed, saying that more moderate interest rate movements would probably result in lower capital requirements. The Enterprise also noted that OFHEO's examination process

[38] *See* 12 U.S.C. 4611(a) ("The Director shall, by regulation, establish *a* risk-based capital test for the Enterprises. When applied to an Enterprise, *the* risk-based capital test shall determine the amount of total capital for the Enterprise * * *") (emphasis added). See also H.R. Rep. No. 102–206 at 62 (1991). "Beyond these traditional capital ratios, the bill sets forth guidelines for the creation, in highly specific regulations, of a risk-based capital standard * * * *The* model, or stress test, will generate a number for each Enterprise, which will become the risk-based standard for that Enterprise.") (emphasis added).

[39] 12 U.S.C. 4611(e)(1).

[40] 12 U.S.C. 4611(e)(2).

[41] 12 U.S.C. 4611(f).

[42] 66 FR at 8283.

ensures the integrity of Enterprises' risk management process.

b. OFHEO's Response

In response to these comments, OFHEO notes that the 1992 Act provides only two scenarios for the stress test and requires that risk-based capital be based on whichever of the two scenarios results in the higher capital requirement. Although OFHEO intends to run additional scenarios in order to monitor an Enterprise's capital adequacy, OFHEO does not need to modify the regulation to include scenarios beyond those specifically required in the 1992 Act. Moreover, it is not clear that specifying additional scenarios in the risk-based capital regulation would address the concerns of the commenters. If OFHEO were to add scenarios to the final rule, an Enterprise could simply enter into additional derivatives contracts that would hedge the new scenarios.

The 1992 Act specifies two interest rate scenarios, but it does not prohibit the running of additional scenarios as part of OFHEO's on-going monitoring of safety and soundness of the Enterprises. OFHEO can only test how well the results of the statutory scenarios reflect risk if OFHEO continues to run additional scenarios based on market conditions and other factors the Director considers appropriate. Should OFHEO discover any capital weakness when it runs additional scenarios, OFHEO has supervisory tools available to correct the situation. For example, if additional stress testing reveals that scenarios equally or less stressful than those in the 1992 Act would cause an Enterprise to fail the stress test, the Director may determine that grounds for discretionary capital reclassification exist under section 1364(b) of the 1992 Act. Similarly, a finding by the Director that an Enterprise is conducting itself in a way that threatens to cause a significant depletion of core capital would provide grounds for a cease and desist order.

B. Operational Workability of the Regulation

A broad theme of the comments was that OFHEO should move expeditiously to a final rule that is operationally workable. By operationally workable, most commenters meant that the regulation must provide for accurate and timely calculations of risk-based capital requirements. From a regulatory perspective, OFHEO agrees, because the risk-based capital requirement, together with the minimum capital requirement, serves as the basis for classifying the Enterprises as "adequately capitalized" or "undercapitalized." OFHEO must determine these classifications as quickly as possible to minimize delays in identifying capital shortfalls. However, a number of commenters also expressed more specific concerns related to how the rule and the stress test that underlies it will operate in practice. These comments and OFHEO's responses to them are explained below.

1. Replicability and Transparency

To the Enterprises and some other commenters, the concept of operational workability meant that the stress test should be sufficiently transparent that the Enterprises can use it for internal planning and analysis. This level of transparency would allow the Enterprises to calculate capital numbers on their own systems with reasonable assurance that the results will closely mirror OFHEO's results. To certain non-Enterprise commenters, however, the concept of transparency meant complete replicability of OFHEO's results—that is, the ability of parties other than OFHEO and the Enterprises to run the stress test and to evaluate the potential impacts on Enterprise regulatory capital requirements of changes in the economy or Enterprise business mix. These commenters asserted that in order to promote market discipline, the stress test should be this transparent to third parties. They recommended that OFHEO release the computer code as well as the complete specifications of the stress test. A few commenters stated that the stress test could not be completely transparent without the release of Enterprise data, some of which may be proprietary.

OFHEO strongly supports a concept of operational workability that allows capital classifications to be determined in a timely manner, allows the Enterprises to use the stress test as a planning tool, is transparent to third parties, and allows capital classifications to be calculated in a timely manner. To this end, OFHEO, working with the Enterprises, has developed a standardized reporting format, the RBC Report, that will permit the reported data to be input into the stress test without manipulation and will work with the Enterprises to assist them in aligning their data systems with the reporting format so that they will be able to run the stress test on their systems and achieve the same result as the Director. This will permit timely classifications and will permit the Enterprises to anticipate what their capital classification will be. OFHEO's treatment of new activities, discussed below in III.B.3., New Enterprise Activities, is also designed to allow the Enterprises to understand the probable impact of new activities on their regulatory capital requirements. In addition, OFHEO will release to the Enterprises and other requesting parties a copy of the computer code. A stylized data set also will be made available to interested parties to permit them to understand the sensitivities and implications of the stress test.[43] This information will allow parties other than OFHEO to apply the stress test to any set of starting data in the same manner as OFHEO.

OFHEO disagrees, however, with commenters who suggest that third parties should be provided the actual starting position data that are input to the stress test. These data include Enterprise information that is not public and may be subject to legal prohibitions or restrictions on disclosure or may otherwise unfairly disadvantage an Enterprise if disclosed. Given the statutory protections for proprietary data included in the 1992 Act and elsewhere,[44] OFHEO believes that the requirement of the 1992 Act that others be able to apply the test in the same manner as the Director should not be read to require the release of proprietary data. OFHEO anticipates that the information it is supplying to the public about the model meets this statutory requirement and provides interested parties with a solid understanding of the interaction in the model of credit and interest rate stresses and an ability to understand the capital implications of changes in an Enterprise's risk profile. OFHEO strongly favors promoting market discipline. Because of the forward-looking nature of the stress test, OFHEO's periodic publication of the current capital numbers together with current capital classifications will promote such discipline.

2. Predictability v. Flexibility

The comments suggest that in order for the stress test to be useful to the Enterprises in their businesses, its results must be sufficiently predictable to permit it to be used as a planning tool, while sufficiently flexible to take into account new products or other innovations by the Enterprises. From these somewhat competing considerations flowed a range of comments concerning the frequency with which OFHEO should amend the

[43] The stylized data set will include a realistic mix of on- and off-balance sheet items of a hypothetical Enterprise. It will allow any interested party to run the test, to vary the mix of items, add or delete items, change starting interest rates, modify historical house price patterns, and understand potential impacts of these actions or events upon Enterprise capital.

[44] *See, e.g.*, 12 U.S.C. 4611(e)(3); 18 U.S.C. 1905.

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regulation, the process that would be followed for changing the regulation, and the treatment of new activities and instruments, i.e., those for which the stress test does not currently prescribe a treatment.

Some commenters suggested that the final rule specify a process for routine updating of the stress test to incorporate industry improvements in risk management techniques. One commenter recommended specifying a threshold, expressed as a percentage of the minimum capital requirement, that would determine when changes require notice and comment. For changes that would not reach the threshold, the commenter recommended specifying a one-year implementation period and for changes that are proposed for notice and comment, a two-year period. Other commenters, including Fannie Mae, recommended severely limiting changes to create "stability" in the stress test. Freddie Mac recommended that OFHEO affirm that it would follow the Administrative Procedure Act (APA) when changes are made to the final regulation.

The final rule balances the concern for stability with the concern for flexibility, recognizing that the nature of the Congressional mandate and the dynamic nature of the Enterprises' businesses will require an ongoing assessment of how well the stress test achieves its objectives. To achieve its statutory objective of aligning capital to risk, the stress test necessarily must evolve as the risk characteristics of new and complex instruments and activities become better understood and modeling techniques more highly developed. Therefore, OFHEO cannot eliminate uncertainty about how the stress test might evolve without reducing the sensitivity of the stress test to risk. Sufficient discretion must be retained by the Director to respond to innovations as they occur. And yet, in its important particulars, there must be enough stability in the stress test to allow the Enterprises and others to predict with reasonable confidence the impact that changes in their business plans or the economy may have on their capital requirements.

OFHEO will continue to monitor and study changes in the Enterprises' businesses and the markets in which they operate. OFHEO also will evaluate new statistical data that become available to determine whether they have implications for Enterprise risks. These continuing efforts will, doubtlessly, suggest reestimation of the models and other changes to the stress test from time to time. However, OFHEO does not find it appropriate at this time to specify a process, beyond the APA, for routine updating of the rule or to commit in advance to limiting the size or frequency of changes to the rule. Only after the rule has been operational for a significant period of time can OFHEO assess whether there is a need for further rulemaking to specify a change process. In any event, OFHEO affirms that any future amendments to the regulation will comply with the APA.

3. New Enterprise Activities

a. Proposed Rule

Section 1750.21 of the proposed regulation and section 3.11 of the Proposed Regulation Appendix together were designed to implement the substantive risk-based capital requirements of the 1992 Act,[45] the notice and comment requirements of the APA,[46] and the replicability and public availability requirements of sections 1361(e) and (f) of the 1992 Act.[47] The quarterly capital calculations required by the 1992 Act[48] must, as accurately and completely as possible, capture the risks in the portfolio of each Enterprise. The requirement that classifications be done on not less than a quarterly basis is designed to ensure that changes in the risk profile of an Enterprise are captured frequently and reasonably close in time to when they are reflected on an Enterprise's books.

Given the dynamics of the marketplace and the Enterprises' business, it is not possible to construct a regulation that specifies a detailed model that could predict every new type of instrument or capture every new type of risk that might emerge from quarter to quarter. Therefore, to comply with the requirements of the 1992 Act, the proposed regulation included a provision, section 3.11 of the proposed Regulation Appendix, to address future instruments and activities, thus enabling each quarterly capital classification to be as accurate as possible. Section 3.11, together with other provisions in the regulation, was intended to help achieve that accuracy.

More specifically, section 3.11 of the proposed Regulation Appendix provided that the credit and interest rate risk of new activities and instruments would be reflected in the stress test by simulating their credit and cash flow characteristics using approaches already described in the Appendix. To the extent those approaches were not applicable directly, OFHEO proposed to combine and adapt them in an appropriate manner to capture the risk in the instruments. Where there is no reasonable approach using combinations or adaptations of existing approaches, the proposed stress test would employ an appropriately conservative treatment, which would continue until such time as additional information is available that would warrant a change to the treatment.

In addition to the substantive provisions of section 3.11 of the proposed Regulation Appendix, procedures were proposed in that section and in section 1750.21 of the regulation that would give the Enterprise involved advance notice of the treatment to be implemented and an opportunity to comment on it before it is implemented. Procedurally, proposed section 3.11 provided that an Enterprise should notify OFHEO of any pending proposal related to new products, investments, or instruments before they are purchased or sold or as soon thereafter as possible. The procedures in the proposed rule were also intended to encourage the Enterprise to provide OFHEO with any suggestions it may have as to an appropriate risk-based capital treatment for the activity or instrument. With the benefit of the information provided by the Enterprise, OFHEO would then notify the Enterprise of its estimate of the capital treatment as soon as possible.

Beyond these provisions, proposed section 1750.21 provided that the Enterprise would be notified of the proposed treatment when OFHEO provided the quarterly Notice of Proposed Capital Classification. After receiving that notice, the Enterprise would have thirty days to provide further comments to OFHEO. Those comments would be considered by OFHEO prior to issuing the final capital classification. Further, to ensure that the rest of the public could apply the test in the same manner as the Director, OFHEO planned to make the new treatment available to the public through an appropriate medium, such as the **Federal Register**, OFHEO's website, or otherwise. Comments from the public on these notices would be considered by OFHEO. Taken together, all of these provisions implement the procedural provisions of the 1992 Act and the APA, while assuring that the timely, complete and accurate capital classifications required by the 1992 Act are carried out.

b. Comments

Numerous comments addressed the capital treatment of new activities proposed in section 3.11 of the Regulation Appendix in NPR2. These

[45] 12 U.S.C. 4614, 4618.
[46] 5 U.S.C. 553.
[47] 12 U.S.C. 4611(e), (f).
[48] 12 U.S.C. 4614(c).

comments all urged OFHEO to adopt a clearly understood procedure that would be sufficiently flexible to allow the Enterprises to continue introducing new products. They emphasized that delay and uncertainty about treatments of new activities could frustrate introduction of innovative new products and business lines at the Enterprises.

The Enterprises both recommended that the process for new activities should allow them to understand as soon as possible the effect on capital of any new types of products or instruments that they introduce. Both Enterprises offered suggestions in the context of their recommendation that the stress test be run using their own infrastructures.[49] Although these suggestions differed in their details, both would allow the Enterprises to develop and implement capital treatments for new activities, subject to subsequent review and change by OFHEO.

Other commenters suggested that if OFHEO determined that a proposed treatment for a particular new activity would have a minimal impact upon total risk-based capital, that the treatment should be expedited and that no notice and comment process should be required. Treatments that would have a substantial impact on capital would be implemented using notice and comment procedures under the APA. One commenter suggested that a risk-based capital "surcharge" be applied "on top of the normal capital requirements" to account for any new activities until sufficient data could be compiled to determine the risk inherent in such activities. Another commenter recommended three modifications to the treatment of new activities in the NPR: first, that OFHEO use historical data from reliable sources and confer with bank regulators to determine the most appropriate treatments; second, that OFHEO use a transparent comment process, including review by a technical advisory board that would allow input on treatments of new activities from all interested market participants; and third, that the treatments for new activities should be incorporated timely into the stress test.

c. OFHEO's Response

The Enterprises' recommended approaches, in which they would implement capital treatments subject to subsequent OFHEO review, are not practicable within the framework of the final rule because OFHEO will run the stress test using its own computers and its own infrastructure. Nevertheless, OFHEO recognizes the importance of making timely decisions about the capital treatments for new activities. Before the risk-based capital amount of the affected Enterprise for a particular quarter can be calculated, those decisions must be made about all new activities introduced during that quarter. Accordingly, OFHEO has developed a process to make its own independent and informed determination of the appropriate capital treatment for new activities as early as possible, with input from the Enterprises, rather than relying upon their judgments for the first quarterly capital classification after a new activity reported in the RBC Report. OFHEO believes that this process (discussed below) will not impede the development or introduction of new products or other types of business innovation.

As discussed above, OFHEO received various recommendations regarding the appropriate notice and comment procedures for new activities. OFHEO has fully utilized notice and comment procedures, discussed at IC., Rulemaking Chronology, in promulgating this regulation and OFHEO included procedures in NPR2 that will provide ongoing notice and comment for treatments of new activities. In addition, the final rule modifies NPR2 to clarify that the Enterprises are encouraged to provide their recommendations regarding treatments of their new activities and that the broader public will be notified of treatments once they are included in a final capital classification. The public is encouraged to submit their views regarding such treatments, which will be considered by OFHEO on an ongoing basis.

OFHEO believes that public input in the development of rules is essential for sound and fair regulation of the Enterprises. At the same time, to comply with the 1992 Act, OFHEO needed to establish procedures for new activities that would permit the accurate and timely capital classifications required by the 1992 Act. Accordingly, the regulation provides for notice to the affected Enterprise and the public and for consideration of comments received, while it also ensures the ability of OFHEO to conduct continuous, timely and complete capital calculations.

As time passes and a significant volume of new activities has been addressed through the section 3.11 New Activities process, it may be appropriate to propose an amendment to the regulation, utilizing the notice and comment procedures of 5 U.S.C. 553, that would specify treatments for a group of new activities. Although the public will have had the opportunity to provide comments on individual activities on an ongoing basis, this additional process would enable OFHEO to benefit from supplementary comments that are framed in the context of a broader body of risks.

In response to the recommendation regarding an external technical advisory board, OFHEO does not consider it appropriate to require by rule that such a board review the treatment of all new activities. OFHEO is satisfied that the wide diversity of technical expertise of its staff, combined with the normal notice and comment process, will generally provide adequate analysis and review of new activities.

As to the comment suggesting a capital "surcharge" for new activities on top of the "regular" risk-based capital requirement, OFHEO believes that its approach to new activities is appropriately flexible to take into account the risks inherent in any new, untested activity. OFHEO anticipates that it will be able to model effectively many (if not most) new activities explicitly according to their terms or with combinations or adaptations of existing treatments. Where the risk of a new asset type cannot be captured adequately using specified treatments or combinations or adaptations of treatments, OFHEO may use an appropriately conservative fixed capital charge instead of or in addition to an existing modeling treatment. However, in a cash flow model (in contrast to a leverage ratio approach), a fixed capital charge may not be the best method to implement a conservative capital treatment for most instruments. In particular, applying a fixed capital charge for liabilities or for activities that are designed to reduce risk is rarely appropriate.

A more appropriate means of increasing the incremental capital associated with a particular asset in a cash flow model may be to apply a "haircut" to the cash flows from that asset, either directly or by otherwise specifying certain attributes that are relevant to the cash flows of these instruments.[50] A similar approach can be applied to instruments, such as derivative or insurance contracts that are designed to reduce risk. To the extent that a liability can not be modeled according to its terms, the appropriate approach is generally to

[49] See III.A.2., Proprietary/Internal Models.

[50] For example, requiring certain interest-bearing assets that are on the balance sheet to pay no earnings through the stress period could be an extremely conservative treatment, because the liabilities necessary to fund that asset would be paying interest throughout the stress period.

incorporate certain conservative assumptions about the amount of cash flow that will be required from the Enterprise.[51] For these reasons, OFHEO believes that the flexibility afforded by section 3.11 is preferable to the imposition of a surcharge for new activities.

In sum, the OFHEO has not altered its proposed approach to new activities, but, based upon the comments, determined that some clarification of that approach in the final regulation would be useful. Therefore, the final rule adopts § 1750.12 of the proposed regulation and section 3.11 of the proposed Regulation Appendix with some modifications. The revised definition of new activities in section 3.11.1.b of the Regulation Appendix clarifies that the section applies not only to new transactions and instruments, the most common new activities, but also other types of new activities. The term "new activities" is, therefore, defined broadly to include any asset, liability, off-balance-sheet item, accounting entry, or activity for which a stress test treatment has not previously been applied. This definition would include any such items that are similar to existing items, but that have risk characteristics that cannot be taken into account adequately with existing treatments. The definition further clarifies that an instrument or activity may be treated as a "new activity" if it increases in volume to such an extent, or if new information indicates, that an existing treatment does not account adequately for its risk.

In section 3.11.2.a, which replaces proposed section 3.11(c), the words "are expected to" have been replaced with the word "shall" and the phrase "no later than in connection with submission of the RBC Report provided for in § 1750.12" has been replaced with the phrase "within 5 calendar days after the date on which the transaction closes or is settled." This requirement is also reflected in the regulation text at § 1750.12(c) in the final regulation. These changes are designed to address concerns that appropriate capital treatments of new products be determined as quickly as possible. Timely determinations of capital classifications and required capital amounts provide an early warning of a potential strain on an Enterprise's capital. They also serve the interests of many commenters who felt that delay and uncertainty about capital treatments of new activities could impede innovation at the Enterprises.

OFHEO anticipates that, ordinarily, the Enterprises will notify OFHEO of significant new activities well in advance of entering into the actual transactions and will provide draft documentation, anticipated cash flow analysis, and recommended capital treatments as that information is developed for the Enterprises' internal decision-making. For new activities that do not involve transactions, such as an accounting change, OFHEO anticipates that relevant information will be made available well before actual implementation of the new activity. This type of coordination will allow OFHEO to develop initial capital treatments at the same time that an Enterprise is incorporating the new instruments into its own internal models, reducing uncertainty about the capital impact of new activities and allowing the new treatments to be implemented quickly enough to facilitate timely capital calculation and classification. OFHEO anticipates that the Enterprises will incorporate into their internal systems and procedures for product development the process of obtaining the views of OFHEO as to the appropriate capital treatment of each new activity. However, OFHEO realizes that it might not always be possible for the Enterprises to provide notification to OFHEO of a new activity well before submission of the quarterly RBC Report. As with any federally-regulated financial institution, if an Enterprise were to market a new instrument or engage in some new business activity without coordinating with its regulator to determine, in advance, an appropriate initial capital treatment, that initial treatment would necessarily be conservative—that is, it would ensure, in the absence of complete information, that sufficient capital is set aside to offset any risks that may be associated with the new instrument or activity.

Section 3.11 as proposed in NPR2 has also been changed to include three new provisions that expressly state OFHEO's intentions in the implementation of this section. First, section 3.11.2.a encourages an Enterprise that is in the process of or has engaged in a new activity to provide OFHEO with its recommendations regarding the treatment of that activity when it first provides information regarding the activity to OFHEO. Any recommendations will be considered by OFHEO in developing the proposed capital classification. The Enterprise will have the opportunity to comment on that treatment in connection with its other comments on the proposed capital classification.

Second, section 3.11.3.d provides that after a treatment has been incorporated into a final capital classification, OFHEO will provide notice to the other Enterprise and the broader public of that treatment. OFHEO will consider any comments it receives from those parties regarding such treatment during subsequent quarters.

Finally, section 3.11.2.b provides that the stress test will not give an Enterprise the benefit associated with a new activity where the impact of that activity on the risk-based capital level is not commensurate with its economic benefit to the Enterprise. Although it is not expected that the Enterprises would want to deal in transactions or instruments that do not have legitimate business purposes, OFHEO must retain the authority to exclude such instruments from risk-based capital calculations should they occur.

4. Standardized Reporting

The Enterprises suggested that OFHEO specify a standardized RBC Report. Such specifications would include sufficiently detailed instructions to allow the Enterprises to aggregate the data in a format that can be input directly into the stress test. OFHEO agreed with this suggestion and has developed such a report. The report will shorten considerably the time needed to produce the risk-based capital requirements. It will also provide the Enterprises with more certainty in performing their own risk-based capital calculations.[52]

5. Capital Classification Process

a. Comments

The Enterprises requested that the regulation describe a practical and timely process for reporting risk-based capital and determining capital classifications. A number of specific suggestions were made. First, they both recommended that they would report stress test results quarterly along with the data used to run the stress test and OFHEO would then determine quarterly capital classifications based on the Enterprises' calculations. Freddie Mac also recommended that OFHEO classify an Enterprise as adequately capitalized if it meets the minimum capital requirement and quickly remedies a failure to meet the risk-based capital requirement before the classification is reported. Freddie Mac further recommended that OFHEO retain the discretion to specify when the quarterly capital reports are due rather than specifying that they must be filed within 30 days of the end of the quarter. Finally, Freddie Mac recommended that the regulation require an Enterprise to amend a capital report only if a data input revision might result in a capital reclassification.

b. OFHEO Response

As noted above, OFHEO will run the stress test and determine capital classifications using its own systems using data reported by the Enterprises in a standardized format. The Enterprises may duplicate OFHEO's stress test calculations by running the stress test in the same manner as OFHEO. If an Enterprise believes there are discrepancies, it may comment on them during the 30-day response period following OFHEO's notice of proposed capital classification.

OFHEO did not adopt Freddie Mac's suggestion that the Enterprises be given an opportunity to remedy capital shortfalls before the capital classification is reported. Since the risk-based capital requirement is based on data submitted by the Enterprises as of a particular point in time, it is appropriate to determine whether an institution meets the standard as of that date for classification purposes. Although the classification could be accompanied by a description of any remedial actions an Enterprise has taken since the reporting date, it would not be possible to know with certainty that the remedial action brought the Enterprise into compliance with its risk-based capital standard without running the stress test again with new starting position data on its entire book of business.

The final regulation does not change the requirement that the RBC Report be filed within 30 days of the end of the quarter. OFHEO believes the RBC Report should be filed as promptly as possible after the end of quarter so that the capital classification can be determined promptly, and, in any event, within the same 30 days required for the minimum capital report. OFHEO recognizes that, initially, Enterprise preparation of the RBC Report will require more time and effort than is needed for the minimum capital report. Therefore, during the one year period following promulgation of the final rule, OFHEO will consider requests for an extension on a case-by-case basis.

OFHEO has determined that an amended RBC Report should be filed whenever there are errors or omissions in a report previously filed and not, as Freddie Mac suggested, only when the change would result in a different capital classification. In OFHEO's view, prudent monitoring of risk-based capital requires the reporting of all changes. The rule makes clear that the Enterprise is obligated to notify OFHEO immediately upon discovery of such errors or omissions and file an amended RBC Report within three days thereafter. In addition, the final rule clarifies that if there is an amended report, the computation of the risk-based capital level will still be based on the original report unless the Director, in his/her sole discretion, determines that the amended report will be used.

The final rule also requires the board of directors of an Enterprise to designate the officer who is responsible for overseeing the capital adequacy of the Enterprise as the officer who must certify the accuracy and completeness of the RBC Report.

NPR2 proposed to delete existing section 1750.5, which sets forth the capital classification procedure under the minimum capital rule, and replace it with a new subpart that would govern capital classification under both the minimum and risk-based capital rules. Subsequent to the publication of NPR2, OFHEO published a notice of proposed rulemaking entitled Prompt Supervisory Response and Corrective Action,[53] which includes a more comprehensive proposal related to capital classification than NPR2. Because OFHEO anticipates that the Prompt Supervisory Response and Corrective Action rule will be adopted prior to the first classification of the Enterprises under the risk-based capital rule, existing section 1750.5 is not deleted and proposed subpart C is not adopted in this final rule.

6. Interaction With Charter Act Provisions

Freddie Mac requested that OFHEO clarify the interaction of this risk-based capital regulation with the capital distribution provisions of Enterprises' respective Charter Acts during the one-year period following the effective date of the regulation. The Charter Act provisions are already in effect and have been since enactment of the 1992 Act.

During the one-year period after promulgation of the final rule, OFHEO will take into consideration the need for the Enterprises to adjust to the new rule, and will exercise its authority under the Charter Act provisions in a manner appropriate to the circumstances and consistent with OFHEO's intent to provide the Enterprises a one-year transition period to adjust to the risk-based capital requirement. During such period, there would be no impact on an Enterprise's ability to make capital distributions absent adequate prior notice to the Enterprise of its capital position and adequate opportunity to take reasonable and prudent steps to address any articulated deficiency.

7. Implementation

OFHEO has taken appropriate proactive measures to ensure a smooth implementation of the risk-based capital (RBC) rule and the computer code that implements the rule. These measures, which include independent verification and testing of the code, minimize the likelihood of unforeseen technical or operational issues. However, should any such issues arise, OFHEO has ample and flexible authority, which it will utilize to resolve them quickly.

a. Computer Code Enhancements

After publication of the RBC rule, OFHEO will make available to requesting parties the computer code that implements the technical specifications of the rule and a dataset representative of the Enterprises' businesses. OFHEO encourages feedback on the operation of the code by parties who utilize it, including suggestions for more efficient ways to code the technical specifications of the rule.

The computer code that implements the RBC rule will necessarily evolve over time as the businesses of the Enterprises evolve and as OFHEO builds efficiencies into the code to enhance its operation and utility. Also, as the Enterprises seek to adapt their systems to run the stress test internally, they may suggest alternative methods of coding the technical specifications of the rule that would enable them to compile their data submissions more quickly or produce results more efficiently. OFHEO will consider adopting a suggested change in the code provided it accurately reflects the computational instructions of the rule and can be applied accurately and fairly to both Enterprises. OFHEO will develop a process for the receipt, review, and disposition of suggested changes to the code.

In addition, OFHEO has the authority to make any changes it deems necessary to the code at any time, without notice and comment, as long as those changes are not inconsistent with the technical specification of the RBC rule. This authority allows OFHEO to address any technical or other problems that might arise in the operation of the code on a timely basis. Any changes to the code will be made available to the public.

[51] If, for example, the amount of interest on a note was indexed to a volatile indicator that could not be modeled in the stress test, a conservative treatment might be to require that instrument to pay interest throughout the stress period at a rate significantly higher than the average return of the Enterprise on its assets during that period.

[52] *See* II.B., Data.

[53] 66 FR 18694 (April 10, 2001).

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b. RBC Rule Revisions

OFHEO will consider over time the need for formal amendments to the RBC rule after its effective date. If at any time after the effective date a need arises to amend the rule on an urgent basis, OFHEO has ample authority under the 1992 Act[54] to make such changes on a timely basis consistent with the APA. The Senate Report accompanying the 1992 Act makes it clear that Congress recognized that the stress test must necessarily evolve as the Enterprises' businesses evolve and contemplated that a variety of procedural options for quick action would be necessary to keep current the risk-based capital regulation. In regard to the risk-based capital regulation, the Report states that "[t]he regulations must be sufficiently detailed to allow others to comment meaningfully on them and approximate closely their effects." It goes on to emphasize that "[o]rders or guidelines may be used for some of the finer details to permit flexibility to make small changes on a rapid basis when necessary."[55]

The APA provides a variety of procedural options that would be available to remedy technical problems in the RBC rule, whether they are minor or significant. First, the Director may act quickly, without notice and comment, to make technical corrections, clarifications, or interpretations of the rule. This authority would permit most technical and operational problems to be remedied expeditiously. The Director would publish the correction, clarification, or interpretation of the rule in the **Federal Register** and make revisions to the code available. Second, should a more substantive change to the technical specifications be required, the Director may separately issue a direct final rule or a final rule on an interim basis with request for comment, either of which would take effect immediately. Third, the Director, in a separate rulemaking with a relatively short comment period, may propose amendments to the risk-based capital regulation and move quickly to a final rule amending the risk-based capital regulation. These and other administrative tools are available to address any technical or operational problems that may arise in the implementation of the rule.

C. Implications

OFHEO received extensive comments about the implications of the proposed risk-based capital rule from the Enterprises, financial service organizations, trade associations, and affordable housing advocacy groups. The commenters focused on three primary issues: (1) Whether the risk-based capital rule properly aligns required capital to economic risk, (2) whether the rule would increase the cost of home ownership generally; and (3) whether the rule would result in the Enterprises reducing their support for affordable housing. There was a diversity of opinion on these issues. Commenters also provided many specific recommendations with respect to the implications of the risk-based capital rule. OFHEO has responded to these recommendations under the specific topics to which they relate.

1. Aligning Capital to Economic Risk

The commenters generally agreed that a stress test is an appropriate method to align capital to risk. Nevertheless, some commenters, including the Enterprises, investment firms, and some trade associations, stated that OFHEO needs to improve the alignment of capital to economic risk and offered specific suggestions to accomplish this, which are discussed under the specific topics to which they relate. These commenters claimed that failure to align capital to economic risk may reduce the availability of certain products, create disincentives to risk sharing and risk reduction, and result in price distortions.

OFHEO continues to believe that the significant stresses that the regulation applies to the Enterprises' books of business are appropriate for determining the risk-based capital requirement and to align required capital closely to the economic risk. Nevertheless, many of the modifications to the regulation made by OFHEO align capital more closely to the economic risk, based in part on specific suggestions offered during the rulemaking process. These modifications are also discussed under the specific topics to which they relate. As a result of these changes, OFHEO believes that the final risk-based capital rule provides an even better mechanism for closely aligning regulatory capital to economic risk than the proposed rule.

OFHEO is charged with ensuring the continued viability of the regulated entities so that they can continue to carry out their important public purposes, including promoting affordable housing and a stable and liquid secondary mortgage market. As a financial regulator, OFHEO may have a different perspective on the types of risks that must be capitalized and the appropriate corresponding capital levels than the financial institutions it regulates. Prudent risk managers generally respond to increased risk by either increasing their capital in line with the increase in risk or by taking steps to reduce or hedge risk. Publicly traded companies, such as the Enterprises, will always be under pressure to obtain a competitive return on equity for their shareholders and to maintain a significant level of capital distributions. OFHEO's risk-based capital regulation provides a strong incentive for the Enterprises to resist excessive shareholder pressure for short-term returns and essentially requires the Enterprises to exercise the kind of prudent risk management that will ensure that they have sufficient capital to protect them in times of economic stress and volatility.

2. Effect on Home Ownership Generally

a. Comments

Commenters voiced significant disagreement about whether the risk-based capital rule would increase mortgage rates and the cost of home ownership generally. The Enterprises, Wall Street investment firms, and some trade groups expressed concern that the proposed regulation would require an Enterprise to hold what they termed an "unreasonable" amount of capital. These commenters asserted that requiring an "unreasonable" amount of additional capital would increase mortgage interest rates and thus decrease the affordability of a mortgage and the availability of funding for home purchases.

Other financial services organizations, including GE Capital, AIG, and CMC argued that higher capital requirements do not necessarily translate into higher mortgage interest rates. They noted that the Enterprises have several options other than passing along the cost of higher capital to lenders and ultimately home buyers. For instance, these commenters stated that the Enterprises could issue additional equity, take on less risk, or implement various risk mitigation activities. These commenters further noted that critics of the risk-based capital proposal focused only on the negatives, while ignoring the benefits of an effective risk-based capital standard, particularly the significant benefit of decreasing the risk of failure of the Enterprises. One commenter stated that OFHEO should err on the side of requiring more capital rather than less, given the Enterprises' size and importance to the U.S. economy.

b. OFHEO's Response

After a review and analysis of the comments, OFHEO concluded that the risk-based capital regulation, as modified, properly implements Congress' desire for the Enterprises to hold an appropriate level of capital to minimize the risk of failure of the Enterprises, increasing the likelihood that the Enterprises can continue to carry out their important public purposes. The significant credit and interest rate stresses mandated by the 1992 Act are designed to produce a capital requirement that encourages the Enterprises to manage risk appropriately and that results in a capital requirement that adequately reflects risk.

OFHEO does not agree that the rule would necessarily or even likely result in higher mortgage rates that would ultimately be passed along to consumers. First, OFHEO believes that the Enterprises will be able to meet the requirements of the regulation at relatively little or no cost, as discussed in NPR2.[56] Moreover, prices are not tightly tied to costs in any event. Second, because the Enterprises are subject to a stringent capital regulation, the financial markets may perceive that the Enterprises are less risky. Such a market assessment would likely be reflected in the pricing of the Enterprises' debt and equity, especially subordinated debt, which is particularly market sensitive. Third, even if the risk-based capital regulation were to have some minor effect on one Enterprise's cost of lending and that Enterprise attempted alone to pass this cost along through higher guarantee fees, that Enterprise would risk losing market share.

As noted by several commenters, an Enterprise has numerous cost-effective methods to offset any additional risk-based capital requirements and may adjust to the standard in ways that do not necessarily result in increased mortgage rates. OFHEO agrees with this observation and notes that an Enterprise has several options to accomplish this task. For instance, financial markets provide a wide array of sophisticated ways to manage interest rate risk, including callable long-term debt, caps and floors, swaps and swaptions, and interest rate derivative contracts. In addition, an Enterprise could reduce credit and interest rate risk by reducing the rate of growth of its asset portfolio, increasing the credit protection on riskier assets that it guarantees or holds in portfolio, or reducing the rate of growth of its mortgage guarantee business. An Enterprise may also respond to increased capital requirements by increasing capital by reducing share repurchases, adjusting dividends, or issuing new equity shares.

OFHEO therefore concludes that an Enterprise has broad latitude to select the method or methods to manage its risks and comply with the risk-based capital requirement without increasing mortgage rates. These various strategies will have different direct costs, but may well result in fewer credit and interest rate losses over time.

3. Effect on Affordable Housing

a. Comments

A number of commenters voiced significant disagreement about whether the risk-based capital rule would impair the Enterprises' efforts to promote the availability of mortgage funds to support affordable housing for low- and moderate-income Americans. The Enterprises, affordable housing advocacy groups, and some trade associations and financial firms expressed concern that the rule may cause the Enterprises to decrease the availability of funds used to purchase affordable housing. These commenters believed that the rule could impair the Enterprises' ability to serve low-income borrowers and hinder the financing of multifamily and rental properties. One commenter stated that the Enterprises should be awarded capital bonuses for engaging in affordable housing activities.

In contrast, other financial service organizations stated that there is no "automatic" conflict between having rigorous capital standards for the Enterprises and increasing the supply of funds for affordable housing. These commenters noted that HUD, not OFHEO, should address affordable housing issues through its affordable housing regulations.

b. OFHEO's Response

OFHEO continues to believe that the risk-based capital standard will not have a noticeable adverse affect on the Enterprises' ability to purchase affordable housing loans, particularly with respect to single family loans. OFHEO notes that the Enterprises obtain similar profitability from their affordable housing loans as their general loan portfolio. As OFHEO noted in NPR2,[57] the capital cost of single family loans meeting HUD's affordable housing goals is not materially different from the cost of other loans for equivalent loan-to-value (LTV) ratios. Although the stress test distinguishes among loans based on LTV ratios, it makes no specific distinctions with respect to loans to different income groups. Moreover, OFHEO has modified the single family model to calibrate defaults to the benchmark loss experience by LTV category, which should alleviate some of the commenters' concerns about the treatment of high LTV loans. *See* III.I.1., Single Family Mortgage Defaults and Prepayments. OFHEO further notes that the Enterprises' affordable housing programs are currently well run, and the Enterprises effectively mitigate increased risks associated with high LTV loans with credit enhancements. In addition, the final rule modifies the treatment of low-income housing tax credits, which some commenters considered to be punitive. *See* III.N., Accounting, Taxes, and Operating Expenses.

OFHEO disagrees with the comment that OFHEO should award capital bonuses to an Enterprise for engaging in affordable housing activities. OFHEO agrees with those commenters who stated that HUD's affordable housing regulations are the appropriate method for ensuring that sufficient attention is given to affordable housing. The purpose of the risk-based capital regulation is to ensure that the Enterprises' capital is properly aligned with risk. Even if the risk-based capital standard required additional capital related to a portion of the Enterprises' affordable housing activities, such a requirement would be consistent with ensuring that the Enterprises hold sufficient capital for the risks they take. Failure to align capital with the credit risk of particular loan programs could result in curtailment or cessation of those programs. Freddie Mac's early experience with multifamily loans is a case in point. Losses on that program caused Freddie Mac to cease multifamily lending altogether in the early 1990s.

D. Benchmark Loss Experience

In NPR1, OFHEO proposed the methodology to identify the contiguous areas containing five percent or more of the U.S. population that experience the highest rate of default and severity of mortgage losses for a time period of two or more years as required by the 1992 Act.[58] Losses experienced by loans in the identified time and place are referred to as the "benchmark loss experience." The credit stress of the stress test must be reasonably related to the benchmark loss experience.

The proposed methodology involves four steps. The first step is to identify the benchmark loss experience using historical loan-level data submitted by each Enterprise. The analysis is based on currently available data of conventional, 30-year fixed-rate loans

[54] 12 U.S.C. 4513, 4526, 4611.
[55] S. Rep. No. 102–262 (1992), p. 23.
[56] 64 FR 18114, April 13, 1999.
[57] 64 FR 18116, April 13, 1999.
[58] 12 U.S.C. 4611(a)(1).

secured by first liens on single-unit, owner-occupied, detached properties. The data include only loans that were purchased by an Enterprise within 12 months after loan origination and loans for which the Enterprise has no recourse to the lender. The second step is to organize the data from each Enterprise to create two consistent data sets. During this process, OFHEO separately analyzes default and severity data from each Enterprise. The third step is to calculate for each Enterprise the cumulative 10-year default rates and severity rates for each combination of States and origination years (State/year combination) by grouping all of the Enterprise's loans originated in that combination of States and years. In this step, hundreds of State/year combinations are calculated and analyzed. The fourth step is to calculate the "loss rate" by multiplying the average default rate for that State/year combination by the average severity rate. The State/year combination fulfilling the population and time requirements with the highest loss rate constitutes the benchmark loss experience. Using this methodology, OFHEO identified loans originated in 1983–1984 in the four State region of Arkansas, Louisiana, Mississippi, and Oklahoma (ALMO) as the current benchmark loss experience ("ALMO benchmark loss experience").

In NPR2, OFHEO described how the benchmark loss experience would be used in the stress test and, building on the methodology proposed in NPR1, used the benchmark cohort of loans [59] to conduct simulations to demonstrate the sensitivity and implications of the proposed rule. As explained in NPR2, the equations used in the mortgage performance models are estimated based upon OFHEO's historical database of mortgage information to predict the most likely default and severity rates for any given group of mortgages under any given pattern of interest rates and house prices.[60] NPR2 also proposed methods of reasonably relating the credit stress of the stress test to the benchmark loss experience.

1. Methodology

Most commenters, including the Enterprises, mortgage insurers, and trade groups, generally stated that the proposed methodology was workable, but suggested changes. A number of commenters, who criticized the benchmark loss experience methodology based on NPR1, were significantly less concerned when they evaluated the issue in the context of NPR2. Freddie Mac concurred generally with OFHEO's methodology to identify the benchmark loss experience and specifically with the selection of the ALMO benchmark loss experience. Nevertheless, as discussed below, Freddie Mac stated that the historical data used to identify the benchmark loss experience should be adjusted or else the benchmark loss experience default and loss severity rates' loss rates would be overstated. Fannie Mae stated that while the methodology for identifying the benchmark loss experience has certain difficulties, such difficulties could be addressed by adjusting the default and severity models. GE Capital stated that because the proposed methodology is reasonable, any changes should wait until the next generation of the model.

Commenters had divergent views on whether the credit conditions identified by the methodology were sufficiently stressful. Some commenters claimed that the proposed methodology does not produce a benchmark loss experience that is stressful enough. These commenters asserted that the proposed methodology identified only a two-year origination period rather than a ten-year period for default and severity rates and that by averaging certain factors (e.g., time and Enterprises' default rates), the methodology resulted in an average rather than a worst case scenario. In contrast, other commenters, including the Enterprises, stated that the benchmark loss experience was more severe than any national experience and more severe than could be expected to occur in a diversified national economy.

The final regulation makes no changes in the proposed methodology for identifying the benchmark loss experience. In evaluating the commenters' suggestions for modifications, OFHEO's first priority was to implement the 1992 Act appropriately. Accordingly, OFHEO determined that it was appropriate under the statute to select the loans originated during a two-year period that had the highest ten-year cumulative default and severity rate (rather than selecting the two-year period that experienced the highest losses on all loans) and to average between the Enterprises. Further, because the purpose is to identify a regional benchmark loss experience and apply it to the nation as a whole, OFHEO did not consider the comments about geographic diversification to be relevant.

OFHEO also sought to balance the benefit of the recommended modifications with the associated costs. With respect to costs, adopting the recommended modifications would divert time and resources from modifications to the stress test in response to comments, delaying the issuance and implementation of the regulation. Based on an analysis of the proposed methodology in light of the related comments, OFHEO has concluded that implementing the commenters' recommendations for revising the methodology would at best provide only modest improvements in identifying a benchmark loss experience, and in some cases would provide little or no benefit. Consequently, OFHEO has decided not to modify the methodology at this time. The proposed methodology provides a reasonable method for identifying the region in which the Enterprises' mortgage loans experienced their worst credit losses.

2. Data Issues

The dataset used to identify the benchmark had certain limitations. Fannie Mae is unable to provide complete historical data for purposes of identifying the benchmark loss experience. Specifically, Fannie Mae has no loss severity data for retained loans originated before 1987 or for loans securitized under its swap program before 1991. In addition, a number of loans were misclassified by Fannie Mae. In NPR1, OFHEO concluded that, for the purpose of the benchmark analysis, it would be better to use the available data, than to speculate about the missing data or otherwise make adjustments to account for the missing or misclassified data.

Both Enterprises expressed concern that without making adjustments to account for the missing data, the benchmark loss experience calculation would overstate the actual default and loss severity rates. They were particularly concerned that these rates would be overstated for the ALMO benchmark loss experience in those years. Accordingly, they recommended that OFHEO introduce weighting and other techniques to adjust for the missing data. With respect to the missing swap program data, Freddie Mac recommended that OFHEO compare mortgages purchased under Fannie Mae's swap program with Freddie Mac's own program, and adjust the default rates accordingly. With respect to missing pre-1987 loss severity data, Freddie Mac recommended that OFHEO adjust the available loss severity data by weighting techniques to

[59] Those conventional 30-year fixed-rate loans in the State/year combination (i.e. loans originated in ALMO in 1983–1984) with the highest loss rate.

[60] See 64 FR 18118, April 13, 1999, for a more detailed description.

eliminate what it viewed as bias caused by assuming all loans were 30 year fixed-rate loans. The effect of this adjustment would lower loss severity rates in the benchmark loss experience.

After analyzing the comments, OFHEO has confirmed its original determination that it would be inappropriate to modify or otherwise "adjust" for the missing Fannie Mae historical data. It does not appear that Fannie Mae will ever be able to provide this data, and any attempt to adjust existing data based on assumptions about non-existing data would be speculative at best. Accordingly, OFHEO declines to introduce any additional weighting techniques or other assumptions to its initial decision to use the historical data as they exist. OFHEO believes that using the data as submitted by the Enterprises is appropriate, particularly given that the Enterprises' recommendations were based on speculative premises about how historical data would perform rather than empirical or other quantitative evidence.

3. Benchmark Region and Time Period

In NPR1 and NPR2, OFHEO stated that it would periodically monitor available data and reevaluate the benchmark loss experience using the methodology set forth in the Regulation Appendix. OFHEO noted that, using this methodology, it may identify a new benchmark loss experience in the future that has a higher loss rate than the one identified at the time of the regulation's issuance. It further noted that if such a benchmark is identified, OFHEO may incorporate the resulting new benchmark loss experience in the stress test.

Freddie Mac requested that the regulation specify not only the methodology to identify a benchmark loss experience, but also a specific benchmark loss experience, such as the ALMO benchmark loss experience for loans originated in 1983–1984. OFHEO has determined that it is more appropriate to include only the methodology in the regulation. The 1992 Act does not require that OFHEO specify a particular benchmark region and time period in the regulation. Moreover, given Congress' desire for the benchmark loss experience to represent a stressful credit environment, it would be inappropriate to reduce OFHEO's flexibility to identify a different benchmark loss experience if new data indicate that a change is appropriate.

4. Compactness

Freddie Mac suggested adding an additional criterion to the statutory criteria for identifying the benchmark loss experience. Specifically, Freddie Mac recommended that the regulation include what it termed a "compactness" requirement so that, in addition to the statutory requirement that the benchmark region comprise "contiguous" areas, the benchmark region would have to be a region in which a person could travel from any one State to any other State in the region, without traveling through more than one other State within the region.

OFHEO has determined that modifying the definition of the benchmark loss experience to include an additional compactness requirement is inappropriate and would be unworkable. As discussed in NPR1, OFHEO rejected options that would not provide for a reasonably compact benchmark region. For that reason, the proposed regulation specified States as the smallest geographic unit rather than using smaller geographic units such as zip codes and rejected a definition of "contiguous" that would include meeting at a point. It is possible that using smaller units could result in the equivalent of a gerrymandered benchmark loss experience in which it would contain only units with relatively more severe loss experience while excluding regions in the same State with a more benign loss experience. Freddie Mac's recommendation would impose an additional requirement that goes beyond what Congress specified and could preclude identification of an appropriately stressful credit environment. Moreover, the modification recommended by Freddie Mac might be difficult to determine and even unworkable, since there could still be numerous non-compact regions that would comply with Freddie Mac's recommended definition of compactness.

5. Population Requirement

Fannie Mae expressed concern that the ALMO benchmark loss experience may contravene the requirement that the benchmark loss experience contain at least five percent of the United States population, since it believed that the ALMO benchmark loss experience includes States that contribute significant parts of the population but may have few mortgage loans. That Enterprise was also concerned that the ALMO benchmark loss experience may not meet the five percent requirement over the entire stress period.

OFHEO has determined that neither concern is valid. First, the 1992 Act requires that the benchmark loss experience include "contiguous areas of the United States" containing at least five percent of the U.S. population. The statutory provision does not address the distribution of loans within that area or specify the designation of a "State" as a factor. Accordingly, it is the population of the identified area, not of a State or States within it, that is relevant in determining the benchmark loss experience. Second, the 1992 Act only addresses the population and not the number of mortgage loans. Congress could have specified loan volume as a criterion, but did not, and OFHEO declines to read such a specification into the statute. Third, the 1992 Act does not require that the population requirement be met during the entire stress period for the purpose of determining the benchmark loss experience. The statute only requires the stress conditions to persist for "two or more years." The ALMO benchmark loss experience complies with the statute because it had over five percent of the United States' population in the two year period of 1983 and 1984. OFHEO further notes that a region experiencing significant credit stresses may very well experience a decrease in population. Including the additional limitations suggested by Fannie Mae would reduce the severity of the benchmark loss experience and the stress test as a whole, a result that was not intended by Congress. Based on these considerations, OFHEO concludes that each of Fannie Mae's arguments is without merit.

6. Improvements in the Underwriting

GE Capital, in its reply comments, expressed concern that OFHEO would be persuaded by the Enterprises' arguments that the benchmark loss experience should be adjusted to reflect improvements in their underwriting practices, subsequent to the benchmark period. GE noted that although the Enterprises have improved their underwriting techniques since 1986, these improvements may not serve to reduce the frequency of default rates, given regional recessions such as in California and New England that occurred after 1986.

OFHEO believes that it would be inconsistent with the 1992 Act and inappropriate to adjust the benchmark loss experience based on the view that the Enterprises have improved their underwriting. First, improved underwriting is not relevant to identifying the benchmark loss experience, i.e., the worst time and place for credit stress. Rather, Congress intended the benchmark loss experience to define a severe level of credit stress that the Enterprises should be able to survive during a ten year period. To

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"adjust" for improved underwriting would be inconsistent with the statute, since it suggests that the Enterprises could never experience such a level of credit stress again. In addition, periodic modifications based on changes in underwriting would be difficult to implement.

E. Enterprise Data

In NPR2, OFHEO explained that the stress test would utilize data characterizing an Enterprise's assets, liabilities, stockholders equity, and off-balance sheet items at a point in time ("starting position data"). Under the proposal, OFHEO anticipated that each Enterprise would submit all data for mortgages, securities, and derivative contracts at the instrument level. The proposed stress test aggregated individual loans into groups with common risk and cash flow characteristics, known as "loan groups."[61] Data for these loans groups, instead of individual loans, were used as inputs by the mortgage performance and cash flow components of the stress test. In addition to the loan groups for existing loans, the stress test created loan group data for mortgages expected to be added to the Enterprises' books of business as a result of commitments outstanding as of the reporting date, using a process that is discussed in the "Commitments" section of this preamble III. F., Commitments. With respect to nonmortgage financial instruments (investments, debt, and derivative contracts), NPR2 proposed to project their cash flows at the individual instrument level rather than at an aggregated level, because they are fewer and more diverse.

1. Comments

Only Freddie Mac and Fannie Mae commented on OFHEO's proposed treatment of Enterprise data for the stress test. Both Enterprises emphasized the complexity of the proposed data submission process. Freddie Mac stated that in its submission for the second quarter of 1997, it provided more than 600 million data elements to OFHEO, which OFHEO then "translated" into data sets. It stated that this process results in "a substantial number of translation errors" which could impair the accuracy and reliability of the stress test. Similarly, Fannie Mae attributed most of the difficulty in operationalizing the stress test to the use and handling of instrument-level data, since the regulation requires the exchange, management and application of data on hundreds of thousands of different instruments and contracts.

Because of these problems, both Enterprises recommended that they, rather than OFHEO, be responsible for compiling and, where appropriate, aggregating the data into a standardized report, which would then be submitted to OFHEO. Freddie Mac stated that OFHEO should eliminate the need to perform data file translations by requiring the Enterprises to report their data files in a standardized format that OFHEO specifies in a "call-report-like" approach. Similarly, Fannie Mae recommended that each Enterprise submit a RBC Report with standardized elements.[62] Both Enterprises stated that such an approach is similar to the one taken by other Federal financial regulators with their reporting and capital requirements.

2. OFHEO's Response

Consistent with the comments, OFHEO has decided to have the Enterprises compile, and, where appropriate, aggregate their data and submit it to OFHEO in a standardized format specified by OFHEO. To implement this approach, OFHEO has specified a RBC Report with instructions for aggregating and reporting data in a standardized format. OFHEO agrees with the commenters that the data submission process must result in the submission of complete and accurate inputs to allow for the reliable and timely generation of a risk-based capital number. OFHEO believes that the approach in the final rule will fulfill this goal, because it serves to increase the efficiency and transparency of the process and the timeliness of the capital classification. OFHEO further believes that the data submission process will continue to be reliable, because each Enterprise will be required to certify that its submission is complete and accurate. In addition, the compilation of such data by the Enterprises will be subject to examination by OFHEO. This approach will permit capital classifications to be more timely because the standardized data can be input directly into the stress test without the need for data translation by OFHEO.

The stress test makes provision for items reported by the Enterprises that do not fall into the categories specified in the RBC Report or items for which the data is incomplete. If the item is a new activity, it will be treated as specified in section 3.11, Treatment of New Enterprise Activities, of the Regulation Appendix. Otherwise, where there is no appropriate specified treatment in the Regulation Appendix, or where data required to model the item are missing and there is no computational equivalent for such data and no available proxy acceptable to OFHEO, the item will be given one of the conservative treatments specified in section 3.9, Alternative Modeling Treatments, of the Regulation Appendix, depending on whether the item is an asset, a liability, or an off-balance sheet item. The treatments vary in the up-rate and down-rate scenarios and prescribe values for missing terms needed to determine cash flows. It is necessary to make provision for such items in order to permit the stress test to operate with incomplete data and to take into account highly unusual items that cannot be accommodated by specific stress test treatments. OFHEO expects that there will be few of these items in any given quarter.

F. Commitments

1. Background

The 1992 Act specifies that during the stress period the Enterprises will purchase no additional mortgages nor issue any MBS, except that—

> [a]ny contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period.[63]

The term "contractual commitments" generally refers to binding agreements that the Enterprises enter into with seller/servicers to purchase mortgages or to swap mortgages for MBS. The term also refers to agreements to sell such securities to investors.

In NPR2, OFHEO proposed to model commitments outstanding on the beginning date of the stress test by adding new loans to the books of business of the Enterprises during the first year of the stress test, using specified decision rules that govern the volume and characteristics of these new loans. To avoid the complexity of modeling the mix of securitized mortgages versus those purchased for portfolio (which is largely determined by seller/servicers, based on a number of market factors) NPR2 specified that all loans delivered under commitments would be securitized. Second, NPR2 specified that, in the down-rate scenario, 100 percent of all loans that the Enterprises are obligated to accept would be delivered and, in the up-rate scenario, 75 percent of those loans would be delivered. Third, the proposal specified that, in the up-rate scenario, loans would be delivered over the first six months of the stress test and, in the down-rate scenario, over the first three months, at the rates specified in Table 3.

TABLE 3.—MORTGAGE DELIVERIES BY MONTH OF THE STRESS TEST AS A PERCENTAGE OF TOTAL COMMITMENTS

Months	Up-Rate Scenario	Down-Rate Scenario
1	18.75%	62.50%
2	18.75%	25.00%
3	12.5%	12.50%
4	12.5%	0.00%
5	6.25%	0.00%
6	6.25%	0.00%
Total	75%	100%

Finally, OFHEO proposed that the mix of characteristics (type, term, LTV ratio, coupon, geographic location, and credit enhancements) of commitment loans would be based upon the characteristics in loans that were delivered for securitization within the immediately preceding six-month period.

2. Comments and Responses

a. General Comments

Only the two Enterprises commented upon the proposed treatment of commitments. Both Enterprises agreed with OFHEO's decision that all loans delivered under commitments would be securitized. On the other hand, both Enterprises expressed concern that the capital impact of commitments was too great and that the stress test may overstate the risks posed by outstanding commitments. They cautioned that such an overstatement could reduce the use of certain types of commitments.

Freddie Mac stated that OFHEO's approach was probably more complex than is warranted, but, nevertheless, would be operationally workable. However, Freddie Mac also stated that if its recommended changes in the modeling approach to commitments and adjustments to the benchmark loss experience are not made, the Enterprises will have strong economic incentives to reduce the use of longer term commitments and further that "it is doubtful that commitments could support [NPR2] capital levels." Fannie Mae made similar comments, suggesting that "the proposed regulation's failure to recognize behavioral differences among commitment types may unnecessarily restrict the widespread use of optional commitments."

In response, OFHEO notes that its decisions about how to model commitments are not intended to promote or discourage the use of one type of commitment over another, or to encourage the use of commitments in general. To the extent that long-term commitments may have a greater capital impact than short-term commitments, that is due to the relative level of risk of each type of commitment. Further, if empirical analysis regarding commitments indicates that the stress test should be modified, OFHEO will consider doing so. However, in the absence of historical data from which to construct a statistical model of commitments, the final regulation includes a few straightforward and conservative decision rules, which reflect the conditions of the stress period and the operation of commitment agreements. These rules make the commitments model easily replicable and the impact of commitments on capital predictable.

b. Remittance Cycle

Freddie Mac pointed out that NPR2 proposes to set the remittance cycle for commitment loans to the shortest period used at each Enterprise, even though some loans delivered and securitized just prior to the start of the stress period might have different remittance cycles. The final rule responds to this comment by modeling the float period (the time between receipt of funds by the Enterprise and remittance to security holders), which is the relevant portion of the remittance cycle for securitized loans.[64] The float period is set using the average float days weighted by UPB for each commitment loan group category in the same proportions experienced by each Enterprise in securitized single family loans that were originated and delivered within six months prior to the start of the stress test.

c. Credit Enhancements

Freddie Mac pointed out that, although commitment loan groups used in the model carried credit enhancements based upon each Enterprise's history for the prior six months, the NPR did not specifically reference credit enhancements among the characteristics of the loan groups. The final rule clarifies that mortgage insurance credit enhancements will be assigned to the commitment loans in the same proportions experienced by each Enterprise in securitized single family loans that were originated and delivered within six months prior to the start of the stress test. OFHEO notes that credit enhancements other than mortgage insurance are not applied to commitment loan groups in the final rule. Given the change to contract-level detail in the modeling of credit enhancements in the final rule, assignment of other types of credit enhancements would have required OFHEO to include speculative assumptions about the terms of future credit enhancement contracts. Including these other enhancements would also have added excessive complexity to the model, given the relatively small number of loans that would be affected.

d. Alternative Delivery Assumptions

(i) Comments

Fannie Mae recommended alternative modeling assumptions that, it asserted, better distinguished between the different types of commitments than those treatments proposed by OFHEO.[65] Fannie Mae suggested that OFHEO erred by treating all outstanding commitments as the same type of contractual arrangement. Specifically, Fannie Mae stated that the specified percentages of loans delivered under commitments (fill rates) ignore the large number of optional commitments and suggested that fill rates of 50 percent in the up-rate and 75 percent in the down-rate would

[61] For example, a loan group might include all 30-year fixed-rate mortgages for single family homes in the same geographic region, originated in the same year, with similar interest rates and LTVs, and held in an Enterprise's portfolio. Such a process would allow over 24 million loans to be aggregated into a smaller number of loan groups that capture the important risk characteristics. Even with aggregation, there would be thousands of loan groups.

[62] These recommendations were accompanied by recommendations that the Enterprises be allowed to use models they would develop to OFHEO specifications to compute their risk-based capital requirement and report it to OFHEO along with the RBC Report. This recommendation is discussed in III. B., Operational Workability of the Regulation.

[63] 12 U.S.C. 4611(a)(3)(A). The 1992 Act does provide for later amendment of the rule to address new business during the stress period, but not until after the risk-based capital regulation is final. The 1992 Act requires that, within one year after this regulation is issued, the Director of the Congressional Budget Office and the Comptroller General of the United States shall each submit to the Congress a study of the advisability and appropriate form of any new business assumptions to be incorporated in the stress test. 12 U.S.C. 4611(a)(3)(C). 12 U.S.C. 4611(a)(3)(B) authorizes the Director to consider these studies and make certain new business assumptions. However, that subparagraph does not become effective until four years after the risk-based capital regulation has been issued.

[64] See sections 3.2.2.1, Loan Data and 3.6.3.7.2, Stress Test Whole Loan Cash Flow Inputs, of the Regulation Appendix which require float days as an input.

[65] Fannie Mae's NPR2 comment letter also included an "Issue Brief" authored by Ernst & Young LLP, which provided further detail supporting Fannie Mae's recommendations.

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be most appropriate. Fannie Mae also asserted that the three- and six-month delivery windows were unrealistically short and that deliveries in both scenarios were too front-loaded, suggesting instead periods of six and twelve months with deliveries spaced evenly across those periods. Fannie Mae further suggested that OFHEO refine the definition of "commitment" to reflect different levels of commitment in different agreements, although it did not explain precisely how this refinement should be reflected in the stress test.

(ii) OFHEO Response

OFHEO has studied the alternatives recommended by Fannie Mae and has concluded that they are no more precise or reasonable than those in the proposed regulation. First, contrary to Fannie Mae's assertion, OFHEO did not assume that all commitments were of the same type. Specifying less than 100 percent deliveries in the up-rate scenario is a recognition that some commitments are optional and that sellers under those commitments are not required to deliver all the loans specified in the agreement. Second, OFHEO determined that the front-loaded delivery schedule is appropriate because deliveries under individual commitment contracts tend to be concentrated in the early months of the contract. This decision rule also recognizes that at any point in time outstanding commitments are of differing ages. Some will only have a few days left during which a seller can deliver loans and some will have just recently been executed. Accordingly, outstanding commitments would begin to expire rapidly over the first few months of the stress test. Thus, even if deliveries were made evenly over the course of each individual commitment, the total deliveries would drop off quickly within the first few months of the stress test. Also, mortgage lenders do not enter into mandatory commitments for loans they are not reasonably certain they have in the pipeline and these loans are generally delivered within a few months. Loans under optional commitments also tend to be delivered early, because the commitments become outdated rapidly as the market changes and sellers negotiate new agreements.

OFHEO recognizes that the assumptions suggested by Fannie Mae in regard to both fill rates and delivery schedule are not necessarily wrong or unreasonable. However, in the absence of any data demonstrating the historical or current mix of outstanding commitment types, differences in deliveries under different commitment types, mix of loan types delivered under commitments, or the period of time over which deliveries under commitments actually occur, OFHEO will use the more conservative approach specified in the rule.

e. Mix of Loan Characteristics

Fannie Mae also recommended that OFHEO specify the mix of characteristics for loans delivered under commitments based on the mix of loans in an Enterprise's portfolio, rather than on the mix of recent deliveries. Fannie Mae expressed concern that basing the mix upon recent deliveries might weight one-time purchases of a particular loan type too heavily.

As discussed in detail in NPR2 in response to a similar comment from Freddie Mac on the ANPR,[66] OFHEO has seen no evidence that the mix in the current loan portfolio is a good proxy for the mix of loans delivered under commitments. Neither has OFHEO seen evidence of a one-time purchase so large that it would skew significantly or inappropriately the mix of loans delivered over six months. Also, this decision rule reflects recent changes in an Enterprise's business decisions and, in this sense, is more sensitive to risk than basing the mix on the total loan portfolio. Finally, the mix of loan characteristics has a limited impact on the capital requirement, because the Enterprises bear no interest rate risk on loans delivered under commitments, which are all securitized. For these reasons, OFHEO continues to view the recent deliveries as the best available indicator of the mix of characteristics of loans to be delivered in the stress test. Accordingly, this aspect of the commitments specification has not changed in the final rule.

f. Pair-off Fees

Fannie Mae also criticized the proposed stress test because it did not account for pair-off fees that would be paid on undelivered loans under mandatory commitments in the up-rate scenario. OFHEO has no data from the Enterprises indicating when, how often, or in what amounts pair-off fees are charged and no data indicating what percentage of commitment agreements provide for the payment of pair-off fees. Given the lack of these data, or even data indicating actual percentages of loans delivered under commitments, OFHEO had no basis upon which to include a credit for pair-off fees in the stress test and has not modified the proposed rule to do so.

[66] 64 FR 18165–18166, April 13, 1999.

g. Data

Although the final regulation's commitments specifications are little changed from those proposed, OFHEO views commitments as an area that is worthy of additional study and, therefore, is considering requiring the Enterprises to collect data about commitments that would allow empirical analysis in this area. For example, if the Enterprises had tracked delivery percentages and timing under commitments, a far more precise model, such as is suggested in Fannie Mae's comments, could be constructed. If these data had been tracked by commitment type and length of term, an even more sophisticated model would be possible. Such data and the analysis they would facilitate might provide OFHEO the basis upon which to modify the specifications in the existing commitments model or to develop a more finely-tuned model.

G. Interest Rates

Interest rates are a key component of the adverse economic conditions of the stress test. The ten-year constant maturity Treasury yield (CMT), as specified by the 1992 Act, provides the basis for the severe interest rate stress in the stress test. The stress test also incorporates a number of other interest rates, the levels of which will determine the volumes of mortgage prepayments and defaults; the cost of new debt issues and earnings on new investments; and rates paid or earned on assets, liabilities, and derivative contracts.

The 1992 Act specifies the path of the CMT for ten-year securities (ten-year CMT) for two interest-rate scenarios during the stress period.[67] However, for the determination of all CMT maturities other than the ten-year CMT, the 1992 Act states only that they will change relative to the ten-year CMT in patterns and for durations that are reasonably related to historical experience and are judged reasonable by the Director.[68] For non-CMT interest rates, the 1992 Act simply states that characteristics of the stress period that are not specified will be determined by the Director, on the basis of available information, to be most consistent with the stress period.[69] Therefore, the final rule specifies the CMT yield curves and the spread relationships between CMT series and other interest rates that will determine the levels of all interest rates in the stress test.

[67] 12 U.S.C. 4611(a)(2).
[68] 12 U.S.C. 4611(a)(2)(D).
[69] 12 U.S.C. 4611(b)(2).

1. Proposed Rule

In NPR2, OFHEO proposed that the required changes to the ten-year CMT would occur in twelve equal monthly increments from the starting point for the ten-year CMT, which is the average of the daily ten-year CMT for the month preceding the stress period. As specified in the 1992 Act, the ten-year CMT would then remain at the new level for the last nine years of the stress period.

The proposed rule also established the Treasury yield curve for the stress period in relation to the movements in the ten-year CMT. In the down-rate scenario, the rule specified an upward sloping yield curve during the last nine years of the stress period. In the up-rate scenario, the rule specified a flat yield curve for the last nine years of the stress period, i.e., yields of other CMT maturities are equal to that of the ten-year CMT.

The stress test must project the levels for a number of non-CMT rates that affect the Enterprises' business performance. Some of these key rates are the Federal Funds rate, London Inter-Bank Offered Rate (LIBOR), Federal Home Loan Bank 11th District Cost of Funds Index (COFI), and Enterprise Cost of Funds rates. The proposed rule established these rates using Autoregressive Integrated Moving Average (ARIMA) procedures, a statistical estimation technique for projecting time series. The estimation is based upon each series' historical spread to the CMT with a comparable maturity. In addition, NPR2 specified that in projecting the Enterprise Cost of Funds rates, the stress test would add a 50-basis-point premium after month 12, representing the additional cost of borrowing that might be anticipated if an Enterprise were undergoing financial stress.

2. Comments and Responses

OFHEO received many comments on the NPR2 interest rate specifications from the Enterprises, mortgage industry trade groups, investment banking firms, and a major bank. Some comments criticized the Treasury yield curve specifications, suggesting that other curves would be more consistent with historical averages. Most commenters said the specifications for non-CMTs were unnecessarily complex. Both Enterprises objected to the use of the DRI Agency Cost of Funds rates, suggesting that the quality control for that index was inadequate. These comments are discussed in detail below.

a. Specification of the Flat Yield Curve in the Up-Rate Scenario

(i) Comments

The Enterprises and an investment bank criticized OFHEO's proposal to transition to a flat yield curve in the last nine years of the stress test in the up-rate scenario. These commenters agreed that the yield curve historically tends to flatten or invert immediately after upward interest rate shocks, but they asserted that the yield curve resumes a more normal upward sloping shape during extended periods of stable rates. Both Enterprises questioned OFHEO's analysis of historical yield curve data and submitted studies supporting their conclusions. More specifically, Fannie Mae stated that OFHEO misdirected the analysis by assuming that yields would remain constant during the last nine years of the stress test and that OFHEO based its analysis on regression equations that were misspecified. The Enterprises also argued that the flat yield curve would slow prepayments inappropriately by eliminating any refinancing incentive. Freddie Mac suggested that the flat yield curve distorts the cost of new debt in the stress test by creating inappropriately high refunding costs. Fannie Mae argued that by potentially increasing short-term Treasury yields by more than the increase in the ten-year CMT, the flat yield curve specification imposes more stress than Congress intended in the 1992 Act. No commenter objected to use of the yield curves specified in the down-rate scenario, although Freddie Mac stated that the curve was steeper in the last nine years of the stress period than suggested by historical experience.

(ii) OFHEO's Response

The 1992 Act includes two requirements concerning stress period CMTs other than the ten-year CMT.[70] First, the other CMTs must move in patterns and for durations relative to the ten-year CMT that the Director determines are reasonably related to historical experience. Second, these movements must be judged reasonable by the Director. The second requirement is more general, providing that the resulting yield curves should be reasonable within the context of the stress test and the overall purposes of the 1992 Act.

After reviewing the comments, OFHEO has determined that it should not alter the yield curves specified in NPR2. As mentioned above, the commenters agreed that yield curves tend to flatten when interest rates increase sharply and tend to steepen when rates decline sharply. The regulation reflects this general historical tendency in both interest rate scenarios during the first year of the stress period. Because the magnitude and speed of the stress test changes in the ten-year CMT exceed historical experience, it is reasonable to project that yield curve changes would be unusually large. OFHEO was also guided by the requirement that the ten-year CMT remain constant during the last nine years of the stress period. Such constancy is far different from any historical period. OFHEO has determined that a constant yield curve during the last nine years is the most reasonable and consistent approach, and, as discussed in the preamble to NPR2, best ties capital to risk.

To select the constant yield curves, OFHEO examined historical average yield curves and observed that the curves were consistently flatter the more ten-year CMT yields increased and consistently steeper the more ten-year CMT yields decreased. Given the large size of the yield changes in the stress test, OFHEO selected yield curves that approximated the bounds of historical experience. OFHEO further supported that choice with simple regression equations that illustrated the pattern observed.[71]

Fannie Mae argued that the specified yield curves in both scenarios are the most stressful ever observed. However, OFHEO's analysis of the shapes of historical yield curves indicated that more severely sloped yield curves have occurred than those that OFHEO chose for the stress test. In periods where interest rates have declined sharply, yield curves with slopes steeper than 0.77 were observed. In periods where interest rates rose rapidly, yield curves have frequently inverted. Although these yield curves have not persisted for periods of many years, severe interest rate shocks have also not persisted.

It is important to note that, in addition to historical analysis, the selection of the actual yield curves in the stress test also took into account the role of interest rates in the stress test. In

[70] "Yields of Treasury instruments with other terms to maturity will change relative to the 10-year constant maturity Treasury yield in patterns and for durations that are reasonably related to historical experience and are judged reasonable by the Director." 12 U.S.C. 4611(a)(2)(D).

[71] The constant terms in the regression equations were misreported in the preamble to NPR2 as 0.86. The correct estimates were 0.67 for the full sample and 0.66 for the estimation based on quartile averages. However, the projections of yield curves under stress test conditions were based on the correct coefficients. Further, OFHEO determined upon review that the regression equations were appropriately specified as described in footnote 148 in NPR2. 65 FR 18148, April 13, 1999.

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this regard, consistent with the requirement in the 1992 Act that the Director judge interest rates to be reasonable,[72] it is appropriate and reasonable within the context of a stress test to specify yield curves that remain more stressful than the average yield curve. Accordingly, OFHEO has selected curves that have been observed frequently in the past, but, as applied in the regulation, are unusually stressful for an extended period.

The Enterprises argued, in effect, that the flat yield curve adds additional risk to their portfolios in the up-rate scenario of the stress test by raising the cost of short term debt by a greater amount and percent than the increase in the ten-year CMT. They seek an approach that recognizes a discount for short-term debt, which would lower the capital requirement in the up-rate scenario. OFHEO disagrees. The 1992 Act does not suggest that other interest rates should not move more than the ten-year CMT.

For all the above reasons, OFHEO has determined that the most reasonable means of relating the yield curve to historical experience recognizes the general direction of yield curve changes during changing interest rate environments without attempting to fine tune that historical analysis throughout the ten years of the stress period. Accordingly, OFHEO has further determined that, given the design of the stress test, a yield curve that transitions during the first year to a flat curve for the last nine years of the up-rate scenario and to an upward sloping yield curve for the last nine years of the down-rate scenario best meets the dual requirements of the 1992 Act.

b. Specification of Non-Treasury Rates

(i) Use of ARIMA Methodology

Numerous commenters criticized the proposed use of ARIMA models to project non-Treasury rates during the stress period. For a variety of reasons, the commenters all concluded that ARIMA models were too complex and inaccurate to be relied upon to project non-Treasury rates in a stress test. The models were argued to result in volatile and unpredictable projections that would be difficult for parties other than OFHEO to replicate. Freddie Mac recommended that OFHEO project non-Treasury yields based on the average spread over the appropriate CMT for the period two years prior to the beginning of the stress test. No commenter favored the proposed ARIMA approach to projecting non-Treasury interest rates.

[72] 12 U.S.C. 4611(a)(2)(D).

OFHEO agrees that a different method of modeling non-Treasury rates is appropriate. The final rule, therefore, discontinues use of the ARIMA models. Instead, OFHEO will use the average spread between each non-Treasury rate and its comparable maturity CMT for the two-year period just prior to the beginning of the stress test. This approach presents several advantages over use of ARIMA models. First, it is easily implemented, and replicable by parties other than OFHEO. Second, it is far less likely to impose large, erratic and unpredictable swings in interest rate spreads. Finally, it is consistent with the use of a fixed specification of the Treasury yield curve, rather than a varying curve based on a statistical model.

(ii) Proportional and Absolute Spreads

Several commenters suggested that OFHEO consider whether it was more appropriate to project certain non-Treasury rates based upon the historical spreads in basis points between those rates and the corresponding maturity CMT than to project the rates based on their historical proportional relationships.

For nonmortgage interest rates, OFHEO found that proportional spreads correlated better historically than absolute spreads. However, for mortgage rates in the stress test, which are calculated from two-year averages of the Bloomberg indexes for conventional 30-year fixed rate loans and conventional 15-year fixed rate loans, OFHEO found that absolute spreads provided a better correlation.

For these reasons, the final rule continues to use proportional spreads to determine all interest rate series in the stress test, except mortgage rates. In modeling mortgage rates, the final rule bases the calculations upon absolute spreads.

c. Data Sources

Both Enterprises commented that DRI McGraw-Hill's (DRI) Federal Agency Cost of Funds, which is the series used in the proposed regulation to calculate the Enterprise Cost of Funds during the stress period, was inappropriate for that purpose. OFHEO also notes that the DRI series has been discontinued since the publication of NPR2.

Because the DRI series was discontinued, OFHEO has specified a different index for calculating the Enterprises' Cost of Funds. The only commercially available index suitable for this purpose is the Bloomberg Generic Agency Cost of Funds. As an alternative, OFHEO considered developing its own index of the Enterprises' Cost of Funds. OFHEO has determined that developing its own index is the preferable option, because OFHEO has no control over the content, methodology, quality and availability of the Bloomberg index. However, development of such an index will take considerable time and OFHEO will, therefore, utilize the Bloomberg index in place of the DRI index until OFHEO develops a more appropriate index.

3. Yields on Enterprise Debt

a. Comments

A number of commenters, including both Enterprises, objected to the proposed method for calculating the interest rates at which the Enterprises issue new debt after the first year of the stress period. The Enterprises' borrowing rate in NPR2 included the addition of a 50-basis-point premium to the projected Agency Cost of Funds after the twelfth month of the stress period. Some commenters suggested there should be no premium at all on Enterprise debt costs. These commenters suggested that the debt markets would react differently to an undercapitalized Enterprise than to other undercapitalized businesses for varying reasons, including the Enterprises' special Federal status and the confidence that investors in the debt market would have in the regulatory oversight of the Enterprises. Both Enterprises argued that the premium should be applied to all non-Treasury interest rate series rather than only to the Enterprises' debt costs. The Enterprises each submitted studies from consultants that offered a number of reasons to support eliminating the debt premium. Implicit in the Enterprises' comments was an assumption that the economic conditions of the stress period would affect other borrowers as much or more than the Enterprises. One Enterprise suggested that the debt markets would not require a premium, because investors would recognize that the 30-percent multiplier for operations and management risk would never be exhausted. To support these arguments, commenters submitted historical analyses to show that when the spreads between Enterprise debt rates and Treasury yields have widened, other non-Treasury debt spreads have widened as much or more, even at a time when Fannie Mae had negative net worth.

Commenters also pointed out that applying a fixed-debt premium at a fixed point in the stress test does not take into consideration the condition of the Enterprise at the start of the stress test. They suggested that one year into the stress test an Enterprise may appear financially strong to investors and that a debt premium would not be demanded by the market. The debt premium was also criticized for failing to distinguish between premiums on long- and short-term debt. Commenters argued that the markets always demand a larger premium on long-term debt.

b. OFHEO's Response

OFHEO does not agree with the assumption of commenters that investors will be so confident that the Federal government would support Enterprise debt that the debt market will ignore the financial condition of the company. To incorporate such an assumption into the stress test would amount to the modeling of an implied federal guarantee of Enterprise debt. The "implied" guarantee is, at most, a market perception and not a legal obligation of the Federal government. There can be no assurance that Congress would act to prevent loss to investors, and market perceptions, therefore, may change. Further, it would be particularly inappropriate to include such an assumption in a stress test designed to ensure that the government is never called upon to deal with a default by an Enterprise. To do so would weaken the regulatory structure on the grounds that the public perceives the structure to be strong-an imprudent course for any regulator.

Similarly, OFHEO disagrees with the argument that the stress test should assume that the market would not demand a premium because the Enterprises have a financial regulator and are subject to stringent risk-based and minimum capital standards. Although OFHEO anticipates that its existence and the capital regulations it issues will create public confidence that the Enterprises will continue to be adequately capitalized and operated safely and soundly, OFHEO will not presume that the mere existence of this regulatory structure would prevent a deterioration in the market for an Enterprise's debt when the Enterprise is undercapitalized. Among other things, the increased regulation of the Enterprises has also imposed clearer capital requirements and greater disclosure regarding their operations—a trend that OFHEO expects to continue. It is, therefore, possible that investors will be more sensitive to capital inadequacies at the Enterprises than they were in the past.

OFHEO was not convinced by arguments that the market would not demand a premium because investors would rely on the implied Federal guarantee or the regulatory structure, and was not persuaded by commenter's arguments, based on sparse historical data, that other spreads would widen by as much or more than those of government sponsored enterprises. Nevertheless, relevant historical data to support a new debt premium are also sparse. There has been only one, relatively brief, period of time in the early 1980s when one of the Enterprises experienced financial stress approaching the magnitude specified in the stress test. The only other similar event involved the Farm Credit system in the mid-1980s. In addition, it is conceivable, as some comments noted, that events that cause a widening of the spread between the Enterprises' debt rates and Treasuries might also cause other spreads to widen. These spreads have an important effect on the value of hedging instruments and some Enterprise asset returns.

In light of these considerations, OFHEO has determined that there is too little historical experience on which to determine definitively whether other spreads to Treasuries would widen as much as the Enterprises' spreads or to base an estimate of how much the Enterprises' spreads would widen. Consequently, OFHEO has decided not to include a premium on new debt in the final rule. The final regulation does, however apply a 50-basis-point call premium to new five-year callable debt. The cost of new debt is a likely area for future research and for refinement of the rule, because assumptions about these various other spreads may comprise an area of significant risk to the Enterprises.

H. Property Valuation

In order to update origination LTVs to the start of the stress test and to account for changes during the stress period, OFHEO proposed property valuation methodologies for single family and multifamily loans. Because these methodologies were different for single family and multifamily loans, comments and responses related to property valuation are discussed separately for single family and multifamily loans.

1. Single Family

In NPR1, OFHEO proposed to use its House Price Index (HPI) to calculate property values for the purpose of determining current LTVs for Enterprise loans as of the starting date of the stress test. For this purpose, OFHEO proposed to use the HPI of the Census Division in which the loan originated along with the related volatility parameters. In NPR2, OFHEO proposed to determine house price growth rates during the stress test using its HPI values from 1984 to 1993 for the West South Central Census Division, the division in which most of the ALMO benchmark states are located,[73] along with the volatility parameters for the Census Division in which the loan was originated.

The HPI utilizes a repeat transactions estimation process based on a stochastic model of individual housing values. The indexes estimated using this process represent a geometric mean. Along with the HPI, OFHEO publishes the factors needed to adjust the indexes from geometric to arithmethic means (the Goetzman correction), an adjustment needed for some applications of the HPI.[74] However, OFHEO proposed to use the HPI without the Goetzman correction in the stress test.

The 1992 Act requires that if interest rates rise by more than 50 percent of the average ten-year CMT for the nine months prior to the start of the stress test, losses must be adjusted to account for general inflation. The stress test proposed by NPR2 implemented this requirement by increasing house prices by the amount the ten-year CMT, after the upward shock in interest rates, exceeds the average ten-year CMT for the nine months prior to the start of the stress period. This amount is compounded over the remainder of the stress period for a cumulative inflation adjustment. The adjustment is applied over the last 60 months of the stress period.[75]

The comments related to the use of the HPI in the stress test and comments on the inflation adjustment are discussed below.

a. HPI Issues

Comments related to the use of the HPI in the stress test focused on four issues—(1) The use of a geometric index instead of an arithmetic index; (2) the restriction of the database to loans financing single family detached properties, where the loans were eventually purchased or guaranteed by the Enterprises; (3) the HPI volatility parameters used during the stress period; and (4) the procyclical effect of the methodology on the capital requirement.

(i) Geometric Mean

The Enterprises objected to OFHEO's decision not to use the HPI without the Goetzman correction for stress test

[73] The West South Central Division includes all of the ALMO states except Mississippi.

[74] A geometric mean of a group of n numbers is the nth root of their product, whereas the arithmetic mean, which Freddie Mac uses in its house price index, is the simple average of the numbers.

[75] *See* section 3.4, Property Valuation of NPR2, 64 FR 18236, April 13, 1999.

purposes. However, NAHB noted that, for the purpose of meeting the requirements of the 1992 Act, OFHEO's index is superior to other house price indexes, including the Conforming House Price Index published by the Enterprises, which uses an arithmetic mean.

OFHEO continues to believe that a geometric index is more appropriate for the stress test than an arithmetic index, primarily because a geometric index approximates a median value, whereas an arithmetic index results in an average value. Because housing values are distributed lognormally (i.e., skewed to the right), the median is a better measure of central tendency for a loan-level analysis, such as that reflected by the single family default and prepayment model, than the average. By definition, the average for a lognormal distribution that is skewed to the right will always lie above the median because the average in effect gives more weight than the median to "outliers," in this case, loans that are experiencing appreciation far in excess of the majority. Therefore, the average will always be higher than the actual appreciation rates experienced by the majority of the individual loans. A geometric index results in values that are far closer to median and therefore gives far less weight to outliers. For the purpose of a stress test, OFHEO does not think it is appropriate to update property values using appreciation rates that are higher than those experienced by the majority of loans. Consequently, the final regulation continues to use the HPI without the Goetzman correction.

(ii) HPI Database

(a) Comments

A number of other commenters asserted that the house price vector used in the stress test is not stressful enough, resulting in losses that are understated relative to the benchmark loss experience, especially for low-LTV loans. These commenters noted that the house prices in the HPI for the West South Central Census Division from 1984–1993 evidence a 12 percent initial decline before increasing, while Moody's, Fitch, and other rating agencies use at least a 30 percent decline before increasing. They assert that this weaker decline in house prices is attributable to the exclusion from the HPI database of transactions involving single family homes that are not detached (i.e., condos, planned unit developments and 2–4 family homes) and the exclusion of foreclosure sales. The result, in the opinion of some commenters, is that the capital requirement is understated and biases are introduced in favor of low-LTV loans and older loans, which result in understated default rates. Some commenters who criticized the use of the HPI recommended that OFHEO use a different house price vector, such as one used by one of the rating agencies, and also calibrate single family default and prepayments rates to the benchmark by LTV ratio. (See further discussion of calibration to the benchmark loss experience in III.I.1.g., Relating Stress Test Default Rates to the Benchmark Loss Experience.)

Freddie Mac and Fannie Mae, in their reply comments, took issue with the comment that the HPI is biased upward because foreclosure sales are not included in the HPI database. Freddie Mac pointed out that, although foreclosure sales are not included in the database, the sale of the foreclosed property in an REO disposition is included if such a transaction results in a mortgage that an Enterprise buys. Freddie Mac further observed that the overall stringency of the stress test depends on whether the default and severity models are appropriately calibrated to the benchmark and that a more severe path of house price appreciation would lower the calibration constant used to ensure that the default and severity models produce credit loss in line with the benchmark loss experience, rather than make the stress test more severe.

(b) OFHEO's Response

OFHEO continues to believe that it is appropriate to use an index based on Enterprise data rather than rating agency assumptions to determine house price growth rates during the stress test. As noted in the ANPR and NPR1, OFHEO believes that the direct correspondence of the Enterprise database to the segment of the housing market served by the Enterprises make that database a more appropriate basis for determining a house price appreciation path for Enterprise loans during the stress period.

OFHEO also believes that the HPI is the most appropriate index available for establishing property values during the stress test, notwithstanding the restriction of the database to transactions involving single family detached homes. OFHEO restricted the database to single family detached loans because it is the dominant mortgage product and because the markets for PUDs, condos and 2–4 family homes have different behavioral characteristics. The impact of their exclusion is likely to be small because the Enterprises buy few of these loans.

OFHEO does not believe that the lack of foreclosure sales in the database makes the HPI unsuitable for use in the stress test. Even if the data on which the HPI is based resulted in an upward bias to house prices that understated default rates relative to the benchmark loss experience, the calibration of the default and severity rates to the benchmark loss experience would compensate for it.

(iii) Stress Test Volatility Parameters

To determine the path of house price appreciation during the stress period, NPR2 proposed to use the HPI for the West South Central Census (WSC) Division from the benchmark period (1984Q1 through 1993Q4), with the volatility parameters for the Census Division in which a loan was originated up to the start of and during the stress period. Although one commenter appeared to support this approach, others expressed concern that it would result in different capital requirements for otherwise identical loans in different Census Divisions. The commenters asserted that this would distort mortgage purchase incentives for the Enterprises and result in inconsistent treatment of consumers and inefficient economic outcomes. The Enterprises also expressed concern that the NPR2 approach, involving quarterly updates to Census Division volatility parameters, would make it difficult to anticipate the risk-based capital requirement and incorporate it into their operations. They urged OFHEO instead to apply fixed volatility parameters associated with the West South Central Census Division during the stress period.

The final regulation adopts the commenters' suggestionn to use the fixed volatility parameters associated with the West South Central Census Division. The final rule uses the West South Central volatility parameters as published in the Third Quarter, 1996 HPI Report, both in updating property values to the start of the stress test and in projecting changes in property values during the stress period.

(iv) Procyclicality

A number of commenters argued that the use of OFHEO's repeat transactions HPI to update LTV ratios for loans as of the start of the stress test may result in volatility that may understate Enterprise capital needs in times of house price "bubbles" [76] and possibly exacerbate house price declines. Higher levels of house price appreciation result in a lower probability of negative equity

[76] "House price bubbles" refers to the tendency of the rate of house price growth to accelerate before a decline.

(and hence lower default levels), which results in a lower capital requirement. (Conversely, lower levels of house price appreciation result in a higher probability of negative equity and hence higher default levels.) Thus, it was argued, the capital requirement would be lower during boom years and higher during recessionary periods. The commenters asserted that during periods of low or negative rates of house price growth, higher capital requirements would constrain the ability of the Enterprises to buy mortgages, potentially contributing to further housing value declines. To reduce this procyclicality in the capital requirement, the commenters recommended that OFHEO use a two-year moving average of HPI values rather than the HPI value in a single quarter to update LTVs to the start of the stress test.

In their reply comments, both Fannie Mae and Freddie Mac supported the idea that required capital should be high when economic risks are high. Fannie Mae agreed that use of a moving average would dampen the effects of rapid house price movements while still "relating capital to broad-based and long-term risk." Freddie Mac did not support the use of a two-year moving average, citing factors that would mitigate excessive procyclicality. First, it was argued, booms and busts tend to be regional rather than national phenomena, and the Enterprises' portfolios are highly diversified, which limits their exposure to regional downturns and upturns. Second, Freddie Mac asserted that the Enterprises will manage their capital to provide stability in the secondary market for residential mortgages through the business cycle. Lastly, Freddie Mac noted that the minimum capital requirement and discretionary reclassification authority of the Director will ensure that the Enterprises maintain a minimum level of capital.

OFHEO did not adopt the commenters' suggestion to use a moving average of HPI values in the final rule. While a moving average would dampen both upward and downward short-term trends in home values and allow longer-term trends to have greater influence, OFHEO believes that the use of current LTVs determined by the HPI values in the quarter preceding the start of the stress test makes the test more effective as an early warning device. Smoothing the path of house price appreciation by using a moving average would allow an Enterprise to delay building capital needed to meet requirements of the stress test based on actual house price levels at the start of the stress test.

b. Inflation Adjustment

(i) Comments

The Enterprises and several other commenters argued that specifying an inflation adjustment based on the difference between the ten-year CMT after the stress test interest rate shock and the average ten-year CMT for the nine months prior to the stress test and applying the inflation adjustment over the last five years of the stress period results in inflation adjustments that are too low. The Enterprises stated that house prices generally keep pace with inflation under stress scenarios, and recommended that the inflation adjustment be 75 percent to 100 percent of the increase in the ten-year CMT, not just the component in excess of a 50 percent increase in the ten-year CMT, citing studies by consultants hired by Freddie Mac.[77] The Enterprises and some other commenters favored beginning the inflation adjustment as soon as the ten-year CMT is 50 percent above its average yield of the preceding nine months, rather than waiting until the last five years of the stress period. Fannie Mae argued that the intent of the inflation adjustment is that credit losses in the up-rate scenario should be lower than credit losses in the down-rate scenario at least when interest rates increase by more than 50 percent.

(ii) OFHEO's Response

The final regulation makes no change to the inflation adjustment. The assertion that the adjustment should be 75 to 100 percent of the total increase in the CMT is based upon hypothetical models and conjecture regarding the macroeconomic nature of such interest rate increases. These hypothetical models and presumed relationships among variables would result in inflation adjustments that would greatly reduce the credit stress in the up-rate scenario. As discussed above, many commenters have asserted that house prices are not stressful enough compared to those considered stressful by the rating agencies, which specify house price drops of 30 percent of more.

[77] Macroeconomic Advisers estimated the impact on home prices of the range of inflation outcomes using a structural model of housing sector. *See* Macroeconomic Advisers, LLC, "House Prices under Alternative Interest Rate Paths" (January 18, 1999). At the request of Freddie Mac, Michael Darby analyzed the economic scenario most consistent with the stress period and concluded that the inflationary environment that would be most consistent with the interest rate path described in the 1992 Act would result in an inflation adjustment 75 percent as large as the increase in interest rates. *See* Michael Darby, "Consistent Macroeconomic Conditions for a Risk-Based Capital Stress Test" (June 6, 1997).

The 1992 Act recognizes that high interest rate environments are often characterized by high levels of general inflation that would exert upward pressure on house prices and mitigate some of the price decline that results from the interest rate shock. For this reason, an additional inflation adjustment for large increases in interest rates is required. However, this requirement should not be interpreted as implying that house price growth rates should increase in the full amount of the increase in interest rates. Economic conditions that drive stressful scenarios may cause house prices to deviate from the rate of general inflation for extended time periods. Typically, the immediate impact of interest rate increases is to dampen housing demand, which results in declining housing prices. Declining house prices discourage new construction, but the supply adjustment proceeds quite slowly as the existing housing stock deteriorates. The supply of land cannot adjust, so higher interest rates would continue to be associated with lower land values. Thus, it would not be unreasonable to observe a prolonged period of time in which the price of housing deviates sharply from other prices. For example, the crisis in the oil markets in the early 1980's caused substantial house price declines of approximately 12 percent in the West South Central Census Division during a period when the Bureau of Labor Statistics Consumer Price Index (CPI) rose by 19 percent. After housing prices in that area turned upward in 1989 and rose through 1993, they were only two percent higher than a decade earlier, while the CPI had risen 44 percent.

Lastly, an adjustment to house prices such as that recommended by the Enterprises would negate the credit stress of the benchmark loss experience. OFHEO believes that this is not consistent with Congressional intent and does not agree that the purpose of the inflation adjustment was to ensure that losses are greater in the down-rate scenario than in the up-rate scenario.

2. Multifamily Loans

For multifamily loans, OFHEO did not propose to use the HPI or any other repeat-sales or repeat-transaction index to update property values because of the inadequacies of any available property valuation indexes. To overcome this lack of a property valuation index, OFHEO proposed to use an earnings-based method to update property values and income. OFHEO proposed to base the property value on property net operating income (NOI) divided by a capitalization rate, which discounted

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the expected earnings stream while holding property-specific characteristics constant.

OFHEO proposed to update property NOI using expected rent growth and vacancy rates. Rent growth was derived from the rent of primary residence component of the CPI and multifamily vacancy rates were taken from the rental property vacancy rate series published by the Bureau of the Census (Census Vacancy Series). Because Enterprise purchases of multifamily loans are heavily concentrated in Metropolitan Statistical Areas (MSAs), MSA indexes were used, where available. However, the CPI rent index is only available for one MSA in the ALMO region during the benchmark period (1984–1993) and the Census Vacancy Series covering the ALMO region were not available prior to 1986. Therefore, in order to capture the economic conditions affecting multifamily loans in the ALMO benchmark loss experience, OFHEO turned to non-governmental sources of data published by the Institute for Real Estate Management (IREM). OFHEO used statistical relationships between IREM and CPI data and IREM and rental vacancy data to create government-equivalent series for the ALMO benchmark region and time period. Volatility estimates for rental rate inflation and vacancy rates were used to calculate the dispersion of multifamily property values, in much the same way volatility measures for the HPI series were used to measure dispersion of property values for single family loans.

a. Comments

Numerous comments criticized the proposal to update property values using the proposed capitalization rate model. Only Freddie Mac commented upon the specific choice of indexes for the projection of multifamily rents and vacancies in the stress test. Freddie Mac criticized OFHEO's proposal to utilize the combined CPI and IREM rental indexes as indicative of economic conditions in the benchmark region and time period, citing the relative paucity of multifamily data from the ALMO region in the relevant time frame. Freddie Mac noted that the proposed rule created little stress for multifamily loans, because it resulted in substantial increases in collateral values during the stress period. Fannie Mae likewise noted that the proposed model resulted in increases in property values, contrary to Fannie Mae's own experience in the southern California recession from 1991–1995, when property values declined significantly. Despite their criticisms of the property valuation component of the multifamily model, neither Enterprise suggested changing the method of computing rent growth or vacancy rates for the benchmark region and time period. Instead, they suggested other changes to the model, which included dropping any updating of property values during the stress period.

b. OFHEO Response

The comments criticizing the proposal to update property values are discussed in III.I.3.a.i., Negative Equity and Current LTV Variables, but for present purposes it is sufficient to note that OFHEO has decided not to update multifamily property values in the stress test. Nevertheless, the rental and vacancy indexes continue to play a key role in modeling changes in NOI and have a material impact on the debt service coverage ratio, a key variable in the revised multifamily default model. Because of the importance of these indexes in determining the values for this variable, OFHEO believed it important to consider certain modifications in the computation of these indexes, as discussed below.

After additional analysis, OFHEO found a better proxy for the rental growth rates in the ALMO benchmark region and time period than the government-equivalent series created from IREM data. That series is replaced in the final rule with the population-weighted (1990 Census) average of monthly rent growth rates [78] of Metropolitan Statistical Areas (MSAs) in the West South Central Census Division. CPI indexes are available for two Consolidated MSAs (CMSAs) and one MSA in that region—the Dallas/Fort Worth CMSA, the Houston/Galveston/Brazoria CMSA, and the New Orleans, MSA. OFHEO has found the Texas MSAs to be more reflective and representative of the stressful real estate market in the ALMO region during the benchmark period than the IREM rental data.

Because the rent growth and vacancy rates are used together in the stress test to determine NOI, OFHEO further determined it necessary to use a method consistent and compatible with the rent growth computation to compute the vacancy rates for the ALMO benchmark region. Therefore, in the final rule, ALMO benchmark region vacancy rates are modified from NPR2 in much the same manner as the rent price indexes. Like the corresponding rent price indexes, ALMO benchmark region vacancy rates are calculated using the population-weighted (1990 Census) average of annual vacancy rates for all the MSAs in the West South Central Census Division. Vacancy rate data are available for the Dallas, Houston, and Ft. Worth, Primary MSAs (PMSAs) and the New Orleans, San Antonio, and Oklahoma City, MSAs for 1986 forward. To create vacancy rate data for the ALMO benchmark region and time period for the first two years of the stress test, the ratio of the rental vacancy rates of the ALMO benchmark region and time period to U.S. rental vacancy rates for 1986 (16.8 percent versus 7.3 percent) was assumed to hold in 1984 and 1985. That ratio was applied to the U.S. rental vacancy rate in 1984 and 1985 to estimate vacancy rates in the ALMO benchmark region in those years.

These changes to the stress test rent growth and vacancy rates make the multifamily model more consistent with the single family model, because both models now use the same Census Division as a proxy for the property valuation indexes in the benchmark region and time period.

I. Mortgage Performance

In order to determine how mortgages would perform under the stress test, NPR2 proposed econometric models to simulate conditional rates of default, prepayment, and loss severity for each month of the stress period.[79] To reflect the significant differences in the nature of single family loans and multifamily loans, NPR2 proposed somewhat different models for single family and multifamily loans. Consequently, the comments and responses related to mortgage performance are discussed separately for single family loans and multifamily loans.

1. Single Family Mortgage Defaults and Prepayments

To account for the interaction of default and prepayment,[80] NPR2 proposed jointly estimated models of default and prepayment for three categories of loans. To reflect differing behavioral characteristics of these loans, NPR2 proposed three separate pairs of default and prepayment equations for 30-year fixed rate mortgages (30FRMs), adjustable rate mortgages (ARMs), and all other types of single family products (Other SF Products). All three models treat the default and prepayment decisions as options, and they were jointly estimated using the multinominal logit statistical estimation method. The explanatory variables used in the proposed default equations for all three models were age, age squared, LTV at origination, probability of negative equity, occupancy status, and burnout.[81] Product type was also used as a variable in the Other SF Products Model to account for the different default behavior of the different types of products. The explanatory variables used in the proposed prepayment equations were age, age squared, LTV at origination, probability of negative equity, occupancy status, burnout, relative spread, the slope of the yield curve, season of the year (average effect), and relative loan size. For the Other SF Products Model, an additional variable, product type, was used to take into account the differences in prepayment behavior of the various types of products.

In order to reasonably relate default rates to the benchmark loss experience, OFHEO proposed to use a single calibration constant to calibrate the default function to the benchmark loss experience, so that under interest rates associated with the benchmark loss experience, the stress test would project ten-year cumulative default rates for a pool of loans with the characteristics of the benchmark sample that are comparable to the ten-year cumulative default rates of the benchmark loss experience. A similar calibration was made for loss severity rates.

Comments on these models are discussed below by topic.

a. Modeling Approach

The Enterprises found the joint modeling approach to be appropriate and "essentially sound."[82] Although the Enterprises had specific concerns about the models, they suggested that, rather than revising their specification or reestimating them, OFHEO could address their concerns by other model adjustments, discussed below in this section by topic. A number of other commenters questioned the joint modeling approach, primarily because it explicitly reflects the potentially offsetting effects of interest rate and credit stresses. Some of these commenters suggested that a better approach would be to evaluate the capital impacts of credit and interest rate risk separately. GE Capital and MICA expressed concern that OFHEO's model understates losses relative to the benchmark, produces inconsistent loss rates in the up- and down-rate scenarios, and permits the Enterprises to overcompensate in hedging one type of risk to offset another type of risk.

GE Capital and MICA proposed two alternative approaches to address their concerns, both of which involved elimination of the proposed default and loss severity calibration constants, adding new LTV-based calibration constants, and substituting Moody's triple-A regional home price decline for the West South Central HPI during the stress period. The first approach would calibrate the model to the benchmark using interest rates associated with the down-rate scenario. The other would calibrate the model using the interest rate path associated with the benchmark loss experience with a small prepayment calibration for high LTV loans.

OFHEO continues to believe that a joint approach to single family mortgage performance is both consistent with statutory direction and appropriate for regulatory purposes. The 1992 Act contemplates the calculation of a risk-based capital requirement based on interest rate and credit stresses experienced simultaneously. The sum of the effects of each experienced separately is not the same as the effects of the two experienced together. The 1992 Act also requires that stress test losses be reasonably related to the benchmark loss experience. OFHEO's model achieves this by calibrating stress test losses to the benchmark loss experience using the interest rates of the benchmark period and house price growth rates of the benchmark period in the West South Central Census Division, which includes most of the states of the ALMO region. Substituting the Moody's house price path for the house price path of the benchmark period and calibrating the mortgage performance models using an interest rate path other than that of the benchmark period would sever the "reasonable relationship" of stress test losses to benchmark loss experience. The final rule does, however, eliminate the single calibration constants and apply LTV-specific calibration.constants. These issues are further addressed by the discussions that follow.

b. Data Issues

The models proposed in NPR2 were estimated using all or a random sample of all historical data the Enterprises had available for loans they purchased and retained or securitized in the years 1979–1995, with origination years from 1979–1993.[83] This dataset had certain limitations. It did not, for example, include the last paid installment date for Freddie Mac defaulted loans,[84] or any data for loans securitized under Fannie Mae's swap program. In addition, it did not reflect loan performance for most of the 1990's. In spite of these data issues and their relationship to some of the concerns expressed about the default and prepayment models, commenters generally agreed that OFHEO need not reestimate the models proposed in NPR2 using a more up-to-date and more complete historical data set and should not further delay the final rule to do so.

Since the comment period closed, the Enterprises have provided updated and improved data to OFHEO. Working with this new data, OFHEO determined that certain model shortcomings, some identified by commenters and some by OFHEO, were best addressed using this more recent dataset. Consequently, OFHEO reestimated the single family models using ten percent random samples from a dataset comprised of loans that were originated in the years 1979–1997 and acquired by the Enterprises in the years 1979–1999. In addition to significantly increasing the number of loan observations, the new dataset remedies several data deficiencies noted in NPR2. The dataset includes the last paid installment date for both Enterprises and Fannie Mae securitized loan data from 1991-forward. OFHEO's testing of various model specifications using this updated dataset revealed that several variables that previously demonstrated explanatory significance were no longer statistically significant predictors of default, and these variables were dropped from the estimation of the model. In addition, other specifications of the models were changed slightly to address commenters' concerns. These changes are discussed below by topic.

[78] Due to the extreme volatility of monthly changes in MSA rental indexes, monthly rent growth was calculated as the twelfth root of the year over year change in the rental indexes for each MSA. Due to different base years, population-weighted averages of the resulting MSA rent growth rates were taken to compute benchmark loss experience rent growth.

[79] The term "default rate" is used hereafter in this document to refer to "conditional default rate," unless otherwise specified. The term "conditional default rate" refers to the percentage of loan principal outstanding at the start of a period that will default during that period.

[80] Default and prepayment represent options that borrowers choose between when they stop making regular monthly payments on a mortgage. The likelihood of one option being chosen affects the likelihood of the other being chosen.

[81] Season of the year and relative loans size were used in the estimation of the default equations, but omitted in the simulation to achieve average seasonal effect and average loan size.

[82] According to Fannie Mae, "the level of detailed econometric modeling of loan performance is unmatched among risk-based capital regulations applicable to financial institutions."

[83] The ARM equation used all available data; the fixed-rate 30-year and other single family products models used ten percent random samples.

[84] In NPR2, OFHEO noted that information was not available from Freddie Mac on the last-paid installment date for defaulted loans in the historical data used to estimate the model and that the date of disposition of a foreclosed property had been used for Freddie Mac's loans. The last-paid installment date was used for Fannie Mae, 64 FR 18174, April 13, 1999.

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See also III.I.1.q, Summary of Changes in this section.

c. Mortgage Age

The single family default and prepayment equations proposed in NPR2 specified the age variable as a quadratic function—that is, each equation contained two continuous age-related variables, age and age-squared. MICA and GE Capital suggested that the proposed treatment of loan age results in the understatement of default rates on "seasoned loans" (loans outstanding for a year or more).[85] Using MICA data and extrapolating what they characterized as "benchmark loss experience default rates for seasoned loans" from information about the benchmark loss experience published in NPR1, these commenters inferred that the stress test default rates were understated relative to the benchmark loss experience, especially for high LTV loans, both "seasoned" and newly originated. They also pointed out that industry data shows conditional default rates remaining constant or even continuing to rise after a loan reaches 4.5 years of age, rather than conforming to the shape of a quadratic function. Two other commenters suggested that OFHEO use standard aging curves for mortgage default and prepayment in its stress test instead of specifying age as a quadratic function.[86] In contrast, Fannie Mae stated its belief that OFHEO's "model should capture the relative performance of both (seasoned and unseasoned) loans."

After considering the issue raised by the comments, OFHEO concluded that a categorical mortgage age variable would account for age-specific differences in conditional rates of defaults and prepayments in Enterprise data better than the continuous variables, age and age squared. Consequently, the final rule treats age as a categorical variable with nine age categories-six that correspond to each of the first six years of a loan's life (when defaults and prepayments tend to change rapidly) and three additional categories representing loans aged seven to nine years, ten to twelve years, and older than twelve years.

d. Relative Spread (Mortgage Premium Value)

In NPR2, OFHEO proposed to use relative spread—the difference between the coupon rate on a loan and the current market rate, divided by the coupon rate—as an explanatory variable in the prepayment equations. Relative spread is a proxy for "mortgage premium value," the value to a borrower of the option to prepay and refinance. Mortgage premium value is an important factor in determining prepayment rates. When the borrower's rate is higher than the market rates, there is an incentive to prepay. OFHEO recognized in NPR2 that there is a theoretical basis for also using mortgage premium value as a variable in default equations. However, OFHEO did not include relative spread as a variable in default equations, but relied instead upon the burnout variable, which reflects whether a borrower has passed up an earlier opportunity to refinance at favorable interest rates, to measure the influence of interest rates on default.[87]

(i) Comments

Both Enterprises asserted that the proposed default equations do not adequately capture the influence of interest rates on the default rate, leading to an overstatement of losses in the up-rate scenario. According to the Enterprises, the proposed stress test does not capture the historically inverse relationship between interest rates and conditional default rates. That is, conditional default rates tend to decline in rising interest rate environments and rise in declining interest rate environments.[88] Neither Enterprise recommended the use of a mortgage premium value in the default equations, but both Enterprises asserted that failure to take the "mortgage value effect" into account resulted in an overstatement of credit losses in the up-rate scenario. Although they recognized that the burnout variable can partially explain why borrowers with loan rates higher than current market rates might be more likely to default than borrowers with loan rates lower than market, the Enterprises believe that the burnout variable does not adequately capture the relationship between defaults and changes in interest rates. As an alternative to using mortgage premium value as a variable in the default equations, Fannie Mae suggested that OFHEO specify an earlier and larger inflation offset or adjust up-rate default rates by a constant multiplicative factor of 0.7. Freddie Mac noted that precise measurement of mortgage value effect is very difficult in the extreme up-rate scenario of the stress test, but agreed that ignoring mortgage value effect resulted in very conservative default rates in the up-rate scenario.

(ii) OFHEO's Response

The inclusion of a mortgage premium value (relative spread) variable in default/prepayment models is consistent with a pure option theory of borrower behavior. In any month, borrowers can be thought of as having an option to default and an option to prepay. The decision to exercise or not exercise either of those options would depend partly on the mortgage premium value. The relevance of the mortgage premium value is based on an implicit assumption that a borrower would be able to replace the existing mortgage with a new one at current market rates. That assumption is generally justified in the case of prepayments, but not in the case of defaults. Accordingly, OFHEO decided not to include a mortgage premium variable in the default equation.

OFHEO disagrees with the Enterprises' view that the relationship between default rates in the two different interest rate scenarios is inappropriate. Those differences reflect the combined effects of very different prepayment rates and of different conditional default rates, which are affected by the burnout variable and the inflation adjustment to house price growth in the up-rate scenario. Each of these effects is properly measured, consistent with statutory requirements. The Enterprises' assertion that there are other ways that interest rates should affect default rates is not adequately supported. Any relationships between interest rates and default rates not accounted for by the factors that are incorporated in the stress test may reflect past correlations between interest rates and such factors as unemployment rates or underwriting practices (which OFHEO has determined should not be incorporated in the stress test) or correlations between interest rates and inflation rates in a way that is inconsistent with the specific provision of the 1992 Act describing how the relationship between interest rates and default rates should be accounted for.

[85] The commenters use the term "seasoned" as it is commonly used in the trade to mean loans that are not newly originated, rather than in the statutory sense of changes in LTV ratios over time.

[86] The commenters did not define "standard aging curves."

[87] *See* 64 FR 18132, April 13, 1999.

[88] Freddie Mac attributes this phenomenon to two factors: burnout and mortgage value. However, as Freddie Mac also points out, their separate effects are difficult to disentangle. Burnout refers to the adverse selection that occurs in a declining interest rate environment as many borrowers who can qualify for refinancing do so, leaving the remaining borrowers, many of whom cannot quality for refinancing because of poor credit or poor financial condition, with a higher conditional probability of default. In a declining interest rate environment the mortgage will have a premium value (relative spread will be positive). Borrowers who are able to prepay benefit from doing so, and those who are unable to prepay will have a higher conditional probability of default.

e. Burnout

The "burnout" variable reflects whether a borrower has passed up an earlier opportunity to refinance at favorable interest rates. It captures the tendency of the most responsive and creditworthy borrowers to prepay first, leaving a remaining sample of borrowers with a lower prepayment probability and higher default probability. The burnout function specified by OFHEO in NPR2 was a simple binary function; the borrower either missed prepayment opportunities over the prior eight quarters or did not.

(i) Comments

Commenters criticized the burnout specification as inadequate to capture the complex relationships between the current LTV, the economic environment, and the burnout phenomenon. In addition, commenters asserted that a binary function can cause large and sudden increases in conditional default rates on new loans in the quarter in which it is introduced, resulting in significant variability in the capital requirement. Fannie Mae attributed the sudden increases in conditional default rates to the combination of the binary function of the burnout variable and the large coefficient (weight) assigned to it. To remedy this, Fannie Mae suggested that the impact of burnout on defaults should be delayed until two years into the stress period and "smoothed out" by phasing in its effect over eight quarters. Still others recommended that OFHEO respecify the variable to phase in the burnout effects over a range of interest rates and over a longer period, eliminating the abrupt transition to burnout status that creates potential variability of the capital requirement.

(ii) OFHEO's Response

The final rule does not respecify the burnout variable over a range of interest rates or a longer period, or delay consideration of burnout until two years into the stress period, as suggested by commenters. The final rule does, for newly originated loans, phase in the effect of burnout once it is detected. Burnout is detected if the market rate is 200 basis points below the coupon rate in any two quarters out of the first eight quarters of loan life. Once burnout is detected, its effect is phased in over the first eight quarters after origination by multiplying the default and prepayment weights associated with burnout by an adjustment factor less than one. The adjustment factor is zero in the first two quarters of the loan's life, 25 percent in the third and fourth quarters, 50 percent in quarters five and six, 75 percent in quarters seven and eight, and 100 percent thereafter. For example, if rates drop by 200 basis points for the two quarters immediately after a loan is originated, that loan, if not prepaid, would be considered burned out in the third quarter of its life. Rather than applying the full effects of burnout suddenly, 25 percent of the default and prepayment weights associated with burnout would be applied in the stress test for those quarters corresponding to the third and fourth quarters of the loan's life, 50 percent in the fifth and six quarters of the loan's life, and so forth. This change will make the transition to burned-out status less abrupt for newly originated loans.

f. Occupancy Status

Occupancy status is used as an explanatory variable in the single family default and prepayment equations proposed by NPR2. However, the proposed stress test uses a single coefficient that reflects the average occupancy status across all loans, resulting in a specification that investor properties compose the identical fraction of all types of Enterprise mortgages, regardless of their characteristics.

This simplification was criticized by both Enterprises as not reflective of reality. They noted that investor loans have substantially lower LTV distributions than owner-occupied properties, and that 2–4 unit properties, which were assigned to the owner-occupied loan groups in the proposed regulation, exhibit characteristics more similar to investor properties. They suggested that OFHEO use occupancy status as a classification variable in forming stress test loan groups, use the coefficients estimated from the models or assign investor-owned properties a more appropriate multiplier, and allocate investor properties to their proper LTV categories. They also suggested that two-four unit properties and second homes be assigned to the investor-owned loan groups.

OFHEO did not adopt the commenters suggestion to use occupancy status as a classification variable because it would have doubled the number of loan groups and increased the time required to calculate the risk-based capital requirement significantly. However, the final rule responds to commenters' concerns by adjusting the model coefficient for each loan group by a fraction reflecting the actual percentage of investor-owned loans in that loan group, rather than using a single fraction reflecting the average occupancy status across all loans in the Enterprise portfolio. The final rule adopts the suggestion to assign 2–4 unit properties and second homes to the investor-owned percentage.

g. Season of the Year and Loan Size

One commenter noted that season of the year and loan size[89] were used as explanatory variables in the estimation of the model, but not in the stress test simulation, and that unemployment was not used as a variable in either. The commenter urged OFHEO to re-estimate the model without the season variable, include employment as a variable, and conduct further research on the relationship between loan size and probability of prepayment and default, stating that the size of the UPB has proved an important factor influencing the likelihood of prepayment.

As explained in NPR2,[90] season of the year and relative loan size were used in estimating the model but excluded in the simulations to achieve an average size and average seasonal effect. Using a specification for seasonality other than an average seasonal effect in the default simulation would have created quarterly volatility in default rates with no particular safety and soundness benefits. With respect to relative loan size, the models OFHEO estimated for NPR2 demonstrated that larger loans tended to have faster prepayment speeds, but the effect on default was small and inconsistent. Furthermore, loan size is not needed to make the distinctions required by statute. Weighing these factors, OFHEO concluded that using a specification other than average loan size in default simulations would have resulted in complexity not warranted by the additional benefit that would be derived.[91] Finally, OFHEO did not include the employment rate as an explanatory variable because the stress test includes only macroeconomic variables that are specified by the 1992 Act and employment rate is not among them. Furthermore, as noted in NPR2, the effect of macroeconomic variables such as unemployment are captured through the process of relating the stress test to the benchmark loss experience.[92]

In the course of testing different specifications of the re-estimated model, OFHEO found that these variables were

[89] OFHEO used relative loan size in estimating the model. Relative loan size is the ratio of the original loan amount to the average-sized loan purchased by the Enterprises in the same state and in the same origination year.

[90] 64 FR 18134–35, April 13, 1999.

[91] Including relative loan size as a classification variable would have resulted in a sevenfold increase in the number of loan groups.

[92] 64 FR 18135, April 13, 1999.

not statistically significant as predictors of default. Consequently, in the final rule, seasonality and loan size are not used in the estimation of the default equations. However, they remain significant predictors of prepayment and continue to be used in estimating prepayment equations. In the prepayment simulation, season of the year continues to be omitted to achieve average seasonal effect, but relative loan size is used as an explanatory variable to predict prepayment.

h. Relating Stress Test Default Rates to the Benchmark Loss Experience

Many commenters, including the Enterprises, asserted that the stress test overstates default rates on high-LTV loans; some commenters asserted that it also understates default rates on low-LTV loans. This effect was attributed to using a single calibration constant for all single family loans rather than calibrating each LTV category to the benchmark loss experience. One commenter suggested that a single calibration constant will result in an incorrect forecast of credit losses for any mix of business that differs from the mix in the benchmark loss experience cohort of loans. The commenters recommended calibrating to the benchmark loss experience by LTV category. In addition, Fannie Mae suggested that OFHEO adjust default rates on higher LTV loans to below those of the benchmark loss experience to reflect improved underwriting.

The final rule addresses the commenters' concerns by calibrating defaults to the benchmark loss experience by LTV category rather than using a single calibration constant. The benchmark default rates by LTV category to which stress test defaults are calibrated are set forth in Table 4.

TABLE 4.—ALMO BENCHMARK DEFAULT RATES BY LTV AT ORIGINATION

LTV Category	Default Rate
0 < LTV <= 60	2.2%
60 < LTV <= 70	3.5%
70 < LTV <= 75	7.9%
75 < LTV <= 80	9.4%
80 < LTV <= 90	16.4%
90 < LTV	26.4%

OFHEO did not adopt Fannie Mae's suggestion to adjust default rates on higher LTV loans to below the benchmark loss experience in order to reflect improved underwriting because, as explained in NPR2,[93] to do so would be inconsistent with the statutory direction to subject current books of business to the credit stress of the benchmark loss experience.

i. Adjustable Rate Mortgages (ARMs)

(i) Comments

Some commenters asserted that the proposed ARM default model is insensitive to payment shock and consequently understates defaults. "Payment shock" refers to the increased likelihood of default or prepayment when the interest rate on an ARM loan increases and the decreased likelihood of default or prepayment (sometimes called "payment benefit") when the interest rate decreases.

(ii) OFHEO's Response

OFHEO agreed with the commenters that adding a payment shock variable would enhance the ARM model. In the course of making this change, OFHEO discovered that a data issue needed to be addressed to remove a potential bias in the re-specified ARM model. Specifically, Freddie Mac has not been able to provide historical data with sufficient computational details (such as identification of the ARM index and rate or payment caps) for ARMs that defaulted or prepaid before 1995, and Fannie Mae has captured its historical data in such a way as to make the computational details for many of that Enterprise's ARM products difficult to model and in some cases ambiguous. The lack of computational detail in the available data results in an underrepresentation of ARM defaults and prepayments among records with these details. To address this issue, OFHEO has modified the treatment of ARM loans in the final regulation as described below.

The final rule respecifies the ARM model for default and prepayment rates as a multinomial logit model using an estimation dataset that pools 10 percent random samples of long-term ARM (original terms of more than 20 years) and 30FRM loans that were originated in the years 1979 through 1997 and acquired in the years 1979 through 1999. This methodology is similar to the methodology used to model 15FRM loans, balloon loans, and other single family mortgage products. This approach allows the sample to be drawn from all available data with no underrepresentation of defaulted and prepaid ARM loans.

The revised ARM model captures average differences in default and prepayment performance for ARM products relative to 30FRM loans while controlling for risk factors common to both types of loans. The respecified ARM model includes the same set of explanatory variables as the respecified 30FRM default and prepayment models, along with three additional variables (described below) unique to ARMs. Some of the explanatory variables common to both models, such as probability of negative equity, burnout, and relative spread, were approximated for ARM products because the information needed to replicate historical ARM coupon rate adjustments and mortgage payment adjustments was not available in the historical dataset. For example, the probability of negative equity was based on the UPB amortized as if the loan rate were fixed at the original rate, and relative spread and burnout were based on the differences between the original loan rate and the current market rate for 30FRM.

For these reasons, the effect on loan performance of subsequent ARM rate and payment adjustments is reflected in the respecified ARM model through the use of three additional explanatory variables unique to ARM products—a binary ARM product variable (which simply indicates whether the loan is an ARM product or not), a payment shock variable, and an initial rate effect variable (which captures the loan performance effects of ARM teaser rates in the first three years of a loan's life).[94] Computationally, the payment shock variable captures the effects of the interaction between the ARM product variable and relative spread. OFHEO believes that this serves as a reasonable proxy for payment shock. Similarly, the initial rate effect variable captures the interaction between the ARM product variable and the first three loan age categories, representing loan age up to 3 years. All three new variables are used in both the default and prepayment equations in the respecified ARM model.

Because the payment shock variable is defined in terms of the relative spread between the initial rate and market rate, the coefficients (weights) for the payment shock variable can be interpreted as "ARM adjustments" to the coefficients for relative spread estimated from pooled 30FRM and ARM data. Similarly, the coefficients for the initial rate effect variable can be interpreted as ARM adjustments to the first three age coefficients, which are also estimated from the pooled data. The ARM product variable coefficient can be interpreted as a fixed effect that further distinguishes ARM product performance from that of the pooled loans in the dataset.

All variables in the final ARM model were found statistically significant with reasonable interpretations for all variable weights. The initial rate effect, which captures teaser rate effects, shows an increase in the probability of default for ARMs during the first three years of the loan term relative to the remainder of the loan term. Finally, the payment shock variable predicts relatively higher ARM default and prepayment rates in an up-rate scenario as monthly payments rise, and relatively lower ARM default and prepayment rates in a down-rate scenario as monthly payments decline.[95]

[93] 64 FR 18118–18119, April 13, 1999.

[94] Even when market interest rates are not rising, teaser rates (below market initial rates) can cause payment shock effects in ARMs as the low initial rate adjusts to the market rate.

j. Credit Scores

Several Wall Street firms commented that the failure of the default specification to take credit scores into account is inconsistent with the goal of the stress test and suggested that OFHEO elicit proposals from the Enterprises to incorporate credit scoring in the risk calculation. Other commenters, including one of the Enterprises, supported OFHEO's decision not to incorporate credit scores in its mortgage performance models at the current time, but suggested that OFHEO monitor the composition of mortgage credit scores to assure that OFHEO's default projections continue to reflect the credit quality of Enterprise mortgages.

The final regulation does not take credit scores into account. Although borrower creditworthiness is not among the loan characteristics required by the 1992 Act to be considered, as more data becomes available on the predictive validity of credit scores, OFHEO will consider whether credit scores can be taken into account in a way that would improve the stress test.

k. Additional Risk Characteristics

Some commenters suggested that the failure of the model to recognize the additional risk characteristics of loans such as subprime, "Alternative A," manufactured housing, and home equity loans could result in inadequately capturing the risk in Enterprise portfolios if these types of loans comprise a significant portion of the portfolio. One commenter suggested adding a surcharge to the risk-based capital calculation for second mortgage lending and subprime lending because of higher levels of fraud and collateral valuation issues encountered in such lending.

The final regulation makes no changes in the proposed regulation to explicitly take into account unique features of such loans. However, when OFHEO determines that a loan has such unusual features or risk characteristics that it is essentially a different product from similar loans for which a treatment is specified, and that the specified treatment does not adequately reflect the risk to the Enterprises, the Director has the discretion to treat such loans as new activities subject to section 3.11, Treatment of New Enterprise Activities, of the Regulation Appendix.

l. Aggregation of High LTV Loans

The proposed stress test groups all loans with LTVs over 90 percent into the same LTV category. One commenter stated that this aggregation resulted in a prepayment rate that is too high for the category and suggested that distinctions should be made among 95 percent, 97 percent and over 97 percent LTV loans. The final regulation does not adopt this suggestion because there are too few observations of over 90 percent LTV loans in the historical database to construct a reasonable model for these high-LTV loans. In developing the stress test OFHEO sought to achieve a balance between operational workability and precision. Striking such a balance necessarily involves some grouping of sparsely populated categories. When more data become available, OFHEO will consider making finer distinctions.

m. Structured Mortgages

The proposed stress test does not differentiate between a first mortgage made coincident with a second lien (together, a structured loan) and one without. A number of commenters noted that failure to distinguish loans based on this characteristic understates the true credit risk and thus understates the required capital for structured loans.[96] Commenters suggested that the default frequency for structured mortgages should be based on the current LTV of the combined loans.[97] However, Freddie Mac argued that, given current industry data practices, there is no reliable way to distinguish an 80–10–10 mortgage[98] from other 80 percent LTV mortgages and that the increased credit risk of 80–10–10 loans is offset by improvements in credit scores and other credit risk factors.

OFHEO recognizes that there may be a risk distinction between a first mortgage on a property that is also subject to a second lien mortgage and one that is not. However, modifying the stress test to capture that additional risk would require that the Enterprises be able to identify those first mortgages that are also subject to a second lien. Currently, the Enterprises are unable to do that in all cases. Although no change has been made in the final regulation to respond to the concern, OFHEO will require the Enterprises to collect combined current LTV information for structured mortgages to analyze for possible use in future modeling.

n. Product Categories

The Other Fixed-Rate Products Model proposed in NPR2 included five categories of mortgage products to distinguish their different risk characteristics—20-year fixed-rate mortgages, 15-year fixed-rate mortgages, balloon loans, Government loans, and second lien loans. However, in the re-estimation of the Model, OFHEO found that the inclusion of the second lien loans as a separate product category caused the coefficients associated with the 20-year fixed-rate mortgages and the 15-year fixed rate mortgages to be statistically insignificant. As a result, OFHEO eliminated the second lien data from the re-estimation. In the stress test, loans with the second lien product code will be assigned the coefficient weights from the Other Fixed-Rate Products Model, using the government loan coefficient weight for government loans and the balloon loan coefficient for non-government loans. In addition, certain fixed-rate mortgage products with variable payments over time (such as graduated payment mortgages and growing equity mortgages) are no longer treated as ARMs as they were in NPR2, because they are not affected by changes in market interest rates. Like other non-standard fixed rate products, these loans, many of which are past their scheduled payment adjustment periods,

[95] These effects are relative. For example, the model predicts ARM prepayments will rise during a down-rate scenario, but not by as much as 30FRM prepayments are predicted to rise in the same scenario.

[96] Under NPR2, the first mortgage of a structured loan is treated as an 80 percent LTV loan without taking into account the second lien loan. However, in modeling the second lien loan, the stress test takes into account the existence of the first lien loan and assigns the second lien loan the combined LTV. The commenter's suggestion implies that because the first mortgage is not also given the combined LTV, the capital requirements for the structured loan are understated.

[97] The comment implies that the first lien mortgage should also be assigned the combined LTV.

[98] An 80–10–10 loan is a loan with an 80 percent LTV first mortgage, a 10 percent LTV second lien, and a 10 percent down payment.

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are assigned the balloon loan coefficient weight.

o. Prepayment Rate Levels

(i) Comments

A number of commenters, including the Enterprises, stated that the stress test produces unreasonably low prepayment rates in the up-rate scenario. One commenter suggested that, based on the commenter's analysis of historical data, prepayment speeds in the up-rate scenario should be roughly double those proposed by OFHEO. The commenter attributed the difference to factors that OFHEO may not have taken into account, such as the nonassumability of conventional mortgage loans since 1985 and the long-run positive correlation of home price inflation with rising interest rates. As a result, the commenter supported a conservative prepayment speed assumption of 100–120 PSA [99] or 6–7 CPR [100] in the up-rate scenario or, alternatively, the adoption of a specific prepayment rate for the up-rate scenario. Other commenters argued that prepayment speeds in the up-rate scenario were implausible because termination rates (prepayment rates plus default rates) would be below historical mobility rates.

Some of the commenters attributed the low prepayment rates in the up-rate scenario to the fact that the data used to estimate the model are from a period when mortgage assumptions were common and interest rates were generally falling. Hence, the commenters argued, the data used are not representative of the mortgages currently owned by the Enterprises (and, therefore, presumably insufficient to establish prepayment rates for the up-rate scenario). These commenters suggested that OFHEO calibrate prepayments to the benchmark loss experience and adjust the prepayment rates upward in the up-rate scenario to reflect the introduction of due-on-sale clauses in Enterprise mortgages and to be more consistent with results from homeowner mobility studies. One commenter noted that historical parameters will underestimate prepayments in the future because technological improvements have reduced the cost and inconvenience of rewriting and prepaying loans and suggested that OFHEO correct for the underestimation. Some commenters thought that prepayment rates in the down-rate scenario were too high, and some thought they were too low. Freddie Mac thought prepayment rates in the down-rate scenario were reasonable, noting that OFHEO's probability of negative equity variable dampens the effect of large refinancing incentives by capturing the effects of the falling house price environment in the down-rate scenario and that prepayment rates for loans with high original LTVs in falling house price environments will be far lower than those of low LTV loans in good house price environments.

Two commenters noted that the stress test does not produce prepayment rates for the benchmark cohort that match actual historical rates. One of those observed that the stress test produces prepayment rates that are significantly higher than the mortgage industry experience for the benchmark region and time period. The other commenter noted that it is important for prepayment speeds not to be overstated in the down-rate scenario or understated in the up-rate scenario because the linkage of default and prepayment characteristics associated with the joint modeling approach may "inadvertently magnify the dollars at risk." The commenter suggested further study of this issue. Another commenter suggested that prepayments in the stress test should be calculated based upon house prices growing at normal historical levels, rather than using the house price path of the benchmark loss experience.

(ii) OFHEO's Response

The final rule does not adopt the commenters' recommendations for modifying the prepayment equations. Implicit in a number of these comments is a belief that patterns of prepayment, like patterns of defaults and losses, should be consistent with those of the benchmark loss experience. However, the 1992 Act only requires that defaults and loss severities be consistent with those of the benchmark loss experience. Characteristics of the stress period other than those specified by the statute, "such as prepayment experience and dividend policies" are to be determined by the Director "on the basis of available information, to be most consistent with the stress period.[101] OFHEO's approach, which reflects prepayment patterns based on all available historical data, is appropriately conservative. OFHEO believes that, in order to represent the interest rate risk of the Enterprises realistically, the stress test simulation of prepayments should reflect overall historical prepayment patterns rather than reflecting only borrowers' prepayment behavior associated with the benchmark loss experience. Historical patterns have evolved over time and take into account more recent patterns of prepayment, which are more sensitive to interest rate changes than the prepayments of the benchmark loss experience.

With respect to concerns about low prepayment speeds in the up-rate scenario, OFHEO believes that scenario represents an unprecedented combination of events—a severe nationwide recession combined with high interest rates. Borrowers would have no incentive to prepay unless they moved, but mobility rates would be unusually low. The cost of switching to a mortgage with a much higher interest rate would greatly discourage moving, and limited job availability would provide little incentive. Similar conditions, though on a lesser scale, occurred nationwide during the early 1980s. Turnover rate estimates provided by Salomon Smith Barney in its comment show an average annual rate of 4.3 percent in 1981–1983. Given the more severe conditions in the stress test, the slightly slower prepayment speeds generated by the stress test model are quite reasonable.

Similarly, the commenter's concern about data incorporating assumable loans is misplaced. The Enterprises' historical data from before 1986 is a relatively small portion of the overall dataset because comparatively few loans were purchased from those origination years, and the Enterprise data are incomplete. Furthermore, mortgage rates in the early 1980s were unusually high, so assumability would not have had a large effect on prepayment. The dataset contains few loans originated in 1979. Any small effect on the results may be offset by the unavailability of ARM and balloon loans in the early origination years. Borrowers who expect to prepay more often select these loan types, which tends to lower prepayment rates on 30-year fixed-rate loans, but that effect is absent from early loan data.

p. Seasoned Loan Purchases

The stress test proposed in NPR2 made distinctions among loans based on their age through the age variables and their changes in LTVs (by amortizing mortgage balances and updating property values), but made no distinction between loans purchased or guaranteed by an Enterprise shortly after their origination, and loans purchased or guaranteed after having been held for a period of time by the originator.

Freddie Mac criticized the lack of distinction between loans purchased or guaranteed just after origination and "seasoned purchases," (loans purchased or guaranteed when they are at least 12 months old). Freddie Mac stated that its ability to screen loans with "substandard performance" from seasoned purchases lowers their risk relative to loans purchased near the time of origination and suggested that OFHEO identify seasoned purchases as a separate category and, "based on analysis," reduce their defaults in that category by 30 percent relative to loans having otherwise similar characteristics.

In the absence of any empirical evidence that a reduction in default rates is appropriate for seasoned loan purchases, and in view of the increased complexity that would result from adding another data element, the final rule does not adjust default rates downward for seasoned loan purchases. However, should credible evidence become available in the future that demonstrates that there is a significant difference between the default rates for seasoned loan purchases and the default rates for newly originated loan purchases, OFHEO will consider whether the additional complexity that would result is warranted.

q. Summary of Changes

In the final rule, the following changes are made to the proposed single family default and prepayment models:

- The models are reestimated using a more recent and complete dataset.
- A categorical age variable replaces the continuous age and age squared variables
- Investor-owned fractions are calculated for each loan group and used to adjust the investor-owned coefficient.
- Season of the year and relative loan size are dropped as explanatory variables in the estimation of default equations.
- Default rates are calibrated to the benchmark loss experience by LTV category.
- The ARM model, which has been respecified and reestimated on a data set of pooled 30FRM and ARM loans, captures the average effects of payment shock and other performance factors relative to 30 FRM loans while controlling for risk factors common to both types of loans.

2. Single Family Loss Severity

NPR2 proposed to calculate loss severity during the stress period as a percentage of the defaulting principal balance at the time of loan default. Three components of loss severity were considered—loss of loan principal, transactions costs, and funding costs. Loss of loan principal is the Real Estate Owned (REO) sale price less the loan balance, based on normal loan amortization, at the time of default. Transactions costs comprise foreclosure/legal costs, property holding and disposition costs, and for sold loans, four months of interest at the security pass-through rate. Funding costs, the Enterprises' cost of funding a loan between the time of default and sale of the foreclosed property, were captured by discounting all costs and revenues based on time of receipt during the foreclosure/REO disposition process.

NPR2 proposed an econometric model to estimate loss of loan principal, fixed parameters for transactions costs and time intervals for determining funding costs, and funding rates based on stress period interest rates. The econometric model, estimated using all available historical data for loans entering REO status, calculates the loss of loan principal as a function of median house price appreciation rates reflected by the HPI, and house price volatility. The model includes a single calibration constant, to produce results consistent with the ALMO benchmark loss experience.

In the proposed stress test, property holding and disposition costs and foreclosure/legal costs are based on averages from all available data on Enterprise REO properties. The four months of loan interest the Enterprises must pass through to MBS investors for defaulted loans is calculated at the MBS passthrough rate. Funding costs are determined by discounting all loss severity elements by the six-month Federal Agency Cost-of-Funds rate to produce the present value of each element in the month of default. The time intervals used in the discounting process are based on benchmark REO loans.

a. Comments

Commenters criticized the complexity of the proposed methods for calculating the loss of loan principal and funding costs, the fact that the approach did not consider pre-1987 Fannie Mae loss severity data, the calibration of the loss of loan principal rates to the benchmark loss experience using a single constant term rather than by LTV category, and the inconsistent treatment of the components of loss severity in their relationship to the benchmark loss experience. (Only loss of loan principal and the timing of loss severity revenues and costs were based on the benchmark loss experience.)

The Enterprises suggested that OFHEO extract loss of loan principal estimates and funding costs directly from the benchmark loss experience and use those in the stress test. They suggested (1) extracting loss severity rates for three LTV ranges directly from the benchmark loss experience, (2) subtracting from the resulting loss rates benchmark funding costs, (3) making adjustments for pre-1987 Fannie Mae REO data (which Fannie Mae has only recently made available), (4) adding back new fixed funding costs (rather than using the present value approach used to identify the benchmark loss experience) based on the interest rate scenario (down- or up-rate) and relative LTV, and (5) make specified adjustments for loan age and product type, also considering LTV.

GE Capital and MICA criticized OFHEO's approach to loss severity in the context of broader concerns about stress test mortgage losses being lower than those implied by the ALMO benchmark loss experience, inconsistency between loss rates in the up- and down-rate scenarios, and the offsetting of some credit stress by interest rate stress. To eliminate concerns about inconsistency between the interest rate scenarios and the offsetting of credit stress by interest rate stress they proposed an approach to loss severity rates that would be insensitive to differences in the two interest rate scenarios. To address concerns about overall mortgage losses, they proposed using LTV category-specific calibration constants in the econometric model. They proposed a calibration process that substituted the Moody's AAA regional home price decline and an alternative interest rate path for the benchmark house price and interest rate paths. Details of their proposal for mortgage performance modeling are summarized earlier in III.I.1.a., Modeling Approach.

b. OFHEO's Response

Upon review of the approach included in NPR2 and the related comments, OFHEO determined that the modeling of loss of principal balance could be greatly simplified. While the final regulation does not adopt the commenters' specific suggestions, it modifies the calculation of loss of loan principal and reduces its variability.

Rather than using an econometric model to estimate loss of loan principal calibrated to the benchmark loss experience, the final rule specifies loss of loan principal as a function of median house price appreciation rates reflected by the HPI, and the average ratio of actual sale prices of benchmark REO to values based on projected HPI changes. The final rule eliminates use of the HPI volatility parameters, and since it directly relates loss of loan principal

[99] This measure of prepayment speed is derived from the prepayment model of the Public Securities Association, (PSA), which is an industry standard for measuring prepayment speeds.

[100] CPR refers to "conditional prepayment rate," a commonly used method of expressing prepayment speeds on an annualized basis.

[101] 12 U.S.C. 4611(b)(2).

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to the benchmark loss experience, requires no model calibration.

The final rule continues to apply the present value approach proposed in NPR2 to determine funding costs. OFHEO does not agree that funding costs should be fixed, since they would not be consistent with the widely varying interest rate conditions associated with the two stress test interest rate scenarios. OFHEO believes the funding costs should be directly determined by stress test interest rates.

The final rule continues to apply NPR2 approaches to transactions costs and the time intervals used to determine funding costs. However, as a result of including previously unavailable Fannie Mae data on foreclosure costs in the calculation of average historical REO holding and disposition costs, the average foreclosure costs decreased from 5 percent to 3.7 percent and the REO holding and disposition costs increased from 13.7 percent to 16.3 percent.

As discussed earlier in III.I.1.a., Modeling Approach, the 1992 Act contemplates stress test results that reflect the interaction of interest rates with mortgage performance. OFHEO believes the differences in mortgage performance in the two stress test interest rate scenarios are consistent with the 1992 Act.

3. Multifamily Loan Performance

NPR2 utilized two multifamily default models and five multifamily prepayment models to capture the behavior of loans purchased under different programs and at different stages in their life cycles. The models were estimated using historical data through 1995 on the performance of Enterprise multifamily loans. NPR2 proposed one default model for "cash" programs and another for loans acquired under "negotiated" transactions (NT loans). The proposed prepayment models allowed for appropriate distinctions between fixed- and adjustable-rate loans, between fully-amortizing and balloon loans, and between loans that are within yield maintenance or prepayment penalty periods (i.e., periods during which restrictions and/or penalties for prepaying a loan apply) and those that are not. The models also provided for some balloon loans to survive beyond their stated maturity dates. All of the multifamily default and prepayment models were estimated with historical rent and vacancy rates. Simulations were based upon rates in the ALMO benchmark loss experience to create stress test conditions. To determine loss severity on multifamily cash loans, NPR2 used average cost and revenue components from all historical multifamily real estate owned (REO) from which severity data was available, which consisted of Freddie Mac loans originated in the 1980s. On NT loans that included repurchase agreements, the loss severity rate was set at an historical rate adjusted for the seller/servicer claim rate on 90-day delinquent loans and was set on FHA loans at three percent of UPB.

a. Multifamily Default Model

The proposed rule used the following variables to determine default rates in the cash model: [102]

- Joint Probability of Negative Equity and Negative Cash Flow—Used to capture the probability of a particular loan incurring concurrent negative cash flow and negative equity.
- Mortgage Age and Age Squared—Used to capture change in the risk of default as loans age.
- Program Restructuring—Used to capture difference between default risk of original multifamily programs and current, restructured programs.
- Balloon Maturity Risk—Used to capture the added risk of default as the balloon maturity date approaches.
- Value of Depreciation Write-offs—Used to capture effect on default rates of the value of certain tax benefits.

Many commenters addressed the methodology proposed to calculate multifamily loan defaults. Some of these comments expressed concern that the multifamily default levels not be so high as to impact negatively upon the Enterprises' low income housing programs and their ability to meet housing goals. Other comments viewed the multifamily model as insufficiently stressful and suggested major modifications to avoid creating perverse incentives and anomalies in the final rule. Others suggested that the proposed rule should take into consideration the differences between Fannie Mae's Delegated Underwriting and Servicing (DUS) loans and loans from other programs. A significant number of comments also discussed the appropriateness of specific variables proposed to determine default rates. These comments and OFHEO's responses are summarized below by topic.

(i) Negative Equity and Current LTV Variables

A primary concern of numerous commenters was the methodology in the proposed rule for updating property values from loan origination through the stress period, which affected the Joint Probability of Negative Equity and Negative Cash Flow variable (JP) and its balloon-maturity counterpart (BJP). The model established current property values by projecting the net operating income of each property and capitalizing these cash flows to project price changes for the collateral properties. The capitalization rates that were used to determine property values were based upon ten-year constant maturity Treasury yields.

Commenters criticized this method of capitalizing the net operating income as inappropriate for a number of reasons. Some commenters suggested it resulted in large increases in property values in the down-rate scenario in contrast to the commenters' historical experience. Some commenters argued that any realistic capitalization rate model should take into consideration numerous factors other than current interest rates, such as local housing inventory and the marketability of particular neighborhoods. Furthermore, commenters were concerned that the proposed methodology incorporates implicit assumptions about economic parameters (such as variance, covariance and distribution of rents, vacancy rates and property values) that were untested, but had significant impact on default rates. Largely as a result of these concerns about the capitalization rate model, all commenters to address the issue suggested that OFHEO find an alternative to the JP variable.

After considering these comments and further analyzing the NPR2 approach, OFHEO decided to eliminate the calculation of the probability of negative equity from the multifamily model, thereby eliminating the JP and BJP variables and the need to update property values throughout the stress test. OFHEO concluded that the capitalization rate estimation proposed in NPR2 was not sufficiently robust, given the significant impact it could have on multifamily default rates. Because the probability of negative equity comprised part of the JP and BJP variables, those variables could not be used and the model in the final rule replaces JP and BJP with variables related to property cash flow, property value, and balloon risk.

The first of these variables is the natural logarithm of the current debt-service-coverage ratio (current DCR).[103] Current DCR is the ratio of the net operating income on the property to the debt-service payments. Current DCR is updated in essentially the same way as in NPR2 but with a newly-constructed rent and vacancy rate series. The second is an Underwater DCR indicator variable (UDCR), which indicates that property cash flow is negative because current DCR has declined below 1.00. The third is the natural logarithm of LTV at loan origination or, if origination information is unavailable, at Enterprise acquisition (LTV).[104] The fourth is a balloon maturity flag or indicator (BM) that indicates a balloon loan within twelve months of maturity.

In combination, current DCR, UDCR, and LTV capture essentially the same mortgage performance factors the JP variable was designed to capture—the effects of negative equity and negative cash flow on default probability. Current DCR captures the expected inverse relationship between debt-service-coverage ratio (net operating income relative to mortgage payment) and default risk. Larger surpluses of net operating income over the amount required to service debt represent larger borrower cushions to weather possible increases in vacancy rates arising from stressful economic conditions, such as the stress test. UDCR captures the additional risk of default when current DCR is negative. LTV captures the lower risk of default associated with greater borrower equity early in the life of the loan. Larger amounts of borrower equity at origination or acquisition appear to serve as a cushion in delaying possible negative equity in situations of property value deterioration caused by any number of primarily local or regional phenomena.[105]

The fourth variable, a balloon maturity flag or indicator (BM) has taken the place of the BJP variable. It captures additional risk of default, resulting primarily from the borrower's inability to refinance during the twelve months prior to balloon maturity. In the final rule, conditional default rates reflect higher risk in the twelve months prior to balloon maturity as a result of the balloon maturity flag, but balloon loans are not extended at maturity as they were in NPR2.[106] Although OFHEO realizes that the Enterprises commonly permit balloon term extensions to qualified borrowers, particularly when the market rate of interest exceeds the original note rate and a reversal of the rate trend is expected in the short term, OFHEO also finds it inappropriate to model this practice in the stress test given the restrictions on new business imposed by the 1992 Act. Accordingly, and consistent with the procedure for single family loans, in the final rule, multifamily balloon loans which mature during the stress test will pay off at maturity.

OFHEO determined that the definition of the term "seasoning" in the 1992 Act must be applied differently to multifamily loans than to single family loans.[107] The definition appears to have been crafted to apply only to single family loans, because it defines "seasoning" as the change in LTV of mortgage loans based upon changes in a specific single family house price index or another equivalent index of OFHEO's choosing. At this time, there are no indexes of multifamily property values available that meet the standards of quality, authority, and public availability in the 1992 Act. Therefore, in NPR2, OFHEO defined an equivalent index of multifamily property values imputed from existing rental and vacancy indexes in combination with the capitalization rate model discussed above. However, OFHEO is now persuaded by the commenters not to use this approach. Accordingly, the final rule does not attempt to adjust LTV for multifamily loans directly as it does for single family loans. Rather, to account for differences in seasoning among multifamily loans, the stress test updates DCR over time.

The seasoning requirements of the 1992 Act are intended to require OFHEO to take into account the impact of changes in the housing market on mortgage losses.[108] Congress recognized that changes in house prices, as measured by widely available and reliable indexes, provide an important measure of the direction of the single family housing market. However, the 1992 Act also requires OFHEO to take into account differences in types of mortgage loans,[109] and applying single family seasoning to multifamily loans would not take into account the important differences between these loan types. Because multifamily loans are commercial rather than residential loans, updating property DCR provides a good measure of the impact of changes in the multifamily housing market (and, therefore, of "seasoning") on multifamily defaults. Therefore (and in contrast to single family lending, where DCR is not applicable), in multifamily lending, change in DCR is the most direct determinant of the continuing viability of a loan.

OFHEO has determined that the intent of the statute to take both seasoning and product differences into account is best effected as to multifamily loans by updating DCR through the stress period using the government indexes that best represent rent growth and vacancy rates from the ALMO benchmark region and time period.

(ii) Use of Actual Debt-Coverage Ratio

The Enterprises commented that OFHEO should use actual data on income and expenses from annual operating statements along with mortgage-payment information to establish the DCR of multifamily properties as of the start of the stress test. OFHEO agrees that actual data is preferable to the process proposed in NPR2 of updating origination DCR using historical rent growth and vacancy rates to impute net operating income as of the start of the stress test. The final rule is modified accordingly. Thus, for multifamily loans that have property-level operating statements, the most recent available actual net operating income figures from these statements will be divided by the current mortgage payment and the resulting DCR will be reported in the Risk-based-capital Report, to be used to establish DCR immediately prior to the stress period.

For properties for which the Enterprises at present lack annual operating statements, the stress test uses origination DCR as DCR immediately prior to the stress period. If origination data is also lacking, the stress test uses acquisition DCR as DCR immediately prior to the stress period. If both origination and acquisition data are lacking, the final rule specifies a DCR immediately prior to the stress period of 1.10 for Old Book loans and 1.30 for

[102] Because the NT model has been dropped from the final rule, it is not described. *See* 64 FR 18136–18139, April 13, 1999, for a description.

[103] OFHEO used the log transformation on DCR and LTV to capture the non-linear effects of these variables. In other words, the incremental effect on the risk of default of a change in DCR (LTV) was found to be greater at low DCR (high LTV) than at high DCR (low LTV).

[104] *See supra* note 103.

[105] For loans missing origination LTV, acquisition LTV is used. If both are unavailable, 80 percent and 90 percent, respectively, are used for New Book and Old Book loans. These figures represent the mean origination/acquisition LTV of loans with such data.

[106] In NPR2, loans already past their maturity dates at the start of the stress test were extended three years and loans not yet past their maturity dates at the start of the stress test were extended five years. In both cases, the remaining loan balance was amortized at the then-current market interest rate over the original amortization term.

[107] The 1992 Act defines "seasoning" at 12 U.S.C. 4611(d)(1). The Act provides that "the Director shall take into account * * * differences in seasoning of mortgages * * * the Director considers appropriate." 12 U.S.C. 4611(b)(1).

[108] 12 U.S.C. 4611(b)(2).

[109] "[T]he Director shall take into account appropriate distinctions among types of mortgage products * * * the Director considers appropriate." 12 U.S.C. 4611(b)(1).

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New Book loans.[110] OFHEO anticipates that these treatments are sufficiently conservative to cause the Enterprises to begin collecting accurate DCR data on all multifamily loans for which it is possible to do so. If OFHEO finds these treatments not to be sufficiently conservative for that purpose, it will reconsider the appropriate DCR levels for loans with missing DCR data.

(iii) Age and Age Squared Variables

Only the Enterprises commented directly upon the inclusion of the two age variables, age and age squared, in the default model. Although neither Enterprise recommended specifically that these variables be eliminated from the model, neither included them in its list of recommended variables. Freddie Mac suggested that the age variables are likely substituting for other variables or capturing measurement problems and are unlikely to be related to the aging effects that they are intended to capture. Fannie Mae commented that the age variables increase default rates to an unexpected degree. As an example, Fannie Mae suggested that a 13 percentage point difference in ten-year default rates is too great between a cash 80 percent LTV, 1.25 DCR, 15-year, balloon loan that is newly originated and the same loan that is four years old.

OFHEO disagrees with the Enterprises' criticisms of the age variables and has retained them in the multifamily model because they are highly reliable predictors of default. Additionally, they reflect the pattern of actual defaults in Enterprise data (defaults increase at a decreasing rate with loan age). OFHEO recognizes that the significance of the age variables in the multifamily default model may be substituting for omitted or mismeasured variables. However, there also is evidence that the aging effect may be a credible discriminator of default risk in and of itself.[111] The lack of detailed and consistently measured operating statement and property condition data render further investigation of the underlying reasons for the significance of the age variables on multifamily default risk difficult.

(iv) Operating Expense Ratio

NPR2 calculated DCR with expenses as a fixed share (47.2 percent) of the gross potential rents. Fannie Mae commented that a fixed expense ratio increases the volatility of net operating income and recommended that OFHEO modify the constant expense factor to reflect the reality that the components of property level operating expenses are not all fixed shares of gross income. Fannie Mae suggested that OFHEO reflect this mixture either by reducing the change in net operating income in response to a change in vacancy rates or by utilizing actual net operating income values from the annual operating statements Fannie Mae receives on multifamily loans.

After consideration of these comments, OFHEO concluded, from both the literature and the limited availability of data, that neither of the Fannie Mae approaches should be accepted. OFHEO recognized that property level operating expenses and its components may not remain fixed shares of gross rents over time. However, OFHEO is unsatisfied with current approaches and data available for modeling the inflation in multifamily property expenses and its components. One study divided operating expenses into four fixed-share components—labor costs, utilities, insurance and taxes, and construction materials—and modeled growth in each with indexes that would reflect the inflation in each component.[112] Property-level variances around the mean were also measured, the author concluding that it would be surprising if operating expenses varied from one year to the next by amounts as large as those observed. Other approaches to modeling property level operating expenses or its components would have required the use of simplifying assumptions that cannot be tested regarding component shares of total operating expenses and related indexes approximating respective growth rates. OFHEO has found insufficient evidence that any of these methods provided improved estimates over the NPR2 approach.

OFHEO also considered Fannie Mae's suggestion to use actual observations of net operating income from the Enterprises, where available, to estimate the model. OFHEO found this suggestion unpersuasive because the percentage of loans with annual DCR in the estimation dataset was just 14 percent. In terms of observations for each year in the life of each loan, the percentage of records with annual DCR dropped to 9.7 percent, with very few of those having three or more consecutive annual DCR observations (3.7 percent of total loan-year records). Further complicating the estimation process was the fact that annual DCRs are not calculated by the Enterprises in the same way as are origination/acquisition DCRs. While the Enterprises typically calculate the latter using conservative assumptions of vacancy rates, rental and other income, expenses, replacement reserves and the like, the former represent actual data from operating statements, unadjusted for normal variations from year to year or deviations from market rates. In sum, the data were too sparse and dissimilar for use in constructing a reasonably robust model.

Accordingly, in estimating the multifamily default model for the final rule, OFHEO utilized the NPR2 expense constant for all loan observations and did not use Enterprise actual net operating income to update DCR for estimation purposes.

(v) Use of Two Default Models

Both Enterprises commented upon OFHEO's proposal to use two default models, one for negotiated transactions (NT) and one for cash purchases. Freddie Mac recommended that the distinction between the two categories of loans be dropped because it is too difficult to define, explaining that Freddie Mac was unable to replicate the classification of its own loans that OFHEO used in NPR2. Fannie Mae echoed these comments, targeting the NT equation, in particular, as poorly specified and not a useful guide to multifamily loan performance. No comments were received supporting the use of two default models. However, both Enterprises and several other commenters supported the general concept of distinguishing between multifamily programs or regimes in the stress test. All commenters on the subject concurred that the underwriting and servicing practices of the Enterprises underwent major and permanent changes beginning in 1988 (Fannie Mae) and in 1993 (Freddie Mac), which should be reflected in the stress test. Comments from seller/servicers of the Enterprises urged OFHEO to give credit for improvements in multifamily loan management in order to avoid imposing inappropriately large marginal capital costs on this portion of the Enterprises' business. In addition, seller/servicers in Fannie Mae's DUS program suggested that DUS loans get special treatment to reflect what they felt were more rigorous guidelines, loss-sharing provisions, and reserve and reporting requirements in that program.

In considering the need for two default models, OFHEO studied the changes in the Enterprises' multifamily businesses, analyzed the comments, and conducted additional modeling research with recently provided data that is far more complete than that previously provided.[113] OFHEO concluded that the distinction between NT and cash purchases was no longer sufficiently important to require two models. Accordingly, OFHEO has replaced the two-model approach with one multifamily default equation that distinguishes between the performance of loans with indicator variables that apply a multiplier to adjust the loans' relative default rates.

One of these indicator variables, the New Book Flag (and its product adjustment factors, the New ARM Flag and the New Balloon Flag), like the program restructuring variable in NPR2, distinguishes loans acquired in 1988 and after at Fannie Mae and in 1993 and after at Freddie Mac (New Book loans) from loans acquired earlier (Old Book loans). It reflects the fact that during 1988 and 1993, Fannie Mae and Freddie Mac, respectively, implemented significant permanent changes in their methods and standards for underwriting and servicing multifamily loans. Loans acquired after these dates that constitute defensive refinances of Old Book business remain classified as Old Book. The New Book Flag has a greater impact on default rates than the NPR2 program restructuring variable, due to use of additional data in estimating the model and the decision to eliminate the adjustments to Old Book loan LTVs and DCRs that are used in NPR2.[114]

In re-evaluating the performance of multifamily New Book versus Old Book loans, however, OFHEO discovered that the full effect of the New Book benefit applies only to fixed-rate fully amortizing loans. For ARMs, the reduction in New Book default risk is significantly less than for New Book loans in general. Likewise, but to a lesser extent, fixed-rate balloon loans do not exhibit the full effect of reduced New Book default risk. These effects are reflected in the multifamily default model.

The other program indicator variable, the Ratio Update Flag, is used to identify newly originated loans and seasoned acquisitions on which DCR and LTV have been updated using conservative measures such as market-rate minimum vacancy rates, minimum actual historical other income, forward-looking trended expenses, and minimum replacement reserves, management fees, and capitalization rates.[115] After re-calculation of DCR and LTV, the Enterprises screen these loans for minimum acceptable DCR and maximum acceptable LTV ratios for purchase or securitization. OFHEO found that New Book loans that were subjected to the aforementioned type of ratio update process performed better than those that were not. Loans with neither origination nor acquisition DCR are treated as not having undergone the ratio update process.

(vi) Tax Reform and the Depreciation Write-off Variable

No commenters objected directly to the Depreciation Write-off variable (DW) but, for a number of reasons, OFHEO found it inappropriate for the multifamily default model in the final rule. First, the capitalization rate model, which was criticized by commenters in conjunction with the Joint Probability of Negative Equity and Negative Cash Flow variable (JP), was also used to construct the return on equity portion of the weighted average debt and equity discount rate in the DW variable. Because OFHEO decided to drop the JP variable from the multifamily default model, largely because of concerns about the capitalization rate model, it would have been inappropriate to retain the DW variable. Second, the available data on value of depreciation write-offs suffered from the same lack of regional and sub-market variation criticized in the capitalization rate model.[116]

(vii) Use of External Benchmarks

Several commenters asked OFHEO to allow external benchmarks and industry standards to serve as tests of reasonableness for the multifamily model results until sufficient reliable data become available to build a more sensitive and detailed model. In most cases, OFHEO agrees with the commenters that external benchmarks and industry standards may be used for assessing the reasonableness of multifamily stress test default rates. For this reason, OFHEO has compared its simulated stress test results with those provided by the Enterprises in their comments and consulted rating agency and related analyses. However, there exist far fewer studies of the determinants of multifamily default than single family default. Still fewer studies analyze defaults under stressful economic conditions—and none examines multifamily defaults through a period of time as stressful as the stress test. Notwithstanding these limitations, OFHEO found that for fixed-rate loans both of these avenues provide confirmation that OFHEO's model results are reasonable.

For multifamily ARM default rates, however, there are no studies involving stressful economic environments that OFHEO found of adequate quality and authority to be useful for comparison. For these loans, OFHEO looked to whether the default rates on the loans appear reasonable, given their extreme sensitivity to interest rates and compared the model's results to the limited data that is available regarding multifamily ARM performance under economic stress. This analysis confirmed the reasonableness of the ARM model.

These tests of reasonableness employed by OFHEO are discussed below.

(a) Results Provided by the Enterprises

The Enterprises provided, in their comments, computations of cumulative multifamily default rates for two

[110] New Book and Old Book loans are discussed *infra*, 3.a.v., Use of Two Default Models.

[111] Edward I. Altman, "Zeta Analysis and Other Attempts to Classify and Predict Business Failures," *Corporate Financial Distress and Bankruptcy: A Complete Guide to Predicting and Avoiding Distress and Profiting from Bankruptcy* (1993).

[113] The Enterprises recently provided data on 40,247 loans. Those loans were combined with pre-1991 Fannie Mae data received in earlier submissions less loans with missing origination dates, leaving 42,334 loans that were used for analysis. Of the 42,334 loans, 58 percent (24,743 loans, primarily seasoned-at-acquisition ARMs) had neither origination nor acquisition DCR data. In NPR2, the missing values were populated by reverse-engineering DCR from the capitalization rate model and origination/acquisition LTV. In the final rule, the cap rate model is not used. Instead, five random samples of the loans with missing origination and acquisition DCR were taken. Each random sample was combined with the 42 percent of loans that were not missing origination/acquisition DCR. All samples produced similar model estimation results; however, the one with the best goodness of fit was selected as the analysis data set. As in NPR2, in creating loan-year records from loan-level data, records prior to the year of Enterprise acquisition were removed to avoid left-censoring bias. Also, prepayments were right-censored in the year of loan termination. *See* C.B. Begg and R. Gray, "Calculation of Polychotomous Logistic Regression Parameters Using Individualized Regressions," *Biometrica* (1984).

[114] The New Book flag is the reciprocal of the program restructuring variable in NPR2, but it has the same affect. The New Book Flag decreases the default rate on New Book loans, while the program restructuring variable increased the default rate on Old Book loans. The larger impact of the New Book Flag coefficient in the final rule reflects four additional years of loan performance that show lower default rates, all else being equal, for New Book loans in general than were indicated previously. Another reason for the larger absolute value of the coefficient on New Book loans is that adjustments to Old Book data were not made in the final rule. In NPR2, origination/acquisition DCR was adjusted downward and origination/acquisition LTV was adjusted upward for Old Book loans. Freddie Mac commented that it was not the case that every Old Book loan had an overstated DCR and an understated LTV. OFHEO concluded that the adjustment proposed in NPR2 was not appropriate for every Old Book loan and that it did not resolve Old Book data integrity issues. Therefore, the final rule does not use the NPR2 adjustments to the Old Book loans.

[115] The ratio update process may have been performed by the Enterprise itself or under delegated authority by a qualified seller/servicer either at loan origination or at Enterprise acquisition.

[116] *See* Table 34 of NPR2, 64 FR 18203, April 13, 1999 (National values for depreciation write-offs, 1983–1995).

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specific newly originated fixed-rate products—the 15-year fixed-rate balloon (Fannie Mae) and the ten-year fixed-rate balloon (Freddie Mac)—as examples of rates that they considered to be reasonable for managing multifamily risk. Both Enterprises used the NPR2 rent and vacancy scenario to produce the results and each stated that the default rates assumed zero prepayments and were for 30-year amortization loans with eight percent coupons. The respective default rate tables were divided into cohorts by current DCR immediately prior to the stress test and origination LTV. Fannie Mae's results were generated using the NPR2 cash default model. Freddie Mac's results were generated using a different model that was specified explicitly, including coefficients (some of which Freddie Mac estimated and others of which Freddie Mac assumed).[117]

OFHEO replicated the tables of default rates provided by Fannie Mae and Freddie Mac, using the multifamily default model in the final rule, along with the newly constructed rent and vacancy scenario. Under the same assumptions of zero prepayments, an 8 percent coupon, 30-year amortization, newly originated product immediately preceding the stress test, OFHEO obtained results similar to those provided by Fannie Mae for the 15-year balloon and to those provided by Freddie Mac for the 10-year balloon. For example, for a loan with a 1.20 DCR immediately prior to the stress test and an 80 percent origination LTV, Fannie Mae suggested an 18 percent cumulative conditional default rate for the 15-year balloon and Freddie Mac recommended a 21 percent cumulative default rate for the 10-year balloon. OFHEO's multifamily default model in the final rule produced cumulative conditional default rates for the 15-year balloon and for the 10-year balloon of 26 percent and 30 percent, respectively, for the non-ratio-updated products and of 15 and 18 percent, respectively, for those products that underwent the ratio-update process.

OFHEO believes that the consistency with which its model results tracked those provided by Fannie Mae and Freddie Mac for the products and DCR/LTV combinations they supplied helps confirm the reasonableness of OFHEO's model results. Fannie Mae suggested, however, that their tabular default rates (or ones like them) be used directly for all loans with a balloon year multiple of 3.0 at maturity for balloon loans and that various other indicators of default risk such as product-type, book of business, and loan age be ignored. OFHEO did not accept this suggestion, because evidence from various default studies as well as actual observed default rates of Fannie Mae's own portfolio of multifamily loans show that default rates do vary significantly by product type, age, and factors other than current DCR, origination LTV and balloon maturity risk. OFHEO has captured those other risk factors while ensuring the reasonableness of model results.

(b) Rating Agency and Related Analyses

Rather than targeting stressful economic conditions, most studies of the determinants of multifamily default have estimated models over whatever time period data are available, which may or may not contain a period of economic stress. As a result, OFHEO turned to the rating agencies for industry norms with regard to cumulative default rates of multifamily loans under stress. Each rating agency's methodology for assessing credit risk is similar to the others', although some focus on DCR as the primary determinant of default and others on both DCR and LTV. Though they share their methodologies in print and on the internet, the rating agencies often do not report subordination levels for large groups of loans outside of specific security transactions. Fitch is the exception.

Fitch IBCA studied 18,839 loans in 33 commercial transactions issued between 1991 and mid-1996.[118] The database was composed of two distinct subgroups, loans from Resolution Trust Corporation (RTC) transactions and conduit loans,[119] and a default was defined as a delinquency of 60 or more days on a mortgage payment or a delinquency of 90 or more days on a balloon payment. Without regard to CMBS property type,[120] Fitch found average annual default rates of 4.37 percent and 1.97 percent, respectively, for RTC and conduit loans. Fitch described the differential (36 percent versus 18 percent over ten years, assuming no prepayments) as possibly attributable to qualitative differences between the pools or the result of other factors such as seasoning (RTC loans are described as highly seasoned; conduit loans are described as typically newly-originated at the time of securitization). The average annual default rate on multifamily properties was 3.9 percent. This finding translates to a 32.8 percent cumulative default rate over 10 years, assuming no prepayments.

In another report, Fitch IBCA posts a table of single-A recession default probabilities by DCR category, adjusted to reflect stressful economic conditions, but not the mix of collateral and structural characteristics in the loans.[121] The default probabilities ranged from a low of 20 percent (>1.75 DCR) to a high of 80 percent (<0.49 DCR), with 40 percent representing the maximum cumulative default probability for positive (>1.00 DCR) cash flow loans.

A study of the commercial mortgage holdings of the life insurance industry finds that book value credit losses averaged 76 basis points per year over the 1972–1996 period, with an annualized volatility of ±31 basis points.[122] Using this study's assumed 30 percent loss severity rate, ten-year default rates are roughly equivalent to a maximum of 34 percent.

The studies cited above represent those that OFHEO believes best represent cumulative multifamily default rates under stressful economic conditions. Nevertheless, the studies are not entirely comparable to the stress test because they may not have analyzed loan performance over a period of time as stressful as the stress test. Additionally, they either did not address the type of multifamily product analyzed or stated specifically that only fixed-rate loans were included. Therefore, the range of cumulative default rates of 30–40 percent would not be applicable to multifamily ARMs. Further, the studies defined default more broadly than does the stress test. The stress test defines default as a foreclosure rather than a 60- or 90-day delinquency. This discrepancy means that, all else equal, the 30-40 percent default rate range found in the studies would be lower if OFHEO's narrower default definition were used. Because the rating agency and related studies, to varying degrees, include products of various levels of seasoning and quality, the range of results may be interpreted as a weighted average of default rates for a diversified portfolio of multifamily loans.

Taking the above factors into consideration, OFHEO found the rating agency findings are consistent with the results of OFHEO's multifamily default model in the final rule. Assuming zero prepayments, OFHEO finds a cumulative conditional default rate of 39 percent for a typical Enterprise fixed-rate loan.[123] Further, OFHEO finds that it is reasonable and appropriate to allow default rates in the stress test to vary with product type, product quality, and loan age. As a result, OFHEO has determined that the default rates derived directly from the application of the multifamily default model in the final rule to Enterprise fixed-rate loans will be used, without further adjustment or calibration.

(c) Multifamily ARM Analysis

The Enterprises did not provide default rates considered reasonable for managing multifamily ARM business, and OFHEO found no comparable rating agency or related analyses specifically addressing ARM default rates in stressful economic environments. However, OFHEO also did not model multifamily default rates separately for fixed-rate and ARM product in the final rule. The default models are identical. In their implementation, ARM loans default at higher rates than fixed-rate loans, all else equal, even if interest rates are held stable.[124] However, when interest rates ramp up (plummet) in the first year of the up-rate (down-rate) stress test, ARM loans experience payment shock (reductions), pushing current DCR lower (higher) at any level of NOI. In sharp contrast, fixed-rate loans, which by definition have constant payments, exhibit changes in current DCR that are driven only by changes in NOI. OFHEO finds that this is perfectly consistent with the stress test interest-rate environment mandated in the 1992 Act.

Assuming no prepayments, OFHEO finds a cumulative conditional default rate for a typical Enterprise ARM loan of 29 percent in the down-rate scenario and 97 percent in the up-rate scenario.[125] OFHEO found that ARM down-rate default rates are consistent with fixed-rate default rates, which are in turn consistent with data provided by the Enterprises and with rating agency analyses.

OFHEO also believes that the range of ARM up-rate default rates is not unreasonable given the experience of certain multifamily loans historically. OFHEO tested for the highest level of defaults observed for Federal Housing Administration (FHA) and Enterprise multifamily loans originated in 1979–1992 in contiguous states comprising five percent or more of the U.S. population for a period of two or more consecutive years. The worst weighted average default experience found in the FHA data was for 12 loans originated in 1987–88 in New England (CT, MA, ME, NH, RI, and VT) at 78 percent. The worst default experience for Enterprise multifamily loans—fixed-rate (289 state-year combinations), ARM (six state-year combinations) and combined (two state-year combinations)—was 100 percent. The third-highest level of Enterprise multifamily default experience was for six loans originated in 1979–80 (AR, CO, LA, MT, OK and WY) at 87 percent while the seventh-highest level of ARM default experience for the Enterprises was for six loans originated in 1984–86 (CT, MA, ME, NH, RI, VT) at 91 percent. OFHEO found these statistics useful in that they substantiate the fact that default rates of the magnitude found in the up-rate scenario for multifamily ARMs have indeed occurred and would be likely to recur in an economic environment such as the stress test. As a result, OFHEO has determined that the default rates derived directly from the application of the multifamily default model in the final rule to Enterprise ARM loans will be used, without further adjustment or calibration.

b. Multifamily Prepayment Model

The proposed rule used the following variables to determine prepayment rates for multifamily loans:

- Mortgage Age Variables—Used to capture change in the risk of prepayment as loans age.
- Relative Spread—Used to reflect the value to the borrower of the option to prepay and refinance.
- Current LTV—Used to capture the incentive for borrowers to refinance in order to withdraw equity from rental property.
- Probability of Qualifying for Refinance—Used to reflect the likelihood that a property financed by a balloon loan would qualify for a new loan, based on minimum requirements of 80 percent LTV or less and 1.20 DCR or more.
- Pre-balloon Refinance Incentive—Used to give extra weight to the relative spread in the two years prior to the balloon maturity to capture additional incentive to prepay balloon loans after the date the yield maintenance period ends, but before the balloon maturity date.
- Conventional Market Rate for Mortgages—Used to reflect the incentives for borrowers with ARMs to refinance into fixed-rate mortgages.
- Years-To-Go in the Yield-Maintenance Period—Used to capture the declining cost of yield maintenance to the borrower in the later years of the yield-maintenance period.

(i) Comments

Many comments addressed the proposed multifamily prepayment models. None were supportive of the proposed approach. Several of these comments suggested that the data are too limited to support the five separate models used in NPR2. The Enterprises and others expressed a view that the proposed rule incorporated incorrect assumptions about the cost to the borrower (and, therefore, about prepayment of loans) throughout the yield-maintenance or prepayment penalty period. Commenters also argued that the prepayment models were overly complex in the number of variables and the treatment of those variables. Most of these commenters contended that only a small percentage of loans prepay during the yield maintenance or prepayment penalty periods and, of those that do, virtually all are required to pay yield maintenance fees or prepayment penalties, which are designed to

[117] OFHEO tested Freddie Mac's model with the same Enterprise data used to estimate OFHEO's multifamily default model in the final rule. OFHEO found poorer overall goodness of fit results than those achieved with OFHEO's multifamily default model. OFHEO's multifamily default model in the final rule had a Hosmer-Lemeshow (HL) goodness of fit statistic of 32.192; (72.0 percent concordant, 24.2 percent discordant, 3.8 percent tied) compared with an HL statistic of 122.62; (63.3 percent concordant, 28.4 percent discordant, 8.3 percent tied) for Freddie Mac's model. Lower HL statistics indicate better goodness of fit. See David W. Hosmer, Jr. and Stanley Limeshon, *Applied Logistic Regression* (John Wiley & Sons 1990).

[118] "Trends in Commercial Mortgage Default Rates and Loss Severity—1997 Update," *Structured Finance* (July 20, 1998).

[119] The term "conduit loans" refers to loans, most of which are newly originated, that are securitized by mortgage conduits, which generally are brokers.

[120] The data included loans on commercial property other than multifamily projects, e.g., shopping centers or office buildings.

[121] "Performing Loan Securitization Update," *Structured Finance* (March 16, 2000).

[122] Michael Giliberto, "A Performance Benchmark for Commercial Mortgages," *Real Estate Finance* (Spring, 1997).

[123] Using Enterprise data, OFHEO defined the typical Enterprise multifamily loan as a ten-year fixed-rate balloon loan, with an origination LTV of 80 percent and a current DCR at the start of the stress test of 1.20. Roughly 86 percent of Enterprise fixed-rate loans are from the New Book and 65 percent of fixed-rate loans qualify for the Ratio Update Flag. The mean age of fixed-rate loans at the start of the stress test is 48 months. The current DCR and origination LTV ranges represent the highest frequency distribution category for Enterprise fixed-rate loans. OFHEO produced the default rates using those ranges along with the mean loan age and share of New Book and Ratio Update loans (in lieu of 1 and 0 for those flags). In practice, those flags would either be 1 or 0.

[124] The New ARM Flag retracts much of the reduction in default risk that the New Book Flag conveys.

[125] Using Enterprise data, OFHEO defined the typical Enterprise multifamily ARM loan as one indexed to the 11th District Cost of Funds, with periodic rate caps and floors of two percent, annual payment caps of 7 percent and a 1.25 negative amortization limit, an origination LTV of 80 percent and a current DCR at the start of the stress test of 1.20. Roughly 50 percent of Enterprise ARM loans are from the New Book and 3 percent of ARM loans qualify for the ratio update treatment. The mean age of ARM loans at the start of the stress test is 91 months. The current DCR and origination LTV ranges represent the highest frequency distribution category for Enterprise ARM loans. OFHEO produced the default rates using those ranges along with the mean loan age and share of New Book and Ratio Update loans (in lieu of 1 and 0 for those flags).

compensate an Enterprise for loss of interest income. These comments suggested that, by not taking prepayment provisions properly into account, the stress test overstated prepayments, particularly in the down-rate scenario. The Enterprises both recommended that the final rule eliminate much of the complexity of the proposal in favor of using fixed prepayment percentages per month. Freddie Mac recommended zero percent in the up-rate scenario and, in the down-rate scenario, zero percent within yield maintenance or other prepayment penalty periods and 25 percent per year outside such periods. Fannie Mae recommended a similar approach, suggesting prepayments in the up-rate scenario of 0.02 percent per month and, in the down-rate scenario, 0.2 percent per month within prepayment penalty periods and two percent per month outside those periods.

(ii) OFHEO Response

OFHEO has considered the comments, studied the operation of the yield maintenance provisions in Enterprise multifamily loans agreements and reviewed the literature regarding multifamily prepayments. Given the limitations of Enterprise data, OFHEO has concluded that a prepayment model would not provide greater precision or risk sensitivity than a fixed schedule of prepayments in the two interest rate scenarios. OFHEO has also determined that the yield maintenance and other prepayment penalty provisions in Enterprise multifamily loans are sufficient either to discourage prepayments during prepayment penalty or yield maintenance periods or to ensure that the Enterprises are entitled to the specified compensation. However, modeling these various prepayment provisions would add additional complexity to the model, which OFHEO finds unwarranted given the small number of times yield maintenance or prepayment penalties are required to be paid.

OFHEO agrees with Freddie Mac with regard to the lack of multifamily prepayments in the up-rate scenario. Fannie Mae suggested there should be only negligible prepayments (0.02 percent per month) in the up-rate scenario. OFHEO recognizes that it is not cost effective for multifamily borrowers to prepay their mortgages at positive spreads of the market interest rate from the note rate and, as a result, they are highly unlikely to do so, particularly when yield maintenance or other prepayment penalties are involved. As a result, OFHEO will use zero prepayments in the up-rate scenario for multifamily loans.

OFHEO disagrees with Freddie Mac's recommendation of zero prepayments in the down-rate scenario inside prepayment penalty periods. Freddie Mac's recommendation of zero prepayments in the up-rate scenario (both inside and outside prepayment penalty periods) and in the down-rate scenario inside prepayment penalty periods suggests that Freddie Mac believes that Enterprise loans never prepay within yield maintenance or prepayment penalty periods. OFHEO recognizes that yield maintenance and other types of prepayment penalty provisions are effective deterrents to multifamily prepayments, as they raise (sometimes significantly) transactions costs, thereby requiring a larger drop in interest rates, all else equal, to trigger a prepayment decision. However, one study contends that prepayments do occur during yield maintenance and other prepayment penalty periods and should be priced for.[126] This study examined five different types of prepayment penalty structures finding that yield maintenance is the most effective type of the prepayment penalty structures studied. Also, Enterprise data provided to OFHEO for analysis show that just over seven percent of loans that prepaid had prepaid within their prepayment penalty periods.[127] Since Enterprise data are not sufficiently detailed to delineate different prepayment structures at this time, it is likely that the observed prepayments may be more related to one type of structure than to another or to the length of time remaining before the expiration of the penalty altogether. OFHEO also would expect the number of prepayments to be larger regardless of the prepayment penalty structure if the loan interest rate, taking into account prepayment penalty fees, was strongly in the money, as it would be in the down-rate scenario. As a result, OFHEO has specified 2 percent per year prepayments inside yield maintenance and other prepayment penalty periods during the down-rate scenario. This percentage allows marginally fewer prepayments than recommended by Fannie Mae (0.2 percent per month or 2.37 percent per year) due to the fact that OFHEO is not modeling the fee income generated by the limited number of prepayments inside prepayment penalty periods in the down-rate scenario.

OFHEO generally agrees with Freddie Mac's and Fannie Mae's respective recommendations of 25 percent per year and 2 percent per month (21.5 percent per year) prepayments outside of yield maintenance and prepayment penalty periods in the down-rate scenario. One study found that the most important determinant of multifamily prepayment was the ratio of the mortgage note rate to the current market interest rate.[128] Using coefficients provided in the study and assuming a newly originated loan (because parameter estimates for the age function were not provided), OFHEO found a 29 percent per year prepayment rate for multifamily loans outside of yield maintenance and other prepayment penalty periods, confirming the reasonableness of Fannie Mae's and Freddie Mac's estimates. Additionally, in the Enterprise data, OFHEO found extreme differences in multifamily prepayments during and after prepayment penalty periods. This observation is supported by a study that finds that prepayments are typically close to zero within prepayment penalty periods, then spike up in a "hockey stick" fashion as soon as the prepayment penalty period expires.[129] Further, another study found that, in general, multifamily and other commercial borrowers are more "ruthless" or have greater interest rate sensitivity than, for example, single family borrowers, making them more likely to prepay at any given level of negative spread between market rates and note rates, particularly when transactions costs such as prepayment penalties are not at issue.[130] For these reasons, OFHEO has decided to specify 25 percent prepayments per year outside yield maintenance and other prepayment penalty periods in the down-rate scenario. This specification is consistent with the mid-point of the 21 percent to 29 percent range provided by

[126] Qiang Fu, Michael LaCour-Little and Kerry Vandell, "Multifamily Prepayment Behavior and Prepayment Penalty Structure" (Working Paper, December 21, 1999).

[127] According to Enterprise data through 1999 submitted to OFHEO for analysis, 15 percent of Enterprise multifamily loans have yield maintenance or other prepayment penalty provisions. Of those, 9 percent (660 loans) terminated in or before 1999—the last recorded year of data. Of those that terminated, 113 loans had prepaid through 1999. Of those, 8 loans (7.1 percent) prepaid within their prepayment penalty periods and 105 loans (93 percent) prepaid outside their prepayment penalty periods. The remaining 547 were loans that had not prepaid as of the end of 1999.

[128] Qiang Fu, et al., *supra* n. 126.

[129] Jesse M. Abraham and Scott Theobald, "A Simple Prepayment Model of Commercial Mortgages," *Journal of Housing Economics* (1995).

[130] James R. Follain, Jan Ondrich, and Gyan Sinha, "Ruthless Prepayment: Evidence from Multifamily Mortgages," 41 *Journal of Urban Economics* (1997).

Freddie Mac, Fannie Mae and in the literature.

c. Multifamily Loss Severity Calculation

To determine loss severity rates on all conventional multifamily loans, other than NT loans covered by repurchase agreements, NPR2 used the same cost and revenue elements and discounting procedures used for conventional single family loans, except that property values were not updated to determine the loss of loan principal balance. The cost and revenue components were averages from Freddie Mac real estate owned (REO) originated in the 1980s. Loss severity rates on NT loans subject to repurchase agreements were set at a fixed rate based upon Enterprise historical experience and seller/servicer claim rates for 90-day delinquent multifamily loans. For FHA loans, the severity rate was set at three percent of UPB to reflect the cost of assigning defaulted loans to the Department of Housing and Urban Development.

Several comments addressed the loss severity calculations proposed in NPR2.[131] In general, commenters did not object to the methodology employed by OFHEO. They did, however, suggest that the loss severity rates arrived at with this approach were higher than industry averages and recommended that OFHEO simply apply a uniform severity rate to all multifamily loans. At a minimum, commenters recommended that OFHEO assess loss severity rates against industry standards as guidelines for reasonableness, as they had similarly suggested for multifamily default rates. Specifically, Fannie Mae and Freddie Mac commented that the data available to OFHEO, primarily Freddie Mac Old Book loans, were an inappropriate sample to estimate multifamily loss severity. Because of changes in the Enterprises' current loan programs, they contended, the severity rates to be expected on newer loans would be significantly lower than reflected in the data.

OFHEO rejected the suggestion that a uniform severity rate be applied to each multifamily loan in each period of both the up- and down-rate scenarios. Throughout the stress test, rental vacancy rates increase to a peak of 17.5 percent and rent growth is negative for over twenty consecutive months. In an economic situation replicating the ALMO benchmark region and time period, the revenue and cost components of multifamily REO while in inventory, as well as recovery rates on REO sales, would not remain fixed. Studies have shown that multifamily property values fall significantly during regional economic recessions, leading to lower recovery rates on REO.[132] Likewise, rental income would decline as vacancy rates rise. Further, some costs incurred during the REO holding period, such as attorney's fees, would likely remain fixed while others, such as property operating expenses, may shrink as tenants vacate; they may also remain the same or increase as landlords attempt to attract new tenants to replace those that have vacated. OFHEO concluded that fixed loss severity rates for Enterprise multifamily REO would not reflect the requirement that severity rates in the stress test be reasonably related to the conditions of the benchmark loss experience.

OFHEO also concluded that updating the NPR2 methodology with additional data from the Enterprises would not be consistent with the 1992 Act. Given the requirements of the 1992 Act that the stress test must reflect a worst-case loss experience, single family loss severity rates are calculated using cost components, where available, for the ALMO benchmark loans. It would, therefore, be inappropriate to update the multifamily loss severity components simply because newer data from better economic scenarios reflect lower losses. In contrast, OFHEO found it appropriate to update the data used to estimate the multifamily default model, because the model imposes benchmark conditions through the use of ALMO benchmark rent growth and vacancy rates.

OFHEO has determined to use the revenue and cost components of multifamily loss severity as well as the REO recovery rates as published in NPR2, as they represent worst-case Enterprise losses.[133] A simple adding up of the costs components of those figures (without considering discounting, credit enhancements or passthrough interest on sold loans), yields a loss severity rate of 54 percent. OFHEO did, in fact, find higher loss severity rates. Fitch IBCA found loss severity rates ranging from 32 percent to 58 percent on bulk sales of RTC assets. Additionally, and in that same report, Fitch explains that Freddie Mac reports that, if a default occurs, on average 45 percent of the loan balance is lost. Actual Freddie Mac loss severities, however, ranged from 8 percent in the Northeast to 52 percent in Alaska. Finally, in describing Fannie Mae's 70–75 percent recovery rates on multifamily REO, Fitch concludes that their historical loss information did not include recoveries during adverse market conditions.[134]

OFHEO has simplified the loss severity calculation in the final rule. The six separate loss severity calculations proposed in NPR2 are replaced by one loss severity equation, which eliminates the redundancy in the first four equations. Those equations differed only in that one of them accounted for passthrough interest on sold loans and one did not. Similarly, one of them accounted for loss-sharing receipts on loans covered by loss-sharing agreements and one did not. Passthrough interest on sold loans and loss-sharing receipts remains part of the loss severity calculation. However, the final rule simply calculates four months of passthrough interest on sold, but not on retained loans, and loss-sharing receipts, if applicable, are included with other forms of credit enhancements.

In addition, the separate methodology used in NPR2 for arriving at loss severity for NT loans with repurchase agreements has been eliminated in the final rule. OFHEO determined that the NPR2 loss severity of 39 percent for these loans, arrived at by multiplying a 70 percent historical foreclosure rate by 56 percent (the share of Freddie Mac's 90-day delinquencies that end in foreclosure or other costly loan resolutions), is no longer applicable. OFHEO determined that the correct place to account for the potential cure rate of 90-day delinquent loans (as opposed to those that ultimately would end in foreclosure), is in the multifamily default model, rather than in the loss severity calculation. Appropriately, OFHEO included a correction there.[135]

[131] NPR2 actually proposed six severity treatments: (1) retained cash loans without recourse, (2) sold cash loans without recourse and NT loans without repurchase, (3) retained cash loans with recourse, (4) sold cash loans with recourse, (5) NT loans with repurchase, and (6) FHA loans. The NT distinction has been eliminated in the final rule, as discussed above at III.I.3.a.i., Negative Equity and Current LTV Variables and no comments were received about the three percent severity rate imposed upon FHA loans. For these reasons, references to the NPR2 approach are to the first four treatments, unless otherwise indicated.

[132] "Commercial Mortgage Stress Test Research," *Structured Finance* (October 23, 1998); "Trends in Commercial Mortgage Default Rates and Loss Severity—1997 Update," *Structured Finance* (July 20, 1998).

[133] For simplicity, foreclosure costs and operating losses are added together as net REO holdings costs.

[134] "Commercial Mortgage Stress Test Research," *supra*, note 132.

[135] In multifamily default modeling, the default event for NT loans repurchased by seller/servicers must be a 90-day delinquency, as OFHEO was not supplied with information regarding the final resolution of these loans. OFHEO adjusted for the broader definition of default for NT loans (90-day delinquency) relative to the one used for all other multifamily loans (foreclosure) by undersampling NT defaults for inclusion in the historical estimation data set prior to model estimation. A stratified random sample of loans missing both origination and acquisition DCR was taken for

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For FHA loans, the final rule retains the severity rate of three percent of UPB that was proposed in NPR2 to reflect the cost of assigning defaulted loans to the Department of Housing and Urban Development.

J. Other Credit Factors

To reflect counterparty or security defaults during the stress period, NPR2 proposed to reduce the payments from each counterparty or security to the Enterprises by an amount, or "haircut," determined by the public credit rating of the counterparty or security. These haircuts were phased in linearly over the 120-month stress period beginning in the first month. OFHEO received a considerable number of comments on the level, timing, and calculation of the haircuts, which are discussed below by topic.

1. Haircut Levels for NonDerivative Counterparties and Securities

For all securities and counterparties except derivative contract counterparties, NPR2 proposed ten-year cumulative haircuts of ten percent for counterparties and securities rated triple-A, 20 percent for double-A, 40 percent for single-A, and 80 percent for triple-B and below and for unrated counterparties or securities. These haircuts were based on a consideration of Moody's 1998 study of corporate bond defaults, Standard and Poor's (S&P) approach to rating structured mortgage securities, and Duff & Phelps' (D&P) approach to evaluating credit supports provided by mortgage insurance companies. [136]

a. Comments

A number of commenters, including the Enterprises and several Wall Street firms, disagreed with OFHEO's methodology, asserting that the resulting haircuts were too severe and not representative of historical experience. In particular, they suggested that OFHEO's proposed haircuts were greater than those that would be implied by the Great Depression, citing the 1958 study of corporate bonds by W. Braddock Hickman.[137] These commenters concluded that the default rates implied by OFHEO's haircuts were too high.

Freddie Mac questioned the appropriateness of basing stress test haircuts on S&P's approach, because S&P uses it to evaluate structured finance securities. Structured finance transactions, Freddie Mac asserted, require credit support levels to cover risks not faced by the Enterprises because in such transactions there is little ongoing risk management capability, no diversification across pools, and no ability to retain earnings. Instead, Freddie Mac recommended basing the haircuts on both default and recovery rates. It suggested developing default rates by 1) comparing mortgage default rates associated with the benchmark loss experience to average mortgage default rates, stating that the former are roughly three times higher than the latter, and 2) applying this multiple to Moody's average ten-year cumulative corporate bond default rates since 1970. Freddie Mac provided an analysis supporting cumulative haircuts of 1.2 percent for triple-A, 1.5 percent for double-A, 2.3 percent for single-A, and 6.6 percent for triple-B and below and unrated, and recommended that these haircuts be adjusted downward by at least 30 percent in the up-rate scenario, to reflect general price inflation. Freddie Mac suggested that OFHEO assume a 50 percent recovery rate for defaulting mortgage insurers, citing the liquidation of a mortgage insurance company in the 1980's, and a 50 percent liquidation value for defaulting securities, citing Hickman and Moody's. The Moody's study used defaulting bond prices as the basis for evaluating recoveries; the Hickman study evaluated actual recoveries for bond defaults resolved before 1944, and January 1, 1944, prices for bonds trading below their amortized book value at that time.

Fannie Mae objected to OFHEO's reliance on rating agency approaches because it believes they are inconsistent with the data in the post-1970 period and not reasonably related to the benchmark loss experience. Based on its own analysis, Fannie Mae recommended default-based haircuts of three percent for triple-A, four percent for double-A, eight percent for single-A, and twelve percent for triple-B and below and unrated, and suggested that first-year defaults should not exceed 0.50 percent for triple-A-rated and 1.0 percent for double-A and single-A rated credits. Citing Hickman and Moody's, Fannie Mae described its suggested default rates as "very conservative and substantially in excess of bond default performance over the benchmark time period" Fannie Mae further suggested that these haircuts be reduced by an assumed liquidation value of 50 percent for securities, to account for recoveries, and by insurance premiums and servicing fees, to offset losses on insurer and recourse counterparty defaults. Another commenter pointed out that servicing fees under Fannie Mae's multifamily DUS program include a substantial risk premium.

In general, GE Capital supported OFHEO's haircut proposal except for the treatment of interest rate and currency derivative contract counterparties, which is discussed below under III.J.2., Derivative Contract Counterparties. In its reply comments, GE Capital pointed out that OFHEO's haircuts are consistent with rating agency discounts of reinsurance benefits, but noted that by imposing them over time, OFHEO's haircuts are far less than those discounts. MICA also supported OFHEO's haircuts but argued that triple-A and double-A mortgage insurers should be treated more favorably than other counterparties, with no distinctions between triple-A and double-A rated mortgage insurers. (*See* section III.J.5., Mortgage Insurer Distinctions below.)

In their reply comments, GE Capital and MICA criticized the way the Enterprises used the Hickman and Moody's studies to suggest lower haircut levels. They noted that the Enterprises included data from the Hickman study on defaults only for large issues, which are generally substantially lower than for smaller issues of the same rating, and that the Enterprises had insufficient basis for their extrapolation of ten-year default rates from quadrennial data. They also questioned the Enterprises' exclusion of earlier corporate default experience in their reliance on Moody's average default rates since 1970. GE Capital pointed out that using an average observation plus three standard deviations would be a more statistically valid method of establishing stress test default rates than using a multiple of three, and would result in default levels significantly higher than those suggested by the Enterprises but lower than those reflected in the haircuts proposed by NPR2.

Neither GE Capital or MICA favored reflecting recoveries, primarily because they regard the Enterprises' assumptions as questionable and unsupported by authoritative data.[138] Both disagreed that defaulted bond prices serve as a proxy for recovery rates on mortgage credit enhancements and questioned whether mortgage insurance premiums (especially if paid up front) or servicing rights would offset losses on mortgage credit enhancements to any significant extent.

World Savings asserted that the haircut differentials between triple-A, double-A and single-A ratings in NPR2 were too great, citing Moody's and S&P's rating definitions. It proposed haircuts for these ratings of five percent, ten percent, and fifteen percent, respectively, with significantly larger haircuts applied to lower-rated institutions, particularly those with non-investment grade ratings.

b. OFHEO's Response

In NPR2, OFHEO pointed out certain conceptual similarities between its approach to discounting for counterparty risk and those of the rating agencies, but did not rely on rating agency methodologies for default levels. For example, OFHEO's use of haircuts to reflect losses due to counterparty failure is similar to the methodology of Moody's, S&P and D&P.[139] OFHEO's approach is also similar to that of S&P and D&P in that in the proposed stress test, failing counterparties meet some but not all of their obligations (i.e., over time, haircuts increase to a maximum level), rather than meeting all of their obligations until the counterparty fails (i.e., haircuts are constant over time). OFHEO also observed that Moody's 1998 bond study revealed that default rates roughly double for each drop in ratings and employed a similar relationship in defining haircuts for the various rating categories. OFHEO does not believe that consideration of these concepts is inappropriate for the purposes of the stress test, regardless of the purpose for which the rating agency methodologies were developed. With respect to default levels, OFHEO noted in NPR2 that the default levels reflected in maximum haircuts included in NPR2 are higher than recent experience and, according to Moody's 1998 study, six to ten times the average ten-year cumulative default levels from 1920 through 1997.

In the course of evaluating the recommendations for lower haircuts, OFHEO reviewed Moody's 2000 bond study,[140] as well as the Hickman study. According to Hickman, the worst four-year cumulative default rates for investment grade corporate securities were 6.2 percent (1932–35) and 7.0 percent (1912–15).[141] In order to compare these rates with the historical average, OFHEO extrapolated ten-year rates consistent with these four-year rates, which were 21.0 and 23.7 percent, respectively.[142] These rates are 4.3 and 4.9 times greater than the historical average ten-year rate for the period from 1920–1999 of 4.85 percent from the Moody's study. As shown in Table 5 below, the default levels the Enterprises proposed as a basis for stress test haircuts (which they recommended be reduced by 50% to account for recoveries) reflect significantly lower multiples of Moody's average historical 10-year cumulative default rates than the extrapolated ten-year default rates that occurred during the most stressful periods identified by Hickman. Based on this analysis, OFHEO concluded that while the default rates reflected in the haircuts included in NPR2 were high, the default rates proposed by the Enterprises are too low.

TABLE 5.—COMPARISON OF HISTORICAL 10-YEAR CUMULATIVE DEFAULT RATES WITH THOSE RECOMMENDED BY THE ENTERPRISES AS A BASIS FOR STRESS TEST HAIRCUTS

Rating	(A) Moody's Average Rates 1920–1999 [1]	(B) Freddie Mac's Recommended Haircuts	(B)/(A)	(C) Fannie Mae's Recommended Haircuts	(C)/(A)
AAA	1.09%	2.3%	2.1×	3.0%	2.8×
AA	3.10%	2.9%	1.1×	4.0%	1.3×
A	3.61%	4.7%	1.3×	8.0%	2.2×
BBB	7.92%	13.2%	1.7×	12.0%	1.5×

[1] "Historical Default Rates of Corporate Bond Issuers, 1920–1999," Moody's Investors Service, January 2000, at 27.

With respect to the relationships among cumulative default rates for credits in different rating categories, the Moody's data for 1920–1999, as reflected in the table, show cumulative defaults roughly tripling between the triple-A and double-A categories, increasing by 15% from double-A to single-A, and then doubling from single-A to triple-B, rather than doubling in every case.

Haircuts included in the final rule reflect consideration of the relationship between cumulative default rates in normal and stressful times, the ameliorating effect of phasing in haircuts over time, mixed commenter opinion with respect to recoveries, the potential for insurance premiums or servicing fees to partially offset losses on mortgage credit enhancements, as well as the relationships among cumulative default rates for credits in different rating categories. OFHEO

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inclusion in the estimation data set. Those loans sampled were overwhelmingly NT (68 percent), seasoned-at-acquisition (64 percent), and ARMs (63 percent). By contrast, loans with either origination or acquisition DCR were overwhelmingly non-NT (90 percent), newly-originated at Enterprise acquisition (80 percent), and fixed-rate mortgages (95 percent). A 10 percent stratified random sample of loans missing both origination/acquisition DCR yielded 2,498 loans (157 defaults and 2,303 non-defaults). The default sample wsa reduced to 126 loans based upon an estimated cure rate of 30 percent for the portion of the loans missing both origination and acquisition DCR that were NT.

[136] "Historical Default Rates of Corporate Bond Issuers, 1920–1997," Moody's Investors Service, February 1998; S&P's Structured Finance Criteria," Standard & Poor's Corporation, 1988; and "Evaluation of Mortgage Insurance Companies," Duff & Phelps, November, 1994. The Moody's study, which showed cumulative default rates over various time horizons for each rating category, suggests that the ten-year cumulative default rate roughly doubles for each one-level drop in rating category. In rating structured mortgage securities, S&P discounts the claims-paying ability of mortgage insurers in a double-A stress environment by 20 percent for double-A-minus-rated mortgage insurers, and 60 percent for single-A-rated insurers. In rating mortgage insurers in a triple-A stress environment, D&P discounts double-A rated reinsurers by 35 percent, single-A-rated reinsurers by 70 percent, and triple-B-rated reinsurers by 100 percent.

[137] W. Braddock Hickman, *Corporate Bond Quality and Investor Experience*, National Bureau of Economic Research (1958).

[138] However, MICA supported lower haircuts for triple-A- and double-A-rated mortgage insurance companies relative to any other counterparties, regardless of rating, as discussed below under "Rating Categories."

[139] On June 1, 2000, D&P merged with Fitch ICBA. The merged company is called "Fitch."

[140] "Historical Default Rates of Corporate Bond Issuers, 1920–1999," Moody's Investors Service, January 2000.

[141] Hickman, at 189.

[142] These rates were extrapolated by multiplying Hickman's 4-year cumulative default rates from 1932–1935 and 1912–1915 by the ratio of Moody's historical average 10-year rate from 1920–1999 of 4.85 percent to Moody's historical average 4-year rate of 1.43 percent. (Moody's, at 27.)

determined that the haircuts proposed in NPR2 should be reduced and phased in more quickly. In the final rule, maximum haircuts for securities and counterparties other than derivative contract counterparties are lowered from 10 to 5 percent for those rated triple-A, from 20 to 15% for double-A, from 40 to 20 percent for single-A, and from 80 to 40 percent for triple-B. They are phased in linearly over the first five years of the stress period and remain constant thereafter.

2. Derivative Contract Counterparties

In recognition of the routine use of collateral pledge agreements with interest rate and foreign-currency derivative contracts, NPR2 proposed haircuts for derivative contract counterparties[143] that are lower than haircuts for other counterparties. Collateral posted under these agreements is continuously re-evaluated, which limits an Enterprise's risk exposure. For counterparties to interest rate contracts and foreign currency derivative contracts that fully hedge their corresponding exchange rate exposure, NPR2 proposed ten-year cumulative haircuts of two percent for triple-A-rated counterparties, four percent for double-A-rated counterparties, eight percent for single-A-rated counterparties, and 16 percent for counterparties rated triple-B and below and unrated counterparties. In the case of derivative contracts that fully hedge the foreign exchange risk of foreign-currency-denominated debt, NPR2 proposed that the stress test increase the amount in dollars owed by an Enterprise by the derivative haircut percentage. (*See* section III.J.4., Foreign Exchange Risk) below for a discussion of the treatment of any unhedged foreign exchange risk.)

a. Comments

Freddie Mac and Morgan Stanley suggested eliminating the haircuts for derivative contracts entirely, stating that counterparty risk for derivative contracts would more properly be characterized as management and operations risk, and should therefore be subsumed in the 30 percent management and operations risk add-on. Fannie Mae and Freddie Mac proposed, alternatively, that OFHEO apply minimum capital treatment to derivative contract exposure rather than attempting to model cash flows. On the other hand, a number of commenters supported applying the proposed haircuts for mortgage credit enhancement counterparties to interest rate and foreign currency derivative contract counterparties. GE Capital was among these commenters, but favored applying NPR2's haircut for triple-A derivative contract counterparties to contracts collateralized by cash or Treasury securities as of the start of the stress test, to the extent of such collateral coverage.

b. OFHEO's Response

OFHEO rejects the idea that derivative contract counterparty exposure constitutes a management or operations risk, since the magnitude of these exposures, even as mitigated by collateral pledge agreements, is driven by interest rate, credit, and foreign currency risk factors. OFHEO disagrees that minimum capital treatment is appropriate for derivative contract counterparty exposure for two reasons. First, for interest rate derivative contracts, exposure and related collateral requirements likely will vary dramatically between the up- and down-rate scenarios. A simple leverage ratio would not capture such fluctuations. Second, the amount of collateral pledged at the start of the stress test, an important determinant of the minimum capital requirement, will have little relationship to future exposures or the related collateral requirements of derivatives contracts throughout the stress test. For this second reason, OFHEO also disagrees with GE Capital's suggestion that the stress test apply lower haircuts to collateralized exposure on interest rate derivative contracts as of the start of the stress test.

The final rule retains the haircuts for derivative contract counterparties proposed in NPR2 for securities rated triple-A, double-A, single-A and triple-B. Like other haircuts, they are phased in linearly in the first five years of the stress period. Haircuts for derivative contract counterparties are now higher relative to the haircuts applied to other counterparties as a result of the reduction in haircuts for those other counterparties in the final rule, but they remain substantially less than haircuts for nonderivative counterparties.

For certain derivative contract counterparties, the practical difficulties of modeling the instruments according to their terms require the use of simplifying assumptions. (*See*, e.g. discussion under section III.J.4., Foreign Exchange Risk.) For these few instruments, no haircut is applied. When the simplifying assumptions are no longer needed, these counterparties will be subject to haircuts comparable to those for other derivative counterparties.

3. Rating Categories

NPR2 proposed applying haircuts based on public ratings and treating unrated counterparties and investments as if they were rated triple-B and below, the lowest haircut category. In the case of different ratings from different rating agencies, the lowest rating would be used.

a. Comments

Most commenters who addressed the issue supported the use of public ratings, but there was disagreement about OFHEO's treatment of below-investment-grade and unrated counterparties and securities. Some commenters suggested that no credit should be given in the stress test for enhancements provided by unrated or below-investment-grade counterparties. Although the Enterprises supported the rating categories OFHEO proposed, Fannie Mae, along with other commenters, asserted that the assignment of unrated seller/servicers to the triple-B category overstated counterparty risk, especially with respect to Delegated Underwriting and Servicing (DUS) lenders, whose agreements are typically supported by other credit enhancements, such as letters of credit. For these lenders, Fannie Mae suggested reliance on an Enterprise's internal rating classifications. Fannie Mae also suggested reliance on internal ratings when fewer than two ratings are available, or when additional contractual agreements supporting the counterparty obligation exist. In addition, Fannie Mae suggested that relationships with corporate parents might justify an assignment of a parent company's rating to its unrated seller/servicer subsidiaries (rather than the triple-B rating proposed for unrated seller/servicers) for purposes of the stress test. Both Fannie Mae and Freddie Mac recommended that, in the case of split ratings, the stress test apply the median.

b. OFHEO's Response

The final rule makes no change to the proposed treatment of split ratings because OFHEO believes that a conservative evaluation of risk is appropriate for regulatory purposes. Consistent with that belief, and in response to comments, the final rule introduces a new haircut category for nonderivative securities and counterparties (except seller/servicers and GSEs) that are rated below investment grade or unrated. The new haircut category recognizes the significant distinctions between the default experience of triple-B- and double-B-rated corporate bond issuers, as reflected in the Moody's data, and the fact that the lack of a public rating often reflects the speculative nature of the credit. The new haircut category is assigned a haircut of 100 percent and is applied in the first month of the stress period. The effect of applying a 100 percent haircut in the first month of the stress period is to write off as a loss below-investment-grade or unrated securities (except securities issued by GSEs), and to give no credit for credit enhancements or derivatives provided by below-investment-grade or unrated counterparties (except seller/servicers). However, to provide for investments that are unrated for reasons other than an inability to obtain a public rating, OFHEO reserves the right to make a different determination on an unrated counterparty or security that would otherwise be subject to the 100 percent haircut, on a case-by-case basis, if an Enterprise presents information about the investment that persuades OFHEO that a different rating is warranted.

The Enterprises do not currently contract with mortgage insurers or derivative contract counterparties that are below investment grade or unrated, and OFHEO has issued policy guidance[144] to the Enterprises emphasizing the importance of high-quality investments for their liquidity portfolios. OFHEO would view the practice of investing in below-investment-grade securities or contracting with below-investment-grade counterparties unfavorably. The introduction of the new haircut category should have little impact on the Enterprises' capital requirements as they currently conduct their businesses, but it will make the risk-based capital regulation consistent with OFHEO's regulatory policy on below-investment-grade investments.

Under the final rule, unrated seller/servicers continue to be treated as if they were rated triple-B, in recognition of the ongoing nature of the Enterprises' relationship with seller/servicers and the contractual leverage available to the Enterprises to manage their exposure to counterparty risk, as well as the credit protection afforded by servicing income and mortgage insurance premiums.

OFHEO rejected the recommendation to use internal Enterprise ratings for unrated seller/servicers, for reasons articulated in NPR2.[145] Neither the Enterprises' internal ratings methodologies nor the ratings themselves are publicly available, and they may not be consistent with each other. OFHEO also declines to assign the rating of a parent company to its unrated seller/servicers subsidiary, just as the NRSROs will not impute a corporate parent's rating to a derivative dealer or credit enhancement counterparty in the context of rating a securities transaction. To do so would require OFHEO itself to "rate" the entity, considering the nature and extent of a parent's liability for an entity's obligations.

OFHEO recognizes the desirability of making finer risk distinctions between unrated seller/servicers in a risk-based capital regulation. Therefore, following adoption of this regulation OFHEO will evaluate alternative approaches for assessing the risk of unrated seller/servicers, including establishing criteria under which Enterprise internal ratings could be used, and encouraging the attainment of a NRSRO rating by seller/servicers.

In response to comments that NPR2 did not reflect adequately the risk-mitigating requirements of the DUS program, OFHEO notes the following. DUS lenders, like all seller/servicers, benefit from this favored treatment in addition to the general reduction in haircut levels. Further, the letters of credit that DUS lenders typically post to back up their loss sharing agreements will be modeled, providing a significant offset to the haircut. In addition, DUS lenders are among those who benefit from the inclusion of two variables in the multifamily default model, the New Book indicator and the Ratio Update Flag. The New Book indicator captures the lower default probability for loans acquired under the Enterprises' current multifamily lending programs compared to loans acquired under early loan programs. The Ratio Update Flag reflects the lower default probability for loans on which the underwriting ratios have been reviewed and adjusted at acquisition to Enterprise standards. The effect of these various elements of the stress test is to create substantially lower losses on loans from the DUS or similar programs than on loans that share none of the risk mitigating factors of DUS loans.

An exception to the new haircut category is also made for unrated securities issued by other GSEs. NPR2 stated that the stress test reflects no credit losses on securities issued by Ginnie Mae or the Enterprises,[146] but did not address whether a haircut should be applied to payment due to an Enterprise from securities issued by another GSE. The final rule clarifies that this statement was not intended to apply to securities issued by another GSE held by an Enterprise as an investment (including a Fannie Mae security held by Freddie Mac or a Freddie Mac security held by Fannie Mae). Such unrated securities are treated as AAA-rated securities and haircut accordingly.

To summarize, the haircuts used in the final regulation to discount for all counterparty risk are set forth by rating category and counterparty type in Table 6.

TABLE 6.—HAIRCUTS BY RATING CATEGORY IN FINAL RULE

Ratings Classification	Derivatives	Non-derivatives
AAA	2%	5%
AA	4%	15%
A	8%	20%
BBB	16%	40%
Below BBB & Unrated[1]	100%	100%

[1] Unrated, unsubordinated obligations issued by other GSEs are treated as AAA. Unrated seller/servicers are treated as BBB. Other unrated counterparties and securities are subject to a 100% haircut applied in the first month of the stress test, unless OFHEO specifies another treatment, on a showing by an Enterprise that a different treatment is warranted.

4. Foreign Exchange Risk

In NPR2, OFHEO proposed to model foreign currency derivative contracts that fully hedge the foreign exchange risk of liabilities issued in foreign currencies as synthetic dollar-denominated liabilities. Under the proposal, appropriate haircuts would be determined by increasing amounts of principal and interest due on the synthetic liabilities by the amount of the derivative contract haircut appropriate to the counterparty.[147] (Applying the same approach to contracts hedging

[143] For the purposes of the risk-based capital regulation, the term "derivative contract" refers only to interest rate, foreign currency, and similar derivative contracts for which values are easily determined; i.e., which can easily be marked to market. It does not include derivative securities or credit derivative contracts, for which markets are not sufficiently developed to facilitate accurate market valuations. (*See* III.K., Mortgage Credit Enhancements, for a fuller discussion of credit derivatives.)

[144] OFHEO Director's Advisory, *Non-mortgage Liquidity Investments*, PG–00–002 (Dec. 19, 2000).

[145] 64 FR 18155, April 13, 1999.

[146] *See id.*

[147] Theoretically, the haircut should be applied based on the amount of foreign currency to be paid to the Enterprise in the transaction. However, these amounts cannot be calculated, because foreign currency values are not projected in the stress test. Therefore, for purposes of computing a capital number for a currency swap, using the dollar side of the transaction is used as the basis to determine total cash flow haircuts.

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foreign-currency-denominated assets, amounts received from a synthetic asset would be reduced by the same percentage.) To the extent foreign exchange risk exposure is not fully hedged, NPR2 proposed to assume an adverse percentage change in the value of the foreign currency versus the United States dollar equal to the amount of the percentage change in the ten-year CMT, which resulted in a significantly larger haircut.[148] OFHEO did not propose to apply netting provisions to foreign currency derivatives, because netting of all of a counterparty's derivative contracts would require the modeling of all of their cash flows. Accordingly, instead of modeling all cash flows for foreign-currency-denominated contracts, NPR2 simply adjusted the debt payment amounts.

a. Comments

Fannie Mae supported the modeling of foreign-currency-denominated debt and associated foreign currency swaps as synthetic dollar-denominated instruments, but commented that the resulting haircuts were excessive. It pointed to the lack of netting of payments within an individual swap and among payments across all swaps with a single counterparty, and the fact that the haircuts would be consistently applied, whether a derivative was "in the money" or out "of the money."[149] The Enterprise suggested that for foreign exchange contracts, the minimum capital standard, which "provides for generally higher capital charges for foreign exchange contracts than other types of derivative contracts," should apply. Fannie Mae also commented that OFHEO should delete from the final regulation the NPR2 treatment for unhedged foreign currency transactions, because none currently exist in Fannie Mae's book of business. Finally, Fannie Mae objected to a footnote in the preamble to NPR2 that indicated that the same type of treatment used for foreign currency derivatives would be applied to any instrument that was denominated in or linked to units or values that are not included in the stress test.[150] Fannie Mae stated that this footnote would create a bad precedent and that any such instrument should be dealt with on a case-by-case basis.

b. OFHEO's Response

The final rule does not adopt Fannie Mae's recommendation to employ netting within a swap or among all swap payments with a single foreign currency swap counterparty. The synthetic debt approach is inconsistent with netting because it effectively models only the dollar-denominated pay side of a swap, not the foreign-currency-denominated receive side. Without modeling both sides of a swap, netting of the payments associated with such derivatives is not feasible. OFHEO takes an appropriately conservative approach by treating foreign currency derivatives as always being "in the money" because, without explicitly modeling foreign currencies, there is no basis for determining whether a contract is "in" or "out of the money." OFHEO also rejects the application of minimum capital treatment for derivatives for reasons discussed above at section III.J.2.b., OFHEO's Response. However, because foreign currency values are not projected in the stress test, OFHEO has decided not to apply haircuts to foreign currency swap counterparties by adding the haircut percentage to the pay side of the swap. As a simplifying assumption, no haircut is applied in the final rule. However, OFHEO continues to believe that some haircut is appropriate and will continue to explore whether some other methodology is more appropriate.

Notwithstanding Fannie Mae's comment that it currently has no unhedged foreign currency exposure, it is conceivable that unhedged positions could arise, because the Enterprises issue securities denominated in foreign currencies and use foreign currency derivatives to hedge the exchange risks associated with these securities. For this reason, the final rule retains a treatment for them. If the Enterprises follow their current policies and continue to use swaps to fully hedge all foreign currency risk, the treatment of unhedged positions in the regulation will be a moot issue. If these policies change, or through error or inadvertence are adhered to imperfectly, the regulation includes an appropriately conservative treatment to deal with any instruments that are left unhedged.

In regard to the footnote related to instruments that are denominated in, or linked to, units or values that are not included in the stress test, OFHEO will consider such instruments, including unhedged derivatives (other than standard interest rate or foreign currency derivatives) or other unusual instruments that appear at the Enterprises, on a case-by-case basis. Where the stress test includes a specific treatment or the capability to model the instrument according to its terms, OFHEO will do so. Other instruments may be accorded alternative modeling treatments in accordance with section 3.9, Alternative Modeling Treatments, of the Regulation Appendix. The footnote was intended to indicate that a treatment similar to that for unhedged foreign currency exposures would likely be appropriate for such instruments. If the instruments involve a new activity for an Enterprise, it should notify OFHEO as soon as possible of the existence of the transaction and request an estimated treatment in the stress test in accordance with section 3.11, Treatment of New Enterprise Activities, of the Regulation Appendix.

5. Mortgage Insurer Distinctions

NPR2 proposed haircuts that double for every decrease in rating category for all securities and counterparties, other than unhedged foreign currency derivative contract counterparties, without distinguishing between types of counterparties.

a. Comments

MICA and Triad GIC argued for preferred treatment for mortgage insurers rated triple-A and double-A over securities and other types of counterparties, and, along with Neighborhood Housing, opposed differentiating between mortgage insurers rated triple-A and double-A. MICA emphasized that mortgage insurance companies' ratings are based solely on their ability to manage and absorb mortgage credit risk losses in a stress scenario and cited the effectiveness of state insurance regulation. Several other commenters, including another mortgage insurer, urged OFHEO to maintain the distinction.

b. OFHEO's Response

OFHEO believes that NRSROs take into account all of the relevant risk characteristics when assigning ratings, including those cited by the commenters, and seek to maintain comparability of the ratings as risk indicators across industries. Therefore, in the absence of quantitative data demonstrating a better credit performance of mortgage insurance companies versus similarly rated entities and securities, OFHEO has not given preferential treatment to mortgage insurers in the final rule. The final rule also maintains the distinction between triple-A- and double-A-rated counterparties and securities because performance differences between the two are reflected in the data irrespective of the level of stress.

6. Rating Agencies

In NPR2 OFHEO proposed to use rating information from four NRSROs, S&P, Moody's, D&P, and Fitch ICBA, for all counterparties and securities other than seller/servicers. For seller/servicers, NPR2 proposed to use only rating information from S&P and Moody's for seller/servicers providing mortgage credit enhancements. Freddie Mac and Fitch ICBA recommended that the rule use credit ratings by all NRSROs for all counterparties, and OFHEO has adopted this approach in the final rule.

7. Collateralized Securities

Both Fannie Mae and Freddie Mac commented that the stress test should not haircut investments if (1) they are backed by collateral representing obligations of the U.S. Government (e.g., Ginnie Mae securities or FHA-insured loans) or of GSEs; and (2) the collateral is held by a trustee. Fannie Mae also suggested that haircuts for mortgage revenue bonds based on security ratings would be excessive, due to double counting the risk of any collateral guaranteed by the Enterprise.

The final rule continues to treat these investments consistently with other investments because OFHEO believes that NRSROs strive to achieve consistency in the risk assessments represented by their ratings. A rating reflects the rater's overall assessment of the likelihood an investor will receive all contractually required principal and interest. A rating of less than triple-A reflects the rater's perception of an element of risk in some aspect of a security or its structure, such as the legal structure or the role of a third party in the transaction, even when some or all of the collateral represents obligations of the Federal Government or a Government-sponsored Enterprise. Further, OFHEO does not believe the haircutting of MRBs results in material double counting of the credit risk of any Enterprise collateral. Rating agencies treat such collateral as triple-A, so the risk associated with any lower rating on the collateralized security reflects risk factors not related to the collateral.

8. Private Label Security Haircut

NPR2 proposed to apply haircuts to payments due to an Enterprise from private label securities (municipal, corporate and mortgage- or asset-backed) based on the security's credit rating, consistent with the treatment of all securities and counterparties other than interest rate and foreign currency derivative contract counterparties. Thus, the proposal would have subjected unrated securities to a haircut appropriate to a rating of double-B or below. In the final rule, private label securities, like all other securities, will be assigned a 100 percent haircut if they are rated double-B or lower or are unrated.

OFHEO did not adopt Freddie Mac's suggestion that unrated securities should receive haircuts based on the rating of the issuer, because there are circumstances in which the credit rating for an issuer might not be appropriate for an unrated security. For example, for many securities there is no contractual requirement for an issuer to provide credit support. Furthermore, evaluating contractual obligations of individual issuers for specific securities would add complexity to the stress test that would impede its operational workability and would not be justified by any marginal benefit derived.

K. Mortgage Credit Enhancements

NPR2 proposed to offset stress test losses with the credit enhancements used by the Enterprises.[151] NPR2 generally distinguished between "percent denominated" enhancements (e.g., primary mortgage insurance), where the coverage is based on a percentage of the loss incurred, and "dollar denominated" enhancements (e.g., pool insurance) where the coverage available is expressed as a specified dollar amount, which is applied to offset credit losses on a pool of loans until the coverage is exhausted.[152] For all credit enhancements, the available coverage was reduced by a "haircut" based on the counterparty's public rating.[153] (See III.J., Other Credit Factors.)

NPR2 proposed to apply credit enhancements at the loan group level.[154] Because pools of loans covered by a particular credit enhancement contract could be distributed among more than one loan group, NPR2 proposed simplifications in the treatment of such contracts. Specifically, for dollar-denominated credit enhancements, NPR2 proposed allocating amounts available under the contract to each affected loan group based on the ratio of the aggregate balance of loans in the loan group covered by the enhancement, to the aggregate balance of all loans covered under the contract. As proposed in NPR2, for each loan group, the proposed stress test aggregated funds available under all dollar-denominated credit enhancements subject to the same credit rating, applied the amounts available to loan group losses each month of the stress period, and tracked the balances of the funds allocated to each loan group throughout the stress period.

When loans are covered by more than one type of credit enhancement, the stress test proposed in NPR2 would apply percent-denominated credit enhancements first and then apply dollar-denominated enhancements to cover any remaining losses. In such cases, to determine "haircuts" for counterparty credit risk, the proposed stress test assigned the credit rating associated with the first level of credit enhancement for a given loan (usually primary mortgage insurance) to all secondary credit enhancements,[155]

[148] NRP2 provided that in the event OFHEO finds that the foreign currency risk on any liability or derivative instrument has not been transferred fully to a third party, the stress test would model the instrument by creating significant losses in both the up-rate and down-rate scenarios. In the up-rate scenario, the stress test would apply an exchange rate that increases the value of the foreign currency against the dollar by the same percentage that interest rates increase. In the down-rate scenario, the stress test would decrease the exchange rate of the dollar proportionately with the decline in the 10-year CMT, creating a decrease in the value of the dollar similar to that in the up-rate scenario.

[149] A foreign currency swap is "in the money" when net funds are due to the Enterprise under the contract and "out of the money" when the Enterprise owes net funds under the contract.

[150] 64 FR 18158 n. 168, April 13, 2000.

[151] The Charter Acts prohibit the purchase of conventional single family mortgages with LTV ratios in excess of 80 percent unless: (1) The seller retains a participation interest of 10 percent or more; (2) the seller agrees to repurchase or replace the mortgage upon default; or (3) the amount of the mortgage in excess of 80 percent is insured or guaranteed. For reasons stated in NPR2, the proposed stress test did not, and the final stress test will not, recognize any credit enhancements on any such mortgages that do not meet one of these three conditions. When this statutory requirement is applicable and is met, the stress test will recognize all credit enhancements related to the loan. See 64 FR 18156, April 13, 1999.

[152] Percent-denominated credit enhancements included mortgage insurance and unlimited recourse and unlimited indemnification. Mortgage insurance coverage is a percentage of the gross claim amount and unlimited recourse and unlimited indemnification cover 100 percent of the net loss amount. All other types of credit enhancements currently used by the Enterprises were considered dollar-denominated. The final rule distinguishes between loan limit credit enhancements and aggregate limit credit enhancements, which correspond to the NPR2 designations of percent- and dollar-limit credit enhancements, respectively, except that in the final rule, for computational convenience, unlimited recourse and unlimited indemnification are treated as aggregate limit credit enhancements (limited to the aggregate original UPB of the covered loans).

[153] A "haircut" is a reduction in the credit enhancement coverage available that is based on the public rating of the provider to reflect the risk that the stress of the stress period will cause the provider to default on some of its obligations. See section III.J., Other Credit Factors for a discussion of haircuts.

[154] Loan groups are created by grouping loans of the same type, origination year, original LTV, original coupon, Census Division, and remittance cycle. (See section 3.1, Data, of the Regulation Appendix.)

[155] For example, if 50 percent of a loan group carried primary mortgage insurance with an AAA-rated carrier, haircuts associated with an AAA

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which might differ from the haircut appropriate for the contract credit enhancement counterparty.

OFHEO believed this approach to modeling mortgage credit enhancements struck a balance between precision and practical implementation. OFHEO recognized that the approach could understate the benefits of some and overstate those of other credit enhancement contracts, but believed that the overall impact on stress test results would likely be minimal.

A common theme of the comments on the treatment of mortgage credit enhancements proposed by NPR2 was that mortgage credit enhancements should be modeled at a greater level of detail. Commenters expressed concerns about the impact of modeling simplifications, the failure to model revenue inflows into spread accounts, and the modeling of termination of credit enhancement coverage. In addition, several commenters made suggestions about how OFHEO should treat credit derivatives, including the Mortgage Default Recourse Note (MODERN) transaction that was introduced recently by Freddie Mac. NPR2 did not specify a treatment for credit derivatives, because, with the exception of the MODERN transaction, the Enterprises had not been using them. The cash flows from the MODERN transaction could be modeled like other instruments that are modeled according to their terms and did not present any unique issues. Comments on these issues are discussed below by topic.

1. Modeling Simplifications

a. Contract Detail

(i) Comments

Both Enterprises criticized the simplified treatment of dollar-denominated credit enhancements. Fannie Mae argued that the "underlying parameters" of contractual agreements between an Enterprise and the credit enhancement counterparty should be modeled, because in some cases the approach taken in NPR2 would not be consistent with economic risk. Fannie Mae supported the modeling of all credit enhancement contracts according to their terms. For example, in the case of a contractual agreement that provides for the statutory minimum level of primary mortgage insurance on a particular lender's loans with LTVs in excess of 80 percent and a supplemental dollar-denominated coverage in the form of a pool policy that applies to the entire pool, Fannie Mae suggested that the stress test should apply the primary coverage only to that lender's loans with LTVs greater than 80 percent and that the supplemental coverage should be applied in accordance with the terms of the contract.

Freddie Mac commented that OFHEO's simplified treatment of dollar-denominated credit enhancements would provide the Enterprises with the benefit of some coverage to which they would not be entitled, and would fail to provide the benefits of some overlapping coverage to which they would be entitled. Freddie Mac also criticized the simplified structure because it did not accommodate credit enhancement contracts with specialized features. Freddie Mac argued that the complexity necessary to model the contractual terms of credit enhancements explicitly is justified by the need to assess accurately the value of the mortgage credit enhancements because more than 30 percent of its portfolio is credit enhanced beyond primary mortgage insurance.

(ii) OFHEO's Response

In response to Enterprise comments, OFHEO explored a method of modeling dollar-denominated credit enhancements that tracks amounts available under such credit enhancements by contract, rather than by loan group, charging payments to an Enterprise made under any such enhancement against the related contract, regardless of which loan groups are involved. This approach required the creation of a finer aggregation of loans below the loan group level, called Distinct Credit Enhancement Combinations (DCCs). DCCs identify the principal amount of loans in a loan group that have equivalently identical credit enhancement arrangements. The creation of DCCs permits the aggregation across all affected loan groups of deposits into and payments from each individual credit enhancement and the consideration of its specific rating and application priority. OFHEO found, however, that the implementation of this treatment is exceedingly complex and greatly increases the time required to run the stress test. OFHEO will continue to explore how this more precise modeling might be done more efficiently, but found it impracticable to incorporate the method in the stress test at this time.

The final rule adopts a more limited use of DCCs. While it ensures that haircut levels for aggregate limit credit enhancements are consistent with specific counterparty ratings and application priority, it does not track deposits to and withdrawals from such enhancements at the contract level. Rather, the Enterprises report credit enhancement available balances adjusted for deposits that can reasonably be expected to be made during the stress period. These adjusted balances are prorated among DCCs, based on the ratio of covered loan UPB at the DCC level to the total UPB of loans covered under the credit enhancement contract. For each DCC, the stress test then separately tracks withdrawals from such prorated enhancement amounts under a given contract to offset covered losses.

With regard to Fannie Mae's concern over the treatment of primary mortgage insurance combined with pool insurance, the use of DCCs in the final rule ensures that mortgage insurance coverage is applied only to covered loans and that pool insurance or other aggregate limit credit enhancement is then applied to all loans covered by the contract.

b. Ratings Detail

A number of commenters pointed out that the assignment of the ratings of providers of primary credit enhancements to all supplemental enhancements almost always overestimates the total credit enhancement coverage where the primary layer is triple-A-rated mortgage insurance, and may understate credit enhancement coverage where the primary layer is an unrated seller/servicer. They asserted that this effect creates an incentive to provide a thin primary triple-A layer of credit enhancement, supplemented by an extensive and lower cost credit enhancement from a lower rated institution.

In NPR2, OFHEO recognized that the application of the ratings of the providers of primary credit enhancement to secondary credit enhancements could understate or overstate the creditworthiness of secondary credit enhancements, but thought the impact of this simplification would likely be small. Nevertheless, in considering the comments, OFHEO weighed the additional complexity that would result from taking into account the actual rating of the supplemental provider against the disadvantages and perverse incentives that the commenters pointed out and concluded that the proposed stress test should be modified. Accordingly, the final regulation takes into account the rating of the supplemental credit enhancement rather than assigning the credit rating of the primary credit enhancement provider.

rating would be applied to any subordinate credit enhancement coverage on those loans.

c. Cash Accounts

In NPR2, OFHEO proposed to model mortgage credit enhancements that take the form of cash accounts by aggregating them with all other dollar-denominated credit enhancements, netting applicable haircuts, and offsetting losses dollar for dollar until the amount of coverage is exhausted.

The final rule models cash accounts more explicitly. It does not aggregate them with all other dollar-denominated credit enhancements and does not apply haircuts. However, if the cash is permitted to be invested in securities with maturities longer than one year, the value of the account is discounted by 30 percent to reflect the risk that the value of the investments may be lower than par when they are required to be liquidated to offset losses. When these investments are sold prior to maturity, there is a risk that the price may be significantly less than par because of changes in interest rates or market conditions that occur between the time the investments are marked to market and the time they are liquidated. This treatment is consistent with the practice of rating agencies of requiring overcollateralization or applying a discount factor to achieve sufficient certainty that the market price at least equals the required amount of credit enhancement at any time.

2. Credit Enhancements Receiving a Cash Flow Stream

Some dollar-denominated credit enhancements—primarily spread accounts—are funded by a portion of each loan interest payment. The proposed stress test took into account the amount of cash in the credit enhancement account at the start of the stress test, but did not attempt to model cash flows into the account during the stress period. The Enterprises and others criticized this feature of the stress test.

In response to these comments, the final regulation allows the Enterprises to take account of these cash inflows by adjusting the available balance at the start of the stress test to reflect inflows that might reasonably be expected to occur during the stress period. These adjusted initial balances are then used to offset covered losses during the stress period.

3. Termination Dates

Freddie Mac noted that, although OFHEO stated in NPR2 that the coverage expiration date for credit enhancement contracts is required as an input, OFHEO's cash flow model did not actually take it into account.

This apparent inconsistency resulted from OFHEO's efforts to respond to the enactment of the Homeowner's Protection Act of 1998 (HPA)[156] shortly before NPR2 was published. The HPA, which applies to loans originated after July 1, 1999, provides for the automatic termination of mortgage insurance when the loan balance is scheduled to reach 78 percent of the original value of the property securing the loan,[157] if payments on the loan are current. However, the adjustment of the stress test to reflect this change was not yet accomplished when NPR2 was published on April 13, 1999.

As a result of events that have transpired since 1998, OFHEO has decided to modify the stress test to terminate mortgage insurance on all loans that amortize below 78 percent LTV. The public discourse surrounding the enactment of the HPA and the notification policies of many lenders have raised consumer awareness of the option to cancel, making it increasingly likely that those borrowers will cancel mortgage insurance as soon as it is possible to do so. Accordingly, the final regulation specifies that mortgage insurance is terminated for all loans, whenever originated, when the loan is amortized below 78 percent LTV. For other types of credit enhancements, the stress test takes contract expiration dates into account.

4. Treatment of Credit Derivatives

Credit derivatives are contractual instruments that link payment or receipt of funds to the credit losses (which could include a rating change on a security or a default that affects payments) on an underlying asset or pool of assets. Treatments for credit derivatives were not specified in NPR2. Nor did NPR2 specify counterparty haircuts for credit derivatives.[158] Commenters, therefore, questioned whether the treatment of interest rate derivatives was intended to apply to credit derivatives. If not, these commenters asked precisely how credit derivatives would be modeled and, specifically, what haircuts are appropriate for counterparties to these transactions.

A number of commenters addressed the general issue of how credit derivatives should be modeled. Also, several commenters addressed a type of instrument called a Mortgage Default Recourse Note (MODERN), which was used by Freddie Mac as part of a broader transaction to hedge mortgage credit risk. The MODERNs can be considered credit derivatives because the amounts of payments on them are "derived" from the performance of a fixed reference pool of mortgages, but do not flow through from the mortgages and are not secured by the mortgages. The two groups of comments, which raised different issues, are dealt with separately below.

a. Credit Derivatives in General

The use of credit derivatives to hedge credit risk of mortgages is a new practice at the Enterprises, which currently comprises an insignificant volume of transactions. However, OFHEO recognizes that, as happened with interest rate derivatives, this activity could grow significantly in the coming years. Therefore, the stress test must be sufficiently flexible to deal with these instruments appropriately as they arise. Credit derivatives are also far less standardized in type and form than interest rate derivatives. They can be structured to include only a small degree of counterparty risk to the Enterprises, like the MODERN transaction, or to create large exposure to counterparties. Depending upon their structures, these instruments can also create significant modeling complexities.

(i) Comments

The comments reflected two schools of thought on the general subject of credit derivatives. Commenters from the mortgage insurance industry recommended that these instruments be analyzed separately from other types of derivatives and as the subject of a separate rulemaking proceeding. They emphasized that the market for credit derivatives is still relatively small, that documentation is not standardized, and that counterparties do not come from a monoline industry dedicated to insuring mortgage credit losses. These commenters urged that OFHEO should use a cautious approach in assigning haircuts to counterparties in credit derivative transactions until the market for these instruments is better developed and subject to more specific regulations and protections. They also sought clarification that the discussion of the treatment of derivatives in NPR2 was intended to apply only to contracts that transfer interest rate risk.

[156] Pub. L. 105–216, 112 Stat. 897–910 (1998) (12 U.S.C. 4901–4910).

[157] FHA loans and "high risk" loans, as defined by the Enterprises, are exempt from this provision.

[158] The proposed rule provided a detailed description of the cash flows that would be modeled for interest rate derivatives and described treatments for foreign currency swaps. NPR2 also specified a schedule of "haircuts" that would be applied to net amounts due to an Enterprise from counterparties in derivative transactions. 64 FR 18157–18159, 18292–18296, April 13, 1999.

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The Enterprises and two investment banking firms expressed a different view. They view the market and documentation for any credit derivatives the Enterprises might use as well developed and similar to that for interest rate derivatives. Fannie Mae commented that collateralized credit-linked securities or risk transfers with well-capitalized firms with diversified books of business can reduce overall risk exposure, because derivative contract counterparties may be able to absorb losses better than mortgage insurers.

(ii) OFHEO's Response

OFHEO considered all of these comments. The credit derivatives market is relatively small at present, as reflected in the minimal volume of these instruments at the Enterprises. Accordingly, OFHEO has decided that it would be inappropriate at this time to issue a blanket treatment that would be applicable to all credit derivatives.

OFHEO agrees with the mortgage insurers that, at present, credit derivatives should be analyzed separately from other derivatives. However, OFHEO will not assume that all credit derivatives necessarily raise structural concerns or weaknesses that require haircuts that are more conservative than those applied to counterparties in similar transactions. Nor does OFHEO agree that it is necessary to have an additional rulemaking proceeding to deal with these instruments if and when they arise at the Enterprises. As discussed below, OFHEO's analysis of the MODERN transaction revealed that credit derivatives can be structured in such a way as to offset an Enterprise's credit risk in much the same manner as mortgage pool insurance, and it is consistent with the purpose of the stress test to account for that transaction in much the same manner as pool insurance. Likewise, if counterparty and other risks associated with the instrument appear to be the same as those of an interest rate or foreign currency derivative, it will be treated in a similar manner. However, if those risks are significantly different, OFHEO will impose some other appropriately conservative treatment.

b. MODERN Transaction

The MODERN transaction was a unique form of mortgage credit enhancement, developed by Freddie Mac, that involved the sale of securities to investors. The MODERN transaction may be thought of as a "credit derivative" because payment to investors in the securities, as well as payments to Freddie Mac, are determined from the credit performance of a fixed pool of mortgages, which serves as a reference asset. The transaction required creation of a trust that is contractually obligated to pay amounts to Freddie Mac based on the amount of credit losses on the reference pool. As consideration, Freddie Mac pays the trust a fee or premium that, together with earnings on the trust principal, is used to make interest payments to purchasers of the bonds that are used to fund the trust, as well as any payments due to Freddie Mac. These securities are issued in several tranches. The principal of each security is reduced (together with future interest payments), according to the priority of its tranche, as amounts are required to cover losses on the reference pool. The bonds, which are issued by a special purpose corporation and are not marketed as Enterprise securities, are all rated single-A and below because they carry a high probability that their entire principal will not be repaid. For Freddie Mac, the MODERN transaction bears some similarity to mortgage pool insurance, because Freddie Mac receives variable payments, based upon the credit losses in a pool of mortgages, and makes fixed payments, analogous to premiums.

(i) Comments

Comments were divided as to the appropriate treatment for the MODERN transaction. Commenters from the mortgage insurance industry took the position that it involves greater counterparty risk than interest rate derivatives or mortgage insurance. Accordingly, those commenters recommended giving no credit or subjecting payments to Freddie Mac under MODERNs to greater haircuts than those applicable to other types of counterparties, such as mortgage insurers. Freddie Mac said that there is no counterparty risk in these transactions, and that the payments to Freddie Mac cannot be reduced from the amounts required under the contract due to financial failure of a counterparty. There is no more risk of nonpayment in the MODERN transaction, argued Freddie Mac, than in a mortgage-backed security or other asset-backed security where a trustee is obligated to make payments when, and in the amounts that are, due.

(ii) OFHEO's Response

After study of the MODERN transaction, OFHEO agrees that it does create some credit risk (i.e., risk of default by a counterparty) to the Enterprises. Although risk of loss may be low because the transaction is structured to provide significant collateral, OFHEO does not have the data necessary to analyze the adequacy of that collateral. OFHEO finds the transaction most similar, structurally, to mortgage pool insurance and will model it in a similar fashion, applying the haircut that would be appropriate to a mortgage pool insurance contract. However, future MODERN or other credit derivative transactions will be analyzed based upon their specific terms and similar treatments will not necessarily be found appropriate for them.

The final rule does not detail the specific treatment for the MODERN transaction because it presents no new features that cannot be modeled using the more general treatments that are specified. Like other transactions that are modeled according to their terms, cash flows on the MODERN transaction will be projected according to the terms of its instruments and will be haircut based upon the credit rating of the counterparty. Those terms are tied directly to credit losses of a pool of Enterprise mortgage loans, which is modeled like any other pool of loans in the stress test.

L. New Debt and Investments

The proposed stress test projected cash inflows and outflows for each month of the stress period in order to determine the net availability of cash. To the extent cash inflows exceed cash outflows in any month, NPR2 specified how an Enterprise would employ the excess funds. Conversely, to the extent that cash outflows exceed cash inflows in any month, NPR2 specified how an Enterprise would obtain the funds to cover the cash deficit. The net cash position for each of the 120 months of the stress period was calculated at the end of each month. Depending upon whether the cash balance at the end of a month was positive or negative, new debt or investment was added. Excess cash was invested in one month maturity assets at a rate equivalent to the six-month Treasury yield. If a cash deficit existed, new short-term debt was added. NPR2 specified that the Enterprises would issue all new debt as six-month discount notes at the six-month Federal Agency Cost of Funds rate plus 2.5 basis points to cover issuance cost.

Comments are discussed below by topic.

1. Length of Debt Term

a. Comments

The proposal to fund all cash deficits with short-term instruments received a number of comments, only one of which favored the proposal. Most commenters that addressed the issue recommended that OFHEO provide for a mix of long- and short-term debt instruments, to better reflect the rebalancing strategies of the Enterprises. The Enterprises both suggested that the rule be modified to add 80 percent long-term debt in the up-rate scenario and 20 percent long-term debt in the down-rate scenario. One commenter suggested that OFHEO allow the Enterprises to use their internal models to project the appropriate mix of debt, apparently presuming that OFHEO would adopt an internal models approach to setting risk-based capital.

b. OFHEO's Response

After consideration of the comments and further analysis of the issue, OFHEO determined that a more risk-neutral approach to establishing the mix of long- and short-term debt is available and practical and has implemented it in the final rule. That approach sets a 50–50 target mix of long- and short-term debt for an Enterprise's portfolio and projects issuance of debt each month that will move the Enterprise toward that target and maintain that mix once it is reached. The 50–50 mix was selected because an Enterprise cannot know from month to month whether interest rates will go up or down and OFHEO will not try to model Enterprise predictions.

Notwithstanding the contrary views of some commenters, OFHEO has found it neither practical nor desirable to attempt in the stress test to predict the reactions of Enterprise management to interest rate shocks. Both Enterprises adjust the mix of maturities in their debt portfolios frequently, based upon the anticipated duration of their assets. The Enterprises have different policies designed to mitigate interest rate risk by matching the durations of assets and liabilities. They use sophisticated computer models to provide insights into future interest rate patterns and to monitor duration mismatches in their portfolios. These models allow the Enterprises to adjust their issuance of liabilities and their derivatives positions daily to comply with their internal policies. However, as several commenters recognized, attempting to approximate this decision-making process in the stress test is impractical. Further, doing so would cause the stress test to create additional hedges and risks in the Enterprises' books of business, which, in OFHEO's view, is contrary to the intent of the 1992 Act. For those reasons, OFHEO has adopted an approach that is not biased toward long- or short-term debt in either interest rate scenario.

The practical difficulties associated with attempting to develop a simple rule that approximates the Enterprises' likely new debt issuance is illustrated by an analysis of the refunding rules suggested in their comments. The Enterprises suggest that new debt issuances be weighted heavily to the long-term in the up-rate scenario and to the short-term in the down-rate scenario. They contend that, given the impracticality of predicting funding decisions, this simple methodology would provide a reasonable approximation of their behavior. OFHEO disagrees that this methodology provides such a reasonable approximation. The suggested weightings may or may not reflect the way the Enterprises respond to a future interest rate shock, because they rebalance to achieve certain balances in their portfolios, not in their issuances. Accordingly, whether they issue long- or short-term debt depends as much upon their current debt, asset, and derivative positions as upon interest rate movements.

Another factor in each Enterprise's funding decisions is its expectations for interest rates. These expectations are based, at least in part, upon historical models that, particularly under the extreme conditions of the stress test, might project various outcomes, and would, almost certainly, not project exactly the paths specified in the stress test. In short, the Enterprises would have no way of knowing that interest rates were going to continue moving quickly in the same direction for a year and remain at an elevated or deflated level for another nine years. However, despite this uncertainty, the Enterprises' approach would add mostly long-term debt in the up-rate scenario, increasing vulnerability to interest rate declines without regard to the mix of liabilities in the existing portfolio. This approach would have the effect of locking in relatively lower interest rates early in the stress period and lowering debt costs (and, therefore, capital requirements) significantly. Similarly, adding mostly short-term debt in the down-rate scenario would allow an Enterprise to refinance with lower cost debt regardless of the Enterprise's existing maturity mix, although, as many commenters noted, an assumption that an Enterprise will utilize predominately short-term funding is not realistic. It should be noted, however, that OFHEO found the impact on capital of short-term funding in the down-rate scenario was small, because rapid prepayment of loans creates little need for new debt.

In sum, OFHEO adopted an approach that did not attempt explicitly to predict or simulate Enterprise responses to the interest rate shocks in the stress test. Instead, recognizing that any new debt will have some effect on interest rate risk, OFHEO chose an approach that reflects no bias toward long- or short-term debt in either interest rate scenario.

2. Specific New Debt and Investment Instruments

a. Investment Instruments

Fannie Mae suggested that specifying an investment instrument with a one-month maturity and a six-month rate is inappropriate, because such instruments do not exist.

The final rule adopts the proposed rule and specifies that all cash surpluses will be invested in one-month maturity assets with a six-month Treasury yield. Recognizing that the instrument specified does not exist in the marketplace, OFHEO chose it as a modeling simplification that simulates the effect of a series of investments made over successive months and ensures that each month there are instruments that mature and are replaced in the portfolio. Using a longer maturity would have resulted in greater fluctuations in cash surpluses from month to month, causing the Enterprises to borrow money in later months to cover instruments purchased with a temporary cash surplus.

However, using a one-month rate for new investments would ignore the fact that an Enterprise's actual return on new short-term investments is based upon a number of different maturities between one day and one year. The six-month rate was chosen as a reasonable approximation of the average rate earned on those maturities.

b. Debt Instruments

Fannie Mae recommended that OFHEO change the proposed short-term debt instrument from a six-month to a one-month maturity, but did not explain any benefits from such a change. Nevertheless, OFHEO analyzed whether, in light of other changes in the new debt approach, the short-term debt instrument should be changed. OFHEO determined not to change the instrument proposed in NPR2, because a six-month rate is more representative of the mix of short-term maturities issued by the Enterprises.

A few commenters recommended that the regulation specify ten-year bullet (no

call) debt as the long-term debt instrument. Fannie Mae suggested that OFHEO specify ten-year bullet debt as the long-term instrument during the up-rate scenario and, in the down-rate scenario, three-year debt callable in one year. OFHEO considered those options, but determined that a five-year bond callable in one year was most appropriate. The Enterprises issue a variety of debt with maturities greater than one year, but with average maturities generally far less than ten years. Also, they increasingly have come to rely upon callable debt to balance the prepayment optionality in their loan portfolios. For these reasons, OFHEO concluded that five-year callable debt was a more representative proxy for long-term Enterprise debt than ten-year bullet or three-year callable debt.

The Enterprises expressed concern that the regulation would not take into consideration the linkage of the-short term debt in their portfolios to interest rate swaps that result in effective long-term rates and maturities. The Enterprises create this long-term "synthetic debt" to take advantage of pricing anomalies in the debt and derivatives markets. The final rule clarifies that in determining the amount of short-term debt on the books of an Enterprise, the notional value of debt-linked fixed-pay swaps is deducted from the total amount of short-term debt and added to the total amount of long-term debt. This procedure effectively converts the affected short-term debt to long-term for purposes of the determining the mix of new debt.

3. Date of Issuance or Purchase

NPR2 specified that new debt is issued and new investments purchased at the end of each month of the stress period based upon the cash position at the end of the month. OFHEO determined that a more correct modeling convention is to issue the debt or purchase the investments at the midpoint of the month to reflect the fact that financial instruments mature throughout a month, not at month end. The final rule changes the issuance date to the 15th day of the month.

M. Cash Flows

1. Mortgage-Related Cash Flows

In NPR2, OFHEO described how the stress test would treat cash flows from mortgage-related instruments during the stress period. Under the proposal, the stress test would produce cash flows for single family and multifamily mortgage loans that are held in portfolio and cash flows for the same types of loans that are pooled into mortgage-backed securities (MBS) that are guaranteed by the Enterprise. For retained loans, the cash flows to the Enterprises are all the principal and interest payments on the loans, except for a portion of the interest payment retained by the servicer as compensation. For sold loans, these cash flows are guarantee fees received by the Enterprises and float income.[159] Cash flows, net of credit losses, are produced for each month of the stress period for each loan group using loan group characteristics and information on interest rates; default, prepayment, and loss severity rates; and third party credit enhancements.

Only Freddie Mac commented on the mortgage cash flow section of the stress test. Specifically, Freddie Mac recommended that OFHEO specify a different treatment for cash flows produced by adjustable rate mortgages (ARMs) and modify the remittance cycle for MBS. These comments and OFHEO's responses are discussed below.

a. Adjustable Rate Mortgages (ARMs)

In NPR2, OFHEO proposed to model ARM cash flows as if the loans all adjusted annually and as if they all had the same margins and caps. Under the proposal, all ARM loan groups were indexed to either the one- or three-year CMT or the 11th District COFI.

Freddie Mac alleged that the proposed approach failed to capture the impact of a substantial volume of ARM products that adjust monthly or every six months and have different margins and caps. These additional terms may result in extra income to the Enterprises.

Based on its analysis of ARM-related cash flows in light of Freddie Mac's comment, OFHEO has determined that it is appropriate to modify the stress test to model ARM cash flows according to their contract terms as reported in the RBC Report. This change reflects the importance of the full range of ARM products to the Enterprises, particularly in relatively volatile interest rate environments. Although the estimated default and prepayment rates for ARMs are averages for all ARM product types, for reasons described in III.I.1.h., Adjustable Rate Mortgages (ARMs), the stress test does capture the cash flow differences by ARM product type, thereby addressing Freddie Mac's comment. The respecified ARM model is capable of modeling cash flows from all ARM products whose terms are reported in the RBC Report according to those terms. This reflects the importance of these product types to the Enterprises, particularly in relatively volatile interest rate environments.

b. Remittance Cycles for Mortgage-Backed Securities (MBS)

In NPR2, OFHEO proposed to model only specific categories of MBS by including the float amount for three remittance cycles. Specifically, the stress test included remittance cycles only for Freddie Mac's Standard and Gold Programs and Fannie Mae's Standard Program. The stress test did not model additional programs.

Freddie Mac commented that under NPR2, only two of its three principal remittance cycles are modeled. Freddie Mac stated its general belief that where practicable, OFHEO should model the contractual terms or actual characteristics of an instrument or make reasonable simplifications.

Based on its analysis of MBS-related cash flows and in light of Freddie Mac's comment, OFHEO has determined that it is appropriate to modify the stress test to accommodate a wider range of remittance cycles, rather than limit the modeling to three specific cycles. Specifically, the final rule allows as an input, the number of float days in a remittance cycle, rather than a specified number of remittance cycles. The additional precision resulting from more refined modeling of MBS reflects the significant volume of these products and their importance to the Enterprises.

2. Nonmortgage Instrument Cash Flows

In NPR2, OFHEO specified the proposed treatment of cash flows from nonmortgage instruments during the stress period in two sections of the Regulation Appendix. Section 3.9.3, Debt and Related Cash Flows detailed how the stress test would produce cash flows for instruments such as debt, guaranteed investment contracts (GICs), preferred stock, debt-linked derivative contracts, and mortgage-linked derivative contracts. Similarly, section 3.9.4, Non-Mortgage Investment and Investment-Linked Derivative Contract Cash Flows detailed how the stress test would produce cash flows for instruments such as nonmortgage assets and investment-linked derivative contracts. The cash flows for debt, nonmortgage investments, and preferred stock included interest (or dividends for preferred stock) and principal payments or receipts. The cash flows for debt-linked, investment-linked, and mortgage-linked derivative contracts would include interest payments and receipts. NPR2 did not attempt to provide detailed descriptions of the cash flow calculations of all nonmortgage instruments that exist or might exist at the Enterprises. The examples that were provided were illustrative.

[159] Float income is the earnings from the investment of principal and interest payments on sold loans during the remittance cycle for the period of time between the receipt of these payments from the servicer and the remittance of those payments, net of guarantee fees, to security holders. The length of time an Enterprise can invest these payments depends on the length of that period.

a. Comments

Only MICA commented on NPR2's proposed treatment of nonmortgage instrument cash flows. Although MICA generally agreed with the proposed method of generating cash flows, it recommended that American-style calls also be modeled. With American-style calls, the exact timing of the exercise of the call option is not always known because the nature of the American-style call allows the issuer to exercise its call at any time between the first call date and the final call date.

b. OFHEO's Response

American-style calls were modeled in NPR2, but, as a simplifying assumption, were treated as Bermudan-style calls, which are evaluated for exercise on each coupon payment date following the start date of the option. OFHEO agrees that it would be desirable to model American calls more precisely and is exploring how they might be precisely, but efficiently, modeled or whether a more appropriate simplifying assumption should be used. For now, the final rule continues to treat American-style calls as Bermudan-style calls.

In addition to the change made in response to the comments, OFHEO restructured the Appendix sections dealing with cash flows produced by nonmortgage instruments by combining the section of NPR2 dealing with debt with the section dealing with nonmortgage investment and investment-linked derivative contracts. OFHEO notes that this restructuring permits OFHEO to use a single modeling instruction for two types of instruments that have identical cash flows. That is, a fixed rate noncallable bond has the same cash flows whether it is modeled as a liability or an asset; the only difference is the party that receives the cash flow. The final rule also deletes instructions for specific types of instruments where more general provisions in the Appendix are sufficient to generate the necessary cash flows according to the terms of the instrument. In some cases, simplifying assumptions are made for certain instrument terms. These modifications serve to streamline the regulation.

While the final rule replaces specific modeling instructions with more general ones, the general instructions are more detailed in some respects than those proposed in NPR2. For example, the final rule specifies more detailed treatment of the options on nonmortgage instruments and cancellation rules on interest rate swaps.[160] Although NPR2 did not specifically mention call premiums and discounts, the final regulation specifies the manner in which the premiums and discounts for certain instruments are modeled. In addition, because the Enterprises use some interest-rate swaps to reduce the interest-rate risk associated with some callable debt they issue, OFHEO has decided to model put options associated with swaps so that those putable swaps are cancelled when the associated debt is called. Puts on Enterprise debt and calls on nonmortgage assets are still not modeled, given that would entail modeling the behavior of a third party that can exercise the option rather than the behavior of an Enterprise.

In the final rule, the more detailed general descriptions for noncomplex instruments are sufficient to provide an understanding of how each instrument is modeled. For some complex instruments, as with the description of the noncomplex instruments, industry standard methodology is used. In addition, the computer code that OFHEO plans to release after the rule is published will provide detail on the algorithms used.

N. Accounting, Taxes, and Operating Expenses

In NPR2, OFHEO proposed procedures for creating pro forma balance sheets and income statements, determining short-term debt issuance and short-term investments, calculating operating expenses and taxes, and computing capital distributions. The proposal explained the inputs and outputs for this component of the stress test. Inputs included an Enterprise's balance sheet at the beginning of the stress period, interest rates from the interest rates section, and information from the cash flow section. These inputs were used to produce as the output, the 120 monthly pro forma balance sheets and income statements for an Enterprise.

[160] An interest rate swap is an agreement whereby two parties (counterparties) agree to exchange periodic streams of interest payments on obligations they have issued. The dollar amount of the interest rate payments exchanged is based on a predetermined dollar principal (often the face amount of the underlying instrument), which is called the notional principal amount. The dollar amount each counterparty pays to the other is the agreed-upon periodic interest rate multiplied by the notional principal amount.

MBA, Fannie Mae and Freddie Mac commented on the proposed approaches related to taxes and accounting. Among the specific issues they raised were (1) the effective tax rate, (2) the adherence to generally accepted accounting principles (GAAP), (3) the treatment of non-interest earning assets, and (4) net operating losses. Several commenters, in addition to the Enterprises, commented on the proposed treatment of operating expenses. These comments and OFHEO's analysis of the comments are discussed below.

1. Effective Tax Rate

In NPR2, OFHEO proposed [161] to apply an effective Federal income tax rate of 30 percent when calculating the monthly provision for income taxes in the stress test. OFHEO noted that this tax rate is lower than the statutory rate set forth by the Internal Revenue Service. The Enterprises' lower overall tax rates are a result of tax exempt interest, tax deductions for dividends, and equity investments in affordable housing projects. OFHEO further noted that it may change the 30 percent income tax rate if the Enterprises' effective tax rate changes significantly over time or if the statutory income tax rate changes.

Fannie Mae was the only commenter to address the proposal to specify in the regulation a Federal effective income tax rate of 30 percent. Fannie Mae noted that this rate is lower than the current 35 percent corporate statutory rate because of the Enterprises' involvement in tax-advantaged activities, such as investing in tax-exempt mortgage revenue bonds and tax credits for affordable housing projects, but asserted that adopting a fixed tax rate would undermine the stress test's ability to relate the capital requirements dynamically to the evolving nature of the Enterprise's business. Accordingly, Fannie Mae recommended that the rule apply an effective tax rate based on recent experience, i.e., an effective tax rate equal to the average annual rate for each Enterprise over the most recent three calendar years.

OFHEO decided not to adopt Fannie Mae's recommendation. OFHEO has reserved in the regulation the discretion to change the 30 percent income tax rate if there are significant changes in Enterprise experience or changes in the statutory income tax rate. OFHEO believes that this addresses Fannie Mae's concern by allowing OFHEO the flexibility to make any reasonable adjustments to the rule, based on significant changes in circumstances.

[161] 64 FR 18297, April 13, 1999.

Fannie Mae's suggested approach would instance, it would be impracticable and provision for income taxes for the

operating expenses should be tied to the rather should hold these expenses a fixed component and a variable

Fannie Mae's suggested approach would not have resulted in a significant increase in sensitivity to risk, but would have added unnecessary complexity to the stress test. Accordingly, OFHEO has adopted without modification the proposal in NPR2 with respect to the effective income tax rate.

2. Consistency With GAAP

In NPR2, OFHEO proposed to apply Generally Accepted Accounting Principles (GAAP) in the stress test to the extent that they are applicable and feasible.[162]

Only the Enterprises addressed the proposed accounting approach. Although Freddie Mac generally agreed that the stress test should apply GAAP to the extent possible, it mentioned several accounting treatments that it believed should be modified. Fannie Mae stated that the proposed regulation does not adhere to GAAP uniformly in describing the procedures to use to generate projected monthly financial statements. Accordingly, Fannie Mae recommended that OFHEO adopt a more generalized approach toward accounting methods that would establish basic guidelines for projecting stress test performance.

Notwithstanding Fannie Mae's preference for a generalized approach, both Freddie Mac and it specifically requested that the stress test recognize Financial Accounting Standard (FAS) 115[163] and FAS 133,[164] both of which require a portion of unrealized market value gains or losses on the balance sheet to be recorded in a new stockholder's equity account known as "other comprehensive income" (OCI).

OFHEO agrees with the Enterprises that, to the extent that GAAP is applicable, the risk-based capital regulation should adhere to GAAP. Accordingly, like the proposed rule, the final rule adopts accounting rules that are generally consistent with GAAP, although, in certain situations, complete adherence to GAAP is impractical given the stylized nature of the stress test. In those situations, such as with FAS 115 and FAS 133, the agency has determined that it is necessary to implement simplified procedures to allow the efficient and practical implementation of the stress test. For instance, it would be impracticable and unreasonably speculative to make mark-to-market adjustments over the ten-year stress test. Given the difficulties inherent in calculating future market values during the stress test, OFHEO has decided to recognize unrealized gains (losses) resulting from FAS 115 and FAS 133 and related OCI at the outset of the stress test. That is, the stress test does not reflect certain securities at their fair market values later in the stress test, as required by FAS 115 and FAS 133. Instead, these assets are adjusted to an amortized cost basis at the outset of the stress test. Similarly, gains and losses resulting from the termination of derivative instruments during the stress period are amortized on a straight-line basis over the same period used to calculate the gain or loss.

3. Treatment of Non-Interest Earning Assets

In NPR2, OFHEO proposed to convert to cash non-earning assets, such as miscellaneous receivables, real estate owned (REO), and general clearing accounts, by the end of the stress test's first year. NPR2 allowed other non-earning assets, such as investments in low income housing tax credits, to remain constant over the stress period, i.e., be carried over from quarter to quarter and earn no income.[165]

Three commenters stated that the treatment of non-interest earning assets in the stress test would penalize investments in affordable housing programs. Fannie Mae stated that investments in affordable housing should be converted to cash over the first six months of the stress period, thereby eliminating what it termed an "artificial burden" to this type of investment. Freddie Mac stated that these assets should be converted to cash when the Enterprises begin to show net losses to reflect the resulting elimination of associated tax benefits.

After reviewing the comments, OFHEO has decided to adopt the proposed rule with one modification. Investments in low income housing tax credits are converted to cash over the first six months of the stress period.

4. Net Operating Losses

In NPR2,[166] OFHEO proposed to have a Net Operating Loss (NOL) carryback period of three years so that an NOL for a current month would be "carried back" to offset taxes in any or all of the preceding three calendar years. OFHEO explained that this offset of the prior years' taxes results in a negative provision for income taxes for the current month. A period of 15 years was proposed for carry forwards.

MBA and Fannie Mae commented that the proposed three-year carry back period and 15-year carry forward periods for NOL tax offsets are no longer consistent with the current tax code. These commenters requested that these periods be changed to reflect the recent legislation which specifies periods of two and twenty years, respectively.

OFHEO has decided to modify the NOL carryback and carryforward periods to two and twenty years, respectively. This will allow the accounting procedures in the stress test to be consistent with the current tax code.

5. Operating Expenses

In NPR2, OFHEO proposed that the stress test calculate operating expenses, including those administrative expenses related to an Enterprise's salaries and benefits, professional services, property, equipment, and offices. Under the proposal, operating expenses would decline in direct proportion to the decline in the volume of each Enterprise's total mortgage portfolio (i.e., the sum of outstanding principal balances of its retained and sold mortgage portfolios). The stress test first projected how an Enterprise's mortgage portfolio would change during the stress period on a monthly basis. It then multiplied the percentage of assets remaining by one-third of the Enterprise's operating expenses in the quarter immediately preceding the start of the stress test to simulate the changed operating expenses in each month of the stress period. The resulting amount would be an Enterprise's operating expense for a given month in the stress period. OFHEO explained that the expense reduction pattern for the up-rate scenario would differ from the down-rate scenario, as would the pattern within each scenario, depending on changes in the characteristics of an Enterprise's total mortgage portfolio.

a. Comments

Commenters provided widely divergent views about the proposed treatment of operating expenses. Among the issues that they addressed were whether the proposed treatment would result in an appropriate capital requirement, whether the stress test should link operating expenses to the size of each Enterprise's mortgage portfolio, whether the stress test should model fixed and variable expenses separately, whether the stress test should exclude expenses associated with new activities, and whether operating expenses should be tied to the previous quarter's operating expenses.

Commenters disagreed about the extent to which the proposed treatment of operating expenses would result in an appropriate capital requirement. The Enterprises and a Wall Street firm commented that the proposal would result in an excessive capital requirement. Freddie Mac stated that operating expenses constitute a relatively small portion of its total expenses but a disproportionately large component of its capital requirement under the proposal. In contrast, several trade associations and financial organizations stated that it would be more appropriate to model operating expenses in a manner that would result in a higher capital requirement. These differing views, which are discussed below, were reflected in specific recommendations for revising the stress test's modeling of operating expenses.

Commenters, for instance, disagreed about whether the stress test should link operating expenses to the change in the size of an Enterprise's mortgage portfolio during the stress test. The Enterprises stated that the stress test should not incorporate such a linkage, which they believe distorts risks. They were especially concerned that such a modeling approach would result in significantly different treatment for operating expenses depending on the interest rate scenario. Fannie Mae stated that the capital requirement in the up-rate scenario could be as much as $2 billion higher than the down-rate scenario. In contrast, other financial firms stated that operating expenses should remain constant rather than decline during the stress test. They noted that having operating expenses decline is inconsistent with the experience of a financial institution facing stressful conditions. They argued that such institutions typically experience an increase in operating expenses during stressful periods since more expenses are incurred to manage defaults and repossessed real estate.

Commenters also disagreed about whether fixed and variable expenses should be modeled together or separately. Both Enterprises stated that the stress test should model fixed and variable costs separately and then apply a fixed expense ratio against the projected mortgage portfolio balances. Under their recommended approach, the level of operating expenses would not vary based on the level of such expenses in the quarter preceding the stress test. Other commenters believed that the stress test should not separately model fixed and variable expenses, but rather should hold these expenses constant during the stress period.

Both Enterprises commented that the stress test should not consider expenses related to new business development, product innovation, and research, given the 1992 Act's "no new business" requirement.[167] Freddie Mac stated that under the no new business requirement, this portion of its operating expenses would drop nearly to zero during the stress period. Similarly, Fannie Mae stated that less than half of each company's current cost structure is devoted to maintenance and support of existing book-of-business balances.

b. OFHEO's Response

As the widely divergent comments indicated, there is no single "correct" way to model operating expenses, particularly in a stylized stress test which by necessity must incorporate simplifying specifications. In general, the Enterprises stated that the proposed treatment would result in unreasonably high capital requirements, whereas other financial institutions stated that the proposed treatment would result in unreasonably low capital requirements. OFHEO believes that the recommendation by both Enterprises to have a fixed expense ratio of between 1.5 and 2.0 basis points of unpaid principal balance (UPB) per year is unreasonably low. As one commenter noted, Enterprise expenses to outstanding MBS and portfolio balances have averaged over 7.0 basis points for the past ten years. Similarly, although there was intuitive appeal to the recommendation by financial institutions to hold the level of expenses constant throughout the stress period given the experience of financial institutions under stress, adopting such an approach here would have resulted in unreasonably high capital requirements relative to operating expenses.

After considering all of the comments, OFHEO has decided to adopt the NPR2 approach to operating expense, with some modification. In the final rule, the baseline operating expense level is the same as in NPR2, and operating expenses continue to decrease as the mortgage portfolios decrease, but the method of determining the amount of the decrease is modified. Rather than a strictly proportional decrease, the amount of the decrease in each month of the stress period is determined by calculating a base amount comprised of a fixed component and a variable component. The fixed component is equal to one-third of the baseline level and remains fixed throughout the stress period. The variable component at the start of the stress test is equal to two-thirds of baseline and declines in direct proportion to the decline in the UPB of the combined retained and sold mortgage portfolios. This base amount is further reduced by one-third, except that this further reduction is phased in during the first 12 months of the stress test.

In determining its treatment of operating expenses, OFHEO was careful to balance the competing concerns expressed by the commenters. Financial institutions facing extremely stressful conditions generally do experience an increase in operating expenses, and therefore the proportional reduction in all expenses that was contained in NPR2 may understate the expenses that would be expected under the conditions of the stress test. Nevertheless, OFHEO believes that holding all operating expenses constant, as suggested by some commenters, would have overstated operating expenses and that some reduction is appropriate over time, given the cessation of all new business in the stress test.

On balance, OFHEO believes that the formula in the final rule provides an overall expense experience that is consistent with the stress period. The gradual phase-in during the first 12 months of the stress period of the adjustment to the base amount reflects the fact that operating expenses would not be likely to change dramatically in the first few months of the stress period. At any given time, the Enterprises have numerous commitments and obligations that affect operating expenses, including those related to personnel and technological innovation. Upon entering a stressful period, it would take some time for an Enterprise to implement modifications associated with these commitments and obligations. OFHEO has determined that it would be inappropriate to adopt the Enterprises' recommendations to exclude expenses related to new business development, product innovation, and research. As discussed in NPR2,[168] OFHEO determined that it would be inconsistent with the 1992 Act and the overall purpose of the stress test for the model to attempt to reflect decisions that would be made by an Enterprise that was intentionally winding down its operations. Nevertheless, the one-third reduction in expenses incorporated in the final rule reflects that the

[162] Section 3.10.3.6 of the NPR2 Regulation Appendix. 64 FR 18298–18299, April 13, 1999.

[163] Financial Accounting Standards Board Statement of Financial Accounting Standard 115, *Accounting for Certain Investments in Debt and Equity Securities*. May 1993.

[164] Financial Accounting Standards Board Statement of Financial Accounting Standard 113, *Accounting for Derivative Instruments and Hedging Activities*. June 1998.

[165] 64 FR 18298, April 13, 1999.

[166] 64 FR 18297, April 13, 1999.

[167] 12 U.S.C. 4611(a)(3)(A) states that "No other purchases of mortgages shall be assumed" under the current rule, except for contractual commitments.

[168] 64 FR 18168–69, April 13, 1999.

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elimination of new business would result in some permanent reduction in operating expenses.

O. Dividends and Share Repurchases

The proposed stress test specifies in each quarter of the stress period whether the Enterprise pays preferred and common stock dividends, and, if so, how much. For preferred and common stock, dividends are paid as long as an Enterprise meets the minimum capital requirement before and after the payment of these dividends. For preferred stock, the payments are based on the coupon rates of the issues outstanding. For common stock, dividends are paid in the first year of the stress period. The payments are based on the trend in earnings. If earnings are increasing, the dividend payout rate is equal to the average of the percentage payout of the preceding four quarters. If earnings are not increasing, then the amount of dividends paid is based on the preceding quarter's dollar amount of dividends per share. If a full dividend would cause the Enterprise to fall below its estimated minimum capital level, then a partial dividend is paid. The proposed stress test did not recognize other capital distributions such as repurchases of common stock or redemptions of preferred stock.

Fannie Mae and Freddie Mac were the only commenters on the proposed treatment of dividends.

1. Preferred Stock

With regard to preferred stock, Freddie Mac agreed with the proposal, stating that it appropriately differentiates between preferred and common stock and appropriately captures distinctions in the effects of different preferred stock structures on the extent to which such equity capital is available to absorb losses. Fannie Mae disagreed with the proposed treatment of preferred stock dividends, stating that it would be inappropriate to assume that the Enterprises would continue to pay preferred dividends and deplete capital reserves throughout the stress period when they might be classified as "undercapitalized."[169] That Enterprise recommended that the stress test terminate all capital distributions at the end of the first year of the stress period.

The final rule adopts the NPR2 treatment of preferred dividends without change. After reviewing the comments on the payment of preferred stock dividends during the stress period, OFHEO has determined that it is appropriate for the stress test to distinguish between the two types of equity and allow the payment of preferred stock dividends in some circumstances in which common stock dividends are not paid. Such a distinction reflects the higher level of commitment that a corporation makes to investors when issuing preferred stock versus common stock, since preferred stockholders have a first claim on capital distributions.

2. Common Stock

With regard to common stock, both Enterprises agreed with the proposal to cease paying dividends after the first year of the stress test. They stated that such a treatment is appropriate and aligns dividends with the capital classifications and real economic incentives. Both Enterprises, however, offered recommendations to modify the proposed dividend rate for common stock. Freddie Mac recommended using a long-term industry average dividend rate specified in the regulation that would be approximately 25 percent of earnings rather than a rate based on dividend payments in recent quarters. That Enterprise believed that such an approach would simplify the regulation's operation by substituting a single fixed value for a process that would require collecting data on four prior quarters of dividend payments and earnings, calculating the payout ratio for each quarter, and averaging those ratios. Fannie Mae stated that it is inappropriate to rely on a one-year time frame in which payments could be overly volatile, especially if there were a one-time distribution. Fannie Mae recommended basing the payout rates on the most recent three-year period, claiming such a change would reduce unnecessary volatility in the capital requirement.

After analyzing the comments, OFHEO has determined that it is appropriate to adopt the payout rates as proposed in NPR2. OFHEO notes that between 1990 and 1999 Fannie Mae's dividend payout ratio ranged from a low of 16 percent in 1990 to a high of 35 percent in 1995; whereas, Freddie Mac's dividend payout ratio ranged from a low of 20 percent in 1994 to a high of 23 percent in 1990.

Given such wide ranges in dividend payouts by one of the Enterprises, it would be inappropriate to adopt Freddie Mac's recommendation to set by regulation a dividend payout ratio of 25 percent. OFHEO has also decided not to adopt Fannie Mae's recommendation to extend the time period used to determine the payout rate from one year to three years. While Fannie Mae is correct that its recommended approach would reduce volatility in the capital requirements, such an extended time period under the recommendation would make it more difficult for the stress test to identify quickly changing Enterprise dividend policy that might deplete an Enterprise's capital. Tripling the time period on which the dividend rate is based would be inconsistent with the need for the stress test to provide a timely early warning of potential capital deficiencies.

TABLE 7.—DIVIDEND PAYOUT RATIO FOR FANNIE MAE AND FREDDIE MAC

Fannie Mae	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990
Common Stock Dividend	1.08	0.96	0.84	0.76	0.68	0.60	0.46	0.34	0.26	0.18
Diluted EPS	3.72	3.23	2.83	2.48	1.95	1.94	1.71	1.48	1.25	1.12
Div. Payout Ratio	29%	30%	30%	31%	35%	31%	27%	23%	21%	16%
Freddie Mac	**1999**	**1998**	**1997**	**1996**	**1995**	**1994**	**1993**	**1992**	**1991**	**1990**
Common Stock Dividend	0.60	0.48	0.40	0.35	0.30	0.26	0.22	0.19	0.17	0.13
Diluted EPS	2.96	2.31	1.88	1.63	1.42	1.27	1.02	0.82	0.77	0.57
Div. Payout Ratio	20%	21%	21%	21%	21%	20%	22%	23%	22%	23%

[169] Under the 1992 Act an Enterprise is undercapitalized if it does not meet its risk-based capital requirement but meets the minimum requirement, 12 U.S.C. 4614(a).

3. Share Repurchases

In the only comment that addressed other types of capital distributions, Freddie Mac recommended that the stress test count share repurchases as common stock dividends because an Enterprise could follow a strategy of making capital distributions either by dividends or share repurchases. It stated that without this modification, an Enterprise would have to hold more future capital if it made a capital distribution solely by way of dividend payments than if it made an identical distribution by way of share repurchases. Freddie Mac, while acknowledging that reducing dividends is more difficult than ceasing share repurchases, argued that such differential treatment is not warranted by small differences in risk presented by these two forms of capital distributions.

OFHEO has decided to include rules in the stress test addressing share repurchases during the stress period. OFHEO agrees that share repurchases are potentially significant capital distributions that should be reflected in the stress test. However, unlike common stock dividends that are paid for the first four quarters of the stress period, the stress test provides for share repurchases only during the first two quarters. OFHEO believes that this shorter period more closely reflects what would likely occur as the Enterprise begins to experience the adverse economic conditions of the stress test.

4. Oversight Responsibility

OFHEO emphasizes that there are significant differences between establishing a modeling decision for dividend payments and share repurchases in the risk-based capital regulation and acting on a dividend approval request from an Enterprise that is no longer adequately capitalized. Accordingly, provisions in the stress test that provide for the payment of dividends by an undercapitalized Enterprise in some circumstances and not others should not be interpreted as an indication of how OFHEO will act on any specific dividend approval request. Should the situation arise, OFHEO will evaluate any request for approval of a dividend payment on the basis of a case-by-case analysis of all the relevant facts and circumstances.

P. Capital Calculation

1. Background

In NPR2, OFHEO proposed procedures to calculate the amount of capital that an Enterprise would need just to maintain positive capital during the stress test. Under the proposal, once the stress test projects an Enterprise's capital at the end of every month in the ten-year stress period, the capital calculation process discounts the monthly capital balances back to the start date of the stress period. The Enterprise's starting capital is then adjusted by subtracting the lowest of the discounted capital balances to account for the smallest capital excess or largest deficit (i.e., subtracting a negative number in the case of a deficit). The factor used to discount a monthly capital balance is based on after-tax borrowing or investing yields as appropriate for that month and all previous months during the stress period. After the stress test ascertains the amount of capital necessary to maintain positive capital during the stress period it then multiplies the amount by an additional 30 percent to arrive at the risk-based capital requirement. The additional 30 percent is mandated by section 1361(c) of the 1992 Act to capture the management and operations risk of an Enterprise.

OFHEO stated in NPR2 that it was necessary to use a present-value approach to recognize that a dollar today is worth significantly more than a dollar ten years in the future, that is, a dollar of capital at the beginning of the stress period can be invested to return more in a later year. NPR2 employed selected discount rates that approximate an "iterative approach" also discussed in NPR2. An iterative approach would use a series of iterative simulations as it adjusted the Enterprise's balance sheet until it determined a starting level of capital necessary for an Enterprise just to maintain positive capital, but no more, throughout the stress period. Both approaches take into account the two different interest rate scenarios by applying different interest rates in the capital calculation for each scenario. Both approaches were designed to ensure that an Enterprise would have enough capital to survive the stress test regardless of when losses associated with management and operations risk might occur, even if that were the first day of the stress period. However, OFHEO proposed the present value approach because it is much simpler to design and replicate.

2. Comments

Fannie Mae and Freddie Mac were the only commenters to address the proposed method to calculate the risk-based capital requirement. Each Enterprise objected to the use of a present value approach. Instead, they each recommended that the stress test should base the amount of required risk-based capital solely on the maximum amount of total capital consumed during the stress period, i.e., subtracting the lowest stress-period capital level without discounting from the starting position total capital. Fannie Mae criticized the present value approach, claiming that it is contrary to the 1992 Act's "directive" to follow Generally Accepted Accounting Principles (GAAP), results in inappropriate incentives, and is contrary to standard industry practice. Freddie Mac stated that the present value approach distorts the assessment of capital and risk and raises timing issues, based on the assumption that management and operations risk is proportional to the interest rate risk and credit risk. That Enterprise stated that the proposed discounting method assumes that losses associated with management and operations risk occur at the very beginning of the stress test.

3. OFHEO's Response

The final regulation generally adopts the approach to calculating risk-based capital proposed in NPR2.[170] After reviewing the proposed method of calculating risk-based capital in light of the comments, OFHEO found the present value approach preferable to the approach suggested by the Enterprises. By discounting, the present value approach allows the capital calculation process to account for the time value of money. The time value of money is important because the stress period extends for ten years during which funds would be invested constantly and during which management and operations losses could occur at any time, including the beginning of the stress period.

OFHEO disagrees with each of the commenters' criticisms of its use of a present value approach. Specifically, OFHEO disagrees with the Enterprises' claim that basing the amount of capital required for the stress test on a capital consumption approach is more consistent with the statute or more appropriate from a risk management perspective than the discounting approach used by OFHEO. First, the approaches recommended by the Enterprises would not ensure that the Enterprises hold capital sufficient to survive the stress test if management and operations losses occurred at the beginning of the ten-year stress period; they would only provide such assurances if these losses occurred near

[170] As discussed in the Regulation Appendix, certain additional amounts relating to off-balance-sheet items addressed in section 3.9. Alternative Modeling Treatments, are included in the calculation of risk-based capital.

the end of that period. Second, OFHEO believes that a present value approach is appropriate because it requires an Enterprise to maintain a capital cushion for other risks when credit risk and interest rate risk are relatively low. Thus, an Enterprise is more likely to survive subsequent, more stressful periods. Third, OFHEO finds no merit to the claim that a present value approach is contrary to standard industry practices; clearly, present value theory is well established in finance and economics, both in academia and in industry. Fourth, in response to Freddie Mac's comment, the present value approach requires an Enterprise to have positive capital at any time during the ten-year stress period, even if a loss attributable to management and operations risk occurs at the beginning of the ten-year stress period.

IV. Regulatory Impact

A. Executive Order 12866—Economic Analysis

1. Introduction

This rule implements the statutory direction to OFHEO in the 1992 Act to set forth in a regulation a risk-based capital test that applies prescribed credit and interest rate stresses to the Enterprises' businesses. Recognizing the novelty of this type of regulation, OFHEO issued a series of notices soliciting public comment. First, the ANPR sought public comment on a number of issues relating to the development of the regulation. These comments were considered in the development of the two subsequent NPRs addressing different components of the risk-based capital regulation. NPR1 related to the methodology for identifying the benchmark loss experience and the use of OFHEO's House Price Index in the stress test. NPR2 set forth the remaining specifications of the stress test. In addition, OFHEO published a Notice soliciting reply comments to provide interested parties an opportunity to respond to other commenters. Throughout the preambles of the NPRs and in OFHEO's responses to comment on the NPRs, OFHEO has provided justification for all of the choices that have been made and has explained the effects of those choices in the rulemaking. All plausible models and assumptions that were suggested by commenters or otherwise identified by OFHEO have been discussed in the rulemaking documents.

This regulation has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866, Regulatory Planning and Review (E.O. 12866). OMB has determined that this is an economically significant rule. OFHEO has conducted an economic analysis of the final rule in accordance with the E.O. 12866 and has concluded that there is adequate information indicating the need for the risk-based capital regulation and that the potential benefits to the Enterprises, the housing market, homeowners, and taxpayers, far exceed any potential costs that may result from compliance with this rule.

In making this determination, OFHEO took into account that the rule relies on performance objectives to the maximum extent possible in helping to ensure the adequate capitalization of the Enterprises. In addition, the economic analysis reveals that the decisions contained in this rule were based upon the best reasonably obtainable technical, economic, and other information germane to the subject matter of the rule. OFHEO considered a reasonable number of alternatives for each of these decisions and chose the most cost-effective alternative that achieves the purposes of the 1992 Act. All plausible models and assumptions that were suggested by commenters or otherwise identified by OFHEO have been discussed in the rulemaking documents.

In conducting its analysis, OFHEO has been guided by the principles of fair disclosure and transparency. In addition, the rule is implemented in a manner that, to the extent possible, provides transparency of the capital calculation process used by OFHEO, which will benefit the Enterprises and other interested parties. OFHEO has solicited comments on all aspects of the rule through the ANPR and two NPRs described above. To assist commenters in evaluating the rule, OFHEO provided technical information on its website, in addition to the extensive material included with the notices.

2. Statement of Need for Proposed Action

The specificity of the statutory requirement to set forth a capital stress test in a regulation reflects a Congressional determination that there is a need for this regulation and that the benefits to be derived exceed any potential costs involved. The 1992 Act specifies key elements of that stress test, which is to be designed to identify the amount of capital that an Enterprise must hold at any given time in order to maintain positive capital for a ten-year period of economic stress. OFHEO concurs with the Congressional judgment that such a regulation is necessary in order to ensure that the Enterprises can continue to fulfill their important public purposes and to reduce the potential risk of the serious disruptions that could occur if one or both of the Enterprises experienced economic difficulties.

The Enterprises perform an important role in the nation's housing finance system. Issuances of debt and guaranteed mortgage-backed securities by the Enterprises have grown enormously in the past decade, providing more than half of the conventional financing of housing in the United States. The Enterprises are the largest sources of secondary mortgage market credit throughout the United States and fill a particularly important role in providing assistance in the areas of low- and moderate-income housing. Financial failure of an Enterprise could result not only in losses to investors in its securities, but also decreased public confidence in the securities of the other Enterprise and of the Federal Home Loan Banks, which are also Federal Government sponsored enterprises that provide a source of financing for housing. Such a failure also could cause decreased availability and increased cost of financing for persons seeking to purchase or refinance housing in the United States. For these reasons, public confidence in the financial health of the Enterprises will help to promote overall stability in the housing market, benefiting all homeowners and other participants in that market.

Although the current risk of an Enterprise failure is small, the continued financial stability of the Enterprises cannot be taken for granted. Over the past two decades, failures of financial institutions have been commonplace, including more than 2900 banks and thrifts and a number of securities firms. The risks associated with Fannie Mae and Freddie Mac differ in some important ways from those associated with banks, thrifts, and securities firms. However, Government sponsored enterprises are not immune to failure. Fannie Mae encountered serious financial difficulty in the early 1980s, recovering in large part because of a fortuitous decline in interest rates, and the Farm Credit System experienced serious problems later in the decade. Because of the Enterprises' key role and important public mission, Congress created OFHEO to ensure their safe and sound operation. The current combined debt and guarantee obligations of the Enterprises amount to nearly $2.5 trillion, and, unlike banks, thrifts, and securities firms, no Enterprise obligations are backed by an insurance fund that could contribute toward meeting creditor claims.

The risk-based capital rule (in conjunction with OFHEO's other regulatory tools) is intended to reduce the risk of financial failure of an Enterprise. The rule can contribute to that goal by requiring the Enterprises to hold more capital or take less risk than they otherwise would in some or most circumstances, particularly those circumstances in which the danger of failure is greatest. In circumstances in which some capital or risk adjustment is necessary, the rule gives an Enterprise the flexibility to choose whether more capital, less risk, or a combination of the two best suits its business needs.

Capital reduces the risk of insolvency by absorbing losses. For most firms, debt markets provide strong capital discipline, penalizing a firm that is excessively leveraged with higher borrowing costs. That discipline is largely lacking for the Enterprises because of their status as Government sponsored enterprises. This lack of normal market discipline is the type of significant "market failure" that is described in the Office of Management and Budget (OMB) "best practices" document (OMB Best Practices Guide).[171] It makes capital requirements particularly important for the Enterprises.

The statutory requirement to promulgate a risk-based capital regulation reflects a Congressional judgment that the market failure should be addressed through Government-mandated regulation. Enterprise debt securities receive favorable pricing in the market, due in part to the Enterprises' statutory Federal charters and advantages conferred thereby and the perception that the Federal Government would act to prevent an Enterprise's default. This perception, as well as the Enterprises' dominant position in the secondary market for conventional residential mortgage loans, lessens the market discipline that would apply if the Enterprises were not Government-sponsored enterprises. OFHEO views the Congressional direction to develop a risk-based capital regulation as intended, in part, to compensate for this lack of market discipline.

The market failure is significant, even though the Enterprises currently are well managed and profitable, because, if the Enterprises were to experience financial difficulties, disruptions could occur, with significant adverse effects on the housing and financial markets. Further, the market failure is significant because of the important public purposes served by the Enterprises and the need to avoid the expense to the taxpayer if intervention by the Federal Government were found to be necessary.

In summary, OFHEO is confident that the risk-based capital rule will perform effectively the role intended for it by the 1992 Act. It will promote the Enterprises' safety and soundness, thereby enhancing their ability to continue to carry out their public purposes.[172] These purposes include providing stability in the secondary market for residential mortgages and providing access to mortgage credit in central cities, rural areas, and underserved areas.

3. Examination of Alternative Approaches

a. Limitations Imposed by Statute

In developing the regulation, the Director of OFHEO (Director) has discretion with respect to a number of issues related to the stress test. However, the specificity of the 1992 Act provisions related to the risk-based capital stress test defines a general level of stringency and limits the alternative approaches available to OFHEO. OFHEO is directed to: (1) Identify default and loss severity rates that satisfy a specific statutory standard for credit stress (which OFHEO has termed "benchmark" rates) and (2) apply a stress test that subjects each Enterprise to a ten-year stress period with mortgage loss rates that are reasonably related to these benchmark rates. Interest rate shocks during the ten-year stress period are statutorily defined as well. During the first year of the stress period the ten-year constant maturity Treasury rate (CMT) must rise or fall by specified amounts. In both scenarios (rising or falling rates), the rate must remain constant for the remaining nine years of the stress period. The risk-based capital requirement is based upon the scenario that requires the higher capital amount at the beginning of the stress test for an Enterprise to maintain positive capital throughout the stress period.

Although the 1992 Act defines a general level of required stringency, OFHEO must make certain determinations reasonably related to historical experience and certain determinations consistent with the stress period. For example, the regulation must set forth the shape of the Treasury yield curve during the ten-year period. The statute provides that the curve should be reasonably related to historical experience and otherwise judged reasonable by the Director. OFHEO also has discretion to determine the levels of non-Treasury interest rates, the rates of mortgage prepayments, dividend payments, and many other factors, provided that they are consistent with the stress period. The 1992 Act also requires that the stress test be made public so that it may be run by interested persons in the same manner as the Director. This requirement, together with the need to apply the same stress test to both Enterprises and the need to protect proprietary Enterprise data from disclosure, imposed certain limitations on alternative approaches that were available to implement the statute.

b. Use of Performance-Oriented Approach

The risk-based capital regulation, as anticipated by the 1992 Act, is a performance-oriented standard. Rather than a uniform ratio-based standard applied to both Enterprises without regard to their individual risk profiles, the capital standards set by the regulation are specific to each Enterprise's particular risk profile. The stress test takes into account the risk characteristics of the particular assets and liabilities and off-balance sheet obligations of each Enterprise and predicts how these specific instruments will perform under stress. Because the stress test models the entire existing business of an Enterprise, and takes into account the actions the Enterprise has taken to offset risk, there are numerous options (other than adjusting the amount of total capital it holds) for an Enterprise to satisfy the requirements of the regulation. To the extent that an Enterprise uses these other options to manage its risk, its capital requirement will be lower than it otherwise would be.

c. Alternative Levels of Stringency

The 1992 Act defines the general level of stringency of the risk-based capital regulation by requiring the Enterprises to have enough capital to survive statutorily prescribed stress conditions for a period of ten years, plus an additional 30 percent for management and operations risk. Stress conditions this severe have not been experienced nationally for a comparable period of time since the Great Depression. Within these parameters, certain decisions left to the Director's discretion affect the relative stringency of the stress test. These include decision rules for modeling credit enhancements and

[171] *Economikc Analysis of Federal Regulations Under Executive Order 12866.* Office of Management and Budget (Undated document representing the result of two-year study to describe the "best practices" for preparing the economic analysis of a significant action called for by E.O. 12866).

[172] 1992 Act, section 1302(2) (12 U.S.C. 4501(2)).

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derivatives (including how to take counterparty risk into account), the payment of dividends, operating expenses, the issuance of debt and the investment of excess funds, rates of prepayment (which are affected by property valuation assumptions), and how to calculate the capital needed to survive the ten-year stress period.

In developing these decision rules, OFHEO exercised its discretion in a manner that it deemed consistent with the stress conditions mandated by the 1992 Act. That is, OFHEO specified other stress test conditions that were consistent with the stringency of the conditions specified in the statute. In the yield curve specification, for example, OFHEO could have chosen yield curves that would have had the effect of either greatly mitigating or exacerbating the most likely economic impact of the statutorily imposed shocks to the ten-year rate. Instead, OFHEO selected curves in both scenarios that did not, in OFHEO's judgment, have either effect.

In general, OFHEO modeled instruments according to their terms, in order to reflect accurately their performance under the conditions of the stress period. In the few instances where, because of the unavailability of data or satisfactory modeling techniques, it was not possible to model instruments in this way, OFHEO employed conservative measures, which have the effect of discouraging large volumes of activities the risk of which could not be quantified with some precision in the stress test. It follows, therefore, that the more precisely instruments and activities can be modeled, the lower the amount of capital that generally will be required. However, precise modeling requires adequate data and careful research. Therefore, the rule is structured to encourage the Enterprises to maintain and deliver good data, which will allow OFHEO to provide accurate and timely assessments of the risks of all Enterprise business activities.

d. Alternative Effective Dates

The 1992 Act provides that the regulation shall take effect upon issuance, but provides a one-year period from the effective date before the supervisory authorities that are tied to the risk-based capital level take effect.[173] These provisions override the Administrative Procedure Act (APA) requirement for a 30-day delayed effective date for substantive rules [174] and do not give the Director discretion to alter the timetable. However, a subsequent Congressional enactment, the Small Business Regulatory Enforcement Fairness Act (SBREFA), delays the effective date for rules that OMB has determined to be "major rules" for at least 60 days from the date they are submitted to Congress for review or the date of publication, whichever is later.[175]

OFHEO believes that the language in the two statutes can be harmonized by regarding the one-year transition period in the 1992 Act as a *de facto* delayed effectiveness date that runs concurrently with the 60-day delay required by SBREFA. In any event, SBREFA provides a good cause exception to the 60-day delayed effective date, which OFHEO has determined is appropriate to this rule. Because the 1992 Act already provides a one-year delay in enforcement of the regulation, during which Congress could act to overturn the rule if it chose, no further purpose would be served by adding on to that period the additional 60 days from SBREFA.[176] The requirement in the 1992 Act that the regulation become effective immediately reflects a Congressional determination, with which OFHEO agrees, that the public interest in safe and sound Enterprises is best served by implementing the rule without delay. The effect of an additional 60-day delay in the effective date would be to prevent OFHEO from using certain of its prompt corrective action authorities to deal with a deficiency in risk-based capital until 14 months after publication of the rule. Given that Congress has determined that 12 months is sufficient time for the Enterprises to adapt to the rule, the public interest would not be served by extending that period. On the contrary, it would not be in the public interest to further delay the effective date of prompt corrective action authorities for longer than the one-year period specified in the 1992 Act. In short, OFHEO believes the Congress has provided an ample phase-in period for the implementation of this regulation and that further delay increases financial risk with no off-setting benefit to the general public or the Congress. It should be noted, however, that, after the end of this phase-in period, OFHEO has considerable discretion in its supervisory responses, depending upon the circumstances, in the event of a risk-based capital shortfall.

e. Alternative Methods of Ensuring Compliance

Alternative methods of compliance with reporting provisions were considered. Feeds of raw data from the Enterprises, which would be processed by OFHEO, were originally thought to be the least burdensome option, but ultimately were found by the Enterprises and OFHEO to be problematic. The Enterprises commented that the data normalization performed by OFHEO to ensure that comparable data was captured for both Enterprises resulted in data translation errors. They expressed concern that resolving these errors would consume so much time after the data was submitted that accurate capital classifications could not be produced with sufficient timeliness to be useful as a regulatory tool or useful to the Enterprises in their planning. The Enterprises suggested instead that they be allowed to process their data and run a stress test specified by OFHEO using their own internal systems. They would provide OFHEO with the capital numbers, which would be presumptively final, unless OFHEO found an error.

For reasons discussed in section III.A.2., Proprietary/Internal Models, OFHEO did not agree that presumptive finality should be accorded to the Enterprises' calculations of their risk-based capital requirements. However, OFHEO agreed that allowing the Enterprises to process most of the data required to run the stress test using their internal systems and to submit a report with the data appropriately aggregated in the standardized format specified by OFHEO (along with the raw loan data used in preparing the report) would eliminate the data normalization step and allow quicker capital classifications. The final rule, therefore, requires the Enterprises to submit a Risk-Based Capital Report that contains the data required to run the stress test, aggregated by the Enterprises according to the stress test rules of aggregation specified by OFHEO. The stress test will be run by OFHEO using model-ready inputs submitted in the Risk-Based Capital Report. The accuracy and completeness of the Report, along with the raw data from which the Report is prepared, must be certified by the Enterprise official with responsibility for capital adequacy. The preparation of the Report, including the aggregation of data in a model-ready format, is subject to OFHEO's supervision and oversight, and appropriate penalties are available for false certification.

Methods of ensuring compliance with the substantive requirements of the rule—that is, ensuring that the Enterprises maintain adequate risk-based capital as determined under the rule—are largely prescribed by statute, based on the capital classification of the Enterprise. The 1992 Act requires that these classifications be determined at least quarterly and reported to the Congress annually. The Act provides OFHEO discretion to make more frequent capital determinations, but the alternative of substituting less frequent, random classifications, which is suggested in the OMB Best Practices Guide, is not an option under the statute. OFHEO does not presently find a need to specify by regulation the circumstances under which it might make determinations of capital classifications more frequently than quarterly. However, low capital levels, high risk activities, inadequacies in risk management techniques, or various adverse events external to the Enterprises are the types of concerns that could make more frequent capital classifications prudent.

The risk-based capital rule sets the standard and the procedure for determining whether an Enterprise is undercapitalized, but does not impose a specific sanction or remedial measure in the event of noncompliance. Those sanctions or other measures are not a subject of this rulemaking. OFHEO notes, however, that, under the 1992 Act, if an Enterprise fails to meet its applicable capital standard, it must submit a capital restoration plan for the approval of the Director. In addition, the Enterprise becomes subject to restrictions on capital distributions, only some of which may be waived or modified by the Director. Also, depending upon the severity of the undercapitalization, other enforcement tools are provided, some of which are mandatory.

f. Informational Measures

Executive Order 12866 contemplates that agencies should consider voluntary public disclosure systems as an alternative to other types of regulatory mechanisms. The 1992 Act does not allow for OFHEO to substitute such a voluntary system of financial disclosure for the mandatory risk-based capital determination. However, OFHEO agrees with the general implication in E.O. 12866 that financial disclosure enhances market discipline, and has chosen to publish its capital classifications of the Enterprises, together with their total and core capital levels and their respective risk-based, minimum, and critical capital requirements. Because the Enterprises' risk-based capital levels reflect the results of the stress test, and because the operation of the stress test is transparent to the public, OFHEO views the risk-based capital rule as an important step in providing greater public disclosure of financial risk at the Enterprises. Also, OFHEO is currently considering the extent to which disclosure of other financial data about the Enterprises may serve to improve market discipline without compromising information that, for legal or public-policy reasons, should remain non-public.

Given the legal structure of the Enterprises and their dominant position in the secondary market for conventional residential mortgage loans, there are also practical limits to the extent to which informational measures alone can provide sufficient market discipline to ensure their safety and soundness. The need for OFHEO and the other regulatory structures put in place by the 1992 Act arose in large part from the public perception that the Federal Government would intervene to prevent default by either of the Enterprises or by other Government-sponsored enterprises. Accordingly, Congress has made the determination that market discipline alone will be insufficient to prevent or serve as an early warning of Enterprise failure. To avoid the potential costs and disruptions that could occur in the event of the financial failure of an Enterprise, the 1992 Act established a regulatory system with sufficiently stringent capital requirements to prevent the insolvency of the Enterprises under extreme financial conditions. The risk-based capital regulation is a mandatory aspect of that system.

g. Market-Oriented Approaches

Within the bounds of the 1992 Act, OFHEO has chosen the most market-oriented alternative available. By requiring OFHEO to base capital upon a stress test that takes into consideration both interest rate and credit risk, the 1992 Act contemplates a rule that will provide great flexibility to the Enterprises to determine the most cost-effective means to match capital to risk. OFHEO has maximized the market orientation of the statute in the regulation by using models that make risk-based distinctions between many characteristics of the thousands of different instruments, programs and activities of the Enterprises. Because the risk-based capital rule is sensitive to these distinctions, it gives the Enterprises a broad array of options in the market—including altering the risk characteristics of their assets and liabilities, using different hedging strategies, and raising capital—to maintain compliance.

OFHEO has compared its risk-based capital regulation to the risk-based capital systems in use by other Federal financial institution regulatory agencies and has found that OFHEO's is the most market-oriented approach. In particular, the system in use by bank and thrift regulators, which is essentially a set of leverage ratios that are assessed against relatively broad categories of instruments, provides the regulated entities relatively few compliance options in the marketplace. Although a financial institution may adjust its portfolio to hold relatively fewer risky assets, these ratios do not take into account many risk-mitigating actions that an institution might take to hedge its risk.[177] Further, the 1992 Act already specifies separate leverage ratios in the form of minimum and critical capital levels, which OFHEO has implemented in its minimum capital regulation. Other systems in use for assessing financial institution risk, such as value-at-risk models, are designed to serve more limited purposes (such as assessing risk in a trading portfolio) and are inappropriate to determine capital for an entire financial institution involved in diverse business activities and are inconsistent with the statutory mandate for a stress test. For these reasons, OFHEO concluded that its risk-based capital rule utilizes the most market-oriented approach reasonably available

[173] 12 U.S.C. 4611(e)(1), 4614(d), 4615(c).

[174] 5 U.S.C. 553(d).

[175] If a joint resolution of disapproval is passed by Congress during the 60-day period, the rule may be further delayed if the President does not sign the joint resolution of disapproval. 5 U.S.C. 801(a)(3).

[176] Provisions in the Enterprises' respective charter acts that limit capital distributions without the approval of the Director if an Enterprise does not meet its risk-based capital requirement do not include the one-year delay specified in the 1992 Act. However, OFHEO does not intend that the risk-based capital rule will require approval of ordinary-course dividend payments, share repurchases and redemptions that an Enterprise makes during the transition year. During that period, the rule would have no impact on an Enterprise's ability to make capital distributions absent adequate notice to the Enterprise of its capital position and adequate opportunity to take reasonable and prudent steps to address any articulated deficiency. *See, supra*, section III.B.6., Interaction with Charter Act Provisions. In any event, if an Enterprise fell short of its risk-based capital requirement during the first year after the rule's effective date, OFHEO would not withhold approval of capital distributions without careful consideration of the circumstances of the shortfall. These factors could include the causes of the shortfall and the likelihood it would soon be eliminated (or had already been eliminated).

[177] The recent Basel proposal is more risk-sensitive than the current capital regime. It would provide for more consideration of credit risk hedges, although the credit risk part of the proposal is ratio-based. Committee on Banking Supervision, "A New Capital Adequacy Framework," Bank for International Settlements, Basel, Switzerland (June 1999). A copy of this document may be obtained from the BIS website at *http://www.bis.org*.

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to determine risk-based capital for the Enterprises.

h. Considering Specific Statutory Requirements

When a statute establishes a specific regulatory requirement and the agency has discretion to adopt a more stringent standard, E.O. 12866 provides that the agency should examine the benefits and costs of any more stringent alternative the agency proposes as well as the specific statutory requirement.

As explained above, OFHEO has proposed a standard that is consistent with the stringency provided for in the 1992 Act. The 1992 Act requires OFHEO to specify those elements of the stress test that are not specified or not specified fully in the Act, but in most cases, the specification must be either reasonably related to historical experience or consistent with the stress period. Within these statutory guidelines, OFHEO has significant discretion to make decisions about the assumptions and operation of the stress test. The specifications for some of these elements of the stress test have the potential to increase or decrease the overall stressfulness of the regulation. In each such case, OFHEO has chosen specifications that are consistent with the conditions of the stress period.

Yield curve specifications provide an example of a choice OFHEO made that is consistent with the conditions of the stress period. Both the flat yield curve in the up-rate scenario and the upward-sloping curve in the down-rate scenario are within the range of yield curves that have been experienced frequently. Some comments complained that these curves can result in short-term interest rates receiving a greater shock than long-term rates.[178] However, as explained in detail in the preamble to the final rule,[179] OFHEO found that such a result is most consistent with the changes in the ten-year rates, based upon historical experience. That is, when interest rates have risen precipitously in the past, yield curves have tended to flatten. When they drop precipitously, yield curves tend to steepen. Similarly, although yield curves never actually maintain a static slope over time, OFHEO found that maintaining a constant slope was most consistent with the 1992 Act's specification of a constant ten-year CMT and was the approach that best reflected the level of stringency intended in the statute.

4. Analysis of Costs and Benefits

a. Introduction

Executive Order 12866 provides that the issuing agency will establish a baseline against which the agency should measure a rule's resulting costs and benefits, including those that can be monetized and those that cannot. The agency must then explain how it weighed these costs and benefits in reaching its decision on the regulation. The Executive Order recognizes that in many cases the agency is required by statute to act notwithstanding the outcome of this cost-benefit analysis, but asks that it be performed nevertheless, so that the impact of the regulation can be understood and to show that the costs and benefits of any options that were available to the agency under the statute were weighed appropriately.

Executive Order 12866 also contemplates that, if a regulation is composed of a number of distinct provisions, the benefits and costs of these different provisions will be evaluated separately. The preambles to the final rule and the proposed rules break down the rule into such distinct provisions and detail the decision-making in each. These decisions typically were made after weighing the delays and costs of more precise modeling against the likely impact of that greater degree of precision on modeling. Because the number of decisions is large and the interaction effects of these decisions are extensive, it is impractical to analyze all possible combinations of possible decisions as to every provision in the rule. Therefore, only those provisions that OFHEO has found to be most significant or controversial have been targeted for analysis in this economic analysis.

b. Baseline

Because the risk-based capital regulation is mandated by Congress, OFHEO was faced with two choices for determining a baseline from which to measure costs and benefits of the regulation. OFHEO could either use a baseline scenario that assumes that the statutory requirement was absent, or a baseline that assumes that the statutory requirement is present but no regulation is adopted. For the purpose of this analysis, OFHEO chose the latter.

The Enterprises have stated publicly that they support the stress test that is embodied in the 1992 Act and implemented by the rule and that they would apply a stress test and maintain capital in compliance with the 1992 Act voluntarily in the absence of a rule. The baseline scenario assumes, therefore, that each Enterprise constructs a stress test, determines its risk-based capital requirement, and submits the information to OFHEO quarterly. However, these voluntary numbers, which are not produced pursuant to a risk-based capital rule, could not form the basis for the Enterprises' capital classifications. The 1992 Act requires that until one year after OFHEO publishes its risk-based capital regulation, OFHEO must base the capital classifications upon the minimum and critical capital levels only.[180] Consequently, capital classification and supervisory actions related to capital classifications would continue to be based on the minimum and critical capital requirements. The baseline scenario also assumes that, although no standardized risk-based capital data submission would be required, the same types of information would be made available to OFHEO for the purpose of its examination and supervisory responsibilities, including examining the stress tests constructed by the Enterprises and the accuracy of the internal capital requirements produced thereby.

c. Benefits of the Rule

The benefits of the final rule over the baseline scenario are numerous. They accrue to the Federal Government (and hence taxpayers), the Enterprises, homeowners, and capital market participants. The most obvious and important of these benefits to all four groups is a reduced risk of failure of the Enterprises. The Enterprises have a dominant position in the secondary mortgage market and are a major presence in the debt markets. Were either Enterprise to fail, the disruption to the housing and financial markets likely would be significant. It could affect the cost of financing for housing and the availability of new housing, particularly affordable housing. The regulation will reduce the risk of failure by providing objective, conservative, and consistent standards for capital at the Enterprises. It will provide maximum transparency, create greater comparability with the capital requirements for other financial institutions, and allow OFHEO to respond quickly to capital weakness at an Enterprise.

The economic distress of Fannie Mae in the 1979–1985 period was significant and the 1992 Act was, in part, a response to Congressional concern that,

[178] If the yield curve is upward sloping prior to the beginning of the stress test, short-term rates will move farther than long term rates in the up-rate scenario, and less than long-term rates in the down-rate scenario. If the yield curve is inverted or downward sloping, the opposite effect will occur.

[179] Section III.G.2.a., Specification of the Flat Yield Curve in the Up-Rate Scenario.

[180] 12 U.S.C. 4614(d).

but for a fortuitous change in interest rates, Fannie Mae might have collapsed, costing investors or the Government billions of dollars. Because of the growth of the Enterprises, a failure today could result in much greater loss. Depending on the response of the Government to such a failure, significant disruption to the financial and housing markets, significant burdens on taxpayers, or both would result. The losses resulting from the savings and loan crisis in the late 1980s, which ultimately were borne by the U.S. taxpayer, are estimated at more than $100 billion. However, the Enterprises have considerably more dollar exposure than the entire savings and loan industry had in 1986. Also, because of the central role of the Enterprises in the affordable housing market, an Enterprise failure could have adverse impacts on the availability and affordability of housing in many areas of the United States.

The regulation has another important public benefit. A capital standard is likely to be more conservative if it is determined objectively and consistently for both Enterprises in a transparent and evenhanded way by an agency of the Government responsible for their safe and sound operation than if it is determined voluntarily by each Enterprise. The Enterprises, by virtue of their structure, have far less incentive than OFHEO to make conservative choices in the construction of the stress test. They, like other privately owned financial institutions, are subject to shareholder pressure to increase earnings per share. In the absence of substantial market discipline (based on fear of insolvency), a simple way to increase earnings per share is to increase capital leverage, which reduces capital ratios. In addition, non-compliance with the risk-based capital rule subjects an Enterprise to statutory restrictions on capital distributions and to special supervisory measures that could be imposed by OFHEO. Further, in the baseline scenario, the capital requirement for each Enterprise would be determined by a model tailored to that Enterprise's business mix and methods, and there would be no comparability between the two capital standards even if the risk profiles were the same. In sum, shareholder pressures, competitive pressures, and the lack of a binding regulation would likely result in weak and inconsistently applied standards.

Government involvement in and approval of capital standards is essential to create public confidence that they are appropriately stringent, transparent, and fair. Government oversight and enforcement also foster public confidence that the Enterprises are complying with those standards. It is significant that, at least in the United States, Federal regulators determine the required capital levels for all federally regulated depository institutions. Given the sensitivity of econometric models to changes or variations in the economic analyses and assumptions that underlie them, the public would be appropriately skeptical of a system of risk-based capital standards based on stress tests designed, run, and monitored by the Enterprises themselves.

Further, although OFHEO's risk-based capital regulation falls within that class of regulations that the agency is required to issue notwithstanding the findings of the cost-benefit analysis, no commenters urged OFHEO to support a statutory change to allow self-regulation or eliminate the requirement for risk-based capital rules for the Enterprises. Rather, commenters generally agreed that well defined and stringent capital standards are important to ensuring the safety and soundness of the Enterprises. Moreover, as explained below, the costs of an effective risk-based capital rule are small relative to its significant and apparent public benefits.

A unique benefit of OFHEO's risk-based capital rule is its sensitivity to the credit and interest rate risk in each Enterprise's business. The marginal capital associated with the assets, liabilities and off-balance-sheet instruments of the Enterprises varies, not only based upon the characteristics of the particular instrument, but also based upon the mix of instruments in each Enterprise's portfolio.[181] The stress test also takes into account the economic conditions as of the date for which the stress test is run. For example, if housing prices have been rising prior to the as-of date, a given portfolio of seasoned loans will have a lower credit loss experience than if prices have been declining, all other factors held equal. Likewise, current interest rates may have a significant impact on the amount of capital required of an Enterprise, depending upon how well hedged the Enterprise is against interest rate risk.

The existence of a rule that complies with the statutory mandate for notice and comment and replicability will create greater transparency and promote more market discipline than a voluntary system. Further, because OFHEO will design and run the stress test, OFHEO may be able to act more quickly to deal with capital inadequacies that may arise. Also, the rule is forward-looking, which helps ensure that capital is built up as stressful economic periods develop, before losses occur. As a response to the regulation, OFHEO anticipates that the Enterprises may choose to build up a capital cushion during favorable economic conditions, when capital is inexpensive, to avoid having to raise capital or hedge risk in other ways during tough economic times. The Enterprises have, in fact, increased their capital levels since 1993 in response to the 1992 Act and in anticipation of OFHEO's capital rules. Another benefit of the rule is that it rewards risk reduction by the Enterprises with a lower capital requirement, providing appropriate incentives to the Enterprises to hedge risk.

The transparency of the stress test will improve the ability of market participants to evaluate each Enterprise's risk profile, risk management techniques, and capital adequacy. The existence of an independent and objective evaluation of capital adequacy and the knowledge that prompt supervisory action is available to correct deficiencies are likely to inspire greater investor confidence, which may lower the cost of debt and capital to the Enterprises. To the extent that these savings are passed along to consumers, the regulation may benefit homeowners with lower mortgage costs. To the extent they are not passed along, shareholders will benefit, offsetting, in part, any increase in capital costs. Most importantly, conservative, objectively determined capital standards mean that the Enterprises are more likely to be able to continue to perform their important public purposes, such as purchasing low- and moderate-income residential mortgage loans.

d. Costs of the Rule

OFHEO has also considered whether there are certain costs, tangible and intangible, associated with the regulation—that is, with a system of mandatory rather than voluntary compliance. First, there will be a reporting cost to the Enterprises. As a result of the need to report data in a standardized format there may an initial cost associated with the need to adapt existing computer systems to accommodate the periodic reporting within the regulatory time frames. However, these costs have largely been incurred already as OFHEO has worked with the Enterprises to obtain the data necessary to design and run the stress test.

[181] *See* NPR2 section II.B Sensitivity of Capital Requirement to Risk, 64 FR 18097 (April 13, 1999).

There will be personnel costs to the Enterprises associated with preparation and certification of the quarterly data submissions. However, similar reporting would be required of the Enterprises even in the absence of the risk-based capital regulation, because OFHEO would need much the same data in order to monitor closely the Enterprises' internal modeling of the stress test and to support OFHEO's research and analysis functions. Therefore, there is no certainty that reporting costs to the Enterprises under the regulation will be significantly higher than under the baseline scenario. Further, any possible cost savings to the Enterprises in the baseline approach would be offset by an increase in OFHEO examination time. This increase would occur because, in the absence of a risk-based capital regulation, OFHEO would need to spend considerably more examination resources than are currently budgeted to validate the computer models (including the databases upon which the models are estimated and operated) that the Enterprises construct to run their internal stress tests. Examination of the Enterprises' computer models will continue to be an important aspect of OFHEO's functions after the risk-based capital rule is implemented. However, if risk-based capital were to be determined based upon the output of a single internal model at each Enterprise, that model would require far more intense scrutiny than other business models. Further, OFHEO would still need to maintain its internal modeling capability in order to perform its research and analysis functions under the 1992 Act. The net result would be considerably more expense for OFHEO than the approach in the regulation.

It has been argued that under the voluntary system, the Enterprises might be freer to modify many aspects of the stress test as soon as new data become available, because they would not have to wait for a regulator to determine capital treatments as their businesses change. If this were true, it might allow them to align their capital with risk more quickly than under the regulation. OFHEO views this benefit of a voluntary system as speculative, at best. OFHEO would require sufficient internal controls at the Enterprises to insure that treatments of new activities were appropriately conservative and capital calculations accurate. Moreover, OFHEO has streamlined its procedures to deal with new activities and other modeling issues that arise in order to provide prompt decisions on appropriate treatments. It is not clear that internal systems at both Enterprises that are designed to do the same thing would be less expensive or time-consuming. It is clear, however, that the determinations made under such internal systems would lack the transparency of similar determinations made by OFHEO. It is also likely that the financial markets would have greater confidence in the objectivity and fairness of decisions of a Federal regulatory agency than in the internal decisions of the Enterprises. Greater confidence in the capital numbers could well reduce the overall cost of debt and capital to the Enterprises.

Each Enterprise could argue that its allocation of capital cost to various individual financial instruments would likely be different under a voluntary system, but each Enterprise allocates capital costs differently and bases those allocations upon numerous business considerations in addition to the capital regulations. OFHEO has found no basis for concluding that the rule would cause the Enterprises to change their internal capital allocations to impose any material additional cost on the various housing programs that comprise a primary mission of the Enterprises. Further, OFHEO has found that the capital requirements in the rule will not increase the cost of housing generally or create other costs to the housing market or the larger economy.

e. Costs and Benefits of Alternatives

The stress test contains many components and OFHEO considered numerous means to design and implement each of them. As explained in section IV.A.1., Introduction, the various combinations of these alternatives are so numerous that it would be impractical to discuss each possible combination. The preambles to the proposals and final rule examine the alternatives related to each individual decision discretely, and the preamble to the final rule analyzes the overall result for reasonableness and compliance with statutory intent. In addition, in the economic analysis below, OFHEO highlights selected issues that could have a significant impact on the amount of capital that an Enterprise might be required to hold and discusses the various alternatives considered as to these core issues.

(i) Determination of the Benchmark Loss Experience

A threshold issue in creating the stress test was determining the rates of default and severity "that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years, experienced the highest rates of default and severity of mortgage losses * * *"[182] OFHEO considered numerous alternative statistical methodologies to make this determination. These included various methods for determining what constituted a "contiguous area," different methods for measuring default and severity rates, different potential databases that could be used in the analysis, and different methods of averaging and weighting the data from the two Enterprises.

The 1992 Act provides no guidance to OFHEO as to how a "contiguous area" should be defined. OFHEO decided to define the term to mean a group of contiguous states. Under this definition each state in the area must share a common border with another state in the area—the states could not simply meet at a point. OFHEO considered using smaller units, such as the first two or three numbers of zip codes. In general, the smaller the unit that is used in the aggregation, the higher the benchmark loss rate that would be determined. By connecting pockets of severe losses with narrow parcels of land, OFHEO could have created an area with much higher loss rates than the benchmark loss experience that was identified in NPR1. However, commenters on the issue unanimously supported the use of states as the smallest geographic unit, and suggested that using smaller units would create computational difficulties and likely result in an area that would look "gerrymandered." OFHEO found that conducting analysis at a state level is a common rating agency practice and was the most logical, efficient and reasonable approach to construct a benchmark area. Larger areas, such as Federal Home Loan Bank districts and Census Regions, were considered, but because each of these areas was comprised of a fixed group of states, they did not provide the same flexibility or range of potential areas as OFHEO's approach. Accordingly, they were less likely to identify an area of the country that had experienced sufficiently stressful economic circumstances to be appropriate for the stress test defined in the 1992 Act. OFHEO also considered a Freddie Mac suggestion that would have altered the formula for selecting areas for comparison to include a "compactness" requirement, but determined that this suggestion was inappropriate and unworkable. OFHEO disagreed with Freddie Mac that the proposed methodology did not result in reasonably compact areas. Moreover,

[182] 12 U.S.C. § 4611(a)(1).

Freddie Mac's suggestion would have imposed an additional requirement, "compactness," that goes beyond what the 1992 Act specified and could well preclude identification of an appropriately stressful credit environment.

OFHEO also considered a number of options in deciding how to determine what event would constitute a default and how to measure the severity of a loss for purposes of the benchmark analysis. OFHEO considered including loans that had been subject to "loss mitigation" procedures (which ordinarily indicates that payments are not current on a loan), in addition to loans that resulted in preforeclosure sales, foreclosure, deed-in-lieu, or credit loss. OFHEO decided not to include loss mitigation events as defaults, because data were not adequate to identify them.

OFHEO considered whether to use loss severity rates in the benchmark analysis with or without the effect of mortgage insurance or other third-party credit enhancements taken into account. OFHEO determined that the purposes of the 1992 Act were better served by using loss severity rates without consideration of credit enhancements in determining where and when mortgage losses were highest. The Act requires OFHEO to identify the highest credit losses on mortgages, not the highest net credit losses to the Enterprises. Further, this methodology is more consistent with the stress test in the final rule, which first calculates losses on mortgages and then determines the extent to which those losses are reduced by credit enhancements.

OFHEO based the benchmark determination upon data on the Enterprises' loans. OFHEO considered using other loan data, including databases that were available on Federal Housing Administration loans and credit bureau data. As explained in NPR1, OFHEO decided that the Enterprises' loan data would be the most relevant source from which to determine a benchmark loss experience for the Enterprises. The quality and detail of those data are such that they reflect losses in recent periods as well as or better than data from any other sources. Moreover, using the Enterprises' data eliminates the problem of having to sift out loans that would not be eligible for purchase by the Enterprises or otherwise not be representative of the loans they purchase.

Having determined that the Enterprises' loan data were the best database for the analysis, OFHEO considered which group or groups of loans from that database would be used to compare the many different state/year combinations that meet the population and contiguity requirements. The Enterprise loan data include information on loans of many different types (fixed rate, adjustable rate, balloon, graduated payment, second mortgages, etc.), supported by various types of residential collateral (single-family detached homes, planned unit developments, condominiums, multifamily buildings, two-to four-unit homes, etc.). OFHEO considered which of these loan and collateral types would be appropriate to include in an analysis of the worst loss experience that met the statutory criteria. In order to have a common loan type for comparison among potential benchmark periods and areas, OFHEO limited its analysis to 30-year, single family, fixed-rate mortgages. This group of loans was chosen because the Enterprises historically have purchased large volumes of them and because they are relatively homogenous, meaning their terms and conditions are relatively uniform as compared to the other loan and collateral types.

OFHEO also considered whether to take the loan-to-value ratio (LTV) of loans into account in determining the benchmark, because this ratio is highly correlated with loan losses. A method of doing so, which OFHEO considered, would determine loss rates by various LTV ranges and then compute overall default or loss rates by assuming some standard distribution of LTV ratios and weighting the LTV-specific loss rates according to this distribution. OFHEO did not use either of these alternative methodologies. Instead, OFHEO decided to compute loss rates for candidate benchmark periods and areas on a dollar-weighted basis only, without regard to LTV, for three reasons. First, in many candidate periods and areas, there were too few loans in some LTV ranges to use the LTV-weighting approach. Second, OFHEO found no acceptable basis for using any specific, standardized LTV weights. Finally, OFHEO was concerned that the LTV weighting approach might be inconsistent with the 1992 Act, because it would not identify the part of the country where mortgage losses were highest.

Other methodological alternatives were considered by OFHEO in the procedures for combining the default and severity rates of the two Enterprises. OFHEO chose to calculate the default and severity rates for each Enterprise separately for each candidate period and area and to use the average of the experience of the two Enterprises. OFHEO also considered averaging the rates based upon the market share of the two Enterprises, as suggested by the Department of Housing and Urban Development, but finally determined that attempting to determine the historical relative market shares of the two Enterprises would be difficult. Further, OFHEO found the experiences of both Enterprises equally relevant to a determination of the highest rates of default and severity and, for this reason also, decided to weight their data equally.

(ii) General Modeling Approach

This discussion of the general modeling approach focuses on the macro-decisions made by OFHEO in the development of the stress test. Given the importance placed upon aligning capital to risk, OFHEO chose to model the Enterprises' books of business as precisely as possible. Examples of the decisions made by OFHEO that attempt to balance the costs against the benefits of precision are discussed below.

As a threshold matter, OFHEO chose to use a cash flow model that, to the extent possible, determines the cash flows for most instruments according to their terms, taking into account the availability of data and the need to avoid excessive complexity and regulatory burden. OFHEO could have chosen a simpler type of model that calculated gains and losses on most instruments as ratios of a few baseline instruments. For example, OFHEO could have assumed that losses on all other loan types were a fixed multiple of losses on a fixed rate, 30-year, owner-occupied mortgage loan. The benefit of such a model would have been its relative simplicity, but the costs of such an approach would have been a decrease in both the sensitivity of the stress test to risk and the usefulness of the stress test in aligning capital to risk.

Some commenters suggested that OFHEO adopt an approach similar to those adopted by the Farm Credit Administration (FCA) and the Federal Housing Finance Board (FHFB), which involve, to varying degrees, the use of internal proprietary models. OFHEO considered using internal models, but differences in regulatory responsibilities make the FCA and FHFB approaches unworkable for OFHEO. The entire statutory scheme governing the regulation of the Federal Home Loan Banks by the FHFB, including the Banks' ownership and capital structure, is very different from the regulatory framework established by the 1992 Act for the Enterprises. It is, therefore, reasonable to expect that a very different type of capital regulation would be required. The statutory language governing FCA's risk-based capital

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regulations for the Federal Agricultural Mortgage Corporation is very similar to the language in the 1992 Act, but, because FCA's regulation applies to only one entity, FCA did not have the same concerns about consistency between Enterprises that OFHEO does. For the purpose of regulating Fannie Mae and Freddie Mac, OFHEO determined that the practical difficulties of implementing and monitoring proprietary, internal models that are consistent with OFHEO's statute more than offset any benefit associated with the use of such models. Most importantly, OFHEO believes that an independently constructed and administered stress test that measures risk consistently in both Enterprises is the best method to insure adequate capitalization of the Enterprises.

(iii) Interest Rates—Yield Curves Considered

The 1992 Act establishes the yield on the ten-year constant maturity Treasury (CMT) precisely, but for other CMTs requires only that they move in patterns and for durations relative to the ten-year CMT that are reasonably related to historical experience and that are determined to be reasonable by the Director. OFHEO interprets this latter requirement to require that the yield curves be reasonable within the context of the stress test and the overall purposes of the 1992 Act.

To select the yield curves, OFHEO examined historical average yield curves subsequent to significant interest rate movements and observed that they were consistently flatter the more the ten-year CMT yield increased and consistently steeper the more the ten-year CMT yield decreased. Consequently, OFHEO selected yield curves that reflect this general tendency. The yield curve in the up-rate scenario is flat for the last nine years of the stress period. In the down-rate scenario, the yield curve is upward sloping.

In selecting the yield curve for the stress test, OFHEO was guided by the general level of stringency of the statutorily prescribed interest rate changes and was mindful of the effect on the relative level of stress of holding the yield curve constant for a period of nine years. In the historical data, OFHEO observed more steeply sloping yield curves than the one selected in the down-rate scenario, and also observed that in periods of rapidly rising rates the yield curve is sometimes inverted. If OFHEO had chosen to hold the yield curve constant at these more unusual slopes, the stress test would have been more stressful than with the yield curves selected. Instead of these yield curves, which only exist for short periods of time, OFHEO selected yield curves that are more representative of a long-term average after a severe interest rate shock and that are, nevertheless, unusually stressful.

(iv) Interest Rates—50 Basis Point Premium on Enterprise Cost of Funds

Because the stress test at times generates a need for additional funding (for example, when Enterprise debt matures more quickly than loans in portfolio), it was necessary for OFHEO to adopt a decision rule about the rates at which new debt would be issued. NPR2 specified that after the first year of the stress period, a 50-basis-point premium would be added to the projected Agency Cost of Funds to reflect the premium that would be demanded by the market as a result of the credit and interest rate stress conditions. The proposal was based on a review of historical data, which showed a widening of greater than 50 basis points between Enterprise borrowing rates and the ten-year CMT in response to economic stress on another Government-sponsored enterprise. Upon consideration of the comments on this issue and after examination of the relevant historical data and the impact of the premium on capital requirements, OFHEO decided not to apply the premium to the Agency Cost of Funds in the final rule.

OFHEO was not convinced by arguments from commenters that the market would not demand a premium because investors would rely on the implied Federal guarantee and the Federal regulatory structure to prevent failure or because other spreads have allegedly widened by as much or more historically than Government-sponsored enterprises. The data are too sparse to support either of these conclusions. There has been only one, relatively brief, period of time in the early 1980s when one of the Enterprises experienced financial stress approaching the magnitude specified in the stress test. The only other similar event involved the Farm Credit System in the mid-1980s.

However, as some comments noted, it is possible that whatever events might cause a widening of the spread between the Enterprises' debt rates and Treasuries could also widen spreads of other interest rates and Treasuries. These spreads have an important effect on the value of hedging instruments and some Enterprise asset returns, and further consideration of these spreads may be appropriate. Current data are insufficient to determine appropriate spreads to the various non-Treasury rates in the stress test, and data for determining an appropriate debt premium are sparse. Consequently, OFHEO determined not to include a premium on new debt in the final rule at this time. This is, however, a likely area for future research and for refinement of the rule, because assumptions about these various spreads may comprise an area of significant risk to the Enterprises.

(v) Property Valuation—Inflation Adjustment

The 1992 Act requires that if interest rates rise by more than 50 percent of the average ten-year CMT for the nine months prior to the start of the stress test, losses must be adjusted to account for general inflation. The stress test implements this requirement by increasing house prices by the amount any ten-year CMT, after the upward shock in interest rates, exceeds a 50 percent increase in the average ten-year CMT from the nine months prior to the start of the stress period. This amount is compounded over the remainder of the stress period for a cumulative inflation adjustment and applied during the last 60 months of the stress period.

Some commenters argued that house prices should be increased by the entire amount of the increase in the ten-year CMT, rather than just the component in excess of a 50 percent increase. OFHEO rejected this alternative based on OFHEO's analysis of historical experience of housing prices during periods of general inflation (as explained in the section III.H.1.b., Inflation Adjustment) and because it would have essentially negated the credit stress of the benchmark loss experience.

(vi) Mortgage Performance—General

Models of mortgage performance comprise the central core of the stress test. Models were the most viable means of complying with the statutory requirements that the loss rates produced by the model be reasonably related to the benchmark loss experience and that appropriate distinctions be made among different types of mortgage products. These models calculate prepayment and default rates and the dollar losses associated with the defaults based upon various economic variables. The models were estimated from data on millions of loans that were purchased by the Enterprises between 1975 and 1999. Creating a model that produces reasonable projections of loss under a wide variety of economic conditions and starting portfolio positions was a complex task, which involved extensive

economic analysis and the examination and testing of many different variables. The decisions made by OFHEO in creating the models are discussed in detail in the preambles to NPR2 and the final rule. The most significant of these decisions are summarized below.

(vii) Modeling Conditional vs. Cumulative Rates

Among the threshold issues confronting OFHEO was whether to construct statistical models of conditional rates of loan defaults and prepayments or to adopt a less detailed approach, such as calculating only cumulative rates and distributing them in fixed percentages across the ten years of the stress period. A conditional rate of default or prepayment refers to the volume of loans that default or prepay during any period, expressed as a percentage of the total volume of loans surviving at the start of that period. The term "surviving loans" means those from the group that have not previously prepaid or defaulted. A cumulative rate of default or prepayment is the total percentage of a group of loans that default or prepay during the entire period being studied (such as the ten-year stress period). A group of loans studied over a ten-year period would have a single cumulative default rate, but would have 120 monthly conditional default rates.

Comments regarding this aspect of the model were mixed. In their comments regarding the ANPR, the Enterprises favored using a cumulative rate model of defaults, with Freddie Mac suggesting that a cumulative rate of default be extracted from the benchmark loss experience and the resulting default events be distributed evenly across the stress period. It was argued that the cumulative approach was much simpler and would avoid possibly overstating defaults in the up-rate scenario. Other commenters urged a model of conditional default rates that would take into consideration the differences in prepayment rates in high-rate and low-rate environments. After a conditional default and prepayment rate model was proposed in NPR2, the Enterprises did not object further.

The final rule uses conditional rather than cumulative default rates in the stress test. For single family mortgages, the final rule uses statistical models for the conditional rates of both default and prepayment. For multifamily mortgages, the final rule combines a statistical model of conditional default rates with simple rules for setting conditional prepayment rates. In NPR2, five separate statistical models of conditional multifamily prepayments were proposed. OFHEO considered comments about the adequacy of the data to support these models, whether the models accurately reflected costs incurred for prepayment within yield maintenance or prepayment penalty periods, and the overall complexity of the models, and decided that statistical models of conditional prepayment for multifamily mortgages would not provide greater precision or risk sensitivity than the simple set of prepayment rules implemented in the final rule.

The advantages of using conditional rates are numerous. This approach automatically accounts for the impact of prior defaults on the number of loans remaining active and subject to the risk of prepayment, and, conversely, the impact of prior prepayments on the number of loans remaining subject to the risk of default. This feature is essential to developing a reasonable representation of Enterprise mortgage cash flows across the different economic scenarios envisioned by the stress test. It also avoids potential numerical anomalies that might arise when total or annual defaults during the stress test are fixed, such as years in which total defaults would exceed total surviving loans due to high prepayment levels in the declining rate scenario of the stress test. Also, the periodic nature of mortgage payments, scheduled amortization, and the coupon adjustments on adjustable rate loans, all of which affect mortgage performance, require a model that predicts an exact number of default and prepayment events in each discrete time period of the stress test.

OFHEO believes that a statistical model of conditional defaults and prepayments is more accurate and more sensitive to stress test economic factors, and to the Enterprises' starting books of business, than are simpler methods that might be developed. Each quarter the test is applied, a statistical model can account for changes in economic conditions (such as the level and shape of the Treasury yield curve or recent trends in house prices) and the composition of an Enterprise's business since the last time the test was performed. That is, the rates of default and prepayment applied when the stress test is run are adjusted to reflect current circumstances. Such adjustments are particularly important because mortgage prepayment and default rates are highly time-dependent, characteristically increasing during the first years following origination, peaking sometime between the fourth and seventh years, and declining over the remaining years. However, this time-dependent pattern is itself affected by economic conditions.

Another advantage of modeling conditional default and prepayment rates is the support this approach provides for the proper treatment of loss severity. Loss severity is affected significantly by factors that affect the timing and amount of defaults in the stress test. Loss of loan principal balance, the single largest cost element in determining loss severity, is dependent upon house price declines, which are dependent upon economic conditions leading up to the date of default. Funding costs are also affected by the changing interest rates in the stress test. For all of these reasons, using conditional default and prepayment rates during each month of the stress period greatly improves the sensitivity of the stress test to risk factors.

(viii) Use of Joint Default/Prepayment vs. Total Termination Models

Another key issue for OFHEO was whether or not to use joint prepayment and default models, in which the conditional rates of default and prepayment interact statistically, or to use some simpler assumptions about how default and prepayment rates relate to each other in the stress test.

Fannie Mae favored the use of a statistical model that would determine only total terminations (defaults plus prepayments) in each of the two stress test scenarios. The Enterprise further commented that total defaults in each scenario be set at levels that occurred in the benchmark loss experience. Prepayments would be calculated by subtracting total defaults from total terminations. Fannie Mae viewed this approach as consistent with industry practice and asserted that it would be easier for the company to manage a capital standard based on such an approach than one based upon a joint statistical model.

Freddie Mac commented that a joint statistical model of default and prepayment rates would be preferable to total termination models in the stress test context because (1) joint models ensure that defaults and prepayments correctly "add up" to total mortgage terminations, (2) total termination models put undue focus on interest rate movements because default is a small part of total termination under normal conditions (an assumption Freddie Mac found unwarranted in a stress test environment), and (3) standard total termination models capture small effects such as seasoning that would unnecessarily complicate the stress test. However, Freddie Mac did not recommend that OFHEO use joint

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statistical models in the stress test, asserting OFHEO would have difficulty using the data from the benchmark loss experience to estimate the models. Instead, Freddie Mac recommended estimating a statistical equation for prepayments based on historical data from a distressed region to factor prepayments into the stress test, while using cumulative default rates from the benchmark loss experience as the stress test default rates.

As discussed in greater detail in section III.I.1.a., Modeling Approach, the final rule uses joint statistical models in the stress test for single family loans, reflecting the recommendations of many other commenters.[183] In doing so, OFHEO recognized that models of mortgage performance are actually models of borrower behavior—individual borrowers' decisions whether to continue making monthly mortgage payments, to prepay, or to default. This "options theoretic" conceptual framework, which underlies the joint determination of defaults and prepayments, is the basis for nearly all mortgage performance research. In sum, the joint modeling approach is based on well known and accepted statistical methods that are widely applied in mortgage performance research. Researchers have found multi-choice statistical models to be necessary for this research, because the borrower's options to default or prepay are interrelated.

OFHEO considered the use of total terminations models, such as those recommended by Fannie Mae's comments on the ANPR, but found joint statistical models superior for theoretical reasons noted above and also for reasons cited by Freddie Mac in its comments. However, Freddie Mac's recommendation to estimate statistical prepayment equations using historical data from a distressed region while using the cumulative default rates from the benchmark loss experience was also determined by OFHEO to be inadequate for the purposes of the regulation. Instead, OFHEO addressed Freddie Mac's concern about the use of joint models—specifically, the difficulty of retaining a reasonable relationship to the benchmark loss experience—in OFHEO's decisions to adjust the underlying default and severity equations to replicate the benchmark loss experience, as noted below.

(ix) Relating Mortgage Loss Rates to the Benchmark Loss Experience

One of the challenges in developing a suitable model of mortgage performance was the statutory requirement that the stress test retain a reasonable relationship to the benchmark loss experience, while also taking into consideration a variety of variables such as house price changes, loan seasoning, and loan type. Ultimately, OFHEO chose to relate the stress test losses to the benchmark loss experience in two ways. First, the rule applies certain economic factors from the benchmark area and time period—specifically, house prices, rent growth rates and rental vacancy rates—in the stress test. Second, OFHEO applied the single family mortgage model to the loans used to determine the benchmark, broken down by loan-to-value ratio (LTV) category and using the actual interest rates from the benchmark period. The default and severity rates predicted by the model were then compared to the higher actual benchmark rates for each LTV category. Ratios of actual to predicted rates for each category are applied in the default and severity equations used in the stress test to increase credit losses to a level reasonably related to the benchmark loss experience.[184] Modeling the effects of differences in starting coupons and interest rates from the benchmark loss experience was possible because OFHEO's database allowed the models to be estimated based upon a broad and representative sample of historical mortgage performance data. The statistical equations therefore yield reasonable estimates that can be used to project mortgage prepayment under many different circumstances, including stress test interest rate scenarios.

There were many different alternatives that OFHEO could have selected to relate stress test loss rates to the benchmark loss experience. For example, comments on the ANPR suggested that OFHEO apply the cumulative default rate from the benchmark loss experience directly to the current books of business in the stress test. OFHEO considered this option, which seems simpler in concept than predicting conditional default probabilities. However, OFHEO determined that attempting to make adjustments to benchmark default levels to take into account the various factors specified in the statute and other appropriate factors would be more complex and less likely to yield reasonable capital requirements than the approach selected. OFHEO also considered an approach, which was proposed in NPR2, that would apply the same benchmark adjustment or calibration factor to all single family loans regardless of the LTV category. Although simpler than the final rule, this approach was criticized by many commenters for failing to take into consideration the mix of LTVs in the benchmark loss experience, because the difference between model predictions and the actual loss rates in the benchmark loss experience varied significantly between LTV categories. Accordingly, in the final rule, different benchmark adjustment factors are applied for each LTV category.

To summarize, the methodology OFHEO selected relates losses in the stress test to the benchmark loss experience in a manner that is reasonable within the context of the entire stress test. More specifically, the mortgage performance models, with the benchmark adjustments, not only generate loss rates that are consistent with the benchmark loss experience, but also produce reasonable loss rates under a wide variety of starting positions under both the up-rate and down-rate scenarios. No alternative has been suggested that, in OFHEO's view, would accomplish these objectives as well as the final rule.

(x) Single Family Mortgage Performance

(a) Default and Prepayment Variable Selection

In selecting appropriate variables to project single family default and prepayment rates during the stress test, OFHEO considered only variables that had strong intuitive as well as statistical causal relationships with mortgage defaults or prepayments. As reflected in Table 8, certain variables that strongly influenced prepayment behavior did help to explain defaults. All three single family models simulate defaults and prepayments based on projected interest rates and property values and on variables capturing the mortgage risk characteristics described below.

[183] OFHEO found it necessary to use a simpler methodology for multifamily loans. Because the multifamily model utilizes a set of prepayment rules, the model is "joint" only to the extent that conditional prepayment and default rates combine to determine loans that survive from year to year. Conditional rates of default and prepayment are determined separately. See section III.I.3., Multifamily Loan Performance.

[184] Multifamily loan data are too limited to allow an adjustment factor to be developed for those loans.

TABLE 8.—SINGLE FAMILY DEFAULT & PREPAYMENT VARIABLES

Variables for All Single Family Models	Single Family Default Variables	Single Family Prepayment Variables
Mortgage Age ...	X	X
Original LTV	X	X
Probability of Negative Equity	X	X
Burnout	X	X
Occupancy Status	X	X
Relative Spread		X
Yield Curve Slope		X
Relative Loan Size		X
Product Type (ARMs, Other Products only)	X	X
Payment Shock (ARMs only) ..	X	X
Initial Rate Effect (ARMs only)	X	X

• Mortgage Age—Patterns of mortgage default and prepayment have characteristic age profiles; defaults and prepayments increase during the first years following loan origination, with a peak between the fourth and seventh years.

• Original LTV—The LTV at the time of mortgage origination serves as a proxy for factors relating to the financial status of a borrower, which reflects the borrower's future ability to make loan payments. Higher original LTVs, which generally reflect fewer economic resources and greater financial risk, increase the probability of default and lower the probability of prepayment. The reverse is true for lower original LTVs.

• Probability of Negative Equity—Borrowers whose current loan balance is higher than the current value of their mortgaged property (reflecting negative borrower equity) are more likely to default than those with positive equity in their properties. The probability of negative borrower equity within a loan group is a function of (1) house price changes (based on the HPI) and amortization of loan principal, which together establish the average current LTV, and (2) the dispersion of actual house prices around the HPI value. Thus, even when the average current LTV for a loan group is less than one (positive equity), some percentage of the loans will have LTVs greater than one (negative equity).

• Burnout—This variable reflects whether a borrower has passed up earlier opportunities to refinance at favorable interest rates during the previous eight quarters. Such a borrower is less likely to prepay the current loan and refinance, and more likely to default in the future.

• Occupancy Status—This variable reflects the higher probability of default by investor-owners compared with that of owner-occupants. The RBC Report specifies the proportion of investor loans for each loan group.

• Relative Spread—The stress test uses the relative spread between the interest rate on a loan and the current market rate on loans as a proxy for the mortgage premium value, which reflects the value to a borrower of the option to prepay and refinance.

• Yield Curve Slope—This variable measures the relationship between short and long term interest rates. The shape of the yield curve, which reflects expectations for the future levels of interest rates, influences a borrower's decision to prepay a mortgage.

• Relative Loan Size—This variable reflects whether a loan is significantly larger or smaller than the State average. Generally, lower balance loans are less likely to refinance (and therefore prepay) because refinancing costs are proportionately larger, and the interest savings are proportionately smaller, than a larger balance loan.

• Product Type—The differences in performance between 30-year fixed-rate loans and other products, such as ARM and balloon loans, are captured by this variable.

• Payment Shock—This variable captures the effect of increasing or decreasing interest rates on the payments for ARMs. Although a borrower with an ARM loan may still have positive equity in the mortgaged property, the borrower may be unwilling or unable to make a larger monthly payment when interest rates increase, resulting in increases to ARM default and prepayment rates. Conversely, decreasing interest rates make it easier and more desirable for borrowers to make monthly payments, resulting in lower ARM default and prepayment rates.

• Initial Rate Effect—Borrowers with ARM loans with a "teaser rate" (an initial interest rate lower than the market rate) may experience payment shock, even if market rates do not rise, as the low teaser rate adjusts to the market rate over the first few years of the loan. The stress test includes a variable which captures this effect in the first three years of the life of the loan.

OFHEO considered using a number of other variables in both the default and prepayment equations that had been suggested by commenters or that appeared to explain default or prepayment rates, but found them inappropriate for the stress test for various reasons. Unemployment rates were suggested by several commenters as an appropriate variable, but, as explained in the preamble to NPR2, OFHEO chose not to make assumptions about macroeconomic factors, such as unemployment, that are not specified or required by statute. To use unemployment as a variable, OFHEO would have to create a model of unemployment rates or apply simpler assumptions about unemployment rates through the stress period. OFHEO is not convinced that adding this additional complexity would improve the rule's sensitivity to risk or otherwise enhance the rule. Further, the macroeconomic factors of the benchmark area and time period are captured implicitly to some extent by relating default and prepayment rates to the benchmark loss experience. Where, however, the 1992 Act required OFHEO to consider economic factors, such as house prices and interest rates, and OFHEO found those factors strongly correlated with mortgage performance, OFHEO incorporated them as variables in the models.

The season-of-the-year variable, originally found useful in estimating the single family default model, did not improve results when the model was reestimated for the final rule. Another variable, relative loan size, which was found significant and included in the model for prepayments, was determined not to have a significant impact on defaults.

OFHEO considered comments suggesting that the LTV variable should provide for further disaggregation of high LTV loans. OFHEO also considered comments recommending the creation of variables to account for the use of credit scoring and for subprime lending, structured mortgages (in which a second mortgage is created coincident with the first), assumable loans, and loans that were seasoned (as opposed to newly-originated) at acquisition. Although there is good reason to believe that these factors influence mortgage performance, OFHEO found the data and research insufficient to incorporate any of these factors into the stress test at this time. For example, OFHEO expects that

variable captured the improved

Commenters pointed out that

OFHEO implemented this alternative,

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automated credit scoring may result in lower default rates, but the lack of data regarding the impact of credit scoring during economic experiences equivalent to the benchmark loss experience makes it difficult to assess to what extent lower recent default rates observed on credit-scored mortgages would continue during such difficult times. As more data become available, OFHEO will explore the significance of these and other new variables and will continue to consider refinements to the variables that are included currently in the rule. Where appropriate, OFHEO will consider modifying the stress test to take them into account. OFHEO recognizes that to remain sensitive to risk, the stress test must constantly be reevaluated, updated, and refined to accommodate changes in the Enterprises' businesses and the state of the art in modeling and risk management. The research and analysis necessary to retain appropriate sensitivity to risk in the regulation is central to the mission of OFHEO.

(b) Respecification of ARM Model

OFHEO considered two general alternatives in the modeling of single family adjustable rate mortgages (ARMs). One possible approach was a simple model based upon fixed multiples of the 30-year fixed rate mortgage (FRM) performance. The other alternative required estimating a separate model for ARM performance. The fixed multiple approach, although simpler to apply and calculate, failed to take into account the very different default and prepayment patterns that apply to ARMs as compared to FRMs. In other words, it is inaccurate to assume that ARM prepayments and defaults will always be a fixed percentage higher or lower than on FRMs. Accordingly, OFHEO chose to develop a separate model of ARM performance that takes into account the variables, such as payment shock when rates adjust, that uniquely affect ARM performance.

In the final regulation, OFHEO reestimated and respecified the NPR2 ARM models using a pooled dataset of ARMs and 30-year FRMs in order to compensate for lack of computational detail in Enterprise data for ARM loans and to respond to comments about the insensitivity of the NPR2 ARM model to payment shock. This reestimation corrected an under-representation of ARM defaults and prepayments in the data on which the NPR2 model had been estimated. The respecified ARM model includes the same set of explanatory variables as the 30-year FRM model, along with three additional variables unique to ARMs. The additional variables account for differences in ARM performance relative to 30-year FRMs due to payment shock, initial (teaser) rate effects, and ARM product type (to capture other performance differences).

(xi) Multifamily Mortgage Performance

Modeling multifamily loans presented unique challenges for OFHEO, particularly in light of the lack of clear statutory guidance. When the 1992 Act was being considered by Congress, multifamily lending comprised a relatively small portion of the Enterprises' total business. In fact, Freddie Mac had discontinued multifamily lending altogether at that time. Consequently, no special provision was made for multifamily loans; the statute generally treated multifamily loans as just another type of single family loan. Through the 1990s, however, multifamily lending has grown in importance at both Enterprises and has become a key element in their strategies to meet affordable housing goals. What also became clear during that period is that multifamily loans perform very differently than single family loans. Default and prepayment behavior of commercial multifamily borrowers is affected by different factors than single family residential borrowers. Hence, models designed to simulate the performance of single family loans are not necessarily appropriate for multifamily loans and vice versa. Accordingly, OFHEO was required to build a stress test that complies with the requirements of the 1992 Act (which are oriented toward single family lending), but nevertheless includes a multifamily performance model that is sensitive to the risks associated with multifamily loans. OFHEO achieved this goal by basing the model on the same geographical region and time period used for the single family model, but exercising appropriate discretion to ensure that the stress level for multifamily loans is consistent with that for single family loans. OFHEO was particularly mindful of comments on NPR2 that highlighted inappropriately low loss rates for certain categories of multifamily loans, which would have had the effect of creating perverse business incentives for an Enterprise. The final rule is based upon a reestimated model that addresses these and other concerns raised by commenters, as further explained below.

(a) Multifamily Defaults

OFHEO considered many potential variables and combinations of variables in constructing the multifamily default model. Given the increasing importance of multifamily lending to the Enterprises, OFHEO sought to improve, where possible, upon previous models of multifamily loan loss behavior and has spent several years testing and evaluating the factors that affect losses on these loans. In this regard, OFHEO's proposed rule included the "double trigger" variable, which was designed to measure the likelihood that a particular loan was experiencing two important determinants of default, negative cash flow and negative equity, simultaneously. This variable was based upon the premise that a rational business person would be less likely to default on a loan so long as the property had either positive equity or positive cash flow. Although the underlying premise still appears sound, OFHEO found after further research, conducted in response to comments, that the proposed means of projecting multifamily property values during the stress period resulted in unrealistic volatility in property values and unreasonable loss projections for certain categories of loans. Accordingly, in the final rule, OFHEO has modified the multifamily default model to eliminate one of the "triggers" and uses current debt service coverage ratio or "DCR," a measure of net cash flow, by itself as a variable. In addition, OFHEO has included a variable that adjusts for the increased probability of default when net cash flow is negative and a variable that reflects the direct relationship between LTV at loan origination and the subsequent likelihood of default. As explained in the preamble to the final rule, these three variables capture essentially the same mortgage performance factors that the double trigger was designed to capture, but avoided the difficulties of projecting multifamily property values over time.

OFHEO also recognized that additional variables were necessary to account for the fact that the Enterprises underwent major and permanent changes to their multifamily loan programs beginning in 1988 (Fannie Mae) and in 1993 (Freddie Mac). Freddie Mac, in particular, had losses so severe on early multifamily loans that it suspended its multifamily lending entirely until its programs could be completely overhauled. Fannie Mae's multifamily lending programs have undergone similar changes, but somewhat more gradually, since approximately 1988.

In NPR2, OFHEO employed two default models to distinguish between the Enterprises' loan programs—Negotiated Transactions (NT) and Cash. Further, a program restructuring

variable captured the improved performance of multifamily cash loans after the changes in loan programs described above. Commenters on these models recommended that the two-model approach be dropped, because the distinction between the two categories of loans was too difficult to define and replicate. All commenters on the subject concurred that the underwriting and servicing practices of the Enterprises underwent major and permanent changes that should be reflected in the stress test. These comments came not only from the Enterprises, but also from multifamily seller-servicers, who were concerned that imposing inappropriately large marginal capital costs on multifamily loans would adversely affect seller-servicers, who should be given credit for the many improvements they had made in originating and servicing multifamily loans.

In response to the comments, OFHEO created a single multifamily default model that utilizes two variables to distinguish between multifamily loan programs. The first of these variables distinguishes loans based upon their date of origination, crediting loans originated under more recent programs at both Enterprises with lower default rates.[185] The second variable identifies a subset of the newer loans that were purchased under certain programs at the Enterprises that include more rigorous and conservative underwriting and servicing policies. These loans receive additional favorable default treatment. OFHEO believes that the revised variables accomplish the purpose of distinguishing the less risky loan programs and product types from other more risky loan programs and product types better than the variables used in NPR2. OFHEO further believes that these variables create appropriate capital incentives for the Enterprises to improve risk-management in all their multifamily lending programs.

(b) Multifamily Prepayments

OFHEO considered two alternative means to model multifamily loan prepayments. In NPR2, OFHEO proposed five statistical models of prepayments that were used for different types of multifamily loans. These models were similar in some respects to the prepayment model used for single family loans. None of the comments supported this approach and many were highly critical of it. Commenters pointed out that multifamily loans are very different from single family loans and that assumptions that are incorporated into single family loan models may be inappropriate for multifamily loans. Commenters also argued that the prepayment models were overly complex in the number and treatment of variables. The Enterprises both recommended that the final rule eliminate much of the complexity of the proposal in favor of using fixed prepayment percentages for each month of the stress test.

OFHEO considered these comments, studied the operation of the prepayment model and reviewed the current literature regarding prepayments. Given the limitations in relevant data, OFHEO concluded that the commenters were correct, that a statistical model would not provide greater precision or risk sensitivity than a fixed schedule of prepayments for each of the two interest rate scenarios. Accordingly, the final rule adopts such a schedule.[186]

(c) Multifamily Loss Severity

To determine appropriate multifamily loan loss severity rates, OFHEO considered a number of alternatives. In NPR2, OFHEO proposed six separate calculations for different categories of loans. In estimating these calculations, OFHEO utilized data from Freddie Mac's multifamily loans originated in the 1980s. While agreeing with the general methodology, some commenters argued that it was inappropriate to use these Freddie Mac data to estimate severity rates. They suggested that OFHEO add more recent severity data to the sample used to determine severity rates. In developing the final rule, OFHEO considered this alternative, but decided to continue using the Freddie Mac data from the 1980s to determine loss severity rates. OFHEO concluded that these data represented an appropriately stressful experience from which to extract severity rates. To the extent that later loan programs have experienced lower severity rates, data are inadequate to determine how much of the difference is due to improvement in loan programs and how much is due to differences in economic conditions. OFHEO also considered, as an alternative to the NPR2 approach, reducing the six severity calculations to a single equation. In the final rule, OFHEO implemented this alternative, because it simplified the stress test with no demonstrable loss of sensitivity to risk.

(xii) Counterparty Haircuts

In addition to mortgage credit quality, the stress test considers the creditworthiness of companies and financial instruments to which the Enterprises have credit exposure. These include most mortgage credit enhancement counterparties, securities held as assets, and derivative contract counterparties. The stress test gives credit only to investment grade counterparties.

For these contract or instrument counterparties, the stress test reduces—or applies "haircuts" to—the amounts due from these instruments or counterparties according to their level of risk.[187] The level of risk is determined by public credit ratings at the start of the stress test, classified into five categories: AAA, AA, A, BBB and unrated/below BBB. When no rating is available or the instrument or counterparty has a rating below BBB (below investment grade), the stress test applies a 100 percent haircut in the first month of the stress test, with the exception of unrated seller/servicers, which are treated as BBB. For other categories, the stress test phases in the haircuts monthly in equal increments until the total reduction listed in Table 9 is reached five years into the stress period. For the remainder of the stress test, the maximum haircut applies.

TABLE 9.—STRESS TEST FINAL HAIRCUTS BY CREDIT RATING CATEGORY

Ratings Classification	Derivative Contract Counterparties	Nonderivative Contract Counterparties or Instruments
AAA	2%	5%
AA	4%	15%
A	8%	20%
BBB	16%	40%
Unrated/Below BBB[1]	100%	100%

[1] Unrated, unsubordinated obligations issued by Government-sponsored enterprises other than the reporting Enterprise are treated as AAA. Unrated seller/servicers are treated as BBB. Other unrated counterparties and securities are subject to a 100% haircut applied in the first month of the stress test.

[185] Adjustable-rate loans and fixed-rate balloon loans exhibited improve performance, but less than fixed-rate fully amortizing loans. Therefore, different variables are used for these different loan types.

[186] In the up-rate scenario, the final rule includes no prepayments. In the down-rate scenario, the final rule applies a two percent annual prepayment rate to loans that are subject to prepayment penalty provisions and a 25 percent annual rate to loans that are not subject to these provisions or to loans after the provisions have expired.

[187] In the case of swaps, the stress test cancels a portion of "in-the-money" swaps based on the haircut amount.

OFHEO considered a number of alternatives to the haircuts in the final rule. NPR2 proposed a schedule of non-derivative haircuts that were approximately double those in the final rule, but were phased in over ten years rather than five.

In response to comments that those counterparty haircuts were too severe, OFHEO conducted extensive analysis of the historical data, including some updated rating agency data and studies submitted by commenters. As a result, haircuts were lowered. However, OFHEO determined that phasing the haircuts in more quickly would be more consistent with the probable impact on counterparties of stress test conditions. Also in response to comments regarding the proposed rule, OFHEO added a category that increased the haircuts on below-investment-grade and unrated counterparties. However, OFHEO decided to except unrated seller-servicers from this new category, continuing the NPR2 treatment of them as triple-B counterparties. OFHEO found this exception warranted because of (1) The seller-servicers' close and ongoing relationships with the Enterprises, (2) the types of controls available to the Enterprises under their seller-servicer contracts, and (3) factors other than lack of creditworthiness that may account for seller-servicers not having a rating, such as their small size. In the future, OFHEO will consider how Enterprise internal ratings can be used to make finer, but consistent, risk distinctions between such seller-servicers.

(xiii) New Debt

NPR2 specified that when the stress test resulted in a cash deficit requiring the issuance of new debt, all such debt would have a six-month maturity. OFHEO considered comments recommending a balance of long- and short-term debt to reflect better the rebalancing strategies that the Enterprises would be likely to follow. OFHEO agrees with the comments that a mix of long and short maturities may be more appropriate, but disagrees with those commenters who suggested that the stress test specify the issuance of primarily long-term debt as interest rates rise and short-term debt as they fall. OFHEO did not believe this approach would create a reasonable model of the reactions of the Enterprises to interest rate shocks, especially because the Enterprises do not manage their debt issuances in this manner. Moreover, it would have created interest rate hedges in both scenarios that were not appropriate. However, the Enterprises do generally manage the maturities in their debt portfolios to achieve a balance in the entire portfolio and OFHEO selected a similar approach to issuing new debt in the stress test. OFHEO constructed the stress test to add either long- or short-term debt as required to achieve and maintain a 50/50 balance of long- and short-term debt. The 50/50 balance was selected because it is more risk-neutral than the proposed approach, and because OFHEO will not try to model an Enterprise's internal predictions about whether interest rates will go up or down.

OFHEO also considered whether to change the short-term debt from a six-month maturity to a one-month maturity, as suggested by some commenters, but determined that a six-month rate is more representative of the mix of short-term maturities issued by the Enterprises. OFHEO also considered a commenter's suggestion to use a ten-year maturity for the long-term debt, but determined that a five-year callable bond was a more representative proxy for the typical mix of long-term Enterprise debt than ten-year bullet debt.

(xiv) Operating Expenses

The proposed decision rule for operating expenses was that these expenses would decline in proportion to the decline in the mortgage portfolio. Specifically, the operating expense for a given month was determined by multiplying the ratio of assets remaining at the end of each month to assets at the beginning of the stress test by one-third of the Enterprise's total operating expenses in the quarter immediately preceding the start of the stress test. No distinction was made between fixed and variable expenses. This treatment caused the expense reduction pattern for the up-rate scenario to differ from the down-rate scenario and within each scenario depending on the changes in the characteristics of an Enterprise's total mortgage portfolio.

The final rule reflects OFHEO's consideration of comments regarding the proposed rule, which linked operating expenses directly to the size of the mortgage portfolio, assumed all operating expenses were variable, did not exclude a portion of expenses associated with new business, and tied operating expenses to the previous quarter's operating expenses. The final rule modifies the proposal in only two respects. To recognize that operating expenses are partly fixed and partly variable, one third of each Enterprise's operating expenses at the start of the stress test remain fixed throughout the stress period, while the remainder declines in proportion to the decline in the mortgage portfolio. Secondly, a reduction of one third in the total of the fixed and variable components has been included to recognize that a cessation of new business would have a significant impact upon operating expenses. That reduction is phased in on a straight-line basis over the first 12 months of the stress period, because it would take an Enterprise at least that long to implement such a reduction. An impact of these changes is to reduce the differences in operating expenses between the up- and down-rate scenarios. OFHEO considered the Enterprises' recommendation that the stress test use a fixed expense ratio between 1.5 and 5.0 basis points of unpaid principal balance per year, but believed such a ratio would be unreasonably low, because, as one commenter noted, the ratio of Enterprise expenses to outstanding mortgage-backed securities and portfolio balances has averaged over 7.0 basis points for the past ten years. OFHEO also considered a commenter's recommendation to hold the level of expenses constant throughout the stress period based on the experience of financial institutions under stress. Although this argument has intuitive appeal for some types of financial institutions, adopting such an approach would have resulted in unreasonably high capital requirements relative to operating expenses in OFHEO's stress test. The approach in the final rule, which fixes only a portion of the expenses, seemed more appropriate for the Enterprises.

(xv) Distinction Between Preferred and Common Stock Dividends

The final rule adopts the proposed treatment of dividends, distinguishing between preferred stock and common stock by allowing the payment of preferred stock dividends as long as an Enterprise meets the minimum capital requirement, while terminating the payment of common stock dividends after the first year of the stress test. The payout rate (dividends as a percentage of earnings) is based on the trend in earnings. If earnings are increasing, the dividend payout rate is equal to the average of the payout rate of the preceding four quarters. If earnings are not increasing, the dividend payout is based on the preceding quarter's dollar amount of dividends per share. The final rule also modified the proposal to include repurchases of stock in the first two quarters of the stress period, based upon any such repurchases within the previous four quarters.

OFHEO considered and rejected a suggestion to lengthen the look-back period used to determine payout ratios from one to three years. OFHEO recognizes a shorter look-back period may add volatility in the capital requirement, but determined that relating the payout to the experience of the last four quarters is more appropriate because it is more reflective of current policies, because dividends are only paid for one year in the stress test, and because market considerations generally cause companies to be cautious in making changes to dividend policies. Relating dividend payouts to recent dividend payout experience is also more consistent with the need to provide a timely early warning of potential capital deficiencies. For similar reasons, OFHEO also rejected a proposal to use a long-term industry average dividend rate of approximately 25 percent of earnings. Also, a review of the Enterprises' payout ratios over a ten-year period revealed that such payouts would frequently not have been reflective of reality for each Enterprise.

(xvi) Capital Calculation

To calculate the amount of capital that an Enterprise would need just to maintain positive capital during the stress test, the final rule discounts the monthly capital balances back to the start date of the stress period and adjusts the starting capital by the lowest of the discounted capital balances. This approach converts future surpluses or deficits into current dollars. OFHEO also considered an approach that would use a series of iterative simulations to adjust the Enterprise's balance sheet until a starting level of capital was found that was just sufficient to maintain positive capital throughout the stress period. Either approach would ensure that an Enterprise would have enough capital to survive the stress test regardless of when losses associated with management and operations risk might occur, even if that were the first day of the stress period. OFHEO adopted the discounting approach because it is much simpler to design and replicate.

OFHEO rejected a recommendation by the Enterprises to assume that the amount of capital needed was the simple result of subtracting the maximum undiscounted amount of total capital consumed during the stress period from the starting position total capital. Such an approach is easier to implement, but it does not take into account the time value of money and would not ensure that the Enterprises hold capital sufficient to survive the stress test if management and operations losses occurred at any time during the ten-year stress period. Also, OFHEO believes that a present-value approach is preferable because it requires an Enterprise to create a greater capital cushion (as compared to the Enterprises' recommendation) when credit risk and interest rate risks are relatively low, making it more likely that an Enterprise can survive subsequent, more stressful periods.

5. Analysis of Relative Costs and Benefits

The 1992 Act presumptively determined that the benefit/cost ratio favors a detailed and complete stress test and risk-based capital regulation such as that in the final rule, and OFHEO has found no reason to question that judgment. The nation faces huge potential liabilities and economic disruption if the Enterprises are allowed to operate in an undercapitalized state, and all parties agree that a clear capital standard that is also sensitive to risk is an important tool for avoiding undercapitalization.

OFHEO has balanced the cost of capital or other forms of risk mitigation against the risk of loss in the Enterprises' operations and designed a risk-based capital rule that requires adequate capital or risk mitigation for activities that pose credit or interest rate risk, while not imposing inordinate costs on any area of the Enterprises' business. That is, the stress test reflects incremental capital charges associated with the Enterprises business activities that are consistent with risk. The stress test imposes higher capital costs on new activities and unusual activities for which the Enterprises lack adequate data about risks than on activities for which sufficient data is available to model them precisely. These higher costs help to insure that there is adequate capital for the risks that may be associated with the new or unusual activities and provide appropriate incentives for the Enterprises to maintain top quality data on all activities and to pay close attention to risk management. To the extent that requiring adequate capital may prevent certain innovations from being rushed to market before their risks are fully understood, OFHEO believes that result is appropriate.

In any event, OFHEO does not believe that the regulation will impede innovation and the timely introduction of new activities. The regulation provides a flexible and responsive procedure that has been designed to develop appropriate capital treatments as the Enterprises bring products to market. Moreover, when engaging in activities in which the financial risks are not fully understood, an Enterprise should hold capital (or utilize some type of risk mitigation) sufficient to cover the risks that might be associated with them. Prudent risk management under a voluntary system would require the same, and OFHEO's rule is designed to provide a regulatory incentive for prudent risk management. Further, even in the absence of a risk-based capital rule, OFHEO's safety and soundness examinations would require similarly conservative treatments of activities that pose risks that cannot be quantified accurately.

OFHEO has not performed more detailed analyses of the relative costs of a voluntary versus a mandatory system, because the 1992 Act does not make voluntary risk-based capital an option. However, if the Enterprises were to design and run the stress test internally, OFHEO's costs might be higher than otherwise, because of the need to monitor and examine two separate systems. Therefore, OFHEO views the net difference in cost between a voluntary versus a mandatory risk-based capital system as likely to be *de minimus*.

B. Executive Order 13132, Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant Federalism implications. "Policies that have Federalism implications" are defined as regulations or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities between the various levels of government. The agency certifies that this rule has no such Federalism implications.

C. Executive Order 12988, Civil Justice Reform

Executive Order 12988 sets forth guidelines to promote the just and efficient resolution of civil claims and to reduce the risk of litigation to the government. The rule meets the applicable standards of sections 3(a) and (b) of Executive Order 12988.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities must include a regulatory flexibility analysis describing the rule's impact on small entities. Such an analysis need not be undertaken if the agency head certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

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OFHEO has considered the impacts of the risk-based capital regulation under the Regulatory Flexibility Act. The regulation does not have a significant effect on a substantial number of small entities since it is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act. Therefore, the General Counsel of OFHEO, acting under delegated authority, has certified that the regulation will not have a significant economic impact on a substantial number of small entities.

Although not expressly referencing the Regulatory Flexibility Act, a trade association representing credit unions requested that OFHEO address the regulation's impact on its members. OFHEO has determined that such an analysis is not required. The Regulatory Flexibility Act requires such an analysis only for entities the agency has direct statutory authority to regulate. In this case, OFHEO only has direct authority to regulate the Enterprises.

E. Paperwork Reduction Act

The risk-based capital rule contains no information collection requirements that require OMB approval under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This final rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 12 CFR Part 1750

Capital classification, Mortgages, Risk-based capital.

Accordingly, for reasons set forth in the preamble, the Office of Federal Housing Enterprise Oversight amends 12 CFR part 1750 as follows:

PART 1750—CAPITAL

1. The authority citation for part 1750 is revised to read as follows:

Authority: 12 U.S.C. 4513, 4514, 4611, 4612, 4614, 4615, 4618.

2. Add new subpart B to part 1750 to read as follows:

Subpart B—Risk-Based Capital

Sec.

1750.10 General.
1750.11 Definitions.
1750.12 Procedures and timing.
1750.13 Risk-based capital level computation.
Appendix A to subpart B of part 1750—Risk-Based Capital Test Methodology and Specifications

Subpart B—Risk-Based Capital

§ 1750.10 General.

The regulation contained in this subpart B establishes the methodology for computing the risk-based capital level for each Enterprise. The board of directors of each Enterprise is responsible for ensuring that the Enterprise maintains total capital at a level that is sufficient to ensure the continued financial viability of the Enterprise and is equal to or exceeds the risk-based capital level computed pursuant to this subpart B.

§ 1750.11 Definitions.

Except where a term is explicitly defined differently in this subpart, all terms defined at § 1750.2 of subpart A of this part shall have the same meanings for purposes of this subpart. For purposes of subpart B of this part, the following definitions shall apply:

(a) *Benchmark loss experience* means the rates of default and severity for mortgage loans that—

(1) Were originated during a period of two or more consecutive calendar years in contiguous areas that together contain at least five percent of the population of the United States, and

(2) Experienced the highest loss rate for any period of such duration in comparison with the loans originated in any other contiguous areas that together contain at least five percent of the population of the United States.

(b) *Constant maturity Treasury yield* means the constant maturity Treasury yield, published by the Board of Governors of the Federal Reserve System.

(c) *Contiguous areas* means all the areas within a state or a group of two or more states sharing common borders. "Sharing common borders" does not mean meeting at a single point. Colorado, for example, is contiguous with New Mexico, but not with Arizona.

(d) *Credit risk* means the risk of financial loss to an Enterprise from nonperformance by borrowers or other obligors on instruments in which an Enterprise has a financial interest, or as to which the Enterprise has a financial obligation.

(e) *Default rate* of a given group of loans means the ratio of the aggregate original principal balance of the defaulted loans in the group to the aggregate original principal balance of all loans in the group.

(f) *Defaulted loan* means a loan that, within ten years following its origination:

(1) Resulted in pre-foreclosure sale,

(2) Completed foreclosure,

(3) Resulted in the acquisition of real estate collateral, or

(4) Otherwise resulted in a credit loss to an Enterprise.

(g) *Financing costs* of property acquired through foreclosure means the product of:

(1) The number of years (including fractions) of the period from the completion of foreclosure through disposition of the property,

(2) The average of the Enterprises' short-term funding rates, and

(3) The unpaid principal balance at the time of foreclosure.

(h) *Interest rate risk* means the risk of financial loss due to the sensitivity of earnings and net worth of an Enterprise to changes in interest rates.

(i) *Loss* on a defaulted loan means:

(1) With respect to a loan in category 1, 2, or 3 of the definition of defaulted loan the difference between:

(i) The sum of the principal and interest owed when the borrower lost title to the property securing the mortgage; financing costs through the date of property disposition; and cash expenses incurred during the foreclosure process, the holding period for real estate collateral acquired as a result of default, and the property liquidation process; and

(ii) The sum of the property sales price and any other liquidation proceeds (except those resulting from private mortgage insurance proceeds or other third-party credit enhancements).

(2) With respect to defaulted loans not in categories 1, 2, or 3, the amount of the financial loss to the Enterprise.

(j) *Mortgage* means any loan secured by such classes of liens as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located; or a manufactured house that is personal property under the laws of the State in which the manufactured house is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(k) *Seasoning* means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured.

(l) *Severity rate* for any group of defaulted loans means the aggregate losses on all loans in that group divided by the aggregate original principal balances of those loans.

(m) *Stress period* means a hypothetical ten-year period immediately following the day for which capital is being measured, which is a period marked by the severely adverse economic circumstances defined in 12 CFR 1750.13 and Appendix A to this subpart.

(n) *Total capital* means, with respect to an Enterprise, the sum of the following:

(1) The core capital of the Enterprise;

(2) A general allowance for foreclosure losses, which—

(i) Shall include an allowance for portfolio mortgage losses, an allowance for non-reimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the Enterprise for estimated foreclosure losses on mortgage-backed securities; and

(ii) Shall not include any reserves of the Enterprise made or held against specific assets.

(3) Any other amounts from sources of funds available to absorb losses incurred by the Enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(o) *Type of mortgage product* means a classification of one or more mortgage products, as established by the Director, that have similar characteristics from each set of characteristics under the paragraphs (o)(1) through (o)(7) of this section:

(1) The property securing the mortgage is—

(i) A residential property consisting of 1 to 4 dwelling units; or

(ii) A residential property consisting of more than 4 dwelling units.

(2) The interest rate on the mortgage is—

(i) Fixed; or

(ii) Adjustable.

(3) The priority of the lien securing the mortgage is—

(i) First; or

(ii) Second or other.

(4) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16–30 years; or

(iii) More than 30 years.

(5) The owner of the property is—

(i) An owner-occupant; or

(ii) An investor.

(6) The unpaid principal balance of the mortgage—

(i) Will amortize completely over the term of the mortgage, and will not increase significantly at any time during the term of the mortgage;

(ii) Will not amortize completely over the term of the mortgage, and will not increase significantly at any time during the term of the mortgage; or

(iii) May increase significantly at some time during the term of the mortgage.

(7) Any other characteristics of the mortgage, as specified in Appendix A to this subpart.

§ 1750.12 Procedures and timing.

(a) Each Enterprise shall file with the Director a Risk-Based Capital Report each quarter, and at such other times as the Director may require, in his or her discretion. The report shall contain the information required by the Director in the instructions to the Risk-Based Capital Report in the format or media specified therein and such other information as may be required by the Director.

(b) The quarterly Risk-Based Capital Report shall contain information for the last day of the quarter and shall be submitted not later than 30 days after the end of the quarter. Reports required by the Director other than quarterly reports shall be submitted within such time period as the Director shall specify.

(c) When an Enterprise contemplates entering into a new activity, as that term is defined in section 3.11 of Appendix A to this subpart, the Enterprise shall notify the Director as soon as possible while the transaction or activity is under consideration, but in no event later than 5 calendar days after settlement or closing. The Enterprise shall provide to the Director such information regarding the activity as the Director may require to determine a stress test treatment. OFHEO will inform the Enterprise as soon as possible thereafter of the proposed stress test treatment of the new activity. In addition, the notice of proposed capital classification required by § 1750.21 of subpart C of this part will inform the Enterprise of the capital treatment of such new activity used in the determination of the risk-based capital requirement.

(d) If an Enterprise discovers that a Risk-Based Capital Report previously filed with OFHEO contains any errors or omissions, the Enterprise shall notify OFHEO immediately of such discovery and file an amended Risk-Based Capital Report not later than three days thereafter.

(e) Each capital classification shall be determined by OFHEO on the basis of the Risk-Based Capital Report filed by the Enterprise under paragraph (a) of this section; provided that, in the event an amended Risk-Based Capital Report is filed prior to the issuance of the final notice of capital classification, the Director has the discretion to determine the Enterprise's capital classification on the basis of the amended report.

(f) Each Risk-Based Capital Report or any amended Risk-Based Capital Report shall contain a declaration by the officer who has been designated by the Board as responsible for overseeing the capital adequacy of the Enterprise that the report is true and correct to the best of such officer's knowledge and belief.

§ 1750.13 Risk-based capital level computation.

(a) *Risk-Based Capital Test*—OFHEO shall compute a risk-based capital level for each Enterprise at least quarterly by applying the risk-based capital test described in Appendix A to this subpart to determine the amount of total capital required for each Enterprise to maintain positive capital during the stress period. In making this determination, the Director shall take into account any appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and other factors determined appropriate by the Director in accordance with the methodology specified in Appendix A to this subpart. The stress period has the following characteristics:

(1) *Credit risk*—With respect to mortgages owned or guaranteed by the Enterprise and other obligations of the Enterprise, losses occur throughout the United States at a rate of default and severity reasonably related, in accordance with Appendix A to this subpart, to the benchmark loss experience.

(2) *Interest rate risk*—(i) *In general.* Interest rates decrease as described in paragraph (a)(2)(ii) of this section or increase as described in paragraph (a)(2)(iii) of this section, whichever would require more capital in the stress test for the Enterprise. Appendix A to this subpart contains a description of the methodology applied to implement the interest rate scenarios described in paragraphs (a)(2)(ii) and (iii) of this section.

(ii) *Decreases.* The 10-year constant maturity Treasury yield decreases during the first year of the stress period and remains at the new level for the remainder of the stress period. The yield decreases to the lesser of-(A) 600 basis points below the average yield during the 9 months immediately preceding the stress period, or

(B) 60 percent of the average yield during the 3 years immediately preceding the stress period, but in no case to a yield less than 50 percent of the average yield during the 9 months immediately preceding the stress period.

(iii) *Increases.* The 10-year constant maturity Treasury yield increases during the first year of the stress period

and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(A) 600 basis points above the average yield during the 9 months immediately preceding the stress period, or

(B) 160 percent of the average yield during the 3 years immediately preceding the stress period, but in no case to a yield greater than 175 percent of the average yield during the 9 months immediately preceding the stress period.

(iv) *Different terms to maturity.* Yields of Treasury instruments with terms to maturity other than 10 years will change relative to the 10-year constant maturity Treasury yield in patterns and for durations that are reasonably related to historical experience and are judged reasonable by the Director. The methodology used by the Director to adjust the yields of those other instruments is specified in Appendix A to this subpart.

(v) *Large increases in yields.* If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the 9 months immediately preceding the stress period, the Director shall adjust the losses resulting from the conditions specified in paragraph (a)(2)(iii) of this section to reflect a correspondingly higher rate of general price inflation. The method of such adjustment by the Director is specified in Appendix A to this subpart.

(3) *New business.* Any contractual commitments of the Enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgages purchased, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period, as more fully specified in Appendix A to this subpart. No other purchases of mortgages shall be assumed.

(4) *Other activities.* Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, in accordance with Appendix A to this subpart and on the basis of available information, to be consistent with the stress period.

(5) *Consistency.* Characteristics of the stress period other than those specifically set forth in paragraph (a) of this section, such as prepayment experience and dividend policies, will be determined by the Director, in accordance with Appendix A to this subpart, on the basis of available information, to be most consistent with the stress period.

(b) *Risk-Based Capital Level.* The risk-based capital level of an Enterprise, to be used in determining the appropriate capital classification of each Enterprise, as required by section 1364 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4614), shall be equal to the sum of the following amounts:

(1) *Credit and Interest Rate Risk.* The amount of total capital determined by applying the risk-based capital test under paragraph (a) of this section to the Enterprise.

(2) *Management and Operations Risk.* To provide for management and operations risk, 30 percent of the amount of total capital determined by applying the risk-based capital test under paragraph (a) of this section to the Enterprise.

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1.0 Identification of the Benchmark Loss Experience

OFHEO will use the definitions, data, and methodology described below to identify the Benchmark Loss Experience.

1.1 Definitions

The terms defined in the Glossary to this Appendix shall apply for this Appendix.

1.2 Data

[a] OFHEO identifies the Benchmark Loss Experience (BLE) using historical loan-level data required to be submitted by each of the two Enterprises. OFHEO's analysis is based entirely on the data available through 1995 on conventional, 30-year, fixed-rate loans secured by first liens on single-unit, owner-occupied, detached properties. For this purpose, detached properties are defined as single family properties excluding condominiums, planned urban developments, and cooperatives. The data includes only loans that were purchased by an Enterprise within 12 months after loan origination and loans for which the Enterprise has no recourse to the lender.

[b] OFHEO organizes the data from each Enterprise to create two substantially consistent data sets. OFHEO separately analyzes default and severity data from each Enterprise. Default rates are calculated from loan records meeting the criteria specified above. Severity rates are calculated from the subset of defaulted loans for which loss data are available.

1.3 Procedures

[a] Cumulative ten-year default rates for each combination of states and origination years (state/year combination) that OFHEO examines are calculated for each Enterprise by grouping all of the Enterprise's loans originated in that combination of states and years. For origination years with less than ten-years of loss experience, cumulative-to-date default rates are used. The two Enterprise default rates are averaged, yielding an "average default rate" for that state/year combination.

[b] An "average severity rate" for each state/year combination is determined in the same manner as the average default rate. For each Enterprise, the aggregate severity rate is calculated for all loans in the relevant state/year combination and the two Enterprise severity rates are averaged.

[c] The "loss rate" for any state/year combination examined is calculated by multiplying the average default rate for that state/year combination by the average severity rate for that combination.

[d] The rates of default and Loss Severity of loans in the state/year combination containing at least two consecutive origination years and contiguous areas with a total population equal to or greater than five percent of the population of the United States with the highest loss rate constitutes the Benchmark Loss Experience.

2.0 Identification of a New Benchmark Loss Experience

OFHEO will periodically monitor available data and reevaluate the Benchmark Loss Experience using the methodology set forth in this Appendix. Using this methodology, OFHEO may identify a new Benchmark Loss Experience that has a higher rate of loss than the Benchmark Loss Experience identified at the time of the issuance of this regulation. In the event such a Benchmark Loss Experience is identified, OFHEO may incorporate the resulting higher loss rates in the Stress Test.

3.0 Computation of the Risk-Based Capital Requirement

3.1 Data

3.1.1 Introduction

[a] The Stress Test requires data on all of an Enterprise's assets, liabilities, stockholders equity, accounting entries, operations and off-balance sheet obligations, as well as economic factors that affect them: interest rates, house prices, rent growth rates, and vacancy rates. The Enterprises are responsible for compiling and aggregating data on at least a quarterly basis into a standard format called the Risk-Based Capital Report (RBC Report). Each Enterprise is required to certify that the RBC Report submission is complete and accurate. Data on economic factors, such as interest rates, are compiled from public sources. The Stress Test uses proprietary and public data directly, and also uses values derived from such data in the form of constants or default values. (See Table 3–1, Sources of Stress Test Input Data.) Data fields from each of these sources for Stress Test computations are described in the following tables and in each section of this Appendix.

[b] The RBC Report includes information for all the loans owned or guaranteed by an Enterprise, as well as securities and derivative contracts, the dollar balances of these instruments and obligations, as well as all characteristics that bear on their behavior under stress conditions. As detailed in the RBC Report, data are required for all the following categories of instruments and obligations:

- Mortgages owned by or underlying mortgage-backed securities (MBS) issued by the Enterprises (whole loans)
- Mortgage-related securities
- Nonmortgage related securities, whether issued by an Enterprise, (e.g., debt) or held as investments
- Derivative contracts
- Other off-balance sheet guarantees (e.g., guarantees of private-issue securities).

TABLE 3–1—SOURCES OF STRESS TEST INPUT DATA

Section of this Appendix	Table	Data Source(s) R = RBC Report P = Public Data F = Fixed Values			
		R	P	F	Intermediate Outputs
3.1.3, Public Data	3–19, Stress Test Single Family Quarterly House Price Growth Rates			F	
	3–20, Multifamily Monthly Rent Growth and Vacancy Rates			F	
3.2.2, Commitments Inputs	Characteristics of securitized single family loans originated and delivered within 6 months prior to the Start of the Stress Test	R			3.3.4, Interest Rates Outputs
3.2.3, Commitments Procedures	3–25, Monthly Deliveries as a Percentage of Commitments Outstanding (MDP)			F	

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TABLE 3–1—SOURCES OF STRESS TEST INPUT DATA—Continued

Section of this Appendix	Table	Data Source(s) R = RBC Report P = Public Data F = Fixed Values			
		R	P	F	Intermediate Outputs
3.3.2, Interest Rates Inputs	3–18, Interest Rate and Index Inputs		P		
3.3.3, Interest Rates Procedures	3–26, CMT Ratios to the Ten-Year CMT			F	
3.4.2, Property Valuation Inputs	3–28, Property Valuation Inputs				3.1.3, Public Data 3.3.4, Interest Rates Outputs
3.5.3, Counterparty Defaults Procedures	3–30, Rating Agencies Mappings to OFHEO Ratings Categories		P		
	3–31, Stress Test Maximum Haircut by Ratings Classification			F	
3.6.3.3.2, Mortgage Amortization Schedule Inputs	3–32, Loan Group Inputs for Mortgage Amortization Calculation				3.3.4, Interest Rates Outputs
3.6.3.4.2, Single Family Default and Prepayment Inputs	3–34, Single Family Default and Prepayment Inputs	R		F	3.6.3.3.4, Mortgage Amortization Schedule Outputs
3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions	3–35, Coefficients for Single Family Default and Prepayment Explanatory Variables			F	
3.6.3.5.2, Multifamily Default and Prepayment Inputs	3–38, Loan Group Inputs for Multifamily Default and Prepayment Calculations	R		F	
3.6.3.5.3.2, Default and Prepayment Rates and Performance Fractions	3–39, Explanatory Variable Coefficients for Multifamily Default			F	3.6.3.3.4, Mortgage Amortization Schedule Outputs
3.6.3.6.2.2, Single Family Gross Loss Severity Inputs	3–42, Loan Group Inputs for Gross Loss Severity			F	3.3.4, Interest Rates Outputs 3.6.3.3.4, Mortgage Amortization Schedule Outputs 3.6.3.4.4, Single Family Default and Prepayment Outputs
3.6.3.6.3.2, Multifamily Gross Loss Severity Inputs	3–44, Loan Group Inputs for Multifamily Gross Loss Severity			F	3.3.4, Interest Rates Outputs 3.6.3.3.4, Mortgage Amortization Schedule Outputs
3.6.3.6.4.2, Mortgage Credit Enhancement Inputs	3–10, CE Inputs for each Loan Group	R			3.6.3.3.4, Mortgage Amortization Schedule Outputs 3.6.3.4.4, Single Family Default and Prepayment Outputs 3.6.3.5.4, Multifamily Default and Prepayment Outputs 3.6.3.6.2.4, Single Family Gross Loss Severity Outputs 3.6.3.6.3.4, Multifamily Gross Loss Severity Outputs
	3–47, Inputs for each Distinct CE Combination (DCC)	R			
3.6.3.7.2, Stress Test Whole Loan Cash Flow Inputs	3–51, Inputs for Final Calculation of Stress Test Whole Loan Cash Flows	R			3.3.4, Interest Rates Outputs 3.6.3.3.4, Mortgage Amortization Schedule Outputs 3.6.3.4.4, Single Family Default and Prepayment Outputs 3.6.3.5.4, Multifamily Default and Prepayment Outputs 3.6.3.6.5.2, Single Family and Multifamily Net Loss Severity Outputs
3.6.3.8.2, Whole Loan Accounting Flows Inputs	3–54, Inputs for Whole Loan Accounting Flows	R			3.6.3.7.4, Stress Test Whole Loan Cash Flow Outputs
3.7.2, Mortgage-Related Securities Inputs	3–56, RBC Report Inputs for Single Class MBS Cash Flows	R			
	3–57, RBC Report Inputs for Multi-Class and Derivative MBS Cash Flows	R			
	3–58, RBC Report Inputs for MRBs and Derivative MBS Cash Flows	R			
3.8.2, Nonmortgage Instrument Inputs	3–65, Input Variables for Nonmortgage Instrument Cash flows	R			

TABLE 3–1—SOURCES OF STRESS TEST INPUT DATA—Continued

Section of this Appendix	Table	Data Source(s) R = RBC Report P = Public Data F = Fixed Values			
		R	P	F	Intermediate Outputs
3.9.2, Alternative Modeling Treatments Inputs	3–69, Alternative Modeling Treatment Inputs	R			
3.10.2, Operations, Taxes, and Accounting Inputs	3–70, Operations, Taxes, and Accounting Inputs	R			3.3.4, Interest Rates Outputs 3.6.3.7.4, Stress Test Whole Loan Cash Flow Outputs 3.7.4, Mortgage-Related Securities Outputs 3.8.4, Nonmortgage Instrument Outputs
3.12.2, Risk-Based Capital Requirement Inputs	.....	R			3.3.4, Interest Rates Outputs 3.9.4, Alternative Modeling Treatments Outputs 3.10.4, Operations, Taxes, and Accounting Outputs

3.1.2 Risk-Based Capital Report

The Risk-Based Capital Report is comprised of information on whole loans, mortgage-related securities, nonmortgage instruments (including liabilities and derivatives), and accounting items (including off-balance sheet guarantees). In addition to their reported data, the Enterprises may report scale factors in order to reconcile this reported data with their published financials (*see* section 3.10.2(b) of this Appendix). If so, specific data items, as indicated, are adjusted by appropriate scale factors before any calculations occur.

3.1.2.1 Whole Loan Inputs

[a] Whole loans are individual single family or multifamily mortgage loans. The Stress Test distinguishes between whole loans that the Enterprises hold in their investment portfolios (retained loans) and those that underlie mortgage-backed securities (sold loans). Consistent with Table 3–2, Whole Loan Classification Variables, each Enterprise aggregates the data for loans with similar portfolio (retained or sold), risk, and product characteristics. The characteristics of these loan groups determine rates of mortgage Default, Prepayment and Loss Severity and cash flows.

[b] The characteristics that are the basis for loan groups are called "classification variables" and reflect categories, e.g., fixed interest rate versus floating interest rate, or identify a value range, e.g., original loan-to-value (LTV) ratio greater than 80 percent and less than or equal to 90 percent.

[c] All loans with the same values for each of the relevant classification variables included in 3–2 (and where applicable 3–3 and 3–4) comprise a single loan group. For example, one loan group includes all loans with the following characteristics:

- Single family
- Sold portfolio
- 30-year fixed rate conventional loan
- Mortgage age greater than or equal to 36 months and less than 48 months
- Original LTV greater than 75 percent and less than or equal to 80 percent
- Current mortgage interest rate class greater than or equal to six percent and less than seven percent
- Secured by property located in the East North Central Census Division
- Relative loan size greater than or equal to 75 percent and less than 100 percent of the average for its state and origination year.

TABLE 3–2—WHOLE LOAN CLASSIFICATION VARIABLES

Variable	Description	Range
Reporting Date	The last day of the quarter for the loan group activity that is being reported to OFHEO	YYYY0331 YYYY0630 YYYY0930 YYYY1231
Enterprise	Enterprise submitting the loan group data	Fannie Mae Freddie Mac
Business Type	Single family or multifamily	Single family Multifamily
Portfolio Type	Retained portfolio or Sold portfolio	Retained Portfolio Sold Portfolio
Government Flag	Conventional or Government insured loan	Conventional Government
Original LTV	Assigned LTV classes based on the ratio, in percent, between the original loan amount and the lesser of the purchase price or appraised value	LTV<=60 60 <LTV<=70 70 <LTV<=75 75 <LTV<=80 80 <LTV<=90 90 <LTV<=95 95 <LTV<=100 100 <LTV
Current Mortgage Interest Rate	Assigned classes for the current mortgage interest rate	0.0<=Rate<4.0 4.0<=Rate<5.0

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TABLE 3–2—WHOLE LOAN CLASSIFICATION VARIABLES—Continued

Variable	Description	Range
		5.0<=Rate<6.0 6.0<=Rate<7.0 7.0<=Rate<8.0 8.0<=Rate<9.0 9.0<=Rate<10.0 10.0<=Rate<11.0 11.0<=Rate<12.0 12.0<=Rate<13.0 13.0<=Rate<14.0 14.0<=Rate<15.0 15.0<=Rate<16.0 Rate=>16.0
Original Mortgage Interest Rate	Assigned classes for the original mortgage interest rate	0.0<=Rate<4.0 4.0<=Rate<5.0 5.0<=Rate<6.0 6.0<=Rate<7.0 7.0<=Rate<8.0 8.0<=Rate<9.0 9.0<=Rate<10.0 10.0<=Rate<11.0 11.0<=Rate<12.0 12.0<=Rate<13.0 13.0<=Rate<14.0 14.0<=Rate<15.0 15.0<=Rate<16.0 Rate=>16.0
Mortgage Age	Assigned classes for the age of the loan	0<=Age<12 12<=Age<24 24<=Age<36 36<=Age<48 48<=Age<60 60<=Age<72 72<=Age<84 84<=Age<96 96<=Age<108 108<=Age<120 120<=Age<132 132<=Age<144 144<=Age<156 156<=Age<168 168<=Age<180 Age>=180
Rate Reset Period	Assigned classes for the number of months between rate adjustments	Period =1 1< Period <=4 4< Period <=9 9< Period <=15 15< Period <=60 Period >60
Payment Reset Period	Assigned classes for the number of months between payment adjustments after the duration of the teaser rate	Period <=9 9< Period <=15 Period >15
ARM Index	Specifies the type of index used to determine the interest rate at each adjustment	FHLB 11th District Cost of Funds. 1 Month Federal Agency Cost of Funds. 3 Month Federal Agency Cost of Funds. 6 Month Federal Agency Cost of Funds. 12 Month Federal Agency Cost of Funds. 24 Month Federal Agency Cost of Funds. 36 Month Federal Agency Cost of Funds. 60 Month Federal Agency Cost of Funds. 120 Month Federal Agency Cost of Funds. 360 Month Federal Agency Cost of Funds. Overnight Federal Funds (Effective). 1 Week Federal Funds 6 Month Federal Funds 1 month LIBOR 3 Month LIBOR 6 Month LIBOR 12 Month LIBOR Conventional Mortgage Rate. 15 Year Fixed Mortgage Rate. 7 Year Balloon Mortgage Rate. Prime Rate 1 Month Treasury Bill 3 Month CMT 6 Month CMT 12 Month CMT

TABLE 3–2—WHOLE LOAN CLASSIFICATION VARIABLES—Continued

Variable	Description	Range
		24 Month CMT 36 Month CMT 60 Month CMT 120 Month CMT 240 Month CMT 360 Month CMT
Cap Type Flag	Indicates if a loan group is rate-capped, payment-capped or uncapped	Payment Capped Rate Capped No periodic rate cap

TABLE 3–3—ADDITIONAL SINGLE FAMILY LOAN CLASSIFICATION VARIABLES

Variable	Description	Range
Single Family Product Code	Identifies the mortgage product types for single family loans	Fixed Rate 30YR Fixed Rate 20YR Fixed Rate 15YR 5 Year Fixed Rate Balloon 7 Year Fixed Rate Balloon 10 Year Fixed Rate Balloon 15 Year Fixed Rate Balloon Adjustable Rate Second Lien Other
Census Division	The Census Division in which the property resides. This variable is populated based on the property's state code	East North Central East South Central Middle Atlantic Mountain New England Pacific South Atlantic West North Central West South Central
Relative Loan Size	Assigned classes for the loan amount at origination divided by the simple average of the loan amount for the origination year and for the state in which the property is located. It is expressed as a percent	0<=Size<=40% 40%<Size<=60% 60%<Size<=75% 75%<Size<=100% 100%<Size<=125% 125%<Size<=150% Size>150%

TABLE 3–4—ADDITIONAL MULTIFAMILY LOAN CLASSIFICATION VARIABLES

Variable	Description	Range
Multifamily Product Code	Identifies the mortgage product types for multifamily loans	Fixed Rate Fully Amortizing Adjustable Rate Fully Amortizing 5 Year Fixed Rate Balloon 7 Year Fixed Rate Balloon 10 Year Fixed Rate Balloon 15 Year Fixed Rate Balloon Balloon ARM Other
New Book Flag	"New Book" is applied to Fannie Mae loans acquired beginning in 1988 and Freddie Mac loans acquired beginning in 1993, except for loans that were refinanced to avoid a default on a loan originated or acquired earlier	New Book Old Book
Ratio Update Flag	Indicates if the LTV and DCR were updated at origination or at Enterprise acquisition	Yes No
Interest Only Flag	Indicates if the loan is currently paying interest only. Loans that started as I/Os and are currently amortizing should be flagged as 'N'	Yes No
Current DCR	Assigned classes for the Debt Service Coverage Ratio based on the most recent annual operating statement	DCR <1.00 1.00 <=DCR<1.10 1.10 <=DCR<1.20 1.20 <=DCR<1.30 1.30 <=DCR<1.40 1.40 <=DCR<1.50 1.50 <=DCR<1.60 1.60 <=DCR<1.70 1.70 <=DCR<1.80

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TABLE 3–4—ADDITIONAL MULTIFAMILY LOAN CLASSIFICATION VARIABLES—Continued

Variable	Description	Range
		1.80 <=DCR<1.90 1.90 <=DCR<2.00 2.00 <=DCR<2.50 2.50 <=DCR<4.00 DCR >= 4.00

3.1.2.1.1 Loan Group Inputs

TABLE 3–5—MORTGAGE AMORTIZATION CALCULATION INPUTS

Variable	Description
	Rate Type (Fixed or Adjustable)
	Product Type (30/20/15-Year FRM, ARM, Balloon, Government, etc.)
UPB_{ORIG}	Unpaid Principal Balance at Origination (aggregate for Loan Group)
UPB_0	Unpaid Principal Balance at start of Stress Test (aggregate for Loan Group), adjusted by UPB scale factor.
MIR_0	Mortgage Interest Rate for the Mortgage Payment prior to the start of the Stress Test, or Initial Mortgage Interest Rate for new loans (weighted average for Loan Group) (expressed as a decimal per annum)
PMT_0	Amount of the Mortgage Payment (Principal and Interest) prior to the start of the Stress Test, or first Payment for new loans (aggregate for Loan Group), adjusted by UPB scale factor.
AT	Original loan Amortizing Term in months (weighted average for Loan Group)
RM	Remaining term to Maturity in months (i.e., number of contractual payments due between the start of the Stress Test and the contractual maturity date of the loan) (weighted average for Loan Group)
A_0	Age of the loan at the start of Stress Test, in months (weighted average for Loan Group)
Unamortized Balance Scale Factor	Factor determined by reconciling reported Unamortized Balance to published financials
UPB Scale Factor	Factor determined by reconciling reported UPB to published financials
Additional Interest Rate Inputs	
GFR	Guarantee Fee Rate (weighted average for Loan Group) (decimal per annum)
SFR	Servicing Fee Rate (weighted average for Loan Group) (decimal per annum)
Additional Inputs for ARMs (weighted averages for Loan Group, except for Index)	
$INDEX_m$	Monthly values of the contractual Interest Rate Index
LB	Look-Back period, in months
MARGIN	Loan Margin (over index), decimal per annum
RRP	Rate Reset Period, in months
	Rate Reset Limit (up and down), decimal per annum
	Maximum Rate (life cap), decimal per annum
	Minimum Rate (life floor), decimal per annum
NAC	Negative Amortization Cap, decimal fraction of UPB_{ORIG}
	Unlimited Payment Reset Period, in months
PRP	Payment Reset Period, in months
	Payment Reset Limit, as decimal fraction of prior payment
IRP	Initial Rate Period, in months
Additional Inputs for Multifamily Loans	
	Interest-only Flag
RIOP	Remaining Interest-only period, in months (weighted average for loan group)

TABLE 3–6—ADDITIONAL INPUTS FOR SINGLE FAMILY DEFAULT AND PREPAYMENT

Variable	Description
PROD	Mortgage Product Type
A_0	Age *immediately prior to* start of Stress Test, in months (weighted average for Loan Group)
LTV_{ORIG}	Loan-to-Value ratio at Origination (weighted average for Loan Group)
UPB_{ORIG}	UPB at Origination (aggregate for Loan Group), adjusted by UPB scale factor.
MIR_{ORIG}	Mortgage Interest Rate at origination ("Initial Rate" for ARMs), decimal per annum (weighted average for loan group)
UPB_0	Unpaid Principal Balance immediately prior to start of Stress Test (aggregate for Loan Group),
IF	Fraction (by UPB, in decimal form) of Loan Group backed by Investor-owned properties
RLS_{ORIG}	Weighted average Relative Loan Size at Origination (Original UPB as a fraction of average UPB for the state and Origination Year of loan origination)
$CHPGF_0^{LG}$	Cumulative House Price Growth Factor since Loan Origination (weighted average for Loan Group)

TABLE 3–7—ADDITIONAL INPUTS FOR MULTIFAMILY DEFAULT AND PREPAYMENT

Variable	Description
	Mortgage Product Type
A_0	Age *immediately prior to* start of Stress Test, in months (weighted average for Loan Group)
NBF	New Book Flag
RUF	Ratio Update Flag
LTV_{ORIG}	Loan-to-Value ratio at loan origination
DCR_0	Debt Service Coverage Ratio at the start of the Stress Test
PMT_0	Amount of the mortgage payment (principal and interest) prior to the start of the Stress Test, or first payment for new loans (aggregate for Loan Group)
PPEM	Prepayment Penalty End Month number in the Stress Test (weighted average for Loan Group)
RM	Remaining term to Maturity in months (i.e., number of contractual payments due between the start of the Stress Test and the contractual maturity date of the loan) (weighted average for Loan Group)

TABLE 3–8—MISCELLANEOUS WHOLE LOAN CASH AND ACCOUNTING FLOW INPUTS

Variable	Description
GF	Guarantee Fee rate (weighted average for Loan Group) (decimal per annum)
FDS	Float Days for Scheduled Principal and Interest
FDP	Float Days for Prepaid Principal
FREP	Fraction Repurchased (weighted average for Loan Group) (decimal)
RM	Remaining Term to Maturity in months
UPD_0	Unamortized Premium (positive) or Discount (negative) (Deferred Balances) for the Loan Group at the start of the Stress Test, adjusted by Unamortized Balance scale factor
$SUPD_0$	Security Unamortized Premium (positive) or Discount (negative) associated with the repurchase price of a Repurchased MBS (aggregate over all purchases of the same MBS)

TABLE 3–9—ADDITIONAL INPUTS FOR REPURCHASED MBS

Variable	Description
Wtd Ave Percent Repurchased	For sold loan groups, the percent of the loan group UPB that gives the actual dollar amount of loans that collateralize single class MBSs that the Enterprise holds in its own portfolio
Security Unamortized Balances	The aggregate sum of all unamortized discounts, premiums, fees, commissions, etc. associated with the securities modeled using the Wtd Ave Percent Repurchased

3.1.2.1.2 Credit Enhancement Inputs

To calculate reductions in mortgage credit losses due to credit enhancements, the following data are required for any credit-enhanced loans in a loan group. For this purpose, a Loan Group is divided into Distinct Credit Enhancement Combinations, as further described in section 3.6.3.6.4.

Mortgage Credit Enhancement, of this

TABLE 3–12—INPUTS FOR SINGLE CLASS MBS CASH FLOWS—Continued

Mortgage Credit Enhancement, of this Appendix.

TABLE 3–10—CE INPUTS FOR EACH LOAN GROUP

Variable	Description
UPB_{ORIG}^{LG}	Origination UPB.
LTV_{ORIG}^{LG}	Original LTV.

TABLE 3–11—INPUTS FOR EACH DISTINCT CE COMBINATION (DCC)

Variable	Description
P^{DCC}	Percent of Initial Loan Group UPB represented by individual loan(s) in a DCC
$R^{MI,DCC}$ or $R^{LSA,DCC}$	Credit rating of Loan Limit CE (MI or LSA) Counterparty
$C^{MI,DCC}$ or $C^{LSA,DCC}$	Weighted Average Coverage Percentage for MI or LSA Coverage (weighted by Initial UPB)
$AB_0^{DCC,C1}$	DCC Available First Priority CE Balance immediately prior to start of the Stress Test
$AB_0^{DCC,C2}$	DCC Available Second Priority CE Balance immediately prior to start of the Stress Test
$R^{DCC,C1}$	DCC Credit Rating of First Priority CE Provider or Counterparty; or Cash/Cash Equivalent (which is not Haircutted)
$R^{DCC,C2}$	DCC Credit Rating of Second Priority CE Provider or Counterparty; or Cash/Cash Equivalent (which is not Haircutted)
$C^{DCC,C1}$	DCC Loan-Level Coverage Limit of First Priority Contract (If Subtype is MPI; otherwise = 1)
$C^{DCC,C2}$	DCC Loan-Limit Coverage Limit of Second Priority Contract (if Subtype is MPI; otherwise = 1)
$ExpMo^{DCC,C1}$	Month in the Stress Test (1...120 or after) in which the DCC First Priority Contract expires
$ExpMo^{DCC,C2}$	Month in the Stress Test (1...120 or after) in which the DCC Second Priority Contract expires
$ELPF^{DCC,C1}$	DCC Enterprise Loss Position Flag for First Priority Contract (Y or N)
$ELPF^{DCC,C2}$	DCC Enterprise Loss Position Flag for Second Priority Contract (Y or N)

3.1.2.1.3 Commitments Inputs

[a] The Enterprises report Commitment Loan Group categories based on specific product type characteristics of securitized single family loans originated and delivered during the six months prior to the start of the Stress Test (*see* section 3.2, Commitments, of this Appendix). For each category, the Enterprises report the same information as for Whole Loan Groups with the following exceptions:

1. Amortization term and remaining term are set to those appropriate for newly originated loans;
2. Unamortized balances are set to zero;
3. The House Price Growth Factor is set to one;
4. Age is set to zero;
5. Any credit enhancement coverage other than mortgage insurance is not reported.

3.1.2.2 Mortgage Related Securities Inputs

[a] The Enterprises hold mortgage-related securities, including single class and Derivative Mortgage-Backed Securities (certain multi-class and strip securities) issued by Fannie Mae, Freddie Mac, and Ginnie Mae; mortgage revenue bonds issued by State and local governments and their instrumentalities; and single class and Derivative Mortgage-Backed Securities issued by private entities. The Stress Test models the cash flows of these securities individually. Table 3–12, Inputs for Single Class MBS Cash Flows sets forth the data elements that the Enterprises must compile in the RBC Report regarding each MBS held in their portfolios. This information is necessary for determining associated cash flows in the Stress Test.

TABLE 3–12—INPUTS FOR SINGLE CLASS MBS CASH FLOWS

Variable	Description
Pool Number	A unique number identifying each mortgage pool
CUSIP Number	A unique number assigned to publicly traded securities by the Committee on Uniform Securities Identification Procedures
Issuer	Issuer of the mortgage pool
Government Flag	Indicates Government insured collateral
Original UPB Amount	Original pool balance adjusted by UPB scale factor and multiplied by the Enterprise's percentage ownership
Current UPB Amount	Initial Pool balance (at the start of the Stress Test), adjusted by UPB scale factor and multiplied by the Enterprise's percentage ownership
Product Code	Mortgage product type for the pool
Security Rate Index	If the rate on the security adjusts over time, the index that the adjustment is based on
Unamortized Balance	The sum of all unamortized discounts, premiums, fees, commissions, etc. adjusted by Unamortized Balance scale factor

TABLE 3–12—INPUTS FOR SINGLE CLASS MBS CASH FLOWS—Continued

Variable	Description
Wt Avg Original Amortization Term	Original amortization term of the underlying loans, in months (weighted average for underlying loans)
Wt Avg Remaining Term of Maturity	Remaining maturity of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Age	Age of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Current Mortgage Interest rate	Mortgage Interest Rate of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Pass-Through Rate	Pass-Through Rate of the underlying loans at the start of the Stress Test (Sold loans only) (weighted average for underlying loans)
Wt Avg Original Mortgage Interest Rate	The current UPB weighted average mortgage interest rate in effect at origination for the loans in the pool
Security Rating	The most current rating issued by any Nationally Recognized Statistical Rating Organization (NRSRO) for this security, as of the reporting date
Wt Avg Gross Margin	Gross margin for the underlying loans (ARM MBS only) (weighted average for underlying loans)
Wt Avg Net Margin	Net margin (used to determine the security rate for ARM MBS) (weighted average for underlying loans)
Wt Avg Rate Reset Period	Rate reset period in months (ARM MBS only) (weighted average for underlying loans)
Wt Avg Rate Reset Limit	Rate reset limit up/down (ARM MBS only) (weighted average for underlying loans)
Wt Avg Life Interest Rate Ceiling	Maximum rate (lifetime cap) (ARM MBS only) (weighted average for underlying loans)
Wt Avg Life Interest Rate Floor	Minimum rate (lifetime floor) (ARM MBS only) (weighted average for underlying loans)
Wt Avg Payment Reset Period	Payment reset period in months (ARM MBS only) (weighted average for underlying loans)
Wt Avg Payment Reset Limit	Payment reset limit up/down (ARM MBS only) (weighted average for underlying loans)
Wt Avg Lockback Period	The number of months to look back from the interest rate change date to find the index value that will be used to determine the next interest rate. (weighted average for underlying loans)
Wt Avg Negative Amortization Cap	The maximum amount to which the balance can increase before the payment is recast to a fully amortizing amount. It is expressed as a fraction of the original UPB. (weighted average for underlying loans)
Wt Avg Original Mortgage Interest Rate	The current UPB weighted average original mortgage interest rate for the loans in the pool
Wt Avg Initial Interest Rate Period	Number of months between the loan origination date and the first rate adjustment date (weighted average for underlying loans)
Wt Avg Unlimited Payment Reset Period	Number of months between unlimited payment resets i.e., not limited by payment caps, starting with origination date (weighted average for underlying loans)
Notional Flag	Indicates if the amounts reported in Original Security Balance and Current Security Balance are notional
UPB Scale Factor	Factor determined by reconciling reported UPB to published financials
Unamortized Balance Scale Factor	Factor determined by reconciling reported Unamortized Balance to published financials
Whole Loan Modeling Flag	Indicates that the Current UPB Amount and Unamortized Balance associated with this repurchased MBS are included in the Wt Avg Percent Repurchased and Security Unamortized Balance fields
FAS 115 Classification	The financial instrument's classification according to FAS 115
$HPGR_k$	Vector of House Price Growth Rates for quarters q=1...40 of the Stress Period

[b] Table 3–13, Information for Multi-Class and Derivative MBS Cash Flows Inputs sets forth the data elements that the Enterprises must compile regarding multi-class and Derivative MBS (e.g., REMICs and Strips). This information is necessary for determining associated cash flows in the Stress Test.

TABLE 3–13—INFORMATION FOR MULTI-CLASS AND DERIVATIVE MBS CASH FLOWS INPUTS

Variable	Description
CUSIP Number	A unique number assigned to publicly traded securities by the Committee on Uniform Securities Identification Procedures
Issuer	Issuer of the security: FNMA, FHLMC, GNMA or other
Original Security Balance	Original principal balance of the security (notional amount for interest-only securities) at the time of issuance, adjusted by UPB scale factor, multiplied by the Enterprise's percentage ownership

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TABLE 3–13—INFORMATION FOR MULTI-CLASS AND DERIVATIVE MBS CASH FLOWS INPUTS—Continued

Variable	Description
Current Security Balance	Initial principal balance, or notional amount, at the start of the Stress Period, adjusted by UPB scale factor, multiplied by the Enterprise's percentage ownership
Current Security Percentage Owned	The percentage of a security's total current balance owned by the Enterprise
Notional Flag	Indicates if the amounts reported in Original Security Balance and Current Security Balance are notional
Unamortized Balance	The sum of all unamortized discounts, premiums, fees, commissions, etc. Components of the balance that amortize as a gain (like discounts) should be positive. Components that amortize as a cost or as a loss (premiums, fees, etc.) should be negative
Unamortized Balance Scale Factor	Factor determined by reconciling reported Unamortized Balance to published financials
UPB Scale Factor	Factor determined by reconciling the reported current security balance to published financials
Security Rating	The most current rating issued by any Nationally Recognized Statistical Rating Organization (NRSRO) for this security, as of the reporting date

(c) Table 3–14, Inputs for MRBs and Derivative MBS Cash Flows Inputs sets forth the data elements that the Enterprises must compile in the RBC Report regarding mortgage revenue bonds and private issue mortgage related securities (MRS). The data in this table is supplemented with public securities disclosure data. This information is necessary for determining associated cash flows in the Stress Test.

TABLE 3–14—INPUTS FOR MRBS AND DERIVATIVE MBS CASH FLOWS INPUTS

Variable	Description
CUSIP Number	A unique number assigned to publicly traded securities by the Committee on Uniform Securities Identification Procedures
Original Security Balance	Original principal balance, adjusted by UPB scale factor and multiplied by the Enterprise's percentage ownership
Current Security Balance	Initial Principal balance (at start of Stress Period), adjusted by UPB scale factor and multiplied by the Enterprise's percentage ownership
Unamortized Balance	The sum of all unamortized discounts, premiums, fees, commissions, etc. adjusted by Unamortized Balance scale factor
Unamortized Balance Scale Factor	Factor determined by reconciling reported Unamortized Balance to published financials
UPB Scale Factor	Factor determined by reconciling the reported current security balance to published financials
Floating Rate Flag	Indicates the instrument pays interest at a floating rate
Issue Date	The issue date of the security
Maturity Date	The stated maturity date of the security
Security Interest Rate	The rate at which the security earns interest, as of the reporting date
Principal Payment Window Starting Date, Down-Rate Scenario	The month in the Stress Test that principal payment is expected to start for the security under the statutory "down" interest rate scenario, according to Enterprise projections
Principal Payment Window Ending Date, Down-Rate Scenario	The month in the Stress Test that principal payment is expected to end for the security under the statutory "down" interest rate scenario, according to Enterprise projections
Principal Payment Window Starting Date, Up-Rate Scenario	The month in the Stress Test that principal payment is expected to start for the security under the statutory "up" interest rate scenario, according to Enterprise projections
Principal Payment Window Ending Date, Up-Rate Scenario	The month in the Stress Test that principal payment is expected to end for the security under the statutory "up" interest rate scenario, according to Enterprise projections
Notional Flag	Indicates if the amounts reported in Original Security Balance and Current Security Balance are notional
Security Rating	The most current rating issued by any Nationally Recognized Statistical Rating Organization (NRSRO) for this security, as of the reporting date
Security Rate Index	If the rate on the security adjusts over time, the index on which the adjustment is based
Security Rate Index Coefficient	If the rate on the security adjusts over time, the coefficient is the number used to multiply by the value of the index
Security Rate Index Spread	If the rate on the security adjusts over time, the spread is added to the value of the index multiplied by the coefficient to determine the new rate
Security Rate Adjustment Frequency	The number of months between rate adjustments

TABLE 3–14—INPUTS FOR MRBS AND DERIVATIVE MBS CASH FLOWS INPUTS—Continued

Variable	Description
Security Interest Rate Ceiling	The maximum rate (lifetime cap) on the security
Security Interest Rate Floor	The minimum rate (lifetime floor) on the security
Life Ceiling Interest Rate	The maximum interest rate allowed throughout the life of the security
Life Floor Interest Rate	The minimum interest rate allowed throughout the life of security

3.1.2.3 Nonmortgage Instrument Cash Flows Inputs

Table 3–15, Input Variables for Nonmortgage Instrument Cash flows sets forth the data elements that the Enterprises must compile in the RBC Report to identify individual securities (other than Mortgage Related Securities) that are held by the Enterprises in their portfolios. These include debt securities, preferred stock, and derivative contracts (interest rate swaps, caps, and floors). All data are instrument specific. The data in this table are supplemented by public securities disclosure data. For instruments with complex or non-standard features, the Enterprises may be required to provide additional information such as amortization schedules, interest rate coupon reset formulas, and the terms of the call options.

TABLE 3–15—INPUT VARIABLES FOR NONMORTGAGE INSTRUMENT CASH FLOWS

Data Elements	Description
Amortization Methodology Code	Enterprise method of amortizing deferred balances (e.g., straight line)
Asset ID	CUSIP or Reference Pool Number identifying the asset underlying a derivative position
Asset Type Code	Code that identifies asset type used in the commercial information service (e.g. ABS, Fannie Mae pool, Freddie Mac pool)
Associated Instrument ID	Instrument ID of an instrument linked to another instrument
Coefficient	Indicates the extent to which the coupon is leveraged or de-leveraged
Compound Indicator	Indicates if interest is compounded
Compounding Frequency	Indicates how often interest is compounded
Counterparty Credit Rating	NRSRO's rating for the counterparty
Counterparty Credit Rating Type	An indicator identifying the counterparty's credit rating as short-term ('S') or long-term ('L')
Counterparty ID	Enterprise counterparty tracking ID
Country Code	Standard country codes in compliance with Federal Information Processing Standards Publication 10–4
Credit Agency Code	Identifies NRSRO (e.g., Moody's)
Current Asset Face Amount	Current face amount of the asset underlying a swap adjusted by UPB scale factor
Current Coupon	Current coupon or dividend rate of the instrument
Current Unamortized Discount	Current unamortized premium or unaccreted discount of the instrument adjusted by Unamortized Balance scale factor
Current Unamortized Fees	Current unamortized fees associated with the instrument adjusted by Unamortized Balance scale factor
Current Unamortized Hedge	Current unamortized hedging gains or losses associated with the instrument adjusted by Unamortized Balance scale factor
Current Unamortized Other	Any other unamortized items originally associated with the instrument adjusted by Unamortized Balance scale factor
CUSIP_ISIN	CUSIP or ISIN Number identifying the instrument
Day Count	Day count convention (e.g. 30/360)
End Date	The last index repricing date
EOP Principal Balance	End of Period face, principal or notional, amount of the instrument adjusted by UPB scale factor
Exact Representation	Indicates that an instrument is modeled according to its contractual terms
Exercise Convention	Indicates option exercise convention (e.g., American Option)
Exercise Price	Par = 1.0; Options
First Coupon Date	Date first coupon is received or paid
Index Cap	Indicates maximum index rate
Index Floor	Indicates minimum index rate
Index Reset Frequency	Indicates how often the interest rate index resets on floating-rate instruments
Index Code	Indicates the interest rate index to which floating-rate instruments are tied (e.g., LIBOR)

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TABLE 3–15—INPUT VARIABLES FOR NONMORTGAGE INSTRUMENT CASH FLOWS—Continued

Data Elements	Description
Index Term	Point on yield curve, expressed in months, upon which the index is based
Instrument Credit Rating	NRSRO credit rating for the instrument
Instrument Credit Rating Type	An indicator identifying the instruments credit rating as short-term ('S') or long-term ('L')
Instrument ID	An integer used internally by the Enterprise that uniquely identifies the instrument
Interest Currency Code	Indicates currency in which interest payments are paid or received
Interest Type Code	Indicates the method of interest rate payments (e.g., fixed, floating, step, discount)
Issue Date	Indicates the date that the instrument was issued
Life Cap Rate	The maximum interest rate for the instrument throughout its life
Life Floor Rate	The minimum interest rate for the instrument throughout its life
Look-Back Period	Period from the index reset date, expressed in months, that the index value is derived
Maturity Date	Date that the instrument contractually matures
Notional Indicator	Identifies whether the face amount is notional
Instrument Type Code	Indicates the type of instrument to be modeled (e.g., ABS, Cap, Swap)
Option Indicator	Indicates if instrument contains an option
Option Type	Indicates option type (e.g., Call option)
Original Asset Face Amount	Original face amount of the asset underlying a swap adjusted by UPB scale factor
Original Discount	Original discount or premium amount of the instrument adjusted by Unamortized Balance scale factor
Original Face	Original face, principal or notional, amount of the instrument adjusted by UPB scale factor
Original Fees	Fees associated with the instrument at inception adjusted by Unamortized Balance scale factor
Original Hedge	Hedging gain or loss to be amortized or accreted at inception adjusted by Unamortized Balance scale factor
Original Other	Any other amounts originally associated with the instrument to be amortized or accreted adjusted by Unamortized Balance scale factor
Parent Entity ID	Enterprise internal tracking ID for parent entity
Payment Amount	Interest payment amount associated with the instrument (reserved for complex instruments where interest payments are not modeled) adjusted by UPB scale factor
Payment Frequency	Indicates how often interest payments are made or received
Performance Date	"As of" date on which the data is submitted
Periodic Adjustment	The maximum amount that the interest rate for the instrument can change per reset
Position Code	Indicates whether the Enterprise pays or receives interest on the instrument
Principal Currency Code	Indicates currency in which principal payments are paid or received
Principal Factor Amount	EOP Principal Balance expressed as a percentage of Original Face
Principal Payment Date	A valid date identifying the date that principal is paid
Settlement Date	A valid date identifying the date the settlement occurred
Spread	An amount added to an index to determine an instrument's interest rate
Start Date	The date, spot or forward, when some feature of a financial contract becomes effective (e.g., Call Date), or when interest payments or receipts begin to be calculated
Strike Rate	The price or rate at which an option begins to have a settlement value at expiration, or, for interest-rate caps and floors, the rate that triggers interest payments
Submitting Entity	Indicates which Enterprise is submitting information
Trade ID	Unique code identifying the trade of an instrument
Transaction Code	Indicates the transaction that an Enterprise is initiating with the instrument (e.g. buy, issue reopen)
Transaction Date	A valid date identifying the date the transaction occurred
UPB Scale Factor	Factor determined by reconciling reported UPB to published financials

TABLE 3–15—INPUT VARIABLES FOR NONMORTGAGE INSTRUMENT CASH FLOWS—Continued

Data Elements	Description
Unamortized Balances Scale Factor	Factor determined by reconciling reported Unamortized Balances to published financials

3.1.2.4 Inputs for Alternative Modeling Treatment Items

TABLE 3–16—INPUTS FOR ALTERNATIVE MODELING TREATMENT ITEMS

Variable	Description
TYPE	Type of item (asset, liability or off-balance sheet item)
BOOK	Book Value of item (amount outstanding adjusted for deferred items)
FACE	Face Value or notional balance of item for off-balance sheet items
REMATUR	Remaining Contractual Maturity of item in whole months. Any fraction of a month equals one whole month
RATE	Interest Rate
INDEX	Index used to calculate Interest Rate
FAS115	Designation that the item is recorded at fair value, according to FAS 115
RATING	Instrument or counterparty rating
FHA	In the case of off-balance sheet guarantees, a designation indicating 100% of collateral is guaranteed by FHA
UABAL	Unamortized Balance (Book minus Face)
MARGIN	Margin over an Index

3.1.2.5 Operations, Taxes, and Accounting Inputs

[a] Table 3–17, Operations, Taxes, and Accounting Inputs sets forth the data the Enterprises must compile in the RBC Report to permit the calculation of taxes, operating expenses, and dividends. These data include:

- Average monthly Operating Expenses (i.e., administrative expenses, salaries and benefits, professional services, property costs, equipment costs) for the quarter prior to the beginning of the Stress Test;
- Income for the current year-to-date, one year, and two years prior to the beginning of the stress test, before taxes and provision for income taxes;
- Dividend payout ratio for the four quarters prior to the beginning of the Stress Period;
- Minimum capital requirement as of the beginning of the Stress Period.

TABLE 3–17—OPERATIONS, TAXES, AND ACCOUNTING INPUTS

Input	Description
FAS 115 and 125 fair value adjustment on retained mortgage portfolio	
FAS 133 fair value adjustment on retained mortgage portfolio	
Reserve for losses on retained mortgage portfolio	
FAS 115 and 125 fair value adjustments on non-mortgage investments	
FAS 133 fair value adjustments on non-mortgage investments	
Total cash	
Accrued interest receivable on mortgages	
Accrued interest receivable on non-mortgage investment securities	
Accrued interest receivable on non-mortgage investment securities denominated in foreign currency—hedged	
Accrued interest receivable on non-mortgage investment securities denominated in foreign currency—unhedged	
Accrued interest receivable on mortgage-linked derivatives, gross	
Accrued interest receivable on investment-linked derivatives, gross	
Accrued interest receivable on debt-linked derivatives, gross	
Other accrued interest receivable	
Accrued interest receivable on hedged debt-linked foreign currency swaps	Underlying instrument is GSE issued debt
Accrued interest receivable on unhedged debt-linked foreign currency swaps	

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TABLE 3–17—OPERATIONS, TAXES, AND ACCOUNTING INPUTS—Continued

Input	Description
Accrued interest receivable on hedged asset-linked foreign currency swaps	Underlying instrument is an asset
Accrued interest receivable on unhedged asset-linked foreign currency swaps	
Currency transaction adjustments—hedged assets	Cumulative gain or loss due to changes in foreign exchange rates relative to on-balance sheet assets originally denominated in foreign currency
Currency transaction adjustments—unhedged assets	Cumulative gain or loss due to changes in foreign exchange rates relative to unhedged assets and off-balance sheet items originally denominated in foreign currency
Federal income tax refundable	
Accounts receivable	
Fees receivable	
Low income housing tax credit investments	
Fixed assets, net	
Clearing accounts	Net book value of all clearing accounts
Other assets	
Foreclosed property, net	Real estate owned including property acquired through foreclosure proceedings
FAS 133 fair value adjustment on debt securities	
Accrued interest payable on existing fixed-rate debt securities	
Accrued interest payable on existing floating-rate debt securities	
Accrued interest payable on existing debt issued in foreign currency—hedged	
Accrued interest payable on existing debt issued in foreign currency—unhedged	
Accrued interest payable on mortgage-linked derivatives, gross	
Accrued interest payable on investment-linked derivatives, gross	
Accrued interest payable on debt-linked derivatives, gross	
Other accrued interest payable	
Accrued interest payable debt-linked foreign currency swaps—hedged	
Accrued interest payable debt-linked foreign currency swaps—unhedged	
Accrued interest payable asset-linked foreign currency swaps—hedged	
Accrued interest payable asset-linked foreign currency swaps—unhedged	
Principal and interest due to mortgage security investors	Cash received on sold mortgages for onward submission to mortgage security investors
Currency transaction adjustments—hedged debt	Cumulative gain or loss due to changes in foreign exchange rates relative to on-balance sheet debt originally denominated in foreign currency
Currency transaction adjustments—unhedged debt	Cumulative gain or loss due to changes in foreign exchange rates relative to unhedged liabilities and off-balance sheet items originally denominated in foreign currency
Escrow deposits	Cash balances held in relation to servicing of multi-family loans
Federal income taxes payable	
Preferred dividends payable	
Accounts payable	
Other liabilities	
Common dividends payable	
Reserve for losses on sold mortgages	
Common stock	
Preferred stock, non-cumulative	
Additional paid-in capital	

TABLE 3–17—OPERATIONS, TAXES, AND ACCOUNTING INPUTS—Continued

Input	Description
Retained earnings	
Treasury stock	
Unrealized gains and losses on available-for-sale securities, net of tax, in accordance with FAS 115 and 125	
Unrealized gains and losses due to mark to market adjustments, FAS 115 and 125	
Unrealized gains and losses due to deferred balances related to pre-FAS 115 and 125 adjustments	
Unrealized gains and losses due to other realized gains, FAS 115	
Other comprehensive income, net of tax, in accordance with FAS 133	
OCI due to mark to market adjustments, FAS 133	
OCI due to deferred balances related to pre-FAS 133 adjustments	
OCI due to other realized gains, FAS 133	
Operating expenses	Average of prior three months
Common dividend payout ratio (average of prior 4 quarters)	Sum dollar amount of common dividends paid over prior 4 quarters and divided by the sum of total of after tax income less preferred dividends paid over prior 4 quarters
Common dividends per share paid 1 quarter prior to the beginning of the stress period	
Common shares outstanding	
Common Share Market Price	
Dividends paid on common stock 1 quarter prior to the beginning of the stress period	
Share Repurchases (average of prior 4 quarters)	Sum dollar amount of repurchased shares, net of newly issued shares, over prior 4 quarters and divided by 4
Off-balance-sheet Guarantees	Guaranteed instruments not reported on the balance sheet, such as whole loan REMICs and multifamily credit enhancements, and not 100% guaranteed by the FHA
Other Off-Balance Sheet Guarantees	All other off-balance sheet guaranteed instruments not included in another category, and not 100% guaranteed by the FHA
YTD provision for income taxes	Provision for income taxes for the period beginning January 1 and ending as of the report date
Tax loss carryforward	Net losses available to write off against future years' net income
Tax liability for the year prior to the beginning of the Stress Test	
Tax liability for the year 2 years prior to the beginning of the Stress Test (net of carrybacks)	
Taxable income for the year prior to the beginning of the Stress Test	
Taxable income for the year 2 years prior to the beginning of the Stress Test (net of carrybacks)	
Net after tax income for the quarter preceding the start of the stress test	
YTD taxable income	Total amount of taxable income for the period beginning January 1 and ending as of the report date
Minimum capital requirement at the beginning of the Stress Period	
Specific allowance for loan losses	Loss allowances calculated in accordance with FAS 114
Zero coupon swap receivable	
Unamortized discount on zero coupon swap receivable	

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3.1.3 Public Data

3.1.3.1 Interest Rates

[a] The Interest Rates component of the Stress Test projects Treasury yields as well as other interest rate indexes that are needed to calculate cash flows, to simulate the performance of mortgages and other financial instruments, and to calculate capital for each of the 120 months in the Stress Period. Table 3–18, Interest Rate and Index Inputs, sets forth the interest rate indexes used in the Stress Test

[b] The starting values for all of the Interest Rates are the monthly average of daily rates for the month preceding the start of the stress test.

[c] For the 10-year CMT, monthly values are required for the three years prior to the start of the Stress Test (m = −35, −34...0). For all other indexes, monthly values for the prior two years are required (m = −23, −22...0).

TABLE 3–18—INTEREST RATE AND INDEX INPUTS

Interest Rate Index	Description	Source
1 MO Treasury Bill	One-month Treasury bill yield, monthly simple average of daily rate, quoted as actual/360	Bloomberg Generic 1 Month U.S. Treasury bill, Ticker: GB1M (index)
3 MO CMT	Three-month constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
6 MO CMT	Six-month constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
1 YR CMT	One-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
2 YR CMT	Two-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
3 YR CMT	Three-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
5 YR CMT	Five-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
10 YR CMT	Ten-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
20 YR CMT	Twenty-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
30 YR CMT	Thirty-year constant maturity Treasury yield, monthly simple average of daily rate, quoted as bond equivalent yield	Federal Reserve H.15 Release
Overnight Fed Funds (Effective)	Overnight effective Federal Funds rate, monthly simple average of daily rate	Federal Reserve H.15 Release
1 Week Federal Funds	1 week Federal Funds rate, monthly simple average of daily rates	Bloomberg Term Fed Funds U.S. Domestic, Ticker: FFTD01W (index)
6 Month Fed Funds	6 month Federal Funds rate, monthly simple average of daily rates	Bloomberg Term Fed Funds U.S. Domestic, Ticker: FFTD06M (index)
Conventional Mortgage Rate	FHLMC (Freddie Mac) contract interest rates for 30 YR fixed-rate mortgage commitments, monthly average of weekly rates	Federal Reserve H.15 Release
FHLB 11th District COF	11th District (San Francisco) weighted average cost of funds for savings and loans, monthly	Bloomberg Cost of Funds for the 11th District Ticker: COF11 (index)
1 MO LIBOR	One-month London Interbank Offered Rate, average of bid and asked, monthly simple average of daily rates, quoted as actual/360	British Bankers Association Bloomberg Ticker: US0001M (index)
3 MO LIBOR	Three-month London Interbank Offered Rate, average of bid and asked, monthly simple average of daily rates, quoted as actual/360	British Bankers Association Bloomberg Ticker: US0003M (index)
6 MO LIBOR	Six-month London Interbank Offered Rate, average of bid and asked, monthly simple average of daily rates, quoted as actual/360	British Bankers Association Bloomberg Ticker: US0006M (index)
12 MO LIBOR	One-year London Interbank Offered Rate, average of bid and asked, monthly simple average of daily rates, quoted as actual/360	British Bankers Association Bloomberg Ticker: US0012M (index)
Prime Rate	Prevailing rate as quoted, monthly average of daily rates	Federal Reserve H.15 Release
1 MO Federal Agency COF	One-month Federal Agency Cost of Funds, monthly simple average of daily rates, quoted as actual/360	Bloomberg Generic 1 Month Agency Discount Note Yield Ticker: AGDN030Y (index)
3 MO Federal Agency COF	Three-month Federal Agency Cost of Funds, monthly simple average of daily rates, quoted as actual/360	Bloomberg Generic 3 Month Agency Discount Note Yield Ticker: AGDN090Y (index)
6 MO Federal Agency COF	Six-month Federal Agency Cost of Funds, monthly simple average of daily rates, quoted as actual/360	Bloomberg Generic 6 Month Agency Discount Note Yield Ticker: AGDN180Y (index)

TABLE 3–18—INTEREST RATE AND INDEX INPUTS—Continued

Interest Rate Index	Description	Source
1 YR Federal Agency COF	One-year Federal Agency Cost of Funds, monthly simple average of daily rates, quoted as actual/360	Bloomberg Generic 12 Month Agency Discount Note Yield Ticker: AGDN360Y (index)
2 YR Federal Agency COF	Two-year Federal Agency Fair Market Yield, monthly simple average of daily rates	Bloomberg Generic 2 Year Agency Fair Market Yield Ticker: AGAC02 (index)
3 YR Federal Agency COF	Three-year Federal Agency Fair Market Yield, monthly simple average of daily rates	Bloomberg Generic 3 Year Agency Fair Market Yield Ticker: AGAC03 (index)
5 YR Federal Agency COF	Five-year Federal Agency Fair Market Yield, monthly simple average of daily rates	Bloomberg Generic 5 Year Agency Fair Market Yield Ticker: AGAC05 (index)
10 YR Federal Agency COF	Ten-year Federal Agency Fair Market Yield, monthly simple average of daily rates	Bloomberg Generic 10 Year Agency Fair Market Yield Ticker: AGAC10 (index)
30 YR Federal Agency COF	Thirty-year Federal Agency Fair Market Yield, monthly simple average of daily rates	Bloomberg Generic 30 Year Agency Fair Market Yield Ticker: AGAC30 (index)
15 YR fixed-rate mortgage	FHLMC (Freddie Mac) contract interest rates for 15 YR fixed-rate mortgage commitments, monthly average of FHLMC (Freddie Mac) contract interest rates for 15 YR	Bloomberg FHLMC 15 YR, 10 day commitment rate Ticker: FHCR1510 (index)
7-year balloon mortgage rate	Seven-year balloon mortgage, equal to the Conventional Mortgage Rate less 50 basis points	Computed

3.1.3.2 Property Valuation Inputs

Table 3–19, Stress Test Single Family Quarterly House Price Growth Rates and Table 3–21, HPI Dispersion Parameters, set forth inputs which are used to project single family mortgage performance. Table 3–20, Multifamily Monthly Rent Growth and Vacancy Rates, sets forth inputs which are used to project multifamily mortgage performance.

TABLE 3–19—STRESS TEST SINGLE FAMILY QUARTERLY HOUSE PRICE GROWTH RATES [1]

Stress Test Months	Historical Months	House Price Growth Rate	Stress Test Months	Historical Months	House Price Growth Rate
1–3	Jan–Mar 1984	−0.005048	61–63	Jan–Mar 1989	0.006292
4–6	Apr–Jun 1984	0.001146	64–66	Apr–Jun 1989	0.010523
7–9	Jul–Sep 1984	0.001708	67–69	Jul–Sep 1989	0.017893
10–12	Oct–Dec 1984	−0.007835	70–72	Oct–Dec 1989	−0.004881
13–15	Jan–Mar 1985	−0.006975	73–75	Jan–Mar 1990	−0.000227
16–18	Apr–Jun 1985	0.004178	76–78	Apr–Jun 1990	0.008804
19–21	Jul–Sep 1985	−0.005937	79–81	Jul–Sep 1990	0.003441
22–24	Oct–Dec 1985	−0.019422	82–84	Oct–Dec 1990	−0.003777
25–27	Jan–Mar 1986	0.026231	85–87	Jan–Mar 1991	0.009952
28–30	Apr–Jun 1986	0.022851	88–90	Apr–Jun 1991	0.012616
31–33	Jul–Sep 1986	−0.021402	91–93	Jul–Sep 1991	0.002267
34–36	Oct–Dec 1986	−0.018507	94–96	Oct–Dec 1991	0.012522
37–39	Jan–Mar 1987	0.004558	97–99	Jan–Mar 1992	0.013378
40–42	Apr–Jun 1987	−0.039306	100–102	Apr–Jun 1992	−0.000519
43–45	Jul–Sep 1987	−0.024382	103–105	Jul–Sep 1992	0.016035
46–48	Oct–Dec 1987	−0.026761	106–108	Oct–Dec 1992	0.005691
49–51	Jan–Mar 1988	−0.003182	109–111	Jan–Mar 1993	0.005723
52–54	Apr–Jun 1988	0.011854	112–114	Apr–Jun 1993	0.010614
55–57	Jul–Sep 1988	−0.020488	115–117	Jul–Sep 1993	0.013919
58–60	Oct–Dec 1988	−0.007260	118–120	Oct–Dec 1993	0.011267

[1] Source: OFHEO House Price Report, 1996:3.

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TABLE 3–20—MULTIFAMILY MONTHLY RENT GROWTH [1] AND VACANCY RATES [2]

Stress Test Month	Historical Month	Rent Growth Rate	Vacancy Rate	Stress Test Month	Historical Month	Rent Growth Rate	Vacancy Rate
1	Jan 1984	0.001367	0.136	61	Jan 1989	0.000052	0.135
2	Feb 1984	0.001186	0.136	62	Feb 1989	0.000284	0.135
3	Mar 1984	0.001422	0.136	63	Mar 1989	0.000404	0.135
4	Apr 1984	0.001723	0.136	64	Apr 1989	0.000150	0.135
5	May 1984	0.001537	0.136	65	May 1989	0.000331	0.135
6	Jun 1984	0.001354	0.136	66	Jun 1989	0.001483	0.135
7	Jul 1984	0.000961	0.136	67	Jul 1989	0.000759	0.135
8	Aug 1984	0.000601	0.136	68	Aug 1989	0.001502	0.135
9	Sep 1984	0.001106	0.136	69	Sep 1989	0.002254	0.135
10	Oct 1984	0.001623	0.136	70	Oct 1989	0.002768	0.135
11	Nov 1984	0.001395	0.136	71	Nov 1989	0.002220	0.135
12	Dec 1984	0.001170	0.136	72	Dec 1989	0.002040	0.135
13	Jan 1985	0.001014	0.150	73	Jan 1990	0.002180	0.120
14	Feb 1985	0.000857	0.150	74	Feb 1990	0.002772	0.120
15	Mar 1985	0.000315	0.150	75	Mar 1990	0.002867	0.120
16	Apr 1985	–0.000225	0.150	76	Apr 1990	0.003243	0.120
17	May 1985	0.000154	0.150	77	May 1990	0.002963	0.120
18	Jun 1985	0.000534	0.150	78	Jun 1990	0.003588	0.120
19	Jul 1985	0.001115	0.150	79	Jul 1990	0.004885	0.120
20	Aug 1985	0.001702	0.150	80	Aug 1990	0.004564	0.120
21	Sep 1985	0.001576	0.150	81	Sep 1990	0.005491	0.120
22	Oct 1985	0.001450	0.150	82	Oct 1990	0.005475	0.120
23	Nov 1985	0.001357	0.150	83	Nov 1990	0.005763	0.120
24	Dec 1985	0.001266	0.150	84	Dec 1990	0.005817	0.120
25	Jan 1986	0.001823	0.168	85	Jan 1991	0.005261	0.108
26	Feb 1986	0.002392	0.168	86	Feb 1991	0.005456	0.108
27	Mar 1986	0.002665	0.168	87	Mar 1991	0.005637	0.108
28	Apr 1986	0.002942	0.168	88	Apr 1991	0.005843	0.108
29	May 1986	0.002517	0.168	89	May 1991	0.005970	0.108
30	Jun 1986	0.002105	0.168	90	Jun 1991	0.005719	0.108
31	Jul 1986	0.001372	0.168	91	Jul 1991	0.005533	0.108
32	Aug 1986	0.000652	0.168	92	Aug 1991	0.004512	0.108
33	Sep 1986	0.000110	0.168	93	Sep 1991	0.003916	0.108
34	Oct 1986	–0.000431	0.168	94	Oct 1991	0.003779	0.108
35	Nov 1986	–0.000201	0.168	95	Nov 1991	0.004226	0.108
36	Dec 1986	0.000030	0.168	96	Dec 1991	0.004791	0.108
37	Jan 1987	–0.001448	0.175	97	Jan 1992	0.005361	0.098
38	Feb 1987	–0.002162	0.175	98	Feb 1992	0.004085	0.098
39	Mar 1987	–0.001202	0.175	99	Mar 1992	0.003885	0.098
40	Apr 1987	–0.001136	0.175	100	Apr 1992	0.002992	0.098
41	May 1987	–0.001466	0.175	101	May 1992	0.002941	0.098

TABLE 3–20—MULTIFAMILY MONTHLY RENT GROWTH [1] AND VACANCY RATES [2]—Continued

Stress Test Month	Historical Month	Rent Growth Rate	Vacancy Rate	Stress Test Month	Historical Month	Rent Growth Rate	Vacancy Rate
42	Jun 1987	–0.002809	0.175	102	Jun 1992	0.002851	0.098
43	Jul 1987	–0.002069	0.175	103	Jul 1992	0.002346	0.098
44	Aug 1987	–0.002530	0.175	104	Aug 1992	0.003850	0.098
45	Sep 1987	–0.001033	0.175	105	Sep 1992	0.003245	0.098
46	Oct 1987	–0.001148	0.175	106	Oct 1992	0.003194	0.098
47	Nov 1987	–0.001617	0.175	107	Nov 1992	0.001931	0.098
48	Dec 1987	–0.002064	0.175	108	Dec 1992	0.001494	0.098
49	Jan 1988	–0.001372	0.158	109	Jan 1993	0.001527	0.104
50	Feb 1988	–0.001524	0.158	110	Feb 1993	0.002317	0.104
51	Mar 1988	–0.001972	0.158	111	Mar 1993	0.001904	0.104
52	Apr 1988	–0.001363	0.158	112	Apr 1993	0.002545	0.104
53	May 1988	–0.001143	0.158	113	May 1993	0.002570	0.104
54	Jun 1988	–0.001194	0.158	114	Jun 1993	0.002449	0.104
55	Jul 1988	–0.001429	0.158	115	Jul 1993	0.002161	0.104
56	Aug 1988	–0.001315	0.158	116	Aug 1993	0.001857	0.104
57	Sep 1988	–0.002581	0.158	117	Sep 1993	0.001664	0.104
58	Oct 1988	–0.002337	0.158	118	Oct 1993	0.002184	0.104
59	Nov 1988	–0.001218	0.158	119	Nov 1993	0.002932	0.104
60	Dec 1988	–0.000203	0.158	120	Dec 1993	0.002776	0.104

[1] Source: U.S. Department of Labor, Bureau of Labor Statistics, Rent of Primary Residence component of the Consumer Price Index—All Urban Consumers.
[2] Source: U.S. Census Bureau, Housing Vacancy Survey—Annual 1999.

TABLE 3–21—HPI DISPERSION PARAMETERS [1]

	Linear (α)	Quadratic (β)
Dispersion Parameter	0.002977	–0.000024322

[1] Source: OFHEO House Price Report, 1996:3.

3.1.4 Constant Values

Certain values are numerical constants that are parameters of the cash flow simulation. These values are established by OFHEO on the basis of analysis of Benchmark and other historical data.

3.1.4.1 Single Family Loan Performance

TABLE 3–22—LOAN GROUP INPUTS FOR SINGLE FAMILY GROSS LOSS SEVERITY

Variable	Description	Value	Source
MQ	Months Delinquent: time during which Enterprise pays delinquent loan interest to MBS holders	4 for sold loans 0 otherwise	
MF	Months to Foreclosure: number of missed payments through completion of foreclosure	13 months	Average value of BLE data
MR	Months in REO	7 months	Average value of BLE data
F	Foreclosure Costs as a decimal fraction of Defaulted UPB	0.037	Average of historical data from Enterprise loans, 1979–1999
R	REO Expenses as a decimal fraction of Defaulted UPB	0.163	Average of historical data from Enterprise loans, 1979–1999

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TABLE 3–22—LOAN GROUP INPUTS FOR SINGLE FAMILY GROSS LOSS SEVERITY—Continued

Variable	Description	Value	Source
RR	Recovery Rate for Defaulted loans in the BLE, as a percent of predicted house price using HPI (decimal)	0.61	Average value of BLE data

See also Table 3–35, Coefficients for Single Family Default and Prepayment Explanatory Variables.

3.1.4.2 Multifamily Loan Performance

TABLE 3–23—LOAN GROUP INPUTS FOR MULTIFAMILY DEFAULT AND PREPAYMENT

Variable	Description	Value	Source
OE	Operating expenses as a share of gross potential rents	0.472	Average ratio of operating expenses to gross rents, 1970–1992 Institute for Real Estate Management annual surveys of apartments.
RVR_0	Initial rental vacancy rate	0.0623	National average vacancy rate, 1970–1995, from census surveys.

TABLE 3–24—LOAN GROUP INPUTS FOR MULTIFAMILY GROSS LOSS SEVERITY

Variable	Description	Value	Source
MQ	Time during which delinquent loan interest is passed-through to MBS holders	4 for sold loans 0 otherwise	
RHC	Net REO holding costs as a decimal fraction of Defaulted UPB	0.1333	UPB-weighted average, Freddie Mac "old book" REO through 1995.
MF	Time from Default to completion of foreclosure (REO acquisition)	18 months	UPB-weighted average, Freddie Mac "old book" REO through 1995.
MR	Months from REO acquisition to REO disposition	13 months	UPB-weighted average, Freddie Mac "old book" REO through 1995.
RP	REO proceeds as a decimal fraction of Defaulted UPB	0.5888	UPB-weighted average, Freddie Mac "old book" REO through 1995.

See also Table 3–39, Explanatory Variable Coefficients for Multifamily Default.

3.2 Commitments

3.2.1 Commitments Overview

The Enterprises make contractual commitments to purchase or securitize mortgages. The Stress Test provides for deliveries of mortgages into the commitments that exist at the start of the Stress Period. These mortgages are grouped into "Commitment Loan Groups" that reflect the characteristics of the mortgages that were originated in the six months preceding the start of the Stress Period and securitized by the Enterprise, except that they are assigned coupon rates consistent with the projected delivery month in each interest rate scenario. These Commitment Loan Groups are added to the Enterprise's sold portfolio and the Stress Test projects their performance during the Stress Period. In the down-rate scenario, the Stress Test provides that 100 percent of the mortgages specified in the commitments are delivered within the first three months. In the up-rate scenario, 75 percent are delivered within the first six months.

3.2.2 Commitments Inputs

The Stress Test uses two sources of data to determine the characteristics of the mortgages delivered under commitments:

- Information from the Enterprises on the characteristics of loans originated and delivered to the Enterprises in the six months preceding the start of the Stress Period, broken out into four categories, scaled by the dollar value of commitments outstanding at the start of the Stress Period;
- Interest Rate series generated by the Interest Rates component of the Stress Test.

3.2.2.1 Loan Data

[a] The Enterprises report Commitment Loan Group categories based on the following product type characteristics of securitized single family loans originated and delivered during the six months prior to the start of the Stress Test:

- 30-year fixed-rate
- 15-year fixed-rate
- One-year CMT ARM
- Seven-year balloon

[b] For each Commitment Loan Group category, the Enterprises report the same information as in section 3.6 for Whole Loan groups with the following exceptions:

- Amortization term and remaining term are set to those appropriate for newly originated loans
- Unamortized balances are set to zero
- The House Price Growth Factor is set to one
- Age is set to zero
- Any credit enhancement coverage other than mortgage insurance is not reported.

[c] For each Commitment Loan Group category, the Enterprises report the Starting UPB defined as follows:

$$\text{Starting UPB} = \left[\begin{array}{c}\text{Total dollar amount}\\ \text{of Commitments}\\ \text{Outstanding}\end{array}\right] \times \left[\begin{array}{c}\text{Starting UPB for the}\\ \text{Commitment Loan Group Category}\\ \hline \text{Total Starting UPB for all}\\ \text{Commitment Loan Group}\\ \text{Categories}\end{array}\right]$$

3.2.2.2 Interest Rate Data

The Stress Test uses the following Interest Rate series, generated from section 3.3, Interest Rates, of this Appendix, for the first 12 months of the Stress Period:

- One-year Constant Maturity Treasury yield (CMT)
- Conventional mortgage rate (30-year fixed rate)
- 15-year fixed-rate mortgage rate
- Seven-year balloon mortgage rate.

3.2.3 Commitments Procedures

[a] Determine Commitment Loan Groups from the Commitment Loan Group categories as follows:

1. Divide each category into one subcategory for each delivery month. Three subcategories are created in the down-rate scenario and six in the up-rate scenario.

2. Calculate the total starting UPB for each subcategory as follows:

$$\text{Subcategory Starting UPB} = \left[\begin{array}{c}\text{Starting UPB for}\\ \text{Commitment Loan}\\ \text{Group Category}\end{array}\right] \times \text{MDP}$$

Where: MDP is taken from Table 3–25.

TABLE 3–25—MONTHLY DELIVERIES AS A PERCENTAGE OF COMMITMENTS OUTSTANDING (MDP)

Delivery Month (DM)	Up-Rate Scenario MDP	Down-Rate Scenario MDP
1	18.75%	62.50%
2	18.75%	25.00%
3	12.50%	12.50%
4	12.50%	0.00%
5	6.25%	0.00%
6	6.25%	0.00%
Total	75%	100%

3. Set the Initial Mortgage Interest Rate for each subcategory using the interest rate series consistent with the commitment product type. For fixed rate loans, this rate = $INDEX_{DM}$. For ARM loans, the Initial Mortgage Interest Rate and the Mortgage Interest Rate at Origination are equal and set to $INDEX_{DM-LB-1}$ +MARGIN, where LB (Lookback Period) and MARGIN for ARM commitment loan groups come from the RBC Report. Calculate the mortgage payment amount consistent with the Initial rate and amortizing term.

[b] Cash flows for the commitment loan groups, broken down by subcategory corresponding to assumed month of delivery to the Enterprises, are to be generated using the same procedures as contained in section 3.6, Whole Loan Cash Flows, of this Appendix, except as follows:

1. For purposes of generating cash flows, treat each commitment loan subcategory as if the loans were newly originated and delivered just prior to the start of the Stress Test (that is, treat them as if mortgage age at time zero, A_0, were zero).
2. Wherever section 3.6, Whole Loan Cash Flows, of this Appendix, refers to interest rate or discount rate adjustments, add Delivery Month (DM) to the Interest Rate or discount rate monthly counter, where constant DM ∈ [1,2,3,4,5,6] refers to the number of months into the Stress Test that the commitment subcategory is assumed to be delivered to the Enterprise. For example,
   a. Section 3.6.3.3.3[a]1.b.3] of this Appendix, if m is a rate reset month, then:

$$\text{MIR}_m = \text{INDEX}_{m-1-LB+DM} + \text{MARGIN}$$

   b. Section 3.6.3.4.3.1[a]3.a., of this Appendix,

$$B_q = 1 \text{ if } \text{MCON}_{m+DM} + 0.02 \le \text{MIR}_m$$

   c. Section 3.6.3.4.3.1[a]4., of this Appendix,

$$RS_q = avg\left(\frac{\text{MIR}_{ORIG} - \text{MCON}_{m+DM}}{\text{MIR}_{ORIG}}\right)$$

   d. Section 3.6.3.4.3.1[a]5., of this Appendix,

$$YCS_q = avg\left(\frac{T120Y_{m+DM}}{T12Y_{m+DM}}\right)$$

   e. Section 3.6.3.6.5.1, of this Appendix. Throughout this section replace DR_m with DR_{m+DM} wherever it appears.
   f. Section 3.6.3.7.3[a]9.b., of this Appendix. The formula for float income received should replace FER_m with FER_{m+DM}
3. For purpose of computing LTV_q as defined in section 3.6.3.4.3.1[a]2.a., of this Appendix, adjust the quarterly index for the vector of house price growth rates by adding DQ=2 if the loans are delivered in the Stress Test month 6, DQ = 1 if the loans are delivered in Stress Test months 3, 4 or 5, and 0 otherwise. That is, in the LTV_q formula:

$$Exp\left(\sum_{k=1}^{q} \text{HPGR}_{k+DQ}\right)$$

Where:

$$DQ = int\left(\frac{DM}{3}\right)$$

4. The note at the end of section 3.6.3.4.3.2[a]5., of this Appendix, should be adjusted to read: for m > 120 − DM, use MPR_{120-DM} and MDR_{120-DM}.
5. Adjust the final outputs for each commitment subcategory by adding DM to each monthly counter, m. That is, the outputs in Table 3–52 and 3–55 should be revised to replace each value's monthly counter of m with the new counter of m + DM, which will modify the description of each to read "in month m = 1 + DM, ... RM+DM". (Note that for one variable, $PUPB_m$, the revised counter will range from DM to RM + DM). The revised monthly counters will now correspond to the months of the Stress Test. For values of m under the revised description which are less than or equal to DM, each variable (except Performing UPB) in these two tables should equal zero. For Performing UPB in month DM, the variable will equal the Original UPB for month DM and will equal zero for months less than DM.

3.2.4 Commitments Outputs

[a] The outputs of the Commitment component of the Stress Test include Commitment Loan Groups specified in the same way as loan groups in the RBC Report (*See* section 3.6, Whole Loan Cash Flows, of this Appendix) with two exceptions: mortgage insurance is the only available credit enhancement coverage; and delivery month is added to indicate the month in which these loan groups are added to the sold portfolio. The data for these loan groups allow the Stress Test to project the Default, Prepayment and loss rates and cash flows for loans purchased under commitments for the ten-year Stress Period.

[b] The Commitment outputs also include cash flows analagous to those specified for Whole Loans in section 3.6.4, Final Whole Loan Cash Flow Outputs, of this Appendix, which are produced for each Commitment Loan Group.

3.3 Interest Rates

3.3.1 Interest Rates Overview

[a] The Interest Rates component of the Stress Test projects Constant Maturity Treasury yields as well as other interest rates and indexes (collectively, "Interest Rates") that are needed to project mortgage performance and calculate cash flows for mortgages and other financial instruments for each of the 120 months in the Stress Period.

[b] The process for determining interest rates is as follows: first, identify values for the necessary Interest Rates at time zero; second, project the ten-year CMT for each month of the Stress Period as specified in the 1992 Act; third, project the 1-month Treasury yield, the 3-month, 6-month, 1-, 2-, 3-, 5-, 20- and 30-year CMTs; and fourth, project non-Treasury Interest Rates, including the Federal Agency Cost of funds.

[c] In cases where the Stress Test would require interest rates for maturities other than those specifically projected in Table 3–18 of section 3.1.3, Public Data, of this Appendix, the Interest Rates component performs a monthly linear interpolation. In cases where the Stress Test would require an Interest Rate for a maturity greater than the longest maturity specifically projected for that index, the Stress Test would use the longest maturity for that index.

3.3.2 Interest Rates Inputs

The Interest Rates that are input to the Stress Test are set forth in Table 3–18 of section 3.1.3, Public Data, of this Appendix.

3.3.3 Interest Rates Procedures

[a] Produce Interest Rates for use in the Stress Test using the following three steps:

1. Project the Ten-Year CMT as specified in the 1992 Act:
   a. *Down-Rate Scenario.* In the Stress Test, the ten-year CMT changes from its starting level to its new level in equal increments over the first twelve months of the Stress Period, and remains constant at the new level for the remaining 108 months of the Stress Period. The new level of the ten-year CMT in the last 108 months of the down-rate scenario equals the lesser of:
      1) The average of the ten-year CMT for the nine months prior to the start of the Stress Test, minus 600 basis points; or
      2) The average yield of the ten-year CMT for the 36 months prior to the start of the Stress Test, multiplied by 60 percent;

but in no case less than 50 percent of the average for the nine months preceding the start of the Stress Period.

   b. *Up-Rate Scenario.* In the Stress Test, the ten-year CMT changes from its starting level to its new level in equal increments

over the first twelve months of the Stress Period, and remains at the new level for the remaining 108 months of the Stress Period. The new level of the ten-year CMT in the last 108 months of the up-rate scenario is the greater of:

1) The average of the ten-year CMT for the nine months prior to the start of the Stress Test, plus 600 basis points; or
2) The average of the ten-year CMT for the 36 months prior to the start of the Stress Test, multiplied by 160 percent;

but in no case greater than 175 percent of the average of the ten-year CMT for the nine months preceding the start of the Stress Period.

2. Project the 1-month Treasury and other CMT yields:
   a. *Down-Rate Scenario.* For the down-rate scenario, the new value of each of the other Treasury and CMT yields for the last 108 months of the Stress Test is calculated by multiplying the ten-year CMT by the appropriate ratio from Table 3–26. For the first 12 months of the Stress Period, the other rates are computed in the same way as the ten-year CMT, i.e. from their time zero levels. Each of the other CMTs changes in equal steps in each of the first twelve months of the Stress Period until it reaches the new level for the remaining 108 months of the Stress Test.

TABLE 3–26—CMT RATIOS TO THE TEN-YEAR CMT [1]

1 MO / 10 YR	0.68271
3 MO / 10 YR	0.73700
6 MO / 10 YR	0.76697
1 YR / 10 YR	0.79995
2 YR / 10 YR	0.86591
3 YR / 10 YR	0.8985€
5 YR / 10 YR	0.94646
20 YR / 10 YR	1.06246
30 YR / 10 YR	1.03432

[1] Source: calculated over the period from May, 1986, through April, 1995.

   b. *Up-Rate Scenario.* In the up-rate scenario, all other Treasury and CMT yields are equal to the ten-year CMT in the last 108 months of the Stress Test. Each of the other yields changes in equal increments over the first twelve months of the Stress Test until it equals the ten-year CMT.

3. Project Non-Treasury Interest Rates:
   a. *Non-Treasury Rates.* For each of the non-Treasury interest rates with the exception of mortgage rates, rates during the Stress Test are computed as a proportional spread to the nearest maturity Treasury yield as given in Table 3–27. The proportional spread is the average over the two years prior to the start of the Stress Test, of the difference between the non-Treasury rate and the comparable maturity Treasury yield divided by that Treasury yield. For example, the three month LIBOR proportional spread would be calculated as the two year average of the ratio:

$$\frac{\left(\text{3-month LIBOR minus 3-month Treasury}\right)}{\text{3-month Treasury}}$$

During the Stress Test, the 3-month LIBOR rate is projected by multiplying the 3-month Treasury yield by 1 plus this average proportional spread.

   b. *Mortgage Rates.* Mortgage interest rates are projected as described in this section for other non-Treasury interest rates, except that an average of the additive, not proportional, spread to the appropriate Treasury interest rate is used. For example, the 30-year Conventional Mortgage Rate spread is projected as the average, over the two years preceding the start of the Stress Test, of: (Conventional Mortgage Rate minus the ten-year CMT). This spread is then added to the ten-year CMT for the 120 months of the Stress Test to obtain the projected Conventional Mortgage Rate.

TABLE 3–27—NON-TREASURY INTEREST RATES

Mortgage Rates	Spread Based on
15-year Fixed-rate Mortgage Rate	10-year CMT
30-year Conventional Mortgage Rate	10-year CMT
7-year Balloon Mortgage Rate	(computed from Conventional Mortgage Rate)
Other Non-Treasury Interest Rates	
Overnight Fed Funds	1-month Treasury Yield
7-day Fed Funds	1-month Treasury Yield
1-month LIBOR	1-month Treasury Yield
1-month Federal Agency Cost of Funds	1-month Treasury Yield
3-month LIBOR	3-month CMT
3-month Federal Agency Cost of Funds	3-month CMT
PRIME	3-month CMT
6-month LIBOR	6-month CMT
6-month Federal Agency Cost of Funds	6-month CMT
6-month Fed Funds	6-month CMT
FHLB 11th District Cost of Funds	1-year CMT
12-month LIBOR	1-year CMT
1-year Federal Agency Cost of Funds	1-year CMT
2-year Federal Agency Cost of Funds	2-year CMT
3-year Federal Agency Cost of Funds	3-year CMT
5-year Federal Agency Cost of Funds	5-year CMT
10-year Federal Agency Cost of Funds	10-year CMT

TABLE 3–27—NON-TREASURY INTEREST RATES—Continued

Mortgage Rates	Spread Based on
30-year Federal Agency Cost of Funds	30-year CMT

   c. *Enterprise Borrowing Rates.* In the Stress Test, the Federal Agency Cost of Funds Index is also called the Enterprise Cost of Funds during the Stress Period.

3.3.4 Interest Rates Outputs

Interest Rate outputs are monthly values for: the projected ten points on the Treasury yield curve (1-month, 3-month, 6-month, 1-year, 2-year, 3-year, 5-year, 10-year, 20-year and 30-year); the 21 non-Treasury rates contained in Table 3–27; and the nine points on the Enterprise Cost of Funds curve.

3.4 Property Valuation

3.4.1 Property Valuation Overview

[a] The Property Valuation component applies inflation adjustments to the single family house price growth rates and multifamily rent growth rates that are used to determine single family property values and multifamily current debt-service coverage ratios during the up-rate scenario, as required by the 1992 Act.

[b] Single family house price growth rates during the 120 months of the Stress Test are calculated from the HPI series for the West South Central Census Division for the years 1984–1993, as derived from OFHEO's Third Quarter, 1996 HPI Report. The West South Central Census Division includes Texas and all of the Benchmark states except Mississippi. This series is applied to single family loans nationwide during the Stress Test because the 1992 Act applies a regional loss experience (the BLE) to the entire nation. In contrast, house prices are brought forward to the start of the Stress Test based on local Census Division HPI values available at the start of the Stress Test.

[c] Multifamily rent growth rates during the 120 months of the Stress Test are computed using a population-weighted average of the monthly growth of the Rent of Primary Residence component of the Consumer Price Index-Urban, which is generated by the U.S. Department of Labor Bureau of Labor Statistics. The metropolitan areas used for this computation are the Dallas/Ft. Worth CMSA, the Houston/Galveston/Brazoria CMSA, and the New Orleans MSA.

[d] Multifamily rental vacancy rates during the 120 months of the Stress Test are computed using a population-weighted average of annual rental vacancy rates from the U.S. Department of Commerce, Bureau of the Census' Housing Vacancy Survey. The metropolitan areas used for this computation are the Dallas, Houston and Fort Worth PMSAs and the San Antonio, New Orleans and Oklahoma City MSAs.

[e] *Inflation adjustment.* In the up-rate scenario, if the ten-year CMT rises more than 50 percent above the average yield during the nine months preceding the Stress Period, rent and house price growth rates are adjusted to account for inflation as required by the 1992 Act. The single family House Price Growth Rates and the multifamily Rent Growth Rates are increased by the amount by which the ten-year CMT exceeds 50 percent of its annualized monthly yield averaged over the nine months preceding the Stress Test. The inflation adjustment is applied only in the last 60 months of the Stress Period.

3.4.2 Property Valuation Inputs

The inputs required for the Property Valuation component are set forth in Table 3–28.

TABLE 3–28—PROPERTY VALUATION INPUTS

Variable	Description	Source
$CMT10_m$	10-year CMT yield for months m = 1...20 of the Stress Test	section 3.3, Interest Rates
$ACMT_0$	Unweighted nine-month average of the ten-year CMT yield for the nine months immediately preceding the Stress Test. (Monthly rates are unweighted monthly averages of daily rates, bond equivalent yield)	section 3.3, Interest Rates
$HHPGR_q^{HSP}$	Quarterly single family historical house price growth rates computed from the HPI series for the Benchmark region and time period, unadjusted for inflation. The specific series is the West South Central Census Division for the years 1984–1993, as reported in OFHEO's Third Quarter, 1996 HPI Report.	Table 3–19 of section 3.1.3, Public Data.
RG_m^{HSP}	Multifamily Rent Growth Rates for months m = 1...120 of the Benchmark region and time period, unadjusted for inflation	Table 3–20 of section 3.1.3, Public Data.
RVR_m^{HSP}	Multifamily Rental Vacancy Rates for months m = 1...120 of the Benchmark region and time period	Table 3–20 of section 3.1.3, Public Data.

3.4.3 Property Valuation Procedures for Inflation Adjustment

[a] Calculate inflation-adjusted House Price Growth Rates and Rent Growth Rates using the following six steps:

1. Calculate the Inflation-Adjustment (IA) for the up-rate stress test, as follows:

$$IA = max\left[\begin{matrix} CMT10^{MAX} \\ -(1.50 \times ACMT_0), 0 \end{matrix}\right]$$

Where:

$CMT10^{MAX}$ is the value of the ten-year CMT during the last 108 months of the up-rate Stress Test.

2. The Inflation Adjustment (IA) is compounded annually over 9 years and 2 months (110 months) to obtain the Cumulative Inflation Adjustment (CIA) according to the following equation:

$$CIA = (1 + IA)^{\frac{110}{12}}$$

3. For single family house prices, convert the CIA to continuously compounded quarterly factors, the Quarterly House Price Growth Adjustments ($QHGA_q$), which take on positive values only in the last twenty quarters of the Stress Test, using:

$$QHGA_q = \frac{ln(CIA)}{20} \text{ for } q = 21...40 \text{ in the up-rate Stress Test}$$

$$QHGA_q = 0, \text{ otherwise}$$

4. For Multifamily rent growth, the CIA is converted to discrete monthly factors or Monthly Rent Growth Adjustments ($MRGA_m$), and is applied only in the last 60 months of the Stress Test in the up-rate scenario, as follows:

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$$MRGA_m = \left[(CIA)^{\frac{1}{60}} - 1\right] \text{ for } m = 61...120$$

in the up-rate Stress Test

$MRGA_m = 0$, otherwise

5. Calculate the inflation-adjusted House Price Growth Rates ($HPGR_q$), used in updating single family house prices during the Stress Test:

$$HPGR_q = HHPGR_q^{HSP} + QHGA_q$$

6. Calculate inflation-adjusted Rent Growth Rates (RGR_m), used in updating Multifamily debt-service coverage ratios during the Stress Test:

$$RGR_m = RG_m^{HSP} + MRGA_m$$

3.4.4 Property Valuation Outputs

[a] The outputs of the Property Valuation component of the Stress Test are set forth in Table 3–29.

TABLE 3–29—PROPERTY VALUATION OUTPUTS

Variable	Description
$HPGR_q$	House price growth rates for quarters 1...40 of the Stress Test, adjusted for inflation, if applicable.
RGR_m	Multifamily Rent Growth Rates for months m = 1...120 of the Stress Test, adjusted for inflation, if applicable.
RVR_m	Multifamily Rental Vacancy Rates for months m = 1...120 of the Stress Test.

[b] Inflation-adjusted House Price Growth Rates ($HPGR_q$) are inputs to the Single Family Default and Prepayment component of the Stress Test (see section 3.6.3.4. of this Appendix). Inflation-adjusted Rent Growth Rates (RGR_m) and Rental Vacancy Rates (RVR_m) are inputs to the Multifamily Default and Prepayment component (see section 3.6.3.5. of this Appendix).

3.5 Counterparty Defaults

3.5.1 Counterparty Defaults Overview

The Counterparty Defaults component of the Stress Test accounts for the risk of default by credit enhancement and derivative contract counterparties, corporate securities, municipal securities, and mortgage-related securities. The Stress Test recognizes five rating categories ("AAA", "AA", "A", "BBB", and "Below BBB and Unrated") and establishes appropriate credit loss factors that are applied during the Stress Period. Securities rated below BBB are treated as unrated securities, unless OFHEO determines to specify a different treatment upon a showing by an Enterprise that a different treatment is warranted.

3.5.2 Counterparty Defaults Input

For counterparties and securities, information on counterparty type and the lowest public rating of the counterparty is required. The Stress Test uses credit ratings issued by Nationally Recognized Statistical Rating Organizations ("NRSROs") to assign rating categories to counterparties and securities. If a counterparty or security has different ratings from different rating agencies, i.e., a "split rating," or has a long-term rating and a short-term rating, then the lower rating is used.

3.5.3 Counterparty Defaults Procedures

[a] Apply the following three steps to determine maximum haircuts:

1. *Identifying Counterparties.* The Stress Test divides all sources of credit risk other than mortgage default into two categories—(1) derivative contract counterparties and (2) non-derivative contract counterparties and instruments. Non-derivative contract counterparties and instruments include mortgage insurance (MI) counterparties, seller-servicers, mortgage-related securities such as mortgage revenue bonds (MRBs) and private label REMICS, and nonmortgage investments such as corporate and municipal bonds and asset-backed securities (ABSs).
2. *Classify Rating Categories.*
   a. Stress Test rating categories are defined as set forth in Table 3–30. Organizations frequently apply modifiers (numerical, plus, minus) to the generic rating classifications. In order to determine the correct mapping, ignore these modifiers except as noted in Table 3–30.

TABLE 3–30—RATING AGENCIES MAPPINGS TO OFHEO RATINGS CATEGORIES

OFHEO Ratings Category	AAA	AA	A	BBB	Below BBB and Unrated
Standard & Poor's Long-Term	AAA	AA	A	BBB	Below BBB and Unrated
Fitch Long-Term	AAA	AA	A	BBB	Below BBB and Unrated
Moody's Long-Term	Aaa	Aa	A	Baa	Below Baa and Unrated
Standard & Poor's Short-Term	A–1+	A–1	A–2	A–3	Below A–3 and Unrated
Fitch Short-Term	F–1+	F–1	F–2	F–3	Below F–3 and Unrated
Moody's Short-Term [1]	P–1	P–1	P–2	P–3	Below P–3 and Unrated
Fitch Bank Ratings	A	B	C	D	E

[1] Any short-term rating that appears in more than one OFHEO category column is assigned the lower OFHEO rating category.

   b. The Stress Test also includes a ratings classification called cash. This includes cash equivalents as defined in FAS 95, Government securities, and securities of the reporting Enterprise.
   c. Unrated, unsubordinated obligations issued by Government Sponsored Enterprises other than the reporting Enterprise are treated as AAA. Unrated seller-servicers are treated as BBB.
3. *Determine Maximum Haircuts.* The Stress Test specifies the Maximum Haircut (i.e., the maximum reduction applied to cash flows during the Stress Test to reflect the default of counterparties or securities) by rating category and counterparty type as shown in Table 3–31. Haircuts for the Below BBB and Unrated category are applied fully starting in the first month of the Stress Test. For nonmortgage instruments, Haircuts for the Below BBB and Unrated category are applied to 100 percent of the principal balance and interest due on the date of the first cash flow. For other categories, Haircuts are phased in linearly over the first 60 months of the Stress Test. The Maximum Haircut is applied in months 60 through 120 of the Stress Period.

TABLE 3–31—STRESS TEST MAXIMUM HAIRCUT BY RATINGS CLASSIFICATION

Ratings Classification	Derivative Contract Counterparties	Non-Derivative Contract Counterparties or Instruments	Number of Phase-in Months
Cash	0%	0%	N/A
AAA	2%	5%	60
AA	4%	15%	60
A	8%	20%	60
BBB	16%	40%	60
Below BBB and Unrated	100%	100%	1

3.5.4 Counterparty Defaults Outputs

The Maximum Haircut for a given Counterparty Type and Rating Classification is used in section 3.6, Whole Loan Cash Flows, section 3.7, Mortgage-Related Securities Cash Flows, and section 3.8, Nonmortgage Instrument Cash Flows, of this Appendix.

3.6 Whole Loan Cash Flows

3.6.1 Whole Loan Cash Flows Overview

[a] *Loan Aggregation.* In the Stress Test calculations (except as described in section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix), individual loans having similar characteristics are aggregated into Loan Groups as described in section 3.1.2.1, Whole Loan Inputs, of this Appendix (RBC Report). All individual loans within a Loan Group are considered to be identical for computational purposes. In the discussions in this section, quantities described as "loan level" will actually be computed at the Loan Group level.

[b] *Loan Participations.* In some cases, an Enterprise may hold only a *pari passu* fractional ownership interest in a loan. This interest is referred to as a participation, and is specified by the ownership percentage held by the Enterprise (the participation percentage). In such cases, the Unpaid Principal Balance (UPB) and Mortgage Payment reported in the RBC Report will be only the Enterprise's participation percentage of the loan's actual UPB and Mortgage Payment. The actual UPB is not explicitly used in the calculations described in this section 3.6 but it is used in the creation of the RBC Report.

[c] *Retained Loans vs. Sold Loans.* The Stress Test models cash flows from single family and multifamily mortgage loans that are held in portfolio (Retained Loans) and loans that are pooled into Mortgage-Backed Securities (MBSs) that are sold to investors and guaranteed by the Enterprises (Sold Loans). Together, Retained Loans and Sold Loans are referred to as "Whole Loans." The treatment of cash flows for loans not guaranteed by the Enterprises, e.g., loans backing GNMA Certificates and private label MBSs and REMICs, is discussed in section 3.7, Mortgage-Related Securities Cash Flows, of this Appendix.

[d] *Repurchased MBSs.* From time to time an Enterprise may repurchase all or part of one of its own previously issued single-class MBSs for its own securities portfolio. At an Enterprise's option, these "Repurchased MBSs" may be reported with the underlying Whole Loans for computation in this section 3.6 rather than in section 3.7, Mortgage-Related Securities Cash Flows, of this Appendix. In such cases, the Enterprise will report the underlying Whole Loans as sold loans, along with the appropriate Fraction Repurchased and any security unamortized balances associated with the purchase of the MBS (not with the original sale of the underlying loans, which unamortized balances are reported separately).

[e] *Sources of Enterprise Whole Loan Cash Flows.* For Retained Loans, the Enterprises receive all principal and interest payments on the loans, except for a portion of the interest payment retained by the servicer as compensation (the Servicing Fee). For Sold Loans, the Enterprises receive Guarantee Fees and Float Income. Float Income is the earnings on the investment of loan principal and interest payments (net of the Servicing Fee and Guarantee Fee) from the time these payments are received from the servicer until they are remitted to security holders. The length of this period depends on the security payment cycle (the remittance cycle). For both retained and sold loans, the Enterprises retain 100 percent of their credit losses and experience amortization of discounts as income and amortization of premiums as expense. For Repurchased MBSs, the Enterprise receives the Fraction Repurchased of the cash flows it remits to investors, and retains 100 percent of the Credit Losses, the Guarantee Fee and the Float Income. See section 3.6.3.7, Stress Test Whole Loan Cash Flows and section 3.6.3.8, Whole Loan Accounting Flows, of this Appendix.

[f] *Required Inputs.* The calculation of Whole Loan cash flows requires mortgage Amortization Schedules, mortgage Prepayment, Default and Loss Severity rates, and Credit Enhancement information. The four mortgage performance components of the Stress Test are single family Default and Prepayment, single family Loss Severity, multifamily Default and Prepayment, and multifamily Loss Severity. Mortgage Amortization Schedules are computed from input data in the RBC Report. (For ARMs, selected interest rate indexes from section 3.3, Interest Rates, of this Appendix, are also used.) Prepayment and Default Rates are computed by combining explanatory variables and weighting coefficients according to a set of logistic equations. The explanatory variables are computed from the mortgage Amortization Schedule and external economic variables such as Interest Rates (section 3.3, Interest Rates, of this Appendix), historical house-price indexes (HPIs) or rental-price indexes (RPIs), and Stress Period HPI growth rate, RPI and Vacancy Rate (RVR) series from section 3.4, Property Valuation, of this Appendix. The weighting coefficients determine the relative importance of the different explanatory variables, and are estimated from a statistical analysis of data from the Benchmark Loss region and time period as described in section 1, Identification of the Benchmark Loss Experience, of this Appendix. Mortgage Amortization information is also combined with HPI, RPI and VR series to determine Gross Loss Severity rates, which are offset by Credit Enhancements. Finally, the Amortization Schedules, Default and Prepayment rates and Net Loss Severity rates are combined to produce Stress Test Whole Loan Cash Flows to the Enterprises for each Loan Group, as well as amortization of any discounts, premiums and fees.

[g] *Specification of Mortgage Prepayment.* Mortgages are assumed to prepay in full. The model makes no specific provision for partial Prepayments of principal (curtailments).

[h] *Specification of Mortgage Default and Loss.* Mortgage Defaults are modeled as follows: Defaulting loans enter foreclosure after a number of missed payments (MQ, Months in Delinquency), and are foreclosed upon several months later. Months in Foreclosure (MF) is the total number of missed payments through foreclosure. Upon completion of foreclosure, the loan as such ceases to exist and the property becomes Real Estate Owned by the lender (REO). Foreclosure expenses are paid and MI proceeds received when foreclosure is completed. After several more months (MR, Months in REO), the property is sold. REO expenses are paid, and sales proceeds and other credit enhancements are received. These timing differences are not modeled explicitly in the cash flows, but their economic effect is taken into account by calculating the present value of the Default-related cash flows back to the initial month of Default.

[i] *Combining Cash Flows from Scheduled Payments, Prepayments and Defaults.* Aggregate Whole Loan Cash Flows, adjusted for the effects of mortgage performance, are based on the following conceptual equation,

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which is made more explicit in the calculations in the sections specified in section 3.6.2 of this Appendix:

$$\begin{bmatrix}\text{Aggregate Cash Flows from}\\ \text{Whole Loans that Default}\\ \text{and Prepay at Rates that}\\ \text{vary in each month m}\end{bmatrix} =$$

$$\left[\begin{pmatrix}\text{scheduled Mortgage}\\ \text{Payment}\end{pmatrix}\times \begin{pmatrix}\text{fraction of loans that remain}\\ \text{on original schedule}\end{pmatrix}\right.$$

plus

$$\begin{pmatrix}\text{entire loan UPB plus}\\ \text{final interest payment}\end{pmatrix}\times \begin{pmatrix}\text{fraction of loans that}\\ \text{Prepay in month m}\end{pmatrix}$$

plus

$$\left.\begin{pmatrix}\text{present value of Default-related}\\ \text{receipts minus expenses}\end{pmatrix}\times \begin{pmatrix}\text{fraction of loans that}\\ \text{Default in month m}\end{pmatrix}\right]$$

3.6.2 Whole Loan Cash Flows Inputs

Inputs for each stage of the Whole Loan Cash Flows calculation are found in the following sections:

- Section 3.6.3.3.2, Mortgage Amortization Schedule Inputs
- Section 3.6.3.4.2, Single Family Default and Prepayment Inputs
- Section 3.6.3.5.2, Multifamily Default and Prepayment Inputs
- Section 3.6.3.6.2.2, Single Family Gross Loss Severity Inputs
- Section 3.6.3.6.3.2, Multifamily Gross Loss Severity Inputs
- Section 3.6.3.6.4.2, Mortgage Credit Enhancement Inputs
- Section 3.6.3.7.2, Stress Test Whole Loan Cash Flow Inputs
- Section 3.6.3.8.2, Whole Loan Accounting Flows Inputs, of this Appendix

3.6.3 Whole Loan Cash Flows Procedures

3.6.3.1 Timing Conventions

[a] *Calculations are monthly.* The Stress Test operates monthly, with all events of a given type assumed to take place on the same day of the month. For mortgages, unless otherwise specified, all payments and other mortgage-related cash flows that are due on the first day of the month are received on the fifteenth. Biweekly loans are mapped into their closest term-equivalent monthly counterpart.

[b] *"Time Zero" for Calculations.* Time Zero refers to the beginning of the Stress Test. For example, if the 2Q2000 Stress Test uses Enterprise Data as of June 30, "month zero" represents conditions as of June 30, the Stress Period begins July 1, and July 2000 is month one of the Stress Test. In this document, UPB_0 is the Unpaid Principal Balance of a loan immediately prior to (as of) the start of the Stress Test, i.e. as reported by the Enterprise in the RBC Report. Origination refers to the beginning of the life of the loan, which will be prior to the start of the Stress Test for all loans except those delivered later under Commitments, for which Origination refers to the delivery month (*See* section 3.2, Commitments, of this Appendix).

[c] *Definition of Mortgage Age.* The Mortgage Age at a given time is the number of scheduled mortgage payment dates that have occurred prior to that time, whether or not the borrower has actually made the payments. Prior to the first payment date, the Mortgage Age would be zero. From the first payment date until (but not including) the second loan payment date, the Mortgage Age would be one. The Mortgage Age at Time Zero (A_0) is thus the number of scheduled loan payment dates that have occurred prior to the start of the Stress Test. The scheduled payment date for all loans is assumed to be the first day of each month; therefore, the Mortgage Age will be A_1 on the first day of the Stress Test (except for Commitments that are delivered after the start of the Stress Test).

[d] *Interest Rate Setting Procedure.* Mortgage interest is due in arrears, i.e., on the first day following the month in which it is accrued. Thus, a payment due on the first day of month m is for interest accrued during the *prior* month. For example, for Adjustable Rate Mortgages (ARMs) the Mortgage Interest Rate (MIR_m) applicable to the July reset is set on the first day of June, and is generally based on the May or April value of the underlying Index, as specified in the loan terms. This Lookback Period (LB) is specified in the Stress Test as a period of one or two months, respectively. Thus, PMT_m will be based on MIR_m, which is based on $INDEX_{m-1-LB}$.

[e] *Prepayment Interest Shortfall.* In some remittance cycles, the period between an Enterprise's receipt of Prepayments and transmittal to investors exceeds a full month. In those cases, the Enterprise must remit an additional month's interest (at the Pass-Through Rate) to MBS investors. *See* section 3.6.3.7.3, Stress Test Whole Loan Cash Flow Procedures, of this Appendix.

[f] *Certain Calculations Extend Beyond the End of the Stress Test.* Even though the Stress Test calculates capital only through the ten year Stress Period, certain calculations (for example, the level yield amortization of discounts, premiums and fees, as described in section 3.10, Operations, Taxes, and Accounting, of this Appendix) require cash flows throughout the life of the instrument. For such calculations in the Stress Test, the conditions of month 120 are held constant throughout the remaining life of the instrument: specifically, Interest Rates (which are already held constant for months 13 through 120), Prepayment and Default rates for months m > 120 are taken to be equal to their respective values in month 120.

3.6.3.2 Payment Allocation Conventions

3.6.3.2.1 Allocation of Mortgage Interest

[a] *Components of Mortgage Interest.* The interest portion of the Mortgage Payment is allocated among several components. For all Whole Loans, a Servicing Fee is retained by the servicer. For Sold Loans, the Enterprise retains a Guarantee Fee. An additional amount of interest (Spread) [1] may be deposited into a Spread Account to reimburse potential future credit losses on loans covered by this form of Credit Enhancement, as described further in section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix. The remaining interest amount is either retained by the Enterprise (Net Yield on Retained Loans) or passed through to MBS investors (Pass-Through Interest on Sold Loans).

[b] *Effect of Negative Amortization.* If the Mortgage Payment is contractually limited to an amount less than the full amount accrued (as may be the case with loans that permit Negative Amortization), then the Servicing Fee, the Guarantee Fee and the spread are paid in full, and the shortfall is borne entirely by the recipient of the Net Yield or Pass-Through Interest.

[c] *Effect of Variable Rates.* For ARMs, the Servicing Fee, Guarantee Fee and Spread rates are taken to be constant over time, as they are for Fixed Rate Loans. Thus in the Stress Test the Mortgage Interest Rate and the Net Yield or Pass-through Rate will change simultaneously by equal amounts. All other details of the rate and payment reset mechanisms are modeled in accordance with the contractual terms using the inputs specified in section 3.6.3.3.2, Mortgage Amortization Schedule Inputs, of this Appendix.

3.6.3.2.2 Allocation of Mortgage Principal

[a] Scheduled Principal is that amount of the mortgage payment that amortizes principal. For calculational purposes, when a loan prepays in full the amount specified in the Amortization Schedule is counted as Scheduled Principal, and the rest is Prepayment Principal. For a Balloon Loan, the final Balloon Payment includes the remaining UPB, all of which is counted as Scheduled Principal.

[b] Mortgages that prepay are assumed to prepay in full. Partial Prepayments (curtailments) are not modeled.

[c] Any loan that does not prepay or Default remains on its original Amortization Schedule.

3.6.3.3 Mortgage Amortization Schedule

3.6.3.3.1 Mortgage Amortization Schedule Overview

[a] The Stress Test requires an Amortization Schedule for each Loan Group. A mortgage is paid down, or amortized over time, to the extent that the contractual mortgage payment exceeds the amount required to cover interest due.

[b] *Definitions.*

1. *Fully Amortizing Loans.* The Amortization Schedule for a mortgage with age A_0 at the beginning of the Stress Test is generated using the starting UPB (UPB_0), the Remaining Term to Maturity (RM), the remaining Amortization Term ($AT - A_0$), the remaining Mortgage Payments (PMT_m for m = 1...RM) and Mortgage Interest Rates (MIR_m for m = 1...RM). The Amortization Schedule is generated by repeating the following three steps iteratively until the UPB is zero:
   a. Interest Due = UPB × Mortgage Interest Rate
   b. Principal Amortization = Payment − Interest Due
   c. Next period's UPB = UPB − Principal Amortization
2. *Balloon Loans.* A Balloon Loan matures prior to its Amortizing Term, i.e. before the UPB is fully amortized to zero. Computationally, $AT - A_0 > RM$, usually by at least 180 months. In order that $UPB_{RM} = 0$, the principal component of the resulting lump sum final payment (the Balloon Payment, equal to UPB_{RM-1}) is counted as Scheduled Principal, not as a Prepayment.

[c] *Special Cases.* In general the UPB of a mortgage decreases monotonically over time, i.e. $UPB_m > UPB_{m+1}$, reaching zero at maturity except for Balloon Loans as described in [b]2. in this section. However, in practice certain exceptions must be handled.

1. *Interest-Only Loans.* Certain loans are interest-only for all or part of their term. The monthly payment covers only the interest due, and the UPB stays constant until maturity (in some cases), in which case a Balloon Payment is due or a changeover date (in other cases) at which time the payment is recast so that the loan begins to amortize over its remaining term. If the loan does not amortize fully over its remaining term, a Balloon Payment will be due at maturity.
2. *Negative Amortization.* For some loans, the UPB may increase for a period of time if the mortgage payment is contractually limited to an amount that is less than the amount of interest due, and the remainder is added to the UPB. At some point, however, the payment must exceed the interest due or else the loan balance will never be reduced to zero. In the calculation, this is permitted to occur only for payment-capped ARMs that contractually specify negative amortization. Certain types of FRMs, notably Graduated Payment Mortgages (GPMs) and Tiered Payment Mortgages (TPMs), also have variable payment schedules that result in negative amortization, but in the Stress Test all such loans are assumed to have passed their negative amortization periods.
3. *Early Amortization.*
   a. If a borrower has made additional principal payments (curtailments or partial prepayments) on a FRM prior to the start of the Stress Test, the contractual mortgage payment will amortize the loan prior to its final maturity, i.e. $UPB_m = 0$ for some $m < RM$. *This is an acceptable outcome in the Stress Test. Note:* for ARMs, the mortgage payment is recalculated, and thus the amortization schedule is recast to end exactly at m = RM, on each rate or payment reset date.
   b. When this calculation is performed for a fully amortizing FRM using weighted average values to represent a Loan Group, the final scheduled payment may exceed the amount required to reduce the UPB to zero, or the UPB may reach zero prior to month RM. This is because the mortgage payment calculation is nonlinear, and as a result the average mortgage payment is not mathematically guaranteed to amortize the average UPB using the average MIR. This is an acceptable outcome in the Stress Test.
4. *Late Amortization.* According to its contractual terms, the UPB of a mortgage loan must reach zero at its scheduled maturity. The borrower receives a disclosure schedule that explicitly sets forth such an Amortization Schedule. If the characteristics of a mortgage loan representing a Loan Group in the RBC Report do not result in $UPB_{RM} = 0$, it must be for one of three reasons: a data error, an averaging artifact, or an extension of the Amortization Schedule related to a delinquency prior to the start of the Stress Test. In any such case, the Stress Test does not recognize cash flows beyond the scheduled maturity date and models the performing portion of UPB_{RM} in month RM as a credit loss.

[d] *Biweekly Loans.* Biweekly loans are mapped into the FRM category that most closely approximates their final maturity.

[e] *Step-Rate (or "Two-Step") Loans.* Certain loans have an initial interest rate for an extended period of time (typically several years) and then "step" to a final fixed rate for the remaining life of the loan. This final fixed rate may be either a predetermined number or a margin over an index. Such loans can be exactly represented as ARMs with the appropriate Initial Mortgage Interest Rate and Initial Rate Period, Index and Margin (if applicable). If the final rate is a predetermined rate (e.g., 8 percent per annum) then the ARM's Maximum and Minimum Rate should be set to that number. The Rate and Payment Reset Periods should be set equal to the final rate period after the step.

3.6.3.3.2 Mortgage Amortization Schedule Inputs

The inputs needed to calculate the amortization schedule are set forth in Table 3–32:

TABLE 3–32—LOAN GROUP INPUTS FOR MORTGAGE AMORTIZATION CALCULATION

Variable*	Description	Source
	Rate Type (Fixed or Adjustable)	RBC Report
	Product Type (30/20/15-Year FRM, ARM, Balloon, Government, etc.)	RBC Report
UPB_{ORIG}	Unpaid Principal Balance at Origination (aggregate for Loan Group)	RBC Report
UPB_0	Unpaid Principal Balance at start of Stress Test (aggregate for Loan Group)	RBC Report
MIR_0	Mortgage Interest Rate for the Mortgage Payment prior to the start of the Stress Test, or Initial Mortgage Interest Rate for new loans (weighted average for Loan Group) (expressed as a decimal per annum)	RBC Report
PMT_0	Amount of the Mortgage Payment (Principal and Interest) prior to the start of the Stress Test, or first payment for new loans (aggregate for Loan Group)	RBC Report
AT	Original loan Amortizing Term in months (weighted average for Loan Group)	RBC Report
RM	Remaining term to Maturity in months (i.e., number of contractual payments due between the start of the Stress Test and the contractual maturity date of the loan) (weighted average for Loan Group)	RBC Report
A_0	Age *immediately prior to* the start of the Stress Test, in months (weighted average for Loan Group)	RBC Report
Additional Interest Rate Inputs		
GFR	Guarantee Fee Rate (weighted average for Loan Group) (decimal per annum)	RBC Report
SFR	Servicing Fee Rate (weighted average for Loan Group) (decimal per annum)	RBC Report
Additional Inputs for ARMs (weighted averages for Loan Group, except for Index)		

[1] The spread may or may not be embedded in the recorded Servicing Fee.

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TABLE 3–32—LOAN GROUP INPUTS FOR MORTGAGE AMORTIZATION CALCULATION—Continued

Variable*	Description	Source
$INDEX_M$	Monthly values of the contractual Interest Rate Index	section 3.3, Interest Rates
LB	Look-Back period, in months	RBC Report
MARGIN	Loan Margin (over index), decimal per annum	RBC Report
RRP	Rate Reset Period, in months	RBC Report
	Rate Reset Limit (up and down), decimal per annum	RBC Report
	Maximum Rate (life cap), decimal per annum	RBC Report
	Minimum Rate (life floor), decimal per annum	RBC Report
NAC	Negative Amortization Cap, decimal fraction of UPB_{ORIG}	RBC Report
	Unlimited Payment Reset Period, in months	RBC Report
PRP	Payment Reset Period, in months	RBC Report
	Payment Reset Limit, as decimal fraction of prior payment	RBC Report
IRP	Initial Rate Period, in months	RBC Report
Additional Inputs for Multifamily Loans		
	Interest-only Flag	RBC Report
RIOP	Remaining Interest-only period, in months (weighted average for loan group)	RBC Report

*Variable name is given when used in an equation

3.6.3.3.3 Mortgage Amortization Schedule Procedures

[a] For each Loan Group, calculate a mortgage Amortization Schedule using the inputs in Table 3–32 and the following ten steps. *Note:* Do not round dollar amounts to the nearest penny.)

For months m = 1...RM, calculate quantities for month m based on values from month m − 1 as follows:

1. Calculate current month's Mortgage Interest Rate (MIR_m).
   a. For FRMs: $MIR_m = MIR_0$ for all m = 1 to RM
   b. For ARMs, use the following procedure:
   1) If RRP = PRP then month m is a rate reset month if:

$$\left[A_0 + m - (IRP + 1)\right] \; mod \; RRP = 0$$

$$\text{and} \quad A_0 + m - 1 \geq IRP$$

   2) If RRP ≠ PRP then month m is a rate reset month if either:
   a) $A_0 + m - (IRP + 1) = 0$, or
   b) $[A_0 + m - 1] \; mod \; RRP = 0$ and $A_0 + m - 1 \geq IRP$
   3) If m is a rate reset month, then:

$$MIR_m = INDEX_{m-1-LB} + MARGIN,$$

but not greater than MIR_{m-1} + Rate Reset Limit
nor less than MIR_{m-1} − Rate Reset Limit
and in no case greater than Maximum Rate
and in no case less than Minimum Rate

   4) If month m is not a rate reset month, then $MIR_m = MIR_{m-1}$.
   c. In all cases, $MIR_m = MIR_{120}$ for m > 120, and $MIR_m = 0$ for m > RM.
2. Calculate current month's Payment (PMT_m).
   a. For FRMs:
   1) For Interest-Only Loans, if m = RIOP + 1 then month m is a reset month; recompute PMT_m as described for ARMs in step b.4)b), of this section without applying any payment limit.
   2) $PMT_m = PMT_0$ for all m = 1 to RM
   b. For ARMs, use the following procedure:
   1) For Interest Only Loans, if m = RIOP + 1 then month m is a payment reset month.
   2) If PRP = RRP, then month m is a payment reset month if m is also a rate reset month.
   3) If PRP ≠ RRP then month m is a payment reset month if:

$$\left[A_0 + m - 1\right] \; mod \; PRP = 0$$

   4) If month m is a payment reset month, then:
   a) For loans in an Interest-only Period,

$$PMT_m = UPB_{m-1} \times \frac{MIR_m}{12}$$

   b) Otherwise, PMT_m = the amount that will fully amortize the Loan over its remaining Amortizing Term (i.e. $AT - A_0 - m + 1$ months) with a *fixed* Mortgage Interest Rate equal to MIR_m as determined in Step 1 of this section
   but not greater than $PMT_{m-1} \times (1 +$ Payment Reset Limit Up)
   nor less than $PMT_{m-1} \times (1 -$ Payment Reset Limit Down)
   unless month m is the month following the end of an Unlimited Payment Reset Period, in which case PMT_m is not subject to any reset limitations.
   5) If month m is not a payment reset month, then $PMT_m = PMT_{m-1}$
   6) If, in any month,

$$UPB_{m-1} \times \left(1 + \frac{MIR_m}{12}\right) - PMT_m > UPB_{ORIG} \times NAC,$$

then recalculate PMT_m without applying any Payment Reset Limit.
   c. For Balloon Loans, or for loans that have RIOP = RM, if m = RM then:

$$PMT_m = UPB_{m-1} \times \left(1 + \frac{MIR_m}{12}\right)$$

   d. In all cases, PMT_m should amortize the loan within the Remaining Maturity:

$$PMT_m = 0 \text{ for } m > RM \text{ or after } UPB_m = 0$$

3. Determine Net Yield Rate (NYR_m) and, for sold loans, Pass-Through Rate (PTR_m) applicable to the mth payment:

$$NYR_m = MIR_m - SFR$$

$$PTR_m = NYR_m - GFR$$

4. Calculate Scheduled Interest Accrued (during month m − 1) on account of the mth payment (SIA_m)

$$SIA_m = UPB_{m-1} \times \frac{MIR_m}{12}$$

5. Calculate the Scheduled Interest component of the mth payment (SI_m)

$$SI_m = min\left(SIA_m, PMT_m\right)$$

6. Calculate Scheduled Principal for the mth payment (SP_m):

$$SP_m = min\left(PMT_m - SIA_m, UPB_{m-1}\right)$$

Note: Scheduled Principal should not be greater than the remaining UPB. SPM can be negative if the Scheduled Payment is less than Scheduled Interest Accrued.

7. Calculate Loan Unpaid Principal Balance after taking into account the mth monthly payment (UPB_m):

$$UPB_m = max\left(UPB_{m-1} - SP_m, 0\right)$$

8. In the month when UPB_m is reduced to zero, reset

$$PMT_m = UPB_{m-1} \times \left(1 + \frac{MIR_m}{12}\right)$$

9. Repeat all steps for m = 1...RM or until $UPB_m = 0$.

Note: If UPB_{RM} is greater than zero, the performing portion is included in Credit Losses (section 3.6.3.7.3, Stress Test Whole Loan Cash Flow Procedures, of this Appendix).

10. Determine Net Yield Rate (NYR_0) and, for sold loans, Pass-Through Rate (PTR_0) for month 0:

$$NYR_0 = MIR_0 - SFR$$

$$PTR_0 = NYR_0 - GFR$$

3.6.3.3.4 Mortgage Amortization Schedule Outputs

The Mortgage Amortization Schedule Outputs set forth in Table 3–33 are used in section 3.6.3.4, Single Family Default and Prepayment Rates, section 3.6.3.5, Multifamily Default and Prepayment Rates, section 3.6.3.6, Calculation of Single Family and Multifamily Mortgage Losses, section 3.6.3.7, Stress Test Whole Loan Cash Flows, and section 3.6.3.8, Whole Loan Accounting Flows, of this Appendix.

TABLE 3–33—MORTGAGE AMORTIZATION SCHEDULE OUTPUTS

Variable	Description
UPB_m	Unpaid Principal Balance for months m=1...RM
MIR_m	Mortgage Interest Rate for months m=1...RM
NYR_m	Net Yield Rate for months m=1...RM
PTR_m	Passthrough Rate for months m=1...RM
SP_m	Scheduled Principal (Amortization) for months m=1...RM
SI_m	Scheduled Interest for months m=1...RM
PMT_m	Scheduled Mortgage Payment for months m=1...RM

3.6.3.4 Single Family Default and Prepayment Rates

3.6.3.4.1 Single Family Default and Prepayment Overview

[a] The Stress Test projects conditional Default and Prepayment rates for each single family Loan Group for each month of the Stress Period. The conditional rate is the percentage (by principal balance) of the remaining loans in a Loan Group that defaults or prepays during a given period of time. Computing Default and Prepayment rates for a Loan Group requires information on the Loan Group characteristics at the beginning of the Stress Test, historical and projected interest rates from section 3.3, Interest Rates, and house price growth rates and volatility measures from section 3.4, Property Valuation, of this Appendix.

[b] *Explanatory Variables.* Several explanatory variables are used in the equations to determine Default and Prepayment rates for single family loans: Mortgage Age, Original Loan-to-Value (LTV) ratio, Probability of Negative Equity, Burnout, the percentage of Investor-owned Loans, Relative Interest Rate Spread, Payment Shock (for ARMs only), Initial Rate Effect (for ARMs only), Yield Curve Slope, Relative Loan Size, and Mortgage Product Type. Regression coefficients (weights) are associated with each variable. All of this information is used to compute conditional quarterly Default and Prepayment rates throughout the Stress Test. The quarterly rates are then converted to monthly conditional Default and Prepayment rates, which are used to calculate Stress Test Whole Loan cash flows and Default losses. *See* section 3.6.3.7, Stress Test Whole Loan Cash Flows, of this Appendix.

[c] The regression coefficients for each Loan Group will come from one of three models. The choice of model will be determined by the values of the single family product code and Government Flag in the RBC Report. *See* section 3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions, of this Appendix.

[d] *Special Provision for Accounting Calculations.* For accounting calculations that require cash flows over the entire remaining life of the instrument, Default and Prepayment rates for months beyond the end of the Stress Test are held constant at their values for month 120.

3.6.3.4.2 Single Family Default and Prepayment Inputs

The information in Table 3–34 is required for each single family Loan Group:

TABLE 3–34—SINGLE FAMILY DEFAULT AND PREPAYMENT INPUTS

Variable	Description	Source
PROD	Mortgage Product Type	RBC Report
A_0	Age *immediately prior to* start of Stress Test, in months (weighted average for Loan Group)	RBC Report
LTV_{ORIG}	Loan-to-Value ratio at Origination (weighted average for Loan Group)	RBC Report
UPB_{ORIG}	UPB at Origination (aggregate for Loan Group)	RBC Report
MIR_{ORIG}	Mortgage Interest Rate at Origination ("Initial Rate" for ARMs), decimal per annum (weighted average for loan group)	RBC Report
UPB_0	Unpaid Principal Balance immediately prior to start of Stress Test (aggregate for Loan Group)	RBC Report
UPB_m	Unpaid Principal Balance in months m = 1...RM	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs

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TABLE 3–34—SINGLE FAMILY DEFAULT AND PREPAYMENT INPUTS—Continued

Variable	Description	Source
MIR_m	Mortgage Interest Rate in months m = 1...RM (weighted average for Loan Group)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
$MCON_m$	Conventional (30 Year Fixed-Rate) Mortgage Rate series projected for months 1...RM and for the 24 months prior to the start of the Stress Test	section 3.3.2, Interest Rates Inputs, and section 3.3.4, Interest Rates Outputs
$T12Y_m$	1-year CMT series projected for months 1...120 of the Benchmark region and time period	section 3.3.4, Interest Rates Outputs
$T120Y_m$	10-year CMT series projected for months 1...120 of the Benchmark region and time period	section 3.3.4, Interest Rates Outputs
$HPGR_q$	Vector of House Price Growth Rates for quarters q = 1...40 of the Stress Period	section 3.4.4, Property Valuation Outputs
$CHPGF_0^{LG}$	Cumulative House Price Growth Factor since Loan Origination (weighted average for Loan Group)	RBC Report
α, β	HPI Dispersion Parameters for the Stress Period (Benchmark Census Division, currently West South Central Census Division, as published in the OFHEO House Price Report for 1996:3)	α = 0.002977 β = −0.000024322
IF	Fraction (by UPB, in decimal form) of Loan Group backed by Investor-owned properties	RBC Report
RLS_{ORIG}	Weighted average Relative Loan Size at Origination (Original UPB as a fraction of average UPB for the state and Origination Year of loan origination)	RBC Report

3.6.3.4.3 Single Family Default and Prepayment Procedures

3.6.3.4.3.1 Single Family Default and Prepayment Explanatory Variables

[a] Compute the explanatory variables for single family Default and Prepayment in the seven steps as follows:

1. Calculate A_q, the loan Age in quarters, for quarter q:

$$A_q = int\left(\frac{A_0}{3}\right) + q,$$

Where:

int means to round to the lower integer if the argument is not an integer.

2. Calculate $PNEQ_q$, the Probability of Negative Equity in quarter q:

$$PNEQ_q = N\left(\frac{ln LTV_q}{s_q}\right),$$

Where:

N designates the cumulative normal distribution function.

a. LTV_q is evaluated for a quarter q as:

$$LTV_{ORIG} \times \frac{\left(\begin{array}{l}\text{Ratio of current}\\ \text{Loan Group UPB}\\ \text{to Original UPB}\end{array}\right)}{\left(\begin{array}{l}\text{Ratio of current property}\\ \text{value (based on HPI in}\\ \text{quarter q) to original}\\ \text{property value (based on}\\ \text{HPI at Origination)}\end{array}\right)}$$

The HPI at Origination is updated to the beginning of the Stress Test using actual historical experience as measured by the OFHEO HPI; and then updated within the Stress Test using House Price Growth Factors from the Benchmark region and time period:

$$LTV_q = LTV_{ORIG} \times \frac{\left(\frac{UPB_{m=3q-3}}{UPB_{ORIG}}\right)}{\left[CHPGF_0^{LG} \times exp\left(\sum_{k=1}^{q} HPGR_k\right)\right]}$$

Where:

$UPB_{m=3q-3}$ = UPB for the month at the end of the quarter prior to quarter q

b. Calculate the Dispersion of House Prices for loans in quarter q of the Stress Test (σ_q) as follows:

$$\sigma_q = \sqrt{\alpha A'_q + \beta A'^2_q}$$

Where:

α and β are obtained from Table 3–34 and

$$A'_q = min\left(A_q, -\frac{\alpha}{2\beta}\right)$$

3. Calculate B_q, the Burnout factor in quarter q. A loan's Prepayment incentive is "burned out" (i.e., reduced) if, during at least two of the previous eight full quarters, the borrower had, but did not take advantage of, an opportunity to reduce his or her mortgage interest rate by at least two percentage points. For this purpose, the mortgage interest rate is compared with values of the Conventional Mortgage Rate (MCON) Index.

a. Compare mortgage rates for each quarter of the Stress Test and for the eight quarters prior to the start of the stress test (q = −7, −6, ...0, 1, ...30):

$b_q = 1$ if $MCON_m + 0.02 \le MIR_m$ for all three months in quarter q (i.e., m = 3q − 2, 3q − 1, 3q),

$b_q = 0$ otherwise

Note: For this purpose, $MCON_m$ is required for the 24 months (eight quarters) prior to the start of the Stress Test. Also, $MIR_m = MIR_0$ for m <0.

b. Determine whether the loan is "burned out" in quarter q (Burnout Flag, B_q^f):

$B_q^f = 1$ if $b_{q'} = 1$ for two or more quarters q′ between q-8 and q-1 inclusive, or since Origination if $2 < A_q < 8$ (Note: by definition, $B_q = 0$ if $A'_q < 3$);

$B_q^f = 0$ otherwise

Where:

q′ = index variable for prior 8 quarters

c. Adjust for recently originated loans as follows:

$B_q = 0.25 \times B_q^f$ if $A_q = 3$ or 4

$= 0.50 \times B_q^f$ if $A_q = 5$ or 6

$= 0.75 \times B_q^f$ if $A_q = 7$ or 8

$= B_q^f$ otherwise

4. Calculate RS_q, the Relative Spread in quarter q, as the average value of the monthly Relative Spread of the Original mortgage interest rate to the Conventional (30-Year Fixed Rate) Mortgage Rate series for the three months in the quarter.

Note: Use the Current MIR for Fixed Rate Loans and the Original MIR for Adjustable Rate Loans.

$$RS_q = avg\left(\frac{MIR - MCON_m}{MIR}\right)$$

over all three months m in quarter q

If MIR = 0, then $RS_q = -0.20$ for all q.

5. Calculate YCS_q, the Yield Curve Slope in quarter q, as the average of the monthly ratio of the 10-Year CMT to the One-Year CMT for the three months in the quarter:

$$YCS_q = avg\left(\frac{T120Y_m}{T12Y_m}\right)$$

for all three months in quarter q

6. Evaluate the Payment Shock Indicator (PS_q) for ARMs only:

$PS_q = RS_q$ if PROD = ARM

7. Evaluate the Initial Rate Effect Flag ($IREF_q$) for ARMS only:

$IREF_q = 1$ if $A_q \le 12$ and PROD = ARM

$= 0$ otherwise

3.6.3.4.3.2 Prepayment and Default Rates and Performance Fractions

[a] Calculate Prepayment and Default Rates and Performance Fractions using the following five steps:

1. Compute the logits for Default and Prepayment using the formulas for simultaneous processes using inputs from Table 3–34 and explanatory variable coefficients in Table 3–35.

Note: $\beta_{BCal_{LTV}}$ is the LTV-specific constant used to calibrate the Default rates to the BLE.

$$X\beta_q = \beta_{A_q} + \beta_{LTV_{ORIG}} + \beta_{PNEQ_q} + \beta_{B_q} B_q + \beta_{IF} IF + \beta_{PS_q} + \beta_{IREF} \times IREF_q + \beta_{Prod} + \beta_{BCal_{LTV}} + \beta_0$$

$$X\gamma_q = \gamma_{A_q} + \gamma_{LTV_{ORIG}} + \gamma_{PNEQ_q} + \gamma_{B_q} B_q + \gamma_{IF} IF + \gamma_{RS_q} + \gamma_{PS_q} + \gamma_{YCS_q} + \gamma_{IREF} \times IREF_q + \gamma_{RLS_{ORIG}} + \gamma_{Prod} + \gamma_0$$

TABLE 3–35—COEFFICIENTS FOR SINGLE FAMILY DEFAULT AND PREPAYMENT EXPLANATORY VARIABLE

Explanatory Variable (V)	30-Year Fixed-Rate Loans		Adjustable-Rate Loans (ARMs)		Other Fixed-Rate Loans	
	Default Weight (β_v)	Prepayment Weight (γ_v)	Default Weight (β_v)	Prepayment Weight (γ_v)	Default Weight (β_v)	Prepayment Weight (γ_v)
A_q						
$0 \le A_q \le 4$	−0.6276	−0.6122	−0.7046	−0.5033	−0.7721	−0.6400
$5 \le A_q \le 8$	−0.1676	0.1972	−0.2259	0.1798	−0.2738	0.1721
$9 \le A_q \le 12$	−0.05872	0.2668	0.01504	0.2744	−0.09809	0.2317
$13 \le A_q \le 16$	0.07447	0.2151	0.2253	0.2473	0.1311	0.1884
$17 \le A_q \le 20$	0.2395	0.1723	0.3522	0.1421	0.3229	0.1900
$21 \le A_q \le 24$	0.2773	0.2340	0.4369	0.1276	0.3203	0.2356
$25 \le A_q \le 36$	0.2740	0.1646	0.2954	0.1098	0.3005	0.1493
$37 \le A_q \le 48$	0.1908	−0.2318	0.06902	−0.1462	0.2306	−0.2357
$49 \le A_q$	−0.2022	−0.4059	−0.4634	−0.4314	−0.1614	−0.2914
LTV_{ORIG}						
$LTV_{ORIG} \le 60$	−1.150	0.04787	−1.303	0.08871	−1.280	0.02309
$60 < LTV_{ORIG} \le 70$	−0.1035	−0.03131	−0.1275	−0.005619	−0.06929	−0.02668
$70 < LTV_{ORIG} \le 75$	0.5969	−0.09885	0.4853	−0.09852	0.6013	−0.05446
$75 < LTV_{ORIG} \le 80$	0.2237	−0.04071	0.1343	−0.03099	0.2375	−0.03835
$80 < LTV_{ORIG} \le 90$	0.2000	−0.004698	0.2576	0.004226	0.2421	−0.01433
$90 < LTV_{ORIG}$	0.2329	0.1277	0.5528	0.04220	0.2680	0.1107
$PNEQ_Q$						
$0 < PNEQ_q \le 0.05$	−1.603	0.5910	−1.1961	0.4607	−1.620	0.5483
$0.05 < PNEQ_q \le 0.1$	−0.5241	0.3696	−0.3816	0.2325	−0.5055	0.3515
$0.1 < PNEQ_q \le 0.15$	−0.1805	0.2286	−0.1431	0.1276	−0.1249	0.2178
$0.15 < PNEQ_q \le 0.2$	0.07961	−0.02000	−0.04819	0.03003	0.07964	−0.02137
$0.2 < PNEQ_q \le 0.25$	0.2553	−0.1658	0.2320	−0.1037	0.2851	−0.1540
$0.25 < PNEQ_q \le 0.3$	0.5154	−0.2459	0.2630	−0.1829	0.4953	−0.2723

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TABLE 3–35—COEFFICIENTS FOR SINGLE FAMILY DEFAULT AND PREPAYMENT EXPLANATORY VARIABLE—Continued

Explanatory Variable (V)	30-Year Fixed-Rate Loans		Adjustable-Rate Loans (ARMs)		Other Fixed-Rate Loans	
	Default Weight (β_v)	Pre-payment Weight (γ_v)	Default Weight (β_v)	Pre-payment Weight (γ_v)	Default Weight (β_v)	Pre-payment Weight (γ_v)
$0.3 < PNEQ_q \leq 0.35$	0.6518	−0.2938	0.5372	−0.2075	0.5979	−0.2714
$0.35 < PNEQ_q$	0.8058	−0.4636	0.7368	−0.3567	0.7923	−0.3986
B_q	1.303	−0.3331	0.8835	−0.2083	1.253	−0.3244
RLS						
$0 < RLS_{ORIG} \leq 0.4$		−0.5130		−0.4765		−0.4344
$0.4 < RLS_{ORIG} \leq 0.6$		−0.3264		−0.2970		−0.2852
$0.6 < RLS_{ORIG} \leq 0.75$		−0.1378		−0.1216		−0.1348
$0.75 < RLS_{ORIG} \leq 1.0$		0.03495		0.04045		0.01686
$1.0 < RLS_{ORIG} \leq 1.25$		0.1888		0.1742		0.1597
$1.25 < RLS_{ORIG} \leq 1.5$		0.3136		0.2755		0.2733
$1.5 < RLS_{ORIG}$		0.4399		0.4049		0.4045
IF	0.4133	−0.3084	0.6419	−0.3261	0.4259	−0.3035
RS_q						
$RS_q \leq -0.20$		−1.368		−0.5463		−1.195
$-0.20 < RS_q \leq -0.10$		−1.023		−0.4560		−0.9741
$-0.10 < RS_q \leq 0$		−0.8078		−0.4566		−0.7679
$0.10 < RS_q \leq 0.10$		−0.3296		−0.3024		−0.2783
$0 < RS_q \leq 0.20$		0.8045		0.3631		0.7270
$0.20 < RS_q \leq 0.30$		1.346		0.7158		1.229
$0.30 < RS_q$		1.377		0.6824		1.259
PS_q						
$PS_q \leq -0.20$			0.08490	0.6613		
$-0.20 < PS_q \leq -0.10$			0.3736	0.4370		
$-0.10 < PS_q \leq 0$			0.2816	0.2476		
$0 < PS_q \leq 0.10$			0.1381	0.1073		
$0.10 < PS_q \leq 0.20$			−0.1433	−0.3516		
$0.20 < PS_q \leq 0.30$			−0.2869	−0.5649		
$0.30 < PS_q$			−0.4481	−0.5366		
YCS_q						
$YCS_q < 1.0$		−0.2582		−0.2947		−0.2917
$1.0 \leq YCS_q < 1.2$		−0.02735		−0.1996		−0.01395
$1 2 \leq YCS_q < 1.5$		−0.04099		0.03356		−0.03796
$1.5 \leq YCS_q$		0.3265		0.4608		0.3436
$IREF_q$			0.1084	−0.01382		
PROD						
ARMS			0.8151	0.2453		
Balloons Loans					1.253	0.9483
15-Year FRMs					−1.104	0.07990
20-Year FRMs					−0.5834	0.06780
Government Loans					0.9125	−0.5660

TABLE 3–35—COEFFICIENTS FOR SINGLE FAMILY DEFAULT AND PREPAYMENT EXPLANATORY VARIABLE—Continued

Explanatory Variable (V)	30-Year Fixed-Rate Loans		Adjustable-Rate Loans (ARMs)		Other Fixed-Rate Loans	
	Default Weight (β_v)	Pre-payment Weight (γ_v)	Default Weight (β_v)	Pre-payment Weight (γ_v)	Default Weight (β_v)	Pre-payment Weight (γ_v)
$BCal_{LTV}$						
$LTV_{ORIG} \leq 60$	2.045		2.045		2.045	
$60 < LTV_{ORIG} \leq 70$	0.3051		0.3051		0.3051	
$70 < LTV_{ORIG} \leq 75$	−0.07900		−0.07900		−0.07900	
$75 < LTV_{ORIG} \leq 80$	−0.05519		−0.05519		−0.05519	
$80 < LTV_{ORIG} \leq 90$	−0.1838		−0.1838		−0.1838	
$90 < LTV_{ORIG}$	0.2913		0.2913		0.2913	
Intercept (β_0, γ_0)	−6.516	−4.033	−6.602	−3.965	−6.513	−3.949

2. The choice of coefficients from Table 3–35 will be governed by the single family product code and Government Flag, according to Table 3–36.

TABLE 3–36—SINGLE FAMILY PRODUCT CODE COEFFICIENT MAPPING

Single Family Product Code	Model Coefficient Applied
Non-Government Loans	
Fixed Rate 30YR	30-Year FRMs
Fixed Rate 20YR	20-Year FRMs
Fixed Rate 15YR	15-Year FRMs
5-Year Fixed Rate Balloon	Balloon Loans
7-Year Fixed Rate Balloon	Balloon Loans
10-Year Fixed Rate Balloon	Balloon Loans
15-Year Fixed Rate Balloon	Balloon Loans
Adjustable Rate	ARMs
Second Lien	Balloon Loans
Other	Balloon Loans
Government Loans	
Government Flag	Model Coefficient Applied
All government loans except for ARMs	Government Loans
Government ARMs	ARMs

3. Compute Quarterly Prepayment and Default Rates (QPR, QDR) from the logistic expressions as follows:

$$QDR_q = \frac{exp\{X\beta_q\}}{1 + exp\{X\beta_q\} + exp\{X\gamma_q\}}$$

$$QPR_q = \frac{exp\{X\gamma_q\}}{1 + exp\{X\beta_q\} + exp\{X\gamma_q\}}$$

4. Convert quarterly rates to monthly rates using the following formulas for simultaneous processes. The quarterly rate for q = 1 gives the monthly rate for months m = 1,2,3, and so on through q = 40:

$$MDR_m = \frac{QDR_q}{QDR_q + QPR_q} \times \left[1 - \left(1 - QDR_q - QPR_q\right)^{\frac{1}{3}}\right]$$

$$MPR_m = \frac{QPR_q}{QDR_q + QPR_q} \times \left[1 - \left(1 - QDR_q - QPR_q\right)^{\frac{1}{3}}\right]$$

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5. Calculate Defaulting Fraction (DEF), Prepaying Fraction (PRE), and Performing Fraction (PERF) of the Initial Loan Group. Initially (at the beginning of the Stress Test), all loans are assumed to be performing, i.e. $PERF_0 = 1.0$. For each month m = 1...RM, calculate the following quantities. *Note:* For m > 120, use and MPR_{120} and MDR_{120}:

$$PRE_m = PERF_{m-1} \times MPR_m$$

$$DEF_m = PERF_{m-1} \times MDR_m$$

$$PERF_m = PERF_{m-1} - PRE_m - DEF_m$$

3.6.3.4.4 Single Family Default and Prepayment Outputs

Single family Default and Prepayment outputs are set forth in Table 3–37.

Prepayment, Default and Performing Fractions for single family loans for months m = 1...RM are used in section 3.6.3.6, Calculation of Single Family and Multifamily Mortgage Losses; and section 3.6.3.7, Stress Test Whole Loan Cash Flows, of this Appendix. Quarterly LTV ratios are used in section 3.6.3.6.2.3, Single Family Gross Loss Severity Procedures, of this Appendix.

TABLE 3–37—SINGLE FAMILY DEFAULT AND PREPAYMENT OUTPUTS

Variable	Description
LTV_q	Current Loan-to-Value ratio in quarter q = 1...40
PRE_m^{SF}	Prepaying Fraction of Initial Loan Group in month m = 1...RM (single family Loans)
DEF_m^{SF}	Defaulting Fraction of Initial Loan Group in month m = 1...RM (single family Loans)
$PERF_m^{SF}$	Performing Fraction of Initial original Loan Group in month m = 1...RM (single family loans)

3.6.3.5 Multifamily Default and Prepayment Rates

3.6.3.5.1 Multifamily Default and Prepayment Rates Overview

[a] The Stress Test projects conditional Default and Prepayment rates for each multifamily Loan Group for each month of the Stress Period. Computing Default rates for a Loan Group requires information on the Loan Group characteristics at the beginning of the Stress Test and the economic conditions of the Stress Period—interest rates (section 3.3 of this Appendix), vacancy rates and rent growth rates (section 3.4 of this Appendix). These input data are used to create values for the explanatory variables in the Multifamily Default component.

[b] *Explanatory Variables for Default Rates.* Ten explanatory variables are used as specified in the equations section 3.6.3.5.3.1, of this Appendix, to determine Default rates for multifamily loans: Mortgage Age, Mortgage Age Squared, New Book indicator, New Book—ARM interaction, New Book—Balloon Loan interaction, Ratio Update Flag, current Debt-Service Coverage Ratio, Underwater Current Debt-Service Coverage indicator, Loan-To-Value Ratio at origination/acquisition, and a Balloon Maturity indicator. Regression coefficients (weights) are associated with each variable. All of this information is used to compute conditional annual Default rates throughout the Stress Test. The annualized Default rates are converted to monthly conditional Default rates and are used together with monthly conditional Prepayment rates to calculate Stress Test Whole Loan Cash Flows. (*See* section 3.6.3.7, Stress Test Whole Loan Cash Flows, of this appendix).

[c] *Specification of Multifamily Prepayment Rates.* Multifamily Prepayment rates are not generated by a statistical model but follow a set of Prepayment rules that capture the effect of yield maintenance, Prepayment penalties and other mechanisms that effectively curtail or eliminate multifamily Prepayments for a specified period of time.

[d] *Special Provision for Accounting Calculations.* For accounting calculations, which require cash flows over the entire remaining life of the instrument, Default and Prepayment rates for months beyond the end of the Stress Test are held constant at their values for month 120.

3.6.3.5.2 Multifamily Default and Prepayment Inputs

The information in Table 3–38 is required for each multifamily Loan Group:

TABLE 3–38—LOAN GROUP INPUTS FOR MULTIFAMILY DEFAULT AND PREPAYMENT CALCULATIONS

Variable	Description	Source
	Mortgage Product Type	RBC Report
A_0	Age immediately prior to start of Stress Test, in months (weighted average for Loan Group)	RBC Report
NBF	New Book Flag	RBC Report
RUF	Ratio Update Flag	RBC Report
LTV_{ORIG}	Loan-to-Value ratio at loan Origination	RBC Report
DCR_0	Debt Service Coverage Ratio at the start of the Stress Test	RBC Report
PMT_0	Amount of the mortgage Payment (principal and interest) prior to the start of the Stress Test, or first Payment for new loans (aggregate for Loan Group)	RBC Report
PPEM	Prepayment Penalty End Month number in the Stress Test (weighted average for Loan Group)	RBC Report
RM	Remaining term to Maturity in months (i.e., number of contractual payments due between the start of the Stress Test and the contractual maturity date of the loan) (weighted average for Loan Group)	RBC Report
RGR_m	Benchmark Rent Growth for months m = 1...120 of the Stress Test	section 3.4.4, Property Valuation Outputs
RVR_m	Benchmark Vacancy Rates for months m = 1...120 of the Stress Test	section 3.4.4, Property Valuation Outputs
PMT_m	Scheduled Payment for months m = 1...RM	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
OE	Operating expenses as a share of gross potential rents (0.472)	fixed decimal from Benchmark region and time period

TABLE 3–38—LOAN GROUP INPUTS FOR MULTIFAMILY DEFAULT AND PREPAYMENT CALCULATIONS—Continued

Variable	Description	Source
RVR_0	Initial rental vacancy rate	0.0623

3.6.3.5.3 Multifamily Default and Prepayment Procedures

3.6.3.5.3.1 Explanatory Variables

[a] Compute the explanatory variables for multifamily Default and Prepayment in five steps as follows:

1. Calculate Loan Age in Years for months m = 0...120 of the Stress Test (AY_m):

$$AY_m = \frac{A_0 + m}{12}$$

Where:

$A_0 + m$ is Loan Age in months at the beginning of month m of the Stress Test.

Note: AY_m is calculated for each month m, whereas the corresponding Age variable for single family Loans A_q is calculated only quarterly.

2. Assign Product and Ratio Update Flags (NBF, NAF, NBLF, RUF). *Note:* these values do not change over time for a given Loan Group.

a. New Book Flag (NBF):

NBF = 1 for Fannie Mae loans acquired after 1987 and Freddie Mac loans acquired after 1992, *except* for loans that were refinanced to avoid a Default on a loan originated or acquired earlier.

NBF = 0 otherwise.

b. New ARM Flag (NAF):

$$NAF = ARMF \times NBF$$

Where:

ARMF = 1 for ARMs (including Balloon ARMs)

ARMF = 0 otherwise

c. New Balloon Flag (NBLF):

$$NBLF = BALF \times NBF$$

Where:

BALF = 1 for Fixed Rate Balloon Loans

BALF = 0 otherwise

d. Ratio Update Flag (RUF):

RUF = 1 for loans whose LTV and DCR were updated at origination or Enterprise acquisition

RUF = 0 otherwise.

3. Calculate Debt Service Coverage Ratio in month m (DCR_m):

The standard definition of Debt Service Coverage Ratio is current net operating income divided by current mortgage payment. However, for the Stress Test, update DCR_m each month from the prior month's value using Rent Growth Rates (RGR_m) and Rental Vacancy Rates (RVR_m) starting with DCR_m from Table 3–38, as follows:

$$DCR_m = DCR_{m-1} \times \left[\frac{(1 + RGR_m)\left(\frac{1 - OE - RVR_m}{1 - OE - RVR_{m-1}}\right)}{\frac{PMT_m}{PMT_{m-1}}} \right]$$

4. Assign Underwater Debt-Service Coverage Flag ($UWDCRF_m$):

$UWDCRF_m = 1$ if $DCR_m < 1$ in month m

$UWDCRF_m = 0$ otherwise.

5. Assign Balloon Maturity Flag (BMF_m) for any Balloon Loan that is within twelve months of its maturity date:

$$BMF_m = 1 \text{ if } RM - m < 12$$

$$BMF_m = 0 \text{ otherwise.}$$

3.6.3.5.3.2 Default and Prepayment Rates and Performance Fractions

[a] Compute Default and Prepayment Rates and Performance Fractions for multifamily loans in the following four steps:

1. Compute the logits for multifamily Default using inputs from Table 3–38 and coefficients from Table 3–39. For indexing purposes, the Default rate for a period m is the likelihood of missing the mth payment; calculate its corresponding logit ($X\delta_m$) based on Loan Group characteristics as of the period *prior* to m, i.e. *prior* to making the mth payment.

$$X\delta_m = \delta_{AY} AY_{m-1} + \delta_{AY^2} AY_{m-1}^2 + \delta_{NBF} NBF + \delta_{NAF} NAF + \delta_{NBLF} NBLF + \delta_{RUF} RUF + \delta_{DCR} ln(DCR_{m-1}) + \delta_{UWDCRF} UWDCRF_{m-1} + \delta_{LTV} ln(LTV_{ORIG}) + \delta_{BMF} BMF_{m-1} + \delta_0$$

TABLE 3–39—EXPLANATORY VARIABLE COEFFICIENTS FOR MULTIFAMILY DEFAULT

Explanatory variable (V)	Default weight (δ_v)
AY	0.5171
AY²	−0.02788
NBF	−2.041
NAF	1.694
NBLF	0.8191

TABLE 3–39—EXPLANATORY VARIABLE COEFFICIENTS FOR MULTIFAMILY DEFAULT—Continued

Explanatory variable (V)	Default weight (δ_v)
RUF	−0.5929
DCR	−2.495
UWDCRF	1.488
LTV	0.8585
BMF	1.541
Intercept (δ_0)	−4.452

2. Compute Annual Prepayment Rate (APR) and Annual Default Rate (ADR) as follows:

$$ADR_m = \frac{exp\{X\delta_m\} \times (1 - APR_m)}{1 + exp\{X\delta_m\}}$$

APR_m is a constant, determined as follows:

a. For the up-rate scenario, $APR_m = 0$ for all months m

b. For the down-rate scenario,

$APR_m = 2$ percent during the Prepayment penalty period (i.e., when m ≤ PPEM)

$APR_m = 25$ percent after the Prepayment penalty period (i.e., when m > PPEM)

3. Convert annual Prepayment and Default rates to monthly rates (MPR and MDR) using the following formulas for simultaneous processes:

$$MPR_m = \frac{APR_m}{ADR_m + APR_m} \times \left[1 - (1 - ADR_m - APR_m)^{\frac{1}{12}}\right]$$

$$MDR_m = \frac{ADR_m}{ADR_m + APR_m} \times \left[1 - (1 - ADR_m - APR_m)^{\frac{1}{12}}\right]$$

4. Calculate Defaulting Fraction (DEF_m). Prepaying Fraction (PRE_m), and Performing Fraction ($PERF_m$) of the Initial Loan Group for each month m = 1...RM. Initially (immediately prior to the beginning of the Stress Test), all loans are assumed to be performing, i.e. $PERF_0 = 1.0$. *Note:* For m> 120, use MPR_{120} and MDR_{120}.

$$PRE_m = PERF_{m-1} \times MPR_m$$

$$DEF_m = PERF_{m-1} \times MDR_m$$

$$PERF_m = PERF_{m-1} - PRE_m - DEF_m$$

3.6.3.5.4 Multifamily Default and Prepayment Outputs

[a] Multifamily Default and Prepayment Outputs are set forth in Table 3–40.

TABLE 3–40—MULTIFAMILY DEFAULT AND PREPAYMENT OUTPUTS

Variable	Description
PRE_m^{MF}	Prepaying Fraction of initial Loan Group in month m=1...RM (multifamily Loans)
DEF_m^{MF}	Defaulting Fraction of initial Loan Group in month m=1...RM (multifamily Loans)
$PERF_m^{MF}$	Performing Fraction of initial Loan Group in month m=1...RM (multifamily Loans)

[b] Multifamily monthly Prepayment Fractions ($PERF_m^{MF}$) and monthly Default Fractions (DEF_m^{MF}) for months m=1...RM are used in section 3.6.3.6, Calculation of Single Family and Multifamily Mortgage Losses; section 3.6.3.7, Stress Test Whole Loan Cash Flows, and section 3.6.3.8, Whole Loan Accounting Flows, of this Appendix.

3.6.3.6 Calculation of Single Family and Multifamily Mortgage Losses

3.6.3.6.1 Calculation of Single Family and Multifamily Mortgage Losses Overview

[a] *Definition.* Loss Severity is the net cost to an Enterprise of a loan Default. Though losses may be associated with delinquency, loan restructuring and/or modification and other loss mitigation efforts, foreclosures are the only loss events modeled during the Stress Test.

[b] *Calculation.* The Loss Severity rate is expressed as a fraction of the Unpaid Principal Balance (UPB) at the time of Default. The Stress Test calculates Loss Severity rates for each Loan Group for each month of the Stress Period. Funding costs (and offsetting revenues) of defaulted loans are captured by discounting the Loss Severity elements using a cost-of-funds interest rate that varies during the Stress Period. Table 3–41 specifies the Stress Test Loss Severity timeline. Loss Severity rates also depend upon the application of Credit Enhancements and the credit ratings of enhancement providers.

TABLE 3–41—LOSS SEVERITY EVENT TIMING

Month	Event
1	First missed payment
4 (= MQ)	Loan is repurchased from securitized pool and UPB is passed through to MBS investors (Sold Loans only)
13 (= MF^{SF})	Single family foreclosure
18 (= MF^{MF})	Multifamily foreclosure
20 (= MF^{SF} + MR^{SF})	Single family property disposition
31 (= MF^{MF}+MR^{MF})	Multifamily property disposition

[c] *Timing of the Default Process.* Mortgage Defaults are modeled as follows: defaulting loans enter foreclosure after a number of months (MQ, Months in Delinquency) and are foreclosed upon several months later. MF (Months in Foreclosure) is the total number of missed payments. Upon completion of foreclosure, the loan as such ceases to exist and the property becomes Real Estate Owned by the lender (REO). After several more months (MR, Months in REO), the property is sold. Foreclosure expenses are paid and MI proceeds (and, for multifamily loans, loss sharing proceeds) are received when foreclosure is completed. REO expenses are paid, and sales proceeds and other Credit Enhancements are received, when the property is sold. These timing differences are not modeled explicitly in the cash flows, but their economic effect is taken into account by present-valuing the default-related cash flows to the month of Default.

[d] *Gross Loss Severity, Credit Enhancement, and Net Loss Severity.* The calculation of mortgage losses is divided into three parts. First, Gross Loss Severity is determined by expressing the principal loss plus unpaid interest plus expenses as a percentage of the loan UPB at the time of Default (section 3.6.3.6.2, Single Family Gross Loss Severity, and section 3.6.3.6.3, Multifamily Gross Loss Severity, of this Appendix). Second, Credit Enhancements (CEs) are applied according to their terms to offset losses on loans that are covered by one or more CE arrangements (section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix). Finally, to account for the timing of these different cash flows, net losses are discounted back to the month in which the Default initially occurred (section 3.6.3.6.5, Single Family and Multifamily Net Loss Severity, of this Appendix).

3.6.3.6.2 Single Family Gross Loss Severity

3.6.3.6.2.1 Single Family Gross Loss Severity Overview

The Loss Severity calculation adds the discounted present value of various costs and offsetting revenues associated with the foreclosure of single family properties, expressed as a fraction of UPB on the date of Default. The loss elements are:

[a] *Unpaid Principal Balance.* Because all Loss Severity elements are expressed as a fraction of Default date UPB, the outstanding loan balance is represented as 1.

[b] *Unpaid Interest.* Unpaid interest at the Mortgage Interest Rate is included in the MI claim amount. Unpaid interest at the Pass-Through Rate must be paid to MBS holders until the Defaulted loan is repurchased from the MBS pool.

[c] *Foreclosure Expenses and REO Expenses.* Foreclosure expenses are reimbursed by MI. REO expenses are incurred in connection with the maintenance and sale of a property after foreclosure is completed. Stress Test values for these quantities are derived from historical Enterprise REO experience.

[d] *Net Recovery Proceeds from REO sale (RP).* This amount is less than the sale price for ordinary properties as predicted by the HPI, because of the distressed nature of the sale.

3.6.3.6.2.2 Single Family Gross Loss Severity Inputs

The inputs in Table 3–42 are used to compute Gross Loss Severity for single family loans:

TABLE 3–42—LOAN GROUP INPUTS FOR GROSS LOSS SEVERITY

Variable	Description	Definition or Source
	Government Flag	RBC Report
MQ	Months Delinquent: time during which Enterprise pays delinquent loan interest to MBS holders	4 for sold loans 0 otherwise
MF	Months to Foreclosure: number of missed payments through completion of foreclosure	13 months
MR	Months from REO acquisition to REO disposition	7 months
F	Foreclosure Costs as a decimal fraction of Defaulted UPB	0.037
R	REO Expenses as a decimal fraction of Defaulted UPB	0.163

TABLE 3–42—LOAN GROUP INPUTS FOR GROSS LOSS SEVERITY—Continued

Variable	Description	Definition or Source
DR_m	Discount Rate in month m (decimal per annum)	6-month Enterprise Cost of Funds from section 3.3, Interest Rates
LTV_q	Current LTV in quarter q = 1...40	section 3.6.3.4.4, Single Family Default and Prepayment Outputs
MIR_m	Mortgage Interest Rate in month m (decimal per annum)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
PTR_m	Pass-Through Rate applicable to payment due in month m (decimal per annum)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
RR	Recovery Rate for Defaulted loans in the BLE, as a percent of predicted house price using HPI (decimal)	0.61

3.6.3.6.2.3 Single Family Gross Loss Severity Procedures

[a] Calculate single family gross Loss Severity using the following three steps:

1. Compute REO Proceeds in month m (RP_m) as a fraction of Defaulted UPB:

$$RP_m = \frac{RR}{LTV_q}$$

2. Compute MI Claim Amount on loans that Defaulted in month m (CLM_m^{MI}) as a fraction of Defaulted UPB:

$$CLM_m^{MI} = 1 + \left(\frac{MF}{12} \times MIR_m\right) + F$$

for all loans other than Government Loans

$$= 1 + \left(0.75 \times \frac{MF}{12} \times MIR_m\right) + (0.67 \times F)$$

for Government Loans

Where:

0.67 = FHA reimbursement rate on foreclosure-related expenses

0.75 = adjustment to reflect that FHA reimbursement on unpaid interest is at a government debenture rate, not MIR.

3. Compute Gross Loss Severity of loans that Defaulted in month m (GL_m) as a fraction of Defaulted UPB:

$$GLS_m = 1 + \left(\frac{MQ}{12} \times PTR_m\right) + F + R - RP_m \text{ but not} < 0$$

3.6.3.6.2.4 Single Family Gross Loss Severity Outputs

The single family Gross Loss Severity outputs in Table 3–43 are used in the Credit Enhancement calculations in section 3.6.3.6.4 of this Appendix.

TABLE 3–43—SINGLE FAMILY GROSS LOSS SEVERITY OUTPUTS

Variable	Description
GLS_m	Gross Loss Severity for loans that defaulted in month m = 1...120
CLM_m^{MI}	MI claim on account of loans that defaulted in month m = 1...120
RP_m	REO Proceeds on account of loans that defaulted in month m = 1...120

3.6.3.6.3 Multifamily Gross Loss Severity

3.6.3.6.3.1 Multifamily Gross Loss Severity Overview

The multifamily Loss Severity calculation adds the discounted present value of various costs and offsetting revenues associated with the foreclosure of multifamily properties, expressed as a fraction of Defaulted UPB. The loss elements are:

[a] *Unpaid Principal Balance (UPB).* Because all Loss Severity elements are expressed as a fraction of Default date UPB, the outstanding loan balance is represented as 1.

[b] *Unpaid Interest.* Unpaid interest at the Net Yield Rate is included in the Loss Sharing Claim amount. Unpaid interest at the Pass-Through Rate must be paid to MBS holders until the defaulted loan is repurchased from the MBS pool.

[c] *Net REO Holding Costs (RHC).* Foreclosure costs, including attorneys fees and other liquidation expenses are incurred between the date of Default and the date of foreclosure completion (REO acquisition). Operating and capitalized expenses are incurred and rental and other income are received between REO acquisition and REO disposition. As a result, half of the Net REO Holding Costs (RHC) are expensed at REO acquisition and the remainder are expensed at REO disposition.

[d] *Net Proceeds from REO sale (RP).* The gross sale price of the REO less all costs associated with the disposition of the REO asset are discounted from the date of REO sale.

3.6.3.6.3.2 Multifamily Gross Loss Severity Inputs

The inputs in Table 3–44 are used to compute Gross Loss Severity for multifamily Loans:

TABLE 3–44—LOAN GROUP INPUTS FOR MULTIFAMILY GROSS LOSS SEVERITY

Variable	Description	Value or Source
	Government Flag	RBC Report
DR_m	Discount Rate in month m (decimal per annum)	6-month Enterprise Cost of Funds from Section 3.3, Interest Rates
MQ	Time during which delinquent loan interest is passed-through to MBS holders	4 for sold loans 0 otherwise

TABLE 3–44—LOAN GROUP INPUTS FOR MULTIFAMILY GROSS LOSS SEVERITY—Continued

Variable	Description	Value or Source
PTR_m	Pass Through Rate applicable to payment due in month m (decimal per annum)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
NYR_m	Net Yield Rate applicable to payment due in month m (decimal per annum)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
RHC	Net REO holding costs as a decimal fraction of Defaulted UPB	0.1333
MF	Time from Default to completion of foreclosure (REO acquisition)	18 months
MR	Months from REO acquisition to REO disposition	13 months
RP	REO proceeds as a decimal fraction of Defaulted UPB	0.5888

3.6.3.6.3.3 Multifamily Gross Loss Severity Procedures

[a] Calculate multifamily gross loss severity in the following two steps:

1. For Conventional Loans, compute the Loss Sharing Claim Amount (CLM_m^{LSA}) and Gross Loss (GL_m) on loans that Defaulted in month m, as a fraction of Defaulted UPB:

$$CLM_m^{LSA} = 1.75 + \left(\frac{MF}{12} \times NYR_m\right) + RHC - RP$$

$$GL_m = 1 + \frac{MQ}{12} \times PTR_m + RHC - RP$$

2. For FHA-insured (i.e., government) multifamily Loans, separate Gross Loss Severity and Credit Enhancement calculations are not necessary. Net Loss Severity is determined explicitly in section 3.6.3.6.5, Single Family and Multifamily Net Loss Severity, of this Appendix).

3.6.3.6.3.4 Multifamily Gross Loss Severity Outputs

Multifamily Gross Loss Severity Outputs in Table 3–45 are used in the Credit Enhancements Calculations section 3.6.3.6.4, of this Appendix.

TABLE 3–45—MULTIFAMILY GROSS LOSS SEVERITY OUTPUTS FOR USE IN CREDIT ENHANCEMENT CALCULATIONS

Variable	Description
GLS_m	Gross Loss Severity for loans that Defaulted in month m = 1...120
CLM_m^{LSA}	Loss Sharing Claim on account of loans that Defaulted in month m = 1...120

3.6.3.6.4 Mortgage Credit Enhancement

3.6.3.6.4.1 Mortgage Credit Enhancement Overview

[a] *Types of Mortgage Credit Enhancements.* Credit Enhancements (CE) reimburse losses on individual loans. The CE most often utilized by the Enterprises at the present time is primary Mortgage Insurance (MI) including both private and government MI or loan guarantees (e.g. FHA, VA), which pays claims up to a given limit on each loan. Most other types of CE do not limit the amount payable on each loan individually, but do limit the aggregate amount available under a given CE arrangement or Contract. These two types of CE must be computed differently. To denote this distinction, this Appendix will refer to "Loan Limit" and "Aggregate Limit" CE types. Loan Limit CE includes Mortgage Insurance for single family loans and Loss-Sharing Arrangements (LSA) for multifamily loans. Aggregate Limit CE includes Pool Insurance, Spread Accounts, Letters of Credit, Cash or Collateral Accounts, and Subordination Agreements. For operational convenience in the Stress Test, the Aggregate Limit classification also includes Unlimited Recourse, which has neither loan-level nor aggregate-level coverage limits, and Modified Pool Insurance, Limited Recourse, Limited Indemnification and FHA risk-sharing, which may have both loan-level and aggregate-level coverage limits.

[b] *Loan Limit Credit Enhancements.* Loan Limit Credit Enhancements are applied to every covered loan individually, without regard to how much has been paid on any other covered loan. For example, an MI policy covers losses on an individual loan up to a specified limit. If every loan with MI were to Default, every claim would be payable regardless of the total outlay on the part of the MI provider. Loss Sharing Arrangements on multifamily loans operate the same way.

[c] *Aggregate Limit Credit Enhancements.* Aggregate Limit Credit Enhancements cover a group of loans on an aggregate basis. In most such arrangements, the coverage for any individual loan is unlimited, except that the total outlay by the provider cannot exceed a certain aggregate limit. Thus, the amount of Aggregate Limit coverage available to an individual loan depends, in practice, on how much has been paid on all previous claims under the specified Contract.

[d] *Credit Enhancement Counterparty Defaults.* CE payments from a rated counterparty are subject to Haircuts to simulate counterparty failures during the Stress Test. These Haircuts are based on the rating of the counterparty or guarantor immediately prior to the Stress Test, and are applied each month as described in section 3.5, Counterparty Defaults, of this Appendix.

[e] *Stress Test Application of Credit Enhancement.* The Stress Test calculates mortgage cash flows for aggregated Loan Groups, within which individual loans are assumed to have identical characteristics and therefore are not differentiated in the computations. However, a single Loan Group may include loans with Loan Limit CE and/or one or more types of Aggregate Limit CE. Additionally, this coverage may come from a rated provider or from cash or cash-equivalent collateral. Therefore, for computational purposes it is necessary to distinguish among the different possible CE combinations that each loan or subset of loans in a Loan Group may have. In the Stress Test, this is accomplished by creating Distinct Credit Enhancement Combinations (DCCs).

1. *Distinct Credit Enhancement Combinations.* When aggregating individual loans into Loan Groups for the RBC Report, the applicable CE arrangements will have been identified for each loan:
   a. Loan Group (LG) Number
   b. Initial UPB of individual loan
   c. Rating of MI or LSA Counterparty
   d. Loan-Limit Coverage Percentage for MI or LSA
   e. Contract Number for Aggregate Limit CE, First Priority
   f. Contract Number for Aggregate Limit CE, Second Priority
   g. Contract Number for Aggregate Limit CE, Third Priority
   h. Contract Number for Aggregate Limit CE, Fourth Priority
2. Individual loans for which all of the entries in step 1) of this section (except UPB and Loan-Limit Coverage Percent) are identical, are aggregated into a DCCs. For example, all loans in a given Loan Group with MI from a AAA-rated provider and no other CE would comprise one DCC whose balance is the aggregate of the included loans and whose MI Coverage Percent is the weighted average of that of the included loans. In each month, within each Loan Group, for each DCC, each applicable form of CE is applied in priority order to reduce Gross Loss Severity as much as possible to zero. The total CE payment for each DCC, as a percentage of Defaulted UPB is converted to a total CE payment for each Loan Group and then factored into the calculation of Net Loss Severity in section 3.6.3.6.5, Single Family and Multifamily Net Loss Severity, of this Appendix.
3. *DCC First and Second Priority Available Aggregate CE Balance.* In the Stress Test, First and Second Priority Available Aggregate CE Balances are allocated to the DCCs that are parties to each Contract on a pro-rata basis. Third and Fourth Priority Aggregate Limit Contracts are not modeled because they are extremely rare. In each month of the Stress Test these CE Balances, adjusted by appropriate Haircuts, are reduced by the losses incurred by each DCC that is a party to each Contract. Spread Account deposits, if applicable, are included in the First and Second Priority DCC Available Aggregate CE Balances.
   a. Spread Accounts may take one of two forms: Balance-Limited, or Deposit-Limited. A Balance-Limited Spread Account receives monthly spread payments based on the UPB of the covered loans until a required balance is achieved and maintained. Any amounts paid to cover losses must be replenished by future spread payments from the covered loans that are still performing. Thus, there is no known limit to the amount of spread deposits that may be made over the life of the covered loans. In contrast, for a Deposit-Limited Spread Account the limit is similar to a customary coverage limit. The total amount of spread deposits made into the account is limited to a maximum amount specified in the Contract.
   b. In the Stress Test, the Available Contract Balance of a Spread Account is adjusted prior to the calculation of the DCC Available Balance as reported in the RBC Report. For each Spread Account contract, the Enterprises report the Remaining Limit Amount, which represents the maximum dollar amount of additional spread deposits that could be required under the Contract. For Deposit-Limited Spread Accounts, this amount is the maximum remaining dollar amount of spread deposits required under the Contract. For Balance-Limited Spread Accounts, this amount is defined as one-twelfth of the annualized spread rate times the UPB of the covered loans at the start of the Stress Test times the weighted average Remaining term to Maturity of those loans. However, the maximum amount of spread deposits that could be received will generally be higher than the amount reasonably expected to be received during the Stress Test, because the UPB of the covered loans, which is the basis for determining the amounts of future spread deposits, declines over the term of the Contract due to Amortization, Defaults, and Prepayments. Therefore, the Enterprises report an adjusted Available Contract Balance for both types of Spread Accounts before reporting the DCC Available Balance by adding the lesser of the Remaining Limit Amount or one-twelfth of the spread rate times the UPB of the covered loans at the start of the stress test times 60 months.
   c. Modified Pool Insurance, Limited Recourse, Limited Indemnification and FHA risk-sharing contracts may have both loan-level and aggregate-level coverage limits. To account for this aspect of these types of Aggregate Limit CE, the Enterprises report a DCC Loan Level Coverage Limit Amount, which represents the share of each loss after deductibles (such as MI or First Priority Contract payments) covered by a given MPI Contract. (The Loan Level Coverage Limit Amount takes the value of one if the Contract is not of this type, representing that 100 percent of losses are covered by other types of Contracts).
   d. In practice, Unlimited Recourse Contracts have neither loan-level nor aggregate-level coverage limits. However, the Enterprises report the Available Aggregate CE Balance of Unlimited Recourse Contracts as the summation of the Original UPB of all covered loans.
   e. The Available Aggregate CE Balances of Collateral Account Contracts funded with anything other than Cash or Cash-equivalents are discounted by thirty percent to account for market risk in securities that are not cash equivalents.
   f. Enterprise Loss Positions are treated as Aggregate Limit CE in terms of reducing remaining losses eligible to be covered by a next-priority Contract. However, since Enterprise Loss Positions are typically a deductible for other forms of supplementary coverage, payments from such accounts do not reduce loss severity.

[f] *Multiple Layers of Credit Enhancement.* For loans with more than one type of Credit Enhancement, MI or Loss Sharing is applied first, and then other types of CE (if available) are applied in priority order to the remaining losses. MI and Loss Sharing claims are payable regardless of whether (and to what extent) a loan is also covered by other forms of CE. MI is unique in that the MI payment is based on a percentage of a Claim Amount equal to the entire Defaulted UPB plus expenses, not the actual loss incurred upon liquidation. Therefore, an Enterprise can receive MI payments on a defaulted loan in excess of the actual realized loss on that loan. However, it is frequently the case that MI payments are insufficient to cover the entire loss amount. In such cases, one or more types of Aggregate Limit CE may be available to make up the deficiency. Unlike MI claims, however, the Claim Amounts for Loss Sharing and for all Aggregate Limit CE types do depend on the actual losses incurred; and unlike Loss Sharing and MI, Claim Amounts payable under other forms of CE are net of payments received on account of other forms of CE. When a single loan is covered by multiple forms of CE, the order in which they are to be applied (First Priority, Second Priority, etc.) must be specified. To avoid double-counting, a higher-numbered priority CE only covers losses that were not covered by a lower-numbered priority CE.

3.6.3.6.4.2 Mortgage Credit Enhancement Inputs

[a] For each Loan Group, the inputs in Table 3–46 are required:

TABLE 3–46—CE INPUTS FOR EACH LOAN GROUP

Variable	Description	Source
UPB_{ORIG}^{LG}	Origination UPB	RBC Report
UPB_0^{LG} and UPB_m^{LG}	Initial UPB and UPB in month m = 0,1...120	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
LTV_{ORIG}^{LG}	Original LTV	RBC Report
DEF_m^{LG} and $PERF_m^{LG}$	Defaulting and Performing Fractions of Initial Loan Group UPB in month m = 1...120	section 3.6.3.4.4, Single Family Default and Prepayment Outputs and section 3.6.3.5.4, Multifamily Default and Prepayment Outputs
$CLM_m^{MI,LG}$ $CLM_m^{LSA,LG}$	MI Claim Amount and LSA Claim Amount	section 3.6.3.6.2, Single Family Gross Loss Severity and section 3.6.3.6.3, Multifamily Gross Loss Severity
GLS_m^{LG}	Gross Loss Severity	section 3.6.3.6.2, Single Family Gross Loss Severity and section 3.6.3.6.3, Multifamily Gross Loss Severity

[b] For each DCC covering loans in the Loan Group, the inputs in Table 3–47 are required:

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TABLE 3–47—INPUTS FOR EACH DISTINCT CE COMBINATION (DCC)

Variable	Description	Source
P^{DCC}	Percent of Initial Loan Group UPB represented by individual loan(s) in a DCC	RBC Report
$R^{MI,DCC}$ or $R^{LSA,DCC}$	Credit rating of Loan Limit CE (MI or LSA) Counterparty	RBC Report
$C^{MI,DCC}$ or $C^{LSA,DCC}$	Weighted Average Coverage Percentage for MI or LSA Coverage (weighted by Initial UPB)	RBC Report
$AB_0^{DCC,C1}$	DCC Available First Priority CE Balance immediately prior to start of the Stress Test	RBC Report
$AB_0^{DCC,C2}$	DCC Available Second Priority CE Balance immediately prior to start of the Stress Test	RBC Report
$R^{DCC,C1}$	DCC Credit Rating of First Priority CE Provider or Counterparty; or Cash/Cash Equivalent (which is not Haircutted)	RBC Report
$R^{DCC,C2}$	DCC Credit Rating of Second Priority CE Provider or Counterparty; or Cash/Cash Equivalent (which is not Haircutted)	RBC Report
$C^{DCC,C1}$	DCC Loan-Level Coverage Limit of First Priority Contract (If Subtype is MPI; otherwise = 1)	RBC Report
$C^{DCC,C2}$	DCC Loan-Limit Coverage Limit of Second Priority Contract (if Subtype is MPI; otherwise = 1)	RBC Report
$ExpMo^{DCC,C1}$	Month in the Stress Test (1...120 or after) in which the DCC First Priority Contract expires	RBC Report
$ExpMo^{DCC,C2}$	Month in the Stress Test (1...120 or after) in which the DCC Second Priority Contract expires	RBC Report
$ELPF^{DCC,C1}$	DCC Enterprise Loss Position Flag for First Priority Contract (Y or N)	RBC Report
$ELPF^{DCC,C2}$	DCC Enterprise Loss Position Flag for Second Priority Contract (Y or N)	RBC Report

[c] In the RBC Report, Aggregate Limit CE Subtypes are grouped as illustrated in Table 3–48.

TABLE 3–48—AGGREGATE LIMIT CE SUBTYPE GROUPING

Symbol	Subtype	Also Includes
REC	Unlimited Recourse	Unlimited Indemnification
PI	Pool Insurance	Pool Insurance
		Letter of Credit
		Subordination Arrangements
MPI	Modified Pool Insurance	Modified Pool Insurance
		Limited Recourse
		Limited Indemnification
		FHA Risk-sharing Agreements
CASH	Cash Account	Cash Account
COLL	Collateral Account	Collateral
ELP	Enterprise Loss Position	GSE Loss Position (ledger item)
SA	Spread Account	Spraad Account

3.6.3.6.4.3 Mortgage Credit Enhancement Procedures

[a] For each month m of the Stress Test, for each Loan Group (LG), carry out the following six steps [a] 1–6 for each DCC. *Note:* Process the Loan Groups and DCCs using the numerical order assigned to them in the RBC Report.

1. Determine Mortgage Insurance Payment (MI_m) for single family loans in the DCC, or Loss Sharing Payment (LSA_m) for multifamily loans in the DCC, as a percentage of Defaulted UPB, applying appropriate counterparty Haircuts from section 3.5, of this Appendix:

$$MI_m^{DCC} = \left(1 - MIExp_m^{LG}\right) \times C^{MI,DCC} \times CLM_m^{MI,LG} \times \left[1 - \frac{m'}{60} \times MaxHct\left(R^{MI,DCC}\right)\right]$$

$$LSA_m^{DCC} = C^{LSA,DCC} \times CLM_m^{LSA,LG} \times \left[1 - \frac{m'}{60} \times MaxHct\left(R^{LSA,DCC}\right)\right]$$

Where:

$m' = min\ (m, 60)$. For counterparties rated below BBB, $m' = 60$

$$MIExp_m^{LG} = 1 \text{ if } \left(LTV_{ORIG} \times \frac{UPB_m^{LG}}{UPB_{ORIG}^{LG}}\right) < 0.78$$

$$MIExp_m^{LG} = 0 \text{ otherwise}$$

0.78 (78%) = the LTV at which MI is cancelled if payments are current

2. Determine Remaining Loss in Dollars (RLD) after application of MI or LSA and prior to application of other Aggregate Limit CE:

$$RLD_m^{DCC,(MI-LSA)} = max\left[\left(GLS_m^{LG} - MI_m^{DCC}\right), 0\right] \times P^{DCC} \times UPB_{m-1}^{LG} \times DEF_m^{LG}$$

3. Determine the contractual CE Payment in Dollars under the First Priority Contract C1. Determine Payment after Haircut. Update Remaining Loss Dollars and DCC Available Balance.

a. Determine CE Payment as the minimum of the Remaining Loss Dollars after MI or LSA (if applicable) times the DCC Loan-Level Coverage Limit (=1 if not MPI Contract) or the previous month's ending DCC Available Balance:

$$PD_m^{DCC,C1} = min\left(RLD_m^{DCC,(MI-LSA)} \times C^{DCC,C1}, AB_{m-1}^{DCC,C1}\right)$$

b. Determine CE Payment in Dollars after application of Haircuts:

$$PD_m^{DCC,C1,H} = PD_m^{DCC,C1} \times \left[1 - \frac{m'}{60} \times MaxHct\left(R^{DCC,C1}\right)\right]$$

Where:

$m' = min\ (m, 60)$. For counterparties rated below BBB, $m' = 60$.

c. Update DCC Remaining Loss Dollars and DCC Available Balance under the First Priority Contract C1:

$$RLD_m^{DCC,C1} = max\left(RLD_m^{DCC,(MI-LSA)} - PD_m^{DCC,C1,H}, 0\right)$$

$$AB_m^{DCC,C1} = max\left(\left[AB_{m-1}^{DCC,C1} - PD_m^{DCC,C1}\right] \times \left(1 - Exp_m^{DCC,C1}\right), 0\right)$$

Where:

Exp_m^C = 1 if the Contract has expired, i.e. if the calendar month corresponding to the mth month of the Stress Test is on or after the expiration month ($ExpMo^C$)

Exp_m^C = 0 otherwise

4. Determine the contractual CE Payment in Dollars under the Second Priority Contract C2. Determine Payment after Haircut. Update Remaining Loss Dollars and DCC Available Balance.

a. Determine CE Payment as the minimum of the Remaining Loss Dollars after C1 Payment (if applicable) times a DCC Loan-Level Coverage Limit (=1 if not MPI Contract) or the previous month's ending DCC Available Balance:

$$PD_m^{DCC,C2} = min\left(RLD_m^{DCC,C1} \times C^{DCC,C2}, AB_{m-1}^{DCC,C2}\right)$$

b. Determine CE Payment in Dollars after application of Haircuts:

$$PD_m^{DCC,C2,H} = PD_m^{DCC,C2} \times \left[1 - \frac{m'}{60} \times MaxHct\left(R^{DCC,C2}\right)\right]$$

Where:

$m' = min\ (m, 60)$. For counterparties rated below BBB, $m' = 60$.

c. Update DCC Remaining Loss Dollars and DCC Available Balance under the Second Priority Contract C2:

$$RLD_m^{DCC,C2} = max\left(RLD_m^{DCC,C1} - PD_m^{DCC,C2,H}, 0\right)$$

$$AB_m^{DCC,C2} = max\left(\left[AB_{m-1}^{DCC,C2} - PD_m^{DCC,C2}\right] \times \left(1 - Exp_m^{DCC,C2}\right), 0\right)$$

Where:

Exp_m^C = 1 if the Contract has expired, i.e. if the calendar month corresponding to the mth month of the Stress Test is on or after the expiration month ($ExpMo^C$)

Exp_m^C = 0 otherwise

5. Convert Aggregate Limit First and Second Priority Contract receipts in Dollars for each DCC in month m to a percentage of DCC Defaulted UPB:

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$$ALPD_m^{DCC} = \frac{\left(PD_m^{DCC,C1,H} \times ELPI^{DCC,C1}\right) + \left(PD_m^{DCC,C2,H} \times ELPI^{DCC,C2}\right)}{DEF_m \times UPB_{m-1}^{LG} \times P^{DCC}}$$

Where:

$ELPI^{DCC,C1} = 0$ if $ELPF^{DCC,C1}$ = Y (Yes, indicating that C1 is an Enterprise Loss Position)

$ELPI^{DCC,C2} = 1$ otherwise

6. Add the Loan Limit CE (MI and LSA) and Aggregate Limit CE (ALPD), each expressed as a share of DCC Defaulted UPB, separately for each DCC to increment the respective Loan Group totals:

$$MI_m^{LG} = MI_m^{LG} + \left(P^{DCC} \times MI_m^{DCC}\right) \text{ for single family Loans; or}$$

$$LSA_m^{LG} = LSA_m^{LG} + \left(P^{DCC} \times LSA_m^{DCC}\right) \text{ for multifamily Loans; and}$$

$$ALCE_m^{LG} = ALCE_m^{LG} + \left(P^{DCC} \times ALPD_m^{DCC}\right) \text{ for both single family and multifamily Loans}$$

3.6.3.6.4.4 Mortgage Credit Enhancement Outputs

[a] Mortgage Credit Enhancement Outputs are set forth in Table 3–49.

TABLE 3–49—SINGLE FAMILY AND MULTIFAMILY CREDIT ENHANCEMENT OUTPUTS

Variable	Description
MI_m	MI payments applied to reduce single family Gross Loss Severity in month m of the Stress Test (as a fraction of Defaulted UPB in month m)
LSA_m	LSA payments applied to reduce multifamily Gross Loss Severity in month m of the Street Test (as a fraction of Defaulted UPB in month m)
$ALCE_m$	Aggregate receipts from all forms of Aggregate Limit Limit Credit Enhancement applied to reduce single- and multifamily Gross Loss Severity in month m of the Stress Test (as a fraction of Defaulted UPB in month m)

[b] MI_m^{LG} or LSA_m^{LG} and $ALCE_m^{LG}$ for months m = 1...120 of the Stress Test are used in section 3.6.3.6.5, Single Family and Multifamily Net Loss Severity, of this Appendix.

3.6.3.6.5 Single Family and Multifamily Net Loss Severity

3.6.3.6.5.1 Single Family and Multifamily Net Loss Severity Procedures

Combine inputs and outputs from Gross Loss Severity and Credit Enhancements (Table 3–42 through Table 3–49) in the following formulas for each Loan Group in month m:

[a] For Conventional single family Loan Groups:

$$LS_m^{SF} = \frac{1}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MQ}{6}}} + \frac{\left(\frac{MQ}{12} \times PTR_m\right) + F - MI_m}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MF}{6}}} + \frac{R - RP_m - ALCE_m}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MF+MR}{6}}}$$

[b] For Government single family Loan Groups, complete the following three steps:

1. Compute a Loss Severity value for FHA-insured loans using the Conventional formula for all government loans. FHA reimbursement rates will be reflected in the value of MI_m, as computed in section 3.6.3.6.4.3, Mortgage Credit Enhancement Procedures, of this Appendix.
2. Compute a Loss Severity value for VA-insured loans as follows for all government loans:

$$LS_m^{VA} = \frac{1 + F + \left(\frac{MQ}{12} \times PTR_m\right) + \left(R - RP_m\right) - 0.30}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MF}{6}}}$$

Where:

0.30 is a fixed percentage representing the VA guarantee coverage percentage. (The VA coverage rate is a function of the initial loan size.)

3. Compute Net Loss Severity by combining FHA-insured and VA-insured Loss Severity values as follows:

$$LS_m^{SF,GVT} = \left(\frac{2}{3} \times LS_m^{SF}\right) + \left(\frac{1}{3} \times LS_m^{VA}\right)$$

[c] For multifamily Loan Groups other than FHA-Insured:

$$LS_m^{MF} = \frac{1 + \left(\frac{MQ}{12} \times PTR_m\right)}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MQ}{6}}} + \frac{\frac{RHC}{2} - LSA_m}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MF}{6}}} + \frac{\frac{RHC}{2} - RP - ALCE_m}{\left(1 + \frac{DR_m}{2}\right)^{\frac{MF+MR}{6}}}$$

[d] For FHA-Insured multifamily Loan Groups:

$$LS_m^{MF} = 0.03 \text{ (3 percent) for all months}$$

3.6.3.6.5.2 Single Family and Multifamily Net Loss Severity Outputs

Net Loss Severity outputs are set forth in Table 3–50:

TABLE 3–50—SINGLE FAMILY AND MULTIFAMILY LOSS SEVERITY OUTPUTS

Variable	Description
LS_m^{SF}	Loss Severity (as a fraction of Defaulted UPB) for single family loans in month m
LS_m^{MF}	Loss Severity (as a fraction of Defaulted UPB) for multifamily loans in month m

Single family and multifamily Loss Severities for months 1...120 of the Stress Test are used in section 3.6.3.7, Stress Test Whole Loan Cash Flows, of this Appendix.

3.6.3.7 Stress Test Whole Loan Cash Flows

3.6.3.7.1 Stress Test Whole Loan Cash Flow Overview

This section combines the mortgage Amortization Schedules with Default, Prepayment and Net Loss Severity Rates to produce performance-adjusted cash flows for Enterprise Whole Loans in the Stress Test.

3.6.3.7.2 Stress Test Whole Loan Cash Flow Inputs

The inputs required to compute Stress Test Whole Loan Cash Flows for each Loan Group are listed in Table 3–51.

TABLE 3–51—INPUTS FOR FINAL CALCULATION OF STRESS TEST WHOLE LOAN CASH FLOWS

Variable	Description	Source
UPB_m	Aggregate Unpaid Principal Balance in month m = 0...RM	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
NYR_m	Net Yield Rate in month m = 1...RM	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
GF	Guarantee Fee rate (weighted average for Loan Group) (decimal per annum)	RBC Report
PTR_m	Pass-Through Rate in month m = 1...RM	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
SP_m	Aggregate Scheduled Principal (Amortization) in month m = 1...RM	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
PRE_m^{SF} PRE_m^{MF}	Prepaying Fraction of original Loan Group in month m = 1...RM	section 3.6.3.4.4, Single Family Default and Prepayment Outputs and, section 3.6.3.5.4, Multifamily Default and Prepayment Outputs
DEF_m^{SF} DEF_m^{MF}	Defaulting Fraction of original Loan Group in month m = 1...RM	section 3.6.3.4.4, Single Family Default and Prepayment Outputs and, section 3.6.3.5.4, Multifamily Default and Prepayment Outputs
$PERF_m^{SF}$ $PERF_m^{MF}$	Performing Fraction of original Loan Group in month m = 1...RM	section 3.6.3.4.4, Single Family Default and Prepayment Outputs and, section 3.6.3.5.4, Multifamily Default and Prepayment Outputs
FDS	Float Days for Scheduled Principal and Interest	RBC Report
FDP	Float Days for Prepaid Principal	RBC Report
FER_m	Float Earnings Rate in month m = 1...RM	1 week Fed Funds Rate; section 3.3, Interest Rates
LS_m^{SF}	Loss Severity Rate in month m = 1...RM	section 3.6.3.6.5.2, Single Family and Multifamily Net Loss Severity Outputs
FREP	Fraction Repurchased (weighted average for Loan Group) (decimal)	RBC Report

3.6.3.7.3 Stress Test Whole Loan Cash Flow Procedures

[a] Calculate Stress Test whole loan cash flows using the following nine steps:

1. Calculate Scheduled Principal Received (SPR) in month m:

$$SPR_m = max\left(SP_m, 0\right) \times \left(PERF_m + PRE_m\right)$$

Note: Scheduled Principal Received is zero, not negative, when amortization is negative.

2. Calculate Net Interest Received (NIR) in month m. Any interest shortfall due to Negative Amortization reduces Net Yield directly. *Note:* NIR includes loans that default in month m, because lost interest is included in Credit Losses in step 6) of this section. (*See* section 3.6.3.6, Calculation of Single Family and Multifamily Mortgage Losses, of this Appendix.)

$$NIR_m = \left[\left(UPB_{m-1} \times \frac{NYR_m}{12}\right) + min\left(SP_m, 0\right)\right] \times PERF_{m-1}$$

3. Calculate Prepaid Principal Received (PPR) in month m:

$$PPR_m = UPB_m \times PRE_m$$

4. Calculate newly Defaulted Principal (DP) in month m:

$$DP_m = UPB_{m-1} \times DEF_m$$

5. Calculate Recovery Principal Received (RPR) on account of loans that Defaulted in month m:

$$RPR_m = UPB_{m-1} \times DEF_m \times \left(1 - LS_m\right)$$

6. Calculate Credit Losses (CL) on account of loans that Defaulted in month m:

$$CL_m = UPB_{m-1} \times DEF_m \times LS_m$$

In addition, if m = RM and $UPB_{RM} > 0$ then,

$$CL_{RM} = \left(UPB_{RM} \times PERF_{RM}\right) + \left(UPB_{RM-1} \times DEF_{RM} \times LS_{RM}\right),$$

and

$$PUPB_{RM} = 0$$

7. Calculate Performing Loan Group UPB in month m ($PUPB_m$), including $PUPB_0$.

Note: All loans are assumed to be performing in month 0; therefore $PUPB_0 = UPB_0$.

$$PUPB_m = UPB_m \times PERF_m$$

8. Calculate Total Principal Received (TPR) and Total Interest Received (TIR) in month m:

$$TPR_m = SPR_m + PPR_m + RPR_m$$

$$TIR_m = NIR_m$$

9. For Sold Loans, calculate the following cash flow components:

a. Guarantee Fee (GF) received in month m:

$$GF_m = UPB_{m-1} \times \frac{GFR}{12} \times \left(PERF_m + PRE_m\right)$$

b. Float Income (FI) received in month m:

$$FI_m = \left[\left(\left(SPR_m + NIR_m - GF_m\right) \times \frac{FDS}{365}\right) + \left(PPR_m \times \frac{FDP}{365}\right)\right] \times FER_m - PIS_m$$

Where:

Prepayment Interest Shortfall (PIS) in month m is:

$$PIS_m = UPB_{m-1} \times PRE_m \times \frac{PTR_m}{12} \quad \text{if } FDP \geq 30$$

$$PIS_m = UPB_{m-1} \times PRE_m \times \frac{PTR_m}{24} \quad \text{if } 15 \leq FDP < 30$$

3.6.3.7.4 Stress Test Whole Loan Cash Flow Outputs

The Whole Loan Cash Flows in Table 3–52 are used to prepare pro forma balance sheets and income statements for each month of the Stress Period (*see* section 3.10 Operations, Taxes and Accounting, of this Appendix). For Retained Loan groups, cash flows consist of Scheduled Principal, Prepaid Principal, Defaulted Principal, Credit Losses, and Interest. For Sold Loan groups, cash flow consists of Credit Losses, Guarantee Fees and Float Income. For Repurchased MBSs, cash flows are allocated according to the Fraction Repurchased. Table 3–52 covers all cases; for Retained Loans FREP = 1.0.

TABLE 3–52—OUTPUTS FOR WHOLE LOAN CASH FLOWS

Variable	Description
SPR_m	Scheduled Principal Received in month m = 1...RM
PPR_m	Prepaid Principal Received in month m = 1...RM
DP_m	Defaulted Principal in month m = 1...RM
CL_m	Credit Losses in month m = 1...RM
$PUPB_m$	Performing Loan Group UPB ig month m = 0...RM
TPR_m	Total Principal Received in month m = 1...RM
TIR_m	Total Interest Received in month m = 1...RM
GF_m	Guarantee Fees received in month m = 1...RM
FI_m	Float Income received in month m = 1...RM

TABLE 3–53—ADDITIONAL OUTPUTS FOR REPURCHASED MBSS

Variable	Quantity	Description
$STPR_m$	FREP × (SPR_m + PPR_m + DP_m)	Enterprise's portion of Total Principal Received in months m = 1...RM, reflecting its fractional ownership of the MBS
$STIR_m$	FREP × (TIR_m − GF_m)	Enterprise's portion of Total Interest Received (at the Pass-Through Rate) in months m = 1...RM, reflecting its fractional ownership of the MBS

TABLE 3–53—ADDITIONAL OUTPUTS FOR REPURCHASED MBSS—Continued

Variable	Quantity	Description
$SPUPB_m$	FREP × $PUPB_m$	Enterprise's portion of the Performing UPB of the repurchased MBS in months m = 0...RM, reflecting its fractional ownership of the MBS

3.6.3.8 Whole Loan Accounting Flows

3.6.3.8.1 Whole Loan Accounting Flows Overview

[a] For accounting purposes, cash flows are adjusted to reflect (1) the value over time of discounts, premiums and fees paid or received (Deferred Balances) when an asset was acquired; and (2) the fact that mortgage interest is paid in arrears, i.e. it is received in the month after it is earned. In the Stress Test calculations, payments are indexed by the month in which they are received. Therefore, interest received in month m was earned in month m − 1. However, principal is accounted for in the month received.

[b] Deferred Balances are amortized over the remaining life of the asset. Therefore, these calculations go beyond the end of the Stress Test if the Remaining Maturity (RM) is greater than the 120 months of the Stress Test. The projection of cash flows beyond the end of the Stress Test is discussed in the individual sections where the cash flows are first calculated. In general, for interest rate indexes, monthly Prepayment rates and monthly Default rates, the value for m = 120 is used for all months 120 < m ≤ RM, but LS = 0 for m > 120.

3.6.3.8.2 Whole Loan Accounting Flows Inputs

The inputs in Table 3–54 are required to compute Accounting Flows:

TABLE 3–54—INPUTS FOR WHOLE LOAN ACCOUNTING FLOWS

Variable	Description	Source
RM	Remaining Term to Maturity in months	RBC Report
UPD_0	Unamortized Premium (positive) or Discount (negative) (Deferred Balances) for the Loan Group at the start of the Stress Test	RBC Report
NYR_0	Net Yield Rate at time zero	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
$PUPB_m$	Performing Loan Group UPB in months m = 0...RM	section 3.6.3.7.4, Stress Test Whole Loan Cash Flow Outputs
PTR_0	Pass-Through Rate at time zero	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
$SPUPB_m$	Security Performing UPB in months m = 0...RM	section 3.6.3.7.4, Stress Test Whole Loan Cash Flow Outputs
$SUPD_0$	Security Unamortized Premium (positive) or Discount (negative) associated with the repurchase price of a Repurchased MBS (aggregate over all purchases of the same MBS)	RBC Report

3.6.3.8.3 Whole Loan Accounting Flows Procedures

3.6.3.8.3.1 Accounting for Retained and Sold Whole Loans

[a] Complete the following three steps to account for Retained and Sold loans:

1. Compute Allocated Interest in month m (AI^m) as follows:

$$AI_m = PUPB_{m-1} \times \frac{NYR_0}{12}$$

Note: Allocated Interest is used only to determine the allocation of Amortization Expense over time, not to generate actual cash flows)

2. Calculate the monthly Internal Rate of Return (IRR) that equates the adjusted cash flows (actual principal plus Allocated Interest) to the Initial Book Value (BV_0) of the Loan Group. A single IRR is used for all months m. Solve for IRR such that:

$$BV_0 = \sum_{m=1}^{RM} \frac{ACF_m}{\left(1 + IRR\right)^m}$$

Where:

$$BV_0 = PUPB_0 + UPD_0$$

$$ACF_m = AI_m - PUPB_m + PUPB_{m-1}$$

3. Calculate the monthly Amortization Expense for each month m:

a. If $BV_0 < 0$, or if $12 \times IRR > 1.0$ (100%), or if

$$BV_0 > \sum_{m=1}^{RM} ACF_m$$

then the full amount of UPD_0 is realized in the first month ($AE_1 = -UPD_0$)

b. Otherwise:

$$AE_m = \left(BV_{m-1} \times IRR\right) - AI_m \quad \text{if } PUPB_m > 0$$

$$AE_m = -UPD_{m-1} \text{ if } PUPB_m = 0$$

$$UPD_m = UPD_{m-1} + AE_m$$

$$BV_m = PUPB_m + UPD_m$$

3.6.3.8.3.2 Additional Accounting for Repurchased MBSs

[a] Complete the following three steps to account for Repurchased MBSs:

1. Compute Security Allocated Interest in month m (SAI_m) as follows:

$$SAI_m = SPUPB_{m-1} \times \frac{PTR_0}{12}$$

Note: Security Allocated Interest is used only to determine the allocation of Security Amortization Expense over time, not to generate actual cash flows.

2. Calculate the monthly Internal Rate of Return (IRR) that equates the adjusted cash flows (actual principal plus Allocated Interest) to the Initial Book Value (SBV_0) of the Loan Group. A single IRR is used for all months m. Solve for IRR such that:

$$SBV_0 = \sum_{m=1}^{RM} \frac{SACF_m}{\left(1 + IRR\right)^m}$$

Where:

$SBV_0 = SPUPB_0 + SUPD_0$

$SACF_m = SAI_m - SPUPB_m + SPUPB_{m-1}$

3. Calculate the monthly Security Amortization Expense for each month m:

a. If $SBV_0 < 0$, or if $12 \times IRR > 1.0$ (100%), or if

$$SBV_0 > \sum_{m=1}^{RM} SACF_m$$

then the full amount of $SUPD_0$ is realized in the first month ($SAE_1 = -SUPD_0$).

b. Otherwise:

$$SAE_m = (SBV_{m-1} \times IRR) - SAI_m$$
$$\text{if } SPUPB_m > 0$$
$$SAE_m = -SUPD_{m-1} \text{ if } SPUPB_m = 0$$
$$SUPD_m = SUPD_{m-1} + SAE_m$$
$$SBV_m = SPUPB_m + SUPD_m$$

3.6.3.8.4 Whole Loan Accounting Flows Outputs

Whole loan accounting flows outputs are set forth in Table 3–55. Amortization Expense for months m = 1...RM are used in section 3.10, Operations, Taxes, and Accounting, of this Appendix.

TABLE 3–55—OUTPUTS FOR WHOLE LOAN ACCOUNTING FLOWS

Variable	Description
AE_m	Amortization Expense for months m = 1...RM
SAE_m	Security Amortization Expense for months m = 1...RM

3.6.4 Final Whole Loan Cash Flow Outputs

The final outputs for section 3.6, Whole Loan Cash Flows, of this Appendix are as specified in Table 3–52, and Table 3–55.

3.7 Mortgage-Related Securities Cash Flows

3.7.1 Mortgage-Related Securities Overview

[a] Mortgage-Related Securities (MRSs) include Single Class MBSs, Multi-class MBSs (REMICs or Collateralized Mortgage Obligations (CMOs)), Mortgage Revenue Bonds (MRBs), and Derivative Mortgage Securities such as Interest-Only and Principal-Only Stripped MBSs. MBSs and Derivative Mortgage Securities are issued by the Enterprises, Ginnie Mae and private issuers. MRBs are issued by State and local governments or their instrumentalities. For computational purposes, certain Asset-Backed Securities (ABS) backed by mortgages (Mortgage ABSs backed by manufactured housing loans, second mortgages or home equity loans) are treated as REMICs in the Stress Test.

[b] Cash flows from Single Class MBSs represent the pass-through of all principal and interest payments, net of servicing and guarantee fees, on the underlying pools of mortgages. Cash flows from Multi-Class MBSs and Derivative Mortgage Securities represent a specified portion of the cash flows produced by an underlying pool of mortgages and/or Mortgage-Related Securities, determined according to rules set forth in offering documents for the securities. MRBs may have specific maturity schedules and call provisions, whereas MBSs have only expected maturities and, in most cases, no issuer call provision (other than "cleanup calls" if the pool balance becomes quite small). However, the timing of principal payments for MRBs is still closely related to that of their underlying mortgage collateral. The Stress Test treats most MRBs in a manner similar to single class MBSs. Finally, a small number of Enterprise and private label REMIC securities for which modeling information is not readily available and which are not modeled by a commercial information service (referred to as "miscellaneous MRS") are treated separately.

[c] In addition to reflecting the defaults of mortgage borrowers during the Stress Period, the Stress Test considers the possibility of issuer Default on Mortgage-Related Securities. Credit impairments throughout the Stress Period are based on the rating of these securities, and are modeled by reducing contractual interest payments and "writing down" principal. No Credit Losses are assumed for the Enterprise's own securities and Ginnie Mae securities (see section 3.5.3, Counterparty Defaults Procedures, of this Appendix).

[d] The calculation of cash flows for Mortgage-Related Securities requires information from the Enterprises identifying their holdings, publicly available information characterizing the securities, and information on the interest rate, mortgage performance and credit rating (for rated securities).

[e] Cash and accounting flows—monthly principal and interest payments and amortization expense—are produced for each month of the Stress Period for each security. (Principal- and interest-only securities pay principal or interest respectively.) These cash flows are input to the Operations, Taxes, and Accounting component of the Stress Test.

3.7.2 Mortgage-Related Securities Inputs

3.7.2.1 Inputs Specifying Individual Securities

3.7.2.1.1 Single Class MBSs

The information in Table 3–56 is required for single class MBSs held by an Enterprise at the start of the Stress Test. This information identifies the Enterprise's holdings and describes the MBS and the underlying mortgage loans.

TABLE 3–56—RBC REPORT INPUTS FOR SINGLE CLASS MBS CASH FLOWS

Variable	Description
Pool Number	A unique number identifying each mortgage pool
CUSIP Number	A unique number assigned to publicly traded securities by the Committee on Uniform Securities Identification Procedures
Issuer	Issuer of the mortgage pool
Original UPB Amount	Original pool balance multiplied by the Enterprise's percentage ownership.
Current UPB Amount	Initial Pool balance (at the start of the Stress Test), multiplied by the Enterprise's percentage ownership
Product Code	Mortgage product type for the pool
Security Rate Index	If the rate on the security adjusts over time, the index that the adjustment is based on
Unamortized Balance	The sum of all unamortized discounts, premiums, fees, commissions, etc. Components of the balance that amortize as a gain (like discounts) should be positive. Components that amortize as a cost or as a loss (premiums, fees, etc.) should be negative.
Wt Avg Original Amortization Term	Original amortization term of the underlying loans, in months (weighted average for underlying loans)
Wt Avg Remaining Term of Maturity	Remaining Maturity of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Age	Age of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Current Mortgage Interest rate	Mortgage Interest Rate of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Pass-Through Rate	Pass-Through Rate of the underlying loans at the start of the Stress Test (weighted average for underlying loans)
Wt Avg Original Mortgage Interest Rate	The current UPB weighted average Mortgage Interest Rate in effect at Origination for the loans in the pool

TABLE 3–56—RBC REPORT INPUTS FOR SINGLE CLASS MBS CASH FLOWS—Continued

Variable	Description
Security Rating	The most current rating issued by any Nationally Recognized Statistical Rating Organization (NRSRO) for this security, as of the reporting date. In the case of a "split" rating, the lowest rating should be given.
Wt Avg Gross Margin	Gross margin for the underlying loans (ARM MBS only) (weighted average for underlying loans)
Wt Avg Net Margin	Net margin (used to determine the security rate for ARM MBS) (weighted average for underlying loans)
Wt Avg Rate Reset Period	Rate reset period in months (ARM MBS only) (weighted average for underlying loans)
Wt Avg Rate Reset Limit	Rate reset limit up/down (ARM MBS only) (weighted average for underlying loans)
Wt Avg Life Interest Rate Ceiling	Maximum rate (lifetime cap) (ARM MBS only) (weighted average for underlying loans)
Wt Avg Life Interest Rate Floor	Minimum rate (lifetime floor) (ARM MBS only) (weighted average for underlying loans)
Wt Avg Payment Reset Period	Payment reset period in months (ARM MBS only) (weighted average for underlying loans).
Wt Avg Payment Reset Limit	Payment reset limit up/down (ARM MBS only) (weighted average for underlying loans)
Wt Avg Lookback Period	The number of months to look back from the interest rate change date to find the index value that will be used to determine the next interest rate (ARM MBS only) (weighted average for underlying loans)
Wt Avg Negative Amortization Cap	The maximum amount to which the balance can increase before the payment is recast to a fully amortizing amount. It is expressed as a fraction of the original UPB. (ARM MBS only) (weighted average for underlying loans)
Wt Avg Initial Interest Rate Period	Number of months between the loan origination date and the first rate adjustment date (ARM MBS only) (weighted average for underlying loans)
Wt Avg Unlimited Payment Reset Period	Number of months between unlimited payment resets i.e., not limited by payment caps, starting with Origination date (ARM MBS only) (weighted average for underlying loans)
Notional Flag	Indicates that amounts reported in Original UPB Amount and Current UPB Amount are notional
UPB Scale Factor	Factor applied to the current UPB that offsets any timing adjustments between the security level data and the Enterprise's published financials
Whole Loan Modeling Flag	Indicates that the Current UPB Amount and Unamortized Balance associated with this Repurchased MBS are included in the Wt Avg Percent Repurchased and Security Unamortized Balance fields
FAS 115 Classification	The financial instrument's classification according to FAS 115
$HPGR_K$	Vector of House Price Growth Rates for quarters q=1...40 of the Stress Period.

3.7.2.1.2 Multi-Class MBSs and Derivative Mortgage Securities

[a] The information in Table 3–57 is required for Multi-Class MBSs and Derivative Mortgage Securities held by an Enterprise at the start of the Stress Test. This information identifies the MBS and an Enterprise's holdings.

TABLE 3–57—RBC REPORT INPUTS FOR MULTI-CLASS AND DERIVATIVE MBS CASH FLOWS

Variable	Description
CUSIP Number	A unique number assigned to publicly traded securities by the Committee on Uniform Securities Identification Procedures
Issuer	Issuer of the security: FNMA, FHLMC, GNMA or other
Original Security Balance	Original principal balance of the security (notional amount for Interest-Only securities) at the time of issuance, multiplied by the Enterprise's percentage ownership
Current Security Balance	Initial principal balance, or notional amount, at the start of the Stress Period multiplied by the Enterprise's percentage ownership
Current Security Percentage Owned	The percentage of a security's total current balance owned by the Enterprise
Unamortized Balance	The sum of all unamortized discounts, premiums, fees, commissions, etc. Components of the balance that amortize as a gain (like discounts) should be positive. Components that amortize as a cost or as a loss (premiums, fees, etc.) should be negative.

[b] The Stress Test requires sufficient information about the cash flow allocation rules among the different classes of a Multi-Class MBS to determine the cash flows for the individual class(es) owned by an Enterprise, including descriptions of the component classes of the security, the underlying collateral, and the rules directing cash flows to the component classes. This information is obtained from offering documents or securities data services. In the Stress Test, this information is used either as an input to a commercial modeling service or, for securities that are not so modeled, to derive an approximate modeling treatment as described more fully in this section.

[c] If a Derivative Mortgage Security is itself backed by one or more underlying

securities, sufficient information is required for each underlying security as described in the preceding paragraph.

3.7.2.1.3 Mortgage Revenue Bonds and Miscellaneous MRSs

[a] The Stress Test requires two types of information for Mortgage Revenue Bonds and miscellaneous MRS held by an Enterprise at the start of the Stress Test: information identifying the Enterprise's holdings and the contractual terms of the securities. The inputs required for these instruments are set forth in Table 3–58.

TABLE 3–58—RBC REPORT INPUTS FOR MRBS AND DERIVATIVE MBS CASH FLOWS

Variable	Description
CUSIP Number	A unique number assigned to publicly traded securities by the Committee on Uniform Securities Identification Procedures
Original Security Balance	Original principal balance, multiplied by the Enterprise's percentage ownership
Current Security Balance	Initial principal balance (at start of Stress Period), multiplied by the Enterprise's percentage ownership
Unamortized Balance	The sum of all unamortized discounts, premiums, fees, commissions, etc. Components of the balance that amortize as a gain (like discounts) should be positive. Components that amortize as a cost or as a loss (premiums, fees, etc.) should be negative.
Issue Date	The Issue Date of the security
Maturity Date	The stated Maturity Date of the security
Security Interest Rate	The rate at which the security earns interest, as of the reporting date
Principal Payment Window Starting Date, Down-Rate Scenario	The month in the Stress Test that principal payment is expected to start for the security under the statutory "down" interest rate scenario, according to Enterprise projections
Principal Payment Window Ending Date, Down-Rate Scenario	The month in the Stress Test that principal payment is expected to end for the security under the statutory "down" interest rate scenario, according to Enterprise projections
Principal Payment Window Starting Date, Up-Rate Scenario	The month in the Stress Test that principal payment is expected to start for the security under the statutory "up" interest rate scenario, according to Enterprise projections
Principal Payment Window Ending Date, Up-Rate Scenario	The month in the Stress Test that principal payment is expected to end for the security under the statutory "up" interest rate scenario, according to Enterprise projections
Security Rating	The most current rating issued by any Nationally Recognized Statistical Rating Organization (NRSRO) for this security, as of the reporting date. In the case of a "split" rating, the lowest rating should be given.
Security Rate Index	If the rate on the security adjusts over time, the index on which the adjustment is based
Security Rate Index Coefficient	If the rate on the security adjusts over time, the coefficient is the number used to multiply by the value of the index
Security Rate Index Spread	If the rate on the security adjusts over time, the spread is added to the value of the index multiplied by the coefficient to determine the new rate
Security Rate Adjustment Frequency	The number of months between rate adjustments
Security Interest Rate Ceiling	The maximum rate (lifetime cap) on the security
Security Interest Rate Floor	The minimum rate (lifetime floor) on the security

[b] The Payment Window Starting and Ending Dates are projected by the Enterprise on the basis of prospectus information or simulations from a dealer in the securities or other qualified source, such as the structured finance division of an accounting firm, for the two statutory scenarios.

3.7.2.2 Interest Rate Inputs

Interest rates projected for each month of the Stress Period are used to calculate principal amortization and interest payments for ARM MBSs and MRBs, and for Derivative Mortgage Securities with indexed coupon rates. This information is produced in section 3.3, Interest Rates, of this Appendix.

3.7.2.3 Mortgage Performance Inputs

Default and Prepayment rates for the loans underlying a single- or multiclass MBS are computed according to the characteristics of the loans as specified in this section 3.7.2, Mortgage-Related Securities Inputs. LTV and Census Region are not uniquely specified for the loans underlying a given security; instead, the Prepayment and Default rates are averaged over all LTV categories, weighted according to the distribution of LTVs given in Table 3–59. (This weighting applies to Time Zero, i.e., the start of the Stress Test; the weightings will change over time as individual LTV groups pay down at different rates. *See* section 3.7.3, Mortgage-Related Securities Procedures, of this Appendix.) Instead of Census Division, the national average HPI is used for all calculations in this section.

TABLE 3–59—AGGREGATE ENTERPRISE AMORTIZED ORIGINAL LTV ($AOLTV_0$) DISTRIBUTION [1]

Original LTV	UPB Distribution	Wt Avg AOLTV for Range
00<LTV<=60	17.00%	48.35%
60<LTV<=70	14.15%	66.35%
70<LTV<=75	14.99%	73.81%
75<LTV<=80	26.84%	79.30%
80<LTV<=90	14.78%	88.31%
90<LTV<=95	10.89%	94.67%
95<LTV<=100	1.35%	97.51%
100<LTV	0.00%	100.02%

[1] Source: Combined Enterprise Portfolios as of the second quarter, 2000.

Note: Amortized Original LTV (also known as the "current-loan-to-original-value" ratio) is the Original LTV adjusted for the change in UPB but not for changes in property value. Because of its small size the LTV>100 group is not used in the calculation.

3.7.2.4 Third-Party Credit Inputs

For securities not issued by the Enterprise or Ginnie Mae, issuer Default risk is reflected by haircutting the instrument cash flows based on the rating of the security, as described in section 3.5, Counterparty Defaults, of this Appendix.

3.7.3 Mortgage-Related Securities Procedures

The following sections describe the calculations for (1) single class MBSs, (2) Multi-Class MBSs and derivative mortgage securities, and (3) MRBs and miscellaneous MRS.

3.7.3.1 Single Class MBSs

[a] The calculation of cash flows for single class MBSs is based on the procedures outlined earlier in section 3.6, Whole Loan Cash Flows, of this Appendix. The collateral (i.e., the mortgage pool) underlying each MBS is treated as one single family Loan Group with characteristics equal to the weighted average characteristics of the underlying loans.

[b] For each MBS, compute the scheduled cash flows specified in Table 3–33, as directed in section 3.6.3.3.3, Mortgage Amortization Schedule Procedures of this Appendix, with the following exceptions and clarifications:

1. The Net Yield Rate (NYR) is not used in the MBS calculation. Instead, the Pass-Through Rate (for Fixed-Rate MBSs) and INDEX + Net Margin (for Adjustable-Rate MBSs) are used.
2. PMT is not a direct input for MBSs. (That is, it is not specified in the RBC Report.) Instead, compute PMT from UPB, MIR and remaining amortizing term $AT - A_0$, using the standard mortgage payment formula (and update it as appropriate for ARMs, as described in the Whole Loan calculation).
3. For ARM MBS, interest rate and monthly payment adjustments for the underlying loans are calculated in the same manner as they are for ARM Loan Groups.
4. MBSs backed by Biweekly mortgages, GPMs, TPMs, GEMs, and Step mortgages are mapped into mortgage types as described in section 3.6, Whole Loan Cash Flows, of this Appendix.

[c] Use the Loan Group characteristics to generate Default and Prepayment rates as described in section 3.6.3.4.3, Single Family Default and Prepayment Procedures, of this Appendix. For the following explanatory variables that are not specified for MBSs, proceed as follows:

1. For fixed rate Ginnie Mae certificates and the small number of multifamily MBS held by the Enterprises, use the model coefficients for Government Loans. For loans underlying Ginnie Mae ARM certificates, use the conventional ARM model coefficients.
2. Set Investor Fraction (IF) = 7.56%
3. Set Relative Loan Size (RLS) = 1.0. For Ginnie Mae certificates, use RLS = 0.75.
4. For LTV_{ORIG} of the underlying loans: Divide the MBS's single weighted average Loan Group into several otherwise identical Loan Groups ("LTV subgroups"), one for each Original LTV range specified in Table 3–59. UPB_0 for each of these LTV subgroups is the specified percentage of the aggregate UPB_0. $AOLTV_0$ for each subgroup is also specified in Table 3–59. For Ginnie Mae certificates, use only the 95 < LTV ≤ 100 LTV category and its associated weighted average LTV.
5. For each LTV subgroup, compute LTV_0 as follows:

$$LTV_0 = AOLTV_0 \times \left(\frac{HPI_{ORIG}}{HPI_{AQ'_0}} \right)^{\frac{AQ_0}{AQ'_0}}$$

Where:

HPI = the national average HPI figures in Table 3–60 (updated as necessary from subsequent releases of the OFHEO HPI).

A_0 = weighted average age in months of the underlying loans immediately prior to the start of the Stress Test.

AQ_0 = weighted average age in quarters of the underlying loans immediately prior to the start of the Stress Test. $AQ_0 = int\ (A_0/3)$.

$AQ'_0 = AQ_0$ minus the number of whole quarters between the most recently available HPI at the start of the Stress Test and time zero.

If $AQ'_0 \leq 0$, then $LTV_0 = AOLTV_0$.

TABLE 3–60—HISTORICAL NATIONAL AVERAGE HPI [1]

Quarter [2]	HPI	Quarter	HPI	Quarter	HPI
1975Q1	62.45	1983Q4	116.63	1992Q3	177.94
1975Q2	63.50	1984Q1	118.31	1992Q4	178.71
1975Q3	62.85	1984Q2	120.40	1993Q1	178.48
1975Q4	63.92	1984Q3	121.68	1993Q2	179.89
1976Q1	65.45	1984Q4	122.94	1993Q3	180.98
1976Q2	66.73	1985Q1	124.81	1993Q4	182.38
1976Q3	67.73	1985Q2	126.91	1994Q1	183.35
1976Q4	68.75	1985Q3	129.38	1994Q2	183.95
1977Q1	70.70	1985Q4	131.20	1994Q3	184.43
1977Q2	73.34	1986Q1	133.77	1994Q4	184.08
1977Q3	75.35	1986Q2	136.72	1995Q1	184.85
1977Q4	77.71	1986Q3	139.37	1995Q2	187.98
1978Q1	79.96	1986Q4	141.99	1995Q3	190.81
1978Q2	82.75	1987Q1	145.07	1995Q4	192.42
1978Q3	85.39	1987Q2	147.88	1996Q1	194.80
1978Q4	87.88	1987Q3	150.21	1996Q2	195.00
1979Q1	91.65	1987Q4	151.57	1996Q3	195.78
1979Q2	94.26	1988Q1	154.26	1996Q4	197.48
1979Q3	98.24	1988Q2	157.60	1997Q1	199.39

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TABLE 3–60—HISTORICAL NATIONAL AVERAGE HPI [1]—Continued

Quarter [2]	HPI	Quarter	HPI	Quarter	HPI
1979Q4	98.20	1988Q3	159.25	1997Q2	201.00
1980Q1	100.00	1988Q4	160.96	1997Q3	203.94
1980Q2	100.86	1989Q1	163.10	1997Q4	206.97
1980Q3	104.27	1989Q2	165.33	1998Q1	210.09
1980Q4	104.90	1989Q3	169.09	1998Q2	212.37
1981Q1	105.69	1989Q4	170.74	1998Q3	215.53
1981Q2	107.85	1990Q1	171.42	1998Q4	218.09
1981Q3	109.21	1990Q2	171.31	1999Q1	220.80
1981Q4	109.38	1990Q3	171.85	1999Q2	224.32
1982Q1	111.02	1990Q4	171.03	1999Q3	228.46
1982Q2	111.45	1991Q1	172.41	1999Q4	232.41
1982Q3	110.91	1991Q2	173.14	2000Q1	235.91
1982Q4	111.96	1991Q3	173.14	2000Q2	240.81
1983Q1	114.12	1991Q4	175.46	2000Q3	245.15
1983Q2	115.33	1992Q1	176.62		
1983Q3	116.15	1992Q2	176.26		

[1] These numbers are updated as necessary from subsequent releases of the HPI after 2000Q3.
[2] *Note:* If the underlying loans were originated before 1975, use the HPI from 1975Q1 as HPI_{ORIG}.

6. For each quarter q of the Stress Test, use UPB_q and the house price growth rates from the Benchmark regional time period:

$$LTV_q = LTV_0 \times \frac{\left(\frac{UPB_{m=3q-3}}{UPB_0}\right)}{exp\sum_{k=1}^{q} HPGR_K}$$

7. Generate Default, Prepayment and Performance vectors PRE_m, DEF_m and $PERF_m$ for each LTV subgroup. When LTV_{ORIG} is used as a categorical variable, use the corresponding range defined for each LTV subgroup in Table 3–59. For LTV subgroup 95 < LTV < 100, use 90 < LTV_{ORIG} in Table 3–35.

[d] For each LTV subgroup, do not compute any Loss Severity or Credit Enhancement amounts. MBS investors receive the full UPB of defaulted loans.

[e] Compute Total Principal Received (TPR), Total Interest Received (TIR), and Amortization Expense (AE) for each LTV subgroup as directed in section 3.6.3.7.3, Stress Test Whole Loan Cash Flow Procedures and section 3.6.3.8.3, Whole Loan Accounting Flows Procedures, of this Appendix, with the following exception:

1. For Net Interest Received (NIR), do not use the Net Yield Rate (NYR_m). Instead, use the Pass-Through Rate (PTR_m) for Fixed Rate Loans, and $INDEX_{m-1-LB}$ + Wt Avg Net Margin, subject to rate resets as described in section 3.6.3.3.3, Mortgage Amortization Schedule Procedures, [a]1.b.3) of this Appendix, for ARMs.
2. Calculate Recovery Principal Received using a Loss Severity rate of zero (LS = 0).

[f] Sum over the LTV subgroups to obtain the original MBS's TPR, TIR and AE for m = 1...RM.

[g] Apply counterparty Haircuts in each month m as follows:

1. Compute:

$$HctFac_m = \frac{m'}{60} \times MaxHct(R)$$

Where:

$m' = min\,(m, 60)$
R = MBS credit rating

2. Compute:

$$HctAmt_m = (TPR_m + TIR_m) + HctFac_m$$

[h] The resulting values, for each MBS, of TPR, TIR, AE, and HctAmt for months m = 1...RM are used in the section 3.10, Operations, Taxes, and Accounting, of this Appendix.

3.7.3.2 REMICs and Strips

[a] Cash flows for REMICs and Strips are generated according to standard securities industry procedures, as follows:

1. From the CUSIP number of the security, identify the characteristics of the underlying collateral. This is facilitated by using a securities data service.
2. Calculate the cash flows for the underlying collateral in the manner described for whole loans and MBS, based on Stress Test interest, Default, and Prepayment rates appropriate for the collateral.
3. Calculate cash flows for the Multiclass MBS using the allocation rules specified in the offering materials.
4. Determine the cash flows attributable to the specific securities held by an Enterprise, applying the Enterprise's ownership percentage.
5. For securities not issued by the Enterprise or Ginnie Mae, reduce cash flows by applying the Haircuts specified in section 3.5, Counterparty Defaults, of this Appendix.

[b] If a commercial information service is used for steps [a] 1 through 4 of this section, the information service may model mortgage product types beyond those described for Whole Loans in section 3.6, Whole Loan Cash Flows, and ARM indexes in addition to those listed in section 3.3, Interest Rates, of this Appendix. In such cases, the cash flows used are generated from the actual data used by the information service for the underlying security.

3.7.3.3 Mortgage Revenue Bonds and Miscellaneous MRS

[a] Cash flows for mortgage revenue bonds and miscellaneous MRS are computed as follows:

1. From the start of the Stress Test until the first principal payment date at the start of the Principal Payment Window, the security pays coupon interest at the Security Interest Rate, adjusted as necessary according to the Security Rate Index and Adjustment information in Table 3–58, but pays no principal.
2. During the Principal Payment Window, the security pays principal and interest equal to the aggregate cash flow from a level pay mortgage whose term is equal to the length of the Principal Payment Window and whose interest rate is the Security Interest Rate. If the Security Interest Rate is zero (as in the case of zero-coupon MRBs), then the security pays principal only in level monthly payment amounts equal to the Current Security Balance divided by the length of the Principal Payment Window.
3. For securities not issued by the Enterprise or Ginnie Mae, reduce cash flows by applying the Haircuts specified in section 3.5, Counterparty Defaults, of this Appendix.

3.7.3.4 Accounting

Deferred balances are amortized as described in section 3.6.3.8, Whole Loan Accounting Flows, of this Appendix, using the Pass-Through Rate (or Security Interest Rate for MRBs) rather than the Net Yield Rate. For principal-only strips and zero-coupon MRBs, assume Allocated Interest is zero. If the conditions in section 3.6.3.8.3.1[a]3.a. of this Appendix, apply, do not realize the full amount in the first month. Instead, amortize the deferred balances using a straight line method over a period from the start of the Stress Test through the latest month with a non-zero cash flow.

3.7.4 Mortgage-Related Securities Outputs

[a] The outputs for MBS and MRS Cash Flows, found in Table 3–55, are analogous to those specified for Whole Loans in section 3.6.4, Final Whole Loan Cash Flow Outputs, of this Appendix, which are produced for each security for each month.

TABLE 3–61—OUTPUTS FOR MORTGAGE-RELATED SECURITIES

Variable	Description
TPR_m	Total Principal Received in month m = 1...RM
TIR_m	Total Interest Received in month m = 1...RM
$HctAmt_m$	Total Haircut amount in month m = 1...RM
AE_m	Amortization Expense for months m = 1...RM

[b] These outputs are used as inputs to the Operations, Taxes, and Accounting component of the Stress Test, which prepares pro forma financial statements. *See* section 3.10, Operations, Taxes, and Accounting, of this Appendix.

3.8 Nonmortgage Instrument Cash Flows

3.8.1 Nonmortgage Instrument Overview

[a] The Nonmortgage Instrument Cash Flows component of the Stress Test produces instrument level cash flows and accounting flows (accruals and amortization) for the 120 months of the Stress Test for:

1. Debt
2. Nonmortgage investments
3. Guaranteed Investment Contracts (GICs)
4. Preferred stock
5. Derivative contracts
   a. Debt-linked derivative contracts
   b. Investment-linked derivative contracts
   c. Mortgage-linked derivative contracts
   d. Derivative contracts that hedge forecasted transactions
   e. Non-linked derivative contracts

[b] Although mortgage-linked derivative contracts are usually linked to mortgage assets rather than nonmortgage instruments, they are treated similarly to debt-linked and investment-linked derivative contracts and, therefore, are covered in this section.

[c] Debt, nonmortgage investments, and preferred stock cash flows include interest (or dividends for preferred stock) and principal payments or receipts, while debt-linked, investment-linked, and mortgage-linked derivative contract cash flows are composed of interest payments and receipts only. Debt, nonmortgage investments, and preferred stock are categorized in one of six classes [2] as shown in Table 3–62.

TABLE 3–62—DEBT, NON-MORTGAGE INVESTMENTS, AND PREFERRED STOCK CLASSIFICATIONS

Classification	Description
Fixed-Rate Bonds or Preferred Stock	Fixed-rate securities that pay periodic interest or dividends
Floating-Rate Bonds or Preferred Stock	Floating-rate securities that pay periodic interest or dividends
Fixed-Rate Asset-Backed Securities	Fixed-rate securities collateralized by nonmortgage assets
Floating-Rate Asset-Backed Securities	Floating-rate securities collateralized by nonmortgage assets
Short-Term Instruments	Fixed-rate, short-term securities that are not issued at a discount and which pay principal and interest only at maturity
Discount Instruments	Securities issued below face value that pay a contractually fixed amount at maturity

[d] Derivative contracts consist of interest rate caps, floors, and swaps. The primary difference between financial instruments and derivative contracts, in terms of calculating cash flows, is that interest payments on financial instruments are based on principal amounts that are eventually repaid to creditors, whereas interest payments on derivative contracts are based on notional amounts that never change hands. Debt- and investment-linked derivative contracts are categorized in one of seven classes [3] as shown in Table 3–63:

TABLE 3–63—DEBT- AND INVESTMENT-LINKED DERIVATIVE CONTRACT CLASSIFICATION

Classification	Description of Contract
Basis Swap	Floating-rate interest payments are exchanged based on different interest rate indexes
Fixed-Pay Swap	Enterprise pays a fixed interest rate and receives a floating interest rate
Floating-Pay Swap	Enterprise pays a floating interest rate and receives a fixed interest rate
Long Cap	Enterprise receives a floating interest rate when the interest rate to which it is indexed exceeds a specified level (strike rate)
Short Cap	Enterprise pays a floating interest rate when the interest rate to which it is indexed exceeds the strike rate
Long Floor	Enterprise receives a floating interest rate when the interest rate to which it is indexed falls below the strike rate
Short Floor	Enterprise pays a floating interest rate when the interest rate to which it is indexed falls below the strike rate

[2] In addition to the items listed here, there are instruments that do not fit into these categories. Additional input information and calculation methodologies may be required for these instruments.

[3] *Ibid.*

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[e] Mortgage-linked swaps are similar to debt-linked swaps except that the notional amount of a mortgage-linked swap amortizes based on the performance of certain MBS pools. Mortgage-linked derivative contracts are divided into two classes[4] as shown in Table 3–64:

TABLE 3–64—MORTGAGE-LINKED DERIVATIVE CONTRACT CLASSIFICATION

Classification	Description of Contract
Fixed-Pay Amortizing Swaps	Enterprise pays a fixed interest rate and receives a floating interest rate, both of which are based on a declining notional balance
Floating-Pay Amortizing Swaps	Enterprise pays a floating interest rate and receives a fixed interest rate, both of which are based on a declining notional balance

3.8.2 Nonmortgage Instrument Inputs

[a] The Nonmortgage Instrument Cash Flows component of the Stress Test requires numerous inputs. Instrument level inputs provided by the Enterprises in the RBC Report are listed in Table 3–65. Many instrument classes require simulated Interest Rates because their interest payments adjust periodically based on rates tied to various indexes. These rates are generated as described in section 3.3, Interest Rates, of this Appendix.

TABLE 3–65—INPUT VARIABLES FOR NONMORTGAGE INSTRUMENT CASH FLOWS

Data Elements	Description
Amortization Methodology Code	Enterprise method of amortizing deferred balances (e.g., straight line)
Asset ID	CUSIP or Reference Pool Number identifying the asset underlying a derivative position
Asset Type Code	Code that identifies asset type used in the commercial information service (e.g. ABS, Fannie Mae pool, Freddie Mac pool)
Associated Instrument ID	Instrument ID of an instrument linked to another instrument
Coefficient	Indicates the extent to which the coupon is leveraged or de-leveraged
Compound Indicator	Indicates if interest is compounded
Compounding Frequency	Indicates how often interest is compounded
Counterparty Credit Rating	NRSRO's rating for the counterparty
Counterparty Credit Rating Type	An indicator identifying the counterparty's credit rating as short-term ('S') or long-term ('L')
Counterparty ID	Enterprise counterparty tracking ID
Country Code	Standard country codes in compliance with Federal Information Processing Standards Publication 10–4
Credit Agency Code	Identifies NRSRO (e.g., Moody's)
Current Asset Face Amount	Current face amount of the asset underlying a swap
Current Coupon	Current coupon or dividend rate of the instrument
Current Unamortized Discount	Current unamortized premium or unaccreted discount of the instrument
Current Unamortized Fees	Current unamortized fees associated with the instrument
Current Unamortized Hedge	Current unamortized hedging gains or losses associated with the instrument
Current Unamortized Other	Any other unamortized items originally associated with the instrument
CUSIP_ISIN	CUSIP or ISIN Number identifying the instrument
Day Count	Day count convention (e.g. 30/360)
End Date	The last index repricing date
EOP Principal Balance	End of Period face, principal or notional, amount of the instrument
Exact Representation	Indicates that an instrument is modeled according to its contractual terms
Exercise Convention	Indicates option exercise convention (e.g., American Option)
Exercise Price	Par = 1.0; Options
First Coupon Date	Date first coupon is received or paid
Index Cap	Indicates maximum index rate
Index Floor	Indicates minimum index rate
Index Reset Frequency	Indicates how often the interest rate index resets on floating-rate instruments

[4] *Ibid.*

TABLE 3–65—INPUT VARIABLES FOR NONMORTGAGE INSTRUMENT CASH FLOWS—Continued

Data Elements	Description
Index Code	Indicates the interest rate index to which floating-rate instruments are tied (e.g., LIBOR)
Index Term	Point on yield curve, expressed in months, upon which the index is based
Instrument Credit Rating	NRSRO credit rating for the instrument
Instrument Credit Rating Type	An indicator identifying the instruments credit rating as short-term ('S') or long-term ('L').
Instrument ID	An integer used internally by the Enterprise that uniquely identifies the instrument
Interest Currency Code	Indicates currency in which interest payments are paid or received
Interest Type Code	Indicates the method of interest rate payments (e.g., fixed, floating, step, discount)
Issue Date	Indicates the date that the instrument was issued
Life Cap Rate	The maximum interest rate for the instrument throughout its life
Life Floor Rate	The minimum interest rate for the instrument throughout its life
Look-Back Period	Period from the index reset date, expressed in months, that the index value is derived
Maturity Date	Date that the instrument contractually matures
Notional Indicator	Identifies whether the face amount is notional
Instrument Type Code	Indicates the type of instrument to be modeled (e.g., ABS, Cap, Swap)
Option Indicator	Indicates if instrument contains an option
Option Type	Indicates option type (e.g., Call option)
Original Asset Face Amount	Original face amount of the asset underlying a swap
Original Discount	Original discount or premium amount of the instrument
Original Face	Original face, principal or notional, amount of the instrument
Original Fees	Fees associated with the instrument at inception
Original Hedge	Hedging gain or loss to be amortized or accreted at inception
Original Other	Any other amounts originally associated with the instrument to be amortized or accreted
Parent Entity ID	Enterprise internal tracking ID for parent entity
Payment Amount	Interest payment amount associated with the instrument (reserved for complex instruments where interest payments are not modeled)
Payment Frequency	Indicates how often interest payments are made or received
Performance Date	"As of" date on which the data is submitted
Periodic Adjustment	The maximum amount that the interest rate for the instrument can change per reset
Position Code	Indicates whether the Enterprise pays or receives interest on the instrument
Principal Currency Code	Indicates currency in which principal payments are paid or received
Principal Factor Amount	EOP Principal Balance expressed as a percentage of Original Face
Principal Payment Date	A valid date identifying the date that principal is paid
Settlement Date	A valid date identifying the date the settlement occurred
Spread	An amount added to an index to determine an instrument's interest rate
Start Date	The date, spot or forward, when some feature of a financial contract becomes effective (e.g., Call Date), or when interest payments or receipts begin to be calculated
Strike Rate	The price or rate at which an option begins to have a settlement value at expiration, or, for interest-rate caps and floors, the rate that triggers interest payments
Submitting Entity	Indicates which Enterprise is submitting information
Trade ID	Unique code identifying the trade of an instrument
Transaction Code	Indicates the transaction that an Enterprise is initiating with the instrument (e.g. buy, issue reopen)
Transaction Date	A valid date identifying the date the transaction occurred
UPB Scale Factor	Factor applied to UPB to adjust for timing differences

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TABLE 3–65—INPUT VARIABLES FOR NONMORTGAGE INSTRUMENT CASH FLOWS—Continued

Data Elements	Description
Unamortized Balances Scale Factor	Factor applied to Unamortized Balances to adjust for timing differences

[b] In addition to the inputs in Table 3–65, other inputs may be required depending on the characteristics of the instrument modeled. For example, the mortgage-linked derivative contract cash flows require inputs describing the performance of the mortgage assets to which they are linked, including Single Family Default and Prepayment rates (*See* section 3.6.3.4, Single Family Default and Prepayment Rates, of this Appendix). Mortgage-linked derivative contract identification numbers (Asset IDs) are used to link the derivative contract to the required pool information that will be used to calculate the cash flows of the corresponding swap.

3.8.3 Nonmortgage Instrument Procedures

In general, non mortgage instruments are modeled according to their terms. The general methodology for calculating cash flows for principal and interest payments is described in this section and is not intended to serve as definitive text for calculating all possible present and future complex instruments. As mentioned in section 3.8.2, Nonmortgage Instrument Inputs, of this Appendix, there are some instruments that may require additional input information and calculation methodologies. Simplifying assumptions are made for some instrument terms until they can be modeled more precisely.

3.8.3.1 Apply Specific Calculation Simplifications

[a] In order to produce cash flows, accruals, or amortization of deferred balances, the following simplifications are used for all instruments to which they apply. Should the language in any other portion of section 3.8, Nonmortgage Instrument Cash Flows, of this Appendix, seem to conflict with a statement in this section, the language in section 3.8.3.1 takes precedence.

1. For day count methodology, use one of three methodologies 30/360, Actual/360, and Actual/365. All special day counts (i.e. Actual/366 B, Actual/366 S, Actual/366 E, and Actual/Actual) are treated as Actual/365.
2. Set the first index reset date to the First Coupon Date. If the Issue Date is later than the start of the Stress Test, use the Current Coupon Rate to determine the interest paid from Issue Date to First Coupon Date. When a calculation requires a rate that occurs before the start of the Stress Test, use the Current Coupon Rate. This applies to interest accrued but not paid for the start of the Stress test and to rate indexes where applying a Look Back Period requires data prior to the start of the Stress Test.
   a. If periodic caps are zero, change them to 999.99; If periodic floors are greater than 1, change them to zero.
   b. For instruments which have principal balance changes other than those caused by compounding interest, perform calculations as if the principal changes occur only on coupon dates (coupon dates on the fixed-rate leg for swaps) on or later than the first principal change date.
   c. When using a rate index for a specified term in an option exercise rule or as an index, assume that rate is appropriate for the calculation. Do not convert from bond equivalent yield to another yield form for a discount, monthly pay, quarterly pay, semi-annual pay or annual pay instrument.
3. When applying the option exercise rule:
   a. For zero coupon and discount securities, and zero coupon swaps, evaluate option exercise only on dates listed in the instrument's option exercise schedule. For all other instruments, evaluate option exercise only on coupon dates (coupon dates on the fixed-rate leg for swaps) later than the first option exercise date.
   b. Assume all call/put premiums/discounts are zero except for zero coupon instruments (including zero coupon swaps and discount notes). For these exceptions, when calculating a rate to compare with the Enterprise Cost of Funds, use the yield to maturity calculated by equating the face or notional amount plus the unamortized discount at the start of the Stress Test to the present value of the face or notional amount at maturity.
   c. Assume basis swaps and floating rate securities have no cancel, put, or call options.
   d. Haircuts are not applied to forward starting swaps.

3.8.3.2 Determine the Timing of Cash Flows

Project payment dates from the payment date immediately prior to the start of the stress test according to the Payment Frequency, First Coupon Date, and Maturity Date.

3.8.3.3 Obtain the Principal Factor Amount at Each Payment Date

[a] Where there is no amortization or prepayment of principal, the Principal Factor Amount is 1.0 for each payment date until the stated Maturity Date, when it becomes zero.

[b] For debt and debt-linked derivative contracts that amortize, either a principal or a notional amortization schedule must be provided. If amortization information is unavailable, then the Principal Factor Amount is 1.0 for each payment date until the stated Maturity Date, when it becomes zero.

[c] Monthly prepayment rates are 3.5 percent for fixed-rate and 2.0 percent for floating-rate asset-backed securities. Furthermore, asset-backed securities are modeled through a commercial information service where possible. Instruments that cannot be modeled through the commercial information service are treated in accordance with section 3.9, Alternative Modeling Treatments, of this Appendix.

[d] In the case of mortgage-linked derivative contracts, notional amounts are amortized based on the characteristics of the underlying pool in the manner described for principal balances of mortgage-backed securities held by an Enterprise in section 3.7, Mortgage-Related Securities Cash Flows, of this Appendix.

3.8.3.4 Calculate the Coupon Factor

The Coupon Factor applicable to a given period, which applies to dividends also, depends on day count conventions used to calculate the interest payments for the instrument. For example, the Coupon Factor for a bond that pays interest quarterly based on a non-compounded 30/360 convention would be 3 (representing the number of months in a quarter) times 30 days divided by 360 days, or 0.25. Table 3–66 lists the most common day count conventions.

TABLE 3–66—DAY COUNT CONVENTIONS

Convention	Coupon Factor Calculation
30/360	Number of days between two payment dates assuming 30 days per month/360
Actual/360	Number of days between two payment dates/360
Actual/365	Number of days between two payment dates/365
Actual/Actual	Number of days between two payment dates/Number of days in the year

3.8.3.5 Project Principal Cash Flows or Changes in the Notional Amount

For all financial instruments, principal outstanding for the current period is determined by multiplying the Original Face by the Principal Factor Amount for the current period. The principal payment equals the amount of principal outstanding at the end of the previous period less the principal outstanding at the end of the current period, or zero if the instrument has a notional amount.

3.8.3.6 Project Interest and Dividend Cash Flows

3.8.3.6.1 Non-Complex Financial Instruments

[a] *Fixed-Rate Instruments.* The current period principal outstanding is multiplied by the product of the Current Coupon and current period Coupon Factor and rounded to even 100ths of a dollar.

[b] *Zero-Coupon Bonds.* Interest payments equal zero.

[c] *Discount Notes.* Interest payments equal zero.

[d] *Floating-Rate Instruments.* Interest payments are calculated as principal outstanding multiplied by the coupon for the current period. The current period coupon is calculated by adding a spread to the appropriate interest rate index and multiplying by the Coupon Factor. The coupon for the current period is set to this amount as long as the rate lies between the periodic and lifetime maximum and minimum rates. Otherwise the coupon is set to the maximum or minimum rate.

[e] *Interest Rate Caps and Floors.* These derivative instruments pay or receive interest only if the underlying index is above a Strike Rate (for caps) or below it (for floors). Interest payments are based on notional amounts instead of principal amounts.

1. The interest payment on a long cap is the Original Face multiplied by the amount, if any, by which the index exceeds the Strike Rate, as defined by the equation in Table 3–67. The interest payment on a long floor is the Original Face multiplied by the amount, if any, by which the index is below the Strike Rate. Otherwise interest payments are zero for caps and floors. Interest payments are either paid or received depending on whether the Enterprise is in a long or short position in a cap or a floor.
2. Monthly cash flows for long caps and floors are calculated as illustrated in Table 3–67:

TABLE 3–67—CALCULATION OF MONTHLY CASH FLOWS FOR CAPS

Instrument	Interest Receipts	Interest Payments
Long Cap	$(I-K) \times N \times D$ if $I > K$; 0 if $I \leq K$	0
Long Floor	0	$(K-I) \times N \times D$ if $I < K$; 0 if $I \geq K$

Where:

N = Original Face
K = Strike Rate
I = interest rate index
D = Coupon Factor

[f] *Swaps.* A derivative contract in which counterparties exchange periodic interest payments. Each swap leg (pay side or receive side) is modeled as a separate instrument, with interest payments based on the same notional amount but different interest rates.

1. For debt- and investment-linked swaps, each leg's interest payment is determined in the same manner as payments for fixed-rate, floating-rate or zero coupon instruments as described in paragraph [a], [b] and [d] of this section.
2. For mortgage-linked swaps, calculate the reduction in the notional amount due to scheduled monthly principal payments (taking into account both lifetime and reset period caps and floors), Prepayments, and Defaults of the reference MBS or index pool. Reduce the notional amount of the swap for the previous period by this amount to determine the notional amount for the current period. Calculate interest payments or receipts for a given period as the product of the notional amount of the swap in that period, the coupon, and the Coupon Factor applicable for that period.

3.8.3.6.2 Complex Financial Instruments

[a] Some instruments have more complex or non-standard features than those described in section 3.8.3.6.1, Non-Complex Financial Instruments, of this Appendix. These complexities can include more sophisticated variants of characteristics such as principal or notional amortization schedules, interest accrual methodologies, coupon reset formulas, and option features. In these instances, additional information may be required to completely specify the contractual cash flows or a proxy treatment for these instruments.

[b] An example of an instrument with complex features is an indexed amortizing swap. This instrument is non-standard because its notional amount declines in a way that is related to the level of interest rates. Its amortization table contains a notional amount reduction factor for a given range of interest rates. To compute cash flows for this instrument, reduce the notional amount on each payment date as specified in the amortization table. (The notional amount at the beginning of the Stress Period is given as an input to the calculation.)

[c] Special treatment is also required for foreign-currency-linked notes, the redemption value of which is tied to a specific foreign exchange rate. These require special treatment because the Stress Test does not forecast foreign currency rates. If these instruments are currency-hedged, then the note plus the hedge comprise a synthetic debt instrument for which only the pay side of the swap is modeled. If these instruments are not currency-hedged, the following treatment applies:

1. In the up-rate scenario, the U.S. dollar per unit of foreign currency ratio is increased in proportion to the increase in the ten-year CMT; therefore, the amount of an interest or principal payment is increased accordingly. For example, if the ten-year CMT shifts up by 50 percent, then the U.S. dollar per unit of foreign currency ratio shifts up by 50 percent. In the Stress Test, the payment would be multiplied by 1.5.
2. In the down-rate scenario, the foreign currency per U.S. dollar ratio is decreased in proportion to the decrease in the ten-year CMT.

[d] If a financial instrument's inputs are described in section 3.1, Data, of this Appendix, then model the instrument according to its terms; however, the Director reserves the authority to determine a more appropriate treatment if modeling the instrument according to its terms does not capture the instrument's impact on Enterprise risk. If the financial instrument's inputs are not described in section 3.1, then treat it as described in section 3.9, Alternative Modeling Treatments, of this Appendix.

3.8.3.7 Apply Call, Put, or Cancellation Features, if Applicable

[a] In some cases, principal and interest cash flows may be altered due to options imbedded in individual financial instruments. Securities can be called or put and contracts can be cancelled at the option of the Enterprise or the counterparty. The Option Type, Exercise Convention Type, and the Start Date determine when an option may be exercised. There are three standard Exercise Convention Types, all of which are accommodated in the Stress Test:

- American—Exercise can occur at any time after the Start Date of the option.
- European—Exercise can occur only on the Start Date of the option.
- Bermudan—Exercise can occur only on specified dates, usually on coupon payment dates between the Start Date of the option and maturity.

[b] The options are treated in the following manner for each date on which the option can be exercised:

1. Project cash flows for the instrument with the imbedded option assuming that the option is not exercised. If the instrument is tied to an index, assume that the index remains constant at its value on that date.
2. Determine the discount rate that equates the outstanding balance of the security plus option premium and accrued interest to the sum of the discounted values of the projected cash flows. This discount rate is called the yield-to-maturity.
3. Convert the yield-to-maturity to a bond-equivalent yield and compare the bond-equivalent yield with the projected Enterprise Cost of Funds for debt with an equivalent maturity. Interpolate linearly if the maturity is not equal to one of the maturities specified in section 3.3, Interest Rates, of this Appendix.
4. If the equivalent-maturity Enterprise Cost of Funds is lower (higher) than 50 basis points below (above) the bond-equivalent yield of the callable (putable) instrument, then the option is exercised. Otherwise, the option is not exercised, and it is evaluated at the next period when the option can be exercised.

[c] Some swap derivative contracts have cancellation features that allow either counterparty to terminate the contracts on certain dates. The cancellation feature is evaluated by comparing the fixed-rate leg of the swap to the Enterprise Cost of Funds. If either leg of the swap is cancelled, then the other leg is cancelled concurrently. Cancellable swaps are treated in the following manner:

1. For each period when an option can be exercised, compare the swap's fixed-leg coupon rate to the Enterprise Cost of Funds with a maturity equivalent to the maturity date of the swap.
2. If the option is a Call, it is deemed to be exercisable at the discretion of the Enterprise. If the option is a Put, it is deemed to be exercisable at the discretion of the Counterparty. If the option is a PutCall, it is deemed to be exercisable at the discretion of either party to the swap. Exercise the option when the swap is out of the money for the party who holds the option. A swap is considered out of the money when the rate on its fixed leg is at least 50 basis point higher or lower, depending upon whether the fixed rate is paid or received, than the like-maturity Enterprise Cost of Funds. For zero coupon swaps in all option exercise periods, use the yield to maturity calculated by equating the notional amount plus the unamortized discount at the start of the Stress Test to the present value of the notional amount at maturity.
   a. For example, if the Enterprise holds a call option for a fixed-pay swap and the coupon rate on the fixed-pay leg is at least 50 basis points above the Enterprise cost of funds for a maturity equivalent to that of the swap, then cancel the swap. Otherwise, the swap is not cancelled and it is evaluated the next time that the swap can be cancelled.

3.8.3.8 Calculate Monthly Interest Accruals for the Life of the Instrument

[a] Monthly interest accruals are calculated by prorating the interest cash flows on an actual-day basis. In this section, the term "from" means from and including, "to" means up to and not including, and "through" means up to and including. As an example, from the first to the third of a month is two days from the first through the third is three days. This convention is used to facilitate the day count and does not imply on which day's payments or accruals are actually made. Use one of the three following methodologies with the exception that interest cash flow dates occurring on or after the 30th of a month are considered as occurring on the last day of the month:

1. If the final interest cash flow occurs within the month, the interest accrual for that month is calculated by multiplying the final interest cash flow amount (as calculated in section 3.8.3.6 of this Appendix) times the number of days from the beginning of the month through the final maturity date divided by the number of days from the previous interest cash flow date to the maturity date.
2. If an interest cash flow other than the final interest cash flow occurs within a month, the interest accrual for that month is determined by multiplying the interest cash flow amount for the current month times the number of days from the beginning of the month through the interest cash flow date, divided by the number of days from the previous interest cash flow date (or issue date) to this interest cash flow date. To this add the interest cash flow amount for the next interest cash flow date times the number of days from the current month's interest cash flow date to the end of the month, divided by the number of days from the current month's interest cash flow date to the following next interest cash flow date.
3. If no interest cash flows occur during a month other than the issue month, the monthly interest accrual is calculated by multiplying the next interest cash flow amount times the number of days in the month divided by the number of days from the previous interest cash flow date to the next interest cash flow date.
4. If the issue month occurs after the start of the Stress Test, the monthly interest accrual is calculated by multiplying the next interest cash flow amount by the number of days in the month minus the day of issue, divided by the number of days from the issue date to the next interest cash flow date.

3.8.3.9 Calculate Monthly Amortization (Accretion) of Premiums (Discounts) and Fees

[a] Adjust monthly interest accruals (*see* section 3.10.3.6.1[a]3., of this Appendix) to reflect the value over time of discounts, premiums, fees and hedging gains and losses incurred (Deferred Balances). Amortize Deferred Balances that exist at the beginning of the Stress Test until the instrument's Maturity Date. If there are any put, call, or cancel options that are executed, amortize any remaining Deferred Balances in the execution month.

TABLE 3–68—INPUTS FOR NONMORTGAGE INSTRUMENT ACCOUNTING FLOWS

Variable	Description	Source
MD	Maturity Date	Table 3–65, Input Variables for Nonmortgage Instrument Cash Flows
UDB_0	The sum of Current Unamortized Discount, Current Unamortized Hedge, and Current Unamortized Other (Deferred Balances) for the instrument at the start of the Stress Test	Table 3–65, Input Variables for Nonmortgage Instrument Cash Flows
$MACRU_m$	Monthly Interest Accruals	section 3.8.3.8, Calculate Monthly Interest Accruals for the Life of the Instrument
$EOMPBAO_m$	Principal Balance at the end of the month for months m = 0...RM after modeling all options execution	section 3.8.3.6, Project Interest and Dividend Cash Flows
$EOMPB_m$	Principal Balance at the end of the month for months m = 0...RM before modeling any options execution	section 3.8.3.6, Project Interest and Dividend Cash Flows

1. Compute Remaining Term (RM) as follows:

$$RM = 12 \times (\text{year (MD)} - \text{year (STDT)}) + \text{month (MD)} - \text{month (STDT)} + 1$$

Where:

STDT is the Starting Date of the Stress Test

2. For nonmortgage instruments with notional principal, calculate the monthly Amortization Amount (AA_m) for each month m = 1...RM:

$$AA_m = -\frac{UDB_0}{RM} \text{ if } EOMPBAO_m > 0$$

$$AA_m = -UDB_{m-1} \text{ if } EOMPBAO_m = 0$$

$$UDB_m = UDB_{m-1} + AA_m$$

3. For nonmortgage instruments with principal and interest payments,
   a. Compute Allocated Interest for all months m (AI_m) as follows:

$$AI_m = \left[\frac{EOMPB_{m-1}}{\sum_{k=0}^{RM} EOMPB_k}\right] \times \sum_{k=1}^{RM} MACRU_k$$

   b. Calculate the monthly Internal Rate of Return (IRR) that equates the adjusted cash flows (actual principal plus allocated interest) to the Initial Book Value (BV_0) of the instrument. Solve for IRR such that:

$$BV_0 = \sum_{m=1}^{RM} \frac{ACF_m}{(1+IRR)^m}$$

Where:

$BV_0 = EOMPB_0 + UPD_0$

$ACF_m = EOMPB_{m-1} - EOMPB_m + AI_m$

   c. Calculate the monthly Amortization Amount (AA_m) for each month m = 1...RM:

$$AA_m = (BV_{m-1} \times IRR) - AI_m \text{ if } EOMPBAO_m > 0$$

$$AA_m = -UDB_{m-1} \text{ if } EOMPBAO_m = 0$$

$$UDB_m = UDB_{m-1} + AA_m$$

$$BV_m = EOMPBAO_m + UDB_m$$

4. For discount notes,
   a. Calculate Remaining Maturity in Actual Days (RMD):

$$RMD = MD - STDT + 1$$

   b. Calculate the month Amortization Amount (AA_m) for each month m = 1...RM:

$$AA_m = -UDB_0 \times \frac{ADAYS_m}{RDM} \text{ if } EOMPBAO_m > 0$$

$$AA_m = -UDB_{m-1} \text{ if } EOMPBAO_m = 0$$

$$UDB_m = UDB_{m-1} + AA_m$$

Where:

$ADAYS_m$ = actual number of days in month m (days from the first of the month through maturity in month RM)

5. For zero coupon bonds,
   a. Calculate Remaining Maturity in Actual Days (RMD):

$$RMD = MD - STDT + 1$$

   b. Calculate Yield Factor (YF):

$$YF = \left(\frac{EOMPB_0}{EOMPB_0 + UDB_0}\right)^{\frac{1}{RMD}}$$

   c. Calculate the monthly Amortization Factor (AF_m) for each month m = 1...RM:

$$AF_m = 1 \text{ if } m = 0$$

$$AF_m = AF_{m-1} \times YF^{ADAYS_m}$$

Where:

$ADAYS_m$ = actual number of days in month m (days from the first of the month through maturity in month RM):

   d. Calculate the monthly Amortization Amount (AA_m) for each month m = 1...RM

$$AA_m = (EOMPB_0 + UDB_0) \times (AF_m - AF_{m-1}) \text{ if } EOMPBAO_m > 0$$

$$AA_m = -UDB_{m-1} \text{ if } EOMPBAO_m = 0$$

$$UDB_m = UDB_{m-1} + AA_m$$

3.8.3.10 Apply Counterparty Haircuts

[a] Finally, the interest and principal cash flows received by the Enterprises for non-mortgage instruments other than swaps and foreign currency-related instruments are Haircut (i.e., reduced) by a percentage to account for the risk of counterparty insolvency. The amount of the Haircut is calculated based on the public rating of the counterparty and time during the stress period in which the cash flow occurs, as specified in section 3.5, Counterparty Defaults, of this Appendix.

[b] An Enterprise may issue debt denominated in, or indexed to, foreign currencies, and eliminate the resulting foreign currency exposure by entering into currency swap agreements. The combination of the debt and the swap creates synthetic debt with principal and interest payments denominated in U.S. dollars. Because the Stress Test does not forecast foreign exchange rates, the counterparty (foreign-denominated) payments are not computed explicitly, and therefore cannot be Haircut explicitly in the calculation. No Haircut percentage is applied to the Enterprise's payments.

[c] Haircuts for swaps that are not foreign currency related are applied to the Monthly Interest Accruals (as calculated in section 3.8.3.8, of this Appendix) on the receive leg minus the Monthly Interest Accruals on the pay leg when this difference is positive.

3.8.4 Nonmortgage Instrument Outputs

[a] Outputs consist of cash flows and accounting information for debt, nonmortgage investments, preferred stock, and derivative contracts. Cash flows and accounting information outputs are inputs to section 3.10, Operations, Taxes, and Accounting, of this Appendix.

[b] Cash flows include the following monthly amounts:

1. Interest and principal payments for debt and nonmortgage investments,
2. Dividends and redemptions for preferred stock, and
3. Interest payments for debt-linked, investment-linked, and mortgage-linked derivative contracts.

[c] Accounting information includes the following monthly amounts:

1. Accrued interest and
2. Amortization of discounts, premiums, fees and other deferred items.

3.9 Alternative Modeling Treatments

3.9.1 Alternative Modeling Treatments Overview

[a] This section provides treatment for items that cannot be modeled in one of the ways specified in paragraph [b] of this section, but must be included in order to run the Stress Test. Because the rule provides treatments for a wide variety of instruments and activities that can be applied to accommodate unusual instruments, OFHEO expects few items to fall into this category.

[b] An Alternative Modeling Treatment (AMT) applies to any on- or off-balance-sheet item that is missing data elements required to calculate appropriate cash flows, or any instrument with unusual features for which this Appendix does *not*:

1. Provide an explicit computational procedure and set of inputs (i.e., the Appendix specifies exact data inputs and procedures for a class of instruments to which the item belongs); or,
2. Provide an implicit procedure (used for a general class of instruments), and explicit inputs that allow the item to be fully characterized for computational purposes (i.e., the Appendix specifies procedures and data inputs for a class of instruments to which the item does not belong that can be applied to the item to accurately compute its cash flows); or
3. Provide an implicit procedure by exact substitution, i.e., by representing the item as a computationally equivalent combination of other items that are specified in paragraphs (1) or (2) in this section (i.e., the Appendix specifies treatments for two or more instruments, which, in combination, exactly produce the item's cash flows); or
4. Permit the approximation of one or more computational characteristics by other similar values that are explicitly specified in this Appendix, or in the RBC Report instructions (i.e., the Appendix specifies a treatment, or combination of treatments, that can be used as a reasonable proxy for the computational characteristics of the item). Such proxy treatments must be approved by OFHEO. OFHEO may, in its discretion, approve a proposed proxy treatment, adopt a different proxy treatment, or treat items for which a proxy treatment has been proposed by the Enterprises according to the remaining provisions of section 3.9, Alternative Modeling Treatments, of this Appendix.

[c] For a given on- or off-balance sheet item, the appropriate AMT is determined according to the categories specified in section 3.9.3, Alternative Modeling Treatments Procedures, of this Appendix, based on the information available for that item. The output for each such item is a set of cash and accounting flows, or specific amounts to be applied in section 3.12, Calculation of the Risk-Based Capital Requirement, of this Appendix.

3.9.2 Alternative Modeling Treatments Inputs

Table 3–69 identifies the minimal inputs that are used to determine an AMT. (*See also* section 3.1, Data, of this Appendix)

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TABLE 3–69—ALTERNATIVE MODELING TREATMENT INPUTS

Variable	Description
TYPE	Type of item (asset, liability or off-balance sheet item)
BOOK	Book Value of item (amount outstanding adjusted for deferred items)
FACE	Face Value or notional balance of item for off-balance sheet items
REMATUR	Remaining Contractual Maturity of item in whole months. Any fraction of a month equals one whole month.
RATE	Interest Rate
INDEX	Index used to calculate Interest Rate
FAS115	Designation that the item is recorded at fair value, according to FAS 115
RATING	Instrument or counterparty rating
FHA	In the case of off-balance sheet guarantees, a designation indicating 100% of collateral is guaranteed by FHA
UABAL	Unamortized Balance (Book minus Face)
MARGIN	Margin over an Index

3.9.3 Alternative Modeling Treatments Procedures

For each item, one of the following alternatives will be applied:

3.9.3.1 Off-Balance Sheet Items

[a] If the item is a guarantee of a tax-exempt multifamily housing bond, or a single family or multifamily whole-loan REMIC class rated triple-A, or other similar transaction guaranteed by the Enterprises, multiply the face value of the guaranteed instruments by 0.45 percent. This amount is added to the amount of capital required to maintain positive total capital throughout the ten-year Stress Period. Any instruments or obligations with 100 percent of collateral guaranteed by the Federal Housing Administration (FHA) are excluded from this calculation.

[b] Otherwise, add to the amount of capital required to maintain positive total capital throughout the ten-year Stress Period an amount equal to the face or notional value of the item at the beginning of the Stress Period times three percent.

3.9.3.2 Reconciling Items

Reconciling items falling into this category will be treated according to the specifications in section 3.10, Operations, Taxes, and Accounting, of this Appendix.

3.9.3.3 Balance Sheet Items

[a] If the item is a trading security recorded at fair value according to FAS 115, then the book value (the face value adjusted for deferred balances) will be converted to cash in the first month of the Stress Test.

[b] Otherwise, if the item is an earning asset, then it is treated as a held-to-maturity asset, based on book value, as follows:

1. In the up-rate scenario, it will be treated as a held-to-maturity bond paying compound interest on a 30/360 basis at maturity, with the item's contractual maturity and rate. The item will be Haircut according to its rating. If no maturity is provided, maturity will be set at 120 months. If no rate is provided, a rate will be assigned at the initial Enterprise Cost of Funds whose term is equal to the remaining maturity, less 200 basis points (but not less than zero). If no rating is provided, the asset will be classified as unrated.
2. In the down-rate scenario, it will be treated as a held-to-maturity bond paying compound interest on a 30/360 basis at maturity, with the item's contractual maturity and rate. The item will be Haircut according to its rating. If no maturity is provided, maturity will be set at 120 months. If no rate is provided, a rate will be assigned at the floating one-month Enterprise Cost of Funds less 200 basis points (but not less than zero). If no rating is provided, the asset will be classified as unrated.

[c] If the item is a non-earning asset it will remain on the books and earn no interest throughout the Stress Period.

[d] Otherwise, if the item is a liability, then it is treated as follows, based on book value:

1. In the up-rate scenario, it will be treated as non-callable and monthly coupon-paying to maturity on a 30/360 basis. If the coupon rate is not specified, the liability will be given a floating rate at the one-month Enterprise Cost of Funds plus 200 basis points. If no maturity is provided, maturity will be set at 120 months.
2. In the down-rate scenario, it will be treated as non-callable and monthly coupon paying to maturity. If no coupon is provided, the liability will be given a fixed rate at the Initial Enterprise Cost of Funds plus 200 basis points. If no maturity is provided, maturity will be set at ten years.

[e] Unamortized Balances should be amortized on a straight-line basis over the designated remaining maturity of the instrument.

[f] All items in this section are treated as if they had no options or cancellation features. The face value will be held constant until maturity. If an item has an adjustable rate, it is assumed that the interest rate will adjust monthly with no caps and a lifetime floor of zero percent.

3.9.4 Alternative Modeling Treatments Outputs

For each AMT item, the output is a set of cash and accounting flows appropriate to its respective treatment as specified in section 3.9.3, Alternative Modeling Treatments Procedures, or specific amounts to be applied in section 3.12, Calculation of the Risk-Based Capital Requirement, of this Appendix.

3.10 Operations, Taxes; and Accounting

3.10.1 Operations, Taxes, and Accounting Overview

This section describes the procedures for determining new debt issuance and investments, computing capital distributions, calculating operating expenses and taxes, and creating pro forma balance sheets and income statements. Input data include an Enterprise's balance sheet at the beginning of the Stress Period, interest rates from the Interest Rates component of the Stress Test, and the outputs from cash flow components of the Stress Test. The outputs of the procedures discussed in this section—monthly pro forma balance sheets, cash flow and income statements for each month of the Stress Test—are the basis for the capital calculation described in section 3.12, Calculation of the Risk-Based Capital Requirement, of this Appendix.

3.10.2 Operations, Taxes, and Accounting Inputs

[a] Data described in section 3.1, Data, section 3.3.4, Interest Rates Outputs, section 3.6.4, Final Whole Loan Cash Flow Outputs, section 3.7.4, Mortgage-Related Securities Outputs, and section 3.8.4, Nonmortgage Instrument Outputs, of this Appendix, is used to produce monthly pro forma balance sheets and income statements for the Enterprises. In addition to the starting position data, described in the cash flow components, the Enterprises provide the starting position dollar values for the items in Table 3–70.

TABLE 3–70—OPERATIONS, TAXES, AND ACCOUNTING INPUTS

Input	Description
FAS 115 and 125 fair value adjustment on retained mortgage portfolio	
FAS 133 fair value adjustment on retained mortgage portfolio	
Reserve for losses on retained mortgage portfolio	
FAS 115 and 125 fair value adjustments on non-mortgage investments	
FAS 133 fair value adjustments on non-mortgage investments	
Total cash	
Accrued interest receivable on mortgages	
Accrued interest receivable on non-mortgage investment securities	
Accrued interest receivable on non-mortgage investment securities denominated in foreign currency—hedged	
Accrued interest receivable on non-mortgage investment securities denominated in foreign currency—unhedged	
Accrued interest receivable on mortgage-linked derivatives, gross	
Accrued interest receivable on investment-linked derivatives, gross	
Accrued interest receivable on debt-linked derivatives, gross	
Other accrued interest receivable	
Accrued interest receivable on hedged debt-linked foreign currency swaps	Underlying instrument is GSE issued debt
Accrued interest receivable on unhedged debt-linked foreign currency swaps	
Accrued interest receivable on hedged asset-linked foreign currency swaps	Underlying instrument is an asset
Accrued interest receivable on unhedged asset-linked foreign currency swaps	
Currency transaction adjustments—hedged assets	Cumulative gain or loss due to changes in foreign exchange rates relative to on-balance sheet assets originally denominated in foreign currency
Currency transaction adjustments—unhedged assets	Cumulative gain or loss due to changes in foreign exchange rates relative to unhedged assets and off-balance sheet items originally denominated in foreign currency
Federal income tax refundable	
Accounts receivable	
Fees receivable	
Low income housing tax credit investments	
Fixed assets, net	
Clearing accounts	Net book value of all clearing accounts
Other assets	
Foreclosed property, net	Real estate owned including property acquired through foreclosure proceedings
FAS 133 fair value adjustment on debt securities	
Accrued interest payable on existing fixed-rate debt securities	
Accrued interest payable on existing floating-rate debt securities	
Accrued interest payable on existing debt issued in foreign currency—hedged	
Accrued interest payable on existing debt issued in foreign currency—unhedged	
Accrued interest payable on mortgage-linked derivatives, gross	
Accrued interest payable on investment-linked derivatives, gross	
Accrued interest payable on debt-linked derivatives, gross	
Other accrued interest payable	
Accrued interest payable debt-linked foreign currency swaps—hedged	
Accrued interest payable debt-linked foreign currency swaps—unhedged	

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TABLE 3–70—OPERATIONS, TAXES, AND ACCOUNTING INPUTS—Continued

Input	Description
Accrued interest payable asset-linked foreign currency swaps—hedged	
Accrued interest payable asset-linked foreign currency swaps—unhedged	
Principal and interest due to mortgage security investors	Cash received on sold mortgages for onward submission to mortgage security investors
Currency transaction adjustments—hedged debt	Cumulative gain or loss due to changes in foreign exchange rates relative to on-balance sheet debt originally denominated in foreign currency
Currency transaction adjustments—unhedged debt	Cumulative gain or loss due to changes in foreign exchange rates relative to unhedged liabilities and off-balance sheet items originally denominated in foreign currency
Escrow deposits	Cash balances held in relation to servicing of multifamily loans
Federal income taxes payable	
Preferred dividends payable	
Accounts payable	
Other liabilities	
Common dividends payable	
Reserve for losses on sold mortgages	
Common stock	
Preferred stock, non-cumulative	
Additional paid-in capital	
Retained earnings	
Treasury stock	
Unrealized gains and losses on available-for-sale securities, net of tax, in accordance with FAS 115 and 125	
Unrealized gains and losses due to mark to market adjustments, FAS 115 and 125	
Unrealized gains and losses due to deferred balances related to pre-FAS 115 and 125 adjustments	
Unrealized gains and losses due to other realized gains, FAS 115	
Other comprehensive income, net of tax, in accordance with FAS 133	
OCI due to mark to market adjustments, FAS 133	
OCI due to deferred balances related to pre-FAS 133 adjustments	
OCI due to other realized gains, FAS 133	
Operating expenses	Average of prior three months
Common dividend payout ratio (average of prior 4 quarters)	Sum dollar amount of common dividends paid over prior 4 quarters and divided by the sum of total of after tax income less preferred dividends paid over prior 4 quarters
Common dividends per share paid 1 quarter prior to the beginning of the stress period	
Common shares outstanding	
Common Share Market Price	
Dividends paid on common stock 1 quarter prior to the beginning of the stress period	
Share Repurchases (average of prior 4 quarters)	Sum dollar amount of repurchased shares, net of newly issued shares, over prior 4 quarters and divided by 4
Off-balance-sheet Guarantees	Guaranteed instruments not reported on the balance sheet, such as whole loan REMICs and multifamily credit enhancements, and not 100% guaranteed by the FHA
Other Off-Balance Sheet Guarantees	All other off-balance sheet guaranteed instruments not included in another category, and not 100% guaranteed by the FHA

TABLE 3–70—OPERATIONS, TAXES, AND ACCOUNTING INPUTS—Continued

Input	Description
YTD provision for income taxes	Provision for income taxes for the period beginning January 1 and ending as of the report date
Tax loss carryforward	Net losses available to write off against future years' net income
Tax liability for the year prior to the beginning of the Stress Test	
Tax liability for the year 2 years prior to the beginning of the Stress Test (net of carrybacks)	
Taxable income for the year prior to the beginning of the Stress Test	
Taxable income for the year 2 years prior to the beginning of the Stress Test (net of carrybacks)	
Net after tax income for the quarter preceding the start of the stress test	
YTD taxable income	Total amount of taxable income for the period beginning January 1 and ending as of the report date
Minimum capital requirement at the beginning of the Stress Period	
Specific allowance for loan losses	Loss allowances calculated in accordance with FAS 114
Zero coupon swap receivable	
Unamortized discount on zero coupon receivable	

[b] Amounts required to reconcile starting position balances from cash flow components of the Stress Test with an Enterprise's balance sheet will be reported in the RBC Report with the related instrument. The corresponding balance for the related instrument will be adjusted accordingly.

3.10.3 Operations, Taxes, and Accounting Procedures

The Stress Test calculates new debt and investments, dividends, allowances for loan losses, operating expenses, and income taxes. These calculations are determined by, and also affect, the pro forma balance sheets and income statements during the Stress Period.

3.10.3.1 New Debt and Investments

[a] For each month of the Stress Test, cash deficits and surpluses are eliminated by issuing new debt or purchasing new investments. The Stress Test calculates cash received and cash disbursed each month in order to determine the net availability of cash. Depending on the calculated net cash position at month end, new short term investments are purchased at mid-month or a mix of long and short term debt is issued at mid-month so that the recalculated net cash position at month end is zero.

[b] For each month of the Stress Test, the following calculations are performed to determine the amount and type of new debt and investments. The short-term investments and appropriate mix of long-term and short-term debt are reflected in the pro forma balance sheets. Interest income or interest expense for the new investments or debt are reflected in the pro forma income statements.

1. In any month in which the cash position is positive at the end of the month, the Stress Test invests the Enterprise's excess cash on the 15th day of that month in one-month Treasury bills that yield the six-month Treasury rate for that month as specified in section 3.3, Interest Rates, of this Appendix.
2. In any month in which the cash position is negative at the end of the month, the Stress Test issues a mix of new short-term and long-term debt on the 15th day of that month. New short-term debt issued is six-month discount notes with a discount rate at the six-month Enterprise Cost of Funds as specified in section 3.3, Interest Rates, of this Appendix, with interest accruing on a 30/360 basis. New long-term debt issued is five-year bonds not callable for the first year ("five-year-no call-one") with an American call at par after the end of the first year, semiannual coupons on a 30/360 basis with principal paid at maturity or call, and a coupon rate set at the five year Enterprise Cost of Funds as specified in section 3.3, Interest Rates, of this Appendix, plus a 50 basis point premium for the call option. An issuance cost of 2.5 basis points is assessed on new short-term debt at issue and an issuance cost of 20 basis points is assessed on new long-term debt at issue. New short-term debt is issued in a manner so that the existing short-term debt plus the newly issued short-term debt does not exceed fifty percent of the sum of all existing debt and total new debt issued. Issuance fees for new debt are amortized on a straight line basis to the maturity of the appropriate instrument.
3. Given the Net Cash Deficit (NCD_m) in month m, use the following method to calculate the amount of short-term and long-term debt to issue in month m:
   a. Calculate Discount Rate Factor (DRF_m):

$$DRF_m = \left(1 + \frac{CF_m}{12}\right)^6$$

Where:

CF_m = six month Enterprise Cost of Funds for month m

   b. Calculate the Adjustment Factor for Short-Term Debt Issuance Fees ($AFSIF_m$):

$$AFSIF_m = 1 - 0.00025 \times DRF_m$$

   c. Calculate the Maximum Short-Term Issuance ($MSTI_m$):

$$MSTI_m = DRF_m \times \frac{NCD_m}{AFSIF_m}$$

   d. Calculate New Short-Term Debt Outstanding ($NSDO_m$):

$$NSDO_m = SDO_m - PS_m + RS_m$$

Where:

SDO_m = remaining principal balance of all debt maturing or repricing within the next twelve months;

PS_m = remaining notional balances of the receive side of swaps maturing or repricing within the next twelve months;

RS_m = remaining notional balances of the pay side of swaps maturing or repricing within the next twelve months.

   e. Calculate Face Amount of Short-Term Debt to be issued this month ($FASD_m$):

$$FASD_m = min\left(MSTI_m,\ max\left(0,\ DRF_m \times \frac{(0.998 \times TDO_m - 1.996 \times NSDO_m + NCD_m)}{(0.998 \times DRF_m) + AFSIF_m}\right)\right)$$

Where:

TDO_m = remaining principal balance of all debt outstanding at the end of this month

f. Calculate Face Amount of Long-Term Debt to be issued ($FALD_m$):

$$FALD_m = \frac{1}{0.998} \times max\left(0,\ NCD_m - \frac{FASD_m \times AFSIF_m}{DRF_m}\right)$$

3.10.3.2 Dividends and Share Repurchases

[a] The Stress Test determines quarterly whether to pay dividends and make share repurchases. Dividends are decided upon and paid during the first month after the end of the quarter for which they are declared. If any dividends are paid, the dividend payout cannot exceed an amount equal to core capital less the estimated minimum capital requirement at the end of the quarter. Share repurchases are made during the middle month of the quarter.

1. *Preferred Stock.* An Enterprise will pay dividends on preferred stock as long as that Enterprise meets the estimated minimum capital requirement before and after the payment of these dividends. Preferred stock dividends are based on the coupon rates of the issues outstanding. The coupon rates for any issues of variable rate preferred stock are calculated using projections of the appropriate index rate. Preferred stock dividends may not exceed core capital less the estimated minimum capital requirement at the end of the preceding quarter.
2. *Common Stock.* In the first year of the Stress Test, dividends are paid on common stock in each of the four quarters after preferred dividends, if any, are paid unless the Enterprise's capital is, or after the payment, would be, below the estimated minimum capital requirement.
   a. *First Quarter.* In the first quarter, the dividend is the dividend per share ratio for common stock from the quarter preceding the Stress Test (adjusted by the ratio of Enterprise retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost) times the current number of shares of common stock outstanding.
   b. *Subsequent Quarters.*
   1) In the three subsequent quarters, if the preceding quarter's after tax income is greater than after tax income in the quarter preceding the Stress Test, pay the larger of (1) the dividend per share ratio for common stock from the quarter preceding the Stress Test (adjusted by the ratio of Enterprise retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost) times the current number of shares of common stock outstanding or (2) the average dividend payout ratio for common stock for the four quarters preceding the start of the Stress Test times the preceding quarter's after tax income (adjusted by the ratio of Enterprise retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost) less preferred dividends paid in the current quarter. In no case may the dividend payment exceed an amount equal to core capital less the estimated minimum capital requirement at the end of the preceding quarter.
   2) If the previous quarter's after tax income is less than or equal to after tax income in the quarter preceding the Stress Test (adjusted by the ratio of Enterprise retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost), pay the lesser of (1) the dividend per share ratio for common stock for the quarter preceding the Stress Test times the current number of shares of common stock outstanding or (2) an amount equal to core capital less the estimated minimum capital requirement at the end of the preceding quarter, but not less than zero.
3. *Share Repurchases.* In the first two quarters of the Stress Test, the capital of the Enterprises will be reduced to reflect the repurchase of shares. The amount of the capital reduction in each of those two quarters will be equal to the average net stock repurchases by the Enterprise during the four quarters preceding the start of the Stress Period. Net stock repurchases equal repurchases less receipts from new stock issued, but not less than zero. Repurchases in each of the first two quarters may occur only up to the point that the amount of core capital exceeds the estimated minimum capital requirement at the end of the first month of the quarter.
4. *Minimum Capital Requirements.* For the purposes of the Stress Test, the Enterprise's minimum capital requirement is computed by applying leverage ratios to all assets (2.50 percent) and off-balance sheet obligations (0.45 percent), and summing the results. Repurchases of an Enterprise's own previously-issued MBSs are excluded from the minimum capital calculation used in section 3.10.3.2, Dividends and Share Repurchases, of this Appendix.

3.10.3.3 Allowances for Loan Losses and Other Charge-Offs

[a] The Stress Test calculates a tentative allowance for loan losses monthly by multiplying current-month Credit Losses (CL in Table 3–52) by twelve, thus annualizing current month Credit Losses. This is a proxy for a loss contingency where it is probable that a loss has been incurred and the amount can be reasonably estimated. For both the retained and sold portfolios, these credit losses include lost principal (net of recoveries from credit enhancements and disposition of the real estate collateral), and foreclosure, holding, and disposition costs. If the tentative allowance for loan losses for the current period is greater than the balance from the prior month less charge-offs (i.e., credit losses) for the current month, a provision (i.e., expense) is recorded. Otherwise, no provision is made and the allowance for loan losses is equal to the prior period amount less current month charge-offs.

[b] Other charge-offs result from Haircuts related to mortgage revenue bonds, private-issue MBS, and non mortgage investments, described in their respective cash flow components.

1. In the case of Enterprise investments in securities, these Haircuts result in the receipt of less principal and interest than is contractually due. Lost principal is recorded as Other Losses when due and not received, while lost interest is recorded as a reduction of Interest Income.
2. In the case of interest rate derivative instruments, these Haircuts result in the receipt of less net interest than is contractually due from, or the payment of more interest than is contractually due to, an Enterprise counterparty. For those swaps that are linked to Enterprise investments, the increase or decrease of net swap interest due is recorded as an adjustment of Interest Income. For those swaps that are linked to Enterprise debt obligations, the increase or decrease of net swap interest due is recorded as an adjustment of Interest Expense.

3.10.3.4 Operating Expenses

[a] The Stress Test calculates operating expenses, which include non-interest costs such as those related to an Enterprise's salaries and benefits, professional services, property, equipment and office space. Over the Stress Period, operating expenses are equal to the sum of two components. The first component in each month is equal to one-third (⅓) of the average monthly operating expenses of the Enterprise in the quarter immediately preceding the start of the Stress Test. The second component changes in proportion to the change in the size of the Enterprise's mortgage portfolio (i.e., the sum of outstanding principal balances of its retained and sold mortgage portfolios). The Stress Test calculates the Enterprise's mortgage portfolio at the end of each month of the Stress Period as a percentage of the portfolio at the start of the Stress Test, and then multiplies the percentage of assets remaining by two-thirds (⅔) of the average monthly operating expenses of the Enterprise in the quarter immediately preceding the start of the Stress Test.

[b] The sum of the two components in paragraph [a], of this section, is multiplied by a factor which equals

$$\left(1 - \frac{m}{36}\right)$$

for the first 12 months of the Stress Test and then equals two-thirds for months 13 and beyond. This product is the Enterprise's operating expense for a given month in the Stress Period.

3.10.3.5 Income Taxes

[a] Both Enterprises are subject to Federal income taxes, but neither is subject to state or local income taxes.

[b] The Stress Test applies an effective Federal income tax rate of 30 percent when calculating the monthly provision for income taxes (e.g., income tax expense). OFHEO may change the 30 percent income tax rate if there are significant changes in Enterprise experience or changes in the statutory income tax.

[c] The Stress Test sets income tax expense for tax purposes equal to the provision for income taxes. The effects of timing differences between taxable income and Generally Accepted Accounting Principles (GAAP) income before income taxes are ignored. Income before taxes is adjusted by the ratio of Enterprise retained earnings and retained earnings after adjustments are made that revert investment securities and derivatives to amortized cost. Therefore, Net Operating Loss (NOL) occurs only when the net income, before the provision for income taxes, is negative.

[d] Payments for estimated income taxes are made quarterly, in the month after the end of the quarter. At the end of each year, the annual estimated tax amount is compared to the annual actual tax amount. In March of the next year, a payment of remaining taxes is made or a refund for overpayment of income taxes is received.

[e] The NOL for the current year is "carried back" to offset taxes in any or all of the preceding two calendar years. (The Enterprises' tax year is the same as the calendar year.) This offset of the prior years' taxes results in a negative provision for income taxes (e.g., income) for the current year. Use of a carry back reduces available carry backs in subsequent years. Any NOL remaining after carry backs are exhausted becomes a carry forward.

[f] Carry forwards represent NOLs that cannot be carried back to offset previous years' taxes, but can be used to offset taxes in any or all of the subsequent 20 years. Carry forwards accumulate until used, or until they expire 20 years after they are generated.

[g] A valuation adjustment is used to eliminate any deferred tax asset.

3.10.3.6 Accounting

[a] The 1992 Act specifies that total capital includes core capital and a general allowance for foreclosure losses. For the Enterprises, this general allowance is represented by general allowances for loan losses on their retained and sold mortgage portfolios. As defined at 12 CFR 1750.2, core capital includes the sum of the following components of equity:

1. The par or stated value of outstanding common stock,
2. The par or stated value of outstanding perpetual, noncumulative preferred stock,
3. Paid-in capital, and
4. Retained earnings.

[b] In order to determine the amount of total capital an Enterprise must hold to maintain positive total capital throughout the ten-year Stress Period, the Stress Test projects the four components of equity listed in paragraph [a] of this section plus general loss allowances as part of the monthly pro forma balance sheets.

[c] Details of an Enterprise's actual balance sheet at the beginning of the Stress Test are recorded from a combination of starting position balances for all instruments for which other components of the Stress Test calculate cash flows and other starting position balances for assets, liabilities, and equity accounts needed to complete an Enterprise's balance sheet.

[d] After recording an Enterprise's balance sheet at the beginning of the Stress Period, the Stress Test creates monthly pro forma balance sheets and income statements by recording output from the cash flow components of the Stress Test; recording new debt and investments (and related interest), dividends, loss allowances, operating expenses, and taxes; and applying accounting rules pertaining to pro forma balance sheets and income statements.

3.10.3.6.1 Accounting for Cash Flows and Accounting Flows

[a] Balances at the beginning of the Stress Test are obtained from the RBC Report. Subsequent changes to related pro forma balance sheet and income statement accounts are obtained from data generated by cash flow components of the Stress Test as follows:

1. *Retained Loans.* For Retained Loans, interest cash flows in the first month of the Stress Period reduce accrued interest receivable at the beginning of the Stress Test. Subsequent months interest cash flows are recorded as accrued interest receivable and interest income in the month prior to receipt. When the interest cash flows are received, accrued interest receivable is reduced. Monthly principal cash flows (including Prepayments and defaulted principal) are recorded as reductions in the outstanding balance of the loan group. Net losses on Defaults are charged off against the allowance for loan losses. Amortization of deferred discounts increases interest income; amortization of deferred premiums decreases interest income.
2. *Mortgage Revenue Bonds.* For mortgage revenue bonds, interest cash flows in the first month of the Stress Period reduce accrued interest receivable at the beginning of the Stress Test. Subsequent months' interest cash flows are recorded as accrued interest receivable and interest income in the month prior to receipt. When the interest cash flows are received, accrued interest receivable is reduced. Monthly principal cash flows (including Prepayments) are recorded in the month received as a reduction in the outstanding balance of mortgage assets. Defaulted principal is charged off when due and is not received. Amortization of deferred discounts increases interest income; amortization of deferred premiums decreases interest income.
3. *Nonmortgage Instruments.* Principal repayments of nonmortgage instruments reduce the nonmortgage instrument and increases or decreases cash. When the interest cash flows are received or paid, accrued interest receivable or payable is reduced. Accrued interest includes both amounts at the beginning of the Stress Period and subsequent monthly accruals (also recorded as interest income or interest expense). Amortization of deferred discounts and premiums increases or decreases interest income or interest expense. Defaulted principal is charged off when due and not received.
4. *Sold Portfolio.* Sold portfolio cash flows include monthly guarantee fees, float, and principal and interest due MBS investors. Guarantee fees are recorded as income in the month received. Principal and interest due mortgage security investors does not affect the balance sheet; however, interest earned on these amounts (float) is recorded as income in the month the underlying principal and interest payments are received. Principal payments received and defaulted loan balances reduce the outstanding balance of the sold portfolio. Losses (net of recoveries) are charged off against the allowance for losses on the sold portfolio (a liability on the pro forma balance sheets) and reduce cash. Amortization of deferred premiums and discounts increases or decreases guarantee fees.

3.10.3.6.2 Accounting for Non-Cash Items

[a] Changes in the pro forma balances for other parts of the Enterprise's balance sheet not resulting from cash flows are recorded as described in the following nine steps:

1. *Unrealized Gains and Losses.*
   a. Recorded amounts in Other Comprehensive Income (OCI) that correspond to investments in available-for-sale securities will be reversed against related investment balances so as to revert recorded investment balances to amortized cost at the start of the Stress Test. Deferred amounts associated with these securities are amortized as described in previous sections of this document corresponding to the particular instrument type.
   b. The recorded value of derivative instruments (less unamortized amounts that, prior to the adoption of FAS 133, would have been amortized) that were

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designated as Cash Flow Hedges will be reversed against OCI at the start of the Stress Test. The carrying value of derivative instruments and related hedged items (less unamortized amounts that, prior to the adoption of FAS 133, would have been amortized) that were designated Fair Value Hedges will be reversed as an increase or decrease in Retained Earnings at the start of the Stress Test.

c. Recorded amounts in OCI that correspond to derivative transactions terminated prior to the start of the Stress Test will be amortized in a manner that is consistent with the amortization of other, deferred amounts associated with the hedged instrument.

d. Any treatments in section 3.10.3.6.2[a]1. of this Appendix, are not applied to instruments that are modeled under AMT (*see* section 3.9, Alternative Modeling Treatments, of this Appendix).

2. *Low Income Housing Tax Credit Investments.* Low income housing tax credit investments at the beginning of the Stress Test are converted to cash on a straight line basis over the first six months of the Stress Period.

3. *Other Assets.* The following other assets at the beginning of the Stress Test are converted to cash as follows:

a. Clearing accounts and other miscellaneous receivables (e.g., fees receivable, accounts receivable, and other miscellaneous assets) in the first month of the Stress Test.

b. Earning assets (*see* section 3.9, Alternative Modeling Treatments, of this Appendix)

c. Items not covered by a. and b. of this section on a straight-line basis over the first five-years of the Stress Test.

4. *Real Estate Owned (REO).* Real estate owned at the beginning of the Stress Test is converted to cash on a straight-line basis over the first six months of the Stress Test.

5. *Fixed Assets.* Fixed assets (net of accumulated depreciation) as of the beginning of the Stress Test remain constant over the Stress Test. However, depreciation is included in the base on which operating expenses are calculated for each month during the Stress Period.

6. *Principal and Interest Payable.* Principal and interest payable to an Enterprise's mortgage security investors at the beginning of the Stress Test are paid during the first two months of the Stress Test (one-half in month one and one-half in month two).

7. *Other Liabilities.* The following liabilities at the beginning of the Stress Test are paid in the first month of the Stress Test, reducing cash:

a. Escrow deposits

b. Other miscellaneous liabilities

8. *Commitments.* No gains or losses are recorded when commitments are added to the Enterprise's sold portfolio. *See* section 3.2.1, of this Appendix.

9. *Fully-Hedged Foreign Currency-Denominated Liabilities.* Amounts that relate to currency swaps and foreign currency-denominated liabilities will be treated as follows:

a. Recorded balances that correspond to converted foreign currency-denominated liabilities will be amortized in a manner that is consistent with scheduled pay leg exchanges of notional amounts as set forth in corresponding currency swaps. The unamortized premiums, discounts and/or fees that are associated with these liabilities will be amortized as described in section 3.8, of this Appendix, as if they were associated with the pay legs of the corresponding currency swap. Any differences will be reflected as an increase or decrease in Retained Earnings.

b. Interest payable amounts associated with currency swaps will be settled in a manner that is consistent with the contractual terms for these instruments.

c. Receivable amounts associated with currency swaps and interest payable amounts associated with foreign currency-denominated debt will be reversed against Retained Earnings.

d. The adjustments in a., b. and c., of this section, will take place at the start of the Stress Test. These treatments are not applied to instruments that are modeled under AMT (*see* section 3.9, Alternative Modeling Treatments, of this Appendix) or foreign currency-denominated instruments that are not fully hedged.

3.10.3.6.3 Other Accounting Principles

The following additional accounting principles apply to the pro forma balance sheets and income statements:

1. All investment securities are treated as held to maturity. As such, they are recorded as assets at amortized cost, not at fair value.
2. All non-securitized mortgage loans will be classified as "held-to-maturity" and will be accounted for on an amortized cost basis.
3. Effective control over the collateral for collateral financings is with the party that originally delivered such collateral.
4. Enterprise Real Estate Investment Trust (REIT) subsidiaries are consolidated. Specifically, REIT assets are treated as Enterprise assets. Preferred stock of the REIT is reflected as Enterprise debt. Dividends paid on the preferred stock are reported as interest expense.
5. Treasury stock is reflected as a reduction in retained earnings.

3.10.4 Operations, Taxes, and Accounting Outputs

For each month of the Stress Period, the Stress Test produces a pro forma balance sheet and income statement. The Operations, Taxes and Accounting component outputs 121 monthly and 11 annual balance sheets, 120 monthly and 10 annual income statements, and 120 monthly and 10 annual cash flow statements, including part-year statements for the first and last calendar years of the Stress Test when necessary. These pro forma financial statements are the inputs for calculation of the risk-based capital requirement (*see* section 3.12, Calculation of the Risk-Based Capital Requirement, of this Appendix).

3.11 Treatment of New Enterprise Activities

3.11.1 New Enterprise Activities Overview

[a] Given rapid innovation in the financial services industry, OFHEO anticipates the Enterprises will become involved with new mortgage products, investments, debt and derivative instruments, and business activities, which must be accommodated in the Stress Test in order to capture all of the risk in the Enterprises' businesses. New accounting entries resulting from these innovations and changes in accounting must also be accommodated. The regulation is sufficiently flexible and complete to address new Enterprise activities as they emerge, using the procedures outlined in this section. However, OFHEO will monitor the Enterprises' activities and, when appropriate, propose amendments to this regulation addressing the treatment of new instruments, activities, or accounting treatments.

[b] For the purpose of this section of the Appendix, the term New Activity means any type of asset, liability, off-balance-sheet item, accounting entry, or activity to which a Stress Test treatment has not previously been applied. In addition, the Director has the discretion to treat as a New Activity: (1) any activity or instrument with characteristics or unusual features that create risks or hedges for the Enterprise that are not reflected adequately in the specified treatments for similar activities or instruments; and (2) any activity or instrument for which the specified treatment no longer adequately reflects the risk/benefit to the Enterprise, either because of increased volume or because new information concerning those risks/hedges has become available.

3.11.2 New Enterprise Activities Inputs

[a] Complete data and full explanations of the operation of the New Activity sufficient to understand the risk profile of the New Activity must be provided by the Enterprise. The Enterprises are required to notify OFHEO, pursuant to § 1750.2(c), of proposals related to New Activities as soon as possible, but in any event no later than five calendar days after the date on which the transaction closes or is settled. The Enterprises are encouraged to suggest an appropriate capital treatment that will fully capture the credit and interest rate risk in the New Activity. Information on New Activities must also be submitted and appropriately identified as such in the RBC Report.

[b] The Stress Test will not give an Enterprise the capital benefit associated with a New Activity where OFHEO determines that the impact of that activity on the risk-based capital level of the Enterprise is not commensurate with the economic benefit to the Enterprise.

3.11.3 New Enterprise Activities Procedures

[a] OFHEO will analyze the risk characteristics and determine whether an existing approach specified in the Appendix appropriately captures the risk of the New Activity or whether some combination or adaptation of existing approaches specified in the Appendix is appropriate. For example, the Stress Test might employ its mortgage performance components and adapt its cash flow components to simulate accurately the loss mitigating effects and counterparty credit risk of credit derivatives.

[b] Where there is no reasonable approach using existing combinations or adaptations of treatments specified in this Appendix that could be applied within the timeframe for computing a quarterly capital calculation, the Stress Test will employ an appropriately conservative treatment, consistent with OFHEO's role as a safety and soundness regulator. Such treatment may include an alternative modeling treatment specified in section 3.9, Alternative Modeling Treatments, of this Appendix, or some other conservative treatment that OFHEO deems more appropriate.

[c] OFHEO will provide the Enterprise with its estimate of the capital treatment as soon as possible after receiving notice of the New Activity. In any event, the Enterprise will be notified of the capital treatment in accordance with the notice of proposed capital classification provided for in §1750.21.

[d] After a treatment has been incorporated into a final capital classification, OFHEO will provide notice of such treatment to the public, including the other Enterprise. OFHEO will consider any comments it receives from the public regarding the treatment during subsequent quarters. OFHEO may change the treatment as a result of such input or otherwise, if OFHEO determines that the risks of the New Activity are not appropriately reflected in a treatment previously adopted.

3.11.4 New Enterprise Activities Outputs

The Stress Test will generate a set of cash and/or accounting flows reflecting the treatment applied to the New Activity.

3.12 Calculation of the Risk-Based Capital Requirement

3.12.1 Risk-Based Capital Requirement Overview

The risk-based capital requirement is the sum of (1) the minimum amount of total capital that an Enterprise must hold at the start of the Stress Test in order to maintain positive total capital throughout the ten-year Stress Period, for all financial instruments explicitly modeled in the Stress Test (Stress Test capital subtotal) and (2) certain additional amounts relating to off-balance-sheet items addressed in section 3.9, Alternative Modeling Treatments, of this Appendix, and (3) 30 percent of that sum for management and operations risk. The Stress Test capital subtotal is determined based on monthly total capital figures from the pro forma financial statements, the additional amounts related to off-balance-sheet items, and Enterprise short term borrowing and investment rates.

3.12.2 Risk-Based Capital Requirement Inputs

[a] Inputs to the capital calculation are outputs from section 3.3, Interest Rates, section 3.9, Alternative Modeling Treatments, and section 3.10, Operations, Taxes, and Accounting, of this Appendix.

[b] For each month of the Stress Test, the following inputs are from, or used in the creation of, pro forma financial statements projected in section 3.10, Operations, Taxes, and Accounting, of this Appendix:

1. Total capital
   a. The par or stated value of outstanding common stock,
   b. The par or stated value of outstanding perpetual, noncumulative preferred stock,
   c. Paid-in capital,
   d. retained earnings, and
   e. allowance for losses on retained and sold mortgages less specific losses calculated in accordance with FAS 114,
2. Provision for income taxes (income tax expense),
3. Valuation adjustment that reduces benefits recorded from net operating losses when no net operating loss tax carrybacks are available, and
4. An Enterprise's cash position prior to the decision to issue new debt or purchase new investments to balance the balance sheet (*see* section 3.10.3.1, New Debt and Investments, of this Appendix).

[c] For present-value calculations, the Stress Test uses the six-month Enterprise Cost of Funds or the six-month CMT yield as described in section 3.3, Interest Rates, of this Appendix.

[d] The amount for off-balance-sheet items that are not explicitly modeled is obtained from section 3.9.3.1, Off-Balance Sheet Items, of this Appendix.

3.12.3 Risk-Based Capital Requirement Procedures

[a] The following eight steps are used to determine the Stress Test capital subtotal and the risk-based capital requirement for an Enterprise:

1. Determine the effective tax rate in each month. If the provision for income taxes is positive (reflecting taxes owed) or negative (reflecting tax refunds to be received), then the effective tax rate is 30 percent. If the provision for income taxes is zero after applying any valuation adjustments (*see* section 3.10.3.6, Accounting, of this Appendix), then the effective tax rate applied in step 3. of this section is zero.
2. Determine whether an Enterprise is an investor or a borrower in each month of the Stress Period. In months where an Enterprise has outstanding six-month discount notes that were issued during the stress test, then the Enterprise is a borrower. Otherwise, the Enterprise is an investor.
3. Determine the appropriate monthly discount factor for each month of the Stress Period:
   a. In months where an Enterprise is an investor, the monthly discount factor is based on the yield of short-term assets:

$$\text{Monthly Discount Factor} = \left[1 + \frac{(1 - \text{Effective Tax Rate}) \times \text{6-month CMT yield}}{2}\right]^{1/6}$$

   b. In months where an Enterprise is a borrower, the monthly discount factor is based on the cost of the Enterprise's short-term debt:

$$\text{Monthly Discount Factor} = \left[\frac{1 + \left[(1 - \text{Effective Tax Rate}) \times \left(\frac{\text{6-month Enterprise Cost of Funds}}{2}\right)\right]}{1 - \left[(1 - \text{Effective Tax Rate}) \times 0.00025\right]}\right]^{1/6}$$

Where:

0.00025 is the factor that incorporates the issuance and administrative costs for an Enterprise's new discount notes.

4. Compute the appropriate cumulative discount for each month of the Stress Period. The cumulative discount factor for a given month is the monthly discount factor for that month multiplied by the cumulative discount factor for the preceding month. (The cumulative discount factor for the first month of the Stress Period is the monthly discount factor for that month.) Thus, the cumulative discount factor for any month incorporates all of the previous monthly discount factors.
5. Discount total capital for each month of the Stress Period to the start of the Stress Period for both interest rate scenarios. Divide the total capital for a given month by the cumulative discount factor for that month.
6. Identify the Stress Test capital subtotal, which is the lowest discounted total capital amount from among the 240 monthly discounted total capital amounts.
7. From the Stress Test capital subtotal, subtract the capital required for off-balance sheet items not explicitly modeled in the Stress Test, as calculated

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in section 3.9.3.1, Off-Balance Sheet Items, of this Appendix. Then subtract the resulting difference from the Enterprise's total capital at the start of the Stress Period. The resulting number is the amount of total capital that an Enterprise must hold at the start of the Stress Test in order to maintain positive total capital throughout the ten-year Stress Period.

8. Multiply the minimum total capital amount by 1.3 for management and operations risk.

3.12.4 Risk-Based Capital Requirement Output

The output of the calculations in this section is the risk-based capital requirement for an Enterprise at the start date of the Stress Test.

4.0 Glossary

This glossary is intended to define terms in the Regulatory Appendix that are used in a computationally specific sense that require a precise quantitative definition.

A

Accounting Flows: one or more series of numbers tracking various components of the accounting computations over time, analogous to "Cash Flows."

Age: of a Mortgage Loan, for computational purpose: the number of scheduled payment dates that have occurred prior to the time at which the Age is determined. The Age of a newly originated Mortgage is zero prior to its first payment date.

Amortization Expense: used in the accounting sense of the monthly allocation of a one-time amount (positive or negative) over time, not to describe amortization of principal in a mortgage.

Amortization Schedule: for a Mortgage Loan, a series of numbers specifying the (1) principal and (2) interest components of each Mortgage Payment, and (3) the Unpaid Principal Balance after each such payment is made.

Allocated Interest: in certain accounting calculations, the amount of interest deemed to be received on a certain date according to an allocation formula, whether or not equal to the amount actually received on that date (*see*, e.g., section 3.6.3.8.3, Whole Loan Accounting Flows Procedures, of this Appendix).

Aggregate Limit: see section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

B

Balance Limit: see section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

Balloon Payment: the final payment of a Balloon Loan, the principal component of which is the entire Unpaid Principal Balance of said loan at the time the Balloon Payment is contractually due.

Balloon Loan: a Mortgage Loan that matures before the Unpaid Principal Balance is fully amortized to zero, thus requiring a large final Balloon Payment.

Balloon Date: the maturity date of a Balloon Loan.

Benchmark: used as an adjective to refer to the economic environment (including interest rates, house prices, and vacancy and rental rates) that prevailed in the region and time period of the Benchmark Loss Experience.

Benchmark Census Division: the Census Division, designated by OFHEO, that is used to determine house prices and vacancy and rental rates of the Stress Period.

Benchmark Loss Experience (BLE): the rates of default and loss severity of loans in the state/year combination (containing at least two consecutive origination years and contiguous areas with a total population equal to or greater than five percent of the population of the United States) with the highest loss rate.

Burnout: in describing Mortgage Prepayments, the reduced rates of Prepayment observed with Mortgage Loans that were not prepaid during earlier periods when it would have been advantageous to do so.

C

Cash Flow Hedges: cash flow hedges as defined by FAS 133.

Census Division: any one of the nine geographic areas of the United States so designated by the Bureau of the Census. The OFHEO House Price Index determined at the Census Division level is used in the Stress Test.

Claim Amount: the amount of Credit Enhancement that an Enterprise is eligible to receive as a reimbursement on mortgage loan losses, which is often but not always equal to the total amount of the loss.

Commitment Loan Groups: hypothetical groups of Mortgage Loans assumed to be originated during the months immediately after the start of the Stress Test pursuant to Commitments made but not yet fulfilled by the Enterprises prior to the start of the Stress Test to purchase or securitize loans.

Contract: a Mortgage Credit Enhancement contract covering a distinct set of loans with a distinct set of contractual terms.

Constant Maturity Treasury (CMT) Rate: see table 3–18, Interest Rate and Index Inputs.

Counterparty Type: classification used to specify the appropriate Haircut level in section 3.5, Counterparty Defaults, of this Appendix.

Credit Enhancement: for the GSEs, agreements with lenders or third-parties put in place to reduce or limit mortgage credit (default) losses for an individual loan. *See* section 3.1.2.1.1, Loan Group Inputs, of this Appendix.

D

Debt Service Coverage Ratio: see section 3.6.3.5.3.1, Explanatory Variables, of this Appendix.

Default: for purposes of computing rates of mortgage default and losses, *see* the specific process specified in section 3.6.1, Whole Loan Cash Flows Overview, of this Appendix.

Defaulting Fraction: in any month, for any group of loans, the proportion of loans newly defaulted in that month expressed as a fraction of the *initial* loans (by number or by balance, depending on how Prepayment and Default Rates are measured) in the loan group; *see*, e.g., section 3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions, of this Appendix.

Defaulted UPB: the Unpaid Principal Balance (UPB) of a loan in the month that it Defaults.

Deferred Balances: see section 3.6.3.8.1, Whole Loan Accounting Flows Overview, of this Appendix.

Derivative Mortgage Security: generally refers to securities that receive cash flow with significantly different characteristics than the aggregate cash flow from the underlying mortgage loans, such as Interest-Only or Principal-Only Stripped MBSs or REMIC Residual Interests. *See* section 3.7.1, Mortgage-Related Securities Overview, of this Appendix.

Deposit Limit: see section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

Distinct Credit Combination (DCC): see section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

E

Enterprise Cost of Funds: for any maturity, the Federal Agency Cost of Funds (*see* section 3.3, Interest Rates, of this Appendix).

Enterprise Loss Position: see section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

F

Fair Value Hedges: fair value hedges as described in FAS 133.

Float Income: the earnings on the investment of loan principal and interest payments (net of the Servicing Fee and Guarantee Fee) from the time these payments are received from the servicer until they are remitted to security holders. *See* section 3.6.1, Whole Loan Cash Flows Overview, of this Appendix.

G

Gross Loss Severity: Loss Severity including the excess, if any, of Defaulted UPB over gross sale price of an REO property, fees, expenses and certain unpaid interest amounts, before giving effect to Credit Enhancement or any other amounts received on account of a defaulted loan (all such amounts expressed as a fraction of Defaulted UPB); *see* section 3.6.3.6.2, Single Family Gross Loss Severity, and section 3.6.3.6.3, Multifamily Gross Loss Severity, of this Appendix.

Guarantee Fee: the amount received by an Enterprise as payment for guaranteeing a mortgage loan; *see*, e.g., section 3.6.3.2, Payment Allocation Conventions, of this Appendix.

H

Haircut: the amount by which payments from a counterparty are reduced to account for a given probability of counterparty failure.

I

Initial: used as an adjective to specify conditions at the start of the Stress Test, except in defined terms; *see also* Time Zero.

Initial Rate Period: for an Adjustable Rate Mortgage, the number of months before the mortgage interest rate changes for the first time. Also known as "teaser period."

Interest-only Period: for interest-only loans, the period of time for which the monthly payment covers only the interest due. (During the interest-only period, the UPB of the loan stays constant until maturity or a changeover date. For loans that mature, a Balloon Payment in the amount of the UPB is due at maturity. In other cases, the loan payment is recast at the changeover date and the loan begins to amortize over its remaining term.) *See* section 3.6.3.3.1, Mortgage Amortization Schedule Overview, of this Appendix.

Interest Rates: the Constant Maturity Treasury yields and other interest rates and indexes used in the Stress Test.

Investor-owned: a property that is not owner-occupied.

L

Loan Limit: used to describe a type of Credit Enhancement; *see* section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

Loan Group: a group of one or more mortgage loans with similar characteristics, that are treated identically for computational purposes in the Risk-Based Capital calculations.

Loss Severity: the amount of a mortgage loss divided by the Defaulted UPB.

Loss Sharing Arrangements (LSA): see section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

M

Maximum Haircut: as defined in section 3.5, Counterparty Defaults, of this Appendix.

Modified Pool Insurance: a form of Single Family Mortgage Credit Enhancement described in section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

Mortgage Insurance (Primary Mortgage Insurance): a type of credit enhancement that pays claims up to a given limit on each loan. *See* section 3.6.3.6.4.1, Mortgage Credit Enhancement Overview, of this Appendix.

Mortgage Related Security: a collective reference for (1) securities directly backed by mortgage loans, such as Single Class MBSs, Multi-Class MBSs (REMICs or Collateralized Mortgage Obligations (CMOs)); (2) Derivative Mortgage-Backed Securities (certain multi-class and strip securities) issued by Fannie Mae, Freddie Mac, and Ginnie Mae; (3) Mortgage Revenue Bonds issued by State and local governments and their instrumentalities; or (4) single class and Derivative Mortgage-Backed Securities issued by private entities. *See* section 3.1.2.2, Mortgage-Related Securities Inputs, of this Appendix.

N

Negative Amortization: as defined in section 3.6.3.2.1, Allocation of Mortgage Interest, of this Appendix.

Net Loss Severity: Gross Loss Severity reduced by Credit Enhancements and any other amounts received on account of a defaulted loan (all such amounts expressed as a fraction of Defaulted UPB).

Net Yield Rate: the Mortgage Interest Rate minus the Servicing Fee Rate.

New Activity: as defined in section 3.11, Treatment of New Enterprise Activities, of this Appendix.

Notional Amount: the amount analogous to a principal balance which is used to calculate interest payments in certain swap transactions or derivative securities.

O

Original: used as an adjective to specify values in effect at Loan Origination.

Origination: for a Mortgage Loan with monthly payments, the date one month prior to the first contractual payment date.

Owner-Occupied: a property, or a Mortgage Loan backed by a property, that is a single family residence which is the primary residence of the owner.

P

Pass-Through Rate: the Mortgage Interest Rate minus the Servicing Fee and the Guarantee Fee.

Performing Fraction: in any month, for any group of loans, the proportion of loans that have not either prepaid or defaulted in that month or any prior month, expressed as a fraction of the loans at the start of the Stress Test (by number or by balance, depending on how Prepayment and Default rates are measured) in a loan group; *see* e.g., section 3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions, of this Appendix.

Prepaying Fraction: in any month, for any group of loans, the proportion of loans that prepay in full in that month expressed as a fraction of the loans at the start of the Stress Test (by number or by balance, depending on how Prepayment and Default rates are measured) in the loan group; *see* e.g., section 3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions, of this Appendix.

Prepayment: the prepayment in full of a loan before its contractual maturity date

Prepayment Interest Shortfall: as defined in section 3.6.3.1, Timing Conventions, of this Appendix.

R

Risk-Based Capital (RBC) Report: The form in which Enterprise data is to be submitted for purposes of calculating the risk-based capital requirement, as described in section 3.1, Data, of this Appendix.

Relative Spread: as defined in section 3.6.3.4.3.1, Single Family Default and Prepayment Explanatory Variables, of this Appendix.

Retained Loans: as described in section 3.6.1, Whole Loan Cash Flows Overview, of this Appendix.

S

Scheduled Principal: the amount of principal reduction that occurs in a given month according to the Amortization Schedule of a mortgage loan; *see* section 3.6.3.3, Mortgage Amortization Schedule, of this Appendix.

Servicing Fee: portion of mortgage interest payment retained by servicer.

Sold Loans: as described in section 3.6.1, Whole Loan Cash Flows Overview, of this Appendix.

Spread Accounts: a form of Credit Enhancement; section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix.

Stress Period: the 10-year period covered by the Stress Test simulation.

Stress Test: the calculation, which applies specified economic assumptions to Enterprise portfolios, described in this Appendix.

Strike Rate: the interest rate above/below which interest is received for caps/floors.

Subordination Agreements: a form of Credit Enhancement in which the cash flows allocable to a portion of a mortgage pool are used to cover losses on loans allocable to another portion of the mortgage pool; *see* section 3.6.3.6.4, Mortgage Credit Enhancement, of this Appendix.

T

Time Zero: used to designate the conditions in effect at the start of the Stress Test, as defined in section 3.6.3.1, Timing Conventions, of this Appendix.

U

Unpaid Principal Balance (UPB): the Unpaid Principal Balance of a loan or loan group based solely on its Amortization Schedule, without giving effect to any missed or otherwise unscheduled payments.

W

Whole Loan: a mortgage loan.

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Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html.* Some laws may not yet be available.

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To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

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H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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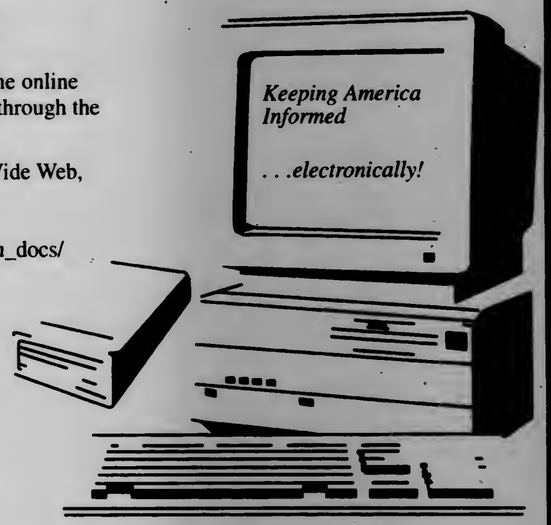
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 770

RIN 0560–AF43

Loans to Indian Tribes and Tribal Corporations; Correction

AGENCY: Farm Service Agency, USDA.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule which was published Tuesday, January 9, 2001 (66 FR 1563). The final rule revised and consolidated the Indian Tribal Land Acquisition Program (ITLAP) regulations.

DATE: Effective on September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Nehls, Branch Chief, Farm Loan Programs, Loan Servicing and Property Management Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523, telephone (202) 720–1984, facsimile (202) 690–1196, electronic mail: *Craig_Nehls@wdc.usda.gov.*

Correction

Accordingly, in the final rule published January 9, 2001, (66 FR1563) make the following corrections in § 770.10:

§ 770.10 [Corrected]

On page 1569, in the second column, in paragraph (e)(3)(iv), in the second line, "(d)(4)" should read "(e)(4);" and in the fourth line, "(d)(3)" should read "(e)(3)" and paragraph (e) should be redesignated as paragraph (f).

Signed at Washington, DC, on September 6, 2001.

James R. Little,

Administrator, Form Service Agency.

[FR Doc. 01–23061 Filed 9–13–01; 8:45 am]

BILLING CODE 3410–05–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AE73

Microloan Program

AGENCY: Small Business Administration (SBA).

ACTION: Direct final rule.

SUMMARY: The Consolidated Appropriations Act, 2001 ("2000 legislation") was enacted on December 21, 2000. It made several changes to SBA's microloan program, increasing in several places the dollar amounts used to define aspects of the program. Because there is no need for SBA to interpret the statutory changes, SBA is implementing them with this direct final rule.

DATES: Unless adverse comment is received prior to October 15, 2001, the rule will become effective as a final rule on November 14, 2001. If adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Send written comments to Jody Raskind, Chief, Office of Microenterprise Development, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, (202) 205–6497.

SUPPLEMENTARY INFORMATION: Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) ("Act") sets forth the statutory rules with respect to SBA's microloan program which authorizes SBA to assist small businesses that need small amounts of financial assistance. Under the program, SBA makes direct and guaranteed loans available to intermediaries who use the proceeds to make microloans to eligible borrowers. SBA is also authorized to make grants to intermediaries and other qualified nonprofit entities to be used for marketing, management, and technical assistance.

Section 210 of Pub. L. 106–554 ("2000 legislation") amended section 7(m) of the Act, and this direct final rule implements the statutory changes by conforming SBA's regulations to the statutory changes. Thus, SBA is amending § 120.701 of its regulations to define a Microloan as a loan of not more than $35,000 (formerly $25,000) by an intermediary to a small business. The definition of Specialized Intermediary is changed to mean an intermediary that maintains a portfolio of microloans averaging $10,000 (up from $7,500) or less. SBA is amending § 120.702 of its regulations to reflect that an organization, to become an intermediary, must have made and serviced short-term fixed rate loans of not more than $35,000 (up from $25,000) to newly established or growing small businesses for at least one year.

SBA is amending § 120.704 of its regulations so that in selecting intermediaries for the microloan program, SBA will give priority to applicants that maintain a portfolio of loans averaging $10,000 (up from $7,500) or less. SBA is amending § 120.705 so that a specialized intermediary would have to maintain a portfolio of microloans averaging $10,000 (up from $7,500).

SBA is amending § 120.707(b) of its regulations to reflect that an intermediary may not make a microloan of more than $20,000 (up from $15,000) unless the borrower demonstrates that it is unable to obtain credit elsewhere. In addition, § 120.707(b) is amended to show that an intermediary may not make a loan of more than $35,000 (up from $25,000), and no borrower may owe an intermediary more than $35,000 (up from $25,000) at any one time. SBA is amending § 120.707(c) to reflect the statutory change which increased the dollar amount to $10,000 (up from $7,500).

SBA is amending § 120.714(a) of its regulations so that any eligible nonprofit entity that is not an intermediary may apply to SBA for a grant for the purpose of assisting eligible businesses to obtain private sector financing in amounts of $35,000 (up from $25,000) or less. SBA is amending § 120.714(b) to reflect the statutory changes which increased the (1) number of grants it can make to non-Intermediaries each year to 55 (up from 25), and (2) amount of the grant to $200,000 (up from $125,000).

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SBA is publishing this regulation as a direct final rule because SBA believes the rule is noncontroversial since it is merely implementing changes required by P.L. 106–554 without any need for interpretations by SBA. As such, SBA believes that this rule will not elicit any significant adverse comment.

Compliance With Executive Orders 13132, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C., Ch. 35)

For the purposes of Executive Order 13132, SBA has determined that this direct final rule has no federalism implications warranting preparation of a federalism assessment.

This direct final rule does not constitute a "significant" regulatory action under Executive Order 12866 and therefore, was not reviewed by the Office of Management and Budget.

SBA certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule is merely implementing changes required by Pub. L. 106–554 without any need for interpretations by SBA. Any impact on small entities results from the 2000 legislation and not from this rulemaking.

SBA certifies that this final rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., chapter 35.

For purposes of Executive Order 12988, SBA certifies that this final rule is drafted, to the extent practicable, to accord with the standards set forth in paragraph 3 of that Order.

List of Subjects in 13 CFR Part 120

Loan programs-business, Small Businesses.

For the reasons set forth above, SBA amends 13 CFR part 120 as follows:

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a) and (h), 696(3), and 697(a)(2).

2. Amend § 120.701 by revising paragraphs (f) and (i) to read as follows:

§ 120.701 Definitions.

* * * * *

(f) *Microloan* is a short-term, fixed interest rate loan of not more than $35,000 made by an Intermediary to an eligible small business.

* * *

(i) *Specialized Intermediary* is an Intermediary which maintains a portfolio of Microloans averaging $10,000 or less.

3. Revise § 120.702(a)(1) to read as follows:

§ 120.702 Are there limitations on who can be an Intermediary or on where an Intermediary may operate?

(a) * * *

(1) Have made and serviced short-term fixed rate loans of not more than $35,000 to newly established or growing small businesses for at least one year: and

* * * * *

4. Revise § 120.704(b) to read as follows:

§ 120.704 How are applications evaluated?

(a) * * *

(b) *Preference for organizations which make very small loans.* In selecting Intermediaries, SBA will give priority to applicants which maintain a portfolio of loans averaging $10,000 or less.

* * * * *

5. Amend § 120.705 by revising the second sentence to read as follows:

§ 120.705 What is a Specialized Intermediary?

* * * An Intermediary qualifies as a Specialized Intermediary if it maintains a portfolio of Microloans averaging $10,000 or less. * * *

6. Amend § 120.707 as follows:

a. By revising the second and third sentences of paragraph (b); and

b. Revising paragraphs (c)(1) and (c)(2).

§ 120.707 What conditions apply to loans by Intermediaries to Microloan borrowers?

* * * * *

(b) * * * An Intermediary may not make a Microloan of more than $20,000 unless the borrower demonstrates that it is unable to obtain credit elsewhere at comparable interest rates and that it has good prospects for success. An Intermediary may not make a Microloan of more than $35,000, and no borrower may owe an Intermediary more than $35,000 at any one time. * * *

(c) * * *

(1) On loans of more than $10,000, the interest rate charged on the SBA loan to the Intermediary, plus 7.75 percentage points; and

(2) On loans of $10,000 or less, the interest rate charged on the SBA loan to the Intermediary, plus 8.5 percentage points.

7. Amend § 120.714 as follows:

a. By revising the first sentence of paragraph (a); and

b. By revising paragraph (b).

§ 120.714 How does a non-Intermediary get a grant?

(a) *Grant procedure for non-Intermediaries.* Any nonprofit entity that is not an Intermediary may apply to SBA for a grant to provide marketing, management and technical assistance to low-income individuals for the purpose of assisting them in obtaining private sector financing in amounts of $35,000 or less. * * *

(b) *Number and amount of grants.* In each year of the Microloan Program, SBA may make no more than 55 grants to non-Intermediaries for terms of up to five years. A grant may not exceed $200,000.

* * * * *

Dated: June 26, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–22959 Filed 9–13–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–19–AD; Amendment 39–12439; AD 2001–18–13]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 P1 and EC135 T1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Eurocopter Deutschland GmbH (Eurocopter) Model EC135 P1 and EC135 T1 helicopters. This action requires, before further flight, adding a copy of this AD or a statement to the Emergency Procedures section of the Rotorcraft Flight Manual (RFM) to inform the pilot to reduce power and land as soon as practicable if a thump-like sound followed by unusual vibration occurs during flight. This action also requires visually inspecting for a crack or a break in certain main rotor drive torque strut (strut) assemblies at specified time intervals and recording details of the inspections in the historical or equivalent record. This AD also requires re-marking and relocating the strut as appropriate and replacing any unairworthy strut assembly with an airworthy strut assembly before further flight. Also, this AD establishes a life limit of 1000 hours time-in-service (TIS) for certain struts with an additional 1000 hours TIS for struts re-marked right-hand (RH) or left-hand (LH) before installing in the new location. This amendment is prompted by a report of a thump-like sound heard during flight followed by unusual vibrations due to failure of the RH strut between the main transmission and the fuselage. The actions specified in this AD are intended to prevent failure of a strut, failure of a worn or ineffective back-up emergency stop, and subsequent loss of control of the helicopter.

DATES: Effective October 1, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), the airworthiness authority for the Federal Republic of Germany, notified the FAA that an unsafe condition may exist on Eurocopter Model EC 135 helicopters. The LBA advises of an isolated thump-like sound heard during flight followed by unusual vibrations. The inspection following this incident revealed that the attachment between the tensile stress-loaded strut on the RH side of the main transmission and the fuselage structure had ruptured. For such cases, the emergency stop, fitted to the fuselage structure to provide redundancy backup, takes over or will have already taken over the function of the strut. Under such conditions, however, there is a danger that the emergency stop could become worn and ineffective if it is kept in operation for a long period of time with an unairworthy strut.

Eurocopter has issued Alert Service Bulletin EC135–63A–002, Revision 1, dated March 12, 2001 (ASB), which specifies notifying the pilots of Model EC 135 helicopters about the contents of the ASB. The ASB also specifies inspecting the strut for a crack, marking the strut location and serial number (S/N) in the vicinity of the part number (P/N), and transferring location side of the struts at certain intervals. The LBA classified this ASB as mandatory and issued AD 2001–107, dated March 13, 2001 to ensure the continued airworthiness of these helicopters in the Federal Republic of Germany.

These helicopter models are manufactured in the Federal Republic of Germany and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilateral agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

We have identified an unsafe condition that is likely to exist or develop on other Eurocopter Model EC135 P1 and EC135 T1 helicopters of the same type designs registered in the United States. Therefore, this AD is being issued to prevent failure of a strut and subsequent loss of control of the helicopter.

This AD requires the following for each strut, P/N L633M1001 103 and L633M1001 105:

- Before further flight, insert a copy of this AD or a statement into the Emergency Procedures section of the RFM to inform the pilot to reduce power and land as soon as practicable if a thump-like sound followed by unusual vibration occurs during flight.
- Within 10 hours TIS, visually inspect each strut with 950 or more hours TIS for a crack or a break.
- Before accumulating 1000 hours TIS for each strut with less than 950 TIS and within 50 hours TIS for each strut with 950 or more hours TIS, inspect for a crack or a break using a 6-power or higher magnifying glass.
- Replace any cracked or broken strut with an airworthy strut before further flight.
- Enter the details of each inspection in the helicopter's historical or equivalent record.

This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a life limit of 1000 hours TIS for each strut in its original location, with an additional 1000 hours TIS if properly re-marked and relocated (2000 hours total TIS) to the opposite side of the transmission. The additional 1000 hours TIS life is possible because the loading mode is changed by relocating the tension loaded RH strut to the LH position, which is loaded in compression. The actions are required to be accomplished in accordance with the service bulletin described previously.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, before further flight, insert a copy of this AD or a statement into the Emergency Procedures section of the RFM to inform the pilot to reduce power and land as soon as practicable if a thump-like sound followed by unusual vibration occurs during flight. Also, because visually inspecting each strut with 950 or more hours TIS for a crack or break is required within 10 hours TIS, and, if a cracked or broken part is found, replacing any unairworthy part with an airworthy part is required before further flight, this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 38 helicopters will be affected by this AD. The FAA also estimates approximately ½ work hour to do a flashlight and mirror inspection and 2.5 work hours to re-mark, relocate, inspect with a 6-power or higher magnifying glass, and replace each strut as necessary. The average labor rate is $60 per work hour. Required parts will cost approximately $2400 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $98,040.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the

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Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–19–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–18–13 Eurocopter Deutschland GmbH Amendment 39–12439. Docket No. 2001–SW–19–AD.

Applicability: Model EC135 P1 and EC135 T1 helicopters, with main rotor drive torque strut assembly (strut), part number (P/N) L633M1001 103 or L633M1001 105, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the strut and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, insert a copy of this AD or a statement into the Emergency Procedures Section of the Rotorcraft Flight Manual (RFM) to inform the pilot to reduce power and land as soon as practicable if a thump-like sound followed by unusual vibration occurs during flight.

(b) Within 10 hours time-in-service (TIS), visually inspect each strut with 950 or more hours TIS for a crack or a break using a flashlight and a mirror in accordance with the Accomplishment Instructions, paragraph 3.B.(1) and 3.B.(2), of Eurocopter Deutschland GmbH Alert Service Bulletin EC135–63A–002, Revision 1, dated March 12, 2001 (ASB). Replace any cracked or broken strut with an airworthy strut before further flight.

(c) Inspect the following struts for a crack or a break, using a 6-power or higher magnifying glass, and re-mark and relocate each strut in accordance with the Accomplishment Instructions, paragraph 3.C., of the ASB. This AD does not require you to return any part to the manufacturer.

(1) For a strut with less than 950 hours TIS, inspect before accumulating 1000 hours TIS.

(2) For a strut with 950 or more hours TIS, inspect within 50 hours TIS.

(3) Replace any cracked or broken strut with an airworthy strut before further flight.

(d) This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a life limit of 1000 hours TIS for each strut, P/N L633M1001 103 and L633M1001 105, in its original location, with an additional 1000 hours TIS if properly re-marked and relocated (2000 hours total TIS) in accordance with the Accomplishment Instructions, paragraph 3.C.(3) of the ASB.

(e) Record details of the inspections in the historical or equivalent records in accordance with the Accomplishment Instructions, paragraph 3.C.(4) of the ASB.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(g) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(h) The inspections, re-marking, relocation, and entry in the historical or equivalent record of each strut, P/N L633M1001 103 and L633M1001 105, shall be done in accordance with the Accomplishment Instructions, paragraphs 3.B.(1), 3.B.(2), and 3.C., of Eurocopter Deutschland GmbH Alert Service Bulletin EC135–63A–002, Revision 1, dated March 12, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on October 1, 2001.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 2001–107, dated March 13, 2001.

Issued in Fort Worth, Texas, on September 4, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–22946 Filed 9–13–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–230–AD; Amendment 39–12437; AD 2001–18–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model 717 series airplanes. This action requires a one-time inspection of the support seal tubes of the rudder trim and load-feel actuator assembly of the rudder trim control system, located in the aft accessory compartment, for proper clearance between the actuator support seal tube and spring capsule assembly, and applicable follow-on/corrective actions. This action is necessary to detect and correct the accumulation of moisture in the rudder trim and load-feel actuator of the rudder trim control system. Such moisture could freeze and cause stiff operation, binding, or jamming of the rudder trim control system and consequent jamming of the rudder; and adversely affect directional control of an airplane.

DATES: Effective October 1, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–230–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain "Docket No. 2001–NM–230–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of in-flight binding and/or stiff operation of the rudder trim control system on McDonnell Douglas Model 717 series airplanes. Subsequent investigation indicates that approximately 60 rudder trim and load-feel actuators were manufactured with insufficient clearance between the actuator support seal tube and spring capsule assembly, and these actuators were installed on Model 717 series airplanes. Moisture condensing in the area of those components could freeze and cause stiff operation, binding, or jamming of the rudder trim control system. Such conditions could result in consequent jamming of the rudder and adversely affect directional control of an airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 717–27A0016, including Appendix, dated April 9, 2001, which describes procedures for a one-time inspection of the support seal tubes of the rudder trim and load-feel actuator assembly of the rudder trim control system, located in the aft accessory compartment, for proper clearance between the actuator support seal tube and spring capsule assembly, and applicable follow-on/corrective actions. The Boeing service bulletin refers to BFGoodrich Aerospace Service Bulletin DL4528M1–27–20, dated April 3, 2001, as an additional source of service information. The inspection and follow-on/corrective actions include the following procedures:

- Condition 1: For a 5-inch support seal tube, as specified in the Boeing service bulletin, reidentify the rudder trim and load-feel actuator assembly, and apply a nylon or polyurethane clear coating.
- Condition 2: For a 6-inch support seal tube, as specified in the Boeing service bulletin, modify and reidentify the actuator assembly, and install the modified and reidentified actuator assembly. Modification action includes removing sealant from around the screw heads and flange of the support seal tube; removing safety wire from screws; removing the support seal tube; cleaning any excess sealant compound from the support seal tube, cover, and front cap; applying sealing compound to the support tube at certain locations; installing and securing a new support seal tube, using six screws having a specified torque value and securing them with safety wire; reidentifying the actuator identification plate; and applying a clear coating to the flange of the support seal tube.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model 717 series airplanes of the same type design, this AD is being issued to detect and correct the accumulation of moisture in the rudder trim and load-feel actuator of the rudder trim control system. Such moisture could freeze and result in stiff operation, binding, or jamming of the rudder trim control system and consequent jamming of the rudder; and adversely affect directional control of an airplane.

This AD requires accomplishment of the actions specified by the previously referenced Boeing service bulletin, except as discussed below.

Differences Between the Service Information and This AD

Operators should note that the BFGoodrich Aerospace service bulletin, which is referenced by the Boeing service bulletin as an additional source of information, specifies the application of a nylon or polyurethane clear coating

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"or equivalent." However, the FAA has determined that it is necessary to specify the use of a nylon or polyurethane clear coating in paragraph (a)(1) of this AD.

Operators also should note that the reporting requirement in paragraph (b) of this AD also includes an additional requirement to identify whether a 5-inch or a 6-inch support seal tube is found installed on the airplane during the inspection required by paragraph (a) of this AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–230–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–18–11 McDonnell Douglas: Amendment 39–12437. Docket 2001–NM–230–AD.

Applicability: Model 717 series airplanes, as listed in Boeing Alert Service Bulletin 717–27A0016, including Appendix, dated April 9, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct the accumulation of moisture in the rudder trim and load-feel actuator of the rudder trim control system, which could freeze and cause stiff operation, binding, or jamming of the rudder trim control system and consequent jamming of the rudder; and adversely affect directional control of an airplane; accomplish the following:

Detailed Visual Inspection

(a) Within 60 days after the effective date of this AD, do a one-time detailed visual inspection of the support seal tube of the rudder trim and load-feel actuator assembly, located in the aft accessory compartment, for proper clearance between the actuator support seal tube and spring capsule assembly, per paragraph 3.B. of the Accomplishment Instructions of Boeing Alert Service Bulletin 717–27A0016, including Appendix, dated April 9, 2001; and, before further flight, accomplish the actions specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: The Boeing service bulletin refers to BFGoodrich Aerospace Service Bulletin DL4528M1–27–20, dated April 3, 2001, as an additional source of service information for accomplishment of the one-time detailed visual inspection and follow-on/corrective actions.

Follow-on/Corrective Actions

Condition 1: For a 5-inch Support Seal Tube

(1) Reidentify the rudder trim and load-feel actuator assembly, and apply a nylon or polyurethane clear coating, per Condition 1, paragraphs 1 through 3, paragraph 3.B. of the Accomplishment Instructions of the service bulletin. Where there are differences between the AD and the service information, the AD prevails.

Condition 2: For a 6-inch Support Seal Tube

(2) Modify (including removing sealant from around the screw heads and flange of the support seal tube; removing safety wire from screws; removing the support seal tube; cleaning any excess sealant compound from the support seal tube, cover, and front cap; applying sealing compound to the support tube at certain locations; installing and securing a new support seal tube, using six screws having a specified torque value and securing them with safety wire; reidentifying the actuator identification plate; and applying a clear coating to the flange of the support seal tube) and reidentify the rudder trim and load-feel actuator assembly; and install the modified and reidentified actuator assembly; per Condition 2, paragraphs 1 through 14, paragraph 3.B. of the Accomplishment Instructions of the service bulletin.

Note 4: Although the BFGoodrich service bulletin specifies that the action for Condition 1 is for a 5.25-inch support seal tube and Condition 2 is for a 6.25-inch support seal tube, this AD specifies 5 inches and 6 inches respectively, as cited in the Boeing service bulletin.

Reporting Requirement

(b) Within 10 days after accomplishing the one-time inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, or to Boeing, per the Appendix of Boeing Alert Service Bulletin 717–27A0016, dated April 9, 2001. The report must include the part number and serial number of the rudder trim load feel actuator, date of inspection, fuselage number, and number of flight hours or flight cycles on the airplane. The report also must include whether the support seal tube found installed on the airplane during the detailed visual inspection required by paragraph (a) of this AD is 5 inches or 6 inches. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMP) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane, a support seal tube, part number (P/N) A9543, Revision A, on a rudder trim and load-feel actuator, P/N DL4528M1MOD5 or P/N DL4528M1MOD6.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions shall be done in accordance with Boeing Alert Service Bulletin 717–27A0016, including Appendix, dated April 9, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on October 1, 2001.

Issued in Renton, Washington, on September 4, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–22996 Filed 9–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–39–AD; Amendment 39–12440; AD 2001–19–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–301 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–301 series airplanes. This action requires removal of the access panels of the upper wings to determine the manufacturing date of the panels to verify compliance with Model 301 wing specifications, and corrective action, if necessary. This action is necessary to find and fix panels that do not meet such specifications, which could result in elongation of the attachment holes in the panels due to critical design loads, and consequent reduced structural integrity of the wings. This action is intended to address the identified unsafe condition.

DATES: Effective October 1, 2001.

Comments for inclusion in the Rules Docket must be received on or before October 15, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–39–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain "Docket No. 2001–NM–39–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada,

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notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–301 series airplanes. TCCA advises that a report was received that during a routine inspection an operator questioned the conformity of the wing access panels located between stations Y42 and Y139 of the upper wing. Investigation revealed that the panels were not built per the design drawing specifications. The panels were manufactured per the design specifications of the DHC–8–100; therefore, the doublers on the panels were manufactured with less than the required thickness. Structural analysis done by the manufacturer indicates that, if the affected panels are exposed to critical design loads during flight, the attachment holes in the panels may elongate, which could result in reduced structural integrity of the wings.

Explanation of Relevant Service Information

De Havilland Dash 8 Maintenance Manual, Product Support Manual 1–83–2, Chapter 57–30–10, dated March 31, 1995, describes procedures for removal and replacement of the access panels of the left and right wings with new panels. TCCA issued Canadian airworthiness directive CF–99–27, dated September 28, 1999, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to find and fix panels that do not meet Model 301 wing specifications, which could result in discrepancies and reduced structural integrity of the wings. This AD requires removal of the two upper wing access panels to determine the manufacturing date of the panels to verify compliance with Model 301 specifications, and corrective action, if necessary. The actions are required to be accomplished in accordance with the service information described previously.

Cost Impact

None of the Model DHC–8–301 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–39–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–19–01 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–12440. Docket 2001–NM–39–AD.

Applicability: Model DHC–8–301 series airplanes having the serial numbers listed below, certificated in any category: 100, 108, 116, 124, 131, 137, 143, 149, 154, 159, 164, 169, 174, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix the access panels of the upper wings that do not meet Model 301 wing specifications, which could result in elongation of the attachment holes in the panels due to critical design loads, and consequent reduced structural integrity of the wings; accomplish the following:

Determine Manufacturing Date/Corrective Action

(a) Within 12 months after the effective date of this AD: Remove the two access panels of the upper wings, part number (P/N) 85711539–003, to determine the manufacturing date, which is stamped on the underside of each panel; per de Havilland Dash 8 Maintenance Manual, Product Support Manual 1–83–2, Chapter 57–30–10, dated March 31, 1995.

(1) If the manufacturing date on any panel is September 30, 1997, or earlier, before further flight, replace with a new panel, P/N 85711539–003, having a manufacturing date of October 1, 1997, or later; per the maintenance manual.

(2) If the manufacturing date on any panel is October 1, 1997, or later, reinstall that panel per the maintenance manual. No further action is required for that panel.

Spares

(b) As of the effective date of this AD: No person may install an access panel, P/N 85711539–003, having a manufacturing date of September 30, 1997, or earlier, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–99–27, dated September 28, 1999.

Effective Date

(e) This amendment becomes effective on October 1, 2001.

Issued in Renton, Washington, on September 7, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23068 Filed 9–13–01; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in October 2001. Interest assumptions are also published on the PBGC's Web site (http://www.pbgc.gov).

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during October 2001, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during October 2001, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during October 2001.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 6.10 percent for the first 20 years following the valuation date and 6.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for September 2001) of 0.20 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.50 percent for the period during which a benefit is in pay status, and 4.00 percent during any years preceding the benefit's placement in pay status. These interest

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assumptions are unchanged from those in effect for September 2001.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during October 2001, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 96, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
.	.	.	.	.	.	.	.	.
96	10–1–01	11–1–01	4.50	4.00	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 96, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
.	.	.	.	.	.	.	.	.
96	10–1–01	11–1–01	4.50	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of it are:					
	i_t	for t =	i_t	for t =	i_t	for t =
.	.	.	.	.	.	.
October 2001	.0610	1–20	.0625	>20	N/A	N/A

Issued in Washington, DC, on this 11th day of September 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–23158 Filed 9–13–01; 8:45 am]

BILLING CODE 7708–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 96, and 97

[FRL–7056–9]

Availability of Documents for the Response to the Remands In the Ozone Transport Cases Concerning the Method for Computing Growth for Electric Generating Units; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to extend comment period.

SUMMARY: In response to requests from the public, the EPA is extending the comment period for the notice of data availability for the Nitrogen Oxides State Implementation Plan Call (NO_X SIP Call) and the Section 126 Rule that was published on August 3, 2001 (66 FR 40609) for an additional 15 days. The comment period will now end on September 19, 2001.

DATES: The EPA is establishing a comment period ending on September 19, 2001. Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible).

ADDRESSES: Comments may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–96–56 for the NO_X SIP Call and Docket No. A–97–43 for the Section 126 Rule, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone (202) 260–7548. The EPA encourages electronic submission of comments following the instructions under **SUPPLEMENTARY INFORMATION** of this document. The e-mail address is *A-and-R-Docket@epa.gov*. No confidential business information should be submitted through e-mail.

Copies of all of the documents containing the new data being made available have been placed in the docket for the NO_X SIP Call rule, Docket No. A–96–56, and have been incorporated by reference in the docket for the Section 126 Rule, Docket No. A–97–43. These new documents, and other documents relevant to these rulemakings, are available for inspection at the Docket Office, located at 401 M Street SW, Room M–1500, Washington, DC 20460, between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Some of the documents have also been made available in electronic form at the following EPA website: *http://www.epa.gov/airmarkets/fednox/126noda/*.

FOR FURTHER INFORMATION CONTACT: Questions concerning the notice of data availability should be directed to Kevin Culligan, Office of Atmospheric Programs, Clean Air Markets Division, 6204M, 1200 Pennsylvania Ave. NW, Washington, DC 20460, telephone (202) 564–9172, e-mail *culligan.kevin@epa.gov;* or Howard J. Hoffman, Office of General Counsel, 2344A, 1200 Pennsylvania Ave. NW, Washington, DC 20460, telephone (202) 564–5582, e-mail *hoffman.howard@epa.gov*. General questions about the Section 126 Rule or the NO_X SIP Call may be directed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–3347, e-mail *oldham.carla@epa.gov*.

SUPPLEMENTARY INFORMATION:

Submitting Electronic Comments

Electronic comments are encouraged and can be sent directly to EPA at *A-and-R-Docket@epa.gov*. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on disks in WordPerfect 8.0 or ASCII file format. All comments in electronic form must be identified by Docket No. A–96–56 for the NO_X SIP Call and Docket No. A–97–43 for the Section 126 Rule. Electronic comments may be filed online at many Federal Depository Libraries.

Extension of Comment Period

In the August 3, 2001 notice of data availability, EPA provided notice that it had placed in the dockets for the two main rulemakings concerning ozone-smog transport in the eastern part of the United States-the Nitrogen Oxides State Implementation Plan Call (NO_X SIP Call) and the Section 126 Rule—data relevant to the remands by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) concerning growth rates for seasonal heat input by electric generating units (EGUs). In both the NO_X SIP Call and Section 126 rulemakings, EPA determined control obligations with respect to EGUs through the same computation, which included, as one component, estimates of growth in heat input by the EGUs from 1996 to 2007. In two cases decided earlier this year challenging the Section 126 rulemaking and a pair of rulemakings that made technical corrections to the NO_X SIP Call, the D.C. Circuit considered challenges to EPA's calculation of the growth estimate and its use of growth factors. In virtually identical decisions, the Court remanded the growth component to EPA for a better response to certain data presented by the affected States and industry concerning actual heat input, and for a better explanation of EPA's methodology. The EPA is in the process of responding to those remands. The EPA's preliminary view is that its growth calculations were reasonable and can be supported with a more robust explanation, based on the existing record, that takes into account the Court's concerns. In addition, EPA is considering new data that have recently been placed in the dockets for the NO_X SIP Call and Section 126 Rule. These new data appear to confirm the reasonableness of the growth calculations. The EPA intends to complete its response to the Court's remands in November 2001.

The EPA originally provided a 30-day period for the public to comment on these new data. In response to requests from the Utility Air Regulatory Group and the State of Illinois, EPA is extending the comment period for an additional 15 days. Please refer to the August 3, 2001 notice for a description of the data on which EPA is soliciting comment.

Dated: August 31, 2001.

John Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 01–23081 Filed 9–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN135–2; FRL–7052–6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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SUMMARY: On June 7, 2001, the EPA proposed to approve a November 15, 2000, State Implementation Plan (SIP) revision request which tightens Volatile Organic Compound (VOC) regulations for cold cleaning degreasing operations in Clark, Floyd, Lake and Porter Counties in Indiana, which are nonattainment for ozone. VOC combines with oxides of nitrogen in the atmosphere to form ground-level ozone, commonly known as smog. Exposure to ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. The State of Indiana has included the tightened cold cleaning degreasing regulations in its 2002, 2005 and 2007 Rate-Of-Progress (ROP) Plans and its 2007 attainment demonstration for Lake and Porter Counties. Indiana expects that the control measures specified in this SIP revision will reduce VOC emissions in Clark, Floyd, Lake and Porter Counties. EPA did not receive any public comments in response to its proposed approval. We are approving Indiana's cold cleaning degreasing rule.

DATES: This final rule is effective October 15, 2001.

ADDRESSES: Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Steven Rosenthal at (312) 886–6052 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312)886–6052, E-Mail: *rosenthal.steven@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "you" and "me" refer to the reader of this final rule and to sources subject to the State rule, and the terms "we," "us," or "our" refer to the EPA.

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I. Background

A. What Is a State Implementation Plan (SIP)?

Section 110 of the Clean Air Act (Act or CAA) requires states to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards established by the EPA. Each state must submit the regulations and emission control strategies to the EPA for approval and promulgation into the federally enforceable SIP.

Each federally approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling (attainment) demonstrations.

B. What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the federally enforceable SIP, states must formally adopt the regulations and emission control strategies consistent with state and federal requirements. This process generally includes public notice, public hearings, public comment periods, and formal adoption by state-authorized rulemaking bodies.

Once a state has adopted a rule, regulation, or emissions control strategy it submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If we receive adverse comments we address them prior to any final federal action (we generally address them in a final rulemaking action).

The EPA incorporates into the federally approved SIP all state regulations and supporting information it has approved under section 110 of the Act. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, titled "Approval and Promulgation of Implementation Plans." The actual state regulations the EPA has approved are not reproduced in their entirety in the CFR, but are "incorporated by reference," which means that EPA has approved a given state regulation (or rule) with a specific effective date.

C. What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of a state regulation before and after it is incorporated into a federally approved SIP is primarily a state responsibility. After the regulation is federally approved, however, the CAA authorizes the EPA to take enforcement actions against violators. The CAA also offers citizens legal recourse to address violations, as provided in section 304 of the Act.

D. What Is the Purpose of This Cold Cleaning Degreasing Rule?

Section 182(c)(2)(B) of the Act requires any serious and above ozone nonattainment area to achieve post-1996 ROP reductions of 3 percent of VOC 1990 baseline emissions per year, averaged over each consecutive 3-year period, until the area has achieved attainment of the 1-hour ozone National Ambient Air Quality Standard. In Indiana, Lake and Porter Counties (Northwest Indiana nonattainment area) are classified as "severe" nonattainment for the 1-hour ozone standard. As such, this area is subject to the ROP requirement.

The Act specifies under section 182(b)(1)(C) that emission reductions claimed under ROP plans must be achieved through the implementation of control measures through revisions to the SIP, the promulgation of federal rules, or the issuance of permits under Title V of the Act. The state may not include as part of its ROP reduction control measures implemented before November 15, 1990.

Indiana has submitted tightened cold cleaning degreasing rules for the control of VOC as a revision to the SIP for the purpose of meeting ROP requirements for the Northwest Indiana ozone nonattainment area and of reducing VOC emissions in Clark and Floyd counties. Cold cleaning degreasing is used to remove grease and oil from metal parts.

E. What Are the Key Milestone Dates for This Rule?

Indiana held a public hearing on the tightened rules on February 4, 1998, in Indianapolis, Indiana. The Indiana Air Pollution Control Board finally adopted the rules on November 4, 1998. The rule revisions became effective May 27, 1999, and were formally submitted to EPA on November 15, 2000, as a revision to the Indiana SIP for ozone.

The November 15, 2000, submittal includes amendments to 326 IAC 8–3–1 (Applicability) and 326 IAC 8–3–8 (Material Requirements for Cold Cleaning Degreasers).

II. Evaluation of the Rule

A. What Are the Basic Components of the State's Rule?

Indiana originally implemented cold cleaning degreasing rules, which are contained in 326 IAC 8–3, as part of its Reasonably Available Control Technology (RACT) requirements for VOC control. The November 15, 2000, SIP revision submittal amends section 326 IAC 8–3–1 to specify the applicability of this rule to degreasing operations in Clark, Floyd, Lake and Porter Counties. It also adds section 326 IAC 8–3–8, material requirements for cold cleaning degreasers, which tightens requirements for operators of cold cleaning degreasers and adds new requirements for sellers of solvent for use in cold cleaning degreasing operations. The rules are more stringent because a requirement has been added limiting the vapor pressure of the cleaning solvents to 1.0 millimeters of mercury (mm Hg), which is lower than the vapor pressure of cleaning solvents that are typically used. Lowering the vapor pressure reduces the amount of VOC emissions generated from this degreasing operation.

As previously discussed, this SIP revision submittal is required by the Act to the extent that Indiana submitted the rule to meet its ROP requirements. The EPA addressed what emission reductions this SIP revision is expected to achieve for purposes of ROP in its August 3, 2001, proposed approval of Indiana's post-1999 ROP plan for Northwest Indiana.

To determine whether the Indiana submittal meets the requirements for an approvable SIP revision, the EPA reviewed the rules for their consistency with section 110 and part D of the Act. A discussion of the rules and EPA's evaluation follows.

Material Requirements

Section 326 IAC 8–3–8 has been added to limit the vapor pressure of solvent used or sold for use in cold cleaning degreasing operations in Clark, Floyd, Lake and Porter Counties. Beginning November 1, 1999, the vapor pressure limit is 2.0 mm Hg, or 0.038 pounds per square inch (psi) measured at 20 degrees Celsius (C) (68 degrees Fahrenheit (F)). On May 1, 2001, the vapor pressure limit is tightened to 1.0 mm Hg (0.019 psi) measured at 20 degrees C (68 degrees F).

Exemptions

The supplier sale requirements in Section 326 IAC 8–3–8(c) do not apply to the sale of 5 gallons or less of solvents to an individual or business during any 7 consecutive days. This cutoff level is only expected to exempt a very small amount of the total solvent sold.

Section 326 IAC 8–3–8(a) exempts the cleaning of electronic components from the vapor pressure limits under section 326 IAC 8–3–8(c). Indiana has defined "electronic components" under section 326 IAC 8–3–8(b) as all components of an electronic assembly, including, but not limited to, circuit board assemblies, printed wire assemblies, printed circuit boards, soldered joints, ground wires, bus bars, and any other associated electronic component manufacturing equipment. Indiana added this exemption because solvents limited to 1.0 mmHg vapor pressure do not adequately clean certain types of electronic equipment.

Recordkeeping

Section 326 IAC 8–3–8(d) requires subject solvent suppliers and users to maintain documents which indicate the solvent's vapor pressure at the prescribed temperature. The sellers of cold cleaning solvents to users must keep records indicating the name and address of the solvent purchaser, the date of purchase, the type of solvent purchased, the unit volume of the solvent, the total volume purchased, and the vapor pressure of the solvent purchased measured in mmHg at 20 degrees C (68 degrees F). Solvent users must maintain records for each solvent purchase indicating the name and address of the solvent supplier, the date of the solvent purchase, the type of solvent purchased, and the vapor pressure of solvent measured in mmHg at 20 degrees C (68 degrees F). These records must be kept on-site for 3 years and be reasonably accessible for an additional 2 years.

As discussed above, these recordkeeping provisions require that both the sellers and users of the cleaning solvents keep records of the vapor pressure. Material Safety Data Sheets, which are required by Occupational Health and Safety regulations (20 CFR 1918), must specify the vapor pressure of the solvent (this Occupational Health and Safety requirement affects but is not directly referenced by Indiana's rule). In its response to a comment from the DeRolf Environmental Consulting Agency, Inc. on recordkeeping, Indiana stated (in the September 1, 1997, Indiana Register): "To fulfill the recordkeeping requirements of this rule the user of a cold cleaning degreaser would need to maintain a Material Safety Data Sheet and a sales receipt." These record requirements provide a sufficient basis to enforce the applicable rules.

B. Is This Rule Approvable?

This rule change requires the use of cleaning solvents with a lower vapor pressure than what is typically used. This makes the rule more stringent, because the lower the vapor pressure the less VOC emissions are generated. These rule revisions are, therefore, approvable.

III. Proposed Action

A. What Action Did EPA Propose on June 7, 2001?

The EPA proposed to approve Indiana's tightened cold cleaning degreasing rules for Clark, Floyd, Lake and Porter Counties.

IV. Public Comments

A. Did EPA Receive Public Comments on the Proposed Rule?

The EPA did not receive any public comments in response to the proposed rule.

V. Final Action

A. What Action Is EPA Taking?

We did not receive any public comments in response to our proposed approval. We are approving the incorporation of Indiana's tightened cold cleaning degreasing rule into the Indiana SIP. The specific provisions we are approving consist of amendments to 326 IAC 8–3–1 and the addition of 326 IAC 8–3–8. These rules were finally adopted by the State on November 4, 1998, took effect on May 27, 1999, and were published in the Indiana Register on June 1, 1999 (22 IR 2854).

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211. "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility

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Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective October 15, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds, Ozone.

Dated: August 28, 2001.

Norman Niedergang,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(143) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c)* * *

(143) On November 15, 2000, the State submitted rules to reduce volatile organic compound emissions from cold cleaning degreasing.

(i) *Incorporation by reference.* 326 Indiana Administrative Code 8–3: Organic Solvent Degreasing Operations, Section 1, Applicability, and Section 8, Material Requirements for Cold Cleaning Degreasers. Final adoption by the Indiana Air Pollution Control Board on November 4, 1998. Filed with the Secretary of State on April 27, 1999. Effective May 27, 1999. Published at Indiana Register, Volume 22, Number 9, June 1, 1999.

[FR Doc. 01–22995 Filed 9–13–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21, 61, 73, 74 and 76

[OMD Docket No. 00–205; FCC 01–246]

Adoption of a Mandatory FCC Registration Number

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Commission amends its rules to require persons and entities doing business with the agency to obtain a unique identifying number, called the FCC Registration Number (FRN), through the Commission Registration System (CORES), and to provide the number when doing business with the agency. The FRN requirement is being adopted to better manage the Commission's financial systems and comply with various statutes governing the financial management of agency accounts.

DATES: Effective December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Mark A. Reger, Chief Financial Officer (202) 418–1924 (policy and technical issues); Laurence H. Schecker, Office of General Counsel (202) 418–1720 (legal issues).

SUPPLEMENTARY INFORMATION: By this document, the Commission amends its rules to require persons and entities doing business with the Commission to obtain a unique identifying number called the FCC Registration Number (FRN) and supply it when doing business with the Commission.

This proceeding was instituted as a step in our efforts to better manage our financial systems, to improve compliance with various statutes that govern the financial operations of the Federal government, and to improve the efficiency of agency processes for the benefit of the public. We have considered the eight comments and two reply comments received in response to the Notice of Proposed Rulemaking (NPRM), 65 FR 78455 (Dec. 15, 2000). In this order, we adopt a new subpart W to part 1 of our rules, 47 CFR part 1, and cross-reference this new subpart where appropriate in our other rules, to require persons and entities doing business with the Commission to acquire an FRN and to provide it with all applications or feeable filings as well as other transactions involving the payment of money. The rules are set forth in the rule changes, and are substantially as we proposed in the NPRM. We have made various editorial changes and changes in response to the comments received as discussed in this decision.

The Need for the Identifying Number

In the NPRM we explained at length the need to adopt a 10-digit unique identifier, the FRN, and our choice of the Commission Registration System (CORES) as the mechanism for assigning the FRN to entities doing business with the Commission. No commenting parties questioned our view that we needed to take steps to improve the management of our financial systems. A mandatory FRN is part of a long-range solution to better manage our financial systems. Adoption of a new requirement such as the FRN will engender implementation issues. We intend to address any problems that arise from the implementation of the CORES expeditiously. We appreciate the comments that pointed out existing and potential problems, and welcome the opportunity to address those concerns.

While many commenting parties generally support the FRN, the FCBA urged the Commission "not to impose any new FRN requirements without taking a simultaneous, comprehensive look at its proposal in the context of the other 'numbers,' 'passwords,' and 'identifiers' already in use at the Commission." As we have noted, we believe we must implement the FRN requirement as soon as possible. Both the General Accounting Office and the Commission's own Inspector General have concluded that the Commission must improve its collection systems. Adopting a mandatory FRN is among the first steps necessary to correct deficiencies in our financial management systems that have come to our attention.

The FRN will have multiple benefits to the Commission and the public. The FRN will enable us to ensure that fees are recorded and credited to the proper party. This will result in fewer letters requesting confirmation of payments and make it easier for us to respond to inquiries. The FRN will enable us to keep better records of entities that are exempt from paying fees. It will help us to maintain the integrity and efficiency of our collection systems and correct deficiencies identified in our accounting systems. The FRN will eliminate repetitive collection of data while providing us with a database to provide electronic mailings, such as annual fee materials and other informational mailings, to the public doing business with the Commission.

One of the main reasons we are adopting the FRN requirement is to facilitate compliance with the Debt Collection Improvement Act of 1996 (DCIA), sections 8 and 9 of the Communications Act, and the regulations implementing these statutes. These statutes and regulations permit us to withhold the processing or ultimate grant of a license, application, or other authorization where the applicant has not paid the application fees or is delinquent in its debts to the Commission. The FRN, in conjunction with the Revenue Accounting and Management Information System (RAMIS), will enable us to perform fee and debt sufficiency checks to better manage our collection and revenue systems.

We realize that the manner in which our electronic systems have developed has resulted in a multiplicity of numbers, passwords and identifiers. For the reasons noted, we cannot afford to delay this necessary step toward improved financial management of the agency's receivables. Indeed, the creation of a single unique customer identification number is the best approach to solving a long-standing problem. Using the FRN as a unique customer identifier will improve communication between the Commission's various electronic systems by automating fee sufficiency checks and by facilitating other systems' party validation processes. Implementing the FRN is the first step toward streamlining this aspect of electronic filing services for our customers. The Commission has placed a very high priority on the development of a common data structure for all systems to use for new development as well as enhancements to existing systems. One of our long-range goals is to replace unnecessary numbers of other identifiers with the FRN. As the electronic filing systems incorporate the CORES and the FRN into their application process, the need to maintain registration information in multiple systems will be eliminated. In FY 2002, we plan to initiate a review to determine how to simplify the passwords and identifiers used by the agency's electronic systems, as suggested by the FCBA.

Disney commented on problems concerning the revised FCC Form 159 and the Commission's existing payment and electronic filing systems. While there have been problems with the revised Form 159, those deficiencies are being corrected. In particular, we will have Form 159 available in Adobe Acrobat format to allow users to prepare the form on line. This will resolve many if not all problems encountered thus far with Form 159. We encourage the public to utilize the electronic version of Form 159.

The NAB correctly observed that the CORES does not allow a licensee to check on the status of an application. The CORES was never intended to serve as an application tracking system. That function is performed by individual licensing systems. The CORES is a registration system and database used to ensure that entities are meeting applicable fee requirements and are current in all financial obligations. The various Bureau and Office filing systems are being reprogrammed to incorporate the FRN, but those systems remain the vehicle for checking application status.

NECA commented that the administrator of the Commission's schools and libraries support mechanism, the Universal Service Administrative Company (USAC), also uses the acronym "FRN." Specifically, USAC assigns a "Funding Request Number" to each individual request for discounted services submitted by a school or library. USAC, schools and libraries, and the service providers who provide the discounted services all use the FRN to track the individual funding requests. Service providers are also required to reference specific USAC Funding Request Numbers when submitting invoices to USAC for reimbursement of the discounted portion of the services they provide to schools and libraries. In addition, service providers are required to list their Service Provider Identification Number, which is a provider-specific identification number assigned by USAC for tracking purposes.

We recognize that there could be some confusion to the extent that service providers were required to include both the USAC Funding Request Numbers and the Commission FRN on the same request for reimbursement. To minimize this

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potential confusion, we are working with USAC to develop a relational database system that will allow the correlation of a service provider's Service Provider Identification Number assigned by USAC with the FRN assigned by the Commission. This database system will obviate the need for service providers to supply a Commission FRN when seeking reimbursement from USAC. In conjunction with USAC, we will also take steps to educate carriers and the public about this matter to eliminate any confusion.

Multiple FRNs

We sought comment on whether we should limit the number of FRNs that an entity may obtain and whether we should penalize entities that abuse the CORES by obtaining multiple FRNs. We agree with the commenters that indicated we should not limit the number of FRNs that may be obtained. This will permit members of a corporate family to obtain individual FRNs, whether or not those entities have different taxpayer identifying numbers (TINs). We wish to allow entities to organize their dealings with the Commission along logical business lines. We will not adopt the proposal for a sub-group identification number as a means for linking related entities because the Commission can link entities through the TIN information.

Our decision to allow multiple FRNs means that entities will be responsible for ensuring that the proper FRN is used for the payment being submitted to the Commission. While all transactions for a license should use the FRN obtained by the entity for that license so that a link between and among transactions is maintained, the licensing bureaus and offices will not reject subsequent applications or filings that provide different FRNs over the life cycle of the license, unless improper use of multiple FRNs by the entity is found. If an entity applies for a license using one FRN and remits regulatory fees or other payments using another FRN, it will appear in the database that the entity did not pay the proper fees. We caution, however, that in individual circumstances, if we find that entities are obtaining multiple FRNs for purposes of not paying fees or evading regulatory responsibilities, we will take appropriate action, such as revoking duplicative FRNs or other appropriate action.

Security Concerns

Disney expressed security concerns over the use of a single FRN as an identifier. Although Disney agrees with NAB that the Commission should "assess its electronic filing and database systems on a holistic level," Disney felt that using a single common identifier or reference number for all filings raises significant (but unidentified) security concerns. Our licensing and other electronic systems have appropriate password protections. As in any other electronic system, password security in the CORES is vital. We do not, however, believe that any unique security issues are raised in this context.

Cingular commented that FRNs cannot be deleted, a prospect it believes is troubling if duplicate FRNs are assigned. The CORES does not permit the same FRN to be assigned more than once. Nor does the CORES allow the public to delete FRNs. However, the CORES has been revised to allow entries to be placed on inactive status by the CORES Administrator on our own or at the request of the public. Thus, when an entity informs the CORES help desk that they want to have an FRN de-activated, that FRN will no long appear when a search of the database is conducted.

Assignment of FRNs

Cingular urged that the Commission only assign FRNs upon request through the CORES or after submission of an FCC Form 160. When the CORES became operational in 2000, licenses in the Universal Licensing System (ULS), our largest database, were automatically assigned FRNs. That process, which was a one-time occurrence, is now complete. The Commission does not expect to perform any future data conversions and, as Cingular recommends, will rely on entities to request FRNs through the CORES. When the FRN becomes mandatory, an entity's FRN and other relevant data from the CORES will automatically fill in Form 159. As Disney pointed out, this process will substantially reduce data entry errors.

As we proposed in the NPRM, if we cannot reasonably expect a party to obtain an FRN, we will assign one. In the enforcement context, we note that the FRN is a primary element in the forfeiture tracking system. Many recipients of enforcement actions are current customers of the Commission and will already have an FRN issued for prior transactions. Commission staff will research the CORES to determine if a FRN exist for the alleged violator, and if none exists the staff will assign an FRN and include that FRN on the outgoing correspondence. Those who do not have a FRN will be assigned one by the enforcing bureau and will be requested to submit it with the payment of a fine or forfeiture or other payment. Entities making voluntary contributions, such as those made pursuant to a consent decree, must acquire an FRN.

The ARRL commented that foreign nationals and non-United States citizens who are not employed in the United States hold amateur licenses but have no social security number (SSN). The CORES has made provision for the registration of foreign nationals by providing the ability to register without a TIN. For foreign entities that do not yet have a TIN, the CORES will assign a nine-digit personal identification number (PIN) to the entity. The PIN will appear on the final registration confirmation page. Indeed, many of these persons were already registered in the ULS and were assigned a PIN as a substitute for a TIN. They were transferred automatically into the CORES. ARRL also stated that unincorporated amateur radio clubs have no TIN. Unincorporated amateur radio clubs owned by United States citizens that were not converted from ULS into the CORES will be required to supply a club trustee's TIN in order to obtain an FRN. Finally, ARRL asked that we amend our proposed rules to alert entities with assigned TINs to use that number, but we conclude that such instructions are best included in appropriate CORES fact sheets.

Entities being billed for fulfillment of a FOIA request will be provided with a Form 160 to be returned with their remittance. Similarly, due diligence requestors who send in requests and must pay research and copying fees will be provided with a Form 160. However, those who personally appear at the Reference Center and pay fees to make copies of Commission records will not have to obtain or provide an FRN.

TINs

We agree with Cingular that collecting TINs as well as the FRN on Form 159 is redundant. Once the FRN is mandatory and we have built a database of TIN information in the revenue system as required by the DCIA, we anticipate that the Form 159 will be revised to eliminate the TIN and other redundant information. Further, the entity database in the revenue system will be loaded from the CORES system and we will be able to associate all FRNs that apply to one TIN. In the future, the Commission would like to see the reporting of TIN information limited to the registration in the CORES and only require the TIN during the licensing process in unusual circumstances. The Commission will rely on the industry to maintain accurate information about contacts, mailing addresses and TIN information in the CORES database. Verizon Wireless asks for 90 days to update information in the CORES database. We will not set a time limit for this requirement, but advise that the information should be kept current in order to ensure proper crediting of payments. We hope that with future revisions to our systems, when information is updated in one system all systems will receive the update, as Verizon Wireless requests.

Verizon Wireless and Sprint questioned why the Commission chose not to use TINs as the identifier of choice. The TIN for individuals is the SSN, and, because of privacy requirements, could not be used as an identifier. While the TINs for business entities are not generally confidential, as Cingular points out, in some circumstances such TINs are also sensitive.

When Must FRNs be Obtained?

As we noted in the NPRM, FRNs must be obtained by anyone who is doing business with the Commission as that term is defined in the DCIA. This requirement is reflected in rule § 1.8002(a) adopted in this Order. We stated, "all businesses and individuals that file applications with the Commission—whether feeable or non-feeable—or make any payments of any type to the Commission will be required to obtain an FRN and provide it to the Commission in its filings." We also noted that anyone who does not pay a fee because of an exception in our rules or the statute had to acquire and provide an FRN to enable us to keep track of entities that claim an exemption from paying fees.

When Must FRNs be Provided?

Cingular commented that the Commission should clearly identify when FRNs must be provided. The Commission will issue public notices as Bureaus modify their systems to require an FRN and will specify the forms or other filings that will require providing either the FRN or a Form 162. The Commission will include this information in the Frequently Asked Questions for the CORES. A list of specific instances in which the FRN must be provided will be compiled and the CORES website will link to the list. We have changed the language of proposed rule § 1.8003 to reflect our plans to issue more specific guidance as to when the FRN must be provided. We wish to repeat, as we noted in the Notice of Proposed Rulemaking, 65 FR 78455 (Dec. 15, 2000), that certain submissions to the Commission *do not* require the FRN, including comments filed in rulemaking proceedings, petitions to deny, petitions objecting to the issuance of a Commission authorization, letters and electronic mail communications, and reports that do not require a fee. Additionally, database searches will not require an FRN.

NECA questioned the proposal to require an FRN on non-feeable tariff submissions. The Commission may not issue a license or provide a benefit without a TIN for the applicant. As we explained in the NPRM, non-feeable applications require the FRN to facilitate compliance with the DCIA, which does not distinguish between licensees and applicants who pay fees and those who do not. Therefore requiring an FRN for non-feeable transactions is logical and necessary.

Cingular commented that the applicant and not the payer is responsible for submitting payment to the Commission, and thus it is unnecessary for counsel or representatives paying fees on behalf of applicants to submit their FRNs. The FRN of both counsel or other payer and all entities on whose behalf payment is made must be provided. The FRN of the applicant or licensee must be submitted, of course, to enable us to determine that the applicant has paid the proper fees. The FRN must be submitted by counsel or others paying on behalf of applicants to allow us to refund excess remittances where appropriate to the payer who made the payment rather than to the applicant or licensee.

NECA questions why it must provide the FRNs for the sometimes hundreds of subscribers to its group tariffs. As we have just explained, we need both the FRN of the entity making the filing with the Commission and the parties on whose behalf the filing is made. Thus, NECA must provide its FRN on the group tariff filings. It must also obtain the FRNs of the subscribing carriers and provide them to us with each tariff filing so we can know which carriers are parties to the tariff. NECA is responsible for any fees associated with the tariff filing. This obligation of a filing entity to provide FRNs for each carrier covered by a "group" tariff also applies to other "group" tariffs such as those filed by GVNW Consulting, Inc. and John Staurulakis, Inc.

The NAB further comments that the Commission can already identify the licensee who is submitting its regulatory fees by the call sign and that the Commission can fill in or correct the FRN without returning the filing. We disagree because call signs are unreliable for identifying entities in this context. Call signs are often changed and may be assigned to other entities when a station changes hands. Providing a valid FRN will ensure that payments are credited to the proper entity and appropriately remain the responsibility of the payer or the licensee.

The Disney Company sought assurance that payments may be made on behalf of an entity and that those entities receive credit for its payments. No changes are being made to the accepted practice of permitting payments to be made by third parties. However, we will require such submission to contain the FRNs for the payer and for the applicant(s) or licensee(s) on whose behalf the payment is being made. The Commission will credit the payment to the applicant or licensee and link it to the payer.

Effect of Not Providing FRNs

We wish to encourage compliance with the requirement to submit the FRN because it is necessary to the process of providing accurate links to the applicant, payer and service being requested and will facilitate compliance with the DCIA and other financial reporting requirements. There are some special circumstances, discussed below, that require a departure from our general rule that correct FRNs must be contemporaneously provided with the filings.

Cingular, Verizon, NAB, FCBA and Qwest suggested allowing filers a brief window to correct applications filed without the requisite FRN. Cingular asserts that "there simply is no public interest benefit associated with dismissing an otherwise timely filed auction payment, renewal applicant, or other filing for failure to provide an FRN without providing the applicant an opportunity to cure the oversight." Verizon and FCBA did not recommend any specific number of days for re-submission of a defective FRN filing. Qwest on the other hand recommended five calendar days for the re-submission.

After careful consideration, we do not adopt the suggestion that all filers be given a grace period to supply an omitted FRN or correct an incorrect FRN. Electronic filing systems have been or will be modified so those filings cannot be accomplished without supplying a correct FRN. Attempts to file electronically without a FRN will result in a reminder to the filer that the FRN is required, and, if the filer does not yet have a FRN, the filer will be directed to the CORES website. This scenario includes those wishing to participate in auctions. Thus, in electronic filing circumstances, no grace period is necessary. For paper filings in instances where no time-critical

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deadline is involved ("Time critical deadline" means requests that must be filed by a specific deadline or be dismissed as untimely (i.e., applications filed in response to a "window" or "cut-off" list established by the Commission), the rejection of a feeable application for lack of an FRN has no impact on the filer except for the minor inconvenience of having to refile the application. No grace period is necessary in those circumstances, either. This is consistent with the approach currently in our rules that provide for the return of applications not accompanied by properly completed Form 159s and are considered filed when refiled. In those limited circumstances where there is a time-critical deadline and applications may be filed on paper, we will grant paper filers a grace period of 10 business days following notification to the filer by Commission staff to correct omitted or FRNs. Also, we will afford the 10-day grace period for appearances in hearing proceedings. The filer will be notified of the omission or FRN, and informed of the deadline for submitting the correct FRN. If FRN is provided during the grace period, the filing date will be the original date of submission. Except for filing of tariff publications, if the FRN is not provided, the filing will be returned. The proposed rules have been changed to reflect our final disposition of this issue.

Return of Filings With Defective FRNs

FCBA also comments that defective FRN filings should be returned to the affected licensee's identified authorized representative. The Commission will continue its practice of returning defective applications and payments to the payer listed on the remittance form.

Exceptions to the FRN Rule

There will be exceptions to this general rule that FRNs must be provided at the time of the filing: appearances in feeable hearing proceedings, emergency authorizations, civil monetary payments and consent decrees, and tariff filings. We have changed appropriate rules to reflect these exceptions.

Emergency authorization applications (including special temporary authorizations in emergency situations) should contain the applicant's FRN, but will not be rejected without it due to the emergency nature of such filings. An FRN will have to be supplied by the applicant or the Commission will assign one before action is taken on the request.

As explained in the NPRM, tariff publications present unique issues in part because they are filed in different formats and the related fees are paid separately from the filings. Accordingly, we sought comment on how we should treat tariff publications that omit a valid FRN should the provision of FRNs with such filings become mandatory. We also examined what action should be taken if an FRN is omitted from the fee payment related to the filing of a tariff publication.

As of the effective date of this order, carriers or their representatives will not be able to make electronic filings of tariff publications unless they use a valid FRN and the related password to obtain access to the Electronic Tariff Filing System (ETFS). In those instances where an FRN is found to be invalid or the filing entity does not have an FRN, access to the ETFS will be denied and the system will provide an automatic message explaining the procedures to obtain an FRN and including a link to the CORES system. In addition, as of the effective date, the carrier FRN must be included in the transmittal or other cover letter accompanying each tariff publication. If the carrier FRN is not included in that letter, the Commission may take such action as it deems appropriate including but not limited to rejection of the related tariff publication if it has not yet become effective, declaring the tariff publication unlawful if it has already become effective, or giving the carrier or carrier representative with up to ten (10) business days from the filing date to amend the transmittal or other cover letter to include a valid FRN.

The filing of many tariff publications with the Commission requires the payment of fees by carriers or their representatives. At this time, such fees must be paid to the lockbox bank. As of the effective date of this order, carriers or their representatives will be required to include the carrier FRN on the Remittance Advice Form with the payment of these fees. If fees for more than one carrier are paid at the same time, the FRN for each carrier must be provided clearly. However, in some instances the FCC Form 159 is not included with that payment. For example, when an electronic funds transfer is used to pay a tariff filing fee, an FCC Form 159 ordinarily is not included with that payment although the information ordinarily included on the Form 159, including the FRN, must be transmitted to the lockbox bank as part of the transaction. In such instances, as of the effective date of this order, the correct carrier(s) FRN(s) must be included with each fee payment on behalf of each carrier. If the lockbox bank receives a fee payment without an FRN, that fee payment shall be credited to the account of the Commission and the related payment information forwarded to the Commission staff for additional processing. If one or more of the carrier FRNs required to be included with the payment are missing or invalid, the Commission may take such action as it deems appropriate including but not limited to rejection of the related tariff publication if it has not yet become effective, declaring the tariff publication unlawful if it has already become effective, or giving the carrier or carrier representative up to ten (10) business days from the filing date to provide a valid FRN.

FRN Assistance

As we noted in the NPRM, additional information concerning the CORES is found in the Frequently Asked Question portion of the CORES homepage on our Internet site, located at <www.fcc.gov> by clicking on the CORES link. For further information concerning registering for an FRN, contact the CORES Administrator toll-free at 1–877–480–3201, or by e-mail at *<CORES@fcc.gov>*.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." In the NPRM we made this certification. No comments were received concerning this proposed certification. We conclude that this certification is appropriate for the rules adopted here. The rules require certain entities or individuals to obtain an FRN. A substantial number of entities doing business with the Commission automatically received their FRN by virtue of their prior registration in the ULS. We have proposed to make it extremely simple, and virtually cost-free, for anyone else to obtain an FRN. Nor will the adopted rule amendments establishing penalties for failure to provide the FRN have a significant economic impact on a substantial number of small entities. Our rules already generally provide for penalties when applications are not substantially complete. The proposed rule amendments simply conform our rules to the new FRN requirement. Therefore, the rules will not have a significant economic impact. Accordingly, we certify, pursuant to section 605(b) of the RFA, 5 U.S.C. 605(b), that the rules adopted herein will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of this Order, including a copy of this Final Regulatory Flexibility Certification in a report to Congress pursuant to the Congress Review Act. In addition, this Order and final certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration and will be published in the **Federal Register**.

Paperwork Reduction Act

We previously obtained all requisite approvals under the Paperwork Reduction Act for the information collections proposed in the NPRM.

Pursuant to sections 4(i), 8(f), 9(f)(1), 254(d), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 158(f), 159(f)(1), 254(d), 303(r), and 309(j), and 33 U.S.C. 7701(c)(1), Parts 1, 21, 61, 73, 74, and 76 of the Commission's Rules are amended as set forth in the rule changes.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements.

47 CFR Parts 21, 61, 73, 74 and 76

Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 1, 21, 61, 73, 74, and 76 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(I), 154(j), 155, 225, 303(r), 309, and 325(e).

2. Section 1.42 is amended by adding a new paragraph (c) to read as follows:

§ 1.42 Applications, reports complaints; cross-reference.

* * * * *

(c) Rules governing the FCC Registration Number (FRN) are contained in subpart W of this part.

3. Section 1.77 is amended by adding a new sentence following the first sentence in the introductory text as follows:

§ 1.77 Detailed application procedures; cross-reference.

* * * Applicants should also refer to the Commission rules regarding the payment of statutory charges (subpart G of this part) and the use of the FCC Registration Number (FRN) (see subpart W of this part).

* * * * *

4. Section 1.221 is amended by redesignating paragraph (f) as paragraph (f)(1), and adding a new paragraph (f)(2) to read as follows:

§ 1.221 Notice of hearing; appearances.

* * * * *

(f) * * *

(2) When a fee is required to accompany a written appearance as described in paragraph (f)(1) of this section, the written appearance must also contain FCC Registration Number (FRN) in conformance with subpart W of this part. The presiding judge will notify the party filing the appearance of the omitted FRN and dismiss the applicant with prejudice for failure to prosecute if the written appearance is not resubmitted with the FRN within ten (10) business days of the date of notification.

* * * * *

5. Section 1.721 is amended by removing the word "and" at the end of paragraph (a)(13), by removing the period and by adding "; and" at the end of paragraph (a)(14), and by adding a new paragraph (15) to read as follows:

§ 1.721 Format and content of complaints.

* * * * *

(a) * * *

(15) A FCC Registration Number is required under Part 1, Subpart W. Submission of a complaint without the FCC Registration Number as required by Part 1, subpart W will result in dismissal of the complaint.

* * * * *

6. Section 1.934 is amended by removing the word "or" at the end of paragraph (d)(2), and by removing the period and by adding "; or" at the end of paragraph (d)(3), and by adding a new paragraph (d)(4) to read as follows:

§ 1.934 Defective applications and dismissal.

* * * * *

(d) * * *

(4) The FCC Registration Number (FRN) has not been provided.

* * * * *

7. Add a new subpart W to read as follows:

Subpart W—FCC Registration Number

§ 1.8001 FCC Registration Number (FRN).
§ 1.8002 Obtaining an FRN.
§ 1.8003 Providing the FRN in Commission filings.
§ 1.8004 Penalty for failure to provide the FRN.

§ 1.8001 FCC Registration Number (FRN).

(a) The FCC Registration Number (FRN) is a 10-digit unique identifying number that is assigned to entities doing business with the Commission.

(b) The FRN is obtained through the Commission Registration System (CORES) over the Internet at the CORES link at <www.fcc.gov> or by filing FCC Form 160.

§ 1.8002 Obtaining an FRN.

(a) The FRN must be obtained by anyone doing business with the Commission, see 31 U.S.C. 7701(c)(2), including but not limited to:

(1) Anyone required to pay statutory charges under subpart G of this part;

(2) Anyone applying for a license, including someone who is exempt from paying statutory charges under subpart G of this part, see §§ 1.1114 and 1.1162;

(3) Anyone participating in a spectrum auction;

(4) Anyone holding or obtaining a spectrum auction license or loan; and

(5) Anyone paying statutory charges on behalf of another entity or person.

(b)(1) When registering for an FRN through THE CORES, an entity's name, entity type, contact name and title, address, and taxpayer identifying number (TIN) must be provided. For individuals, the TIN is the social security number (SSN).

(2) Information provided when registering for an FRN must be kept current by registrants either by updating the information on-line at the CORES link at <www.fcc.gov> or by filing FCC Form 161 (CORES Update/Change Form).

(c) A business may obtain as many FRNs as it deems appropriate for its business operations. Each subsidiary with a different TIN must obtain a separate FRN. Multiple FRNs shall not be obtained to evade payment of fees or other regulatory responsibilities.

(d) An FRN may be assigned by the Commission, which will promptly notify the entity of the assigned FRN.

§ 1.8003 Providing the FRN in Commission Filings.

The FRN must be provided with any filings requiring the payment of statutory charges under subpart G of this part, anyone applying for a license, including someone who is exempt from

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paying statutory charges under subpart G of this part, anyone participating in a spectrum auction, making up-front payments or deposits in a spectrum auction, anyone making a payment on an auction loan, anyone making a contribution to the Universal Service Fund, and anyone paying a or other payment. A list of applications and other instances where the FRN is required will be posted on our Internet site and linked to the CORES page.

§ 1.8004 Penalty for Failure to Provide the FRN.

(a) Electronic filing systems for filings that require the FRN will not accept a filing without the appropriate FRN. If a party seeks to make an electronic filing and does not have an FRN, the system will direct the party to the CORES website to obtain an FRN.

(b) Except as provided in paragraph (d) of this section or in other Commission rules, filings subject to the FRN requirement and submitted without an FRN will be returned or dismissed.

(c) Where the Commission has not established a filing deadline for an application, a missing or invalid FRN on such an application may be corrected and the application resubmitted. Except as provided in paragraph (d) of this section or in other Commission rules, the date that the resubmitted application is received by the Commission with a valid will be considered the official filing date.

(d) Except for the filing of tariff publications (see 47 CFR 61.1(b)) or as provided in other Commission rules, where the Commission has established a filing deadline for an application and that application may be filed on paper, a missing or invalid CORESID on such an application may be corrected within ten (10) business days of notification to the filer by the Commission staff and, in the event of such timely correction, the original date of filing will be retained as the official filing date.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

8. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

9. Section 21.20 is amended by removing the word "or" at the end of paragraph (b)(9), and by removing the period and by adding "; or" at the end of paragraph (b)(10), and by adding a new paragraph (b)(11) to read as follows:

§ 21.20 Defective applications.

* * * * *

(b) * * *

(1) The application does not contain the FCC Registration Number (FRN) as required under subpart W of part 1 of this part.

PART 61—TARIFFS

10. The authority citations for part 61 continue to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403, unless otherwise noted.

11. Section 61.1 is amended by revising paragraph (b) to read as follows:

§ 61.1 Purpose and application.

* * * * *

(b) Tariff publications filed with the Commission must conform to the rules in this part and with Commission rules regarding the payment of statutory charges (see subpart G of part 1 of this title) and the use of FCC Registration Numbers (FRNs) (see subpart W of part 1 of this title). Failure to comply with any provisions of these rules may be grounds for rejection of the non-complying publication, a determination that it is unlawful or other action. Where an FRN has been omitted from a cover letter or transmittal accompanying a tariff publication filed under this part or the FRN included in that letter is invalid, the submitting carrier or carrier representative shall have ten (10) business days from the date of filing to amend the cover letter or transmittal to include a valid FRN. If within that ten (10) business day period, the carrier or carrier representative amends the cover letter or transmittal to include a valid FRN, that FRN shall be deemed to have been included in the letter as of its original filing date. If, after the expiration of the ten (10) business day period, the cover letter or transmittal has not been amended to include a valid FRN, the related tariff publication may be rejected if it has not yet become effective, declared unlawful if it has become effective, or subject to other action.

* * * * *

12. Section 61.15 is amended by removing the period and adding a semicolon at the end of paragraph (a)(3) and by adding a new paragraph (a)(4) to read as follows:

§ 61.15 Letters of transmittal and cover letters.

* * * * *

(a) * * *

(4) Include the FCC Registration Number (FRN) of the carrier(s) on whose behalf the cover letter is submitted. See subpart W of part 1 of this title.

* * * * *

13. Section 61.21 is amended by adding a new paragraph (a)(3) to read as follows:

§ 61.21 Cover letters.

* * * * *

(a) * * *

(3) All cover letters and letters of transmittal shall include the FCC Registration Number (FRN) of the issuing carrier(s) on whose behalf the letter is submitted. See part 1, subpart W of this chapter.

* * * * *

14. Section 61.33 is amended by removing the word "and" at the end of paragraph (a)(3), and by adding a semi-colon at the end of paragraph (a)(3) and adding "; and" at the end of paragraph (a)(4); and by adding a new paragraph (a)(5) to read as follows:

§ 61.33 Letters of transmittal.

(a) * * *

(5) Include the FCC Registration Number (FRN) of the carrier(s) on whose behalf the letter is submitted. See part 1, subpart W of this chapter.

* * * * *

PART 73—RADIO BROADCAST SERVICES

15. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

Section 73.1010 is amended by adding a new paragraph (a)(9) to read as follows:

§ 73.1010 Cross reference to rules in other parts.

(a) * * *

(9) Part 1, Subpart W of this chapter, "FCC Registration Number". (§§ 1.8001–1.8005.)

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

16. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(F), and 559.

17. Section 74.5 is amended by adding a new paragraph (a)(7) to read as follows:

§ 74.5 Cross-reference to rules in other parts.

(a) * * *

(7) Part 1, Subpart W of this chapter, "FCC Registration Number". (§§ 1.8001–1.8005.)

* * * * *

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

18. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 317, 325, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 572, 573.

19. Section 76.1610 is amended by adding paragraph (f) to read as follows:

§ 76.1610 Change of operational information.

* * * * *

(f) The operator's FCC Registration Number (FRN) as required under part 1, subpart W of this chapter.

* * * * *

[FR Doc. 01–22969 Filed 9–13–01; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2081, MM Docket No.01–127; RM–10132]

Digital Television Broadcast Service; Pittsburg, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Saga Quad States Communications, Inc., licensee of station KOAM–TV, substitutes DTV channel 13 for DTV channel 30 at Pittsburg, Kansas. *See* 66 FR 34400, June 28, 2001. DTV channel 13 can be allotted to Pittsburg in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 37–13–15 N. and 94–42–23 W. with a power of 4.2, HAAT of 336 meters and with a DTV service population of 357 thousand.

With is action, this proceeding is terminated.

DATES: Effective October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–127, adopted September 5, 2001, and released September 7, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Kansas, is amended by removing DTV channel 30 and adding DTV channel 13 at Pittsburg.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23058 Filed 9–13–01; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2046, MM Docket No. 00–137, RM–9917, RM–10161]

Digital Television Broadcast Service; Reno, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Sierra Broadcasting Company and Smith Television License Holdings, Inc., substitutes DTV channel 7 for DTV channel 34 for station KRNV(TV) and substitutes DTV channel 9c for DTV channel 23 for station KOLO–TV at Reno, Nevada. *See* 65 FR 51278, August 23, 2000. DTV channels 7 and 9 can be allotted to Reno, respectively, in compliance with the principle community coverage requirements of Section 73.625(a). DTV channel 7 can be allotted at coordinates 39–18–57 N. and 119–53–00 W. with a power of 16.8, HAAT of 857 meters and with a DTV service population of 449 thousand. DTV channel 9c can be allotted at coordinates 39–18–49 N. and 119–53–00 W. with a power of 15.6, HAAT of 893 meters and with a DTV service population of 511 thousand.

With is action, this proceeding is terminated.

DATES: Effective October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–137, adopted August 30, 2001, and released September 5, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Nevada, is amended by removing DTV channel 34 and adding DTV channel 7 at Reno.

3. Section 73.622(b), the Table of Digital Television Allotments under Nevada, is amended by removing DTV channel 23 and adding DTV channel 9c at Reno.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23057 Filed 9–13–01; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2047, MM Docket No. 99–262, RM–9659]

Digital Television Broadcast Service; Spokane, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Spokane School District #81, licensee of noncommercial station KSPS(TV), substitutes DTV channel *8 for DTV channel *39 at Spokane, Washington. *See* 64 FR 40331, July 26, 1999. DTV channel *8 can be allotted to Spokane in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (47–34–34 N. and 117–17–58 W.) with a power of 21.6, HAAT of 558 meters and with a DTV service population of 545 thousand. Since Spokane is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment.

With is action, this proceeding is terminated.

DATES: Effective October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–262, adopted August 30, 2001, and released September 5, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, and 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Washington, is amended by removing DTV channel *39 and adding DTV channel *8 at Spokane.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23056 Filed 9–13–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 66, No. 179

Friday, September 14, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–05–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAE 146 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAE 146 series airplanes. This proposal would require repetitive inspections to detect cracking of the horizontal butt joint of the rear pressure bulkhead and repair, as necessary. This proposal also would require installation of new joint plates on the aft face of the rear pressure bulkhead, which would terminate the repetitive inspections. This action is necessary to prevent cracking of the horizontal butt joint of the rear pressure bulkhead, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 15, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–05–AD, 1601 Lind Avenue, SW., Renton, Washington 985–46. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket Number 2001–NM–05–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–05–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–05–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain BAE Systems (Operations) Limited Model BAE 146 Series Airplanes series airplanes. The CAA advises that cracking of the horizontal butt joint on the forward and rear faces of the rear pressure bulkhead has been observed. This condition, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

BAE Systems (Operations) Limited has issued BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–42, Revision 1, dated November 3, 2000, which describes procedures for initial and repetitive detailed visual inspections for cracking of the horizontal butt joint on the forward and rear faces of the rear pressure bulkhead. BAE Systems (Operations) Limited has also issued BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000, which describes procedures for installation of new joint plates at the circumferential crack stopper butt joints on the rear pressure bulkhead. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The CAA classified these service bulletins as mandatory and issued British airworthiness directive 002–11–2000, in order to assure the continued

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airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

The FAA estimates that 8 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hours per airplane to accomplish the proposed detailed visual inspection of the horizontal butt joints on the forward and rear faces of the rear pressure bulkhead, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $480, or $60 per airplane, per inspection cycle.

It would take approximately 9 work hours per airplane to accomplish the proposed installation of new butt joints on the rear pressure bulkhead, at an average labor rate of $60 per work hour. The estimated cost of the required parts is $495. Based on these figures, the cost impact of the proposed installation on U.S. operators is estimated to be $8,280, or $1,035 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket 2001–NM–05–AD.

Applicability: Model BAE Systems (Operations) Limited Model BAE 146 series airplanes on which Modification HCM00713A has not been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the horizontal butt joint of the rear pressure bulkhead, which could result in reduced structural integrity of the airplane, accomplish the following:

Initial Inspection

(a) Conduct a detailed visual inspection for cracking of the horizontal butt joint of the rear pressure bulkhead, in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–42, Revision 1, dated November 3, 2000, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD.

(1) Prior to the accumulation of 12,000 flight cycles; or

(2) Within 4,000 flight cycles or 2 years after the effective date of this AD, whichever occurs first.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Repetitive Inspections

(b) Repeat the detailed visual inspection specified in paragraph (a) of this AD at intervals not to exceed 12,000 flight cycles.

Repair

(c) If cracks are detected during a detailed visual inspection required by either paragraph (a) or (b) of this AD, prior to further flight, repair the cracks in a manner approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate; or the Civil Aviation Authority (CAA).

Modification

(d) Install new joint plates on the rear pressure bulkhead, in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000, at the later of the times specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Prior to the accumulation of 40,000 flight cycles, or

(2) Within 6,000 flight cycles or 2 years after the effective date of this AD, whichever occurs first.

Terminating Action

(e) Accomplishment of paragraph (d) of this AD terminates the need for repetitive inspections as specified in paragraph (b) of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in British airworthiness directive 002–11–2000.

Issued in Renton, Washington, on September 7, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23069 Filed 9–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–174–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–300 series airplanes. This proposal would require, for certain airplanes, a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators to determine if the bolts are adequately torqued, and corrective action, if necessary. For all airplanes, this proposal would prohibit installation of an attachment bolt on the forward engine mount vibration isolators, unless the attachment bolt is torqued within certain limits. These actions are necessary to prevent failure of the engine mount, which could result in separation of the engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 15, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–174–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain "Docket No. 2001–NM–174–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–174–AD." The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–174–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–300 series airplanes. The LBA advises that, during an engine replacement, it was discovered that a certain section of the Aircraft Maintenance Manual (AMM) provides incorrect torque values for the attachment bolts of the forward engine mount vibration isolators. Because this discrepancy exists in the AMM, it is probable that any airplane on which a forward engine mount has been removed or replaced since the airplane was manufactured has attachment bolts that have been inadequately torqued. This condition, if not corrected, could result in failure of the engine mount, which could result in separation of the engine from the airplane.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328J–71–109, dated March 26, 2001, including Aircraft Maintenance Manual

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(AMM) Temporary Revision (TR) 71–130, dated March 8, 2001. The service bulletin describes procedures for a one-time torque test (which the service bulletin refers to as an inspection) of the attachment bolts of the forward engine mount vibration isolators on the left- and right-hand sides of the airplane, to determine if the bolts are adequately torqued, and corrective action, if necessary. If any bolt on a vibration isolator is inadequately torqued, the corrective action involves replacing all bolts on the affected isolator. Procedures for such replacement include performing a visual inspection to determine the condition of components of the vibration isolator, removing the existing bolts and washers that attach the forward engine mount vibration isolators to the engine, installing new bolts to reattach the forward engine mount vibration isolators to the engine, and torquing the new bolts to adequate torque values. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The LBA classified this service bulletin as mandatory and issued German airworthiness directive 2001–163, dated June 14, 2001, in order to assure the continued airworthiness of these airplanes in Germany.

For the convenience of operators, the service bulletin includes TR 71–130, dated March 8, 2001, which includes revised torque values for the attachment bolts of the forward engine mount vibration isolators.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require, for certain airplanes, accomplishment of the actions specified in the service bulletin described previously, except as discussed below. For all airplanes, the proposed AD would prohibit installation of an attachment bolt on the forward engine mount vibration isolators, unless the attachment bolt is torqued within certain limits.

Difference Between This Proposed AD and the Foreign AD

The foreign AD specifies a compliance time of 2,500 flight cycles after the first removal or reinstallation of the forward engine mount vibration isolator for the inspection of the attachment bolts of the forward engine mount vibration isolators to determine if the bolts are adequately torqued, and corrective action, if necessary. The FAA finds that, since some airplanes may have already passed this threshold, it is necessary to allow a grace period for compliance with this proposed AD, so that no airplane will be grounded upon the effective date of the AD. Therefore, this proposed AD would require accomplishment of the proposed actions within 2,500 flight cycles after the first removal or reinstallation of the forward engine mount vibration isolator, or within 30 days after the effective date of this AD, whichever comes later.

Difference Between This Proposed AD and the Service Bulletin

As part of the corrective actions for any inadequately torqued bolt on a vibration isolator, the service bulletin specifies a visual inspection to determine the condition of components of the vibration isolator. However, the service bulletin does not specifically state what type of visual inspection must be done or what corrective actions must be done if any components of the vibration isolator are damaged. Review of Aircraft Maintenance Manual Job Instruction Card 71–20–00, which the service bulletin refers to as an additional source of service information for accomplishment of this inspection, show that a detailed visual inspection and replacement of any damaged vibration isolator component with a new component is necessary. Therefore, paragraph (b) of this proposed AD clarifies that the procedures for replacement of the attachment bolts for the vibration isolator include a detailed visual inspection to determine the condition of vibration isolator components and replacement of any damaged components with new ones. Also, Note 2 of the proposed AD defines a detailed visual inspection.

Cost Impact

The FAA estimates that 36 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $4,320, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GMBH: Docket 2001-NM–174-AD.

Applicability: Model 328–300 series airplanes, on which a forward engine mount vibration isolator has been removed or reinstalled since the date of manufacture of the airplane, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine mount, which could result in separation of the engine from the airplane, accomplish the following:

One-Time Inspection

(a) For airplanes on which a forward engine mount vibration isolator has been removed or reinstalled prior to the effective date of this AD: Within 2,500 flight cycles after the first removal or reinstallation of a forward engine mount vibration isolator, or within 30 days after the effective date of this AD, whichever comes later, do a one-time torque test (inspection) of the attachment bolts of the forward engine mount vibration isolators on the left- and right-hand sides of the airplane to determine if the bolts are adequately torqued, according to Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including Aircraft Maintenance Manual (AMM) Temporary Revision (TR) 71–130, dated March 8, 2001.

Replacement of Bolts

(b) During the inspection required by paragraph (a) of this AD, if the torque value of any attachment bolt is found to be outside the limits specified in Dornier Service Bulletin SB–328J–71–109, dated March 26, 2001, including AMM TR 71–130, dated March 8, 2001: Before further flight, do all actions associated with replacing all bolts on the vibration isolator on which the improperly torqued bolt was found (including performing a detailed visual inspection to determine the condition of components of the vibration isolator and replacement of any damaged components with new components, removing the existing bolts and washers that attach the forward engine mount vibration isolators to the engine, installing new bolts to reattach the forward engine mount vibration isolators to the engine, and torquing the new bolts to adequate torque values), according to the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Torque Requirements

(c) For all airplanes: As of the effective date of this AD, no one may install an attachment bolt on the forward engine mount vibration isolators on any airplane, unless the attachment bolt is torqued within the limits specified in Dornier 328–300 AMM TR 71–130, dated March 8, 2001.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in German airworthiness directive 2001–163, dated June 14, 2001.

Issued in Renton, Washington, on September 7, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23070 Filed 9–13–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2088, MM Docket No. 01–222, RM–10240]

Digital Television Broadcast Service; Charleston, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WCIV, LLC, licensee of station WCIV(TV), NTSC channel 4, Charleston, South Carolina, proposing the substitution of DTV channel 34 for DTV channel 53. DTV Channel 34 can be allotted to Charleston, South Carolina, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (32–55–28 N. and 79–41–58 W.). As requested, we propose to allot DTV Channel 34 with a power of 340 and a height above average terrain (HAAT) of 597 meters.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas P. Van Wazer, Sidley & Austin, 1722 Eye Street, NW., Washington, DC 20006 (Counsel for WCIV, LLC).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–222, adopted September 5, 2001, and released September 7, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Carolina is amended by removing DTV Channel 53 and adding DTV Channel 34 at Charleston.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23059 Filed 9–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2048, MM Docket No. 01–206, RM–10205]

Digital Television Broadcast Service; Harrisburg, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Harrisburg Television, Inc., licensee of station WHTM–TV, NTSC channel 27, Harrisburg, Pennsylvania, proposing the substitution of DTV channel 10 for station WHTM–TV's assigned DTV channel 57. DTV Channel 57 can be allotted to Harrisburg, Pennsylvania, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (40–18–57 N. and 76–57–02 W.). As requested, we propose to allot DTV Channel 10 to Harrisburg with a power of 14.0 and a height above average terrain (HAAT) of 346 meters. However, since the community of Harrisburg is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Thomas P. Van Wazer, Sidney, Austin, Brown & Wood, 1722 Eye Street, NW., Washington, DC 20006 (Counsel for Harrisburg Television, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–208, adopted August 30, 2001, and released September 5, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Pennsylvania is amended by removing DTV Channel 57 and adding DTV Channel 10 at Harrisburg.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23054 Filed 9–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2049, MM Docket No. 01–207, RM–10206]

Digital Television Broadcast Service; Alexandria, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by KSAX–TV, Inc., licensee of station KSAX(TV), NTSC channel 42, Alexandria, Minnesota, proposing the substitution of DTV channel 36 for station KSAX(TV)'s assigned DTV channel 14. DTV Channel 36 can be allotted to Alexandria, Minnesota, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (45–41–59 N. and 95–10–35 W.). As requested, we propose to allot DTV Channel 36 to Alexandria with a power of 1000 and a height above average terrain (HAAT) of 340 meters. However, since the community Alexandria is located 400 kilometers from the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David A. O'Connor, Holland & Knight, LLP, 2099 Pennsylvania Avenue, NW., Suite 100, Washington, DC 20006 (Counsel for KSAX–TV, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–207, adopted August 30, 2001, and released September 5, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Minnesota is amended by removing DTV Channel 14 and adding DTV Channel 36 at Alexandria.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23055 Filed 9–13–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 010823214–1214–01; I.D. 080601A]

RIN 0648–AP47

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches at Vandenberg Air Force Base, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comment; proposed modification to current regulation.

SUMMARY: NMFS has received a request from the 30th Space Wing, U.S. Air Force for a modification to the regulations that govern, and the annual Letter of Authorization (LOA) that authorizes the take of small numbers of marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg Air Force Base, CA (VAFB). The 30th Space Wing requests that the current monitoring requirements be reduced so that biological monitoring is required only during the Pacific harbor seal pupping season (March 1 to June 30). By this document, NMFS is proposing to amend the regulations governing the take of marine mammals incidental to rocket launches at VAFB. NMFS, in issuing the regulation to which a modification is sought previously determined that rocket launches at VAFB would have a negligible impact on the affected species and stocks of marine mammals. In order to make the requested amendment to the regulation, NMFS must determine that the monitoring program at VAFB and the resultant data from pre- and post-launch marine mammal observations have effectively shown that the effects of rocket launch activities are negligible. NMFS invites comments on this proposed modification to the regulations.

DATES: Comments and information must be received no later than October 15, 2001.

ADDRESSES: Comments on the proposed amendment should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. Comments will not be accepted if submitted via e-mail or Internet. A copy of the modification request and SRS Technology's technical reports referenced in this document may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, (301) 713–2322, ext 106 or Christina Fahy, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Section 101 (a)(5)(A) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations governing the taking are issued. Effective January 26, 1996, by Department Delegation Order 10-15, the Secretary of Commerce (Secretary) delegated authority to perform the functions vested in the Secretary as prescribed by the MMPA to the Administrator of the National Oceanic and Atmospheric Administration. On December 17, 1990, under NOAA Administrative Order 205–11, 7.01, the Under Secretary for Oceans and Atmosphere delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

Permission for a take may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. As new information is developed, through monitoring, reporting, or research, NMFS may modify the regulations governing the take, in whole or in part, after notice and opportunity for public review.

Regulations governing the taking of seals and sea lions incidental to missile and rocket launches, aircraft flight test

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operations, and helicopter operations at VAFB were published on March 1, 1999 (64 FR 9925), and remain in effect until December 31, 2003.

Summary of Request

On May 17, 2001, NMFS received a request from the 30th Space Wing for modification to the monitoring requirements of the 5-year programmatic regulations governing the incidental take of marine mammals during rocket launch operations at VAFB (50 CFR 216.120-128). The requested modification would reduce the current requirement to perform biological monitoring during all space vehicle launches at VAFB to only those space vehicle launches at VAFB during the Pacific harbor seal (*Phoca vitulina richardsi*) pupping season (March 1 to June 30). This request is based on a scientific research program and the bioacoustic monitoring of space vehicle launches conducted from 1997 through 2001 at VAFB (SRS Technologies, 2001). During the pupping season, biological monitoring remains important in verifying that female harbor seals spend the necessary time on the haul-out establishing the female-neonate bond, including nursing of their pups. Although harbor seal numbers are highest during molting (May through July), NMFS is not proposing biological monitoring during the molting season because research and monitoring over the last 4 years has shown that molting Pacific harbor seals entering the water because of a disturbance are not adversely affected in their ability to molt and do not become subject to thermoregulatory stress.

Current Monitoring Requirements and Requested Change

According to 50 CFR 216.125, LOAs that authorize the take of marine mammals incidental to space vehicle and test flight activities must designate qualified on-site individuals to conduct the following monitoring activities: (1) Observation of harbor seal, elephant seal, and sea lion activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haul-out, for at least 72 hours prior to any planned launch and continue for a period of time not less than 48 hours subsequent to launching; (2) monitoring haul-out sites on the Northern Channel Islands if it is determined during consultation with NMFS that a sonic boom could impact those areas; (3) investigation of the potential for spontaneous abortion, disruption of effective female-neonate bonding, and other reproductive dysfunction; (4) supplemental observation on VAFB and on the Northern Channel Islands, if indicated, with video-recording of mother-pup seal responses for daylight launches during the pupping season; and (5) conducting acoustic measurements of those launch vehicles not having sound pressure level measurements made previously.

The 30th Space Wing's request is to modify the first monitoring activity, observation of harbor seal, elephant seal, and sea lion activity in the vicinity of the rookery nearest the launch platform on VAFB, to only require observations during the March 1 through June 30 harbor seal pupping season at VAFB.

Potential Effect of Modification to Monitoring Requirements on Pacific Harbor Seals at VAFB

Since modification of regulations, in whole or in part, must account for new information that has been collected through monitoring, reporting, or research (see 50 CFR 216.105 (c)), this preamble outlines the 30th Space Wing's research and monitoring results to date. Based on the scientific research program and bioacoustic monitoring of space vehicle launches conducted from 1997 through 2001 at VAFB, the 30th Space Wing asserts that the proposed modification to the monitoring requirements would not alter the negligible impact determination made by NMFS during the rule making (64 FR 9925, March 1, 1999). Rather, results of the 30th Space Wing's monitoring and research programs verify that the impacts of rocket launches have had a negligible impact on the harbor seals at VAFB. To verify the negligible impact determination made by NMFS as a prerequisite issuance of the final rule, the monitoring and research programs for VAFB were designed to detect changes in population parameters that indicate the overall condition of the potentially affected populations.

Results from the monitoring and research program include an analysis of indicators of population health at the regional and site-specific level. These indicators include: trends in abundance, pup production and mortality, daily and seasonal haul-out behaviors, measured sound exposure levels from space launch vehicles, behavioral response of Pacific harbor seals to launch noise, and Pacific harbor seal auditory brainstem response (ABR) measurements. For a more detailed account of the 30th Space Wing's research and monitoring programs and analysis of results, see SRS Technologies (2001).

Pacific Harbor Seal Scientific Research Program at VAFB

Data from the scientific research program conducted from 1997 through 2001 shows that the harbor seal population (including pups) at VAFB is increasing and doing as well or better than other harbor seal populations in California. The Pacific harbor seal is the main pinniped species found along the coastline of VAFB; there are 3 main harbor seal haul-out sites on the Base.

Trends in Abundance

The most recent estimate of the Pacific harbor seal population in California is 30,293 seals (Forney *et al.*, 2000). From 1979 to 1995, the California population increased at an estimated annual rate of 5.6 percent. The total population of harbor seals at VAFB is estimated to be 1,040 (775 on south VAFB and 265 on north VAFB), where the telemetry data for seals was used to correct for seals that were at sea during the census (SRS Technologies 2001). The harbor seal population has been increasing since 1997 at an annual rate of 12.6 percent. During this period, 5 to 7 space vehicle launches were conducted per year. Recent information by several researchers suggests that harbor seals are only decreasing in areas (e.g., San Miguel Island, California) where they are in competition for haul-out space with California sea lions (*Zalophus californianus*) and northern elephant seals (*Mirounga angustirostris*). California sea lions and northern elephant seals rarely haul-out at VAFB; therefore, competition for haul-out space should not be a factor in growth of the harbor seal population at VAFB.

Pup Production and Mortality

Annual harbor seal pup production at VAFB has increased by 5.3 percent annually. The only decrease in pup production occurred during the 1998 El Niño season when there was a 13.6 percent decrease from the previous year. In contrast to VAFB haul-out sites, pup production at Point Conception, CA (control site for the VAFB research program located 25 km south of the south VAFB haul-out site) showed an annual increase of 2.9 percent. This smaller percentage in annual pup production may be due to the fact that Point Conception has a limited area where females and pups can haul-out without being harassed by other seals or exposed to high tides and swells. There are more haul-out areas for females with pups at VAFB; therefore, only El Niño type disturbance should affect pup production at VAFB.

There are no documented occurrences of premature pupping at VAFB. In addition, the rate of pup mortality is low (0.6 pups per year), with none of the mortalities associated with any of the launch activities. Because the rough terrain along the VAFB coastline makes seal captures difficult, only 15 seal pups have been tagged; it has been difficult to estimate the long-term survival and recruitment rate of these pups. Based on telemetry data from the 15 tagged individuals and the behavior of pups at other sites, the 30th Space Wing estimates that approximately 54 percent of pups continue to haul-out at VAFB after weaning. There have been no tag returns of dead pups from VAFB, but some pups have been sighted up to 25 km away from the natal haul-out site. This suggests that mortality is low for weaned pups and that up to 35 percent of pups born at VAFB may migrate to other haul-out sites.

Daily and Seasonal Haul-out Behavior

At south VAFB, the daily haul-out behavior of harbor seals is dependent on time of day rather than tide height. The highest number of seals haul-out at south VAFB between 1100 through 1700 hours. At north VAFB haul-out sites, tide has a greater influence on the daily haul-out behavior of seals. Part of the reason for the tidal influence at north VAFB is the coastline's topography, which consists of low lying rocky areas that are substantially covered during high tides. In addition, haul-out behavior at all sites may be influenced by environmental factors such as high swell, tide height, and wind. The combination of all three may prevent seals from hauling out at most sites. The number of seals hauled out at any site can vary greatly from day to day based on environmental conditions.

Several factors affect the seasonal haul-out behavior of harbor seals including environmental conditions, reproduction, and molting. Harbor seal numbers at VAFB begin to increase in March during the pupping season (March to June) as females spend more time on shore nursing pups. The population is at its highest during the molt which occurs from May through July. During the molting season, tagged harbor seals at VAFB increased their time spent on shore by 22.4 percent; however, all seals continued to make daily trips to sea to forage. Molting harbor seals entering the water because of a disturbance by a space vehicle launch or another source would not be adversely affected in their ability to molt and would not endure thermoregulatory stress. During pupping and molting season, harbor seals at the south VAFB sites expand into haul-out areas that are not used the rest of the year. The number of seals hauled out begins to decrease in August after the molt is complete and reaches the lowest number in late fall and early winter.

Pacific Harbor Seal Bioacoustic Monitoring at VAFB

Data from the bioacoustic monitoring of space vehicle launches conducted from 1997 through 2001 shows that haul-out behavior appears to be unaffected by launch operations, and there has been no temporary or permanent threshold shifts evidenced as a result of launch noise.

The types of sounds discussed in this document are airborne and impulsive. For this reason, the document references both pressure and energy measurements for sound levels. For pressure, the sound pressure level (SPL) is described in terms of decibels (dB) re micro-Pascal (micro-Pa), and for energy, the sound exposure level (SEL) is described in terms of dB re micro-Pa2 -second. In other words, SEL is the squared instantaneous sound pressure over a specified time interval, where the sound pressure is averaged over 5 percent to 95 percent of the duration of the sound (in this case, one second). Airborne noise measurements are usually expressed relative to a reference pressure of 20 micro-Pa, which is 26 dB above the underwater sound pressure reference of 1 micro-Pa. However, the conversion from air to water intensities is more involved (Buck, 1995) and is beyond the scope of this document.

In order to obtain details on the launch noise reaching harbor seals on VAFB, acoustic measurements were collected via two independent systems. The first system was designed to measure the low frequency sound associated with rocket launches. The second system was designed to measure background noise levels, ambient noise levels, and sound events that exceed a pre-set minimum sound level.

Measured Sound Exposure Levels from Space Launch Vehicles

To study the effect of noise on wildlife, the sound under study is typically measured using an A-weighted filter. A-weighting is a standard filter used in acoustics that approximates human hearing. However, because most animals do not have hearing similar to humans, A-weighting does not accurately represent sounds as heard by non-human mammals (SRS Technologies, 2001). Several researchers (Mohl, 1968; Terhune, 1991; Terhune and Turnbull, 1995; Kastak and Schusterman, 1998) have measured the in-air hearing in harbor seals. At 2000 hertz (Hz), harbor seals were found to have hearing sensitivities averaging around 30 dB. In contrast, the quietest sound a human can hear at 2000 Hz registers at -1 dB (Sivian and White, 1933). At 2000 Hz, A-weighting adds 1.2 dB to the sound being analyzed; therefore, A-weighting does not accurately represent sounds as heard by harbor seals. To gain a better understanding of how launch noise is perceived by harbor seals, SRS Technologies created a frequency-weighting filter, similar to what A-weighting is for humans, based on the in-air hearing ability of harbor seals (SRS Technologies, 2001).

Acoustical measurements have been collected and analyzed for 21 space vehicle launches of 7 different types of vehicles using both A-weighted and harbor-seal weighted filters. The average measurements are shown in Table 1:

Table 1

Type	Distance from Haul-out (km/mi)	Average A-weighted Sound Exposure Level (dB)	Harbor seal-weighted Sound Exposure Level (dB)
Athena	2.8/1.7	107.5	68.3
Minotaur	2.3/1.4	106.2	67.3
Titan IV	8.5/5.3	100.2	58.9
Taurus	0.55/0.34	125.2	89.8
Delta II	2.0/1.2	114.9	78.6
Minuteman III	15.6/9.7	88.7	42.3
Atlas	11.0/6.8	86.1	47.3

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Behavioral Response of Pacific Harbor Seals to Launch Noise

During the biological monitoring at VAFB, the response of harbor seals to rocket launch noise varied depending on the intensity of noise and the age of the seal. When launch noise was below an A-weighted sound exposure level of 100 decibels (dBA)(re 20 micro-Pa^2–second), observations showed that not all seals fled the haul-out site and those that remained were exclusively adults. Given the high degree of site fidelity among adult harbor seals, it is likely that those seals that remained on the haul-out site during rocket launches had previously been exposed to launches. It is possible that adult seals have become acclimated to the launch noise and react differently than younger inexperienced seals. Of the 20 seals (adult and younger) tagged at VAFB, 8 (40 percent) were exposed to at least one launch disturbance and continued to return to the same haul-out site. Three of these tagged seals were exposed to 2 or more launch disturbances. Six (75 percent) of the tagged seals exposed to launch noise appeared to remain in the water adjacent to the haul-out site and then returned to shore within 2 to 22 minutes after the launch. The 2 tagged seals that left the haul-out site area after the launch had been on shore for at least 6 hours subsequent to the launch and returned to the haul-out site in 24 hours.

ABR Measurements

In order to further determine if harbor seals experience any change in their hearing sensitivity as a result of launch noise, the acoustic contractor conducted ABR testing on 10 harbor seals prior to and after the launches of 3 Titan IV rockets, a vehicle type with one of the loudest harbor seal-weighted SELs (see table above). Detailed analysis of the ABR measurements showed that there were no detectable changes in the seals' hearing sensitivity as a result of the launch noise. However, the 2 to 3.5 hour delay in ABR testing post-launch could mean that the seals had recovered from a temporary threshold shift (TTS) before the testing could begin. However, as there were no detectable changes in the hearing sensitivity of these animals when they were tested after the delay, the 30th Space Wing concludes, with confidence, that the animals did not have permanent hearing changes due to exposure to the launch noise from the Titan IV rockets.

Preliminary Conclusions

As outlined in this preamble, results of on-going, long-term monitoring efforts designed to track trends in haul-out patterns and seal distribution at VAFB show that the harbor seal population at VAFB is increasing and doing as well or better than other harbor seal populations in California. Acoustic measurements in conjunction with biological monitoring of haul-out sites and tagged seals over these same 4 years, suggest that the haul-out behavior of harbor seals is unaffected by launch operations. This data also provides conclusive evidence that no permanent hearing damage has resulted from space vehicle launches at VAFB. This new information obtained through monitoring, reporting, and research verifies NMFS' previous negligible impact determination by showing that the level, manner, and effects of the marine mammal takes are so small in number that they are inconsequential to the abundance, distribution, and productivity of marine mammal populations in California (Swartz and Hofman, 1991). Therefore, NMFS has preliminarily concluded that the impact of amending the current regulations to require monitoring observations only during the harbor seal pupping season at VAFB is consi Information Solicited stent with NMFS' March 1, 1999 negligible impact determination (64 FR 9925).

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of the proposed amendment to regulations. Because this document contains only a summary of the information provided in the documents available to the public (see **ADDRESSES**), commenters are requested to review these documents before submitting comments.

Classification

This action is not significant for purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration, when the original rule was proposed in 1998 (63 FR 39055, July 21, 1998), that, if adopted, the rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. The rule only affects the U.S. Air Force, large defense companies, and an undetermined number of contractors providing services related to the launches, including the monitoring of launch impacts on marine mammals. Some of the affected contractors may be small businesses. The economic impact on these small businesses depends on the award of contracts for such services. The economic impact cannot be determined with certainty, but will either be beneficial or have no effect, directly or indirectly, on small businesses. Because of this classification, a regulatory flexibility analysis was neither required nor prepared. This action does not alter those conclusions.

National Environmental Policy Act (NEPA)

The U.S. Air Force prepared an Environmental Assessment (EA) and issued a Finding of No Significant Impact, as part of its request for a small take authorization in 1997. This EA contains information incorporated by reference in the application that is necessary for determining whether the activities proposed for receiving small take authorizations are having a negligible impact on affected marine mammal stocks. NMFS adopted the U.S. Air Force EA as its own as provided by 40 CFR 1506.3. In the final rule for this activity (64 FR 9925, March 1, 1999), NMFS found that the issuance of regulations and LOAs to the Air Force would not result in a significant environmental impact on the human environment and that it would be unnecessary to either prepare its own NEPA documentation, or to recirculate the Air Force EA for additional comments. This action is within the scope of the EA and does not alter its conclusions.

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

For the reasons discussed in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.125, paragraph (b) (1) is revised to read as follows:

§ 216.125 Requirements for monitoring and reporting.

* * * * *

(b) * * *

(1) Conduct observations on harbor seal, elephant seal, and sea lion activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haulout, for at least 72 hours prior to any planned launch occurring during the harbor seal pupping season (1 March through 30 June) and continue for a period of time not less than 48 hours subsequent to launching.

* * * * *

Dated: September 7, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23038 Filed 9–13–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 179
Friday September 14, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Office of Food for Peace; Bureau for Humanitarian Response, Announcement of Draft Guidelines for Title II Development Activity Programs and Cooperating Sponsor Results Reports and Resource Requests

Notice

Pursuant to the Agricultural Trade Development and Assistance Act of 1954 (Public Act 480, as amended), notice is hereby given that the Draft Guidelines for Title II Development Activity Programs and Cooperating Sponsor Results Reports and Resource Requests are being made available to interested parties for the required thirty (30) day comment period.

Individuals who wish to receive a copy of these draft guidelines should contact: Office of Food for Peace, Agency for International Development, RRB 7.06–120, 1300 Pennsylvania Avenue, Washington, DC 20523–0809. Individuals who have questions or comments on the draft guidelines should contact Richard Newberg at the above address or at (202) 712–1828.

The thirty-day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: September 7, 2001.

William T. Oliver,

Director, Office of Food for Peace, Bureau for Humanitarian Response.

[FR Doc. 01–23063 Filed 9–13–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Requests for Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

AGENCY: International Trade Administration, Department of Commerce.

ACTION: The Department of Commerce is soliciting requests for the modification of the limitations on the quantity of imports of certain worsted wool fabric under the 2002 tariff rate quotas established by the Trade and Development Act of 2000.

SUMMARY: The Department of Commerce (Department) hereby solicits requests for the modification of the limitations on the quantity of imports of certain worsted wool fabric under the 2002 tariff rate quotas established by the Trade and Development Act of 2000. To be considered, a request must be received or postmarked by 5:00 p.m. on October 1, 2001 and must comply with the requirement of 15 CFR part 340 (66 FR 6459, published January 22, 2001). If a request is received, the Department will solicit comments on the request in the **Federal Register** and provide a twenty day comment period. Thirty days after the end of the comment period, the Department will determine whether the limitations should be modified.

ADDRESS: Requests must be submitted to: Industry Assessment Division, Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Six copies of any such requests must be provided.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade and Development Act of 2000 (the Act) creates two tariff rate quotas, providing for temporary reductions for three years in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers. For worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11), the reduction in duty is limited to 2,500,000 square meter equivalents per year. For worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12), the reduction is limited to 1,500,000 square meter equivalents per year. Both these limitations may be modified by the President, not to exceed 1,000,000 square meter equivalents per year for each tariff rate quota.

The Act requires that the annual consideration of requests by U.S. manufacturers of men's or boys' worsted wool suits, suit-type jackets and trousers for modification of the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel must be considered. On January 22, 2001, the Department published regulations establishing procedures for considering requests for modification of the limitations, 66 FR 6459, 15 CFR part 340.

To be considered, requests must be submitted by a manufacturer of men's or boys' worsted wool suits, suit-type jackets, and trousers in the United States and must comply with the requirements of 15 CFR part 340.

A request must include: (1) The name, address, telephone number, fax number, and Internal Revenue Service number of the requester; (2) the relevant worsted wool apparel product(s) manufactured by the person(s), that is, worsted wool suits, worsted wool suit-type jackets, or worsted wool trousers; (3) the modification requested, including the amount of the modification and the limitation that is the subject of the request (HTS heading 9902.51.11 and/or 9902.51.12); and (4) a statement of the basis for the request, including all relevant facts and circumstances.

A request should include the following information for each limitation that is the subject of the request, to the extent available: (1) A list of suppliers from which the requester purchased domestically produced worsted wool fabric during the period July 1, 2000 to June 30, 2001, the dates of such purchases, the quantity purchased, the quantity of imported worsted wool fabric purchased, the countries of origin of the imported worsted wool fabric purchased, the average price paid per square meter of the domestically produced worsted wool fabric purchased, and the average price paid per square meter of the imported worsted wool fabric purchased; (2) a list of domestic worsted wool fabric producers that declined, on request, to sell worsted wool fabric to the requester during the period July 1, 2000 to June 30, 2001, indicating the product requested, the date of the order, the price quoted, and the reason for the refusal; (3) the requester's domestic production and sales for the period January 1, 2001 to June 30, 2001 and the comparable six month period in the previous year, for each of the following products: worsted wool suits, worsted wool suit-type jackets, and worsted wool trousers; (4) evidence that the requester lost production or sales due to an inadequate supply of domestically-produced worsted wool fabric on a cost competitive basis; and (5) other evidence of the inability of domestic producers of worsted wool fabric to supply domestically produced worsted wool fabric to the requester.

Requests must be accompanied by a statement by the person submitting the request or comments (if a natural person), or an employee, officer or agent of the legal entity submitting the request, with personal knowledge of the matters set forth therein, certifying that the information contained therein is complete and accurate, signed and sworn before a Notary Public, and acknowledging that false representations to a federal agency may result in criminal penalties under federal law. Any business confidential information provided that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law. To the extent business confidential information is provided, a non-confidential submission should also be provided, in which business confidential information is summarized or, if necessary, deleted.

Dated: September 7, 2001.

Linda M. Conlin,

Assistant Secretary for Trade Development, Department of Commerce.

[FR Doc.01–23062 Filed 9–13–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 13, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 10, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.
Title: Federal Direct Consolidation Loan Program Application Documents.
Frequency: On occasion.
Affected Public: Businesses or other for-profit; Individuals or household.
Reporting and Recordkeeping Hour Burden:
Responses: 1,028,500.
Burden Hours: 681,875.
Abstract: These forms are the means by which an applicant applies for/promises to repay a Federal Direct Consolidation Loan and a lender verifies an eligible loan to be consolidated.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his Internet address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23072 Filed 9–13–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 13, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and

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Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 10, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Extension.

Title: Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 1.

Abstract: Public Law (P.L.) 103–227 reauthorized the Office of Educational Research and Improvement (OERI) and required the Assistant Secretary to establish standards for the evaluation of applications for grants and cooperative agreements and proposals for contracts (20 U.S.D. 6011(I) (2) (B) (ii).

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23073 Filed 9–13–01; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00678D; FRL–6804–7]

Opportunity to Comment on Implications of Revised Bt Corn Reassessment for Regulatory Decisions Affecting These Products, and on Potential Elements of Regulatory Options; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is currently engaged in a comprehensive reassessment of the time-limited registrations for all existing *Bacillus thuringiensis* (*Bt*) corn and cotton plant-incorporated protectants. This notice announces the Agency's intent to provide additional time to comment on the implications of the revised risk and benefit sections of the reassessment regarding corn, the corn portions of the draft Potential Risk Mitigation and Regulatory Options paper, and the regulatory decisions affecting all *Bt* corn products.

DATES: Comments, identified by docket control number OPP–00678B, must be received on or before September 21, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00678B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8715; fax number: (703) 308–7026; e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to manufacturers, producers, distributors, users, and other persons interested in the registrations listed below. This action may also be of interest to other persons who have an interest in the registration and/or the use of *Bt* corn, *Bt* cotton, and*Bt* potato plant-pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and under the Federal Food, Drug, and Cosmetic Act (FFDCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents (including copies of EPA's fact sheets on each registered *Bt* plant-pesticide, workshop proceedings on resistance management, EPA technical papers on regulation of agricultural biotechnology including resistance management for*Bt* plant-pesticides, ecological effects data requirements for protein plant-pesticides, allergenicity and health effects for protein plant-pesticides, and Scientific Advisory Panel reports from EPA's Biopesticide Internet Home Page at http://www.epa.gov/pesticides/biopesticides and from EPA's SAP Home Page at http://www.epa.gov/scipoly/sap). To access this document, on the Home Page select "Laws and Regulations" and then look up the entry

for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00678B. Additionally, the *Bt* Corn Cry1F registrations have official records under docket control numbers OPP–30494 and OPP–30120. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00678B in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00678B. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background and Explanation of Actions Being Taken

In the July 17, 2001 **Federal Register** (66 FR 37227) (FRL–6793–6), the Agency announced the July 24, 2001 Technical Briefing and an opportunity to comment on the *Bt* Crops reassessment. EPA asked that comments be submitted by August 30, 2001. In the August 10, 2001 **Federal Register** (66 FR 42220) (FRL–6791–4), the Agency announced the registration of the Cry1F corn plant-incorporated protectant and the opening of a public docket containing the record on which EPA based this registration.In the September 5, 2001 **Federal Register** (66 FR 46457) (FRL–6801–7), the Agency announced an extension of both comment periods until September 10, 2001.

The Agency is now extending until September 21, 2001, the period for comment on the implications of the revised risk and benefit sections of the reassessment regarding corn, the corn portions of the draft Potential Risk Mitigation and Regulatory Options paper, and the regulatory decisions affecting all *Bt* corn products.

List of Subjects

Environmental protection, Plant-pesticides.

Dated: September 10, 2001.

Janet L. Andersen.

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–23082 Filed 9–12–01 11:21 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7056–3]

Public Water System Supervision Program Revision for the State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Arkansas is revising its approved Public Water System Supervision Program. Arkansas has adopted the Consumer Confidence Report regulations requiring annual drinking water quality reports from all community water systems. In addition, Arkansas has adopted a revised definition for public water system and has administrative penalty authority in

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accordance with the Safe Drinking Water Act as amended in 1996. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted by October 15, 2001, to the Regional Administrator at the EPA Region 6 address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by October 15, 2001, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on October 15, 2001. Any request for a public hearing shall include the following information: The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Arkansas Department of Health, Division of Engineering—Slot #37, 4815 West Markham, Little Rock, Arkansas 72205 and United States Environmental Protection Agency, Region 6, Drinking Water Section (6WQ–SD), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: José G. Rodriguez, EPA Region 6, Drinking Water Section at the Dallas address given above or at telephone (214) 665–8087.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations).

Dated: September 6, 2001.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 01–22992 Filed 9–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7055–7]

Public Water System Supervision Program Revision for the State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed approval.

SUMMARY: Notice is hereby given that the State of Oklahoma is revising its approved Public Water System Supervision Program. Oklahoma has adopted an Interim Enhanced Surface Water Treatment Rule to improve control of microbial pathogens in drinking water, including specifically the protozoan Cryptosporidium, and a Stage 1 Disinfectants/Disinfection Byproducts Rule, setting new requirements to limit the formation of chemical disinfectant byproducts in drinking water. Oklahoma has also adopted drinking water regulations requiring consumer confidence reports from all community water systems, and has administrative penalty authority in accordance with the Safe Drinking Water Act as amended in 1996. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted by October 15, 2001 to the Regional Administrator at the EPA Region 6 address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by October 15, 2001, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on October 15, 2001. Any request for a public hearing shall include the following information:

The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Oklahoma Department of Environmental Quality, Water Quality Division, Public Water Supply Section, 707 North Robinson, Oklahoma City, Oklahoma 73101; and United States Environmental Protection Agency, Region 6, Drinking Water Section (6WQ–SD), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Greg Grover, EPA Region 6, Drinking Water Section at the Dallas address given above or at telephone (214) 665–2776.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations).

Dated: September 6, 2001.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 01–22993 Filed 9–13–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested.

September 7, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 13, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0221.

Title: 90.155 Time in which station must be placed in operation.

Form No.: N/A.

Type of Review: Revision of a previously approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,055.

Estimated Time Per Response: 1 hours.

Total Annual Burden: 2,055 hours.

Frequency of Response: On occasion.

Total Annual Cost: 0.

Needs and Uses: The information collection requirement contained in Section 90.155 is needed to provide flexibility to state and local governments that would normally be unable to meet the requirement of placing their radio station in operation within 8 months. The information is used to evaluate if the exception to the 8 month requirement is warranted. If the information was not collected the Commission's information regarding actual loading of frequencies would be inaccurate.

OMB Approval Number: 3060–0262.

Title: Section 90.179 Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit, non-profit institutions, state and local governments.

Number of Respondents: 41,000.

Estimated Time Per Response: .75 hour.

Total Annual Burden: 30,750 hours.

Total Annual Cost: 0.

Needs and Uses: The requirement contained in this rule section is necessary to identify users of a shared land mobile radio station. The information is used by Commission personnel to investigate interference complaints.

OMB Approval Number: 3060–0805.

Title: 90.527 Regional plan requirements & 90.523 Eligibility.

Form No.: N/A.

Type of Review: Revision of a previously approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 26,656.

Estimated Time Per Response: 23.8 hours.

Total Annual Burden: 647,675.

Frequency of Response: On occasion.

Total Annual Cost: 0.

Needs and Uses: The First Report and Order, FCC 98–191, in WT Docket No. 96–86 amended service rules to make the spectrum available for licensing to public safety entities. In order to satisfy local and regional needs and preferences, the Commission requires submission of regional plans drafted by planning committees made up of representatives from the public safety community. Creation of these plans necessarily impose some burden, both on the eligible entities that make their needs known, and on the planners who seek to accommodate them.

OMB Approval Number: 3060–0858.

Title: State Public Safety Plans.

Form No.: N/A.

Type of Review: New collection.

Respondents: State and local governments.

Number of Respondents: 50.

Estimated Time Per Response: 10,270 hours per respondent.

Total Annual Burden: 513,500 hours.

Total Annual Cost: 0.

Needs and Uses: The Third Notice of Proposed Rule Making in, FCC 98–191, in WT Docket No. 96–86 invites comments on how to license 8.8 megahertz of spectrum in the 700 MHZ band that is allocated for public safety services. For example, comment is sought on whether to license 700 MHZ band spectrum directly to each individual state and should the state adhere to the same planning process as the Regional Planning Committees. We assume that the individual states would spend 10,270 hours to complete its public safety communications plan.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23052 Filed 9–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

September 7, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 15, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0849.

Title: Commercial Availability of Navigation Devices.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 200.

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Estimated Time per Response: 10 mins. to 40 hrs.

Frequency of Response: Semi-annual reporting requirement; Third party disclosure.

Total Annual Burden: 3,266 hours.

Total Annual Costs: None.

Needs and Uses: The disclosure requirements set forth in this proceeding will ensure that consumers can make informed decisions about the purchase and proper installation of navigation devices. The petition process under 47 CFR Section 76.1207 will give providers of multichannel video programming and equipment providers a forum in which to request relief from regulations adopted under this part of FCC Rules for a limited time, provided that there is an appropriate showing that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. In addition, under 47 CFR Section 76.1208, petition process allows interested parties to petition the FCC to provide for a sunset of regulations governing navigation devices. The Commission will use the semi-annual reports to monitor the progress of key industry entities in their efforts to assure the commercial availability of navigation devices.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23053 Filed 9–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission

* * * * *

A public hearing on the proposed rulemaking on brokerage loans and lines of credit on Wednesday, September 19, 2001, has been cancelled.

* * * * *

Date & Time: Wednesday, September 19, 2001 at 10 a.m.

Place: 999 E Street, NW., Washington, DC.

Status: This meeting will be closed to the public.

Items To Be Discussed:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

Date & Time: Thursday, September 20, 2001 10 a.m.

Place: 999 E Street, NW., Washington, DC (ninth floor).

Status: This meeting will be open to the public.

Items To Be Discussed:

Correction and Approval of Minutes.

Advisory Opinion 2001–12: Democratic Party of Wisconsin by Linda Honold, Chairperson.

Administrative Matters.

Person to Contact for Information: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–23147 Filed 9–12–01; 11:41 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1378–DR]

West Virginia; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1378–DR), dated June 3, 2001, and related determinations.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective September 4, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23079 Filed 9–13–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act Systems of Records; Amendment of Systems Notice

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of amendment to Cerro Grande Fire Assistance Claim Files.

SUMMARY: We (FEMA) are amending our existing system of records entitled FEMA/CGC–1, Cerro Grande Fire Assistance Claim Files by adding to the categories of records maintained in the system. We are specifically enumerating those types of documents (i.e., arbitration decisions, settlement/mediation agreements, and other documents related to the arbitration or settlement process) generated under the alternative remedial schemes, in order to reflect the claimant's option following appeal to invoke binding arbitration or judicial review.

EFFECTIVE DATE: The modifications to this system are effective September 14, 2001.

ADDRESSES: We invite comments on these modifications to the systems notice. Please send any comments to the Rules Docket Clerk, Federal Emergency Management Agency, Office of the General Counsel, room 840, 500 C Street, SW., Washington, DC 20472, or (e-mail) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Eileen Leshan, FOIA/Privacy Specialist, at (202) 646–4115, or (e-mail) *eileen.leshan@fema.gov.*

SUPPLEMENTARY INFORMATION: We previously published notice of FEMA/CGC–1, Cerro Grande Fire Assistance Claim Files system of records on August 28, 2000 at 65 FR 52116–52118.

As required by 5 U.S.C. 552(r) and Appendix 1 to OMB Circular A–130, we are simultaneously submitting this notice of altered system of records to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and to the Office of Management and Budget.

Accordingly, we revise FEMA/CGC–1 of the FEMA Privacy Act system of records to read as follows:

FEMA CGC–1

SYSTEM NAME:

FEMA/CGC–1, Cerro Grande Fire Assistance Act Claim Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Cerro Grande Fire Assistance Claims Office, New Mexico.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Injured parties claiming compensation for injury to person, property, and economic losses resulting from the Cerro Grande fire of May 2000, and subrogees of such injured parties.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records of claims include names, addresses, telephone numbers, nature and amount of claim, insurance coverage information, and evidence to support claim for the purpose of receiving compensation.

(b) Inspection and appraisal reports containing identification information relating to the claim and results of survey of damaged property and goods.

(c) Supporting medical documentation.

(d) Notice of Loss forms, Proof of Loss forms, documents from other agencies relating to the claim, general administrative and fiscal information, payment schedules, and disposition of claims, general correspondence, including requests for disbursement of payments, contracts, leases, estimates for repair or replacement of fire damaged/ destroyed residence or business.

(e) Claim decisions and appeals.

(f) Arbitration decisions, settlement/mediation agreements, and other documents related to the arbitration or settlement process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Cerro Grande Fire Assistance Act, Pub. L. 106–246, 106th Congress, 2d Session (2000), 114 Stat. 511, 584.

PURPOSE(S):

To register claims, evaluate and verify information provided by claimants, inspect damaged property, make determinations for compensation, and make determinations on claims relating to reasonable mitigation efforts that reduce the risk of wildfire, flood, or other natural disasters in the affected counties.

ROUTINE USES RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH ACT:

The Privacy Act permits us to disclose information about individuals without their consent for a routine use, i.e., when the information will be used for a purpose that is compatible with the purpose for which we collected the information. The routine uses of this system are:

(a) Disclosure may be made to agency contractors who have been engaged to assist the agency in the performance of a contract service related to this system of records and who need to have access to the records in order to perform the activity. Recipients must comply with the requirements of the Privacy Act of 1974, as amended, 5 USC 552a.

(b) Disclosure may be made to a member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

(c) Disclosure may be made to other Federal agencies that FEMA has determined provided Cerro Grande fire-related assistance to claimant in order to ensure that benefits are not duplicated.

(d) Disclosure of information submitted by an individual Claimant may be made to an insurance company or other third party that has submitted a subrogation claim relating to such Claimant when it is necessary in FEMA's opinion to ensure that benefits are not duplicated and to efficiently coordinate the processing of claims brought by individuals and subrogees.

(e) Disclosure of property loss information may be made to local governments in Los Alamos, Rio Arriba, Sandoval and Santa Fe counties and the Pueblos of San Ildefonso and Santa Clara for the purpose of preparing community-wide mitigation plans.

(f) When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

(g) Disclosure may be made to the National Archives and Records Administration for the purpose of conducting records management studies under the authority of 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures under 5 U.S.C. 552a (b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored in magnetic media (e.g., computer hard drives and computer disks) and on paper. Paper printouts of these data are made when required for study. The system may also contain photocopies of numerous documents and records, which are filed in appropriate file folders.

RETRIEVABILITY:

By name, address, and claim number.

SAFEGUARDS:

We will employ a number of security measures to minimize the risk of unauthorized access to or disclosure of personal data in the proposed system. These measures include the use of passwords and access codes to enter the computer system which will maintain the data, and storage of the computerized records and paper records in secured areas that are accessible only to employees who require the information in performing their official duties. Paper documents are stored either in lockable file cabinets within locked rooms or in otherwise secured areas. In addition, we will require contract employees to comply with the safeguards that must be followed to protect the data.

RETENTION AND DISPOSAL:

The files are maintained at the Cerro Grande Fire Assistance Claims Office until completion of a claim. After such time, the files will be transferred to FEMA, 500 C Street, SW., Washington, DC for three years, and then they will be transferred to the appropriate Federal Records Center for seven years until they are destroyed. Means of disposal are appropriate to the storage medium (e.g., erasure of disks, shredding of paper records, etc.)

SYSTEM MANAGER(S) AND ADDRESS:

Director, Cerro Grande Fire Administration Office, Federal Emergency Management Agency, 1549 6th Street, Suite H, Santa Fe, NM 87505; and Federal Emergency Management Agency, Office of the General Counsel, room 840, 500 C Street, SW., Washington, DC 20472.

NOTIFICATION PROCEDURES:

An individual can find out whether this system of records contains information about him/her by writing to the system manager at the address

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shown above and providing his/her name and address. Inquiries should be addressed to the System Manager. Written requests should be clearly marked, "Privacy Act Request" on the envelope and letter. Include full name, some type of appropriate personal identification, and current address.

When requesting notification of records in person, the individual should be able to provide some acceptable identification, such as a driver's license, passport, employing office's identification card, military identification card, student identification card or other identification data.

RECORDS ACCESS PROCEDURES:

Same as notification procedures described above. Individuals requesting access to their records should also reasonably describe the record(s) they are seeking.

CONTESTING RECORDS PROCEDURE:

Same as notification procedures described above. Individuals contesting the contents of a record in the system should also reasonably describe the record(s), specify the information being contested, and state the corrective action sought with supporting justification showing how the record is untimely, incomplete, inaccurate, or irrelevant. FEMA Privacy Act regulations are located at 44 CFR part 6.

RECORD SOURCE CATEGORIES:

We obtain information in this system from claimants seeking compensation under the Cerro Grande Fire Assistance Act, Pub. L. 106–246, attorneys, claims adjusters, inspectors and appraisers, insurance companies, medical officials, and Federal, State, and local agencies.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

None.

Jordan Fried,

Acting General Counsel.

[FR Doc. 01–23080 Filed 9–13–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Credit Riviere Bancorporation, Inc., Austin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Sinai, Sinai, South Dakota.

Board of Governors of the Federal Reserve System, September 10, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23064 Filed 9–13–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:.

1. FBOP Corporation, Oak Park, Illinois; to acquire Bank Plus Corporation, Los Angeles, California, and indirectly acquire Fidelity Federal Bank, FSB, Glendale, California, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, September 10, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23065 Filed 9–13–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–60]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: School Associated Violent Death Surveillance System—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC). The Division of Violence Prevention (DVP), National Center for Injury Prevention and Control (NCIPC) proposes a system for the surveillance of school-associated homicides and suicides. The system, which represents a continuation of previous NCIPC studies, will rely on existing public records and interviews with law enforcement officials and school officials. The system is designed to (1) estimate the rate of school-associated violent death in the United States and (2) identify common elements of school-associated violent deaths. The proposed system will contribute to the understanding of fatal violence associated with schools, guide further research in the area, and provide information for ongoing and future prevention programs.

Violence is the leading cause of death among young people, and it is increasingly recognized as an important public health and social issue. In 1998, over 3,500 school aged children (5 to 18 years old) in the United States died violent deaths due to suicide, homicide, and unintentional firearm injuries. The vast majority of these fatal injuries were not school associated. However, whenever a homicide or suicide occurs in or around school it becomes a matter of particularly intense public interest and concern. NCIPC conducted the first scientific study of school-associated violent deaths during the 1992–99 academic years to establish the true extent of this highly visible problem.

Despite the important role of schools as a setting for violence research and prevention interventions, relatively little scientific or systematic work has been done to describe the nature and level of fatal violence associated with schools. Prior to NCIPC first nationwide investigation of violent deaths associated with schools, public health and education officials had to rely on limited local studies and estimated numbers to describe the extent of school-associated violent death.

The proposed system will draw cases from the entire United States in attempting to capture all cases of school-associated violent deaths that have occurred. Investigators will review public records and published press reports concerning each school-associated violent death. For each identified case, investigators will also interview an investigating law enforcement official (defined as a police officer, police chief, or district attorney), and a school official (defined as a school principal, school superintendent, school counselor, school teacher, or school support staff) who are knowledgeable about the case in question. Researchers will request information on both the victim and alleged offender(s)—including demographic data, their academic and criminal records, and their relationship to one another. They will also collect data on the time and location of the death; the circumstances, motive, and method of the fatal injury; and the security and violence prevention activities in the school and community where the death occurred, before and after the fatal injury event. There is no cost to the respondent.

Respondents	Number of respondents per year	Number of responses/ respondent	Avg. burden per response (in hrs.)	Total annual burden (in hrs.)
School Officials	35	1	1	35
Police Officials	35	1	1	35
Total				70

Dated: September 7, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–23066 Filed 9–13–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–61]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: CDC and ATSDR Health Message Development and Testing System Status—New—Office of the Director, Office of Communication (OD/OC), Centers for Disease Control and Prevention (CDC). The Centers for Disease Control and Prevention (CDC) protects people's health and safety by preventing and controlling diseases and injuries; promotes healthy living

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through strong partnerships with local, national and international organizations, and enhances health decisions by providing credible information on critical health issues.

Members of the public and health practitioners at all levels require up-to-date, credible information about health and safety in order to make rational decisions. To help support this crucial decision making, CDC has continued to increase and apply its preeminent expertise in the disciplines of public health surveillance, epidemiology, statistical analysis, laboratory investigation and analysis, behavioral risk reduction, technology transfer, prevention research, social marketing, and health communication. CDC applies the science that underpins those disciplines to develop and disseminate credible and practical health information to meet the diverse needs of its primary clients, the people of the United States. Such information affects the health and well-being of people across all stages of life by making our food supply safe, identifying harmful behaviors, and improving our environment.

CDC, and it's sister agency, the Agency for Toxic Substances and Disease Registry (ATSDR), in order to fulfill their mission and mandates, must frequently communicate urgent and sensitive health messages with the general public, members of the public with certain diseases or disabling conditions, and those at a greater risk of exposure to disease or injury causing agents. CDC/ATSDR makes this crucial health information available through many channels including books, periodicals, and monographs; internet Web sites; health and safety guidelines; reports from investigations and emergency responses; public health monitoring and statistics; travel advisories; answers to public inquiries; and health education campaigns.

In addition to serving the public, CDC/ATSDR delivers health information that enables health providers to make critical decisions. For instance, the practicing medical and dental communities and the nation's health care providers are target audiences for numerous official CDC recommendations concerning the diagnosis and treatment of disease, immunization schedules, infection control, and clinical prevention practices. CDC/ATSDR offers technical assistance and training to health professionals as well.

In order to ensure that the public and other key audiences, like health care providers, understand the information, are motivated to take action, and are not offended or react negatively to the messages, it is critical to test messages and materials prior to their production and release. Currently, each CDC program developing health messages is required to submit its message development and testing activities for individual OMB review. Many CDC programs have extremely short deadlines for developing and producing health messages. Some deadlines are imposed by Congress, and others are necessitated by the time-sensitive nature of the work. Many programs cannot accommodate the time required for OMB approval, and therefore skip the message testing step all together, or resort to testing specific portions of messages with 9 or fewer individuals. The science of health communication does not support these programmatic practices. In fact, these undesirable alternatives weaken CDC/ATSDR position as a research-based public health agency providing credible health information that people can count on and use.

CDC may achieve a greater level of efficacy if it can use three routine health message development and testing methods: (1) Central Location Intercept Interviews (i.e. "Shopping mall" interviews); (2) Customer Satisfaction Phone Interviews; and (3) Web-enabled research. Virtually every Center, Institute and Office (CIO) at CDC could achieve a higher level of confidence that health messages were understandable and would provoke no unintended consequences if they were empowered to use these methods efficiently. The CDC Office of Communication therefore requests approval for implementation of a Health Message Development and Testing System that will conduct approximately 64 message testing activities per year for each of three years. A message testing activity is defined as a one time use of a method to provide direction for a specific health communication program. For example, if the diabetes program wanted to test messages with a Central Location Intercept Interview and Customer Satisfaction Phone Interviews these activities would be counted as 2 separate testing activities. If all 64 testing activities were implemented, total respondent burden per year is estimated at 3200 hours.

While the methods of message development and testing are standard, the instruments and outcomes are unique to the health topic and audience the health message is being developed on and for. This health message development and testing system will allow a timely mechanism for developing and testing health messages on a wide variety of public health topics to ensure that the appropriate message is delivered and received by the American public. This request presents methodology, background information, justification for the process, and sample questionnaires and questions. Other than their valuable time and input, there is no cost to respondents.

Form of research activity	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Central Location Intercept Interviews	2800	1	30/60	1400
Customer Satisfaction Phone Interviews	1200	1	30/60	600
Web-enabled research	2400	1	30/60	1200
Total				3200

Dated: September 7, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–23067 Filed 9–13–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–15]

Announcement of OMB Approval Number for the Consolidated Public Housing Certificate of Completion

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to the requirement for the consolidated public housing certificate of completion.

FOR FURTHER INFORMATION CONTACT: Satinder Munjal, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0614, extension 4196. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to the requirement for the consolidated public housing certificate of completion. The approval number for this information collection is 2577–0021, which expires 6/30/2004.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: September 4, 2001.

Paula O. Blunt,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–23050 Filed 9–13–01; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–37]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATES: September 14, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 6, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–22829 Filed 9–13–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Civil Penalties

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice summarizing OCS Civil Penalties Paid, January 1, 2000, through December 31, 2000.

SUMMARY: This notice provides a listing of civil penalties paid January 1, 2000, through December 31, 2000, for violations of the OCS Lands Act. The goal of the MMS OCS Civil Penalties Program is to assure safe and clean operations on the OCS. Through the pursuit, assessment, and collection of civil penalties and referrals for the consideration of criminal penalties, the program is designed to encourage compliance with OCS statutes and regulations. The purpose of publishing the penalties summary is to provide information to the public on violations of special concern in OCS operations and to provide an additional incentive for safe and environmentally sound operations.

FOR FURTHER INFORMATION CONTACT: Greg Gould (Program Coordinator), (703) 787–1591.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act of 1990 (OPA 90) strengthened section 24 of the OCS Lands Act Amendments of 1978. Subtitle B of OPA 90, titled "Penalties," increased the amount of the civil penalty from a maximum of $10,000 to a maximum of $20,000 per violation for each day of noncompliance. More importantly, in cases where a failure to comply with applicable regulations constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life); property; any mineral deposit; or the marine, coastal, or human environment; OPA 90 provided the Secretary of the Interior (Secretary) with the authority to assess a civil penalty without regard to the requirement of expiration of a period of time allowed for corrective action.

On August 8, 1997 (62 FR 42668), MMS published new regulations implementing the civil penalty provisions of the OCS Lands Act. Written in "plain English," the new question-and-answer format provides a better understanding of the OCS civil penalty process. In addition, the provisions of OPA 90 require the Secretary to adjust the maximum civil penalty to reflect any increases in the Consumer Price Index. The new rule increased the maximum civil penalty to $25,000 per day, per violation. Please note, subsequent to publishing the new regulations, MMS made several corrections and amendments, including the appeals procedures. These were published at 63 FR 42711, 8/11/98; 64 FR 9066, 2/24/99; 64 FR 9065, 2/24/99 and 64 FR 26257, 5/13/99.

Between August 18, 1990, and July 31, 2001, MMS initiated 363 civil penalty reviews. The MMS assessed 263 civil penalties, collected $7,497,405 in fines, 55 cases were dismissed, and 45 cases are pending.

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On September 1, 1997, the Associate Director for Offshore Minerals Management issued a notice informing lessees and operators of Federal oil, gas, and sulphur leases on the OCS that MMS will annually publish a summary of OCS civil penalties paid. The annual summary will highlight the identity of the party, the regulation violated, and the amount paid. The following table provides a listing of the penalties paid between January 1, 2000, and December 31, 2000. Please note that MMS published a direct final rule (5/29/98, 63 FR 29477) that renumbers each section in 30 CFR part 250. A quarterly update of this list, along with additional information related to the renumbering of the regulations, is posted on the MMS worldwide web homepage, *http://www.mms.gov*.

The following acronyms are used in the table:

API RP—American Petroleum Institute Recommended Practice
BOP—blow out preventer
BSL—burner safety low
ESD—emergency shut down
FSV—flow safety valve
INC's—Incidents of Noncompliance
LAH—level safety high alarm
LSH—level safety high
MAWP—maximum allowable working pressure
PSHL—pressure safety high/low
PSH—pressure safety high
PSL—pressure safety low
PSV—pressure safety valve
Psi—pounds per square inch
SCSSV—surface-controlled subsurface safety valve
SDV—shut down valve
SSSD—subsurface safety device
SSV—surface safety valve
TSE—temperature safety element

OCS Civil Penalties Paid Calendar Year 2000

Operator name and case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR Section)
Conn Energy, Inc., G–1996–24	The SSSD's for several wells were not tested in the required timeframe. 12/13/95–1/12/96.	$42,000, 10/24/2000	250.124(a)(1)(iii)
Vastar Resources, Inc., G–1997–22	A flowline FSV was determined to be leaking beyond the allowable rate and had not been repaired or replaced since the leak was discovered. 2/16/97–3/7/97.	$19,000, 9/12/2000	250.124(a)(5)
Conoco Inc., G–1997–37	A fatality occurred when unsafe and unworkmanlike conditions existed. There were tripping hazards, and rig personnel were not wearing fall protection. 1/20/97.	$20,000, 5/25/2000	250.20(a)
Torch Oil & Gas Company, G–1997–55	Failure to maintain an operable sump system resulted in a slick 1 mile by 40 yards. The parts building (classified area) was not equipped with a gas detection system. The sump pump was inoperable and the platform was not equipped with an automatic sump system. 11/7/95, 11/29/96.	$29,500, 1/14/2000	250.40(a), 250.40(b)(4), 250.123(b)(9)
Shell Frontier Oil & Gas Inc., G–1997–56	PSV on Fuel Gas Scrubber set above MAWP and not annually tested. 7/31/96.	$15,000, 7/11/2000	250.123(b)(1)(i), 250.124(a)(2)
Pogo Producing Company, G–1998–14	During an unannounced inspection, two rig personnel were observed not wearing fall protection gear while working near a 7′ × 7′ hole. A follow-up inspection revealed a second 4′ × 8′ hole, which was not flagged, barricaded or monitored. 10/3/97, 10/23/97.	$17,500, 4/17/2000	250.20(a)
Statoil Exploration (US) Inc., G–1998–20	The SCSSV's for Wells E–2, E–8 and E–11 were bypassed. 7/27/97.	$30,000, 2/7/2000	250.123(c)(1)
Aviva America, Inc., G–1998–21	The SCSSV was bypassed on Well JA–7, 1/14/97.	$5,000, 2/4/2000	250.123(c)(1)
Forcenergy Inc., G–1998–27	PSL on test separator was backed all the way off such that it would not trip, therefore, bypassed. 3/3/98.	$15,000, 3/24/2000	250.123(c)(1)
Vastar Resources, Inc., G–1998–31	The gas detector sensors in the shale shaker room were covered with plastic and tape, which rendered them inoperable. 10/1/97–10/2/97.	$15,000, 5/5/2000	250.60(e)(3)
Santa Fe Snyder Corporation, G–1998–36.	BSL was bypassed at line heater panel while line heater was in service. LSH microswitch was disconnected from the compressor panel, resulting in a bypass of the LSH on the suction scrubber. 3/12/98.	$20,000, 1/7/2000	250.123(c)(1)

OCS Civil Penalties Paid Calendar Year 2000—Continued

Operator name and case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR Section)
The Houston Exploration Company, G–1998–37.	During an annual inspection, the inspector detected numerous violations that have been submitted for a compliance review. They are (1) P–103, for the bypassing of the SCSSV for the well; (2) two P–280's, the operator failed to conduct a test of the SCSSV's on well's A–2 and A–3 in a timely manner; and (3) P–231, the ESD station for the heliport had been disconnected. 9/1/97–3/26/98.	$37,500, 2/10/2000	250.124(a)(1)(i), 250.123(c)(1), 250.123(b)(4)
Aviva America, Inc., G–1998–41	The automatic pump on the emergency sump had been disconnected. The LAH on the emergency sump was out of service. 1/10/98.	$30,000, 11/28/2000	250.123(c)(1), 250.40(b)(4)
Aviva America, Inc., G–1998–42	The PSHL on Well JA–7 was bypassed, and the gas detection system for the laundry room was inoperative. 2/17/98.	$24,000, 11/28/2000	250.123(b)(9), 250.123(c)(1)
Basin Exploration, Inc. G–1998–46	P–261 was issued for well A–1D not being equipped with a pump through plug after being shutin for more than 6 months, P–280 was issued due to well A–4 SCSSV being inoperable (leaking) and not being replaced. 1/5/9–4/16/98.	$30,971, 5/12/2000	250.124(a)(1)(i)
Kerr-McGee Corporation, G–1998–55	The SSV relay for well A–6 was bypassed for 3 days. 2/4/98–2/6/98.	$7,500, 3/2/2000	250.123(c)(1)
Samedan Oil Corporation G–1998–58	Not conducting operations in a safe and workmanlike manner. After completing his elevated work and disconnecting his safety line, a workman fell through an opening in the deck grating 18 feet to the deck below while descending the BOB stack and was injured. 6/8/98.	$25,000, 1/18/2000	250.20(a)
Ocean Energy, Inc., G–1998–65	Lease came on production 4/22/98. The announced initial inspection of 5/13/98, revealed the following violations: A 4′2′ hole in the production deck not properly barricaded; workers not wearing fall protection gear observed in vicinity of the hole. Inoperable gas detection system in living quarters and motor control console building; two men sleeping on platform since 4/22/98. 4/22/98–5/13/98.	$49,500, 6/9/200	250.20(a), 250.123(b)(9), 250.124(a)(8)
Amoco Production Company, G–1999–1	The SCSSV's for Wells Nos. D–1 and D–19 were bypassed for 3 days. 7/15/98–7/15/98.	$18,000, 1/13/2000	250.803(c)(1)
Vastar Resources, Inc., G–1999–2	The operator failed to repair the leaking accumulator pump. The accumulator system has less than 1000 psi, with the pump running constantly. 10/13/98.	$25,000, 2/2/2000	250.120(a)
Vastar Resources, Inc., G–1999–4	The General Quarters' flame, heat and smoke detection system was bypassed. 1/30/99–2/1/99.	$21,000, 1/18/2000	250.803(c)(1)
Ocean Energy, Inc., G–1999–5	Two fatalities resulted when the crane on the platform was not operated and maintained in accordance with the provisions of the API RP 2D 5/10/98.	$25,000, 3/3/2000	250.20(c)
Chevron U.S.A. Inc., G–1999–6	The SDV on the bi-directional pipeline was bypassed 12/30/98.	$22,000, 5/17/2000	250.1004(b)(8)
SOCO Offshore, Inc., G–1999–7	The automatic SSV for Well A–3 was in bypass at the master control panel. 2/19/99.	$10,000, 2/4/2000	250.803(c)(1)
Energy Partners, Ltd., G–1999–8	The air valves in the backup air pumps were in the closed position. 4/2/99.	$10,000, 2/9/2000	250.515(c)(2)
Phillips Petroleum Company, G–1999–9	INC's were issued for not having ESD stations on the boat landings of the platform. 1/26/99.	$10,000, 3/3/2000	250.803(b)(4)

OCS CIVIL PENALTIES PAID CALENDAR YEAR 2000—Continued

Operator name and case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR Section)
Chevron U.S.A. Inc., G–1999–10	Sump pump block valve on discharge line bypassed on the compressor platform. Sump pump fuel supply valve bypassed on the Auxiliary 2 platform. 4/20/99.	$5,000, 5/18/2000	250.803(c)(1)
The Louisiana Land and Exploration Company, G–1999–11.	No Remote BOP Control Station for the Diverter System. 10/2/98–10/6/98.	$30,000, 3/22/2000	250.406(d)(3)
Stone Energy Corporation, G–1999–12	LSH on Flare/Vent scrubber by-passed. 6/1/8.	$15,000, 3/17/2000	250.123(c)(1)
Conn Energy, Inc., G–1999–13	The PSHL on Well A–1 was bypassed. The LSH on the fuel gas scrubber was bypassed on the ESD stations on the boat landing were inoperable. 6/24/98.	$41,000, 10/2/2000	250.123(c)(1), 250.123(b)(4)
Amoco Production Company, G–1999–15.	The PSH on the interstage suction scrubber was not tested for nearly 2 years. 6/17/97–2/24/99.	$12,000, 4/29/2000	250.124(a)(3)
Taylor Energy Company, G–1999–17	The sump pile pump was inoperable, and the supply and discharge were manually closed off, placing the sump pile pump in a nonoperable bypassed mode. 2/5/99.	$6,000, 5/2/2000	250.300(b)(4), 250.803(c)(1)
Forcenergy Inc., G–1999–18	LSH was bypassed and not tested on the Floatation Cell. 7/18/98–9/29/98.	$9,000, 6/23/2000	250.802(b)
Burlington Resources Offshore, G–1999–20.	Well E–10 (PSHL) found to be bypassed on the panel board and not flagged. 5/3/99.	$13,000, 4/13/2000	250.803(c)(1)
Forcenergy Inc., G–1999–21	Multiple safety devices on each of 10 process components were found bypassed. Pollution from the floatation cell occurred when the ESD was activated. 3/15/99.	$161,000, 7/11/2000	250.803(c)(1), 250.300(a)
Kelley Oil Corporation, G–1999–22	Pollution occurred when condensate spilled out of the skimmer's vent. There was no PSV on the skimmer pump, the supply gas to the skimmer pump was blocked, and the LSH failed to operate because it had not been set/tested properly. One hundred fifty gallons of condensate was released into the Gulf of Mexico. The PSHL on the skimmer pump was bypassed. Also, the SCSSV's on two wells had not been tested within the required timeframe. 5/17/99–5/18/99.	$44,000, 7/13/2000	250.803(c)(1), 250.300(a)
Bois d'Arc Offshore Ltd., G–1999–23	Fuel Gas Master Relay and Sump Pump Master Relay were found to be pinned out of service and not flagged or monitored. 12/5/98.	$20,000, 4/13/2000	250.803(c)(1)
Chevron U.S.A. Inc., G–1999–24	Gas Supply in By-pass on Sump Pump. 10/28/98.	$20,000, 3/27/2000	250.803(c)(1)
Kelley Oil Corporation, G–1999–26	The designated person operating the subject platform was not T–2 certified, even though he was engaged in installing, inspecting, testing, and maintaining safety devices. 6/17/98.	$20,000, 5/19/2000	250.214
Stone Energy Corporation, G–1999–28	The boat landing ESD stations were bypassed and blocked out of service by a closed manual isolation block valve located on the sub-cellar deck exit stairway to the boat landings. 7/4/99–7/8/99.	$17,500, 9/28/2000	250.803(c)(1)

OCS CIVIL PENALTIES PAID CALENDAR YEAR 2000—Continued

Operator name and case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR Section)
Equitable Production Company, G–1999–30.	The PSV on the treater fuel gas scrubber on the A Platform was bypassed and blocked out of service by a closed manual block valve under the PSV. The PSV on the test separator on the C Platform was bypassed and blocked out of service by a closed manual block valve under the PSV. 7/26/99.	$24,000, 9/11/2000	250.803(c)(1)
Vastar Resources, Inc., G–1999–31	The master relay for Well A–6 was found bypassed (pinned out) on the well panel, thus rendering the SSV inoperable. 6/2/99.	$15,000, 3/20/2000	250.803(c)(1)
Stone Energy Corporation, G–1999–32	Relay for the burner fuel SDV on the glycol reboiler panel was bypassed. 8/24/99–8/25/99.	$8,000, 4/11/2000	250.803(c)(1)
Matrix Oil & Gas, Inc., G–1999–37	Diesel was discovered leaking into the Gulf of Mexico. 9/9/99.	$19,000, 8/11/2000	250.300(a)
Murphy Exploration & Production Company, G–2000–1.	Manual block valve in the ESD line discovered in a closed position, thus rendering the ESD station at the boat landing inoperable. The TSE for the measurement separators were blocked out of service due to a closed manual block valve in the TSE line. 1/31/99–2/2/99, 2/2/99–2/9/99.	$18,500, 8/2/2000	250.803(c)(1), 250.803(b)(4)
Forcenergy Inc., G–2000–4	The SCSSV for Wells A–24 and A–26 was bypassed. 10/18/99.	$27,000, 6/26/2000	250.803(c)(1)
Energy Resource Technology, G–2000–5	The boat landing ESD was disconnected from the facility's ESD system. 7/8/99–8/13/99.	$92,500, 6/28/2000	250.803(c)(1)
Anadarko Petroleum, G–2000–6	The purge system in the mud-logging unit was shut off. 8/12/99.	$8,500, 7/26/2000	250.120(a)
Matrix Oil & Gas, Inc., G–2000–7	INC was issued for leaking condensate into Gulf waters from the vent boom. 11/16/99.	$18,000, 11/2/2000	250.300(a)
Union Pacific Resources, G–2000–9	The ESD station on the A Platform boat landing was bypassed and blocked out of service by a closed manual isolation valve in the stainless steel supply tubing located on the sump tank deck level exit stairway to the boat landing. 11/3/99.	$12,500, 9/22/2000	250.803(c)(1)
Newfield Exploration Company, G–2000–10.	The mud logging unit purge system was discovered to be shut off manually on the GLOMAR BALTIC I Drilling Rig Platform. 10/6/99.	$10,000, 12/21/2000	250.120(a)
Union Pacific Resources, G–2000–11	The LSH on the sump tank was bypassed and blocked out of service. 1/2/2000–1/12/2000.	$27,500, 10/18/2000	250.803(c)(1)
Samedan Oil Corporation, G–2000–21	The mud logging unit purge system was discovered to be shut off manually on the ENSCO 55 Drilling Rig. 1/5/2000.	$10,000, 10/18/2000	250.120(a)
Bois d'Arc Offshore Ltd., G–2000–22	The case contained 59 violations that were submitted for review, of which 55 were failure to perform tests of safety devices. Four were the result of safety devices being bypassed. Nine of the violations were not assessed in that they were found not to be a threat. 8/31/98–2/1/00.	$245,000, 10/30/2000	250.804(a)(1)(i), 250.804(a)(3), 250.804(a)(4), 250.805(a)(5), 250.804(a)(10), 250.803(c)(1)
Fugro-LCT Inc., G–2000–23	Company failed to obtain a geophysical permit prior to beginning operations to collect gravity data. 10/28/99–2/4/00.	$13,250, 6/27/2000	251.4(a)
Chevron, U.S.A. Inc., G–2000–24	A well surface-controlled subsurface safety valve was blocked out of service on February 18, 2000. 2/18/2000.	$15,000, 12/20/2000	250.803(c)(1)

OCS CIVIL PENALTIES PAID CALENDAR YEAR 2000—Continued

Operator name and case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR Section)
Burlington Resources Offshore, G–2000–25.	The manual block valve in the fuel supply system piping was found in the open position, thus bypassing the SDV for the fuel gas scrubber. This SDV was not bypassed for startup, maintenance, or testing; it was not flagged, nor was it being monitored. 2/4/2000.	$18,000, 10/19/2000	250.803(c)(1)
Texaco Exploration and Production Inc., G–2000–26.	Wells A–1, A–6, and A–8 continued to produce after FSV's failed leakage test 2/29/2000–3/20/2000.	$63,000, 9/20/2000	250.804(a)(5)
Exxon Mobil Corporation, G–2000–27	The PSHL protecting the departing oil pipeline was bypassed. 2/24/2000.	$5,000, 10/2/2000	250.1004(b)(3)
Samedan Oil Corporation, G–2000–28	An employee was working at a height of 15 feet above steel decking without utilizing fall protection gear. 2/26/2000.	$12,000, 10/18/2000	250.107(a)
Chevron U.S.A. Inc., G–2000–30	Crane operator attempted to lift a load exceeding the lifting capacity of the crane; boom fell onto a tool storage building (causing minor damage), and, the basket, remaining attached to the cable, fell into the water. 4/9/2000.	$22,000, 10/17/2000	250.108
Chevron U.S.A. Inc., G–2000–33	Accident occurred on the rig floor. The accident resulted in serious injury to a derrick-hand where he lost two fingers on the right hand and three fingers on the left hand while greasing the crown and air hoist sheaves on the derrick. 3/10/2000.	$25,000, 12/1/2000	250.120(a)
AEDC (USA) INC., G–2000–34	The Condensate Coalescer Blowcase was in bypass on the panel board. 5/6/2000.	$10,000, 11/29/2000	250.803(c)(1)
Bois d'Arc Offshore Ltd., G–2000–38	The SCSSV on the caisson well #4 was found closed on the tree. 12/16/99.	$12,000, 11/21/2000	250.803(c)(1)
Vastar Resources, Inc., G–2000–40	PSV on Well No. A–5 flowline was bypassed. 2/7/2000.	$15,000, 12/12/2000	250.803(c)(1)
Aera Energy LLC, P–1999–001	Pipeline leak detection system was not operated and maintained properly (Ten BBL spill was not covered by final assessment). 6/7/99.	$48,000, 4/25/2000	250.122(e)
Total Penalties Paid: 1/1/2000–12/31/2000 66 Cases: $1,780,721			

Dated: August 17, 2001.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 01–23051 Filed 9–13–01; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–891 (Final)]

Foundry Coke From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of foundry coke, provided for in subheading 2704.00.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective September 20, 2000, following receipt of a petition filed with the Commission and Commerce by ABC Coke, Birmingham, AL; Citizens Gas & Coke Utility, Indianapolis, IN; Erie Coke Corp., Erie, PA; Tonawanda Coke Corp., Tonawanda, NY; and the United Steelworkers of America, AFL–CIO.[2] The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of foundry coke from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 9, 2001 (66 FR 23727).[3] The hearing was held in Washington, DC, on July 26, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on September 5, 2001. The views of the Commission are contained in USITC Publication 3449 (September 2001), entitled Foundry Coke from China: Investigation No. 731–TA–891 (Final).

Issued: September 10, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23076 Filed 9–13–01; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] On February 15, 2001, Sloss Industrial Corp. was added as a petitioner to the investigation.

[3] The Commission's scheduling notice was subsequently corrected (66 FR 29173, May 29, 2001).

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–464]

In the Matter of Certain Video Cassette Devices and Television/Video Cassette Combination Devices and Methods of Using Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 10, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Funai Electric Co., Ltd. of Osaka, Japan. A supplement to the complaint was filed on August 31 and September 5, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain video cassette devices and television/video cassette combination devices by reason of infringement of claims 1–3, 5, 7, and 9 of U.S. Letters Patent 5,594,510, claims 1 and 5 of U.S. Letters Patent 5,815,218, claims 1–5 of U.S. Letters Patent 5,987,209, and claims 1–4 of U.S. Letters Patent 6,021,018. The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDI–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

FOR FURTHER INFORMATION CONTACT: James B. Coughlan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2221.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2001).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 7, 2001, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain video cassette devices and television/video cassette combination devices by reason of infringement of claims 1–3, 5, 7, or 9 of U.S. Letters Patent 5,594,510, claims 1 or 5 of U.S. Letters Patent 5,815,218, claims 1–4 or 5 of U.S. Letters Patent 5,987,209, or claims 1–3 or 4 of U.S. Letters Patent 6,021,018, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Funai Electric Co., Ltd., 7–7–1 Nakagaito, Daito-city, Osaka 574–0013 Japan, 81–072–870–4303

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Orion Electric Co., Ltd., 41–1, Iehisa-cho, Takefu-shi, Fukui 915–8555 Japan

Orion America, Inc., 15 Essex Road, Paramus, New Jersey 07652

Orion Sales, Inc., Highway 41, Orion Place, Princeton, Indiana 47670

(c) James B. Coughlan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: September 10, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23077 Filed 9–13–01; 8:45 am]

BILLING CODE 7020–02–P

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DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1315F]

Fiscal Year 2001 Missing and Exploited Children's Program Plan

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Announcement of Fiscal Year 2001 Missing and Exploited Children's Program Plan.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is issuing its Missing and Exploited Children's Program Final Program Plan for Fiscal Year 2001.

FOR FURTHER INFORMATION CONTACT: Ronald C. Laney, Director, Missing and Exploited Children's Program, 202–616–3637. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 15, 2001, at 66 FR 26881, OJJDP published the Fiscal Year 2001 Missing and Exploited Children's Program Proposed Program Plan and requested public comments on the plan. The closing date for comments was July 16, 2001. No comments were received.

OJJDP has determined that the Proposed Program Plan does not need to be modified in any way. Accordingly, the Proposed Plan as published in the May 15, 2001, **Federal Register** is now the Final Missing and Exploited Children's Program Plan for Fiscal Year 2001.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–23075 Filed 9–13–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1329]

Notice of Meeting of the Coalition of Juvenile Justice

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is announcing the Fall Training Conference and Board of Directors' Meeting of the Coalition for Juvenile Justice.

DATES: The meeting dates are:

1. Thursday, November 8, 2001 from 10 a.m. until 6 p.m., central time,
2. Friday, November 9, 2001 from 8 a.m. until 5 p.m., central time,
3. Saturday, November 10, 2001 from 8 a.m. until 5 p.m., central time,
4. Sunday, November 11, 2001 from 8 a.m. until 5 p.m., central time,

ADDRESSES: All meetings will be held at the Sheraton Gunter Hotel, 205 East Houston Street, San Antonio, Texas 78205.

FOR FURTHER INFORMATION CONTACT: For information about attending this meeting, contact Freida Thomas, Grant Management Specialist, Office of Juvenile Justice and Delinquency Prevention, 810 7th Street, NW, Washington, DC 20531. Telephone: 202–307–5924 (This is not a toll-free number). Questions may also be submitted by fax (202–307–2819) or e-mail (*Freida@ojp.usdoj.gov*).

SUPPLEMENTARY INFORMATION: The Coalition of Juvenile Justice, established pursuant to Section 9 of the Federal Advisory Committee Act, 5 U.S.C. App. 2), is meeting to carry out its advisory functions under section 241(f)(2) (A, D, and E) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, *et seq.* The purpose of this meeting is to discuss and adopt recommendations from members regarding the committee's responsibility to advise the OJJDP Administrator, the President and the Congress about State perspectives on the operation of the OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention.

This meeting will be open to the public.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–23074 Filed 9–13–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by

contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decision listed to the Government Printing Office document entitled "General Wage determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York
NY010002 (Mar. 2, 2001)
NY010003 (Mar. 2, 2001)
NY010004 (Mar. 2, 2001)
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GA010034 (Mar. 2, 2001)

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Volume V

Nebraska
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NE010005 (Mar. 2, 2001)
NE010019 (Mar. 2, 2001)

Volume VI

North Dakota
ND010004 (Mar. 2, 2001)

Volume VII

Arizona
AZ010002 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service *http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

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Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington DC this 6 day of September 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–22905 Filed 9–13–01; 8:45 am]

BILLING CODE 4510–27–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

TIME & DATE: 2 p.m., Friday, September 21, 2001.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800 Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary 202–220–2372.

AGENDA:

I. Call to Order

II. Approval of Minutes: May 31, 2001 Annual Meeting

III. Audit Committee Meetings

a. July 12, 2001

b. September 14, 2001

IV. Budget Committee Meeting

a. August 7, 2001

V. Committee Appointments

VI. Treasurer's Report

VII. Executive Director's Quarterly Management Report

VIII. Strategic Planing Update

IX. Executive Session

X. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 01–23172 Filed 9–12–01; 1:54 pm]

BILLING CODE 7570–01–M

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (http://www.pbgc.gov).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in September 2001. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in October 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the "required interest rate") in determining a single-employer plan's variable-rate premium. The required interest rate is the "applicable percentage" (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in September 2001 is 4.66 percent (*i.e.*, 85 percent of the 5.48 percent yield figure for August 2001).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between October 2000 and September 2001.

For premium payment years beginning in	The required interest rate is
October 2000	4.96
November 2000	4.93
December 2000	4.91
January 2001	4.67
February 2001	4.71
March 2001	4.63
April 2001	4.54
May 2001	4.80
June 2001	4.91
July 2001	4.82
August 2001	4.77
September 2001	4.66

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in October 2001 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 11th day of September 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–23159 Filed 9–13–01; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 17, 2001: a closed meeting will be held on Monday, September 17, 2001, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and (17) CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Monday, September 17, 2001, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

A formal order.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 10, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23148 Filed 9–12–01; 11:41 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2001–10612]

Westward I, Viking, Chelsea K, Alaskan Command and Seafisher—Applicability of Preferred Mortgage, Ownership and Control Requirements for Fishing Industry Vessels of 100 Feet or Greater in Registered Length

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on two petitions requesting MARAD to issue determinations that the ownership and control requirements and the preferred mortgage requirements of the American Fisheries Act of 1998 and 46 CFR Part 356 are in conflict with an international investment agreement.

SUMMARY: The Maritime Administration ("MARAD") is soliciting public comments on a petition from the owners and mortgagees of the vessels *Westward I* (Official Number—615165), *Viking* (Official Number—565017), *Chelsea K* (Official Number—976753), and *Alaskan Command* (Official Number—599383) and a petition from the owners of the vessel *Seafisher* (Official Number—575587) (hereinafter the "Vessels"). The petitions request that MARAD issue decisions that the American Fisheries Act of 1998 ("AFA"), Division C, Title II, Subtitle I, Pub. L. 105–277, and our regulations at 46 CFR part 356 (65 FR 44860 (July 19, 2000)) are in conflict with the U.S.-Japan Treaty and Protocol Regarding Friendship, Commerce and Navigation, 206 UNTS 143, TIAS 2863, 4 UST 2063 (1953) ("U.S.-Japan FCN" or "Treaty"). The petitions are submitted pursuant to 46 CFR 356.53 and section 213(g) of AFA, which provide that the requirements of the AFA and the implementing regulations will not apply to the owners or mortgagees of a U.S.-flag vessel documented with a fishery endorsement to the extent that the provisions of the AFA conflict with an existing international agreement relating to foreign investment to which the United States is a party.

If MARAD determines that the AFA and MARAD's implementing regulations conflict with the U.S.-Japan FCN, the requirements of 46 CFR part 356 and the AFA will not apply to the extent of the inconsistency with respect to each specific vessel. Accordingly, interested parties are invited to submit their views on the petitions and whether there is a conflict between the U.S.-Japan FCN and the requirements of both the AFA and 46 CFR part 356. In addition to receiving the views of interested parties, MARAD will consult with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements.

DATES: You should submit your comments in order to ensure that Docket Management receives them not later than September 24, 2001. Prior to the two petitions that are the subject of this notice, we published seven different notices relating to potential conflicts between the AFA and the Japan-FCN. No comments from the public were received in response to any of the petitions. Because we have not received any public comments in regard to previous notices and because the present petitions do not present novel issues, we are using a shortened comment period of ten days for this notice.

ADDRESSES: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dms.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal Holidays. An electronic version of this document and all documents entered into this docket may be obtained over the internet from the Docket Management System at *http://dms.dot.gov* by typing in the last four digits of the docket number provided at the beginning of this notice.

FOR FURTHER INFORMATION CONTACT: John T. Marquez, Jr. of the Office of Chief Counsel at (202) 366–5320. You may send mail to John T. Marquez, Jr., Maritime Administration, Office of Chief Counsel, Room 7228, MAR–222, 400 Seventh St., SW., Washington, DC 20590–0001 or you may send e-mail to *John.Marquez@marad.dot.gov*.

SUPPLEMENTARY INFORMATION: The AFA was enacted in 1998 to give U.S. interests a priority in the harvest of U.S.-fishery resources by increasing the requirements for U.S. Citizen ownership, control and financing of U.S.-flag vessels documented with a fishery endorsement. MARAD was charged with promulgating implementing regulations for fishing industry vessels of 100 feet or greater in registered length while the Coast Guard retains responsibility for vessels under 100 feet.

Section 202 of the AFA, raises, with some exceptions, the U.S.-Citizen ownership and control standards for U.S.-flag vessels that are documented with a fishery endorsement and operating in U.S.-waters. The ownership and control standard was increased from the controlling interest standard (greater than 50%) of section 2(b) of Shipping Act, 1916 ("1916 Act"), as amended, 46 App. U.S.C. 802(b), to the standard contained in section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c), which requires that 75 percent of the ownership and control in a vessel owning entity be vested in U.S. Citizens. In addition, section 204 of the AFA repeals the ownership grandfather "savings provision" in the Anti-Reflagging Act of 1987, Pub. L. 100–239, section 7(b), 101 Stat 1778 (1988), which permits foreign control of companies owning certain fishing vessels.

Section 202 of the AFA also amended 46 App. U.S.C. 31322(a) and established new requirements to hold a preferred mortgage on a vessel of 100 feet or greater in registered length that is documented with a fishery endorsement. However, those requirements were subsequently amended on July 24, 2001, by section 2202 of the Supplemental Appropriations Act, 2001, Public Law

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107–20. The amendments revise the requirements to hold a preferred mortgage on fishing industry vessels of 100 feet or greater, delay the effective date of 46 U.S.C. 31322(a)(4), as amended, to April 1, 2003, and require MARAD to suspend until April 1, 2003, any consideration of a lender's citizenship status in determining whether 75% of the interest in a vessel is owned and controlled by U.S. Citizens.

Section 213(g) of the AFA provides that if the new ownership and control provisions or the mortgagee provisions are determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party, such provisions of the AFA shall not apply to the owner or mortgagee on October 1, 2001, with respect to the particular vessel and to the extent of the inconsistency. MARAD's regulations at 46 CFR 356.53 set forth a process wherein owners or mortgagees may petition MARAD, with respect to a specific vessel, for a determination that the implementing regulations are in conflict with an international investment agreement. Petitions must be noticed in the **Federal Register** with a request for comments. The Chief Counsel of MARAD, in consultation with other Departments and Agencies within the Federal Government that have responsibility or expertise related to the interpretation of or application of international investment agreements, will review the petitions and render a decision within 120 days of the receipt of a fully completed petition.

Interested parties are advised that, in light of the above mentioned amendments to the preferred mortgage requirements for fishing industry vessels of 100 feet or greater, we will be required to amend our regulations. Furthermore, Congress has explicitly stated that MARAD should not consider the citizenship of the lender in determining whether a vessel is eligible for documentation with a fishery endorsement until the new requirements related to mortgagees become effective on April 1, 2003. Consequently, we will not issue a determination at this time with respect to the mortgagee issues addressed in the petitions. The preferred mortgages on the Vessels will remain valid and subject to the current requirements of 46 U.S.C. 31322, as in effect prior to the passage of the AFA, until the new statutory and regulatory requirements related to preferred mortgages become effective on April 1, 2003.

The Petitioners

The petitioners with respect to the vessels *Westward I, Viking, Chelsea K,* and *Alaskan Command* are: (1) The owners of the vessels, Maruha Corporation, Maruha's three wholly owned subsidiaries, Western Alaska Fisheries, Inc., Westward Seafoods, Inc., and Maruha Capital Investment, Inc., as well as Horizon Trawlers, Inc., H&G, LLC, Pyramid Fishing Company, Westward Limited Partnership, Viking Limited Partnership, Ocean Dynasty Limited Partnership, and Alaskan Command Company; and (2) the mortgagees with respect to the vessels, Westward Limited Partnership and Overseas Fishery Cooperation Foundation.

The petitioners with respect to the *Seafisher* are the owners of the vessel, M/V Savage, Inc., Cascade Fishing, Inc., and Daito Suisan, Ltd.

Requested Action

The owners and mortgagees of *Westward I, Viking, Chelsea K,* and *Alaskan Command* have requested a consolidated filing for the vessels. MARAD's regulations require at 46 CFR 356.53(c) that a separate petition be filed for each vessel for which the owner or mortgagee is requesting an exemption unless the Chief Counsel authorizes a consolidated filing. The Chief Counsel hereby authorizes the consolidated filing by Petitioners relating to the four vessels. The owners of the *Seafisher* have filed a separate petition.

The Petitioners seek a determination from MARAD under section 213(g) of the AFA and 46 CFR 356.53 that they are exempt from the requirements of sections 202, 203 and 204 of the AFA and 46 CFR part 356 on the ground that the requirements of the AFA and 46 CFR part 356, as applied to Petitioners with respect to the Vessels, conflict with U.S. obligations under U.S.-Japan FCN. The Petitioners request a determination that the restrictions placed on foreign ownership, foreign financing and foreign control of U.S.-flag vessels documented with a fishery endorsement contained in 46 CFR part 356 and sections 202, 203 and 204 of the AFA do not apply to Petitioners.

Petitioner's Description of the Conflict Between the FCN Treaty and Both 46 CFR Part 356 and the AFA

MARAD's regulations at 46 CFR 356.53(b)(3) require Petitioners to submit a detailed description of how the provisions of the international investment agreement or treaty and the implementing regulations are in conflict. The entire text of the FCN Treaty is available on MARAD's internet site at *http://www.marad.dot.gov*. The descriptions submitted by the Petitioners of the conflict between the FCN Treaty and both the AFA and MARAD's implementing regulations form the basis on which the Petitioners' requests that the Chief Counsel issue rulings that 46 CFR part 356 does not apply to the Petitioners with respect to the Vessels. The Petitioners' descriptions of how the provisions of the U.S.-Japan FCN are in conflict with both the AFA and 46 CFR part 356 may be obtained by contacting John T. Marquez, Jr. at the numbers and address provided above under **FOR FURTHER INFORMATION** or from the Docket Management System by following the instructions above under **ADDRESSES**.

Dated: September 10, 2001.

By Order of the Acting Deputy Maritime Administrator.

Joel Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23071 Filed 9–13–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34082 (Sub–No. 1)]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 34082 [1] to permit the trackage rights to expire, as they relate to the operations extending from Temple, TX, to Fort Worth, TX, on September 23, 2001.

DATES: This exemption is effective on September 23, 2001. Petitions to reopen must be filed by October 4, 2001.

[1] On August 9, 2001, UP concurrently filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the trackage rights agreement (agreement) by The Burlington Northern and Santa Fe (BNSF) to grant temporary overhead trackage rights to UP over approximately 129.2 miles of BNSF trackage extending from BNSF milepost 218.1, near Temple, TX, to BNSF milepost 6.1, near Fort Worth, TX. *See Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34082 (STB served Aug. 29, 2001). The agreement is scheduled to expire on September 23, 2001. The trackage rights operations under the exemption were scheduled to be consummated on August 20, 2001.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34082 (Sub-No. 1) must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative Robert T. Opal, Esq., Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. (TDD for the hearing impaired: 1 (800) 877–8339.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DÃ 2 DÃ Legal, Suite 405, 1925 K Street, NW, Washington, DC 20006. Telephone: (202) 293–7776. (Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.)

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: September 5, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23021 Filed 9–13–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34074]

RailAmerica, Inc., RailAmerica Transportation Corporation, and Otter Tail Valley Railroad Company—Corporate Family Transaction Exemption

RailAmerica, Inc. (RailAmerica),[1] RailAmerica Transportation Corporation (RailAmerica Transportation), and Otter Tail Valley Railroad Company (OTVR), have jointly filed a verified notice of exemption. As part of a proposed corporate restructuring, the direct control of OTVR, a Class III rail carrier, will be transferred from Dakota Rail Inc. (Dakota) to RailAmerica Transportation, through the transfer of the stock of OTVR from Dakota to RailAmerica Transportation. *See RailAmerica, Inc.—Acquisition of Control Exemption—Otter Tail Valley Company, Inc.*, STB Finance Docket No. 33138 (STB served Oct. 25, 1996) and *Dakota Rail, Inc.—Acquisition of Control Exemption—Otter Tail Valley Railroad Company, Inc.*, STB Finance Docket No. 33133 (STB served Oct. 25, 1996).[2]

The transaction was scheduled to be consummated on or shortly after August 24, 2001, the effective date of the exemption.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties stated that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The proposed transaction is a reorganization within the RailAmerica corporate family geared toward increasing equity and reducing long-term debt through asset rationalizations, sale/leasebacks and equity infusions.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34074 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: September 6, 2001.

[1] RailAmerica is a noncarrier, which at time of filing, indirectly controlled 28 Class III railroads operating in 23 states.

[2] Dakota directly controls and owns 100 percent of the stock of OTVR. OTVR is one of RailAmerica's subsidiaries, which operates 72 miles of railroad in Minnesota. RailAmerica Transportation is a wholly owned noncarrier subsidiary of RailAmerica and an affiliate of the 28 railroads based in the United States that are controlled by RailAmerica.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23022 Filed 9–13–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Docket No. 929; ATF O 1130.13]

Delegation Order—Delegation of the Director's Authorities

To: All Bureau Supervisors.

1. *Purpose.* This order delegates certain authorities of the Director to subordinate ATF officers and prescribes the subordinate ATF officers with whom persons file documents which are not ATF forms.

2. *Cancellation.* ATF O 1100.96A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR part 18, Volatile Fruit-Flavor Concentrates, dated August 14, 1984, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to drawback on taxpaid distilled spirits used in manufacturing nonbeverage products and the production of volatile fruit-flavor concentrate. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Order No. 120–1 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR parts 17 and 18 to subordinate officials. Also, this ATF order prescribes the subordinate officials with whom applications, notices, and reports required by 27 CFR parts 17 and 18, which are not ATF forms, are filed. The following table identifies the regulatory sections, authorities and documents to be filed, and the authorized ATF officials. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates involved in this delegation order has been attached.

5. *Questions.* If you have questions about this ATF order, contact the Regulations Division (202–927–8210).

Bradley A. Buckles,

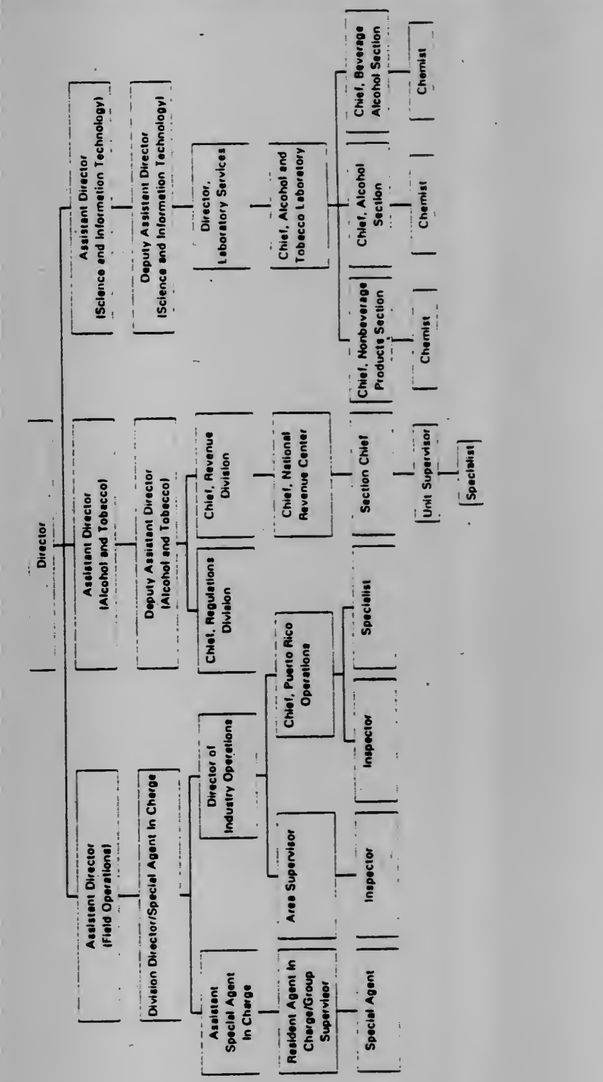
Director.

Regulatory section	Officer(s) authorized to act or receive document
§ 17.3(a)	Chief, Regulations Division. If the alternate method does not affect an ATF approved formula, or import or export recordkeeping, Chief, National Revenue Center (NRC) may act upon the same alternate method that has been approved by the Chief, Regulations Division.
§ 17.3(b)	Chief, Regulations Division, or Chief, NRC.
§ 17.3(c)	Chief, Regulations Division. If the alternate method does not affect an ATF approved formula, or import or export recordkeeping, Chief, National Revenue Center (NRC) may act upon the same alternate method that has been approved by the Chief, Regulations Division.
§ 17.6	Chief, Regulations Division, Unit Supervisor, NRC, or Chief, Nonbeverage Products Section.
§ 17.54	Specialist or Clerk, NRC.
§ 17.55	Inspector, Special Agent, or Specialist.
§ 17.101	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.107	For approval of bonds in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.108(c)	Area Supervisor, Chief, Puerto Rico Operations, or Unit Supervisor, NRC.
§ 17.111	For bonds in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.112	For bonds in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.113	For bonds in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.114	For bonds in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.121(d)	Inspector, Special Agent, Specialist, or Chemist, Alcohol and Tobacco Laboratory.
§ 17.122	Chemist, Nonbeverage Products Section.
§ 17.125(a) and (b)	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.131	Chemist, Nonbeverage Products Section.
§ 17.134	Chemist, Nonbeverage Products Section.
§ 17.141	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.142(a)	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC, with whom a claim is filed, and Section Chief, NRC, to take final action on claims of more than $5,000, or Unit Supervisor, NRC, to take final action on claims of $5,000 or less.
§ 17.143	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.147(a)	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.161	Inspector, Special Agent, Specialist, or Chemist, Alcohol and Tobacco Laboratory.
§ 17.166(c)	Director of Industry Operations.
§ 17.167(b)	Area Supervisor or Chief, Puerto Rico Operations.
§ 17.168(a)	For persons filing in Puerto Rico, Chief, Puerto Rico Operations; otherwise, Unit Supervisor, NRC.
§ 17.170	Director of Industry Operations.
§ 17.171	Inspector, Special Agent, Specialist, or Chemist, Alcohol and Tobacco Laboratory.
§ 17.182	Inspector, Special Agent, Specialist, or Chemist, Alcohol and Tobacco Laboratory.
§ 17.183(a)	Area Supervisor or Chief, Puerto Rico Operations, for filing notice and to impose specific conditions for destruction. Inspector, Special Agent, Specialist, or Chemist, Alcohol and Tobacco Laboratory to witness destruction.
§ 17.183(b)	Chemist, Nonbeverage Products Section, to approve proposed material. Director of Industry Operations to approve method of destruction.
§ 18.13	Chief, Regulations Division.
§ 18.14(a)	Director of Industry Operations.
§ 18.14(b)	Area Supervisor.
§ 18.15	Inspector, Special Agent, or Specialist.
§ 18.16(a)	Chief, Regulations Branch.
§ 18.17	Inspector, Special Agent, or Specialist.
§ 18.19	Inspector, Special Agent, or Specialist.
§ 18.22(b)	Unit Supervisor, NRC.
§ 18.24	Section Chief, NRC.
§ 18.27(a)(1)	Area Supervisor or Unit Supervisor, NRC.
§ 18.27(a)(2), (3) and (4)	Area Supervisor.
§ 18.39	Unit Supervisor, NRC.
§ 18.40	Unit Supervisor, NRC.
§ 18.41	Area Supervisor.
§ 18.52(b)	Chemist, Nonbeverage Products Section.
§ 18.61(a) and (b)	Inspector, Special Agent, or Specialist.

BILLING CODE 4810-31-P

ATF O 1130.13

ATF Organization



[FR Doc. 01-23060 Filed 9-13-01; 8:45 am]

BILLING CODE 4810-31-C

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Part II

The President

Proclamation 7461—Honoring the Victims of the Incidents on Tuesday, September 11, 2001

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Title 3—

The President

Proclamation 7461 of September 11, 2001

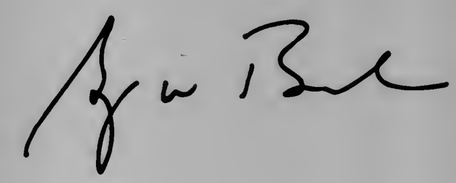
Honoring the Victims of the Incidents on Tuesday, September 11, 2001

By the President of the United States of America

A Proclamation

As a mark of respect for those killed by the heinous acts of violence perpetrated by faceless cowards upon the people and the freedom of the United States on Tuesday, September 11, 2001, I hereby order, by the authority vested in me as President of the United States of America by the Constitution and the laws of the United States of America, that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, Sunday, September 16, 2001. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–23193
Filed 9–13–01; 8:45 am]
Billing code 3195–01–P

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Part III

The President

Presidential Determination No. 2001–26 of September 12, 2001—Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act

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Title 3—

The President

Presidential Determination No. 2001–26 of September 12, 2001

Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State [and] the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination on September 12, 2000 (65 *Fed. Reg.* 55883), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 2001.

I hereby determine that the continuation for 1 year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I continue for 1 year, until September 14, 2002, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 C.F.R. part 500;

(2) the Transaction Control Regulations, 31 C.F.R. part 505; and

(3) the Cuban Assets Control Regulations, 31 C.F.R. part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the **Federal Register**.

THE WHITE HOUSE,
Washington, September 12, 2001.

[FR Doc. 01–23217
Filed 09–13–01; 12:37 pm]
Billing code 4810–31–M

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Part IV

The President

Proclamation 7462—National Day of Prayer and Remembrance for the Victims of the Terrorist Attacks on September 11, 2001

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Presidential Documents

Title 3—

The President

Proclamation 7462 of September 13, 2001

National Day of Prayer and Remembrance for the Victims of the Terrorist Attacks on September 11, 2001

By the President of the United States of America

A Proclamation

On Tuesday morning, September 11, 2001, terrorists attacked America in a series of despicable acts of war. They hijacked four passenger jets, crashed two of them into the World Trade Center's twin towers, and a third into the Headquarters of the U.S. Department of Defense at the Pentagon, causing great loss of life and tremendous damage. The fourth plane crashed in the Pennsylvania countryside, killing all on board but falling well short of its intended target apparently because of the heroic efforts of passengers on board. This carnage, which caused the collapse of both Trade Center towers and the destruction of part of the Pentagon, killed more than 250 airplane passengers and thousands more on the ground.

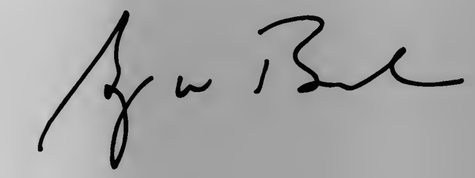
Civilized people around the world denounce the evildoers who devised and executed these terrible attacks. Justice demands that those who helped or harbored the terrorists be punished—and punished severely. The enormity of their evil demands it. We will use all the resources of the United States and our cooperating friends and allies to pursue those responsible for this evil, until justice is done.

We mourn with those who have suffered great and disastrous loss. All our hearts have been seared by the sudden and sense less taking of innocent lives. We pray for healing and for the strength to serve and encourage one another in hope and faith.

Scripture says: "Blessed are those who mourn for they shall be comforted." I call on every American family and the family of America to observe a National Day of Prayer and Remembrance, honoring the memory of the thousands of victims of these brutal attacks and comforting those who lost loved ones. We will persevere through this national tragedy and personal loss. In time, we will find healing and recovery; and, in the face of all this evil, we remain strong and united, "one Nation under God."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, September 14, 2001, as a National Day of Prayer and Remembrance for the Victims of the Terrorist Attacks on September 11, 2001. I ask that the people of the United States and places of worship mark this National Day of Prayer and Remembrance with noontime memorial services, the ringing of bells at that hour, and evening candlelight remembrance vigils. I encourage employers to permit their workers time off during the lunch hour to attend the noontime services to pray for our land. I invite the people of the world who share our grief to join us in these solemn observances.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01-23257
Filed 9-13-01; 3:58 pm]
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H.R. 364/P.L. 107–29
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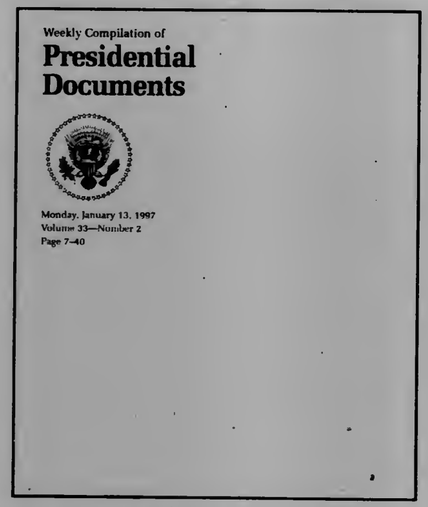
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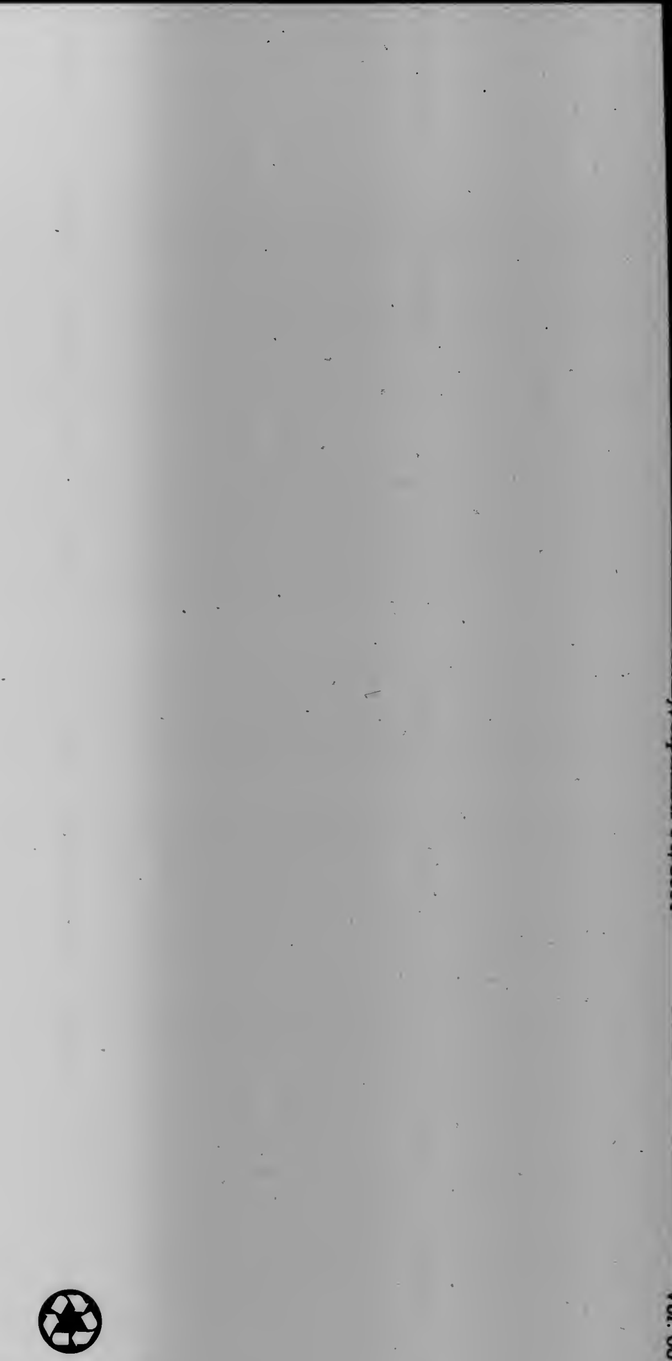
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB84

General Administrative Regulations; Submission of Policies, Provisions of Policies, and Rates of Premium

AGENCY: Federal Crop Insurance Corporation.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the procedures for the submission of policies, plans of insurance, or other rates or premium by insurance companies, or other persons or entities, to the FCIC Board of Directors (Board) for approval for reinsurance and subsidy under section 508(h) of the Federal Crop Insurance Act (Act), in accordance with section 2108 of the 2001 Supplemental Appropriations Act.

This rule prescribes the respective roles and responsibilities of FCIC and the applicant. This rule also prescribes guidelines for the timing, content, and approval process for policies, plans of insurance, and rates of premium submitted under section 508(h) of the Act. In addition, this rule establishes requirements and guidelines for the reimbursement of research and development costs and maintenance costs for such submissions approved by the Board, and the payment of fees by insurance companies after the maintenance period has expired. This rule also provides guidelines for non-reinsured supplemental policies to be submitted to FCIC for review in accordance with the Standard Reinsurance Agreement (SRA).

EFFECTIVE DATES: This rule is effective September 17, 2001. Written comments and opinions on this interim rule will be accepted until close of business November 16, 2001 and will be considered when the rule is to be made final. Comments to the General Administrative Regulations; Submission of Policies, Provisions of Policies, and Rates of Premium proposed rule published in the **Federal Register** on July 16, 2001, will be considered at the same time that comments are considered for this rule and those comments will not have to be resubmitted for consideration. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through November 16, 2001.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133. Comments titled "General Administrative Regulation; Submission of Policies, Provisions of Policies, and Rates of Premium" may be sent via the Internet to: DirectorPDD@rm.fcic.usda.gov. A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CST, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–3707.

SUPPLEMENTARY INFORMATION

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is significant for the purpose of Executive Order 12866 and, therefore, it has been reviewed by OMB.

Paperwork Reduction Act of 1995

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the information collection and record keeping requirements included in this rule have been submitted for approval to OMB. Please submit written comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this rule.

Comments are being solicited from the public concerning this proposed information collection and record keeping requirements. This outside input will help:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses.)

Title: General Administrative Regulation; Submission of Policies, Provisions of Policies, and Rates of Premium.

Abstract: This rule revises guidelines for the submission of policies or other material to the Board under section 508(h) of the Act. In accordance with that section of the Act, this rule establishes the process for the submission of policies, plans of insurance, and rates of premium, the deadlines for the review and approval process by the Board, and the respective roles and responsibilities of FCIC and the applicant related to the submission. This rule specifies information that must be included in a new or revised submission and the format it must be in to be considered for Board approval. This rule establishes requirements and guidelines for the reimbursement of research and development costs and maintenance costs for such submissions approved by the Board and the payment of fees by insurance companies after the maintenance period has expired. It also requires non-reinsured supplemental policies developed by companies reinsured by FCIC to be submitted to FCIC for review in accordance with provisions contained in the Standard Reinsurance Agreement (SRA).

Purpose: To amend 7 CFR part 400 by revising subpart V.

Burden statement: This rule is needed to ensure that the Board receives complete submissions that are ready for review and approval. It also ensures the fair and equitable distribution of limited funds for research and development costs and maintenance costs. This rule will ensure an effective, orderly, and efficient crop insurance marketplace, and that the Federal crop insurance program is delivered to all producers in a manner that does not unfairly discriminate among producers or insurance companies.

The burden associated with this rule, with the exception of reading the rule, is in the development and submission of a policy, revision to a policy or rates of premium for any policy or plan authorized under the Act. FCIC estimates that annually 75 people (excluding Federal employees) will spend 2 hours reading this document for a total of 150 hours (75 × 2 = 150). FCIC estimates people in 14 positions (marketing manager, computer manager, financial manager, technical writer, actuary, accountant, lawyer, economist, computer programmer, underwriter, paralegal, marketing researcher, statistician, and office assistant) will respond for a total of 210 respondents (14 positions × 15 submissions = 210). FCIC estimates 105 annual responses (15 × 7 = 105) due to 15 applicants completing seven objectives (preparing the submission, modifying the submission, corresponding with the Board, preparation and presentation to the Board, responding to issues, negotiating agreements, costs and fees and maintenance of approved products). To determine approximate annual burden hours, FCIC estimates 15 entities will prepare a submission (applicants) and will spend the following amount of time for each of the seven objectives: (1) Preparing and submitting the submission—22,500 hours (15 applicants × 1,500 hours = 22,500); (2) Modifying the submission prior to Board approval—15,000 hours (15 applicants × 1,000 hours = 15,000); (3) Preparation of correspondence between the Board and applicant—150 hours (15 applicants × 10 hours = 150); (4) Preparation and presentation of the submission to the Board—600 hours (15 applicants × 40 hours = 600 hours); (5) Responding to procedural, policy, and data automation issues subsequent to Board approval—15,000 hours (15 applicants × 1,000 hours = 15,000); (6) Negotiation of agreements, costs and fees—600 hours (15 applicants × 40 hours); and (7) Maintenance of approved products—3,000 hours (15 applicants × 200 hours = 3,000).

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 543 hours per response.

Respondents: Insurance companies, insureds, insurance agents, and other persons or entities who may wish to submit policies or policy provisions to the Board for approval.

Estimated Annual Number of Respondents: 210.

Estimated Annual Number of Responses Per Respondent: 0.5.

Estimated Annual Number of Responses: 105.

Estimated Total Annual Burden of Respondents: The total public burden for this rule is estimated at 57,000 hours.

Record keeping requirements: FCIC requires records to be kept for three years, and all records required by FCIC are retained as part of the normal business practice. Therefore, FCIC is not estimating additional burden related to record keeping.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. Additionally, the regulation does not require any greater action on the small entities than is required on the part of large entities. The amount of work required of the insurance companies will not increase because the information must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 or 7 CFR 400.169, as applicable, must be exhausted before any action for judicial review of any determination or action by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On July 16, 2001, FCIC published this rule as a proposed rule (66 FR 36951–36960). During the comment period, Congress enacted section 2103 of the 2001 Supplemental Appropriations Act, which authorized FCIC to promulgate this rule without regard to the notice and comment provisions of section 533 of title 5, United States Code, the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, relating to notices of proposed rulemaking and public participation in rulemaking, and chapter 35 of title 44, United States Code. Congress also required that this rule be effective on the date of publication.

FCIC makes available standard policies for producers to insure certain crops against various agricultural production risks and perils. Under the provisions of section 508(h) of the Act, (7 U.S.C. 1501 *et seq.*) any person may submit or propose other crop insurance policies, plans of insurance, provisions of policies, or rates of premium. These policies may be submitted without regard to limitations contained in the Act.

The Act requires that FCIC issue regulations to establish guidelines for the submission and Board review of policies or other material submitted to the Board under the Act. This rule prescribes guidelines for the timing, content, approval process, and the reimbursement for research and development costs and maintenance costs, and potential user fees for such submissions. This rule also clarifies the roles and responsibilities of FCIC and the applicant with respect to the submission. This rule also provides guidelines for non-reinsured supplemental policies to be submitted to FCIC for review in accordance with the SRA.

For submissions approved by the Board prior to publication of this regulation, applicants may either submit documentation of research and development costs or use a formula method to determine the amount of the research and development and maintenance reimbursement. The formula presented in this regulation is an objective measurement using the average number of policies per year earning premium from inception of the product to the time this regulation is published times $7 with the result of this calculation adjusted for scope and complexity, as required by legislation. The $7 was determined by using estimated product development costs with the intent to provide research and development cost reimbursement on an equitable basis considering the sales life cycle to date and market penetration.

Other technical corrections have been made as a result additional review and discussion with the Board.

List of Subjects in 7 CFR Part 400

Administrative practice and procedures, Crop insurance.

Interim Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 400 by revising Subpart V to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

Sec.

400.700 Basis, purpose, and applicability.
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400.709 Roles and responsibilities.
400.710 Preemption and premium taxation.
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400.712 Research and development reimbursement, maintenance reimbursement, and user fees.
400.713 Non-reinsured supplemental (NRS) policy.

Authority: 7 U.S.C. 1506(1), 1506(p).

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

§ 400.700 Basis, purpose, and applicability.

This subpart establishes guidelines for the submission of policies, plans of insurance, and rates of premium to the Board under section 508(h) of the Act and for non-reinsured supplemental policies in accordance with the SRA, and the roles and responsibilities of FCIC and the applicant. It also specifies the procedures for requesting reimbursement for research and development and maintenance costs for products and the approval process.

§ 400.701 Definitions.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.)

Actuarial documents. The forms and associated materials applicable to a crop or insurance year, which are available for public inspection in an agent's office and FCIC's website at www.act.fcic.usda.gov. These materials show the insurable acreage or commodities, the applicable guarantees, coverage levels, premium rates, insurable cropping practices common to the area, and other related information regarding crop insurance or other risk management plans of insurance in the county or state.

Actuarially appropriate. Premium rates determined to cover the anticipated loss and a reasonable reserve based on valid reasoning, an examination of all known risk data, and founded on thorough knowledge or experience of the expected value of all future costs associated with a risk transfer.

Administrative and operating (A&O) subsidy. An amount for expenses associated with selling and servicing insurance products authorized by the Act and paid by FCIC on behalf of the producer to approved insurance providers.

Applicant. Any person or entity that submits a policy, provisions of a policy, or premium rates to the Board for approval under section 508(h) of the Act.

Approved insurance provider. A private insurance company that has been approved by FCIC to provide insurance coverage to producers participating in programs authorized by the Act.

Board. The Board of Directors of FCIC.

Complexity. Complexity takes into consideration such factors as originality, the number and type of factual determinations necessary to establish insurable interest, evaluate risk, and determine whether an indemnity is payable, the number of commodities and areas to which the product is applicable, the rating methodology, the number of risks covered, unique policy provisions or endorsements, the delivery process of the submission, and the process of creating rules, policy terms and conditions, underwriting procedures, rating methodologies, administrative and operating procedures, and supporting materials.

Development. The process of creating rules, methodologies, administrative and operating procedures, supporting materials, and documentation necessary to submit, gain approval, and implement a proposed policy or coverage.

Endorsement. A document appended to a policy reinsured under the Act that supplements or amends the insurance coverage of that policy.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Maintenance. The process of continual support and improvement, as needed, for a policy or plan of insurance, including the periodic review of setting prices, updating premium rates or the rating methodology, updating or modifying policy terms and conditions, expanding into new commodities and areas, and other measures necessary to assure financial viability and actuarial soundness or to respond to statutory or regulatory changes.

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Maintenance costs. Specific expenses associated with the maintenance of a policy during the maintenance period.

Maintenance period. A period of time that begins on the date the Board approves the submission for maintenance and ends on the date that is not more than four reinsurance years after such approval.

Manager. The Manager of FCIC.

Marketable. An evaluation by the Board of the marketing plan submitted by the applicant that determines that producers will purchase the product and approved insurance providers will sell the product based on credible evidence provided by the applicant.

Marketing plan. A detailed, written plan that identifies, at a minimum, the expected number of potential buyers, premium, and liability, the data upon which such information is based and a prescribed insurance year cycle.

Multiple peril crop insurance (MPCI). All insurance policies reinsured by FCIC that offers coverage for loss of production.

National Agricultural Statistics Service (NASS). An agency of the United States Department of Agriculture, or a successor agency.

Non-reinsured supplemental policy (NRS). A policy, endorsement or other risk management tool that is developed by an approved insurance provider, or an entity affiliated in some manner with an approved insurance provider, that offers coverage, other than for loss related to hail, for commodities in addition to coverage available under a policy or plan of insurance that is reinsured by FCIC. This policy, endorsement or other risk management tool has not been submitted under 508(h) for FCIC approval for reinsurance.

Non-significant changes. Minor changes to the policy or plan of insurance, such as technical corrections, that do not affect the rating or pricing methodologies, the amount of subsidy owed, the amount of coverage, the interests of producers, FCIC's reinsurance risk, or any condition that may affect liability or the amount of loss to be paid under the policy. This includes any changes due to statutory or regulatory requirements.

Policy. A contract for insurance that includes an application, Basic Provisions, applicable commodity provisions, other applicable options and endorsements, the actuarial documents for the insured commodity, and related materials.

Plan of insurance. A class of policies, such as MPCI or Crop Revenue Coverage, that offer a specific type of coverage to one or more agricultural commodities.

Rate of premium. The dollar amount per insured unit or percentage rate per dollar of liability that is needed to pay anticipated losses and provide a reasonable reserve.

Related materials. The actuarial documents, special provisions, and any underwriting or loss adjustment manuals, handbooks, forms or other materials.

Research. The processes used to determine the need, producer interest, if the product is marketable, and feasibility of a proposed policy, plan of insurance or rate of premium.

Research and development costs. Specific expenses incurred and directly related to research and development of a submission approved by the Board.

Revenue insurance. Plans of insurance providing protection against loss of income or change in price.

Risk Management Agency (RMA). An agency of USDA responsible for the administration of all programs authorized under the Act and other authorities.

Risk subsidy. The portion of the approved premium paid by FCIC on behalf of the insured person.

Sales closing date. The final calendar date on which an approved insurance provider may accept an application by a producer for insurance.

Secretary. The Secretary of the United States Department of Agriculture.

Significant change. Any change to the policy or plan of insurance that may affect the rating and pricing methodologies, the amount of subsidy owed, the amount of coverage, the interests of producers, FCIC's reinsurance risk, or any condition that may affect liability or the amount of loss to be paid under the policy.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

Submission. A policy, plan of insurance, provision of a policy or plan of insurance, or rates of premium provided by an applicant to FCIC in accordance with the requirements of this subpart.

USDA. The United States Department of Agriculture.

User fees. Fees, approved by the Board, that can be charged to approved insurance providers for use of a policy or plan of insurance.

§ 400.702 Confidentiality of submission and duration of confidentiality.

(a) Prior to approval by the Board, any submission made to the Board under section 508(h) of the Act, including any information generated from the submission, will be considered confidential commercial or financial information for purposes of 5 U.S.C. 552(b)(4) and will not be released by FCIC to the public, unless the applicant authorizes such release in writing.

(b) Once the Board approves a submission, all information provided with the submission, or generated in the approval process, may be released to the public, including any mathematical modeling and data, unless it remains confidential business information under 5 U.S.C. 552(b).

(c) Any submission disapproved by the Board will remain confidential commercial or financial information in accordance with 5 U.S.C. 552(b) and no information related to such submission will be released by FCIC unless authorized in writing by the applicant.

§ 400.703 Timing of submission.

(a) A submission may only be provided to FCIC the first 5 business days of the months of, January, April, July, and October.

(b) Any submission not provided within the first 5 business days of a month stated in paragraph (a) of this section, will be considered to have been provided the next month stated in paragraph (a). For example, if an applicant provides a submission on the January 10, it will be considered to have been received on April 1.

(c) Any submission must be provided to the Deputy Administrator, Research and Development (or any successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676, not later than 180 days prior to the earliest proposed sales closing date to be considered for sale in the requested crop year.

§ 400.704 Type of submission.

(a) An applicant may submit to the Board in accordance with § 400.705:

(1) A policy or plan of insurance not currently reinsured by FCIC;

(2) One or more proposed revisions to a policy or plan of insurance authorized under the Act; or

(3) Rates of premium for any policy or plan of insurance authorized under the Act.

(b) An applicant must submit to the Board any significant change to a previously approved submission prior to making the change.

§ 400.705 Contents required for a new submission or changes to a previously approved submission.

A complete submission must contain the following material, as applicable, in the order given, in a 3-ring binder, with

section dividers clearly labeling each section. The entire submission must be included in an electronic format acceptable to RMA. Six identical copies of each submission must be sent to the Deputy Administrator, Research and Development (or successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676, and one identical copy of each submission provided to the Administrator, Risk Management Agency, 1400 Independence Ave., Stop 0801, Room 3053 South Building, Washington, DC 20250–0801.

(a) The first section will contain general information, including, as applicable:

(1) The applicant's name, address or primary business location, phone number, and e-mail address;

(2) The type of submission (see § 400.704);

(3) A statement of whether the applicant is requesting:

(i) Reinsurance, which includes risk subsidy and A&O subsidy;

(ii) Costs for reimbursement for research and development; or

(iii) Estimated costs for reimbursement for maintenance.

(4) The proposed agricultural commodities, including types, varieties, and practices covered by the submission;

(5) The crop and reinsurance years in which the submission is proposed to be available for purchase by producers;

(6) The proposed sales closing date;

(7) The proposed duration and scope of the plan of insurance;

(8) A marketing plan;

(9) Any known or anticipated future expansion plans;

(10) Identification, including names, addresses, telephone numbers, and e-mail addresses, of the persons responsible for:

(i) Addressing questions regarding the policy, underwriting rules and procedures, rate and price methodologies, data processing and record keeping requirements, and any other questions that may arise in administering the program after it is approved; and

(ii) Annual reviews to ensure compliance with all requirements of the Act, this subpart, and any agreements executed between the applicant and FCIC.

(11) A statement whether the submission will be filed with the applicable office responsible for regulating insurance in each state proposed for insurance coverage, and, if not, reasons why the submission will not be filed for review.

(b) The second section must contain the benefits of the plan, including, as applicable, a statement about the plan that demonstrates:

(1) How the submission offers coverage or other benefits not currently available from existing public and private programs.

(2) The demand for the submission, which must be supported by information from market research, producers or producer groups, agents, lending institutions, and other interested parties that provide verifiable evidence of demand; and

(3) How the submission meets public policy goals and objectives consistent with the Act and other laws, as well as policy goals supported by USDA and the Federal Government.

(c) The third section must contain the policy, including, as applicable:

(1) If the submission involves a new insurance policy or plan of insurance:

(i) All applicable policy provisions; and,

(ii) A list and description of any additional coverage that may be elected by the insured, including how such coverage may be obtained.

(2) If the submission involves a change to a previously approved policy, plan of insurance, or rates of premium, the proposed revisions, rationale for each change, data and analysis supporting each change, the impact of each change, and the impact of all changes in aggregate.

(d) The fourth section must contain the information related to the marketing of the policy or plan of insurance, including, as applicable:

(1) A list of states and counties where the submission is proposed to be offered;

(2) The amount of commodity (acres, head, board feet, etc.), the amount of production, and the value of each agricultural commodity proposed to be covered in each proposed county and state;

(3) The expected liability and premium for each proposed county and state;

(4) If available, any insurance experience for each year and in each proposed county and state in which the policy has been previously offered for sale including an evaluation of the policy's performance and, if data are available, a comparison with other similar insurance policies reinsured under the Act; and

(5) The projected frequency and severity of loss if the proposed submission is approved.

(e) The fifth section must contain the information related to the underwriting of the submission, including, as applicable:

(1) A sample of each document or form that will be used to present and sell the product;

(2) Detailed rules for determining insurance eligibility, including all producer reporting requirements;

(3) Relevant dates, if not included in the proposed policy;

(4) Detailed examples of the data and calculations needed to establish the insurance guarantee, liability, and premium per acre or other unit of measure, including worksheets that provide the calculations in sufficient detail and in the same order as presented in the policy to allow verification that the premiums charged for the coverage are consistent with policy provisions;

(5) A detailed example of calculations used to determine a claim for indemnity for each unique situation in which a loss may be payable;

(6) A detailed description of the causes of loss covered by the policy or plan of insurance and any causes of loss excluded; and

(7) Any statements to be included in the actuarial documents.

(f) The sixth section must contain the information related to prices and the rates of premium, including, as applicable:

(1) A list of all assumptions made in the premium rating and commodity pricing methodologies, and the basis for these assumptions;

(2) A detailed description of the pricing and rating methodologies, including supporting documentation, all mathematical formulas, equations, and data sources used in determining rates and prices and an explanation of premium components that detail how rates were determined for each component, that demonstrate the rate is appropriate;

(3) An example of a rate calculation and an example of a price calculation;

(4) A discussion of the reliability of the data; and

(5) An analysis of the results of simulations or modeling showing the performance of proposed rates and commodity prices, as applicable, based on one or more of the following (Such simulations must use all years of experience available to the applicant):

(i) A recalculation of total premium and losses compared to a similar or comparable insurance plan offered under the authority of the Act with modifications, as needed, to represent the components of the submission;

(ii) A simulation based on the probability distributions used to develop the rates and commodity prices, as applicable, including sensitivity tests that demonstrate price or yield

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extremes, and the impact of inappropriate assumptions; or

(iii) Any other comparable simulation that provides results indicating both aggregate and individual performance of the submission under various scenarios depicting good and poor actuarial experience.

(g) The seventh section must contain an evaluation and certification from an accredited associate or fellow of the Casualty Actuarial Society, or other similarly qualified professional, that certifies the submission is actuarially appropriate and consistent with appropriate insurance principles and practices.

(h) The eighth section must contain all forms applicable to the submission, including:

(1) An application for insurance and procedures for accepting the application; and

(2) All applicable policy forms, instructions and procedures that are necessary to establish the amounts of coverage or loss.

(i) The ninth section must contain the following;

(1) A statement agreeing that sales will be deferred until the next applicable sales closing date if policy information, forms, premium rates, prices, any automated premium calculator, and other related information or documents are not made available to all approved insurance providers:

(i) For a new submission, at least 60 days prior to the earliest sales closing date specified in the submission; or

(ii) For a revised submission, at least 60 days prior to the earliest contract change date specified in the submission;

(2) An explanation of any provision of the policy not authorized under the Act and identification of the portion of the rate of premium due to these provisions;

(3) Agent and loss adjuster training plans; and

(4) A certification from the applicant's legal counsel that the submission meets and complies with all requirements of the Act, applicable regulations, and any reinsurance agreement.

(j) The tenth section must contain the documents that demonstrate the submission complies in all respects with the standards established for processing and acceptance of data as specified in the FCIC Data Acceptance System Handbook (Manual 13), unless other arrangements have been made with RMA. This handbook is available from the Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676 or on the FCIC web site (http://www.rma.usda.gov/data/#m13).

(k) The eleventh section must contain the information related to a request for reimbursement of research and development costs, and maintenance costs, as applicable, in accordance with § 400.712.

(l) The twelfth section must contain executed certification statements in accordance with the following:

(1) "{Applicant's Name} hereby claim that the amounts set forth in this section and § 400.712 are correct and due and owing to {Applicant's Name} by FCIC under the Federal Crop Insurance Act."

(2) "{Applicant Name} understands that, in addition to criminal fines and imprisonment, the submission of false or fraudulent statements or claims may result in civil and administrative sanctions."

§ 400.706 Review of submission.

(a) Prior to providing any submission, including a new submission, a resubmission, or a change to a previously approved submission, to the Board for its review, RMA will:

(1) Review the submission for completeness to determine if all necessary and appropriate documentation is included in accordance with § 400.705;

(2) Review the submission to determine whether the documentation is of a level of quality to conduct a meaningful review by the Board;

(3) If the submission is determined to be complete and the documentation of sufficient quality to permit a meaningful review, the submission will be considered to have been submitted to the Board for approval or disapproval. The date that FCIC determines that the submission is complete, as notified to the applicant, will be the date that the time frame for approval or disapproval by the Board begins;

(4) Return to the applicant any submission lacking any of the information required in § 400.705, or with documentation that is of insufficient quality to permit a meaningful review (such submission will not be considered as provided to the Board for the purpose of commencing the period by which the submission must be approved or disapproved by the Board. If the submission is resubmitted, it will be considered a new submission.);

(b) When FCIC determines that the submission is complete and the documentation of sufficient quality to permit a meaningful review, it will forward the submission to the Board for consideration for approval or disapproval.

(c) During the consideration process, the Board will:

(1) For all new submissions or significant changes to previously approved submissions, contract with five independent persons with underwriting or actuarial experience to review the submission:

(i) Of the five reviewers, no more than one will be employed by the Federal Government, and none may be employed by any approved insurance provider or their representatives; and

(ii) The reviewers will each provide their assessment of whether the submission protects the interests of agricultural producers and taxpayers, is actuarially appropriate, follows appropriate insurance principles, meets the requirements of the Act, does not contain excessive risks, follows sound, reasonable, and appropriate underwriting principles, as well as other items the Board may deem necessary;

(2) For all submissions:

(i) Request review by FCIC to determine whether the submission protects the interests of agricultural producers and taxpayers, is actuarially appropriate, follows appropriate insurance principles, meets the requirements of the Act, does not contain excessive risks, is consistent with USDA's public policy goals, does not increase or shift risk to any other FCIC reinsured policy, can be administered and delivered efficiently and effectively, and meets the standards pursuant to § 400.712 for reimbursement of research and development costs and maintenance costs, if requested, and determine whether the requested amount of government reinsurance, risk subsidy, and administrative and operating subsidies is reasonable and appropriate for the type of coverage provided by the policy submission; and

(ii) Seek review from the Office of the General Counsel (OGC) to determine whether the interests of producers are adequately protected and if the submission conforms to the requirements of the Act.

(3) Render a decision to approve or give notice of an intent to disapprove within 90 days after the date the submission is considered submitted to the Board in accordance with paragraph (a)(3) of this section, unless the applicant and Board agree to a time delay in accordance with paragraph (h) of this section.

(d) All comments and evaluations will be forwarded to the Board by a date determined to allow the Board adequate time for review.

(e) The Board will consider all comments, evaluations, and recommendations in its review process. Prior to making a decision, the Board may request additional information

from RMA, OGC, the independent reviewers, or the applicant.

(f) The Board may disapprove a submission if it determines that:

(1) The interests of producers are not protected;

(2) The premium rates are not actuarially appropriate;

(3) The submission does not conform to sound insurance and underwriting principles;

(4) The risks associated with the submission are excessive; or

(5) There is insufficient time before the submission would become effective under section 508(h) of the Act for the Board to make an informed decision with respect to whether the interests of producers are protected, the premium rates are actuarially appropriate, or the risks associated with the submission are excessive.

(g) If the Board intends to disapprove the submission, the applicant will be notified in writing at least 30 days prior to the Board taking such action. The Board will provide the applicant with a written explanation for the intent to disapprove the submission.

(h) An applicant may request, at any time, a time delay before the Board provides a notice of intent to disapprove the submission. The Board is not required to agree to such an extension.

(1) The applicant understands that any requested time delay will not be limited in the length time or the number of delays. However, delays may make implementation of the submission for the targeted crop year impractical or impossible.

(2) The time period during which the Board must make a decision to approve or disapprove the submission is not in effect during any time delay requested by the applicant.

(3) The Board and the applicant must agree to a time period in which the Board must make its decision to approve or disapprove after the expiration of any requested time delay.

(i) The applicant may withdraw a submission at any time by written request to the Board. A withdrawn submission that is resubmitted will result in the submission being deemed a new submission for the purposes of determining the amount of time that the Board must act on such submission.

(j) Prior to any Board action taken or after the Board has provided formal notice of its intent to disapprove all or part of a submission:

(1) Modification can occur in writing or orally prior to the Board providing notice of its intent to disapprove all or part of a submission.

(2) After formal notice of intent to disapprove all or part of a submission has been provided by the Board, the applicant must provide written to the Board that the submission will be modified not later than 30 days after the Board provided such notice. Except as provided in paragraph (j)(5) of this section, the applicant must also include the date that the modification will be provided to the Board.

(3) If the modification is in direct response to reviewer comments, the Board may act on the modification immediately or seek further review within the 30 day time period allowed.

(4) The Board will approve or disapprove a modified submission not later than 30 days after receiving a modified submission from the applicant, unless the applicant and the Board agree to a time delay. If a time delay is agreed upon the time period during which the Board must act on the modified submission will not be in effect during the delay.

(5) The Board will disapprove a modified submission if:

(i) All causes for disapproval stated by the Board in its notification of its intent to disapprove the submission are not satisfactorily addressed;

(ii) Insufficient time is available for review of the modified submission to determine whether all causes for disapproval have been satisfactorily addressed; or

(iii) If modification is so substantial that the Board determines that additional independent review is required and a time delay can not be agreed to allow for such review.

(k) When the applicant is notified of the Board's intent to disapprove and the submission is not revised or withdrawn, the Board will provide written notification to the applicant that the submission has been disapproved no less than 30 days after the date that the notice of intent to disapprove was provided to the applicant.

(l) If the Board fails to take action on a new submission within the prescribed 90 day period in paragraph (c)(3) of this section, or within the time period in accordance with paragraph (h)(3) of this section after receiving the revised submission, such submission will be deemed approved by the Board for the initial reinsurance year designated for the submission. The Board must approve the submission for it to be available for any subsequent reinsurance year.

§ 400.707 Presentation to the Board for approval or disapproval.

(a) The Board will inform the applicant of the date, time, and place of the Board meeting.

(b) The applicant will be given the opportunity and is encouraged to present the submission to the Board in person. The applicant must confirm, in writing, whether the applicant will present the submission to the Board.

(c) If the applicant elects, at any time, not to present the submission to the Board, the Board will make its decision based on the submission and the reviews provided in accordance with § 400.706(c).

§ 400.708 Approved submission.

(a) After a submission is approved by the Board, and prior to it being made available for sale to producers, the following items, as applicable, must be completed:

(1) If the Board requires, an agreement between the applicant and FCIC that specifies the responsibilities of each with respect to the implementation, delivery and oversight of the submission, including the disposition of property rights for the policy; and

(2) A reinsurance agreement if terms and conditions differ from the Standard Reinsurance Agreement.

(b) A submission approved by the Board under this subpart will be made available to all approved insurance providers under the same reinsurance and subsidy terms and conditions as received by the applicant.

(c) Any solicitation, sales, marketing, or advertising of the approved submission by the applicant before FCIC has made the submission and related materials available to all interested parties through its official issuance system will result in the denial of reinsurance, risk subsidy, and A&O subsidy for those policies affected.

§ 400.709 Roles and responsibilities.

(a) With respect to the applicant:

(1) The applicant is responsible for:

(i) Preparing and ensuring that all policy documents, rates of premium, and supporting materials, including actuarial materials, are submitted to FCIC in the form approved by the Board;

(ii) Except as provided in § 400.712(k)(2), annually updating and providing maintenance changes no later than 180 days prior to the earliest sales closing date for the commodity in all counties or states in which the policy or plan of insurance is sold and;

(iii) Addressing responses to procedural issues, questions, problems or clarifications in regard to a policy or plan of insurance (all such resolutions will be communicated to all approved insurance providers through FCIC's official issuance system.);

(2) Only the applicant may make changes to the policy, plan of insurance,

or rates of premium approved by the

(i) Ensuring that all approved

§ 400.711 Right of review, modification

this subpart or approval of the

determined by FCIC, and the size of the

(2) Contains modifications to existing

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or rates of premium approved by the Board (Any changes, both non-significant and significant, must be submitted to FCIC no later than 180 days prior to the earliest sales closing date for the commodity in all counties or states in which the policy or plan of insurance is sold. Significant changes must be submitted to the Board for review in accordance with this subpart and will be considered as a new submission.);

(3) Except as provided in paragraph (a)(4) of this section, the applicant is solely liable for any mistakes, errors, or flaws in the submitted policy, plan of insurance, their related materials, or the rates of premium that have been approved by the Board unless the policy or plan of insurance is transferred to FCIC in accordance with § 400.712(k)(2), the applicant remains liable for any mistakes, errors, or flaws that occurred prior to the transfer of the policy or plan of insurance;

(4) If the mistake, error, or flaw in the policy, plan of insurance, their related materials, or the rates of premium is discovered not less than 45 days prior to the cancellation or termination date for the policy or plan of insurance, the applicant may request in writing that FCIC withdraw the approved policy, plan of insurance, or rates of premium:

(i) Such request must state the discovered mistake, error, or flaw in the policy, plan of insurance, or rates of premium, and the expected impact on the program; and

(ii) For all timely received requests for withdrawal, no liability will attach to such policies, plans of insurance, or rates of premium that have been withdrawn and no producer, approved insurance provider, or any other person will have a right of action against the applicant; and

(5) Notwithstanding the policy provisions regarding cancellation, any policy, plan of insurance, or rates of premium that have been timely withdrawn are deemed canceled and applications for insurance are not accepted as of the date that FCIC publishes the notice of withdrawal on its website at www.act.fcic.usda.gov. Producers will have the option of selecting any other policy or plan of insurance authorized under the Act that is available in their area by the sales closing date for such policy or plan of insurance.

(6) Failure of the applicant to perform the applicant's responsibilities may result in the denial of reinsurance for the policy or plan of insurance.

(b) With respect to FCIC:

(1) FCIC is responsible for:

(i) Ensuring that all approved insurance providers receive the approved policy or plan of insurance, and related materials, for sale to producers in a timely manner (All such information shall be communicated to all approved insurance providers through FCIC's official issuance system.);

(ii) Ensuring that all approved insurance providers receive reinsurance under the same terms and conditions as the applicant (approved insurance providers should contact FCIC to obtain and execute a copy of the reinsurance agreement) if required;

(iii) Conducting the best review of the submission possible in the time allowed; and

(iv) Reviewing the activities of approved insurance providers, agents, loss adjusters, and producers to ensure that they are in accordance with the terms of the policy or plan of insurance, the reinsurance agreement, and all applicable procedures;

(2) FCIC will not be liable for any mistakes, errors, or flaws in the policy, plan of insurance, their related materials, or the rates of premium and no cause of action will exist against FCIC as a result of such mistake, error, or flaw in a submission submitted under this subpart;

(3) If at any time prior to the cancellation or termination date, FCIC discovers that there is a mistake, error, or flaw in the policy, plan of insurance, their related materials, or the rates of premium that results in over or under insurance, FCIC will deny reinsurance to such policy or plan of insurance:

(4) If reinsurance is denied under paragraph (b)(3) of this section, the approved insurance provider will have the option of:

(i) Selling and servicing the policy or plan of insurance at its own risk and without any subsidy; or

(ii) Canceling the policy or plan of insurance in accordance with its terms; and

(5) If the applicant transfers the policy or plan of insurance to FCIC in accordance with § 400.712 (k)(2), FCIC will assume the liability for any mistakes, errors, or flaws that occur after the policy or plan insurance as been transferred and FCIC is in control of maintenance.

§ 400.710 Preemption and premium taxation.

A policy or plan of insurance that is approved by the Board for FCIC reinsurance is preempted from state and local taxation.

§ 400.711 Right of review, modification, and the withdrawal of reinsurance.

At any time after approval, the Board may review any policy, plan of insurance, related materials, and rates of premium approved under this subpart and request additional information to determine whether the policy, plan of insurance, related materials, and rates of premium comply with statutory or regulatory changes or court orders, are still actuarially appropriate, and protect program integrity and the interests of producers. The Board will notify the applicant of any problem or issue that may arise and allow the applicant an opportunity to make any needed change. The Board may deny reinsurance for the applicable policy, plan of insurance or rate of premium if:

(a) The applicant fails to perform their responsibilities under § 400.709; or

(b) If the applicant does not satisfactorily provide materials or resolve any issue so that necessary changes can be made prior to the earliest contract change date.

§ 400.712 Research and development reimbursement, maintenance reimbursement, and user fees.

(a) Submissions approved by the Board for reinsurance under section 508(h) of the Act may be eligible for a one time payment of research and development costs and maintenance costs for up to four reinsurance years, as determined by the Board after the date such costs have been approved by the Board. Reimbursements made under this section will be considered as payment in full for research, development, and maintenance, as applicable, for any policy or plan of insurance and any property rights to the policy or plan of insurance.

(b) For submissions submitted to the Board for reinsurance after publication of this subpart, an estimate of a request for reimbursement of research and development costs and maintenance costs, as applicable, must be included with the original submission to the Board in accordance with this section. These estimates will only be used by FCIC for the purpose of tracking potential expenditures and will not provided a basis for making any reimbursements under this section. Documentation of actual costs allowed under this section will be used to determine any reimbursement.

(c) For a submission approved by the Board, or submitted to the Board, prior to publication of this subpart, a request for reimbursement for research and development costs and estimated maintenance costs must be received within 60 days following publication of this subpart or approval of the submission by the Board. This request should be sent to the Deputy Administrator, Research and Development (or any successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676, and also provide one identical copy of each submission to the Administrator, Risk Management Agency, 1400 Independence Ave., Stop 0801, Room 3053 South Building, Washington, D.C. 20250–0801.

(d) To be eligible for any reimbursement under this section, FCIC must determine that a submission is marketable.

(e) To be considered for reimbursement in any fiscal year, complete and final requests for research and development costs and maintenance costs, as applicable, must be received by FCIC not later than August 1. For 2001 fiscal year only, FCIC may consider reimbursement for research and development costs on approved submissions for any request received by September 1, 2001. Given the limitation on funds, regardless of when the request is received, no payment will be made prior to September 15 of the applicable fiscal year.

(f) There are limited funds available on an annual fiscal year basis as contained in the Act. Therefore, requests for reimbursement will not be considered in the order in which they are received. Consistent with paragraphs (g), (h), (i), (j), and (l) of this section, if all applicants' requests for reimbursement of research and development costs and maintenance costs in any fiscal year:

(1) Do not exceed the maximum amount authorized by law, the applicants may receive the full amount of reimbursement authorized under these subsections.

(2) Exceed the amount authorized by law, each applicant's reimbursement will be determined by dividing the total amount of each individual applicants' reimbursable costs authorized in paragraphs (g), (h), (i), (j), and (l) by the total amount of the aggregate of all applicants' reimbursable costs authorized in paragraphs (g), (h), (i), (j), and (l) for that year and multiplying the result by the amount of reimbursement authorized under the Act.

(g) The amount of reimbursement for research and development costs and maintenance costs, as applicable, will be determined based on the amount of reimbursement authorized under paragraph (f) of this section, adjusted for the complexity of the policy, plan of insurance, or rates of premium, as determined by FCIC, and the size of the area in which the policy, plan of insurance, or rates of premium may be offered.

(1) Policies or plans of insurance that offer new and innovative coverages that are not currently available will be eligible for a higher reimbursement than policies or plans of insurance that are, or have components that are, based on existing policies or plans of insurance.

(2) Policies or plans of insurance that offer new premium rating or market price methodologies will be eligible for a higher reimbursement than policies or plans of insurance that use existing premium rating or market price methodologies.

(3) Policies or plans of insurance that cover new commodities that are not otherwise covered by crop insurance or that offer innovative coverage and original policy language will be eligible for a higher reimbursement than policies or plans of insurance for commodities for which insurance is currently available.

(4) Policies or plans of insurance that may be offered for sale nationwide or in large geographical regions will be eligible for higher reimbursement than those that are applicable to only a few counties or states or a small geographical region.

(5) Any reimbursement under this subpart will be scored as follows:

(i) Complexity scores:

(A) Basic or Common Provisions:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(B) Crop Provisions and Special Provisions:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(C) Market prices:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(D) Rates of Premium:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(E) Underwriting:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(ii) Geographic scope scores:

(A) Potential national availability: 0.10

(B) Potential regional, state or county availability: 0.05

(6) In accordance with paragraph (e) of this section, those policies or plans of insurance that receive a summed total score for both complexity and geographic scope that is:

(i) Equal to or greater than 0.6 may receive the full amount of reimbursement approved by the Board under paragraphs (h), (i) or (j) of this section;

(ii) Greater than 0.25 but lower than 0.60 will receive a reimbursement that is not greater than 75 percent of the full amount of reimbursement approved by the Board under paragraphs (h), (i) or (j) of this section; and

(iii) Equal to or less than 0.25 will receive a reimbursement that is not greater than 50 percent of the full amount of reimbursement approved by the Board under paragraphs (h), (i) or (j) of this section.

(h) For those submissions that were approved by the Board prior to the date of publication of this subpart, reimbursement for research and development costs will be determined in accordance with paragraph (i) of this section or by multiplying the average number of policies earning premium each crop year since inception of the policy or plan of insurance by $7.00 and multiplying the result by the complexity and scope score from paragraph (g) of this section.

(i) For those submissions submitted to the Board prior to the date of publication of this subpart but not yet approved, or submitted to the Board for approval after the date of publication of this part, research and development costs must be supported by itemized statements and supporting documentation (copies of contracts, billing statements, time sheets, travel vouchers, accounting ledgers, etc.). Actual costs submitted will be examined for reasonableness and may be adjusted at the sole discretion of the Board.

(1) Allowable research and development expense items (directly related to research and development of the submission only) may include the following:

(i) Straight-time hourly wage, exclusive of bonuses, overtime pay, or shift differentials (One line per employee, include job title, total hours, and total dollars. Compensation

amounts will be compared with the Occupational Employment Statistics Survey, published each January by the U.S. Department of Labor, Bureau of Labor Statistics);

(ii) Benefit cost per employee (Benefit costs are considered overhead and will be compared with the Employment Cost Index Annual Employer Cost Survey published each March by the U.S. Department of Labor, Bureau of Labor Statistics.);

(iii) Contracted expenses (include a copy of the contract, billing statements, accounting records, etc.);

(iv) Professional fees (include the job title, straight-time hourly wage, total hours, and total dollars);

(v) Travel and transportation (One line per event, include the job title, destination, purpose of travel, lodging cost, mileage, air or other identified transportation costs, food and miscellaneous expenses, other costs, and the total cost);

(vi) Software and computer programming developed specifically to determine appropriate rates, prices, or coverage amounts (Identify the item, include the purpose, and provide receipts or contract or straight-time hourly wage, hours, and total cost. Software developed to calculate premiums or losses, or development of software to send or receive data between the producer, agent, approved insurance provider or RMA or such other similar software may not be included as an allowable cost.);

(vii) Miscellaneous expenses such as postage, telephone, express mail, and printing (Identify the item, cost per unit, number of items, and total dollars);

(2) The following expenses are specifically not eligible for research and development cost reimbursement:

(i) Copyright or patent fees;

(ii) Training costs;

(iii) State filing fees and expenses;

(iv) Normal ongoing administrative expenses;

(v) Paid or incurred losses;

(vi) Loss adjustment expenses;

(vii) Sales commission;

(viii) Marketing costs;

(ix) Indirect overhead costs;

(x) Lobbying costs;

(xi) Product or applicant liability resulting from the research, development, preparation or marketing of the policy;

(xii) Copyright infringement claims resulting from the research, development, preparation or marketing of the policy;

(xiii) Costs of making program changes as a result of case or statutory law effecting the policy; and

(xiv) Maintenance costs associated with the submission.

(j) Requests for reimbursement of maintenance costs for submissions approved after publication of this subpart must be supported by itemized statements and supporting documentary evidence for each reinsurance year in the maintenance period. For submissions approved prior to publication of this subpart, the applicant may provide itemized statements and supporting documentary evidence or may request to receive not more than 15 percent of the amount of reimbursement for research and development costs, as determined in accordance with § 400.712, for the first reinsurance year in the maintenance period. For all subsequent reinsurance years, itemized and supporting documentary evidence must be provided. Actual costs submitted will be examined for reasonableness and may be adjusted at the sole discretion of the Board.

(1) Maintenance costs for the following activities may be reimbursed:

(i) Expansion of the original submission to cover additional commodities;

(ii) Expansion of the original submission into additional counties or states;

(iii) Reasonable and required modifications to the policy and any related materials;

(iv) Adjustment to premium rates and commodity prices as necessary or required; and

(v) Other costs associated with maintaining the policy, as determined by the Board.

(2) [Reserved]

(k) Not later than six months prior to the end of the last reinsurance year in which a maintenance reimbursement will be paid, as approved by the Board, the applicant must notify FCIC regarding its election of the treatment of the policy or plan of insurance for subsequent reinsurance years.

(1) The applicant must notify FCIC whether it intends to:

(i) Continue to maintain the policy or plan of insurance and charge a user fee, as approved by the Board, to approved insurance providers for all policies earning premium to cover maintenance expenses. It is the sole responsibility of the applicant to collect such fees from the approved insurance providers and any indebtedness for such fees must be resolved by the applicant and approved insurance provider. Applicants may request that FCIC provide the number of policies sold by each approved insurance provider. Such information will be provided not later than 90 days after such request is made or not later than 90 days after the requisite information has been provided to FCIC by the approved insurance provider, which ever is later; or

(ii) Transfer responsibility for maintenance to FCIC.

(2) If the applicant elects to:

(i) Transfer the policy or plan of insurance to FCIC, FCIC may, at its sole discretion, elect to withdraw the availability of the policy or plan of insurance or continue to maintain the policy or plan of insurance; or

(ii) Continue to maintain the policy or plan of insurance, at the time of the election, the applicant must submit a request for approval of the user fee by the Board.

(3) Requests for approval of the user fee must be accompanied by written documentation to support that the amount requested will only cover maintenance costs.

(4) The Board will approve the amount of user fee that is payable to the applicant by approved insurance providers unless the Board determines that the user fee charged:

(i) Is unreasonable in relation to the maintenance costs associated with the policy or plan of insurance; or

(ii) Unnecessarily inhibits the use of the policy or plan of insurance by other approved insurance providers.

(5) Reasonableness of the user fees will be determined by the Board based on a comparison with the amount of reimbursement for maintenance previously received, the number of policies, the number of approved insurance providers, and the expected total amount of user fees to be received in any reinsurance year.

(6) A user fee unnecessarily inhibits the use of a policy or plan of insurance if it is so high that other approved insurance providers are unable to pay such fees because of the volume of business currently underwritten by the approved insurance provider.

(7) The user fee charged to each approved insurance provider will be considered payment in full for the use of such policy, plan of insurance or rate of premium for the reinsurance year in which payment is made.

(l) The Board may consider information from the Equal Access to Justice Act, 5 U.S.C. 504, the Bureau of Labor Statistic's Occupational Employment Statistics Survey, the Bureau of Labor Statistic's Employment Cost Index, and any other information determined applicable by the Board, in making a determination whether to approve a submission for reimbursement of research, development, or maintenance costs under this section or the amount of reimbursement.

(m) For purposes of this section, rights to, or obligations of, research and development reimbursement, maintenance cost reimbursement, or user fees cannot be transferred from any individual or entity unless specifically approved in writing by the Board.

§ 400.713 Non-Reinsured supplemental (NRS) policy.

(a) The reinsured company must submit three copies of the new or revised NRS policy and related materials to the Deputy Administrator, Research and Development (or successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676 for review, approval or disapproval at least 90 days prior to the first sales closing date applicable to the policy reinsured by FCIC.

(b) FCIC will approve the NRS policy if it does not increase or shift risk to the underlying policy or plan of insurance reinsured by FCIC, affect any rights of the insured with respect to the underlying reinsured policy or plan of insurance, or cause disruption in the marketplace for products reinsured by FCIC. Marketplace disruption includes adversely affecting sales or administration of the underlying reinsured policy, undermining producers' confidence in the Federal crop insurance program, decreasing the producer's willingness or ability to use Federally reinsured risk management products, or harming public perception of the Federal crop insurance program.

(c) Failure to timely submit the NRS policy to FCIC will result in the denial of reinsurance and subsidy for all policies reinsured by FCIC for which the insured has obtained the NRS policy.

Signed in Washington, D.C. on September 12, 2001.

Phyllis W. Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–23157 Filed 9–12–01; 4:21 pm]

BILLING CODE 3410–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, and 558

New Animal Drugs; Change of Sponsor; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 43 approved new animal drug applications (NADAs) and 16 approved abbreviated new animal drug applications (ANADAs) from Hoechst Roussel Vet to Intervet, Inc. Technical amendments are also being made. This action is being taken to improve the accuracy of the agency's regulations.

DATES: This rule is effective September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010, has informed FDA that it has transferred ownership of, and all rights and interest in, the following NADAs and ANADAs to Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966.

NADA Number	Product Name
34–478	LASIX® Injection
34–621	LASIX® Tablets and Boluses
44–759	FLAVOMYCIN® Type A Medicated Article
45–188	LASIX® Packets
95–543	AMPROL HI–E®/FLAVOMYCIN®
95–547	AMPROL HI–E®/FLAVOMYCIN®/3–NITRO®
95–548	AMPROL®/3–NITRO®/FLAVOMYCIN®
95–549	AMPROL®/3–NITRO®/FLAVOMYCIN®
98–340	FLAVOMYCIN®/Monensin
98–341	FLAVOMYCIN®/3–NITRO®/COBAN®
101–628	FLAVOMYCIN®/3–NITRO®/ZOALENE®
101–629	FLAVOMYCIN®/ZOALENE®
102–380	LASIX® Syrup
104–494	PANACUR® 10% Suspension
111–278	PANACUR® Granules 22%
120–648	PANACUR®/SAFE–GUARD® Paste
121–473	PANACUR® Granules 22%
128–620	PANACUR®/SAFE–GUARD® 10% Suspension
130–185	FLAVOMYCIN®/Amprolium
130–661	FLAVOMYCIN®/CARB–O–SEP®
130–951	STENOROL® Type A Medicated Article
131–310	REGU–MATE® Solution
131–675	SAFE–GUARD® Type A Medicated Article
132–872	PANACUR®/SAFE–GUARD® 10% Paste
137–483	FLAVOMYCIN®/STENOROL®
137–600	SAFE–GUARD® Type A Medicated Article
138–612	FINAPLIX®–S; FINAPLIX®–H Implants
139–189	SAFE–GUARD® ENPROAL Feedblocks
139–473	STENOROL®/STAFAC®
140–339	FLAVOMYCIN®/NICARB®
140–340	STENOROL®/LINCOMIX®
140–533	STENOROL®/3–NITRO®/BMD®
140–584	STENOROL®/BMD®
140–824	STENOROL® Type A Medicated Article
140–843	MONTEBAN®/FLAVOMYCIN®/3–NITRO®
140–845	FLAVOMYCIN®/MONTEBAN®
140–897	REVALOR®–S; REVALOR®–G Implants

NADA Number	Product Name
141–068	STENOROL®/3–NITRO®/BMD®
141–069	STENOROL®/BMD®
141–070	STENOROL® Type A Medicated Article
141–071	MONTEBAN®/FLAVOMYCIN®/3–NITRO®
141–072	FLAVOMYCIN®/MONTEBAN®
141–073	REVALOR®–S; REVALOR®–G Implants

paragraph (a) of this section for uses as

PART 522—IMPLANTATION OR

16. Section 522.2476 is revised to read

NADA Number	Product Name
140–918	STENOROL®/FLAVOMYCIN®
140–919	STENOROL®/BMD®
140–954	SAFE–GUARD® Type A/LINCOMIX®
140–992	REVALOR®–200; REVALOR®–H Implants
141–034	GAINPRO® Type A Medicated Article
141–129	AVATEC®/FLAVOMYCIN®
200–075	SACOX® Type A Medicated Article
200–080	SACOX®/3–NITRO®/FLAVOMYCIN®
200–081	SACOX®/3–NITRO®/BMD®
200–082	SACOX®/BMD®
200–083	SACOX®/FLAVOMYCIN®
200–086	SACOX®/ALBAC®/3–NITRO®
200–089	SACOX®/BACIFERM®
200–090	SACOX®/LINCOMIX®/3–NITRO®
200–091	SACOX®/3–NITRO®/AUREOMYCIN®
200–092	SACOX®/STAFAC®
200–093	SACOX®/LINCOMIX®
200–094	SACOX®/STAFAC®/3–NITRO®
200–095	SACOX®/AUREOMYCIN®
200–096	SACOX®/TERRAMYCIN®
200–097	SACOX®/3–NITRO®
200–143	SACOX®/3–NITRO®/BACIFERM®

Accordingly, the agency is amending the regulations in 21 CFR 520.48, 520.905a, 520.905b, 520.905c, 520.905d, 520.905e, 520.1010a, 520.1010b, 520.1010c, 522.1010, 522.2476, 522.2477, 558.55, 558.58, 558.95, 558.198, 558.258, 558.265, 558.355, 558.363, 558.366, and 558.550 to reflect the transfers of ownership. In addition, the sections in 21 CFR parts 520 and 522 are being revised to reflect current format.

Following the change of sponsor of these NADAs, Hoechst Roussel Vet is no longer the sponsor of any approved applications. Therefore, 21 CFR 510.600(c) is amended to remove the entries for this sponsor.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 522

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Hoechst Roussel Vet" and in the table in paragraph (c)(2) by removing the entry for "012799".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

4. Section 520.48 is revised to read as follows:

§ 520.48 Altrenogest solution.

(a) *Specifications.* Each milliliter (mL) of solution contains 2.2 milligrams (mg) altrenogest.

(b) *Sponsor.* See No. 057926 in § 510.600(c) of this chapter.

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Amount.* 1.0 mL per 110 pounds body weight (0.044 mg per kilogram) daily for 15 consecutive days.

(2) *Indications for use.* For suppression of estrus in mares.

(3) *Limitations.* For oral use in horses only; avoid contact with the skin. Do not administer to horses intended for use as food.

§ 520.905a [Amended]

5. Section 520.905a *Fenbendazole suspension* is amended in paragraph (b) by removing "012799" and by adding in its place "057926".

§ 520.905b [Amended]

6. Section 520.905b *Fenbendazole granules* is amended in paragraph (b) by removing "012799" and by adding in its place "057926".

§ 520.905c [Amended]

7. Section 520.905c *Fenbendazole paste* is amended in paragraph (b) by removing "012799" and by adding in its place "057926".

§ 520.905d [Amended]

8. Section 520.905d *Fenbendazole powder* is amended in paragraph (b) by removing "012799" and by adding in its place "057926".

§ 520.905e [Amended]

9. Section 520.905e *Fenbendazole blocks* is amended in paragraph (b) by removing "012799" and by adding in its place "057926".

10. Section 520.1010 is revised to read as follows:

§ 520.1010 Furosemide.

(a) *Specifications.* (1) Each tablet contains 12.5 or 50 milligrams (mg) furosemide.

(2) Each bolus contains 2 grams (g) furosemide.

(3) Each packet of powder contains 2 g furosemide.

(4) Each milliliter of syrup contains 10 mg furosemide.

(b) *Sponsors.* See sponsor numbers in § 510.600(c) of this chapter for use of dosage forms and strengths listed in paragraph (a) of this section for uses as in paragraph (d) of this section.

(1) No. 000010 for tablets in paragraph (a)(1) of this section for conditions of use in paragraphs (d)(2)(i), (d)(2)(ii)(A), and (d)(3) of this section.

(2) No. 000093 for tablets in paragraph (a)(1) of this section for conditions of use in paragraphs (d)(2)(i) and (d)(2)(ii)(B) of this section.

(3) No. 057926 for tablets in paragraph (a)(1) of this section for conditions of use in paragraphs (d)(2)(i), (d)(2)(ii)(A), and (d)(3) of this section; for boluses in paragraph (a)(2) of this section and powder in paragraph (a)(3) of this section for conditions of use in paragraph (d)(1) of this section; and for syrup in paragraph (a)(4) of this section for conditions of use in paragraphs (d)(2)(i) and (d)(2)(ii)(A).

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use.* It is used as follows:

(1) *Cattle*—(i) *Amount.* 1 to 2 mg per pound (/lb) body weight using powder, or one 2-g bolus per animal, per day.

(ii) *Indications for use.* For treatment of physiological parturient edema of the mammary gland and associated structures.

(iii) *Limitations.* Treatment not to exceed 48 hours post-parturition. Milk taken during treatment and for 48 hours after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment.

(2) *Dogs*—(i) *Amount.* 1 to 2 mg/lb body weight, once or twice daily.

(ii) *Indications for use*—(A) For treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(B) For treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency.

(3) *Cats*—(i) *Amount.* 1 to 2 mg/lb body weight, once or twice daily.

(ii) *Indications for use.* For treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

§ 520.1010a [Removed]

11. Section 520.1010a *Furosemide tablets or boluses* is removed.

§ 520.1010b [Removed]

12. Section 520.1010b *Furosemide powder* is removed.

§ 520.1010c [Removed]

13. Section 520.1010c *Furosemide syrup* is removed.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

14. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

15. Section 522.1010 is revised to read as follows:

§ 522.1010 Furosemide.

(a) *Specifications.* Each milliliter of solution contains 50 milligrams (mg) of furosemide diethanolamine.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 000010 for use as in paragraphs (d)(1) and (d)(2)(ii) of this section.

(2) No. 000864 for use as in paragraph (d)(2)(ii) of this section.

(3) No. 057926 for use as in paragraphs (d)(1), (d)(2)(i), and (d)(3) of this section.

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use.*—(1) *Dogs and cats*—(i) Amount. 1.25 to 2.5 mg per pound (/lb) body weight once or twice daily, intramuscularly or intravenously.

(ii) *Indications for use.* For the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(2) *Horses*—(i) *Amount.* 250 to 500 mg per animal once or twice daily, intramuscularly or intravenously.

(A) *Indications for use.* For the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency, and acute noninflammatory tissue edema.

(B) *Limitations.* Do not use in horses intended for food.

(ii) *Amount.* 0.5 mg/lb body weight once or twice daily, intramuscularly or intravenously.

(A) *Indications for use.* For treatment of acute noninflammatory tissue edema.

(B) *Limitations.* Do not use in horses intended for food.

(3) *Cattle*—(i) *Amount.* 500 mg/animal once daily, intramuscularly or intravenously; or 250 mg/animal twice daily at 12-hour intervals, intramuscularly or intravenously.

(ii) *Indications for use.* For the treatment of physiological parturient edema of the mammary gland and associated structures.

(iii) *Limitations.* Treatment not to exceed 48 hours post-parturition. Milk taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment.

16. Section 522.2476 is revised to read as follows:

§ 522.2476 Trenbolone acetate.

(a) [Reserved]

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 021641 for use as in paragraphs (d)(1) and (d)(2) of this section.

(2) No. 057926 for use as in paragraphs (d)(1)(i)(A), (d)(1)(ii), (d)(1)(iii), (d)(2)(i)(A), (d)(2)(ii), and (d)(2)(iii) of this section.

(c) *Related tolerances.* See § 556.739 of this chapter.

(d) *Conditions of use*—(1) *Steers fed in confinement for slaughter*—(i) *Amount.* Use 126 days prior to slaughter; should be reimplanted once after 63 days.

(A) 140 milligrams (mg) trenbolone acetate (one implant consisting of 7 pellets, each pellet containing 20 mg trenbolone acetate) per implant dose.

(B) 140 mg trenbolone acetate (one implant consisting of 8 pellets, each of 7 pellets containing 20 milligrams trenbolone acetate, and 1 pellet containing 29 mg tylosin tartrate) per implant dose.

(ii) *Indications for use.* For improved feed efficiency.

(iii) *Limitations.* Implant subcutaneously in ear only. Do not use in animals intended for subsequent breeding or in dairy animals.

(2) *Heifers fed in confinement for slaughter*—(i) Amount. Use last 63 days prior to slaughter.

(A) 200 mg trenbolone acetate (one implant consisting of 10 pellets, each pellet containing 20 mg trenbolone acetate) per implant dose.

(B) 200 mg of trenbolone acetate (one implant consisting of 11 pellets, each of 10 pellets containing 20 mg of trenbolone acetate, and 1 pellet containing 29 mg of tylosin tartrate) per implant dose.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(iii) *Limitations.* Implant subcutaneously in ear only. Do not use in animals intended for subsequent breeding or in dairy animals.

17. Section 522.2477 is amended by revising paragraph (b) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for uses as in paragraph (d) of this section.

(1) No. 021641 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(B),

(d)(1)(ii), (d)(1)(iii), and (d)(2) of this

§ 558.263 [Amended]

§ 558.115 [Amended]

90 to 110 g/ton" in paragraphs (d)(1)(vi)

§ 558.355(d)(1)(viii). The entry for the

(d)(1)(ii), (d)(1)(iii), and (d)(3) of this section.

(2) No. 057926 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(ii), (d)(1)(iii), (d)(2), (d)(3)(i)(A), (d)(3)(ii), and (d)(3)(iii) of this section.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

18. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.55 [Amended]

19. Section 558.55 *Amprolium* is amended in the table in paragraphs (d)(2)(iii) by removing "012799" wherever it appears under the "Limitations" and "Sponsor" columns and by adding in its place "057926".

§ 558.58 [Amended]

20. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraphs (d)(1)(ii) and (d)(1)(iii) by removing "012799" wherever it appears in the "Limitations" column and by adding in its place "057926".

§ 558.95 [Amended]

21. Section 558.95 *Bambermycins* is amended in paragraphs (a)(1), (a)(2), (a)(5), (d)(1)(vi)(*b*), and (d)(1)(vii)(*b*) by removing "012799" and by adding in its place "057926"; and in paragraphs (d)(1)(xi)(*b*), and (d)(1)(xii)(*b*) by removing "012799 and 046573" and by adding in its place "046573 and 057926".

§ 558.198 [Amended]

22. Section 558.198 *Diclazuril* is amended in the table in paragraphs (d)(1)(iii) by removing "012799" under the "Limitations" column and by adding in its place "057926."

§ 558.258 [Amended]

23. Section 558.258 *Fenbendazole* is amended in paragraph (a) by removing "012799" and by adding in its place "057926".

§ 558.265 [Amended]

24. Section 558.265 *Halofuginone hydrobromide* is amended in paragraph (a) by removing "012799" and by adding in its place "057926".

§ 558.355 [Amended]

25. Section 558.355 *Monensin* is amended in paragraphs (b)(10), (f)(2)(v)(*b*), and (f)(2)(vi)(*b*) by removing "012799" and by adding in its place "057926".

§ 558.363 [Amended]

26. Section 558.363 *Narasin* is amended in paragraphs (a)(4), (a)(5), (d)(1)(vii)(B), and (d)(1)(xii)(B) by removing "012799" and by adding in its place "057926".

§ 558.366 [Amended]

27. Section 558.366 *Nicarbazin* is amended in the table in paragraph (c) in the entry for "Bambermycins 1 to 2" under the "Sponsor" column by removing "012799" and by adding in its place "057926".

§ 558.550 [Amended]

28. Section 558.550 *Salinomycin* is amended in paragraph (a)(2) by removing "012799" and by adding in its place "057926"; and in paragraphs (d)(1)(xv)(c) and (d)(1)(xvi)(*c*) by removing "012799 and 046573" and by adding in its place "046573 and 057926".

Dated: August 31, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–23043 Filed 9–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 30 approved new animal drug applications (NADAs) from Pfizer, Inc., to Phibro Animal Health, Inc. The technical amendments made by this final rule are intended to provide accuracy and clarity to the agency's regulations.

DATES: This rule is effective September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, has informed FDA that it has transferred ownership of, and all rights and interest in, the following NADAs to Phibro Animal Health, Inc., One Parker Plaza, Fort Lee, NJ 07024:

NADA No.	Product Name
32–704	Bloat Guard® Top Dressing
35–287	OM–5 Premix
38–281	Bloat Guard® Liquid Premix
41–061	Mecadox® Premix 10
43–290	Banminth® Premix 80
46–668	Penicillin G Procaine 50% and 100% Type A Medicated Articles
91–467	Stafac® 20, 500 Type A Medicated Articles
91–513	Stafac® Type A Medicated Articles
92–286	CTCL 10, 20, 30, 50, 70 Type A Medicated Article
92–287	CTCL 50 MR, 100 MR Type A Medicated Article
92–444	Rumatel® Premix 88
92–955	Mecadox®/Banminth®
98–431	Tylan® 10 Premix
99–006	Terramycin®/Coban®
101–666	Terramycin®/Robenz®
110–047	Banminth®/Tylan®
116–044	Banminth®/Lincomix®
120–724	Stafac®/Coban®/3–Nitro®
122–481	Stafac®/Coban®
122–608	Stafac®/Avatec®
122–822	Stafac®/Amprol HI–E®
138–828	Stafac®/Biocox®
138–953	Stafac®/Biocox®/3–Nitro®
140–448	Biocox®/Terramycin®
140–940	Aviax® Type A Medicated Article
140–998	V–Max Type A Medicated Article
141–058	Aviax®/BMD®/3–Nitro®
141–058	Aviax®/BMD®/3–Nitro®
141–065	Aviax®/BMD®
141–066	Aviax®/3–Nitro®
141–114	Aviax®/Stafac®

Accordingly, the agency is amending the regulations in §§ 520.1840, 558.58, 558.115, 558.128, 558.198, 558.311, 558.355, 558.360, 558.435, 558.450, 558.460, 558.465, 558.485, 558.515, 558.550, 558.555, 558.625, and 558.635 (21 CFR 520.1840, 558.58, 558.115, 558.128, 558.198, 558.311, 558.355, 558.360, 558.435, 558.450, 558.460, 558.465, 558.485, 558.515, 558.550, 558.555, 558.625, and 558.635) to reflect the transfer of ownership. In addition, §§ 520.1840 and 558.485 are being revised to reflect current format.

Section 558.450 is also being amended to remove the entries for combination uses of oxytetracycline (OTC) with monensin, provided under NADA 99–066, because they are redundant with entries in § 558.355. The entry for the use of 400 grams per (g/) ton OTC with 90 to 110 g/ton monensin in § 558.450(d)(1)(vi) is an error created during prior revisions (61 FR 51588, Oct. 3, 1996). The correct drug levels, 200 g/ton OTC with 90 to 110 g/ton monensin, for the same indications are codified in

§ 558.355(f)(1)(viii). The entry for the use of 500 g/ton OTC with 90 to 110 g/ton monensin in § 558.450(d)(1)(vii) is redundant with § 558.355(f)(1)(xxii).

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1840 is amended by revising paragraphs (a), (b), and (c) to read as follows.

§ 520.1840 Poloxalene.

(a) *Specifications.* Polyoxypropylene-polyoxyethylene glycol nonionic block polymer.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 000069 for use as in paragraphs (d)(1) and (d)(3) of this section.

(2) No. 017800 for use as in paragraph (d)(4) of this section.

(3) No. 036904 for use as in paragraph (d)(2) of this section.

(4) No. 066104 for use as in paragraph (d)(3) of this section.

(c) [Reserved]

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.58 [Amended]

4. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1)(iii) under the "Limitations" column in the entry for "Virginiamycin 15" by removing "000069" and by adding in its place "066104".

§ 558.115 [Amended]

5. Section 558.115 *Carbadox* is amended in paragraph (a) by removing "000069" and by adding in its place "066104".

§ 558.128 [Amended]

6. Section 558.128 *Chlortetracycline* is amended in paragraph (a)(1) by removing "000069, 046573, and 053389" and by adding in its place "046573, 053389, and 066104"; and in the table in paragraph (d)(1) under the "Sponsor" column by removing "000069" wherever it occurs and by adding in its place in numerical sequence "066104".

§ 558.198 [Amended]

7. Section 558.198 *Diclazuril* is amended in the table in paragraphs (d)(1)(iv) and (d)(1)(v) by removing "000069" under the "Limitations" column and by adding in its place "066104".

§ 558.311 [Amended]

8. Section 558.311 *Lasalocid* is amended in paragraph (b)(2) by removing "000069" and by adding in its place "066104" and in the table in paragraph (e)(1)(xv) in the entry for "Virginiamycin 10 to 20" under the "Limitations" column by removing "000069" and by adding in its place "066104".

§ 558.355 [Amended]

9. Section 558.355 *Monensin* is amended in paragraphs (b)(5), (b)(12), (f)(1)(xxii)(*b*), and (f)(2)(iv)(*b*) by removing "000069" and by adding in its place "066104"; in paragraphs (f)(1)(xiii)(*b*) and (f)(1)(xxi)(*b*) by removing "000007" and by adding in its place "066104"; and in paragraph (f)(1)(xx)(*b*) by removing "as monensin sodium; as roxarsone" and by adding in its place "as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as virginiamycin provided by No. 066104 in § 510.600(c) of this chapter; roxarsone".

§ 558.360 [Amended]

10. Section 558.360 *Morantel tartrate* is amended in paragraph (a) by removing "000069" and by adding in its place "066104".

§ 558.435 [Amended]

11. Section 558.435 *Oleandomycin* is amended in paragraph (a) by removing "000069" and by adding in its place "066104".

§ 558.450 [Amended]

12. Section 558.450 *Oxytetracycline* is amended in table 1 in paragraph (d)(1) by removing the entries for "Monensin 90 to 110 g/ton" in paragraphs (d)(1)(vi) and (d)(1)(vii); in paragraph (d)(1)(vii) in the entry for "Salinomycin 40 to 60 g/ton" by removing "000069" under the "Sponsor" column and by adding in its place in numerical sequence "066104".

§ 558.460 [Amended]

13. Section 558.460 *Penicillin* is amended in paragraph (b) by removing "000069" and by adding in its place "066104".

§ 558.465 [Amended]

14. Section 558.465 *Poloxalene free-choice liquid Type C feed* is amended in paragraph (a) by removing "000069" and by adding in its place "066104".

15. Section 558.485 is amended by revising paragraphs (a), (b), and (d)(1) to read as follows:

§ 558.485 Pyrantel.

(a) *Specifications.* Type A medicated articles containing 9.6, 19.2, 48, or 80 grams per pound pyrantel tartrate.

(b) *Approvals.* See sponsors in § 510.600(c) of this chapter for uses as in paragraph (e) of this section:

(1) No. 066104: 9.6, 19.2, and 80 grams per pound for use as in paragraph (e)(1) of this section.

(2) No. 001800: 9.6 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(3) Nos. 010439, 011490, 011749, 016968, 017473, 017519, 017790, 043733, 049685, 050568, 050639, and 051359: 9.6 and 19.2 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(4) No. 021676: 19.2 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(5) No. 017800: 19.2 and 48 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(6) Nos. 034936 and 046987: 9.6 and 19.2 grams per pound for use as in paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(7) Nos. 000069, 017135, and 062240: 48 grams per pound for use as in paragraph (e)(2) of this section.

* * * * *

(d) *Special considerations.* (1) See § 500.25 of this chapter. Consult a veterinarian before using in severely debilitated animals.

* * * * *

§ 558.515 [Amended]

16. Section 558.515 *Robenidine hydrochloride* is amended in the table in paragraph (d) in the entry for "Oxytetracycline 400" under the "Sponsor" column by removing "000069" and by adding in its place "066104".

§ 558.550 [Amended]

FDA's granting of an emergency

(NAICS)

emergency exemptions in 40 CFR part

section 408(l)(5), residues of the

§ 558.550 [Amended]

17. Section 558.550 *Salinomycin* is amended in paragraphs (d)(1)(x)(*c*) and (d)(1)(xii)(c) by removing "053571" and by adding in its place "066104".

18. Section 558.555 is amended by revising paragraph (a); by removing paragraph (c); by redesignating paragraph (b) as paragraph (c); in paragraph (d) by removing "000069" wherever it appears and by adding in its place "066104"; and by adding new paragraph (b) to read as follows:

§ 558.555 Semduramicin.

(a) *Specifications.* Type A medicated article containing 22.7 grams per pound (50 grams per kilogram) semduramicin sodium.

(b) *Approvals.* See No. 066104 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

* * * * *

§ 558.625 [Amended]

19. Section 558.625 *Tylosin* is amended in paragraph (b)(25) by removing "000069" and by adding in its place "066104".

§ 558.635 [Amended]

20. Section 558.635 *Virginiamycin* is amended in paragraph (a)(1) by removing "000069" and by adding in its place "066104".

Dated: August 31, 2001.

Claire M. Lathers,

Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–23044 Filed 9–14–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301164; FRL–6798–5]

RIN 2070–AB78

Fluroxypyr 1-Methylheptyl Ester; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr in or on grass, forage and grass, hay and modifies the existing permanent tolerances for milk and for kidney of cattle, goat, hog, horse, and sheep. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on pastures and rangeland. This regulation establishes maximum permissible levels for residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr in these food commodities. The tolerances will expire and are revoked on June 30, 2003.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301164, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301164 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367, and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301164. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for the combined residues of the herbicide fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 part per million (ppm), grass, hay at 160 ppm, and modifying the permanent tolerances for milk from 0.1 ppm to 0.30 ppm and for kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm. These tolerances will expire and are revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Fluroxypyr on Pastures and Rangeland and FFDCA Tolerances

Sericea lespedeza (also known as Chinese bush clover) is a perennial legume native to Asia that was introduced into the United States in 1896 for use as forage for livestock and as an erosion control plant. It was first recognized as a potential weed problem in southeast Kansas in the early 1980s. The Kansas Legislature made sericea lespedeza a statewide noxious weed effective July 1, 2000. It is the first federally listed crop to be declared a noxious weed.

While sericea lespedeza remains a relatively important forage crop in several southeastern states, it has become an invasive weed in tall grass and high plains prairie lands. Sericea aggressively competes with native prairie plants, and can result in a substantial reduction of native grasses and broadleaf plants. Researchers at Emporia State University (Emporia, Kansas) found that the number of grass and forb species in severely infested fields in east-central Kansas declined by 66% and 74% respectively. In a Kansas State University study, native grass production was reduced by as much as 80% when compared to non-infested areas. In addition, sericea lespedeza develops high tannin levels under the low rainfall conditions that exist in Kansas and becomes unpalatable to cattle as it matures. EPA has authorized under FIFRA section 18 the use of fluroxypyr on pastures and rangeland for control of sericea lespedeza in Kansas. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fluroxypyr in or on grass forage and hay and their associated commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on grass forage and hay and their associated commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances is being approved under emergency conditions, EPA has not made any decisions about whether fluroxypyr meets EPA's registration requirements for use on pastures and rangeland or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of fluroxypyr by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Kansas to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fluroxypyr, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of fluroxypyr and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 ppm, grass, hay at 160 ppm, and modifying the permanent tolerances for milk from 0.1 ppm to 0.30 ppm and for

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kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic population adjusted dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fluroxypyr used for human risk assessment is shown in the following Table 1:

TABLE 1. — SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FLUROXYPYR FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and Endpoint/ LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age	Developmental NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1.0 mg/kg/day	FQPA SF = 3x aPAD = acute RfD FQPA SF = 0.33 mg/kg/day	Developmental rabbit Developmental LOAEL = 250 mg/kg/day, based on increased postimplantation loss.
Acute dietary general population including infants and children	A dose and endpoint were not selected for this population group because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose). A risk assessment is not required for this population subgroup.		
Chronic dietary all populations	NOAEL = 50 mg/kg/day UF = 100 Chronic RfD = 0.50 mg/kg/day	FQPA SF = 1X cPAD = cRfD = FQPA SF = 0.50 mg/kg/day	28–day dog range-finding feeding study LOAEL = 150 mg/kg/day based on histopathological lesions in the kidneys, decreased testes weights, and increased adrenal weights in both sexes.
Incidental, Oral: Short-term (1–7 days), Intermediate-term (1 week - several months), Long-term (several months - lifetime) (Residential)	Since there are no residential uses, toxicology endpoints were not proposed/selected for any exposure scenarios.		
Dermal[1] and Inhalation[2], Short-term (1–7days) (Occupational/Residential)	Oral NOAEL= 100 mg/kg/day	LOC for MOE = 100 (Occupational)	Developmental rabbit study Developmental LOAEL = 250 mg/kg/day, based on increased postimplantation loss.
Dermal[1] and Inhalation [2]: Intermediate-term (1 week-several months) (Occupational/Residential)	Oral NOAEL= 100 mg/kg/day	LOC for MOE = 100 (Occupational)	Developmental rabbit study Developmental LOAEL = 250 mg/kg/day, based on increased postimplantation loss.

[1] Since an oral NOAEL was selected, a dermal absorption factor of 100% (default value) should be used in route-to-route extrapolation.
[2] Since an oral NOAEL was selected, an inhalation absorption factor of 100% (default value) should be used in route-to-route extrapolation.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.535) for the combined residues of fluroxypyr, in or on a variety of raw agricultural commodities, including meat, milk, poultry and eggs. Risk assessments were conducted by EPA to assess dietary exposures from fluroxypyr in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: For the acute analysis, published and proposed tolerances level residues were used. Default concentration factors and 100% CT was assumed for all commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: For the chronic analysis, published and proposed tolerances level residues were used. Default concentration factors and 100% CT was assumed for all commodities.

iii. *Cancer.* The Agency has classified fluroxypyr as "not likely" to be a human carcinogen, therefore this risk assessment is not required.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for fluroxypyr in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of fluroxypyr.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to fluroxypyr they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of fluroxypyr for acute exposures are estimated to be 7.6 parts per billion (ppb) for surface water and 0.017 ppb for ground water. The EECs for chronic exposures are estimated to be 1.6 ppb for surface water and 0.017 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluroxypyr is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechonism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" aggregate exposure concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether fluroxypyr has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fluroxypyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluroxypyr has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOAEL was 125 milligrams/kilograms/day (mg/kg/day), based on clinical signs at the LOAEL of 250 mg/kg/day. The developmental (fetal) NOAEL was 250 mg/kg/day, based on reduced ossification at the LOAEL of 500 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 250 mg/kg/day, based on maternal deaths at the LOAEL of 400 mg/kg/day.

The developmental (pup) NOAEL was

regulatory standards for drinking water.

exposure for which OPP has reliable

TABLE 3. — AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUROXYPYR—Continued

The developmental (pup) NOAEL was 125 mg/kg/day, based on increased postimplantation loss at the LOAEL of 250 mg/kg/day.

3. *Reproductive toxicity study.* In the 2–generation reproductive toxicity study in rats, the maternal (systemic) NOAEL was 100 mg/kg/day, based on increased kidney weights and kidney histopathology at the LOAEL of 500 mg/kg/day. The developmental (pup) NOAEL was 500 mg/kg/day, based on decreased body weight at the LOAEL of 1,000 mg/kg/day. The reproductive NOAEL was 1,000 mg/kg/day (HDT).

4. *Prenatal and postnatal sensitivity.* The toxicological data base for evaluating prenatal and postnatal toxicity for fluroxypyr is complete with respect to current data requirements. Based on the results of the rabbit developmental toxicity study for fluroxypyr there does appear to be an extra sensitivity for prenatal effects.

5. *Conclusion.* Based on the above, EPA concludes that reliable data support use of a 300 fold margin of exposure/uncertainty factor, rather than the standard 1,000 fold margin/factor, to protect infants and children.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water EECs. DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the US EPA Office of Water are used to calculate DWLOCs: 2Liter/70 kilogram (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to fluroxypyr in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of fluroxypyr on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to fluroxypyr will occupy 1.5% of the aPAD for females 13–50 years old, the only population sub-group of concern. A dose and endpoint were not selected for the U.S. population, including infants and children because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose). Therefore, a risk assessment is not required for this population subgroup.

In addition, despite the potential for acute dietary exposure to fluroxypyr in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of fluroxypyr in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2. — AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO FLUROXYPYR

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females (13–50 years old)	0.33	1.5	7.6	0.017	9,700

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fluroxypyr from food will utilize 0.6% of the cPAD for the U.S. population, 0.9% of the cPAD for all infants < 1 year old and 2.1% of the cPAD for children 1–6 years old. There are no residential uses for fluroxypyr that result in chronic residential exposure to fluroxypyr. In addition, despite the potential for chronic dietary exposure to fluroxypyr in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of fluroxypyr in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3. — AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUROXYPYR

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (48 contiguous states)	0.50	0.6	1.6	0.017	17,000
All infants (< 1 year old)	0.50	0.9	1.6	0.017	5,000
Children (1–6 years old)	0.50	2.1	1.6	0.017	4,900

TABLE 3. — AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUROXYPYR—Continued

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Children (7–12 years old)	0.50	1.1	1.6	0.017	4,900
Females (13–50 years old)	0.50	0.4	1.6	0.017	15,000
Males (13–19 years old)	0.50	0.7	1.6	0.017	17,000
Males (20+ years old)	0.50	0.4	1.6	0.017	17,000
Seniors (55+ years old)	0.50	0.4	1.6	0.017	17,000

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluroxypyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluroxypyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population.* The Agency has classified fluroxypyr as "not likely" to be a human carcinogen, therefore this risk assessment is not required.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluroxypyr residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example - gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRLs) for fluroxypyr on grass.

VI. Conclusion

Therefore, tolerances are established for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 part per million (ppm), grass, hay at 160 ppm, and the permanent tolerances are modified for milk from 0.1 ppm to 0.30 ppm and for kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301164 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of

the Administrator such a waiver or

VIII. Regulatory Assessment

1999), Executive Order 13132 requires

the U.S. House of Representatives, and

Dated: August 30, 2001.

Authority: 21 U.S.C. 321(q), 346(a) and

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the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP –301164, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 30, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.535 is amended by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

§ 180.535 Fluroxypyr 1-methylheptyl ester; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/Revocation Date
* * * * *		
Grass, forage	120	6/30/03
Grass hay	160	6/30/03
Kidney, cattle	1.5	6/30/03
Kidney, goat	1.5	6/30/03
Kidney, hog	1.5	6/30/03
Kidney, horse	1.5	6/30/03
Kidney, sheep	1.5	6/30/03
Milk	0.30	6/30/03

* * * * *

[FR Doc. 01–23092 Filed 9–14–01; 8:45am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301168; FRL–6800–9]

RIN 2070–AB78

Clethodim; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of clethodim in or on green onion, leaf lettuce, Brassica, head and stem, subgroup, flax seed, flax meal, mustard seed, canola seed, and canola meal. The Interregional Research Project Number-4 (IR-4) and Valent U.S.A. Corporation requested these tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). This final rule establishes permanent tolerances for clethodim and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for clethodim that existed on August 2, 1996 were previously reassessed in the **Federal Register** of April 8, 1998 (63 FR 17101) (FRL–5784–9). Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301168, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301168 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–3194; and e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this

document, on the Home Page select

hydroxycyclohexene-3-one) moieties

in a million). Under certain specific

derived from the dose response curve.

document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301168. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 3, 1997 (62 FR 63942) (FRL–5756–1) EPA issued notices pursuant to section 408 of FFDCA, 21 U.S.C. 346a as amended by FQPA (Public Law 104–170) announcing the filing of pesticide petitions (PP 0E6202 and 1E6249) for tolerances by IR-4, 681 U.S. Highway #1 South, North New Brunswick, NJ 08902 and PP 7F4873 by Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, California 94596. These notices included summaries of the petitions prepared by Valent U.S.A. Corporation, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.458 be amended by establishing tolerances for combined residues of the herbicide clethodim, [(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio]propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one) moieties and their sulphoxides and sulphones, all expressed as clethodim, on various commodities as follows:

(1). *PP 1E6249.* IR-4 proposed tolerances for green onion and leaf lettuce at 2.0 parts per million (ppm), and Brassica head and stem subgroup at 3.0 ppm.

(2). *PP 0E6202.* IR-4 proposed tolerance for flax seed and mustard seed at 0.5 ppm and flax meal at 1.0 ppm.

(3). *PP 7F4873.* Valent U.S.A. Corporation proposed tolerances for canola seed at 0.5 ppm and canola meal at 1.5 ppm. The petition was subsequently amended to propose tolerances for canola seed at 0.5 ppm and canola meal at 1.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that" there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of clethodim on green onion at 2.0 ppm, leaf lettuce at 2.0 ppm, Brassica head and stem subgroup at 3.0 ppm, flax seed at 0.50 ppm, flax meal at 1.0 ppm, mustard seed at 0.50 ppm, canola seed at 0.50 ppm, and canola meal at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by clethodim are discussed in Unit III.A. of the **Federal Register** of March 14, 2001 (66 FR 14829) (FRL–6770–8).

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for clethodim used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLETHODIM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary All populations	Not applicable	Not applicable	None Selected There were no effects observed in oral toxicity studies including developmental toxicity studies in rats and rabbits that could be attributable to a single dose (exposure). Therefore, a dose and endpoint were not selected for this risk assessment.
Chronic dietary All populations	NOAEL = 1.0 mg/kg/day UF = 100 Chronic RfD = 0.01 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD÷FQPA SF = 0.01 mg/kg/day	Chronic toxicity-Dog (1 year). Alterations in hematology and clinical chemistry parameters and increased absolute and relative liver weights observed at the LOAEL of 75 mg/kg/day.
Short-term dermal (1 to 7 days) (Residential)	Oral study maternal NOAEL = 100 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE = 100 (Residential)	Developmental toxicity-Rat. LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation).
Intermediate-term dermal (1 week to several months) (Residential)	Oral study NOAEL = 25 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE = 100 (Residential)	Subchronic toxicity-Dog (90 days). LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights.
Long-term dermal (several months to lifetime) (Residential)	Oral study NOAEL = 1.0 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE =100 (Residential)	Chronic toxicity-Dog (1 year). LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights.
Short-term inhalation (1 to 7 days) (Residential)	Oral study Maternal NOAEL= 100 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE =100 (Residential)	Developmental-Rat LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation).
Intermediate-term inhalation (1 week to several months) (Residential)	Oral study NOAEL = 25 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Subchronic toxicity-Dog (90 days). LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights.

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TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLETHODIM FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Long-term inhalation (several months to lifetime) (Residential)	Oral study NOAEL = 1.0 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE =100 (Residential)	Chronic toxicity-Dog (1 year). LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights.
Cancer (oral, dermal, inhalation)	N/A	N/A	Clethodim is classified as a "Not Likely" carcinogen

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.458) for the residues of clethodim in or on a variety of food commodities. Recent tolerances established for the residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones include tuberous and corm vegetables crop subgroup 1c, fruiting vegetables crop group, root vegetables (except sugar beets) crop subgroup 1b, leaves of root and tuber vegetables (excluding sugar beets, crop group 2), sugar beet, tops and sugar beet, molasses at 1.0 ppm, leaf petioles crop subgroup 4b at 0.6 ppm, melon crop subgroup 9a at 2.0 ppm, squash/cucumber crop subgroup 9b and cranberry at 0.5 ppm, sugar beets, roots at 0.20 ppm, sunflower seed at 5.0 ppm, strawberry at 3.0 ppm, sunflower, meal and clover, forage at 10.0 ppm, and clover, hay at 20.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from clethodim in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. An endpoint was not identified for acute dietary exposure and risk assessment because no effects were observed in oral toxicity studies including developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, an acute dietary exposure assessment was not performed.

ii. *Chronic exposure.*In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The 3–day average of consumption for each sub-population is combined with residues to determine average exposure as mg/kg/day. The chronic analysis was performed using tolerance level residues for all crops and livestock commodities. Projected percent crop treated (PCT) data were used for lettuce, broccoli, cauliflower, cabbage, onions, and Brussels sprouts. Weighted average percent of crop treated data were used for certain existing registrations (cotton, onions, peanuts, soybeans, sugar beets, and tomatoes) and 100% crop treated data were used for the remaining new uses and existing uses.

iii. *Cancer.* Clethodim has been classified as "not likely to be carcinogenic in humans" based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, a cancer risk assessment was not performed.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information for certain registered uses as follows:

- 3% for cotton;
- 8% for onions;
- 3% for peanuts;
- 4% for soybeans;
- 15% for sugar beets, and
- 1% for tomatoes.

The Agency used PCT information for the new uses as follows:

- 2% for lettuce, broccoli and cauliflower;
- 15% for cabbage;
- 25% for onion, and
- 1% for brussels sprouts.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates were derived for the registered uses (cotton, onions, peanuts, soybeans, sugar beets and tomatoes) from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. With respect to the new uses (lettuce, broccoli, cabbage, and onion) the registrant estimated PCT based on percent market share information. The registrant based their projected clethodim PCT for these new uses based on the share of each crop that is treated with registered herbicides that control the same pests. They then projected what part of the market they could capture from those products. The Agency used a similar process for projecting percent of crop treated for Brussels sprouts and cauliflower. The Agency considers the clethodim percent of crop treated projections to be reasonable and conservative.

As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which clethodim may be applied in a particular area.

2. *Dietary exposure from drinking water.* Surface and ground water contamination may occur from the sulfoxide and sulfone degradates of clethodim, as well as from parent clethodim. However, the risk of water contamination is primarily associated with clethodim sulfone and clethodim sulfoxide rather than parent clethodim based on greater persistence and mobility for the degradates.

The only significant routes of dissipation of clethodim are microbial degradation in soil and movement by leaching or runoff. Parent clethodim is moderately persistent to hydrolysis at pH 5 with half-lives of 26–42 days and stable at pH 7 and 9 with half-lives of greater than 300 days. Even though acceptable water and soil photolysis studies show half-lives of 1.5 to 9.3 days, this may not be an important route of dissipation because of suspended sediment and shading. Photolysis is only an important route of dissipation in shallow, well-mixed surface water with no shading. The half-lives in aerobic soil are 2–3 days for parent clethodim, and 30–38 days for total toxic residues (parent + sulfoxide + sulfone). The sulfoxide and sulfone metabolites are more persistent than parent clethodim and are formed in significant quantities in soil. All residues of clethodim (parent and metabolites) are very mobile in soil with five out of six soil dissorption coefficients (Kd) less than one. The field dissipation studies show that parent clethodim was only found at levels at or near the quantitation limit of 0.02 ppm, which is consistent with the rapid degradation in soil. Clethodim sulfoxide had an apparent half-life of 2.5 to 3.7 days, indicating that movement from the treated field may have been an important route of dissipation.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clethodim in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of clethodim.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent referenced dose or percent population adjusted dose. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to clethodim they are further discussed in the aggregate risk sections below. Tier 1 surface water concentrations for parent clethodim and total toxic residues (parent + sulfoxide + sulfone) were estimated using the GENEEC model. Based on the GENEEC model, the peak EECs of clethodim for surface water were estimated to be 24.2 parts per billion (ppb), and 18.3 ppb for chronic exposure. The agency allows for a 3–fold reduction of GENEEC 56–day estimates, which result in a chronic value of 6.1 ppb for surface water. Based on the SCI-GROW model, the EECs of clethodim for ground water were estimated to be 0.49 ppb for acute exposure and 0.08 ppb for chronic exposure.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Clethodim is not registered for use on any sites that would result in residential exposure. Based on recently revised clethodim labels, there are no use sites through which homeowners or the public are likely to become exposed to clethodim residues, either directly through application or indirectly by contact with residues on treated surfaces. Therefore, non-occupation exposure assessment was not performed.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time,

3. *Conclusion.* There is a complete

calculated for each type of risk

lettuce, and cabbage is acceptable for

additional crop field trial data for

EPA does not have, at this time, available data to determine whether clethodim has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, clethodim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that clethodim has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* exposure to clethodim.

3. *Conclusion.* There is a complete toxicity data base for clethodim and exposure data is complete or is estimated based on data that reasonably account for potential exposures. Based on the above, EPA determined that the 10X safety factor to protect infants and children should be removed.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* An endpoint for acute dietary exposure was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clethodim from food will utilize 30% of the cPAD for the U.S. population, 23% of the cPAD for females (13–50 years old) and 61% of the cPAD for children 1–6 years old. There are no residential uses for clethodim that result in chronic residential exposure to clethodim. In addition, there is potential for chronic dietary exposure to clethodim in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON- CANCER) EXPOSURE TO CLETHODIM

Population Subgroup	cPAD (mg/kg)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (total)	0.01	30%	6.1	0.08	250
Children (1–6 years)	0.01	61%	6.1	0.08	40
Females (13–50 years)	0.01	23%	6.1	0.08	230

3. *Short-term and intermediate-term risk.* Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clethodim is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population.* Clethodim has been classified as "not likely to be carcinogenic in humans" based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, clethodim is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to clethodim residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Method RM-26A-1, a gas-liquid chromatographic (GLC) procedure, was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-OH clethodim sulfone) in/on flax at fortification levels of 0.05 ppm and 0.5 ppm, and on canola at a fortification level of 0.2 ppm. Method RM-26A-1 can determine all clethodim metabolites retaining the cyclohex-1-one moiety (DME and DME-OH). The Method RM-26A-1 for the determination of clethodim and its metabolites in mustard, seed and flax is acceptable for data collection.

Method RM-26B-2 was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-OH clethodim sulfone) in/on broccoli. The fortification levels for clethodim sulfoxide and 5-OH-clethodim sulfone were each 0.05 ppm, 1.0 ppm and 2.0 ppm. Recoveries of residues of clethodim sulfoxide in broccoli were within the acceptable range at the fortification level of 0.05 ppm. Recoveries of residues of 5-OH-clethodim sulfone in broccoli were within the acceptable range at fortification levels of 0.05, 1.0 and 2.0 ppm. Recoveries of residues of clethodim sulfoxide in broccoli were low at the fortification levels of 1.0 and 2.0 ppm. The Method RM-26B-2 for the determination of clethodim and its metabolites in broccoli is acceptable for data collection and enforcement purposes.

Method RM-26B-3 (a modification of RM-26B-2) was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-OH clethodim sulfone) in/on green onions, leaf lettuce, and cabbage. The fortification levels for clethodim sulfoxide and 5-OH clethodim sulfone were 0.11 ppm - 2.0 ppm for green onions, 0.11 ppm - 0.91 ppm for leaf lettuce, 0.11 ppm - 1.1 ppm for cabbage. Recoveries of residues of clethodim sulfoxide in green onions, leaf lettuce, and cabbage were within the acceptable range at all fortification levels tested. Recoveries of residues of 5-OH-clethodim sulfone were within the acceptable range except for low recoveries in green onions fortified at 2.0 ppm and cabbage fortified at 0.77 and 0.98 ppm. The Method RM-26B-3 for the determination of clethodim and its metabolites in green onions, leaf lettuce, and cabbage is acceptable for data collection.

The common moiety Method RM-26B-3 for the determination of clethodim and its metabolites is similar to the common moiety Method RM-26B-2. The Method RM-26B-2 has previously undergone a successful Petition Method Validation by the Agency. Method RM-26B-2 as an enforcement method and Method RM-26B-3 as a letter method have been forwarded to FDA for inclusion in PAM II.

Livestock feed items are associated with canola and flax seed uses. The Agency has previously concluded that adequate analytical methodology is available to enforce tolerances for residues of clethodim in livestock commodities. The compound specific method, EPA-RM-26D-2, is suitable for enforcement of tolerances for total clethodim residues in crops and livestock tissues, and it has been forwarded to FDA for publication in the Pesticide Analytical Manual, Volume II (PAM II). The common moiety method, RM-26B-2, serves as the enforcement method for milk as RM-26D-2 and is not quantitative for residues in milk.

The Methods may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There are no established Codex maximum residue limits (MRLs) for residues of clethodim in/on the commodities discussed in the subject petition; therefore, there are no questions with respect to Codex/U.S. tolerance compatibility. Codex MRLs are currently established on various crop and livestock commodities in terms of the sum of clethodim and its metabolites containing 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim. There are established Canadian residue limits for clethodim residues and its metabolites containing the 2-cyclohex-1-enone moiety on mustard, seed at 0.4 ppm, on flax at 0.3 ppm and on canola at 0.5 ppm. However, based on the submitted residue data, HED can not harmonize the tolerances of flax and mustard, seed with Canadian residue limits.

C. Conditions

The registration for the use of clethodim on leaf lettuce will be made conditional based upon the need for additional crop field trial data for clethodim on leaf lettuce. The registration for use of clethodim on canola and flax will be made conditional based upon the requirement for a canola processing study.

V. Conclusion

Therefore, tolerances are established for combined residues of clethodim, [[(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones], in or on green onion at 2.0 ppm, leaf lettuce at 2.0 ppm, brassica head and stem subgroup at 3.0 ppm, flax seed at 0.50 ppm, flax meal at 1.0 ppm, mustard seed at 0.50 ppm, canola seed at 0.50 ppm, and canola meal at 1.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301168 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

178.25). If a hearing is requested, the

Unit VI.A., you should also send a copy

unfunded mandate as described under

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178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301168, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 6, 2001

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.458 is amended by revising the section heading, the introductory text paragraph (a)(3), and alphabetically adding commodities to the table in paragraph (a)(3) to read as follows:

§ 180.458 Clethodim; tolerances for residues.

(a) * * *

(3) Tolerances are established for the combined residues of the herbicide clethodim [(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexen-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexen-3-one moieties and their sulphoxides and sulphones, expressed as clethodim tolerance residues for the following commodities.

Commodity	Parts per million
* * * * *	*
Brassica, head and stem, subgroup	3.0
Canola, meal	1.0
Canola, seed	0.50
* * * * *	*
Flax, meal	1.0
Flax, seed	0.50
* * * * *	*
Lettuce, leaf	2.0
* * * * *	*
Mustard, seed	0.50
* * * * *	*
Onion, green	2.0
* * * * *	*

* * * * *

[FR Doc. 01–23086 Filed 9–14–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301171; FRL–6801–1]

RIN 2070–AB78

Zeta-cypermethrin and its Inactive R-Isomers; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of zeta-cypermethrin and its inactive R-isomers in or on alfalfa, hay at 15 parts per million (ppm), alfalfa, forage at 5.0 ppm, alfalfa, seed at 0.5 ppm; beets, sugar, roots at 0.05 ppm, beets, sugar, tops at 0.20 ppm; corn, field, grain at 0.05 ppm, corn, pop, grain at 0.05 ppm, corn, field, forage at 0.20 ppm, corn, field, stover at 3.0 ppm, corn, pop, stover at 3.0 ppm, corn, sweet, (K + CWHR) at 0.05 ppm, corn, sweet, forage at 15 ppm, corn, sweet, stover at 15 ppm; onions, green at 3.0 ppm; leafy vegetables except Brassica at 10 ppm, head and stem Brassica at 2.0 ppm, leafy Brassica at 14 ppm; sugarcane at 0.6 ppm; rice, grain at 1.5 ppm, rice, straw at 2.0 ppm, rice, hulls at 6.0 ppm; fat of cattle, goat, horse, sheep, hogs at 1.0 ppm, meat of cattle, goat, horse, sheep, hogs at 0.1 ppm, milk, fat at 2.50 ppm (reflecting 0.10 ppm in whole milk), poultry, fat at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm, and eggs at 0.05 ppm. FMC Corporation, 1735 Market Street, Philadelphia, PA 19103 requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301171, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301171 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Linda A. DeLuise, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 305–5428; e-mail address: deluise.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

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Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301171. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 23, 1998 (63 FR 34176) (FRL–5795–1), and September 8, 1999 (64 FR 48829) FRL–6097–6), EPA issued notices under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a announcing the filing of pesticide petitions (PP) (PF 813 and PF 888) for tolerances by FMC Corporation, 1735 Market Street, Philadelphia, PA 19103.

These notices included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to these notices of filing.

The petitions requested that 40 CFR 180.418 be amended by establishing a tolerance for residues of the insecticide zeta-cypermethrin, in or on the following raw agricultural commodities:

1. PP 9F6040 proposed a tolerance for rice, grain at 1.2 parts per million (ppm), rice, straw at 2.0 ppm and rice, hulls at 16.0 ppm. Based on EPA's review of processing studies, the petition was revised by the petitioner to propose a tolerance of 1.5 ppm on rice grain and 6.0 ppm on rice hulls.

2. PP 8F4970 proposed a tolerance for leafy vegetables (except Brassica vegetables) group (Crop Group 4) at 10.0 ppm, Brassica, head and stem (Crop Group 5A) at 2.0 ppm and Brassica, leafy (Crop Group 5B) at 14.0 ppm. These tolerances as proposed are adequate.

3. PP 9F3067 proposed a tolerance for sugar beets, roots at 0.05 ppm, and sugar beets, tops at 0.20 ppm; sugarcane at 0.60 ppm; corn, grain (field, seed and pop) at 0.05 ppm; green onions at 6.0 ppm; alfalfa seed at 0.5 ppm, alfalfa forage at 10.0 ppm, and alfalfa hay at 30.0 ppm; and corn, sweet (K + CWHR) at 0.1 ppm, corn, forage and corn, fodder at 30.0 ppm; poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm, poultry, fat at 0.05 ppm and eggs at 0.05 ppm; meat of cattle, goats, hogs, horses, and sheep at 0.3 ppm; fat of cattle, goats, hogs, horses, and sheep at 2.0 ppm; and milk, fat at 1.0 ppm (reflecting 0.2 ppm in whole milk). Based on EPA's review of the field residue and animal feeding data the petition was revised by the petitioner to:

a. Propose tolerances of 0.05 ppm for sweet corn (K + CWHR) and 15 ppm for sweet corn forage and stover. (Note that stover is the correct term instead of fodder).

b. Propose separate tolerance for field corn grain and pop corn grain at 0.05 ppm.

c. Delete the proposed seed corn tolerance since it is covered by field corn.

d. Propose separate tolerances for field corn stover and pop corn stover at 3.0 ppm and field corn forage at 0.20 ppm.

e. Reduce the proposed 6.0 ppm tolerance on green onion to 3.0 ppm.

f. Propose the following livestock commodity tolerances as a result of the increased dietary burden: animal (cattle, goat, hog, horse, sheep) meat at 0.1 ppm; fat at 1.0 ppm; and milk fat at 2.5 ppm (reflecting 0.10 ppm in whole milk).

g. Propose tolerances for alfalfa seed, forage and hay, respectively at 0.5 ppm, 5 ppm, and 15 ppm.

Based upon the isomer composition of zeta-cypermethrin with four insecticidally less active ones at a concentration of 1% each, EPA is proposing the current tolerance expression be revised by adding the phrase and its inactive R-isomers after the chemical name.

Although EPA had requested a number of changes to the initial petitions and Notice of Filings, the nature of the changes, i.e. reduction in tolerance levels, clarification and correction of commodity terms are not considered significant nor do they alter the risk assessment. Therefore EPA is issuing this as a final action.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is

reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of zeta-cypermethrin and its inactive R-isomers in or on alfalfa, hay at 15 parts per million (ppm), alfalfa, forage at 5.0 ppm, alfalfa, seed at 0.5 ppm; beets, sugar, roots at 0.05 ppm, beets, sugar, tops at 0.20 ppm; corn, field, grain at 0.05 ppm, corn, pop, grain at 0.05 ppm, corn, field, forage at 0.20 ppm, corn, field, stover at 3.0 ppm, corn, pop, stover at 3.0 ppm, corn, sweet, (K + CWHR) at 0.05 ppm, corn, sweet, forage at 15 ppm, corn, sweet, stover at 15 ppm; onions, green at 3.0 ppm; leafy vegetables except Brassica at 10 ppm, head and stem Brassica at 2.0 ppm, leafy Brassica at 14 ppm; sugarcane at 0.6 ppm; rice, grain at 1.5 ppm, rice, hulls at 6.0 ppm; rice, straw at 2.0 ppp; fat of cattle, goat, horse, sheep, hogs at 1.0 ppm, meat of cattle, goat, horse, sheep, hogs 0.1 ppm, milk, fat at 2.5 ppm (reflecting 0.10 ppm in whole milk), poultry, fat at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm; and eggs at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by zeta-cypermethrin and its inactive R-isomers are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed. Zeta-cypermethrin is an enriched isomer of cypermethrin. In order to select toxicity endpoints for the purposes of risk assessment, bridging data on zeta-cypermethrin were submitted so that the toxicity of zeta-cypermethrin could be compared with that of cypermethrin and the data bases could be combined to form one complete data base for both chemicals. In the selection of toxicity endpoints, studies conducted with zeta-cypermethrin were used wherever possible. When an endpoint was selected using a study conducted with cypermethrin, a rationale was provided on why this particular endpoint was protective for exposure to zeta-cypermethrin.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY ZETA-CYPERMETHRIN AND CYPERMETHRIN TECHNICAL*

Guideline No.	Study Type	Results	Toxicity Category
870.1000	Acute oral - rat - zeta-cypermethrin	LD_{50} (M): 134.4 mg/kg (F): 86.0 mg/kg Clinical signs of neurotoxicity observed.	II
870.1000	Acute oral - cypermethrin	LD_{50} (M): 247 mg/kg (F): 309 mg/kg females Deaths: ≥150 mg/kg, usually in first day. Clinical signs of neurotoxicity, gait abnormalities; some persisting to 14 days.	II
870.1100	Acute Dermal Rats - cypermethrin Rabbits - cypermethrin	LD_{50} >4,920 mg/kg/day. Clinical signs of neurotoxicity. Abraded skin: LD_{50} >2,460 mg/kg. Lacrimation, discharge from the eye and nervous and shaking	III III
870.1200	Acute inhalation - rat - cypermethrin	LC_{50}: male (not calculated but higher than female) LC_{50}: female 2.5 (1.6-3.4) mg/L. Clinical signs of neurotoxicity. MMAD ranged from 2.22 to 2.62 µm	IV
870.2400	Primary eye irritation - rabbit cypermethrin	Slight redness of conjunctivae, chemosis and discharge. Persisted to day 7.	III

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY ZETA-CYPERMETHRIN AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results	Toxicity Category
870.2500	Primary skin irritation rabbit - cypermethrin	Slight to mild erythema on intact and abraded skin. Reversed by 48 hours. Primary Irritation Index: 0.71	IV
870.2600	Dermal sensitization - cypermethrin	Not a sensitizer in Buehler assay. Moderate sensitizer in Magnusson Kligman Maximization method.	N/A

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity - rat: zeta-cypermethrin	NOAEL = M = 13.8 (M), 16.3 (F) mg/kg/day LOAEL = 28.2 mg/kg/day (M) based on decreased body weight, body weight gain and food consumption; at 55.7 mg/kg/day, mortality as well as decreased RBC, WBC, HGB and HCT plus increase in BUN. 32.2 mg/kg/day (F) based on decreased body weight, body weight gain and food consumption as well as interference with estrous cycle and decreased glucose; mortality at 65.2 mg/kg/day.
870.3100	90-Day oral toxicity - rat: cypermethrin	NOAEL = 7.5 mg/kg/day LOAEL = 75 mg/kg/day based on decreased body weight in both sexes.
870.3150	90-Day oral toxicity in dogs (feeding): cypermethrin	NOAEL = 24.6 (M), 34.3 (F) mg/kg/day LOAEL = 37.0 (M), 45.2 (F) mg/kg/day based on tremors as well as decreased body weight and body weight gains in both sexes.
870.3150	90-Day oral toxicity in dogs (feeding): cypermethrin	NOAEL = 12.5 mg/kg/day LOAEL = 37.5 mg/kg/day based on clinical signs (whole body tremors, exaggerated gait, ataxia, incoordination, hyperaesthesia, licking and chewing of paws; diarrhea, anorexia) and decreased body weight
870.3200	21-Day dermal toxicity - rat: zeta-cypermethrin	NOAEL = Systemic: 1,000 mg/kg/day. Dermal: <100 mg/kg/day LOAEL = Systemic: >1,000 mg/kg/day (Limit Dose) Dermal: 100 mg/kg/day, based on erythema and/or eschar 1/10 M and 6/10 F; desquamation 0/10 M and 2/10 F (no effects in any M or F controls).
870.3200	21-Day dermal toxicity - rabbit: cypermethrin	NOAEL = Systemic nonabraded animals: 200 mg/kg/day (HDT) Dermal: 20 mg/kg/day LOAEL = Systemic nonabraded animals: >200 mg/kg/day (HDT) Dermal: 200 mg/kg/day based on signs of dermal irritation
870.3465	21-Day inhalation toxicity - cypermethrin	NOAEL = 0.01 mg/L (2.7 mg/kg/day) LOAEL = 0.05 mg/L based on decreases in body weight
870.3700	Prenatal developmental in rats - zeta-cypermethrin	*Maternal* NOAEL = 12.5 mg/kg/day LOAEL = 25 mg/kg/day, based on ataxia, urine-stained abdominal fur, fecal-stained perineal fur, decreased food consumption and decreased body weight gain. *Developmental* NOAEL ≥ 35 mg/kg/day LOAEL = > 35 mg/kg/day

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results
870.3700	Prenatal developmental in rats - cypermethrin	*Maternal* NOAEL = 17.5 mg/kg/day LOAEL = 35 mg/kg/day based on decreased body weight gain; at 70 mg/kg/day, splayed limbs, spasms and hypersensitivity to noise and convulsions. *Developmental* NOAEL = 70 mg/kg/day (HDT) LOAEL = >70 mg/kg/day
870.3700	Prenatal developmental in rabbits - cypermethrin	*Maternal* NOAEL = 100 mg/kg/day LOAEL = 450 mg/kg/day based on decreased body weight gain; anorexia, abdomino-genital staining, decreased feces and red or pink material in the pan (few does). At 700, anorexia, abdomino-genital staining, decreased feces and red or pink material in the pan were observed. *Developmental* NOAEL = 700 mg/kg/day LOAEL = >700 mg/kg/day (highest dose tested)
870.3700	Prenatal developmental in rabbits - cypermethrin	*Maternal* NOAEL = 30 mg/kg/day LOAEL > 30 mg/kg/day (HDT) *Developmental* NOAEL = 30 mg/kg/day LOAEL = > 30 mg/kg/day (highest dose tested)
870.3800	Reproduction and fertility effects - zeta-cypermethrin	*Parental/Systemic* NOAEL = 7 mg/kg/day LOAEL = 27 mg/kg/day based on decreased body weight gain (most noticeable during lactation) and increased relative brain weights M and F; at 45 mg/kg/day, some neurotoxic clinical signs in a few animals (some mortality) . *Reproductive* NOAEL = 45 mg/kg/day LOAEL >45 mg/kg/day (highest dose tested). *Offspring* NOAEL = 7 mg/kg/day LOAEL = 27 mg/kg/day, based on decreased body weight gain during lactation; at 45 mg/kg/day, pup mortality.
870.3800	Reproduction and fertility effects - cypermethrin	*Parental/Offspring* NOAEL = 7.5 mg/kg/day LOAEL = 50/37.5 mg/kg/day based on decreased body weight gain in both sexes and decreased mean litter weight gain during lactation.
870.3800	Reproduction and fertility effects - cypermethrin	*Parental/Systemic* NOAEL = 5 mg/kg/day LOAEL = 25: based on decreased body weight gain. *Offspring* NOAEL = 5 mg/kg/day LOAEL = 25: based on decreased body weight gain (lactation day 21).
870.4100	Chronic toxicity rats - cypermethrin	NOAEL = 7.5 mg/kg/day LOAEL = 75 mg/kg/day based on decreases in body weight gain (both sexes)
870.4100	Chronic toxicity dogs (capsule) - cypermethrin	NOAEL = 1 mg/kg/day LOAEL = 5 mg/kg/day based on gastrointestinal effects (liquid stool); at 15 mg/kg/day, body tremors, gait abnormalities, in coordination, disorientation and hypersensitivity to noise plus decrease in body weight.
870.4100	Chronic toxicity dogs (feeding) - cypermethrin	NOAEL = 6 mg/kg/day (M), 5.7 mg/kg/day (F) LOAEL = 20.4 mg/kg/day (M) based on abnormal clinical signs (tremors, excessive salivation, irregular gait); at 33.9 mg/kg/day, mortality. 18.1 mg/kg/day (F) based on decreased body weight and weight gains.

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TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results
870.4200	Carcinogenicity rats - cypermethrin	NOAEL = 7.5 mg/kg/day LOAEL = 75 mg/kg/day based on decreases in body weight gain (both sexes). No evidence of carcinogenicity
870.4300	Carcinogenicity mice - cypermethrin	NOAEL = 14 mg/kg/day LOAEL = 57 mg/kg/day (M) based on increased absolute (20%) liver weights Females, there was a 15% increase in relative liver weights only at 229 mg/kg/day. Cancer: positive for induction of benign alveologenic neoplasms.
870.5265	*Salmonella typhimurium* reverse mutation assay - zeta-cypermethrin	Very weak positive response (2-fold increase in revertants/plate) in strain TA100 at 10,000 µg/plate without S-9 activation in two separate experiments. Doses of 3,333 and 5,000 µg/plate gave 1.5 and 1.6-fold increases in revertants/plate, respectively. Zeta-cypermethrin considered a possible weak mutagen under the conditions of the assay.
870.5265	*Salmonella typhimurium* and *S. cerevisiae* reverse mutation assay - cypermethrin	Negative up to doses of 2,500 µg/plate
870.5300	Gene mutation in mammalian cells in culture zeta-cypermethrin	CHO-K1-BH_4, subclone D1 cells. No evidence of increased forward mutation rate at the HGPRT locus at any dose tested up to and beyond solubility limit.
870.5300	Gene mutation in mammalian cells in culture cypermethrin	CHO-K1-BH_4, subclone D1 cells. No evidence of increased forward mutation rate at the HGPRT locus at any dose tested up to and beyond solubility limit.
870.5375	*In vitro* cytogenetics zeta-cypermethrin	The study demonstrates that zeta-cypermethrin is not mutagenic in the mouse lymphoma assay (L5178Y cell line) at the above doses with or without metabolic activation.
870.5380	*In vivo* cytogenetics zeta-cypermethrin	No evidence of structural chromosomal aberrations in rat bone marrow at either 6, 18, or 30 hours post dosing.
870.5380	*In vivo* cytogenetics cypermethrin	No evidence of structural chromosomal aberrations in rat bone marrow at 20 or 40 mg/kg.
870.5550	Unscheduled DNA synthesis in mammalian cells in culture zeta-cypermethrin	No unscheduled DNA synthesis was observed at any dose level up to 4,500 µg/mL in male rat (Fischer 344) liver primary hepatocyte cultures under the conditions of this assay. Minimal cytotoxicity was observed at the highest doses. Incomplete solubility of the test compound in culture media was observed, particularly at higher doses.
870.5550	Unscheduled DNA synthesis in mammalian cells in culture cypermethrin	No unscheduled DNA synthesis was observed at any dose level up to 200 mg/kg in corn oil in Alpk:APfSD strain rats (males) assessed 4 and 12 hours post dosing. 200 mg/kg dose was considered near the MTD.
870.5450	Dominant lethal assay in the rodent cypermethrin	No evidence of dominant lethal activity in CD-1 strain mice up to 10 mg/kg/day for 5 consecutive days.
870.6200	Acute neurotoxicity screening battery - zeta-cypermethrin	NOAEL = 10 mg/kg/day LOAEL = 50 mg/kg/day based on clinical signs (abdominogenital staining, oral discharge, splayed hindlimbs, staggered gait and tremors); FOB findings (abnormal mobile posture, splayed hindlimbs, soiled fur and unable to walk); at 250, more severe findings.
870.6200	Acute neurotoxicity screening battery - cypermethrin	NOAEL = 30 mg/kg/day LOAEL = 100 mg/kg based primarily on ataxia and related conditions (staggered or impaired gait, decreased activity, splayed hindlimbs and limp conditions, in addition to decreased motor activity in males and females on days 0, 1, or 2).
870.6200	Acute neurotoxicity screening battery - cypermethrin	NOAEL = < 20 mg/kg/day LOAEL = 20 mg/kg based on decreased motor activity and gait abnormalities.

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results
870.6200	Subchronic neurotoxicity screening battery - zeta-cypermethrin	NOAEL = 5.0 mg/kg/day (M); 31.5 mg/kg/day (F) LOAEL = 26.3 mg/kg/day (M) based on decreased motor activity, increased landing foot splay, and decreased body weights, body weight gains, and food consumption 55.6 mg/kg/day (F) based on decreased body weights, body weight gains, and food consumption.
870.6200	Subchronic neurotoxicity screening battery - cypermethrin	NOAEL = 31 mg/kg/day LOAEL = 77 mg/kg/day based on the following: Males: decreased body weight gain and increased landing foot splay; Females: ataxia, splayed hindlimbs, impaired gait and decreased feces as well as decreased body weight gain.
870.7485	Metabolism and pharmacokinetics	Several studies with both rats, dogs and mice are available to support the requirement for metabolism in mammals. Some of these studies assess individual *cis* and *trans* radiolabelled isomers and other studies assess the metabolism of cypermethrin with the label in either the cyclopropyl of the phenoxybenzyl ring. In general, the following has been demonstrated from these studies: cypermethrin is readily absorbed from the gastrointestinal tract and extensively metabolized. It mostly excreted in the urine that contains several characterized metabolites derived from conjugation of the hydrolysis products of the parent compound following cleavage of the esteratic linkage site.
870.7600	Dermal penetration	No study is available.

*Zeta-cypermethrin is bridged to data base with cypermethrin. Therefore, studies on both are included.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for zeta-cypermethrin and its inactive R-isomers used for human risk assessment is shown in the following Table 3:

TABLE 3.—SUMMARY OF THE TOXICOLOGICAL DOSE AND ENDPOINTS FOR ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL = 10 mg/kg/day UF = 100 Acute RfD = 0.10 mg/kg/day	FQPA SF = 1 aPAD = acute RfD FQPA SF = 0.10 mg/kg/day	Acute neurotoxicity study in the rat (zeta-cypermethrin). LOAEL = 50 mg/kg/day based on clinical signs of toxicity and FOB findings.

TABLE 3.—SUMMARY OF THE TOXICOLOGICAL DOSE AND ENDPOINTS FOR ZETA-CYPERMETHRIN AND ITS INACTIVE R-

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TABLE 3.—SUMMARY OF THE TOXICOLOGICAL DOSE AND ENDPOINTS FOR ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Chronic dietary (all populations)	NOAEL = 6 mg/kg/day UF = 100 Chronic RfD = 0.06 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD FQPA SF = 0.06 mg/kg/day	Chronic feeding study in the dog (cypermethrin). LOAEL = 20.4/18.1 mg/kg/day based on clinical signs of neurotoxicity and mortality in males, and decreased body weights and body weight gains in females.
Short-term incidental oral (1 to 7 days) (residential)	NOAEL = 10 mg/kg/day	LOC for MOE = 100 (residential)	Acute neurotoxicity study in the rat (zeta-cypermethrin). LOAEL = 50 mg/kg/day based on clinical signs of neurotoxicity and changes in the FOB
Intermediate-term incidental oral (1 week to several months) (residential)	NOAEL = 5.0 mg/kg/day	LOC for MOE = 100 (residential)	Subchronic neurotoxicity study in the rat (zeta-cypermethrin). LOAEL = 26.3 mg/kg/day based on decreased motor activity, increased landing foot splay, and decreased body weights, body weight gains, and food consumption
Short- and intermediate-term dermal (1 to 7 days and 1 week to several months) (residential)	No hazard identified to support quantitation of risk.	Not applicable	No systemic effects in 21-day dermal study up to 1,000 mg/kg/day and no observed developmental effects in developmental studies.
Long-term dermal (several months to lifetime) (residential)	Oral study NOAEL= 6 mg/kg/day (dermal absorption rate = 2.5%)	LOC for MOE = 100 (residential)	Chronic feeding study in the dog (cypermethrin). LOAEL = 20.4/18.1 mg/kg/day based on clinical signs of neurotoxicity and mortality in males, and decreased body weights and body weight gains in females.
Inhalation (all durations) (residential)	Inhalation study NOAEL = 0.01 mg/L (2.7 mg/kg/day)	LOC for MOE = 100 (residential) for short- and intermediate-term exposure. Long-term exposure: LOC for MOE 300 for the lack of alternative study. Route-to-route estimation would result in less protective endpoint.	21-Day inhalation study in the rat (cypermethrin). LOAEL = 0.05 mg/L/day based on body weight decrease
Cancer (oral, dermal, inhalation)	N/A	Category C (possible human carcinogen). No quantization required	Mouse oncogenicity study with cypermethrin.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.418) for the residues of zeta-cypermethrin, in or on a variety of raw agricultural commodities: Cabbage at 2.0 ppm, animal fat (cattle, goat, hog, horse, and sheep) at 0.05 ppm, animal meat by-products at 0.05 ppm, animal meat at 0.05 ppm, cottonseed at 0.5 ppm, head lettuce at 10.0 ppm, milk at 0.05 ppm, bulb onions at 0.10 ppm, and pecans at 0.05 ppm. Tolerances for cypermethrin (parent compound) are the same as those for zeta-cypermethrin with the exception that there are cypermethrin tolerances for green onions at 6.0 ppm, heads and stem Brassica at 2.0 ppm and leafy Brassica at 14.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from zeta-cypermethrin and its inactive R-isomers in food as follows:

Zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin. Both cypermethrin and zeta-cypermethrin are mixtures of eight isomers, with the active components consisting of the S-enantiomers ("S"configuration at the cyano bearing carbon). The two differ in that cypermethrin has a 50:50 R/S ratio whereas zeta-cypermethrin is enriched in the S-enantiomers with a ratio of 90:10 of S/R. The enriched isomer formulation provides for similar insect control but at lower use rates. Since use of both cypermethrin and zeta-cypermethrin result in human exposure to the same eight isomers, dietary and non-dietary (residential) aggregate risk assessment was conducted by adding the uses of the two chemicals.

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance-level residues and 100% crop treated have been used in these analyses for all commodities having either established or proposed tolerances of cypermethrin or zeta-cypermethrin. In cases where a commodity has an established tolerance for cypermethrin and a proposed tolerance for zeta-cypermethrin, the larger of the two values was used in the assessment. DEEM™ default processing factors were used for all commodities in this assessment.

TABLE 4.—SUMMARY OF ACUTE DIETARY EXPOSURE AND RISK FOR ZETA-CYPERMETHRIN

Population Subgroup	Acute Dietary	
	Dietary Exposure (mg/kg/day)	%aPAD
U.S. population	0.020013	20
Infants (<1 year old)	0.021554	22
Children (1-6 years)	0.030121	30
Females (13-50 years)	0.019736	20

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance-level residues and 100% crop treated have been used in these analyses for all commodities having either established or proposed tolerances of cypermethrin or zeta-cypermethrin. For chronic risk assessments, residue estimates for foods (e.g., apples) or food-forms (e.g., apple juice) of interest are multiplied by the averaged consumption estimate of each food/food-form of each population subgroup. Exposure estimates are expressed in mg/kg bwt/day and as a percent of the cPAD.

TABLE 5.—SUMMARY OF CHRONIC DIETARY EXPOSURE AND RISK FOR ZETA-CYPERMETHRIN

Population Subgroup	Chronic Dietary	
	Dietary Exposures (mg/kg/day)	%cPAD
U.S. population	0.006477	11
Infants (<1 year old)	0.005748	10
Children (1-6 years)	0.011906	20
Females (13-50 years)	0.005749	10

As shown by the summarized acute and chronic results in Tables 4 and 5, all risk estimates fall below EPA's level of concern (≥100% PAD). All exposures are Tier 1 estimates that are extremely conservative and likely overestimate actual dietary exposure. Refinements to the analyses in the form of percent crop treated considerations and/or anticipated residues would likely reduce the exposure and risk estimates for zeta-cypermethrin.

iii. *Cancer.* Cypermethrin has been classified as a Category C, possible human carcinogen, based on an increased incidence of lung adenomas and adenomas plus carcinomas combined in female mice (Cancer Peer Review Committee, 1988). The evidence was not considered strong enough to warrant a quantitative estimation of human risk. Cypermethrin has not been classified under the more current, Proposed Guidelines for Carcinogen Risk Assessment (April 10, 1996). Because zeta-cypermethrin is an enriched isomer of cypermethrin, it is also classified as a Category C carcinogen and a RfD approach was recommended for human risk assessment purposes.

2. *Dietary exposure from drinking water.* Based on the available data, cypermethrin/zeta-cypermethrin is a moderately persistent chemical that primarily degrades by photolysis in water and biodegradation. Depending on the environmental circumstances, it may persist for periods of months post-treatment. Cypermethrin is tightly bound to soil particles and is not likely to move to ground waters. However, the degradate DCVA is mobile and likely to reach ground waters. Additional information about the mobility of this degradate has been requested. Cypermethrin can contaminate surface waters through spray drift. Under some conditions it may also have a potential for runoff into surface waters (primarily through erosion), for several months post-application. Since zeta-cypermethrin is preferentially associated to the soils, the fraction of the chemical in the water column should be small. In addition, it is expected that treatment of drinking waters would remove substantial portions of cypermethrin/zeta-cypermethrin present in water.

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Although the Agency has not addressed residues of DCVA in water, we have concluded that DCVA does not need to be included in the dietary risk for food.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water, EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use EECs from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to cypermethrin and zeta-cypermethrin and its inactive R-isomers, they are further discussed in the aggregate risk sections below.

Based on the FIRST and SCI-GROW models, the EECs of cypermethrin and zeta-cypermethrin and its inactive R-isomers for acute exposures are estimated to be 8.9 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 0.46 ppb ppb for surface water and 0.006 ppb for ground water. These values generally represent upper-bound estimates of the concentrations that might be found in surface water and ground water due to the use of cypermethrin on Brassica vegetables, which has the highest application rate among both cypermethrin and zeta-cypermethrin on all crops over which the chemicals are applied.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Zeta-cypermethrin and its inactive R-isomers is not registered for use on any sites that would result in residential exposure. However, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). The analytical method does not distinguish cypermethrin from zeta-cypermethrin, and the toxicological endpoints are the same. Therefore, dietary and non-dietary residential aggregate risk assessment is conducted by adding the uses of the two chemicals.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether zeta-cypermethrin and its inactive R-isomers has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, Zeta-cypermethrin and its inactive R-isomers does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that zeta-cypermethrin and its inactive R-isomers has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—*i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* The data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to either zeta-cypermethrin or cypermethrin. In the prenatal developmental toxicity studies in rats, there was no evidence of developmental toxicity at the highest dose tested (35 mg/kg/day). Maternal toxicity (decreased body weight gain (both chemicals), and food consumption, ataxia, urine and feces-stained for (zeta-cypermethrin)) was observed at the LOAEL of 25 mg/kg/day. The maternal NOAELs were established at 12.5 mg/kg/day for zeta-cypermethrin and 17.5 mg/kg/day for cypermethrin. In the definitive rabbit developmental toxicity study conducted with cypermethrin, the maternal LOAEL was 450 mg/kg/day based on decreased body weight gain. No developmental toxicity was observed at dose levels up to 700 mg/kg/day. In the two-generation reproduction study in rats conducted with zeta-cypermethrin, offspring toxicity (decreased pup weight gain during lactation) was observed at the same treatment level which resulted in parental systemic toxicity (NOAEL: 27 mg/kg/day; LOAEL: 45 mg/kg/day). In the definitive multigeneration reproduction study conducted with cypermethrin, the parental NOAEL/LOAEL is lower than the pup NOAEL/LOAEL, both based on decreases in body weight gain (2.5/7.5 mg/kg/day for the parents versus 7.5/37.5 mg/kg/day for the pups).

iii. *Conclusion.* There is a complete toxicity data base for zeta-cypermethrin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposure based on the considerations above. The safety factor can be removed for zeta-cypermethrin and its inactive R-isomers because: (1) There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; (2) the requirement of a developmental neurotoxicity study is not based on criteria reflecting special concern for the developing fetuses or young which are generally used for requiring a DNT study - and a safety factor (e.g., neuropathy in adult animals; CNS malformations following prenatal exposure; brain weight or sexual maturation changes in offspring; and/or functional changes in offspring) and therefore does not warrant an FQPA safety factor; and (3) the dietary (food and drinking water) and non-dietary exposure assessments will not underestimate the potential exposures for infants and children.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to zeta-cypermethrin and its inactive R-isomers will occupy 20% of the aPAD for the U.S. population, 20% of the aPAD for females 13 years and older, 22% of the aPAD for infants (<1 year old), and 30% of the aPAD for children (1-6 years). In addition, there is potential for acute dietary exposure to zeta-cypermethrin and its inactive R-isomers in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 6:

TABLE 6.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS

Population Subgroup	aPAD,mg/kg/day	%aPAD (Food)	Ground Water EEC[1], ppb	Surface Water EEC[1], ppb	Acute DWLOC[2], ppb
U.S. population	0.10	20%	0.006	8.9	2,800
All infants (<1 year old)	0.10	22%	0.006	8.9	780
Children (1-6 years old)	0.10	30%	0.006	8.9	700
Females (13-50 years old)	0.10	20%	0.006	8.9	2,400

[1]EECs resulting from the maximum proposed application rate (Cypermethrin on Brassica vegetables)
[2]The acute DWLOC was calculated as follows:
DWLOC (µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption (L/day) x 0.001 mg/µg

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to zeta- cypermethrin and its inactive R-isomers from food will utilize 11% of the cPAD for the U.S. population, 10% of the cPAD for all infants (< 1 year old), and 20% of the cPAD for children (1-6 years old).

There are no residential uses for zeta-cypermethrin and its inactive R-isomers that result in chronic residential exposure to zeta-cypermethrin and its inactive R-isomers. However, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). The analytical method does not distinguish cypermethrin from zeta-cypermethrin, and the toxicological endpoints are the same. Therefore, dietary and non-dietary residential aggregate risk assessment is conducted by adding the uses of the two chemicals. Based on the use pattern, chronic residential exposure to residues of zeta-cypermethrin and its inactive R-isomers is not expected. In addition, there is potential for chronic dietary exposure to zeta-cypermethrin and its inactive R-isomers in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 7:

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TABLE 7.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE

Population Subgroup	cPAD, (mg/kg/day)	%cPAD (Food)	Ground Water EEC[1], (ppb)	Surface Water EEC[1], (ppb)	Chronic DWLOC[2], (ppb)
U.S. population	0.06	11%	0.006	0.46	1,900
All infants (<1 year old)	0.06	10%	0.006	0.46	540
Children (1-6 years old)	0.06	20%	0.006	0.46	480
Females (13-50 years old)	0.06	10%	0.006	0.46	1,600

[1] EECs resulting from the maximum proposed application rate (cypermethrin on Brassica vegetables)
[2] Chronic DWLOCs were calculated as follows: DWLOC (µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption (L/day) x 0.001 mg/µg

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Zeta-cypermethrin and its inactive R-isomers is currently not registered for use that could result in short-term residential exposure; however, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). Cypermethrin registered residential uses constitute short- and intermediate-term exposure scenarios; endpoints have been selected for short- and intermediate-term incidental oral and inhalation exposures, and the acceptable MOEs for short- and intermediate-term exposures are 100. Since the toxicological effects through the inhalation exposure route are similar to those toxicological effects through the oral routes, short-term aggregate risk assessment was conducted adding inhalation, oral non-dietary exposure, and average food and water exposure.

Since all the acceptable MOEs are at the same level, the aggregate risks for population subgroups can be estimated by calculating aggregate Margin of Exposure values ($MOE_{aggregate}$).
$MOE_{aggregate} = 1/(1/MOE_I + 1/MOE_D + 1/MOE_O + 1/MOE_{food} + 1/MOE_{water})$
where I = inhalation, D = dermal (no dermal endpoints was selected for zeta-cypermethrin), O = non-dietary oral, MOE_{food} = average food from the chronic DEEM run.

As residue values in water from monitoring data are not available, therefore, as with the acute dietary aggregate risk estimate, for the short- and intermediate-term aggregate risk assessments, the DWLOCs have to be back calculated.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,700 for adult males, 1,700 for adult females, 830 for a child, and 1,700 for infants. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of zeta-cypermethrin and its inactive R-isomers in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 8:

TABLE 8.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS

Population Subgroup	Target Aggregate MOE	Aggregate MOE (food and residential)[1]	Ground Water EEC[2] (µg/L)	Surface Water EEC[2] (µg/L)	DWLOC[3] (µg/L)
Adult male	100	1,500	0.006	0.46	3,300
Adult female	100	1,700	0.006	0.46	2,800
Child	100	670	0.006	0.46	850
Infants	100	1,100	0.006	0.46	910

[1] Aggregate MOE (food and residential) = 1 ÷ [(1 ÷ MOE food) + (1 ÷ MOE oral) + (1 ÷ MOE dermal) + (1 ÷ MOE inhalation)]
[2] The crop producing the highest level was used.
[3] DWLOC (µg/L) = allowable water exposure (mg/kg/day) x body weight (kg) water consumption (L) x 10^{-3} mg/µg body weights for male, female, and children are 70, 60, and 10 kg. Water consumption for male, female, and children are 2, 2, and 1 L/day

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Zeta-cypermethrin and its inactive R-isomers is currently not registered for use that could result in intermediate-term residential exposure; however, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). Cypermethrin registered residential uses constitute short- and intermediate-term exposure scenarios; endpoints have been selected for short- and intermediate-term incidental oral and inhalation exposures, and the acceptable MOEs for short- and intermediate-term exposures are 100. Since the toxicological effects through the inhalation exposure route are similar to those toxicological effects through the oral routes, short-term aggregate risk assessment was conducted adding inhalation, oral non-dietary exposure, and average food and water exposure.

Since all the acceptable MOEs are at the same level, the aggregate risks for population subgroups can be estimated by calculating aggregate Margin of Exposure values ($MOE_{aggregate}$).
$MOE_{aggregate} = 1/(1/MOE_I + 1/MOE_D + 1/MOE_O + 1/MOE_{food} + 1/MOE_{water})$
Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 760 for adult males, 860 for adult females, 350 for a child and 600 for infants. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of zeta-cypermethrin and its inactive R-isomers in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 9:

TABLE 9.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS

Population Subgroup	Target Aggregate MOE	Aggregate MOE (food and residential)[1]	Ground Water EEC[2] (µg/L)	Surface Water EEC[2] (µg/L)	DWLOC[3] (µg/L)
Adult male	100	760	0.006	0.46	1,500
Adult female	100	860	0.006	0.46	1,300
Child	100	350	0.006	0.46	360
Infants	100	600	0.006	0.46	420

[1] Aggregate MOE (food and residential) = 1 ÷ [(1÷MOE food) + (1 ÷ MOE oral) + (1 ÷ MOE dermal) + (1 ÷ MOE inhalation)]
[2] The crop producing the highest level was used.
[3] DWLOC (µg/L) = allowable water exposure (mg/kg/day) x body weight (kg) water consumption (L) x 10^{-3} mg/µg body weights for male, female, and children are 70, 60, and 10 kg. Water consumption for male, female, and children are 2, 2, and 1 L/day

5. *Aggregate cancer risk for U.S. population.* Cypermethrin/zeta-cypermethrin has been classified as a Category C carcinogen, based on an increased incidence of lung adenomas and adenomas plus carcinomas combined in female mice. However, the evidence was not considered strong enough to warrant a quantitative estimation of human risk. An RfD approach was recommended for human risk assessment purposes. Dietary risk concerns due to long-term consumption of zeta-cypermethrin are adequately addressed in the chronic exposure analysis. For the U.S. population only 11% of RfD is occupied by chronic food and water exposure.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to zeta-cypermethrin and its inactive R-isomers residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for determination of cypermethrin residues in plants and animal products in PAM II (Method I). This method involves initial acetone-hexane extraction, followed by partitioning with water. The organic layer is evaporated, then redissolved in cyclohexane-methylene chloride and passed through a gel permeation column. The eluate is evaporated, redissolved in hexane and passed through a Florisil column. Cypermethrin residues are analyzed by gas chromatography (GC) with an electron capture detector (ECD). Since zeta-cypermethrin is an isomer enriched form of cypermethrin, and the PAM II method is not stereospecific, this method is considered adequate for enforcement of the proposed tolerances of zeta-cypermethrin.

B. International Residue Limits

1. Current status indicates that a Codex maximum residue level (MRL) of 0.05 ppm for residues of cypermethrin has been established for sweet corn (corn-on-the-cob). Based on zeta-cypermethrin residues observed in sweet corn ears in the U.S. field trials, the sweet corn tolerance for zeta-cypermethrin is lowered to 0.05 ppm to achieve harmonization with Codex. No Codex MRLs have been established for sweet corn forage/fodder. Canadian or Mexican MRLs have not been established for residues of cypermethrin in/on sweet corn ears or forage/fodder.

2. Current status indicates that Codex, Canadian, or Mexican MRLs have been established for residues of zeta-cypermethrin (or cypermethrin) in/on alfalfa forage (5 ppm), maize (0.05 ppm), maize fodder (5 ppm), bulb onion (0.1 ppm), root and tuber vegetables (0.05 ppm), sweet corn on the cob (0.05 ppm), and vegetable oils (0.5 ppm). The recommended tolerances will be the same as the international tolerances for maize (as applied to field, seed, and pop corn), bulb onions, and root and tuber vegetables (applied to sugar beets). The U.S. field corn fodder tolerance will be lower than the maize fodder tolerance; however, it is unlikely that maize fodder will be shipped to the U.S. In addition, if it were imported, from a practical enforcement perspective, the higher tolerance needed for sweet corn stover (15 ppm; PP 4F3012) would likely apply. Since there is no processed food tolerance for corn oil, the field corn grain tolerance of 0.05 ppm would apply. The international tolerance for vegetable oils is much higher (0.5 ppm) and cannot be harmonized with the U.S. tolerance as the later would have to be set much higher than necessary.

3. Current status indicates that no Codex, Canadian, or Mexican MRLs have been established for residues of zeta-cypermethrin in/on rice.

4. Current status indicates that a Codex MRL of 2 ppm for residues of cypermethrin (racemic) has been established for head lettuce and 1 ppm for Brassica vegetables. This is inconsistent with the proposed U.S. tolerance of 10.0 ppm for zeta-cypermethrin for Crop Group 4 (leafy vegetables except Brassica), 2.0 ppm for Crop Group 5A (head and stem Brassica), and 14.0 ppm for Crop Group 5B (leafy Brassica). Harmonization of U.S. tolerances with Codex tolerances is not possible because at the proposed maximal use rates, residues greater than

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the Codex MRLs were found in the U.S. field trials. No Mexican MRLs have been established for residues of cypermethrin or zeta-cypermethrin in any relevant crop, but Canada has established cypermethrin MRLs of 1.0 ppm for celery and 0.5 ppm for broccoli, cabbage, cauliflower, and Brussels sprouts.

V. Conclusion

Therefore, the tolerances are established for residues of zeta-cypermethrin and its inactive R-isomers in or on alfalfa, hay at 15 ppm, alfalfa, forage at 5.0 ppm, alfalfa, seed at 0.5 ppm; beets, sugar, roots at 0.05 ppm, beets, sugar, tops at 0.20 ppm; corn, field, grain at 0.05 ppm, corn, pop, grain at 0.05 ppm, corn, field, forage at 0.20 ppm, corn, field, stover at 3.0 ppm, corn, pop, stover at 3.0 ppm, corn, sweet, (K + CWHR) at 0.05 ppm, corn, sweet, forage at 15 ppm, corn, sweet, stover at 15 ppm; onions, green at 3.0 ppm; leafy vegetables except Brassica at 10 ppm, head and stem Brassica at 2.0 ppm, leafy Brassica at 14 ppm; sugarcane at 0.6 ppm; rice, grain at 1.5 ppm, rice, straw at 2.0 ppm, rice, hulls at 6.0 ppm; fat of cattle, goat, horse, sheep, hogs at 1.0 ppm; meat of cattle, goat, horse, sheep, hogs at 0.1 ppm; milk, fat at 2.5 ppm (reflecting 0.10 ppm in whole milk); poultry, fat at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm; and eggs at 0.05 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301171 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301171, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Policies that have tribal implications is defined in the Executive Order to include regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.418 is amended by revising paragraph (a)(2) to read as follows:

§ 180.418 Cypermethrin and an isomer zeta-cypermethrin; tolerances for residues.

(a) * * *

(2) Tolerances are established for residues of the insecticide Z-cypermethrin (S-cyano(3-phenoxyphenyl) methyl (±))(cis-trans 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate and its inactive R-isomers in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa, hay	15.00
Alfalfa, forage	5.00
Alfalfa, seed	0.50
Beets, sugar, roots	0.05
Beets, sugar, tops	0.20
Brassica, head and stem	2.00
Brassica, leafy	14.00
Cabbage	2.00
Cattle, fat	1.00
Cattle, mbyp	0.05
Cattle, meat	1.00
Corn, field, grain	0.05
Corn, pop, grain	0.05
Corn, field, forage	0.20
Corn, field, stover	3.00
Corn, pop, stover	3.00
Corn, sweet, (K + CWHR)	0.05
Corn, sweet, forage	15.00
Corn, sweet, stover	15.00
Cottonseed	0.5
Eggs	0.05
Goat, mbyp	0.05
Goat, meat	1.00
Hogs, fat	1.00
Hogs, mbyp	0.05
Hogs, meat	1.00
Horse, fat	1.00
Horse, mbyp	0.05
Horse, meat	1.00
Leafy vegetables except, Brassica	10.00
Lettuce, head	10.00
Milk	0.05
Milk, fat (reflecting 0.10 in whole milk)	2.50
Onions, bulb	0.10
Onions, green	3.00
Pecans	0.05
Poultry, fat	0.05

each expressed as mefenoxam consideration to exposure of infants and associated with establishing these

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Commodity	Parts per million
Poultry, mbyp	0.05
Poultry, meat	0.05
Rice, grain	1.50
Rice, hulls	6.00
Rice, straw	2.00
Sheep, fat	1.00
Sheep, mbyp	0.05
Sheep, meat	1.00
Sugarcane	0.60

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301170; FRL–6801–4]
RIN 2070–AB78

Mefenoxam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of mefenoxam in or on globe artichoke, starfruit, kiwifruit, papaya, black sapote, star apple, canistel, mamey sapote, mango, sapodilla, sugar apple, atemoya, custard apple, lingonberry, fresh herbs, and dried herbs. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The risk assessment performed for mefenoxam is an aggregate risk assessment which includes the proposed new uses of mefenoxam and all current metalaxyl tolerances/uses. Consequently, EPA has reassessed a total of 122 existing tolerances for metalaxyl. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The 122 tolerances reassessed in this final rule count toward the August, 2002 review deadline.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301170, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301170 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; and e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301170. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 30, 2000 (65 FR 52746) (FRL–6739–4), EPA issued notices pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) 9F05044, 9E06005, and 9E06057 for tolerances by IR-4, Technology Centre of New Jersey, 681 US Highway #1 South, North Brunswick, NJ 08902–3390. These notices included summaries of the petitions prepared by Novartis Crop Protection, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR part 180 be amended by establishing tolerances for combined residues of the fungicide mefenoxam, (*R*)- and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as mefenoxam equivalents, in or on fresh herb subgroup at 5 part per million (ppm); dried herb subgroup at 30 ppm; fresh mint at 5 ppm; kiwifruit at 0.05 ppm; atemoya, globe artichoke, starfruit, sugar apple, sweepsop, and true custard at 0.1 ppm; papaya, black sapote, caimito, canistel, mamey sapote, mango, and sapodilla at 0.3 ppm; and lingonberry at 1.0 ppm. IR-4 subsequently revised the petitions, deleting tolerances for mint, sweepsop, and caimito; and changing tolerances for fresh herb from 5.0 ppm to 8.0 ppm; dried herb from 30 ppm to 55 ppm; kiwifruit from 0.05 ppm to 0.10 ppm; globe artichoke from 0.1 ppm to 0.05 ppm; atemoya, starfruit, sugar apple, and custard apple from 0.1 ppm to 0.20 ppm; papaya, black sapote, canistel, mamey sapote, mango, and sapodilla from 0.3 ppm to 0.40 ppm; and lingonberry from 1.0 ppm to 2.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of mefenoxam on globe artichoke at 0.05 ppm, starfruit at 0.20 ppm, kiwifruit at 0.10 ppm, papaya at 0.40 ppm, black sapote at 0.40 ppm, star apple at 0.40 ppm, canistel at 0.40 ppm, mamey sapote at 0.40 ppm, mango at 0.40 ppm, sapodilla at 0.40 ppm, sugar apple at 0.20 ppm, atemoya at 0.20 ppm, custard apple at 0.20 ppm, lingonberry at 2.0 ppm, fresh herbs at 8.0 ppm, and dried herbs at 55 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by mefenoxam are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed. Metalaxyl is the racemic mixture of the R- and S-enantiomers; mefenoxam is the R-enantiomer. Metalaxyl has an extensive toxicity data base and a Reregistration Eligibility Decision document was completed in September 1994. Data have been accepted by EPA which bridge the necessary environmental fate, chemistry, and toxicology studies from metalaxyl to mefenoxam. The structural similarities between mefenoxam and metalaxyl are the basis for bridging data between the two active ingredients. Mefenoxam and metalaxyl have the same empirical formula, and being optical isomers, differ only in the spatial arrangement of atoms in their structure. Both the R and S enantiomers are considered residues of concern for both chemicals.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents (rats)	NOAEL = 44.8 mg/kg/day LOAEL = 90.5 mg/kg/day based on increased hepatocyte hypertrophy, increased lymphocytic infiltration of liver.
870.3150	90-Day oral toxicity in nonrodents (dogs)	NOAEL = 250 mg/kg/day LOAEL = 1,250 mg/kg/day based on based on increased alkaline phosphatase activity and increased absolute and relative liver weights for both sexes.
870.3200	21-Day dermal toxicity	NOAEL = 1,000 mg/kg/day LOAEL >1,000 mg/kg/day.
870.3700	Prenatal developmental in rodents (rats)	Maternal NOAEL = 50 mg/kg/day LOAEL = 250 mg/kg/day based on clinical signs, including post-dose convulsions. Developmental NOAEL = 250 mg/kg/day LOAEL = 400 mg/kg/day based on increased incidence of skeletal variations.
870.3700	Prenatal developmental in nonrodents (rabbits))	Maternal NOAEL = 150 mg/kg/day LOAEL = 300 mg/kg/day based on decreased body weight gain. Developmental NOAEL = 300 mg/kg/day LOAEL > 300 mg/kg/day.

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TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3800	Reproduction and fertility effects (rats)	Parental/Systemic male (M): NOAEL = 62.5 mg/kg/day, female (F): NOAEL = 12.5 mg/kg/day M: LOAEL > 62.5 mg/kg/day, F:LOAEL = 62.5 mg/kg/day based on increased relative liver weights. Reproductive NOAEL = 62.5 mg/kg/day LOAEL > 62.5. Offspring NOAEL = 12.5 mg/kg/day; LOAEL = 62.5 mg/kg/day based on histopathological changes in the livers of female pups.
870.4100	Chronic toxicity dogs	NOAEL = M: 7.80 mg/kg/day, F: 7.41 mg/kg/day; LOAEL = M: 30.63 mg/kg/day, F: 32.36 mg/kg/day based on increased alkaline phosphatase, increased relative and absolute liver weights.
870.4300	Carcinogenicity/chronic toxicity rats	NOAEL = M: 9.43 mg/kg/day, F: 9.95 mg/kg/day; LOAEL = M: 46.6 mg/kg/day, F: 55.0 mg/kg/day based on increased serum alanine amino-transferase and serum aspartate amino-transferase, increased periacinar vacuolation of hepatocytes, increased absolute and relative liver weights. No evidence of carcinogenicity.
870.4300	Carcinogenicity mice	NOAEL = M: 24.85 mg/kg/day, F: 29.59 mg/kg/day; LOAEL = M: 128.89 mg/kg/day, F: 148.16 mg/kg/day based on increased fatty infiltration of the liver. No evidence of carcinogenicity.
870.5100	Gene Mutation	There was no concentration related positive response of induced mutant colonies over background in *Salmonella* or *E. coli* strains.
870.5385	*In vivo* Cytogenetics	Metalaxyl had no effect on the incidence of nuclear anomalies.
870.7485	Metabolism and pharmacokinetics	In the first 8 hours of treatment, approximately 30% of the dose was absorbed with 1% of the test substance in the skin at the application site.
870.7600	Dermal penetration	At 24 hours after dosing, approximately 35% was absorbed.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for mefenoxam used for human risk assessment is shown in the following Table 2:

TABLE 2.— SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR MEFENOXAM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary general population including infants and children	None	Not applicable	No appropriate study was identified.
Chronic dietary all populations	NOAEL = 7.41 mg/kg/day UF = 100 Chronic RfD = 0.074 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD/ FQPA SF = 0.074 mg/kg/day	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Short-term dermal (1 to 7 days) (Residential)	None	Not applicable	No systemic toxicity was seen at the limit dose in a 21-day dermal toxicity study in rabbits.
Intermediate-term dermal (1 week to several months) (Residential)	None	Not applicable	No systemic toxicity was seen at the limit dose in a 21-day dermal toxicity study in rabbits.
Long-term dermal (several months to lifetime) (Residential)	NOAEL= 7.41 mg/kg/day UF = 100 Chronic RfD = 0.074 mg/kg/day (dermal absorption rate = 35%)	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Short-term inhalation (1 to 7 days) (Residential)	oral study NOAEL= 50 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Developmental Toxicity in Rats LOAEL = 250 mg/kg/day based on decreased body weight gains and reduced food consumption.
Intermediate-term inhalation (1 week to several months) (Residential)	oral study NOAEL = 7.41 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Long-term inhalation (several months to lifetime) (Residential)	oral study NOAEL= 7.41 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Short-term oral (1 to 7 days) (Residential)	oral study maternal NOAEL = 50 mg/kg/day	LOC for MOE = 100 (Residential)	Developmental toxicity study in rats (mefenoxam). LOAEL = 250 mg/kg/day based on decreased body weight gains and reduced food consumption.
Intermediate-term oral (1 week to several months) (Residential)	oral study NOAEL = 7.41 mg/kg/day	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs (metalaxyl). LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry (alkaline phosphatase).
Cancer (oral, dermal, inhalation)	None	Not applicable	Based on the classification of metalaxyl,mefenoxam is also considered "not likely to be a human carcinogen."

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* A time-limited tolerance has been established (40 CFR 180.546) for the combined residues of mefenoxam, in or on canola (expires December 31, 2001). No other tolerances have been established for mefenoxam *per se*. Since metalaxyl is the racemic mixture of the R- and S- enantiomers; the risk assessment performed for the proposed new uses of mefenoxam includes all current metalaxyl tolerances/uses. Tolerances have been established (40 CFR 180.408) for metalaxyl on various raw agricultural commodities and animal commodities. Tolerances have been established for metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as metalaxyl equivalents, at 0.4 ppm in the fat, kidney, and liver of cattle, goats, hogs, horses, poultry, and sheep; 0.05 ppm in meat and meat byproducts (except kidney and liver) of cattle, goats, hogs, horses, poultry, and sheep; 0.02 ppm in milk, and 0.05 ppm in eggs. Risk assessments were conducted by EPA to assess dietary exposures from mefenoxam in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has

major mefenoxam products on turf additional tenfold margin of safety for consumption values vary on an

indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. An acute dietary risk assessment was not preformed for mefenoxam since an endpoint of concern was not identified during the review of the available studies.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1994–1996 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Since metalaxyl and mefenoxam share the same residues of concern, the chronic dietary exposure assessment was performed using established metalaxyl tolerances in addition to the proposed tolerances for mefenoxam. The chronic dietary analysis used residue values at the established and recommended tolerance levels, and assumed that 100 percent of the registered and proposed crops were treated. This Tier 1 chronic dietary analysis should be considered highly conservative.

iii. *Cancer.* Metalaxyl has been classified as "not likely to be carcinogenic in humans" based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, based on the classification of metalaxyl, mefenoxam is also considered "not likely to be a human carcinogen."

2. *Dietary exposure from drinking water.* Sufficient acceptable bridging data have been submitted to verify that the environmental fate of mefenoxam is similar to that of metalaxyl. Therefore, based on the bridging data submitted (soil photolysis, aerobic soil metabolism and batch equilibrium and column leaching studies), EPA can conclude that environmental fate studies of metalaxyl, including the reviewed studies on mefenoxam, can be used to predict the environmental fate of mefenoxam. Metalaxyl was found to be moderately stable under normal environmental conditions; its degradates are mobile in sandy soils and those low in organic matter. EPA has determined that residues of metalaxyl and mefenoxam and their metabolites *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine (CGA-62826), each expressed as parent equivalents, should be included in the drinking water assessment.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for mefenoxam in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of mefenoxam.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a Percent of the Reference Dose (%RfD) or Percent of the Population Adjusted Dose (%PAD). Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to mefenoxam they are further discussed in the aggregate risk sections below..

The first-tier screening model GENEEC was used to estimate potential surface water concentrations, and the screening model SCI-GROW was used to estimate potential ground water concentrations. The maximum annual lingonberry application rate of 5.4 lb a.i./acre (2.7 ai/acre twice) was used to model mefenoxam concentrations in drinking water. The GENEEC simulation of the lingonberry use predicts an acute concentration of 180 ppb, and a 90–day chronic concentration of 109 ppb. SCI-GROW modeling simulated mefenoxam concentrations in ground water of 13.5 ppb for this proposed use. For the degradate of concern, CGA-62826, GENEEC modeling results in estimates of 198 ppb for acute exposure and 194 ppb for chronic exposure, with limited environmental fate data. The predicted SCI-GROW concentration for this degradate is 37 ppb in ground water. The combined (parent plus metabolite) EEC values are 101 ppb (109 ppb for parent + 194 ppb for degradate/3) for chronic surface water and 51 ppb (13.5 ppb for parent and 37 ppb for degradate) for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Mefenoxam is currently registered for use on the residential non-dietary site turf. Risk assessments were conducted using the following residential exposure assumptions: Residential handler exposure has been assessed for two formulations of mefenoxam: an emulsifiable concentrate, (1) Subdue® MAXX® EC, and (2) a granular, Subdue® MAXX® GR both used at a maximum rate of 0.015 lb ai/1,000 ft^2. Non-occupational (residential) handlers may be exposed during mixing, loading and application of mefenoxam using a variety of application methods for short-term durations (1-7 days) based on the mefenoxam turf use. Continuous exposure over intermediate-term (7 days to several months) or long-term (several months or more) time periods are not expected. Dermal exposure was not assessed because applicable endpoints were not identified. MOEs for inhalation exposure from non-occupational handler scenarios were above the target of 100, and thus do not exceed EPA's level of concern.

Non-occupational postapplication exposures were also assessed for Subdue® MAXX® EC (46.6%) and Subdue® MAXX® GR (0.97%), two

major mefenoxam products on turf which are considered to represent the reasonable upper bound residential exposure potential. Adults and children may be exposed to mefenoxam residues following treatment of residential areas. However, postapplication exposure is limited to incidental oral exposure, since post application inhalation exposure is expected to be negligible and endpoints were not identified for short- or intermediate-term dermal risk assessment. Postapplication exposure assessments were performed for toddler's incidental ingestion of residues of mefenoxam on treated turf (hand-to-mouth, object-to-mouth) and ingestion of granules. MOEs for oral exposure to toddlers were all above 100 and thus do not exceed EPA's level of concern. Also, combined exposure from toddler's incidental ingestion of mefenoxam residues on treated turf and from object-to-mouth exposure from treated turfgrass and soil results in short-term MOEs that are greater than 100 and do not exceed EPA's level of concern.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether mefenoxam has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, mefenoxam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that mefenoxam has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Conclusion.* There is a complete toxicity data base for mefenoxam and exposure data are complete or are estimated based on data that reasonably account for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because (1) there is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure, (2) a developmental neurotoxicity study is not required at this time, and (3) the dietary (food and drinking water) and non-dietary exposure assessments will not underestimate the potential exposures for infants and children.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, the Office of Pesticide Programs (OPP) concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Acute aggregate risk consists of the combined dietary exposures from food and drinking water sources. The total exposure is compared to the acute RfD. An acute RfD was not identified. Therefore, an acute aggregate risk assessment was not performed.

2. *Chronic risk.* EPA determined that the parent, mefenoxam, and the metabolite *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine (CGA-62826), each expressed as parent equivalents, should be included in the drinking water assessment. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to mefenoxam from food will utilize 17% of the cPAD for the U.S. population, 36% of the cPAD for children 1-6 years old and 14% of the cPAD for females 13-50 years old. Based on the use pattern, chronic residential exposure to residues of mefenoxam is not expected. In addition, there is potential for chronic dietary exposure to mefenoxam in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO MEFENOXAM

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Ground Water EEC (ppb)	Surface Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.074	17	51	101	2,100
Children 1-6 years	0.074	36	51	101	460
Females 13-50 years	0.074	14	51	101	1,900

3. *Short- and intermediate-term risk.* Short and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Mefenoxam is currently registered for use that could result in short-and intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short- and intermediate-term exposures for mefenoxam.

Short-term and intermediate aggregate risks from mefenoxam were calculated based on exposures from the oral and inhalation routes of exposure. Inhalation exposure was assessed for the adult, residential pesticide handler only. Postapplication, inhalation exposure to the adult handler is not considered a significant route of exposure. Incidental oral risk was assessed for the postapplication exposure of toddlers in the home environment only. Dermal toxicity endpoints were not chosen for this chemical and thus an assessment of the dermal route of exposure was not performed.

Short- and intermediate-term daily doses from the hand-to-mouth, turfgrass, and soil ingestion pathways were combined and represent the residential exposure potential for toddlers, represented as children 1 to 6 years old. Short- and intermediate-term inhalation values from the residential activity which resulted in the greatest exposure, were used to calculate residential exposures to adult home applicators. In all cases, the residential exposures described above were added to the average food exposures to develop the aggregate exposure estimate. This exposure estimate was then compared to the appropriate toxicity endpoint.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 3,700 for the U.S. population, and 1,300 for children 1-6 years old, and 4,400 for females 13-50 yrs. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of mefenoxam in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO MEFENOXAM

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC(ppb)	Short-Term DWLOC (ppb)
Females 13-50 yrs	4,400	100	101	51	14,000
US Population	3,700	100	101	51	17,000
Children 1-6 yrs	1,300	100	101	51	4,600

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 650 for females 13-50 years old, 560 for the U.S. population, and 230 for children 1-6 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of mefenoxam in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO MEFENOXAM

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Females 13-50 yrs	650	100	101	51	1,900
U.S. population	560	100	101	51	2,100
Children 1-6 yrs	230	100	101	51	420

5. *Aggregate cancer risk for U.S. population.* Metalaxyl has been classified as "not likely to be carcinogenic in humans" based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, based on the classification of metalaxyl, mefenoxam is also considered "not likely to be a human carcinogen."

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to mefenoxam residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement method, Method AG-395 (MRID 00148440; sent to FDA for inclusion in PAM II as Method III), is available to determine the regulated residues of mefenoxam i.e., the combined residues of (*R*)-and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as mefenoxam equivalents in artichoke, carambola (starfruit), sugar apple, sweetsop, atemoya, true custard apple, kiwifruit, papaya, black sapote, caimito, canistel, mamey sapote, mango, sapodilla, lingonberry, and herbs. Method AG-395 is an improved modification of Method I (Method AG-348) in PAM II. In AG-348, residues are converted to 2,6-dimethylaniline and analyzed by gas chromotography (GLC) with alkali flame ionization detection (AFID). Gas-liquid chromatography/mass spectrometry in the chemical ionization mode with selected ion monitoring is used in the determinative step of Method AG-348 for samples that show interference in the GLC/AFID analysis. In AG-395, residues are converted to 2,6-dimethylaniline and analyzed by gas liquid chromatography (GLC) with a nitrogen/phosphorus detector operating in the nitrogen-specific mode. The limit of quantitation of Method AG-395 is 0.05 ppm for each commodity. Method I in PAM II and Method AG-395 do not distinguish between mefenoxam R-isomer) and metalaxyl which is a mixture of the R and S enantiomers). Method 456-98 can distinguish between R and S enantiomers. A successful EPA method validation has been completed by EPA for Method 456-98.

Adequate enforcement methodology (example: Gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

No Codex, Canadian, or Mexican Maximum Residue Limits or tolerances have been established for mefenoxam on artichoke, starfruit, kiwifruit, papaya, black sapote, caimito, canistel, mamey sapote, mango, sapodilla, sugar apple, sweetsop, atemoya, true custard apple, lingonberry, or herbs.

C. Rotational Crops

An adequate confined rotational crop study is available on metalaxyl. Based on the metalaxyl confined rotational crop study, EPA has determined that the residues of mefenoxam to be regulated for the tolerance expression and for dietary risk assessments for rotational crops are (*R*)- and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as parent equivalents, except that 2-[(methoxyacetyl)(2-methoxy-1-methyl-2-oxoethyl)amino]-3-methylbenzoic acid (CGA-108905) and *N*-(3-hydroxy-2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester (CGA-100255) will be considered in risk assessments involving the foliar use of mefenoxam on the treated crop. EPA concludes that U.S. tolerances are adequate to cover residues on crops grown in rotation with mefenoxam treated crops, provided crop rotation is limited to crops that have established metalaxyl or mefenoxam tolerances. Crop rotational studies are not required for globe artichoke, starfruit, kiwifruit, papaya, black sapote, star apple, canistel, mamey sapote, mango, sapodilla, sugar apple, atemoya, custard apple, lingonberry; it is not reasonably foreseeable that any other food or feed crop will be planted after harvest of these treated crops.

D. Conditions

Registration for use of mefenoxam on papaya and kiwifruit will be conditional. Continued registration will be contingent upon EPA receiving additional residue field trials for papaya and kiwifruit. One additional field trial on kiwifruit from California is required. Additional field trials for papaya are needed from Hawaii and Florida.

V. Conclusion

Therefore, these tolerances are established for the combined residues of mefenoxam, (*R*)- and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, in or on globe artichoke at 0.05 ppm, starfruit at 0.20 ppm, kiwifruit at 0.10 ppm, papaya at 0.40 ppm, black sapote at 0.40 ppm, star apple at 0.40 ppm, canistel at 0.40 ppm, mamey sapote at 0.40 ppm, mango at 0.40 ppm, sapodilla at 0.40 ppm, sugar apple at 0.20 ppm, atemoya at 0.20 ppm, custard apple at 0.20 ppm, lingonberry at 2.0 ppm, fresh herbs at 8.0 ppm, and dried herbs at 55 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File on Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301170 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001..

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

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178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301170, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agriculturalcommodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.546 is amended by adding text to paragraph (a) to read as follows:

§ 180.546 Mefenoxam; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of (*R*)- and (*S*)-2-[(2,6-dimethyl(phenyl)-methoxyacetylamine]-propionic acid methyl ester, and its metabolites containing the 2,6 dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as mefenoxam equivalents, in or on the following food commodities:

Commodity	Parts per million
Artichoke, globe	0.05
Atemoya	0.20
Canistel	0.40
Custard apple	0.20
Herbs, dried	55
Herbs, fresh	8.0
Kiwifruit	0.10
Lingonberry	2.0
Mango	0.40
Papaya	0.40
Sapodilla	0.40
Sapote, black	0.40
Sapote, mamey	0.40
Star apple	0.40
Starfruit	0.20
Sugar apple	0.20

* * * * *

[FR Doc. 01–23088 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301172; FRL–6803–2]

RIN 2070–AB78

Bentazon; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of bentazon (3-isopropyl-1H-2,1,3-Benzothiadiazin-4(3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on Flax, seed at 1.0 ppm. BASF Corporation, Agricultural Products Division requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301172, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301172 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: 703–305–6224; and e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://

www.epa.gov/. To access this

Section 408(b)(2)(A)(i) of the FFDCA

(LOAEL) from the toxicity studies

of departure/exposures) is calculated. A

assessment is shown in the following

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www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301172. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 17, 1998 (63 FR 43937)(FRL–6018–2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 6F4640, 3F4270) for tolerance by BASF Corporation, Agricultural Products Division, P.O 13528, Research Triangle Park, NC 27709–35281. This notice included a summary of the petition prepared by BASF Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.355(a) be amended by establishing a tolerance for combined residues of the herbicide bentazon, (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide and its 6- and 8-hydroxy metabolites, in or on Flax, seed at 1.0 part per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of bentazon on Flax, seed at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by bentazon are discussed in the **Federal Register** of March 8, 2000 (65 FR 12122)(FRL–6492–7) as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

B. Toxicological Endpoints

The NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for bentazon used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BENTAZON FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Acute Dietary (Females 13–50 years old)	Developmental NOAEL = 100 UF = 100 FQPA SF* = 10	Increased postimplantation loss, skeletal variations, and reduced weight of fetuses at a LOAEL of 250 mg/kg/day.	Developmental Toxicity-Rat
	Acute RfD = 1 mg/kg		
	Acute PAD = 0.1 mg/kg		
Acute Dietary (General Population)	None	A dose and non-developmental endpoint attributable to a single exposure were not identified in oral toxicity studies.	None
		Risk Assessment is NOT required.	
Chronic Dietary	NOAEL = 3.2 UF = 100 FQPA SF = 10	A dose-dependent presence of feces with red areas in dogs at 13.1 mg/kg/day (LOAEL) and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.	One-Year Feeding Study-Dog
	Chronic RfD = 0.03 mg/kg/day		
	Chronic PAD = 0.003 mg/kg/day		
Short-Term (Dermal)	No systemic toxicity was seen at the Limit-Dose in a 21-day dermal toxicity study in rabbits. Therefore, this risk assessment is NOT required.		
Intermediate-Term (Dermal)[a]	Oral NOAEL = 13.1 MOE = 100 (Occupational) MOE = 1,000 (Residential)	The presence of feces with red areas seen in dogs at weeks 4, 6, and 12 at a LOAEL of 52.3 mg/kg/day.	One-Year Feeding Study-Dog
Long-Term (Dermal)[a,d]	Oral NOAEL = 3.2 MOE = 100 (Occupational) MOE = 1,000 (Residential)	A dose-dependent presence of feces with red areas in dogs at a LOAEL of 13.1 mg/kg/day (seen at week 33) and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.	One-Year Feeding Study-Dog
Short Term (Inhalation)[b]	Oral Developmental NOAEL = 100 MOE = 100 (Occupational) MOE = 1,000 (Residential)	Increased postimplantation loss, skeletal variations, and reduced weight of fetuses at a LOAEL of 250 mg/kg/day.	Developmental Toxicity-Rat
Intermediate Term (Inhalation)[c,d]	Oral NOAEL = 13.1 MOE = 100 (Occupational) MOE = 1,000 (Residential)	The presence of feces with red areas seen in dogs at weeks 4, 6, and 12 at a LOAEL of 52.3 mg/kg/day.	One-Year Feeding Study-Dog
Long Term (Inhalation)[c,d]	Oral NOAEL=3.2 MOE = 100 (Occupational) MOE = 1,000 (Residential)	A dose-dependent presence of feces with red areas in dogs at a LOAEL of 13.1 mg/kg/day (seen at week 33) and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.	One Year Feeding Study-Dog

[a] A dermal absorption factor of 2% should be used for route-to-route extrapolation.
[b] An inhalation absorption factor of 100% should be used for route-to-route extrapolation for short-term inhalation risk assessment.
[c] An inhalation absorption factor of 100% and a dermal absorption factor of 2% should be used for route-to-route extrapolation for intermediate- and long-term risk assessments.
[d] Although long-term dermal and inhalation endpoints were selected, the current use pattern does not indicate a concern for long-term dermal or inhalation exposure potential. Long-term dermal and inhalation risk assessments were not conducted.
* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.355(a)) for the combined residues of bentazon (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on a variety of raw agricultural commodities. Tolerances are also established for the combined residues of the herbicide bentazon (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide) and its metabolite 2-amino-*N*-isopropyl benzamide (AIBA) in or on the following food commodities: for cattle, goats, hogs, poultry, and sheep, fat, meat-by-products, and meat, with a tolerance of 0.05 ppm, for eggs, with a tolerance of 0.05 ppm, and milk, with a tolerance of 0.02 ppm. Risk assessments were conducted by EPA to assess dietary exposures from bentazon in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food

model predictions. There are no surface estimates of a pesticide's concentration Tolerances (62 FR 62961, November 26,

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consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: An acute analysis was performed using tolerance level residues, 100% crop treated (CT), and DEEM® default processing factors for all commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: an Anticipated Residue was calculated for succulent peas using average residue values (1.08 ppm) from the submitted crop field trials. Percent CT information for several commodities was used. For all other commodities 100% CT was assumed. DEEM® default processing factors were used for all commodities.

iii. *Cancer.* Bentazon has been classified as a Group E chemical (evidence of non-carcinogenicity for humans) based upon lack of evidence of carcinogenicity in rats and mice.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as follows.

For the acute analysis, tolerance level residues and 100% CT was assumed for all commodities. For the chronic analysis, PCT information was used for mint (25%), sweet corn (13%), snap beans (15%), green peas (13%), dry beans and peas (17%), alfalfa (0%), sorghum (0%), corn (1%), rice (5%), peanuts (27%), soybeans (12%), and potatoes (0%). For alfalfa, sorghum and potatoes, which have %CT estimates of zero, a value of 1% CT was used in the analysis. For all crops other than mint, sweet corn, snap beans, green peas, dry bean and peas, alfalfa, sorghum, corn, rice, peanuts, soybeans and potatoes, 100% CT was used, and tolerance level residues were used for all crops.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which bentazon may be applied in a particular area.

2. *Dietary exposure from drinking water.* Degradation products of bentazon in the tolerance expression are 8-hydroxy bentazon (plants), 6-hydroxy bentazon (plants), and AIBA (animals). AIBA was the only degradation product in the tolerance expression which was found in standard laboratory environmental fate studies. Therefore, the water assessment was conducted for bentazon and AIBA.

SCI-GROW (Screening Concentration in Ground Water) modeling indicates that bentazon residue (bentazon + AIBA) concentrations in ground water used as drinking water are not likely to exceed 4.25 parts per billion (ppb). As reported in the 1994 bentazon RED, bentazon concentrations (excluding degradation products) in ground water are higher (20 to 120 ppb) when compared to SCI-GROW model predictions. The maximum concentration of bentazon (120 ppb) was observed in shallow groundwater samples near greens and tees in a United States Geological Survey (USGS) and the Florida Department of Environmental Protection (FDEP) monitoring study. Since the monitoring data indicate a higher concentration than the SCI-GROW screening model, EPA used the 20 ppb as the representative national Tier 1 ground water screening concentration for bentazon.

Tier II PRZM-EXAMS modeling indicates that cumulative bentazon residue (bentazon + AIBA) concentrations in surface water to be used as screening concentrations for bentazon are 41 ppb for the 1 in 10 year peak (acute) and 8 ppb for the 36 year annual mean (chronic).

A preliminary review of the National Water Quality Assessment Program (NAWQA) monitoring data suggest that bentazon concentrations in surface water are substantially lower than

model predictions. There are no surface water monitoring data for bentazon degradation products. Bentazon has been detected in 37 agricultural streams at a concentration of 0.05 ppb for the 95th percentile and estimated maximum concentration of 5 ppb and 14 integrator sites on large streams at a concentration of 0.15 ppb for the 95th percentile and estimated maximum concentration of 2.8 µg/L. Bentazon was not detected (less than Method of Detection Limit) in urban streams (http://water.wr.usgs.gov/pnsp/gwsw1.html, 3/27/98). Bentazon is not reported in the latest summary of the NAWQA monitoring data (Larson, et al., "Pesticides in Streams of the United States-Initial Results from the National Water-Quality Assessment Program Water Resources Investigations Report" 98–4222). Bentazon degradation products were not part of the analysis in the NAWQA monitoring program.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario; while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use EECs from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to bentazon they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW models the EECs of bentazon for acute exposures are estimated to be 41 ppb for surface water and 20 ppb for ground water. The EECs for chronic exposures are estimated to be 8 ppb for surface water and 20 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Bentazon is currently registered for use on the following residential non-dietary sites: turf and ornamentals. The risk assessment was conducted using the following residential exposure assumptions: Although bentazon is a registered herbicide for use on turf and ornamentals, short-term non-dietary ingestion exposure for toddlers is not assessed since EPA determined that there is no acute dietary or oral endpoint applicable to infants and children.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether bentazon has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, bentazon does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that bentazon has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* Both the rat developmental and reproductive toxicity studies indicate increased susceptibility from *in utero* and post natal exposure to bentazon. The available developmental toxicity data in rabbits did not provide an indication of increased susceptibility from *in utero* exposure to bentazon.

3. *Conclusion.* There is a complete toxicity data base for bentazon and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The FQPA safety factor for protection of infants and children will be retained at 10x in assessing the risk posed by bentazon. This decision is based on:

i. Evidence of increased susceptibility following in utero exposure to bentazon in the prenatal developmental toxicity study in rats in the absence of maternal toxicity.

ii. Quantitative evidence of increased susceptibility following prenatal/postnatal exposure to bentazon in the 2-generation reproduction study in rats.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water

exposure (mg/kg/day) = cPAD - (average

calculated for each type of risk

impacts of residues of the pesticide in

concern, as shown in the following

exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, the USEPA Office of Pesticide Programs (OPP) concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to bentazon will occupy 2% of the aPAD for females 13 years and older. No appropriate endpoint was available to quantitate risk to the general U.S. population from a single dose administration of bentazon. In addition, there is potential for acute dietary exposure to bentazon in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO BENTAZON

Population Subgroup[1]	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC(ppb)	Acute DWLOC[2] (ppb)
Females 13–50 years old	0.1	2	41	20	2,900

[1] Population subgroup chosen was the female subgroup with the highest food exposure (60 kg. body weight assumed).
[2] Allowable Drinking Water Exposure (mg/kg/day) = aPAD (mg/kg/day) - Dietary Exposure from DEEM (mg/kg/day)

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bentazon from food will utilize less than or equal to 10% of the cPAD for the U.S. population, 12% of the cPAD for non-nursing infant and 28% of the cPAD for children 1–6 years old.

Based on the use pattern, chronic residential exposure to residues of bentazon is not expected. In addition, there is potential for chronic dietary exposure to bentazon in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO BENTAZON

Population Subgroup[1]	cPAD mg/kg/day	% cPAD(Food)	Surface Water EEC[2] (ppb)	Ground Water EEC[2] (ppb)	Chronic DWLOC[3] (ppb)
U.S. Population (48 states)	0.003	10	8	20	95
Non-nursing infants	0.003	12	8	20	26
Children 1–6 years old	0.003	28	8	20	22
Children 7–12 years old	0.003	16	8	20	26
Females 13–50 years old	0.003	6.3	8	20	95
Males 13–19 years old	0.003	10	8	20	95
Males 20+ years old	0.003	6.7	8	20	98
Seniors 55+ years old	0.003	6.2	8	20	99

[1] Population subgroups chosen were U.S. population (70 kg. body weight assumed), the female subgroup with the highest food exposure (60 kg. body weight assumed),the infant/child subgroup with the highest food exposure (10 kg body weight assumed), and the other general population subgroups (70 kg body weight assumed) which have higher dietary exposure than the U.S. population.
[2] Allowable Drinking Water Exposure (mg/kg/day) = cPAD (mg/kg/day) - Dietary Exposure from DEEM (mg/kg/day)
[3] DWLOC(µg/L) = maximum water exposure (mg/kg/day) x body weight(kg) ÷ water consumption (L) x 10^{-3} mg/µg

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Bentazon is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for bentazon.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 250,000 for females 13–50 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of bentazon in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO BENTAZON

Population Subgroup	Aggregate MOE[1] (Food + Residential)[2]	Aggregate Level of Concern[3] (LOC)	Surface Water EEC[4] (ppb)	Ground Water EEC[4] (ppb)	Short-Term DWLOC[5] (ppb)
Females 13–50 years old	250,000	1,000	8	20	3,000

[1] Residential Exposure = Oral exposure + Dermal exposure + Inhalation Exposure
[2] Maximum Exposure (mg/kg/day) = NOAEL/Target MOE
[3] Basis for the target MOE: inter- and intra- species UFs totaling 100 + 10X FQPA SF
[4] The crop producing the highest level was used.
[5] DWLOC(µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) (60 kg. body weight assumed) 2 (L) x 10^{-3} mg/µg
* Aggregate MOE = NOAEL ÷ (Avg Food Exposure + Residential Exposure)
* Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - (Food Exposure + Residential Expoxure)

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Bentazon is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for bentazon.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 8,200 for males 20+ years old, females 13–50 years old and males 13–19 years old and 1,900 for children 1–6 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of bentazon in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO BENTAZON

Population Subgroup	Aggregate MOE[1] (Food + Residential)[2]	Aggregate Level of Concern[3] (LOC)	Surface Water EEC[4] (ppb)	Ground Water EEC[4] (ppb)	Intermediate-Term DWLOC[5] (ppb)
Males 20+ years old	8,200	1,000	8	20	400
Females 13–50 years old	8,200	1,000	8	20	340
Children 1–6 years old	1,900	1,000	8	20	64
Males 13–19 years old	8,200	1,000	8	20	400

[1] Residential Exposure = Oral exposure + Dermal exposure + Inhalation Exposure
[2] Maximum Exposure (mg/kg/day) = NOAEL/Target MOE
[3] Basis for the target MOE: inter- and intra- species UFs totaling 100 x 10X (FQPA SF)
[4] The crop producing the highest level was used.
[5] DWLOC(µg/L) = maximum water exposure (mg/kg/day) x body weight (kg)÷ water consumption (L) x 10^{-3} mg/µg
* Aggregate MOE = NOAEL÷ (Avg Food Exposure + Residential Exposure)
* Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - (Food Exposure + Residential Exposure)

5. *Aggregate cancer risk for U.S. population.* Bentazon has been classified as a Group E chemical (evidence of non-carcinogenicity for humans) based upon lack of evidence of carcinogenicity in rats and mice. Therefore no cancer risk is expected.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to bentazon residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for the determination of residues of bentazon and its 6- and 8-hydroxy metabolites in/on plant commodities. The Pesticide Analytical Method Volume II (PAM II) lists Method II, a GLC method with flame photometric detection for the determination of bentazon and its hydroxy metabolites in/on corn, rice, and soybeans; the limit of detection (LOD) for each compound is 0.05 ppm. Method III, modified from Method II, is available for the determination of bentazon and its hydroxy metabolites in/on peanuts and seed and pod vegetables with a LOD of 0.05 ppm for each compound. These methods are adequate to enforce the tolerances associated with this petition.

B. International Residue Limits

There is a Codex maximum residue limit (MRL) of 0.1 ppm for bentazon and its metabolites established in/on linseed. Therefore, a compatibility issue is relevant to the proposed flax, seed tolerance. Harmonization of the U.S. tolerance will not be possible as the use pattern proposed in this petition may result in residues which exceed the Codex MRL.

C. Conditions

Analytical analyses of bentazon and its regulated metabolites using the FDA multiresidue protocols are required as part of the conditional registration of bentazon on flax.

V. Conclusion

confidential may be disclosed publicly

file format and avoid the use of special

consensus standards pursuant to section

relationship between the Federal

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Therefore, the tolerance is established for combined residues of bentazon, (3-isopropyl-H-2,1,3-Benzothiadiazin-4 (3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on flax, seed at 1.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301172 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301172, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 7, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.355 is amended by revising the term "commodity" in the introductory text to paragraph (a) to read "commodities" and by alphabetically adding the commodity "flax, seed" to the table in paragraph (a)(1) to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * *

Commodity	Parts per million
* *	* * *
Flax, seed	1.0
* *	* * *

* * * * *

[FR Doc. 01–23085 Filed 9–14–01; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000407096–0096–01; I.D. 090501C]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Implementation of Conditional Closures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Implementation of conditional closures in the Gulf of Maine.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator) has determined that at least 1.67 million lb (759 metric tons (mt)) of Gulf of Maine (GOM) cod has been landed as of July 31, 2001. Therefore, pursuant to regulations governing the Northeast multispecies fishery, specific areas within this fishery will be closed. The intent of this action is to protect GOM cod resources.

DATES: Effective November 1, 2001, through January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: Regulations implementing the conditional Cashes Ledge and GOM Rolling Closure Areas in Framework Adjustment 33 (65 FR 21658, April 24, 2000) became effective on June 1, 2000. To help ensure that GOM cod landings remain within the target TAC established for the fishing year, Framework 33 provided a mechanism specified at 50 CFR 648.81(o) to close the area identified as the Cashes Ledge Closure Area from November 1 through November 30, and the area identified as Rolling Closure Area VI from January 1 through January 31 if the Regional Administrator determines that at least 50 percent of the average between the $F_{0.1}$ target total allowable catch (TAC) and the F_{max} target TAC (1.67 million lb (759 mt) for the fishing years beginning May 1, 2000, and May 1, 2001) has been landed as of, or before, July 31. Last year, on September 5, 2000, NMFS announced (65 FR 53648) that the

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conditional closures would become effective for the 2000 fishing year.

For the 2001 fishing year, which began on May 1, 2001, the New England Fishery Management Council (Council) voted to maintain the same GOM cod target TACs as in fishing year 2000 (for F_{max} and $F_{0.1}$), because of uncertainty regarding 1999 and 2000 GOM cod discard levels (66 FR 15812, March 21, 2001). The intent of retaining the same GOM cod target TACs was to prevent an increase in the exploitation of GOM cod during the 2001 fishing year. The conditional closure of Cashes Ledge in November 2001, and a portion of Massachusetts Bay in January 2002, are therefore required, if preliminary landings data through July 31, 2001, indicate that more than 1.67 million lb (759 mt) of GOM cod has been landed. NMFS is required to publish notification in the **Federal Register** informing the public of the implementation of the conditional closures if GOM cod landings exceed those levels.

Based upon the best available scientific information, the Regional Administrator has determined that at least 1.67 million lb (759 mt) of GOM cod has been landed as of July 31, 2001. Therefore, NMFS is implementing the conditional closure of the Cashes Ledge Closure Area, as described in § 648.81(h)(1), and Rolling Closure Area VI, as described in § 648.81(g)(1)(vi), to better ensure that GOM cod landings remain within the target TACs established for the 2001 fishing year. Pursuant to § 648.81(o), the Cashes Ledge Closure Area will be closed from November 1, 2001, through November 30, 2001, and Rolling Closure Area VI will be closed from January 1, 2002, through January 31, 2002, to all fishing vessels, and to fishing gear capable of catching Northeast multispecies, except as provided under § 648.81(h)(2) and (g)(2).

The coordinates of the closed areas are as follows:

CASHES LEDGE CLOSURE AREA

Point	N. Lat.	W. Long.
CL1	43°07′	69°02′
CL2	42°49.5′	68°46′
CL3	42°46.5′	68°50.5′
CL4	42°43.5′	68°58.5′
CL5	42°42.5′	69°17.5′
CL6	42°49.5′	69°26′
CL1	43°07′	69°02′

ROLLING CLOSURE AREA VI

Point	N. Lat.	W. Long.
GM1	42°00′	(2)
GM2	42°00′	(3)
GM3	42°00′	(4)
GM4	42°00′	70°00′
GM8	42°30′	70°00′
GM9	42°30′	(2)

(1) or other intersecting line: (2) Massachusetts shoreline (3) Cape Cod shoreline on Cape Cod Bay (4) Cape Cod shoreline on the Atlantic Ocean

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: September 12, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries National Marine Fisheries Service.

[FR Doc. 01–23178 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 66, No. 180

Monday, September 17, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Parts 50 and 80

[Docket Number 010828220–1220–01]

RIN 0607–AA24

Amendments to Age Search Procedures

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Bureau of the Census (Census Bureau) proposes a rule that would clarify and revise the general information requirements pertaining to its Age Search program. The Census Bureau is proposing these clarifications to ensure that there are no misunderstandings about the program requirements as a result of ambiguous language. The intent of the Census Bureau in taking these actions is to clarify and revise processing requirements and legal restrictions.

DATES: Written comments must be submitted on or before October 17, 2001.

ADDRESSES: Direct all written comments on this proposed rulemaking to Judith N. Petty, Chief, National Processing Center, U.S. Census Bureau, 1201 East 10th Street, Room 247, Building 66, Jeffersonville, IN 47132, by telephone on (812) 218–3344 or by fax on (812) 218–3293.

FOR FURTHER INFORMATION CONTACT: Stanley M. Domzalski, Assistant Division Chief (Services), National Processing Center, U.S. Census Bureau, 1201 East 10th Street, Room 247, Building 66, Jeffersonville, IN 47132, by telephone on (812) 218–3579 or by fax on (812) 218–3293.

SUPPLEMENTARY INFORMATION:

Background

The age and citizenship searching service is a self-supporting operation of the Census Bureau in accordance with Title 31, United States Code, Section 483a. Under this statute, all expenses incurred in the retrieval of personal information from decennial census records and the preparation of census transcripts are covered by fees paid by individuals who request this service. The Age Search census transcript provides proof of age to qualify individuals for social security or other retirements benefits, proof of citizenship to obtain passports, proof of family relationships for rights of inheritance, or to satisfy other situations where a birth certificate is required but not available. Census records are also considered a valuable tool for genealogical research. The 1910 through 1990 censuses in custody of the Census Bureau are confidential and protected from disclosure by Title 13, United States Code.

Program Requirements

In order to clarify and update the general rules applying to the Age Search Program, the Census Bureau proposes the following four amendments to Title 15, Code of Federal Regulations (CFR), parts 50 and 80:

- Amend § 50.1 to change the time frame from 120 days to 90 days for submitting any required additional information after completing an initial, unsuccessful search. This change is consistent with current policy on the issue.
- Amend § 50.5 to update the note following the chart on the fee structure. The Census Bureau has not had a fee increase since 1993.
- Amend § 80.1 to clarify the procedures for releasing census information. This change is consistent with current policy on the issue.
- Amend § 80.1 to reflect the current address.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The rulemaking revises and clarifies language in procedures and requirements for the Age Search program. The clarification in language does not impose any additional costs or have any other adverse economic impact on small business or entities who use the Age Search program.

The revision to the number of days the public has to submit any required additional information after completing an initial, unsuccessful search may have an effect on program users. The proposed rule would reduce, from 120 to 90, the number of days the public has to submit additional information. The Census Bureau is proposing this revision to the time frame to promote efficiency in the administrative process. While the time period for filing requested information would be 30 days shorter than previously allowed, there is no cost to small entities directly attributable to this reduced time period.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a current Office of Management and Budget (OMB) control number. This notice does not represent a collection of information and is not subject to the PRA's requirements. The Form BC–600, referenced in the amended language for § 80.1, has been cleared under OMB control number 0607–0117.

List of Subjects

15 CFR Part 50

Census data, Population census, Statistics.

15 CFR Part 80

Census data, Population census, Statistics

For reasons set out in the preamble, Parts 50 and 80 are amended as follows:

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

1. The authority citation for 15 CFR part 50 continues to read as follows:

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Authority: Sec. 3, 49 Stat. 293, as amended; and 15 U.S.C. 192a. Interprets or applies sec. 1, 40 Stat. 1256, as amended; sec. 1, 49 Stat. 292; sec. 8, 60 Stat. 1013, as amended; 15 U.S.C. 192, 189a; and 13 U.S.C. 8.

2. Amend § 50.1 by revising paragraph (d) to read as follows:

§ 50.1 General.

* * * * *

(d) If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

* * * * *

3. Amend § 50.5 by revising the following note on the chart.

§ 50.5 Fee structure for age search and citizenship information

* * * * *

Note: The $10.00 for each full schedule requested is in addition to the $40.00 transcript fee.

PART 80—FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES

1. The authority citation for 15 CFR part 80 continues to read as follows:

Authority: Sec. 1, Pub. L. 83–1158, and 68 Stat. 1013 (13 U.S.C. 8).

2. Amend § 80.1 by revising paragraphs (c) and (g) to read as follows:

§ 80.1 General requirements.

* * * * *

(c) Requests for information from decennial census of population records (herein "Census Information") should be made available on Form BC–600, which is available from offices at the Census Bureau in Suitland, Maryland 20233, and Jeffersonville, Indiana 47131; all county courthouses; Social Security Administration field offices; post offices; and Immigration and Naturalization Service offices. A letter request—without Form BC–600—will be accepted only if it contains the information necessary to complete a Form BC–600. No application will be processed without payment of the required fee as set forth in 15 CFR 50.5.

* * * * *

(g) Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC–600.

Dated: September 10, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–23164 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08–01–012]

RIN 2115–AE46

Marine Events and Regattas; Annual Marine Events in the Eighth Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish and modify various annually recurring marine events throughout the Eighth Coast Guard District. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to control vessel traffic in portions of the waterways of the Eighth Coast Guard District in conjunction with these marine events.

DATES: Comments and related material must reach the Coast Guard on or before October 17, 2001.

ADDRESSES: You may mail comments and related material to Commander (dl), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The Eighth Coast Guard District legal office maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 1311, Hale Boggs Federal Building, New Orleans, Louisiana, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander David Nichols, Eighth Coast Guard District Legal Office, (504) 589–6188.

SUPPLEMENTARY INFORMATION:

Regulatory History

Annual marine events in the Eighth Coast Guard District are listed in Table 1 of 33 CFR § 100.801. This part provides the regulations that apply to all marine events listed in Table 1. Occasionally, these regulations require updating and/or modification.

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–01–012), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your comments and material reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Eighth Coast Guard District legal office at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Discussion of Proposed Rule

This proposed regulation would establish six annually recurring marine events and change the regulated areas of two established annually recurring marine events. This proposed rulemaking is necessary to ensure the safety of life on the navigable waters of the United States and to give the marine community the opportunity to comment on these events. The events being added or amended are as follows:

Independence Day Fireworks, Mobile, AL

The Coast Guard proposes to establish an annual marine event on the Mobile River. The regulated area will be from the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North. The Mobile Register will sponsor the one-day event that will occur on the 4th of July.

Blue Angels Air Show, Pensacola, FL

The Coast Guard proposes to establish an annual marine event off the Pensacola Beach on the Gulf of Mexico. The regulated area will be a five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront. Naval

Air Station Pensacola, Florida will sponsor the two-day event that will occur on the 2nd weekend in July.

Fort-to-Fort Swim, Pensacola, FL

The Coast Guard proposes to establish an annual marine event in the Gulf Intracoastal Waterway at Pensacola, Florida. The regulated area will be from the Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16. The one-day event will occur on the 1st weekend in August.

Keesler Air Force Base Air Show, Biloxi, MS

The Coast Guard proposes to establish an annual marine event in Back Bay, Biloxi, Mississippi. The regulated area will be bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees, 55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West. Keesler Air Force Base, Biloxi, Mississippi, will sponsor the two-day event that will occur on the 1st weekend in November.

Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

The Coast Guard proposes to establish an annual marine event in Santa Rosa Sound. The regulated area will be Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou. The Krewe of Billy Bowlegs of Okaloosa County, Inc. will sponsor the two-day event that will occur on the 1st weekend in June.

East-West Powerboat Shootout, Corpus Christi, TX

The Coast Guard proposes to establish an annual marine event in Corpus Christi Bay adjacent to the Corpus Christi downtown area. The regulated area will be bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West. EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association will sponsor the two-day event that will occur on the 1st or 2nd weekend in June.

Rubber Ducky Derby, Beaumont, TX

The Coast Guard proposes to establish an annual marine event on the Neches River from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5. C P Rehabilitation Center will sponsor the event which will occur on the 2nd, 3rd, and 4th Saturday in April.

Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

The Coast Guard proposes to establish an annual marine event on the waters of the Sabine-Neches Canal from Wilson Middle School to the northern terminus of Old Golf Course Road. The event is sponsored by the City of Port Arthur and Lamar State College and will occur on the Fourth of July.

Neches River Festival, Beaumont, TX [Amended]

The Coast Guard proposes to change the effective date for this annual event.

Amend the Date to read "two days beginning on the 2nd, 3rd, or 4th weekend in April."

Annual Labor Day Fireworks [Amended]

The Coast Guard proposes to change the regulated area for this annual event.

Amend Regulated Area to read "Destin East Pass between and including buoys 5 to 11, Destin, FL".

Independence Day Fireworks, Destin, FL [Amended]

The Coast Guard proposes to change the regulated area for this annual event.

Amend Regulated Area to read "Destin East Pass between and including buoys 5 to 11, Destin, FL".

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although these proposed marine events will restrict vessel traffic from transiting certain areas of Eighth Coast Guard District waters, the effect of this regulation will not be significant due to the limited duration that the regulated areas will be in effect and the advance notification that will be made to the maritime community through the **Federal Register**. These proposed regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. These marine events would not have a significant economic impact on a substantial number of small entities for the following reasons. These events occur only once per year and are only a short duration, usually several hours. Additionally, traffic would be allowed to pass through the affected area with the permission of the Captain of the Port or Coast Guard patrol commander.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on

them and participate in the rulemaking

TABLE 1 OF § 100.801—Continued

them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander David Nichols, Eighth Coast Guard District legal office, (504) 589–6188.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(h), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(h) as it establishes and/or amends annual marine event regulations. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Amend Table 1 of § 100.801 by as follows:

a. The seven "Groups" identified in Table 1 are designated as I through VII, respectively, as set out below;

b. Add new unit VIII Marine Safety Office Port Arthur as set out below;

c. At the end of newly designated unit IV, add the entries for Independence Day Fireworks, Mobile, AL; Blue Angels Air Show, Pensacola, FL; Fort-to-Fort Swim, Pensacola, FL; Keesler Air Force Base Air Show, Biloxi, MS; and Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL as set out below;

d. At the end of newly designated unit VII, add the entry for East-West Powerboat Shootout, Corpus Christi, TX as set out below;

e. In newly designated unit IV, revise the entries for Annual Labor Day Fireworks and Independence Day Fireworks, Destin, FL as set out below;

f. In newly designated unit VI, revise the entry for Neches River Festival, Beaumont, TX as set out below.

g. In the new unit VIII, add the entries Rubber Ducky Derby, Beaumont, TX, and Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX as set out below.

§ 100.801 Annual Marine Events in the Eighth Coast Guard District.

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TABLE 1 OF § 100.801

I. Group Upper Mississippi River:

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II. Group Ohio Valley:

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III. Group Lower Mississippi River:

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IV. Group Mobile:

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Annual Labor Day Fireworks

Sponsor: City of Destin, FL
Date: 1 Day—Day of or Day before Labor Day
Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL

TABLE 1 OF § 100.801—Continued

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Independence Day Fireworks, Destin, FL

Sponsor: City of Destin, FL
Date: 1 Day—4th of July
Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL

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Independence Day Fireworks, Mobile, AL

Sponsor: The Mobile Register
Date: 1 Day—4th of July
Regulated Area: From the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North

Blue Angels Air Show, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL
Date: 2 Days—2nd weekend in July
Regulated Area: A five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront

Fort-to-Fort Swim, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL
Date: 1 Day—1st weekend in August
Regulated Area: Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16

Keesler Air Force Base Air Show, Biloxi, MS

Sponsor: Keesler Air Force Base, Biloxi, MS
Date: 2 Days—1st weekend in November
Regulated Area: Bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees, 55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West

Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

Sponsor: The Krewe of Billy Bowlegs of Okaloosa County, Inc.
Date: 2 Days—1st weekend in June
Regulated Area: Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou

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V. Group New Orleans:

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VI. Group Galveston:

Neches River Festival, Beaumont, TX

Sponsor: Neches River Festival, Inc.
Date: 2 Days—2nd, 3rd, or 4th Weekend in April
Regulated Area: Neches River from Collier's Ferry Landing to Lawson's Crossing at the end of Pine St., Beaumont, TX

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VII. Group Corpus Christi:

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East-West Powerboat Shootout, Corpus Christi, TX

Sponsor: EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association
Date: 2 Days—1st or 2nd weekend in June
Regulated Area: Bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West

VIII. Marine Safety Office Port Arthur:

Rubber Ducky Derby, Beaumont, TX

Sponsor: C P Rehabilitation Center
Date: 1 Day—2nd, 3rd, or 4th Saturday in April
Regulated Area: All waters of the Neches River, bank to bank, from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5

Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

Sponsor: The City of Port Arthur and Lamar State College
Date: 1 Day—4th of July
Regulated Area: All waters of the Sabine-Neches Canal, bank to bank, from Wilson Middle School to the northern terminus of Old Golf Course Road

Dated: August 27, 2001.

to address any significant public

impoundments. This practice continued

1993. Based on this RI/FS, a ROD was

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Dated: August 27, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–22812 Filed 9–14–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7056–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Aladdin Plating Superfund Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Aladdin Plating Superfund Site (Site) located in Scott and South Abington Townships, Lackawanna County, Commonwealth of Pennsylvania, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that the remedial action for the site has been successfully executed.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before October 17, 2001.

ADDRESSES: Comments may be mailed to: Patrick McManus (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029.

Comprehensive information, including the deletion docket, on this Site is available for viewing at the Site information repositories at the following locations: Regional Center for Environmental Information, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, 215–814–5254 or 800–553–2509, Monday through Friday 8 a.m. to 4:30 p.m.; Scott Township Municipal Building, Route 457, Olyphant, PA 18447, 570–254–6969; South Abington Township Building, 104 Shady Lane, Montdale, PA 18410, 570–586–2111.

FOR FURTHER INFORMATION CONTACT: Patrick McManus (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029. Telephone 215–814–3198 or 800–553–2509, e-mail address: *mcmanus.pat@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis of Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency, Region III announces its intent to delete the Aladdin Plating Superfund Site from the NPL, appendix B of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), 40 CFR part 300, and requests public comments on this proposed action. EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that future conditions warrant such action at the site.

EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that remedial activities conducted at the Site have been successfully executed.

EPA will accept comments on the proposal to delete this Site for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Aladdin Plating Superfund Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP established the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) The responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even when a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct a review of the site at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site:

1. EPA Region III has recommended deletion and has prepared the relevant documents. All appropriate response actions required under CERCLA have been implemented.

2. PADEP has concurred with the deletion decision.

3. Concurrent with this Notice of Intent to Delete, an advertisement in a local newspaper presents information on the Site and announces the commencement of the thirty (30) day public comment period on the deletion package.

4. The EPA Region III Office has made all relevant documents supporting the proposed deletion available for the public to review in the Site information repositories identified above.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the EPA will prepare a Responsiveness Summary

to address any significant public comments received.

A deletion occurs when the EPA Region III Regional Administrator places a final notice, a Notice of Deletion, in the **Federal Register**. Generally, the NPL will reflect deletions in the final update. Public notices and copies of the Responsiveness Summary will be made available to the public by the EPA Regional Office.

IV. Basis for Intended Site Deletion

The following summary provides the EPA's rationale for the proposal to delete this Site from the NPL.

Site Location

The Aladdin Plating Superfund Site is located near Scranton, Pennsylvania, on Layton Road in Scott and South Abington Townships, Lackawanna County, Commonwealth of Pennsylvania, approximately 1.5 miles north of the town of Chinchilla. The Site is surrounded on all sides by residential properties. The Site comprises approximately 6 acres on a hillside. The topography slopes steeply away from the Site on three of its sides.

A residential community of approximately fifty homes is located to the south and east within one-half mile of the Site. The area between the Site and Griffin Reservoir, which is north of the Site, is wooded and is sparsely populated. The nearest residential wells are within 500 feet of the Site.

Site History

Site contamination resulted from electroplating activities conducted from 1947 to 1982 by the Aladdin Electroplating Company. This company was primarily involved in chromium electroplating, but also conducted electroless nickel plating and decorative electroplating using copper and nickel. In addition to these three metals, various plating baths used at the facility contained sulfuric, chromic, and hydrochloric acids, as well as caustic and cyanide solutions. Liquid wastes generated by the company presumably contained all of these materials.

Historically, these liquid wastes were deposited into two unlined surface impoundments located on-site. The liquid wastes flowed downhill via an open drainage ditch from the electroplating building to the surface impoundments. These impoundments overflowed on occasion. Drums were also used for storage of plating solutions and disposal of plating wastes. Liquid wastes were discharged from floor drains directly to the soil through perforated pipe extending from the building in the direction of the surface impoundments. This practice continued until 1982, when a fire virtually destroyed the electroplating building and ended plating operations.

In 1987, an emergency removal action was conducted at the Site, during which the electroplating wastes remaining on-site in drums, vats, etc., were removed, and the fire-damaged electroplating building was demolished (due to contamination and unsafe conditions).

Based on information that had been collected by EPA before 1987, the Aladdin Plating Superfund Site was placed on the NPL on July 22, 1987. The investigation of the site was divided into two parts: soils (operable unit 1) and groundwater (operable unit 2).

Record of Decision—Soils

EPA issued a Record of Decision (ROD) for operable unit 1 of the Aladdin Plating Superfund Site in September 1988. The ROD was based on all of the soil sampling that had been conducted by EPA, which had revealed extensive chromium contamination in the soils. The ROD outlined a remedial action for source control.

The major components of the Remedial Action included:

1. Cleanup of contaminated soil to a cleanup level of 50 parts per million (ppm) of chromium, the level determined to be protective of groundwater.

2. Excavation and off-site stabilization of all chromium-contaminated soil.

3. Disposal of the stabilized soil in an appropriate off-site landfill.

4. Replacement of excavated soil with clean fill.

5. Future study of groundwater.

This cleanup action was begun on November 16, 1989, and removal of contaminated soil continued through May 1991. The soil was transported to EPA-approved hazardous waste disposal facilities in Alabama (phase 1) and Michigan (phase 2), where the soil was stabilized and/or solidified and then placed in permitted hazardous waste landfills. The area addressed in operable unit 1 measured approximately 400 feet by 1500 feet, and a total of more than 29,000 cubic yards of soils were removed from the Site (both phases).

Record of Decision—Groundwater

The second operable unit involved the study of groundwater. The liquid wastes discharged by the electroplating facility had caused contamination of the shallow water-bearing zone in the immediate area of the former plating building and impoundments. An extensive Remedial Investigation/Feasibility Study (RI/FS) was conducted at the Site and completed in January 1993. Based on this RI/FS, a ROD was issued on December 30, 1993, which determined that there was no current threat to human health or the environment from this contamination in its undisturbed condition. However, there was a concern that it could migrate into aquifers used for drinking water supplies in the area. Therefore, the remedy for operable unit 2 consisted of the following:

1. Installation of four new monitoring wells (completed).

2. Rehabilitation of all the existing monitoring wells (completed).

3. Institutional controls on the Site property to prevent disturbance of the contaminated shallow groundwater beneath the Site (in place).

The ROD also required five years of quarterly sampling of home wells adjacent to the Site and all on-site monitoring wells, followed by annual monitoring of these wells for thirty years. However, after the ROD was issued, it was determined that this activity was not a remedial activity, but a removal assessment activity. Therefore, on January 21, 2000, an Explanation of Significant Differences was issued which incorporated this change to the ROD. These sampling activities are being conducted, and will continue to be conducted for thirty years, but they are being completed as removal assessment activities rather than as part of the remedial action.

The sampling of water from home wells has indicated that no significant chromium contamination has migrated to the home wells. To date, nineteen rounds of sampling of home wells and sixteen rounds of sampling of monitoring wells have been completed. The results of the monitoring well sampling indicate that chromium levels have decreased in the shallow water bearing zone near the location of the former electroplating building since the initial groundwater sampling in 1992. Additionally, it is evident that chromium contamination has not migrated beyond the areas found to be contaminated at that time and no significant chromium contamination has migrated to the home wells near the site. It appears that the soil remedial activities that were completed at the site has improved that shallow groundwater conditions. Based on this information, the conclusions in the ROD have been supported by the well sampling and appear to have been appropriate.

To implement the institutional controls required by the ROD, on September 29, 2000, EPA issued an Administrative Order for Remedial Action (the Order) requiring the Site property owner to file a Notice of Use

Restriction (the Notice) and a copy of the Order with the Recorder of Deeds for Lackawanna County to ensure that the documents are available for public review accompanying the deed to the property. The Notice explains the existence of contamination at the Site, provides an advisory that there shall be no disturbance of the surface of the property, and explains that EPA has access to the Site at all reasonable times for the purpose of conducting any activity relating to Site responses. The Order also requires the owner to refrain from any activity that could disturb the soil on the property or result in the migration of chromium contamination from the Site. On February 14, 2001, the Site owner presented the properly executed documents to the Recorder of Deeds for Lackawanna County to file accompanying the deed to the property.

With the implementation of the institutional controls, the full remedy called for in the ROD of December 30, 1993, has been implemented.

Five-Year Review

A five-year review for the Site was completed on September 29, 1999. At that time, the remedy was not considered to be protective because the institutional controls were not yet in place. As stated above, the institutional controls are now in place. Five-year reviews for the Site will continue to be conducted. The next Review is scheduled to be completed by September 30, 2004.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket on which EPA relied to make this recommendation of deletion from the NPL are available to the public in the information repositories.

Applicable Deletion Criteria

EPA is proposing deletion of this Site from the NPL. PADEP concurred with EPA that all appropriate responses under CERCLA have been implemented. Documents supporting this action are available from the docket. EPA believes that the criteria stated in section II(i) and (ii) for deletion of this Site have been met. Therefore, EPA is proposing the deletion of the Aladdin Plating Superfund Site from the NPL.

Dated: September 5, 2001.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. 01–22998 Filed 9–14–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010823216–1216–01; I.D. 071601A]

RIN 0648–AP32

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Delay of the Implementation Date of the Year-4 Default Management Measures for Small-Mesh Multispecies

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the regulations that implement Amendment 12 to the Northeast Multispecies Fishery Management Plan (FMP) to change the date of the Year-4 default management measures for small-mesh multispecies (silver hake (whiting), red hake and offshore hake), from May 1, 2002, to May 1, 2003. Delaying the implementation date for an additional year would be in conformance with the original intent of Amendment 12 to the FMP. As specified in the FMP, this action is necessary to provide at least 2 full years of data on the fishery so that the Whiting Monitoring Committee (WMC) may fully assess the effectiveness of the current management measures and recommend alternative default measures, if appropriate.

DATES: Comments on this proposed rule must be received on or before October 17, 2001.

ADDRESSES: Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on whiting." Comments may also be sent via facsimile (fax) to (978) 281–9371. Comments will not be accepted if submitted via e-mail or the Internet.

This action is based upon analyses conducted in support of Amendment 12 to the FMP. Copies of the Amendment 12 document, its Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA) and the July 1, 1999, supplement to the IRFA prepared by NMFS, the Final Supplemental Environmental Impact Statement (FSEIS), and other supporting documents for Amendment 12 are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery-Mill 2, Newburyport, MA 01950. The Final Regulatory Flexibility Analysis for Amendment 12 consisted of the IRFA, public comments and responses contained in the final rule implementing Amendment 12 (65 FR 16766, March 29, 2000), and the summary of impacts and alternatives in that final rule.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, at 978–281–9279.

SUPPLEMENTARY INFORMATION:

Background

Amendment 12 was developed to address the overfished condition of red hake and the southern stock of whiting, to reduce fishing mortality on northern whiting, which was approaching an overfished condition, and to establish management measures for offshore hake. The final rule implementing Amendment 12, which was partially approved by NMFS on behalf of the Secretary of Commerce on September 1, 1999, was published on March 29, 2000 (61 FR 16766), and became effective on April 28, 2000. The New England Fishery Management Council (Council) intended for the measures in Amendment 12 to achieve the target fishing mortality rates (F) for whiting within 4 years of implementation, and to rebuild whiting and red hake stocks within 10 years.

Under Amendment 12, fishing with small mesh is regulated in the North Atlantic region through the establishment of three large "Regulated Mesh Areas." In the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area, vessels may fish for whiting with nets that have less than the minimum mesh size of 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51-cm) square mesh when participating in certain exempted fisheries; each net has slightly differing requirements. The GOM/GB exempted fisheries for whiting include: The Small Mesh Northern Shrimp Fishery, the Cultivator Shoal Whiting Fishery, the Small Mesh Area 1/Small Mesh Area 2 Exemptions, and the Raised Footrope Trawl Whiting Fishery. The Cultivator Shoal Whiting Fishery has a 3-inch (7.62-cm) minimum mesh size, and the Raised Footrope Trawl Whiting Fishery has a 2.5-inch (6.35-cm) minimum mesh size. In the Southern New England Regulated Mesh Area, vessels are exempt from the minimum mesh size requirement throughout the area when fishing for exempted species, which include whiting and offshore hake. Finally, in the Mid-Atlantic Regulated Mesh Area, vessels may fish for whiting and offshore hake with nets of mesh less than the minimum size when not fishing under a multispecies day-at-sea (DAS), provided that the vessel does not possess or land regulated multispecies.

The first 3 years of management under Amendment 12 include three possession limits, depending upon the minimum mesh size used. Vessels may possess and land up to a combined total of 3,500 lb (1,588 kg) of whiting and offshore hake, when fishing with mesh less than 2.5 inches (6.35 cm). Vessels may possess and land up to a combined total of 7,500 lb (3,402 kg) of whiting and offshore hake, when fishing with mesh equal to or greater than 2.5 inches (6.35 cm) and less than 3.0 inches (7.62 cm). Vessels may possess and land up to a combined total of 30,000 lb (13,608 kg) of whiting and offshore hake, when fishing with mesh equal to or greater than 3.0 inches (7.62 cm). These possession limits were intended to provide an incentive for vessels to utilize the larger 3-inch (7.62-cm) mesh when fishing for whiting. Since red hake is primarily an incidental species caught in whiting and other small-mesh fisheries, the measures to protect whiting are expected to simultaneously protect red hake. Offshore hake, a species similar to whiting, was included in the management measures to provide basic protection for the species and to ensure that misidentification of offshore hake is accounted for.

Amendment 12 establishes the WMC to review the effectiveness of management measures and to recommend adjustments. Such reviews will occur annually, beginning in 2001. The Council expected that the measures in Years 1, 2, and 3 would reduce exploitation by at least 50 percent of the required amount, and that annual adjustments would indicate whether further management measures were needed. To ensure attainment of the FMP's mortality objectives, the default measures were developed for Year 4. The Council expected, and Amendment 12 specified, that the Whiting Monitoring Committee (WMC) would meet during the third year to determine if the Year-4 default measures would be necessary. Furthermore, during the third year, and based upon the effectiveness of the first three years of management, the WMC was charged with considering and recommending, if appropriate, small-mesh multispecies measures for Year 4, other than the default measures, to achieve the F targets.

The Year-4 default measures prohibit vessels from using nets with mesh size less than 3 inches (7.62 cm)(square or diamond) in most fisheries operating within the three Regulated Mesh Areas in New England and Mid-Atlantic waters, and impose a 10,000-lb (4,536-kg) combined possession limit in most fisheries on whiting and offshore hake. In addition, the existing possession limit for whiting and offshore hake in the Small Mesh Northern Shrimp Fishery will be reduced from an amount equal to the total weight of shrimp on board (not to exceed 3,500 lb (1,588 kg)) to 100 lb (45.3 kg). Under the regulations that implement Amendment 12, these measures are scheduled to become effective May 1, 2002, unless superseded by revised measures.

The Council voted at its December 1998 meeting that May 1, 1999, would begin Year 1 of Amendment 12, with the expectation that the Amendment would be implemented by the autumn of 1999. The Council submitted Amendment 12 to NMFS in April 1999. Based upon the Council's assumption that the Amendment would be implemented in the fall of 1999, the regulations implementing Amendment 12 specified that the Year-4 default management measures would become effective on May 1, 2002. However, the implementing regulations did not become effective until April 28, 2000. Thus, Year 1 of Amendment 12 was only 3 days in duration (April 28 - April 30, 2000), rather than 8 to 10 months, as originally anticipated by the Council. As a result, under the current regulations, the WMC review process cannot be carried out as was intended in Amendment 12. Therefore, this action proposes to adjust the date on which the default measures will become effective, unless superseded, in order to be consistent with Amendment 12 and the Council's intent that a 3-year period be allotted to achieve the target fishing mortality rate before restrictive default measures currently specified for Year 4 would become effective. This proposed action is necessary to ensure that adequate data are available to determine whether the Year-4 default measures are necessary. Delay of the default measures by 1 year would not change the rebuilding timeframe of 10 years contemplated by the Council or the current regulations. However, this action would push back the rebuilding schedule by one year to be consistent with the rebuilding schedule established in Amendment 12. The proposed regulatory change would not jeopardize the ability or likelihood of attaining the rebuilding objectives contained in Amendment 12. Any loss in rebuilding as a result of this action can be compensated for through adjustments to the small-mesh multispecies management measures by means of the annual adjustment or 4-year review process to insure that the established F targets are achieved.

Classification

This rule proposes to amend regulations that implement Amendment 12 to the FMP. This action is categorically excluded from the requirement to prepare an environmental assessment because the proposed rule would only adjust the timeframe for implementation of measures that were fully considered in the EIS prepared for Amendment 12. The FSEIS prepared for Amendment 12 concluded that, although short-term negative impacts will result from lowered allowed catches of small-mesh multispecies, the management actions implemented by Amendment 12 would have long-term positive impacts on affected physical, biological, and human environments.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Amendment 12 to the Northeast Multispecies Fishery Management Plan (FMP) proposed initial management measures for small-mesh multispecies (silver hake (whiting), red hake, and offshore hake) to be in effect for 3 years, with more stringent default measures to be implemented in Year 4. The New England Fishery Management Council (Council) intended to review data from the initial years of the management program to determine, prior to implementation of the Year-4 default measures, whether the default measures were still necessary. However, due to delays in the initial implementation of Amendment 12, the regulations inadvertently created a 3-day fishing year for Year 1. Therefore, this rule proposes to delay the implementation date of the restrictive Year-4 default management measures for one year from May 1, 2002, to May 1, 2003. This proposed action is needed to provide information on the fishery based on at least 2 full years of small-mesh multispecies management measures, so that the Council may fully assess during Year 3 the effectiveness of the existing management measures and recommend alternative measures, other than the intentionally restrictive Year-4 default measures, if appropriate.

Under the existing Year-4 default

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Under the existing Year-4 default measures, which are currently scheduled to become effective on May 1, 2002, vessels would be prohibited from fishing with mesh smaller than 3 inches (square or diamond) in most New England and Mid-Atlantic fisheries. In addition, a 10,000-lb combined possession limit would be implemented for whiting and offshore hake. Delay in implementation of these Year-4 default measures is consistent with the Council's original intent of Amendment 12. Therefore, this proposed action is necessary to ensure that adequate data are available to determine whether the current restrictive default measures are necessary. Delaying the implementation date of the default measures by one year would not jeopardize the ability or likelihood of attaining the rebuilding objectives contained in Amendment 12.

NMFS and the Council prepared an economic analysis for Amendment 12, which indicated that implementation of the amendment, including the restrictive Year-4 default measures, would have a significant economic impact on a substantial number of small entities. The analysis indicated that 1,156 participating small entities reported landings of one or more combined pounds of whiting, red hake, and offshore hake during the calendar years 1995 to 1997. The management measures proposed for Years 1-3 were estimated to reduce gross revenues from all species by more than 5 percent for 81 vessels (7 percent of small mesh multispecies participants). If the default measures were to be implemented, 222 vessels (approximately 20 percent of small mesh multispecies fishery participants) were estimated to experience a reduction in annual gross revenues of 5 percent or more. Short- and long-run profitability analyses of small-mesh multispecies commercial fishing vessels indicated that management measures proposed under Amendment 12 would force some vessels to cease operations. In the short-run, vessels may be assumed to maintain business operations, provided operating costs can be paid. In the long-run, vessels may be able to maintain business operations only if all costs (fixed and operating) could be paid from gross receipts. Estimated profitability for the Years 1-3 and Year-4 default management measures indicated that 25 vessels (2 percent), or more, of the vessels may not be able to operate at positive long-run profit upon implementation of the Amendment 12 measures. A total of 573 vessels were estimated to operate at positive profit under both the Year 1-3 and Year-4 default measures.

This proposed action, which would delay the implementation date of Year-4 default measures, does not change the results of the economic analysis prepared for Amendment 12. It would only delay by one year the implementation date of Year-4 default measures. As such, it would not result in any significant economic impact on a substantial number of small entities. The proposed action itself has no impacts on small entities that were not already analyzed in connection with the implementation of Amendment 12. This rule merely adjusts the implementation timeframe of the default measures to be consistent with the timeframe analyzed in the economic analysis prepared for Amendment 12. In fact, the proposed action would allow fishermen to maintain current levels of gross revenues before Year-4 default measures are implemented, if at all. This action is strongly supported by both the New England and Mid-Atlantic Fishery Management Councils, as well as by the commercial fishing industry.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 12, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraph (z)(2) introductory text is revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(z) * * *

(2) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, beginning May 1, 2003, it is unlawful for an owner or operator of a vessel issued a valid Federal multispecies permit to do any of the following:

* * * * *

3. In § 648.80, the first sentence of paragraph (a)(3)(i)(A); paragraphs (a)(3)(i)(B), (a)(4)(i)(B) and (a)(4)(i)(C); the first sentence in each of paragraphs (a)(7)(i)(B), (a)(8)(i)(A), and (a)(8)(i)(B); paragraph (a)(9)(i)(D)(*1*) and (a)(9)(i)(D)(*2*); the first sentence in each of paragraphs (a)(14)(i)(B) and (a)(14)(i)(C); paragraph (b)(3)(i)(A); the first sentence of paragraph (b)(3)(i)(B); and paragraph (c)(2)(iii) are revised to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(3) * * *

(i) * * *

(A) Through April 30, 2003, an owner or operator of a vessel fishing in the northern shrimp fishery described in this section under this exemption may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to an amount equal to the total weight of shrimp possessed on board or landed, not to exceed 3,500 lb (1,588 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter. * * *

(B) Beginning May 1, 2003, an owner or operator of a vessel fishing for northern shrimp may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to 100 lb (45.36 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

* * * * *

(4) * * *

(i) * * *

(B) Through April 30, 2003, an owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Herring; longhorn sculpin; squid; butterfish; Atlantic mackerel; dogfish, and red hake—up to 10 percent each, by weight, of all other species on board; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or

up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Beginning May 1, 2003, an owner or operator of a vessel fishing in this area is subject to the mesh size restrictions specified in paragraph (a)(4)(i)(D) of this section and may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 10,000 lb (4,536 kg), except for the allowable incidental species listed in paragraph (a)(4)(i)(B) of this section.

* * * * *

(7) * * *

(i) * * *

(B) *Small-mesh multispecies.* Beginning May 1, 2003, an exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of small-mesh multispecies bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of small-mesh multispecies caught as bycatch is, or can be reduced to, less than 10 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. * * *

* * * * *

(8) * * *

(i)(A) Unless otherwise prohibited in § 648.81, through April 30, 2003, a vessel subject to the minimum mesh size restrictions specified in paragraph (a)(2) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(3)(ii) or (a)(8)(ii) of this section and § 648.86(d) from July 15 through November 15, when fishing in Small-mesh Area 1, and from January 1 through June 30, when fishing in Small-mesh Area 2. * * *

(B) Unless otherwise prohibited in § 648.81, beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(8)(i)(A) of this section, nets may not have a mesh size of less than 3 in (7.62 cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length. * * *

* * * * *

(9) * * *

(i) * * *

(D)(*1*) Through April 30, 2003, the following species may be retained, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.72 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

(*2*) Beginning May 1, 2003, all nets must comply with a minimum mesh size of 3 in (7.62 cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length. Vessels may retain the allowable incidental species listed in paragraph (a)(9)(i)(D)(*1*) of this section.

* * * * *

(14) * * *

(i) * * *

(B) Up to and including April 30, 2003, all nets must comply with a minimum mesh size of 2.5-inch (6.35-cm) square or diamond mesh, subject to the restriction as specified in paragraph (a)(14)(i)(D) of this section. * * *

(C) Beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(14)(i)(B) of this section, all nets must comply with a minimum mesh size of 3-inch (7.62 cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(14)(i)(D) of this section. * * *

* * * * *

(b) * * *

(3) * * *

(i) * * *

(A) Through April 30, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

(B) Beginning May 1, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may not use nets with mesh size less than 3 in (7.62 cm), unless exempted pursuant to paragraph (b)(4) of this section, and may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake—up to 10,000 lb (4,536 kg), and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the possession limit restrictions specified under § 648.86. * * *

* * * * *

(c) * * *

(2) * * *

(iii) *Small mesh beginning May 1, 2003.* Beginning May 1, 2003, nets may not have a mesh size of less than 3 in (7.62 cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length.

* * * * *

4. In § 648.86, the headings to paragraphs (d) and (e) are revised to read as follows:

§ 648.86 Multispecies possesaion restrictions.

* * * * *

(d)*Small-mesh multispecies through April 30, 2003.*

* * * * *

(e)*Small-mesh multispecies beginning on May 1, 2003—*

* * * * *

5. In § 648.90, the last sentence of paragraph (a)(2) is revised to read as follows:

§ 648.90 Multispecies framework specifications.

(a) * * *

(2) * * * In addition, for the 2003 fishing year, the WMC must consider,

and recommend as appropriate, multispecies management (mesh and

mesh multispecies beginning May 1,

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and recommend as appropriate, management options other than the default measures for small-mesh multispecies management (mesh and possession limit restrictions for small-mesh multispecies beginning May 1, 2003).

* * * * *

[FR Doc. 01–23177 Filed 9–12–01; 4:01 pm]
BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 180
Monday, September 17, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding forum of the Alaska Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 5:00 p.m. on Thursday, October 25, 2001, at the Hilton Anchorage Hotel, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the factfinding forum is to gather information from representatives of Native Alaskan villages on civil rights concerns in administration of justice, education and employment.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 10, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23094 Filed 9–14–01; 8:45 am]
BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting with briefing of the Florida Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Friday, September 28, 2001, at the Hyatt Regency Tampa, Two Tampa City Center, Tampa, Florida 33602. The purpose of the meeting with briefing is to receive information from minority business leaders, St. Petersburg city officials, public housing tenants, students and officials of the University of South Florida regarding the US Department of Housing and Urban Development's Hope VI program in Tampa and St. Petersburg; and the City contracts in Tampa, and the University of South Florida's athletic program.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 10, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23093 Filed 9–14–01; 8:45 am]
BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–862]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Coke Products From The People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order and amendment to final determination.

EFFECTIVE DATE: September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Alex Villanueva, Marlene Hewitt, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0193, 482–6412, 482–1385, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 2000).

Scope of Investigation

For purposes of this investigation, the product covered is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries.

The foundry coke products subject to this investigation were classifiable under subheading 2704.00.00.10 (as of Jan. 1, 2000) and are currently classifiable under subheading 2704.00.00.11 (as of July 1, 2000) of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, the Department made its final determination that foundry coke from the People's Republic of China ("PRC") is being sold at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Foundry Coke Products from the People's Republic of China ("PRC") ("Foundry Coke Final")*, 66 FR 39487 (July 31, 2001). We received ministerial error allegations from respondents and upon consideration of these allegations. we issued an Amended Final Determination. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Foundry Coke from the PRC ("Foundry Coke Amended Final")*, 66 FR 45962 (August 31, 2001).

On August 30, 2001, CITIC Trading Co., Ltd ("CITIC"), an exporter of the

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merchandise subject to the above-referenced investigation, submitted a ministerial error allegation with respect to the *Foundry Coke Amended Final*. Respondent argued that in calculating the margin, the Department arrived at an incorrect total U.S. price. According to the respondent, the Department used the U.S. price for only the first shipment when calculating the total U.S. price. Moreover, the respondent argued that the Department should have calculated the total price on a weighted-average of both the first and second shipments. We did not receive comments on the respondent's ministerial error allegation of August 30, 2001, from any other interested parties. We agree with the respondent that the Department did not reference the correct U.S. price when calculating the margin and should have used the weighted-average U.S. price when calculating the total U.S. price. Accordingly, we have revised the margin calculation program using the appropriate weighted-average U.S. price between both shipments. *See Analysis Memo for the Amended Final Determination of the Antidumping Duty Investigation of Foundry Coke Products from the PRC: CITIC*, August 31, 2001 at 2.

On September 5, 2001, in accordance with section 735(d) of the Act, the International Trade Commission ("the Commission") notified the Department of its final determination pursuant to section 735(b)(1)(A)(e) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of foundry coke from the PRC. These antidumping duties will be assessed on all unliquidated entries of foundry coke form the PRC entered, or withdrawn from the warehouse, for consumption on or after March 8, 2001, the date on which the Department published its Notice of Preliminary Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China. (66 FR 13885). On of after that date, Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "All Others" rates apply to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted average/ margin (percent)
Shanxi Dajin International (Group) Co. Ltd	101.62
Sinochem International Co., Ltd	105.91
Minmetals Townlord Technology Co. Ltd	75.58
CITIC Trading Company, Ltd	48.55
PRC-Wide Rate	214.89

This notice constitutes the antidumping duty order with respect to foundry coke from the PRC. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act.

Dated: September 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–23174 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results and partial rescission of antidumping duty administrative review and determination not to revoke in part.

SUMMARY: On November 7, 2000, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on heavy forged hand tools (HFHTs) from the People's Republic of China (PRC). The reviews cover five manufacturer/exporters with respect to the following classes or kinds of merchandise, Fujian Machinery & Equipment Import & Export Corporation (FMEC) (axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks), Liaoning Machinery Import & Export Corporation (LMC) (bars/wedges), Shandong Machinery Import & Export Corporation (SMC) (axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks), Shandong Huarong General Group Corporation (Huarong) (axes/adzes and bars/wedges) and Tianjin Machinery Import & Export Corporation (TMC) (axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks). The period of review (POR) is February 1, 1999, through January 31, 2000. Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled *Final Results of Reviews*.

EFFECTIVE DATE: September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Esther Chen, Office of AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4195 and (202) 482–2305, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

On November 7, 2000, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on HFHTs from the PRC. *See Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Reviews and Notice of Intent Not To Revoke in Part of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China* 65 FR 66691 (November 7, 2000) (*Preliminary Results*). We conducted verifications of LMC, SMC and Huarong after publication of the preliminary results. *See* Memorandum to the File from Jeff Pedersen re: Verification of Huarong (June 26, 2001); Memorandum to the File from Jeff Pedersen re: Verification of LMC (June 26, 2001); and Memorandum to the File from Jeff Pedersen re: Verification of SMC (June 26, 2001). Only after the verification reports were completed did we invite parties to comment on our preliminary results of review. Ames True Temper and its Woodings-Verona operations (petitioner) originally filed its case brief on July 16, 2001. Because the original case brief submitted by the petitioner contained new factual information, the petitioner filed an expurgated version of the brief on August 17, 2001. The petitioner filed its rebuttal brief on July 24, 2001. LMC, Huarong, SMC, and TMC (respondents) filed their case brief on July 18, 2001, and their rebuttal brief on August 3, 2001. No party requested a public hearing. Following the period for briefing, the Department placed on the record, and solicited comments on, proposed surrogate values for electricity and wooden pallets. The petitioner provided comments on August 22, 2001. The Department's analysis of the comments raised in these submissions are addressed in the Issues and Decision Memorandum from Bernard T. Carreau, Deputy Assistant Secretary, Import Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration (Decision Memorandum), dated concurrently with this notice, which is hereby adopted by this notice.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

Although the HTSUS subheading is provided for convenience and customs purposes our written description of the scope of the orders is dispositive.

Partial Rescission of Review

In our preliminary results, we determined that during the POR, (1) Huarong did not export hammers/sledges and picks/mattocks, and (2) LMC did not export axes/adzes, hammers/sledges and picks/mattocks. Our review of Customs import data indicated that there were no entries of subject merchandise made by these manufacturers/exporters during the POR. Therefore, we preliminarily rescinded the review of Huarong with respect to hammers/sledges and picks/mattocks, and LMC with respect to axes/adzes, hammers/sledges and picks/mattocks. We have determined that no changes to our decision to rescind are warranted for purposes of these final results. Therefore, we are rescinding those reviews with respect to these manufacturers/exporters and products.

Determination Not To Revoke TMC, Huarong and LMC

As discussed in the *Preliminary Results*, Huarong requested revocation with respect to the bars/wedges HFHTs orders, LMC requested revocation with respect to the bars/wedges HFHTs orders, and TMC requested revocation with respect to the hammers/sledges and picks/mattocks HFHTs orders. After consideration of the criteria outlined at section 351.222(b) of the Department's regulations, the Department's practice, the comments of the parties, and the evidence on the record, we have determined that these respondents have not met the requirements for revocation from these respective orders. Section 351.222(b)(2) of the Department's regulations notes that the Secretary may revoke an antidumping order in part if the Secretary concludes, *inter alia*, that one or more exporters or producers covered by the order have sold the merchandise at not less than normal value ("NV") for a period of at least three consecutive years. With respect to Huarong and LMC, we note that in the instant review, both respondents failed verification with respect to the bars/wedges order and that both respondents have failed to establish their entitlement to a separate rate with respect to this class or kind of merchandise. As a result, both respondents' final results margins are based on adverse facts available and are above *de minimis*. Therefore, neither Huarong nor LMC have met the regulatory requirements for revocation. Further, with regard to TMC, the Department notes that TMC does not have three consecutive reviews with zero or *de minimis* margins for either of the requested classes or kinds of merchandise, *See Heavy Forged Hand Tools From the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews*, 65 FR 50499 (August 18, 2000); *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, Final Results and Partial Rescission of Antidumping Reviews* 64 FR 43659 (August 11, 1999). Thus, we find that TMC, Huarong and LMC do not qualify for revocation from the respective orders based upon section 351.222(b) of the Department's regulations.

Facts Available

1. Application of Facts Available

Section 776(a)(2) of the Act provides that:

> if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Moreover, section 776(b) of the Act provides that:

> if the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. As outlined in section 776(b) of the Act, adverse facts available in the investigation: (3) any previous review under section 751 of the Act or determination under section 753 of the Act; or (4) any other information placed on the record.

FMEC

The Department sent FMEC an antidumping questionnaire, but the

company did not respond. See Letter

Department's verification outline. As a

(LMC AFA Memorandum), dated

axes/adzes, bars/wedges and picks/

Analysis of Comments Received

4. In valuing the scrap resulting from

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company did not respond. *See* Letter from the Department to FMEC (July 10, 2000). As described in the preliminary results, the Department found that FMEC was part of the "PRC-wide" entity and utilized facts available to determine the preliminary rates for the PRC-wide entity because information necessary to determine that margin on a calculated basis was not available. In addition, the Department used an adverse inference in selecting the margin for the PRC-wide entity because it found that that entity had failed to act to the best of its ability in responding to the Department's request for information. No parties have commented on this issue, nor has any additional information been placed on the record; therefore, we have continued to treat FMEC as part of the PRC-wide entity for these final results and to assign FMEC the PRC-wide rates for this review. *See HFHTs Preliminary Results* (for further discussion of our application of facts available).

Huarong

Pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department has determined that it is appropriate to apply the Facts available for purposes of determining the dumping margin for Huarong in the instant review. Specifically, Huarong failed to report the great majority of its U.S. market sales to the Department. Thus, pursuant to section 776(a)(2)(A) of the Act, the Department has determined that Huarong has withheld information that was requested by the Department. For further discussions of this issue please see relevant portions of the Decision Memorandum and the proprietary memorandum regarding Application of Adverse Facts Available to Shandong Huarong General Group Corporation (Huarong AFA Memorandum), dated concurrently with this notice. In addition, pursuant to section 776(a)(2)(C) of the Act, we have determined that Huarong has significantly impeded this review. Due to the proprietary nature of this discussion, please *see* the relevant portions of the Decision Memorandum and the proprietary Huarong AFA Memorandum.

We further determine that Huarong has failed to satisfy several of the requirements enunciated by section 782(e) of the Act. Pursuant to section 782(i) of the Act, the Department conducted an on-site verification of Huarong's data at Huarong's headquarters in China. Upon arrival at verification, the Department found that Huarong had prepared almost no documents requested of it in the Department's verification outline. As a result of the verification team having to devote extensive amounts of time to examining issues pertaining to the unreported U.S. sales, and difficulties in verifying the accuracy of the reported factors of production input levels, there was insufficient time for the verifiers to conduct a full factors of production verification. As a consequence of our findings at verification, we determined that Huarong did not act to the best of its ability in responding to the Department's requests for information pursuant to section 782(e)(4) of the Act.

For the reasons stated above, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use facts otherwise available for purposes of determining a dumping margin for Huarong. Thus, the use of facts available is warranted for Huarong in this case. Moreover, we determine that, due to the nature of Huarong's verification failures, and the inadequacy of its cooperation, the integrity of this company's reported data on the whole is compromised. Therefore, we determine that Huarong has not adequately demonstrated its entitlement to rates separate from the government entity. As a consequence Huarong will receive the PRC-wide entity rates.

Moreover, as discussed in detail in the Decision Memorandum and the Huarong AFA Memorandum, pursuant to section 776(B) of the Act, we have determined that Huarong did not cooperate by acting to the best of its ability to comply with the Department's requests for information.

LMC

Pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department has determined that it is appropriate to apply the facts available for purposes of determining the dumping margin for LMC in the instant review. Pursuant to 776(a)(2)(A), we have determined that LMC has withheld significant information that was requested by the Department such that the Department is unable to calculate a dumping margin with respect to this company. Pursuant to 776(a)(2)(C), we further determined that LMC has significantly impeded the Department's ability to accurately determine a margin of dumping for LMC in the instant administrative review. Due to the proprietary nature of this issue, for further discussions please see the relevant portions of the Decision Memorandum and the proprietary memorandum regarding Application of Adverse Facts Available to Liaoning Machinery Import & Export Corporation (LMC AFA Memorandum), dated concurrently with this notice.

Pursuant to section 782(i) of the Act, the Department conducted an on-site verification of the information submitted by LMC at its sales headquarters in the PRC. In analyzing LMC's record information pursuant to section 782(e) of the Act, we have determined significant portions of LMC's reported data could not be verified in accordance with subsection 782(e)(2). Upon arrival at verification, the Department discovered that LMC had prepared *none* of the documentation requested in the April 9, 2001 sales verification outline. Moreover, during verification, it became evident that LMC could not provide the information necessary to verify its own submissions. As a consequence of our findings at verification, pursuant to section 782(e)(4) of the Act, we determined that LMC did not act to the best of its ability in responding to the Department's requests for information. Due to the proprietary nature of this issue, please see the relevant portions of the Decision Memorandum and the proprietary LMC AFA Memorandum.

For the reasons discussed above, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use facts otherwise available to determine a margin of dumping for LMC in this administrative review. Thus the use of facts available is warranted for LMC in this case. Moreover, we determine that, due to the nature of LMC's verification failures, and the inadequacy of its cooperation, the integrity of LMC's company reported data on the whole is compromised. Therefore, we determine that LMC has not adequately demonstrated its entitlement to rates separate from the government entity. As a consequence LMC will receive the PRC-wide entity rates. Moreover, as discussed in detail in the Decision Memorandum and the LMC AFA Memorandum, the Department has determined, pursuant to section 776(B) of the Act, that LMC did not cooperate by acting to the best of its ability to comply with the Department's requests for information.

SMC

In the instant review, SMC responded fully to the Department's questionnaire with respect to the antidumping duty order on hammers/sledges from the PRC. However, with respect to the questionnaire regarding the remaining three HFHT orders, SMC only responded with respect to the separate rate portion of the questionnaire. SMC failed to provide any sales or factors of production data with respect to sales of

axes/adzes, bars/wedges and picks/mattocks. Therefore, as in the preliminary results, we are basing SMC's margins for the final results of review with respect to these three classes or kinds of merchandise on adverse facts available. *See* the *Preliminary Results* for a full discussion of this issue. However, because SMC's data with respect to the separate rate issue is complete and was successfully verified, we determine that SMC has adequately established its continued entitlement to a separate rate for these three classes or kinds of merchandise. As adverse facts available for SMC for axes/adzes we have applied a margin of 18.72 percent, a calculated margin from the 1995–1996 POR; for bars/wedges we have applied a calculated margin of 47.88 percent, a calculated margin from the 1992–1993 POR; and for picks/mattocks we have applied a margin of 98.77 percent, the rate currently applicable to SMC and the PRC-wide entity, which is a calculated margin from the 1995–1996 POR.

2. Selection of Adverse Facts Available

For a discussion of the Department's selection of the adverse facts available rates to be applied to the appropriate classes or kinds of merchandises for SMC and the PRC-wide entity, *see* the Decision Memorandum. We have determined the adverse facts available rates as follows: for axes/adzes we have applied a calculated margin of 18.72 percent, the margin from the 1995–1996 POR; for bars/wedges we have applied a calculated margin of 47.88 percent, the margin from the 1992–1993 POR; for hammers/sledges we have applied a calculated margin of 27.71 percent, the margin from the 1992–1993 POR; and for picks/mattocks we have applied a margin of 98.77 percent, the rate currently applicable to SMC and the PRC-wide entity, which is the margin from the 1995–1996 POR.

3. Corroboration

For a discussion of the Department's corroboration of the adverse facts available rates to be applied to SMC and the PRC-wide entity, *see* the Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Decision Memorandum. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Record Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on Import Administration's Web site at *www.ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Separate Rates Determination

As discussed above, FMEC, Huarong, and LMC have not demonstrated their entitlement to a rate separate from the PRC-wide entity. Therefore, for these final results of review, we are treating them as part of the PRC-wide entity. *See* Decision Memorandum. As in the preliminary results, TMC and SMC are entitled to separate rates.

Changes Since the Preliminary Results

In calculating the Final Results, the Department has made the following changes since the Preliminary Results.

1. The Department has used total adverse facts available for determining the margins for Huarong and LMC. *See* Comment 1 of the Decision Memorandum.

2. The Department has updated the surrogate values for factors of production, as appropriate, based on data contemporaneous with the POR where such data exists and is found not to be aberrational. *See* Comment 11 of the Decision Memorandum.

3. In valuing scrap railroad rails and wheels, the Department has omitted any values from HTS category 7204.49.01 in the final results, and used only values from HTS category 7204.49.09. *See* Comment 12 of the Decision Memorandum.

4. In valuing the scrap resulting from the HFHTs production process of the respondents' factories, the Department has omitted any values from HTS category 7204.49.01 in the final results, and used only values from HTS category 7204.49.09. *See* Comment 13 of the Decision Memorandum.

5. The Department has used a 1998 pallet wood value from the Indonesian publication Indonesian Foreign Trade Statistics. *See* Comment 14 of the Decision Memorandum.

6. The Department has used one truck freight rate, the rate used in the Bulk Aspirin FOP Valuation, for all instances in this review where truck freight costs were incurred. *See* Comment 16 of the Decision Memorandum.

7. The Department has used more contemporaneous data in deriving a surrogate value for electricity than that used in the *Preliminary Results*. *See* Comment 17 of the Decision Memorandum.

8. The Department has capped the surrogate inland freight cost based on the shorter of the reported distances from the closest PRC seaport to the factory or the domestic supplier to the factory, on an input-specific basis. *See* Comment 19 of the Decision Memorandum.

9. The Department has selected as facts available different PRC-wide rates for axes/adzes, bars/wedges and hammers/sledges to replace the rates invalidated by a judicial decision issued after the preliminary results. *See* Comment 22 of the Decision Memorandum.

10. The Department has recalculated the results using HTS category 7207.20.09 for the steel inputs for mauls, and using the price the factory paid the market economy supplier for hammers. *See* Comment 24 of the Decision Memorandum.

11. The Department has corrected TMC's error in reporting the volume of plastic strip. *See* Comment 25 of the Decision Memorandum.

Final Results of Reviews

We determine that the following percentage weighted-average margins exist for the period February 1, 1999, through January 31, 2000:

Manufacturer/exporter		Margin (percent)
Tianjin Machinery Import & Export Corporation		
Axes/Adzes	2/1/99–1/31/00	2.66
Bars/Wedges	2/1/99–1/31/00	0.56
Hammers/Sledges	2/1/99–1/31/00	0.00
Picks/Mattocks	2/1/99–1/31/00	0.02
Shandong Machinery Import & Export Corporation		
Axes/Adzes	2/1/99–1/31/00	18.72

		Margin

follow-up mail survey of anglers, 2

of the Chief Information Officer, invites

Affected Public: Individuals or

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Manufacturer/exporter		Margin (percent)
Bars/Wedges	2/1/99–1/31/00	47.88
Hammers/Sledges	2/1/99–1/31/00	0.54
Picks/Mattocks	2/1/99–1/31/00	98.77
PRC-wide rates: [1]		
Axes/Adzes	2/1/99–1/31/00	18.72
Bars/Wedges	2/1/99–1/31/00	47.88
Hammers/Sledges	2/1/99–1/31/00	27.71
Picks/Mattocks	2/1/99–1/31/00	98.77

[1] Based on the results of this review the following companies are no longer eligible for separate rates for the following classes or kinds of merchandise: FMEC, Huarong, and LMC.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Where the importer-specific assessment rates calculated in these final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisement instructions directly to the Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent, and therefore, *de minimis*, the Department shall require no deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies with a separate rate not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates shown above; (4) for all non-PRC exporters of the subject merchandise, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: September 7, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Verification Failures
2. Misreported LMC Sales
3. Inability to Use Accounting System
4. Differences Between Reported and Verified Consumption Rates
5. Alleged Failure to Identify Steel Input
6. Failure to Report Commissions
7. LMC's Failure to Report Certain Sales
8. Whether the Department Should Use a Steel Bar or Steel Billet Surrogate Value
9. Surrogate Value for Steel Bar
10. Surrogate Value for Steel Billet
11. Whether the Department Should Update and Correct Surrogate Values
12. Whether the Department Should Use HTS Category 7204.49.01 to Value Railroad Rails and Wheels Input
13. Surrogate Value for Scrap
14. Surrogate Value for Pallets
15. Surrogate Value(s) for Wooden and Fiberglass Handles
16. Surrogate Value for Truck Freight
17. Surrogate Value for Electricity
18. Financial Ratios
19. The Sigma Rule
20. Shakeproof Methodology
21. LIMAC Rate
22. PRC-wide Rate
23. Clerical Error
24. Error in the Preliminary Results for TMC
25. Reported Factors for Plastic Strip for Axes and Cartons for Bars/Wedges

[FR Doc. 01–23173 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091201A]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Recreational Fishery Statistics Survey.

Form Number(s): None.

OMB Approval Number: 0648–0052.

Type of Request: Regular submission.

Burden Hours: 34,887.

Number of Respondents: 667,729.

Average Hours Per Response: 7 minutes for telephone survey of fishing household, 7 minutes for telephone survey of vessel operator fishing effort, 4.5 minutes for intercept survey of anglers, 3 minutes for economic telephone survey of households, 60 minutes for an in-person economic survey of vessel operators, 8 minutes for a telephone economic survey of vessel operators, 8 minutes for economic intercept questions and telephone follow-up survey of anglers, 15 minutes for economic intercept questions and follow-up mail survey of anglers, 2 minutes for a vessel directory survey, 2 minutes for a vessel operator verification call, 1.5 minutes for an intercept survey verification call, 1 minute for a telephone contact of non-fishing households, .5 minutes for a telephone contact of non-households, and 1 minute for a biological data collection.

Needs and Uses: This survey conducts random telephone interviews of residents of coastal county households to obtain data on marine recreational fishing efforts and conducts random field interviews of anglers returning from fishing trips to obtain data on the average catches of different fish species per angler fishing trip. These data are used to calculate bi-monthly estimates of marine recreational fishing participation, effort, and catch by species. The effort and catch estimates are used in the development, implementation, and monitoring of fishery management programs by the NMFS, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: September 7, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23180 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 16, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 12, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Early Childhood Longitudinal Study (ECLS)—Kindergarten Cohort, Third Grade Followup.

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 22,253.

Burden Hours: 14,990.

Abstract: Starting in the Fall and Spring of the 1998–99 school year with a cohort of kindergartners, this cohort was contacted again in the Fall and in Spring of their first grade year. This clearance is to collect data from the full sample, including a pilot test of the third grade direct assessment, conduct interviews with their parents, their teachers and school administrators during the Spring of their third grade school year. This package also requests clearance for field test activities to prepare for the Spring 2004 assessment when the majority of these students will be in fifth grade.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (703) 776–7742 or via her internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23162 Filed 9–14–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090701E]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a scientific research permit (1351).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific

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research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. Frank A. Chapman, of the Department of Fisheries and Aquatic Sciences, University of Florida (UF).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on October 17, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov) or Lillian Becker, Silver Spring, MD (phone: 301-713-2319, fax: 301–713–0376).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10 (a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*).

New Applications Received

Application 1351

The applicant has requested a 5–year permit to identify the physical, chemical, and biological parameters necessary for optimal survival and growth of shortnose sturgeon. Laboratory investigations and experimental culture provide the foundation to identify the physical, chemical and biological parameters necessary for optimal survival and growth of wild populations. The research activities proposed in this investigation address the goals and objectives of the shortnose sturgeon recovery plan. They will also serve to complement the knowledge base of sturgeon species and assist the National Fish Hatcheries to optimally maintain and reproduce shortnose sturgeon stocks.

Dated: September 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–23179 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091201A]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Emergency Beacon Registrations.

Form Number(s): None.

OMB Approval Number: 0648–0295.

Type of Request: Regular submission.

Burden Hours: 2,500.

Number of Respondents: 10,000.

Average Hours Per Response: 25.

Needs and Uses: An international system exists to use satellites to detect and locate ships, aircraft, or individuals in distress if they are equipped with an emergency radio beacon. Persons purchasing such a beacon must register it with NOAA. The data provided in the registration can assist in identifying who is in trouble and also suppressing the consequences of false alarms.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, Federal, State, Local, or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: September 7, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23181 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–585–000]

Egan Hub Partners, L.P.; Notice of Tariff Filing

September 7, 2001.

Take notice that on August 31, 2001, Egan Hub Partners, L.P. (Egan Hub) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

Third Revised Sheet No. 3
First Revised Sheet No. 94C

Egan Hub states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the "shipper must have title" rule and a general statement that it will only transport for others on offsystem capacity pursuant to its existing tariff and rates.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23138 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–583–000]

Algonquin Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A of the filing, to become effective on October 1, 2001.

Algonquin states that the purpose of this filing is to implement the tracking of the ACA Unit Surcharge authorized by the Commission to be applied to rates for the fiscal year 2002 for recovery of the Annual Charge for fiscal year 2001. Algonquin states that the ACA Unit Surcharge authorized by the Commission for fiscal year 2002 is $0.0021 per dth, which is a decrease of $0.0001 per dth from the previous surcharge.

Algonquin states that copies of this filing were served on all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 01–23134 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–88–006]

Alliance Companies, et al; Notice of Filing

September 7, 2001.

Take notice that on August 31, 2001, Ameren Services Company (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company), Consumers Energy Company and Michigan Electric Transmission Company, The Dayton Power and Light Company, The Detroit Edison Company and International Transmission Company, Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, and Virginia Electric and Power Company (collectively, the "Alliance Companies"), submitted a compliance filing addressing the various compliance matters discussed by the Commission's July 12, 2001, Order on RTO Filing ("July 12th Order") in the above-referenced proceedings.

In compliance with the July 12th Order, simultaneously with this filing, the Alliance Companies have submitted a rate filing to address outstanding Alliance RTO OATT issues. This compliance filing explains the changes to the terms and conditions of the Alliance RTO OATT made to address all outstanding non-rate tariff issues, raised but not resolved in a prior order in these proceedings, including issues raised regarding the Alliance RTO energy imbalance proposal and generator interconnection procedures. This filing also addresses other outstanding compliance issues, including: (i) a proposal for compensation to embedded transmission owners that participate in the Alliance RTO, (ii) details for the development of an independent market monitoring plan, (iii) a revised proposal for a stakeholder advisory process, and (iv) revisions to the Operating Protocol, the Planning Protocol, and the Pricing Protocol, as required by the July 12th Order.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 9, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to

the proceedings. Any person wishing to

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the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23145 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–88–006]

Alliance Companies, et al; Notice of Filing

September 7, 2001.

Take notice that on August 31, 2001, pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (2000), and section 35.13 of the regulations of the Federal Energy Regulatory Commission ("Commission"), 18 CFR 35.13, Ameren Services Company (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company), Consumers Energy Company and Michigan Electric Transmission Company, The Dayton Power and Light Company, The Detroit Edison Company and International Transmission Company, Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, and Virginia Electric and Power Company (collectively, the "Alliance Companies"), tendered for filing proposed wholesale electric transmission rates for the Alliance Regional Transmission Organization ("Alliance RTO"), and the Alliance RTO open access transmission tariff ("OATT").

The Alliance Companies seek Commission authorization of the proposed rates to be effective as of December 15, 2001, Day 1 of operations of the Alliance RTO (the "Transmission Service Date"). The Alliance Companies have revised the Alliance RTO OATT to reflect the outstanding compliance items, as described in the Alliance Companies' compliance filing submitted contemporaneously with this section 205 rate filing, as well as certain other changes. These additional changes generally are required to reflect the status of the Alliance RTO's expected operations on the Transmission Service Date and to assist customers using the OATT by creating greater consistency in the terms and conditions of the rate schedules applicable across all of the respective pricing zones.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 9, 2001 . Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23146 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–573–000]

Black Marlin Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Black Marlin Pipeline Company (Black Marlin) tendered for filing to its FERC Gas Tariff, First Revised Volume No. 1, Tenth Revised Sheet No. 4. The tariff sheet is proposed to be effective October 1, 2001.

Black Marlin states that the purpose of the instant filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Black Marlin's rates. Pursuant to Order No. 472, the Commission has assessed Black Marlin its ACA unit Rate of $.0021/dt, effective October 1, 2001.

Black Marlin states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23125 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–1523–065, OA97–470–060 and ER97–4234–058]

Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool; Notice of Filing

September 10, 2001.

Take notice that on July 17, 2001, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Federal Energy Regulatory Commission a compliance filing and refund report.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23142 Filed 9–14–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–570–000]

Colorado Interstate Gas Company; Notice of Request for Waiver

September 7, 2001.

Take notice that on August 31, 2001, Colorado Interstate Gas Company filed requesting the Commission to grant waiver of Section 20.1(b)(iii) of the General Terms and Conditions of its Tariff to permit the true-up adjustment filing pertaining to the Gas Quality Control Surcharges for its Valley Line to be made on or before December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23122 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–572–000]

Colorado Interstate Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Colorado Interstate Gas Company (CIG), tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission), the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 2001;

1st Rev. 31st Revised Sheet No. 11

CIG states that the tariff sheet is being filed to revise the Annual Charge Adjustment (ACA) from $0.0022. To $0.0021 per dth for the fiscal year beginning October 1, 2001.

CIG states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23124 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–574–000]

Colorado Interstate Gas Company; Notice of Fuel Reimbursement Filing

September 7, 2001.

Take notice that, on August 31, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-Second Revised Sheet No. 11A, reflecting an increase in its fuel reimbursement percentage for Lost.

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Unaccounted-For and Other Fuel Gas from 1.30% to 1.35%, reflecting a decrease in the fuel reimbursement percentage for Transportation Fuel Gas from 2.59% to 2.37%, and reflecting an increase in the fuel reimbursement percentage for Storage Fuel Gas from 1.31% to 1.40% effective October 1, 2001.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies, and that the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23126 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–439–000]

Columbia Gas Transmission Corporation; Notice of Application

September 7, 2001.

Take notice that on August 31, 2001, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP01–43–000, an application, pursuant to Sections 7(b) and (c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for abandonment authorization and a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, compression and appurtenant facilities in New Jersey and Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Columbia proposes to construct and operate the facilities in order to accommodate deliveries to a power plant being constructed by Mantua Creek Generating Company, L.P. (Mantua Creek) in Gloucester County, New Jersey. Specifically, Columbia proposes to construct 2.1 miles of 20-inch lateral pipeline in Gloucester County, New Jersey, 12.6 miles of pipeline loop (including 5.1 miles of 20-inch pipeline in Delaware County, Pennsylvania, and 7.5 miles of 20-inch pipeline in Gloucester County, New Jersey), 8.8 miles of 24-inch replacement pipeline in Chester County, Pennsylvania, and 0.3 mile of 24-inch replacement pipeline in Chester County. Columbia proposes to abandon 8.8 miles of 10-inch line in Chester County (to be replaced by the 8.8 miles of 24-inch line noted above) and 0.3 mile of 14-inch line in Chester County (to be replaced by the 0.3 mile of 24-inch line noted above).

Columbia also proposes to construct and operate a 6,000 horsepower (hp) compressor unit at the existing Eagle Compressor Station in Chester County, Pennsylvania, a 6,000 hp compressor unit at the existing Downingtown Compressor Station in Chester County, Pennsylvania, and a new measuring and regulating (M&R) station on the power plant property in Delaware County, Pennsylvania. Columbia proposes to provide firm transportation service for Mantua Creek, delivering 165,000 Dekatherms of natural gas per day to Mantua Creek's plant. Columbia estimates the total cost of the proposed facilities at $40,714,700, and requests rolled-in rate treatment for the project. Columbia requests that the Commission issue a certificate by April 1, 2002.

Any questions regarding this application should be directed to Fredric J. George, Certificates, at (304) 357–2359, Columbia Gas Transmission Company, PO Box 1273, Charleston, West Virginia 25325–1273.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 28, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the Commission's website at *http://www.ferc.fed.us/efi/doorbell.htm.*

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and ion landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23097 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–580–000]

Dauphin Island Gathering Partners; Notice of Tariff Filing and Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Dauphin Island Gathering Partners (DIGP) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, with an effective date of October 1, 2001:

Fourth Revised Sheet No. 6

DIGP states that this filing is submitted pursuant to Section 154.402(c) of the Commission's Regulations pursuant to FERC Order No. 472 in Docket No. RM87–3–000. DIGP states that it has revised Sheet No. 6 to reflect the ACA unit charge of $0.0021 per Dekatherm as specified by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (please call (202) 208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23132 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–440–000]

Dominion Transmission, Inc.; Notice of Application

September 10, 2001.

Take notice that on August 31, 2001, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia, 26301, filed an application pursuant to Section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity, authorizing DTI to construct and operate a new storage well within the existing limits of DTI's Racket-Newberne Storage Reservoir (Racket) in Gilmer County, West Virginia. The application is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (please call (202) 208–2222 for assistance).

The well DTI seeks to construct and operate will be in the Racket reservoir in southern Troy District, Gilmer County, West Virginia, and is a replacement well for well 5003, which was plugged and abandoned in 1996. The well is expected to replace the deliverability lost from the abandonment of well 5003. Project costs are estimated to be $572,534.

DTI also seeks specific and explicit certification of the existing Racket operations and facilities in order to remove any potential uncertainty due to the "grandfathered" status of this long existing storage field. The Racket reservoir was converted to storage operations in 1947.

Any questions regarding the application are to be directed to Sean R. Sleigh, Certificates Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301, at (304) 627–3462 or fax (304) 627–3305.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 1, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of

environmental documents issued by the

Twenty-Fifth Revised Sheet No. 24

application pursuant to section 203 of

capability that will be implemented on

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environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,
Secretary.
[FR Doc. 01–23141 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–586–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Twentieth Revised Sheet No. 4 to become effective on October 1, 2001.

East Tennessee states that the purpose of this filing is to implement the tracking of the ACA Unit Surcharge authorized by the Commission to be applied to rates for the fiscal year 2002 for recovery of the Annual Charge for fiscal year 2001. East Tennessee states that the ACA Unit Surcharge authorized by the Commission for fiscal year 2002 is $0.0021 per dth, which is a decrease of $0.0001 per dth from the previous surcharge.

East Tennessee states that copies of this filing were served on all affected customers of East Tennessee and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23137 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–581–000]

Eastern Shore Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing its Annual Charge Adjustment (ACA) filing proposed to be effective October 1, 2001.

Eastern Shore states that the revised tariff sheets are being filed pursuant to Section 32 of the General Terms and Conditions of Eastern Shore's FERC Gas Tariff, Second Revised Volume No. 1, to reflect a change of the ACA charge to $0.0021 per dt (the currently effective ACA charge is $0.0022 per dt) based on the Commission's Annual Charge Billing for Fiscal Year 2001.

Eastern Shore states that copies of its filing has been mailed to its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23133 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–576–000]

El Paso Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff to become effective October 1, 2001:

Second Revised Volume No. 1A
Twenty-First Revised Sheet No. 20
Twentieth Revised Sheet No. 23

Twenty-Fifth Revised Sheet No. 24
Twentieth Revised Sheet No. 26
Twentieth Revised Sheet No. 27
Sixteenth Revised Sheet No. 28
Seventh Revised Sheet No. 37
Seventh Revised Sheet No. 38
Third Revised Volume No. 2

Forty-Ninth Revised Sheet No. 1–D.2
Forty-Third Revised Sheet No. 1–D.3

El Paso states that the tariff sheets are being filed to revise the Annual Charge Adjustment ("ACA") from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

El Paso states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23128 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC01–145–000 and EL01–110–000]

EME Homer City Generation L.P.; Notice of Filing

September 7, 2001.

Take notice that on August 28, 2001, EME Homer City Generation, L.P. (Applicant) filed with the Federal Energy Regulatory Commission, and application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with a sale and leaseback transaction involving the Home City Electric Generating Station, an 1,884–MW coal-fired generating plant located in Indiana County, Pennsylvania. Applicant also requests the Commission to issue an order disclaiming jurisdiction over certain passive participants in the transaction.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23098 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–536–000]

Florida Gas Transmission Company; Notice of Proposed Changes In FERC Gas Tariff

September 7, 2001.

Take notice that on August 31, 2001, Florida Gas Transmission Company ("FGT") tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 ("Tariff"), the tariff sheets listed in Appendix A to the filing, to become effective October 1, 2001.

FGT states that the purpose of the instant filing is to reflect the electronic contracting and capacity release capability that will be implemented on the FGT system on October 1, 2001. Concurrent with these tariff changes FGT is implementing a new contracting and capacity release system that will, among other things, enable FGT and its shippers to comply with GISB timelines and the Commission's policies on contracting. FGT anticipates that this electronic contacting capability will replace current facsimile and mail methods for exchange of contractual documents. FGT is currently working with its shippers to transition to the new system and will continue to accept written requests, contracts and amendments during the transition period. FGT states that the proposed tariff modifications permit shippers to request service and execute service agreements electronically on FGT's Web site located at www.fgt.enron.com. The instant filing also includes minor corrections, as well as changes to update or clarify certain provisions in conformance with the electronic processes provided for herein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23110 Filed 9–14–01; 8:45 am]
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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–538–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2001.

Take notice that on August 31, 2001, Florida Gas Transmission Company ("FGT") tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 Tariff effective October 1, 2001, the following tariff sheets:

Forty-Ninth Revised Sheet No. 8A
Forty-First Revised Sheet No. 8A.01
Forty-First Revised Sheet No. 8A.02
Forty-Fifth Revised Sheet No. 8B
Thirty-Eighth Revised Sheet No. 8B.01

FGT states that the tariff sheets listed above are being filed pursuant to Section 27 of the General Terms and Conditions ("GTC") of FGT AEs Tariff which provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage ("FRCP"), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge ("UFS"), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFS are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1 (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that it is filing herein to establish an FRCP of 2.47% to become effective October 1, 2001 based on the actual company fuel use, lost and unaccounted for volumes and Market Area deliveries for the period from October 1, 2000 through March 31, 2001. The proposed FRCP of 2.47%, to become effective October 1, 2001, is an increase of 0.07 % from the currently effective FRCP of 2.40%. FGT is also filing herein to establish a Winter Period UFS of $0.0021 per MMBtu to become effective October 1, 2001, an increase of $0.0077 per MMBtu from the currently effective UFS of ($0.0056).

FGT states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23111 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–541–000]

Iroquois Gas Transmission System, L.P.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 4A . The proposed effective date of this revised tariff sheet is October 1, 2001.

Iroquois states that, pursuant to Section 154.02 of the Commission's regulations and Section 12.2 of the General Terms and Conditions of its tariff, it is filing the referenced tariff sheet to reflect a decrease in the Annual Charge Adjustment surcharge to $0.0021 per Dth.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23112 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–334–001]

KN Wattenberg Transmission LLC; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001, KN Wattenberg Transmission LLC (KNW) tendered for filing as part of its FERC Gas Tariff, Pro Forma Revised Volume No. 1, the pro forma tariff sheets listed on Appendix A to the filing.

KNW states that it is filing the above-referenced tariff sheets in compliance with the Commission's Order No. 637 and in order to replace the original pro forma tariff sheets it previously filed to comply with the directives in Order No. 637.

KNW states that a copy of this filing has been served upon all parties on the official service list for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23106 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–569–000]

KN Wattenberg Transmission L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, KN Wattenberg Transmission L.L.C. (KNW) endered for filing an original and six copies of the following tariff sheet:

First Revised Volume No. 1
Fourth Revised Sheet No. 6

KNW is filing the above-referenced tariff sheet in order to reflect the Commission's authorized ACA charge to be in effect for the twelve-month period effective October 1, 2001.

KNW states that copies of this filing are being mailed of its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23121 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–548–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001 Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective October 1, 2001:

First Revised Sheet No. 7
First Revised Sheet No. 8
First Revised Sheet No. 12
First Revised Sheet No. 13
First Revised Sheet No. 14

Maritimes states that the purpose of this filing is to update Maritimes rates for the inclusion of the applicable Annual Charge Adjustment (ACA) pursuant to Section 21 of the General Terms and Conditions of Maritimes FERC Gas Tariff. Maritimes states that its initial ACA Unit Surcharge authorized by the Commission is $0.0022 per Dth. Maritimes also proposes to remove the Gorham Energy Lateral and the Haverhill/Essex County Lateral rates that are no longer applicable from its MNLFT Rate Schedule.

Maritimes states that copies of this filing were mailed to all customers of Maritimes and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23113 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–565–000]

Midwestern Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of Midwestern Gas Transmission Company's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Thirteenth Revised Sheet Number 5

Midwestern states the purpose of this filing is to update Midwestern's tariff to reflect the Annual Charge Adjustment (ACA) factor effective for the twelve-month period beginning October 1, 2001 pursuant to Section 154.402 of the Commission's regulations and Article XVIII of the General Terms and Conditions of Midwestern's tariff. Midwestern states that its new ACA factor will be $0.0021 per Dth. This new factor was specified by the Commission at the time the Commission calculated the annual charge bill for fiscal year 2001, and is a decrease from its current ACA factor of $0.0001 per Dth.

Midwestern state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23117 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–579–000]

MIGC, Inc.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001 MIGC, Inc., (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 4 to become effective October 1, 2001.

MIGC states that the purpose of the filing is to revise the ACA unit charge to $.0021 per Dth applicable to the Commission's fiscal year commencing October 1, 2001 as provided for in 18 CFR 54.402(c) and as set forth on Original Sheet No. 5 of its FERC Gas Tariff, First Revised Volume No. 1.

MIGC states that copies of this filing are being mailed to its customers and state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23131 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–578–000]

Mojave Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Mojave Pipeline Company ("Mojave") tendered for filing and acceptance by the Federal Energy Regulatory Commission ("Commission") the following tariff sheet to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective October 1, 2001:

Sixth Revised Sheet No. 11

Mojave states that the tariff sheet is being filed to revise the Annual Charge Adjustment ("ACA") from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

Mojave state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23130 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–399–004]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing with an effective date of January 1, 2002.

National Fuel states that the filing is to comply with the Commission's order issued August 1, 2001, in Docket No. RP00–399–000, et al., to file actual tariff sheets reflecting certain revisions to its July 17, 2000, and June 4, 2001 filings in compliance with Order No. 637.

National Fuel states that copies of this filing were served upon its customers, interested state commissions and the parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23144 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–80–001]

National Grid USA; Notice of Filing

September 7, 2001.

Take notice that on August 27, 2001, National Grid USA tendered for filing with the Federal Energy Regulatory Commission (Commission), supplements to its Petition for Declaratory Order filed with the Commission in the above-captioned proceeding on May 15, 2001. This was in response to the Commission's July 26, 2001 Order issued in the above-captioned proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23100 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2251–001]

New York Independent System Operator, Inc.; Notice of Filing

September 7, 2001.

Take notice that on August 28, 2001, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff in order to establish the criteria by which it will evaluate the need to reestablish Regulation penalties and to define factor Kpi, a factor used in the calculation of availability payments made to Suppliers of Regulation service, pursuant to the Commission's order issued on July 25, 2001, in the above-captioned docket.

The NYISO has requested an effective date of July 25, 2001, for the filing.

The NYISO has served a copy of this filing upon the parties on the official service lists maintained by the Commission for the above-captioned dockets.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23099 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–563–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2001.

Take notice that on August 31, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective October 1, 2001:

Second Revised Sheet Number 202
Original Sheet Number 302
Sheet Numbers 303–399

Northern Border is filing tariff sheets to clarify, consistent with Commission's policy, the specific types of discounts that may be granted by Northern Border in a manner to be consistent with FERC-approved discounts on other pipelines.

Northern Border state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23115 Filed 9–14–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–564–000]

Northern Border Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

First Revised Sheet Number 99

Northern Border states that the purpose of this filing is to update Northern Border's tariff to reflect the Annual Charge Adjustment (ACA) factor effective for the twelve-month period beginning October 1, 2001 pursuant to Section 154.402 of the Commission's regulations and Section 16 of the General Terms and Conditions of Northern Border's tariff. Northern Border states that its new ACA factor will be $0.0021 per Dth. This new factor was specified by the Commission at the time the Commission calculated the annual charge bill for fiscal year 2001, and is a decrease from its current ACA factor of $0.0001 per Dth.

Northern Border states that copies of this filing are being mailed to its customers, state commission and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23116 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–568–000]

Northern Natural Gas Company; Notice of Tariff Filing Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

Fifth Revised Volume No. 1

57 Revised Sheet No. 50
58 Revised Sheet No. 51
25 Revised Sheet No. 52
55 Revised Sheet No. 53
7 Revised Sheet No. 56
19 Revised Sheet No. 59
3 Revised Sheet No. 59A
22 Revised Sheet No. 60
3 Revised Sheet No. 60A

Original Volume No. 2

166 Revised Sheet No.1C
42 Revised Sheet No. 1C.a

The filing establishes the revised Annual Charge Adjustment (ACA) rate effective October 1, 2001, for Northern's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

Northern states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23120 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84–257–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 10, 2001.

Take notice that Northern Natural Gas Compnay (Northern) on August 31, 2001, tendered for filing to become part of Northern's FERC Gas Tariffs, the following tariff sheets proposed to be effective on Octorber 1, 2001:

Fifth Revised Volume No. 1

Ninth Revised Sheet No. 5

Original Volume No. 2

14 Revised Sheet No. 1A.3
First Revised Sheet No. 2189

The above sheets represent cancellation of Rate Schedule X–109 from Nothern's Original Volume No. 2 FERC Gas Tariff, and its associated deletion from the Table of Contents in Northern's Volume Nos. 1 and 2 tariffs.

Copies of the filing were served upon the company's customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commision, 888 First Street, NE., Washington, DC 20426 in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests must be filed on or before October 1, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23104 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–409–012]

Northwest Pipeline Corporation; Notice of Refund and Surcharge Offset Reports

September 7, 2001.

Take notice that on August 31, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing its Refund and Surcharge Offset Reports in connection with its Docket No. RP95–409 and Docket Nos. RP93–5 and RP93–96 general rate proceedings.

Northwest states that the purpose of this filing is to provide the derivation of the refunds and surcharge offsets including applicable interest for each of its customers during the effective periods of the above referenced proceedings.

Northwest states that it has served a copy of this filing upon each person designated on the official service lists compiled by the Secretary in these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23139 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–438–000]

Northwest Pipeline Corporation; Notice of Application

September 10, 2001.

Take notice that on August 30, 2001 Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP01–438–000, an application, pursuant to sections 7(c) and 7(b) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's regulations for: (1) A certificate of public convenience and necessity authorizing Northwest to construct and operate additional pipeline loop and compression facilities (referred to as the Rockies Expansion Project) designed to expand its physical north flow capacity in the Green River, Wyoming to Stanfield, Oregon corridor sufficient to replace 175,000 Dth/d of existing, north flow design day displacement capacity for Rate Schedule TF–1 service from the Muddy Creek Compressor Station in Wyoming to the Stanfield interconnect with PG&E Gas Transmission—Northwest and all 191,000 Dth/d of displacement capacity from the Green River Compressor Station to Muddy Creek; (2) permission and approval to abandon certain compression facilities and the existing north flow design day displacement capacity under Rate Schedule TF–1 which will be replaced by the proposed new facilities and physical capacity; (3) a determination that the Rockies Expansion Project qualifies for rolled-in rate treatment; (4) approval of a pro forma Rate Schedule TF–3, and related tariff revisions, providing for a new, subordinate firm north flow transportation service, under Northwest's existing Part 284 blanket certificate, which will be dependent upon the existing contract demand design day displacement capacity available within the Blanco, New Mexico to Muddy Creek, Wyoming corridor on Northwest's system; and (5) permission and approval to abandon all of Northwest's remaining north flow design day displacement capacity for existing Rate Schedule TF–1 services in the Blanco, New Mexico to Muddy Creek, Wyoming corridor, contingent upon approval of the proposed new Rate Schedule TF–3 service, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call (202)208–2222 for assistance).

Specifically, the proposed Rockies Expansion Project facilities include: (1) Approximately 91.1 miles of pipeline (46.1 miles of 30-inch and 45 miles of 24-inch), and associated block valves, to loop six unlooped segments of Northwest's mainline, along with new taps and appurtenances to connect two existing meter stations to the proposed pipeline loops, located in Sweetwater and Lincoln Counties, Wyoming and Bear Lake, Caribou, and Bannock Counties, Idaho; and (2) compressor unit additions, replacements, uprates and/or modifications at seven existing compressor stations, located in Sweetwater and Lincoln Counties, Wyoming and Bear Lake, Bannock, Power, Cassia, and Twin Falls Counties, Idaho, which will provide a net increase of 24,924 ISO horsepower on a north flow design day. Northwest requests that the Commission issue a preliminary determination on non-environmental issues by March 1, 2002 and a final certificate order by September 1, 2002.

The estimated cost of the proposed facilities is approximately $154.3 million. Northwest requests rolled-in rate treatment for the facilities, since, Northwest contends, the project is designed to benefit existing customers by reducing displacement reliance and ameliorating capacity constraints. Northwest states that shippers representing 86% of the current base, long-term, firm Rate Schedule TF–1 contract demand on Northwest's system have formally committed to support (or non-oppose) Northwest's installation of facilities and their rolled-in rate treatment. Northwest further states that the illustrative rolled-in rate impact is approximately $0.035 per Dth.

Northwest explains that the Rockies Expansion Project is necessary to replace displacement capacity that will no longer be available after the October 31, 2003 expiration of an existing contract-specific flow obligation for 144 MDth/d from Stanfield to the southern end of Northwest's system and to

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generally mitigate the need for Northwest to invoke operational flow orders under its tariff to compensate for shortfalls in displacement capacity required to serve existing primary firm, north flow transportation obligations.

Northwest states that the proposed new Rate Schedule TF–3 is designed to allow displacement-dependent north flow firm service to remain available in the Blanco to Muddy Creek corridor; but such service will be subordinate to Rate Schedule TF–1 primary firm services. It is said that the related proposed abandonment of all the existing Rate Schedule TF–1 displacement capacity in the Blanco to Muddy Creek corridor will mean that certain capacity currently contracted or available for TF–1 service will be available prospectively only for the proposed Rate Schedule TF–3 service.

Any questions regarding this application should be directed to Mr. Gary Kotter, Manager, Certificates, Northwest Pipeline Corporation, PO Box 58900, Salt Lake City, Utah 84158–0900 or call (801) 584–7117.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 1, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–23140 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–29–000]

Pine Needle LNG Company, LLC; Notice of Filing

September 7, 2001.

On August 31, 2001, Pine Needle LNG Company, LLC submitted its revised standards of conduct.

Pine Needle LNG Company, LLC states that it served copies of the filing on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. (18 CFR 385.211 or 385.214) All such motions to intervene or protest should be filed on or before September 24, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23101 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–557–000]

Southern Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised sheets, with an effective date of October 1, 2001:

Fifty-fifth Revised Sheet No. 14
Seventy-sixth Revised Sheet No. 15
Fifty-fifth Revised Sheet No. 16
Seventy-sixth Revised Sheet No. 17
Thirty-ninth Revised Sheet No. 18
Ninth Revised Sheet No. 22

The proposed tariff sheets implement the Federal Energy Regulatory Commission's (Commission) revised Annual Charge Adjustment (ACA) effective October 1, 2001. The revised ACA surcharge is .21¢ per Dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23114 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

Southwest states that the purpose of this filing is to comply with the Commission's Order on Order No. 637 Compliance Filing issued on July 30, 2001. Specifically, the proposed changes (1) clarify that replacement shippers may nominate at the first opportunity after the award of capacity, (2) implement a crediting mechanism to credit OFO penalty revenue to its shippers and (3) establish a mechanism to credit existing shippers with the value of gas retained upon termination of a storage contract.

Southwest states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23107 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–530–000]

Steuben Gas Storage Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 30, 2001, Steuben Gas Storage Company ("Steuben"), 9 Greenway Plaza, Houston, Texas 77046, tendered for filing Fourth Revised Sheet No. 5 from its FERC Gas Tariff, Original Volume No. 1 and Sixth Revised Sheet No. 1(A) from its FERC Gas Tariff Original Volume No. 2, to be effective October 1, 2001.

Steuben state that the purpose of the filing is to reflect a decrease in the ACA rate adjustment to Steuben's commodity rates effective October 1, 2001. The tariff sheets reflect a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021 per Dth for fiscal year 2001.

Steuben states that copies of this filing are being mailed to its customers, state commission and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23109 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–577–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 2001:

Twenty-Fourth Revised Sheet No. 20

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–471–001]

Southwest Gas Storage Company; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 29, 2001, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets as listed on Appendix A attached to the filing.

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Twenty-Fourth Revised Sheet No. 20
Fourteenth Revised Sheet No. 21
Twenty-Fifth Revised Sheet No. 21A
Thirty-First Revised Sheet No. 22
Twenty-Fifth Revised Sheet No. 22A
Eleventh Revised Sheet No. 23A
Ninth Revised Sheet No. 23C
Fourth Revised Sheet No. 23E
Eighteenth Revised Sheet No. 26
Seventeenth Revised Sheet No. 26A
Twenty-Seventh Revised Sheet No. 26B
Tenth Revised Sheet No. 27
Fourth Revised Sheet No. 29A

Tennessee states that the purpose of the filing is to reflect a decrease in the ACA rate adjustment to Tennessee's commodity rates for the period October 1, 2001 through September 30, 2002. The tariff sheets reflect a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23129 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–584–000]

Texas Eastern Transmission, LP; Notice of Tariff Filing Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, the revised tariff sheets listed on Appendix A of the filing, to become effective on October 1, 2001.

Texas Eastern states that the purpose of this filing is to implement the tracking of the ACA Unit Surcharge authorized by the Commission to be applied to rates for the fiscal year 2002 for recovery of the Annual Charge for fiscal year 2001. Texas Eastern states that the ACA Unit Surcharge authorized by the Commission for fiscal year 2002 is $0.0021 per dth, which is a decrease of $0.0001 per dth from the previous surcharge.

Texas Eastern states that copies of this filing were served on all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23136 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–566–000]

Texas Gas Transmission Corporation; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective October 1, 2001:

Thirty-Eighth Revised Sheet No. 10
Twenty-First Revised Sheet No. 10A
Fourth Revised Sheet No. 10A.01
Twenty-Fourth Revised Sheet No. 11A
Twenty-Second Revised Sheet No. 11B
Thirty-Sixth Revised Sheet No. 12
Fourth Revised Sheet No. 12.01
Sixteenth Revised Sheet No. 13

The revised tariff sheets are being filed pursuant to Section 23 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, which affords Texas Gas the right to recover the costs billed to Texas Gas by the Federal Energy Regulatory Commission via the FERC ACA Unit Charge method. That unit charge, as determined by the Commission, is $.0021/MMBtu as set forth on Texas Gas's Annual Charges Bill for fiscal year 2001, to be effective October 1, 2001.

Texas Gas state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23118 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–032]

TransColorado Gas Transmission Company; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Thirty-Second Revised Sheet No. 21, Twenty-Fourth Revised Sheet No. 22 and Fifth Revised Sheet No. 22A, to be effective September 1, 2001.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

The tendered tariff sheets propose to revise TransColorado's Tariff to reflect three amended negotiated-rate contracts and the deletion of one expired contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23105 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–245–003]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to become effective September 1, 2001.

Transco states that the purpose of the instant filing is to place into effect on September 1, 2001, the end of the suspension period in this proceeding, the rates filed therein on March 1, 2001, adjusted (i) to eliminate the costs associated with facilities not in service as of August 31, 2001, the end of the RP01–245 test period; and (ii) to incorporate, as appropriate, intervening filings which have been made effective subsequent to the March 1, 2001 filing in this docket.

Transco states it is serving copies of the instant filing to its customers, interested State Commissions, and other interested parties to Docket No. RP01–245.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23108 Filed 9–14–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–567–000]

Transwestern Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Transwestern Pipeline Company (Transwestern), tendered for filing changes in its FERC Gas Tariff Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

Second Revised Volume No. 1

125 Revised Sheet No. 5
30 Revised Sheet No. 5A
22 Revised Sheet No. 5A.02
22 Revised Sheet No. 5A.03
27 Revised Sheet No. 5B

The filing establishes the revised Annual Charge Adjustment (ACA) rate effective October 1, 2001 for Transwestern's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

Transwestern states that copies of the filing have been mailed to its customers, state Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be

viewed on the web at *http://*

instructions on the Commission's web

2. New York State Electric & Gas

Comment date: September 19, 2001.

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viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23119 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–582–000]

Tuscarora Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective October 1, 2001:

Fourth Revised Sheet No. 4
Fourth Revised Sheet No. 5

Tuscarora asserts that the purpose of this filing is to reflect a decrease in the Annual Charge Adjustment (ACA) for jurisdictional transportation customers in accordance with the Commission's Statement of Annual Charges and Section 12 of the General Terms and Conditions of Tuscarora's FERC Gas Tariff.

Tuscarora states that copies of this filing were mailed to customers of Tuscarora and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23135 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–571–000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Wyoming Interstate Company, Ltd. (WIC) tendered for filing and acceptance by the Federal Energy Regulatory Commission(Commission) the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 2, to become effective October 1, 2001:

Thirteenth Revised Sheet No. 4A
First Revised Sheet No. 4E

WIC states that the tariff sheets are being filed to revise the Annual Charge Adjustment (ACA) from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23123 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–575–000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Young Gas Storage Company, Ltd. (Young), tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission) the following tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective October 1, 2001;

Ninth Revised Sheet No. 4

Young states that the tariff sheet is being filed to revise the Annual Charge Adjustment ("ACA") from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

Young state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23127 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1042–004, *et al.*]

System Energy Resources, Inc., *et al.*; Electric Rate and Corporate Regulation Filings

September 7, 2001.

Take notice that the following filings have been made with the Commission:

1. System Energy Resources, Inc.

[Docket Nos. ER95–1042–004]

Take notice that on August 29, 2001, System Energy Services, Inc. (Energy Services), as agent for System Energy Resources, Inc. (SERI) submitted for filing six copies of the Unit Power Sales Agreement (UPSA), SERI Rate Schedule FERC No. 2, in compliance with the above-captioned dockets and in compliance with Federal Energy Regulatory Commission (FERC or the Commission) Order No. 614, and a black-lined copy of the UPSA. This filing also includes six copies of SERI's Master Nuclear Decommissioning Trust Agreement (Trust Agreement), which has been redesignated from supplements to SERI Rate Schedule FERC No. 2 to a new rate schedule, SERI Rate Schedule FERC No. 4, and a black-lined copy of the Trust Agreement. Further enclosed for filing are six copies of SERI's Grand Gulf Accelerated Recovery Tariff For Entergy Mississippi, Inc. ("GGART–M"), which has been redesignated from supplements to SERI Rate Schedule FERC No. 2 to a new rate schedule, SERI Rate Schedule FERC No. 5, along with a black-lined copy of the GGART–M. Finally, enclosed for filing are six copies of a Stipulation and Agreement (Stipulation), which has been redesignated from a supplement to SERI Rate Schedule FERC No. 2 to a new rate schedule, SERI Rate Schedule FERC No. 6, along with a black-lined copy of the Stipulation.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. New York State Electric & Gas CorporationDocket Nos.

[Docket Nos. ER97–1523–066, OA97–470–061 and ER97–4234–059]

Take notice that on August 29, 2001, New York State Electric & Gas Corporation ("NYSEG") filed Notices of Cancellation of NYSEG's Electric Rate Schedule FERC Nos. 67, 70 and 80 to become effective November 18, 1999, and in compliance with Commission Order 614 original tariff sheets.

NYSEG requests all necessary waivers of the Commission's notice and any other requirements necessary to make the cancellation of Electric Rate Schedule FERC Nos. 67, 70 and 80 between NYSEG and NYPA effective as of November 18, 1999. The effectiveness of the Notices of Cancellation is conditioned upon the Commission's acceptance for filing of the Amended and Restated Transmission Service Agreement between NYSEG and NYPA (filed in Docket Nos. ER97–1523–062, OA97–470–057 and ER97–1523–062) effective as of November 18, 1999, in accordance with its provisions.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Oklahoma Gas and Electric Company

[Docket Nos. ER01–1567–001 and ER01–1568–001]

Take notice that on August 29, 2001, in compliance with the letter order issued in these dockets on April 11, 2001, as modified by letter orders issued on May 29, 2001 and August 23, 2001, Oklahoma Gas and Electric Company filed a Power Supply Agreement with the Municipal Energy Agency of Mississippi with proposed designations, as required by the Commission's Order No. 614.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER01–2964–000]

Take notice that on August 29, 2001, Commonwealth Edison Company (ComEd) submitted for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) with GEN SYS Energy under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of August 1, 2001, and accordingly requests waiver of the Commission's notice requirements.

A copy of this filing has been sent to GEN SYS Energy.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas And Electric Company

[Docket No. ER01–2965–000]

Take notice that on August 29, 2001, Louisville Gas and Electric Company (LG&E) filed with the Federal Energy Regulatory Commission (Commission or FERC), a termination notice for power sales service between LG&E and Tenaska Power Services Co. The terminated services are FERC Electric Tariff Original Volume 1 Service Agreement 606.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New York Independent System Operator, Inc.

[Docket No. ER01–2967–000]

Take notice that on August 29, 2001, the New York System Operator, Inc. (NYISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), proposed revisions and additions to its Independent Access Transmission Tariff (OATT) designed to provide rules for the allocation of responsibility for the cost of new interconnection facilities. The NYISO has requested that the Commission act on this filing in an expedited manner, waive its usual 60-day notice period requirement and make the filing effective no later than September 26, 2001.

The NYISO has served a copy of this filing on all persons that have filed interconnection applications or executed Service Agreements under the NYISO OATT, on the New York Public Service Commission, and on the electric utility regulatory agencies in New Jersey and Pennsylvania. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO Technical Information Exchange list.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. FirstEnergy Solutions Corp.

[Docket No. ER01–2968–000]

Take notice that on August 29, 2001, FirstEnergy Solutions Corp. (Solutions) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to 18 CFR 35.16 a Notice of Succession to rate schedules of FirstEnergy Services Corp. (Services)

Solutions states that the Notice of Succession is being filed to implement a change in the corporate name of Services that is to take effect on September 1, 2001. Solutions has asked

to make the Notice of Succession

Potomac Edison Company dab

Utility Customers." WPSC is filing this

Comment date: September 20, 2001,

the service commencement date under

Energy and Capacity Sales Agreement

to make the Notice of Succession effective concurrently with the change of its corporate name.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. NRG Audrain Generating LLC

[Docket No. ER01–2969–000]

Take notice that on August 28, 2001, NRG Audrain Generating LLC (NRG Audrain) submitted with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to Section 35.16 of the Commission's regulations, 18 CFR 35.16. As a result of the name change, NRG Audrain is succeeding to the FERC Electric Tariff of Duke Energy Audrain, LLC, effective May 11, 2001.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Electric Power Company

[Docket No. ER01–2970–000]

Take notice that on August 30, 2001, Southwestern Electric Power Company (SWEPCO) submitted for filing a revised Power Supply Agreement between SWEPCO and Rayburn Country Electric Cooperative, Inc. (Rayburn Country) (the Restated Agreement), which restates, integrates and amends the March 1, 1991 Power Supply Agreement between SWEPCO and Rayburn Country. SWEPCO has designated the Restated Agreement as SWEPCO First Revised Rate Schedule No. 111.

SWEPCO requests an effective date of June 15, 2000 for the Restated Agreement. Accordingly, to the extent necessary, SWEPCO seeks waiver of the Commission's filing requirements. SWEPCO has served copies of the filing on Rayburn Country and the Public Utility Commission of Texas. Copies of the filing are available for public inspection in SWEPCO's offices in Shreveport, Louisiana.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC (AE Supply)

[Docket No. ER01–2971–000]

Take notice that on August 30, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (AE Supply), filed with the Federal Energy Regulatory Commission (Commission or FERC) a First Revised Rate Schedule FERC No. 9 (First Revised Schedule) with the Potomac Edison Company dab Allegheny Power in order for Allegheny Power to continue to supply its Virginia load requirements and to provide default service when Virginia implements customer choice. AE Supply has requested a waiver of notice to make the First Revised Schedule effective on January 1, 2001.

Copies of the filing have been provided to the customer and to the Virginia State Corporation Commission.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and West Texas Utilities Company

[Docket No. ER01–2972–000]

Take notice that on August 30, 2001, Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) (collectively, the AEP Operating Companies) submitted for filing with the Federal Energy Regulatory Commission (Commission), service agreements establishing the Electric Reliability Council of Texas (ERCOT) as a customer under the AEP Operating Companies respective Coordination Sales and Reassignment of Transmission Rights Tariffs, CPL FERC Electric Tariff, Second Revised Volume No. 8; PSO FERC Electric Tariff, First Revised Volume No. 5; SWEPCO FERC Electric Tariff, First Revised Volume No. 5; and WTU FERC Electric Tariff, First Revised Volume No. 8.

The AEP Operating Companies have requested an effective date of July 31, 2001 for the agreements with ERCOT and, accordingly, seek waiver of the Commission's notice requirements.

The AEP Operating Companies have served a copy of the filing on ERCOT and on the Public Utilities Commission of Texas.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER01–2973–000]

Take notice that on August 30, 2001,Wisconsin Public Service Corporation (WPSC), tendered for filing with the Federal Energy Regulatory Commission (Commission), a revised, unexecuted service agreement with Manitowoc Public Utilities (Manitowoc) under WPSC's W–2A Tariff, "Partial Requirements Service to Interconnected Utility Customers." WPSC is filing this modified service agreement because Manitowoc has ceased taking bundled service under the W–2A Tariff. Instead, Manitowoc will purchase electric generation from WPSC under the W–2A Tariff and will purchase transmission service from the American Transmission Company, L.L.C. (ATCLLC). WPSC requests that the Commission make the revised service agreement effective on August 1, 2001, the date on which Manitowoc began taking transmission service from the ATCLLC.

Copies of the filing were served upon Manitowoc and the Public Service Commission of Wisconsin.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Mirant Chalk Point, LLC

[Docket No. ER01–2974–000]

On August 30, 2001, Mirant Chalk Point, LLC (Mirant Chalk Point) filed with the Federal Energy Regulatory Commission (Commission), the following energy and capacity sales agreement for sales under Mirant Chalk Point's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1269–000.

Mirant Chalk Point request an effective date of August 1, 2001.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Mirant Peaker, LLC

[Docket No. ER01–2975–000]

On August 30, 2001, Mirant Peaker, LLC (Mirant Peaker) filed with the Federal Energy Regulatory Commission (Commission), the following energy and capacity sales agreement for sales under Mirant Peaker's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1276–000.

Mirant Peaker request an effective date of August 1, 2001.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Mirant Potomac River, LLC

[Docket No. ER01–2976–000]

On August 30, 2001, Mirant Potomac River, LLC (Mirant Potomac) filed with the Federal Energy Regulatory Commission (Commission), the following energy and capacity sales agreement for sales under Mirant Potomac's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1277–000.

Mirant Potomac request an effective date of August 1, 2001.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. American Electric Power Service Corporation

[Docket No. ER01–2977–000]

Take notice that on August 30, 2001, American Electric Power Service Corporation (AEPSC) submitted for filing with the Federal Energy Regulatory Commission (Commission), Service Agreement for ERCOT Regional Transmission Service between AEPSC and the following customers: AES New Energy, Inc., Calpine Power America LP, Coral Power, L.L.C., Dynegy Energy Marketing, L.P., Enron Energy Services, Inc., Enron Power Marketing, Inc., Entergy Solutions, LTD, Entergy Solutions Select Ltd., First Choice Power, Inc., FPL Energy Power Marketing, Inc., Green Mountain Energy company, Mutual Energy CPL, LP, Mutual Energy SWEPCO, LP, Mutual Energy WTU, LP, Occidental Power Marketing, L.P., Reliant Energy Solutions, LLC, Reliant Energy Retail Services, LLC, Sempra Energy Solutions, Shell Energy Services Company, L.L.C. StarEN Power, LLC, Strategic Energy, LLC d/b/a expert Energy, The New Power Company, TXI Power Company, TXU Energy Services Company, Utility Choice, LLC, and XERS INC. d/b/a Xcel Energy.

SAEPSC seeks an effective date of July 31, 2001 for all of these agreements and accordingly seeks waiver of the Commission's notice requirement. This date coincides with the first day of implementation of the pilot retail choice program in Texas and the establishment of single control area operations in ERCOT.

AEPSC has serviced copies of the filing on all of the customers and the Public Utility Commission of Texas.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Portland General Electric Company

[Docket No. ER01–2978–000]

Take notice that on August 30, 2001, Portland General Electric Company submitted for filing with the Federal Energy Regulatory Commission (Commission) six copies of Service Agreement No.115 to the Portland General Electric FERC Electric Tariff, Second Revised Volume No. 8, which is PGE's Open Access Transmission Tariff. This Service Agreement is a Transmission Service Agreement (TSA) between PGE's transmission function and PGE's merchant function.

PGE requests that this TSA be made effective as of August 1, 2001, which is the service commencement date under the TSA.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas And Electric Company/Kentucky Utilities Company

[Docket No. ER01–2979–000]

Take notice that on August 30, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Netting Agreement between the Companies and The Detroit Edison Company.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. American Electric Power Service Corporation

[Docket No. ER01–2980–000]

Take notice that on August 30, 2001, American Electric Power Service Corporation (AEPSC) submitted for filing with the Federal Energy Regulatory Commission (Commission), Service Agreements for ERCOT Ancillary Services between AEPSC and the following customers: Big Country Electric Cooperative, Inc., The City of Hearne, Texas, The City of Weatherford, Texas, Coleman Country Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Medina Electric Cooperative, Inc., Pedernales Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., South Texas Electric Cooperative Inc., Southwest Texas Electric Cooperative, Inc., Taylor Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc.

AEPSC seeks an effective date of August 1, 2001 for all of these agreements and, accordingly seeks waiver of the Commission's notice requirement.

AEPSC has served copies of the filing on all of the customers and the Public Utility Commission of Texas.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Mirant Mid-Atlantic, LLC

[Docket No. ER01–2981–000]

On August 30, 2001, Mirant Mid-Atlantic, LLC (Mirant Mid-Atlantic) filed with the Federal Energy Regulatory Commission (Commission) the following energy and capacity sales agreement for sales under Mirant Mid-Atlantic's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1273–000.

Energy and Capacity Sales Agreement dated as of August 1, 2001, between Mirant Mid-Atlantic, LLC, and Mirant Americas Energy Marketing LP.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Old Dominion Electric Cooperative

[Docket No. ER01–2982–000]

Take notice that on August 30, 2001, Old Dominion Electric Cooperative (Applicant) filed with the Federal Energy Regulatory Commission (Commission), an Application Submitting Rate Schedules Pursuant To Market-Based Rate Authority And Request For Waivers, submitting for filing an addendum to Rate Schedule NOVEC1–OD, which is currently in effect pursuant to the Service Agreement between Applicant and Northern Virginia Electric Cooperative accepted for filing in Docket No. ER00–1512–000, and a new Rate Schedule NOVEC2–OD, for service to new load at a new delivery point.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. MidAmerican Energy Company

[Docket No. ER01–2986–000]

Take notice that on August 30, 2001, MidAmerican Energy Company (MidAmerican), 401 Douglas Street, P. O. Box 778, Sioux City, Iowa 51102 tendered for filing with the Federal Energy Regulatory Commission (Commission), a change to its Open Access Transmission Tariff (OATT) consisting of First Revised Sheet Nos. 42, 51, 104, and 202–208 of First Revised Volume No. 8.

MidAmerican states that the changes in the tariff sheets are to comply with the Commission's order in Docket No. ER01–2207–000, dated July 25, 2001, adopting the Mid-Continent Area Power Pool (MAPP) amended Schedule F to incorporate the North American Electric Reliability Council (NERC) transmission loading relief (TLR) procedures for curtailments of firm transmission, including generation to load service.

MidAmerican proposes that First Revised Volume No. 8 become effective on July 16, 2001, and requests a waiver of the Commission's notice requirements.

The proposed change has been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board and the Illinois Commerce Commission, the South Dakota Public Utilities Commission.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. New York Independent System

Any person wishing to become a party

k. Description of Filing: The licensee

representative of the Applicant

385.2001(a)(1)(iii) and the instructions

"RECOMMENDATIONS FOR TERMS

23. New York Independent System Operator, Inc.

[Docket No. ER01–2988–000]

Take notice that on August 31, 2001, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission), revisions to its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services (Services Tariff) to modify and establish a common time period in the OATT and the Services Tariff for a customer to challenge the accuracy of final billing invoices. The NYISO has requested an effective date of November 1, 2001 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's OATT and Services Tariff.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Illinois Power Company

[Docket No. ES01–42–000]

Take notice that on August 31, 2001, Illinois Power Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt, from time to time, in an amount not to exceed $500 million.

Comment date: September 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. United States Department of Energy Bonneville Power Administration

[Docket No. NJ01–10–000]

Take notice that on August 24, 2001, the Bonneville Power Administration (Bonneville) filed an amendment to its December 14, 2000 filing of its proposed Open Access Transmission Tariff with the Federal Energy Regulatory Commission (Commission).

Comment date: September 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23096 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

September 7, 2001.

a. Application Type: Application to Amend License for the Horseshoe Bend Hydroelectric Project.

b. Project No: 5376–062.

c. Date Filed: August 22, 2001.

d. Applicant: Horseshoe Hydroelectric Company.

e. Name of Project: Horseshoe Bend Hydroelectric Project.

f. Location: The project is located on the Payette River in Boise County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Kathy Buchanan, Horseshoe Bend Hydroelectric Company, P.O. Box 9106, Boise, ID 83701. Tel: (208) 345–7515.

i. FERC Contact: Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 219–3273 or by e-mail at *vedula.sarma@ferc.fed.us.*

j. Deadline for filing comments and/or motions: October 9, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the project number (5376–062) on any comments or motions filed.

k. Description of Filing: The licensee is proposing construction of facilities in two phases to prevent sediment from entering or accumulating in the power canal and reducing its flow capacity. The Phase I facilities include (a) widening of the entrance of the canal bottom width from 79-foot to 360-foot, (b) installation of a 540-foot long elevated sill (crest elevation at 2600.7 feet), (c) a diverging channel downstream of the sill, (d) a sluiceway on the river side of the sill, trash racks over sluice way boxes etc. Features of the Phase II include (a) a desanding/settling basin in the canal area, desander sluice boxes end-to-end across the canal bed, access ramp for maintenance of desander and other facilities. Phase II facilities will be constructed only if required after evaluating the effectiveness of Phase I facilities.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the Web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. This notice also consists of the following standard paragraphs:

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23102 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions to Intervene, and Protests

September 7, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No.: 7000–013.

c. Date Filed: August 31, 2001.

d. Applicants: Newton Falls, Inc. (Transferor) and Newton Falls Holdings, LLC (Transferee).

e. Name of Project: Newton Falls.

f. Location: On the Oswegatchie River near the Town of Clifton, St. Lawrence County, New York. The project does not utilize Federal or tribal lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Stephen C. Palmer and Robert M. Ivanauskas, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 2007–5116, (202) 424–7500; Malcom D. Young, Smith Gambrell & Russell, LLP, Suite 3100, Promenade II, 1230 Peachtree Street, N.E., Atlanta, Georgia 30309–3592, (404) 815–3774.

i. FERC Contact: Regina Saizan, (202) 219–2673.

j. Deadline for filing comments and or motions: (September 22, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Please include the Project Number (7000–013) on any comments or motions filed.

k. Description of Transfer: The project consists of two dams and four generating units having a total installed capacity of 2,220 kW. Adjacent to the project is a paper mill that was shut down last year. The project will be sold to transferee as part of a larger transaction that includes the paper mill and the surrounding land, which consists of approximately 5000 acres.

The transfer application was filed within five years of the expiration of the license for the project. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 FR 23,756; FERC Stats. and Regs., Regs. Preambles 1986–1990 30,854 at p.31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31,438 n. 318).

l. Location of the Application: Copies of this filing are on file with the Commission and are available for public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, 214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23103 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request for Extension of Time To Commence Project Construction

September 10, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Applicotion Type:* Request for Extension of Time.

b. *Project No.:* 10371–007.

c. *Date Filed:* September 4, 2001.

d. *Applicant:* CPS Products, Inc.

e. *Name and Location of Project:* The proposed Bear Creek Hydroelectric Project, FERC No. 10371–007, is to be located on Bear Creek in Skagit County, north of Concrete, Washington.

f. *Pursuant to:* Public Law 105–192 (1998).

g. *Applicant Contact:* Thomas R. Childs, President, CPS Products, Inc., P.O. Box 1691, Bellingham, WA 98227, (360) 734–0923.

h. *FERC Contact:* Pete McGovern, (202) 219–2867, or e-mail address: peter.mcgovern@ferc.fed.us

i. *Deadline for filing comments and or motions:* (October 10, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR

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385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the project number (10371–007) on any comments or motions filed.

j. *Description of the Request:* The licensee has requested that the deadline for commencement of construction of the Bear Creek Hydroelectric Project be extended to December 9, 2003. The deadline for completion of construction for FERC Project No. 10371 would be extended to December 9, 2005.

k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–23143 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00323; FRL–6800–1]

Characterizing and Presenting Summary Chemical Exposure Assessment Results; Notice of a Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will convene a workshop to obtain the individual opinions of technical experts and interested stakeholders on suggested summaries for presenting exposure assessment results. The workshop will be of interest to companies and consortia who have signed up for the Voluntary Children's Chemical Evaluation Program (VCCEP) as well as to those who may want to voluntarily present exposure assessment results. A short overview of the VCCEP will be given at the beginning of the workshop but the emphasis will be on describing and presenting exposure assessment results. There will be a roundtable discussion by invited participants followed by an opportunity for public comment. Following the workshop, EPA will take the information received into consideration in revising the summaries for presenting exposure assessment results and make the revised summaries available to the public. EPA is planning a subsequent workshop to discuss methodologies for conducting exposure assessments.

DATES: The workshop will commence at 10 a.m. on Tuesday, September 25, 2001, and end at 4 p.m. on Wednesday, September 26, 2001.

ADDRESSES: The workshop will be held at the Holiday Inn - National Airport, 2650 Jefferson Davis Highway, U.S. Rte. #1, Arlington, VA, (703) 684–7200.

FOR FURTHER INFORMATION CONTACT: For technical information related to the Workshop for Presenting Chemical Exposure Assessment Results contact: Patrick Kennedy, Economics, Exposure and Technology Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 260–3916; e-mail: kennedy.patrick@epa.gov. Questions regarding registration and logistics should be directed to EPA's contractor, ERG, at (781) 674–7374.

You may obtain electronic copies of this document and related documents from the EPA Internet site at http://www.epa.gov/opptintr/chemrtk. Draft guidance for exposure summaries and examples are also available at this EPA internet site. You may access the **Federal Register** documents directly at http://www.epa.gov/fedrgstr.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those chemical manufacturers, importers, and processors who produce or use chemical substances that are covered by the Toxic Substances Control Act (TSCA), individuals or groups concerned with chemical testing and children's health, and animal welfare groups. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

II. Purpose of the Meeting

The purpose of this workshop is to obtain the individual opinions of technical experts and interested stakeholders on suggested summaries for presenting exposure assessment results. To facilitate the discussion at the workshop, EPA will be introducing suggested summary sheets that could be used to present exposure assessment results and associated descriptions for the information in the summaries. In addition, examples, including those provided by industry, will be made available and discussed at the workshop to illustrate the principles of consistency, transparency, completeness, and quality in presenting exposure assessment results. The draft summaries and examples will be made available via the EPA Internet Site at http://www.epa.gov/opptintr/chemrtk.

To enable the discussion, EPA has invited technical experts from industry, non-governmental organizations, and government agencies, including EPA, to discuss the exposure assessment summary documents in a roundtable format. The invited participants were selected to provide a balanced representation of stakeholder interests. Presentation of the suggested summaries and examples for presenting exposure assessment results will be made by EPA and other invited participants and roundtable discussion by invited participants will follow. Opportunity for public comment from anyone who wishes to provide oral remarks will be provided at the conclusion of the roundtable discussion. Oral comments from the public may be limited to 5 minutes per individual to allow all those who wish to comment the opportunity to speak. Written comments may also be submitted to EPA via fax transmission to ERG at (781) 674–2906 until one week prior to the meeting.

The exposure summaries can be used as a road map or index for organizing and presenting exposure information. Information that is provided will vary from one chemical to the next. Other considerations, including hazard data for a particular chemical, may motivate submitters of exposure information to provide additional data elements and omit information on elements suggested on the summary sheets. EPA is planning a subsequent workshop to discuss methodologies for conducting exposure assessment studies. This workshop is planned for November or December 2001; details will be posted on the EPA internet site at http://www.epa.gov/opptintr/chemrtk. EPA is not asking participants in the workshop to reach agreement or provide any collective recommendations on the summaries for presenting exposure assessment results. EPA's intent is to obtain technical information and the individual perspective of invited participants based upon their unique backgrounds and experiences. Accordingly, EPA does not intend to organize this workshop as an advisory committee as defined in the Federal Advisory Committee Act, 5 U.S.C. App.

There is no charge for attending this workshop. EPA has contracted with Eastern Research Group, Inc., (ERG), 110 Hartwell Avenue, Lexington, Massachusetts, 02421, to provide registration and logistical support. To ensure that all interested parties can be accommodated, please preregister by calling ERG's conference registration line at (781) 674–7374 or fax a registration request to (781) 674–2906. You may also send an e-mail registration request to ERG at meetings@erg.com. Upon registration, you will be sent an agenda and a logistical fact sheet.

List of Subjects

Environmental protection Pesticides and Toxics.

Dated: September 4, 2001.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 01–23091 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–42079; FRL–6777–1]

West Virginia State Plan for Certification of Applicators of Restricted Use Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent.

SUMMARY: The State of West Virginia has submitted to EPA several statutory, regulatory, and programmatic amendments to its State Plan for Certification and Training of Applicators of Restricted Use Pesticides. The proposed amendments establish new requirements for the certification and recertification of pesticide applicators, and issuance of pesticide business licences, categorizes private applicators, raises competency standards and time intervals between re-examination attempts for initial certification, requires training for registration of non-certified employees, codifies commercial categories and subcategories, and updates citations concerning civil penalties to include private applicators. The plan also contains a speciality subcategory for predator control. Persons certified in this subcategory will not only be required to demonstrate a practical knowledge of predator control, but also must demonstrate a knowledge of the specific label requirements and use restrictions of the 1080 Livestock Protection Collar and M-44 Device. Notice is hereby given of the intention of the Regional Administrator, Region III to approve the revised Plan for the Certification of Applicators of Restricted Use Pesticides. EPA is soliciting comments on the proposed amendments.

DATES: Comments, identified by docket control number OPP–42079, must be received on or before October 17, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–42079 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Magda Rodriguez-Hunt, Waste and Chemicals Management Division, 3WC32, 1650 Arch Street, Philadelphia, PA 19103–2099; telephone number: (215) 814–2128; e-mail address: rodriguez-hunt.magda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those involved in agriculture and anyone involved with the distribution and application of pesticides for agricultural purposes. Others involved with pesticides in a non-agricultural setting may also be affected. In addition, it may be of interest to others, such as, those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of the Amended State Plan, Other Related Documents, and Additional Information?

To obtain copies of the amended West Virginia Certification Plan, other related documents, or additional information contact:

1. Magda Rodriguez-Hunt at the address listed under **FOR FURTHER INFORMATION CONTACT.**

2. Robert Frame, Pesticide Regulatory Programs, West Virginia Department of Agriculture, 1900 Kanawha Boulevard, East, Charleston, WV 25305–0190; telephone number: (304) 558–2209; e-mail address: rframe@ag.state.wv.us.

3. Jeanne Heying, Office of Pesticide Programs, Field and External Affairs Division (7506C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., 20460; telephone number: (703) 308–3240; e-mail address: heying.jeanne@epa.gov.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically to Magda Rodriguez-Hunt at the address

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listed under **FOR FURTHER INFORMATION CONTACT**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–42079 in the subject line on the first page of your response. Electronic comments can be submitted by e-mail or you can submit a computer disk. When submitting comments electronically do not submit any information that you consider to be confidential business information (CBI). Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–42079.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has reviewed the revised West Virginia Certification Plan and finds it in compliance with FIFRA and 40 CFR part 171 and is announcing its intention to approve the amended plan and seeks public comment.

List of Subjects

Environmental protection, Education, Pests and pesticides.

Dated: August 31, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–23089 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7057–2]

Red Panther Pesticide Superfund Site/ Clarksdale, MI;Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), approximately 24 parties (Respondents) entered into an Administrative Order on Consent (AOC) with the Environmental Protection Agency (EPA), whereby the Respondents agreed to perform response activities at the Red Panther Pesticide Superfund Site (Site) located in Clarksdale, Coahoma County, Mississippi. Section VII of the AOC provides for the reimbursement of EPA's past and future response costs by the Respondents. Under the terms of the AOC, section VII is subject to section 122(i) of CERCLA, which requires EPA to publish notice of the proposed settlement in the **Federal Register** for a thirty (30) day public comment period. EPA will consider public comments on section VII of the AOC for thirty days. EPA may withhold consent to all or part of section VII of the AOC if comments received disclose facts or considerations which indicate that section VII of the AOC is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: August 20, 2001.

Anita L. Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–23084 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

National Emergency

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the Commission will accept all filings that were due on September 11, 2001 on September 12, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Magalie Roman Salas, Secretary, FCC, (202) 418–0300.

SUPPLEMENTARY INFORMATION: Due to the national emergency that occurred on September 11, 2001, the Federal Communications Commission closed its offices early in the morning. According to § 1.4(e)(1), all filings, paper and electronic, that were due on September 11, 2001, are due on September 12, 2001, the Commission's next official work day after the early closing. In addition, September 11th does not count in computing filing periods that are less than seven days. See CFR 1.4(g).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23268 Filed 9–14–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–01–12]

Grants to Indian Tribal Organizations for the Native American Caregiver Support Program

AGENCY: Administration on Aging (AoA), HHS.

ACTION: Announcement of availability of funds and opportunity to apply under the Older Americans Act (OAA), title VI, Part C, Native American Caregiver Support Program.

Applicant Eligibility and Requirements: The AoA will accept applications for funding in fiscal year (FY) 2002 under the OAA, title VI, part C, Native American Caregiver Support Program from all title VI, part A grantees who are not currently receiving funding. In addition, federally recognized Indian tribal organizations that are not now participating in title VI, part A, however are applying separately for title VI, part A funds as a new grantee for the project period April 1, 2002–March 31, 2005 are eligible to apply. Successful applications will be funded if funds allow. Current title VI, part C grant recipients do not need to reapply for the Native American Family Caregiver Support Program.

Availability of Funds: Approximately $5 million dollars will be available in Fiscal Year 2002 to fund both current and new title VI, part C grants.

DATES: The deadline date for the submission of applications is January 18, 2002.

FOR FURTHER INFORMATION CONTACT: M. Yvonne Jackson, Ph.D.; Office for American Indian, Alaskan Native, and Native Hawaiian Programs; Administration on Aging; Department of Health and Human Services; Cohen Building; Room 4743; 330 Independence Avenue, SW., Washington, DC 20201; telephone (202) 619–2713; fax (202) 260–1012; e-mail: *Yvonne.Jackson@aoa.gov.*

SUPPLEMENTARY INFORMATION

1. Background and Program Purpose

The Administration on Aging (AoA) is responsible for administering title VI, part C of the OAA, which provides for grants to help families caring for an older relative with a chronic illness or disability. The program will help tribes in providing multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

2. Eligibility of an Indian Tribal Organization or Indian

To be eligible to receive a grant, a tribal organization must have an application approved under title VI, part A. For those applying for the project period April 1, 2002–March 31, 2005 funding for title VI, part C will be contingent upon approval of one's title VI, part A application. A tribal organization must meet the requirements as contained in section 631 of the OAA. This section states that in providing services under subsection (a), a tribal organization shall meet the requirements specified for an area agency on aging and for a State in the provisions of subsections (c), (d), and (e) of section 373 and of section 374. References in such provision to a State program shall be considered to be references to a tribal program.

3. Available Funds

Distribution of funds among tribal organizations is subject to the availability of appropriations to carry out title VI, part C. Information on estimated grant amounts is given below as a guide to possible funding levels for tribes representing the following documented numbers of Indian elders over age 60 as stated in your most recently approved title VI, part A or B application.

Estimated Grant Amounts:

$10,000 for populations of 50–100 elders
15,000 for populations of 101–200 elders
20,000 for populations of 201–300 elders
25,000 for populations of 301–400 elders
30,000 for populations of 401–500 elders
35,000 for populations of 501–1500 elders
40,000 for populations of 1501+ elders

4. Application Process

Applicants should submit applications, describing their proposed plans for their Caregiving Program as described in "Content of the Application."

The project period for this grant will be April 1, 2002–March 31, 2005. A three-year project period was chosen to reduce the paperwork burden on the grantees and to align this grant with the AoA title VI, part A grants.

Funding will be based on the numbers of eligible elders age 60 and over as stated in your most recently approved title VI, part A or part B application.

The progress reports, consisting of a narrative and Financial Status Report (Standard Form 269), will be reviewed for compliance with the program requirements. Failure to submit the required reports during the project period may result in loss of future funds and possibly termination of the grant within the project period.

Thirty days before the end of each budget period within the three-year project period grantees shall notify AoA about their desire to continue as a grantee. Failure to submit this documentation within the required timeframe may result in loss of grant funding. At the beginning of each budget period within the three-year project period grantees will be notified of the funding level for the following year.

One original application, signed by the principal official of the tribe, and two copies of the complete application, including all attachments, must be submitted to the Administration receipt point named under Address. Tribal resolutions may be included in the application, but are not required. Incomplete applications and applications postmarked after the closing date will not be considered for funding.

5. Content of the Application

Although these formula grants may build on existing services, these grants are not intended merely to augment services being provided through title VI, parts A and B. The Caregiver Support Program must demonstrate how it will provide the five basic components of the program either through these grant funds or coordinating with other programs and services to assure the components are provided. The five components are: (1) Information to caregivers about available services; (2) assistance to caregivers in gaining access to the services; (3) individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles; (4) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and (5) supplemental services, on a limited basis, to complement the care provided by caregivers. Examples of services in the five service categories include:

Information: Group services, including public education, provision of information at community meetings, health fairs, and other similar meetings; mass media, including articles and notices in Tribal newspaper and newsletters and radio and TV announcements.

Assistance: Individual one-on-one contact for the purpose of linking the caregiver with opportunities and services that are available, and when possible, ensuring that the caregiver receives the services by establishing adequate follow-up.

Counseling/Support Groups/Training: Provision of advice, guidance and instruction about options and methods for providing support to caregivers in an individual or group setting.

Respite: Temporary, substitute

Catalog of Federal Domestic Assistance

representing federally recognized Tribes

organization for FY 1992 and for each

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Respite: Temporary, substitute supports or living arrangements to provide brief period of relief or rest for caregivers who are caring for a frail elder. It can be in the form of in-home respite care, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis.

Supplemental Services: Other services, as defined by the Tribe, to support the needs of caregivers providing care to frail elders.

Provisions of the above five services must be addressed in the application. Money from this grant does not have to pay for each of these five service areas as long as you are able to demonstrate how these services will be coordinated and provided as a multifaceted program. The application needs to describe how the tribal organization will coordinate with the activities of other community agencies and voluntary organizations providing caregiver support services and activities.

The application needs to provide information on how older individuals with the greatest social and economic need and older individuals providing care and support to persons with mental retardation and related developmental disabilities will receive priority. Finally, the application needs to provide information about what quality standards and mechanisms will be established and how these standards and mechanisms will be used to monitor the program and provide assurances that the tribal organization will submit the required reports to the AoA in the format and time frames established by AoA.

The application may be submitted in a narrative format. Grantees are required to submit two progress reports consisting of a narrative and Financial Status Report (Standard Form 269), within each budget period. A Title VI Update with a reporting schedule will be provided after the title VI, part C grants are awarded.

6. Closing Date for Application

All applications must be postmarked on or before January 18, 2002. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark, or to obtain a legibly dated receipt for a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

7. Action on Applications

Awards will be made by the Assistant Secretary for Aging. Funding decisions will be announced as soon as possible.

Dated: September 10, 2001.

Catalog of Federal Domestic Assistance Program #93.655 Grants to Indian Tribes and Native Hawaiians. This Program Announcement is not subject to EO 12372.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01-23170 Filed 9-14-01; 8:45 am]

BILLING CODE 4154-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA-01-13]

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA), HHS.

ACTION: Announcement of availability of funds and opportunity to apply under the Older Americans Act, Title VI, Grants for Native Americans, Part A—Indian Program.

Applicant Eligibility and Requirements: The AoA will accept applications for funding in fiscal year (FY) 2002 under the Older Americans Act, title VI, Grants for Native Americans, part A—Indian Program, from all current title VI, part A grantees, current grantees who wish to leave a consortium and apply as a new grantee, and eligible federally recognized Indian tribal organizations that are not now participating in title VI and would like to apply as a new grantee. Successful applications from new grantees will be funded if funds permit.

Availability of Funds: Approximately $23 million dollars may be available in Fiscal Year 2002 to fund these grants.

DATES: The deadline date for the submission of applications is January 18, 2002.

FOR FURTHER INFORMATION CONTACT: M. Yvonne Jackson, Ph.D.; Office for American Indian, Alaskan Native, and Native Hawaiian Programs; Administration on Aging; Department of Health and Human Services; Cohen Building; Room 4743; 330 Independence Avenue, SW., Washington, DC 20201; telephone (202) 619-2713; fax (202) 260-1012; email: *Yvonne.Jackson@aoa.gov.*

SUPPLEMENTARY INFORMATION:

1. Background and Program Purpose

The Administration on Aging (AoA) is responsible for administering title VI, part A of the Older Americans Act (OAA). Through this title grants are awarded to Indian tribal organizations representing federally recognized Tribes for providing nutritional and supportive services to Indian elders.

The 1978 Amendments to the Older Americans Act created title VI, Grants for Indian Tribal Organizations, to promote the delivery of supportive and nutritional services for Indian elders that are comparable to services provided under title III of the OAA. (Title III of the OAA, entitled Grants for State and Community Programs on Aging, is the nationwide program of supportive and nutritional services for persons over age 60 of all ethnic groups.)

In the OAA Amendments of 1987, the name of title VI was changed to Grants for Native Americans, and part B, Native Hawaiian Programs, was added.

Nutritional services and information and assistance services are required by the OAA. Nutritional services include congregate meals and home-delivered meals. Supportive services include information and assistance, transportation, chore services, and other supportive services that contribute to the welfare of older Native Americans.

2. Eligibility of an Indian Tribal Organization or Indian Tribe To Receive a Grant

To be eligible to receive a grant, a tribal organization or Indian tribe must meet the application requirements contained in sections 612(a), 612(b), and 612(c) of the OAA, which are: 612(a): (1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and (2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services. Section 612(b): an Indian tribe represented by an organization specified in subsection (a) shall be eligible for only 1 grant under this part for any fiscal year. Section 612(c): for purposes of title VI, part A, the terms Indian tribe and tribal organization have the same meaning as in section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b).

This announcement concerns all federally recognized Indian tribal organization, those currently participating in title VI, part A individually or as members of a consortium and those that are not currently participating in title VI, part A.

3. Available Funds

Distribution of funds among tribal organizations is subject to the availability of appropriations to carry out title VI, part A. As stated in section 614A(a) of the Act, the amount of the grant made under this part to a tribal organization for FY 1992 and for each subsequent fiscal year shall not be less than the amount of the grant made under this part to the tribal organization for FY 1991. As stated in section 614A(b) of the Act, if the funds appropriated to carry out this part in a fiscal year subsequent to FY 1991 exceed the funds appropriated to carry out this part in FY 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be: (1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for FY 1980; or (2) an amount the Assistant Secretary considers to be sufficient if the tribal organization did not receive a grant under this part for either FY 1980 or FY 1991.

Applications from current grantees who are a part of a consortium and wish to leave the consortium will be treated as new grant applications. Successful new grant applications for both current grantees who are leaving a consortium and tribal organizations that are not current grantees will be funded pending availability of additional funds.

Information on typical grant levels in FY 2001 is given below as a guide to POSSIBLE funding levels for Tribes representing the following documented numbers of Indian elders over age 60:

Population range (number of older Indians age 60 years and over, represented by the tribal organization)	Amounts of awards in FY 2001
50 to 100	$69,110
101 to 200	78,420
201 to 300	89,040
301 to 400	100,350
401 to 500	110,980
501 to 1500	128,550
1501+	168,800

4. Application Process

Applicants should submit applications, describing their proposed plans for nutritional and supportive services for older Indians for *project period April 1, 2002—March 31, 2005,* as described in section 5 below, Content of the Application.

A three-year project period was chosen in order to reduce the paperwork burden on the grantees. It is the intent of this agency to conduct on site monitoring at least once during the three-year project period.

The Program Performance and Financial Status reports, due on a semi-annual basis, will be reviewed for compliance with the program regulations. Failure to submit the required reports during the project period may result in loss of future funds and possibly termination of the grant within the project period.

Thirty days prior to the end of each budget period within the three-year project period grantees shall notify AoA as to their desire to continue as a grantee. Failure to submit this documentation within the required timeframe may result in loss of grant funding. At the beginning of each budget period within the three-year project period grantees will be notified of the funding level for the subsequent year.

One original application, signed by the principal official of the Tribe, and two copies of the complete application, including all attachments, must be submitted to U.S. Department of Health and Human Services; Administration on Aging; Margaret A. Tolson; Director; Grants Management Division; Room 4260; Cohen Building; 330 Independence Avenue, SW., Washington, DC 20201. Incomplete applications and applications postmarked after the closing date will not be considered for funding.

5. Content of the Application

The application must meet the criteria in sections 614(a) and (b) of the Act, and title 45 of the Code of Federal Regulations, Section 1326.19. The application may be presented in any format selected by the tribal organization. Contact the AoA Regional Office in your geographic area if you have questions concerning the content of the application. The application must include the following information:

A. Objectives and Need for Assistance

This section must include objectives, expressed in measurable terms, which are related to the supportive and nutrition service needs of the elders to be represented by the Tribal Organization. This section must also include a discussion of how the needs were determined.

B. Results or Benefits Expected

The application should describe the results or benefits expected from each service proposed.

C. Approach

(1) Description and Method of Delivery of Each Service

(a) *Nutrition:* Nutrition services are required. There should be a description of the methods, facilitates, and staff to be used in preparing, serving, and delivering meals, and the estimated number of persons to be served. The nutrition services provided, either directly or by way of a grant or contract, must be substantially in compliance with the provisions of part C, title III.

If no title VI, part A funds are to be used for nutrition services, the application must state how such services are provided in other ways, and how they are financed.

(b) *Information and Assistance:* Information and assistance services are required. They must be available for older Indians living in the title VI, part A service area and there should be a description of what information and assistance services will be provided and how they will be provided. The estimated number of individuals to be served should be stated. If no title VI, part A funds are to be used for information and assistance services, the application must state how such services are provided in other ways, and how they are financed.

(c) *Other Supportive Services:* The application must describe any other supportive services to be provided wholly or partly by title VI, part A funds. The description should include what supportive services will be provided and how they will be provided. The approximate number of persons to be served by each service should be stated.Legal assistance and ombudsman services may be provided, but are not required. However, if provided, they should be reported as Supportive Services.If a tribal organization elects to provide legal services, it must substantially comply with the requirements in title 45 of the Code of Federal Regulations Section 1321.71. and all legal assistance providers must comply fully with the requirements in Section 1321.71(d) through Section 1321.71(k).

Transportation of persons to nutrition sites or other places is to be considered as a Supportive Service.

(d) *Coordination with title III:* The application should provide a description of how title VI and title III resources and services are to be coordinated within the title VI service area, including information and assistance service.

(2) Evaluation Criteria

The application must discuss the criteria to be used to evaluate the results and successes of the program, based on the objectives and results or benefits expected indicated in Item A and B above. It will also explain the methodology that will be used to

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determine if the needs identified and discussed are being met and if the results and benefits identified in Item B above are being achieved.

D. Geographic Location

The application must include an appropriate narrative description of the geographical area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients. A map of the designated service area may be included in the application.

E. Additional Information:

(1) Older Indians in the Title VI, Part A Service Area

The law requires that a tribal organization must represent at least 50 persons aged 60 years or over in order to be eligible for title VI funding. Therefore, the number of persons aged 60 or over living in the proposed title VI service area must be stated in the application. The tribal organization may use the Census Bureau population figures, or may develop its own population statistics, but they must be approved by the Bureau of Indian Affairs or your tribal enrollment clerk in order to establish eligibility, as required in section 614(b) of the Older Americans Act, as amended. The amount of the grant is based on this number of Indians or Alaskan Natives age 60 years or over in the proposed service area. Thus, the application should include only the number if Indians and Alaskan Natives age 60 years or over in the proposed service area and not the total population census of all tribal members, age 60 and above, unless all the tribal members live in the proposed service area. If there is overlap between two or more title VI, part A applicants, as stated under Geographic Location, the eligible elders can only be counted once and included in one application. The applicants are responsible for determining how the eligible elders will be counted. The same elder may not be counted by more than one applicant. This must be stated clearly in the application and signed by the principal official of the tribal organization.

As a separate matter, the regulations allow a Tribe to define, based on its own criteria, who the Tribe will consider to be an older Indian for purposes of eligibility to receive title VI services. If a Tribe selects a different definition of older Indian for service delivery, the application must state the age selected, and the number of Indian under age 60 eligible to be served. All Tribes in a consortium must use the same age for older Indian.

(2) Resolution

The tribal organization representing a federally recognized Tribe must submit an original copy of the Tribal council resolution authorizing participation in title VI, part A for the grant period April 1, 2002 to March 31, 2005. If the tribal organization represents a consortium of more than one Tribe, a resolution is required from each participating Tribe, specifically authorizing representation by the tribal organization for the purpose of title VI, part A of the Older Americans Act for the grant period April 1, 2002 to March 31, 2005.

(3) Program Assurance

Title VI, part A Program Assurances must be included in the application. The title VI, part A Program Assurances are those provisions identified in section 614(a) of the Older Americans Act, and in title 45 of the Code of Federal Regulations Section 1326.19(d), issued August 31, 1988 (see Appendix B). The tribal organization must state that it agrees to abide by all the provisions for the entire project period, April 1, 2002—March 31, 2005.

Copies of the title III and title VI current law and regulations, and of part 92, may be obtained from the Regional Administrator for the Administration on Aging. (See Appendix A)

(4) Certification Forms

Certifications are required of the applicant regarding (a) lobbying; (b) debarment, suspension, and other responsibility matters; and (c) drug-free workplace requirements. Please note that a duly authorized representative of the applicant organization must attest to the applicant's compliance with these certifications.

(5) Identifying Information

Applications must identify both the principal official of the tribal organization, and the proposed title VI program director: Name, Title, Address including Zip Code, Telephone Number, and, if available, the FAX number and E-mail address. The tribal organization's EIN (Employer Identification Number) must also be included.

If the applicant tribal organization is a consortium, the applicant must list the federally recognized tribes, which are included. The tribal resolution from each tribe in the consortium must be included in the application.

(6) Closing Date for Application

To be eligible for consideration, applications must be received or postmarked on or before January 18, 2002. (Applicants are cautioned to request a legibly dated U.S. Postal service postmark, or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

(7) Action on Applications

Awards will be made by the Assistant Secretary for Aging. Funding decisions will be announced as soon as possible.

Catalog of Federal Domestic Assistance Program #93.655 Grants to Indian Tribes and Native Hawaiians. This program Announcement is not subject to EO 12372.

Dated: September 10, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–23171 Filed 9–14–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in September 2001.

The agenda of the open portion of the meeting will include the Administrator's Report, CSAP Director's Report; presentations on CSAP's Geographical Information System, Strategic Plan, and data on a cost benefit analysis on smoking related health care costs vs tax revenues; and administrative matters and announcements. Public comments are welcome. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

The agenda will include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, 10(d). If anyone needs special accommodations for persons with disabilities, please notify the contact listed below

A summary of this meeting and roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II building, Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8455.

Substantive program information may be obtained from the contact person listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Dates: Thursday, September 13, 2001; Friday, September 14, 2001.

Meeting Place: Four Points Sheraton, 8400 Wisconsin Avenue,Bethesda, Maryland.

Closed: Thursday, September 13, 2001—8:30 a.m. to 12:00 Noon.

Open: Thursday, September 13, 2001—1:00 p.m. to 5:00 p.m., Friday, September 14, 2001—9:00 a.m. to 12:00 noon.

Contact: Yuth Nimit, Ph.D.,5515 Security Lane, Rockwall II Building, Suite 901,Rockville, Maryland 20852.Telephone: (301) 443–8455.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: September 10, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–23161 Filed 9–14–01; 8:45 am]

BILLING CODE 4162 –20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Amendment of Meeting Notice

Pursuant to Public Law 92–463, notice is hereby given of a correction of a notice of meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in September 2001.

Public notice was given in the **Federal Register** on August 29, 2001, Volume 66, Number 168, page 45689 that the CSAT National Advisory Council would be meeting in Closed Session on September 12, 2001 at the Bethesda Hyatt Hotel, One Bethesda Metro, Bethesda, Maryland. The dates of this meeting have subsequently changed to include a Closed Session on September 13, 2001, 8:30 a.m.—9:30 a.m. The agenda of the meeting has been changed to reflect the September 13 Closed Session Meeting. The contact for additional information remain as announced.

Dated: September 10, 2001.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–23160 Filed 9–14–01; 8:45 am]

BILLING CODE 4162–20–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–413 (Final) and 731–TA–913–918 (Final)]

Stainless Steel Bar From France, Germany, Italy, Korea, Taiwan, and the United Kingdom

AGENCY: International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–413 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–913–918 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from Italy and less-than-fair-value imports from France, Germany, Italy, Korea, Taiwan, and the United Kingdom of stainless steel bar, provided for in subheadings 7222.11.00, 7222.19.00, 7222.20.00, and 7222.30.00 of the Harmonized Tariff Schedule of the United States.[1]

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections."

[2] Commerce's preliminary determination for Taiwan was negative.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Italy of stainless steel bar, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b) from France, Germany, Italy, Korea, and the United Kingdom.[2] The investigations were requested in a petition filed on December 28, 2000, by Carpenter Technology Corp., Wyomissing, PA; Crucible Specialty Metals, Syracuse, NY; Electralloy Corp., Oil City, PA; Empire Specialty Steel, Inc., Dunkirk, NY; Slater Steels Corp., Specialty Alloys Division, Fort Wayne, IN; and the United Steelworkers of America, AFL–CIO/CLC, Pittsburgh, PA.

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Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on December 6, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on December 20, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 12, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 17, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 13, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 28, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 28, 2001. On January 14, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 16, 2002, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: September 11, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23163 Filed 9–14–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 11, 2001, a proposed Consent Decree in *United States* v. *Fullco Lumber Co., Inc., and David Howell*, Civil Action Number CV–01–J–1726–J was lodged with the United States District Court for the Northern District of Alabama.

In this action, the United States sought reimbursement of past response costs under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), for costs incurred by the United States for response actions performed at or in connection with the Fullco Lumber Co., Inc., Superfund Site located in Haleyville, Marion County, Alabama (the "Site"). Under the proposed Consent Decree, Defendant Fullco Lumber Co., Inc. has agreed to pay a total of $320,000.00 plus interest through the date of the payment and Defendant David Howell has agreed to pay a total of $68,000.00, in reimbursement of the United States' past response costs. In addition to the above payments, Settling Defendants shall pay to EPA 100 percent of the net sales proceeds of the Transfer of the Property.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Fullco Lumber Co., Inc. and David Howell*, Civil Action Number CV–01–J–1726–J, D.J. Ref. 90–11–3–06897.

The Consent Decree may be examined at the Office of the United States Attorney, Suite 200, Robert S. Vance Federal Building, 1800 5th Avenue North, Birmingham, AL 35203, and at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, GA 30303. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23166 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

In accordance with 28 CFR 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that on August 31, 2001, a Consent Decree in *United States* v. *JCI Jones Chemicals, Inc.*, Civil Action No. 01–CF–6426 T(F), was lodged with the United States District Court for the Western District of New York.

In this action the United States, on behalf of the U.S. Environmental Protection Agency ("EPA"), sought injunctive relief and recovery of past and future costs, under Sections 106, 107, 113 and 122 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9606, 9707, 9613 and 9622, regarding the Jones Chemicals, Inc. Superfund Site (the "Site") in the Village of Caledonia, Livingstone County, New York. Under the terms of the Consent Decree, JCI Jones Chemicals, Inc. ("Jones") will pay $30,688.70 to the United States as reimbursement of past costs and agrees to reimburse the United States for all costs incurred in the future relating to the Site. Jones also agrees to perform the cleanup at the Site by implementing the remedy selected by EPA as set forth in the Record of Decision for the Site, which includes remediation of contaminated soil and ground water. The estimated costs of the cleanup that Jones will perform is $2.3 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *JCI Jones Chemicals, Inc.*, D.J. Ref. 90–11–3–07345.

The Consent Decree may be examined at the Office of the United States Attorney for the Western District of New York, 138 Delaware Avenue, Buffalo, New York, and at EPA Region 2, Office of the Environmental Protection Agency, 290 Broadway, New York, New York. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check payable to the Consent Decree Library in the amount of $55.25 (25 cents per page reproduction cost) for a copy including appendices, or $20.75 (25 cents per page reproduction cost) for a copy exclusive of appendices.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 01–23167 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy and 28 CFR 50.7, the Department of Justice gives notice that a proposed amendment to the Consent Decree previously approved and entered by the Court in the case captioned *United States* v. *Metropolitan Council*, Civil Action No. 99–CV–1105 (D. Minn.) was lodged with the United States District Court for the District of Minnesota on September 4, 2001. The United States filed a Complaint in 1999 alleging violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, by the Metropolitan Council ("Met") at its wastewater treatment plant in St. Paul, Minnesota. The United States and Met settled those claims on terms set forth in a Consent Decree lodged with the Court on August 11, 2000. The court entered an Order on February 6, 2001 approving that Consent Decree, and signed the Consent Decree on March 16, 2001.

By agreement between the United States and Met, the existing Consent Decree would be amended to substitute a proposed Amended Appendix C, which would describe a modified Supplemental Environmental Project to be performed by Met under the Consent Decree. No other terms of the Consent Decree would change. The existing Appendix C to the Consent Decree requires that Met expend at least $1.6 million for a Supplemental Environmental Project to add a dry electrostatic precipitator to the air pollution control train of one of the new fluidized bed incinerators to be installed at Met's facility. The proposed Amended Appendix C describes an improved substitute Supplemental Environmental Project, requiring installation of a fabric filter system (rather than a dry electrostatic precipitator) to the air pollution control train of one of the new fluidized bed incinerators at Met's facility. Met and its consultants believe that the fabric filter technology outlined in the Amended Appendix C would result in increased removal of key pollutants, including particulate matter and mercury. Met and its consultants estimate that the total cost of the fabric filter technology would exceed $1.6 million, and would be approximately the same as the cost of a dry electrostatic precipitator. Based on its review of the information provided by Met, the Environmental Protection Agency agrees that the substitute Supplemental Environmental Project is appropriate.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed amendment to the existing Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *Metropolitan Council*, Civil Action No. 99–CV–1105 (D. Minn.), and DOJ Reference Number 90–5–2–1–2243.

A copy of the Consent Decree and proposed Amended Appendix C to the Consent Decree may be examined at: (1) The Office of the United States Attorney for the District of Minnesota, U.S. Courthouse—Room 600, 300 South Fourth Street, Minneapolis, Minnesota 55415 (contact Friedrich Siekert (612–664–5600)); and (2) the U.S. Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604 (contact Mary McAuliffe (312–886–6237)). Copies may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting copies, please refer to the above-referenced case name and DOJ Reference Numbers, and enclose a check made payable to the Consent Decree Library for $9.25 for the Consent Decree and the proposed Amended Appendix C to the Consent Decree (37 pages at 25 cents per page

reproduction cost) or a check for $0.25 for the Amended Appendix C alone.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23168 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *R&R Distributing Company, Inc.*, No. 1–00–0109 (M.D. Tenn.) was lodged on August 17, 2001, with the United States District Court for the Middle District of Tennessee. The consent decree settles claims for civil penalties and injunctive relief against R&R Distributing Company, Inc. for violations of Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. 6991e, the Federal requirements and standards relating to petroleum underground storage tanks ("UST") promulgated pursuant to section 9003 of RCRA, 42 U.S.C. 6991b, and found at 40 CFR part 280, and the requirements and standards of the State of Tennessee's UST program approved by EPA pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, effective January 19, 1999. The State of Tennessee joined the case as a co-plaintiff and is participating in the settlement. Under the proposed consent decree R&R Distributing Company, Inc. will pay a civil penalty of $120,000 in installments over three years, plus interest at the rate applicable to judgments. The penalty will be equally divided between the United States and the State of Tennessee. Injunctive relief is not necessary because R&R has properly closed all the underground storage tanks except for those at four facilities, and has upgraded the underground storage tanks at those facilities. In addition, the State of Tennessee, as part of the settlement, will restore R&R's participation in the Underground Storage Tank Fund to achieve compliance with RCRA's financial assurance requirements for underground storage tank owners and operators.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *R&R Distributing Company, Inc.*, DOJ Ref.# 90–7–1–06684.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Tennessee, 110 Ninth Ave., S., Ste. A961, Nashville, Tennessee 37203–3870; and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW Atlanta, Georgia 30303. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23165 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Request OMB emergency approval; petition for nonimmigrant worker.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with 5 CFR part 1320. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefor, OMB approval has been requested by September 12, 2001. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Karen Lee, Department of Justice Desk Officer, 725–17th Street, NW., Suite 10235, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted at facsimile to Ms. Lee at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning this the information collection. Comments are encouraged and will be accepted until November 13, 2001. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Reinstatement of currently approved collection.*

(2) *Title of the Form/Collection:* Petition for Nonimmigrant Worker.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–129. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. This form is used to petition for temporary workers and for the admission of treaty traders and investors. It is also in the process of an extension of stay or for a change of nonimmigration status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 368,948 responses at 2 hours and 45 minutes (2.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,014,607 annual hours hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: September 11, 2001.

Richard A. Sloan,

Departmental Clearance Officer, United States Department of Justice, Immigration and Naturolization Service.

[FR Doc. 01–23152 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Freeman United Coal Mining Company

[Docket No. M–2001–081–C]

Freeman United Coal Mining Company, PO Box 4630, Springfield, Illinois 62708 has filed a petition to modify the application of 30 CFR 75.332(a)(2) (working sections and working places) to its Crown II Mine (I.D. No. 11–02236) located in Macaupin County, Illinois. The petitioner proposes to use one continuous miner to clean up the working face it previously mined while the other continuous miner on the super section starts to cut and load coal from another working face on the same working section, on the same split of air. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Peabody Coal Company

[Docket No. M–2001–082–C]

Peabody Coal Company, 1970 Barrett Court, PO Box 1990, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Camp #11 Mine (I.D. No. 15–08357) located in Union County, Kentucky. Due to hazardous rib conditions in certain areas of the return air course, traveling and examining this specific area would be unsafe. The petitioner proposes to establish evaluation points to monitor methane and oxygen concentrations immediately inby and outby portions of the specified return air course on a weekly basis. A certified person will examine the conditions of these evaluation points and record the results in a book maintained on the surface of the mine. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Corbin Colleries, Inc.

[Docket No. M–2001–083–C]

Corbin Colleries, Inc., Rt. 4 Box 142–K, Bluefield, West Virginia has filed a petition to modify the application of 30 CFR 75.1710–1 (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Mine No. 2 (I.D. No. 44–06857) located in Tazewell County, Virginia. The petitioner proposes to operate self-propelled electric face equipment without cabs or canopies in seams heights of 48 inches or less. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners.

4. A B & J Coal Company, Inc.

[Docket No. M–2001–084–C]

A B & J Coal Company, Inc., PO Box 35, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1710–1 (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Mine No. 3 (I.D. No. 44–06974) located in Buchanan County, Virginia. The petitioner proposes to operate self-propelled electric face equipment without cabs or canopies in seams heights of 48 inches or less. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to "comments@msha.gov," or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 17, 2001. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 6th day of September 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–23169 Filed 9–14–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–10946]

Notice of Proposed Individual Exemption to Amend Prohibited Transaction Exemption (PTE) 99–45, Involving Donaldson, Lufkin & Jenrette Securities Corporation (DLJ), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, Department of Labor (the Department).

ACTION: Notice of technical correction.

On September 7, 2001, the Department published, in the **Federal Register** (66 FR 46826), a notice of proposed exemption amending PTE 99–45 (64 FR 61138, November 9, 1999), a securities exemption that had been issued to certain broker-dealer foreign affiliates (the Foreign Affiliates) of DLJ based in the United Kingdom and Australia. If granted, the proposed exemption would expand the scope of PTE 99–45 to include current and future Foreign Affiliates of Credit Suisse First Boston Corporation (CSFB), also located in the United Kingdom and Australia. CSFB is an affiliate of DLJ. The proposed exemption would be effective as of November 3, 2000.

On page 46827 of the proposed exemption, in the section captioned "Supplementary Information," the Department hereby amends the proposal by inserting the following paragraph immediately preceding the final paragraph of that section:

However, to provide certainty as to the scope of the exemption, the Applicants request that PTE 99–45 be amended in order that it may also apply to CSFB and its current and future Foreign Affiliates in the United

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Kingdom and Australia. In this regard, the Applicants state that CSFB or a Foreign Affiliate of CSFB will be subject to the same terms and conditions set forth in PTE 99–45.

In addition, on page 46827 of the proposal, in the section captioned "Notice to Interested Persons," the Department is amending the termination date for the comment period from "30 days" from the date of publication of the proposed exemption in the **Federal Register** to "45 days" from such publication date. The revised time frame will then conform with the October 22, 2001 final date for the receipt of comments and hearing requests referenced on page 46827 in the **Dates** section of the proposal.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 11th day of September, 2001.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare BenefitsAdministration, U.S. Department of Labor.

[FR Doc. 01–23156 Filed 9–14–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Integrative Biology and Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Proposal Review Panel for Integrative Biology and Neuroscience (10745).

Dates/Time: October 24–26, 2001, 8:30 a.m.–5:00 p.m.

Place: NSF, Room 680, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-open.

Contact Person: Dr. Judith Plesset, Program Director, Developmental Mechanism, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8417.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 26th, 2001; 10:00 a.m. to 11:00 a.m.—discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences.

Closed Session: October 24th, 2001, 8:30 a.m. to 6:00 p.m.; October 25th, 2001, 8:30 a.m. to 6:00 p.m.; October 26th, 2001, 8:30 a.m. to 10:00 a.m. and 11:00 a.m. to 5:00 p.m. To review and evaluate the Developmental Mechanisms proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 2001.

Susanne Bolton,

Committee Meeting Officer.

[FR Doc. 01–23176 Filed 9–14–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company; Shearon Harris Nuclear Power Plant; Exemption

1.0 Background

Carolina Power & Light Company, (CP&L, the licensee) is the holder of Facility Operating License No. NPF–63, which authorizes operation of the Shearon Harris Nuclear Power Plant (HNP). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one pressurized water reactor located in Wake and Chatham Counties, North Carolina.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) § 55.59(a)(1) requires that each licensed operator successfully complete a requalification program developed by the licensee that has been approved by the Commission. This program is to be conducted for a continuous period not to exceed 24 months in duration and upon its conclusion must be promptly followed by a successive requalification program. In addition, pursuant to 10 CFR 55.59(a)(2), each licensed operator must also pass a comprehensive requalification written examination and an annual operating test.

By letter dated January 9, 2001, as supplemented on May 7, 2001, the licensee requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(1) and (a)(2). The exemption requested will extend the current HNP requalification program from December 31, 2001, to March 31, 2002. The requested exemption would constitute a one-time extension of the requalification program duration.

3.0 Discussion

Pursuant to 10 CFR 55.11, the Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest.

The Commission has determined that, pursuant to 10 CFR 55.11, granting an exemption to the licensee from the requirements in 10 CFR 55.59(a)(1) and (a)(2) is authorized by law, will not endanger life or property, and is in the public interest. To require the licensee's operators and staff to support the comprehensive examination and operating tests schedule during the 24-month requalification cycle could have a detrimental effect on the public interest because it would remove qualified operators from extended shutdown for refueling, steam generator replacement, and power uprate modifications, which could interfere with the current HNP schedule. Further, this one-time exemption will provide additional operator support during plant shutdown conditions, which would provide a safety enhancement during plant shutdown operations, post-modification and maintenance testing. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the transitional period via continuation of the current satisfactory licensed operator requalification program.

4.0 Conclusion

Accordingly, the Commission hereby grants the licensee an exemption on a one-time only basis from the requirements of 10 CFR 55.59(a)(1) and (a)(2) to allow the current HNP requalification program to be extended beyond the 24 months, but not to exceed 27 months and to expire on March 31, 2002. Upon completion of the examinations on March 31, 2002, the follow-on cycle will end on March 31, 2004. Future requalification cycles will run from April 1 to March 31.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 38328).

This exemption is effective upon issuance and expires on March 8, 2003.

Dated at Rockville, Maryland, this 10th day of September 2001.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23150 Filed 9–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[50–458]

Entergy Operations, Inc.; River Bend Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the NRC) is considering issuance of an exemption from 10 CFR part 50, Appendix G for Facility Operating License No. NPF–47, issued to Entergy Operations, Inc. (the licensee), for operation of the River Bend Station, Unit 1 (RBS) located in West Feliciana Parish, Louisiana. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from certain provisions of 10 CFR part 50, Appendix G. Pursuant to 10 CFR part 50, Appendix G, pressure-temperature limits (P–T) are required to be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states, "***[t]he appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions." Appendix G to 10 CFR part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (the Code), Section XI, Appendix G limits.

The proposed action would substitute ASME Code Case N–640 for specific requirements in 10 CFR part 50, Appendix G. Code Case N–640, "Alternative Reference Fracture Toughness for Development of P–T Limit Curves Section XI, Division 1," permits the use of an alternative reference fracture toughness (K_{Ic} fracture toughness curve instead of the K_{Ia} fracture toughness curve) for RPV materials in determining the P–T limits. Since the K_{Ic} fracture toughness curve shown in ASME Code Section XI, Appendix A, Figure A–4200–1 provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Code Section XI, Appendix G, Figure G–2210–1, using the K_{Ic} fracture toughness, as permitted by Code Case N–640, in establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR part 50, Appendix G. Considering this, an exemption to apply the Code Case would be required by 10 CFR 50.60. Accordingly, the licensee requested an exemption from the requirements in 10 CFR part 50, Appendix G.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limits is more technically correct than the K_{Ia} curve, since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process relative to an RPV. The ASME Code Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concludes that this increased knowledge permits relaxation of the ASME Code Section XI, Appendix G requirements by applying K_{Ic} fracture toughness, as permitted by Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

The proposed action is in accordance with the licensee's application for amendment and exemption dated January 24, 2001, as supplemented by letters dated July 2, and August 6 and 20, 2001, and is needed to support the technical specification (TS) amendment that is contained in the same submittal and is being processed separately. The proposed TS amendment will revise the P–T limits of TS 3.4.11, RCS [Reactor Coolant System] Pressure and Temperature Limits," related to the heatup, cooldown, and inservice test limitations for the RCS to a maximum of 16 Effective Full Power Years (EFPY). The proposed action replaces TS Figure 3.4–11, "Minimum Temperature Required Vs. RCS Pressure," with recalculated RCS P–T limits based, in part, on the alternative methodology in Code Case N–640.

The Need for the Proposed Action

The revised P–T limits are needed to allow required reactor vessel hydrostatic and leak tests to be performed at a significantly lower temperature. These tests are to be performed during the upcoming refueling outage scheduled to commence in September 2001. The lower temperature for the tests can reduce refueling outage critical path time by reducing or eliminating the heatup time to achieve required test conditions.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption and associated license amendment described above would provide an adequate margin of safety against brittle failure of the RBS reactor vessel. The lower temperature, is also safer for test inspectors due to lower ambient drywell temperatures and could result in lower radiological dose due to increased inspection effectiveness at the lower temperature.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the

Dated at Rockville, Maryland, this 6th day

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proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resource than those previously considered in the "Final Environmental Statement," NUREG–1073, January 1985, for the RBS.

Agencies and Persons Consulted

On August 13, 2001, the staff consulted with the Louisiana State official, Ms. Soumaya Ghosn of the Louisiana Department of Environmental Quality, Radiation Protection Division, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 24, 2001, as supplemented by letters dated July 2, and August 6 and 20, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Library component on the NRC web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of September, 2001.

For the Nuclear Regulatory Commission,

Robert E. Moody,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23149 Filed 9–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–30]

Maine Yankee Atomic Power Company (MYAPC) Maine Yankee Independent Spent Fuel Storage Installation (ISFSI) Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from specific provisions of 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214 to MYAPC. The requested exemption would allow MYAPC to deviate from the requirements of Certificate of Compliance No. 1015 (the Certificate), Appendix A, Surveillance Requirement (SR) 3.1.2.1, "CANISTER Vacuum Drying Pressure," and SR 3.1.3.1, "CANISTER Helium Backfill Pressure," which provide the surveillance frequencies for verifying the drying pressure and backfill pressure are within limits. The requested exemption would allow the surveillances to be performed "Prior to TRANSPORT OPERATIONS" instead of "Once within 10 hours . . . after completion of CANISTER draining," which is required by the Certificate.

Environmental Assessment (EA)

Identification of Proposed Action: By letter dated August 9, 2001, MYAPC requested an exemption from the requirements of 10 CFR 72.212(b)(2)(i), 72.212(b)(7), and 72.214 to deviate from the requirements of Certificate of Compliance No. 1015, Appendix A, SR 3.1.2.1 and SR 3.1.3.1. Staff has also considered an exemption from 10 CFR 72.212(a)(2). MYAPC is a general licensee, authorized by NRC to use spent fuel storage casks approved under 10 CFR Part 72, Subpart K.

MYAPC plans to use the NAC–UMS Cask System to store spent nuclear fuel, generated at the Maine Yankee Atomic Power Station, at an ISFSI located in Wiscasset, Maine, approximately 1200 feet north of the reactor plant. The Maine Yankee ISFSI has been constructed for interim dry storage of spent nuclear fuel.

By exempting MYAPC from 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214, MYAPC will be authorized to delay performance of SR 3.1.2.1, "CANISTER Vacuum Drying Pressure," and SR 3.1.3.1, "CANISTER Helium Backfill Pressure," which provide the surveillance frequencies for verifying the drying pressure and backfill pressure are within limits.

The surveillances, SR 3.1.2.1 and SR 3.1.3.1, shall be performed "Prior to TRANSPORT OPERATIONS."

The surveillance frequencies above would be in lieu of those in the current Certificate of Compliance No. 1015, Rev. 1, Appendix A, SR 3.1.2.1 and SR 3.1.3.1. The definition of TRANSPORT OPERATIONS is provided in section A 1.1 of Certificate of Compliance No. 1015, Rev. 1, Appendix A (ADAMS Accession #ML010260245). The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

On February 20, 2001, NRC approved Amendment 1 to the NAC–UMS Certificate of Compliance, which provided, in part, a change to Limiting Condition for Operation (LCO) 3.1.1 allowing longer times for spent fuel cask loading operations based on the reduced canister heat loads. The Amendment application did not include a corresponding revision to the surveillance frequences, in SR 3.1.2.1 and SR 3.1.3.1 and, as a result, the surveillance frequencies were not revised.

The NRC staff has reviewed the exemption request and determined that the revised surveillance frequencies are consistent with the safety analyses previously reviewed for Amendment 1, and would have no impact on the design basis and would not be inimical to public health and safety.

Need for the Proposed Action: NAC International, the owner of the NAC–UMS design, requested Amendment 2 to the Certificate on October 17, 2000. This application, as supplemented, would correct the inconsistencies with SR 3.1.2.1 and SR 3.1.3.1. However, the rulemaking on this amendment will not be completed in time to support the planned schedule for Maine Yankee cask loading. Therefore, this errror in not revising the inconsistent surveillance frequencies may provide insufficient surveillance frequency times to avoid unnecessarily entering into the Required Actions for the associated LCOs 3.1.2 and 3.1.3. The NRC is proposing to grant this exemption based on the staff's technical review of information submitted by MYAPC.

Environmental Impacts of the Proposed Action: The potential environmental impact of using the NAC–UMS system was initially presented in the EA for the Final Rule to add the NAC–UMS to the list of approved spent fuel storage casks in 10 CFR 72.214 (65 FR 62581 (October 19, 2000)).

The staff performed a safety evaluation of the proposed exemption.

The staff found that the proposed exemption is consistent with the analyses presented in the Safety Analysis Report for the NAC–UMS Cask System and does not reduce the ability of the system to perform its safety function. The staff has determined that changing the surveillance frequencies for verification of vacuum drying pressure and helium backfill pressure does not pose any increased risk to public health and safety.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Therefore, the staff has determined that there is no reduction in the ability of the system to perform its safety function, nor significant environmental impacts as a result of revising the surveillance frequencies for SR 3.1.2.1 and SR 3.1.3.1 from "Once within 10 hours . . . after completion of CANISTER draining" to "Prior to TRANSPORT OPERATIONS." Therefore, the proposed action now under consideration would not change the potential environmental effects assessed in the initial rulemaking (65 FR 62581).

Alternative to the Proposed Action: Since there is no significant environmental impact associated with the proposed action, alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption. Denial of the exemption request will have the same environmental impact.

Agencies and Persons Consulted: On August 20, 2001, Mr. Dale Randall of the State of Maine, Department of Human Services, Division of Health Engineering was contacted about the Environmental Assessment for the proposed action. On August 23, 2001, Ms. Paula Craighead, State Nuclear Safety Advisor for the State of Maine was also contacted.

Ms. Craighead responded by letter dated August 24, 2001, (ADAMS Accession#ML012480279) with two comments on the proposed exemption request. The first comment was a request to place in the record of exemption the location of the definition of TRANSPORT OPERATIONS within Certificate of Compliance No. 1015, and to also indicate where the document could be found in the public record. This first comment has been incorporated into this notice, and will also be indicated in the exemption response. The second comment concerned ensuring written communication occurs between NRC and DOE on all matters concerning handling of spent fuel and Greater Than Class C material. On August 28, 2001, this second comment was discussed with Ms. Craighead. Ms. Craighead clarified that the State's concern was not that every related document be provided to DOE, but that communications relevant to DOE's activities occur. It was mutually agreed that the NRC will continue to involve DOE in relevant discussions and correspondence on spent fuel and Greater Than Class C material.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214 so that MYAPC may load NAC–UMS Cask Systems with revised surveillance frequencies (as specified above) for verifying canister vacuum drying pressure and helium backfill pressure at the Maine Yankee ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

The request for exemption was docketed under 10 CFR part 72, Docket 72–30. For further details with respect to this action, see the exemption request dated August 9, 2001. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 6th day of September 2001.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Deputy Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–23151 Filed 9–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

Agency Holding the Meeting: Nuclear Regulatory Commission.

Date: Weeks of September 17, 24, October 1, 8, 15, 22, 2001.

Place: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

Status: Public and closed.

Matters to be Considered:

Week of September 17, 2001

There are no meetings scheduled for the Week of September 17, 2001.

Week of September 24, 2001–Tentative

Friday, September 28, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed).

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607).

1:30 a.m. Briefing on Threat Environment Assessment (Closed–Ex. 1).

Week of October 1, 2001–Tentative

Thursday, October 4, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed).

Week of October 8, 2001–Tentative

There are no meetings scheduled for the Week of October 8, 2001.

Week of October 15, 2001–Tentative

Thursday, October 18, 2001

9:00 a.m. Meeting with NRC Stakeholders—Progress of Regulatory Reform (Public Meeting) (Location—Two White Flint North Auditorium)

Week of October 22, 2001—Tentative

There are no meetings scheduled for the Week of October 22, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

the Exchange. In the revised rules and governors and 12 non-industry consistent with section 6(b)(5) of the

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Additional Information:

By a vote of 4–0 on September 5, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that "Affirmation of Final Rule: 10 CFR part 63, Disposal of High-level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain Nevada" be held on September 7, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm.*

This notice is distributed by mail to several hundred subscribers: if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: September 13, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–23205 Filed 9–13–01; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44776; File No. SR–CBOE–2001–35]

Self Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 thereto by the Chicago Board Options Exchange, Inc. Relating to Marketing and Administrative Fees

September 7, 2001.

On June 18, 2001, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act) [1] and Rule 19b–4 thereunder,[2] the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to impose a one-time supplemental administrative charge against the interest payments that the CBOE's Designated Primary Market Makers received in their marketing fee accounts for fiscal year 2000. The CBOE submitted Amendment No. 1 to the proposed rule change on July 20, 2001.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Christopher R. Hill, Legal Department, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated July 19, 2001.

The proposed rule change was published for comment in the **Federal Register** on August 7, 2001.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, particularly section 6 of the Act [5] and the rules and regulations thereunder.[6] Moreover, the Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act [7] because it has been designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–CBOE–2001–35) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23153 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

[4] *See* Securities Exchange Act Release No. 44628 (July 31, 2001), 66 FR 41281 (August 7, 2001).

[5] 15 U.S.C. 78f.

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44777; File No. SR–CHX–2001–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated relating to Governance Structure

September 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on September 4, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing amendments to its Certificate of Incorporation, Constitution and Rules, which would modify the Exchange's executive governance structure. Among other changes, the proposed amendments would permit the creation of a combined Chairman and Chief Executive Officer ("CEO") position and permit the CEO to name a President, who could also serve on the CHX Board of Governors.

The text of the proposed rule change is available from the Office of the Secretary of the CHX or at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed amendments, which have the support of the Exchange's Governance Committee and current Chairman, are intended, among other things, to permit the creation of a combined Chairman and CEO position. By giving the Board the flexibility to appoint a person to fulfill this combined role, these changes will give the Exchange another tool to meet the challenges facing self-regulatory organizations in the always-changing securities industry. Although the proposed changes can be seen in many of the Exchange's rules and constitutional provisions, they primarily would have the following impact on the Exchange's governance.

First the CEO would replace the President as the principal executive of the Exchange. In the revised rules and constitutional provisions, all of the powers currently held by the President are transferred to the CEO. For example, where the Constitution now allows the President to serve on the Board, to appoint Exchange officers or to sell memberships and distribute proceeds from those sales, the power to engage in these activities would be held by the CEO.[3]

Second, the CEO would have the ability to name a President (who might also serve as Chief Operating Officer) as the next most senior executive. Many other corporations, including other national securities exchanges, have a similar structure. For example, the CEOs of both the New York Stock Exchange ("NYSE") and Chicago Board Options Exchange ("CBOE") can appoint a President to serve as a senior executive.[4]

Third, under the proposed changes, the Board would have the option to choose as Chairman either the CEO or any Governor who now is eligible to serve as Chairman. Under the current structure, the Board chooses its Chairman from among those Board members who are either serving as "non-industry" governors or as "off-floor" member governors.[5] The proposed changes would provide the Board another option—the CEO. By building this flexibility into the Constitution, the Board could decide that, given the challenges facing national securities exchanges today, that it should appoint a single person to act as a full-time Chairman and CEO and, in later years, still could choose to return to the existing part-time Chairman structure.[6]

The Board would increase in size by one person to allow the President, if any, to serve on the Board. The Exchange's Board currently is composed of the Vice Chairman of the Board, the President and 22 governors (10 member governors and 12 non-industry governors).[7] Under the proposed change, the Board would consist of the Vice Chairman, the CEO, the President, if any, and 22 governors (divided among member and non-industry governors as they are today). In other words, if the CEO appointed a President, the President would serve on the Board and increase the number of persons on the Board from 24 to 25.

Additional changes in this proposal would: (1) Allow the Vice Chairman, in addition to the Chairman and the Chief Executive Officer, to be able to call meetings of the Board or the members; [8] (2) permit the Chairman to become a voting member of all Committees on which he serves; [9] and (3) correct small inaccuracies and delete unnecessary provisions.[10]

The Exchange believes that the proposed changes to its Certificate of Incorporation, Constitution and Rules will afford the Exchange's Board of Governors the flexibility to make optimal use of strong executive talent, without limiting in any respect the governing authority of the Board of Governors or disturbing the balance between member and non-industry Board representation. Further, the Exchange submits that the proposed changes are consistent with governance structures customary in many other corporations, including other exchanges.

2. Statutory Basis

The proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).[11] In particular, the proposed rule is consistent with section 6(b)(5) of the Act [12] in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

The foregoing rule change is concerned solely with the administration of the Exchange and has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(3) of Rule 19b–4.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See, e.g.*, CHX Constitution Article II, Section 5 (sales of memberships); Article III, Section 2 (serving on the Board); and Article VI, Section 4 (appointment of officers).

[4] *See* NYSE Constitution Article VI, Sections 1 and 2; and CBOE Constitution Article VIII, Sections 8.1 and 8.2.

[5] An "off-floor" member governor is a member who is not primarily engaged in business on the Exchange's trading floor or a general partner or an officer of a member organization that is not primarily engaged in business on the trading floor. *See* CHX Constitution, Article III, Section 10(3)–(5). "Non-industry" governors include, among others, public governors (who must have no material business relationship with a broker or dealer) and officers or employees of an issuer of securities listed exclusively on the Exchange. *See* CHX Constitution, Article III, Sections 10(1)–(4).

[6] Under the current structure, the Board can and has selected well-qualified and dedicated chairmen who are engaged in other activities, including working in senior jobs at other organizations.

[7] The Vice Chairman of the Board is a member who is primarily engaged in business on the Exchange's trading floor or a general partner or officer in a member organization that is primarily engaged in business on the floor. *See* CHX Constitution, Article III, Sections 2 and 10(3).

[8] Permitting the Vice Chairman to call meetings is appropriate because, if the changes described above are approved without this change and the Board names the CEO as Chairman, there would be only one person (the Chairman/CEO) who would have power to call these meetings.

[9] Allowing the Chairman to vote on the committees on which he serves is appropriate to ensure that he is a fully functioning member of the committees on which he serves.

[10] For example, the Exchange's Certificate of Incorporation lists an outdated address for its Delaware registered office and its Rules refer to a Committee on Market Structure that has fulfilled its purpose of working to develop appropriate plans to integrate the Exchange into "the emerging National Market System." *See* CHX Certificate of Incorporation, First Provision; CHX Rules, Article IV, Rule 6.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(3).

the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–19 and should be submitted by October 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23154 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44778; File No. SR–CHX–2001–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by The Chicago Stock Exchange, Incorporated Relating to Automatic Execution of Partial Orders for Dual Trading System Securities and Segmented Price Improvement of Orders

September 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on May 24, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the CHX rules relating to: (a) The Exchange's SuperMAX 2000 price improvement algorithm, to permit price improvement of partial orders; and (b) automatic execution sequences and algorithms relating to the trading of Dual Trading System issues on the Exchange, to permit automatic execution of partial orders at the order sending firm's election. Specifically, the Exchange proposes to amend portions of Article XX, Rule 37(a) and (b) and to add an Interpretation and Policy relating to Article XX, Rule 37(h). The text of the proposed rule change is available from the Office of the Secretary of the CHX or the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the CHX rule provisions relating to: (a) The Exchange's SuperMAX 2000 price improvement algorithm, to permit price improvement of partial orders; and (b) automatic execution sequences and algorithms relating to the trading of Dual Trading System issues on the Exchange, to permit automatic execution of partial orders at the order sending firm's election. Both changes are intended to make the Exchange and its specialists better able to accommodate the rapidly changing demands of the marketplace relating to price improvement and automatic execution of orders.

a. *Price Improvement of Partial Orders.* The proposed change to Article XX, Rule 37(h), which governs the Exchange's SuperMAX 2000 price improvement algorithm, would permit a specialist who enables SuperMAX 2000 for an issue to price improve an entire order, or to provide differing levels of price improvement for different portions of the order. For example, in the case of a 1500 share order for issue XYZ, the proposed change to the price improvement algorithm would enable the specialist to provide price improvement of $.02 per share for the first 500 shares, $.01 per share for the next 500 shares, and no price improvement (*i.e.*, execution at the BBO) for the last 500 shares. The differing levels of price improvement would be designated by the specialist and would be effected by a systems change, which the Exchange expects to implement October 1, 2001.

The purpose of the proposed rule change relating to the Exchange's SuperMAX 2000 price improvement algorithm is to increase the number of opportunities for customers to receive price improvement by permitting specialists to participate in SuperMAX 2000 without requiring them to price improve an entire order. Currently, the Exchange believes that there are specialists who might not desire to offer price improvement to large orders but may be willing to offer price improvement to portions of such orders; the amended rule would allow the specialist to provide the opportunity for more orders to receive price improvement (although in some cases to less than the entire order), while providing customers with more certainty that orders would receive price improvement up to the designated level(s).

b. *Automatic Execution of Partial Orders for Dual Trading System Issues.* The other proposed changes to Article XX, Rule 37 are designed to achieve consistency between Dual Trading System issues and Nasdaq/NM securities with respect to the automatic execution of orders.[3] The Exchange anticipates that these changes will provide customers with greater certainty and speed of execution, and will eliminate any current confusion caused by differing automatic execution parameters.

Specifically, the Exchange proposes to amend Article XX, Rule 37(b)(6), which governs the automatic execution rules relating to Dual Trading System issues. Under the current rule, if an order's size exceeds the automatic execution threshold, the entire order is placed in the specialist's book for manual execution. However, under the proposed amendment, customers could elect automatic execution of partial orders in instances where the size of the order is greater than the automatic execution threshold designated by the specialist. If the customer elects partial automatic execution, the order would be automatically executed up to the size of the automatic execution threshold, with the balance of the order placed in the specialist's book for manual execution.

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On October 13, 2000, the Commission approved the Exchange's proposed rule change relating to automatic execution of orders for Nasdaq/NM securities. *See* Securities Exchange Act Release No. 43443 (October 13, 2000), 65 FR 63660 (October 24, 2000). The approved rule change included provisions relating to automatic execution of partial orders for Nasdaq/NM securities and the automatic execution threshold established by the CHX specialist.

This feature has been available for Nasdaq/NM securities for several months and has been utilized by a number of customers; those customers who do not view partial executions as an advantage remain free to proceed under the current framework.

The Exchange also proposes to amend Article XX, Rule 37(a) and (b)(1) to make the automatic execution and auto acceptance thresholds designated by specialists for both Dual Trading System issues and Nasdaq/NM securities the same. Under the amended rule, the minimum automatic execution threshold for listed securities would be decreased to the current Nasdaq/NM level of 300 shares. Orders at or below the automatic execution threshold would be automatically executed regardless of the NBBO size. Specialists may also choose to automatically execute orders of a size greater than their automatic execution thresholds if the order size is less than or equal to the NBBO size. The automatic acceptance threshold for Nasdaq/NM securities would be increased to the current listed level of 5099 shares.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with section 6(b)[4] of the Act in general and in particular with section 6(b)(5)[5] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–11 and should be submitted by October 9, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Exchange's proposed rule change and believes for the reasons set forth below, that the proposal is consistent with the requirements of section 6(b) of the Act,[6] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] in that it will facilitate transactions in securities, promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of a free and open market. The Commission believes that the proposed rule change will enable specialists to provide price improvement to customer orders using the CHX's automated system.

Further, the Commission notes that it approved a proposed rule change on October 13, 2000 implementing the same changes with respect to trading in Nasdaq/NM securities.[8] That proposed rule change was published for comment, and the Commission received no comments. Therefore, the Commission finds good cause to approve the proposed rule change before the thirtieth day after the date of publication of notice of the filing as it will enable customers to receive price improvement sooner, and because the substance of the proposed rule change, as it applies to Nasdaq/NM securities, has already been subject to public comment.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23155 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* note 3, *supra*.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34003]

Burlington Northern and Santa Fe Railway Company—Construction and Operation Between Kamey and Seadrift, Texas

AGENCY: Surface Transportation Board.

ACTION: Notice of availability of draft environmental assessment and request for comments.

SUMMARY: The Burlington Northern and Santa Fe Railway Company (BNSF) has petitioned the Surface Transportation Board (Board) for authority to construct and operate a rail line approximately 7.8 miles in length in Calhoun County, Texas, to serve the Union Carbide Corporation's Seadrift industrial complex. The Board's Section of Environmental Analysis (SEA) has prepared a Draft Environmental Assessment (EA) for this project. Based on the information provided and the environmental analysis conducted to date, the EA preliminarily concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA recommends, that if the Board approves this project, BNSF be required to implement the mitigation set forth in the EA. Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. SEA will consider all comments received when making its final environmental recommendation to the Board. The Board will consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

be protected under *Oregon Short Line R.*

Pursuant to the provisions of 49 CFR

Veterans Affairs, 810 Vermont Avenue,

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DATES: The EA is available for public review and comment. Comments are due by October 15, 2001.

ADDRESSES: Comments (an original and 10 copies) regarding this EA should be submitted in writing to: Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423, to the attention of Phillis Johnson-Ball.

FOR FURTHER INFORMATION CONTACT: Phillis Johnson-Ball, (202) 565–1530 (TDD for the hearing impaired (1–800–877–8339). To obtain a copy of the EA, contact Da-to-Da Legal, 1925 K Street, NW., Washington, DC 20006, phone (202) 293–7776 or visit the Board's website at *www.stb.dot.gov*.

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23175 Filed 9–14–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–550 (Sub–No. 1X)]

R.J. Corman Railroad Company/ Allentown Lines, Inc.—Abandonment Exemption—in Lebanon County, PA

R.J. Corman Railroad Company/ Allentown Lines, Inc. (RJCN) has filed a notice of exemption under 49 CFR 1152 Subpart F-*Exempt Abandonments* to abandon: (1) the Cornwall Industrial Track between approximately milepost 0.9 and approximately milepost 3.66; and (2) the Lebanon Industrial Track between approximately milepost 18 and approximately milepost 18.6, a distance of approximately 3.36 miles, in Lebanon County, PA. The line traverses United States Postal Service Zip Codes 17042, 17046, 17016 and 17083.

RJCN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 17, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 27, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 9, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue—2nd Floor, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

RJCN has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RJCN shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by RJCN's filing of a notice of consummation by September 17, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: September 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23024 Filed 9–14–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 181X)]

Union Pacific Railroad Company—Abandonment Exemption—in Lancaster County, NE

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon a 9.0-mile line of railroad over the Jamaica Industrial Lead from milepost 57.0 to the end of the line at milepost 66.0 in Lincoln, Lancaster County, NE. The line traverses United States Postal Service Zip Code 68523.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 17, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 27, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 9, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by UP's filing of a notice of consummation by September 17, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV*.

Decided: September 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23023 Filed 9–14–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0153]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the insured's continuous entitlement to disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 16, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–0153" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Disability Benefits Questionnaire, VA Forms 29–8313 and 29–8313–1.

OMB Control Number: 2900–0153.

Type of Review: Extension of a currently approved collection.

Abstract: The forms are used by the policyholder to report their conditions needed to continue disability insurance benefits. The information is used by VA to determine the insured's continuous entitlement to disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 15,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 60,000.

Dated: September 5, 2001.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–23095 Filed 9–14–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

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Corrections

Federal Register
Vol. 66, No. 180
Monday, September 17, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS-1163-F]

RIN 0938-AK47

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update; Final Rule

Correction

In rule document 01–18869, beginning on page 39562, in the issue of Tuesday, July 31, 2001, make the following correction:

§411.15 [Corrected]

On page 39600, in the first column, §411.15(p)(2)(i) should read, "Physicians' services that meet the criteria of §415.102 of this chapter for payment on a fee schedule basis.

* * * * *"

[FR Doc. C1–18869 Filed 9–14–01; 8:45 am]
BILLING CODE 1505–01–D



Federal Register

Monday,
September 17, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 200

Nonprofit Organization Participation in Certain FHA Single Family Activities; Placement and Removal Procedures; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR–4585–P–01]

RIN 2502–AH49

Nonprofit Organization Participation in Certain FHA Single Family Activities; Placement and Removal Procedures

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulatory placement and removal procedures for HUD's Nonprofit Organization Roster. The Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified Federal Housing Administration (FHA) single family activities. These activities may include acting as a mortgagor; purchasing HUD's Real Estate Owned (REO) Properties (HUD Homes) at a discount; providing secondary financing; and imposing legal restrictions on conveyance as part of affordable housing programs. Presently, there are no regulatory procedures for placing a nonprofit organization on, nor for removing a poorly performing nonprofit organization from, the Roster. HUD believes that the establishment of these placement and removal procedures will better protect participants in the FHA single family programs and safeguard FHA insurance funds.

DATES: *Comments Due Date:* November 16, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9266, Washington, DC 20410–8000; phone (202) 708–2700 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Nonprofit organizations are important partners in HUD's efforts to further affordable housing opportunities for low and moderate income persons through the Federal Housing Administration (FHA) single family programs. FHA's single family regulations recognize a special role for nonprofit organizations in conjunction with the origination of new mortgages, disposition of homes by HUD, imposing legal restrictions on conveyance as part of affordable housing programs, and providing secondary financing.

The special role provided for nonprofit organizations in these regulations is intended only for those organizations that are financially viable and actively involved in the furthering of affordable housing in their communities. To this end, HUD has established the FHA Nonprofit Organization Roster. The Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified FHA single family activities. FHA maintains the Roster to provide a means for mortgagees and the general public to verify if nonprofit organizations are qualified to participate in specified FHA activities. This Roster is an important part of the FHA Single Family Mortgage Insurance program because nonprofit organizations that are placed on the Roster are considered to be an asset to FHA in increasing homeownership opportunities and protecting FHA insurance funds.

II. This Proposed Rule

This proposed rule would establish regulatory placement and removal procedures for the FHA Nonprofit Organization Roster. The proposed rule would establish subpart F to part 200 of the FHA regulations. Two regulatory sections would be established by this proposed rule—§ 200.194 (which would prescribe the procedures for placement of a nonprofit organization on the Roster) and § 200.195 (which would set forth the removal process for a poorly performing nonprofit organization).

A. Placement Procedures

Section 200.194 would state the requirement that a nonprofit organization must be on the FHA Nonprofit Organization Roster in order to be recognized as a nonprofit organization under the regulations. The section would also require the nonprofit organization to complete an application for placement on the Roster in a form (or materials) prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization would be required to specify in its application those FHA activities which it proposes to carry out.

HUD may approve the nonprofit organization to participate in all, or only some, of the FHA activities specified in its application. If the application is incomplete, HUD will provide the applicant with a period of time to correct the deficiencies. HUD will reject an application if the nonprofit organization fails to submit a program that complies with applicable regulations, Mortgagee Letters, or other standards or instructions issued by HUD. The placement of the nonprofit organization on the Roster would expire in two years. The nonprofit organization would be required to re-apply for placement on the Roster before the expiration of the two year period.

The proposed rule would not include substantive requirements to be met by a nonprofit organization. It would be in addition to, and not a substitute for, any substantive requirements stated in a specific applicable provision of the FHA regulations. For example, § 203.18(f)(3)(ii) requires a nonprofit mortgagor to meet the statutory requirements of section 203(g)(2)(B)(ii) of the National Housing Act (12 U.S.C. 1701 *et seq.*)—i.e., to be tax-exempt under section 501(c)(3) of the Internal Revenue Code and to intend to sell the mortgaged property to low- or moderate-income persons. Section 203.41(a)(5) (which is also referenced in § 203.32(b) for purposes of secondary financing) requires section 501(c)(3) status for a nonprofit organization, and also requires "two years experience as a provider of low- or moderate-income housing; * * * a voluntary board; and * * * [that] no part of its net earnings inur[e] to the benefit of any member, founder, contributor or individual." This rule does not propose to alter those substantive requirements for nonprofit organizations that appear in current regulations.

B. Removal Procedures

Proposed § 200.195 would establish regulatory procedures for the removal of a poorly performing nonprofit organization from the Roster. The proposed removal procedures would supplement HUD's existing debarment, suspension and limited denial of participation remedies.

The proposed rule provides that HUD may remove a nonprofit organization from the Roster for any cause that it determines to be detrimental to FHA or its programs. Cause for removal includes, but is not limited to:

1. Failure to comply with applicable regulations, Mortgagee Letters or other written instructions and standards issued by HUD.
2. Failure to comply with applicable Civil Rights requirements.
3. Holding a significant number of FHA-insured mortgages that are in default, foreclosure, or claim status (in determining the number considered "significant," HUD may compare the number of insured mortgages held by the nonprofit organization against the similar holdings of other nonprofit organizations). HUD intends to develop additional guidance on how it will determine what constitutes a "significant" number of defaults, foreclosures, or claims for purposes of possible removal from the Roster. HUD specifically invites public comment on what number should be considered "significant," and on what additional information should be provided in this guidance.
4. Being debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD.
5. Failure to further all objectives described in the affordable housing program narrative.
6. Misrepresentation or fraudulent statements.
7. Failure to respond within a reasonable time to HUD inquiries, including recertification requests or other requests for further documentation.

HUD will provide the nonprofit organization with written notice of the proposed removal. This notice would state the reasons and the duration of the proposed removal. The nonprofit organization would be given not less than 20 days from the date of the removal notice to submit a written response appealing the proposed removal. The nonprofit organization would also have the right to submit a written request for a conference along with the written response. This procedure would not be applicable, however, if the nonprofit organization has been debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD.

A HUD official, designated by the Secretary, would review the nonprofit organization's appeal and send the nonprofit organization a final decision either affirming, modifying, or cancelling the removal from the Roster. The HUD official designated by the Secretary to review the appeal would not be someone involved in HUD's initial removal decision. HUD would respond with a decision within 30 days of receiving the appeal or, if the nonprofit organization has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the nonprofit organization.

If the nonprofit organization does not submit a timely written response, the removal would become effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If the nonprofit organization submits a written response, and the removal decision is affirmed or modified, the removal would become effective on the date of HUD's notice affirming or modifying its initial removal decision.

The proposed addition of § 200.195 would not prohibit HUD from debarring, suspending, issuing a limited denial of participation, seeking a false claims action, or taking such other action against a nonprofit organization as provided for in 24 CFR part 24 (entitled "Government Debarment and Suspension and Governmentwide Requirements for Drug-Free Workplace (Grants)"), or from seeking any other remedy against a nonprofit organization available to HUD by statute or otherwise.

A nonprofit organization that has been removed from the Roster may apply for placement on the Roster after the period for the removal of the nonprofit organization from the Roster has expired.

III. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Paperwork Reduction Act

The information collection requirements described in proposed § 200.194 have been approved by the Office of Management and Budget (OMB) in connection with Mortgagee Letter 00–8, and assigned OMB Control Number 2502–0540. HUD invites public comment on the information collections contained in this proposed rule and Mortgagee Letter 00–8. All public comments will be considered in the development of the final rule and may result in revisions to the information collection requirements for the FHA Nonprofit Organizations Roster contained in the Mortgagee Letter. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

This proposed rule would establish placement and removal procedures for HUD's Nonprofit Organization Roster. The proposed rule would not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, in accordance with 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although many nonprofit organizations affected by this rule are small entities, compliance with the rule is not expected to have a substantive economic impact. The rule does not discriminate against small entities or disadvantage them competitively.

The proposed rule would establish the procedure by which a nonprofit organization, who has violated FHA single family mortgage insurance program requirements, may be removed from HUD's Nonprofit Organization Roster. Accordingly, to the extent that the proposed rule would impact small entities it will be as a result of actions taken by small entities themselves—that is, violation of single family program regulations and requirements. Further, the proposed rule would provide several procedural safeguards designed to

minimize any potential impact on small entities. For example, the rule grants a nonprofit organization, selected for removal from the Roster, the opportunity to provide a written response and to request a conference regarding a proposed removal. The rule also specifies that the official designated by HUD to review an appeal may not be the same HUD official involved in the initial removal decision.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance numbers for the principal FHA single family programs are 14.117 and 14.133.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z-21; 42 U.S.C. 3535(d).

2. Add subpart F to read as follows:

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

Nonprofit Organizations

Sec.

200.194 Placement of nonprofit organization on Nonprofit Organization Roster.
200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

Nonprofit Organizations

§ 200.194 Placement of nonprofit organization on Nonprofit Organization Roster.

(a) *Nonprofit Organization Roster.* HUD maintains a roster of nonprofit organizations that are qualified to participate in certain specified FHA activities. In order to be recognized as a nonprofit organization for purposes of single family regulations in this chapter, an organization must:

(1) Be included in the Roster; and

(2) Comply with any requirements stated in a specific applicable provision of the regulations.

(b) *Application.* To be included in the Roster, a nonprofit organization must apply to HUD using an application (or materials) in a form prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization must specify in its application the FHA activities it proposes to carry out.

(c) *HUD response to application.* HUD's review of the application will result in one of the following:

(1) Approval of the nonprofit organization to participate in all, or some, of the FHA activities specified in its application and the addition of the nonprofit organization to the Roster.

(2) Rejection due to deficiencies in the application. HUD will provide the nonprofit organization with a period to correct these deficiencies.

(3) Rejection due to the nonprofit organization's failure to submit a program that complies with applicable regulations, Mortgagee Letters, or other standards or instructions issued by HUD.

(d) *Re-application after two years.* The placement of a nonprofit organization on the Roster expires after two years. The nonprofit organization must re-apply for placement on the Roster, in accordance with paragraph (b) of this section, before expiration of the two-year period.

§ 200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

(a) *Cause for removal.* HUD may remove a nonprofit organization from the FHA Nonprofit Organization Roster established under § 200.194. Removal may be for any cause that HUD determines to be detrimental to FHA or any of its programs, including but not limited to:

(1) Failure to comply with applicable regulations, Mortgagee Letters or other written instructions or standards issued by HUD;

(2) Failure to comply with applicable Civil Rights requirements;

(3) Holding a significant number of FHA-insured mortgages that are in default, foreclosure, or claim status (in determining the number considered "significant," HUD may compare the number of insured mortgages held by the nonprofit organization against the similar holdings of other nonprofit organizations);

(4) Being debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD;

(5) Failure to further all objectives described in the affordable housing program narrative;

(6) Misrepresentation or fraudulent statements; or

(7) Failure to respond within a reasonable time to HUD inquiries, including recertification requests or other requests for further documentation.

(b) *Procedure for removal.* A nonprofit organization that is debarred or suspended or subject to a limited denial of participation will be *automatically* removed from the FHA Nonprofit Organization Roster. In all other cases, the following procedure for removal applies:

(1) HUD will give the nonprofit organization written notice of the proposed removal. The notice will include the reasons for the proposed removal and the duration of the proposed removal.

(2) The nonprofit organization will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response.

(3) A HUD official will review the appeal and provide an informal conference if requested. The HUD official will send a response either affirming, modifying, or cancelling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the response, or, if the nonprofit organization has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the nonprofit organization.

(4) If the nonprofit organization does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the initial removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the Roster after removal.* A nonprofit organization that has been removed from the FHA Nonprofit Organization Roster may apply for placement on the Roster (in accordance with § 200.194) after the nonprofit organization's removal from the Roster has expired. An application will be rejected if the period for the nonprofit organization's removal from the Roster has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a nonprofit organization, as provided in 24 CFR part 24, or from seeking any other remedy against a nonprofit organization available to HUD by statute or otherwise.

Dated: July 2, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–23049 Filed 9–14–01; 8:45 am]

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html.* Some laws may not yet be available.

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H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

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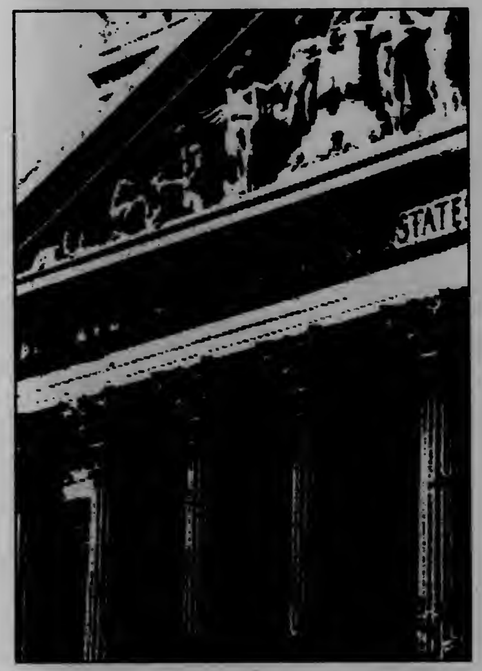
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

RIN 1076–AE 19

Law and Order on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Temporary final rule and request for comments.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending its regulations to add the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (Western Region, Nevada) to the listing of Courts of Indian Offenses. This amendment will establish a Court of Indian Offenses for a period not to exceed one year. It is necessary to establish a Court of Indian Offenses with jurisdiction over the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony in order to protect lives and property.

DATES: This rule is effective on September 18, 2001 and expires on September 18, 2002. Comments must be received on or before November 19, 2001.

ADDRESSES: Send comments on this rule to Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street NW., MS 4660, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sharlot Johnson, Tribal Government Officer, Western Regional Office, Bureau of Indian Affairs, 400 N. Fifth Street, Phoenix, Arizona, 85004, at (602) 379–6786 [sharlotjohnson@bia.gov]; or Ralph Gonzales, Branch of Judicial Services, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street NW, MS 4660, Washington, DC 20240, at (202) 208–4401 [ralphgonzales@bia.gov].

SUPPLEMENTARY INFORMATION: The authority to issue this rule is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for "Indian judges." See *Tillett* v. *Hodel*, 730 F. Supp. 381 (W.D. Okla. 1990), *aff'd*, 931 F.2d 636 (10th Cir. 1991) *United States* v. *Clapox*, 13 Sawy. 349, 35 F. 575 (D. Ore. 1888). This rule is published in exercise of the rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. The Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony's reservation is held by the Federal Government in trust for the Tribe's benefit which establishes federal Indian criminal jurisdiction over the Paiute-Shoshone Tribe of the Fallon Reservation and Colony to wit:

In general—The land described in this subsection is the tract of land, located in the city and county of Churchill, Nevada, upon which the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony is located and more particularly described as all that certain real property, the SE¼ of Section 8, the S½ of Sections 9 & 10 and Sections 15, 16, 17, 20, 21, & 22 Township 19 North, Range 30 East, MDB&M, Nevada containing 4,640 acres in accordance with Department Order dated April 20, 1907. N½ Section 9, N½ of Section 10, SE¼ Section 3 & NW¼NW¼ Section 20 Township 19 North, Range 30 East, MDB&M, Nevada containing 840 acres more or less pursuant to Department Order dated November 21, 1917. Pursuant to PL 95–337 dated August 4, 1978, the S½NW¼NW¼ & SW¼NW¼ Section 29, NW¼ Section 2, N½ & SW¼ Section 3, all section 4, N½ & SW¼ Section 8, S½ Section 33, S½ Section 34, W½SE¼ & SW¼ Section 35, Township 19 North, Range 30 East, MDB&M, Nevada, containing 2,700 acres more or less. SW¼NW¼ Section 29, Township 19 North, Range 29 East, MDB&M, Nevada pursuant to Department Order dated August 13, 1917, containing 40 acres more or less. S12NW¼NW¼ Section 29, Township 19 North, Range 29 East, MDB&M, Nevada withdrawn on March 4, 1958 in aid of legislation, containing 20 acres more or less.

The following described property (37.38 acres) was purchased by the Fallon Tribe pursuant to Public Law 101–618 and taken into trust on October 29, 1997, by the Phoenix Area Director:

Commencing at the south quarter corner of Section 30, Township 19 North, Range 29 East, MDB&M, thence North 02°09' West a distance of 95.1 feet to the East boundary of the Southern Pacific right-of-way spur track; thence North 00°19' West along said East Boundary a distance of 209 feet to the Northwest corner of a parcel described in deed to Standard Oil Company as found recorded in Book 12 of Deeds, page 193 of Churchill County Records, Fallon, Nevada; thence North 00°19' West along said railroad boundary a distance of 416 feet to the beginning of a curve on the East boundary; thence Northeasterly along said curve concave to the Southeast a distance of 992 feet to the South boundary of the main tract right-of-way; thence East along the South boundary of said Southern Pacific Railroad right-of-way a distance of 2113 feet to the East line of said Section 30; thence South along the East line of said Section 30 a distance of 1257 feet to the North Boundary of U.S. Highway #50; thence West along the North boundary of said Highway a distance of 2521 feet to the Southeast corner of a parcel described in deed to above said Standard Oil Company; thence North along East boundary of said parcel a distance of 264 feet to the Northeast corner of said parcel; then West a distance of 165 feet to the true point of beginning. Excepting therefrom the SE¼ of the SE¼ of Section 30, Township 19 North, Range 29 East, MDB&M.

A provisional Court of Indian Offenses must be established for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony to protect the lives, persons, and property of people residing at or visiting the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, until the Secretary determines that enforcement of the criminal offenses contained in Part 11 of the Code of Federal Regulations is no longer justified. This court will function for a period not to exceed one year. Judges of the Court of Indian Offenses will be authorized to exercise all the authority provided under 25 CFR part 11 and the Indian Law Enforcement Reform Act, 25 U.S.C. 2803(2) (1998). This final rule is intended to establish a provisional Court of Indian Offenses.

Determination To Issue a Final Rule

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply because of the good cause exception under 5 U.S.C. 553(b)(3)(B), which allows the agency to suspend the notice and public procedure when the agency finds for good cause that those requirements are impractical, unnecessary and contrary to the public interest. This amendment will establish a provisional Court of Indian Offenses for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. If this provisional court is not established, there is a potential risk to public safety

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and a further risk of exposure of the Federal Government to a lawsuit for failure to execute diligently its trust responsibility and provide adequate judicial services for law enforcement on trust land. Delaying this rule to solicit public comment through the proposed rulemaking process would thus be contrary to the public interest.

Determination To Make Rule Effective Immediately

We are making the rule effective on the date of publication in the **Federal Register** as allowed under the good cause exception in 5 U.S.C. 553(d)(3). Delaying the effective date of this rule is unnecessary and contrary to the public interest because there is a critical need to expedite establishment of this Court of Indian Offenses. The Bureau of Indian Affairs Law Enforcement Services has reassumed the Law Enforcement Program from the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, and a CFR Court is necessary as a judicial forum within the reservation for the adjudication of criminal cases. For these reasons, an immediate effective date is in the public interest and in the interest of the Tribe. Accordingly, this amendment is issued as a final rule effective immediately. We invite comments on any aspect of this rule and we will revise the rule if comments warrant. Send comments on this rule to the address in the **ADDRESSES** section.

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB makes the final determination under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. The establishment of this Court of Indian Offenses is estimated to cost less than $200,000 annually to operate. The cost associated with the operation of this court will be with the Bureau of Indian Affairs.

(b) This rule will not create inconsistencies with other agencies' actions. The Department of the Interior, through the Bureau of Indian Affairs, has the sole responsibility and authority to establish Courts of Indian Offenses on Indian reservations.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The establishment of this Court of Indian Offenses will not affect any program rights of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. Its primary function will be to administer justice for misdemeanor offenses within the Tribe's reservation and colony. The court's jurisdiction will be exercised as provided in 25 CFR part 11.

(d) This rule will not raise novel legal or policy issues. The Solicitor analyzed and upheld the Department of the Interior's authority to establish Courts of Indian Offenses in a memorandum dated February 28, 1935. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9, and 25 U.S.C. 13, which authorizes appropriations for "Indian judges." The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox*, 35 F. 575 (D. Ore. 1883).

Regulatory Flexibility Act

The Department of the Interior, BIA, certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The amendment to 25 CFR 11.100(a) will establish a Court of Indian Offenses with limited criminal jurisdiction over Indians within a limited geographical area at Fallon, Nevada. Accordingly, there will be no impact on any small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The establishment of this Court of Indian Offenses is estimated to cost less than $200,000 annually to operate. The cost associated with the operation of this court will be with the Bureau of Indian Affairs.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This is a Secretarial court established specifically for the administration of misdemeanor justice for Indians located within the boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony and will not have any cost or price impact on any other entities in the geographical region.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This is a Secretarial court established specifically for the administration of misdemeanor justice for Indians located within the boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony, Fallon, Nevada, and will not have an adverse impact on competition, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. The establishment of this Court of Indian Offenses will not have jurisdiction to affect any rights of the small governments. Its primary function will be to administer justice for misdemeanor offenses within the Fallon Indian Reservation and Colony. Its jurisdiction will be limited to criminal offenses provided in 25 CFR part 11.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year; i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Takings Implication Assessment (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. The amendment to 25 CFR part 11.100(a) will establish a Court of Indian Offenses with limited criminal jurisdiction over Indians within a limited geographical area at Fallon, Nevada on a temporary basis. Accordingly, there will be no jurisdictional basis for the CFR Court to affect adversely any property interest because the court's jurisdiction is limited to personal jurisdiction over Indians.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for "Indian judges." The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox*, 35 F. 575 (D. Ore. 1888).

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Solicitor analyzed and upheld the Department of the Interior's authority to establish Courts of Indian Offenses in a memorandum dated February 28, 1935. The Solicitor found that authority to rest principally in the statutes placing supervision of the Indians in the Secretary of the Interior, 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for "Indian judges." The United States Supreme Court recognized the authority of the Secretary to promulgate regulations with respect to Courts of Indian Offenses in *United States* v. *Clapox*, 35 F. 575 (D. Ore. 1888). Part 11 also requires the establishment of an appeals court; hence, the judicial system defined in Executive Order 12988 does not involve this judicial process.

Paperwork Reduction Act

This regulation does not require an information collection under the Paperwork Reduction Act. The information collection is not covered by an existing OMB approval. An OMB form 83–I has not been prepared and has not been approved by the Office of Policy Analysis. No information is being collected as a result of the CFR court exercising its limited criminal misdemeanor jurisdiction over Indians within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required. The establishment of this Court of Indian Offenses on a temporary basis conveys personal jurisdiction over the criminal misdemeanor actions of Indians within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony and does not have any impact on the environment.

Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

Pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The amendment to 25 CFR 11.100(a) does not apply to any of the 558 federally recognized tribes, except the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. The provisional Court of Indian Offenses is established until the Secretary determines that enforcement of the criminal offenses contained in Part 11 of the Code of Federal Regulations is no longer justified. The Department of the Interior, in establishing this provisional court, is fulfilling its trust responsibility and complying with the unique government-to-government relationship that exists between the Federal Government and Indian tribes.

List of Subjects in 25 CFR Part 11

Courts, Indians—Law, Law enforcement, Penalties.

For the reasons stated in the preamble, we are amending part 11, chapter I of title 25 of the Code of Federal Regulations, as set forth below. This amendment is effective from September 18, 2001 to September 18, 2002.

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

1. The authority citation for part 11 continues to read as follows:

Authority: R.S. 463; 25 U.S.C. 2, 38 Stat. 586; 25 U.S.C. 200, unless otherwise noted.

2. Section 11.100 is amended by adding new paragraph (a)(15) to read as follows:

§ 11.100 Listing of Courts of Indian Offenses.

(a) * * *

(15) Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony (land in trust for the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony).

* * * * *

Dated: September 5, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–23198 Filed 9–17–01; 8:45 am]

BILLING CODE 4310–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 103–0044; FRL–7051–4]

Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on May 11, 2001 and concern affirmative defenses for excess emissions from sources regulated under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on October 18, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, Air Quality Division, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

I. Proposed Action

On May 11, 2001 (66 FR 24074), EPA proposed to approve the following rules into the Arizona SIP: R18–2–310, Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown; and R18–2–310.01, Reporting Requirements.

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We proposed to approve these rules because we determined that they complied with the relevant CAA requirements and EPA's September 20, 1999 policy memo regarding excess emissions (State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown). Our proposed action and technical support document contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Newman Porter, Lewis and Roca, LLP, representing the Arizona Mining Association; letter dated May 22, 2001 and received May 30, 2001.

2. Joy E. Herr Cardillo, Arizona Center for Law in the Public Interest; letter dated June 11, 2001 and received June 11, 2001.

The comments and our responses are summarized below. Our response to comments document contains a more detailed analysis.

The Arizona Mining Association supports EPA's proposal to approve R18–2–310 and 310.01 into the Arizona state implementation plan. The Arizona Center for Law in the Public Interest (ACLPI) acknowledged that the rule generally tracks EPA policy, but pointed out several cases where ADEQ does not incorporate verbatim into Rule R18–2–310 the criteria set out in EPA's excess emissions policy. For example, they noted that under EPA's policy a malfunction must be beyond the control of the operator to qualify for an affirmative defense, whereas Rule 310 requires that it must be beyond the *reasonable* control of the operator. (Emphasis added) ACLPI contends that, because of this and other deviations from EPA's excess emissions policy, Rule 310 is significantly "less stringent" than the EPA policy.

The excess emissions policy does not constitute federal rulemaking. Rather, EPA issues policies to provide EPA staff, state regulators and the public with EPA's general interpretation of the Act's requirements. Unlike a regulation, EPA's policy is not binding and each SIP submission must be reviewed on its own merits.

The commenter notes several instances in which the Arizona rules do not include the conditions from EPA policy verbatim. However, the commenter does not expand on why the Arizona provisions are inconsistent with the CAA, instead only making vague allegations that the State rules are less stringent than the sample language in EPA's policy. EPA disagrees with the commenter that the variations in language used by Arizona modify the intent of EPA's policy. We believe that Rules 310 and 310.01 meet the goals of the policy, are consistent with the Act, and will not interfere with attainment and maintenance of the national ambient air quality standards and are therefore approvable.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the Arizona SIP.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 30, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(97) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(97) New and amended rules for the Arizona Department of Environmental Quality were submitted on March 26, 2001, by the Governor's designee.

(i) *Incorporation by reference.*

(A) Rules R18–2–310 and R18–2–310.01 effective on February 15, 2001.

[FR Doc. 01–23001 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301175; FRL–6803–2]

RIN 2070–AB78

Bispyribac-Sodium; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of bispyribac-sodium in or on rice. Valent U.S.A. Corporation (as agent for K-I Chemical U.S.A., Inc.) requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 18, 2001. Objections and requests for hearings, identified by docket control number OPP–301175, must be received by EPA on or before November 19, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301175 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: 703–305–5697; and e-mail address: *tompkins.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/.* To access this document, on the homepage select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm.* A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html,* a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301175. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of September 20, 2000 (65 FR 56901) (FRL–6742–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of

a pesticide petition (PP) for tolerance by

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

a pesticide petition (PP) for tolerance by Valent U.S.A. Corporation (as agent for K-I Chemical U.S.A., Inc.), 1333 North California Blvd., Suite 600, Walnut Creek, CA 94569. This notice included a summary of the petition prepared by Valent U.S.A. Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of the herbicide bispyribac-sodium, sodium 2,6-bis[(4,6-dimethoxy-pyrimidin-2-yl)oxy]benzoate, in or on rice, grain and rice, straw at 0.02 part per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of bispyribac-sodium on rice at 0.02 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by bispyribac-sodium are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity rodents (rat)	NOAEL = 71.9/79.9 mg/kg/day (M/F) LOAEL = 724.0/790.8 mg/kg/day (M/F), based on decreased body weight gain, increased absolute and relative liver weights, increased alkaline phosphatase and gamma-GTP, and increased incidence of grossly dilated bile duct lumen in males, and microscopic lesions in the liver, biliary system and urinary bladder in both sexes.
870.3100	90–Day oral toxicity rodents (mouse)	NOAEL = 68.6/79.0 mg/kg/day (M/F) LOAEL = 699.1/806.1 mg/kg/day (M/F), based on liver cell swelling and slight liver cell granulation in females
870.3150	90–Day oral toxicity in nonrodents (dog)	NOAEL = 100 mg/kg/day LOAEL = 600 mg/kg/day (M/F), based on increased salivation and slight proliferation of intrahepatic bile duct
870.3200	21/28-Day dermal toxicity (rat)	NOAEL = 1,000 mg/kg/day (M/F) LOAEL >1,000 mg/kg/day (M/F). No systemic toxicity or dermal irritation noted.
870.3700	Prenatal developmental in rodents (rat)	*Maternal* NOAEL = 1,000 mg/kg/day LOAEL = >1,000 mg/kg/day *Developmental* NOAEL = 1,000 mg/kg/day LOAEL = >1,000 mg/kg/day
870.3700	Prenatal developmental in nonrodents (rabbit)	*Maternal* NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day, based on lethargy, diarrhea, and decreased body weight gain in the range finding study *Developmental* NOAEL = 300 mg/kg/day LOAEL was not established

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3800	Reproduction and fertility effects (rats)	*Parental/Systemic* NOAEL = 1.5 mg/kg/day LOAEL = 75.7 mg/kg/day (M/F), based on trace to mild choledocus *Reproductive* NOAEL = 759.0 mg/kg/day LOAEL = >759 mg/kg/day *Offspring* NOAEL = 75.7 mg/kg/day LOAEL = 759 mg/kg/day (M/F), based on decreased body weights, body weight gains, and liver weights, and increased incidence of consolidation and circumscribed areas in the liver
870.4100	Chronic toxicity (dogs)	NOAEL = 10 mg/kg/day LOAEL = 100 mg/kg/day (M/F), based on dose-related increase in intrahepatic bile duct hyperplasia and liver granulation in females
870.4300	Combined chronic toxicity/carcinogenicity rodents (rat)	NOAEL = 10.9 mg/kg/day LOAEL = 194.5 mg/kg/day (M), based on macrosopic (yellowish liver, dilated choledochus lumen), microscopic (cellular infiltration, vacuolic changes in the bile ducts), and clinical signs (morbundity, wasting, piloerection, subnormal temperature, and decreased spontaneous motor activity. No evidence of carcinogenicity
870.4300	Carcinogenicity (mice)	NOAEL = 14.1/17.4 (M/F) mg/kg/day LOAEL = 353.0/447.8 mg/kg/day (M/F), based on decreased body weight gain, and food efficiency, and increased incidence of microscopic lesions in the liver and gall bladder (M) No evidence of carcinogenicity
870.5100	Gene mutation - reverse gene mutation assay in bacteria	There was no evidence of induced mutant colonies over background
870.5375	Cytogenetics - *in vitro* mammalian cytogenetic assay	Not clastogenic with or without S9 activation, at any dose tested
870.5395	Other effects - *in vivo* mammalian cytogenetic assay	Did not induce micronucleated polychromatic erythrocytes (PMCEs) in bone marrow at any dose
870.5500	Other genotoxic effects - bacterial DNA damage and repair test	No zones of inhibition and the differential killing index suggesting potential DNA damage
870.5550	Other genotoxic effects - UDS synthesis in mammalian cell culture	Did not induce UDS at any dose
870.7485	Metabolism and pharmacokinetics (rat)	A series of rat metabolism studies with ^{14}CPy-bispyribac-sodium and ^{14}C-Bn-bispyribac-sodium indicated that pretreatment, dose level, sex and position of the radiolabel made little effect on the absorption, distribution, elimination and metabolism. It was readily absorbed by male and female rats following intravenous or oral dosing. The total recovery of the administered radioactivity was 95.8 - 101.6% for all treatment groups. Most of the dose (>43%) of the administered dose was excreted in feces within 48 hours and essentially complete within 5 days. Less than 2% of the administered dose remained in the carcass and tissues and <0.1% of the dose was recovered in air. Parent and 5 metabolites were identified in the excreta of male and females following administered of ^{14}Cpy-bispyribac-sodium and Parent and 3 metabolites identified with of ^{14}C-Bn-bispyribac-sodium administration. The parent compound, bispyribac-sodium, was the major component identified in the feces (37 - 69% of the dose) and urine (5 - 41% of the dose), in both sexes. Metabolites identified in the excreta constituted 8.3 - 14.6% and unknown metabolites constituted 0.7 - 5.2% of the dose.
Non-guideline	Serum bile acids (mice)	Bile acids increased 115% and slight cecal enlargement in 9/10 treated mice
Non-guideline	Reversibility (mice)	Bispyribac-sodium was associated with liver lesions, bile duct hyperplasia and dilated gall bladders in subchronic and oncogenicity studies were not replicated in this reversibility study

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TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
Non-guideline	Serum bile acids (rat)	Total bile acids increased 1,072% (12-fold). The concentration of glycocholic acid, taurocholic acid, deoxycholic acid increased 2,127%, 2,991% and 138%, respectively, where as chenodeoxy cholic acid levels were similar to controls. Hyodeoxycholic acid was reduced from 34.0% to 3.3 of the total bile acids. Treatment altered the degree of conjugation; hyodeoxycholic acid increased 84% and deoxycholic acid increased 1,133%.
Non-guideline	Reversibility (rat)	Bispyribac-sodium was associated with urinary bladder epithelial hyperplasia in subchronic study and bile duct hyperplasia, enlarged bile ducts, and liver cell hypertrophy and fibrosis in chronic study. Upon removal of bispyribac-sodium from the diet, resulted complete recovery in liver enzymes, food consumption, food efficiency, body weights, however, muscular hypertrophy of choledocus was still evident. The study did not duplicate urinary bladder lesions noted in the subchronic study.
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite DesMe-2023 did not induce mutantcolonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite 2,4-dihydroxy-6-mehtoxy pyrimidine did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-M-8-Na did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-M-9-Na did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite BIX-180 did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite Me2BA did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-I-1 did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-I-2 did not induce mutant colonies over background
870.5100	Gene mutation - reverse gene mutation assay in bacteria	Metabolite KIH-2023-I-4 did not induce mutant colonies over background

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer), the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve.

To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for bispyribac-sodium used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BISPYRIBAC-SODIUM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Chronic dietary (all populations)	NOAEL = 10 mg/kg/day UF = 100 Chronic RfD = 0.1 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD ÷ FQPA SF = 0.1 mg/kg/day	Chronic toxicity study - dog LOAEL = 100 mg/kg/day based on dose-related increases in hyperplasia of the intrahepatic bile ducts in males and females and granulation of the liver in the females.
Short-term incidental oral (1-30 days) (residential)	NOAEL = 100 mg/kg/day	LOC for MOE = 100 (residential, includes the FQPA SF)	Developmental toxicity study - rabbit Maternal LOAEL = 300 mg/kg/day based on lethargy, diarrhea and decreased body weight gain in the range finding study
Intermediate-term incidental oral (1-6 months) (residential)	NOAEL = 100 mg/kg/day	LOC for MOE = 100 (residential, includes the FQPA SF)	90-Day feeding study - dog LOAEL = 600 mg/kg/day based upon salivation and slight proliferation of intrahepatic bile duct
Short-term inhalation (1-30 days) (occupational/residential)	Oral study NOAEL = 100 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes the FQPA SF)	Developmental toxicity study - rabbit Maternal LOAEL = 300 mg/kg/day based on lethargy, diarrhea and decreased body weight gain.
Intermediate-term inhalation (1-6 months) (occupational/residential)	Oral study NOAEL = 100 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (residential, includes the FQPA SF)	90-Day feeding study - dog LOAEL = 600 mg/kg/day based upon salivation and slight proliferation of intrahepatic bile duct
Long-term inhalation (<6 months) (occupational/residential)	Oral study NOAEL = 10 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes the FQPA SF)	Chronic toxicity study - dog LOAEL = 100 mg/kg/day based on dose-related increases in hyperplasia of the intrahepatic bile ducts in males and females and granulation of the liver in the females.
Cancer (oral, dermal, inhalation)	"not likely"	Not applicable	No evidence of carcinogenic or mutagenic potential. A cancer risk assessment is not required.

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* No previous tolerances have been established for the residues of bispyribac-sodium. Risk assessments were conducted by EPA to assess dietary exposures from bispyribac-sodium in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. Acute doses and endpoints were not selected for the general U.S. population (including infants and children) or the females 13–50 years old population subgroup for bispyribac-sodium; therefore, an acute dietary exposure analysis was not performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA insert 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A conservative, deterministic chronic dietary exposure analysis for bispyribac-sodium was performed for the general U.S. population and all population subgroups using proposed tolerance level residues and 100% crop treated information for all rice commodities. The results of the analysis indicate that the estimated chronic dietary risks associated with the proposed use of bispyribac-sodium do not exceed HED's level of concern for the general U.S. population or any population subgroups.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a

comprehensive dietary exposure total aggregate exposure to bispyribac- safety will be safe for infants and

as used by the USEPA Office of Water to the pesticide in drinking water (when 2. *Chronic risk.* Using the exposure

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comprehensive dietary exposure analysis and risk assessment for bispyribac-sodium in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of bispyribac-sodium. The SCI-GROW model is used to predict pesticide concentrations in ground water. Because the Agency currently has no official model for calculating the estimated environmental concentrations (EECs) in surface water due to rice culture, a screening calculation method was developed; thus, the resulting EECs are provisional only. Estimates were done for each of the three major rice growing regions in the United States, the Gulf Coast of Louisiana and Texas, the Mississippi Valley including parts of northern Louisiana, Mississippi, Arkansas, and southern Missouri, and California in the Sacramento River Basin. The surface water EEC is a point estimate representing only peak or acute concentrations. However, as no attempt has been made to determine chronic exposure and the chronic exposure should be less than the acute estimate, the resulting EECs can be used for both acute and chronic risk assessments. Since acute risk assessment is not required due to the lack of an acute dietary endpoint for bispyribac-sodium, the resulting EECs will be used for chronic risk assessment.

None of these models or screening calculation methods include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models and calculation methods used are considered to be screening tools in the risk assessment process, the Agency does not use EECs from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to bispyribac-sodium, they are further discussed in the aggregate risk sections below.

Based on the screening calculation method described above and SCI-GROW model the EECs of bispyribac-sodium for acute exposures are estimated to be 0.317 parts per billion (ppb) for surface water and 0.0072 ppb for ground water. The EECs for chronic exposures are estimated to be 0.317 ppb for surface water and 0.0072 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Bispyribac-sodium is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether bispyribac-sodium has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, bispyribac-sodium does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that bispyribac-sodium has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—i. In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* Based on the lack of developmental and offspring effects in both the developmental studies in rats and rabbits and the reproduction study in rats, the data for bispyribac-sodium demonstrate no indication of quantitative or qualitative increased susceptibility to bispyribac-sodium from prenatal or postnatal exposures.

iii. *Conclusion.* The toxicological data base for bispyribac-sodium is essentially complete with the exception of a 28–day inhalation toxicity study and an *in vitro* mammalian cell gene mutation assay. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed based on the following factors. There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* or postnatal exposure. In addition, a developmental neurotoxicity study (DNT) with bispyribac-sodium is not required. The dietary food and drinking water exposure assessments will not underestimate the potential exposures for infants and children. Finally, there are currently no registered or proposed residential (non-occupational) uses of bispyribac-sodium.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model and screening calculation estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* An acute aggregate risk assessment was not performed because an acute dietary endpoint was not selected.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bispyribac-sodium from food will utilize less than 1% of the cPAD for the U.S. population and all population subgroups. There are no residential uses for bispyribac-sodium that result in chronic residential exposure to bispyribac-sodium. In addition, there is potential for chronic dietary exposure to bispyribac-sodium in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO BISPYRIBAC-SODIUM

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.1	<1	0.317	0.0072	3,500
All infants (<1 year old)	0.1	<1	0.317	0.0072	1,000
Children (1-6 years old)	0.1	<1	0.317	0.0072	1,000
Children (7-12 years old)	0.1	<1	0.317	0.0072	1,000
Females (13-50 years old)	0.1	<1	0.317	0.0072	3,000
Males (13-19 years old)	0.1	<1	0.317	0.0072	3,500
Males (20+ years old)	0.1	<1	0.317	0.0072	3,500
Seniors (55+ years old)	0.1	<1	0.317	0.0072	3,500

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Bispyribac-sodium is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Bispyribac-sodium is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* A cancer aggregate risk assessment was not performed because bispyribac-sodium was negative for carcinogenicity and classified as "not likely human carcinogen."

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to bispyribac-sodium residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The petitioner has proposed gas chromatography (GC) method RM-35R-2 for the enforcement of tolerances on rice grain and straw. The reported method limits of detection and quatitation for residues of bispyribac-sodium are 0.01 ppm and 0.02 ppm, respectively, in/on rice grain and straw. Adequate radiovalidation and independent laboratory validation data have been submitted for this method. The GC method RM-35R-2 has been forwarded to the EPA's Analytical Chemistry Branch of the Biological Economic Analysis Division for validation. The method includes procedures for confirmation of residues (analysis using a different GC column, and/or analysis by GC with mass selective detection).

The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are currently no established Codex, Canadian, or Mexican maximum residue limits (MRLs) for residues of bispyribac-sodium in/on plant or livestock commodities.

C. Conditions

Registration of bispyribac-sodium on rice is conditional on the acceptable submission of storage stability data for the benzene-labeled rice metabolism study, a poultry feeding study, a 28–day inhalation toxicity study, and an *in vitro* mammalian cell gene mutation assay.

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V. Conclusion

Therefore, the tolerance is established for residues of bispyribac-sodium, sodium 2,6-bis[(4,6-dimethoxy-pyrimidin-2-yl)oxy]benzoate, in or on rice, grain and rice, straw at 0.02 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301175 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 19, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301175, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 7, 2001.

James Jones,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.577 is added to read as follows:

§ 180.577 Bispyribac-sodium; tolerances for residues.

(a) *General.* Tolerances are established for residues of bispyribac-sodium, sodium 2,6-bis[(4,6-dimethoxy-pyrimidin-2-yl)oxy]benzoate, in or on the following raw agricultural commodities:

Commodity	Parts per million
Rice, grain	0.02
Rice, straw	0.02

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 01–23227 Filed 9–17–01; 8:45 am]
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Proposed Rules

Federal Register

delegate approval of loans to designated

to making FCS institutions

approve all or any portion of the loans

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Proposed Rules

Federal Register
Vol. 66, No. 181
Tuesday, September 18, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB98

Loan Policies and Operations; Loans to Designated Parties

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or we) is reproposing amendments to its regulations for the approval of loans to designated parties. The term "designated parties" includes Farm Credit System (FCS or System) "insiders" most likely to have a conflict of interest and those FCA and Farm Credit System Insurance Corporation (FCSIC) employees who may legally borrow from the System. The reproposed rule would require the lender's board, or its delegated committee, to approve all loans to a designated party that exceed the greater of $150,000 or 0.5 percent of permanent capital (not to exceed $250,000). The reproposed rule would also eliminate the System banks' approval requirement and include an option allowing an association to enter into an agreement with its affiliated bank to permit the bank to perform the designated party loan approval.

DATES: Please send your comments to us by October 18, 2001.

ADDRESSES: We encourage you to send comments by electronic mail to "reg-comm@fca.gov" or by accessing the Pending Regulations section of our Web site at "www.fca.gov." You may also send comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by fax to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Tong-Ching Chang, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,
or
Alison C. Samarias, Attorney Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our reproposed amendment are to:

- Provide greater flexibility for banks and associations to approve loans to designated parties, including System "insiders" most likely to have a conflict of interest and those FCA and FCSIC employees who may legally borrow from the System;
- Increase accountability of association boards when making decisions on loans to designated parties;
- Require the board of each System institution to adopt policies and procedures to prevent undue influence when making loans to designated parties and ensure that designated parties do not receive loans on more favorable terms than other borrowers;
- Reduce unnecessary burden on System banks by removing the requirement that System banks approve all designated party loans made by their related associations; [1] and
- Make our regulations easier to understand and use.

II. Background

Sections 614.4450, 614.4460, and 614.4470 of FCA regulations require a funding bank to approve all loans that it and its related associations make to designated parties. On August 18, 1998, we published a notice inviting public comment to identify existing regulations and policies that imposed unnecessary burdens on System institutions. *See* 63 FR 44176, August 18, 1998. Among other things, you [2] asked that we update § 614.4460 to remove the obsolete term "district boards" [3] and repeal § 614.4470, which requires banks to approve all loans that their affiliated associations make to designated parties.

III. Direct Final Rule and Its Withdrawal

On August 9, 1999, we published a direct final rule with opportunity to comment. *See* 64 FR 43046, August 9, 1999. The direct final rule would have, in relevant part, allowed System banks or associations to make loans to designated parties with the approval of their respective boards of directors. One association provided a significant adverse comment on the revision. Four other associations also provided comments on the revision. Because of these comments, we withdrew the portion of the direct final rule with respect to loans to designated parties on October 14, 1999 (64 FR 55621).

IV. Previously Published Proposed Rule

We revised the provisions on loans to designated parties withdrawn from the direct final rule and published the changes in a proposed rule on March 17, 2000 (65 FR 14491).

The proposed rule updated the definition of "designated parties" to include other legal entities and employees of FCA and FCSIC who are allowed to borrow from you.[4] The proposed rule also would have required you to adopt a policy addressing the approval of loans to designated parties. We would have required your policy to describe procedures for loans to designated parties. Depending on the size of the loan, you could have chosen one of three approval options for making loans to designated parties.

The first option would have allowed your board of directors (or a committee of your board) to approve all loans made to designated parties. The second option would have maintained the existing practice of allowing the funding bank to approve loans made by its associations. Finally, the third option would have permitted your board of directors to

[1] Associations may enter into agreements with their funding banks to permit the bank to perform the approvals.

[2] As part of our objective to use plain language in our regulations, we use the word "you" to refer to Farm Credit System banks and associations in this preamble and the reproposed regulation.

[3] The district boards were abolished by the Agricultural Credit Technical Corrections Act of 1988, Pub. L. No. 100–399, 102 Stat. 1003 (Aug. 17, 1988).

[4] Most FCA and FCSIC employees are prohibited from borrowing from you under 5 CFR Parts 4101 and 4001. For example, FCA and FCSIC Board members, examiners, procurement personnel, and all employees over a certain civil service grade level cannot legally borrow from System institutions.

delegate approval of loans to designated parties of $25,000 or less to your management with post review by your board.

V. Comments on the March 2000 Proposed Rule

We received seven comment letters on the proposed rule (one each from the Farm Credit Council (Council), two banks, and four associations). A majority of the commenters stated that the proposed rule was more restrictive and burdensome than the existing regulations, would have increased costs, and would not have achieved its stated objectives.[5] Three commenters were opposed to certain provisions as proposed. The commenters also asked us to clarify certain provisions and offered suggestions to improve the regulations. The following summarizes the comments received.

A. Board Approval

The commenters generally viewed the board approval requirement, combined with the other two approval options, as impractical because the boards would have had to approve practically all loans to designated parties. Two commenters indicated that the proposed rule might have encouraged association boards to send all loan approvals for designated parties to their funding banks to avoid their boards' involvement in the burdensome loan approval process. Thus, associations might never assume the responsibility of approving their own loans to designated parties.

Two commenters expressed concerns that the board approval requirement would discourage the best qualified farmers and ranchers from serving on System boards and cause them to take their personal business elsewhere. One commenter stated that board members would not be comfortable knowing financial information of their fellow board members and would not want their own financial information divulged to their peers. Another commenter stated that the institutions do not share detailed information about designated parties in the boardroom because directors are often competitors. Commenters also stated that directors lack the necessary expertise to make credit decisions on complex loans and that requiring board actions on loans to designated parties would delay loan decisions, increase costs, and contribute to making FCS institutions noncompetitive.

Response: Directors are ultimately responsible for all credit decisions their institutions make and are in the best position to approve loans to designated parties. Nevertheless, we agree with some of the commenters' concerns and have modified the board approval requirements in the reproposed rule.

The reproposed rule would permit your board to delegate approval of loans to designated parties to a committee comprised of at least three individuals, as long as directors constitute the majority of the committee. Requiring a majority of directors on the committee would maintain the board's accountability to ensure that decisions on loans to designated parties are not made under undue influence. The reproposed rule would also permit management to serve on the committee to provide directors with the credit expertise needed to approve loans to designated parties in a timely manner.

B. Bank Approval

As an option to System associations, the March 2000 proposed rule continued the existing practice that a funding bank could approve all loans its associations make to designated parties. One bank commented that the Farm Credit Act of 1971, as amended (Act), does not require banks to approve loans made by related associations. The bank and Council suggested that the funding banks should have discretion to voluntarily accept the responsibility of approving loans to designated parties for their associations.

Commenters generally objected to our previously proposed $25,000 management delegation limit because the threshold was too low. Commenters asserted that associations would always want their funding banks to approve associations' loans to designated parties. As a result, associations could abdicate their responsibility and remove themselves from the loan approval process and the banks would have had no relief from the existing regulation. In contrast, one commenter stated that allowing banks to cease approving loans to designated parties made by their associations would increase costs, delay loan decisions, and degrade customer service.

Response: We agree with the Council and bank's comment that the boards of associations generally should be responsible for approving their own loans and that banks should approve loans made by their associations only if the banks agree. The reproposed rule would change the existing regulatory requirement so that a System bank may approve all or any portion of the loans made by related associations to designated parties at the option of both the bank and its related associations. The reproposed rule would require any loans to designated parties approved by the funding bank for its related associations to be reviewed by the association boards at the first board meeting following the loan approval.

C. Management Delegation and Threshold

A majority of the commenters believed that a management delegation threshold of $25,000 would have provided little relief to System boards of directors. A bank noted that the existing regulations permit a bank board to delegate the loan approval authority to bank management without any limitation on the amount. Two commenters suggested that we delete the dollar limit and allow the respective boards to set adequate controls over such approval authority. Two others suggested we increase the delegation limit from $25,000 to $250,000.

Response: Loans to designated parties is one area that requires higher scrutiny and attention by the board of any financial lending institution. Because directors oversee management's performance, management may not be able to exercise independent, objective credit decisions on loans to directors or other superiors. Establishing thresholds for management delegation would limit the degree of risk exposure and inhibit improper lending to designated parties.

However, upon further investigation and comparison to similar limits imposed by other financial regulators, we agree with the commenters that a $25,000 threshold for management delegation would have provided little relief to your boards. The reproposed rule would increase the regulatory threshold for board approval to any loan that, when aggregated with all other loans to a designated party, exceeds the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000).

We developed the board approval requirement based on our review of the number and size of the System's designated party loans and an approach similar to that used by the Office of the Comptroller of the Currency (OCC) and the Federal Reserve System (FED) on insider lending for commercial banks. *See* 12 CFR parts 31 and 215, respectively. However, we noted that the regulatory threshold for approval does not limit an institution board from setting a lower threshold within its policies and procedures. In some

[5] The stated objectives of the proposed rule were to: (1) Provide greater flexibility for banks and associations to approve loans to designated parties; (2) keep adequate controls on loans that banks and associations make to designated parties; and (3) make our regulations easier to understand and use.

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circumstances, a lower threshold may be entirely appropriate.

D. Definitions in the Proposed Rule

1. *Designated Parties.* Two commenters pointed out that the previously proposed definition of "designated parties" was not compatible with existing § 614.4460(f). A bank commented that the definition did not consider regional and local cooperative relationships.

Response: We evaluated the bank's comment and believe the comment has merit. We revised the definition of "designated parties" to govern parties most likely to have a "conflict of interest." The reproposed definition of "designated parties" would include insiders (e.g., directors, officers, employees and their immediate family members) of your institution. However, it also would add clarifying language concerning any borrower who is an "entity controlled by" those insiders. The reproposed rule would define the term "control" based on a percentage (i.e., 5 percent) of ownership or voting power in a legal entity. We believe the new definition will address the concerns expressed about loans made to entities, such as cooperatives, where a System director, officer, or employee does not exercise control over the entity obtaining the loan or the loan proceeds.

2. *Loans.* A bank asked that we clarify whether the definition of loans covers various loan-servicing actions, such as waivers or extensions.

Response: The definition contained in the reproposed rule would include any loan-servicing actions that increase the lender's exposure to credit risk.

VI. The Reproposed Rule

After a careful review of all comments received, we made several substantive changes to the proposed rule to repeal the existing §§ 614.4450, 614.4460, and 614.4470 and replace them with new §§ 614.4450 and 614.4460 in the reproposed rule.

The reproposed rule would repeal existing § 614.4450, which provides "the authority for loan approval is vested in the Farm Credit banks and associations." More specific regulations providing for System lending authorities make this provision unnecessary.[6] This reproposed rule also would delete all references to district boards.

We believe each direct lender institution should be responsible for decisions made on its loans, including loans to designated parties. Because the Act does not require System banks to approve loans made by associations, the reproposed rule would revise the bank approval requirement found in existing § 614.4470. As an alternative, however, a bank may approve loans to designated parties made by its related associations based on the mutual agreement of the bank and its associations. If no such agreement exists, the board of each association, or a committee of at least three individuals, a majority of whom are directors, will be responsible for approving the association's loans to designated parties. The reproposed rule also changes the level of designated party loans requiring approval by the board. Loans to designated parties that do not exceed the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000) may be approved in accordance with your policies and procedures for loans to designated parties, which is a significant increase from the proposed rule.

Thus, the reproposed rule provides your board with several options for approving loans to designated parties. First, your board may approve all your loans to designated parties. Second, a committee of at least three individuals, a majority of whom are directors, may approve all your loans to designated parties. Third, your board may also delegate approval of loans to designated parties that fall below the regulatory threshold to appropriate staff as established by your policies and procedures. Finally, your board may enter into an agreement with your affiliated bank to permit the bank to approve your loans to designated parties. In addition, rather than adopting a single option for approvals, your board may adopt a policy that combines the above options.

A discussion of significant provisions of the reproposed rule follows.

A. Section 614.4450—Definitions

The term "designated party or parties" as defined in reproposed § 614.4450(b) would include your directors, officers, employees, and their immediate family members. The definition also includes any entity that borrows from you and is an "entity controlled by" any of your directors, officers, employees, or their immediate family members.

Under reproposed § 614.4450, director, officer, employee, entity, and person have the same meaning as in § 612.2130 of this chapter. The term "immediate family member" defined in reproposed § 614.4450(e) includes the spouse, children, or the parents of an individual.

Under reproposed § 614.4450(c), an "entity controlled by" an individual is an entity in which the individual, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity; or

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities.

The term "entity controlled by" used in reproposed § 614.4450(c) is similar, but not identical, to the definition of "entity controlled by" in FCA's conflict of interest rule in § 612.2130(c). "Entity controlled by" in reproposed § 614.4450(c) excludes paragraph (c)(3) of § 612.2130, i.e., individuals with a controlling influence over the management of the entity.

Unless the 5-percent equity ownership or voting power requirement is satisfied, a director or officer of any cooperative or other legal entity is not deemed to have control over the entity by virtue of their position alone. For example, directors or officers of an entity who also sit on your board but do not own 5 percent or more of the entity's equity or voting power would not be subject to the requirements of this reproposed rule when the entity borrows from you.

B. Section 614.4460—Loans to Designated Parties

Your board of directors is ultimately accountable for all decisions made by your institution. After careful consideration of the comments received; however, we revised the board approval requirement to provide your board with greater flexibility in approving loans to designated parties.

The reproposed level of approval is a result of our review of loans made to designated parties in a sample group of recently examined associations and one bank. We found that the number of loans to designated parties is relatively few, but the average loan size is generally greater than the average of all loans held by the institution. We also evaluated the approval requirements imposed by other financial regulators for insider loans. After considering cooperative principles and various comments on the System's unique cooperative relationships, we increased the level of approval for System institutions' designated party loans.

We developed the board approval requirement contained in the reproposed rule based on our review of the number and size of System institutions' designated party loans and an approach similar to that used by the OCC and the FED for "insider lending." The board approval requirement would

[6] *See* 12 CFR Part 614, Subpart A—Lending Authorities.

ensure that System institutions' boards of directors have adequate involvement in approving their institutions' designated party loans. We believe board involvement is an essential ingredient of oversight for this critical area of lending. Board involvement is necessary to avoid the possibility of inappropriate or undue influence on loans to insiders or other designated parties.

Reproposed § 614.4460(a) would require your board to adopt and implement policies and procedures for approving loans to designated parties. Your board must establish appropriate control procedures to ensure that loans to designated parties are not made on terms that are more favorable than those afforded to other borrowers under the same circumstances. Your policies and procedures must not be less stringent than the loan underwriting standards that you adopted under § 614.4150.

Reproposed § 614.4460(b) would require your board, or a committee of at least three individuals, a majority of whom are directors, to approve all loans to designated parties that, in the aggregate, exceed the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000). Permanent capital as calculated for the most recent calendar quarter will be used for your determination of the board approval requirement. Your board may delegate approval authority for all other designated party loans in accordance with your policies and procedures. Therefore, institution boards may delegate approval authority for designated party loans as follows:

- $150,000 or less—your board may delegate approval authority on all loans of $150,000 or less.
- $150,001 to $250,000—your board may delegate approval authority on loans in an amount not exceeding 0.5 percent of your permanent capital up to a limit of $250,000.
- $250,001 and greater—your board may not delegate approval of loans that exceed $250,000.

Any individual approving designated party loans must be in a position to exercise independent, objective decisions on the approvals. For example, to prevent undue influence and an actual conflict of interest or the appearance of a conflict of interest as described in § 612.2130(b) of this chapter, your policies and procedures could specify that loans to directors, officers, their immediate family members, and entities controlled by any of your directors or executive officers should be approved by a committee rather than an individual. The committee could consist of management alone, directors, or a combination of both as specified in your policies and procedures for loans to designated parties. Similarly, your policies could provide that only individuals with greater authority in the organization than the designated party borrower should approve loans to any other designated parties. We will evaluate the appropriateness and effectiveness of your policies and procedures during our normal examination process.

Reproposed § 614.4460(c) would prohibit designated parties from participating, directly or indirectly, in the deliberations on or the determination to make any loan in which the designated party has an interest as described in § 612.2140(a) of this chapter. Also, all members of the board approval committee must act in accordance with the requirements of 12 CFR part 612—Standards of Conduct.

Reproposed § 614.4460(d) provides that an association may enter into an agreement with its affiliated bank to authorize the affiliated bank to perform any approvals required by reproposed § 614.4460. Therefore, System banks and associations have an option to continue the existing practice when mutually acceptable terms and conditions for approval are established.

In reproposed § 614.4460(e), we require all loans to designated parties not approved by the full board, including all loans approved by the funding bank, to be reported to your board no later than the first board meeting following approval. We believe this is an essential component of proper control and oversight for all loans made to designated parties. A review by your board will help ensure loans made to designated parties are made without undue influence.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, we propose to amend part 614 of chapter VI, title 12 of the Code of Federal Regulations to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279c-1, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

2. Revise subpart M to read as follows:

Subpart M—Approval of Loans to Designated Parties

Sec.
614.4450 Definitions applicable to subpart M.
614.4460 Loans to designated parties.

§ 614.4450 Definitions applicable to subpart M.

(a) *You* means a Farm Credit bank or association.

(b) *Designated party or parties* means:

(1) Farm Credit Administration employees allowed to borrow from you under 5 CFR 4101.104;

(2) Farm Credit System Insurance Corporation employees allowed to borrow from you under 5 CFR 4001.104;

(3) Your directors, officers, or employees;

(4) An immediate family member of your directors, officers, or employees;

(5) An entity controlled by your directors, officers, or employees or their immediate family members;

(6) Any of the parties in paragraphs (b)(3), (b)(4), or (b)(5) of this section who have a relationship to a bank or association under a joint management agreement with you;

(7) Directors, officers, or employees of your funding bank if you are an association; and

(8) Other borrowers if any of the designated parties identified in this paragraph are:

(i) Recipients of the proceeds of a loan made by you;

(ii) Stockholders or other equity owners of a borrower that has a material interest in the proceeds of or collateral for a loan made by you; or

(iii) Endorsers, guarantors or comakers on a loan made by you.

(c) *Entity controlled by* means an entity in which an individual identified in paragraph (b)(3) or (b)(4) of this section, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity; or

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities.

(d) *Director, officer, employee, entity,*

DEPARTMENT OF TRANSPORTATION

they may desire. Communications

plates, P/N 28–14280–1 and 28–14281–

PART 39—AIRWORTHINESS

(d) Special flight permits may be issued in

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(d) *Director, officer, employee, entity, and person* have the same meaning as in § 612.2130 of this chapter.

(e) *Immediate family member* means the spouse of an individual, the children of an individual, or the parents of an individual.

(f) *Loan or loans* means the total of all loans, leases and other extensions of credit, including undisbursed commitments, from you to any designated party.

(g) *Permanent capital* means your permanent capital as calculated for the most recent calendar quarter.

§ 614.4460 Loans to designated parties.

(a) You must adopt and implement policies and procedures for approving loans to designated parties. Your policies must include appropriate controls to ensure that loans to designated parties will not be made on terms or conditions that are more favorable than those afforded to other borrowers under the same circumstances. Your policies and procedures must not be less stringent than the loan underwriting standards that you adopted under § 614.4150.

(b) All loans to any designated party that exceed the greater of $150,000 or 0.5 percent of your permanent capital (not to exceed $250,000) must be approved by your board of directors or by a committee of at least three individuals, a majority of whom are directors.

(c) A designated party must not participate, directly or indirectly, in deliberations on or the determination to make any loan in which the designated party has an interest as described in § 612.2140(a) of this chapter.

(d) Notwithstanding any provision in this section, an association may enter into an agreement with its affiliated bank to permit the affiliated bank to perform any approvals required by this section.

(e) All loans to designated parties not approved by your full board must be reported to your board no later than the first board meeting following approval.

Dated: September 11, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–23208 Filed 9–17–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–27–AD]

RIN 2120–AA64

Airworthiness Directives; Enstrom Helicopter Corporation Model TH–28 and 480 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) for Enstrom Helicopter Corporation (EHC) Model TH–28 and 480 helicopters. The AD would require establishing a life limit for certain upper and lower main rotor hub plates of 5000 hours time-in-service (TIS), creating a component history card or equivalent record, and replacing each main rotor hub plate (hub plate) having 5000 or more hours TIS with an airworthy hub plate. This proposal is prompted by a recent reliability-based stress analysis that indicates a 5000-hour TIS life limit should be imposed on certain hub plates. The actions specified by the proposed AD are intended to prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 19, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph McGarvey, Fatigue Specialist, FAA; Chicago Aircraft Certification Office, Airframe and Administrative Branch, 2300 East Devon Ave., Des Plaines, Illinois 60018, telephone (847) 294–7136, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–27–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD for EHC Model TH–28 and 480 helicopters. This AD would require establishing a life limit of 5000 hours TIS for both upper and lower hub plates, part number (P/N) 28–14280–1 and 28–14281–1. This proposal is prompted by a recent reliability-based stress analysis of loads, their frequency of occurrence, and fatigue strength data, which showed that a life limit of 5000 hours TIS should be established for hub plates, P/N 28–14280–1 and 28–14281–1. The actions specified by the proposed AD are intended to prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter.

We have identified an unsafe condition that is likely to exist or develop on other EHC Model TH–28 and 480 helicopters of the same type designs. Therefore, the proposed AD would require establishing a 5000-hour TIS life limit and creating a component history or equivalent record for hub plates, P/N 28–14280–1 and 28–14281–1. The proposed AD would also require replacing hub plates, P/N 28–14280–1 and 28–14281–1, having 5000 or more hours TIS with airworthy hub plates.

The FAA estimates that 4 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per helicopter to replace the hub plates, and that the average labor rate is $60 per work hour. Creating a component history or equivalent record would take approximately 2 hours. Required parts would cost approximately $5350 to install hub plates, P/N 28–14280–3 and 28–14281–3 and $5000 to install hub plates, P/N 28–14280–5 and 28–14281–5, per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $24,280 maximum, assuming that all hub plates are replaced and that hub plates, P/N 28–14280–3 and 28–14281–3, are installed.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Enstrom Helicopter Corporation: Docket No. 2001–SW–27–AD.

Applicability: Model TH–28 and 480 helicopters, with upper hub plate, part number (P/N) 28–14280–1, and lower hub plate, P/N 28–14281–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a hub plate, loss of control of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 30 days after the effective date of this AD, for upper hub plate, P/N 28–14280–1, and for lower hub plate, P/N 28–14281–1, create a component history card or equivalent record, and determine the total hours time-in-service (TIS). Thereafter, record the hours TIS for each hub plate and replace each hub plate having 5000 or more hours TIS as follows:

(1) Install hub plates, P/N 28–14280–3 and 28–14281–3, on helicopters with main rotor damper, P/N 28–14375–8.

(2) Install hub plates, P/N 28–14280–5 and 28–14281–5, on helicopters with main rotor damper, P/N 28–14375–10.

(b) This AD revises the Limitations section of the applicable maintenance manual by establishing a life limit of 5000 hours TIS for the upper hub plate, P/N 28–14280–1, and for the lower hub plate, P/N 28–14281–1.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on September 6, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–23250 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. FHWA–2001–10077]

RIN 2125–AE89

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is requesting comments on a proposed revision to its policy on the design standards which apply to highway construction and reconstruction projects on the National Highway System (NHS). A 2001 revision of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled *A Policy on Geometric Design of Highways and Streets* has replaced the previous version of this policy published in 1994. If adopted by the FHWA, the new AASHTO publication would constitute the FHWA policy on design standards for highway construction and reconstruction projects on the NHS.

DATES: Comments must be received on or before November 19, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, or submit electronically at *http://dmses.dot.gov/submit*. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard or you may print the acknowledgment page that appears after submitting comments electronically.

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FOR FURTHER INFORMATION CONTACT: *For technical information:* Mr. Seppo Sillan, Office of Program Administration (HIPA), (202) 366–1327. *For legal information:* Mr. Harold Aikens, Office of the Chief Counsel (HCC–32), (202) 366–1373, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

The standards, policies, and standard specifications that have been approved by the FHWA for application on all construction and reconstruction projects on the NHS are incorporated by reference in 23 CFR part 625. The current document specified in § 625.4(a)(1) is the 1994 edition of *A Policy on Geometric Design of Highways and Streets* (Policy).[1] The AASHTO recently revised the Policy and issued the 2001 edition which the FHWA proposes to adopt as its policy for design standards for all construction and reconstruction projects on the NHS. The primary reason for development of the new document was to update the previous Policy to incorporate the latest design criteria. See "Summary of Changes" below for a description of the changes made in the 2001 edition.

The AASHTO is an organization which represents 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those agencies. The Secretary of Transportation is an ex officio member, and U.S. DOT officials participate in various AASHTO activities as nonvoting representatives. Among other functions, the AASHTO develops and issues standards, specifications, policies, guides and related materials for use by the States for highway projects. Many of the standards, policies, and standard specifications approved by the FHWA and incorporated into 23 CFR part 625 were developed and issued by the AASHTO. Revisions to such documents of the AASHTO are independently reviewed and adopted by the FHWA before they are applied to NHS projects.

The National Highway System (NHS) was established by the National Highway System Designation Act of 1995, Pub. L. 104–59, Nov. 28, 1995, 109 Stat. 568. The NHS includes the Interstate System and other principal arterials serving major travel destinations and transportation needs, connectors to major transportation terminals, the Strategic Highway Network and connectors, and high priority corridors identified by law.

Generally, the criteria the functional chapters of the Policy on local roads and streets and collectors (Chapters 5 and 6) are not applicable to projects on the NHS. However, if highway segments functionally classified as less than principal arterials are incorporated in the NHS by virtue of being Strategic Highway Network Connectors or Intermodal Connectors, the standards used may be those appropriate for the functional classification of the segment, taking into account the type of traffic using the segment.

Although the standards contained in the Policy do apply to the Interstate System, additional guidance applicable to the design of highways on the Interstate System is included in another AASHTO publication, *A Policy on Design Standards—Interstate System.*[2] The latest edition of this publication is dated July, 1991; no revisions to this document are proposed at this time.

Summary of Changes

The changes in the 2001 Policy were developed as the result of formal research projects and information contributed by the AASHTO and the FHWA staff experts. The formal research projects containing information for the 2001 Policy are shown in the following table:

Research	Subject
NCHRP Report 375	Median Intersection Design.
NCHRP Report 383	Intersection Sight Distance.
NCHRP Report 395	Midblock Left Turn Lanes.
NCHRP Report 400	Stopping Sight Distance.
NCHRP Report 420	Access Management.
NCHRP Report 439	Superelevation and Transitions.
NCHRP Synthesis 241	Truck Operating Characteristics.
NCHRP Synthesis 264	Modern Roundabout Practice.
HCM 2000	Highway Capacity Analysis.
TRB Circular 430	Interchange Operations.
FHWA–RD–97–135	Older Driver Highway Design Handbook.
FHWA–RD–00–067	Roundabouts: An Informational Guide.

The NCHRP is the National Cooperative Highway Research Program, a coordinated program of research projects administered by the Transportation Research Board (TRB) of the National Research Council. All NCHRP documents cited herein are available from the TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.* The Highway Capacity Manual (HCM) is a traffic analysis document produced by a combination of research projects administered by the TRB and the FHWA. The HCM is available from TRB as described above. The TRB Circular is a compendium of articles written by experts on a specific topic and published by the TRB. The TRB Circular is available from TRB as described above. The last two items in the list are research projects conducted by the FHWA. The FHWA documents are available from the National Technical Information Service by telephone (800) 553–6847, facsimile (703) 605–6900, or at their web site *www.ntis.gov.* In addition, the two FHWA documents may be viewed online at *www.tfhrc.gov/library/library.htm.*

The following paragraphs provide a brief synopsis of the information that is included in each of the ten chapters of the Policy and, as appropriate, any significant additions, revisions or deletions made to the currently approved 1994 AASHTO Policy (old Policy) in the 2001 Policy (new Policy).[3]

All page numbers mentioned in this section refer to the new Policy.

General

All dimensions used throughout the new Policy are expressed in dual units with the Metric value appearing first followed by the U.S. Customary value in square brackets. In the old Policy, only Metric values were given. Throughout the new Policy, pedestrians and bicycles are mentioned and discussed more frequently to increase emphasis on consideration of these transportation modes. Examples of pedestrian considerations can be found on pages 99, 562, and 618 of the new Policy. Examples of bicycle considerations can be found on pages 318, 378, and 482 of the new Policy.

Chapter 1—Highway Functions

In this chapter the concept of functional classification of highways is presented and the various components of the highway are described. This serves as an introduction to functional classification and provides an explanation of how the concept is employed in the Policy. There are no significant changes made in this chapter.

Chapter 2—Design Controls and Criteria

This chapter covers those characteristics of vehicles, pedestrians, bicycles, and traffic that act as criteria for the design of various highway and street functional classes. The design vehicle characteristics and their turning paths (pages 15–43) have been revised by adding four design vehicles, upgrading dimensions to more accurately reflect the existing fleet, and redrawing the turning paths. Information from the FHWA Older Driver Highway Design Handbook[4] has been added (page 47). The definition of design speed has been revised (page 67) to incorporate recommendations from NCHRP Report 400.[5] The coverage of highway capacity (page 74) has been revised to agree with the Highway Capacity Manual 2000 (HCM 2000)[6] and to eliminate redundancy. Access control and access management (page 88) has been revised based on the information contained in NCHRP Report 420.

Chapter 3—Elements of Design

This chapter covers the basic elements of design, such as sight distance, horizontal and vertical alignment, superelevation, widths of turning roadways, and grades.

1. Stopping sight distance values in the new Policy (page 111) are based on vehicle deceleration rates rather than on friction between tires and roadway as was done in the old Policy. A single value in the new Policy (page 112) replaces the range in values from the old Policy. This incorporates recommendations from NCHRP Report 400. For example, given a design speed of 100 km/h, the design stopping sight distance in the new Policy is 185 m compared to a range of 157 to 205 m in the old Policy.

2. The eye height and object height criteria for measuring sight distance have been revised (page 127). The eye height has been raised from 1070 mm in the old Policy to 1080 mm [3.5 ft] in the new Policy.[7] The object height for stopping sight distance has been raised from 150 mm in the old Policy to 600 mm [2 ft] in the new Policy. The object height for passing sight distance has been lowered from 1300 mm in the old Policy to 1080 mm [3.5 ft] in the new Policy. This incorporates recommendations from NCHRP Reports 383 and 400.

3. The design criteria for horizontal curves (page 228) and vertical curves (page 272) has been revised to reflect the changes in stopping sight distance, eye height, and object height discussed in 1 and 2 above. For example, given a design speed of 100 km/h and an algebraic difference in grade of 4%, the criteria for length of crest vertical curve (based on stopping sight distance) is 208 m in the new Policy compared to a range of 248 to 420 m in the old Policy.

4. The section on Transition Design Controls (page 168) has been revised and additional information has been added on spiral curve transitions to incorporate recommendations from NCHRP Report 439.

5. The offtracking section (page 206) has been revised by recalculating values for WB–15 [WB–50] vehicles and adding an exhibit showing adjustment values for other design vehicles.

6. The values in the section on Traveled Way Widening on Horizontal Curves (page 212) have been recalculated based on the design vehicle dimensions specified in Chapter 2 of the new Policy.

7. The speed-distance curves (page 237–238) have been revised for 120 kg/kW [200 lb/hp] trucks which more closely reflect the existing fleet. The critical lengths of grade (page 242) have also been revised for this same design vehicle.

8. A section on Sight Distance at Undercrossings (page 280) has been added.

9. A section on Fencing (page 301) has been added.

Chapter 4—Cross Section Elements

This chapter discusses the cross section elements of a highway, such as lane and shoulder width, pavement cross slope, medians, frontage roads, and roadsides. The section on curbs (page 323) has been revised to change the terminology from barrier and mountable curbs in the old Policy to vertical and sloping curbs in the new Policy. The discussion on parabolic cross section has been eliminated. The section on medians (page 341) has been

[1] A Policy on Geometric Design of Highways and Streets, 1994, is available from AASHTO by telephone (800) 231–3475, facsimile (800) 525–5562, mail AASHTO, P.O. Box 96716, Washington, DC 20090–6716 or at their web site at *www.transportation.org.*

[2] A Policy on Design Standards—Interstate System, 1991, is available from AASHTO (see footnote 1).

[3] A Policy on Geometric Design of Highways and Streets, 2001, is available from AASHTO (see footnote 1).

[4] The Older Driver Highway Design Handbook, January 1998, Publication No. FHWA–RD–97–135, is available from the National Technical Information Service by telephone (800) 553–6847, facsimile (703) 605–6900, or at their web site *www.ntis.gov.* In addition, the document may be viewed online at *www.tfhrc.gov/library//library.htm.*

[5] All NCHRP documents cited herein are available from the TRB (specify NCHRP Report No.) by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

[6] The Highway Capacity Manual 2000 is available from the TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

[7] The equivalent U.S. Customary value is not shown for the old Policy because it contained only Metric units.

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revised to incorporate recommendations from NCHRP Report 375. The section on Pedestrian Facilities (page 361) has been revised and expanded.

Chapter 5—Local Roads and Streets

This chapter covers the design guidance applicable to those roads functionally classified as local rural roads and local urban streets. The chapter has been revised as appropriate to include changes discussed in Chapters 2, 3, 4 and 9. The new Policy points out that the AASHTO is currently evaluating alternative design criteria for local roads that carry less than 400 vehicles per day (pages 383–384).

Chapter 6—Collector Roads and Streets

This chapter covers the design guidance applicable to those roads functionally classified as rural collector roads and urban collector streets. The chapter has been revised as appropriate to include changes discussed in Chapters 2, 3, 4 and 9. The new Policy points out that the AASHTO is currently evaluating alternative design criteria for collector roads that carry less than 400 vehicles per day (page 424).

Chapter 7—Rural and Urban Arterials

This chapter presents the basis for design of the principal and minor arterial road systems in rural and urban areas. The chapter has been revised as appropriate to include changes discussed in Chapters 2, 3, 4 and 9. The sections on medians (pages 460 and 478) have been revised to incorporate recommendations from NCHRP Report 375. The sections on access management (pages 471 and 486) have been revised based on the information contained in NCHRP Report 420. The section on Access Control Through Geometric Design (page 488) has been revised to incorporate recommendations from NCHRP Report 395.

Chapter 8—Freeways

This chapter covers the various types of freeways, their design elements, controls, criteria and cross-sectional elements. The chapter has been revised as appropriate to be consistent with the changes discussed in Chapters 2, 3, 4 and 9.

Chapter 9—Intersections

This chapter describes the basic types of intersections, the elements involved in their design, and the accommodation of turning movements. The chapter has been revised as appropriate to be consistent with the changes discussed in Chapters 2, 3, and 4. The definition of the functional area of an intersection has been added (page 560). A discussion on roundabouts has been added (page 578) to incorporate recommendations from NCHRP Synthesis 264[8] and the FHWA document Roundabouts: An Informational Guide.[9] The section on intersection sight distance (page 654) has been revised to incorporate the gap acceptance procedure developed in NCHRP Report 383. A discussion on offset left turn lanes (page 727) has been added to incorporate recommendations from NCHRP Report 375.

Chapter 10—Grade Separations and Interchanges

This chapter discusses the basic types of interchanges and grade separations, along with the design of their features. A discussion on access separations and control on the crossroad at interchanges (page 753) has been added based on the information contained in TRB Circular 430[10] and NCHRP Report 420. The sections on single point urban interchanges (page 787), superelevation and cross slope (page 834), and two lane entrance ramps (page 860) have been revised.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this proposed action would not be a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. Although the new Policy has been revised to incorporate the latest research, the basic criteria remain essentially the same. These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. As stated above, although the new Policy has been revised to incorporate the latest research, the basic criteria remain essentially the same. For these reasons, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1531 *et seq*).

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interface with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

[8] NCHRP Synthesis 264 is available from TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

[9] Roundabouts: An Informational Guide, June 2000, Publication No. FHWA–RD–00–067 is available from the National Technical Information Service by telephone (800) 553–6847, facsimile (703) 605–6900, or at their web site *www.ntis.gov.* In addition, the document may be viewed online at *www.tfhrc.gov/library/library.htm.*

[10] TRB Circular 430 is available from the TRB by telephone (202) 334–3213, facsimile (202) 334–2519, or at their web site *www.nationalacademies.org/trb/bookstore.*

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13132 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this proposed action would not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the proposed action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, highways and roads, Incorporation by reference.

Issued on: September 10, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 625, as set forth below:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48(b) and (n).

2. In § 625.4, revise paragraph (a)(1) to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(a) * * * (1) A Policy on Geometric Design of Highways and Streets, AASHTO 2001. [See § 625.4(d)(1)]

* * * * *

[FR Doc. 01–23260 Filed 9–17–01; 8:45 am]

BILLING CODE 4922–10–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2103; MM Docket No. 01–224, RM–10101]

Radio Broadcasting Services; Shelbyville and La Vergne, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WYCQ, Inc. proposing the reallotment of Channel 275C1 from Shelbyville to La Vergne, Tennessee, and the modification of Station WZPC(FM)'s license accordingly. Channel 275C1 can be reallotted to La Vergne in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's presently licensed site. The coordinates for Channel 275C1 at La Vergne are 35–48–01 North Latitude and 86–37–17 West Longitude.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, Washington DC 20054. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patricia M. Chuh, Pepper & Corazzini, L.L.P., 1776 K Street, NW, Suite 200, Washington, DC 20006 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–224, adopted August 29, 2001, and released September 7, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

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is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—[RADIO BROADCAST SERVICES]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Shelbyville, Channel 275C1 and adding La Vergne, Channel 275C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–23183 Filed 9–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2102, MM Docket No. 01–223, RM–10157]

Radio Broadcasting Services; Crystal Beach and Stowell, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Tichenor License Corporation requesting the substitution of Channel 287C3 for Channel 287A at Crystal Beach, Texas, modification of the authorization for Station KLTO(FM) to specify operation on Channel 287C3, and reallotment of Channel 287C3 and Station KLTO(FM) from Crystal Beach, Texas, to Stowell, Texas. The coordinates for Channel 287C3 at Stowell 29–47–12 and 94–22–50. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 287C3 at Stowell, Texas.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve Tichenor License Corporation's counsel, as follows: Roy R. Russo, Lawrence N. Cohn, Cohn and Marks, 1920 N Street, NW., Suite 300, Washington, DC 20036–1622.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–223, adopted August 29, 2001, and released November 13, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—[RADIO BROADCAST SERVICES]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 287A at Crystal Beach and adding Stowell, Channel 287C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–23184 Filed 9–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2106; MM Docket No. 01–225, RM–10253; MM Docket No. 01–226, RM–10254; MM Docket No. 01–227, RM–10255; MM Docket No. 01–228, RM–10256; MM Docket No. 01–229, RM–10257; MM Docket No. 01–230, RM–10258; MM Docket No. 01–231, RM–10259; MM Docket No. 01–232, RM–10260; MM Docket No. 01–233, RM–10261; MM Docket No. 01–234, RM–10262]

Radio Broadcasting Services; Hartshorne, OK; Moreland, OK; Reydon, OK; Junction, TX; Caseville, MI; Deckerville, MI; Harbor Beach, MI; Port Sanilac, MI; Alton, MO; and Firth, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes ten allotments in Hartshorne, OK, Moorland, OK, Reydon, OK, Junction, TX, Caseville, MI, Deckerville, MI, Harbor Beach, MI, Port Sanilac, MI, Alton, MO and Firth, NE. The Commission requests comment on a petition filed by Maurice Salsa proposing the allotment of Channel 252A at Hartshorne, Oklahoma, as the community's first local aural broadcast service. Channel 252A can be allotted to Hartshorne in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.5 km (7.8 miles) southwest of Hartshorne. The coordinates for Channel 252A2 at Hartshorne are 34–45–18 North Latitude and 95–38–24 West Longitude. See Supplementary Information infra.

DATES: Comments must be filed on or before October 29, 2001, and reply comments on or before November 13, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Maurice Salsa, 5615 Evergreen Valley Drive, Kingwood, Texas 77345; Katherine Pyeatt, 6655 Aintree Circle, Dallas, Texas 75214; Jeraldine Anderson, 1702 Cypress Drive, Irving, Texas 75061; Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205; and Stephen Gajdosik, President, Starboard Broadcasting, Inc., 2470 Crooks Avenue, Kaukauna, Wisconsin 54130.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Mass Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos 01–225, 01–226, 01–227, 01–228, 01–229, 01–230, 01–231, 01–232, 01–233, and 01–234; adopted August 29, 2001 and released September 7, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, S.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY–B402, Washington, D.C. 20554, telephone (202) 863–2893.

The Commission further requests comment on a petition filed by Katherine Pyeatt proposing the allotment of Channel 300C2 at Mooreland, Oklahoma, as the community's second aural broadcast transmission service. Channel 300C2 can be allotted to Mooreland in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.4 km (2.8 miles) northwest of Mooreland. The coordinates for Channel 300C2 at Mooreland are 36–27–59 North Latitude and 99–14–27 West Longitude.

The Commission further requests comments on a petition filed by Katherine Pyeatt, proposing the allotment of Channel 264C2 at Reydon, Oklahoma, as the community's first local aural broadcast service. Channel 264C2 can be allotted to Reydon in compliance with the Commission's minimum distance separation requirements with a site restriction of 29.9 km (18.6 miles) south of Reydon. The coordinates for Channel 264C2 at Reydon are 35–23–11 North Latitude and 99–52–38 West Longitude.

The Commission further requests comment on a petition filed by Jeraldine Anderson proposing the allotment of Channel 284A at Junction, Texas, as potentially the community's fourth FM transmission service. (Two rulemakings are pending to consider allocation of Channels 297A and 277C3 as second and third FM transmission services.) Channel 284A can be allotted to Junction in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.1 km (1.3 miles) southeast of Junction. The coordinates for Channel 284A at Junction are 30–28–19 North Latitude and 99–45–47 West Longitude.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 289A at Caseville, Michigan, as the community's first local aural broadcast service. Channel 289A can be allotted to Caseville in compliance with the Commission's minimum distance separation requirements with no site restriction at center city coordinates. The coordinates for Channel 289A at Caseville are 43–56–28 North Latitude and 83–16–17 West Longitude. The proposed allotment will require concurrence by Canada because Caseville is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 297A at Deckerville, Michigan, as the community's first local aural broadcast service. Channel 297A can be allotted to Deckerville in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.7 km (5.4 miles) northwest of Deckerville. The coordinates for Channel 297A at Deckerville are 43–34–38 North Latitude and 82–49–05 West Longitude. The proposed allotment will require concurrence by Canada because Deckerville is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 256A at Harbor Beach, Michigan, as the community's second FM allotment. Channel 256A can be allotted to Harbor Beach in compliance with the Commission's minimum distance separation requirements with no site restriction at center city coordinates. The coordinates for Channel 256A at Harbor Beach are 43–50–41 North Latitude and 82–39–05 West Longitude. The proposed allotment will require concurrence by Canada because Harbor Beach is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 225A at Port Sanilac, Michigan, as the community's first local aural broadcast service. Channel 225A can be allotted to Port Sanilac in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.4 km (5.2 miles) west of Port Sanilac. The coordinates for Channel 225A at Port Sanilac are 43–26–57 North Latitude and 82–38–35 West Longitude. The proposed allotment will require concurrence by Canada because Port Sanilac is located within 320 kilometers (199 miles) of the Canadian border.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 290A at Alton, Missouri, as the community's first local aural broadcast service. Channel 290A can be allotted to Alton in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.6 km (3.5 miles) north of Alton. The coordinates for Channel 290A at Alton are 36–44–39 North Latitude and 91–24–28 West Longitude.

The Commission further requests comment on a petition filed by Starboard Broadcasting, Inc. proposing the allotment of Channel 229A at Firth, Nebraska, as the community's first local aural broadcast service. Channel 229A can be allotted to Firth in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.8 km (6.7 miles) northwest of Firth. The coordinates for Channel 229A at Firth are 40–36–32 North Latitude and 96–41–08 West Longitude.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

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PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. §§ 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Hartshorne, Channel 252A, by adding Channel 300C2 at Mooreland, and by adding Reydon, Channel 264C2.

3. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Caseville, Channel 289A, by adding Deckerville, Channel 297A, by adding Channel 256A at Harbor Beach, and by adding Port Sanilac, Channel 225A.

4. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Alton, Channel 290A.

5. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Firth, Channel 229A.

6. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 284A at Junction.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–23185 Filed 9–17–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 604

[Docket No. FTA–97–2624]

RIN 2132–AA58

Charter Services Demonstration Program

AGENCY: Federal Transit Administration, DOT.

ACTION: Withdrawal of rulemaking.

SUMMARY: This document withdraws the rulemaking in which the Federal Transit Administration (FTA) proposed to amend its requirements on charter bus service. On June 23, 1997, FTA issued a notice of proposed rulemaking (NPRM) in which it sought public comment on proposed amendments to the charter service regulations. Based on a review of the comments to the NPRM, FTA has concluded that there is no consensus that the proposed changes will improve the ability of public operators to utilize the existing regulatory exceptions to the prohibition against providing charter service when a private charter operator is willing and able to do so. Accordingly, FTA hereby withdraws this rulemaking.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590, 202–366–1936.

SUPPLEMENTARY INFORMATION: All documents pertaining to this regulatory action, including the comments to the NPRM, may be viewed and copied at the Docket Management Facility, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001 between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document, and all documents entered into this docket, are available on the World Wide Web at http://dms.dot.gov.

Comments may also be viewed on the Internet. To read the comments on the Internet, take the following steps: Go to the Docket Management System ("DMS") Web page of the Department of Transportation (http://dms.dot.gov). On that page, click on "search." On the next page (http://dms.dot.gov/search), type in the four-digit docket number. The docket number for this rulemaking is 2624. After typing the docket number, click on "search." On the next page, which contains docket snummary information for the docket you selected, click on the desired comments. You may download the comments.

I. Background

Pursuant to Section 3040 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), FTA established a demonstration program that would permit public transit operators to provide charter services for the purpose of meeting the transit needs of the government, civic, charitable, and other community activities that otherwise would not be served in a cost effective and efficient manner. Congress required the creation of this demonstration program in response to public transit operators' concerns that existing charter service regulations were causing certain transit needs to go unmet.

Public transit operators were particularly concerned about the effect of 49 CFR 604.9. This provision prohibits an FTA recipient from using FTA equipment or facilities to provide any charter service where there is at least one private charter operator that is willing and able to provide the charter service, unless one of the exceptions set out in the regulations is met. Some FTA recipients asserted that they were unable to provide needed charter services to their communities when a private operator had indicated that it was "willing and able" but actually did not have the desire or capability to provide certain trips.

According to the Conference Report accompanying ISTEA, (H. Rpt. No. 404, 102nd Cong., 1st Sess. 424 (1991)), the demonstration program was intended to provide public transit operators with additional flexibility not afforded under the existing charter regulations, without creating undue competition for privately owned charter operators. The Conference Report also indicated that the results of the demonstration program were expected to provide Congress and FTA with data to determine the most effective method for providing charter services to local communities and whether the current regulations were in need of modification.

FTA selected the following public transit operators in four states encompassing large and medium sized cities, as well as rural areas, to participate in the demonstration program:

Monterey-Salinas Transit, Monterey, California;
Central Oklahoma Transportation and Parking Authority, Oklahoma City, Oklahoma;
Bi-State Development Agency, St. Louis, Missouri;
Yolo County Transit Authority, Yolo, California;
Isabella County Transportation Commission, Isabella County, Michigan;
Capital Area Transit Authority, Lansing, Michigan;
Marquette County Area Transportation Authority, Marquette, Michigan;
Muskegon Area Transit System, Muskegon, Michigan.

FTA authorized these public transit operators to conduct their demonstration programs beginning on August 9, 1993, and continuing through October 31, 1995.

II. Results of the Charter Demonstration Program

The data gathered as a result of the charter demonstration program did not support the public operators' claims of unmet needs for the groups for which the demonstration was primarily intended: government, civic, charitable, and other community activities. Although the public operators in each area identified groups that would not be

otherwise served in a cost-effective manner, the charter service provided during the demonstration did not serve a significant number of these groups or significantly increase the level of service to these groups. This information was submitted to Congress on June 16, 1998.

III. FTA's Recommended Action and Comments to the NPRM

The results of the demonstration program did not indicate the need for FTA to significantly alter its current service regulations. The results, however, did show that there may be a need for minor changes in order to improve the ability of public operators to utilize the existing exceptions to the prohibition against their providing charter service if a private charter operator is willing and able to do so.

In its June 23, 1997, NPRM, found at 62 FR 33793, FTA sought comment on the following proposals. FTA received twenty-five written comments on the NPRM from public transit authorities, private sector charter providers, trade associations, a union, and a member of Congress.

A. Definition of "Willing and Able" Private Operators and Review of the "Willing and Able" Determination Process

Proposed change: In order to exclude a private charter operator who may be incapable of providing service within a public transit operator's service area, FTA proposed to narrow the definition of "willing and able" contained in 49 CFR 604.5. The amended definition would have defined a "willing and able" operator as an operator having one bus or one van and possessing the legal authority to operate the service. That authority included having the necessary safety certifications, licenses and other legal prerequisites to provide charter service to parties located within a 125-mile radius of the recipient's service area.

FTA also proposed to amend 49 CFR 604.13(e) to allow public transit operators to look behind evidence that a private charter operator is "willing and able" to provide the requested service if it had valid reasons to believe that the operator was unable to effectively serve local charter needs. The public transit operator would have been required to inform FTA of the finding and FTA would then have made a determination regarding the private operator in question.

Comments: The comments filed generally did not support the proposal to limit the definition of "willing and able" to private charter operators located within 125 miles of the service area. Only two commenters expressed support for FTA's proposed change. Twelve commenters suggested that the 125-mile radius was too large and should be reduced. Among the reasons relied on by these commenters were increased burdens on public transit agencies due to surveying additional private operators, increased costs to consumers resulting from the extra drive time to reach the charter group, and a low probability that private charter operators would travel the 125 miles to serve some charter groups.

Eleven commenters submitted alternative suggestions for limiting the definition of "willing and able." Seven of these comments proposed modifications of the geographic limit, which ranged from only the service area to a 75-mile radius. Two commenters favored limiting the definition to a radius of a one hour drive from the service area. In addition, two other commenters recommended that FTA change the existing regulations to permit public transit operators to provide charter service to local governments, nonprofit agencies, and community groups.

Four commenters asserted that no change should be made to the current regulations. They reasoned that any change in the current regulations would create unfair competition for private operators and that the 125-mile radius was arbitrary and the proposal was unclear in how the boundary was to be calculated. It was also argued that private charter operators outside the geographic limit should be considered "willing and able" because they may choose to serve the area by positioning vehicles in remote locations or by using the terminal facilities or vehicles of competitors.

Three comments were filed supporting FTA's proposal to allow public transit operators to look behind evidence that a private charter operator is "willing and able" to provide the requested service where it has valid reasons to believe that the operator is unable to effectively serve the local charter needs. One commenter opposed the change stating that it would only invite disputes between private and public entities.

B. Extension of Non-Urbanized Area Hardship Exception to Small Urbanized Areas

Proposed Change: Under 49 CFR 604.9(b)(3), an FTA recipient may petition FTA for an exception to provide charter service directly to the customer in non-urbanized areas (population under 50,000) if the charter service provided by the "willing and able" private operator would create a hardship on the customer due to state-imposed minimum duration requirements. FTA proposed to extend this exception to small urbanized areas (population between 50,000 and 200,000).

Comments: Seven comments were filed supporting an extension of the non-urbanized area hardship exception to small urbanized areas. Four comments were filed objecting to the extension of the hardship exception. These commenters objecting stated that the extension would cause unfair increases in competition and asserted the results of the charter demonstration project failed to provide evidence of unmet needs. Finally, one commenter added that the hardship exception applies to hardship from state-imposed minimum charges and that few states may actually impose such charges.

C. Amendment of the Exception for Formal Agreements With All Private Charter Operators

Proposed Change: Under 49 CFR 604.9(b)(7), if a public transit operator obtains a written agreement with all "willing and able" private operators, it can provide certain specified types of charter services directly to the customer. Some FTA recipients have asserted that it is often impossible to obtain such an agreement with all of the various organizations. Therefore, FTA proposed to amend 49 CFR 604.9(b)(7) to provide that only a two-thirds majority of all local private operators would be required for a formal charter agreement.

Comments: Three commenters stated that FTA should not reduce the level of agreement required under the formal agreement exception to two-thirds of local operators. These commenters based their opposition on the possible unfair injury that the change might have on those carriers not a party to the agreement. One of these commenters suggested that if a reduction is necessary, the two-thirds determination should be based on percentage of revenue, passengers miles, or some other criteria in order to ensure that large carriers are not penalized where a sufficient number of small carriers agree to the exception.

Six commenters supported the proposed reduction in the exception for formal agreements to two-thirds. Six other commenters suggested that FTA go further and reduce the minimum required to create a formal agreement to a simple majority of "willing and able" charter operators.

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D. Implementation of an Outreach Program To Foster a Better Understanding of the Charter Regulations and Exceptions

Proposed Change: The demonstration program revealed that many public and private operators have an incomplete understanding of FTA's charter requirements and how to use them effectively to serve the charter needs in their communities. Therefore, FTA proposed to implement an outreach program for public and private operators to provide them with a better understanding of how to better utilize the charter regulations and exceptions. The outreach program would have included the distribution of brochures and literature to public and private operators describing the charter bus regulations and exceptions, and examples of how to best utilize the exception process. FTA also proposed to sponsor seminars and information sessions on the charter requirements at meetings and conferences sponsored by various industry groups.

Comments: Eight commenters supported the outreach program as set out in the NPRM. One commenter expressed the view that the outreach program should be designed with the customer in mind. Another commenter stated that an outreach program was unnecessary because the regulations are clear, but the problem is that the exceptions are too restrictive. One commenter stated that an outreach program was unnecessary because nearly all public operators were familiar with these long-standing regulations.

IV. Conclusion

FTA has decided not to make any changes to the charter bus regulations in 49 CFR Part 604. The current rule is not being changed at this time because there is no consensus that the proposed changes will improve the ability of public operators to utilize the existing exceptions to the prohibition against their providing charter service when a private charter operator is willing and able to provide such service.

Issued on: September 13, 2001.

Jennifer L. Dorn,

Administrator.

[FR Doc. 01–23256 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

Notices

Federal Register

Vol. 66, No. 181

Tuesday, September 18, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request—Food Stamp Program Redemption Certificate, Form FNS–278B; Food Stamp Program Wholesaler Redemption Certificate, Form FNS–278–4

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension, with change, of a currently approved information collection of the Food Stamp Program for which approval expires on November 30, 2001. The Food Stamp Act of 1977, as amended, requires that the Food and Nutrition Service will provide all authorized retail food stores and wholesale food concerns with redemption certificates. The redemption certificates are to be used by all authorized retailers and wholesale firms to present food coupons to insured financial institutions for credit or for cash. Requirements in the Food Stamp Program regulations are the basis for the information collected on Form FNS–278B, Food Stamp Redemption Certificate and Form FNS–278–4, Wholesaler Redemption Certificate.

DATES: Comments on this notice must be received by November 19, 2001 to be assured of consideration.

ADDRESSES: Send comments to Karen J. Walker, Chief, Retailer Management Branch, Benefit Redemption Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 404, Alexandria, VA 22302.

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become matter of public record.

FOR FURTHER INFORMATION CONTACT: Karen J. Walker, (703) 305–2418.

SUPPLEMENTARY INFORMATION:

Title: Food Stamp Redemption Certificate.

OMB Number: 0584–0085.

Expiration Date: November 30, 2001.

Type of Request: Revision of a currently approved information collection.

Abstract: The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal Agency responsible for the Food Stamp Program (FSP). Section 10 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2019) requires that FNS provide for the redemption, through financial institutions, of food coupons accepted by approved retail food stores and wholesale food concerns from program participants. 7 CFR 278.3 and 7 CFR 278.4 of the FSP regulations govern the participation of authorized wholesale food concerns and retail stores in the food coupon redemption process. Form FNS–278B, Food Stamp Redemption Certificate and Form FNS–278–4, Wholesaler Redemption Certificates (RCs) are required to be used by all authorized wholesalers or retailers, and are processed by financial institutions when they are presented for cash or credit. Without the RCs, no vehicle would exist for financial institutions, Federal Reserve Banks, and FNS to track deposits of food coupons.

The burden associated with this form is derived from the number of RCs processed annually, based on information available in our Store Tracking and Redemption System (STARS) database. As of April 2001, the number of program respondents was 158,365 retailers and wholesalers and 5,850 banks participating in the Food Stamp Program. The number of completed RC responses by authorized retailers was 5,521,243 annually. We estimate that it takes an average of 1.2 minutes (or .020 hours) for a retailer to complete the information on the RC and for the financial institution to handle and process the document. For this information collection package, we calculated the burden hours from each year, added them together (2002–2004) and divided by three to obtain the average burden for which we are seeking OMB approval. We estimate the average burden hours for the next three years to be 135,947.02.

The burden for each of the three fiscal years (FYs) are estimated as follows:

In FY 2002, we estimate the number of program respondents will be 152,515 respondents with 5,850 banks continuing to participate in the FSP—reduction of 3,113 (or 2 percent) respondents. We also estimate that the number of completed RC responses by authorized retailers to be 10,497,840 annually—providing for a reduction of 2,624,460 (or 20 percent) annual responses, and a total burden hours calculated to be 209,956.80 hours.

In FY 2003, we estimate the number of program respondents will be 149,465 respondents with 5,850 banks continuing to participate in the FSP—a reduction of 3,050.30 (or 2 percent) respondents. We also estimate that the number of completed RC responses by authorized retailers to be 6,823,596 annually—providing for a reduction of 3,674,244 (or 35 percent) annual responses, and a total burden hours calculated to be 136,471.92 hours.

In FY 2004, we estimate the number of program respondents will be 147,223 respondents with 5,850 banks continuing to participate in the FSP—a reduction of 2,241.97 (or 1.5 percent) respondents. We also estimate that the number of completed RC responses by authorized retailers to be 3,070,618

annually—providing for a reduction of 3,752,977.80 (or 55 percent) annual responses, and a total burden hours calculated to be 61,412.364 hours.

The estimated reduction of respondents and annual burden hours is based on a projected decrease in the number of authorized retailers participating in the FSP, and a decrease in the number of RCs processed as a result of fewer authorized retailers accepting paper food coupons due to the increased use of the Electronic Benefit Transfer system.

Affected Public: Businesses, wholesale food concerns, or other not-for profit financial institutions.

Estimated Average Number of Respondents: 155,584.

Estimated Average Annual Number of Responses per Respondent: 43.68923.

Estimated Total Average Annual Responses: 6,797,351.

Estimate of Burden: Estimated to average .020 hours per response.

Estimated Total Average Annual Burden: 135,947.02 hours.

Dated: September 4, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–23215 Filed 9–17–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Child Nutrition Database

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Food and Nutrition Service to request an extension of a currently approved collection. This collection is the voluntary submission of data including nutrient data from the food service industry to expand the Child Nutrition Database in support of the School Meal Initiatives for Healthy Children.

DATES: Comments on this notice must be received by November 19, 2001 to be assured of consideration.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval and will become a matter of public record. Comments may be sent to: William Wagoner, Team Leader, Technical Assistance Section, Nutrition Promotion and Training Branch, Child Nutrition Division, room 632, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instruction should be directed to William Wagoner at (703) 305–2609.

SUPPLEMENTARY INFORMATION:

Title: Data Collection to Expand the Child Nutrition Database.

OMB Number: 0584–0494.

Expiration Date: 02–2002.

Type of Request: Extension of currently approved collection.

Abstract: The development of the Child Nutrition (CN) Database, previously known as the National Nutrient Database for Child Nutrition Programs, is regulated by the United States Department of Agriculture (USDA) School Meal Initiatives for Healthy Children. This database is designed to be incorporated in USDA approved nutrition analysis software programs and provide an accurate source of nutrient data. The software allows schools participating in the National School Lunch (NSLP) and School Breakfast (SBP) Programs to analyze meals and measure the compliance of the menus to established nutrition goals and standards specified in 7 CFR 210.10 for the NSLP and 7 CFR 220.8 for the SBP. The information collection for the CN Database is conducted using an outside contractor. The CN Database needs to be updated with an extensive database of brand name or manufactured foods commonly used in school food service. The Food and Nutrition Service's contractor collects this data from the food industry to expand the CN Database. The submission of data from the food industry will be strictly voluntary, and based on analytical, calculated, or nutrition facts label sources.

Respondents: The respondents are the manufacturers of food products for school food service.

Estimate of Burden

Form FNS–709

Number of Respondents: 60.

Estimated Number of Responses per Respondent: 50.

Estimated Time per Response: 0.33 Hours (20 Minutes).

Total Annual Burden: 1,000 Hours.

Form FNS–710

Number of Respondents: 15.

Estimated Number of Responses per Respondent: 50.

Estimated Time per Response: 2 Hours.

Total Annual Burden: 1500 Hours.

Total Annual Burden for Form 710 & 709: 2500 Hours.

Dated: September 7, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–23216 Filed 9–17–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Burlington, Vermont, October 4–6, 2001. The purpose of the meeting is to discuss emerging issues in urban and community forestry.

DATES: The meeting will be held October 4–6, 2001. A tour of local projects will be held on October 4 from 8:30 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 1068 Williston Road, Burlington, Vermont. Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, 20628 Diane Drive, Sonora, CA 95370. Individuals also may fax their names and proposed agenda items to (209) 536–9089.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Cooperative Forestry Staff, (209) 536–9201.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Although council discussion is limited to Forest Service staff and Council members, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals who have made written requests by October 1 will have the opportunity to address the Council at those sessions.

Dated: August 30, 2001.

Michael T. Rains,

Deputy Chief, State and Private Forestry.

[FR Doc. 01–23199 Filed 9–17–01; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 18, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 27, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 39142) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Central Facility Management

Bureau of Alcohol, Tobacco and Firearms, Canine Training Facility, 122 Calvary Drive, Front Royal, Virginia.

Commissary Shelf Stocking, Custodial & Warehousing

Marine Corps Base, Twenty-Nine Palms, California.

Janitorial/Custodial

Anniston Army Depot, Anniston, Alabama.

Janitorial/Custodial

Naco Border Patrol Station, 2136 Naco Highway, Bisbee, Arizona.

Janitorial/Custodial

Department of the Interior, Main and South Buildings, Washington, DC.

Janitorial/Custodial

USDA/Henry A. Wallace Beltsville Agricultural Center, Beltsville, Maryland.

Records Management Service

USAF Reserve Personnel Center, Denver, Colorado.

Vehicle Registration Service

River's Building, Information Center and Mail Provost Marshall's Office, Fort Hood, Texas.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–23253 Filed 9–17–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 18, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Office Supply Store

Federal Aviation Administration, Mike Monroney Aeronautical Center,

Oklahoma City, Oklahoma, NPA: San

* * * of foreign-trade zones in ports of

entry of the United States, to expedite

Whereas, the City of Amarillo, Texas

8 a.m. on Monday, October 1, 2001, and

8. Community Development Quota

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Oklahoma City, Oklahoma, NPA: San Antonio Lighthouse, San Antonio, Texas.

Government Agency: Federal Aviation Administration.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Body Fluids Barrier Kit

6515–01–376–7247

Binder, Note Pad

7510–00–728–8060

Refill, Ballpoint Pen, Stick, Rubberized

7510–01–357–6831
7510–01–357–6832
7510–01–357–6834
7510–01–446–4853
7510–01–446–4854

Ballpoint Pen, Stick, Rubberized Barrel

7520–01–442–3019

Card, Guide, File

7530–00–988–6518
7530–00–988–6521
7530–00–988–6522

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–23254 Filed 9–17–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1179]

Grant of Authority; Establishment of a Foreign-Trade Zone in Seminole County, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Sanford Airport Authority (the Grantee), a Florida public corporation, has made application to the Board (FTZ Docket 53–2000, filed September 5, 2000), requesting the establishment of a foreign-trade zone at sites in Seminole County, Florida, within the Sanford Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 55221, September 13, 2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 250, at the sites described in the application, and subject to the Act and the Board's regulations, including § 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 28th day of August 2001.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–23243 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1182]

Grant of Authority; Establishment of a Foreign-Trade Zone in Edinburg (Hidalgo County), TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Edinburg, Texas (the Grantee), has made application to the Board (FTZ Docket 55–2000, filed September 22, 2000), requesting the establishment of a foreign-trade zone at a site in Edinburg (Hidalgo County), Texas, adjacent to the Hidalgo/Pharr Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 58509, September 29, 2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 251, at the site described in the application, and subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 28th day of August 2001.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 01–23244 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1183]

Grant of Authority; Establishment of a Foreign-Trade Zone in Amarillo, TX Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Amarillo, Texas (the Grantee), has made application to the Board (FTZ Docket 6–2001, filed January 22, 2001), requesting the establishment of a foreign-trade zone at sites in the Amarillo/High Plains, Texas, area, adjacent to the Amarillo Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** *(66 FR 8197, 1/30/01); and,*

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 252, at the sites described in the application, and subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 28th day of August 2001.

Foreign-Trade Zones Board.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 01–23245 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091301A]

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings on October 1–8, 2001, in Seattle, WA. All meetings are open to the public except executive sessions which may be held during the week at which the Council may discuss personnel issues and/or current litigation.

DATES: The Council's Advisory Panel will begin at 8 a.m., Monday, October 1, 2001, and continue through Friday, October 5, 2001. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, October 1, 2001, and continue through Wednesday, October 3, 2001. The Council will begin their plenary session at 8 a.m. on Wednesday, October 3, 2001, continuing through Monday, October 8, 2001.

ADDRESSES: All meetings will be held at the Doubletree Hotel, 18740 Pacific Highway South, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: *Council:* The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports:
   (a) Executive Director's Report.
   (b) State Fisheries Report by Alaska Department of Fish and Game.
   (c) NMFS Management Report.
   (d) Enforcement and Surveillance reports by NMFS and the U.S. Coast Guard.
2. Halibut Charter Individual Fishery Quota (IFQ) Program: The Council will review previous action approving an IFQ program and consider further action as necessary.
3. Steller sea lion (SSL) measures:
   (a) Receive final report from independent review team.
   (b) Take final action on management measures for the protection of SSL for 2002 and beyond.
4. Seabird Avoidance Measures
   (a) Review research results from Washington Sea Grant.
   (b) Final action on revisions to regulations for seabird avoidance measures in the groundfish fisheries, if necessary analyses are available.
5. American Fisheries Act (AFA):
   (a) Review Environmental Impact Statement and proposed rulemaking for 2002; provide comments as appropriate.
   (b) Final comments on Report to Congress.
   (c) Review discussion paper on AFA status and possible extension of current regulations.
   (d) Review status of other AFA-related amendments and contracts.
6. Draft Groundfish Programmatic Supplemental Environmental Impact Statement (SEIS): Receive status report.
7. Essential Fish Habitat (EFH) Environmental Impact Statement:
   (a) Receive scoping summary and EFH Committee report.
   (b) Review final guidelines from the North Pacific Fishery Management Council.
8. Community Development Quota (CDQ) Program:
   (a) Initial review of regulatory amendments for Halibut Areas 4D/4E.
   (b) Initial review of analysis for amendments to the CDQ groundfish regulations.
9. Groundfish Management:
   (a) Review of Stock Assessment and Fishery Evaluation (SAFE) documents for Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish fisheries for 2002.
   (b) Approve preliminary groundfish harvest specifications for the 2002 groundfish fisheries, including prohibited species catch limits.
10. Crab Management:
   (a) Review the SAFE document for BSAI King and Tanner crab fisheries.
   (b) Receive report from the Crab Plan Team.
11. Staff Tasking: Review current staff tasking and projects to be tasked; provide direction to staff.

Advisory Meetings

Advisory Panel: The agenda for the Advisory Panel will mirror that of the Council listed above, with the exception of the reports under Item 1 and the Halibut Charter IFQ issue (Item 2).

Scientific and Statistical Committee: The Scientific and Statistical Committee will address the following issues:

1. Steller sea lion measures listed under Item 3 of the Council agenda noted above.
2. Seabird avoidance measures (Item 4 on the Council agenda).
3. Groundfish Programmatic SEIS (Item 6 on the Council agenda).
4. SAFE documents for BSAI and GOA groundfish fisheries (Item 9 on the Council agenda).
5. Crab Management SAFE (Item 10 on the Council agenda). Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly-scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issue arising after publication of this notice that require emergency action under section 305(c) of the Magnuson Stevens Fishery Conservation and Management Act, provided the public has been notified of

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the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: September 13, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23252 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090601A]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will hold a work session, which is open to the public.

DATES: The work session will be held Tuesday, October 9, 2001, from 8 a.m. to 4 p.m., and Wednesday, October 10, 2001, from 8 a.m. to 4 p.m.

ADDRESSES: The work session will be held at NMFS Southwest Fisheries Science Center, Santa Cruz Laboratory, Main Conference Room 188, 110 Shaffer Road, Santa Cruz, CA 95060; (831) 420–3900.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy; (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to finalize the Queets River coho stock assessment report; review the content and process for development of the preseason ocean salmon fishery planning documents; discuss Council Operation Procedures for the STT; and prioritize and schedule upcoming tasks.

Although non-emergency issues not contained in the meeting agenda may come before the STT for discussion, those issues may not be the subject of formal STT action during this meeting. STT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: September 7, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23251 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

Technology Administration Performance Review Board Membership

September 2001.

The Technology Administration Performance Review Board reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and reviews performance-related pay increases for ST–3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

The following is the full membership of the Board:

Bruce P. Mehlman (PAS), Assistant Secretary for Technology Policy, Technology Administration, Washington, D.C. 20230, Appointment Expires: 12/31/03

Gordon W. Day (CR), Chief, Optoelectronics Division, Electronics and Engineering Laboratory Office, National Institute of Standards & Technology, Boulder, CO 80303, Appointment Expires: 12/31/01

Dale E. Hall (CR), Deputy Director, Materials Science and Engineering Laboratory, Materials Science and Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899–8500, Appointment Expires: 12/31/01

Karen H. Brown (GC), Deputy Director, National Institute of Standards &Technology, Gaithersburg, MD 20899–1000, Appointment Expires: 12/31/03

Daniel Hurley (CR), Director of Communication and Information Infrastructure Assurance Program, National Telecommunications and Information Administration, Washington, D.C. 20230, Appointment Expires: 12/31/03

Ronald Lawson (GC), Director, National Technical Information Service, Springfield, VA 22161, Appointment Expires: 12/31/03

Dennis Swyt (CR), Chief, Precision Engineering Division, Manufacturing Engineering Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899–8210, Appointment Expires: 12/31/02

Robert F. Moore (CR), Deputy Director for Safety and Facilities, National Institute of Standards & Technology, Gaithersburg, MD 20899–3200, Appointment Expires: 12/31/03

Cynthia Clark (CR), Associate Director for Methodology & Standards, Census Bureau, Washington, DC 20233, Appointment Expires: 12/31/01

Susan Zevin (CR), Deputy Director, Information Technology Laboratory, Information Technology Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899–8900, Appointment Expires: 12/31/02

Dated: August 27, 2001.

Samuel W. Bodman,

Deputy Secretary, Department of Commerce.

[FR Doc. 01–23214 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

September 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 18, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 448 is being increased for carryover and swing from the Fabric Group, reducing the limit for the Fabric Group to account for the swing being applied to Category 448.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66730, published on November 7, 2000.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 18, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Fabric Group 219, 313–O [2], 314–O [3], 315–O [4], 317–O [5], 326–O [6], 617, 625/626/627/628/629, as a group.	205,092,517 square meters of which not more than 51,611,668 square meters shall be in Category 219; not more than 63,080,926 square meters shall be in Category 313–O; not more than 36,701,630 square meters shall be in Category 314–O; not more than 49,317,818 square meters shall be in Category 315–O; not more than 51,611,668 square meters shall be in Category 317–O; not more than 5,734,628 square meters shall be in Category 326–O, and not more than 34,407,781 square meters shall be in Category 617.
Limits not in a Group 448	46,660 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–23207 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

September 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 18, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69742, published on November 20, 2000.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and

man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 18, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335	149,715 dozen.
347/348	3,326,036 dozen.
361	2,746,360 numbers.
635	559,973 dozen.
647/648	1,865,831 dozen.
Group II	
200–227, 300–326, 332, 359–O [2], 360, 362, 363, 369–O [3], 400–414, 434–438, 440, 442, 444, 448, 459pt. [4], 464, 469pt. [5], 600–607, 613–629, 644, 659–O [6], 666, 669–O [7], 670–O [8], 831, 833–838, 840–846, 850–858 and 859pt. [9], as a group	253,937,335 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); and 6406.99.1550 (359pt.).

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–23206 Filed 9–17–01; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: September 24, 2001, 9:30 a.m.–12 noon.

PLACE: Corporation for National and Community Service, 1201 New York Avenue NW., 8th Floor, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Committees of the Board of Directors will report on their activities. In addition, the Board will engage in the following reports and discussions: Learning in Deed; State Education Agency Network; Universities and Serve Study.

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person.

CONTACT PERSON FOR FURTHER INFORMATION: Rhonda Taylor, Deputy Director of Public Liaison, Corporation for National Service, 8th Floor, Room 8619, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–5000 ext. 282. Fax (202) 565–2794. TDD: (202) 565–2799. E-mail: Rtaylor@cns.gov.

Dated: September 14, 2001.

Frank R. Trinity,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 01–23339 Filed 9–14–01; 2:03 pm]

BILLING CODE 6050–$$–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0097]

Federal Acquisition Regulation; Submission for OMB Review; Information Reporting to the Internal Revenue Service (IRS) (Taxpayer Identification Number)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0097).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning information reporting to the internal revenue service (IRS) (taxpayer identification number). A request for public comments was published at 66 FR 33666, June 25, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 18, 2001.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Acquisition Policy Division, GSA (202) 208–7279.

SUPPLEMENTARY INFORMATION:

A. Purpose

Subpart 4.9, Information Reporting to the Internal Revenue Service (IRS), and the provision at 52.204–3, Taxpayer Identification, implement statutory and regulatory requirements pertaining to taxpayer identification and reporting.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows:

Respondents: 250,000.
Responses Per Respondent: 12.
Total Responses: 3,000,000.
Hours Per Response: .10.
Total Burden Hours: 300,000.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0097, Information Reporting to the Internal Revenue Service (IRS) (Taxpayer Identification Number), in all correspondence.

Dated: September 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–23195 Filed 9–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposal To Reissue and Modify Nationwide Permits; Notice

AGENCY: Army Corps of Engineers, DoD.

ACTION: Reschedule nationwide permit public hearing.

SUMMARY: In the August 9, 2001, issue of the **Federal Register** (66 FR 42070) the Corps of Engineers (Corps) announced that it was soliciting comments for the reissuance of the proposed Nationwide Permits (NWPs), General Conditions, and definitions with some modifications. The notice also announced that a public hearing for the proposed Nationwide Permits would be held on September 12, 2001. Due to the attack on the World Trade Center and the Pentagon on September 11, 2001, the hearing was postponed. The hearing has been rescheduled for September 26, 2001.

DATES: The hearing will be held at 12:30 p.m. on September 26, 2001.

ADDRESSES: The hearing will be held at the GAO Building, 441 "G" Street, NW., Washington, DC 20314–1000, 7th floor auditorium.

FOR FURTHER INFORMATION CONTACT: Rich White at (202) 761–4599 or access the U.S. Army Corps of Engineers Regulatory homepage at: *http://www.usace.army.mil/inet/functions/cw/cecwo/reg/*. Please send comments in regards to the reissuance of the proposed Nationwide Permits (NWPs), General Conditions, and definitions with some modifications to HQUSACE, ATTN: CECW–OR, 441 "G" Street, NW., Washington, DC 20314–1000.

SUPPLEMENTARY INFORMATION: Current security measures require that persons interested in attending the hearing must pre-register with us before 4 p.m. September 25, 2001. Please contact Rich White at 202–761–4599 to pre-register. The public should enter on the "G" Street side of the GAO Building. All attendees are required to show photo identification and must be escorted to the auditorium by Corps personnel. Attendee's bags and other possessions are subject to be searched. All attendees arriving between one-half hour before and one-half hour after 12:30 p.m. will be escorted to the hearing. Those that are not pre-registered and/or arriving later than the allotted time will be unable to attend the public hearing.

The public is invited to provide comments on this notice to reissue and modify NWPs. Please send comments to HQUSACE, ATTN: CECW–OR, 441 "G" Street, NW., Washington, DC 20314–1000.

Dated: September 13, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01–23286 Filed 9–17–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 18, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10202, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Karen _F._Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 12, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.
Title: International Adult Literacy and Lifestyle Skills Survey.
Frequency: One time.
Affected Public: Businesses or other for-profit.
Reporting and Recordkeeping Hour Burden:
Responses: 2,320.
Burden Hours: 5,140.
Abstract: The International Adult Literacy and Lifeskills Survey (IALL) will collect internationally comparable information on the literacy and numeracy performance of adults from around the world. The IALL will be administered in the general household population aged 16–65 and in selected federally-funded adult education programs. The IALL house assessment

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will provide a detailed picture of the literacy and numeracy skills of U.S. adults compared to adults from other countries. The IALL adult education programs and how they differ from the U.S. general population and international populations.

Request for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23192 Filed 9–17–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services List of Correspondence

AGENCY: Department of Education.

ACTION: List of correspondence from April 1, 2001 through June 30, 2001.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

FOR FURTHER INFORMATION CONTACT: Melisande Lee or JoLeta Reynolds. Telephone: (202) 205–5507. If you use a telecommunications device for the deaf (TDD) you may call (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued between April 1, 2001 through June 30, 2001.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part B—Assistance for Education of All Children With Disabilities

Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations

Topic Addressed: Distribution of Funds

- Letter dated June 14, 2001 to U.S. Senator Richard J. Lugar, describing actual and proposed increases in Federal funding levels for special education programs and initiatives to reduce the cost of special education.
- OSEP memorandum 01–14 dated June 6, 2001, regarding implementation of the 20 percent rule in 34 CFR 300.233 and clarifying which funds under Part B of IDEA can be included under the 20 percent calculation.
- OSEP memorandum 01–13 dated June 4, 2001, regarding implementation of the new funding formula under IDEA and the year of age cohorts for which a free appropriate public education (FAPE) is ensured.

Topic Addressed: Use of Funds

- Letter dated May 24, 2001 to U.S. Congressman Mac Thornberry, clarifying that although IDEA funds may not be used to pay litigation expenses, these funds may be used to increase cooperative problem solving and to promote the use of alternative dispute resolution.
- Letter dated April 16, 2001 to U.S. Congresswoman Rosa L. DeLauro, regarding the use of non-Federal funding to supplement Federal Part B funds for children with disabilities placed by their parents in private or parochial schools.

Section 612—State Eligibility

Topic Addressed: Free Appropriate Public Education

- Letter dated May 18, 2001 (personally identifiable information redacted), regarding the inability of complaint mechanisms under the IDEA to assist individuals who are well over the age limit in Part B to receive special education services.

Topic Addressed: Children in Private Schools

- Letter dated May 18, 2001 (personally identifiable information redacted), regarding placement of children with disabilities in private schools under Part B and possible funding sources for private school placement.

Topic Addressed: State Educational Agency General Supervisory Authority

- Letter dated May 24, 2001 (personally identifiable information redacted), regarding a State's obligation to ensure that referral and placement of students with disabilities by a local educational agency complies with Federal and State requirements under the IDEA.
- Letter dated April 16, 2001 to U.S. Congressman Wayne T. Gilchrest, and letter dated April 30, 2001 (personally identifiable information redacted), regarding the finality of due process hearings and whether the State statute concerning limitations to reimbursement for private school tuition and exceptions for those limitations complies with the requirements of the IDEA.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements Topic Addressed: Evaluations And Reevaluations

- Letter dated April 16, 2001 (personally identifiable information redacted), clarifying the obligations of school districts and the rights of parents regarding reevaluations of children who have or are suspected of having disabilities.

Topic Addressed: Individualized Education Programs

- Letter dated April 16, 2001 to U.S. Congresswoman Jo Ann Emerson, regarding the obligation of public agencies to provide eyeglasses to a student and the procedural safeguards available to parents who disagree with the content of their child's individualized education program.

Section 615—Procedural Safeguards

Topic Addressed: Due Process Hearings

- Letter dated April 19, 2001 to Virginia Department of Education Director Judith A. Douglas, regarding whether a State educational agency is required to convene a due process hearing initiated by someone other than the parent of a child with a disability or a public agency.

Topic Addressed: Surrogate Parents

- Letter dated April 16, 2001 to Pinal County, Arizona Deputy County Attorney Linda L. Harant, regarding the appointment of surrogate parents for children who are wards of a tribal court.

Topic Addressed: Student Discipline

- Letter dated April 16, 2001 to Professor Perry A. Zirkel, regarding the calculation of disciplinary removals of up to 10 school days to determine whether a change in placement has occurred and the provision of FAPE during periods of suspension or expulsion from school.

Section 619—Preschool Grants

Topic Addressed: Use of Funds

- Letter dated June 29, 2001 to Connecticut Bureau of Early Childhood Education and Social Services Chief Paul Flinter, regarding allowable uses of Preschool Grant State set-aside funds.

Part C—Infants and Toddlers with Disabilities

Section 635—Requirements for a Statewide System

Topic Addressed: Eligibility Criteria

- Letter dated May 17, 2001 to South Dakota Office of Special Education Director Deborah Barnett and South Dakota Interagency Coordinating Council Member Joanne Wounded Head, regarding the use of informed clinical opinion in determining eligibility, the provision of respite care and transportation as part of early intervention services, and the need for appropriately trained staff.
- Letter dated May 3, 2001 to Arkansas Department of Human Services Director Kurt Knickrehm, clarifying the need to review public awareness and child find activities to ensure that culturally appropriate materials are provided to all populations in the State and that States can establish initial eligibility criteria but cannot set additional criteria for individual services for a child who has already been determined to be eligible under Part C.
- Letter dated May 2, 2001 to Dr. Garry Gardner, regarding the flexibility that Part C provides States in defining the "developmental delay" category for determining the eligibility of infants and toddlers with disabilities and the procedures that States must follow in making changes to this category.

Section 636—Individualized Family Service Plan

Topic Addressed: Early Intervention Services

- Letter dated April 16, 2001 to U.S. Senator Robert C. Byrd, regarding the individualized family service plan (IFSP) process in determining the intensity and frequency of early intervention services under Part C, along with the financial responsibility for these services.

Topic Addressed: Natural Environments

- Letter dated June 14, 2001 to U.S. Congressman Ike Skelton, regarding the history and changes to the natural environments requirements of Part C of IDEA since the early intervention program was originally enacted, and clarifying that the need for parent networking and parent training could be addressed through the provision of appropriate services in the child's individualized family services plan (IFSP).

Other Letters Relevant to the Administration of IDEA Programs

Topic Addressed: Assistance Under Other Federal Programs

- OSEP memorandum 01–09 dated May 24, 2001, regarding information about new regulations affecting the determination of childhood disability under the Social Security Administration's Supplemental Security Income program.
- Letter dated April 16, 2001 to Joseph Kinney, regarding use of Federal Medicaid funds to pay for required services under Part B of the IDEA for children with disabilities.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister/*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–800–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.027; Assistance to States for Education of Children with Disabilities)

Dated: September 13, 2001.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 01–23242 Filed 9–17–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for Depleted Uranium Hexafluoride Conversion Facilities

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) announces its intention to prepare an Environmental Impact Statement (EIS) for a proposal to construct, operate, maintain, and decontaminate and decommission two depleted uranium hexafluoride (DUF_6) conversion facilities, at Portsmouth, Ohio, and Paducah, Kentucky. DOE would use the proposed facilities to convert its inventory of DUF_6 to a more stable chemical form suitable for storage, beneficial use, or disposal. Approximately 700,000 metric tons of DUF_6 in about 57,700 cylinders are stored at Portsmouth and Paducah, and at an Oak Ridge, Tennessee site. The EIS will address potential environmental impacts of the construction, operation, maintenance, and decontamination and decommissioning of the conversion facilities. DOE will hold public scoping meetings near the three involved sites.

DATES: DOE invites public comments on the proposed scope of the DUF_6 conversion facilities EIS. To ensure consideration, comments must be postmarked by November 26, 2001. Late comments will be considered to the extent practicable. Three public scoping meetings will be held near Portsmouth, Ohio; Paducah, Kentucky; and Oak Ridge, Tennessee. The scoping meetings will provide the public with an opportunity to present comments on the scope of the EIS, and to ask questions and discuss concerns with DOE officials regarding the EIS. The location, date, and time for these public scoping meetings are as follows:

Portsmouth, Ohio: Thursday, November 1, 2001, from 6–9 p.m. at the Vern Riffe Pike County Vocational School,

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175 Beaver Creek Road—off State Route 32, Piketon, Ohio 45661.
Paducah, Kentucky: Tuesday, November 6, 2001, from 6–9 p.m. at the Information Age Park Resource Center, 2000 McCracken Blvd., Paducah, Kentucky 42001.
Oak Ridge, Tennessee: Thursday, November 8, 2001, from 6–9 p.m. at the Pollard Auditorium, Oak Ridge Institute for Science and Education, 210 Badger Avenue, Oak Ridge, Tennessee 37831.

ADDRESSES: Please direct comments or suggestions on the scope of the EIS and questions concerning the proposed project to: Kevin Shaw, U.S. Department of Energy, Office of Environmental Management, Office of Site Closure—Oak Ridge Office (EM–32), 19901 Germantown Road, Germantown, Maryland 20874, fax (301) 903–3479, e-mail *DUF6.Comments@em.doe.gov* (please use "NOI Comments" for the subject).

FOR FURTHER INFORMATION CONTACT: For information regarding the proposed project, contact Kevin Shaw, as above. For general information on the DOE NEPA process, please contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, telephone (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Depleted UF_6 results from the process of making uranium suitable for use as fuel in nuclear reactors or for military applications. The use of uranium in these applications requires increasing the proportion of the uranium-235 isotope found in natural uranium, which is approximately 0.7 percent (by weight), through an isotopic separation process. A U-235 "'enrichment'" process called gaseous diffusion has historically been used in the United States. The gaseous diffusion process uses uranium in the form of UF_6, primarily because UF_6 can conveniently be used in the gas form for processing, in the liquid form for filling or emptying containers, and in the solid form for storage. Solid UF_6 is a white, dense, crystalline material that resembles rock salt.

Over the last five decades, large quantities of uranium were enriched using gaseous diffusion. "Depleted" UF_6 (DUF_6) is a product of the process and was stored at the three uranium enrichment sites located at Paducah, Kentucky; Portsmouth, Ohio; and the East Tennessee Technology Park (ETTP—formerly known as the K–25 Site) in Oak Ridge, Tennessee. Depleted uranium is uranium that, through the enrichment process, has been stripped of a portion of the uranium-235 that it once contained so that it has a lower uranium-235 proportion than the 0.7 weight-percent found in nature. The uranium in most of DOE's DUF_6 has between 0.2 to 0.4 weight-percent uranium-235.

DOE has management responsibility for approximately 700,000 metric tons (MT) of DUF_6 contained in about 57,700 steel cylinders at the Portsmouth, Paducah, and ETTP sites, where it has stored such material since the 1950s. The characteristics of UF_6 pose potential health and environmental risks. DUF_6 in cylinders emits low levels of gamma and neutron radiation. Also, when released to the atmosphere, DUF_6 reacts with water vapor in the air to form hydrogen fluoride (HF) and uranyl fluoride (UO_2F_2), both chemically toxic substances. In light of such characteristics, DOE stores DUF_6 in a manner designed to minimize the risk to workers, the public, and the environment.

In October 1992, the Ohio Environmental Protection Agency (OEPA) issued a Notice of Violation (NOV) alleging that DUF_6 stored at the Portsmouth facility is subject to regulation under State hazardous waste laws applicable to the Portsmouth Gaseous Diffusion Plant. The NOV stated that OEPA had determined DUF_6 to be a solid waste and that DOE had violated Ohio laws and regulations by not evaluating whether such waste was hazardous. DOE disagreed with this assessment, and, in February 1998, DOE and OEPA reached an agreement. This agreement sets aside the issue of whether the DUF_6 is subject to Resource Conservation and Recovery Act regulation and institutes a negotiated management plan governing the storage of the Portsmouth DUF_6. The agreement also requires DOE to continue its efforts to evaluate potential use or reuse of the material. The agreement expires in 2008.

In 1994, DOE began work on the Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride (DUF_6 PEIS). The DUF_6 PEIS was completed in 1999 and identified conversion of DUF_6 to another chemical form for use or long-term storage as part of a preferred management alternative. In the corresponding Record of Decision for the Long-Term Management and Use of Depleted Uranium Hexafluoride (ROD) (64 FR 43358, August 10, 1999), DOE decided to promptly convert the DUF_6 inventory to depleted uranium oxide, depleted uranium metal, or a combination of both. The ROD further explained that depleted uranium oxide will be used as much as possible, and the remaining depleted uranium oxide will be stored for potential future uses or disposal, as necessary. In addition, according to the ROD, conversion to depleted uranium metal will occur only if uses are available.

During the time that DOE was analyzing its long-term strategy for managing the DUF_6 inventory, several other events occurred related to DUF_6 management. In 1995, the Department began an aggressive program to better manage the DUF_6 cylinders, known as the DUF_6 Cylinder Project Management Plan. In part, this program responded to the Defense Nuclear Facilities Safety Board (DNFSB) Recommendation 95–1, Safety of Cylinders Containing Depleted Uranium. This program included more rigorous and frequent inspections, a multi-year program for painting and refurbishing of cylinders, and construction of concrete-pad cylinder yards. Implementation of the DUF_6 Cylinder Project Management Plan has been successful, and, as a result, on December 16, 1999, the DNFSB closed out Recommendation 95–1.

In February 1999, DOE and the Tennessee Department of Environment and Conservation entered into a consent order which included a requirement for the performance of two environmentally beneficial projects: The implementation of a negotiated management plan governing the storage of the small inventory (relative to other sites) of all UF_6 (depleted, low enriched, and natural) cylinders stored at the ETTP site, and the removal of the DUF_6 from the ETTP site or the conversion of the material by December 31, 2009.

In July 1998, the President signed Public Law (P.L.) 105–204. This law directed the Secretary of Energy to prepare "'a plan to ensure that all amounts accrued on the books'" of the United States Enrichment Corporation (USEC) for the disposition of DUF_6 would be used to commence construction of, not later than January 31, 2004, and to operate, an on-site facility at each of the gaseous diffusion plants at Paducah and Portsmouth, to treat and recycle DUF_6 consistent with the National Environmental Policy Act (NEPA). DOE responded to P.L. 105–204 by issuing the Final Plan for the Conversion of Depleted Uranium Hexafluoride (referred to herein as the "'Conversion Plan'") in July 1999. The Conversion Plan describes DOE's intent to chemically process the DUF_6 to create products that would present both a lower long-term storage hazard and provide a material that would be suitable for use or disposal.

DOE initiated the Conversion Plan with the announced availability of a draft Request for Proposals (RFP) on July 30, 1999, for a contractor to design, construct, and operate DUF_6 conversion facilities at the Paducah and Portsmouth uranium enrichment plant sites. Based on comments received on the draft RFP, DOE revisited some of the assumptions about management of the DUF_6 inventory made previously in the PEIS and ROD. For example, as documented in the Oak Ridge National Laboratory study, Assessment of Preferred Depleted Uranium Disposal Forms (ORNL/TM–2000/161, June 2000), four potential conversion forms (triuranium octoxide (U_3O_8), uranium dioxide (UO_2), uranium tetrafluoride (UF_4), and uranium metal) were evaluated and found to be acceptable for near-surface disposal at low-level radioactive waste disposal sites such as those at DOE's Nevada Test Site and Envirocare of Utah, Inc. Therefore, the RFP was modified to allow for a wide range of potential conversion product forms and process technologies. However, any of the proposed conversion forms must have an assured environmentally acceptable path for final disposition.

On October 31, 2000, DOE issued a final RFP to procure a contractor to design, construct, and operate DUF_6 conversion facilities at the Paducah and Portsmouth plant sites. Any conversion plants that result from this procurement would convert the DUF_6 to a more stable chemical form that is suitable for either beneficial use or disposal. The selected contractor would design the conversion plants using the technology it proposes and construct the plants. The selected contractor also would operate the plants for a five-year period, which would include maintaining depleted uranium and product inventories, transporting all uranium hexafluoride storage cylinders in Tennessee to a conversion plant at Portsmouth, as appropriate, and transporting converted product for which there is no use to a disposal site. The selected contractor would also prepare excess material for disposal at an appropriate site.

DOE received five proposals in response to the DUF_6 conversion RFP, and DOE anticipates that a contract will be awarded during the first quarter of fiscal year 2002. Since the site-specific NEPA process will not be completed prior to contract award, the contract shall be contingent on completion of the NEPA process and will be structured such that the NEPA process will be completed in advance of a go/no-go decision. (See NEPA Process below.) DOE initiated the NEPA review by issuing an Advance Notice of Intent to prepare an EIS for the DUF_6 conversion facilities on May 7, 2001 (66 FR 23010).

Purpose and Need for Agency Action

DOE needs to convert its inventory of DUF_6 to a more stable chemical form for storage, use, or disposal. This need follows directly from the decision presented in the August 1999 "Record of Decision for Long-Term Management and Use of Depleted Uranium Hexafluoride," namely to begin conversion of the DUF_6 inventory as soon as possible.

This EIS will assess the potential environmental impacts of constructing, operating, maintaining, and decontaminating and decommissioning DUF_6 conversion facilities at the Portsmouth and Paducah sites, as well as other reasonable alternatives. The EIS will aid decision making on DUF_6 conversion by evaluating the environmental impacts of the range of reasonable alternatives, as well as providing a means for public input into the decision making process. DOE is committed to ensuring that the public has ample opportunity to participate in this review.

Relation to the DUF_6 PEIS

This EIS represents the second level of a tiered environmental review process being used to evaluate and implement the DUF_6 management program. Tiering refers to the process of first addressing general (programmatic) matters in a PEIS followed by more narrowly focused (project level) environmental review that incorporates by reference the more general discussions. The DUF_6 PEIS, issued in April 1999, was the first level of this tiered approach.

The DUF_6 PEIS addressed the potential environmental impacts of broad strategy alternatives, including analyses of the impacts of: (1) Continued storage of DUF_6 at DOE's current storage sites; (2) technologies for converting the DUF_6 to depleted U_3O_8, UO_2, or uranium metal; (3) long-term storage of depleted U_3O_8 and UO_2 for subsequent use or disposal; (4) long-term storage of DUF_6 in cylinders at a consolidated site; (5) use of depleted UO_2 and uranium metal conversion products; (6) transportation of materials; and (7) disposal of depleted U_3O_8 and UO_2 at generic disposal sites. The results of the PEIS analysis, as well as supporting documentation, will be incorporated into this EIS to the extent appropriate.

The ROD for the DUF_6 PEIS declared DOE's decision to promptly convert the DUF_6 inventory to a more stable chemical form. This tiered EIS will address specific issues associated with the implementation of the DUF_6 PEIS ROD.

Preliminary Alternatives

Consistent with NEPA implementation requirements, this EIS will assess the range of reasonable alternatives regarding constructing, operating, maintaining, and decontaminating and decommissioning DUF_6 conversion facilities. The following preliminary list of alternatives is subject to modification in response to comments received during the public scoping process.

Preferred Alternative: Under the preferred alternative, two conversion facilities would be built: one at the Paducah Gaseous Diffusion Plant site and another at the Portsmouth Gaseous Diffusion Plant site. The cylinders currently stored at the ETTP site near Oak Ridge, Tennessee, would be transported to Portsmouth for conversion. The conversion products (i.e., depleted uranium as well as fluorine components produced during the conversion process) would be stored, put to beneficial uses, or disposed of at an appropriate disposal facility. This alternative is consistent with the Conversion Plan, which DOE submitted to Congress in July 1999, in response to Public Law 105–204. Subalternatives to be considered for the preferred alternative include:

- Conversion technology processes identified in response to the final RFP for DUF_6 conversion services, plus any other technologies that DOE believes must be considered.
- Local siting alternatives for building and operating conversion facilities within the Paducah and Portsmouth plant boundaries.
- Timing options, such as staggering the start of the construction and operation of the two conversion facilities.

One Conversion Plant Alternative: An alternative of building and operating only one conversion facility at either the Portsmouth or the Paducah site will be considered. This plant could differ in size or production capacity from the two proposed for Portsmouth and Paducah. Technology and local siting subalternatives will be considered as with the preferred alternative.

Use of Existing UF_6 Conversion Capacity Alternative: DOE will consider using already-existing UF_6 conversion

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capacity at commercial nuclear fuel fabrication facilities in lieu of constructing one or two new conversion plants. DOE is evaluating the feasibility of using existing conversion capacity, although no expression of interest has been received from such facilities.

No Action Alternative: Under the "no action" alternative, cylinder management activities (handling, inspection, monitoring, and maintenance) would continue the "status quo" at the three current storage sites indefinitely, consistent with the DUF_6 Cylinder Project Management Plan and the consent orders, which include actions needed to meet safety and environmental requirements.

Where applicable under the alternatives listed above, transportation options, such as truck, rail, and barge, will be considered for shipping DUF_6 cylinders to a conversion facility and conversion products to a storage or disposal facility. Also, for each technology alternative, alternatives for conversion products, including storage, use, and disposal at one or more disposal sites, will be considered. Further, DOE would appreciate comments regarding whether there are additional siting alternatives for one or more new conversion facilities that should be considered.

Identification of Environmental and Other Issues

DOE intends to address the following environmental issues when assessing the potential environmental impacts of the alternatives in this EIS. Additional issues may be identified as a result of the scoping process. DOE invites comment from the Federal agencies, Native American tribes, state and local governments, and the general public on these and any other issues that should be considered in the EIS:

- Potential impacts on health from DUF_6 conversion activities, including potential impacts to workers and the public from exposure to radiation and chemicals during routine and accident conditions for the construction, operation, maintenance, and decontamination and decommissioning of DUF_6 conversion facilities.
- Potential impacts to workers and the public from exposure to radiation and chemicals during routine and accident conditions for the transportation of DUF_6 cylinders from ETTP to one of the conversion sites.
- Potential impacts to workers and the public from exposure to radiation and chemicals during routine and accident conditions for the transportation of conversion products that are not beneficially used to a low-level waste disposal facility.
- Potential impacts to surface water, ground water, and soil during construction activities and from emissions and water use during facility operations.
- Potential impacts on air quality from emissions and from noise during facility construction and operations.
- Potential cumulative impacts of the past, present, and reasonably foreseeable future actions (including impacts resulting from activities of the United States Enrichment Corporation).
- Potential impacts from facility construction on historically significant properties, if present, and on access to traditional use areas.
- Potential impacts from land requirements, potential incompatibilities, and disturbances.
- Potential impacts on local, regional, or national resources from materials and utilities required for construction and operation.
- Potential impacts on ecological resources, including threatened and endangered species, floodplains, and wetlands.
- Potential impacts on local and DOE-wide waste management capabilities.
- Potential impacts on local employment, income, population, housing, and public services from facility construction and operations, and environmental justice issues.
- Pollution prevention, waste minimization, and energy and water use reduction technologies to reduce the use of energy, water, and hazardous substances and to mitigate environmental impacts.

DOE received comments on the Advance Notice of Intent from the Tennessee Department of Environment and Conservation (TDEC) and the Ohio Environmental Protection Agency (OHEPA). TDEC commented that the EIS should provide an adequate platform for coordination of environmental issues between DOE, Ohio, Kentucky, and Tennessee, without additional agreements if certain specified topics were explored in detail in the EIS. TDEC's comments emphasized issues related to the transportation of the ETTP cylinders to Portsmouth. OHEPA's comment concurred in TDEC's comment that the EIS should coordinate environmental issues between DOE, Ohio, Kentucky, and Tennessee, especially emergency management issues associated with the transportation of the ETTP cylinders to Portsmouth.

NEPA Process

The EIS for the proposed project will be prepared pursuant to the NEPA of 1969 (42 U.S.C. 4321 et seq.), Council on Environmental Quality NEPA Regulations (40 CFR parts 1500–1508), and DOE's NEPA Implementing Procedures (10se CFR part 1021). Following the publication of this Notice of Intent, DOE will hold scoping meetings, prepare and distribute the draft EIS for public review, hold public hearings to solicit public comment on the draft EIS, and publish a final EIS. Not less than 30 days after the publication of the U.S. Environmental Protection Agency's Notice of Availability of the final EIS, DOE may issue a ROD documenting its decision concerning the proposed action.

In addition to the above steps, DOE is considering environmental factors in selecting a contractor for the conversion services through the procurement process, including preparation of an environmental critique and an environmental synopsis pursuant to 10 CFR 1021.216. The environmental critique evaluates the environmental data and information submitted by each offeror and is subject to the confidentiality requirements of the procurement process. DOE also is preparing a publicly available environmental synopsis, based on the environmental critique, to document the consideration given to environmental factors in the contractor selection process. The environmental synopsis will be filed with the U.S. Environmental Protection Agency and will be incorporated into the EIS. In accordance with 10 CFR 1021.216(i), since the NEPA process will not be completed prior to contract award, the contract will be structured to allow the NEPA review process to be completed in advance of a go/no-go decision.

Related NEPA Reviews

- Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride (DOE/EIS–0269, April 1999);
- Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste (DOE/EIS–0200–F, May 1997);
- Disposition of Surplus Highly Enriched Uranium, Final Environmental Impact Statement (DOE/ EIS–0240, June 1996);
- Environmental Assessment for the Refurbishment of Uranium Hexafluoride Cylinder Storage Yards C–745–K, L, M, N, and P and Construction of a New Uranium Hexafluoride Cylinder Storage Yard (C–745–T) at the Paducah Gaseous Diffusion Plant, Paducah, Kentucky (DOE/EA–1118, July 1996);
- Environmental Assessment for DOE Sale of Surplus Natural and Low Enriched Uranium (DOE/EA–1172, October 1996);
- Environmental Assessment for the Lease of Land and Facilities within the East Tennessee Technology Park, Oak Ridge, Tennessee (DOE/EA–1175, 1997);
- Notice of Intent for Programmatic Environmental Impact Statement for Disposition of Scrap Metals (DOE/EIS–0327) (66 FR 36562, July 12, 2001).

Scoping Meetings

The purpose of this Notice is to encourage early public involvement in the EIS process and to solicit public comments on the proposed scope of the EIS, including the issues and alternatives it would analyze. DOE will hold public scoping meetings near Portsmouth, Ohio; Paducah, Kentucky; and Oak Ridge, Tennessee, to solicit both oral and written comments from interested parties. Oral and written comments will be considered equally in the preparation of the EIS. See **DATES** above for the times and locations of these meetings.

DOE will designate a presiding officer for the scoping meetings. The scoping meetings will not be conducted as evidentiary hearings, and there will be no questioning of the commentors. However, DOE personnel may ask for clarifications to ensure that they fully understand the comments and suggestions. The presiding officer will establish the order of speakers. At the opening of each meeting, the presiding officer will announce any additional procedures necessary for the conduct of the meetings. If necessary to ensure that all persons wishing to make a presentation are given the opportunity, a time limit may be applied for each speaker. Comment cards will also be available for those who would prefer to submit written comments.

DOE will make transcripts of the scoping meetings and other environmental and project-related materials available for public review in the following reading rooms:

DOE Headquarters, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1 E–190, Washington, DC 20585. Telephone: (202) 586–3142.

Oak Ridge/ DOE, Public Reading Room, 230 Warehouse Road, Suite 300, Oak Ridge, Tennessee 37831. Telephone: (865) 241–4780.

Paducah/DOE, Environmental Information Center, Berkley Centre, 115 Memorial Drive, Paducah, Kentucky 42001, Telephone: (270) 554–6979.

Portsmouth/DOE, Environmental Information Center, 3930 U.S. Route 23, Perimeter Road, Piketon, OH 45661. Telephone: (740) 289–3317.

Information is also available through the project web site at http://web.ead.anl.gov/uranium and on the DOE NEPA web site at http://www.tis.eh.doe.gov/nepa.

The EIS will also contain a section summarizing the nature of the comments received during the scoping process and describing any modification to the scope of the EIS in response to the scoping process comments.

EIS Schedule

The draft EIS is scheduled to be published by June 2002. A 45-day comment period on the draft EIS is planned, which will include public hearings to receive oral comments. Availability of the draft EIS, the dates of the public comment period, and information about the public hearings will be announced in the **Federal Register** and in the local news media.

The final EIS for the DUF6 Conversion Facilities is scheduled for January 2003. A ROD would be issued no sooner than 30 days after the U. S. Environmental Protection Agency notice of availability of the final EIS is published in the **Federal Register**.

Signed in Washington, DC, this 10th day of September, 2001.

Steven V. Cary,

Acting Assistant Secretary, Office of Environment, Safety and Health.

[FR Doc. 01–23213 Filed 9–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Golden Field Office; Peer Review of DOE's Competitive Solicitation Program

AGENCY: Department of Energy.

ACTION: Announcement of a peer review of the Department of Energy's (DOE's) Competitive Solicitation Program.

SUMMARY: The DOE, Office of Power Technology is announcing its intention to conduct a Peer Review of DOE's Competitive Solicitation Program September 20, 2001 in Golden Colorado. The meeting is open to the public and attendance is free of charge.

DATES: Thursday, September 20, 2001 from 12 Noon to 5 pm (MDT).

ADDRESSES: 1617 Cole Boulevard, Golden, CO 80401, Building 17, 4th Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Lizana K. Pierce, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393 or (303) 275–4727 or via facsimile to at (303) 275–4753, or electronically to *lizana—pierce@nrel.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Peer Review is to: (1) Improve decision-making and program leadership; (2) improve productivity and management; (3) provide stakeholders the opportunity to learn about the program and projects; and (4) provide public accountability for the use of public funds. The Peer Review will examine the: (1) Appropriateness of the program scope and objectives relative to available resources; (2) effectiveness in meeting the stated goals; (3) adequacy in reaching the intended audience; (4) quality of the competitive process; and (5) effectiveness of DOE Program and Project plans. The panel will also be requested to provide recommendations for future activities and ways in which the Program can be improved.

The mission of the Competitive Solicitation Program is to obtain, analyze, and disseminate cost and operational information necessary to overcome the perceptions of risk in selecting renewable energy and hybrid renewable energy generation or cogeneration systems for the competitive electric market. The Competitive Solicitation effort is a technology-focused competitive process aimed at carrying out field validation and education efforts that: (1) Prove the availability of clean, affordable, and reliable electric power supply options for many remote or economically challenged regions of the nation, including at Federal facilities, on Native American lands or at Tribal Colleges; (2) obtain essential data on operational performance, reliability, and benefits of renewable energy and hybrid renewable energy generation or cogeneration systems in various geographic locations and climatic conditions; or (3) enhance the public's understanding and use of renewable energy technologies.

The Competitive Solicitation Program was proposed as a six-year program with two components: (1) Feasibility studies, and (2) field verification projects. However, the only component of the Competitive Solicitation Program funded in Fiscal Year 2000 (FY00) was the Native American solicitation for renewable energy feasibility studies at Tribal colleges and universities.

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Therefore, the resulting solicitation, entitled Feasibility Studies for Potential Application of Renewable Energy Technologies at Tribal Colleges and Universities is the focus of the Peer Review. However, preceding projects, competitively selected under the Remote Applications of Renewable Power Technologies on Native American Lands solicitation, will be included as representative field verification projects.

The Peer Review will be open to the public, and the public will have an opportunity to address DOE representatives and the panel. DOE will also accept written comments through October 5, 2001. Approximately 40 days after the meeting, a report documenting the results of the review will be issued and posted on the DOE Golden homepage at www.golden.doe.gov.

Issued in Golden, Colorado, on September 5, 2001.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 01–23212 Filed 9–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–2537–000 ER01–2543–000, ER01–2544–000, ER01–2545–000, ER01–2546–000, ER01–2547–000, and ER01–2548–000]

CalPeak Power—Midway LLC, et. al., Notice of Issuance of Order

September 12, 2001.

CalPeak Power—Midway LLC, CalPeak Power—Ponoche LLC, CalPeak—Vaca Dixon, CalPeak Power—El Cajon LLC, CalPeak—Enterprise LLC, CalPeak Power—Border LLC, and CalPeak—Mission (collectively, "CalPeak") submitted for filing a rate schedule under which CalPeak will engage in wholesale electric power and energy transactions at market-based rates. CalPeak also requested waiver of various Commission regulations. In particular, CalPeak requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by CalPeak.

On September 4, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CalPeak should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, CalPeak is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of CalPeak and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of CalPeak's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23203 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2998–000]

Pacific Gas and Electric Company; Notice of Filing

September 7, 2001.

Take notice that on August 31, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Termination of the 1992 Interconnection Agreement between PG&E and Northern California Power Agency (NCPA) on file with the Commission as First Revised PG&E Rate Schedule FERC No. 142 and a proposed Interconnection Agreement (IA) between PG&E and NCPA. The IA supersedes the 1992 Interconnection Agreement and is intended to provide for the continued interconnection of the PG&E and NCPA electric systems.

Copies of this filing have been served upon NCPA, the California Independent System Operator Corporation and the California Public Utilities Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23204 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–79–000]

ANR Pipeline Co.; Notice of Availability of the Environmental Assessment for the Proposed Badger Pipeline Project

September 12, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by ANR Pipeline Company (ANR) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Badger Pipeline Project facilities including:

- About 12.8 miles of 20-inch-diameter loop along ANR's existing 10- and 12-inch-diameter Racine Laterals between Mainline Valve (MLV) No. 8 (milepost (MP) 0.0) in Burlington Township, Racine County and the existing Somers Meter Station (MP 12.8) in Paris Township, Kenosha County, Wisconsin;
- About 9.5 miles of 20-inch-diameter lateral would be located adjacent to existing rights-of-way (gas pipelines, Wisconsin Electric Power Company's (WEPCo) 345 kV electric transmission line, and the Chicago, Milwaukee, St. Paul and Pacific Railroad) between the Somers Meter Station (MP 12.8) and the planned Badger Generating Plant (MP 22.3) in Pleasant Prairie Township, Kenosha County; and
- Aboveground facilities consisting of a pig trap/launcher assembly at the tie-in of the proposed pipeline on the existing MLV No. 8 site (MP 0.0); a mainline valve and crossover piping at the existing Somers Meter Station (MP 12.8); and a meter station, valve, and pig trap/receiver assembly to be located at the planned Badger Generating Plant site (MP 22.3).

ANR proposed the Badger Pipeline Project to provide up to 210,000,000 cubic feet per day of gas to Badger Generating Company, LLC's (Badger) proposed 1,050 megawatt gas-fired power plant to be constructed in the Village of Pleasant Prairie in Kenosha County, Wisconsin.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Group 1, PJ11.1.
- Reference Docket No. CP01–79–000; and
- Mail your comments so that they will be received in Washington, DC on or before October 12, 2001.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.gov) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket#" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket#" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–23202 Filed 9–17–01; 8:45 am]

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[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Sixth Interstate Natural Gas Facility-Planning Seminar; Presentation of Staff's Findings

September 7, 2001.

The Office of Energy Projects will hold the sixth in a series of public meetings for the purpose of exploring and enhancing strategies for constructive public participation in the earliest stages of natural gas facility planning. This seminar will be held in Washington, DC at the Federal Energy Regulatory Commission on Thursday, September 20, 2001. The seminar will focus on the staff's report entitled: "Ideas For Better Stakeholder Involvement In The Interstate Natural Gas Pipeline Planning Pre-Filing Process" and provide an opportunity for an open discussion of the report.

We are inviting all attendees from our previous seminars and any other interested persons; natural gas companies; Federal, state and local agencies; landowners and non-governmental organizations with an interest in searching for improved ways to do business to join us. We will specifically discuss the findings in staff's report and the overall facility planning process, not the merits of any pending or planned pipeline projects.

The staff report is being provided, along with this notice, to each participant in our past seminars. The report can also be downloaded from the FERC web-site at www.ferc.gov or requested by e-mail at: gas outreach-feedback@ferc.fed.us.

At the seminar, the staff of the Commission's Office of Energy Projects will give a presentation on the findings in the staff report. These were compiled from our first five seminars in Albany, New York; Chicago, Illinois; Tampa, Florida; Seattle, Washington; and Portsmouth, New Hampshire. We will discuss each set of action options stakeholders can use as tools to improve their involvement in the pre-filing planning process.

The meeting will be held in the FERC Headquarters at 888 1st St., NE., Washington, DC. The meeting is

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scheduled to start at 9:30 a.m. and finish at 12 noon.

If you plan to attend, please email our team by September 17, 2001 at gasoutreach@ferc.fed.us. Or, you can respond via facsimile to Pennie Lewis-Partee at 202–208–0353. Please include in the response the names, addresses, and telephone numbers of all attendees from your organization. We will send an acknowledgment of your request.

If you have any questions, you may contact any of the staff listed below:

Richard Hoffmann, 202/208–0066

Lauren O'Donnell, 202/208–0325

Jeff Shenot, 202/219–2178

Howard Wheeler, 202/208–2299

J. Mark Robinson,

Director, Office of Energy Projects.

[FR Doc. 01–23201 Filed 9–17–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00739; FRL–6801–3]

Application for New and Amended Pesticide Registration; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): "Application for New and Amended Pesticide Registration" (EPA ICR No. 0277.13, OMB No. 2070–0060). This is a request to renew an existing ICR that is currently approved and due to expire April 30, 2002. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPP–00739, must be received on or before November 19, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00739 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *vogel.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are an individual or entity engaged in activities related to the registration of a pesticide product. Potentially affected categories and entities may include, but are not limited to:

Category	NAICS codes	SIC codes	Examples of potentially affected entities
Pesticide and other agricultural chemical manufacturing	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Individuals or entities engaged in activities related to the registration of a pesticide product.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes and the Standard Industrial Classification (SIC) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/.* On the homepage select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 6090 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPP–00739. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00739 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in Units III.A.1. and III.A.2. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00739. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Application for New and Amended Pesticide Registration.

ICR numbers: EPA ICR No. 0277.13, OMB No. 2070–0060.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire April 30, 2002.

Abstract: This data collection program is designed to provide EPA with necessary data to evaluate an application of a pesticide product as required under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

An individual or entity wanting to obtain a registration for a pesticide product must submit an application package consisting of information relating to the identity and composition of the product, proposed labeling, and supporting data (or compensation for others' data) for the product as outlined in 40 CFR part 158. The EPA bases registration decisions for pesticides on its evaluation of a battery of test data provided primarily by applicants for registration. Required studies include testing to show whether a pesticide has the potential to cause unreasonable adverse human health or environmental effects. The Agency currently collects data on physical chemistry, acute and chronic toxicology, environmental fate, ecological effects, worker exposure, residue chemistry, environmental chemistry, and product performance. If EPA's evaluation of the data show that the statutory requirements of FIFRA are met, then a registration is approved. Under FIFRA, all pesticides must be registered by EPA before they may be sold or distributed in U.S. commerce.

Registrants of EPA-registered pesticide products at times become subject to regulations or guidance that include labeling revisions. The revised labeling is submitted as an amendment to the Agency along with the completed application form. Normally, data are not required or reviewed for revised labeling regulations or guidance; however, it is necessary that the revised labeling be reviewed and approved. This review is most often accomplished by a Product Manager (PM) or Team Leader, in one of the three regulatory divisions responsible for pesticide registration (the Registration Division, the Antimicrobial Division, and the Biopesticides and Pollution Prevention Division), who ensure that revisions are in compliance with the applicable labeling requirement or guidance.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, "burden" means the total time, effort, or financial resources

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expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 231,280 hours, with an annual respondent cost of $16,426,080. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Individuals or entities engaged in activities related to the registration of a pesticide product.

Estimated total number of potential respondents: 2,100.

Frequency of response: As needed.

Estimated total/average number of responses for each respondent: 3–5.

Estimated total annual burden hours: 231,280.

Estimated total annual burden costs: $16,426,080.

VI. Are There Changes in the Estimates from the Last Approval?

The total respondent burden hour estimate under this ICR has increased from 212,640 to 231,280 hours per year, or a total net increase of 18,640 hours. The total applicant costs have increased from approximately $6.0 million to $16.4 million per year, for a total net increase of approximately $10.4 million. This increase in costs is due mainly to the update in the loaded labor hourly rates used to calculate the costs. There are no capital costs associated with this information collection activity.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: September 6, 2001.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 01–23226 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7054–8]

Gulf of Mexico Program Management Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Management Committee.

DATES: The meeting will be held on Wednesday, October 17, 2001, from 1 p.m. to 5:45 p.m. and on Thursday, October 18, 2001, from 8 a.m. to 12:30 p.m.

ADDRESSES: The meetings will be held at the Embassy Suites Hotel, 315 Julia Street, New Orleans, LA, (504–525–1993).

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda is attached.

The meeting is open to the public.

Dated: August 30, 2001.

Gloria D. Car,

Designated Federal Officer.

Gulf of Mexico Program Management Committee Meeting, Embassy Suites Hotel, New Orleans, Louisiana

October 17–18, 2001.

Wednesday, October 17

1:00 Welcome and Introductions (Bruce Moulton)

1:10 Progress Report—Implementation of the GMP FY2001 Workplan (Bryon Griffith)

Purpose: Review GMP annual performance goals for 2001 and accomplishments.

Decision: Informational.

1:45 GMP FY2002/2003 Objectives and FY2002 Workplan (Jim Giattina)

Purpose: Review revised objectives and FY2002 Workplan.

Decision: Management Committee endorsement of revised objectives and workplan.

2:15 Presentation of Gulf of Mexico Research Needs/Strategy (Ray Wilhour)

Purpose: To review findings, proposed strategy, and recommendations developed by Expert Panels under the Monitoring, Modeling, and Research Committee.

Decision: Endorsement of the strategy and recommendations, and endorsement to forward these to the Policy Review Board for their consideration in developing the 2002 recommendations to the Administrator as the Federal Advisory Committee.

3:00 Break

3:15 Mercury Contamination in Gulf Seafood (Fred Kopfler)

Purpose: Review recent press coverage of mercury issues in the Gulf and discuss appropriate actions for the GMP to take as a follow-up to our Mercury Report.

Decision: Agreement on next steps for the GMP.

4:00 Gulf of Mexico—Aquatic Nuisance Species Regional Panel (Herb Kumpf)

Purpose: Review FY2001 annual report outline and suggested recommendations to the National ANS Task Force.

Decision: Endorsement or revision of report outline and recommendations.

4:30 Coastal America—Regional Implementation Team (Bob Bosenberg and Bryon Griffith)

Purpose: Review status of key projects and activities undertaken by the GMP in support of Coastal America.

Decision: Informational.

5:00 ISSC Vibrio vulnificus Management Plan Requirements (Tom Herrington)

Purpose: Review recent decisions reached by the ISSC regarding disease reduction targets and post-harvest treatment.

Decision: Discuss role of GMP in assisting ISSC and Gulf States in developing and implementing Management Plan.

5:45 Adjourn for Social in Atrium Lounge at the Embassy Suites, Dinner on your own

Thursday, October 18

8:00 Citizens Advisory Committee Report (Casi Callaway and Robert Crowe)

Purpose: Provide update on CAC activities.

Decision: Informational.

8:15 Harmful Algal Bloom Observing System Pilot Project (Jim Giattina)

Purpose: Review work underway to develop an early warning system for HABs to support Gulf State management responses and future plans.

Decision: Informational.

9:00 GEMS—New Directions and Support Opportunities (Quenton Dokken)

Purpose: Report on partnership formed with NOAA's Community-Based Habitat Restoration Program.

Decision: Informational.

9:30 The Nature Conservancy—Development of a Gulf Ecoregion Conservation Plan (Bob Bendick)

Purpose: Report on TNC efforts to link land-based ecoregion plans with Northern Gulf Ecoregion Plan to protect critical habitats for biodiversity and to discuss strategic linkages with GEMS/NOAA partnership to aid in implementation.

Decision: Informational.

10:00 Gulf Hypoxia Action Plan Implementation (Mary Beth Van Pelt)

Purpose: Review status of national efforts.

Decision: Agreement on next steps the GMP should take to support national efforts.

10:30 Break

10:45 GMP Recommendations for the Administrator of EPA. (Jim Giattina)

Purpose: Review proposed issues and recommendations for the Policy Review Board.

Decision: Agree on topics to be covered and schedule for completing final recommendations for 2002.

11:45 Ocean Act of 2000 (Gloria Car)

Purpose: Provide an overview of the Ocean Act requirements and schedule.

Decision: Discuss opportunities for GMP to interact with Ocean Council.

12:00 Review Action Items

12:30 Adjourn

[FR Doc. 01–23221 Filed 9–17–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of Certain Receiverships by the FDIC in the Fourth Quarter of 2001

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: Notice is hereby given that the FDIC, for itself or as successor in interest to the Resolution Trust Corporation, in its capacity as Receiver for the Institutions set forth below (the Receiver) intends to terminate these receiverships during the fourth calendar quarter of 2001.

FOR FURTHER INFORMATION CONTACT: Division of Resolutions and Receiverships, Terminations Section, 1–800–568–9161.

SUPPLEMENTARY INFORMATION:

Financial institution number and name	City	State
1232 First Federal Savings and Loan Association	Pontiac	MI
1263 Far West Federal Savings Bank	Portland	OR
1208 Valley Federal Savings and Loan Association	Van Nuys	CA
2101 American Pioneer Federal Savings Bank	Orlando	FL
2184 AmeriFirst Federal Savings Bank	Miami	FL
4497 American Savings Bank	White Plains	NY
4511 The Union Savings Bank	Patchoque	NY
4576 American Commerce National Bank	Anaheim	CA
4616 Bank of Newport	Newport Beach	CA
4642 Monument National Bank	Ridgecrest	CA
4648 The Malta National Bank	Malta	OH
6003 Mutual Federal Savings Bank of Atlanta	Atlanta	GA
7119 Gibraltar Savings, F.A	Simi Valley	CA
7275 Pima Federal Savings and Loan Association	Tucson	AZ
7281 Commonwealth Federal Savings and Loan Association	Ft. Lauderdale	FL
7439 Columbia Savings and Loan Association, F.A	Beverly Hills	CA

The liquidation of the assets of these receiverships is expected to be completed no later than December 31, 2001. To the extent permitted by available funds and in accordance with law, the Receiver for these institutions will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of such receiverships will serve no useful purpose. Consequently, notice is given that the receiverships will be terminated, as soon as practicable but no sooner than thirty (30) days after the date this Notice is published.

If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date this Notice is published to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Terminations Department, 1910 Pacific Avenue, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: September 11, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–23190 Filed 9–17–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their

views in writing to the Reserve Bank

Trans #	Acquiring	Acquired	Entities
STATUS: Closed			

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views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 2, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. The Jennings Qualified Family, L.P., Hawkinsville, Georgia; to acquire voting shares of SunMark Bancshares, Inc., Hawkinsville, Georgia, and thereby indirectly acquire voting shares of SunMark Community Bank, Hawkinsville, Georgia.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. J.D. Bergman Corporation, Hinsdale, Illinois, and Jay D. Bergman, Joliet, Illinois; to acquire voting shares of American Heartland Bancshares, Inc., Sugar Grove, Illinois, and thereby indirectly acquire voting shares of American Heartland Bank and Trust, Sugar Grove, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Betty Lynn Woodside, Jackson, Tennessee; to retain voting shares of Hardeman County Investment Company, Inc., Bolivar, Tennessee, and thereby indirectly retain voting shares of First South Bank, Bolivar, Tennessee.

Board of Governors of the Federal Reserve System, September 12, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23187 Filed 9–17–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 12, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Northstar Financial Group, Inc., Bad Axe, Michigan; to acquire 100 percent of the voting shares of Seaway Community Bank, St. Clair, Michigan (in organization).

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Outsource Holdings, Inc., Lubbock, Texas, and Outsource Delaware Holdings, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Falcon Bancorporation, Inc., Memphis, Texas, and First Bank & Trust of Memphis, Memphis, Texas.

Board of Governors of the Federal Reserve System, September 12, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23188 Filed 9–17–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 11 a.m., Monday, September 24, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting. Contact Person for More Information: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: September 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23331 Filed 9–14–01; 1:36 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—08/20/2001			
20012220	Sumitomo Metal Industrial	Mitsubishi Materials Corporation	Mitsubishi Material Quartz Corp. Mitsubishi Materials Silicon Corp.
20012221	Mitsubishi Materials Corporation	Sumitomo Metal Industries, Ltd.	K.K. Silicotech, Wakayama Sitix Solar. K.K. K.K. Sitix Service, Sumitomo Sitix Silcon, Inc.
20012234	HCA Inc	HCA Inc	El Paso Healthcare System, Ltd.
20012246	The Charles Schwab Corporation	Robin Jackson	Bunker Capital, LLC. J.L. Management, LLC.
20012247	The Charles Schwab Corporation	Lawrence Leibowitz	J.L. Management, LLC.
20012250	Brian L. Roberts	Global Sports, Inc	Global Sports, Inc.
20012252	Hewlett-Packard Company	StorageApps Inc	StorageApps Inc.
20012268	FleetBoston Financial Corporation	Liberty Mutual Insurance Company	Crabbe Huson Group, Inc. Liberty Asset Management Company. Liberty Funds Group, L.L.C. Liberty Newport Holdings, Limited. Liberty Wagner Asset Management, L.P. Newport Fund Management, Inc. Progress Investment Management Company. WAM Acquisition GP, Inc.
2001227	ValueClick, Inc	Mediaplex, Inc	Mediaplex, Inc.
20012276	HCC Insurance Holdings, Inc	Mark E. Rattner	Marshall Rattner, Inc.
20012277	HCC Insurance Holdings, Inc	David F. Rattner	Marshall Rattner, Inc.
20012283	Ameritrade Holding Corporation	Deutsche Bank AG	National Discount Brokers Group, Inc.
20012284	The News Corporation Limited	Golden Books Family Entertainment, Inc., debtor-in-possession.	Golden Books Publishing Company, Inc.
Transactions Granted Early Termination—08/21/2001			
20012239	Household International, Inc	Vereniging AEGON	Transamerica Bank N.A. Transamerica Retail Financial Services Corporation.
20012274	Homestore.com, Inc	Memberworks Incorporated	iPlace, Inc.
20012282	Deutsche Bank AG	Ameritrade Holding Corporation	Ameritrade Holding Corporation.
20012288	Massachusetts Mutual Life Insurance Company.	Trement Advisors, Inc.	Tremont Advisors, Inc.
Transactions Granted Early Termination—08/22/2001			
20012230	General Electric Company	Data Critical Corporation	Data Critical Corporation.
20012235	Aid Association for Lutherans	Lutheran Brotherhood	Lutheran Brotherhood.
20012258	divine, inc	eshare Communication, Inc	eshare Communications, Inc.
20012264	Xcel Energy Inc	Edison International	Capistrano Cogeneration Company. Eastern Sierra Energy Company. Hanover Energy Company.
Transactions Granted Early Termination—08/23/2001			
20012300	Cadbury Schweppes plc	Eagle Family Foods Holdings, Inc	Eagle Family Foods Holdings, Inc.
Transactions Granted Early Termination—08/24/2001			
20011704	AmeriSource Health Corporation	Bergen Brunswig Corporation	Bergen Brunswig Corporation.
20012225	UnitedHealth Group Incorporated	Spectera, Inc	Spectera, Inc.
20012226	Parker Hannifin Corporation	Eaton Corporation	Eaton AC&R, Ltd. Eaton Aeroquip Inc.
20012289	Motorola, Inc	RiverDelta Networks, Inc	RiverDelta Networks, Inc.
20012292	Novartis AG	Novo Nordisk A/S	Novo Nordisk A/S.
20012295	Mirant Corporation	Edison International	EMC del Caribe.
20012297	Mirant Corporation	Enron Corp	Enron LNG Power (Atlantic) Ltd.
20012299	APAX Europe V–A LP	Siemens AG	Krauss-Maffei Corporation. Mannesmann Plastics Machinery AG. Netstal Maschinen AG. Van Dorn Corporation.
20012301	Berkshire Hathaway Inc	XTRA Corporation	XTRA Corporation.
20012306	SBC Communications Inc	Leap Wireless International, Inc	Cricket Licensee IX, Inc.

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Trans #	Acquiring	Acquired	Entities
20012307	Boston Ventures Limited Partnership VI.	Reed International P.L.C	The Cahners Travel Group.
20012308	Boston Ventures Limited Partnership IV.	Elsevier NV	The Cahners Travel Group.
20012316	The Right Start, Inc	Zany Brainy, Inc	Zany Brainy, Inc.
20012329	Eli Lilly and Company	Isis Phamaceuticals, Inc	Isis Pharmaceuticals, Inc.
20012330	Eli Lilly and Company	Isis Pharmaceuticals, Inc.	Isis Pharmaceuticals, Inc.
Transactions Granted Early Termination—08/27/2001			
20012242	Amphenol Corporation	AB Holdings LLC	AssembleTech, L.P.
Transactions Granted Early Termination—08/28/2001			
20012212	Terex Corporation	CMI Corporation	CMI Corporation
20012279	Sonoco Products Company	Phoenix Packaging Corporation	Phoenix Packaging Corporation
20012290	United Overseas Bank Limited	Overseas Union Bank Limited	Overseas Union Bank Limited
Transactions Granted Early Termination—08/29/2001			
20012263	Performance Food Group Company	Mr. Joseph A. Cambi	Springfield Foodservice Corporation
Transactions Granted Early Termination—08/30/2001			
20011877	Reuters Group plc	Bridge Information Systems, Inc. (Debtor-in-Possession).	Bridge Data Co., Bridge Information Systems America, Inc. Bridge Trading Co. UK Ltd., Bridge Trading Co. UK Nominees. Bridge Trading Co., Bridge Trading Co., Asia, Ltd. Bridge Transaction Services Asia Pacific, Ltd. Bridge Transaction Services, Inc., StockVal, Inc. Wall Street on Demand, Inc.
20011878	Reuters Group plc	Bridge Information Systems, Inc. (Debtor-in-Possession).	Bridge Trading Technologies, Inc. Wall Street on Demand, Inc., StockVal, Inc.
20012287	Performance Food Group Company	Fresh International Corporation	Fresh International Corporation
20012291	Sumner M. Redstone	WMS Industries Inc	WMS Industries Inc.
20012313	Teradyne, Inc	McCown De Leeuw & Co. IV, L.P	Electro Mechanical Solutions, Inc.
20012328	Marvin M. Schwan Great, Great Grandchildren's Trust.	Edwards Holding Corp	Edwards Holding Corp.
Transactions Granted Early Termination—08/31/2001			
20012280	General Electric Company	Westinghouse Air Brake Technologies Corporation.	Engine Systems, Inc. G&G Locotronics. MotivePower, Inc. Motor Coils Manufacturing Corp. Wabtec Distribution.
20012315	Mirant Corporation	Limestone Electron Trust	Shady Hills 20Power Company, L.L.C. West Georgia Generating Company, L.L.C.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–23232 Filed 9–17–01; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 011 0011]

Chevron Corp., et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, FTC/S–2105, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2805.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 7, 2001), on the World Wide Web, at "http://www.ftc.gov/os/2001/09/index.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission" or "FTC") has issued a complaint ("Complaint") alleging that the proposed merger of Chevron Corporation ("Chevron") and Texaco Inc. ("Texaco") (collectively "Respondents") would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and has entered into an agreement containing consent orders ("Agreement Containing Consent Orders") pursuant to which Respondents agree to be bound by a proposed consent order that requires divestiture of certain assets ("Proposed Consent Order") and a hold separate order that requires Respondents to hold separate and maintain certain assets pending divestiture ("Hold Separate Order"). The Proposed Order remedies the likely anticompetitive effects arising from Respondents' proposed merger, as alleged in the Complaint. The Hold Separate Order preserves competition pending divestiture.

II. Description of the Parties and the Transaction

Chevron, headquartered in San Francisco, California, is one of the world's largest integrated oil companies. Chevron is engaged, either directly or through affiliates, in the exploration for, and production of, oil and natural gas; the pipeline transportation of crude oil, natural gas, and natural gas liquids; the refining of crude oil into refined petroleum products, including gasoline, aviation fuel, and other light petroleum products; the transportation, terminaling, and marketing of gasoline and aviation fuel; and other related businesses. During fiscal year 1999, Chevron had worldwide revenues of approximately $35.4 billion and net income of approximately $2.1 billion.

Chevron sold its natural gas and natural gas liquids transportation, distribution and marketing operations to NGC Corporation in 1996 and retained a stock interest in the company. NGC subsequently became Dynegy Inc. Dynegy is engaged in the gathering, processing, fractionation, transmission, terminaling, storage, and marketing of natural gas and natural gas liquids. Chevron owns approximately 26% of Dynegy. Chevron has a long-term strategic alliance with Dynegy for the marketing of Chevron's natural gas and natural gas liquids, and the supply of natural gas and natural gas liquids to Chevron's refineries in the lower 48 states of the United States. Chevron has three positions on Dynegy's Board of Directors. This relationship gives Chevron access to information concerning Dynegy's business and allows Chevron to participate in Dynegy's business decisions.

Texaco, headquartered in White Plains, New York, is one of the world's largest integrated oil companies. Among its other businesses, Texaco is engaged, either directly or through affiliates, in the exploration for, and production of, oil and natural gas; the pipeline transportation of natural gas and natural gas liquids; the pipeline transportation of crude oil; the refining of crude oil into refined petroleum products, including gasoline, aviation fuel, and other light petroleum products; the transportation, terminaling, and marketing of gasoline and aviation fuel; and other related businesses. During fiscal year 1999, Texaco had worldwide revenues of approximately $35.7 billion and net income of approximately $1.2 billion.

In 1998, Texaco contributed its U.S. petroleum refining, marketing and transportation businesses to two joint ventures and retained an interest in the ventures. The joint ventures are Equilon Enterprises, LLC ("Equilon"), which is owned by Texaco and Shell Oil Company ("Shell"), and Motiva Enterprises, LLC ("Motiva"), which is owned by Shell, Texaco, and Saudi Refining, Inc. ("SRI"). The two joint ventures are referred to collectively as "the Alliance."

Equilon consists of Texaco's and Shell's western and midwestern U.S. refining and marketing businesses, and their nationwide transportation and lubricants businesses. Texaco and Shell jointly control Equilon. Equilon's major assets include full or partial ownership in four refineries, seven lubricants plants, about 65 terminals, and various pipelines. Equilon markets through approximately 9,700 branded gasoline retail outlets in the U.S.

Motiva consists of Texaco's, Shell's, and SRI's U.S. eastern and Gulf Coast refining and marketing businesses. Texaco, Shell and SRI jointly control Motiva. Motiva's major assets include full or partial ownership in four refineries and about 50 terminals. Motiva markets through approximately 14,000 branded gasoline retail outlets.

Pursuant to an agreement and plan of merger dated October 15, 2000, Chevron has agreed to acquire all of the outstanding common stock of Texaco in exchange for stock of Chevron. As a result of the merger, Chevron's shareholders will hold approximately 61%, and Texaco's shareholders will hold approximately 39%, of the new combined entity.

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III. The Investigation and the Complaint

The Complaint alleges that the merger of Chevron and Texaco would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in each of the following markets: (1) The marketing of gasoline in the western United States (including the States of Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), the southern United States (including the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia), the States of Alaska and Hawaii, and smaller areas contained therein; (2) the marketing of CARB gasoline in the State of California; (3) the refining and bulk supply of CARB gasoline for sale in the State of California; (4) the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest, i.e., the States of Washington and Oregon west of the Cascade mountains; (5) the bulk supply of Phase II Reformulated Gasoline ("RFG II") in the St. Louis metropolitan area; (6) the terminaling of gasoline and other light petroleum products in Arizona (Phoenix and Tucson), California (San Diego and Ventura), Mississippi (Collins), and Texas (El Paso), and the islands of Hawaii, Kauai, Maui, and Oahu in Hawaii; (7) the pipeline transportation of crude oil from California's San Joaquin Valley; (8) the pipeline transportation of crude oil from portions of the Eastern Gulf of Mexico; (9) the pipeline transportation of offshore natural gas to shore from locations in the Central Gulf of Mexico; (10) the fractionation of raw mix into natural gas liquids specification products in the vicinity of Mont Belvieu, TX; and (11) the marketing and distribution of aviation fuel, including aviation gasoline and jet fuel, to general aviation customers in the western United States, including the States of Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, and the southeastern United States, including the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee, and smaller areas contained therein.

To remedy the alleged anticompetitive effects of the merger, the Proposed Order requires Respondents to divest all of Texaco's interests in the Alliance (including both Equilon and Motiva), which includes (among other businesses) all of Texaco's interests in the following: (a) Gasoline marketing in the States of Alaska and Hawaii, in the Western United States (Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), and the Southern (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia); (b) marketing of CARB gasoline in California; (c) refining and bulk supply of CARB gasoline for sale in California; (d) refining and bulk supply of gasoline and jet fuel in the Pacific Northwest; (e) the Explorer Pipeline and the bulk supply of RFG II into St. Louis; (f) terminaling of gasoline and other light products in ten metropolitan areas in Arizona, California, Mississippi, and Texas, and four islands in Hawaii; (g) the Equilon pipeline that transports crude oil from California's San Joaquin Valley; and (h) the Equilon crude oil pipeline in the Eastern Gulf of Mexico. In addition to its interest in the Alliance, Texaco must divest its one-third interest in the Discovery pipeline system; its interest in the Enterprise fractionating plant in Mont Belvieu; and its general aviation business in fourteen states (Alaska, Alabama, Arizona, California, Florida, Georgia, Idaho, Louisiana, Mississippi, Nevada, Oregon, Tennessee, Utah, and Washington) to Avfuel Corporation.

The Complaint alleges in 11 counts that the merger would violate the antitrust laws in various lines of business and sections of the country, each of which is discussed below.

A. Count I—Marketing of Gasoline

Chevron and Texaco, through its ownership interest in the Alliance (including Equilon and Motiva), are competitors in the marketing of gasoline in the Western and Southern United States and in the States of Alaska and Hawaii. The marketing of gasoline in numerous markets within these areas would become highly concentrated, or significantly more concentrated, as a result of the proposed merger.[1] For example, in some markets in the states of Louisiana, Mississippi, Oregon and Washington, the proposed merger would increase concentration by more than 1,000 points to HHI levels above 3,000. In many other markets, the proposed merger would result in significant increases in concentration to levels at which competition may be harmed. Complete divestiture of Texaco's ownership interest in the Alliance is the most practical solution to resolve the anticompetitive effects in these markets that would result from the proposed acquisition. This total divestiture will achieve relief in all markets where the merger would substantially lessen competition.

The marketing of gasoline is a relevant line of commerce, i.e., a relevant product market, for which the proposed merger may lead to an increase in price. Gasoline is a motor fuel used in automobiles and other vehicles. It is produced in various grades and types, including conventional unleaded gasoline, reformulated gasoline ("RFG"), California Air Resources Board ("CARB") gasoline, and others. There is no substitute for gasoline as a fuel for automobiles and other vehicles that are designed to use gasoline.

The Complaint alleges that the proposed transaction would lessen competition in the western United States (Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), the southern United States (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, Texas, Virginia, and West Virginia), the States of the Alaska and Hawaii, and in smaller areas contained therein. Numerous metropolitan areas in the western United States[2] and the southern United States,[3] would be affected by the proposed acquisition. The Commission used metropolitan statistical areas ("MSAs") as a reasonable approximation of geographic markets for gasoline marketing in *Shell Oil Co.*, C–3803 (1998), *British Petroleum Co.*, C–3868 (1999), and *Exxon*, C–3907 (2000).

The marketing segment of the business involves the wholesale and retail sale of branded and unbranded gasoline. Branded gasoline is sold under an oil company trade name (or "flag") such as Chevron, Texaco, Exxon or Shell. Unbranded gasoline is typically sold under a private label or independent trade name. Gasoline is generally sold to the general public through several different types of retail outlets, including: (1) Company-operated stations, which are owned and operated by the parent oil company; (2) lessee-dealers, stations leased from the parent oil company, but operated by independent dealers; (3) open dealers, stations owned and operated by independent dealers under a franchise agreement with the parent oil company or under a supply agreement with a distributor; and (4) distributors (or "jobbers"), who own and operate a network of stations in a particular area under a franchise agreement with the parent oil company.

Branded oil companies set the retail prices of gasoline on a station-by-station basis at the stores they operate. Lessee-dealers and many open dealers purchase from the branded company at a delivered price ("dealer tank wagon" or "DTW"). DTW prices charged by major oil companies are typically set using "price zones." Price zones, and the prices used within them, take account of the competitive conditions faced by particular stations or groups of stations and are generally unrelated to the cost of hauling fuel from the terminal to the retail store. Distributors or jobbers typically purchase branded gasoline from the branded company at a terminal (paying a terminal "rack" price), and deliver the gasoline to their own stations or to jobber-supplied stations at prices set by the distributor.

New entry is unlikely to constrain anticompetitive behavior in the markets at issue. New entrants typically face significant obstacles to becoming effective competitors, including obtaining a reliable supply of gasoline at a competitive price, and gaining access to a sufficient number of retail outlets. As a result, it is unlikely that entry will constrain a price increase resulting from the merger.

The Complaint alleges that Texaco, through the Alliance, and Chevron are direct competitors in the marketing of motor gasoline in the relevant geographic areas. The Commission is concerned that the proposed merger would increase the likelihood of coordination among the few participants in the relevant areas, by effectively combining the Chevron, Texaco and Shell brands, which would lead to an increase in the price of gasoline in the affected areas. To address the overlap in gasoline marketing between Chevron and Texaco in the relevant markets, the Proposed Order requires Texaco to divest its interest in Equilon and Motiva.

B. Count II—Marketing of CARB Gasoline

Texaco, through Equilon, and Chevron are competitors in the marketing of CARB gasoline for sale throughout the State of California. The merger would result in highly concentrated markets throughout the State of California.[4] Concentration in some markets, such as Bakersfield, Fresno-Visalia, and Palm Springs, would increase to HHI levels above 2,500. The proposed merger would increase concentration in each of the California markets alleged in the complaint by more than 100 points to HHI levels above 2,000.

The refining and marketing of gasoline in California is tightly integrated, and there are only a small number of independent retail outlets that might purchase from an out-of market firm attempting to take advantage of a price increase by incumbent refiner-marketers. The extensive integration of refining and marketing makes it more difficult for the few non-integrated marketers to turn to imports as a source of supply, since individual independents lack the scale to import cargoes economically and thus must rely on California refiners for their usual supply. Refiners that lack marketing in California, and marketers that lack refineries in these relevant markets, do not effectively constrain the price and output decisions of incumbent refiner-marketers. Entry is not likely to constrain an anticompetitive price increase.

The marketing of CARB gasoline in metropolitan areas in California is a relevant market. CARB gasoline is a motor fuel used in automobiles that meets the specifications of the California Air Resources Board ("CARB"). CARB gasoline is cleaner burning and causes less air pollution than conventional gasoline. Since 1996, the sale or use of any gasoline other than CARB gasoline has been prohibited in California. There are no substitutes for CARB gasoline as a fuel for automobiles and other vehicles that use gasoline in California. In the current investigation and in past decisions, the Commission concluded that the marketing of CARB gasoline in metropolitan areas in California is a relevant market.[5]

More than 90% of the CARB gasoline sold in California is refined by seven vertically-integrated refiners (Chevron, Equilon, BP, Ultramar, Valero, ExxonMobil and Tosco). These seven firms also control more than 90% of retail sales of gasoline in California through gas stations under their brands.

CARB gasoline is a homogeneous product, and wholesale and retail prices are publicly available and widely reported to the industry. Integrated refiner-marketers carefully monitor the prices charged by their competitors' retail outlets, and therefore can readily identify firms that deviate from a coordinated or collusive price.]

California is largely isolated from most external sources of supply. CARB gasoline is generally manufactured primarily at refineries in California and at one other refinery located in Anacortes, Washington. The next closest refineries, located in the U.S. Virgin Islands and in Texas and Louisiana, do not supply CARB gasoline to California except during supply disruptions at California refineries. Non-West Coast refineries are unlikely to supply CARB gasoline to California in response to a small but significant and nontransitory increase in price because of the price volatility risks associated with opportunistic shipments.

The Complaint charges that the proposed merger, absent relief, is likely to result in an increased likelihood of coordination in the marketing of CARB gasoline on the West Coast, and is likely to lead to higher prices of CARB gasoline in California. The Complaint further charges that Chevron/Texaco would likely be able to unilaterally increase prices in California in the absence of coordination. To remedy the likely harm, the Proposed Order requires Texaco to divest its interest in Equilon, which holds Texaco's marketing interests in the State of California.

C. Count III—Refining and Bulk Supply of CARB Gasoline

Texaco, through Equilon, and Chevron are competitors in the refining and bulk supply of CARB gasoline for

[1] The Commission measures market concentration using the Herfindahl-Hirschman Index ("HHI"), which is calculated as the sum of the squares of the shares of all firms in the market. FTC and Department of Justice Horizontal Merger Guidelines ("Merger Guidelines") § 1.5. Markets with HHIs between 1000 and 1800 are deemed "moderately concentrated," and markets with HHIs exceeding 1800 are deemed "highly concentrated." Merger Guidelines § 1.51.

[2] Phoenix and Tucson, AZ; Boise, ID; Las Vegas and Reno, NV; Albuquerque-Santa Fe, NM; Eugene, Klamath Falls-Medford, and Portland, OR; Salt Lake City, UT; Seattle-Tacoma, Spokane, and Yakima, WA; and Casper-Riverton, WY. In addition, in Alaska, the relevant areas are Anchorage, Fairbanks, Juneau, Ketchikan, and Sitka. In Hawaii, there are four individual islands, Hawaii, Kauai, Maui, and Oahu, that would be affected by the proposed transaction.

[3] Anniston, Birmingham, Decatur-Huntsville, Dothan, and Montgomery, AL; Mobile-Pensacola, AL/FL; Fort Lauderdale-Miami, Fort Pierce-West Palm Beach, Gainesville, and Panama City, FL; Albany, Atlanta, Columbus, Macon, and Savannah, GA; Lexington and Paducah, KY; Alexandria, Baton Rouge, El Dorado-Monroe, Lafayette, Lake Charles, New Orleans, and Shreveport, LA; Biloxi-Gulfport, Columbus-Tupelo-West Point, Hattiesburg-Laurel, Jackson, and Meridian, MS; Greenville-New Bern-Washington, NC; Ada-Ardmore, OK; Lawton-Wichita Falls, OK/TX; Chattanooga, TN; Bristol-Johnson City-Kingsport, TN/VA; Abilene-Sweetwater, Amarillo, Austin, Beaumont-Port Arthur, Brownsville-Harlingen-Weslaco, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, Midland-Odessa, San Angelo, San Antonio, Temple-Waco, and Tyler, TX; Lynchburg-Roanoke and Petersburg-Richmond, VA; and Beckley-Bluefield-Oak Hill, WV.

[4] The metropolitan areas alleged in the Complaint are Bakersfield, Chico-Redding, Fresno-Visalia, Los Angeles, Modesto-Sacramento-Stockton, Monterey-Salinas, Oakland-San Francisco-San Jose, Palm Springs, San Diego, and San Luis Obispo-Santa Barbara-Santa Maria.

[5] *Shell Oil Co.*, C–3803 (1998); *Exxon*, C–3907 (2000).

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sale in the State of California.[6] The market for the refining and bulk supply of CARB gasoline would be highly concentrated following the proposed merger. Based on CARB refining capacity, the proposed merger would increase concentration for the refining of CARB gasoline by West Coast refineries by more than 500 points to an HHI level above 2,000.

The refining and bulk supply of CARB gasoline is a relevant product market, and the West Coast is a relevant geographic market. As explained in Count II, only CARB gasoline can be legally sold in the State of California. No refineries outside of California and one Washington refinery regularly produce CARB gasoline in significant quantities. The relevant geographic market is the West Coast. The West Coast is geographically isolated, and California's volatile wholesale gasoline prices discourage imports. Refiners outside of the West Coast are unlikely to bring in CARB gasoline to defeat a price increase. The extensive integration of refining and marketing makes it more difficult for the few non-integrated marketers to turn to imports as a source of supply, since individual independents lack the scale to import cargoes economically and thus must rely on California refiners for their usual supply.

Entry is difficult and unlikely. New refineries are not likely to be built, and the lack of independent buyers in California makes it unlikely that regular supplies would be brought to California by a non-West Coast refiner. A new refinery would face severe environmental constraints and substantial sunk costs.

The Complaint charges that the proposed merger would likely reduce competition in the refining and bulk supply of CARB gasoline in California, thereby increasing wholesale prices of CARB gasoline. The proposed merger increases the likelihood of coordination among refiners, as well as unilateral reduction in output by Chevron/Texaco. The Proposed Order requires Texaco to divest its interest in Equilon, which holds Texaco's interest in the refineries that produce CARB gasoline for sale in California.

D. Count IV—Refining and Bulk Supply of Gasoline and Jet Fuel

Texaco, through Equilon, and Chevron are competitors in the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest, i.e., the States of Washington and Oregon west of the Cascade mountains. The market for the refining and bulk supply of gasoline and jet fuel for the Pacific Northwest would be highly concentrated following the proposed merger. The proposed merger would increase concentration in this market by more than 600 points to an HHI level above 2,000.

Gasoline and jet fuel constitute relevant product markets. There are no substitutes for gasoline in gasoline-fueled automobiles. Jet fuel is a motor fuel used in jet engines. Jet engines must use fuel that meets stringent specifications and cannot switch to any other type of fuel. There is no substitute for jet fuel for jet engines designed to use such fuel.

The Pacific Northwest is a relevant geographic market. Customers in the Pacific Northwest cannot practicably turn outside of the market to obtain supplies in sufficient quantities in response to a small but significant and nontransitory increase in price.

Entry by a refiner would not be likely, timely or sufficient to defeat an anticompetitive price increase. The West Coast as a whole is supply-constrained both in terms of available local production and its geographic isolation from other refining centers. A new entrant would face severe environmental constraints and substantial sunk costs.

The Complaint charges that the proposed merger would eliminate direct competition in the refining and bulk supply of gasoline and jet fuel between Chevron and Texaco, and would increase the likelihood of collusion or coordinated interaction between Respondents and their competitors, which would likely result in increased prices for the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest. The Proposed Order requires Texaco to divest its interest in Equilon, which holds Texaco's interest in the Alliance's West Coast refineries, to remedy the overlap presented by the merger.

E. Count V—Bulk Supply of Phase II Reformulated Gasoline

Phase II Reformulated Gasoline, referred to as "RFG II," is a motor fuel used in automobiles. RFG II is cleaner burning than some other types of gasoline and causes less air pollution. The United States Environmental Protection Agency requires the use of RFG II in certain areas, including the St. Louis metropolitan area. RFG II is supplied in bulk from facilities that have the ability to deliver large quantities of the product on a continuing basis, such as pipelines or local refineries.

The bulk supply of RFG II is a relevant product market. There are no substitutes for pipelines or refineries for the bulk supply of RFG II. Smaller facilities that deliver RFG II in small quantities, such as tank trucks, are not cost competitive with pipelines or refineries.

One area in which RFG II is required is the St. Louis metropolitan area. Customers in the St. Louis area cannot turn to RFG suppliers outside of the area in response to a small but significant and nontransitory increase in the price of RFG II in the St. Louis area.

Texaco, through Equilon, and Chevron each hold substantial interests in the market for the bulk supply of RFG II in the St. Louis metropolitan area. Chevron owns approximately 16.7% of Explorer Pipeline, and Texaco holds interests totaling approximately 35.9% of Explorer. The Explorer Pipeline is the largest pipeline provider of bulk RFG II supply in the St. Louis metropolitan area. Equilon also has a long-term contract through which it obtains supplies of RFG II for the St. Louis metropolitan area.

The market for the bulk supply of RFG II into the St. Louis metropolitan area is highly concentrated and would become significantly more concentrated following the proposed merger. The proposed merger would increase concentration in this market by more than 1,600 points to an HHI level of 5,000. Entry would not be likely, timely or sufficient to prevent anticompetitive effects resulting from the proposed merger.

The Complaint charges that the proposed merger would substantially lessen competition in the market for the bulk supply of RFG II in the St. Louis metropolitan area by eliminating direct competition between Chevron and Texaco, and by increasing the likelihood of collusion or coordinated interaction in the bulk supply of RFG II in the St. Louis area. The Proposed Order requires Texaco to divest Equilon, which will prevent the increase in concentration that would result from the merger.

F. Count VI—Terminaling

Texaco, through the Alliance, and Chevron are competitors in the terminaling of gasoline and other light petroleum products in metropolitan areas in Arizona, California, Mississippi, and Texas, and on certain islands in the State of Hawaii. The terminaling of gasoline and other light petroleum products in each of these markets would be highly concentrated following the proposed merger. The proposed merger would increase concentration in each of these markets by more than 300 points to HHI levels above 2,000.

The terminaling of gasoline and other light petroleum products is a relevant product market. Terminals are specialized facilities with large storage tanks used for the receipt and local distribution of large quantities of gasoline and other products. There are no substitutes for terminals for these uses. The proposed merger would be likely to lessen competition in Phoenix and Tucson, AZ, San Diego and Ventura, CA, Collins, MS, and El Paso, TX, and on the islands of Hawaii, Kauai, Maui, and Oahu, HI.

Entry is not likely to defeat an anticompetitive increase in the cost of terminaling in the affected areas. The combination of sunk costs, significant scale economies, and environmental regulations make terminal entry unlikely.

The Complaint alleges that the effect of the proposed merger would be to substantially lessen competition in the terminaling of gasoline and other light petroleum products in the relevant markets. Respondents, either unilaterally or in coordination with other terminal operators, would likely be able to increase the price of terminaling gasoline and other light petroleum products in the relevant sections of the country as a result of the merger. The Proposed Order requires Texaco to divest its interests in the Alliance, which holds its interests in the terminals in the relevant areas.

G. Count VII—Crude Oil Pipelines Out of San Joaquin Valley, CA

Texaco, through Equilon, and Chevron are competitors in the pipeline transportation of crude oil from California's San Joaquin Valley. This market is highly concentrated and would become significantly more concentrated as a result of the proposed merger. The proposed merger would increase concentration in this market by more than 800 points to an HHI level above 3,300.

Crude oil pipelines are specialized pipelines for the transportation of crude oil from production fields to refineries or to locations where the crude oil can be transported to refineries by other means. Chevron and Equilon each own a crude oil pipeline that transports crude oil out of the San Joaquin Valley in California. There are no alternatives to pipelines for the transportation of crude oil out of the San Joaquin Valley.

New entry is unlikely to constrain anticompetitive behavior in this market. New pipeline construction requires substantial sunk costs, and existing pipelines have a significant cost advantage over new entrants.

The Complaint alleges that the proposed merger eliminates direct competition between Chevron and Texaco and that the merger, if consummated, increases the likelihood of coordinated interaction for the pipeline transportation of crude oil from the San Joaquin Valley. In order to remedy the anticompetitive effects arising from the proposed merger, the Proposed Order requires Texaco to divest its interest in Equilon, which owns one of the pipelines that transports crude oil from the San Joaquin Valley.

H. Count VIII—Crude Oil Pipelines From the Eastern Gulf of Mexico

Texaco, through Equilon, and Chevron are competitors in the pipeline transportation of crude oil from portions of the Eastern Gulf of Mexico to on-shore terminals. The pipeline transportation of crude oil from locations in the Eastern Gulf of Mexico is highly concentrated and would become significantly more highly concentrated as a result of the proposed merger. The proposed merger would give the combined Chevron/Texaco substantial ownership interests in the only two pipelines that compete to transport crude oil from certain locations in the Eastern Gulf of Mexico.

A relevant product market is the pipeline transportation of crude oil. A relevant geographic market consists of locations in the Eastern Gulf of Mexico, including the Main Pass, Viosca Knoll, South Pass and West Delta Areas, as defined by the Department of Interior Minerals Management Service. There are two pipeline systems that transport crude oil from locations in the Eastern Gulf of Mexico to on-shore terminals: the Delta Pipeline System and the Cypress Pipeline System. The Delta system is wholly owned by Equilon. Chevron owns 50% of the Cypress system and is the operator. There are no alternatives to these two pipelines for the transportation of crude oil from locations in the Eastern Gulf of Mexico to on-shore terminals. Moreover, new entry into this market is unlikely because of the large economies of scale enjoyed by existing pipeline carriers.

The Complaint alleges that Chevron and Texaco are direct competitors in the pipeline transportation of crude oil from portions of the Eastern Gulf of Mexico to on-shore terminals, and that the proposed merger would give Respondents the ability to unilaterally raise prices for the pipeline transportation of crude oil from locations in the Eastern Gulf. To remedy the Commission's concerns, the Proposed Order requires Texaco to divest its interest in Equilon, which owns the Delta pipeline system.

I. Count IX—Offshore Pipeline Transportation of Natural Gas

Chevron and Texaco own interests in competing offshore natural gas pipelines in the Central Gulf of Mexico. Chevron and its affiliate Dynegy own a combined 77% interest in the Venice Gathering System. Texaco owns approximately 33% of the Discovery Gas Transmission System. Texaco's ownership share is sufficient to allow it to effectively exercise veto control over important aspects of the business of the Discovery pipeline. The pipeline transportation of offshore natural gas to shore from each of the markets alleged in the Complaint is highly concentrated and would become significantly more concentrated as a result of the proposed merger. The proposed merger would give the combined Chevron and Texaco controlling interests in the only two pipelines, or two of only three pipelines, in each of these markets.

The pipeline transportation of natural gas from locations in the Central Gulf of Mexico is a relevant market. Natural gas pipelines are specialized pipelines used to transport natural gas from offshore producing platforms to shore for processing and distribution. There are no alternatives to pipelines for the transportation of natural gas from offshore locations to shore.

The affected areas are certain individual lease blocks[7] in the Central Gulf of Mexico, in areas including the South Timbalier and Grand Isle Areas, and their South Additions, as defined by the Department of Interior Minerals Management Service. Producers within these areas have few or no alternatives to the Discovery and Venice pipelines for transporting natural gas to shore.

Entry is difficult and unlikely. New pipeline construction requires substantial sunk costs, giving existing pipelines a significant cost advantage over new entrants.

The Complaint alleges that the proposed merger will decrease competition in the offshore pipeline transportation of natural gas from the specified blocks in the affected areas. The proposed merger would enable the combined Chevron/Texaco to

[6] A bulk supply market consists of firms that have the ability to deliver large quantities of gasoline on a regular and continuing basis, such as pipelines or local refineries.

[7] South Timbalier Blocks 30, 37, 38, 44, 45, 58, 59, 61–63, 86–88, 123–35, 151–53, 157, 158, 178–80, 185–87, and 205–08; South Timbalier South Addition Blocks 223–27, 231, 233–37, 248, 251, 256, and 257; Grand Isle Blocks 52, 53, 59, 62, 63, 70–76, 84, and 85; and Grand Isle South Addition Block 86.

unilaterally increase price for those

East)[8] to an acquirer or acquirers

The trust will have a divestiture

distributors for all such amounts (plus

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unilaterally increase price for those areas that have no alternative to Respondents' pipelines, and would increase the likelihood of coordination among pipelines for producers who have only limited alternatives to Respondents' pipelines. To remedy the Commission's competitive concerns, the Proposed Consent Order requires Respondents to divest Texaco's entire interest in the Discovery System, including the offshore natural gas pipeline, processing plant and fractionation plant.

J. Count X—Fractionation of Natural Gas Liquids at Mont Belvieu, TX

Texaco competes with Chevron's affiliate, Dynegy, in the market for the fractionation of natural gas liquids at Mont Belvieu, Texas. Fractionators are specialized facilities that separate raw mix natural gas liquids into specification products such as ethane or ethane-propane, propane, iso-butane, normal-butane, and natural gasoline by means of a series of distillation processes. These specification products are ultimately used in the manufacture of petrochemicals, in the refining of gasoline, and as bottled fuel, among other uses. There are no substitutes for fractionators for the conversion of raw mix natural gas liquids into individual specification products.

Mont Belvieu, TX, is an important hub for the fractionation of raw mix natural gas liquids and the subsequent sale of fractionated specification products. Producers of raw mix natural gas liquids throughout the areas served by Mont Belvieu, which includes much of Texas, New Mexico, and other states, would not likely turn to fractionators located outside Mont Belvieu for their fractionation needs.

There are four facilities providing fractionation services at Mont Belvieu. Chevron's affiliate Dynegy owns large interests in two of the Mont Belvieu fractionators, the Cedar Bayou fractionator and the Gulf Coast fractionator. Chevron's 26% ownership of Dynegy gives it representation on Dynegy's Board of Directors as well as a direct financial stake in Dynegy's prices and profits. Texaco owns a minority interest in another fractionator known as the Enterprise fractionator.

Competitive concern arises from the ability of a firm in Chevron's position to lessen competition among the few separate facilities in this market. Competitive vigor could be compromised if, for example, sensitive information about one competitor's plans or costs were to become known by another competitor in the market. Also, Texaco's minority interest could provide a swing vote that could prevent the Enterprise fractionating facility from making a competitive move against either of the other two facilities affiliated with Chevron.

The Complaint charges that the proposed merger would lessen competition by eliminating direct competition between Texaco and Chevron's affiliate Dynegy in the fractionation of natural gas liquids at Mont Belvieu; by providing Dynegy with access to sensitive competitive information about one of its most important competitors in Mont Belvieu; by providing Chevron, through its control of Texaco's voting at the fractionator in which Texaco has an interest, with the ability to prevent competition from that fractionator against the other fractionators in Mont Belvieu in which Dynegy has an interest; and by increasing the likelihood that the combination of Chevron and Texaco will unilaterally exercise market power. The Proposed Order requires Chevron to divest Texaco's interest in the Enterprise fractionator within six months to a purchaser approved by the Commission.

K. Count XI—Marketing of Aviation Fuel

Chevron and Texaco are competitors in the marketing of aviation gasoline and jet fuel to general aviation customers in the western United States (Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington) and the southeastern United States (Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee).

Aviation fuel is used as a motor fuel for aircraft. There are two types of aviation fuel: aviation gasoline and jet fuel. Aviation gasoline is used in piston-powered aircraft engines, while jet fuel is used in jet engines. There are no substitutes for aviation gasoline or jet fuel for aircraft designed to use such fuels. Aviation fuel is sold through several channels of distribution, including the general aviation channel. This channel consists of fixed base operators ("FBOs") that sell fuel at retail to customers at airports, and distributors that sell to FBOs. FBOs in turn sell fuel to general aviation customers such as corporate aircraft, crop dusters, owners of private airplanes, and similar users (other than commercial airlines and military aircraft).

Chevron and Texaco are among only a few marketers of aviation fuel to general aviation customers in the western and southeastern United States. The marketing of aviation fuel to general aviation customers in each of these markets would be highly concentrated as a result of the merger. The proposed merger would increase concentration in the southeastern United States by more than 250 points to an HHI level above 1,900, and would increase concentration in the western United States by more than 1,600 points to an HHI level above 3,400.

The Complaint alleges that the proposed merger will likely lessen competition in the marketing and distribution of aviation fuel to general aviation customers in the western United States and the southeastern United States, by increasing the likelihood that the merged firm will unilaterally exercise market power, and by increasing the likelihood of collusion or coordinated interaction. The Proposed Consent Order requires Respondents to divest Texaco's general aviation business in the western and southeastern United States to an up-front buyer, Avfuel Corporation, within ten (10) days following the merger, to remedy the Commission's concerns.

IV. Resolution of the Competitive Concerns

The Commission has provisionally entered into the Agreement Containing Consent Orders with Chevron and Texaco in settlement of the Complaint. The Agreement Containing Consent Orders contemplates that the Commission would issue the Complaint and enter the Proposed Order and the Hold Separate Order for the divestiture of certain assets described below.

A. The Alliance

The proposed combination of Chevron and Texaco would effectively combine the downstream operations of Chevron, Shell, and Texaco in the United States. In order to deal with the overlap issues involving the downstream segments of the businesses, Paragraphs II—III of the Proposed Order require Respondents to divest Texaco's entire interest in the Alliance. Paragraph IV contains provisions dealing with the licensing of the Texaco brand and Chevron's ability to compete for dealers and distributors using the Texaco brand following the merger.

Paragraph II of the Proposed Order requires Respondents to divest either (a) the Alliance interests to Shell (and SRI in the case of Motiva) no later than the date of the Chevron/Texaco merger, or (b) within eight months after the Chevron/Texaco merger, at no minimum price, either (i) the Alliance interests to Shell (and SRI in the case of Motiva), or (ii) the Texaco subsidiaries that own the Alliance interests (TRMI and TRMI East)[8] to an acquirer or acquirers approved by the Commission. Shell and SRI are appropriate buyers of the assets because they already are partners with Texaco in the Alliance. All assets in each portion of the Alliance already are under common ownership and control, and divestiture of these interests to Shell and SRI would closely maintain the situation that currently exists. If the required divestitures occur prior to or on the date of the Chevron/Texaco merger, they are to be accomplished by Respondents; if they occur after the merger date, they are to be accomplished by a divestiture trustee pursuant to the provisions of Paragraph III of the Proposed Order.

Paragraph II further provides that Chevron and Texaco may not consummate the merger unless and until Texaco has either divested the Alliance interests to Shell and/or SRI, or has transferred TRMI and TRMI East to a trustee. The paragraph also contains provisions that ensure that Shell's and SRI's rights under the agreements establishing the Alliance will be protected. It also provides that, if the trust is rescinded, unwound, dissolved or otherwise terminated at any time before the divestitures have been accomplished, then Respondents will hold TRMI and TRMI East separate and apart from Respondents pursuant to the Hold Separate Order.

If the divestiture has not occurred before the merger, Paragraph III of the Proposed Order requires Respondents to enter into a trust agreement and transfer TRMI and TRMI East to the trustee. A divestiture trustee will then have the sole and exclusive power and authority to divest the Alliance interests, subject to the prior approval of the Commission. The trustee will have eight months to accomplish the divestitures, at no minimum price, to a buyer or buyers approved by the Commission (which could still include Shell and/or SRI). Respondents' transfer of the Alliance interests into trust does not prevent Shell and/or SRI from exercising any rights they may have under the applicable joint venture agreement to acquire Texaco's interests in Equilon or Motiva. Further, if Shell or SRI decline to exercise their rights to acquire Equilon or Motiva under the joint venture agreements, then they may offer to acquire the interests from the trustee, on equal footing with any other interested buyers.

[8] Texaco's interest in the Alliance is held by a Texaco subsidiary, Texaco Refining and Marketing, Inc. ("TRMI"). A subsidiary of TRMI, known as TRMI East, holds Texaco's interest in Motiva.

The trust will have a divestiture trustee to accomplish the divestitures, and two operating trustees (one for TRMI and one for TRMI East) to manage and operate the Alliance interests separate and apart from Respondents' operations. The proposed Divestiture Trustee is Robert A. Falise, who most recently has been Chairman and Managing Trustee of the Manville Personal Injury Settlement Trust. Mr. Falise is an attorney and businessman with extensive experience in mergers and acquisitions. The proposed Operating Trustees are Joe B. Foster and John Linehan. Mr. Foster is the Chairman of Newfield Exploration Company, a Houston-based oil and gas exploration and production company that he founded in 1989. Mr. Linehan most recently served as Executive Vice President and Chief Financial Officer of Kerr-McGee Corporation. Both Mr. Foster and Mr. Linehan have extensive experience in the types of business engaged in by the Alliance.

Paragraph IV of the Proposed Order deals with issues concerning the licensing of the Texaco brand. It provides that Respondents shall offer to extend the license for the Texaco brand provided to Equilon and Motiva, on terms and conditions comparable to those in existence when the Agreement Containing Consent Orders was signed, on an exclusive basis until June 30, 2002 for Equilon and June 30, 2003 for Motiva. These dates correspond with the dates when the franchise agreements expire for many of the Equilon and Motiva distributors.

If Equilon agrees to waive certain provisions in its contracts with distributors and dealers requiring the distributors and dealers to repay money that has been paid or reimbursed by Equilon for various Alliance programs during the past few years, such as station re-imaging, and if it agrees to waive any deed restrictions prohibiting or restricting the sale of motor fuel not sold by Equilon at any retail outlet that does not agree to become a Shell branded outlet, then Texaco shall offer Equilon an additional year of exclusivity (so exclusivity would expire at the same time for both Equilon and Motiva). If Equilon and Motiva waive the provisions described above, Texaco shall offer additional license extensions, on a non-exclusive basis, until June 30, 2006, for all retail outlets for which Equilon and Motiva have entered into agreements for re-branding under the Shell brand. If Equilon or Motiva do not waive the contract provisions requiring repayment from dealers and distributors, then Respondents are required to indemnify the dealers and distributors for all such amounts (plus litigation and arbitration costs), provided that (1) the dealer or distributor has declined a request for payment from Equilon or Motiva, (2) Equilon or Motiva has commenced litigation or arbitration to compel payment, and (3) the dealer or distributor has either defended the litigation or afforded Respondents the right to do so. In addition, no indemnification need be provided for any retail outlet (1) as to which the dealer or distributor terminates its brand relationship prior to the date on which Equilon and Motiva lose their license exclusivity for the Texaco brand (June 30, 2002 or June 30, 2003), (2) which becomes a Shell branded outlet, or (3) which receives compensation for such amounts from another source.

Paragraph IV also provides that, for a period of one year following the date on which Equilon or Motiva stops supplying gasoline under the Texaco brand to any retail outlet branded Texaco as of the date the Agreement Containing Consent Orders is executed by Respondents, Respondents shall not enter into any agreement for the sale of branded gasoline to such retail outlet, sell branded gasoline to such retail outlet, or approve the branding of such retail outlet, under the Texaco brand or under any brand that contains the Texaco brand, unless either (1) such agreement, sale, or approval would not result in an increase in concentration in the sale of gasoline in any metropolitan area (or county outside a metropolitan area), or (2) there are no sales of Chevron branded gasoline in that market. The purpose of this provision is to prevent Respondents from defeating the purpose of the Proposed Order by supplying Texaco-branded gasoline to the same stations that resulted in the original violation.

By requiring divestiture of Texaco's interests in the Alliance, the Proposed Order remedies anticompetitive effects in the following markets: (a) Gasoline marketing in markets in the western United States, the southern United States, and the States of Alaska and Hawaii; (b) the marketing of CARB gasoline in California; (c) the refining and bulk supply of CARB gasoline for sale in California; (d) the refining and bulk supply of gasoline and jet fuel in the Pacific Northwest; (e) the bulk supply of RFG II gasoline into St. Louis; (f) the terminaling of gasoline and other light products in markets in the States of Arizona, California, Hawaii, Mississippi, and Texas; (g) the pipeline transportation of crude oil from California's San Joaquin Valley; and (h)

the transportation of crude oil from locations in the Eastern Gulf of Mexico.

B. The Non-Alliance Operations

Paragraphs V through VIII of the Proposed Order deal with the divestitures that are required outside of the Alliance.

1. Pipeline Transportation of Offshore Louisiana Natural Gas

Paragraph V of the Proposed Order requires Texaco to divest its interest in the Discovery pipeline, including the associated processing plant and fractionator (collectively the "Discovery System"), within six months of the date of the merger, at no minimum price, to a buyer or buyers that receive the approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of Texaco's interest in the Discovery System is to eliminate the overlap of ownership between the Discovery System and the Venice System and to remedy the lessening of competition resulting from the proposed merger as alleged in the Commission's Complaint.

The Proposed Order also provides that Texaco shall resign its position as operator of the Discovery System immediately after it obtains the approvals of the other partners in the Discovery System. In addition, prior to divestiture of Texaco's interest in the Discovery System, Respondents are to offer to enter into an agreement with the acquirer for the purchase, sale or exchange of natural gas liquids that is no less favorable for the acquirer than the terms of an existing contract with one of Texaco's partners in the Discovery System. Texaco owns a natural gas liquids pipeline that transports liquids away from the Discovery fractionator. Williams, a co-owner of the Discovery System, currently has a contract with Texaco for the disposition of its natural gas liquids that are processed at the Discovery fractionator. The purpose of this provision is to ensure that Respondents do not attempt to impose rates or terms for pipeline transportation to markets from the Discovery System's fractionating plant that would impede the ability of the Discovery System to compete for natural gas transportation from the relevant areas in the Central Gulf of Mexico.

2. Fractionation of Natural Gas Liquids at Mont Belvieu, Texas

Paragraph VI of the Proposed Order requires Respondents to divest Texaco's interest in the Enterprise fractionator at Mont Belvieu, at no minimum price, within six months after the merger, to an acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission. The purpose of the divestiture of Texaco's interest in the Enterprise fractionator is to eliminate the overlap of ownership between the Enterprise fractionator and other fractionating plants at Mont Belvieu, Texas, in which Respondents or their affiliates own interests, and to remedy the lessening of competition resulting from the proposed merger.

3. Marketing of Aviation Fuel

Paragraph VII of the Proposed Order requires Respondents to divest, within ten days of the merger date, Texaco's general aviation business in 14 states (Alabama, Alaska, Arizona, California, Florida, Georgia, Idaho, Louisiana, Mississippi, Nevada, Oregon, Tennessee, Utah, and Washington), to an up-front buyer, Avfuel Corporation ("Avfuel"). Respondents must sell Texaco's general aviation business to Avfuel pursuant to an agreement approved by the Commission.

Avfuel is an existing marketer of aviation fuel that, unlike most other marketers, is not vertically integrated into the production of aviation gasoline or jet fuel. The company is well regarded as an independent competitive force in the industry, and appears to be particularly well situated to purchase just the assets relating to these 14 states and successfully integrate them into its business. An up-front buyer is preferable for these assets because they consist largely of contractual relationships rather than an on-going divestible business. In addition, because the business being divested consists largely of contractual relationships, an existing participant in the business is likely to have advantages with respect to maintaining and growing these relationships.

In the event Respondents fail to divest Texaco's general aviation business in the relevant areas to Avfuel, the Proposed Order requires Respondents to divest an alternative asset package that is broader than the initial divestiture assets. The broader package consists of Texaco's entire general aviation marketing business in the United States. The package is broader than the package being divested to Avfuel because other buyers may need the entire business in order to be viable. If this broader package is divested, the Order requires that the divestiture be accomplished within four months of the merger date, at no minimum price, to an acquirer that receives the prior approval of the Commission. If neither the divestiture to Avfuel nor the divestiture of the broader package has occurred within four months after the merger, then the Commission will appoint a trustee to divest Texaco's entire general aviation marketing business in the United States.

If the business is not sold to Avfuel pursuant to the agreement, Respondents are required to assign to the other post-merger acquirer all agreements used in or relating to Texaco's domestic general aviation business. If Respondents fail to obtain any such assignments, Respondents are to substitute arrangements sufficient to enable the acquirer to operate the business in the same manner and at the same level and quality as Texaco operated it at the time of the merger's announcement. At the option of the acquirer, Respondents are to enter into an agreement that grants the acquirer, for a period of up to ten years from the date of such agreement, a license to use the Texaco brand in connection with the operation of Texaco's general aviation business in the U.S. For twelve months following the discontinuation of the supply of Texaco-branded aviation fuel to a fixed base operator or distributor, Respondents may not enter into any contract or agreement for the supply of Texaco-branded aviation fuel to such fixed base operator or distributor, or approve the branding of such fixed base operator or distributor with the Texaco brand. In addition, for six months following the consummation of any post-merger divestiture, Respondents are not to compete for the direct supply of branded aviation fuel to any fixed base operator or distributor that had an agreement for the sale of Texaco-branded aviation fuel in the U.S.

Pursuant to Paragraph VIII of the Proposed Order, if Respondents have failed to divest either: (1) Texaco's general aviation business in the relevant overlap areas, or (2) Texaco's domestic general aviation business within four months of the merger date, the Commission may appoint a trustee to divest Texaco's domestic general aviation business, at no minimum price, to a buyer approved by the Commission.

The purpose of the divestiture of Texaco's general aviation business in the affected areas, or of Texaco's entire domestic general aviation business, is to ensure the continuation of such assets in the same business in which the assets were engaged at the time of the announcement of the merger by a person other than Respondents, and to remedy the lessening of competition alleged in the Complaint.

C. Other Terms

Paragraphs IX–XIII of the Proposed Order detail certain general provisions. Pursuant to Paragraph IX, Respondents are required to provide the Commission with a report of compliance with the Proposed Order every sixty days until the divestitures are completed. Paragraph X requires that Respondents provide the Commission with access to their facilities and employees for the purposes of determining or securing compliance with the Proposed Order.

Paragraph XI provides that, no less than 30 days prior to the merger, Respondents must notify Shell and SRI of the projected merger date and provide copies of the Agreement Containing Consent Orders and all non-confidential documents attached thereto to Shell and SRI.

Paragraph XII provides for notification to the Commission in the event of any changes in the corporate Respondents. Finally, Paragraph XIII provides that if a State fails to approve any of the divestitures contemplated by the Proposed Order, then the period of time required under the Proposed Order for such divestiture shall be extended for sixty days.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. The Commission, pursuant to a change in its Rules of Practice, has also issued its Complaint in this matter, as well as the Hold Separate Order. Comments received during this thirty day comment period will become part of the public record. After thirty (30) days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw from the Proposed Order or make final the agreement's Proposed Order.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Order, including the proposed divestitures, and to aid the Commission in its determination of whether it should make final the Proposed Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–23233 Filed 9–17–01; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 001 0186]

Metso Oyj, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 9, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joseph Simons or Matthew Reilly, FTC/H–374, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3667 or 326–2350.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 7, 2001), on the World Wide Web, at "http://www.ftc.gov/os/2001/09/index.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Metso Oyj ("Metso") and Svedala Industri AB ("Svedala"), which is designed to remedy the anticompetitive effects resulting from Metso's acquisition of Svedala. Under the terms of the Consent Agreement, Metso and Svedala will be required to divest Metso's global primary gyratory crusher and grinding mills businesses and Svedala's global cone crusher and jaw crusher businesses. The three crusher businesses will be divested to Sandvik AB ("Sandvik"). The grinding mill business will be divested to Outokumpu Oyj ("Outokumpu"). Both divestitures will take place no later than twenty (20) days from the date Metso consummates its acquisition of Svedala.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order.

Pursuant to a cash tender offer announced on June 21, 2000, Metso proposes to acquire all of the issued and outstanding shares and convertible debentures of Svedala. The total value of the transaction is approximately $1.6 billion. The Commission's complaint alleges that the proposed acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the global markets for the research, development, manufacture and sale of: (1) Cone crushers; (2) jaw crushers; (3) primary gyratory crushers; and (4) grinding mills.

Metso, through its Metso Minerals (formerly known as Nordberg)

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subsidiary, and Svedala, are the two largest suppliers of rock processing equipment in the world. Rock processing equipment includes, among other products: (1) Cone crushers; (2) jaw crushers; (3) primary gyratory crushers; and (4) grinding mills. Rock processing equipment is used by both aggregate and mineral producers to crush and pulverize large rock formations in order to manufacture aggregates and retrieve minerals. Aggregate and mineral producers use a series of different types of rock processing equipment in a circuit to crush the rock into the desired size, shape and form. Customers of these products state that they purchase the type and size of rock processing equipment that is optimal for their circuit and, because of the unique performance characteristics of each type and size of equipment, there is little opportunity to switch to alternative equipment.

The global markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills are highly concentrated. If the proposed acquisition is consummated, Metso's market share would exceed 50 percent in each of the global markets for: (1) Cone crushers; (2) jaw crushers; (3) primary gyratory crushers; and (4) grinding mills. In some of these markets, Metso and Svedala are the largest and second largest suppliers. If the acquisition is consummated, Metso would have a market share many times higher than its next-closest competitor.

Metso and Svedala regularly bid against each other for rock processing equipment. By eliminating competition between these two leading suppliers, the proposed acquisition would allow Metso to exercise market power unilaterally for certain bids, thereby increasing the likelihood that purchasers of cone crushers, jaw crushers, primary gyratory crushers and grinding mills would be forced to pay higher prices and that innovation in these markets would decrease. Metso's proposed acquisition of Svedala would also increase the likelihood that the remaining suppliers of cone crushers, jaw crushers, primary gyratory crushers and grinding mills could collude to the detriment of customers in the relevant markets.

Significant impediments to new entry exist in each of the global markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills. First, a supplier must design and develop a prototype of the particular type of rock processing equipment, which requires significant amounts of money and time. After a new prototype is developed, suppliers devote additional money and time to testing the prototype at a customer's mine or quarry. The testing stage often lasts as long as two years because many flaws cannot be detected until the equipment has been in continuous operation for a significant period of time. It is imperative that the rock processing equipment that suppliers offer to customers have a track record of reliability and high performance because failure of such equipment would substantially decrease or halt production at a site, costing the customer thousands of dollars an hour in production losses. The steps involved in developing a prototype, testing it, and gaining customer acceptance for a new piece of equipment are difficult, expensive and time-consuming. For these reasons, new entry into the markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills would not be accomplished in a timely manner or be likely to occur at all even if prices increased substantially after the proposed acquisition.

The Consent Agreement effectively remedies the acquisition's anticompetitive effects in the global markets for cone crushers, jaw crushers, primary gyratory crushers and grinding mills by requiring Metso to divest its worldwide primary gyratory crusher and grinding mill businesses and by requiring Svedala to divest its worldwide cone crusher and jaw crusher businesses. Pursuant to the Consent Agreement, the three crusher businesses will be divested to Sandvik. The grinding mill business will be divested to Outokumpu. Both divestitures will take place no later than twenty (20) days from the date Metso consummates its acquisition. If the Commission determines that Sandvik or Outokumpu is not an acceptable buyer or that the manner of either divestiture is not acceptable, Metso and Svedala must unwind the sale(s) and divest the crusher businesses or the grinding mill business to a Commission-approved buyer. Should they fail to do so, the Commission may appoint a trustee to divest the crusher businesses or the grinding mill business.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer of divested assets must not itself present competitive problems. The Commission is satisfied that both Sandvik and Outokumpu are well-qualified acquirers of the divested assets. Sandvik is a publicly-traded Swedish corporation and a leading global supplier of drilling and excavation machinery, equipment and tools for mining and construction industries. Outokumpu is a diversified Finnish metals corporation involved primarily in the mining, production and fabrication of steel, chromium, zinc, copper and nickel. Both Sandvik and Outokumpu have the necessary industry expertise to replace the competition that existed prior to the proposed acquisition. Furthermore, Sandvik and Outokumpu do not pose separate competitive issues as acquirers of the divested assets.

The Consent Agreement contains several provisions designed to ensure that the divestitures of the crusher businesses and the grinding mill business are successful. The Consent Agreement requires Metso and Svedala to provide incentives to all of the employees that Sandvik and Outokumpu want to hire to continue in their positions until the divestitures are accomplished. For a period of one (1) year from the date the divestitures of the businesses are accomplished, Metso and Svedala are prohibited from soliciting or inducing any employees or agents of the rock processing equipment businesses involved in the divestitures to terminate their employment with Sandvik or Outokumpu. Furthermore, in order to enable Sandvik and Outokumpu to develop and manufacture rock processing equipment in the same manner and quality achieved by Metso and Svedala, the Consent Agreement requires Metso and Svedala for a period of one (1) year to provide technical assistance and training at cost to Sandvik and Outokumpu.

Metso and Svedala are also required to provide transitional manufacturing services for the production of jaw crushers to enable Sandvik to deliver jaw crushers to customers without delay. The transitional manufacturing provision only covers the production of jaw crushers because Svedala currently manufactures a substantial portion of its jaw crushers in its Brazilian facility, which will not be divested. Svedala also manufactures some jaw crushers at its Swedish facility which will be divested under the proposed Consent Agreement. Less than 24 months ago, Svedala manufactured all of its jaw crushers in the Swedish facility. Thus, the primary production assets for the manufacture of jaw crushers already exist in the Swedish facility. Sandvik will also manufacture all of its jaw crushers at the Swedish facility. The Commission will appoint an Interim Monitor to oversee the transfer of Svedala's jaw crusher assets located in Brazil and to insure compliance with the transitional manufacturing agreement. The Interim Monitor has the requisite capability and applicable business knowledge to supervise the proper transfer of divested assets and monitor the critical manufacturing and supply activities of Metso and Svedala. Thus, the transitional manufacturing agreement, in conjunction with the Interim Monitor, provides a guarantee to Sandvik that its production of jaw crushers will be seamless and uninterrupted after the divestiture.

In order to ensure that the Commission remains informed about the status of the crushing businesses and the grinding mill business pending divestiture, and about the efforts being made to accomplish the divestitures, the Consent Agreement requires Metso and Svedala to file reports with the Commission within thirty (30) days of the date they sign the Consent Agreement, and periodically thereafter, until the divestitures are accomplished.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify in any way its terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–23234 Filed 9–17–01; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES).

Times and Dates: 8:30 a.m.–4:45 p.m., October 16, 2001; 8:30 a.m.—3:45 p.m., October 17, 2001.

Place: WestCoast Pocatello Hotel, 1555 Pocatello Creek Road, Pocatello, Idaho 83201, telephone, (208) 233–2200, fax (208) 234–4524.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include an update regarding progress of current studies; a review of the COSMOS evaluation report; strategies to develop INEELHES' internal evaluation; an overview of Idaho National Engineering and Environmental Laboratory; and a presentation on Health Consult by ATSDR.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paul G. Renard, Executive Secretary, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE (E–39), Atlanta, GA 30333, telephone (404) 498–1800, fax (404) 498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 7, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23246 Filed 9–17–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4026–PN]

RIN 0938–ZA21

Medicare Program; Medicare+Choice Organizations—Application by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for Approval of Deeming Authority for Medicare+Choice Organizations That Are Licensed as Health Maintenance Organizations (HMOs) or Preferred Provider Organizations (PPOs)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice announces the receipt of an application from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for recognition as a national accreditation program for health maintenance organizations (HMOs) and preferred provider organizations (PPOs) that wish to participate in the Medicare+Choice program. Regulations set forth at 42 CFR 422.157(b)(1) specify that a **Federal Register** notice will announce our receipt of the accreditation organization's application for approval, describe the criteria we will use in evaluating the application, and provide at least a 30-day public comment period.

DATES: We will consider comments if we receive them at the appropriate

address, as provided below, no later

specifies the services that an MCO must

The purpose of this proposed notice

complaints against accredited

Dated: August 31, 2001.

draw upon their experience and on their

address, as provided below, no later than 5 p.m. on October 18, 2001.

ADDRESSES: In commenting, please refer to file code CMS–4026–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4026–PN, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Patricia Kurtz, (410) 786–4670.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7197.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services either through Medicare's traditional fee-for-service program, or through a managed care organization (MCO) that has a Medicare+Choice (M+C) contract with the Centers for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements that must be met in order for an MCO to qualify for and enter into an M+C contract with CMS are located at 42 CFR part 422. These regulations implement Part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MCO must provide and the requirements that the organization must meet to be an M+C contractor. Other relevant sections of the Act are Parts A and B of Title XVIII and Part A of Title XI pertaining to the provision of services by Medicare certified providers and suppliers.

Generally, for an organization to enter into an M+C contract, the organization must be licensed by the State as a risk bearing organization as set forth in part 422. Additionally, the organization must file an application demonstrating that other Medicare requirements in part 422 are met. Following approval of the contract, CMS engages in routine monitoring of the M+C organization to ensure continuing compliance. The monitoring process is comprehensive and uses a written protocol that itemizes the Medicare requirements the M+C organization must meet.

However, an M+C organization may be exempt from CMS monitoring of certain requirements in subsets listed in section 1852(e)(4)(C) of the Act as a result of an M+C organization's accreditation by a CMS-approved accrediting organization (AO). In essence, the Secretary "deems" those Medicare requirements to have been met by the M+C organization, based on his determination that the AO's standards are at least as stringent as Medicare requirements. The term for which an AO may be approved by CMS may not exceed 6 years, as stated in § 422.157(b)(2)(ii). For continuing approval, the AO will have to re-apply to CMS.

The applicant organization is generally recognized as an entity that accredits MCOs that are licensed as an HMO or a Preferred Provider Organization. At this time the JCAHO is applying for the M+C deeming approval for HMOs and PPOs.

II. Approval of Deeming Organizations

Section 1852(e)(4)(C) of the Act requires that within 210 days of receipt of an application, the Secretary shall determine whether the applicant meets criteria specified in section 1852(e)(4) of the Act. Under these criteria, the Secretary will consider for a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

The purpose of this proposed notice is to inform the public of our consideration of JCAHO's application for approval of deeming authority of M+C organizations that are licensed as HMOs or PPOs for the following six categories:

- Quality assurance.
- Access to services.
- Antidiscrimination.
- Information on advance directives.
- Provider participation rules.
- Confidentiality and accuracy of enrollees' records.

This notice also solicits public comment on the ability of the applicant's accreditation program to meet or exceed the Medicare requirements for which it seeks authority to deem.

III. Evaluation of Deeming Request

On August 1, 2001, JCAHO submitted all the necessary information to permit us to make a determination concerning its request for approval as a deeming authority for M+C organizations that are licensed as an HMO or a PPO. Under § 422.158(a), our review and evaluation of a national accreditation organization will consider, but not necessarily be limited to, the following information and criteria:

- The equivalency of JCAHO's requirements for HMOs and PPOs to CMS's comparable M+C organization requirements.
- JCAHO's survey process, to determine the following:
  - —The frequency of surveys and whether the surveys are announced or unannounced.
  - —The types of forms, guidelines and instructions used by surveyors.
  - —Descriptions of the accreditation decision making process, deficiency notification and monitoring process, and compliance enforcement process.
- Detailed information about individuals who perform accreditation surveys including—
  - —Size and composition of the survey team for each type of plan under review;
  - —Education and experience requirements for the surveyors;
  - —In-service training required for surveyor personnel;
  - —Surveyor performance evaluation systems; and
  - —Conflict of interest policies relating to individuals in the survey and accreditation decision process.
- Descriptions of the organization's—
  - —Data management and analysis system;
  - —Policies and procedures for investigating and responding to complaints against accredited organizations;
  - —Policies and procedures when a determination is made that an M+C organization is not in compliance;
  - —Types and categories of accreditation offered and M+C organizations currently accredited within those types and categories.

In accordance with § 422.158(b), the applicant must provide documentation relating to—

- —Its ability to provide data in a CMS-compatible format;
- —The adequacy of personnel and other resources necessary to perform the required surveys and other activities; and
- —Assurances that it will comply with ongoing responsibility requirements specified in § 422.157(c).

Additionally, the accrediting organization must provide CMS the opportunity to observe its accreditation process for managed care organizations and must provide other information required by CMS to prepare for an onsite visit to the AO's offices to verify representations made in the application and to make a determination on the application.

IV. Response to Comments and Notice Upon Completion of Evaluation

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

In accordance with the provisions of E.O. 12866, this proposed notice was not reviewed by the Office of Management and Budget.

Section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: August 31, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–23194 Filed 9–17–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Announcement of a Cooperative Agreement for Assessing the Provision of Genetic Services and Factors Affecting the Supply and Demand for Genetic Services

The Health Resources and Services Administration (HRSA) announces its intention to award a sole-source Cooperative Agreement to the University of Maryland at Baltimore (UMB) to fund a national study that assesses the delivery of genetic services and the roles of geneticists and other health professionals in genetic service delivery. Specifically, this project will describe the current and emerging health care models for providing genetic services; the genetics specialist workforce, the role of primary care physicians and other clinicians in genetic services, and factors influencing the supply and demand for services across the country. This study will serve as a baseline for building longitudinal analyses of these issues.

The purpose of this Cooperative Agreement is to support a study that will provide: (1) Baseline information; (2) an understanding of the models for delivering genetic services; (3) the factors affecting the demand for genetic services; (4) and the health personnel involved with the delivery of genetic services. This information will be shared with policymakers, the genetics community, health care professionals and educators, and those involved with delivering or planning for genetic services.

UMB will manage this project in collaboration with four HRSA-funded university-based health workforce research centers (State University of New York at Albany; University of Illinois at Chicago (UIC); University of California at San Francisco (UCSF); and the University of Washington at Seattle).

Each of the four collaborating Centers will have faculty and staff participating on the research team. All four have been actively involved in specific projects and tasks which relate to their respective strengths and expertise, which allows this proposed project to draw upon their experience and on their established collaborative relationships. For example, the Suny/Albany Center is leading the survey of geneticists, and the UW Center is helping to lead the survey of primary clinicians.

Authorizing Legislation

This Cooperative Agreement will be awarded under the following authorities: (1) Section 485B of the Public Health Service (PHS) Act, which authorizes the National Center for Human Genome Research to plan and coordinate research goals of the genome project; (2) section 761 as amended of the PHS Act, which authorizes the collection of data and the analysis of workforce related issues; (3) and section 501(a)(2) of the Social Security Act, which authorizes special projects of regional and national significance with respect to maternal and child health and children with special health care needs.

The Federal role in the conduct of this Cooperative Agreement allows for substantial Federal programmatic involvement with planning, development, administration, and evaluation. The Federal role in this Cooperative Agreement will include the following:

(a) Participation in the planning and development of all phases of this project, including review and consultation regarding contracts and agreements developed during the implementation of project activities.

(b) Participation in the development of an evaluation plan for the project.

(c) Assistance in establishing priorities for each budget year that will be consistent with the overall mission of the Federal funding agencies and within the scope of work of the approved project.

(d) Participation in the annual program review and development of specific objectives for each subsequent year.

(e) Consultation on Federal and other organizational contacts necessary to carry out the program.

(f) Participation in the approval of study protocols and methodologies.

(g) Assistance in identifying Federal and other national organizations and coalitions with whom collaboration is essential in order to further the cooperative agreement (mission) and develop specific strategies to support the work of these related groups.

Availability of Funds

Approximately $500,000 is available to fund this sole-source Cooperative Agreement in FY 2001. HRSA's Bureau of Health Professions (BHPr) will be joined by HRSA's Maternal and Child

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Health Bureau (MCHB), and the National Human Genome Research Institute's (NHGRI) Ethical, Legal, and Social Implications (ELSI) Program in funding this national study of the delivery of genetics services and the roles of geneticists and other health professionals in service delivery. One-third of the funds will be provided by BHPr, MCHB, and the NHGRI/ELSI Program, respectively. The project period will be 3 years. Competing renewals of the project are not anticipated. UMB may request up to $500,000 per year in total costs (direct plus indirect costs) for up to 3 years. Funding for years after the first year will depend on satisfactory performance and the availability of appropriations.

UMB must share in the cost of the program as follows: for each year funds are awarded under this program, the matching contribution must be at least one-third of the amount of the Federal award for that year. Up to 50 percent of UMB's matching contribution may be in the form of in-kind contributions such as faculty time, staff time, use of computers and other shared resources.

Background

Led by UMB, this collaborative project will provide baseline information and descriptions of the models for delivering genetics services, the factors affecting the demand for genetic services, and the health personnel involved with the delivery of such services. This information will be shared with policymakers, the genetics community, health care professionals and educators, and those involved with delivering or planning for genetics services.

The project's specific research aims are to:

1. Assess the current providers of genetics services through survey studies of genetic specialists and primary care clinicians, and develop a system to monitor changes in delivery of services, the demand for services, and profession practice over time;

2. Describe the current models for delivering genetics services and variations in providing the services within these models, and identify ways that various groups have met the demand for genetic services and potential best practice models;

3. Describe the ways genetic services are provided in a representative sample of communities across the country, identifying the factors that affect service delivery, such as local health care organization, the supply and roles of various health care personnel, referral patterns, providers for underserved groups, insurers and managed care plans, regulation, and competition;

4. Describe and assess the factors that influence demand for genetics services such as genetic testing volume, coverage and payment by health insurers and managed care plans, state and federal policies and regulations, public awareness and advocacy groups efforts;

5. Develop working relationships and efficient communications with key public and private organizations and stakeholders involved with planning for genetics services, and disseminate study findings to these and other relevant stakeholders.

Eligible Applicants

Single Source

Assistance will be provided only to the University of Maryland at Baltimore (UMB). No other applications are solicited. UMB is uniquely qualified to conduct this complex and comprehensive study of genetic services under this Cooperative Agreement because it has a unique set of resources and research capacity which include:

1. Comprehensive genetic clinical service and training programs;

2. Leadership in genetics organizations and advisory groups; and

3. Faculty expertise in health profession workforce studies.

UMB will conduct high-quality research and disseminate its findings to colleagues and policymakers at the institutional, Federal, and State levels. Also from its findings, UMB will produce reports that move the field forward, in the form of peer reviewed publications, web-based documents and other publications as well as presentations at national, regional or State forums.

Additional Information

Questions concerning programmatic aspects of the Cooperative Agreement may be directed to Herb Traxler, PhD, National Center for Health Workforce Information and Analysis, Bureau of Health Professions, HRSA, Room 8–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20867; or e-mail address at *Htraxler@hrsa.gov*. Herb Traxler's telephone number is (301) 443–3148.

Dated: September 7, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–23200 Filed 9–17–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

[ID–095–9260–00]

Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency shooting closure in Payette County

SUMMARY: This emergency shooting closure closes 5 acres of Public Land around the Wild West Fire Guard camp to all shooting of rifles, pistols, muzzle loaders, and shotguns. This is a year around closure. Shooting into or across the closure is prohibited. The closure boundaries will be posted. All law enforcement personnel or local, State or Federal officials are exempt from this closure while performing their official duties.

The legal description of the closure is: 5 acres on the west side of the quarter corner common to sections 11 and 16 in Township 6 North, Range 4 West, Boise Meridian, Payette County, Idaho.

Recent increased shooting activity around the camp from ground squirrel hunters and target shooters has created an unsafe situation. This shooting activity endangers the BLM Fire Fighters living and working in the camp. Recently, three bullet holes were found in the buildings in the camp.

EFFECTIVE DATE: This closure is effective when signed by the authorized officer and posted.

ADDRESSES: Lower Snake River District, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Ranger Lynn Miracle, Four Rivers Field Office, (208) 384–3345.

SUPPLEMENTARY INFORMATION: Any person who fails to comply with a closure or restriction order issued under 43 CFR 8364.1 may be subject to the penalties provided in 43 CFR 8360.0–7.

Dated: July 18, 2001.

Katherine Kitchell,

Lower Snake River District Manager.

[FR Doc. 01–23189 Filed 9–17–01; 8:45 am]

BILLING CODE 4310–GG–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following item from the previously announced closed meeting (**Federal Register**, Vol. 66, No. 176, page 47247, September 11, 2001) scheduled for Thursday, September 13, 2001.

1. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

The Board voted unanimously that agency business required that this item be removed from the closed agenda. Earlier announcement of this change was not possible.

The previously announced items were:

1. Administrative Action under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

2. Two (2) Administrative Actions under part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

3. Corporate Examination Review Task Force Report and Recommendations. Closed pursuant to exemption (8).

4. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

In addition, it has been determined that an item on the NCUA Board's Open Agenda for September 13, 2001, was inadvertently placed in the wrong category. One of the requests listed under open agenda item number 2 was, in fact, a request to add an underserved community to an existing field of membership. It should have been listed as:

Request from a Federal Credit Union to Add an Underserved Community to its Field of Membership.

The previously announced items were:

1. Requests from Three (3) Federal Credit Unions to Convert to Community Charters.

2. Requests from Three (3) Federal Credit Unions to Expand their Community Charters.

3. Proposed Rule: Amendment to part 704, NCUA's Rules and Regulations, Corporate Credit Unions.

4. Final Rule: Amendment to section 701.31(d), NCUA's Rules and Regulations, Nondiscrimination in Advertising.

5. Interim Final Rule: Amendment to part 707, NCUA's Rules and Regulations, Truth in Savings.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–23347 Filed 9–14–01; 2:57 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Exelon Generation Company, LLC; Limerick Generating Station, Unit Nos. 1 and 2; Exemption

1.0 Background

Exelon Generation Company, LLC, (the licensee) is the holder of Facility Operating License Nos. NPF–39 and NPF–85 which authorize operation of the Limerick Generating Station (LGS), Unit Nos. 1 and 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of dual unit boiling water reactors located in Montgomery County in Pennsylvania.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), Section 50.71 "Maintenance of records, making of reports," paragraph (e)(4) states, in part, that "Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates [to the UFSAR] does not exceed 24 months." The two units at LGS share a common UFSAR, therefore, this rule requires the licensee to update the same document annually or within 6 months after each unit's refueling outage. Since each unit is on a staggered 24 month refueling cycle, updating after each refueling outage also results in an annual update. Single unit sites using a 24 month refueling cycle would only be required to update the UFSAR on a 24 month periodicity. The proposed exemption would allow updates to the combined UFSAR for LGS, Unit Nos. 1 and 2, to be submitted within 6 months following completion of each LGS Unit 1 refueling outage, not to exceed 24 months from the previous submittal.

In summary, the licensee has requested an exemption that would allow updates to the LGS UFSAR at a periodicity not to exceed 24 months, similar to the periodicity permitted for single unit sites.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The last change to 10 CFR 50.71(e)(4) was published in the **Federal Register** (57 FR 39358) on August 31, 1992, and became effective on October 1, 1992. The underlying purpose of the rule change was to relieve licensees of the burden of filing annual UFSAR revisions, especially if there had been no refueling outages since the previous revision. Most of the changes which lead to revision of the UFSAR occur during refueling outages. The revised 10 CFR 50.71(e)(4) also assured that such revisions are made at least every 24 months. However, as written, the burden reduction can only be realized by single-unit facilities, or multiple-unit facilities that maintain separate UFSARs for each unit. In the Summary and Analysis of Public Comments accompanying the 10 CFR 50.71(e)(4) rule change published in the **Federal Register** (57 FR 39355, 1992), the NRC acknowledged that the final rule did not provide burden reduction to multiple-unit facilities sharing a common UFSAR. The NRC stated: "With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." Granting this exemption would provide burden reduction to LGS while still assuring that revisions to the LGS UFSAR are made at least every 24 months.

The NRC staff examined the licensee's rationale to support the exemption request and concluded that updating the LGS UFSAR within 6 months following completion of each LGS Unit 1 refueling outage, not to exceed 24 months from the previous submittal, meets the underlying purpose of 10 CFR 50.71(e)(4), since the LGS UFSAR would be updated at least every 24 months, similar to the UFSAR at a single unit site. The requirement to revise the UFSAR annually or within 6 months after the refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule. In addition, the NRC previously acknowledged that the revision to 10 CFR 50.71(e)(4) did not directly address burden reduction for multiple-unit facilities that share a common UFSAR, but that such situations could be addressed on a case-by-case basis. The NRC staff has reviewed the licensee's request and has concluded that application of the regulation in these circumstances is not necessary to

achieve the underlying purpose of the rule.

Therefore, the NRC staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present.

In addition, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

4.0 Conclusion

Accordingly, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.71(e)(4) for LGS Unit Nos. 1 and 2, in that updates to the combined UFSAR for LGS, Unit Nos. 1 and 2, may be submitted within 6 months following completion of each LGS Unit 1 refueling outage, not to exceed 24 months from the previous submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 40300).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of September, 2001.

For the Nuclear Regulatory Commission.

Claudia M. Craig,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23211 Filed 9–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont.

The proposed amendment would extend the allowed outage time (AOT) for the high pressure coolant injection (HPCI) and reactor core isolation cooling systems from 7 days to 14 days. Requirements were added to immediately assure the availability of alternate means of high pressure coolant makeup. Also clarifying changes were made to Technical Specification (TS) 3.5.E.2 and TS 3.5.G.2 by reformatting the TSs to make nomenclature consistent regarding HPCI and the automatic depressurization system (ADS) as being systems not subsystems.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated?

The high pressure coolant injection (HPCI) and reactor core isolation cooling (RCIC) systems do not serve any function for preventing accidents, and their unavailability would not affect the probability of accidents previously evaluated. The unavailability of either HPCI or RCIC is not considered to be a potential accident initiator. As such, the inoperability of HPCI or RCIC will not increase the probability of any accident previously evaluated.

Therefore, the proposed change will not increase the probability of any accident previously evaluated.

Emergency core cooling systems (ECCS) are used to mitigate the consequences of an accident. However, RCIC is not an ECCS and is not credited in any accident previously evaluated. HPCI is capable of mitigating small loss-of-coolant accidents, but this function would be met by the available automatic depressurization system (ADS) in conjunction with the low pressure coolant injection or core spray systems, which are the basis for the current 7-day allowed outage time (AOT). The consequences of an event occurring during the proposed 14-day AOT are the same as the consequences of an event occurring during the existing 7-day AOT. Therefore, adequate core cooling would still be provided and the consequences of accidents previously evaluated are not increased.

Therefore, the proposed change will not increase the consequences of any accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change to the technical specifications will not physically alter the plant. No new or different types of equipment will be installed. Plant operations will remain consistent with current safety analysis assumptions regarding availability of equipment. Thus, no new failure mode not previously analyzed will be introduced.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety?

The proposed change does not involve a significant decrease in a margin of safety because, as in the existing AOT Technical Specifications, the 14-day completion time for restoring HPCI or RCIC is contingent upon the operability of redundant equipment (i.e., for HPCI, RCIC and ADS in conjunction with low-pressure coolant injection/spray subsystems are required to be operable; and for RCIC, HPCI is required to be operable).

Therefore, this change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 18, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. David R. Lewis, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 14, 2001, as supplemented on August 21,2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public

Electronic Reading Room on the Internet

Originating Office: Bureau of Consular

Comments should be submitted to OMB

ACTION: 30-Day notice of information

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Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 12th day of September 2001.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23210 Filed 9–17–01; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3364]

State of New York

As a result of the President's major disaster declaration on September 11, 2001, I find that Bronx, Kings (Borough of Brooklyn), New York (Borough of Manhattan), Queens and Richmond (Borough of Staten Island) Counties in the State of New York constitute a disaster area due to damages caused by explosions and fires at the World Trade Center which occurred on September 11, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 10, 2001 and for economic injury until the close of business on June 11, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Nassau and Westchester in the State of New York; Bergen, Hudson, Middlesex and Union counties in the State of New Jersey.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.750
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.375
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 336404. For economic injury the number is 9M4900 for New York; and 9M5000 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 13, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01–23298 Filed 9–17–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3775]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: U.S. Department of State.

ACTION: 30-Day Notice of Information Collection: Form DS–19, Passport Amendment/Validation Application (Formerly DSP–19) OMB #1405–0007.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Passport Amendment/Validation Application.

Frequency: On Occasion.

Form Number: DS–19 (Formerly DSP–19).

Respondents: Individuals or Households.

Estimated Number of Respondents: 279,400.

Average Hours Per Response: ½ hr. (5 min).

Total Estimated Burden: 23,283.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23235 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3776]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day notice of information collection; Form DS–60, affidavit regarding change of name (Formerly DSP–60) OMB #1400–0009.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit Regarding Change of Name.

Frequency: On Occasion.

Form Number: DS–60 (Formerly DSP–60).

Respondents: Individuals or Households.

Estimated Number of Respondents: 106,800.

Average Hours Per Response: ¼ hr. (15 min).

Total Estimated Burden: 26,700.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23236 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3777]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day notice of information Collection; Form DS–64, statement regarding lost or stolen passport (formerly DSP–64) OMB #1405–0014.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit Regarding Change of Name.

Frequency: On Occasion.

Form Number: DS–60 (Formerly DSP–60).

Respondents: Individuals or Households.

Estimated Number of Respondents: 106,800.

Average Hours Per Response: ¼ hr. (15 min).

Total Estimated Burden: 26,700.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23237 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 3779]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-Day notice of information collection; Form DS–10, birth affidavit (formerly DSP–10A) OMB #1400–0010.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Statement Regarding Lost or Stolen Passport.

Frequency: On occasion.

Form Number: DS–64 (Formerly DSP–64).

Respondents: Individuals or households.

Estimated Number of Respondents: 70,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 5,833.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW., Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23238 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

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DEPARTMENT OF STATE

[Public Notice: 3780]

Bureau of Consular Affairs, Passport Services; Agency Information Collection Activities

AGENCY: Department of State.

ACTION: 30-day notice of information collection: Form DS–71, Affidavit of Identifying Witness (formerly DSP–71) OMB #1405–0088.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Regular—Reinstatement, with change, of a previously approved collection for which approval has expired.

Originating Office: Bureau of Consular Affairs, CA/PPT/FO/FC.

Title of Information Collection: Affidavit of Identifying Witness.

Frequency: On Occasion.

Form Number: DS–71 (Formerly DSP–71).

Respondents: Individuals or households.

Estimated Number of Respondents: 118,000.

Average Hours Per Response: 1/12 hr. (5 min).

Total Estimated Burden: 9,833.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Margaret A. Dickson, CA/PPT/FO/FC, Department of State, 2401 E Street, NW, Room H904, Washington, DC 20522, and at 202–633–2460.

Dated: August 9, 2001.

Georgia A. Rogers,

Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 01–23239 Filed 9–17–01; 8:45 am]

BILLING CODE 4710–06–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1534)

TIME AND DATE: 9 a.m. (CDT), September 19, 2001

PLACE: The Renaissance Center, 855 Highway 46 South, Dickson, Tennessee

STATUS: Open

Agenda

Approval of minutes of meeting held on August 22, 2001.

New Business

A—Budget and Financing

A1. Approval of short-term borrowing from the United States Treasury.

A2. Rate review and approval of power system operating and capital budgets for Fiscal Year 2002.

B—Purchase Awards

B1. Supplement to Contract No. 583 with Immixtechnology, Inc., for software, maintenance, and professional services.

B2. Contract with Dell Computer Corporation to provide the latest version of Microsoft operating system and office product software.

C—Energy

C1. Supplement to Contract No. 99MJ–232187 with G–UB–MK Constructors for modification and supplemental maintenance work at TVA's eastern region fossil facilities.

C2. Contract with Reinforced Plastic Systems, Inc., to design, fabricate, deliver, and install scrubber absorber recycle piping at Cumberland Fossil Plant.

C3. Supplement to contract with Valmont Industries, Inc., for transmission steel poles and accessories for Transmission/Power Supply Group.

E—Real Property Transactions

E1. Grant of a permanent easement for an electrical transmission line to Fort Loudoun Electric Cooperative, affecting approximately 8.7 acres of land on Tellico Reservoir in Monroe County, Tennessee (Tract No. XTTELR–39T).

E2. Grant of a noncommercial, nonexclusive permanent easement to Douglas and Charlene Cross for construction and maintenance of recreational water-use facilities, affecting approximately 0.02 acre of Tellico Reservoir shoreline in Loudon County, Tennessee (Tract No. XTELR–223RE).

E3. Grant of a permanent easement for a water intake and waterline to Russellville Water and Sewer Board, affecting approximately 1.3 acres of land on Cedar Creek Reservoir in Franklin County, Alabama (Tract No. XTBCCER–IPS).

E4. Approval of updated Guntersville Reservoir Land Management Plan, Jackson and Marshall Counties, Alabama, and Marion County, Tennessee.

E5. Approval of Norris Reservoir Land Management plan, Anderson, Campbell, Claiborne, Grainger, and Union Counties, Tennessee.

F—Other

F1. Approval to file condemnation cases to acquire transmission line easements and rights-of-way affecting Tract No. SLML–1, Wilson Dam—West Point Loop Into State Line, Mississippi, Substation Transmission Line in Marion County, Alabama; and Tract No. WRCPT–77B—West Ringgold—Center Point Transmission Line in Whitfield County, Georgia.

Information Items

1. Amendment to the trust agreement between the Board of Directors of the TVA Retirement System and Fidelity Management Trust Company.

2. Termination of the delegation of authority to enter into cooperative agreements with colleges and universities in the Tennessee Valley region to fund the institution's studies and experiments for power development, environmental research, and economic development.

3. Concurrence in the issuance of up to $1.25 billion in Global Power Bonds.

4. Approval of Abbott Capital Private Equity Partners IV, L.P., as a new investment manager for the TVA Retirement System and approval of the Investment Management Agreement between the Retirement System and the new investment manager.

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000.

Dated: September 12, 2001.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 01–23319 Filed 9–14–01; 1:18 pm]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–10613]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0003

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR comprises Information on Marine Casualties; Testing Personnel of Commercial Vessels for Drugs and Alcohol; and Management Information Systems. Before submitting the ICR to OMB, the Coast Guard is requesting comments on it.

DATES: Comments must reach the Coast Guard on or before November 19, 2001.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG 2001–10613], U. S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The DMS maintains the public docket for this request. Comments will become part of this docket and will be available for inspection or copying in room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov* and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2001–10613], and give the reason for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

1. *Title:* Information on Marine Casualties; Testing Personnel of Commercial Vessels for Drugs and Alcohol; and Management Information Systems.

OMB Control Number: 2115–0003.

Summary: The Coast Guard needs information with which it can investigate mishaps to commercial vessels causing death, extensive damage, and the like, as mandated by Congress. It needs information from chemical testing so it can detect and reduce the use of drugs and alcohol by mariners, also as mandated by Congress. And it needs certain information on management so it can evaluate the effectiveness of its programs.

Need: 46 U.S.C. 6101 authorizes the Coast Guard to prescribe rules for reporting of marine casualties. 46 CFR parts 4 and 16 prescribe the rules governing marine casualties and chemical testing.

Respondents: The owner, agent, master, operator, or person-in-charge of a vessel involved in a marine casualty.

Frequency: On occasion.

Burden Estimate: The estimated burden is 19,195 hours a year.

Dated: Septmeber 12, 2001.

V.S. Crea,

Director of Information and Technology.

[FR Doc. 01–23259 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

High Density Traffic Airports; Slot Allocation and Transfer Method

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Statement of policy.

SUMMARY: This action extends until October 31, 2001 the temporary policy issued on November 11, 2000, regarding the minimum slot usage requirement for slots and slot exemptions at LaGuardia Airport. Additionally, the FAA advises all carriers that in view of recent events in the New York and Washington, DC areas, which resulted in the cessation of commercial air service nationwide, a separate policy providing appropriate relief from the slot usage requirement will be issued in the near future.

EFFECTIVE DATE: September 15, 2001.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Avenues, SW., Washington, DC 20591; telephone number 202–267–3073.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2000, the FAA published in the **Federal Register** a statement of policy regarding the slot usage requirement at LaGuardia Airport to address the high level of delay air carriers at LaGuardia experienced due to the increased number of operations under the "Wendell H. Ford Aviation Investment and Reform Act for the 21st Century" ("AIR–21") (65 FR 69601). As a result of AIR–21, air carriers meeting specified criteria could obtain slot exemptions for new entrant service or service to small communities at New York's LaGuardia Airport, John F. Kennedy International Airport, and Chicago's O'Hare International Airport; a separate regime for increasing service opportunities was authorized for Washington DC's Ronald Reagan Washington National Airport. Subsequent to this legislation, the Department of Transportation issued eight orders establishing procedures for the processing of applications for these slot exemptions.

FAA air traffic operations data reported by OPSNET for September 2000 indicated that there were 1,163 average daily operations at LaGuardia, an increase of approximately 18 percent over the September 1999 level of 982 average daily operations. OPSNET also reported that air traffic control delays of 15 minutes or more at LaGuardia increased to 10,515 in September 2000 from 3,108 in September 1999. The percentage of flights recorded with air traffic delays increased to 30.13 percent from 10.55 percent. In comparison, the second highest level of OPSNET reported air traffic delays was at Newark International Airport, where the

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percentage of flights delayed showed a small decline to 8.5 percent in September 2000 compared to 8.7 percent in September 1999.

In September 2000, the FAA Air Traffic Control System Command Center regularly implemented traffic management programs to handle the increased volume of flights at LaGuardia. Peak period demand routinely exceeded airport capacity. Delays of one hour or more were frequent, even during ideal weather conditions, and often increased to several hours when adverse aviation weather reduced system capacity. Many airlines operationally addressed the increased delays through various means including waiting for the assigned clearance time, canceling flights, reaccommodating passengers on later flights, and adding flying time to account for increased operating times. Thus, the agency found it necessary to implement a temporary usage policy to accommodate carriers in managing their operations at the airport during this time.

This policy permitted carriers to return temporarily to the FAA the slots or slot exemptions in advance due to scheduled planning or other decisions by the carriers without jeopardizing the permanent loss of the slot or slot exemption. Additionally, the policy provided that the FAA would treat a slot or slot exemption as having been used if the flight was scheduled but canceled for operational reasons and the slot/slot exemption would not otherwise have been subject to withdrawal. Consequently, the policy provided some immediate relief and/or flexibility to carriers to schedule or cancel flights due to the increased level of delay occurring daily at the airport. This policy originally was effective through the April 2001 reporting period. On February 14, 2001, the FAA extended this policy through September 14, 2001, and modified the policy to permit the return of AIR–21 slot exemptions for weekend frequencies only but retained the provision allowing the temporary return of slots (66 FR 10931; February 20, 2001).

As a result of the increased volume of operations described above, and the consequent adverse impact on operations at the airport and across the air traffic system in whole, the FAA limited the number of AIR–21 slot exemptions at LaGuardia and reallocated the slot exemptions by a lottery on December 4, 2000. Through this lottery, the FAA reallocated 159 slot exemptions among participating carriers; this allocation was originally to remain in effect until September 15, 2001, but recently was extended until October 26, 2002 (66 FR 41294; August 7, 2001).

By letter dated August 13, American Airlines, Inc., TWA Airlines LLC, and American Eagle Airlines, Inc. requested an extension of the temporary usage policy until October 26, 2002. By letter dated August 14, Continental and Continental Express requested a similar extension of the usage policy. Both requests stated that since the agency had extended the AIR–21 slot exemption allocation until October 26, 2002, an extension of the policy to coincide with that extension is consistent with FAA's stated rationale when it extended the policy in February 2001. Delta Airlines likewise submitted a request to extend the policy until October 26, 2002, based on the same justification provided by American and Continental. Delta also commented that if the agency determined to not extend the policy, that the September-October reporting period should be extended until December 31, 2001.

Agency Response

The limitation on the number of AIR–21 slot exemptions became effective on January 31, 2001. At the time that the agency extended the temporary usage policy in February 2001, approximately 35 allocated High Density Rule slots and a number of the 159 authorized slot exemptions were not in service due to temporary returns or delays in start-up. Also at that time, the agency did not have a basis on which to assess the operational impact of the limited reallocation and to make any conclusions as to the effect of the limitation on slot exemptions on the operating environment at LaGuardia and the national airspace system. Consequently, the FAA decided to extend the policy to coincide with the slot exemption allocation so that the agency could monitor operations at the airport, discern measurable impact, and provide carriers with sufficient time to adjust their operations given the new reallocation of slot exemptions.

Today, carriers are experiencing a significantly different operating environment at LaGuardia. The FAA has established a limit of 75 scheduled operations per hour, which reflects the airport's capacity, provides opportunity for growth above the High Density Rule limits as provided under AIR–21 provisions, and ensures that scheduled demand will not reach the levels experienced at the airport beginning in September 2000. The operational benefits are reflected in the significant delay reductions after the lottery results were implemented. For example, the number of flights delayed by 15 minutes or more during July 2001 was 2,434, or about 7 percent of total airport operations for the month. Preliminary data for August 2001 indicates approximately 12 percent of airport operations were delayed. In each of the two months preceding the implementation of the temporary usage policy in November 2000, there were over 10,000 monthly delays, impacting up to 30 percent of total airport operations. Although a limited number of weekday slots have been returned under the temporary usage policy and most of the 21 exemptions reallocated in the August 15, 2001 lottery have not begun service, the FAA does not believe their full operation will significantly alter the current operational environment at LaGuardia. The operating environment at the airport has improved significantly from one year ago and the unpredictable delay situation prompted by continuing and significant increases in the number of exemption flights, which warranted adoption of the policy, no longer exists today. The FAA will continue to monitor operations at the airport and will revisit this issue if there is a change in the operating environment that warrants reconsideration of the usage requirement at LaGuardia.

The slot usage requirements under the regulations were last revised in 1992 and at that time, the FAA specifically addressed the fact that adoption of the 80 percent usage threshold takes into account certain factors such as weather and operational delay. The adopted 80 percent usage requirement provides an appropriate balance that ensures limited slot resources are used and allows a reasonable 20 percent level of non-operation due to operational, scheduling, or other reasons. The FAA finds that based on the above factors describing airport operations, there is no current operational reason to maintain the temporary policy until October 26, 2002. In order to accommodate schedules already planned through the remainder of the summer scheduling season, however, the FAA is extending this policy until the end of the September-October reporting period. Therefore, this policy will expire on October 31, 2001. While the agency is not adopting Delta's suggestion to extend the September/October reporting period until December 31, 2001, the FAA notes that under the minimum slot usage provisions, any slot held by a carrier at a High Density Traffic Airport is treated as used on the following days: Thanksgiving Day, the Friday following Thanksgiving Day and the period from December 24 through the first Saturday in January (14 CFR 93.227(l)). This provision, in addition to the limited extension of the usage policy to accommodate the summer scheduling season, provides carriers with adequate time to adjust their operations if necessary. The FAA also notes that carriers, who may experience usage issues for the September/October or November/December reporting period may utilize the provisions of the buy-sell rule to make slots available to other operators through the transfer process.

In the past when circumstances dictated that relief of general applicability from the slot usage requirement was necessary, the agency has waived the slot usage requirement for all carriers at certain High Density Traffic Airports. The FAA advises that the recent events in the New York and Washington, DC areas, which resulted in the temporary cessation of all commercial air service in the United States, warrant similar consideration. Consequently, the agency currently is considering the appropriate relief and will publish such policy in the **Federal Register** in the near future.

Issued in Washington, DC on September 13, 2001.

David G. Leitch,

Chief Counsel.

[FR Doc. 01–23287 Filed 9–14–01; 11:24 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Urban Ring Project Phase II, Located in Boston, Chelsea, Everett, Somerville, Cambridge and Brookline, Massachusetts

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Massachusetts Bay Transportation Authority (MBTA) intend to prepare an Environmental Impact Statement (EIS) for Phase II of the Urban Ring Project located in Boston and adjacent communities. The EIS will be undertaken in accordance with the National Environmental Policy Act (NEPA). The MBTA will ensure that the EIS also satisfies the requirements of the Massachusetts Environmental Policy Act (MEPA).

The EIS will evaluate the following alternatives: a No-Build alternative; Transportation System Management alternative defined as low cost, operationally oriented improvements to address the transportation problems in the corridor; and a Bus Rapid Transit (BRT) system along existing roadway rights-of-way and other rights-of-way owned by the MBTA and local jurisdictions. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, Federal, State and local agencies.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the MBTA by October 30, 2001. See **ADDRESSES** below. *Scoping Meeting:* A joint FTA and MBTA public scoping meeting will be held on Wednesday, October 3, 2001, from 4 p.m. to 7 p.m., Massachusetts Transportation Building, 10 Park Plaza, Second Floor, Conference Rooms 2 and 3, Boston, MA 02116. People with special needs should contact Claire Barrett by calling (617) 492–4996 for information and arrangements. The building is accessible to people with disabilities. It is located near MBTA Bus Routes #43 and #55, the Boylston Station stop on the Green Line, and the New England Medical Center stop on the Orange Line. Copies of the Expanded Environmental Notification Form (ENF), including the Executive Summary of the Major Investment Study (MIS) will be available at the meeting. A presentation of the project will be made and comments solicited. See **ADDRESSES** below.

ADDRESSES: Written comments on the scope of the analysis and impacts to be considered should be sent to Mr. Peter C. Calcaterra, Project Manager, Massachusetts Bay Transportation Authority, 10 Park Plaza, Room 5750, Boston, MA 02116. A scoping meeting will be held at the following location: Massachusetts Transportation Building, Conference Rooms 2 and 3, 10 Park Plaza, Boston, Massachusetts.

See **DATES** above.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Doyle, Regional Administrator, Federal Transit Administration Region 1, 55 Broadway, Cambridge, MA 02142, Telephone: (617) 494–2055.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and the MBTA invite interested individuals, organizations and federal, state, and local agencies to participate in: defining the options to be evaluated in the EIS for Phase 2 of the Urban Ring Project; identifying the social, economic and environmental impacts to be evaluated; and suggesting alternative options that are less costly or have fewer environmental impacts while achieving similar transportation objectives. An Expanded Environmental Notification Form (ENF) dated July 26, 2001 prepared in accordance with the provisions of the Massachusetts Environmental Policy Act 301 CMR 11.00 is being circulated to all Federal, state, and local agencies having jurisdiction in the Project. Other interested parties may request this document by contacting Fran Dowling at (978) 371–4221 or by email to fdowling@earthtech.com

II. Description of the Study Area and Transportation Needs

The Urban Ring Project is an initiative of the MBTA to improve the regional transportation system in Greater Boston. The roughly circular Urban Ring Corridor (hereafter known as the Corridor) includes portions of Chelsea, Everett, Somerville, Cambridge, Brookline and Boston. Approximately 15 miles long and one mile wide, the Corridor is growing faster than the regional average and will contain over 314,000 residents and over 360,000 jobs by the year 2025.

The Corridor has been the subject of many past transportation studies that have focused on several critical transportation needs. These studies, which span nearly 40 years, have identified solutions ranging from a highway to a new circumferential rail transit line and new bus routes augmented by low-cost traffic engineering improvements.

Every MBTA commuter rail, heavy and light rail transit line, the Silver Line (currently under construction) as well as over half of all MBTA bus routes, currently cross the Corridor, yet directness of transit travel along the Corridor today remains poor. Transit trips to and from the Corridor require twice as many transfers as the average for the metropolitan region, and transit trips travel at an average speed of less than 8 miles per hour compared to a regional average of over 15 miles per hour. This poor performance is largely due to the indirect routing that transit travelers must currently use for cross-town trips, compounded by inadequate connections with the radial transit and commuter rail system.

To date, improvements have been limited and no comprehensive program to address these mobility problems has been implemented. As summarized below, the project is planned to connect the existing radial transit lines with a multi-modal circumferential transit system to facilitate travel and help to

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relieve existing congestion, and to help reduce trip times and frustration for travelers.

III. Alternatives

To address these needs, the MIS developed alternatives ranging from low-cost conventional buses to Bus Rapid Transit (BRT), light and heavy rail systems and various combinations of each. Each alternative was evaluated to identify benefits, costs and potential environmental issues. A community-based planning process was used throughout the study, including extensive participation from citizen, business and environmental groups, and municipalities, as well as representatives from many of the areas largest educational and medical institutions. The extensive public involvement program included workshops, outreach briefings and general public meetings with a working committee and its subcommittees, providing input and guidance throughout the process.

Though this public process, the range of alternatives was steadily reduced from fifteen down to three. All three alternatives consist of Transportation System Management (TSM) measures, BRT service, supporting elements such as new commuter rail stops at Urban Ring interfaces, and rail service. They differ in the type of rail service. Alternatives A1 and B include Light Rail while Alternative A2 utilizes Heavy Rail. A multi-phase implementation concept and schedule was developed where each phase builds upon the previous one until all the components of the alternatives are in place.

Phase I: TSM
Phase II: TSM + BRT and supporting elements
Phase III: TSM + BRT and supporting elements + Rail Transit

The phased approach enables tangible service improvements to occur sooner and enables the level of investment and service to increase with demand and available levels of funding. In Phase I, Transportation System Management (TSM or Bus Optimization) elements not requiring major new construction are proposed. In Phase III, the rail technology and alignment will be determined during a subsequent environmental process. The subject of this EIS, and the focus of the scheduled scoping session, will be the BRT and supporting commuter rail connections proposed in Phase II of the Project.

For Phase II of the Urban Ring Project three alternatives were examined during the MIS. These alternatives will be examined in greater detail during the EIS as follows:

No-Build Alternative: Consists of the transportation network contained in the Regional Transportation Plan for the year 2010 in the absence of any other transportation improvements in the study corridor; *TSM Alternative:* Consists of continued operation of the proposed Phase I TSM bus routes within the 2010 network with no other transportation improvements in the study corridor; and *BRT Alternative:* Consists of the seven proposed BRT routes plus the supporting elements and continued operation of the non-redundant Phase I bus routes. A more detailed description of the BRT Alternative follows.

For Phase II, a fleet of low emission, low-floor, 60-foot articulated BRT vehicles would be purchased and additional BRT vehicle maintenance facility capacity provided. The Phase II BRT routes and vehicle maintenance facilities are planned for implementation in coordination with the MBTA Silver Line service and facilities that will be operational at that time. The TSM bus routes from Phase I would continue where not redundant to the BRT service. The BRT routes would operate at frequencies comparable to existing transit lines. During Phase II the environmental filings would be made to select the subsequent rail system to be added in Phase III.

Phase II would include segments of exclusive busway, Intelligent Transportation Systems features, and supporting elements to improve connections with radial transit and commuter rail lines. Some of the BRT routes in Phase II would be new, and other are modified or converted versions of the Phase I bus routes. A total of seven BRT routes are proposed in Phase II.

Supporting Elements: New or Expanded Commuter Retail Stations

Downtown Chelsea: Expand and improve existing station on Newburyport/Rockport Line.

Sullivan Square: New station stop near junction of Newburyport/Rockport and Haverhill Lines.

Gilman Square: New station stop on the Lowell Line.

Union Square: New station stop on the Fitchburg Line.

Yawkey: Expand and improve existing station on the Framingham/Worcester Line.

Ruggles: Expanded stop with platforms on both sides of Northeast Corridor.

Uphams Corner: Improved stop on the Fairmont Line.

IV. Probable Effects

The MBTA will consider probable effects and potentially significant impacts to social, economic and environmental factors associated with the Phase II alternatives under evaluation in the EIS. Potential environmental issues to be addressed will include: land use, historic and archeological resources, traffic and parking, noise and vibration, environmental justice, regulatory floodway/floodplain encroachments, coordination with transportation and economic development projects, and construction impacts. Other issues to be addressed in the EIS include: natural areas, ecosystems, rare and endangered species, water resources, air/surface water and groundwater quality, energy, potentially contaminated sites, displacements and relocations, and parklands. The potential impacts will be evaluated for both the construction period and long operations period of each alternative considered. In addition, the cumulative effects of the proposed project alternatives will be identified. Measures to avoid or mitigate adverse impacts will be developed.

V. FTA Procedures

A Draft EIS will be prepared to document the evaluation of the social, economic and environmental impacts of the alternatives. Upon completion, the Draft EIS will be available for public and agency review and comment. A public hearing on the Draft EIS will be held within the study area. On the basis of the Draft EIS and the public and agency comments received, a locally preferred alternative will be selected and described in full detail in the Final EIS.

Issued: September 13, 2001.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 01–23255 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Santa Clara/Alum Rock Light Rail Transit Project in San Jose, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Santa Clara Valley Transportation Authority (VTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) and an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) for a proposed Light Rail Transit (LRT) line in the Santa Clara/Alum Rock corridor. The proposed line and technology were selected following completion of the Downtown East Valley Major Investment Study (MIS) in August 2000. The MIS considered alternative modes of travel, alignments, and station locations in a 30-square mile study area. The MIS process resulted in a Preferred Investment Strategy that includes LRT improvements in the Santa Clara/Alum Rock Corridor to improve direct transit service in an approximately 4.3-mile-long corridor from downtown to the East Valley area in San Jose, California. The Santa Clara/Alum Rock Project will be further evaluated during the conceptual engineering phase of the project and carried forward in the EIS/EIR. The EIS/EIR will evaluate a No-Action alternative, LRT alignment and station options, and additional alternatives that emerge from the scoping process. Scoping will be accomplished through correspondence and discussions with interested persons; organizations; federal, state and local agencies; and through a public meeting.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered in the EIS/EIR must be received no later than November 2, 2001 and must be sent to VTA at the address indicated below. *Scoping Meeting:* A public scoping meeting will be held on September 19, 2001, from 6:00 p.m. to 8:00 p.m. at Mexican Heritage Plaza, Classroom #1, 1700 Alum Rock Avenue, San Jose, CA 95116. Phone (408) 928–5550. The project purpose and alternatives will be presented at this meeting. The building used for the scoping meeting is accessible to persons with disabilities. Any individual who requires special assistance, such as a sign language interpreter, to participate in the scoping meeting should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330. Scoping material will be available at the meeting an may be obtained in advance of the meeting by contacting Mr. Molseed at the address or phone number given below.

ADDRESSES: Written comments should be sent to Mr. Roy Molseed, Senior Environmental Planner, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone: (408) 321–5789. Fax: (408) 321–5787. E-mail: *scoping.santaclaraalumrock@vta.org.*

FOR FURTHER INFORMATION CONTACT: Mr. Roy Molseed, Senior Environmental Planner, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone: (408) 321–5789 or Mr. Jerome Wiggins, Office of Planning and Program Development, FTA, 201 Mission Street, Room 2210, San Francisco, CA 94105. Phone: (415) 744–3115. People with special needs should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and VTA invite all interested individuals and organizations, and federal, state, regional, and local agencies to provide comments on the scope of the project. A summary of the MIS, Downtown East Valley Major Investment Study—Project Summary Report (December 2000), is available for public review at the following public libraries: (1) Dr. Martin Luther King, Jr. Main Library, 180 West San Carlos Street, San Jose, CA 95113; and (2) East San Jose Carnegie Branch Library, 1102 East Santa Clara Street, San Jose, CA 95116. The MIS summary is also available by contacting Mr. Molseed at the address and phone number given above. Mr. Molseed should also be contacted to be placed on the project mailing list and to receive additional information about the project. Written comments on the alternatives and potential impacts to be considered should be sent to Mr. Molseed.

II. Project Purpose and Need

The project purpose is to improve public transit service in the downtown and East Valley areas of the City of San Jose by addressing the following specific goals established in the MIS: improve mobility; increase transit ridership; target the highest commute corridors with emphasis on work and school trips; promote livable neighborhoods and community support.

In general, the project would provide residents of downtown and east San Jose more efficient access to the light rail system and improved connections and greater mobility options throughout the Silicon Valley. For example, residents could travel to south San Jose, downtown San Jose, and to the cities of Santa Clara, Sunnyvale, and Mountain View via the Guadalupe, Tasman, and Capitol LRT lines. Linkages to the Caltrain commuter rail line, which provides service to San Francisco and to communities along the Peninsula, may also be accessed at intermodal connections throughout the system.

The project would also alleviate heavy traffic congestion on major arterials; reduce the circulation impacts of increased peak-hour traffic; improve regional air quality by reducing automobile emissions; improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations; and support local economic and land development goals.

III. Alternatives

The Santa Clara/Alum Rock Light Rail Project is examining alternatives to be carried forward into the environmental analysis process. The No-Action Alternative will consist of the existing conditions, in accordance with both NEPA and CEQA requirements. The Build or LRT Alternative is the Santa Clara/Alum Rock LRT Project.

Two proposed alignment options are under consideration for the segment through downtown San Jose between the Diridon Station and 10th Street. One option is along San Fernando Street from the vicinity of the Diridon Station area, north on Almaden, and then east on Santa Clara Street. The second option is from the vicinity of the Diridon Station east along San Fernando Street, transitioning north to Santa Clara Street between 7th and 10th Streets, and then proceeding east on Santa Clara Street and Alum Rock Avenue. East of King Road, the LRT would operate in an exclusive guideway; west of King Road, the LRT would operate in a right-of-way shared with vehicular traffic. Along the alignment, thirteen conceptual station locations have been identified. More precise station locations and alignment options will be developed during preparation of the Draft EIS/EIR.

The EIS/EIR will also address any additional alternatives that are identified in the scoping process.

IV: Probable Effects

The purpose of the EIS/EIR is to fully disclose the environmental consequences of building and operating the Santa Clara/Alum Rock LRT Project in advance of any decisions to commit substantial financial or other resources towards its implementation. The EIS/EIR will explore the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts.

Environmental issues to be examined in the EIS/EIR include: changes in the physical environment (natural

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resources, air quality, noise, water quality, geology, visual); changes in the social environment (land use, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic resources. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. The proposed evaluation criteria include transportation, environmental, social, economic, and financial measures, as required by current federal (NEPA) and state (CEQA) environmental laws and current Council on Environmental Quality and FTA guidelines.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS/EIR should be directed to VTA as noted above.

V. FTA Procedures

The EIS/EIR for the Santa Clara/Alum Rock LRT Project will be prepared simultaneously with conceptual engineering for station and alignment options. The EIS/EIR/conceptual engineering process will address the potential use of federal funds for the proposed project, as well as assess the social, economic, and environmental impacts of station and alignment alternatives. Station designs and alignment alternatives will be refined to minimize and mitigate any adverse impacts identified. After publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS/EIR and comments received, VTA will select a preferred alternative, which will be described in full detail in the Final EIS/EIR.

Issued on: September 14, 2001.

F. James Kenna,

Deputy Regional Administrator.

[FR Doc. 01–23317 Filed 9–17–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Capitol Expressway Light Rail Transit Project in San Jose, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS)

SUMMARY: The Federal Transit Administration (FTA) and the Santa Clara Valley Transportation Authority (VTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) and an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) for a proposed Light Rail Transit (LRT) line in the Capitol Expressway corridor. The proposed line and technology were selected following completion of the Downtown East Valley Major Investment Study (MIS) in August 2000. The MIS considered alternative modes of travel, alignment, and station locations in a 30-square mile study area. The MIS process resulted in a Preferred Investment Strategy that includes LRT improvements in the Capitol Expressway Corridor to improve direct transit service in an approximately 8-mile-long corridor in southeast San Jose, California. The Capitol Expressway Project will be further evaluated during the conceptual engineering phase of the project and carried forward in the EIS/EIR. The EIS/EIR will evaluate a No-Action alternative, LRT alignment and station options, and additional alternatives that emerge from the scoping process. Scoping will be accomplished through correspondence and discussions with interested persons; organizations; federal, state and local agencies; and through a public meeting.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered in the EIS/EIR must be received no later than November 2, 2001, and must be sent to VTA at the address indicated below. *Scoping Meeting:* A public scoping meeting will be held on September 26, 2001, from 6:00 p.m. to 8:00 p.m. at St. Francis of Assisi Catholic Church, 5111 San Felipe Road, San Jose, CA 95135. Phone: (408) 223–1562. The project purpose and alternatives will be presented at this meeting. The building used for the scoping meeting is accessible to persons with disabilities. Any individual who requires special assistance, such as a sign language interpreter, to participate in the scoping meeting should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330. Scoping material will be available at the meeting and may be obtained in advance of the meeting by contacting Mr. Fitzwater at the address or phone number given below.

ADDRESSES: Written comments should be sent to Mr. Thomas Fitzwater, Environmental Planning Manager, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone: (408) 321–5789. Fax: (408) 321–5787. E-mail: *scoping.capitolexpressway@vta.org.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Fitzwater, Environmental Planning Manager, VTA, 3331 North First Street, San Jose, CA 95134–1906. Phone (408) 321–5789 or Mr. Jerome Wiggins, Office of Planning and Program Development, FTA, 201 Mission Street, Room 2210, San Francisco, CA 94105. Phone: (415) 744–3115. People with special needs should contact Jennifer Rielly, Public Communications Specialist, VTA Community Outreach, at (408) 321–7575 or TDD only at (408) 321–2330.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and VTA invite all interested individuals and organizations, and federal, state, regional, and local agencies to provide comments on the scope of the project. A summary of the MIS, Downtown East Valley Major Investment Study—Project Summary Report (December 2000), is available for public review at the following public libraries: (1) Dr. Martin Luther King, Jr. Main Library, 180 West San Carlos Street, San Jose, CA 95113; (2) Hillview Branch Library, 2255 Ocala Avenue, San Jose, CA 95122; (3) Evergreen Branch Library, 2635 Aborn Road, San Jose, CA 95121; and (4) Seventrees Branch Library, 3597 Cas Drive, San Jose, CA 95111. The MIS summary is also available by contacting Mr. Fitzwater at the address and phone number given above. Mr. Fitzwater should also be contacted to be placed on the project mailing list and to receive additional information about the project. Written comments on the alternatives and potential impacts to be considered should be sent to Mr. Fitzwater.

II. Project Purpose and Need

The project purpose is to improve public transit service in the downtown and East Valley areas of the City of San Jose by addressing the following specific goals established in the MIS: improve mobility; increase transit ridership; target the highest commute corridors with emphasis on work and school trips; promote livable neighborhoods and community support.

In general, the project would provide residents of southeast San Jose more efficient access to the light rail system and improved connections and greater mobility options throughout the Silicon Valley. For example, residents could travel to south San Jose, downtown San Jose, and to the cities of Santa Clara, Sunnyvale, and Mountain View via the Guadalupe, Tasman, and Capitol LRT lines. Linkages to the Caltrain commuter rail line, which provides service to San Francisco and to communities along the Peninsula, may also be accessed at intermodal connections throughout the system.

The project would also alleviate heavy traffic congestion in the Interstate 680 and U.S. 101 corridors and on major arterials; reduce the circulation impacts of increased peak-hour traffic; improve regional air quality by reducing automobile emissions; improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations; and support local economic and land development goals.

III. Alternatives

The Capitol Expressway Light Rail Project is examining alternatives to be carried forward into the environmental analysis process. The No-Action Alternative will consist of the existing conditions, in accordance with both NEPA and CEQA requirements. The Build or LRT Alternative is the Capitol Expressway LRT Project.

The proposed alignment of the LRT project begins at the end of the Capitol [Avenue] LRT line, currently under construction. Starting on Capitol Avenue, at the intersection of Capitol and Wilbur Avenues in east San Jose, the LRT would transition to operate in the median of Capitol Expressway, at grade in an exclusive right-of-way with some potential for grade separation at locations to be determined during conceptual engineering. The line would extend to the Eastridge Mall area as the terminus of the first phase. The next phase(s) would continue along Capitol Expressway to the Capitol Station on the Guadalupe LRT line. In this portion of the alignment, the roadway would need to be widened to accommodate the LRT median. Along the alignment, nine conceptual station locations have been identified. More precise station locations and alignment options will be developed during preparation of the Draft EIS/EIR.

The EIS/EIR will also address any additional alternatives identified in the scoping process.

IV. Probable Effects

The purpose of the EIS/EIR is to fully disclose the environmental consequences of building and operating the Capitol Expressway LRT Project in advance of any decisions to commit substantial financial or other resources towards its implementation. The EIS/EIR will explore the extent to which project alternatives and design options result in environmental impacts and will discuss actions to reduce or eliminate such impacts.

Environmental issues to be examined in the EIS/EIR include: changes in the physical environment (natural resources, air quality, noise, water quality, geology, visual); changes in the social environment (land use, business and neighborhood disruptions); changes in traffic and pedestrian circulation; changes in transit service and patronage; associated changes in traffic congestion; and impacts on parklands and historic resources. Impacts will be identified both for the construction period and for the long-term operation of the alternatives. The proposed evaluation criteria include transportation, environmental, social, economic, and financial measures, as required by current federal (NEPA) and state (CEQA) environmental laws and current Council on Environmental Quality and FTA guidelines.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS/EIR should be directed to VTA as noted above.

V. FTA Procedures

The EIS/EIR for the Capitol Expressway LRT Project will be prepared simultaneously with conceptual engineering for station and alignment options. The EIS/EIR/conceptual engineering process will address the potential use of federal funds for the proposed project, as well as assess the social, economic, and environmental impacts of station and alignment alternatives. Station designs and alignment alternatives will be refined to minimize and mitigate any adverse impacts identified.

After publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS/EIR and comments received, VTA will select a preferred alternative, which will be described in full detail in the Final EIS/EIR.

Issued on: September 14, 2001.

F. James Kenna,

Deputy Regional Administrator.

[FR Doc. 01–23318 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Over-the-road Bus Accessibility Program Announcement of Project Selection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the Fiscal Year 2001 selection of projects to be funded under the Over-the-road Bus (OTRB) Accessibility Program, authorized by Section 3038 of the Transportation Equity Act for the 21st Century (TEA–21). The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to help finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility rule, published in a **Federal Register** notice on September 24, 1998.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant-specific issues; or Sue Masselink, Office of Program Management, 202–366–2053 for general information about the OTRB Accessibility Program.

SUPPLEMENTARY INFORMATION: In fiscal year 2001, a total of $4.7 million was available for allocation: $3 million for intercity fixed-route providers and $1.7 million for all other providers, such as commuter, charter, and tour operator. A total of 84 applicants requested $15.1 million: $8.2 million was requested by intercity fixed-route providers, and $6.9 million was requested by all other providers. Project selections were made on a discretionary basis, based on each applicant's responsiveness to statutory project selection criteria, fleet size, and level of funding received in previous years. Because of the high demand for the funds available, most applicants received less funding than they requested, although with the exception of some applicants that received funding in previous years, all qualified applicants received some funding. Each of the following 61 awardees, as well as the 23 applicants who were not selected for funding, will receive a letter that explains how funding decisions were made.

Operator	Award amounts		
	Intercity fixed-route	Other	Total
Region I:			
Brunswick Transportation Co., Inc., South Portland, ME	$0	$44,800	$44,800
Wilson Bus Lines, Inc., Cambridge, MA	24,107	0	24,107
VIP Charter and Tour, Portland, ME	0	18,156	18,156
Concord Coach Lines, Inc., Concord, NH	61,242	0	61,242
DATTCO, Inc., New Britain, CT	91,292	35,800	127,092
Ritchie Bus Lines, Inc., Northboro, MA	0	19,700	19,700
Peter Pan Bus Lines, Inc., Springfield, MA	216,257	0	216,257
Pawtuxet Valley Bus, Inc., West Warwick, RI	0	57,600	57,600
The Arrow Line, Inc. (Coach USA), East Hartford, CT	0	11,400	11,400
Coach USA/Mini Coach of Boston, Chelsea, MA	0	39,600	39,600
Conway's Bus Service, Inc. (Gray Line), Cumberland, RI	0	41,800	41,800
Bonanza Bus Lines, Providence, RI	84,044	0	84,044
Region II:			
Swarthout Coaches, Inc., Ithaca, NY	0	24,100	24,100
Academy Express, LLC, Hoboken, NJ	358,203	38,000	396,203
Adirondack Transit Lines, Inc., Kingston, NY	135,000	0	135,000
Brown Coach, Inc., Fonda, NY	0	36,300	36,300
Hampton Jitney, Inc., Southampton, NY	0	34,400	34,400
Hudson Transit Lines, Inc. (Shortline), Mahwa, NJ	0	189,000	189,000
Region III:			
Spirit Tours, LLC, Glen Allen, VA	0	27,000	27,000
James River Bus Lines, Richmond, VA	0	30,240	30,240
Sheraton Bus Services, Inc., Wyalusing, PA	0	30,975	30,975
Travel Mates of Virginia, Inc., Harrisonburg, VA	0	24,300	24,300
Capitol Trailways (Capitol Bus Company), Harrisburg, PA	0	34,500	34,500
Susquehanna Transit Company, Avis, PA	0	25,200	25,200
Eyre Bus Services, Inc., Glenelg, MD	0	33,100	33,100
Dillon's Bus Service, Inc., Millersville, MD	0	92,700	92,700
Rill's Bus Service, Inc., Westminster, MD	0	29,700	29,700
Anderson Coach & Tour, Greenville, PA	0	67,100	67,100
Lenzer Tour and Travel, Sewickley, PA	0	42,700	42,700
Fullington Auto Bus Company, Clearfield, PA	109,523	0	109,523
Butler Motor Transit, Inc., Butler, PA	0	6,300	6,300
Fantasy Land Cruises, Inc., Duncansville, PA	0	30,600	30,600
Lodestar Bus Lines, Inc., Johnstown, PA	0	28,000	28,000
Region IV:			
Spirit Coach, LLCC, Huntsville, AL	0	27,000	27,000
GDA Motor Coach, Inc., Conyers, GA	0	25,200	25,200
Americoach Tours, Inc. (Gray Lines), Memphis TN	0	52,100	52,100
Colonial Trailways, Mobile, AL	4,500	0	4,500
Good Time Tours, Pensacola, FL	0	1,800	1,800
Region V:			
Peoria Charter Coach Company, Peoria, IL	53,684	0	53,684
Turner Coaches, Inc., Terre Haute, IN	0	24,300	24,300
Wisconsin Coach Lines, Inc., Waukesha, WI	33,750	2,200	35,950
Colonial Coach Lines, Inc., Des Plaines, IL	0	41,800	41,800
Pioneer Coach Lines, Inc., Chicago, IL	0	40,700	40,700
Lakefront Lines, Inc., Cleveland, OH	58,124	0	58,124
Van Galder, Janesville, WI	38,000	0	38,000
Region VI:			
Greyhound Lines, Inc., Dallas, TX	1,269,000	0	1,269,000
Fun Time Tours, Inc., Corpus Christi, TX	0	36,600	36,600
Gulf Coast Transportation, Inc. (GCTI), Houston, TX	0	94,400	94,400
Vaught Charters/Coach USA, Grand Prairie, TX	0	30,600	30,600
Kerrville Bus Company/Coach USA, San Antonio, TX	114,120	78,100	192,220
El Expreso Bus Company, Houston, TX	45,000	0	45,000
Red Carpet Charters, Oklahoma City, OK	0	45,800	45,800
Region VII:			
Burlington Trailways, West Burlington, IA	0	27,600	27,600
Arrow Stage Coach Lines, Omaha, NE	0	92,800	92,800
Region VIII:			
Ramblin Express Inc., Colorado Springs, CO	0	24,100	24,100
Salt Lake Coaches, Inc., Salt Lake City, UT	0	35,500	35,500
Region IX:			
VIA Adventures, Inc., Merced, CA	17,977	0	17,977
KT Contract Services, North Las Vegas, NV	21,000	42,000	63,000
Golden State Coaches, Carson City, NV	22,500	0	22,500
Grosvenor Bus Lines, San Francisco, CA	0	37,500	37,500
B & G Promotions, Inc., Pismo Beach, CA	30,362	0	30,362
AmericanStar Tours, Pismo Beach, CA	22,608	0	22,608

Operator	Award amounts		
	Intercity fixed-route	Other	Total
Roberts Tours & Transportation, Inc., Honolulu, HI	0	50,400	50,400
Region X:			
None Selected	0	0	0
Total	2,999,242	[1] 1,719,040	4,718,282

[1] $19,250 was carried over from withdrawn FY 2000 projects.

Eligible project costs may be incurred by awardees prior to final grant approval. The incremental capital cost for adding wheelchair lift equipment to any new vehicles delivered on or after June 9, 1998, the effective date of TEA–21, is eligible for funding under the OTRB Accessibility Program.

Applicants selected for funding may be contacted by FTA regional offices if any additional information is needed before grants are made. The grant applications will be sent to the U.S. Department of Labor (DOL) for certification under the labor protection requirements pursuant to 49 U.S.C. 5333(b). After referring applications to affected employees represented by a labor organization, DOL will issue a certification to FTA. The terms and conditions of the certification will be incorporated in the FTA grant agreement under the new guidelines replacing those in 29 CFR part 215. Please see Amendment to Section 5333(b), Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA–21); Final Rule (64 FR 40990, July 28, 1999).

Issued on September 13, 2001.

Jennifer L. Dorn,

Administrator.

[FR Doc. 01–23258 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10630]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel THREE D.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 18, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10630. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: THREE D. *Owner:* Michael and Chanda Wall.

(2) Size, capacity and tonnage of vessel. *According to the applicant:* "28 ft 6 in, 11,000 lbs."

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* "* * * charter fishing boat, with a six pack captain's license, home port of St. Petersburg, Florida with an operating range from Pensacola, Florida to Key West, Florida within 100 miles of shore."

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1972. *Place of construction:* unknown build site.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* "I don't feel this vessel will have a significant impact on other vessels due to the high quantity of tourists in the area. The other charters we know of in the area have to turn away customers."

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* "We do not feel this boat will have any impact on U.S. shipyards due to the age of the boat."

Dated: September 13, 2001.

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By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23230 Filed 9–17–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34086]

The Columbia and Cowlitz Railway Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant temporary overhead trackage rights to The Columbia and Cowlitz Railway Company (CLC) over BNSF's line between Rocky Point, WA (BNSF milepost 95.8), and Longview, WA (BNSF milepost 101.1), a distance of 5.3 miles.

The parties reported that they intended to consummate the transaction on August 31, 2001. The earliest the transaction could have been consummated was September 3, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).[1] The temporary trackage rights are to allow CLC to bridge its train service while CLC's main line is out of service due to structural maintenance and are scheduled to expire on March 1, 2002, pursuant to contractual terms.[2]

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34086 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Stephen L. Day, Esq., Betts Patterson Mines, P.S., One Convention Place, 701 Pike Street, Suite 1400, Seattle, WA 98101.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: September 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23241 Filed 9–17–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Counsel for CLC was contacted by telephone and acknowledged that the transaction could not be consummated until September 3, 2001.

[2] Counsel for CLC has indicated that a petition for exemption under 49 U.S.C. 10502 requesting that the Board permit the proposed temporary overhead trackage rights arrangement described in the present proceeding to expire on March 1, 2002, will be filed in the very near future.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34088]

The Columbia and Cowlitz Railway Company—Trackage Rights Exemption—The Longview Switching Company

The Longview Switching Company (LSC), has agreed to grant temporary overhead trackage rights to The Columbia and Cowlitz Railway Company (CLC) over LSC's line between Columbia Junction and Longview Junction, WA.

The parties reported that they intended to consummate the transaction on August 31, 2001. The earliest the transaction could have been consummated was September 3, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).[1] The temporary trackage rights are to allow CLC to bridge its train service while CLC's main line is out of service due to structural maintenance and are scheduled to expire on March 1, 2002, pursuant to contractual terms.[2]

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34088 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Stephen L. Day, Esq., Betts Patterson Mines, P.S., One Convention Place, 701 Pike Street, Suite 1400, Seattle, WA 98101.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: September 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23240 Filed 9–17–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Counsel for CLC was contacted by telephone and has acknowledged that the transaction could not be consummated until September 3, 2001.

[2] Counsel for CLC has indicated that a petition for exemption under 49 U.S.C. 10502 requesting that the Board permit the proposed temporary overhead trackage rights arrangement described in the present proceeding to expire on March 1, 2002, will be filed in the very near future.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (collectively, the "agencies"), may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), propose to extend, without revision, a currently approved information collection, the Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004). At the end of the comment period, the comments and recommendations received will be analyzed to determine whether the FFIEC and the agencies can and should modify the report. The agencies will then submit the report to OMB for review and approval.

DATES: Comments must be submitted on or before November 19, 2001.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments should refer to the OMB control number(s) and will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Public Information Room, Mailstop 1–5, Attention: 1557–0070, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. Comments will be available for inspection and photocopying at the OCC's Public Information Room, 250 E Street, SW, Washington, DC 20219. Appointments for inspection of comments may be made by calling (202) 874–5043.

Board: Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, submitted by electronic mail to *regs.comments@federalreserve.gov*, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: *comments@fdic.gov*].

Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Additional information or a copy of the collection may be requested from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal To Extend for Three Years Without Revision the Following Currently Approved Collection of Information

Report Title: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks.

Form Number: FFIEC 004.

Frequency of Response: Annually (for executive officers and principal shareholders), and on occasion (for national, state member and insured state nonmember banks).

Affected Public: Individuals or households, Businesses or other for-profit.

For OCC

OMB Number: 1557–0070.

Number of Respondents: 27,500 (25,000 executive officers and principal shareholders fulfilling recordkeeping burden, 3,050 national banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 2.95 hours.

Estimated Total Annual Burden: 81,250.

For Board

OMB Number: 7100–0034.

Number of Respondents: 4,955 (3,964 executive officers and principal shareholders fulfilling recordkeeping burden, 991 state member banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 1.12 hours.

Estimated Total Annual Burden: 5,551.

For FDIC

OMB Number: 3064–0023.

Estimated Number of Respondents: 29,925 (23,940 executive officers and principal shareholders fulfilling recordkeeping burden, 5,985 insured state nonmember banks fulfilling recordkeeping and disclosure burden).

Estimated Average Hours per Response: 1.8 hours.

Estimated Total Annual Burden: 53,865.

General Description of Report: This information collection is mandatory: 12 U.S.C. 1972(2)(G) (all); 12 U.S.C. 375(a)(6) and (10), and 375(b)(10) (Board); 12 U.S.C. 1817(k) and 12 U.S.C. 93a (OCC); 12 CFR 349.3, 12 CFR 349.4, and 12 CFR 304.5(e) (FDIC).

Abstract: Executive officers and principal shareholders of insured banks must file with the bank the information contained in the FFIEC 004 report on their indebtedness and that of their related interests to correspondent banks. The information contained in the FFIEC 004 report is prescribed by statute and regulation, as cited above. Banks must retain these reports or reports containing similar information and fulfill other recordkeeping requirements, such as furnishing annually a list of their correspondent banks to their executive officers and principal shareholders. Banks also have certain disclosure requirements for this information collection.

Current Actions: The agencies propose to extend, without revision, the FFIEC 004 report. The agencies are currently evaluating the recordkeeping requirements contained in their regulations that relate to the FFIEC 004 report. Should the agencies decide to revise these regulations, a separate **Federal Register** notice will be published inviting comment from the public on the proposed revisions. Any revisions that may be made to the agencies' regulations would be subsequently incorporated into this information collection (FFIEC 004).

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: September 7, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, August 30, 2001.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 30th day of August, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–23186 Filed 9–17–01; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities; Proposed Revision of Information Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, FDIC, and OTS (collectively the Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies are soliciting comment on proposed revisions to the charter application of the OCC and OTS and to the FDIC's deposit insurance application. The proposed form will make the application forms uniform among the Agencies and is titled, "Interagency Charter and Federal Deposit Insurance Application." In the case of the OCC, this collection is part of the Comptroller's Corporate Manual. Additionally, the OCC is making other clarifying changes to the Comptroller's Corporate Manual.

DATES: You should submit comments by November 19, 2001.

ADDRESSES: Interested parties are invited to submit comments to any or all of the Agencies. All comments, which should refer to the OMB control number, will be shared among the Agencies.

OCC: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW, Mail Stop 1–5, Attention: 1557–0014, Washington, DC 20219. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043. In addition, you may fax your comments to (202) 874–4448 or e-mail them to regs.comments@occ.treas.gov.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), Office of Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. All comments should refer to "Interagency Charter and Federal Deposit Insurance Application." Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

OTS: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention: 1550–0005, FAX Number (202) 906–6518, or e-mail to infocollection.comments@ots.treas.gov.

Public Inspection: Comments and the related index will be posted on the OTS Internet Site at www.ots.treas.gov. In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW, by appointment. To make an appointment, call (202) 906–5922, send an e-mail to publicinfo@ots.treas.gov, or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) Appointments will be scheduled on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

FOR FURTHER INFORMATION CONTACT: You can request additional information from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. For subject matter information, you may contact Cheryl Martin at (202) 874–4614, Licensing, Policy, and Systems, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

FDIC: Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Sally W. Watts, OTS Clearance Officer, (202) 906–7380; Frances C. Augello, Senior Counsel, Business Transactions Division, (202) 906–6151; Patricia D. Goings, Financial Analyst, Examination Policy, (202) 906–5668; or Damon C. Zaylor, Financial Analyst, Examination Policy, (202) 906–6787, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Title: Interagency Charter and Federal Deposit Insurance Application.

OCC's Title: Comptroller's Corporate Manual. The specific portions of the Comptroller's Corporate Manual (Manual) covered by this notice are those that pertain to the Charter Application located in the Charters booklet of the Manual, which will become an interagency form.

OMB Number:

OCC: 1557–0014.
FDIC: 3064–0001.
OTS: 1550–0005.

Form Number:

OCC: None.
FDIC: 6200/05.
OTS: 138.

Description: This submission replaces the following forms—

OCC: None.
FDIC: "Application for Federal Deposit Insurance."
OTS: "Application for Permission to Organize."

Abstract: This submission covers a revision to the charter applications of the OCC and OTS and the deposit insurance application of the FDIC. The proposed form will make the application form uniform among the Agencies and is titled "Interagency Charter and Federal Deposit Insurance Application." The Agencies need the information to ensure that the covered proposed activities are permissible under law and regulation and are consistent with safe and sound banking practices. For example, the Agencies are required to consider financial and managerial resources, future earnings prospects, and community reinvestment. Further, the Agencies use the information to evaluate specific individuals' qualifications. Both financial institutions and individuals organizing a financial institution must provide this information.

Further, the OCC is making a change to its Charters booklet of the Manual, adding the interagency application form and providing updated information about filing for a national bank charter. The OCC is also making technical and clarifying changes to various Manual booklets. For example, the OCC is making changes to its Branches and Relocations booklet, clarifying the information needed to establish a limited branch office. These changes are not material and are technical in nature. These changes are an administrative adjustment, and do not change, in any way, the requirements on national banks.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; Businesses or other for-profit.

Estimated Number of Respondents:

OCC: 50.
FDIC: 200.
OTS: 20.

Estimated Frequency of Response: One time.

Estimated Burden Hours per Response:

OCC: 125.
FDIC: 125.
OTS: 125.

Estimated Total Burden:

OCC: 6,250.
FDIC: 25,000.
OTS: 2,700.

Comments: Comments submitted in response to this notice will be summarized in each Agency's request for OMB approval, and analyzed to determine the extent to which the collection should be modified. All comments will become a matter of public record.

Written comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 7, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated at Washington, DC, this 7th day of September, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: September 7, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation Division, Office of Thrift Supervision.

[FR Doc. 01–23191 Filed 9–17–01; 8:45 am]

BILLING CODE 4810–33, 6720–01, 6714–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Assessments—12 CFR part 8." The OCC also gives notice that it has sent the information collection to OMB for review and approval.

DATES: You should submit your comments to the OCC and the OMB Desk Officer by October 18, 2001.

ADDRESSES: You should direct your comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0223, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to regs.comments@occ.treas.gov. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make

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an appointment to inspect the comments by calling (202) 874–5043.

Alexander T. Hunt, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is requesting extension of OMB approval, with revision, of the following information collection:

Title: Assessments—12 CFR part 8.

OMB Number: 1557–0223.

Description: The National Bank Act authorizes the OCC to collect assessments, fees, and other charges as necessary or appropriate to carry out the responsibilities of the OCC. The OCC will require national banks to provide the OCC with receivables attributable data from independent credit card banks, that is, national banks that primarily engage in credit card operations and are not affiliated with a full service national bank. Receivables attributable are the total amount of outstanding balances due on credit card accounts owned by an independent credit card bank (the receivables attributable to those accounts) on the last day of an assessment period, minus receivables retained on the bank's balance sheet as of that day. The OCC will use the information to verify the accuracy of each bank's assessment computation and to adjust the assessment rate for independent credit card banks over time.

Type of Review: Revision of a currently approved information collection.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 35.

Estimated Total Annual Responses: 70.

Frequency of Response: Semiannually.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 70 hours.

Dated: September 12, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 01–23231 Filed 9–17–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–66]

Cancellation of Customs Broker License

AGENCY: Customs Service, Department of the Treasury.

ACTION: Customs broker license cancellation.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license is canceled without prejudice.

Name: Eagle USA Import Brokers, Inc.
License #: 16774.
Port Name: Dallas/Ft. Worth, TX.

Dated: September 6, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–23197 Filed 9–17–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–65]

Delegation of Authority To Acknowledge Waivers of the Statute of Limitations

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that, effective January 1, 2001, Customs Headquarters has delegated to Fines, Penalties and Forfeitures ("FP&F") Officers in the servicing Customs ports the authority, with a noted exception, to acknowledge waivers of the statute of limitations from parties who might otherwise be entitled to assert the statute of limitations as a defense against civil suit. The delegated authority does not extend to situations where the FP&F Officer has already referred to Customs Headquarters a pending petition, supplemental petition, offer, or other matter relating to an existing penalty or forfeiture case.

DATES: The delegation of authority to acknowledge waivers of the statute of limitations went into effect January 1, 2001.

ADDRESSES: Corporations and individuals submitting statute of limitations waivers should address the waivers to the Fines, Penalties and Forfeitures Officer of the servicing Customs port.

FOR FURTHER INFORMATION CONTACT: Alan Cohen, Penalties Branch, Office of Regulations and Rulings, U.S. Customs Service, (202) 927–1503.

SUPPLEMENTARY INFORMATION:

Background

Section 621 of the Tariff Act of 1930, as amended (19 U.S.C. 1621), is the statute of limitations for the Government to initiate judicial proceedings to enforce the collection of a monetary penalty or forfeiture of property accruing under the customs laws. Pursuant to 19 U.S.C. 1621, the Government, as a general rule, must initiate such judicial proceedings within 5 years from the time that an alleged offense is discovered, or in the case of forfeiture, within 2 years after the time when the involvement of the property in the event was discovered, whichever is later. For non-fraudulent violations of 19 U.S.C. 1592 or 1593a, however, the Government must initiate judicial proceedings within 5 years from the date of the alleged violation. For violations of 19 U.S.C. 1592 or 1593a arising out of fraud, the Government must commence suit within 5 years from the date of discovery of fraud.

The administrative procedures established by 19 U.S.C. 1592(b) and 1618, and implemented by parts 162 and 171 of the Customs Regulations (19 CFR parts 162 and 171), set forth the manner by which certain penalty and forfeiture actions are processed. In certain circumstances, Customs will shorten the time in which a party has to provide information to Customs or petition for relief in order to ensure that Customs can administratively pursue the penalty or forfeiture action before the statute of limitations expires. For example, §§ 162.78(a) and 171.2(e) of the Customs Regulations (19 CFR 162.78(a) and 171.2(e)) provide a Fines, Penalties & Forfeitures ("FP&F") Officer with authority to shorten the time a party has to respond to pre-penalty and penalty notices if there is a short period of time remaining before the statute of limitations expires.

A party may wish to waive the statute of limitations for a period of time so that the administrative process may continue in an orderly fashion. A waiver of the statute of limitations may provide a party with additional time to respond to a pre-penalty, penalty or seizure notice, and promote final disposition of the matter by administrative means without resorting to judicial action.

In T.D. 69–126, dated May 20,1969, at paragraphs (1)(A)(b)(2) and (3), the Director, Division of Entry Procedures and Penalties, Office of Regulations and Rulings, U.S. Customs Service, was delegated the authority to make decisions with regard to certain penalty claims. Inherent in this delegation is the authority to acknowledge a waiver of the statute of limitations.

The functions of the Director, Division of Entry Procedures and Penalties, regarding penalty and forfeiture matters now reside with the Director, International Trade Compliance Division, pursuant to the reorganization of the Office of Regulations and Rulings which was effective December 30, 1990.

In a Customs memorandum referenced 635783 ACC, dated December 22, 2000, the Director, International Trade Compliance Division, notified all FP&F Officers that, effective January 1, 2001, they are delegated the authority to provide acknowledgement of legally sufficient waivers, except where the FP&F Officer has referred to Customs Headquarters a pending petition, supplemental petition, offer, or other matter relating to an existing penalty or forfeiture case. In this situation, the FP&F Officer will continue to forward waivers to Customs Headquarters for consideration.

Corporations and individuals submitting statute of limitations waivers to Customs should address their submissions to the FP&F Officer of the servicing Customs port, and should no longer submit waivers to Customs Headquarters.

Dated: September 12, 2001.

Sandra L. Bell,

Director, International Trade Compliance Division, Office of Regulations and Rulings.

[FR Doc. 01–23196 Filed 9–17–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Information Reporting Program Advisory Committee; Nomination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Request for nominations.

SUMMARY: The Internal Revenue Service (IRS) requests nominations of individuals for consideration as Information Reporting Program Advisory Committee (IRPAC) members. The external advisory group to the Information Reporting Program. Interested parties may nominate themselves and/or at least one other qualified person for membership.

Nominations will be accepted for current vacancies and vacancies that will or may occur during the next twelve (12) months, and should describe and document the applicant's qualifications for membership. Comprised of not more than twenty-five (25) members, approximately one half of these IRPAC appointments will expire in 2001. To accomplish its objective of close alignment with the needs and strategic goals of the IRS while remaining a strong external feedback mechanism, it is essential that the IRPAC comprise a diverse group of dedicated and talented professionals. Toward this end, the selection process focuses on a balanced forum and represents the IRS' commitment to developing a diverse committee based on several factors including: (i) Geographical location; (ii) stakeholder representation; and (iii) taxpayer segments, i.e., small and large business, preparers, academics, state and local governments. Accordingly, to maintain membership diversity, selection is based on the segment or group an applicant represents as well as his or her qualifications. In keeping therewith, for purposes of diversity, given the composition of the returning IRPAC membership, the IRS is seeking nominations of individuals who represent disparate geographical locations, taxpayer segments, and stakeholder groups, particularly applicants who represent the small business/self-employed taxpayer segment.

DATES: Written nominations must be received on or before October 5, 2001.

ADDRESSES: Nominations should be sent to Ms. Romona Johnson, Office of National Public Liaison, CL:NPL:PAC, Room 7567, 1111 Constitution Avenue, NW., Washington, DC 20224 Attn. IRPAC Nominations; e-mail: **public_liaison@irs.gov.* Applications may be submitted by mail to the address above or faxed to 202–927–5253. However, if submitted vis-a-vis facsimile, Office of National Public Liaison subsequently must receive the original application as an applicant cannot be considered nor can his or her application be processed absent an original signature. Application packages may be requested by telephone from the Office of National Public Liaison, 202–622–6440, and are available on the Tax Professional's Corner and Small Business Corner which are located on the IRS' Web site at: *http://www.irs.gov/prod/bus_info/tax—pro/index.html* and *http://www.irs.gov/prod/bus_info/sm_bus/index.html*, respectively.

FOR FURTHER INFORMATION CONTACT: Ms. Lorenza Wilds, 202–622–6440 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The final Conference Report of the 1989 Omnibus Budget Reconciliation Act contained an administrative recommendation that a federal advisory committee be created to advise the IRS on information reporting issues. As a result, the IRPAC was established in 1991, authorized under the Federal Advisory Committee Act, Public Law No. 92–463. The primary purpose of the IRPAC is to provide an organized forum for IRS officials and public representatives to consider relevant information reporting issues. As such, the IRPAC: (i) Conveys the public's perceptions of IRS activities; (ii) advises with respect to specific information reporting administration issues (iii) provides constructive observations regarding current or proposed IRS policies, programs, and procedures; and (iv) proposes significant improvements in information reporting operations. Accordingly, the IRPAC operates to reduce taxpayer burden and improve the overall administration of information reporting. For example, the IRPAC suggestion that the IRS permit the electronic provision of payee statements gave rise to the draft regulatory change, published in 2001, providing to this effect, and it is contemplated that similar significance will attached to the Committee's advice when addressing new challenges in a rapidly changing business environment as the restructured IRS moves forward. Because each Operating Division relies on the Information Reporting Program, the IRS must ensure application of a coordinated approach when addressing Information Reporting Program issues. Therefore, acknowledging the critical role of information reporting, emphasizing its commitment to the Information Reporting Program, and as a measure of the IRPAC's importance, a centralized coordinating mechanism, the Information Reporting Program Policy Council (IRP Policy Council) was established to formulate and coordinate strategic and crosscutting information reporting issues. A counterpart to the IRPAC consisting of IRS executives from each Operating Division, the IRP Policy Council facilitates cross-divisional consistency in information reporting and provides strategic leadership for the Service-wide direction of the Information Reporting Program. In addition, the IRP Policy Council considers and prioritizes the recommendations of the IRPAC as part of the strategic planning process, and meets regularly with Committee

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members to identify and recommend strategic issues for consideration.

The Commissioner determines the size and composition of the IRPAC. Typically, members serve a term of two years, with the possibility of a one-year renewal, subject to the Commissioner's approval. The IRPAC is further segmented into sub-groups that mirror the new IRS structure. Working groups address the policies, administration and operational issues specific to the Operating Divisions.

Members must attend all public meetings and official working sessions and are encouraged to provide feedback to the Advisory Committee Chairpersons, fellow Advisory Committee members, and appropriate IRS personnel, on Advisory Committee related issues, based on personal experience and pertinent information obtained from other individuals and members of their constituencies. While Committee members are not paid for their time and services, members residing outside of the Washington DC metropolitan area will be reimbursed for travel-related expenses incurred to attend an average of two public meetings and one orientation session per year; in accordance with 5 U.S.C. 5703. IRPAC members, their employers or sponsoring associations/organizations are responsible for travel-related expenses to all scheduled working sessions or other meetings.

Receipt of nominations will be acknowledged, nominated individuals contacted, and immediately thereafter, biographical information must be completed and returned to Ms. Romona Johnson, Office of National Public Liaison, within fifteen(15) days of receipt. In accordance with Department of Treasury Directive 21–03, a clearance process including, *inter alia*, pre-appointment of annual tax checks, a Federal Bureau of Investigation criminal and subversive name check, and a security clearance check will be conducted.

Equal opportunity practices will be followed for all appointments to the IRPAC accordance with the Department of Treasury and IRS policies. To ensure that the recommendations of the IRPAC have taken into account the needs of the diverse groups served by the IRS, membership shall include, to the extent practicable, individuals with demonstrable ability to represent minorities, women and persons with disabilities.

Dated: September 10, 2001.

Cathy Vanhorn,

Designated Federal Official, Acting Director, National Public Liaison.

[FR Doc. 01–23261 Filed 9–17–01; 8:45 am]

BILLING CODE 4830–01–P



Federal Register

Tuesday,
September 18, 2001

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Hydrocholoric Acid Production; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7057–1]

RIN 2060–AH75

National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities. The EPA has identified these facilities as major sources of hazardous air pollutants (HAP) emissions, primarily HCl. Hydrochloric acid is associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (for example, effects on the central nervous system, blood, and heart) and acute health disorders (for example, irritation of eyes, throat, and mucous membranes and damage to the liver and kidneys).

These proposed NESHAP would implement section 112(d) of the Clean Air Act (CAA) by requiring all HCl production facilities that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The EPA estimates that these proposed NESHAP would reduce nationwide emissions of HAP from HCl production by approximately 1,620 Megagrams per year (Mg/yr) (1,790 tons per year (tpy)). The emissions reductions achieved by these proposed NESHAP, when combined with the emissions reductions achieved by other similar standards, would provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before November 19, 2001.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 9, 2001, a public hearing will be held on October 18, 2001.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–99–41, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–99–41 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Maxwell, Combustion Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5430; facsimile number (919) 541–5450; electronic mail address maxwell.bill@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Comments submitted by e-mail must be submitted as an ASCII file to avoid the use of special characters and encryption problems. Comments will also be accepted on disks in WordPerfect® version 5.1, 6.1, or 8 file format. All comments and data submitted in electronic form must note the docket number: A–99–41. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Bill Maxwell, c/o OAQPS Document Control Officer (Room 740B), U.S. Environmental Protection Agency, 411 West Chapel Hill Street, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. A request for a public hearing must be made by the date specified under the DATES section. People interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact: Ms. Kelly Hayes, Combustion Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5578 at least 2 days in advance of the public hearing. People interested in attending the public hearing must also call Ms. Hayes to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered in the development of this proposed rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this proposed rule are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules http://www.epa.gov/ttn/oarpg. Additional related information may also be found on the Air Toxics Website at http://www.epa.gov/ttn/atw/. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated entities. Categories and entities potentially affected by this action include:

Category	SIC[a]	NAICS[b]	Regulated entities
Industry	2819 2821 2869	325188 325211 325199	Hydrochloric Acid Production.

[a] Standard Industrial Classification.
[b] North American Information Classification System.

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in section § 63.8985 of the proposed NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

I. Background
A. What is the source of authority for development of NESHAP?
B. What criteria are used in the development of NESHAP?
C. What are the health effects associated with HCl emissions?
II. Summary of the Proposed Standards
A. What is the source category?
B. What are the primary sources of emissions and what are the emissions?
C. What is the affected source?
D. What are the emission limitations and work practice standards?
E. What are the performance testing, initial compliance, and continuous compliance requirements?
F. What are the notification, recordkeeping, and reporting requirements?
III. Rationale for Selecting the Proposed Standards
A. How did we select the source category?
B. How did we select the affected source?
C. How did we select the form of the standards?
D. How did we determine the basis and level of the proposed standards for existing and new sources?
E. How did we select the testing, and initial and continuous compliance requirements?
F. How did we select the notification, recordkeeping, and reporting requirements?
IV. Summary of environmental, energy, cost, and economic impacts.
A. What are the air quality impacts?
B. What are the non-air health, environmental, and energy impacts?
C. What are the cost and economic impacts?
V. Solicitation of Comments and Public Participation
VI. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Unfunded Mandates Reform Act of 1995
F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et. seq.
G. Paperwork Reduction Act
H. National Technology Transfer and Advancement Act of 1995
I. Executive Order 13211, Energy Effects

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Hydrochloric acid production and fume silica production were listed as source categories under the production of inorganic chemicals group on EPA's initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576).[1] Today, we are combining these two source categories for regulatory purposes under the production of inorganic chemicals group and renaming the source category as HCl production. The next revision to the source category list will reflect this change. Major sources of HAP are those that have the potential to emit greater than 9 Mg/yr (10 tpy) of any one HAP or 23 Mg/yr (25 tpy) of any combination of HAP.

B. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information) in the category or subcategory or by the best-performing 5 sources (for which we have or could reasonably obtain emissions information) for categories or subcategories with fewer than 30 sources.

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, non-air quality health and environmental impacts, and energy impacts.

C. What Are the Health Effects Associated with HCl Emissions?

The primary HAP emitted from HCl production is HCl. Chlorine gas is also emitted. We do not have the type of current detailed data on each of the facilities covered by the emissions standards for this source category, nor for the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described below occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the proposed rule will

[1] Later listing notices (e.g., 66 FR 8220) refer to the source category as "fumed" silica.

reduce emissions and subsequent

aqueous product must be 10 percent or

B. What Are the Primary Sources of

scrubber to meet the emission limits

these monitored parameters staying

reduce emissions and subsequent exposures.

A discussion of the HAP-specific health effects is discussed below.

1. Hydrochloric Acid

Hydrochloric acid is corrosive to the eyes, skin, and mucous membranes. Acute (short-term) inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic (long-term) occupational exposure to HCl has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of HCl in humans. In rats exposed to HCl by inhalation, altered estrus cycles have been reported in females and increased fetal mortality and decreased fetal weight have been reported in offspring. We have not classified HCl for carcinogenicity.

2. Chlorine

Acute exposure to high levels of chlorine in humans can result in chest pain, vomiting, toxic pneumonitis, and pulmonary edema. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs. Chronic exposure to chlorine gas in workers has resulted in respiratory effects including eye and throat irritation and airflow obstruction. Animal studies have reported decreased body weight gain, eye and nose irritation, nonneoplastic nasal lesions, and respiratory epithelial hyperplasia from chronic inhalation exposure to chlorine. No information is available on the carcinogenic effects of chlorine in humans from inhalation exposure. We have not classified chlorine for potential carcinogenicity.

II. Summary of the Proposed Standards

A. What Is the Source Category?

The HCl production source category and the fume silica source category include HCl production facilities that are, or are part of, a major source of HAP emissions. The proposed rule defines an HCl production facility as the collection of equipment used to produce, store, and transfer for shipping HCl at a concentration of 10 percent by weight or greater. In other words, an HCl production facility is any process that routes a gaseous stream that contains HCl to an absorber, thereby creating a liquid HCl product. As noted above, to be covered by the proposed rule, the concentration of HCl in the liquid aqueous product must be 10 percent or greater, by weight.

There are numerous types of processes that produce the HCl-containing stream that is the starting point for an HCl facility. These include organic and inorganic chemical manufacturing processes that produce HCl as a by-product; the reaction of salts and sulfuric acid (Mannheim process); the reaction of a salt, sulfur dioxide, oxygen, and water (Hargreaves process); the combustion of chlorinated organic compounds; the direct synthesis of HCl via the burning of chlorine in the presence of hydrogen; and fume silica production, including the combustion of silicon tetrachloride in hydrogen-oxygen furnaces. The proposed rule is "blind" to the type of process that generates the HCl, as an HCl production facility begins at the point where the HCl-containing stream enters the absorber. For this reason, we decided to combine fume silica HCl production with other HCl production facilities and regulate both under this NESHAP.

The proposed rule excludes HCl production facilities under certain circumstances. First, even if 10-percent HCl (or greater) is produced, an HCl production facility is not subject to the proposed rule if all of the HCl and chlorine vent streams from the equipment (including absorbers, storage tanks and transfer operations) at the HCl production facility are recycled or routed to another process prior to being discharged to the atmosphere.

In addition, the proposed rule excludes certain HCl production facilities that are part of other source categories. Only around 5 percent of HCl is produced via a process where HCl is the primary intended product. Most HCl is produced as a by-product of other processes. Some of these processes are, or will be, subject to other Federal air pollution standards. For example, some operations produce liquid HCl following the incineration of chlorinated waste gas streams. If these operations are subject to the Hazardous Organic NESHAP (HON) requirements for HCl control after an incinerator that is used as a control device for halogenated group 1 process vents, that source is exempt from the proposed HCl NESHAP. The proposed NESHAP also excludes HCl production facilities when the operations that produce HCl are part of an affected source of another part 63 standard (e.g., the Steel Pickling NESHAP). For a more detailed discussion of these exclusions and how the proposed source category was selected, see section III.A of this preamble.

B. What Are the Primary Sources of Emissions and What Are the Emissions?

The primary HAP known to be released from HCl production is HCl. Chlorine may also be emitted from HCl production. While HCl is produced through many different types of processes (discussed above), potential HCl and chlorine emission sources are essentially the same for all processes. These potential emission sources include process vents, storage tanks, transfer operations, equipment leaks, and wastewater.

1. Types of Emission Sources

Most HCl production processes begin with a gaseous stream containing HCl. The stream can be a by-product stream from another process, an outlet stream from a combustion device that is treating chlorinated organic compounds, or a stream from a direct synthesis reaction furnace where hydrogen and chlorine are burned. No matter the origin of the HCl-containing stream, the process from that point forward is basically the same. The gaseous HCl-containing stream is routed to an HCl recovery absorption column, where the HCl is absorbed into either water or dilute HCl. The liquid leaving this column contains concentrated HCl.

The gaseous stream leaving the absorption column contains HCl that was not absorbed into the liquid in the tower and any chlorine present in the inlet stream. This outlet stream may be routed (or recycled) to another process, in which case it is no longer part of the HCl production affected source. However, if the outlet stream is directly discharged to the atmosphere or it is routed through other recovery/control devices before being discharged to the atmosphere, it is considered a process vent from an HCl production process.

If the liquid HCl leaving the absorption tower is routed to a storage tank, there is the potential for HCl emissions from the tank. The storage tanks are typically atmospheric storage tanks, and working loss emissions will occur as the tank is filled and emptied. While less significant, there are also breathing losses from atmospheric temperature and pressure changes. There is also the potential for emissions when HCl is loaded from a storage tank to a tank truck or rail car. Plants often reduce HCl emissions from storage tanks and transfer operations by using a scrubber.

Another potential source of HCl emissions is fugitive losses from equipment leaks. However, owners and operators of HCl production processes presumably have an incentive to identify and repair equipment leaks of HCl and chlorine because of their highly corrosive nature. The leaks can be easily identified, as the presence of ambient moisture (humidity) results in rapid corrosion on or around leaking equipment components.

The bottoms from scrubbers used to reduce HCl and chlorine emissions from process vents, storage vessels, and transfer operations are typically routed to wastewater treatment systems. In most cases, the HCl or chlorine has been chemically converted in the scrubber to sodium hypochlorite (bleach). Any residual chlorine or HCl would be quite small. We estimate that wastewater emissions represent less than 1 percent of total emissions from the source category. Therefore, we believe that wastewater streams do not represent a significant potential source of emissions.

2. Estimated Emissions

We have calculated the nationwide baseline emissions for each of the HCl production facility emission sources. Process vents emit a total of 2,810 Mg/yr (3,100 tpy) of combined HCl and chlorine emissions. Storage tanks emit 54 Mg/yr (59 tpy) of HCl, transfer operations emit 16 Mg/yr (17 tpy) of HCl, leaking equipment emits 240 Mg/yr (270 tpy) of HCl, and wastewater emits 11 Mg/yr (13 tpy) HCl. Total baseline emissions from the industry are 3,130 Mg/yr (3,450 tpy).

C. What Is the Affected Source?

The proposed rule defines the HCl production facility as the affected source. The affected source contains the five emission points described in the previous section: process vents, storage tanks, transfer operations, leaking equipment, and wastewater treatment operations. However, as described in section III.D of this preamble, there are no emission limitations or other requirements for wastewater treatment operations in the proposed rule.

D. What Are the Emission Limitations and Work Practice Standards?

We are proposing that new and existing affected sources maintain an outlet concentration of less than or equal to 12 parts per million by volume (ppmv) HCl and 20 ppmv chlorine from each process vent, determined using EPA Test Method 26A of 40 CFR part 60, appendix A. The proposed rule also would require that owners or operators establish site-specific operating limits for the final control device, based on monitored parameters and levels established during the performance test. For example, if you use a caustic scrubber to meet the emission limits, you must maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test. You also must maintain the daily average scrubber effluent pH within the operating range value established during the performance test.

For each storage tank and transfer operation at a new or existing affected source, the HCl emission limit (an outlet concentration of 12 ppmv or less) and operating limits are the same as for process vents. There are no chlorine emissions from these sources.

For leaking equipment, we are proposing a work practice standard. We would require you to prepare, and at all times operate according to, an equipment leak detection and repair (LDAR) plan that describes in detail the measures that will be put in place to control leaking equipment emissions at the facility. You would be required to submit the plan to the designated permitting authority on or before the compliance date.

We are not proposing any emission limitations or work practice standards for wastewater treatment, for the reasons discussed in section III(D)(5) of this preamble.

E. What Are the Performance Testing, Initial Compliance, and Continuous Compliance Requirements?

For process vents at new and existing affected sources, we are proposing to require that you demonstrate initial compliance by conducting a performance test that demonstrates that emissions are at an outlet concentration of less than or equal to 12 ppmv HCl and 20 ppmv chlorine. You must also establish site-specific operating limits based on control device parameters. These operating limits would be established for each parameter based on monitoring conducted during the initial performance test when the outlet concentration of both pollutants is less than or equal to the required emission limits (as reported in the facility's Notification of Compliance Status report).

Specifically for water or caustic scrubbers, which we believe will be the control device of choice in most situations, the proposed rule would require that you establish operating limits for pH of the scrubber effluent and the scrubber liquid inlet flow rate. For any other type of control device, you would be required to establish the operating limits based on an approved monitoring plan that identifies appropriate parameters. Continuous compliance would be demonstrated by these monitored parameters staying within the operating limits.

The HCl emission limit and associated operating limits for new and existing storage tanks and transfer operations are the same as those for process vents.

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

We are proposing to require owners or operators of affected sources to submit the following notification and reports:

- Initial Notification.
- Notification of Intent to Conduct a Performance Test.
- Notification of Compliance Status (NOCS).
- Compliance Reports.
- Startup, Shutdown, and Malfunction Reports.

We would require that each owner or operator maintain records of reported information and other information necessary to document compliance (for example, records related to malfunctions, records that show continuous compliance with emission limits) for 5 years.

For the Initial Notification, we are proposing that each owner or operator notify us that his or her facility is subject to the HCl production NESHAP and that he or she provide specified basic information about their facility. This notification would be required to be submitted no later than 120 calendar days after the facility becomes subject to this subpart. For existing sources that are operating at this time, the Initial Notification would be due [120 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

For the Notification of Intent report, we are proposing that each owner or operator notify us in writing of the intent to conduct a performance test at least 60 days before the performance test is scheduled to begin.

For each new or existing process vent, storage tank, and transfer operation at an affected source, we are proposing to require a performance test to demonstrate compliance with proposed HCl concentration limit. This test would be conducted by the compliance date for existing sources and within 180 days of the compliance date for new or reconstructed sources. We are proposing that the NOCS report be submitted within 60 days of completion of the performance test. A certified notification of compliance that states the compliance status of the facility, along with supporting information (e.g., performance test methods and results, description of air pollution control equipment, and operating parameter

values and ranges), would be submitted

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values and ranges), would be submitted as part of the NOCS.

For the Compliance Report, we are proposing that facilities subject to control requirements under the proposed rule report on continued compliance with the emission limits and operating limits semi-annually. Specifically, the compliance report must contain the following information:

- Company name and address.
- Statement certifying the truth, accuracy, and completeness of the content of the report.
- Date of report and beginning and ending dates of the reporting period.
- Information on actions taken for any startups, shutdowns, or malfunctions that were consistent with your startup, shutdown, and malfunction plan.
- If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.
- If there were no periods during which the continuous parameter monitoring system (CPMS) was out-of-control, as specified in the monitoring plan, a statement that there were no periods during which the continuous monitoring system (CMS) was out-of-control during the reporting period.

You will demonstrate initial compliance with the work practice standards for leaking equipment by demonstrating that you have a LDAR plan. Your semiannual compliance report will verify your continued use of the plan and contain information on instances where you deviated from the plan and the corrective actions taken.

Finally, you must submit an immediate startup, shutdown, and malfunction report if you have taken an action that is not consistent with the facility's startup, shutdown, and malfunction plan. This report must describe actions taken for the event and contain the information in § 63.10(d)(5)(ii).

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

The HCl production source category and the fume silica source category were both on our initial list of major source categories published in the **Federal Register** on July 16, 1992 (57 FR 31576). The HCl production source category description in the initial listing included any facility engaged in the production of HCl. The listing document further stated that "the category includes, but is not limited to, production of HCl via any of the following methods: production of HCl as a by-product in the manufacture of organic chemicals, direct reaction of salts and sulfuric acid (Mannheim process), reaction of a salt, sulfur dioxide, oxygen, and water (Hargreaves process), and burning chlorine in the presence of hydrogen gas."

The fume silica production source category included any facility engaged in the production of fume silica. Fume silica is a fine white powder used as a thickener, thixotropic, or reinforcing agent in inks, resins, rubber, paints, and cosmetics. The initial fume silica source category included the production of fume silica by the combustion of silicon tetrachloride in hydrogen-oxygen furnaces. Hydrochloric acid and chlorine emissions are the primary HAP released from fume silica production facilities and result from the HCl recovery/production system. Because the largest HAP emission source at fume silica facilities is related to the HCl recovery/production system, we decided to combine fume silica sources and HCl production sources for regulation under the proposed NESHAP.

We considered whether the source category should be limited to the production of a liquid HCl product, or if the source category should also include gaseous HCl streams. The majority of HCl is produced as a gaseous by-product, rather than being directly synthesized. Some owners and operators choose to route the HCl-containing stream to an absorber to make a liquid product, and some do not. Those that do not make a liquid product may use the gaseous HCl stream by routing it to another process or by recycling it. They may also route the stream through a control device and discharge it to the atmosphere. Since, in most cases, this HCl is not intentionally being produced, and since these plants are not performing additional steps to process this HCl, we concluded that these situations do not constitute "production" and should not be included in the source category. Therefore, we limited the source category to those processes producing a liquid HCl product.

Consequently, the starting point for an HCl production facility is the HCl-containing gaseous stream from one of the types of processes listed above. We considered defining the source category in terms of the processes used to create the gaseous HCl stream. However, the production of the liquid HCl product in the absorption tower is relatively consistent for all HCl production, with no regard for the type of process generating the HCl gaseous stream. We concluded that the source category did not need to address the process that is the source of the HCl gaseous stream, only the unit operations that generate the liquid HCl product from that gaseous stream. In other words, we considered that the gaseous HCl stream was the feedstock to the HCl production process and not part of the process. Therefore, the proposed rule does not consider the type of process that creates the HCl gaseous stream in defining an HCl production facility.

We also wanted the proposed rule to focus on producers of "commercial" HCl and not on incidental producers. We considered accomplishing this by limiting the scope of the proposed rule to facilities that offer the liquid HCl product for sale. However, we rejected this approach because we recognize that this would artificially separate similar processes based on whether the product is used on-site (and, thus, not "sold"), or is offered for sale on the commercial market. We also considered limiting the source category based on how the liquid HCl product is used. For instance, we could have defined an HCl production facility as one that produces HCl used as a feedstock for another process. However, we determined that it was not feasible to separate incidental and non-incidental uses in a non-arbitrary manner.

We then tried to identify a minimum grade (or concentration) of HCl, above which all the commercial production of HCl would fall. The most common way to define the grade of HCl appears to be percent HCl by weight. Common shipping concentrations range from 31.45 to 37 percent by weight, which we believe also probably represents common manufacturing concentrations of HCl sold in commerce. The available literature indicates that the vast majority of HCl is produced at or above the azeotropic concentration of 20 percent by weight, but any concentration of HCl can be produced depending on how the absorber is operated. The lowest documented concentration is 10 percent by weight, which is that typically produced by the Hargreaves process. However, our information in this area is limited, and there may be a market for a lower concentration product. For example, oil field service companies use HCl concentrations of 5–27 percent, and literature searches have revealed material safety data sheets for concentrations as low as 0.7 percent. There was no indication in the literature whether these lower concentrations were produced directly or by diluting higher concentration products after manufacture.

Based on the available information, we are proposing that the HCl production source category include equipment at facilities used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater. We believe that the definition would include all of the HCl producers in the U.S. and exclude incidental production of HCl. We are requesting comment on whether concentration by weight is the most appropriate method for defining the grade of HCl. We are also requesting comment on whether a concentration of 10 percent by weight or greater is an appropriate cutoff to include commercial HCl production in the U.S. and exclude incidental production.

We also considered whether some HCl production facilities that meet the definition should be excluded from the HCl production source category. First, we are aware that a facility could produce a liquid HCl product, but not have any emission points that discharge to the atmosphere. An example would be a process that recycles the vent from the absorber and that routes the liquid directly to another process. We believe that such processes should not be subject to the rule, so the proposed rule excludes them from the source category.

It is possible that the process from which the gaseous HCl stream originates will be subject to another MACT standard, and that the HCl and other HAP emissions from that stream would be subject to control requirements under that standard. We want to avoid overlapping requirements where possible, and have specifically excluded from the HCl production source category those operations that produce HCl that are also part of an affected source under one of the following subparts:

- 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
- 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

The Pharmaceuticals Production MACT (40 CFR 63, subpart GGG) is another source category where potential overlap could occur since chlorinated compounds are used, and the rule covers all HAP emissions, including HCl and chlorine. However, we are not aware of processes at a pharmaceutical production facility that produce a liquid HCl product of concentrations of 10 percent or greater. Therefore, the proposed rule does not exempt sources subject to subpart GGG. We would be interested in comments on any actual situations where overlap between the pharmaceutical rule and the proposed HCl rule occur.

There is also the potential for regulatory overlap when the operations that produce liquid HCl occur following the incineration of chlorinated waste gas streams, and the operations are subject to one of the following requirements:

- 40 CFR part 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- 40 CFR part 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, subpart O, Incinerators.
- 40 CFR Part 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

For example, producers of synthetic organic chemicals are subject to the Hazardous Organic NESHAP, or HON. At a HON facility, HCl is created when chlorinated organic compounds from a HON process unit are combusted in an incinerator. The HON requires that the HCl emissions from the incinerator be reduced by 99 percent. If an owner or operator routes the incinerator outlet stream to an absorber and produces a liquid HCl product, it would be considered part of the system that achieves the required 99-percent reduction. Since the HCl production process and the HCl emissions would be covered by the HON, we would want to exclude such a process from the HCl production source category. Therefore, the proposed rule specifically excludes processes subject to § 63.113(c) of subpart G of 40 CFR part 63.

Some HON units produce HCl as a by-product (not as a result of the combustion of chlorinated organic compounds). While the HCl production process would be part of the HON affected source, the HCl emissions from these operations are not covered by the HON. Therefore, a process that produces a liquid HCl product (in concentrations equal to or greater than 10 percent by weight) in this situation would be included in the proposed HCl source category definition.

We know of three other situations that could result in regulatory overlap: MACT standards for chlorine production, primary magnesium refining, and the Miscellaneous Organic Chemical Production and Processes MACT, or the MON. However, these rules are still in the developmental stages, and we cannot determine whether there is actually an overlap. Depending on the outcome of the chlorine production, primary magnesium refining, and MON rulemaking efforts, we would consider exempting overlapping affected sources when we finalize the HCl production rule, if the other rules are also promulgated by then. Alternatively, we would consider revising the final HCl production rule after the other rules are promulgated if we determine there is a need to exempt the resulting overlapping affected sources.

B. How Did We Select the Affected Source?

For the purposes of implementing a NESHAP, an affected source is defined to mean the stationary source, or portion of a stationary source, that is regulated by a relevant standard or other requirement established under section 112 of the CAA. In other words, the affected source specifies the group of unit operations, equipment, and emission points that are subject to the proposed rule. Under each relevant standard, we must designate the "affected source" for the purpose of implementing that standard. We do this for each source category (or subcategory) by deciding which HAP emission sources (i.e., emission points or groupings of emission points) are most appropriate for establishing separate emission standards or work practices in the context of the CAA statutory requirements and the industry operating practices for the particular source category.

We can define the affected source as narrowly as a single item of equipment or as broadly as all equipment at the plant site that is used to produce the product that defines the source category. The affected source also defines the collection of equipment that would be evaluated to determine whether replacement of components at an existing affected source would qualify as reconstruction. If we define the affected source narrowly, it could affect whether some parts of a process unit would be subject to new source requirements and others subject to existing source requirements.

We decided to treat each collection of all connected equipment that is used to produce, store, and transfer HCl (in concentrations equal to or greater than 10 percent by weight) at a plant site as

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a single affected source. While we could have created separate affected sources for the equipment associated with each type of emission source (that is process vents, storage tanks, transfer operations, etc.), we believe that the operations are inter-related to the extent that any such separation would be problematic for owners and operators and for regulators. We believe a broad affected source is more feasible because all of the emission sources for which we are proposing emission limits (process vents, storage tanks, and transfer operations) can be controlled with a single control device.

As discussed in section III.d of this preamble, we are not proposing emission limits or work practice standards for wastewater streams. However, we decided to include wastewater streams in the affected source to eliminate the confusion of how these emission streams should be considered under future site-specific MACT determinations or other rulemakings. For instance, including all of the HCl production facility emission streams in the affected source will ensure that they will be considered together under future site-specific MACT determinations.

C. How Did We Select the Form of the Standards?

Section 112(d) of the CAA requires that standards be specified as a numerical emission standard, whenever possible. However, if it is determined that "it is not feasible to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants," section 112(h) indicates that a design, equipment, work practice, or operational standard may be specified. As with any standard, the MACT floor may be expressed several different ways. If an emission limit is not possible, the decision as to which format to use depends on availability of data, burden imposed on industry and regulatory agencies, and whether the format is verifiable and replicable.

An emission limit format is feasible for process vents, transfer operations, and storage tanks and could take the form of mass of pollutant emitted per some other normalizing factor, such as time or a measure of production. Time is almost never used because it does not take into account different production processes and production rates from one source to another. Similarly, normalizing on a measure of production does not take into account different production processes that emit pollutants at different rates.

It is also unclear what basis was used for reporting the amount of HCl produced in the available data, which is presently based on State permit applications. A common practice in this industry (although not followed by all facilities) is to report production and shipping quantities on the basis of 100 percent HCl; however, there was no indication in the permit application data whether the reported amount produced was the actual quantity or whether it was normalized to a 100-percent basis. Since this would have a profound effect on the emission factors, it was not possible to develop a normalized emission limit for using the available data.

We also considered a percent reduction format. However, this format would make it difficult to determine the reduction from a control device versus a process. For example, it might be unfair to require a single reduction level from the last control device before the emission stream is emitted to the atmosphere, depending on the way the absorption column is designed.

Based on these considerations, we selected a concentration limit format for process vents, transfer operations, and storage tanks. This format is both verifiable and repeatable. Current test methods can measure outlet concentration directly, and parameter monitoring is an acceptable means of ensuring continued proper operation and maintenance of the control device. We believe this format will minimize the burden on industry and regulatory agencies with minimal risk of allowing excess emissions.

We expect that all emission streams from HCl production processes will contain HCl, and process vents may also contain chlorine. Therefore, we selected an outlet concentration (ppmv) for both pollutants.

The format for the equipment leak standards are work practices. We selected this format because it is not feasible to prescribe or enforce emission standards. Equipment leak emissions cannot be emitted through a conveyance device, and the application of a measurement technology is not practicable due to technological or economic limitations.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

As discussed in section I.B of this preamble, for source categories/subcategories with greater than 30 sources, MACT for existing sources cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which we have emissions information). Further, MACT for source categories/subcategories with fewer than 30 sources cannot be less stringent than the average emission limitation achieved by the best-performing 5 sources (for which we have or could reasonably obtain emissions information). We have determined that "average" means any measure of central tendency, whether it be the arithmetic mean, median, or mode, or some other measure based on the best measure decided on for determining the central tendency of a data set (59 FR 29196).

The MACT floor determination was made based on State permit data for 26 HCl production facilities for 20 plant sites: Louisiana (18 facilities), West Virginia (3 facilities), Kentucky (1 facility), New York (1 facility), Ohio (1 facility), and Texas (2 facilities). We also considered data from 5 other HCl production facilities, which were obtained from trip reports (i.e., documentation of visits to plants sites.) We used this information to develop the MACT floor analysis, presented in the following sections.

The HCl production affected source MACT floor determinations are based on the performance of add-on control devices or work practice standards. We could not consider process changes to reduce emissions, such as using different raw materials, at the floor or beyond-the-floor because our definition of the HCl production source category is limited to those processes producing a liquid HCl product (see section III.A of this preamble for more discussion). Process changes that would minimize HCl emissions after liquid product production are outside of the source category to be addressed by the proposed rule. Because fuels used in HCl production processes do not contribute to the HAP emissions from this source category, we did not consider fuel switching as an emission reduction option in the floor determination or in beyond-the-floor analyses.

1. Process Vents MACT

We have process vent control information for 25 units. Units equipped with scrubbers have the 5 highest reported control efficiencies for HCl emissions: 99.4 percent (2), >99 percent (2), and 99 percent. We selected 99.4 percent control efficiency as the median of the 3 units where actual efficiencies were reported. The scrubbers with the 5 highest control efficiencies for chlorine emissions are 99.8 percent (2), 99.4 percent, and >99 (2) percent. We selected 99.8 percent as the median of the 3 units where actual control efficiencies were reported. These efficiencies represent the MACT floor for both new and existing sources.

We have not identified a beyond-the-floor control option for process vents, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve >99.4 percent control for HCl (>99.8 percent control for chlorine) on a consistent basis. Therefore, we are proposing that the MACT floor be used to establish MACT for new and existing sources.

As described in the format of the standard selection, we believe an outlet concentration format is needed for the proposed rule. Therefore, we have selected HCl and chlorine emission limits that correlate with the MACT level of control. We determined this value based on performance test data for eight emission points for HCl and three emission points for chlorine. We obtained or calculated an uncontrolled outlet emission stream concentration for each of these emission points. Then we applied the MACT floor percent reduction to all of the uncontrolled concentrations.

The concentrations associated with the 99.4 percent control HCl MACT for process vents ranged from 0.03 ppmv to 12.3 ppmv. We selected the highest value in this range, 12 ppmv, as representing the concentration that every facility with a control device capable of meeting the MACT floor percent reduction could meet. Similarly, the concentrations associated with the 99.8 percent chlorine MACT ranged from 1.5 ppmv to 19.3 ppmv. We selected 20 ppmv as the concentration that every facility with a control device capable of meeting the MACT floor percent reduction could meet.

2. Storage Tanks MACT

We have information on control efficiencies for 18 HCl storage tank scrubbers. Of these, the 5 highest control efficiencies are 99.9 percent, 99.85 percent, >99 percent, 99 percent, and 98 percent. We selected 99.4 percent as the median of the 4 units where actual efficiencies were reported.

Requiring a 99.9 percent control efficiency as a beyond-the-floor option is theoretically possible, based on the data described above. However, such a requirement could result in the need for a dedicated control device for storage tank emissions, in the event the process vent scrubber could not be modified to achieve the higher control efficiency. This change would achieve only a minor incremental emission reduction (less than one ton per year, industry wide) for existing sources and would result in an incremental cost of approximately $156,000 per ton of pollutant reduced. Therefore, we do not believe this is a reasonable beyond-the-floor alternative.

We believe the MACT floor for existing sources is representative of new sources, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve a 99.9 percent or greater control on a consistent basis. Therefore, we are proposing a MACT level of control that is the same for new and existing sources, based on the MACT floor analysis. This would allow storage tanks to be vented to the same scrubbers or other controls used for process vents, thus, conserving energy and reducing the amount of wastewater generated. In addition, monitoring, recordkeeping, and reporting burdens would be minimized. These sources would be required to meet the 12 ppmv concentration limit for HCl.

3. Transfer Operation MACT

We only have information on transfer operation controls from four units. Of these, 2 report >99 percent control, 1 reports controls but no associated efficiency, and 1 unit is uncontrolled. We selected >99 percent as the floor value. We have not identified a beyond-the-floor control option for transfer operations, because we have insufficient information to determine whether all types of sources can employ a scrubber and operate it in such a manner as to achieve a higher level of control on a consistent basis. Therefore, we are proposing that the MACT floor be used to establish MACT for new and existing sources. We propose that these sources meet the 12 ppmv concentration limit as well. This would allow transfer operations to be vented to the same scrubbers or other controls used for process vents and/or storage tanks, conserving energy and reducing the amount of wastewater generated. In addition, monitoring, recordkeeping, and reporting burdens would be minimized.

4. Leaking Equipment MACT

Because of the corrosive nature of HCl, equipment leaks are readily apparent, and such leaks have a severe, detrimental effect on equipment, piping, and structural components of the facility. Hydrochloric acid production facilities, therefore, have an incentive to identify and quickly repair equipment leaks because of these effects. Identification of equipment leaks is typically done simply by visual observation, as the corrosive nature of HCl make such leaks readily apparent.

Details that are typically included in EPA equipment leak regulations (i.e., frequency of inspections, time interval between when a leak is detected and when the equipment must be repaired, etc.) were not available for the programs at HCl production facilities. Therefore, we generally determined that the MACT floor for leaking equipment emissions is a plan to detect and repair leaking equipment. We considered a formal LDAR program, such as the HON provisions (40 CFR part 63, subpart H), as a beyond-the-floor option. However, the HON equipment program, and all similar programs (such as 40 CFR part 60, subpart VV) are limited to control of organic HAP or volatile organic compound emissions. The EPA Method 21 of 40 CFR part 60, appendix A, is specified as the method to detect the leaks in those rules. Method 21 is specific to organic pollutants. There is no comparable EPA reference method to detect HCl or chlorine emissions from leaking equipment. Therefore, we concluded that a formal LDAR program based on the measurement of HCl or chlorine leaks is not a viable regulatory alternative. Therefore, we selected the MACT floor level for the proposed rule. As noted above, we did not have sufficient information to draft specific LDAR procedures. Therefore, the proposed rule contains the requirement that each HCl production facility establish a site-specific program to identify and repair equipment leaks.

5. Wastewater Treatment Operations MACT

No add-on controls to reduce HCl emissions from wastewater were reported in the available data. In addition, no process modifications or other pollution prevention type measures that reduce HCl emissions from wastewater were identified. Therefore, we determined that the new and existing source MACT floors for wastewater were no emission reduction. Since no add-on controls were reported to be in use at existing HCl production facilities, we determined that requiring add-on control was not a viable option more stringent than the floor. We also concluded that a beyond-the-floor option based on process modifications was not feasible, based on the following reasons. First, there are numerous types of processes that produce an HCl by-product, which results in a variety of wastewater scenarios. Therefore, we do not believe that any process or raw material change could be expected to be universally applied to wastewater streams at all types of HCl production

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facilities. Further, wastewater treatment is highly sensitive to pH, and HCl has a significant impact on pH. For example, an activated sludge treatment system normally consists of an equalization basin, a settling tank (primary clarifier), aeration basin, a secondary clarifier, and a sludge recycle line. Equalization of pH and other parameters such as flow, temperature, and pollutant loads is necessary to perform consistent, adequate treatment. We believe that the potential negative impacts of upsetting existing wastewater systems is not worthwhile, especially given the very small level of HCl emissions from wastewater (less than 1 percent of total HCl emissions are from wastewater operations). Therefore, the proposed rule does not contain any requirements for wastewater.

E. How Did We Select the Testing, and Initial and Continuous Compliance Requirements?

We selected the proposed testing and initial and continuous compliance requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). These requirements were adopted for HCl production facilities to be consistent with other part 63 NESHAP. These requirements would ensure that we obtain or have access to information sufficient to determine whether an affected source is complying with the standards specified in the proposed rule.

The proposed NESHAP would require a compliance test to determine initial compliance with the outlet concentration limit proposed for process vents, storage tanks, and transfer operations by using Method 26A of 40 CFR part 60, appendix A. The General Provisions (at § 63.7(e)(3)) specify that each test consist of at least three separate test runs. The proposed rule adopts this requirement. Further, the proposed rule requires that each test run be at least 1 hour long.

In order to assure continuous compliance with the emissions limit for process vents, storage tanks, and transfer operations, we are proposing to require the use of CPMS to monitor operating parameters (e.g., pH of the scrubber liquid) to ensure proper operation of the control device. You would demonstrate continuous compliance by maintaining the monitored parameters within the operating limits which would be established using data collected during the initial performance test. We chose the parameters to be measured to demonstrate continuous compliance because they are the best indicators of continued performance of proper control device operation.

We considered requiring the use of continuous HCl and chlorine emission monitoring systems, but rejected the option. While there are readily available HCl and chlorine continuous emissions monitoring systems, the cost of these compared to the cost of the monitoring control device parameters is unreasonable. The annualized cost to install and operate a Fourier Transform Infrared Spectroscopy system to monitor both HCl and chlorine is approximately $206,000, with approximately $77,000 in annualized costs. In contrast, the capital costs for parametric monitoring devices and a data recording device would be less than $5,000 per control device with an annualized cost of less than $900.

F. How Did We Select the Notification, Recordkeeping, and Reporting Requirements?

We selected the proposed notification, recordkeeping, and reporting requirements based on requirements specified in the NESHAP General Provisions (40 CFR part 63, subpart A). As with the proposed initial and continuous compliance requirements, these requirements were adapted for HCl production facilities to be consistent with other part 63 national emission standards.

IV. Summary of Environmental, Energy, Cost, and Economic Impacts

A. What Are the Air Quality Impacts?

Nationwide baseline emissions are approximately 2,260 Mg/yr (2,490 tpy) of HCl and 880 Mg/yr (970 tpy) of chlorine. The total annual emissions reductions resulting from the proposed rule is 1,090 Mg/yr (1,200 tpy) of HCl and 540 Mg/yr (590 tpy) of chlorine.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

We do not expect that there will be any significant adverse non-air health, environmental or energy impacts associated with the proposed standards for HCl production plants. The proposed rule will result in the generation of additional wastewater from scrubbers. We have calculated this amount to be approximately 103,000 gallons per process vent scrubber, resulting in an estimated treatment cost of $390 per scrubber, or $25,000 for the 64 existing facilities.

C. What Are the Cost and Economic Impacts?

The total estimated capital cost of the proposed rule for HCl production is $9,981.000. The total estimated annual cost of the proposed rule is $5,975,000, which includes the annualized costs of control and monitoring equipment, other operation and maintenance, and the annual labor to comply with the reporting and recordkeeping requirements of the proposed rule once the sources are in compliance.

The economic impact analysis, which is a comparison of compliance costs for the affected parent firms with their revenues, shows that the estimated costs associated with the MACT floor option are no more than 1.0 percent of the revenues for any of the 32 affected firms. It is likely that the expected reduction in affected HCl output is no more than 0.01 percent or less from that industry. It should be noted that these results are based on the application of costs from a subset of the affected facilities to the remaining facilities. This is necessary due to incomplete facility-level cost data. Therefore, it is likely that there is no adverse impact expected to HCl producers as a result of implementation of the proposed rule.

V. Solicitation of Comments and Public Participation

We seek full public participation in arriving at final decisions and encourage comments on all aspects of this proposed rule from all interested parties. You will need to submit full supporting data and detailed analysis with your comments to allow us to make the best use of them.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this proposed rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule applies to affected sources in the HCl production industry, not to States or local governments. State law will not be preempted, nor any mandates be imposed on States or local governments. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, the EPA specifically solicits comment on this proposed rule from State and local officials.

C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based solely on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Additionally, this proposed rule is not "economically significant" as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, we must generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total annual cost of this proposed rule for any 1 year has been estimated at $6 million per year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because if contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as a small business according to Small Business Administration (SBA) size standards by the North American Industry Classification System (NAICS) category of the owning parent entity. The small business size standard for the affected industries (NAICS 325181, Alkalies and Chlorine Manufacturing, and NAICS 325188, All Other Basic Inorganic Chemical Manufacturing) is a maximum of 1,000 employees for an entity.

After considering the economic impact of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. In accordance with the RFA, as amended by the SBREFA, 5 U.S.C. 601, *et seq.*, we conducted an assessment of the proposed rule on small businesses within the industries affected by the proposed rule. Based on SBA size definitions for the affected industries and reported sales and employment data, we identified 4 affected small businesses out of 32 affected parent businesses (or 13 percent of the total number). In order to estimate impacts to affected small businesses, we conducted a screening analysis that consists of estimates of the annual compliance costs these businesses are expected to occur as compared to their revenues. Since the data are such that costs can only be estimated for a subset of the affected facilities, the available data were used to determine the costs to the facilities outside of this subset. The results of this screening analysis show that all but one of the small businesses are expected to have annual compliance costs of 1 percent or less. Therefore, this analysis allows us to certify that there will not be a significant impact on a substantial number of small entities from the implementation of this proposed rule. For more information, consult the docket for this project.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The EPA has prepared an Information Collection Request (ICR) document (ICR Number 2032.01), and you may obtain a copy from Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 148,032 labor hours, and the annual average burden is 49,675 labor hours. The labor cost over the 3-year period is $6,331,734, or $2,110,578 per year. The annualized capital cost for monitoring equipment is $25,632. Annual operation and maintenance costs are $1,256,063 over 3 years, averaging $418,688 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 18, 2001, a comment to OMB is best assured of having its full effect if OMB receives it by October 18, 2001. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposed rule involves technical standards. The EPA proposes in this rule to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 4, and 26A of 40 CFR part 60, appendix A. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No

applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, and 2G. The search and review results have been documented and are placed in the docket (A–99–41) for this proposed rule.

This search for emission measurement procedures identified eight voluntary consensus standards potentially applicable to this proposed rule. The EPA determined that six of these eight standards were impractical alternatives to EPA test methods for the purposes of this proposed rule. Therefore, the EPA does not propose to adopt these standards today. The reasons for this determination for the six methods are discussed below.

The standard ISO 10780:1994, "Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts," is impractical as an alternative to EPA Method 2 in this proposed rule. This standard, ISO 10780:1994, recommends the use of L-shaped pitots, which historically have not been recommended by EPA because the S-type design has large openings which are less likely to plug up with dust.

The standard ASTM D3464–96, "Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer," is impractical as an alternative to EPA Method 2 for the purposes of this proposed rule primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The European standard EN 1911–1,2,3 (1998), "Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text," is impractical as an alternative to EPA Method 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

Three of the six voluntary consensus standards are impractical alternatives to EPA test methods for the purposes of this proposed rule because they are too general, too broad, or not sufficiently detailed to assure compliance with EPA regulatory requirements: ASTM D3154–91, "Standard Method for Average Velocity in a Duct (Pitot Tube Method)," for EPA Methods 1, 2, 2C, and 4; ASTM 3796–90 (Reapproved 1996), "Standard Practice for Calibration of Type S Pitot Tubes," for EPA Method 2; and ASTM E337–84 (Reapproved 1996), "Standard Test Method for Measuring Humidity with a Psychrometer (the Measurement of Wet- and Dry-Bulb Temperatures)," for EPA Method 4.

The following two of the eight voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2; and ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 1 (and possibly 2). While we are not proposing to include these two voluntary consensus standards in today's proposal, the EPA will consider the standards when final.

The EPA takes comment on the compliance demonstration requirements proposed in this proposed rule and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why this proposed rule should adopt these voluntary consensus standards in lieu of or in addition to EPA's test methods. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, appendix A, was used).

Section 63.9020 to subpart NNNNN lists the EPA testing methods included in the proposed rule. Under § 63.8 of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative monitoring in place of any of the EPA testing methods.

I. Executive Order 13211, Energy Effects

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: September 7, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Part 63 is amended by adding subpart NNNNN to read as follows:

Subpart NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

What This Subpart Covers

§ 63.8980 What is the purpose of this subpart?
§ 63.8985 Am I subject to this subpart?
§ 63.8990 What parts of my plant does this subpart cover?
§ 63.8995 When do I have to comply with this subpart?

Emission Limitations and Work Practice Standards

§ 63.9000 What emission limitations and work practice standards must I meet?

General Compliance Requirements

§ 63.9005 What are my general requirements for complying with this subpart?

Testing and Initial Compliance Requirements

§ 63.9010 By what date must I conduct performance tests?
§ 63.9015 When must I conduct subsequent performance tests?
§ 63.9020 What performance tests and other procedures must I use?
§ 63.9025 What are my monitoring installation, operation, and maintenance requirements?
§ 63.9030 How do I demonstrate initial compliance with the emission limitations and work practice standards?

Continuous Compliance Requirements

§ 63.9035 How do I monitor and collect data to demonstrate continuous compliance?
§ 63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

Notifications, Reports, and Records

§ 63.9045 What notifications must I submit and when?
§ 63.9050 What reports must I submit and when?
§ 63.9055 What records must I keep?
§ 63.9060 In what form and how long must I keep my records?

Other Requirements and Information

§ 63.9065 What parts of the General Provisions apply to me?
§ 63.9070 Who implements and enforces this subpart?
§ 63.9075 What definitions apply to this subpart?

Tables to Subpart NNNNN of Part 63

Table 1 to Subpart NNNNN of Part 63—Emission Limitations and Work Practice Standards
Table 2 to Subpart NNNNN of Part 63—Applicability of General Provisions to Subpart NNNNN

What This Subpart Covers

§ 63.8980 What is the purpose of this subpart?

This subpart establishes national emission limitations and work practice standards for hydrochloric acid production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.8985 Am I subject to this subpart?

You are subject to this subpart if you own or operate a hydrochloric acid production plant that is a major source or that is located at, or is part of, a major source of hazardous air pollutants (HAP) emissions.

§ 63.8990 What parts of my plant does this subpart cover?

This subpart applies to each new or reconstructed affected source at a hydrochloric acid production plant.

(a) *Affected source.* The affected source is the collection of all equipment and activities necessary to produce hydrochloric acid by the absorption of hydrogen chloride (HCl) gas generated by combustion of organic material in an incinerator, boiler, or process heater.

(b) *New affected source.* A new affected source is one that you construct after September 18, 2001 and for which you begin construction of the affected source after the proposed rule is published in the Federal Register.

(c) *Reconstructed affected source.* A reconstructed affected source is one that you reconstruct after September 18, 2001 and for which you begin reconstruction of the affected source after the proposed rule is published in the Federal Register.

§ 63.8995 When do I have to comply with this subpart?

(a) *New affected source.* If you start up your new affected source before the effective date of this subpart, you must comply with the emission limitations for new affected sources in this subpart no later than the effective date of this subpart.

(b) *Reconstructed affected source.* If you start up your reconstructed affected source before the effective date of this subpart, you must comply with the emission limitations for reconstructed affected sources in this subpart no later than the effective date of this subpart.

(c) *New affected source.* If you start up your new affected source after the effective date of this subpart, you must comply with the emission limitations for new affected sources in this subpart upon start up of your affected source.

(d) *Reconstructed affected source.* If you start up your reconstructed affected source after the effective date of this subpart, you must comply with the emission limitations for reconstructed affected sources in this subpart upon start up of your affected source.

(e) You must meet the notification requirements in § 63.9045 according to the schedule in § 63.9045 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.9000 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limitation and work practice standard in Table 1 to this subpart that applies to your affected source.

(b) You must meet each operating limit you establish for yourself.

(c) You must meet each emission limitation and work practice standard in this subpart during all periods of operation of the affected source, except during periods of start up, shutdown, and malfunction.

(d) You must meet each emission limitation and work practice standard in this subpart at all times the affected source is in operation.

General Compliance Requirements

§ 63.9005 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart that apply to you at all times, except during periods of start up, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop a written start up, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(d) You must develop and implement a written plan as described in § 63.8(d)(2) that contains specific procedures to operate the incinerator, boiler, or process heater during periods of start up, shutdown, and malfunction.

Testing and Initial Compliance Requirements

§ 63.9010 By what date must I conduct performance tests?

You must conduct a performance test for each affected source no later than 180 days after the date of start up of the affected source.

§ 63.9015 When must I conduct subsequent performance tests?

You must conduct subsequent performance tests for each affected source according to the schedule in § 63.9020.

§ 63.9020 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Table 1 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 1 to this subpart.

(c) You must conduct each performance test of an affected source that has an emission limitation for HCl emissions using Method 26 or 26A in appendix A to part 60 of this chapter.

(d) You must conduct each performance test of an affected source that has an emission limitation for chlorine emissions using Method 26A in appendix A to part 60 of this chapter.

(e) You must conduct each performance test of an affected source that has an emission limitation for total chlorine emissions using Method 26A in appendix A to part 60 of this chapter.

(f) You must conduct each performance test of an affected source that has an emission limitation for total chlorine emissions using Method 320 in appendix A to part 63 of this chapter or ASTM D6348–98, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, provided that the test plan preparation and implementation in the Annex to ASTM D6348–98, Sections A1 through A8 are mandatory; and that for ASTM D6348–98 Annex Table A1–1, the following conditions apply: the percent R must be greater than or equal to 70 and less than or equal to 130; and the maximum integration time must be 120 seconds.

(g) You must conduct each performance test of an affected source that has an emission limitation for total chlorine emissions using ASTM D6735–01, Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources—Impinger Method, provided that the test plan preparation and implementation in the Annex to ASTM D6735–01, Sections A1 through A8 are mandatory; and that for ASTM D6735–01 Annex Table A1–1, the following conditions apply: the percent R must be greater than or equal to 70 and less than or equal to 130; and the maximum integration time must be 120 seconds.

(h) You must conduct each performance test of an affected source that has an emission limitation for total chlorine emissions using ASTM D6735–01, Standard Test Method for Measurement of Gaseous Chlorides and Fluorides from Mineral Calcining Exhaust Sources—Impinger Method, provided that the test plan preparation and implementation in the Annex to ASTM D6735–01, Sections A1 through A8 are mandatory; and that for ASTM D6735–01 Annex Table A1–1, the following conditions apply: the percent R must be greater than or equal to 70 and less than or equal to 130; and the maximum integration time must be 120 seconds.

§ 63.9020 What performance tests and

Notifications, Reports, and Records

§ 63.9045 What notifications must I submit and when?
§ 63.9050 What reports must I submit and when?
§ 63.9055 What records must I keep?
§ 63.9060 In what form and how long must I keep my records?

Other Requirements and Information

§ 63.9065 What parts of the General Provisions apply to me?
§ 63.9070 Who implements and enforces this subpart?
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Tables

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What This Subpart Covers

§ 63.8980 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) and work practice standards for HAP emitted from hydrochloric acid (HCl) production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.8985 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an HCl production facility that is located at or is part of a major source of HAP.

(1) An HCl production facility is the collection of equipment used to produce, store, and transfer for shipping liquid HCl product at a concentration of 10 percent by weight or greater.

(2) A major source of HAP emissions is any stationary source or group of stationary sources within a contiguous area under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) You are not subject to this subpart if the operations that produce liquid HCl are also subject to NESHAP under one of the subparts listed in paragraphs (b)(1) through (4) of this section.

(1) 40 CFR part 63, subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

(2) 40 CFR part 63, subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(3) 40 CFR part 63, subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(4) 40 CFR part 63, subpart EEE, National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.

(c) You are not subject to this subpart if the operations that produce liquid HCl occur following the incineration of chlorinated waste gas streams and the operations are subject to the one of the requirements listed in paragraphs (c)(1) through (3) of this section.

(1) 40 CFR part 63.113(c), subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(2) 40 CFR part 264.343(b), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (subpart O, Incinerators).

(3) 40 CFR Part 266.107, subpart H, Burning of Hazardous Waste in Boilers and Industrial Furnaces.

(d) You are not subject to this subpart if all of the HCl and chlorine (Cl_2) vent streams from the equipment (including absorbers, storage tanks and transfer operations) at the HCl production facility are recycled or routed to another process prior to being discharged to the atmosphere.

§ 63.8990 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source at an HCl production facility.

(b) The affected source is the HCl production facility, which contains the collection of emission streams listed in paragraphs (b)(1) through (5) of this section.

(1) Each emission stream from an HCl process vent.

(2) Each emission stream from an HCl storage tank.

(3) Each emission stream from an HCl transfer operation.

(4) Leaks from equipment in HCl/Cl_2 service.

(5) Each emission stream from HCl wastewater treatment operations. There are no emission limitations or other requirements in this subpart that apply to this equipment.

(c) An affected source is a new affected source if you commenced construction of the affected source after September 18, 2001 and you met the applicability criteria of § 63.8985 at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.8995 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (a)(1) or (2) of this section.

(1) If you start up your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must comply with the emission limitations and work practice standards in this subpart no later than [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(2) If you start up your affected source after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must comply with the emission limitations and work practice standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards no later than 3 years after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the provisions in paragraphs (c)(1) and (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart no later than the date 3 years after the area source becomes a major source.

(d) You must meet the notification requirements in § 63.9045 according to the schedule in § 63.9045 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

Emission Limitations and Work Practice Standards

§ 63.9000 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limit and work practice standard in Table 1 to this subpart that applies to you.

(b) You must meet each operating limit in Table 2 to this subpart that applies to you.

General Compliance Requirements

§ 63.9005 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) During the period between the compliance date specified for your affected source in § 63.8995 and the date upon which continuous compliance monitoring systems have been installed and validated and any applicable operating limits have been set, you must maintain a log detailing the operation and maintenance of the process and emissions control equipment.

(d) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3).

(e) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses the requirements in paragraphs (f)(1) through (3) of this section.

(1) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system.

(3) Performance evaluation procedures and acceptance criteria (e.g., calibrations).

(f) In your site-specific monitoring plan, you must also address the ongoing procedures specified in paragraphs (g)(1) through (3) of this section.

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(1), (3), (4)(ii), (7), and (8), and 63.9030.

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d).

(3) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c) and (e)(1) and (2)(i).

Testing and Initial Compliance Requirements

§ 63.9010 By what date must I conduct performance tests?

(a) If you have a new or reconstructed affected source, you must conduct performance tests within 180 calendar days after the compliance date that is specified for your source in § 63.8995(a) and according to the provisions in § 63.7(a)(2).

(b) If you have an existing affected source, you must conduct performance tests no later than the compliance date that is specified for your existing affected source in § 63.8995(b) and according to the provisions in § 63.7(a)(2).

(c) If you commenced construction or reconstruction between September 18, 2001 and [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must demonstrate initial compliance with either the proposed emission limitation or the promulgated emission limitation no later than 180 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**] or within 180 calendar days after startup of the source, whichever is later, according to § 63.7(a)(2)(ix).

§ 63.9015 When must I conduct subsequent performance tests?

(a) You must conduct all applicable performance tests according to the procedures in § 63.9020 on an annual basis. The first subsequent performance tests must be completed within 12 months of the initial performance test, but no earlier than 10 months after the initial performance test and every 12 months, thereafter.

(b) You must report the results of annual performance tests within 60 days after the completion of the test. This report should also verify that the operating limits for your affected source have not changed or provide documentation of revised operating parameters established as specified in Table 2 to this subpart. The reports for all subsequent performance tests should include all applicable information required in § 63.9050.

§ 63.9020 What performance tests and other procedures must I use?

(a) You must conduct each performance test in Table 3 to this subpart that applies to you.

(b) You must conduct each performance test according the site-specific test plan required by § 63.7(c)(2).

(c) You must conduct each performance test under representative conditions according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 3.

(d) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(e) You must conduct at least three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(f) You must establish all applicable operating permit ranges that correspond to compliance with the emission limit as described in Table 3 to this subpart.

§ 63.9025 What are my monitoring installation, operation, and maintenance requirements?

(a) For each operating parameter that you are required by § 63.9020(f) to monitor, you must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.9005(e) and (f) and paragraphs (a)(1) through (6) of this section.

(1) You must operate your CPMS at all times the process is operating.

(2) You must collect data from at least four equally spaced periods each hour.

(3) For at least 75 percent of the hours in a 24-hour period, you must have valid data (as defined in your site-specific monitoring plan) for at least 4 equally spaced periods each hour.

(4) For each hour that you have valid data from at least four equally spaced periods, you must calculate the hourly average value using all valid data.

(5) You must calculate the daily average using all of the hourly averages calculated according to paragraph (a)(3) of this section for the 24-hour period.

(6) You must record the results for each inspection, calibration, and validation check as specified in your site-specific monitoring plan.

(b) For liquid flow monitoring devices such as various types of flow meters, including magnetic, mass, thermal, fluidic oscillating, vortex formation, turbine, and positive displacement, you must meet the requirements in paragraphs (a) and (b)(1) through (5) of this section.

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(1) You must locate the flow sensor and other necessary equipment in or as close to a position that provides a representative flow.

(2) You must use a flow sensor with a minimum measurement uncertainty of two percent of the flow rate.

(3) You must conduct at least semi-annually a flow sensor calibration check.

(4) You must perform at least monthly inspections of all components for integrity, of all electrical connections for continuity, and of all mechanical connections for leakage.

(5) You must record the results of the inspection and flow sensor calibration in a log.

(c) For pH monitoring devices, you must meet the requirements in paragraphs (a) and (c)(1) through (5) of this section.

(1) You must locate the pH sensor so that a representative pH is provided.

(2) You must ensure the sample is properly mixed and representative of the fluid to be measured.

(3) You must check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) You must perform at least monthly inspections of all components for integrity and of all electrical connections for continuity.

(5) You must record the results of the calibration and inspection in a log.

(d) For any other control device, ensure that the CPMS is operated according to a monitoring plan submitted to the Administrator as required by § 63.8(f). The monitoring plan must meet the requirements in paragraphs (a) and (d)(1) through (3) of this section. Conduct monitoring in accordance with the plan submitted to the Administrator unless comments received from the Administrator require an alternate monitoring scheme.

(1) Identify the operating parameter to be monitored to ensure that the control or capture efficiency measured during the initial compliance test is maintained.

(2) Discuss why this parameter is appropriate for demonstrating ongoing compliance.

(3) Identify the specific monitoring procedures.

§ 63.9030 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Table 4 to this subpart.

(b) You must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.9020 and Table 3 to this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.9045(e).

Continuous Compliance Requirements

§ 63.9035 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) If you use a caustic scrubber or a water scrubber/absorber to meet the emission limits in Table 1 to this subpart, you must keep the records specified in paragraphs (b)(1) and (2) of this section to support your compliance demonstration.

(1) Records of daily average scrubber inlet liquid flow rate.

(2) Records of the daily average scrubber effluent pH.

(c) If you use any other control device to meet the emission limits in Table 1 to this subpart, you must keep records of the operating parameter values identified in your monitoring plan in § 63.9025(e) to support your compliance demonstration.

(d) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating. This includes periods of startup, shutdown, or malfunction when the affected source is operating. A monitoring malfunction includes, but is not limited to, any sudden, infrequent, not reasonable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(e) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.9040 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit and work practice standard in Table 1 to this subpart that applies to you according to Table 4 to this subpart.

(b) You must demonstrate continuous compliance with each operating limit in Table 2 of this subpart that applies to you according to Tables 4 and 5 to this subpart.

(c) You must report each instance in which you did not meet an emission limit, work practice standard or operating limit in Table 1 or 2, respectively, to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.9050.

(d) During periods of startup, shutdown, or malfunction, you must operate in accordance with the startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.9045 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you startup your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must submit an Initial Notification not later than 120 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**].

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after [DATE THE FINAL RULE IS PUBLISHED IN THE **FEDERAL REGISTER**], you must submit the application for construction or reconstruction required by § 63.9(b)(1)(iii) in lieu of the initial notification.

(d) You must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as required in § 63.7(b)(1).

(e) When you conduct a performance test as specified in Table 3 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(f) You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

(g) The Notification of Compliance Status must also include the information in paragraphs (g)(1) through (3) of this section that applies to you.

(1) Each operating parameter value averaged over the full period of the performance test (for example, average pH).

(2) Each operating parameter range within which HAP emissions are reduced to the level corresponding to meeting the applicable emission limits in Table 1 to this subpart.

(3) A copy of the equipment leak detection and repair (LDAR) plan (unless it has already been submitted).

§ 63.9050 What reports must I submit and when?

(a) You must submit each report in Table 6 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.8995 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.8995.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.8995.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4).

(c) The compliance report must contain the following information in paragraphs (c)(1) through (7) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(5) If there are no deviations from any emission limitations that apply to you, a statement that there were no deviations from the emission limitations during the reporting period.

(6) If there were no periods during which the CPMS was out-of-control in accordance with the monitoring plan, a statement that there were no periods during which the CPMS was out-of-control during the reporting period.

(7) Verification that you continue to use the equipment LDAR plan and information that explains any periods when the procedures in the plan were not followed and the corrective actions taken.

(d) For each deviation from an emission limitation occurring at an affected source where you are using a CPMS to comply with the emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (6) of this section and the following information in paragraphs (d)(1) through (9) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CPMS downtime during the reporting period, and the total duration of CPMS downtime as a percent of the total source operating time during that reporting period.

(8) A brief description of the process units.

(9) A description of any changes in CPMS, processes, or controls since the last reporting period.

(e) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 6 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan you must submit an immediate startup, shutdown and malfunction report. Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report according to paragraphs (f)(1) and (2) of this section.

(1) An initial report containing a description of the actions taken for the

must must be submitted by [

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event must be submitted by fax or telephone within 2 working days after starting actions inconsistent with the plan.

(2) A follow-up report containing the information listed in § 63.10(d)(5)(ii) must be submitted within 7 working days after the end of the event unless you have made alternative reporting arrangements with the permitting authority.

§ 63.9055 What records must I keep?

(a) You must keep a copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, as required in § 63.10(b)(2)(xiv).

(b) You must also keep the following records specified in paragraphs (b)(1) through (5) of this section.

(1) The records in § 63.6(e)(3)(iii)–(v) related to startup, shutdown, and malfunction.

(2) Records of performance tests as required in § 63.10(b)(2)(viii).

(3) Records of operating parameter values that are consistent with your monitoring plan.

(4) Records of the date and time that each deviation started and stopped and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) Copy of the equipment LDAR plan.

§ 63.9060 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records off site for the remaining 3 years.

Other Requirements and Information

§ 63.9065 What parts of the General Provisions apply to me?

(a) Table 7 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

(b) [Reserved]

§ 63.9070 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, as well as U.S. EPA, has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities in paragraphs (c)(1) through (4) that cannot be delegated to State, local, or tribal agencies are as follows.

(1) Approval of alternatives to requirements in §§ 63.8980, 63.8985, 63.8990, 63.8995, and 63.9000.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.9075 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Caustic scrubber means any add-on device that mixes an aqueous stream or slurry containing caustic solution (e.g., lime, limestone) with the exhaust gases from an affected HCl production facility to control emissions of and/or to absorb and neutralize HCl.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation;

(2) fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) fails to meet any emission limitation in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means any emission limit or operating limit.

In HCl/Cl_2 service means a piece of equipment (pump, compressor, valve, connector, etc.) at an HCl production facility that contains HCl and/or chlorine.

Hydrochloric acid process vent means a process vent through which an emission stream containing HCl is vented to the atmosphere. The emission stream may or may not be treated by an HCl absorption column, chlorinated hydrocarbon stripping column, or HCl desorption column before venting to the atmosphere.

Responsible official means responsible official as defined in 40 CFR 70.2 of this chapter.

Transfer operation means the loading, into a tank truck or railcar, of liquid HCl from a transfer (or loading) rack (as defined in this section).

Transfer (or loading) rack means the collection of loading arms and loading hoses, at a single loading rack, that are used to fill tank trucks and/or railcars with liquid HCl. Transfer rack includes the associated pumps, meters, shutoff valves, relief valves, and other piping and valves.

Vent means to discharge emissions to the atmosphere from either an HCl process vent, storage tank, or transfer operation.

Water scrubber/absorber means any add-on device that mixes an aqueous stream (not containing caustic solution) with the exhaust gases from an affected HCl production facility to control emissions of and/or to absorb and neutralize HCl.

Tables

TABLE 1 TO SUBPART NNNNN.—EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As stated in § 63.9000(a), you must comply with the following emission limits and work practice standards]

For each * * *	You must meet the following emission limit and work practice standard
1. Emission stream from an HCl process vent	outlet concentration shall not exceed 12 ppm by volume of HCl or 20 ppm by volume of Cl_2.
2. Emission stream from an HCl storage tank	outlet concentration shall not exceed 12 ppm by volume of HCl.
3. Emission stream from an HCl transfer operation	outlet concentration shall not exceed 12 ppm by volume of HCl.
4. Emission stream from leaking equipment in HCl/Cl_2 service	a. prepare and operate at all times according to an equipment LDAR plan that describes in detail the measures that will be put in place to detect leaks and repair them in a timely fashion, and b. you may use existing manuals that describe the measures in place to control leaking equipment emissions required as part of other federally enforceable requirements.

TABLE 2 TO SUBPART NNNNN.—OPERATING LIMITS

[As stated in § 63.9000(b), you must comply with the following operating limits for each affected source vented to a control device]

For each * * *	You must * * *
1. Caustic scrubber or water scrubber/absorber	a. maintain the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and b. maintain the daily average scrubber effluent pH within the operating range value established during the performance test.
2. Other type of control device to which HCl emissions are ducted	maintain your operating parameter(s) within the ranges established during the performance test and according to your monitoring plan.

TABLE 3 TO SUBPART NNNNN.—PERFORMANCE TEST REQUIREMENTS FOR HCL PRODUCTION AFFECTED SOURCES

[As stated in § 63.9020, you must comply with the following requirements for performance tests for HCl production for each affected source]

For each affected source, you must * * *	Using * * *	According to the following requirements * * *
1. Select sampling port location(s) and the number of traverse points.	Method 1 or 1A in appendix A to 40 CFR part 60 of this chapter.	sampling sites must be located at the outlet of the scrubber and prior to any releases to the atmosphere.
2. Determine velocity and volumetric flow rate	Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A to 40 CFR part 60 of this chapter.	
3. Determine gas molecular weight	not applicable	assume a molecular weight of 29 (after moisture correction) for calculation purposes.
4. Measure moisture content of the stack gas	Method 4 in appendix A to 40 CFR part 60 of this chapter.	
5. Measure HCl concentration from each affected source and Cl_2 concentration from process vent affected sources.	Method 26A in Appendix A to 40 CFR part 60 of this chapter.	a. measure total emissions using Method 26A, and. b. collect scrubber liquid flow rate and scrubber effluent pH every 15 minutes during the entire duration of each 1-hour test run, and determine the average scrubber liquid flow rate and scrubber effluent pH over the period of the performance test by computing the average of all of the 15-minute readings.
6. Establish operating parameter limits with which you will demonstrate continuous compliance with the emission limit in Table 1 to this subpart, if you use any other control device than a caustic scrubber or a water scrubber/absorber.	EPA-approved methods and data from the continuous parameter monitoring system.	conduct the performance tests and establish operating parameter limits according to site-specific test plan submitted according to § 63.7(c)(2)(i).

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TABLE 4 TO SUBPART NNNNN.—INITIAL COMPLIANCE WITH EMISSION LIMITS AND WORK PRACTICE STANDARDS

[As stated in §63.9030, you must comply with the following requirements to demonstrate initial compliance with the applicable emission limits for each affected source vented to a control device and each work practice standard]

For each * * *	For the following emission limit or work practice standard * * *	You have demonstrated initial following compliance if * * *
1. Affected source using a austic scrubber or water scrubber/absorber.	in Table 1 to this subpart	the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart.
2. Affected source using any other type of control device.	in Table 1 to this subpart	the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart.
3. Leaking equipment affected source	in Table 1 to this subpart	submit a copy of the equipment LDAR plan to the designated permitting authority on or before the applicable compliance date specified in §63.8995.

TABLE 5 TO SUBPART NNNNN.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS

[As stated in §63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard]

For each...	For the following emission limitation and work practice standard...	You must demonstrate continuous compliance by...
1. Affected source using a caustic scrubber or water scrubber/absorber.	in Tables 1 and 2 to this subpart	a. demonstrating with the annual performance test that the average HCl and Cl_2 (if applicable) concentration, measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart, and b. collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to §63.9025, consistent with your monitoring plan, and c. reducing the data to 1-hour and daily block averages according to the requirements in §63.9025, and d. maintaining the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and e. maintaining the daily average scrubber effluent pH within the operating range established during the performance test.
2. Affected source using any other control device.	in Tables 1 and 2 to this supbart	a. demonstrating with the annual performance test that the average HCl and Cl_2 concentration (if applicable), measured over the period of the performance test conducted according to Table 3 of this subpart, is less than the concentration limit specified in Table 1 to this subpart, and b. collecting the scrubber inlet liquid flow rate and effluent pH monitoring data according to §63.9025, consistent with your monitoring plan, and c. reducing the data to 1-hour and daily block averages according to the requirements in §63.9025, and d. maintaining the daily average scrubber inlet liquid flow rate above the minimum value established during the performance test, and e. maintaining the daily average scrubber effluent pH within the operating range established during the performance test.

TABLE 5 TO SUBPART NNNNN.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS AND WORK PRACTICE STANDARDS—Continued

[As stated in §63.9040, you must comply with the following requirements to demonstrate continuous compliance with the applicable emission limitations for each affected source vented to a control device and each work practice standard]

For each...	For the following emission limitation and work practice standard...	You must demonstrate continuous compliance by...
3. Leaking equipment affected source	in Table 1 to this subpart	a. verifying that you continue to use a LDAR plan, and b. reporting any instances where you deviated from the plan and the corrective actions taken.

TABLE 6 TO SUBPART NNNNN.—REQUIREMENTS FOR REPORTS

[As stated in §63.9050(a), you must submit a compliance report that includes the information in §63.9050(c) through (e) as well as the information in the following table. You must also submit startup, shutdown, and malfunction (SSM) reports according to the requirements in §63.9050(f) and the following]

If * * *	Then you must submit a report or statement that:
1. There are no deviations from any emission limitations that apply to you.	there were no deviations from the emission limitations during the reporting period.
2. There were no periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	there were no periods during which the CPMS were out-of-control during the reporting period.
3. There was a deviation from any emission limitation during the reporting period.	contains the information in §63.9050(d).
4. There were periods during which the operating parameter monitoring systems were out-of-control in accordance with the monitoring plan.	contains the information in §63.9050(d).
5. There was a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunctions plan.	contains the information in §63.9050(f).
6. There were periods when the procedures in the LDAR the plan were not followed.	contains the information in §63.9050(c)(7).

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN

[As stated in §63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§63.1	Initial applicability determination; applicability after standard established; permit requirements; extensions; notifications.	Yes.	
§63.2	Definitions	Yes	additional definitions are found in §63.9075.
§63.3	Units and abbreviations	Yes.	
§63.4	Prohibited activities; compliance date; circumvention, severability.	Yes.	
§63.5	Construction/reconstruction applicability; applications; approvals.	Yes.	
§63.6(a)	Compliance with standards and maintenance requirements—applicability.	Yes.	
§63.6(b)(1)–(4)	Compliance dates for new or reconstructed sources.	Yes	§63.8995 specifies compliance dates.
§63.6(b)(5)	Notification if commenced construction or reconstruction after proposal.	Yes.	
§63.6(b)(6)	[Reserved]	Yes.	
§63.6(b)(7)	Compliance dates for new or reconstructed area sources that become major.	Yes	§63.8995 specifies compliance dates.
§63.6(c)(1)–(2)	Compliance dates for existing sources	Yes	§63.8995 specifies compliance dates.
§63.6(c)(3)–(4)	[Reserved]	Yes.	
§63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	§63.8995 specifies compliance dates.
§63.6(d)	[Reserved]	Yes.	
§63.6(e)(1)–(2)	Operation and maintenance requirements.	Yes.	
§63.6(e)(3)	Startup, shutdown, and malfunction plans.	Yes.	
§63.6(f)(1)	Compliance except during SSM	Yes.	
§63.6(f)(2)–(3)	Methods for determining compliance	Yes.	

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TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

[As stated in §63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§63.6(g)	Use of an alternative nonopacity emission standard.	Yes.	
§63.6(h)	Compliance with opacity/visible emission standards.	No	subpart NNNNN does not specify opacity or visible emission standards.
§63.6(i)	Extension of compliance with emission standards.	Yes.	
§63.6(j)	Presidential compliance exemption	Yes.	
§63.7(a)(1)–(2)	Performance test dates	Yes	except for existing affected sources as specified in §63.9010(b).
§63.7(a)(3)	Administrator's CAA section 114 authority to require a performance test.	Yes.	
§63.7(b)	Notification of performance test and rescheduling.	Yes.	
§63.7(c)	Quality assurance program and site-specific test plans.	Yes.	
§63.7(d)	Performance testing facilities	Yes.	
§63.7(e)(1)	Conditions for conducting performance tests.	Yes.	
§63.7(f)	Use of an alternative test method	Yes.	
§63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§63.7(h)	Waiver of performance tests	Yes.	
§63.8(a)(1)–(3)	Applicability of monitoring requirements	Yes	additional monitoring requirements are found in §63.9005(e) and (f) and 63.9035.
§63.8(a)(4)	Monitoring with flares	No	subpart NNNNN does not refer directly or indirectly to §63.11.
§63.8(b)	Conduct of monitoring and procedures when there are multiple effluents and multiple monitoring systems.	Yes.	
§63.8(c)(1)–(3)	Continuous monitoring system (CPMS) operation and maintenance.	Yes	applies as modified by §63.9005(e) and (f).
§63.8(c)(4)	Continuous monitoring system requirements during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	Yes	applies as modified by §63.9005(f).
§63.8(c)(5)	Continuous opacity monitoring system (COMS) minimum procedures.	No	subpart NNNNN does not have opacity or visible emission standards.
§63.8(c)(6)	Zero and high level calibration checks	Yes	applies as modified by §63.9005(e).
§63.8(c)(7)–(8)	Out-of-control periods, including reporting.	Yes.	
§63.8(d)–(e)	Quality control program and CPMS performance evaluation.	No	applies as modified by §63.9005(e) and (f).
§63.8(f)(1)–(5)	Use of an alternative monitoring method	Yes.	
§63.8(f)(6)	Alternative to relative accuracy test	No	only applies to sources that use continuous emissions monitoring systems (CEMS).
§63.8(g)	Data reduction	Yes	applies as modified by §63.9005(f).
§63.9(a)	Notification requirements—applicability	Yes.	
§63.9(b)	Initial notifications	Yes	except §63.9045(c) requires new or reconstructed affected sources to submit the application for construction or reconstruction required by §63.9(b)(1)(iii) in lieu of the initial notification.
§63.9(c)	Request for compliance extension	Yes.	
§63.9(d)	Notification that a new source is subject to special compliance requirements.	Yes.	
§63.9(e)	Notification of performance test	Yes.	
§63.9(f)	Notification of visible emissions/opacity test.	No	subpart NNNNN does not have opacity or visible emission standards.
§63.9(g)(1)	Additional CPMS notifications—date of CPMS performance evaluation.	Yes.	
§63.9(g)(2)	Use of COMS data	No	subpart NNNNN does not require the use of COMS.
§63.9(g)(3)	Alternative to relative accuracy testing	No	applies only to sources with CEMS.
§63.9(h)	Notification of compliance status	Yes.	
§63.9(i)	Adjustment of submittal deadlines	Yes.	
§63.9(j)	Change in previous information	Yes.	
§63.10(a)	Recordkeeping/reporting applicability	Yes.	

TABLE 7 TO SUBPART NNNNN.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNN—Continued

[As stated in §63.9065, you must comply with the applicable General Provisions requirements according to the following]

Citation	Requirement	Applies to Subpart NNNNN	Explanation
§63.10(b)(1)	General recordkeeping requirements	Yes	§§63.9055 and 63.9060 specify additional recordkeeping requirements.
§63.10(b)(2) (i)–(xi)	Records related to startup, shutdown, and malfunction periods and CPMS.	Yes.	
§63.10(b)(2)(xii)	Records when under waiver	Yes.	
§63.10(b)(2)(xiii)	Records when using alternative to relative accuracy test.	No	applies only to sources with CEMS.
§63.10(b)(2)(xiv)	All documentation supporting initial notification and notification of compliance status.	Yes.	
§63.10(b)(3)	Recordkeeping requirements for applicability determinations.	Yes.	
§63.10(c)	Additional recordkeeping requirements for sources with CPMS.	Yes	applies as modified by §63.9005(f).
§63.10(d)(1)	General reporting requirements	Yes	§63.9050 specifies additional reporting requirements.
§63.10(d)(2)	Performance test results	Yes.	
§63.10(d)(3)	Opacity or visible emissions observations.	No	subpart NNNNN does not specify opacity or visible emission standards.
§63.10(d)(4)	Progress reports for sources with compliance extensions.	Yes.	
§63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes.	
§63.10(e)(1)	Additional CPMS reports—general	Yes	applies as modified by §63.9005(f).
§63.10(e)(2)(i)	Results of CPMS performance evaluations.	Yes	applies as modified by §63.9005(f).
§63.10(e)(2)(ii)	Results of COMS performance evaluations.	No	subpart NNNNN does not require the use of COMS.
§63.10(e)(3)	Excess emissions/CPMS performance reports.	Yes.	
§63.10(e)(4)	Continuous opacity monitoring system data reports.	No	subpart NNNNN does not require the use of COMS.
§63.10(f)	Recordkeeping/reporting waiver	Yes.	
§63.11	Control device requirements—applicability.	No	facilities subject to subpart NNNNN do not use flares as control devices.
§63.12	State authority and delegations	Yes	§63.9070 lists those sections of subparts NNNNN and A that are not delegated.
§63.13	Addresses	Yes.	
§63.14	Incorporation by reference	Yes	subpart NNNNN does not incorporate any material by reference.
§63.15	Availability of information/ confidentiality	Yes.	

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Part III

The President

Proclamation 7463—Declaration of National Emergency by Reason of Certain Terrorist Attacks

Executive Order 13223—Ordering the Ready Reserve of the Armed Forces To Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation

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Presidential Documents

Title 3—

The President

Proclamation 7463 of September 14, 2001

Declaration of National Emergency by Reason of Certain Terrorist Attacks

By the President of the United States of America

A Proclamation

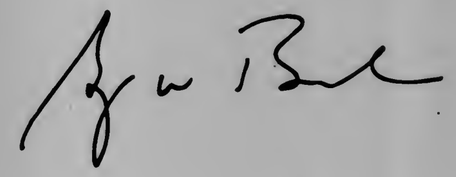
A national emergency exists by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, I hereby declare that the national emergency has existed since September 11, 2001, and, pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*), I intend to utilize the following statutes: sections 123, 123a, 527, 2201(c), 12006, and 12302 of title 10, United States Code, and sections 331, 359, and 367 of title 14, United States Code.

This proclamation immediately shall be published in the **Federal Register** or disseminated through the Emergency **Federal Register**, and transmitted to the Congress.

This proclamation is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



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Presidential Documents

Executive Order 13223 of September 14, 2001

Ordering the Ready Reserve of the Armed Forces To Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 301 of title 3, United States Code, and in furtherance of the proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks, which declared a national emergency by reason of the terrorist attacks on the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States, I hereby order as follows:

Section 1. To provide additional authority to the Department of Defense and the Department of Transportation to respond to the continuing and immediate threat of further attacks on the United States, the authority under title 10, United States Code, to order any unit, and any member of the Ready Reserve not assigned to a unit organized to serve as a unit, in the Ready Reserve to active duty for not more than 24 consecutive months, is invoked and made available, according to its terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense. The term "Secretary concerned" is defined in section 101(a)(9) of title 10, United States Code, to mean the Secretary of the Army with respect to the Army; the Secretary of the Navy with respect to the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy; the Secretary of the Air Force with respect to the Air Force; and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

Sec. 2. To allow for the orderly administration of personnel within the armed forces, the following authorities vested in the President are hereby invoked to the full extent provided by the terms thereof: section 527 of title 10, United States Code, to suspend the operation of sections 523, 525, and 526 of that title, regarding officer and warrant officer strength and distribution; and sections 123, 123a, and 12006 of title 10, United States Code, to suspend certain laws relating to promotion, involuntary retirement, and separation of commissioned officers; end strength limitations; and Reserve component officer strength limitations.

Sec. 3. To allow for the orderly administration of personnel within the armed forces, the authorities vested in the President by sections 331, 359, and 367 of title 14, United States Code, relating to the authority to order to active duty certain officers and enlisted members of the Coast Guard and to detain enlisted members, are invoked to the full extent provided by the terms thereof.

Sec. 4. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by sections 123, 123a, 527, and 12006 of title 10, United States Code, as invoked by sections 2 and 3 of this order.

Sec. 5. The Secretary of Transportation is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in sections 331, 359, and 367 of title 14, United States Code, when the Coast Guard is not serving as part of the Navy, as invoked by section 2 of this order, to recall any regular officer or enlisted member on the retired list to active duty and to detain any enlisted member beyond the term of his or her enlistment.

Sec. 6. The authority delegated by this order to the Secretary of Defense and the Secretary of Transportation may be redelegated and further subdelegated to civilian subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

Sec. 7. Based upon my determination under 10 U.S.C. 2201(c) that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 11(a) of title 41, United States Code.

Sec. 8. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 9. This order is effective immediately and shall be promptly transmitted to the Congress and published in the **Federal Register**.

THE WHITE HOUSE,
September 14, 2001.

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html.* Some laws may not yet be available.

H.R. 93/P.L. 107–27

Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28

To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29

To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30

To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31

To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32

To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33

To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

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To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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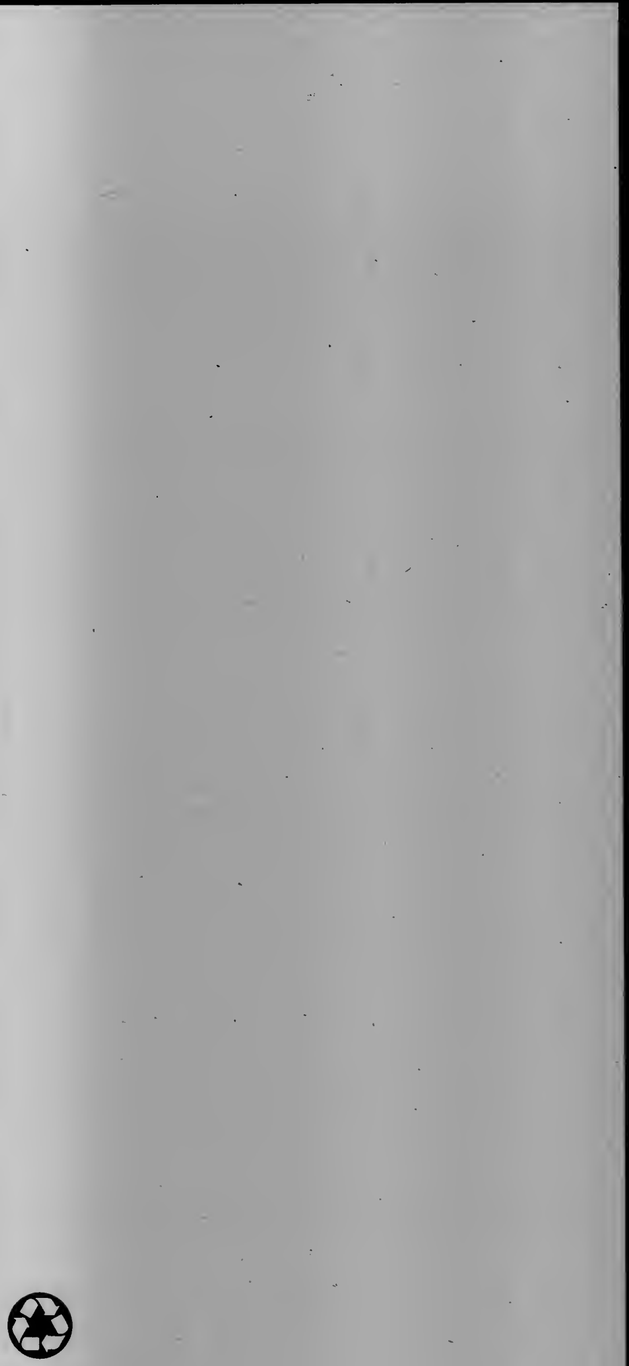
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The President

Proclamation 7464 of September 14, 2001

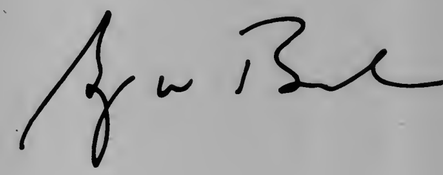
Amending Proclamation 7461, Display of the Flag at Half-Staff as a Mark of Respect for the Victims of the Incidents on Tuesday, September 11, 2001

By the President of the United States of America

A Proclamation

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, and in order to extend the display of the flag at half-staff as a mark of respect for the victims of the terrorist attacks on Tuesday, September 11, 2001, it is hereby ordered that Proclamation 7461 of September 11, 2001, is amended by deleting in the first sentence the words "Sunday, September 16" and inserting in their place the words "Saturday, September 22."

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–23473
Filed 9–18–01; 8:45 am]
Billing code 3195–01–P

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Rules and Regulations

Federal Register
Vol. 66, No. 182
Wednesday, September 19, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is issuing a final rule that relaxes certain provisions in NCUA's regulations for advertising and posting notice of nondiscrimination in real estate-related lending. The rule provides a federal credit union (FCU) with flexibility in how it gives notice when advertising and allows an FCU to display either the NCUA lobby poster or a similar poster prepared by the United States Department of Housing and Urban Development. The rule also prohibits advertising with words, symbols, models, or other forms of communication that suggest a discriminatory preference or policy of exclusion in violation of the Fair Housing Act or the Equal Credit Opportunity Act.

DATES: This rule is effective October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Paul M. Peterson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6555.

SUPPLEMENTARY INFORMATION:

A. Background

In April 2001, the NCUA Board published a proposed rule to relax certain provisions in NCUA's regulations for advertising and posting notice of nondiscrimination in real estate-related lending. 66 FR 20945, April 26, 2001. The Board issued the proposed rule out of concern that the existing requirements were less flexible than the Fair Housing Act and associated United States Department of Housing and Urban Development (HUD) guidance require. 42 U.S.C. 3604(c); 24 CFR 109.30(a) (1995) (removed from CFR by 61 FR 14378, April 1, 1996). This final rule adopts the language of the proposed rule without changes.

The existing rule mandates FCUs give notice of nondiscrimination when advertising real estate-related lending through use of a particular logotype and specific language. The final rule replaces the existing rule's specific requirement with a general requirement that FCUs indicate that they do not discriminate on any prohibited basis. The final rule also provides FCUs with various "safe harbor" methods to satisfy this notice requirement. These safe harbor methods are not mandatory. FCUs are free to use any reasonable method to satisfy the requirement.

HUD requires that every entity subject to the Fair Housing Act display on its premises a poster containing specific nondiscrimination language. 24 CFR 110.15. Federal financial regulatory agencies may substitute a different poster, and NCUA has done so. 24 CFR 110.25(b); 12 CFR 701.31(d)(2), (3); 54 FR 21963, May 22, 1989. The final rule permits FCUs to display either the NCUA version or the HUD version of the poster.

The final rule is similar to the Federal Deposit Insurance Corporation's (FDIC) nondiscrimination in advertising rule. 12 CFR 338.3. Both this final rule and the FDIC's rule prohibit advertising with words, symbols, models, or other forms of communication that suggest a discriminatory preference or policy of exclusion in violation of the Fair Housing Act or the Equal Credit Opportunity Act. 12 CFR 338.3(b), 12 U.S.C. 1691–1691f.

B. Comments

NCUA received twelve comments on the proposed rule. The commenters generally supported the proposed rule. Most of the commenters thought the rule would be very beneficial to FCUs and several commended NCUA generally for efforts to reduce regulatory burden on credit unions.

None of the commenters recommended changes to the wording of the proposed rule. One commenter did express concern that the proposed rule might encourage some credit unions to design their own disclosure and logotype formats and that this might create confusion and misunderstanding among some FCU members. The Board notes that, although the final rule provides flexibility in exactly how an FCU gives notice of nondiscrimination, it does require that the notice "prominently indicate * * * that the credit union makes such loans without regard to race, color, religion, national origin, sex, handicap, or familial status." The Board believes an FCU should have the flexibility to design its own notice of nondiscrimination, if it wishes, within the bounds of this requirement.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic effect any regulation may have on a substantial number of small credit unions, meaning those under one million dollars in assets. The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a regulatory flexibility analysis is not required.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule, if adopted, will apply only to federally-chartered credit unions. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

Paperwork Reduction Act

NCUA has determined that the proposed rule does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and

regulations of the Office of Management and Budget.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this final rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We requested comments on whether the proposed rules were understandable and minimally intrusive if implemented as proposed. We received no comments specifically directed to whether the rule was understandable. Almost all the commenters agreed that the rule reduced the current regulatory burden on FCUs and so was not intrusive.

List of Subjects in 12 CFR Part 701

Credit unions, Fair housing, Signs and symbols.

By the National Credit Union Administration Board, on September 13, 2001.

Becky Baker,

Secretary of the Board.

For the reasons stated above, the National Credit Union Administration amends 12 CFR part 701 as set forth below:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3619. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. In § 701.31, revise paragraph (d) introductory text and paragraphs (d)(1) and (d)(2) to read as follows:

§ 701.31 Nondiscrimination requirements.

* * * * *

(d) *Nondiscrimination in advertising.* No federal credit union may engage in any form of advertising of real estate-related loans that indicates the credit union discriminates on the basis of race, color, religion, national origin, sex, handicap, or familial status in violation of the Fair Housing Act. Advertisements must not contain any words, symbols, models or other forms of communication that suggest a discriminatory preference or policy of exclusion in violation of the Fair Housing Act or the Equal Credit Opportunity Act.

(1) *Advertising notice of nondiscrimination compliance.* Any federal credit union that advertises real estate-related loans must prominently indicate in such advertisement, in a manner appropriate to the advertising medium and format used, that the credit union makes such loans without regard to race, color, religion, national origin, sex, handicap, or familial status.

(i) With respect to written and visual advertisements, a credit union may satisfy the notice requirement by including in the advertisement a copy of the logotype, with the legend "Equal Housing Lender," from the poster described in paragraph (d)(3) of this section or a copy of the logotype, with the legend "Equal Housing Opportunity," from the poster described in § 110.25(a) of the United States Department of Housing and Urban Development's (HUD) regulations (24 CFR 110.25(a)).

(ii) With respect to oral advertisements, a credit union may satisfy the notice requirement by a spoken statement that the credit union is an "Equal Housing Lender" or an "Equal Opportunity Lender."

(iii) When an oral advertisement is used in conjunction with a written or visual advertisement, the use of either of the methods specified in paragraphs (d)(1)(i) or (ii) of this section will satisfy the notice requirement.

(iv) A credit union may use any other method reasonably calculated to satisfy the notice requirement.

(2) *Lobby notice of nondiscrimination.* Every federal credit union that engages in real estate-related lending must display a notice of nondiscrimination. The notice must be placed in the public lobby of the credit union and in the public area of each office where such loans are made and must be clearly visible to the general public. The notice must incorporate either a facsimile of the logotype and language appearing in paragraph (d)(3) of this section or the logotype and language appearing at 24 CFR 110.25(a). Posters containing the logotype and language appearing in paragraph (d)(3) of this section may be obtained from the regional offices of the National Credit Union Administration.

* * * * *

[FR Doc. 01–23289 Filed 9–18–01; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule; lifting mandatory compliance date.

SUMMARY: On June 21, 2001, NCUA published an interim final rule with request for comments amending its regulation that implements the Truth in Savings Act (TISA). The rule established uniform standards for the electronic delivery of disclosures required by TISA. NCUA established October 1, 2001 as the mandatory compliance date for the rule. As a result of concerns raised by commenters, NCUA is considering revising the rule to provide additional flexibility. Accordingly, NCUA is lifting the mandatory compliance date. Once a permanent final rule is issued, NCUA will afford credit unions a reasonable period of time to comply with the rule.

DATE: The mandatory compliance date of October 1, 2001 for the interim final rule published at 66 FR 33159 (June 21, 2001) is lifted.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

Part 707 of NCUA's regulations implements TISA. 12 CFR part 707. The purpose of part 707 and TISA is to assist members in making meaningful comparisons among accounts offered by credit unions and other financial institutions. Part 707 and TISA require, among other things, disclosure of yields, fees and other terms concerning share accounts to members at account opening, upon request, when changes in terms occur and in periodic statements. Many of these disclosures must be written.

In April 2001, The Board of Governors of the Federal Reserve System (Federal Reserve) issued an interim rule amending its Regulation DD, which implements TISA (April 2001 Interim Rule). 66 FR 17795 (April 4, 2001). That rule established uniform standards for the timing and electronic delivery of disclosures required by TISA and Regulation DD, and addressed electronic advertisements.

TISA requires NCUA to promulgate regulations substantially similar to those promulgated by the Federal Reserve within 90 days of the effective date of the Federal Reserve's rules. 12 U.S.C. 4311(b). In doing so, NCUA is to take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts. In compliance with TISA, NCUA published an interim final rule with request for comments in June 2001 that is substantially similar to the Federal Reserve's April 2001 Interim Rule. 66 FR 33159 (June 21, 2001).

B. Lifting the Mandatory Compliance Date

In August 2001, the Federal Reserve issued an interim final rule that lifted the October 1, 2001 mandatory compliance date. This enables the Federal Reserve to address concerns noted by commenters regarding operational issues raised by the April 2001 Interim Rule. Accordingly, to fulfill our statutory obligation under TISA, the NCUA is also lifting the October 1, 2001 mandatory compliance date.

Credit unions may continue to provide electronic disclosures under their existing policies and practices if they comply with the Electronic Signatures in Global and National Commerce Act (E-Sign Act), as discussed more fully below, or they may follow the interim rule issued by NCUA in June 2001, until the NCUA issues a permanent rule.

C. Withdrawal of the 1999 Interim Rule Unaffected

The E-Sign Act was enacted in June 2000, to encourage the continued expansion of electronic commerce. It generally provides that electronic documents and signatures have the same validity as paper documents and handwritten signatures. It provides that consumer disclosures may be provided in electronic form only if the consumer affirmatively consents after receiving information specified in the statute. The consumer consent provisions in the E-Sign Act became effective October 1, 2000. In September 1999, before enactment of the E-Sign Act, the Federal Reserve issued an interim rule that also amended Regulation DD (September 1999 Interim Rule), but did not specify the manner or form of consumer's consent to electronic disclosures. 64 FR 49846 (September 14, 1999). With the issuance of the April 2001 Interim Rule, which sets forth the general rule that an institution subject to Regulation DD may provide disclosures electronically only if the institution complies with § 101(c) of the E-Sign Act, the Federal Reserve has withdrawn the September 1999 Interim Rule. The lifting of the October 1, 2001 mandatory compliance date has no effect on the withdrawal of the September 1999 Interim Rule.

Interim Final Rule

The NCUA Board is issuing this rule as an interim final rule because there is a strong public interest in having in place consumer oriented rules that are consistent with those recently promulgated by the Federal Reserve. Additionally, as discussed above, NCUA is statutorily required to issue rules substantively similar to those of the Federal Reserve within 90 days of the effective date of the Federal Reserve's rules. Accordingly, for good cause, the Board finds that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and, pursuant to 5 U.S.C. 553(d)(3), the rule will be effective immediately and without 30 days advance notice of publication.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact agency rulemaking may have on a substantial number of small credit unions. For purposes of this analysis, credit unions under $1 million in assets are considered small credit unions.

This interim final rule provides credit unions with the flexibility of voluntarily using an optional and alternative method of delivering certain required disclosures. Credit unions are free to choose not to utilize this alternative. Credit unions that choose to use this alternative will likely realize a reduction in their costs of delivery as a result. The NCUA has determined and certifies that this interim final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that these amendments to part 707 do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This interim final rule applies to all federally-insured credit unions, but does not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this interim final rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 707

Advertising, Consumer protection, Credit unions, Reporting and recordkeeping requirements, Truth in savings.

By the National Credit Union Administration Board on September 13, 2001.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–23288 Filed 9–18–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 01F–0142]

Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a mixture of peroxyacetic acid, octanoic acid, acetic acid, hydrogen peroxide, peroxyoctanoic acid, and 1-hydroxyethylidene-1,1-diphosphonic acid as an antimicrobial agent on poultry carcasses, poultry parts, and organs. This action is in response to a petition filed by Ecolab, Inc.

DATES: This rule is effective September 19, 2001. Submit written objections and requests for a hearing by October 19, 2001. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in § 173.370 as of September 19, 2001.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 30, 2001 (66 FR 17430), FDA announced that a food additive petition (FAP 1A4728) had been filed by Ecolab, Inc., Ecolab Center, 370 Wabasha St., St. Paul, MN 55102. The petition proposed to amend the food additive regulations in part 173 *Secondary Direct Food Additives Permitted in Food for Human Consumption* (21 CFR part 173) to provide for the safe use of a mixture of peroxyacetic acid, octanoic acid, acetic acid, hydrogen peroxide, peroxyoctanoic acid, and 1-hydroxyethylidene-1,1-diphosphonic acid as an antimicrobial agent on poultry carcasses, poultry parts, and organs.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe and the additive will achieve its intended technical effect as an antimicrobial agent on poultry carcasses, poultry parts, and organs. Therefore, 21 CFR 173.370 is amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by October 19, 2001. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in the brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.370 is amended by revising paragraphs (b) and (c) to read as follows:

§ 173.370 Peroxyacids.

* * * * *

(b)(1) The additive is used as an antimicrobial agent on red meat carcasses in accordance with current industry practice where the maximum concentration of peroxyacids is 220 parts per million (ppm) as peroxyacetic acid, and the maximum concentration of hydrogen peroxide is 75 ppm.

(2) The additive is used as an antimicrobial agent on poultry carcasses, poultry parts, and organs in accordance with current industry standards of good manufacturing practice (unless precluded by the U.S. Department of Agriculture's standards of identity in 9 CFR part 381, subpart P) where the maximum concentration of peroxyacids is 220 parts per million (ppm) as peroxyacetic acid, the maximum concentration of hydrogen peroxide is 110 ppm, and the maximum concentration of 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP) is 13 ppm.

(c) The concentrations of peroxyacids and hydrogen peroxide in the additive are determined by a method entitled "Hydrogen Peroxide and Peracid (as Peracetic Acid) Content," July 26, 2000, developed by Ecolab, Inc., St. Paul, MN, which is incorporated by reference. The concentration of 1-hydroxyethylidene-1,1-diphosphonic acid is determined by a method entitled "Determination of 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP) Peroxyacid/Peroxide-Containing Solutions," August 21, 2001, developed by Ecolab, Inc., St. Paul, MN, which is incorporated by reference. The Director of the Office of the Federal Register approves these incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of these methods from the Division of Petition Review, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, or you may examine a copy at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

Dated: September 6, 2001.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–23263 Filed 9–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska–01–002]

RIN 2115–AA97

Safety Zone; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; correction.

SUMMARY: The Coast Guard is correcting the effective period for a temporary final rule for a safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska, that was published in the **Federal Register** on August 21, 2001 and then amended in the **Federal Register** on August 29, 2001. This correction is being made because of a revision in the window of time that the rocket is now scheduled to launch. This correction changes the effective period from 2 p.m. to 7:30 p.m. on September 17, 2001, to the same hours each day from September 21, 2001 through September 29, 2001.

DATES: 33 CFR 165.T–01–002 published August 21, 2001 (66 FR 43776), corrected August 29, 2001 (66 FR 45619), and as further corrected in this document, is effective September 21, 2001 through September 29, 2001.

ADDRESSES: The public docket for this rulemaking is maintained by Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Materials in the public docket are available for inspection and copying at Coast Guard Marine Safety Office Anchorage. Normal office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Diane Kalina, Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION: The Coast Guard published a temporary final rule in the **Federal Register** on August 21, 2001, (66 FR 43774) establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska, effective from 2 p.m. on August 31, 2001 through 7:30 p.m. on September 15, 2001. We then published a correction in the **Federal Register** on August 29, 2001 (66 FR 45619) changing the effective period to a single day, September 17, 2001, to reflect a change in the launch schedule. The zone is needed to protect the safety of persons and vessels operating in the vicinity during a rocket launch from the Alaska Aerospace Development Corporation (AADC), Narrow Cape, Kodiak Island facility. The AADC recently revised the window of time for the rocket to launch to September 21, 2001 through September 29, 2001. The Coast Guard is amending the effective period of the rule to correspond with the new schedule for the launch. This correction changes the one-day effective period, September 17, 2001, to a 9-day effective period, September 21, 2001 through September 29, 2001.

In rule FR Doc. 01–21083 published on August 21, 2001 (66 FR 43774), as amended by a correction published on August 29, 2001 (66 FR 45619), make the following corrections. On page 43775, in the first column, starting on line 3, remove the words "on September 17, 2001" and add in its place the words "each day between September 21, 2001 and September 29, 2001". On page 43775, in the first column, starting on line 27, remove the words "on September 17, 2001" and add in its place the words "each day between September 21, 2001 and September 29, 2001". On page 43775, in the second column, starting on line 36, remove the words "on September 17, 2001" and add in its place the words "from September 21, 2001 to September 29, 2001". On page 43776, in the second column, starting on line 4, remove the words "from 2 p.m. through 7:30 p.m. on September 21, 2001" and add in its place the words "from 2 p.m. through 7:30 p.m. each day from September 21, 2001 through September 29, 2001".

Dated: September 6, 2001.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 01–23340 Filed 9–14–01; 4:51 pm]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD059/71/98/114–3077; FRL–7057–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Rate of Progress Plans, Corrections to the Base Year Inventories, and Contingency Measures for the Maryland Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish the three percent per year emission reduction rate-of-progress (ROP) requirement for the period from 1996 through 2005 for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area), namely Cecil County. EPA is also approving contingency measures for failure to meet ROP and corrections to the 1990 base year inventories of ozone precursor emissions for Cecil County. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on October 19, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 814–2092. Or by e-mail at *gaffney.kristeen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 13, 2001 (66 FR 36717), EPA published a notice of proposed

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rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the post 1996 ROP plans for milestone years 1999, 2002 and 2005 for the Cecil County portion of the Philadelphia ozone nonattainment area submitted by the State of Maryland on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000. The NPR also proposed approval of revisions to the 1990 base year emissions inventories for Cecil County and the contingency plan for failure to meet ROP for Cecil County.

Other specific requirements of Maryland's SIP revisions for the ROP plans, base year inventory corrections and contingency plans for Cecil County and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Actions

Final Action: EPA is approving the post 1996 ROP plans for milestone years 1999, 2002 and 2005 for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area submitted on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

Final Action: EPA is approving corrections to the 1990 base year emissions inventories for Cecil County, submitted on December 24, 1997.

Final Action: EPA is approving the contingency plans for failure to meet ROP for Cecil County submitted on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

III. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the post 1996 ROP plans, inventory corrections and contingency plans for the Cecil County, Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: September 10, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

2. Section 52.1075 is amended by adding paragraph (h) to read as follows:

§ 52.1075 1990 base year emission inventory.

* * * * *

(h) EPA approves revisions to the Maryland State Implementation Plan amending the 1990 base year emission inventories for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area, submitted by the Secretary of the Maryland Department of the Environment on December 24, 1997. This submittal consists of amendments to the 1990 base year point, area, highway mobile and non-road mobile source emission inventories for volatile organic compounds and nitrogen oxides in the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area.

3. Section 52.1076 is amended by adding paragraph (f) to read as follows:

§ 52.1076 Control strategy and rate-of-progress plans: ozone.

* * * * *

(f)(1) EPA approves revisions to the Maryland State Implementation Plan for post 1996 rate of progress plans for milestone years 1999, 2002 and 2005 for the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. These revisions were submitted by the Secretary of the Maryland Department of the Environment on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

(2) EPA approves the contingency plans for failure to meet rate of progress in the Cecil County portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area for milestone years 1999, 2002 and 2005. These plans were submitted by the Secretary of the Maryland Department of the Environment on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

* * * * *

[FR Doc. 01–23222 Filed 9–18–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[FRL–7057–8]

Final Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Washington Department of Ecology and Four Local Air Agencies in Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to the authority of Clean Air Act (CAA), section 112(l), The United States Environmental Protection Agency, Region 10 (EPA) approves the State of Washington Department of Ecology's (Ecology) request, and the requests of four local air pollution control agencies in Washington, for program approval and delegation of authority to implement and enforce specific federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations (as they apply to both part 70 and non-part 70 sources) which have been adopted into state law. EPA delegates these programs to Ecology for the purpose of direct implementation and enforcement (within Ecology's jurisdiction). EPA also delegates these programs to the following four local agencies: the Benton Clean Air Authority (BCAA), the Olympic Air Pollution Control Authority (OAPCA), the Spokane County Air Pollution Control Authority (SCAPCA), and the Yakima Regional Clean Air Authority (YRCAA).

EPA also approves a mechanism by which Ecology and the four local agencies will receive delegation of future NESHAPs; and waives its notification requirements such that sources within Ecology, BCAA, and SCAPCA's jurisdictions only need to send notifications and reports to Ecology, BCAA, or SCAPCA, and do not need to send a copy to EPA.

Delegation to the remaining local agencies in the State of Washington (the Northwest Air Pollution Authority, the Puget Sound Clean Air Agency, and the Southwest Air Pollution Control Authority) was promulgated in a direct final rule on December 1, 1998. A correction and clarification to that direct final rule was published on February 17, 1999, and amendments updating this delegation were published on April 22, 1999, and February 28, 2000.

DATES: This rule becomes effective on October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Tracy Oliver, US EPA, Region 10 (OAQ–107), 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1172.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Comments
II. Corrections & Clarifications
III. Today's Action
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VI. Administrative Requirements

I. Comments

EPA received comments from SCAPCA and BCAA in response to the proposed notice published on July 3, 2001 (see 66 FR 35115).

Pursuant to 40 CFR 61.04(b), 63.9(a)(4)(ii) and 63.10(a)(4)(ii), BCAA amended its delegation request to ask EPA to waive the requirement that sources submit certain notifications and reports to EPA, as well as BCAA (the delegated agency). BCAA stated that the duplication of effort would pose an added burden on the local sources and the local authority, and that this requirement may prove to be a source of confusion for sources. BCAA demonstrated that it has the resources to adequately review such notices. Thus, today's final action grants BCAA's request and waives the requirement that sources provide notifications and reports to EPA in addition to BCAA. The waiver is the same as that approved for Ecology and SCAPCA. (Note, this waiver applies only to notifications and reports pertaining to those authorities that are delegated to the local agency. Some General Provisions authorities are retained by EPA and sources subject to a delegated NESHAP should continue to send responsive materials to EPA for Administrator decision. The delegated agency should be copied on these submissions to EPA. For more information, see the sections below titled, "How does this Delegation Affect the Regulated Community" and "Where Will the Regulated Community Send Notifications and Reports?)"

SCAPCA submitted comments requesting further clarification about: (1) The requirement that agencies input information for all area sources subject to delegated standards in AIRS (Aerometric Information Retrieval System (AIRS)—the national EPA air depository database); and (2) what documents must be submitted to EPA when SCAPCA carries-out its delegated General Provisions authorities.

In response to SCAPCA's comment #1, all major sources must be entered into AIRS. All area sources subject to part 61 or receiving an administrative order or civil referral must be entered into AIRS. MACTRAX (EPA's part 63

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database) reporting is required for all major and area sources subject to a MACT. If an agency enters its major and area source data into AIRS, a local agency need not submit semi-annual and annual MACTRAX reports.

In response to SCAPCA's comment #2, only copies of determinations made by the delegated agency in carrying-out General Provisions authorities need to be submitted to EPA in most cases. The delegated agency is not required to forward all materials sources send to them in order to make these determinations, unless these are specifically required as a condition of this delegation (*see* the section titled, "What are Ecology and the Four Local Agencies Reporting Requirements to EPA" below).

II. Corrections & Clarifications

The part 63 table on page 35123 at the end of the proposed rule indicates that part 63, subpart LL (Primary Aluminum Reduction Plants) is delegated to NWAPA and PSCAA, yet footnote #11 states that this subpart cannot be delegated to local agencies in Washington because Ecology retains exclusive authority to regulate such sources pursuant to the Washington Administrative Code (WAC) 173–405–012. Today's action clarifies that EPA is not delegating subpart LL to any local agencies because no local agency in Washington can receive such delegation. The Revised Code of Washington (RCW) 70.94.395 provides Ecology with authority to exclusively regulate a particular class of air contaminant sources on a state-wide basis. Ecology has exercised that authority pursuant to WAC 173–415–010 to regulate Primary Aluminum Plants. Today's action also clarifies that the reference to WAC 173–415–012 in footnote #11 was incorrect, and will be corrected to WAC 173–405–010.

III. Today's Action

What Action Is EPA Taking Today?

In this action, under the authority of CAA section 112(l)(5) and 40 CFR 63.91, EPA approves of Ecology's request, and the requests of BCAA, OAPCA, SCAPCA and YRCAA, for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 subparts, as listed in the tables at the end of this rule. Along with these specific standards, EPA delegates certain General Provisions authorities, as explained below. EPA delegates this authority to Ecology for the purpose of direct implementation (within Ecology's jurisdiction). EPA also delegates this authority to BCAA, OAPCA, SCAPCA and YRCAA.

In this action, EPA waives its notification requirements such that sources within Ecology, BCAA, and SCAPCA's jurisdictions would only need to send notifications and reports to Ecology, BCAA, or SCAPCA, and would *not* need to send a copy to EPA. (Sources within OAPCA and YRCAA's jurisdictions will need to continue sending notifications to both the respective agency and EPA).

Under the authority of CAA section 112(l)(5) and 40 CFR 63.91, EPA is also approving Ecology and the four locals agencies' mechanism for streamlining future delegation of those federal NESHAP regulations that are adopted unchanged into state and local laws. This mechanism is explained in a separate paragraph below.

Delegation to the remaining local agencies in the State of Washington—the Northwest Air Pollution Authority (NWAPA), the Puget Sound Clean Air Agency (Puget Sound Clean Air), and the Southwest Air Pollution Control Authority (SWAPCA)—was promulgated in a direct final rule on December 1, 1998 (*see* 63 FR 66054) and became effective on February 1, 1999. A correction and clarification to that direct final rule was published on February 17, 1999 (*see* 64 FR 7793). Additionally, amendments updating this delegation were published on April 22, 1999 (*see* 64 FR 19719) and February 28, 2000 (*see* 65 FR 10391). Therefore, this action will not apply to NWAPA, Puget Sound Clean Air, or SWAPCA.

What Specific Standards Does EPA Delegate?

EPA delegates certain 40 CFR parts 61 and 63 NESHAPs in effect on July 1, 2000, as adopted by reference into WAC 173–400–075 on November 22, 2000. The specific standards are identified in the tables at the end of this rule. In most cases, this delegation applies to all sources (exceptions are described below).

EPA agrees with the position of the State of Washington Office of the Attorney General that the November 22, 2000, revision to WAC 173–400–075(5)(a) adopts as state rules those parts of part 63 that EPA delegates. A revision to the state rule, which clarifies the provision, is being processed by the State.

EPA delegates 40 CFR part 61, subpart M (Asbestos NESHAP) to Ecology, BCAA, and OAPCA as it applies to major sources only (per their requests). Also, EPA delegates 40 CFR part 63, subpart M (Perchloroethylene Dry Cleaning NESHAP) to Ecology and YRCAA for major sources only.

Ecology has a working relationship with BCAA to manage the Asbestos NESHAP for sources located on the Hanford Nuclear Reservation. Ecology retains enforcement authority for the Asbestos NESHAP consistent with RCW 70.105.240. EPA acknowledges this managerial relationship between Ecology and BCAA concerning the Asbestos NESHAP since both agencies are delegated the authority to implement this program. However, EPA asserts that Ecology retains enforcement authority for sources located on the Hanford Nuclear Reservation because Ecology is the enforcing agency.

What Specific Standards Does EPA Not Delegate?

EPA does not delegate to Ecology and the four local agencies any 40 CFR part 61 subparts pertaining to radon or radionuclides. Typically, EPA delegates all standards adopted (and requested) by an air agency and in effect as of a certain date, regardless of whether or not there are any applicable sources within that agency's jurisdiction. As an exception, EPA is not delegating the 40 CFR part 61 subparts pertaining to radon or radionuclides which includes: subparts B, H, I, K, Q, R, T, and W. EPA has determined that there are either no sources in these agencies' jurisdictions (and that no new sources are likely to emerge), or if there are sources, the agency does not have sufficient expertise to implement these NESHAPs.

The Washington State Department of Health is currently implementing 40 CFR part 61, subparts H and I as the state radionuclide standards for the State of Washington. The Department of Health had received interim delegation for these two radionuclide standards (as they pertain to part 70 sources only) on August 2, 1995 (*see* 60 FR 39263). However, this interim delegation lapsed on November 9, 1996, because the State had not received full approval of the Washington Title V operating permits program. (*see* 60 FR 39264). Therefore, EPA is currently responsible for federal implementation of 40 CFR part 61, subparts H and I. (Note: EPA recently received a request from the Department of Health for delegation of federal radionuclide standards at 40 CFR part 61, subparts H and I. EPA is evaluating this request.)

Additionally, EPA is not delegating the regulations that implement CAA sections 112(g) and 112(j), codified at 40 CFR part 63, subpart B, to Ecology and the four local agencies. EPA recognizes that subpart B need not be delegated under the section 112(l) approval process. When promulgating the regulations implementing CAA section 112(g), EPA stated its view that "the Act directly confers on the permitting authority the obligation to implement section 112(g) and to adopt a program which conforms to the requirements of this rule. Therefore, the permitting authority need not apply for approval under section 112(l) in order to use its own program to implement section 112(g)" (*see* 61 FR 68397). Similarly, when promulgating the regulations implementing section 112(j), EPA stated its belief that "section 112(l) approvals do not have a great deal of overlap with the section 112(j) provision, because section 112(j) is designed to use the Title V permit process as the primary vehicle for establishing requirements" (*see* 59 FR 26447). Therefore, state or local agencies implementing the requirements under sections 112(g) and 112(j) do not need approval under section 112(l).

What General Provisions Authorities Does EPA Delegate?

In a memorandum from John Seitz, Office of Air Quality Planning and Standards, dated July 10, 1998, entitled, "Delegation of 40 CFR Part 63, General Provisions Authorities to State and Local Air Pollution Control Agencies," EPA clarified which of the authorities in the General Provisions may and may not be delegated to state and local agencies under 40 CFR part 63, subpart E. Based on this memo, EPA delegates the part 63, subpart A, sections that are listed below. Delegation of these General Provisions authorities will enable Ecology and the four local agencies to carry out the Administrator's responsibilities in these sections of subpart A. In delegating these authorities, EPA grants Ecology and the four local agencies the authority to make decisions which are not likely to be nationally significant or to alter the stringency of the underlying standard. The intent is that these agencies will make decisions on a source-by-source basis, *not* on a source category-wide basis.

TABLE 1.—PART 63, SUBPART A, GENERAL PROVISIONS AUTHORITIES WHICH EPA PROPOSES TO DELEGATE TO ECOLOGY AND THE FOUR LOCALS

Section	Authorities
63.1	Applicability Determinations
63.6(e)	Operation and Maintenance Requirements—Responsibility for Determining Compliance.
63.6(f)	Compliance with Non-Opacity Standards—Responsibility for Determining Compliance.
63.6(h) [except 63.6(h)(9)]	Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance.
63.7(c)(2)(i) and (d)	Approval of Site-Specific Test Plans.
63.7(e)(2)(i)	Approval of Minor Alternatives to Test Methods.
63.7(e)(2)(ii) and (f)	Approval of Intermediate Alternatives to Test Methods.
63.7(e)(2)(iii)	Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors.
63.7(e)(2)(iv) and (h)(2), (3)	Waiver of Performance Testing.
63.8(c)(1) and (e)(1)	Approval of Site-Specific Performance Evaluation (monitoring) Test Plans.
63 8(f)	Approval of Minor Alternatives to Monitoring.
63.8(f)	Approval of Intermediate Alternatives to Monitoring.
63.9 and 63.10 [except 63.10(f)]	Approval of Adjustments to Time Periods for Submitting Reports.

In delegating 40 CFR 63.9 and 63.10, "Approval of Adjustments to Time Periods for Submitting Reports," these agencies now have the authority to approve adjustments to the timing that reports are due, but do not have the authority to alter the contents of the reports. For Title V sources, semiannual and annual reports are required by part 70 and nothing herein will change that requirement.

What General Provisions Authorities Are Automatically Granted as Part of These Agencies' Part 70 Operating Permits Program Approval?

Certain General Provisions authorities are automatically granted to Ecology and the four local agencies as part of their part 70 operating permits program approval (regardless of whether the operating permits program approval is interim or final). These are 40 CFR 63.6(i)(1), "Extension of Compliance with Emission Standards," and 63.5(e) and (f), "Approval and Disapproval of Construction and Reconstruction."[1] Additionally, for 40 CFR 63.6(i)(1), Ecology and the four local agencies do not need to have been delegated a particular standard or have issued a part 70 operating permit for a particular source to grant that source a compliance extension. However, Ecology or the local agency must have authority to implement and enforce the particular standard against the source in order to grant that source a compliance extension.

What General Provisions Authorities Are Not Delegated?

In general, EPA does not delegate any authorities that require implementation through rulemaking in the **Federal Register**, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112. The types of authorities that EPA retains are: equivalency determinations, approval of alternative test methods, decisions where federal oversight is needed to ensure national consistency, and any decision that requires rulemaking to implement. The authorities listed in the table below (also mentioned in the footnotes of the parts 61 and 63 delegation tables at the end of this rule) are the specific General Provisions authorities that cannot be delegated to any state or local agency, which EPA therefore retains.[2]

[1] Sections 112(i)(1) and (3) state that "Extension of Compliance with Emission Standards" and "Approval and Disapproval of Construction and Reconstruction" can be implemented by the "Administrator (or a State with a permit program approved under Title V)." EPA interprets that this authority does not require delegation through Subpart E and, instead, is automatically granted to States as part of their part 70 operating permits program approval.

[2] For authorities not addressed in this rulemaking and not identified in any part 61 or 63 subparts as authorities that cannot be delegated, the agencies may assume that the authorities in question are delegated.

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TABLE 2.—PARTS 61 AND 63, SUBPART A, GENERAL PROVISIONS AUTHORITIES WHICH EPA CANNOT DELEGATE TO STATE AND LOCAL AGENCIES

Section	Authorities
61.04(b)	Waiver of Recordkeeping.
61.12(d)(1)	Approval of Alternative Means of Emission Limitation.
61.13(h)(1)(ii)	Approval of Major Alternatives to Test Methods.
61.14(g)(1)(ii)	Approval of Major Alternatives to Monitoring.
61.16	Availability of Information.
61.53(c)(4)	List of Approved Design, Maintenance, and Housekeeping Practices for Mercury Chlor-alki Plants.
63.6(g)	Approval of Alternative Non-Opacity Emission Standards.
63.6(h)(9)	Approval of Alternative Opacity Standard.
63.7(e)(2)(ii) and (f)	Approval of Major Alternative to Test Methods.
63.8(f)	Approval of Major Alternatives to Monitoring
63.10(f)	Waiver of Recordkeeping—all.

IV. Implications

What Changes Does This Delegation Create?

Ecology and the four local agencies now have primary implementation and enforcement responsibility for the adopted NESHAP regulations. This means that sources subject to the delegated standards will send notifications and reports to these agencies and send a copy to EPA (except for those sources within Ecology, BCAA, and SCAPCA's jurisdictions). Questions and compliance issues will also be directed to these agencies. As with any delegation, however, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. Additionally, if approved, EPA will retain certain General Provisions authorities, as explained above.

How Does This Delegation Affect the Regulated Community?

Once a state or local agency has been delegated the authority to implement and enforce a NESHAP, the delegated agency (in this case, Ecology and the four locals) becomes the primary point of contact with respect to that NESHAP. As a result of today's action, regulated facilities will direct questions and compliance issues to these agencies. Additionally, all pending questions and compliance issues, even those which may currently be under consideration by EPA, will be resolved by Ecology or the appropriate local agency.

For those authorities that are NOT delegated—those noted in Table 2 or any section of 40 CFR parts 61 and 63 that specifically indicates that authority may not be delegated—affected sources will continue to work with EPA as its primary contact and submit materials directly to EPA for Administrator decision. In these specific cases, the delegated agency should be copied on all submittals, questions, requests, etc.

Where Will the Regulated Community Send Notifications and Reports?

Facilities within OAPCA and YRCAA's jurisdictions will need to submit notifications directly to the respective agency, and also send a copy to EPA.

Pursuant to 40 CFR 61.04(b), 63.9(a)(4)(ii), and 63.10(a)(4)(ii), EPA waives the requirement for sources to submit notifications to Ecology, BCAA, and SCAPCA as well as EPA. Facilities within Ecology, BCAA, and SCAPCA's jurisdictions need to submit notifications and reports only to Ecology, BCAA, or SCAPCA, and do not need to send a copy to EPA. The only exception to this is when sources are submitting materials pertaining to authorities that are not delegated.

How Does This Delegation Affect Indian Country?

The delegation proposed for Ecology and the four local agencies to implement and enforce NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C.1151. "Indian country" is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Consistent with previous federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because these agencies did not adequately demonstrate their authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

What Are Ecology and the Four Local Agencies' Reporting Requirements to EPA?

In delegating the authority to implement and enforce these rules, EPA requires that these delegated agencies submit the following to EPA:

(1) These agencies must input all minimum reportable requirements into the AIRS Facility Subsystem (AFS) of the Aerometric Information Retrieval System (AIRS) for both point and area sources. The agencies must enter the information into the AIRS/AFS system by September 30 of each year;

(2) These agencies must report to EPA all reportable requirements for MACTRAX twice a federal fiscal year (semiannual and annually) (MACTRAX provides the summary data for each implemented NESHAP that EPA uses to evaluate the Air Toxics Program);

(3) These agencies must also provide any additional compliance related information to EPA as agreed upon in the Compliance Assurance Agreement;

(4) In receiving delegation for specific General Provisions authorities, these agencies must submit to EPA copies of determinations issued pursuant to these authorities, listed in Table 1 above;

(5) These agencies must also forward to EPA copies of any notifications received pursuant to § 63.6(h)(7)(ii) pertaining to the use of a continuous opacity monitoring system; and

(6) These agencies must submit to EPA's Emission Measurement Center of the Emissions Monitoring and Analysis Division copies of any approved intermediate changes to test methods or monitoring. (For definitions of major, intermediate, and minor alternative test methods or monitoring methods, see the July 10, 1998, memorandum from John Seitz, referenced above). These intermediate test methods or monitoring changes should be sent via mail or facsimile to: Chief, Source Categorization Group A, U.S. EPA (MD–19), Research Triangle Park, NC 27711, Facsimile telephone number: (919) 541–1039.

How Will These Agencies Receive Delegation for Future and Revised Standards?

Ecology or a local agency will receive delegation of future standards by the following process:

(1) Ecology or the local agency will send a letter to EPA requesting delegation for future NESHAP standards adopted by reference into state or local regulations;

(2) EPA will send a letter of response back to Ecology or the local agency granting this delegation request (or explaining why EPA cannot grant the request);

(3) Ecology or the local agency does not need to send a response back to EPA;

(4) If EPA does not receive a negative response from Ecology or the local agency within 10 days of EPA's letter to Ecology or the local agency, then the delegation will be final 10 days after the date of the letter from EPA; and

(5) Periodically, EPA will publish a notice in the **Federal Register** informing the public of the updated delegation.

How Frequently Should These Agencies Update Their Delegation?

Ecology and the four local agencies should update their incorporations by reference of 40 CFR parts 61 and 63 standards and request updated delegation annually, as current standards are revised and new standards are promulgated.

V. Summary

Pursuant to the authority of CAA section 112(l) of the Act and 40 CFR part 63, subpart E, EPA approves Ecology's request, and the requests of BCAA, OAPCA, SCAPCA and YRCAA, for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 federal NESHAP regulations (as they apply to both part 70 and non-part 70 sources) which have been adopted into state law. EPA delegates this authority to Ecology for the purpose of direct implementation (within Ecology's jurisdiction). EPA also delegates this authority to BCAA, OAPCA, SCAPCA and YRCAA. Additionally, EPA approves the mechanism by which Ecology and the four local agencies will receive delegation of future NESHAP regulations that are adopted unchanged into state law; and also proposes to waive the requirement for sources within Ecology, BCAA, and SCAPCA's jurisdictions to send copies of notifications and reports to EPA.

VI. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866, entitled "Regulatory Planning and Review."

This rule is not subject to Executive Order 13045, entitled, "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State program and rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this rule.

Although section 6 of the Executive Order does not apply to this rule, EPA did consult with representatives of State and local governments in developing this rule, and this rule is in response to the State's and local's delegation request.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial

number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government entities with jurisdiction over populations of less than 50,000.

Delegation of authority to implement and enforce unchanged federal standards under section 112(l) of the CAA does not create any new requirements but simply transfers primary implementation authorities to the State (or local) agency. Therefore, because this action does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected.

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the delegation action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

G. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Reporting and recordkeeping requirements, Vinyl chloride.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 31, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Title 40, chapter I, parts 61 and 63 of the Code of Federal Regulations is amended as follows:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7413, 7414, 7416, 7601 and 7602.

Subpart A—General Provisions

2. Section 61.04 is amended by revising paragraphs (b)(WW)(i), (iv), (v), and (vi), by adding paragraph (b)(WW)(viii); and by revising the table in paragraph (c)(10) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(WW)(i) Washington: State of Washington, Department of Ecology (Ecology), P.O. Box 47600, Olympia, WA 98504–7600.

Note: For a table listing Ecology's delegation status, see paragraph (c)(10) of this section.

* * * * *

(iv) Spokane County Air Pollution Control Authority (SCAPCA), West 1101 College Avenue, Suite 403, Spokane, WA 99201

Note: For a table listing SCAPCA's delegation status, see paragraph (c)(10) of this section.

(v) Yakima Regional Clean Air Authority (YRCAA), 6 South 2nd, Room 1016, Yakima, WA 98901.

Note: For a table listing YRCAA's delegation status, see paragraph (c)(10) of this section.

(vi) Olympic Air Pollution Control Authority (OAPCA), 909 Sleater-Kinney Road SE, Suite 1, Lacey, WA 98503.

Note: For a table listing OAPCA's delegation status, see paragraph (c)(10) of this section.

* * * * *

(viii) Benton Clean Air Authority (BCAA), 650 George Washington Way, Richland, WA 99352.

Note: For a table listing BCAA's delegation status, see paragraph (c)(10) of this section.

* * * * *

(c) * * *

(10) * * *

DELEGATION STATUS FOR PART 61 STANDARDS—REGION 10

Subpart	AK	ID	Oregon		Washington							
	ADEC [1]	IDEQ [2]	ODEQ [3]	LRAPA [4]	Ecology [5]	BCAA [6]	NWAPA [7]	OAPCA [8]	PSCAA [9]	SCAPCA [10]	SWAPCA [11]	YRCAA [12]
A. General Provisions [13]	X	.....	.....	.....	X	X	X	X	X	X	X	X
B. Radon from Underground Uranium Mines.												
C. Beryllium	.....	.....	.....	.....	X	X	X	X	X	X	X	X
D. Beryllium Rocket Motor Firing	.....	.....	.....	.....	X	X	X	X	X	X	X	X
E. Mercury	X	.....	.....	.....	X	X	X	X	X	X	X	X
F. Vinyl Chloride	.....	.....	.....	.....	X	X	X	X	X	X	X	X
H. Emissions of Radionuclides other than Radon from Dept of Energy facilities.												
I. Radionuclides from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H.												
J. Equipment Leaks of Benzene	X	.....	.....	.....	X	X	X	X	X	X	X	X
K. Radionuclides from Elemental Phosphorus Plants.												
L. Benzene from Coke Recovery	.....	.....	.....	.....	X	X	X	X	X	X	X	X
M. Asbestos	X [1]	.....	.....	.....	X [5]	X [6]	X	X [8]	X	X	X	X
N. Arsenic from Glass Plants	.....	.....	.....	.....	X	X	X	X	X	X	X	X
O. Arsenic from Primary Copper Smelters	.....	.....	.....	.....	X	X	X	X	X	X	X	X
P. Arsenic from Arsenic Production Facilities	.....	.....	.....	.....	X	X	X	X	X	X	X	X
Q. Radon from Dept of Energy facilities.												
R. Radon from Phosphogypsum Stacks.												
T. Radon from Disposal of Uranium Mill Tailings.												
V. Equipment Leaks	X	.....	.....	.....	X	X	X	X	X	X	X	X
W. Radon from Operating Mill Tailings.												
Y. Benzene from Benzene Storage Vessels	X	.....	.....	.....	X	X	X	X	X	X	X	X
BB. Benzene from Benzene Transfer Operations	.....	.....	.....	.....	X	X	X	X	X	X	X	X
FF. Benzene Waste Operations	X	.....	.....	.....	X	X	X	X	X	X	X	X

DELEGATION STATUS FOR PART 61 STANDARDS—REGION 10—Continued

[1] Alaska Department of Environmental Conservation (1/18/97).

Note: Alaska received delegation for §61.145 and §61.154 of Subpart M (Asbestos), along with other sections and appendices which are referenced in §61 145, as §61.145 applies to sources required to obtain an operating permit under Alaska's regulations. Alaska has not received delegation for Subpart M for sources not required to obtain an operating permit under Alaska's regulations. .

[2] Idaho Division of Environmental Quality.

[3] Oregon Department of Environmental Quality.

[4] Lane Regional Air Pollution Authority.

[5] Washington Department of Ecology (7/1/00).

Note: Delegation of Subpart M of this Part applies to major Title V sources only, including Hanford. (Pursuant to RCW 70.105.240, only Ecology can enforce regulations at Hanford).

[6] Benton Clean Air Authority (7/1/00).

Note: Delegation of Subpart M of this Part applies to major Title V sources only (excluding Hanford).

[7] Northwest Air Pollution Authority (7/1/99).

[8] Olympic Air Pollution Control Authority (July 1, 2000). .

Note: Delegation of Subpart M of this Part applies to major Title V sources only. .

[9] Puget Sound Clean Air Agency (7/1/99).

[10] Spokane County Air Pollution Control Authority (7/1/00).

[11] Southwest Air Pollution Control Authority (8/1/98).

[12] Yakima Regional Clean Air Authority (7/1/00).

[13] Authorities which are not delegated include: §§61.04(b); 61.12(d)(1); 61.13(h)(1)(ii) for approval of major alternatives to test methods; §61.14(g)(1)(ii) for approval of major alternatives to monitoring; §61.16; §61.53(c)(4); any sections in the subparts pertaining to approval of alternative standards (i.e., alternative means of emission limitations), or approval of major alternatives to test methods or monitoring; and all authorities identified in the subparts (i.e., under "Delegation of Authority") that cannot be delegated. For definitions of minor, intermediate, and major alternatives to test methods and monitoring, see memorandum from John Seitz, Office of Air Quality Planning and Standards, dated July 10, 1998, entitled, "Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies." .

Note to paragraph (c)(10): Dates in parenthesis indicate the effective date of the federal rules that have been adopted by and delegated to the state or local air pollution control agency. Therefore, any amendments made to these delegated rules after this effective date are not delegated to the agency.

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PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by revising the table in paragraph (a)(47)(i) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(47) * * *

(i) * * *

DELEGATION STATUS PART 63 STANDARDS—STATE OF WASHINGTON

Subpart	Ecology[2]	BCAA[3]	NNWAPA[4]	OAPCA[5]	PSCAA[6]	SCAPCA[7]	SWAPCA[8]	YRCAA[9]
A. General Provisions[1]	X	X	X	X	X	X	X	X
D. Early Reductions	X	X	X	X	X	X	X	X
F. HON–SOCMI	X	X	X	X	X	X	X	X
G. HON–Process Vents	X	X	X	X	X	X	X	X
H. HON–Equipment Leaks	X	X	X	X	X	X	X	X
I. HON–Negotiated Leaks	X	X	X	X	X	X	X	X
L. Coke Oven Batteries	X	X	X	X	X	X	X	X
M. Perchloroethylene Dry Cleaning	X[2]		X		X		X	X[9]
N. Chromium Electroplating	X	X	X	X	X	X	X	X
O. Ethylene Oxide Sterilizers	X	X	X	X	X	X	X	X
Q. Industrial Process Cooling Towers	X	X	X	X	X	X	X	X
R. Gasoline Distribution	X	X	X	X	X	X	X	X
S. Pulp and Paper[10]	X	X	X	X	X	X	X	X
T. Halogenated Solvent Cleaning	X	X	X	X	X	X	X	X
U. Polymers and Resins I	X	X	X	X	X	X	X	X
W. Polymers and Resins II–Epoxy	X	X	X	X	X	X	X	X
X. Secondary Lead Smelting	X	X	X	X	X	X	X	X
Y. Marine Tank Vessel Loading			X		X		X	
AA. Phosphoric Acid Manufacturing Plants	X	X	X	X	X	X		X
BB. Phosphate Fertilizers Production Plants	X	X	X	X	X	X		X
CC. Petroleum Refineries	X	X	X	X	X	X	X	X
DD. Off-Site Waste and Recovery	X	X	X	X	X	X	X	X
EE. Magnetic Tape Manufacturing	X	X	X	X	X	X	X	X
GG. Aerospace Manufacturing & Rework	X	X	X	X	X	X	X	X
HH. Oil and Natural Gas Production Facilities	X	X	X	X	X	X		X
II. Shipbuilding and Ship Repair	X	X	X	X	X	X	X	X
JJ. Wood Furniture Manufacturing Operations	X	X	X	X	X	X	X	X
KK. Printing and Publishing Industry	X	X	X	X	X	X	X	X
LL. Primary Aluminum[11]	X							
OO. Tanks—Level 1	X	X	X	X	X	X		X
PP. Containers	X	X	X	X	X	X		X
QQ. Surface Impoundments	X	X	X	X	X	X		X
RR. Individual Drain Systems	X	X	X	X	X	X		X
SS. Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or Process	X	X	X	X	X	X		X
TT. Equipment Leaks—Control Level 1	X	X	X	X	X	X		X
UU. Equipment Leaks—Control Level 2	X	X	X	X	X	X		X
VV. Oil-Water Separators and Organic-Water Separators	X	X	X	X	X	X		X
WW. Storage Vessels (Tanks)—Control Level 2			X		X			
YY. Source Categories: Generic MACT			X		X			
CCC. Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants			X		X			
DDD. Mineral Wool Production			X		X			
EEE. Hazardous Waste Combustors			X		X			
GGG. Pharmaceuticals Production			X		X			
HHH. Natural Gas Transmission and Storage Facilities			X		X			
III. Flexible Polyurethane Foam Production			X		X			
JJJ. Polymers and Resins IV			X		X		X	
LLL. Portland Cement Manufacturing			X		X			
MMM. Pesticide Active Ingredient Production			X		X			
NNN. Wool Fiberglass Manufacturing			X		X			
OOO. Manufacture of Amino Phenolic Resins.								
PPP. Polyether Polyols Production			X		X			
RRR. Secondary Aluminum Production.								
TTT. Primary Lead Smelting			X		X			
VVV. Publicly Owned Treatment Works.								

DELEGATION STATUS PART 63 STANDARDS—STATE OF WASHINGTON—Continued

Subpart	Ecology[2]	BCAA[3]	NNWAPA[4]	OAPCA[5]	PSCAA[6]	SCAPCA[7]	SWAPCA[8]	YRCAA[9]
XXX. Ferroalloys Production: Ferromanganese & Silicomanganese			X		X			

[1] General Provisions authorities which may not be delegated include: §§ 63.6(g); 63.6(h)(9); 63.7(e)(2)(ii) and (f) for approval of major alternatives to test methods; § 63.8(f) for approval of major alternatives to monitoring; § 63.10(f); and all authorities identified in the subparts (i.e., under "Delegation of Authority") that cannot be delegated. For definitions of minor, intermediate, and major alternatives to test methods and monitoring, see memorandum from John Seitz, Office of Air Quality Planning and Standards, dated July, 10, 1998, entitled, "Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies."

[2] Washington Department of Ecology (July 1, 2000).
Note: Delegation of Subpart M to Ecology applies to Part 70 sources only.

[3] Benton Clean Air Authority (July 1, 2000).

[4] Northwest Air Pollution Authority (July 1, 1999).

[5] Olympic Air Pollution Control Authority (July 1, 2000).

[6] Puget Sound Clean Air Agency (July 1, 1999).

[7] Spokane County Air Pollution Control Authority (July 1, 2000).

[8] Southwest Air Pollution Control Authority (August 1, 1998).

[9] Yakima Regional Clean Air Authority (July 1, 2000).
Note: Delegation of Subpart M to YRCAA applies to Part 70 sources only.

[10] Subpart S of this Part is delegated to The Washington Department of Ecology and these local agencies as it applies to all applicable facilities and processes defined in 40 CFR 63.440, except kraft and sulfite pulping mills. The Washington Department of Ecology (Ecology) retains the authority to regulate kraft and sulfite pulping mills in the State of Washington, pursuant to Washington Administrative Code (WAC) 173–405–012 and 173–410–012.

[11] Subpart LL of this Part cannot be delegated to any local agencies in Washington because Ecology retains the authority to regulate primary aluminum plants, pursuant to WAC 173–415–010.

Note to paragraph (a)(47): Dates in parenthesis indicate the effective date of the federal rules that have been adopted by and delegated to the state or local air pollution control agency. Therefore, any amendments made to these delegated rules after this effective date are not delegated to the agency.

[FR Doc. 01–23311 Filed 9–18–01; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 99–363; FCC 01–229]

Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on reconsideration.

SUMMARY: This document resolves petitions for reconsideration filed by US WEST, Inc. ("US WEST") and the Wireless Communications Association International, Inc. ("WCA") of the Commission's First Report and Order in Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent Issues: Good Faith Negotiation and Exclusivity, which adopted regulations and procedures governing the negotiation of agreements in connection with the retransmission of television broadcast station signals by multichannel video programming distributors ("MVPDs), including satellite carriers and cable systems.

DATES: Effective September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Steve Broeckaert at (202) 418–7200 or via internet at *sbroecka@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, FCC 01–229, adopted August 10, 2001; released August 15, 2001. The full text of the Commission's Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036, or may be reviewed via Internet at *http://www.fcc.gov/csb/.*

Synopsis of the Order on Reconsideration

Burden of Proof

In the First Report and Order, 65 FR 15559 (March 23, 2000), the Commission placed the burden of proof on the MVPD complainant to establish that a broadcaster violated its duty to negotiate retransmission consent in good faith. The Commission found this conclusion to be consistent with labor law precedent, which also places the burden on the complainant. The Commission also found that placing the burden of proof on the MVPD complainant to be consistent with its belief that generally the evidence of a violation of the good faith standard will be accessible by the complainant.

WCA and US WEST assert that the Commission should reconsider its decision to impose the burden of proof exclusively on the MVPD complainant, especially in cases in which the Commission presumes that the defendant broadcaster has not acted in good faith. Specifically, petitioners request that the Commission amend its rule to provide that when an MVPD's complaint alleges facts that, if true, would establish a *prima facie* case that a Commission presumption against a broadcaster should apply, the burden of proof will shift to the broadcaster.

We decline to establish the burden-shifting procedure suggested by US WEST and WCA. While we agree with petitioners that the Commission "enjoys express statutory authority to conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice," US WEST and WCA have not persuaded us that reconsideration in this instance is warranted or appropriate. US WEST and WCA correctly state that the Commission, in the First Report and Order, determined that certain bargaining proposals, including proposals based on the exercise of market power by a broadcast station or other MVPDs in the market or proposals that result from agreements not to compete or to fix prices, are presumptively not consistent with the good faith negotiation requirement. We fail to see, however, how the establishment of such presumptions would lead to the shifting of the burden of proof for merely alleging facts that, *if*

true, would establish a *prima facie* case of such presumption. Under such a framework, any complainant would be able to shift the burden of proof merely by alleging that a retransmission consent proposal demonstrates the exercise of market power by the broadcaster or another MVPD in the market. We do not see such a result intended in either the language or the legislative history of the statute, and despite petitioner's argument to the contrary, we fail to perceive a sensible way to interpret Congress' silence on this issue as a reason to shift the burden of proof to the broadcaster in such cases. Nor do we believe that our procedures will allow a broadcaster to be other than vigorous in its defense. As the Commission noted in the First Report and Order, placing the burden of proof on the complainant:

> * * * should not be interpreted as permitting a broadcaster to remain mute in the face of allegations of a [good faith] violation. After service of a complaint, a broadcaster must file an answer as required by Section 76.7 [of the Commission's rules], which advises the parties and the Commission fully and completely of any and all defenses, responds specifically to all material allegations of the complaint, and admits or denies the averments on which the party relies. In addition, where necessary the Commission has discretion to impose discovery requests on a defendant to a [good faith] complaint. However, in the end, the complainant must bear the burden of proving that a violation occurred.

Petitioners have failed to demonstrate that the burden of proof of establishing a good faith violation should rest elsewhere. Accordingly, US WEST and WCA's request for reconsideration on this issue is denied.

Limitations Period

In the First Report and Order, the Commission established a one year limitations period within which a complainant must bring any complaint related to a violation of the good faith retransmission consent negotiation requirement, holding, in part, that a good faith:

> complaint filed pursuant to section 325(b)(3)(C) must be filed within one year of the date any of the following occur * * * (b) a broadcaster engages in retransmission consent negotiations with a complainant MVPD that the complainant MVPD alleges violate one or more of the rules adopted herein, *and such negotiation is unrelated to any existing contract between the complainant MVPD and the broadcaster* * * *.

US WEST and WCA are concerned that, in certain circumstances, this provision of the limitations period could be applied to retransmission consent renewal negotiations thereby barring claims for good faith violations occurring during any renewal negotiations. Petitioners request that the Commission clarify that negotiations between an MVPD and a broadcaster to renew an existing retransmission consent agreement are not related to the parties' existing contract for purposes of the one-year limitations period, and that such negotiations trigger a new one-year filing period.

We grant US WEST and WCA's request for clarification. Section 325(b)(3)(C) imposes an affirmative duty on broadcasters to negotiate retransmission consent in good faith until 2006. This duty applies to all retransmission consent negotiations during this period, including renewal negotiations. The intent in adopting § 76.65(e)(2) of the Commission's rules was to ensure that complainants do not sit on grievances and that they bring good faith complaints in a timely manner. For example, if a broadcaster and MVPD negotiate a five-year retransmission consent agreement in Year 1 and subsequently encounter a dispute regarding the proper interpretation of a provision of such agreement in Year 3, § 76.65(e)(2) would bar a good faith complaint based upon the negotiations and contract executed in Year 1. On the other hand, if a broadcaster and MVPD negotiate and execute a five-year retransmission consent agreement in Year 1 and subsequently commence negotiations to renew or extend such consent in Year 4, any alleged violations of the good faith requirement stemming from such Year 4 negotiations are subject to complaint for a one-year period. An MVPD may not, however, use the commencement of such renewal or extension negotiations to raise good faith allegations solely related to the negotiations and contract executed in Year 1.

Effect of the Good Faith Rules on Pre-Existing Negotiations

US WEST asks the Commission to clarify that a broadcaster's obligation to negotiate after the effective date of the rules established in the First Report and Order attaches regardless of any negotiations that took place between the broadcaster and MVPD prior thereto. We grant US WEST's request for clarification. A broadcaster's duty to negotiate retransmission consent in good faith commenced upon the effective date of our good faith rules regardless of any prior course of negotiations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23267 Filed 9–18–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–01–10636]

RIN 2127–AH24

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA); Department of Transportation.

ACTION: Correcting amendments.

SUMMARY: This rule corrects an error in the neck injury criteria that are specified for the alternative unbelted sled test included in our occupant protection standard. We revised certain of the neck injury criteria in a final rule; correcting amendment published in the **Federal Register** (63 FR 71390) on December 28, 1998. However, we have become aware that, as a result of that final rule; correcting amendment, portions of the neck injury criteria that were not revised were inadvertently deleted from the standard as published in the Code of Federal Regulations. This document reinstates the inadvertently deleted criteria.

DATES: This final rule is effective September 19, 2001.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Dr. Roger A. Saul, Director, Office of Crashworthiness Standards, NPS–10. Telephone: (202) 366–1740. Fax: (202) 493–2739. E-mail: *Roger.Saul@NHTSA.dot.gov*.

For legal issues, you may contact Edward Glancy or Rebecca MacPherson, Office of Chief Counsel, NCC–20. Telephone: (202) 366–2992. Fax: (202) 366–3820.

You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection*, includes among its requirements certain neck injury criteria for the unbelted sled test. On December 28, 1998, we published in the **Federal Register** (63 FR 71390) a final rule; correcting amendment that, among other things, clarified that two of the neck injury criteria, flexion bending moment and extension bending moment, are calculated at the occipital condyle. We have become aware that, as a result of that final rule; correcting amendment, the three other neck injury criteria, axial tension, axial compression, and fore-and-aft shear, were inadvertently deleted from the standard as published in the Code of Federal Regulations. This document reinstates the inadvertently deleted criteria.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising S13.2 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S13.2 *Neck injury criteria.* A vehicle certified to this alternative test requirement shall, in addition to meeting the criteria specified in S13.1, meet the following injury criteria for the neck, measured with the six axis load cell (ref. Denton drawing C–1709) that is mounted between the bottom of the skull and the top of the neck as shown in Drawing 78051–218, in the unbelted sled test:

(a) Flexion Bending Moment (calculated at the occipital condyle)—190 Nm. SAE Class 600.

(b) Extension Bending Moment (calculated at the occipital condyle)—57 Nm. SAE Class 600.

(c) Axial Tension—3300 peak N. SAE Class 1000.

(d) Axial Compression—4000 peak N. SAE Class 1000.

(e) Fore-and-Aft Shear—3100 peak N. SAE Class 1000.

* * * * *

Issued on: September 14, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–23342 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 091201C]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Harpoon category closure; General category adjustment of daily retention limit.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) Harpoon category annual quota for the 2001 fishing year will be attained by September 16, 2001. Therefore, the 2001 Harpoon category fishery will be closed effective at 11:30 p.m. on September 16, 2001. This action is being taken to prevent overharvest of the Harpoon category quota. NMFS has also determined that the BFT General category restricted fishing day (RFD) schedule should be adjusted; i.e., certain RFDs should be waived in order to allow for maximum utilization of the General category subquota for the September fishing period.

DATES: The Harpoon category closure is effective 11:30 p.m. local time on September 16, 2001, through May 31, 2002. The General category retention limit adjustment is effective September 16, 2001, through September 30, 2001.

FOR FURTHER INFORMATION CONTACT: Pat Scida or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 et seq.) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories, and General category effort controls (including time-period subquotas and RFDs) are specified annually under 50 CFR 635.23(a) and 635.27(a). The 2001 initial category quotas and General category effort controls were specified on July 13, 2000 (66 FR 37421, July 18, 2001).

Harpoon Category Closure

NMFS is required, under § 635.28 (a)(1), to file with the Office of the Federal Register for publication notification of closure when a BFT fishing category quota is reached, or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year, or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The final initial 2001 BFT quota specifications issued pursuant to § 635.27 set a quota of 55 mt of large medium and giant BFT to be harvested from the regulatory area by vessels permitted in the Harpoon category during the 2001 fishing year (66 FR 37421, July 18, 2001). The Harpoon category quota was adjusted on August 29, 2001, when 15 mt were transferred from the Reserve to the Harpoon category for an adjusted Harpoon category quota of 70 mt. Based on reported landings and effort, NMFS projects that this quota will be reached by September 16, 2001. Therefore, fishing for, retaining, possessing, or landing large medium or giant BFT by vessels in the Harpoon category must cease at 11:30 p.m. local time, Sunday, September 16, 2001.

The intent of this closure is to prevent overharvest of the quota proposed for the Harpoon category. In the event the final Harpoon category landings amount to less than the final Harpoon category quota, NMFS may consider reopening the fishery.

General Category Effort Controls

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that adjustment to the General category RFD schedule, and, therefore, an increase of the daily retention limit for certain previously designated RFDs, is necessary. Therefore, NMFS adjusts the General category daily retention limit for September 16, 17, 19, 23, 24, 26, and 30, 2001, to one large medium or giant BFT per vessel. NMFS has selected these days in order to give adequate advance notice to fishery participants and NMFS enforcement.

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The intent of this adjustment is to allow for maximum utilization of the General category subquotas for the September fishing period (specified under 50 CFR 635.27(a)) by General category participants in order to help achieve optimum yield in the General category fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP. For these same reasons, NMFS has already adjusted the General category daily retention limit for six previously scheduled RFDs in September, and has maintained an increased General category daily retention limit of two fish per day, since July 30, 2001 (66 FR 40151, August 2, 2001; 66 FR 46400, September 5, 2001).

While catch rates have continued to be low so far this season, catches have tended to increase in late September in past years. In order to ensure that the September subquota is not filled prematurely and to ensure equitable fishing opportunities in all areas and for all gear types, NMFS is not increasing the daily retention limit to two fish per day for the second half of September. If catch rates continue to be low, NMFS may increase the daily retention limit and/or waive the two RFDs scheduled for the first week of October.

Classification

This action is taken under §§ 635.27(a), 635.28 (a)(1), and 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 13, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23262 Filed 9–13–01; 3:52 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 66, No. 182

Wednesday, September 19, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 2126–01]

RIN 1115–AG15

Construction Work and the B Nonimmigrant Visa Classification

AGENCY: Immigration and Naturalization Service.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Immigration and Naturalization Service (Service) is soliciting comments from the public on the issue of whether the term "building and construction work," as used in 8 CFR 214.2(b)(5) should be defined in regulation, and if so how the term "building and construction work" should be defined. Definition of the term "building and construction work" may assist both the public and the Service in determining whether certain classes of aliens may be admitted as B–1 nonimmigrant visitors for business.

DATES: Written comments must be submitted on or before November 19, 2001.

ADDRESSES: Written comments must be submitted to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC, 20536. To ensure proper handling, please reference the INS number 2126–01 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov*. When submitting comments electronically please include INS No. 2126–01 in the subject box. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3040, Washington, DC 20536, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION:

What Is a B Nonimmigrant Alien?

The definition of a B nonimmigrant is an alien whose admission to the United States is based on a temporary visit for business (B–1) or a temporary visit for pleasure (B–2). Section 101(a)(15)(B) of the Immigration and Nationality Act (Act) defines the visitor classification as: An alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

What Are the Current Regulations and Internal Field Guidelines Governing the Admission of B–1 Nonimmigrant Visitors for Business?

The Service and the Department of State (DOS), which is responsible for the issuance of visas overseas to aliens seeking status as B–1 nonimmigrant visitors for business, operate under similar regulations and internal guidelines with respect to the classification of aliens as B–1 nonimmigrants. Based on precedent and administrative rulings, the Service and DOS have long interpreted section 101(a)(15)(B) of the Act to mean that an alien may enter as a B–1 nonimmigrant to perform activities necessarily incident to international trade or commerce. See *Karnuth* v. *Albro*, 279 U.S. 231, 243–44, 49 S.Ct. 274, 278 (1929) and *Matter of Duckett*, 19 I & N Dec. 493, 497 (BIA 1987).

8 CFR 214.2(b)(5) provides that aliens seeking to enter the country to perform building or construction work, whether on-site or in-plant are not eligible for classification or admission as B–1 nonimmigrants under section 101(a)(15)(B) of the Act; but alien nonimmigrants otherwise qualified as B–1 nonimmigrants may be issued visas and may enter for the purpose of supervision or training of others engaged in building and construction work, but not for the purpose of actually performing any such building or construction work themselves. The Service's Inspector's Field Manual (IFM), Chapter 15.4(b)(1)(B)(*3*) provides that an alien may enter the United States in B–1 nonimmigrant status to install, service or repair commercial or industrial equipment or machinery purchased from a company outside the United States or to train United States workers to perform such services. (However, in such cases the contract of sale must specifically require the seller to provide such services or training, and the alien must possess specialized knowledge essential to the seller's contractual obligation to perform the services or training and must receive no remuneration from a U.S. source. These provisions do not apply to an alien seeking to perform building or construction work, whether on-site or in-plant except for an alien who is applying as a B–1 for the purpose of supervising or training other workers engaged in building or construction work, but not actually performing any such building or construction work.) The DOS's Foreign Affairs Manual (FAM) at 9 FAM 41.31, Note 7.1 contains language nearly identical to that found in the Service's IFM.

On June 21, 2001, the Service, in consultation with the DOS disseminated a supplementary internal guidance memorandum (the June 21, 2001 Memo) listing additional procedures to be followed in the inspection of Visa Waiver Program aliens seeking admission as B–1 nonimmigrant visitors for business and indicating an intention to perform certain activities. The June 21, 2001 Memo provides for the closer scrutiny of aliens who seek admission as B–1 nonimmigrant visitors for business under the Visa Waiver Program, and indicate an intention to perform any of the following activities:

(1) The installation, maintenance, and repair of: Utility services, any part or the fabric of any building or structure, and installation of machinery or equipment to be an integral part of a building or structure; or

(2) Work normally performed by laborers; millwrights; heat and frost insulators; bricklayers; carpenters and joiners; electrical workers; operating engineers (including heavy equipment operators); elevator constructors; sheet metal workers; teamsters; boilermakers; residential, commercial or industrial

painters (including the application of all surface coatings, no matter how applied); bridge, structural and ornamental ironworkers; plumbers and pipefitters; roofers; plasterers and cement masons; or

(3) Work involving installation of assembly lines; conveyor belts and systems; overhead cranes, heating, cooling, and ventilation or exhaust systems; elevators and escalators; boilers and turbines; the dismantling or demolition of commercial or industrial equipment or machinery if the equipment or machinery is an integral part of a building or structure; whether on-site or in-plant; or

(4) Site preparation work and services installation (for example electricity, gas, water) and connection of such services to commercial or industrial equipment or machinery if the equipment or machinery is to be an integral part of a building or structure.

On May 24, 2001, the DOS, after consultation with the Service, had disseminated a cable to all diplomatic and consular posts providing that posts shall seek an advisory opinion when the alien is applying for a B–1 visa to engage in the activities listed above in the Service's June 21, 2001 Memo.

The listed activities are not a definition of "building and construction work," but rather a trigger for additional questions at initial inspection and/or secondary inspection and prior to visa issuance. A Service inspector or consular officer may decide after consideration of all the facts that the activity to be performed does not constitute "building and construction work," as that term is ordinarily understood and approve admission of the alien or the issuance of a visa.

Why Is the Service Considering Defining the Term "Building and Construction Work" as Used in the Admission of B–1 Nonimmigrant Visitors for Business?

The Service has never defined the phrase "building and construction" by regulation and has become aware of potential confusion regarding its proper interpretation and application for the admission of B–1 nonimmigrant visitors for business. The distinction between the installation and service of equipment, which is permissible B–1 activity, and engaging in building and construction, which is not, has been particularly difficult to discern. For example, where large equipment is designed as an integral part of a building, an alien installing and/or servicing such equipment raises the question whether he is engaged in "building and construction." Therefore, the Service is exploring the possibility of defining "building and construction" in a manner that would clarify its application in such situations. The Service is seeking public comment on whether it should define "building and construction" by regulation and, if so, how that phrase should be defined. The Service also notes that it has taken into consideration the possible economic impact of this Advance Notice of Proposed Rulemaking. As previously noted, aliens admitted to the United States as B–1 nonimmigrant visitors for business are not eligible to engage in building and construction work for United States employers. Therefore, the Service does not believe that this Notice will have a significant impact upon United States entities.

Will the Service Adopt a Definition of "Building and Construction Work" That Is Already Used by Another Federal Agency?

The Service wishes to hear from the public on the issue of whether it should adopt another federal agency's definition of "building and construction work." One example of a possible definition is the Department of Labor's (DOL) definition of construction at 29 CFR 5.2(j), Subtitle A. The Service seeks comments from the public on the DOL definition, on any other federal definition, on the definition of activities listed in the June 21, 2001 Memo which currently trigger closer scrutiny by both the Service and DOS, and welcome new definitions of the term "building and construction work."

Executive Order 12866

This advanced notice of proposed rulemaking is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Under Executive Order 12866, section 6(a)(3)(B)–(D), this advanced notice has been submitted to and reviewed by the Office of Management and Budget.

Dated: September 14, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–23327 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 3783]

Construction Work and the B Nonimmigrant Visa Classification

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Bureau of Consular Affairs (CA) is soliciting comments from the public on the issue of whether the term "building and construction work," as used in 22 CFR 41.31(b)(1) should be defined in regulation, and if so how the term "building and construction work" should be defined. Definition of the term "building and construction work" may assist both the public and CA in determining whether certain classes of aliens may obtain visas as B–1 nonimmigrant visitors for business.

DATES: Written comments must be submitted on or before November 19, 2001.

ADDRESSES: Written comments must be submitted by mail to: Legislation and Regulations Division, Visa Office, Room L–603C, 2401 E Street, NW., Washington, DC 20520–0106, or e-mailed to visaregs@state.gov. Please reference the Public Notice Number for this notice.

FOR FURTHER INFORMATION CONTACT: Jeffrey Gorsky, Chief, Advisory Opinions Division, Directorate for Visa Services, Room L–603F, 2401 E Street, NW., Washington, DC 20520–0106; telephone 202–663–1187; or e-mail to gorskyjg@state.gov.

SUPPLEMENTARY INFORMATION:

What is a B nonimmigrant alien?

The definition of a B nonimmigrant is an alien whose admission to the United States is based on a temporary visit for business (B–1) or a temporary visit for pleasure (B–2). Section 101(a)(15)(B) of the Immigration and Nationality Act (Act) defines the visitor classification as:

An alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

What are the current regulations and internal field guidelines governing the admission of B–1 nonimmigrant visitors for business?

The Department of State (DOS), which is responsible for the issuance of visas overseas to aliens seeking to enter the United States as B–1 nonimmigrant visitors for business, has long interpreted section 101(a)(15)(B) of the Act to mean that an alien may obtain a visa as a B–1 nonimmigrant to perform activities necessarily incident to international trade or commerce. See *Karnuth* v. *Albro*, 279 U.S. 231, 243–44, 49 S.Ct. 274, 278 and *Matter of Duckett*, 19 I & N Dec. 493, 497 (BIA 1987).

22 CFR 41.31(b)(1) provides, in part, that the term "business * * * does not include local employment or labor for hire. For the purposes of this section building or construction work, whether on-site or in plant, shall be deemed to constitute purely local employment or labor for hire; provided that the supervision or training of others engaged in building or construction work (but not the actual performance of any such building or construction work) shall not be deemed to constitute purely local employment or labor for hire if the alien is otherwise qualified as a B–1 nonimmigrant."

The Department's Foreign Affairs Manual (FAM), Part 41.31, Note 7.1 on "Commercial or Industrial Workers" provides the following:

"a. An alien coming to the United States to install, service, or repair commercial or industrial equipment or machinery purchased from a company outside the United States or to train U.S. workers to perform such services. However, in such cases the contract of sale must specifically require the seller to provide such services or training and the visa applicant must possess specialized knowledge essential to the seller's contractual obligation to perform the services or training and must receive no remuneration from a U.S. source.

"b. These provisions do not apply to an alien seeking to perform building or construction work, whether on-site or in-plant. The exception is for an alien who is applying for a B–1 visa for the purpose of supervising or training other workers engaged in building or construction work, but not actually performing any such building or construction work."

On May 24, 2001, the Department of State, after consultation with the Immigration and Naturalization Service (INS), disseminated a telegram to all diplomatic and consular posts providing that posts shall seek an advisory opinion when an alien is applying for a B–1 visa to engage in any of the following activities:

"(1) The installation, maintenance, and repair of: Utility services, any part or the fabric of any building or structure, and installation of machinery or equipment to be an integral part of a building or structure; or

(2) Work normally performed by laborers; millwrights; heat and frost insulators; bricklayers; carpenters and joiners; electrical workers; operating engineers (including heavy equipment operators); elevator constructors; sheet metal workers; teamsters; boilermakers; residential commercial or industrial painters (including the application of all surface coatings, no matter how applied); bridge, structural and ornamental ironworkers; plumbers and pipefitters; roofers; plasterers and cement masons; or

(3) Work involving installation of assembly lines; conveyor belts and systems; overhead cranes, heating, cooling, and ventilation or exhaust systems; elevators and escalators; boilers and turbines; the dismantling or demolition of commercial or industrial equipment or machinery is the equipment or machinery is an integral part of a building or structure; whether on-site or in-plant; or

(4) Site preparation work and services installation (for example electricity, gas, water) and connection of such services to commercial or industrial equipment or machinery if the equipment or machinery is to be an integral part of a building or structure."

The listed activities are not a definition of "building and construction work," but rather a trigger for additional questions prior to visa issuance. A consular officer may decide after consideration of all the facts that the activity to be performed does not constitute "building and construction work," as that term is ordinarily understood and approve the issuance of a visa.

Why is the Department of State considering defining the term "building and construction work" as used in the issuance of visas to B–1 nonimmigrant visitors for business?

The Department of State has never defined the term "building and construction work" in regulation. The Department believes that confusion may exist within the international business and construction community regarding what activities constitute "building and construction work" for the purposes of issuance of a visa to an applicant as a B–1 nonimmigrant visitor for business. In particular, the distinction between the installation of equipment, which is a permissible B–1 activity, and "building and construction work" has been difficult to draw. For example, large equipment is often designed to be an integral part of a building itself. Aliens working on such equipment might be viewed by some to be performing "building and construction work," and by others to be merely installing equipment. The Department of State is very interested in exploring a definition of "building and construction work" that would clarify this gray area. Therefore, the Department seeks public comments on the question of whether a more specific regulatory definition of "building and construction work" is required, and if so how the term should be defined.

Will the Department of State adopt a definition of "building and construction work" that is already used by another Federal agency?

The Department of State wishes to hear from the public on the issue of whether it should adopt another Federal agency's definition of "building and construction work." One example of a possible definition is the Department of Labor's (DOL) definition of construction at 29 CFR 5.2(j), Subtitle A. The Department of State seeks comments from the public on the DOL definition, on any other Federal definition, on the definition of activities listed in the May 24 telegram which currently triggers closer scrutiny by consular officers, and welcomes new definitions of the term "building and construction work."

Dated: September 4, 2001.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 01–23488 Filed 9–18–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH83

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period and Notice of Availability of Draft Economic Analysis for Proposed Critical Habitat Determination for the *Chorizanthe robusta* var. *robusta* (Robust Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of a draft economic analysis for the proposed designation of critical habitat for the robust spineflower *(Chorizanthe robusta* var. *robusta)*. We are also providing notice of the reopening of the public comment period for the proposal to designate critical

2001, we published in the **Federal**

e-mail message. If you do not receive a

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habitat for this plant to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule. Comments submitted during this comment period will also be incorporated into the public record and will be fully considered in the final rule.

DATES: The comment period is opened and we will accept comments until October 19, 2001. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Copies of the draft economic analysis are available on the Internet at "www.r1.fws.gov" or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003.

All written comments should be sent to the Field Supervisor at the above address. You may also send comments by electronic mail (e-mail) to "fw1robustsf@r1.fws.gov". Please submit electronic comments in ASCII file format and avoid the use of special characters and encryption. Please include "Attn: RIN 1018–AH83" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805–644–1766. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Catrina Martin, Assistant Field Supervisor, Ventura Fish and Wildlife Office, at the above address (telephone 805–644–1766; facsimile 805–644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe robusta var. *robusta*, also known as robust spineflower and Aptos spineflower, is endemic to sandy soils in coastal areas in southern Santa Cruz and northern Monterey counties. In California, the spineflower genus (*Chorizanthe*) in the buckwheat family (Polygonaceae) comprises species of wiry annual herbs that inhabit dry sandy soils, both along the coast and inland. Because of the patchy and limited distribution of such soils, many species of *Chorizanthe* tend to be highly localized in their distributions.

Like other spineflowers, *Chorizanthe robusta* var. *robusta* is branched from the base and subtended by a rosette of basal leaves. The overall appearance of *C. r.* var. *robusta* is that of a low-growing herb that is soft-hairy and grayish or reddish in color. The plant has an erect to spreading or prostrate habit, with large individuals reaching 50 centimeters (cm) (20 inches (in.)) or more in diameter. This taxon is distinguished by white (rarely pinkish) scarious (translucent) margins on the lobes of the involucre (circle or collection of modified leaves surrounding a flower cluster) or head that subtend the white-to rose-colored flowers. The aggregate of flowers (heads) tend to be 1.5 to 2.0 cm (0.6 to 0.8 in.) across in diameter and distinctly aggregate. *Chorizanthe robusta* var. *robusta* is one of two varieties of the species *Chorizanthe robusta*. The other variety (*Chorizonthe robusta* var. *hartwegii*), known as Scotts Valley spineflower, is restricted to the Scotts Valley area in the Santa Cruz Mountains.

Chorizanthe robusta var. *robusta* is a short-lived annual species. It germinates during the winter months and flowers from April through June; although pollination ecology has not been studied for this taxon, pollinators observed include leaf cutter bees (megachilids), at least 6 species of butterflies, flies, and sphecid wasps (Randy Morgan, biologist, Soquel, California, pers. comm. 2000). Each flower produces one seed; depending on the vigor of the individual plant, dozens, if not hundred of seeds could be produced. The importance of pollinator activity in seed set has been demonstrated by the production of seed with low viability where pollinator access was limited (Harding Lawson Associates 2000). Seed is collectable through August. The plants turn a rusty hue as they dry through the summer months, eventually shattering during the fall. Seed dispersal is facilitated by the involucral spines, which attach the seed to passing animals. While animal vectors most likely facilitate dispersal between colonies and populations, the prevailing coastal winds undoubtedly play a part in scattering seed within colonies and populations.

The locations where *Chorizanthe robusta* var. *robusta* occurs are subject to a mild maritime climate, where fog helps keep summer temperatures cool and winter temperatures relatively warm, and provides moisture in addition to the normal winter rains. *Chorizanthe robusta* var. *robusta* is currently known from a total of seven sites. Two sites are located on active coastal dunes, while the other five sites are located inland from the immediate coast in sandy openings within scrub, maritime chaparral, or oak woodland habitats. All of these habitat types include microhabitat characteristics that are suitable for *C. r.* var. *robusta*. First, all sites are on sandy soils; whether the origin of the soils are from active dunes or interior fossil dunes is apparently unimportant. Second, these sites are relatively open and free of other vegetation; sandy soils tend to be nutrient-poor, which limits the abundance of other herbaceous species that can grow on them. However, if these soils have been enriched, either through the accumulation of organic matter or importation of other soils, these sandy soils may support more abundant herbaceous vegetation which may then compete with *C. r.* var. *robusta*. Management of the herb cover, either through grazing, mowing or fire, may allow the spineflower to persist. In scrub and chaparral communities, *C. r.* var. *robusta* does not occur under dense stands, but will occur between more widely spaced shrubs.

The current distribution of *Chorizanthe robusta* var. *robusta* is restricted to coastal and near-coastal sites in southern Santa Cruz County and northern Monterey County, ranging from Pogonip Park in the city of Santa Cruz, southeast to coastal dunes between Marina and Seaside that were formerly part of Fort Ord. With the discovery of two new populations in the year 2000, a total of seven populations are now known to exist. There is a high likelihood that other populations will be discovered in the future.

Portions of the coastal dune, coastal scrub, grassland, chaparral, and oak woodland communities that support *Chorizanthe robusta* var. *robusta* have been eliminated or altered by recreational use, conversion to agriculture, and urban development. Dune communities have also been altered in composition by the introduction of non-native species, especially *Carpobrotus* spp. (sea-fig or iceplant) and *Ammophila arenaria* (European beachgrass), in an attempt to stabilize shifting sands. In the last decade, significant efforts have been made to restore native dune communities, including the elimination of these non-native species.

Pursuant to the Endangered Species Act of 1973, as amended (Act), *Chorizanthe robusta* var. *robusta* was listed as endangered on February 4, 1994 (59 FR 5499). On February 15, 2001, we published in the **Federal Register** (66 FR 10419) a rule proposing critical habitat for the *Chorizanthe robusta* var. *robusta*. Approximately 660 hectares (1,635 acres) of land fall within the boundaries of the proposed critical habitat designation. Proposed critical habitat is located in Santa Cruz County, California, as described in the proposed rule.

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for the *Chorizanthe robusta* var. *robusta* and comments received during the previous comment period, we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available at the above Internet and mailing address.

Public Comments Solicited

We have reopened the comment period at this time in order to accept the best and most current scientific and commercial data available regarding the proposed critical habitat determination for the robust spineflower and the draft economic analysis of proposed critical habitat determination. Previously submitted written comments on this critical habitat proposal need not be resubmitted. We will accept written comments during this reopened comment period. The current comment period on this proposal closes on October 4, 2001. Written comments may be submitted to the Ventura Fish and Wildlife Office in the **ADDRESSES** section.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 7, 2001.

Daniel S. Walsworth,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 01–23249 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH82

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period and Notice of Availability of Draft Economic Analysis for Proposed Critical Habitat Determination for the *Chorizanthe robusta* var. *hartwegii* (Scotts Valley Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of a draft economic analysis for the proposed designation of critical habitat for *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower). We are also providing notice of the reopening of the public comment period for the proposal to designate critical habitat for this plant to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule. Comments submitted during this comment period will also be incorporated into the public record and will be fully considered in the final rule.

DATES: The comment period is opened and we will accept comments until October 19, 2001. Comments must be received by 5 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Copies of the draft economic analysis are available on the Internet at "www.r1.fws.gov" or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003.

All written comments should be sent to the Field Supervisor at the above address. You may also send comments by electronic mail (e-mail) to "fw1svsf@r1.fws.gov". Please submit electronic comments in ASCII file format and avoid the use of special characters and encryption. Please include "Attn: RIN 1018-AH82" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805–644–1766. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Catrina Martin, Assistant Field Supervisor, Ventura Fish and Wildlife Office, at the above address (telephone 805–644–1766; facsimile 805–644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe robusta var. *hartwegii* is a low-growing herb with rose-pink involucral margins confined to the basal portion of the teeth and an erect habit. The aggregate flowers (heads) are medium in size (1 to 1.5 cm (0.4 to 0.6 in.) in diameter) and distinctly aggregate. The plant germinates during the winter months and flowers from April through June. Although pollination ecology has not been studied for this taxon, it is likely visited by a wide array of pollinators; observations of pollinators on other species of *Chorizanthe* that occur in Santa Cruz County have included leaf cutter bees (megachilids), at least 6 species of butterflies, flies, and sphecid wasps. Each flower produces one seed; depending on the vigor of individual plants, dozens, if not hundreds, of seeds could be produced. The importance of pollinator activity in seed set has been demonstrated in another species of *Chorizanthe* by the production of seed with low viability where pollinator access was limited (Harding Lawson Associates 2000). Seed dispersal is facilitated by the involucral spines, which attach the seed to passing animals. *Chorizanthe robusta* var. *hartwegii* is one of two varieties of the species *C. robusta*. The other variety (*C. robusta* var. *robusta*), known as the robust spineflower, is known from the coast of southern Santa Cruz and northern Monterey counties and also is listed as endangered.

Chorizanthe robusta var. *hartwegii* is known from two sites about one mile apart at the northern end of Scotts Valley in Santa Cruz County, California. One site is located north of Casa Way and west of Glenwood Drive in northern Scotts Valley, referred to as the "Glenwood" site. The second site, located just east of Highway 17 and north of Navarra Road in northern Scotts Valley, is referred to as the "Polo

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Ranch" site. The plant is found on gently sloping to nearly level, fine-textured, shallow soils over outcrops of Santa Cruz mudstone and Purisima sandstone (Hinds and Morgan 1995). *Chorizanthe robusta* var. *hartwegii* occurs with *Polygonum hickmanii* and other small annual herbs in patches within a more extensive annual grassland habitat. These small patches have been referred to as "wildflower fields" because they support a large number of native herbs, in contrast to the adjacent annual grasslands that support a greater number of non-native grasses and herbs. While the wildflower fields are underlain by shallow, well-draining soils, the surrounding annual grasslands are underlain by deeper soils with a greater water-holding capacity, and therefore more easily support the growth of non-native grasses and herbs. The surface soil texture in the wildflower fields tends to be consolidated and crusty rather than loose and sandy (Biotic Resources Group (BRG) 1998). Elevation of the sites is from 215 to 245 meters (m) (700 to 800 feet (ft)) (Hinds and Morgan 1995). The climate in the city of Santa Cruz, 13 km (8 mi) to the south, is characterized by an average of 76.7 cm (30 in.) of rain per year, and an average temperature of 14 degrees Celsius (57 degrees Fahrenheit) per year, while the city of Los Gatos, 16 km (10 mi) to the north, averages 129.9 cm (51 in.) of rain per year, and an average temperature of 15 degrees Celsius (58 degrees Fahrenheit) per year (Worldclimate 1998).

Chorizanthe robusta var. *hartwegii* is associated with a number of native herbs including *Polygonum hickmanii* (Scotts Valley polygonum), *Lasthenia californica* (goldfields), *Minuartia douglasii* (sandwort), *Minuartia californica* (California sandwort), *Gilia clivorum* (gilia), *Castilleja densiflora* (owl's clover), *Lupinus nanus* (sky lupine), *Brodiaea terrestris* (brodiaea), *Stylocline amphibola* (Mount Diablo cottonweed), *Trifolium grayii* (Gray's clover), and *Hemizonia corymbosa* (coast tarplant). Non-native species present include *Filago gallica* (filago) and *Vulpia myuros* (rattail) (California Natural Diversity Data Base (CNDDB) 1998; Randy Morgan, biological consultant, pers. comm. 1998). In many cases, the habitat also supports a crust of mosses and lichens (Biotic Resources Group 1998).

Pursuant to the Endangered Species Act of 1973, as amended (Act), *Chorizanthe robusta* var. *hartwegii*, was listed as endangered on February 4, 1994 (59 FR 5499). On February 15, 2001, we published in the **Federal Register** (66 FR 10469) a rule proposing critical habitat for the *Chorizanthe robusta* var. *hartwegii*. Approximately 125 hectares (310 acres) of land fall within the boundaries of the proposed critical habitat designation. Proposed critical habitat is located in Santa Cruz County, California, as described in the proposed rule.

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *Chorizanthe robusta* var. *hartwegii* and comments received during the previous comment period, we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available at the above Internet and mailing address.

Public Comments Solicited

We have reopened the comment period at this time in order to accept the best and most current scientific and commercial data available regarding the proposed critical habitat determination for the Scotts Valley spineflower and the draft economic analysis of proposed critical habitat determination. Previously submitted written comments on this critical habitat proposal need not be resubmitted. We will accept written comments during this reopened comment period. The current comment period on this proposal closes on October 4, 2001. Written comments may be submitted to the Ventura Fish and Wildlife Office in the **ADDRESSES** section.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 7, 2001.

Daniel S. Walsworth,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 01–23247 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH04

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period and Notice of Availability of Draft Economic Analysis for Proposed Critical Habitat Determination for *Chorizanthe pungens* var. *pungens* (Monterey Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of a draft economic analysis for the proposed designation of critical habitat for the Monterey spineflower (*Chorizanthe pungens* var. *pungens*). We are also providing notice of the reopening of the public comment period for the proposal to designate critical habitat for this plant to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule. Comments submitted during this comment period will also be incorporated into the public record and will be fully considered in the final rule.

DATES: The comment period is opened and we will accept comments until October 19, 2001. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Copies of the draft economic analysis are available on the Internet at "www.r1.fws.gov" or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. All written comments should be sent to the Field Supervisor at the above address. You may also send comments by electronic mail (e-mail) to "fw1montereysf@r1.fws.gov". Please submit electronic comments in ASCII file format and avoid the use of special characters and encryption. Please include "Attn: RIN 1018–AH04" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805–644–1766. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Catrina Martin, Assistant Field Supervisor, Ventura Fish and Wildlife Office, at the above address (telephone 805–644–1766; facsimile 805–644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe pungens var. *pungens* is endemic to sandy soils in coastal areas in southern Santa Cruz and northern Monterey counties, and in the Salinas Valley in interior Monterey County. In California, the spineflower genus (*Chorizanthe*) in the buckwheat family Polygonaceae comprises species of wiry annual herbs that inhabit dry sandy soils, both along the coast and inland. Because of the patchy and limited distribution of such soils, many species of *Chorizanthe* tend to be highly localized in their distributions.

The overall appearance of *Chorizanthe pungens* var. *pungens* is of a low-growing herb that is soft-hairy and grayish or reddish in color. The plant has a prostrate to slightly ascending habit, with large individuals reaching 50 centimeters (cm) (20 inches (in)) or more in diameter. This taxon is distinguished by white (rarely pinkish) scarious (membranous) margins on the lobes of the involucre (a whorl of bracts) that subtend the white- to rose-colored flowers. The aggregate of flowers (heads) tend to be small (less than 1 cm (0.4 in) in diameter) and either distinctly or indistinctly aggregate.

Chorizanthe pungens var. *pungens* is a short-lived annual species. It germinates during the winter months and flowers from April through June; although pollination ecology has not been studied for this taxon, *C. p.* var. *pungens* is likely visited by a wide array of pollinators; observations of pollinators on other species of *Chorizanthe* that occur in Santa Cruz County have included leaf cutter bees (megachilids), at least six species of butterflies, flies, and sphecid wasps (R. Morgan, biologist, Soquel, CA, pers. comm. 2000). Each flower produces one seed; depending on the vigor of an individual plant, dozens, if not hundreds of seeds could be produced.

The importance of pollinator activity in seed set has been demonstrated by the production of seed with low viability where pollinator access was limited (Harding Lawson Associates 2000). Seed is collectable through August. The plants turn a rusty hue as they dry through the summer months, eventually shattering during the fall. Seed dispersal is facilitated by the spines on the involucre, which attach the seed to passing animals. While animal vectors most likely facilitate dispersal between colonies and populations, the prevailing coastal winds undoubtedly play a part in scattering seed within colonies and populations.

The locations where *Chorizanthe pungens* var. *pungens* occurs, with the exception of one (Soledad), are subject to a mild maritime climate, where fog helps keep summer temperatures cool and winter temperatures relatively warm, and provides moisture in addition to the normal winter rains. *Chorizanthe pungens* var. *pungens* is found in a variety of seemingly disparate habitat types, including active coastal dunes, grassland, scrub, chaparral, and woodland types on interior upland sites; and interior floodplain dunes. However, all of these habitat types include microhabitat characteristics that are suitable for *C. p.* var. *pungens*. First, all sites are on sandy soils; whether the origin of the soils are from active dunes, interior fossil dunes, or floodplain alluvium is apparently unimportant. Second, these sites are relatively open and free of other vegetation. In grassland and oak woodland communities, abundant annual grasses may outcompete *C. p.* var. *pungens*, while management of grass species, either through grazing, mowing or fire, may allow the spineflower to persist. In scrub and chaparral communities, *C. p.* var. *pungens* does not occur under dense stands, but will occur between more widely spaced shrubs.

Chorizanthe pungens var. *pungens* is generally distributed along the rim of Monterey Bay in southern Santa Cruz and northern Monterey counties, and inland along the coastal plain of the Salinas Valley. At coastal sites ranging from the Monterey Peninsula north to Manresa State Beach, *C. p.* var. *pungens* is found in active coastal dune systems, and on coastal bluffs upon which windblown sand has been deposited. On coastal dunes, the distribution of suitable habitat is subject to dynamic shifts caused by patterns of dune mobilization, stabilization, and successional trends in coastal dune scrub that increase in cover over time. Accordingly, individual colonies of *Chorizanthe pungens* var. *pungens*, found in gaps between stands of scrub, shift in distribution and size over time.

Portions of the coastal dune and coastal scrub communities that support *Chorizanthe pungens* var. *pungens* have been eliminated or altered by recreational use, industrial and urban development, and military activities. Dune communities have also been altered in composition by the introduction of non-native species, especially *Carpobrotus* species (sea-fig or iceplant) and *Ammophila arenaria* (European beachgrass), in an attempt to stabilize shifting sands. In the last decade, significant efforts have been made to restore native dune communities, including the elimination of these non-native species.

At more inland sites, *Chorizanthe pungens* var. *pungens* occurs on sandy, well-drained soils in a variety of plant communities, most frequently maritime chaparral, valley oak woodlands, and grasslands. The plant probably has been extirpated from a number of historical locations in the Salinas Valley, primarily due to conversion of the original grasslands and valley oak woodlands to agricultural crops (Reveal & Hardham 1989). Significant populations of *C. p.* var. *pungens* occur on lands that are referred to as former Fort Ord (U.S. Army Corps of Engineers 1992). Within grassland communities, *C. p.* var. *pungens* occurs along roadsides, in firebreaks, and in other disturbed sites, while in oak woodland, chaparral, and scrub communities, it occurs in sandy openings between shrubs. In older stands with a high cover of shrubs, the plants are restricted to roadsides, firebreaks, and trails that bisect these communities. At former Fort Ord, the highest densities of *C. p.* var. *pungens* are located in the central portion of the firing range, where disturbance is the most frequent. This pattern of distribution and densities of the *C. p.* var. *pungens* on former Fort Ord indicates that the very activities that have disturbed *C. p.* var. *pungens* habitat have also created the open conditions that result in high densities of the plant. Prior to onset of human use of this area, *C. p.* var. *pungens* may have been restricted to openings created by wildfires within these communities (Service 1998).

The southwestern edge of *Chorizanthe pungens* var. *pungens* habitat on former Fort Ord was once continuous with habitat found in the community of Del Rey Oaks and at the Monterey Airport (Deb Hillyard, ecologist, California Department of Fish and Game, pers. comm. 2000). Other inland sites that support *C. p.* var.

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pungens are located in the area between Aptos and La Selva Beach in Santa Cruz County, and near Prunedale in northern Monterey County.

Farther up the Salinas River, *Chorizanthe pungens* var. *pungens* was recently found on a dune located within the river floodplain near Soledad, Monterey County (CNDDB 2000). Two historic sites for *C. p.* var. *pungens* occur near here. One, near Mission Soledad, was collected once in 1881; the other, near San Lucas along the Salinas River, was collected once in 1935. Due to conversion to agriculture and channelization activities along the Salinas River over the last century, *C. p.* var. *pungens* has most likely been extirpated from these locations. The dune near Soledad is the only one of its size and extent between there and the river mouth (Brad Olsen, East Bay Regional Parks District, pers. comm. 2000).

Pursuant to the Endangered Species Act of 1973, as amended (Act), *Chorizanthe pungens* var. *pungens* was federally listed as threatened on February 4, 1994 (59 FR 5499). On February 15, 2001, we published in the **Federal Register** (66 FR 10440) a rule proposing critical habitat for the *C. p.* var. *pungens*. Approximately 10,400 hectares (25,000 acres) fall within the boundaries of the proposed critical habitat designation. Proposed critical habitat is located in Santa Cruz and Monterey counties, as described in the proposed rule.

Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for the Monterey spineflower and comments received during the previous comment period, we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available at the above Internet and mailing address.

Public Comments Solicited

We have reopened the comment period at this time in order to accept the best and most current scientific and commercial data available regarding the proposed critical habitat determination for the Monterey spineflower and the draft economic analysis of proposed critical habitat determination. Previously submitted written comments on this critical habitat proposal need not be resubmitted. We will accept written comments during this reopened comment period. The current comment period on this proposal closes on October 4, 2001. Written comments may be submitted to the Ventura Fish and Wildlife Office in the **ADDRESSES** section.

Author

The primary author of this notice is Connie Rutherford, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003 (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 7, 2001.

Daniel S. Walsworth,

Acting Manager, California/Nevada Operations Office.

[FR Doc. 01–23248 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 66, No. 182

Wednesday, September 19, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Food Security Advisory Committee, of the Board of International Food and Agricultural Development; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given for a meeting of the Food Security Advisory Committee (FSAC). The meeting will be held from 8:30 a.m. to 5 p.m. on September 19, 2001 in the NASULGC Board Room, ground floor of 1307 New York Avenue, NW., Washington, DC.

The agenda calls for FSAC to review the draft U.S. statement for the next World Food Summit, solicit civil society input, and report findings and recommendations to the Interagency Working Group (IWG) on Food Security.

Those wishing to attend the meeting or to obtain additional information about FSAC may contact Larry Paulson, BIFAD Federal Officer, at the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW., Room 2.11–072, Washington, DC 20523–2110; or phone (202)–712–1436, fax (202–216–3010, or e-mail *lpaulson@usaid.gov*.

Lawrence E. Paulson,

BIFAD Federal Officer, Office of Agriculture and Food Security, Center for Economic Growth & Agricultural Development Center, Bureau for Global Programs, USAID.

[FR Doc. 01–23305 Filed 9–18–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Roadless Area Protection; Interim Direction; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Forest Service published a notice in the **Federal Register** of August 22, 2001, providing information and requesting comments on the Interim Direction for roadless area protection. The document contained an incorrect telephone number for those requesting further information.

FOR FURTHER INFORMATION CONTACT: Jody Sutton, Program Coordinator, Content Analysis Team, at telephone number (801) 517–1023.

Correction

In the **Federal Register** of August 22, 2001, in FR Doc. 01–21185, on page 44111, in the third column, correct the telephone number in the **FOR FURTHER INFORMATION CONTACT** heading to read as follows: **FOR FURTHER INFORMATION CONTACT:**

Jody Sutton, Program Coordinator, Content Analysis Team, Forest Service, at telephone number (801) 517–1023.

Dated: September 13, 2001.

James R. Furnish,

Deputy Chief for National Forest System.

[FR Doc. 01–23304 Filed 9–18–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service in Alabama

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Alabama

AGENCY: Natural Resources Conservation Service (NRCS) in Alabama, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Alabama for review and comment.

SUMMARY: It is the intention of NRCS in Alabama to issue conservation practice standards:

Agricultural Fuel Containment Facility—Code 701
Anionic Polyacrylamide (PAM) Erosion Control—Code 450
Livestock Shade Structure—Code 717
Pest Management—Code 595

DATES: Comments will be received until October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Robert N. Jones, State Conservationist, Natural Resources Conservation Service (NRCS), 3381 Skyway Drive, PO Box 311, Auburn, AL 36830. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Alabama will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Alabama regarding disposition of those comments and a final determination of change will be made.

Dated: August 21, 2001.

Ray E. Donaldson,

Assistant State Conservationist, Natural Resources Conservation Service.

[FR Doc. 01–23280 Filed 9–18–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

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LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 8/17/01–9/13/01

Firm name	Address	Date petition accepted	Product
Sigma Equipment Corporation	39 Westmoreland Ave., White Plains, NY 10606.	08/29/01	Machinery for bar and powder soap production.
Aerostar International, Inc	200 E. 6th Street, Sioux Falls, SD 57117.	08/30/01	Sportswear, uniforms, medical and cleanroom garments.
Wheeler Tank Manufacturing, Inc	4001 N. 4th Avenue, Sioux Falls, SD 57118.	08/30/01	Steel tanks.
B.A. Die Mold, Inc	3685 Prairie Lake Court	08/31/01	Molds for plastic injection, machined of metal.
Strube Packing Company	P.O. Box 36, Rowena, TX 76875	09/04/01	Processing lamb meat.
Apex Precision Technologies, Inc	8824 Union Mills Drive, Camby, IN 46113.	08/31/01	Axle housings.
Hansen L.L.C	2214 NW 198th Street, Shoreline, WA 98177.	08/31/01	Salmon.
Multi Products, Inc	2131 State Street, Erie, PA 16503	09/04/01	Plastic molded components, including air purifying equipment, wheelchairs, headlight covers, and other misc. parts.
National Jet Company, Inc	10 Cupler Drive, Lavale, MD 21502	09/04/01	Microscopic drills.
J.B. Wood Products	1285 County Street, Attleboro, MA 02703.	09/04/01	Wood craft items i.e., plaques, wall tissue boxes, tv remote control caddy, etc.
Cyan Company, Inc	508 Wilson Road, Weatherford, OK 73096.	09/05/01	Solar heater controls.
James A. Rogers dba Rogers Tool & Mold.	28042 Ave. Sanford "E", Valencia, CA 91355.	09/05/01	Molds for plastic injection molding.
Ransco Industries, L.P	1400 E. Statham Pky, Oxnard, CA 93033.	09/05/01	Industrial machinery that performs thermal shock testing in the automotive and electronics industries.
Elite Formal Accessories, Inc	2280 SW 70th Ave., Davie, FL 33317.	09/05/01	Formal wear accessories, vests, bowties, packet quares and cummerbunds.
J-Mac Plastics, Inc	40 Lafayette Place, Kenilworth, NJ 07033.	09/12/01	Plastic molded products for the household industry, i.e. clock and thermometer cases and frames, etc.
Little Log Co., Inc	307 N. Highway 183, Sargent, NE 68874.	09/12/01	Bird houses and feeders.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: September 13, 2001.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 01–23285 Filed 9–18–01; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Performance Review Board Membership

AGENCY: Economics and Statistics Administration, Commerce.

ACTION: Performance Review Board membership.

SUMMARY: Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economics and Statistics Administration Senior Executive Service (SES) Performance Appraisal System:

William G. Barron
Nancy A. Potok
John H. Thompson
Theodore A. Johnson
Richard W. Swartz
Marvin D. Raines
Frederick T. Knickerbocker
Thomas L. Mesenbourg
Preston J. Waite
Nancy M. Gordon
William G. Bostic, Jr.
Chester E. Bowie
Cynthia Z. F. Clark
John F. Long
C. Harvey Monk
Walter C. Odom, Jr.
Judith N. Petty
Tommy Wright
Steve J. Landefeld
Rosemary D. Marcuss
Hugh W. Knox
Ralph H. Kozlow
Brent R. Moton
Sumiye O. Okubo
Suzette Kern
Carl E. Cox
Katherine Wallman

Dated: September 10, 2001.

James K. White,

Associate Under Secretary for Management, Chair, Performance Review Board.

[FR Doc. 01–23281 Filed 9–18–01; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–867]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, Brandon Farlander, and Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1102, and (202) 482–0182, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Preliminary Determination

We preliminarily determine that certain automotive replacement glass ("ARG") windshields from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

This investigation was initiated on March 20, 2001. *See Notice of Initiation of Antidumping Duty Investigation: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 66 FR 16651 (March 27, 2001) ("*Notice of Initiation*"). The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Notice of Initiation* at 16651. We received comments regarding product coverage as follows; from Fuyao Glass Industry Group Co., Ltd. ("FYG"), Xinyi Automotive Glass (Shenzhen) Co. Ltd. ("Xinyi") and Shenzhen Benxun Auto-Glass Co., Ltd. ("Benxun") on April 9, 2001; and from TCG International Inc. ("TCGI", a Canadian exporter of the merchandise under investigation) on August 27, 2001. With regard to the submission from TCGI, we note that TCGI requested clarification of the scope of this investigation concerning bus windshields and windshields for farm machinery. Specifically, TCGI takes the position that the language of the initiation notice and an application of the criteria established in *Diversified Products Corporation* v. *United States*, 572 F. Supp. 883 (Court of International Trade 1983), are such that bus windshields and farm and heavy machinery windshields are outside the scope of the merchandise under investigation. On August 28, 2001, the Department issued a letter seeking interested party comments on this issue. On September 5, 2001, we received comments from petitioners. However, because this submission was received within five days of the preliminary determination, we were not able to consider this issue for the purposes of this preliminary determination. We will address this issue in our final determination.

On April 3, 2001, the Department issued a letter to interested parties providing an opportunity to comment on the Department's proposed product-matching criteria and matching hierarchy. Comments were submitted on April 18, 2001 by PPG Industries, Inc., Safelite Glass Corporation, and Apogee Enterprises, Inc., and its manufacturing subsidiary Viracon/Curvlite, (collectively, "petitioners"), and respondent FYG. On May 1, 2001, petitioners submitted additional comments intended to refine their original April 18, 2001 comments on the Department's proposed product-matching criteria and matching hierarchy.

On April 17, 2001, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the PRC, which was published in the **Federal Register** on April 24, 2001. *See Automotive Replacement Glass Windshields from China*, 66 FR 20682 (April 24, 2001).

On April 24, 2001, the Department issued a questionnaire requesting volume and value of U.S. sales information to the Embassy of the PRC and to the Ministry of Foreign Trade and Economic Development, and sent courtesy copies to the following known producers/exporters of subject merchandise identified in the petition: FYG; Xinyi; Benxun; Dongguan Kongwan Automobile Glass; Wuhan Yaohua Pilkington Safety Glass ("Wuhan"); Guilin Pilkington Safety Glass Co., Ltd. ("Guilin"); Changchun Pilkington Safety Glass Company Ltd. ("Changchun"); Guandong Lunjiao Autoglass Co.; Shanghai Fu Hua Glass Co., Ltd.; Tianjin Riban Glass Co., Ltd.; Jieyang Jiantong Automobile Glass Co., Ltd.; Shanghai Yanfeng Automotive Trim Co.; Luoyang Float Glass Group Import & Export Corp.; Hebei Tong Yong Glass Industry Limited Company; Yantai Yanhua Glass Products Co., Ltd.; and Hangzhou Safety Glass Co., Ltd. Additionally, we indicated to the Embassy of the PRC a large number of other potential producers/exporters identified in the petition (but for whom we did not have an address), and notified the PRC Government that it was responsible for ensuring that volume and value information for those companies be provided to the Department.

On May 4, 2001, FYG, Xinyi, Benxun, TCGI, and Pilkington North America ("PNA", an importer of the subject merchandise exported by the PRC companies, Changchun, Guilin, and Wuhan) submitted responses to the Department's questionnaire seeking volume and value of U.S. sales information. On May 7, 2001, the Department issued the respondent selection memorandum, selecting FYG and Xinyi to be investigated (*see Selection of Respondents* section below). The following companies were determined to be non-responsive for purposes of this investigation based on their failure to provide the requested information: Lung Ta Glass Industrial Company Ltd.; Shanghia Jamyf Decoration Materials Company Ltd.; Fujian Wan Da Automobile; Sino-Foreign Joint Venture; Liu Zhou Steel Glass Factory; Luoyang Glass Company Limited; Tianjin NSG Safety Glass Company Ltd.; Yangzhou Tang Cheng Safety Glass; Boading Sanyuan Safety Glass Company, Ltd.; Best Safety-Glass; Zhuhai Singyes Auto Safety Glass Factory; Qinhuangdao Haiyan Safety Glass Company Ltd.; Changzhou Industry Technical Glass Factory; Tianjin Sanlian Skilled Glass Works; Tianjin Riban Glass Co., Ltd.; Jieyang Jiantong Automobile Glass Co., Ltd.; Shanghai Yanfeng Automotive Trim Co.; Luoyang Float Glass Group Import & Export Corp.; Hebei Tong Yong Glass Industry Limited Company; Yantai Yanhua Glass Products Co., Ltd.; Hangzhou Safety Glass Co., Ltd.; Guandong Lunjiao Autoglass Co.; Shanghai Fu Hua Glass Co., Ltd.; and Dongguan Kongwan Automobile Glass.

On May 8, 2001, the Department issued its antidumping questionnaire to

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FYG and Xinyi. On June 1, 2001, the Department amended the May 8, 2001 Sections C & D Questionnaire to include fields which account for bent float glass and for dimensions of the float glass.

On May 10, 2001, the Department received requests from PNA and Benxun to be treated as voluntary respondents in this investigation, or at a minimum, to be granted a separate rate. On May 29, 2001, the Department received a request from TCGI in which TCGI stated that is qualifies as a proper respondent in this investigation and that, as a cooperating respondent, the Department must calculate a separate rate for the company in accordance with Department precedent. On July 19, 2001, Benxun supplemented its request to be granted, at a minimum, a separate rate. On July 26, 2001, petitioners submitted comments on Benxun's request to be treated as a voluntary respondent and be given a separate dumping rate for purposes of this investigation.

On May 29, 2001, the Department received Section A responses from FYG, Xinyi, Benxun, TCGI and PNA (including information from Changchun, Guilin, and Wuhan). In its submission of May 29, 2001, FYG explained that one of its affiliated manufacturers, Fujian Wanda Automobile Industries Co., Ltd. ("Fujian Wanda"), was named as an uncooperative party by the Department in the Department's respondent selection memorandum of May 7, 2001. However, because we note that FYG's volume and value information submitted in a timely fashion included information from Fujian Wanda, the Department preliminarily detemines that Fujian Wanda in fact is not considered an uncooperative party.

On June 14 and 15, 2001, the Department issued section A supplemental questionnaires to Xinyi and FYG respectively. The Department received responses to its Section A supplementals on June 28 and 29, 2001 for Xinyi and FYG respectively. The Department also issued a second Section A supplemental for Xinyi on July 12 and received a response on July 26, 2001.

On June 13 and 25, 2001, the Department received Sections C & D Questionnaire responses from PNA and FYG respectively. On June 15 and 28, the Department received Sections C & D Questionnaire responses from Benxun and Xinyi respectively. On July 12, 2001, the Department issued Sections C & D supplemental questionnaires to both FYG and Xinyi and received responses on July 26, 2001. On August 8, 2001, the Department issued a second supplemental questionnaire for Sections C & D to FYG and Xinyi and received responses on August 15 and 22, 2001, respectively.

On June 22, 2001, the Department issued a request for parties to submit comments on surrogate market-economy country selection, and publicly available information for valuing the factors of production. Petitioners submitted comments to these requests on July 6, 2001 and July 23, 2001 respectively. On July 23, 2001, FYG and Xinyi submitted surrogate value data to the Department. On August 7, 2001, Xinyi submitted some additional publicly available published information on surrogate values. On August 9, 2001, petitioners submitted comments on FYG's July 23, 2001 surrogate value data submission. On August 10 and 17, 2001, FYG and Xinyi, respectively, submitted comments on petitioners' July 23, 2001 surrogate data submission. On August 15, 2001, petitioners submitted comments on FYG's August 10, 2001 submission. On August 21, 2001, petitioners submitted comments on Xinyi's August 7, 2001 and August 17, 2001 surrogate value submissions.

On July 30, 2001, petitioners alleged that critical circumstances exist with respect to this investigation. Consequently, on July 30, 2001, the Department requested that FYG and Xinyi submit sales data for the period 1999 through May 2001. We received this information on August 13, 2001 from FYG, and from Xinyi on August 20, 2001.

On August 9, 2001, the Department responded to PNA's May 10, 2001 request to be treated as a voluntary respondent in this investigation. The Department noted that, although PNA qualifies as an interested party in the proceeding, as an importer of the subject merchandise, PNA is not eligible for the assignment of an individual rate as it requested because, in accordance with our statute, the Department does not investigate importers of the merchandise under investigation in an antidumping duty investigation. The Department noted that, in order for the exporters identified in PNA's Section A response to be considered for a separate rate, the exporters must file the necessary information on their own behalf. *See Letter to Gregory Dorris from Rick Johnson*, August 9, 2001. On August 24, 2001, Changchun, Guilin, and Wuhan filed notices of appearance in this investigation and filed certificates of accuracy with respect to the May 29, 2001 separate rates information filed in PNA's Section A response. On August 31, 2001 Changchun, Guilin, and Wuhan submitted supplemental section A responses on their own behalf. On September 5, 2001, we requested Changchun, Guilin, and Wuhan to submit a certification of accuracy on the record that the information provided for these companies in PNA's June 12, 2001 section C and D response is accurate. On September 7, 2001, each company submitted the required certificate of accuracy.

On August 23, 2001, petitioners submitted comments regarding FYG's response of August 15, 2001. Also, on August 23, 2001, FYG submitted comments to petitioners' August 15, 2001 submission.

On July 17, 2001, the Department postponed the deadline for the preliminary determination to August 31, 2001, pursuant to section 733(c)(1)(B) of the Act. *See Automotive Replacement Glass Windshields from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 66 FR 38256 (July 23, 2001). On August 29, petitioners filed a letter requesting an additional ten-day postponement of the preliminary determination. Subsequently, on August 31, 2001, the Department further postponed the deadline for the preliminary determination to September 10, 2001, pursuant to section 733(c)(1)(A) of the Act. *See Automotive Replacement Glass Windshields from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 66 FR 46994 (September 10, 2001).

Period of Investigation

The POI is July 1, 2000 through December 31, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (February 28, 2001). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are ARG windshields, and parts thereof, whether clear or tinted, whether coated or not, and whether or not they include antennas, ceramics, mirror buttons or VIN notches, and whether or not they are encapsulated. ARG windshields are laminated safety glass (*i.e.*, two layers of (typically float) glass with a sheet of clear or tinted plastic in between (usually polyvinyl butyral)), which are produced and sold for use by automotive glass installation shops to replace windshields in automotive vehicles (*e.g.*, passenger cars, light trucks, vans, sport utility

vehicles, etc.) that are cracked, broken or otherwise damaged.

ARG windshields subject to this investigation are currently classifiable under subheading 7007.21.10.10 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of this investigation are laminated automotive windshields sold for use in original assembly of vehicles. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

As discussed in our notice of initiation, the scope of this investigation poses unique problems of administration. For the final determination, we continue to invite parties to provide information on physical characteristics which would allow U.S. Customs officials to distinguish between ARG windshields, and windshields for new automobiles. We also invite comments on procedures for administering any order which may result from this investigation on the basis of end use. Finally, information on the record shows that all windshields imported from the PRC during the POI were ARG windshields; consequently, we note that even if the scope of this order were to cover all windshields, the Department would have all the information necessary to make a final determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to the exporters and producers accounting for the largest volume of the subject merchandise pursuant to section 777A(c)(2)(B) of the Act. FYG and Xinyi (collectively, "respondents") were the two largest cooperative exporters and accounted for the majority of all exports of the subject merchandise from the PRC during the POI, as reported by the two producers/exporters at the time we made our respondent selection, and we therefore selected them as mandatory respondents. *See Memorandum from Rick Johnson to Edward Yang: Selection of Respondents: Antidumping Duty Investigation of Automotive Replacement Glass ("ARG") Windshields from the People's Republic of China*, May 7, 2001.

Nonmarket Economy Country Status

The Department has treated the PRC as a non-market economy ("NME") country in all past antidumping investigations (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000) (*Apple Juice*)). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below.

Furthermore, no interested party has requested that the ARG windshield industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the ARG windshield industry in the PRC as a market-oriented industry in this investigation.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The two companies that the Department selected to investigate (*i.e.*, FYG and Xinyi), and the PRC companies that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses (*i.e.*, Benxun, Changchun, Guilin and Wuhan) have provided the requested separate rates information and have stated that, for each company, there is no element of government ownership or control. Additionally, with respect to TCGI, a Canadian reseller, no analysis *of de jure or de facto* control by the PRC is necessary, because it is a company operating in a market economy. Thus, the following discussion of separate rates does not include an analysis of TCGI. We have assigned a separate rate to TCGI because it has provided information indicating that its PRC supplier does not have knowledge that its sales to TCGI are destined for the United States.

We considered whether each PRC company is eligible for a separate rate. The Department's separate rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by, *Final Determination of Sales at Less*

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Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20508.

All six PRC companies seeking separate rates reported that the subject merchandise was not subject to any government list regarding export provisions or export licensing, and was not subject to export quotas during the POI. Each company also submitted copies of its respective Certificate of Approval for the Establishment of Enterprises with Foreign Investment. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with an individual exporter's business and export licenses. Our examination of the record indicates that each exporter submitted copies of the legislation of the People's Republic of China or documentation demonstrating the statutory authority for establishing the *de jure* absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; and (2) the applicable legislative enactments decentralizing control of the companies.

2. Absence of *De Facto* Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide*, 56 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independently of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise based on the cost of the merchandise, movement expenses, overhead, profit, and the market situation in the United States. Each exporter stated that it negotiates prices directly with its customers. Also, each exporter claimed that its prices are not subject to review or guidance from any governmental organization.

Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, our examination of the record indicates that each exporter reported that it has authority to negotiate and sign contracts and other agreements. Also, each exporter claimed that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management. There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.

The evidence placed on the record of this investigation by FYG, Xinyi, Benxun, Changchun, Guilin and Wuhan demonstrates an absence of government control, both in law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for the purposes of this preliminary determination, we are granting separate rates to each of the six exporters which shipped ARG windshields to the United States during the POI and provided complete questionnaire responses. For a full discussion of this issue, see the memorandum from Laurel LaCivita to Edward Yang, *Separate Rates Analysis for the Preliminary Determination*, dated August 31, 2001 ("*Separate Rates Memo*").

Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting Department requirements; and (5) the information can be used without undue difficulties.

Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available.

PRC-Wide Rate

As discussed above (*see* "Separate Rates"), all PRC producers/exporters that do not qualify for a separate rate are treated as a single enterprise. As noted above in "Case History", all producers/exporters were given the opportunity to respond to the Department's questionnaire regarding volume and value of U.S. sales. As explained above, we received timely responses from FYG, Xinyi, Benxun, TCGI, Changchun, Guilin, and Wuhan. The Department did not receive responses from the following companies: Lung Ta Glass Industrial Company Ltd.; Shanghai Jamyf Decoration Materials Company Ltd.; Sino-Foreign Joint Venture; Liu Zhou Steel Glass Factory; Luoyang Glass Company Limited; Tianjin NSG Safety Glass Company Ltd.; Yangzhou Tang Cheng Safety Glass; Boading Sanyuan Safety Glass Company, Ltd.; Best Safety-Glass; Zhuhai Singyes Auto Safety Glass Factory; Qinhuangdao Haiyan Safety Glass Company Ltd.; Changzhou Industry Technical Glass Factory; Tianjin Sanlian Skilled Glass Works; Tianjin Riban Glass Co., Ltd.; Jieyang Jiantong Automobile Glass Co., Ltd.; Shanghai Yanfeng Automotive Trim Co.; Luoyang Float Glass Group Import & Export Corp.; Hebei Tong Yong Glass Industry Limited Company; Yantai Yanhua Glass Products Co., Ltd.; Hangzhou Safety Glass Co., Ltd.; Guandong Lunjiao Autoglass Co.; Shanghai Fu Hua Glass Co., Ltd.; and Dongguan Kongwan Automobile Glass. As discussed in the Case History section, FYG explained that Fujian Wanda is an affiliated manufacturer of subject merchandise and Fujian Wanda's information is included in FYG's information. Therefore, we have preliminarily determined that Fujian Wanda is not an uncooperative party and we have removed Fujian Wanda from the list of uncooperative parties. The Department notes that import data from the United States International Trade Commission Dataweb shows imports of ARG windshields from the PRC during the POI are significantly higher than the imports submitted by FYG, Xinyi, Benxun, TCGI and Changchun, Guilin and Wuhan (*see* http://*www.usitc.gov*, and *Respondent Selection Memorandum from Rick Johnson to Edward Yang*, May 7, 2001). Therefore, the Department preliminarily determines that there were exports of the merchandise under investigation from the single PRC entity, and that the single entity failed to respond to the Department's request for information.

As set forth above, section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences against an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) ("SAA"). The Department finds that exporters (*i.e.*, the single PRC entity) who did not respond to our request for information have failed to cooperate to the best of their ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. Consistent with Department practice in cases where a respondent is considered uncooperative, as adverse facts available, we have applied 124.50 percent, the highest rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department). *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany*, 63 FR 10847 (March 5, 1998).

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See SAA* at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See id.* The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In order to determine the probative value of the initiation margin for use as facts otherwise available for the purposes of this determination, we examined evidence supporting the initiation calculations. We successfully corroborated the information in the initiation regarding price to price comparisons. *See Memorandum from Edward Yang to Joseph Spetrini: Preliminary Determination in the Antidumping Investigation of Automotive Replacement Glass Windshields from the People's Republic of China: Total Facts Available Corroboration Memorandum for All Others Rate*, dated September 10, 2001.

Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000) ("*Synthetic Indigo*"). The PRC-wide rate applies to all entries of the merchandise under

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investigation except for entries from FYG, Xinyi, Benxun, TCGI, Changchun, Guilin, and Wuhan.

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000).

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. *See Memorandum from Jeffrey May to Rick Johnson: Antidumping Duty Investigation on Automotive Replacement Glass Windshields from the People's Republic of China*, dated June 12, 2001. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. *See Surrogate Country Selection Memorandum to The File from Laurel LaCivita*, dated September 10, 2001, ("Surrogate Country Memorandum").

We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. *See Surrogate Country Memorandum*. We have obtained and relied upon publicly available information wherever possible. *See Factor Valuation Memorandum to The File from Case Analysts*, dated September 10, 2001 ("*Factor Valuation Memorandum*").

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

Critical Circumstances

On July 30, 2001, petitioners submitted a critical circumstances allegation, stating there is a reasonable basis to believe or suspect that critical circumstances exist in the antidumping investigation concerning ARG windshields from the PRC. In accordance with 19 CFR 351.206(c)(1)(2)(i), because petitioners submitted a critical circumstances allegation 20 days or more before the scheduled date of the preliminary determination, the Department is issuing a preliminary critical circumstances determination no later than the date of the preliminary determination. Section 733(e) of the Act provides that, in a preliminary determination, the Department may determine, in the event that petitioners allege critical circumstances, whether: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period.

1. History or Knowledge of Dumping and Material Injury

In determining whether there is a reasonable basis to believe or suspect that there is a history of dumping and material injury by reason of dumped imports, the Department considers evidence of an existing antidumping order on ARG windshields from PRC in the United States or elsewhere to be sufficient. In this case, petitioners state that to their knowledge that no antidumping duty orders that cover ARG windshields are currently in effect in other countries. Because we have not found a history of dumping causing material injury with respect to ARG windshields from the PRC, we have therefore examined whether there exists a reasonable basis to believe or suspect that an importer knew or should have known that the foreign producer/exporter was selling the subject merchandise at less than fair value.

The Department's normal practice in determining importer knowledge is to consider margins of 25 percent or more for export price ("EP") sales and 15 percent or more for constructed export price ("CEP") sales sufficient to impute such knowledge to the importer. *See Preliminary Critical Circumstances Determination: Honey from the People's Republic of China*, 60 FR 29824 (June 6, 1995); *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997); *Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Stainless Steel Butt-Weld Pipe Fittings From Italy*, 65 FR 47388, 47391 (August 2, 2000). We note that the preliminary margins we have found in this case do not exceed 25 percent for Xinyi, Benxun, TCGI, Changchun, Guilin, Wuhan, EP sales made by FYG; therefore, these companies do not meet the threshold for EP sales above which the Department will impute importer knowledge of dumping. For FYG's CEP sales, the preliminary margin falls below the 15 percent threshold for CEP sales above which the Department will impute importer knowledge of dumping. With regard to the aforementioned companies, therefore, the Department preliminarily finds a lack of importer knowledge. The preliminary margins exceed the 25 percent threshold with regard to the PRC-wide entity and, therefore, we have imputed knowledge of dumping with respect to the PRC-wide entity.

Additionally, the Department will also consider if the "{International Trade Commission} finds a reasonable indication of present material injury to the relevant U.S. industry" in determining whether there is reason to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 24101, 24107 (May 11, 2001). If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. In this case, the ITC has found that a reasonable indication of present material injury due to dumping exists for subject imports of ARG windshields from the PRC. *See Automotive Replacement Glass Windshields from China, Inv. No. 731–TA–922 (Preliminary) USITC Public. 3413*, 66 FR 20682 (April 24, 2001). As a result, the Department preliminarily determines that there is a reasonable basis to believe or suspect that importers of ARG windshields from the PRC-wide entity knew or should have known that there was likely to be material injury by reason of dumped imports of the subject merchandise from the PRC.

2. Massive Imports

In order to determine whether imports of the merchandise have been massive over a relatively short period pursuant to section 733(e)(1)(B) of the Act and in accordance with 19 CFR 351.206(h), we consider: (1) Volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department normally compares the export volume for equal periods immediately preceding and following the filing of the petition. Consistent with 19 CFR 351.206(h), unless imports in the comparison period have increased by at least 15 percent over the imports during the base period, we normally will not consider the imports to have been "massive." In addition, pursuant to 19 CFR 351.206(i), the Department may use an alternative period if we find that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely. In this case, no party argued that prior to the filing of the petition, importers, exporters, or producers of ARG windshields had reason to believe that an antidumping proceeding was likely. Therefore, to determine whether imports of subject merchandise have been massive over a relatively short period, we considered import volumes from the base period as compared to the comparison period. Imports normally will be considered massive when imports have increased by 15 percent or more during this "relatively short period."

With respect to the PRC-wide entity, U.S. Customs data do not permit the Department to analyze imports from the PRC-entity of the product at issue, because it is not possible to link (and therefore subtract out) individual exporters reported shipment data with U.S. Customs import data (e.g., due to time differentials between export from the PRC and import into the United States, the involvement of resellers, and split shipments). Because the U.S. Customs data include imports from companies who have cooperated in this investigation, we are therefore unable to analyze whether there have been massive imports from the single PRC-wide entity using information specific to the PRC-wide entity. In addition, we found no other independent sources of information covering all exports from the PRC-wide entity. Because we have no independent means by which to determine import levels for the PRC-wide entity, we have determined, as adverse facts available, that because this entity did not provide an adequate response to our questionnaire, there were massive imports of subject merchandise. This is consistent with past Department practice. *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72263 (December 31, 1998). We further note that in the instant case, aggregate imports of ARG windshields from the PRC during the comparison period increased by 37.98 percent by quantity and 29.80 percent by value. *See* Attachment 1 of the *Memorandum from Edward C. Yang to Joseph A. Spetrini: Antidumping Duty Investigation of Automotive Replacement Glass Windshields from the People's Republic of China: Preliminary Determination of Critical Circumstances ("Preliminary Critical Circumstances Memorandum")*, September 10, 2001. Pursuant to section 733(e) of the Act and § 351.206(h) of the Department's regulations, we determine that massive imports of subject merchandise over a relatively short period exist for the PRC-wide entity.

Concerning seasonal trends, we have no reason to believe that seasonal trends affected the import levels in this case, nor have any interested parties made such an argument. Therefore, in determining whether imports were massive over the "relatively short period," we did not analyze the affects of seasonal trends.

Based on our determination that there is knowledge of dumping and material injury by reason of dumped imports of the subject merchandise from the PRC-wide entity, and that there have been massive imports of ARG windshields from the PRC-wide entity over a relatively short period, we preliminarily determine that critical circumstances exist for imports of ARG windshields from the PRC manufactured and/or exported by the PRC-wide entity. We preliminarily find that critical circumstances do not exist for FYG, Xinyi, Benxun, TCGI, Changchun, Guilin, and Wuhan based on lack of importer knowledge.

Fair Value Comparisons

To determine whether sales of ARG windshields to the United States by FYG and Xinyi were made at less than fair value, we compared export price ("EP") or constructed export price ("CEP"), as appropriate, to NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs or CEPs.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, export price is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c). In accordance with section 772(b) of the Act, constructed export price is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

In accordance with section 772(a) of the Act, we used EP for Xinyi because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated. As explained below, for FYG we used CEP and EP. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to the NVs.

FYG

We calculated EP for FYG based on delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, inland insurance, brokerage and handling, marine insurance, ocean freight, U.S. customs duty and U.S. inland freight. FYG reported all movement expenses

paid in market-economy currency to market economy carriers in a single field. The charges in this single field include brokerage and handling, foreign inland freight, ocean freight, and U.S. inland freight. Because FYG used market-economy carriers for a portion of its U.S. sales, FYG reported and we have used its reported market-economy prices paid to market-economy carriers for deliveries to the same or similar destinations as the basis for the adjustment for freight expenses paid to non-market-economy carriers, consistent with Department practice. See *Issues and Decision Memorandum for the Investigation of Sales at Less Than Fair Value of Synthetic Indigo from the People's Republic of China*, where the Department stated: "To value the marine insurance expense Jiangsu Taifeng incurred on certain sales, we applied the insurance premium rate Jiangsu Taifeng's affiliate Wonderful paid to a market-economy insurer". *Synthetic Indigo from the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000) and accompanying Issues and Decision Memorandum (Changes from the Preliminary Determination). We also made adjustments to starting price for freight revenue, molding, quantity discounts, and breakage discounts, where appropriate.

We calculated weighted-average CEP for FYG's U.S. sales made in the United States through its U.S. affiliate Greenville Glass Industries, Inc. ("GGI"). We based CEP on packed prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight from the plant to the port of exportation, inland insurance, brokerage and handling, marine insurance, ocean freight, U.S. customs duty and U.S. inland freight. As described above, FYG reported a single field for brokerage and handling, foreign inland freight, ocean freight and U.S. inland freight. Because transportation for certain sales were provided by NME companies, we based expenses associated with these sales on expenses paid to market-economy carriers as described above (*i.e.*, we have used FYG's reported expenses paid to market-economy carriers to value expenses paid to non-market-economy carriers). In accordance with section 772(d)(1) of the Act, we deducted from CEP direct selling expenses (*i.e.*, credit and warranty expenses) and indirect selling expenses that were associated with FYG's affiliate GGI's economic activities occurring in the United States. For credit expenses, for those sales where no payment date was reported, we set the payment date equal to the date of these preliminary results (*i.e.*, September 10, 2001). Finally, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. *See FYG Analysis Memorandum*. We also made an adjustment for molding.

Xinyi

We calculated EP for Xinyi based on prices to unaffiliated purchasers in the United States. We adjusted for inland freight as reported by Xinyi. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, domestic inland freight, brokerage and handling, ocean freight, port terminal handling charges in Hong Kong, marine insurance and U.S. Customs duty. Xinyi reported that it used both market and non-market economy carriers for foreign inland freight. Because foreign inland freight for certain sales was provided by NME companies, we based these expenses for these sales on Xinyi's reported foreign inland freight expenses paid to market-economy carriers, consistent with our treatment of movement expenses for FYG's international freight expenses. *See Factor Valuation Memorandum*, and FYG's U.S. price discussion, above. In addition, we made deductions from the starting price, where appropriate, for other discounts, rebates and billing adjustments. *See Xinyi Analysis Memorandum*.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by respondents, for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value factors of production. However, the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *Id.*; *see* also *Lasko Metal Products* v. *United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994) (*"Lasko"*). Respondents FYG and Xinyi reported that some of their inputs were sourced from market economies and paid for in a market economy currency. *See Factor Valuation Memorandum*, dated September 10, 2001 for a listing of these inputs.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see *Factor Valuation Memorandum*.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the *Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports ("Indian Import Statistics")* for the time period corresponding to the POI. Where POI-specific Indian Import Statistics data were not available, we used *Indian Import Statistics* data from an earlier period (*i.e.*, April 1, 1999 through March 31, 2000; April 1, 2000 through September 30, 2000; and April 1, 2000 through December 31, 2000). As appropriate, we adjusted rupee-denominated values for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics* and excluded taxes. We valued certain of Xinyi's material inputs using contemporaneous data from the Indian publication *Chemical Weekly*. *See Factor Valuation Memorandum*.

As noted above, respondents Xinyi and FYG sourced certain raw material inputs from market economy suppliers and paid for them in market economy currencies. Specifically, FYG sourced float glass, PVB, ceramic ink, silver paste, molding, antenna/connector, antenna copper wire, mirror button PVB, and mirror button from market economy suppliers. Xinyi reported that it sourced certain green glass, PVB both clear and shade band types, glass enamel black ink; black ink dilute medium, silver paint paste, and silicon powder from market economy suppliers. For this preliminary determination, the Department has used the market economy prices for the inputs listed above, in accordance with 19 CFR 351.408(c)(1), with one exception. Specifically, based on the fact that the Department has reason to believe or suspect that market economy prices from one country are subsidized, we have disallowed the use of the companies' reported actual prices for float glass. Because information regarding the identity of the source country is proprietary, see the business proprietary version of the *Factor Valuation Memo* for a full discussion of this issue. We added to the weighted-average price for each input the Indian surrogate value for transporting the input to the factory, where appropriate (*i.e.*, where the sales terms for the market economy inputs were not delivered to the factory).

As explained in the preamble to 19 CFR 351.408(c)(1), where the quantity of the input purchase was insignificant, we do not rely on the price paid by an NME producer to a market economy supplier. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997). Xinyi's reported information demonstrates that the quantity of one of its inputs which it sourced from market economy suppliers was so small as to be insignificant when compared to the quantity of the same input it sourced from PRC suppliers. *See Factor Valuation Memorandum* for Xinyi's reported percentage from market economy suppliers. Therefore, as the amount of this reported market economy input is insignificant, we did not use the price paid by Xinyi for this input and instead used *Indian Import Statistics* data, as adjusted for inflation.

We used Indian transport information to value transport for raw materials. For all instances in which respondents reported delivery by truck to calculate domestic inland freight (truck), we used an average of multiple price quotes from an Indian trucking company for transporting materials between Mumbai and various Indian cities, which was provided in Exhibit 24 to FYG's July 23, 2001 surrogate value submission. We converted the Indian rupee value to U.S. dollars and adjusted for inflation through the POI.

Respondents identified a number of by-products which they claimed are recovered in the production process and/or sold. FYG's by-products include scrap PVB, scrap glass pieces, shattered scrap glass, other scrap glass, iron scrap, scrap wood pallets, scrap plastic film, scrap aluminum foil, scrap plastic tube and scrap palythene pallets. Xinyi's by-products are scrap glass and scrap PVB. The Department has offset the respondents' cost of production by the amount of a reported by-product (or a portion thereof) where respondents indicated that the by-product was sold and/or where the record evidence clearly demonstrates that the by-product was re-entered into the production process. See *Factor Valuation Memorandum* for a complete discussion of by-product credits given and the surrogate values used. To value the by-product cullet, we used a surrogate value from India Infoline, because the surrogate value for cullet (scrap glass) included in the Indian import statistics appears aberrational when compared with the values submitted by petitioner from multiple sources, including Recycling Manager, House of Glass, and India Infoline (including the companies Triveni Glass Ltd. and Excel Glasses Ltd.). We took a simple average of the prices provided for the most contemporaneous period for the companies Triveni Glass Ltd. and Excel Glasses Ltd. See *Factor Valuation Memorandum* for a full discussion.

For energy, to value electricity, we used 1997 data reported as the average Indian domestic prices within the category "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes*, Second Quarter 2000, as adjusted for inflation. We valued water using the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region (1997)*. We valued coal using data from Indian Import Statistics.

For direct, indirect, and packing labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000 (*see http://ia.ita.doc.gov/wages*). The source of the wage rate data on the Import Administration's Web site is the *1999 Year Book of Labour Statistics*, International Labor Office (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

To value factory overhead, and selling, general and administrative expenses ("SG&A"), we used the audited financial statements for the period April 2000—December 2000 from an Indian producer of laminated and tempered automotive safety glass, Saint-Gobain Sekurit India Limited ("St.-Gobain"). See *Factor Valuation Memorandum* for a full discussion of the calculation of these ratios from St.-Gobain's financial statements.

To value profit, we used the profit experience of Asahi India Safety Glass Limited ("Asahi") for the period April 1999—March 2000, because St.-Gobain experienced a loss for the period April 2000—December 2000, and because no other financial statements provided on the record of this proceeding showed a profit. We note that the decision to use Asahi's profit experience only (*i.e.*, as opposed to using an average of all profit figures from the financial statements on the record) is in accordance with Department practice. See *Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from the People's Republic of China*, 66 FR 33522 (June 22, 2001) and accompanying Issues and Decision Memorandum at Comment 8, where the Department disregarded the use of SAIL's financial statements in order to derive "an element of profit as intended by the Statement of Administrative Action (SAA) accompanying the Uruguay Agreements Act."). For a further discussion of the surrogate value for profit, see *Factor Valuation Memorandum*.

Finally, we used *Indian Import Statistics* to value material inputs for packing. We used *Indian Import Statistics* data for the period April 1, 2000 through December 31, 2000 and April 1, 2000 through December 31, 2000. *See Factor Valuation Memorandum*.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

Rate for Producers/Exporters That Responded Only to Separate Rates Questionnaire

For those PRC producers and exporters of ARG windshields that provided separate rates information, we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 41347, 41350 (August 1, 1997).

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Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for the PRC when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 135 days after the publication of this notice in the **Federal Register**.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, for the PRC-wide entity, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. For FYG, Benxun, Changchun, Guilin, Wuhan, and TCGI, in accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. Because we have determined that ARG windshields produced by Xinyi are not being sold at LTFV, we are not directing the U.S. Customs Service to suspend liquidation of this merchandise. The weighted-average dumping margins are as follows:

WEIGHTED-AVERAGE PERCENT

Exporter/manufacturer	Margin
FYG	9.79
Xinyi	[1] 0.05
Benxun	[2] 9.79
Changchun	[2] 9.79
Guilin	[2] 9.79
Wuhan	[2] 9.79
TCGI	[2] 9.79
China-Wide	124.50

[1] De minimis.
[2] The rate for these companies is analogous to the Department's calculation of the All Others rate (*see* section 735(c)5 of the Act). It is equal to an average of all calculated margins other than any zero or de minimis margins, or any margins determined entirely under section 776 of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. *See* 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–23328 Filed 9–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–814, A–791–809]

Notice of Antidumping Duty Orders: Certain Hot-Rolled Carbon Steel Flat Products From Argentina and the Republic of South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 19, 2001.

FOR FURTHER INFORMATION CONTACT: David Bede or Charles Riggle, AD/CVD, Enforcement Group II, Office 5 at (202) 482–3693 and (202) 482–0650 respectively for Argentina; and Maureen Flannery or Doug Campau, AD/CVD, Enforcement, Group III, Office 7 at (202) 482–3020 and (202) 482–1395 respectively for South Africa, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Scope of Antidumping Duty Orders

Hot-Rolled Carbon Steel Flat Products From Argentina and the Republic of South Africa

For purposes of these orders, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight length, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these orders.

Specifically included within the scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of these orders, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of these orders unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to these orders is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by these orders, including vacuum degassed fully stabilized, high strength low alloy, and the substrate for motor lamination steel may also enter under the following tariff classification numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise subject to these proceedings is dispositive.

Antidumping Duty Orders

On August 27, 2001, in accordance with section 735(d) of the Act, the International Trade Commission (ITC) notified the Department that a U.S. industry is materially injured within the meaning of section 735(b)(1)(A) of the Act by reason of imports of certain hot rolled carbon steel flat products from Argentina and the Republic of South Africa (South Africa).

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of hot rolled carbon steel flat products from Argentina and South Africa. These antidumping duties will be assessed on (1) all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after May 3, 2001, the date of publication of the preliminary determinations in the **Federal Register**, and before September 3, 2001, the date the Department was required, pursuant to section 733(d)(3) of the Act, to terminate the suspension of liquidation; and (2) on all entries and withdrawals on or after the date of publication of these antidumping duty orders in the **Federal Register**. Entries of certain hot-rolled carbon steel flat products made on or after September 3, 2001 and prior to the date of publication of these orders in the **Federal Register** are not liable for the assessment of antidumping duties due to the Department's termination, effective September 3, 2001, of the suspension of liquidation. On or after the date of publication of this notice in the **Federal Register**, Customs officers must require, at the same time as importers would normally deposit estimated duties, cash deposits based on the rates listed below.

Manufacturer/exporter	Margin (percent)
Argentina	
Siderar Saic (Siderar)	44.59%
All Others	40.60%
South Africa	
Highveld	9.28%
Iscor/Saldanha	9.28%
All Others	9.28%

This notice constitutes the antidumping duty orders with respect to certain hot-rolled carbon steel flat products from Argentina and South Africa, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211.

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Dated: September 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–23329 Filed 9–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Stainless Steel Flanges From India; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 9, 2001, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on certain forged stainless steel flanges (flanges) from India (66 FR 14127). The review covers flanges manufactured by Echjay Forgings Ltd. (Echjay), Isibars Ltd. (Isibars), Panchmahal Steel Ltd. (Panchmahal), Patheja Forgings and Auto Parts Ltd. (Patheja), and Viraj Forgings Ltd. (Viraj). The period of review (POR) is February 1, 1999, through January 31, 2000. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Robert James, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–5222 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Background

We invited parties to comment on our preliminary results of review, and we received comments and rebuttals from the petitioner, and from the Coalition Against Indian Flanges, and we received comments from respondents Isibars, Panchmahal, and Viraj.

Scope of Review

The products under review are certain forged stainless steel flanges from India, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Verifications

On November 30 and December 1 and 2, 2000, the Department conducted a verification of the antidumping response submitted by Panchmahal; *see* the February 15, 2001 memorandum to the file from Thomas Killiam, "Sales Verification of Panchmahal Steel Ltd. (PSL)" (Panchmahal verification report). From December 4 through December 6, 2000, the Department conducted a verification of Viraj; *see* the February 7, 2001 memorandum to the file from Thomas Killiam, "Sales Verification of Viraj Forgings" (Viraj verification report). Both companies submitted data corrections at verification.

Use of Facts Available

At the verification of Panchmahal, we discovered that sales reported as domestic were actually clearly labeled as export (*see* Panchmahal verification report at 9–10). Removing these sales from Panchmahal's home market reduced its home market volume to less than 5% of U.S. sales, thus making the home market not viable per section 351.404(b)(2) of the Department's regulations. For the preliminary results, we used constructed value for Panchmahal's normal value. However, for these final results, we have reconsidered our preliminary determination and, based on our findings at verification and petitioner's arguments in its case brief, we have determined that application of adverse facts available is appropriate. *See Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Faryar Shirzad, Assistant Secretary for Import Administration, "Issues and Decisions Memorandum for the Final Results in the Antidumping Duty Administrative Review of Certain Forged Stainless Steel Flanges from India (Flanges) from India"* (Decision Memo) dated concurrently with this notice.

As in the preliminary results, and for the reasons stated therein, we have continued to assign to Patheja the rate of 210%, based on adverse facts available.

Analysis of Comments Received

We received no briefs on Echjay, and made no changes in our analysis. Isibars, Panchmahal and Viraj submitted briefs, and Viraj gave a rebuttal brief. Petitioners submitted briefs on Panchmahal and Viraj, and rebuttal briefs to these two companies' briefs and also to Isibars' brief. The issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Joseph A. Spetrini, Deputy Assistant Secretary, Important Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Record Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the International Trade Administration's Web site at *www.ia.ita.doc.gov*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our verification and analysis of the comments received, we have changed our approach to the margin calculation for Panchmahal and Isibars. *See* the Decision Memo.

Final Results of the Review

We determine that the following percentage weighted-average margins exists for the period February 1, 1999, through January 31, 2000:

CERTAIN FORGED STAINLESS STEEL FLANGES FROM INDIA

Producer/manufacturer/exporter	Weighted-average margin (percent)
Echjay	0
Isibars	6.76
Panchmahal	61.31
Patheja	210.00
Viraj	21.10

Where applicable we calculated import-specific duty assessment rates in accordance with 19 CFR 351.212(b). The Department will issue appraisement instructions directly to the Customs Service to assess antidumping duties on appropriate entries, by applying the assessment rate to the entered value of the merchandise.

In addition, the following deposit requirements will be effective upon publication of this notice for all shipments of stainless steel flanges from India entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) For the companies reviewed, the cash deposit rates will be the rates listed above, (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the most recent segment of the proceeding in which that manufacturer participated; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 162.14 percent, the all others rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.214.

September 5, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comments

Isibars: Petitioners object to Isibars' sales data revisions; Isibars objects to the use of constructed value instead of third country sales; Isibars objects to the Department's surrogate company choice; Isibars objects to the financial results period used for surrogate expense data; Isibars claims it did not get service of Echjay's published annual reports;

Panchmahal: Petitioners claim Panchmahal's misreported sales merit adverse facts available; Petitioners urge e more adverse approach to Constructed Value (moot); Petitioners urge a more adverse approach to Brokerage and Handling (moot); Panchmahal objects to the expense ratios from a surrogate company (moot);

Viraj: Petitioners claim Viraj improperly reported duty drawback; Petitioners claim fixed overhead was understated; Petitioners claim net interest expense was understated; Viraj asks that prices and costs be calculated per-piece, not per-kilogram; Viraj argues that the DIFMER Test and Per-Kilogram Costs distort results; Viraj objects to comparisons of rough to finished flanges; Viraj objects to the comparison of ASTM to DIN standard merchandise; Viraj objects to the use of its reported weights instead of its standard weights.

[FR Doc. 01–23330 Filed 9–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Cancellation of Partially Closed Meeting of the Manufacturing Extension Partnership National Advisory Board Scheduled For September 20, 2001

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Meeting Cancellation.

SUMMARY: The partially closed meeting of the Manufacturing Extension Partnership National Advisory Board, originally scheduled for September 20, 2001 at the National Institute of Standards and Technology is hereby canceled.

FOR FURTHER INFORMATION CONTACT: Contact Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, MD 20899–4800, telephone 301–975–5033 or e-mail *linda.acierto@nist.gov*.

Dated: September 14, 2001.

Michael R. Rubin,

Acting Chief Counsel for Technology.

[FR Doc. 01–23444 Filed 9–18–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: This notice is being republished to proved an additional thirty (30) day comment period. The original notice was published on September 11, 2001 (66 FR 47176). Changes to Page 2 of the DLA Form 1822 have been submitted to the Office of Management and Budget. The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information

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under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Office of Management and Budget has approved this information collection requirement for use through September 30, 2001.

DATES: Consideration will be given to all comments received by October 19, 2001.

Title, Form Number, and OMB Number: End-Use Certificate; DLA Form 1822; OMB Number 0704–0382.

Type of Request: Extension.

Number of Respondents: 40,000.

Response per Respondent: 1.

Annual Responses: 40,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 13,200.

Needs and Uses: All individuals wishing to acquire government property identified as Munitions List Items (MLI) or Commerce Control List Items (CCLI) must complete this form each time they enter into a transaction. It is used to clear recipients to ensure their eligibility to conduct business with the Government: that they are not debarred bidders; Specially Designated National (SDN) or Blocked Persons; have not violated U.S. export laws; will not divert the property to denied/sanctioned countries, unauthorized destinations or sell to debarred/Bidder Experience List firms or individuals. The End-Use Certificate (EUC) informs the recipients that when this property is to be exported, they must comply with the International Traffic in Arms Regulations (ITAR), 22 CFR parts 120 *et seq.*; Export Administration Regulations (EAR), 15 CFR parts 730 *et seq.*; Office of Foreign Asset Controls (OFAC), 31 CFR 500 *et seq.*; and the United States Customs Service rules and regulation. The form is available electronically.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: September 13, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23283 Filed 9–18–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF01–4021–000, et al.]

Southwestern Power Administration, et al.; Electric Rate and Corporate Regulation Filings

September 12, 2001.

Take notice that the following filings have been made with the Commission:

1. Southwestern Power Administration

[Docket No. EF01–4021–000]

Take notice that the Deputy Secretary, U.S. Department of Energy, on August 31, 2001, submitted to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis, pursuant to the authority vested in the FERC by Delegation Order No. 0204–172, November 24, 1999, an annual power rate of $353,700 for the sale of power and energy by the Southwestern Power Administration (Southwestern) from the Robert Douglas Willis Hydropower Project (Robert D. Willis) to Sam Rayburn Municipal Power Agency (SRMPA). The rate was confirmed and approved on an interim basis by the Deputy Secretary in Rate Order No. SWPA–46 for the period October 1, 2001, through September 30, 2005, and has been submitted to FERC for confirmation and approval on a final basis for the same period. The annual rate of $353,700 is based on the 2001 Revised Power Repayment Study for Robert D. Willis and represents an annual increase in revenue of $15,768 or 4.7 percent to satisfy repayment criteria. This rate supersedes the annual power rate of $337,932, which FERC approved on a final basis January 20, 2000, under Docket No. EF99–4081–000 for the period October 1, 1999, through September 30, 2003.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Power Administration

[Docket No. EF01–4081–000]

Take notice that the Deputy Secretary, U.S. Department of Energy, on August 31, 2001, submitted to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis, pursuant to the authority vested in the FERC by Delegation Order No. 0204–172, November 24, 1999, an annual power rate of $2,077,632 for the sale of power and energy by the Southwestern Power Administration (Southwestern) from the Sam Rayburn Hydropower Project (Rayburn) to Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC). The rate was confirmed and approved on an interim basis by the Deputy Secretary in Rate Order No. SWPA–47 for the period October 1, 2001, through September 30, 2005, and has been submitted to FERC for confirmation and approval on a final basis for the same period. The annual rate of $2,077,632 is based on the 2001 Revised Power Repayment Study for Rayburn and represents an annual decrease in revenue of $90,504, or 4.2 percent, the lowest possible rate required to meet cost recovery criteria.

This rate supersedes the annual power rate of $2,168,136, which FERC approved on a final basis December 7, 1994, under Docket No. EF94–4021–000 for the period January 1, 1994, through September 30, 1998. The rate was extended for three years, in one-year intervals, with the most recent effective October 1, 2000, through September 30, 2001, in accordance with the Secretary of Energy's interim approval, dated September 15, 2000, 65 FR 55953.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. NRG International Holdings (No. 2) GmbH

[Docket No. EG01–298–000]

Take notice that on August 31, 2001, NRG Holdings Company (No. 2) GmbH (Holdings), filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Holdings is a Gesellschaft mit beschränkter Haftung (limited liability company) existing under the laws of Switzerland, and will be engaged either directly or indirectly through one or more affiliates, as defined in section 2(a)(11)(B) of PUHCA, 15 U.S.C. 79b(a)(11)(B), and exclusively in the business of owning and/or operating all or part of one or more eligible facilities, and selling electric energy at wholesale. Holdings will hold an equity interest in TermoRio S.A., which is developing and will own a 1,040 MW gas-fired cogeneration facility located in the City of Duque de Caxias, State of Rio de Janeiro, Brazil (the Facility). The Facility will be an eligible facility pursuant to Section 32(a)(2) of PUCHA.

None of the electric energy produced by the Facility will be sold into the United States either at retail or otherwise.

Holdings has served a copy of the filing on the Securities and Exchange Commission and any affected state commissions.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Pastoria Energy Facility, LLC

[Docket No. EG01–299–000]

Take notice that on August 31, 2001, Pastoria Energy Facility, LLC filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Pastoria Energy Facility, LLC, a Delaware limited liability company, proposes to own and operate an electric generating facility and sell the output at wholesale to electric utilities, an affiliated power marketer and other purchasers. The facility is a natural gas-fired, combined cycle generating facility, which is under construction approximately thirty miles south of Bakersfield, California.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Geysers Statutory Trust

[Docket No. EG01–300–000]

Take notice that on August 31, 2001, Geysers Statutory Trust (Geysers Trust) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator (EWG) status pursuant to part 365 of the Commission's regulations.

Geysers Trust is a Connecticut statutory trust formed for the benefit of Steam heat LLC, a Delaware limited liability company. Geysers Trust received determinations of EWG status in Docket No. EG99–120–000 by letter order dated May 7, 1999, Geysers Statutory Trust, 87 F.E.R.C. ¶ 62,159 (1999); in Docket No. EG00–16–000 by letter order dated December 28, 1999, Geysers Statutory Trust, 89 F.E.R.C. ¶ 62,250 (1999); and in Docket No. EG01–72–000 by letter order dated February 13, 2001, Geysers Statutory Trust, 94 F.E.R.C. ¶ 62,132 (2001), with respect to holding legal title to and leasing nineteen (19) geothermal generating facilities located in Lake County and Sonoma County, California. The instant application reflects that Geysers Trust will be the owner/lessor of one (1) additional geothermal generating facility, the Aidlin Geothermal Project, having a net generating capacity of approximately twenty (20) megawatts, located in Sonoma County, California.

Geysers Trust further states that copies of the application were served upon the Securities and Exchange Commission and the California Public Utilities Commission.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Geysers Power Company, LLC

[Docket No. EG01–301–000]

Take notice that on August 31, 2001, Geysers Power Company, LLC (Geysers Power) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations.

Geysers Power is a Delaware limited liability company and an indirect wholly owned subsidiary of Calpine Corporation (Calpine). Geysers Power received determinations of EWG status in Docket No. EG99–109–000 by letter order dated April 28, 1999, Geysers Power Company, LLC, 87 F.E.R.C. ¶ 62,115 (1999); in Docket No. EG00–18–000 by letter order dated December 28, 2000, Geysers Power Company, LLC, 89 F.E.R.C. ¶ 62,251 (1999); and in Docket No. EG01–73–000 by letter order dated January 30, 2001, Geysers Power Company, LLC, 94 F.E.R.C. ¶ 62,079 (2001), with respect to its current lease and operation of nineteen (19) geothermal generating facilities located in Lake County and Sonoma County, California.

The instant application reflects that Geysers Power will operate, generate, and sell power exclusively for resale from one (1) additional geothermal power generation facility, the Aidlin Geothermal Project, having a net generating capacity of twenty (20) MW, located in Sonoma County, California.

Geysers Power further states that copies of the application were served upon the Securities and Exchange Commission and the California Public Utilities Commission.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Entergy Nuclear Indian Point 2, LLC

[Docket No. EG01–303–000]

Take notice that on September 6, 2001, Entergy Nuclear Indian Point 2, LLC, 40 Hamilton Avenue, White Plains, NY 10601, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own the Indian Point Nuclear Generating Unit No. 1 and Indian Point Generating Unit No. 2, located in Westchester County, New York and related gas turbine units. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

8. Cementos Norte Pacasmayo Energiá S.A.

[Docket No. EG01–304–000]

Take notice that on September 7, 2001, Cementos Norte Pacasmayo Energiá S.A. (CNPE), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

CNPE is a sociedad anónima formed under the laws of Peru and will be engaged, directly and/or indirectly through its affiliates, and exclusively in the business of owning and/or operating all or part of one or more eligible facilities, and selling electric energy at wholesale. CNPE currently owns two generation facilities located in northern Peru, and, through its affiliate Arcata Energíca S.A., owns two hydroelectric power facilities in southern Peru (collectively, the Facilities). The Facilities will be eligible facilities pursuant to Section 32(a)(2) of PUHCA. None of the electric energy produced by the Facilities will be sold into the United States either at retail or otherwise.

CNPE has served a copy of the filing on the Securities and Exchange Commission and any affected state commissions.

Livermore Falls Inc., tendered for filing

19. Niagara Mohawk Power

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Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

9. CMS Distributed Power L.L.C.

[Docket No. EG01–305–000]

Take notice that on September 4, 2001, CMS Distributed Power L.L.C., 330 Town Center Drive, Suite 1000, Dearborn, Michigan 48126, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

CMS Distributed Power L.L.C. is a Michigan limited liability company and a is wholly-owned direct subsidiaries of CMS Enterprises Company. CMS Enterprises Company is a wholly-owned direct subsidiary of CMS Energy Corporation. CMS Distributed Power L.L.C. owns a diesel powered electrical generating facility in Zilwaukee, Michigan of approximately 14 megawatts.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

10. Arcata Energíca S.A.

[Docket No. EG01–306–000]

Take notice that on September 7, 2001, Arcata Energíca S.A. (Arcata), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Arcata is a sociedad anónima formed under the laws of Peru and will be engaged, directly and/or indirectly through its affiliates, and exclusively in the business of owning and/or operating all or part of one or more eligible facilities, and selling electric energy at wholesale. Arcata currently owns two generation facilities located in southern Peru (the Facilities). The Facilities will be eligible facilities pursuant to Section 32(a)(2) of PUHCA. None of the electric energy produced by the Facilities will be sold into the United States either at retail or otherwise.

Arcata has served a copy of the filing on the Securities and Exchange Commission and any affected state commissions.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

11. Empresa de Generación Eléctrica Cahua S.A.

[Docket No. EG01–307–000]

Take notice that on September 7, 2001, Empresa de Generación Eléctrica Cahua S.A. (Cahua), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Cahua is a sociedad anónima formed under the laws of Peru and will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities, and selling electric energy at wholesale. Cahua currently owns and operates two hydroelectric facilities (the Facilities) located in central Peru. The Facilities will be eligible facilities pursuant to Section 32(a)(2) of PUHCA. In addition, Cahua operates four eligible facilities in southern and northern Peru, acting as an agent for the owners, which are exempt wholesale generators that sell electric energy at wholesale. None of the electric energy produced by the Facilities will be sold into the United States either at retail or otherwise.

Cahua has served a copy of the filing on the Securities and Exchange Commission and any affected state commissions.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

12. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER01–123–004, ER01–780–003, ER01–966–002, ER99–3144–014, EC99–80–014, and RT01–87–002]

Take notice that on August 31, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the Midwest ISO Transmission Owners jointly submitted for filing revisions to the MISO Open Access Transmission Tariff (OATT) to implement proposed rates based on the methodology set forth in Article V of the "Settlement Agreement Involving the Midwest Independent Transmission System Operator, Inc., Certain Transmission Owners in the Midwest ISO, the Alliance Companies and Other Parties" (Settlement Agreement). The Midwest ISO and the Midwest ISO Transmission Owners propose that the filing become effective on the date transmission service begins under the Midwest ISO OATT (the Transmission Service Date).

Copies of this filing were served upon all parties to the Settlement Agreement proceeding and a copy is being posted on the Midwest ISO homepage (www.midwestiso.org).

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. CinCap IX, LLC.

[Docket No. ER01–2054–002]

Take notice that on September 4, 2001, CinCap IX, LLC tendered a compliance filing with the Federal Energy Regulatory Commission (Commission), for its application for authorization to sell power and ancillary services at market-based rates, and to reassign transmission capacity.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Louisiana Generating LLC

[Docket No. ER01–2247–001]

Take notice that on September 4, 2001, Louisiana Generating LLC (Louisiana Generating), tendered for filing with the Federal Energy Regulatory Commission (Commission), corrections to the proposed change to its Rate Schedule FERC No. 4, Original Vol. 1, originally filed on June 7, 2001. The proposed change reflects the assignment by the customer under the Rate Schedule of a portion of its power purchase rights to another party. Louisiana Generating asserts that the affected customers requested the change and consent to it. Copies of the filing were served upon Louisiana Generating's affected customers.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Huntington Beach Development, L.L.C.

[Docket No. ER01–2390–001]

Take notice that on September 4, 2001, Huntington Beach Development, L.L.C. (Huntington Beach) tendered for filing an amended market-based rate schedule pursuant to the Federal Energy Regulatory Commission's Order Conditionally Accepting Market-Based Rate Tariff, issued August 17, 2001.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Boralex Ashland Inc., Boralex Livermore Falls Inc.

[Docket Nos. ER01–2568–001 and ER01–2569–001]

Take notice that on September 4, 2001, Boralex Ashland Inc. and Boralex Livermore Falls Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission), conforming tariffs pursuant to a Commission order dated August 22, 2001 in the above reference dockets.

Copies of the filing were served upon the Central Maine Power Corporation, the Maine Public Utilities Commission, and WPS Energy Services, Inc.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. PacifiCorp Power Marketing, Inc.

[Docket No. ER01–2685–000]

Take notice that on August 31, 2001, PaficiCorp Power Marketing, Inc. (PPM) filed a Notice of Withdrawal of its Ten-Year Power Purchase Agreement between PPM and the California Department of Water Resources in the above-referenced docket number, filed with the Federal Energy Regulatory Commission on July 26, 2001.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. International Transmission Company, DTE Energy Company

[Docket Nos. ER01–3000–000, RT01–101–000 and EC01–146–000]

Take notice that on August 31, 2001, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d (1994), International Transmission Company (International Transmission) tendered for filing with the Commission the "Appendix I Agreement by and between International Transmission Company and the Midwest Independent Transmission System Operator, Inc. dated August 30, 2001" (ITC-MISO Agreement). International Transmission also requests that the Commission determine that International Transmission has met the requirements of Order No. 2000 set forth in 18 CFR 35.34(c)(1) and 35.34(d)(2), to participate in a Regional Transmission Organization by joining the Midwest Independent System Operator, Inc.

Additionally, International Transmission and its corporate parent, DTE Energy Company (DTE Energy) request authority to transfer functional control of International Transmission's jurisdictional transmission facilities to the Midwest ISO under Section 203, 16 U.S.C. 824b (1994). International Transmission and DTE Energy Company also request waiver of Part 33 of the Commission's regulations (18 CFR Part 33).

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Corporation

[Docket No. ER01–2839–001]

Take notice that on September 4, 2001, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, Commission acceptance errata cover page for the purpose of correcting the service agreement designation for the Power Purchase and Sale Agreement between NMPC and Tractebel Energy Marketing, Inc. to include its designation as NMPC, FERC Electric Rate Schedule No. 325.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. New York Independent System Operator, Inc.

[Docket No. ER01–3001–000]

Take notice that on September 4, 2001, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission), revisions to amend Attachment F of the NYISO Market Administration and Control Area Services Tariff to extend the duration of its currently effective $1,000/MWh Bid Caps on certain NYISO-administered markets; and amend Attachment Q to the NYISO's Open Access Transmission Tariff and Attachment E of the ISO Services Tariff to extend its Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities.

The NYISO has requested an effective date of November 1, 2001 for the filing and requests a waiver of the Commission's notice requirements.

Copies of this filing have been served on market participants that have executed service agreements under the NYISO OATT or the NYISO Services Tariff and on the electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Sierra Pacific Power Company, Nevada Power Company

[Docket No. ER01–3002–000]

Take notice that on September 4, 2001, Sierra Pacific Power Company and Nevada Power Company (jointly Operating Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement (Service Agreement) with Pacific Gas & Electric Company for Short-Term Firm Point-to-Point Transmission Service under Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, Open Access Transmission Tariff (Tariff).

The Operating Companies are filing the executed Service Agreement with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. The Operating Companies also submitted revised Sheet Nos. 195A and 196 and Original Sheet No. 196A (Attachment E) to the Tariff, which is an updated list of current subscribers. The Operating Companies request waiver of the Commission's notice requirements to permit an effective date of September 5, 2001 for Attachment E, and to allow the Service Agreement to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Mid-Continent Area Power Pool

[Docket No. ER01–3003–000]

Take notice that on September 4, 2001, the Mid-Continent Area Power Pool, on behalf of its public utility members, filed with the Federal Energy Regulatory Commission (Commission), a short-term firm and non-firm transmission service agreements with MAPP members under MAPP Schedule F.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Tucson Electric Power Company

[Docket No. ER01–3005–000]

Take notice that on September 4, 2001, Tucson Electric Power Company tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement (for firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

Service Agreement for Firm Point-to Point Transmission Service dated as of August 9, 2001 by and between Tucson Electric Power Company and Tri-State Generation and Transmission Association, Inc.—FERC Electric Tariff Vol. No. 2, Service Agreement No. 184. No service has commenced at this time.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

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24. Duquesne Light Company

[Docket No. ER01–3007–000]

Take notice that on September 4, 2001, Duquesne Light Company (DLC) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement dated July 20, 2001 with BV Partners under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds BV Partners as a customer under the Tariff.

DLC requests an effective date of July 20, 2001 for the Service Agreement.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. New York Independent System Operator, Inc.

[Docket No. ER01–3009–000]

Take notice that on September 4, 2001, the New York Independent System Operator, Inc. (NYISO), tendered for filing with the Federal Energy Regulatory Commission (Commission), acting pursuant to Section 205 of the Federal Power Act with concurrence of the NYISO's independent Board of Directors (NYISO Board) and the Management Committee, filed proposed revisions to the NYISO's Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff). The proposed filing would implement virtual bidding procedures.

The NYISO has requested that the Commission make the filing effective on October 30, 2001.

A copy of this filing was served upon all parties in Docket No. EL00–90–000.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Kentucky Utilities Company

[Docket No. ER01–3010–000]

Take notice that on September 4, 2001, Kentucky Utilities Company (KU) submitted for filing, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, a service agreement between KU and the City of Nicholasville, Kentucky for the addition of a new metering point, Substation No. 7, for wholesale power service.

A copy of this filing has been served upon the City of Nicholasville, Kentucky, the Kentucky Public Service Commission, and the Virginia State Corporation Commission.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Mid-Continent Area Power Pool

[Docket No. ER01–3011–000]

Take notice that on September 4, 2001, the Mid-Continent Area Power Pool (MAPP), on behalf of its public utility members, filed transmission service agreements (TSAs) under MAPP Schedule F that include short-term firm and non-firm TSAs with non-MAPP members as well as TSAs for long-term firm transmission service.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Michigan Electric Transmission Company

[Docket No. ER01–3012–000]

Take notice that on August 31, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Distribution-Transmission Interconnection Agreement with Consumers Energy Company (Consumers), with a proposed effective date of April 1, 2001.

The filing was served upon the Consumers and the Michigan Public Service Commission.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. California Independent System Operator Corporation

[Docket No. ER01–3013–000]

Take notice that on September 5, 2001, the California Independent System Operator Corporation, (ISO), tendered for filing with the Federal Energy Regulatory Commission (Commission), Amendment No. 40 to the ISO Tariff. The ISO states that Amendment No. 40 would implement a temporary modification to the ISO's settlement practices necessitated by the crisis in the California wholesale energy markets.

The ISO states that this filing has been served on the California Public Utilities Commission, the California Electricity Oversight Board and all California ISO Scheduling Coordinators.

Comment date: September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

30. PJM Interconnection, L.L.C.

[Docket No. ER01–3014–000]

Take notice that on September 5, 2001, PJM Interconnection, L.L.C. (PJM), submitted for filing two executed interconnection service agreements between PJM and Exelon Corporation and Old Dominion Electric Cooperative.

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective dates agreed to by the parties.

Copies of this filing were served upon each of the parties to the agreements and the state regulatory commissions within the PJM control area.

Comment date: September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

31. American Transmission Company LLC

[Docket No. ER01–3015–000]

Take notice that on September 5, 2001, American Transmission Company LLC (ATCLLC) tendered for filing Firm and Non-Firm Point-to-Point Service Agreements for Rainbow Energy Marketing Corporation and The Energy Authority, Inc.

ATCLLC requests an effective date of August 14, 2001.

Comment date: September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

32. Alliant Energy Corporate Services, Inc.

[Docket No. ER01–3016–000]

Take notice that on September 5, 2001, Alliant Energy Corporate Services, Inc. tendered for filing executed generator Interconnection Agreement with Northern Iowa Windpower, LLC and Interstate Power Company.

Alliant Energy Corporate Services, Inc. requests an effective date of September 7, 2001.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

33. Coral Canada US Inc.

[Docket No. ER01–3017–000]

Take notice that on September 5, 2001, Coral Canada US Inc. (Seller) petitioned the Commission for an order: (1) Accepting Seller's proposed FERC rate schedule for market-based rates; (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates.

Comment date: September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

34. Steam Heat LLC

[Docket No. EG01–302–000]

Take notice that on August 31, 2001, Steam Heat LLC (Steam Heat) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator (EWG) status pursuant to part 365 of the Commission's regulations.

Steam Heat is a Delaware limited liability company. Steam Heat received determinations of EWG status in Docket EG99–121–000 by letter order dated May 7, 1999, Steam Heat LLC, 87 F.E.R.C. ¶ 62,156 (1999), in Docket EG00–17–000 by letter order dated December 14, 1999, Steam Heat LLC, 89 F.E.R.C. ¶ 62,203 (1999), and in Docket EG01–71–000 by letter order dated January 23, 2001, Steam Heat LLC, 94 F.E.R.C. ¶ 62,057 (2001) with respect to its beneficial ownership of nineteen (19) geothermal power generation facilities located in Lake County and Sonoma County, California. Steam Heat is also the indirect beneficial owner of two additional electric generating facilities that are "eligible facilities" within the meaning of Section 32(a)(2) of the Public Utility Holding Company Act of 1935, as amended by Section 711 of the Energy Policy Act of 1992. The Commission has determined that the first facility, Morgantown OL2 LLC, is an EWG. Morgantown OL2 LLC, 94 F.E.R.C. ¶ 62,049 (2001). The Commission did not issue an order on the application for EWG determination for the second facility, Dickerson OL1 LLC within 60 days of the date that the application was filed. Accordingly, the application is deemed granted. 18 CFR 365.6. The instant application reflects that Steam Heat will be acquiring a beneficial ownership interest in one (1) additional geothermal generating facility, the Aidlin Geothermal Project, having a net generating capacity of approximately twenty (20) megawatts, located in Sonoma County, California.

Steam Heat further states that copies of the application were served upon the Securities and Exchange Commission, the Maryland Public Service Commission, the District of Columbia Public Service Commission, and the California Public Utilities Commission.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

35. Avista Corporation

[Docket No. ER01–3008–000]

Notice is hereby given that Rate Schedule FERC No. 238, previously filed with the Federal Energy Regulatory Commission (Commission), Avista Corporation, formerly known as The Washington Water Power Company, under the Commission's Docket No. ER96–2608–000, with Snohomish County Public Utility District is to be terminated, effective 0000 hours on October 1, 2001 pursuant to the terms of the Agreement dated September 27, 1995 as agreed to by both parties in letters dated September 1, 2000.

Notice of the cancellation has been served upon the following Snohomish County Public Utility District.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

36. Central Illinois Light Company

[Docket No. ER01–3004–000]

Take notice that on September 4, 2001, Central Illinois Light Company (CILCO), tendered for filing with the Federal Energy Regulatory Commission (Commission), a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and four service agreements for two new customers, Calpine Energy Services, L.P. and Exelon Generation Company, LLC.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

CILCO requested an effective date of August 8, 2001 for the service agreements.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23284 Filed 9–18–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00743; FRL–6804–2]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: There will be a 3-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of issues being considered by the Agency pertaining to the following topic: Preliminary Evaluation of the Non-dietary Hazard and Exposure to Children from Contact with Chromated Copper Arsenate (CCA)-treated Wood Playground Structures and Associated CCA-contaminated Soil. The meeting is open to the public. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting so that appropriate arrangements can be made.

DATES: The meeting will be held on October 23, 24, and 25, 2001, from 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA. The telephone number for the Sheraton Hotel is (703) 486–1111. Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your request must identify docket control number OPP–00743 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Olga Odiott, Designated Federal Official, Office of Science Coordination and Policy (7101C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5369; fax number:

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(703) 605–0656; e-mail address: odiott.olga@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), FIFRA, and FQPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

A meeting agenda and copies of EPA primary background documents for the meeting will be available by September 28, 2001. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the FIFRA/SAP Internet Home Page at http://www.epa.gov/scipoly/sap/. To access this document on the Home Page under "Upcoming Meetings," look for meeting dates and select "**Federal Register** Notice announcing this meeting."

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–00743. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the evaluation of the non-dietary hazard and exposures to children from contact with CCA-treated wood playground structures and CCA-contaminated soil beneath and around these structures, including any information claimed as Confidential Business Information (CBI). This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00743 in the subject line on the first page of your request.

Members of the public wishing to submit comments should contact the person listed under **FOR FURTHER INFORMATION CONTACT** to confirm that the meeting date and agenda have not been modified. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advance written request to the person listed under **FOR FURTHER INFORMATION CONTACT**, interested persons may be permitted by the Chair of the FIFRA SAP to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, and chalkboard). There is no limit on the extent of written comments for consideration by the SAP, but oral statements before the SAP are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral or written statements at the meeting should contact the person listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies of their presentation and/or remarks to the SAP. The Agency encourages that written statements be submitted before the meeting to provide SAP members the time necessary to consider and review the comments.

1. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your request electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00743. You may also file a request online at many Federal Depository Libraries.

II. Background

A. Purpose of the Meeting

This 3-day meeting concerns several scientific issues undergoing consideration within the EPA Office of Prevention, Pesticides and Toxic Substances (OPPTS), as follows.

As part of the reregistration process for the Heavy Duty Wood Preservatives (HDWPs), the Agency is evaluating the human and environmental risks of CCA-pesticide products. Chromated copper arsenate treated wood dominates the residential consumer market for use in landscape timbers, decks, fences, and fabricated outdoor structures (e.g., gazebos, picnic tables, and playground equipment). Because of specific concerns associated with use of CCA-treated wood in playground structures, the Agency is presently evaluating available exposure and hazards data in order to assess the risks to children from contact with CCA-treated wood and CCA-contaminated soil on playgrounds.

The FIFRA SAP will be evaluating the scientific soundness and OPP's evaluation of the exposure and hazard data available to the Agency for CCA. Specifically, the SAP will be asked to: (1) Review the exposure scenarios and hazard endpoints that the Agency intends to use in its CCA-risk characterization for children; and (2) provide recommendations concerning additional data needed to reduce the uncertainties of this risk characterization.

B. SAP Report

Copies of the SAP's report of their recommendations will be available approximately 45 working days after the meeting, and will be posted on the FIFRA/SAP Internet Home Page at http://www.epa.gov/scipoly/sap/ or may be obtained by contacting the Public Information Records Integrity Branch (PIRIB) at the address and telephone number listed under Unit I.B.

List of Subjects

Environmental protection, Arsenic, Children Exposures, Contaminated soil, Treated wood.

Dated: September 11, 2001.

Vanessa Vu,

Director, Office of Science Coordination and Policy, Office of Pesticide Programs.

[FR Doc. 01–23312 Filed 9–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66293; FRL–6802–4]

Oxythioquinox Products Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order for the product and use cancellations as requested by Bayer Corporation for all products containing oxythioquinox (Morestan), 6-methyl-1,3-dithiolo (4,5-b) quinoxalin-2-one or chinomethionate, and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a March 17, 1999 notice of receipt of cancellation request and proposed existing stocks provisions. The Agency did not receive any substantive comments opposing the requested cancellation. Accordingly, EPA is issuing an order granting the cancellation request. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Wilhite, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–8174; fax number: (703) 308–8586; e-mail address: wilhite.mark@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use oxythioquinox products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–66293. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Cancel Registrations

A. Background

Oxythioquinox (trade name Morestan) is an insecticide/miticide/fungicide first registered in 1968, to control mites, mite eggs on ornamental plants in green houses, nurseries and landscapes. On October 17, 1996, Bayer requested voluntary cancellation of all food uses but citrus. Bayer also requested cancellation of all but two of the 24(c) registrations (California and Louisiana). Subsequently, on June 4, 1997, the Agency received a request from Bayer to cancel registration of the remaining food-use products: Morestan 25WP (3125–117) and Morestan Solupak 25 WP 9 (3125–302). These cancellations were announced in the **Federal Register** of August 27, 1997 (62 FR 45416) (FRL–5737–4), and became final March 9, 1998. Initiation of the exiting stocks period began when the Agency received the request for cancellations and ran for 18 months. On February 1, 1999, Bayer requested cancellation of its remaining oxythioquinox registrations. In a **Federal Register** notice dated March 17, 1999 (64 FR 13191) (FRL–6067–8), EPA announced its receipt of Bayer's February 1, 1999 cancellation request. The Agency did not receive any substantive comments opposing the requested cancellation and is therefore issuing a cancellation order in today's notice granting the cancellation request. After canceling these product registrations, there will be no remaining registered products containing oxythioquinox.

In its February 1, 1999 cancellation request, Bayer conditioned its request on EPA's permitting sale and distribution of the existing stocks for 18 months, and use for 2 years, after the cancellation becomes effective. In other words, Bayer intended to stop sale and distribution sometime in 2001 and asked that EPA provide adequate time for the end users to exhaust their supplies. However, the cancellation did not take place in 1999, as both EPA and Bayer contemplated. In response to EPA's plan to issue a cancellation order now, Bayer indicated that an existing stocks provision permitting sale and distribution for 18 months is unnecessary, because Bayer has already stopped sale and distribution of these products. However, both EPA and Bayer believe that allowing use until

September 30, 2002, would be necessary to provide adequate notice to end users and to allow them to exhaust their supplies. Accordingly, EPA includes in the cancellation order an existing stocks provision permitting the use of the existing stocks until September 30, 2002. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

III. Terminations Pursuant to Voluntary Cancellation Requests

Under section 6(f)(1) of FIFRA, registrants may request at any time that "a pesticide registration of the registrant be canceled or amended to terminate one or more pesticide uses." (7 U.S.C. 136d(f)(1)). Consistent with 6(f)(1) of FIFRA, EPA is issuing the order of cancellation of EPA registrations listed in Table 1 below. Oxythioquinox (Morestan) will no longer appear in any registered products.

TABLE 1.—PRODUCTS REGISTRATION CANCELLATIONS

Product Name	EPA Registration Number
Morestan 4 Ornamental Miticide	3125–381
Morestan 4 Nursery Miticide	3125–437
Morestan 4 Technical	3125–205

IV. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA hereby approves the requested oxythioquinox product registration cancellations, as identified in Table 1. Any distribution, sale, or use of existing stocks of the products identified in Table 1 in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit V. will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

V. Existing Stocks Provision

Pursuant to section 6(f) of FIFRA, EPA is granting the voluntary request for the cancellation of the product registrations identified in Table 1. For purposes of the cancellation order, the term "existing stocks" will be defined, pursuant to EPA's existing stocks policy of June 26, 1991 (56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

1. *Sale and distribution.* All sale and distribution of the existing stocks shall be unlawful as of the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

2. *Use.* All use of the existing stocks shall be unlawful as of September 30, 2002.

Lists of Subjects

Environmental protection, Pesticides and pests.

Dated: September 7, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23224 Filed 9–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30514; FRL–6794–5]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30514, must be received on or before October 19, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30514 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader listed in the table below:

Regulatory Action Leader	Telephone number/e-mail address	Mailing address	File symbol
Driss Benmhend	(703) 308–9525; benmhend.driss@epa.gov	Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460	34704–IUE and 34704–IUG
Alan Reynolds	(703) 605–0515; reynolds.alan@epa.gov	Do.	73049-AI

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112	Crop production Animal production
	311 32532	Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30514. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30514 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30514. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File Symbol: 34704–IUE. Applicant: Platte Chemical Company, 419 18th Street, Greely, CO 80632. Product name: Amplify® Sprout Inhibitor Technical. Product type: Plant growth regulator. Active ingredient: 2,6-Diisopropylnaphthalene (2,6-DIPN) at 99.7%. Proposed classification/Use: Manufacturing or formulating registered pesticide products.

2. File Symbol: 34704–IUG. Applicant: Platte Chemical Company. Product name: Amplify® Sprout Inhibitor. Product type: Plant growth regulator. Active ingredient: 2,6-DIPN at 99.7%. Proposed classification/Use: To inhibit sprouting on stored potatoes.

3. File Symbol: 73049–AI. Applicant: Valent BioSciences Corp., 870 Technology Way, Libertyville, IL 60048. Product name: Florbac Slurry Biological Insecticide. Product type: Insecticide. Active ingredient: *Bacillus thuringiensis* subsp. *aizawai* strain NB200 at 18%. Proposed classification/Use:

Manufacturing use product for formulation into insecticidal products.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: September 4, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

FR Doc. 01–23225 Filed 9–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30513; FRL–6791–1]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30513, must be received on or before October 19, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30513 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table below:

Regulatory Action Leader	Telephone number/e-mail address	Mailing address	File symbol
Shanaz Bacchus	(703) 308–8097; bacchus.shanaz@epa.gov	Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460	70464–U
Carol Frazer	(703) 308–8810; frazer.carol@epa.gov	Do.	70515–E and 70515–R

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30513. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30513 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30513. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

1. File symbol: 70464–U. Applicant: SafeScience, Inc., 31 St. James Avenue, 8th Floor, Boston, MA 02116 represented by Dr. Bruce Jaeger, Health and Environment International, Ltd., 2851 South Haven Road, Annapolis, MD 21401. Product name: Healthy Indoors™ Brand, Ant and Cockroach Bait Stations. Product type: Insecticide. Active ingredient: *Beauveria bassiana* strain 447 at 10%. Proposed classification/Use: Used in a bait station for indoor microbiological control of fireants and cockroach. The active ingredient is a naturally occurring entomopathogenic fungus, which was isolated in Florida. The registrant claims that the pesticide is to be packaged in childproof bait traps. The fungus controls target insect pests, by growing on the chitinous exoskeleton and secreting enzymes into the insects, which are ultimately killed. This is the first proposed indoor use of *Beauveria bassiana*.

2. File symbol: 70515–E. Applicant: J P BioRegulators, Inc., now known as Nutra-Park Inc., Suite 125, 3230 Deming Way, Middleton, WI 53562. Product name: LPE E94T. Product type: Growth regulator. Active ingredient: Lysophosphatidylethanolamine (LPE) at 94%. Proposed classification/Use: Manufacturing use only product for incorporation into end-use products intended for application to agricultural commodities and ornamentals.

3. File symbol: 70515–R. Applicant: J P BioRegulators, Inc., now known as Nutra-Park Inc., Suite 125, 3230 Deming Way, Middleton, WI 53562. Product name: LPE-94 20% Aqueous. Product type: Growth regulator. Active ingredient: Lysophosphatidylethanolamine (LPE) at 20%. Proposed classification/use: Enhances fruit ripening and shelf life of fruits, flowers and vegetables, an end-use product from the above manufacturing use product.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: September 4, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–23090 Filed 9–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7057–9]

Trichloroethylene Health Risk Assessment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability and Public Comment Period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces the availability of a report titled, "Trichloroethylene Health Risk Assessment: Synthesis and Characterization," External Review Draft, (EPA/600/P–01/002A). The draft assessment was prepared by EPA's National Center for Environmental Assessment (NCEA), a part of the Office of Research and Development. This report is a draft for review purposes only and does not constitute Agency policy.

EPA is also announcing a 60-day public comment period on the draft assessment.

EPA's Science Advisory Board (SAB) will convene an external peer-review panel to review the draft assessment in the Fall. The SAB will publish a subsequent **Federal Register** notice to announce the time and place of the peer-review meeting, including information on how the public can participate. After the peer-review meeting, NCEA will address the panel's comments and the public's comments and issue a final assessment. At that time, a summary of the final assessment will be included on EPA's Integrated Risk Information System (IRIS).

DATES: Comments should be in writing and must be postmarked by November 19, 2001.

ADDRESSES: The draft assessment will be available on the Internet at http://www.epa.gov/ncea. A limited number of paper copies are available from NCEA's Technical Information Staff, telephone: 202–564–3261; facsimile:

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202–565–0050. If you request a paper copy, please provide your name, mailing address, and the report title, Trichloroethylene Health Risk Assessment.

Comments may be mailed to NCEA's Technical Information Staff at the mailroom address: Technical Information Staff (8623–D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Comments may also be delivered to the NCEA's Technical Information Staff at the office address: 808 17th Street NW., 5th Floor, Washington, DC 20006; telephone: 202–564–3261; facsimile: 202–565–0050. Electronic comments may be e-mailed to: nceadc.comment@epa.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Jim Cogliano, National Center for Environmental Assessment, telephone: 202–564–3288; facsimile: 202–565–0079; e-mail: cogliano.jim@epa.gov.

SUPPLEMENTARY INFORMATION: This assessment presents EPA's most current evaluation of the potential health risks from exposure to trichloroethylene (TCE). TCE exposure is associated with several adverse health effects, including neurotoxicity, immunotoxicity, developmental toxicity, liver toxicity, kidney toxicity, endocrine effects, and several forms of cancer. Mechanistic research indicates that TCE-induced carcinogenesis is complex, involving multiple carcinogenic metabolites acting through multiple modes of action. Under EPA's proposed (1996, 1999) cancer guidelines, TCE can be characterized as "highly likely to produce cancer in humans."

For effects other than cancer, an oral reference dose (RfD) of 3×10^{-4} mg/kg-d was based on critical effects in the liver, kidney, and developing fetus. An inhalation reference concentration (RfC) of 4×10^{-2} mg/m^3 was based on critical effects in the central nervous system, liver, and endocrine system. Several cancer slope factors were developed, with most between 2×10^{-2} and 4×10^{-1} per mg/kg-d. Several sources of uncertainty have been identified and quantified.

The mechanistic information suggests some risk factors that may make some populations more sensitive. There are suggestions that TCE could affect children and adults differently. In addition, several chemicals have the potential to alter TCE's metabolism and clearance and subsequent toxicity, conversely, TCE exposure can augment the toxicity of other chemicals. Widespread environmental exposure to some of TCE's metabolites makes it important to consider the cumulative effect of TCE along with other environmental contaminants.

Dated: August 31, 2001.

Art Payne,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–23310 Filed 9–18–01: 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 11, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0848.

Expiration Date: 02/28/2002.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98–147.

Form No.: N/A .

Respondents: Business or other for-profit.

Estimated Annual Burden: 1750 respondents; 94.62 hour per response (avg.); 165,600 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: In Deployment of Wireline Services Offering Advanced Telecommunications Capability, Fourth Report and Order, CC Docket No. 98–147, FCC 01–204 (Order), the Commission takes steps to amend certain portions of the its collocation rules on remand from the United States Court of Appeals for the District of Columbia Circuit. The Order requires that an incumbent local exchange carrier provision cross-connects between collocating carriers upon reasonable request. The Order also requires that an incumbent LEC provide requesting carriers with an opportunity to request collocation space that meets their operational needs. In an effort to implement these requirements, the Commission adopted new and modified collections of information to promote the public interests in competition and innovation while protecting the incumbent LECs' property interests. (a) *Certification of Interstate Traffic:* In the Order, the Commission requires that an incumbent LEC provision cross-connects between collocated carriers upon reasonable request. A collocated carrier may request such provisioning pursuant to either section 201 or 251 of the Communications Act. An incumbent LEC, however, is not required to provide a connection between the equipment in the collocated spaces of two or more telecommunications if the connection is requested pursuant to section 201 of the Act, unless the requesting carrier submits to the incumbent LEC a certification that more than 10 percent of the amount of traffic to be transmitted through the connection will be interstate. The certification requirement recognizes that the Commission's jurisdiction under section 201 is subject to certain limits. (*No. of respondents:* 350; *hours per response:* 4 hours; *total annual burden:* 1400 hours). (b) *Report of Available Collocation Space:* The Commission previously had required that an incumbent LEC must submit to a requesting carrier within ten days of the submission of a request a report indicating the available collocation space in a particular incumbent LEC premises. In the Order, the Commission requires that this report describe in detail the space that is available for collocation in the particular premises. This description requirement should enable a carrier requesting collocation to request the space that best fits its operational needs. (*No. of respondents:* 1400; *hours per response:* 2 hours; *total annual burden:* 2800 hours). All other requirements under this control number remain in effect as approved. (*Total annual burden for all collections:* 165,600 hours). All of the collections are used to ensure that incumbent LECs and collocation carriers provide for collocation and obtain cross-connects in a manner consistent with sections 201 and 251 of the Communications Act of 1934, as amended. Obligation to respond: Mandatory.

OMB Control No.: 3060–0166.

Expiration Date: 08/31/2004.

Title: Part 42—Preservation of Records of Communications Common Carriers.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 52 respondents; 2 hours per response (avg.); 104 total annual burden hours (for all collections approved under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure; Recordkeeping.

Description: Section 220 of the Communications Act of 1934, as amended, 47 USC Section 220, makes it unlawful for carriers to willfully destroy information retained for the Commission. Part 42 of the Commission's rules prescribes guidelines to ensure that carriers maintain the necessary records needed by the FCC for its regulatory obligations. Section 42.4 requires carriers to maintain at its operating company headquarters a master index of records which identifies the records retained, the related retention period, and the locations where the records are maintained. Carriers must explain, by adding a certified statement to the index, the premature loss or destruction of records pursuant to Section 42.4. Records maintained in a machine readable medium must be accompanied by a statement indicating the type of data included in the record and certifying that the information contained in it has been accurately duplicated pursuant to Section 42.5(b). Section 42.6 requires the retention of telephone toll records for 18 months providing the following billing information about telephone toll calls: The name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Pursuant to Section 42.7 carriers are allowed to establish their own retention periods, except for in the case of telephone toll records and records relevant to complaint proceedings. Moreover, this section specifies requirements for complaint proceedings, and proceedings or inquiries directed by the FCC. (*No. of respondents:* 52; *hours per response:* 2 hours; *total annual burden:* 104 hours). Documentation of premature destruction is necessary so the Commission can be aware of the frequency and consequence of such destruction. If carriers were allowed to destroy records at will, the Commission could lose its historical base of information thus making it impossible to properly regulate the industry. A specific retention period for telephone toll records is imposed to assist Department of Justice in law enforcement. *Obligation to respond:* Mandatory.

OMB Control No.: 3060–0736.

Expiration Date: 08/31/2004.

Title: Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96–149.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 4 respondents; 36 hours per response (avg.); 144 total annual burden hours (for all collections approved under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Monthly; Third Party Disclosure.

Description: Section 272 of the Communications Act of 1934, as amended, requires that Bell Operating Companies (BOCs) make information available to third parties if it makes that information available to its section 272(a) affiliates. BOCs are required to provide, among other things, unaffiliated entities all listing information, including unlisted and unpublished numbers as well as the numbers of other LECs' customers, that the BOC uses to provide E911 services. BOCs are required to treat their E911 service as nonregulated activities for federal accounting purposes to the extent they involve storage and retrieval functions included within the statutory definition of information service. The BOCs shall record any charges they impute for their E911 services in their revenue accounts. The requirements will be used to ensure that BOCs comply with the nondiscrimination requirements under the Communications Act of 1934, as amended.

Obligation to Respond: Mandatory.

OMB Control No.: 3060–0856.

Expiration Date: 02/28/2002.

Title: Universal Service—Schools and Libraries Universal Service Program Reimbursement Forms.

Form No.: FCC Forms 472, 473, and 474.

Respondents: Not-for-profit institutions; Business or other for-profit.

Estimated Annual Burden: 61,800 respondents; 1.42 hours per response (avg.); 88,050 total annual burden hours (for all collections approved under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Annually; Third Party Disclosure.

Description: The Telecommunications Act of 1996 contemplates that discounts on eligible services shall be provided to schools and libraries, and that service providers shall seek reimbursement for the amount of the discounts. FCC Forms 473 and 474 facilitate the reimbursement process. FCC Form 472 allows providers to confirm that they are actually providing the discounted services to eligible entities. Minor revisions were made to FCC Form 474. The current edition of the FCC Form 474 is May 2001. (*No. of respondents:* 2500; *hours per response:* 1.5 hours; *total annual burden:* 3750 hours). Copies of FCC Form 474 and other universal service forms are available via the Internet at www.universalservice.org.

Obligation to Respond: Required to obtain or retain benefits.

Public reporting burden for the collections of information are as noted above. Send comments regarding the burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23266 Filed 9–18–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 01–2107]

The Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Notice; comments requested.

SUMMARY: December 8, 2000, the Common Carrier Bureau (Bureau) released a document updating line count input data used in the high-cost universal service model for determining support amounts for 2001. Consistent with the Bureau and Commission precedent, in this document, the Bureau invites comment on updating line counts and other limited information used in the model for calculating high-cost universal service support for non-rural carriers for 2002.

DATES: Comments are due on or before October 4, 2001. Reply comments are due on or before October 10, 2001.

ADDRESSES: See Supplementary Information section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Katie King or Thomas Buckley, Attorneys, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400, TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On October 21, 1999, the Commission

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adopted two orders completing implementation plans for a new high-cost universal service support mechanism for non-rural carriers. The mechanism provides support based on the forward-looking economic cost of providing services eligible for support, as determined by the Commission's universal service cost model. The Commission also emphasized the importance of updating the inputs used in the cost model as technology and other conditions change. On December 8, 2000, the Bureau released an order updating line count input data used in the model for determining support amounts for 2001. Consistent with the Bureau and Commission precedent, the Bureau seeks comment in this Public Notice on how line count and other discrete input values should be updated for purposes of determining support for 2002.

Line Counts. Line counts are used for two general purposes in the high-cost support mechanism for non-rural carriers. First, line counts are used in the Commission's cost model to estimate the forward-looking costs of providing supported services for businesses and households in a geographic area. Second, line counts are used to calculate support based on those costs and target that support to high-cost areas. In the *Line Counts Update Order*, 65 FR 81759, December 27, 2000, the Bureau updated line counts by using year-end 1999 line counts filed July 31, 2000, as input values for estimating average forward-looking costs for the year 2001. Support amounts for 2001 were also adjusted every quarter using wire center line count data reported by the carriers on a quarterly basis.

In order to estimate the cost of providing service for all businesses and households within a geographic area, line counts also need to be allocated to specific classes of service in the cost model. In the *Line Count Data Request*, DA 99–1406, (not published in the **Federal Register**) the Bureau requested, *inter alia*, that non-rural carriers submit year-end 1998 wire center line count data allocated to the classes of service used in the model. For purposes of calculating forward-looking costs and determining support for 2001, in the *Line Counts Update Order*, 65 FR 81759, December 27, 2000, the Bureau concluded that line counts should be allocated to the classes of service used in the model based on the line count data filed pursuant to the *Line Count Data Request*, DA 99–1406, (not published in the **Federal Register**). Moreover, because line counts reported by non-rural carriers include only switched lines, the Bureau recognized in the *Line Counts Update Order*, 65 FR 81759, December 27, 2000, that it could not divide year-end line counts into the *Line Count Data Request*, DA 99–1406, (not published in the **Federal Register**), to determine the growth rate of special lines. As a result, the Bureau divided the 1999 ARMIS special access lines among wire centers in the same proportion as the special lines from the *Line Count Data Request*, DA 99–1406, (not published in the **Federal Register**), to estimate line count growth.

The Bureau seeks comment on updating line count data in the universal service cost model consistent with the updated framework adopted in the *Line Counts Update Order*, 65 FR 81759, December 27, 2000. The Bureau specifically seeks comment on whether to update line count input values with year-end line counts filed July 31, 2001, in order to estimate average forward-looking costs for 2002. The Bureau also seeks comment on whether to adjust support amounts each quarter using wire center line count data reported by carriers each quarter. In addition, the Bureau seeks comment on whether to apply the methods adopted in the *Line Counts Update Order*, 65 FR 81759, December 27, 2000, for allocating line counts to classes of service in order to calculate support in 2002. In particular, the Bureau seeks comment on whether line counts should be allocated to the classes of service used in the model based on the line count data filed pursuant to the *Line Count Data Request*, DA 99–1406, (not published in the **Federal Register**). Because line counts reported by non-rural carriers include only switched lines, the Bureau also seeks comment on whether to divide the 2000 ARMIS special lines access lines among wire centers in the same proportion as the special lines from the *Line Count Data Request*, DA 99–1406, (not published in the **Federal Register**), to estimate special line count growth. Finally, the Bureau seeks comment on whether to apply the method adopted in the *Line Counts Update Order*, 65 FR 81759, December 27, 2000, for matching line count data to wire centers used in the model for calculating support in 2002.

Other Model Inputs. In addition to line counts, the model uses other types of data that are updated annually under current Commission rules and procedures. Among other things, the model uses company-specific ARMIS data to calculate investment in general support facilities (GSF). GSF investment includes buildings, motor vehicles, and general purpose computers. A portion of GSF investment must be added to the model's estimate of outside plant, switching, and transport investment to adequately reflect the cost of providing the supported services. The Bureau seeks comment on whether it should update the tables in the model with 2000 ARMIS data to estimate GSF investment.

The model also uses company-specific data in determining switching costs. A wire center's switch directs both interstate and intrastate traffic. Universal service support, however, is only provided for the portion of the switch used to direct intrastate traffic. Therefore, to determine the amount of a wire center's switch that is eligible for support, the model needs to determine the percentage of the switch used to direct intrastate service. The model currently uses 1997 and 1998 traffic parameters from ARMIS and the National Exchange Carrier Association (NECA) to determine the percentage of the switch allocated to supported services and the switch port requirement for interoffice transport. The Bureau seeks comment on whether it should update the tables in the model with currently available traffic parameters to determine the percentage of switch allocated to supported services and the switch port requirement for interoffice transport. In particular, the Bureau seeks comment on whether it would be more consistent to use the NECA data as the sole source for traffic parameter data instead of obtaining these data from two sources.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: comment are due October 4, 2001 and reply comments are due October 10, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address". A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street SW., Room 5–A422, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554.

Pursuant to § 1.1206 of the Commission's Rules, this proceeding will continue to be conducted as a permit-but-disclose proceeding in which *ex-parte* communications are permitted subject to disclosure.

Federal Communications Commission.

Eric N. Einhorn,

Acting Deputy Division Chief, Accounting Policy Division.

[FR Doc. 01–23269 Filed 9–18–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday September 25, 2001 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday September 27, 2001 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Use of the Internet in Federal Elections; Draft Notice of Proposed Rulemaking.
Summary of Comments and Possible Options on the Advance Notice of Proposed Rulemaking on the Definition of "Political Committee."
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–23494 Filed 9–17–01; 3:23 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 12, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Virginia Financial Corporation, Staunton, Virginia; to merge with Virginia Commonwealth Financial Corporation, Culpeper, Virginia, and thereby indirectly acquire Carolina Savings Bank, Bowling Green, Virginia, Virginia Heartland Bank, Fredericksburg, Virginia, and Second Bank & Trust, Culpeper, Virginia.

In connection with this application Applicant has also applied to acquire Virginia Commonwealth Trust Company, Culpeper, Virginia, and thereby engage in trust company functions, pursuant to § 225.28.(b)(5).

Board of Governors of the Federal Reserve System, September 13, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23277 Filed 9–18–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Announcement of Cooperative Agreement With the Association of Teachers of Preventive Medicine

AGENCY: Office of Disease Prevention and Health Promotion, Office of Public Health and Science, HHS.

ACTION: Notice of single source cooperative agreement with the Association of Teachers of Preventive Medicine.

Authority: Sections 1701 and 1703 of the Public Health Service Act, as amended.

PURPOSE: The Office of Disease Prevention and Health Promotion announces it is continuing to support a single source Cooperative Agreement with the Association of Teachers of Preventive Medicine (ATPM) for ATPM to complete its management of certain fellowship and residency rotation programs of the Office of Disease Prevention and Health Promotion.

SUMMARY: The Office of Disease Prevention and Health Promotion (ODPHP) announces that it will continue to support a single source Cooperative Agreement with the Association of Teachers of Preventive Medicine (ATPM) so that ATPM may complete its work with a consortium of societies of teachers of primary health care and preventive medicine to select and manage the Luther L. Terry Preventive Medicine Fellowship and related activities, including support for a preventive medicine residency rotation. Approximately $257,000 will be available in FY 2001 funds to support this non-competitive cooperative agreement.

DATES: This award will begin on or before September 30, 2001, for a 9-month budget period with a project period ending June 30, 2002. Funding estimates may change.

ADDRESSES AND CONTACT: Ms. Sally Jones, Administrative Officer, Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Department of Health and Human Services, 200 Independence Avenue, SW., room 738–G, Washington, DC 20201; Telephone (202) 260–7654. An application for this award should be submitted by the ATPM and received by Ms. Jones no later than close of business September 28, 2001.

SUPPLEMENTARY INFORMATION: The Office of Disease Prevention and Health Promotion (ODPHP) uses cooperative agreements with national organizations to support its mandate to provide leadership to promote health and prevent disease among Americans through management and coordination of the implementation of Healthy People 2010, the nation's health objectives for this decade. Through cooperative agreements, ODPHP has forged public-private partnerships to extend the reach and effectiveness of its work. This program addresses especially the Healthy People 2010 Leading Health Indicators. For a copy of Health People 2010, visit the Internet site: *http://health.gov/healthypeople.*

ODPHP intends to provide financial assistance of about $257,000 to the Assistance of Teachers of Preventive Medicine to: (a) Complete the process of managing the 2000–2002 Luther L. Terry Preventive Medicine Fellowship; (b) work with a consortium of societies of teachers and practitioners of primary health care and preventive medicine to complete the process of selecting the 2002–2004 Luther L. Terry Preventive Medicine Fellowship; (c) complete the management of an ODPHP/ATPM fellow in health promotion and disease prevention to facilitate implementation of the Leading Health Indicators; (d) complete support for 2001–2002 preventive medicine residents (and residents in other relevant specialities) to experience residence rotations in a health policy setting as part of their residency program; and (e) prepare a report on the process for recruitment, selection, and management of the Luther Terry fellowship and the preventive medicine residency rotations including suggestions for improvements and enhancements. These programs provide a link between ODPHP and the primary care and preventive medicine education community in the furtherance of Healthy People 2010 implementation.

Eligible Applicants

Assistance will be provided only to the Association of Teachers of Preventive Medicine (ATPM). No other applications are solicited for this activity. ATPM is the most appropriate and qualified organization to conduct the activities under this cooperative agreement because:

1. The work involved is solely to complete activities already initiated through the current cooperative agreement. Transferring responsibility for the remaining tasks to a new organization at this point in time would be disruptive and unproductive.

2. ATPM has a documented ability to build and maintain effective fellowship and residency programs in collaboration with federal health agencies and more specialized medical societies. It has developed and maintains fellows and residency programs for the Centers for Disease Control and Prevention, the Health Resources and Services Administration, and the Health care Financing Administration. The current Luther. L. Terry Preventive Medicine Fellowship, begun in 1985 with ATPM management, continues to function effectively and with guidance from a consortium of specialized societies, including the Society of Teachers of Family Medicine, the Society of General Internal Medicine, and the Ambulatory Pediatric Association.

3. ATPM provides the structure and experience for institution programs that strengthen disease prevention and health promotion at all levels. Through its own membership and mission, ATPM has developed unique knowledge and understanding of the clinical preventive services and the Healthy People objectives. One of its major objectives is to advance preventive medicine and public health in the education of physicians and other health professionals. Thus, ATPM members will benefit directly from these post-graduate opportunities in health promotion and disease prevention.

Availability of Funds: Approximately $257,000 will be available to fund one cooperative agreement. It is expected that this award will begin on or about September 30, 2001, and will be made for a 9-month budget period with a project period ending June 30, 2002. Funding estimates may change.

Use of Funds: Funds cannot be used for construction or renovation, to purchase or lease vehicles or vans, to purchase a facility to house project staff or carry out project activities, or to substitute new activities and expenditures for current ones.

Other Award Information

The Catalog of Federal Domestic Assistance number is 93.990. This program is not subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372. This program is not subject to the Public Health System Reporting Requirement. ODPHP strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children's Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to the children.

Dated: September 12, 2001.

Mary Jo Deering,

Acting Deputy Director, Office of Disease Prevention and Health Promotion.

[FR Doc. 01–23279 Filed 9–18–01; 8:45 am]

BILLING CODE 4150–32–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–3075–N]

Medicare Program; Meeting of the Executive Committee of the Medicare Coverage Advisory Committee—October 17, 2001

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Executive Committee of the Medicare Coverage Advisory Committee (the Committee). The Committee will act on the recommendation of the Diagnostic Imaging panel regarding FDG Positron Emission Tomography (PET) imaging for breast cancer diagnosis and staging, and the recommendation of the Drugs, Biologics and Therapeutics panel regarding use of levocarntine in End Stage Renal Disease (ESRD) patients. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)).

DATES: *The Meeting:* October 17, 2001 from 8 a.m. until 4:30 p.m., E.D.T.

Deadline for Presentations and Comments: October 3, 2001, 5 p.m., E.D.T.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, and have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by September 26, 2001 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at the Centers for Medicare & Medicaid Services (CMS) headquarters, Multipurpose Room, 7500 Security Blvd, Baltimore, MD 21244.

Presentations and Comments: Submit formal presentations and written comments to Janet A. Anderson, Executive Secretary; Office of Clinical Standards and Quality; Centers for Medicare & Medicaid Services; 7500 Security Boulevard; Mail Stop C1–09–06; Baltimore, MD 21244.

Web site: You may access up-to-date information on this meeting at *www.hcfa.gov/coverage.*

Hotline: You may access up-to-date information on this meeting on the CMS Medicare Advisory Committee Information Hotline, 1–877–449–5659 (toll free) or in the Baltimore area (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Janet A. Anderson, Executive Secretary, (410) 786–2700.

SUPPLEMENTARY INFORMATION: On August 13, 1999, we published a notice in the **Federal Register** (64 FR 44231) to describe the Medicare Coverage Advisory Committee (Committee), which provides advice and recommendations to us about clinical issues. This notice announces the following public meeting of the Committee.

Current Panel Members

Harold C. Sox, MD; Robert H. Brook, MD, ScD; Daisy Alford-Smith, PhD; Wade Aubry, MD; Linda Bergthold, PhD; Ronald M. Davis, MD; John H. Ferguson, MD; Leslie P. Francis, JD, PhD; Alan M. Garber, MD, PhD; Thomas V. Holohan, MA, MD, FACP; Joe W. Johnson, DC; Michael D. Maves, MD, MBA; Barbara McNeil, MD, PhD; Robert L. Murray, PhD; Frank Papatheofanis, MD, PhD; Randel E. Richner, MPH.

Meeting Topic

The Committee will act on the recommendation of the Diagnostic Imaging panel regarding FDG Positron Emission Tomography (PET) imaging for breast cancer diagnosis and staging, and the recommendation of the Drugs, Biologics and Therapeutics panel regarding use of levocarntine in End Stage Renal Disease (ESRD) patients.

Procedure and Agenda

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 90 minutes. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make a formal presentation you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In addition, the Executive Secretary must receive, by the Deadline for Presentations and Comments date listed in the **DATES** section of this notice, the names and addresses of proposed participants; a brief statement of the general nature of the evidence or arguments you wish to present; and a written copy of your presentation. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow approximately a 30-minute open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 5, 2001.

Jeffrey L. Kang,

Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 01–23325 Filed 9–18–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Methodology for Determining If an Increase in a State's Child Poverty Rate Is the Result of TANF.

OMB No. 0970–0186.

Description: In accordance with Section 413(i) of the Social Security Act and 45 CFR part 284, DHHS intends to extend the following information collection requirements for instances when Census Bureau data show that a State's child poverty rate increased by 5% or more from 1 year to the next: (1) Optional submission of data on child poverty from an independent source; (2) if the increase in the State's child poverty rate is still determined to be 5% or more, an assessment of the impact of the TANF program(s) in the State on the child poverty rate; and (3) if DHHS determines from the assessment and other information that the child poverty rate in the State increased as a result of the TANF program(s) in the State, a corrective action plan.

Respondents: The respondents are the 50 States and the District of Columbia; and when reliable Census Bureau data become available for the Territories, additional respondents will be Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Optional Submission of Data on Child Poverty from an Independent Source	54	1	8	432
Assessment of the Impact of TANF on the Increase in Child Poverty	54	1	120	6480
Corrective Action Plan	54	1	160	8640
Estimated Total Annual Burden Hours				15552

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and

comments may be forwarded by writing mail: gearyn@cber.fda.gov.

Dated: September 10, 2001.

is applicable to sodium channel studies protein under a milk-specific promoter

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comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques and other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 13, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–23326 Filed 9–18–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

PDA/FDA Viral Clearance Forum; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Parenteral Drug Association (PDA)/FDA Viral Clearance Forum." The topic to be discussed is viral clearance for biologics.

Date and Time: The public workshop will be held on October 1, 2001, from 8 a.m. to 4:30 p.m., October 2, 2001, from 8:30 a.m. to 4:30 p.m., and October 3, 2001, from 8:30 a.m. to 3 p.m.

Location: The public workshop will be held at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD.

Contact:

For information regarding this notice: Nathaniel L. Geary, Center for Biologics Evaluation and Research (CBER) (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–6210, FAX 301–594–1944, e-mail: gearyn@cber.fda.gov.

For information regarding the public workshop: Melanie Whelan, Center for Biologics Evaluation and Research (HFM–43), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3841, FAX 301–827–3843, e-mail: Whelan@cber.fda.gov, or Leslie Zeck, PDA, Inc., 7500 Old Georgetown Rd., suite 620, Bethesda, MD 20814, 301–986–0293, FAX 301–986–0296, e-mail: zeck@pda.org.

If you need special accommodations due to a disability, please contact Leslie Zeck (address above) at least 7 days in advance.

Registration: Mail or fax your registration information (including name, title, firm name, address, telephone, and fax number), and registration fee to PDA, Inc., P.O. Box 79465, Baltimore, MD 21279–3465 by Monday, September 24, 2001. You may also register with PDA, Inc., by phone at 301–986–0293 or fax at 301–986–0296 with your credit card.

The registration fee will be used to offset the expenses of hosting the conference, including meals, refreshments, meeting rooms, and materials. You may obtain registration forms from PDA, Inc., (address above) or from the FDA Internet at http://www.fda.gov/cber/meetings.htm.

SUPPLEMENTARY INFORMATION: The public workshop is being cosponsored by FDA, CBER, and PDA, Inc. The goals of the public workshop are to discuss: (1) Current and new viral removal technologies; (2) issues related to the reuse of chromatographic columns with an emphasis on viral clearance requirements; (3) current opinions on the need to standardize quality attributes of viral preparations used as controls in spiking and infectivity assays; (4) current methods used to standardize or validate traditional infectivity assays; (5) implementation and acceptability of polymerase chain reaction (PCR), PCR enhanced reverse transcriptase, and real-time PCR-based viral assays, standardization and validation of these new assays, and (6) the potential of and issues related to bracket/matrix studies defining generic virus inactivation conditions. FDA expects that participation in this workshop will provide manufacturers a regulatory perspective on viral clearance and facilitate product development and approval.

Dated: September 10, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23264 Filed 9–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Batrachotoxins as Unique Activators of Sodium Channels

John W. Daly (NIDDK)
DHHS Reference No. E–237–01/0
Licensing Contact: Pradeep Ghosh; 301–496–7736 ext. 211; e-mail: *ghoshp@od.nih.gov*.

Natural products provide a wide range of biologically active agents, many of which have unique pharmacological activity and therapeutic potential. The present invention relates to the identification and characterization of two alkaloids, namely, "batrachotoxin" and "homobatrachotoxin," isolated from extracts of amphibian skin. Biologically, both these agents are potent activators of sodium channels. The sodium channels are primarily expressed in peripheral nerve cells in pain pathways, where they regulate cellular excitability. Thus, these channels are drug targets for the treatment of pain and/or peripheral neuropathies. The use of batrachotoxin or homobatrachotoxin as research tools is applicable to sodium channel studies related to the effects of local anesthetics, analgesics, antiarrythmics and anticonvulsants. Further, advancement of these studies and target validation present commercial opportunities to expand ion channel drug discovery into new therapeutic areas.

Identification of a Cell-Surface Receptor for Papillomaviruses

Douglas R. Lowy, Patricia Day and John T. Schiller (NCI)
DHHS Reference No. E–179–01/0, filed 1 May 2001
Licensing Contact: Sally Hu; 301/496–7056 ext. 265; e-mail: *hus@od.nih.gov*.

Human papillomavirus (HPV) are the central cause of genital warts and most cervical cancers, which kills about 200,000 women globally each year. 20 million Americans acquire genital HPV infections annually. Prophylactic and therapeutic vaccines under development will likely afford strain-specific protection, precluding comprehensive immunity. In contrast, the instant invention identifies the cellular receptor that may be broadly utilized by papillomaviruses to gain entry into the cells. It further teaches developing molecular decoys for the virus to bind to, thereby preventing infection. The cell surface exposed domain of the receptor is soluble, biologically stable and is therefore suited for different delivery strategies including topical application. It may also be used for screening potential anti-HPV compounds. It can be produced by genetic engineering methods and may therefore lend itself to production in large amounts at a reasonable cost.

Secretion of Native Recombinant Lysosomal Enzymes by Liver

Dr. Nina Raben et al. (NIAMS)
DHHS Reference No. E–067–01/0 filed 09 Apr 2001
Licensing Contact: Marlene Shinn; 301–496–7056 ext. 285; e-mail: *shinnm@od.nih.gov*.

Glycogen storage disease type II (GSDII) is an autosomal recessive disorder caused by the deficiency of acid alpha-glucosidase (GAA), a glycogen-degrading lysosomal enzyme. This deficiency results in generalized deposition of lysosomal glycogen in almost all tissues of the body and can ultimately lead to cardiac failure before the age of two years. Current treatment for the disease includes repairing the deficiency by injecting recombinant protein into the patient made from either cultured Chinese Hamster Ovary (CHO) cells or secreted in the milk from rabbits that bear the transgene for the protein under a milk-specific promoter. Both recombinant proteins produced are extremely inefficient in their uptake into and function in targeted tissues.

The NIH announces a new technology that relates to the use of hepatocytes whether in culture or in vivo for the production of human GAA. The hepatocytes produce appropriate post-translational modification of the enzyme in liver cells by proper glycosylation, thereby producing a superior enzyme capable of being easily taken up and localized intracellularly in the target tissue. Once there, the enzyme digests glycogen present in lysosomes.

High-Volume On-Line Spectroscopic Composition Testing of Manufactured Pharmaceutical Dosage Units

E. Neil Lewis, David J. Strachen, Linda H. Kidder (NIDDK)
DHHS Reference No. E–249–99/1 filed 14 Jul 1999
Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: *berkleyd@od.nih.gov*.

The invention is a pharmaceutical dosage unit manufacturing process control system that uses continuous spectral imaging to test the actual composition of pharmaceutical dosages even in packaged drugs. The system can screen for errors in coloring of ingredients, for contamination or breakdown that occurs independent of coloring and for other types of errors that might not otherwise be detected. The system can perform composition measurements through the end-user package walls to detect contamination or damage that occurs during packaging. The invention performs composition analysis by comparing spectral information with libraries of known spectral signatures, allowing small concentrations of potentially dangerous contaminants to be detected. Relative quantities of ingredients can be directly measured, such that a change in the ratio of these ingredients can be detected.

Dated: September 7, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–23295 Filed 9–18–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

State-of-the-Science Conference on Endoscopic Retrograde; Cholangiopancreatography (ERCP) for Diagnosis and Therapy

Notice is hereby given of the National Institutes of Health (NIH) State-of-the-Science Conference on "Endoscopic Retrograde Cholangiopancreatography (ERCP) for Diagnosis and Therapy," which will be held January 14–16, 2002, in the NIH's Natcher Conference Center, 45 Center Drive, Bethesda, Maryland 20892. The conference begins at 8:30 am on January 14 and 15, at 9 am on January 16, and is open to the public.

ERCP is a procedure physicians use to diagnose and treat problems in the liver, gallbladder, bile ducts, and pancreas. It combines the use of X-rays and an endoscope, a long, flexible, lighted tube. ERCP first came into use about 30 years ago and has been applied to the diagnosis and management of a variety of gastrointestinal disorders. However, the value of ERCP relative to other means for diagnosing and treating these diseases has not been firmly established.

The purpose of the conference is to examine the current state of knowledge regarding the use of ERCP for diagnosis and therapy so that health care providers and the general public can make informed decisions about this important public health issue.

During the first day-and-a-half of the conference, experts will present the latest ERCP research findings to an independent non-Federal panel. After weighing all of the scientific evidence, the panel will draft a statement that will address the following key questions:

- What is the role of ERCP in gallstone disease?
- What is the role of ERCP in pancreatic and biliary malignancy?
- What is the role of ERCP in pancreatitis?
- What is the role of ERCP in abdominal pain of possible pancreatic or biliary origin?
- What are the factors determining adverse events or success?
- What future research directions are needed?

On the final day of the conference, the panel's draft statement will be read in public, at which time members of the public are invited to offer comments on the draft.

The primary sponsors of this meeting are the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) and the NIH Office of Medical

Applications of Research (OMAR). Cosponsors include the National Cancer Institute (NCI) and the U.S. Food and Drug Administration (FDA).

Advance information about the conference and conference registration materials may be obtained from Prospect Associates of Silver Spring, Maryland, by calling (301) 592–3320 or by e-mail *ercp@prospectassoc.com*. Prospect Associates' address is 10720 Columbia Pike, Suite 500, Silver Spring, Maryland 20901–4437. A conference agenda and registration information are also available on the NIH Consensus Program Web site at *http://consensus.nih.gov*.

Dated: September 12, 2001.

Ruth L. Kirschstein,

Acting Director, NIH.

[FR Doc. 01–23294 Filed 9–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: October 4, 2001.

Time: 10 am to 11:30 am.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, Scientific Review branch, Division of Extramural Research, NIDCD/NIH, 6102 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23291 Filed 9–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: September 19–20, 2001.

Time: 7 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hallmark Inn, 110 F Street, Davis, CA 95616.

Contact Person: Louise L. Hsu, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 5, 2001.

Time: 11 am to 11:30 am.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building Rm 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group; Biological Aging Review Committee.

Date: October 8–9, 2001.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Review Group; Behavior and Social Science of Aging Review Committee.

Date: October 11, 2001.

Time: 1:30 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Ann Guadagno, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel; Small Grants in Sociology and Psychology.

Date: October 12, 2001.

Time: 8:30 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Ann Guadagno, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group; Neuroscience of Aging Review Committee.

Date: October 15–16, 2001.

Time: 7 pm to 1 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW Washington, DC 20007

Contact Person: Louise L. Hsu, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 17, 2001.

Time: 8:15 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Jeffrey M. Chernak, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 17–18, 2001.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group; Clinical Aging Review Committee.

Date: October 19, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: William A. Kachadorian, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2c212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: October 22–23, 2001.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Inn and Conference Center, 420 High Street, Winston-Salem, NC 27101.

Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: November 6, 2001.

Time: 11 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Louise L. Hsu, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: November 6–7, 2001.

Time: 7 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, Markham & Broadway, Little Rock, AR 72201.

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: December 11–12, 2001.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: The Tutwiler, 2021 Park Place North, Birmingham, AL 35203.

Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23293 Filed 9–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 17, 2001.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call.

Contact Person: Jeanne N. Ketley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23292 Filed 9–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of a Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council in October 2001.

The SAMHSA National Advisory Council meeting will be open and will include discussions on the Agency's restructuring and delayering plans and 2002 Appropriations, a presentation on the National Household Survey on Drug Abuse, an update on SAMHSA's 2001 Grant Awards, and a presentation on the Surgeon General's Report on Culture, Race and Ethnicity. In addition, there will be presentations by four SAMHSA National Advisory Council members on State drug trends and epidemiology data; on mental health and substance abuse issues of women and children; on current issues related to co-occurring disorders; and on mental health system changes in the State of Wyoming. Finally, there will be a discussion on what SAMHSA is doing to market itself.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting, and a roster of Council members may be obtained from the contact whose name and telephone number is listed below.

Committee Name: SAMHSA National Advisory Council.

Date/Time: Tuesday, October 2, 2001, 9:00 a.m. 5:45 p.m. (Open); Wednesday, October 3, 2001, 8:30 a.m. to 4:00 p.m. (Open).

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

Contact: Toian Vaughn, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 17–89, Rockville, MD 20857, Telephone: (301) 443–7016; FAX: (301) 443–1587 and e-mail: *TVaughn@samhsa.gov*.

Dated: September 13, 2001.

Toian Vaughn,

Committee Management Officer, SAMHSA.

[FR Doc. 01–23265 Filed 9–18–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This notice provides the names of individuals who have been appointed to serve as members of the Department of the Interior Performance Review Board.

DATES: These appointments are effective September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Shirley Schell, Department of the Interior, Office of Personnel Policy, 1849 C Street, NW., Washington, DC 20240, Telephone Number (202) 208–7274.

2001 SES Performance Review Board

The following Senior Executive Service members have been appointed to serve on the Department of the Interior 2001 Performance Review Board:

James C. Douglas, Assistant Special Trustee for American Indians
Paul Smyth, Deputy Associate Solicitor (Land and Water Resources
Hugo Tuefel, III, Associate Solicitor (General Law)
William D. Bettenberg, Deputy Director, Office of Policy Analysis
Charles E. Breece, Principal Deputy Director, Office of Hearings and Appeals
Dolores L. Chacon, President DOI University—National Business Center
Carolyn Cohen, Director, Office of Personnel Policy
Debra Sonderman, Director, Office of Acquisition and Property Management
Timothy G. Vigotsky, Director, National Business Center
Scott J. Cameron, Deputy Assistant Secretary for Performance & Management
Joseph E. Doddridge, Staff Assistant
J. Lynn Smith, Human Resources Program Manager
Katherine H. Stevenson, Assoc Director—Cultural Stewardship and Partnership
Robyn Thorson, Assistant Director—External Affairs
Denise E. Sheehan, Assistant Director—Budget, Planning and Human Resources
J. William McDonald, Regional Director—Pacific Northwest Reg
Maryanne Bach, Regional Director, Great Plains Region
Robert W. Johnson, Regional Director—Lower Colorado
Stephen V. Magnussen, Deputy Director, Operations West
Larry L. Todd, Director, Operations
Earnest B. Brunson, Regional Geographer—Eastern Region
John A. Kelmelis, Associate Division Chief for Science
Bonnie A. McGregor, Regional Director—Easter Region
Stanley Ponce, Physical Scientist (Senior Liaison for Interagency Pgms)
Henri R. Bisson, Assistant Director—Renewable Resources and Planning
Gayle F. Gordon, State Director—Eastern States
Ann J. Morgan, State Director, Colorado
W. Hord Tipton, III, Assistant Director—Information Resource Management
Thomas A. Readinger, Deputy Associate Director Offshore
Robert E. Brown, Associate Director for Administration and Budget
Richard J. Seibel, Special Assistant to the Director
James H. McDivitt, Deputy Assistant Secretary—Indian Affairs for Policy, Mgt and Budget
William A. Sinclair, Director, Office of Self-Governance
Lawrence Morrin, Area Director, Minneapolis
Terrance L. Virden, Director, Office of Trust Responsibilities

Dated: September 13, 2001.

Carolyn Cohen,

Director of Personnel Policy.

[FR Doc. 01–23338 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Alaska Region, Beaufort Sea, Oil and Gas Lease Sales 186, 195, and 202 for Years 2003, 2005, and 2007

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Call for Information and Nominations and Notice of Intent (Call/NOI) to Prepare an Environmental Impact Statement (EIS).

SUMMARY: The Secretary's preliminary decision to consider three sales in the Beaufort Sea planning area in the Draft Proposed OCS Oil and Gas Leasing Program for 2002–2007 (DPP) provides for the first sale to be held in 2003, with subsequent sales in 2005 and 2007. The MMS has modified its prelease planning and decision process for proposed Beaufort Sea sales included in the DPP. This Call/NOI reflects that change and is in keeping with the Secretary's preliminary decision to analyze these three sales in a multi-sale EIS. The sale process for this first sale will require a minimum of 2 years to complete. In order to meet the requirements of that schedule, we are issuing this Call/NOI at this time, recognizing that the final decision on the 2002–2007 5-year program has not been made and final delineation of the program areas and number of sales may change from that included in the DPP.

DATES: Nominations and comments on the Call for Information and comments on the Notice of Intent must be received no later than November 5, 2001.

FOR FURTHER INFORMATION CONTACT: Please call Tom Warren at (907) 271–6691 in MMS's Alaska OCS Region regarding questions on the Call/NOI.

SUPPLEMENTARY INFORMATION: The multi-sale review process is based on over 25 years of leasing in the Beaufort Sea. The process will incorporate planning and analysis for three tentatively scheduled sales: Sales 186, 195, and 202. From the initial step in the process (the Call/NOI) through the final EIS/Consistency Determination step, this process will cover multiple sale proposals. However, there will also be complete National Environmental Policy Act (NEPA), OCS Lands Act, and Coastal Zone Management Act coverage for each sale after the first sale—either an Environmental Assessment or Supplemental EIS; Consistency Determination; and a proposed and final Notice of Sale.

The environmental analysis and the Consistency Determination for subsequent sales (195 and 202) will focus primarily on new issues or changes in a State's federally-approved coastal management plan. This process will

—Focus the environmental analysis by making impact types and levels that change between sales more easily recognizable for all reviewers;
—Result in new issues being more easily highlighted for the public;
—Eliminate issuance and public review of repetitive, voluminous EISs for each sale—a practice that has resulted in "review burnout" by Federal, State, local and tribal governments, and the public; and
—Result in a more efficient and responsive application of NEPA.

This Call does not indicate a preliminary decision to lease in the area described in Call for Information and Nominations, Item 3, "Description of Area," below. Final delineation of the areas for possible leasing will be made at a later date in the presale process for each sale in compliance with the final 5-year program and with applicable

laws including all requirements of the NEPA and the OCS Lands Act.

Call for Information and Nominations

1. Authority

This Call is published pursuant to the OCS Lands Act as amended (43 U.S.C. 1331–1356, (1994)), the regulations issued thereunder (30 CFR part 256); and in accordance with the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2002 to 2007.

2. Purpose of Call

The purpose of the Call is to gather preliminary information for the following tentatively scheduled OCS Oil and Gas Lease Sales in the Beaufort Sea:

Sale No.	Tentative sale date
186	Fall 2003.
195	Spring 2005.
202	Spring 2007.

Information and nominations on oil and gas leasing, exploration, and development and production within the Beaufort Sea are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act and regulations at 30 CFR part 256.

Responses are requested relative to all sales included herein. This Call/NOI is being issued in accordance with the Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program 2002 to 2007 (DPP) published on July 23, 2001 (66 FR 38314). The DPP chose a three sale option for leasing in the Beaufort Sea in the 2002–2007 5-year program.

3. Description of Area

The area that is the subject of this Call is located offshore the State of Alaska in the Beaufort Sea Planning Area. It extends offshore from about 3 to approximately 60 nautical miles, in water depths from approximately 25 feet to 200 feet. A small portion of the outer limits of the sale area north of Harrison Bay drops to approximately 3,000 feet. This area consists of approximately 1,898 whole and partial blocks (about 9.9 million acres). A page size map of the area accompanies this Notice. A large scale Call map showing the boundaries of the area on a block-by-block basis is available without charge from the Records Manager at the address given below, or by telephone request at (907) 271–6621. Copies of Official Protraction Diagrams (OPDs) are also available for $2 each. Alaska OCS Region, Minerals Management Service 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4302, http://www.mms.gov/alaska.

4. Instructions on Call

The Call for Information Map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, at the address under Item 3, "Description of Area."

The Call map delineates the area that is the subject of this Call. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have included in each of the proposed sales in the Beaufort Sea.

If you wish to comment, you may submit your comments by any one of the following methods:

- You may mail comments to the address under Item 3. Envelopes should be labeled "Nominations for Proposed 2002–2007 Lease sales in the Beaufort Sea," or "Comments on the Call for Information and Nominations for Proposed Lease Sales in the Beaufort Sea," as appropriate.
- You may also comment via e-mail to BeaufortMulti-Sale@mms.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: Comments on Call for Information and Nominations for Proposed 2002–2007 Lease Sales in the Beaufort Sea" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (907) 271–6621.
- Finally, you may hand-deliver comments to the address under Item 3.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

A. *Areas of Interest to the Oil and Gas Industry.* Specific nominations are being sought regarding the oil and gas industry area(s) of interest. MMS is soliciting nominations of blocks that are of significant industry interest for exploration and development and production.

Nominations must be depicted on the Call map by outlining the area(s) of interest along block lines. Nominators are asked to submit a list of whole and partial blocks nominated (by OPD and block number) to facilitate correct interpretation of their nominations on the Call map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are proprietary information.

Nominators also are requested to rank blocks nominated according to priority of interest (e.g., priority 1 (high), or 2 (medium)). Blocks nominated that do not indicate priorities will be considered priority 3 (low). Nominators must be specific in indicating blocks by priority and be prepared to discuss their range of interest and activity regarding the nominated area(s). The telephone number and name of a person to contact in the nominator's organization for additional information should be included in the response. This person will be contacted to set up a mutually agreeable time and place for a meeting with the Alaska OCS regional office to present their views regarding the company's nominations.

B. *Relation to Coastal Management Plans.* Comments also are sought on potential conflicts with approved local coastal management plans (CMP) that may result from the proposed sale and future OCS oil and gas activities. These comments should identify specific CMP policies of concern, the nature of the conflicts foreseen, and steps that MMS could take to avoid or mitigate the potential conflicts. Comments may be in terms of broad areas or restricted to particular blocks of concern. Commenters are requested to list block numbers or outline the subject area on the large-scale Call map.

5. Use of Information From Call

Information submitted in response to this Call will be used for several purposes. Responses will be used to:

—Help identify areas of potential oil and gas development;
—Identify environmental effects and potential use conflicts;
—Assist in the scoping process for the EIS;

—Develop possible alternatives to the proposed action;
—Develop lease terms and conditions/mitigating measures; and
—Identify potential conflicts between oil and gas activities and the Alaska CMP.

6. Existing Information

MMS has acquired a substantial amount of information, including that gained through the use of traditional knowledge, on the issues and concerns related to oil and gas leasing in the Beaufort Sea.

An extensive environmental, social, and economic studies program has been underway in this area since 1975. The emphasis has been on geologic mapping, environmental characterization of biologically sensitive habitats, endangered whales and marine mammals, physical oceanography, ocean-circulation modeling, and ecological and socio-cultural effects of oil and gas activities.

Information on the studies program, completed studies, and a program status report for continuing studies in this area may be obtained from the Chief, Environmental Studies Section, Alaska OCS Region, by telephone request at (907) 271–6577, or by written request at the address stated under "Description of Area," Item 3. A request may also be made via the Alaska Region website at www.mms.gov/alaska/ref/pubindex/pubsindex.htm.

7. Tentative Schedule

The following is a list of tentative milestone dates applicable to sales covered by this Call:

	Multi-sale process milestones for proposed 2002–2007 Beaufort Sea Sale 186
Call/NOI published	September 2001.
Comments due on Call/NOI.	October 2001.
Area Identification	November 2001.
Draft EIS published	May 2002.
Public Hearings	July 2002.
Final EIS/Consistency Determination/Proposed Notice of Sale issued.	February 2003.
Governor's Comments due (Sale 186).	May 2003.
Final Notice of Sale published (Sale 186).	August 2003.
Sale 186	September 2003.

	Sale-specific process milestones for proposed 2002–2007 Beaufort Sea Sales 195, 202
Request for Information to Begin Sale-Specific Process.	18 months before each sale.
Area Identification	15 months before each sale.
NEPA Review published.	6 to 8 months before each sale.
Proposed Notice and Consistency Determination.	6 months before each sale.
Final Notice of Sale	45 days before each sale.
Tentative Sale Date	March.

Notice of Intent To Prepare an Environmental Impact Statement

1. Authority

The NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

2. Purpose of Notice of Intent

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the NEPA of 1969 (42 U.S.C. 4321 *et seq.*), MMS is announcing its intent to prepare a multi-sale EIS on the tentatively scheduled oil and gas lease sales in the Beaufort Sea off Alaska for the 5-year program period of July 2002 through June 2007. The EIS analysis will focus on the potential environmental effects of three sales, and exploration and development and production of the areas defined in the Area Identification procedure as the proposed areas of the Federal actions. Alternatives to the proposals which may be considered for each individual sale are to delay the sale, modify the sale, or cancel the sale. These and any additional alternatives developed through the process for each individual sale will be considered in the sale-specific decision process. This Notice of Intent also serves to announce the initiation of the scoping process for this EIS. Throughout the scoping process, Federal, State, tribal, and local governments and other interested parties aid MMS in determining the significant issues and alternatives to be analyzed in the EIS and the possible need for additional information.

3. New EIS Procedure

The MMS is proposing to prepare a single EIS for all three proposed Beaufort Sea sales from 2002 to 2007. The resource estimates and scenario information on which the EIS analysis are based will be presented as a range of resources and activities that would encompass any of the three proposed sales in the Beaufort Sea.

This proposal will provide several benefits. It will focus the NEPA process by making impact types and levels that change between sales more easily recognizable. New issues will be more easily highlighted for the decisionmakers and the public. It will also eliminate the repetitive issuance of a complete EIS for each sale, a practice that has resulted in "review burnout in Federal, State, tribal, and local governments, and the public.

The proposed actions analyzed in the EIS will be each of the sales on the 5-year schedule for the Beaufort Sea planning area. The EIS will include an analysis of the environmental effects of holding three sales. The scenario will cover a range of resources and activities that will encompass any of the three proposed actions. Later sales can then be compared to the initial analysis in an Environmental Assessment or supplemental EIS. Formal consultation with the public will be initiated in subsequent years to obtain input to assist in the determination of whether or not the information and analyses in the original multi-sale EIS are still valid. A sale-specific Information Request will be issued that will specifically describe the action for which we are requesting input.

4. Instructions on Notice of Intent

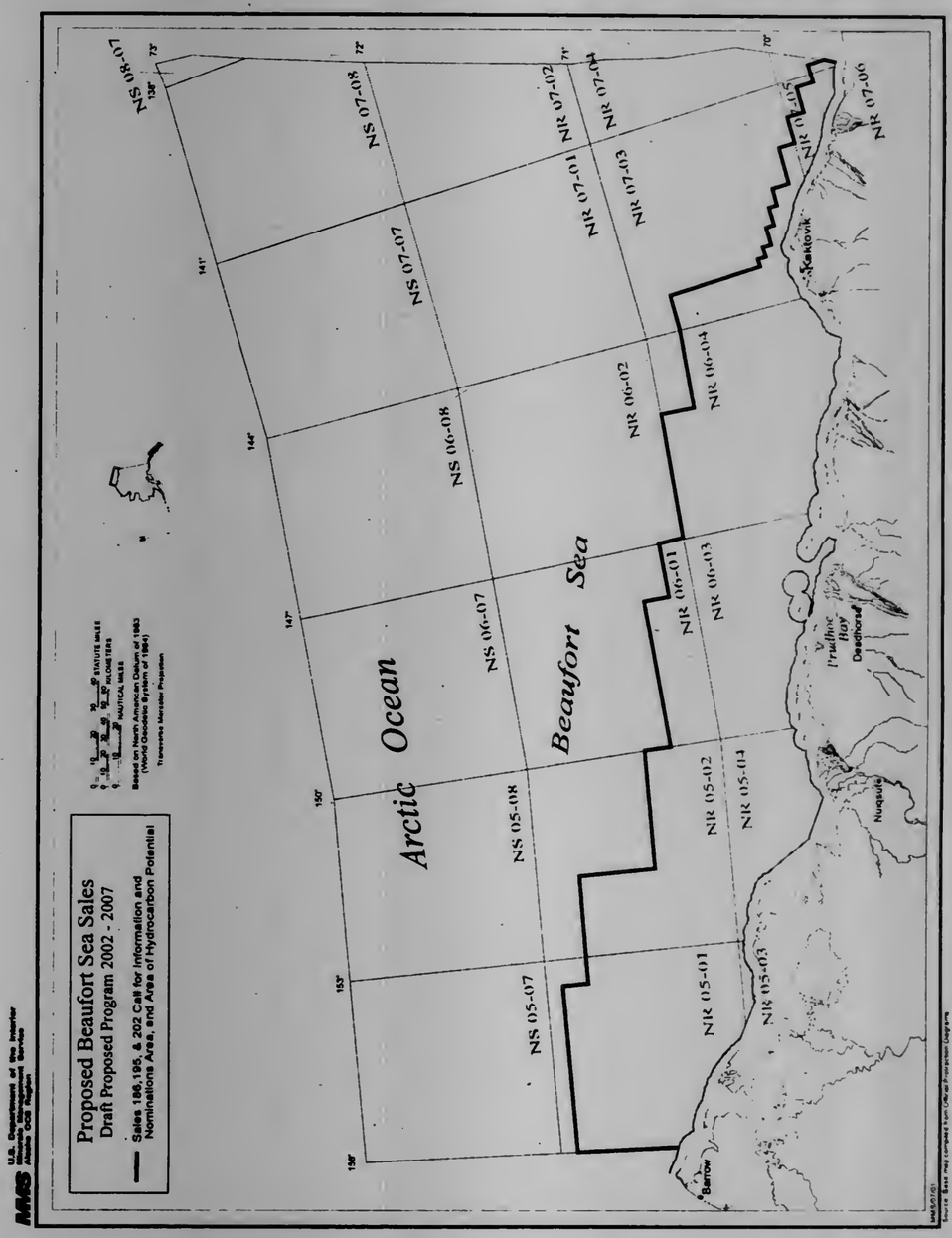
Federal, state, tribal, and local governments and other interested parties are requested to send their written comments on the Scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the address stated under Call for Information and Nominations, Item 4, "Instructions on Call." Comments should be enclosed in an envelope labeled "Comments on the Notice of Intent to Prepare an EIS on Proposed Beaufort Sea Lease Sales Included in the 5-Year Program, 2002–2007." Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of this EIS.

Dated: August 27, 2001.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

BILLING CODE 4310–MR–P



[FR Doc. 01–23344 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Official Protraction Diagrams

AGENCY: Minerals Mangement Service, Interior.

ACTION: Status of OCS Official Protraction Diagram.

SUMMARY: Notice is hereby given that effective with this publication, the following NAD 83-based OCS Official Protraction Diagrams last revised on the date indicated are the latest documents available. These diagrams are on file and available for information only in the Gulf of Mexico OCS Regional Office, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, these diagrams are the basic record for the description of mineral and oil and gas lease sales in the geographic areas they represent.

FOR FURTHER INFORMATION CONTACT: Copies of Leasing Maps and Official Protraction Diagrams are $2.00 each. These may be purchased from the Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519 or (800) 200-GULF.

SUPPLEMENTARY INFORMATION: Leasing Maps and Official Protraction Diagrams may be obtained in two digital formats: .gra files for use in ARC/INFO and .pdf files for viewing and printing in Acrobat. Copies are also available for download at *http://www.gomr.mms.gov/homepg/lsesale/mapdiag.html.*

Description		Date
NF17–01	Tortugas Valley.	13–MAR–1997.
NF17–02	Rompidas Ledge.	13–MAR–1997.
NG17–02	Ft. Pierce	13–MAR–1997.
NG17–03	Walker Cay	13–MAR–1997.
NG17–05	West Palm Beach.	13–MAR–1997.
NG17–06	Bahamas	13–MAR–1997.
NG17–08	Miami	13–MAR–1997.
NG17–09	Bimini	13–MAR–1997.
NG17–10	Dry Tortugas	13–MAR–1997.
NG17–11	Key West	13–MAR–1997.
NG17–12	Andros	13–MAR–1997.
NH17–02	Brunswick	01–MAR–1999.
NH17–03	Hoyt Hills	23–AUG–1996.
NH17–05	Jacksonville	13–MAR–1997.
NH17–06	Stetson Mesa	23–AUG–1996.
NH17–08	Daytona Beach.	13–MAR–1997.
NH17–09	Adams	23–AUG–1996.
NH17–11	Orlando	13–MAR–1997.
NH17–12	Pillsbury	13–MAR–1997.
NH18–01	Harrington Hill	23–AUG–1996.
NH18–02	Taylor	23–AUG–1996.
NH18–03	(Unnamed)	23–AUG–1996.
NH18–04	Blake Spur	23–AUG–1996.
NH18–05	(Unnamed)	23–AUG–1996.
NH18–07	McAlinden Spur.	23–AUG–1996.
NH18–10	Blake Escarpment.	13–MAR–1997.
NI17–09	Georgetown	05–JUL–1995.
NI17–11	Savannah	05–JUL–1995.
NI17–12	James Island	05–JUL–1995.
NI18–01	Rocky Mount	13–MAR–1997.
NI18–02	Manteo	13–MAR–1997.
NI18–03	Wraight	23–AUG–1996.
NI18–04	Beaufort	13–MAR–1997.
NI18–05	Russell	13–MAR–1997.
NI18–06	Hatteras Ridge	23–AUG–1996.
NI18–07	Cape Fear	13–MAR–1997.
NI18–08	Marmer	23–AUG–1996.
NI18–09	Lanier	23–AUG–1996.
NI18–10	Richardson Hills.	23–AUG–1996.
NI18–11	Wittman	23–AUG–1996.
NI18–12	Tibbet	23–AUG–1996.
NI19–01	Lippold	23–AUG–1996.
NI19–04	Evans	23–AUG–1996.
NI19–07	(Unnamed)	23–AUG–1996.
NJ18–02	Wilmington	02–JUL–1996.
NJ18–03	Hudson Canyon.	23–AUG–1996.
NJ18–05	Salisbury	02–JUL–1996.
NJ18–06	Wilmington Canyon.	23–AUG–1996.
NJ18–08	Chincoteague	13–MAR–1997.
NJ18–09	Baltimore Rise	23–AUG–1996.
NJ18–11	Currituck Sound.	13–MAR–1997.
NJ18–12	Hyman	23–AUG–1996.
NJ19–01	Block Canyon	23–AUG–1996.
NJ19–02	Veatch Canyon	23–AUG–1996.
NJ19–03	Bear Seamount.	23–AUG–1996.
NJ19–04	Heezen Plateau.	23–AUG–1996.
NJ19–05	Powell	23–AUG–1996.
NJ19–06	Muller	23–AUG–1996.
NJ19–07	Jones	23–AUG–1996.
NJ19–08	Uchupi	23–AUG–1996.
NJ19–10	Wilmington Valley.	23–AUG–1996.
NJ20–01	Balanus Seamount.	23–AUG–1996.
NK18–09	Hartford	02–JUL–1996.
NK18–11	Newark	02–JUL–1996.
NK18–12	New York	02–JUL–1996.
NK19–01	Portland	13–MAR–1997.
NK19–02	Bath	13–MAR–1997.
NK19–03	Jordan Basin	13–MAR–1997.
NK19–04	Boston	01–APR–1999.
NK19–05	Cashes Ledge	01–APR–1999.
NK19–06	Browns Bank	13–MAR–1997.
NK19–07	Providence	13–MAR–1997.
NK19–08	Chatham	13–MAR–1997.
NK19–09	Corsair Canyon.	13–MAR–1997.
NK19–10	Block Island Shelf.	13–MAR–1997.
NK19–11	Hydrographer Canyon.	23–AUG–1996.
NK19–12	Lydonia Canyon.	13–MAR–1997.
NK20–10	Stewart	13–MAR–1997.
NL19–11	Bangor	13–MAR–1997.
NL19–12	Eastport	13–MAR–1997.

Dated: August 26, 2001.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 01–23345 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Meeting of the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington, established by the Secretary of the Interior, will hold a public meeting. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary and the State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: Thursday, October 4, 2001, 9 a.m.–4 p.m.

ADDRESSES: Bureau of Reclamation Office, 1917 Marsh Road, Yakima, Washington.

FOR FURTHER INFORMATION CONTACT: James Esget, Manager, Yakima River Basin Water Enhancement Project, 1917 Marsh Road, Yakima, Washington, 98901; (509) 575–5848, extension 267.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review water marketing opportunities in the Yakima River Basin and develop recommendations.

Dated: September 6, 2001.

James A. Esget,

Program Manager.

[FR Doc. 01–23315 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Extension of a currently approved collection; Report of Theft or Loss of Controlled Substances—DEA Form 106.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 19, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Report of Theft or Loss of Controlled Substances—DEA Form 106.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 106. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit. *Other:* Individuals or households. Title 21, CFR, 1301.74(c) and 1301.76(b) requires DEA registrants to complete and submit DEA–106 upon discovery of a theft or loss of controlled substances. Purpose: accurate accountability; monitor substances diverted into illicit markets and develop leads for criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 3,765 respondents, 6151 responses with and average 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,076 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20004.

Dated: September 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–23270 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities; Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: extension of a currently approved collection; application for permit to Export Controlled Substances—DEA Form 161.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 19, 2001. This process is conducted with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Application for Permit to Export Controlled Substances—DEA Form 161.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form No. DEA Form 161. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other-for-profit. *Other:* None. Title 21 CFR 1312.22 requires individuals who export controlled substances in Schedules I and II to obtain a permit from DEA. Information is used to issue export permits and exercise control over exportation of controlled substances and

compile data for submission to UN for treaty requirements.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 225 respondents, 2000 responses per year with an average of 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20004.

Dated: September 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–23271 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information Collection under review: Extension of a currently approved collection; Registrants Inventory of Drugs Surrendered—DEA Form 41.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 19, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

DEA wishes to note that the language of the DEA Form 41 is being changed to reflect DEA policy that controlled substances are no longer accepted by DEA field offices for destruction. Inquiries regarding destruction of controlled substances may be made to DEA field offices.

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Registrants Inventory of Drugs Surrendered—DEA Form 41.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 41. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for profit. *Other:* None. Title 21, CFR, 1307.21 requires that any registrant desiring to voluntarily dispose of controlled substances shall list these controlled substances on DEA Form 41 and submit to the nearest DEA office. The DEA 41 is used to account for surrendered destroyed controlled substances, and its use is mandatory.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 20,000 respondents with an average of 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 10,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20004.

Dated: September 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–23272 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day Notice of information collection under review: extension of a currently approved collection; Controlled Substances Import/Export Declaration—DEA Form 236.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 19, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Controlled Substances Import/Export Declaration—DEA Form 236.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 236. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to response, as well as a brief abstract:* Primary: Business or other for-profit. *Other:* None. DEA–236 provides the DEA with control measures over the importation and exportation of controlled substances as required by both domestic and international drug control laws. Affected public consists of businesses or other for profit organizations.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 358 respondents, 2684 responses per year with an average 30 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,432 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20004.

Dated: September 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–23273 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposal Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Extension of a Currently Approved Collection; Import/Export Declaration: Precursor and Essential Chemicals—DEA Form 486.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 16, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Import/Export Declaration: Precursor and Essential Chemicals.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form No.: DEA Form 486. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households. The Chemical Diversion and Trafficking Act of 1988 requires those who import/export certain chemicals to notify the DEA 15 days prior to shipment. Information will be used to prevent shipments not intended for legitimate purposes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:*

DEA Form 486: 550 respondents with an average 12 minute per response.

DEA Quarterly Report: 100 respondents with an average 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:*

DEA Form 486: 1,400 annual burden hours.

DEA Quarterly Report: 200 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20004.

Dated: September 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–23274 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–09–M

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Extension of a Currently Approved Collection: Application for Registration Under Domestic Chemical Diversion Control Act of 1993 and Renewal Application for Registration under Domestic Chemical Control Act of 1993.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 19, 2001. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Patricia Good, 202–307–7297, Chief, Policy and Liaison Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
2. Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Application for Registration Under Domestic Chemical Diversion Control Act of 1993 and Renewal Application for Registration under Domestic Chemical Diversion Control Act of 1993.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 510 and 510a. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households. The Domestic Chemical Diversion Control Act requires that distributors, importers, and exporters of listed chemicals which are being diverted in the United States for the production of illicit drugs must register with DEA. Registration provides a system to aid in the tracking of the distribution of List I chemicals.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 3,200 respondents with an average 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,600 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20004.

Dated: September 13, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–23275 Filed 9–18–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Parole Commission

[6P04091]

Public Announcement; Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

Agency Holding Meeting: United States Parole Commission, Department of Justice.

Time and Date: 9:30 a.m., Thursday, September 20, 2001.

Place: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

Status: Open.

Matters to be Considered: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of Previous Commission Meeting.
2. Reports from the Chairman, Commissioners. Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Approval of Rules and Procedures Manual Provisions on Retardation of Parole Dates for Release Planning; Release Planning in Cases with Effective Parole Dates; Reparole Decisions; Definition of Burglary/Unlawful Entry; and Salient Factor Score Instructions.
4. Proposed Amendment of 28 CFR § 2.23(a) to Delegate to Hearing Examiners the Functions of Making Probable Cause Determinations, Determining the Location of Revocation Hearings, and Determining the Witnesses who Should Attend Such Hearings.

Agency Contact: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: September 14, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01–23413 Filed 9–17–01; 10:39 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Pursuant to the Government in the Sunshine Act, Public Law 94–409, 5 U.S.C. Section 552b

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 10:30 a.m., Thursday, September 20, 2001.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting: Appeals to the Commission involving approximately two cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole and are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: September 14, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01–23423 Filed 9–17–01; 12:04 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 6, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 219–8904 or email *Howze-Marlene@dol.gov*).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for PWBA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Class Exemption 81–8 for Investment of Plan Assets in Certain Types of Short-Term Investments.

OMB Number: 1210–0061.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 38,200.

Number of Annual Responses: 191,185.

Estimated Time Per Response: 10 minutes.

Total Burden Hours: 31,900.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining system or purchasing services): $71,000.

Description: Class Exemption 81–8 permits the investment of plan assets that involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan of certain types of short-term investments. Without the exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act (ERISA).

The Department has included in the class exemption two basic disclosure requirements. The first requirement calls for the repurchase agreements between the seller and the plan to be in writing.

The second requirement obliges the seller of such repurchase agreements to provide financial statements to the plan at the time of the sale and as the statements are issued.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption T88–1.

OMB Number: 1210–0074.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 1.

Number of Annual Responses: 1.

Estimated Time Per Response: 1 hour.

Total Burden Hours: 1.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Prohibited Transaction Class Exemption T88–1 adopts, for purposes of the prohibited transaction provisions of section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986 (FERSA), certain prohibited transaction class exemptions granted pursuant to section 408(a) of ERISA. The information collection requirements incorporated within the Class Exemptions are intended to ensure that a Class Exemption is not abused, the rights of participants and beneficiaries are protected, and the affected fiduciaries comply with the Class Exemption's conditions.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption 94–71.

OMB Number: 1210–0091.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondnets: 4.

Number of Annual Responses: 1,080.

Estimated Time Per Response: 1 hour.

Total Burden Hours: 40.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $400.

Description: Prohibited Transaction Class Exemption 94–71 exempts certain transactions authorized by a settlement agreement resulting from an investigation of an employee benefit plan pursuant to the authority of section 504(a) of the Employee Retirement Income Security Act of 1974 (ERISA). The conditions of the exemption include certain notice and disclosure requirements that are intended to protect the interests of plan participants and beneficiaries. The ICR also provides the Department of Labor (DOL) with the necessary information to ensure that the plan is in compliance with the conditions of the exemption. Without the disclosure requirement, the DOL, which may only grant an exemption if it can find that participants and beneficiaries are protected, would be unable to effectively enforce the terms of the class exemption and ensure user compliance.

Type of Review: Extension of a currently approved collection.

Agency: Pension and Welfare Benefits Administration (PWBA).

Title: Prohibited Transaction Class Exemption 96–62; Accelerated Approval of an Otherwise Prohibited Transaction.

OMB Number: 1210–0098.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 42.

Number of Annual Responses: 42.

Estimated Time Per Response: 1.5 minutes.

Total Burden Hours: 53.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $37,884.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) provides that the Secretary of Labor may grant exemptions from the prohibited transaction provisions of sections 406 and 407(a) of ERISA, and directs the Secretary to establish an exemption procedure with respect to such provisions. On July 31, 1996, the Department published Prohibited Transaction Exemption 96–62 which, pursuant to the exemption procedure set forth in 29 CFR part 2570, subpart B, permits a plan to seek approval on an accelerated basis of otherwise prohibited transactions. This ICR is intended to provide the Department with sufficient information to support a finding that the exemption meets the statutory standards of section 408(a) of ERISA, and to provide affected parties with the opportunity to comment on the proposed transaction, while at the same time reducing the regulatory burden associated with processing individual exemptions for transactions prohibited under ERISA.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–23313 Filed 9–18–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 7, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of response.

Type of Review: New collection.

Agency: Employment and Training Administration (ETA).

Title: Reporting and Performance Standards System for Migrant and Seasonal Farmworker Youth Programs Under Title I–D, section 167 of the Workforce Investment Act (WIA).

OMB Number: 1205–0NEW.

Affected Public: Not-for-profit institutions.

Type of Response: Recordkeeping and Reporting.

Total Annualized Capital/Startup Costs: $0.

Total Annual Operation and Maintenance Cost: $0.

Reporting and recordkeeping requirements	Number of respondents	Frequency	Number of annual responses	Estimated time per response (hours)	Burden hours
Plan Narrative	10	Annually	10	5	50
Data Record	10	On occasion	5,000	3	15,000
Report from Data Record	10	Quarterly	10	2	20
Form ETA 9096, Budget Information Summary	10	Annually	10	15	150
Form ETA 9097, Program Planning Summary	10	Annually	10	15	150
Form ETA 9098, Program Status Summary	10	Quarterly	40	7	280
Totals:			5,080		15,650

Description: Section 185 of the Workforce Investment Act (WIA) (Pub. L. 105–220) requires funds recipients to keep records and submit such reports as may be required by the Secretary of Labor "to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully." The WIA Final Rules at 20 CFR 667.300 require annual plans and quarterly performance reports from all "direct grant recipients".

This will be a new data collection, per WIA requirements. The primary uses of the data under WIA 167 Migrant and Seasonal Farmworker Youth Program will also be to provide material reports to the Secretary of Labor, respond to Congressional inquiries, support Congressional testimony on behalf of the program and to identify areas of technical assistance need and performance improvement. Data is also used to establish performance standards for each of the required performance measures per regulations at Part 669, Subpart D, §§ 669.500 and 669.510.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–23314 Filed 9–18–01; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–112)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Six D, Inc., of Honolulu, HI has applied for an exclusive license to practice the inventions disclosed in U.S. Patent Nos. 5,426,512 and 5,629,780 both entitled "Image Data Compression Having Minimum Perceptual Error" (DCTune) which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received by October 4, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: September 13, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–23346 Filed 9–18–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 5, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1-AU–00–42, 8 items, 8 temporary items). Short-term records relating to committees, review boards, the Army Band, and historical activities. Included are such records as committee management files, records of the Civilian-contractual Service Review Board and the Army Discharge Review Board, files relating to band technical inspections, musical compositions, and notes, copies of documents, drafts, and other records accumulated by agency historians. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Justice, Office of Intergovern-mental Affairs (N1–60–01–3, 4 items, 4 temporary items). Subject files, records relating to short-term issues, and records pertaining to event-planning and services provided other offices and the White House. Also included are electronic copies of

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documents created using electronic mail and word processing.

3. Department of Justice, Bureau of Prisons (N1–129–01–13, 5 items, 5 temporary items). Records of the Inmate Systems Branch. Included are such records as chrono-logical files, case files and other records relating to inmates seeking credit for time served in foreign jails, congressional correspondence, and policy working files. Also included are electronic copies of documents created using electronic mail and word processing.

4. Department of Justice, Bureau of Prisons (N1–129–01–14, 8 items, 6 temporary items). Records of the Religious Services Branch. Included are such records as correspondence with advocacy groups, chronological files, subject files, and files relating to new chaplains' training. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of annual reports and newsletters.

5. Department of Justice, Bureau of Prisons (N1–129–01–15, 7 items, 7 temporary items). Records of the Correctional Programs Branch. Included are such records as drafts of congressional correspondence, notifications provided to victims and witnesses concerning changes in inmate status, reference copies of memoranda, program statement working files, and case files on inmates managed by the agency's Witness Protection Unit. Also included are electronic copies of documents created using electronic mail and word processing.

6. Department of Justice, Bureau of Prisons (N1–129–01–16, 3 items, 3 temporary items). Records of the Special Needs Offenders Coordinator Branch consisting of subject files and training files. Also included are electronic copies of documents created using electronic mail and word processing.

7. Department of Justice, Bureau of Prisons (N1–129–01–17, 13 items, 10 temporary items). Records of the Correctional Services Branch. Included are such records as incident reports, field reports, reference files, training files, subject files, disruptive group files, and intelligence incident case files. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of after action reviews and publications are proposed for permanent retention.

8. Department of Justice, Bureau of Prisons (N1–129–01–18, 5 items, 5 temporary items). Records of the Office of the Assistant Director of the Correctional Programs Division. Included are such records as division subject files, the executive assistant's program file, files relating to requests to wire an inmate for participation in a covert operation, and logs of telephone inquiries concerning specific inmates. Also included are electronic copies of documents created using electronic mail and word processing.

9. Department of State, United States Information Agency (N1–306–01–1, 29 items, 10 temporary items). Miscellaneous reports, library administration files, public comments on au pair regulations, pre-production photographic negatives, miscellaneous legal files, research files, general biographic files, aperture cards of newspaper articles, and general publications. These records were maintained in a "historical collection" by the now defunct United States Information Agency. Proposed for permanent retention are files relating to such matters as a study of the Fulbright Program, U.S. participation in expositions and exhibits, and the fiftieth anniversary of the Voice of America as well as such records as photographs, USIA publications, subject files, biographic files concerning USIA directors, and files accumulated by the Bureau of Programs and the Office of the General Counsel.

10. Environmental Protection Agency, Office of Inspector General (N1–412–01–9, 3 items, 3 temporary items). Investigative case files and related records including electronic copies of records created using electronic mail and word processing. Recordkeeping copies of case files relating to significant investigations were previously approved for permanent retention.

11. Environmental Protection Agency, Office of General Counsel (N1–412–01–13, 2 items, 2 temporary items). Board of Contract Appeals Case Files, including such records as legal notices, correspondence, pleadings, findings, briefs, motions, and final decisions. Also included are electronic copies of records created using electronic mail and word processing.

12. Environmental Protection Agency, Office of General Counsel (N1–412–01–14, 2 items, 2 temporary items). Case files relating to contract bid protests. Included are such records as protests, written memoranda of legal arguments, contracting officer statements, reports, and bidding documents. Also included are electronic copies of records created using electronic mail and word processing.

13. Social Security Administration, Agency-wide (N1–47–01–1, 6 items, 6 temporary items). Master files, inputs, outputs, and back-up files for an electronic system used to improve customer service in all programs by managing employee suggestions. Also included are electronic copies of records created using electronic mail and word processing.

14. Tennessee Valley Authority, Division of Research (N1–142–01–6, 4 items, 4 temporary items). Analytical reports relating to chemical and chemical engineering research. Included are x-ray, spectrographic, petrographic, and corrosion investigations for long-term research projects. Also included are electronic copies of documents created using electronic mail and word processing. This job increases the retention period for recordkeeping copies of reports relating to Department of Defense projects, which were previously approved for disposal.

Dated: September 10, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–23306 Filed 9–18–01; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by November 19, 2001 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 306–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Outcomes and Impacts of The NSF Minority Postdoctoral Research Fellowships (MPRF) Program.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Notice of Intent to Seek Approval to Establish an Information Collection.

Abstract: "Outcomes and Impacts of The NSF Minority Postdoctoral Research Fellowships (MPRF) Program".

Proposed Project: The National Science Foundation (NSF), through its Minority Postdoctoral Research Fellowships (MPRF) Program within the Directorates of Biosciences and Social and Behavioral Sciences, manages a program, established in 1990 that is designed to prepare minority scientists for positions of scientific leadership in academia, government, and industry. To achieve this, funding is provided through the Program to enable new PhDs in BIO and SBE fields from under represented minority groups to have an opportunity to start their career by conducting fully funded independent research for several years. Approximately 12 fellowships are funded each year.

The purpose of the proposed study is to examine the results of the Program in the form of the awardees' career outcomes.

Use of the Information: The information will be used by NSF to understand the extent to which this program assists awardees in beginning their research careers.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Individuals.

Estimated Number of Responses per Form: 157.

Estimated Total Annual Burden on Respondents: 78.5 hours—157 respondents at ½ hour per response.

Frequency of Responses: One time.

Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: September 13, 2001.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 01–23282 Filed 9–18–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC; Quad Cities Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–29 and DPR–30, issued to Exelon Generation Company, LLC (the licensee), formerly Commonwealth Edison Company, for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, (Quad Cities) located in Rock Island County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would, in part, add the Siemens Power Corporation RODEX2A methodology to the Quad Cities Technical Specification (TS) 6.5.6, "Core Operating Limits Report," list of approved methodologies that may be used to determine core operating limits. The proposed action also adds a related condition to the Quad Cities licenses to limit the maximum rod average burnup to 60 gigawatt-days per metric ton of uranium (GWD/MTU). Adding the RODEX2A methodology to the TSs will permit the use of extended fuel burnup limits. RODEX2A supports maximum rod average burnups to 62 GWD/MTU and uranium-235 (U–235) enrichments up to 5 percent by weight. However, the license condition will limit burnup to 60 GWD/MTU until the completion of an NRC Environmental Assessment supporting increased limits.

The proposed action is in accordance with the licensee's application for amendment dated September 29, 2000, as supplemented by letters dated March 1, 2001, August 13, and August 27, 2001.

The Need for the Proposed Action

The proposed action is needed in order for the licensee to have the flexibility to use fuel with increased burnup. The changes in operating parameters and limits will allow longer operating cycles and result in fewer fuel assemblies being needed.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that, although the extended burnup may slightly change the mix of radionuclides that might be released in the event of an accident, there are no significant adverse environmental impacts associated with the proposed action.

The staff published "Extended Burnup Fuel Use in Commercial LWR's; Environmental Assessment and Finding of No Significant Impact" on February 29, 1988 (53 FR 6040). This generic environmental assessment of extended fuel burnup in light water reactors found that "no significant adverse effects will be generated by increasing the present batch-average burnup level of 33 GWD/MTU to 50 GWD/MTU or above as long as the maximum rod average burnup level of any fuel rod is no greater than 60 GWD/MTU." In addition, the environmental impacts of transportation resulting from the use of higher enrichment fuel and extended irradiation were published and discussed in the staff assessment entitled, "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation," dated July 7, 1988. That assessment was published in connection with an Environmental Assessment related to the Sheron Harris Nuclear Plant, Unit 1, which was published in the **Federal Register** on August 11, 1988 (53 FR 30355), as corrected on August 24, 1988 (53 FR 32322). In these assessments, collectively, the staff concluded that the environmental impacts summarized in Table S–3 of 10 CFR 51.51 and in Table S–4 of 10 CFR 51.52 for a burnup level of 33 GWD/MTU and enrichments up to 4 weight percent U–235 are conservative and bound the corresponding impacts for burnup levels up to 60 GWD/MTU and enrichments up to 5 weight percent U–235. These findings are applicable to the proposed action at Quad Cities which will limit burnup to 60 GWD/MTU and allow enrichments up to 5 weight percent U–235.

The proposed action will not significantly increase the probability or consequences of accidents, no significant changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological environmental impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for Quad Cities, dated September 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on August 14, 2001, the staff consulted with the Illinois State official, Frank Niziolek of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated September 29, 2000, as supplemented by letters dated March 1, 2001, August 13, and August 27, 2001. Documents may be examined, and/or copied for a fee, a the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 11th day of September 2001.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23335 Filed 9–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes; Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on October 29, 2001. The meeting will take place at the address provided below. All sessions of the meeting will be open to the public with the exception of the first session, which will be closed to provide ethics training for ACMUI members. Topics of discussion in the public session will include: (1) Status of the new 10 CFR part 35, Medical Use of Byproduct Material; (2) Recognition of Certification Boards; (3) Medical Physicist Qualification Criteria; (4) Intravascular Brachytherapy; and (5) Regulation of Occupational Radiation Doses involving both NRC-regulated Material and Fluoroscopy.

DATES: The public meeting will be held on Monday, October 29, 2001, from 9 a.m. to 4:30 p.m. The closed session will be held from 8 a.m. to 8:45 a.m.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North Building, Conference Room T2B3, 11545 Rockville Pike, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Angela R. Williamson, telephone (301) 415–5030; e-mail arw@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Conduct of the Meeting

Manuel D. Cerqueira, M.D., will chair the meeting. Dr. Cerqueira will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Angela Williamson, U.S. Nuclear Regulatory Commission, Two White Flint North, Mail Stop T8F5, 11545 Rockville Pike, Rockville, MD 20852–2738. Submittals must be postmarked by October 22, 2001, and must pertain to the topics on the agenda for the meeting.

2. Questions from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection on NRC's web site (*www.nrc.gov*) and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852–2738, telephone (800) 397–4209, on or about December 3, 2001. Minutes of the meeting will be available on or about January 7, 2002.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *U.S. Code of Federal Regulations*, part 7.

Dated: September 13, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–23332 Filed 9–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 3, 2001, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, October 3, 2001—10:00 a.m. until the conclusion of business.*

The Subcommittee will discuss proposed ACRS activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Howard J. Larson (telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: September 12, 2001.

Howard J. Larson,

Special Assistant.

[FR Doc. 01–23333 Filed 9–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on September 26–27, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

Portions of the meeting may be closed to public attendance to discuss General Electric (GE) Nuclear Energy proprietary information per 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows: *Wednesday, September 26, 2001—1:00 p.m. until the conclusion of business, Thursday, September 27, 2001—8:30 a.m. until the conclusion of business.*

The Subcommittee will review the license amendment request of the Nuclear Management Company, LLC, for a core power uprate for the Duane Arnold Energy Center. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Management Company, LLC, GE Nuclear Energy, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301–415–8065) between 7:30 a.m. and 4:30 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: September 12, 2001.

Howard J. Larson,

Special Assistant.

[FR Doc. 01–23334 Filed 9–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

(**Note:** The publication date for this notice will change from every other Wednesday to every other Tuesday, effective January 8, 2002. The notice will contain the same information and will continue to be published biweekly.)

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 27, 2001 through September 7, 2001. The last biweekly notice was published on September 5, 2001 (66 FR 46473).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By October 19, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document room (PDR) Reference staff at 1–800–397–4209, 304–415–4737 or by email to pdr@nrc.gov.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 23, 2001.

Description of amendment request: As a follow-up response to a commitment identified in the Nuclear Regulatory Commission (NRC) staff letter dated December 22, 2000, "Completion of Licensing Action for Generic Letter (GL) 96–06, Assurance of Equipment Operability and Containment Integrity During Design-Basis Accident Conditions," Entergy Operations Inc., (Entergy, the licensee) has proposed to revise their Waterford Steam Electric Station, Unit 3 (Waterford 3) Final Safety Analysis Report (FSAR) to resolve the ten containment penetrations susceptible to thermally induces overpressurization through an evaluation, detailed analysis, or installation of physical modifications prior to startup from the spring 2002 refueling outage. Entergy determined a change to Waterford 3's license basis, through procedural controls, risk analysis, and engineering analysis, for seven penetrations, as discussed in this license basis change request. Permanent resolution to the GL 96–06 issues for the remaining three penetrations could be satisfied through the installation of physical modifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed FSAR change reflects the use of administrative procedural controls to ensure these seven containment penetrations (two 4-inch diameter Steam Generator Blowdown penetrations and five-½ inch diameter Process Sampling penetrations) contain fluid at temperatures representative of Reactor Coolant, and the very low probability for overpressurization failure of containment penetrations during Mode 4 plant operation as a permanent solution to the GL 96–06 issue. The engineering analysis determined these seven containment penetrations met the acceptance criteria for allowed stresses contained in ASME [American Society of Mechanical Engineers] Section III Code, [Boiler and Pressure Vessel Code] Appendix F 1995. The result of the risk analysis is such that the very small change in LERF (Large Early Release Frequency), on the order of 1×10^{-9} per reactor year, remained well below the 1×10^{-7} ΔLERF guideline for a small change given in Regulatory Guide 1.174. The negligible reduction in LERF that would be achieved by adding thermal relief valve overpressure protection is not risk significant and is too small to justify the addition of the relief valves.

With respect to the probability or the consequences of an accident previously evaluated in the FSAR, the proposed deviation to the existing ASME Section III Code, Class 2 design provisions and operating requirements for the seven containment penetrations would not significantly increase the probability of an accident since the administrative procedural controls are being provided to: (1) minimize penetration heat-up and over-pressurization during a small window of vulnerability, approximately 1% per year of Mode 4 plant operation; and (2) minimize process fluid cooldown during normal plant operation by closing the containment isolation valves for the five sample penetrations when process fluid samples are obtained and the laboratory sample valves downstream of the CIV [containment isolation valves] are closed or flow through the penetration is stopped. Also the results of engineering analyses showed that the containment penetrations may exceed ASME Section III, Subsection NC 3500 Code required yield stresses and experience plastic deformation, but would not catastrophically fail; therefore, the penetrations would retain their ability to perform their safety function and maintain containment integrity.

On this basis, the proposed changes are not considered to constitute a significant increase in the probability or consequences of an accident due to:

- Administrative controls to minimize penetration heat-up and over-pressurization during the small window of vulnerability
- The seven containment penetrations retaining their ability to perform their safety function and maintaining containment integrity in accordance with engineering analyses performed that met acceptance criteria for allowed stresses contained in ASME Section III Code, Appendix F 1995, and
- The low risk significance of overpressurization failure of the seven containment penetrations during a DBA [Design Basis Accident] while the plant is in Mode 4.

The proposed changes will not significantly affect the results of any accident previously evaluated. The accident mitigation features of the plant are not significantly affected by these proposed changes. The proposed changes do not add or modify any existing equipment.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The change proposes a deviation to the existing ASME, Section III, Class 2 license basis requirements for portions of the Steam Generator Blowdown System, Primary Sampling System, and Secondary Sampling System that penetrate the containment as a permanent solution to the GL 96–06 issues. This change involves recognition of the acceptability of administrative procedural controls to minimize penetration heat-up and over-pressurization during the small window of vulnerability, approximately 1% per year for Mode 4 plant operation. Added assurance is provided through the engineering analysis performed on these penetrations that determined allowable stresses did not exceed the ASME Section III Code, Appendix F 1995 pipe stress values. Therefore, the change would not contribute to the possibility of, or be the initiator for any new or different kind of accident.

The proposed change does not alter the configuration of the plant. There has been no physical change to plant systems, structures, or components.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed change does not involve a significant reduction in margin of safety. The existing licensing basis for Waterford 3, with respect to the ASME Section III, Subsection NC–3621.2 provisions for portions of the Steam Generator Blowdown System, Primary Sampling System, and Secondary Sampling System that penetrate the containment, is to ensure piping that has the potential to experience pressurization due to trapped fluid expansion shall be designed to withstand the increased pressure or have provisions for relieving the excess pressure piping. With the acceptance of this proposed deviation to the license basis, it will be recognized that the seven containment penetrations have administrative procedural controls to minimize penetration heat-up and over-pressurization during the small window of vulnerability, approximately 1% per year for Mode 4 plant operation. Added assurance is also provided through the engineering analysis performed on these penetrations that

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determined stresses did not exceed the ASME Section III Code, Appendix F 1995 pipe stress values and predicted the penetration piping would experience plastic deformation, but would not catastrophically fail. Therefors, the penetrations would retain their ability to perform their safety function and maintain containment integrity. This deviation to license basis requirements for these seven containment penetrations is not considered to constitute a significant decrease in the margin of safety.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of amendment request: August 13, 2001.

Description of amendment request: The proposed amendments delete requirements from the Technical Specifications (TSs) to maintain a Post-Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TSs for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated August 13, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post-accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore the elimination of PASS requirements from TS (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post-accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Timothy G. Colburn, Acting.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: August 22, 2001.

Description of amendment request: Florida Power and Light Company (FPL) requests to amend Facility Operating Licenses DPR–67 for St. Lucie Unit I and NPF–16 for St. Lucie Unit 2 by revising Technical Specifications (TS) relating to positive reactivity additions while in shutdown modes. The proposed changes clarify TS involving positive reactivity additions to the shutdown reactor, and would allow small, controlled, safe insertions of positive reactivity while in shutdown modes. The proposed changes conform closely to an NRC approved generic change for Standard Technical Specifications, known as TSTF–286 Rev. 2, which revises most actions requiring "Suspend operations involving positive reactivity additions" to allow minimum reactivity additions due to temperature fluctuations or operations, which are necessary to maintain fluid inventory within the required shutdown margin or refueling boron concentration, as applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes revise actions that either require suspension of operations involving positive reactivity additions or preclude reduction in boron concentration less than the reactor coolant system (RCS). Reactivity excursions are analyzed events. The proposed changes limit positive reactivity additions into the RCS such that the required shutdown margin (SDM) or refueling boron concentration continue to be met. Reactivity changes performed during shutdown modes are currently governed by strict administrative controls. Although the proposed changes will allow procedural flexibility with regards to RCS temperature and boron concentration, these operations will still be under administrative control. The changes proposed by these amendments are within the scope and assumptions of the existing analyses. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS revisions relate to positive reactivity additions while in shutdown modes of operation. Reactivity excursions are analyzed events. The operational flexibility allowed in these proposed license amendments will be performed under strict administrative controls in order to limit the potential for excess positive reactivity addition. Although the existing procedural controls will need modification, no new or different operational failure modes would be introduced by these changes.

Additionally, implementation of these proposed changes do not require any physical plant modifications, so no new or different hardware related failure modes are introduced. The changes proposed by these amendments are within the scope and assumptions of the existing analyses. Therefore, operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed changes conform closely to the industry and NRC approved TSTF–286, Rev. 2 and relate to small, controlled, safe insertions of positive reactivity additions while in shutdown modes. These changes revise actions that either require suspension of operations involving positive reactivity additions, or prohibit RCS boron concentration reduction. The proposed changes provide operational flexibility while controlling positive reactivity additions in order to preserve the required SDM or refueling boron concentration. The proposed changes to provide for continued safe reactor operations, while also limiting any potential for excess positive reactivity addition. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Richard P. Correia.

Florida Power and Light Company, Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: June 22, 2001, as supplemented August 24, 2001.

Description of amendment request: The proposed amendment would revise the St. Lucie Unit 2 Technical Specification (TS) 3.9.4, Containment Penetrations. TS 3.9.4:a. requires that the containment equipment door be closed during core alterations or movement of irradiated fuel within containment. TS 3.9.4.b. requires a minimum of one door in each airlock to be closed during core alterations or movement of irradiated fuel within containment. The proposed change to TS 3.9.4.a. would allow the containment equipment door to be open during core alterations and movement of irradiated fuel in containment provided: (a) The equipment door is capable of being closed with four bolts within 30 minutes, (b) the plant is in MODE 6 with at least 23 feet of water above the reactor pressure vessel flange, and (c) a designated crew is available at the equipment door to close the door. The capability to close the containment equipment door includes the requirements that the door is capable of being closed and that any cables or hoses across the equipment door have quick-disconnects to ensure the door is capable of being closed in a timely manner. The proposed change to TS 3.9.4.b would allow both doors of each containment airlock to be open during core alterations and movement of irradiated fuel in containment provided: (a) At least one door of each open containment airlock is capable of being closed, (b) the plant is in MODE 6 with at least 23 feet of water above the reactor pressure vessel flange, and (c) a designated individual is available outside each open containment airlock to close the door. The capability to close the containment airlock door includes the requirement that the door is capable of being closed and that any cables or hoses across the airlock door have quick-disconnects to ensure the door is capable of being closed in a timely manner.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to TS 3.9.4 would allow the containment equipment door and both doors of each containment airlock to be open during fuel movement or core alterations. Currently, the equipment door is closed with four (4) bolts and a single door on each containment airlock is closed during fuel movement or core alterations to prevent the escape of radioactive material in the

event of an in-containment fuel handling

would not involve a significant reduction in

calculated radiological dose consequences of

standards of 10 CFR 50.92(c) are

meeting the criteria in revised 10 CFR 50.59

The consequences of a previously analyzed

event of an in-containment fuel handling accident. Neither the containment equipment door nor either of the containment airlock doors is an initiator of an accident. Whether the containment equipment door or both doors of the containment air locks are open or closed during fuel movement and core alterations has no affect on the probability of any accident previously evaluated. Allowing the containment equipment door and the containment airlock doors to be open during fuel movement or core alterations does not significantly increase the consequences from a fuel handling accident. The calculated offsite doses are well within the limits of 10 CFR part 100. In addition; the calculated doses are larger than the expected doses because the calculation does not incorporate the closing of the containment equipment door or the containment airlock doors after the containment is evacuated, which would be much less than the two hours assumed in the analysis. The proposed change would significantly reduce the dose to workers in containment in the event of a fuel handling accident by reducing the time required to evacuate the containment. The changes being proposed do not affect assumptions contained in other plant safety analyses or the physical design of the plant, nor do they affect other Technical Specifications that preserve safety analysis assumptions. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to Technical Specification 3.9.4, "Containment Building Penetrations," affects a previously evaluated fuel handling accident. The new Fuel Handling Accident Analysis assumes that all of the iodine and noble gases that become airborne escape and reach the exclusion boundary and low population zone with no credit taken for filtration, the containment building barrier or for decay or deposition. Since the proposed change does not involve the addition or modification of equipment nor does it alter the design of plant systems and the revised analysis is consistent with the Fuel Handling Accident Analysis, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The margin of safety as defined by 10 CFR part 100 has not been significantly reduced. The calculated dose is well within the limits given in 10 CFR part 100 or NUREG 0800. The proposed change does not alter the bases for assurance that safety-related activities are performed correctly or the basis for any Technical Specification that is related to the establishment of or maintenance of a safety margin. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Richard P. Correia.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 28, 2001.

Description of amendment request: The proposed amendment to the Cooper Nuclear Station (CNS) Operating License DPR–46 would revise the design basis accidents (DBA) radiological assessment methodology for offsite and control room radiological doses, and the associated supporting Technical Specifications (TS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to the CNS DBA radiological assessment methodology for offsite and control room doses, and the associated supporting TS changes, do not involve initiators or precursors of accidents previously evaluated. Furthermore, these changes do not affect the design, function, or modes of operation of systems, structures, or components within the facility. Therefore, the proposed radiological assessment calculational methodology revisions and TS changes do not involve a significant increase in the probability of an accident previously evaluated in the Updated Safety Analysis Report (USAR).

The proposed revisions to the CNS DBA radiological assessment methodology for offsite and control room doses, and the associated supporting TS changes, do not affect the design, function or modes of operation of systems, structures or components in the facility. The calculation revisions utilize conservatively lower accident mitigation system filter efficiency assumptions and incorporate plant specific accident mitigation system operating parameter and design assumptions. Due to the changes in the calculational methodology and assumptions, and an increase in the postulated accident source term, the calculated radiological dose consequences of each DBA have changed and in some cases increased. In each case, however, the calculated radiological dose consequences are within the exclusion area boundary (EAB) and low population zone (LPZ) radiological dose acceptance criteria specified in 10 CFR part 100 and the control room dose acceptance criteria discussed in General Design Criterion (GDC) 19 of 10 CFR part 50, Appendix A. Therefore, the proposed revisions to the radiological assessment methodology, and associated TS changes, do not involve a significant increase in the consequences of an accident previously evaluated in the USAR.

2. Does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The proposed revisions to the CNS DBA radiological assessment methodology for offsite and control room doses, and the associated supporting TS changes, do not affect the design, function or mode of operation of systems, structures or components in the facility such that new equipment failure modes are created. No new or different type of plant equipment is installed by the revised radiological assessment calculational methodology or changes to the TS. Neither the calculations nor the TS changes introduce changes to existing design parameters governing normal plant operation or new plant operating modes. No new types of accident initiators or precursors are created by the proposed revisions. Therefore, the proposed revisions to radiological assessment methodology and the proposed changes to the TS do not create the possibility of a new or different kind of accident previously evaluated in the USAR.

3. Does not create a significant reduction in the margin of safety.

The proposed revisions to the CNS DBA radiological assessment methodology for offsite and control room doses, and the associated supporting TS changes, do not affect the design, function or mode of operation of systems, structures or components in the facility. These proposed TS changes are consistent with the criteria of 10 CFR 50.36(c)(2)(ii) for TS content.

The proposed revisions will not result in any challenges to plant equipment, fuel integrity, or the reactor coolant system pressure boundary. Due to the changes in the calculational methodology and assumptions, and an increase in the postulated accident source term, the calculated radiological dose consequences of each design basis accident have changed and in some cases increased. In each case, however, the calculated radiological dose consequences are within the EAB and LPZ radiological dose acceptance criteria specified in 10 CFR part 100 and the control room dose acceptance criteria discussed in GDC 19 of 10 CFR part 50, Appendix A. Therefore, the proposed revisions to the radiological assessment methodology, and associated TS changes, do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 12, 2001.

Description of amendment request: The proposed amendment would change the Cooper Nuclear Station (CNS) Technical Specification (TS) 5.5.10.b.2 to replace the phrase, "A change to the updated FSAR or Bases that involves an unreviewed safety question as defined in 10 CFR 50.59" with the phrase "A change to the updated FSAR or Bases that requires NRC approval pursuant to 10 CFR 50.59."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change deletes the reference to unreviewed safety question as defined in 10 CFR 50.59. Deletion of the definition of unreviewed safety question was approved by the NRC with the revisions to 10 CFR 50.59. Consequently, the probability of an accident previously evaluated is not significantly increased. Changes to the TS Bases are still evaluated in accordance with 10 CFR 50.59. As a result, the consequences of any accident previously evaluated are not significantly affected. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety?

The proposed change will not reduce the margin of safety because it has no direct effect on any safety analyses assumptions. Changes to the TS Bases that result in meeting the criteria in revised 10 CFR 50.59 (c)(2) will still require NRC approval pursuant to 10 CFR 50.59. This change is administrative in nature as discussed by the NRC in FR (Volume 64, Number 191, Pages 53582–53617) dated October 4, 1999, docketing the change to 10 CFR 50.59. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April, 12, 2001.

Description of amendment request: The amendment request would modify the Cooper Nuclear Station (CNS) Technical Specifications Surveillance Requirement (SR) 3.6.1.3.8 to relax the SR frequency by allowing a representative sample of Excess Flow Check Valves (EFCVs) to be tested every 18 months, such that each EFCV will be tested once every 10 years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The current SR frequency requires each reactor instrumentation line EFCV to be tested every 18 months. The EFCVs at CNS are designed to close automatically in the event of a line break downstream of the valve. This proposed change allows a reduced number of EFCVs to be tested every 18 months. Industry operating experience, documented in BWR [Boiling Water Reactor] Owners' Group Topical Report NEDO–32977-A ["Excess Flow Check Valve Testing Relaxation," dated June 2000], concludes that a change in surveillance test frequency has a minimal impact on the reliability for these valves. A failure of an EFCV to isolate cannot initiate previously evaluated accidents. Furthermore, neither the EFCV actuation test, nor the frequency of testing is considered an initiator of any analyzed event. Therefore, there is no increase in the probability of occurrence of an accident as a result of this proposed change.

The consequences of a previously analyzed event are dependent on the initial conditions assumed for the analysis, and the availability and successful functioning of the equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. This change does not affect the performance of any credited equipment. The installed restricting orifice on each associated instrument line provides assurance that any instrument line break will limit offsite doses to substantially below 10 CFR part 100 values. Neither the EFCV actuation test, nor the frequency of testing is an analysis assumption. Therefore, there is no increase in the previously evaluated consequences of the rupture of an instrument line and there is no potential increase in the radiological consequences of an accident previously evaluated as a result of this change.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change allows a reduced number of EFCVs to be tested each operating cycle. No other changes in requirements are being proposed. Industry operating experience as documented in [BWR Owners' Group Topical Report NEDO–32977–A] provides supporting evidence that the reduced testing frequency will not affect the high reliability of these valves. The potential failure of an EFCV to isolate as a result of the proposed reduction in test frequency is bounded by the previous evaluation of an instrument line pipe break. This change will not physically alter the plant (no new or different type of equipment will be installed). This change will not alter the operation of process variables, structures, systems, or components as described in the safety analysis. Thus, a new or different kind of accident will not be created.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. EFCV design, operation, and flow actuation criteria remain unaffected by this change. Restricting orifices for each associated instrument line remains available to mitigate an instrument line break. The proposed change, which impacts the frequency of testing EFCVs is acceptable because the tests continue to require appropriate confirmation of the assumed function of the system (and thereby assure continued operability), and has been shown to reflect an acceptable frequency for detecting failures. There is no detrimental impact on any other equipment design parameter, and the plant will still be required to operate within prescribed limits. Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: August 9, 2001.

Description of amendment request: The amendment would change the Seabrook Station Technical Specifications (TSs) Index, TS 3/4.9.3 ("Decay Time"), TS 3/4.9.4 ("Containment Building Penetrations"), and TS 3/4.9.9 ("Containment Purge And Exhaust Isolation System"). The amendment would also change Bases 3/4.9.3, Bases 3/4.9.4, and Bases 3/4.9.9 for consistency with the proposed TS changes. These changes are consistent with the improved Standard Technical Specifications (STS) for Westinghouse plants.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to TS Index, TS 3/4.9.3, TS 3/4.9.4, and TS 3/4.9.9 do not adversely affect accident initiators or precursors nor do they adversely alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. In addition, the proposed changes do not adversely affect the manner in which the plant responds in normal operation, transient or accident conditions nor do they change any of the procedures related to operation of the plant. Though a portion of the proposed change to TS 3/4.9.4 appears to be a relaxation to the current licensing basis, North Atlantic has incorporated administrative conservatism into TS 3/4.9.4 to assure the proposed changes, in conjunction with other TS required surveillance testing, do not alter or prevent the ability of structures, systems and components (SSCs), in particular the Containment Purge and Exhaust Isolation System, to perform its intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Updated Final Safety Analysis Report (UFSAR).

The proposed changes do not adversely affect the source term, containment isolation or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated in the Seabrook Station UFSAR. Further, the proposed changes do not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, it is concluded that these proposed revisions to TS Index, TS 3/4.9.3, TS 3/4.9.4, and TS 3/4.9.9 do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

This proposed changes to TS Index, TS 3/4.9.3, TS 3/4.9.4, and TS 3/4.9.9 do not adversely affect the operation nor do they change the design basis of any plant system or component during normal or accident conditions. The proposed changes do not include any physical changes to the plant. In addition, the proposed changes do not adversely affect the function or operation of plant equipment or introduce any new failure mechanisms such that the design basis is adversely affected. The current licensing basis allows penetration isolation by manual or automatic means. The plant equipment will continue to respond per the design and analyses and there will not be a malfunction of a new or different type introduced by the proposed changes that creates the possibility of a new or different kind of accident.

The proposed changes do not modify the facility nor do they adversely affect the plant's response to normal, transient or accident conditions. The changes do not introduce a new mode of plant operation. While these changes may afford North Atlantic operational flexibility, the changes are an enhancement and do not affect plant safety. The plant's design and design basis are not revised and the current safety analyses remains in effect.

Thus, these proposed revisions to TS Index, TS 3/4.9.3, TS 3/4.9.4, and TS 3/4.9.9 do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes to TS Index, TS 3/4.9.3, TS 3/4.9.4, and TS 3/4.9.9 do not adversely affect the safety margins established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits as specified in the Technical Specifications nor is the plant design revised by the proposed changes. The current licensing basis allows penetration isolation by manual or automatic means.

Though a portion of the proposed change to TS 3/4.9.4 appears to be a relaxation to the current licensing basis, North Atlantic has incorporated administrative conservatism into TS 3/4.9.4 to ensure the proposed changes, in conjunction with other TS required surveillance testing, offset any potential minimal reduction in the margin of safety. North Atlantic believes that the proposed change to TS 3/4.9.4 is more conservative than that currently allowed in the improved STS, NUREG–1431, Revision 2.

Thus, it is concluded that these proposed revisions to TS Index, TS 3/4.9.3, TS 3/4.9.4, and TS 3/4.9.9 do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Section Chief: James W. Clifford.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: August 15, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to (1) reflect the replacement of Monticello's licensed operator initial and requalification training programs with an accredited systems approach to training program and (2) relocate the existing TS requirements for procedures, records, and reviews to the operational quality assurance plan.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature and compliance with applicable regulatory requirements will continue to be maintained. The proposed changes do not involve any change to the configuration or alter existing system relationships. In addition, the proposed changes do not alter the conditions or assumptions in any of the previous accident analyses thus, the radiological consequences previously evaluated are not adversely affected by the proposed changes.

Therefore, the probability or consequences of an accident previously evaluated are not affected by the proposed amendment.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes are administrative in nature and compliance with applicable regulatory requirements will continue to be maintained. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment. Accordingly, no new failure modes have been introduced for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes. Also, there will be no changes in types or increases in the amounts of any effluents released offsite.

Therefore, the possibility of a new or different kind of accident from any accident previously evaluated will not be created.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes are administrative in nature and do not involve any change in the methodology or method of operation of any plant equipment. The proposed changes do not involve any change to the configuration or alter existing system relationships. The appropriate controls to provide continued assurance of compliance to applicable regulatory requirements has been maintained.

Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Section Chief: Claudia M. Craig.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 31, 2001.

Description of amendment request: The proposed amendment would amend the licenses to change the required implementation date for previously issued Amendment No. 184 to Facility Operating License NPF–14 and Amendment No. 158 to Facility Operating License NPF–22. The proposed amendment would not alter any of the requirements of the Susquehanna Steam Electric Station (SSES) Unit 1 and 2 Technical Specifications (TSs). The previously issued amendments incorporate long-term power stability solution instrumentation into the SSES Unit 1 and 2 TSs. When implemented, these amendments will incorporate into the TSs the licensee's final response to GL 94–02, "Long Term Solutions and Upgrade of Interim Operating Recommendations for Thermal-Hydraulic Instabilities in Boiling Water Reactors." Specifically, these amendments will, in part, add TS requirements related to the operating power range monitoring (OPRM) system. The licensee stated that recently identified deficiencies in the OPRM trip setpoint methodology, as documented in a General Electric 10 CFR part 21 report issued on June 29, 2001, have adversely affected its ability to implement the subject amendments. Therefore, the licensee requested that the required implementation date for Amendment No. 184 to License No. NPF–14 and Amendment No. 158 to License No. NPF–22 be revised to become effective no later than November 1, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment implementation date extension is administrative in nature and does not require any physical plant modifications, physically affect any plant systems or components, or entail changes in plant operation. The resulting consequences of transients and accidents will remain within the NRC approved criteria. Therefore, the proposed action does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment implementation date extension is administrative in nature and does not require any physical plant modifications, physically affect any plant systems or components, or entail changes in plant operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment implementation date extension is administrative in nature and does not require any physical plant modifications, physically affect any plant systems or components, nor entail changes in plant operation. Since the proposed changes do not affect the physical plant or have any impact on plant operation, the proposed changes will not jeopardize or degrade the function or operation of any plant system or component. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Section Chief: Peter Tam, Acting.

Tennessee Valley Authority (TVA), Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant (BFN), Units 2 and 3, Limestone County, Alabama

Date of amendment request: August 17, 2001.

Description of amendment request: The proposed amendments would revise the reactor vessel pressure-temperature (P–T) limits depicted in Technical Specification Figure 3.4.9–1 for each unit. In addition, pursuant to 10 CFR 50.12, TVA is requesting an exemption from the requirements of 10 CFR part 50, Appendix G, to allow the use of American Society of Mechanical Engineers (ASME) Code Case N–640 as a basis for these revised curves. Code Case N–640, "Alternative Requirement Fracture Toughness for Development of P–T Limit Curves for ASME Boiler and Pressure Vessel Code Section XI, Division 1," permits the use of the plane strain fracture toughness (K_{Ic}) curve instead of the crack arrest fracture toughness (K_{Ia}) curve for reactor pressure vessel materials in determining the P–T limits. The exemption request is being reviewed separately.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Units 2 and 3 change deals exclusively with the reactor vessel pressure-temperature (P–T) curves which define the permissible regions for operation and testing. Failure of the reactor vessel is not considered as a design basis accident. Through the design conservatisms used to calculate the P–T curves, reactor vessel failure has a low probability of occurrence and is not considered in the safety analyses. The proposed changes adjust the reference temperature for the limiting material to account for irradiation effects and provide the same level of protection as previously evaluated and approved. The adjusted reference temperature calculations were performed using the guidance contained in Regulatory Guide 1.99, Revision 2, and ASME Section XI Code Case N–640 to reflect use of the operating limits to 19.5 Effective Full Power Years (EFPY). These changes do not alter or prevent the operation of equipment required to mitigate any accident analyzed in the BFN Final Safety Analysis Report. Therefore, this change does not increase the probability or consequences of any previously evaluated accident.

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B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Units 2 and 3 reactor vessel P–T curves does not involve a modification to plant equipment. No new failure modes are introduced. There is no effect on the function of any plant system, and no new system interactions are introduced by this change. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed curves conform to the guidance contained in Regulatory Guide 1.99, Revision 2, and maintain the safety margins specified in 10 CFR 50, Appendix G. Therefore, the proposed amendment does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1 (WBN), Rhea County, Tennessee

Date of amendment request: August 7, 2001 (TS–01–04).

Description of amendment request: The proposed amendment would add a new condition and associated actions to the Technical Specification Limiting Condition for Operation (LCO) 3.8.1, "AC Sources Operating," to allow one Diesel Generator (DG) be out of service for 14 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The emergency DGs are designed as backup AC power sources in the event of loss of offsite power. The proposed AOT [allowed outage time] does not change the conditions, operating configurations, or minimum amount of operating equipment assumed in the safety analysis for accident mitigation. No changes are proposed in the manner in which the DGs provide plant protection or which create new modes of plant operation. In addition, a Probabilistic Safety Analysis (PSA) evaluation concluded that the risk contribution of the AOT extension is non-risk significant. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not introduce any new modes of plant operation or make physical changes to plant systems. Therefore, extension of the allowable AOT for DGs does not create the possibility of a new or different accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The DGs are designed as backup AC power sources in the event of loss of offsite power. The proposed AOT does not change the conditions, operating configurations, or minimum amount of operating equipment assumed in the safety analysis for accident mitigation. No changes are proposed in the manner in which the DGs provide plant protection or which create new modes of plant operation. In addition, a PSA evaluation concluded that the risk contribution of the AOT extension is non-risk significant. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: August 20, 2001.

Description of amendment request: The proposed change to the Technical Specifications (TSs) would revise certain requirements associated with demonstrating the operability of alternate trains when redundant equipment is made or found to be inoperable. The TSs revised include: 4.4.B, 4.5.A.2, 4.5.A.3, 4.5.A.4, 4.5.B.2, 4.5.C.2, 4.5.C.3, 4.5.D.2, 4.5.D.3, 4.5.E.2, 4.5.F.2, 4.5.H.1, 4.7.B.3.c, 4.10.B.1, and 4.10.B.3.b.2. Some format and typographical errors are also being corrected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Will the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Because changing surveillance test requirements does not change the probability of accident precursors, this proposed change does not affect the probability of an accident previously evaluated. Since other periodic and post-maintenance surveillance requirements ensure that the operability of systems and components is maintained, there is no significant increase in the consequences of accidents previously evaluated.

Furthermore, the removal of the additional surveillance testing from the Technical Specifications would result in a decrease in the probability of equipment failure because the excessive testing causes unnecessary wear on the safety-related equipment and unnecessary challenges to safety systems. Reduced testing may also eliminate the potential for human error associated with system alignments and misdirection of attention from monitoring and directing plant operations.

Administrative changes to the Technical Specifications do not alter any technical requirements, and as such, do not increase the probability or consequences of accidents.

Therefore, the proposed change will not increase the probability or consequences of any accident previously evaluated.

2. Will the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Reduced surveillance testing does not create new or different kinds of accidents since modes of operation are unchanged and additional accident precursors are not introduced. System operability requirements and design bases remain the same, and reactor operations are unchanged. Since system and component testing only involves the assurance of operability, reduced testing does not introduce mechanisms that may contribute to the possibility of new or different kinds of accidents.

Administrative changes to the Technical Specifications do not alter any technical requirements, and as such, do not create the possibility of new or different kinds of accidents.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will the proposed changes involve a significant reduction in a margin of safety?

The proposed change will not decrease operability requirements, nor reduce the equipment required during various plant conditions. An acceptable level of testing exists in other Technical Specification requirements to demonstrate system and component operability. There are no changes to system or component operability requirements; therefore, systems and components will be available to provide existing margins of safety. The same systems and components with the same performance levels assumed in safety analyses will still be available to mitigate consequences of postulated accidents.

Administrative changes to the Technical Specifications do not alter any technical requirements, and as such, have no effect on margins of safety.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: March 29, 2001, as supplemented by letters dated June 27, 2001, and July 24, 2001.

Brief description of amendment: The amendment revised the reactor coolant system heatup, cooldown, and inservice leak hydrostatic test limitations for the reactor coolant system to a maximum of 29 effective full power years in accordance with Title 10 of the Code of Federal Regulations, Part 50, Appendix G. These pressure-temperature (P-T) limits are contained in TMI Unit 1 Technical Specification (TS) 3.1.2. In addition, the amendment revised the low-temperature overpressure protection (LTOP) requirements in TSs 3.1.12 and 4.5.2 to reflect the revised P-T limits. These changes will allow operation of two reactor coolant pumps in a single loop during LTOP conditions.

Date of issuance: September 6, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 234.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38758).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 6, 2001.

No significant hazards consideration comments received: No.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Docket No. 72–8, Calvert Cliffs Independent Spent Fuel Storage Installation, Calvert County, Maryland

Date of application for amendments: November 22, 1999, as supplemented by letters dated October 4 and November 10, 2000, and May 18, 2001.

Brief description of amendments: The amendments authorize revisions to the Calvert Cliffs Nuclear Power Plant Updated Final Safety Analysis Report and Independent Spent Fuel Storage Installation Updated Safety Analysis Report to incorporate changes associated with the aircraft hazards analysis due to increased "random" military flights in the vicinity of these facilities. These changes constitute an unreviewed safety question as defined in 10 CFR 50.59 and 10 CFR 72.48.

Date of issuance: August 29, 2001.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 246 and 221.

Renewed Facility Operating License Nos. DPR–53 and DPR–69 and Materials License No. SNM–2502: Amendments revised licenses.

Date of initial notice in ***Federal Register:*** *December 29, 1999 (64 FR 73085).*

The supplemental letters dated October 4 and November 10, 2000, and May 18, 2001, provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated August 29, 2001.

No significant hazards consideration comments received: No.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: December 11, 2000.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) to incorporate editorial revisions, clarifications, and corrections. Specifically, the amendment: (1) Provides updated information and corrections to the TS cover page, table of contents, and list of figures, (2) revises TS 4.5.E, "Control Room Air Filtration System," to remove an incorrect system test description and provide consistent test values for system flow rate and filter efficiency, (3) revises TS 6.2.1.a, "Facility Management and

Technical Support," to reference the Quality Assurance Program Description as the location of the documentation rather than the Updated Final Safety Analysis Report, (4) revises TS 6.9.1.7, "Monthly Operating Report," to change the recipient of the Monthly Operating Report, and (5) corrects the periodicity of the Radioactive Effluent Release Report from semi-annual to annual in TS 6.15, "Offsite Dose Calculation Manual" and TS 6.16, "Major Changes to Radioactive Liquid, Gaseous and Solid Waste Systems." In addition, the amendment revises TS Figure 5.1–1B concerning the indicated vent location associated with Indian Point Unit 3 (IP3). The labels for the IP3 plant vent and the machine shop were reversed.

Date of issuance: August 29, 2001.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 219.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** *February 21, 2001 (66 FR 11057).*

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 29, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 23, 2001, as supplemented June 25, June 29, and July 19, 2001.

Brief description of amendment: The amendment revises pressure-temperature limit curves and cold overpressure protection limits.

Date of issuance: August 27, 2001.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance. August 27, 2001.

Amendment No.: 197.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** *July 11, 2001 (66 FR 36340).*

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, PSEG Nuclear LLC, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, York County, Pennsylvania

Date of application for amendments: April 3, 2001.

Brief description of amendments: The amendments revised the PBAPS Units 2 and 3 Technical Specifications (TSs) to incorporate Technical Specification Task Force (TSTF) Item 258, Revision 4. TSTFs are changes to the improved standard TS that were initiated by the nuclear power industry and submitted to the NRC staff. TSTF–258, Revision 4, revises TS Section 5.0, Administrative Controls, to delete specific TS staffing requirements for licensed Reactor Operators (ROs) and Senior Reactor Operators (SROs), relocate the working hour limits to a plant procedure, clarify requirements for the Shift Technical Advisor position, add regulatory definitions for ROs and SROs, revise the Radioactive Effluent Controls Program to be consistent with the intent of 10 CFR Part 20, and revises radiological area control requirements for high radiation areas to be consistent with 10 CFR 20.1601(c).

Date of issuance: August 30, 2001.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendments Nos.: 240 and 243.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 12, 2001 (66 FR 31708).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 30, 2001.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: March 7, 2001, as supplemented April 25, June 20, and July 16, 2001.

Brief description of amendment: The amendment revised the Improved Technical Specifications (ITS) 5.6.2.20, "Containment Leakage Rate Testing Program" to allow a one-time interval increase for the Type A Integrated Leakage Rate Test for no more than 5 years.

Date of issuance: August 30, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 197.

Facility Operating License No. DPR–72: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 2, 2001 (66 FR 17967). The supplemental letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 2001.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit 2, Berrien County, Michigan

Date of application for amendments: September 1, 2000.

Brief description of amendments: The amendment approves changes to the Updated Final Safety Analysis Report (UFSAR) regarding the modeling of the pressurizer heater operation and spray effectiveness as they relate to certain transients that are analyzed for pressurizer overfill. Specifically, the amendment approves a change to the moderator temperature coefficient currently in the UFSAR assumed as an initial condition for the loss of all nonemergency alternating current power and loss of normal feedwater transients.

Date of issuance: August 23, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 237.

Facility Operating License No. DPR–74: Amendment revised the Updated Final Safety Analysis Report.

Date of initial notice in ***Federal Register:*** September 20, 2000 (65 FR 56953).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 23, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: January 18, 2001, as supplemented April 20, 2001.

Brief description of amendment: The amendment revises the Kewaunee Nuclear Power Plant (KNPP) Technical Specifications (TSs) 3.10.m to increase the minimum reactor coolant flow from 85,500 gallons per minute (gpm) flow per loop to 93,000 gpm flow per loop.

Date of issuance: September 5, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 157.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 21, 2001 (66 FR 11062).

The April 20, 2001, supplemental information contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 2001.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: June 18, 2001.

Brief description of amendment: The amendment deleted items 3 and 4 from Section 5.15, "Post-Accident Radiological Sampling and Monitoring," of the Fort Calhoun Station, Unit No. 1 Technical Specifications, and thereby eliminates the requirements to have and maintain the post-accident sampling system (PASS).

Date of issuance: August 29, 2001.

Effective date: August 29, 2001, and shall be implemented within 120 days from the date of issuance.

Amendment No.: 200.

Facility Operating License No. DPR–40. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38765).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 29, 2001.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: April 11, 2001, as supplemented June 13, 2001.

Brief description of amendment: The amendment revises the Hope Creek Technical Specifications (TSs) to relax the frequency for testing of excess flow check valves (EFCVs). Specifically, TS surveillance requirement 4.6.3.4 has been changed to revise required testing of EFCVs from once per 18 months for all valves to a test of a representative sample each 18 months such that all valves are tested once in 10 years.

Date of issuance: August 28, 2001.

Effective date: As of the date of issuance, and shall be implemented during Refueling Outage 10, currently scheduled to commence in October 2001.

Amendment No.: 132.

Facility Operating License No. NPF–57: This amendment revised the TSs.

Date of initial notice in ***Federal Register:*** May 30, 2001 (66 FR 29361).

The June 13, 2001, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: September 22, 2000.

Brief Description of amendments: These amendments revise the Facility Operating Licenses (FOLs) and the Technical Specifications (TS) to remove obsolete license conditions, make editorial changes in the FOLs, and implement associated changes to the TS and Bases.

Date of issuance: August 30, 2001.

Effective date: August 30, 2001.

Amendment Nos.: 227 and 227.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** November 1, 2000 (65 FR 65351).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 30, 2001.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 22, 2001.

Brief description of amendment: The amendment (1) decreases the allowable values for Function 8, pressurizer pressure-low and pressurizer pressure-high, in Table 3.3.1–1, "Reactor Trip System Instrumentation," and (2) increases the allowable value for Function 1.d, pressurizer pressure-low for safety injection, in Table 3.3.2–1, "Engineered Safety Feature Actuation System Instrumentation."

Date of issuance: August 30, 2001.

Effective date: August 30, 2001, and shall be implemented prior to entry into Mode 3 in the restart from refueling outage 12 scheduled for the Spring 2002.

Amendment No.: 140.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 2, 2001 (66 FR 22035).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 2001.

No significant hazards consideration comments received: No.

Note: The publication date for this notice will change from every other Wednesday to every other Tuesday, effective January 8, 2002. The notice will contain the same information and will continue to be published biweekly.

Dated at Rockville, Maryland, this 10th day of September, 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23209 Filed 9–18–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Clearance of a Revised Information Collection: SF 3106 and SF 3106A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for clearance of a revised information collection. SF 3106, Application for Refund of Retirement Deductions/ Federal Employees Retirement System (FERS), is used by former Federal employees under FERS, to apply for a refund of retirement deductions

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withheld during Federal employment, plus any interest provided by law. SF 3106A, Current/Former Spouse(s) Notification of Application for Refund of Retirement Deductions Under FERS, is used by refund applicants to notify their current/former spouse(s) that they are applying for a refund of retirement deductions, which is required by law.

Comments are particularly invited on:

• whether this collection of information is necessary for the proper performance of functions of OPM, and whether it will have practical utility;

• whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

• ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

Approximately 21,585 SF 3106, Application for Refund of Retirement Deductions, will be processed annually. The SF 3106 takes approximately 30 minutes to complete for a total of 10,793 hours annually. Approximately 17,268 of SF 3106A, Current/Former Spouse's Notification of Application for Refund of Retirement Deductions, will be processed annually. The SF 3106A takes approximately 5 minutes to complete for a total of 1,439 hours. The total annual burden is 12,232.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov*. Please include your mailing address with your request.

DATES: Comments on this proposal should be received on or before November 19, 2001.

ADDRESSES: Send or deliver comments to: John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3313, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–23300 Filed 9–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: RI 20–1

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. Annuitants who were entitled to minimum annuity before the repeal of the minimum annuity provisions on February 27, 1986, continue to be paid minimum annuity. OPM uses RI 20–1, Minimum Annuity Application, to determine if an annuitant qualifies for minimum annuity.

Approximately 50 RI 20–1 forms will be completed annually. We estimate it takes approximately 15 minutes to complete the form. The annual burden is 13 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov*. Please include your mailing address with your request.

DATES: Comments on this proposal should be received on or before October 19, 2001.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349A, Washington, DC 20415–3540; and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management

Kay Coles James,

Director.

[FR Doc. 01–23301 Filed 9–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: RI 25–14 and RI 25–14A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for clearance of a revised information collection. RI 25–14, Self-Certification of Full-Time School Attendance For The School Year, is used to survey survivor annuitants who are between the ages of 18 and 22 to determine if they meet the requirements of Section 8341(a)(4)(C), and Section 8441, title 5, U.S. Code, to receive benefits as a student. RI 25–14A, Information and Instructions for Completing the Self-Certification of Full-Time School Attendance, provides instructions for completing the Self-Certification of Full-Time School Attendance For The School Year survey form.

Approximately 14,000 RI 25–14 forms are completed annually. We estimate it takes approximately 12 minutes to complete the form. The annual burden is 2,800 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to mbtoomey@opm.gov. Please include a mailing address with the request.

DATES: Comments on this proposal should be received on or before October 19, 2001.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349A, Washington, DC 20415–3540

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503,

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–23302 Filed 9–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 July 2, 2001 (66 FR 34964). Individual authorities established or revoked under Schedule C between June 1, 2001, and July 31, 2001, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during June through July 2001:

Commission on Civil Rights

Special Assistant to the Commissioner. Effective July 23, 2001.

Commodity Futures Trading Commission

Special Assistant to the Commissioner. Effective June 4, 2001.

Department of Agriculture

Special Assistant to the Under Secretary for Natural Resources and Environment. Effective July 31, 2001.

Confidential Assistant to the Under Secretary for Rural Development. Effective July 31, 2001.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective July 31, 2001.

Confidential Assistant to the Under Secretary for Food, Nutrition and Consumer Services. Effective July 31, 2001.

Confidential Assistant to the Chief of Staff. Effective July 31, 2001.

Confidential Assistant to the Secretary. Effective July 31, 2001.

Confidential Assistant to the Under Secretary for Marketing and Regulatory Programs. Effective July 31, 2001.

Confidential Assistant to the Director, Office of Communications. Effective July 31, 2001.

Department of Commerce

Special Assistant to the Under Secretary for International Trade. Effective June 6, 2001.

Director of Scheduling to the Director, Office of External Affairs. Effective June 7, 2001.

Confidential Assistant to the Deputy Under Secretary for Technology. Effective July 6, 2001.

Special Assistant to the Director, Office of Policy and Strategic Planning. Effective July 6, 2001.

Special Assistant to the Chief of Staff. Effective July 31, 2001.

Department of Education

Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective June 7, 2001.

Staff Assistant to the Director, Office of Public Affairs. Effective June 8, 2001.

Confidential Assistant to the Special Assistant (White House Liaison). Effective June 12, 2001.

Special Assistant to the Chief of Staff. Effective June 15, 2001.

Confidential Assistant to the Director, Office of Public Affairs. Effective June 20, 2001.

Deputy Assistant Secretary to the Assistant Secretary, Office of Legislation and Congressional Affairs. Effective June 25, 2001.

Special Assistant to the Deputy Assistant Secretary for Regional Services. Effective July 30, 2001.

Special Assistant to the Director, Faith Based and Community Initiatives Center. Effective July 30, 2001.

Confidential Assistant to the Deputy Assistant Secretary, Office of Legislative and Congressional Affairs. Effective July 30, 2001.

Department of Energy

Senior Advisor to the Secretary of Energy. Effective June 22, 2001.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective June 22, 2001.

Deputy Director, Scheduling and Advance to the Director, Office of Management and Administration. Effective June 22, 2001.

Special Assistant to the Director of Scheduling and Advance. Effective June 22, 2001.

Special Assistant to the Assistant Secretary for Environment, Safety and Health. Effective June 22, 2001.

Special Assistant to the Director, Office of Worker and Community Transition. Effective June 22, 2001.

Senior Policy Advisor to the Secretary of Energy. Effective July 2, 2001.

Special Assistant to the Assistant Secretary for Fossil Energy. Effective July 11, 2001.

Public Affairs Specialist to the Director, Office of Public Affairs. Effective July 31, 2001.

Department of Health and Human Services

Special Assistant to the Director, Office of Intergovernmental Affairs. Effective June 18, 2001.

Confidential Assistant (Scheduling) to the Director of Scheduling. Effective June 18, 2001.

Confidential Assistant to the Executive Secretary. Effective June 18, 2001.

Special Assistant to the Assistant Secretary for Planning and Education. Effective June 22, 2001.

Department of Housing and Urban Development

Advance Coordinator to the Director of Executive Scheduling. Effective June 25, 2001.

Department of the Interior

Special Assistant to the Assistant Secretary for Fish, Wildlife and Parks. Effective June 18, 2001.

Special Assistant to the Secretary for Alaska to the Chief of Staff. Effective June 18, 2001.

Special Assistant to the Director, Office of External Affairs. Effective June 19, 2001.

Special Assistant to the Director of Minerals Management Service. Effective June 19, 2001.

Special Assistant (Advance) to the Deputy Chief of Staff. Effective June 19, 2001.

Special Assistant to the Deputy Chief of Staff. Effective June 19, 2001.

Special Assistant to the Director, Intergovernmental Affairs. Effective June 19, 2001.

Special Assistant for Scheduling and Advance to the Deputy Chief of Staff. Effective June 19, 2001.

Associate Director for Senate Liaison to the Deputy Chief of Staff. Effective June 19, 2001.

Press Secretary to the Director of Communications. Effective June 22, 2001.

Special Assistant for Scheduling and Advance to the Deputy Chief of Staff. Effective June 25, 2001.

Special Assistant to the Director, Bureau of Land Management. Effective July 16, 2001.
Special Assistant to the Director, Bureau of Land Management. Effective July 16, 2001.
Special Assistant to the Deputy Secretary. Effective July 25, 2001.
Hispanic Media Outreach Coordinator to the Director, Office of Communications. Effective July 27, 2001.

Department of Justice

Attorney Advisor to the Assistant Attorney General, Office of Justice Programs. Effective June 6, 2001.
Assistant for Scheduling to the Attorney General. Effective June 7, 2001.
Policy Advisor to the Assistant Attorney General, Office of Policy Development. Effective June 12, 2001.
Assistant to the Attorney General. Effective June 26, 2001.
Special Assistant to the Assistant Attorney General, Criminal Division. Effective July 16, 2001.
Special Assistant to the Director, Office of Justice Assistance, Office of Justice Programs. Effective July 16, 2001.
Special Assistant to the Assistant Attorney General, Civil Rights Division. Effective July 16, 2001.
Deputy Director to the Director, Office of Public Affairs. Effective July 16, 2001.
Attorney Advisor to the Assistant Attorney General, Criminal Division. Effective July 19, 2001.

Department of Labor

Special Assistant to the Secretary of Labor. Effective June 5, 2001.
Deputy Director, Executive Secretariat to the Executive Secretary. Effective June 5, 2001.
Staff Assistant to the White House Liaison. Effective June 6, 2001.
Executive Assistant to the Director of Faith Based and Community Initiatives. Effective June 6, 2001.
Special Assistant to the Director of Scheduling. Effective June 7, 2001.
Confidential Assistant to the Executive Secretariat. Effective June 7, 2001.
Special Assistant to the Director of Faith Based and Community Initiatives. Effective June 7, 2001.
Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective June 7, 2001.
Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective June 7, 2001.
Director of Scheduling and Advance to the Secretary of Labor. Effective June 11, 2001.
Speech Writer to the Assistant Secretary for Public Affairs. Effective June 25, 2001.
Special Assistant for Scheduling to the Chief of Staff. Effective June 25, 2001.
Staff Assistant to the Secretary of Labor. Effective June 25, 2001.
Staff Assistant to the Secretary of Labor. Effective June 25, 2001.
Deputy Chief of Staff to the Chief of Staff. Effective June 25, 2001.
Special Assistant to the Deputy Secretary of Labor. Effective June 25, 2001.
Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective June 25, 2001.
Special Assistant to the Assistant Secretary for Public Affairs. Effective June 25, 2001.
Special Assistant to the Director of Scheduling and Advance. Effective June 25, 2001.
Special Assistant to the Director of Scheduling and Advance. Effective June 25, 2001.
Chief of Staff to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective July 12, 2001.
Staff Assistant to the Deputy Assistant Secretary, Office of Labor-Management Standards. Effective July 19, 2001.
Special Assistant to the Assistant Secretary for Employment and Training. Effective July 31, 2001.
Staff Assistant to the Director of Scheduling. Effective July 31, 2001.
Special Assistant to the Director of 21st Century Office. Effective July 31, 2001.

Department of State

Special Assistant to the Deputy Secretary of State. Effective June 29, 2001.

Department of Transportation

Director for Scheduling and Advance to the Chief of Staff. Effective June 26, 2001.

Department of the Treasury

Director, Public Affairs to the Deputy Assistant Secretary (Public Affairs). Effective June 6, 2001.
Public Affairs Specialist to the Director, Public Affairs. Effective June 8, 2001.
Special Assistant to the Assistant Secretary, Legislative Affairs. Effective July 16, 2001.
Deputy to the Assistant Secretary, Legislative Affairs (International). Effective July 18, 2001.
Public Affairs Specialist to the Director, Public Affairs. Effective July 25, 2001.
Deputy Assistant Secretary for Legislative Affairs (Banking and Finance) to the Assistant Secretary (Legislative Affairs). Effective July 27, 2001.
Special Assistant to the Deputy Secretary. Effective July 27, 2001.
Special Assistant to the Assistant Secretary, (Legislative Affairs). Effective July 27, 2001.
Special Assistant to the Assistant Secretary (Legislative Affairs). Effective July 27, 2001.

Department of Veterans Affairs

Special Assistant to the Secretary of Veteran Affairs. Effective June 1, 2001.
Special Assistant to the Assistant Secretary for Congressional and Legislative Affairs. Effective June 1, 2001.
Special Assistant to the Dean, Veteran Affairs Learning University. Effective June 8, 2001.
Special Assistant (Fort Myers, FL) to the Special Assistant, Supervisory Regional Veterans Service Liaison Officer. Effective July 12, 2001.
Special Assistant (Providence, RI) to the Special Assistant, Supervisory Regional Veterans Service Liaison Officer. Effective July 12, 2001.
Special Assistant (Washington, DC) to the Special Assistant, Supervisor Regional Veterans Service Liaison Officer. Effective July 12, 2001.
Special Assistant, Supervisory Regional Veterans Service Liaison Officer to the Assistant Secretary for Public and Intergovernmental Affairs. Effective July 12, 2001.
Special Assistant (Des Moines, IA) to the Special Assistant, Supervisory Regional Veterans Service Liaison Officer. Effective July 16, 2001.
Special Assistant (San Diego, CA) to the Special Assistant, Supervisory Regional Veterans Service Liaison Officer. Effective July 16, 2001.

Federal Trade Commission

Director, Office of Public Affairs to the Chairman. Effective June 27, 2001.
Secretary to the Director, Bureau of Competition. Effective June 27, 2001.

General Services Administration

Senior Policy Advisor to the Administrator. Effective June 19, 2001.
Congressional Relations Officer to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective June 26, 2001.
Confidential Assistant to the Administrator. Effective July 20, 2001.
Deputy Associate Administrator to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective July 27, 2001.

National Aeronautics and Space Administration

Legislative Affairs Specialist to the Associate Administrator for Legislative Affairs. Effective July 23, 2001.

Occupational Safety and Health Review Commission

Confidential Assistant to a Member (Commissioner). Effective July 23, 2001.

Office of Management and Budget

Deputy to the Associate Director for Legislative Affairs (House). Effective June 22, 2001.
Executive Assistant to the Director, Office of Management and Budget. Effective June 22, 2001.
Confidential Assistant to the Executive Associate Director. Effective June 26, 2001.
Public Affairs Specialist to the Associate Director for Communications. Effective June 28, 2001.
Senior Advisor and Assistant General Council to the General Counsel. Effective July 31, 2001.
Confidential Assistant to the Associate Director for Legislative Affairs. Effective July 31, 2001.

Office of the United States Trade Representative

Director of Scheduling to the United States Trade Representative. Effective July 13, 2001.
Writer (Speechwriter) to the United States Trade Representative. Effective July 27, 2001.

United States Trade and Development Agency

Congressional Liaison Officer to the Director, Trade and Development Agency. Effective July 31, 2001.
Director of External Relations to the Director, Trade and Development Agency. Effective July 31, 2001.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–23299 Filed 9–18–01; 8:45 am]

BILLING CODE 6325–38–P

PRESIDIO TRUST

The Presidio of San Francisco, California; Rescheduled Public Hearing Regarding the Draft Presidio Trust Implementation Plan and Draft Environmental Impact Statement

AGENCY: The Presidio Trust.

ACTION: Rescheduled public hearing.

SUMMARY: Due to the national crisis on Tuesday, September 11, 2001, the Presidio Trust (Trust) cancelled on short notice the first of two public hearings regarding the draft Presidio Trust Implementation Plan (PTIP) and draft Environmental Impact Statement (EIS). The first hearing, previously scheduled for September 11, 2001 by notice of hearing published in the **Federal Register** on July 26, 2001 (66 FR 39058–59), will now be held on Tuesday, October 16, 2001, beginning at 6:00 p.m., at the Officers' Club, 50 Moraga Avenue, The Presidio of San Francisco (Presidio), California. The public meeting of the Trust's Board of Directors and second public hearing on the PTIP, noticed in the **Federal Register** on August 21, 2001 (66 FR 43921–22) and scheduled for Monday, September 17, 2001 from 1:00 p.m. to 4:00 p.m., at the Officers' Club, 50 Moraga Avenue, Presidio, will be held as planned. At these two hearings, members of the public may offer oral comment on the PTIP and the EIS that will be received for the record and responded to by the Trust when a final PTIP and EIS are issued.

FOR FURTHER INFORMATION: Contact John Pelka, NEPA Compliance Coordinator, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Telephone: (415) 561–5414.

Dated: September 13, 2001.

Karen A. Cook,

General Counsel.

[FR Doc. 01–23322 Filed 9–18–01; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44804; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments and Order Approving Request To Extend Temporary Effectiveness of Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., the Pacific Exchange, Inc. and the Boston, Chicago, Philadelphia, and Cincinnati Stock Exchanges

September 17, 2001.

I. Introduction

On September 14, 2001, the Cincinnati Stock Exchange, Inc. ("CSE") on behalf of itself and the National Association of Securities Dealers, Inc. ("NASD"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Stock Exchange, Inc. ("CHX"), Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") (hereinafter referred to as the "Participants")[1] submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposal to extend the operation of the Plan[2] for Nasdaq/National Market ("Nasdaq/NM") securities traded on an exchange on an unlisted or listed basis.[3] The September 2001 Extension Request would extend the effectiveness of the Plan through October 19, 2001, and also would extend certain exemptive relief as described below. The September 2001 Extension Request does not seek permanent approval of the Plan because the Participants currently are negotiating certain amendments to the Plan for which they will seek approval in the future.[4]

II. Background

The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange

[1] The CSE was elected chair of the Operating Committee for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Exchange-Listed Nasdaq/National Market System Securities and for Nasdaq/National Market System Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("Plan") by the Participants.

[2] See letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Jonathan G. Katz, Secretary, Commission, dated September 13, 2001 ("September 2001 Extension Request"). The signatories to the Plan are the Participants for purposes of this release; however, the BSE joined the Plan as a "limited participant" and reports quotation information and transaction reports only in Nasdaq/National Market securities listed on the BSE. Originally, the American Stock Exchange Inc. ("Amex") was a Participant but withdrew its participation from the Plan in August 1994.

[3] Section 12 of the Securities Exchange Act of 1934 ("Act") generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges ("UTP") under certain circumstances. For example, Section 12(f) of the Act, among other things, permits exchanges to trade certain securities that are traded over-the-counter ("OTC/UTP"), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of the Section 12(f) requirement, *see* November 1995 Extension Order, *infra* note 7.

[4] In accordance with the Commission's statements in its order approving the establishment of the Nasdaq Order Display Facility and Order Collector Facility ("SuperMontage"), the Participants represent that they are revising the Plan. *See* Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001). The Participants submitted the 12th amendment to the Plan ("Interim Plan") on August 30, 2001.

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pursuant to a grant of UTP.[5] The Commission originally approved the Plan on a pilot basis on June 26, 1990.[6] The parties did not begin trading until July 12, 1993, accordingly, the pilot period commenced on July 12, 1993. The Plan has since been in operation on an extended pilot basis.[7]

III. Description of the Plan

The Plan provides for the collection from Plan Participants, and the consolidation and dissemination to vendors, subscribers and others, of quotation and transaction information in "eligible securities."[8] The Plan contains various provisions concerning its operation, including: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information; Reporting Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy and Completeness of Transaction Reports; Terms and Conditions of Access; Description of Operation of Facility Contemplated by the Plan; Method and Frequency of Processor Evaluation; Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the Best Bid and Offer ("BBO"); Dispute Resolution; and Method of Determination and Imposition, and Amount of Fees and Charges.[9]

IV. Exemptive Relief

In conjunction with the Plan, on a temporary basis, the Commission granted an exemption to vendors from Rule 11Ac1–2[10] under the Act regarding the calculation of the BBO[11] and granted the BSE an exemption from the provision of Rule 11Aa3–1[12] under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. In the September 2001 Extension Request, the Participants ask that the Commission grant an extension of the exemptive relief described above to vendors until the BBO calculation issue is fully resolved. In addition, in the September 2001 Extension Request, the Participants request that the Commission grant an extension of the exemptive relief described above to the BSE until October 19, 2001.

V. Solicitation of Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. The Commission continues to solicit comment regarding the BBO calculation, the trade-through rule and any issues presented by changes occurring in the market place. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposal that are filed with the Commission, and all written communications relating to the proposal between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. All submissions should refer to File No. S7–24–89 and should be submitted by October 10, 2001.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through October 19, 2001, is appropriate and in furtherance of Section 11A[13] of the Act.[14] The Commission had previously stated that a revised Plan must be filed with the Commission by July 19, 2001, or the Commission will amend the Plan directly.[15] The Participants submitted an Interim Plan to the Commission on August 30, 2001, which, among other things, includes a process for selecting an alternative securities information processor. Therefore, to enable the Commission to consider and to solicit comment on the Interim Plan, the Commission believes that it is appropriate to extend the current Plan.

The Commission notes that the revised final Plan must provide for either (1) a fully viable alternative exclusive securities information processor ("SIP") for all Nasdaq securities, or (2) a fully viable alternative non-exclusive SIP in the event that the Plan does not provide for an exclusive SIP. If the revised Plan provides for an exclusive consolidating SIP, a function currently performed by Nasdaq, the Commission believes that, to avoid conflicts of interest, there should be a presumption that a Plan Participant, and in particular Nasdaq, should not operate such exclusive consolidating SIP. The presumption may be overcome if: (1) the Plan processor is chosen on the basis of bona fide competitive bidding and the Participant submits the successful bid; and (2) any decision to award a contract to a Plan Participant, and any ensuing review or renewal of such contract, is made without that Plan Participant's direct or indirect voting participation. If a Plan Participant is chosen to operate such exclusive SIP, the Commission believes there should be a further presumption that the Participant-operated exclusive SIP shall operate completely separate from any order matching facility operated by that Participant and that any order matching facility operated by that Participant must interact with the plan-operated SIP on the same terms and conditions as any other market center trading Nasdaq-listed securities. Further, the Commission will expect the NASD to provide direct or indirect access to the alternative SIP, whether exclusive or non-exclusive, by any of its members that qualify, and to disseminate transaction information and individually identified quotation information for these members through the SIP.

Furthermore, the revised final Plan should be open to all SROs, and the Plan should share governance of all matters subject to the Plan equitably among the SRO Participants. The Plan also should provide for sharing of market data revenues among SRO Participants. Finally, the Plan should provide a role for participation in decision making to non-SROs that have direct or indirect access to the alternative SIP provided by the NASD. The Commission expects the parties to continue to negotiate in good faith on the above matters[16] as well as any other issues that arise during Plan negotiations.

The Commission also finds that it is appropriate to extend the exemptive relief from Rule 11Ac1–2[17] under the Act until the earlier of October 19, 2001, or until such time as the calculation methodology of the BBO is based on a mutual agreement among the Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3–1[18] under the Act to the BSE through October 19, 2001. The Commission believes that the temporary extensions of the exemptive relief provided to vendors and the BSE, respectively, are consistent with the Act, the rules thereunder, and specifically with the objectives set forth in Sections 12(f)[19] and 11A[20] of the Act and in Rules 11Aa3–1[21] and 11Aa3–2[22] thereunder.

VII. Conclusion

It is therefore ordered, pursuant to Sections 12(f)[23] and 11A[24] of the Act and paragraph (c)(2) of Rule 11Aa3–2[25] thereunder, that the Participants' request to extend the effectiveness of the Plan, as amended, for Nasdaq/NM securities traded on an exchange on an unlisted or listed basis through October 19, 2001, and certain exemptive relief through October 19, 2001, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23457 Filed 9–17–01; 1:24 pm]

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[5] *See* Section 12(f)(2) of the Act, 15 U.S.C. 78*l*(f)(2).

[6] *See* Securities Exchange Act Release No. 28146, 55 FR 27917 (July 6, 1990) ("1990 Plan Approval Order").

[7] *See* Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995) ("November 1995 Extension Order"); 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997), 62 FR 36586 (July 8, 1997); 39505 (December 31, 1997), 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998), 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999) ("May 1999 Approval Order"); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000), 65 FR 42411 (July 10, 2000); 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001); and 44348 (May 24, 2001), 66 FR 29610 (May 31, 2001); 44552 (July 13, 2001), 66 FR 37712 (July 19, 2001); 44694 (August 14, 2001), 66 FR 43598 (August 20, 2001).

[8] The Plan defines "eligible security" as any Nasdaq/NM security as to which unlisted trading privileges have been granted to a national securities exchange pursuant to Section 12(f) of the Act or that is listed on a national securities exchange. On May 12, 1999, in response to a request from the CHX, the Commission expanded the number of eligible Nasdaq/NM securities that may be traded by the CHX pursuant to the Plan from 500 to 1000. *See* May 1999 Approval Order, *supra* note 7. On November 9, 2000, the Commission noticed and requested comment on a proposal by the PCX to expand the maximum number of securities eligible to trade to include all Nasdaq/NM securities. *See* Securities Exchange Act Release No. 43545, 65 FR 69581 (November 17, 2000).

[9] The full text of the Plan, as well as a "Concept Paper" describing the requirements of the Plan, are contained in the original filing, which is available for inspection and copying in the Commission's public reference room.

[10] 17 CFR 240.11Ac1–2.

[11] Rule 11Ac1–2 under the Act requires that the best bid or best offer be computed on a price/size/time algorithm in certain circumstances. Specifically, Rule 11Ac1–2 under the Act provides that "in the event two or more reporting market centers make available identical bids or offers for a reported security, the best bid or offer * * * shall be computed by ranking all such identical bids or offers * * * first by size * * * then by time." The exemption permits vendors to display the BBO for Nasdaq securities subject to the Plan on a price/time/size basis.

[12] 17 CFR 240.11Aa3–1.

[13] 15 U.S.C. 78k–1.

[14] In approving this extension, the Commission has considered the extension's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[15] *See supra* note 4. The Commission notes that the SuperMontage order directed the Participants to produce a revised plan by July 19, 2001. The Commission, however, provided for a 3-month extension of the July 19, 2001, deadline if requested by the Participants for good cause. The Commission recognizes that the Participants have been meeting to discuss the alternatives for a new plan.

[16] *See also* discussion in the SuperMontage order, *supra* note 4.

[17] 17 CFR 240.11Ac1–2.

[18] 17 CFR 240.11Aa3–1.

[19] 15 U.S.C. 78*l*(f).

[20] 15 U.S.C. 78k–1.

[21] 17 CFR 240.11Aa3–1.

[22] 17 CFR 240.11Aa3–2.

[23] 15 U.S.C. 78*l*(f).

[24] 15 U.S.C. 78k–1.

[25] 17 CFR 240.11Aa3–2(c)(2).

[26] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 66 FR 47930, September 14, 2001.

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: September 10, 2001.

CHANGE IN THE MEETING: Cancellation of Meeting.

The closed meeting scheduled for Monday, September 17, 2001 at 10:00 a.m. has been cancelled.

Dated: September 14, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23443 Filed 9–17–01; 12:30 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44787; File No. SR–NASD–2001–53]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending Rule 11870, Customer Account Transfer Contracts

September 12, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange of 1934 ("Act"),[1] notice is hereby given that on August 16, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD–R") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD–R. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

I. Self-Regulatory Organization's Statement of Terms and Substance of the Proposed Rule Change

NASD Regulation proposes to amend NASD Uniform Practice Code Rule 11870(c) and 11870(d) in order to expedite the transfer of customer accounts that contain proprietary or third party products (*e.g.*, mutual funds or money market funds) that the receiving member cannot receive or carry.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD–R included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The test of these statements may be examined at the places specified in Item IV below NASD–R has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[2]

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[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NASD.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to conform Uniform Practice Code Rule 11870 to recent modifications to the Automated Customer Account Transfer Service ("ACATS"), which is administered by the National Securities Clearing Corporation ("NSCC"). Recent ACATS modifications offer the capability to facilitate the transfer of accounts containing third party and/or proprietary products. The proposed changes to NASD Rules 11870(c) and 11870(d) would correspond to those modifications and would give member firms the ability to expedite the transfer of such accounts. The proposed rule change also conforms the NASD Rules to a recent amendment to the Interpretation of the New York Stock Exchange ("NYSE") Rule 412.[3]

Under current Rules 11870(c) and 11870(d), when a customer whose securities account is carried by a member ("carrying member") wishes to transfer the entire account to another member ("receiving member") the customer submits a signed broker-to-broker transfer instruction to the receiving member. The receiving member immediately submits the instruction to the carrying member, and the carrying member has three business days either to validate and return the transfer instruction to the receiving member (with an attachment reflecting all positions and money balances as shown on its books) or to take exception to the instruction. Prior to or at the time of validation of the transfer instruction, the carrying member must request in writing instructions from the customer with respect to the disposition of any assets in the account that it identifies as nontransferable, including any asset that is a proprietary product of the carrying member. The customer may ask the carrying member to liquidate the asset, continue to retain the asset, or physically transfer the asset in the customer's name to the customer.

The account, however, also may contain assets that have not been identified by the carrying member as nontransferable because they are the product of a third party (*e.g.*, mutual fund/money market fund) with which the receiving member does not maintain the relationship or arrangement necessary to receive/carry the assets. Notwithstanding the presence of such assets in the account, the carrying member currently must include such assets in the transfer of the account, the carrying member currently must include such assets in the transfer of the account. If the receiving member is unable to receive/carry an asset that is a product of a third party, the receiving member must send the asset back to the carrying member.

The carrying member must complete the transfer of the account to the receiving member within three business days following the validation of a transfer instruction, The receiving member and the carrying member must immediately establish fail-to-receive and fail-to-deliver contracts at then-current market values upon their respective books against the long positions and short positions, respectfully, in the customer's account that have not been delivered or received, and the receiving member must debit and the carrying member must credit the related money amount. These fails require substantial processing time for both the carrying and receiving members and require carrying members to credit the receiving firm funds equivalent to the value of the assets they are unable to deliver. These fails can also cause customers confusion in that customers receive multiple account statements from the carrying and receiving firms as the firms transfer and then reverse transactions.

The proposed rule change would require the receiving member upon receipt of the asset validation report to designate any assets that are the product of a third party with which the receiving member does not maintain the relationship or arrangement necessary to receive/carry the asset for the customer's account. The carrying member upon receipt of such designation may treat such designated assets as nontransferable and refrain from transferring the designated assets.

The receiving member after designating those third party assets it is unable to receive/carry would have to provide the customer with a list of those assets and request instructions from the customer regarding their disposition. The customer would be given the alternatives of having to liquidate the assets, having the carrying broker-dealer continue to retain the assets, having the assets physically transferred in the customer's name to the customer, or transferring the assets to the third party that is the original source of the product for credit to an account opened by the customer with the third party.

The proposed rule change would also deem as a nontransferable asset a proprietary product of the carrying member unless the receiving member agrees to accept transfer of the assets.

Current Rule 11870(d)(3)(C) provides that a member may take exception to a transfer instruction if the account number is invalid (account number is not on the carrying member's books). The proposed change to Rule 11870(d)(3)(C) will make clear that the carrying member is responsible for tracking account number changes; therefore, an account number that has been changed due to internal reassignment of an account to another broker or account executive with the carrying member will not be considered invalid for purposes of taking exception to a transfer instruction.

2. Statutory Basis

NASD–R believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD–R believes that the proposed rule change is designed to accomplish these goals by making the transfer of customer accounts faster and more efficient, reducing customer confusion, and facilitating the transfer of third-party and proprietary products. The proposed rule change will also conform NASD requirements to recent amendments to the Interpretation of NYSE Rule 412.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD–R does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of Section 15A of the Act, which requires, among other things, that the rules of a national securities association be designed to remove the impediments to and perfect the mechanism of a free and open market and a national market system and protect investors and the public interest.[4] These obligations are met when procedures governing the transfer of customer accounts are made more efficient. The rule change should eliminate the present need for reversing the transfer of third party and/or proprietary products, thereby reducing delay, and also reduce the cost of customer transfers incurred by members under the current system. For example, the proposed designation and notice requirements on the part of the receiving firm should reduce the overall timeframe for transferring or disposing of third party products and should lower the related costs incurred by NASD's members. The rule change should also reduce customer confusion and facilitate decisions by customers concerning the disposition of proprietary and third party products. Finally, because the proposed rule change is designed to conform NASD Rules 11870(c) and 11870(d) with recent amendments to the Interpretation of NYSE Rule 412, the proposal should help provide uniformity.

NASD–R has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act[5] for approving the proposed rule change prior to the thirtieth day after publication of notice of the filing in the **Federal Register**. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** because accelerated approval will allow the NASD to implement these changes when NSCC implements changes to ACATS. The Commission is approving the proposed rule change prior to the expiration of the comment period in order to permit the NASD to conform its rule with the NYSE and benefit customers as soon as possible.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at NASD's principal office. All submissions should refer to File No. SR–NASD–2001–53 and should be submitted by October 10, 2001.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NASD–2001–53) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H McFarland,

Deputy Secretory.

[FR Doc. 01–23308 Filed 9–18–01; 8:45 am]

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[3] Securities Exchange Act Release No. 44596 (July 26, 2001), 66 FR 40306 (Aug. 2, 2001).

[4] 15 U.S.C. 78o–3.

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44788; File No. SR–NASD–2001–56]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend a Pilot Program That Reduced Monthly Fees for Non-Professional Users Receiving the National Quotation Data Service

September 13, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 5, 2001, the National Association of Securities Dealers, Inc. ("NASD") or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(30(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend a one-year pilot program under NASD Rule 7010(h) that reduced from $50 to $10 the monthly fee that non-professional users pay to receive the National Quotation Data Service ("NQDS").[5] Nasdaq proposes to extend the one-year fee reduction pilot program for non-professional users of NQDS for another year. The pilot, as extended, would continue uninterrupted through August 31, 2002. Nasdaq has designated this proposal as non-controversial, rendering it effective upon filing with the Commission. Nasdaq asks that the Commission waive the 30-day operative waiting period pursuant to SEC Rule 19b–4(f)(6)(iii).[6] to allow the pilot program to continue uninterrupted through August 31, 2002.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to extend a one-year fee reduction pilot program that was established under NASD Rule 7010(h) on August 31, 2000, and that reduced from $50 to $10 the monthly fee that non-professional users pay to receive NQDS.[7]

NQDS delivers market maker quotations, Nasdaq Level 1 service (including calculation and display of the inside market), and last sale information that is dynamically updated on a real-time basis. NQDS data is used

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). Nasdaq provided the Commission with written notice of its intent to file the proposal, along with a brief description and text of the proposed rule change on August 24, 2001.

[5] *See* Securities Exchange Act Release No. 43190 (August 22, 2000), 65 FR 52460 (August 29, 2000) (SR–NASD–00–47]. NQDS is sometimes referred to as the "Nasdaq Quotation Dissemination Service."

[6] 17 CFR 240.19b–4(f)(6)(iii)

[7] *See* footnote 5 supra.

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not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. Prior to August 31, 2000, NQDS data was available through authorized vendors at a monthly rate of $50 for professional and non-professional users alike. In August 2000, the NASD through Nasdaq filed a rule change to reduce from $50 to $10 the monthly fee that non-professional users pay to receive NQDS data. The Commission approved the pilot on August 22, 2000, and the fee reduction commenced on August 31, 2000 on a one-year pilot basis ("one-year fee-reduction pilot").

Nasdaq has consistently supported broad, effective dissemination of market information to public investors. Thus, Nasdaq is proposing to extend the one-year fee-reduction pilot for another year. The pilot would cover twelve months, commencing with September 2001 and expiring on August 31, 2002. Nasdaq notes that the one-year fee-reduction pilot reduced by 80% the fees that non-professionals paid for NQDS data prior to August 31, 2000. Continuing the reduction of NQDS for non-professional users demonstrates Nasdaq's continued commitment to individual investors and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, NASD member firms often supply real-time market data to their customers through automated means. Thus, NASD member firms' customers will benefit from the continued fee reduction.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with the provisions of Sections 15A(b)(5) and 15A(b)(6) of the Act[8] in that the proposal is designed to provide for the equitable allocation of reasonable fees among members and other persons using any facility or system which the Association operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. In addition, Nasdaq believes that the fee reduction enhances the public's access to market data that is relevant to investors when they make financial decisions. Nasdaq further believes that the public's enhanced access to this data may encourage increased public participation in the securities markets.

[8] 15 U.S.C. 78o–3(b)(5) and (6).

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule changes does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the act.

Nasdaq has requested that the Commission accelerate the operative date. The Commission finds good cause to waive the 30-day operative waiting period, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to continue uninterrupted through August 31, 2002. For these reasons, the Commission finds good cause to waive the 30-day operative waiting period.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2001–56 and should be submitted by October 10, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23309 Filed 9–18–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44783; File No. SR–NYSE–2001–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend NYSE Rule 123

September 10, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 10, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to NYSE Rule 123. The proposed rule text follows:

Additions are *italicized*, deletions are [bracketed].

[12] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Rule 123—Records of Order

(e) *System Entry Required*

Except as provided in paragraphs .21 and .22 below, [N] no Floor member may represent or execute an order on the Floor of the Exchange unless the details of the order have been first recorded in an electronic system on the Floor. Any member organization proprietary system used to record the details of the order must be capable of transmitting these details to a designated Exchange data base within such time frame as the Exchange may prescribe. The details of each order required to be recorded shall include the following data elements, any changes in the terms of the order and cancellations, in such form as the Exchange may from time to time prescribe:

1. Symbol;
2. Clearing member organization;
3. Order identifier that uniquely identifies the order;
4. Identification of member or member organization recording order details;
5. Number of shares or quantity of security;
6. Side of market;
7. Designation as market, limit, stop, stop limit;
8. Any limit price and/or stop price;
9. Time in force;
10. Designation as held or not held;
11. Any special conditions;
12. System-generated time of recording order details, modification of terms of order or cancellation of order;
13. Such other information as the Exchange may from time to time require.

* * * * *

.20 Orders—For purposes of paragraph (e), an order shall be any written, oral or electronic instruction to effect a transaction.

.21 Orders not subject to paragraph (e) recording requirements—Any order executed by a specialist, Competitive Trader or Registered Competitive Market Maker for his or her own account and any orders which by their terms are incompatible for entry in an Exchange system relied on by a Floor member to record the details of the order in compliance with this Rule shall be exempt from the order entry requirements of paragraph (e) above.

.22 With respect to bona fide arbitrage order, a member may execute such order before entering the order into an electronic system as required by paragraph (e) above, but such member must enter such order into such electronic system no later than 60 seconds after the executive of such order. With respect to an order to offset a transaction made in error, a member may, upon discovering such error within the same trading session, effect an offsetting transaction without first entering such order into an electronic system, but such member must enter such order into such electronic system no later than 60 seconds after the execution of such order.

.23[2] Time standards—Any member organization proprietary system used to record the details of an order for purposes of this rule must be synchronized to a commonly used time standard and format acceptable to the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change is being filed as a one-month pilot.

In December, 2000, the Exchange adopted requirements for the electronic capture of orders at the point of sale (front end systemic capture, or "FESC")[3] and at the point of receipt (order tracking system, or "OTS"). The purpose of the requirements is to create a complete systemic record of orders handled by members and member organizations. These requirements are scheduled to become effective on September 10, 2001.

Due to the time sensitivity of bona fide arbitrage orders and orders to offset transactions made in error, the Exchange is proposing to carve out two exceptions to NYSE Rule 123(e). These orders may be initiated by a member on the Floor pursuant to SEC Rule 11a–1 and NYSE Rule 111, and a requirement that such orders be first entered into FESC may result in a lost arbitrage opportunity, or an additional loss to the member when covering an error. With respect to bona fide arbitrage orders, a member may execute such orders before entering the order into FESC. However, such member must enter such orders into FESC no later than 60 seconds after the execution of such orders.

Similarly, with respect to an order to offset transactions made in error, a member, may, upon discovering such error within the same trading session, effect an offsetting transaction without first entering such order into FESC. However, such member must enter such order into FESC no later than 60 seconds after the execution of such order.

2. Statutory Basis

The Exchange believes that the basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5)[4] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is designed to accomplish these ends by strengthening the Exchange's ability to surveil the Floor activities of members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and subparagraph (f)(6) of

[3] See Securities Exchange Act Release No. 43689 (December 7, 2000), 65 FR 79145 (December 18, 2000) (Order approving amendments to NYSE Rule 123 providing for the systemic capture of order information on the Exchange floor).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

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Rule 19b–4 thereunder.[6] At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[7]

The Commission notes that under Rule 19b–4(f)(6)(iii),[8] the proposal does not become operative for 30 days after date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five-day pre-filing requirement and designate that the proposed rule change become operative immediately to permit implementation of NYSE Rule 123(e) as scheduled on September 10, 2001, which the NYSE believes is consistent with investor protection and the public interest. In particular, the Exchange believes the proposed rule change will enable members to execute bona fide arbitrage orders and orders to offset transactions made in error quickly without having to enter the order into the FESC. The proposed rule will still require that these be entered into the FESC within 60 seconds after the execution of the respective order.

The Commission believes that it is consistent with the protection of investors and the public interest to waive the five-day pre-filing requirement and designate the proposal immediately operative.[9] Accelerating the operative date and waiving the pre-filing requirement will permit the Exchange to implement NSYE Rule 123 without undue delay. For this reason, the Commission finds good cause to designate that the proposal become operative immediately.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission 450 Fifth Street NW., Washington, DC 10549–0609.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–36 and should be submitted by October 10, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23307 Filed 9–18–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] The Commission notes, however, this proposed rule change has been filed as a one-month pilot.

[8] 17 CFR 240.19b–4(f)(6).

[9] For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: (A) Notice of policy priorities for amendment cycle ending May 1, 2002; (B) Request for comment on the possible formation of an ad hoc advisory group on organizational guidelines; and (C) Request for comment on the possible formation of an ad hoc advisory group on issues related to the impact of the sentencing guidelines on Native Americans in Indian Country.

SUMMARY: (A) Policy Priorities.—In July 2001, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2002. See 66 FR 128 (July 3, 2001). After reviewing public comment received pursuant to this notice, the Commission has identified its policy priorities for the upcoming amendment cycle. The Commission hereby gives notice of these policy priorities.

(B) Issues Related to the Organizational Guidelines.—The Commission recently has received several letters from individuals and organizations suggesting that the Commission consider proposed changes to the guidelines in Chapter Eight (Sentencing of Organizations). (These letters are available at the Commission for public review.) In response, the Commission hereby requests comment on the scope, potential membership, and possible formation of an ad hoc advisory group on the organizational sentencing guidelines to consider any viable methods to improve the operation of these guidelines.

(C) Issues Related to the Impact of Federal Sentencing Guidelines on Native Americans in Indian Country.—In June, 2001, the Commission held a hearing in Rapid City, South Dakota, for the purpose of receiving information from interested parties about the impact of the federal sentencing guidelines on Native Americans sentenced in Federal court for offenses traditionally prosecuted under state law. As a result of suggestions made at that hearing and subsequent written submissions, the Commission hereby requests comment on the scope, potential membership, and possible formation of an ad hoc advisory group to consider any viable methods to improve the operation of the federal sentencing guidelines in all areas that have significant Native American Indian populations.

DATE: Public comment should be received by the Commission not later than November 6, 2001.

ADDRESSES: Send comment to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, South Lobby, Washington, DC 20002–8002. Attn: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States Government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission periodically to review and revise promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. See 28 U.S.C. 994(o), (p).

(A) Policy Priorities for Amendment Cycle May 1, 2002.—As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, the Commission has identified certain priorities as the focus of its policy development work, including possible amendments to guidelines, policy statements, and commentary, for the amendment cycle ending May 1, 2002. While the Commission intends to address these priority issues, it recognizes that other factors, such as the enactment of legislation requiring Commission action, may affect the Commission's ability to complete work on all of the identified policy priorities by the statutory deadline of May 1, 2002. The Commission may address any unfinished policy work from this agenda during the amendment cycle ending May 1, 2003.

For the amendment cycle ending May 1, 2002, and possibly continuing into the amendment cycle ending May 1, 2003, the Commission has identified the following priorities: (1) A 15 Year Study (in anticipation of the 15 year anniversary of the federal sentencing guidelines) composed of a number of projects geared toward analyzing the guidelines in light of the goals of sentencing reform described in the Sentencing Reform Act and the statutory purposes of sentencing set forth in 18 U.S.C. 3553(a)(2); (2) in conjunction with the 15 Year Study, an assessment of, and possible guideline amendment proposals for, the following guideline areas: (i) Chapter Two, Part D (Offenses Involving Drugs); and (ii) Chapter Four (Criminal History); (3) implementation of any crime legislation enacted during the first session of the 107th Congress warranting a Commission response; (4) miscellaneous and discreet issues such as offenses involving damage to cultural heritage resources; and (5) the resolution of any conflicts among the circuits related to the operation of the guidelines in the areas identified above.

(B) Issues Related to the Organizational Guidelines.—The sentencing guidelines for organizations found in Chapter Eight (Sentencing of Organizations) were promulgated on November 1, 1991. Approximately 250 to 300 cases per year currently are being sentenced under the organizational guidelines. More important than the number of cases sentenced, the organizational guidelines have had a tremendous impact on the implementation of compliance and business ethics programs over the past ten years. The organizational guidelines prompted a serious reconsideration within the American business community of methods and rationale for improved corporate governance. The Commissioners have been active in speaking at various compliance and ethics seminars and writing articles about the organizational guidelines over the years and are aware of the importance of the organizational guidelines to good corporate citizenship.

Recently, the Commission has received several letters from individuals and organizations suggesting that the Commission examine the organizational guidelines with a view toward changes that might be made to improve their overall operation. (These letters are available at the Commission for public review.) Changes that have been suggested include, for example: (1) Broadening compliance requirements to include ethics and integrity based systems, (2) developing criteria in § 8A1.2 (Application Instructions—Organizations) that would create a "safe harbor" for reporting without fear of retribution, and (3) fostering a dialogue with interested parties for the purpose of reviewing the organizational guidelines and making further suggestions for change.

In response to the suggestion to foster a dialogue on the organizational guidelines, the Commission is considering forming an ad hoc advisory group of interested persons such as industry representatives, scholars, and experts in compliance and business ethics, which might lead to development of proposals on the organizational guidelines for Commission consideration. *See* USSC Rule of Practice and Procedure 5.4. The Commission requests comment on (1) the scope, duration, and membership of any such advisory group; (2) the merit of the suggestions from outside parties as described in the preceding paragraph; and (3) any other issues related to the improvement of Chapter Eight.

(C) Issues Related to the Impact of the Federal Sentencing Guidelines on Native Americans in Indian Country.—On June 19, 2001, the Sentencing Commission held a public hearing in Rapid City, South Dakota, in response to the March 2000 Report of the South Dakota Advisory Committee to the United States Commission on Civil Rights, which recommended that an assessment of the impact of the United States sentencing guidelines on Native Americans in South Dakota be undertaken. The Committee, in its report, expressed concern about the impact of the federal sentencing guidelines on Native Americans in Indian Country who are prosecuted in federal court for crimes that otherwise would be brought under state law. The Committee's concerns and recommendations were based on the widespread perception in South Dakota that Native Americans, by virtue of being subject to federal prosecution and sentencing, rather than state prosecution and sentencing, receive harsher sentences under the federal guidelines than they would under a similar state sentence. The purpose of the hearing was to provide the Commission with an opportunity to hear from various witnesses who have first-hand experience with the process of criminal investigation, prosecution, and sentencing in South Dakota and the federal sentencing guidelines. Representative testimony was received from local judges, prosecution and defense officials, victims groups, as well as Native American tribal leaders. The Commission is aware that Native Americans in other regions similarly impacted by the federal sentencing guidelines may want to express views on these issues.

As a result of suggestions made at that hearing and subsequent written submissions, the Commission is considering forming an hoc advisory group on issues related to the impact of the federal sentencing guidelines on Native Americans in Indian Country. The Commission requests comment on the merits of forming such a group, including comment on the scope, duration, and membership of any such advisory group that may be formed.

Authority: 28 U.S.C. 994 (a), (o), (p); USSC Rules of Practice and Procedure 5.2.

Diana E. Murphy,

Chair.

[FR Doc. 01–23324 Filed 9–18–01; 8:45 am]

BILLING CODE 2210–40–P

[10] 17 CFR 200.20–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No.02/27–0604]

KBL Healthcare, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that KBL Healthcare, L.P., 645 Madison Avenue New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection the financing of a small concern, has sought an exemption under section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (2000)). KBL Healthcare, L.P. proposes to provide equity security financing to Lumenos, Inc., 1725 Duke Street, Suite 400 Alexandria, VA 22314. The financing is contemplated for technology development, sales and marketing, working capital and general corporate purposes.

The financing is brought within the purview of Section 107.730(a)(1) of the Regulations because KBL Healthcare Inc., KBL Healthcare Ventures, L.P.,

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KBL Partnership, L.P. and other related individuals and entities, Associates of KBL Healthcare, L.P., together currently own greater than 10 percent of Lumenos, Inc. and therefore Lumenos, Inc. is considered an Associate of KBL Healthcare, L.P. as defined in Section 107.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Acting Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: September 6, 2001.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 01–23297 Filed 9–18–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3784]

Culturally Significant Objects Imported for Exhibition; Determinations: "William Beckford, 1760–1844: An Eye for the Magnificent"

DEPARTMENT: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit "William Beckford, 1760–1844: An Eye for the Magnificent," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at The Bard Graduate Center for Studies in the Decorative Arts, of New York, NY, from on or about October 16, 2001, to on or about January 6, 2002, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW, Room 700, Washington, DC 20547–0001.

Dated: September 13, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs. U.S. Department of State.

[FR Doc. 01–23337 Filed 9–18–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[PUBLIC NOTICE 3786]

Notice of Postponement of Meeting of the Cultural Property Advisory Committee

AGENCY: Department of State.

ACTION: Notice.

Due to extenuating circumstances, the meeting of the Cultural Property Advisory Committee scheduled for Thursday, September 20, and Friday September 21, 2001, at the Department of State to review the proposal to extend the "Agreement between the Government of the United States of America and the Government of Canada Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological and Ethnological Material" has been postponed. The meeting will be re-scheduled and a new notice will be published in the **Federal Register**. The original notice was published on August 7, 2001, Vol. 66, No. 152. Further information about this agreement and related cultural property information may be found at this web site: http://exchanges.state.gov/education/culprop.

Dated: September 17, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–23487 Filed 9–18–01; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[PUBLIC NOTICE #3744]

Notice of Meetings; United States International Telecommunication Advisory Committee, Telecommunication Development (ITAC–D)

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee. The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union (ITU).

There will be two September meetings of the ITAC–D: Friday, September 21, 2001, from 10:00 to noon & Wednesday, September 26, 2001, from 10:00 to noon. The agenda for both meetings is to prepare for the meeting of the ITU–D Telecommunication Development Advisory Group (TDAG), scheduled for Geneva, October 3–5 & to prepare for the WTDC02: Americas Regional Preparatory Meeting scheduled for October 16–18, Port o' Spain, Trinidad & Tobago. Meetings will be at the Department of State in rooms yet to be determined.

Members of the general public may attend these meetings. Directions to meeting location and actual room assignments may be determined by calling the Secretariat at 202 647–0965/2592. Entrance to the building is controlled; people intending to attend this meeting should send an e-mail to williamscd@state.gov no later than 48 hours before the meeting for preclearance. This e-mail should display the name of the meeting and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U. S. Government identification card. Enter the Department of State from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: September 12, 2001.

Frank K. Williams,

Director, Radiocommunication Standardization, Department of State.

[FR Doc. 01–23486 Filed 9–17–01; 3:22 pm]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice #3743]

Advisory Committee on Labor Diplomacy; Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting from 9 a.m. to 2 p.m. on October 4, 2001, in room 6210, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Committee Chairman Thomas Donahue, former President of the AFL–CIO, will chair the meeting.

The ACLD is comprised of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures U.S. leadership before the international community in promoting the objectives and ideals of U.S. labor policies in the 21st century. The ACLD will make recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the October 4 meeting includes discussion of the interagency process on international labor policy formulation.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by open of business October 3; to Eric Barboriak at (202) 647–3664 or fax (202) 647–0431 or e-mail *barboriakem@state.gov:* name; company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the C Street entrance to the State Department and have a driver's license with photo, a passport, a U.S. Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Mr. Barboriak at the phone and fax numbers provided above.

Dated: September 6, 2001.

Lorne W. Craner,

Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State

[FR Doc. 01–23336 Filed 9–18–01; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Weekly Receipts

Aviation Proceedings, Agreements filed during week ending August 31, 2001. The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10522.
Date Filed: August 28, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC COMP 0848 dated 28 August 2001, CTC COMP 0364 dated 28 August 2001, Resolutions 024f/033f—Local Currency, Fare/Rate Changes—Papua New Guinea, Intended effective date: 1 October 2001.

Docket Number: OST–2001–10541.
Date Filed: August 31, 2001.
Parties: Members of the International Air Transport Association.
Subject: PAC/Reso/413 dated 23 July 2001, Finally Adopted Resolutions r1–r34, MINUTES—PAC/Meet/171 dated 23 July 2001, Intended effective date: 1 January 2002.

Docket Number: OST–2001–10546.
Date Filed: August 31, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC23 ME–TC3 0127 dated 31 August 2001, Mail Vote 142—TC23/123 Africa-TC3, Special Passenger Amending Resolution from India r1–r7, Intended effective date: 14 September 2001.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–23320 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Weekly Applications

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the week ending August 31, 2001. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2001–10529.
Date Filed: August 29, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 20, 2001.
Description: Application of Arizona Express Airlines, Inc., pursuant to 49 U.S.C. Section 41738, requesting authority to engage in scheduled passenger service operations as a commuter and proposes to operate two scheduled, non-stop, round-trip flights daily between Show Low and Phoenix, Arizona.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–23321 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD17–01–002]

Annual Certification of Prince William Sound Regional Citizen's Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of recertification.

SUMMARY: Under the Oil Terminal and Tanker Environmental Oversight Act of 1990, the Coast Guard may certify on an annual basis, an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Prince William Sound, Alaska. This certification allows the advisory group to monitor the activities of terminal facilities and crude oil tankers under the Prince William Sound Program established by the statute. The purpose of this notice is to inform the public that the Coast Guard has recertified the alternative voluntary advisory group for Prince William Sound, Alaska.

DATES: This certification is effective from January 31, 2001 to January 31, 2002.

FOR FURTHER INFORMATION CONTACT: For general information regarding the PWS RCAC or viewing material submitted to the docket, contact LT Michael Patterson, Seventeenth Coast Guard District, Marine Safety Division, (907) 463–2807.

SUPPLEMENTARY INFORMATION:

Background and Purpose

As part of the Oil Pollution Act of 1990. Congress passed the Oil Pollution Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, (the Act), section 5002, to foster the long-term partnership among industry, government, and local communities in overseeing compliance with the

environmental concerns in the operation of terminal facilities and crude-oil tankers. Subsection 5002(o) permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the terminal facilities in Prince William Sound (PWS), in lieu of a council of the type specified in subsection 5002(d), if certain conditions are met.

The Act requires that the group enter into a contract to ensure annual funding, and that it receive annual certification by the President to the effect that it fosters the general goals and purposes of the Act, and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound. Accordingly, in 1991, the President granted certification to the Prince William Sound Regional Citizen's Advisory Council (PWS RCAC). The authority to certify alternative advisory groups was subsequently delegated to the Commandant of the Coast Guard and redelegated to the Commander, Seventeenth Coast Guard District.

On June 26, 2001, the Coast Guard announced in the **Federal Register** the availability of the application for recertification that it received from the PWS RCAC and requested comments (66 FR 33989). Twenty comments were received.

Discussion of Comments

In conducting the review in the recertification process, all comments were considered. Of the comments received, 19 were supportive of recertification and noted the positive efforts, good communication, and broad representation of PWS communities as PWS RCAC carries out its responsibilities as intended by the Act. One commenter recommended the Coast Guard not certify the PWS RCAC because it is not broadly representative of all interests and communities in the area. The following summarizes the Coast Guard's analysis of the issues raised during the review process.

One commenter, representing a native village within Prince William Sound stated that because the village was not represented on the PWS RCAC Board of Directors, the PWS RCAC did not meet the requirements of being broadly representative of the interests and communities in the area. OPA 90 does not require that the PWS RCAC Board of Directors have a formal representative from each tribal village in order to be broadly representative of the PWS community. Upon investigation, it was noted that many members of the village live in a community that is represented on the PWS RCAC Board of Directors and many are members of a Native Corporation that is represented on the board. The PWS RCAC Board of Directors advertises its meetings, moves the meetings to locations throughout PWS, and publicizes the work they perform through the press and a web site in their efforts to ensure all communities throughout PWS are familiar with and have an opportunity to comment on their activities. The Coast Guard does not agree that lack of specific, formal representation of this village on the PWS RCAC Board of Directors indicates that the PWS RCAC is not broadly representative of the communities and interests in the area. However, while there may be areas of commonality between a native village and the larger community and Native Corporations they belong to, the specific concerns of a native village are not always shared by these other entities. The Coast Guard recommends that PWS RCAC contact this village to learn their specific concerns about how the oil terminal and tanker operations affect their village. The Coast Guard also recommends that the village seek membership on the PWS RCAC Board of Directors, consistent with section 2732(d)(A)(2)(iii) of the Act.

Upon review of the information submitted by PWS RCAC as part of the certification package, it was noted that in a routine annual audit of the PWS RCAC's financial statements, the auditor performing the audit made several recommendations for improving the financial management of the organization. In particular, the auditor noted that allowing members to use RCAC funds to cover travel costs when combining official travel and personal travel and then repay the RCAC after the fact for the personal expenditures necessitates increased oversight to ensure RCAC is repaid and additional accounting is properly managed. The auditor recommended against continuing this practice. The Coast Guard agrees and recommends that this change be made prior to the next certification cycle.

During the review period, the Coast Guard was made aware of concerns from within the RCAC of whether PWS RCAC policies for travel and recordkeeping were consistent with best business practices. A review of travel policies identified some areas that could be improved to ensure that the PWS RCAC's administrative costs remain consistent with the goals of OPA 90. Based on this finding and the general concerns raised, the Coast Guard initiated an audit with the full cooperation of PWS RCAC to evaluate PWS RCAC's policies and practices against commonly accepted principles of similarly situated organizations. This audit is currently ongoing. Based on the results, the Coast Guard may have recommendations for PWS RCAC that will need to be implemented before the next annual certification.

Not withstanding the issues described above, the PWS RCAC continues to make great progress on projects that promise to significantly improve oil terminal and tanker operations in PWS, such as the ice radar project, the Valdez Marine Terminal's fire prevention and response system, and work on Geographic Response Strategies.

Upon review of the comments received regarding the PWS RCAC's performance during the past year and the information provided by the RCAC in their annual report and recertification package the Coast Guard finds the PWS RCAC meets the criteria established under the Oil Pollution Act, and that recertification in accordance with the Act is appropriate.

Recertification: By letter dated September 7, 2001, the Commander, Seventeenth Coast Guard certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on January 31, 2002.

Dated: September 7, 2001.

T. J. Barrett,

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 01–23343 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–10615]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) and its Subcommittees will meet to discuss various issues relating to offshore safety. All meetings will be open to the public.

DATES: NOSAC will meet on Thursday, November 8, 2001, from 9 a.m. to 3 p.m. The Subcommittee on Deepwater Activities will meet on Wednesday, November 7, 2001, from 8 am to 10 am, and the Subcommittee on Prevention Through People will meet on Wednesday, November 7, 2001 from 10 am to 12 midday. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before October 24, 2001. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before October 24, 2001.

ADDRESSES: NOSAC will meet in room 737 (Hearing Room) of the Coast Guard Marine Safety Office, 1615 Poydras Street, New Orleans, LA. The Subcommittee on Deepwater Activities and the Subcommittee on Prevention Through People will also meet in room 737 of the Coast Guard Marine Safety Office, 1615 Poydras Street, New Orleans, LA. Send written material and requests to make oral presentations to Captain M. W. Brown, Commandant (G-MSO), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Captain M. W. Brown, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–0214, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

National Offshore Safety Advisory Committee. The agenda includes the following:

(1) Report on issues concerning the International Maritime Organization and the International Organization of Standardization.
(2) Progress report from the Prevention Through People Subcommittee on "Crew Alertness in the Offshore Industry."
(3) Progress report from Subcommittee on Deepwater Activities.
(4) Report from Task Force on development and implementation of STCW Convention for OSVs.
(5) Progress report from the Subcommittee on Pipeline-Free Anchorages.
(6) Status reports on revision of 33 CFR Subchapter N.
(7) Status report on USCG/MMS rulemaking on Inspection of Fixed Facilities.
(8) Presentation on Coast Guard Deepwater Project.
(9) Discussion on IMO in-service testing of lifeboats.

Subcommittee on Deepwater Activities. The agenda includes the following:

(1) Review and discuss previous Subcommittee work.
(2) Outline Draft report.

Subcommittee on Prevention Through People. The agenda includes the following:

(1) Subcommittee members provide Chairman with comments from their review of material sent out to them.
(2) Work on outline of Draft report.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than October 24, 2001. Written material for distribution at a meeting should reach the Coast Guard no later than October 24, 2001. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 25 copies to the Executive Director no later than October 24, 2001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: September 11, 2001.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–23278 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2001–9119]

Extension of Public Meeting; Commercial Launch Industry

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The FAA is extending through September 28, 2001, 4:30 p.m. EST an on-line public forum on the Internet seeking comments and information from the public regarding the government's role in supporting the U.S. commercial launch industry. In particular, the FAA is asking whether and why the government should continue to share the risk of liability for commercial launches in the unlikely event of an accident, or consider changes to existing laws. Public views obtained from the on-line forum will be included in a report to Congress on the appropriateness and need to continue current risk-sharing arrangements or modify laws governing liability risk-sharing for commercial launches and reentries beyond December 31, 2004.

DATES: The on-line public forum that began on September 4, 2001, at 9 a.m. EST is extended through September 28, 2001, at 4:30 p.m. EST. Written comments may also be submitted to the docket through September 28, 2001. Comments submitted to the docket after September 28th will be considered and included in the report to the extent practicable; however, the FAA encourages timely submission of comments to facilitate preparation of the report.

ADDRESSES: The on-line public forum can be reached by clicking the "On-Line Public Forum" hyperlink on the Associate Administrator for Commercial Space Transportation's (AST) Internet home page, *http://ast.faa.gov.* Persons unable to participate in the on-line public forum may mail or deliver views to the U.S. Department of Transportation Dockets, Docket No. FAA–2001–9119, 400 Seventh Street, SW., Washington, DC, 20590. The FAA requests two copies of any written comments. Comments may also be submitted to the docket electronically by sending them to the Documents Management Systems (DMS) at the following Internet address: *http://dms.dot.gov/.* Comments to the docket should be submitted by September 28, 2001. Comments submitted to the docket may be examined in Room PL 401 at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590, between 10 a.m. and 5 p.m. weekdays except Federal holidays, and may be viewed by accessing the DMS using the Internet cite noted above.

FOR FURTHER INFORMATION CONTACT: Ms. Esta M. Rosenberg, Senior Attorney-Advisory, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, U.S. Department of Transportation (202) 366–9320, or Mr. Ronald K. Gress, Manager, Licensing and Safety Division, Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, U.S. Department of Transportation (202) 385–4700.

SUPPLEMENTARY INFORMATION:

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Background

The FAA is extending an opportunity for the interested public to provide its perspective, using the Internet, on the appropriate role of government in risk management for commercial space transportation and associated issues concerning U.S. policies in support of a robust commercial launch industry. Through the Internet, a large cross-section of the interested public will be able to share views and information with each other and the FAA, and assist the FAA in compiling the range of perspectives concerning an appropriate risk-sharing regime for commercial space transportation. A docket also remains available for filing written comments, either by mail or electronically, following the instructions listed above under the heading, **ADDRESSES.**

The on-line public forum will allow electronic discussion of the issues identified for analysis by the Commercial Space Transportation Competitiveness Act of 2000. Background information regarding the Commercial Space Transportation Competitiveness Act of 2000 and liability risk-sharing for commercial space transportation appears in a notice issued July 31, 2001, at 66 FR 39545–39548.

The format and questions presented in the extended "On-Line Public Forum" are the same as those appearing in the July 31 notice. They are reprinted in this notice for ease of reference.

There are two sets of questions. The first set of questions asks, in a general way, for public views concerning government support of the commercial space launch industry. The second set of questions repeats the questions posed in an on-line public forum held April 27–May 11, and addresses the specific elements Congress has required the FAA to study in preparing the report. At the end of the questions, the FAA provides a more "free-style" opportunity for submission of views on matters related to launch liability, risk management and government policies in support of the U.S. commercial space launch industry.

If you would like to participate in the on-line forum, you are not required to answer all of the questions and you are not required to respond to all parts. You may answer as few or as many of the questions as you like, in either or both parts, as well as in the "free-style" section. You may choose to respond only in the "free-style" section and skip over the two sets of questions in Parts I and II entirely. If you choose to respond to a question, please be specific in your answer so that it is clear to the FAA and others who may view the on-line public meeting. To the extent you can, please provide supporting information and the rationale for your answer.

Part I

There are eight questions listed in this part. You may answer none, some or all of them, and then proceed to Part II.

1. Before reading this Notice, were you aware that a commercial launch industry exists in the United States, in addition to government launch capability (e.g., military space programs operated by the Department of Defense and civil space programs administered by NASA), and that private companies offer launch services as a commercial business?

2. Is it important to you that the United States have a successful and internationally competitive commercial launch industry with a significant, if not majority, share of the international launch market, and if so, why? Do you believe there is a benefit to our nation from having a robust commercial launch industry and from being a well-established world leader in space?

3. Before reading this Notice, were you aware that the FAA licenses and regulates commercial launches in the United States?

4. Before reading this Notice, were you aware that launch operators licensed by the FAA are required, by law, to maintain a prescribed amount of liability insurance?

5. Before reading this Notice, were you aware of the government's involvement in providing coverage, that is, "indemnification," for excess liability over and above that which is covered by the liability insurance a launch operator is required to purchase when conducting a licensed launch in the United States?

6. A government-industry risk sharing arrangement, such as that reflected in the CSLA and described in this Notice, may be unusual for a commercial industry, but it is not unique. For example, indemnification of excess liability is credited with enabling commercial development of the nuclear power industry. Do you think it is important and appropriate for the government to continue to support the U.S. commercial launch industry by having some type of liability risk-sharing program, such as the one described in this Notice, and can you state why?

7. Other governments financially support their launch industry through indemnification commitments. For example, the French Government is responsible for paying damages awarded to victims of Arianespace launches in excess of the insurance obtained by Arianespace. Do you believe that the U.S. Government should continue to have policies and laws, such as the CSLA risk-sharing program described in this Notice, so that U.S. companies can compete on similar terms against their international competitors?

8. If you answered "yes" to Question 7, above, under what circumstances do you believe the U.S. Government should or could stop supporting the U.S. commercial launch industry through risk sharing? What criteria (e.g., market share, technological success, other considerations) would you use in deciding that a risk-sharing arrangement between government and industry is no longer necessary or appropriate?

Part II

Reprinted below are the questions presented in the first Internet public meeting, conducted April 27–May 11. You may answer none, some or all of them, and then proceed to Part III.

1. Could the U.S. commercial space transportation industry compete effectively against non-U.S. launch providers without the existing liability risk-sharing regime?

2. Are the liability risk-sharing regimes of other space-faring countries relevant to the competitiveness of the U.S. space transportation industry? Are there specific elements of particular foreign regimes that you believe provide advantages or benefits to entities that fall under those regimes and the ability of non-U.S. launch providers to compete internationally?

3. Does holding a launch operator strictly liable for the damage or injury that results from its launch hinder the commercialization of space launch capability?

4. By treaty, the U.S. Government accepts absolute liability for damage on the ground or to aircraft in flight outside of the United States when a launch takes place from U.S. territory or facilities. Given the Government's obligations in this regard, does the existing liability risk-sharing regime provide adequate coverage and financial protection for the commercial space transportation industry as well as the Government?

5. U.S. and foreign air carriers operating in the United States are required to maintain insurance coverage in certain minimum amounts covering liability to passengers and persons and property on the ground. For aircraft with more than 60 seats or more than 18,000 pounds of capacity, carriers must maintain third-party accident liability coverage in the minimum amount of $300,000 for any one person other than a passenger and a total of $20 million per involved aircraft for each occurrence. There is no government indemnification in the event claims exceed that amount, nor does the U.S. Government accept treaty-based liability in the event of such damage. At what stage of development and under what circumstances should the airline liability regime become a model for commercial reusable launch vehicles (RLVs) that will routinely take-off and land?

6. The Federal Government's current indemnification policy does not cover risks associated with commercial spaceport operations that do not involve launch vehicles. Do commercial spaceports require a liability risk-sharing regime comparable to that utilized for licensed launches and reentries, even when there is no vehicle-related activity taking place at the spaceport?

7. What factors should the U.S. Congress consider in determining whether to continue as-is, or modify, existing laws in terms of liability risk-sharing for commercial space launch and reentry activities?

8. What suggestions do you have for modifying the existing liability risk-sharing laws applicable to commercial launch and reentry activities?

Part III

This part provides an opportunity for you to express your views and concerns on matters related to launch liability, risk management and government policies in support of the U.S. commercial space launch industry. You are welcome to use this opportunity to inform the FAA of your views regarding U.S. commercial space transportation in general, and the government's role in facilitating and supporting commercial access to space and regulating launch safety.

Issued in Washington, DC, on September 12, 2001.

Patricia Grace Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 01–23420 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 10, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 19, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1623.

Regulation Project Number: REG–246256–96 NPRM and Temporary.

Type of Review: Extension.

Title: Excise Taxes on Excess Benefit Transactions.

Description: The rule affects organizations described in Internal Revenue Code sections 501(c)(3) and (4) (applicable tax-exempt organizations). The collection of information entails obtaining and relying on appropriate comparability data and documenting the basis of an organization's determination that compensation is reasonable, or a property transfer (or transfer of the right to use property) is at fair market value. These actions comprise two of the requirements specified in the legislative history for obtaining the rebuttable presumption of reasonableness. Once an applicable tax-exempt organization satisfies the requirements of the presumption, section 4958 excise taxes can only be imposed if the IRS develops sufficient contrary evidence to rebut the probative value of the evidence put forth by the parties to the transaction.

Respondents: Not-for-profit institutions.

Estimated Number of Recordkeepers: 150,427.

Estimated Burden Hours Per Recordkeeper: 6 hours, 3 minutes.

Estimated Total Recordkeeping Burden: 910,083 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–23276 Filed 9–18–01; 8:45 am]

BILLING CODE 4830–01–P

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Federal Register

Wednesday,
September 19, 2001

Part II

The President

Proclamation 7465—National Farm and Ranch Safety and Health Week, 2001

Proclamation 7466—Citizenship Day and Constitution Week, 2001

Proclamation 7467—Minority Enterprise Development Week, 2001

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Presidential Documents

Title 3—

The President

Proclamation 7465 of September 17, 2001

National Farm and Ranch Safety and Health Week, 2001

By the President of the United States of America

A Proclamation

Our Nation's agriculture industry represents 13 percent of our economy and remains central to our prosperity at home and our competitiveness abroad. At the core of this industry are countless dedicated farmers and ranchers working to produce food stuffs at a level of efficiency and quality unrivaled around the globe. In many ways, agriculture ranks among the most crucial of our Nation's industries; and yet, its reliability and productivity are often taken for granted.

Our farmers and ranchers face significant challenges and uncertainty, from inclement weather to damaging insects. They also face health and safety dangers, from exposure to chemicals and the operation of machinery to tending livestock. In 1999, the agriculture industry suffered more than 770 deaths and 150,000 disabling injuries. Of these victims, many were children and young people injured or killed in preventable farm and ranch accidents.

Progress is being made in developing technology that makes farm and ranch work safer. Safety equipment features for tractors, such as roll-over protective structures, bypass starter covers, and hazard warning lights, aid in the prevention of injuries and save lives. Sunscreens, hearing protection devices, and other personal protective equipment reduce the serious health problems caused by toxic gases, chemicals, and harsh environmental conditions. We must increase awareness of the availability of safety and health protection measures. I encourage farmers and ranchers to develop safety and health plans that meet the needs of their businesses, families, and employees. Safety equipment should be installed, maintained regularly, and used consistently. Children also must be taught to recognize risks on the farm and ranch and to help with chores safely.

Despite many hazards and uncertainties, America's farmers and ranchers remain among the most dedicated and productive contributors to our Nation's economy. I am committed to supporting the American farmer and rancher, and my Administration will help those facing financial difficulties caused by storms, droughts, or any other unforseen natural catastrophe. In times of emergency, farmers and ranchers will get the assistance they need, when they need it. I recently signed a $5.5 billion agriculture supplemental bill that affirms my commitment to maintaining a strong and healthy agricultural economy.

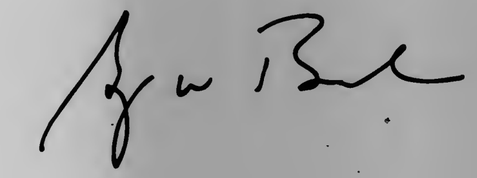
My Administration also will support tax-deferred savings accounts to help farming and ranching families guard against downturns. To keep farms and ranches in a family from generation to generation, we are eliminating the death tax. Finally, farmers and ranchers need foreign markets to sell their products, and I will work hard to ensure that agriculture is a top priority in future trade negotiations.

Our Nation owes a debt of gratitude to our farmers and ranchers for helping to ensure stability in our economy, for providing food products that amply meet all our citizens' needs, and for representing what is best about America. They show the character and values that have made this country strong, values of love and family, faith in God, and respect for nature. We honor

them by encouraging safe farming and ranching practices that improve and protect the lives of all farmers and ranchers.

NOW, THEREFORE I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 16 through September 22, 2001, as National Farm and Ranch Safety and Health Week. I call upon agriculture-related agencies, organizations, and businesses to strengthen their commitment to provide quality safety and health training to farmers, ranchers, and their families. I also call upon citizens to recognize the sacrifice and dedication of those individuals and communities whose work in agriculture provides the quality food that we enjoy.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01-23620
Filed 09-18-01; 12:17 pm]
Billing code 3195-01-P

Presidential Documents

Proclamation 7466 of September 17, 2001

Citizenship Day and Constitution Week, 2001

By the President of the United States of America

A Proclamation

As the delegates to the 1787 Constitutional Convention in Philadelphia began working on what would become the United States Constitution, they grasped that a great democracy must be built on the twin foundations of national consent to a Federal Government and respect for individual rights. After more than two centuries of continual cultural, legal, and economic change, our unique experiment in self-government has borne successful witness to the prescient genius and timeless wisdom of our Founding Fathers. Throughout America's history, in times of turmoil and peace, liberty and oppression, our faith in the Constitution's promise of freedom and democracy has been a steadfast rock of national stability against the raging seas of political change. Today, in the face of the terrorist attacks of September 11, 2001, we must call upon, more than ever, the Constitutional principles that make our country great.

In creating our Nation's Constitutional framework, the Convention's delegates recognized the dangers inherent in concentrating too much power in one person, branch, or institution. They wisely crafted a Government that balanced the functions and authority of a Federal system among three separate but equal branches: the Executive, the Legislative, and the Judicial. As a further check on central power, the Framers granted citizens the right to vote, giving them the power to express their political preferences peacefully and thereby to effect change in the Government.

The Convention delegates ratified the Constitution on September 17, 1787, and submitted it to the States for approval. After much deliberation and discussion at the State level, the following two concerns emerged from among those who feared the Constitution's proposed centralization of Federal power: (1) the threat of tyranny; and (2) the loss of local control. To address these fears, our Founders amended the Constitution by adding a Bill of Rights. These ten amendments provided a series of clear limits on Federal power and a litany of protective rights to citizens. This development underscored the important and enduring Constitutional principle of enumerated powers, and it set our national course on a route that would eventually enhance and expand individual rights and liberties.

Today, our Nation celebrates not only the longest-lived written Constitution in world history, but also the enduring commitment of our forebears who upheld the Constitution's core principles through the travails of American history. They pursued a more perfect Union as abolitionists, as suffragists, or as civil rights activists, successfully seeking Constitutional amendments that have strengthened the protections provided to all Americans under law. In so doing, they rendered the moral resolve of our Nation stronger and clearer.

Our Republic would surely founder but for the faith and confidence that we collectively place in our Constitution. And it could not prosper without our diligent commitment to upholding the Constitution's original words and implementing its founding principles. From the noble efforts of public servants to the civic acts of local people, our continuous Constitutional

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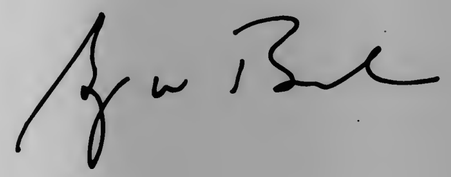
engagement has proved to be an exceptional feature of our Nation's prosperous development.

To continue this legacy, each of us must recognize that we bear a solemn responsibility to promote the ideals of freedom and opportunity throughout our land. We each should serve our Nation by actively supporting and shaping our Government's institutions, by working together to build strong communities, and by loving our neighbors. Doing this will ensure that the American dream will become real for every willing citizen; and, in fulfilling this call together, we will honor the spirit of our powerful and enduring Constitution.

The Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106), designated September 17 as "Citizenship Day," and by joint resolution of August 2, 1956 (36 U.S.C. 108), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as "Constitution Week."

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 17, 2001, as Citizenship Day and September 17 through September 23, 2001, as Constitution Week. I encourage Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs that celebrate our Constitution and reaffirm our commitment as citizens of our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 01–23621
Filed 09–18–01; 12:17 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 7467 of September 17, 2001

Minority Enterprise Development Week, 2001

By the President of the United States of America

A Proclamation

More than three million minority business owners across the United States are helping to build a stronger America. These hardworking men and women contribute everyday to the economic development of their communities by creating jobs and other opportunities for their neighbors. Minority business entrepreneurs represent the best of the American spirit, in their determination to overcome obstacles and in their striving for better lives for themselves and for their families.

My Administration encourages the growth and success of minority businesses across the United States by giving them the tools to succeed. The recent passage of the largest tax cut in nearly two decades is just one of those tools. We also slashed the bottom Federal income tax rate from 15 percent to 10 percent and thereby put more money into the hands of consumers and entrepreneurs. We are eliminating the death tax that has been such a heavy burden on our minority business owners. And I signed into law, Public Law 107-16, the "Economic Growth and Tax Reconciliation Act of 2001," that will increase lower income groups' access to the middle class, promote equal opportunity, and encourage entrepreneurship.

One important way that we can encourage entrepreneurial growth in the minority-owned business community is to open up new markets abroad for American products. If Congress gives me trade promotion authority (TPA), I will have the negotiating power to knock down the trade barriers that prevent American goods from entering some markets around the world. The growth and expanded opportunities that TPA would bring will mean jobs for many working people and more opportunities for minority-owned businesses.

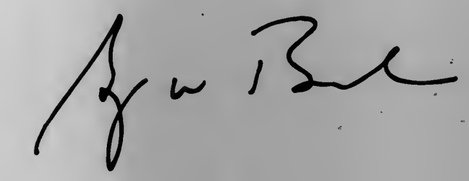
As we celebrate the achievements of our Nation's minority entrepreneurs during Minority Enterprise Development Week, we also affirm our commitment to the principle of equal opportunity. My Administration is working hard to achieve an historic reform in our education system that will significantly improve our schools and make sure that no child is left behind. My agenda also supports effective job training for all Americans to ensure that the American dream touches every willing heart. In so doing, we will enhance our Nation's strength and productivity, while creating more vibrant communities and improved standards of living for every citizen.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 23 through September 29, 2001, as Minority Enterprise Development Week. I urge all Americans to join in observing this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord two thousand one, and of the

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html.* Some laws may not yet be available.

H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34
To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35
To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

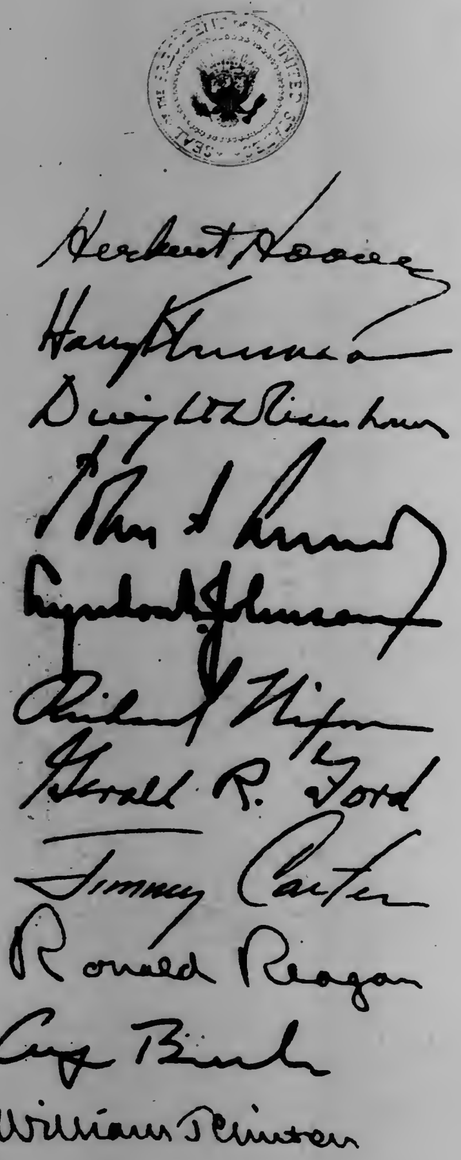
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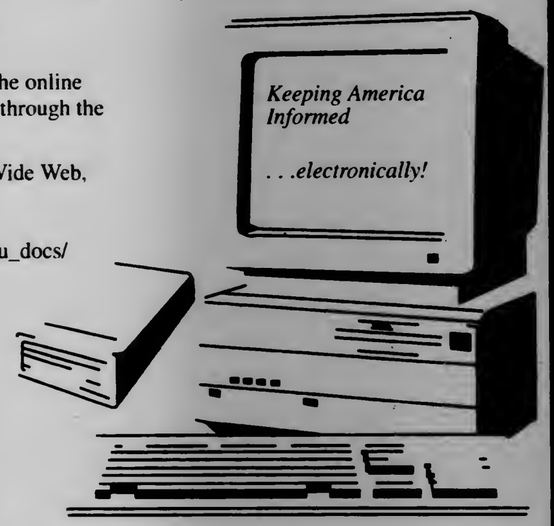
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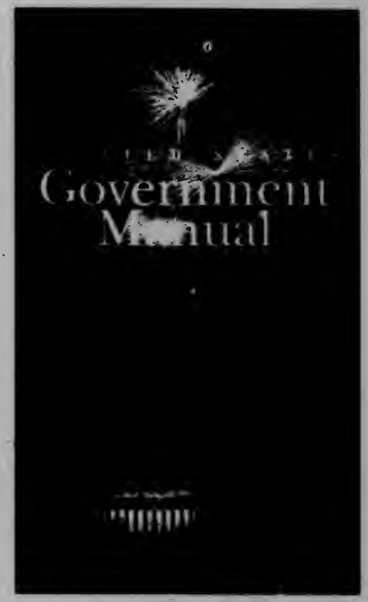
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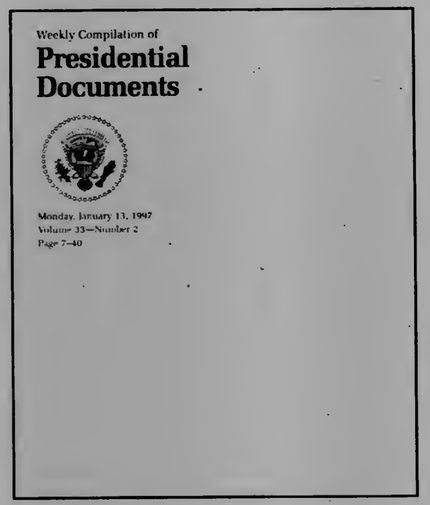
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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

RIN 0584–AC25

National School Lunch Program and School Breakfast Program: Alternatives to Standard Application and Meal Counting Procedures

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the procedures for determining eligibility for free and reduced price meals in the National School Lunch Program and the School Breakfast Program. Regulations provide school food authorities with two alternatives to the standard requirements for the annual determinations of eligibility for free and reduced price school meals and daily meal counts by type, commonly termed "Provision 1" and "Provision 2". This final rule allows for an extension of Provision 2 procedures and provides a new alternative, "Provision 3". For schools choosing to participate in one of the alternate eligibility determination and meal counting procedures, this final rule codifies the alternate counting and claiming provisions of Public Law 103–448 which have been implemented, and revisions to the counting and claiming provisions authorized by Public Laws 104–193 and 105–336. This final rule streamlines program operations for program administrators and participants. State agency and school food authority recordkeeping burdens are expected to decrease because the determinations of eligibility for free and reduced price meals will not be made as frequently. In addition, for those schools electing to participate, this final rule may increase participation in nutritious school meal programs, thereby helping students develop lifelong healthy eating habits. A primary reason for the expected increase in participation is that schools under Provision 2 and Provision 3 would be offering meals at no charge to all enrolled students.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302, ph. (703) 305–2620.

SUPPLEMENTARY INFORMATION: On February 7, 2000, The U.S. Department of Agriculture (the Department or "we") published a proposed rule at 65 FR 5791 to amend 7 CFR part 245 to include changes and additions to the alternatives to standard eligibility determination and meal counting procedures. The February 7, 2000 rule proposed changes to Provision 2, which is codified in 7 CFR part 245, and proposed to codify Provision 3. These changes were necessitated by Public Law 103–448, Public Law 104–193 and Public Law 105–336. For further information on these statutory changes, refer to the proposed rule referenced above.

We received 12 comments on the proposed rule during the 60-day comment period. The majority of commenters approved of the proposed changes, while many also suggested changes or requested clarification in the final rule. Comments were received from local school food authorities, State agencies, advocacy associations and the general public. Several of the commenters addressed issues and concerns that affect both Provision 2 and Provision 3. The remainder of this preamble discusses the changes and clarifications which are being made in the final rule as a result of the comments.

To the extent that a comment generated revisions to both provisions, we address those revisions to the proposed rule under a single paragraph. For example, commenters suggested changes to the proposed streamlined base year. Therefore, in the preamble we provide information regarding changes to the streamlined base year for both Provision 2 and Provision 3 and reference the respective paragraph citations. Other revisions that affect only one of the provisions will be discussed under the heading of the respective provision.

Readers will note that this preamble addresses changes to Provision 2 and Provision 3 as they were proposed. To the extent that no changes were made to the proposed regulatory text, the final rule adopts the provisions as proposed.

Section 245.9 Special Assistance Certification and Reimbursement Alternatives

General Comments and Clarifications

Throughout the proposal, we referenced meal counts at the point of service. For both provisions, point of service meal counts were referenced during the conduct of the base year and as part of the procedures required during non-base years. One commenter questioned whether the reference to "point of service" throughout the proposed rule was intended to preclude approved alternates to meal counts taken at the point of service. We did not intend to preclude approved alternates to point of service meal counts, therefore when referencing meal counts, this final rule clarifies that alternate point of service counts as authorized by 7 CFR part 210 are acceptable.

In accordance with section 11 of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1759a), the proposed rule set forth a Provision 2 and Provision 3 cycle which, while similar, are not identical. The cycle is 4 years in duration for both provisions. However, the base year for Provision 2 was included as part of the 4-year cycle while the base year for Provision 3 immediately preceded the 4-year cycle. Three commenters recommended that the Provision 2 and Provision 3 cycles be revised so that the base years are treated in a similar manner. Because the basis for the difference between the Provision 2 and Provision 3 base years is statutory, the Department is unable to make the provisions identical regarding the base year and subsequent cycle. Thus, the final rule retains the difference between the Provision 2 and Provision 3 base year as it relates to the 4-year cycle.

Specific Provisions

Proposed § 245.9(b) Provision 2, restated the introductory language for the Provision 2 requirements in current regulations and added a definition of

"base year" which did not specify when eligible students and the subsequent

paragraphs (b)(5) and (d)(7) address

These provisions affect schools that

adjusting for inflation, over the base

expanded to allow a participation based

"base year" which did not specify when a school must begin a base year. However, proposed paragraph (b)(3)(ii) Annual percentages, would have required a base year to be a full school year, or the equivalent number of months if a school started the provision at a point in time other than the beginning of a school year. Taken together, these two sections of the proposed rule would have permitted a base year to be initiated at any time during the school year, provided that the base year encompassed the equivalent number of months as a full school year. The Department originally allowed schools to begin a mid-year implementation in order to accommodate statutory changes. This flexibility allowed schools time to learn about the changes and implement them during the same school year.

Several commenters objected to a base year covering more than one school year and suggested that the option to implement Provision 2 and Provision 3 must be exercised at the beginning of the school year.

In recognition of commenter concerns, this final rule requires the base year to begin at the start of the school year. However, in recognition of the difficulty in securing completed applications, this final rule would permit, at State agency discretion, a delayed implementation of the Provision 2 base year not to exceed the first claiming period of the school year in which the base year is established. Delayed implementation would permit schools to charge participating students for reduced price and paid meals in the first claiming period of the base year. Such schools would convert the meal counts, by type, for the remaining months of operation in the Provision 2 base year, when all meals were served at no charge, into annual claiming percentages. These claiming percentages would be applied to the first claiming period for all non-base years of the cycle plus any extensions. To accommodate these changes, a new paragraph (b)(6) was added and the description of base year proposed in paragraph (b) was moved to paragraph (b)(6) of this final rule.

Section 245.9(b)(1) for Provision 2 and § 245.9(d)(1) for Provision 3, Free meals, of the proposed rule stipulated that Provision 2 and Provision 3 schools must serve reimbursable meals, as determined by a point of service observation, to all students at no charge. Two commenters expressed concern that using the term "Free meals" in the heading could cause people to confuse meals served under Provision 2 or Provision 3 with free meals served to eligible students and the subsequent higher level of Federal reimbursement provided for such meals. The Department agrees with commenters that the potential for confusion exists, therefore, this final rule adopts paragraph (b)(1) as proposed, but the title "Free meals" is replaced with the title, "Meals at no charge".

Proposed § 245.9(b)(3)(i), Monthly percentages and § 245.9(b)(3)(ii), Annual percentages, included a description of the procedures to calculate monthly claiming percentages and added a description of a new option to allow annual claiming percentages for Provision 2 schools. Eight commenters supported the option of annual claiming percentages for schools operating under Provision 2. One commenter suggested clarifying that only reimbursable student meals may be included in the calculation. This final rule adopts the monthly and optional annual claiming percentages as proposed, with minor editorial changes, and clarifies that only reimbursable student meals are included in the calculation of monthly and annual claiming percentages.

Two commenters suggested allowing school food authority-wide claiming percentages for Provision 2 when all schools in a school food authority operate under the Provision. We fully considered this option. However, the blending of data to establish school food authority-wide claiming percentages would not properly allocate Federal funds. By blending the data from two or more Provision 2 sites, each sites' numbers would be weighted for their contribution toward the claiming percentages. For example, if two Provision 2 schools were to blend their data with one school serving 800 meals a day and one school serving 200 meals a day, the data from the school which served 800 meals a day would be given more weight than the school serving 200 meals a day. During the non-base years as each of these schools experience changes in the enrollment and participation, the weighting of the base year data would no longer reflect each schools' contribution to the single claiming percentage resulting in an inappropriate loss or gain of Federal reimbursement during non-base years. Therefore, this final rule does not include a provision for school food authority-wide claiming percentages.

As a result of questions raised by commenters, two new paragraphs appear under paragraph (b) Provision 2 and paragraph (d) Provision 3 of this final rule. Newly added paragraphs (b)(4) and (d)(6) address the claims review process and newly added paragraphs (b)(5) and (d)(7) address verification.

One commenter questioned whether edit checks were required in non-base years and, further, suggested that edit checks are not relevant during non-base years. We believe that a system of internal controls is critical to the integrity of the programs. Currently, § 210.8(a)(2) requires school food authorities to review lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement. Specifically, § 210.8(a)(2) permits any school food authority that was found, during its most recent administrative review, to have no meal counting and claiming violations to develop internal controls that ensure accurate meal counts. School food authorities found to have meal count problems are required to follow specific edit check procedures. We agree with the commenter to the degree that edit checks *by type* (free, reduced price and paid) are not relevant during the non-base years of Provision 2 or Provision 3. However, a simplified system of editing total daily meal counts remains a prudent management tool critical to the integrity of the programs. Therefore, the final rule adds new paragraphs clarifying edit check activity under Provision 2 and Provision 3.

Under new paragraph (b)(4), School food authority claims review process, school food authorities are required to review the lunch count data for each Provision 2 school under its jurisdiction in accordance with § 210.8(a)(2) during the base year. However, during non-base years and streamlined base years, school food authorities must conduct a simplified edit check of Provision 2 schools' total daily meal counts as compared to the school's total enrollment, adjusted by an attendance factor.

A similar requirement for Provision 3 schools is found at new paragraph (d)(6), School food authority claims review process. Under this paragraph, school food authorities are required to review lunch count data for each Provision 3 school under its jurisdiction in accordance with § 210.8(a)(2) during the base year. However, during the non-base years and streamlined base years, school food authorities must conduct their own system of oversight or compare each Provision 3 school's total daily meal counts to the school's total enrollment, adjusted by an attendance factor. Both paragraphs (b)(4) and (d)(6) require school food authorities to promptly follow up as specified in § 210.8(a)(4) when the claims review process suggests the likelihood of lunch count problems.

These provisions affect schools that elect to operate Provision 2 or Provision 3 in the National School Lunch Program. If a school elects to operate Provision 2 or Provision 3 only in the School Breakfast Program, school food authorities must continue to comply with the claims review requirements of § 210.8(a)(2) for the National School Lunch Program.

We are also taking this opportunity to clarify the procedures for conducting verification during the base year and non-base years for schools operating under Provision 2 and Provision 3. In accordance with § 245.6a, schools operating under Provision 2 or Provision 3 are subject to the school food authority's verification activity, except as otherwise specified in § 245.6a(a)(5). Section 245.6a(a)(5) states that school food authorities in which all schools participate in the Special Assistance Certification and Reimbursement Alternatives specified in § 245.9 shall meet the verification requirement only in those years in which applications are taken for all children in attendance.

This final rule further clarifies the verification requirements during non-base years as they pertain to Provision 2 in newly added paragraph (b)(5), Verification and Provision 3 in newly added paragraph (d)(7), Verification. When a school elects to participate under Provision 2 or Provision 3 for all of the meal programs in which it participates (breakfast and/or lunch), during the non-base years, the applications from that school are excluded from the verification requirements and are not included when the school food authority determines its required verification sample size. However, if a school operates the School Breakfast Program under Provision 2 or Provision 3 and operates the National School Lunch Program under standard application, counting and claiming procedures, the applications from this school are included in the school food authority's calculation of its required sample size and are subject to verification during non-base years.

Consistent with sections 11(a)(1)(D) and (E) of the NSLA (42 U.S.C. 1759a(1)(D) and 1759a(1)(E)), the proposed rule, (§ 245.9(c) for Provision 2 and § 245.9(e) for Provision 3), would permit extension of Provision 2 or Provision 3 if the income level of the school's population, as adjusted for inflation, has remained stable, declined or has had only negligible improvement since the base year. The proposed rule defined "Negligible improvement" to mean 5% or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population. Five commenters supported the proposal in general. Of the five commenters, one commenter requested that the percentage be increased in schools with a high percentage of needy students. Another commenter suggested increasing the percentage in schools with small populations. We considered these comments and determined that a standard criteria for granting extensions provides for the most consistent implementation of the provisions. Therefore, the final rule retains the definition of negligible improvement as proposed.

Proposed § 245.9(c)(2)(iii) for Provision 2 and § 245.9(e)(2)(iii) for Provision 3, Establish a streamlined base year, would have allowed an enrollment based streamlined base year for those schools that did not receive an extension. Three commenters opposed the option of a streamlined base year for schools that do not receive an extension. The commenters expressed concerns that current data problems with overcertification may be exacerbated through statistical determinations of eligibility. The Department does not anticipate that the use of statistical sampling methodology will have a material effect on the overcertification data problem. However, to address commenter concern, this final rule clarifies that school food authorities must obtain State agency approval prior to conducting a streamlined base year. Two commenters supported the option of conducting an enrollment based, streamlined base year but expressed concern that the proposed method would establish claiming percentages based on enrollment rather than participation. These two commenters recommended adding an additional option, i.e., participation based claiming percentages. We considered these comments and concluded that one of the barriers to a school's participation in Provision 2 or Provision 3 has been the requirement to take free and reduced price applications at the end of each cycle. To make the provisions more accessible, the final rule retains the option to conduct an enrollment based streamlined base year as proposed. In addition, as a result of the information learned from the Department's Paperwork Reduction Pilot Projects and the comments received, paragraph (c)(2)(iii) for Provision 2 and paragraph (e)(2)(iii) for Provision 3, Establish a streamlined base year, has been expanded to allow a participation based streamlined base year.

Under new paragraph (c)(2)(iii)(B) for Provision 2 and paragraph (e)(2)(iii)(B) for Provision 3, Participation based percentages, participation based claiming percentages are allowed in schools operating under Provision 2 or Provision 3 that did not receive an extension. To employ participation based claiming percentages, all meals must be provided at no charge to all participating children. Eligibility for free and reduced price meals is based on household size and income information, and direct certification if applicable, for a statistically valid proportion of participating children. The sample of participating students must be drawn over multiple operating days as defined by guidance.

Proposed § 245.9(d), Provision 3, would have permitted Provision 3 schools to serve all meals at no charge in the base year or charge students eligible for reduced price and paid benefits for their meals. The final rule adopts this provision as proposed, although it limits this option to those base years which are not conducted as a streamlined base year. In schools electing to conduct a streamlined base year in accordance with paragraph (c)(2)(iii) for Provision 2 and paragraph (e)(2)(iii) for Provision 3, all participating students must be provided meals at no charge.

Proposed § 245.9(d)(3), Meal Counts, would have required Provision 3 schools to take daily meal counts of reimbursable meals at the point of service during the non-base years of operation. Unlike the standard meal counting system and Provision 2, these meal counts would not provide the basis for financial assistance under Provision 3. Rather, these meal counts would establish whether participation is declining significantly and, if so, to allow the school food authority or the State agency to intervene and provide technical assistance. We received eight comments regarding the proposed meal counts under Provision 3. Seven of the commenters supported the collection of meal counts. Most commenters agreed that collecting meal counts is a good management tool. One commenter opposed meal counts and expressed concern that schools may have diverted meal counting staff to other duties. The final rule retains the requirement to obtain total daily meal counts for schools operating under Provision 3 as proposed.

The proposal would have permitted State agencies to exempt residential child care institutions from obtaining total daily meal counts during non-base

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years in those cases where enrollment, participation and meal counts do not vary and there is an approved mechanism in place to ensure that students will receive reimbursable meals. Two commenters supported this provision as outlined in the proposed rule, therefore, paragraph (d)(3) is finalized as proposed.

Proposed § 245.9(d)(5) Reporting requirements, would have required the State agency to submit to the Department on the monthly FNS–10, the Report of School Program Operations, the number of meals, by type as an adjustment to enrollment and, if applicable, operating days. As an option, States could construct the number of meals, by type, to reflect the adjusted level of cash assistance. Four comments were received regarding Provision 3 reporting requirements. One of the four commenters felt that the proposed wording was confusing and requested clarification. One commented that changes to the FNS–10 form should be approved by the Education Information Advisory Committee. A third commenter felt that any changes to the FNS–10 form would result in significant programming changes for their automated data reporting system. The fourth commenter noted that adjustments for operating days and enrollment would need to be made manually. Based on these comments we have clarified the wording and at this time no changes are made to the FNS–10 form. In addition, no changes were made to § 210.5(d)(1) which requires State agencies to report to FNS the total number of children approved for free and reduced price meals, and other data, as of the last day of operation in October for all schools, including those participating in Provision 2 and Provision 3. In response to the comments and to simplify the process, paragraph (d)(5) of the final rule includes minor changes intended to clarify the reporting procedures.

Section 245.11 Action by State Agencies and FNSROs

Proposed § 245.11(h)(1), Notification, would have required State agencies to provide notification by February 15 of the fourth year to those school food authorities of schools operating under Provision 2 or Provision 3. The notification would inform school food authorities that they must either return to standard eligibility determination and meal counting procedures or apply for an extension. One commenter expressed concern that February 15 was too early to notify school food authorities and requested a change that would allow State agencies to determine the dates. As a result, paragraph (h)(1) is modified to allow State agencies the option of establishing a date other than February 15, during the fourth year, to notify school food authorities of the requirements.

Proposed § 245.11(h)(2), Return to standard procedures, would have required that schools operating under Provision 2 or Provision 3 return to standard eligibility determination and meal counting procedures if the State agency determined that records were not maintained. One commenter suggested that States also have the authority to determine and assess fiscal action for overclaims, if applicable. Therefore paragraph (h)(2) of this final rule restates the provision as proposed and expands the provision to require State agencies to determine any fiscal action as authorized under § 210.19(c).

Under proposed § 245.11(h)(3), Technical assistance, paragraph (h)(3)(ii) would have required the State agency to provide technical assistance when the State agency determined that, among other things, meal quality declined as a result of the implementation of Provision 2 or Provision 3. Two commenters suggested that criteria should be established for determining whether meal quality has declined as a result of the provisions. After consideration of these comments, we continue to believe that the assessment of meal quality, and the extent to which a decline can be attributed to the implementation of a provision, is best left to the discretion of the State agency. Because an evaluation of meal quality and the factors leading to any decline tend to be site-specific, the final rule restates the provision as proposed without imposing criteria for determining meal quality.

Proposed paragraph (h)(3)(iv) would have required the State agency to provide technical assistance when the State agency determined that, among other things, the school food authority incorrectly conducted eligibility determinations. The final rule expands the provision as proposed to clarify that, in addition to the eligibility determination process, State agencies must provide technical assistance when it is determined that the school food authority conducted the verification process incorrectly.

Proposed § 245.11(h)(4), State agency recordkeeping, would have required State agencies to maintain records of the types of pre-approved socioeconomic data used to grant extensions of Provision 2 and Provision 3. We received four comments expressing concern with the burdens associated with maintaining such records. We acknowledge the concerns. However, this level of operational experience and data are necessary to establish the efficacy of the changes made in this final rule. The Department intends to re-evaluate the recordkeeping burden at a future date and make changes, such as reducing recordkeeping, as appropriate.

As a result of inquiries and operational experiences at the State agency level, we have taken this opportunity to clarify the State agency responsibilities regarding the approval of school food authorities wishing to participate under Provision 2 and Provision 3. Current program requirements establish that State agencies require school food authorities to comply with the applicable provisions of 7 CFR parts 210 and 220. It has been the Department's position that State agencies only approve for participation under Provision 2 or Provision 3 those schools that are operating the programs in accordance with applicable requirements. To clarify State agency responsibilities for approving schools to participate under Provision 2 and Provision 3, the final rule adds a new paragraph (h)(5), State agency approval, which clarifies that prior to approval for participation under Provision 2 or Provision 3, State agencies shall ensure school food authority program compliance as required under 7 CFR 210.19(a)(4) and 220.13(k).

Technical Amendments

Subsequent to the publication of the proposed rule, we determined that a technical amendment to 7 CFR part 245 is necessary to provide clarification regarding the reference to direct certification and the Food Distribution Program on Indian Reservations (FDPIR). Currently part 245 makes a reference to "FDPIR case number or other identifier". The Department intended that the "other identifier" be limited to an FDPIR identifier. For this reason, the words "FDPIR case number or other FDPIR identifier" replace the words "FDPIR case number or other identifier" in § 245.5(a)(1)(vi), § 245.6(a), § 245.6(a)(1), § 245.6a(a), § 245.6a(a)(2)(i) and § 245.6a(a)(3).

Additionally, this final rule corrects an error in § 245.5(a) which occurred in the final rule entitled, School Nutrition Programs: Nondiscretionary Technical Amendments (64 FR 50735). That rule intended to remove an obsolete reference to § 210.2(o)(2). In so doing, it created an unintended error in regulatory text. This final rule corrects that error by restating the intent of the original regulatory text by clarifying that residential child care institutions, as defined under 7 CFR 210.2, are not required to provide a public announcement notification requirements under certain conditions.

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have "federalism implications," agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of the three categories called for under section (6)(a)(B) of Executive Order 13132:

Prior Consultation With State Officials

Prior to drafting this final rule, we received input from State and local agencies at various times. Since the Child Nutrition Programs are State administered, federally funded programs, our regional offices have informal and formal discussions with State and local officials on an ongoing basis regarding program implementation and performance. This arrangement allows State and local agencies to provide feedback that forms the basis for any discretionary decisions in this and other Child Nutrition Program rules. Additionally, the Department issued a proposed rule, found at 65 FR 5791, which solicited public comment. The Department has also discussed the provisions of the proposal in numerous forums. Discussions with State agencies took place at the Biennial State Directors' Meeting held in 1999 and at multiple State agency meetings held at various times throughout 1999 and 2000. Discussions with school food service personnel took place at a meeting sponsored by the American School Food Service Association and in a variety of other small group meetings.

Nature of Concerns and the Need To Issue This Rule

State and local agencies were generally supportive of the provisions in the proposed rule. There were no overwhelming concerns; rather, concerns were expressed about numerous operational issues related to the administrative ease and program integrity. The issuance of a regulation is required to implement statutory changes brought about by Public Laws 103–448, 104–193 and 105–336.

Extent to Which We Meet These Concerns

We have considered all comments received on the proposed rule. Since commenters addressed numerous operational issues, we made every effort to incorporate commenter concerns, particularly those related to administrative ease, within the constraints of statutory authority and concerns for program integrity.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service (FNS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services has certified that this rule will not have a significant economic impact on a substantial number of small entities. This final rule reduces school food authority administrative burdens, streamlines program operations and enhances access to the programs by needy children. The Department does not anticipate any significant fiscal impact would result from implementation of this final rulemaking.

Executive Order 12372

The National School Lunch Program and the School Breakfast Program, which are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555 and 10.556, respectively, are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule, is intended to have a preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which otherwise impede its full implementation. This final rule does not have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the National School Lunch Program and the School Breakfast Program, the administrative procedures are set forth under the following regulations (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q) and 220.14(e); (2) School food authority appeals of FNS findings as a result of an administrative review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d)(3) and 220.14(g); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow the FNS administrative review process as established pursuant to 7 CFR 235.11(f).

Regulatory Impact Analysis

A regulatory impact analysis of the rule identified that it would offer significant benefits for households and school food authorities. The analysis indicates households will benefit from Provision 2 and 3 since they no longer submit applications to their children's schools. In addition, households with reduced price and paid students will no longer have to purchase school lunches for their children (saving them between $40 and $280 per year per student). Students will benefit from the availability of meals at no charge: more students will likely participate in the meal programs and receive well-balanced lunches and breakfasts.

During non-base years, school food authorities of schools operating under Provisions 2 and 3 would experience a significant reduction of administrative

burdens. For example, a hypothetical

control number 0584–0026. This final

"FDPIR case number or other FDPIR

determinations are in accordance with

(ii) *Annual percentages.* In any given

(6) *Base year.* For purposes of this

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burdens. For example, a hypothetical school food authority with 5 schools offering the School Breakfast Program and National School Lunch Program, and operating only the School Breakfast Program as Provision 2, could realize savings of between $350,000 and $440,000 over ten years compared to standard National School Lunch Program and School Breakfast Program operations. As another example, a hypothetical school food authority with 5 schools offering the National School Lunch Program and School Breakfast Program and using Provision 3 in its National School Lunch Program and School Breakfast Program operations could save between $1.1 million and $1.2 million over ten years compared to standard National School Lunch Program and School Breakfast Program operations. These savings would be realized by no longer counting school meals by reimbursement category (free, reduced-price, and paid) and eliminating the associated student classification records system and by no longer collecting applications from households annually. The analysis also indicates that a hypothetical 5-school school food authority using Provision 2 only in its School Breakfast Program operations would need to obtain about $10,800 of non-federal funds a year to make up for the loss experienced under Provision 2.

The analysis also finds that State agencies would experience some additional burden through this rule due to the responsibility of making extension determinations and reporting information on usage of Provision 2 and Provision 3 and possibly having to report information on extension determinations. The analysis asserts that once State agencies and school food authorities are accustomed with Provisions 2 and 3, the extension determination burden on State agencies would be minimal and the reporting burdens would be noticeable, but not significant. However, the significant reduction in burdens by eliminating eligibility determinations, meal counts by type, verification and a payment system for reduced price and full price meals offsets the insignificant increase in burdens associated with extension determinations.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the information reporting and recordkeeping requirements included in §§ 245.9(f), 245.9(g), 245.9(h) and 245.11(h) of this final rule were reviewed by OMB. OMB approved these requirements for 7 CFR part 245 under control number 0584–0026. This final rule codifies Provision 2 and Provision 3 as outlined in the proposed rule. There are no changes in the annual burden hours (ABH) from those identified in the proposed rule. The rule makes nine changes that affect the recordkeeping burden hours as follows: Eliminates the need for school food authorities to develop a notice to parents containing eligibility criteria and maintain documentation (−125 ABH); Requires school food authority recordkeeping of eligibility and meal count documentation (+2,000 ABH); requires updates to policy statements (+238 ABH); eliminates the need for school food authorities to develop and distribute a public release similar to parent letter (−125 ABH); eliminates the need for school food authorities to develop and distribute forms to households (−500 ABH); requires State agencies to keep records of Provision 2 and 3 (+648 ABH); requires State agencies to maintain information on schools participating and extensions (+162 ABH); eliminates schools' need to distribute applications (−1,000 ABH); eliminates schools' review of applications and the process of making eligibility determinations (−8,528 ABH). The rule makes two changes that affect the reporting burden hours as follows: requires school food authorities to submit extension data and documentation to State agencies (+125 ABH); requires State agencies submit extension data and documentation to FNS (+216 ABH). These changes result in a reduction of 7,230 hours in the annual recordkeeping burden and an increase of 341 hours in the reporting burden.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs-education, Civil rights, Food and Nutrition Service, Grant Programs-health, Infants and children, Milk, Reporting and recordkeeping requirements, School breakfast and lunch programs.

Accordingly, 7 CFR part 245 is amended as follows:

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

1. The authority citation is revised to read as follows:

Authority: 42 U.S.C. 1752, 1758, 1759a, 1772, 1773, and 1779.

2. In part 245, the words "FDPIR case number or other identifier" are removed wherever they appear and the words "FDPIR case number or other FDPIR identifier" are added in their place in the following places:

a. § 245.5(a)(1)(vi);
b. § 245.6(a);
c. § 245.6a(a);
d. § 245.6a(a)(2)(i).

3. In part 245, the words "FDPIR case numbers or other identifiers" are removed wherever they appear in § 245.6a(a)(3) and the words "FDPIR case numbers or other FDPIR identifiers" are added in their place.

4. In § 245.2:

a. Paragraph (f–3) is added; and

b. Paragraph (j) is amended by removing the word "two" and adding, in its place, the word "three".

The addition reads as follows:

§ 245.2 Definitions.

* * * * *

(f–3) *Operating day* means a day that reimbursable meals are offered to eligible students under the National School Lunch Program or School Breakfast Program.

* * * * *

5. In § 245.5 revise the first sentence of paragraph (a) to read as follows:

§ 245.5 Public announcement of the eligibility criteria.

(a) After the State agency, or FNSRO where applicable, notifies the school food authority that its criteria for determining the eligibility of children for free and reduced price meals and for free milk have been approved, the school food authority shall publicly announce such criteria: *Provided however,* that no such public announcement shall be required for boarding schools, residential child care institutions (see § 210.2 of this chapter, definition of *Schools*), or a school which includes food service fees in its tuition, where all attending children are provided the same meals or milk. * * * * * * * * * *

6. In § 245.9:

a. A heading is added to paragraph (a) to read "*Provision 1.*", and

b. Paragraphs (b) through (g) are removed and paragraphs (b) through (k) are added in their place.

The additions read as follows:

§ 245.9 Special assistance certification and reimbursement alternatives.

(a) *Provision 1.* * * *

(b) *Provision 2.* A school food authority may certify children for free and reduced price meals for up to 4 consecutive school years in the schools which serve meals at no charge to all enrolled children; provided that public notification and eligibility determinations are in accordance with § 245.5 and § 245.3, respectively, during the base year as defined in paragraph (b)(6) of this section. The Provision 2 base year is the first year, and is included in the 4-year cycle. The following requirements apply:

(1) *Meals at no charge.* Participating schools must serve reimbursable meals, as determined by a point of service observation, or as otherwise approved under part 210 of this chapter, to all participating children at no charge.

(2) *Cost differential.* The school food authority of a school participating in Provision 2 must pay, with funds from non-Federal sources, the difference between the cost of serving lunches and/or breakfasts at no charge to all participating children and Federal reimbursement.

(3) *Meal counts.* During the base year, even though meals are served to participating students at no charge, schools must take daily meal counts of reimbursable student meals by type (free, reduced price, and paid) at the point of service, or as otherwise approved under part 210 of this chapter. During the non-base years, participating Provision 2 schools must take total daily meal counts (not by type) of reimbursable student meals at the point of service, or as otherwise approved under part 210 of this chapter. For the purpose of calculating reimbursement claims in the non-base years, school food authorities must establish school specific monthly or annual claiming percentages, as follows:

(i) *Monthly percentages.* In any given Provision 2 school, the monthly meal counts of the actual number of meals served by type (free, reduced price, and paid) during the base year must be converted to monthly percentages for each meal type. For example, the free lunch percentage is derived by dividing the monthly total number of reimbursable free lunches served by the total number of reimbursable lunches served in the same month (free, reduced price and paid). The percentages for the reduced price and paid lunches are calculated using the same method as the above example for free lunches. These three percentages, calculated at the end of each month of the first school year, are multiplied by the corresponding monthly lunch count total of all reimbursable lunches served in the second, third and fourth consecutive school years, and applicable extensions, in order to calculate reimbursement claims for free, reduced price and paid lunches each month. The free, reduced price and paid percentages for breakfasts and, as applicable, snacks, are calculated using the same method; or

(ii) *Annual percentages.* In any given Provision 2 school, the actual number of all reimbursable meals served by type (free, reduced price, and paid) during the base year must be converted to an annual percentage for each meal type. For example, the free lunch percentage is derived by dividing the annual total number of reimbursable free lunches served by the annual total number of reimbursable lunches served for all meal types (free, reduced price and paid). The percentages for the reduced price and paid lunches are calculated using the same method as the above example for free lunches. These three percentages, calculated at the end of the base year, are multiplied by the total monthly lunch count of all reimbursable lunches served in each month of the second, third and fourth consecutive school years, and applicable extensions, in order to calculate reimbursement claims for free, reduced price and paid lunches each month. The free, reduced price and paid percentages for breakfasts and, as applicable, snacks, are calculated using the same method for each type of meal service.

(4) *School food authority claims review process.* During the Provision 2 base year (not including a streamlined base year under paragraph (c)(2)(iii) of this section), school food authorities are required to review the lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement in accordance with § 210.8(a)(2) of this chapter. During non-base years and streamlined base years, school food authorities must compare each Provision 2 school's total daily meal counts to the school's total enrollment, adjusted by an attendance factor. The school food authority must promptly follow-up as specified in § 210.8(a)(4) of this chapter when the claims review suggests the likelihood of lunch count problems. When a school elects to operate Provision 2 only in the School Breakfast Program, school food authorities must continue to comply with the claims review requirements of § 210.8(a)(2) of this chapter for the National School Lunch Program.

(5) *Verification.* Except as otherwise specified in § 245.6a(a)(5), school food authorities are required to conduct verification in accordance with § 245.6a. When a school elects to participate under Provision 2 or for all of the meal programs in which it participates (breakfast 7 CFR part 220 and/or lunch 7 CFR part 210), the applications from that school are excluded from the school food authority's required verification sample size and are exempt from verification during non-base years.

(6) *Base year.* For purposes of this paragraph (b), the term *base year* means the last school year for which eligibility determinations were made and meal counts by type were taken or the school year in which a school conducted a streamlined base year as authorized under paragraph (c)(2)(iii) of this section. Schools shall offer reimbursable meals to all students at no charge during the Provision 2 base year except as otherwise specified in paragraph (b)(6)(ii) of this section.

(i) *Duration of the base year.* The base year must begin at the start of the school year or as otherwise specified in paragraph (b)(6)(ii) of this section.

(ii) *Delayed implementation.* At State agency discretion, schools may delay implementation of Provision 2 for a period of time not to exceed the first claiming period of the school year in which the base year is established. Schools implementing this option may conduct standard meal counting and claiming procedures, including charging students eligible for reduced price and paid meals, during the first claiming period of the school year. Such schools must submit claims reflecting the actual number of meals served by type. In subsequent years, such schools shall convert the actual number of reimbursable meals served by type (free, reduced price and paid) during the remaining claiming periods of the base year, in which meals were served at no charge to all participating students, to an annual percentage for each type of meal. The annual claiming percentages must be applied to the total number of reimbursable meals served during the first claiming period in all non-base years of operation for that cycle and any extensions.

(c) *Extension of Provision 2.* At the end of the initial cycle, and each subsequent 4-year cycle, the State agency may allow a school to continue under Provision 2 for another 4 years using the claiming percentages calculated during the most recent base year if the school food authority can establish, through available and approved socioeconomic data, that the income level of the school's population, as adjusted for inflation, has remained stable, declined or has had only negligible improvement since the base year.

(1) *Extension criteria.* School food authorities must submit to the State agency available and approved socioeconomic data to establish whether the income level of a school's population, as adjusted for inflation, remained constant with the income level of the most recent base year.

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(i) *Available and approved sources of socioeconomic data.* Pre-approved sources of socioeconomic data which may be used by school food authorities to establish the income level of the school's population are: local data collected by the city or county zoning and economic planning office; unemployment data; local Food Stamp Program certification data including direct certification; Food Distribution Program on Indian Reservations data; statistical sampling of the school's population using the application or equivalent income measurement process; and, Temporary Assistance for Needy Families data (provided that the eligibility standards were the same or more restrictive in the base year as the current year with allowance for inflation). To grant an extension using pre-approved socioeconomic data sources, State agencies must review and evaluate the socioeconomic data submitted by the school food authority to ensure that it is reflective of the school's population, provides equivalent data for both the base year and the last year of the current cycle, and demonstrates that the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement. If the school food authority wants to establish the income level of the school's population using alternate sources of socioeconomic data, the use of such data must be approved by the Food and Nutrition Service. Data from alternate sources must be reflective of the school's population, be equivalent data for both the base year and the last year of the current cycle, and effectively measure whether the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement.

(ii) *Negligible improvement.* The change in the income level of the school's population shall be considered negligible if there is a 5 percent or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population.

(2) *Extension not approved.* The State agency shall not approve an extension of Provision 2 procedures in those schools for which the available and approved socioeconomic data does not reflect the school's population, is not equivalent data for the base year and the last year of the current cycle, or shows over 5 percent improvement, after adjusting for inflation, in the income level of the school's population. Such schools shall:

(i) *Return to standard meal counting and claiming.* Return to standard meal counting and claiming procedures;

(ii) *Establish a new base year.* Establish a new Provision 2 base year by taking new free and reduced price applications, making new free and reduced price eligibility determinations, and taking point of service counts of free, reduced price and paid meals for the first year of the new cycle. For these schools, the new Provision 2 cycle will be 4 years. Schools electing to establish a Provision 2 base year shall follow procedures contained in paragraph (b) of this section;

(iii) *Establish a streamlined base year.* With prior approval by the State agency, establish a streamlined base year by providing reimbursable meals to all participating students at no charge and developing either enrollment based or participation based claiming percentages.

(A) *Enrollment based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 2 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of the school's enrollment as of October 31, or other date approved by the State agency. The statistically valid measurement of the school's enrollment must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, enrollment based claiming percentages representing a proportion of the school's population eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service, or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 2, these percentages shall be used for claiming reimbursement for each year of the new cycle and any extensions; or

(B) *Participation based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 2 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of participating students established over multiple operating days. The statistically valid measurement of the school's student participation must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, participation based claiming percentages representing a proportion of the school's participating students which are eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service or as otherwise approved under part 210 of this chapter. These percentages shall be used for claiming reimbursement for each year of the new cycle and any extensions; or

(iv) *Establish a Provision 3 base year.* Schools may convert to Provision 3 using the procedures contained in paragraphs (e)(2)(ii) or (e)(2)(iii) of this section.

(d) *Provision 3.* A school food authority of a school which serves all enrolled children in that school reimbursable meals at no charge during any period for up to 4 consecutive school years may elect to receive Federal cash reimbursement and commodity assistance at the same level as the total Federal cash and commodity assistance received by the school during the last year that eligibility determinations for free and reduced price meals were made and meals were counted by type (free, reduced price and paid) at the point of service, or as otherwise authorized under part 210 of this chapter. Such cash reimbursement and commodity assistance will be adjusted for each of the 4 consecutive school years pursuant to paragraph (d)(4) of this section. For purposes of this paragraph (d), the term base year means the last complete school year for which eligibility determinations were made and meal counts by type were taken or the school year in which a school conducted a streamlined base year as authorized under paragraph (e)(2)(iii) of this section. The base year must begin at the start of a school year. Reimbursable meals may be offered to all students at no charge or students eligible for reduced price and paid meal benefits may be charged for meals during a Provision 3 base, *except that* schools conducting a Provision 3 streamlined base year must provide reimbursable meals to all participating students at no charge in accordance with paragraph (e)(2)(iii) of this section. The Provision 3 base year immediately precedes, and is not included in, the 4-year cycle. This alternative shall be known as Provision 3, and the following requirements shall apply:

(1) *Meals at no charge.* Participating schools must serve reimbursable meals, as determined by a point of service observation, or as otherwise authorized under part 210 of this chapter, to all participating children at no charge during non-base years of operation or as specified in paragraph (e)(2)(iii) of this section, if applicable.

(2) *Cost differential.* The school food authority of a school participating in Provision 3 must pay, with funds from non-Federal sources, the difference between the cost of serving lunches and/or breakfasts at no charge to all participating children and Federal reimbursement.

(3) *Meal counts.* Participating schools must take total daily meal counts of reimbursable meals served to participating children at the point of service, or as otherwise authorized under part 210 of this chapter, during the non-base years. Such meal counts must be retained at the local level in accordance with paragraph (g) of this section. State agencies may require the submission of the meal counts on the school food authority's monthly Claim for Reimbursement or through other means. In addition, school food authorities must establish a system of oversight using the daily meal counts to ensure that participation has not declined significantly from the base year. If participation declines significantly, the school food authority must provide the school with technical assistance, adjust the level of financial assistance received through the State agency or return the school to standard eligibility determination and meal counting procedures, as appropriate. In residential child care institutions, the State agency may approve implementation of Provision 3 without the requirement to obtain daily meal counts of reimbursable meals at the point of service if:

(i) The State agency determines that enrollment, participation and meal counts do not vary; and

(ii) There is an approved mechanism in place to ensure that students will receive reimbursable meals.

(4) *Annual adjustments.* The State agency or school food authority shall make annual adjustments for enrollment and inflation to the total Federal cash and commodity assistance received by a Provision 3 school in the base year. The adjustments shall be made for increases and decreases in enrollment of children with access to the program(s). The annual adjustment for enrollment shall be based on the school's base year enrollment as of October 31 compared to the school's current year enrollment as of October 31. Another date within the base year may be used if it is approved by the State agency, and provides a more accurate reflection of the school's enrollment or accommodates the reporting system in effect in that State. If another date is used for the base year, the current year date must correspond to the base year date of comparison. State agencies may, at their discretion, make additional adjustments to a participating school's enrollment more frequently than once per school year. If more frequent enrollment is calculated, it must be applied for both upward and downward adjustments. The annual adjustment for inflation shall be effected through the application of the current year rates of reimbursement. To the extent that the number of operating days in the current school year differs from the number of operating days in the base year, and the difference affects the number of meals, a prorata adjustment shall also be made to the base year level of assistance, as adjusted by enrollment and inflation. Upward and downward adjustments to the number of operating days shall be made. Such adjustment shall be effected by either:

(i) Multiplying the average daily meal count by type (free, reduced price and paid) by the difference in the number of operating days between the base year and the current year and adding/subtracting that number of meals from the Claim for Reimbursement, as appropriate. In developing the average daily meal count by type for the current school year, schools shall use the base year data adjusted by enrollment; or

(ii) Multiplying the dollar amount otherwise payable (i.e., the base year level of assistance, as adjusted by enrollment and inflation) by the ratio of the number of operating days in the current year to the number of operating days in the base year.

(5) *Reporting requirements.* The State agency shall submit to the Department on the monthly FNS–10, Report of School Programs Operations, the number of meals, by type (i.e., monthly meal counts by type for the base year, as adjusted); or the number of meals, by type, constructed to reflect the adjusted levels of cash assistance. State agencies may employ either method to effect payment of reimbursement for Provision 3 schools.

(6) *School food authority claims review process.* During the Provision 3 base year (not including a streamlined base year under paragraph (e)(2)(iii) of this section), school food authorities are required to review the lunch count data for each school under its jurisdiction to ensure the accuracy of the monthly Claim for Reimbursement in accordance with § 210.8(a)(2) of this chapter. During non-base years and streamlined base years, school food authorities must conduct their own system of oversight or compare each Provision 3 school's total daily meal counts to the school's total enrollment, adjusted by an attendance factor. The school food authority must promptly follow-up as specified in § 210.8(a)(4) of this chapter when the claims review suggests the likelihood of lunch count problems. When a school elects to operate Provision 3 only in the School Breakfast Program, school food authorities must continue to comply with the claims review requirements of § 210.8(a)(2) of this chapter for the National School Lunch Program.

(7) *Verification.* Except as otherwise specified in § 245.6a(a)(5), school food authorities are required to conduct verification in accordance with § 245.6a. When a school elects to participate under Provision 3 for all of the meal programs in which it participates (breakfast 7 CFR part 220 and/or lunch 7 CFR part 210), the applications from that school are excluded from the school food authority's required verification sample size and are exempt from verification during non-base years.

(e) *Extension of Provision 3.* At the end of the initial cycle, and each subsequent 4-year cycle, the State agency may allow a school to continue under Provision 3 for another 4 years without taking new free and reduced price applications and meal counts by type. State agencies may grant an extension of Provision 3 if the school food authority can establish, through available and approved socioeconomic data, that the income level of the school's population, as adjusted for inflation, has remained stable, declined, or has had only negligible improvement since the most recent base year.

(1) *Extension criteria.* School food authorities must submit to the State agency available and approved socioeconomic data to establish whether the income level of the school's population, as adjusted for inflation, remained constant with the income level of the most recent base year.

(i) *Available and approved sources of socioeconomic data.* Pre-approved sources of socioeconomic data which may be used by school food authorities to establish the income level of the school's population are: local data collected by the city or county zoning and economic planning office; unemployment data; local Food Stamp Program certification data including direct certification; Food Distribution Program on Indian Reservations data; statistical sampling of the school's population using the application process; and Temporary Assistance for Needy Families data (provided that the eligibility standards were the same or more restrictive in the base year as the current year with allowance for inflation). To grant an extension using pre-approved socioeconomic data sources, State agencies must review and

evaluate the socioeconomic data submitted by the school food authority to ensure that it is reflective of the school's population, provides equivalent data for both the base year and the last year of the current cycle, and demonstrates that the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement. If the school food authority wants to establish the income level of the school's population using alternate sources of data, the use of such data must be approved by the Food and Nutrition Service. Data from alternate sources must be reflective of the school's population, be equivalent data for both the base year and the last year of the current cycle, and effectively measure whether the income level of the school's population, as adjusted for inflation, has remained stable, declined or had only negligible improvement.

(ii) *Negligible improvement.* The change in the income level of the school population shall be considered negligible if there is a 5 percent or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population.

(2) *Extension not approved.* Schools for which the available and approved socioeconomic data does not reflect the school's population, is not equivalent data for the base year and the last year of the current cycle, or shows over 5 percent improvement after adjusting for inflation, shall not be approved for an extension. Such schools must elect one of the following options:

(i) *Return to standard meal counting and claiming.* Return to standard meal counting and claiming procedures;

(ii) *Establish a new base year.* Establish a new Provision 3 base year by taking new free and reduced price applications, making new free and reduced price eligibility determinations, and taking point of service counts of free, reduced price and paid meals for the first year of the new cycle. Schools electing to establish a Provision 3 base year shall follow procedures contained in paragraph (d) of this section;

(iii) *Establish a streamlined base year.* With prior approval by the State agency, establish a streamlined base year by providing reimbursable meals to all participating students at no charge and developing either enrollment based or participation based claiming percentages.

(A) *Enrollment based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 3 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of the school's enrollment as of October 31, or other date approved by the State agency. The statistically valid measurement of the school's enrollment must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, enrollment based claiming percentages representing a proportion of the school's population eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service, or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 3, the streamlined base year level of assistance will be adjusted for enrollment, inflation and, if applicable, operating days, for each subsequent year of the new cycle and any extensions; or

(B) *Participation based percentages.* In accordance with guidance established by the Food and Nutrition Service, establish a new Provision 3 base year by determining program eligibility on the basis of household size and income, and direct certification if applicable, for a statistically valid proportion of participating students established over multiple operating days. The statistically valid measurement of the school's student participation must be obtained during the first year of the new cycle and meet the requirements of paragraph (k) of this section. Using the data obtained, participation based claiming percentages representing a proportion of the school's participating students which are eligible for free, reduced price and paid benefits shall be developed and applied to total daily meal counts of reimbursable meals at the point of service or as otherwise approved under part 210 of this chapter. For schools electing to participate in Provision 3, the streamlined base year level of assistance as described in this paragraph (e)(2)(iii)(B) will be adjusted for enrollment, inflation and, if applicable, operating days, for each subsequent year of the new cycle and any extensions; or

(iv) *Establish a Provision 2 base year.* Schools may convert to Provision 2 using the procedures contained in paragraphs (c)(2)(ii) or (c)(2)(iii) of this section.

(f) *Policy statement requirement.* A school food authority of a Provision 1, 2, or 3 school shall:

(1) Amend its Free and Reduced Price Policy Statement, specified in § 245.10, to include a list of all schools participating in Provision 1, 2, or 3, and for each school:

(i) The initial year of implementing the provision;

(ii) The years the cycle is expected to remain in effect;

(iii) The year the provision must be reconsidered; and

(iv) The available and approved socioeconomic data that will be used in the reconsideration, if applicable.

(2) Certify that the school(s) meet the criteria for participating in the special assistance provisions, as specified in paragraphs (a), (b), (c), (d) or (e) of this section, as appropriate.

(g) *Recordkeeping.* School food authorities of schools implementing Provision 1, 2 or 3 shall retain records related to the implementation of the provision. Failure to maintain sufficient records shall result in the State agency requiring the school to return to standard meal counting and claiming procedures and/or fiscal action. Recordkeeping requirements specific to Provision 2 and Provision 3 include:

(1) *Base year records.* A school food authority shall ensure that records as specified in § 210.15(b) and § 220.7(e) of this chapter which support subsequent year earnings are retained for the base year for schools under Provision 2 and Provision 3. In addition, records of enrollment data for the base year must be retained for schools under Provision 3. Such base year records must be retained during the period the provision is in effect, including all extensions, plus 3 fiscal years after the submission of the last Claim for Reimbursement which employed the base year data. School food authorities that conduct a streamlined base year must retain all records related to the statistical methodology and the determination of claiming percentages. Such records shall be retained during the period the provision is in effect, including all extensions, plus 3 fiscal years after the submission of the last Claim for Reimbursement which employed the streamlined base year data. In either case, if audit findings have not been resolved, base year records must be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit.

(2) *Non-base year records.* School food authorities that are granted an extension of a provision must retain records of the available and approved socioeconomic data which is used to determine the income level of the school's population for the base year and year(s) in which extension(s) are made. In addition, State agencies must also retain records of the available and approved socioeconomic data which is used to determine the income level of the school's population for the base year and year(s) in which extensions are made. Such records must be retained at both the school food authority level and at the State agency during the period the provision is in effect, including all extensions, plus 3 fiscal years after the submission of the last monthly Claim for Reimbursement which employed base year data. If audit findings have not been resolved, records must be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit. In addition, for schools operating under Provision 2, a school food authority must retain non-base year records pertaining to total daily meal count information, edit checks and on-site review documentation. For schools operating under Provision 3, a school food authority must retain non-base year records pertaining to total daily meal count information, the system of oversight or edit checks, on-site review documentation, annual enrollment data and the number of operating days, which are used to adjust the level of assistance. Such records shall be retained for three years after submission of the final monthly Claim for Reimbursement for the fiscal year.

(h) *Availability of documentation.* Upon request, the school food authority shall make documentation including enrollment data, participation data, available and approved socioeconomic data that was used to grant the extension, if applicable, or other data available at any reasonable time for monitoring and audit purposes. In addition, upon request from the Food and Nutrition Service, school food authorities under Provision 2 or Provision 3, or State agencies shall submit to the Food and Nutrition Service all data and documentation used in granting extensions including documentation as specified in paragraphs (g) and (h) of this section.

(i) *Return to standard meal counting and claiming.* A school food authority may return a school to standard notification, certification and counting procedures at any time if standard procedures better suit the school's program needs. The school food authority will then notify the State agency.

(j) *Puerto Rico and Virgin Islands.* Puerto Rico and the Virgin Islands, where a statistical survey procedure is permitted in lieu of eligibility determinations for each child, may either maintain their standard procedures in accordance with § 245.4 or may opt for Provision 2 or Provision 3 provided the eligibility requirements as set forth in paragraphs (a), (b), (c), (d) and (e) of this section are met, as applicable.

(k) *Statistical income measurements.* Statistical income measurements that are used under this section to establish enrollment or participation base claiming percentages must comply with the standards outlined as follows:

(1) For enrollment based claiming percentages, statistical income measurements must meet the following standards:

(i) The sample frame shall be limited to enrolled students who have access to the school meals program;

(ii) A sample of enrolled students shall be randomly selected from the sample frame;

(iii) The response rate to the survey shall be at least 80 percent;

(iv) The number of households that complete the survey shall be sufficiently large so that it can be asserted with 95 percent confidence that the true percentage of students who are enrolled in the school, have access to the school meals program, and are eligible for free meals is within plus or minus 2.5 percentage points of the point estimate determined from the sample; and

(v) To minimize statistical bias, data from all households that complete the survey must be used when calculating the enrollment based claiming percentages for paragraphs (c)(2)(iii)(A) and (e)(2)(iii)(A) of this section.

(2) For participation based claiming percentages, statistical income measurements must meet the following standards:

(i) The sample frame must be limited to students participating in the meal program for which the participation based claiming percentages are being developed;

(ii) The sample frame must represent multiple operating days, as established through guidance, in the meal program for which the participation based claiming percentages are being developed;

(iii) A sample of participating students shall be randomly selected from the sample frame;

(iv) The response rate to the survey shall be at least 80 percent;

(v) The number of households that complete the survey shall be sufficiently large so that it can be asserted with 95 percent confidence that the true percentage of participating students who are eligible for free meals is within plus or minus 2.5 percentage points of the point estimate determined from the sample; and,

(vi) To minimize statistical bias, data from all households that complete the survey must be used when calculating the participation based claiming percentages for paragraphs (c)(2)(iii)(B) and (e)(2)(iii)(B) of this section.

7. In § 245.11, a new paragraph (h) is added to read as follows:

§ 245.11 Action by State agencies and FNSROs.

* * * * *

(h) The State agency shall take action to ensure the proper implementation of Provisions 1, 2, and 3. Such action shall include:

(1) *Notification.* Notifying school food authorities of schools implementing Provision 2 and/or 3 that each Provision 2 or Provision 3 school must return to standard eligibility determination and meal counting procedures or apply for an extension under Provision 2 or 3. Such notification must be in writing, and be sent no later than February 15, or other date established by the State agency, of the fourth year of a school's current cycle;

(2) *Return to standard procedures.* Returning the school to standard eligibility determination and meal counting procedures and fiscal action as required under § 210.19(c) of this chapter if the State agency determines that records were not maintained; and

(3) *Technical assistance.* Providing technical assistance, adjustments to the level of financial assistance for the current school year, and returning the school to standard eligibility determination and meal counting procedures, as appropriate, if a State agency determines at any time that:

(i) The school or school food authority has not correctly implemented Provision 1, Provision 2 or Provision 3;

(ii) Meal quality has declined because of the implementation of the provision;

(iii) Participation in the program has declined over time;

(iv) Eligibility determinations or the verification procedures were incorrectly conducted; or

(v) Meal counts were incorrectly taken or incorrectly applied.

(4) *State agency recordkeeping.* State agencies shall retain the following information annually for the month of October and, upon request, submit to FNS:

(i) The number of schools using Provision 1, Provision 2 and Provision 3 for NSLP;

(ii) The number of schools using Provision 2 and Provision 3 for SBP only;

(iii) The number of extensions granted to schools using Provision 2 and Provision 3 during the previous school year;

(iv) The number of extensions granted during the previous year on the basis of Food Stamp/FDPIR data;

(v) The number of extensions granted during the previous year on the basis of Temporary Assistance for Needy Families (TANF) data;

(vi) The number of extensions granted during the previous year on the basis of local data collected by a city or county zoning and/or economic planning office:

(vii) The number of extensions granted during the previous year on the basis of applications collected from enrolled students;

(viii) The number of extensions granted during the previous year on the basis of statistically valid surveys of enrolled students; and

(ix) The number of extensions granted during the previous year on the basis of alternate data as approved by the State agency's respective FNS Regional Office.

(5) *State agency approval.* Prior to approval for participation under Provision 2 or Provision 3, State agencies shall ensure school and/or school food authority program compliance as required under §§ 210.19(a)(4) and 220.13(k) of this chapter.

Dated: September 11, 2001.

Eric M. Bost,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 01–23350 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 287

[INS No. 2171–01]

RIN 1115–AG40

Custody Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comment.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations on the period of time after an alien's arrest within which the Service must make a determination whether the alien will be continued in custody or released on bond or recognizance and whether to issue a notice to appear and warrant of arrest. This rule provides that unless voluntary departure has been granted, the Service must make such determinations within 48 hours of arrest, except in the event of emergency or other extraordinary circumstance in which case the Service must make such determinations within an additional reasonable period of time.

DATES: *Effective date:* September 17, 2001.

Comment date: Written comments must be submitted on or before November 19, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling please reference INS No. 2171–01 on your correspondence. You may also submit comments electronically to the Service at *insregs@usdoj.gov*. When submitting comments electronically please include INS No. 2171–01 in the subject box. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Cristina Hamilton, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION:

Background

What Is the Basis for the Interim Rule?

The current rule provides that unless voluntary departure is granted, the Service must make determinations within 24 hours of an alien's arrest whether to continue the alien in custody or to release the alien on bond or recognizance and whether to issue a notice to appear and a warrant of arrest. However, this 24-hour period is not mandated by constitutional requirements. The interim rule provides the Service 48 hours to make these determinations, except in the event of emergency or other extraordinary circumstance in which case the Service must make such determinations within an additional reasonable period of time.

Explanation of Changes

The interim rule amends § 287.3(d), "Custody procedures." The current language of that section provides that unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, the Service has a period of 24 hours following the arrest of an alien in which it must determine whether the alien will be continued in custody or released on bond or recognizance and whether to issue a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239.

Inasmuch as the 24-hour determination period is not mandated by constitutional principles, the Service is amending the rule to provide that unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, the Service generally must make the determinations as to custody or release of the alien and as to the issuance of the notice to appear and warrant of arrest within 48 hours of arrest. The Service may often require this additional time in order to establish an alien's true identity; to check domestic, foreign, or international databases and records systems for relevant information regarding the alien; and to liaise with appropriate law enforcement agencies in the United States and abroad.

In situations involving an emergency or other extraordinary circumstance, the Service may require additional time beyond 48 hours to process cases, to arrange for additional personnel or resources, and to coordinate with other law enforcement agencies. Therefore, the interim rule provides an exception to the 48-hour general rule for any case arising during or in connection with an emergency or other extraordinary circumstance, in which case the Service must make the determinations as to custody or release and as to the issuance of the notice to appear and warrant of arrest within an additional reasonable period of time.

Administrative Procedure Act 5 U.S.C. 553

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the foreign affairs exception, 5 U.S.C. 553(a)(1), and upon findings of good cause pursuant to 5 U.S.C. 553(b)(B) and (d).

The immediate implementation of this interim rule without public comment is necessary to ensure that the Service has sufficient time, personnel, and resources to process cases—including establishing true identities and communicating with other law enforcement agencies—that arise in connection with the emergency posed by the recent terrorist activities perpetrated on United States soil. This rule does not alter the standards for issuing charging documents or determining the issue of custody or release, but simply extends the period by which the Service must make such determinations. For this reason, the Service has determined that there is good cause to publish this interim rule and to make it effective immediately, because the delays inherent in the regular notice and comment process would be "impracticable, unnecessary and contrary to the public interest."

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule addresses only government operations. It places no new obligations on small entities or other private individuals or businesses. It should have no appreciable economic impact.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule in not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting and recordkeeping requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 287

Administrative practice and procedure, Aliens, Immigration.

Accordingly, part 287 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 287—FIELD OFFICERS; POWERS AND DUTIES

1. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

2. Section 287.3(d) is revised to read as follows:

§ 287.3 Disposition of cases of aliens arrested without warrant.

* * * * *

(d) *Custody procedures.* Unless voluntary departure has been granted pursuant to subpart C of 8 CFR part 240, a determination will be made within 48 hours of the arrest, except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time, whether the alien will be continued in custody or released on bond or recognizance and whether a notice to appear and warrant of arrest as prescribed in 8 CFR parts 236 and 239 will be issued.

Dated: September 17, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–23545 Filed 9–17–01; 4:51 pm]

BILLING CODE 4410–10–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33–8004; 34–44792; IC–25157; FR–57]

RIN 3235–A131

Bookkeeping Services Provided by Auditors To Audit Clients In Emergency or Other Unusual Situations

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Interpretation.

SUMMARY: This release expresses the view of the Commission that auditors of the financial statements of Commission registrants may provide certain bookkeeping services to those audit clients directly affected by the events of September 11, 2001.

EFFECTIVE DATE: September 14, 2001.

FOR FURTHER INFORMATION CONTACT: John M. Morrissey, Deputy Chief Accountant or Samuel L. Burke, Associate Chief Accountant, Office of the Chief Accountant, at (202) 942–4400, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1103.

SUPPLEMENTARY INFORMATION:

I. Introduction and Summary

Accounting firms and registrants have asked the Commission whether accounting firms may assist audit clients that had offices in and around the World Trade Center by participating in the recovery process to facilitate a timely, effective and efficient revitalization of their audit clients' records and systems that were destroyed in the events of September 11, 2001, without impairing the auditor's independence from those clients. The Commission believes that accounting firms may perform such services without impairing their independence.

II. Discussion

In November 2000, the Commission substantially revised Rule 2–01 of Regulation S–X,[1] which addresses auditors' independence from their audit clients filing financial statements with the Commission.[2] As amended, Rule 2–01(c)(4)(i)(A) states that, among other things, maintaining or preparing an audit client's accounting records or preparing or originating source data underlying an audit client's financial

[1] 17 CFR 210.2–01.

[2] [Release No. 33–7919; 34–43602, 35–27279; IC–24744; IA–1911; FR–56 (November 20, 2000).]

statements will impair an auditor's

COURT SERVICES AND OFFENDER

may prevent escalation of the offender's

Regulatory Flexibility Act

810.2 Accountability contract.

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statements will impair an auditor's independence from that client. Rule 2–01(c)(4)(i)(B)(1), however, permits such bookkeeping services "in emergency or other unusual situations, provided the accountant does not undertake any managerial actions or make any managerial decisions."

The Commission believes that the events of September 11, 2001, clearly meet the definition of an unusual situation and an emergency situation for those companies that have been directly affected by the destruction of the World Trade Center and damage to surrounding buildings.

Accordingly, this event qualifies as an "emergency or other unusual situation" under Rule 2–01(c)(4)(i)(B)(1) of the bookkeeping rule and, provided that the accounting firm does not undertake managerial actions or decisions, an accounting firm's independence will not be deemed to be impaired where a firm is providing bookkeeping services to those entities directly affected by the destruction of the World Trade Center and damage to surrounding buildings. The Commission understands that in this unique situation an auditor may be best suited, because of its knowledge of its client's financial systems, to participate in the recovery process and facilitate a timely, effective and efficient revitalization of its clients' records and systems. Services under this exception may continue until the client's host or destroyed records are reconstructed and its financial systems are fully operational, and the client can effect an orderly and efficient transition to management or other service providers.

List of Subjects in 17 CFR Part 211

Securities.

Amendments to the Code of Federal Regulations

For the reasons set forth in the release, we are amending title 17, chapter II of the Code of Federal Regulations as follows:

PART 211—INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

1. Part 211, subpart A, is amended by adding Release No. FR–57 and the release date of September 14, 2001 to the list of interpretive releases.

Dated: September 14, 2001.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23434 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Part 810

[CSOSA–0002–I]

RIN 3225–AA00

Community Supervision: Administrative Sanctions Schedule

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Interim rule.

SUMMARY: In this document, the Court Services and Offender Supervision Agency for the District of Columbia ("CSOSA") is adopting interim regulations on administrative sanctions which may be imposed on offenders under CSOSA's supervision who violate the general or specific conditions of their release. The purpose of imposing sanctions is to enable CSOSA staff to respond as swiftly, certainly, and consistently as practicable to non-compliant behavior. Using sanctions will reduce the number of violation reports sent to the releasing authority (for example, the sentencing court or the United States Parole Commission). CSOSA staff will be able to refer offenders back to the releasing authority having demonstrated that CSOSA has exhausted the range of options at its disposal to change the offender's non-compliant behavior. The releasing authority may then concentrate on those referrals which fully merit scrutiny. The purpose of the regulations is to prevent crime, reduce recidivism, and support the fair administration of justice through the promotion of effective community supervision.

DATES: Effective September 20, 2001; comments must be submitted by November 19, 2001.

ADDRESSES: Office of the General Counsel, CSOSA, Room 1253, 633 Indiana Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Records Manager (telephone (202) 220–5359; e-mail *roy.nanovic@csosa.gov*).

SUPPLEMENTARY INFORMATION: The Court Services and Offender Supervision Agency for the District Of Columbia ("CSOSA") is adopting interim regulations on the imposition of administrative sanctions for offenders under CSOSA's supervision.

CSOSA is responsible for the supervision of adults on probation, parole, or supervised release in the District of Columbia. A critical factor in such supervision is the ability to introduce an accountability structure into the supervision process and to provide swift, certain, and consistent responses to non-compliant behavior. Under traditional procedures, when offenders under CSOSA supervision violate the general or specific conditions of their release, CSOSA staff must refer the matter to the releasing authority. In most cases, the releasing authority is the sentencing court (usually the Superior Court of the District of Columbia) or the United States Parole Commission ("USPC"). The releasing authority, however, may include any of the jurisdictions participating in the Interstate Compact. The referrals necessarily increase the workload for the releasing authority. The response and response time between a reported violation and a hearing is consequently uncertain.

Regulations issued by the USPC (*see* 28 CFR 2.85(a)(15)) authorize CSOSA's community supervision officers to impose graduated sanctions if a parolee has tested positive for illegal drugs or has committed any non-criminal violation of the conditions of parole. The USPC retains the authority to override an imposed sanction and issue a warrant or summons if it finds that the parolee is a risk to public safety or is not complying in good faith with the sanction. The Superior Court of the District of Columbia typically includes authorization for a program of graduated sanctions in connection with illicit drug use or other violation of conditions of probation as part of the offender's general conditions of probation. By issuing these interim regulations on the imposition of administrative sanctions, CSOSA intends to ensure the consistency, certainty, and timeliness of imposed sanctions for all offenders (parolees, probationers, and supervised releasees) under its supervision.

Under these interim regulations, CSOSA establishes a supervision level and minimum contact requirements for the individual offender (*see* § 810.1). CSOSA uses an accountability contract (*see* § 810.2) between the offender and CSOSA to define non-compliant behavior. The accountability contract outlines the expectations for behavior and the consequences (that is, the sanctions) for failing to comply. The sanctions present the community supervision officer with a range of corrective actions (*see* § 810.3) which can be applied short of court or USPC approval. The goal of these sanctions is to change offender behavior. Imposing the sanctions quickly and consistently may prevent escalation of the offender's non-compliant behavior.

The accountability contract identifies a schedule for imposing sanctions which is keyed to the recurrence of violations. The accountability contract also provides for positive reinforcements for compliant behavior (*see* § 810.3(d)).

Administrative sanctions accordingly are a component of effective supervision. When CSOSA does make a referral to the court or to the USPC, it will be able to demonstrate that it has exhausted the range of options at its disposal with respect to the offender's non-compliant behavior or that the violation is so severe immediate action by the releasing authority may be necessary to revoke the offender's liberty in the community. The reduction in the number of referrals should benefit the court and the USPC. CSOSA believes that a supervisory program which emphasizes strict enforcement of the rules and which fosters a supportive relationship with the releasing authority will tend to have fewer problems with offender compliance. Fewer problems with offender compliance benefit both the community and the offender.

Matters of Regulatory Procedure

Administrative Procedure Act

CSOSA is issuing the rule as final without general notice of proposed rulemaking and without any delay in its effectiveness because of the anticipated benefits to the public safety of the community, relief to the courts and the USPC, and to offenders under supervision who may be at risk for continued non-compliant behavior. Any interested person, however, who wishes to submit comments on the rule may do so by writing or e-mailing the agency at the addresses given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

Executive Order 12866

This interim rule has been determined to be significant under Executive Order 12866 and has been reviewed the Office of Management and Budget (OMB).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Director of CSOSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of CSOSA, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule pertains to agency management, and its economic impact is limited to the agency's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, the Director of CSOSA has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We want to make CSOSA's documents easy to read and understand. If you have suggestions on how to improve the clarity of these regulations, write, e-mail, or call CSOSA's Records Manager (Roy Nanovic) at the address or telephone number given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

List of Subjects in 28 CFR Part 810

Probation and Parole.

Jasper Ormond,

Interim Director.

Accordingly, we amend chapter VIII, Title 28 of the Code of Federal Regulations by adding a new part 810 as set forth below.

PART 810—COMMUNITY SUPERVISION: ADMINISTRATIVE SANCTIONS

Sec.

810.1 Supervision contact requirements.
810.2 Accountability contract.
810.3 Consequences of violating the conditions of supervision.

Authority: Pub. L. 105–33, 111 Stat. 712 (D.C. Code 24–1233(b)(2)(B)).

§ 810.1 Supervision contact requirements.

If you are an offender under supervision by the Court Services and Offender Supervision Agency for the District of Columbia ("CSOSA"), CSOSA will establish a supervision level for you and your minimum contact requirement (that is, the minimum frequency of face-to-face interactions between you and a Community Supervision Officer ("CSO")).

§ 810.2 Accountability contract.

(a) Your CSO will instruct you to acknowledge your responsibilities and obligations of being under supervision (whether through probation, parole, or supervised release as granted by the releasing authority) by agreeing to an accountability contract with CSOSA.

(b) The CSO is responsible for monitoring your compliance with the conditions of supervision. The accountability contract identifies the following specific activities constituting substance abuse or non-criminal violations of your conditions of supervision.

(1) *Substance abuse violations.*

(i) Positive drug test.

(ii) Failure to report for drug testing.

(iii) Failure to appear for treatment sessions.

(iv) Failure to complete inpatient/outpatient treatment programming.

(2) *Non-criminal violations.*

(i) Failure to report to the CSO.

(ii) Leaving the judicial district without the permission of the court or the CSO.

(iii) Failure to work regularly or attend training and/or school.

(iv) Failure to notify the CSO of change of address and/or employment.

(v) Frequenting places where controlled substances are illegally sold, used, distributed, or administered.

(vi) Associating with persons engaged in criminal activity.

(vii) Associating with a person convicted of a felony without the permission of the CSO.

(viii) Failure to notify the CSO within 48 hours of being arrested or questioned by a law enforcement officer.

(ix) Entering into an agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court or the United States Parole Commission ("USPC").

(x) Failure to adhere to any general or special condition of release.

(c) The accountability contract will identify a schedule of administrative

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sanctions (*see* § 810.3(b)) which may be imposed for your first violation and for subsequent violations.

(d) The accountability contract will provide for a reduction in your supervision level and/or the removal of previously imposed sanctions if:

(1) You maintain compliance for at least ninety days,

(2) The Supervisory Community Supervision Officer concurs with this assessment, and

(3) There are no additional reasons unrelated to the imposed sanction requiring the higher supervision level.

§ 810.3 Consequences of violating the conditions of supervision.

(a) If your CSO has reason to believe that you are failing to abide by the general or specific conditions of release or you are engaging in criminal activity, you will be in violation of the conditions of your supervision. Your CSO may then impose administrative sanctions (see paragraph (b) of this section) and/or request a hearing by the releasing authority. This hearing may result in the revocation of your release or changes to the conditions of your release.

(b) Administrative sanctions available to the CSO include:

(1) Daily check-in with supervision for a specified period of time;

(2) Increased group activities for a specified period of time;

(3) Increased drug testing;

(4) Increased supervision contact requirements;

(5) Referral for substance abuse addiction or other specialized assessments;

(6) Electronic monitoring for a specified period of time;

(7) Community service for a specified number of hours;

(8) Placement in a residential sanctions facility or residential treatment facility for a specified period of time.

(9) Travel restrictions.

(c) You remain subject to further action by the releasing authority. For example, the USPC may override the imposition of any of the sanctions in paragraph (b) of this section and issue a warrant or summons if you are a parolee and it finds that you are a risk to the public safety or that you are not complying in good faith with the sanctions (*see* 28 CFR 2.85(a)(15)).

[FR Doc. 01–23410 Filed 9–19–01; 8:45 am]
BILLING CODE 3129–01–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 6

[Docket No. 010827218–1218–01]

RIN 0651–AB42

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) issues a final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. These changes will become effective January 1, 2002, and will be listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed., 2001), which is published by the World Intellectual Property Organization (WIPO).

DATES: This final rule is effective January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jessie Marshall, Office of the Commissioner for Trademarks, by telephone at (703) 308–8910, ext. 148; by facsimile transmission addressed to her at (703) 308–9395; by e-mail addressed to her at *Jessie.Marshall@USPTO.gov;* or by mail marked to her attention and addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513.

SUPPLEMENTARY INFORMATION:

Discussion of Specific Rules Changed or Added

The Office is revising § 6.1 to incorporate classification changes that will become effective January 1, 2002, as will be listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed., 2001), published by the World Intellectual Property Organization (WIPO).

These revisions have been incorporated into the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1.

The purpose of the Nice Classification is to group, to the fullest extent possible, like goods or services into a single class. Generally, the system is successful in achieving that purpose. However, over the years, it became apparent that Class 42 included many disparate services due to the inclusion of the language "services that cannot be classified in other classes" in the class title. This language allowed services as different as chemical research and horoscope casting to be included in the class. Therefore, after much study and discussion, the Committee of Experts for the Nice Agreement approved the restructuring of Class 42. The subsequent restructuring limited the scope of the services in Class 42, created three additional classes that accounted for services formerly grouped in Class 42, and excluded the language "services that cannot be classified in other classes" in any of the new or old service classes. The Committee of Experts found that the revision of Class 42 created an adequate number of well-defined classes so that this language was no longer necessary in the class headings or explanatory notes of the Nice Agreement.

Along with the creation of the new classes and their class headings, the Committee of Experts approved the following Explanatory Notes for each class to clarify the nature of the services encompassed by the class heading.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services.

Explanatory Note

Class 42 includes mainly services provided by persons, individually or collectively, in relation to the theoretical and practical aspects of complex fields of activities; such services are provided by members of professions such as chemists, physicists, engineers, computer specialists, lawyers, etc.

This Class includes, in particular:

- The services of engineers who undertake evaluations, estimates, research and reports in the scientific and technological fields;
- Scientific research services for medical purposes.

This Class does not include, in particular:

- Business research and evaluations (Cl. 35);
- Word processing and computer file management services (Cl. 35);
- Financial and fiscal evaluations (Cl. 36);
- Mining and oil extraction (Cl. 37);
- Computer (hardware) installation and repair services (Cl. 37);
- Services provided by the members of professions such as medical doctors, veterinary surgeons, psychoanalysts (Cl. 44);
- Medical treatment services (Cl. 44);
- Garden design (Cl. 44).

Class 43

Services for providing food and drink; temporary accommodations.

Explanatory Note

Class 43 includes mainly services provided by persons or establishments whose aim is to prepare food and drink for consumption and services provided to obtain bed and board in hotels, boarding houses or other establishments providing temporary accommodations.

This Class includes, in particular:

- Reservation services for travellers' accommodations, particularly through travel agencies or brokers;
- Boarding for animals.

This Class does not include, in particular:

- Rental services for real estate such as houses, flats, etc., for permanent use (Cl. 36);
- Arranging travel by tourist agencies (Cl. 39);
- Preservation services for food and drink (Cl. 40);
- Discotheque services (Cl. 41);
- Boarding schools (Cl. 41);
- Rest and convalescent homes (Cl. 44).

Class 44

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Explanatory Note

Class 44 includes mainly medical, hygienic, and beauty care given by persons or establishments to human beings and animals; it also includes services relating to the fields of agriculture, horticulture and forestry.

This Class includes, in particular:

- Medical analysis services relating to the treatment of persons (such as x-ray examinations and taking of blood samples);
- Artificial insemination services;
- Pharmacy advice;
- Animal breeding;
- Services relating to the growing of plants such as gardening;
- Services relating to floral art such as floral compositions as well as garden design.

This Class does not include, in particular:

- Vermin extermination (other than for agriculture, horticulture and forestry) (Cl. 37);
- Installation and repair services for irrigation systems (Cl. 37);
- Ambulance transport (Cl. 39);
- Animal slaughtering services and taxidermy (Cl. 40);
- Timber felling and processing (Cl. 40);
- Animal training services (Cl. 41);
- Health clubs for physical exercise (Cl. 41);
- Scientific research services for medical purposes (Cl. 42);
- Boarding for animals (Cl. 43);
- Retirement homes (Cl. 43).

Class 45

Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

Explanatory Note

This Class includes, in particular:

- Investigation and surveillance services relating to the safety of persons and entities;
- Services provided to individuals in relation with social events, such as social escort services, matrimonial agencies, and funeral services.

This Class does not include, in particular:

- Professional services giving direct aid in the operations or functions of a commercial undertaking (Cl. 35);
- Services relating to financial or monetary affairs and services dealing with insurance (Cl. 36);
- Escorting of travellers (Cl. 39);
- Security transport (Cl. 39);
- Services consisting of all forms of education of persons (Cl. 41);
- Performances of singers and dancers (Cl. 41);
- Legal services (Cl. 42);
- Services provided by others to give medical, hygienic or beauty care for human beings or animals (Cl. 44);
- Certain rental services (consult the Alphabetical List of Services and General Remark (b) relating to the classification of services).

Rulemaking Requirements

Administrative Procedure Act: The amendments in this final rule are procedural in nature as they only reorganize the international classifications of goods and services, which are established by the Committee of Experts of the Nice Union and will be promulgated in the volume entitled International Classification of Goods and Services for the Purposes of the Registration of Marks (8th ed. 2002). Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A), or any other law. Furthermore, pursuant to 5 U.S.C. 553(b)(B), notice and an opportunity for public comment are unnecessary since the amendments are required by the Nice Agreement to which the United States is a signatory.

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Executive Order 13132: This final rule does not contain policies with federalism implications, as that term is defined in Executive Order 13132 (August 4, 1999).

Executive Order 12866: This final rule has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act: This final rule does not involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 37 CFR Part 6

Trademarks.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 41, as amended, the United States Patent and Trademark Office is amending part 6 of title 37 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

1. The authority citation for part 6 continues to read as follows:

Authority: 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

2. Section 6.1 is amended by revising paragraph 42, and adding paragraphs 43, 44, and 45, to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

* * * * *

42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services.

43. Services for providing food and drink; temporary accommodations.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

45. Personal and social services

EFFECTIVE DATE: This rule is effective on

assessment. However, we do not believe

Response: EPA's disapproval of the

D. Comments on Proposed Disapproval

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45. Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

Dated: September 14, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–23454 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA232–0289, FRL–7048–1]

Approval and Promulgation of Ozone Attainment Plan and Finding of Failure To Attain; State of California, San Francisco Bay Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving in part and disapproving in part the 1999 San Francisco Bay Area Ozone Attainment Plan (1999 Plan), submitted by the State of California to EPA to attain the 1-hour ozone national ambient air quality standard (NAAQS) in the San Francisco Bay Area. Specifically, EPA is approving the baseline emissions inventory, the Reasonable Further Progress (RFP) demonstration, control measure commitments, and contingency measures in the 1999 Plan as meeting the requirements of the Clean Air Act (CAA) applicable to the Bay Area ozone nonattainment area. EPA is also approving the removal of transportation control measures (TCMs) 6, 11, 12, and 16 from the state implementation plan (SIP) for ozone purposes.

We are disapproving the attainment assessment, its associated motor vehicle emissions budgets, and the reasonably available control measure (RACM) demonstration. The disapproval triggers, on its effective date, an 18-month clock for mandatory application of sanctions, a 2-year time clock for promulgation of a federal implementation plan (FIP), and a transportation conformity freeze.

EPA is also finding that the San Francisco Bay Area ozone nonattainment area did not attain the 1-hour ozone NAAQS by its November 15, 2000 attainment deadline. As a consequence, the State is required to submit a new plan no later than 12 months after the effective date of this rulemaking.

EFFECTIVE DATE: This rule is effective on October 22, 2001.

ADDRESSES: A copy of this final rule and related information are available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air*. The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744–1249 for assistance.

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I. Background

On March 30, 2000, EPA proposed to partially approve and partially disapprove the San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard, June 1999 (1999 Plan). Specifically, EPA proposed to approve the baseline emissions inventory, the Reasonable Further Progress (RFP) demonstration, a commitment to reduce volatile organic compound (VOC) emissions by 11 tons per day (tpd) by adopting and implementing specified control measures, and contingency measures in the 1999 Plan as meeting the requirements of the Clean Air Act (CAA) applicable to the Bay Area ozone nonattainment area. EPA also proposed to approve the removal of transportation control measures (TCMs) 6, 11, 12, and 16 from the ozone portion of the California state implementation plan (SIP). EPA proposed to disapprove the attainment assessment, its associated motor vehicle emissions budgets, and the reasonably available control measure (RACM) demonstration.

EPA's March 30, 2000 notice also included a proposed finding that the Bay Area failed to attain the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone by its November 15, 2000 attainment deadline. For details about EPA's evaluation of the 1999 Plan elements and proposed failure to attain finding, please see the proposed rulemaking at 66 FR 17379, March 30, 2001.

The 1999 Plan was submitted to EPA on August 13, 1999 as a proposed revision to the SIP. The submittal was made by the California Air Resources Board (CARB) on behalf of the Bay Area Air Quality Management District (BAAQMD), the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments (ABAG) to comply with EPA's July 10, 1998 rulemaking that redesignated the Bay Area from attainment to nonattainment (63 FR 37258, July 10, 1998).

II. EPA's Responses to Comments on the Proposal

A. Overview of Comments

EPA received 15 letters commenting on the March 30, 2001 proposal. The commenters represented State and local air quality and transportation agencies, the business community, and a number of public interest environmental and environmental justice groups. The majority of commenters expressed support for the proposed partial disapproval and finding of failure to attain. The proposed partial approval was viewed favorably as strengthening the SIP, but several commenters objected to the proposed approval of specific plan elements as meeting the requirements of section 172 of the CAA. A number of commenters also urged EPA and the BAAQMD to evaluate and explain why the 1999 Plan failed to provide for attainment. Significant comments are addressed below; the remaining comments are addressed in the Technical Support Document for this rulemaking.

B. Comments on Proposed Disapproval of Attainment Assessment

Comment: Many commenters asked that EPA provide a detailed analysis of all the reasons why the attainment assessment was flawed. Some commenters went further and asked EPA to supplement its reasons in the final rulemaking for disapproving the attainment assessment. Specifically, commenters argued that the attainment assessment was flawed (by a magnitude in the range of 25–50 tpd) not only because it inaccurately demonstrated attainment, but also because it: (1) Omitted available data by excluding 1998 monitoring data; (2) inaccurately estimated the impact deregulation has had on power plant emissions; and (3) relied on projections of motor vehicle emissions that assume large reductions that historically have not been fully realized.

Response: EPA shares the concerns raised with regard to the attainment assessment. However, we do not believe that it is necessary or productive at this time to determine whether these concerns provide independent bases for disapproval since we are already disapproving the assessment based on air quality monitoring data. Nevertheless, the points raised are good ones, and we will take them into consideration as we review future plans and plan revisions.

Comment: Counsel for the Transportation Solutions Defense and Education Fund (TRANSDEF) commented that EPA's regulations specifically require use of a photochemical model, and that if the Bay Area need not use UAM modeling, the reasons should be fully explained in the **Federal Register**. The commenter asserted that EPA's "attainment assessment" approach outlined for the 1999 Plan did not accord with 40 CFR part 51.112 and appendix W. TRANSDEF also claimed that the Bay Area should have used EPA's model substitution process pursuant to 40 CFR part 51.112(a)(2) to authorize the techniques used in the 1999 Plan.

Response: EPA regulations at 40 CFR part 51, appendix W (6.0 Models of Ozone, Carbon Monoxide and Nitrogen Dioxide) do not mandate the use of photochemical modeling or the need to undergo a model substitution process. Rather, the pertinent language is as follows:

> A control agency with jurisdiction over areas with significant ozone problems and which has sufficient resources and data to use a photochemical dispersion model is encouraged to do so. However, empirical models fill the gap between more sophisticated photochemical dispersion models and may be the only applicable procedure if the available data bases are insufficient for refined modeling.

The attainment assessment for the Bay Area was based on an isopleth diagram generated from photochemical modeling, an approach EPA believes is consistent with the above requirement (1999 Plan, Section V, pp. 16–18).

Comment: One commenter stated that the Bay Area's continued lack of technically competent data and modeling resources mandates that EPA promulgate a Federal Implementation Plan (FIP). The commenter supported this position with language from *Arizona* v. *Thomas*, 829 F.2d 834 (9th Cir. 1987): "Having failed in its obligation to produce or make reasonable efforts to produce SIPs which would appear to meet the requirements of the Act, Arizona should not be given another opportunity to produce more plans."

Response: EPA's disapproval of the attainment assessment triggers an obligation of EPA to promulgate a FIP not later than two years following the disapproval unless EPA approves an attainment demonstration for the area in the interim. The State is currently working to submit a new attainment demonstration sooner than the one year provided by this final action. EPA believes that it is appropriate to first allow the State to replace the deficient SIP consistent with the work it is now doing.

The commenter's reliance on *Arizona* v. *Thomas* is misplaced. That case involved whether EPA appropriately applied a sanctions regulation on the State. The sanctions regulation (under the pre-1990 CAA) applied to areas that failed to meet the statutory attainment date. However, areas with fully approved SIPs were excluded—*i.e.*, not subject to the sanction. Because Arizona did not have a fully approved SIP, the court rejected Arizona's claim that the sanction should not apply and that Arizona should instead be given a chance to develop a new SIP. The narrow regulatory interpretation in that case bears no relevance on the post-1990 requirements of the CAA.

C. Comment on Proposed Disapproval of Motor Vehicle Emissions Budgets

Comment: Earthjustice provided additional justification beyond what was discussed in EPA's proposal for disapproving the transportation conformity budgets. Specifically, Earthjustice commented that the budgets were incorrectly calculated (approximately 20 tpd too high for VOC) because "MTC [Metropolitan Transportation Commission] accidentally 'misbucketed' vehicle miles traveled [VMT] according to speed ranges." The commenter further suggested that EPA improve its oversight role to avoid similar errors in the future.

Response: EPA agrees that there have, in some cases, been problems with allocations of VMT by speed and therefore with emissions estimates. This type of mistake could impact budget levels, as they are based on motor vehicle emissions projected for the attainment year. With respect to this rulemaking, however, EPA is disapproving the budgets because they are based on an attainment assessment that was deficient. Therefore EPA need not explore a separate basis for disapproval. EPA will work with MTC in the future in an attempt to avoid any errors in VMT speed allocation and emissions estimates.

D. Comments on Proposed Disapproval of Reasonably Available Control Measure Demonstration (RACM)

Comment: The BAAQMD questioned the existence of a RACM obligation, asserting that all RACM are in place and that the District had already responded to public comments related to potential control measures for the 1999 Plan.

Response: The federal RACM obligation for ozone nonattainment areas is contained in section 172(c)(1) of the Act, which requires "the implementation of all reasonably available control measures as expeditiously as practicable." The BAAQMD commenter did not deny this obligation, but rather asserted that the obligation has already been fulfilled. EPA disagrees with this position. EPA guidance, issued November 30, 1999 entitled, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas," provides that "[i]n order for the EPA to determine whether a State has adopted all RACM necessary for attainment as expeditiously as practicable, the State will need to provide a justification as to why measures within the arena of potentially reasonable measures have not been adopted. The justification would need to support that a measure was not 'reasonably available' for that area and could be based on technological or economic grounds." At a minimum, the justification should address "any measure that a commenter indicates during the public comment period is reasonably available for a given area * * *." (57 FR 13560, April 16, 1992).

The Bay Area's 1999 Plan itself was silent on the RACM requirement. While the supporting documentation for the 1999 Plan did include a response to many public comments on control measures, not all of the suggested control measures were addressed. Moreover, where measures were specifically rejected, the justifications provided generally did not address the RACM criteria. According to EPA guidance, "measures could be justified as not meeting RACM if a measure (a) is not technologically or economically feasible, or (b) does not advance the attainment date for the area" ("Additional Submission on RACM from States with Severe 1-hour Ozone Nonattainment Area SIPs," EPA, December 14, 2000).

Comment: Several commenters urged EPA and the BAAQMD to thoroughly examine all of the control strategies in place in the South Coast air district as

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well as those suggested through public comment and at public workshops. A number of commenters suggested specific measures that should be evaluated as RACM. The San Joaquin Valley Unified Air Pollution Control District identified three potential RACM measures for District adoption (or amendments to existing BAAQMD rules): SMOG Check II, aqueous solvent degreasing, and the permitting and control of smaller engines. Sherman Lewis, Chair of the Hayward Area Planning Association, identified a range of cash out and transit assistance measures that should be considered. Earthjustice suggested a RACM review of all BAAQMD and MTC measures that are not currently in the SIP. Another commenter urged EPA to clearly state that RACM requires adoption of all measures demonstrated in the State to be reasonably available, including measures in the Bay Area CAP and BAAQMD Rules 9–10 and 9–11. Communities for a Better Environment suggested several refinery measures, marine vessel measures, a requirement for diesel engine replacement, and others.

Response: EPA is disapproving the RACM component of the 1999 Plan for the reasons noted in the previous response. In order to correct the RACM deficiencies, an amended or new plan must consider or evaluate any control measures that are suggested by the public during its development and adoption as well as measures included in public comment on the 1999 Plan and as part of this rulemaking to determine whether or not they represent RACM.

Comment: The majority of commenters emphasized that RACM measures should be viewed collectively to determine whether their emissions reductions would expedite attainment.

Response: EPA agrees that RACM measures should be viewed collectively to determine whether their emissions reductions would expedite attainment. However, EPA has previously concluded that "potential measures may be determined not to be RACM if they require an intensive and costly effort for numerous small area sources." 66 FR 586, 610; January 3, 2001. This interpretation of RACM "is based on the common sense meaning of the phrase, 'reasonably available.' A measure that is reasonably available is one that is technologically and economically feasible and that can be readily implemented. Ready implementation also includes consideration of whether emissions from small sources are relatively small and whether the administrative burden, to the States and regulated entities, of controlling such sources was likely to be considerable. As stated in the General Preamble, EPA believes that States can reject potential measures based on local conditions including cost (57 FR 13561)." 66 FR 586, 610; January 3, 2001. Also, the development of rules for a large number of very different source categories of small sources for which little control information may exist will likely take much longer than development of rules for source categories for which control information exists or that comprise a smaller number of larger sources. The longer the rule development time frame, the less likely that the emission reductions from the rules would advance the attainment date. EPA will analyze future RACM submissions from the Bay Area in light of these conclusions.

E. Comments on Proposed Approval of Baseline Emissions Inventory

Comment: Several commenters questioned the approvability of the 1995 baseline emissions inventory. Counsel for Our Children's Earth and Communities for a Better Environment argued that any approval of the emissions inventory without knowledge of why the plan failed is arbitrary. Another commenter questioned the inventory's accuracy, citing the increase in on-road mobile source emissions when CARB updated its mobile source model. Also raised was a concern that the inventory was not sufficiently "current" to be approvable.

Response: EPA believes it is not appropriate to assess the adequacy of an emissions inventory based on the ultimate success or failure of a plan. EPA reviewed the emissions inventory carefully and had a number of discussions with Air District and CARB staff about the estimates provided for various source categories. As noted in the March 30, 2001 proposal, the inventory figures were based on actual emissions in 1995. EMFAC 2000, CARB's newer mobile source model, was not available at the time, and hence could not be used to evaluate the accuracy of the inventory.

EPA believes that the emissions inventory can be approved because it is current in the context of the 1999 Plan. The decision to allow a 1995 baseline inventory was first proposed by EPA in 1997 and finalized, after public notice and comment, in 1998. No adverse comment was received. The plan was prepared in 1998 and submitted to EPA in 1999.

In short, we found nothing in our review to suggest that the inventory was inconsistent with EPA inventory guidance, "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations" (EPA 454/R–99–006, April 1999). Nevertheless, since the Bay Area will have to submit a new plan in response to the disapproval and finding of failure to attain, there will need to be a new emissions inventory to support that plan.

Comment: Communities for a Better Environment pointed out that there are over 1300 Notices of Violation (NOVs) in the Bay Area that have not been processed, suggesting that rule effectiveness assumptions for various source categories may be overstated. If this is the case, emissions levels could likely be higher than the inventory figures.

Response: EPA does not judge the adequacy of emissions inventories on NOV statistics. In many cases, the issuance of a large number of NOVs indicates a healthy enforcement program. Moreover, many NOVs are written for non emissions-related violations (*e.g.*, recordkeeping) or for extremely minor emissions violations; therefore unresolved NOVs are not a good gauge for the effectiveness of a rule or regulatory program. The BAAQMD's enforcement process is to cite violations on site (sometimes multiple NOVs at a site daily). Compliance is demanded within fifteen to twenty days or further NOVs are issued until the problem is corrected. (BAAQMD Enforcement Division Policies and Procedures Manual, Notice of Violation Guidelines, pp. 5–6.) Violations are often bunched and then settled as a group for a particular facility; hence, it is not uncommon at any moment in time to find many seemingly "unaddressed" NOVs. Information about specific NOVs and a facility's current compliance status is available from the BAAQMD.

Moreover, one of the concepts behind rule effectiveness is that there is not 100% compliance. The estimated noncompliance is factored into the inventory.

F. Comments on Proposed Approval of Reasonable Further Progress Demonstration

Comment: Counsel for Our Children's Earth and Communities for a Better Environment opined that, unless EPA makes a finding as to why the Bay Area failed to attain the ozone standard, it is arbitrary to assume that the adopted measures were as effective as promised in the SIP. The commenter asserts that continuing exceedances (particularly in 1998—after three years of plan implementation) is evidence that the measures were not as effective as promised and that RFP did not occur.

Response: RFP is defined as "annual incremental reductions in emissions of the relevant air pollutant * * *." (CAA section 171(1)). For ozone, which is not emitted directly, the reductions must come from sources of the ozone precursors, VOC and NO_X. While it seems to make sense that reductions in VOC and NO_X could be measured by improvement in ozone levels, that is not necessarily the case. For instance, in the Bay Area, ozone levels are not decreasing as expected in response to the precursor emissions reductions. "Proposed Final San Francisco Ozone Attainment Plan for the 1-Hour National Ozone Standard," June 2001, Figure 4. EPA therefore relies on the implementation of control measures, which are designed to reduce precursor emissions, to determine whether or not progress in reduction of emissions is being made. EPA concludes that the adopted measures are being implemented and sufficient reductions in emissions have occurred to represent reasonable further progress.

G. Comments on Proposed Approval of Control Measures

Comment: Commenters provided several arguments for finding the control strategy inadequate. First, the controls proposed did not compensate for the underestimated motor vehicle emissions calculated by EMFAC7g. The commenter urged EPA to look more closely at emissions reductions relied upon from state measures. In addition, the commenter stressed that control strategies should not be limited to emissions limitations, but should also include strategies such as closing or relocating sources and economic incentive programs. The commenter asked EPA to comment negatively on the control strategy in the 1999 Plan and to direct that all future measures be more specific and enforceable before federal credit is given.

Response: EPA agrees that the 1999 Plan's overall control strategy was inadequate for attainment and, as a result, is disapproving the plan. EPA is, however, approving the individual control measures in the plan because they strengthen the SIP. In any case, in the next planning effort for the Bay Area, the control strategy will have to be supplemented with additional measures needed for attainment and that are specific enough to be federally enforceable. Any future attainment demonstration will have to include sufficient control measures to reduce accurately projected motor vehicle emissions, and could include innovative control strategies as necessary to demonstrate attainment.

H. Comments on Proposed Approval of Contingency Measures

Comment: Counsel for Our Children's Earth and Communities for a Better Environment suggested that EPA revise its proposed approval of the contingency measures to a conditional approval, the condition being the requirement for additional contingency measures within one year.

Response: Contingency measures are intended to provide continued progress "in the year following the year in which the failure has been identified" (57 FR 13511, April 16, 1992). In the Bay Area, the contingency measures in the 1999 Plan have already been triggered. Under CAA section 179(d), a new plan, including additional contingency measures to be triggered in the future, is required to be submitted to EPA within one year after the effective date of the final finding of failure to attain.

Comment: Counsel for TRANSDEF asserted that the contingency measures failed to meet the criteria and purpose of the Act because such measures are intended to be measures above and beyond the ordinary control strategies that come into effect automatically in response to a missed milestone or a failure to attain.

Response: EPA has long held that control measures that are in excess of those projected as being required for timely attainment may be used to satisfy the contingency measure requirements of CAA section 172(c)(9) because the measures will provide for continued emission reduction progress beyond the core control strategy. See, *e.g.*, 58 FR 52467, 52473 (October 8, 1993).

I. Comments on Environmental Justice

Comment: Several commenters noted that the public engagement process is key to ensuring environmental justice. According to TRANSDEF, the environmental justice processes at the Air District and MTC are generally inadequate. Earthjustice noted that the time line for the upcoming plan revision is being driven by the wish to avert conformity consequences and is resulting in a rushed public process that compromises procedural environmental justice. Communities for a Better Environment commented on the need for a full public process (*i.e.*, sufficient public notification and adequate time) so that community members can identify and comment on transportation and stationary source control measures that should be adopted.

Response: EPA agrees that an effective public involvement process is important and that more public process and community input is preferable to less. Moreover, EPA is committed to the principles of environmental justice to ensure that all Americans have equal access to the decision making process. We believe that the public process for the 1999 Plan provided everyone the opportunity for meaningful involvement and met all legal requirements set out in CAA section 110(a) and 40 CFR part 51. Nonetheless, EPA is aware of the public's concerns and is continuing to encourage and support additional public involvement efforts by the State and local agencies.

J. Comments on Proposed Finding of Failure to Attain

Comment: Legal counsel for TRANSDEF contends that the Supreme Court decision in *Whitman* v. *American Trucking Association*, 149 L.Ed.2d 1, 31–48, 121 S.Ct. 903, dictates that EPA reconsider its position regarding the Bay Area's nonattainment designation under the general nonattainment provisions of Part D subpart 1 of the Act. This commenter asserts that the Bay Area should be designated as subject to the more prescriptive requirements of subpart 2 of part D and classified as "severe" to impose additional planning and SIP requirements.

Two commenters also argued that the Bay Area ought to be classified as a severe area due to the number of times it has failed to attain since the 1990 CAAA and the date by which it is now expected to attain the national ozone standard (i.e., 2006). It was suggested that EPA propose a severe classification in a separate rulemaking.

Response: The issue of whether subpart 1 or subpart 2 applies to the Bay Area was decided in the action redesignating the Bay Area from attainment to nonattainment for the 1-hour ozone NAAQS (63 FR 37258, July 10, 1998). *Whitman* v. *ATA* concerned the applicability of subpart 2 to the implementation of a revised ozone NAAQS, in this case the 8-hour standard. There is nothing in the Court's opinion to suggest that subpart 2 must apply to a redesignation from attainment to nonattainment for the 1-hour ozone NAAQS. Thus, at this time, EPA does not intend to reconsider its prior final decision regarding the applicable implementation provisions for the Bay Area. However, EPA is currently beginning efforts to respond to the Court's remand of the implementation issue for the 8-hour standard. If, in developing that policy, EPA reaches any conclusions that

would affect the basis for EPA's final

two orders: (1) An order prohibiting

and any other measures identified

TABLE 1.—NEW BAY AREA MEASURES

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would affect the basis for EPA's final rule determining that the Bay Area should implement the 1-hour standard under subpart 1, the Agency will reconsider its position with respect to the Bay Area at that time.

K. Comments on Consequences of Partial Disapproval

Comment: MTC stated that there are minor errors in EPA's discussion of the conformity freeze and lapse consequences of a plan disapproval. Specifically, in the event of a freeze, MTC asserted that it can still adopt its upcoming RTP even though a conformity finding cannot be made. In addition, MTC noted that EPA's list of projects that could proceed under a lapse was not exhaustive. The list could include: TCMs in approved SIPs, non-regionally significant non-federal projects, regionally significant non-federal projects that have already been approved prior to a lapse, previously conformed projects that have received funding commitments, exempt projects, projects under 40 CFR 93.127, and traffic synchronization projects. MTC also stated that regionally significant transit expansion projects such as light rail extensions and bus fleet expansions not yet under contract cannot proceed under a lapse.

Response: Although MTC makes some valid points, MTC is not entirely correct. In nonattainment and maintenance areas, a metropolitan planning organization (MPO) must demonstrate that a transportation plan conforms to the SIP before the transportation plan can be approved. During a conformity freeze, no new transportation plans can be found to conform pursuant to 40 CFR 93.120(a)(2). Please note that a transportation plan or transportation improvement program (TIP) amendment can be approved during the freeze if it merely adds or deletes exempt projects specified in 40 CFR 93.126 and 93.127. Rail and bus expansions can proceed if they are implementing TCMs in the SIP or if they only involve minor expansions of rail car or bus fleets (40 CFR 93.126).

Comment: Counsel for Our Children's Earth and Communities for a Better Environment presented an argument that EPA's disapproval should trigger a construction ban pursuant to CAA section 173(a)(4). The rationale provided was that EPA's disapproval is essentially equivalent to a finding that the SIP is not being adequately implemented. Alternatively, counsel requested that EPA issue the following two orders: (1) An order prohibiting construction or modification of any major source, and (2) an order requiring the BAAQMD to promulgate a rule that places CAA section 173(a)(4) authority in the Bay Area's permitting program.

Response: The CAA separately identifies a plan disapproval and the finding of failure to implement the SIP, and the underlying premise of each is different. A plan disapproval simply means that a specific SIP submission does not meet the applicable requirements of the CAA. See CAA section 110(k)(3). Thus those rules or plans are not incorporated into the approved SIP. A finding of failure to implement, however, concerns whether a state is implementing the requirements of an *approved* plan. Thus the failure of a state to have approved rules meeting all of the Act's requirements (as evidenced by a disapproval) is not the equivalent of a failure to implement measures or requirements that EPA has approved as meeting the CAA. In this action, there is clearly no finding that the State is not implementing provisions approved into the SIP, and hence, the restrictions on permitting set forth in section 173(a)(4) do not apply. EPA is disapproving portions of a plan and thus the consequences of disapproval will apply.

L. Comments on Requirement for a New Plan

Comment: Several commenters expressed concern that EPA seemed to be rushing the Bay Area into another planning process and was not providing sufficient guidance for the next plan.

Response: Under CAA section 179(d), the Bay Area has one year from the effective date of the finding of failure to attain to submit a new attainment plan. The State and local agencies have accelerated their plan development process, apparently in order to avoid the consequences of a conformity lapse which will take effect January 2002 if the Plan's deficiencies are not corrected by that time. EPA is doing its best to be responsive to the State's concerns and schedule while at the same time providing meaningful input to ensure a viable plan.

Comment: A number of commenters suggested that EPA should exercise its CAA section 179(d)(2) authority to prescribe control measures. Specific suggestions include measures that target stationary sources located within low income communities of color; public transit measures; measures that address issues such as urban sprawl, land use, and growth in vehicle miles traveled; and any other measures identified through public comment.

Response: It is difficult for EPA to prescribe specific control measures in the Bay Area where both stationary and mobile source controls meet, and often exceed, federal requirements and where innovative programs and emerging technologies will be needed for future emissions reductions. Control measures currently under development in the South Coast region (the only "extreme" ozone area in the country) and at CARB are already being targeted for future Bay Area plans. Initiatives to address issues such as urban sprawl and land use are appropriately devised at the local and State levels. In light of these factors, EPA does not believe it would be reasonable to impose specific controls under CAA section 179(d)(2) until it first allows the local agencies and CARB to explore appropriate feasible measures for the area.

Comment: Members of the environmental community urged EPA to require urban airshed modeling for future plans and plan revisions.

Response: New urban airshed modeling will not be available until the 2003–2004 time frame. Moreover, as noted in section II.B. above, 40 CFR 51.112 allows the use of lesser models for areas not classified as serious and higher.

III. Final Action

EPA is finalizing the partial approval/partial disapproval of the 1999 Plan and the finding of failure to attain without any changes from the March 30, 2001 proposal.

A. Plan Elements Approved

EPA is approving the following portions of the 1999 Plan: The baseline emissions inventory; the RFP demonstration through 2000; the commitment to achieve 11 tons per day of additional VOC reductions from implementation of new control measures (see Table 1 below); and contingency measures for failure to attain in 2000 (see Table 2 below). EPA has determined that these plan elements meet the requirements of CAA section 172(c), EPA guidance and EPA's final redesignation rulemaking (63 FR 37258, July 10, 1998). EPA is also approving the removal of TCMs 6, 11, 12, and 16 (see Table 3 below) from the SIP for ozone purposes as EPA has concluded that the removal is consistent with sections 110(l) and 193 of the CAA.

TABLE 1.—NEW BAY AREA MEASURES

VOC Measure (BAAQMD Regulation Number)	Adoption date	Implementation date	Estimated VOC Reduction (tpd), 1995–2000
SS–01: Can and Coil Coating (8–11)	11/19/97	1/1/98, 1/1/2000	0.35
SS–02: Equipment Leaks at Refineries and Chemical Plants (8–18)	1/7/98	1/7/98	1.20
SS–03: Pressure Relief Devices (8–28)	12/17/97, 3/18/98	7/1/98	0.13
SS–04: Solvent Cleaning (8–16)	9/16/98	9/1/99	2.10
SS–05: Graphic Arts Operations (8–20)	3/2/99	7/1/99, 1/1/2000	0.80
SS–06: Polystyrene Manufacturing (8–52)	1999	6/2000	0.26
SS–07: Organic Liquid Storage: Low Emitting Retrofits for Slotted Guide Poles (8–5)	1999	6/2000	0.48
SS–08: Gasoline Dispensing Facilities (8–7)	1999	6/2000	3.20
SS–09/SS–10: Prohibit Aeration of Petroleum Contaminated Soil or Industrial Sludge at Landfills (8–40)	1999	6/2000	2.68
MS–01: Electric Golf Carts: Require New Golf Cart Purchases to be Electric (ARB State Rule)	1994	3/2000	0.1

TABLE 2.—BAY AREA CONTINGENCY MEASURES

Adopted Control Measure (BAAQMD Regulation or State/Federal Measure)	Estimated VOC Reductions (tpd)			Estimated NO_X Reductions (tpd)		
	2001	2002	2003	2001	2002	2003
Gasoline Dispensing Facilities (8–7)	0.5	0.9	1.1	.....	.....	.....
Graphic Arts Printing and Coating Operations (8–20)	0.8	0.7	0.7	.....	.....	.....
Aeration of Contaminated Soil and Removal of Underground Storage Tanks (8–40)	0.5	1.0	1.5	.....	.....	.....
On Road motor Vehicles—Light and Medium Duty Cars and Trucks (ARB)	14.4	26.8	39.1	16.8	26.4	35.3
On Road Motor Vehicles—Heavy Duty Trucks (ARB)	0.1	0.5	0.7	3.3	5.0	6.7
Off Road Mobile Sources (ARB)	0.1	0.1	0.2	3.8	7.8	9.5
Gasoline-Powered Recreational Boats—Exhaust Emission Standards (EPA)	0.7	1.6	3.6	(.1)	(.1)	(.2)
Stationary Internal Combustion Engines (9–8)	.....	.....	.....	1.0	1.0	0.9
Stationary Gas Turbines (9–9)	.....	.....	.....	0.9	0.9	0.8
Glass Melting Furnaces (9–12)	.....	.....	.....	0.2	0.2	0.1

TABLE 3.—TCMS DELETED FROM THE SIP

TCM 6 ..	Construction of Guadalupe light rail in Santa Clara County and design work for the North Concord BART extension and Warm Springs extension.
TCM 11	Gasoline Conservation Awareness Program (GasCAP).
TCM 12	Santa Clara Commuter Transportation Program.
TCM 16	Construction of BART extension to Colma.

B. Plan Elements Disapproved

EPA is disapproving the attainment assessment in the 1999 Plan because monitored air quality indicates that the attainment projections were not realized; that is, the area failed to attain the ozone NAAQS by November 15, 2000 (CAA section 172(c)(1)). This disapproval does not include a protective finding for the motor vehicle emissions budget because the budget is not consistent with attainment. EPA is also disapproving the RACM demonstration as not meeting the requirements of CAA section 172(c)(1) for the reasons explained above.

C. Finding of Failure To Attain

EPA is finding, pursuant to CAA section 179(c), that the Bay Area failed to attain the federal 1-hour ozone standard by its November 15, 2000 attainment deadline.

D. Consequences of Final Action

The effective date of the final disapproval starts an 18-month clock for the imposition of sanctions pursuant to CAA section 179(a) and 40 CFR 52.31, and a 2-year clock for EPA to promulgate a FIP under CAA section 110(c)(1). The disapproval also activates a conformity freeze under 40 CFR 93.120(a)(2). 62 FR 43796, August 15, 1997. The sanctions and FIP clocks can be stopped once the State corrects the 1999 Plan deficiencies and EPA approves the revisions. The freeze will be lifted once EPA receives an approvable budget and finds it adequate.

In response to the finding of failure to attain, the State is required to submit a SIP revision for the Bay Area to EPA by September 20, 2002 (CAA section 179(d)(1)) that meets the requirements of CAA sections 110 and 172 and provides for attainment "as expeditiously as practicable" but no later than September 20, 2006.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity,

competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities." "Policies that have tribal implications." "Policies that have tribal

signed into law on March 22, 1995. EPA

This determination of nonattainment,

J. Petitions for Judicial Review

2. Section 52.223 is amended by

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competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities."

The Agency has determined that the determination of nonattainment and SIP approval and disapproval would result in none of the effects identified in section 3(f) of the Executive Order. The determination of nonattainment is a factual finding based upon air quality considerations and does not, in and of itself, impose any new requirements on any sectors of the economy. SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply act on requirements that the State is already imposing. This SIP disapproval will not change existing requirements and does not impose any new requirements. Therefore, these actions cannot be said to impose a materially adverse impact on state, local, or tribal governments or communities.

B. Executive Order 13211

These actions are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because they do not constitute a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. These actions are not subject to Executive Order 13045 because they are not economically significant regulatory actions as defined by Executive Order 12866.

D. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The SIP approval and disapproval do not affect any existing requirements or impose any new requirements. The determination of nonattainment is a factual determination and does not directly regulate any entity.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply act on requirements that the State is already imposing. The determination of nonattainment is only a factual determination, and does not directly regulate any entities. See 62 FR 60001, 60007–8, and 60010 (November 6, 1997) for additional analysis of the RFA implications of attainment determinations.

EPA's disapproval does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements.

Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's final rule does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

F. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

As discussed above, the finding of nonattainment is a factual determination based upon air quality considerations and does not, in and of itself, impose any new requirements. The SIP approval simply acts on pre-existing requirements under State or local law, and imposes no new requirements. The SIP disapproval will not change existing requirements and imposes no new requirements. Thus, these actions do not constitute a Federal mandate, as defined in section 101 of the UMRA, because they do not impose an enforceable duty on any entity.

G. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This determination of nonattainment, SIP approval and disapproval will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because the actions do not, in and of themselves, impose any new requirements on any sectors of the economy, and do not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to these actions.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's actions do not involve technical standards and do not require the public to perform activities conducive to the use of voluntary consensus standards.

I. Submission to Congress and Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 28, 2001.

Christine Todd Whitman,

Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(283) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(283) San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard, June 1999, was submitted on August 13, 1999 by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(*1*) Tables 10 and 12 of the San Francisco Bay Area Ozone Attainment Plan for the 1-Hour National Ozone Standard, June 1999, which detail the commitment to adopt and implement any combination of new control measures to achieve 11 ton per day reduction in VOC emissions by June 2000.

(*2*) Contingency measures, Table 18, "Post-Attainment Year (2000–2003) Inventory Reductions Reflected in the SIP".

2. Section 52.223 is amended by adding paragraph (e) to read as follows:

§ 52.223 Approval status.

* * * * *

(e) The Administrator approves the following portions of the 1999 Ozone Attainment Plan for the San Francisco Bay Area submitted by the California Air Resources Board on August 13, 1999: the 1995 baseline emissions inventory, the reasonable further progress demonstration, and the deletion of transportation control measures #6 and #16.

3. Section 52.237 is amended by adding paragraph (a)(6) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(6) The attainment assessment, motor vehicle emissions budgets, and Reasonably Available Control Measure (RACM) portions of the San Francisco Bay Area Ozone Attainment Plan for the 1–Hour National Ozone Standard, June 1999.

[FR Doc. 01–22125 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4121a; FRL–7059–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for the Latrobe Steel Company in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve a revision to establish reasonably available control technology (RACT) requirements for the Latrobe Steel Company, a major source of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42123), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action

based upon the proposed action also

FOR FURTHER INFORMATION CONTACT:

Incorporation by reference, Ozone,

Dated: September 14, 2001.

Dated: September 14, 2001.

Dated: September 14, 2001.

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based upon the proposed action also published on August 10, 2001 (66 FR 42172). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(158) is withdrawn as of September 20, 2001.

[FR Doc. 01–23484 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4130a; FRL–7060–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Four Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for four major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42136), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 10, 2001 (66 FR 42187). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(166) is withdrawn as of September 20, 2001.

[FR Doc. 01–23493 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4125a; FRL–7059–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for three major sources of volatile organic compounds (VOC) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42133), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 10, 2001 (66 FR 42186). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(162) is withdrawn as of September 20, 2001.

[FR Doc. 01–23492 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–101/178–4124a; FRL–7059–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Five Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for five major sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 10, 2001 (66 FR 42128), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 10, 2001 (66 FR 42186). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(161) is withdrawn as of September 20, 2001.

[FR Doc. 01–23491 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4122a; FRL–7059–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for the Allegheny Ludlum Corporation's Brackenridge Facility in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve a revision to establish reasonably available control technology (RACT) requirements for the Allegheny Ludlum Corporation's Brackenridge facility. This facility is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 9, 2001 (66 FR 41789), EPA stated that if it received adverse comment by September 10, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 9, 2001 (66 FR 41822). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(160) is withdrawn as of September 20, 2001.

[FR Doc. 01–23490 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[OR–00–002a; FRL–7044–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Oregon's State Implementation Plan (SIP) which were submitted on November 20, 2000. These revisions consist of the 1996 carbon monoxide (CO) periodic emissions inventory for Klamath Falls, Oregon, and the Klamath Falls CO maintenance plan. Oregon concurrently requested redesignation of Klamath Falls from nonattainment to attainment for CO. EPA is approving the State's request because it meets all of the Clean Air Act (ACT) requirements for redesignation.

DATES: This direct final rule will be effective on November 19, 2001 without further notice, unless EPA receives adverse comment by October 22, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Connie Robinson, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's requests and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–1086.

SUPPLEMENTARY INFORMATION:

Third, EPA redesignates Klamath

II. Basis for EPA's Action

Oregon SIP include the preparation of a

1992) and the plan cites monitoring data

the CO standard will be maintained in

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SUPPLEMENTARY INFORMATION:
Throughout this document, wherever "we," "us," or "our" is used, we mean the Environmental Protection Agency (EPA). This supplementary information is organized as follows:

I. Background Information
A. What action is EPA taking?
B. What is a State Implementation Plan?
C. Why was this SIP revision and redesignation request submitted?
II. Basis for EPA's Action
A. What Criteria did EPA use to Review the Maintenance Plan and Redesignation request?
B. How does the State Show that the Area Has Attained the CO NAAQS?
C. Does the Area have a fully approved SIP under section 110(k) of the Act and has the area met all the relevant requirements under section 110 and part D of the Act?
D. Are the Improvements in Air Quality Permanent and Enforceable?
E. Has the State Submitted a Fully Approved Maintenance Plan pursuant to section 175A of the Act?
F. Did the State provide adequate attainment year and maintenance year emissions inventories?
Table 1 1996 CO Attainment Year Actual Emissions and 2011 CO Maintenance Year Projected Emissions (Pounds CO/Winter Day)
G. How will this action affect the oxygenated fuels program in Klamath Falls?
H. How will the State continue to verify attainment?
I. What contingency measures does the State provide?
J. How will the State provide for subsequent maintenance plan revisions?
K. How does this action affect Transportation Conformity in Klamath Falls?
Table 2 Klamath Falls Urban Growth Boundary Emissions Budget Through 2015 (Pounds CO/Winter Day)
L. How does this action affect specific rules?
III. Final Action
IV. Administrative Requirements

I. Background Information

A. What Action Is EPA Taking?

Today's rulemaking announces three actions being taken by EPA related to air quality in the State of Oregon. These actions are taken at the request of the Governor of Oregon in response to Act requirements and EPA regulations.

First, EPA approves the 1996 periodic CO emissions inventory for Klamath Falls. The 1996 inventory establishes a baseline of emissions that EPA considers comprehensive and accurate and provides the foundation for air quality planning in the Klamath Falls, Oregon nonattainment area.

Second, EPA approves the CO maintenance plan for the Klamath Falls nonattainment area into the Oregon SIP.

Third, EPA redesignates Klamath Falls from nonattainment to attainment for carbon monoxide. This redesignation is based on validated monitoring data and projections made in the maintenance plan's demonstration. EPA believes the area will continue to meet the National Ambient Air Quality Standards (NAAQS) for CO for at least ten years beyond this redesignation, as required by the Act.

B. What Is a State Implementation Plan?

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that State air quality meets the NAAQS established by the EPA. These ambient standards are established under section 109 of the Act and they address six criteria pollutants: CO, nitrogen dioxide, ozone, lead, particulate matter and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP. Each State has a SIP designed to protect its air quality. These SIPs can be extensive, containing regulations, enforceable emission limits, emission inventories, monitoring networks, and modeling demonstrations.

Oregon submitted their original section 110 SIP on January 25, 1972 and it was approved by EPA soon thereafter. Other SIP revisions have been submitted over the intervening years and likewise have been approved. The Klamath Falls CO SIP revisions and redesignation request submitted on November 20, 2000, are the subject of today's action.

C. Why Was This SIP Revision and Redesignation Request Submitted?

Upon enactment of the 1990 Clean Air Act Amendments, a new classification scheme was created which established attainment dates and planning requirements according to the severity of nonattainment. The Klamath Falls nonattainment area was designated a moderate nonattainment area for CO on January 6, 1992. This designation was the result of 1988 and 1989 ambient air quality monitoring data that showed violations of the CO NAAQS. The attainment deadline became December 31, 1995, or as expeditiously as practicable.

Oregon believes that the Klamath Falls, Oregon area is now eligible for redesignation because air quality data shows that it has not recorded a violation of the primary or secondary CO air quality standards since 1990. The maintenance plan demonstrates that Klamath Falls will be able to remain in attainment for the next 10 years.

II. Basis for EPA's Action

A. What Criteria Did EPA Use To Review the Maintenance Plan and Redesignation Request?

Section 107(d)(3)(E) of the Act states that EPA can redesignate an area to attainment if the following conditions are met:

1. The area must attain the applicable NAAQS.
2. The area must have a fully approved SIP under 110(k) of the Act and the area must meet all the relevant requirements under section 110 and part D of the act.
3. The air quality improvement must be permanent and enforceable.
4. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

EPA has found that the Oregon redesignation request for the Klamath Falls, Oregon nonattainment area meets the above requirements. A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the redesignation of Klamath Fall's CO nonattainment area to attainment.

B. How Does the State Show That the Area Has Attained the CO NAAQS?

To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard per year for at least two consecutive years. The redesignation of Klamath Falls is based on air quality data that shows that the CO standard was not violated from 1990 through 1995, or since. These data were collected by the Oregon Department of Environmental Quality (ODEQ) in accordance with 40 CFR 50.8, following EPA guidance on quality assurance and quality control and are entered in the EPA Aerometric Information and Retrieval System, or AIRS. Since the Klamath Falls, Oregon area has ten years of complete quality-assured monitoring data showing attainment with no violations, the area has met the statutory criterion for attainment of the CO NAAQS. ODEQ has committed to continue monitoring in this area in accordance with 40 CFR part 58.

C. Does the Area Have a Fully Approved SIP Under Section 110(k) of the Act and Has the Area Met All the Relevant Requirements Under Section 110 and Part D of the Act?

Klamath Falls was classified as a nonattainment area with a design value less than 12.7 parts per million (ppm). Therefore, the 1990 requirements applicable to the Klamath Falls nonattainment area for inclusion in the

Oregon SIP include the preparation of a 1990 emission inventory with periodic updates, adoption of an oxygenated fuels program, development of contingency measures, development of conformity procedures, and the establishment of a permit program for new or modified major stationary sources.

For the purposes of evaluating the request for redesignation to attainment, EPA has previously approved all but one element of the Oregon SIP. Section 187(a) of the Act requires moderate CO areas to submit a comprehensive, accurate, and current inventory of actual emissions from all sources as described in the nonattainment area provision section 172(c)(3). Specifically, the 1990 emissions inventory was reviewed but not acted upon to allow for additional correction and revision. We later determined that a 1996 inventory that incorporated these changes would satisfy the requirement for a base year inventory and would also serve as the periodic emissions inventory submitted with the maintenance plan. Today's action approves this required element of the 110 SIP as part of the Oregon SIP concurrently with the redesignation to attainment.

D. Are the Improvements in Air Quality Permanent and Enforceable?

Yes. EPA is approving Klamath Falls' maintenance plan as meeting the requirements of the 1990 amendments. Emissions reductions achieved through the implementation of control measures contained in that SIP are enforceable. These measures are: (1) The Federal Motor Vehicle Control Program, establishing emission standards for new motor vehicles; and (2) an oxygenated fuels program. The Klamath Falls area initially attained the NAAQS in 1991 (prior to the implementation of the oxygenated fuels program in November 1992) and the plan cites monitoring data in AIRS which shows continued attainment through 2000.

ODEQ has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to a local economic downturn or unusual or extreme weather patterns. We believe the combination of certain existing EPA-approved SIP and Federal measures contributed to permanent and enforceable reductions in ambient CO levels that have allowed the area to attain the NAAQS.

E. Has the State Submitted a Fully Approved Maintenance Plan Pursuant to Section 175A of the Act?

Yes. Section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. With this action, EPA is approving the maintenance plan for the Klamath Falls area.

F. Did the State Provide Adequate Attainment Year and Maintenance Year Emissions Inventories?

Yes. ODEQ submitted comprehensive inventories of CO emissions from point, area and mobile sources using 1996 as the attainment year. This data was then used in calculations to demonstrate that the CO standard will be maintained in future years. Since air monitoring recorded attainment levels of CO in 1996, this is an acceptable year for the attainment inventory.

Based on the CO emissions in the attainment year (1996), ODEQ calculated inventories for the required maintenance year (2011) and four years beyond (2015). Future emission estimates are based on forecast assumptions about growth of the regional economy and vehicle miles traveled.

Mobile sources are the greatest source of carbon monoxide. Although vehicle use is expected to increase in the future, more stringent Federal automobile standards and removal of older, less efficient cars over time will still result in an overall decline in CO emissions. The projections in the maintenance plan demonstrate that future emissions are not expected to exceed attainment year levels.

Total CO emissions were projected from the 1996 attainment year out to 2015. These projected inventories were prepared according to EPA guidance. Because compliance with the 8-hour CO standard is linked to average daily emissions, emission estimates reflecting a typical winter season day (pounds of CO per day) were used for the maintenance demonstration. Oregon calculated these emissions without the implementation of the oxygenated fuels program. Oregon is requesting that the SIP requirement for an oxygenated fuels program be discontinued upon EPA's approval of the maintenance plan and redesignation. The projections show that CO emissions calculated without the implementation of the oxygenated fuels program are not expected to exceed 1996 attainment year levels. The following table summarizes the attainment year and maintenance year emissions.

TABLE 1.—1996 CO ATTAINMENT YEAR ACTUAL EMISSIONS AND 2011 CO MAINTENANCE YEAR PROJECTED EMISSIONS
[Pounds CO/Winter Day]

Year	Mobile	Area	Non-road	Point	Total
1996 Attainment Year Actuals	26,734	11,586	4,074	3,923	46,316
2011 Maintenance Year Projected	24,102	12,409	4,861	3,671	45,044

Detailed inventory data for this action is contained in the docket maintained by EPA.

G. How Will This Action Affect the Oxygenated Fuels Program in Klamath Falls?

ODEQ's maintenance demonstration shows that the Klamath Falls Urban Growth Boundary (UGB) is expected to continue to meet the CO NAAQS through 2015 without the oxygenated fuels program, while maintaining a safety margin. Therefore, EPA approves the State's request to discontinue the oxygenated fuels program. The oxygenated fuels program will not need to be implemented following redesignation unless a future violation of the standard triggers its use as a contingency measure in accordance with the approved maintenance plan.

H. How Will the State Continue To Verify Attainment?

In accordance with 40 CFR part 50 and EPA's Redesignation Guidance,

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ODEQ has committed to analyze air quality data on an annual basis to verify continued attainment of the CO NAAQS. ODEQ will also conduct a comprehensive review of plan implementation and air quality status eight years after redesignation. The State will then submit a SIP revision that includes a full emissions inventory update and provides for the continued maintenance of the standard ten years beyond the initial ten-year period.

I. What Contingency Measures Does the State Provide?

Section 175A(d) of the Act requires retention of all control measures contained in the SIP prior to redesignation as contingency measures in the CO maintenance plan.

Since the oxygenated fuels program was a control measure contained in the SIP prior to redesignation, the SIP retains oxygenated fuels as the primary contingency measure in the maintenance plan.

This contingency measure will be triggered in the event of a quality-assured violation of the NAAQS for CO at any permanent monitoring site in the nonattainment area. A violation will occur when any monitoring site records two eight-hour average CO concentrations that equal or exceed 9.5 ppm in a single calendar year. This contingency measure will require all gasoline blended for sale in Klamath Falls to meet requirements identical to those of the current oxygenated gasoline program.

The oxygenated fuels program will be fully implemented no later than the next full winter season following the date when the contingency measure was activated. Implementation will continue throughout the balance of the CO maintenance period, or until such time as a reassessment of the ambient CO monitoring data establishes that the contingency measure is no longer needed.

EPA is approving the conversion of the oxygenated fuels program from a control measure to a contingency measure for the Klamath Falls area.

J. How Will the State Provide for Subsequent Maintenance Plan Revisions?

In accordance with section 175A(b) of the Act, the state has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. That revised SIP must provide for maintenance of the standard for an additional ten years.

The plan states that ODEQ will likely conduct its first revision of the plan in 2009. It will include a full emissions inventory update and projected emissions demonstrating continued attainment for ten additional years.

K. How Does This Action Affect Transportation Conformity in Klamath Falls?

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under 23 U.S.C. or the Federal Transit Act, must conform to the applicable SIPs. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years.

In this maintenance plan, procedures for estimating motor vehicle emissions are well documented. For transportation conformity and regional emissions analysis purposes, an emissions budget has been established for on-road motor vehicle emissions in the Klamath Falls UGB. The transportation emissions budget numbers for the plan are shown in Table 2.

TABLE 2.—KLAMATH FALLS UGB TRANSPORTATION EMISSIONS BUDGET THROUGH 2015

[Pounds CO/Winter Day]

Year	1996	2000	2005	2010	2015
Budget	26,734	26,362	26,116	25,498	24,880

L. How Does This Action Affect Specific Rules?

Upon the effective date of this action, Klamath Falls will no longer be a nonattainment area, and will become a maintenance area. Therefore, OAR 340–204–0030, Designation of Nonattainment Areas, and OAR 340–204–0040, Maintenance Areas, have been revised to reflect this change. Additionally, OAR 340–204–0090, Oxygenated Gasoline Control Areas, has been revised to discontinue the program in Klamath Falls upon the effective date of this action. EPA is approving these rules as revisions to the SIP and replacing the rules dated 10–22–99.

Below is a list of the specific rule revisions affected by this action which EPA is incorporating by reference into the SIP, with the state effective date in parentheses.

OAR 340–204–0030, Designation of Nonattainment Areas (10–25–00)
OAR 340–204–0040, Maintenance Areas (10–25–00)
OAR 340–204–0090, Oxygenated Gasoline Control Areas (10–25–00)

III. Final Action

EPA is approving the following revisions to the Oregon SIP: the 1996 CO periodic emissions inventory for Klamath Falls, Oregon, and the Klamath Falls CO maintenance plan. EPA is also redesignating Klamath Falls, Oregon from nonattainment to attainment for CO. EPA is approving the Klamath Falls CO maintenance plan and Oregon's request for redesignation to attainment because Oregon has demonstrated compliance with the requirements of section 107(d)(3)(E). The Agency believes that the redesignation requirements are effectively satisfied based on information provided by ODEQ and requirements contained in the Oregon SIP and maintenance plan.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP will be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13175

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

E. Executive Order 13211

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Additionally, redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 19, 2001, unless EPA receives adverse written comments by October 22, 2001.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so

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would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

K. Oregon Notice Provision

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. EPA determined that, because the five-day advance notice provision required by ORS 468.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority that a state must demonstrate to obtain SIP approval, as specified in section 110 of the Clean Air Act and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude Federal approval of a section 110 SIP revision.

To correct the problem the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph ORS 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify a state program from Federal approval or delegation. ODEQ responded to EPA's understanding of the application of ORS 468.126(2)(e) and agreed that, because Federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

L. Oregon Audit Privilege

Another enforcement issue concerns Oregon's audit privilege and immunity law. Nothing in this action should be construed as making any determination or expressing any position regarding Oregon's Audit Privilege Act, ORS 468.963 enacted in 1993, or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act Program resulting from the effect of Oregon's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

Authority: 42 U.S.C. 7401 *et seq.*

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 21, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(136) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(136) On November 20, 2000, the Oregon Department of Environmental Quality requested the redesignation of Klamath Falls to attainment for carbon monoxide. The State's maintenance plan and base year emissions inventory are complete and the redesignation satisfies all the requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Oregon Administrative Rule (OAR) 340–204–0030, OAR 340–204–0040, and OAR 340–204–0090, as effective October 25, 2000.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.338, the table entitled "Oregon—Carbon Monoxide" is amended by revising the entry for "Klamath Falls Area" to read as follows:

§ 81.38 Oregon.

* * * * *

OREGON—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Klamath Falls Area, Klamath County (part) Urban Growth Boundary.	November 19, 2001	Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 01–23218 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA–035–MSWa; FRL–7058–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the California State Plan for implementing the emissions guidelines applicable to existing municipal solid waste landfills. The Plan was submitted by the California Air Resources Board for the State of California to satisfy requirements of section 111(d) of the Clean Air Act.

DATES: This direct final rule is effective on November 19, 2001 without further notice, unless EPA receives relevant adverse comments by October 22, 2001. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the submitted revision and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted revision are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814

FOR FURTHER INFORMATION CONTACT: Mae Wang, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (CAA or the Act), EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not "criteria pollutants" (*i.e.*, pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes emission guidelines (EG) in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (*i.e.*, the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On March 12, 1996, EPA promulgated NSPS for new municipal solid waste (MSW) landfills at 40 CFR part 60, subpart WWW (Standards of Performance for Municipal Solid Waste Landfills) and EG for existing MSW landfills at 40 CFR part 60, subpart Cc (Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (see 61 FR 9905). The pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOC), other organic compounds, methane, and HAPs.

VOC emissions contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOC) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

On September 26, 1997, the California Air Resources Board (CARB) submitted to EPA the California State Plan for implementing 40 CFR part 60, subpart Cc. CARB submitted amendments to the California State Plan on June 26, 1998; November 9, 1998; and July 14, 1999. The submitted Plan controls existing MSW landfills in sixteen (16) air districts. EPA approved the California State Plan on September 23, 1999 (see 64 FR 51447).

II. Revision to the California State Plan

On December 20, 2000, CARB submitted a revision to the approved California State Plan. The revision adds landfill regulations for Mojave Desert Air Quality Management District (MDAQMD) and Bay Area Air Quality Management District (BAAQMD), and amends landfill regulations for South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD). The submitted revision to the EPA-approved State Plan contains the following landfill regulations:

District	Rule Number and Name	Adoption date
BAAQMD	8–34 Solid Waste Disposal Sites	10/6/99
MDAQMD	1126 Municipal Solid Waste Landfills	8/28/00
SCAQMD	1150.1 Control of Gaseous Emissions from Municipal Solid Waste Landfills	3/17/00
VCAPCD	74.17.1 Municipal Solid Waste Landfills	2/9/99

EPA has evaluated each of these regulations and has determined that they meet the federal guidelines for controlling existing MSW landfills, as set forth in 40 CFR part 60, subpart Cc. The submitted revision to the California 111(d) Plan for controlling MSW landfill gas emissions meets all applicable requirements for approval.

III. Final Action

ENVIRONMENTAL PROTECTION

rule published on July 26, 2001 (66 FR

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III. Final Action

EPA is approving the revision to the State of California section 111(d) plan for the control of landfill gas emissions from existing MSW landfills.[1] As provided by 40 CFR 60.28(c), any revisions to the California State Plan or associated regulations will not be considered part of the applicable plan until submitted by CARB in accordance with 40 CFR 60.28 (a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B. Upon the effective date of this approval, the submitted revision will update the State Plan with the current versions of SCAQMD and VCAPCD regulations and add regulations for BAAQMD and MDAQMD. Moreover, MSW landfills located in BAAQMD and MDAQMD will no longer be subject to the Federal Plan (40 CFR part 62, subpart GGG) upon the effective date of this approval.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the 111(d) plan revision should relevant adverse or critical comments be filed. This rule will be effective November 19, 2001 without further notice unless the Agency receives relevant adverse comments by October 22, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 19, 2001 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any section 111(d) plan. Each request for revision to the section 111(d) plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

[1] The State did not submit evidence of authority to regulate existing MSW landfills in Indian Country; therefore, EPA is not approving this Plan as it relates to those sources.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State Plan submissions under section 111(d) of the Clean Air Act, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 2, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Title 40, chapter I, part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 62.1100 is amended by adding paragraph (b)(5)(i) to read as follows:

§ 62.1100 Identification of plan.

* * * * *

(b) * * *

(5) * * *

(i) Revision to the State of California's Section 111(d) Plan for Existing Municipal Solid Waste Landfills, submitted by the California Air Resources Board on December 20, 2000.

[FR Doc. 01–23479 Filed 9–19–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7059–3]

Clean Air Act Full Approval of Operating Permits Program in Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: On July 26, 2001, the EPA published a direct final rule (66 FR 38940) approving, and an accompanying proposed rule (66 FR 38966) proposing to approve, the operating permits program submitted by the State of Alaska. Alaska's operating permits program was submitted in response to the directive in the Clean Air Act that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

EPA is withdrawing this final rule due to the adverse public comments received on the proposed approval. In a subsequent final rule, EPA will summarize and respond to the comments received and take final rulemaking action on the operating permits program submitted by the State of Alaska.

DATES: The direct final rule published at 66 FR 38940 (July 26, 2001) is withdrawn September 20, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 13, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

Accordingly, under the authority of 42 U.S.C. 7401–7671q, the direct final rule published on July 26, 2001 (66 FR 38940) is withdrawn.

[FR Doc. 01–23474 Filed 9–19–01; 8:45 am]
BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–11, 102–193, 102–194, and 102–195

[FPMR Amendment B–1]

RIN 3090–AG02

Federal Records Management Program, Interagency Reports Management Program, and Standard and Optional Forms Management Program

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on creation, maintenance, and use of records into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Effective October 22, 2001.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, Strategic IT Issues Division (MKB), at 202–501–4469, or Internet e-mail at *stewart.randall@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

This final rule encourages Federal agencies to conduct business electronically. Part 102–193, *Creation, Maintenance, and Use of Records*, is being added to the FMR to provide a foundation for General Services Administration (GSA) programs that helps address problems in the management of contemporary records. Both GSA and the National Archives and Records Administration (NARA) have responsibilities for records management. This final rule references appropriate NARA regulations.

This final rule also makes changes in the operation of the Standard and Optional Forms Program. The Federal Government is moving toward greater use of information technology to allow improved customer service and Governmental efficiency. The Government Paperwork Elimination Act requires agencies to adopt electronic transactions of information by October, 2003, when practicable. This vision contemplates widespread use of the Internet, with Federal agencies transacting business electronically as commercial enterprises are doing. Members of the public who want to do business this way can avoid traveling to Government offices, waiting in line, or mailing paper forms. The Federal Government can also save significant time and money by transacting business electronically.

Therefore, this rule is intended to facilitate the movement of the Federal Government toward greater automation of the information exchanged using standard and optional forms. This rule also addresses management of standard and optional forms (in either paper or electronic form) and defines standard and optional automated formats. Normally, the most efficient exchange of information is done using automated formats. Thus, this rule encourages agencies, where appropriate, to use automated formats.

Often, an important intermediate step in the Federal Government's evolution to transacting business electronically is the development and use of electronic standard and optional forms. Such forms, while not fully electronic business transactions, can make paper-based information exchanges substantially easier and introduce significant efficiencies for the Federal Government. The part on standard and optional forms encourages the use of electronic forms by Federal agencies to facilitate paper-based transactions, pending their automation. To do that, this rule establishes the policy that agencies should promote the use of electronic standard forms whenever practicable. To assist agencies in assessing practicability, GSA is proposing that paper transactions continue when standard forms are for specialized use (e.g., labels), when there are special security or integrity concerns (*e.g.*, classification cover sheets), and when there are unusual production costs (*e.g.*, special envelopes). The Standard and Optional Forms Procedural Handbook includes a list of those forms that have been exempted from the policy in accordance with these criteria.

This rule also makes changes to the Interagency Reports Management Program to shorten the time between when an agency determines a need for interagency information and when the agency can initiate an interagency report to obtain that information. Agencies will no longer have to get GSA's approval

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before initiating an interagency report. This change lets agencies take advantage of information technology to get the information they need to accomplish their missions.

When authorized by law and regulation, agencies are encouraged to share information, particularly as an alternative to collecting additional information from the public. This change is intended to facilitate agencies sharing needed information.

As a general rule, it is more efficient for agencies to share information in electronic form. While paper-based reporting, including electronic forms, may still be used, it is preferable that interagency reports be provided electronically between agencies. Agencies, however, are asked to give GSA information such as the name and the cost of each of their interagency reporting requirements. This information will be placed on our web site at *www.gsa.gov* and made available to Federal agencies.

A proposed rule was published on August 9, 2000, at 65 FR 48655. Three comments were received and considered in the formation of this final rule.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to internal management and will not have a significant impact on the public.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–11, 102–193, 102–194, and 102–195

Archives and records, Computer technology, Government property management.

For the reasons set forth in the preamble, 41 CFR chapters 101 and 102 are amended as follows:

CHAPTER 101—[AMENDED]

1. Subchapter B consisting of part 101–11 is added to read as follows:

Subchapter B—Management and Use of Information and Records

PART 101–11—FEDERAL RECORDS, INTERAGENCY REPORTS, AND STANDARD AND OPTIONAL FORMS

Authority: 40 U.S.C. 486(c).

§ 101–11.0 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 1 through 220).

For information on records, interagency reports, and standard and optional forms, see FMR parts 102–193, 102–194, and 102–195 (41 CFR parts 102–193, 102–194, and 102–195).

CHAPTER 102—[AMENDED]

2. Parts 102–193, 102–194, and 102–195 are added to subchapter G to read as follows:

PART 102–193—CREATION, MAINTENANCE, AND USE OF RECORDS

Sec.

102–193.5 What does this part cover?
102–193.10 What are the goals of the Federal Records Management Program?
102–193.15 What are the records management responsibilities of the Administrator of General Services (the Administrator), the Archivist of the United States (the Archivist), and the heads of Federal agencies?
102–193.20 What are the specific agency responsibilities for records management?
102–193.25 What type of records management business process improvements should my agency strive to achieve?

Authority: 40 U.S.C. 486(c).

§ 102–193.5 What does this part cover?

This part prescribes policies and procedures related to the General Service Administration's (GSA) role to provide guidance on economic and effective records management for the creation, maintenance and use of Federal agencies' records. The National Archives and Records Administration Act of 1984 (the Act) (44 U.S.C. chapter 29) amended the records management statutes to divide records management responsibilities between GSA and the National Archives and Records Administration (NARA). Under the Act, GSA is responsible for economy and efficiency in records management and NARA is responsible for adequate documentation and records disposition. GSA regulations are codified in this part and NARA regulations are codified in 36 CFR Chapter XII. The policies and procedures of this part apply to all records, regardless of medium (e.g., paper or electronic), unless otherwise noted.

§ 102–193.10 What are the goals of the Federal Records Management Program?

The statutory goals of the Federal Records Management Program are:

(a) Accurate and complete documentation of the policies and transactions of the Federal Government.

(b) Control of the quantity and quality of records produced by the Federal Government.

(c) Establishment and maintenance of management controls that prevent the creation of unnecessary records and promote effective and economical agency operations.

(d) Simplification of the activities, systems, and processes of records creation, maintenance, and use.

(e) Judicious preservation and disposal of records.

(f) Direction of continuing attention on records from initial creation to final disposition, with particular emphasis on the prevention of unnecessary Federal paperwork.

§ 102–193.15 What are the records management responsibilities of the Administrator of General Services (the Administrator), the Archivist of the United States (the Archivist), and the Heads of Federal agencies?

(a) The Administrator of General Services (the Administrator) provides guidance and assistance to Federal agencies to ensure economical and effective records management. Records management policies and guidance established by GSA are contained in this part and in parts 102–194 and 102–195 of this chapter, records management handbooks, and other publications issued by GSA.

(b) The Archivist of the United States (the Archivist) provides guidance and assistance to Federal agencies to ensure adequate and proper documentation of the policies and transactions of the Federal Government and to ensure proper records disposition. Records management policies and guidance established by the Archivist are contained in 36 CFR Chapter XII and in bulletins and handbooks issued by the National Archives and Records Administration (NARA).

(c) The Heads of Federal agencies must comply with the policies and guidance provided by the Administrator and the Archivist.

§ 102–193.20 What are the specific agency responsibilities for records management?

You must follow both GSA regulations in this part and NARA regulations in 36 CFR Chapter XII to carry out your records management responsibilities. To meet the requirements of this part, you must take the following actions to establish and maintain the agency's records management program:

(a) Assign specific responsibility to develop and implement agencywide records management programs to an office of the agency and to a qualified records manager.

(b) Follow the guidance contained in GSA handbooks and bulletins and comply with NARA regulations in 36 CFR Chapter XII when establishing and implementing agency records management programs.

(c) Issue a directive establishing program objectives, responsibilities, authorities, standards, guidelines, and instructions for a records management program.

(d) Apply appropriate records management practices to all records, irrespective of the medium (e.g., paper, electronic, or other).

(e) Control the creation, maintenance, and use of agency records and the collection and dissemination of information to ensure that the agency:

(1) Does not accumulate unnecessary records while ensuring compliance with NARA regulations for adequate and proper documentation and records disposition in 36 CFR parts 1220 and 1228.

(2) Does not create forms and reports that collect information inefficiently or unnecessarily.

(3) Reviews all existing forms and reports (both those originated by the agency and those responded to by the agency but originated by another agency or branch of Government) periodically to determine if they can be improved or canceled.

(4) Maintains records economically and in a way that allows them to be retrieved quickly and reliably.

(5) Keeps mailing and copying costs to a minimum.

(f) Establish standard stationery formats and styles.

(g) Establish standards for correspondence to use in official agency communications, and necessary copies required, and their distribution and purpose.

§ 102–193.25 What type of records management business process improvements should my agency strive to achieve?

Your agency should strive to:

(a) Improve the quality, tone, clarity, and responsiveness of correspondence;

(b) Design forms that are easy to fill-in, read, transmit, process, and retrieve, and reduce forms reproduction costs;

(c) Provide agency managers with the means to convey written instructions to users and document agency policies and procedures through effective directives management;

(d) Provide agency personnel with the information needed in the right place, at the right time, and in a useful format;

(e) Eliminate unnecessary reports and design necessary reports for ease of use;

(f) Provide rapid handling and accurate delivery of mail at minimum cost; and

(g) Organize agency files in a logical order so that needed records can be found rapidly to conduct agency business, to ensure that records are complete, and to facilitate the identification and retention of permanent records and the prompt disposal of temporary records. Retention and disposal of records is governed by NARA regulations in 36 CFR Chapter XII.

PART 102–194—STANDARD AND OPTIONAL FORMS MANAGEMENT PROGRAM

Sec.

102–194.5 What is the Standard and Optional Forms Management Program?
102–194.10 What is a Standard form?
102–194.15 What is an Optional form?
102–194.20 What is an electronic Standard or Optional form?
102–194.25 What is an automated Standard or Optional format?
102–194.30 What role does my agency play in the Standard and Optional Forms Management Program?
102–194.35 Should I create electronic Standard or Optional forms?
102–194.40 For what Standard or Optional forms should an electronic version not be made available?
102–194.45 Who should I contact about Standard and Optional forms?

Authority: 40 U.S.C. 486(c).

§ 102–194.5 What is the Standard and Optional Forms Management Program?

The Standard and Optional Forms Management Program is a Governmentwide program that promotes economies and efficiencies through the development, maintenance and use of common forms. The General Services Administration (GSA) provides additional guidance on the Standard and Optional Forms Management Program through an external handbook called Standard and Optional Forms Procedural Handbook. You may obtain a copy of the handbook from:

Standard and Optional Forms Management Office General Services Administration (Forms-XR)
1800 F Street, NW.; Room 7126
Washington, DC 20405–0002
(202) 501–0581
http://www.gsa.gov/forms

§ 102–194.10 What is a Standard form?

A Standard form is a fixed or sequential order of data elements, prescribed by a Federal agency through regulation, approved by GSA for mandatory use, and assigned a Standard form number. This criterion is the same whether the form resides on paper or purely electronic.

§ 102–194.15 What is an Optional form?

An Optional form is approved by GSA for nonmandatory Governmentwide use and is used by two or more agencies. This criteria is the same whether the form resides on paper or purely electronic.

§ 102–194.20 What is an electronic Standard or Optional form?

An electronic Standard or Optional form is an officially prescribed set of data residing in an electronic medium that is used to produce a mirror-like image or as near to a mirror-like image as the creation software will allow of the officially prescribed form.

§ 102–194.25 What is an automated Standard or Optional format?

An automated Standard or Optional format is an electronic version of the officially prescribed form containing the same data elements and used for the electronic transaction of information in lieu of using a Standard or Optional form.

§ 102–194.30 What role does my agency play in the Standard and Optional Forms Management Program?

Your agency head or designee's role is to:

(a) Designate an agency-level Standard and Optional Forms Liaison representative and alternate, and notify GSA, in writing, of their names, titles, mailing addresses, telephone numbers, fax numbers, and e-mail addresses within 30 days of the designation or redesignation.

(b) Promulgate Governmentwide Standard forms under the agency's statutory or regulatory authority in the Federal Register, and issue procedures on the mandatory use, revision, or cancellation of these forms.

(c) Ensure that the agency complies with the provisions of the Government

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Paperwork Elimination Act (GPEA) (Public Law 105–277, 112 Stat 2681), Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 74d), as amended, the Architectural and Transportation Barriers Compliance Board (Access Board) Standards (36 CFR part 1194), and OMB implementing guidance. In particular, agencies should allow the submission of Standard and Optional forms in an electronic/automated version unless the form is specifically exempted by § 102–194.40.

(d) Issue Governmentwide Optional forms when needed by two or more agencies and announce the availability, revision, or cancellation of these forms. Forms prescribed through a regulation for use by the Federal Government must be issued as a Standard form.

(e) Obtain GSA approval for each new, revised or canceled Standard and Optional form, 60 days prior to planned implementation. Certify that the forms comply with all applicable laws and regulations. Provide an electronic form unless exempted by § 102–194.40. Revised forms not approved by GSA will result in cancellation of the form.

(f) Provide GSA with both an electronic (unless exempted by § 102–194.40) and paper version of the official image of the Standard or Optional form prior to implementation.

(g) Obtain the prescribing agency's approval for exceptions to Standard and Optional forms, including electronic forms or automated formats prior to implementation.

(h) Review annually agency prescribed Standard and Optional forms, including exceptions, for improvement, consolidation, cancellation, or possible automation. The review must include approved electronic versions of the forms.

(i) Coordinate all health-care related Standard and Optional forms through GSA for the approval of the Interagency Committee on Medical Records (ICMR).

(j) Promote the use of electronic forms within the agency by following what the Government Paperwork Elimination Act (GPEA) prescribes and all guidance issued by the Office of Management and Budget and other responsible agencies. This guidance will promote the use of electronic transactions and electronic signatures.

(k) Notify GSA of the replacement of any Standard or Optional form by an automated format or electronic form, and its impact on the need to stock the paper form. GSA's approval is not necessary for this change, but a one-time notification should be made.

(l) Follow the specific instructions in the Standard and Optional Forms Procedural Handbook.

§ 102–194.35 Should I create electronic Standard or Optional forms?

Yes, you should create electronic Standard or Optional forms, especially when forms are used to collect information from the public. GSA will not approve a new or revision to a Standard or Optional form unless an electronic form is being made available. Only forms covered by § 102–194.40 are exempt from this requirement. Furthermore, you should to the extent possible, use electronic form products and services that are based on open standards. However, the use of proprietary products is permitted, provided that the end user is not required to purchase a specific product or subscription to use the electronic Standard or Optional form.

§ 102–194.40 For what Standard or Optional forms should an electronic version not be made available?

All forms should include an electronic version unless it is not practicable to do so. Areas where it may not be practicable include where the form has construction features for specialized use (*e.g.*, labels), to prevent unauthorized use or could otherwise risk a security violation, (*e.g.*, classification cover sheets), or require unusual production costs (*e.g.*, specialized paper or envelopes). Such forms can be made available as an electronic form only if the originating agency approves an exception to do so. (See the Standard and Optional Forms Procedural Handbook for procedures and a list of these forms).

§ 102–194.45 Who should I contact about Standard and Optional forms?

For Standard and Optional forms, you should contact the:

Standard and Optional Forms Management Office General Services Administration (Forms-XR)
1800 F Street, NW.; Room 7126
Washington, DC 20405–0002
(202) 501–0581

PART 102–195—INTERAGENCY REPORTS MANAGEMENT PROGRAM

Sec.

102–195.5 What is the Interagency Reports Management Program and what is its purpose?
102–195.10 What is an interagency report?
102–195.15 What must an agency do to implement the Interagency Reports Management Program?
102–195.20 Are any interagency reports exempt from this program?

Authority: 40 U.S.C. 486(c).

§ 102–195.5 What is the Interagency Reports Management Program and what is its purpose?

The Interagency Reports Management Program managed by GSA ensures that interagency reports and recordkeeping requirements are necessary, cost-effective, and comply with applicable laws and regulations.

§ 102–195.10 What is an interagency report?

An interagency report is a repetitive reporting requirement imposed by an agency on one or more other agencies.

§ 102–195.15 What must an agency do to implement the Interagency Reports Management Program?

To implement the Interagency Reports Management Program an agency must:

(a) Annually review all interagency reporting requirements imposed on other agencies to assure that they remain necessary.

(b) Consistent with law and regulation, seek information that other agencies have already obtained from the public rather than asking the public to provide the information again.

(c) Every three years beginning November 1, 2001, provide the following information to GSA for each interagency report that will require the responding agencies as a whole to take more than 100 hours complying with it:

(1) Title.

(2) Purpose.

(3) Estimate of the reporting costs for the life of the report or for three years, whichever is sooner.

(4) An estimate of the time you will need to collect this information; *e.g.*, six months or six years.

(5) The name, telephone number, and e-mail address for the point of contact for each interagency report.

(6) Whether the report can be provided electronically, and if not, when such submissions will be allowed.

(d) Provide supporting documentation for cost estimates for review by GSA and responding agencies, if requested.

(e) Notify GSA and responding agencies when an interagency report is no longer needed.

(f) Provide responding agencies an opportunity to comment on any new or proposed revision to an interagency reporting requirement.

(g) Send information asked for in paragraphs (c), (d) and (e) of this section, along with any unresolved comments from responding agencies concerning an interagency reporting requirement in accordance with paragraph (f) of this section to:

General Services Administration
Strategic IT Issues Division (MKB)
1800 F Street, NW.
Washington, DC 20405

§ 102–195.20 Are any interagency reports exempt from this program?

Yes, the following interagency reports are exempt from the Interagency Reports Management Program:

(a) Legislative branch reports;

(b) Office of Management and Budget (OMB) and other Executive Office of the President reports;

(c) Judicial branch reports required by court order or decree; and

(d) Reporting requirements for security of classified information. However, interagency reporting requirements for nonsensitive or unclassified sensitive information are not exempt, even if the information is later given a security classification by the requesting agency.

Dated: September 10, 2001.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 01–23356 Filed 9–19–01; 8:45 am]
BILLING CODE 6820–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1823 and 1852

NASA Safety and Health (Short Form)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule adopts with changes the interim rule published in the **Federal Register** on April 5, 2001 (65 FR 18051–18053), which amended the NASA FAR Supplement to implement a Safety and Health (Short Form) clause to address safety and occupational health in all NASA contracts above the micro-purchase threshold where the existing Safety and Health clause did not apply, and amended other safety and health clauses to be consistent with the new NASA Safety and Health (Short Form) clause.

EFFECTIVE DATE: September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Yolande Harden, NASA, Office of Procurement, Contract Management Division (Code HK), (202) 358–1279, e-mail: *yharden@mail.hq.nasa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

NASA has recognized that for it to achieve mission success, it is critically important that NASA contractors also emphasize safety and occupational health. While the existing safety and health clause applies to many high dollar value and high-risk contracts, NASA has many more contracts that it does not apply to that are critical to the agency achieving its mission. The Safety and Health (Short Form) clause was developed to address safety and occupational health in all of its contracts. Contractors must be accountable for the safety and occupational health of their employees, their services, and their products (as applicable). This will help lead to mission success for NASA and its contractors.

One comment from industry was received in response to the interim rule published in the April 5, 2001, **Federal Register**. This comment was a statement of support for NASA's efforts to emphasize safety in the acquisition process. This final rule adopts the interim rule with changes to Alternate I to 1852.223–73, Safety and Health Plan, to clarify the Safety and Health Plan submission requirement under Invitation for Bids (IFB) and adds a prescription at 1823.7001(c) for use of this Alternate.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because this rule focuses attention on safety and occupational health, and does not impose any significant new requirements, which might have an economic impact.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1823 and 1852

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1823 and 1852 are amended as follows:

1. The authority citation for 48 CFR parts 1823 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1)

PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. In section 1823.7001, amend paragraph (c) by adding the following sentence at the end to read as follows:

1823.7001 NASA solicitation provisions and contract clauses.

* * * * *

(c) * * * Insert the provision with its Alternate I, in Invitations for Bid containing the clause at 1852.223–70.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Revise section 1852.223–73 to read as follows:

1852.223–73 Safety and Health Plan.

As prescribed in 1823.7001(c), insert the following provision:

Safety and Health Plan

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The offeror shall submit a detailed safety and occupational health plan as part of its proposal (see NPG 8715.3, NASA Safety Manual Appendices). The plan must include a detailed discussion of the policies, procedures, and techniques that will be used to ensure the safety and occupational health of contractor employees and to ensure the safety of all working conditions throughout the performance of the contract. The plan must similarly address safety and occupational health for subcontractor employees for any proposed subcontract whose value is expected to exceed $500,000, including commercial services and services provided in support of a commercial item. Also, when applicable, the plan must address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including other contractor employees working on NASA contracts), and (4) high-value equipment and property. This plan, as approved by the Contracting Officer, will be included in any resulting contract. (End of provision)

Alternate I

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As prescribed in 1823.7001(c), delete the first sentence of the basic provision and substitute the following:

The apparent low bidder, upon request by the Contracting Officer, shall submit a detailed safety and occupational health plan (*see* NPG 8715.3, NASA Safety Manual, Appendices). The plan shall be submitted within the time specified by the Contractor Officer. Failure to submit an acceptable plan shall make the bidder ineligible for the award of a contract.

[FR Doc. 01–23421 Filed 9–19–01; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA–2001–10629]

RIN 2127–A161

List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation. This list is contained in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The revised list includes all vehicles that NHTSA has decided to be eligible for importation since October 1, 2000. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: Effective on September 20, 2001.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made "on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under 49 U.S.C. 30141(c)." The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notice of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242–43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Rulemaking Analyses and Notices

1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the revisions resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Because this rulemaking does not impose any regulatory requirements, but merely furnishes information by revising the list in the Code of Federal Regulations of vehicles for which import eligibility decisions have been made, it has no economic impact.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, Pub. L. 96–511, the agency notes that there are no information collection requirements associated with this rulemaking action.

6. Civil Justice Reform

This rule does not have any retroactive effect. It does not repeal or modify any existing Federal regulations. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

7. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this action does not impose any regulatory requirements, but merely revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation into the United States to include all vehicles for which such decisions have been made since October 1, 2000.

In addition, so that the list of vehicles for which import eligibility decisions have been made may be included in the next edition of 49 CFR parts 400 to 999, which is due for revision on October 1, 2001, good cause exists to dispense with the requirement in 5 U.S.C. 553(d) for the effective date of the rule to be delayed for at least 30 days following its publication.

List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, part 593 of title 49 of the Code of Federal Regulations, *Determinations that a vehicle not originally manufactured to conform to the Federal Motor Vehicle Safety Standards is eligible for importation*, is amended as follows:

PART 593—[AMENDED]

1. The authority citation for part 593 continues to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.50.

2. Appendix A to part 593 is revised to read as follows:

Appendix A to Part 593—List of Vehicles Determined to be Eligible for Importation

(a) Each vehicle on the following list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must enter that number on the HS–7 Declaration Form accompanying entry to indicate that the vehicle is eligible for importation.

(1) "VSA" eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator under § 593.8.

(2) "VSP" eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(1), which establishes that a substantially similar U.S.-certified vehicle exists.

(3) "VCP" eligibility numbers are assigned to vehicles that are decided to be eligible under § 593.7(f), based on a petition from a manufacturer or registered importer submitted under § 593.5(a)(2), which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

(b) Vehicles for which eligibility decisions have been made are listed alphabetically by make, with the exception of Mercedes-Benz vehicles, which appear at the end of the list. Eligible models within each make are listed numerically by "VSA," "VSP," or "VCP" number.

(c) All hyphens used in the Model Year column mean "through" (for example, "1973–1989" means "1973 through 1989").

(d) The initials "MC" used in the Manufacturer column mean "motorcycle."

(e) The initials "SWB" used in the Model Type column mean "Short Wheel Base."

(f) The initials "LWB" used in the Model Type column mean "Long Wheel Base."

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS

VSA–80	(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989; (b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208; (c) All passenger cars manufactured on or after September 1, 1996, and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS No. 208, and that comply with FMVSS No. 214.
VSA–81	(a) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that are less than 25 years old and that were manufactured before September 1, 1991; (b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on and after September 1, 1991, and before September 1, 1993 and that, as originally manufactured, comply with FMVSS No. 202 and 208. (c) All multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 1993, and before September 1, 1998, and that, as originally manufactured comply with FMVSS No. 202, 208, and 216. (d) All multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kg (10,000 lb) or less that were manufactured on or after September 1, 1998, and before September 1, 2002, and that, as originally manufactured comply with FMVSS No. 202, 208, 214, and 216.
VSA–82	All multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb) that are less than 25 years old.
VSA–83	All trailers and motorcycles less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

Manufacturer	VSP	VSA	VCP	Model type		Model year
Acura	51			Legend		1988
Acura	77			Legend		1989
Acura	305			Legend		1990–1992
Alfa Romeo	196			164		1989
Alfa Romeo	76			164		1991
Alfa Romeo	156			164		1994
Alfa Romeo	124			GTV		1985
Alfa Romeo	70			Spider		1987
Audi	93			100		1989
Audi	317			100		1990–1992
Audi	244			100		1993
Audi	160			200 Quattro		1987
Audi	223			80		1988–1989
Audi	352			A4		1996–2000
Audi	332			A6		1998–1999
Audi	337			A8		1997–2000
Audi	238			Avant Quattro		1996
Audi	364			TT		2000–2001
BMW	248			3 Series		1995–1997
BMW	356			3 Series		2000
BMW		66		316		1978–1982
BMW	25			316		1986
BMW		23		318i and 318iA		1981–1989

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
BMW		16		320, 320i, and 320iA		1977–1985
BMW	283			320I		1990–1991
BMW		67		323i		1978–1985
BMW		30		325, 325i, 325iA, and 325E		1985–1989
BMW		24		325e and 325eA		1984–1987
BMW	96			325i		1991
BMW	197			325i		1992–1994
BMW		31		325is and 325isA		1987–1989
BMW	205			325iX		1990
BMW		33		325iX and 325iXA		1988–1989
BMW	194			5 Series		1990–1995
BMW	249			5 Series		1996–1997
BMW	314			5 Series		1998–1999
BMW	345			5 Series		2000
BMW	4			518i		1986
BMW		68		520 and 520i		1978–1983
BMW	9			520iA		1989
BMW		26		524tdA		1985–1986
BMW		69		525 and 525i		1979–1982
BMW	5			525i		1989
BMW		21		528e and 528eA		1982–1988
BMW		20		528i and 528iA		1979–1984
BMW		15		530i and 530iA		1977–1978
BMW		22		533i and 533iA		1983–1984
BMW		25		535i and 535iA		1985–1989
BMW	15			625CSi		1981
BMW	32			628CSi		1980
BMW		17		630CSi 630CSiA		1977
BMW		18		633CSi and 633CSiA		1977–1984
BMW		27		635, 635CSi, and 635CSiA		1979–1989
BMW	299			7 Series		1990–1991
BMW	232			7 Series		1992
BMW	299			7 Series		1993–1994
BMW	313			7 Series		1995–1999
BMW	366			7 Series		1999–2001
BMW		70		728 and 728i		1977–1985
BMW	14			728i		1986
BMW		71		730, 730i, and 730iA		1978–1980
BMW	6			730iA		1988
BMW		72		732i		1980–1984
BMW		19		733i and 733iA		1977–1984
BMW		28		735, 735i, and 735iA		1980–1989
BMW		73		745i		1980–1986
BMW	361			8 Series		1991–1995
BMW		78		All other models except those in the M1 and Z1 series.		1977–1989
BMW		29		L7		1986–1987
BMW		35		M3		1988–1989
BMW		34		M5		1988
BMW		32		M6		1987–1988
BMW	260			Z3		1996–1998
BMW	350			Z8		2000–2001
BMW MC	228			K1		1990–1993
BMW MC	285			K100		1984–1992
BMW MC	303			K1100, K1200		1993–1998
BMW MC	229			K75S		1987–1995
BMW MC	58			R100S		1977
BMW MC	231			R1100		1994–1997
BMW MC	368			R1100		1998–2001
BMW MC	177			R1100RS		1994
BMW MC	359			R1200C		1998–2001
BMW MC	295			R80, R100		1986–1995
Bristol Bus			4	VRT Bus—Double Decker		1977
Bristol Bus			2	VRT Bus—Double Decker		1978–1981
Cadillac	300			DeVille		1994–1999
Chevrolet	150			400SS		1995
Chevrolet	298		Astro Van			1997

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Chevrolet	349		Blazer (plant code of "K" or "2" in the 11th position of the VIN)	1997.		
Chevrolet	369			Cavalier		1997
Chevrolet	365			Corvette		1992
Chevrolet	242			Suburban		1989–1991
Chrysler	344			Daytona		1992
Chrysler	276			LHS		1996
Chrysler	216			Shadow		1989
Chrysler	273			Town and Country		1993
Citroen			1	XM		1990–1992
Dodge	135			Ram		1994–1995
Ducati MC	241			600SS		1992–1996
Ducati MC	220			748 Biposto		1996–1997
Ducati MC	201			900SS		1990–1996
Eagle	323			Vision		1994
Ferrari		76		208, 208 Turbo (all models)		1977–1988
Ferrari		36		308 (all models)		1977–1985
Ferrari		37		328 (except GTS)		1985, 1988–1989
Ferrari		37		328 GTS		1985–1989
Ferrari	86			348 TB		1992
Ferrari	161			348 TS		1992
Ferrari	327			360 Modena		1999–2000
Ferrari	256			456		1995
Ferrari	173			512 TR		1993
Ferrari	292			550 Marinello		1997–1999
Ferrari	259			F355		1995
Ferrari	355			F355		1996–1998
Ferrari	226			F50		1995
Ferrari		38		GTO		1985
Ferrari		74		Mondial (all models)		1980–1989
Ferrari		39		Testarossa		1987–1989
Ford	265			Bronco		1995–1996
Ford	322			Escort (Nicaragua)		1996
Ford			9	Escort RS		1994–1995
Ford	268			Explorer		1991–1998
Ford	367			Mustang		1993
Ford	250			Windstar		1995–1998
Freightliner	179			FLD12064ST		1991–1996
Freightliner	178			FTLD112064SD		1991–1996
GMC	134			Suburban		1992–1994
Harley Davidson	202			FX, FL, XL series		1977–1997
Harley Davidson	253			FX, FL, XL series		1998
Harley Davidson	281			FX, FL, XL series		1999
Harley Davidson	321			FX, FL, XL series		2000
Harley Davidson	362			FX, FL, XL series		2001
Hobson			8	Horse Trailer		1985
Honda	280			Accord		1991
Honda	319			Accord		1992–1999
Honda	128			Civic DX		1989
Honda	191			Prelude		1989
Honda	309			Prelude		1994–1997
Honda MC	106			CB1000F		1988
Honda MC	348			CMX250C		1978–1987
Honda MC	174			CP450SC		1986
Honda MC	358			RVF 400		1994–2000
Honda MC	290			VF750		1994–1998
Honda MC	358			VFR 400		1994–2000
Honda MC	34			VFR750		1990
Honda MC	315			VFR750		1991–1997
Honda MC	315			VFR800		1998–1999
Honda MC	294			VT600		1991–1998
Hyundai	269			Elantra		1992–1995
Jaguar	78			Sovereign		1993
Jaguar		41		XJ6		1977–1986
Jaguar	47			XJ6		1987
Jaguar	215			XJ6 Sovereign		1988
Jaguar		40		XJS		1980–1987

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VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Jaguar	175			XJS		1991
Jaguar	129			XJS		1992
Jaguar	195			XJS		1994–1996
Jaguar	336			XJS, XJ6		1988–1990
Jaguar	330			XK–8		1998
Jaguar Daimler	12			Limousine		1985
Jeep	211			Cherokee		1991
Jeep	164			Cherokee		1992
Jeep	254			Cherokee		1993
Jeep	180			Cherokee		1995
Jeep	224			CJ–7		1979
Jeep	217			Wrangler		1993
Jeep	255			Wrangler		1995
Jeep	341			Wrangler		1998
Kawasaki MC	233			EL250		1992–1994
Kawasaki MC	190			KZ550B		1982
Kawasaki MC	182			ZX1000–B1		1988
Kawasaki MC	222			ZX400		1987–1997
Kawasaki MC	312			ZX6, ZX7, ZX9, ZX10, ZX11		1987–1999
Kawasaki MC	288			ZX600		1985–1998
Kawasaki MC	247			ZZR1100		1993–1998
Ken-Mex	187			T800		1990–1996
Kenworth	115			T800		1992
KTM MC	363			Duke II		1995–2000
Land Rover	212			Defender 110		1993
Land Rover	338			Discovery		1994–1998
Lexus	293			GS300		1993–1996
Lexus	307			RX300		1998–1999
Lexus	225			SC300,SC400		1991–1996
Lincoln	144			Mark VII		1992
Magni MC	264			Australia, Sfida		1996–1998
Maserati	155			Bi-Turbo		1985
Mazda	184			MX–5 Miata		1990–1993
Mazda	199			RX–7		1986
Mazda	42			RX–7		1978–1981
Mazda	279			RX–7		1987–1995
Mazda	351			Xedos 9		1995–2000
Mercedes Benz		54		190	201.022	1984
Mercedes Benz		54		190 D	201.126	1984–1989
Mercedes Benz		54		190 D (2.2)	201.122	1984–1989
Mercedes Benz		54		190 E	201.028	1986–1989
Mercedes Benz	22			190 E	201.024	1990
Mercedes Benz	45			190 E	201.024	1991
Mercedes Benz	71			190 E	201.028	1992
Mercedes Benz	126			190 E	201.018	1992
Mercedes Benz		54		190 E (2.3)	201.024	1983–1989
Mercedes Benz		54		190 E (2.6)	201.029	1986–1989
Mercedes Benz		54		190 E 2.3 16	201.034	1984–1989
Mercedes Benz		52		200	123.020	1977–1980
Mercedes Benz		52		200	123.220	1979–1985
Mercedes Benz		55		200	124.020	1985
Mercedes Benz		52		200 D	123.120	1980–1982
Mercedes Benz	17			200 D	124.120	1986
Mercedes Benz	11			200 E	124.021	1989
Mercedes Benz	109			200 E	124.012	1991
Mercedes Benz	75			200 E	124.019	1993
Mercedes Benz	3			200 TE	124.081	1989
Mercedes Benz	168			220 E		1993
Mercedes Benz	167			220 TE Station Wagon		1993–1996
Mercedes Benz		52		230	123.023	1977–1985
Mercedes Benz		52		230 C	123.043	1978–1980
Mercedes Benz		52		230 CE	123.243	1980–1984
Mercedes Benz	84			230 CE	124.043	1991
Mercedes Benz	203			230 CE		1992
Mercedes Benz		52		230 E	123.223	1977–1985
Mercedes Benz		55		230 E	124.023	1985–1987
Mercedes Benz	1			230 E	124.023	1988
Mercedes Benz	20			230 E	124.023	1989
Mercedes Benz	19			230 E	124.023	1990
Mercedes Benz	74			230 E	124.023	1991
Mercedes Benz	127			230 E	124.023	1993
Mercedes Benz		52		230 T	123.083	1977–1985

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Mercedes Benz		52		230 TE	123.283	1977–1985
Mercedes Benz		55		230 TE	124.083	1985
Mercedes Benz	2			230 TE	124.083	1989
Mercedes Benz		52		240 D	123.123	1977–1985
Mercedes Benz		52		240 TD	123.183	1977–1985
Mercedes Benz		52		250	123.026	1977–1985
Mercedes Benz	172			250 D		1992
Mercedes Benz	245			250 E		1990–1993
Mercedes Benz		55		260 E	124.026	1985–1989
Mercedes Benz	105			260 E	124.026	1992
Mercedes Benz	18			260 SE	126.020	1986
Mercedes Benz	28			260 SE	126.020	1989
Mercedes Benz		52		280	123.030	1977–1985
Mercedes Benz		52		280 C	123.050	1977–1980
Mercedes Benz		52		280 CE	123.053	1977–1985
Mercedes Benz		52		280 E	123.033	1977–1985
Mercedes Benz	166			280 E		1993
Mercedes Benz		51		280 S	116.020	1977–1980
Mercedes Benz		53		280 S	126.021	1980–1983
Mercedes Benz		44		280 SC	107.022	1977–1981
Mercedes Benz		51		280 SE	116.024	1977–1988
Mercedes Benz		53		280 SE	126.022	1980–1985
Mercedes Benz		51		280 SEL	116.025	1977–1980
Mercedes Benz		53		280 SEL	126.023	1980–1985
Mercedes Benz		44		280 SL	107.042	1977–1985
Mercedes Benz		52		280 TE	123.093	1977–1985
Mercedes Benz		52		300 CD	123.150	1978–1985
Mercedes Benz		55		300 CE	124.050	1988–1989
Mercedes Benz	64			300 CE	124.051	1990
Mercedes Benz	83			300 CE	124.051	1991
Mercedes Benz	117			300 CE	124.050	1992
Mercedes Benz		52		300 D	123.133	1977–1985
Mercedes Benz		52		300 D	123.130	1977–1985
Mercedes Benz		55		300 D	124.130	1985–1986
Mercedes Benz		55		300 D Turbo	124.133	1985–1989
Mercedes Benz		55		300 E	124.030	1985–1989
Mercedes Benz	114			300 E	124.031	1992
Mercedes Benz	192			300 E Matic		1990–1993
Mercedes Benz		53		300 SD	126.120	1981–1989
Mercedes Benz		53		300 SE	126.024	1985–1989
Mercedes Benz	68			300 SE	126.024	1990
Mercedes Benz		53		300 SEL	126.025	1986–1989
Mercedes Benz	21			300 SEL	126.025	1990
Mercedes Benz		44		300 SL	107.041	1986–1988
Mercedes Benz	7			300 SL	107.041	1989
Mercedes Benz	54			300 SL	129.006	1992
Mercedes Benz		52		300 TD	123.193	1977–1985
Mercedes Benz		55		300 TD Turbo	124.193	1986–1989
Mercedes Benz		55		300 TE	124.090	1986–1989
Mercedes Benz	40			300 TE	124.090	1990
Mercedes Benz	193			300 TE		1992
Mercedes Benz	142			320 SL		1992
Mercedes Benz	310			320 CE		1993
Mercedes Benz		44		350 SC	107.023	1977–1979
Mercedes Benz		51		350 SE	116.028	1977–1980
Mercedes Benz		51		350 SEL	116.029	1977–1980
Mercedes Benz		44		350 SL	107.043	1977–1978
Mercedes Benz		44		380 SC	107.025	1981–1989
Mercedes Benz		53		380 SE	126.032	1979–1989
Mercedes Benz		53		380 SE	126.043	1982–1989
Mercedes Benz		53		380 SEL	126.033	1980–1989
Mercedes Benz		44		380 SL	107.045	1980–1989
Mercedes Benz	296			400 SE		1992–1994
Mercedes Benz	169			420 E		1993
Mercedes Benz		53		420 SE	126.034	1985–1989
Mercedes Benz	230			420 SE		1990–1991
Mercedes Benz	209			420 SEC		1990
Mercedes Benz		53		420 SEL	126.035	1986–1989
Mercedes Benz	48			420 SEL	126.035	1990
Mercedes Benz		44		420 SL	107.047	1986
Mercedes Benz		44		450 SC	107.024	1977–1989
Mercedes Benz		51		450 SE	116.032	1977–1980

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Mercedes Benz		51		450 SEL	116.033	1977–1988
Mercedes Benz		51		450 SEL(6.9)	116.036	1977–1988
Mercedes Benz		44		450 SL	107.044	1977–1989
Mercedes Benz	56			500 E	124.036	1991
Mercedes Benz		44		500 SC	107.026	1978–1981
Mercedes Benz		53		500 SE	126.036	1980–1986
Mercedes Benz	35			500 SE	126.036	1988
Mercedes Benz	154			500 SE		1990
Mercedes Benz	26			500 SE	140.050	1991
Mercedes Benz		53		500 SEC	126.044	1981–1989
Mercedes Benz	66			500 SEC	126.044	1990
Mercedes Benz		53		500 SEL	126.037	1980–1989
Mercedes Benz	23			500 SEL	129.066	1989
Mercedes Benz	153			500 SEL		1990
Mercedes Benz	63			500 SEL	126.037	1991
Mercedes Benz		44		500 SL	107.046	1980–1989
Mercedes Benz	33			500 SL	129.066	1991
Mercedes Benz	60			500 SL	129.006	1992
Mercedes Benz		53		560 SEC	126.045	1986–1989
Mercedes Benz	141			560 SEC	126.045	1990
Mercedes Benz	333			560 SEC		1991
Mercedes Benz		53		560 SEL	126.039	1986–1989
Mercedes Benz	89			560 SEL	126.039	1990
Mercedes Benz		44		560 SL	107.048	1986–1989
Mercedes Benz		43		600	100.012	1977–1981
Mercedes Benz		43		600 Landaulet	100.015	1977–1981
Mercedes Benz		43		600 Long 4dr	100.014	1977–1981
Mercedes Benz		43		600 Long 6dr	100.016	1977–1981
Mercedes Benz	185			600 SEC Coupe		1993
Mercedes Benz	121			600 SL	129.076	1992
Mercedes Benz		77		All other models except Model ID 114 and 115 with sales designations "long," "station wagon," or "ambulance."		1977–1989
Mercedes Benz	331			C Class		1994–1999
Mercedes Benz	277			CL500		1998
Mercedes Benz	370			CL500		1999–2001
Mercedes Benz	370			CL600		1999–2001
Mercedes Benz	357			CLK320		1998
Mercedes Benz	354			E Series		1991–1995
Mercedes Benz	207			E200		1994
Mercedes Benz	278			E200		1995–1998
Mercedes Benz	168			E220		1994–1996
Mercedes Benz	245			E250		1994–1995
Mercedes Benz	166			E280		1994–1996
Mercedes Benz	240			E320		1994–1998
Mercedes Benz	318			E320 Station Wagon		1994–1999
Mercedes Benz	169			E420		1994–1996
Mercedes Benz	163			E500		1994
Mercedes Benz	304			E500		1995–1997
Mercedes Benz			18	G-Wagon		1999–2000
Mercedes Benz			5	G-Wagon 300	463.228	1990–1992
Mercedes Benz			3	G-Wagon 300	463.228	1993
Mercedes Benz			5	G-Wagon 300	463.228	1994
Mercedes Benz			6	G-Wagon 320		1995
Mercedes Benz			11	G-Wagon 463		1996
Mercedes Benz			15	G-Wagon 463		1997
Mercedes Benz			16	G-Wagon 463		1998
Mercedes Benz			13	G-Wagon 463 LWB V–8		1992–1996
Mercedes Benz			14	G-Wagon 463 SWB		1990–1996
Mercedes Benz	342			S Class		1995–1998
Mercedes Benz	325			S Class		1999
Mercedes Benz	85			S280	140.028	1994
Mercedes Benz	236			S320		1994
Mercedes Benz	267			S420		1994
Mercedes Benz	235			S500		1994
Mercedes Benz	371			S500		2000–2001
Mercedes Benz	297			S600		1995–1999
Mercedes Benz	371			S600		2000–2001
Mercedes Benz	185			S600 Coupe		1994
Mercedes Benz	214			S600L		1994

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Mercedes Benz	343			SE Class		1992–1994
Mercedes Benz	343			SEL Class		1992–1994
Mercedes Benz	329			SL Class		1993–1996
Mercedes Benz	257			SLK		1997–1998
Mitsubishi	13			Galant SUP		1989
Mitsubishi	8			Galant VX		1988
Mitsubishi	170			Pajero		1984
Moto Guzzi MC	118			Daytona		1993
Moto Guzzi MC	264			Daytona RS		1996–1998
Nissan	162			240SX		1988
Nissan	198			300ZX		1984
Nissan		75		Fairlady and Fairlady Z		1977–1979
Nissan			17	GTS, GTR		1990–1999
Nissan	138			Maxima		1989
Nissan	316			Pathfinder		1987–1995
Nissan	139			Stanza		1987
Nissan		75		Z and 280Z		1977–1981
Peugeot		65		405		1989
Plymouth	353			Voyager		1996
Pontiac	189			Transport MPV		1993
Porsche	346			911		1997–2000
Porsche	29			911 C4		1990
Porsche		56		911 Cabriolet		1984–1989
Porsche		56		911 Carrera		1977–1989
Porsche	52			911 Carrera		1992
Porsche	165			911 Carrera		1993
Porsche	103			911 Carrera		1994
Porsche	165			911 Carrera		1995–1996
Porsche		56		911 Coupe		1977–1989
Porsche		56		911 Targa		1977–1989
Porsche		56		911 Turbo		1977–1989
Porsche	125			911 Turbo		1992
Porsche	347			911 Turbo		2001
Porsche		59		924 Coupe		1977–1989
Porsche		59		924 S		1987–1989
Porsche		59		924 Turbo Coupe		1979–1989
Porsche	266			928		1991–1996
Porsche	272			928		1997–1998
Porsche		60		928 Coupe		1977–1989
Porsche		60		928 GT		1979–1989
Porsche		60		928 S Coupe		1983–1989
Porsche		60		928 S4		1979–1989
Porsche	210			928 S4		1990
Porsche	97			944		1990
Porsche		61		944 Coupe		1982–1989
Porsche		61		944 S Coupe		1987–1989
Porsche	152			944 S2 2 door Hatchback		1990
Porsche		61		944 Turbo Coupe		1985–1989
Porsche	116			946		1994
Porsche		79		All models except Model 959		1977–1989
Porsche	261			Boxster		1997
Rolls Royce	340			Bentley		1987–1989
Rolls Royce	186			Bentley Brooklands		1993
Rolls Royce	258			Bentley Continental R		1990–1993
Rolls Royce	53			Bentley Turbo		1986
Rolls Royce	291			Bentley Turbo R		1992–1993
Rolls Royce	243			Bentley Turbo R		1995
Rolls Royce	122			Camargue		1984–1985
Rolls Royce	339			Corniche		1977–1985
Rolls Royce		62		Silver Shadow		1977–1979
Rolls Royce	188			Silver Spur		1984
Saab	158			900		1983
Saab	270			900 S		1987–1989
Saab	219			900 SE		1990–1994
Saab	219			900 SE		1996–1997
Saab	213			900 SE		1995
Saab	59			9000		1988
Saab	334			9000		1994
Sprite			12	Musketeer Trailer		1980
Suzuki MC	111			GS 850		1985
Suzuki MC	287			GSF 750		1996–1998
Suzuki MC	208			GSX 750		1983

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VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type		Model year
Suzuki MC	275			GSXR 750		1986–1998
Suzuki MC	227			GSXR1100		1986–1997
Toyota	308			Avalon		1995–1998
Toyota		63		Camry		1987–1988
Toyota	39			Camry		1989
Toyota		64		Celica		1987–1988
Toyota		65		Corolla		1987–1988
Toyota	320			Land Cruiser		1978–1980
Toyota	252			Land Cruiser		1981–1988
Toyota	101			Land Cruiser		1989
Toyota	218			Land Cruiser		1990–1996
Toyota	324			MR2		1990–1991
Toyota	326			Previa		1991–1992
Toyota	302			Previa		1993–1997
Toyota	328			RAV4		1996
Toyota	200			Van		1987–1988
Triumph MC	311			Thunderbird		1995–1999
Volkswagen	237			Beetle Convertible		1977–1979
Volkswagen	237			Beetle Sedan		1977
Volkswagen	306			Eurovan		1993–1994
Volkswagen	159			Golf		1987
Volkswagen	80			Golf		1988
Volkswagen	92			Golf		1993
Volkswagen	73			Golf Rally		1988
Volkswagen	149			GTI (Canadian)		1991
Volkswagen	274			Jetta		1994–1996
Volkswagen	148			Passat 4 door Sedan		1992
Volkswagen		42		Scirocco		1986
Volkswagen	284			Transporter		1988–1989
Volkswagen	251			Transporter		1990
Volvo	43			262C		1981
Volvo	87			740 Sedan		1988
Volvo	286			850 Turbo		1995–1998
Volvo	95			940 GL		1993
Volvo	132			945 GL		1994
Volvo	176			960 Sedan & Wagon		1994
Volvo	335			S70		1998–2000
Yamaha MC	113			FJ1200		1991
Yamaha MC	360			R1		2000
Yamaha MC	171			RD–350		1983
Yamaha MC	301			Virago		1990–1998

Issued on: September 14, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–23341 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001226367–0367–01; I.D. 090701C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting Allocation

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reapportionment of surplus Pacific whiting allocation; announcement of the reopening dates for the primary season for the shore-based sector; request for comments.

SUMMARY: NMFS has determined that the Indian tribal fishery will be unable to harvest 10,000 metric tons (mt) of their 2001 Pacific whiting (whiting) allocation. NMFS therefore, announces the reapportionment of surplus whiting from the tribal allocation to the catcher/processor, mothership, and shore-based sectors. This action is intended to provide for the full harvest of whiting available to the 2001 fishery.

DATES: Effective noon, local time (l.t.) September 17, 2001, unless modified, superseded, or rescinded, until the effective date of the 2002 annual specifications and management measures, which will be published in the **Federal Register**. Comments will be accepted through October 5, 2001.

ADDRESSES: Submit comments to Donna Acting Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Becky Renko, 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 11, 2001 (66 FR 2338), the levels of allowable biological catch (ABC), the optimum yield (OY) the tribal allocation, and the commercial OY (the OY minus the tribal allocation) for U.S. harvests of whiting were announced in the **Federal Register**. For 2001 the whiting ABC and OY are 190,400 mt (mt), the tribal whiting allocation is 27,500 mt, and the commercial OY is 162,900 mt.

Regulations at 50 CFR 660.323(a)(4) divide the commercial OY into separate allocations for the non-tribal catcher/processor, mothership, and shore-based sectors of the whiting fishery. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is composed of vessels that harvest whiting for delivery to shoreside processors. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (55,386 mt), motherships getting 24 percent (39,096 mt), and the shore-based sector getting 42 percent (68,418 mt).

On August 31, 2001, NMFS received notification from the tribal fishery participants indicating that 10,000 mts of the tribal allocation was not expected to be harvested before the end of the fishing year. As a result, NMFS announces the reapportionment of the 10,000 mt surplus whiting from the tribal allocation to the catcher/processor, mothership, and shore-based sectors. Regulations at 50 CFR 660.323 (a)(3)(iv) provide for the reapportionment of allocation that the Regional Administrator determines will not be used by the end of the fishing year. Such reapportionments are to be disbursed in the same proportion as each sector's allotted portion of the commercial OY. Therefore, in addition to the allocations announced on January 11, 2001, the catcher/processors get an additional 3,400 mt(34 percent), the motherships get an additional 2,400 mt (24 percent), and the shore-based sector get an additional 4,200 mt (42 percent). The total allocation for 2001 by sector is: catcher/processor 58,786 mt, motherships 41,496 mt, and shore-based 72,618 mt.

NMFS announced the end of the 2001 primary season for the shore-based Pacific whiting fishery at noon local time (l.t.) August 21, 2001, because the allocation was projected to be reached at that time. To provide the shore-based participants access to the reapportioned whiting, this document announces the resumption of the primary season for the shore-based whiting fishery at noon l.t., Monday, September 17, 2001.

NMFS Action

This action announces the reapportionment of 10,000 mt of surplus whiting from the Indian tribal fishery to the catcher/processor, mothership, and shore-based sectors of the non-tribal whiting fishery. The revised tribal allocation for 2001 will be 17,500 mt. The commercial allocations for 2001 by sector are: catcher/processor 58,786 mt, motherships 41,496 mt, and shore-based 72,618 mt.

Effective noon l.t., Monday, September 17, 2001, the 2001 primary season for the shore-based sector of the whiting fishery resumes. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43° – 40°30′ N. lat.) at any time during a fishing trip, a 10,000-lb (4,536 kg) trip limit applies, as announced in the annual management measures at paragraph IV, B (3)(c)(ii).

Classification

These actions are authorized by the FMP and regulations at 50 CFR part 660 subpart G, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent fishery data and recent notification from the tribal representatives. Because of the need for immediate action, NMFS has determined that providing an opportunity for prior notice and comment would be impractical and contrary to public interest. Delay of this action could push the whiting season into inclement autumn weather. Because the shore-based and mothership sectors are composed of smaller catcher vessels, the agency believes that the risk of pushing the season into inclement weather constitutes good cause to waive the 30-day delay in effectiveness. In addition, the shore-based processors need an immediate reallocation if they are to keep their workers employed. These actions are taken under the authority of 50 CFR 660.323(a)(2), and are exempt from review under Executive Order 12866.

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(A).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23471 Filed 9–17–01; 2:29 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1168–06; I.D. 011101B]

RIN 0648–A082

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries off Alaska; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the July 17, 2001, emergency interim rule and its August 22, 2001, correction by correcting Steller sea lion protection areas for the Pacific cod directed fishery, to clarify closure areas to Tables 22, 23, and 24 to part 679 and by correcting the corresponding regulatory text to be consistent with the changes to the tables.

DATES: Effective September 18, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, NMFS, 907–586–7228 or e-mail at *melanie.brown@noaa.gov.*

SUPPLEMENTARY INFORMATION: The emergency interim rule published July 17, 2001 (66 FR 37167), and corrected August 22, 2001 (66 FR 44073), implements Steller sea lion protection measures and announces final 2001 harvest specifications for the groundfish fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska. As published and corrected, the final regulations contain errors.

In Table 22, in column 8, the column heading was incomplete in the August 22, 2001, **Federal Register** correction. This correction includes the additional language regarding vessels less than 60 ft (18.3 m). Footnote 7 to Table 22 is corrected to clarify the no fishing zones.

Tables 22 and 23 have footnotes added to Sutwik Island and Kodiak/

Cape Ugat sites to clarify the extent of the no pollock and Pacific cod trawl fishing zones around these sites. The 20-nautical miles (nm) arcs were incorrectly extended into the Shelikof foraging area. The North Pacific Fishery Management Council (Council) and NMFS did not intend the closures around these areas to enter the open area of the Shelikof foraging area.

Consistent with the Council intent and NMFS' action, the closure is within 10 nautical miles around rookeries in the Aleutian Islands to Pacific cod trawling, except for the 20-nm closures around the Agligadak and Buldir rookeries for all Pacific cod fishing. All Pacific cod non-trawl vessels may fish outside 3 nautical miles in critical habitat around remaining rookeries and haulouts in the Aleutian islands. Table 23 in the emergency interim rule, which erroneously shows all Pacific cod fishing closed to either 10 nautical miles or 20 nautical miles around Adak Island, Kasatochi Island, Seguam Island/Saddleridge Point, and Yunaska Island rookeries, is corrected to show all these rookeries with 10-nm Pacific cod trawling closures. Because the closures at these rookeries apply only to trawling, the exemptions (designated by a "Y") shown in column 10 of Table 23 for vessels less than 60 ft (18.3 m) using non-trawl gear are removed.

In addition, column 9 of Table 23 is removed, and columns 10 and 11 are redesignated as columns 9 and 10, respectively, to eliminate redundant closure designations. All sites listed with closures in column 9 of the August 22, 2001, Table 23 are rookeries. All rookeries that are listed in Table 21 of the regulatory text have no groundfish fishing zones, which make fishery specific closures from 0 nautical miles to 3 nautical miles unnecessary.

Footnotes 5 and 8 to Table 23 of the regulations are revised, respectively, to correspond with the corrections. Regulatory text in 50 CFR 679.22 (a)(12), (a)(13), and (b)(7)(ii)(B) is also corrected to reflect the corrections made to Table 23. Footnote 7 to Table 23 is corrected to clarify the no fishing zone.

The footnotes to Table 24 of the regulatory text are also corrected by designating § 679.22(a)(12) to correspond with the corrections to Table 23. Footnote 4 to Table 24 is corrected to clarify the no fishing zone.

Correction

Accordingly, the emergency interim rule published on July 17, 2001 (66 FR 37167, FR Doc. 01-17850), and its correction published August 22, 2001 (66 FR 44073, FR Doc. 01-21205), are corrected as follows.

§ 679.22 [Corrected]

1. In the emergency interim rule published July 17, 2001, 66 FR 37167, the following corrections are made to § 679.22:

a. On page 37180, in the second column, amendatory instruction 5, in the fourth line, "(a)(12)(iv) through (viii)" is corrected to read "(a)(12)(iv) through (vii)."

b. On page 37180, column 3, and on page 37181, column 1, paragraph (a)(12)(vii) is removed;

c. On page 37181, column 1, paragraph (a)(12)(viii) is correctly redesignated as paragraph (a)(12)(vii);

d. On page 37181, column 1, paragraph (a)(13)(iii)(C) is corrected to read as follows:

(a) * * *

(13) * * *

(iii) * * *

"(C) All pot vessels are exempt from Pacific cod no fishing zones for selected sites. These sites are listed in Table 23 to this part and identifiable by a "Bering Sea" in column 2 and by a "Y" in column 10."

* * * * *

e. On page 37181, column 3, paragraph (b)(7)(ii)(B) is corrected to read as follows:

(b) * * *

(7) * * *

(ii) * * *

(B) All vessels less than 60 ft (18.3 m) LOA using non-trawl gear are exempt from the fishing prohibitions of paragraph (b)(3)(i)(B) of this section and from Pacific cod no fishing zones for selected sites. These sites are listed in Table 23 of this part and identifiable by a "Gulf of Alaska" in column 2 and a "Y" in column 9.

* * * * *

Tables 22, 23, and 24 to 50 CFR part 679 [Corrected]

2. In the correction of the emergency interim rule published August 22, 2001 (66 FR 44073, FR Doc. 01-21205), Tables 22, 23, and 24 to 50 CFR part 679, beginning on pages 44079, 44081, and 44084, respectively, are correctly revised to read as follows:

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Table 22 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Pollock Fisheries

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to[1]		Pollock no fishing zone[2,7]	Vessels < 60 Ft (18.3m) using non-trawl gear exempt from pollock fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20	Y
Chugnadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20	
Samalga	Gulf of Alaska	52 48.00 N	169 15.00 W			20	
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20	
Polivnol Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20	
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20	
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W	54 09.10 N	166 05.50 W	10	Y
Akutan I./Reef-lava	Bering Sea	54 06.10 N	166 06.19 W			10	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			20	
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			20	
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20	
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	Y
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20	
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			20	
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20	
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 58.80 W			10	Y
Aiktak	Gulf of Alaska	54 10.99 N	164 51.15 W			20	
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20	
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			20	
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10	Y
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	Y
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10	Y
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			10	Y
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10	Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10	Y

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from Latitude (N)	Boundaries from Longitude (W)	Boundaries to[1] Latitude (N)	Boundaries to[1] Longitude (W)	Pollock no fishing zone[2,7] (nm)	Vessels < 60 Ft (18.3m) using non-trawl gear exempt from pollock fishing closures[3]
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10	Y
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			10	Y
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10	Y
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10	Y
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			10	Y
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			10	Y
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	10	Y
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			10	Y
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	10	Y
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			10	Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			10	Y
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			10	Y
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			10	Y
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20	
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20	
Sutwik I.[8]	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20	
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20	
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20	
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20	
Kodiak/Cape Ugat[9]	Gulf of Alaska	57 52.41 N	153 50.97 W			20	Y
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			20	Y
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			20	Y
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			20	Y
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			20	Y
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			20	Y
Long I.[4]	Gulf of Alaska	67 46.82 N	162 12.90 W			20	Y
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			20	Y
Kodiak/Cape Chiniak[4,6]	Gulf of Alaska	57 37.90 N	152 08.25 W			20	Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20	
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			20	Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	20	
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			20	Y
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			20	Y
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			20	Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20	
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			20	Y
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			20	Y
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			20	Y
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	20	Y

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from Latitude (N)	Boundaries from Longitude (W)	Boundaries to[1] Latitude (N)	Boundaries to[1] Longitude (W)	Pollock no fishing zone[2,7] (nm)	Vessels < 60 Ft (18.3m) using non-trawl gear exempt from pollock fishing closures[2]
Point Elrington[5]	Gulf of Alaska	59 56.00 N	148 15.20 W			20	
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20	
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			20	
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			20	
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			20	
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			20	
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20	

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base

[2] See 679.22(a)(11)(iv) and (b)(3)(iv).

[3] See 679.22(a)(13)(iv) and (b)(7)(iii).

[4] Pollock fishing closure to 10 nm from October 1 through December 31.

[5] Pollock fishing closure extends 20 nm into federal waters outside of Prince William Sound only.

[6] The pollock no fishing area extends in an arc from 3nm to 10 or 20 nm to a line connecting the point 57°31'3" N lat./152°17'48" W long. with the point 57°24'36" N lat./151° 40'29" W long

[7] No fishing zones are the waters between 3 nm and the nm specified in column 7 around each site.

[8] The 20 nm pollock trawl closure around Sutwik haulout is established only for that portion of the area south of a line connecting Cape Kumlik (56°38' N/157°26' W) and the southwestern tip of Tugidak Island (56°24' N/154°41' W).

[9] The 20 nm pollock trawl closures around Kodiak/Cape Ugat and Shakun Rock haulouts are established only for that portion east of 154° 0' 0" W long. and for Shakun Rock, north of 58°23' 05" N lat.

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Pacific Cod Fisheries

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[2, 7]	Trawl Gear P. Cod no fishing Zone[4, 7]	Vessels < 60 ft. (18.3m) using non trawl gear exempt from column 7 P. cod fishing closures[8]	All pot vessels exempt from P. cod fishing closures[8]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)		
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20		Y	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20		Y	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20		Y	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10		Y	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20		Y	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20		Y	Y
Attu I./Cape Wrangell	Aleutian Island	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E		20		
Agattu I./Gillion Pt	Aleutian Island	52 24.13 N	173 21.31 E				20		
Attu I./Chirikof Pt.	Aleutian Island	52 49.75 N	173 26.00 E				20		
Agattu I./Cape Sabak	Aleutian Island	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E		20		
Alaid I.	Aleutian Island	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E		20		
Shemya I. [9]	Aleutian Island	52 44.00 N	174 08.70 E				20		
Buldir I.	Aleutian Island	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20		Y	
Kiska I./Cape St. Stephen	Aleutian Island	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E		20		
Kiska I./Sobaka & Vega	Aleutian Island	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E		20		
Kiska I./Lief Cove	Aleutian Island	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E		20		
Kiska I./Sirius Pt.	Aleutian Island	52 08.50 N	177 36.50 E				20		
Tanadak I. (Kiska)	Aleutian Island	51 56.80 N	177 46.80 E				20		
Segula I.	Aleutian Island	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E		20		
Ayugadak Point	Aleutian Island	51 45.36 N	178 24.30 E				20		
Rat I./Krysi Pt.	Aleutian Island	51 49.96 N	178 12.35 E				20		
Little Sitkin I.	Aleutian Island	51 59.30 N	178 29.80 E				20		
Amchitka I./Column Rocks	Aleutian Island	51 32.32 N	178 49.26 E				20		
Amchitka I./East Cape	Aleutian Island	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E		20		
Amchitka I./Cape Ivakin	Aleutian Island	51 24.46 N	179 24.21 E				20		
Semisopochnoi/Petrel Pt.	Aleutian Island	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E		20		
Semisopochnoi I./Pochnoi Pt.	Aleutian Island	51 57.30 N	179 46.00 E				20		
Amatignak I./Nitrof Pt.	Aleutian Island	51 13.00 N	179 07.80 W				20		
Unalga & Dinkum Rocks	Aleutian Island	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W		20		
Ulak I./Hasgox Pt.	Aleutian Island	51 16.90 N	178 58.90 W	51 16.70 N	178 59.60 W		20		
Kavalga I.	Aleutian Island	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W		20		
Tag I.	Aleutian Island	51 33.50 N	178 34.50 W				20		
Ugidak I.	Aleutian Island	51 34.95 N	178 30.45 W				20		
Gramp Rock [9]	Aleutian Island	51 28.67 N	178 20.58 W				20		
Adak I.	Aleutian Island	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W		10		
Kasatochi I.	Aleutian Island	52 11.11 N	175 31.00 W				10		
Agligadak I.	Aleutian Island	52 06.09 N	172 54.23 W			20		Y	
Seguam I./Saddleridge Pt.	Aleutian Island	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W		10		
Yunaska I.	Aleutian Island	52 41.40 N	170 36.35 W				10		
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20			
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20			
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20			

Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[2, 7]	Trawl Gear P. Cod no fishing Zone[4, 7]	Vessels < 60 ft. (18.3m) using non trawl gear exempt from column 7 P. cod fishing closures[8]	All pot vessels exempt from P. cod fishing closures[8]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)		
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20			
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20			
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20			
Unalaska/Bishop Pt	Bering Sea	53 56.40 N	166 57.50 W			10		Y	Y
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 08.19 W	54 09.10 N	166 05.50 W	10		Y	Y
Unalaska I./Cape Sedanka	Gulf of Alaska	53 50.50 N	166 05.00 W			20			
Old Man Rocks	Gulf of Alaska	53 52.20 N	166 04.90 W			20			
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20			
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10		Y	Y
Rootok	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20			
Tanginak I.	Gulf of Alaska	54 12.00 N	165 19.40 W			20			
Tigalda/Rocks NE	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20			
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10		Y	Y
Aliktak	Gulf of Alaska	54 10.99 N	164 51.15 W			20			
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20			
Round (GOA)	Gulf of Alaska	54 12.05 N	164 46.60 W			20			
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10		Y	
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10		Y	
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10		Y	
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			10		Y	
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10		Y	
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10		Y	
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10		Y	
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			10		Y	
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10		Y	
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10		Y	
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			10		Y	
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			10		Y	
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	10		Y	
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			10		Y	
Chernabura I.	Gulf of Alaska	54 45.16 N	159 32.99 W	54 45.87 N	159 35.74 W	10		Y	
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			10		Y	
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			10		Y	
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			10		Y	
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			10		Y	
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20			
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20			
Sutwik I. [10]	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20			
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20			
Nagai Rocks	Gulf of Alaska	55 49.60 N	155 47.50 W			20			
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20			
Kodiak/Cape Ugat [11]	Gulf of Alaska	57 52.41 N	153 50.97 W			20		Y	
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			20		Y	
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			20		Y	

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Column Number 1	2	3	4	5	6	7	8	9	10
Site name	Management Region	Boundaries from		Boundaries to [1]		All P. Cod no fishing zone[2, 7] (nm)	Trawl Gear P. Cod no fishing Zone[4, 7] (nm)	Vessels < 60 ft. (18.3m) using non trawl gear exempt from column 7 P. cod fishing closures[5]	All pot vessels exempt from P. cod fishing closures[6]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)				
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			20		Y	
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			20		Y	
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			20		Y	
Long I.[2]	Gulf of Alaska	57 46.82 N	152 12.90 W			20		Y	
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			20		Y	
Kodiak/Cape Chiniak[2,8]	Gulf of Alaska	57 37.90 N	152 08.25 W			20		Y	
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20			
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			20		Y	
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	20			
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			20		Y	
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			20		Y	
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			20		Y	
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20			
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			20		Y	
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			20		Y	
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			20		Y	
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	20		Y	
Point Elrington	Gulf of Alaska	59 56.00 N	148 15.20 W			20			
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20			
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			20			
Cape Hinchinbrook	Gulf of Alaska	60 14.00 N	146 38.50 W			20			
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			20			
Hook Point	Gulf of Alaska	60 20.00 N	146 15.60 W			20			
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20			

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Fishing closure zone is 10 nm between October 1 through December 31.

[3] See 679.22(a)(11)(iii), (a)(12)(v) and (b)(3)(iii).

[4] See 679.22(a)(12)(vi)

[5] See 679.22(a)(13)(iii)(B) and 679.22(b)(7)(ii)(B).

[6] See 679.22(a)(13)(iii)(C).

[7] No fishing zones are the waters between 3 nm and the nm specified in columns 7 and 8 around each site.

[8] The Pacific cod no fishing area extends in an arc from 3nm to 10 or 20 nm to a line connecting the point 57°31'3" N lat./152°17'46" W long. with the point 57°24'36" N lat./151° 40'29" W long

[9] The 20 nm Pacific cod trawl closure around the Gramp Rock rookery is established only for that portion of the area west of 176° W long.

[10] The 20 nm Pacific cod fishing closure around Sutwik haulout is established only for that portion of the area south of a line connecting Cape Kumlik (56°38' N/157°26' W) and the southwestern tip of Tugidak Island (56°24' N/154°41' W).

[11] The 20 nm Pacidic cod fishing closures around Kodiak/Cape Uget and Shakun Rock haulouts are established only for that portion east of 154°0' 0" W long. and for Shakun Rock, north of 58°23' 05" N lat.

Table 24 to 50 CFR Part 679 Steller Sea Lion Protection Areas for Atka Mackerel Fisheries

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,4] (nm)	All pot vessels exempt from Atka mackerel fishing closures[3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20	Y
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20	Y
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20	Y
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10	Y
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20	Y
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20	Y
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10	
Agattu I./Gillion Pt	Aleutian Islands	52 24.13 N	173 21.31 E			10	
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10	
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20	
Kiska I./Cape St. Stephen	Aleutian Islands	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	10	
Kiska I./Lief Cove	Aleutian Islands	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	10	
Ayugadak Point	Aleutian Islands	51 45.36 N	178 24.30 E			10	
Amchitka I./Column Rocks	Aleutian Islands	51 32.32 N	178 49.28 E			10	
Amchitka I./East Cape	Aleutian Islands	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	10	
Semisopochnoi/Petrel Pt.	Aleutian Islands	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	10	
Semisopochnoi I./Pochnoi Pt.	Aleutian Islands	51 57.30 N	179 46.00 E			10	
Ulak I./Hasgox Pt.	Aleutian Islands	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	10	
Tag I.	Aleutian Islands	51 33.50 N	178 34.50 W			10	
Gramp Rock	Aleutian Islands	51 28.87 N	178 20.58 W			10	
Tanaga I./Bumpy Pt.[5]	Aleutian Islands	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	20	
Bobrof I.	Aleutian Islands	51 54.00 N	177 27.00 W			20	
Kanaga I./Ship Rock	Aleutian Islands	51 46.70 N	177 20.72 W			20	
Kanaga I./North Cape	Aleutian Islands	51 56.50 N	177 09.00 W			20	
Adak I.	Aleutian Islands	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	20	
Little Tanaga Strait	Aleutian Islands	51 49.09 N	176 13.90 W			20	
Great Sitkin I.	Aleutian Islands	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	20	
Anegaksik I.	Aleutian Islands	51 50.86 N	175 53.00 W			20	
Kasatochi I.	Aleutian Islands	52 11.11 N	175 31.00 W			20	
Atka I./N. Cape	Aleutian Islands	52 24.20 N	174 17.80 W			20	
Amlia I./Sviech. Harbor	Aleutian Islands	52 01.80 N	173 23.90 W			20	
Sagigik I.	Aleutian Islands	52 00.50 N	173 09.30 W			20	
Amlia I./East	Aleutian Islands	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	20	
Tanadak I. (Amlia)	Aleutian Islands	52 04.20 N	172 57.60 W			20	
Agligadak I.	Aleutian Islands	52 06.09 N	172 54.23 W			20	
Seguam I./Saddleridge Pt.	Aleutian Islands	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20	
Seguam I./Finch Pt.	Aleutian Islands	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	20	
Seguam I./South Side	Aleutian Islands	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	20	
Amukta I. & Rocks	Aleutian Islands	52 27.25 N	171 17.90 W			20	
Chagulak I.	Aleutian Islands	52 34.00 N	171 10.50 W			20	

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone [2,3] (nm)	All pot vessels exempt from Atka mackerel fishing closures [3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10	Y
Akutan I./Reef-Ieva	Bering Sea	54 08.10 N	166 08.19 W	54 09.10 N	166 05.50 W	10	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	Y
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			10	Y
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			10	
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 28.15 N	163 08.50 W	10	

Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] See 679.22(a)(12)(vii)

[3] See 679.22(a)(13)(ii)(B)

[4] No fishing zones are the waters between 3 nm and the nm specified in column 7 around each site.

[5] The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178 degrees W longitude.

Authority: 16 U.S.C 1801 *et seq.*

Dated: September 12, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23229 Filed 9–18–01; 9:35 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 66, No. 183
Thursday, September 20, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–77–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 99–19–32, which applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary. Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight. The proposed AD would require you to repetitively inspect all flap actuator internal gear systems to ensure correct end-play and backlash measurements with any necessary corrective adjustments, incorporate certain modifications to the flap system, and install a new design FCWU. The proposed AD would also require you to modify the flap control wiring and install a flap power drive-unit field control panel. The actions specified by the proposed AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 26, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000 CE–77–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may obtain service information that applies to the proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000–CE–77–AD." We will date stamp and mail the postcard back to you.

Discussion

Has FAA Taken Any Action to This Point?

Reports of excessive backlash in the flap actuators of the internal gear system on certain Pilatus Models PC–12 and PC–12/45 airplanes caused FAA to issue AD 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999).

AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary.

What Has Happened Since AD 99–19–32 To Initiate This Action?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA of the need to change AD 99–19–32. The FOCA reports that Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight.

The previous FCWU does not allow the pilot to close the flap power drive-unit circuit breaker during flight and the FCWU cannot sense when a single actuator becomes worn. This could result in flap panel distortion. The incorporation of these modifications to the flap system and the installation of the new design FCWU, Pilatus part number FCWU 99–3, make the current end-play and backlash measurement procedures incorrect.

Pilatus has also identified quality deficiencies with serial numbers less than 100,001 of Pilatus part number FCWU 99–3.

In addition, the FOCA reports that electrical surges in the flap system can decrease the electrical life of the flap

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power drive-unit motor contactor. At the 40-degree flaps position, the flaps-down limit switch (S035) operates before the flap control warning unit can stop the extend command, which causes the flap power drive-unit's Up/Down relay (K32) to change from the extend to the retract position. The current in the field winding then goes in the opposite direction while a current still flows to the motor. Electrical current to the flap power drive-unit motor and field windings remains when the circuit breaker (CB034) closes and the motor contactor (K31 or K670) stays closed.

Is There Service Information That Applies to This Subject?

Pilatus has issued Service Bulletin No. 27–008, which incorporates the following pages:

Effective pages	Revision level	Date
1, 2, and 11	2	September 13, 2000.
3 through 10 and 12 through 114	1	June 26, 2000.

Pilatus Service Bulletin No. 27–008 includes procedures for the following:

—Installing the new design FCWU (Pilatus part number FCWU 99–3 with a serial number of 100,001 or higher);

—Installing flap position-indication resolvers at the center and inboard flap actuator positions;

—Removing the flap position-indication resolvers from the outboard flap mechanism;

—Modifying the applicable electrical cables and installing new cables as necessary;

—Installing a remote controlled circuit breaker (RCCB) system;

—Accomplishing the rigging procedure to set the four flap positions (0 degrees, 15 degrees, 30 degrees, and 40 degrees full flap);

—Installing a bus link between CB601, CB034, CB035, CB415, and CB416;

—Replacing the P12H4 wire with P12HO wire;

—Changing the wiring for CB652 and CB653 at Frame 16; and

—Changing the FCWU software specification from Rel. 3.10/R 1.14 to Rel. 3.11/R 1.14.

Pilatus has also issued the following:

—Service Bulletin No. 27–012, dated September 13, 2000, which specifies replacing any Pilatus part number PCWU 99–3, serial number of 100,000 or less, with one that has a serial number of 100,001 or higher;

—Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–13, dated April 30, 2000, which includes updated procedures for inspecting the flap actuator internal gear system for correct end-play and backlash measurements with any necessary corrective adjustment; and

—Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001, which includes procedures for modifying the flap control wiring and installing a flap power drive-unit field control panel.

What Action Did FOCA Take?

The FOCA classified the service information as mandatory and issued the following in order to ensure the continued airworthiness of these airplanes in Switzerland:

—Swiss AD Number HB 2000–443, dated November 9, 2000;

—Swiss AD Number HB 2000–444, dated November 9, 2000; and

—Swiss AD Number HB 2001–070, dated February 12, 2001.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in Switzerland and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the FOCA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What Has FAA Decided?

The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Pilatus PC–12 and PC–12/45 airplanes of the same type design;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would the Proposed AD Require?

The proposed AD would supersede AD 99–19–32 and would require you to accomplish the following in accordance with the previously referenced service information:

—Repetitively inspect the flap actuator internal gear system for correct end-play and backlash measurements with any necessary corrective adjustments;

—Incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher, or FAA-approved equivalent part number; and

—Modify the flap control wiring and install a flap power drive-unit field control panel.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects 135 airplanes in the U.S. registry.

What Would Be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed initial inspection of the flap actuator internal gear system for end-play and backlash measurements. We have no way of determining the number of corrective adjustments each owner/operator of the affected airplanes would need to accomplish, the nature of such adjustments, or the number of repetitive inspections each owner/operator would incur. Therefore, the cost estimate only takes into account the cost of the proposed initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours X $60 per hour = $360	Not applicable	$360	$48,600

We estimate the following costs to incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
70 workhours X $60 per hour = $4,200	Pilatus will provide parts at no cost to the owner/operator.	$4,200	$567,000

We estimate the following costs to modify the flap control wiring and install a flap power drive-unit field control panel:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 workhours X $60 per hour = $300	Pilatus will provide parts at no cost to the owner/operator.	$300	$40,500

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999), and adding a new AD to read as follows:

Actions	Compliance	Procedures
(1) For airplanes that incorporate a manufacturer serial number (MSN) in the range of 101 through 320, accomplish the following: (i) Do the modifications and installations to the flap system, as specified in the service information. (ii) Install a new design flap control and warning unit (FCWU) (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.

Pilatus Aircraft Ltd.: Docket No. 2000–CE–77–AD; Supersedes AD 99–19–32, Amendment 39–11319.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category. Carefully check paragraphs (d)(1) through (d)(6) of this AD for the specific actions that apply to each airplane. All airplanes will be affected by multiple actions specified in these paragraphs.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by the AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(2) If you accomplished the modifications required by paragraph (d)(1) of this AD in accordance with Pilatus Service Bulletin 27–008, all pages at the Revision 1 level, dated June 26, 2000, you only have to install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours TIS after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(3) For airplanes that incorporate an MSN in the range of 321 through 331, 333, 335, 336, 338 through 341, 343, or 345, install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours TIS after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(4) For airplanes that incorporate an MSN in the range of 101 through 400, modify the flap control wiring and install a flap power drive-unit field control panel.	Within the next 50 hours TIS after the effective date of this AD.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001.
(5) For all MSN airplanes, inspect the flap actuator internal gear system for correct end-play and backlash measurements and make any necessary corrective adjustments.	Inspect initially within the next 50 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 100 hours TIS. Accomplish corrective adjustments prior to further flight after the inspection where deficiencies are detected.	In accordance with the instruction in Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–13, dated April 30, 2000.
(6) For all MSN airplanes, do not install any Pilatus part number FCWU 99–3 that has a serial number of 100,000 or less.	As of the effective date of this AD	Not Applicable.

Note 1: The FAA recommends that you incorporate the most up-to-date Pilatus reports and revisions pertaining to this subject into the Pilatus PC–12 Pilot's Operating Handbook. The most up-to-date documents as of the issue date of this AD are Temporary Revision No. 15, Report No. 01973-001, Issued: April 3, 2000, Sections 3 and 7; and Temporary Revision No. 32, Report No. 01973–001, Issued: January 8, 2001, Sections 2 and 3.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this amendment affect any other regulation?* This amendment supersedes AD 99–19–32, Amendment 39–11319.

Note 3: The subject of this AD is addressed in Swiss AD Number HB 2000–443, dated November 9, 2000; Swiss AD Number HB 2000–444, dated November 9, 2000; and Swiss AD Number HB 2001–070, dated February 12, 2001.

Issued in Kansas City, Missouri, on September 10, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23412 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–324–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes, and C–9 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 airplanes. This proposal would require repetitive general visual and x-ray inspections to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead; corrective actions, if necessary; and follow-on actions. For certain airplanes, the proposal also would require modification of the ventral aft pressure bulkhead. This action is necessary to detect and correct fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–324–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–324–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; (562) 627–5210; fax .

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received. Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–324–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–324–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that the repetitive x-ray inspections required by AD 85–01–02 R1, amendment 39–5241 (51 FR 6101, February 20, 1986), do not adequately detect fatigue cracks in all layers of a repaired or modified aft pressure bulkhead. Fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, if not detected and corrected, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Other Relevant Rulemaking

The FAA normally would issue a proposed AD to supersede AD 85–01–02 R1 to continue to require the existing requirements, until the new proposed actions that address the identified unsafe condition are done. This would involve restating the existing requirements of AD 85–01–02 R1 in the new proposed AD. Because of the complexity of the requirements of AD 85–01–02 R1, we plan to issue this proposed AD as a "stand-alone" AD that would not supersede AD 85–01–02 R1. We have included a paragraph in this proposed AD that terminates the repetitive inspection requirements of AD 85–01–02 R1. Once a final rule has been issued and it becomes effective, we plan to rescind AD 85–01–02 R1.

The FAA has previously issued AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996), which requires certain inspections and structural modifications. Accomplishment of the modification (reference Boeing (McDonnell Douglas) Service Bulletin DC9–53–166) required by paragraph (d) or (e) of AD 96–10–11 (which references "DC–9/MD–80 Aging Aircraft Service Action Requirements Document" (SARD), McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990, as the appropriate source of service information for accomplishing the modification) terminates the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001, which describes procedures for repetitive general visual and x-ray inspections to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead; corrective actions, if necessary; and follow-on actions. The corrective actions include modification of the bulkhead; trim forward facing flange; stop drill ends of cracks; install repair kit; replacement of cracked part with new parts; and installation of additional doublers. The follow-on actions include repetitive visual and eddy current inspections of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead door. Accomplishment of the general visual and x-ray inspections would eliminate the need for the

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repetitive inspection requirements of AD 85–01–02 R1.

The FAA also has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, which describes procedures for modification of the ventral aft pressure bulkhead structure (including cutting and removing flange of the upper; cutting and removing the lower flange of formers and replacing it with a clip; installing pads at the outboard end clips of formers; and replacing clearance fit bolts at the upper corner doubler angles with interference fit Hi-Lok pins and monel rivets).

In addition, the FAA has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985, which describes, for certain airplanes, procedures for modification of the ventral aft pressure bulkhead (including encapsulating the head and nut of the attachments and applying a fillet seal of sealant around parts located on the forward and aft sides of the aft pressure bulkhead; and applying a soft film corrosion inhibiting compound to the forward and aft sides of the aft pressure bulkhead. For certain airplanes, these procedures must be done in conjunction with those in McDonnell Douglas DC–9 Service Bulletin 53–165.

FAA's Determination

The FAA finds that if, after the effective date of this AD, the airplane is operated without cabin pressurization and a placard that prohibits operation with cabin pressurization is installed in the cockpit in full view of the pilot, the inspections and modification specified in the service bulletins described previously are not necessary.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously; except if, after the effective date of this AD, the airplane is operated without cabin pressurization and a placard that prohibits operation with cabin pressurization is installed in the cockpit in full view of the pilot.

Differences Between the Proposed AD and a Certain Referenced Service Bulletin

McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, and McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001, recommend compliance times with only a "threshold" (i.e., before the airplane accumulates 15,000 total landings, within 15,000 landings after the bulkhead modification, and at the earliest practical maintenance period feasible on airplanes that have accumulated more than 15,000 landings, respectively). These service bulletins do not provide a "grace period" for airplanes that have already reached (or will soon reach) the 15,000-landing threshold, which would result in some airplanes being in immediate non-compliance with the rule upon reaching the stated number of landings. Therefore, the compliance times specified in paragraphs (a), (d)(1), and (d)(2) of this proposed AD include a grace period of "within 4,000 landings after the effective date of this AD." The FAA finds such a grace period for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 700 Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 397 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $119,100, or $300 per airplane, per inspection cycle.

For certain airplanes, it would take approximately between 21 and 26 work hours per airplane depending on the airplane configuration to accomplish the proposed modification specified in McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, at an average labor rate of $60 per work hour. Required parts would cost approximately between $3,470 and $11,831 per airplane, depending on the airplane configuration. Based on these figures, the cost impact of this proposed modification AD on U.S. operators is estimated to be between $4,730, or $13,391 per airplane.

For certain airplanes, it would take approximately 9 work hours per airplane to accomplish the proposed modification specified in McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed modification AD on U.S. operators is estimated to be $540 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2000–NM–324–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 airplanes, equipped with a floor level hinged (ventral) door of the aft pressure bulkhead; as listed in McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001; certificated in any category; except for those airplanes on which the modification required by paragraph (d) or (e) of AD 96–10–11, amendment 39–9618, or paragraph K. of AD 85–01–02 R1, amendment 39–5241, has been done.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Visual and X-Ray Inspection

(a) Except as provided by paragraph (b) of this AD, prior to the accumulation of 15,000 total landings, or within 4,000 landings after the effective date of this AD, whichever occurs later, do a general visual and x-ray inspection to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead, per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

No Crack Detected: Repetitive Inspections

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, within 8,000 landings after accomplishment of the general visual and x-ray inspections required by paragraph (a) of this AD, do a general visual inspection and eddy current inspection of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead door, per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001. Repeat the general visual and eddy current inspections required by this paragraph every 8,000 landings.

Any Crack Detected: Corrective Actions and Repetitive Inspections

(c) If any crack is detected during any inspection required by paragraph (a) or (b) of this AD, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001.

(1) Before further flight, do the applicable corrective actions (i.e., modification of the bulkhead; trim forward facing flange; stop drill ends of cracks; install repair kit; replacement of cracked part with new parts; and install additional doublers) identified in Conditions I through XLIII inclusive, excluding Conditions XXI, XXXVII, and XXXVIII (not used at this time), of the Accomplishment Instructions of the service bulletin; and

(2) At the times specified in the Accomplishment Instructions of the service bulletin, do the applicable repetitive inspections, until the action specified in paragraph (d) or (g) of this AD has been done.

Concurrent Requirements

(d) Except as provided by paragraph (h) of this AD, modify the ventral aft pressure bulkhead structure by accomplishing all actions specified in Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, per the service bulletin; at the applicable time specified in paragraph (d)(1), (d)(2), or (d)(3) of this AD.

Note 3: Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 53–165, dated January 31, 1983; Revision 1, dated February 20, 1984; or Revision 2, dated August 29, 1986; is considered acceptable for compliance with the requirements of paragraph (d) of this AD.

(1) For airplanes on which the bulkhead modification specified in McDonnell Douglas DC–9 Service Bulletin 53–139, dated September 26, 1980, or Revision 1, dated April 30, 1981, has been done, except as provided by paragraph (d)(3) of this AD: Modify within 15,000 landings after accomplishment of the bulkhead modification, or within 4,000 landings after the effective date of this AD, whichever occurs later. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (b) and (c)(2) of this AD.

(2) For airplanes on which the production equivalent of the modification specified in paragraph (d)(1) of this AD has been done before delivery, except as provided by paragraph (d)(3) of this AD: Modify before the accumulation of 15,000 total landings, or within 4,000 landings after the effective date of this AD, whichever occurs later.

(3) For airplanes listed in McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, that are specified in paragraph (e) of this AD: Modify in conjunction with the requirements of paragraph (e) of this AD, or within 18 months after accomplishment of requirements of paragraph (e) of this AD.

(e) For Model DC–9–30 and –50 series airplanes and C–9 airplanes, as listed in McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985: Within 18 months after the effective date of this AD, modify the ventral aft pressure bulkhead per the service bulletin.

Note 4: Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 53–157, dated August 11, 1981, is considered acceptable for compliance with the requirements of paragraph (e) of this AD.

Compliance With AD 85–01–02 R1

(f) Accomplishment of the visual and x-ray inspections required by paragraph (a) of this AD constitutes terminating action for the repetitive inspection requirements of AD 85–01–02 R1.

Terminating Modification

(g) Accomplishment of the modification (reference McDonnell Douglas DC–9 Service Bulletin 53–166) required by paragraph (d) or (e) of AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996) (which references "DC–9/MD–80 Aging Aircraft Service Action Requirements Document" (SARD), McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990, as the appropriate source of service information for accomplishing the modification) terminates the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

Exception to Inspections and Modifications

(h) The inspections and modifications required by this AD do NOT need to be done if, after the effective date of this AD, the airplane is operated without cabin pressurization and a placard is installed in the cockpit in full view of the pilot that states the following:

"OPERATION WITH CABIN PRESSURIZATION IS PROHIBITED."

Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(j) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

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Issued in Renton, Washington, on September 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23417 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–46–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes; Model MD–10–10F and –30F Series Airplanes; and Model MD–11 and –11F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; Model MD–10–10F and –30F series airplanes; and Model MD–11 and –11F series airplanes. This proposal would require repetitive tests for electrical continuity and resistance and repetitive inspections to detect discrepancies of the fuel boost/transfer pump connectors; and corrective actions, if necessary. This action is necessary to prevent arcing of connectors in the fuel boost/transfer pump circuit, which could result in a fire or explosion of the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–46–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Phil Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5263; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–46–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of five instances of failed connectors in the fuel boost/transfer pump circuit on McDonnell Douglas Model DC–10 and MD–11 series airplanes. The connectors returned for evaluation exhibited arcing of the contacts to the shell in the back side of the connector and between the glass insert and potting material. Arcing also caused the potting material to be displaced from the glass seal in the connector backshell, which separated the contacts and wiring. Typically, the circuit breaker will not trip, as the arcing event is faster than the time required for the circuit breaker to detect the event. The only indication has been that failed connectors cause loss of the fuel boost/transfer pump circuit. The cause of the connector failures is under investigation. Arcing of connectors of the fuel boost/transfer pump, if not corrected, could result in a fire or explosion of the fuel tank.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000 (for Model MD–11 and –11F series airplanes) and Boeing Alert Service Bulletin DC10–28A228, including Appendix, dated December 11, 2000, and Revision 01, dated July 16, 2001 (for Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and –30F series airplanes). The service bulletins describe procedures for repetitive tests (using a digital multi meter and Quadtech 1864 megohm meter) for electrical continuity and resistance and repetitive general visual inspections to detect discrepancies (*e.g.*, damage, arcing, loose parts, wear) of the fuel boost/transfer pump connectors (alternating current pumping unit); and corrective actions, if necessary. The corrective actions include replacement of the connector/wire assembly with a serviceable connector/wire assembly, and replacement of the pump with a serviceable fuel boost/transfer pump; as applicable.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

There are approximately 399 Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and –30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 313 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 65 work hours per airplane to accomplish the proposed tests and inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,220,700, or $3,900 per airplane, per test or inspection cycle.

There are approximately 179 Model MD–11 and –11F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 78 work hours per airplane to accomplish the proposed tests and inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $538,200, or $4,680 per airplane, per test or inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal • would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–46–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, and Model MD–10–10F and –30F series airplanes; as listed in Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 01, July 16, 2001; and Model MD–11 and –11F series airplanes, as listed in Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000; certificated in any category.

Note 1: Airplanes on which the fuel/boost pump and wiring connector have been physically removed and the fuel tank has been made inoperable are NOT subject to the requirements of this AD.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing of connectors of the fuel boost/transfer pump, which could result in a fire or explosion of the fuel tank, accomplish the following:

Repetitive Tests and Inspections

(a) Within 6 months after the effective date of this AD, do tests (using a digital multi-meter and Quadtech 1864 megohm meter) for electrical continuity and resistance and general visual inspections to detect discrepancies (e.g., damage, arcing loose parts, wear) of the fuel boost/transfer pump (alternating current pumping unit) by accomplishing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000 (for Model MD–11 and –11F series airplanes), or Boeing Alert Service Bulletin DC10–28A228, including Appendix, dated December 11, 2000, or Revision 01, dated July 16, 2001 (for Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, and Model MD–10–10F and –30F series airplanes); as applicable. Repeat the tests and inspections thereafter every 18 months.

Note 3: For the purposes of this AD, a general visual inspection is defined as "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Corrective Actions, If Necessary

(b) If the result of any test required by paragraph (a) of this AD is outside the limits specified in the applicable service bulletin identified in that paragraph, or if any

discrepancy is detected during any

Check System (NICS) regulations. The

includes, among other things, "* * * a

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discrepancy is detected during any inspection required by paragraph (a) of this AD, before further flight, accomplish corrective actions (e.g., replacement of connector/wire assembly with serviceable connector/wire assembly, and replacement of the pump with a serviceable fuel boost/transfer pump), as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000 (for Model MD–11 and –11F series airplanes), or Boeing Alert Service Bulletin DC10–28A228, including Appendix, dated December 11, 2000, or Revision 01, dated July 16, 2001 (for Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes, and Model MD–10–10F and –30F series airplanes); as applicable.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23419 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF JUSTICE

28 CFR Part 25

[FBI 108N; AG Order No. 2514–2001]

RIN 1110–AA07

National Instant Criminal Background Check System

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Notice of proposed rulemaking; notice of reopening of comment period.

SUMMARY: On July 6, 2001, at 66 FR 35567, the Department published a notice of proposed rulemaking (NPRM) concerning five proposed changes in the National Instant Criminal Background Check System (NICS) regulations. The original 60-day comment period for the July 6, 2001 NPRM closed on September 4, 2001. In order to ensure that the public has ample opportunity to review and comment on the proposed changes to the NICS regulations, the Department is reopening the comment period and will accept comments for an additional 30-day period. Any comments received by the Department after the initial comment period ended on September 4, 2001, and before the publication of this action will be treated has having been timely filed and will be considered along with all other comments received after the NPRM was published through the end of the reopened comment period.

DATES: Written comments must be received by October 22, 2001.

ADDRESSES: All comments should be sent to: Mr. Timothy Munson, Section Chief, Federal Bureau of Investigation, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147, (304) 625–2000.

Dated: September 14, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–23349 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–152–FOR; State Program Amendment No. 2001–1]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The proposed amendment concerns recodification of Indiana's rules for coal mining and reclamation operations. It includes revisions to the rules pertaining to the definition of "affected area," identification of interests, compliance information, permit conditions, and public availability of permit applications. Indiana intends to revise its program in response to Indiana legislation requiring all State agency rules to be recodified every seven years.

This document gives the times and locations that the Indiana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., e.s.t., October 22, 2001. If requested, we will hold a public hearing on the amendment on October 15, 2001. We will accept requests to speak at the hearing until 4 p.m., e.s.t. on October 5, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Indiana program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700

Indiana Department of Natural Resources, Bureau of Mine Reclamation, 402 West Washington Street, Room W–295, Indianapolis, Indiana 46204, Telephone: (317) 232–1291

Indiana Department of Natural Resources, Division of Reclamation, R.R. 2, Box 129, Jasonville, Indiana 47438–9517, Telephone: (812) 665–2207

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226–6700, Internet: IFOMAIL@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program

includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the Indiana program on July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, and 914.16.

II. Description of the Proposed Amendment

By letter dated August 21, 2001 (Administrative Record No. IND–1712), Indiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Indiana sent the amendment at its own initiative. Indiana proposes to recodify its rules from Title 310 Indiana Administrative Code (IAC) 12 to Title 312 IAC 25. Editorial changes, including structural and grammatical changes, were made throughout the recodified rules. The amendment includes revisions to Indiana's recodified rules at 312 IAC 25–1–8, definition of "affected area"; 312 IAC 25–4–17, surface mining permit applications-identification of interests; 312 IAC 25–4–18, surface mining permit applications-compliance information; 312 IAC 25–4–58, underground mining permit applications-identification of interests; 312 IAC 25–4–59, underground mining permit applications-compliance information; 312 IAC 25–4–113, public availability of permit application information; and 312 IAC 25–4–118, permit conditions. Below is a summary of the substantive changes proposed by Indiana. The full text of the proposed program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. 312 IAC 25–1–8 (previously 310 IAC 12–0.5–6) Definition of Affected Area

Indiana is recodifying the definition of affected area at 312 IAC 25–1–8 with exceptions. Indiana is not recodifying the currently approved provisions at 310 IAC 12–0.5–6(a)(5), (b), and (c). This has the effect of removing these provisions from its approved program.

B. 312 IAC 25–4–17 (previously 310 IAC 12–3–19.1) Surface Mining Permit Applications-Identification of Interests

Indiana's rule at 312 IAC 25–4–17 specifies the information that must be included in a surface mining permit application for identification of interests. Indiana proposes to restructure this section to comply with formatting guidelines set out by the Indiana Legislative Services Agency.

C. 312 IAC 25–4–18 (previously 310 IAC 12–3–20) Surface Mining Permit Applications-Compliance Information and 312 IAC 25–4–59 (previously 310 IAC 12–3–58) Underground Mining Permit Applications-Compliance Information

Indiana's rules at 312 IAC 25–4–18 and 25–4–59 specify the information that must be included in a permit application concerning permit suspensions or revocations, bond forfeitures, and notices of violation. Indiana proposes minor restructuring to comply with formatting guidelines set by the Indiana Legislative Services Agency. Indiana proposes to change 312 IAC 25–4–18(a)(3) and 25–4–59(a)(3) to read as follows:

(3) A list of all violation notices received by the applicant during the three (3) year period preceding the application date, and a list of all outstanding violation notices received prior to the date of the application by any surface coal mining operation that is deemed or presumed to be owned or controlled by either the applicant or any person who is deemed or presumed to own or control the applicant under the definition of "owned or controlled" and "owns and controls" in 312 IAC 25–1–94. For each notice of violation issued under 312 IAC 25–7–6 or under a federal or state program for which the abatement period has not expired, the applicant shall certify that such notice of violation is in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation.

Indiana also proposes to add the following new provision at 312 IAC 25–4–59(b):

(b) After the applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under this section.

D. 312 IAC 25–4–58 (previously 310 IAC 12–3–57) Underground Mining Permit Applications; Identification of Interests

Indiana's rule at 312 IAC 25–4–58 specifies the information that must be included in an underground mining permit application for identification of interests. The language and structure of the existing provisions were revised to make the new rule consistent with Indiana's surface mining permit application requirements for identification of interests at 312 IAC 25–4–17 (previously 310 IAC 12–3–19.1).

E. 312 IAC 25–4–113 (previously 310 IAC 12–3–110) Public Availability of Permit Application Information

Indiana is recodifying its provisions concerning public availability of permit application information at 312 IAC 25–4–113 with an exception. Indiana is not recodifying the previously approved provision at 310 IAC 12–3–110(f) concerning the confidentiality of information on the nature and location of archaeological resources on public and Indian land. This has the effect of removing this provision from its approved program.

F. 312 IAC 25–4–118 (previously 310 IAC 12–3–114.5) Permit Conditions

Indiana proposes to add 312 IAC 25–4–118 to specify the conditions under which a permit is issued. Section 25–4–118(1) requires the permittee to conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area and bonded. Section 25–4–118(2) requires the permittee to conduct operations only as described in the approved application, except to the extent otherwise directed in the permit. Section 25–4–118(3) requires the permittee to comply with the terms and conditions of the permit and all applicable performance standards and requirements of the Indiana program. Section 25–4–118(4) requires the permittee to allow authorized representatives of the Director of the Indiana Department of Natural Resources to have right of entry and to be accompanied by private persons when the inspection is in response to an alleged violation reported by a private person. Section 25–4–118(5) requires the permittee to take all possible steps to minimize adverse impacts to the environment or public health and safety resulting from a noncompliance with any term or condition of the permit. Section 25–4–118(6) requires the permittee to comply with the requirements of the Indiana program for compliance, modification, or abandonment of existing structures. Section 25–4–118(7) requires the operator to pay all reclamation fees. Section 25–4–118(8) requires the permittee to submit updates, if any, to the information previously submitted under 312 IAC 25–4–17(c) within 30 days after a cessation order is issued under 312 IAC 25–7–5.

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III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Indiana program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. IN–152–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Indianapolis Field Office at (317) 226–6700.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Indianapolis Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on October 5, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 24, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23503 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SPATS No. LA–021–FOR]

Louisiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Louisiana regulatory program (Louisiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Louisiana proposes revisions to and additions of regulations concerning valid existing rights. Louisiana intends to revise the Louisiana program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Louisiana program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., October 22, 2001. If requested, we will hold a public hearing on the amendment on October 15, 2001. We will accept requests to speak at the hearing until 4 p.m., c.d.t. on October 5, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Louisiana program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Louisiana Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N. 4th Street, PO Box 94275, Baton Rouge, LA 70804, Telephone: (225) 342–5540.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior approved the Louisiana program on October 10, 1980. You can find background information on the Louisiana program, including the Secretary's findings and the disposition of comments in the October 10, 1980, **Federal Register** (45 FR 67340). You can find later actions concerning the Louisiana program at 30 CFR 918.15 and 918.16.

II. Description of the Proposed Amendment

By letter dated August 3, 2001 (Administrative Record No. LA–366.04), Louisiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Louisiana sent the amendment in response to our letters dated August 23, 2000, and March 14, 2001 (Administrative Record Nos. LA–366 and LA–366.03, respectively), that we sent to Louisiana under 30 CFR 732.17(c). Louisiana proposes to amend the Louisiana Surface Mining Regulations to be consistent with the corresponding Federal regulations on valid existing rights that were published on December 17, 1999 (64 FR 70766). Below is a summary of the changes proposed by Louisiana. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Section 105 Definition of Valid Existing Rights

Louisiana proposes to replace its currently approved definition of "valid existing rights" with a new definition that sets out the circumstances under which a person may, subject to the

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Office of Conservation's (office) approval, conduct surface coal mining operations on lands where it would otherwise be prohibited by section 922.D of the Louisiana Surface Mining and Reclamation Act or section 1105 of the Louisiana Surface Mining Regulations. Section 105.a provides that a person claiming valid existing rights for any type of surface coal mining operations other than roads must make a property rights demonstration. It includes provisions for the type of documents needed and interpretation of the documents used for the demonstration. Section 105.b provides that a person claiming valid existing rights also must demonstrate compliance with either a good faith/all permits standard or a needed for and adjacent standard. Section 105.b.i contains provisions for the good faith/all permits standard, and section 105.b.ii includes provisions for the needed for and adjacent standard. Section 105.c provides that a person who claims valid existing rights to use or construct a road across the surface of protected lands must demonstrate that one or more of the circumstances listed in paragraphs c.i through c.iii exist if the road is included within the definition of surface coal mining operations in section 105. The circumstances listed in paragraphs c.i through c.iii include provisions specifying that: (1) The road existed when the land upon which it is located came under protection and the person has a legal right to use the road, (2) a properly recorded right-of-way or easement for a road in that location existed when the land came under protection, and (3) a valid permit for use or construction of a road in that location existed when the land came under protection.

B. Section 2323 Valid Existing Rights Determination

Louisiana proposes to add provisions concerning submission and processing of requests for valid existing rights determinations. Section A requires submission of a request for a valid existing rights determination if surface coal mining operations will be conducted on the basis of valid existing rights under section 1105. Section A.1 includes provisions for requesting a determination for roads. Section B includes procedures for an initial review of a request for a determination that valid existing rights have been demonstrated. Section C includes requirements and procedures for public notice and comment. Section D contains procedures and criteria for making a final decision on the request for a determination that valid existing rights have been demonstrated. Section E specifies that a determination of an applicant having or not having valid existing rights is subject to administrative and judicial review. Section F requires Louisiana to make a copy of the request for a valid existing rights determination and records associated with the request available to the public.

C. Section 1107 Procedures

Louisiana is proposing to revise section 1107.B by removing the existing first sentence and adding the following provisions:

B. The office shall reject any portion of the application that would locate surface coal mining operations on land protected under § 1105 unless:

1. A person has valid existing rights for the land, as determined under § 2323;

2. The applicant obtains a waiver or exception from the prohibitions of § 1105 in accordance with §§ 1107.C or D; or

3. For lands protected by § 1105.A.3, both the office and the agency with jurisdiction over the park or place jointly approve the proposed operation in accordance with § 1107.E.

The remaining existing sentences will be added to the end of the new provision in section 1107.B.3.

D. Section 2111 General Requirements: Development Operations Involving Removal of More than 250 Tons

At section 2111.A.8, Louisiana is proposing that the application for a development operation involving removal of more than 250 tons of coal must contain the following additional information:

8. For any lands listed in § 1105, a demonstration that to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection [of] § 1105, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 1105.

E. Section 2113 Applications: Approval or Disapproval of Development of More Than 250 Tons

At section 2113.B.4, Louisiana is proposing the following new finding that must be made before the Commissioner of the Office of Conservation approves a complete application for a development operation involving removal of more than 250 tons of coal:

4. Will, with respect to exploration activities on any lands protected under § 1105, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the office will provide reasonable opportunity to the owner of the feature causing the land to come under the protection of § 1105, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 1105, to comment on whether the finding is appropriate.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Louisiana program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. LA–021–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 5, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 16, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23505 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX–048–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposes revisions to regulations concerning valid existing rights. Texas intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Texas program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., October 22, 2001. If requested, we will hold a public hearing on the amendment on October 15, 2001. We will accept requests to speak at the hearing until 4 p.m., c.d.t. on October 5, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Texas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, Capitol Station, P.O. Box 12967, Austin, Texas 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program on February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions concerning the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated July 25, 2001 (Administrative Record No. TX–653.02), Texas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Texas sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. TX–653), that we sent to Texas under 30 CFR 732.17(c). Texas proposes to amend Title 16 Texas Administrative Code Chapter 12. Below is a summary of the changes proposed by Texas. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Section 12.3 Definitions

Texas proposes to:

1. Renumber the definitions in this section starting with the definition numbered (169),

2. Delete the definition of "surface coal mining operations which exist on the date of enactment," and

3. Replace the definition of "valid existing rights" with a new definition of "valid existing rights."

B. Section 12.71 Areas Where Mining Is Prohibited or Limited

Texas proposes to revise the section title to read, "Areas where surface coal mining operations are prohibited or limited." Texas also proposes to delete the existing language in this section and replace it with new language.

C. Section 12.72 Procedures

Texas proposes to revise the section title to read, "Procedures for compatibility findings, public road closures and relocations, buffer zones, and valid existing rights determinations." Texas also proposes to delete the existing language in this section and replace it with new language.

D. Section 12.73 Responsibility

1. Texas proposes to redesignate this section as new Section 12.74 Responsibility.

2. Texas proposes to revise the title of existing section 12.73 to read, "Commission obligations at time of permit application review." Texas also proposes to add language in this section that establishes criteria for rejecting any portion of an application that would locate surface coal mining operations on protected lands and that establishes procedures for joint approval of mining operations that will adversely affect publicly owned parks or historic places.

E. Section 12.77 Exploration on Land Designated as Unsuitable for Surface Coal Mining Operations

1. Texas proposes to revise the section title to read, "Applicability and restrictions on exploration on land designated as unsuitable for surface coal mining operations."

2. Texas proposes to designate the existing paragraph in this section as paragraph (b) Exploration restrictions.

3. Texas proposes to add a new paragraph (a) to read as follows:

(a) Applicability. Pursuant to appropriate petitions, lands listed in § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited Or Limited) are subject to designation as unsuitable for all or certain types of surface coal mining operations under this Division and Division 4 of Subchapter F (relating to Lands Unsuitable for Mining).

F. Section 12.111 General Requirements: Exploration of More Than 250 Tons

1. Texas proposes to revise the section title to read, "General requirements: Exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations."

2. Texas proposes to add new paragraph (1)(H) to read as follows:

(H) for any lands listed in § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited or Limited), a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of § 12.71(a) of this title, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 12.71(a) of this title.

G. Section 12.112 Applications: Approval or Disapproval of Exploration of More Than 250 Tons

1. Texas proposes to revise the section title to read, "Applications: Approval or disapproval of exploration of more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations."

2. Texas proposes to add new paragraph (b)(4) that reads as follows:

(4) with respect to exploration activities on any lands protected under § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited or Limited), minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the Commission must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of § 12.71(a) of this title, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of § 12.71(a) of this title, to comment on whether the finding is appropriate.

H. Section 12.113 Applications: Notice and Hearing for Exploration of More Than 250 Tons

Texas proposes to add a phrase to paragraph (a) that requires the Commission to notify those who comment on the exploration permit application of the Commission's decision to approve or disapprove the application.

I. Section 12.118 Relationship to Areas Designated Unsuitable for Mining

1. Texas proposes to revise paragraph (a) to read as follows:

(a) Each application shall contain available information on whether the proposed permit area is within an area designated unsuitable for surface coal mining and reclamation or is within an area under study for designation in an administrative proceeding under §§ 12.74–12.77 of this title (relating to Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations) and §§ 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations).

2. Texas proposes to revise paragraph (c) to read as follows:

(c) If an applicant proposes to conduct surface coal mining activities within 100 feet of a public road or within 300 feet of an occupied dwelling, the application must meet the requirements of § 12.72(a) or (b) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), respectively.

J. Section 12.151 and Section 12.191 Protection of Public Parks and Historic Places

Texas proposes to delete the existing language in paragraphs (a)(2) and replace it with the following language:

(2) If a person has valid existing rights, as determined under § 12.72(c) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), or if joint agency approval is to be obtained under § 12.73(d) of this title (relating to Commission Obligations at Time of Permit Application Review), to minimize adverse impacts.

K. Section 12.152 and Section 12.192 Relocation or Use of Public Roads

Texas proposes to revise the existing language in the introductory paragraphs to read as follows:

Each application shall describe, with appropriate maps and cross sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under § 12.72(a) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), the applicant seeks to have the Commission approve:

L. Section 12.158 Relationship to Areas Designated Unsuitable for Mining

1. Texas proposes to revise paragraph (a) to read as follows:

(a) Each application shall contain available information on whether the proposed permit area is within an area designated unsuitable for surface coal mining and reclamation or is within an area under study for designation in an administrative proceeding under §§ 12.73–12.77 of this title (relating to Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations) and §§ 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations).

2. Texas proposes to revise paragraph (c) to read as follows:

(c) A application that proposes to conduct surface coal mining activities within 100 feet of a public road or within 300 feet of an occupied dwelling must meet the requirements of § 12.72(a) or (b) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), respectively.

M. Section 12.207 Public Notices of Filing of Permit Applications

Texas proposes to revise paragraph (a)(5) to read as follows:

(5) if an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with § 12.72(a) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations), a concise statement describing the public road, the particular part to be relocated or closed, where the relocation or closure is to occur, and the duration of the relocation or closure.

N. Section 12.216 Criteria for Permit Approval or Denial

Texas proposes to revise paragraphs (4)(A)–(E) and paragraph (5) to read as follows:

(4) the proposed permit area is:

(A) not included within an area designated unsuitable for surface coal mining operations under §§ 12.74–12.77 of this title (relating to Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations) and § 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations) or within an area subject to the prohibitions of § 12.71(a) of this title (relating to Areas Where Surface Coal Mining Operations Are Prohibited Or Limited); or

(B) not within an area under study for designation as unsuitable for surface coal mining operations or in an administrative proceeding begun under §§ 12.78–12.85 of this title (relating to Process for Designating Areas as Unsuitable for Surface Coal Mining Operations), unless the applicant demonstrates that, before January 4, 1977, he or she made substantial legal and financial commitments in relation to the operation for which he or she is applying for a permit; or

(C) not on any lands subject to the prohibitions or limitations of § 12.71(a)(1), (a)(6) or (a)(7) of this title; or

(D) not within 100 feet of the outside right-of-way line of any public road, except as

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provided for in § 12.72(a) of this title (relating to Procedures For Compatibility Findings, Public Road Closures and Relocations, Buffer Zones, And Valid Existing Rights Determinations); or

(E) not within 300 feet from any occupied dwelling, except as provided for in § 12.71(a)(5) of this title;

(5) the proposed operations will not adversely affect any properties listed on and eligible for listing on the National Register of Historic Places, except as provided for in § 12.71(a)(3) of this title. This finding may be supported in part by inclusion of appropriate permit conditions, revisions in the operation plan, or a documented decision by the Commission that no additional protection measures are required under the National Historic Preservation Act;

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Texas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. TX–048–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 5, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 10, 2001.

Malcolm Ahrens,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23504 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA246–0286; FRL–7058–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). These revisions concern recordkeeping requirements as well as volatile organic compound (VOC) emissions from spray coating operations, metal parts and products coating operations, coating and ink manufacturing, surfactant manufacturing, and polyester resin operations. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 22, 2001.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and,

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1185.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	109	Record Keeping for Volatile Organic Compound Emissions	11/17/00	3/14/01
SCAQMD	481	Spray Coating Operations	11/17/00	3/14/01
SCAQMD	1107	Coating of Metal Parts & Products	11/17/00	3/14/01
SCAQMD	1141.1	Coating and Ink Manufacturing	11/17/00	3/14/01
SCAQMD	1141.2	Surfactant Manufacturing	11/17/00	3/14/01
SCAQMD	1162	Polyester Resin Operations	11/17/00	3/14/01

On May 25, 2001, EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V. These criteria must be met before formal EPA review may begin.

B. Are There Other Versions of These Rules?

We approved versions of the following rules into the SIP on the dates listed: Rule 109, April 13, 1995; Rule 481, January 21, 1981; Rule 1107, August 19, 1999; Rule 1141.1, May 4, 1999; Rule 1141.2, January 15, 1987; and, Rule 1162, August 25, 1994. Between these SIP incorporations and today, CARB has made no intervening submittals of these rules.

C. What Is the Purpose of the Submitted Rule Revisions?

The submitted rule revisions amend the record keeping requirements allowing monthly recordkeeping when sources use coatings that comply with their relevant SCAQMD Regulation XI rule. In some cases, this allowance for monthly recordkeeping is related to an exemption based on monthly coating use rather than daily coating use. Sources subject to daily use or VOC limits in any applicable SCAQMD rule may not use a monthly recordkeeping option. SCAQMD made other minor rule changes such as adding new definitions to Rule 109, deleting definitions from the subject rules if they are defined in Rule 102—Definitions, and deleting obsolete exemptions. The TSD for each rule explains its revisions in more detail.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so these rules must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Document," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
3. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," USEPA, June 1978, EPA–450/2–78–015.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. SCAQMD did several studies to examine the probable effects of changing the recordkeeping threshold from a daily to a monthly threshold. These studies looked at the overall effects and rule specific effects of changing the recordkeeping requirements. The concern was whether or not a facility would change its daily activities and resulting emission patterns when allowed an option for a monthly recordkeeping regime as opposed to a daily requirement. From the results, it appeared that average daily usage did not change under either recordkeeping regime. Regarding rule specific emission increases, SCAQMD found that there would be little or no change to overall or daily VOC emissions for the subject rules. For further information, the TSD for each rule reviews the emissions analysis specific to that rule.

C. EPA Recommendations To Further Improve the Rules

The TSDs for Rules 1107 and 1162 describe additional rule revisions concerning capture and control efficiency test methods that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 27, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23478 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket #OR–00–002b; FRL–7045–1]

Approval and Promulgation of State Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) proposes to approve the revisions to Oregon's State Implementation Plan which were submitted on November 20, 2000. These revisions consist of the 1996 carbon monoxide periodic year emissions inventory for Klamath Falls, Oregon and the Klamath Falls carbon monoxide maintenance plan. EPA also proposes to approve Oregon's request for redesignation of Klamath Falls from nonattainment to attainment for carbon monoxide.

In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated.

If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received in writing by October 22, 2001.

ADDRESSES: Written comments should be addressed to Connie Robinson, Office of Air Quality (OAQ–107), at the EPA Regional Office listed below.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–1086.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: August 21, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–23219 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[CA–035–MSWb; FRL–7058–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the California State Plan for implementing the emissions guidelines applicable to existing municipal solid waste landfills. The revision to the State Plan was submitted by the California Air Resources Board for the State of California to satisfy requirements of section 111(d) of the Federal Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments must be received in writing by October 22, 2001.

ADDRESSES: Written comments should be addressed to Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne

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Street, San Francisco, CA 94105–3901. Copies of the documents relevant to this proposed rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted revision to the State Plan are also available for inspection at the following location: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Air Division (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION: This document concerns the approval of a revision submitted by the California Air Resources Board on December 20, 2000, to the State of California's Section 111(d) Plan for Existing Municipal Solid Waste Landfills. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Dated: August 8, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23480 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ040–OPP; FRL–7058–7]

Clean Air Act Proposed Approval of Operating Permit Programs; Pinal County Air Quality Control District, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Pinal County Air Quality Control District (Pinal or District) operating permit program. The Pinal operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the Pinal operating permit program on October 30, 1996. See 61 FR 55910. The District consequently revised its program to satisfy the conditions of the interim approval; however, the effective date of the revisions was made contingent upon EPA approving the changes under both 40 CFR part 70 and 40 CFR part 52. On September 5, 2001, the District revised the rules again in order to make the effective date of the rule changes contingent solely upon EPA approval under part 70. EPA is proposing to approve the operating permit program contingent upon Pinal submitting the rules that were adopted on September 5, 2001 as a revision to its part 70 program.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by October 22, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of Pinal's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location: Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, Arizona 85232.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or *vagenas.ginger@epa.gov*.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?

What is EPA's proposed action?

What are the program changes that EPA is approving?

What is the effect of this proposed action?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the national ambient air quality standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. What Is EPA's Proposed Action?

Because the Pinal operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the Pinal program to receive full approval. This **Federal Register** notice describes the changes that have been made to the Pinal operating permit program to correct conditions for full approval.

EPA is proposing full approval of the operating permits program submitted by Pinal based on the revisions adopted as of September 5, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. In addition, EPA is proposing to approve, as a title V operating permit program revision, additional changes to the rules. The interim approval issues, Pinal's corrections, and the additional changes are described below under the section entitled "What are the program changes that EPA is approving?"

III. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of Pinal's operating permit program contingent upon the correction a number of interim approval issues. Each issue, along with Pinal's correction, is described below.

1. Rule deficiency: Because the phrase "including any fugitive emissions of any such pollutants" in the version of the rule in Pinal's approved part 70 program could be read to modify only the 25 ton per year threshold, PCR Sec. 1–3–140(79)(b)(i) (the definition of "major source") did not clearly require that fugitive emissions of HAPs be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. *See* 40 CFR section 70.2.

Rule change: The rule has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, "* * * for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate and including fugitive emissions, 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants, or such lesser quantity as described in Chapter 7 of this Code." (Emphasis added.)

2. Rule deficiency: The major source definition in Pinal's original submittal was less inclusive than the definition in part 70 in that it did not require that certain sources count fugitive emissions towards major source thresholds. In order to correct this deficiency, EPA required that Pinal revise PCR Sec. 1–3–140(79)(c) to delete sections 79(c)(ii), (iii), and (iv) and to add sources that belong to a category regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category, to the list of sources that must include fugitive emissions when determining major source status as defined in section 302(j) of the Act. *See* 40 CFR section 70.2.

Rule change: The rule has been revised as required by EPA.

3. Rule deficiency: Pinal's title V program provided certain exemptions that are not allowed under part 70. In order to correct the problem, EPA required that Pinal revise PCR Sec. 3–1–040(C)(1) to require that the motor vehicles, agricultural vehicles, and fuel burning equipment that are exempt from permitting shall not be exempt if they are subject to any applicable requirements. *See* 40 CFR section 70.5(c).

Rule change: PCR 3–1–040(C) contains exemptions from the permitting requirements. It has been modified so that, while a general exemption for agricultural equipment used in normal farm operations exists, the exemption does not apply to "equipment that would be classified as a source that would require a permit under title V of the Clean Air Act (1990), or would be subject to a standard under 40 CFR Parts 60 or 61, or any other applicable requirement." This language is consistent with what other Arizona agencies did in their original submittals and we found to be fully approvable. The rule no longer provides an exemption for motor vehicles or fuel burning equipment.

4. Rule deficiency: Pinal's originally submitted program contained flaws in its provisions regarding the timing of the submission of permit applications. In order to correct the deficiencies, EPA required that PCR Sec. 3–1–045(F)(1) be revised to require sources requiring Class A (title V) permits to submit a permit application no later than 12 months after the date the Administrator approves the District program. In addition, Pinal was required to revise PCR Sec. 3–1–050(C) to include an application deadline for existing sources that become subject to the requirement to obtain a Class A permit after the initial phase-in of the program. This application deadline must be 12 months from when the source becomes subject to the program (meets Class A permit applicability criteria). *See* 40 CFR section 70.5(a)(1)(i).

Rule change: The district has corrected these deficiencies in the following manner. PCR 3–1–045(F)(1) now requires that sources in existence on November 3, 1993 not holding valid permits to operate or installation permits must submit an application within 180 days of receipt of notice from the Control Officer that a permit is required or within 12 months of becoming subject to the Class A permitting requirements, whichever is earlier. PCR3–1–050(C)(2) now specifies that a timely application for an existing source that is not initially required to obtain a title V permit but becomes subject at some later time to be one that is submitted within 12 months after the source becomes subject to title V.

5. Rule deficiency: Section 70.6(a)(8) requires that title V permits contain a provision that "no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit." PCR Sec. 3–1–081(A)(10) included this exact provision but also included a sentence that negated this provision. EPA required that Pinal either delete or revise the negating sentence to make the rule consistent with part 70. *See* 40 CFR section 70.6(a)(8).

Rule change: The negating sentence has been deleted from Pinal's rule.

6. Rule deficiency: Section 70.4(b)(12) provides that sources are allowed to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. Specifically, section 70.4(b)(12)(iii) provides that if a permit applicant requests it, the permitting authority shall issue a permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap, established in the permit independent of otherwise applicable requirements. PCR Sec 3–1–081(A)(14) provided for such permit conditions without excluding modifications under title I of the Act and changes that do not exceed the emissions allowable under the permit. Pinal was required to revise PCR Sec. 3–1–081(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, this provision needed to be revised to require that the permit terms and conditions provide for notice that conforms to section 3–2–180(D) and (E) and that describes how the increases and decreases in emissions will comply with the terms and conditions of the permit. *See* 40 CFR section 70.4(b)(12).

Rule changes: PCR 3–1–081(A)(14)(d) now specifies that permits that contain terms and conditions allowing for the trading of emissions for the purpose of complying with a federally enforceable emission cap established independent of otherwise applicable requirements "shall provide for notice that conforms with section 3–2–180(D) and (E) and describes how the increases and decreases in emissions will comply with the terms and conditions of the permit, as per 40 CFR Chapter 1, Part 70, section

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70.4(b)(12)." PCR 3–1–081(A)(14)(e) requires that "changes made under this subparagraph shall not include modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit."

7. Rule deficiency: In order to ensure that the requirement to obtain a title V permit is enforceable, Pinal was required to revise PCR Sec. 3–4–420 to provide that a conditional order that allows a source to vary from the requirement to obtain a Class A permit may not be granted to any source that meets the Class A permit applicability criteria pursuant to PCR Sec. 3–1–040.

Rule change: 3–4–420(A) disqualifies a Class A permit holder from eligibility for a conditional order and provides that a conditional order cannot shield a Class B (non-title V) permit holder from an obligation to apply for a title V permit. Section 3–4–420(B) only allows conditional orders to be issued to Class B permit holders. Therefore, unpermitted sources, Class A sources, and anyone holding a Class B permit that is required to obtain a Class A permit cannot be covered by a conditional order.

8. Rule deficiency: Pinal's original title V program submittal allowed a source to operate within the limitations set forth in its general permit application until the District took action on the application. This is inconsistent with part 70. In order to correct this deficiency, Pinal was required to revise PCR Sec. 3–5–490(C) to provide that when an existing source that files a timely and complete application seeking coverage under a general permit either as a renewal of authorization under the general permit or as an alternative to renewing an individual part 70 permit, the source must continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the District issues or denies the authorization to operate under the general permit. *See* 40 CFR section 70.4.(b)(10).

Rule change: PCR Sec. 3–5–490(C)(1) now requires that "an existing source that has filed a timely and complete application seeking coverage under a general permit, either as a renewal of authorization under the general permit or as an alternative to renewing an individual permit shall continue to comply with the terms and conditions of the permit under which it is operating, even if that permit expires, until the Control Officer issues or denies the authorization to operate under the general permit."

9. Rule deficiency: Pinal's title V program allowed a source seeking coverage under a general permit as an alternative to renewing its existing permit to operate under the terms of the general permit even when coverage had been denied. To correct this problem, EPA required that Pinal revise PCR Sec. 3–5–490(C) to require that if an existing source seeking coverage under a general permit as an alternative to renewing an individual permit is denied coverage, the source must continue to comply with the terms and conditions of its individual source permit. In addition, Pinal was required to revise Sec. 3–5–490(C) to clarify that, notwithstanding the 180-day permit application deadline set by the District in its notification to the source, a source that was denied coverage under the general permit may not operate after the date that its individual permit expires unless it has submitted a timely and complete application to renew that individual permit in accordance with PCR Sec. 3–1–050(C)(2). *See* 40 CFR sections 70.7(d) and 70.4(b)(10).

Rule changes: PCR Sec. 3–5–490(C)(2) now requires that "[i]f the application from an existing source seeking coverage as an alternative to renewing an individual permit is denied, the source shall continue to comply with the terms and conditions of its individual source permit." PCR Sec. 3–5–490(C)(2) specifies that a source that was denied coverage under a general permit may continue to operate under its individual permit provided it has filed a timely and complete application prior to the expiration of the source's individual permit.

10. Rule deficiency: In order to resolve some internal inconsistencies in Pinal's regulations PCR Sec. 3–5–550(C) needed to be revised to clarify that if the Control Officer revokes a source's authorization to operate under a general permit and the source submits a timely and complete application for an individual source permit as required by the Control Officer, it may continue to operate under the terms of the general permit until the District issues or denies the individual source permit.

Rule change: PCR Sec. 3–5–550(C) has been revised to correct the deficiency as follows: "A source authorized to operate under a general permit may operate under the terms of the general permit until the earlier date of expiration of the general permit or 180 days after receipt of the notice of termination of any general permit. If the operator submits a timely and complete application for an individual permit in accordance with sections 3–1–050, 3–1–055, and 3–5–490, while still authorized to operate under the terms of its general permit, the applicant may continue to operate under authority of the underlying general permit until the Control Officer issues or denies the individual permit."

B. Other Changes

EPA is also taking action to approve, as a title V operating permit program revision, additional program changes made by Pinal since the interim approval was granted. Some of the rules Pinal has submitted for EPA approval incorporate changes other than those described above. We have evaluated the additional changes and find that they are consistent with part 70 and are therefore including those changes in our proposed approval. These changes are described below:

1. PCR 3–1–040. Paragraph B.2., which spells out applicability criteria for non-title V permits, has been modified. Part 70 does not address permit requirements for non-title V sources, and so this change is not relevant to the approval of this rule pursuant to part 70. A new paragraph D. was also added to the rule. This new provision specifies that construction or reconstruction of a major source of HAP renders the source subject to MACT standards promulgated by EPA, or, where no standard has been promulgated, to a case-by-case MACT determination pursuant to 40 CFR sections 63.40 through 63.44. This change is consistent with part 70 and is therefore approvable.

2. PCR 3–1–045. Paragraph E. of the version of the rule originally approved by EPA has been deleted. This paragraph specified the fee schedule that sources would be subject to prior to EPA's approval of the District's title V program and is no longer necessary.

3. PCR 3–1–050. Paragraph C of this rule, which specifies the criteria an application must meet in order to be considered timely, has been changed to eliminate a reference to a Rule 3–1–047. Whereas the originally approved version of the rule provided that, "[u]nless otherwise required by 3–1–045 or 3–1–047, a timely application is * * *" the modified provision references only 3–1–045. Because 3–1–047 was never an approved element of the part 70 program and was not relied upon to meet part 70 requirements, the elimination of this reference has no effect on the approvability of this rule pursuant to part 70.

4. PCR 3–1–081. Consistent with part 70, paragraph B of this rule provides that all conditions of a permit, except those that are specifically designated as not federally enforceable, are enforceable by the Administrator and citizens under the Clean Air Act. Paragraph B.2. has been modified to specify that any provision that a source elects to make federally enforceable pursuant to the District's synthetic minor permitting rule may not be designated as non-federally enforceable. This change is consistent with part 70 and is therefore approvable.

IV. What Is the Effect of This Proposed Action?

Pinal previously adopted rule revisions that addressed the issues identified in EPA's interim approval and described above. On September 5, 2001, the District adopted a revision to the effective date of those rules. EPA action granting full approval to Pinal's title V program must be completed by December 1, 2001 to avoid the imposition of the federal operating permit program, part 71. In order to provide EPA adequate time to undertake notice and comment rulemaking on the District's title V program, Pinal submitted a copy of its revised rules to EPA on August 6, 2001. The District requested that we propose action on those rules prior to the formal submittal of the District's changes regarding the effective date of the rules. The rules we are proposing for approval today are those the District adopted on September 5, 2001. Table 1 lists the rules addressed by this proposal with the dates that they were adopted and when we anticipate they will be submitted by Pinal.

TABLE 1

Rule#	Rule title	Adoption date	Anticipated submittal date
PCR 1–3–140 (79)	Definitions (definition of stationary source only)	9/5/01	9/30/01
PCR 3–1–040	Applicability and Classes of Permits	9/5/01	9/30/01
PCR 3–1–045	Transition from Installation and Operating Permit Program	9/5/01	9/30/01
PCR 3–1–050	Permit Application Requirements	9/5/01	9/30/01
PCR 3–1–081	Permit Conditions	9/5/01	9/30/01
PCR 3–4–420	Standards of Conditional Orders	9/5/01	9/30/01
PCR 3–5–490	Application for Coverage under a General Permit	9/5/01	9/30/01
PCR 3–5–550	Revocations of Authority to Operate under a General Permit	9/5/01	9/30/01

Should Pinal submit these rules to EPA as a title V program revision in the form in which they were adopted on September 5, 2001, Pinal will have fulfilled the conditions of the interim approval granted on October 30, 1996 [61 FR 55910]. EPA is therefore proposing full approval of the Pinal operating permit program contingent on the submittal of the rules listed above.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Pinal submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by October 22, 2001.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit

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program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 5, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–23483 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 01–174; FCC 01–218]

2000 Biennial Regulatory Review—Requirements Governing the NECA Board of Directors and Requirements for the Computation of Average Schedule Company Payments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; comments requested.

SUMMARY: In this document the Commission is seeking comment on certain of our rules pertaining to the National Exchange Carrier Association (NECA). In particular, we propose to eliminate the annual election requirements for NECA's board of directors. We also propose to streamline the average schedule formula process. Our goal in this proceeding is to eliminate rules that may no longer be necessary in the public interest, reduce unnecessary regulatory burdens on the industry, including small entities, and update our rules and processes with measures that are more appropriate in today's marketplace.

DATES: Written comments by the public are due on or before October 22, 2001, reply comments are due on or before November 5, 2001.

ADDRESSES: Federal Communications Commission 445–12th Street, SW, TW–A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark Stone, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0816 or Andrew Mulitz, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418–0827.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM), CC Docket No. 01–174, FCC 01–218, adopted July 31, 2001 and released August 31, 2001. In this NPRM, we seek comment on certain of our rules pertaining to the NECA. In 1983, the Commission adopted rules providing for an exchange carrier association to administer access tariffs and to establish and operate a high cost fund. Beginning in 1984, all local exchange carriers participated in a mandatory common line tariff, and most participated in a traffic sensitive tariff. For each of these tariffs, the exchange carrier association, NECA, operates pooling mechanisms to collect and distribute revenues among its participating carriers. At that time, the Commission adopted rules relating to the governance and functioning of NECA. As part of our 2000 biennial regulatory review process, we now re-examine these rules in light of today's marketplace. In particular, we propose to eliminate the annual election requirements for NECA's board of directors under § 69.602 and seek comment on whether other measures, such as staggered terms and term limits are necessary. We also propose to streamline the average schedule formula process under § 69.606. Our goal in this proceeding is to eliminate rules that may no longer be necessary in the public interest, reduce unnecessary regulatory burdens on the industry, including small entities, and update our rules and processes with measures that are more appropriate in today's marketplace. We seek comment on the extent to which these proposals will achieve this goal.

I. Board of Directors

Today, all ILECs, regardless of size, are members of NECA. Membership in NECA is grouped into three divisions or subsets: Bell Operating Companies (Subset 1); other carriers with annual revenues of $40 million or more (Subset 2); and all remaining carriers (Subset 3). Each of the subsets is represented on NECA's 15-member board of directors, which governs the Association. The 15-member board is composed of 10 ILEC representatives—two from Subset 1, two from Subset 2, and six from Subset 3—and five directors from outside the telecommunications industry representing all three subsets (outside directors). Each subset nominates and elects its own representatives and outside directors are elected by the entire NECA membership. As required under our rules, all board members are selected through an annual election and serve a term of one year.

NECA proposes that the Commission revise §§ 69.602(e) and 69.602(f) to provide for periodic elections for the board of directors, instead of annual elections. In addition, NECA proposes eliminating § 69.602(i), which specifies that directors shall serve one-year terms. We seek comment on NECA's proposals and on the specific benefits that changes to the annual election requirement and one-year term limit for board members would provide to ILEC members. Commenters should discuss whether the elimination of the annual election requirements would have any impact on adequate representation of the member companies and should also address the appropriate length of the board members' term and whether term limits should be specified in our rules. We note that under our rules, we have adopted a three-year term for directors that serve on the board of USAC, NECA's independent subsidiary. Would a similar term appointment be appropriate for NECA board members? We also seek comment on alternative proposals that may be appropriate to consider at this time. For instance, would staggered terms, which would provide that the entire board would not run for election at the same time, be appropriate, and if so, does this alternative sufficiently address the cost burdens that NECA identified as being associated with annual elections?

II. Average Schedule Formulas

A. NECA's Historical Role and the Changing Regulatory Environment

NECA was established, and continues today, to develop and file interstate access tariffs and to administer interstate access revenue pools. In the initial years following the Commission's adoption of uniform access charge rules, all ILECs were subject to rate-of-return regulation, and all ILECs were required to participate in NECA's access tariff and common line pooling process. Under our access charge rules, ILECs were compensated either on the basis of their costs or under average schedules, which were permitted for some carriers as a way to avoid imposing the burdens and costs associated with performing cost separations studies needed to determine access charges. From a regulatory perspective, the access charge model sought to ensure that ILECs charged customers an amount that covered their interstate costs, assessed charges through cost-causative rate

elements that reflected the structure of the access network, and provided a reasonable return on their interstate investment.

Over the years, fundamental changes have occurred in the regulatory regime that governs access charges and tariff obligations, including the mandatory requirement that all ILECs participate in NECA's access tariff and common line pooling process. While allowing rate-of-return regulation to continue for some ILECs, our regulatory model governing access charges changed significantly in 1991, particularly with the adoption of price caps for the largest ILECs. The 1996 Act called for further reforms. Today, our regulatory concern is focused on providing sufficient incentives for ILECs to become more efficient, eliminating implicit subsidies, and aligning access charge rate structure components with cost-causation principles. Today, none of the largest ILECs participates in NECA's access tariff and pooling process. These ILECs instead charge access rates pursuant to the *CALLS Order*, FR 65 57739 (September, 26, 2000). Many ILECs that remain subject to rate-of-return rules have also elected not to participate in NECA's tariff and pooling process, but file their own access tariffs. Moreover, the Commission has sought comment on measures to reform the current access charge policies and adopt optional incentive regulation for rate-of-return carriers, as detailed in a proposal submitted by the Multi-Association Group (MAG Plan).

Our tariff requirements have changed as well. For all ILECs that file tariffs, we have engaged in continuous efforts to review, revise, and update rules to make our processes more streamlined. Today, ILEC tariffs are no longer subject to the filing and approval requirements that were in place in 1983, but are subject to abbreviated review and effective date periods of either 7 or 15 days. In addition, as the Federal-State Joint Board on Separations continues its efforts to bring about comprehensive reform of the jurisdictional separations rules, the Commission has simplified the separations process by adopting a five-year interim freeze of the Part 36 category relationships and allocation factors for price cap carriers and a five-year interim freeze of allocation factors for rate-of-return carriers. The separations freeze will provide substantial regulatory relief to all ILECs that must separate costs between interstate and intrastate jurisdictions until separations reform is completed.

Our reforms and various other streamlining measures have generally applied to price cap LECs and have been aimed at providing the ILECs with greater flexibility to set interstate access rates and to enable ILECs to compete more efficiently as competition develops, gradually replacing regulation with competition as the primary means of setting prices. Further streamlining and elimination of regulations will occur as competitive market forces emerge.

NECA's joint tariff and settlement process, however, has not been subject to the reform and streamlining measures that have taken place for the access charge and tariff requirements of the largest ILECs and other ILECs that file outside the NECA process. Currently, approximately 1,240 ILECs, consisting of about 700 cost companies and about 540 average schedule companies, continue to participate in NECA's tariff and settlement process. We recognize that over the years NECA's pooling process has provided ILECs with an efficient and streamlined alternative to individual tariff filings, and continues today to provide benefits to participating ILECs, particularly the small and rural ILECs. We believe, however, that review of our rules and the long-standing practices surrounding NECA's tariff and settlement process for average schedule companies is appropriate and necessary at this time. Our goal is to eliminate unnecessary and complex requirements affecting carriers that may no longer be in the public interest. As discussed further, our review of NECA's tariff and settlement process in this proceeding examines whether certain rules and practices applicable to the average schedule process continue to be necessary, and whether there may be alternative measures that are more appropriate in today's environment.

B. NECA's Current Tariff Development and Settlement Process

Under NECA's current access tariff and settlement process, NECA collects data from participating ILECs to develop the interstate access tariff rates. These tariff rates reflect the actual interstate costs of cost companies and the estimated interstate costs of the average schedule companies. Data collected from cost companies include detailed cost studies that determine jurisdictional separations and cost allocations. Data collected from average schedule companies do not include such detailed cost studies. Rather, NECA uses interstate factors derived from the cost companies to estimate interstate costs for average schedule companies. ILECs participating in NECA's access tariffs charge interexchange carriers (IXCs) for access at the rates set out in NECA's tariff. NECA pools the interstate access revenues collected by participating ILECs, and, through the settlement process, distributes compensation among pool members. Cost companies receive compensation for the use of their facilities in originating and terminating interstate common carrier communications services on the basis of their actual interstate costs, including a return on investment. Average schedule companies receive compensation for the use of their facilities on the basis of average schedules formulas, which are developed by NECA and established, in part, by using estimated costs derived from cost companies.

Resources devoted both by NECA and by the Commission to average schedule formulas may be disproportionate, particularly given the fact that average schedule companies' billed access charges and settlement revenues represent a relatively small component of the NECA pools. Moreover, NECA's current process for developing average schedule formulas may be unnecessarily complex in light of our extensive reform and simplification efforts for the largest ILECs and for ILECs that file outside the NECA process. We find it is appropriate to examine the requirements and practices pertaining to NECA's tariff and settlement process for average schedule companies and seek comment on various reform and simplification measures. As discussed further, we seek comment on both the manner in which NECA develops its average schedule formulas, and consequently our review and approval process of NECA's proposed formula modifications.

(1) Computation of Average Schedule Company Payments Through Average Schedule Formulas

The rule governing the development of average schedule formulas is broadly stated in § 69.606(a). NECA must develop formulas designed "to produce disbursements to an average schedule company that simulate the disbursements that would be received * * * by a [cost] company that is representative of average schedule companies." The rule provides NECA with flexibility on how to develop these formulas. NECA has chosen to implement the rule through a process that involves extensive data collection and detailed analysis of cost company data, statistical sampling of average schedule company data, and regression and related statistical estimations. Currently, NECA develops ten separate average schedule formulas for use in its access tariffs and two average schedule

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formulas for obtaining support from the Universal Service Fund (USF).

NECA's average schedule formula development process includes the following steps: (1) Collection of cost accounting data, including jurisdictional separations cost data and demand data (e.g., access line counts, number of exchanges, access minutes) from a sample of cost companies; (2) determination of jurisdictional cost relationships for the sample cost companies; (3) collection of certain accounting cost data and demand data from a sample of average schedule companies; (4) application of the cost relationships determined in Step 2 to the sample average schedule companies to estimate jurisdictional costs for the sample average schedule companies; (5) development of mathematical models using Steps 3 and 4 to determine estimated interstate costs for the sample average schedule companies; (6) use of statistical regression techniques to develop formulas that relate estimated interstate costs of the average schedule company to various commonly-used demand units (e.g., access lines per exchange); (7) development of settlement formulas using Step 5; and (8) adjustment for projected changes in costs and demand.

The Commission does not mandate the formula development process, but rather it is the process that NECA has chosen to use to meet the requirements of § 69.606(a) of our rules. Each year NECA engages in this process to determine whether to propose revisions to the current average schedule formulas. Consequently, each year but one NECA has filed proposed revisions with the Commission that consist of complicated, detailed, and extensive formula computations. This process is costly for NECA, interested parties that participate in the review of NECA's proposals, and the Commission. The current process clearly is not commensurate with our access charge reforms and streamlining measures for the largest ILECs, and we believe that a more streamlined approach is warranted.

Initially, we note that the premise of the entire rule governing the average schedule process is rate-of-return regulation. The Commission has long abandoned rate-of-return regulation for incentive regulation for the largest ILECs and now has under consideration the MAG Plan for non-price cap ILECs, which proposes to provide these carriers with the option to elect incentive regulation and thereby leave rate-of-return and average schedule regulatory models altogether. In light of such reform effort, we seek comment on whether and how § 69.606(a) should be modified. Our long-term goal is to get out of the business of rate regulation of ILECs where competitive market forces make regulatory oversight unnecessary. Recognizing, however, that transition will occur over a period of time, and that for the foreseeable future, certain carriers may remain average-schedule carriers, how can we modify the existing rule to better reflect today's marketplace? In particular, as long as some companies remain on average schedules, is there a simpler but fair way to determine payments for these companies? Should the Commission continue to require that disbursements simulate the disbursements that would be received by a cost company representative of the average schedule companies? Should the similar disbursement language in § 69.606(a) be eliminated or revised to reflect some measure other than cost, such as, inflation, line growth, or network utilization? What are the benefits of such modifications?

We seek comment on several options to streamline the manner in which the average schedule formulas are developed by NECA. The Commission recently froze for five years the separations allocation factors for all carriers and gave rate-of-return carriers the option of electing to freeze their separations category relationships as well. In light of this freeze, the first step of NECA's current formula development process already will be streamlined, because NECA no longer will need to determine on a yearly basis the separations allocation factors from a sample of cost companies. One measure that would further simplify the formula development process would be to utilize the cost relationships from a sample of cost companies for a baseline year in developing formulas for average schedule companies in future years. The net effect of the newly adopted separations freeze and this proposal would be to eliminate the need to examine on a yearly basis the jurisdictional cost relationships for the sample of cost companies; the relationships and ratios derived from the baseline year would be used to develop formulas for average schedule company payments in future years. This would eliminate much of the first and second step of NECA's current process to develop average schedule formulas, as previously described.

A second option would be for NECA to use the current approved average schedule formula structures in developing specific formulas for payments to average schedule companies in future years. This option would further streamline the formula development process by making it unnecessary for NECA to develop mathematical models to estimate the costs of average schedule companies, effectively eliminating the fifth step of the process currently used by NECA.

A third option would be for NECA to utilize the current formula structures and coefficients in developing formulas in future years for payments to average schedule companies. This option would significantly simplify NECA's current formula development process, essentially placing a freeze on the current formula methodologies. As a result, NECA would no longer need to conduct regression analysis to develop formulas that relate company costs to commonly-used demand units, thereby effectively eliminating the sixth step of the process currently used by NECA.

If formula structures or formula coefficients were frozen in some fashion, there may be a need periodically to make adjustments to the existing formulas to reflect more global changes in the marketplace. If formulas were frozen in some fashion, would it be appropriate to require, or permit, NECA periodically to re-evaluate the formulas to take into account general trends in inflation, cost, demand growth, or network underutilization? If so, what specific time frame would be appropriate for re-evaluation of aspects of the current formulas?

We seek comments on these proposed options and other alternatives. Will relevant trends in demand growth and inflation provide a sufficient basis for reasonable changes in payment amounts? We note that any carrier that believes the average schedule formulas do not produce disbursements appropriate to its circumstances is free, under our existing rules, to settle with NECA based on its actual costs. Should average schedule company productivity factors be considered? Could the proposed options be implemented in conjunction with access reform for rate-of-return carriers? What implications do the proposed options have on interstate access charges in rural and small exchanges? How best can the Commission be assured that average schedule formulas result in appropriate interstate rates in areas where marketplace competition has not developed? Is a different method required if competition exists in a given area? If so, what should that method be?

(2) Commission Review and Approval Cycle

Pursuant to § 69.606(a), payments to average schedule companies are made "in accordance with a formula approved or modified by the Commission." As required under § 69.606(b), NECA either files its proposed revisions for average schedule formulas on or before December 31 of each year, or certifies that no revisions are necessary. Once received, the Commission places NECA's filing on public notice and seeks comment from interested parties. Generally, the Commission's review of NECA's annual average schedule formula filing is complete and an order is issued approving or modifying NECA's proposed formulas before the effective date of NECA's annual access tariffs on July 1. NECA's annual tariffs are based, in part, on the average schedule formulas approved by the Commission.

Over the years, the Commission has undertaken a careful review of NECA's proposed formula revisions, which to date have involved extensive and complex cost studies, regression models, and other statistical measures and estimation theory. We seek to adopt a more streamlined and flexible procedural process for average schedule companies. In particular, we believe that if the formula development process is streamlined, a concomitant streamlining of the review process should follow. In addition, we note that the review periods today are much shorter for most Commission tariff filings. For example, pursuant to our rules, NECA's annual joint access tariff is filed on June 15 with an effective date of July 1, a fifteen-day review cycle.

NECA has proposed that the Commission consolidate its review of NECA's proposed revisions to the average schedule formulas with its review of NECA's access tariff filing. We seek comment on the feasibility of consolidating these two review periods, which we believe would significantly reduce regulatory burdens on NECA. We note that the current tariff filings are subject to a 7 or 15 day review process. We ask parties to comment on whether a 7 or 15 day review period will adequately accommodate both reviews of the tariff filing and the revised average schedule formulas. What benefits would be obtained through a shortened review process of the average schedule formulas? Will the Commission or interested parties have a reasonable opportunity to address issues raised by proposed formula revisions? Do the benefits of a shortened review period outweigh any burdens on the Commission and interested parties to review, comment on, and, if necessary, modify the formulas in this shortened time period? Commenters should also address whether the length of the formula review process should depend on whether NECA simplifies its process for formula development. If the average schedule formula development process were streamlined as set forth in one of the options proposed previously, a more abbreviated review period could be appropriate. We ask parties to comment on whether this combined filing process would permit interested parties to review and comment on the proposed formulas. We also ask parties to comment on whether it is appropriate for us to limit our review to the tariff filing only. What impact would our lack of oversight of the average schedule formulas have on customers of interstate access (namely, long distance companies), and, ultimately, long distance rates, particularly in areas where an average schedule company is not subject to competition from alternative providers of interstate access?

Finally, we note our concern that as we seek to further simplify the current access charge process surrounding average schedule companies, we must also seek to encourage investment and deployment of new services in areas served by average schedule companies. In addition, particularly in areas where there are no competitive alternative providers of exchange access, we remain concerned that consumers are not burdened with higher long distance rates because access charges are overstated. We seek comment on rule changes that will best address these concerns, while minimizing regulatory burdens, providing incentives for investments and new services, and protecting consumers.

Procedural Issues

C. Ex Parte Presentations

This is a permit-but-disclose rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, if disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206.

D. Initial Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an RFA analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). In this Notice of Proposed Rulemaking, we seek comment on certain of our rules pertaining to the National Exchange Carrier Association (NECA), which operates pooling mechanisms to collect and distribute revenues among its participating carriers. In particular, we propose to eliminate the annual election requirements for NECA's board of directors under § 69.602 and seek comment on whether other measures, such as staggered terms and term limits are necessary. We also propose to streamline the average schedule formula process under § 69.609.

We certify, pursuant to RFA, that the proposed rules will not have a significant economic impact on a substantial number of small entities. NECA is a non-profit, quasi-governmental association created to administer the Commission's interstate access tariff and revenue distributions processes. Because the proposed rule amendments affect only NECA directly, we find that no substantial number of small entities are potentially affected by our action. In addition, any economic effect that might result is positive (de-regulatory) and not significant. The Commission will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration, and it will be published in the **Federal Register**.

E. Comment Filing Procedures

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, Written comments by the public are due on or before October 22, 2001, reply comments are due on or before November 5, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full

name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings by paper must be sent to the Commission's Secretary: Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. Diskettes should be submitted to: Ernestine Creech, Room 6 C–317, Accounting Safeguards Division, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The required diskette copies of submissions should be on 3.5-inch diskettes formatted in an IBM compatible format using Word or compatible software. Each diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (CC Docket No. 01–174), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, parties who choose to file by paper must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554. Comments and reply comments will be available for public inspection during normal business hours in the FCC Reference Information Center, Courtyard Level, Suite CY–A257, 445 12th Street, SW, Washington, DC.

Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 11, 201–205, 218–220, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C., 151, 154(i), 161, 201–205, 218–220, 254, and 403 this Notice of Proposed Rulemaking is hereby Adopted.

The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23495 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 090701F]

Fisheries of the Exclusive Economic Zone Off Alaska; King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare an environmental impact statement (EIS); request for written comments; notice of scoping meetings.

SUMMARY: NMFS announces its intent to prepare an EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) for the Fishery Management Plan for Bering Sea/ Aleutian Islands (BSAI) King and Tanner Crabs (FMP). The North Pacific Fishery Management Council proposes to rationalize the BSAI crab fisheries through an Individual Fishing Quota (IFQ) Program, or a cooperative program. The scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries authorized under the FMP, including components of proposed rationalization programs, and potential changes to the management of the fisheries under these programs.

NMFS will hold public scoping meetings and accept written comments to determine the issues of concern and the appropriate range of management alternatives to be addressed in the EIS.

DATES: Written comments will be accepted through November 16, 2001. A public scoping meeting will be held on Thursday, September 20, 2001, in Anchorage, AK. For dates and times of scoping meetings, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Written comments on issues and alternatives for the EIS should be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments may be sent via facsimile (fax) to 907–586–7557. NMFS will not accept comments by e-mail or the internet. For locations of the public scoping meetings, see **SUPPLEMENTARY INFORMATION.**

Written comments specifically addressing the Council's analysis of rationalization programs should be sent to the North Pacific Fishery Management Council, 605 West 4th Street, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, (907) 586–7228 or e-mail *gretchen.harrington@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all living marine resources found within the exclusive economic zone (EEZ). The management of these marine resources, with the exception of marine mammals and birds, is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare fishery management plans for approval and implementation by the Secretary. The North Pacific Fishery Management Council (Council) has the responsibility to prepare fishery management plans for the fishery resources that require conservation and management in the EEZ off Alaska.

NEPA requires preparation of an EIS for major Federal actions significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502.4(b) state:

> Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.

The FMP was approved by the Secretary on June 2, 1989 (54 FR 29080). The Secretary approved a revised and updated FMP on March 9, 1999 (64 FR 11390). The FMP establishes a State/ Federal cooperative management regime that defers many aspects of crab management to the State of Alaska (State), with Federal oversight. The FMP identifies specific aspects of crab management that remain under the jurisdiction of the Federal government, such as limited access.

The FMP is a framework plan for the management measures deferred to the State. For these measures, the framework in the FMP establishes policy objectives and criteria instead of selecting specific management measures. This allows for long-term management of the fishery without frequent amendments to the FMP.

FMP amendments are required for changes to the management measures under Federal jurisdiction and for changes to the framework plan for management measures deferred to the State. FMP amendments are also required to keep the FMP in compliance with the requirements of the Magnuson-Stevens Act.

NMFS has identified the need to prepare an EIS to take a programmatic look at the FMP and possible alternatives to the FMP in light of Council consideration of a program to rationalize the BSAI crab fisheries. NMFS recognizes that the rationalization programs under consideration will result in substantial changes to many of the current management measures and possibly the framework of the FMP and that these programmatic changes may significantly affect the environment. NMFS views this as an opportune time to analyze these potential changes as well as analyze alternative ways to manage the BSAI crab fisheries.

The proposed action to be addressed in the EIS is the rationalization of the BSAI crab fisheries. Given this proposed action, the scope of the EIS will be a programmatic review of the FMP, examining all activities addressing the conduct of the BSAI crab fisheries authorized under the FMP, including components of proposed rationalization programs and potential changes to the management of the fisheries under these programs. The scope of the analysis is intended to be broad enough for the Council and NMFS to make an informed decision on a rationalization program and to undertake further analysis of other changes to the FMP as necessary with the implementation of these programs.

NMFS is seeking information from the public through the scoping process on the range of alternatives to be analyzed and on the environmental, social, and economic issues to be considered in the analysis.

Alternatives

NMFS will evaluate a range of alternative FMPs for managing the BSAI crab fisheries. Alternatives analyzed in the EIS may include those identified here, plus additional alternatives developed through the public scoping process and through working with the Council and the State. Each alternative would constitute a complete FMP, that would include an approach for every aspect needed in an FMP.

The potential alternatives already identified for the EIS include: (1) The existing FMP (no action) and (2) an FMP as modified by a rationalization program (IFQ or cooperatives).

The Council will recommend the specific alternative for the rationalization program in early 2002. In June 2001, the Council adopted a suite of alternatives, elements, and options for an analysis of potential rationalization programs for the BSAI crab fisheries. These alternatives, elements, and options were developed through the Council's rationalization committee, Advisory Panel meetings, and Council meetings. Congressional action would be required to provide statute authority to implement the alternatives under Council consideration.

Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

NMFS is seeking written public comments on the scope of issues that should be addressed in the EIS and alternatives that should be considered for management of the BSAI crab fisheries.

Public comments on specific aspects of the rationalization programs should be submitted to the Council (see **ADDRESSES**). The public will also be able to provide oral and written comments through the Council process and at Council meetings. Upon completion, the Council will make a draft analysis of these proposed programs available for public review and comment. Copies of the analysis can be requested from the Council (see **ADDRESSES**).

Dates, Times, and Locations for Public Information Meetings

The public is invited to assist NMFS in developing the scope of alternatives and issues to be analyzed for the EIS. Comments will be accepted in writing at the meetings and at the NMFS address (see **ADDRESSES**).

One public scoping meeting will be held on Thursday, September 20, 2001, from 2 to 4 p.m., at the Hilton Hotel, 500 West 3rd Street, Anchorage, Alaska, in conjunction with the Council's Crab Plan Team meeting.

Two additional scoping meetings will be held in Seattle, Washington: One, on Monday, October 1, 2001, from 2:30 to 4:30 p.m., at the Leif Erikson Hall, 2245 N.W. 57th Street, in conjunction with the Annual Bering Sea/ Aleutian Islands Crab Industry Meeting; and the second on Thursday, October 4, 2001, from 7 to 9 p.m., at the Sea-Tac airport Doubletree, 18740 International Blvd., in conjunction with the October Council meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gretchen Harrington, NMFS, (see **ADDRESSES**), (907) 586–7228, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23470 Filed 9–17–01; 2:29 pm]

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Notices

Federal Register
Vol. 66, No. 183
Thursday, September 20, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AB73

National Environmental Policy Act Documentation Needed for Certain Special Use Authorizations

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed interim directive; request for public comment.

SUMMARY: The Forest Service proposes to issue an interim directive to guide its employees in complying with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations for issuance of a special use authorization involving administrative changes where no changes are proposed in authorized activities or facilities. The interim directive would also clarify the definition of extraordinary circumstances. The intended effect is to facilitate consistent interpretation and application of NEPA requirements, CEQ regulations, and related agency policy by employees and to reduce the paperwork and delays that have resulted in a large backlog of unprocessed applications. Public comment is invited and will be considered in development of the final interim directive.

DATES: Comments must be received in writing by November 19, 2001.

ADDRESSES: Send written comments to Director, Lands Staff, 4th Floor-South, Mail Stop 1104, Sidney R. Yates Federal Building, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, or send electronic mail to *landsidce@fs.fed.us*. If electronic mail is sent, the public is requested not to send duplicate written comments via regular mail. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this proposed interim directive in the Office of the Director, Lands Staff, 4th Floor-South, Sidney R. Yates Federal Building, 14th Street and Independence Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect comments are encouraged to call ahead to (202) 205–1248 or (202) 205–0895 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff, (202) 205–1256; Kenneth Karkula, Recreation, Heritage, and Wilderness Resources Staff, (202) 205–1426; or Rhey Solomon, Ecosystem Management Coordination Staff, (202) 205–0939.

SUPPLEMENTARY INFORMATION:

Special Uses

The Forest Service controls the occupancy and use of National Forest System lands through issuance of a special use authorization, such as a permit, lease, or easement. The evaluation of a proposed occupancy and use is subject to the National Environmental Policy Act of 1969 (NEPA); issuance of the subsequent special use authorization is the means by which the NEPA decision is implemented. After approval of a use, the responsible official issues a special use authorization, such as a permit, lease, or easement, that provides the framework for a holder's use and occupancy of National Forest System lands and establishes conditions for issuance of a new special use authorization when authorized improvements change ownership and upon the termination of the current special use authorization.

In April 1997, the Forest Service completed a reengineering study of its special uses program to identify changes needed to manage the program in a more efficient and customer service-oriented manner. In 1998, the agency issued a final rule streamlining the special use application process and administration of special use authorizations at 36 CFR part 251, subpart B (63 FR 65940, November 30, 1998). The reengineering study found misunderstanding and inconsistency among agency employees in actions being taken to administratively change a current valid special use authorization, such as updating authorization rental fee clauses and incorporating new environmental requirements mandated by new laws and regulations. The study also revealed a large backlog of unprocessed special use applications involving a change of ownership of authorized improvements or the issuance of a new special use authorization upon the termination of the current special use authorization which, if issued, would result in no change in the authorized activities or facilities. The study concluded that a primary cause of this backlog is the inconsistent application and misinterpretation of agency policy found in Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures Handbook, chapter 30, which addresses categorical exclusion from documentation in an environmental assessment (EA) or environmental impact statement (EIS). These inconsistencies and misinterpretations have resulted in higher administrative costs to the agency and delayed service to the customer.

The Council on Environmental Quality (CEQ) regulations (40 CFR part 1500) encourage agencies to reduce paperwork and delays in processing applications by categorically excluding from documentation in an EIS or EA certain types of proposed actions that do not individually or cumulatively have a significant effect on the human environment. Forest Service direction on actions that may be considered for categorical exclusion is contained in FSH 1909.15, chapter 30, sections 31.1b and 31.2.

In 1998, the Forest Service adopted an interim directive regarding categorical exclusions for certain ski area permit actions (63 FR 48170, September 9, 1998) to categorically exclude from documentation in an EA or EIS certain actions related to permit tenure or the change of ownership of authorized improvements when such actions are ministerial and no changes are proposed in the permitted activities or facilities. That interim directive implemented a provision of the Omnibus Parks and Public Lands Management Act of 1996 which provided that issuance of a ski area permit for activities authorized under a previous ski area permit does not constitute a major Federal action for the purposes of NEPA. In issuing that interim directive to its NEPA implementation handbook (FSH 1909.15, Environmental Policy and Procedures Handbook), the Forest Service reviewed applicable statutory authority and regulations and concluded that a similar categorical exclusion should be provided for certain special use applications and authorizations. As suggested by the reengineering study, a record of EA's and resulting findings of no significant impact (FONSI's) for special uses has been collected, which shows that certain categories of actions involving special use authorizations generally have no significant effect on the human environment, supporting the Forest Service determination that the proposed changes to the categorical exclusions are appropriate and should be implemented.

Because the agency plans to propose additional revisions to this handbook within the next few years, the agency has concluded that these proposed categorical exclusions for certain special use authorization actions should be issued as an interim directive. Upon completion of other revisions to this handbook, this interim directive will be incorporated into an amendment at that time.

Accordingly, the Forest Service proposes to revise its NEPA implementation handbook (FSH 1909.15) to classify the following special use authorizing actions as categorical exclusions: (1) Amendment of a special use authorization during its term, for purposes of initiating an administrative change; (2) changes in ownership of authorized improvements during the term of an existing special use authorization; and (3) issuance of a new special use authorization upon termination of an existing special use authorization. Use of these new categories would be appropriate only when the special use authorization involves no change in the nature or scope of the occupancy and use and no change in the effects on the environment. The proposed direction for the categorical exclusions would be included as paragraphs under sections 31.1b and 31.2. The intent of these proposed changes to categorically exclude certain special use authorization actions is not to avoid environmental analysis and documentation, but rather to recognize that administrative amendments to authorizations, changes in ownership of authorized improvements, and issuance of a new authorization upon the termination of an existing authorization have little to no individual or cumulative environmental effect on the ground. The proposed interim direction is set out at the end of this notice.

The agency proposes to add two new paragraphs 10 and 11 to section 31.1b, Categories Established by the Chief. The categories in this section identify proposed actions requiring no additional analysis or documentation in an EIS or EA and for which a project or case file and a decision memo are not required.

Proposed paragraph 10 would address situations that involve the amendment of an existing special use authorization when there would be no change to the scope or nature of the authorized occupancy or use. Proposed paragraph 10 also would include examples of the type of administrative actions that could be considered. For example, updating authorization rental fee clauses to reflect a new or modified land use rental fee for a power line would have no significant effect on the environment and use of a categorical exclusion would be appropriate; however, if the utility company that owns the power line requests an amendment to its special use authorization to include additional power line extensions that are outside an existing utility corridor, then use of a categorical exclusion would not be appropriate.

Proposed paragraph 11 would address situations involving a change of ownership of authorized improvements during the term of an existing special use authorization. Actions within this category would allow issuance of a special use authorization to a new owner of the currently authorized improvements, as long as there is no change in the authorized occupancy or use of National Forest System lands.

The actions in these proposed categories normally do not individually or cumulatively have a significant effect on the quality of the human environment. For example, consider the case of a telephone line that has been in existence and authorized for a 30-year term. Five years remain in the authorized term when the telephone company is purchased by another entity. The new owner is not proposing any changes to the authorized use and occupancy. Agency review indicates that issuing a new special use authorization for the five years remaining in the term to effect a name change, when there is no change to the use or occupancy authorized, would not have a significant effect on the environment. Use of a categorical exclusion, as set out in this proposed interim directive, would be appropriate.

In summary, the proposed categorical exclusions in section 31.1b would be applicable to those cases that do not involve a physical change to the environment. Review of the proposed action would ensure that the proposed categorical exclusions allow only for administrative changes that have no significant effect on the environment.

Section 31.2 of the handbook lists those categories of actions for which a project or case file and a decision memo are required. The Forest Service proposes to add a new paragraph 10 to section 31.2 to classify as a categorical exclusion the issuance of a new special use authorization upon the termination of the existing special use authorization, when the current holder and operations under the existing special use authorization are in full compliance with the terms and conditions of the special use authorization and no changes in the physical environment or facilities are proposed. Generally, special use authorizations are issued for terms ranging between 5 and 20 years.

The following is an example of a situation involving a special use authorization in which use of a categorical exclusion would be appropriate: An organization camp has been authorized for a term of 20 years and its term has expired. The holder applies for a new special use authorization and does not propose any change to the use or occupancy previously authorized. Agency review indicates that the use has been consistent with the terms and conditions of the authorization and that previous analysis determined there were no individually or cumulatively significant effects on the environment. Thus, the decision to issue a new special use authorization may be categorically excluded, so long as the requirements listed at 36 CFR 251.64 can be met and there are no significant effects on the environment.

In contrast, consider an example involving an oil and gas pipeline authorized 30 years ago. The special use authorization is due to expire, and the holder applies for a new special use authorization. The use and holder meet the requirements set out at 36 CFR 251.64. In this example, agency review indicates that the use had not previously been analyzed pursuant to NEPA, and new information shows threatened or endangered species may be significantly affected. Thus, continuing the use previously authorized may cause significant effects on the environment. A categorical exclusion would not be applied in this situation, and the appropriate level of NEPA analysis and documentation would have to be completed prior to issuance of a new special use authorization.

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Extraordinary Circumstances

The proposed interim directive also would clarify the policy in the handbook regarding extraordinary circumstances at paragraph 2 of section 30.3 and the definition in section 30.5, which currently defines extraordinary circumstances as "conditions associated with a normally excluded action that are identified during scoping as potentially having effects which may significantly affect the environment." The agency proposes to make minor revisions to clarify this definition. The revised definition would state: "Instances where a proposed action normally excluded from documentation in an EIS or EA is identified as potentially having a significant effect on the resource conditions as set out in section 30.3, paragraphs 2a through 2g." Section 30.3 would be revised to clarify that it may be appropriate and permissible to categorically exclude from documentation in an EIS or EA those proposed actions where certain resource conditions are present, but only when the responsible official determines the proposed action would not have a significant environmental effect, either individually or cumulatively, on those conditions.

Considerable public and employee confusion exists regarding the application of a categorical exclusion to a proposed action when a listed resource condition is present. Additionally, Federal Circuit Courts have interpreted Forest Service direction on this issue differently. For example, the Seventh Circuit concluded that the Forest Service intended that the "mere presence" of any extraordinary circumstances precluded use of the categorical exclusion (*Rhodes* v. *Johnson*, 153 F.3d 785 (7th Cir. 1998)). However, the Ninth Circuit has held that an agency may issue a categorical exclusion even where a certain resource condition, in this case threatened or endangered species, is present (*Southwest Center for Biological Diversity* v. *U.S. Forest Service*, 100 F.3d 1443, 1450 (9th Cir. 1996); see also *Kirchbaum* v. *USFS*, 17 F. Supp. 2d 549, 557–58 (W.D. Va. 1998)).

The proposed revisions to the definition in section 30.5 and the direction in section 30.3, paragraphs 2, 3, and 4, would clarify the agency's intent that the presence of a listed resource condition does not automatically preclude use of a categorical exclusion. Treating the "mere presence" of a resource condition as an absolute bar to the availability of categorical exclusions has a major impact on the Forest Service's ability to efficiently fulfill its land management responsibilities. The resource conditions identified in the agency handbook (FSH 1909.15, section 30.3, paragraphs 2a–2g) are intended to act as guideposts that alert decision makers to potential instances where a categorical exclusion would be inappropriate. The procedures were never intended to override the responsible official's ability to determine that no significant environmental effects are associated with a proposed action and, therefore, that a categorical exclusion is appropriate. The proposed interim directive would make explicit the agency's intent that even in the presence of certain resource conditions, a proposal could still be categorically excluded if the responsible official determines the proposed action would not have a significant environmental effect on those resource conditions. Paragraph 3 retains the important requirement regarding scoping for all proposed actions. Proposed changes to paragraph 3 would, however, remove redundant guidance on preparation of EA's and EIS's, as adequate guidance already exists in chapters 20 and 40 of FSH 1909.15. Paragraph 4 would be expanded to reference FSH 1909.15, section 18, on the need to review and document new information or changed circumstances.

In addition, paragraph 2b of section 30.3, which lists threatened and endangered species or their critical habitat as examples of resource conditions, would be expanded to include species proposed for threatened or endangered listing, sensitive species, or their designated or proposed critical habitat. The proposed interim directive is set out at the end of this notice.

Environmental Impact

These proposed revisions to Forest Service Handbook (FSH) 1909.15 would clarify direction and improve consistent interpretation by field employees of requirements regarding NEPA documentation. Section 31.1b of FSH 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's preliminary assessment is that this proposed action falls within this category of actions, and that no extraordinary circumstances exist as currently defined which would require preparation of an environmental impact statement or environmental assessment. A final determination will be made upon adoption of the final interim directive. In addition, pursuant to 40 CFR 1505.1 and 1507.3, the agency is consulting with the Council on Environmental Quality (CEQ) to ensure full compliance with the purposes and provisions of NEPA and the CEQ implementing regulations.

Regulatory Impact

This proposed interim directive has been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not a significant action. This proposed action to clarify agency direction would not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This proposed action would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this proposed action would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed action is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this proposed action has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities as defined by the act because it will not impose record-keeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered this proposed interim directive under the requirements of Executive Order 13132, Federalism, and has made an assessment that the proposed interim directive conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this proposed interim directive does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and therefore advance consultation with tribes is not required.

No Takings Implications

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the proposed action does not pose the risk of a taking of Constitutionally protected private property.

Civil Justice Reform Act

This proposed action has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed interim directive were adopted, (1) all State and local laws and regulations that are in conflict with this proposed interim directive or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed interim directive; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed action on State, local, and tribal governments and the private sector. This proposed action would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Energy Effects

This proposed interim directive has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed interim directive does not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

This proposed interim directive does not contain any additional record-keeping or reporting requirements associated with the special uses program or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. The Office of Management and Budget (OMB) (Number 0596–0082) has approved the information collection associated with the special uses program. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: August 31, 2001.

Sally Collins,

Acting Chief.

Text of Proposed Interim Directive

Note: The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures Handbook, affected by this policy are included in this notice. The intended audience for this direction is Forest Service employees charged with issuing and administering special use authorizations. Selected headings and existing text are provided to assist the reader in placing the proposed direction in context, but primarily the revised text is set out here. Reviewers who wish to view the entire chapter 30 of FSH 1909.15 may obtain a copy from the address shown earlier in this notice and from the Forest Service home page on the World Wide Web/Internet at *http://www.fs.fed.us/cgi-bin/Directives/get_directives/fsh?1909.15*.

FSH 1909.15—ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 30—CATEGORICAL EXCLUSION FROM DOCUMENTATION

(No change to the following section 30.3, paragraphs 1 and 1a:)

30.3—Policy.

1. A proposed action may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if the proposed action:

a. Is within one of the categories in the Department of Agriculture (USDA) NEPA policies and procedures in 7 CFR part 1b.

(Proposed revision to the following section 30.3, paragraphs 1b and 2, as follows:)

b. Is within a category listed in section 31.1b or 31.2 and there are no instances of extraordinary circumstances (as described in the following para. 2 and defined in sec. 30.5) related to the proposed action that could result in a significant environmental effect.

2. Extraordinary circumstances (as defined in sec. 30.5) occur when a proposed action would have a significant effect on the resource conditions set out in the following paragraphs 2a through 2g. The responsible official may issue a categorical exclusion even when one or more of the resource conditions listed in paragraphs 2a through 2g are present, only if the official determines on a case-by-case basis that the proposed action would not have a significant effect on these resource conditions and thus an instance of extraordinary circumstances does not exist for that proposed action. The resource conditions to be considered in determining if extraordinary circumstances exist are:

(No change to the following paragraph 2a:)

a. Steep slopes or highly erosive soils.

(Proposed revision to paragraph 2b, as follows:)

b. Threatened, endangered, proposed, and sensitive species or their designated or proposed critical habitat.

(No change to the following paragraphs 2c–2g:)

c. Flood plains, wetlands, or municipal watersheds.

d. Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas.

e. Inventoried roadless areas.

f. Research Natural Areas.

g. Native American religious or cultural sites, archaeological sites, or historic properties or areas.

(Proposed revision to paragraph 3 and 4, as follows:)

3. Scoping is required on all proposed actions, including those that would appear to be categorically excluded (ch. 20 and 40).

4. If an action has been sufficiently analyzed in a completed EIS or an EA, but *not approved* in the appropriate decision document, issue a record of decision or a decision notice and finding of no significant impact without considering the categories in this chapter (ch. 30). If an action has been sufficiently analyzed in a completed EIS or EA and *approved* in the appropriate decision document, it can be implemented without considering the categories in this chapter (ch. 30). In these situations, consider the need to evaluate new information or changed circumstances that may have a bearing on the decision (sec. 18).

(No change to the following section 30.5, unnumbered paragraphs 1 and 2:)

30.5—Definitions.

Categorical Exclusion. (sec. 05)

Decision Memo. (sec. 05)

(Proposed revision to section 30.5, unnumbered paragraph 3, definition of

Extraordinary Circumstances, as follows:)

Extraordinary Circumstances. Instances where a proposed action normally excluded from documentation in an EIS or EA is identified as potentially having a significant effect on resource conditions as set out in section 30.3, paragraphs 2a through 2g.

31—Categories of Actions Excluded From Documentation.

(No change to the following sections 31 through 31.1b, paragraph 9c:)

31.1—Categories for Which a Project or Case File and Decision Memo Are Not Required. At the discretion of the responsible official, a project or case file and a decision memo are not required but may be prepared for the categories of actions set forth in sections 31.1a and 31.1b.

31.1a—Categories Established by the Secretary. The rules at 7 CFR 1b.3 exclude from documentation in an EIS or an EA the following categories:

(a) * * *

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad. (7 CFR 1b.3)

31.1b—Categories Established by the Chief. The following categories of routine administrative, maintenance, and other actions normally do not individually or cumulatively have a significant effect on the quality of the human environment (sec. 05) and, therefore, may be categorically excluded from documentation in an EIS or an EA unless scoping indicates extraordinary circumstances (sec. 30.5) exist:

(The unchanged text of paragraphs 1 through 9 is not set out.)

* * * * *

(Proposed new paragraphs 10 and 11, section 31.1b, as follows:)

10. *Amendment to an existing special use authorization during its term, involving no change in the authorized use and occupancy other than administrative changes.* Examples include but are not limited to:

a. Amending a special use authorization to reflect administrative changes, such as changes to the land use rental fee or conversion to a new type of special use authorization for a particular occupancy or use (for example, converting a permit to a lease or easement).

b. Amending a special use authorization to include nondiscretionary environmental standards or updating a special use authorization to bring it into conformance with current laws or regulations (for example, new water quality standards that require monitoring).

11. *Change in ownership of authorized improvements during the term of an existing special use authorization, involving no change in the authorized use and occupancy of National Forest System lands other than administrative changes.* Examples include but are not limited to issuance of a new special use authorization to a new owner of the authorized improvements, when there is no change to the authorized use and occupancy.

(No change to the following section 31.2 through (1):)

31.2—Categories of Actions for Which a Project or Case File and Decision Memo Are Required. Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as:

(1) the names of interested and affected people, groups, and agencies contacted;

(Proposed revision to section 31.2 (2) and (3) as follows:)

(2) the determination that no instance of extraordinary circumstances related to the proposed action exists that may have a significant environmental effect on resource conditions; (3) a copy of the decision memo (sec. 30.5, para. 2);

(No change to the following section 31.2 (4) and (5):)

(4) a list of the people notified of the decision; (5) a copy of the notice required by 36 CFR Part 217, or any other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded. Maintain a project or case file and prepare a decision memo for routine, proposed actions within any of the following categories.

(The unchanged text of paragraphs 1 through 9, section 31.2, is not set out.)

* * * * *

(Proposed new paragraph 10, section 31.2, as follows:)

10. *Issuance of a new special use authorization to the holder of an existing special use authorization when:*

a. The existing special use authorization terminates at the end of its term;

b. The holder is in full compliance with the terms and conditions of the terminating special use authorization; and

c. There would be no change in the physical environment or facilities or the scope or intensity of the operations.

(No change to the rest of chapter 30, sections 32–33.)

* * * * *

[FR Doc. 01–23408 Filed 9–19–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Amendment to Bylaws

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of revised bylaws.

SUMMARY: The Board of Directors of the Rural Telephone Bank (Bank) adopted an amendment to the bylaws of the Bank on August 17, 2001. The bylaw amendment defines the terms "eligible" and "controlled" with respect to the purchase of Class C stock.

EFFECTIVE DATE: This action was effective August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

SUPPLEMENTARY INFORMATION: Bylaw section 2.2, paragraph (c) is revised and redesignated as paragraphs (c) and (d), and existing paragraph (d) is redesignated as (e) as follows:

Article II—Capital Stock and Special Fund Equivalents

Sec. 2.2 Rights, Powers, Privileges and Preferences of Each Class of Stock

(c) Class C stock shall have a par value of one thousand dollars ($1,000) per share, shall be issued only at par, shall be held only by borrowers or by corporations and public bodies eligible to borrow under section 408 of the Act, or by organizations controlled by such borrowers, corporations and public bodies, and shall be voting stock. A corporation or public body is considered eligible to borrow if it is engaged in activities that the Bank determines could be financed under section 408 of the Act. An organization is considered controlled if (1) a majority of the voting stock or other controlling authority in the organization is held by borrowers or by corporations and public bodies eligible to borrow under section 408 of the Act and (2) such borrowers, corporations, and public bodies are not prevented by any agreement or other restriction from exercising such controlling authority as they may desire.

(d) At such times and in such amounts as the Board may designate, dividends may be declared and paid to holders of Class C stock, but only from income of the Bank. Until all Class A stock is retired, the annual rate of any such dividend shall not exceed the current average rate payable on the bonds, debentures, notes and other evidences of indebtedness issued by the Bank (hereinafter collectively called "telephone debentures"). No dividend on Class C stock shall be paid at any time when any portion of the cumulative 2 percent return on Class A stock required by section 406(c) of the Act remains unpaid. Prior to dissolution or liquidation of the Bank, Class C stock may be redeemed and retired only after all shares of Class A stock shall have been redeemed and retired. Upon dissolution or liquidation of the Bank, holders of Class C stock shall be entitled to retirement of their stock at par after payment of all liabilities of the Bank and after retirement of all Class A and Class B stock at par, but shall not be entitled to share in any remaining surpluses or contingency reserves, as provided in section 411 of the Act. Class C stock shall not be transferable, absolutely or by way of collateral, except to a borrower, or a corporation or public body eligible to borrow under section 408 of the Act, or an organization controlled by such borrowers, corporations, or public bodies.

(e) No holder of Class B or Class C stock shall be entitled to more than one vote, regardless of the number and class or classes of shares held, nor shall Class B and Class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association, or corporation be entitled to more than one vote.

Dated: August 13, 2001.

Gary J. Morgan,

Acting Governor, Rural Telephone Bank.

[FR Doc. 01–23502 Filed 9–19–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Jackson County Lake Project, KY

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of record of decision.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing a Record of Decision (ROD) on the Environmental Impact Statement (EIS) prepared for the Jackson County Lake Project. The EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508) and RUS regulations (7 CFR 1794). The ROD concludes the EIS process for this proposal.

After reviewing comments from interested citizens, local businesses, environmental advocacy organizations, and other State and Federal agencies, RUS, with conditions, agrees to participate in the co-funding of its previously identified preferred alternative—the War Fork and Steer Fork (WSF), a 3.5 million gallons per day (MGD) reservoir and the construction of a raw water transmission main from the proposed reservoir to the existing JCWA Treatment Plant. This decision was made after comparing overall estimated project costs, user rate impacts, future growth prospects of Jackson County, Kentucky and adjacent areas, and evaluating other relevant information with regard to the reasonable alternatives considered in the EIS. The dam would be situated on War Fork, 0.75 miles north of the confluence with Steer Fork and located about 0.5 miles southwest of Turkey Foot campground in eastern Jackson County. The roller compacted concrete dam would be about 87 to 107 feet tall, 760 to 790 feet long, and 102 to 122 feet wide, creating a reservoir with an average yield of 3.5 MGD of raw water. At a normal pool elevation of 980 feet above mean sea level (MSL), the surface area of this reservoir would be about 116 acres. At a potential maximum flood elevation of 1,000 feet above MSL, the surface area of the reservoir would be approximately 162 acres. The total acreage for a reservoir at maximum flood level at this site, with a 300-foot buffer extending from normal pool level, would be about 337 acres of land. As much of this land is currently part of the Daniel Boone National Forest, land acquisition at this site would require a land exchange with the U.S. Forest Service. In addition, impounding "waters of the United States" will require a Clean Water Act, Section 404 permit from the U.S. Army Corps of Engineers. Other permits will be required; the applicants will be responsible for obtaining all applicable permits prior to construction.

FOR FURTHER INFORMATION CONTACT: For more information, contact: Mark S. Plank, Senior Environmental Scientist, USDA, Rural Utilities Service, Engineering and Environmental Staff, 1400 Independence Avenue, Mail Stop 1571, Washington, DC 20250, telephone (202) 720–1649, fax (202) 720–0820, or email: *mplank@rus.usda.gov*. Further information can also be obtained from: Kenneth Slone, State Director, USDA, Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, telephone (606) 224–7300, or fax (606) 224–7340.

A copy of the ROD can be obtained or viewed online at *http://www.usda.gov/rus/water/ees/eis.htm*. The document is in a portable document format (pdf); in order to review or print the document, users need to obtain a free copy of Acrobat Reader. The Acrobat Reader can be obtained from *http://www.adobe.com/prodindex/acrobat/readstep.html*.

SUPPLEMENTARY INFORMATION: On July 10, 1997, the Jackson County Water Association (JCWA) and the Jackson County Empowerment Zone Community, Inc. (JCEZ) submitted an application to the U.S. Department of Agriculture, Rural Utilities Service (RUS) requesting financial assistance to co-fund a proposed reservoir whose purpose was two-fold: to provide water supply for the citizens of Jackson County, Kentucky and adjacent areas and for recreation. The proposal was to construct a 115-foot roller-concrete compacted dam on the Laurel Fork of the Rockcastle River creating a 640-acre reservoir and the construction of a raw water transmission main from the proposed reservoir to the JCWA Treatment Plant located at Tyner Lake in eastern Jackson County. In response to the application and in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4231 *et seq.*) and Agency regulations (7 CFR 1794, Environmental Policies and Procedures), RUS initiated the

preparation of an Environmental Impact Statement (EIS). Initial co-funding partners for the proposal were JCEZ; Appalachian Regional Commission; U.S. Department of Commerce, Economic Development Administration; and U.S. Housing and Urban Development, Community Block Grant Program.

After reviewing comments from interested citizens, local businesses, environmental advocacy organizations, and other State and Federal agencies, RUS, with conditions, agrees to participate in the co-funding of its previously identified preferred alternative—the War Fork and Steer Fork (WSF), a 3.5 million gallons per day (MGD) reservoir and the construction of a raw water transmission main from the proposed reservoir to the existing JCWA Treatment Plant. This decision was made after comparing overall estimated project costs, user rate impacts, future growth prospects of Jackson County and adjacent areas, and evaluating other relevant information with regard to the reasonable alternatives considered in the EIS. The dam would be situated on War Fork, 0.75 miles north of the confluence with Steer Fork and located about 0.5 miles southwest of Turkey Foot campground in eastern Jackson County. The roller compacted concrete dam would be about 87 to 107 feet tall, 760 to 790 feet long, and 102 to 122 feet wide, creating a reservoir with an average yield of 3.5 MGD of raw water. At a normal pool elevation of 980 feet above mean sea level (MSL), the surface area of this reservoir would be about 116 acres. At a potential maximum flood elevation of 1,000 feet above MSL, the surface area of the reservoir would be approximately 162 acres. The total acreage for a reservoir at maximum flood level at this site, with a 300-foot buffer extending from normal pool level, would be about 337 acres of land. As much of this land is currently part of the Daniel Boone National Forest, land acquisition at this site would require a land exchange with the U.S. Forest Service. In addition, impounding "waters of the United States" will require a Clean Water Act, Section 404 permit from the U.S. Army Corps of Engineers. Other permits will be required; the applicants will be responsible for obtaining all applicable permits prior to construction.

Lists of the alternatives reviewed prior to this decision are as follows. The first list contains the alternatives evaluated and eliminated from further study, and the rationale for their elimination. These alternatives were determined not to be reasonable for the reasons stated. The second list is a list of alternatives determined to be reasonable; these were evaluated in detail in the EIS. In addition, total estimated project costs are listed for these alternatives.

ALTERNATIVES ELIMINATED FROM FURTHER STUDY

Alternative	Rationale for elimination
Non-Reservoir Alternatives	
Groundwater Development	• Insufficient yield to meet the projected needs of Jackson County due to the geology of the County. • Potential for groundwater contamination.
Expansion of Tyner Lake and/or McKee Reservoir.	• Insufficient yields to meet the projected needs of Jackson County due to the sizes of the watersheds.
Importing Water From Surrounding Counties: Buckhorn Lake (Perry and Leslie Counties) and Laurel Lake (Laurel County).	• Not cost-effective [1] • Administrative, legal, and temporal hurdles (for the Buckhorn Lake alternative only).
Water Conservation [2]	• Insufficient quantity of water able to be conserved to meet the projected needs of Jackson County.
Pumped Storage From Existing Sources in Jackson County:	
• Laurel Fork and the Middle Fork of the Rockcastle River.	• Laurel Fork and the Middle Fork of the Rockcastle River: • Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) in tributaries of the Cumberland River. • No improvement in Jackson County's ability to withstand multi-year droughts (no additional water storage).
• Indian Creek Rock Quarry	• Indian Creek Rock Quarry: • Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) downstream of Indian Creek. • No improvement in Jackson County's ability to withstand multi-year droughts (no additional water storage). • Concerns over water quality and adequacy of flows.
Reservoir Alternatives	
Laurel Fork and Buzzard	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel). • Branch Outstanding Resource Water (ORW) designation.
Laurel Fork and McCammon Branch	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel). • ORW designation.
Horse Lick Creek	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel). • ORW designation.
South Fork of Station Camp Creek and Rock Lick.	• Wild and Scenic Study River designation of South Fork.
South Fork of Station Camp Creek and Cavanaugh Creek #2.	• Wild and Scenic Study River designation of South Fork.
South Fork of Station Camp Creek and Cavanaugh Creek.	• Wild and Scenic Study River designation of South Fork.

ALTERNATIVES ELIMINATED FROM FURTHER STUDY—Continued

Alternative	Rationale for elimination
McCammon Branch	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) downstream. • Downstream feeds into waters with ORW designation.
Mill Creek	• Presence of Federally-listed Threatened or Endangered species (Cumberland Bean Pearly Mussel) downstream. • Stream waters feed into waters with ORW designation. • Insufficient yield for Jackson County during worst drought conditions; Insufficient sustainable yield for Jackson County and the region.
War Fork and Alcorn Branch	• Wild and Scenic Study River designation of included portion of War Fork.
South Fork of Station Camp Creek and War Fork.	• Wild and Scenic Study River designation of South Fork.
Travis Creek	• Insufficient yield.

[1] Revised cost estimates for pipelines from the Wood Creek Water District water distribution system and from Lock 14 of the Kentucky River were prepared for the FEIS. Based on a simple comparison of the estimated costs of construction and operation of these pipelines, and on the distances over which the Wood Creek Lake and Lock 14 pipelines would travel, rough construction and operation costs were projected for the Buckhorn Lake and Laurel Lake alternatives. Construction and operation of a pipeline from Buckhorn Lake is projected to cost well over $10 million more than either the Wood Creek Lake or Lock 14 pipelines. Construction and operation of a pipeline from Laurel Lake is project to cost well over $6 million more than either the Wood Creek Lake or Lock 14 pipelines. These costs suggest that these alternatives would not be cost-effective.

[2] Water conservation alone has been eliminated as a reasonable alternative to entirely meet the projected water needs for Jackson County and the region. However, in the revised water needs analysis presented in the FEIS, a water conservation factor of 10 percent was determined reasonable for incorporation into the revised water needs projections.

LIST OF REASONABLE ALTERNATIVES CONSIDERED—TOTAL ESTIMATED PROJECT COSTS [1]

Alternative	Total estimated project costs
No Action (existing rates)	N/A
War Fork, 3.5 mgd (preferred alternative)	$12,224,000
War Fork, 2.2 mgd	9,631,000
War Fork, 1.3 mgd	7,804,000
Sturgeon Creek, 3.5 mgd	13,286,000
Wood Creek Lake Pipeline, 2.2 mgd	11,441,000
Purchase of Potable Water	20,183,000
Wood Creek Lake Pipeline, 1.3 mgd	9,452,000
Purchase of Potable Water	16,213,000
Lock 14 Pipeline, 2.2 mgd	10,221,000
Lock 14 Pipeline, 1.3 mgd	8,964,000

[1] Includes 50-year operation and maintenance costs of the water transmission facilities.

Based on the analyses and conclusions presented in the Draft and Final EISs, RUS identified the WSF, 3.5 MGD alternative as its preferred alternative. Within the context of the proposed action's purpose and need as submitted to RUS, this alternative is the most environmentally preferable of the reasonable reservoir alternatives considered in the EIS.

Responses to the FEIS's public comments and RUS's analyses supporting its Record of Decision are presented in the following discussion.

As an overview, a public notice announcing a "Notice of Intent to Prepare an Environmental Impact Statement and Notice of Public Meeting" was published in the **Federal Register** (62 FR 41336 (1997)) and local newspapers on or beginning on August 1, 1997. Subsequent to these notices, a public scoping meeting to solicit public comments regarding the scope of the ensuing environmental impact analysis was held in McKee, Kentucky on August 21, 1997.

Prior to preparing and publishing a Draft EIS (DEIS), RUS undertook a number of investigative and preparatory studies to determine the basic parameters of the follow-on studies. The initial studies included: Water Need Analysis, Recreational Needs Analysis, Alternative Analysis, Endangered Species Screening Study and Field Survey for the Cumberland Bean Pearly Mussel, and Preliminary Survey for the Federally Endangered Indiana Bat and Virginia Big-eared Bat. The results and conclusions of these studies focused the follow-on, more detailed analyses on the alternatives determined to be reasonable.

Public notices announcing the availability of the DEIS and notice of public meetings were published in the **Federal Register** (65 FR 34142 (2000)) and local newspapers on or beginning on May 26, 2000. Because of the early identification and presence of endangered species at the proposal's site—the 640-acre reservoir at the Laurel Fork of the Rockcastle River—and the availability of other reasonable alternatives, RUS declined to participate in co-funding the proposal at this site. Instead RUS selected a preferred alternative that could meet the purpose and need of the proposal—the 3.5 MGD, 116-acre reservoir at the confluence of the War Fork and Steer Fork Rivers. The applicants agreed to the change in the proposal's location. The public comment period was 45 days. RUS held two public meetings to solicit public comments on the DEIS on June 27, 2000 in McKee, Kentucky.

In response to the public comments received on the DEIS, RUS re-evaluated a number of issues and prepared a Final EIS (FEIS). Public notices announcing the available of the FEIS were published in the **Federal Register** (66 FR 29768 (2001)) and local newspapers on or

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beginning on June 1, 2001. Public comment period was 30 days.

RUS received comments from the following groups in support or opposition to RUS's preferred alternative:

PUBLIC COMMENTS ON FEIS

Group	Support (number)	Opposition (number)
Private Citizens	159	20
Businesses	8	0
Environmental Advocacy Groups	0	5
Local/State/Federal Governmental agencies	2	2

In general, a review of the FEIS's comments indicates commenters were confused as to the proposed action to which RUS is responding. Comments were made criticizing RUS for an overemphasis on or a bias to the proposal's recreational component and requests were made to remove this element from the proposed action. A brief summary of the applicant's proposal or proposed action is as follows.

The proposed action as stated in RUS's "Notice of Intent to Prepare an Environmental Impact Statement" published in the **Federal Register** and local newspapers stated: "The primary scope of the EIS is to evaluate the environmental impacts of and alternatives to the Jackson County Water Association's applications for financial assistance to provide water supply for the residents of Jackson and surrounding counties. This project, known as the Jackson County Lake (Project), is one of the initiatives developed for the Kentucky Highlands Empowerment Zone. The project proposes to construct a 115 foot tall dam on the Laurel Fork of the Rockcastle River in Jackson County, Kentucky creating a 640 acre lake, storing approximately 28,440 acre feet of water. Included in the proposal is a raw water intake, pumps, water treatment plant upgrade from 1.0 million gallons per day (MGD) to 2.0 MGD, and pipelines necessary for transporting raw water to the Jackson County Water Association's water treatment plant for treatment and distribution to residents in Jackson County and portions of Lee, Madison, Owsley, and Rockcastle Counties. In addition to improving the water supply of the areas specified above, the Project will serve to meet a stated goal of the Kentucky Highland Empowerment Zone's Strategic Plan for increasing local recreational and tourism opportunities in the Jackson County area."

The stated purpose and need for the proposal was two-fold—water supply and recreation. In responding to applicants' proposals, RUS normally does not dictate specific project elements. As long as proposed actions or project elements thereof meet RUS's loan and facility eligibility requirements as promulgated in 7 CFR 1780.7, *Eligibility*, and the project element is not unreasonable or unfeasible from a cost or technical (including environmental) perspective, RUS normally evaluates the proposal as submitted. Even if specific project elements do not meet the agency's eligibility requirements, RUS is not precluded from participating in the financing of the proposal as long as RUS's financial assistance is used to finance eligible project purposes.

RUS is responsible pursuant to the National Environmental Policy Act (NEPA) to objectively evaluate the potential environmental effects of the proposed action and through an informed decision-making process decide whether or not to fund the proposal. As stated above, the analyses performed during the EIS did determine that the proposal's original site was unreasonable due to the presence of threatened and endangered species and with the availability of other reasonable alternatives, RUS selected with the applicant's concurrence an alternate location. This location was asserted in the EIS as the agency's preferred alternative. Conclusions drawn from the Recreational Needs Analysis determined that the recreational component of the proposal was not unreasonable and met the applicants' stated purpose and need for the proposal. Therefore, RUS finds that the requests to remove the recreational elements from the proposal are not appropriate.

To clarify the genesis of the proposal with regard to the Kentucky Highland Empowerment Zone the following is presented.

On August 10, 1993, President Bill Clinton signed Public Law 103–66, Omnibus Budget Reconciliation Act of 1993. Subchapter XIII of the Act, titled "Empowerment Zones, Enterprise Communities and Rural Development Investment Areas" created the Empowerment Zone initiative for the purpose of empowering local communities and their residents to design and implement their own strategic plan for creating jobs and opportunities to build a better and brighter future.

In support of Public Law 103–66, President Clinton signed a directive on September 9, 1993 establishing the President's Community Enterprise Board to assist in coordinating across Federal agencies the various programs available to distressed communities. The Board was to assist in enabling distressed communities through a "comprehensive, coordinated, and integrated approach that combines bottom-up initiatives and private-sector innovations with responsive Federal-State support." It emphasized a bottom-up community based strategy rather than the traditional top-down bureaucratic approach; in other words, the program provides for local self-determination in setting priorities, and puts the Federal government in the role of assisting communities with the priorities they have chosen and maintaining the integrity of the program's local implementation. It was a strategy to address economic, human, community, and physical development problems and opportunities in a comprehensive fashion. In addition, the program was intended to combine the resources of the Federal Government with those of State and local governments, educational institutions, and the private and non-profit sectors to implement community-developed strategic plans for economic development.

The statute specified certain criteria that must apply in order for an area to be eligible for Empowerment Zone designation, including geographic size, population, poverty rate by census tract (or by block numbering areas when the community is not delineated by census tracts), pervasive poverty, unemployment, and general distress of the area. The statute created urban and rural empowerment zones.

To support the selection and designation of rural empowerments zones, USDA published a notice in the

Federal Register on January 18, 1994, "Notice Inviting Applications for Designation of Rural Empowerment Zones and Enterprise Communities" (59 FR 2696 (1994)). This Notice invited applications from State and local governments, regional planning agencies, non-profit organizations, community-based organizations, or other locally based organizations to compete for the Secretarial designations as Empowerment Zones or Enterprise Communities. Application deadlines were set for June 30, 1994.

This notice prompted citizens from Clinton, Jackson, and Wayne Counties, Kentucky to initiate a series of public meetings to identify economic development goals for inclusion into a comprehensive Strategic Plan that was required as part of the Empowerment Zone application process. In conjunction with the Kentucky Highlands Investment Corporation, a private corporation exempt from taxation under the provisions of Section 501 (c) (4) of the Internal Revenue Code, these local citizens and leaders organized a Kentucky Highlands Steering Committee. In order to identify and establish "benchmark" economic development goals for the Strategic Plan, planning committees and subcommittees from each county were organized.

The Jackson County Planning Committee and its various subcommittees held and participated in public meetings on May 4, May 17, June 7 and June 14, 1994 with the goal to identify their local benchmarks. By the May 17 public meeting, the Infrastructure and Tourism Subcommittees both identified the lake proposal as a goal and the Jackson County Planning Committee submitted the goal to the Kentucky Highland Steering Committee for inclusion in the Strategic Plan. The Kentucky Highland Steering Committee agreed to include the goal and submitted the Strategic Plan and application to USDA.

On December 21, 1994, President Clinton announced the jurisdictions that were designated as Rural Empowerment Zones by USDA and the Kentucky Highlands application was one of three jurisdictions in the United States to be designated. This announcement was formalized in a **Federal Register** notice published by USDA on May 10, 1995 (60 FR 24828 (1995)), "Notice of Designation of Empowerment Zones and Enterprise Communities." In accordance with the authorizing statute, each Empowerment Zone was entitled to receive grants of $40 million dollars for the economic development activities identified in their Strategic Plan. With the Empowerment Zone designation, the Kentucky Highlands Empowerment Zone was created and the lake proposal identified in the Kentucky Highlands Strategic Plan was established as Benchmark 19 with a $5 million budget.

Subsequent to the Empowerment Zone designation and with partial funding from a grant from the U.S. Forest Service and assistance from the Center for Economic Development, Eastern Kentucky University, the JCEZ prepared a May 1995 report titled, "What We Envision: A Strategic Plan for Future Development, Jackson County." This plan developed an action plan that identified as Goal 3, Infrastructure—"Provide safe drinking water and an adequate supply for all residents and businesses of Jackson County." This report also re-examined and included by reference a 1988 study titled "Prospects and Impacts of a Reservoir Location for Jackson County." The 1988 study evaluated eight potential reservoir sites in the county using broad socio-economic and environmental criteria and concluded that a 600-acre reservoir at the Steer/War/Hughes Fork site would reasonably meet the goals of the community and should be considered as the top candidate for such a reservoir proposal. The 1988 and 1995 report recommended evaluating the proposal in greater detail and further recommended that Empowerment Zone funds be utilized to further this stated goal.

All of the above led to the JCWA and JCEZ's July 10, 1997 application to RUS requesting financial assistance to co-fund their lake proposal. In reviewing the past and more recent planning actions of the local community and the JCEZ, RUS determined that the proposal would require an EIS. In addition to comply with the procedural requirements and intent of the National Environmental Policy Act (NEPA), RUS determined that both reservoir and non-reservoir alternatives had to be evaluated as part of the EIS. It was understood, that the non-reservoir alternatives would not meet the overall stated purpose and need of the applicant's proposed action—that is, the recreational component of the proposal. However, the analysis would be necessary in the event the reservoir alternatives would prove unfeasible for economic or environmental reasons.

In the Alternative Analysis and DEIS, RUS evaluated a number of reservoir locations as well as non-reservoir alternatives and the required no-action alternative. These alternatives are listed in the tables presented above. A total of eleven proposed reservoir locations were initially evaluated in the Alternative Analysis. Many of these reservoir alternatives were considered unreasonable, insufficient, or impracticable primarily due to the presence of threatened and endangered species, Outstanding Resource Waters designation, Wild and Scenic River designations, or insufficient yields. From this analysis, three reservoir alternatives were determined to be reasonable and were examined in greater detail in the EIS. Those alternatives and locations were the WSF and two scenarios in the Sturgeon Creek watershed.

Based on the Water Needs Analysis, RUS evaluated a number of water supply options for the pipeline alternatives and the three selected reasonable reservoir alternatives. The reservoir alternatives were 3.5 MGD for the WSF and 3.5 MGD and 8.5 MGD for the Sturgeon Creek watershed. The latter reservoir size was being evaluated for the potential of pursuing a more regional water supply approach to meeting the needs of Jackson and surrounding counties. This alternative, however, was abandoned because of the estimated project cost and the inability to secure any contractual or financial commitments from surrounding communities to pursue such a proposal. The pipeline alternatives were dismissed as unfeasible due to high project costs.

In response to public comments received on the DEIS and changes in the methodology used by University of Louisville, Kentucky Population Research for projecting future demographic trends, RUS recalculated water needs and re-evaluated costs and project feasibility associated with the non-reservoir alternatives that were earlier dismissed as too expensive. The revised water needs were recalculated for Jackson County residents alone and one that provided for a moderate growth potential and expansion of water service to the areas identified in the "Notice of Intent to Prepare an Environmental Impact Statement." These areas included areas that are presently served by the JCWA, i.e., Rockcastle and Lee Counties as well as the adjacent, unserved areas in Owsley and Estill County that could be potentially served by the JCWA. While not a true regional approach, this was determined to be feasible and reasonable for contributing to the long-term water needs of central Kentucky.

Cost analyses in the FEIS included two pipeline alternatives (Wood Creek and Kentucky River, Lock/Pool 14) with two water supply scenarios and reservoir alternatives for the WSF with 3 water supply scenarios and one water

supply scenario for Sturgeon Creek. The table below summarizes these cost analyses.

IMPACTS ON TYPICAL RESIDENTIAL WATER RATES UNDER EACH ALTERNATIVE [1]

Alternative	Average monthly bill	Increased cost for average monthly bill	Percent increase over existing rates
No Action (existing rates)	$25.02	NA	NA
War Fork, 3.5 mgd	32.05	$7.03	$28.16
War Fork, 2.2 mgd	30.45	5.44	21.72
War Fork, 1.3 mgd	29.33	4.31	17.29
Sturgeon Creek, 3.5 mgd	32.87	7.85	31.38
Wood Creek Lake Pipeline, 2.2 mgd	33.31	8.30	33.17
Wood Creek Lake Pipeline, 1.3 mgd	32.23	7.21	28.81
Lock 14 Pipeline, 2.2 mgd	30.56	5.54	22.19
Lock 14 Pipeline, 1.3 mgd	30.02	5.00	20.04

[1] Based on an average monthly JCWA residential bill of $25.02 for 4,517 gallons of water.

In addition to the confusion regarding the development of the proposed action, significant public comments were made regarding the following issues: over-inflated water needs analyses; regional demand/supply issue; criticism regarding recreational needs analyses; status of Wild and Scenic River designation for the War Fork; improper consultation with other Federal agencies; consistency with or proper evaluation of the proposal's effect to waters of the United States relative to the Clean Water Act, Section 404(b)(1), 40 CFR part 230—"Guidelines for Specifications of Disposal Sites for Dredged or Fill Material," and criticism for not factoring potential Section 404 compensatory mitigation costs into total project costs. Each of these issues will be responded to briefly.

Over-inflated Water Needs—Primary concerns related to use of state-wide water use data for residential purposes versus actual data from the JCWA and use of 15% water loss and 10% water conservation in the overall water needs calculation. RUS continues to maintain that each of the parameters used are reasonable industry-wide standards for rural areas and use of such standards for long-range projections is reasonable and appropriate.

Regional Demand/Supply Issue—Evaluating, promoting and funding regional water systems, through for example consolidations, for financial, managerial and technical capacity development is consistent with RUS, U.S. Environmental Protection Agency and Safe Drinking Water Act policies. The EIS with limitations did attempt to look beyond just the immediate jurisdiction of Jackson County. Because the JCWA currently serves customers outside Jackson County it is logical that they will continue to do so particularly if additional potable water becomes available. It is also logical that they will continue to expand their service area as necessary to serve presently unserved citizens. As stated in the Water Needs Analysis, four jurisdictions—Rockcastle, Owsley, Lee and Clay counties—expressed interest in obtaining water, if available, at some future date.

Comments criticized RUS's calculation of water needs outside Jackson County (42% of Jackson County needs). Commenters are referred to the Water Needs Analysis, Regional Needs Assessment, page E–16 for clarification as to the methods used to quantify regional needs. RUS maintains that the value developed in the Water Needs Analysis is not unreasonable given the imprecise nature of a 50-year water needs projection and an inability, as earlier stated, of obtaining contractual or financial commitments from surrounding jurisdictions to pursue a more regional water supply perspective. In the DEIS, RUS did evaluate a 8.5 MGD Sturgeon Creek alternative but was dismissed due to reasons cited above. Placing the time and financial burden on the Jackson County community to fully explore a multi-county jurisdictional water system is unreasonable; the approach taken by the community and RUS in exploring expanded peripheral service beyond the JCWA's present service area is more reasonable and served as the basis for the analysis.

Recreational Needs Analysis—Many comments were received concerning the analyses presented in the EIS regarding recreational needs. The interest shown by the public on this issue demonstrates the subjectivity of determining recreational needs for and interests of a diverse population. The Recreational Needs Analysis (page F–21) indicated that at some level "there will be increasing needs for additional camping, picnicking, hiking, and swimming facilities in the future. Based on the current facility plans, the proposed Jackson County lake would help meet some of the needs for picnicking facilities, and all of the needs for swimming facilities, which is projected to reach a maximum of only 29 acres for the planning period.

The Level of Lake Use (Section 3.2) in the area cannot be adequately assessed because recreational use data is very limited for the existing lakes in the study area. Based on the limited data, the current use of the lakes can be described as moderate to heavy. Since population is expected to increase in the study area under moderate and high growth scenarios, the proposed lake may help alleviate the potential heavy use of the surrounding lakes in the future."

If the proposed lake is permitted, the types of recreational activities developed at the proposed lake will be determined in consultation with the U.S. Forest Service and be consistent with the water supply aspects of the reservoir. RUS acknowledges that the State of Kentucky has recommended water uses for water supply reservoirs.

RUS believes the conclusions drawn from the analyses presented in the Recreational Needs Analysis are reasonable and are consistent with the goals of the Kentucky Highlands Empowerment Zone Strategic Plan.

Status of the Wild and Scenic River Designation of War Fork—Many comments were received regarding the status of the War Fork as a candidate for the Wild and Scenic River System. The proposal's location is upstream from the segment of War Fork that has been recommended by the U.S. Forest Service for inclusion into the Wild and Scenic River System. The recommendation determined that this segment is eligible for a "scenic" classification.

While the candidacy or eligibility of stream segments for inclusion into the Wild and Scenic River System was a major factor in the initial alternative analysis performed prior to the publication of the DEIS, RUS does not believe the proposed action, particularly with flow requirements required by the State of Kentucky, will have a significant effect on the streams' scenic classification or qualities.

Improper Consultation with Other Federal Agencies—Comments received criticized RUS for not consulting properly with other Federal agencies, primarily the U.S. Fish and Wildlife Service (USFWS). RUS does not agree with this charge. Considerable effort was made to include all of the pertinent agencies throughout the EIS. The USFWS was invited and participated in most of the planning and technical review sessions held throughout the entire analyses. Formal reviews of the EIS were coordinated, as requested, with the Department of Interior, Office of the Secretary, Office of Environmental Policy and Compliance. A comment letter was received from this office on the FEIS concurring on our no effect determination on threatened and endangered species. In addition, the Department of Interior stated that if the proposal is approved and permitted a pre-construction survey for the Grey Bat must be conducted. RUS will make this requirement a condition of its financial assistance.

In addition, comments were received alleging that RUS did not properly consult with the Kentucky Heritage Council. Based on the preliminary investigation performed prior to publication of the DEIS (see Appendix K), it is unlikely any historic properties will be affected by the proposed WSF reservoir. However, as a condition of financial assistance and upon successful permitting of the WSF reservoir, RUS will require the applicant to execute a Memorandum of Agreement (MOA) with and between the Kentucky Heritage Council (KHC), the Kentucky State Historic Preservation Officer (SHPO) and RUS. The MOA will formalize a phased identification and evaluation process consistent with 36 CFR 800.4(b)(2), Phased Identification and Evaluation.

Clean Water Act, Section 404(b)(1), 40 CFR Part 230—Guidelines for Specifications of Disposal Sites for Dredged or Fill Material—Many comments were received regarding the proposal's consistency with the Clean Water Act, Section 404(b)(1) Guidelines. The guidelines provide policy guidance to the U.S. Corps of Engineers (USACE) in determining consistency with the policies and goals of the Clean Water Act when issuing Section 404 permits. As stated in the U.S. Corps of Engineers Regulatory Guidance Letter 93–02, "The fundamental precept of the Guidelines is that discharges of dredged or fill material into waters of the United States, including wetlands, should not occur unless it can be demonstrated that such discharges, either individually or cumulatively, will not result in unacceptable adverse effects on the aquatic ecosystem."

In general, determining compliance with the 404(b)(1) Guidelines requires avoidance and minimization of adverse impacts and, in addition, compensatory mitigation is required for unavoidable adverse impacts. Determinations of whether the intent of these Guidelines have been met are a determination that USACE will make when acting on the JCEZ and JCWA's Section 404 permit application.

The primary purpose of the alternative analyses performed, as part of the EIS, was to avoid and minimize any unacceptable adverse environmental impacts. The preferred alternative was selected based on a comprehensive analysis of critical environmental and socio-economic factors; such as, the presence of threatened and endangered species; potential residential relocations in the Sturgeon Creek alternative; of numerous alternative locations for a reservoir; an evaluation of other reasonable non-reservoir alternatives; and, as required by NEPA, the no-action alternative. These non-reservoir alternatives ultimately did not meet the proposal's two-fold purpose and need, but were analyzed in the event the reservoir alternatives would prove unfeasible for economic or environmental reasons.

The EIS outlines and compares all of the WSF alternative's potential impacts. Most notably and significant will be the long-term effect of converting a free-flowing stream to an open water lake environment. This change will have predicable effects, primarily changes to water quality, such as dissolved oxygen, downstream temperatures, and stream flow rates. In addition, the EIS describes the likely biological effects. It is possible to manage most of these concerns and, therefore, minimize these potentially adverse effects through specific dam construction practices, all of which were discussed in the EIS and would be addressed during the Federal and State permitting process and through final design and specifications.

While recognizing that significant biological effects to the aquatic environment will occur, RUS does not believe that these effects are unacceptable in the context of the Section 404(b)(1) Guidelines. Notwithstanding these impacts, the fact that the WSF is located predominantly within National Forest System Lands is desirable for water quality purposes. No develop will likely occur in the buffer zone and the JCEZ proposes to purchase and convey the few remaining privately owned parcels surrounding the proposed lake for inclusion into the National Forest System. Therefore, the U.S. Forest Service will manage all developmental proposals surrounding the proposed reservoir.

The EIS clearly demonstrated the need for the Jackson County community to develop additional water supplies, particularly in meeting existing and future needs. Commenters to the EIS argued that the selection of one of the pipelines, particularly the pipeline to the Kentucky River, could logically meet the water needs of the Jackson County community; consultations with the Kentucky River Authority support this position in that the river is capable of supplying these needs. However, RUS's decision weighs heavy in supporting the intent and goals of the Empowerment Zone initiative by showing deference to the local citizens' long-stated desire, as expressed in the Kentucky Highlands Empowerment Zone's Strategic Plan and earlier documents, for a reservoir to provide a long-term, sustainable water supply and for developing recreational opportunities to further the Zone's economic development goals.

In agreeing to co-fund the WSF proposal, RUS will condition its loan approval on the following conditions. The JCEZ and JCWA shall:

- Obtain and comply with all local, State and Federal permits required for the construction and operation of the reservoir.
- Prior to construction consult with the U.S. Fish and Wildlife Service to perform a pre-construction survey for Grey Bats.
- Execute a Memorandum of Agreement (MOA) with the Kentucky Heritage Council (KHC), the Kentucky State Historic Preservation Officer and RUS. This MOA will formalize a phased identification and evaluation consistent with 36 CFR 800.4(b)(2), Phased Identification and Evaluation.

In addition, RUS fully supports the Jackson County community in its goal of obtaining a long-term, sustainable water supply. In the event that the JCEZ and JCWA are unable to obtain the proper permits, RUS stands ready to fund any other reasonable and feasible alternative identified in this EIS. Any deviation from the alternatives and their areas of potential affect evaluated in the EIS may

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require supplemental environmental analyses.

Dated: September 11, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–23228 Filed 9–19–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Statutory Import Programs Staff; Change of Address

The office of Statutory Import Programs Staff has moved from the Department of Commerce's Herbert Clark Hoover Building, Room 4211 to the Franklin Court Building, Suite 4100W. Please use the appropriate address described below:

For Regular Mail via the U.S. Postal Service, please use: Statutory Import Programs Staff, U.S. Department of Commerce, FCB, Suite 4100W, 14th and Constitution Ave., NW, Washington, DC 20230.

For Express Mail Delivery Service, please use: Statutory Import Programs Staff, Department of Commerce, Franklin Court Building, Suite 4100W, 1099 14th St., NW, Washington, DC 20005.

Dated: September 14, 2001.

Faye Robinson,

Acting Director.

[FR Doc. 01–23456 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Bureau of Economic Analysis Advisory Committee; Meeting

AGENCY: Bureau of Economic Analysis; Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by Public Law 94–409, Public Law 96–523, and Public Law 97–375), we are giving notice of a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting's agenda is as follows: 1. Use of hedonic methods in the official statistics of the United States, 2. Historical GDP revisions, 3. Imputing the services of government capital, 4. Under or over count of imports or exports, 5. Draft strategic plan of BEA, 6. Discussion of topics for future agendas.

DATES: On Friday, November 30, 2001, the meeting will begin at 9:30 a.m. and adjourn at approximately 4 p.m.

ADDRESSES: The meeting will take place at BEA, 2nd floor, Conference Room A&B, 1441 L Street, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: J. Steven Landefeld, Director, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; telephone: 202–606–9600.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Colleen Ryan of BEA at 202–606–9603 in advance. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Colleen Ryan at 202–606–9603.

SUPPLEMENTARY INFORMATION: The Committee was established on September 2, 1999, to advise the Bureau of Economic Analysis (BEA) on matters related to the development and improvement of BEA's national, regional, and international economic accounts. This will be the Committee's fourth meeting.

Dated: August 31, 2001.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

[FR Doc. 01–23411 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Docket 37–2001

Foreign-Trade Zone 72—Indianapolis Airport Authority Expansion of Facilities and Manufacturing Authority—Subzone 72B, Eli Lilly and Company Plants (Pharmaceuticals) Indianapolis, Indiana, Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Indianapolis Airport Authority, grantee of FTZ 72, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR part 400), requesting authority on behalf of Eli Lilly and Company (Lilly), to add FTZ manufacturing capacity and to expand the scope of manufacturing authority under zone procedures at Subzone 72B, at the Lilly plants in the Indianapolis, Indiana, area. It was formally filed on September 13, 2001.

Subzones 72B, 72C, and 72D were approved by the Board in 1985 (Board Order 309, 50 FR 31404, 8/2/85). The subzones were consolidated into one subzone and redesignated Subzone 72B in 1996 (A(27f)-1–96). The facilities (14,300 employees) are used to manufacture, test, package, and warehouse human and animal health products.

Subzone 72B currently consists of three sites (366 buildings, 6,709,300 sq. ft., 1,456 acres) in the Indianapolis, Indiana, port of entry area. The applicant is proposing to expand Subzone 72B which would then consist of 491 buildings of 21,905,916 square feet on 3,439 acres.

Site 1 (5 parcels in Marion County, Indianapolis area), currently consists of 60 buildings containing 5,029,300 sq. ft. on 260 acres. Lilly is now proposing to add 125 buildings and 13,544,928 sq. ft., and 102 acres. Site 1 would then consist of 185 buildings of 18,574,228 sq. ft. on 359 acres.

Site 2 currently consists of 140 buildings, 1,170,000 sq. ft. on 449 acres on a single parcel located at 2010 Eli Lilly Road, Shadeland, Indiana. Lilly is proposing to add 363,687 square feet to existing and future buildings and add 1,877 acres. Site 2 would then total 140 buildings of 1,533,687 sq. ft. on 2,326 acres.

Site 3, located at State Road 63, Clinton, Indiana, is currently approved for 166 buildings of 510,000 sq. ft. on 747 acres. The proposed expansion would add 1,288,001 sq. ft. to existing and future buildings and add 4 acres. Site 3 would then consist of 166 buildings, 1,798,001 sq. ft. on 751 acres.

The application also requests to expand and clarify the scope of authority for manufacturing activity conducted under FTZ procedures at Subzone 72B to include additional general categories of inputs that have recently been approved by the Board for other pharmaceutical plants. They include gums, resins, starches, glycerol, vegetable extracts, mineral oils, chemically pure sugars, empty capsules for pharmaceutical use, protein concentrates, prepared animal feed, sodium chloride, natural magnesium phosphates and carbonates, gypsum, talc, anhydrite and plasters, petroleum jelly, paraffin and waxes, sulfuric acid, phosphoric acid, other inorganic acids or compounds of nonmetals, ammonia, fluorides, sulfates, sulfites, phosphates, cyanides, silicates, hydroxides, zinc oxide, titanium oxide, hydrazine and hydroxylamine, carbonates, salts of oxometallic acids, radioactive chemical elements, compounds of rare earth metals, hydrocarbons, acyclic hydrocarbons, alcohols, phenols, derivatives of phenols or peroxides, ethers, epoxides, aldehydes, ketone function compounds, mono- and polycarboxylic acids, phosphoric esters; amine-, carboxymide, nitrile- and oxygen-function compounds; heterocyclic compounds, sulfonamides, acetals and hemiacetals, phosphoric esters and their salts, diazo-compounds, glands for therapeutic uses, insecticides, rodenticides, fungicides and herbicides, fertilizers, vitamins, hormones, antibiotics, gelatins, enzymes, pharmaceutical glaze, essential oils, albumins, gelatins, activated carbon, residual lyes, acrylic polymers, color lakes, soaps and detergents, wadding, gauze and bandages, pharmaceutical glaze, hair preparations, lubricating preparations, albumins, prepared glues and adhesives, catalytic preparations, diagnostic or laboratory reagents, prepared binders, polymers of ethylene, acrylic polymers, self-adhesive plates and sheets, other articles of vulcanized rubber, plastic cases, cardboard boxes, printed books, brochures and similar printed matter, printing ink, carboys, bottles, and flasks, stoppers, caps, and lids, aluminum foil, tin plates and sheets, taps, cocks and valves, and medical instruments and appliances.

FTZ procedures would exempt Lilly from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to elect the duty rates that apply to finished products (primarily duty-free for finished pharmaceuticals and up to 14.2% for intermediates) for the foreign materials noted above (duty rates ranging from duty-free to 14.5%). The application indicates that the expanded use of FTZ procedures will help improve Lilly's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 5, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 5-day period (to November 9, 2001).

Copies of the applications will be available for public inspection at the following locations:

U.S. Department of Commerce, Export Assistance Center, 11405 N. Pennsylvania Street, Suite 106, Carmel, Indiana 46032

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: September 13, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–23455 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of meeting.

SUMMARY: The APAC will have a closed meeting on October 4, 2001 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: October 4, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public Law 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Acting Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on September 18, 2001, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the October 4 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: September 18, 2001.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 01–23644 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Hawaii Coastal Management Program, the Great Bay National Estuarine Research Reserve, New Hampshire, the Jobos Bay National Estuarine Research Reserve, Puerto Rico, and the Ashepoo-Combahee-Edisto (ACE) Basin National Estuarine Research Reserve, South Carolina.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 923, subpart L. The National Estuarine Research Reserve evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 921, subpart E and part 923, subpart L.

The CZMA requires continuing review of the performance of states with

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respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The Hawaii Coastal Management Program evaluation site visit will be held November 5–9, 2001. One public meeting will be held during the week. The public meeting will be on Monday, November 5, 2001, from 7 to 9 p.m., at the Paki Hale, 3840 Paki Avenue, Honolulu, Hawaii 96815.

The Great Bay National Estuarine Research Reserve evaluation site visit will be from November 6–9, 2001. One public meeting will be held during the week. The public meeting will be on Wednesday, November 7, 2001, at 7 p.m., at the Sandy Point Discovery Center, Great Bay National Esturaine Research Reserve, 89 Depot Road, Stratham, New Hampshire 03885.

The Jobos Bay National Estuarine Research Reserve site visit will be from December 10–14, 2001. One public meeting will be held during the week. The public meeting will be on Tuesday, December 11, 2001, from 4 p.m. to 6 p.m., at the Jobos Bay National Estuarine Research Reserve Visitors' Center, Road 705, Kilometer 2.3, Main Street, Aguirre, Puerto Rico 00704.

The Ashepoo-Combahee-Edisto (ACE) Basin National Estuarine Research Reserve site visit will be from December 10–14, 2001. One public meeting will be held during the week. The public meeting will be held on Wednesday, December 12, 2001, at 7 p.m., at the Edisto Beach State Park Office, Edisto, South Carolina 29464.

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 215.

Dated: September 17, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–23645 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management Program: Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, the National Oceanic and Atmospheric Administration (NOAA) has prepared a draft environmental impact statement (DEIS) to assess the environmental impacts associated with the approval of the Indian Lake Michigan Coastal Program (LMCP). The LMCP is the result of substantial efforts on the part of Federal, State, and local agencies, and of the participation and contribution of local citizens. Federal approval of the LMCP would make the State eligible for program administration grant funds and require that Federal actions be consistent with the Program.

The requirements of 40 CFR parts 1500–1508 [Council on environmental Quality (CEQ) regulations to implement the National Environmental Policy Act (NEPA)] apply to the preparation of the DEIS. Specifically, 40 CFR section 1506.6 requires agencies to provide public notice of NEPA-related hearings and the availability of environmental documents. This notice is part of NOAA's action to comply with the public hearing requirement.

The DEIS was filed with the Environmental Protection Agency (EPA) on September 12, 2001, and a notice of its availability will be published on September 21, 2001. NOAA and the Indiana Department of Natural Resources will hold public hearings on this DEIS in Michigan City, Indiana, on October 1, 2001; Highland, Indiana, on October 3, 2001; and Portage, Indiana, on October 4, 2001. All hearings will be held at 7 p.m.

DATES: Individuals or organizations wishing to submit comments on the DEIS should do so by November 5, 2001.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, telephone (301) 713–3155 extension 188, e-mail *john.king@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Diana Olinger, Coastal Programs Division (NORM/3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, telephone (301) 713–3155, extension 149, e-mail *diana.olinger@noaa.gov.*

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 01–23522 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082401C]

North Pacific Fishery Management Council (NPFMC); Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of rescheduling and relocation of a public meeting.

SUMMARY: The NPFMC's Essential Fish Habitat (EFH) Committee, originally scheduled to meet September 18–19, has cancelled that meeting and rescheduled the meeting date and location.

DATES: The meeting will be held on October 4, 2001, from 5 p.m. to 7 p.m.

ADDRESSES: The committee will meet in the Evergreen 1–2 meeting room, at the Doubletree Hotel, Seattle Airport, 18740 Pacific Highway South, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann, NMFS, (907) 586–7585, email: Cindy.Hartmann@noaa.gov; or Cathy Coon, North Pacific Fishery Management Council, (907) 271–2809, e-mail: Cathy.Coon@noaa.gov.

SUPPLEMENTARY INFORMATION: The original notice, (66 FR 45970, August 31, 2001), stated that the meeting would be held on September 18–19, 2001, and the location was in Sitka, AK, at the Northern Southeast Regional Aquaculture Association, 1308 Sawmill Creek Road, in the conference room.

Agenda items for this meeting include:

1. Discussion of NMFS preliminary draft scoping report;

2. Committee recommendations to the Council on significant issues;

3. Discussion of technical teams and their composition; and

4. EFH Committee tasks, timetable and next meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, (907) 271–2809, at least 5 working days prior to the meeting date.

All other previously published information remains unchanged.

Dated: September 17, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23468 Filed 9–17–01; 2:29 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090701D]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold public meetings.

DATES: The CPSMT will meet on Wednesday, October 10, 2001 from 8 a.m. to 12 p.m. The CPSAS will meet on Wednesday, October 10, 2001 from 1 p.m. until business for the day is completed.

ADDRESSES: Both meetings will be held in the large conference room at the California Department of Fish and Game, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 342–7100.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the CPSMT meeting is to review the Pacific sardine biomass estimate and harvest guideline for 2002. Time permitting, the CPSMT might also discuss details related to Amendment 10 to the coastal pelagic species fishery management plan. The primary purpose of the CPSAS meeting is to review documents developed by the CPSMT, notably the Pacific sardine biomass estimate and recommended harvest guideline for 2002.

Although nonemergency issues not contained in the CPSMT and CPSAS meeting agendas may come before the committees for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's or CPSAS's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: September 7, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23469 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

September 14, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also

see 65 FR 69910, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 14, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 20, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	484,073 dozen.
334	173,286 dozen.
335	164,515 dozen.
338/339	2,188,286 dozen.
340/640	4,478,326 dozen.
341	3,449,818 dozen.
351/651	1,019,420 dozen.
634	813,842 dozen.
635	482,421 dozen.
638/639	2,123,898 dozen.
641	790,213 dozen.
645/646	445,495 dozen.
847	427,397 dozen.

[1] – thnsp;The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementotion of Textile Agreements.

[FR Doc.01–23362 Filed 9–19–01; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

[HP 01–3]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00741; FRL–6802–8]

Draft Sampling Protocols for Chromated Copper Arsenate (CCA) Pressure-Treated Playground Equipment and Related Soil; Notice of Availability

AGENCIES: Consumer Product Safety Commission (CPSC). Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of draft sampling and analysis protocols developed cooperatively by CPSC and EPA to collect and analyze dislodgeable residues of arsenic, chromium and copper from Chromated Copper Arsenate (CCA) pressure-treated playground equipment (dislodgeable residues protocol) and soil residues of arsenic, chromium and copper in soils beneath/adjacent to CCA-treated playground equipment (soil residues protocol). The studies to be conducted using these protocols will assist both Agencies in assessing exposure that can be expected for children playing on/around CCA-treated playground equipment. By providing notice and opportunity for comment on the protocols, the Agencies are seeking to strengthen stakeholder involvement and help ensure that their decisions are transparent and based on the best available information.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or by hand delivery. Please follow the detailed instructions provided in Unit I of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

1. Draft Dislodgeable Residues Protocol

For further information on the draft dislodgeable residues protocol contact: Patricia Bittner, Directorate for Hoalth Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone number: (301) 504–0477, ext. 1184; fax number (301) 504–0079; e-mail address: pbittner@cpsc.gov.

2. Draft Soil Residues Protocol

For further information on the draft soil residues protocol contact: Norm Cook, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8253; fax number: (703)308–8481; e-mail address: cook.norm@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to: Wood treaters; manufactures of CCA; wholesalers, distributors, and retailers of CCA-treated lumber and products made with CCA-treated lumber; and consumers purchasing and using CCA-treated lumber or CCA-treated lumber products. The Agencies are obtaining expert scientific peer review of the draft sampling and analysis protocols through EPA's contractor, Versar, but would also like to afford the general public an opportunity to comment on the study design prior to initiation of the actual sampling and analyses. All comments (Versar and public) will be carefully considered and made available in both CPSC's and EPA's dockets. Since other entities may also be interested, the Agencies have not attempted to describe all specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult one of the persons listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of the Draft Protocols and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of the draft protocols, and certain other related information that might be available electronically, from the CPSC Internet Home Page at http://www.cpsc.gov. To access these documents and information on the CPSC Home page, select "Library (FOIA)," "Electronic Reading Room—Freedom of Information Act Information," "2001 FOIA Information," and "Commission Briefing Packages." Then scroll down to the materials designated with the name of this notice.

You may also access the draft protocols and related information from the EPA Internet Home Page at http://www.epa.gov/. To do so on the EPA Home Page, select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

2. *In person.* Copies of the draft protocols and related information may be obtained from the CPSC Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, MD; telephone number: (301) 504–0127; e-mail address: cpsc-os@cpsc.gov.

Copies of the draft protocols and related information may also be obtained from EPA. EPA has established an official record for this action under docket control number OPP–00741. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. To Whom and How Do I Submit Comments?

1. Comments to CPSC on Draft Dislodgeable Residues Protocol

a. General. Comments on the draft dislodgeable residues protocol should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, MD 20814, telephone number: (301) 504–0800. Comments on the draft dislodgeable residues protocol also may be filed by facsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov. Comments on the draft dislodgeable residues protocol should be captioned "Notice of Availability of Draft Dislodgeable Residues Protocol."

b. How should I Handle CBI that I Want to Submit to CPSC? Any person responding to the CPSC who believes that any information submitted is CBI (i.e., trade secret or proprietary) should specifically identify the exact portions of the document claimed to be confidential. The Commission's staff will receive and handle such information confidentially and in accordance with section 6(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2055(a). Such information will not be placed in the public docket for the rulemaking and will not be made available to the public simply upon request. If the Commission receives a request for disclosure of the information or concludes that its disclosure is necessary to discharge the Commission's responsibilities, the Commission will inform the person who submitted the information and provide that person with an opportunity to present additional information and views concerning the confidential nature of the information. 16 CFR 1015.18(b).

The Commission's staff will then make a determination as to whether the information is a trade secret or proprietary information that cannot be released. That determination will be made in accordance with applicable provisions of the CPSA; the Freedom of Information Act (FOIA), 5 U.S.C. 552b; 18 U.S.C. 1905; the Commission's procedural regulations at 16 CFR part 1015 governing protection and disclosure of information under provisions of FOIA; and relevant judicial interpretations. If the Commission concludes that any part of the information that has been submitted with a claim that the information is a trade secret or proprietary is disclosable, it will notify the person submitting the material in writing and provide at least 10 calendar days from the receipt of the letter to allow for that person to seek judicial relief. 15 U.S.C. 2055(a)(5) and (6); 16 CFR 1015.19(b).

2. Comments to EPA on Draft Soil Residues Protocol. Comments on the draft soil residues protocol should be submitted to EPA. To ensure proper receipt by EPA of comments, it is imperative that you identify docket control number OPP–00741 in the subject line on the first page of your response.

a. By mail. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

b. In person or by courier. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

c. Electronically. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00741. Electronic comments may also be filed online at many Federal Depository Libraries.

d. How Should I Handle CBI that I Want to Submit to EPA? Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

D. What Should I Consider as I Prepare My Comments?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the rule or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by the Agency, be sure to properly identify the

comments in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Actions Are the Agencies Taking?

A. CPSC

The CPSC received a petition from the Environmental Working Group (EWG) and the Healthy Building Network (HBN) requesting a ban on the use of CCA treated wood in playground equipment. The petitioners assert that a ban is necessary because "[r]ecent research has shown that arsenic is more carcinogenic than previously recognized, that arsenic is present at significant concentrations on CCA-treated wood and in underlying soil, that the health risks posed by this wood are greater than previously recognized, and that past risk assessments were incomplete."

The Commission docketed the request for a ban as a petition under provisions of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1278. The EWG/HBN submission also requested that the Commission review the safety of CCA-treated wood for general use. That request was not docketed as part of the petition because it would not require rulemaking. The request for a review is being considered separately by the CPSC's Office of Hazard Identification and Reduction. The Commission published notice of docketing of the EWG/HBN petition in the **Federal Register** of July 13, 2001 (66 FR 36756). The public comment period on that notice closed on September 11, 2001.

As part of its response to the EWG/HBN petition, the CPSC, in cooperation with EPA, has developed the draft dislodgeable residues protocol that is the subject of this notice. CPSC will use the results of the study to be conducted under the protocol in its further evaluation of the potential exposure and any associated risks to children who come in contact with CCA-treated wood.

B. EPA

As part of the reregistration process for heavy duty wood preservatives (including pentachlorophenol, creosote, and CCA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA is evaluating the human and environmental risks of CCA. Since CCA-treated wood can be used in both commercial and residential settings, EPA intends to evaluate all uses of CCA-treated wood. Because of specific concerns associated with use of CCA-treated wood in playground equipment, the Agency is presently evaluating available exposure and hazards data in order to determine the risks to children who come in contact with CCA-treated wood and CCA-contaminated soil.

As part of the CCA-exposure evaluation, EPA, in cooperation with the CPSC, is developing a sampling regime that addresses potential soil residues of arsenic, chromium, and copper which may occur in soils below/adjacent to CCA-treated playground equipment. The draft protocol for that sampling regime is the subject of this notice.

List of Subjects

Consumer protection, Environmental protection, Arsenic, Chromated copper arsenate, Chromium, Copper, Hazardous substances, Pesticides and pests, Playgrounds, Soil.

Dated: September 13, 2001.

Todd A. Stevenson,

Acting Secretary, Office of the Secretary, Consumer Product Safety Commission.

Dated: September 14, 2001.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs, Environmental Protection Agency.

[FR Doc. 01–23409 Filed 9–19–01; 8:45 am]

BILLING CODE 6355–01–P; 6560–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Deterrence Concepts Advisory Group

AGENCY: DoD.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Deterrence Concepts Advisory Group will meet in closed session on September 20, 2001. The committee was established to provide advice and recommendations to the Secretary of Defense on advancing a strong, secure, and persuasive U.S. force for freedom and progress in the world, and to do so at the lowest nuclear force level consistent with security requirements.

In accordance with the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that the committee meeting concerns matters sensitive to the interest of national security, listed in 5 U.S.C. 552B(c)(1)(1982) and accordingly this meeting was closed to the public.

DATES: September 20, 2001, 2 p.m.

ADDRESSES: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lauren Haber, OUSD (Policy), 703–697–0286.

Dated: September 13, 2001.

L. M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23373 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Deterrence Concepts Advisory Group

AGENCY: DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Deterrence Concepts Advisory Group will meet in closed session on September 27, 2001. The committee was established to provide advice and recommendations to the Secretary of Defense on advancing a strong, secure, and persuasive U.S. force for freedom and progress in the world, and to do so at the lowest nuclear force level consistent with security requirements.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that the committee meeting concerns matters sensitive to the interest of national security, listed in 5 U.S.C. 552B(c)(1)(1982) and accordingly this meeting was closed to the public.

DATES: September 27, 2001, 1 p.m.

ADDRESSES: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lauren Haber, OUSD (Policy), 703–697–0286.

Dated: September 13, 2001.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23374 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children With Disabilities; Meeting

AGENCY: Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS).

ACTION: Notice.

SUMMARY: Pursuant to Public Law 92–463, as amended (5 U.S.C. app. II), the Federal Advisory Committee Act, notice is hereby given that a meeting of the Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities is scheduled to be held from 8:30 a.m. to 3:30 p.m. on November 6–7, 2001. The meeting is open to the public and will be held in the Superintendent's offices at Building I4865, Knox Street, Fort Bragg, NC 28307–0089. The purpose of the meeting is to: (1) Review the responses to the panel's recommendations from its November 2000 meeting; (2) review and comment on data and information provided by DDESS; and (3) establish subcommittees as necessary. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Dr. David V. Burket at (703) 696–4354, extension 1455.

Dated: September 13, 2001.

L.M. Bymun,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–23370 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8 a.m. to 5 p.m. on October 4, 2001, and from 8 a.m. to 5 p.m. on October 5, 2001. The meeting will be held at the U.S. Grant Hotel, 326 Broadway, San Diego, California 92101. The purpose of the meeting is to review planned changes and progress in developing computerized and paper-and-pencil enlistment tests and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than September 17, 2001.

Dated: September 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23372 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to amend one system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on October 22, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 588–0159.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

JS007MPD

SYSTEM NAME:

Joint Manpower Automation System (April 19, 1993, 58 FR 21146).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete last address and replace with "U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23511–2488."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C., Chapter 5, Sections 151–155 and Chapter 6, Section 165; and E.O. 9397 (SSN)."

* * * * *

JS007MPD

SYSTEM NAME:

Joint Manpower Automation System.

SYSTEM LOCATION:

Primary system: the Joint Staff (J–1), The Pentagon, Room 1D957, Washington, DC 20318–1000.

Decentralized Segments: National Defense University, Directorate of Resource Management, ATTN: RMD–M, Ft McNair, Washington, DC 20319–6000.

Headquarters, U.S. Space Command, ATTN: J1, Peterson Air Force Base, CO 80914–5001.

Headquarters, U.S. Pacific Command, ATTN: J1, Camp H. M. Smith, HI 96861–5025.

HQ U.S. Strategic Command, ATTN: J11, Offutt Air Force Base, NE 68113.

Headquarters, U.S. European Command, ATTN: ECJ1, APO AE 09128–4209.

Headquarters, U.S. Southern Command, ATTN: SCJ1, APO AA 34003–0100.

Headquarters, U.S. Transportation Command, ATTN: J–1, Scott Air Force Base, IL 62225.

Headquarters, U.S. Central Command, ATTN: CCJ1, MacDill Air Force Base, FL 33608–7001; and

U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23511–2488.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel assigned to duty at each of the activities cited above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain personnel information which has been extracted from official personnel files, including name; grade/rank; Social Security Number; salary; family member information; home address and telephone number; security clearance and date; date of rank; date of birth; Service; sex; race; marital status; reporting/departure date; current assignment data; education; experience; language proficiency; schooling; rating chain; and physical fitness data such as height, weight, fitness test results, body fat percentage, HIV test date.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapter 5, sections 151–155 and Chapter 6, section 165; and E.O. 9397 (SSN).

PURPOSE(S):

To be used by officials of the personnel divisions of the decentralized segments noted above in performing all administrative functions as appropriate with respect to personnel assigned; for monitoring and processing requests for manpower; for performing organizational and manpower reviews for the CINC; and for processing personnel actions requested by or required for the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The DoD "Blanket Routine Uses" set forth at the beginning of the Joint Staff compilation of records system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records exist on magnetic tape, diskette, and other machine-readable media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, and/or any combination of the data fields described in "Categories of Records."

SAFEGUARDS:

Access to this record system is restricted to authorized personnel in performance of official duties. Entry into the system is controlled by password.

RETENTION AND DISPOSAL:

Records are deleted when no longer needed for current business. This is in accordance with Item 5, General Records Schedule 20.

SYSTEM MANAGER(S) AND ADDRESS:

Joint Manpower Automation System Project Manager, Manpower Management Division, Manpower and Personnel Directorate, J–1, the Joint Staff, Washington, DC 20318–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Joint Manpower Automation System Functional Manager, Manpower Management Division, Manpower and Personnel Directorate, J–1, the Joint Staff, Washington, DC 20318–1000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Joint Manpower Automation System Project Manager, Manpower Management Division, Manpower and Personnel Directorate, J–1, the Joint Staff, Washington, DC 20318–1000.

Written requests should include full name, Social Security Number, address, and signature of the requester.

CONTESTING RECORD PROCEDURES:

The Joint Staff rules for accessing records and for contesting contents and appealing initial determinations are contained in OSD Administrative Instruction 81; Joint Administrative Instruction 2530.9A; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Source of information is the individual and the individual's Official Personnel File.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–23375 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Threat Reduction Agency (DTRA); Membership of the DTRA Performance Review Board (PRB)

AGENCY: Defense Threat Reduction Agency, Department of Defense.

ACTION: Notice of PRB membership.

SUMMARY: This notice announces the appointment of DTRA's PRB membership. The publication of the PRB membership is required by 5 U.S.C. 4314(c)(4). The PRB shall provide fair and impartial review of Senior Executive Service performance appraisals and make recommendations regarding performance ratings and performance awards to the Director, Defense Threat Reduction Agency.

EFFECTIVE DATE: The effective date of service for the appointees of the DTRA PRB is on or about September 27, 2001.

FOR FURTHER INFORMATION CONTACT: Tana Farrell, Workforce Development Branch, (703) 767–5759, Defense Threat Reduction Agency, 8725 John J. Kingman Road, Stop 6201, Ft. Belvoir, VA 22060–6201.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the officials appointed to serve as members of the DTRA PRB are set forth below:

PRB Chair: Mr. Robert L. Brittigan.

Member: Mr. Myron K. Kunka.

Member: Mr. Michael K. Evenson.

The following DTRA officials will serve as alternate members of the DTRA PRB, as appropriate: Mr. Douglas Englund, Mr. Joe Golden, Mr. Richard Gullickson, Dr. Arthur Hopkins, Dr. Don Linger, Mr. Vayl Oxford, Ms. Joan Ma Pierre, Dr. Michael Shore, Ms. Ann Bridges Steely, Dr. Leon Wittwer.

Dated: September 13, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23371 Filed 9–19–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: September 14, 2001.

FOR FURTHER INFORMATION CONTACT: David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives. The members of the Performance Review Board for the US NATO Field Element (Army) are:

1. Mr. Sal Manno, Director of International Affairs, Office of the Secretary of Defense.

2. Mr. Al Volkman, Director, OUSD/AT&L Intl Programs Office of the Secretary of Defense.

3. Mr. Leo Michel, Director, NATO Policy, Office of the Secretary of Defense.

4. Mr. Pete Verga, Deputy Under Secretary of Defense for Policy Integration, Office of the Secretary of Defense.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–23519 Filed 9–19–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Encinitas/Solana Beach Shoreline Protection and San Elijo Lagoon Environmental Restoration Feasibility Study, San Diego County, California

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice

SUMMARY: The Los Angeles District intends to prepare an Environmental Impact Statement (EIS) to support a cost-shared feasibility study with the Cities of Encinitas and Solana Beach, California, for shoreline protection and environmental restoration along the coastline of these two cities. The purpose of the feasibility study is to evaluate alternatives for reducing beach and shoreline erosion and investigate opportunities for environmental restoration in the San Elijo lagoon. Alternatives will include both structural and non-structural measures, and may include beneficial re-use of sand removed from the lagoon by placing it on the beach for shoreline protection. The EIS will analyze potential impacts of the recommended plan and a range of alternatives for lagoon environmental improvements.

ADDRESSES: Commander, U.S. Army Corps of Engineers, Los Angeles District, 911 Wilshire Blvd, Los Angeles, CA 90053, Attn: Environmental Support Section.

FOR FURTHER INFORMATION CONTACT: Rey Farve, Project Ecologist (213) 452–3864, or Bruce Williams, Study Manager, (213) 452–3818.

SUPPLEMENTARY INFORMATION:

Authorization: House Public Works Transportation Committee Resolution dated May 13, 1993. The Army Corps of Engineers intends to prepare an EIS to assess the environmental effects associated with proposed erosion mitigating measures in the study area.

Study Area: The study area is located along the Pacific Ocean coastline in the Cities of Encinitas and Solana Beach, San Diego County, California. Encinitas is approximately 16 kilometers (10 miles) south of Oceanside Harbor, and 27 kilometers (17 miles) north of Point La Jolla. The City's shoreline, about 9.6 kilometers (6 miles) long, is bounded by Batiquitos Lagoon to the north and on the south by San Elijo Lagoon. Its southern, or downcoast, neighbor is the City of Solana Beach. Solana Beach is bounded by San Elijo Lagoon to the north and on the south by the City of Del Mar. The City's shoreline is about 3.2 kilometers (2 miles) long for a total of about 8 miles of study area shoreline. A major portion of the shoreline segment consists of narrow sand and cobble beaches fronting nearshore bluffs.

Problems and Needs: A number of public concerns have been identified including:

1. Bluff erosion threatens property, mostly private residences atop the bluffs.

2. Public safety due to episodic bluff failure.

3. Closure of Old Highway 101 at Cardiff during storm events.

4. Bluff toe erosion and curtailed recreation activity resulting from eroded beach conditions.

5. Degradation of existing ecosystem at San Elijo Lagoon due to frequent closure of the lagoon entrance restricting tidal flushing and sedimentation in the lagoon reducing circulation and water area.

Proposed Action and Alternatives: The Los Angeles District will investigate and evaluate all reasonable alternatives to address the problems and needs identified above. In addition to the NO ACTION alternative, both structural (artificial reefs, toe protection, beach restoration and maintenance, bluff retention structures, drainage control, etc.) and non-structural (management) measures will be investigated. Environmental measures may also include structural and non-structural measure to improve tidal hydrology and restore and maintain a healthy ecosystem within the lagoon. This may include removal of sediment from the lagoon which will be tested for suitability for beach placement. If found suitable, this material may be placed on the beach for shoreline protection as beneficial re-use.

If not found suitable, the sediment will be removed to a different location, and the lagoon restoration project may then break off from the shoreline protection study and become an independent environmental restoration study for the remainder of the Feasibility phase.

Scoping: The scoping process is on-going and has involved preliminary coordination with Federal, State, and local agencies. A public scoping meeting is scheduled for 6:00 p.m. on October 3, at the city of Encinitas—City Hall—Poinsettia Room 505 S. Vulcan Avenue, Encinitas, California. This information is being published in the local news media and a notice is being mailed to all parties on the study mailing list. The public will have an opportunity to express opinions and raise any issues relating to the scope of the Feasibility Study and the Environmental Impact Report. The public as well as Federal, State, and local agencies are encouraged to participate by submitting data, information, and comments identifying relevant environmental and socioeconomic issues to be addressed in the study. Useful information includes other environmental studies, published an unpublished data, alternatives that could be addressed in the analysis, and potential mitigation measures associated with the proposed action. All comments enter into the public record. You may also submit your concerns in writing to the city or the Los Angeles District at the address above. Comments, suggestions, and requests to be placed on the mailing list for announcements should be sent to Bruce M. Williams, U.S. Army Corps of Engineers, Los Angeles District, P.O. Box 532711, Los Angeles, CA 90053–2325, Attn: CESPL–PD, or e-mail to *bwilliams@spl.usace.army.mil.*

Availability of the Draft EIS: The Draft EIS is scheduled to be published and circulated in November, 2003, and a public hearing to receive comments on the Draft EIS will be held after it is published.

Dated: September 7, 2001.

Richard G. Thompson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 01–23520 Filed 9–19–01; 8:45 am]

BILLING CODE 3710–KF–M

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DEPARTMENT OF EDUCATION

[CFDA No.: 84.007, 84.033, and 84.038]

Office of Student Financial Assistance; Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs; Notice of the Closing Date for the Submission of the Fiscal Operations Report for the 2000–2001 Award Year and Application to Participate for the 2002–2003 Award Year (FISAP) in the Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant (FSEOG), and Federal Work-Study (FWS) Programs

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for fiscal year 2002 funds—for use in the 2002–2003 award year (July 1, 2002 through June 30, 2003)—under the Federal Perkins Loan, FWS, and FSEOG programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the costs of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. However, the Secretary will not allocate funds under the Federal Perkins Loan, FWS, and FSEOG programs for the 2002–2003 award year to any currently ineligible institution unless the institution files its institutional participation application and other documents required for an eligibility and certification determination by the closing date that will appear in a separate notice in the **Federal Register**.

The Secretary further gives notice that an institution that had a Federal Perkins Loan Fund or expended FWS or FSEOG funds during the 2000–2001 award year (July 1, 2000 through June 30, 2001) is required to submit a Fiscal Operations Report to the Secretary to report its program expenditures as of June 30, 2001. Institutions perform both functions in one document called the FISAP.

Applicants that did not participate in the Federal Perkins Loan Program, FWS Program, or FSEOG Program in the 2000–2001 award year will be required only to submit data for the application portion of the FISAP.

FISAPs must be submitted electronically. Therefore, an institution also must complete and submit a "combined certification and signature pages form," consisting of the original FISAP signature page and the combined lobbying, debarment, and drug-free workplace certifications for the 2002–2003 award year.

The Federal Perkins Loan, FWS, and FSEOG programs are authorized by parts E and C, and part A, subpart 3, respectively, of title IV of the Higher Education Act of 1965, as amended.

DATES: *Closing Date for Submitting a FISAP and Required Signed Documents.* To ensure consideration for 2002–2003 funds, an institution must submit an electronic FISAP and the combined certification and signature pages form by October 1, 2001.

An institution must submit its FISAP electronically via the Department's Student Aid Internet Gateway (formerly Title IV Wide Area Network or TIV WAN). Specific information and instructions on this electronic transmission are provided in "Dear Partner" letter CB–01–09 (JUL). This letter is posted at *http://ifap.ed.gov.*

The FISAP electronic data transmission must be completed by 11:59 p.m., Eastern Time, on October 1, 2001. In addition, the combined certification and signature pages form, as printed from the electronic FISAP software, must be mailed to the address indicated in the following paragraph by the established deadline date of October 1, 2001. Documents that are hand-delivered must be received by 5 p.m. on Monday, October 1, 2001.

ADDRESSES: *Combined Certification and Signature Pages Form Delivered by Mail.* If this document is delivered by mail, it must be addressed to Electronic FISAP Administrator, Suite 500, 8300 Colesville Road, Silver Spring, Maryland 20910–3289.

An institution must show proof of mailing this document by October 1, 2001. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If this document is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

Combined Certification and Signature Pages Form Delivered by Hand. If this document is delivered by hand, it must be taken to Universal Automation Labs (UAL), Suite 500, 8300 Colesville Road, Silver Spring, Maryland.

Documents that are hand-delivered will be accepted between 9 a.m. and 5 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

SUPPLEMENTARY INFORMATION: The 2002–2003 Campus-Based Programs FISAP Software, Instruction Book, and forms were made available in July 2001 at www.sfadownload.ed.gov and announced in "Dear Partner" Letter CB–01–09.

This program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations

The following regulations apply to these programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Perkins Loan Program 34 CFR part 674.

(4) Federal Work-Study Programs, 34 CFR part 675.

(5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(6) Institutional Eligibility Under the Higher Education Act of 1965, as Amended, 34 CFR part 600.

(7) New Restrictions on Lobbying, 34 CFR part 82.

(8) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(9) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Donelson, Campus-Based Operations, Student Financial Assistance, 400 Maryland Avenue, SW., Room 600D, Portals Building, Washington, DC 20202–5453. Telephone (202) 708–9751. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

Dated: September 17, 2001.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 01–23422 Filed 9–19–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation

Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy and Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the retransfer of two zircalloy-4 tubes, 1500 mm long, 0.42 mm thick and 13.08 mm diameter, from CONUAR—Combustibles Nucleares Argentinos S.A., Argentina to Gao Tai Rare and Precious Metals Co., Shanghai, China (Gao Tai). The material will be used by the German company Nukem GmbH in the installation and testing of an ultrasonic test system sold to Gao Tai. The Chinese Government has provided formal assurances to the United States Government that the zircalloy tubes will become subject to the terms and conditions of the Agreement for Cooperation upon their receipt into China.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: September 14, 2001.

For the Department of Energy.

Kurt Siemon,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 01–23424 Filed 9–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office

Chemicals Industry of the Future; Notice of Intent of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of intent of Solicitation for Financial Assistance Applications.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office, will be soliciting applications for cost-shared research and development (R&D) of technologies that will reduce energy consumption, enhance economic competitiveness, and reduce environmental impacts of the Chemicals Industry. Approximately $3,000,000 in federal funding is expected to be available to fund the first twelve months of selected research projects. Subject to the availability of funds, approximately $6 million is planned to fund the remaining two years of the projects. DOE anticipates making 3 to 6 cooperative agreement awards each with a duration of three years or less. It is anticipated that in January, 2002, a full text for the solicitation will be made available at the Industry Interactive Procurement System (IIPS) Web site at: *http://e-center.doe.gov:* Applications are to be submitted via the IIPS Web site. Directions on how to apply and submit applications are detailed under the solicitation on the Web site.

FOR FURTHER INFORMATION CONTACT: Dallas Hoffer, Contracting Officer at hofferdl@id.doe.gov.

SUPPLEMENTARY INFORMATION: The solicitation will be issued in accordance with 10 CFR part 600.6(b). DOE is interested in projects that will:

1. Result in the formation of multi-disciplinary teams that will conduct research that will ultimately develop new, innovative enabling technologies, methodologies, and/or tools;

2. Have broad applicability to the chemical industry, and therefore, result in a collaborative of many chemical companies, and;

3. Demonstrate a large potential energy savings across the chemical industry.

A minimum of three industrial chemical companies must be involved. An "industrial chemical company" is defined as a private (profit or non-profit) organization that manufactures chemicals and allied products or provides products or services to such manufacturers. In addition to chemical and allied products manufacturers, raw material suppliers, equipment and technology suppliers, architectural and engineering companies, software and consulting firms, trade and professional associations, and research institutes that routinely conduct a minimum of 10% of their business as, with, or for Chemical Industry manufacturers, are within the scope of the definition. The involvement of National Laboratories and university R&D performers in any project team is also highly encouraged.

The statutory authority for this program is the U.S. Department of Energy Organization Act (Public Law 95–91) and the Energy Policy Act of 1992 (Public Law 102–486, as amended by Public Law 103–437).

Issued in Idaho Falls on September 13, 2001.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–23426 Filed 9–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 00–29–LNG, 01–40–NG, 01–39–NG, 01–41–NG, 01–42–NG, 01–44–LNG, 00–77–NG]

Tractebel LNG North America Service Corporation (Formerly Cabot Energy Service Corporation), Reliant Energy Services, Inc., Conoco, Inc., Husky Gas Marketing, Inc., Portland General Electric Company, Itochu International, Inc., Hess Energy Services Company, LLC; Orders Granting, Amending and Vacating Authority To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during August 2001, it issued Orders granting, amending and vacating authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on September 12, 2001.

Thomas W. Dukes,

Acting Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting, Amending and Vacating Import/Export Authorizations

Order	Date issued	Importer/Exporter FE Docket No.	Import volume	Export volume	Comments
1590–A	8–6–01	Tractebel LNG North America Service Corporation (Formerly Cabot Energy Service Corporation), 00–29–LNG.	.....	.....	Name change.
1700	8–6–01	Reliant Energy Services, Inc., 01–40–NG	292 Bcf	292 Bcf	Import a combined total from Canada and Mexico, and export a combined total to Canada and Mexico over a two-year term beginning on first delivery after September 10, 2001.
1701	8–7–01	Conoco Inc., 01–39–NG	100 Bcf		Import and export a combined total from and to Canada and Mexico, beginning on August 27, 2001, and extending through August 26, 2003.
1702	8–10–01	Huskey Gas Marketing, Inc., 01–41–NG	250 Bcf		Import and export a combined total from and to Canada beginning on August 10, 2001, and extending through August 9, 2003. Vacates Order 1539.
1704	8–15–01	Portland General Electric Company, 01–42–NG.	90 Bcf	.....	Import from Canada beginning on November 3, 2001, and extending through November 2, 2003.
1705	8–29–01	ITOCHU International Inc., 01–44–LNG	2.4 Tcf	.....	Import LNG from various sources over a two-year term beginning on the date of first delivery.
1649–A	8–30–01	Hess Energy Services Company, LLC, 00–77–NG.	.....	.....	Order vacating blanket authority.

[FR Doc. 01–23425 Filed 9–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2409–120; Project Nos. 420–016 and 1922–035; Project No. 2442–058; Project No. 2975–017; Project Nos. 2005–010 and 2067–017; Project Nos. 1510–013, 2558–021; 2677–013, and 2715–021; Project No. 3083–094; Project Nos. 3190–017, 3193–017, and 619–094]

Notice Redesignating Proceeding; Calaveras County Water District, Ketchikan Public Utilities, City of Watertown, New York, Tri-Dam Power Authority, Oakdale and South San Joaquin Irrigation Districts, City of Kaukauna, Wisconsin, Oklahoma Municipal Power Authority, City of Santa Clara, California

September 13, 2001.

On July 16, 2001, the Commission's Chief Accountant issued Fiscal Year (FY) 2001 administrative annual charges bills to licensees for hydroelectric projects licensed by the Commission. The FY 2001 annual charges bills for licensees who appealed their FY 1999 and FY 2000 annual charges bills with respect to administrative costs related to the administration of Part I of the Federal Power Act by other federal agencies (OFAs) include credits for OFA costs disallowed from the FY 1999 and FY 2000 annual charges bills pursuant to certain prior Commission orders.[1] On August 15, 2001, the licensees appearing in the caption of this notice filed a request for rehearing of their FY 2001 annual charges bills with respect to the credits therein for OFA costs disallowed from the FY 1999 and FY 2000 bills. The licensees' request for rehearing is premature. The pleading will instead be treated as an appeal of the FY 2001 annual charges bills, as provided for in Section 11.20 of the Commission's regulations, 18 C.F.R. 11.20, with respect to administrative annual charges.

David P. Boergers,

Secretary

[FR Doc. 01–23386 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

[1] *See* City of Idaho Falls, Idaho, *et al.*, 93 FERC ¶ 61,145 (2000); City of Idaho Falls, Idaho, *et al.*, 95 FERC ¶ 61,126 (2001), and City of Tacoma, Washington, *et al.*, 95 FERC ¶ 61,145 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–593–000]

Destin Pipeline Company, L.L.C., Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective October 1, 2001:

Fifth Revised Sheet No. 5
Fourth Revised Sheet No. 6
Fourth Revised Sheet No. 7

Destin states that the above-referenced tariff sheets are being filed pursuant to Section 23 of the General Terms and Conditions of Destin's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23397 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–494–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

September 13, 2001.

Take notice that on September 6, 2001, Dominion Transmission, Inc. ("DTI") filed as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, with an effective date of September 1, 2001:

Substitute First Revised Sheet No. 1162

DTI states that the purpose of this filing is to comply with the Commission's Letter Order issued August 30, 2001, in Docket No. RP01–494. That Letter Order approved DTI's tariff proposal to adopt the Texas Eastern policy subject to DTI filing a change to its proposed Section 25.2 of the General Terms and Conditions of its FERC Gas Tariff. The compliance filing makes the required change.

DTI states that copies of its letter of transmittal and enclosures are being mailed to its customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23389 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–034]

Dominion Transmission, Inc., Notice of Compliance Filing

September 13, 2001.

Take notice that on September 6, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Third Revised Sheet No. 1404 to correct two typographical errors on Substitute Third Revised Sheet No. 1404, filed on August 29, 2001 in Docket No. RP96–383–033.

DTI states that copies of corrected tariff sheet have been sent to DTI's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23404 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–032]

Dominion Transmission, Inc.; Notice of Negotiated Rate

September 14, 2001.

Take notice that on August 24, 2001, Dominion Transmission, Inc. (DTI) tendered for filing the following tariff sheets for disclosure of a recently negotiated transaction with Cabot Oil & Gas Marketing Company:

Original Sheet No. 1417
Original Sheet No. 1418
Sheet Nos. 1419–1499

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions. DTI also states that copies of this filing are available for public inspection during regular business hours, at DTI principal offices in Clarksburg, West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 19, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23515 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–590–000]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 1, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets listed in Appendix A to the filing, with a proposed effective date of September 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage service purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23394 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–599–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 14, 2001.

Take notice that on September 11, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket bear a proposed effective date of October 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage service purchase from Columbia Gas Transmission (Columbia) under its Rate Schedule FSS. The costs of the above referenced storage service comprise the rates and charges payable under ESNG's respective Rate Schedule CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23516 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–591–000]

Garden Bank Gas Pipeline, LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Fourth Revised Sheet No. 6

GBGP states that the above-referenced tariff sheet is being filed pursuant to Section 25 of the General Terms and Conditions of GBGP's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. GBGP respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23395 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–592–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff Second Revised Volume No. 1 the following, with an effective date of October 1, 2001:

Twelfth Revised Sheet No. 7

Great Lakes states that this tariff sheet is being filed to reflect the new ACA rate to be charged pursuant to the Annual Charges Adjustment Clause provisions established by the Commission in Order No. 472 issued May 29, 1987, as revised. Great Lakes is also requesting waiver of the requirements under § 154.207 that all proposed changes in FERC gas tariffs be filed not less than thirty (30) days prior to the proposed effective date of the revised tariff sheets, citing the time required to resolve a data discrepancy.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23396 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–30–000]

Mid Louisiana Gas Company and Enbridge Pipelines (Midla) Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 7, 2001, Mid Louisiana Gas Company (Mid Louisiana) and Enbridge Pipelines (Midla) Inc. (Midla) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Second Revised Volume No. 2 to reflect a corporate name change to become effective on October 1, 2001. A complete listing of the tariff sheets filed are shown on Appendix A, to the filng.

Mid Louisiana and Midla state that copies of its transmittal letter and appendices have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23383 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–31–000]

Midcoast Interstate Transmission, Inc. and Enbridge Pipelines (AlaTenn) Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 7, 2001, Midcoast Interstate Transmission, Inc. (MIT) and Enbridge Pipelines (AlaTenn) Inc. (AlaTenn) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 to reflect a corporate name change to become effective on October 1, 2001. A complete listing of the tariff sheets filed are shown on Appendix A, to the filing.

MIT and AlaTenn state that copies of its transmittal letter and appendices have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23384 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–598–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 7, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective October 8, 2001:

Sixth Revised Sheet Number 52
Second Revised Sheet Number 110B

Midwestern states that the purpose of this filing is to revise Midwestern's FERC Gas Tariff to allow Midwestern the ability to hold off-system capacity without prior Commission approval. By this filing, Midwestern is adding Section XXXIII, Off-System Services, to its General Terms and Conditions. Midwestern also requests that the Commission grant Midwestern a waiver of the "shipper must hold title to the gas" policy.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23402 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–30–000]

Midwestern Gas Transmission Company; Notice of Filing

September 14, 2001.

Take notice that on August 31, 2001, Midwestern Gas Transmission Company filed revised standards of conduct under Order No. 637.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214 (2001)). All such motions to intervene or protest should be filed on or before 15 days from issuance. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23513 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, 63 FR 10156 (February 25, 2000), FERC Statutes and Regulations 31,091 (February 9, 2000) (Order No. 637) and Order No. 637–A, FERC Statutes and Regulations 31,099 (May 19, 2000.)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–594–000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Mississippi Canyon Gas Pipeline, LLC (MCGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Third Revised Sheet No. 6

MCGP states that the above-referenced tariff sheet is being filed pursuant to Section 25 of the General Terms and Conditions of MCGP's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. MCGP respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23398 Filed 9–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–589–000]

Mississippi River Transmission Corp.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 6, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective on October 1, 2001:

Forty-Second Revised Sheet No. 5
Forty-Second Revised Sheet No. 6
Thirty-Ninth Revised Sheet No. 7

MRT states that the purpose of this filing is to establish the revised Annual Charge Adjustment (ACA) rate effective October 1, 2001 for MRT's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23393 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–587–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

September 13, 2001.

Take notice that on September 4, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Third Revised Sheet No. 414, to be effective November 1, 2001.

Natural states that the purpose of this filing is to update its list of non-conforming agreements. Also, Natural tenders for filing with the Federal Energy Regulatory Commission copies of the Firm Transportation Rate Discount Agreement and the associated Rate Schedule FTS service amendment with UtiliCorp United Inc.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23391 Filed 9–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–595–000]

Nautilus Pipeline Company, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Fifth Revised Sheet No. 9

Nautilus states that the above-referenced tariff sheet is being filed pursuant to Section 35 of the General Terms and Conditions of Nautilus's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. Nautilus respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23399 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–76–000 and 002 and Docket Nos. RP01–396–000 and 001 (Not Consolidated)]

Northern Natural Gas Company; Notice of Technical Conference

September 13, 2001.

On November 22, 2000, the Commission issued an order accepting and suspending Northern Natural Gas Company's (Northern Natural) filing, in Docket No. RP01–76–000, to adjust its rates pursuant to Section 32(K) of its tariff, due to changes in its System Levelized Account (SLA). On May 31, 2001, the Commission issued an order in Docket No. RP01–396–000 accepting and suspending a second SLA filing by Northern Natural. On August 1, 2001, the Commission issued an order on rehearing of the May 31 order directing that a technical conference be held to address issues raised by the filing.

Take notice that a technical conference will be held on Wednesday, October 4, 2001 at 9:30 a.m., in a room to be designated, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and Staff are permitted to attend. Participants should be prepared to discuss tariff, accounting and rate issues raised in both proceedings, information submitted by Northern Natural in Docket Nos. RP01–76–002 and RP01–396–000, as well as any other concerns raised in protests and comments.

The above schedule may be changed as circumstances warrant.

David P. Boergers,

Secretary.

[FR Doc. 01–23403 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–588–000]

Ozark Gas Transmission, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 5, 2001, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 13, to be effective October 1, 2001.

Ozark states that the purpose of its filing is to reflect a decrease in the ACA rate to $0.0021 per Dth from $0.0022 per Dth effective October 1, 2001. Ozark further states that Article 11 of the General Terms and Conditions of Ozark's FERC Gas Tariff allows it to file to track changes in the ACA surcharge.

Ozark further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23377 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1355–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35.15 and 385.216 of the Commission's Rules and Regulations, a notice of cancellation of its February 28, 2001 filing of a Network Integration Transmission Service Agreement, a Network Operating Agreement and a Long-Term Firm Point-to-Point Transmission Agreement with Deseret Generation and Transmission Cooperative (Deseret) and notice of withdrawal of the remainder of its February 28, 2001 filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23376 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1354–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35.15 and 385.216 of the Commission's Rules and Regulations, a notice of cancellation of its February 28, 2001 filing of a Network Integration Transmission Service Agreement and a Network Operating Agreement with Utah Municipal Power Agency and notice of withdrawal of the remainder of its February 28, 2001 filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23392 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1353–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35.15 and 385.216 of the Commission's Rules and Regulations, a notice of cancellation of its February 28, 2001 filing of a Network Integration Transmission Service Agreement and a Network Operating Agreement with Utah Associated Municipal Power Systems and notice of withdrawal of the

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become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23378 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3029–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp, tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an Amended and Restated Transmission Service and Operating Agreement with Utah Associated Municipal Power Systems (UAMPS).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23380 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3030–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp, tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an Amended and Restated Transmission Service and Operating Agreement with Utah Municipal Power Agency (UMPA).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23381 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3031–000]

PacifiCorp; Notice of Filing

September 13, 2001.

Take notice that on August 31, 2001, PacifiCorp, tendered for filing with the Federal Energy Commission (Commission), in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an Amended and Restated Transmission Service and Operating Agreement with Deseret Generation and Transmission Cooperative (Deseret).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23382 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–402–001]

Paiute Pipeline Co.; Notice of Compliance Filing

September 13, 2001.

Take notice that on September 10, 2001, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets:

Sixth Revised Sheet No. 63C
Third Revised Sheet No. 65
First Revised Sheet No. 65A
First Revised Sheet No. 66
First Revised Sheet No. 80
Second Revised Sheet No. 81
First Revised Sheet No. 83
First Revised Sheet No. 84
First Revised Sheet No. 87
First Revised Sheet No. 88
First Revised Sheet No. 89A
Fourth Revised Sheet No. 110
Fourth Revised Sheet No. 111
Fourth Revised Sheet No. 112
Third Revised Sheet No. 113
Second Revised Sheet No. 113A
Third Revised Sheet No. 113B
Second Revised Sheet No. 113C
First Revised Sheet No. 126

Paiute indicates that the purpose of the instant filing is to comply with the directives of the Commission's order issued on July 30, 2001 in Docket No. RP00–402–000, concerning Paiute's compliance with Order Nos. 637, 587–G and 587–L.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23388 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–501–001]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

September 13, 2001.

Take notice that on September 7, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Eighth Revised Sheet No. 144, to include by reference certain Gas Industry Standards Board (GISB) standards and a definition, as directed by the Commission in its August 24, 2001 Letter Order in this docket.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23390 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT01–5–000]

Pine Needle LNG Company, LLC; Notice of Compliance Filing

September 14, 2001.

Take notice that on August 31, 2001, Pine Needle LNG Company, LLC. (Pine Needle) tendered for filing a revised Code of Conduct and First Revised Sheet No. 88 pursuant to the marketing affiliate regulations as modified in Order No. 637. Pine Needle requests that the Commission order the tariff sheet be made effective on October 1, 2001.

Pine Needle states that copies of its filing has been served to all affected customers, interested state commissioners and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23517 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-2460-000]

PSEG Lawrenceburg Energy Company, LLC; Notice of Filing

September 13, 2001.

Take notice that on August 21, 2001, PSEG Lawrenceburg Energy Company LLC (PSEG Lawrenceburg) tendered for filing a Compliance Filing Regarding Order Granting Rate Approval and Granting Certain Waivers and Blanket Approval. This filing is submitted in compliance with a letter order issued by the Federal Energy Regulatory Commission (Commission) on August 16, 2001, wherein the Commission accepted for filing PSEG Lawrenceburg's rate schedule for the wholesale sale of electric energy and capacity at market-based rates, subject to PSEG Lawrenceburg making one revision to its rate schedule.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-23379 Filed 9-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01-596-000]

Questar Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to be effective October 1, 2001:

First Revised Volume No. 1

Twenty-First Revised Sheet No. 5
Twelfth Revised Sheet No. 6

Original Volume No. 3

Twenty-Ninth Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge adjustment (ACA) unit rate of $0.00215 per Dth.

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01-23400 Filed 9-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01-597-000]

Stingray Pipeline Company, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 13, 2001.

Take notice that on September 7, 2001, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Eleventh Revised Sheet No. 5

Stingray states that the above-referenced tariff sheet is being filed pursuant to Section 32 of the General Terms and Conditions of Stingray's Tariff to reflect a decrease of the Annual Charge Adjustment surcharge to $0.0021 per Dth based on the Commission's Annual Charge Billing for Fiscal Year 2001. Stingray respectfully requests waiver of the 30-day notice requirement pursuant to Section 154.207 of the Commission's regulations so that the tariff sheet can become effective October 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 20, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01-23401 Filed 9-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01-29-000]

Texas Eastern Transmission, L.P.; Notice of Compliance Report

September 14, 2001.

Take notice that on August 31, 2001, Texas Eastern Transmission, L.P., tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, its report of recalculated Operational Segment Capacity Entitlements to become effective November 1, 2001.

Texas Eastern states that the purpose of the filing is to make its report pursuant to Section 9.1 of the General Terms and Conditions of its FERC Gas tariff, Seventh Revised Volume No. 1 of recalculated November 1, 2001 Operational Segment Capacity Entitlements, along with supporting documentation explaining the basis for changes.

Texas Eastern states that copies of the filing were served on all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-23512 Filed 9-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01-31-000]

Transcontinental Gas Pipeline Corporation; Notice of Filing

September 14, 2001.

Take notice that on August 31, 2001, Transcontinental Gas Pipeline Corporation filed revised standards of conduct under Order No. 637.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214 (2001)). All such motions to intervene or protest should be filed on or before 15 days from issuance. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-23514 Filed 9-19-01; 8:45 am]

BILLING CODE 6717-01-P

[1] Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, 63 FR 10156 (February 25, 2000), FERC Statutes and Regulations 31,091 (February 9, 2000) (Order No. 637) and Order No. 637-A, FERC Statutes and Regulations 31,099 (May 19, 2000.)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT01-6-000]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

September 14, 2001.

Take notice that on August 31, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a revised Code of Conduct and Eighth Revised Sheet No. 344 pursuant to the marketing affiliate regulations as modified in Order No. 637. Transco requests that the Commission order the tariff sheet be made effective on October 1, 2001.

Transco states that copies of its filing has been served to all affected customers, interested state commissioners and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 21, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-23518 Filed 9-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01-308-000, *et al.*]

Camden Cogen, L.P., *et al.*; Electric Rate and Corporate Regulation Filings

September 13, 2001.

Take notice that the following filings have been made with the Commission:

1. Camden Cogen, L.P.

[Docket No. EG01-308-000]

Take notice that on September 10, 2001, Camden Cogen, L.P. (Camden Cogen), a Delaware limited partnership with its principal place of business in Houston, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale

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generator status pursuant to Part 365 of the Commission's regulations.

Camden Cogen owns and operates an approximate 152 MW natural gas-fired, combined-cycle, independent power production facility in Camden, New Jersey (the Facility). Electric energy produced by the Facility will be sold by Camden Cogen to the wholesale power market in the PJM.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. South Point Energy Center, LLC

[Docket No. EG01–309–000]

Take notice that on September 10, 2001, South Point Energy Center, LLC (South Point) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

South Point, a Delaware limited liability company, proposes to lease an electric generating facility and sell the output at wholesale to an affiliated power marketer and other purchasers. The facility is a 530 MW natural gas fired, combined cycle generating facility, which is located in Mohave County, Arizona.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Reliant Energy Seward, LLC

[Docket No. EG01–310–000]

Take notice that on September 10, 2001, Reliant Energy Seward, LLC (Reliant Energy Seward) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for a determination of exempt wholesale generator status, pursuant to part 365 of the Commission's regulations.

Reliant Energy Seward is a Delaware limited liability company and proposes to acquire the existing 198-megawatt Seward generating facility located in East Wheatfield Township, Pennsylvania. The Seward generating facility presently is owned by Reliant Energy Seward's affiliate, Reliant Energy Mid-Atlantic Power Holdings, LLC. Reliant Energy Seward states that it will be engaged directly, or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning an eligible facility, and selling electric energy at wholesale.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Cogen Technologies NJ Venture

[Docket No. EG01–312–000]

Take notice that on September 10, 2001, Cogen Technologies NJ Venture (NJ Venture), a New Jersey joint venture with its principal place of business in Houston, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

NJ Venture owns and operates an approximate 177 MW natural gas-fired, combined-cycle, independent power production facility in Bayonne, New Jersey (the Facility). Electric energy produced by the Facility will be sold by NJ Venture to the wholesale power market in the PJM.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Reliant Energy Hunterstown, LLC

[Docket No. EG01–311–000]

Take notice that on September 10, 2001, Reliant Energy Hunterstown, LLC (Reliant Energy Hunterstown) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for a determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Reliant Energy Hunterstown is a Delaware limited liability company and proposes to acquire the existing 71-megawatt Hunterstown generating facility located in Straban Township, Pennsylvania. The Hunterstown generating facility presently is owned by Reliant Energy Hunterstown's affiliate, Reliant Energy Mid-Atlantic Power Holdings, LLC. Reliant Energy Hunterstown states that it will be engaged directly, or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning an eligible facility, and selling electric energy at wholesale.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. New York Independent System Operator, Inc.

[Docket Nos. ER00–3591–009, ER00–1969–010, ER00–3038–005 and EL00–70–006]

Take notice that on September 6, 2001, the New York Independent System Operator, Inc. (NYISO) submitted a filing with the Federal Energy Regulatory Commission (Commission) in partial compliance to the Commission's July 16, 2001 Order issued in the above-captioned proceedings.

The NYISO has served a copy of this filing upon all parties that are included on the Commission's official service list in these proceedings.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Alliance Companies—Ameren Corporation on behalf of: Union Electric Company; Central Illinois Public Service Company; American Electric Power Service Corporation on behalf of: Appalachian Power Company; Columbus Southern Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company; Wheeling Power Company; Consumers Energy and Michigan Electric Transmission Company; Exelon Corporation on behalf of: Commonwealth Edison Company; Commonwealth Edison Company of Indiana, Inc.; FirstEnergy Corp. on behalf of American Transmission Systems, Inc.; The Cleveland Electric Illuminating Company; Ohio Edison Company; Pennsylvania Power Company; The Toledo Edison Company; The Detroit Edison Company and International Transmission Company; Virginia Electric and Power Company; Illinois Power Company; Northern Indiana Public Service Company; The Dayton Power and Light Company

[Docket No. RT01–88–007]

Take notice that on September 10, 2001, Ameren Services Company (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company), Consumers Energy Company and Michigan Electric Transmission Company, The Dayton Power and Light Company, Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, and Virginia Electric and Power Company (collectively, the Alliance Companies), tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed substitute tariff sheets to reflect corrections to their filing made on August 31, 2001, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2000), and Section 35.13 of the Commission's regulations, 18 CFR 35.13.

The Alliance Companies request that the proposed substitute tariff sheets become effective on December 15, 2001, Day 1 of operations of the Alliance RTO.

Comment date: October 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Energy Marketing Company

[Docket Nos. ER01–7–002 and ER01–1715–001]

Take notice that on September 7, 2001, Ameren Energy Marketing Company (AEM) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), submitted as First Revised Service Agreement No. 1 under its Rate Schedule FERC No. 1 a revised version of the Electric Services Agreement (ESA) between AEM and Soyland Power Cooperative, Inc. to conform with the Commission's order in Ameren Energy Marketing Co., Docket Nos. ER01–7–001 and ER01–1715–000 (Aug. 8, 2001).

Copies of this filing were served upon Soyland as well as on all parties that have intervened in these proceedings.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER01–1659–000]

Take notice that on September 10, 2001, Pacific Gas and Electric Company (PG&E), tender for filing with the Federal Energy Regulatory Commission, a Motion to Withdraw Application under Order No. 614.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER01–1896–002]

Take notice that on September 7, 2001, Tampa Electric Company (Tampa Electric) refiled with the Federal Energy Regulatory Commission (Commission), its transmission service agreements with Mulberry Phosphates, Inc. (Mulberry), Cargill Fertilizer, Inc. (Cargill), and Auburndale Power Partners, Limited Partnership (Auburndale), and interconnection agreements with Cargill and Auburndale, in the format required by the Commission's Order No. 614. The filing was made in compliance with the Commission's letter order dated May 30, 2001, in Docket No. ER01–1896–000, and replaces the compliance filing in Docket No. ER01–1896–001, which was withdrawn.

Copies of the compliance filing have been served on the persons designated on the official service list in Docket Nos. ER01–1896–000 and ER01–1896–001, Mulberry, Cargill, Auburndale, and the Florida Public Service Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER01–1951–002]

Take notice that on September 7, 2001, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing with the Federal Energy Regulatory Commission (Commission), certain corrections to the 2001 annual rate redetermination for Entergy Services' Open Access Transmission Tariff.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Energy Vermillion, LLC

[Docket No. ER01–3018–000]

Take notice that on September 6, 2001, pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15 (a) of the Federal Energy Regulatory Commission's (Commission) regulations, Duke Energy Vermillion, LLC (Duke Vermillion) filed with the Commission a Notice of Cancellation of the Power Purchase Agreement by and between Duke Energy Trenton, LLC, CinCap VIII, LLC and Duke Energy Vermillion, LLC, dated as of September 30, 1999, as amended (designated as Service Agreement No. 1 under Duke Vermillion's FERC Electric Tariff, Original Volume No. 1).

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Illinois Power Company

[Docket No. ER01–3019–000]

Take notice that on September 6, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission), two revised service agreements entered into with Exelon Generation Company, LLC (EGC) pursuant to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of September 1, 2001 for the revised service agreements and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power has mailed a copy of this filing to EGC.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Virginia Electric and Power Company

[Docket No. ER01–3020–000]

Take notice that on September 7, 2001, Virginia Electric and Power Company (the Company), tendered for filing with the Federal Energy Regulatory Commission (Commission), Service Agreement by Virginia Electric and Power Company to El Paso Merchant Energy, L.P., designated as Service Agreement No. 6, under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6.

The foregoing Service Agreement is tendered for filing under the Company's short-form market-based rate tariff, FERC Electric Tariff, Original Volume No. 6, effective on June 15, 2000. The Company requests an effective date of August 15, 2001.

Copies of the filing were served upon El Paso Merchant Energy, L.P., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Pinnacle West Capital Corporation

[Docket No. ER01–3021–000]

Take notice that on September 7, 2001, Pinnacle West Capital Corporation tendered for filing with the Federal Energy Regulatory (Commission), a Service Agreement under the Western Systems Power Pool Agreement for service to Sierra Pacific Power Company.

A copy of this filing has been served on Sierra Pacific Power Company.

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Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER01–3022–000]

Take notice that on September 7, 2001, Cinergy Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission), an unexecuted Interconnection Agreement by and between Cinergy Services, Inc. (Cinergy) and Sugar Creek Energy, LLC (Sugar Creek Energy).

The unexecuted Interconnection Agreement between the parties provides for the interconnection of a generating station with the transmission system of PSI Energy, Inc. (PSI), a Cinergy utility operating company, and further defines the continuing responsibilities and obligations of the parties with respect thereto. Cinergy states that it has served a copy of its filing upon the Indiana Utility Regulatory Commission and Sugar Creek Energy.

Cinergy requests an effective date of September 6, 2001 for the unexecuted Interconnection Agreement.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Hinson Power Company, LLC formerly Hinson Power Company, Inc.

[Docket No. ER01–3023–000]

Take notice that on September 6, 2001, Hinson Power Company, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Succession pursuant to 18 CFR 35.16 and 131.51 of the Commission's regulations. Hinson Power Company, Inc. (WGSI Delaware) has changed its name to Hinson Power Company, LLC and effective August 7, 2001, succeeded to Hinson Power Company, Inc.'s Rate Schedule FERC No. 1, Market-Based Rate Schedule filed in Docket No. ER95–1314–000, which was effective August 30, 1995.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Duke Energy Trenton, LLC

[Docket No. ER01–3024–000]

Take notice that on September 6, 2001, pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15 (a) of the Federal Energy Regulatory Commission's (Commission) regulations, Duke Energy Trenton, LLC (Duke Trenton) filed with the Commission a Notice of Cancellation of the Master Electric Energy and Ancillary Service Sales Agreement by and between Duke Energy Trenton, LLC and Duke Energy Trading and Marketing, LLC (designated as Service Agreement No. 2 under Duke Trenton's FERC Electric Tariff, Original Volume No. 1.

Comment date: September 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Duke Energy Corporation

[Docket No. ER01–3025–000]

Take notice that on September 7, 2001, Duke Energy Corporation (Duke) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement with DTE Energy Trading, Inc. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on August 8, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. American Electric Power Service Corporation

[Docket No. ER01–3026–000]

Take notice that on September 7, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), an executed Facilities Agreement between Ohio Power Company and Fremont Energy Center LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000. A copy of the filing was served upon the Ohio Public Utilities Commission.

AEP requests an effective date of November 6, 2001.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Central Power and Light Company

[Docket No. ER01–3027–000]

Take notice that on September 10, 2001, Central Power and Light Company (CLP) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection Agreement, dated August 9, 2001, between CPL and Small Hydro of Texas Inc. (SMTX).

CLP requests an effective date of November 6, 2001. Copies of this filing has been served upon SMTX and the Texas Public Utility Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Western Resources, Inc.

[Docket No. ER01–3028–000]

Take notice that on September 7, 2001, Western Resources, Inc. (WR) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Service Agreement between WR and Dayton Power and Light (DPL). WR states that the purpose of this agreement is to permit DPL to take service under WR's Market Based Power Sales tariff on file with the Commission. This agreement is proposed to be effective August 8, 2001.

Copies of this filing were served upon DPL and the Kansas Corporation Commission.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Virginia Electric and Power Company

[Docket No. ER01–3032–000]

Take notice that on September 10, 2001, Virginia Electric and Power Company, doing business as Dominion Virginia Power, tendered for filing with the Federal Energy Regulatory Commission (Commission), an unexecuted Generator Interconnection and Operating Agreement (Interconnection Agreement) with Tenaska Virginia Partners, L.P. (Tenaska). The Interconnection Agreement sets forth the terms and conditions under which Dominion Virginia Power will provide interconnection service for Tenaska's yet to be built generating facility.

Dominion Virginia Power respectfully requests that the Commission set an effective date of November 9, 2001 for the Interconnection Agreement.

Copies of the filing were served upon Tenaska Virginia Partners, L.P. and the Virginia State Corporation Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Duke Energy Oakland, LLC

[Docket No. ER01–3034–000]

Take notice that on September 10, 2001, Duke Energy Oakland (DEO) tendered for filing with the Federal Energy Regulatory Commission (Commission), two sets of revisions to Schedules A, B, C, and D of its Reliability Must Run Service Agreement (RMR Agreement) with the California Independent System Operator to reflect, and allow DEO to recover, the costs of DEO's rehabilitation and operation of a second engine of Unit No. 1 of DEO's Oakland Generating Facility. DEO requests effective dates of October 1, 2000, and January 1, 2001, respectively, for its two revisions. DEO also submitted in support of its Schedule revisions, "Terms of Agreement Relating To Duke Energy Oakland, LLC's Rehabilitation Of The Second Engine Of Unit 1 Of The Oakland Generating Facility," wherein DEO, the CAISO, and Pacific Gas and Electric Company (PG&E) expressly agreed to the revisions submitted by DEO and the effective dates of the same.

Copies of the filing have been served upon the CAISO, PG&E and the California Public Utilities Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Reliant Energy Seward, LLC and Reliant Energy Hunterstown, LLC

[Docket Nos. ER01–3035–000 and ER01–3036–000]

Take notice that on September 10, 2001, Reliant Energy Seward, LLC (Reliant Energy Seward) and Reliant Energy Hunterstown, LLC (Reliant Energy Hunterstown) (collectively, Applicants) tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC), pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d (1994), Part 35 of the Commission's regulations, 18 CFR Part 35 (2000), and Rule 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 (2000), a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting each Applicant's FERC Electric Tariff Original Volume No. 1 authorizing Applicant to make sales at market-based rates.

Applicants intend to sell electric energy, capacity and ancillary services at wholesale. In transactions where Applicants sell electric power, they propose to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Each Applicant's Tariff provides for the sale of energy, capacity and ancillary services at agreed prices.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Central Power and Light Company

[Docket No. ER01–3037–000]

Take notice that on September 10, 2001, Central Power and Light Company (CPL) submitted for filing with the Federal Energy Regulatory Commission (Commission), a notice of cancellation of its service agreement with Medina Electric Cooperative, Inc. (Medina), designated Service Agreement No. 9 under CPL's Tariff No. 1, under which CPL supplies wholesale electric power service to Medina.

CPL requests that the service agreement be canceled effective October 1, 2001, and, accordingly, seeks waiver of the Commission's notice requirements. CPL states that the filing has been served on Medina and on the Public Utility Commission of Texas.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Wisconsin Electric Power Company

[Docket No. ER01–3038–000]

Take notice that on September 10, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission), an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with EnergyUSA—TPC Corp. Wisconsin Electric respectfully requests an effective date of September 1, 2001 to allow for economic transactions. Wisconsin Electric requests waiver of any applicable notice requirements to allow for the requested effective date as specified.

Copies of the filing have been served on EnergyUSA—TPC Corp., the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Consumers Energy Company

[Docket No. ER01–3039–000]

Take notice that on September 10, 2001, Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission, a Service Agreement with EnergyUSA-TPC Corp., (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of August 1, 2001.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23510 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2385–002 New York]

Finch, Pruyn & Company, Inc.; Notice of Availability of Final Environmental Assessment

September 13, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for new license for the Glens Falls Hydroelectric Project, located on the Hudson River in Warren and Saratoga Counties, New York, and has prepared a Final Environmental Assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be

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viewed on the web at *http://www.ferc.gov* using the "RIMS" link—select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–23405 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

September 13, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor License.

b. *Project No.:* 2086–035.

c. *Date Filed:* August 30, 2001.

d. *Applicant:* Southern California Edison.

e. *Name of Project:* Vermillion Valley Project.

f. *Location:* On Mono Creek in Fresno County, near Shaver Lake, California. The project affects federal lands in the Sierra National Forest, covering a total of 2,202 acres.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas J. McPheeters, Manager, Northern Hydro Region, Southern California Edison Company, 54205 Mountain Poplar Road, P.O. Box 100, Big Creek, California 93605, (559) 893–3646.

i. *FERC Contact:* Jim Fargo, (202) 219–2848 or *James.Fargo@FERC.fed.us.*

j. *Deadline for filing additional study requests:* October 30, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Additional study requests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The existing Vermillion Project consists of: (1) a 4,234-foot-long earth-fill dam; (2) Lake Edison, with a 125,035 acre-foot storage capacity at 7,642 feet; (3) a service spillway at the left abutment with a single manually operated radial gate 15 feet wide by 8 feet high, and an auxiliary spillway at the right abutment with an ungated chute discharging into an ungated channel; (4) a man-made outlet channel extending 1,300 feet to Mono Creek; and (5) a 3-kW Pelton-wheel turbine located in the outlet structure used to recharge batteries in the valve house.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link—select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing
Notice of NEPA Scoping
Notice of application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

David P. Boergers,

Secretary.

[FR Doc. 01–23385 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

September 13, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 362–004.

c. *Date filed:* June 1, 2001.

d. *Applicant:* Ford Motor Company.

e. *Name of Project:* Ford Hydroelectric Project.

f. *Location:* On the Mississippi River, in the city of St. Paul, Ramsey County, Minnesota, at the U.S. Army Corps of Engineers' Lock and Dam No.1. The project is partially located on federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* George Waldow, HDR Engineering, Inc., 6190 Golden Hills Drive, Minneapolis, Minnesota 55416, or telephone (763) 591–5485.

i. *FERC Contact:* Sergiu Serban, E-mail address *sergiu.serban@ferc.fed.us,* or telephone (202) 501–6935.

j. Deadline for filing motions to intervene and protests is 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted, but it is not ready for environmental analysis at this time. Therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

l. *Description of the Project:* The proposed project would utilize the U.S. Army Corps of Engineers' Lock and Dam No. 1 and would consist of the following facilities: (1) An existing powerhouse integral with the dam having a total installed capacity of 18,000 kilowatts; and (2) appurtenant facilities. The average annual generation is estimated to be 97 gigawatthours.

m. *Locations of the applications:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–23387 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

September 14, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Exempt

1. CP98–150–000, 8–29–01, Joanne Wachholder (to Rick Benas)
2. CP01–260–000, 9–7–01, John Wisniewski
3. Project No. 2145–041, 9–7–01, Nancy Kochan
4. Project No. 2042–000, 9–7–01, Susan Pengilly Neitzel
5. Project No. 2016–000, 9–10–01, Allyson Brooks (signature page)
6. Project No. 2778–000, 9–10–01, Frank Winchell
7. CP98–150–000, 9–10–01, John Zekoll

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23511 Filed 9–19–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7058–3]

National Drinking Water Advisory Council; Request for Nominations

AGENCY: Environmental Protection Agency.

The U.S. Environmental Protection Agency (EPA) invites all interested persons to nominate qualified individuals to serve a three-year term as members of the National Drinking Water Advisory Council. This Advisory Council was established to provide practical and independent advice, consultation and recommendations to the Agency on the activities, functions and policies related to the implementation of the Safe Drinking Water Act as amended. The Council consists of fifteen members, including a Chair. Five members represent the general public; five members represent appropriate state and local agencies concerned with water hygiene and public water supply; and five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. On December 15 of each year, five members complete their appointment. Therefore, this notice solicits names to fill five vacancies, with

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appointed terms ending on December 15, 2004.

Any interested person or organization may nominate qualified individuals for membership. Nominees should be identified by name, occupation, position, address and telephone number. To be considered, all nominations must include a current resume providing the nominee's background, experience and qualifications.

Persons selected for membership will receive compensation for travel and a nominal daily compensation while attending meetings. The Council holds two face-to-face meetings each year, generally in the Spring and Fall. Additionally, members may be asked to serve on one of the Council's working groups that are formed each year to assist the EPA in major program issue development. These meetings are held approximately four times a year, with two meetings by conference call.

Nominations should be submitted to Janet Pawlukiewicz, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 1200 Pennsylvania Avenue, NW., Ariel Rios Building, Washington, DC 20460, no later than October 30, 2001. The Agency will not formally acknowledge or respond to nominations. E-Mail your questions to *pawlukiewicz.janet@epa.gov* or call 202/260–9194.

Janet Pawlukiewicz,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 01–23475 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 7058–1]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; "Announcement of Proposal Deadline for the Competition for the FY 2002 Brownfields Cleanup Revolving Loan Fund Pilots"

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (USEPA) will begin to accept proposals for the FY 2002 Brownfields Cleanup Revolving Loan Fund Pilots on September 20, 2001 (Catalogue of Federal Domestic Assistance Number: 66811). The Brownfields Cleanup Revolving Loan Fund pilots (each may be funded up to $1,000,000 per eligible entity) enable States, Indian Tribes, and political subdivisions to facilitate the cleanup and redevelopment of brownfields properties. The pilots test revolving loan fund models that assist with the coordination of public and private cleanup efforts. EPA expects to select up to 25 additional Brownfields Cleanup Revolving Loan Fund pilots by March 2002. The deadline for new proposals for the FY 2002 Brownfields Cleanup Revolving Loan Fund pilots is *November 15, 2001.* All proposals must be postmarked by USPS, or delivered at U.S. EPA Headquarters by other means, no later than November 15, 2001 and a duplicate copy sent to the appropriate U.S. EPA Regional Office.

The Brownfields Cleanup Revolving Loan Fund pilot cooperative agreements are selected on a competitive basis. Specific proposal requirements for applicants are set forth in the newly revised guidelines, entitled The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Cleanup Revolving Loan Fund (August 2001). Applicants should follow the Guidelines in order to ensure the application they submit complies with those requirements. Details on how to obtain a copy of the Guidelines are set forth in the Addresses section.

To ensure a fair section process, evaluation panels consisting of EPA regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the Guidelines. Regional panels make recommendations to EPA senior management. Final award decisions are made by EPA senior management, and may take into account policy considerations such as geographic distribution of funds.

DATES: All proposals must be sent via registered or tracked (return receipt) mail and postmarked by USPS no later than November 15, 2001. Proposals must be sent to U.S. EPA Headquarters and a duplicate copy sent to the appropriate U.S. EPA Regional Office. Applicants may also send their proposals by commercial delivery service provided the proposals arrive at U.S. EPA Headquarters and the appropriate U.S. EPA Regional Office on or before close of business on November 15, 2001.

ADDRESSES: Mailing addresses for U.S. EPA Headquarters and U.S. EPA Regional Offices are provided in the Proposal Guidelines.

Obtaining Proposal Guidelines:

The Proposal Guidelines are available via the Internet at: *http://www.epa.gov/brownfields.*

Copies of the Proposal Guidelines will also be mailed upon request. Requests should be made by calling the U.S. EPA Call Center at the following numbers:

Washington, DC Metro Area at 703–412–9810

Outside Washington, DC Metro at 1–800–424–9346

TDD for the Hearing Impaired at 1–800–553–7672

In order to ensure that the Guidelines are received in time to be used in the preparation of the proposal, applicants should request a copy as soon as possible and in any event no later than seven (7) working days before the proposal due date. Applicants who request copies after that date might not receive the proposal guidelines in time to prepare and submit a responsive proposal.

FOR FURTHER INFORMATION CONTACT: The U.S. EPA's Office of Solid Waste and Emergency Response, Outreach and Special Projects Staff, Barbara Bassuener (202) 260–9347 or Jennifer Millett Wilbur (202) 260–6454.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative is designed to empower states, local governments, communities, and other stakeholders involved in economic redevelopment to work together in a timely manner to prevent, assess, and safely cleanup brownfields in order to facilitate their sustainable reuse. As part of this Initiative, EPA may award cooperative agreements to States, political subdivisions (including cities, towns, counties), and Indian tribes to capitalize Brownfields Cleanup Revolving Loan Fund pilots. The purpose of these pilots is to test brownfields cleanup revolving loan fund models that direct special efforts toward facilitating coordinated public and private brownfields cleanup efforts.

In FY 2002, the EPA expects to select up to 25 new BCRLF pilots to be funded up to $1,000,000 per eligible entity by March 2002.

Eligible entities for FY 2002 BCRLF pilots will be states, political subdivisions, or federally recognized Indian Tribes that have established and can demonstrate progress already made in the assessment, cleanup, and revitalization of brownfields in their community, State or Tribe.

Coalition of eligible entities are permitted to apply, but a single entity must be identified as the applicant. Additionally, a letter of support from each coalition member must be included as an attachment.

Applicants must meet threshold criteria, i.e., the minimum criteria, in order to be considered for an award. All threshold criteria must be met. The following is a synopsis of the threshold criteria: (1) demonstrate the commitment of the eligible entity to the cleanup and revitalization of brownfields; and (2) demonstrate the ability and legal authority of the eligible entity to manage a revolving loan fund and environmental cleanups;

Those applicants that meet the threshold criteria will then be evaluated based on their responses to the evaluation criteria. Applicants should address all of the evaluation criteria. Responses to the evaluation criteria will be utilized to determine whether to make an award, and the amount of funds to be awarded. All evaluation criteria are equally important. There is no guarantee of an award. The following is a synopsis of the evaluation criteria: (1) Demonstrate the need of the eligible entity; (2) demonstrate the commitment of the eligible entity to making loans and to creative leveraging of EPA financial assistance; (3) demonstrate the benefits of the BCRLF loans to the local community; (4) demonstrate the long-term benefits and sustainability of the proposed BCRLF.

Funding for the Brownfields Cleanup Revolving Loan Fund pilots is authorized under Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(d)(1).

Dated: September 14, 2001.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 01–23477 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7059–2]

U.S.-Mexico Border Grants; Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency is requesting grant proposals from U.S. nongovernment organizations, municipalities, federally recognized tribes, communities, higher education facilities, and public schools for projects within the U.S.-Mexico Border Region, defined in the La Paz Agreement (1983) as that area within 100 km on either side of the inland and maritime U.S.-Mexico Border.

DATES: The original proposal plus one (1) copy must be mailed to the appropriate regional contact (see below) for the state in which the project will occur, no later than November 5, 2001. Proposals postmarked after that date will not be considered for funding. EPA expects to announce grant awards in January 2002. Applicants should anticipate project start dates no earlier than April 1, 2002. Grants will be managed separately by EPA staff in Region 6 and Region 9.

ADDRESSES: Grant Applications should be submitted to: Region 6 (TX, NM), Alfredo Coy, U.S.-Mexico Border Program (6PD), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, Telephone: 214–665–2206; E-mail: <*coy.alfredo@epa.gov*>. Region 9 (CA, AZ): Dave Fege, Assistant Director, San Diego Border Liaison Office, U.S. Environmental Protection Agency, Region 9, 610 West Ash Street, San Diego, CA 92101, Telephone: 619–235–4765, E-mail: <*fege.dave@epa.gov*>.

FOR FURTHER INFORMATION CONTACT: Region 6 (TX, NM), Alfredo Coy, U.S.-Mexico Border Program (6PD), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, Telephone: 214–665–2206; E-mail: *coy.alfredo@epa.gov.* Region 9 (CA, AZ): Dave Fege, Assistant Director, San Diego Border Liaison Office, U.S. Environmental Protection Agency, Region 9, 610 West Ash Street, San Diego, CA 92101, Telephone: 619–235–4765, E-mail: *fege.dave@epa.gov.*

Additional copies of this grant application can be obtained through the EPA Border Liaison Offices located in El Paso (915–533–7273); San Diego (619–235–4765); or call 1–800–334–0741.

SUPPLEMENTARY INFORMATION:

Introduction

This is a regionally managed grants program whose goals and objectives directly relate to and are linked with the Border XXI Program. Successful grant applications will meet objectives of the Border XXI Program as outlined in the U.S.-Mexico Border XXI Program Framework Document and/or the annual Implementation Plans (1996, 1997–1998, 1998, & 1999). The mission of the U.S.-Mexico Border XXI Program is to protect public health and natural resources, and encourage sustainable development along the U.S.-Mexico border. For purposes of this grants program, sustainable development is defined as "conservation oriented social and economic development that emphasizes the protection and sustainable use of resources, while addressing both current and future needs, and present and future impacts of human actions as defined in the Border XXI environmental program developed by U.S. and Mexican authorities (for further information see the Border Environmental Cooperation Commission Project Certification Criteria). This definition is based on the internationally accepted sustainable development definition from the Rio Declaration on Environment and Development: development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

A total of $125,000 will be awarded in each of Regions 6 and 9.The maximum amount for any single grant award will be $25,000.

Entities receiving grants under this program are required to contribute a minimum 5% matching share (in dollars or in-kind goods/services). For example, to calculate the minimum matching share for federal funding of $25,000 use the following formula: $25,000 × 95% = 26,315.79, subtract the grant amount from that figure, $26,315.79 − $25,000 = $1,315.79.

The resulting figure, $1,315.79, is applicant's matching share.

The U.S.-Mexico Border Grants Program strongly encourages partnering with community members, business, and government agencies to work cooperatively to identify and develop innovative, effective and efficient projects.

Eligibility

Applicants who are eligible to receive these grants include, but are not limited to, the following: U.S. county and city governments, U.S. councils of government, U.S. Indian tribes, U.S. community-based organizations (CBOs), and U.S. public schools and universities. Special consideration will be given to U.S. CBOs, public schools, community colleges, and nongovernment organizations who meet the above criteria and submit a complete proposal by the stated deadline.

No awards will be granted for the purchase of equipment for projects or for maintaining existing equipment.

Applicants must identify the environmental statute the project will

address. Projects must fall within one of the below environmental statutes:

a. *Clean Water Act, Section 104(b)(3):* conduct and promote research investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution.

b. *Safe Drinking Water Act, Section 1442(b)(3):* develop, expand, or carry out a program (that may combine training, education, and employment) for occupations relating to the public health aspects of providing safe drinking water.

c. *Solid Waste Disposal Act, Section 8001(a):* conduct and promote the coordination of research, investigations, experiments, training, demonstrations, surveys, public education programs and studies relating to solid waste.

d. *Clean Air Act, Section 103(b)(3):* conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution.

e. *Toxic Substances Control Act, Section 10(a):* conduct research, development of monitoring activities on toxic substances.

f. *Comprehensive Environmental Response Compensation and Liability Act, Section 311(a):* conduct basic research and training related to the detection, assessment, and evaluation of the risks and human effects of exposure to hazardous substances.

Applications

The original and one (1) copy of the project proposal must be sent to the regional contact listed below for the state in which the project will take place. Proposals are limited to one (1) cover page and a five (5) page, double spaced narrative of the proposed project. Proposals must include the following:

(1) Cover Sheet (not to exceed one page) that must include:

(a) Project title;

(b) Applicant's name, address, phone number and organization type (i.e., community college, nongovernment organization, tribe);

(c) A list identifying project staff;

(d) A list of entities or organizations that will be providing matching funds to the project and their organization type; and

(e) Environmental statute that the project will address (see Eligibility above).

(2) Narrative (not to exceed five pages, double spaced) that must include:

(a) Project goals;

(b) Workplan;

(c) Proposed schedule for the workplan;

(d) Anticipated results, measures of success, and "where possible—anticipated environmental improvements as a direct result of project implementation;

(e) Budget (i.e., salaries, supplies, travel, consultants, other direct costs, and overhead); and

(f) Plan for evaluating the success of the project.

The proposal must also include letters of commitment from all contributing partners matching funds to the project. These letters must specify the nature of the match (whether it is in-kind services or cash) and the estimated dollar value of the match. These attachments will not be counted in the five (5) page narrative limit. Any other attachments or enclosures will not be considered as part of the proposal.

Final Report

Upon completion of the project , one (1) final report will be required which includes the following information: (a) description of project results, including an evaluation of overall project performance and any environmental improvements directly resulting from project implementation, and (b) financial report. Grants are subject to audit.

Criteria

EPA will use the following evaluation criteria in reviewing proposals:

- The application presents a clear description of a U.S.-Mexico border transboundary issue or concern (20 points);
- The application identifies realistic goals in addressing objectives and priorities as outlined in the U.S.-Mexico Border XXI Program Framework Document and/or annual Implementation Plans (20 points);
- The proposed project focuses on sustainable development, practices and improvements in the following areas: environmental health, risk reduction, hazardous and solid waste reduction, recycling, and water conservation at the local and/or regional level, defined above (20 points);
- The proposal outlines how the applicant will measure improvements in one or more of the above mentioned areas resulting from implementation of the project (15 points);
- The application involves a number and variety of bi-national and U.S.-Mexico border collaborators (i.e., community, nongovernment organizations, Indian tribes, local and regional governments, schools, and universities) (15 points);
- Project funding will be utilized as seed money, supporting innovative projects that would empower communities to take an integral role in protecting their environment (10 points).

No awards will be granted for the purchase of equipment for projects or for maintaining existing equipment.

Gregg A. Cooke,

Regional Administrator, U.S. EPA Region 6.

[FR Doc. 01–23461 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34225H; FRL–6802–6]

Diazinon; Products Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order for the product and use cancellations as requested by several companies (Prentiss Inc., Unicorn Laboratories, Micro Flo Company, Agriliance, Diall Chemical Company, Nu-Method Pest Control Products, Lilly Miller Brands and Virbac Corporation, hereafter collectively referred to as the "EUP Registrants") that hold the registrations of pesticide End-Use Products (EUPs) containing the active ingredient diazinon and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up an August 1, 2001, notice of receipt from the companies listed above, of requests for cancellations and or amendments of their diazinon product registrations to terminate all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. In the August 1, 2001 notice, EPA indicated that it would issue an order granting the voluntary product and use registration cancellations unless the Agency received any substantive comment within the comment period that would merit its further review of these requests. The Agency did not receive any comments that affected the Agency's intention to grant the EUP registrants' request to cancel product and use registrations. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective September 20, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Ben Chambliss, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8174; fax number: (703) 308–7042; e-mail address: *chambliss.ben@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use diazinon products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/.* To access this document, on the homepage select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register** — Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* To access information about the risk assessment for diazinon, go to the homepage for the Office of Pesticide Programs or go directly to *http://www.epa.gov/pesticides/op/diazinon.htm.*

2. *In person.* The Agency has established an official record for this action under docket control number OPP 34225H. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

In letters dated April 25 and May 29, 2001, from Prentiss Inc.; May 29, 2001, from Unicorn Laboratories; May 30, 2001, from Micro Flo Company; May 31, 2001, from Agriliance; June 1, 2001, from Micro Flo Company; and June 1, 2001, from Diall Chemical Company, Inc., these registrants of pesticide products containing diazinon requested that the registrations of their diazinon products be amended to terminate all indoor uses, certain agricultural uses, and any other uses that the registrants do not wish to maintain. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, in letters dated May 21, 2001 from Nu-Method Pest Control Products; May 22, 2001 from Lilly Miller.Brands; and May 23, 2001 from Virbac Corporation, these three registrants requested voluntary cancellation of the registrations for their diazinon end-use products that bear directions for indoor use and/or certain outdoor non-agricultural uses, and any other uses that the registrants do not wish to maintain. EPA announced its receipt of these above-mentioned cancellation requests in a **Federal Register** notice dated August 1, 2001.

These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of diazinon technical products, and EPA's approval of such requests, to terminate all indoor uses and certain agricultural uses from their diazinon product registrations, because of EPA's concern with the potential exposure risk, especially to children, associated with diazinon containing products. The indoor uses and agricultural uses subject to cancellation are identified in the following List.

List — Uses Requested for Termination

1. *Indoor uses*: Pet collars, or inside any structure or vehicle, vessel, or aircraft or any enclosed area, and/or on any contents therein (except mushroom houses), including food/feed handling establishments, greenhouses, schools, residences, museums, sports facilities, stores, warehouses and hospitals.

2. *Agricultural uses*: Alfalfa, bananas, Bermuda grass, dried beans, dried peas, celery, red chicory (radicchio), citrus, clover, coffee, cotton, cowpeas, cucumbers, dandelions, forestry (ground squirrel/rodent burrow dust stations for public health use), kiwi, lespedeza, parsley, parsnips, pastures, peppers, potatoes (Irish and sweet), sheep, sorghum, squash (winter and summer), rangeland, Swiss chard, tobacco, and turnips.

In today's Cancellation Order, EPA is approving the registrants' requested cancellations and amendments of the their diazinon end-use products registrations to terminate all uses identified in the List.

B. Requests for Voluntary Cancellation of End-Use Products

Nu-Method Pest Control Products, Lilly Miller Brands and Virbac Corporation, have submitted requests for voluntary cancellation of some of its registrations for end-use pesticide products containing diazinon. The end-use product registrations for which cancellation was requested are identified in the following Table 1. None of the products listed in Table 1 are registered for use on agricultural crops.

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TABLE 1. — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Reg. No.	Product
Lilly Miller Brands	802–444	Miller's Multi-Use Diazinon Insect Spray
	802–556	Lilly Miller 5% Diazinon Granules
Virbac Corporation	2382–94	Protection 150 Reflecting Flea and Tick Collar for Cats
	2382–95	Protection Plus Flea and Tick Collar for Cats
	2382–96	Protection 150 Reflecting Flea and Tick Collar for Dogs
	2382–97	Protection Plus 150 Flea and Tick Collar for Dogs
	2382–98	Protection 150 Flea and Tick Collar for Cats
	2382–99	Protection 150 Flea and Tick Collar for Dogs
	2382–105	Protection 300 Flea and Tick Collar for Dogs
Nu-Method Pest Control	6911–5	NU-Mrk NU-Method Ant & Roach Killer Products, Inc.

EPA did not receive any comments expressing a need of diazinon products for indoor use nor any comments relative to the proposed cancellation of the products listed in Table 1. Accordingly, the Agency is issuing an order in this notice canceling the registrations identified in Table 1, as requested by Lilly Miller Brands, Virbac Corporation, and Nu-Method Pest Control Products, Inc.

C. Requests for Voluntary Amendments of End-Use Product Registrations to Terminate Certain Uses

Pursuant to section 6(f)(1)(A) of FIFRA, the EUP Registrants submitted requests to amend a number of their diazinon end-use product registrations to terminate the uses identified in the List, or any other uses as specified for each product in the August 1, 2001 Diazinon 6(f) notice and reiterated in Table 2 below. The registrations for which amendments to terminate specific uses were requested are identified in the following Table 2:

TABLE 2. — END-USE PRODUCT REGISTRATIONS REQUESTS FOR AMENDMENTS TO TERMINATE USES

Company	Reg. No.	Product	Uses Canceled
Prentiss Inc.	655–456	Prentox Diazinon 50W	Insecticide: Beans (lima, pole, snap; succulent only), cucumbers, parsley, parsnips, peas (succulent only), peppers, potatoes (Irish), squash (summer and winter), sweet potatoes, swiss chard, turnips, grasslands, ditch banks, roadsides, wastelands, non-crop areas, barrier strips, lawn pest control (excluding sod farms and golf courses), livestock insects (sheep ticks Keds and lice), livestock structures (fly control in barns and animal sleeping quarters except dairy barns, milk rooms and poultry houses), residual sprays, bait sprays, sprinkling can application, and insect control on ornamentals grown indoors in nurseries.
	655–459	Prentox Diazinon AG500	Insecticide: Beans (lima, pole, snap; succulent only), cucumbers, parsley, parsnips, peas (succulent only), peppers, potatoes (Irish), squash (summer and winter), sweet potatoes, swiss chard, turnips, grasslands, ditch banks, roadsides, wastelands, non-crop areas, barrier strips, lawn pest control, and nuisance pests in outside areas.
Agriliance	9779–210	Diazinon 4 AG	Beans, cabbage, cucumbers, parsley, parsnips, peas, peppers, potatoes, squash (summer and winter), sweet potatoes, swiss chard, turnips, and lawns/other outside areas.
Drexel Chemical Company	19713–91	Diazinon	Insecticide: Lawns (any turf sites), barrier strips, ditch banks, non-crop areas, roadsides, wastelands, and nuisance pests in outside areas.
	19713–492	Diazinon 50 WP	Lawns (any turf sites), barrier strips, ditch banks, non-crop areas, roadsides, wastelands, and nuisance pests in outside areas.
Unicorn Laboratories	28293–199	Unicorn Diazinon 5G	Celery
	28293–230	Unicorn 25EC Diazinon	Almonds
	28293–239	Unicorn Diazinon 14G	Beans, cabbage, celery, cucumbers, parsley, peas, peppers, potatoes, squash, sweet potatoes, swiss chard, and turnips.

TABLE 2. — END-USE PRODUCT REGISTRATIONS REQUESTS FOR AMENDMENTS TO TERMINATE USES—Continued

Company	Reg. No.	Product	Uses Canceled
Diall Chemical Company Inc.	34822–6	DI-ALL Paint	Insecticide: Farm buildings (including dairy barns and milk parlors), warehouses, office buildings, theaters, schools, hotels, motels, factories and outbuildings.
Micro-Flo Company	51036–70	Diazinon 14G	Beans, parsley, peppers, potatoes (Irish), squash (Winter and Summer), swiss chard, and turnips.
	51036–71	Diazinon AG 500	Beans, parsley, parsnips, peppers, potatoes (Irish), squash (Summer and Winter), swiss chard, turnips, livestock structures and lawns.
	51036–93	Diazinon 5G AG	Beans, celery, cucumber, parsley, peas, peppers, potatoes, squash (Summer and Winter), sweet potatoes, swiss chard and turnips.
	51036–108	Diazinon 50 WP	Beans, parsley, parsnips, peppers, potatoes (Irish), squash (Summer and Winter), swiss chard, turnips, livestock structures and lawns.

III. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA hereby approves the requested diazinon product registration cancellations and amendments to terminate all indoor uses and certain agricultural uses, as identified in the List, and all other uses (including specific outdoor non-agricultural uses) identified for deletion in the August 1 Diazinon 6(f) notice. Accordingly, the Agency orders that the diazinon end-use product registrations identified in Table 1 are hereby canceled. The Agency also orders that all of the uses identified in the List, and all other uses (including specific outdoor non-agricultural uses) identified for deletion in Table 2 are hereby canceled from the end-use product registrations identified in Table 2. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this Order, the term "existing stocks" is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. The existing stocks provisions of this Cancellation Order are as follows:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 2 that bears instructions for use on the agricultural crops identified in the List will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 2 that bears instructions for any of the agricultural uses identified in the List after the effective date of the cancellation order.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order.

3. *Distribution or sale of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites (except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

4. *Retail and other distribution or sale of existing stock of products for indoor use.* The retail sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

Lists of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: September 7, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23460 Filed 9–19–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66292; FRL–6800–3]

Fenamiphos and Metolachlor, Receipt of Requests for Voluntary Cancellation of Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from the registrants Bayer Corporation and Syngenta Crop Protection, Inc. to amend their registrations to delete some uses for the products containing fenamiphos, ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate) and metolachlor, (2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide), respectively.

The EPA received these requests for voluntary cancellation in response to the reregistration eligibility evaluation of these individual pesticides.

DATES: Comments, identified by docket control number OPP–66292, must be received on or before October 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in the Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, you must identify docket control number OPP–66292 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Tawanda Spears, telephone number: (703) 308–8050; e-mail address: *spears.tawanda@epa.gov* (Fenamiphos) and Anne Overstreet, telephone number: (703) 308–8068; e-mail address: *overstreet.anne@epa.gov* (Metolachlor), Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stock provisions that will be set forth in the cancellation order the Agency intends to issue at the close of the comment period for this announcement, absent adverse comments.

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use fenamiphos or metolachlor products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person or persons listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/*. To access this document, on the homepage select "Laws and Regulations" "Regulations and Proposed Rules" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–66292. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–66292 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *opp-docket@epa.gov*, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–66292. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses.

A. Background

The EPA is publishing a single notice in response to registrant's requests to delete some uses for fenamiphos and metolachlor from their labels. (See the table in this unit for specific information regarding the cancellation requests.)

Reregistration Eligibility Decision (RED) documents summarize the findings of EPA's reregistration review process for individual chemical cases, and reflect the Agency's decisions on risk assessment and risk management for uses of individual pesticides. The metolachlor RED was issued in April of 1995. However, since the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, the Agency is required to reconsider metolachlor tolerances consistent with the provisions of the Act. This tolerance reassessment decision is scheduled to be completed in 2002. In defining the scope of this review, Syngenta, the metolachlor registrant, has elected to voluntarily drop certain uses from their technical label.

For fenamiphos, an organophosphate, a RED has not been issued. Although the Agency has not yet completed its cumulative risk assessment for a RED, the Agency is issuing an interim reregistration eligibility decision (IRED) to identify risk reduction measures that are necessary to support the continued use of fenamiphos. As part of this process, Bayer has elected to delete certain uses from its product labels rather than develop the data necessary to support reregistration.

The EPA will consider any comments received during the 30–day public comment period prior to canceling affected uses.

B. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use and Technical Product Labels

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend their end-use and technical registrations of pesticide products containing fenamiphos and metolachlor, respectively, to delete the listed uses from the listed product(s) bearing such use. The registrations, for which amendments to delete uses were requested, are identified in the following table.

NOTICE FOR VOLUNTARY CANCELLATION OF REGISTERED USES

Chemical	PC code	Company # Address	Nature of action	Products affected	Comments
Fenamiphos	100601	Bayer Corp., 8400 Hawthorne Rd., P.O. Box 4913, Kansas City, MO 64120–0013	Cotton and pineapple use deletion	3EC[1] 3125–283 15G[2] 3125–236	Cancel 3EC and 15G on cotton and 15G on pineapple.
Metolachlor	108801	Syngenta Crop Protection, Inc., P.O. Box 18300 Greensboro, NC 27419–8300	Stone fruits and almond use deletion	100–587	

[1] 3EC: Nemacur 3 (emulsifiable concentrate—3 lb active ingredient/gal)
[2] 15G: Nemacur 15% (granular formulation—15% active ingredient/gal)

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. The aforementioned companies have requested to amend their registrations and that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. Because of risk concerns posed by certain uses of fenamiphos and metolachlor, EPA intends to grant the requested amendments to delete uses at the close of the comment period for this announcement.

III. Proposed Existing Stocks Provisions

The registrants have requested voluntary cancellation of the fenamiphos and metolachlor registrations identified in the table. EPA intends to grant the requests for voluntary cancellations. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this announcement, the term "existing stocks" will be defined, pursuant to EPA's existing stocks policy published in the **Federal Register** of (June 26, 1991, 56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Registrants may generally distribute and sell products bearing old labels/labeling for 12 months from the effective date of cancellation. Persons other than the registrant may generally distribute or sell such products for 24 months from the effective date of cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 7, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23459 Filed 9–19–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[OPP–00654A; FRL–6793–4]

Pesticides; Final Guidance for Pesticide Registrants on Disposal Instructions for Non-Antimicrobial, Residential/Household Use Pesticide Product Labels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of a Pesticide Registration Notice (PR-Notice) entitled "Disposal Instructions on Non–Antimicrobial, Residential/Household Use Pesticide Product Labels." This PR-Notice was issued by the Agency on September 7, 2001, and is identified as PR-Notice 2001–6. A draft for comment of this notice was published in the **Federal Register** of June 14, 2000 (65 FR 37383) (FRL–6553–4), with a 60–day comment period. PR-Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures and registration-related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular PR-Notice provides guidance to the registrant concerning disposal instructions for both empty and partly filled containers of non–antimicrobial, residential/household use pesticide product labels. The revised instructions should decrease the number of accidental exposures to sanitation workers and to the environment and allow state/local governments greater latitude in carrying out their responsibilities for product disposal and waste management programs.

FOR FURTHER INFORMATION CONTACT: By mail: Amy L. Breedlove, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9069; fax number: (703) 305–5884; e-mail address: *Breedlove.amy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are required to register, regulate, or label pesticides, people who manage or regulate household hazardous waste facilities or collection events may also be interested in this notice. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. What Guidance Does this PR Notice Provide?

This PR-Notice provides guidance to the registrant concerning the development of disposal instructions for non–antimicrobial, residential/household use pesticide product labels. EPA is providing instructions that direct consumers to call their local solid waste authorities for specific disposal instructions for partly filled containers, rather than directing them to wrap the container in paper and dispose of it in the trash. The notice also informs registrants of what EPA considers to be a residential/household use pesticide; provides criteria to be met by any toll-free phone number provided within the disposal instructions; and addresses how to develop recycling statements and why providing a rationale to consumers for following the disposal instructions is useful. The new instructions provide state and local governments greater latitude in carrying out their responsibilities for product disposal and waste management programs and decreases the potential for accidental pesticide exposures to sanitation workers and to the environment.

III. Do PR-Notices Contain Binding Requirements?

The PR-Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR-Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

IV. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain an electronic copy of this **Federal Register** document using the date of publication from the listing of EPA **Federal Register** documents at *http://www.epa.gov/fedrgstr/*. You may obtain an electronic copy of this PR-Notice, as well as other PR-Notices, both final and draft, at *http://www.epa.gov/PR_Notices/*.

2. *Fax-on-demand.* You may request a faxed copy of the PR-Notice entitled "Disposal Instructions on Non-antimicrobial, Residential/Household Use Pesticide Product Labels," by using a faxphone to call (202) 401–0527 and selecting item 6143. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00654A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 7, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 01–23458 Filed 9–19–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–43–A (Auction No. 43); DA 01–2076]

Auction No. 43 Multi-Radio Service Auction Scheduled for January 10, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the auction of licenses in multiple radio services to commence on January 10, 2002, and seeks comment on auction procedural issues.

DATES: Comments are due on or before September 21, 2001 and reply comments are due on or before September 28, 2001.

ADDRESSES: An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW, Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules.

FOR FURTHER INFORMATION CONTACT: Legal questions: Howard Davenport (202) 418–0660 or e-mail *hdavenpo@fcc.gov* For general auction questions: Lyle Ishida (202) 418–0660 or e-mail *lishida@fcc.gov* or Barbara Sibert (717) 338–2888 or e-mail *bsibert@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 43 Comment Public Notice* released September 7, 2001. The complete text of the *Auction No. 43 Comment Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The *Auction No. 43 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

I. General Information

1. By the *Auction No. 43 Comment Public Notice*, the Wireless Telecommunications Bureau ("Bureau") announces the auction of licenses in multiple radio services to commence on January 10, 2002 ("Auction No. 43"). Auction No. 43 will include 4 licenses in the Phase II 220 MHz Service, 23 licenses for the 800 MHz Specialized Mobile Radio ("SMR") Service General Category Frequencies, and 42 multilateration licenses in the Location and Monitoring Service ("LMS"). The licenses included in Auction No. 43 either remain unsold from a previous auction or were defaulted on by a winning bidder in a previous auction. A complete list of licenses available for Auction No. 43 and their descriptions is included as Attachment A of the *Auction No. 43 Comment Public Notice*.

2. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 43.

II. Auction Structure

A. Simultaneous Multiple Round Auction Design

3. The Bureau proposes to award the licenses in a single, simultaneous multiple-round auction. As described further, this methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureau seeks comment on this proposal.

B. Upfront Payments and Initial Maximum Eligibility

4. The Bureau has been delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. As described further, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 43, the Bureau proposes to calculate upfront payments on a license-by-license basis using the following formulas:

- 220 MHz
  EAG Licenses—$0.01 * 0.15 MHz * License Area Population
  EA Licenses—$500 per license
- 800—MHz $0.005 * License Area Population with a minimum of $2,500 per license.
- LMS
  Block A:—$0.0004 * MHz * License Area Population with a minimum of $500 per license.
  Block B:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.
  Block C:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.

5. Accordingly, the Bureau lists all licenses, including the related license area population and proposed upfront payment for each, in Attachment A of the *Auction No. 43 Comment Public Notice*. The Bureau seeks comment on this proposal.

6. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids. This limit is a bidder's "maximum initial eligibility." Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 43 Comment Public Notice*, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its maximum initial eligibility. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Bureau seeks comment on this proposal.

C. Activity Rules

7. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

8. The Bureau proposes to divide the auction into two stages, each characterized by an increased activity requirement. The auction will start in Stage One. The Bureau proposes that the auction generally will advance to the next stage (i.e., from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, the Bureau further proposes

when FCC licenses are subject to

reserve prices or minimum opening bid

license is made at the end of the

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that it retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau seeks comment on these proposals.

9. For Auction No. 43, the Bureau proposes the following activity requirements:

Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

Stage Two: In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty/forty-ninths (50/49).

10. The Bureau seeks comment on these proposals. If commenters believe that these activity rules should be changed, they should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

D. Activity Rule Waivers and Reducing Eligibility

11. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

12. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

13. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the Reduce Eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

14. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the Proactive Waiver function in the bidding system) during a bidding period in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

15. The Bureau proposes that each bidder in Auction No. 43 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth. The Bureau seeks comment on this proposal.

E. Information Relating to Auction Delay, Suspension, or Cancellation

16. For Auction No. 43, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

II. Bidding Procedures

A. Round Structure

17. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 43. Auction No. 43 will be conducted over the Internet. However, as in prior auctions, the Bureau's wide area network will be available at the standard charge, and telephonic bidding will also be available. Prospective bidders concerned about their access to the Internet may want to establish a connection to the Bureau's wide area network as a backup. Full information regarding how to establish such a connection, and related charges, will be provided in the public notice announcing details of auction procedures.

18. In past auctions, the Bureau has used the timing of bids to select a high bidder when multiple bidders submit identical high bids on a license in a given round. Given that bidders will access the Internet at differing speeds, the Bureau will not use this procedure in Auction No. 43. For Auction No. 43, the Bureau proposes to use a random number generator to select a high bidder from among such bidders. As with prior auctions, remaining bidders will be able to submit higher bids in subsequent rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

19. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. The Bureau seeks comment on this proposal.

B. Reserve Price or Minimum Opening Bid

20. The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid when FCC licenses are subject to auction unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

21. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

22. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 43. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool.

23. Specifically, for Auction No. 43, the Commission proposes the following license-by-license formula for calculating minimum opening bids:

- 220 MHz
  EAG Licenses—$0.0125 * 0.15 MHz * License Area Population
  EA Licenses—$500 per license
- 800 MHz—$0.005 * License Area Population with a minimum of $2,500 per license.
- LMS
  Block A:—$0.0004 * MHz * License Area Population with a minimum of $500 per license.
  Block B:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.
  Block C:—$0.0005 * MHz * License Area Population with a minimum of $500 per license.

24. The specific minimum opening bid for each license available in Auction No. 43 is set forth in Attachment A of the *Auction No. 43 Comment Public Notice*. Comment is sought on this proposal. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the 220 MHz, 800 MHz and LMS spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

C. Minimum Acceptable Bids and Bid Increments

25. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. The Automated Auction System interface will list the nine acceptable bid amounts for each license. Once there is a standing high bid on a license, the Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described. The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment*. The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (i.e., the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

26. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts for licenses that have not yet received a bid will be calculated differently, as explained.

27. For Auction No. 43, the Bureau proposes to calculate minimum acceptable bids by using a smoothing methodology, as the Bureau has done in several other auctions. The smoothing formula calculates minimum acceptable bids by first calculating a *percentage increment*, not to be confused with the *bid increment*, for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology tailors the percentage increment for each license based on activity, rather than setting a global increment for all licenses.

28. In a given round, the calculation of the percentage increment for each license is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

Equations

$A_i = (C * B_i) + ((1-C) * A_{i-1})$

I_{i+1} = smaller of $((1 + A_i) * N)$ and M

$X_{i+1} = I_{i+1} * Y_i$

where,

A_i = activity index for the current round (round i)

C = activity weight factor

B_i = number of bids in the current round (round i)

A_{i-1} = activity index from previous round (round i-1), A_0 is 0

I_{i+1} = percentage increment for the next round (round i+1)

N = minimum percentage increment or percentage increment floor

M = maximum percentage increment or percentage increment ceiling

X_{i+1} = dollar amount associated with the percentage increment

Y_i = high bid from the current round

29. Under the smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the high bid from the current round plus the dollar amount associated with the percentage increment, with the result rounded to the nearest thousand if it is over $10,000, to the nearest hundred if it is under $10,000 but over $1,000, or to the nearest ten if it is below $1,000.

Examples

License 1

C=0.5, N = 0.1, M = 0.2

Round 1 (2 New Bids, High Bid = $1,000,000)

i. Calculation of percentage increment for round 2 using the smoothing formula:

$A_1 = (0.5 * 2) + (0.5 * 0) = 1$
I_2 = The smaller of $((1 + 1) * 0.1) = 0.2$ or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 2 (using I_2):
$X_2 = 0.2 * \$1,000,000 = \$200,000$.

iii. Minimum acceptable bid for round 2 = $1,200,000.

Round 2 (3 New Bids, High Bid = $2,000,000)

i. Calculation of percentage increment for round 3 using the smoothing formula:
$A_2 = (0.5 * 3) + (0.5 * 1) = 2$
I_3 = The smaller of $((1 + 2) * 0.1) = 0.3$ or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 3 (using I_3):
$X_3 = 0.2 * \$2,000,000 = \$400,000$

iii. Minimum acceptable bid for round 3 = $2,400,000.

Round 3 (1 New Bid, High Bid = $2,400,000)

i. Calculation of percentage increment for round 4 using the smoothing formula:
$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$
I_4 = The smaller of $((1 + 1.5) * 0.1) =$ 0.25 or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 4 (using I_4):
$X_4 = 0.2 * \$2,400,000 = \$480,000$

iii. Minimum acceptable bid for round 4 = $2,880,000

30. As stated, until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described, and the minimum opening bid. That is, I = (minimum opening bid)(1 + N){rounded}-(minimum opening bid). Therefore, when N equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

31. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

32. The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. The Bureau seeks comment on these proposals.

D. Information Regarding Bid Withdrawal and Bid Removal

33. For Auction No. 43, the Bureau proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By using the Remove Selected Bids function in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment.

34. Once a round closes, a bidder may no longer remove a bid. However, in any subsequent round, a high bidder may withdraw its standing high bids from previous rounds using the Withdraw function in the bidding system. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions, of the Commission rules. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

35. In the *Part 1 Third Report and Order*, 63 FR 2315 (January 15, 1998) the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

36. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 43 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

E. Stopping Rule

37. For Auction No. 43, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers, or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

38. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 43:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.

ii. Keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds.

39. The Bureau proposes to exercise these options only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Bureau seeks comment on these proposals.

IV. Conclusion

40. Comments are due on or before September 21, 2001, and reply comments are due on or before September 28, 2001. An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW., Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules. In addition, one copy of each pleading must be delivered to each of the following locations: (i) The Commission's duplicating contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC 20554; (ii) Office of Media Relations, Public Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554; (iii) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Room 4–A628, 445 Twelfth Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

41. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 01–23360 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–37–H (Auction No. 37); DA 01–2148]

Auction for FM Non-Reserved Band FM Allotments

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the postponement of Broadcast Auction No. 37 for vacant non-reserved band FM allotments.

FOR FURTHER INFORMATION: Kathy Garland, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (717) 338–2888; Kenneth Burnley, Legal Branch, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (202) 418–0660; or Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released September 14, 2001. The complete text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 863–2898. It is also available on the Commission's Web site at *http://www.fcc.gov*.

General Information

The Wireless Telecommunications Bureau and the Mass Media Bureau (collectively, the "Bureaus") announce the postponement of Auction No. 37 for vacant non-reserved band FM allotments, which was previously scheduled to begin on December 5, 2001.

On July 3, 2001, the United States Court of Appeals for the District of Columbia Circuit in *National Public Radio, Inc. et al.*, v. *FCC, Nos. 00–1246, 00–1255* (decided July 3, 2001) ("NPR") vacated the portion of the Commission's Noncommercial Report and Order, 65 FR 36375 (June 8, 2000), that required noncommercial educational ("NCE") entities that applied for authorizations in the non-reserved spectrum to participate in auctions with mutually exclusive commercial applicants. Each of the vacant non-reserved FM band allotments included in Auction No. 37 is potentially impacted by NPR. The Bureaus announce that they will postpone Auction No. 37 while the Commission formulates its response to the NPR decision. Therefore, the previously announced filing window for FCC Form 175 submissions is cancelled, and Auction No. 37 FCC Form 175 applications will not be accepted as previously scheduled. Further information, including a revised FM Auction No. 37 schedule, will be announced in forthcoming Commission notices.

Federal Communications Commission.

Lisa Scanlan,

Supervisory Attorney, Audio Services Division, Mass Media Bureau.

[FR Doc. 01–23498 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2502]

Petitions for Reconsideration of Action in Rulemaking Proceedings

September 13, 2001.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC, or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by October 5, 2001. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of FM Table of Allotments (MM Docket No. 98–162).

Number of Petitions Filed: 1.

Subject: Amendment of FM Table of Allotments (MM Docket No. 97–178).

Number of Petitions Filed: 1.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23496 Filed 9–19–01; 8:45 am]

BILLING CODE 6712–01–M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 9 a.m. on Friday, September 21, 2001, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum re: 2001—2006 Strategic Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. James D. LaPierre, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: September 14, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–23610 Filed 9–18–01; 12:00 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011539–008.

Title: Libra/Lykes/ML Space Charter and Sailing Agreement.

Parties: Companhia Libra de Navegação, Lykes Lines Limited LLC, TMM Lines Limited LLC.

Synopsis: The proposed agreement modification deletes the Atlantic Coast of Florida from, and adds Puerto Rico to, the geographic scope of the agreement.

Agreement No.: 011560–003.

Title: The Transatlantic Bridge Agreement.

Parties: The COSCO/KL Transatlantic Vessel Sharing Agreement; The KL/YM Transatlantic Vessel Sharing Agreement.

Synopsis: The proposed amendment extends the termination date of the agreement to October 31, 2002, and provides for five additional container vessels to be deployed by the parties.

Agreement No.: 011561–003.

Title: COSCO/KL Transatlantic Vessel Sharing Agreement.

Parties: China Ocean Shipping Group Company, Kawasaki Kisen Kaisha, Ltd.

Synopsis: The proposed amendment extends the termination date of the agreement to October 31, 2002; provides for a further one-year extension clause; and provides for an increase in vessel load capacity from 2,000 TEUs to 3,500 TEUs.

Agreement No.: 011562–004.

Title: KL/YM Transatlantic Vessel Sharing Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd.; Yangming Marine Transport Corporation.

Synopsis: The proposed amendment extends the termination date of the agreement to October 31, 2002, and provides for an increase in vessel load capacity from 2,800 TEUs to 3,500 TEUs.

Agreement No.: 201006–002.

Title: New Orleans-Ceres Gulf Lease Agreement.

Parties: Board of Commissioners of the Port of New Orleans Ceres Gulf, Inc.

Synopsis: The amendment changes the termination date of the agreement to October 31, 2002, and provides an option for one three-year extension.

Agreement No.: 201086–002.

Title: Oakland-Zim Lease Agreement.

Parties: City of Oakland, Board of Port Commissioners Zim-American Israeli Shipping Co., Inc.

Synopsis: The proposed amendment provides for the early termination of the agreement and reflects a financial settlement in connection with that termination.

By Order of the Federal Maritime Commission.

Dated: September 14, 2001.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 01–23351 Filed 9–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10 a.m.—September 26, 2001.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Ocean Shipping Reform Act Impact Study; Docket No. 01–01—The Impact of the Ocean Shipping Reform Act of 1998.

CONTACT PERSON FOR MORE INFORMATION: Bryant L. VanBrakle, Secretary, (202) 523–5725.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–23623 Filed 9–18–01; 12:15 pm]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 15701N.

Name: Global Shipping & Travel Service, Inc.

Address: 172–25 Jamaica Avenue, Jamaica, NY 11432.

Date Revoked: January 14, 2001.

Reason: Failed to maintain a valid bond.

License Number: 14953N.

Name: Speedway Cargo Services, Inc.

Address: 147–55 175th Street, #102, Jamaica, NY 11434.

Date Revoked: August 27, 2001.

Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–23352 Filed 9–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicant

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant:

Plus System, Inc. dba PSI Express, 2263 W. 255th Street, Lomita, CA 90717, Officers: Dong T. Oh, President, (Qualifying Individual), Kang N. Oh, Secretary

Dated: September 14, 2001.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 01–23353 Filed 9–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 4, 2001.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. William R. Baierl, Allison Park, Pennsylvania; Baierl Chevrolet, Inc., Wexford, Pennsylvania; Carole A. Baierl, and the William R. Baierl Trust (Trustees: William R. Baierl, Sandra Bussee and Lee W. Baierl), all of Allison Park, Pennsylvania; to acquire outstanding voting shares of NSD Bancorp, Inc., Pittsburgh, Pennsylvania, and thereby indirectly acquire voting shares of Northside Bank, Pittsburgh, Pennsylvania.

Board of Governors of the Federal Reserve System, September 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23355 Filed 9–19–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 15, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. DNB Bancshares, Inc., Dallas, Texas, and DNB Delaware Financial Corporation, Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Dallas National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, September 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23354 Filed 9–19–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 15, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Williamstown Mutual Holding Company, Williamstown, Massachusetts; to become a bank

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holding company by acquiring 100 percent of the voting shares of Williamstown Savings Bank, Williamstown, Massachusetts.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Venture Bancshares, Inc., Bloomington, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Venture Bank, Bloomington, Minnesota, a de novo bank.

Board of Governors of the Federal Reserve System, September 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23472 Filed 9–19–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR) Revision of SF 503, Medical Record—Autopsy Protocol

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR revised the SF 503, Medical Record—Autopsy Protocol to:

1. Collect information on the sponsor of the patient;

2. Delete "grade; rank; rate;" from "PATIENT'S IDENTIFICATION" item and replace with "ID no. (SSN or other)";

3. Add standard information fields; and

4. Make the form authorized for local reproduction.

You can obtain the updated form from GSA, Forms–XR, Attn.: Barbara Williams, (202) 501–0581.

DATES: Effective September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: September 12, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–23357 Filed 9–19–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Notice of Program Announcement No. ACF/ACYF/HS 2002–01]

Discretionary Announcement for Select Service Areas of Early Head Start; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

ACTION: Notice of availability of Early Head Start financial assistance for select service areas and request for applications.

SUMMARY: The Administration on Children, Youth and Families announces financial assistance to be competitively awarded to local public and local non-profit and for-profit private entities—including Early Head Start and Head Start grantees—to provide child and family development services for low-income families with children under age three and pregnant women. Early Head Start programs provide early, continuous, intensive and comprehensive child development and family support services on a year-round basis to low-income families. The purpose of the Early Head Start program is to enhance children's physical, social, emotional, and intellectual development; to support parents' efforts to fulfill their parental roles; and to help parents move toward self-sufficiency.

The funds available will be competitively awarded to eligible applicants to operate Early Head Start programs in select service areas. (See Parts I and II of Appendix A for a listing of select service areas.)

Grants will be competitively awarded to eligible applicants, including current Head Start and Early Head Start grantees, to operate Early Head Start programs in select service areas. In awarding these grants, ACYF is interested in assuring that those communities currently served (i.e., the service areas listed in Parts I and II of Appendix A) will have an opportunity to continue receiving services for low-income families with infants and toddlers and pregnant women through Early Head Start. In addition, ACYF wants to ensure continued services for families who are currently receiving EHS services in these communities.

Applicants in each select service area will compete for funds against other applicants wishing to serve the same select service area.

DATES: The closing date and time for receipt of applications for service areas listed in Part I of Appendix A is 5 p.m. (EST) on December 3, 2001.

The closing date and time for receipt of applications for service areas listed in Part II of Appendix A is 5 p.m. (EST) on April 1, 2002.

Note: Applications should be submitted to the ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209. However, prior to preparing and submitting an application, in order to satisfactorily compete under this announcement, it will be necessary for potential applicants to read the full announcement which is available through the addresses listed below.

ADDRESSES: A copy of the program announcement, necessary application forms, and other appendices can be obtained by contacting: Early Head Start, ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209. The telephone number is 1–800–351–2293. Or e-mail to: *ehs@lcgnet.com*

Copies of the program announcement and necessary application forms can be downloaded from the Head Start Web site at: *www.acf.dhhs.gov/programs/hsb*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209 or telephone: 1–800–351–2293 or e-mail to: *ehs@lcgnet.com*

SUPPLEMENTARY INFORMATION:

Eligible Applicants: Applicants eligible to apply to become an Early Head Start program are local public and local non-profit and for-profit private entities. Early Head Start and Head Start grantees are eligible to apply.

Project Duration: The competitive awards made through this announcement will be for one-year budget periods and an indefinite project period. Subsequent year budget awards will be made non-competitively, subject to availability of funds and the continued satisfactory performance of the applicant. Current EHS grantees in good standing, who submit acceptable applications, will be given priority in funding decisions.

Federal Share of Project Costs: In most cases, the Federal share will not be more than 80 percent of the total approved costs of the project.

Matching Requirements: Grantees that operate Early Head Start programs must, in most instances, provide a non-Federal contribution of at least 20 percent of the total approved costs of the project.

Available Funds: See Parts I and II of Appendix A for the list of the select service areas and for the amount of funding available for each area.

Anticipated Number of Projects To Be Funded: It is estimated that there will be one award for each of the select service areas.

Statutory Authority: The Head Start Act, as amended, 42 U.S.C. 9831 *et seq.*

Evaluation Criteria

Competing applications for financial assistance will be reviewed and evaluated on the six criteria which are summarized below. The point values following each criterion indicate the numerical weight each criterion will be accorded in the review process.

Criterion 1. Objectives and Need for Assistance (15 points)

The extent to which, based on community assessment information, the applicant identifies any relevant physical, economic (e.g., poverty in the community), social, financial, institutional, or other issues which demonstrate a need for the Early Head Start program.

The extent to which the applicant lists relevant program objectives that adequately address the strengths and needs of the community.

The extent to which the applicant describes the population to be served by the project.

The extent to which the applicant gives a precise location and rationale for the project site(s) and service area to be served by the proposed project.

Criterion 2. Results or Benefits Expected (10 points)

The extent to which the applicant identifies the results and benefits to be derived from the project and links these to the stated objectives.

The extent to which the applicant describes the kinds of data to be collected and how they will be utilized to measure progress towards the stated results or benefits.

Criterion 3. Approach (25 points)

The extent to which the applicant demonstrates a thorough knowledge and understanding of the Head Start Program Performance Standards.

The extent to which the applicant explains why the approach chosen is effective in light of the needs, objectives, results and benefits described above.

The extent to which the approach is grounded in recognized standards and/or guidelines for high quality service provision or is defensible from a research or "best practices" standpoint.

Criterion 4. Staff and Position Data and Organization Profiles (15 points)

The extent to which the proposed program director, proposed key project staff, the organization's experience, including experience in providing early, continuous, and comprehensive child and family development services, and the organization's history with the community demonstrate the ability to effectively and efficiently administer a project of this size, complexity and scope.

The extent to which the applicant's management plan demonstrates sufficient management capacity to implement a high quality Early Head Start program.

The extent to which the organization demonstrates an ability to carry out continuous improvement activities.

Criterion 5. Third Party Agreements/Collaboration (15 points)

The extent to which the applicant presents documentation of efforts (letters of commitment, interagency agreements, etc.) to establish and maintain ongoing collaborative relationships with community partners.

The extent and thoroughness of approaches to combining Early Head Start resources and capabilities with those of other local child care agencies and providers to provide high quality child care services to infants and toddlers which meet the Head Start Program Performance Standards.

Criterion 6. Budget and Budget Justification (20 points)

The extent to which the program's costs are reasonable in view of the planning and activities to be carried out and the anticipated outcomes.

The extent to which the program has succeeded in garnering cash or in-kind resources, in excess of the required Federal match, from local, State, other Federal or private funding sources. The extent to which costs for facilities are reasonable and cost effective.

The extent to which the salaries and fringe benefits reflect the level of compensation appropriate for the responsibilities of staff.

The extent to which assurances are provided that the applicant can and will contribute the non-Federal share of the total project cost.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need not take action regarding Executive Order 12372.

Applications for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to the ACF, they should be addressed to: William Wilson, Head Start Bureau, Grants Officer, 330 C Street SW, Room 2220, Washington, DC 20447. Attn: Early Head Start Competition for Select Service Areas.

A list of the Single Points of Contact for each State and Territory can be found on the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*

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(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 14, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

Appendix A

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION

State and county	FY 2002 funding level	Service area (local community)
Part I: Applications for Part I Are Due December 3, 2001		
Alabama:		
Jefferson	$1,265,357	Birmingham, Bessemer, Tarrant City, Centerpoint, Adamsville, Grayville, Brookville, Sayre, Roebuck, Ensley, Forrestdale, Gardendale, and other small unincorporated areas.
Lee	708,461	Entire County.
Russell	.....	Entire County.
Alaska: None.		
Arizona: None.		
Arkansas: None.		
California: Alameda	2,135,387	West Oakland, San Antonio, Fruitvale, Central East Oakland and Elmhurst.
Colorado: None.		
Connecticut: Fairfield	763,728	City of Stamford.
Delaware:		
New Castle	1,603,987	Entire County.
Kent	.....	Entire County.
Sussex	518,022	Georgetown.
Florida: Broward	753,581	Pompano Beach, Hollywood.
Georgia:		
Whitfield	758,754	Entire County, except south of Tilton and north of Varnell.
Murray	.....	Entire County, except north of Eton and south to North Georgia Speedway.
Hawaii: None.		
Idaho:		
Bonner	1,229,383	Community of Sand Point.
Kootenai	.....	Cities of Coeur d'Alene, Post Falls and surrounding areas.
Nez Perce	443,846	Nez Perce County, Idaho, except Nez Perce Reservation; also serving Asotin County in the State of Washington.
Illinois: Cook	1,138,266	New City, West Englewood, and Englewood Communities.
Indiana: None.		
Iowa: None.		
Kansas: None.		
Kentucky:		
Bourbon	2,211,967	Entire County.
Fayette	.....	Entire County.
Harrison	.....	Entire County.
Nicholos	.....	Entire County.
Scott	.....	Entire County.
Louisiana: Orleans Parish	2,001,807	Entire Parish.
Maine: None.		
Maryland: None.		
Massachusetts: Suffolk	1,178,252	City of Boston.
Michigan:		
Ionia	892,986	Entire County.
Isabella	.....	Entire County.
Gratiot	.....	Entire County.
Montcalm	.....	Entire County.
Chippewa	1,571,440	Bay Mills Reservation.
Baraga	.....	Keweehaw Reservation.
Gogebic	.....	Lac Vieux Desert Reservation.
Menominee	.....	Hannahville Reservation.
Delta	.....	Little Traverse Bay Band Reservation.
Emmet	.....	Little Traverse Bay Band Reservation.
Charlevoix	.....	Pokagom Reservation.
Otsego	.....	Pokagom Reservation.
Cass	.....	Pokagom Reservation.
Berrien	.....	Entire County.
Van Buren	.....	Entire County.
Minnesota: None.		
Mississippi:		
Calhoun	1,332,293	Entire County.
Lauderdale	.....	Meridian.
Leflore	.....	Greenwood.

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Perry	.....	Entire County.
Printiss	.....	Entire County.
Warren	.....	Vicksburg.
Missouri: None.		
Montana: None.		
Nebraska: Douglas	1,224,593	*City of Omaha:* an area bordered on the North by I–680; on the East by the Missouri River; on the South by Harrison Street (Sarpy County Line); and on the West by 72nd Street.
Nevada:		
Clark	1,290,433	Las Vegas, North Las Vegas and Henderson.
Elko	.....	Entire County.
Whitepine	.....	Entire County.
New Hampshire: None.		
New Jersey: None.		
New Mexico:		
Bernalillo	1,906,549	Within Bernalillo County, boundaries are described as the following: (1) Eastern boundary is the Sandia Mountains, south to Kirtland AFB, west to Wyoming Blvd., and north to Indian School. (2) Eastern boundary is Wyoming Blvd, south to Kirtland AFB, west to Louisiana at San Pedro at Louisiana, and north to Copper. (3) Eastern boundary is the Sandia Mountains, south to Indian School, west to Eubank and north to the Bernalillo County line. (4) Eastern boundary is Eubank on the East, south to Indian School, west to San Mateo, south to Indian School at Montgomery, and north to the Bernalillo County line. (5) Eastern boundary is San Mateo, south to the I–40 Freeway at Candelaria, west to Rio Grande and Edith, and north to Ortega Road. (6) Eastern boundary is Rio Grande River, south to Bridge Street, west to 98th Street, and north to I–40. (7) Eastern boundary is 98th Street, south to 122nd Street at Valley Road, west to 122nd Street, and north to I–40. (8) Eastern boundary is Tapia to Joe Sanchez Road, south to Rio Bravo, west to Coors, and north to Arenal. (9) Eastern boundary is Girard, south to Airport Terminal Road, west to I–25, and north to Coal. (10) Eastern boundary is Val Verde, south to Gibson to Smith, west to Girard, and north to Silver.
San Juan	2,058,806	Entire County, except the Alamo Navajo Reservation.
Santa Fe	.....	Entire County.
Sandoval	.....	Cities of Bernalillo, Cuba, and Rio Rancho.
Torrance	.....	Entire County.
New York: None.		
North Carolina:		
Rowan	1,089,411	Entire County.
Davison	.....	Entire County.
Montgomery	.....	Entire County.
Moore	.....	Entire County.
Stanley	.....	Entire County.
Wayne	1,295,147	Entire County.
North Dakota		
Benson	486,892	Entire County with the exception of the Spirit Lake Reservation boundary.
Ramsey	.....	Entire County with the exception of the Spirit Lake Reservation boundary.
Wells	.....	Entire County.
Ohio: None.		
Oklahoma:		
Creek	1,294,163	Entire County.
Okmulgee	.....	Entire County.
Tulsa	.....	An area bounded on the West by the Creek County line; on the South by the Okmulgee County line; on the East, by Hwy 75, from the Okmulgee County line north to 71st St., east to Peoria Avenue, and north to 15th St; and on the North by 15th Street to the Arkansas River to the Creek County line.
Potawatomi	342,058	The Sac, Fox and Absentee Shawnee Districts of Potawatomi County.
Oregon: Multnomah	2,410,009	*City of Portland:* an area bounded by the Willamette River on the West; the Columbia River on the North; Holgate Blvd on the South; and N.E. 122nd Ave to the East (excluding the Enterprise Zone between N.E. Skidmore and N.E. Tillamook Streets).
	700,900	*City of Portland:* an area bounded by Holgate Avenue on the North; the Multnomah County line to the South; S.E. 45th Street to the West; and 122nd Avenue to the East. After 122nd, the service area extends North to Burnside and out to S.E. 162nd Avenue (Lents Junction).
Pennsylvania: None.		

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EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Rhode Island:		
Bristol	1,204,567	Bristol, Warren and Barrington.
Newport	.....	Entire County.
Providence		Town of East Providence.
South Carolina: None.		
South Dakota:		
Jackson	1,165,251	Pine Ridge Reservation.
Shannon	.....	Pine Ridge Reservation.
Tennessee: None.		
Texas: None.		
Utah: None.		
Vermont: None.		
Virginia: None.		
Washington		
King	805,124	*City of Seattle:* Yesler Terrace, Holly Park, High Point, and Rainer Vista Public Housing Districts.
Snohomish	339,150	City of Everett.
Asotin	(see Nez Perce, ID).	(see Nez Perce, ID).
West Virginia: None.		
Wisconsin: None.		
Wyoming: Fremont	524,629	Wind River Reservation.
District of Columbia: None.		
Commonwealth of Puerto Rico: Municipality of Carolina.	1,177,703	Carolina
Part II: Applications for Part II Are Due April 1, 2002		
Alabama: None.		
Alaska: None.		
Arizona: None.		
Arkansas: Sebastian	379,331	All of wards one and two on the North side of Fort Smith, joined and bordered by the Arkansas River on the North, East and West, ending to the South at Rogers Avenue, Dodson Avenue, and Euper Lane.
California:		
San Diego	4,875,979	Carlsbad, Encinitas, Del Mar, Solana Beach, Escondido, San Diego, Poway, Coronado, La Mesa, El Cajon, Lemon Grove, Santee, Ramona, Palomar Julain, Anza Borrego, Lakeside, Spring Valley, Jamul, Harbinson Crest, Laguna Pine Valley, Mountain Empire, Alpine, Chula Vista, National City, Imperial Beach, Nestor.
San Francisco	1,305,510	Chinatown, Tenderloin, Visitation Valley; and parts of Northbeach, Civic Center, and Bayview Hunters Point.
Shasta	1,905,903	Entire County.
Siskyu	.....	Community of Weed.
Trinity	.....	Cities of Weaverville and Hayfork.
Colorado: None.		
Connecticut: None.		
Delaware: None.		
Florida: Sarasota	355,729	Sarasota, Cities of Newton, Venice and North Port.
Georgia: None.		
Hawaii: Hawaii	511,920	South Kona, North Kona, South Kahala, North Kahala, and Ka'u.
Idaho: None.		
Illinois:		
Champaign	670,476	Entire County.
Cook	681,572	South Chicago and Lower West Side Communities.
St. Clair	1,201,065	District 1: East St. Louis; District 3: Cahokia; Centreville.
Indiana:		
Blackford	748,478	Entire County.
Grant	.....	Entire County.
Howard	769,692	Entire County.
Miami	.....	Entire County.
Marshall	403,585	Entire County.
Starke	.....	Entire County.
Tippecanoe	547,969	Entire County.
Posey	816,194	Entire County.
Vanderburg	.....	Entire County.
Iowa:		
Allamakee	657,202	Entire County.
Clayton	.....	Entire County.
Blackhawk	1,002,046	City of Waterloo.
Des Moines	696,073	Entire County.

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Henry	.....	Entire County.
Lee	.....	Entire County.
Louisa	.....	Entire County.
Kansas:		
Atchinson	577,946	Entire County.
Brown	.....	Entire County.
Doniphan	.....	Entire County.
Jefferson	.....	Entire County.
Leavenworth	.....	Entire County.
Marshall	.....	Entire County.
Nemaha	.....	Entire County.
Pottawatomie	.....	Entire County.
Jackson	.....	Entire County, except the Pottawatomie Reservation.
Kentucky: None.		
Louisiana:		
East Baton Rouge Parish	729,986	*City of Baton Rouge:* Starting at the Long Allen Bridge: East to Plank Road (Highway 67); North to Hooper Road (State Highway 408); Northeast on Hooper Road to Greenwell Springs Road (State Highway 37); South and Southwest on Greenwell Springs Road to Airline Highway; Southeast on Airline Highway to Bayou Manchac; West on Bayou Manchac to the Mississippi River; North to the Long Allen Bridge.
Maine: None.		
Maryland: None.		
Massachusetts: Middlesex	816,234	City of Somerville.
Michigan: None.		
Minnesota:		
Anoka	557,788	Entire County.
Becker	915,940	Entire County.
Hubbard	.....	Entire County.
Mahnomen	.....	Entire County.
Mississippi:		
Lee	1,655,454	Tupelo.
Lafayette	.....	Oxford.
Grenada	.....	Grenada.
Marshall	.....	Byhalia, Holly Springs.
Panola	.....	Batesville.
Pontotoc	.....	Entire County.
Tallahatchie	.....	Glendoro.
Tate	.....	Senatobia.
Tunica	.....	Entire County.
Chickasaw	.....	Houston.
Oktibbeha	.....	Starkville.
Clay	.....	West Point.
DeSota	.....	Walls.
Lowndes	.....	Columbus.
Noxubee	.....	Macon.
Missouri:		
St. Charles	1,470,549	Entire County.
Montgomery	.....	Entire County.
Lincoln	.....	Entire County.
Warren	.....	Entire County.
Montana: None.		
Nebraska:		
Adams	1,255,499	Entire County.
Clay	.....	Entire County.
Franklin	.....	Entire County.
Nuckolls	.....	Entire County.
Webster	.....	Entire County.
Hall	.....	Entire County.
Lancaster	1,246,779	City of Lincoln.
Nevada: None.		
New Hampshire: None.		
New Jersey:		
Hudson	617,135	Union City, North Bergen, West New York, Weehawken, Guttenberg, and Seacaucus.
Passaic	452,329	West Milford, Wayne, Ringwood, Bloomingdale, Little Falls, Haledon, Pompton Lakes, and Hawthorne.
New Mexico: Lea	382,483	Hobbs and Lovington.
New York:		

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
Bronx	1,334,471	(1) 3rd Ave. and Courtland Ave. through E. 161st Street; Grand Ave. through East Featherbed Lane; University Ave through West 182nd Street; East 146th Street through 156th Street; West on St. Anns Ave and Union Ave; (2) Fulton Ave. to Park Ave.; (3) East 171st Street and Prospect Ave. through East 182nd; (4) East 183rd Street and East 187th St. to East Mosholu; (5) North on Longwood Ave. and Boston Rd and Jennings St.; (6) Charlotte St. and White Plains Rd; (7) Sedwick Ave. and Goulden Ave through West 242 St.; (8) West 183rd St. and Grand Concourse through Mosholu to Bruckner Blvd; (9) Mott Haven and Hunts Point (Community Board # 1 & 2); (10) Spuyten Duyvil (Community Board # 8); University Heights (Community Board 17).
Cattaraugus	468,962	Entire County.
Chenango	450,808	Entire County.
Monroe	1,995,614	City of Rochester.
Rensselaer	670,221	Entire County.
Steuben	329,700	Entire County.
Yates		Entire County.
Westchester	941,224	Entire county, excluding the City of White Plains.
Erie	1,277,058	In the City of Buffalo: Teen mothers and pregnant women attending the following high schools: Bennett, Lafayette, Grover Cleveland, Emmerson Vocational, South Park, Riverside, Seneca, Kensington, Alternative, City of Schools, Performing Arts, Buffalo Traditional, Hutch Technical, McKinley, Burgard, and City Honors.
Schenectady	1,057,663	City of Schenectady.
North Carolina:		
Macon	1,373,410	Entire County.
Orange	1,033,956	Entire County.
North Dakota: None.		
Ohio:		
Medina	766,061	Entire County.
Wayne		Entire County.
Oklahoma:		
Choctaw	673,734	Entire County.
McCurtain		Entire County.
Pushmataha		Entire County.
Oklahoma	1,229,092	Oklahoma City: an area bounded on the North by North 50th; on the East by Bryant Avenue; on the South by South 44th; and on the West by Meridian Avenue.
Oregon: None.		
Pennsylvania:		
Bedford	731,016	Entire County.
Centre	898,511	Entire County.
Clearfield		Entire County.
Fulton	324,104	Entire County.
Lackawanna	303,147	Entire County.
Wayne		Entire County.
Pike		Entire County.
Susquehanna		Entire County.
Synder	940,548	Entire County.
Union		Entire County.
Mifflin		Entire County.
Philadelphia	836,403	City of Philadephia: An area bounded by Pine Street on the North; Broad Street on the East; Philadephia Naval Base on the South; and Schuylkill River on the West
Rhode Island: None.		
South Carolina: None.		
South Dakota: Pennington	820,335	Rapid City and the communities of Fox Elder and Rapid Valley within the incorporated limits of Rapid City.
Tennessee: None.		
Texas: Taylor	1,771,957	Abilene Independent School District boundaries.
Utah: None.		
Vermont: None.		
Virginia:		
York	879,473	City of Williamsburg and James City.
Arlington	1,723,326	Entire County.
Loudoun		Entire County.
Prince William		Entire County including Manassas and Manassas Park.
Roanoke	918,305	City of Roanoke.
Washington: None.		

EARLY HEAD START SERVICE AREAS—FY 2002 RECOMPETITION—Continued

State and county	FY 2002 funding level	Service area (local community)
West Virginia:		
Cabel	1,190,620	Cities of Huntington and Barboursville.
Lincoln		Towns of Harts and Ranger.
Wayne		Towns of Crum and Fort Gay.
Wisconsin:		
Dane	901,617	Entire County.
Waukesha	497,681	Entire County.
Wyoming: None.		
District of Columbia: None.		
Commonwealth of Puerto Rico:		
Municipal Government of Santa Isabel	910,972	Santa Isabel.
Municipality of Bayamon	675,044	Bayamon.

[FR Doc. 01-23521 Filed 9-19-01; 8:45 am]
BILLING CODE 4184-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE-046427

Applicant: Ocean Journey, Denver, Colorado.

Applicant requests a permit for acquisition, propagation, educational display, and recovery purposes for the Desert pupfish (*Cyprinodon macularius*) at Colorado's Ocean Journey public aquarium in Denver, Colorado.

Permit No. TE-024755

Applicant: Bureau of Land Management, Kingman Field Office, Kingman, Arizona.

Applicant requests an amendment to an existing permit to allow presence/absence surveys for the Yuma clapper rail (*Rallus longirostris yumanensis*) for recovery purposes within Mohave and Yavapai Counties of Arizona.

Permit No. TE-047349

Applicant: The Oklahoma City Zoo, Oklahoma City, Oklahoma.

Applicant requests a permit for acquisition, propagation, educational display, and recovery purposes for the following species: Bonytail chub (*Gila elegans*); Razorback sucker (*Xyrauchen texanus*); Colorado pikeminnow (*Ptychocheilus lucius*) for their facility in Oklahoma City, Oklahoma.

Permit No. TE-046941

Applicant: Nelson Consulting, Inc., Farmington, New Mexico.

Applicant requests a permit for recovery purposes to conduct surveys for the following species: Southwestern willow flycatcher (*Empidonax traillii extimus*); Black-footed ferret (*Mustela nigripes*); Knowlton cactus (*Pediocactus knowltonii*); Mancos milk-vetch (*Astragalus humillimus*) and Mesa Verde cactus (*Sclerocactus mesae-verdae*) within New Mexico.

Permit No. TE-041879

Applicant: Michele Johnson, Houston, Texas.

Applicant requests a permit for rehabilitation and recovery purposes for the Kemp's Ridley sea turtle (*Lepidochelys kempii*) within Texas.

Permit No. TE-831540

Applicant: City of San Marcos, San Marcos, Texas.

Applicant requests a permit for recovery purposes and educational display for the following species: Fountain darter (*Etheostroma fonticola*); Texas blind salamander (*Typhlomolge rathbuni*) at their facility in San Marcos, Texas.

Permit No. TE-045236

Applicant: SWCA, Inc. Albuquerque, New Mexico.

Applicant requests a permit for recovery purposes to conduct surveys for the Interior least tern (*Sterna antillarum*) within New Mexico.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248-6649; Fax (505) 248-6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Bryan Arroyo,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01-23414 Filed 9-19-01; 8:45 am]
BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: Fish and Wildlife Service.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service

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implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that a Letter of Authorization to take polar bears incidental to oil and gas industry exploration activities in the Beaufort Sea and adjacent northern coast of Alaska has been issued to the following company.

Company: ExxonMobil Production Co
Activity: Exploration
Location: Flaxman Island
Date Issued: August 21, 2001

CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letter of Authorization is issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations "Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000)."

Dated: August 28, 2001.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 01–23407 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice and Agenda for Rescheduled Meeting of the Royalty Policy Committee of the Minerals Management Advisory Board

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of rescheduled meeting.

SUMMARY: The Secretary of the Interior established a Royalty Policy Committee on the Minerals Management Advisory Board to provide advice on the Department's management of Federal and Indian minerals leases, revenues, and other minerals-related policies. Committee membership includes representatives from States, Indian tribes, allottee organizations, minerals industry associations, the general public, and Federal departments. At this rescheduled 13th meeting, the committee will again consider minority and majority reports on sodium/potassium draft valuation regulations. The Coal and Accounting Relief for Marginal Properties Subcommittees will also present reports. A discussion will be held on the appeals process. The MMS will present reports on coal waste piles, program reengineering, royalty-in-kind (RIK) operations, and the Wyoming and Texas section 8g RIK pilot evaluations. Panels comprised of MMS and guest presenters will discuss topical energy issues, such as proposed energy bills and the Administration's National Energy Policy, and the status of MMS's new financial management system.

DATES: The meeting, rescheduled from September 18, 2001, will be held on Thursday, October 18, 2001, 8:30 a.m. to 5:30 p.m. Mountain Standard time.

ADDRESSES: The meeting will be held at the Sheraton Denver West Hotel, 360 Union Boulevard, Lakewood, Colorado, telephone number (303) 987–2000 or (720) 963–2018.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Fields, Royalty Policy Committee Coordinator, Minerals Revenue Management, Minerals Management Service, P.O. Box 25165, MS 300B3, Denver, CO 80225–0165, telephone number (303) 231–3102, fax number (303) 231–3780, e-mail *gary.fields@mms.gov.*

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register** and posted on the Internet at *www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm.* The meetings will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to Mr. Fields, at the email or mailing address listed in the **FOR FURTHER INFORMATION CONTACT** section. Transcripts of committee meetings will be available 2 weeks after each meeting for public inspection and copying at MMS, Building No. 85, Denver Federal Center, Denver, Colorado. Meeting minutes will be posted on the Internet at *www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm* approximately 1 month after the meeting. These meetings are being held under the authority of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. Appendix 1, and Office of Management and Budget Circular No. A–63, revised.

Dated: September 17, 2001.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 01–23592 Filed 9–18–01; 1:16 pm]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA–403 and 731-TA–895–897 (Final)]

Pure Magnesium From China, Israel, and Russia

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

SUMMARY: The Commission is revising its schedule for the subject investigations as follows: the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on October 11, 2001; the deadline for filing posthearing briefs is October 16, 2001; the Commission will make its final release of information on October 26, 2001; and final party comments are due on October 30, 2001.

EFFECTIVE DATE: September 13, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Media should contact Peg O'Laughlin (202–205–1819), Office of External Relations. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 14, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23361 Filed 9–19–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Section 107 of CERCLA

Notice is hereby given that on August 24, 2001, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, in *United States of America* v. *Advanced Resin Systems, Inc.*, No. H–99–4357, a case brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607. The proposed Consent Decree resolves civil claims of the United States against Dixie Chemical Company, Inc. ("Dixie") in connection with the Archem Site, located in Texas. Dixie will pay a total of $350,000.00 to the United States in reimbursement of response costs incurred at the Site by the United States Environmental Protection Agency.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States of America* v. *Advanced Resin Systems, Inc.*, DJ No. 90–11–2–1328/1.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, 515 Rusk, Ste. 3300, Houston, Texas 77002, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC. 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $3.75, payable to the Consent Decree Library.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23367 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Judgments Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Alcolac, Inc., et al.*, Civ. No. 01–4097 (AJL), DOJ #90–11–3–06297, was lodged in the United States District Court for the District of New Jersey on August 28, 2001. The consent decree partially resolves the liability of seventy-eight (78) defendants under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), relating to the PJP Superfund Site located in Jersey City, New Jersey (the "Site").

Under the proposed consent decree, the settling defendants will pay the sum of $233,000 toward reimbursement of the United States' past response costs for the Site in return for a covenant not to sue for past response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Alcolac, Inc. et al.*, DOJ #90–11–3–06297. The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Room 502, Newark, New Jersey 07102; and at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278. Copies of the consent decree may be obtained by mail from the Consent Decree Library, United States Department of Justice, PO Box 7611 Ben Franklin Station, Washington, DC 20044. In requesting a copy of the consent decree, please enclose a check in the amount of $28.50 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23365 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Section 107 of CERCLA

Notice is hereby given that on September 6, 2001, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, in *United States of America* v. *Atlantic Richfield Company, et al.*, No. H–98–0408, a case brought under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607. The proposed Consent Decree resolves civil claims of the United State and the State of Texas against 28 Settling Defendants and third party defendants in connection with the Sikes Disposal Pits Superfund Site, located in Crosby, Texas. The Settling Defendants will pay a combined total of $120,000,000, plus interest, in reimbursement of response costs incurred at the Site by the United States and the State of Texas. Under the Consent Decree, the United States will receive $111,300,000, plus interest, and the State of Texas will receive $8,700,000, plus interest.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States of America* v. *Atlantic Richfield Company, et al.*, DJ No. 90–11–3–1419. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource, Conservation & Recovery Act ("RCRA"), 42 U.S.C. 6973 (d).

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, 515 Rusk, Ste. 3300, Houston, Texas 77002, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents

per page) in the amount of $16.25, payable to the Consent Decree Library.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23366 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 4, 2001, a proposed consent decree in *United States* v. *Ciba specialty Chemicals Corporation, et al.*, Civil Action No. 01–CV–4223, was lodged with the United States District Court for the District of New Jersey.

In this action, the United States alleges under, *inter alia*, Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9606 and 9607, that Ciba Specialty Chemicals Corporation and Novartis Corporation are liable for injunctive relief and the federal government's costs in responding to the release of threatened release of hazardous substances at the Ciba-Geigy Superfund Sited in Toms River, Ocean County, New Jersey (the Site). Under the terms of the proposed consent decree, the settling defendants will implement cleanup actions relating to source control and soils at the Site and will pay the United States the sum of $250,000 with respect to the United States' claims. This settlement, in conjunction with earlier settlements in this matter, will result in the United States recovering over $170 million in cash and work in relation to the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed partial consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Ciba Specialty Chemicals Corporation, et. al.*, Civil Action No. 01–CV–4233, D.J. Ref. 90–11–2–289/1.

The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102, and at U.S. Environmental Protection Agency Region II, 290 Broadway, New York, New York 10007–1866. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. If requesting a copy of the proposed consent decree without appendices, please so note and enclose a check in the amount of $11.00 (25 cent per page reproduction cost). If requesting a copy of the proposed consent decree with appendices, please so note and enclose a check in the amount of $56.00.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23364 Filed 9–19–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2169–01]

Aliens Seeking Relief Pursuant to Settlement Agreement in *Walters* v. *Reno*

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: On February 22, 2001, the district court approved a class action settlement agreement in the case of *Walters* v. *Reno*, which had challenged the Immigration and Naturalization Service's (Service) implementation of the civil document fraud provisions of section 274C of the Immigration and Nationality Act (Act). This notice details the procedures for requesting joint motions to re-calendar, reopen or remand removal proceedings pursuant to the settlement agreement and for requesting refunds for section 274C civil money penalties previously paid to the Service. This notice informs class members of their rights for administrative and judicial review of determinations made pursuant to the settlement agreement. Class members have until August 21, 2003, to file requests for motions to re-calendar, reopen or remand deportation proceedings and for refunds.

DATES: This notice is effective September 20, 2001.

FOR FURTHER INFORMATION CONTACT: Warren McBroom, Immigration and Naturalization Service, 425 I Street, NW, Suite 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 2001, the district court approved a class action settlement agreement in the case of *Walters* v. *Reno*, Civ. No. 94–1204C (W.D. WA). The lawsuit challenged the Service's implementation of the civil document fraud provisions of section 274C of the Act. Specifically, certain aliens claimed that the Service's procedures and forms inadequately informed them of their rights to dispute or contest charges that they committed document fraud in violation of section 274C of the Act.

Pursuant to the agreement, on August 21, 2001, the Service completed vacating all section 274C final orders issued against class members. The Service is not permitted to recharge such class members under section 274C of the Act for the same conduct charged in the original Notice of Intent to Fine (NIF). Further, the Service is not permitted to charge class members as being deportable under section 237(a)(3)(C) of the Act or inadmissible under section 212(a)(6)(F) of the Act based on the same conduct charged in the original NIF.

The settlement agreement requires the Service, in certain instances, to join in a motion to re-calendar, reopen or remand deportation proceedings. The settlement agreement also provides class members with avenues for administrative and judicial review of any determinations made pursuant to the settlement agreement. Finally, the settlement agreement permits class members who previously paid section 274C civil money penalties to the Service to seek refunds for such payments.

Who is Considered a Class Member Under the *Walters* v. *Reno* Settlement Agreement?

All non-citizens who waived or failed to request a hearing under Section 274C of the Immigration and Nationality Act ("INA") after being served, prior to October 1996, with the charging forms and a notice of intent to fine challenged in *Walters* v. *Reno*.

The settlement agreement in *Walters* v. *Reno*, however, does *not* include any alien who was the subject of a notice of intent to fine if the alien did request a hearing under section 274C before an administrative law judge in the Office of the Chief Administrative Hearing Officer, as provided in 28 CFR part 68. Thus, an alien who is subject to a section 274C final order is not a class member if he or she had requested a hearing with respect to that order, and, accordingly, the provisions of the settlement agreement and this Notice do not apply in that situation.

The settlement agreement also does not include any alien who is served with a revised section 274C notice of intent to fine form created pursuant to the agreement.

In Which Cases Will the Service Join in a Motion To Re-Calendar a Deportation Proceeding That Was Administratively Closed?

The Service will join a class member whose section 274C order was vacated pursuant to the settlement agreement in a motion to re-calendar deportation proceedings that were administratively closed by either an immigration judge or the Board of Immigration Appeals (Board) pending final resolution of the issues involved in *Walters* v. *Reno*.

In Which Cases Will the Service Join in a Motion To Reopen or Remand Deportation Proceedings?

The Service is required to join a class member in a motion to reopen or remand deportation proceedings, but only if all of the following conditions apply:

(1) The original proceedings were based, in whole or part, on a section 274C final order vacated pursuant to the settlement agreement; and

(2) The Service receives a written request from the class member by August 21, 2003; and

(3) The class member either:

(i) Is no longer deportable as a result of the section 274C final order being vacated; or

(ii) Is seeking to apply for relief from deportation or removal for which he or she is prima facie eligible, as a result of the section 274C final order being vacated, under the law in effect when his or her written request is received by the Service.

How Does a Class Member Submit a Request for a Motion To Reopen or Remand Deportation Proceedings?

Class members seeking a motion to reopen or remand deportation/removal proceedings pursuant to the settlement agreement must file a request, in writing, with the Service. The written request must be submitted to the Service Office of the District Counsel where the deportation/removal proceedings were completed before the immigration judge. Class members may obtain the address for the local district counsel by contacting the National Customer Service Number at 1–800–375–5283 or accessing the Service internet web site at *http://www.ins.usdoj.gov*.

What is the Deadline for Submitting a Request for Reopening or Remand of Deportation Proceedings?

The written request must be physically received by the Service no later than August 21, 2003. A written request received by the Service after that date is not timely regardless of when it was mailed.

Will the Service Deport or Remove a Class Member While His or Her Motion To Reopen or Remand Proceedings Is Pending?

No. If the Service agrees to join in a motion to reopen or remand, the Service will refrain from action to deport or remove the alien while the motion is pending before the immigration judge or the Board.

When Will the Service Decline To Join in a Class Member's Motion To Reopen or Remand Deportation or Removal Proceedings?

The Service will decline to join in a motion to reopen or remand deportation proceedings as provided in this Notice in any of the following instances:

(1) If a class member is not prima facie eligible to apply for relief from deportation or removal, as a result of the section 274C final order being vacated, under the law in effect when his or her written request is received by the Service;

(2) If the class member fails to make a written request to the Service (or the Service fails to receive such a request) by August 21, 2003; or

(3) If the prior deportation or removal order was not based, in whole or part, on section 274C of the Act.

What Rights Do Class Members Have if the Service Does Not Agree To Join in a Motion To Reopen or Remand Deportation or Removal Proceedings?

If the Service declines to join in a motion to reopen or remand deportation or removal proceedings as provided in this Notice, the Service will send a written decision to the alien's last known address. The alien will then have 60 days from the date of this written decision to file a motion with the United States District Court for the Western District of Washington. The district court's decision shall be limited to a determination as to whether the class member has established by clear and convincing evidence that he or she met the requirements for the joint motion.

Will the Service Deport or Remove a Class Member While He or She Is Waiting for the District Court To Review a Decision by the Service To Not Join the Motion To Reopen or Remand Deportation Proceedings as Provided in the Settlement Agreement?

No, the Service will refrain from taking enforcement action while a class member's motion for review as provided in the settlement agreement is pending with the district court. However, if the class member fails to file a motion for review with the district court within 60 days of the date of the Service's written decision, the Service may proceed with deportation or removal. Also, if the district court denies a class member's motion for review and the court decision becomes final after all appellate rights have been exhausted, the Service may proceed with deportation or removal.

The Service, however, may only remove a class member if there is at least one other ground of deportability or inadmissibility that is unrelated to the class member's vacated section 274C final order.

Will the Service Inform a Class Member of His or Her Rights and Responsibilities Under the Settlement Agreement if It Seeks To Take Enforcement Action on a Class Member's Deportation or Removal Order?

Yes. Until August 21, 2003, if the Service seeks to take enforcement action to deport or remove a class member based in part on a section 274C order, the Service will provide written notice to the class member of his or her rights. The Service will also advise the class member of his or her right to counsel at his or her own expense, and will provide the name, address, and telephone number of plaintiffs' counsel. The Service will refrain from taking enforcement action on a class member's deportation or removal order for 30 days from the date of the written notice, providing the class member with time to submit a written request to the Service to recalendar, reopen or remand the deportation or removal proceedings pursuant to the settlement agreement.

If the Service does not receive a class member's request by the end of the 30-day period, the Service may proceed with enforcement action on the deportation or removal order, but only if the deportation or removal order is based on at least one ground of deportability or inadmissibility unrelated to the class member's vacated section 274C final order.

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Can a Class Member Still Pursue a Motion To Reopen or Remand Deportation Proceedings if He or She Is Outside the United States?

Yes. If a class member who is currently outside the United States files a written motion to reopen or remand deportation proceedings, and the Service agrees to join in the motion, the Service will arrange to either parole the alien into the United States or offer some alternative method for the alien to enter to pursue his or her claim.

If the Service declines to join in such a motion filed by a class member who is currently outside the United States, and the alien seeks judicial review as provided by the settlement agreement, the Service will arrange to either parole the class member into the United States or offer some alternative method for the alien to enter at the appropriate time for the limited purpose of attending any evidentiary hearing related to proceedings before the district court.

Will the Service Pay for a Class Member's Travel Expenses and Accommodations While in the United States?

The Service will not pay expenses for class members. All class members are responsible for their own travel arrangements, accommodations, and expenses during the pendency of deportation proceedings (or district court proceedings).

Class members also must provide proof to the Service and the Department of State consular officer that they have sufficient documentation and resources to depart the United States at the conclusion of a deportation or removal hearing. Evidence can include a roundtrip ticket and unexpired passport or other documents to permit lawful return to the country of departure. The Service retains the right to inspect and challenge authenticity of this documentation before a class member is paroled or permitted entry into the United States. The Service also retains full authority under the Act to detain any class member who returns to the United States during this period of time.

Are Class Members Entitled to a Refund if They Previously Paid a Civil Money Penalty for a Section 274C Violation?

Yes, class members who previously paid a section 274C civil money penalty are eligible to receive a refund. Refunds will only be for the amount charged on the original NIF and will not include interest.

To request a refund, class members must submit a request, in writing, along with supporting documentation (which can include the original NIF and a copy of the check or money order indicating that the Service processed the payment) that clearly establishes that the section 274C civil money penalty amount charged on the NIF was previously paid to the Service.

The written request must be mailed to the Service's Debt Management Center at the following address: U.S. Immigration and Naturalization Service, Eastern Regional Office 1888 Harvest Lane, Williston, VT 05495–7554.

The written request must be physically received by this Service office by August 21, 2003.

Class members whose requests are approved should receive refunds within 90 days of the date the Service receives the refund request.

Dated: September 17, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–23497 Filed 9–17–01; 3:53pm]

BILLING CODE 4410–10–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

Nuclear Management Company, LLC; Duane Arnold Energy Center Draft Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Rated Thermal Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a draft environmental assessment of a request by Nuclear Management Company, LLC (NMC or the licensee), for a license amendment to increase the maximum thermal power level at its Duane Arnold Energy Center (DAEC) from 1658 megawatts thermal (MWt) to 1912 MWt, which is a power increase of 15.3 percent. As stated in the NRC staff's February 8, 1996, position paper on the Boiling-Water-Reactor Extended Power Uprate Program, the staff has the option of preparing an environmental impact statement if it believes an extended power uprate (EPU) will have significant impact on the human environment. The staff did not identify a significant impact from the EPU at DAEC; therefore, the NRC staff is documenting its environmental review in an environmental assessment (EA). In accordance with the February 8, 1996, staff position paper, the draft EA and finding of no significant impact is being published in the **Federal Register** with a 30-day public comment period.

DATES: The comment period expires October 22, 2001. Comments received after this date will be considered if practical to do so, but the Commission is able to assure consideration for only those comments received on or before October 22, 2001.

ADDRESSEES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T 6 D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland 20852, from 7:45 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be available electronically at the NRC's Public Electronic Reading Room (PERR) link (*http://www.nrc.gov/NRC/ADAMS/index.html*) on the NRC Homepage or at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Brenda Mozafari, Office of Nuclear Reactor Regulation, Mail Stop O 8 H–2, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–2020, or by e-mail at blm@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC is considering issuance of an amendment to Facility Operating License No. DPR–49, issued to NMC, for the operation of the Duane Arnold Energy Center (DAEC), located on the Cedar River in Linn County, Iowa.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow NMC, the operator of DAEC, to incrementally increase its electrical generating capacity by raising the maximum reactor core power level from 1658 MWt to 1912 MWt, 15.3 percent above the current maximum licensed power level. The change is considered an EPU for a BWR because it would raise the reactor core power level more than approximately 7 percent above the original maximum licensed power level. A previous 4.1-percent power uprate, implemented in 1985, raised the original maximum power level from 1593 MWt to 1658 MWt. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements.

The proposed action is in accordance with NMC's application for amendment dated November 16, 2000, as supplemented April 16 (2 letters), April 17, May 8 (2 letters), May 10, May 11 (2 letters), May 22, May 29, June 5, June 11, June 18, June 21, June 28, July 11, July 19, July 25, August 1 (2 letters), August 10, August 16, and August 21, 2001, and NMC's "Supplement to DAEC Environmental Report," submitted on September 22, 2000, in advance of the application.

Need for the Proposed Action

Alliant Energy—IES Utilities (Alliant), the principal owner of DAEC,[1] has compared the projected load growth to its electrical generating capacity and has determined a need for additional capacity in its territory. Alliant's obligated capacity is expected to increase by 2 percent per year. The proposed EPU would add 80 megawatts of electrical generating capacity to the grid. The estimated cost of adding this generating capacity is approximately half the cost of purchasing power and one-third the cost of providing the power by constructing a new combined-cycle, natural-gas-fueled facility. Therefore, Alliant concluded that increasing DAEC's capacity would be the most economical option for increasing power supply. Furthermore, unlike fossil fuel plants, DAEC does not routinely emit sulfur dioxide, nitrogen oxide, carbon dioxide, or other atmospheric pollutants.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating license for DAEC, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of DAEC, which was issued in March 1973. The original operating license for DAEC allowed a maximum reactor power level of 1593 MWt. On September 22, 2000, NMC submitted a supplement to its Environmental Report supporting the proposed EPU action and provided a summary of its conclusions concerning the environmental impacts of the proposed action. Based on the NRC staff's independent analyses of the nonradiological and radiological impacts and the evaluation performed by the licensee, the staff has concluded that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES because the EPU does not involve extensive changes to plant systems that directly or indirectly interface with the environment. Additionally, the licensee states that no changes to the National Pollutant Discharge Elimination System permit issued by the State would be necessary.

[1] On January 10, 2001, the NRC published in the **Federal Register** (66 FR 2009) an Environmental Assessment and Finding of No Significant Impact regarding a requested change to the DAEC operating license to reflect the proposed change in the owner's name from IES Utilities, Inc., to Interstate Power and Light Company. The NRC's final action regarding the requested name change is pending.

Nonradiological Impacts

The following is the NRC staff's evaluation of the nonradiological environmental impacts of the EPU on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at DAEC.

Land Use Impacts

The proposed EPU would not modify the land use at the site, nor have any impacts on lands with historic or archeological significance. The licensee states that it has no plans to construct any new facilities or alter the land around existing facilities, including buildings, access roads, parking facilities, laydown areas, onsite transmission and distribution equipment, or power line rights-of-way, in conjunction with the EPU. The EPU would not significantly affect the storage of materials, including chemicals, fuels, and other materials stored above or under the ground. The EPU would not alter the aesthetics of the site. Therefore, the FES conclusions for impacts on land use would remain valid under EPU conditions.

Water Use Impacts

The staff evaluated surface water use and groundwater use as environmental impacts of water usage at DAEC.

Surface Water Use

An EPU is accomplished by increasing the heat output of the reactor, thereby increasing the steam flow to the turbine, for which increased feedwater flow is needed. The increased heat load on the cooling tower would cause evaporative losses to increase; therefore, cooling tower makeup to the circulating water system increases to compensate for the increase in evaporative losses. Cooling tower makeup at DAEC is supplied by the Cedar River and well water systems. The EPU would not change the amount of water withdrawn from the well water system. The EPU would require an increase in river water use; however, the licensee stated that DAEC would not use more river water than permitted. In accordance with the water appropriation limits of the Iowa Department of Natural Resources (IDNR), DAEC may withdraw a maximum of 12,575 million gallons per year (MGY) from the Cedar River at a rate of 27,000 gallons per minute (gpm) minus the total well water withdrawal rate (3000 gpm). Special operating restrictions apply at lower-than-average river flows if the withdrawal would reduce the river flow to less than 500 cubic feet per second (cfs). A maximum flow rate of 11,000 gpm and an annual withdrawal rate of 5782 MGY were analyzed in the FES. During the years 1996 through 1999, the flow at DAEC averaged 5680 gpm. The licensee predicts the flow will be 6700 gpm under EPU conditions. The predicted flow average under EPU conditions is approximately 40 percent less than that analyzed in the FES and is below the IDNR-permitted limits. In the period 1996–1999, the annual withdrawal rate at DAEC averaged 3000 MGY; the licensee projects it will be 3540 MGY under EPU conditions. The 3540 MGY projected average flow withdrawal rate is also below the value evaluated in the FES and the IDNR-permitted limit of 12,575 MGY. The EPU would have no impact on the number of cooling tower concentration cycles or on the cooling tower flow rate. Therefore, current water appropriation limits would be maintained and the conclusions in the FES would remain valid under the proposed EPU conditions.

Groundwater Use

The staff evaluated the consumption of groundwater as an environmental impact of the proposed EPU. Groundwater use at DAEC is governed by a permit issued by the IDNR. The permit limits DAEC to 1575 MGY with the flow from all pumps not to exceed 3000 gpm. A maximum flow rate of 1500 gpm and a withdrawal rate of 788 MGY were evaluated in the FES. The average annual groundwater withdrawal rate for DAEC is 762 MGY, with a normal system flow averaging 1420 gpm.

The licensee stated that the proposed EPU would not increase the consumption of groundwater, would not impact the well water system flow path, and does not require any additional cooling capacity from the groundwater in order to shed heat loads. Therefore, the staff's conclusions in the FES on groundwater use are valid for the proposed EPU.

Discharge Impacts

The staff evaluated environmental impacts such as cooling tower fogging, icing, drift, noise, chemical discharges to surface water, sanitary waste discharges, blowdown, thermal plume spread, temperature of the river water, cold shock to aquatic biota, hazardous waste effluents, and air emissions.

Cooling Tower Fogging, Icing, Drift, and Noise

Environmental impacts such as fogging, icing, cooling tower drift, and noise could result from the increased heat load on the cooling tower under EPU conditions. In the FES, the staff concluded that the operation of the DAEC cooling towers may slightly increase fogging and icing in nearby areas. The staff stated that cooling tower drift was estimated to be a maximum of 0.1 percent of cooling water flow, or 0.65 cubic feet per second (290 gpm). The estimates were based on anticipated evaporation and drift rates of 2.25 percent and 0.5 percent of tower flow, respectively. The licensee stated that the total hours of fogging would increase by approximately 1.1 hour per year above the nominal 240 hours per year, and that icing would be insignificant. The proposed EPU would not change the cooling tower flow or drift rate; however, the evaporation rate was calculated to increase to approximately 3 percent.

Since the original analysis in the FES, the cooling towers at DAEC have been upgraded by replacing the wooden drift eliminators with polyvinyl chloride (PVC) drift eliminators. The PVC drift eliminators allow water droplets to return to the cooling tower air stream and channel water to the cooling tower's cold water basin, which reduces evaporation and drift losses. Consequently, the licensee's analysis of the effect of the EPU on fogging is conservative.

After considering the increase in heat load on the cooling towers, the staff concluded that the incremental effects of fog attributable to the proposed EPU would be negligible and would continue to be bounded by the FES. Other cooling tower impacts, such as drift and icing, would not be expected to change as a result of the EPU. Therefore, the staff finds that the conclusions in the FES for fogging, icing, and cooling tower drift would be valid under the proposed EPU conditions.

The FES also stated that the operation of the cooling towers would result in a noticeable, but acceptable, increase in the noise level at the nearest dwelling. The proposed EPU would not significantly change the character, sources, or energy of noise generated at DAEC. The new equipment necessary to implement the EPU would be installed within existing plant buildings and no significant increase in ambient noise levels within the plant would be expected. Therefore, the FES conclusions for noise levels would remain valid under EPU conditions.

Chemical and Sanitary Discharges

Surface water and wastewater discharges are regulated by the State of Iowa. The National Pollutant Discharge Elimination System (NPDES) permit is periodically reviewed and reissued by the IDNR. The present NPDES permit for DAEC authorizes discharges from two outfalls, only one of which would be affected by the EPU.

The use of chemicals and their subsequent discharge to the environment would not be expected to change significantly as a result of the proposed EPU. The cooling tower concentration cycle would remain within the current range of 3.5 to 4.0. Therefore, the concentration of pollutants in the effluent stream would remain the same. No changes to the sanitary waste systems or to the parameters regulated by the NPDES permit would be needed to accomplish the EPU. Sanitary waste from DAEC is discharged directly to the DAEC sewage treatment plant in accordance with a permit from the State of Iowa.

Blowdown

Total discharge would increase linearly with blowdown flow. It is anticipated that the blowdown flow would increase 18 percent as a result of the EPU. Blowdown for the circulating water system is discharged into the Cedar River. The FES conservatively assumed a blowdown flow rate of 4000 gpm. The actual blowdown flow rate is 1570 gpm and the blowdown flow rate calculated for EPU conditions would be 1850 gpm. During winter, the season which DAEC discharges would have the greatest impact on river water temperature, the actual average blowdown temperature is 30 degrees Fahrenheit (°F) less than that assumed in the FES. The EPU would increase the blowdown discharge temperature by approximately 1.6 °F. Typical discharge temperatures and flow rates are below the current limits so it would not be necessary to modify the NPDES permit to implement the proposed EPU.

Thermal Plume Spread and Temperature of River Water

The actual average blowdown flow rate is 1,570 gpm. The FES assumed a value of 4,000 gpm. The increased values for uprated power blowdown temperature and flow are still bounded by the calculation of the FES. Consequently, the FES conclusions remain valid. The FES concluded that the thermal plume would be less than 1 acre in area and would reach less than a quarter of the reach across the river. The EPU would increase the discharge temperature by 1.6 °F and the flow rate by 18 percent. However, the EPU would not noticeably increase the plume size.

Under worst-case winter conditions, the 2 °F isotherm was predicted to extend about 250 feet downstream with a width of about 70 feet. A discharge temperature of 72 °F for the month of January was analyzed in the FES. Historically, in winter, when discharges would have the greatest impact on river water temperature, the actual average blowdown temperature is 30 °F less than that assumed in the FES. The average discharge temperature (from 1961 to 1990) for the month of January was 36 °F, and, as stated above, the EPU would increase the discharge temperature by only 1.6 °F. Consequently, the actual size of the thermal plume is smaller than predicted in the FES.

Under worst-case summer conditions, with the same assumptions and data used to calculate the circulating water discharge temperature, the 2 °F isotherm was predicted to extend about 75 feet downstream of the discharge point with a width of about 35 feet. Thermal mapping conducted in August 1989, demonstrated the conservative nature of the assumptions in the FES. The mapping was performed at 100–percent reactor power. The 2 °F isotherm extended to between 100 and 150 feet downstream, and was restricted to within 10 feet of the bank (*i.e.* 10 feet wide). At 150 feet downstream, there was no detectible plume. The total plume area was less, therefore, than that predicted for the 2 °F isotherm in the FES, and, as stated above, the EPU would not noticeably increase the plume size. The staff concludes the plumes for both summer and winter cases are bounded by the FES. The conditions analyzed in the FES would be expected to remain valid under the proposed EPU conditions.

Cold Shock

Cold shock to an aquatic biota occurs when the warm water discharge from a plant abruptly stops because of an unplanned shutdown, resulting in a temperature drop of the river water and the possible adverse impact on aquatic biota. The probability of an unplanned shutdown is independent of a power uprate. As discussed previously, the discharge canal temperature at EPU conditions would be at least 10 °F less than the value evaluated in the FES. Additionally, the plume size would not increase appreciably under power uprate conditions and would be smaller than analyzed in the FES. Therefore, the risk of aquatic biota mortality by cold shock would continue to be bounded by the conclusions in the FES.

Hazardous Waste Generation and Air Emissions

Hazardous waste generated from routine plant operations and air emissions from the plant heating boiler and diesel generators are controlled by county permits. A power uprate would not have a significant impact on the quality or quantity of effluents from these sources, and operation under EPU conditions would not reduce the margin to the limits established by the applicable permits. Therefore, the conclusions in the FES would remain valid.

Terrestrial Biota Impacts

The proposed EPU would not result in a land disturbance that could adversely impact the habitat of any terrestrial plant or animal species. The licensee stated that according to a recent review by the IDNR, there were no known rare or endangered terrestrial species within the area of the site boundary. Additionally, the licensee stated that land use would remain the same as evaluated in the FES. Therefore, the staff's conclusions in the FES about the impact on terrestrial ecology, including endangered and threatened plant and animal species, would remain valid for the proposed EPU.

Aquatic Biota Impacts

The impacts of operation of the river water intake include impingement of fish on the traveling screens at the intake structure and the entrainment of benthic organisms. The losses associated with the impingement and entrainment of organisms were assessed in the FES and were judged to be insignificant. The effect of the EPU on the impingement and entrainment of organisms also would be insignificant. Fish impingement totals are typically less than 500 fish per year and are considered to be very low, considering the size and composition of the fish population in the Cedar River. Additionally, the licensee stated that there were no known rare or endangered aquatic species in the plant site vicinity. Therefore, the staff's conclusions in the FES as to impingement, entrainment, and endangered and threatened aquatic species would remain valid for the proposed EPU.

Transmission Facility Impacts

Environmental impacts, such as exposure to electromagnetic fields (EMFs) and shock could result from a major modification to transmission line facilities. However, the licensee stated that no change would be made to the existing transmission line design or operation as a result of the proposed EPU. Higher main transformer capacity would be necessary to deliver the additional power to the offsite grid and certain modifications to offsite substations are being planned to enhance stability at various grid locations. These modifications are consistent with Alliant's program of systematic improvements in grid stability and its commitments to the Mid-Continent Area Power Pool and the Mid-America Interconnected Network; modifications would be performed within existing substations. Therefore, no significant environmental impacts from any changes in transmission facilities design and equipment are expected, and the conclusions in the FES would remain valid.

The rise in generator output associated with EPU would slightly increase the current and the EMFs in the onsite transmission line between the main generator and the plant substation. The line is located entirely within the fenced, licensee-controlled boundary of the plant, and neither members of the public nor wildlife are expected to be affected. Exposure to EMFs from the offsite transmission system is not expected to increase significantly and any such increase is not expected to change the staff's conclusion in the FES that no significant biological effects are attributable to EMFs from high voltage transmission lines.

DAEC transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code and the EPU would not cause the transmission line design to deviate from the NESC provisions. Therefore, the slight expected increase in current attributable to the proposed EPU does not change the staff's conclusion in the FES that adequate protection is provided against hazards from electrical shock.

Social and Economic Impacts

The staff has reviewed information provided by the licensee regarding socioeconomic impacts, including possible impacts on the DAEC workforce and the local economy. DAEC employs more than 500 people and is a major contributor to the local tax base. DAEC personnel also contribute to the tax base by paying sales and property taxes. The proposed EPU would not significantly affect the size of the DAEC workforce and would have no material effect on the labor force required for future outages. Because the plant modifications needed to implement the EPU would be minor, any increase in sales taxes and local and national business revenues would be negligible relative to the large taxes paid by DAEC. It is expected that improving the economic performance of DAEC through cost reductions and lower total bus bar costs per kilowatt hour would enhance the value of DAEC as a generating asset and lower the probability of early plant retirement. Early plant retirement might have a negative impact upon the local economy and the community as a whole by reducing public services, employment, income, business revenues, and property values, although these reductions might be mitigated by decommissioning activities in the short term. The staff expects that conclusions in the FES regarding social and economic impacts would remain valid under EPU conditions.

The staff also considered the potential for direct physical impacts of the proposed EPU, such as vibration and dust from construction activities. The proposed EPU would be accomplished primarily by changes in station operation and a few physical modifications to the facility. These limited modifications would be accomplished without physical changes to transmission corridors, access roads, other offsite facilities, or additional project-related transportation of goods or materials. Therefore, no significant additional construction disturbances causing noise, odors, vehicle exhaust, dust, vibration, or shock from blasting are anticipated, and the conclusions in the FES would remain valid.

Summary

In summary, the proposed EPU would not result in a significant change in nonradiological impacts on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, or social and economic factors, and would have no nonradiological environmental impacts other than those evaluated in the FES.

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TABLE 1.—SUMMARY OF NONRADIOLOGICAL ENVIRONMENTAL IMPACTS OF AN EPU AT DAEC

Land Use Impacts	No change in land use or aesthetics; would not impact lands with historic or archeological significance.
Water Use Impacts	
Surface Water Use	Increase in river water withdrawal rate to 3540 MGY; withdrawal rate would remain within permitted levels, and within levels evaluated in the FES.
Groundwater Use	No change in groundwater use.
Discharge Impacts:	
Fogging	Increase in total hours of fogging per year by 1.1 hour.
Icing	No significant change in icing.
Cooling Tower Drift	No significant change in cooling tower drift.
Noise	No significant change in noise.
Chemical and Sanitary Discharge	No expected change to chemical use and subsequent discharge, or sanitary waste systems; cooling towers would operate in the current cycle range. No changes to sanitary waste discharges.
Blowdown	Increase in blowdown by 18%; blowdown would remain within the permitted limits.
Thermal Plume and Temperature of the River Water	No noticeable increase in thermal plume size. Discharge temperature increase by 1.6 °F; river temperature would remain within National Pollution Discharge Elimination System limit of 9 °F.
Hazardous Waste and Air Emissions	No changes to hazardous waste sources or air emissions.
Terrestrial Biota Impacts	No change in terrestrial biota impacts; no known threatened or endangered species within the site boundary.
Aquatic Biota Impacts:	No change in aquatic biota impacts; no known threatened or endangered species in the area of surface water intake or discharge.
Transmission Line Facility Impacts	No change to transmission line design or operation; higher main transformer capacity would be needed to deliver additional power and these changes would be made within existing substations; no change in exposure to EMFs.
Social and Economic Impacts	No significant change in size of DAEC workforce. Few modifications to physical station facility. No significant disturbances from noise, odor, vehicle exhaust, dust, vibration, or shock would be expected from construction.

Radiological Impacts

The staff evaluated radiological environmental impacts on waste streams, in-plant and offsite doses, accident analyses, and fuel cycle and transportation factors. The following is a general description of the waste treatment streams at DAEC and an evaluation of the environmental impacts.

Radioactive Waste Stream Impacts

DAEC uses waste treatment systems designed to collect, process, and dispose of radioactive gaseous, liquid, and solid waste in accordance with the requirements of 10 CFR Part 20 and Appendix I to 10 CFR part 50. These radioactive waste treatment systems are discussed in the FES. The proposed EPU would not affect the environmental monitoring of these waste streams or the radiological monitoring requirements contained in licensing basis documents. The proposed EPU would not result in any changes in operation or design of equipment in the gaseous, liquid, or solid waste systems. The proposed EPU would not introduce new or different radiological release pathways and would not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled radioactive release. The staff evaluated any changes in the gaseous, liquid, and solid waste streams for radiological environmental impact of the proposed EPU, as set forth below.

Gaseous Radioactive Waste Impacts

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environs, including small quantities of noble gases, halogens, particulates, and tritium, so that routine offsite releases from station operation remain below the limits of 10 CFR part 20 and Appendix I to 10 CFR part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190). The gaseous waste management systems include the offgas system and various building ventilation systems. The proposed EPU assumes an increase in the release rate that is linearly proportional to power increase, and an increase in gaseous effluents would, therefore, occur. The resultant effluent increases in noble gas and iodine-131 activity are 0.3 and 4E–07 microcuries per second, respectively. The staff has evaluated information provided by the licensee and concludes that the estimated dose values would be below Appendix I requirements after the EPU. These dose levels are very small, and have no significant impact on human helath. The effluents for noble gases and effluents are well below those evaluated in the FES. Therefore, the conclusions in the FES would remain valid under EPU conditions.

Liquid Radioactive Waste Impacts

The liquid radwaste system is designed to process and recycle (to the extent practicable) the liquid waste collected so that annual radiation doses to individuals are maintained below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix I. DAEC operates as a zero radioactive liquid release plant. The staff expects no change in the zero release policy as a result of the proposed EPU.

Filter backwashing provides decanted sludge water into the liquid radwaste system. Increasing the reactor thermal power by 15 percent would increase the frequency of backwashing necessary to decant backwash water from the reactor water cleanup condensate demineralizer filters by approximately 8 to 10 percent. However, since Alliant maintains a zero radioactive liquid release to the environment, the slight increase in flow to the liquid radwaste system would be recycled instead of discharged.

The EPU conditions would not result in significant increases in the volume of fluid from other sources flowing into the liquid radwaste system. The reactor would continue to be operated within its present pressure control band. Valve packing leakage volume into the liquid radwaste system is not expected to increase. There would be no changes in reactor recirculation pump seal flow or the flow of any other normal equipment drain path. In addition, there would be no impact on the dirty radwaste or chemical waste subsystems of the liquid radwaste system as a result of the EPU since the operation and the inputs to these subsystems are independent of power uprate. Based on information submitted by the licensee, the staff concludes that no significant dose increase in the liquid pathway would result from the proposed EPU. Therefore, the conclusions in the FES would remain valid under EPU conditions.

Solid Radioactive Waste Impacts

The solid radioactive radwaste system collects, monitors, processes, packages, and provides temporary storage facilities for radioactive solid wastes prior to offsite shipment and permanent disposal. DAEC has implemented procedures to assure that the processing and packaging of wet and dry solid radioactive waste and irradiated reactor components are accomplished in compliance with the regulations.

Wet Waste: The largest volume contributors to radioactive solid wet waste are the spent resin and filter sludges from the process wastes. Equipment waste from operation and maintenance activities, chemical wastes, and reactor system wastes also contribute to solid waste generation. The staff expects that the process wastes generated from the operation of the reactor water cleanup filter demineralizers and the condensate demineralizers will increase by no more than 10 percent. More frequent reactor water cleanup backwashes are anticipated under EPU conditions due to water chemistry limits. The licensee estimates that the backwashes would increase by approximately 8 to 10 percent, resulting in an additional 3 cubic meters of resin waste per year. The resultant total generation rate of approximately 36 cubic meters per year (CMY), is about half the current industry median value of 85 CMY and well below the FES assumed value of 697 CMY. The EPU would not involve changes in either reactor water cleanup flow rates or filter performance. The staff concludes that implementation of the proposed EPU would not have a significant impact on the volume or activity of wet radioactive solid waste at DAEC.

Dry Waste: Dry waste consists of air filters, miscellaneous paper and rags from contaminated areas, contaminated clothing, tools and equipment parts that cannot be effectively decontaminated, and solid laboratory wastes. The activity of much of this waste is low enough to permit manual handling. Dry waste is collected in containers located throughout the plant, compacted as practicable, and then sealed and removed to a controlled-access enclosed area for temporary storage. Because of its low activity, dry waste can be stored until enough is accumulated to permit economical transportation to an offsite processing facility or a burial ground for final disposal. DAEC has indicated that there will be no significant change in the amounts, level of controls, or methodology used for the processing dry radioactive waste at DAEC. The staff concludes that implementation of the proposed EPU should not have a significant impact on the volume or activity of the dry solid radioactive waste at DAEC.

Irradiated Reactor Components: Irradiated reactor components, such as spent control blades, in-core ion chambers, and fuel assemblies, must be disposed of after the life of the component. The volume and activity of waste generated from spent control blades and in-core ion chambers might increase slightly under the higher flux conditions associated with power uprate conditions. This increase would be mitigated by improved longer-lived local power range monitor strings, improved lower-cobalt-content control rod blades, and longer fuel cycles. Additionally, reactor equipment waste is stored in the spent fuel storage pool before removal to in-plant or offsite storage and final disposal in shielded containers or casks. Because of the mitigating effects of extended burnup and increased U–235 enrichment compared to the burnups and enrichment evaluated in the original FES, implementing the EPU would not be likely to have a significant impact on the amount of irradiated reactor components discharged from the reactor.

DAEC plans to load 152 fresh fuel bundles in the initial refueling to commence operation under the EPU. This is approximately 30 bundles more than for the current refueling cycle. Because of the mitigating effects of extended burnup and increased U–235 enrichment on fuel throughput under power uprate operating conditions, the number of irradiated fuel assemblies discharged from the reactor would not increase during subsequent reloads. Additionally, the 24-month operating cycle would result in one less fuel reload before the license expiration. These wastes are currently stored in the spent fuel pool and are not shipped off site. The staff concludes that implementation of the proposed EPU should not have a significant impact on the volume or activity of the irradiated reactor components at DAEC.

The staff has generically evaluated the annual environmental impact of low- and high-level solid wastes for a 1000 MWe reference reactor. The estimated activity of these wastes is given in Table S–3 in 10 CFR 51.51 and would be bounding under the proposed EPU conditions.

Dose Impacts

The staff evaluated in-plant and offsite radiation as part of its review of environmental impacts of the proposed EPU.

In-Plant Radiation

Increasing the rated power at DAEC might increase the radiation levels in the reactor coolant system; however, these potential increases would be compensated for by physical plant improvements and administrative controls, such as shielding, feedwater chemistry, and the plant radiation protection program. Over the past 7 years, DAEC has decreased the occupational dose to DAEC workers by 15 percent per year (based on a rolling 3-year average). The licensee stated that it expects to continue its downward trend while operating under the proposed EPU conditions. The staff evaluated shielding, dose reduction programs, and corrosion as part of its evaluation.

Shielding: DAEC was conservatively designed with respect to shielding and radiation sources. In the shielding analysis, the assumed concentrations for reactor water fission and corrosion products were 4 microcuries per cubic centimeter and 0.06 microcuries per cubic centimeter, respectively. The normal value of both reactor water fission and corrosion products is 0.01 microcuries per cubic centimeters. With expected increases in operating activity proportional to the proposed power increase, the design shielding assumptions remain bounding at EPU conditions.

Feedwater Chemistry: The original design was based on an assumed value for nitrogen-16 (N–16) concentration of 100 microcuries per gram. To support the injection of hydrogen into the feedwater, the licensee conducted a special test in 1989 to evaluate the impact and efficacy of injection rates of up to 45 standard cubic feet per minute (scfm). The licensee stated that the results of this test led to an injection rate of 6 scfm, which yields an acceptable recirculating system electrochemical potential and no discernable N–16 dose rate increase. Between October 1994 and October 1996, the hydrogen injection rate was increased to 15 scfm to extend corrosion

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protection to portions of the core internals, with a resultant increase in dose rates of 3.3 times the rates without hydrogen injection. Although occupancy in some areas was restricted, no shielding modifications were required to maintain radiation levels within acceptable levels. Since 1996, DAEC has undertaken a noble metals injection program to protect the core internals from corrosion by reducing hydrogen use. As a result, the current operational hydrogen injection rate is 6.0 scfm. The 20-percent increase in the N–16 dose rate from EPU would not affect the acceptability of the shielding design.

The equilibrium activity concentration of corrosion products that have plated out on reactor coolant piping and other surfaces may theoretically increase by the square of the power uprate increase. This is primarily due to the linear increase in corrosion products in the primary system from the feedwater flow increase and the linear increase in activation events from the core average flux increase. However, this potential increase would be mitigated by four dose reduction programs at DAEC:

1. Oxygen injection in the condensate system started in 1987.
2. Recirculating system chemical decontaminations in 1990, 1992, 1993, and 1995.
3. Stellite reduction efforts started in 1993.
4. Depleted zinc addition started in 1994.

As a result of these efforts, the concentration of soluble cobalt-60 in the reactor water has decreased from 1.3E–04 microcuries per milliliter in early 1987 to 2.7 E–05 microcuries per milliliter in 2000. The potential increases in the volume and activity of activated corrosion products at EPU operating conditions would not negate these efforts, and it is expected that concentrations would continue to decline under EPU conditions. Consequently, operating and shutdown radiation levels would not increase under EPU conditions.

Plant Radiation Protection Program: The plant radiation protection program would be used to maintain individual doses consistent with as-low-as-reasonably-achievable policies and below the established limits of 10 CFR part 20. Routine plant radiation surveys required by the radiation protection program would identify increased radiation levels in accessible areas of the plant, and radiation zone postings and job planning would be adjusted, if necessary. Time within radiation areas is controlled under the radiation protection program. Administrative dose control limits are established well below regulatory criteria and provide a significant margin to regulatory dose limits. The licensee stated that administrative dose limits were not routinely exceeded under present power conditions.

On the basis of the above information, the staff concludes that the expected annual collective dose for DAEC, following the proposed EPU, would still be bounded by the dose estimates in the FES.

Offsite Doses

The slight increase in normal operational gaseous activity levels under the EPU would not affect the large margin to the offsite dose limits established by 10 CFR part 20. In addition, doses from liquid effluents, currently zero, would remain zero under EPU conditions.

The DAEC Technical Specifications implement the guidelines of 10 CFR part 50, Appendix I, which are within the 10 CFR Part 20 limits. Adjusting current values for projected EPU increases, the offsite dose at EPU conditions is estimated to be 2.6 E–03 millirads for noble gas gamma air, 1.6E–02 millirads for noble gas beta air, and 6.8E–03 thyroid millirem for particulates and iodine. The Appendix I limits are 10 millirads, 20 millirads, and 15 thyroid millirem, respectively. The offsite dose would continue to be within the Technical Specification dose limits.

The EPU would not involve significant increases in an offsite dose from noble gases, airborne particulates, iodine, or tritium. Radioactive liquid effluents are not routinely discharged from DAEC. In addition, as stated by the Radiological Environmental Monitoring Program for DAEC, radiation from shine is not now a significant exposure pathway, and it would not be significantly affected by the proposed EPU.

The EPU would not create any new or different sources of offsite dose from DAEC operation, and the EPU would not involve significant increases in present radiation levels. Therefore, under EPU conditions, offsite dose would remain well within regulatory criteria and would not have a significant impact. The staff concludes that the estimated doses from both the liquid and gaseous release pathways resulting from EPU conditions are within the design objectives specified by 10 CFR part 50, appendix I, and the limits of 10 CFR part 20.

Accident Analysis Impacts

The staff reviewed the licensee's analyses and performed confirmatory calculations to verify the acceptability of the licensee's calculated doses under accident conditions. The staff concludes that the proposed EPU would not significantly increase the probability or consequences of accidents and would not result in a significant increase in the radiological environmental impact of DAEC under accident conditions. If the license amendment request is approved, the result of the staff's calculations will be presented in the safety evaluation issued with the license amendment.

Fuel Cycle and Transportation Impacts

The EPU would involve an increase in the average enrichment of the fuel bundle. The environmental impacts of the fuel cycle and of transportation of fuel and wastes are described in Table S–3 and S–4 of 10 CFR 51.51 and 10 CFR 51.52, respectively. Table S–3 of 10 CR 51.51 and S–4 of 10 CFR 51.52 were adopted by the licensee after DAEC received its operating license. Consequently, the DAEC FES does not contain a uranium fuel cycle environmental analysis similar to Table S–3. The impacts of transportation are addressed in the Environmental Report and the FES, although the conclusions are not presented in the format of Table S–4. An NRC assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Table S–3 and S–4 to higher burnup cycles and concluded that there is no significant change in environmental impacts for fuel cycles with uranium enrichments up to 5 weight-percent U–235 and burnups less than 60 gigawatt-day per metric ton of uranium (GWd/MTU) from the parameters evaluated in Tables S–3 and S–4. Because the fuel enrichment for the EPU would not exceed 5 weight-percent U–235 and the rod average discharge exposure would not exceed 60 GWd/MTU, the environmental impacts of the proposed EPU would remain bounded by these conclusions and would not be significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of an accident, would not introduce any new radiological release pathways, would not result in a significant increase in occupational or public radiation exposures, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the NRC concludes that no significant radiological environmental impacts are associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the proposed EPU.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF EPU AT DAEC

Radiological Waste Stream Impacts:	
Gaseous Waste	An increase in release rate that is linearly proportional to the power increase would be expected.
Liquid Waste	No change in DAEC zero liquid release policy.
Solid Waste:	
Wet Waste	Backwashes would increase to create approximately 3 cubic meters of resin per year.
Dry Waste	No significant changes.
Irradiated Components	No significant changes.
Dose Impacts	May potentially increase radiation levels; dose would remain within permitted levels in-plant and offsite.
Accident Analysis Impacts	No significant increase in the probability or consequences of an accident.
Fuel Cycle and Transportation	Increase in bundle average enrichment; impacts would remain within the conclusions of Table S–3 and Table S–4 of 10 CFR Part 51.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

As stated previously, the estimated cost of adding this nuclear generating capacity is approximately half the cost projected for purchasing the power and one-third the cost of producing the power by constructing a new combined-cycle, natural-gas-fueled facility. Alliant concluded that increasing DAEC's capacity would be the most economical option for increasing power supply. Furthermore, unlike fossil fuel plants, DAEC does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any resources different than those previously considered in the FES for DAEC, dated March 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on August 23, 2001, the NRC staff consulted with the Iowa State official, Mr. D. McGhee of the Department of Public Health, regarding the environmental impact of the proposed action. The State official had no comment.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated November 16, 2000, as supplemented April 16 (2 letters), April 17, May 8 (2 letters), May 10, May 11 (2 letters), May 22, May 29, June 5, June 11, June 18, June 21, June 28, July 11, July 19, July 25, August 1 (2 letters), August 10, August 16, and August 21, 2001, and NMC's "Supplement to DAEC Environmental Report," submitted on September 22, 2000. Documents may be examined and/or copied for a fee at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, or 301–415–2737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of September 2001.

For the Nuclear Regulatory Commission.

Brenda L. Mozafari,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23447 Filed 9–19–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–413 AND 50–414

Duke Energy Corporation; Catawba Nuclear Station, Units 1 and 2; Notice of Intent To Prepare An Environmental Impact Statement and Conduct Scoping Process

Duke Energy Corporation (Duke) has submitted an application for renewal of operating licenses NPF–35 and NPF–52 for up to an additional 20 years of operation at Catawba Nuclear Station (Catawba), Units 1 and 2. Catawba is located in York County, South Carolina. The application for renewal was submitted by letter dated June 13, 2001, pursuant to 10 CFR Part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on July 16, 2001 (66 FR 37072). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on August 15, 2001 (66 FR 42893). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), Duke submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Part 51 and is available for public inspection at the NRC Public Document Room located at 11555 Rockville Pike (first floor), or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible at http://www.nrc.gov/NRC/ADAMS/

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index.html, (NRC's Public Electronic Reading Room). In addition, the York County Library, located at 138 Black Street, Rock Hill, South Carolina, has agreed to make the ER available for public inspection.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's "Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants," (NUREG–1437) in support of the review of the application for renewal of the Catawba operating licenses for up to an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Duke Energy Corporation.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the Catawba license renewal supplement to the GEIS. The scoping meetings will be held in the Council Chamber at the City Hall, located at 155 Johnston Street, Rock Hill, South Carolina, on Tuesday, October 23, 2001. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7:00 p.m. with a repeat of the overview portions of the meeting and will continue until 10:00 p.m. Both meetings will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by Duke of the proposed action, Catawba license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the Rock Hill City Hall. No scoping comments will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meeting on the NEPA scoping process by contacting Mr. James H. Wilson by telephone at 1 (800) 368–5642, extension 1108, or by Internet to the NRC at jhw1@nrc.gov no later than October 18, 2001. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Wilson's attention no later than October 18, 2001, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by November 22, 2001. Electronic comments may be sent by the Internet to the NRC at CatawbaEIS@nrc.gov. Electronic submissions should be sent no later than November 22, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Wilson at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 13th day of September 2001.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Chief, Risk Informed Initiatives, Environmental, Decommissioning, and Rulemaking Branch, Division of Regulatory Improvements Program, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23446 Filed 9–19–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on October 4–6, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Thursday, October 4, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:15 A.M.: Duane Arnold Core Power Uprate (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, the Nuclear Management Company, Limited Liability Corporation (LLC), and General Electric Nuclear Energy regarding the license amendment request to increase the core thermal power level for the Duane Arnold Energy Center and the associated staff's Safety Evaluation Report (SER). [NOTE: A portion of this session may be closed to discuss General Electric Nuclear Energy proprietary information applicable to this matter.]

10:35 A.M.–12:30 P.M.: Readiness Assessment for Future Plant Designs and the Staff Proposal Regarding Exelon's Regulatory Licensing Approach for the Pebble Bed Modular Reactor (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's readiness assessment for future plant designs and the staff proposal regarding Exelon's regulatory licensing approach for the Pebble Bed Modular Reactor.

1:30 P.M.–2:30 P.M.: Action Plan to Address ACRS Comments and Recommendations Associated with the Differing Professional Opinion (DPO) on Steam Generator Tube Integrity (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's action plan to address the ACRS comments and recommendations, which are included in NUREG–1740, "Voltage-Based Alternative Repair Criteria," associated with the DPO on steam generator tube integrity.

2:45 P.M.–3:45 P.M.: Proposed Resolution of Generic Safety Issue-173A, "Spent Fuel Storage Pool for Operating Facilities" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of Generic Safety Issue-173A and the response to ACRS comments and recommendations included in the June 20, 2000 ACRS report on this matter.

4:00 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting as well as proposed reports on Reactor Oversight Process, EPRI Report on Resolution of Generic Letter 96–06 Waterhammer Issues, and Response to the August 8, 2001 EDO response to the June 19, 2001 ACRS letter on Risk-Based Performance Indicators.

Friday, October 5, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Interim Review of the License Renewal Application for the Turkey Point Nuclear Power Plant and Westinghouse Topical Reports Related to License Renewal (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Florida Power and Light Company regarding the license renewal application for the Turkey Point Nuclear Power Plant Units 3 and 4, Westinghouse Topical Reports related to license renewal, and the associated staff's Safety Evaluation Reports.

10:50 A.M.–11:20 A.M.: Subcommittee Report (Open)—Report by the Chairman of the ACRS Subcommittee on Materials and Metallurgy regarding the results of the September 26, 2001 meeting during which several matters associated with steam generator tube integrity issues, including revised Steam Generator Action Plan were discussed.

11:20 A.M.–12:00 Noon: Safety Culture and Risk-Informing General Design Criteria (Open)—The Committee will hear a presentation by and hold discussions with Mr. J. N. Sorensen, ACRS Senior Fellow, regarding his draft reports on safety culture and on risk-informing General Design Criteria of Appendix A to 10 CFR Part 50.

1:00 P.M.–1:45 P.M.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

1:45 P.M.–2:00 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

2:15 P.M.–3:15 P.M.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss topics for meeting with the NRC Commissioners scheduled for December 5, 2001.

3:15 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, October 6, 2001

8:30 A.M.–2:30 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

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2:30 P.M.–3:00 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Sher Bahadur, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Dr. Sher Bahadur prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Dr. Sher Bahadur if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss proprietary information per 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur (telephone 301–415–0138), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: September 14, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–23445 Filed 9–19–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension

Regulation S, OMB Control No. 3235–0357, SEC File No. 270–315

Rule 13e–3 and Schedule 13E–3, OMB Control No. 3235–0007, SEC File No. 270–1

Form 12b–25, OMB Control No. 3235–0058, SEC File No. 270–71

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Regulation S governs offers and sales of securities made outside the United States without registration under the Securities Act of 1933. Regulation S is assigned one burden hour for administrative convenience because the regulation simply prescribes the disclosure that must appear in other filings under the federal securities laws.

Rule 13e–3 prescribes the filing, disclosure and dissemination requirements in connection with a going private transaction by an issuer or an affiliate. Schedule 13E–3 provides shareholders and the marketplace with information concerning going private transactions that are important in determining how to respond to such transactions. Approximately 300 issuers file Schedule 13E–3 annually and it takes approximately 139.25 hours per response for a total of 41,775 annual burden hours. It is estimated that 25% of the 41,775 total burden hours (10,444 hours) would be prepared by the company.

Form 12b–25 provides notice to the Commission and the marketplace that a public company will be unable to timely file a required periodic report. Form 12b–25 is filed by publicly held companies. Approximately 6,000 issuers file For 12b–25 and it takes approximately 2.5 hours per response for a total of 15,000 burden hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: September 4, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23438 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25147A; 811–03050]

American General Life Insurance Company of New York Separate Account E; Notice of Deregistration

Correction

In Release No. IC–25147, issued on August 31, 2001 (FR Document 01–22508 beginning on page 46850 for Friday, September 7, 2001), the nineteenth entry[1] contained an inadvertent error. The entry incorrectly identified the applicant as A.G. Series Trust and the application amendment date as July 19, 2001. The entry should refer to the applicant by its correct name which is American General Life Insurance Company of New York Separate Account E, and the correct application amendment date of July 18, 2001.

[1] *See* 66 FR 46852.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23435 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Federal Register Citation of Previous Announcement: [65 FR 47251, September 11, 2001].

Status: Closed meeting.

Place: 450 Fifth Street, NW, Washington, DC.

Date Previously Announced: [September 6, 2001].

Change in the Meeting: Additional items.

The following item was added to the closed meeting scheduled for Friday, September 14, 2001: regulatory matters regarding financial institutions.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: September 14, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23523 Filed 9–17–01; 4:46 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 17, 2001: A closed meeting will be held on Friday, September 21, 2001, at 10:00 a.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Friday, September 21, 2001, will be: Institution and settlement of injunctive actions; institution and settlement of administrative proceedings of an enforcement nature; and a formal order.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: September 18, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23707 Filed 9–18–01; 3:50 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934 Rel. No. 44797]

Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond To Market Developments Concerning the American Stock Exchange LLC

September 16, 2001.

The United States securities markets are the world's strongest and most vibrant. The Commission has full confidence that the attacks of September 11, 2001, will have little lasting impact. To that end, the Commission seeks to serve investors and the markets through all available means to facilitate the reopening of fair and orderly markets.

Some of the nation's securities exchanges may have incurred physical damage or disruption that require relocation of trading facilities and personnel to anther suitable physical location. The American Stock Exchange LLC ("Amex"), in particular, has reported that it is not yet able to occupy its trading floor. Amex anticipates that its electronic order routing systems will function as they did before September 11, 2001. However, due to the severe damage to the infrastructure surrounding its building, Amex will relocate part of its operations to the floor of the New York Stock Exchange ("NYSE"). Because there is limited space available at the NYSE, Amex will operate with limited staffing. As a result, specialists will have to serve as floor brokers while performing their usual functions.

Section 12(k)(2) of the Securities Exchange Act of 1934 ("Exchange Act") grants the Commission the authority, in the event of certain major market disturbances, to issue summarily an order to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission. Section 11(a) of the Exchange Act prohibits a member of a national securities exchange from effecting transactions for its own account, the account of an associated person, or an account with respect to which it or an associated person has investment discretion unless an exemption applies. Section 11(b) of the Exchange Act requires a national securities exchange to adopt rules to permit a member to register as a specialist. Section 11(b) of the Exchange Act also prohibits a specialist permitted to act as a broker and dealer to effect on the exchange as a broker any transaction except upon a market or limited price order. Because Amex specialists do not generally act as floor brokers, the Amex rules that govern specialists contain certain restrictions that, unless modified, would impair the ability of Amex specialists to act as floor brokers.

Based on all available information, the Commission has determined that:

(1) Amex's inability to trade on its own floor due to the physical damage to the infrastructure surrounding its premises constitutes a major market disturbance characterized by a substantial threat of sudden and excessive fluctuations of securities prices that threaten the nation's fair and orderly markets.[1]

(2) Ensuring that all national securities exchanges are able to operate provides an important source of liquidity during times of market volatility. Facilitation of the resumption of trading at all of the nation's exchanges is necessary in the public interest and for the protection of investors.

(3) Because space limitations will require Amex personnel to act both as specialists and floor brokers, including

[1] This finding of an "emergency" is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer any right or impose any obligation.

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handling certain large orders over which they have investment discretion, the specialists may not be able to comply with Amex rules for specialists adopted in conformance with Section 11(b). They also may not be able to comply with the restrictions of Sections 11(a) or 11(b) with respect to these discretionary orders.[2] Accommodating this trading, as a temporary measure, is in the public interest and for the protection of investors in order to maintain or restore fair and orderly securities markets.

Therefore, It Is Ordered, pursuant to Section 12(k)(2) of the Exchange Act, that:

Amex specialists shall be temporarily exempt from Section 11(a) solely for effecting transactions when acting as floor brokers for Amex orders on the floor of the NYSE for accounts in which they have investment discretion provided that,

1. the specialist's discretion, when acting as a floor broker, is limited to time and price discretion of the type exercised by floor brokers on the Amex floor prior to September 11, 2001 pursuant to Amex rules;

2. such discretionary orders to be executed by the Amex specialist acting as a floor broker exceed 50,000 shares; and

3., Amex floor officials take reasonable steps to ensure that the specialist meets its agency obligations and does not disadvantage the customers for which it acts as a floor broker;

It Is Further Ordered, That,

Amex specialists shall be temporarily exempt from Section 11(b) solely for effecting transactions as described above;

It Is Further Ordered, That,

The Amex shall be temporarily exempt from Section 11(b) to permit its specialists to effect transactions as described above.

This order shall be effective with respect to the five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001.[3]

[2] While our authority to supplement Exchange Act Sections 11(a) and 11(b) in this context is derived from the Exchange Act, we acknowledge that our action will affect the application of other provisions of the securities laws that require compliance with Sections 11(a) and 11(b). Terms used in this Order have the same meanings as those terms used in Sections 11(a) and 11(b).

[3] The Commission has authority under Section 36 of the Exchange Act to exempt, by order, persons form the requirements of Sections 11(a) and 11(b) of the Exchange Act. Due to exigent circumstances, the procedures for such exemptions established by the Commission under Section 36(b) of the Exchange Act have not yet been followed. The Commission expects that, if necessary, within the period of this order, it could issue a Section 36 order, with appropriate findings and conditions, to provide similar exemptions from Sections 11(a) and 11(b) until the Amex obtains its own space.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23462 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 44791]

Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond to Market Developments

September 14, 2001.

The United States securities markets are the world's strongest and most vibrant. The Commission has full confidence that the attacks of September 11, 2001, will have little lasting market impact. To that end, the Commission seeks to serve investors and the markets through all available means to facilitate the reopening of fair and orderly markets.

Section 12(k)(2) of the Securities Exchange Act of 1934 ("Exchange Act") grants the Commission the authority, in the event of certain major market disturbances, to issue summarily order to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission. On September 11, 2001, the U.S. equities and options markets determined not to open in light of the attacks that morning. The U.S. equities and options markets have remained closed since then. Based on all available information, the Commission has determined that:

(1) Uncertainty concerning the impact of the closure of the U.S. equities and options markets constitutes a major market disturbance characterized by "sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threatens fair and orderly markets." [1] In particular, the Commission seeks to ensure that, when the U.S. equities and options markets reopen for trading, they will not be confronted with undue order imbalances.

(2) Purchases by registrants of their own securities can represent an important source of liquidity during times of market volatility. Registrants may be reluctant to engage in such purchases, however, because of certain securities law requirements. In particular, Exchange Act Rule 10b–18 provides registrants with a safe harbor to effect repurchases, but only if the repurchases meet the conditions specified in the Rule. Certain registrants that recently engaged in or initiated business combinations that otherwise qualify for pooling-of-interests treatment under generally accepted accounting principles also may be reluctant to effect repurchases. In this regard, Regulation S–X, Article 4 (Rules of General Application), Part 4–01, provides in pertinent part that, "Financial statements filed with the Commission which are not prepared in accordance with generally accepted accounting principles will be presumed to be misleading or inaccurate, despite footnote or other disclosures, unless the Commission has otherwise provided."

(3) The Commission understands that some registrants may have internal policies relating to purchases of the registrant's securities during specific time periods. These policies are designed to prevent violations of the antifraud provisions of the federal securities laws. While the antifraud provisions remain in effect, a registrant's failure to comply with those timing policies for purchases by the registrant of its securities during the period covered by the Order will not by itself be considered as any indication that the registrant may have violated the antifraud provisions. In addition, certain persons may refrain from purchase activity that otherwise serves the public interest because of concern about potential profit recovery under Section 16(b) of the Exchange Act.

(4) Temporary action with respect to the conditions of Rule 10b–18, the application of Article 4 of Regulation S–X,[2] and the operation of certain other provisions of the federal securities laws will provide additional flexibility and certainty to registrants and others that consider engaging in purchases of securities when the U.S. equities and options markets reopen for trading. Accordingly, these temporary measures are in the public interest and for the protection of investors in order to maintain or restore fair and orderly securities markets.

[1] This finding of an "emergency" is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer any right or impose any obligation.

[2] While our authority to supplement Regulation S–X in this context is derived from the Exchange Act, we acknowledge that our action will affect filings under other provisions of the securities laws that require filings to be in compliance with Regulation S–X.

Therefore, It Is Ordered, pursuant to Section 12(k)(2) of the Exchange Act, that,

In connection with a Rule 10b–18 purchase [3] or with a Rule 10b–18 bid that is made during the period covered by this Order by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, an issuer, or an affiliated purchaser of the issuer, shall not be deemed to have violated Section 9(a)(2) of the Exchange Act or Rule 10b–5 under the Exchange Act, solely by reason of the time or price at which its Rule 10b–18 bids or Rule 10b–18 purchases are made or the amount of such bids or purchases or the number of brokers or dealers used in connection with such bids or purchases if the issuer or affiliated purchaser of the issuer meets all of the conditions in Rule 10b–18, with the exception that:

(i) The timing condition in paragraph (b)(2) may be satisfied if the issuer makes Rule 10b–18 purchases without regard to whether any such Rule 10b–18 purchase constitutes the opening transaction in a reported or exchange traded security or whether any such purchase would occur during the one-half hour before the scheduled close of trading on the primary market for such security; and

(ii) The volume condition in paragraph (b)(4) may be satisfied if the issuer makes all Rule 10b–18 purchases other than block purchases of a reported or exchange traded security in an amount that, when added to the amount of all other Rule 10b–18 purchases, other than block purchases, from or through a broker or dealer effected by or for the issuer or an affiliated purchaser of the issuer on that day, does not exceed 100 percent of the trading volume (determined on the basis of the 4 calendar weeks preceding the week beginning on September 10, 2001) for the security; and

It Is Further Ordered, That,

Notwithstanding the pooling-of-interests provisions in Accounting Principles Board Opinion No. 16, Business Combinations, and the related interpretations of the American Institute of Certified Public Accountants, consensuses of the Financial Accounting Standards Board's Emerging Issues Task Force, rules and regulations of the Commission and interpretations by its staff, and other authoritative accounting guidance, acquisitions by registrants of their own equity securities during the period covered by this Order will not affect the availability of pooling-of-interests accounting and, accordingly, a registrant's financial statements will not be misleading or inaccurate solely because the registrant has engaged in such purchases and has accounted for its business combination transactions as a pooling of interests; and

It Is Further Ordered, That,

Notwithstanding the profit recovery provisions of Section 16(b) of the Exchange Act and the rules adopted under it, any purchase during the period covered by this Order by a person subject to Section 16 shall be exempt from the operation of that section with respect to any sale by that person during the preceding six months, and accordingly shall not be matched with such sale. The purchase continues to be reportable on Form 4 under Section 16(a) of the Exchange Act. The Form 4 should use transaction code "J" and describe the transaction in a footnote, making specific reference to this Order; and

It Is Further Ordered, That,

Broker-dealers need not treat the 11th, 12th, 13th and 14th of September, 2001 as business or calendar days for purposes of calculating charges or taking actions under Rules 15c3–1 and 15c3–3 arising from failed transactions or imbalances in securities accounting systems, or for the purposes of FOCUS reporting; and

It Is Further Ordered, That,

Broker-dealers that are required to do a reserve computation (including PAIB) for the week ending September 14, 2001 under Rule 15c3–3 will not be required to do such a computation, provided they do not withdraw money from their reserve bank account without first doing a computation.

This Order shall be effective with respect to the five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23463 Filed 9–19–01; 8:45 am]

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[3] Terms used in this order have the same meanings as those terms used in Exchange Act Rule 10b–18 unless stated otherwise. Issuers repurchasing their shares pursuant to this Order may qualify for the safe harbor notwithstanding the fact that they may have shareholders selling shares pursuant to a shelf registration, so long as any selling shareholder is not an affiliate of the issuer or, if affiliated, the selling activity does not rise to the level of a distribution under Regulation M. 17 CFR 242. 100 *et seq.*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44803; File No. SR–Amex–2001–78]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC; New York Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc., Chicago Stock Exchange, Inc.; Pacific Exchange Inc.; Philadelphia Stock Exchange, Inc.; and National Association of Securities Dealers, Inc. Regarding the Temporary Use by the American Stock Exchange LLC of the Facilities of the New York Stock Exchange, Inc.

September 17, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, notice is hereby given that on September 16, 2001, the American Stock Exchange LLC ("Amex") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule changes as described in Items I.A. and II below. In addition to the Amex, the New York Stock Exchange ("NYSE") filed with the SEC the proposed rule change described in Item II below; and the Boston Stock Exchange ("BSE"), Cincinnati Stock Exchange, Inc. ("CSE"). Chicago Stock Exchange ("CHX"), NYSE, Pacific Exchange, Inc. ("PCX"), Philadelphia Stock Exchange ("Phlx"), and the National Association of Securities Dealers, Inc. on behalf of Nasdaq ("Nasdaq Intermarket" or "ITS/CAES") (collectively, "ITS Participants"), filed with the SEC the proposed rule changes as described in Items I.B. and II below.

The proposed rule change concern temporary arrangements made for Amex's continued trading of Amex listed securities and exchange traded funds ("ETFs") due to the structural damage to its trading floor caused by the recent terrorist attacks. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission is also granting accelerated approval to the proposal.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

A. Amex

The Amex proposes to amend its rules to trade Amex listed equity securities and ETFs on and through facilities provided by the NYSE. The NYSE proposes to provide such facilities to

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Amex, subject to certain acknowledgments of limitation of liability. The text of the proposed rule changes follows. New text is in italics.

Temporary Rule 1—On an emergency basis, the American Stock Exchange temporarily modifies its rules, pursuant to the terms of Securities Exchange Act Release No. 44803 (September 17, 2001) (Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC, et. al. Regarding the Temporary Use of the New York Stock Exchange, Inc. Facilities), and Securities Exchange Act Release No. 44797 (September 16, 2001) (emergency order pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 taking temporary action to respond to market developments concerning the American Stock Exchange LLC).

(a) Pursuant to Rule 232(b) whenever an Exchange specialist, in arranging an opening transaction on the Exchange in any Eligible Listed Security, anticipates that the opening transaction on the Exchange will be at a price that represents a change from the security's previous day's consolidated closing price of more than the "applicable price change" set forth in Rule 232, he shall notify the other Participant markets of the situation by sending a "pre-opening notification" through the System. Market makers registered in that security in other Participant markets may access the Amex/NYSE facility when responding to a "pre-opening notification" in that security by placing an order with a member or member organization for routing through the common message switch to the Amex Order File ("AOF"). Members and member organizations shall not accept a principal order from such a market maker for entry through AOF on the same side of any market imbalance.

(b) An Exchange specialist in any Eligible Listed Security shall use best efforts to (i) avoid "Exchange trade-throughs" and "Locked Markets" as those terms are defined in Rule 236; and (ii) respond to "commitments to trade" during the time period chosen by the sender of the commitment as required by the Intermarket Trading System Plan and Exchange rules. No liability will arise solely as a result of a failure by an Exchange specialist to respond to a commitment to trade.

* * * * *

B. ITS Participants

The BSE, CSE, CHX, NYSE, PCX, Phlx, and Nasdaq Intermarket propose to amend their Intermarket Trading System ("ITS") rules on a temporary basis, consistent with the terms of this order, to conform to Amex's proposed Temporary Rule 1(b).

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the individual ITS Participants included statements concerning the purpose of, and basis for, the proposed rule changes. Some or all of the ITS Participants have prepared summaries set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Base for, the Proposed Rule Changes

1. Purpose

On September 11, 2001, the United States equities and options markets determined not to open in light of the attacks that morning on the World Trade Center and the Pentagon. The United States equities and options markets have remained closed since that time. On Monday September 17, 2001, the markets plan to reopen for trading.

Some of the nation's securities exchanges may have incurred physical damage or disruption that require relocation of trading facilities and personnel to another suitable physical location. The Amex, in particular, has reported that it will be unable to occupy its trading floor at this time. Amex anticipates that its electronic order routing systems will function as they did prior to September 11, 2001. However, due to the severe damage to the infrastructure surrounding its own building, Amex proposes to relocate part of its operations to the floor of the NYSE. Amex's physical space at the NYSE will be limited; and the number of Amex member firm personnel will also be limited. As a result, specialists will have to perform their usual functions as well as the functions of floor brokers. In addition, the Amex will need to modify or suspend certain of its rules, as described below.

Specifically, the Amex proposes to amend its rules to trade Amex listed stocks and ETFs on the NYSE floor and through facilities of the NYSE ("Amex/NYSE facility") pursuant to Amex temporary rules. The Amex proposes that, beginning on September 17, 2001, and continuing until such time as the Amex is able to resume trading under its permanent rules, the Amex equity limit order book (known as Point of Sale or "POS") would be available for Amex specialists' use on hardware provided by the NYSE. Further, the Amex proposes that all limit orders currently residing on the Amex book would continue to be on the book for those stocks and ETFs traded on the Amex/NYSE facility. Amex proposes that member firms would be able to submit orders and cancellations through the Common Message Switch to the Amex book, and executions would be reported as Amex trades on Tape B. The Amex represents that this emergency use of the Amex/NYSE facility is necessary because of the September 11th terrorist attack on the World Trade Center in New York City and the consequent limitation on the use of the Amex trading floor and facilities.

a. *Limitation of Liability.* By accepting this arrangement with the NYSE to conduct Amex operations on the floor of the NYSE, the Amex, its members, and their employees who are authorized to enter onto the NYSE floor to carry out trading as described herein, shall accept the same limitations on the liability of the NYSE for use of its facilities for the conduct of business that normally apply to any NYSE member, member organizations, or employee thereof in the conduct of his or its business on the NYSE.

b. *Intermarket Trading System.* As mentioned above, the relocation of the Amex has resulted in logistical and technical difficulties. The Amex represents that the Amex/NYSE facility will be operating in much more limited space and fewer specialists and clerks than is usual. For example, rather than the normal 134 screens, all Amex securities will be represented on 71 screens. As each specialist will be responsible for many more securities than normal, they will have limited capacity to respond to individual messages received through the ITS, including commitments and administrative messages such as "trade or move" messages and complaints regarding trade-throughs. In addition, for a number of securities with lower trading volume, the specialists will have limited access to National Best Bid and Offer ("NBBO") information. Also, although during the pre-opening, the Amex/NYSE facility will be able to send pre-opening indications and receive pre-opening responses at a single price, the Amex/NYSE facility will have a limited ability to view or to respond to pre-opening responses at multiple price points.

Therefore, Amex proposes a temporary rule under which each of the ITS Participants could individually elect to participate in the ITS linkage with the Amex/NYSE facility, with the following modifications. For 30 days or as long as the technical and logistical difficulties exist at the Amex/NYSE facility, whichever is sooner, the BSE, CSE, CHX, NYSE, PCX, Phlx, and Nasdaq Intermarket (*i.e.*, ITS/CAES) have each individually agreed to a reciprocal arrangement with Amex that for the temporary period of time specified in this order, notwithstanding

any provision of the ITS Plan: (i) Amex specialists will use their best efforts to respond to ITS messages, including ITS commitments; and (ii) specialists on the BSE, CSE, CHX, NYSE, PCX, and Phlx, and ITS/CAES market makers will in turn use their best efforts to respond to ITS messages, including ITS commitments, from Amex. Under this arrangement, the terms of the ITS Plan will continue to govern commitments that are executed between any of the parties to this arrangement. Further, this arrangement is a bilateral agreement between each of the parties mentioned above and the Amex. Should any exchange choose not to enter into this arrangement, that exchange will be unable to send or receive ITS messages, including ITS commitments, to or from Amex, and will not be subject to the terms of the ITS Plan with respect to Amex; and Amex will not be subject to the terms of the ITS Plan with respect to those exchanges. Finally, the ITS Plan will continue to govern commitments and all other transactions effected through ITS that do not involve Amex.

With regard to pre-opening trading, Amex proposes a temporary rule whereby Amex will take orders through AOF (previously known as PERS) from other exchanges. In the case of a market imbalance, the proposed rule would prohibit all market makers accessing the Amex/NYSE facility from entering proprietary orders in AOF that are on the same side of the market as the imbalance. The proposed rule would apply following the first pre-opening indication.

To the extent that Amex's current technical and logistical problems make compliance with Amex's permanent ITS rules impractical or impossible for trading on the Amex/NYSE facility, the Amex proposes to temporarily suspend any inconsistent portions of those rules that relate to ITS and, in particular, Amex Rules 230, 231, 232, 233, 234, 235, and 236. The Amex, however, has proposed a new temporary rule that would impose an obligation on specialists participating in the Amex/NYSE facility to use best efforts to avoid trade-throughs and locked and crossed markets. Amex has also represented that it will have an official on the floor that is available by telephone to address obvious errors and other ITS situations.

c. *Order Types.* The Amex represents that the Amex/NYSE facility will be unable to accommodate order types that rely on a printer capability at the specialists post. These include: Market on Close (MOC) under Amex Rule 131(e); Limit on Close under Amex Rule 131(e); Immediate or Cancel under Amex Rule 131(k); Fill or Kill under Amex Rule 131(i); "Opening Only" Market Orders under Amex Rule 131(f); and market "all or none" orders under Amex Rule 131(c). Consequently, Amex proposes a temporary rule, notwithstanding any provision in the Amex's rules to the contrary, that contemplates that Amex will not be able to accommodate these order types.

In addition, the Amex believes that there will be some limitations on odd-lot orders in the Amex/NYSE facility. Specifically, market and marketable limit odd-lot orders are normally executed through the AOF and will continue to be executed on the Amex/NYSE facility. Non-marketable odd-lot limit orders, due to the constraints on network printers, will not be accepted. Consequently, the Exchange proposes to amend Amex Rule 205, and any other rule or portion thereof applicable to non-marketable odd-lot limit orders, on a temporary basis to preclude these order types.

d. *Floor Brokers.* The Exchange notes that Amex floor brokers will not have access to the Amex/NYSE facility. The Amex therefore proposes a temporary rule that would permit NYSE floor brokers to be deputized as Amex members for the purposes of delivering and representing orders in Amex stocks and ETFs to the Amex/NYSE facility. The Exchange proposes that these deputized Amex members would be subject to Amex rules and disciplinary jurisdiction. (The NYSE will obtain an acknowledgement from its floor brokers to this effect.) The Amex proposes to waive specific compliance with, and the deputized NYSE floor brokers would be deemed in compliance with, Amex Article I, Section 3(c), Amex Article IV, Section 1, and other Amex rules relating to exchange membership. Amex states that such deputization is consistent with prior Commission-approved practices respecting the use of another exchange facility to trade options. Deputization of NYSE floor brokers will provide an additional method for the submission and execution of orders.

Specifically, deputized NYSE floor brokers representing orders in securities traded on the Amex/NYSE facility would be subject to all provisions in Amex rules that would apply on an Amex member acting as a floor broker in the same securities, with one exception. Deputized NYSE floor brokers, as such, will be deemed to have satisfied, and the Amex will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as an Amex member, including all dues, fees, and charges imposed generally upon Amex members based on their status as such. Amex believes that the overall regulatory framework of the NYSE adequately addresses the subject matter of these rules.

e. *Order Size Limitation.* The Exchange represents that, in connection with the operation of the Amex/NYSE facility, the Amex's systems would allow the routing of orders up to 99,900 shares for ETFs, and 30,000 shares for equity securities. Consequently, the Amex proposes to temporarily suspend its current policy prohibiting the breaking up of orders of more than 99,900 or 30,000 shares, as the case may be, to fit within these size parameters.

f. *Specialist Obligations.* The Amex represents that, due to limited physical space at the Amex/NYSE facility, Amex specialists will have to perform not only their usual functions, but also the functions of floor brokers. As a result, the Exchange proposes to suspend the application of several trading rules applicable to specialists. In addition, the Exchange proposes to suspend the Auto-Ex function for ETFs.

The Amex proposes to suspend application of its current rules that prohibit specialists from receiving orders from members and member organizations, including but not limited to Amex Rules 126(g), 154, 190, and 220. However, the portions of any current rules, including but not limited to Amex Rules 154, 190, and 220, that do not pertain to specialists' receipt of orders from members and member organizations, will remain operative. In addition, Amex proposes to suspend application of its current rules that prohibit specialists with off-floor facilities from receiving orders at these off-floor facilities for routing to the trading floor. Further, the Amex proposes a temporary rule that would suspend the provisions of Amex Rule 154, limiting the types of orders that a specialist may accept. Amex proposes a temporary rule that would, notwithstanding any provision to the contrary in Amex's current rules, allow specialists to accept "not held orders" and "price and time" discretionary orders of 50,000 shares or more.

The Exchange represents that, due to space constraints, trading by registered options traders ("ROTs") will not be accommodated on the NYSE floor. Consequently, the Exchange proposes a temporary rule to suspend various provisions of Amex Rule 958, which sets forth the obligations of ROTs, as these provisions relate to the trading of ETFs. The Amex proposes that a ROT entering orders in securities in which it is registered from off the floor will continue to be designated as a specialist on the Amex for all purposes under the

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Act, so that the ROT may continue to receive favorable margin and other treatment.

g. *Trading Hours.* Finally, the Amex notes that there will be no after-hours trading or trading of non-convertible corporate debt on the Amex/NYSE facility. Therefore, the Exchange proposes a temporary rule would suspend Amex Rules 1300 through 1306, and any other rules or portion thereof relating to after-hours trading and the trading of non-convertible corporate debt.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest. The NYSE, CSE, CHX, BSE, PCX, Phlx, and Nasdaq Intermarket believe that their proposed rule changes identified in this order are consistent with Section 6(b) of the Act.

B. Self-Regulatory Organizations' Statement on Burden on Competition

The Amex believes that the proposed rule changes will impose no burden on competition. The NYSE, CSE, CHX, BSE, PCX, Phlx, and Nasdaq Intermarket believe that their proposed rule changes identified in this order will not impose any burden on completion

C. Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The Amex and the other ITS Participants have requested that the Commission find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change so that Amex may restore operations and reopen for trading despite its inability to use its own building and trading floor due to the physical damage to the infrastructure surrounding its premises.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning for the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ITS Participants. All submissions should refer to the File No. SR-Amex-2001–78 and should be submitted by October 11, 2001.

V. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The United States securities markets are the world's strongest and most vibrant. The Commission believes that the terrorist attacks of September 11, 2001, will have little lasting market impact. To that end, the Commission seeks to serve investors and the markets through all available means to facilitate the reopening of fair and orderly markets.

Some of the nation's securities exchanges may have incurred physical damage or disruption that require relocation of trading facilities and personnel to another suitable physical location. The Amex, in particular, has reported that it will be unable to occupy its trading floor at this time. The Amex anticipates that its electronic order routing systems will function as they did prior to September 11, 2001, with the exception of the ETF Auto-Ex system. Due to the severe damage to the infrastructure surrounding its own building, however, Amex will relocate part of its operations to the floor of the NYSE. Amex's physical space and its personnel at this location will be limited.

In light of the technical and logistical limitations of the Amex/NYSE facility, the Commission finds that the Amex's proposal to trade Amex equity securities and ETFs on the Amex/NYSE facility is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act in that the arrangement between the Amex and NYSE is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Most important, the proposed temporary rules will allow Amex specialists and member firms to resume trading on September 17, 2001, despite the damage to Amex's permanent trading facilities—thereby potentially serving as an important source of liquidity for investors. The Commission notes that the Amex represents that it will be responsible for, and will conduct surveillance of, trading on the Amex/NYSE facility, including the deputized NYSE floor brokers, as described above. The Commission also expects that the Amex will aggressively work to implement solutions to the issues identified in this order, especially as they relate to ITS, in order to resume trading under Amex's permanent rules as soon as practicable.

While specialists may have to perform the functions of floor brokers in addition to their usual functions under Amex's temporary rules, the Commission notes that their activities will be limited by the terms of Securities Exchange Act Release No. 44797 (September 16, 2001) (emergency order pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 taking temporary action to respond to market developments concerning the American Stock Exchange LLC). Further, Amex Rule 190, entitled "Specialist's Transactions with Public Customers" will continue to apply. This Rule prohibits specialists from directly or indirectly effecting any business transactions with a company or any officer, director or 10% stockholder of a company in which stock the specialist is registered. The rule further prohibits specialists from accepting any orders for the purchase or sale of any stock in which the specialist is registered directly from: (1) The company issuing the stock; (2) any officer, director or 10% stockholder of that company; (3) from any pension or profit-sharing fund; or (4) any bank, trust company,

insurance company, investment company or similar institution.

The Commission also finds that Amex's proposed temporary rules regarding ITS access are a reasonable accommodation to address the physical constraints of the Amex/NYSE facility. Amex specialists, as well as specialists on BSE, CSE, CHX, PCX, NYSE, Phlx, and ITS/CAES market makers, will use their best efforts to avoid trade-throughs and locked markets, and to respond to commitments to trade during the time period chosen by the sender of the commitment as currently required by the ITS Plan. The Commission notes that, under Exchange Act Rule 11Aa3–2(d), a "reasonable justification or excuse" exists for Amex not to enforce compliance with the ITS Plan by its members and persons associated with its members for this temporary period, consistent with the terms of this order. Likewise, a "reasonable justification or excuse" exists under the Rule for the parties to the bilateral agreement (BSE, CSE, CHX, PCX, NYSE, Phlx, and Nasdaq Intermarket) not to enforce compliance with the ITS Plan by their members and persons associated with their members with respect to Amex for this temporary period, consistent with the terms of this order. Should any exchange choose not to enter into this arrangement, that exchange will be unable to send or receive ITS messages, including ITS commitments, to or from the Amex, and will not be subject to the terms of the ITS Plan with respect to the Amex; also, Amex will not be subject to the terms of the ITS Plan with respect to those exchanges. These arrangements may continue for 30 days or when the technical and logistical difficulties no longer exist at the Amex/NYSE facility, whichever is sooner. Finally, the ITS Plan will continue to govern commitments and all other transactions effected through ITS that do not involve Amex.

The Commission finds good cause for granting Amex and the other ITS Participants' request to approve the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission believes that granting accelerated approval to the proposal is in the public interest and for the protection of investors in order to maintain and restore fair and orderly securities markets, and in time for Amex to resume trading on September 17, 2001.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–Amex–2001–78) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23466 Filed 9–19–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44801; File No. SR–CBOE–2001–49]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Temporary Access of American Stock Exchange Members to Respond to Market Developments

September 17, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 14, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. On September 16, 2001, the CBOE submitted an amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In light of the emergency situation arising from the aftermath of the devastating terrorist attack on New York City on September 11, 2001, the CBOE proposes to adopt a temporary rule, which is intended by the Exchange to promote the maintenance of fair and orderly markets and the protection of investors. The temporary rule would allow the Exchange to permit a person or organization that is a member of the American Stock Exchange LLC ("Amex") to conduct business on CBOE until emergency conditions cease, provided that the person or organization satisfies certain criteria, including that the person or organization is a member in good standing of the Amex.

The text of the proposed rule change is available at the Office of the Secretary CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE has prepared summaries set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt temporary CBOE Rule 3.22 to allow the Exchange to permit a person or organization to conduct business on the Exchange until the emergency conditions referenced above cease, provided that the person or organization (i) is a member in good standing of the Amex, (ii) is not subject to a statutory disqualification under the Act, and (iii) is not subject to an investigation conducted by any self-regulatory organization ("SRO") under the Act that may involve the fitness for membership on the exchange of that person or organization.

Pursuant to CBOE Rule 3.29, the authority granted to the Exchange under the proposed rule to permit a person or organization to conduct business on the Exchange for a temporary period during the emergency condition may be exercised by the Exchange's Membership Committee and/or Membership Department. Any person or organization granted such temporary access to conduct business on the Exchange would be referred to under the proposed rule as a TPO.

Under the proposed rule, a TPO would only be permitted to act in those Exchange capacities that are authorized by the Exchange and that are comparable to capacities in which the TPO has been authorized to act on the Amex. As part of the Exchange's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE to Elizabeth King, SEC, dated September 15, 2001 ("Amendment No. 1"). In Amendment No. 1, the CBOE deleted its proposal to permit Amex specialists to act in capacities similar to CBOE designated primary market makers, including acting as floor brokers on the CBOE, and clarified language that was inadvertently omitted from Item B of Exhibit 1 of the filing.

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authorization of an Amex member to act in a particular capacity, the Exchange would also have the authority to determine which Exchange systems and facilities the TPO would be authorized to utilize. Additionally, the TPO would only be permitted to trade on CBOE in those securities in which the TPO is authorized to trade on the Amex.

Thus, for example, a TPO would be permitted to act as a Market-Maker in option classes on the Exchange if the TPO has been authorized to act in a comparable membership capacity in those option classes on the Amex, such as a Registered Options Trader, and the Exchange authorizes the TPO to act as a Market-Maker in those option classes. Similarly, a TPO would be permitted to act as a Floor Broker in option classes on the Exchange if the TPO has been authorized to act as a Floor Broker in those option classes on the Amex and the Exchange authorizes the TPO to act as a Floor Broker in these option classes.

Each TPO shall be subject to, and obligated to comply with, the rules of the Exchange that are applicable to Exchange members, but shall have none of the rights of a member of the Exchange, except the right to conduct business on the Exchange to the extent permitted by the proposed rule. Thus, for example, a TPO shall have no right to petition or vote at Exchange membership meetings or elections or to be counted as part of a quorum; shall have no interest in the assets or property of the Exchange; and shall have no right to share in any distributions by the Exchange.

In the event that an individual TPO is associated with an organization, the proposed rule requires the TPO to provide the Exchange, in a form and manner prescribed by the Exchange, an agreement by the organization to be responsible for all obligations arising out of that person's activities on or relating to the Exchange. CBOE Rule 3.8(d) imposes a similar requirement with respect to individual nominees of Exchange member organizations and individuals who have registered their memberships for Exchange member organizations. In addition, CBOE has represented that a TPO will be required to sign a document consenting to the Exchange's jurisdiction over the TPO and that CBOE will assume responsibility for surveillance of a TPO's activities on the Exchange.[4]

The Exchange believes that the proposed rule is similar to CBOE and other SRO rules approved by the Commission in 1989 following mechanical disruptions to the Pacific Exchange, Inc. ("PCX") options floor caused by an earthquake in San Francisco under which PCX members were authorized to trade on CBOE and other options exchanges.[5]

The Exchange believes that it is appropriate to permit a fully qualified member of another SRO to conduct business on the Exchange on a temporary basis and in equivalent capacities when such action is in the interest of investors and the maintenance of a fair and orderly market and the person or organization is not the subject of a regulatory matter. Specifically, the proposed rule would allow the Exchange to permit Amex members to conduct business on CBOE for a temporary period when the emergency situation that exists in New York City as a result of the devastating terrorist attack on the World Trade Center complex that occurred on September 11, 2001 continues. The Exchange believes that the proposed rule would enhance liquidity in the options market and better enable broker-dealers to handle and process customer orders, which would benefit the securities markets and the investing public.

2. Basis

For these reasons, the Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–2001–49 and should be submitted by October 11, 2001.

IV. Commission's Finding and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission notes that the proposed rule change was submitted in response to the emergency situation that resulted from the September 11, 2001 attacks on the World Trade Center in New York City. On September 11, 2001, the U.S. equities and options markets determined not to open in light of the attacks that morning. The U.S. equities and options markets remained closed throughout the remainder of that week. As a result of the attacks, the Amex facilities were damaged and, at this time, cannot be reopened. The CBOE seeks to accommodate Amex members by temporarily granting them access to the CBOE trading floor and facilities to trade those options that they traded on the Amex as of September 10, 2001 and that are also listed and traded on the CBOE.

The Commission further notes that any Amex member granted temporary access to CBOE as a TPO would only be permitted to trade on CBOE those securities that the TPO is authorized to trade on Amex, and to act in those capacities that are authorized by the Exchange and that are comparable to capacities that the TPO has been authorized to act on the Amex.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission believes that the proposal is consistent with the requirements of section 6(b)(5) of the Act,[9] which requires, among other things that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In this regard, the Commission notes that the Amex members serving as TPOs on CBOE will be subject to the jurisdiction of the Exchange and thus the Exchange will be responsible for the surveillance of TPOs to ensure that they are in compliance with applicable rules of the Exchange, as well as those rules and regulations under the Act, while conducting business on the Exchange. In addition, CBOE will be responsible for ensuring, among other things, that TPOs' quotes and trades are collected and reported to the Options Price Reporting Authority and that TPOs are disciplined for any CBOE rule violations while they are subject to the Exchange's jurisdiction.

The Commission believes that the CBOE's proposal should enable continuous and liquid markets to be maintained for those options traded on both the Amex and CBOE until the Amex can reopen for trading. By permitting Amex members to trade the products that they normally trade on the Amex should help to ensure that the level of liquidity for these options that existed as of September 10, 2001 would be available when trading resumes in the U.S. markets. This is especially important in light of the upcoming options expiration on September 21, 2001. For these reasons, the Commission believes that the proposal is in the public interest and should provide additional protections to investors when the markets reopen.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing in the **Federal Register**. The Commission believes that it is necessary to approve the proposed rule change immediately to provide a trading venue for Amex members when the U.S. markets resume trading.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change, as amended (SR–CBOE–2001–49) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23465 Filed 9–19–01; 8:45 am]

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[4] Telephone conversation between Joanne Moffic-Silver, General Counsel, CBOE, and Elizabeth K. King, Associate Director, and Nancy J. Sanow, Assistant Director, Division of Market Regulation, SEC, on September 15, 2001.

[5] *See* Securities Exchange Act Release No. 27365 (October 19, 1989), 54 FR 43511 (October 25, 1989).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44793; File No. SR–NSCC–2001–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to a Temporary Processing Modification for Buy-In Executions

September 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 14, 2001, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to make a temporary processing modification for buy-in executions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to make a temporary processing modification for buy-in executions. Under NSCC's buy-in process, NSCC includes information regarding buy-in liability on its CNS Projection Report. Due to the recent tragic events, many NSCC members are operating out of alternate operational sites. Many of these members, for various reasons associated with recent events, have had connectivity difficulties with NSCC. NSCC therefore is concerned that notice of buy-in liability may not have been received by affected members. NSCC therefore intends to not permit buy-in executions when market trading resumes for both the day trading resumes and the day thereafter. Any notice of intention to buy-in affected by this filing will be required to be resubmitted to NSCC.

The proposed rule change will facilitate the orderly, prompt, and accurate clearance and settlement of securities transactions. Thus, the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[3] Due to recent communications and

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] 15 U.S.C. 78q–1(b)(3)(F).

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connectivity disruptions with NSCC, affected members may not have received notice of buy-in liability. Therefore, by not allowing buy-in executions when market trading resumes and on the day thereafter, and by requiring any notice of intention to buy-in affected by this filing to be resubmitted to NSCC, NSCC's proposed rule change should facilitate an orderly return to an environment where the prompt and accurate clearance and settlement of securities transactions is effected. Therefore, the Commission finds that the rule change is consistent with NSCC's obligation under section 17A(b)(3)(F).

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving prior to the thirtieth day after publication of the notice of filing because accelerated approval will permit NSCC to immediately make a temporary processing modification for buy-in executions on the date when trading resumes. The Commission is approving this proposed rule change prior to the expiration of the public comment period in order to allow NSCC to immediately make a temporary processing modification for buy-in executions on the date when trading resumes.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–2001–15 and should be submitted by October 11, 2001.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–2001–15) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23464 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 44789; File No. SR–NYSE–2001–11]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amending New York Stock Exchange Rule 342 ("Offices—Approval, Supervision and Control")

September 13, 2001.

On May 15, 2001, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change amending New York Stock Exchange Rule 342 to rescind the prerequisite that Compliance Official candidates from members or member organizations doing a public business be required to take the General Securities Sales Supervisor Qualification Examination (Series 9/10).

The proposed rule change was published for comment in the **Federal Register** on August 1, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Sections 6(b)(5) and 6(c)(3)(B) of the Act.[6] Section 6(b)(5)[7] requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Under Section 6(c)(3)(B) of the Act,[8] it the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations.

The Commission believes that the proposed rule change promotes the objectives of these sections of the Act by removing duplicative examination requirements. Specifically, the proposed rule change rescinds the prerequisite that Compliance Official candidates from members or member organizations doing a public business take the General Securities Sales Supervisor Qualification Examination (Series 9/10), because that exam contains substantially similar material to the required Compliance Official Qualification Examination (Series 14).

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–NYSE–2001–11) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23437 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44790; File No. SR–PCX–2001–26]

Self-Regulatory Organizations; the Pacific Exchange, Inc.; Order Granting Approval of Proposed Rule Change Relating to Accepting Orders From Professional Customers

September 13, 2001.

On July 26, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change that would allow PCX Floor Brokers and qualified Floor Clerks of Floor Brokers to accept orders from Professional Customers (as defined in the proposed rule) for execution on the Exchange's trading floor, under certain terms and circumstances. Notice of the proposed rule change was published for comment in the **Federal Register** on August 8, 2001.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission has reviewed carefully the proposed rule change, and finds that it is consistent with the act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[4] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)[5] in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

Additionally, the Commission believes the proposal's provision that would allow a Floor Clerk of a qualified Floor Member to accept orders from professional customers for execution on the Exchange's trading floor provided the Floor Clerk has successfully completed either the Series 7 Examination or the Series 7A Examination is consistent with Section 6(c)(3)(A) of the Act,[6] which allows a national securities exchange to deny membership to, or condition the membership of, a registered broker or dealer if such broker or dealer, or persons associated with such broker or dealer, does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange. The Commission believes the proposed rule change will help the Exchange to ensure that Floor Clerks satisfy prescribed standards of training, experience, and competence, and will help to ensure that Floor Clerks who may accept orders from Professional Customers for execution on the Exchange's trading floor are sufficiently familiar with the rules and practices of the Exchange's trading floor.

For these reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with Sections 6(b)(5)[7] and 6(c)(3)(A)[8] in particular.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–PCX–2001–26) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23436 Filed 9–19–01; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 3785]

Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs; 60-Day Notice of Proposed Information Collection: Form DS–2019, Certificate of Eligibility for Exchange Visitor (J–1) Status (Formerly USIA Collection 3116–2015, Forms IAP–66 and IAP–66P) OMB #1405–0119

ACTION: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice. The following summarizes the information collection proposal submitted to OMB:

Type of Request: Comment.

Originating Office: Exchange Visitor Program Designation Staff, Bureau of Educational and Cultural Affairs (ECA/EC/ECD).

Title of Information Collection: Certificate of Eligibility for Exchange Visitor (J–1) Status.

Frequency: Annually.

Form Number: DS–2019 (Formerly U.S. Information Agency's Form IAP–66).

Respondents: Department of State designated program sponsors.

Estimated Number of Respondents: 1,500.

Average Hours Per Response: 15 minutes.

Total Estimated Burden: 375 hours.

Public comments are being solicited to permit the Department to:

—Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.

—Evaluate the accuracy of the Department's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

—Enhance the quality, utility, and clarity of the information to be collected.

—Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

For Additional Information: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Vicki Rose, Exchange Visitor Program Designation Staff (ECA/EC/ECD), Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, U.S. Department of State, 301 Fourth Street, SW., Room 734, Washington, DC 20547; telephone: 202–401–9810.

Dated: August 14, 2001.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 01–23485 Filed 9–19–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number PS–ACE100–2001–004]

Proposed Small Airplane Directorate Policy on Guidance for Reviewing Certification Plans To Address Human Factors for Certification of Part 23 Small Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces a Federal Aviation Administration (FAA) proposed policy on reviewing certification plans to address human factors for certification. This notice advises the public, especially manufacturers of normal, utility, and acrobatic category airplanes, and commuter category airplanes used in non-scheduled service and their suppliers, that the FAA intends to adopt a policy concerning reviewing certification plans to address human

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 44588 (August 1, 2001), 66 FR 39808.

[4] In approving this proposed rule change, the Commission notes that it has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78f(c)(3)(B).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(B).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44637 (August 1, 2001), 66 FR 41645.

[4] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(c)(3)(A).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(c)(3)(A).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

factors for certification. This notice is necessary to advise the public of this FAA policy and give all interested persons an opportunity to present their views on it.

DATES: Send your comments by October 22, 2001.

Discussion: On August 29, 2001, the Small Airplane Directorate issued a proposed policy statement. We are making this proposed policy statement available to the public and all manufacturers for their comments.

ADDRESSES: Copies of the proposed policy statement, PS-ACE100–2001–004, may be requested from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 901 Locust Street, Room 301, Kansas City, MO 64106. The proposed policy statement is also available on the Internet at the following address: *http://www.faa.gov/programs_rsvp2/smart/faa_home_page/certification/aircraft/ small_airplane_directorate_news_proposed.html.* Send all comments on this proposed policy statement to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Frank Bick, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE–111, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: 816–329–4090; e-mail: *frank.bick@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite your comments on this proposed policy statement. Send any data or views as you may desire. Identify the proposed Policy Statement Number PS-ACE100–2001–004 on your comments, and if you submit your comments in writing, send two copies of your comments to the above address. The Small Airplane Directorate will consider all communications received on or before the closing date for comments. We may change the proposal contained in this notice because of the comments received.

You may also send comments to the following Internet address: *9-ACE-Part23HF-Policy@faa.gov.* Comments sent by fax or the Internet must contain "Comments to proposed policy statement PS-ACE100–2001–004" in the subject line. You do not need to send two copies if you fax your comments or send them through the Internet. If you send comments over the Internet as an attached electronic file, format it in either Microsoft Word 97 for Windows or ASCII text.

State what specific change you are seeking to the proposed policy memorandum and include justification (for example, reasons or data) for each request.

Issued in Kansas City, Missouri on September 6, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23564 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice to Rescind Notice of Intent To Prepare an Environmental Impact Statement: St. Francois County, MO

AGENCY: Federal Highway Administration (FHWA), DOT, and the Missouri Department of Transportation.

ACTION: Rescind Notice of Intent to prepare an environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the Notice Of Intent (NOI) to prepare an environmental impact statement (EIS) for improvements that were proposed to the transportation system in St. Francois County, Missouri.

FOR FURTHER INFORMATION CONTACT: Donald L. Neumann, Programs Engineer, FHWA, Division Office, 209 Adams Street, Jefferson City, MO 65101; Telephone: (573) 634–2393 or Scott Meyer, District Engineer, Missouri Department of Transportation, PO Box 160, Sikeston, Missouri, 63801; Telephone: (573) 472–5333.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), is rescinding the NOI to prepare an EIS for a project that had been proposed to improve the transportation system in St. Francois County, Missouri. The NOI is being rescinded because MoDOT lacks funding to build this project. They do not want to concentrate their efforts on completing an EIS for a project which may not be built for 20 years, at which time the EIS would need to be reevaluated.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: September 12, 2001.

Donald L. Neumann,

Programs Engineer, Jefferson City.

[FR Doc. 01–23563 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–99–5578 (formerly FHWA–99–5578)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces the FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 18 individuals.

DATES: This decision is effective September 20, 2001. Comments from interested persons should be submitted by October 22, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Eighteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Grady L. Black, Jr., John A. Chizmar, Billy M. Coker, Weldon R. Evans, Richard L. Gagnebin, James P. Guth, Rayford R. Harper, Paul M. Hoerner, Charles L. Lovern, Craig M. Mahaffey, Michael S. Maki, Howard R. Payne, Kenneth A. Reddick, Leonard Rice, Jr., John A. Sortman, James A. Strickland, James T. Sullivan, and Edward A. Vanderhei. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the FMCSA has evaluated the 18 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including these 18 applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for an additional 2-year period. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 18 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 63 FR 66226; 64 FR 16517), and each has requested timely renewal of the exemption. These 18 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, the AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by the AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Grady L. Black, Jr., John A. Chizmar, Billy M. Coker, Weldon R. Evans, Richard L. Gagnebin, James P. Guth, Rayford R. Harper, Paul M. Hoerner, Charles L. Lovern, Craig M. Mahaffey, Michael S. Maki, Howard R. Payne, Kenneth A. Reddick, Leonard Rice, Jr., John A. Sortman, James A. Strickland, James T. Sullivan, and Edward A. Vanderhei, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

The FMCSA has evaluated the qualifications and driving performance of the 18 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, the FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by October 22, 2001. All comments will be considered and will be available for examination in the docket room at the above address. The

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FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on: September 14, 2001.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 01–23428 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on July 10, 2001 (66 FR 36031).

DATES: Comments must be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On July 10, 2001, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 66 FR 36031. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Communications (Formerly Transmission of Train Orders by Radio).

OMB Control Number: 2130–0524.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Form(s): N/A.

Abstract: The Federal Railroad Administration (FRA) amended its radio standards and procedures to promote compliance by making regulations more flexible; to require wireless communications devices, including radios, for specified classifications of railroad operations and roadway workers; and to re-title this part to reflect its coverage of other means of wireless communications such as cellular telephones, data radio terminals, and other forms of wireless communications to convey emergency and need-to-know information. The new rule establishes safe, uniform procedures covering the use of radio and other wireless communications within the railroad industry.

Affected Public: Businesses.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on September 14, 2001.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 01–23427 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10635]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Argonaut.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 22, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10635. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) *Name of vessel and owner for which waiver is requested.* Name of vessel: *Argonaut.* Owner: John G. Edwards.

(2) *Size, capacity and tonnage of vessel.* According to the applicant: "Gross Tonnage: 23; Net Tonnage: 21; Length: 40.6 Feet; Breadth: 12.1 Feet; Depth: 9.5 Feet".

(3) *Intended use for vessel, including geographic region of intended operation and trade.* According to the applicant: "Vessel will primarily offer day and night skippered pleasure sails in the Long Beach and Los Angeles area. The vessel will also be used for special event charters for small parties and other social gatherings. The vessel will be used for skippered charters to Catalina, San Diego, Mexico, Channel Islands, and other California coastal areas. Some commercial operations may require the use of one or two crew members. If chartered for that purpose, the vessel might also be used for whale watching and other excursions of varying lengths, from a few hours to several days."

(4) *Date and Place of construction and (if applicable) rebuilding.* Date of construction: 1978. Place of construction: Pali Shiang Taipei Hsien, Taiwan, Republic of China.

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators.* According to the applicant: "The commercial usage of the vessel Argonaut should have no adverse effect on other boating operations in the area. The commercial passenger operations in the area consist primarily of large scale harbor tours, pleasure diving and pleasure fishing operations. I am not interested in providing any of those services but wish to fulfill a potential need for a specialized market involving sailing charters to small groups of people. Most other commercial sailing operations are for instructed sailing lessons on small sailing craft. There are some bare-boat charter businesses in the immediate area but the impact should be negligible. The granting of the waiver will have no effect at all upon sailing operations in the area in that they are large scale operations using inspected vessels. I might also offer blue water sailing instruction on a large cruising yacht, which to the best of my knowledge, is not currently offered locally."

(6) *A statement on the impact this waiver will have on U.S. shipyards.* According to the applicant: "The granting of a waiver for *Argonaut* should have a positive impact on the boat and shipyard industries in the area. The business will necessitate the use of yard services from time to time and will require the employment of workers who have the necessary skills to repair and maintain the boat. There should be no negative impact on the shipyards whatsoever."

Dated: September 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23506 Filed 9–19–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10634]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Stevie Sunshine.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 22, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10634. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build

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requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement:

(1) *Name of vessel and owner for which waiver is requested.* Name of vessel: *Stevie Sunshine.* Owner: Costanza Contracting of Delaware, Inc.

(2) *Size, capacity and tonnage of vessel.* According to the applicant: "Length Overall: 60'1"; Displacement: Tonnage—Gross: 49 Tons; Net: 33 Tons"

(3) *Intended use for vessel, including geographic region of intended operation and trade.* According to the applicant: "The M/V *Stevie Sunshine* is intended for hourly, daily, and overnight private charter, as well as, extended charter use in both private party charter and the sportfishing tournament circuit to include all U.S. coastline waters up to and including 100 miles offshore and all inland waters. This vessel will be in full compliance with all Federal Regulations (to include the required number of trained and licensed captains and mates)."

(4) *Date and Place of construction and (if applicable) rebuilding.* Date of construction: 1987. Place of construction: Monnickendam, Netherlands.

(5) *A statement on the impact this waiver will have on other commercial passenger vessel operators.* According to the applicant: "It is our opinion that this waiver will have no appreciable impact on any charter operator, regardless of their base of operation, because we do not plan to be in any existing market long enough to affect that market. Our intention is to cater to the sportfishing tournament circuit, with hourly, daily and/or overnight charters. Our Charter operation would serve to compliment the local charter operator, as well as, the local shipyards due to our purchase of bait, tackle, and supplies in general, thus, stimulating the local economy for the period of time that we were in a port of call."

(6) *A statement on the impact this waiver will hove on U.S. shipyards.* According to the applicant: "This waiver will have no negative, but in fact, a positive economic impact on U.S. shipyards. Costanza Contracting of DE, Inc., has already spent approximately, $250,000.00 since purchase this year (2/19/01), on improving this vessel. All of this work has been undertaken at U.S. shipyards and marinas. The owner intends to continue to improve this vessel and anticipates that all future improvements, repairs, and upgrades will continue to be undertaken in U.S. shipyards and marinas."

Dated: September 13, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01-23507 Filed 9-19-01; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on May 1, 2001 (66 FR 21814-21815).

DATES: Comments must be submitted on or before October 22, 2001.

FOR FURTHER INFORMATION CONTACT: William Fan at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS-11), 202-366-4922. 400 Seventh Street, SW., Room 5320, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Part 589-Upper Interior Component Head Impact Protection Phase-in Reporting Requirements.

OMB Number: 2127-0581.

Type of Request: Extension of a currently approved collection.

Abstract: Manufacturers of passenger cars, trucks, and multipurpose passenger vehicles with a gross vehicle weight rating of 4,536 kilograms or less and buses with a gross vehicle weight rating of 3,860 kilograms or less required to respond to NHTSA inquiries, to submit a report, concerning the number of such vehicles that meet the upper interior component head impact protection requirements of Standard No. 201, Occupant Protection in Interior Impact (49 CFR 571.201).

Affected Public: Businesses and for-profit institutions.

Estimated Total Annual Burden: 1,260.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, D.C., on September 14, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01-23429 Filed 9-19-01; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 22, 2001.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation; Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL-401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590; or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 14, 2001.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12815-N	RSPA-01-10553	FMC Corporation, Opelousas, LA.	49 CFR 173.240	To authorize the transportation in commerce of waste toxic solids, n.o.s., Division 6.1 in bulk non-specification packaging (sift-proof closed vehicles or closed bulk bins.) (mode 1).
12816-N	RSPA-01-10544	Department of Defense (DOD) Alexandria, VA.	49 CFR 173.433	To authorize the transportation in commerce of radioactive material, Class 7 in specially designed packaging. (modes 1, 2).
12819-N	RSPA-01-10549	BBI-Biotech Research Laboratories, Inc., Gaithersburg, MD.	49 CFR 173.196, 178.609.	To authorize the transportation in commerce of certain infectious substances in specially designed packaging. (mode 1).
12820-N	RSPA-01-10550	Trinity Manufacturing Hamlet, NC.	49 CFR 173.227(c)	To authorize the transportation in commerce of chloropicrin, 6.1, poison inhalation hazard, Hazard Zone B and chloropicrin mixtures in 1A1 drums in an alternative stacking position. (mode 1).
12821-N	RSPA-1-	Environmental Packaging Technologies, Inc. Atkinson, NH.	49 CFR 173.12(b)(2)(I). 173.240-243.	To authorize the manufacture, marking, sale and use of certain UN 11G Intermediate Bulk Containers (cubic yard boxes) for use as the outer packaging for paint and paint related material in HMR. (mode 1).
12823-N	RSPA-01-10537	Eastman Kodak Company, Rochester, NY.	49 CFR 174.67(i) & (j)	To authorize rail cars containing Class 3 and Class 9 hazardous materials to remain standing while connected without the physical presence of an unloader. (mode 2).
12825-N	RSPA-01-10535	United States Marine Safety Association, Colorado Springs, CO.	49 CFR 173.301(i)	To authorize the transportation of foreign life rafts equipped with non-DOT specification cylinders. (mode 1).
12826-N	RSPA-01-10547	Environmental Packaging Technologies, Inc., Atkinson, NH.	49 CFR 173.12(b)(2)(i) ...	To authorize the manufacture, marking, sale and use of certain UN 11G intermediate bulk containers (cubic yard boxes) for use as the outer packaging for paint and paint related material. (mode 1).
12827-N	RSPA-01-10586	Department of Energy (DOE), Washington, DC.	49 CFR 172.101, 173.56	To authorize the transportation in commerce of limited quantities of forbidden explosives by exclusive use motor vehicle in specially designed bomb proof trailers. (mode 1).

[FR Doc. 01-23431 Filed 9-19-01; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of

application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before (15 days after publication).

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC; or at http://dms.dot.gov.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 14, 2001.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of Exemption
7007–M		Allied Universal Corp., Miami, FL (See Footnote 1)	7007
9884–M		Puritan Bennett Corp. (Div. of Tyco Healthcare), Indianapolis, IN (See Footnote 2).	9884
10688–M		Alaska Air Taxi, Anchorage, AK (See Footnote 3)	10688
11761–M		The Mead Corporation, Dayton, OH (See Footnote 4)	11761
11761–M		Brenntag West, Inc., Santa Fe Springs, CA (See Footnote 5)	11761
11791–M		The Coleman Company, Inc., Wichita, KS (See Footnote 6)	11791
11850–M	RSPA–97–2308	Air Transport Association, Washington, DC (See Footnote 7)	11850
12532–M	RSPA–00–7864	Carleton Technologies, Inc., Orchard Park, NY (See Footnote 8)	12532
12590–M	RSPA–01–9890	USAirways, Inc., Pittsburgh, PA (See Footnote 9)	12590
12599–M	RSPA–01–8918	Voltaix, Inc., North Branch, NJ (See Footnote 10)	12599
12652–M	RSPA–01–9061	Eagle-Picher Technologies, LLC, Joplin, MO (See Footnote 11)	12652
12705–M	RSPA–01–9726	Brenntag Mid-South, Inc., Henderson, KY (See Footnote 12)	12705
12808–M		Linco-Electromatic Measurement, Inc., Kilgore, TX (See Footnote 13)	12808

[1] To modify the exemption to authorize the use of additional non-DOT specification multi-unit tank car tanks with minimum shell thickness for the transportation of Division 2.3 materials.

[2] To modify the exemption to authorize the use of a brazing procedure for bonding of the non-DOT specification cylinder tubes with the heads for the transportation of certain Division 2.2 materials.

[3] To modify the exemption to authorize alternative packaging for the non-DOT specification polyethylene containers with an increased container size to 6 gallons for the transportation of a Class 3 material; the addition of cargo aircraft only as an additional mode of transportation.

[4] To modify the exemption to authorize the transportation of additional Class 8 materials in certain DOT and AAR Specification tank cars with a modified inspection procedure.

[5] To modify the exemption to authorize relief from the inspection requirements of the underside rupture disk of the DOT and AAR Specification tank car tanks and the transportation of all Class 8 materials.

[6] To modify the exemption to authorize the use of a smaller size DOT 2Q nonrefillable inner container for the transportation of certain Division 2.1 materials.

[7] To modify the exemption to authorize the use of certain DOT and non-DOT specification cylinders fabricated from 4130 steel and titanium for the transportation of Division 2.2 materials.

[8] To modify the exemption to authorize one refill cycle of the non-DOT specification non-refillable welded stainless steel cylinder for the transportation of certain Division 2.2 materials.

[9] To modify the exemption originally issued on an emergency basis for the transportation of certain Class 8 materials in non-DOT specification specially designed containers and the transportation of an additional Class 8 material.

[10] To modify the exemption to authorize germane mixtures, Division 2.1 and 2.3, to be transported in DOT Specification 3AA and 3AAX manifold cylinders.

[11] To reissue the exemption originally issued on an emergency basis for the transportation of a Division 2.1 material in a non-DOT specification pressure vessel.

[12] To modify the exemption originally issued on an emergency basis for the transportation of a Class 8 material in drums that do not meet the minimum thickness requirements.

[13] To reissue the exemption originally issued on an emergency basis for the transportation of Class 3 materials in a non-DOT specification container described as a truck mounted mechanical displacement meter prover.

[FR Doc. 01–23430 Filed 9–19–01; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 7, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 22, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0051.
Form Number: IRS Form 99–C.
Type of Review: Revision.
Title: Farmers' Cooperative Association.

Description: Form 990–C is used by farmers' cooperatives to report the tax imposed by Internal Revenue Code section 1381. The IRS uses the information on the form to determine whether the cooperative has correctly computed and reported its income tax liability.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,600.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	75 hr., 34 min.
Learning about the law or the form.	24 hr., 55 min.
Preparing the form	43 hr., 5 min.
Copying, assembling, and sending the form to the IRS.	4 hr., 33 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 829,640 hours.

OMB Number: 1545–1274.
Form Number: IRS Form 8453–NR.
Type of Review: Extension.
Title: U.S. Nonresident Alien Income Tax Declaration for Electronic Filing.

Description: This form is used to secure taxpayer signatures and declarations in conjunction with the Electronic Filing program. This form, together with the electronic transmission comprises the taxpayer's income tax return.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,250 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 01–23501 Filed 9–19–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 14, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 22, 2001 to be assured of consideration.

Departmental Offices/Executive Office for Asset Forfeiture

OMB Number: 1505–0152.
Form Number: TD F 92–22.46.
Type of Review: Extension.
Title: Request for Transfer of Property Seized/Forfeited by a Treasury Agency.

Description: Form TD F 92–22.46 is necessary for the application for receipt of seized assets by Federal, State and Local Law Enforcement agencies.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.

Frequency of Response: Other (one submission per requested asset sharing).

Estimated Total Reporting/Recordkeeping Burden: 2,500 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–23508 Filed 9–19–01; 8:45 am]
BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 14, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 22, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0021.
Form Number: IRS Form 709–A.
Type of Review: Extension.
Title: United States Short Form Gift Tax Return.

Description: Form 709 is used to report gifts that would be taxable except that they are "split" between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/taxpayers of the burden of filing Form 709. IRS uses the information to assure that "gift-splitting" was properly elected.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 45,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	13 min.
Learning about the law or the form.	11 min.
Preparing the form	14 min.
Copying, assembling, and sending the form to the IRS.	20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 44,100 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–23509 Filed 9–19–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974: Computer Matching Program

AGENCY: Treasury Inspector General for Tax Administration, Treasury.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, notice is hereby given of the agreement between the Treasury Inspector General for Tax Administration (TIGTA) and the Internal Revenue Service (IRS) which enables TIGTA to conduct a program of computer matches.

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EFFECTIVE DATE: October 22, 2001.

ADDRESSES: Comments or inquires may be mailed to the Treasury Inspector General for Tax Administration, 1125 15th Street, NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Disclosure Officer, Treasury Inspector General for Tax Administration, (202) 622–4068.

SUPPLEMENTARY INFORMATION: TIGTA's computer matching program will enable TIGTA to prevent and detect fraud and abuse in the programs and operations of the IRS and related entities. TIGTA's computer matching program is designed to proactively detect indicators of misconduct and to discourage/deter the perpetration of illegal acts and misconduct by IRS employees. Further, this program will utilize computer matches to create models to identify alleged misconduct and criminal violations. Computer matching is the most feasible method of performing comprehensive analysis of employee and tax data.

Name of Source Agency:

Internal Revenue Service.

Name of Recipient Agency:

Treasury Inspector General for Tax Administration.

Beginning and Completion Dates:

This program of computer matches is expected to commence on September 24, 2001, but not earlier than the fortieth day after copies of the Computer Matching Agreement are provided to the Congress and OMB unless comments dictate otherwise. The program of computer matches is expected to conclude on March 23, 2003 or at the end of the eighteenth month after the beginning date.

Purpose:

This program is designed to deter and detect fraud, waste, and abuse in Internal Revenue Service programs and operations as well as to identify employees who have violated or are violating laws, rules, or regulations.

Authority:

The Inspector General Act of 1978, 5 U.S.C. Appendix 3. Treasury Order 115–01.

Categories of Individuals Covered:

Current and former employees of the Internal Revenue Service as well as individuals and entities about whom information is maintained in the systems of records listed below.

Categories of Records Covered:

Included in this program of computer matches are records from the following forty-two (42) Treasury or Internal Revenue Service systems:

a. Treasury Integrated Management Information System (TIMIS) [Treasury/DO.002]
b. FinCEN Data Base [Treasury/DO.200]
c. Treasury Integrated Financial Management and Revenue System [Treasury/DO.210]
d. Suspicious Activity Reporting System [Treasury/DO.212]
e. Bank Secrecy Act Reports System [Treasury/DO.213]
f. Correspondence Files and Correspondence Control Files [Treasury/IRS 00.001]
g. Correspondence Files/Inquiries About Enforcement Activities [Treasury/IRS 00.002]
h. Customer Feedback System [Treasury/IRS 00.003]
i. Foreign Information System (FIS) [Treasury/IRS 22.027]
j. Individual Returns Files, Adjustments and Miscellaneous Documents Files [Treasury/IRS 22.034]
k. Unidentified Remittance File [Treasury/IRS 22.059]
l. Automated Non-Master File (ANMF) [Treasury/IRS 22.060]
m. Individual Return Master File (IRMF) [Treasury/IRS 22.061]
n. Combined Account Number File [Treasury/IRS 24.013]
o. Individual Account Number File [Treasury/IRS 24.029]
p. Individual Master File (IMF) [Treasury/IRS 24.030]
q. Business Master File (BMF) [Treasury/IRS 24.046]
r. Audit Underreporter Case File [Treasury/IRS 24.047]
s. Debtor Master File [Treasury/IRS 24.070]
t. Acquired Property Records [Treasury/IRS 26.001]
u. IRS and Treasury Employee Delinquency [Treasury/IRS 26.008]
v. Lien Files (Open and Closed) [Treasury/IRS 26.009]
w. Offer in Compromise (OIC) File [Treasury/IRS 26.012]
x. Record 21, Record of Seizure and Sale of Real Property [Treasury/IRS 26.014]
y. Returns Compliance Programs [Treasury/IRS 26.016]
z. Taxpayer Delinquent Account (TDA) Files [Treasury/IRS 26.019]
aa. Taxpayer Delinquency Investigation (TDI) Files [Treasury/IRS 26.020]
bb. Counsel Automated Tracking System (CATS) Records [Treasury/IRS 90.016]
cc. Audit Trail Lead Analysis System (ATLAS) [Treasury/IRS 34.020]
dd. General Personnel and Payroll Records [Treasury/IRS 36.003]
ee. Medical Records [Treasury/IRS 36.005]
ff. Enrolled Agents and Resigned Enrolled Agents [Treasury/IRS 37.009]
gg. Examination Administrative File [Treasury/IRS 42.001]
hh. Audit Information Management System (AIMS) [Treasury/IRS 42.008]
ii. Internal Revenue Service Employees' Returns Control Files [Treasury/IRS 42.014]
jj. Classification/Centralized and Scheduling Files [Treasury/IRS 42.016]
kk. Compliance Programs and Projects Files [Treasury/IRS 42.021]
ll. Unified System for Time and Appeals Records UNISTAR [Treasury/IRS 44.003]
mm. Case Management and Time Reporting System [Treasury/IRS 46.002]
nn. Controlled Accounts (Open and Closed) [Treasury/IRS 46.004]
oo. Treasury Enforcement Communications System (TECS) Criminal Investigation Division [Treasury/ IRS 46.022]
pp. Automated Information Analysis System [Treasury/IRS 46.050]

Dated: September 10, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 01–23368 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Administrative Remedies, Closing Agreements.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Stewart, Revenue Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8200.

SUPPLEMENTARY INFORMATION:

Title: Administrative Remedies, Closing Agreements.

OMB Number: 1512–0528.

Abstract: 26 U.S.C. 7121 authorizes the Bureau of Alcohol, Tobacco and Firearms to prescribe regulations for entering into an agreement in writing with any person relating to any tax liability of such person imposed under 26 U.S.C. which is enforced and administered by ATF. Closing agreements may be related to the total tax liability of the taxpayer or to one or more separate items affecting the tax liability.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23432 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Proprietors or Claimants Exporting Liquors.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Proprietors or Claimants Exporting Liquors.

OMB Number: 1512–0385.

Recordkeeping Requirement ID Number: ATF REC 5900/1.

Abstract: Distilled spirits, Wine and beer may be exported from bonded premises without payment of excise taxes or they may be exported if their taxes have been paid and the exporters may claim drawback of the taxes paid. This recordkeeping requirement is needed to allow the amounts exported to be verified and to maintain accountability over products. The records retention requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 120.

Estimated Time Per Respondent: 60 hours per year.

Estimated Total Annual Burden Hours: 7,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23433 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Prpposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Manufacturers of Nonbeverage

Products-Records to Support Claims for Drawback.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8522.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers of Nonbeverage Products-Records to Support Claims for Drawback.

OMB Number: 1512–0379.

Recordkeeping Requirement ID Number: ATF REC 5530/2.

Abstract: The recordkeeping requirements included in ATF REC 5530/2 are part of the system that is necessary to prevent diverson of drawback spirits to beverage use. The records are necessary to maintain accountability over these spirits. The record retention requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 611.

Estimated Time Per Respondent: 21 hours per year.

Estimated Total Annual Burden Hours: 12,831.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23439 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachussetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report.

OMB Number: 1512–0353.

Recordkeeping Requirement ID Number: ATF REC 5170/2.

Abstract: ATF uses these records and reports as an accounting tool to ensure protection of the revenue. Records of receipt and disposition are the basic documents that describe the activities of wholesale dealers. They provide an audit trail of taxable commodities from point of production to point of sale. Records of disposition are required only for distilled spirits. ATF requires the monthly report only in exceptional circumstances to ensure that a particular wholesale dealer is maintaining the required records. The records retention requirement is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 2 hours per month.

Estimated Total Annual Burden Hours: 1,200.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23440 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Personnel Security Request.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Terry L. Cates, Office of Inspection, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7800.

SUPPLEMENTARY INFORMATION:

Title: Personnel Security Request.

OMB Number: 1512–0565.

Form Number: ATF F 8620.5.

Abstract: ATF F 8620.5 is an internal use form to gather preliminary information from an individual desiring access to ATF facilities, information, or data. The information requested is necessary to permit ATF to begin the preliminary criminal records search on the applicant.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 83.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23441 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the National Repository for the Collection and Inventory of Information Related to Arson and the Criminal Misuse of Explosives.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to William Spruce, Chief, Arson and Explosives National Repository Branch, 1120 Vermont Avenue, NW., Washington, DC 20212, (202) 927–4590.

SUPPLEMENTARY INFORMATION:

Title: A National Repository for the Collection and Inventory of Information Related to Arson and the Criminal Misuse of Explosives.

OMB Number: 1512–0564.

Abstract: Title 18 United States Code, Section 846(b) authorizes the Secretary of the Treasury to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. The national repository of information will be available in a database designed and implemented with input from Federal, State, and local fire service and law enforcement authorities.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Federal Government.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 17.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23442 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Applications—Volatile Fruit-Flavor Concentrate Plants, Final Rule.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Applications—Volatile Fruit-Flavor Concentrate Plants, Final Rule.

OMB Number: 1512–0046.

Form Number: ATF F 27-G (5520.3).

Recordkeeping Requirement ID Number: ATF REC 5520/2.

Abstract: Persons who wish to establish premises to manufacture volatile fruit-flavor concentrates must file an application. ATF uses the application to identify persons and premises that manufacture volatile fruit-flavor concentrates. Volatile fruit-flavor concentrates contain alcohol and have a potential to be used for beverage purposes on which tax is imposed.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 40.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23448 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Drawback of Tax on Tobacco Products and Cigarette Papers and Tubes-Export Shipment.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Drawback of Tax on Tobacco Products and Cigarette Papers and Tubes-Export Shipment.

OMB Number: 1512–0533.

Recordkeeping Requirement ID Number: ATF REC 5210/2.

Abstract: Tobacco products have historically been a major source of excise tax revenues for the Federal government. In order to safeguard these taxes, tobacco products manufacturers are required to maintain a system of records designed to establish accountability over the tobacco products and cigarette papers and tubes. Exporters of tobacco products and cigarette papers and tubes on which they have paid tax may claim drawback of tax by complying with the requirements of laws and regulations. The records retention period is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 5.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23449 Filed 9–19–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application For Registration of Firearms Acquired By Certain Governmental Entities.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Art Resnick, Chief, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8320.

SUPPLEMENTARY INFORMATION:

Title: Application For Registration of Firearms Acquired By Certain Governmental Entities.

OMB Number: 1512–0029.

Form Number: ATF F 10 (5320.10).

Abstract: ATF F 10 (5320.10) is used by State and local government agencies to effect the registration of otherwise unregisterable National Firearms Act (NFA) firearms. The information on the form is verified by ATF Personnel in the processing of the application to ensure that an unregistered NFA firearm is being registered and that the applicant is a government agency eligible to possess the firearm.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 300.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23450 Filed 9–19–01; 8:45 am]

BILLING CODE 4310–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Offer In Compromise of Liability Incurred Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Rosa Jeter, Market Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8130.

SUPPLEMENTARY INFORMATION:

Title: Offer In Compromise of Liability Incurred Under the Federal Alcohol Administration Act.

OMB Number: 1512–0222.

Form Number: ATF F 5640.2.

Abstract: In 1935, Congress passed the Federal Alcohol Administration Act (FAA Act). Persons who have committed violations of the FAA Act may submit an offer in compromise. The offer is a request by the party in violation to compromise penalties for the violations in lieu of civil or criminal action. ATF F 5640.2 identifies the violation(s) to be compromised by the person committing them, the amount of the offer plus a justification for acceptance of the offer.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 12.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 24.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

Dated: September, 10, 2001.
William T. Earle,
Assistant Director (Management) CFO.
[FR Doc. 01–23451 Filed 9–19–01; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Restoration of Firearms and/or Explosives Privileges.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Vivian Pena, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Application for Restoration of Firearms and/or Explosives Privileges.

OMB Number: 1512–0005.

Form Number: ATF F 3210.1.

Abstract: The information on the form is required in order to determine whether or not firearms and/or explosives privileges may be restored. It is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.
William T. Earle,
Assistant Director (Management) CFO.
[FR Doc. 01–23452 Filed 9–19–01; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Formula and Process for Nonbeverage Product.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Steve Simon, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8183.

SUPPLEMENTARY INFORMATION:

Title: Formula and Process for Nonbeverage Product.

OMB Number: 1512–0095.

Form Number: ATF F 5154.1.

Abstract: The information collected on ATF F 5154.1 is used by ATF laboratory personnel to determine whether the product described on the form is eligible for nonbeverage drawback. This determination is made once for each formula that is submitted. Records must be kept as long as claims are filed under the formula, and for 3 years thereafter.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 611.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 2001.
William T. Earle,
Assistant Director (Management) CFO.
[FR Doc. 01–23453 Filed 9–19–01; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Privacy Act of 1974, as Amended; System of Records

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Office of Thrift Supervision (OTS), Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the OTS has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

Other changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses and or titles in several systems of records. Editorial changes were also made to Appendix A.

The following systems of records have been deleted from OTS' inventory of Privacy Act notices: OTS .007—Employee Parking (December 14, 2000, at 65 FR 78263); OTS .010—Inquiry/Request System (January 12, 1999, at 64 FR 67966), and OTS .013—Personnel Security and Suitability Program (December 14, 2000, at 65 FR 78261).

Systems Covered by This Notice

This notice covers all systems of records adopted by OTS up to August 15, 2001. The systems notices are reprinted in their entirety following the Table of Contents.

Dated: September 10, 2001.
W. Earl Wright, Jr.,
Chief Management and Administrative Programs Officer.

Table of Contents

OTS .001—Confidential Individual Information System
OTS .002—Correspondence/Correspondence Tracking
OTS .003—Consumer Complaint
OTS .004—Criminal Referral Database
OTS .005—Employee Counseling Service
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OTS .008—Employee Training Database
OTS .011—Positions/Budget
OTS .012—Payroll/Personnel Systems & Payroll Records.

Office of Thrift Supervision Treasury/OTS .001

SYSTEM NAME:

Confidential Individual Information System—Treasury/OTS

SYSTEM LOCATION:

Enforcement Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552. Computerized records of Suspicious Activity Reports (SAR), with status updates, are managed by FinCEN pursuant to a contractual agreement, and are stored at the Internal Revenue Service's Computing Center in Detroit, Michigan. Authorized personnel at the Federal financial regulatory agencies have on-line access to the computerized database managed by FinCEN through individual work stations that are linked to the database central computer.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, officers, employees, agents, borrowers, and persons participating in the conduct of the affairs of entities regulated by the OTS who have been involved in suspected criminal activity or suspicious financial transactions and referred to law enforcement officials; and other individuals who have been involved in irregularities, violations of law, or unsafe or unsound practices referenced in documents received by OTS in the exercising of its supervisory functions.

These records also contain information concerning individuals who have filed notices of intention to acquire control of a savings association; controlling persons of companies that have applications to acquire control of a savings association; and organizers of savings associations who have sought Federal Savings and Loan Insurance Corporation (FSLIC) or Saving Association Insurance Fund (SAIF) insurance of accounts or federal charters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application information and inter-agency and intra-agency correspondence, memoranda and reports. The SAR contains information identifying the financial institution involved, the suspected person, the type of suspicious activity involved, the amount of loss known, and any witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1464; 44 U.S.C. 3101.

PURPOSE(S):

The overall system serves as a central OTS repository for investigatory or enforcement information related to the responsibility of OTS to examine and supervise savings associations. It also serves to store information on applicants to acquire, control, or insure a savings association in connection with OTS's regulatory responsibilities.

The system maintained by FinCEN serves as the database for the cooperative storage, retrieval, analysis, and use of information relating to Suspicious Activity Reports made to or by the Federal financial regulatory agencies and FinCEN to various law enforcement agencies for possible criminal, civil or administrative proceedings based on known or suspected violations affecting or involving persons, financial institutions, or other entities under the supervision or jurisdiction of such Federal financial regulatory agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used to: (1) Provide the Department of Justice with periodic reports on the number, amount, individual identity and other details concerning outstanding potential criminal violations of the law that have been referred to the Department; (2) Provide the Federal financial regulatory agencies and FinCEN with information relevant to their operations; (3) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (4) Provide information or records to any appropriate governmental agency or self-regulatory organization charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order, policy, or license; (5) Disclose, when considered appropriate, information to a bar association, or other professional organizations performing similar functions, for possible disciplinary action; (6) Disclose information when appropriate to international and foreign governmental authorities in accordance with law and formal or informal international agreements; and (7) Provide information to any person with whom the OTS contracts to reproduce, by typing, photocopying or other means, any record within this system for use by the OTS and its staff in connection with their official duties or to any person who is utilized by the OTS to perform

clerical or stenographic functions relating to the official business of the OTS.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media and in paper files.

RETRIEVABILITY:

Computer output and file folders are retrievable by indexes of data fields, including name of financial institution and individual's name.

SAFEGUARDS:

Paper files are stored in lockable metal file cabinets with access limited to authorized individuals. Computer disks maintained at OTS are accessed only by authorized personnel. The database maintained by FinCEN complies with applicable security requirements of the Department of the Treasury. On-line access to the information in the database is limited to authorized individuals, and each individual has been issued a non-transferable identifier or password.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESSES:

Deputy Chief Counsel for Enforcement. See "System location" for address.

NOTIFICATION PROCEDURE:

The system is exempt from notification and record-access requirements and requirements that an individual be permitted to contest its contents under 5 U.S.C. 552a(j)(2) and (k)(2) as relating to investigatory material compiled for law enforcement purposes.

RECORD ACCESS PROCEDURE:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Suspicious activity reports and related historical information and updating forms compiled by financial institutions, the OTS, and other Federal financial regulatory agencies for law enforcement purposes. The OTS will also include information from applicants, inter-agency and intra-agency correspondence, memoranda, and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Treasury/OTS .002

SYSTEM NAME:

Correspondence/Correspondence Tracking.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

White House and Executive Office of the President officials, Members of Congress, Treasury Department officials, the general public, and businesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence addressed to the Director of OTS, letters from members of Congress transmitting letters from constituents or making inquiries; OTS responses; OTS memoranda and notes used to prepare responses; and information concerning internal office assignments, processing and response to the correspondence.

PURPOSE(S):

To maintain written records of correspondence addressed to the Director of OTS and Congressional correspondence; to track the progress of the response; to document the completion of the response to the incoming correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Disclosures may be made to a Congressional office from the records of an individual in response to an inquiry made at the request of the individual to whom the record pertains; (2) Information may be disclosed to the appropriate governmental agency charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic media and in paper files.

RETRIEVABILITY:

Records are maintained by name of individual; assignment control number.

SAFEGUARDS:

Access to paper records is limited to authorized personnel with a direct need to know. Some paper records are maintained in locked file cabinets in a secured office with access limited to those personnel whose official duties require access. Access to computerized records is limited, through the use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Computerized records relating to non-congressional correspondence are retained for two (2) years after the Director's term. Computerized records relating to congressional correspondence are kept permanently. Paper records are retained for two (2) years after the Director's or member of Congress' term, then transferred directly to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Congressional Affairs. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORDS ACCESS PROCEDURE:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Congressional letters and responses from a Member of Congress and/or a constituent.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .003

SYSTEM NAME:

Consumer Complaint System.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who submit inquiries or complaints concerning federally insured depository institutions, service corporations, and subsidiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consumer's name, savings association's docket number, case number as designated by a Consumer Complaint Case number. Within these categories of records, the following information may be obtained: consumer's address, source of inquiry or complaint, nature of the inquiry or complaint, nature of the inquiry or complaint designated by instrument and complaint code, information on the investigation and resolution of inquiries and complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 57a(f), 5 U.S.C. 301.

PURPOSE(S):

OTS uses this system to track individual complaints and to provide additional information about each institution's compliance with regulatory requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Information may be disclosed to officials of regulated savings associations in connection with investigation and resolution of complaints and inquiries; (2) relevant information may be made available to appropriate law enforcement agencies or authorities in connection with investigation and/or prosecution of alleged civil, criminal and administrative violations; (3) disclosures may be made to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (4) disclosures may be made to other Federal and nonfederal governmental supervisory or regulatory authorities when the subject matter is within such other agency's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

By name of individual, complaint case number, savings association name, docket number, region complaint code, instrument code, source code or by some combination thereof.

SAFEGUARDS:

Paper records are maintained in locked file cabinets with access limited to those personnel whose official duties require access. Access to computerized records is limited, through use of the system passwords, to those whose official duties require access.

RETENTION AND DISPOSAL:

Active paper files are maintained until the case is closed. Closed files are retained six (6) years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Consumer Programs. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Inquirer or complainant (or his or her representative which may include a member of Congress or an attorney); savings association officials and employees; compliance/safety and soundness examiner(s); and other supervisory records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .004

SYSTEM NAME:

Criminal Referral Database.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of having committed crime(s) and individuals indicted or convicted of crine(s) against or involving savings associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal referrals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1464; 44 U.S.C. 3101.

PURPOSE(S):

This system lists all matters referred to the Department of Justice for possible criminal proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information may be disclosed to the appropriate governmental agency charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

Records are filed by name of individual, savings institution or referral control number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes, and maintained in electronic form as long as needed for the purpose for which the information was collected. Records will then be disposed of in accordance with applicable law.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Counsel for Enforcement. See "System location" for address.

NOTIFICATION PROCEDURE:

This system is exempt from notification and record-access requirements and requirements that an individual be permitted to contest its contents under 5 U.S.C. 552a(j)(2) and (k)(2) as relating to investigatory material compiled for law enforcement purposes.

RECORDS ACCESS PROCEDURE:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Criminal Referral forms compiled for law enforcement purposes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). See 31 CFR 1.36.

Treasury/OTS .005

SYSTEM NAME:

Employee Counseling Services.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who seek counseling services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Counseling records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

To provide a history and record of the employee counseling session(s) and to assist the counselor in identifying and resolving employee problem(s).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

This system will have minimal effect on individual privacy because access is limited to the employee counseling program counselor. Under special and emergency circumstances records may be released to medical personnel, research personnel, and as a result of a court order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files.

RETRIEVABILITY:

Records are retrieved by a number assigned to employee.

SAFEGUARDS:

Records are maintained in locked file cabinet. Access is limited to the employee counselor.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Branch. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Employees and counselors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .006

SYSTEM NAME:

Employee Locator File.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present employees of the OTS and persons whose employment has been terminated within the last six months.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, present address, telephone number, and the name, address, and telephone number of another person to notify in case of emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

This system provides current information on employee's address and emergency contact person.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Disclosure of information may be made to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) medical personnel in case of an emergency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

Records are filed by name of individual.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Access is limited to those personnel whose official duties require such access and who have a need to know information in a record for a particular job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are maintained until termination of employee's employment with OTS. After termination, records are retained for six months then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Branch. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

The individual whose record is being maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .008

SYSTEM NAME:

Employee Training Database.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Office of Thrift Supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual employee records are maintained by name, course taken, social security number, position, division, and manager name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE(S):

To maintain necessary information on training taken by employees through outside sources and vendors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records are not disclosed outside of OTS.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media.

RETRIEVABILITY:

Records are filed by individual name, social security number and course taken.

SAFEGUARDS:

Access to computerized records is limited, through use of a password, to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Professional Development Branch. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Personnel records and individual development plans completed by employee and supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .011

SYSTEM NAME:

Positions/Budget.

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current employees of the Office of Thrift Supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual employee records are kept by office and agency as follows: Name, title, entered on duty date, service computation date, occupation series, social security number, grade, current salary, location of employee, date of last promotion, and eligibility for promotion. Records are kept for each office (and, where appropriate, for the agency) on number of vacancies, authorized position ceilings, and number of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

The system allows the OTS Budget Division the ability to track positions by Office to assure that assigned Full-Time Equivalent ceilings are not exceeded and remain within the limits set by the Director of the OTS. The system also provides information to each office which can be used in developing their calendar year compensation budget.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information may be disclosed to the appropriate governmental agency charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order, or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic media.

RETRIEVABILITY:

Records are filed by name of individual.

SAFEGUARDS:

Paper records are maintained in file folders in secured areas. Access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a particular job-related purpose. Access to computerized records is limited, through use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Planning, Budget and Finance Division. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/OTS .012

SYSTEM NAME:

Payroll/Personnel System & Payroll Records

SYSTEM LOCATION:

Office of Thrift Supervision, Department of the Treasury, 1700 G Street, NW, Washington, DC 20552. See Appendix A for appropriate local address of OTS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Office of Thrift Supervision (OTS) employees and all former employees of the OTS, within the past three years.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to (1) employee status, grade, salary, pay plan, hours worked, hours of leave taken and earned, hourly rate, gross pay, taxes, deductions, net pay, location, and payroll history; (2) employee's residence, office, social security number, and address; (3) Personnel actions (SF–50), State employees' withholding exemption certificates, Federal employees' withholding allowance certificates (W4), Bond Allotment File (SF–1192), Federal Employee's Group Life Insurance (SF–2810 and 2811), Savings Allotment-Financial Institutions, Address File (OTS Form 108), Union Dues Allotment, time and attendance reports, individual retirement records (SF–2806), Combined Federal Campaign allotment, direct deposit, health benefits, and thrift investment elections to either the Federal Thrift Savings Plan (TSP–1) or OTS' Financial Institutions Thrift Plan (FITP–107 and K 1–2).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE(S):

Provides all the key personnel and payroll data for each employee which is required for a variety of payroll and personnel functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) In the event that records maintained in this system of records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of implementing the statute, or rule or regulation or order issued pursuant thereto; (2) a record from this system may be disclosed to other Federal agencies and the Office of Personnel Management if necessary for or regarding the payment of salaries and expenses incident to employment at the Office of Thrift Supervision or other Federal employment, or the vesting, computation, and payment of retirement or disability benefits; (3) a record from this system may be disclosed if necessary to support the assessment, computation, and collection of federal, state, and local taxes, in accordance with established procedures; (4) disclosure of information may be made to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) records from this system may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, and identifying sources of income, and for other support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media, microfiche, and in paper files.

RETRIEVABILITY:

Records are filed by individual name, social security number and by office.

SAFEGUARDS:

Paper and microfiche records are maintained in secured offices and access is limited to personnel whose official duties require such access and who have a need to know the information in a record for a particular job-related purpose. Access to computerized records is limited, through the use of a password, to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resources Branch. See "System location" for address.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; and (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Personnel and payroll records of current and former employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

APPENDIX A

Addresses of Office of Thrift Supervision Regional Offices:

Northeast Region: 10 Exchange Place, 18th Floor, Jersey City, NJ 07302.

Southeast Region: 1475 Peachtree Street, NE, Atlanta, GA 30309.

Central Region: One South Wacker Drive, Suite 2000, Chicago, IL 60606.

Midwest Region: 225 E. John Carpenter Freeway, Suite 500, Irving, TX 75062.

West Region: Office of Thrift Supervision, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, CA 94014–1976.

[FR Doc. 01–23369 Filed 9–19–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special-Disabilities Programs (Committee) will be held Monday and Tuesday, September 24–25, 2001, at VA Headquarters, Room 630, 810 Vermont Avenue, NW, Washington, DC. The September 24 session will convene at 8 a.m. and adjourn at 4 p.m. and the September 25 session will convene at 8 a.m. and adjourn at 12 noon. The purpose of the Committee is to advise the Department on its prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On both days, the Advisory Committee on prosthetics and Special-Disabilities Programs will receive briefings by the National Program Directors of the Special-Disabilities Programs regarding the status of their activities over the last four months and present any critical issues requiring the Committee's consideration.

The meeting is open to the public. For those wishing to attend, contact Kathy Pessagno, Veterans Health Administration (113), phone (202) 273–8512, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, prior to September 21, 2001.

Dated: September 13, 2001.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–23348 Filed 9–19–01; 8:45 am]

BILLING CODE 8320–01–M

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Corrections

Federal Register
Vol. 66, No. 183
Thursday, September 20, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review, Comment Request

Correction

In notice document 01–22701 beginning on page 47192, in the issue of Tuesday, September 11, 2001, make the following correction:

On page 47192, in the third column, in the 11th line from the bottom, the web address is corrected to read as follows: *"http://www.eia.doe.gov/fuelelectric.html"*.

[FR Doc. C1–22701 Filed 9–19–01; 8:45 am]

BILLING CODE 1505–01–D

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/index.html.* Some laws may not yet be available.

H.R. 93/P.L. 107–27

Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28

To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29

To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30

To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31

To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32

To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33

To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

Last List August 21, 2001

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV01–928–1 FIR]

Papayas Grown in Hawaii; Suspension of Grade, Inspection, and Related Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, an interim final rule suspending the grade, inspection, inspection waiver procedures, and related exempt shipment reporting requirements under the marketing order regulating papayas grown in Hawaii, due to current overproduction and unprecedented low prices for fresh papayas. This rule continues in effect the suspension of those provisions. These modifications result from a unanimous recommendation of the Papaya Administrative Committee (committee or PAC) at an emergency meeting on December 28, 2000. This action is expected to permit the industry to utilize funds earmarked for inspection for enhanced marketing efforts, thus improving producer returns by increasing consumer demand.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 155 and Marketing Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the suspension of three sections of the order's rules and regulations regarding minimum grade requirements (§ 928.313), maturity exemptions (§ 928.152), and inspection waiver procedures (§ 928.150). It also continues in effect the amendment of § 928.160 of the order's rules and regulations. The amendment to § 928.160 continues in effect the removal of references to mandatory regulations and relieves handlers from the requirement to add the inspection certificate number on PAC Form 1, Papaya Utilization.

This rule results from a unanimous recommendation of the committee at an emergency meeting on December 28, 2000. At that meeting, the committee recommended postponing, until July 1, 2001, the effective date of a final rule published by the Department on November 22, 2000, which reinstated grade, inspection, and related reporting requirements, effective January 2, 2001. The committee held a subsequent committee meeting on January 11, 2001, at which further public discussion was held. After considering the committee's recommendation and other relevant information, the Department is continuing in effect the suspension of the requirements that were reinstated on January 2, 2001, for an indefinite period.

Section 928.52 of the papaya marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of papayas. Section 928.53 allows for the modification, suspension, or termination of such regulations when warranted. Section 928.55 provides that whenever papayas are regulated pursuant to §§ 928.52 or 928.53, such papayas must be inspected by the inspection service and certified as meeting the applicable requirements. The cost of inspection and certification is borne by handlers. Section 928.54 authorizes regulation exemptions when shipping papayas for commercial processing, relief agencies, or charitable institutions. In addition, the Secretary may relieve from any or all requirements under or established pursuant to §§ 928.41, 928.52, 928.53, and 928.55, the handling of papayas in such minimum quantities, in such types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to " 928.45) as the committee, with the approval of the

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Secretary, may prescribe. Section 928.60 of the papaya marketing order authorizes handler reporting requirements.

This rule continues in effect the suspension of § 928.313 of the order's rules and regulations regarding minimum grade requirements. That section states that no handler shall ship papayas to any destination unless such papayas meet the minimum grade of Hawaii No. 1.

This rule also continues in effect the removal of the requirement that handlers obtain inspection through the Federal or Federal-State Inspection Service (inspection service) prior to shipment of fresh papayas. Suspension of the inspection waiver procedures in § 928.150 of the order's rules and regulations results in the elimination of the authority of the inspection service to grant inspection waivers. Inspection waivers allow handlers to ship papayas without inspection under certain conditions when it is not practicable for the inspection service to provide such inspection. In the absence of mandatory inspection, handlers do not need inspection waivers issued by the inspection service.

This rule also continues in effect the suspension of the maturity exemption and related reporting requirements in § 928.152 of the order's rules and regulations to remove the requirement that handlers interested in becoming handlers of immature papayas apply to the committee for approval, and report handling of immature papayas. Immature papayas are used in a popular dish called green papaya salad and as a vegetable substitute in recipes. Suspension of the maturity exemption and related reporting requirements also relieves handlers from filing PAC Forms 7 and 7(c) with the committee.

In addition, this rule continues in effect the amendment of § 928.160 to remove the references to mandatory regulations and the requirement that handlers include the number of the inspection certificate issued by the inspection service on each PAC Form 1 filed with the committee.

Grade, inspection, and reporting requirements under the order were suspended in 1994. As previously mentioned, in a final rule published on November 22, 2000, and effective January 2, 2001, the Department reinstated those requirements under §§ 928.150, 928.152, 928.313, and 928.160 of the order's rules and regulations.

The committee met on December 28, 2000, and voted unanimously to postpone the effective date until July 1, 2001. During that meeting, and a subsequent meeting on January 11, 2001, the committee noted that producer prices ranged from 6 to 12 cents per pound, compared to 25 to 45 cents per pound reported by the committee for the same period the previous year. Such prices, coupled with overproduction, have had a negative effect on the entire industry, especially for the new Rainbow variety of papayas. The Rainbow variety has been developed to tolerate the effects of the Papaya Ringspot Virus, which has decimated papaya trees in Hawaii for several years. The Rainbow variety, however, has not yet been approved for exportation to significant markets, especially Japan or Canada, and is only marketed in the United States.

Given the current marketing limitations and overproduction of papayas, the committee recommended that funds earmarked for inspection costs be redirected to marketing and promotion in an effort to increase demand and improve returns to producers. Currently, with low prices to producers, there is little money available for inspection. What funds are available, the committee believes, would best be utilized in increasing demand by enhanced marketing and promotion activities at this time. The committee proposed to review the condition of the industry in late spring or early summer to determine if overproduction eased or demand improved. Historically, the summer months result in lower production, due to the reduced availability of rainwater. This has been true for most varieties of papayas, and may also be true for the Rainbow variety. This information would place the committee in a better position to evaluate what further recommendations to make in the interests of the industry.

While the committee recommended a postponement of the effective date for implementing mandatory grade, inspection, and related reporting requirements until July 1, 2001, the Department believes that a suspension of the requirements is preferable. First, the emergency recommendation was made five days prior to the effective date of the regulations, January 2, 2001. Since that time inspections of papayas have not occurred. Second, the committee does not yet have a timetable for entry of the new Rainbow variety of papayas into the export markets to which the traditional variety, Kapoho, currently has entry. The committee believes increased demand would help absorb the current overproduction of the prolific Rainbow variety, and have a positive affect on producer returns. Third, the committee also believes that enhanced marketing and promotion may also improve demand for all fresh papayas. The committee believes that funds earmarked for inspection costs would be better utilized on promotional efforts. Thus, there would be no funds available later in the fiscal year for implementing mandatory inspection. There is no evidence that the conditions that currently exist in the industry would be greatly improved in the next several months.

For these reasons, the suspension of mandatory grade, inspection, and reporting requirements effective January 2, 2001, are continued in effect until such time as the conditions in the industry improve and the committee can demonstrate a long-term commitment to a quality control program.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 handlers of papayas in the production area and approximately 400 producers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a reported current average f.o.b. price of $.65 per pound of papayas, a handler would have to ship in excess of 7.69 million pounds of papayas to have annual receipts of $5,000,000. Last year, only one handler shipped more than 7.69 million pounds of papayas, and, therefore, could be considered a large business. The remaining handlers could be considered small businesses, excluding receipts from other sources.

Based on a reported current average grower price of $0.09 per pound and annual industry shipments of 40 million pounds, total grower revenues would be $3.6 million. Average annual grower revenue would, thus, be $9,000. Based on the foregoing, the majority of handlers and producers of papayas may be classified as small entities, excluding receipts from other sources.

This rule continues in effect the suspension of the grade, inspection, and related reporting requirements under the order's rules and regulations. As a result, the suspension of §§ 928.150, 928.152, and 928.313 in their entirety is continued, and the amendment of § 928.160 is continued to remove the reference to mandatory regulations and the requirement that the inspection certificate number be added to the utilization reports filed by handlers.

At the meeting, the committee discussed the impact of these changes on handlers and producers in terms of cost. Since mandatory inspection and certification costs are borne by handlers, the cost savings to each handler are estimated to be a total $24.24 per hour for on-site inspections. In addition, the inspection service charges mileage costs of $.37 per mile round trip from the inspection service office to the handler's premises or processing plant. According to the inspection service, for a trip taking 10 or more minutes, or covering 7 or more miles, the travel time cost is based on the $24.24 hourly rate. Some handlers could pass the inspection costs onto producers, thus, further decreasing overall producer returns. These costs do not apply in the absence of minimum quality requirements and associated mandatory inspection.

During its deliberations, the committee discussed possible alternatives to this action. They deliberated the impacts of the final rule taking effect on January 2, 2001. However, because economic conditions in the papaya industry are currently at a historically low level, the committee rejected that alternative.

The committee also debated the value of suspending, rather than postponing, the regulations in their entirety. That alternative, however, was also rejected, as the committee felt suspension of the regulations was too drastic an action to take at the time. Instead, the committee proposed postponing the effective date of the requirements until July 1, 2001, and further reviewing the conditions within the industry at that time. The requirements were originally suspended beginning on July 1, 1994.

However, as noted earlier, the Department has determined that the suspension of the requirements is preferable and continues in effect, given the current industry conditions and likelihood that there will be no substantial improvement in the next several months. If industry conditions improve, implementation of the quality control program could again be recommended by the committee. Accordingly, this action will have a favorable effect on both large and small entities.

This rule continues in effect the relaxation of reporting requirements under the order, since PAC Form 1 will no longer require the addition of the inspection certificate number on it. In addition, PAC Forms 7 and 7(c) will not be required from handlers wishing to be approved handlers of immature papayas. In the absence of mandatory inspection, no handlers will be required to apply for approval to handle immature papayas using PAC Form 7 nor report shipments of immature papayas to the committee using PAC Form 7(c). This rule will decrease the burden by 9.25 hours.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

In addition, the committee's meetings were widely publicized throughout the papaya industry and all interested persons were encouraged to attend the meetings and participate in committee deliberations on all issues. Like all committee meetings, the December 28, 2000, and the subsequent January 11, 2001, meetings were public meetings and all entities, both large and small, were encouraged to express views on this issue. The committee itself is comprised of 13 members, consisting of nine producer members and three handlers members. The committee also includes a public member who does not represent an agricultural interest nor have a financial interest in papayas.

An interim final rule concerning this action was published in the **Federal Register** on May 30, 2001. Copies of the rule were mailed by the committee's staff to all committee members and papaya handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended July 30, 2001. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, including the information and recommendation submitted by the committee and other available information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (66 FR 29216, May 30, 2001) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

PART 928—PAPAYAS GROWN IN HAWAII

Accordingly, the interim final rule amending 7 CFR part 928, which was published at 66 FR 29216 on May 30, 2001, is adopted as a final rule without change.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23652 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV01–966–1 FR]

Tomatoes Grown in Florida; Changes to the Handling Regulation for Producer Field-Packed Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the requirements currently prescribed for producer field-packed tomatoes under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida, and is administered locally by the Florida Tomato Committee (Committee). This rule removes the net weight and weight labeling exemptions for producer field-packed tomatoes. Producer field-packed tomatoes compete directly with packinghouse tomatoes that must meet the net weight requirement. This change requires all tomatoes, regardless of where they are packed, to meet the same net weight requirements so that these requirements are the same for producer field-packed tomatoes and packinghouse tomatoes.

EFFECTIVE DATE: This final rule becomes effective September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and

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Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, Florida 33883; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule removes the net weight exemption currently prescribed for producer field-packed tomatoes under the Florida tomato marketing order. The Committee recommended this change at its meeting on February 27, 2001, with a vote of eight in favor and two opposed.

Under the order, tomatoes produced in the production area and shipped to fresh market channels outside the regulated area are required to meet grade, size, inspection, and container requirements. These requirements apply during the period October 10 through June 15 each year. Current requirements include a minimum grade of U.S. No. 2 and a minimum size of 2$^{9}/_{32}$ inches in diameter. Current pack and container requirements outline the types of information that need to appear on a container, weight restrictions, and where the containers must be packed.

Section 966.52 of the Florida tomato marketing order provides authority for the issuance of regulations. This includes authority to establish and modify pack and container requirements for tomatoes grown in the defined production area and handled under the order.

Section 966.323 contains the handling regulations issued under the order. Section 966.323(a)(3)(i) requires that tomatoes packed by registered handlers be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of a container's contents cannot be less than the designated net weight or exceed the designated net weight by more than two pounds. Section 966.323(a)(3)(ii) requires that tomatoes be packed by registered handlers in containers that are marked with the designated net weight and with the name and address of the registered handler, and that such containers must be packed at the registered handler's facilities.

Section 966.323(d)(1) contains exemptions to the regulations. The section currently exempts producer field-packed tomatoes from the container net weight requirements and the requirement that each container or lid be marked to indicate the designated net weight. It also exempts producer field-packed tomatoes from the requirement that all containers must be packed at a registered handler's facilities. However, field-packed tomatoes still must meet the other requirements of the marketing order, including established grade, size, container, pack, and inspection requirements.

This rule removes the net weight and weight labeling exemptions for producer field-packed tomatoes. This change requires all tomatoes, unless specifically granted an exemption, to meet the same net weight requirements regardless of where they are packed.

Producer field-packed tomatoes are tomatoes which at the time of inspection are No. 3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place packed in new containers in the field by a producer as defined in § 966.150 of the rules and regulations. The tomatoes are then transported to a registered handler's facilities for final preparation for market and for inspection.

Producer field-packed tomatoes are picked by hand and place packed in containers in layers. When place packing a container of tomatoes, the fill is determined by the size of the tomato, dimensions of the container, and the way the tomatoes are positioned in the box. Each layer is tightly packed by rotating the tomatoes and by the size selection of the tomatoes. Each 25-pound container usually has three to four layers of tomatoes.

Most tomatoes from Florida are packed and shipped at the mature green stage. Shipments of mature green tomatoes represented approximately 83.7 percent of total fresh shipments during the 1999–2000 season. Tomatoes are picked and packed at the mature green stage to facilitate handling. The vast majority of mature green tomatoes are packed using a mechanized process. The tomatoes are brought to the packinghouse where they are run across sizing equipment, and then are packed in volume fill containers by size and weight. At the mature green stage, the tomatoes are firm and are able to withstand the packing process. This is an efficient process that facilitates packing in volume.

However, when packing a producer field-packed tomato that is more ripe and mature, the process used to pack mature greens is not as effective. This is because as the tomato begins to ripen it begins to soften. Tomatoes of No. 3 color and above cannot tolerate the rigors of the mechanized handling process. This packing process bruises and damages more mature tomatoes, increasing the volume of culls and tomatoes that fail inspection.

When the net weight exemption for producer field-packed tomatoes was established October 10, 1998 (63 FR 54556), the Committee thought that meeting the net weight requirement would be difficult without the precision of the mechanical process available at the packinghouse. Therefore, the Committee recommended establishing the net weight exemption to facilitate

the packing of field-packed tomatoes. However, after several years of experience, those packing producer field-packed tomatoes have enhanced their skill for packing tomatoes in the field. Many now pack to meet the net weight requirement even though the exemption is available.

Field-packed tomatoes are sized as either 5X6 or 6X6 and larger with no upper limit on either size. This differs from the size requirements for tomatoes packed at a packinghouse. Packinghouse tomatoes must meet a minimum and a maximum size requirement on tomatoes designated at 6X6. Because there is no upper limit on either the 5X6 or 6X6 sized field-packed tomatoes, handlers have more flexibility to add and remove tomatoes of different sizes in order to meet a specified weight requirement without compromising their ability to meet the size requirement. Handlers can replace larger tomatoes with smaller ones and vice versa in order to adjust box weight to meet the net weight requirements. In its discussion, the Committee stated that most handlers of producer field-packed tomatoes are voluntarily meeting the 25-pound net weight requirements.

It also found that some handlers have started using the net weight exemption as a marketing tool. The Committee stated that producer field-packed tomatoes packed in containers designed to hold a 25-pound designated net weight were being presented for sale with weights of 28 to 32 pounds. The net weight requirement only allows packinghouses to put between 25 and 27 pounds of tomatoes to a box. Some handlers of producer field-packed tomatoes are adding additional tomatoes to the containers to create a marketing advantage over those handlers required to meet the net weight requirements. Buyers prefer the additional weight in containers of field-packed tomatoes to packinghouse tomatoes because they are getting more tomatoes for their money.

In its discussions, Committee members stated that over packing containers is a poor marketing practice. Selling a container of tomatoes that weighs more than 25 pounds at the price for a 25-pound container has a price depressing effect on the market, and reduces returns to growers. It was also noted that the marketing order was put in place to create an orderly market for all tomatoes grown in Florida because the market at that time was in such disarray. The net weight was established to provide an industry standard and give buyers and sellers a uniform point of comparison. With the volume of producer field-packed tomatoes increasing, several Committee members stated that continuing with the net weight exemption for field-packed tomatoes was taking a step backwards in terms of orderly marketing.

In addition, there was also concern regarding the possibility that damaged tomatoes could reach the market. Committee members stated that when a 25-pound box of tomatoes is filled to exceed a 27-pound net weight, there is an increased chance that tomatoes will be crushed when placing the lid on the container. Overfilling could also result in fruit being damaged during shipment.

The market for red, vine-ripe tomatoes has grown over the past few years. The Committee now estimates that between five and fifteen percent of the total daily fresh tomato shipments from Florida are producer field-packed tomatoes. This is a one to two percent increase from last season. Retailers consider the fast growing market for red, vine-ripe tomatoes to be the way of the future and the Committee estimates that the volume of producer field-packed tomatoes will continue to grow in order to supply this market. Therefore, the Committee wants to continue to develop this market by providing a uniform, quality product.

To accomplish these goals, this rule removes the exemption from the net weight requirement for producer field-packed tomatoes, and requires producer field-packed tomatoes to meet the same net weight and weight labeling requirements as those packed in a packinghouse.

The two Committee members who opposed the recommendation agreed that a problem exists with the net weight exemption for producer field-packed tomatoes. However, they were not sure that the action recommended was the best solution to the problem and wanted more time to consider the issue. Therefore, they voted against the proposal.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including tomatoes, imports of that commodity must meet the same or comparable requirements. However, the Act does not authorize the imposition of pack and container requirements on imports, when such requirements are in effect under a domestic marketing order. Therefore, no change is necessary in the tomato import regulation as a result of this action.

This change will not affect the exemption for single layer and two-layer place packed tomatoes. They will continue to be exempt from the net weight requirements under the order. Therefore, producer field-packed tomatoes place packed in single or two layer packs will continue to be exempt from the net weight requirements.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 82 handlers of Florida tomatoes who are subject to regulation under the marketing order and approximately 100 tomato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Since the proposed rule was published, the benchmark for small producers was increased from $500,000.

Based on the industry and Committee data, the average annual price for fresh Florida tomatoes during the 2000–01 season was $9.16 per 25-pound carton or equivalent, and total fresh shipments for the 2000–01 season were 53,649,508 25-pound equivalent cartons of tomatoes. Based on this information, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes may also be classified as small entities.

This final rule revises the handling requirements currently prescribed for producer field-packed tomatoes under § 966.323 of the order. Currently, producer field-packed tomatoes are exempt from the net weight requirements under the order. The net weight requirement only allows packinghouses to put between 25 and 27 pounds of tomatoes into a box designed to hold 25 pounds. Some handlers of producer field-packed tomatoes are adding additional tomatoes to their containers to the detriment of handlers required to meet the net weight requirements. This rule removes the exemption from the net weight

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requirement for producer field-packed tomatoes and requires all tomatoes, regardless of where they are packed, to meet the same net weight requirements. Authority for this action is provided in § 966.52 of the order.

There could be some additional costs associated with this rule. Removing the net weight exemption will require those packing producer field-packed tomatoes to take the steps necessary to ensure that the tomatoes meet the net weight requirement. This could result in additional costs from the purchase of equipment to weigh the boxes and additional labor needed. However, many of those packing producer field-packed tomatoes have already incurred these costs and are meeting the net weight requirements voluntarily.

Currently, boxes containing between 28 and 32 pounds of field-packed tomatoes may be sold for the same price as a box containing 25 to 27 pounds of tomatoes. This reduces total pack out, depresses price, and reduces returns to the grower. In addition, these tomatoes are being sold into what retailers consider to be the fastest growing segment of the tomato market. Over packing boxes increases the probability that some tomatoes will be damaged. Shipping damaged tomatoes could have a negative impact on the market and the ability of Florida tomato handlers in meeting that market's needs. This rule will help counter that possibility.

This rule was recommended to benefit the Florida tomato industry. The costs or benefits of this rule will not be disproportionately greater or less for small handlers or producers than for larger entities.

The Committee discussed alternatives to this change, including making no change to the regulation. However, Committee members agreed that action needed to be taken, so this alternative was rejected. Another alternative considered was to change the size of the box for field-packed tomatoes. Some members of the Committee stated that this would not solve the problem, only add another box size, noting that handlers are already selling a 25-pound container of producer field-packed tomatoes that weighs more than 25 pounds. Changing only the size of the container would not prevent handlers from continuing to overfill the cartons. Therefore, this alternative was also rejected.

This final rule removes the exemption from the net weight requirement for producer field-packed tomatoes under the Florida tomato marketing order.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

Further, the Committee's meeting was widely publicized throughout the tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 27, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on August 2, 2001 (66 FR 40158). Copies of the rule were mailed or sent via facsimile to all Committee members and tomato handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register and the Department. A 20-day comment period ending August 22, 2001, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. The comments were from two industry groups in support of the proposed action. The points made in the comments reflected information included in the proposed rule and were thoroughly discussed prior to the Committee vote.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, the comments received, and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the final rule needs to be effective by the start of the 2001–02 season, which begins October 10, 2001. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 20-day comment period was provided for in the proposed rule, and two comments supporting the action were received.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising the last sentence of paragraph (d)(1) to read as follows:

§ 966.323 Handling regulation.

* * * * *

(d) *Exemption.* (1) * * * Producer field-packed tomatoes must meet all of the requirements of this section except for the requirement that all containers must be packed at registered handler facilities as specified in paragraph (a)(3)(ii) of this section, and the requirement that such tomatoes designated as size 6 × 6 must meet the maximum diameter requirement specified in paragraph (a)(2)(i) of this section: *Provided*, That 6 × 6 and larger is used to indicate the listed size designation on containers.

* * * * *

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23648 Filed 9–20–01; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

Bank Holding Companies and Change in Bank Control (Regulation Y)

CFR Correction

In Title 12 of the Code of Federal Regulations, parts 220 to 299, revised as of January 1, 2001, in part 225, appendix E is corrected to read as follows:

Appendix E to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Market Risk Measure

Section 1. Purpose, Applicability, Scope, and Effective Date

(a) *Purpose.* The purpose of this appendix is to ensure that bank holding companies (organizations) with significant exposure to market risk maintain adequate capital to support that exposure.[1] This appendix supplements and adjusts the risk-based capital ratio calculations under appendix A of this part with respect to those organizations.

(b) *Applicability.* (1) This appendix applies to any bank holding company whose trading activity[2] (on a worldwide consolidated basis) equals:

(i) 10 percent or more of total assets;[3] or

(ii) $1 billion or more.

(2) The Federal Reserve may additionally apply this appendix to any bank holding company if the Federal Reserve deems it necessary or appropriate for safe and sound banking practices.

(3) The Federal Reserve may exclude a bank holding company otherwise meeting the criteria of paragraph (b)(1) of this section from coverage under this appendix if it determines the organization meets such criteria as a consequence of accounting, operational, or similar considerations, and the Federal Reserve deems it consistent with safe and sound banking practices.

(c) *Scope.* The capital requirements of this appendix support market risk associated with an organization's covered positions.

(d) *Effective date.* This appendix is effective as of January 1, 1997. Compliance is not mandatory until January 1, 1998. Subject to supervisory approval, a bank holding company may opt to comply with this appendix as early as January 1, 1997.[4]

Section 2. Definitions

For purposes of this appendix, the following definitions apply:

(a) *Covered positions* means all positions in an organization's trading account, and all foreign exchange[5] and commodity positions, whether or not in the trading account.[6] Positions include on-balance-sheet assets and liabilities and off-balance-sheet items. Securities subject to repurchase and lending agreements are included as if still owned by the lender.

(b) *Market risk* means the risk of loss resulting from movements in market prices. Market risk consists of general market risk and specific risk components.

(1) *General market risk* means changes in the market value of covered positions resulting from broad market movements, such as changes in the general level of interest rates, equity prices, foreign exchange rates, or commodity prices.

(2) *Specific risk* means changes in the market value of specific positions due to factors other than broad market movements and includes event and default risk as well as idiosyncratic variations.

(c) *Tier 1* and *Tier 2 capital* are defined in appendix A of this part.

(d) *Tier 3 capital* is subordinated debt that is unsecured; is fully paid up; has an original maturity of at least two years; is not redeemable before maturity without prior approval by the Federal Reserve; includes a lock-in clause precluding payment of either interest or principal (even at maturity) if the payment would cause the issuing organization's risk-based capital ratio to fall or remain below the minimum required under appendix A of this part; and does not contain and is not covered by any covenants, terms, or restrictions that are inconsistent with safe and sound banking practices.

(e) *Value-at-risk (VAR)* means the estimate of the maximum amount that the value of covered positions could decline due to market price or rate movements during a fixed holding period within a stated confidence level, measured in accordance with section 4 of this appendix.

Section 3. Adjustments to the Risk-Based Capital Ratio Calculations

(a) *Risk-based capital ratio denominator.* An organization subject to this appendix shall calculate its risk-based capital ratio denominator as follows:

(1) *Adjusted risk-weighted assets.* Calculate adjusted risk-weighted assets, which equals risk-weighted assets (as determined in accordance with appendix A of this part), excluding the risk-weighted amounts of all covered positions (except foreign exchange positions outside the trading account and over-the-counter derivative positions)[7] and receivables arising from the posting of cash collateral that is associated with securities borrowing transactions to the extent the receivables are collateralized by the market value of the borrowed securities, provided that the following conditions are met:

(i) The transaction is based on securities includable in the trading book that are liquid and readily marketable,

(ii) The transaction is marked to market daily,

(iii) The transaction is subject to daily margin maintenance requirements,

(iv) The transaction is a securities contract for the purposes of section 555 of the Bankruptcy Code (11 U.S.C. 555), a qualified financial contract for the purposes of section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)), or a netting contract between or among financial institutions for the purposes of sections 401–407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401–4407), or the Board's Regulation EE (12 CFR Part 231).

(2) *Measure for market risk.* Calculate the measure for market risk, which equals the sum of the VAR-based capital charge, the specific risk add-on (if any), and the capital charge for de minimis exposures (if any).

(i) *VAR-based capital charge.* The VAR-based capital charge equals the higher of:

(A) The previous day's VAR measure; or

(B) The average of the daily VAR measures for each of the preceding 60 business days multiplied by three, except as provided in section 4(e) of this appendix;

(ii) *Specific risk add-on.* The specific risk add-on is calculated in accordance with section 5 of this appendix; and

(iii) *Capital charge for de minimis exposure.* The capital charge for de minimis exposure is calculated in accordance with section 4(a) of this appendix.

(3) *Market risk equivalent assets.* Calculate market risk equivalent assets by multiplying the measure for market risk (as calculated in paragraph (a)(2) of this section) by 12.5.

(4) *Denominator calculation.* Add market risk equivalent assets (as calculated in paragraph (a)(3) of this section) to adjusted risk-weighted assets (as calculated in paragraph (a)(1) of this section). The resulting sum is the organization's risk-based capital ratio denominator.

(b) *Risk-based capital ratio numerator.* An organization subject to this appendix shall calculate its risk-based capital ratio numerator by allocating capital as follows:

(1) *Credit risk allocation.* Allocate Tier 1 and Tier 2 capital equal to 8.0 percent of adjusted risk-weighted assets (as calculated in paragraph (a)(1) of this section).[8]

(2) *Market risk allocation.* Allocate Tier 1, Tier 2, and Tier 3 capital equal to the measure for market risk as calculated in paragraph (a)(2) of this section. The sum of Tier 2 and Tier 3 capital allocated for market risk must not exceed 250 percent of Tier 1 capital allocated for market risk. (This requirement means that Tier 1 capital allocated in this paragraph (b)(2) must equal at least 28.6 percent of the measure for market risk.)

(3) *Restrictions.* (i) The sum of Tier 2 capital (both allocated and excess) and Tier 3 capital (allocated in paragraph (b)(2) of this section) may not exceed 100 percent of Tier 1 capital (both allocated and excess).[9]

(ii) Term subordinated debt (and intermediate-term preferred stock and related surplus) included in Tier 2 capital (both

[1] This appendix is based on a framework developed jointly by supervisory authorities from the countries represented on the Basle Committee on Banking Supervision and endorsed by the Group of Ten Central Bank Governors. The framework is described in a Basle Committee paper entitled "Amendment to the Capital Accord to Incorporate Market Risks," January 1996. Also see modifications issued in September 1997.

[2] Trading activity means the gross sum of trading assets and liabilities as reported in the bank holding company's most recent quarterly Y–9C Report.

[3] Total assets means quarter-end total assets as reported in the bank holding company's most recent Y–9C Report.

[4] A bank holding company that voluntarily complies with the final rule prior to January 1, 1998, must comply with all of its provisions.

[5] Subject to supervisory review, a bank may exclude structural positions in foreign currencies from its covered positions.

[6] The term trading account is defined in the instructions to the Call Report.

[7] Foreign exchange positions outside the trading account and all over-the-counter derivative positions, whether or not in the trading account, must be included in the adjusted risk weighted assets as determined in appendix A of this part.

[8] An institution may not allocate Tier 3 capital to support credit risk (as calculated under appendix A of this part).

[9] Excess Tier 1 capital means Tier 1 capital that has not been allocated in paragraphs (b)(1) and (b)(2) of this section. Excess Tier 2 capital means Tier 2 capital that has not been allocated in paragraph (b)(1) and (b)(2) of this section, subject to the restrictions in paragraph (b)(3) of this section

allocated and excess) may not exceed 50

(d) *Quantitative requirements.* For

TABLE 1.—MULTIPLICATION FACTOR

(1) *Covered debt positions.* (i) For purposes

issued by states and other political

diversified.[1] For covered equity positions

allocated and excess) may not exceed 50 percent of Tier 1 capital (both allocated and excess).

(4) *Numerator calculation.* Add Tier 1 capital (both allocated and excess), Tier 2 capital (both allocated and excess), and Tier 3 capital (allocated under paragraph (b)(2) of this section). The resulting sum is the organization's risk-based capital ratio numerator.

Section 4. Internal Models

(a) *General.* For risk-based capital purposes, a bank holding company subject to this appendix must use its internal model to measure its daily VAR, in accordance with the requirements of this section.[10] The Federal Reserve may permit an organization to use alternative techniques to measure the market risk of de minimis exposures so long as the techniques adequately measure associated market risk.

(b) *Qualitative requirements.* A bank holding company subject to this appendix must have a risk management system that meets the following minimum qualitative requirements:

(1) The organization must have a risk control unit that reports directly to senior management and is independent from business trading units.

(2) The organization's internal risk measurement model must be integrated into the daily management process.

(3) The organization's policies and procedures must identify, and the organization must conduct, appropriate stress tests and backtests.[11] The organization's policies and procedures must identify the procedures to follow in response to the results of such tests.

(4) The organization must conduct independent reviews of its risk measurement and risk management systems at least annually.

(c) *Market risk factors.* The organization's internal model must use risk factors sufficient to measure the market risk inherent in all covered positions. The risk factors must address interest rate risk,[12] equity price risk, foreign exchange rate risk, and commodity price risk.

[10] An organization's internal model may use any generally accepted measurement techniques, such as variance-covariance models, historical simulations, or Monte Carlo simulations. However, the level of sophistication and accuracy of an organization's internal model must be commensurate with the nature and size of its covered positions. An organization that modifies its existing modeling procedures to comply with the requirements of this appendix for risk-based capital purposes should, nonetheless, continue to use the internal model it considers most appropriate in evaluating risks for other purposes.

[11] Stress tests provide information about the impact of adverse market events on a bank's covered positions. Backtests provide information about the accuracy of an internal model by comparing an organization's daily VAR measures to its corresponding daily trading profits and losses.

[12] For material exposures in the major currencies and markets, modeling techniques must capture spread risk and must incorporate enough segments of the yield curve—at least six—to capture differences in volatility and less than perfect correlation of rates along the yield curve.

(d) *Quantitative requirements.* For regulatory capital purposes, VAR measures must meet the following quantitative requirements:

(1) The VAR measures must be calculated on a daily basis using a 99 percent, one-tailed confidence level with a price shock equivalent to a ten-business day movement in rates and prices. In order to calculate VAR measures based on a ten-day price shock, the organization may either calculate ten-day figures directly or convert VAR figures based on holding periods other than ten days to the equivalent of a ten-day holding period (for instance, by multiplying a one-day VAR measure by the square root of ten).

(2) The VAR measures must be based on an historical observation period (or effective observation period for an organization using a weighting scheme or other similar method) of at least one year. The organization must update data sets at least once every three months or more frequently as market conditions warrant.

(3) The VAR measures must include the risks arising from the non-linear price characteristics of options positions and the sensitivity of the market value of the positions to changes in the volatility of the underlying rates or prices. An organization with a large or complex options portfolio must measure the volatility of options positions by different maturities.

(4) The VAR measures may incorporate empirical correlations within and across risk categories, provided that the organization's process for measuring correlations is sound. In the event that the VAR measures do not incorporate empirical correlations across risk categories, then the organization must add the separate VAR measures for the four major risk categories to determine its aggregate VAR measure.

(e) *Backtesting.* (1) Beginning one year after a bank holding company starts to comply with this appendix, it must conduct backtesting by comparing each of its most recent 250 business days' actual net trading profit or loss [13] with the corresponding daily VAR measures generated for internal risk measurement purposes and calibrated to a one-day holding period and a 99th percentile, one-tailed confidence level.

(2) Once each quarter, the organization must identify the number of exceptions, that is, the number of business days for which the magnitude of the actual daily net trading loss, if any, exceeds the corresponding daily VAR measure.

(3) A bank holding company must use the multiplication factor indicated in Table 1 of this appendix in determining its capital charge for market risk under section 3(a)(2)(i)(B) of this appendix until it obtains the next quarter's backtesting results, unless the Federal Reserve determines that a different adjustment or other action is appropriate.

[13] Actual net trading profits and losses typically include such things as realized and unrealized gains and losses on portfolio positions as well as fee income and commissions associated with trading activities.

TABLE 1.—MULTIPLICATION FACTOR BASED ON RESULTS OF BACKTESTING

Number of exceptions	Multiplication factor
4 or fewer	3.00
5	3.40
6	3.50
7	3.65
8	3.75
9	
10 or more	4.00

Section 5. Specific Risk

(a) *Modeled specific risk.* A bank holding company may use its internal model to measure specific risk. If the organization has demonstrated to the Federal Reserve that its internal model measures the specific risk, including event and default risk as well as idiosyncratic variation, of covered debt and equity positions and includes the specific risk measures in the VAR-based capital charge in section 3(a)(2)(i) of this appendix, then the organization has no specific risk add-on for purposes of section 3(a)(2)(ii) of this appendix. The model should explain the historical price variation in the trading portfolio and capture concentration, both magnitude and changes in composition. The model should also be robust to an adverse environment and have been validated through backtesting which assesses whether specific risk is being accurately captured.

(b) *Partially modeled specific risk.* (1) A bank holding company that incorporates specific risk in its internal model but fails to demonstrate to the Federal Reserve that its internal model adequately measures all aspects of specific risk for covered debt and equity positions, including event and default risk, as provided by section 5(a) of this appendix, must calculate its specific risk add-on in accordance with one of the following methods:

(i) If the model is susceptible to valid separation of the VAR measure into a specific risk portion and a general market risk portion, then the specific risk add-on is equal to the previous day's specific risk portion.

(ii) If the model does not separate the VAR measure into a specific risk portion and a general market risk portion, then the specific risk add-on is the sum of the previous day's VAR measures for subportfolios of covered debt and equity positions that contain specific risk.

(2) If a bank holding company models the specific risk of covered debt positions but not covered equity positions (or vice versa), then the bank holding company may determine its specific risk charge for the included positions under section 5(a) or 5(b)(1) of this appendix, as appropriate. The specific risk charge for the positions not included equals the standard specific risk capital charge under paragraph (c) of this section.

(c) *Specific risk not modeled.* If a bank holding company does not model specific risk in accordance with section 5(a) or 5(b) of this appendix, then the organization's specific risk capital charge shall equal the standard specific risk capital charge, calculated as follows:

(1) *Covered debt positions.* (i) For purposes of this section 5, covered debt positions means fixed-rate or floating-rate debt instruments located in the trading account or instruments located in the trading account with values that react primarily to changes in interest rates, including certain non-convertible preferred stock, convertible bonds, and instruments subject to repurchase and lending agreements. Also included are derivatives (including written and purchased options) for which the underlying instrument is a covered debt instrument that is subject to a non-zero specific risk capital charge.

(A) For covered debt positions that are derivatives, an organization must risk-weight (as described in paragraph (c)(1)(iii) of this section) the market value of the effective notional amount of the underlying debt instrument or index portfolio. Swaps must be included as the notional position in the underlying debt instrument or index portfolio, with a receiving side treated as a long position and a paying side treated as a short position; and

(B) For covered debt positions that are options, whether long or short, an organization must risk-weight (as described in paragraph (c)(1)(iii) of this section) the market value of the effective notional amount of the underlying debt instrument or index multiplied by the option's delta.

(ii) An organization may net long and short covered debt positions (including derivatives) in identical debt issues or indices.

(iii) An organization must multiply the absolute value of the current market value of each net long or short covered debt position by the appropriate specific risk weighting factor indicated in Table 2 of this appendix. The specific risk capital charge component for covered debt positions is the sum of the weighted values.

TABLE 2.—SPECIFIC RISK WEIGHTING FACTORS FOR COVERED DEBT POSITIONS

Category	Remaining maturity (contractual)	Weighting factor (in percent)
Government	N/A	0.00
Qualifying	6 months or less.	0.25
	Over 6 months to 24 months.	1.00
	Over 24 months	1.60
Other	N/A	8.00

(A) The *government* category includes all debt instruments of central governments of OECD-based countries [14] including bonds, Treasury bills, and other short-term instruments, as well as local currency instruments of non-OECD central governments to the extent the organization has liabilities booked in that currency.

(B) The *qualifying* category includes debt instruments of U.S. government-sponsored agencies, general obligation debt instruments issued by states and other political subdivisions of OECD-based countries, multilateral development banks, and debt instruments issued by U.S. depository institutions or OECD banks that do not qualify as capital of the issuing institution.[15] This category also includes other debt instruments, including corporate debt and revenue instruments issued by states and other political subdivisions of OECD countries, that are:

(*1*) Rated investment-grade by at least two nationally recognized credit rating services;

(*2*) Rated investment grade by one nationally recognized credit rating agency and not rated less than investment grade by any other credit rating agency; or

(*3*) Unrated, but deemed to be of comparable investment quality by the reporting organization and the issuer has instruments listed on a recognized stock exchange, subject to review by the Federal Reserve.

(C) The *other* category includes debt instruments that are not included in the government or qualifying categories.

(2) *Covered equity positions.* (i) For purposes of this section 5, covered equity positions means equity instruments located in the trading account and instruments located in the trading account with values that react primarily to changes in equity prices, including voting or non-voting common stock, certain convertible bonds, and commitments to buy or sell equity instruments. Also included are derivatives (including written or purchased options) for which the underlying is a covered equity position.

(A) For covered equity positions that are derivatives, an organization must risk weight (as described in paragraph (c)(2)(iii) of this section) the market value of the effective notional amount of the underlying equity instrument or equity portfolio. Swaps must be included as the notional position in the underlying equity instrument or index portfolio, with a receiving side treated as a long position and a paying side treated as a short position; and

(B) For covered equity positions that are options, whether long or short, an organization must risk weight (as described in paragraph (c)(2)(iii) of this section) the market value of the effective notional amount of the underlying equity instrument or index multiplied by the option's delta.

(ii) An organization may net long and short covered equity positions (including derivatives) in identical equity issues or equity indices in the same market.[16]

(iii)(A) An organization must multiply the absolute value of the current market value of each net long or short covered equity position by a risk weighting factor of 8.0 percent, or by 4.0 percent if the equity is held in a portfolio that is both liquid and well-diversified.[17] For covered equity positions that are index contracts comprising a well-diversified portfolio of equity instruments, the net long or short position is to be multiplied by a risk weighting factor of 2.0 percent.

(B) For covered equity positions from the following futures-related arbitrage strategies, an organization may apply a 2.0 percent risk weighting factor to one side (long or short) of each equity position with the opposite side exempt from charge, subject to review by the Federal Reserve:

(*1*) Long and short positions in exactly the same index at different dates or in different market centers; or

(*2*) Long and short positions in index contracts at the same date in different but similar indices.

(C) For futures contracts on broadly-based indices that are matched by offsetting positions in a basket of stocks comprising the index, an organization may apply a 2.0 percent risk weighting factor to the futures and stock basket positions (long and short), provided that such trades are deliberately entered into and separately controlled, and that the basket of stocks comprises at least 90 percent of the capitalization of the index.

(iv) The specific risk capital charge component for covered equity positions is the sum of the weighted values.

[61 FR 47373, Sept. 6, 1996, as amended at 62 FR 68068, Dec. 30, 1997; 64 FR 19038, Apr. 19, 1999; 65 FR 75859, Dec. 5, 2000]

[FR Doc. 01–55528 Filed 9–20–01; 8:45 am]

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[14] Organization for Economic Cooperation and Development (OECD)–based countries is defined in appendix A of this part.

[15] U.S. government-sponsored agencies, multilateral development banks, and OECD banks are defined in appendix A of this part.

[16] An organization may also net positions in depository receipts against an opposite position in the underlying equity or identical equity in different markets, provided that the organization includes the costs of conversion.

[17] A portfolio is liquid and well-diversified if: (1) it is characterized by a limited sensitivity to price changes of any single equity issue or closely related group of equity issues held in the portfolio; (2) the volatility of the portfolio's value is not dominated by the volatility of any individual equity issue or by equity issues from any single industry or economic sector; (3) it contains a large number of individual equity positions, with no single position representing a substantial portion of the portfolio's total market value; and (4) it consists mainly of issues traded on organized exchanges or in well-established over-the-counter markets.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–29–AD; Amendment 39–12443; AD 2001–13–51]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 206L–4, 407, and 427 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD)

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2001–13–51, which was sent previously to all known U.S. owners and operators of Bell Helicopter Textron Canada (BHTC) Model 206L–4, 407, and 427 helicopters by individual letters. This AD requires visually inspecting certain driveshafts for a crack, a loose bolt or nut, or red powder residue. If a crack, a loose bolt or nut, or red powder residue is found, replacing the driveshaft before further flight and notifying the FAA within 10 days is also required. This amendment is prompted by a driveshaft failure on a BHTC Model 407 helicopter that resulted in an engine shutdown and an emergency landing. Failure of the driveshaft was due to cracking of the flexframe on the forward end of the driveshaft. In addition, three other incidents of a cracked flexframe on the forward end of the driveshaft on other Model 407 helicopters have been reported. The actions specified by this AD are intended to prevent failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing.

DATES: Effective October 9, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–13–51, issued on June 27, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 9, 2001. Comments for inclusion in the Rules Docket must be received on or before November 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–29–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272. The service information may also be obtained by e-mailing a request to pselight@bellhelicopter.textron.com. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On June 27, 2001, the FAA issued Emergency AD 2001–13–51 for BHTC Model 206L–4, 407, and 427 helicopters, which requires the following if driveshaft, part number 206–340–300–105, has ever been installed on a BHTC Model 407 helicopter:

- At specified hours time-in-service (TIS), visually inspect each driveshaft for a crack, a loose bolt or nut, or red powder residue.
- Before further flight, replace the driveshaft with an airworthy driveshaft if a crack, a loose bolt or nut, or red powder residue is found. Within 10 days, notify the Manager, Regulations Group, FAA, of the helicopter serial number, driveshaft serial number, and driveshaft hours TIS.
- After the effective date of this AD, interchanging a driveshaft between different helicopter models is prohibited if that driveshaft has ever been installed on a BHTC Model 407 helicopter.

That action was prompted by a driveshaft failure on a BHTC Model 407 helicopter that resulted in an engine shutdown and an emergency landing. Failure of the driveshaft was due to cracking of the flexframe on the forward end of the driveshaft. The BHTC Model 206L–4 and 427 helicopters use the same part-numbered driveshaft. In addition, three other incidents of a cracked flexframe on the forward end of the driveshaft on other Model 407 helicopters have been reported. This condition, if not detected, could result in failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing.

Transport Canada, which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 407 helicopters. Transport Canada advises that during flight the driveshaft, P/N 206–340–300–105, failed causing engine shutdown and a forced landing. Three other incidents of the cracked flexframe on the forward end of the BHTC Model 407 driveshafts were also reported. Pending further corrective action, Transport Canada determined that a one-time visual inspection for any obvious discrepancy of the driveshaft is warranted.

The FAA has reviewed BHTC Alert Service Bulletin No. 407–01–43, dated June 8, 2001 (ASB), which describes procedures for a one-time inspection of the engine-to-transmission driveshaft, P/N 206–340–300–105. Transport Canada classified this ASB as mandatory and issued AD CF–2001–24, dated June 11, 2001, to ensure the continued airworthiness of BHTC Model 407 helicopters in Canada.

Since the unsafe condition described is likely to exist or develop on other BHTC Model 206L–4, 407, and 427 helicopters of the same type designs, the FAA issued Emergency AD 2001–13–51 to prevent failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing. The AD requires the actions specified above. The inspections must be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, visually inspecting the driveshaft at the specified time intervals and replacing the driveshaft, if necessary, is required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on June 27, 2001 to all known U.S. owners and operators of BHTC Model 206L–4, 407, and 427 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. However, a few editorial changes have been made to the AD. The zip code listed for the manufacturer has been corrected and an e-mail address for obtaining service information has been added. Also, due to confusion expressed by an operator, paragraph (a)(1)(i) has been changed to clarify that the notification requirement is necessary only if a crack, a loose bolt or nut, or red powder residue is found during the visual inspection. The FAA has determined that these changes will neither increase the economic burden on an operator nor increase the scope of the AD

The FAA estimates that 488 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per helicopter to visually inspect the driveshaft. The average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $117,120, assuming that each driveshaft is inspected once.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–29–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–13–51 Bell Helicopter Textron Canada: Amendment 39–12443. Docket No. 2001–SW–29–AD.

Applicability: Model 206L–4, 407, and 427 helicopters, with engine-to-transmission driveshaft assembly (driveshaft), part number 206–340–300–105, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a driveshaft, loss of drive to the main rotor system, and a subsequent emergency forced landing, accomplish the following:

(a) If a driveshaft has ever been installed on a Bell Helicopter Textron Canada (BHTC) Model 407 helicopter, within 25 hours time-in-service (TIS) for driveshafts with 1000 or more hours TIS and for driveshafts with 1000 or less hours TIS that have been removed or installed since helicopter delivery, and within 300 hours TIS for driveshafts with less than 1000 hours TIS that have never been removed or installed since helicopter delivery:

(1) Visually inspect each driveshaft for a crack, loose bolt or nut, or red powder residue, in accordance with the Accomplishment Instructions, paragraphs 1 through 7 of Bell Helicopter Textron Alert Service Bulletin 407–01–43, dated June 8, 2001 (ASB).

(2) Before further flight, if a crack, a loose bolt or nut, or red powder residue is found, replace the driveshaft with an airworthy driveshaft.

(i) If a crack, a loose bolt or nut, or red powder residue is found, notify the Manager, Regulations Group, FAA, Rotorcraft Directorate, Fort Worth, Texas 76193–0111, of the helicopter serial number, driveshaft serial number, and driveshaft hours TIS within 10 days.

(ii) Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(b) After the effective date of this AD, interchanging a driveshaft between different helicopter models is prohibited if that driveshaft has ever been installed on a BHTC Model 407 helicopter.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Regulations Group.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) The visual inspection shall be done in accordance with the Accomplishment Instructions, paragraphs 1 through 7 of Bell Helicopter Textron Alert Service Bulletin 407–01–43, dated June 8, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir,Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272, or by e-mailing a request to pselight@bellhelicopter.textron.com. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 9, 2001, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001–13–51, issued June 27, 2001, which contained the requirements of this amendment.

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Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–2001–24, dated June 11, 2001.

Issued in Fort Worth, Texas, on September 12, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–23416 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–385–AD; Amendment 39–12444; AD 2001–19–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200 and –300 series airplanes. This action requires repetitive inspections to find discrepancies of the barrel nuts that attach the vertical fin to body section 48, and follow-on actions. For certain airplanes, this action requires replacement of certain bolts with new bolts. This action also provides for optional terminating actions for the repetitive inspections. This action is necessary to find and fix corroded, cracked or broken barrel nuts that attach the vertical fin to body section 48, which could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 9, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–385–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–385–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of corroded and/or broken barrel nuts on certain Boeing Model 767–200 and –300 series airplanes. One operator indicated that cracked and bulging sealant of two attachment barrel nuts of the vertical fin at body section 48 was found on an airplane having 9,795 total flight hours and 4,184 total flight cycles. A torque check confirmed low torque at these locations, and removal of the sealant revealed that both barrel nuts were corroded and broken. Further investigation revealed that the broken barrel nuts fractured due to stress corrosion cracks that started at corrosion pits. Examination of the attachment bolts showed inadequate sealant on the bolt threads and shank. The lack of sealant initiated galvanic corrosion between the H–11 steel barrel nut and the Inconel bolt, which created the corrosion pits. Nuts made of H–11 steel alloy are susceptible to stress corrosion cracking. Another operator reported cracked sealant and barrel nut corrosion on an airplane having 20,655 total flight hours and 4,768 total flight cycles. Of the sixteen barrel nuts removed from that airplane and inspected, several were found to be corroded.

A recent report was received of four cracked barrel nuts found on a Boeing Model 767–300 series airplane; three of those four were found on one side of the airplane. This report revealed that the issue was more urgent than initial reports indicated. Subsequently, another report was received from an operator of a Group 1 airplane(Group 1 airplanes were delivered with H–11 alloy steel bolts and nuts), indicating that a broken barrel nut was found and both the bolt and the barrel nut were H–11 alloy steel (no dissimilar metal). This report revealed that the unsafe condition also exists on Group 1 airplanes with H–11 alloy steel bolts installed.

Such conditions, if not corrected, could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–53–0085, dated May 14, 1998, and Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999. The service bulletins describe procedures for repetitive internal and external visual inspections to find discrepancies (i.e., cracked or damaged sealant, signs of corrosion damage, cracked or broken barrel nuts), of the barrel nuts that attach the vertical fin to body section 48, and follow-on actions. The follow-on actions include, but are not limited to, the following:

- Replacement of the barrel nut with a new Inconel barrel nut if any discrepancy is found at any barrel nut location.
- A torque check on each attachment bolt of the vertical fin if no discrepancy is found at any barrel nut location.
- Replacement of the barrel nut with a new Inconel barrel nut if a bolt can be turned during the torque check.
- Repeat of the internal and external visual inspections.

The service bulletins also provide an optional replacement of all 16 H–11 steel alloy barrel nuts of the vertical fin with Inconel barrel nuts, which would eliminate the need for the repetitive inspections.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Alert Service Bulletin and This AD

While the service bulletin specifies internal and external visual inspections to detect discrepancies of the sealant of the barrel nuts that attach the vertical fin to body section 48, this AD requires internal and external detailed visual inspections to detect discrepancies of the sealant. A note has been included in this AD to define that inspection.

Where the compliance time in the service bulletin specifies doing the internal and external visual inspections 1 year after receipt of the service bulletin, this AD requires those inspections be done within 45 days after the effective date of this AD. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions. In light of all of these factors, the FAA finds that the compliance time for completing the required inspections represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although the service bulletin specifies that no more work is necessary for Group 1 airplanes if the H–11 steel alloy attachment bolts of the vertical fin have not been replaced with Inconel bolts, this AD requires the inspections and follow-on actions for both Group 1 and Group 2 airplanes. This changes the applicability in the AD from that specified in the service bulletin, which was divided into two groups, one having line numbers 1 through 154 inclusive, and the other having line numbers 155 through 574 inclusive; to specify line numbers 1 through 574 inclusive.

Figure 5 of the Accomplishment Instructions of the service bulletin specifies that a bolt can be reinstalled if no corrosion, cracks, thread damage, or shank damage is found. However, for Group 1 airplanes with H–11 steel alloy bolts, this AD requires replacement of an H–11 steel alloy bolt with an Inconel bolt, if an Inconel barrel nut is installed at that location.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–385–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–19–04 Boeing: Amendment 39–12444. Docket 2000–NM–385–AD.

Applicability: Model 767–200 and –300 series airplanes, line numbers 1 through 574 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

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this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix corroded, cracked or broken barrel nuts that attach the vertical fin to body section 48, which could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane; accomplish the following:

Internal/External Detailed Visual Inspections

(a) Do internal and external detailed visual inspections of the barrel nuts at the 16 locations that attach the vertical fin to body section 48 to find discrepancies (i.e., cracked or damaged sealant, signs of corrosion damage, cracked or broken barrel nuts). Do the inspections at the times specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable; per Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) For airplanes on which the inspections specified in paragraph (a) of this AD have been done within the last 3 years per Boeing 767 Maintenance Planning Document (MPD) D622T001, Items 5380–311–021 and 5380–312–021: Do the inspections at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Within 3 years or 6,000 flight cycles after doing the most recent inspection per the MPD, whichever comes first.

(ii) Within 45 days after the effective date of this AD.

(2) For airplanes on which the inspections specified in paragraph (a) of this AD have NOT been done within the last 3 years per Boeing 767 MPD D622T001, Items 5380–311–021 and 5380–312–021: Do the inspections within 45 days after the effective date of this AD.

Follow-On Actions

(b) *If no discrepancies are found as a result of any inspection specified in paragraph (a) of this AD:* Before further flight, do a torque check of each of the 16 bolts in the barrel nuts that attach the vertical fin to body section 48 to determine if any bolt turns, per Part 2 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999.

(1) *If no bolt turns:* Repeat the inspections required by paragraph (a) of this AD (and applicable follow-on actions) every 3 years or 6,000 flight cycles, whichever comes first; until paragraphs (d) and (e) of this AD are done, as applicable.

(2) *If any bolt turns:* Before further flight, do the actions specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this AD, as applicable. Then repeat the inspections required by paragraph (a) of this AD (and applicable follow-on actions) every 3 years or 6,000 flight cycles, whichever comes first; until paragraphs (d) and (e) of this AD are done, as applicable.

(i) *For all airplanes:* Replace the barrel nut at that bolt with a new, Inconel barrel nut per Part 3 of the Accomplishment Instructions of the service bulletin. No further action is required for that barrel nut only.

(ii) *For Group 1 airplanes:* If an H–11 steel alloy bolt is installed with the affected barrel nut, replace the bolt with a new, Inconel bolt per Figure 5 of the Accomplishment Instructions of the service bulletin. No further action is required for that bolt only.

(c) *If any discrepancy of any barrel nut is found as a result of any inspection specified in paragraph (a) of this AD:* Before further flight, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD, as applicable.

(1) *For all airplanes:* Replace the affected barrel nut with a new, Inconel barrel nut per Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999. No further action is required for that barrel nut only.

(2) *For Group 1 airplanes:* If an H–11 steel alloy bolt is installed with the affected barrel nut, replace the bolt with a new, Inconel bolt per Figure 5 of the Accomplishment Instructions of the service bulletin. No further action is required for that bolt only.

Optional Terminating Actions

(d) *For all airplanes:* Except as provided by paragraph (e) of this AD, replacement of all 16 H–11 steel alloy barrel nuts that attach the vertical fin to body section 48, with new, Inconel barrel nuts per Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999; ends the repetitive inspections required by this AD.

(e) *For Group 1 airplanes:* Accomplishment of paragraph (d) of this AD and replacement of the H–11 steel alloy bolts having an Inconel barrel nut installed at the same location, with new, Inconel bolts per Figure 5 of the Accomplishment Instructions of Boeing Service Bulletin 767–53–0085, dated May 14, 1998, or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999; ends the repetitive inspections required by this AD.

Spares

(f) *As of the effective date of this AD:* No person shall install, on any airplane, an Inconel vertical fin attach bolt, unless an Inconel barrel nut is installed at the same location; nor shall any person install an H–11 steel alloy attachment nut or bolt on the vertical fin on any airplane.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) The actions shall be done in accordance with Boeing Service Bulletin 767–53–0085, dated May 14, 1998; or Boeing Alert Service Bulletin 767–53A0085, Revision 1, dated July 1, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on October 9, 2001.

Issued in Renton, Washington, on September 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23418 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–11]

Amendment of Class D Airspace; Titusville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action makes a technical amendment to the Class D airspace description at Titusville, FL, by changing the name of the Titusville, Space Center Executive Airport to the Titusville, Space Coast Regional Airport.

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

The Titusville, Space Center Executive Airport, FL, was renamed the Titusville, Space Coast Regional Airport on September 5, 1996. As a result, the Class D airspace legal description must be amended. This rule will become effective on the date specified in the **DATES** section. Since this action has no impact on users of the airspace in the vicinity of the Titusville, Space Coast Regional Airport, Titusville, FL, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class D airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph 5000 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Titusville, FL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO FL D Titusville, FL [REVISED]

Titusville, Space Coast Airport, FL
(Lat. 28°30'50"N, long. 80°47'58" W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Space Coast Regional Airport; excluding the portion within Restricted Area R–2934 when it is effective. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on September 7, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–23565 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30268; Amdt. No. 2069]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form

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documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 14, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instruction Approach Procedures, effective at 0901 UTC on the dates specified as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMILS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective October 4, 2001*

Ankeny, IA, Ankeny Regional, ILS RWY 36, Orig
Ankeny, IA, Ankeny Regional, VOR/DME RWY 36, Orig-A, (CANCELLED)
Dubuque, IA, Dubuque Regional, ILS RWY 36, Orig
Dubuque, IA, Dubuque Regional, LOC RWY 31, Orig
Dubuque, IA, Dubuque Regional, ILS RWY 31, Amdt 10E, (CANCELLED)
Philadelphia, PA, Philadelphia Intl, ILS RWY 26, Amdt 2
Philadelphia, PA, Philadelphia Intl, ILS PRM RWY 26, Amdt 1 (Simultaneous Close Parallel)
Philadelphia, PA, Philadelphia Intl, ILS RWY 27L, Amdt 12
Philadelphia, PA, Philadelphia Intl, ILS PRM RWY 27L, Amdt 1 (Simultaneous Close Parallel)

** * * Effective November 1, 2001*

Anchorage, AK, Ted Stephens Anchorage Intl, ILS RWY 14, Amdt 2
Carlsbad, CA, McClellan-Palomar, VOR–A, Amdt 7A
Carlsbad, CA, McClellan-Palomar, RNAV (GPS) RWY 24, Orig
Shirley, NY, Brookhaven, RNAV (GPS) RWY 6, Orig
Shirley, NY, Brookhaven, RNAV (GPS) RWY 24, Orig
Shirley, NY, Brookhaven, GPS RWY 6, Orig. CANCELLED
Shirley, NY, Brookhaven, GPS RWY 24, Orig. CANCELLED
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 17, Amdt 1
Myrtle Beach, SC, Myrtle Beach Intl, RNAV (GPS) RWY 35, Amdt 1
Anahauc, TX, Chambers County, NDB RWY 12, Amdt 1
Angleton/Lake Jackson, TX, Brazoria County, ILS RWY 17, Amdt 3
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, ILS RWY 31R, Amdt 11
Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, Converging ILS RWY 31R, Amdt 5
Houston, TX, David Wayne Hooks Memorial, LOC RWY 17R, Amdt 1
Houston, TX, David Wayne Hooks Memorial, NDB RWY 17R, Amdt 11
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV RWY 17R, Amdt 4
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV RWY 35L, Amdt 4
Houston, TX, Ellington Field, RNAV (GPS) RWY 22, Orig
Houston, TX, Ellington Field, ILS RWY 35L, Amdt 5
Houston, TX, Ellington Field, ILS RWY 22, Amdt 3
Houston, TX, Ellington Field, ILS RWY 17R, Amdt 5
Houston, TX, Ellington Field, GPS RWY 17R, Orig-A (CANCELLED)
Houston, TX, Ellington Field, GPS RWY 35L, Orig (CANCELLED)
Houston, TX, Ellington Field, RNAV (GPS) RWY 17R, Orig
Houston, TX, Ellington Field, RNAV (GPS) RWY 35L, Orig
Houston, TX, George Bush Intercontinental/ Houston, RNAV (GPS) ZRWY 9, Orig
Houston, TX, George Bush Intercontinental/ Houston, RNAV (GPS) YRWY 9, Orig
Houston, TX, George Bush Intercontinental/ Houston, GPS RWY 8, Orig (CANCELLED)
Houston, TX, George Bush Intercontinental/ Houston, GPS RWY 9, Orig (CANCELLED)
Houston, TX, George Bush Intercontinental/ Houston, RNAV (GPS) RWY 26, Orig
Houston, TX, George Bush Intercontinental/ Houston, GPS RWY 26, Amdt 1 (CANCELLED)
Houston, TX, George Bush Intercontinental/ Houston, RNAV (GPS) RWY 8, Orig
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 15L, Amdt 12
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 33R, Amdt 11
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 8, Amdt 20
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 9, Amdt 5
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 26, Amdt 16
Houston, TX, George Bush Intercontinental/ Houston, ILS RWY 27, Amdt 4
Houston, TX, George Bush Intercontinental/ Houston, VOR/DME RWY 15L, Amdt 16
Houston, TX, George Bush Intercontinental/ Houston, VOR/DME RWY 33R, Amdt 14
Houston, TX, George Bush Intercontinental/ Houston, NDB RWY 26, Amdt 2
Houston, TX, Houston-Southwest, LOC/DME RWY 9, Amdt 3
Houston TX, Houston-Southwest, NDB RWY 27, Amdt 4
Houston, TX, Scholes International at Galveston, VOR RWY 13, Amdt 3
Houston, TX, Scholes International at Galveston, ILS RWY 13, Amdt 10
Houston, TX, Sugar Land/Hull Field, ILS RWY 35, Amdt 3
Houston, TX, Sugar Land/Hull Field, NDB RRWY 35, Amdt 5
Houston, TX, Sugar Land/Hull Field, VOR/DME RNAV RWY 35, Amdt 8
Houston, TX, Weiser Airpark, NDB–D, Orig
Houston, TX, Weiser Airpark, NDB or GPS–A, Orig (CANCELLED)
Houston, TX, West Houston, VOR/DME RNAV RWY 33, Amdt 4
Houston, TX, West Houston, RNAV (GPS) ZRWY 33, Orig
Houston, TX, West Houston, RNAV (GPS) RWY 15, Orig
Houston, TX, West Houston, GPS RWY 15, Orig (CANCELLED)
Houston, TX, West Houston, GPS RWY 33, Orig (CANCELLED)
Houston, TX, West Houston, VOR/DME RNAV RWY 15, Amdt 4
Houston, TX, West Houston, NDB RWY 15, Amdt 3
Houston, TX, West Houston, NDB RWY 33, Amdt 4
Houston, TX, West Houston, VOR–B, Amdt 3
Houston, TX, West Houston, VOR–D Orig
Houston, TX, William P. Hobby, RNAV (GPS) RWY 4, Amdt 1
Houston, TX, William P. Hobby, RNAV (GPS) RWY 17, Amdt 1
Houston, TX, William P. Hobby, RNAV (GPS) RWY 22, Amdt 1
Houston, TX, William P. Hobby, RNAV (GPS) RWY 35, Amdt 1
Houston, TX, William P. Hobby, VOR/DME RWY 30L, Amdt 17
Houston, TX, William P. Hobby, VOR RWY 17, Amdt 1C, (CANCELLED)
Houston, TX, William P. Hobby, VOR RWY 12R, Amdt 18B (CANCELLED)
Houston, TX, William P. Hobby, LOC RWY 22, Amdt 1
Houston, TX, William P. Hobby, VOR/DME RWY 4, Amdt 18
Houston, TX, William P. Hobby, VOR/DME E, Orig
Houston, TX, William P. Hobby, NDB RWY 4, Amdt 33
Houston, TX, William P. Hobby, VOR/DME RWY 35, Amdt 3
Houston, TX, William P. Hobby, ILS RWY 4, Amdt 38
Waco, TX, Waco Regional, VOR RWY 14, Amdt 23

[FR Doc. 01–23570 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30269; Amdt. No. 2070]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Any effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) established, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to

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FDC/P NOTAMs; the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 14, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106 (g); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
08/14/01	RI	Pawtucket	North Central State	1/8318	VOR or GPS–A, Amdt 6.
08/30/01	WV	Charleston	Yeager	1/9132	RADAR–1, Amdt 12.
08/30/01	MA	Orange	Orange Muni	1/9142	NDB or GPS–B, Amdt 4A.
08/31/01	FL	West Palm Beach	Palm Beach County Park	1/9169	VOR or GPS Rwy 15, Amdt 2B.
09/06/01	IN	Bloomington	Monroe County	1/9394	RNAV (GPS) Rwy 35, Orig.
09/06/01	WA	Tacoma	Tacoma Narrows	1/9399	ILS Rwy 17, Amdt 8.
09/06/01	WA	Tacoma	Tacoma Narrows	1/9400	NDB Rwy 35, Amdt 7.
09/06/01	WA	Fort Lewis/Tacoma	Gray AAF	1/9402	ILS Rwy 15, Amdt 4.
09/06/01	NY	New York	John F. Kennedy Intl	1/9421	ILS Rwy 4R, Amdt 29 (Cat I, II, III).
09/06/01	NC	Kinston	Kinston Regional Jetport at Stallings Field.	1/9426	RNAV (GPS) Rwy 5, Amdt 1.
09/06/01	NC	Kinston	Kinston Regional Jetport at Stallings Field.	1/9427	RNAV (GPS) Rwy 23, Orig.
09/06/01	FL	Orlando	Orlando Sanford	1/9428	RNAV (GPS) Rwy 9L, Amdt 1.
09/06/01	TX	Abilene	Abilene Regional	1/9453	RNAV (GPS) Rwy 35R, Orig.
09/06/01	VT	Rutland	Rutland State	1/9454	VOR/DME Rwy 1, Orig.
09/06/01	IL	Chicago	Chicago Midway	1/9466	ILS Rwy 31C, Amdt 5E.
09/06/01	HI	Kahului	Kahului	1/9536	VOR Rwy 20, Orig-A.
09/06/01	HI	Kahului	Kahului	1/9538	VOR/DME or TACAN Rwy 20, Orig.
09/07/01	GA	Valdosta	Valdosta Regional	1/9582	VOR or GPS Rwy 17, Orig.
09/07/01	GA	Valdosta	Valdosta Regional	1/9583	VOR or GPS Rwy 35, Orig.
09/07/01	GA	Waynesboro	Burke County	1/9584	NDB or GPS Rwy 8, Amdt 2.
09/07/01	CA	Visalia	Visalia Muni	1/9593	VOR Rwy 12, Amdt 5A.
09/07/01	UT	Cedar City	Cedar City Regional	1/9597	VOR Rwy 20, Amdt 6.
09/07/01	UT	Cedar City	Cedar City Regional	1/9598	ILS Rwy 20, Amdt 3.
09/07/01	UT	Cedar City	Cedar City Regional	1/9599	NDB Rwy 20, Amdt 2.
09/07/01	CO	Aspen	Aspen-Pitkin County/Sardy Field	1/9600	VOR/DME or GPS–C, Amdt 4D.
09/07/01	CA	Visalia	Visalia Muni	1/9603	GPS Rwy 12, Orig-A.
09/07/01	CA	Sacramento	McClellan Airfield	1/9607	VOR/DME or TACAN Rwy 34, Orig.
09/07/01	CA	Sacramento	McClellan Airfield	1/9608	VOR/DME or TACAN Rwy 16, Orig.
09/07/01	CA	Sacramento	McClellan Airfield	1/9614	ILS Rwy 16, Orig.
09/11/01	WV	Elkins	Elkins-Randolph Co-Jennings Randolph Field.	1/9737	GPS Rwy 23, Orig-A.

FDC date	State	City	Airport	FDC No.	Subject
09/11/01	WV	Elkins	Elkins-Randolph Co-Jennings Randolph Field.	1/9738	GPS Rwy 5, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9779	RNAV (GPS) Rwy 26L, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9780	RNAV (GPS) Rwy 8L, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9781	RNAV (GPS) Rwy 8R, Orig.
09/12/01	CA	Ontario	Ontario Intl	1/9782	RNAV (GPS) Rwy 26R, Orig.

[FR Doc. 01–23571 Filed 9–20–01; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30270; Amdt. No. 2071]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAP's mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In considering of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV" without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a

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"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipate impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 14, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33 and 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

** * * Effective November 1, 2001*

Miami, FL, Miami Intl, NDB or GPS RWY 27L, Amdt 19, CANCELLED
Miami, FL, Miami Intl, NDB RWY 27L, Amdt 19
Kansas City, MO, Kansas City Intl, NDB or GPS RWY 1L, Amdt 15a, CANCELLED
Kansas City, MO, Kansas City Intl, NDB RWY 1L, Amdt 15A
Miles City, MT, Miles City/Frank Wiley Field, VOR or GPS RWY 4, Amdt 11, CANCELLED
Miles City, MT, Miles City/Frank Wiley Field, VOR RWY 4, Amdt 11
Kinston, NC, Winston Regional Jetport at Stallings Field, VOR or GPS RWY 23, Amdt 13, CANCELLED
Kinston, NC, Kinston Regional Jetport at Stallings Field, VOR RWY 23, Amdt 13
North Platte, NE, North Platte Regional Airport Lee Bird Field, NDB or GPS RWY 30, Amdt 3B, CANCELLED
North Platte, NE, North Platte Regional Airport Lee Bird Field, NDB RWY 30, Amdt 3B
Memphis, TN, Memphis Intl, NDB or GPS RWY 9, Amdt 26B, CANCELLED
Memphis, TN, Memphis Intl, NDB RWY 9, Amdt 26B
Oshkosh, WI, Oshkosh/Wittman Regional, NDB or GPS RWY 36, Amdt 5C, CANCELLED
Oshkosh, WI, Oshkosh/Wittman Regional, NDB RWY 36, Amdt 5C

[FR Doc. 01–23572 Filed 9–20–01; 8:45 am

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 159 and 178

[T.D. 01–68]

RIN 1515–AC84

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement the Continued Dumping and Subsidy Offset Act of 2000, by prescribing the administrative procedures, including the time and manner, under which antidumping and countervailing duties assessed on imported products would be distributed to affected domestic producers as an offset for certain qualifying expenditures. This distribution to the affected producers is known as the continued dumping and subsidy offset.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey J. Laxague, Office of Regulations and Rulings, (202–927–0505).

SUPPLEMENTARY INFORMATION:

Background

Antidumping duties are imposed upon imported merchandise that the U.S. Department of Commerce has found is, or is likely to be, sold in the United States at less than its fair value. Countervailing duties are imposed upon imported merchandise that the Department of Commerce determines benefits from actionable subsidies bestowed by a foreign government. In all antidumping cases, and in most countervailing duty cases, these duties are only assessed if the U.S. International Trade Commission determines that the imported goods cause material injury or the threat of material injury to a domestic industry. The rules and procedures concerning proceedings leading to orders or findings under which antidumping and countervailing duties are assessed are found in 19 U.S.C. 1671 *et seq.*, in part 207 of the regulations of the U.S. International Trade Commission (19 CFR chapter II, part 207), and in part 351 of the regulations of the International Trade Administration, U.S. Department of Commerce (19 CFR chapter III, part 351).

The Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") was enacted on October 28, 2000, as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 ("Act") (Pub. L. 106–387; 114 Stat. 1549). The provisions of the CDSOA are contained in Title X (sections 1001–1003) of the Act.

The CDSOA, in section 1003 of the Act, amended Title VII of the Tariff Act of 1930, by adding a new section 754 (codified at 19 U.S.C. 1675c) in order to provide that assessed duties received pursuant to a countervailing duty order, an antidumping duty order, or an antidumping duty finding under the Antidumping Act of 1921, would be distributed by Customs to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such an antidumping duty order or finding, or countervailing duty order. This distribution is called the continued dumping and subsidy offset. It is noted that the continued dumping and subsidy offset under 19 U.S.C. 1675c covers all antidumping and countervailing duty assessments made on or after October 1, 2000, in connection with all antidumping duty orders or findings, or countervailing duty orders, in effect as of January 1, 1999, or issued thereafter. Pursuant to 19 U.S.C. 1675c, the Commissioner of Customs shall prescribe procedures for distribution of the continued dumping and subsidy offset.

Customs Rulemaking

Accordingly, by a document published in the **Federal Register** (66 FR 33920) on June 26, 2001, Customs proposed to amend the Customs Regulations to add a new subpart F to part 159 (19 CFR part 159, subpart F; §§ 159.61–159.64) that principally prescribed the procedures, including the time and manner, and the required information necessary for the distribution of antidumping and countervailing duties assessed under an appropriate order or finding, that would be payable as a continued dumping and subsidy offset to those affected domestic producers for their qualifying expenditures, in accordance with section 754 of the Tariff Act of 1930, as amended (19 U.S.C. 1675c).

In addition, under the Background heading of the proposed rule document (66 FR at 33922–33923), Customs provided several illustrations of the administrative process by which Customs would make distributions of the continued dumping and subsidy offset to affected domestic producers.

Discussion of Comments

The June 26, 2001, notice of proposed rulemaking made provision for the submission of public comments on the proposed regulations for consideration before adoption of those regulations as a final rule. The prescribed comment period closed on July 26, 2001. Forty comments were received by Customs. The issues raised in the comments are summarized and addressed below.

Affected Domestic Producers

Comment: Several commenters requested that Customs clarify the term "producer". It was asked in this context whether companies that have filed for bankruptcy could still be affected domestic producers for purposes of the statute.

Customs Response: Customs agrees. Companies that have filed for bankruptcy would be affected domestic producers for purposes of section 1675c, if they remained in operation and continued to produce the product covered by the relevant order or finding, and provided further that such companies complied with the other requirements of the statute.

In addition, companies will be considered to have ceased production if they did not produce the product covered by an order or finding at all during the fiscal year that is the subject of the disbursement. This latter requirement is added in § 159.61(b)(1) which is redesignated as § 159.61(b)(2)(i) in this final rule document.

Comment: Several commenters proposed that domestic parties not on the list of affected domestic producers, as prepared by the U.S. International Trade Commission (USITC), be allowed to file certifications to claim an offset. Also, many comments included a request that the proposed regulations be clarified to provide for the filing of certifications by successor companies to those companies that appeared on the USITC list.

Customs Response: Under the 19 U.S.C. 1675c(d)(1), and as indicated in § 159.61(b), only a party on the USITC list is potentially eligible to receive an offset as an affected domestic producer. However, Customs agrees that a provision must be made for successor companies, as discussed below.

Specifically, where a company has succeeded to the operations of another company that appeared on the USITC list of affected domestic producers, the successor company may file a certification on behalf of the predecessor company. The USITC list is contained in the notice of intention to distribute the continued dumping and subsidy offset that must be published in the **Federal Register** in accordance with § 159.62. In its certification, the company must name the predecessor company to which it has succeeded and it must describe in detail the duly authorized succession by which it is entitled to file the certification on behalf of the predecessor.

A new paragraph (b)(1)(i) is added to § 159.61 in the final rule to address the filing of certifications by successor companies. As already noted, paragraph (b)(1) of proposed § 159.61 is redesignated as paragraph (b)(2)(i) in the final rule.

Comment: A number of commenters inquired as to whether an association whose name appeared on the USITC list for an order or finding could file a certification on behalf of its member companies and, if so, what qualifying expenditures could be included in the certification. It was also asked whether a company that was a member of such an association could file a certification, where the member company did not appear on the USITC list.

Customs Response: An association that appears on the USITC list of affected domestic producers in connection with a given order or finding, as set forth in the notice of distribution published in the **Federal Register** under § 159.62, cannot file a certification on behalf of its member companies. Customs does not believe that an association can properly certify, and thus be held liable for the accuracy of, member companies' qualifying expenditures. In order to certify, one must have direct knowledge of the validity of the expenses being claimed. In Customs view, associations are in no position to do so. The association may, of course, file a certification in its own right to claim an offset for that order or finding, but its qualifying expenditures would naturally be limited to those expenditures that the association itself has incurred in connection with that particular case, after the date of the order or finding.

In addition, an individual member of the association may file a certification to claim an offset for the same order or finding, even though the member company does not appear on the USITC list, provided that the company also meets the other requirements of the statute. It was clearly not the intent of Congress to prevent members of an association that initiated a proceeding at the USITC from filing certifications so that they may qualify for an offset under the statute, since an affected domestic producer is defined as "any manufacturer, producer, farmer, rancher, or worker representative (including associations of such persons)".

In its certification, the company must name the association appearing on the USITC list, of which it is a member, and the company must specifically establish that it was a member of the association at the time the association filed the petition with the USITC.

To allow for the filing of certifications by an association's member companies that are not included on the USITC list of affected domestic producers, a new paragraph (b)(1)(ii) is added to § 159.61. Paragraph (b)(2) of proposed § 159.61 is redesignated as paragraph (b)(2)(ii) in the final rule.

Comment: A number of commenters suggested that Customs consult with the USITC on any questions that arise concerning the USITC list of affected domestic producers that appears in the Customs notice of intention to distribute the offset.

Customs Response: Customs already consults with the USITC in this matter and will continue to do so.

Comment: Some commenters suggested that Customs remove questionable parties from the list of affected domestic producers that is forwarded to Customs by the USITC, for example companies which do not appear to meet the domestic production criteria for filing a certification.

Customs Response: Customs will not arbitrarily delete parties from the list of companies supplied by the USITC. If a certification is submitted by a company appearing on the USITC list that third parties believe contains false statements regarding eligibility to file a certification and receive an offset, they may notify the Customs Office of Investigations regarding their allegations.

Qualifying Expenditures

Comment: A number of commenters requested clarification of the term "qualifying expenditures". These commenters basically wanted to know the end of the time period within which qualifying expenditures could be incurred for purposes of claiming an offset. For example, if an order was terminated in January 2000, could qualifying expenditures be claimed if they are incurred up until the date the first certification is filed (October 2001),

or are the expenditures incurred limited by the date of the termination?

Customs Response: A qualifying expenditure that may be offset by a distribution of assessed antidumping and countervailing duties encompasses those expenditures that are incurred after the issuance of an order or finding and prior to the termination of the order or finding. Proposed § 159.61(c) is revised in the final rule to reflect this.

Customs expects that claims made for qualifying expenditures will be made in accordance with the statute and that they will be supported by records that would be kept by any prudent person in the ordinary course of business, as required in § 159.63(b) and (c). The record of expenditures being certified should conform to Generally Accepted Accounting Principles in determining when a qualifying expenditure has occurred. To the extent that common problem areas are found during Customs verifications of certifications, Customs will report on such issues in its annual report.

Comment: Several commenters suggested that Customs require companies claiming a distribution of the offset under an order or finding to limit their claims only to those qualifying expenditures that are associated with the product that is the subject of the order or finding.

Customs Response: Customs agrees. The statute (19 U.S.C. 1675c(b)(1)(B)) mandates that an affected domestic producer produce the product that is covered by an order or finding under which the offset is sought. Accordingly, there is a corresponding statutory limitation upon those qualifying expenditures that may lawfully be claimed as an offset under the order or finding. Consequently, qualifying expenditures on which a distribution may be claimed under section 1675c(b)(4) are limited only to those expenditures that can be related to the production of the product that is covered by the scope of the order or finding.

It is Customs position that any other interpretation would only result in absurd consequences. The lack of a like product limitation would discriminate against producers who do not manufacture multiple, disparate products, such as steel and petroleum products. Those producers who make multiple products would be able to claim all their expenditures on facilities and equipment, even if those expenses had little or no connection with the manufacture of the particular product involved in an order or finding. This would potentially reduce funds available for non-diversified producers. There would also be a substantial administrative problem for Customs if there were orders or findings on more than one product in a company's line of merchandise.

In this latter regard, one example would be an affected domestic producer who manufactures five different products, each of which is the subject of a separate antidumping/countervailing duty order or finding, and who incurs $1 million in qualifying expenditures. Of the $1 million in qualifying expenditures, $600,000 is related to the production of just one product, and $100,000 incurred during the production of each of the other four products. In the absence of a same product requirement, the affected domestic producer could simply claim $1 million for each certification. However, Customs would not be able to match the $1 million in claimed expenses with any one of the five special accounts and would therefore have no reasonable basis for apportioning distributions from those accounts.

Proposed §§ 159.61(c) and 159.63(d) are amended in the final rule to reflect this additional limitation upon qualifying expenditures.

Notice of Distribution; Content

Comment: Several commenters proposed that Customs make information available concerning the dollar amounts in the special accounts for an order or finding prior to requiring companies to file certifications.

Customs Response: Customs agrees. In future notices of intention to distribute the offset under § 159.62 for a given fiscal year, Customs will publish the dollar amount in the special account for each order or finding as of June 1 of that fiscal year. Of course, the final amount to be disbursed will differ, but the published amount may serve as an estimate for purposes of determining whether to file a certification for that fiscal year. Proposed § 159.62(b) is changed in the final rule to provide for this.

Content and Sufficiency of Certifications

Comment: Several commenters proposed changing the signing official for the certifications to a lower-level employee, rather than a party legally authorized to bind the affected domestic producer, as required in proposed § 159.63(b).

Customs Response: Customs disagrees. The person signing the certification must be authorized to legally bind the domestic producer. Enforcement actions may be taken against individuals and companies who file false information with Customs.

Comment: One commenter requested that domestic producers be expressly permitted in proposed § 159.63(b)(2) to file claims for partial amounts.

Customs Response: Customs does not believe such a provision needs to be expressly set forth in the regulations. The important point is that any amounts certified by a claimant for distribution must be supported by business records that must be retained for possible Customs verification, as previously noted. If other qualifying expenditures become verified at a later date, those can be included in subsequent certifications to claim a distribution.

Comment: Several commenters requested clarification whether a company that is listed as an affected domestic producer on more than one order or finding may file a separate certification claiming a distribution, respectively, for each order or finding, using the same qualifying expenditures as the basis for distribution in each case. One commenter expressed a concern that Customs might overpay a claimant if a company may file multiple certifications in this way.

Customs Response: When the same product is covered by orders or findings for more than one country, an individual company that is listed for each of those cases must file the same dollar claim for each case, since qualifying expenditures are not associated with a specific country case. Consequently, in order to avoid the possibility of an overpayment in these circumstances, Customs will require each certification to list all other orders or findings where the company is claiming the same qualifying expenditures. This requirement is included in § 159.63(b)(3)(ii) in the final rule. However, as previously observed, those companies that have multiple orders on different products may not claim the same expenditures for all cases. The expenditures claimed must relate to the product covered by the order or finding for which an offset is being claimed.

Comment: Several commenters suggested that the certifications should require an additional statement specifying exactly how a party meets the requirements in the statute for filing a certification.

Customs Response: Customs disagrees. Proposed § 159.63(b)(3) already adequately addresses the requirements concerning those parties that would be entitled to file certifications.

It is also noted that, due to the addition of paragraphs (b)(3)(i) and (b)(3)(ii) to § 159.63 in the final rule, as indicated above, it has been decided, for editorial clarity, to reorganize paragraph (b)(3) of proposed § 159.63 in the final rule as paragraphs (b)(3), and (b)(3)(i)–(b)(3)(iii).

Correction of Certifications

Comment: Many commenters suggested that Customs not reject certifications for minor errors or omissions. They also proposed a correction period for claimants to perfect their certifications.

Customs Response: Customs agrees. Parties listed in notices of intention to distribute must file their certifications within 60 days after publication of the notice, as already provided in proposed § 159.63(a). However, Customs will then have 15 days after the close of the 60-day filing period to return a certification that is found to be materially incorrect or incomplete. Within 10 days of the date that Customs returns a certification as being materially incorrect or incomplete, Customs must receive a corrected certification from the affected domestic producer. Customs will make every effort to assist companies to perfect their certifications and will not return claims for minor errors or omissions. Proposed § 159.63(c) is revised in the final rule to include these additional provisions regarding the processing of incorrect or incomplete certifications. Nevertheless, claimants should be mindful that it remains their responsibility to meet the requirements of the regulations for filing proper certifications.

Furthermore, in an effort to provide greater notice to domestic producers of Customs intent to distribute the offset, and thus enable the earlier filing of certifications, future notices of distribution will be published at least 90 days before the end of a fiscal year, as opposed to 60 days. Proposed § 159.62(a) is amended in the final rule to this effect.

Verification of Certifications

Comment: One commenter suggested, with reference to proposed § 159.63(d), that Customs verify every certification. Another commenter recommended a 5-year retention requirement for records needed to support claims for distribution, rather than the 3-year period contained in proposed § 159.63(d).

Customs Response: A number of certifications may be selected to determine whether, and to what extent, verifications will be conducted.

However, Customs agrees with the recommendation for a 5-year record retention requirement, and proposed § 159.63(d) is changed in the final rule to provide for this. This accords with the general record retention provision of 5 years that is set forth in § 163.4(a), Customs Regulations (19 CFR 163.4(a)).

Disclosure to Public of Certain Information Contained in Certifications

Comment: With respect to the information contained in the certifications described in proposed § 159.63, over 20 comments were received on the question of whether certain information required to be set forth in the certifications should be made public on a company-specific basis. The comments were equally divided over whether the company name and the dollar amounts claimed for an offset should be made public.

Customs Response: As stated in the proposed rule, Customs was especially interested in receiving public comment as to whether it should adopt the position that the name of the certifying producer and the total amount being certified for distribution should be considered information available for disclosure to the public.

Customs has concluded that the name of the claimant, the total dollar amount claimed by that party on the certification, as well as the total dollar amount that Customs actually disburses to that company as an offset, will be available for disclosure to the public. Customs has determined that this information does not qualify as business confidential information. Proposed § 159.63 is changed in the final rule by adding paragraph (e) to state that the submission of a certification by an affected domestic producer will be construed as an understanding on the part of the affected domestic producer that the foregoing information will be disclosed to the public. Alternatively, a statement in a certification that this information is proprietary and exempt from disclosure will result in Customs rejection of the certification.

Accordingly, as part of the annual report on the Continued Dumping and Subsidy Offset Act (CDSOA), Customs will publish the following by case number: the name of the claimant; the total dollar amount claimed by that party on the certification; and the total dollar amount disbursed to that company by Customs. Proposed § 159.64(g), which concerns the issuance of the annual report, is amended in the final rule to provide for this disclosure of information.

Recommended Conditions/Restrictions on Disbursements

Comment: One commenter suggested that Customs prescribe how domestic producers may spend the disbursements that they receive under proposed § 159.64.

Customs Response: Customs disagrees. There is no statutory requirement as to how a disbursement to an affected domestic producer is to be spent, and, absent statutory authority, Customs may not impose such a requirement.

Comment: One commenter suggested that Customs deduct its administrative costs associated with the program from the offset to be distributed prior to making any disbursements.

Customs Response: Customs disagrees. There is no provision in the statute to allow for such a deduction.

Comment: Two commenters recommended that the disbursements to companies in an industry be reduced by the amount of other Government aid provided to that industry via other programs.

Customs Response: Customs disagrees. Again, there is no provision in the statute to allow for such a reduction. Thus, Customs has no authority to reduce the amount of the offset payable to affected domestic producers under the statute, based upon aid provided to such producers through other Government programs.

Refunds to Importers; Recovery of Overpayments to Domestic Producers

Comment: One commenter requested, in connection with proposed § 159.64(b), that a domestic producer furnish Customs with a surety bond in order to guarantee that any overpayment of assessed duties to the producer would be repaid in the event that a subsequent reliquidation results in a lesser amount of duties being assessed.

Customs Response: Customs disagrees. At this time, it does not appear to be practical or necessary to require domestic producers to file a surety bond to cover the amount of an annual distribution.

Comment: Two commenters expressed concern that administration of the CDSOA under proposed § 159.64(b)(2) would delay the processing of refunds to importers in the case of reliquidations and/or court action. The concern was that Customs would hold up action on a refund request until it had received repayment of the overpaid disbursement from the domestic producers.

Customs Response: Customs will not withhold action on refund claims based on the recovery of overpaid disbursements. Customs will establish procedures to compute the overpaid amounts to be recovered from domestic producers, so that recovery of the

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overpayment can be made, but those recoveries will take place independent of the refund of duties to importers. Customs already has authority under 19 U.S.C. 1520(a) to refund excess duties paid, and the necessary monies to make such refunds are authorized to be appropriated annually from the general fund of the Treasury.

Proposed § 159.64(b)(2) is revised in the final rule to include the assurance that refunds to importers will not be delayed pending the recovery of overpayments to domestic producers.

Comment: One commenter asserted that Customs had no authority to require repayment of an offset in proposed § 159.64(b)(3) when Customs had overpaid the offset due to an error in liquidation of an import entry.

Customs Response: The ability to recover potential overpayments of disbursed duties due to the reliquidation of import entries is a central feature of issuing disbursements. If Customs were unable to collect overpayments of disbursed duties due to import entry reliquidations, Customs would simply have to delay all disbursements until the time for reliquidation of the relevant import entries had passed, thereby precluding the possibility of overpayments due to reliquidations. Under this latter scenario, for example, disbursements for entries liquidated in Fiscal Year 2001 would not take place until November of 2002 if Customs did not have a mechanism in place to recover potential overpayments. With this mechanism in place, Customs anticipates completing distributions by the end of November 2001.

Unclaimed Offset Not Available for Future Distribution

Comment: Many commenters stated that assessed duties remaining unclaimed after an annual distribution has occurred should not be deposited into the General Fund, as required under proposed § 159.64(c)(1), but should be available for future distributions to affected domestic producers.

Customs Response: Customs disagrees. In Customs view, sections 1675c(c) and (d)(3) of the statute clearly require disbursement of liquidated duties in each fiscal year, based on certifications timely filed for that year's assessments. There is no provision for disbursing duties collected in one fiscal year based on claims that may be filed two or three years later simply because there was a previous unclaimed balance. The CDSOA provides that "[s]uch distribution shall be made not later than 60 days after the first day of a fiscal year from duties assessed during the preceding fiscal year." 19 U.S.C. 1675c(c).

However, the part of proposed § 159.64(c)(1) that dealt with the transfer of balances to different accounts has been deleted from this section in the final rule. Since that information only concerns internal Customs processing, it is not necessary to be included in the regulations.

Proposed § 159.64(c)(1) is changed in the final rule accordingly; and proposed § 159.64(b)(2) and (b)(3) is changed consistent with § 159.64(c)(1).

Requests for Reconsideration of a Disbursement

Comment: In cases where a distribution to an affected domestic producer was not for the entire amount certified, a number of commenters proposed that the time limit within which an affected domestic producer could request a reconsideration of the amount of the distribution be extended beyond the 10 business-day time limit set forth in proposed § 159.64(c)(3).

Customs Response: Customs agrees. Parties will have 30 calendar days, rather than 10 business days, to request reconsideration of a disbursement. Proposed § 159.64(c)(3) is revised in the final rule to include this requirement.

Termination of Orders or Findings

Comment: A number of commenters requested clarification of Customs actions when an order or finding has been terminated by the U.S. Department of Commerce (Commerce).

Customs Response: When an order or finding is terminated by the Department of Commerce, Customs will work with Commerce to determine the extent of unliquidated entries covered by the case. If, for example, there is more than one Commerce review period pending at the time of termination, and Commerce only issues liquidation instructions for one of the pending review periods, Customs will process the entries covered by the instructions as an annual disbursement. The delayed disbursement referred to in § 159.64(d)(2) is limited to the final distribution when the special account established under the order or finding is terminated.

Interest

Comment: Some commenters suggested, with reference to proposed § 159.64(e), that the Clearing Account and the Special Account that Customs establishes under the CDSOA should be interest-bearing accounts.

Customs Response: Customs disagrees. Briefly, as previously explained in the notice of proposed rulemaking, funds in Government accounts are not interest-bearing unless specified by Congress. Because Congress did not make an explicit provision for the accounts established under the CDSOA to be interest-bearing, no interest may accrue on these accounts. Thus, only interest charged on antidumping and countervailing duty funds themselves, pursuant to the express authority in 19 U.S.C. 1677g, will be transferred to the special accounts and be made available for distribution under the CDSOA.

Comment: A number of commenters wanted to know about the interest that Customs pays when antidumping or countervailing duty deposits exceed the final assessed duty amount. These commenters asked if this interest would have any effect on the amount of the offset for an order or finding.

Customs Response: Interest paid by Customs when deposits exceed the amount of the duties assessed will not be taken from either the clearing account or the special account. It is not a part of, and therefore does not reduce, the computation of the continued dumping and subsidy offset for an order or finding that would be distributed to affected domestic producers.

Annual Report; Content; Certain General Information

Comment: A number of commenters suggested that the annual report also contain the following general information for each order or finding: information regarding the number of entries and dollar amounts in the clearing account at the beginning of each fiscal year; the number and amount of Customs reliquidations during the fiscal year; and the dollar amounts remaining uncollected from Customs bills issued during the fiscal year.

Customs Response: Customs agrees that the annual report should include this information as well. Proposed § 159.64(g) is further revised in the final rule to make reference to the inclusion of this additional information in the annual report for public disclosure. Also, in its annual report, Customs will address any initiatives that have been implemented to improve the liquidation and disbursement process under the CDSOA.

Miscellaneous Issues Raised

Comment: Several commenters objected to the CDSOA as violating the World Trade Organization (WTO) agreements on Dumping and Subsidies and the North American Free Trade Agreement (NAFTA).

Customs Response: These comments concern the statute and not the regulations and, accordingly, fall outside the scope of this rulemaking.

Comment: One commenter requested a public hearing. Another commenter requested an extension of the period for filing comments.

Customs Response: Customs finds that the process of informal rulemaking in accordance with the Administrative Procedure Act (5 U.S.C. 553) conducted in this matter was sufficient. The comments received during the proposed rulemaking comment period fairly and adequately addressed the issues that were presented by the proposed rule, and Customs fully considered all views that were contained in the comments in issuing this final rule document. Neither a public hearing nor an extension of the comment period is necessary in this case.

Comment: Several commenters suggested the term "assessment" be defined.

Customs Response: Customs disagrees. As explained in the notice of proposed rulemaking, the assessment of duties on an import entry is accomplished by liquidating the subject entry; and, in pertinent part, the term "liquidation" is already defined in § 159.1, Customs Regulations (19 CFR 159.1), as the final computation or ascertainment of the duties accruing on an entry.

Comment: There were a few comments requesting a clarification of the pro rata allocation of the offset to affected domestic producers that is required under the statute (19 U.S.C. 1675c(d)(3)).

Customs Response: Customs believes that proposed § 159.64(c)(2), which addresses this issue, is clear and that no further clarification is necessary. Specifically, where the certified net claims exceed the offset available in a special account, the offset will be distributed on a pro rata basis based on each affected domestic producer's total certified claim. For example, on an individual case with only two claimants, if only $1 million is available for disbursement, where Company A claims total qualifying expenditures of $80 million, and Company B claims total qualifying expenditures of $20 million, Company A would receive $800,000 and Company B would receive $200,000. For those parties filing multiple certifications when there is more than one country case for a specific product, Customs will establish internal controls to prevent payments to affected domestic producers in excess of the amounts claimed.

Comment: One commenter suggested that the regulations specify that Customs decisions in administering the statute are subject to judicial review by the U.S. Court of International Trade (USCIT).

Customs Response: Customs disagrees. The CDSOA does not specify which particular federal court would have jurisdiction to review disputes regarding Customs decisions in administering the statute, and Customs lacks authority to confer jurisdiction on a particular court through its regulations.

Additional Changes

Paragraph (b) of proposed § 159.63 is revised to include a requirement that the certification include a statement that the domestic producer has records to support the qualifying expenditures being claimed. Also, paragraph (b)(1)(vi) of proposed § 159.63, allowing for the distribution of an offset via Electronic Funds Transfer (EFT), is deleted since Customs has not made any provision for the electronic payment of the offset. Furthermore, proposed § 159.64(e) is revised in the final rule to reflect that statutory interest charged on antidumping and countervailing duties at liquidation will be transferred only to the special account for the related order or finding, when such interest is collected from the importer.

Conclusion

After careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments should be adopted with the modifications discussed above.

Inapplicability of Delayed Effective Date of Final Rule Document

Customs finds that good cause exists under 5 U.S.C. 553(d)(3) for dispensing with a delayed effective date for this final rule. The final rule will instead be effective upon its date of publication in the **Federal Register**. Customs finds that it would be contrary to the public interest to delay distributions that affected domestic producers are entitled to under the statute. Moreover, dispensing with a delayed effective date is necessary in order to ensure that Customs is able to timely comply with the statutory requirement that assessed duties received in Fiscal Year 2001 be distributed to affected domestic producers by November 30, 2001 as provided in 19 U.S.C. 1675c(c).

Regulatory Flexibility Act and Executive Order 12866

The amendments implement the terms and conditions of the Continued Dumping and Subsidy Offset Act of 2000, which applies to antidumping and countervailing duties assessed on or after October 1, 2000. The amendments are necessary in order to enable and expedite the distribution of the offset to affected domestic producers. For these reasons, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 60127a *et seq.*), it is certified that these amendments do not have a significant economic impact on a substantial number of small entities. Nor do the amendments meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information in this final rule document was submitted for review and has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB control number 1515–0229. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

This collection of information is contained in § 159.63. This information is necessary in order to enable, and to expedite, the distribution of the continued dumping and subsidy offset to the affected domestic producers. The likely respondents and/or recordkeepers are domestic business organizations, such as manufacturers, producers, ranchers, farmers and worker representatives (including associations of such persons). The estimated average annual burden associated with this information collection is 40 hours per respondent or recordkeeper.

Comments on the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is revised to reflect the additional

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information collection burden imposed under this final rule.

List of Subjects

19 CFR Part 159

Antidumping (liquidation of duties), Countervailing duties (liquidation of duties), Customs duties and inspection, Liquidation of entries for merchandise.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Parts 159 and 178, Customs Regulations (19 CFR parts 159 and 178), are amended as set forth below.

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 is amended by adding an authority citation for Subpart F so as to read, in part, as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624. Subpart C also issued under 31 U.S.C. 5151. Subpart F also issued under 19 U.S.C. 1675c.

* * * * *

2. Part 159 is amended by adding a new subpart F to read as follows:

Subpart F—Continued Dumping and Subsidy Offset

159.61 General.
159.62 Notice of distribution.
159.63 Certifications.
159.64 Distribution of offset.

Subpart F—Continued Dumping and Subsidy Offset

§ 159.61 General.

(a) *Continued dumping and subsidy offset.* Under section 754 of the Tariff Act of 1930, as amended by Public Law 106–387, 114 Stat. 1549 (19 U.S.C. 1675c), known as the Continued Dumping and Subsidy Offset Act of 2000, assessed duties received on or after October 1, 2000 under a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921, will be distributed, as provided under this subpart, to affected domestic producers for certain qualifying expenditures that these affected domestic producers incur after the issuance of such an antidumping duty order or finding, or countervailing duty order. This distribution is called the continued dumping and subsidy offset.

(b) *Affected domestic producer.* (1) *General rule.* Except as provided in paragraph (b)(2) of this section, an "affected domestic producer" under paragraph (a) of this section means any manufacturer, producer, farmer, rancher or worker representative (including any association of such persons) that remains in operation continuing to produce the product covered by the antidumping duty order or finding or countervailing duty order, and that was a petitioner or an interested party that supported a petition concerning an antidumping duty order, a finding under the Antidumping Act of 1921, or a countervailing duty order that was entered. It is the responsibility of the U.S. International Trade Commission (USITC) to ascertain and timely forward to Customs a list of the domestic producers potentially considered "affected domestic producers" eligible to receive a distribution in connection with each order or finding. In addition to the potential "affected domestic producers" set forth on the USITC list, the following parties also are potential "affected domestic producers":

(i) *Successor company.* In the case of a company that has succeeded to the operations of a predecessor company that appeared on the USITC list, the successor company may file a certification to claim an offset as an affected domestic producer on behalf of the predecessor company. In its certification, the company must name the predecessor company to which it has succeeded and it must describe in detail the duly authorized succession by which it is entitled to file the certification.

(ii) *A member company of an association.* A member company of an association appearing on the USITC list for an order or finding may file a certification to claim an offset as an affected domestic producer, even though the member company does not itself appear on the USITC list, provided that the company also meets the other requirements of the statute. In its certification, the company must name the association of which it is a member and the company must specifically establish that it was a member of the association at the time the association filed the petition with the USITC.

(2) *Exceptions:* A party who is named on the USITC list is not an "affected domestic producer" under the following circumstances:

(i) *Product no longer produced.* A company, business or person that has ceased production of the product covered by the antidumping duty order or finding, or countervailing duty order, *i.e.*, did not manufacture that product at all during the fiscal year that is the subject of the disbursement, is not an affected domestic producer under this section.

(ii) *Acquisition by related company.* (A) *Related company defined.* A company, business or person is not an affected domestic producer if that company, business, or person has been acquired by another company or business that is related to a company that opposed the antidumping or countervailing duty investigation that led to the order or finding. For purposes of this paragraph, a company, business or person is related to another company, business or person if:

(*1*) The company, business or person directly or indirectly controls or is controlled by the other company, business or person;

(*2*) A third party directly or indirectly controls both companies, businesses or persons; or

(*3*) Both companies, businesses or persons directly or indirectly control a third party and there is reason to believe that the relationship causes the first company, business or person to act differently than a nonrelated party.

(B) *Control of one party by another.* For purposes of paragraphs (b)(2)(ii)(A)(*1*) through (b)(2)(ii)(A)(*3*) of this section, one party would be considered to directly or indirectly control another party if the party was legally or operationally in a position to exercise restraint or direction over the other party.

(c) *Qualifying expenditures.* Qualifying expenditures which may be offset by a distribution of assessed antidumping and countervailing duties must fall within the categories described in paragraphs (c)(1) through (c)(10) of this section. These expenditures must be incurred after the issuance, and prior to the termination, of the antidumping duty order or finding or countervailing duty order under which the distribution is sought. Further, these expenditures must be related to the production of the same product that is the subject of the related order or finding, with the exception of expenses incurred by associations which must relate to a specific case.

(1) Manufacturing facilities;
(2) Equipment;
(3) Research and development;
(4) Personnel training;
(5) Acquisition of technology;
(6) Health care benefits for employees paid for by the employer;
(7) Pension benefits for employees paid for by the employer;
(8) Environmental equipment, training, or technology;
(9) Acquisition of raw materials and other inputs; and
(10) Working capital or other funds needed to maintain production.

§ 159.62 Notice of distribution.

(a) *Publication of notice.* At least 90 days before the end of a fiscal year, Customs will publish in the **Federal Register** a notice of intention to distribute assessed duties received as the continued dumping and subsidy offset for that fiscal year. The notice will include the list of domestic producers, based upon the list supplied by the USITC (see § 159.61(b)(1)), that would be potentially eligible to receive the distribution.

(b) *Content of notice.* The notice of intention to distribute the offset will also contain the following:

(1) The case name and number of the particular order or finding concerned, together with the dollar amount contained in the special account for that order or finding as of June 1 of the subject fiscal year (see § 159.64(a)(1)); and

(2) The instructions for filing the certification under § 159.63 in order to claim a distribution.

§ 159.63 Certifications.

(a) *Requirement and purpose for certification.* In order to obtain a distribution of the offset, each affected domestic producer must submit a certification, in triplicate, or electronically as authorized by Customs, to the Assistant Commissioner, Office of Regulations and Rulings, Headquarters, or designee, that must be received within 60 days after the date of publication of the notice in the **Federal Register**, indicating that the affected domestic producer desires to receive a distribution. The certification must enumerate the qualifying expenditures incurred by the domestic producer since the issuance of an order or finding for which a distribution has not previously been made, and it must demonstrate that the domestic producer is eligible to receive a distribution as an affected domestic producer.

(b) *Content of certification.* While there is no established format for a certification, the certificatien must identify the date of the **Federal Register** notice under which it is submitted, and the case name and the number of the particular order or finding cited in the **Federal Register** notice. The certification must be executed and dated by a party legally authorized to bind the domestic producer. The certification must also state that the information contained in the certification is true and accurate to the best of the certifier's knowledge and belief under penalty of law, and that the domestic producer has records to support the qualifying expenditures being claimed.

(1) *Identifying information for domestic producer.* The certification must include the following identifying information related to the domestic producer:

(i) The name of the domestic producer and any name qualifier, if applicable (for example, any other name under which the domestic producer does business or is also known);

(ii) The address of the domestic producer (if a post office box, the secondary street address must also be included);

(iii) The Internal Revenue Service (IRS) number (with suffix) of the domestic producer, employer identification number, or social security number, as applicable;

(iv) The specific business organization of the domestic producer (corporation, partnership, sole proprietorship); and

(v) The name(s) of any individual(s) designated by the domestic producer as the contact person(s) concerning the certification, together with the phone number(s) and/or facsimile transmission number(s) and electronic mail (email) address(es) for the person(s).

(2) *Amount of claim.* In calculating the amount of the distribution being claimed as an offset, the certification must enumerate the following:

(i) The total amount of qualifying expenditures currently and previously certified by the domestic producer, and the amount certified by category(see § 159.61(c)(1) through (c)(10));

(ii) The total amount of those expenditures which have been the subject of any prior distribution under section 754, Tariff Act of 1930, as amended (19 U.S.C. 1675c); and

(iii) The net amount for new and remaining qualifying expenditures being claimed in the current certification (the total amount currently and previously certified as noted in paragraph (b)(2)(i) of this section minus the total amount the subject of any prior distribution as noted in paragraph (b)(2)(ii) of this section).

(3) *Statement of eligibility to receive distribution.* The certification must contain a statement that the domestic producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer (see § 159.61(b)(1) and (b)(2)).

(i) *Amount certified for payment.* The affected domestic producer must affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distribution has previously been made (see paragraphs (b)(2)(ii) and (b)(2)(iii) of this section).

(ii) *Same qualifying expenditures included on more than one certification.* Where the domestic producer is listed as an affected domestic producer on more than one order or finding covering the same product and files a separate certification for each order or finding using the same qualifying expenditures as the basis for distribution in each case, each certification must list all the other orders or findings where the producer is claiming the same qualifying expenditures.

(iii) *Continued production of product covered by order or finding; acquisition by related company.* The statement must include information as to whether the domestic producer remains in operation, and continues to produce the product covered by the particular order or finding under which the distribution is sought (see § 159.61(b)(2)(i)). In addition, the domestic producer must state whether it has been acquired by a company or business that is related to a company, within the meaning of § 159.61(b)(2)(ii)(A)(*1*) through (*3*), that opposed the antidumping or countervailing duty investigation that resulted in the order or finding under which the distribution is sought.

(c) *Review and correction of certification.* A certification that is submitted in response to a notice of distribution and received within 60 days after the date of publication of the notice in the **Federal Register** may be reviewed before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for current and prior qualifying expenditures, including the amount claimed for distribution, appear to be correct (see paragraph (b)(2) of this section). A certification that is found to be materially incorrect or incomplete will be returned to the domestic producer within 15 days after the close of the 60-day filing period. Within 10 days of the date that Customs returns a certification as being materially incorrect or incomplete, Customs must receive a corrected certification from the affected domestic producer. Customs will make every effort to assist companies to perfect their certifications and will not return claims for minor errors or omissions. However, it remains the sole responsibility of the domestic producer to ensure that the certification is correct, complete and satisfactory so as to demonstrate the entitlement of the domestic producer to the distribution requested. Failure to ensure that the certification is correct, complete and satisfactory as provided in this paragraph will result in the domestic producer not receiving a distribution.

(d) *Verification of certification; supporting records.* Certifications are

subject to verification. Parties, therefore, are required to maintain the accounting records used in developing their claims, for a period of five years after the filing of the certification. The records supporting certifications must be those that are normally kept in the ordinary course of business (see § 163.1(a)(1) and (a)(2)(vi) of this chapter). Parties must be able to demonstrate that their records specifically support each qualifying expenditure enumerated in a certification. In addition, the claimant must be able to support how qualifying expenditures are determined to be related to the production of the product covered by the order or finding.

(e) *Disclosure of information in certifications; acceptance by producer.* The name of the affected domestic producer, the total dollar amount claimed by that party on the certification, as well as the total dollar amount that Customs actually disburses to that company as an offset, will be available for disclosure to the public (see § 159.64(g)(1)). The submission of the certification will be construed as an understanding and acceptance on the part of the domestic producer that this information will be disclosed to the public. Alternatively, a statement in a certification that this information is proprietary and exempt from disclosure will result in Customs rejection of the certification.

§ 159.64 Distribution of offset.

(a) *The creation of Special Accounts and Clearing Accounts.*

(1) *Special Accounts.* As directed in the legislation (19 U.S.C. 1675c(e)), Customs will establish Special Accounts for each antidumping duty order or finding or countervailing duty order, into which funds will be transferred as set out in paragraph (b) of this section. All distributions to affected domestic producers will be made from the Special Accounts.

(2) *Clearing Accounts.* In order to properly manage and account for dumping and subsidy offsets, as well as any requisite refunds to importers, Customs will also establish Clearing Accounts. All estimated antidumping and countervailing duties received pursuant to an antidumping or countervailing order or finding in effect on January 1, 1999, or thereafter, will be deposited into a Clearing Account.

(b) *Distribution of assessed duties received from the Special Accounts; refunds resulting from reliquidation or court action; and overpayments to affected domestic producers.*

(1) *Distribution of assessed duties received from the Special Accounts.*

(i) No later than 60 days after the end of a fiscal year, Customs will distribute the assessed duties transferred from the Clearing Accounts and received into the Special Accounts. The amount distributed shall be referred to as the dumping and subsidy offset;

(ii) Transfers from the Clearing Accounts to the Special Accounts will be made by Customs throughout the fiscal year. Transfers will occur between a Clearing Account and a Special Fund Account when an entry upon which antidumping or countervailing duties are owed is properly liquidated pursuant to an order, finding or receipt of liquidation instructions;

(iii) The amount transferred at liquidation to the Special Account will be dependent upon the amount actually collected on the entry and in the Clearing Account. Following liquidation, additional transfers will be made on the liquidated entry to the corresponding Special Account, as additional antidumping or countervailing duties are collected.

(2) *Refunds resulting from reliquidation or court action.* If any of the underlying entries composing a prior distribution should reliquidate for a refund, such refund will be recovered from the corresponding Special Account. Similarly, refunds to importers resulting from any court action involving those entries will also be recovered from the corresponding Special Account. Refunds to importers will not be delayed pending the recovery of overpayments from domestic producers as set out in paragraph (b)(3) of this section.

(3) *Overpayments to affected domestic producers.* Overpayments to affected domestic producers resulting from subsequent reliquidations and/or court actions and determined by Customs to be not otherwise recoverable from the corresponding Special Account as set out in paragraph (b)(2) of this section will be collected from the affected domestic producers. The amount of each affected domestic producer's bill will be directly proportional to the total dumping and subsidy offset amounts that the affected domestic producer previously received under the related Special Account. All available collection methods will be used by Customs to collect outstanding bills, including but not limited to, administrative offset. Interest at the same rate set out at § 24.3a(c) of this chapter will begin to accrue on unpaid bills 30 days from the bill date.

(c) *Payment of certified claims.*

(1) If the total amount of the certified net claims filed by affected domestic producers does not exceed the amount of the offset available for distribution in the corresponding Special Account, the certified net claim for each affected domestic producer will be paid in full.

(2) If the certified net claims exceed the dumping and subsidy offset amount available in the corresponding Special Account, such offset will be made on a pro rata basis based on each affected domestic producer's total certified claim.

(3) In any case where the distribution is not for the entire certified qualifying expenditure submitted by an affected domestic producer, and if the affected domestic producer believes that the reduction was the result of clerical error or mistake by Customs, it must file a request for reconsideration within 30 calendar days to the address given in the notification. After considering the matter, the Customs Service will notify the party requesting reconsideration of its decision. However, any adjustments will be made only from funds remaining in the account for that case in the current or future fiscal years, and will be paid prior to any future distributions.

(d) *Final distribution and termination of the Special Account.*

(1) A Special Account will be terminated and a final distribution will occur when:

(i) The order or finding with respect to which the account was established has terminated; and

(ii) All entries relating to the order or finding are liquidated, all outstanding amounts collected or properly accounted for by Customs, all related protests, petitions, and court actions fully concluded, and all refunds due to importers on the underlying entries are paid in full.

(2) Once the requirements set out in paragraph (d)(1) of this section have been met, notice of a final distribution will be issued pursuant to § 159.62.

(3) Amounts not timely claimed under the notice of final distribution will be permanently deposited into the General Fund of the Treasury.

(e) *Interest on Special Accounts and Clearing Accounts.* In accordance with Federal appropriations law, and Treasury guidelines on Special Accounts, funds in such accounts are not interest-bearing unless specified by Congress. Likewise, funds being held in Clearing Accounts are not interest-bearing unless specified by Congress. Therefore, no interest will accrue in these accounts. However, statutory interest charged on antidumping and countervailing duties at liquidation will be transferred to the Special Account, when collected from the importer.

(f) *Distribution final and conclusive.* Except as provided in paragraphs (b)(3) and (c)(3) of this section, any distribution made to an affected domestic producer under this section shall be final and conclusive on the affected domestic producer.

(g) *Annual report; disclosure of information.* Although it is not mandated in the law (19 U.S.C. 1675c), Customs will issue an annual report on the disbursements. This report will be available to the public via the Customs website. The annual report will address any initiatives that have been implemented to improve the liquidation and disbursement process. In addition, the annual report will include the information described in paragraphs (g)(1) and (g)(2) of this section.

(1) *Company-specific information.* The annual report will include the following information concerning those parties that have submitted certifications for a distribution of the offset with respect to each order or finding as identified by its case number:

(i) The name of the claimant;

(ii) The total dollar amount claimed by that party on its certification; and

(iii) The total dollar amount disbursed to that company by Customs.

(2) *General information.* The annual report will include the following general information for each order or finding as identified by its case number:

(i) The number of entries and dollar amounts in the clearing account at the beginning of each fiscal year;

(ii) The number and amount of Customs re-liquidations during the fiscal year; and

(iii) The dollar amounts remaining uncollected from Customs bills issued during the fiscal year.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing in the table in appropriate numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
. . .	. . .	.
§ 159.63	Distribution of continued dumping and subsidy offset to affected domestic producers.	1515–0229
. . .	. . .	.

Approved: September 17, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–23562 Filed 9–18–01; 3:36 pm]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 1

Internal Revenue Service; Privacy Act, Implementation

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Department of the Treasury gives notice of a final rule to exempt an Internal Revenue Service system of records entitled "Third Party Contact Reprisal Records-Treasury/IRS 00.334" from certain provisions of the Privacy Act. The exemption is intended to comply with the legal prohibitions against the disclosure of certain kinds of information and to protect certain information, about individuals, maintained in this system of records.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: David Silverman, Tax Law Specialist, 6103/Privacy Operations, Governmental Liaison and Disclosure, Internal Revenue Service, at (202) 622–6200.

SUPPLEMENTARY INFORMATION: The Department of the Treasury published a notice of a proposed rule exempting a system of records from certain provisions of the Privacy Act of 1974, as amended. The Internal Revenue Service (IRS) published the system notice in its entirety at 65 FR 63917–63918 (October 25, 2000), and the proposed rule in the same **Federal Register** on pages 63824–63826.

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, as amended, if the system is investigatory material compiled for law enforcement purposes. The Third Party Contact Reprisal Records-Treasury/IRS 00.334, contains investigatory material compiled for law enforcement purposes.

The proposed rule requested that public comments be sent to the Internal Revenue Service, Office of Governmental Liaison and Disclosure, 1111 Constitution Ave., NW., Washington, DC 20224, no later than November 24, 2000.

The IRS did not receive comments on the proposed rule. Accordingly, the Department of the Treasury is hereby giving notice that the system of records entitled "Third Party Contact Reprisal Records-Treasury/IRS 00.334," is exempt from certain provisions of the Privacy Act. The provisions of the Privacy Act from which exemption is claimed pursuant to 5 U.S.C. 552a(k)(2) are as follows: 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f).

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

The regulation will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The final rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this final rule would not impose new record keeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1, Subpart C of title 31 of the Code of Federal Regulations is amended as follows:

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PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 paragraph (g)(1)(viii) is amended by adding the following text to the table in numerical order.

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 522a and this part.

* * * * *

(g) * * *
(1) * * *
(viii) * * *

System number	Name of system
. .	. . . .
IRS 00.334	Third Party Contact Reprisal Records
. .	. . . .

Dated: September 5, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

[FR Doc. 01–23674 Filed 9–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–032]

Drawbridge Operating Regulation; Bayou Lafourche, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 1 (Leeville) vertical lift bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana. This deviation allows the Louisiana Department of Transportation and Development (LDOTD) to close the bridge to navigation from 8 a.m. until 5 p.m. daily from Thursday, November 8, 2001 through Wednesday, December 5, 2001. This temporary deviation is issued to allow for the cleaning and painting of the counterweight towers of the bridge.

DATES: This deviation is effective from 8 a.m. on Thursday, November 8, 2001 until 5 p.m. on Wednesday, December 5, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, BridgeAdministration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The SR 1 (Leeville) vertical lift span bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana, has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. The containment equipment for the project will reduce the vertical clearance by two feet. Navigation on the waterway consists mainly of fishing vessels, recreation vessels and tugs with tows. LDOTD requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the cleaning and painting of the bridge counterweight towers. This work is necessary for the continued safe operation of the bridge.

This deviation allows the draw of the SR 1 (Leeville) vertical lift span drawbridge across Bayou Lafourche, 13.3, to remain closed to navigation from 8 a.m. until 5 p.m. daily from Thursday, November 8, 2001 through Wednesday, December 5, 2001.

Dated: September 6, 2001.

Roy J. Casto,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–23685 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–091]

RIN 2115–AE47

Drawbridge Operation Regulations: Maybank Highway Bridge, Stono River, Johns Island, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the Maybank Highway Bridge across the Stono River mile 11.0, Johns Island, Charleston County, SC. This rule alters the existing on-demand operating schedule by placing the bridge on a regular opening schedule Monday through Friday except Federal holidays. This rule also allows the bridge to remain closed during the morning and evening rush hours. This rule is necessary to facilitate traffic flow during the construction of a replacement bridge.

DATES: This rule is effective on October 22, 2001.

ADDRESSES: Comments and material received from the public as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07–01–091] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, Florida, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM was unnecessary and contrary to public interest since immediate action is needed to alleviate traffic congestion due to the advanced progress of the bridge replacement project.

Background and Purpose

The Maybank Highway Bridge across the Stono River mile 11.0 at Johns Island, Charleston County, SC, has a vertical clearance of 8 feet in the closed position at mean high water and a horizontal clearance of 55 feet between fenders. On November 6, 2000, the South Carolina Department of Transportation requested a modification from the current operating regulation in 33 CFR 117.5 which requires the drawbridge to open on signal.

Under this rule, the Maybank Highway Bridge shall open on signal: except that the draw need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday except Federal holidays. Between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half hour. The draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

The John Limehouse Bridge, which is in close proximity to the Maybank Highway Bridge, is being replaced with a high-level fixed bridge. In addition, the Maybank Highway Bridge is also scheduled to be replaced. These two bridges are main access arteries onto and off of Johns Island, SC. This regulation will improve the transportation scheme for vehicular traffic during the construction of these bridge projects.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit under the Maybank Highway Bridge from 7 a.m. until 6 p.m., Monday through Friday, except Federal holidays. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the rule allows scheduled openings and all exempt vessels shall be passed at any time.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531—1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this action and has determined under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1D, that this rule is categorically excluded from further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Redesignate § 117.937 [Savannah River] as § 117.936.

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3. Add § 117.937 to read as follows:

§ 117.937 Stono River, mile 11.0 at Johns Island, SC.

The draw of the Maybank Highway Bridge shall open on signal; except that the draw need not open from 7 a.m. to 9 a.m. and from 4p.m. to 6 p.m., Monday through Friday except Federal holidays. Between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half hour. The draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

Dated: September 10, 2001.

J.S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 01–23684 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–031]

Drawbridge Operating Regulation; Bayou Lafourche, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 1 (Leeville) vertical lift bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana. This deviation allows the Louisiana Department of Transportation and Development (LDOTD) to close the bridge to navigation from 8 a.m. until noon and from 1 p.m. until 5:30 p.m. daily from Monday, September 24, 2001 through Saturday, November 3, 2001. This temporary deviation is issued to allow for the cleaning and painting of the vertical lift span of the bridge.

DATES: This deviation is effective from 8 a.m. on Monday, September 24, 2001 until 5:30 p.m. on Saturday, November 3, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, BridgeAdministration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The SR 1 (Leeville) vertical lift span bridge across Bayou Lafourche, mile 13.3, at Leeville, Lafourche Parish, Louisiana, has a vertical clearance of 40 feet above mean high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. The containment equipment for the project will reduce the vertical clearance by two feet. Navigation on the waterway consists mainly of fishing vessels, recreation vessels and tugs with tows. LDOTD requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the cleaning and painting of the vertical lift span on the bridge. This work is necessary for the continued safe operation of the bridge. A separate deviation will be required in the future to accommodate the cleaning and painting of the tower counterweight sections of the bridge.

This deviation allows the draw of the SR 1 (Leeville) vertical lift span drawbridge across Bayou Lafourche, 13.3, to remain closed to navigation from 8 a.m. until noon and from 1 p.m. until 5:30 p.m. from Monday, September 24, 2001 through Saturday, November 3, 2001.

Dated: September 6, 2001.

Roy J. Castro,

Rear Admiral, U. S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–23683 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–094]

Drawbridge Operation Regulations: Highbridge Road Drawbridge, Atlantic Intracoastal Waterway, Volusia County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Highbridge Road Drawbridge, Atlantic Intracoastal Waterway, mile 816, Volusia County, Florida. This deviation allows the bridge owner to provide single leaf openings from September 17, 2001 through September 30, 2001. This temporary deviation is required to allow the bridge owner to safely complete repairs to the bridge.

DATES: This deviation is effective from 8 a.m. on September 17, 2001 until 5 p.m. on September 30, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket [CGD07–01–094] and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: Highbridge Road Drawbridge, Atlantic Intracoastal Waterway, Volusia County, Florida, is a double leaf bridge with a vertical clearance of 15 feet above mean high water (MHW) measured at the fenders in the closed position and a horizontal clearance of 91 feet. The current operating regulation in 33 CFR 117.5 requires the draw to fully open on signal.

On July 17, 2001, the drawbridge owner requested a deviation from the current operating regulations to allow the owner to complete repairs.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 to complete these repairs. Under this deviation, the Highbridge Road Drawbridge, shall open on single leaf from 8 a.m. on September 17, 2001 until 5 p.m. on September 30, 2001.

Dated: September 12, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–23682 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 13

RIN 2900–AK68

Veterans Benefits and Health Care Improvement Act of 2000

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends various Department of Veterans Affairs (VA) regulations concerning the definition of the term "active military, naval, or air service"; the payment limitation based on the value of certain incompetent veterans' estates; the plot allowance for certain individuals buried in State veterans' cemeteries; and the limitation on payment of pension for certain recipients of Medicaid-covered nursing home care. The amendments are necessary to reflect statutory changes contained in the Veterans Benefits and Health Care Improvement Act of 2000.

DATES: *Effective Date:* November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7228. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 301 of the Veterans Benefits and Health Care Improvement Act of 2000 (the Act), Pub. L. No. 106–419, amended 38 U.S.C. 101(24), which defines the term "active military, naval, or air service" to also include periods of inactive duty training during which individuals become disabled or die from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident that occurred during such training. Section 301 also amended 38 U.S.C. 106(d) to provide that if a person was disabled or died as a result of any of these three diseases having occurred while the person was proceeding directly to or returning directly from a period of active duty for training or inactive duty training, such person would be deemed to have been on active duty for training or inactive duty training, as the case may be. We have amended paragraphs (a) and (e) of 38 CFR 3.6 to reflect the new statutory requirements.

Section 304 of the Act amended 38 U.S.C. 5503(b)(1), which sets forth a limitation on the payment of benefits to certain incompetent veterans who are hospitalized or institutionalized at government expense, who have neither spouse nor child, and who have estates with values that equal or exceed a specified amount. Under prior law, benefits were discontinued when the value of such veterans' estates equaled or exceeded $1,500; payments could not be resumed until the value of those estates had been reduced to $500. Under section 304 of the Act, effective November 1, 2000, benefits may not be discontinued until the estate of an affected incompetent veteran equals or exceeds an amount equal to five times the rate of compensation payable under 38 U.S.C. 1114(j) (the rate payable to a totally disabled veteran with no dependents). Under the new provision, benefit payments discontinued because of the estate limitation may not be resumed until the veteran's estate has been reduced to one-half the amount of the new estate limitation.

Because the rate of compensation payable under 38 U.S.C. 1114(j) is generally increased on an annual basis to keep pace with inflation, VA would have to make annual regulatory amendments to ten different regulations if we were to simply insert new dollar amounts where the regulations currently specify $1,500 and $500. This would be extremely burdensome on VA and would invariably result in regulations that specify incorrect dollar amounts until amendments to reflect increases in those amounts made their way through the regulatory process.

To prevent this result, VA has amended 38 CFR 3.557(b) to describe the method required by section 304 of the Act for calculating the dollar values for the estates of incompetent veterans which will trigger discontinuance or resumption of benefit payments. Each time there is an increase in the rate of compensation payable under 38 U.S.C. 1114(j), VA will calculate the new dollar values for discontinuance and resumption and will publish those dollar values in the Notices section of the **Federal Register**. The new values will be effective on the same day that the increase in the section 1114(j) rate becomes effective. In this way VA will be spared the burden of annually amending numerous regulations, and the public will have access to both the calculation method and the actual dollar value calculated using that method.

In § 3.557(b) we are also deleting the introductory phrase "Effective December 1, 1959,". That phrase has no relevance to current claims processing.

In addition to § 3.557 there are several other regulations referring to the estate values that trigger discontinuance or resumption of benefits for certain incompetent veterans, either in their titles, text or cross-references. We have amended these regulations to remove references to specific dollar amounts. Where amounts appeared in the regulatory text, we have replaced them with references to the amounts calculated under § 3.557(b). Where specific amounts appeared in titles or cross-references we have amended them to eliminate reference to a dollar amount. The affected regulations are §§ 3.353, 3.452, 3.501, 3.558, 3.559, 3.1007, 13.70, 13.71 and 13.108.

Section 333 of the Act amended 38 U.S.C. 2303(b)(1), which governs eligibility for the plot or interment allowance when a veteran is buried in a cemetery, or a section of a cemetery, that is owned by a State or by an agency or a political subdivision of a State. The allowance was previously payable only if the cemetery, or section of the cemetery, was used solely for the interment of persons who were eligible for burial in a national cemetery. Section 333 expanded eligibility to include cemeteries, or sections of cemeteries, that are also used for the interment of persons who were members of a reserve component of the Armed Forces not otherwise eligible for burial in a national cemetery or who were former members of such a reserve component not otherwise eligible for burial in a national cemetery who were discharged or released from service under conditions other than dishonorable. We have amended § 3.1604(d)(1)(ii) to reflect these expanded eligibility criteria. These criteria apply only to the burial of persons dying on or after November 1, 2000.

Section 402(e) of the Act extended, until September 30, 2008, the expiration date for 38 U.S.C. 5503(f), which governs the amount of pension payable to certain veterans and surviving spouses receiving Medicaid-covered nursing home care. That provision was due to expire on September 30, 2002. We have amended § 3.551(i) to reflect the statutory change.

This final rule reflects statutory requirements. Accordingly, there is a basis for dispensing with the prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory

be made for any period prior to the date

§ 13.70 [Amended]

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Flexibility Act. This final rule will not directly affect any small entities. Only VA beneficiaries are directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

(The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.104, 64.105, 64.109, 64.110, and 64.127.)

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Approved: May 21, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR parts 3 and 13 are amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.6, paragraphs (a) and (e) are revised to read as follows:

§ 3.6 Duty periods.

(a) *Active military, naval, and air service.* This includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty or from a covered disease which occurred during such training. For purposes of this section, the term "covered disease" is limited to—

(1) An acute myocardial infarction,

(2) A cardiac arrest, or

(3) A cerebrovascular accident.

(Authority: 38 U.S.C. 101(24))

* * * * *

(e) *Travel status—training duty (disability or death from injury or covered disease).* Any individual:

(1) Who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) Who is disabled or dies from an injury or covered disease incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training shall be deemed to have been on active duty for training or inactive duty training, as the case may be. The Department of Veterans Affairs will determine whether such individual was so authorized or required to perform such duty, and whether the individual was disabled or died from an injury or covered disease so incurred. In making such determinations, there shall be taken into consideration the hour on which the individual began to proceed or return; the hour on which the individual was scheduled to arrive for, or on which the individual ceased to perform, such duty; the method of travel performed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this paragraph, the burden of proof shall be on the claimant.

(Authority: 38 U.S.C. 106(d))

§ 3.353 [Amended]

3. In § 3.353, paragraph (b)(1) is amended by removing "in excess of $1,500 (§ 3.557(b))" and adding, in its place, "that equals or exceeds the amount specified in § 3.557(b)(4)".

4. The "CROSS REFERENCES" section immediately following § 3.452 is revised to read as follows:

§ 3.452 Veterans benefits apportionable.

* * * * *

Cross References: Institutional awards. See § 3.852. Disappearance of veteran. See § 3.656. Reduction because of hospitalization. See § 3.551. Penal institutions. See § 3.666. Incompetents; estate equals or exceeds statutory limit and institutionalized. See § 3.557.

§ 3.501 [Amended]

5. In § 3.501, paragraph (i)(7) is amended by removing "$1,500" each time it appears and adding, in its place, "the amount specified in § 3.557(b)(4)".

§ 3.551 [Amended]

6. In § 3.551, paragraph (i) is amended by removing "2002" and adding, in its place, "2008".

7. Section 3.557 is amended by:

A. Revising the section heading and paragraph (b).

B. In paragraph (d) removing "$1,500" and adding, in its place, "the amount specified in paragraph (b)(4) of this section".

C. Revising The "CROSS REFERENCES" section immediately following § 3.557.

The revisions read as follows:

§ 3.557 Incompetents; estate equals or exceeds statutory limit and institutionalized.

* * * * *

(b) Where a veteran:

(1) Is rated incompetent by VA,

(2) Has neither spouse nor child,

(3) Is hospitalized, institutionalized or domiciled by the United States or any political subdivision, with or without charge, and

(4) Effective November 1, 2000, has an estate, derived from any source, which equals or exceeds an amount which is five times the rate of compensation specified in 38 U.S.C. 1114(j), further payments of pension, compensation or emergency officer's retirement pay will not be made, except as provided in paragraph (d) of this section, until the estate is reduced to one-half that amount. Whenever there is an increase in the rate of compensation payable under 38 U.S.C. 1114(j) for a veteran with a service-connected disability rated as total, effective on the date such increase becomes effective, the amount specified in paragraph (b)(4) shall be an amount equal to five times such increased rate of compensation. The dollar value of that increased amount, as well as the dollar value of one-half that amount, will be published in the Notices section of the **Federal Register**. If the veteran is hospitalized for observation and examination, the date treatment began is considered the date of admission.

* * * * *

Cross References: Veterans disability pension. See § 3.454(c). Reductions and discontinuances; general. See § 3.500. Reductions and discontinuances; veterans. See § 3.501. Amounts withheld or not paid incompetent veteran. See § 3.1007. Estate equals or exceeds statutory limit. See § 13.108 of this chapter. Determination of value of estate. See § 13.109 of this chapter.

8. In § 3.558, the section heading and paragraph (a) are revised to read as follows:

§ 3.558 Resumption and payment of withheld benefits; incompetents with estates that equaled or exceeded statutory limit.

(a) Where payment has been discontinued by reason of § 3.557(b), it will not be resumed during hospitalization except as provided in § 3.557(e) or paragraph (b) of this section until proper notice has been received showing the estate is reduced to one-half the amount specified in § 3.557(b)(4) or less. Payments will not be made for any period prior to the date on which the estate was reduced to one-half the amount specified in § 3.557(b)(4) or less.

(Authority: 38 U.S.C. 5503)

* * * * *

9. Section 3.559 is amended by:

A. Revising the section heading.

B. In paragraph (a), removing "$500" and adding, in its place, "one-half the amount specified in § 3.557(b)(4)".

C. In paragraph (b), removing "is then $1,500 or more" and adding, in its place, "equals or exceeds the amount specified in § 3.557(b)(4)".

The revision reads as follows:

§ 3.559 Resumption—where the estate equals or exceeds the statutory limit and includes chose in action.

* * * * *

§ 3.1007 [Amended]

10. Section 3.1007 is amended by removing "$1,500" and adding, in its place, "the amount specified in § 3.557(b)(4)".

Subpart B—Burial Benefits

11. The authority citation for part 3, subpart B continues to read as follows:

Authority: 105 Stat. 386, 38 U.S.C. 501(a), 2302–2308, unless otherwise noted.

12. In § 3.1604, paragraph (d)(1)(ii) is revised to read as follows:

§ 3.1604 Payments from non-Department of Veterans Affairs sources.

* * * * *

(d) * * *

(1) * * *

(ii) The deceased veteran is buried in a cemetery or a section thereof which is used solely for the interment of persons who are eligible for burial in a national cemetery or who, with respect to persons dying on or after November 1, 2000, were at the time of death members of a reserve component of the Armed Forces not otherwise eligible for such burial or were former members of such a reserve component not otherwise eligible for such burial who were discharged or released from service under conditions other than dishonorable.

* * * * *

PART 13—VETERANS BENEFITS ADMINISTRATION, FIDUCIARY ACTIVITIES

13. The authority citation for part 13 continues to read as follows:

Authority: 72 Stat. 1114, 1232, as amended, 1237; 38 U.S.C. 501, 5502, 5503, 5711, unless otherwise noted.

§ 13.70 [Amended]

14. In § 13.70, paragraph (a)(2) is amended by removing "$1,500" and adding, in its place, "the amount specified in § 3.557(b)(4) of this chapter".

§ 13.71 [Amended]

15. In § 13.71, paragraph (b) is amended by removing "$1,500" and adding, in its place, "the amount specified in § 3.557(b)(4) of this chapter".

16. Section 13.108 is amended by:

A. Revising the section heading.

B. In paragraph (a), removing "$1,500" and adding, in its place, "the amount specified in § 3.557(b)(4) of this chapter", and by removing "$500" and adding, in its place, "one-half the amount specified in § 3.557(b)(4) of this chapter".

C. In paragraph (c), removing "exceeds $1,500" and adding, in its place, "equals or exceeds the amount specified in § 3.557(b)(4) of this chapter".

The revision reads as follows:

§ 13.108 Estate equals or exceeds statutory limit; 38 U.S.C. 5503(b)(1).

* * * * *

[FR Doc. 01–23552 Filed 9–20–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0060a; MT–001–0032a; FRL–7055–4]

Approval and Promulgation of Air Quality Implementation Plans for Colorado and Montana: Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Colorado and Montana State Implementation Plans (SIPs) that incorporate consultation procedures for transportation conformity. The conformity rules assure that in air quality nonattainment or maintenance areas, projected emissions from transportation plans and projects stay within the motor vehicle emissions ceiling in the SIP. The transportation conformity SIP revisions enable the States to implement and enforce conformity consultation procedures in regulations for Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. We are approving these SIP revisions under sections 110(k) and 176 of the Clean Air Act (Act).

DATES: This rule is effective on November 20, 2001 without further notice, unless EPA receives adverse comment by October 22, 2001. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:

Colorado Department of Public Health and Environment, 4300 Cherry Creek Dr. S., Denver, Colorado 80246–1530.

Montana Department of Environmental Quality, Planning, Prevention and Assistance Division, 1520 East 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "our," or "us" is used, we mean EPA.

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I. Background

a. What Is Transportation Conformity?

Conformity first appeared in the Act's 1977 amendments (Public Law 95–95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated.

The Act's 1990 Amendments expanded the scope and content of the conformity concept by defining conformity to an implementation plan. Section 176(c) of the Act defines conformity as conformity to an implementation plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of such standards. Also, the Act states that no Federal activity will: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

b. Why Must the States Submit a Transportation Conformity SIP?

We were required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP by section 176(c) of the Act. The Act also required that each State submit a revision to its SIP including conformity criteria and procedures. We published the first transportation conformity rule in the November 24, 1993, **Federal Register** (FR), and it was codified at 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. We originally required the States and local agencies to adopt and submit a transportation conformity SIP revision to us by November 25, 1994. However, we revised the transportation conformity rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), August 15, 1997 (62 FR 43780), and it was codified under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (62 FR 43780). Our action of August 15, 1997, required the States to change their rules and submit a SIP revision by August 15, 1998.

c. How Does Transportation Conformity Work?

The Federal (or State) transportation conformity rule applies to all nonattainment and maintenance areas in a State. The Metropolitan Planning Organizations (MPOs), the State Departments of Transportation (in absence of a MPO), and U.S. Department of Transportation (USDOT) make conformity determinations. These agencies make conformity determinations on programs and plans such as transportation improvement programs, transportation plans, and projects. The MPOs calculate the projected emissions for the transportation plans and programs and compare those calculated emissions to the motor vehicle emissions ceiling established in the SIP. The calculated emissions must be smaller than the motor vehicle emissions ceiling (the "emissions budget") for showing positive conformity with the SIP.

II. Approval of the States' Transportation Conformity Rules

a. What Did the States Submit?

On November 5, 1999, the Governor of Colorado submitted a SIP revision that includes revisions to Colorado Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under title 23 U.S.C. or the Federal Transit Act. The Colorado Air Quality Control Commission (AQCC) adopted this SIP revision on October 15, 1998 after appropriate public participation and interagency consultation.

On August 26, 1999, the Governor of Montana submitted a SIP revision that includes revisions to the Transportation Conformity section of its air quality rules (Sub-Chapter 13 of the Administrative Rules of Montana 9.2.2). The Montana Board of Environmental Review adopted this SIP revision on May 14, 1999 after appropriate public participation and interagency consultation. This SIP revision superseded an earlier version of the transportation conformity SIP that was adopted on August 8, 1996 and submitted on February 21, 1997.

b. What Is EPA Approving Today and Why?

We are approving the Colorado and Montana transportation conformity rules except for the incorporation by reference of 40 CFR Part 93, Subpart A, into Colorado Regulation No. 10. The rationale for this exclusion is discussed in Section II.D of this action. "Incorporation by Reference" (IBR) means that the State adopted the Federal rules without rewriting the text of the Federal rules but by referring to them for inclusion as if they were printed in the State regulation. EPA is not taking action on the States' IBR of the Federal rule for reasons discussed below. The effect of this action is that the States' consultation procedures will take the place of the general guidelines articulated in 40 CFR 93.105, and the remainder of the Federal rule will continue to apply for conformity purposes. Each State also adopted definitions that supplement, and in some cases, replace the definitions in § 93.101 of the Federal conformity rule. We are approving these definitions.

c. How Did the States Satisfy the Interagency Consultation Process?

Our rule requires the States to develop their own processes and procedures for interagency consultation among the Federal, State, and local agencies and resolution of conflicts meeting the criteria in 40 CFR Part 93, § 93.105. The SIP revisions must include processes and procedures to be followed by the MPO, State DOT, and USDOT in consulting with the State and local air quality agencies and EPA before making conformity determinations. Also, the transportation conformity SIP revision must have processes and procedures for the State and local air quality agencies and EPA in coordinating development of applicable SIPs with MPOs, State DOT, and USDOT.

The States developed their own consultation rules based on the elements in 40 CFR 93.105. We have determined that each State adequately included all elements of 40 CFR 93.105 and met the EPA SIP requirements.

d. Why Is EPA Not Acting on the States' IBR of the Federal Rule?

We promulgated the most recent transportation conformity rule on August 15, 1997. On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *Environmental Defense Fund* v. *Environmental Protection Agency*, No. 97–1637. The Court granted the environmental group's petition for review and ruled that 40 CFR 93.102(c)(1), 93.121(a)(1), and 93.124(b) are unlawful and remanded 40 CFR 93.118(e)(1) and 93.120(a)(2) to EPA for revision to harmonize these provisions with the requirements of the Act. The sections that were included in this decision were:

(1) 40 CFR 93.102(c)(1) which allowed certain projects for which the National Environmental Policy Act (NEPA) process has been completed by the DOT to proceed toward implementation without further conformity determinations during a conformity lapse,

(2) 40 CFR 93.118(e) which allowed use of motor vehicle emissions budgets (MVEB) in the submitted SIPs after 45 days if EPA had not declared them inadequate,

(3) 40 CFR 93.120(a)(2) which allowed use of the MVEB in a disapproved SIP for 120 days after disapproval,

(4) 40 CFR 93.121(a)(1) which allowed the nonfederally funded projects to be approved if included in the first three years of the most recently conforming transportation plan and transportation improvement programs, even if conformity status is currently lapsed, and

(5) 40 CFR 93.124(b) which allowed areas to use a submitted SIP that allocated portions of a safety margin to transportation activities for conformity purposes before EPA approval.

Since the States were required to submit transportation conformity SIPs not later than August 15, 1998, and include those provisions in verbatim form, Colorado's SIP revision includes all those sections which the Court ruled unlawful or remanded for consistency with the Act. Montana's transportation conformity SIP was adopted and submitted subsequent to the court's decision. Montana attempted to address the court decision by not submitting for IBR the sections of the Federal rule affected by the lawsuit. However, Montana's submittal is not consistent with EPA's most recent interpretations of the sections of the rule affected by the court decision.

Because the court decision has invalidated several sections of the rule, we believe that it would be reasonable to exclude the States' IBR of the rule from this SIP approval action. As a result, we are not taking any action on the IBR of 40 CFR Part 93, Subpart A into the State conformity rules. Conformity determinations should comply with the relevant requirements of the statutory provisions of the Act underlying the court's decision on these issues, and with the remaining sections of the Federal rule not affected by the court decision. (EPA issued guidance on May 14, 1999 on how to implement these provisions in the interim prior to EPA amendment of the Federal transportation conformity rules.) Once these Federal rules have been revised, agencies performing conformity determinations in Colorado and Montana should comply with the requirements of the revised Federal rule until corresponding provisions of the Colorado and Montana conformity SIPs have been amended and approved by EPA. Since EPA is not acting on the States' IBR of any sections of the Federal conformity rule, the Federal rule, along with EPA's guidance for implementing the court decision, will continue to apply for conformity determinations, with the exception of the consultation provisions of the State programs which we are approving today which will apply in lieu of the consultation provision of the Federal rule.

III. Final Action

In this action, we are approving revisions to the Colorado and Montana transportation conformity SIPs. These SIP revisions were submitted by the Governor of Colorado on November 5, 1999 and by the Governor of Montana on August 26, 1999. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective on November 20, 2001 without further notice unless we receive adverse comments by October 22, 2001. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule, in the **Federal Register**, informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 20, 2001, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61

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FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective November 20, 2001 unless EPA receives adverse written comments by October 22, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 5, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, part 52, of the Code of Federal Regulations is amended to read as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(92) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(92) On November 5, 1999, the Governor of Colorado submitted Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, that incorporates conformity consultation requirements implementing 40 CFR Part 93, Subpart A into State regulation.

(i) Incorporation by reference.

(A) Regulation No. 10, Criteria for Analysis of Conformity, Part B—Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, 5 CCR 1001–12, as adopted October 15, 1998, effective November 30, 1998.

* * * * *

Subpart BB—Montana

3. Section 52.1370 is amended by adding paragraph (c)(47) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(47) On August 26, 1999, the Governor of Montana submitted Administrative Rules of Montana Sub-Chapter 13, "Conformity" that incorporates conformity consultation requirements implementing 40 CFR Part 93, Subpart A into State regulation.

(i) Incorporation by reference.

(A) Administrative Rules of Montana 17.8.1301, 17.8.1303, and 17.8.1305; through 1313, effective June 4, 1999; and 17.8.1304 effective August 23, 1996.

* * * * *

[FR Doc. 01–23596 Filed 9–20–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket SC–038–200102(a); FRL–7062–1]

Approval and Promulgation of State Plans for DesignatedFacilities and Pollutants: SC

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d)/129 Plan submitted by the South Carolina Department of Health and Environmental Control (DHEC) on September 19, 2000, for the State of South Carolina. The section 111(d)/129 Plan for South Carolina implements and enforces the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

DATES: This final rule is effective on October 22, 2001.

ADDRESSES: Copies of all materials considered in this rulemaking may be examined during normal business hours at the following location: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: Gregory Crawford at EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, (404) 562–9046.

SUPPLEMENTARY INFORMATION:

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I. What Action Is Being Taken by EPA Today?

We are approving the South Carolina State Plan, as submitted on September 19, 2000, for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When EPA developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed EG to control air emissions from older HMIWIs. (See 62 FR 48348–48391, September 15, 1997, 40 CFR part 60, subpart Ce (Emission Guidelines and Compliance Times for HMIWIs) and subpart Ec (Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996)). The South Carolina DHEC developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

II. The HMIWI State Plan Requirement

What Is a HMIWI State Plan?

A HMIWI State Plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste. The plan also includes source and emission inventories of these incinerators in the State.

Why Are We Requiring South Carolina To Submit a HMIWI State Plan?

States are required under sections 111(d) and 129 of the Act to submit State Plans to control emissions from existing HMIWIs in the State. The State Plan requirement was triggered when EPA published the EG for HMIWIs under 40 CFR part 60, subpart Ce (see 62 FR 48348, September 15, 1997).

Under section 129 of the Act, EPA is required to promulgate EG for several types of existing solid waste incinerators. These EG establish the Maximum Achievable Control Technology (MACT) standards that States must adopt to comply with the Act. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in State Plans.

The intent of the State Plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWIs?

The State Plan establishes control requirements which reduce the following emissions from HMIWIs: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders, cancer, and reproductive effects such as endometriosis. Dioxin and furans can also affect the immune system. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI State Plan Meet To Be Approved?

The criteria for approving a HMIWI State Plan include requirements from sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. Under the requirements of sections 111(d) and 129 of the Act, a State Plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and recordkeeping and reporting. Under section 129(e), State Plans must ensure that affected HMIWI facilities submit Title V permit applications to the State by September 15, 2000. Under the requirements of 40 CFR part 60, subpart B, the criteria for an approvable section 111(d) plan include demonstration of legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a State progress report commitment.

III. What Does the South Carolina State Plan Contain?

The South Carolina DHEC adopted the Federal EG and NSPS into Chapter 61 of the South Carolina Code, Regulation No. 61–62.5, Standard Number 3.1, "Hospital/Medical/Infectious Waste Incinerators." The State rules were effective on May 26, 2000. The South Carolina State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d)/129 State Plan;
2. State rule, Standard Number 3.1, as the enforceable mechanism;
3. An inventory of approximately 4 known designated facilities, along with estimates of their potential air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date of May 26, 2001;
6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;
7. Records from the public hearing on the State Plan; and,
8. Provisions for progress reports to EPA.

IV. Is My HMIWI Subject to These Regulations?

The EG for existing HMIWIs affect any HMIWI built on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

V. What Steps Do I Need To Take?

You must meet the requirements listed in South Carolina Regulation No. 61–62.5, Standard Number 3.1, summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established which your incinerator must meet. See Table I of section III (Emission Limitations) of Standard Number 3.1, to determine the specific emission limits which apply to you. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events.
3. There are provisions to address small rural incinerators (if your unit is applicable).
4. You must meet a 10% opacity limit on your discharge, averaged over a six-minute block.
5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under Section IX (Operator Training and Qualification Requirements) of Standard Number 3.1.
6. Your operator must be certified, as discussed in 5 above, no later than May 26, 2001.
7. You must develop and submit to South Carolina DHEC a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, 1993, and must be submitted to South Carolina DHEC no later than 60 days following the initial performance test for the affected unit.
8. You must conduct an initial performance test to determine your incinerators compliance with these emission limits. This performance test must be completed no later than May

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26, 2001, and as required under 40 CFR 60.37e and Section IV (Performance Specifications) of Standard Number 3.1.

9. You must install and maintain devices to monitor the parameters listed under Table IV of Section V (Monitoring Requirements) of Standard 3.1.

10. You must document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years.

11. You must submit an annual report to South Carolina DHEC containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facilities manager.

VI. Significant Issues and Changes?

A total of one comment letter was received during the public comment period for the proposed Plan approval, which ended on June 6, 2001. The issues are summarized below and addressed in a comment and response document contained in the docket:

(1) The commenter questioned why South Carolina Regulation No. 61–62.5, Standard Number 3.1, Section VII, subparagraph (c)(8) contained the requirements of § 60.56c(i) for the approval of site-specific operating parameters to be established during the initial performance test and continuously monitored thereafter. Section 129 of the Act requires section 111(d)/129 State plans to be "at least as protective as the guidelines." In accordance with the section 111(d), section 129, subpart B, and subpart Ce requirements, the South Carolina regulation, specifically subparagraph (c)(8), includes the § 60.56c(i) requirements, in order for the State plan for South Carolina to be deemed an approvable section 111(d)/129 plan for implementing the emission guidelines for HMIWI.

(2) The commenter questioned why South Carolina Regulation No. 61–62.5, Standard Number 3.1, Section VII, subparagraph (a)(1) requires HMIWI facilities constructed before June 20, 1996, to perform a source test no later than 12 months following the effective date of the State standard. Section 60.24(g) of subpart B allows any State to adopt or enforce "compliance schedules requiring final compliance at earlier times than those specified in subpart C or in applicable guideline documents." In accordance with the subpart B requirements, the South Carolina regulation, specifically subparagraph (a)(1), includes a compliance schedule earlier than specified in subpart Ce.

(3) These comments raise no specific issues or arguments affecting approval of the South Carolina section 111(d)/129 plan.

VII. Why Is the South Carolina HMIWI State Plan Approvable?

EPA compared the South Carolina rules (Chapter 61 of the South Carolina Code, Regulation No. 61–62.5, Standard Number 3.1) against our HMIWI EG. EPA finds the South Carolina rules to be at least as protective as the EG. The South Carolina State Plan was reviewed for approval against the following criteria: 40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities;* 40 CFR 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators;* and, 40 CFR 62.14400 through 62.14495, *Subpart HHH—Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996.* The South Carolina State Plan satisfies the requirements for an approvable section 111(d)/129 plan under subparts B and Ce of 40 CFR part 60 and subpart HHH of 40 CFR part 62. For these reasons, we are approving the South Carolina HMIWI State Plan.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: September 7, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart PP—South Carolina

2. Section 62.10100 is amended by adding paragraphs (b)(5) and (c)(5) to read as follows:

§ 62.10100 Identification of plan.

* * * * *

(b) * * *

(5) South Carolina Designated Facility Plan (Section 111(d)/129) for Hospital/Medical/Infectious Waste Incinerators, submitted on September 19, 2000, by the South Carolina Department of Health and Environmental Control.

(c) * * *

(5) Existing hospital/medical/infectious waste incinerators.

3. Subpart PP is amended by adding a new § 62.10170 and a new undesignated center heading to read as follows:

Air Emissions From Hospital/Medical/Infectious Waste Incinerators

§ 62.10170 Identification of sources.

The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before June 20, 1996, as described in 40 CFR part 60, subpart Ce.

[FR Doc. 01–23604 Filed 9–20–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 97

[FRL–7058–2]

RIN 2060–AJ47

Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport—Federal NO_X Budget Trading Program, Rule Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the Federal NO_X Budget Trading Program regulations to revise the allowance allocations for certain NO_X Budget units subject to the program. In January 2000, EPA took final action (the January 2000 final rule) under section 126 of the Clean Air Act (CAA) on petitions filed by eight Northeastern States seeking to mitigate interstate transport of nitrogen oxides (NO_X), one of the precursors of ground-level ozone. EPA determined that a number of large electric generating units (EGUs) and large industrial boilers and turbines (non-EGUs) named in the petitions emit in violation of the CAA prohibitions against significantly contributing to nonattainment or maintenance problems in the petitioning States. EPA also established the Federal NO_X Budget Trading Program as the control remedy for these sources, determined allowable emissions for the sources, and allocated authorizations to emit NO_X (*i.e.*, NO_X allowances) to the sources.

After promulgation of EPA's January 2000 final rule, some owners, or associations of owners, of EGUs or non-EGUs filed petitions with the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) challenging, among other things, the allowance allocations for certain units under the rule. Subsequently, EPA entered into settlements with these owners or associations of owners. Today's action finalizes revised allocations for these units in a manner consistent with the settlements.

In addition, after promulgation of the January 2000 final rule, owners of non-EGUs requested EPA to correct allowance allocations for two other units under the rule. EPA responded that it was treating the requests as requests for reconsideration of the two units' allocations under the rule and would propose to revise the allocations. Today's action finalizes revised allocations for these units.

DATES: The final rule is effective October 22, 2001.

ADDRESSES: Docket No. A–97–43, containing supporting information used in developing today's final rule, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center at the above address. EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, at (202) 564–9151, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW (6204J), Washington, DC 20460; or the Acid Rain Hotline at (202) 564–9089.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under Docket No. A–97–43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, that does not include any information claimed as confidential business information, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in the **ADDRESSES** section. In addition, the **Federal Register** rulemaking actions under section 126 and the associated documents are located at *http://www.epa.gov/ttn/rto/126.*

EPA has issued a separate rule on NO_X transport entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (the NO_X State implementation plan (NO_X SIP) call). The rulemaking docket for that rule contains information and analyses that were relied on in the January 2000 final rule. In promulgating the January 2000 proposed rule, EPA incorporated by reference the entire NO_X SIP call record. Documents related to the NO_X SIP call are available for inspection in Docket No. A–96–56 at the address and times given above. In addition, certain documents associated with the NO_X SIP

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call are located at *http://www.epa.gov/ttn/oarpg/otagsip.html.*

Outline

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I. National Technology Transfer and Advancement Act
J. Executive Order 13211: Energy Effects
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I. Background

In January 2000, EPA took final action under section 126 of the CAA on petitions filed by eight Northeastern States seeking to mitigate interstate transport of NO_X.[1] 65 FR 2674 (January 18, 2000). Section 126 of the CAA authorizes a downwind State to petition EPA for a finding that an existing or new (or modified) major stationary source or a group of such sources emits or would emit in violation of section 110(a)(2)(D)(i) by contributing significantly to nonattainment of a National Ambient Air Quality Standard or interfering with maintenance of such a standard in a downwind State. EPA determined that certain EGUs and non-EGUs named in the petitions emit in violation of the CAA prohibitions against significantly contributing to nonattainment or maintenance problems in the petitioning States. The EGUs and non-EGUs covered by the January 2000 final rule are in the following States or portions of States and the District of Columbia: Delaware; Indiana; Kentucky; Maryland; Michigan; North Carolina; New Jersey; New York; Ohio; Pennsylvania; Virginia; and West Virginia. 65 FR 2675.

EPA established the Federal NO_X Budget Trading Program as the control remedy for these sources. EPA determined allowable emissions for the sources and allocated NO_X allowances to the sources. Under this program, an affected unit (referred to as a "NO_X Budget unit") may buy or sell allowances but must hold, after the end of the ozone season, a number of allowances at least equal to the number of tons of NO_X that the unit emitted during that ozone season.

For purposes of allocating allowances, EPA set for each State (or portion of State) NO_X emission budgets (in tons of NO_X per ozone season) for EGUs and non-EGUs. The EGU budget [1a] for each State is the larger of the total ozone season heat input for EGUs in the State for 1995 or 1996, increased by a growth rate through 2007, and multiplied by a control level of 0.15 lb. NO_X per mmBtu. The non-EGU budget [2] for each State is the non-EGU ozone season NO_X emissions in the State for 1995, increased by a growth rate through 2007, at a 60 percent control level. EPA then allocated allowances to each existing unit, based on the unit's historical heat input. For EGUs, the average of the two highest ozone season heat inputs from 1995–1998 was used as the historical heat input. For non-EGU's, the 1995 ozone season heat input or, if data were available, the average of the two highest ozone season heat inputs from 1995–1998 was used as the historical heat input. 40 CFR 97.42(a). EPA also adjusted each unit's allocations so that the total number of allowances allocated to EGUs and the total number of allowances allocated to non-EGUs in a given State equaled 95 percent of the EGU budget and of the non-EGU budget respectively for that State. 40 CFR 97.42(b) and (c). Five percent of the budget was reserved for allocations to new units.

After EPA promulgated the January 2000 final rule, owners, or associations of owners, of EGUs or non-EGUs filed petitions with the D.C. Circuit challenging, among other things, the allowance allocations for certain units in the Federal NO_X Budget Trading Program regulations. Subsequently, EPA entered into settlements with some of these owners and associations of owners. Today's action finalizes revised allowance allocations for these units, in a manner consistent with the settlements.

In addition, after promulgation of the January 2000 final rule, owners of non-EGUs submitted letters to EPA requesting correction of the allowance allocations for two other units under the rule. EPA responded that it was treating the letters as requests for reconsideration of the two units' allocations under the rule and would propose to revise the allocations. Today's action finalizes revised allocations for these units.

II. Final Rule Revisions

EPA is adopting specific, limited revisions to provisions of the Federal NO_X Budget Trading Program rule, i.e., part 97, in order to change the NO_X allowance allocations for certain NO_X Budget units. In today's final rule, EPA is specifying which units will receive revised allocations, how EPA will obtain the additional allowances used for the revised allocations, and what will be the amount of each unit's revised allocation. As discussed below, EPA is revising the allocations for the units discussed in section II.A of today's preamble. To provide the revised allocations, EPA is using allowances that were allocated initially to units that EPA has subsequently determined are not NO_X Budget units and therefore not subject to the Federal NO_X Budget Trading Program. This approach to obtaining allowances for the revised allocations is discussed in section II.B. In section II.C, EPA discusses the amount of each unit's revised allocation.

The specific rule revisions necessary to implement the above-described approach are discussed in section II.D of today's preamble. EPA is revising Appendices A and B to part 97 in order to include revised allocations for the units identified in section II.A and remove allocations for some other units that EPA has previously determined not to be NO_X Budget units.

EPA did not consider, or request comment on, any other changes to part 97 or the January 2000 final rule. The December 2000 proposed rule was limited to changes to part 97 that are necessary either: to correct the allocations for the units specifically identified here; or to provide the Administrator general authority to address similar allocation-quantity issues that may arise in the future.

A. Rationale for Revising Units' Allocations

In today's final rule, EPA is revising allocations for the following units:

1. A group of units referred to as "stranded" units: Unit 0B7, plant 00003, Union Carbide—South Charleston Plant, Kanawha County, West Virginia; and the Package Boiler at Weyerhaeuser Company Plymouth, plant 0069, Martin County and Power Boiler No. 2 at Weyerhaeuser Company New Bern Mill, plant 0104, Craven County in North Carolina;

2. SEI Birchwood, plant 12 ("Birchwood");

3. A group of all West Virginia non-EGUs: Unit 612, plant 00001, Dupont-Belle, Kanawha County; Unit 006, plant 00001, Elkem Metals Company L.P.—Alloy Plant, Fayette County; Units 001 and 003, plant 00002, PPG Industries, Inc., Marshall County; Units 010, 011, and 012, plant 00007, Aventis Cropscience, Kanawha County; and Unit 0B6, plant 00003, Union Carbide—South Charleston Plant, Kanawha County;

4. Riley Bark Boiler, Plant 0159, Blue Ridge Paper Products Company, Haywood County, North Carolina ("Blue Ridge"); and

5. Unit 0056, plant K3249, Michigan State University, Ingham County, Michigan ("Michigan State").

In the December 2000 proposed rule, EPA discussed in detail the circumstances concerning EPA's original determinations in the January 2000 final rule of the allocations for these units. 65 FR 80398, 80399–400 (December 21, 2000). EPA then evaluated these circumstances and provided the reasons for the proposed conclusion that the respective units' allocations in the January 2000 final rule should be revised. In particular, EPA proposed to find, for the stranded units and Birchwood, that the owners did not have a reasonable opportunity to comment on the allocations for their units. EPA proposed that the allocations should be revised based on corrected data. 65 FR 80400. With regard to all non-EGUs in West Virginia, EPA proposed to find that the owners of the units agreed that the allowances had been incorrectly distributed among the units due to the submission of erroneous data to EPA. EPA proposed that the allowances should be redistributed among those units to reflect the distribution agreed upon by those owners. *Id.* With regard to the Blue Ridge and Michigan State units, EPA proposed to find that it had misinterpreted the comments submitted by the units' owners and proposed that the allocations should be revised to reflect the correct interpretation of those comments. *Id.*

No commenters objected to the above-described proposed findings concerning any of the units or to the proposals to revise the units' allocations. Based on the reasons set forth in the December 2000 proposed rule and on the supporting record, EPA is today adopting as final these findings and conclusions.

In addition, one commenter requested that EPA address the status under the NO_X Budget Trading Program of two additional units not addressed in the December 2000 proposed rule. Specifically, the commenter requested that EPA determine that one unit for which an allocation is provided in the January 2000 final rule (*i.e.*, Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia) is not actually a NO_X Budget unit and is not subject to the requirements of the NO_X Budget Trading Program. The commenter also requested that EPA determine that a second unit that was not allocated allowances (*i.e.*, Unit 17, plant 0006, International Paper—Franklin, Isle of Wright County, Virginia) is actually a NO_X Budget unit and subject to the program and should receive an allocation.

With regard to the requested determination that the first unit is not a NO_X Budget unit, part 97 already provides a procedure for EPA to make such a determination without revising the regulations. Under § 97.42(g)(1), the Administrator may determine that a unit allocated allowances is not actually a NO_X Budget unit and that the Administrator will not record the allocation. Using this procedure, EPA has already issued final determinations that several other units are not NO_X Budget units. Since this procedure is available for the unit referenced by the commenter and since issues concerning this unit are in any event outside the scope of the December 2000 proposed rule, EPA is not determining in this rulemaking the status of this unit under the NO_X Budget Trading Program. Instead, EPA recently issued a determination under § 97.42(g)(1) concluding that the unit is not a NO_X Budget unit.

With regard to the status of the second unit referenced by this commenter, issues concerning this unit are outside the scope of the December 2000 proposed rule. EPA therefore is not addressing these issues, or taking any action, concerning the unit in this rulemaking.[3]

B. Final Approach for Obtaining Allowances for Units' Revised Allocations

EPA's general approach to obtaining allowances for revised allocations for the identified units is to adopt methodologies that will result in the least disruption to the Federal NO_X Budget Trading Program, while maintaining unchanged the emission reductions required under the program and the existing State EGU and non-EGU budgets that reflect those reductions.

1. Final approach for West Virginia non-EGUs.

Since the issues concerning the West Virginia non-EGUs (including one "stranded" unit) involve the entire West Virginia non-EGU budget sector, EPA proposed in the December 2000 proposal to obtain allowances for the non-EGUs' revised allocations by redistributing the allocations for that sector. The redistribution will not affect any units other than those needing revised allocations. Further, the redistribution is the least disruptive approach for revising the units' allocations. In fact, since the owners of all the West Virginia non-EGUs have agreed on the amounts of the revised allocations for the units, the owners could have accomplished this redistribution on their own at any time, simply by using the unrestricted trading allowed under the Federal NO_X Budget Trading Program to transfer allowances among the units.

No commenters objected to this approach for revising the allocations for the West Virginia non-EGUs. For the above reasons, EPA adopts this approach.

2. Approach for Other Units

For the other units identified above, EPA proposed in the December 2000 proposal to use first the allowances that were allocated in the January 2000 final rule to units that EPA subsequently determined not to be NO_X Budget units. To the extent an insufficient amount of allowances were available from such non-NO_X Budget units, EPA proposed to use allowances from the compliance supplement pool. In the December 2000 proposal, EPA stated that there were sufficient allowances available for non-NO_X Budget units to provide allowances for all of the identified units except the Birchwood unit. Thus, under the proposal, non-NO_X Budget units would provide all additional allowances for all the identified units except the Birchwood unit, which would receive

[1] This background is for the convenience of the reader to understand better the final revisions in sections II.B.2, II.C, and II.D below. EPA did not reconsider or request comment on any of the provisions in part 97, except to the extent discussed in preamble sections II.B.2, II.C, and II.D of the December 2000 proposed rule that initiated the instant rulemaking. *See* 65 FR 80398, 80402–4 (December 21, 2000).

[1a] For details on the budget calculations, see the January 18, 2000 **Federal Register** Notice.

[2] Ibid.

[3] Similarly, issues raised by another commenter, concerning the lack of allowance allocations for another unit (referred to as DTE River Rouge No. 1 LLC), are outside the scope of the December 2000 proposed rule, and EPA is not addressing, or taking any action concerning, this unit in this rulemaking.

some but not all of its additional allowances from non-NO_X Budget units.

The most accurate approach for providing revised allocations for the "stranded", Birchwood, Blue Ridge, and Michigan State units would be to recreate the allocations that would have resulted if EPA had originally used the correct data for them when the allocations were established in the January 2000 final rule. This approach would require reallocating allowances for each, entire budget sector (*i.e.*, the EGU or non-EGU sector for a given State) that includes one or more of these five units.

This is because, if the two "stranded" units[4] and the Birchwood, Blue Ridge, and Michigan State units had been provided the proper number of allowances in the January 2000 final rule, the allocations for all units in their respective budget sectors in their respective States would have been affected. Under § 97.42(b) and (c), each existing unit is allocated its proportionate share of the budget for its respective sector (EGU or non-EGU) for its respective State. For example, allocations for an EGU in a given State are determined by: multiplying an emission rate (0.15 lb/mmBtu) times each unit's historical heat input; totaling the results for all EGUs in the State; and adjusting each EGU's allocation proportionately until the total number of allowances allocated to the EGUs in the State equals 95 percent of the State's EGU budget. Non-EGU allocations are determined in the same way except that the emission rate (0.17 lb/mmBtu) is different and the allocations must equal 95 percent of the non-EGU budget.

Consequently, if EPA were to take the approach of recreating the original allocations based on the correct data, the allocations of all units in each entire budget sector would be revised. Further, because there would then be more units receiving allocations than in the original allocation process, each unit (other than the two "stranded" units and the Birchwood, Blue Ridge, and Michigan State units) would have a reduced allocation.

As explained in the December 2000 proposal, EPA believes that this approach would result in disruption of the Federal NO_X Budget Trading Program, and for the units in the program, far out of proportion to the scope of the problem. No commenters supported this approach to providing revised allocations for the "stranded", Birchwood, Blue Ridge, and Michigan State units. For the above reasons, EPA concludes that it should adopt an approach that is less disruptive to the Federal NO_X Budget Trading Program and the units in the program than a full reallocation of allowances to all units in each, entire budget sector.

i. Use of allocations to non-NO_X Budget units.

EPA stated in the December 2000 proposed rule that using allowances that were allocated mistakenly under the January 2000 final rule to units that were not actually NO_X Budget units is the least disruptive method of providing allowances for the revised allocations. Appendices A and B of the January 2000 final rule list the allocations for specific units thought to be NO_X Budget units. Under § 97.42(g)(1)(i), if EPA subsequently determines that any unit in Appendix A or B is not actually a NO_X Budget unit, the Administrator will not record the listed allocations in an account for the unit. Instead, the Administrator will record the allocations in the allocation set-aside for new units in the State in which the unit is located, in addition to the 5 percent of the EGU and non-EGU budgets already comprising the set-aside. 40 CFR 97.42(g)(2).[5] EPA concluded in the December 2000 proposed rule, that revising NO_X Budget units' allocations using allowances mistakenly allocated to non-NO_X Budget units is the approach that is the least disruptive of reasonable expectations of owners and operators and, thus, of compliance planning for NO_X Budget units. *See* 65 FR 80402.

Two commenters claimed that revising allocations using allowances made available through determinations under § 97.42(g)(1) would disrupt compliance planning. These commenters note that, under the existing regulations, allowances originally allocated to units determined not to be NO_X Budget units are added to the allocation set-aside for new units. One of the commenters claims that "it is reasonable that companies planning" new units "would have factored into their compliance plans assumptions concerning the availability * * * of allowances freed up" under § 97.42(g) determinations, including those determinations "made several months ago."

However, in establishing this mechanism for correcting allocations to non-NO_X Budget units, EPA stated that it expected that such allocations would occur "rarely, if ever." 65 FR 2707. EPA's intent, of course, was not to make errors resulting in allocations to non-NO_X Budget units, and there was no reason for owners and operators to assume that there would be errors or rely on such an assumption. On the contrary, since EPA stated that the mechanism for correcting such errors would rarely be needed, owners and operators of new units had no reasonable expectation that the mechanism would ever be used and that any incorrectly allocated allowances would be added to the allocation set-aside.

Moreover, the commenter speculated, without providing any support, that owners and operators changed their compliance planning for new units during the few months between June-August 2000, when the bulk of the § 97.42(g) determinations were issued, and December 2000 when EPA issued the proposal to revise allocations for the identified units using allowances from these § 97.42(g) determinations. For example, the commenter provides no evidence that any owner or operator incurred expenses, or made decisions, concerning compliance of its units on the assumption that allowances would be available for the units under § 97.42(g). The commenter's unsupported speculation warrants little or no weight. Further, the relatively short period during which the owners and operators could have thought that such allowances would be available was unlikely to result in any significant changes in compliance planning. On balance, EPA concludes that owners and operators did not reasonably rely, to any significant extent, on the availability of allowances under § 97.42(g) for new units.

The commenters objecting to using non-NO_X Budget units' allowances to provide allowances to the two "stranded" units and the Birchwood, Blue Ridge, and Michigan State units also argued that EPA should increase the State trading budgets by the amounts of the additional allowances to be provided to the identified units. However, the commenters ignore the fact that if, in setting the State EGU and non-EGU budgets, EPA had originally used the correct data concerning the *non-NO_X Budget units* mistakenly allocated allowances, the State EGU or non-EGU budgets in which the non-NO_X Budget units were included in the January 2000 final rule would have been lower and therefore the total number of allowances allocated under those budgets would have been less.

This is because all of the non-NO_X Budget units mistakenly allocated allowances had heat input values that were used to calculate the respective State EGU or non-EGU budgets. For example, the State EGU budget for Michigan was based on the total heat input for all large EGUs in 1995, and each of the non-NO_X Budget units originally treated as large EGUs in Michigan[6] had heat input values in 1995 that were included in the State EGU budget. Also, the State EGU budgets for North Carolina and Virginia[7] were based on the total heat input for large EGUs in 1996, and each of the non-NO_X Budget units originally treated as large EGUs in those States[8] had heat input values in 1995 that were included in the respective State EGU budget. Similarly, the State non-EGU budgets were based on total heat input for large non-EGUs in the respective States in 1995, and all the non-NO_X Budget units originally treated as large non-EGUs in those States had heat input values in 1995 that were included in the respective State non-EGU budget.[9] Although the treatment of the non-NO_X Budget units inflated somewhat the State EGU or non-EGU budgets, EPA did not reduce these budgets when it issued determinations removing the non-NO_X budget units from the trading program. Instead, EPA took back the allowances allocated to these non-NO_X budget units and provided in part 97 that these allowances would be added to the set-aside for new units in the respective States.

In short, EPA's approach concerning the non-NO_X Budget units already somewhat inflated the State EGU or non-EGU budgets. The commenters' approach would compound this result by further increasing State EGU or non-EGU budgets to provide additional allowances to the identified NO_X Budget units. In addition, under the commenter's approach of further increasing the EGU or non-EGU budgets of the States involved (*i.e.*, Michigan, North Carolina, and Virginia), those States' budgets would be calculated in a different manner (*i.e.*, with amounts of allowances added to the amounts derived using the generally applied methodology for calculating budgets) than any other States' budgets. EPA maintains that it is reasonable to use the allowances that were mistakenly allocated to non-NO_X Budget units, and that somewhat inflated certain State EGU or non-EGU budgets, to provide additional allowances to the identified NO_X Budget units, rather than further increasing those State EGU or non-EGU budgets.

According to one of the commenters supporting the approach of increasing the State trading budgets to provide revised allocations, the State trading budget (for Virginia) would have been higher if EPA had originally used the correct historical heat input data for one of the identified units (the Birchwood unit). However, this comment is based on an incorrect factual premise.

Actually, Virginia's trading budget was based on the higher of total EGU heat input in 1995 or 1996, the 1996 total was the higher value, and the Birchwood unit did not commence operation until after the 1996 control period. The incorrect heat input data submitted to, and used by, EPA to set Virginia's EGU budget showed heat input for the Birchwood unit for the 1996 control period. That incorrect value was used to calculate the Virginia budget. Thus, if EPA originally had been provided and had used the correct heat input data for the Birchwood unit, Virginia's EGU budget would be *lower* than the amount in the January 2000 final rule. The commenter's approach would result in further increase of that budget and would result in Virginia's budget being calculated in a manner inconsistent with other States' budgets.

In summary, EPA concludes that using non-NO_X Budget units' allowances has little or no disruptive impact on units in the NO_X Budget Trading Program. EPA also maintains that this is a reasonable approach for providing revised allocations for the identified units.

As discussed above, after issuance of the December 2000 proposed rule and during the comment period on that proposal, a commenter informed EPA of a unit, not previously identified, that was allocated allowances in the January 2000 final rule but that is not actually a NO_X Budget unit. The issues concerning the status of this unit (*i.e.*, Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia) as a NO_X Budget unit were outside the scope of December 2000 proposed rule and this rulemaking, and there is a separate procedure under § 97.42(g)(1) for addressing such issues. EPA therefore issued a letter under § 97.42(g)(1) on August 1, 2001, in which EPA determined that the unit was not actually a NO_X Budget unit. Further, EPA stated in the letter that, consistent with § 97.42(g)(1)(i), the 262 allowances allocated to the unit would not be recorded for the unit.

Consequently, there are 262 additional allowances that were mistakenly allocated to a non-NO_X Budget unit in Virginia and that are available under the approach proposed in the December 2000 proposal for providing additional allowances to the Birchwood unit. As a result, there are sufficient allowances available from non-NO_X Budget units in Virginia to provide the full amount of additional allowances necessary for the Birchwood unit.[10]

ii. Use of compliance supplement pool or allocation set-aside allowances.

In the December 2000 proposed rule, EPA stated that using allowances from the State compliance supplement pool was the next least disruptive method of providing allowances for the revised allocations, after the use of non-NO_X Budget units' allowances.EPA explained that use of the compliance supplement pool allowances would be less disruptive than using allowances from the allocation set-aside, which is used for allocations to new units. *See* 65 FR 80403.

However, as discussed above, EPA has determined that there are sufficient allowances available from non-NO_X Budget units to provide allowances for all of the identified units, including the Birchwood unit. There is no need to use the compliance supplement pool for any

[4] The third "stranded" unit is a West Virginia non-EGU, whose revised allocation is addressed above in preamble section II.B.1.

[5] One commenter expressed concern that, since the rule states that the allocation set-aside is established as equaling 5% of the State EGU and non-EGU budgets, the allowances originally allocated to non-NO_X Budget units could not be added to the allocation set-aside. However, § 97.42(d)(1) states what the initial amount of the allocation set-aside will be and does not preclude or contradict § 97.42(g)(2), which states specifically that other allowances may be subsequently added to the set-aside.

[6] These units are 491 E 48th Street Units −7 and −8, J B Sims Unit 65, and James De Young Unit 5.

[7] These units are Craven County Wood Energy Unit ST_RGY in North Carolina and Stone Container Unit ST_ner in Virginia.

[8] These units are 491 E 48th Street Units −7 and −8, J B Sims Unit 65, and James De Young Unit 5.

[9] These units are: Points 0201 through 0204 and 0205, plant A7809, National Steel Corp, Wayne County, Michigan; Points 0218 and 0219, plant A8640, Rouge Steel Corp., Wayne County, Michigan; Point 0084, plant A4033, Dow Chemical, Midland County, Michigan; Point 030, plant 0078, FMC Corp—Lithium Div. Hwy 161, Gaston County, North Carolina; Point 007, plant 0069, Weyerhaeuser Co. Plymouth, Martin County, North Carolina; and Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia.

[10] Although, at the time of the December 2000 proposal EPA was not aware that Point 004, plant 0006, International Paper—Franklin (formerly Union Camp Corp/Fine Paper Div), Isle of Wright County, Virginia was a non-NO_X Budget unit and that allowances allocated to the unit might be available to use for the Birchwood unit, such use of these allowances is squarely within the scope of the December 2000 proposal. In that proposal, EPA proposed generally to provide additional allowances to units warranting additional allocations usifg allowances allocated to units that were non-NO_X Budget units. 65 FR 80401; *see also* 65 FR 80404 (proposing to modify § 97.42(g) to establish a general procedure for using non-NO_X Budget units' allowances to provide additional allowances to individual NO_X Budget units warranting increased allocations).

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State in which the identified units are located to provide any allowances needed for the units' revised allocations. For the reasons discussed below, EPA concludes that non-NO_X Budget units should provide all additional allowances for all the identified units.

First, EPA maintains that use of non-NO_X Budget units' allowances is less disruptive to the NO_X Budget Trading Program and units in the program than using allowances from the compliance supplement pool. The purpose of the pool is to provide additional allowances for 2003 and 2004 above and beyond the State EGU and non-EGU budgets for units "that are unable to meet the compliance deadline" during those years. 63 FR 57356, 57428 (October 27, 1998) (explaining purpose of pool in NO_X SIP call); *see also* 64 FR 28250, 28310 (May 25, 1999) (adopting pool in Federal NO_X Budget Trading Program for same reasons as in NO_X SIP call). The compliance deadline is feasible without the compliance supplement pool. However, the additional allowances in this pool will ensure that any units unable to install NO_X control equipment (e.g., because of concerns for reliability of electric generation during a shutdown for installation) in 2003 or 2004 are able to obtain allowances in the meantime. See 63 FR 57428.

The compliance supplement pool allowances are initially distributed to units that make early NO_X emission reductions. Owners and operators of units that reduce the units' NO_X emissions below a specified level after 2000 and before 2003, the year when the control requirements of the Federal NO_X Budget Trading Program first take effect, may apply for compliance supplement pool allowances. 40 CFR 97.43(a). Owners and operators of units in the Ozone Transport Commission NO_X Budget Program may also apply for compliance supplement pool allowances to the extent the units have banked allowances for 2000 or 2001 under that program. 40 CFR 97.43(b). Although the compliance supplement pool is distributed to units with early reductions or with banked allowances under the Ozone Transport Commission NO_X Budget Trading Program, units "that need extra allowances for compliance will have access to them through the allowance market." 65 FR 2714. EPA provided credit for early reductions "merely as a mechanism for managing the [compliance supplement pool], not as an independent program with a purpose separate from that of the [compliance supplement pool]". *State of Michigan v. EPA*, 213 F.3d 663, 694 (D.C. Cir. 2000).

However, EPA recognizes that using some of the compliance supplement pool allowances for revised allocations would reduce the amount of allowances potentially available for early reductions. Each State has a fixed number of allowances in the State compliance supplement pool. *See* 65 FR 2767 (Appendix D showing compliance supplement pool for each State). Using the pool would make fewer allowances potentially available for early reductions and so would be more disruptive to the Federal NO_X Budget Trading Program and other units than using non-NO_X Budget unit allowances.

Second, using allowances from the allocation set-aside, would also be more disruptive than using non-NO_X Budget unit allowances. The allocation set-aside is allocated to new units for years before they have the necessary historical data to be treated as existing units in future allocation updating. The allocation set-aside therefore plays an important role of integrating new units into the NO_X Budget Trading Program. EPA set the allocation set-aside at 5% of the State EGU and non-EGU budgets so that the pool would be large enough to accommodate all new sources. EPA is concerned that using allowances from the allocation set-aside to revise the identified units' allocations may result in fewer allowances being available for individual new units. *See* 65 FR 80403. EPA notes that no commenter indicated a preference for using allowances from the allocation set-aside (or from the compliance supplement pool), in lieu of non-NO_X Budget units' allowances.

In summary, EPA concludes that the compliance supplement pool or allocation set-aside allowances should not be used to obtaining allowances for any of the identified units.

C. Amounts of Allowances for Units' Revised Allocations

In the December 2000 proposed rule, EPA proposed the amounts of allowances to use for the units' revised allocations. For the West Virginia non-EGUs (including one "stranded" unit), EPA proposed to use the allocations requested by all the owners of those units. 65 FR 80403. EPA did not receive any comments objecting to these revised allocations. For the reasons set forth in the proposed-rule preamble, today's final rule adopts these revised allocations.

EPA also proposed in the December 2000 proposal to calculate the revised allocations for two "stranded" units and the Birchwood, Blue Ridge, and Michigan State units by using the average emission rate underlying the allocations for the respective unit's State budget sector (EGUs or non-EGUs) in Appendix A or B in the January 2000 final rule. Specifically, as discussed above, the allocations to each EGU in Appendix A or non-EGU in Appendix B are calculated by multiplying the unit's historical heat input by an initial average emission rate (0.15 lb/mmBtu for EGUs and 0.17 lb/mmBtu for non-EGUs) and then adjusting the results so that the total of the allocations to all EGUs or all non-EGUs in the unit's State equals 95 percent of the State EGU budget or State non-EGU budget respectively. Thus, all EGU allocations for the State have a common underlying average emission rate, and all non-EGU allocations for the State have a common underlying average emission rate, which may differ from that for EGU allocations.

In calculating allocations for the "stranded", Birchwood, Blue Ridge, and Michigan State units, EPA proposed to use the underlying average emission rate for units in the State budget sector in the same State as the respective unit. EPA proposed to multiply each unit's historical heat input (calculated under § 97.42(a))by the appropriate underlying average emission rate. See 40 CFR 97.42(a) (establishing 1995–1998 as the historical period for 2003–2007 allocations); and Memorandum on Calculation of Revised Allocations, Document No. XIV–B–01(showing how the revised allocations are calculated and attaching the supporting documentation of the heat input data).

EPA did not receive any comments objecting to the proposed methodology for calculating the revised allocations. One commenter stated that the revised allocation listed in the proposed rule language for one unit (Unit 005, plant 0159, Blue Ridge Paper Products Inc., Haywood County, North Carolina) was incorrect. In considering the comment, EPA found that the amount of the allocation as reflected in the Memorandum on Calculation of Revised Allocations in the record was different than the number listed in the proposed rule language for the unit. EPA agrees that the amount in the memorandum is correct and that the number in the proposed rule is wrong. In today's final rule, EPA is correcting the allocation for the Blue Ridge unit to be consistent with the memorandum in the record and is otherwise adopting the revised allocations in the proposed rule, based on the reasons set forth above and on the supporting record.

D. Changes to regulatory Text.

In today's final rule, EPA is adopting the following revisions to the language of specific sections of part 97.

1. Appendices A and B Revisions.

EPA is adopting several rule revisions to implement the above-described revised allocations and approach for obtaining allowances for those allocations. First, today's final rule revises Appendices A and B to part 97 in order to include revised allocation amounts for the identified units as discussed above. In addition, when Appendix A or B incorrectly references an identified unit or fails to list the unit at all, EPA is correcting these errors.

Second, today's final rule revises Appendices A and B to remove allocations for units that EPA has previously determined not to be NO_X Budget units. Included in these revisions is the removal of the unit, noted above, that EPA recently determined was a non- NO_X Budget unit for which allowances should not be recorded.[11] As discussed above, under § 97.42(g), the Administrator may determine that a unit allocated allowances in Appendix A or B does not meet the applicability requirements in § 97.4 and so is not actually a NO_X Budget unit. In response to requests for such determinations, EPA has issued final determinations that 4 units listed in Appendix A and 28 units listed in Appendix B are not NO_X Budget units and will not have allocations recorded in their accounts. No commenters on the December 2000 proposed rule objected to reflecting final determinations under § 97.42(g) in revisions to the appendices. Appendix A. Today's final rule merely reflects, in regulatory text, these final determinations.

2. Section 97.42(g) revisions

In the December 2000 proposal, EPA proposed revisions to § 97.42 (allocation procedures) that would authorize the Administrator to issue orders correcting other units' allocations, where correction was warranted, using allowances allocated to units determined not to be NO_X Budget units. Under the proposed revisions, the Administrator could determine that the number of allowances actually allocated to an existing NO_X Budget unit for 2003–2007 in Appendix A or B is less than the number of allowances provided under § 97.42(a) through (d) and that equitable considerations warranted correction of such unit's allocation. The Administrator could also determine that the number of allowances actually allocated to a new NO_X Budget unit for 2003–2007 or to any NO_X Budget unit for 2008 or thereafter, using procedures in § 97.42(a) through (d), was less than the number of allowances provided under § 97.42(a) through (d) and that equitable considerations warranted correction of such unit's allocation. Moreover, in the order, the Administrator could determine that allowances mistakenly allocated to non-NO_X Budget units located in the same State as the unit would be used to supplement, and thereby correct, the unit's actual allocation. EPA stated that the use of orders—rather than rule revisions—to make unit-specific allocations from allocations to non- NO_X Budget units would allow for much more expeditious correction of a unit's allocations where correction was warranted and still provide opportunity for interested parties to submit objections.

Several commenters objected to the proposed revision of § 97.42(g) on the ground that, among other things, State budgets should be increased to provide additional allowances for units whose original allocations were incorrect and warranted an increase. The commenters also claimed that the proposed revision provided fewer procedural protections for participants and other members of the public than provided through a rulemaking proceeding. As discussed above, EPA concludes above that there is no basis for increasing the State budgets to provide additional allowances for the units specifically identified in this final rule as warranting increased allocations. Further, additional procedural protections (if any were necessary) could be provided in a final rule. However, EPA has decided that the most prudent course is to retain—at this time—the flexibility to address case-by-case the issue of how to obtain additional allowances for any other units that EPA may determine in the future warrant increased allocations, rather than deciding that question on a generic basis now by adopting the proposed revisions. EPA is therefore not taking action in today's final rule on the proposed revisions to § 97.42(g).[12]

3. Section 97.43 Revisions

In the December 2000 proposal, EPA proposed alternative revisions that would provide allowances from the State compliance supplement pool for the Birchwood unit. EPA proposed to revise § 97.43 to add a new paragraph (c)(9) that would specifically allocate to the Birchwood unit in Virginia 725 allowances from the Virginia compliance supplement pool. The new provisions also would address the interaction of this unit-specific allocation with other provisions of the rule concerning compliance supplement pool allowances. As discussed above, there are now sufficient non- NO_X Budget unit allowances to satisfy the revised allocation for the Birchwood unit. The proposed new paragraph (c)(9) is therefore unnecessary, and EPA has decided not to adopt that revision.

In the December 2000 proposal, EPA also proposed to revise § 97.43 to add a new paragraph (d) that would authorize the Administrator, on a generic basis, to issue orders determining that the number of allowances allocated in Appendix A or B (or using § 97.42(a) through (d) procedures) for a unit was less than the number of allowances provided under § 97.42(a) through (d) and that equitable considerations warrant correction of such allocation. The Administrator could also determine in the order that allowances in the compliance supplement pool of the State where the unit is located would be used to supplement, and thereby correct, the unit's allocation.

Several commenters objected to the proposed new paragraph (d) of § 97.43 on the ground that, among other things, State budgets should be increased to provide additional allowances for units whose original allocations were incorrect and warranted an increase. The commenters also claimed that the proposed revision provided fewer procedural protections for participants and other members of the public than provided through a rulemaking proceeding. As discussed above, EPA concludes above that there is no basis for increasing the State budgets to provide additional allowances for the units specifically identified in this final rule as warranting increased allocations. Further, additional procedural protections (if any were necessary) could be provided in a final rule. However, EPA has decided that the most prudent course is to retain—at this

[11] Removal of this unit was not specifically referenced in the December 2000 proposed rule because the determination that the unit was a non-NO_X Budget unit was not issued until August 1, 2001. However, EPA maintains that there is good cause under section 553(b)(3)(B) of the Administrative Procedure Act for finalizing this revision without notice and comment. The August 1, 2001 determination is final, and the revision merely ensures that Appendix B reflects this final determination. Even without such revision, the final determination would be effective and the allowances originally allocated to the unit would be available for allocation in today's final rule to the Birchwood unit. Notice and comment are therefore unnecessary.

[12] One commenter that supports the proposed revisions to § 97.42(g) and § 97.43 suggests that the date for compliance under the January 2000 final rule with the requirement to hold allowances should be extended to May 1, 2004. EPA is not addressing this issue in this final rule since the issue is beyond the scope of the December 2000 proposed rule and the rulemaking.

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time—the flexibility to address on a case-by-case basis the issue of how to obtain additional allowances for any units that EPA may determine in the future warrant increased allocations, rather than deciding that question on a generic basis now by adopting the proposed revisions. EPA is therefore not taking action in today's final rule on the proposed revisions to § 97.43.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Impacts Analysis

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that today's final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and, therefore, is not subject to OMB review.

B. Regulatory Flexibility Act: Small Entity Impacts

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), Pub. L. No. 104–121, generally requires the Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant, economic impact on a substantial number of small entities. Such entities include small businesses, small organizations, and small governmental jurisdictions.

In determining whether a rule has a significant, economic impact on a substantial number of small entities, the impact of concern is any significant, adverse, economic impact on small entities since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant, economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604.

Today's final rule revision is not significant enough to change the regulatory burden or economic impact of the existing Federal NO_X Budget Trading Program rule. Moreover, for virtually all NO_X Budget units addressed, the final rule either increases the number of allowances allocated and thus reduces the burden of the program or does not change the number of allowances allocated and thus does not change the program burden. To the extent the final rule removes certain units from the allocation tables, EPA has already issued final orders removing the allocations for these units, and the final rule has no effect other than to update the allocation tables to make them consistent with those orders. Only one unit's allocation is reduced by today's final rule, and the owners of that unit, agreeing that the unit's original allocation was erroneously overstated, requested EPA to make the reduction.

For these reasons, I certify that today's final rule will not have a significant, economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, the Agency generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule with "Federal mandates" that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Section 205 of the UMRA generally requires that, before promulgating a rule for which a written statement is needed, EPA must identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with regulatory requirements.

EPA has determined that today's final rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. For the reasons discussed above, today's final rule revision is not significant enough to change the overall regulatory burden or economic impact of the Federal NO_X Budget Trading Program rule on any parties, including State, local or tribal governments. Accordingly, little or no additional costs to State, local, or tribal governments in aggregate, or to the private sector, will result from the final rule. Similarly, EPA has determined that today's final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to the requirements of sections 202, 203, or 205 of the UMRA.

D. Paperwork Reduction Act

Today's final revisions to part 97 will not impose any new information collection burden subject to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). Today's final rule does not change either the scope of the units covered by, or the information requirements for units under, the Federal NO_X Budget Trading Program.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the previously submitted Information Collection Request concerning the Federal NO_X Budget Trading Program may be obtained from the Director, Regulatory Information Division; EPA; 401 M St. SW (mail code 2137); Washington, DC 20460 or by calling (202) 564–2740.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The Executive Order 13045 (62 FR 19885 (April 23, 1997)) applies to any rule that the Agency determines (1) is "economically significant" as defined under Executive Order 12866 and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

Today's final rule is not subject to Executive Order 13045 because it is not "economically significant" as defined under Executive Order 12866. Further, EPA does not have reason to believe that the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

F. Executive Order 12898: Environmental Justice

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations.

Today's final rule does not have a disproportionately high and adverse human health or environmental effects on minorities and low-income populations.

G. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255 (August 10, 1999), requires the Agency to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Today's final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This final rule does not anticipate substantial compliance cost expenditures by tribal governments nor substantial direct effects on cultural practices of tribes. Thus, Executive Order 13175 does not apply to this rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d), 15 U.S.C. 272 note, directs the Agency to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's final rule does not involve any technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 13211: Energy Effects

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et.seq. (CRA), as added by the Small Business Regulatory Enforcement Fairness Act of 1966, does not apply because this action is not a rule, for purposes of 5 U.S.C. 8014(3). This action qualifies as a rule of particular applicability because its application is limited to specifically named entities, and as such, it is exempt from the CRA.

List of Subjects in 40 CFR Part 97

Environmental protection, Administrative practice and procedure, Air pollution control, Emissions trading, Intergovernmental relations, Nitrogen oxides, Ozone, Ozone transport, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 42 U.S.C. 7401, 7403, 7426, and 7601.

APPENDIX A—[AMENDED]

2. Appendix A to part 97 is amended by:

a. Removing all entries for "MI, 491 E. 48 TH STREET", "MI, JB SIMS", "NC, CRAVEN COUNTY WOOD ENERGY", and "VA, STONE CONTAINER"; and

b. Removing two entries for "VA, SEI BIRCHWOOD" and adding in their place one entry for "VA, SEI BIRCHWOOD".

The addition read as follows:

APPENDIX A TO PART 97—FINAL SECTION 126 RULE: EGU ALLOCATIONS, 2003–2007

State	Plant	Plant id	Point id	NO_x allocation for EGUs
VA	SEI BIRCHWOOD	12	1	305

APPENDIX B—[AMENDED]

3. Appendix B to part 97 is amended by:

a. Removing all entries for "IN, Allen, MICHELIN NORTH AMERICA, INC", "IN, Elkhart, SUPERIOR LAMINATING, INC", "IN, Kosciusko, THE DALTON FOUNDRIES INC", "KY, Carroll, DOW CORNING CORP", "KY, Shelby, ICHIKOH MANUFACTURING", "KY, Scott, TOYOTA MOTOR MFG USA INC", and "KY, Hardin, USAARMC & FORT KNOX"; removing the first entry for "MI, Midland, DOW CHEMICAL USA"; removing all entries for "MI, Wayne, NATIONAL STEEL CORP", "MI, Wayne, ROUGE STEEL CO", "NC, Gaston, FMC CORP—LITHIUM DIV. HWY 161", "NJ, Middlesex, FORD MOTOR COMPANY", "NJ, Bergen, GARDEN STATE PAPER CO", "NJ, Passiac, HOFFMAN LAROUCHE INC. C/O ENVIR"; "WV, Grant, NORTH BRANCH POWER STATION", and "WV, Brooke, WHEELING—PITTSBURGH STEEL"; removing the second entry for "VA, Isle of Wright, INTERNATIONAL PAPER—FRANKLIN (FORMERLY UNION CAMP CORP/FINE PAPER DIV)";

b. Revising the fourth entry for "MI, Ingham, MICHIGAN STATE UNIVERSITY";

c. Revising the second entry for "NC, Martin, WEYERHAEUSER PAPER CO. PLYMOUTH";

d. Revising the entries for "WV, Kanawha, DUPONT—BELLE"; and "WV, Fayette, ELKEM METALS COMPANY L.P.—ALLOY PLANT"; revising two entries for "WV, Marshall, PPG INDUSTRIES, INC"; revising the three entries for "WV, Kanawha, AVENTIS CROPSCIENCE"; and revising the seven entries for "WV, Hancock, WEIRTON STEEL CORPORATION"; and

e. Adding in alphabetical order by State by plant and numerical order by point entries for "NC, Haywood, BLUE RIDGE PAPER PRODUCTS", "NC, Craven, WEYERHAEUSER COMPANY NEW BERN MILL", and "WV, Kanawha, UNION CARBIDE—SOUTH CHARLESTON PLANT".

The revisions and additions read as follows:

APPENDIX B TO PART 97—FINAL SECTION 126 RULE: NON-EGU ALLOCATIONS, ALLOCATIONS, 2003–2007

State	County	Plant	Plant ID	Point ID	NO_x allocation for non-EGUs
MI	Ingham	MICHIGAN STATE UNIVERSITY	K3249	0056	73
NC	Haywood	BLUE RIDGE PAPER PRODUCTS INC	0159	005	129
NC	Martin	WEYERHAEUSER COMPANY PLYMOUTH	0069	009	25
NC	Craven	WEYERHAEUSER COMPANY NEW BERN MILL	0104	006	72
WV	Kanawha	DUPONT—BELLE	00001	612.	54
WV	Fayette	ELKEM METALS COMPANY L.P.—ALLOY P PLANT	00001	006	116
WV	Marshall	PPG INDUSTRIES, INC	00002	001	195
WV	Marshall	PPG INDUSTRIES, INC	00002	003	419
WV	Kanawha	AVENTIS CROPSCIENCE	00007	010	113
WV	Kanawha	AVENTIS CROPSCIENCE	00007	011	102
WV	Kanawha	AVENTIS CROPSCIENCE	00007	012	105
WV	Kanawha	UNION CARBIDE—SOUTH CHARLESTON PLANT	0003	0B6	92
WV	Kanawha	UNION CARBIDE—SOUTH CHARLESTON PLANT	0003	0B7	45
WV	Hancock	WEIRTON STEEL CORPORATION	00001	030	31
WV	Hancock	WEIRTON STEEL CORPORATION	00001	088	30
WV	Hancock	WEIRTON STEEL CORPORATION	00001	089	2
WV	Hancock	WEIRTON STEEL CORPORATION	00001	090	110
WV	Hancock	WEIRTON STEEL CORPORATION	00001	091	253
WV	Hancock	WEIRTON STEEL CORPORATION	00001	092	208
WV	Hancock	WEIRTON STEEL CORPORATION	00001	093	200

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301162; FRL–6797–2]

RIN 2070–AB78

Propamocarb Hydrochloride; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation revises time-limited tolerances for residues of propamocarb hydrochloride in or on tomato and tomato, paste and revokes the time limited tolerance for residues of propamocarb hydrochloride in or on tomato, puree. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on tomatoes. This regulation revises maximum permissible levels for residues of propamocarb hydrochloride in these food commodities. The revised tolerances will expire and are revoked on December 31, 2003.

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301162, must be received by EPA on or before November 20, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301162 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703 308–9364; and e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301162. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is revising the tolerances for residues of the fungicide propamocarb hydrochloride, propyl [3-(dimethylamino)propyl] carbamate monohydrochloride, by increasing the residue levels in or on tomato and tomato, paste, to 2 and 5 ppm, respectively, and removing the level for tomato, puree. These revised tolerances will expire and are revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section

408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Propamocarb hydrochloride on Tomato and FFDCA Tolerances

Failure to control late blight in tomatoes with the registered fungicides have been caused almost exclusively by immigrant strains of late blight (Phytophthora infestans), which are resistant to the control of choice, metalaxyl. Before the immigrant strains of late blight arrived, all of the strains in the United States were previously controlled by treatment with metalaxyl. Presently, there are no fungicides registered in the United States that will provide adequate control of the immigrant strains of late blight. EPA has authorized under FIFRA section 18 the use of propamocarb hydrochloride on tomato for control of late blight in California. After having reviewed the submission, EPA concurs that an emergency condition exists for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of propamocarb hydrochloride in or on tomato and tomato paste. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is revising these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on tomato and tomato paste after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the levels that were authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether propamocarb hydrochloride meets EPA's registration requirements for use on tomato or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of propamocarb hydrochloride by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for propamocarb hydrochloride, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of propamocarb hydrochloride and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of propamocarb hydrochloride in or on tomato and tomato paste at 2 and 5 ppm, respectively ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve.

To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for propamocarb hydrochloride used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PROPAMOCARB HYDROCHLORIDE FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age	NOAEL = 150 mg/kg/day UF = 100 Acute RfD = 1.5 mg/kg/day	FQPA SF = 1X aPAD = acute RfD FQPA SF = 1.5 mg/kg/day	Rabbit Developmental LOAEL = 300 mg/kg/day based on increased post-implantation loss
Acute dietary general population including infants and children	NOAEL = 200 mg/kg/day UF = 100 Acute RfD = 2.0 mg/kg/day	FQPA SF = 1X aPAD = acute RfD FQPA SF = 2.0 mg/kg/day	Acute neurotoxicity screening battery-Rat LOAEL = 2,000 mg/kg/day based on decreased body weight gain and decreased motor activity
Chronic dietary all populations	NOAEL= 12 mg/kg/day UF = 100 Chronic RfD = 0.12 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD FQPA SF = 0.12 mg/kg/day	Carcinogenicity study-Mouse LOAEL = 95 mg/kg/day based on decreased body weight and body weight gain in females
Short-term (1 to 7 days) and Intermediate-term (1 week-several months) Dermal (occupational/residential)	Dermal study NOAEL= 150 mg/kg/day	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	21–day dermal toxicity study-Rabbit LOAEL = 525 mg/kg/day based on decreased body weight gain in females
Short-term (1 to 7 days) and Intermediate-term (1 week-several months) Inhalation (occupational/residential)	Inhalation (or oral) study NOAEL= 150 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational) LOC for MOE = 100 (Residential)	Developmental toxicity study-Rabbit Developmental LOAEL = 300 mg/kg/day based on increased post-implantation loss Maternal LOAEL = 300 mg/kg/day based on decreased body weight gain
Cancer (oral, dermal, inhalation)	"Not likely"	Not applicable	Acceptable oral rat and mouse carcinogenicity studies; no evidence of carcinogenic or mutagenic potential

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.499) for the residues of propamocarb hydrochloride, in or on potatoes. Time-limited tolerances for inadvertent residues have been established in or on wheat and wheat by-products. In addition, time-limited tolerances for residues in or on tomato and tomato, paste, and puree have also been established at levels lower than those described in this document. Risk assessments were conducted by EPA to assess dietary exposures from propamocarb hydrochloride in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Acute analyses were performed for females 13–50 years old and the general U.S. population (including infants and children); the acute risk was analyzed at the 95th percentile. The aPAD for females 13–50 years old and the general U.S. population (including infants and children) are 1.5 mg/kg/day and 2.0 mg/kg/day, respectively. For acute dietary risk estimates, EPA's level of concern is >100% aPAD. The results of the acute analysis indicate that the acute dietary risk estimates for the general U.S. population and all population subgroups (at the 95th percentile) associated with the proposed uses of propamocarb hydrochloride do not exceed EPA's level of concern.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A chronic

analysis was performed for the general U.S. population and all population subgroups. The cPAD for the general U.S. population and all subgroups is 0.12 mg/kg/day. For chronic dietary risk estimates, EPA's level of concern is >100% cPAD. The results of the chronic analysis indicate that the chronic dietary risk estimates for the general U.S. population and all population subgroups associated with the proposed uses of propamocarb hydrochloride do not exceed EPA's level of concern.

iii. *Cancer.* There is no concern for mutagenic potential, and there is no evidence of carcinogenic potential in either the rat or mouse. Propamocarb hydrochloride has been classified as "not likely to be carcinogenic in humans." Therefore, a cancer dietary exposure analysis was not performed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for propamocarb hydrochloride in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of propamocarb hydrochloride.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to propamocarb hydrochloride, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of propamocarb hydrochloride for acute exposures are estimated to be 1,030 parts per billion (ppb) for surface water and 2.08 ppb for ground water. The EECs for chronic exposures are estimated to be 340 ppb for surface water and 2.08 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Propamocarb hydrochloride is currently registered for use on the following residential non-dietary sites: Turfgrass and ornamentals at residential, recreational and golf course sites. However, the usage information in the 1995 Reregistration Eligibility Decision (RED) for propamocarb hydrochloride and the label statement that only protected handlers may be present in the treated area during application, indicate that only commercial applicators will apply the registered end-use product Banol (EPA Registration Number 432–942, contains 66.5% propamocarb hydrochloride) mainly on golf courses and there will be no use on residential or recreational turf. The risk assessment was conducted using the following residential exposure assumptions: An MOE of 100 is adequate to ensure protection from propamocarb hydrochloride via the dermal and inhalation routes for residential exposures. The high-end scenario for residential post-application exposure is the golf course use. The post-application risk assessment is based on generic assumptions as specified by the newly proposed Residential Standard Operating Procedures (SOPs) and recommended approaches by Health Effects Division's (HED's) Exposure Science Advisory Committee. Short-term post-application exposures are expected for the adult and adolescent golfer. Golfer exposure is expected through minimal hand contact with the golf ball and dermal contact to the lower legs from treated plant surfaces. Since it is assumed that the adolescent golfer would have a proportionally similar exposure to adults, a dermal post-application assessment was performed for the adult golfer only. The calculated MOE for the golfer is 980 and, therefore, does not exceed EPA's level of concern. Since the short- and intermediate-term toxicological endpoints are the same, the golfer post-application exposure assessment is expected to provide adequate exposure estimates for both the short- and intermediate-term. In the event of intermediate-term exposure, propamocarb hydrochloride residues are expected to dissipate over time. Therefore, this assessment is expected to present a high-end conservative estimate of actual exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether propamocarb hydrochloride has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, propamocarb hydrochloride does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that propamocarb hydrochloride has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *Safety factor for infants and children.*—i. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* There is no evidence of quantitative or qualitative enhanced susceptibility to infants and children. In the rat, developmental effects occur only at doses that cause mortality in the dams. The maternal LOAEL of 740 milligrams active ingredient/kilogram/day (mg a.i./ kg/day) is based on mortality. The maternal NOAEL is 221 mg a.i./kg/day. The developmental LOAEL of 740 mg a.i./kg/day is based on increased gestation day (GD) 20 fetal death and a possible increase in minor skeletal anomalies. The developmental NOAEL is 221 mg a.i./kg/day. In the rabbit, developmental effects occur only at doses where there is maternal toxicity. EPA believes that the post implantation loss is actually due to the increased abortions in the does. The maternal LOAEL of 300 mg a.i./kg/day is based on decreased body weight gains for GD 6–18 and possible increased abortions. The maternal NOAEL is 150 mg a.i./kg/ day. The developmental LOAEL of 300 mg a.i./kg/day is based on increased post-implantation loss. The developmental NOAEL is 150 mg a.i./ kg/day. In the reproduction toxicity study, offspring effects only occurred at levels resulting in maternal toxicity. The LOAEL for systemic/parental toxicity is 8,000 ppm based on decreased body weights of F_0 and F_1 adults. The systemic/parental toxicity NOAEL is 1,250 ppm.

2. *Conclusion.* There is a complete toxicity data base for propamocarb hydrochloride and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because the prenatal and postnatal toxicology data base is complete and there is no indication of increased susceptibility. A developmental neurotoxicity study is not required. The dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children from the use of propamocarb hydrochloride.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to propamocarb hydrochloride in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of propamocarb hydrochloride on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to propamocarb hydrochloride will occupy 1% of the aPAD for the U.S. population, 1% of the aPAD for females 13 years and older, 3% of the aPAD for all infants (< 1 year old); and 3% of the aPAD for children 1–6 years old. In addition, despite the potential for acute dietary exposure to propamocarb hydrochloride in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of propamocarb hydrochloride in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO PROPAMOCARB HYDROCHLORIDE

Population Subgroup	aPAD (mg/ kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
All infants (< 1 year old)	2.0	3	1,030	2.08	19,000
Children (1–6 years old)	2.0	3	1,030	2.08	19,000
Females (13–50 years old)	1.5	1	1,030	2.08	45,000
General U.S. population	2.0	1	1,030	2.08	69,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to propamocarb hydrochloride from food will utilize 7% of the cPAD for the U.S. population: 9%

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of the cPAD for all infants < 1 year old; and 23% of the cPAD for children 1–6 years old. It has been assumed that there are no residential uses for propamocarb hydrochloride that result in chronic residential exposure to propamocarb hydrochloride. Based on the use pattern, chronic residential exposure to residues of propamocarb hydrochloride is not expected. In addition, despite the potential for chronic dietary exposure to propamocarb hydrochloride in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of propamocarb hydrochloride in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.–AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO PROPAMOCARB HYDROCHLORIDE

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.12	7	340	2.08	3,900
Infants (< 1 year old)	0.12	9	340	2.08	1,100
Children (1–6 years old)	0.12	23	340	2.08	920
Females (13–50 years old)	0.12	5	340	2.08	3,400

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Propamocarb hydrochloride is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for propamocarb hydrochloride.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 950, 1,100 and 1,100 for females 13–50 years old, males 13–19 years old and the general U.S. population, respectively. The short-term aggregate risk assessment estimates risks likely to result from 1–7 day exposure to propamocarb hydrochloride residues in food, drinking water, and residential pesticide uses. High-end estimates of the residential exposure are used in the short-term assessment. Average values are used for food and drinking water exposure.

For short-term aggregate exposure risk, the oral and dermal exposures can be combined since both are based on the same toxicity endpoint (decreased body weight). An MOE of 100 is adequate to ensure protection from propamocarb hydrochloride via the dermal route for residential exposures.

According to the 1995 RED for propamocarb hydrochloride (Estimated Usage of Pesticide, p. 3), "almost all usage of propamocarb hydrochloride in the United States is concentrated on golf courses with approximately 100,000 to 200,000 pounds (lb) active ingredient (ai) applied per year." The label for Banol states that only protected handlers may be present in the treated area during application. For these reasons, it is assumed that this product will be used by commercial applicators, mainly on golf courses. The high-end scenario for residential post-application exposure is the golf course use of Banol. Therefore, in aggregating short-term risk, the Agency considered background chronic dietary exposure (food and drinking water) and short-term golfer dermal exposure. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of propamocarb hydrochloride in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.–AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO PROPAMOCARB HYDROCHLORIDE

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Females (13–50 years old)	950	100	1,030	2.08	40,000
Males (13–19 years old)	1,100	100	1,030	2.08	63,000
General U.S. population	1,100	100	1,030	2.08	63,000

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). The short-term aggregate assessment adequately addresses both the short- and intermediate-term golfer dermal exposures. The short- and intermediate-term dermal endpoints were chosen from the 21–day dermal rabbit toxicity study. The short-term golfer exposure was calculated assuming 1–7 day exposure to propamocarb hydrochloride. The intermediate-term aggregate risk assessment estimates risks likely to result from 7 days to 3 months exposure. In the event of intermediate-term exposure, propamocarb hydrochloride residues are expected to dissipate over time. Therefore, the short-term aggregate assessment is expected to present a high-end conservative estimate of intermediate-term risk. As the short-term aggregate risk assessment represents the high-end scenario, an intermediate-term assessment was not performed.

5. *Aggregate cancer risk for U.S. population.* An aggregate cancer risk analysis was not performed since there is no concern for mutagenic potential and there is no evidence of carcinogenic potential in either the rat or mouse. Propamocarb has been classified as "not likely to be carcinogenic in humans."

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to propamocarb hydrochloride residues.

V. Other Considerations

A. Analytical Enforcement Methodology

A gas chromatography method was utilized for the determination of propamocarb hydrochloride residues in/on raw agricultural commodity samples collected from the potato field study and field rotational crop study. The reported limit of quantitation was 0.05 ppm. The method validation and concurrent method recovery data indicate that this method is adequate to support the time-limited tolerances associated with this action. An identical method is proposed for tolerance assessment. The proposed method has undergone a successful independent lab validation and petition validation method. EPA concludes that the requirements for a plant enforcement method have been fulfilled.

A ruminant feeding study is required. Conclusions about the need for livestock tolerances and appropriate enforcement analytical method are deferred until receipt of the ruminant feeding study and determination of the residues of concern in livestock.

The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

A CODEX MRL of 1 mg/kg has been established for residues of propamocarb per se in/on tomatoes. The use pattern used for determining the CODEX MRL differs from that in this section 18 exemption (maximum use rate overseas is 3.2 lb a.i./acre per application, the maximum use rate in the United States is 0.9 lb a.i./acre. No Canadian or Mexican residue limits have been established.

C. Conditions

The conditions of registration will include submission of a livestock feeding study (which determines the metabolites N-oxide propamocarb, 2-hydroxy propamocarb and oxazolidine) and storage stability data from the livestock feeding study. The need for a livestock analytical enforcement method and livestock tolerances will be determined after receipt of the ruminant feeding study and determination of the residues of concern in livestock. A corrosion characteristics study must be submitted as soon as completed.

VI. Conclusion

Therefore, the tolerances are revised for residues of propamocarb hydrochloride, propyl [3-(dimethylamino)propyl]carbamate monohydrochloride, in or on tomato and tomato, paste at 2 and 5 ppm, respectively. In addition, the tolerance for residues of propamocarb hydrochloride in or on tomato puree is hereby revoked.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301162 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 20, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

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3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301162, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C). Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule revises and revokes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule."

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.499, the table in paragraph (b) is amended by revising the entry for Tomato, paste, by removing the entries for Tomato, puree and Tomatoes, and by adding an entry for Tomato to read as follows:

§ 180.499 Propamocarb hydrochloride; tolerances for residues.

* * * * *

(b) * * * * *

Commodity	Parts per million	Expiration/revocation date
* *	*	* *
Tomato	2.0	12/31/03
Tomato, paste	5.0	12/31/03
* *	*	* *

* * * * *

[FR Doc. 01–23608 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301174; FRL–6803–1]

RIN 2070–AB78

Azoxystrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of azoxystrobin in or on acerola, atemoya, avocado, biriba, black sapote, leafy greens (Brassica) subgroup (subgroup 5B), bushberry subgroup (subgroup 13B), canistel, cherimoya, custard apple, eggplant, feijoa, grass forage, grass hay, guava, ilama, jaboticaba, jackfruit, juneberry, lingonberry, longan, loquat, lychee, mamey sapote, mango, okra, passion fruit, pawpaw, papaya, pepper, peppermint (tops), persimmon, pulasan, rambutan, salal, sapodilla, soursop, Spanish lime, spearmint (tops), star apple, starfruit, strawberry, sugar apple, tamarind, turnip (tops), watercress, wax jambu, and white sapote. The Interregional Research Project #4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996. This final rule establishes permanent tolerances for azoxystrobin, and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for azoxystrobin were established after August 2, 1996. Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301174, must be received by EPA on or before November 20, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301174 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301174. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of May 30, 2001 (66 FR 29317) (FRL–6782–2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) for tolerances by IR–4, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petitions prepared by Zeneca Ag Products, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.507 be amended by establishing tolerances for combined residues of the fungicide azoxystrobin, methyl (E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate) and its Z-isomer (methyl (Z)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate, in or on food commodities as follows:

1. *PP 0E6211* proposed to establish tolerances for strawberry at 10 parts per million (ppm), mint at 30 ppm, grass forage (from grass grown for seed) at 15 ppm, grass (from grass grown for seed) hay at 20 ppm, and watercress, tropical fruits, persimmon, paw paw, tamarind, jackfruit, and loquat at 3.0 ppm. Since "tropical fruits" are not defined for tolerance purposes by EPA, the petition was amended by IR-4 to delete tropical fruits at 3.0 ppm and to add proposed tolerances for acerola, atemoya, avocado, biriba, black sapote, canistel, cherimoya, custard apple, feijoa, guava, ilama, jaboticaba, longan, lychee, mamey sapote, mango, passion fruit, papaya, pulasan, rambutan, sapodilla, soursop, Spanish lime, star apple, starfruit, sugar apple, wax jambu and white sapote at 2.0 ppm. In addition, the proposed tolerance levels for persimmon, paw paw, tamarind, jackfruit and loquat were reduced to 2.0 ppm.

2. *PP 1E6238* proposed to establish tolerances for bushberry subgroup, lingonberries, juneberries, and salal at 3.0 ppm.

3. *PP 1E6264* proposed to establish tolerances for the leafy Brassica greens subgroup and turnip greens at 25 ppm, and pepper, eggplant and okra at 2.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of azoxystrobin on acerola, atemoya, avocado, biriba, black sapote, canistel, cherimoya, custard apple, eggplant, feijoa, guava, ilama, jaboticaba, jackfruit, longan, loquat, lychee, mamey sapote, mango, okra, passion fruit, pawpaw, papaya, pepper, persimmon, pulasan, rambutan, sapodilla, soursop, Spanish lime, star apple, starfruit, sugar apple, tamarind, wax jambu and white sapote at 2.0 ppm; bushberry subgroup, juneberry, lingonberry, salal, and watercress at 3.0 ppm; strawberry at 10 ppm; grass forage at 15 ppm; grass hay at 20 ppm; leafy greens (Brassica) subgroup and turnip (tops) at 25 ppm; peppermint (tops) and spearmint (tops) at 30 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by azoxystrobin are discussed in Unit III.A. of the **Federal Register** of September 29, 2000 (65 FR 58404).

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for azoxystrobin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR AZOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL = <200 mg/kg/day UF = 300 Acute RfD = 0.67 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 0.67 mg/kg/day	Acute neurotoxicity study in rats LOAEL = 200 mg/kg/day based on diarrhea at 2–hours post dose at all dose levels up to and including 200 mg/kg/day (the LOAEL)
Chronic dietary (all populations)	NOAEL= 18 mg/kg/day UF = 100 Chronic RfD = 0.18 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.18 mg/kg/day	Combined chronic toxicity/carcinogenicity feeding study in rats LOAEL = 34/117 mg/kg/day in males/females based on reduced body weights in both sexes and bile duct lesions in males
Short-term (1–7 days) Incidental oral (residential)	NOAEL= 25 mg/kg/day UF = 100	FQPA SF = 1X	Prenatal developmental oral toxicity study in rats LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation
Intermediate-term (1 week to several months) Incidental oral (residential)	NOAEL= 20 mg/kg/day UF = 100	FQPA SF = 1X	90–Day feeding study in rats LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition
Short-intermediate, and long-term dermal (residential)	None	None	21–Day repeated dose dermal study in rats. No dermal or systemic toxicity was seen at the limit dose (1,000 mg/kg/day). This risk assessment is not required
Short-term inhalation (1 to 7 days) (residential)	Oral study NOAEL= 25 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (residential)	Prenatal developmental oral toxicity study in rats LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation
Intermediate-term inhalation (1 week to several months) (residential)	Oral study NOAEL = 20 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (residential)	90–Day feeding study in rats LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition
Long-term inhalation (>180 days) (residential)	None	None	This risk assessment is not applicable to the use of azoxystrobin
Cancer (oral, dermal, inhalation)	None	None	Azoxystrobin is classified "as not likely to be carcinogenic in humans"

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.507) for the combined residues of azoxystrobin, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from azoxystrobin in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established azoxystrobin tolerances contained those residues. Anticipated residues, and percent crop treated (PCT) values of less than 100%, were not used.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established azoxystrobin tolerances contained those residues. Anticipated residues, and PCT values of less than 100%, were not used.

iii. *Cancer.* Since carcinogenicity studies produced no evidence that azoxystrobin is a carcinogen, the Agency concluded that azoxystrobin is

unlikely to be a human carcinogen. There is also, as a consequence, no carcinogenicity endpoint, and this analysis was not performed.

2. *Dietary exposure from drinking water.* Although moderately persistent in soils and stable to hydrolysis, the likelihood of azoxystrobin moving into ground and surface water is low due to high soil/water partitioning coefficients and low single application rates. However, with multiple applications and repeated usage, azoxystrobin and especially its degradate compound 2 may eventually build up in environmental compartments and move into drinking water resources. Compound 2 has greater potential to leach into ground water than the parent as indicated in the terrestrial field studies. In these studies, the parent azoxystrobin remained on the soil surface whereas compound 2 was detected in deeper soil profiles.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for azoxystrobin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of azoxystrobin.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop (PC) area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to azoxystrobin, they are further discussed in the aggregate risk sections below.

Based on the FIRST and SCI-GROW models, the estimated environmental concentrations (EECs) of azoxystrobin for acute exposures are estimated to be 170 parts per billion (ppb) for surface water and 0.06 ppb for ground water. The EECs for chronic exposures are estimated to be 33 ppb for surface water and 0.06 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Azoxystrobin is currently registered for use on the following residential non-dietary sites: turf and ornamentals. The risk assessment was conducted using the following residential exposure assumptions:

Products containing azoxystrobin may be applied to turf 1 to 5 times per year at rates up to 0.95 lb active ingredient (a.i) per acre (i.e., not to exceed 5 lb a.i. per acre per year) and to ornamentals at rates up to 0.75 lb a.i. per acre every 7 to 14 days, but not to exceed 5 lb a.i./acre/year. The currently registered labels do not prohibit homeowners from mixing/loading/applying either the flowable concentrate or the water-dispersible granule formulations. This residential exposure and risk assessment was conducted using the application rate for turf because it is the highest use rate.

Residential handlers may be exposed to azoxystrobin for both short-term dermal and inhalation exposure to azoxystrobin when mixing, loading and applying the formulations. Adults and children may be exposed to azoxystrobin residues from dermal contact with foliage during post-application activities. Toddlers may receive short-term and intermediate-term oral exposure from incidental ingestion during post-application activities.

As no dermal endpoint was selected, a dermal exposure and risk assessment was not conducted for residential handlers or post-application activities. NOAELs of 25 mg/kg/day and 20 mg/kg/day were selected for assessing the risk from short-term and intermediate-term incidental oral exposures, respectively. These same NOAELs were selected for assessing the risks from short-term and intermediate-term inhalation exposures. The level of concern for risk assessment purposes is 100.

No chemical-specific exposure or residue dissipation data for handler or post-application activities were submitted in support of the registered lawn uses. EPA's Draft Standard Operating Procedures (SOPs) for Residential Exposure Assessments, and Recommended Revisions, were used as the basis for all residential handler exposure calculations. Some of the handler exposure data used in this assessment are from the Outdoor Residential Exposure Task Force (ORETF). The task force recently submitted proprietary data to the Agency on hose-end sprayers, push-type granular spreaders, and handgun sprayers. The ORETF data were used in this assessment in place of Pesticide Handler Exposure Data (PHED) for the garden hose-end sprayer scenario. The ORETF data were designed to replace the present PHED data base with higher-confidence, higher quality data that contains more replicates than the PHED data for those scenarios.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether azoxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, azoxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that azoxystrobin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—i. In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Prenatal and postnatal sensitivity.* Prenatal development studies in rats and rabbits, and a 2-generation reproductive toxicity study in rats did not indicate increased susceptibility of young rats or rabbits to *in utero* and/or postnatal exposure.

iii. *Conclusion.* There is a complete toxicity data base for azoxystrobin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency has determined that the 10X FQPA safety factor to protect infants and children should be removed (that is, set to 1) because, in addition to the completeness of the toxicological data base and the lack of increased susceptibility of young rats and rabbits to prenatal and postnatal exposure to azoxystrobin, the unrefined chronic dietary exposure estimates will overestimate dietary exposure, and ground and surface water modeling data produce upper-bound concentration estimates.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to azoxystrobin will occupy 11% of the aPAD for the U.S. population, 11% of the aPAD for females 13 years and older, and 20% of the aPAD for children 1 to 6 years, the subpopulation at greatest exposure. In addition, there is potential for acute dietary exposure to azoxystrobin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO AZOXYSTROBIN

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.67	11	170	0.06	21,000
Females (13 to 50 years)	0.67	11	170	0.06	18,000
Children (1 to 6 years)	0.67	20	170	0.06	5,400

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to azoxystrobin from food will utilize 12% of the cPAD for the U.S. population, 11% of the cPAD for females 13 to 50 years, and 18% of the cPAD for children 1 to 6 years, the subpopulation at greatest exposure. Based on the use pattern, chronic residential exposure to residues of azoxystrobin is not expected. In addition, there is potential for chronic dietary exposure to azoxystrobin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO AZOXYSTROBIN

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.18	12	33	0.06	5,600
Females (13 to 50 years)	0.18	11	33	0.06	4,800
Children (1 to 6 years)	0.18	18	33	0.06	1,500
Seniors 55+ years	0.18	12	33	0.06	5,600

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Azoxystrobin is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for azoxystrobin. A short-term risk assessment is required for adults because there is a residential handler inhalation exposure scenario. In addition, a short-term risk assessment is required for infants and children because there is a residential post-application oral exposure scenario. As no short-term or intermediate-term dermal endpoint was established, there is no dermal component to these aggregate risk assessments. For adults, the daily inhalation dose is aggregated with the chronic exposure to food and water. For infants and children, the incidental oral exposure from residential post-application activities for infants and children was aggregated with chronic exposure from food and water.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,183 for adults and 490 for children 1 to 6 years. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO AZOXYSTROBIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. population	1,183	100	33	0.06	8,050
Children (1 to 6 years)	490	100	33	0.06	2,000

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Azoxystrobin is currently registered for use(s) that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for azoxystrobin. An intermediate-term risk assessment is not required for adults because residential handler scenarios are not expected to occur for longer than a short-term timeframe. However, an intermediate-term risk assessment is required for infants and children because of the residential post-application oral exposure scenario. As no dermal endpoint was established, there is no dermal component to this aggregate risk assessment. As was necessary for the short-term aggregate assessment, the incidental oral exposure from residential post application activities for infants and children was aggregated with average exposure from food and water.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in an aggregate MOE of 580 for children 1 to 6 years. This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO AZOXYSTROBIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Children (1 to 6 years old)	580	100	33	0.06	2,100

5. *Aggregate cancer risk for U.S. population.* Azoxystrobin is classified as "not likely to be carcinogenic in humans" based on the results of carcinogenicity studies in mice and rats. Therefore, azoxystrobin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to azoxystrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate methodology is available for enforcement of the proposed tolerances. RAM 243, is a gas chromatography with nitrogen-phosphorus detection (GC/NDP) method previously submitted by the registrant which can be used for the analysis of the tolerances in or on non-oily commodities. This method has been reviewed and validated by the Agency, and will be submitted to the Food and Drug Administration (FDA) for inclusion in Pesticide Analytical Manual (PAM) II. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

No Codex, Canadian, or Mexican maximum residue levels have been established for residues of azoxystrobin in or on these commodities. Therefore, no tolerance discrepancies exist between countries for this chemical.

V. Conclusion

Therefore, the tolerances are established for combined residues of azoxystrobin, methyl (E)-2-{2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl}-3-methoxyacrylate) and its Z-isomer (methyl (Z)-2-{2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl}-3-methoxyacrylate, in or on acerola at 2.0 ppm, atemoya at 2.0 ppm, avocado at 2.0 ppm, biriba at 2.0 ppm, black sapote at 2.0 ppm, bushberry subgroup at 3.0 ppm, canistel at 2.0 ppm, cherimoya at 2.0 ppm, custard apple at 2.0 ppm, eggplant at 2.0 ppm, feijoa at 2.0 ppm, grass forage at 15 ppm, grass hay at 20 ppm, guava at 2.0 ppm, ilama at 2.0 ppm, jaboticaba at 2.0 ppm, jackfruit at 2.0 ppm, juneberry at 3.0 ppm, leafy greens (Brassica) subgroup at 25 ppm, lingonberry at 3.0 ppm, longan at 2.0 ppm, loquat at 2.0 ppm, lychee at 2.0 ppm, mamey sapote at 2.0 ppm, mango at 2.0 ppm, okra at 2.0 ppm, passion fruit at 2.0 ppm, pawpaw at 2.0 ppm, papaya at 2.0 ppm, pepper at 2.0 ppm, peppermint (tops) at 30 ppm, persimmon at 2.0 ppm, pulasan at 2.0 ppm, rambutan at 2.0 ppm, salal at 3.0 ppm, sapodilla at 2.0 ppm, soursop at 2.0 ppm, Spanish lime at 2.0 ppm, spearmint, tops at 30 ppm, star apple at 2.0 ppm, starfruit at 2.0 ppm, strawberry at 10 ppm, sugar apple at 2.0 ppm, tamarind at 2.0 ppm, turnip (tops) at 25 ppm, watercress at 3.0 ppm, wax jambu at 2.0 ppm, white sapote at 2.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301174 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 20, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301174, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of

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Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2001.

Peter Caulkins,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.507 is amended by alphabetically adding the following commodities to the table in paragraph (a)(1) to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
Acerola	2.0
* * * * *	
Atemoya	2.0
Avocado	2.0
* * * * *	
Biriba	2.0
Brassica, leafy greens, subgroup	25
Bushberry subgroup	3.0
Canistel	2.0
* * * * *	
Cherimoya	2.0
* * * * *	
Custard apple	2.0
Eggplant	2.0
Feijoa	2.0
* * * * *	
Grass, forage[1]	15
Grass, hay[1]	20
Guava	2.0
* * * * *	
Ilama	2.0
Jaboticaba	2.0
Jackfruit	2.0
Juneberry	3.0
Lingonberry	3.0
Longan	2.0
Loquat	2.0
Lychee	2.0
Mango	2.0
Okra	2.0
Passion fruit	2.0
Pawpaw	2.0
Papaya	2.0
* * * * *	
Pepper	2.0
Peppermint, tops	30
Persimmon	2.0
* * * * *	
Pulasan	2.0
Rambutan	2.0
* * * * *	
Salal	3.0
Sapodilla	2.0
Sapote, black	2.0
Sapote, mamey	2.0
Sapote, white	2.0
Soursop	2.0
* * * * *	
Spanish lime	2.0
Spearmint, tops	30
Star apple	2.0
Starfruit	2.0
* * * * *	
Strawberry	10
Sugar apple	2.0
Tamarind	2.0
* * * * *	
Turnip, tops	25
* * * * *	
Watercress	3.0
Wax jambu	2.0

Commodity	Parts per million
*	* * * *

[1] There are no U.S. registrations for rangeland or pasture grass.

* * * * *

[FR Doc. 01–23607 Filed 9–20–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301178; FRL–6799–2]

RIN 2070–AB78

Paraquat; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of paraquat in or on dry pea; endive; field corn grain, forage and stover; pop corn grain and stover; globe artichoke; and persimmon. The Interregional Research Project Number 4 (IR-4) and Zeneca Ag. Products requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). This final rule establishes permanent tolerances for paraquat and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for paraquat that existed on August 2, 1996, were previously reassessed by the Paraquat Dichloride Reregistration Eligibility Document signed September 30, 1996. Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301178, must be received by EPA on or before November 20, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301178 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules", and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/

opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301178. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of October 7, 1998 (63 FR 53902) (FRL–6026–3), December 3, 1999 (64 FR 67905) (FRL–6392–6), and June 21, 2000 (65 FR 38535) (FRL–6558–9), EPA issued notices pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the FQPA (Public Law 104–170) announcing the filing of pesticide petitions (PP) for a tolerance by the IR-4, 681 U.S. Highway # 1 South, North Brunswick, NJ 08902–3390 and Zeneca Ag. Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850–5458. These notices included summaries of the petitions prepared by Zeneca Ag. Products, the registrant. There were no comments received in response to the notice of filings.

The petitions requested that 40 CFR 180.205 be amended by establishing tolerances for residues of the desiccant, defoliant and herbicide paraquat, 1,1′-dimethyl-4,4′-bipyridinium-ion, derived from application of the dichloride salt (calculated as the cation), in or on various food commodities, as follows:

1. PP 5F1625, submitted by Zeneca Ag. Products, proposed tolerances for field corn and pop corn grain at 0.05 part per million (ppm); field corn and pop corn forage at 3.0 ppm; field corn and pop corn stover at 10.0 ppm. The proposed tolerance for field corn and pop corn grain was increased to 0.1 ppm to harmonize with the Codex maximum residue limit (MRL) of 0.1 ppm for maize.

2. Food additive petition 5H5088, submitted by Zeneca Ag. Products, proposed a food additive tolerance for corn flour at 0.1 ppm. The proposed tolerance for corn flour was subsequently withdrawn since EPA determined that the tolerance for field corn grain at 0.1 ppm is adequate to cover residues in corn flour.

3. PP 1E4019, submitted by IR-4, proposed a tolerance for globe artichoke at 0.05 ppm.

4. PP 9E6026, submitted by IR-4, proposed a tolerance for endive at 0.05 ppm.

5. PP 7E4857, submitted by IR-4, proposed a tolerance with regional registration for dry pea at 0.3 ppm. IR-4 proposed that registration be geographically limited based on the geographical representation of the available residue data (residue data submitted by IR-4 for dry peas are from Washington and Idaho). EPA concluded that there is no need to regionally restrict the registration for dry peas since there is available residue data for dry beans, which also have a tolerance at 0.3 ppm for a similar use of paraquat.

6. 9E6009, submitted by IR-4, proposes a tolerance for persimmon at 0.05 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of paraquat on dry pea; endive; field corn grain, forage and stover; pop corn grain and stover; globe artichoke; and persimmon. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by paraquat are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3150	Subchronic in nonrodents (dogs)	NOAEL = 0.5 mg/kg/day LOAEL = 1.5 mg/kg/day based on increased absolute and relative lung weight, alveolitis and alveolar collapse.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3250	Subchronic dermal toxicity (rabbits)	NOAEL = 1.15 mg/kg/day LOAEL = 2.6 mg/kg/day based on scabbing at the dosing site.
870.3465	Subchronic inhalation toxicity (rats)	NOAEL = 0.01 µg/L LOAEL = 0.1 µg/L based on nasal discharge and squamous keratinizing metaplasia, and/or hyperplasia of the epithelium of the larynx.
870.3700	Prenatal developmental in rodents (rats)	Maternal NOAEL = 3 mg/kg/day Maternal LOAEL = 5 mg/kg/day based on death occurred in 2 of 30 rats at 5 mg/kg/day and 6 of 30 at 10 mg/kg/day. Developmental NOAEL = 1 mg/kg/day Developmental LOAEL = 5 mg/kg/day based on delayed ossification.
870.3700	Prenatal developmental in rodents (Alderley Park mice)	Maternal NOAEL = 1 mg/kg/day Maternal LOAEL = 5 mg/kg/day based on reduction in body weight gain. Developmental NOAEL = 1 mg/kg/day Developmental LOAEL = 5 mg/kg/day based on based on partial ossified 4th sternebrae.
870.3800	Reproduction and fertility effects (Wistar-derived Alderley Park strain of rats)	Parental/Systemic NOAEL = 1.25 mg/kg/day Parental/Systemic LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes . Reproductive NOAEL ≥ 7.5 mg/kg/day
870.4100	Chronic toxicity/carcinogenicity rodents (Fisher 344 rats)	NOAEL = 1.25 mg/kg/day LOAEL = 3.75 mg/kg/day based on increased incidence of opacities/cataracts in males, ptosis/swollen eyelids in females, and non-neoplastic lung lesions in male non-survivors.
870.4100	Chronic toxicity/carcinogenicity rodents (Wistar rats)	NOAEL = 4.15 mg/kg/day LOAEL = 12.25 mg/kg/day based on increased mortality in males and females; decreased erythrocytes, hemoglobin, and serum protein in males and females; decreased hematocrit, glucose and corpuscular cholinesterase activity in males; decreased leucocytes, albumin/globulin ratio and alkaline phosphatase, glutamic-oxaloacetic transaninase, and glutamic-pyruvic transaminase activities in females; increased polymorphonucleocytes in males; increased potassium and glucose in females; decreased absolute and/or relative weights of heart in males and females, and liver and brain in females; and decreased absolute weights of kidneys in males and females and ovaries.
870.4100	Chronic toxicity (dogs)	NOAEL = 0.45 mg/kg/day LOAEL = 0.93 mg/kg/day based on a dose-related increase in severity and extent of chronic pneumonitis.
870.1000	Gene mutation	Not mutagenic in *Salmonella typhimurium* assay or genotoxic in the Unscheduled DNA synthesis assay *in vivo* or *in vitro*.
870.5375	Cytogenetics	In structural chromosomal aberration tesing using human lymphocytes, the results were weakly positive and the sister chromatid exchange assay was positive. Paraquat was negative for chromasomal aberration in the bone marrow test system and there was no evidence of suppress fertility or dominant lethal mutagenicity in mice.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for paraquat used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR PARAQUAT FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13–50 years of age)	NOAEL = 1.25 mg/kg/day UF = 100 Acute RfD = 0.0125 mg/kg/day	FQPA SF = 3X aPAD = acute RfD ÷ FQPA SF = 0.0042 mg/kg/day	3–Generation reproduction study in rats LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes.
Acute dietary (general population including infants and children)	NOAEL = 1.25 mg/kg/day UF = 100 Acute RfD = 0.0125 mg/kg/day	FQPA SF = 1X aPAD = acute RfD ÷ FQPA SF = 0.0125 mg/kg/day	3–Generation reproduction study in rats LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes
Chronic dietary (all populations)	NOAEL = 0.45 mg/kg/day UF = 100 Chronic RfD = 0.0045 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD ÷ FQPA SF = 0.0045 mg/kg/day	1–Year feeding study in dogs LOAEL = 0.93 mg/kg/day based on increase in severity and extent of chronic pneumontis
Short- and intermediate - term dermal	Oral study NOAEL = 1.25 mg/kg/day (dermal absorption rate = 0.3%)	LOC for MOE = 100 (residential)	3–Generation reproduction study in rats LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes
Long-term dermal (several months to lifetime)	Oral study NOAEL = 0.45 mg/kg/day (dermal absorption rate = 0.3% when appropriate)	LOC for MOE = 100 (residential)	1–Year feeding study in dogs LOAEL = 0.93 mg/kg/day based on increase in severity and extent of chronic pneumonitis
Inhalation (any time period)	Inhalation study NOAEL = 0.01 mg/kg/day (respirable particle)	LOC for MOE = 100 (residential)	21–Day inhalation study LOAEL = 0.1 mg/kg/day based on squamous keratinizing metaplasia and/or hyperlasia of the epithelium of the larynx; increased incidence of alveolar histocytes.
Inhalation (any time period)	Oral study NOAEL = 1.25 mg/kg/day (nonrespirable particles)	LOC for MOE = 100 (residential)	3–Generation reproduction study LOAEL = 3.75 mg/kg/day based on increased incidence of alveolar histiocytes
Cancer (oral, dermal, inhalation)	Not applicable	Classified as not likely to be a human carcinogen	

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.205) for the residues of paraquat in or on a variety of raw agricultural commodities, including the meat, fat, and meat by-products of cattle, goats, hogs, horses and sheep and milk. Tolerances are established for corn grain, forage and fodder at 0.05 (negligible) to cover residues from the preplant use of paraquat on corn. Risk assessments were conducted by EPA to assess dietary exposures from paraquat in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: The acute exposures are based on tolerance level residues and some percent crop treated (PCT) refinement.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic exposures are based on tolerance level residues and some PCT refinement.

iii. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used maximum PCT information as follows: apples 48%; apricots 8%; asparagus 21%; avocados 3%; dry beans 3%, succulent beans 0.6%; bell peppers 40%; berry 14%; blackberry 48%; blueberry 12%; cabbage 4%; carrot 2%; cauliflower 2%; cherries 46%; citrus 13%; cole crops 2%; cucumber (fresh) 11%, cucumber (processed) 10%; eggplant 60%; filbert 14%; table grape 40%, wine grape 28%, other grapes 36%; honeydew melon 6%; leafy vegetables 0.5%; other lettuce 4%; lemon 2%; cantaloupe 7%; melon 5%; nectarine 35%; olives 14%; onion 3%; orange 9%; green pea 0.3%; peach 38%; pear 28%; peppers 36%; pistachio 7%; plum 47%; pome fruit 5%; potato 5%; prune 14%; pumpkins 7%; raisin 21%; raspberry 80%; root and tuber vegetables 0.8%; squash 39%; stone fruit 12%; strawberry 15%; sunflower 2%; sweet corn 2%; tomato (fresh) 34%, tomato (processed) 11%, tomato 25%; almonds 24%; pecan 14%; walnut 29%; other tree nut 13%; other vegetables 21%; and watermelon 4%.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which paraquat may be applied in a particular area.

2. *Dietary exposure from drinking water.* Paraquat is persistent, but is expected to be mostly inactivated by rapid cation exchange to binding sites on soil (especially clay) particles in the environment. Under most circumstances paraquat is unlikely to infiltrate past the first few centimeters of soil, or to move off-field dissolved in runoff. However, detections were reported in household wells at concentrations ranging up to 1.52 µg/L.

Because of its strong cation-exchange sorption to soils, modeling is not appropriate for paraquat dichloride. It should sorb to suspended sediment, and coagulation and flocculation processes in drinking water treatment plants are likely to remove any paraquat residues present in the raw water. Residues of paraquat in drinking water derived from surface supplies can therefore be assumed to be negligible. For residues in ground water however, EPA is using the value of 1.52 µg/L, for acute and chronic human exposure assessment, as this represents a high-end, but not worst-case value from the available monitoring data.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Paraquat is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether paraquat has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, paraquat does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not

assumed that paraquat has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There is no indication of quantitative or qualitative increased susceptibility of rats or mice to *in utero* and/or prenatal/postnatal exposure to rats.

3. *Conclusion.* An FQPA safety factor is necessary for paraquat since there is a data gap for a prenatal developmental study conducted in a non-rodent species. The safety factor was reduced to 3x for paraquat because: (i) There is no indication of quantitative or qualitative increased susceptibility of rats or mice to *in utero* and/or prenatal/postnatal exposure to rats; (ii) EPA determined that a developmental neurotoxicity study is not required; (iii) the dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children; and (iv) there are no registered residential uses of paraquat. The FQPA safety factor for paraquat is applicable to the females 13–50 years of age population subgroup for acute dietary risk assessment only (there are no residential uses). The safety factor was reduced to 1x for all other exposures and population subgroups.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to paraquat will occupy 32% of the aPAD for the U.S. population, 55% of the aPAD for females 13 years and older, 45% of the aPAD for infants, and 76% of the aPAD for children 1 to 6 years of age. In addition, there is potential for acute dietary exposure to paraquat in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO PARAQUAT

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.0125	32	1.52	300
Females (13 to 50 years of age)	0.0042	55	1.52	57
Children (1 to 6 years of age)	0.0125	76	1.52	30

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to paraquat from food will utilize 6% of the cPAD for the U.S. population, 10% of the cPAD for infants, and 16% of the cPAD for children 1 to 6 years of age. There are no residential uses for paraquat that result in chronic residential exposure. In addition, there is potential for chronic dietary exposure to paraquat in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO PARAQUAT

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.0045	6	1.52	150
Females (13 to 50 years of age)	0.0045	4	1.52	130
Children (1 to 6 years of age)	0.0045	16	1.52	38

3. *Short-, intermediate-, and long-term risk.* Short- intermediate-, and long-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Paraquat is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population.* Paraquat has been classified as "not likely to be carcinogenic in humans" based on the results of carcinogenicity studies in animals. Therefore, paraquat is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to paraquat residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. Method I of Pesticide Analytical Manual (PAM), Volume II (spectrophotometric), is adequate for plant tolerance enforcement purposes. In addition, Method 1B (spectrophotometric) has also been found to adequately recover paraquat cation residues.

B. International Residue Limits

There are no Codex, Canadian or Mexican MRLs for residues of paraquat on dry peas. There is a Codex MRL for "vegetable (except as otherwise listed)" at 0.05 ppm and there is a Canadian MRL on peas at 0.1 ppm. Based on the residue observed in dry peas from the proposed use, the U.S. tolerance cannot be harmonized with the Codex vegetable MRL.

There is a Codex MRL for maize at 0.1 ppm defined as the paraquat cation (generally available as dichloride), a Canadian MRL for corn at 0.1 ppm defined as the 1,1'-dimethyl-4,4'-bipyridinium salt, and a Mexican MRL for maize at 0.05 ppm defined as paraquat. The field corn grain tolerance recommended in this assessment matches the 0.1 ppm Codex maize MRL. Domestic tolerances are defined as the paraquat ion, which is in harmonization with international definitions. There are no Codex, Canadian or Mexican MRLs for paraquat on endive, persimmons, or globe artichokes.

V. Conclusion

Therefore, the tolerances are established for residues of paraquat in or on, dry pea at 0.3 ppm; field and pop corn grain at 0.1 ppm; field corn forage at 3.0 ppm; field and pop corn stover at 10.0 ppm; endive at 0.05 ppm; globe artichoke at 0.05 ppm; and persimmon at 0.05 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301178 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 20, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to

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the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301178, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to petitions submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995, (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.205 is amended as follows:

i. By alphabetically adding the commodities artichoke, globe; corn, field, forage; corn, field grain; corn, field stover; corn, pop, grain; corn, pop, stover; endive; pea, dry; and persimmon to the table in paragraph (a).

ii. By removing the entries for corn grain, corn fodder, and corn forage from the table in paragraph (a).

iii. By removing the entries for corn flour, corn fodder, corn forage, corn grain and peas (dry) from the table in paragraph (b).

§ 180.205 Paraquat; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Artichoke, globe	0.05
* * * * *	
Corn, field, forage	3.0
Corn, field, grain	0.1
Corn, field, stover	10.0
* * * * *	
Corn, pop, grain	0.1
Corn, pop, stover	10.0
* * * * *	
Endive	0.05
* * * * *	
Pea, dry	0.3
* * * * *	
Persimmon	0.05
* * * * *	

* * * * *

[FR Doc. 01–23606 Filed 9–20–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301173; FRL–6801–8]

RIN 2070–AB78

Sulfosate; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of sulfosate (the trimethylsulfonium salt of glyphosate, also known as glyphosate-trimesium) in or on cotton, gin by-products, cotton undelinted seed, dried shelled pea and bean (except soybean) subgroup, edible podded legume vegetable subgroup, fruiting vegetable group, grain sorghum forage, grain sorghum grain, grain sorghum stover, leaves of root and tuber vegetable (except radish) subgroup, pistachio, radish roots, radish tops, succulent shelled pea and bean subgroup, sweet corn forage, sweet corn kernals plus cob with husks removed, sweet corn stover, tuberous vegetable and corn subgroup, and vegetable root (except radish) subgroup. This regulation increases tolerances in wheat bran, wheat grain, wheat hay, wheat shorts, wheat straw, and poultry meat by-products. Zeneca Ag. Products, now Syngenta Crop Protection, requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective September 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301173 must be received by EPA on or before November 20, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301173 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–305–5697; and e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301173. The official record consists of the documents specifically referenced in this action, and other

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information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 8, 1999 (64 FR 17171) (FRL–6071 2–), September 16, 1999 (64 FR 50280) (FRL–6089 –3), and July 13, 2000 (65 FR 43326) (FRL–6592–9), EPA issued a notices pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of "a" pesticide petition (PP) for a tolerance by Zeneca Ag. Products, now Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27419. This notice included a summary of the petition prepared by Zeneca Ag. Products, the registrant. There were no comments received in response to these notices of filing.

The petition announced in the April 8, 1999 notice requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate, sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1), in or on fruiting vegetables (except cucurbits) group at 0.05 parts per million (ppm); the edible-podded legume vegetables subgroup at 0.5 ppm (of which no more than 0.3 ppm is trimethylsulfonium (TMS)), the succulent shelled pea and bean subgroup at 0.2 ppm (of which no more than 0.1 ppm is TMS); the dried shelled pea and bean (except soybean) subgroup at 6 ppm (of which no more than 1.5 ppm is TMS); in cattle, goat, hog, sheep, and horse kidney at 3.5 ppm; in cattle, goat, hog, sheep, and horse meat by-products, except liver and kidney, at 2.5 ppm; and to increase the tolerance in cattle, goat, hog, sheep, and horse fat to 0.2 ppm; in cattle, goat, hog, sheep, and horse meat to 0.6 ppm; in cattle, goat, hog, sheep, and horse liver to 0.75 ppm; in milk to 1.1 ppm; in poultry liver to 0.1 ppm; in poultry meat by-products to 0.25 ppm; in or on soybean seed to 21 ppm (of which no more than 13 ppm is TMS); in soybean hulls to 45 ppm (of which no more than 25 ppm is TMS); and in aspirated grain fractions to 1,300 ppm (of which no more than 720 ppm is TMS). The above proposed crop group and crop subgroup were changed to reflect regulations under 40 CFR 180.41(c).

The petition announced in the September 16, 1999 notice requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate in or on wheat grain at 10 ppm) (of which no more than 2.5 ppm is TMS); wheat hay at 1 ppm (of which no more than 0.5 ppm is TMS); wheat straw at 90 ppm (of which no more than 40 ppm is TMS); wheat bran at 30 ppm (of which no more than 6 ppm is TMS); and wheat shorts at 20 ppm (of which no more than 5 ppm is TMS); and to increase the tolerance in poultry meat by-products to 0.5 ppm and in milk to 2 ppm.

The petition announced in the July 13, 2000 notice requested that 40 CFR 180.489 be amended by establishing a tolerance for residues of the herbicide sulfosate in or on cotton gin by-products at 120 ppm of which no more than 35 ppm is TMS; cotton, undelinted seed at 40 ppm (of which no more than 10 ppm is TMS); leaves of root and tuber vegetables group (except radish) at 0.25 ppm (of which no more than 0.2 ppm is TMS); pistachio at 0.05 ppm; potato flakes at 2 ppm (of which no more than 1.5 ppm is TMS); radish roots at 16 ppm (of which no more than 15 ppm is TMS); radish tops at 10 ppm (of which no more than 8 ppm is TMS); root vegetables subgroup (except radish) at 0.15 ppm (of which no more than 0.1 ppm is TMS); sorghum grain at 35 ppm (of which no more than 15 ppm is TMS); sorghum forage at 0.2 ppm (of which no more than 0.1 ppm is TMS); sorghum stover at 140 ppm (of which no more than 60 ppm is TMS); sweet corn forage at 20 ppm (of which no more than 5 ppm is TMS); sweet corn, kernels + cob with husks removed at 0.15 ppm (of which no more than 0.1 ppm is TMS); sweet corn stover at 165 ppm (of which no more than 65 ppm is TMS); tuberous and corm vegetables subgroup at 1 ppm (of which no more than 0.5 ppm is TMS); and to increase the tolerance in poultry meat by-products to 0.5 ppm and in milk to 2 ppm.

EPA has determined that existing tolerances for cattle, goat, hog, sheep, horse, and milk are adequate to account for existing raw agricultural commodities (RACs) and the other proposed RACs listed above based on calculation of the maximum theoretical dietary burden (MTDB); therefore, new tolerances are not being established for cattle, goat, hog, sheep, horse, and milk. The proposed separate tolerance for poultry liver at 0.1 ppm is not needed because it is covered by the tolerance for poultry meat by-products that is being established at 0.5 ppm; therefore, a tolerance is not being established for poultry liver. EPA has determined that a tolerance is not needed for potato flakes because sulfosate does not concentrate in potato flakes; therefore, a tolerance is not being established for potato flakes. EPA has determined that the appropriate tolerance for leaves of root and tuber vegetables group (except radish) is 0.30 ppm instead of the proposed tolerance of 0.25 ppm, and that the appropriate tolerance for sweet corn stover is 170 ppm instead of the proposed tolerance of 165 ppm. Tolerances were previously established for the soybean commodities and aspirated grain fractions in the **Federal Register** notice dated June 11, 1999 (64 FR 31505) (FRL–6086–6).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action.

EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of sulfosate on cotton, gin by-products at 120 ppm (of which no more than 35 ppm is TMS), cotton, undelinted seed at 40 ppm (of which no more than 10 ppm is TMS), pea and bean, dried shelled (except soybean), subgroup (6C) at 6.00 ppm (of which no more than 1.5 ppm is TMS), vegetable, legume, edible podded subgroup (6A) at 0.50 ppm (of which no more than 0.3 ppm is TMS), vegetable, fruiting group (8) at 0.05 ppm, sorghum, grain, forage at 0.20 ppm (of which no more than 0.10 ppm is TMS), sorghum, grain, grain at 35 ppm (of which no more than 15 ppm is TMS), sorghum, grain, stover at 140 ppm (of which no more than 60 ppm is TMS), vegetable, leaves of root and tuber (except radish) group (2) at 0.30 ppm (of which no more than 0.20 ppm is TMS), pistachio at 0.05 ppm, radish, roots at 16 ppm (of which no more than 15 ppm is TMS), radish, tops at 10 ppm (of which no more than 8.0 ppm is TMS), pea and bean, succulent shelled subgroup (6B) at 0.20 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, forage at 20 ppm (of which no more than 5.0 ppm is TMS), corn, sweet, kernals plus cob with husks removed at 0.15 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, stover at 170 ppm (of which no more than 65 ppm is TMS), vegetable, tuberous and corm subgroup (1C) at 1.0 ppm (of which no more than 0.50 ppm is TMS), and vegetable, root (except radish) subgroup (1A) at 0.15 ppm (of which no more than 0.10 ppm is TMS). This regulation increases tolerances in wheat, bran at 30 ppm (of which no more than 6.0 ppm is TMS), wheat, grain at 10 ppm (of which no more than 2.5 ppm is TMS), wheat, hay at 1.0 ppm (of which no more than 0.50 ppm is TMS), wheat, shorts at 20 ppm (of which no more than 5.0 ppm is TMS), wheat, straw at 90 ppm (of which no more than 40 ppm is TMS), and poultry meat by-products at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sulfosate is discussed in Unit II.A. of the **Federal Register** document published on September 11, 1998 (63 FR 48597) (FRL–6026–6). Please note that this unit included a typographical error. In the discussion of the feeding carcinogenicity study in mice, "79" should have been "7.9" in the following phrase: "In addition, there was increased incidence of white matter degeneration in the lumbar region of the spinal cord (males only) (2, 3, 4, 4, 79% response, controls to high dose)." The nature of these toxic effects is also discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity - rat	NOAEL = 36 mg/kg/day (males) LOAEL = 88 mg/kg/day (males), based on significant overall decrease in body weight gain of 22%
870.3150	90–Day oral toxicity - dog (gavage)	NOAEL = 10 mg/kg/day LOAEL = 50 mg/kg/day, based on significant earlier onsets and increased incidence of salivation and emesis and hydrocephalus and/or dilated lateral ventricles (brain)
870.3150	90–Day oral toxicity - dog (capsule)	NOAEL = 25 mg/kg/day LOAEL = 50 mg/kg/day, based on salivation in both sexes, clinical signs of neurotoxicity in the females and possible treatment related signs (hydrocephalus) in one male
870.3200	21–Day dermal toxicity - rabbit (technical)	*Systemic* NOAEL = 1,000 mg/kg/day (highest dose tested (HDT)) LOAEL not established
870.3200	21–Day dermal toxicity - rat (formulation)	NOAEL = 250 mg/kg/day LOAEL = 1,000 mg/kg/day, based on sciatic nerve findings

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3700	Prenatal developmental toxicity - rat	*Maternal* NOAEL = 100 mg/kg/day LOAEL = 333 mg/kg/day, based on decreased body weight, feed consumption and body weight gain alcng with increased incidences of salivation, chromorhinorrhea, and lethargy after dosing *Developmental* NOAEL = 100 mg/kg/day LOAEL = 333 mg/kg/day, based on decreased fetal body weight
870.3700	Prenatal developmental toxicity - rabbit	*Maternal* NOAEL = 40 mg/kg/day LOAEL = 100 mg/kg/day, based on 6 deaths in 17 pregnant does, 4 abortions in the 11 survivors along with decreased body weight, feed consumption and body weight gain *Developmental* NOAEL = 40 mg/kg/day LOAEL = 100 mg/kg/day, based on decreased number of live fetuses/doe for 7 surviving rabbits (5.4 versus 7.4 in controls), 4 rabbits aborted their litters. Having only 7 litters does not give a sufficiently higher number of animals to absolutely conclude that no developmental toxicity is occurring, particularly in light of the massive losses to death and abortions
870.3800	2–Generation reproduction and fertility effects - rat	*Systemic* NOAEL = 150 ppm (6/8 mg/kg/day for males/females) LOAEL = 800 ppm (35/41 mg/kg/day for males/females), based on a decrease in absolute and sometimes relative organ weights in both generations (thymus, heart, kidney and liver) at 800 and 2,000 ppm and a decrease in body weights and body weight gains during the premating period at 2,000 ppm *Reproductive/developmental* NOAEL = 150 ppm (6/8 mg/kg/day for males/females) LOAEL = 800 ppm (35/41 mg/kg/day for males/females), based on decreased litter size in F1a and F2b litters at 2,000 ppm and on decrease in mean pup weights during lactation in second litters at 800 ppm and in all litters at 2,000 ppm
870.4100	Chronic toxicity - dog	NOAEL = 10 mg/kg/day LOAEL = 50 mg/kg/day, based on salivation and emesis, and hydrocephalus and support from shorter term studies also with these findings

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.4200	Carcinogenicity - mouse	NOAEL = 1,000 ppm (118/159 mg/kg/day for males/females) LOAEL is 8,000 ppm (991/1,341 mg/kg/day for males/females), based on decreased body weight and food consumption (both sexes); increased incidence of white matter degeneration in lumbar bar region of spinal cord (males only); increased incidence of epithelial hyperplasia of duodenum (females only) There was no evidence of carcinogenicity in this study at doses tested
870.4300	Chronic toxicity/carcinogenicity - rat	NOAEL = > 1,000 ppm (41.8/55.7 mg/kg/day, males/females) HDT LOAEL = > 1,000 ppm (41.8/55.7 mg/kg/day, males/ females) No evidence of carcinogenicity
870.5100	Gene mutation/bacteria Ames *Salmonella typhimurium*	Not mutagenic in TA1535, TA1537, TA1538, TA98, and TA100 tested with and without metabolic activation
870.5100	Gene mutation/bacteria Ames *Salmonella typhimurium*	Not a mutagen up to 40 µl/plate with TA1535, TA1537, TA98, and TA100 strains of *Salmonella typhimurium* in either the standard plate assay or the preincubation assay with and without the metabolic activation
870.5275	Cytogenetics sex link recessive - *drosophila melanoga*	Not mutagenic in SLRL test
870.5300	Gene Mutation/*In vitro* assay in mammalian cells - mouse lymphoma	Mutagenic effect was observed under the standard test procedure with and without the metabolic activation at the concentrations tested (3.5 through 5.0 µl/ml)
870.5300	Gene mutation/*In vitro* assay in mammalian cells - mouse lymphoma	Mutagenic in this assay with and without metabolic activation under the pH unadjusted test condition (pH 5.62–7.07) - through 5 µl/ml. 3/30/97 Addendum: Not a mutagen in this assay with and without metabolic activation under the pH adjusted test condition (pH 7.4) using 5– 10 µl/ml concentrations

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TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5300	Gene mutation/*In vitro* assay in mammalian cells-mouse lymphoma Cytogenetics/*In vitro* - mouse (A) 870.5375 Chromosomal aberration (B) 870.5900 Sister chromatid exchange	Positive mutagenicity observed at the thymidine locus under S–9 rat liver metabolic activation (A) Chromosomal Aberration Assay: Under the standard test procedure positive clastogenic effect was observed at the concentration of 5 µl/ml under the nonactivation assay and at the concentrations of 3 to 5 µl/ml under the activation assay (B) Sister Chromatid Exchange Assay: Under the standard test procedure, the test compound was a positive inducer of SCE at the concentration of 5 µl/ml under the nonactivation assay and at the concentrations of 3 to 5 µl/ml under the activation assay A and B. Clastogenic in these assays with and without metabolic activation under the pH unadjusted test condition (PH 5.62–7.07) at concentrations of 3 through 5 µl/ml. 3/20/87 Addendum: Not a clastogen in these assays with and without metabolic activation under the pH adjusted test condition (PH 7.4) at concentrations of 4 through 10 µl/ml
870.5375	Cytogenetics/*In vitro* CHO	Sister chromatid exchange not determined. Positive for the induction of chromosomal aberration in CHO cells in the absence (4 mg/ml) and presence (8,10,12 mg/ml) of S9 metabolic activation.
870.5375	Cytogenetics *In vitro* CHO	Increased chromosomal aberrations in activation assay at 6–8 µl/ml. No increase in sister chromatid exchanges with S–9 metaboli activation (1–8 µl/ml).
870.5385	Cytogenetics/rat bone marrow	Not clastogenic in the rat bone marrow cells
870.5395	Cytogenetics/*In vivo* mouse micronucleus assay	Failed to induce significant increase in the number of PCE containing micronuclei
870.5375, 870.5900	Cytogenetics/*In vitro* CHO	Not a clastogen in these assays with and without metabolic activation under the pH adjusted test condition (pH 7.4 to 7.6)
Other	BALB/3T cells transformation assay	Negative responses at 0.313, 0.625, 1.25, 2.50, and 5.0 µl/ml in the BALB/3T cells transformation assay
870.6100	Acute neurotoxicity - hen	NOAEL = 500 mg/kg LOAEL = 5,000 mg/kg based on diarrhea, changes in comb appearance, early decreased food consumption, and a decrease in egg production

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.6200	Acute neurotoxicity screening battery - rat	NOAEL = 100 mg/kg LOAEL = 300 mg/kg based on mortality, neurologic signs and decreased body weight and food consumption
870.6200	Subchronic neurotoxicity screening battery - rat	NOAEL= 600 ppm (47.6/54.4 mg/kg/day for males/females) LOAEL = 2,000 ppm (153.2/171 mg/kg/day for males/females) based on decreases in mean body weight, food consumption, food utilization and mean forelimb grip strength values
870.7485	Metabolism and pharmacokinetics	Radiolabelled trimethylsulfonium ion is rapidly excreted unmetabolized in urine and feces; principal sites of localization of ion are adrenals, kidneys, bladder, liver, thyroid and stomach
870.7485	Metabolism and pharmacokinetics	Intravenous (IV) or oral C^{14} sulfosate was rapidly excreted: IV treated male and females eliminated 90% of the administered dose in urine. Absorption of C^{14}-sulfosate was incomplete by the oral route: Most groups eliminate 47–57% of the administered dose in the urine and 36–42% in the feces. Females treated with a high dose eliminated less in the urine (36% of dose) and more in the feces (54% of dose). Negligible $^{14}CO2$ elimination. Tissue C^{14} residues were < 0.32% of administered dose. Carcass C^{14} residues were < 2.2% of administered dose (mostly in bones, 3–7 ppm in low dose rats and 19–32 ppm in high dose rats). Most excreted radioactivity was unchanged anion (carboxymethylamino-methylphosphonate). One fecal metabolite was aminomethyl phosphonic acid. Several minor unidentified metabolites were recovered.

B. Toxicological Endpoints

The toxicological endpoints for sulfosate are discussed in Unit II. B. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

A summary of the toxicological endpoints for sulfosate used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SULFOSATE FOR USE IN HUMAN RISK ASSESSMENT[1]

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1 mg/kg/day	FQPA SF = 3X aPAD = aRfD + FQPA SF = 0.33 mg/kg/day	Acute neurotoxicity - rat LOAEL = 300 mg/kg/day based on mortality, decreased body weight and food consumption, and neurotoxicity.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SULFOSATE FOR USE IN HUMAN RISK ASSESSMENT[1].—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Chronic dietary (all populations)	NOAEL= 25 mg/kg/day UF = 100 Chronic RfD = 0.25 mg/kg/day	FQPA SF = 3X cPAD = cRfD ÷ FQPA SF = 0.083 mg/kg/day	Subchronic toxicity (capsule) - dog Subchronic toxicity (gavage) - dog Chronic toxicity - dog LOAEL = 50 mg/kg/day based on salivation and emesis, clinical signs of neurotoxicity, and hydrocephalus
Cancer (oral, dermal, inhalation)	Cancer classification (Group E)	Risk assessment not required	No evidence of carcinogenicity

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.
**UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, LOC = level of concern, MOE = margin of exposure

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.489) for the residues of sulfosate, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from sulfosate in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance level residues, DEEM default processing factors, and 100% crop treated (CT) information for all commodities. For acute dietary risk estimates, EPA's level of concern is for exposure at greater than 100% of the acute population adjusted dose (aPAD). The acute exposure estimates at the 95th percentile were < 100% of the aPAD for the general U.S. population and all subgroups, with children 1–6 years old as the highest exposure estimate at 55% of the aPAD. The results of the analysis indicate that the acute dietary risk estimates associated with the existing and proposed uses of sulfosate do not exceed EPA's level of concern for the general U.S. population and all population subgroups.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues for all commodities, DEEM default processing factors, and %CT information for some commodities (oranges, grapefruit, soybeans, corn, peaches, and wheat). This procedure represents an over-estimation of dietary exposure, since tolerance level residue values were used for all commodities. For chronic dietary risk estimates, EPA's level of concern is for exposure at greater than 100% chronic population adjusted dose (cPAD). The chronic exposure estimates were < 100% of the cPAD for the general U.S. population and all subgroups, with children 1–6 years old as the most highly exposed population subgroup at 60% of the cPAD. The results of the analysis indicate that the chronic dietary risk estimates associated with the existing and proposed uses of sulfosate do not exceed EPA's level of concern for the U.S. population and all population subgroups.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows.

For the acute analysis, tolerance level residues and 100% CT were used. For the chronic analysis, PCT information was used for oranges (1% CT), grapefruit (10% CT), soybeans (1% CT), corn (10% CT), peaches (1% CT), and wheat (1% CT). For corn, peaches, and wheat, which have PCT estimates of zero, a value of 1% CT was used in the analysis. For all crops other than oranges, grapefruit, soybeans, corn, peaches, and wheat, 100% CT was used, and tolerance level residues were used for all crops.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which sulfosate may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for sulfosate in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of sulfosate.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to sulfosate they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW model, EECs of total sulfosate for acute exposures are estimated to be 125.5 ppb for surface water and 0.328 ppb for ground water. The EECs for chronic exposures are estimated to be 27.8 ppb for surface water and 0.328 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Sufosate is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether sulfosate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, sulfosate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that sulfosate has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *Safety factor for infants and children—In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* Prenatal and postnatal sensitivity is discussed in Unit II.E.1.iv. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

3. *Conclusion.* With the exception of the requested developmental neurotoxicity study, there is a complete toxicity data base for sulfosate and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The determination of the 3x safety factor for infants and children is discussed in Unit II.E.1.i. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water

are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to sulfosate will occupy 33% of the aPAD for the U.S. population, up to 18% of the aPAD for females 13 years and older, 50% of the aPAD for all infants (< 1 year old) and 55% of the aPAD for children 1–6 years old. In addition, there is potential for acute dietary exposure to sulfosate in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO SULFOSATE

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.33	3	125.5	0.328	7,900
All infants (< 1–year old)	0.33	50	125.5	0.328	1,700
Children (1–6 years old)	0.33	55	125.5	0.328	1,500
Children (7–12 years old)	0.33	36	125.5	0.328	2,100
Females (13–50 years old)	0.33	18	125.5	0.328	8,200
Males (13–19 years old)	0.33	28	125.5	0.328	8,500
Males (20 + years old)	0.33	18	125.5	0.328	9,600
Seniors (55 + years old)	0.33	15	125.5	0.328	9,900

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to sulfosate from food will utilize 19% of the cPAD for the U.S. population, 47% of the cPAD for all infants (< 1 year old) and 60% of the cPAD for children 1–6 years old. There are no residential uses for sulfosate that result in chronic residential exposure to sulfosate. In addition, there is potential for chronic dietary exposure to sulfosate in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SULFOSATE

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.083	19	27.8	0.328	2,400
All infants (< 1 year old)	0.083	47	27.8	0.328	440
Children (1–6 years old)	0.083	60	27.8	0.328	340
Children (7–12 years old)	0.083	34	27.8	0.328	560
Females (13–50 years old)	0.083	12	27.8	0.328	2,300
Males (13–19 years old)	0.083	21	27.8	0.328	2,300
Males (20+ years old)	0.083	12	27.8	0.328	2,600

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SULFOSATE—Continued

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Seniors (55+ years old)	0.083	11	27.8	0.328	2,600

3. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainity that no harm will result to the general population, and to infants and children from aggregate exposure to sulfosate residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Analytical enforcement methodology for sulfosate is discussed in Unit III.B. of the **Federal Register** document published on September 11, 1998 (63 FR 48597).

Adequate enforcement methodology (e.g; gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex, Canadian or Mexican tolerances or maximum residue limits for residues of sulfosate in the subject commodities. Therefore, a compatibility issue is not relevant to the proposed tolerances.

C. Conditions

EPA is imposing requirements of the following studies as conditions of registration: A developmental neurotoxicity study (DNT) in the rat (OPPTS Guideline No. 870.6300) (previously imposed and in progress) and a 28–day inhalation toxicity study. The DNT study in the rat is required based on the weight-of-the-evidence concerns for neurotoxicity in the mouse oncogenicity study, the subchronic and chronic dog studies, the 21–day dermal toxicity study in rats, and acute and subchronic neurotoxicity studies in the rat. Signs of neurotoxicity due to sulfosate included function observational battery (FOB) effects in the rat neurotoxicity studies, and treatment-related chemical signs of salivation and emesis in the dog. There were also concerns for hydrocephalus in all dog studies (at least one dog/study at the high dose, none in controls) and possible treatment related histopathology in the mouse carcinogenicity and 21–day dermal rat studies. The 28–day inhalation toxicity study is required to provide further characterization of inhalation risk. Due to the potential for inhalation exposure, there is concern for toxicity by the inhalation route. The 28–day inhalation toxicity study would give a dose and endpoint examined via the route of exposure of concern (i.e., route specific study) and thus would avoid using an oral study and route-to-route extrapolation. The protocol for the existing 90–day inhalation toxicity study (OPPTS 870.3465) should be followed with the exposure (treatment) ending after 28 days, instead of 90 days.

V. Conclusion

Therefore, the tolerance is established for residues of sulfosate, sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1), in or on cotton, gin by-products at 120 ppm (of which no more than 35 ppm is TMS), cotton, undelinted seed at 40 ppm (of which no more than 10 ppm is TMS), pea and bean, dried shelled except soybean), subgroup (6C) at 6.00 ppm (of which no more than 1.5 ppm is TMS), vegetable, legume, edible podded subgroup (6A) at 0.50 ppm (of which no more than 0.3 ppm is TMS), vegetable, fruiting group (8) at 0.05 ppm, sorghum, grain, forage at 0.20 ppm (of which no more than 0.10 ppm is TMS), sorghum, grain, grain at 35 ppm (of which no more than 15 ppm is TMS), sorghum, grain, stover at 140 ppm (of which no more than 60 ppm is TMS), vegetable, leaves of root and tuber (except radish) group (2) at 0.30 ppm (of which no more than 0.20 ppm is TMS), pistachio at 0.05 ppm, radish, roots at 16 ppm (of which no more than 15 ppm is TMS), radish, tops at 10 ppm (of which no more than 8.0 ppm is TMS), pea and bean, succulent shelled subgroup (6B) at 0.20 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, forage at 20 ppm (of which no more than 5.0 ppm is TMS), corn, sweet, kernals plus cob with husks removed at 0.15 ppm (of which no more than 0.10 ppm is TMS), corn, sweet, stover at 170 ppm (of which no more than 65 ppm is TMS), vegetable, tuberous and corm subgroup (1C) at 1.0 ppm (of which no more than 0.50 ppm is TMS), and vegetable, root (except radish) subgroup (1A) at 0.15 ppm (of which no more than 0.10 ppm is TMS). This regulation increases tolerances in wheat, bran at 30 ppm (of which no more than 6.0 ppm is TMS), wheat, grain at 10 ppm (of which no more than 2.5 ppm is TMS), wheat, hay at 1.0 ppm (of which no more than 0.50 ppm is TMS), wheat, shorts at 20 ppm (of which no more than 5.0 ppm is TMS), wheat, straw at 90 ppm (of which no more than 40 ppm is TMS), and poultry meat by-products at 0.05 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301173 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 20, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing

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is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301173, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 12, 2001.

Peter Caulkins,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.489 is amended by revising the introductory text of paragraph (a); revising the entries for poultry, mbyp, wheat bran, wheat grain, and wheat hay; and alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.489 Sulfosate (Sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1)); tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide sulfosate (sulfonium, trimethyl-salt with *N*-(phosphonomethyl)glycine (1:1)) as the sum of the residues of the trimethylsulfonium cation (TSM) and the *N*-(phosphonomethyl glycine anion measured separately in or on the following raw and processed agricultural commodities.

Commodity	Parts per million
. . . . .	.
Corn, sweet, forage (of which no more than 5.0 ppm is TMS)	20
Corn, sweet, kernels plus cob with husks removed (of which no more than 0.10 ppm is TMS)	0.15
Corn, sweet, stover (of which no more than 65 ppm is TMS)	170
Cotton, gin by-products (of which no more than 35 ppm is TMS)	120
Cotton, undelinted seed (of which no more than 10 ppm is TMS)	40
. . . . .	.
Crop group 2: Leaves of root and tuber vegetables (human food or animal feed (except radish) group (of which no more than 0.20 ppm is TSM)	0.30
Crop group 8: Fruiting vegetables (except cucurbits) group	0.05
Crop subgroup 1–A: Root vegetables (except radish) subgroup (of which no more than 0.10 ppm is TSM)	0.15
Crop subgroup 1–C: Tuberous and corm vegetables subgroup (of which no more than 0.50 ppm is TSM)	1
Crop subgroup 6–A: Edible-podded legume vegetables subgroup (of which no more than 0.3 ppm is TSM)	0.5
Crop subgroup 6–B: Succulent shelled pea and bean subgroup (of which no more than 0.1 ppm is TSM)	0.20
Crop subgroup 6–C: Dried shelled pea and bean (except soybean and animal feeds) subgroup (of which no more than 1.5 ppm is TSM)	6.0
Pistachio	0.05
. . . . .	.
Poultry, meat byproduct	0.50
. . . . .	.
Radish, roots (of which no more than 15 ppm is TMS)	16
Radish, tops (of which no more than 8.0 ppm is TMS)	10
. . . . .	.
Sorghum, grain, forage (of which no more than 0.10 ppm is TMS)	0.20
Sorghum, grain, grain (of which no more than 15 ppm is TMS)	35
Sorghum, grain, stover (of which no more than 60 ppm is TMS)	140
. . . . .	.
Wheat, bran (of which no more than 6.0 ppm is TMS)	30
Wheat, grain (of which no more than 2.5 ppm is TMS)	10
. . . . .	.
Wheat, hay (of which no more than 0.50 ppm is TMS)	1.0
Wheat, shorts (of which no more than 5.0 ppm is TMS)	20

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Commodity	Parts per million
Wheat, straw (of which no more than 40 ppm is TMS)	90

* * * * *

[FR Doc. 01–23605 Filed 9–20–01; 8:45 am]
BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–46 and 102–39

[FPMR Amendment H–208]

RIN 3090–AH23

Replacement of Personal Property Pursuant to the Exchange/Sale Authority

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration is revising the Federal Property Management Regulations (FPMR) by moving coverage on replacement of personal property pursuant to the exchange/sale authority into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Bender, Personal PropertyManagement Policy Division (MTP), 202–501–3448.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule updates, streamlines, and clarifies FPMR part 101–46 and moves the part into the Federal ManagementRegulation (FMR). The rule is written in a plain language question and answer format. In this format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

Updates include:

1. A revised definition of "replacement."

2. A new provision regarding the fixed price sale of exchange/sale property to a State Agency for Surplus Property before conducting an exchange/sale with a non-Government entity.

3. Revised restrictions on types of personal property that are ineligible for exchange/sale, including removal of large weapons, fire control equipment, and guided missiles belonging to the Department of Defense, and furniture belonging to any executive agency from the list of such property.

4. Clarified restrictions on the exchange/sale of combat material.

5. A revised requirement for documentation of exchange/sale transactions.

6. Revised accounting requirements for the proceeds from the sale of personal property under the exchange/sale authority.

7. A new annual reporting requirement for exchange/sale transactions.

B. Executive Order 12866

GSA has determined that this final rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

A regulatory flexibility analysis is not required under the Regulatory Flexibility Act, 5 U.S.C. 601. *et seq.*, because there is no requirement that this final rule be published in the **Federal Register** for notice and comment.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–46 and 102–39

Government property management.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–46 is revised to read as follows:

PART 101–46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

§ 101–46.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on replacement of personal property pursuant to the exchange/sale authority previously contained in this part, see FMR part 39 (41 CFR part 102–39).

CHAPTER 102—[AMENDED]

2. Part 102–39 is added to subchapter B of chapter 102 to read as follows:

PART 102–39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Subpart A—General

Sec.

102–39.5 How are the terms "I" and "you" used in this part?
102–39.10 What does this part cover?
102–39.15 Why should I use the exchange/sale authority?
102–39.20 What definitions apply to this part?
102–39.25 How do I request a deviation from this part?

Subpart B—Exchange/Sale Considerations

102–39.30 When should I not use the exchange/sale authority?
102–39.35 How do I determine whether to do an exchange or a sale?
102–39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for Surplus Property?
102–39.45 What prohibitions apply to the exchange/sale of personal property?
102–39.50 What conditions apply to the exchange/sale of personal property?
102–39.55 What exceptions apply to the conditions for exchange/sale in § 102–39.50?

Subpart C—Exchange/Sale Methods and Reports

102–39.60 What are the exchange methods?
102–39.65 What are the sales methods?
102–39.70 What are the accounting requirements for the proceeds of sale?
102–39.75 What information am I required to report?

Authority: 40 U.S.C. 486(c).

Subpart A—General

§ 102–39.5 How are the terms "I" and "you" used in this part?

Use of pronouns "I" and "you" throughout this part refer to executive agencies.

§ 102–39.10 What does this part cover?

This part covers the exchange/sale authority, and applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101–37 and 101–42 of this title.

§ 102–39.15 Why should I use the exchange/sale authority?

You should use the exchange/sale authority to:

(a) Reduce the cost of replacement personal property. If you have personal property that needs to be replaced, you can exchange or sell that property and apply the exchange allowance or sales proceeds to reduce the cost of similar replacement property. By contrast, if you choose not to replace the property using the exchange/sale authority, you may declare it excess and dispose of it through the normal disposal process. Any sales proceeds from the eventual sale of that property as surplus generally must be forwarded to the miscellaneous receipts account at the United States Treasury and thus would not be available to you.

(b) Avoid costs (*e.g.*, administrative and storage) that may be incurred when declaring the property to be replaced as excess and processing it through the normal disposal process. The normal disposal process may include abandonment or destruction, reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, or sale to the public. The time required to determine which of these options will apply and to complete the disposal transaction is likely to exceed the time required for an exchange/sale transaction.

§ 102–39.20 What definitions apply to this part?

The following definitions apply to this part:

Acquire means to procure or otherwise obtain personal property, including by lease.

Combat material means arms, ammunition, and implements of war listed in the U.S. munitions list (22 CFR part 121).

Exchange means to replace personal property by trade or trade-in with the supplier of the replacement property.

Exchange/sale means to exchange or sell non-excess, non-surplus personal property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property.

Executive agency means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

Federal agency means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his/her direction).

Historic item means property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are commonly available and remain in use for their intended purpose, such as military aircraft still in use by active or reserve units, are not historic items.

Replacement means the process of acquiring property to be used in place of property that is still needed but:

(1) No longer adequately performs the tasks for which it is used; or

(2) Does not meet the agency's need as well as the property to be acquired.

Similar means where the acquired item and replaced item:

(1) Are identical;

(2) Are designed and constructed for the same purpose;

(3) Constitute parts or containers for identical or similar end items; or

(4) Fall within a single Federal Supply Classification (FSC) group of property that is eligible for handling under the exchange/sale authority.

§ 102–39.25 How do I request a deviation from this part?

See §§ 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part.

Subpart B—Exchange/Sale Considerations

§ 102–39.30 When should I not use the exchange/sale authority?

You should not use the exchange/sale authority if the exchange allowance or estimated sales proceeds for the property will be unreasonably low. You must either abandon or destroy such property in accordance with part 101–45, subpart 101–45.9, of this title, or declare the property excess and follow the regulations in part 102–36 of this chapter, whichever is appropriate. Further, you must not use the exchange/sale authority if the transaction(s) would violate any other applicable statute or regulation.

§ 102–39.35 How do I determine whether to do an exchange or a sale?

You must determine whether an exchange or sale will provide the greater return for the Government. When estimating the return under each method, consider all related administrative and overhead costs.

§ 102–39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for SurplusProperty?

If you have property to replace which is eligible for exchange/sale, you should first, to the maximum extent practicable, solicit:

(a) Federal agencies known to use or distribute such property. If a Federal agency is interested in acquiring and paying for the property, you should arrange for a reimbursable transfer. Reimbursable transfers may also be conducted with the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations. When conducting a reimbursable transfer, you must:

(1) Do so under terms mutually agreeable to you and the recipient.

(2) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property.

(3) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property; and

(b) State Agencies for Surplus Property (SASPs) known to have an interest in acquiring such property. If a SASP is interested in acquiring the property, you should consider selling it to the SASP by negotiated sale at fixed price under the conditions specified at § 101–45.304–12 of this title. The sales proceeds must be applied in whole or part payment for property acquired to replace the transferred property.

§ 102–39.45 What prohibitions apply to the exchange/sale of personal property?

You must not use the exchange/sale authority for:

(a) The following FSC groups of personal property:

10 Weapons.
11 Nuclear ordnance.
12 Fire control equipment.
14 Guided missiles.
15 Aircraft and airframe structural components (except FSC Class 1560 Airframe Structural Components).
42 Firefighting, rescue, and safety equipment.

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44 Nuclear reactors (FSC Class 4472 only).
51 Hand tools.
54 Prefabricated structure and scaffolding.
68 Chemicals and chemical products, except medicinal chemicals.
84 Clothing, individual equipment, and insignia.

Note to § 102–39.45(a): The exception to the prohibition is Department of Defense (DOD) property in FSC Groups 10, 12, and 14 (except FSC Class 1005) for which the applicable DOD demilitarization requirements, and any other applicable regulations and statutes are met.

(b) Materials in the National Defense Stockpile (50 U.S.C. 98–98h) or the Defense Production Act inventory (50 U.S.C. App. 2093).

(c) Nuclear Regulatory Commission-controlled materials unless you meet the requirements of § 101–42.1102–4 of this title.

(d) Controlled substances, unless you meet the requirements of § 101–42.1102–3 of this title.

(e) Scrap materials, except in the case of scrap gold for fine gold.

(f) Property that was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year. You may exchange or sell forfeited property in official use for less than 1 year if the head of your agency determines that a continuing valid requirement exists, but the specific item in use no longer meets that requirement, and that exchange or sale meets all other requirements of this part.

(g) Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.

(h) Combat material without demilitarizing it or obtaining a demilitarization waiver or other necessary clearances from the Department of Defense Demilitarization Office.

(i) Flight Safety Critical Aircraft Parts unless you meet the provisions of § 101–37.610 of this title.

(j) Acquisition of unauthorized replacement property.

(k) Acquisition of replacement property that violates any:

(1) Restriction on procurement of a commodity or commodities;

(2) Replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or

(3) Contractual obligation.

(l) Vessels subject to 40 U.S.C. 484(i).

§ 102–39.50 What conditions apply to the exchange/sale of personal property?

You may use the exchange/sale authority only if you meet all of the following conditions:

(a) The property exchanged or sold is similar to the property acquired;

(b) The property exchanged or sold is not excess or surplus, and you have a continuing need for that type of property;

(c) The number of items acquired must equal the number of items exchanged or sold unless:

(1) The item(s) acquired perform all or substantially all of the tasks for which the item(s) exchanged or sold would otherwise be used; or

(2) The item(s) acquired and the item(s) exchanged or sold meet the test for similarity specified in § 102–39.20 that they are a part(s) or container(s) for identical or similar end items;

(d) The property exchanged or sold was not acquired for the principal purpose of exchange or sale; and

(e) You document at the time of exchange or sale (or at the time of acquiring the replacement property if it precedes the sale) that the exchange allowance or sale proceeds will be applied to the acquisition of replacement property.

§ 102–39.55 What exceptions apply to the conditions for exchange/sale in § 102–39.50?

The exceptions that apply to the conditions for exchange/sale § 102–39.50 are:

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without monetary appraisal or detailed listing or reporting.

(b) In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group, provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

Subpart C–Exchange/Sale Methods and Reports

§ 102–39.60 What are the exchange methods?

Exchange of property may be accomplished by either of the following methods:

(a) The supplier (e.g., a Government agency, commercial or private organization, or an individual) delivers the replacement property to one of your organizational units and removes the property being replaced from that same organizational unit.

(b) The supplier delivers the replacement property to one of your organizational units and removes the property being replaced from a different organizational unit.

§ 102–39.65 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in § 101–45.304 of this title in the sale of property being replaced, except for the provisions of § 101–45.304–2(a) of this title regarding negotiated sales. Section 3709, Revised Statutes (41 U.S.C. 5), specifies the following conditions under which property being replaced can be sold by negotiation, subject to obtaining such competition as is feasible:

(1) The reasonable value involved in the contract does not exceed $500; or

(2) Otherwise authorized by law.

(b) You may sell property being replaced by negotiation at fixed prices in accordance with the provisions of § 101–45.304–2(b) of this title.

§ 102–39.70 What are the accounting requirements for the proceeds of sale?

You must account for sales proceeds in accordance with the general finance and accounting rules applicable to you. Except as otherwise directed by law, all proceeds from the sale of personal property under this part will be available during the fiscal year in which the property was sold and for one fiscal year thereafter for obligation for the purchase of replacement property. Any sales proceeds not applied to replacement purchases during this time must be deposited in the United States Treasury as miscellaneous receipts.

§ 102–39.75 What information am I required to report?

(a) You must submit, within 90 calendar days after the close of each fiscal year, a summary report in a format of your choice on the exchange/sale transactions made under this part during the fiscal year (except for transactions involving books and periodicals in your libraries). The report must include:

(1) A list by Federal Supply Classification Group of property sold under this part showing the:

(i) Number of items sold;

(ii) Acquisition cost; and

(iii) Net proceeds.

(2) A list by Federal Supply Classification Group of property exchanged under this part showing the:

(i) Number of items exchanged;

(ii) Acquisition cost; and

(iii) Exchange allowance.

(b) Submit your report electronically or by mail to the General Services Administration, Personal Property ManagementPolicy Division (MTP), 1800 F St. NW., Washington, DC 20405.

(c) Report control number: 1528–GSA–AN.

(d) If you make no transactions under this part during a fiscal year, you must submit a report stating that no transactions occurred.

Dated: September 12, 2001.

Stephen A. Perry,

Administrator of General Services Administration.

[FR Doc. 01–23553 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 10, 12, 28, 30, 32, 35, 67, 78, 97, 131, 161, 162, 167, 182, 196, 199, and 401

[USCG–2001–10224]

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes; and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 46 of the Code of Federal Regulations to update the title before it is recodified on October 1, 2001. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective September 30, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, [USCG–2001–10224], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Robert Spears, Project Manager, Standards Evaluation and Development Division (G–MSR–2), Coast Guard, telephone 202–267–1099. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year, title 46 of the Code of Federal Regulations (CFR) is recodified on October 1. This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, and makes other technical and editorial corrections to be included in the recodification. This rule does not change any substantive requirements of existing regulations.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule consists only of corrections, editorial changes, and conforming amendments to 46 CFR, chapters I and III. These changes will have no substantive effect on the public so publishing an NPRM and providing an opportunity for public comment is unnecessary. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Editorial changes that involve more than simply correcting erroneous letters or numbers—or a change of address—are discussed individually in the following paragraphs.

Parts 1 and 10

This rule adds the Director of Waterways Management (G–MW), to the Code of Federal Regulations, and it updates the distribution of functions assigned to several offices.

Parts 28, 35, 78, 97, 131, 167, and 196

In these parts, this rule updates information on obtaining nautical charts and publications by inserting references to the National Imagery and Mapping Agency.

Part 30

Since 1973, this section has referenced SOLAS 60. On July 26, 1990, a rulemaking titled "Replacement of References to SOLAS 60 With SOLAS 74" (55 FR 30658) was published to amend, among other things, this section and three other similar sections of title 46 (§§ 70.05–10, 90.05–10, and 188.05–10). All four amendatory instructions (# 11, 23, 32, and 68) were supposed to make the same change in the regulatory text of these four sections. They all should have read "Section * * * is amended by revising paragraphs (a)(2)(i) and (ii) to read as follows:".

However, amendatory instruction # 11 in that rulemaking erroneously read "Section 30.01–6 is amended by revising paragraph (a) to read as follows:". The instruction resulted in the deletion of paragraph (a)(2)(iii). This rule now corrects paragraph (a) by adding back the deleted language.

Part 32

On September 30, 1997, a rulemaking titled "Harmonization With International Safety Standards" (62 FR 51188) was published to amend, among other things, subpart 32.53. The Coast Guard determined that applicable SOLAS provisions regarding inert gas systems were equivalent to current Coast Guard regulations in terms of safety and operating requirements. Therefore, the Coast Guard incorporated SOLAS Chapter II–2 Regulation 62, containing the SOLAS requirements for inert gas systems, by reference in subpart 32.53 and removed §§ 32.53–15 through 32.53–85, which duplicate SOLAS requirements. The result was that § 32.53–5 now incorrectly references § 32.53–30, which was removed. This rule removes the incorrect cross-reference.

Parts 161, 162 and 401

This rule makes changes in these parts to reflect changes in the functional responsibilities for sections in these parts.

Part 199

This rule removes and reserves an obsolete paragraph, 46 CFR 199.620(m), and deletes an obsolete reference in a table.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule calls for no new collection of information under the Paperwork

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Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure of $100 million or more in any one year by a State, local, or tribal government, in the aggregate, or by the private sector. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(a) and (b) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Reporting and recordkeeping requirements, Seamen.

46 CFR Part 28

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 67

Vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 131

Hazardous materials transportation, Marine safety, Navigation (water), Offshore supply vessels, Oil and gas exploration, Operations, Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 161

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 182

Marine safety, Passenger vessels.

46 CFR Part 196

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 1, 10, 12, 28, 30, 32, 35, 67, 78, 97, 131, 161, 162, 167, 182, 196, 199 and 401 as follows:

PART 1—ORGANIZATION, GENERAL COURSE, AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

2. In § 1.01–10:

a. In paragraph (b)(1), revise the first sentence to read as follows;

b. In paragraph (b)(1)(ii)(A), remove the phrase "licensing and documenting of merchant personnel, the issuance of certificates of registry to merchant marine staff officers, and";

c. In paragraph (b)(1)(ii)(D), remove the words "oversees the national pilotage program" and add, in their place, the phrase "exercises administrative and technical oversight for the Marine Safety Laboratory (MSL)";

d. Redesignate paragraph (b)(1)(iii) as (b)(1)(iv); and

e. Add a new paragraph (b)(1)(iii) to read as follows:

§ 1.01–10 Organization.

* * * * *

(b) * * *

(1) The Assistant Commandant for Marine Safety and Environmental Protection, under the general direction of the Commandant, directs, supervises, and coordinates the activities of the Standards Directorate, consisting of the Office of Design and Engineering Standards, the Office of Operating and Environmental Standards, and the Office of Standards Evaluation and Development; the Field Activities Directorate, consisting of the Office of Compliance, the Office of Response, and the Office of Investigations and Analysis; the Waterways Management Directorate, consisting of the Great Lakes Pilotage Staff, the Office of Policy and Planning, and the Office of Vessel Traffic Management; and the Resource Management Directorate, consisting of the Office of Planning and Resources, and the Office of Information Resources.

* * *

* * * * *

(iii) The Director of Waterways Management (G–MW), under the general direction and supervision of the Assistant Commandant for Marine Safety and Environmental Protection, is the principle advisor to the Assistant Commandant for Marine Safety and Environmental Protection on waterways management objectives, goals, strategies, and related policy issues; coordinates waterways management issues with other interested Coast Guard offices; represents the Coast Guard with other DOT modal administrations and other federal, state, and international governmental organizations on matters concerning waterways management, DOT's Marine Transportation System (MTS), and port security; in coordination with the Director of Field Activities, resolves appeals on waterways management issues from industry and the public regarding decisions by Captains of the Port; as the Secretary of Transportation's representative, chairs the U.S. Port Security Committee; directs and administers the Interagency Committee on the Marine Transportation System and the Navigation Safety Advisory Council.

* * * * *

PART 10—LICENSING OF MARITIME PERSONNEL

3. The authority citation for part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, and 7701; 49 CFR 1.45 and 1.46. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

§ 10.112 [Amended]

4. In § 10.112(b), remove the phrase "Commandant (G–MOC), 2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, U.S. Coast Guard National Maritime Center, 4200 Wilson Boulevard, Suite 630, Arlington, VA 22203–1804".

§ 10.910 [Amended]

5. In § 10.910, in table 10.910–2, under the "Examination topics" column, in the entry for "Search and Rescue," remove the word "AMVER" and add, in its place, the word "Amver".

PART 12—CERTIFICATION OF SEAMEN

6. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

§ 12.02–13 [Amended]

7. In § 12.02–13(c), remove "10.02–5" and add, in its place, "10.205(c)".

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

8. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

§ 28.225 [Amended]

9. In § 28.225(a)(1), remove the phrase "Defense Mapping Agency Hydrographic/Topographic Center" and add, in its place, the words "the National Imagery and Mapping Agency".

§ 28.275 [Amended]

10. In § 28.275(a), remove the phrase "1900 Arch Street, Philadelphia, PA 19103–1498" and add, in its place, the phrase "5458 Wagonmaster Drive, Colorado Springs, CO 80917".

PART 30—GENERAL PROVISIONS

11. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307, 3703; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–5 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

12. In § 30.01–6, add paragraph (a)(2)(iii) to read as follows:

§ 30.01–6 Application to vessels on an international voyage.

(a) * * *

(2) * * *

(i) (iii) Between the contiguous states of the United States and the states of Hawaii or Alaska or between the states of Hawaii and Alaska.

* * * * *

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

13. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

14. Revise § 32.53–5 to read as follows:

§ 32.53–5 Operation–T/ALL.

Unless the cargo tanks are gas free, the master of each tankship to which this subpart applies shall ensure that the inert gas system is operated as necessary to maintain an inert atmosphere in the cargo tanks.

PART 35—OPERATIONS

15. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 35.20–1 [Amended]

16. In § 35.20–1:

a. In paragraph (a), remove the words "U.S. Navy" and add, in their place, the words "National Imagery and Mapping Agency"; and

b. In paragraph (c), remove the phrase "U.S. Naval Oceanographic Office, the

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U.S. Coast and Geodetic Survey" and add, in its place, the phrase "National Imagery and Mapping Agency, National Ocean Service,"; and remove the phrase "U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices" and add, in its place, the words "National Imagery and Mapping Agency".

PART 67—DOCUMENTATION OF VESSELS

17. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

§ 67.107 [Amended]

18. In § 67.107(b), remove the words "Certificate of Measurement" and add, in their place, the words "certificate of measurement".

PART 78—OPERATIONS

19. The authority citation for part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 78.05–1 [Amended]

20. In § 78.05–1:

a. In paragraph (a), remove the words "U.S. Navy" and add, in their place, the words "National Imagery and Mapping Agency"; and

b. In paragraph (c), remove the phrase "U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey" and add, in its place, the phrase "National Imagery and Mapping Agency, National Ocean Service,"; and remove the phrase "U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices" and add, in its place, the words "National Imagery and Mapping Agency".

§ 78.10–1 [Amended]

21. In § 78.10–1, remove the words "United States Coast and Geodetic Survey" and add, in their place, the phrase "National Imagery and Mapping Agency, National Ocean Service".

PART 97—OPERATIONS

22. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 97.05–1 [Amended]

23. In § 97.05–1:

a. In paragraph (a), remove the words "U.S. Navy" and add, in their place, the words "National Imagery and Mapping Agency"; and

b. In paragraph (c), remove the phrase "U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey" and add, in its place, the phrase "National Imagery and Mapping Agency, National Ocean Service,"; and remove the phrase "U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices" and add, in its place, the words "National Imagery and Mapping Agency".

§ 97.10–5 [Amended]

24. In § 97.10–5, remove the words "United States Coast and Geodetic Survey" and add, in their place, the phrase "National Imagery and Mapping Agency, National Ocean Service".

PART 131—OPERATIONS

25. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 131.910 [Amended]

26. In § 131.910, remove the words "U.S. Navy" and add, in their place, the words "National Imagery and Mapping Agency".

PART 161—ELECTRICAL EQUIPMENT

27. The authority citation for part 161 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 161.010–1 [Amended]

28. In § 161.010–1(a), remove the phrase "U.S. Coast Guard, Office of Design and Engineering Standards (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001".

§ 161.010–4 [Amended]

29. In § 161.010–4:

a. In paragraph (a), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001"; and

b. In paragraph (b), remove the phrase "Commandant (G–MSE)" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center".

PART 162—ENGINEERING EQUIPMENT

30. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 162.017–3 [Amended]

31. In § 162.017–3:

a. In paragraph (b), remove the phrase "Commandant (G–MSE)" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center";

b. In paragraph (c), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center"; and

c. In paragraph (o), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.017–5 [Amended]

32. In the footnote for § 162.017–5(a), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.017–6 [Amended]

33. In § 162.017–6:

a. In paragraph (a), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001"; and

b. In paragraph (c), remove the phrase "Commandant (G–MSE)" in both places where it appears in the paragraph and add, in those places, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.018–6 [Amended]

34. In the footnote for § 162.018–6(a), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.018–7 [Amended]

35. In § 162.018–7(a), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.018–8 [Amended]

36. In § 162.018–8:

a. In paragraph (a), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center, 400 Seventh Street SW., Washington, DC 20590–0001";

b. In paragraph (b), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center,"; and

c. In paragraph (c), remove the word "Commandant" in both places where it appears in the paragraph and add, in those places, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.050–7 [Amended]

37. In § 162.050–7:

a. In paragraph (a), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001";

b. In paragraph (f), remove the phrase "Commandant (G–MSE)" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center"; and

c. In paragraph (g), remove the phrase "Commandant (G–MSE)" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center".

§ 162.050–13 [Amended]

38. In § 162.050–13(b), remove the word "Commandant" and add, in its place, the phrase "Commanding Officer, USCG Marine Safety Center,".

§ 162.050–15 [Amended]

39. In § 162.050–15:

a. In paragraph (a), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001";

b. In paragraph (e), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001"; and

c. In paragraph (h), remove the phrase "Commandant (G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "Commanding Officer, U.S. Coast Guard Marine Safety Center, Engineering Division, 400 Seventh Street SW., Washington, DC 20590–0001".

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

40. The authority citation for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 167.65–45 [Amended]

41. In § 167.65–45:

a. In paragraph (a), remove the words "U.S. Navy" and add, in their place, the words "National Imagery and Mapping Agency"; and

b. In paragraph (c), remove the phrase, "U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey" and add, in its place, the phrase "National Imagery and Mapping Agency, National Ocean Service,"; and remove the phrase "U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices" and add, in its place, the words "National Imagery and Mapping Agency".

PART 182—MACHINERY INSTALLATION

42. The authority citation for part 182 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 182.455 [Amended]

43. In § 182.455(c), remove the phrase "33 CFR 193" and add, in its place, the phrase "33 CFR 183".

PART 196—OPERATIONS

44. The authority citation for part 196 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2213, 3306, 5115, 6101; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 196.05–1 [Amended]

45. In § 196.05–1:

a. In paragraph (a), remove the words "U.S. Navy" and add, in their place, the words "National Imagery and Mapping Agency"; and

b. In paragraph (c), remove the phrase "U.S. Naval Oceanographic Office, the U.S. Coast and Geodetic Survey" and add, in its place, the phrase "National Imagery and Mapping Agency, National Ocean Service,"; remove the phrase, "U.S. Naval Oceanographic Office, Washington, DC 20390, Branch Oceanographic Offices" and add, in its place, the words "National Imagery and Mapping Agency".

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

46. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 3703; 49 CFR 1.46.

§ 199.620 [Amended]

47. In § 199.620:

a. In table 199.620(a) at the end of paragraph 199.620(a), remove the row starting with the words "199.510: EPIRB requirement. . . .."; and

b. Revise paragraph (m) to read as follows:

§ 199.620 Alternatives for all vessels in a specified service.

* * * * *

(m) [Reserved]

* * * * *

PART 401—GREAT LAKES PILOTAGE REGULATIONS

48. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; 49 CFR 1.45, 1.46(mmm); 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

§ 401.110 [Amended]

49. In § 401.110(a)(9), remove the phrase "(G–MO)" and add, in its place, the phrase "(G–MW)".

Dated: September 17, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–23554 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 2001–D004]

Defense Federal Acquisition Regulation Supplement; Reporting Requirements Update; Correction

AGENCY: Department of Defense (DoD).

ACTION: Correction to final rule.

SUMMARY: DoD is issuing a correction to the final rule published at 66 FR 47096–47107 on September 11, 2001, pertaining to contract action reporting requirements for Fiscal Year 2002.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

Telephone (703) 602–0326; facsimile (703) 602–0350.

Correction

In the issue of Tuesday, September 11, 2001, on page 47100, in the first column, section 253.204–70, paragraph (b)(12)(vii) introductory text is corrected to read "(vii) LINE B12G, RECOVERED MATERIAL CLAUSES. When Line B12F is coded A, B, C, or D, enter one of the following codes. Otherwise, leave Line B12G blank.".

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–23688 Filed 9–20–01; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 66, No. 184
Friday, September 21, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV01–927–1 PR]

Winter Pears Grown in Oregon and Washington; The Establishment of a Supplemental Rate of Assessment for the Beurre d'Anjou Variety of Pears and of a Definition for Organically Produced Pears

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish a supplemental rate of assessment of $0.03 per standard box of the Beurre d'Anjou variety of pears (d'Anjou pears) handled, excluding organically produced pears, during the 2001–2002 and subsequent fiscal periods under the marketing order regulating the handling of winter pears grown in Oregon and Washington. The marketing order is administered locally by the Winter Pear Control Committee (Committee). To properly implement the supplemental rate of assessment, which would be used for the purpose of funding data collection for Ethoxyquin residue on stored d'Anjou pears, this rule would also establish a definition for organically produced pears. The fiscal period began July 1 and ends June 30. The supplemental rate of assessment would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 22, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 89 and Order No. 927, both as amended (7 CFR part 927), regulating the handling of winter pears grown in Oregon and Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Oregon and Washington winter pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the supplemental rate of assessment as proposed herein would be applicable to all assessable d'Anjou pears, excluding organically produced pears, beginning on July 1, 2001, and would continue until amended, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would establish a supplemental rate of assessment of $0.03 per standard box of d'Anjou pears handled, excluding organically produced pears, for the 2001–2002 and subsequent fiscal periods. The $0.03 supplemental rate of assessment on conventionally produced and handled d'Anjou pears is in addition to the continuing rate of assessment of $0.49 per standard box established at 63 FR 39037 for the 1998–1999 and subsequent fiscal periods, which pertains to all pears handled under the order. This rule would also establish a definition for organically produced pears. The Committee unanimously recommended this rule at its meeting held on June 1, 2001.

Section 927.41 of the order provides authority for the Secretary, upon a recommendation of the Committee, to fix the rate of assessment that handlers shall pay on all pears handled during each fiscal period, and may also fix supplemental rates of assessment on individual varieties or subvarieties to secure sufficient funds to provide for projects authorized under § 927.47. Section 927.47 provides authority for the establishment of production research, or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears.

Authority for the Committee to recommend the establishment of a

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definition for organically produced pears is provided in § 927.4, which defines "pears" for purposes of this order, and in § 927.31(b), which provides the Committee with the power to recommend administrative rules and regulations to effectuate the terms and provisions of the order.

The winter pear order provides authority for the Committee, with the approval of the Secretary, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Oregon and Washington winter pears. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The rate of assessment, both basic and supplemental, is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on June 1, 2001, and unanimously recommended 2001–2002 expenditures of $8,127,777. The Committee also recommended continuation of the rate of assessment of $0.49 per standard box of winter pears established for the 1998–99 and subsequent fiscal periods. In addition to this continuing, basic rate of assessment, the Committee unanimously recommended the establishment of a supplemental rate of assessment of $0.03 per standard box of d'Anjou pears handled, excluding organically produced pears. Both the basic rate of $0.49 per standard box of winter pears and the supplemental rate of $0.03 per standard box of conventionally produced and handled d'Anjou pears would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Under this proposal, conventionally produced and handled d'Anjou pears (pears that are not organically produced) would be assessed at a total rate of $0.52 per standard box, while all other varieties of winter pears, including organically produced and handled d'Anjou pears, would be assessed at the currently established rate of $0.49 per standard box. The Committee estimates that of the 15.8 million boxes of winter pears projected for utilization during the 2001–02 fiscal period, 12.4 million will be conventionally produced pears of the d'Anjou variety. While the income derived from the basic rate of assessment would continue to fund the Committee's administrative and promotional activities, income derived from the supplemental rate of assessment would be used exclusively to fund the collection of data on Ethoxyquin residue on stored d'Anjou pears. Ethoxyquin is an antioxidant that is registered for use on pears in the control of superficial scald, a physiological disease affecting the appearance of certain varieties of stored pears. The supplemental rate would not be applicable to d'Anjou pears that are organically produced, as Ethoxyquin is not used in their handling and storage.

Since the d'Anjou variety of pear is of major importance to the Oregon and Washington winter pear industry, the Committee has embarked on a research project that would fund the collection of data pertaining to Ethoxyquin residue. Such data could be used to help satisfy requirements of the Environmental Protection Agency pertaining to U.S. pesticide tolerance and registration. In addition, the data collection could be used in conjunction with the Codex Alimentarius system that establishes maximum residue limits used as tolerances in many nations receiving shipments of Oregon and Washington d'Anjou pears.

The major expenditures recommended by the Committee for the 2001–02 year include $6,952,000 for market development projects including paid advertising, $688,000 for research including $372,000 for Ethoxyquin data research (funded by the supplemental rate of assessment), and operational expenses of $474,000, including $241,401 for salaries and employee benefits. Budgeted expenses for these items in 2000–01 were $7,342,500, $330,000, and $412,500 (including $269,658 for salaries and benefits), respectively. Collection of data on the use of Ethoxyquin was not a funded research project during the 2000–01 fiscal period.

Assessment income for the 2001–02 fiscal period is expected to total $8,114,000 based on estimated shipments of 15,800,000 standard boxes at the current rate of $0.49 per standard box. This includes 12,400,000 standard boxes of conventionally produced d'Anjou pears at the proposed supplemental rate of $0.03 per standard box. Income from the additional $0.03 rate of assessment is estimated at $372,000. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $304,181) would be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

Although both the basic rate of assessment and the proposed supplemental rate of assessment would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of both. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of either rate of assessment is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

The Committee's recommendation includes the establishment of a definition for organically produced pears. The Committee recommended the establishment of this definition primarily so that it could properly implement the organically produced pear exclusion included with the proposed supplemental rate of assessment. The Committee recommended that the definition be established as follows: "Organically produced pears" means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program." Although the Committee recommended that this definition be established primarily so that it could properly administer the proposed supplemental rate of assessment, the definition could prove useful to both the Committee and the Department in a variety of ways in the administration of the order. With the increasing interest and emphasis being put on organic food production in the United States, the existence of a definition for organically produced pears in this order would provide the northwest pear industry with an important tool.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of winter pears who are subject to regulation under the marketing order and approximately 1,700 winter pear producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000.

The Committee estimates, based upon handler shipment totals and an average F.O.B price of $14 per standard box, that about 93 percent of winter pear handlers could be considered small businesses under SBA's definition, excluding receipts from other sources. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of winter pear producers, the average annual producer receipts are approximately $69,635, excluding receipts from other sources. In view of the foregoing, it can be concluded that the majority of producers of winter pears may be classified as small entities.

This rule would establish a supplemental rate of assessment of $0.03 per standard box of d'Anjou pears handled, excluding organically produced pears, for the 2001–2002 and subsequent fiscal periods. The $0.03 supplemental rate of assessment on conventionally produced and handled d'Anjou pears would be in addition to the continuing rate of assessment of $0.49 per standard box of pears handled established at 63 FR 39037 for the 1998–1999 and subsequent fiscal periods. This rule would also establish a definition for organically produced pears. The Committee unanimously recommended this action at its meeting held on June 1, 2001.

The major expenditures recommended by the Committee for the 2001–02 year include $6,952,000 for market development including paid advertising, $688,000 for research including $372,000 for Ethoxyquin data collection, and operational expenses of $474,000, including $241,401 for salaries and employee benefits. Budgeted expenses for these items in 2001–01 were $7,342,500, $330,000, and $412,500 ($269,658 for salaries and benefits), respectively. Ethoxyquin data research was not a budgeted item during the 2000–01 fiscal period.

Assessment income for the 2001–02 fiscal period would total $8,114,000 based on estimated winter pear shipments of 15,800,000 standard boxes at the current rate of $0.49 per standard box, and 12,400,000 standard boxes of conventionally produced d'Anjou pears at the supplemental rate of $0.03 per standard box. The supplemental assessment income, estimated at $372,000, would be used to fund Ethoxyquin data research. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. The operating reserve is within the maximum permitted by the order of approximately one fiscal period's expenses.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $8,127,777. This compares to last year's approved budget of $8,199,694. Prior to arriving at this budget, alternative expenditure and assessment levels were discussed by the Committee. Based upon the relative value of the Ethoxyquin research to the industry, a supplemental rate of assessment was recommended on d'Anjou pears. Ethoxyquin is not used in the handling and storage of organically produced d'Anjou pears, thus they were excluded from the Committee's supplemental assessment recommendation. Therefore, the Committee recommended the establishment of a definition for organically produced pears in the order's rules and regulations.

A review of historical information, as well as preliminary information pertaining to the upcoming fiscal period, indicates that the producer price for the 2001–02 season could range between $5.87 and $10.34 per standard box of winter pears. Therefore, the estimated assessment revenue for the 2001–02 fiscal period, inclusive of revenue from both the basic $0.49 rate and the $0.03 supplemental rate of assessment, as a percentage of total grower revenue could range between 5 and 9 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the winter pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 1, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large winter pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–02 fiscal period began on July 1, 2001, and the supplemental rate of assessment should apply to all assessable, non-organic, d'Anjou pears handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses in regard to the Ethoxyquin data collection; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is proposed to be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

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Authority: 7 U.S.C. 601–674.

2. In Subpart—Control Committee Rules and Regulations, under the undesignated center heading "Definitions", a new § 927.103 is added as follows:

§ 927.103 Organically produced pears.

Organically produced pears means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program.

3. Section 927.236 is revised to read as follows:

§ 927.236 Assessment rate.

On and after July 1, 2001, an assessment rate of $0.49 per standard box of conventionally and organically produced pears and, in addition, a supplemental assessment rate of $0.03 per standard box of Beurre d'Anjou variety pears, excluding organically produced pears, is established for the Winter Pear Control Committee.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23657 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV01–929–3 PR]

Cranberries Grown in the States of Massachusetts, et al.; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established under the cranberry marketing order for the 2001–2002 fiscal year and subsequent fiscal years from $.08 to $.18 per barrel of cranberries handled. Currently, funds derived from assessments are used to cover expenses incurred by the Cranberry Marketing Committee (Committee) in the performance of its duties and functions under the order and to fund an export market development program. The Committee is responsible for local administration of the marketing order which regulates the handling of cranberries grown in the production area. The proposed $.10 increase would be used to fund a domestic market development program. The fiscal year began September 1 and ends August 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 9, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938; or e-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734–5243; Fax: (301) 734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, cranberry handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable cranberries beginning September 1, 2001, and continue until amended, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2001–2002 fiscal period and subsequent fiscal periods for cranberries from $0.08 to $0.18 per barrel of cranberries.

The cranberry marketing order provides that one of the duties of the Committee is to formulate an annual budget of expenses and to recommend a rate of assessment necessary to administer the provisions of the order. The members of the Committee are producers of cranberries. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

Authority to fix the rate of assessment to be paid by each handler and to collect such assessment appears in § 928.41 of the order. In addition, § 929.45 of the order provides that the Committee, with the approval of the Secretary, may

establish or provide for the establishment of production research, marketing research, and market development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of cranberries. The expense of such projects would be paid from funds collected pursuant to § 929.41 (Assessments), or from such other funds as approved by the Secretary.

For the 2000–2001 fiscal period, the Committee recommended, and the Department approved, an assessment rate of $.08 per barrel of cranberries handled that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee voted by mail and recommended 2001–2002 expenditures of $1,206,772 and an assessment rate of $.18 per barrel of cranberries. Six of the eight committee members voted in support of the $.10 per barrel increase. Two members did not return their mail ballots to the Committee. The assessment rate increase was considered by the Committee at an earlier public meeting. The budget for 2001–2002 was recommended to the full Committee by the Executive Committee. The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $846,953 for market development (including $490,000 for domestic market development, $273,953 for export market development, and $83,000 for export market consulting services), $123,952 for administration costs, $129,500 for personnel, $75,000 for Committee meetings, and $31,367 for payroll taxes and benefits. Included in the budget calculations would be about $6,000 interest and $213,953 Market Access Program (MAP) funds from USDA's Foreign Agricultural Service (FAS) for export market development. Budgeted expenses in the Committee's amended 2000–2001 budget were $223,647 for administration costs, $270,407 for export market development, $71,000 for export market consulting services, $119,464 for personnel, and $67,500 for Committee meetings. There was no domestic market development program for the 2000–2001 fiscal period.

The Committee recommended the $.10 per barrel increase to fund a domestic market development program to increase demand for cranberries and cranberry products and thus expand cranberry shipments. Currently, supplies are outpacing demand. The Committee believes that a domestic market development program is needed to increase consumer awareness of the health benefits of cranberries and cranberry products. Currently, the Committee funds an export market development program with MAP money from FAS.

Over the past several years, per capita consumption of cranberries has averaged 1.68 pounds. Per capita consumption peaked in 1994 at 1.80 pounds and began trending downward. In 1998, per capita consumption was 1.67 pounds. Associated with these per capita consumption figures is the fact that total domestic sales also peaked in 1994 at 4,692,507 barrels and declined to 4,506,632 barrels in 1998. However, cranberry production reached an all-time high of 6,389,000 barrels in 1999. This is a 17 percent increase over 1998 production of approximately 5.4 million barrels. Available cranberry supplies continue to out pace demand, resulting in high levels of carryin inventories and low grower prices. Grower returns have fallen 73 percent from 1997 to 2000, dropping from $65.90 to $15–$20 per barrel.

The assessment rate recommended by the Committee was derived by estimating the cost of a viable domestic market development program ($490,000) and then increasing the assessment rate to cover such costs. Cranberry shipments are projected at 4.9 million barrels which would provide $882,000 in assessment income. Income derived from handler assessments, along with interest income, FAS market access funds for export market development, and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses expected to total $1,206,772 in 2001–2002. Funds in the reserve (currently $115,000) would be kept within the approximately one year's operational expenses permitted by the order (§ 929.42(a)).

The assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although the assessment rate would be effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department evaluates Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–2002 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. The majority of cranberry handlers and producers may be classified as small businesses.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from $.08 to $.18 per barrel of cranberries. One barrel equals 100 pounds of cranberries.

The Committee discussed the alternative of continuing the existing assessment rate, but concluded that it needed to implement a domestic market development program funded through assessments. The assessment rate recommended by the Committee was derived by determining the cost of a viable domestic market development program ($490,000), and then increasing the assessment rate to cover the additional costs. Cranberry shipments are projected at 4.9 million barrels which would provide $882,000 assessment income. Income derived from handler assessments, along with interest income, FAS market access

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program funds, and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses. Funds in the reserve (currently $115,000) would be kept within the approximately one year's operational expenses permitted by the order (section 929.42(a)).

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $846,953 for market development (including $490,000 for domestic market development, $273,953 for export market development, and $83,000 for export market development consulting services), $123,952 for administration costs, $129,500 for personnel, $75,000 for Committee meetings, and $31,367 for payroll taxes and benefits. Included in the budget calculations would be approximately $6,000 interest and $213,953 MAP funds from FAS for export market development. Budgeted expenses in the Committee's amended 2000–2001 budget were $223,647 for administration costs, $270,407 for export market development, $119,464 for personnel, and $67,500 for Committee meetings. There was no domestic market development program for the 2000–2001 fiscal period.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the cranberry industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Board meetings, all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following Web site: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because: (1) The 2001–2002 fiscal period began on September 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable cranberries handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 929.239 is revised to read as follows:

§ 929.239 Assessment rate.

On and after September 1, 2001, an assessment rate of $0.18 per barrel is established for cranberries.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23653 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV01–931–1 PR]

Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) for the 2001–2002 and subsequent fiscal periods from $0.02 to $0.025 per standard box of fresh Bartlett pears. The Committee locally administers the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 22, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 720–8938; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http//www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 141 and Order No. 931 (7 CFR part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, fresh Bartlett pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable fresh Bartlett pears beginning July 1, 2001, and continue until modified, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2001–2002 and subsequent fiscal periods from $0.02 to $0.025 per standard box of fresh Bartlett pears handled.

The fresh Bartlett pear marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of eight grower members and six handler members, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 2000–2001 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.02 per standard box that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 31, 2001, and unanimously recommended 2001–2002 expenditures of $76,477 and an assessment rate of $0.025 per standard box of fresh Bartlett pears handled. In comparison, last year's budgeted expenditures were $81,060. The assessment rate of $0.025 is $0.005 higher than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate of $0.02 would not generate enough income to keep its operating reserve at a reasonable level ($25,666). Without the increase, the operating reserve would drop below $7,000 which is not acceptable to the Committee.

Major expenses recommended by the Committee for the 2001–2002 fiscal period include $39,040 for salaries, $5,675 for office rent, and $3,911 for health insurance. Budgeted expenses for these items in 2000–2001 were $44,468, $4,847, and $3,891, respectively.

The Committee developed the $0.025 assessment rate recommendation by considering the 2001–2002 budget and crop estimate, as well as the relatively small size of the current monetary reserve. Assessment income for the fiscal period should approximate $79,700 based on estimated fresh Bartlett pear shipments of 3,188,000 standard boxes, which would be adequate to cover budgeted expenses. Funds in the reserve (currently $18,443) would be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 931.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–2002 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,600 producers of fresh Bartlett pears in the production area and approximately 54 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on data provided by the National Agricultural Statistics Service for 1999, the most recent year complete data is available, and the current

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number of producers, the average annual producer revenue in Washington and Oregon could approximate $23,130 this year, excluding receipts from other sources. Further, based on Committee records and recent F.O.B. prices reported by the Fruit and Vegetable Market News Service for fresh Bartlett pears, over 98 percent of the regulated handlers ship less that $5,000,000 worth of fresh Bartlett pears on an annual basis, excluding receipts from other sources. In view of the foregoing, it can be concluded that the majority of fresh Bartlett pear producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from $0.02 to $0.025 per standard box of fresh Bartlett pears handled. The Committee met on May 31, 2001, and unanimously recommended 2001–2002 expenditures of $76,477 and an assessment rate of $0.025 per standard box of fresh Bartlett pears handled. In comparison, budgeted expenditures for last year totaled $81,060. The assessment rate of $0.025 is $0.005 more than the rate currently in effect, and was recommended by the Committee because the current rate of $0.02 would not generate enough income for it to adequately administer the program. Its monetary reserve would drop below $7,000 at the current rate of assessment, which was not acceptable to the Committee.

Major expenses recommended by the Committee for the 2001–2002 fiscal period include $39,040 for salaries, $5,675 for office rent, and $3,911 for health insurance. Budgeted expenses for these items in 2000–2001 were $44,468, $4,847, and $3,891, respectively.

The Committee developed the $0.025 assessment rate recommendation by considering the 2001–2002 budget and crop estimate, as well as the relatively small size of its current monetary reserve. Assessment income for the fiscal period should approximate $79,700 based on estimated fresh Bartlett pear shipments of 3,188,000 standard boxes, which would be adequate to cover budgeted expenses. Funds in the reserve (currently $18,443) are expected to increase to $25,666, which would be within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 931.42).

The Committee considered alternative levels of assessment but, considering the current relatively low level of funding in the monetary reserve, determined that increasing the assessment rate to $0.025 per standard box would be appropriate. The Committee believes that an assessment rate of more than $0.025 per standard box would generate income in excess of that needed to adequately administer the program, and if left at the current rate of $0.02, or reduced, would be inadequate to administer the program.

A review of historical information and preliminary information pertaining to the upcoming crop indicates that the producer price for the 2001–2002 marketing season could average about $11.61 per standard box of fresh Bartlett pears handled. Therefore, the Committee's estimated assessment revenue for the 2001–2002 fiscal period as a percentage of total producer revenue should be approximately 0.215 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the fresh Bartlett pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 31, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large fresh Bartlett pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons the opportunity to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2001–2002 fiscal period began on July 1, 2001, and the order requires that the rate of assessment for each fiscal period apply to all assessable fresh Bartlett pears handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 931 is proposed to be amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 931.231 is revised to read as follows:

§ 931.231 Assessment rate.

On and after July 1, 2001, an assessment rate of $0.025 per western standard pear box is established for the Northwest Fresh Bartlett Pear Marketing Committee.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23656 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 852

RIN:1901–AA90

Guidelines for Physicians Panel Determinations on Worker Requests for Assistance in Filing for State Workers' Compensation Benefits

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking; rescheduling of public hearing and extension of comment deadline.

SUMMARY: This document announces a new date for the public hearing originally scheduled for September 24, 2001; and extends the time period for submitting comments regarding a notice of proposed rulemaking published in the **Federal Register** on September 7, 2001 (66 FR 46742).

DATES: Comments must be received on or before November 8, 2001. DOE is requesting 3 copies of the written comments and prepared statements for the public hearing. Oral views, data, and arguments may be presented at the public hearing in Washington, DC, beginning at 9 a.m. on October 10, 2001. DOE must receive requests to speak at the public hearing and a copy of your statements no later than 4 p.m., October 9, 2001.

ADDRESSES: Please submit written comments, oral statements, and requests to speak at the public hearing to: Loretta Young, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The hearing will begin at 9 a.m., in Room 1E–245 at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington DC. You can find more information concerning public participation in this rulemaking proceeding in Section IV, "Opportunity for Public Comment," of the previously published notice of proposed rulemaking (66 FR 46742).

FOR FURTHER INFORMATION CONTACT: Loretta Young, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–2819; fax: 202–586–6010; e-mail: loretta.young@eh.doe.gov.

Issued in Washington, D.C., on September 18, 2001.

Steven Cary,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 01–23739 Filed 9–20–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–14–AD]

RIN 2120–AA64

Airworthiness Directives; Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, UH–1P, and Southwest Florida Aviation Model SW204, SW204HP, SW205, and SW205A–1 Helicopters, Manufactured by Bell Helicopter Textron, Inc. for the Armed Forces of the United States

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters manufactured by Bell Helicopter Textron, Inc. (BHTI) for the Armed Forces of the United States. That AD currently requires establishing retirement lives for certain main rotor masts, creating a component history card or equivalent record, and identifying and replacing any unairworthy masts. That AD also contains certain requirements regarding the hub spring, conducting inspections based on the retirement index number (RIN), and sending information to the FAA. This action would contain the same requirements but would establish a retirement life for the main rotor trunnion (trunnion) based on monitoring the number of torque events and flight hours rather than flight hours only as currently required. This action would also add a note clarifying that the mast serial number (S/N) is defined by 5 or fewer digits plus various prefixes. This proposal is prompted by the determination that monitoring the number of torque events and flight hours for the trunnion is more accurate than by monitoring flight hours only to establish a retirement life. The actions specified by the proposed AD are intended to prevent failure of a mast or trunnion, separation of the main rotor system, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at that Office between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–14–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On November 13, 1998, the FAA issued AD 98–24–15 for BHTI Model

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204B, 205A, 205A–1, 205B, and 212 helicopters, which established a retirement life for the main rotor mast (mast) and trunnion based on a RIN count. That AD required creating component history cards or equivalent records, converting accumulated factored flight hours to a baseline accumulated RIN count, establishing a system for tracking increases to the accumulated RIN, and establishing a maximum accumulated RIN for certain masts and trunnions. Analysis and reevaluation of previous fatigue testing conducted by the manufacturer of those model helicopters following an accident involving a Model 205A–1 helicopter confirmed that the remaining lives for the mast and trunnion are more accurately assessed by monitoring the number of torque events and flight hours rather than monitoring only flight hours. Since identical trunnions are installed on the surplus military helicopters of similar type design, the FAA has determined that similar procedures and limitations need to be imposed on restricted category helicopters.

AD 98–24–15, Amendment 39–10900, Docket 97–SW–20–AD (63 FR 64612, November 23, 1998), for BHTI Model 204B, 205A, 205A–1, 205B, and 212 helicopters, was superseded by Priority Letter AD 2000–08–52, Docket 2000–SW–20–AD. Priority Letter AD 2000–08–52 was superseded by AD 2000–15–52, Amendment 39–12042, Docket 2000–SW–28–AD (65 FR 77785, December 13, 2000). For similar helicopters in the restricted category, AD 2000–22–51, Amendment 39–12034 (65 FR 77263, December 11, 2000, Docket No. 2000–SW–42–AD), superseded Priority Letter AD 2000–08–53, Docket 2000–SW–08–AD, and previous AD 89–17–03, Amendment 39–6251, Docket 88–ASW–33 (54 FR 31935, August 3, 1989). AD 2000–22–51 required the calculation of the retirement life for the trunnion, part number 204–011–105–001, installed on those restricted category helicopters based on hours time-in-service (TIS) only. This document proposes to require that the service life of the trunnion on those restricted category helicopters be limited to 300,000 RIN or 15,000 hours TIS, whichever occurs first, to prevent failure of a mast or trunnion, separation of the main rotor system, and subsequent loss of control of the helicopter.

We have identified an unsafe condition that is likely to exist or develop on Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters manufactured by BHTI for the Armed Forces of the United States. Therefore, the proposed AD would supersede AD 2000–22–51. The FAA has determined that the retirement life for a trunnion is more accurate if monitored by the number of torque events and flight hours rather than monitoring only flight hours. Therefore, this AD would contain the same requirements as AD 2000–22–51 for the mast but would establish a retirement life for the trunnions based on monitoring the number of torque events and flight hours. This AD would also add a note clarifying that the mast S/N is defined by 5 or fewer digits plus various prefixes.

The FAA estimates that this proposed AD would affect 75 helicopters of U.S. registry. The FAA also estimates that it would take 10 work hours to replace the trunnion, 2 work hours per helicopter to create a new component history card or equivalent record for the trunnions and that the average labor rate is $60 per work hour. Required trunnions would cost approximately $5,300 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $451,500.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12034 (65 FR 77263, December 11, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Arrow Falcon Exporters, Inc. (previously Utah State University); Firefly Aviation Helicopter Services (previously Erickson Air-Crane Co.); Garlick Helicopters, Inc.; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Robinson Air Crane, Inc.; Smith Helicopters; Southern Helicopter, Inc.; Southwest Florida Aviation; Tamarack Helicopters, Inc. (previously Ranger Helicopter Services, Inc.); U.S. Helicopter, Inc.; Western International Aviation, Inc., and Williams Helicopter Corporation (previously Scott Paper Co.): 2001–SW–14–AD. Supersedes AD 2000–22–51, Amendment 39–12034, Docket No. 2000–SW–42–AD.

Applicability: Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters, manufactured by Bell Helicopter Textron Inc. (BHTI) for the Armed Forces of the United States, with main rotor mast (mast), part number (P/N) 204–011–450–007, –105, or –109, or main rotor trunnion (trunnion), P/N 204–011–105–001, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

Note 2: This AD requires using new factors to recalculate the FACTORED flight hours and the accumulated Retirement Index Number (RIN) for masts installed on certain helicopter models. This AD also expands the serial number (S/N) applicability for the one-time special inspection of the mast.

To prevent failure of a mast or trunnion, separation of the main rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) For the mast, P/N 204–011–450–007, –105, or –109:

Note 3: The next higher assembly level for the affected P/N's are the 204–040–366 mast assemblies. Check the helicopter records for the appropriate P/N and assembly level.

(1) Within 10 hours time-in-service (TIS), create a component history card or equivalent record for the mast.

(2) Within 10 hours TIS, determine and record the accumulated RIN and revised hours TIS for the mast as follows:

(i) Review the helicopter maintenance records for the mast. If you do not know the helicopter model installation history or hours TIS of the mast, remove the mast from service, identify the mast as unairworthy, and replace it with an airworthy mast before further flight.

(ii) Calculate the accumulated RIN and the revised hours TIS for the mast in accordance with the instructions in Appendix 1 to this AD. For those hours TIS the mast has been installed on any other helicopter, calculate the RIN for that trunnion in accordance with the requirements for those helicopters.

(iii) Record the accumulated RIN and revised hours TIS for the mast on the component history card or equivalent record. Use the revised hours TIS as the new hours TIS for the mast.

(3) Before further flight after accomplishing the requirements of paragraph (a)(2) of this AD, remove from service any mast that has accumulated 265,000 or more RIN or 15,000 or more revised hours TIS and identify the mast as unairworthy. Replace the mast with an airworthy mast.

(4) Within 25 hours TIS, remove any hub spring installed on any affected helicopter.

Note 4: U.S. Army Modification Work Order (MWO) 55–1520–242–50–1 pertains to the removal of the hub spring and replacement of any required parts. U.S. Army Safety of Flight Message UH–1–00–10 dated July 19, 2000, also pertains to the subject of this AD.

(5) Determine whether a mast with a S/N less than and including 52720, 61433 through 61444, or 61457 through 61465 (regardless of prefix), has *ever* been installed on a helicopter while operated *with* a hub spring.

Note 5: The mast S/N consists of 5 or less numerical digits and may be preceded by one of the following prefixes: NFS, N9, H, AC9, CP, FA, H9, N19, RH9, or NC. There may be other prefixes in addition to those listed. The prefix and S/N may or may not be separated by a dash.

(i) If a mast has *never* been installed on a helicopter while operated *with* a hub spring, before reaching 100,000 RIN, inspect the upper and lower snap ring grooves in the damper clamp splined area for:

(A) A minimum radius of 0.020 inch around the entire circumference (see Figures 1 and 2), using a 100× or higher magnification. If any snap ring groove radius is less than 0.020 inch, identify the mast as unairworthy and replace it with an airworthy mast before exceeding 100,000 RIN.

(B) A burr (see Figures 1 through 3), using a 200× or higher magnification. If a burr is found in any snap ring groove/spline intersection, identify the mast as unairworthy and replace it with an airworthy mast before exceeding 170,000 RIN.

(ii) If a mast has *ever* been installed on a helicopter while operated *with* a hub spring or if you do not know whether a hub spring has ever been installed, before reaching 100,000 RIN or 400 *unfactored* flight hours, whichever occurs first, inspect the upper and lower snap ring grooves in the damper clamp splined area for:

(A) A minimum radius of 0.020 inch around the entire circumference (see Figures 1 and 2), using a 100× or higher magnification. If any snap ring groove radius is less than 0.020 inch, identify the mast as unairworthy and replace it with an airworthy mast before further flight.

(B) A burr (see Figures 1 through 3), using a 200× or higher magnification. If a burr is found in any snap ring groove/spline intersection, identify the mast as unairworthy and replace it with an airworthy mast before further flight.

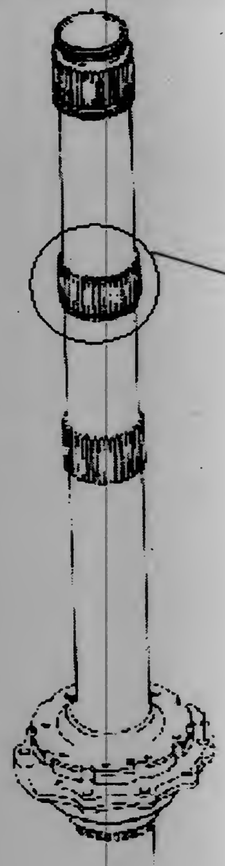
(6) After accomplishing the requirements of paragraph (a)(2) of this AD, continue to calculate the accumulated RIN for the mast by multiplying all takeoff and external load lifts by the RIN factors defined in columns (D) and (G) of Table 1 of Appendix 1 of this AD.

(7) After accomplishing the requirements of paragraph (a)(2) of this AD, continue to count the hours TIS for the mast. Any hours TIS for the mast while installed on a helicopter operated *with* a hub spring or those hours during which you do not know whether a hub spring was installed must be factored in accordance with the instructions in Appendix 1 of this AD.

(8) This AD establishes a retirement life of 265,000 accumulated RIN or 15,000 hours TIS, whichever occurs first, for mast, P/N 204–011–450–007, –105, and –109.

(9) Within 10 days after completing the inspections required by paragraph (a)(5) of this AD, send the information contained on the AD compliance inspection report sample format contained in Appendix 2 to the Manager, Rotorcraft Certification Office, Federal Aviation Administration, Fort Worth, Texas, 76193–0170, USA. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

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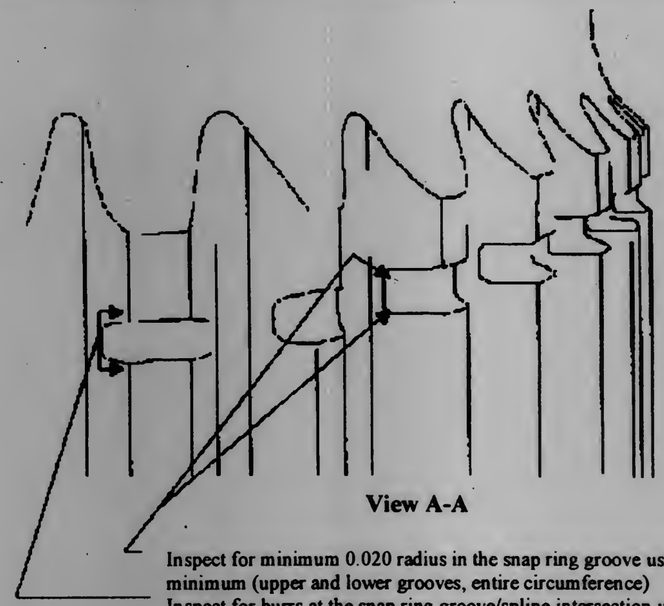
Inspect area for:

- At 100x minimum magnification
  Minimum radius of 0.020 at the snap ring groove/spline intersection
- At 200x minimum magnification
  Burrs in the snap ring groove

See view A-A for detail

View A

Figure 1



View A-A

Inspect for minimum 0.020 radius in the snap ring groove using 100x magnification minimum (upper and lower grooves, entire circumference)
Inspect for burrs at the snap ring groove/spline intersection using 200x magnification minimum (upper and lower grooves, all places)

Figure 2
Snap Ring Groove/Spline Intersection

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Cutaway View Looking Down from Inside Snap Ring Groove

Typical Burrs at Snap Ring Groove/Spline Intersection
Burrs are to be Inspected at 200x Minimum Magnification

Figure 3
Typical Burrs at Snap Ring Groove

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(b) For the trunnion, P/N 204–011–105–001:

(1) Within 10 hours TIS, create a component history card or equivalent record for the trunnion.

(2) Within 10 hours TIS, determine and record the accumulated RIN and revised hours TIS for the trunnion as follows:

(i) Review the helicopter maintenance records for the trunnion. If the helicopter model installation history or hours TIS of the trunnion are unknown, remove the trunnion from service, identify the trunnion as unairworthy, and replace it with an airworthy trunnion before further flight.

(ii) Calculate the accumulated RIN and the revised hours TIS in accordance with the instructions in Appendix 3 to this AD. For those hours TIS the trunnion has been installed on any other helicopter, calculate the RIN for that trunnion in accordance with the requirements for those helicopters.

(iii) Record the accumulated RIN and revised hours TIS for the trunnion on the component history card or equivalent record. Use the revised hours TIS as the new hours TIS for the trunnion.

(3) Before further flight after accomplishing the requirements of paragraph (b)(2) of this AD, remove from service any trunnion that has accumulated 300,000 or more RIN or 15,000 or more revised hours TIS and identify the trunnion as unairworthy. Replace the trunnion with an airworthy trunnion.

(4) After accomplishing the requirements of paragraph (b)(2) of this AD, continue to calculate the accumulated RIN for the trunnion by multiplying all takeoff and external load lifts by the RIN factors defined in columns (D) and (G) of Table 1 of Appendix 3 to this AD.

(5) After accomplishing the requirements of paragraph (b)(2) of this AD, continue to count the hours TIS for the trunnion.

(6) This AD establishes a retirement life of 300,000 accumulated RIN or 15,000 hours TIS, whichever occurs first, for the trunnion, P/N 204–011–105–001.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Rotorcraft Certification Office.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Appendix 1—Instructions for Calculating the RIN and Revised Hours TIS

Definitions for the RIN

The overall *fatigue life* of a main rotor mast is a function of the number of cycles of torque, lift, and bending loads applied to it during the various modes of operation. The mast experiences both high cycle fatigue and low cycle fatigue during operation.

The *high cycle fatigue life* of the mast is a function of high frequency but relatively low level cyclic loads, which are primarily induced by rotor rpm. The high cycle fatigue life limit for the mast is defined in terms of hours TIS because rotor rpm is basically a constant value.

The *low cycle fatigue life* of the mast is a function of the number of less frequent but relatively high level cyclic loads experienced primarily during takeoffs and external load lifts. The low cycle fatigue life limit for the mast is expressed in terms of the accumulated RIN.

A *load cycle* is a power cycle caused by a repeating or fluctuating load that alternates from a starting power value, goes to a higher power value, and returns to the starting power value.

The *accumulated RIN* is defined as the total number of load cycles multiplied by a *RIN factor* to account for the difference in torque levels applied to the same mast (since manufactured) when installed in different helicopter models. The level of torque applied to the mast is directly proportional to the transmission output horsepower.

The *unfactored hours TIS* is the time from the moment a helicopter leaves the surface of the earth until it touches it at the next point of landing with no factors applied.

The *FACTORED flight hours* is the *unfactored* hours TIS multiplied by a frequency of event hour factor based on the torque (horsepower) of the helicopter model in which it was installed and the usage of the helicopter.

The *revised hours TIS* is the new hours TIS for the mast as determined by following the instructions in this appendix.

An *external load lift* is defined as a lift where the load is carried, or extends, outside of the aircraft fuselage.

Calculation of RIN and Revised Hours TIS

There are two methods for calculating the accumulated RIN and the revised hours TIS, depending on the available service history information for the mast. In some cases, one method will be used for a portion of the mast service history, and the other method will be used for another portion of the mast service history. Both methods require knowledge of all the helicopter models in which the mast was installed.

Calculation of RIN and Revised Hours TIS When the Exact Number of Takeoffs and External Load Lifts Is Known (Reference Tables 1 and 3)

Table 1 of Appendix 1 is the worksheet for calculating the accumulated mast RIN when the exact number of takeoffs and external load lifts *is known*. Table 3 of Appendix 1 is the worksheet that has the frequency of event hour factors to calculate the FACTORED flight hours for the *unfactored* hours TIS for the mast while installed on a helicopter operated *with* a hub spring or the hub spring installation history *is unknown*.

The RIN factor for each external load lift is twice that specified for each takeoff because two torque events are experienced during a typical external load lift.

Using Table 1, calculate accumulated RIN as follows:

1. Enter the total number of takeoffs for the particular mast model/helicopter model combination in column (C).

2. Multiply the value entered in column (C) by the RIN factor listed in column (D), and enter the result in column (E). This is the total accumulated RIN due to takeoffs.

3. Enter the total number of external load lifts for the particular mast model/helicopter model combination in column (F).

4. Multiply the value entered in column (F) by the RIN factor listed in column (G), and enter the result in column (H). This is the accumulated RIN due to external load lifts.

5. Add the values from column (E) and column (H) and enter the result in column (I). This is the total accumulated RIN to-date for the mast for the particular mast model/helicopter model combination.

6. Add the accumulated RIN subtotals for the various mast model/helicopter combinations in column (I) and enter the result in the space provided. This is the total accumulated RIN for the mast.

Using Table 3, calculate the revised hours TIS as follows:

7. Determine the *unfactored* hours TIS for the mast while installed on a helicopter operated *with* a hub spring or the number of hours TIS for which you do not know whether a hub spring was installed for each of the particular mast model/helicopter model combinations.

8. Determine the frequency of events per hour for each of the particular mast model/helicopter model combinations dividing the combined number of takeoffs and external load lifts by the corresponding *unfactored* hours TIS.

9. Multiply the value for *unfactored* hours TIS for each of the particular mast model/helicopter model combinations by the appropriate value in column (E) of Table 3 for the frequency of event hour factor. These are the total FACTORED flight hours for the particular mast model/helicopter model combinations.

10. Add the FACTORED flight hour subtotals for each of the particular mast model/helicopter model combinations. This is the total FACTORED flight hours for the mast while installed on a helicopter operated *with* a hub spring or when you do not know whether a hub spring was installed.

11. Determine the *unfactored* hours TIS for the mast while installed on a helicopter operated *without* a hub spring.

12. Add to the total FACTORED flight hours for the mast while installed on a helicopter operated *with* a hub spring or those hours during which you do not know whether a hub spring was installed to the *unfactored* hours TIS as determined in step 11. This is the total revised hours TIS for the mast when the exact number of takeoffs and external load lifts *is known*.

Calculation of RIN and Revised Hours TIS When Exact Number of Takeoffs and External Load Lifts Is Unknown (Reference Tables 2, 3, and 4)

Tables 2, 3, and 4 of Appendix 1 are the worksheets for calculating the FACTORED flight hours and accumulated mast RIN when the exact number of takeoffs and external load lifts *is unknown*.

Using Tables 2, 3, and 4, calculate the accumulated mast RIN and revised hours TIS as follows:

1. Enter the *unfactored* hours TIS for the particular mast model/helicopter model combination in column (C) of Tables 2 and 3.

2. Using service history for the mast, select the appropriate frequency of event hour factor from column (E) of Tables 2 and 3 based on the total combined number of takeoffs and external load lifts per hour shown in column (D).

3. Multiply the value for *unfactored* hours TIS entered in column (C) by the appropriate value in column (E) for the frequency of event hour factor as determined in step 2. Enter the result in column (F) of Tables 2 and 3. This is the total FACTORED flight hours for the particular mast model/helicopter model combination.

4. Enter the value for FACTORED flight hours from column (F) of Tables 2 and 3 into column (C) of Table 4.

5. Using Table 4, multiply the value for FACTORED flight hours in column (C) by the appropriate RIN conversion factor listed in column (D), by the appropriate RIN adjustment factor in column (E), and enter the result in column (F). This is the accumulated RIN to-date for the particular mast model/helicopter model combination.

6. Add the accumulated RIN subtotals for the various mast model/helicopter model combinations in column (F) of Table 4 and enter the result in the space provided. This is the total accumulated RIN for the mast.

7. Add the factored flight hour subtotals for the various mast model/helicopter model combinations as determined in steps 1 through 4. This is the total revised hours TIS for the mast when the exact number of takeoffs and external load lifts *is* unknown.

Sample Mast Calculation

Given the following known service history for the mast:

Mast, P/N 204–011–450'007, was first purchased as a United States military surplus part with valid historical records. The mast had accumulated 550 hours military TIS on an Army UH–1H with a hub spring installed.

The mast was first installed on a restricted category UH–1H former military helicopter for 250 hours TIS. The helicopter had a rating of 1100 takeoff horsepower (T.O. hp) at sea level standard day conditions (SLS), and the operation of the helicopter *without* a hub spring cannot be determined. The helicopter was used for fire fighting operations and the exact number of takeoffs and external load lifts is unknown. It is known, however, that the helicopter averaged less than 15 combined takeoffs and external load lifts per hour.

The mast was then removed and subsequently installed on a restricted category UH–1E former military helicopter (1100 T.O. hp SLS rating) *without* a hub spring for 450 hours TIS. It is known that the helicopter was used primarily for aerial surveying for the first 200 hours of operation. The exact number of takeoffs and external load lifts is unknown, but it is known that the helicopter averaged less than 16 takeoffs per hour, with no external load lifts. It was subsequently used for repeated heavy lift operation for the next 250 hours of operation and averaged between 25 and 31 combined takeoffs and external load lifts per hour during this period of time.

The mast was then removed and installed on another restricted category UH–1H former military helicopter (1100 T.O. hp SLS rating) for a total of 150 hours TIS with accurate records indicating that it experienced 100 takeoffs and 2,450 external load lifts. A hub spring was installed on the helicopter for the first 50 hours of operation with a calculated average of 19 combined takeoffs and external load lifts per hour (as determined from aircraft records for the first 50 hours of operation). The hub spring was subsequently removed for the remaining 100 hours TIS.

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Calculate the FACTORED flight hours and total accumulated RIN for the mast as follows:

FACTORED Flight Hours and Accumulated RIN While Installed in U.S. Military Model UH–1H

Calculate FACTORED flight hours from Table 3 as follows:

FACTORED Flight Hours
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (550) × (10)
= 5,500 hours

Then using Table 4, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (5,500) × (20) × (1)
= 110,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1H

Calculate FACTORED flight hours from Table 3 as follows:

FACTORED Flight Hours
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (250) × (14)
= 3,500 hours

Then using Table 4, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (3,500) × (20) × (1)
= 70,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1E

Calculate FACTORED flight hours from Table 2 as follows:

FACTORED Flight Hours (for first 200 hrs.)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (200) × (5)
= 1,000 hours

FACTORED Flight Hours (for next 250 hrs.)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (250) × (10)
= 2,500 hours

Then using Table 4, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (1,000) × (20) × (1) + (2,500) × (20) × (1)
= 20,000 + 50,000
= 70,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Another Restricted Category Model UH–1H

Calculate the accumulated RIN from Table 1 and the given number of takeoffs and external load lifts as follows:

Accumulated RIN
= (number of takeoffs × RIN factor per takeoff) + (number of external load lifts × RIN factor per external load lifts)
= (column C) × (column D) + (column F) × (column G)
= (100) × (3) + (2,450) × (6)
= 15,000 RIN

Calculate the FACTORED flight hours for the mast while installed on a helicopter operated *with* a hub spring or when you do not know whether a hub spring was installed using the frequency of event hour factors from Table 3 as follows:

FACTORED Flight Hours (w/hub spring)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (50) × (16)
= 800 hours

Unfactored Hours TIS (w/o hub spring)
= (*unfactored* hours TIS)
= 100 hours

Note that the FACTORED flight hours are not used in the accumulated RIN calculations when the number of takeoffs and external load lifts *is known*.

Calculate the Total Accumulated RIN and Revised Hours TIS as follows

The total accumulated RIN to-date for the mast is the sum of the subtotals from Tables 1 and 4.

Total Accumulated RIN
= 110,000 + 70,000 + 70,000 + 15,000
= 265,000

The total FACTORED flight hours for the mast is the sum of the subtotals from Tables 2 and 3 and the total FACTORED flight hours as determined in the preceding step 12 when the exact number of takeoff and external load lifts *is known*.

Total FACTORED Flight Hours
= 5,500 + 3,500 + 1,000 + 2,500 + 800
= 13,300 hours

The revised hours TIS to-date for the mast is the sum of the total FACTORED flight hours and the additional *unfactored* hours TIS for the mast while installed on a helicopter operated without a hub spring and the exact number of takeoffs and external load lifts *is known*.

Revised Hours TIS
= 5,500 + 3,500 + 1,000 + 2,500 + 800 + 100
= 13,300 + 100
= 13,400 hours

Both the total accumulated RIN and the revised hours TIS need to be determined and checked for exceeding the allowable life limits for the mast. Also, note that the recalculated total accumulated RIN for this sample mast would be 265,000 RIN. Therefore, this mast would be removed from service.

The values for the sample problem are shown in Tables 1–4 for illustration purposes only. The FACTORED flight hours TIS shown in the brackets in Table 3 are calculated for the mast while installed on a helicopter operated *with* a hub spring or when you do not know whether a hub spring was installed and the exact number of takeoffs and external load lifts *is known*. These FACTORED flight hours are not used in the accumulated RIN calculations.

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Appendix 1 - Table 1

Mast RIN Calculation Based on Takeoffs and External Load Lifts

Mast A/C Model Installation	Mast P/N 204-011-450	Number Of Takeoffs	RIN Factor Per Takeoff	Total Takeoff RIN	Number of External Load Lifts	RIN Factor Per External Load Lift	Total External Load Lift RIN	Accumulated RIN
(A)	(B)	(C)	(D)	(E) =(C) x (D)	(F)	(G)	(H) =(F) x (G)	(I) =(E) + (H)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-450-007		0.25			0.5		
	204-011-450-105		0.25			0.5		
	204-011-450-109		0.25			0.5		
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-450-007		1.5			3		
	204-011-450-105		1.5			3		
	204-011-450-109		1.5			3		
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-450-007	*100*	3	*300*	*2,450*	6	*14,700*	*15,000*
	204-011-450-105		3			6		
	204-011-450-109		3			6		
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-450-007		6			12		
	204-011-450-105		6			12		
	204-011-450-109		6			12		
Restricted Category TIS (>1290 T.O. hp SLS)	204-011-450-007	Contact FAA*			Contact FAA*			Contact FAA*
	204-011-450-105							
	204-011-450-109							
Total RIN=								*15,000*

*Contact FAA at (817) 222-5447

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Calculation of Mast FACTORED Flight Hours (Without a Hub Spring Installed)

Mast A/C Model Installation	Mast P/N 204-011-450 (without a hub spring installed)	*Unfactored* Hours TIS on Model	Frequency Of Events Per Hour	Frequency of Event Hour Factor	FACTORED Flight Hours On Model
(A)	(B)	(C)	(D)	(E)	(F) = (C) x (E)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-450-007, -105, or -109		1.0-37.00	1.00	
			37.01-46.00	1.25	
			46.01-55.00	1.50	
			55.01-63.00	1.75	
			Greater than 63.00	Contact FAA*	
			Unknown	1.75	
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-450-007, -105, or -109		1.0-7.00	1.00	
			7.01-13.00	2.00	
			13.01-18.00	3.00	
			18.01-30.00	5.00	
			30.01-41.00	7.00	
			41.01-52.00	9.00	
			52.01-63.00	11.00	
			Greater than 63.00	Contact FAA*	
			Unknown	11.00	
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-450-007, -105, or -109		1.0-5.00	1.00	
			5.01-7.00	2.00	
			7.01-10.00	3.00	
		200	10.01-16.00	5.00	*1,000*
			16.01-24.00	7.50	
		250	24.01-31.00	10.00	*2,500*
			31.01-46.00	15.00	
			46.01-61.00	20.00	
			Greater than 61.00	Contact FAA*	
			Unknown	20.00	
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-450-007, -105, or -109		1.0-5.00	2.10	
			5.01-7.00	4.00	
			7.01-10.00	6.00	
			10.01-15.00	9.00	
			15.01-19.00	12.00	
			19.01-25.00	16.00	
			25.01-31.00	20.00	
			31.01-46.00	30.00	
			46.01-60.00	40.00	
			Greater than 60.00	Contact FAA*	
			Unknown	40.00	
Military TIS	204-011-450-007, -105,				
(≤700 T.O. hp SLS)	or -109		All	1.00	
(≤1000 T.O. hp SLS)			All	2.00	
(≤1100 T.O. hp SLS)			All	3.50	
(≤1290 T.O. hp SLS)			All	7.00	
(>1290 T.O. hp SLS)			All	Contact FAA*	

*Contact FAA at (817) 222-5447

Appendix 1 - Table 2

Calculation of Mast FACTORED Flight Hours (With a Hub Spring Installed)

Mast A/C Model Installation	Mast P/N 204-011-450 (*with* a hub spring or for which you do not know whether a hub spring was installed)	*Unfactored* Hours TIS on Model	Frequency Of Events Per Hour	Frequency of Event Hour Factor	FACTORED Flight Hours On Model
(A)	(B)	(C)	(D)	(E)	(F) = (C) x (E)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-450-007, -105, or -109		1.0-6.00	10.00	
			6.01-12.00	10.25	
			12.01-21.00	10.50	
			21.01-39.00	11.00	
			39.01-63.00	11.75	
			Greater than 63.00	Contact FAA*	
			Unknown	11.75	
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-450-007, -105, or -109		1.0-6.00	10.00	
			6.01-15.00	12.00	
			15.01-26.00	14.00	
			26.01-37.00	16.00	
			37.01-49.00	18.00	
			49.01-63.00	21.00	
			Greater than 63.00	Contact FAA*	
			Unknown	21.00	
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-450-007, -105, or -109		1.0-6.00	10.00	
			6.01-9.00	12.00	
		250	9.01-15.00	14.00	*3,500*
		<50>	15.01-21.00	16.00	*<800>*
			21.01-33.00	20.00	
			33.01-45.00	24.00	
			45.01-61.00	30.00	
			Greater than 61.00	Contact FAA*	
			Unknown	30.00	
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-450-007, -105, or -109		1.0-6.00	10.00	
			6.01-11.00	15.00	
			11.01-18.00	20.00	
			18.01-26.00	25.00	
			26.01-33.00	30.00	
			33.01-40.00	35.00	
			40.01-48.00	40.00	
			48.01-60.00	50.00	
			Greater than 60.00	Contact FAA*	
			Unknown	50.00	
Military TIS					
(≤1290 hp T.O. SLS)	204-011-450-007, -105,	*550*	All	10.00	*5,500*
(>1290 hp T.O. SLS)	or -109		All	Contact FAA*	

*Contact FAA at (817) 222-5447

Appendix 1 - Table 3

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Mast RIN Calculation Based on Hours TIS

Mast A/C Model Installation	Mast P/N 204-011-450	FACTORED Flight Hours On Model	RIN Conversion Factor	RIN Adjustment Per AD 2000-15-52	Accumulated RIN
(A)	(B)	(C) (From Table 2 of Appendix I)	(D)	(E)	(F) =(C) x (D) x (E)
Restricted Category or Military TIS with (≤1290 T.O. hp SLS)	204-011-450-007	*12,500*	20	1	*250,000*
	204-011-450-105		20	1	
	204-011-450-109		20	1	
Restricted Category or Military TIS with (>1290 T.O. hp SLS)	204-011-450-007	Contact FAA*	Contact FAA*	Contact FAA*	Contact FAA*
	204-011-450-105				
	204-011-450-109				
Total RIN =					*250,000*

*Contact FAA at (817) 222-5447

Appendix 1 - Table 4

Subtotals for the FACTORED Flight Hours and Accumulated RIN For Table 4 of the Sample Mast Calculation:

FACTORED Flight Hours			Accumulated RIN
5,500	X 20	=	110,000
3,500	X 20	=	70,000
3,500	X 20	=	70,000
12,500			250,000

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Appendix 2—AD Compliance Inspection Report (Sample Format) P/N 204-011-450-007/-105/-109 Main Rotor Mast

Provide the following information and mail or fax it to: Manager, Rotorcraft Certification Office, Federal Aviation Administration, Fort Worth, Texas, 76193-0170, USA; Fax: 817-222-5783.

Aircraft Registration No: _____.
Helicopter Model: _____.
Helicopter S/N: _____.
Mast P/N: _____.
Mast S/N: _____.
Mast RIN: _____.
Mast Total TIS: _____.

Inspection Results

Were any radii during inspection of this mast determined to be less than 0.020 inch? If yes, what was the dimension measured?
Was a burr found in the inspected snap ring grooves?
Were cracks noted during the inspection?
Who performed this inspection?
Provide any other comments?

Appendix 3—Instructions for Calculating Trunnion the RIN and Revised Hours TIS

Definitions for the RIN

The overall *fatigue life* of a main rotor trunnion is a function of the number of cycles of torque, lift, and bending loads applied to it during the various modes of operation. The trunnion experiences both high cycle fatigue and low cycle fatigue during operation.

The *high cycle fatigue life* of the trunnion is a function of high frequency but relatively low level cyclic loads, which are primarily induced by rotor rpm. The high cycle fatigue life limit for the trunnion is defined in terms of hours TIS because rotor rpm is basically a constant value.

The *low cycle fatigue life* of the trunnion is a function of the number of less frequent but relatively high level cyclic loads experienced primarily during takeoffs and external load lifts. The low cycle fatigue life limit for the trunnion is expressed in terms of the accumulated RIN.

A *load cycle* is a power cycle caused by a repeating or fluctuating load that alternates from a starting power value, goes to a higher power value, and returns to the starting power value.

The *accumulated RIN* is defined as the total number of load cycles multiplied by a RIN factor to account for the difference in torque levels applied to the same trunnion (since manufactured) when installed in different helicopter models. The level of torque applied to the trunnion is directly proportional to the transmission output horsepower.

The *unfactored hours TIS* is the time from the moment a helicopter leaves the surface of the earth until it touches it at the next point of landing with no factors applied.

The *FACTORED flight hours* is the *unfactored* hours TIS multiplied by a frequency of event hour factor based on the torque (horsepower) of the helicopter model in which it was installed and the usage of the helicopter.

The *revised hours TIS* is the new hours TIS for the trunnion as determined by following the instructions in this appendix.

An *external load lift* is defined as a lift where the load is carried, or extends, outside of the aircraft fuselage.

Calculation of RIN and Revised Hours TIS

There are two methods for calculating the accumulated RIN and the revised hours TIS, depending on the available service history information for the trunnion. In some cases, one method will be used for a portion of the trunnion service history, and the other method will be used for another portion of the trunnion service history. Both methods require knowledge of all the helicopter models in which the trunnion was installed.

Calculation of RIN and Revised Hours TIS When the Exact Number of Takeoffs and External Load Lifts Is *Known* (Reference Table 1)

Table 1 of Appendix 3 is the worksheet for calculating the accumulated trunnion RIN when the exact number of takeoffs and external load lifts *is known.*

The RIN factor for each external load lift is twice that specified for each takeoff because two torque events are experienced during a typical external load lift.

Using Table 1, calculate the accumulated RIN as follows:

1. Enter the total number of takeoffs for the particular trunnion model/helicopter model combination in column (C).
2. Multiply the value entered in column (C) by the RIN factor listed in column (D), and enter the result in column (E). This is the total accumulated RIN due to takeoffs.
3. Enter the total number of external load lifts for the particular trunnion model/helicopter model combination in column (F).
4. Multiply the value entered in column (F) by the RIN factor listed in column (G), and enter the result in column (H). This is the accumulated RIN due to external load lifts.
5. Add the values from column (E) and column (H) and enter the result in column (I). This is the total accumulated RIN to-date for the trunnion for the particular trunnion model/helicopter model combination.
6. Add the accumulated RIN subtotals for the various trunnion model/helicopter combinations in column (I) and enter the result in the space provided. This is the total accumulated RIN for the trunnion.

Calculation of RIN and Revised Hours TIS When Exact Number of Takeoffs and External Load Lifts Is *Unknown* (Reference Tables 2 and 3)

Tables 2 and 3 of Appendix 3 are the worksheets for calculating the FACTORED flight hours and accumulated trunnion RIN when the exact number of takeoffs and external load lifts *is unknown.*

Using Tables 2 and 3, calculate the accumulated trunnion RIN and revised hours TIS as follows:

1. Enter the *unfactored* hours TIS for the particular trunnion model/helicopter model combination in column (C) of Table 2.
2. Using service history for the trunnion, select the appropriate frequency of event hour factor from column (E) of Table 2 based on the total combined number of takeoffs and external load lifts per hour shown in column (D).
3. Multiply the value for *unfactored* hours TIS entered in column (C) by the appropriate value in column (E) for the frequency of event hour factor as determined in step 2. Enter the result in column (F) of Table 2. This is the total FACTORED flight hours for the particular trunnion model/helicopter model combination.
4. Enter the value for FACTORED flight hours from column (F) of Table 2 into column (C) of Table 3.
5. Using Table 3, multiply the value for FACTORED flight hours in column (C) by the appropriate RIN conversion factor listed in column (D), by the appropriate RIN adjustment factor in column (E), and enter the result in column (F). This is the accumulated RIN to-date for the particular trunnion model/helicopter model combination.
6. Add the accumulated RIN subtotals for the various trunnion model/helicopter model combinations in column (F) of Table 3 and enter the result in the space provided. This is the total accumulated RIN for the trunnion.
7. Add the factored flight hour subtotals for the various trunnion model/helicopter model combinations as determined in steps 1 through 4. This is the total revised hours TIS for the trunnion when the exact number of takeoffs and external load lifts *is unknown.*

Sample Trunnion Calculation

Given the following known service history for the trunnion:

Trunnion, P/N 204-011-105-001, was first purchased as a United States military surplus part with valid historical records. The trunnion had accumulated 550 hours military TIS on an Army UH-1H.

The trunnion was first installed on a restricted category UH-1H former military helicopter (1100 T.O. hp SLS rating) for 450 hours TIS. It is known that the helicopter was used primarily for aerial surveying for the first 200 hours of operation. The exact number of takeoffs and external load lifts is unknown, but it is known that the helicopter averaged less than 16 takeoffs per hour with no external load lifts. It was subsequently used for repeated heavy lift operation for the next 250 hours of operation and averaged between 25 and 31 combined takeoffs and external load lifts per hour during this period of time.

The trunnion was then removed and subsequently installed on a restricted category UH-1E former military helicopter (1100 T.O. hp SLS rating) for a total of 150 hours TIS with accurate records indicating that it experienced 100 takeoffs and 2,450 external load lifts.

Calculate the FACTORED flight hours and total accumulated RIN for the trunnion as follows:

FACTORED Flight Hours and Accumulated RIN While Installed in U.S. Military Model UH-1H:

Calculate FACTORED flight hours from Table 2 as follows:
FACTORED Flight Hours

= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (550) × (1)
= 550 hours

Then using Table 3, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (550) × (20) × (1)
= 11,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1H

Calculate FACTORED flight hours from Table 2 as follows:

FACTORED Flight Hours (for first 200 hours)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (200) × (1)
= 200 hours

FACTORED Flight Hours (for next 250 hours)
= (*unfactored* hours TIS) × (frequency of event hour factor)
= (column C) × (column E)
= (250) × (2)
= 500 hours

Then using Table 3, calculate the accumulated RIN as follows:

Accumulated RIN
= (FACTORED flight hours) × (RIN conversion factor) × (RIN adjustment factor)
= (column C) × (column D) × (column E)
= (200) × (20) × (1) + (500) × (20) × (1)
= 4,000 + 10,000
= 14,000 RIN

FACTORED Flight Hours and Accumulated RIN While Installed in Restricted Category Model UH–1E

Calculate the accumulated RIN from Table 1 and the given number of takeoffs and external load lifts as follows:

Accumulated RIN
= (number of takeoffs × RIN factor per takeoff) + (number of external load lifts × RIN factor per external load lifts)
= (column C) × (column D) + (column F) × (column G)
= (100) × (1.5) + (2,450) × (3)
= 7,500 RIN

Calculate the Total Accumulated RIN and Revised Hours TIS as follows

The total accumulated RIN to-date for the trunnion is the sum of the subtotals from Tables 1 and 3.

Total Accumulated RIN
= 11,000 + 14,000 + 7,500
= 32,500

The total FACTORED flight hours for the trunnion is the sum of the subtotals from Table 2.

Total FACTORED Flight Hours
= 550 + 200 + 500
= 1,250 hours

The revised hours TIS to-date for the trunnion is the sum of the total FACTORED flight hours and the additional *unfactored hours* TIS for the trunnion when the exact number of takeoff and external load lifts *is known*.

Revised Hours TIS
= 550 + 200 + 500 + 150
= 1,250 + 150
= 1,400 hours

Both the total accumulated RIN and the revised hours TIS need to be determined and checked for exceeding the allowable life limits for the trunnion.

The values for the sample problem are shown in Tables 1–3 for illustration purposes only.

BILLING CODE 4910–13–P

Appendix 3 - Table 1

Trunnion RIN Calculation Based on Takeoffs and External Load Lifts

Trunnion A/C Model Installation	Trunnion P/N 204-011-105	Number Of Takeoffs	RIN Factor Per Takeoff	Total Takeoff RIN	Number of External Load Lifts	RIN Factor Per External Load Lift	Total External Load Lift RIN	Accumulated RIN
(A)	(B)	(C)	(D)	(E) =(C) x (D)	(F)	(G)	(H) =(F) x (G)	(I) =(E) + (H)
Restricted Category TIS (≤700 T.O. hp SLS)	204-011-105-001		0.25			0.5		
Restricted Category TIS (700<T.O. hp SLS ≤1000)	204-011-105-001		1			2		
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-105-001	100	1.5	150	2,450	3	7,350	7,500
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-105-001		5			10		
Restricted Category TIS (>1290 T.O. hp SLS)	204-011-105-001		Contact FAA*			Contact FAA*		Contact FAA*
Total RIN=								7,500

*Contact FAA at (817) 222-5447

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Calculation of Trunnion FACTORED Flight Hours

Trunnion A/C Model Installation	Trunnion P/N 204-011-105	*Unfactored* Hours TIS on Model	Frequency Of Events Per Hour	Frequency of Event Hour Factor	FACTORED Flight Hours On Model
(A)	(B)	(C)	(D)	(E)	(F) = (C) x (E)
Restricted Category TIS (≤1000 T.O. hp SLS))	204-011-105-001		1.0-40.00	1.00	
			Greater than 40.00	Contact FAA*	
			Unknown	1.00	
Restricted Category TIS (1000<T.O. hp SLS ≤1100)	204-011-105-001	***200***	1.0-20.00	1.00	***200***
		250	20.01-44.00	2.00	***500***
			44.01-69.00	3.00	
			Greater than 69.00	Contact FAA*	
			Unknown	3.00	
Restricted Category TIS (1100<T.O. hp SLS ≤1290)	204-011-105-001		1.0-5.00	1.00	
			5.01-8.00	1.50	
			8.01-12.00	2.00	
			12.01-18.00	3.00	
			18.01-32.00	5.00	
			32.01-48.00	7.00	
			48.01-62.00	9.00	
			Greater than 62.00	Contact FAA*	
			Unknown	9.00	
Military TIS	204-011-105-001				
(≤1100 T.O. hp SLS)		***550***	All	1.00	***550***
(≤1290 T.O. hp SLS)			All	2.00	
(>1290 T.O. hp SLS)			All	Contact FAA*	

*Contact FAA at (817) 222–5447

Appendix 3 - Table 2

Trunnion RIN Calculation Based on Hours TIS

Trunnion A/C Model Installation	Trunnion P/N 204-011-105	FACTORED Flight Hours On Model	RIN Conversion Factor	RIN Adjustment Per AD 2000-15-52	Accumulated RIN
(A)	(B)	(C) (From Table 2 of Appendix I)	(D)	(E)	(F) =(C) x (D) x (E)
Restricted Category or Military TIS with (≤1000 T.O. hp SLS)	204-011-105-001		20	1.0	
Restricted Category or Military TIS with (1000<T.O. hp SLS ≤1100)	204-011-105-001	***1,250***	20	1.0	25,000
Restricted Category or Military TIS with (1100<T.O. hp SLS ≤1290)	204-011-105-001		20	1.0	
Restricted Category or Military TIS with (>1290 T.O. hp SLS)	204-011-105-001	Contact FAA	Contact FAA	Contact FAA	Contact FAA
Total RIN=					***25,000***

Contact FAA at (817) 222–5447

Appendix 3 - Table 3

Subtotals for the FACTORED Flight Hours and Accumulated RIN For Table 3 of the Sample Trunnion Calculation:

FACTORED Flight Hours			Accumulated RIN
550	X 20	=	11,000
200	X 20	=	4,000
500	X 20	=	10,000
1,250			25,000

Issued in Fort Worth, Texas, on September 12, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–23415 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–C

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 96–5 CARP DSTRA]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Copyright Office is extending the period to file comments to proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act.

DATES: Comments and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding are due no later than September 28, 2001.

ADDRESSES: An original and five copies of any comment and Notice of Intent to Participate shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: On July 23, 2001, the Copyright Office published a notice of proposed rulemaking seeking comments on proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act. 66 FR 38226 (July 23, 2001). Comments on the proposed terms and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding, the purpose of which would be to adopt terms governing the RIAA collective in its handling of royalty fees collected from the subscription services, were due on August 22, 2001.

On August 22, 2001, The American Federation of Musicians of the United States and Canada ("AFM") and The American Federation of Television and Radio Artists ("AFTRA") filed a request for an extension of the filing date for comments until September 19, 2001. The Office granted this request and extended the deadline for filing comments to September 19, 2001, 66 FR 46250 (September 4, 2001).

On September 14, 2001, AFM and AFTRA requested a further extension of the filing date for comments in light of the events of September 11, 2001, and stated that the RIAA joined in the request. The Office is granting this request and is extending the filing date for comments until September 28, 2001. There will be no further extensions of the filing date for comments in this proceeding.

Dated: September 18, 2001.

David O. Carson,

General Counsel.

[FR Doc. 01–23687 Filed 9–20–01; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0060b; MT–001–0032b; FRL–7055–5]

Approval and Promulgation of Air Quality Implementation Plans for Colorado and Montana: Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to take direct final action to approve revisions to the Colorado and Montana State Implementation Plans (SIPs) that incorporate consultation procedures for transportation conformity. The conformity rules assure that in air quality nonattainment or maintenance areas, projected emissions from transportation plans and projects stay within the motor vehicle emissions ceiling in the SIP. The transportation conformity SIP revisions enable the States to implement and enforce transportation conformity consultation procedures at the State level per regulations for Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. Our approval action would streamline the conformity process and allow direct consultation among agencies at the local levels. EPA is taking this action under section 110(k) and 176 of the Clean Air Act (Act).

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as non controversial revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing on or before October 22, 2001.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and, United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Department of Public Health and Environment, 4300 Cherry Creek Dr. S., Denver, Colorado 80246–1530. Montana Department of Environmental Quality, Planning, Prevention and Assistance Division, 1520 East 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 5, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–23597 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 2000–D018]

Defense Federal Acquisition Regulation Supplement; Changes to Profit Policy

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to make changes to DoD profit policy that would reduce the emphasis on facilities investment, add general and administrative expense to the cost base used in determining profit objectives, increase emphasis on performance risk, and encourage contractor cost efficiency.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before November 20, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: dfars@acq.osd.mil. Please cite DFARS Case 2000–D018 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra Haberlin, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D018.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the profit policy in DFARS Subpart 215.4. DoD published a proposed rule at 65 FR 45574 on July 24, 2000. That rule proposed to—

- Add general and administrative expense to the cost base used to establish profit objectives;
- Reduce the values assigned to facilities capital employed by 50 percent, with the objective, over time, to eliminate completely facilities investment as a factor in establishing profit objectives on sole-source, negotiated contracts;
- Offset these changes by increasing the values for performance risk by 1 percentage point and decreasing the values for contract type risk by 0.5 percentage point; and
- Add a special factor for cost efficiency to encourage cost reduction efforts.

Twelve sources submitted comments in response to the proposed rule. Due to the complexity of the issues raised in the comments received, DoD published a notice of public meeting at 65 FR 69895 on November 21, 2000. The public meeting was held on December 12, 2000. After considering written comments received in response to the proposed rule, and verbal comments provided during the public meeting, DoD is publishing a revised proposed rule. The major differences between the initial proposed rule and the revised proposed rule are—

- Facilities capital employed. Over a 4-year period, the initial rule eliminated facilities capital employed as a factor in developing profit objectives. The revised rule retains 50 percent of the current values for equipment as an incentive for modernization of equipment.
- Contract type and performance risks. The intention of the proposed profit policy changes is to revise the incentive structure of the policy and not to increase or decrease average profit objectives. Changes to contract type and performance risks in the initial proposed rule were made to offset the addition of general and administrative expense to the cost base and the elimination of facilities capital employed. Since the revised proposed rule restores a portion of facilities capital employed, offsets to performance risk contained in the initial rule have been reduced. Likewise, the revised rule restores the current values for contract type risk, that had been reduced by 0.5 percent in the initial rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are below $500,000, are based on adequate price competition, or are for commercial items, and do not require submission of cost or pricing data. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D018.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 215 as follows:

1. The authority citation for 48 CFR part 215 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

215.404–4 [Amended]

2. Section 215.404–4 is amended by removing paragraph (c)(2)(C)*(1)(i)* and redesignating paragraphs (c)(2)(C)*(1)(ii)* through *(iv)* as paragraphs (c)(2)(C)*(1)(i)* through *(iii)*, respectively.

3. Sections 215.404–71–1 and 215.404–71–2 are revised to read as follows:

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215.404–71–1 General.

(a) The weighted guidelines method focuses on four profit factors—

(1) Performance risk;

(2) Contract type risk;

(3) Facilities capital employed; and

(4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer must exercise sound business judgment in selecting a value when this special factor is used (see 215.404–71–5).

215.404–71–2 Performance risk.

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

(1) Technical—the technical uncertainties of performance.

(2) Management/cost control—the degree of management effort necessary—

(i) To ensure that contract requirements are met; and

(ii) To reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.

Item	Contractor risk factors	Assigned weighting	Assigned value	Base (Item 20)	Profit objective
21.	Technical	(1)	(2)	N/A	N/A
22.	Management/Cost Control	(1)	(2)	N/A	N/A
23.	Reserved				
24.	Performance Risk (Composite)	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this subsection using the evaluation criteria in paragraphs (d) and (e) of this subsection.

(3) Compute the composite as shown in the following example:

	Assigned weighting percent	Assigned value percent	Weighted value percent
Technical	60	5.0	3.0
Management/Cost Control	40	4.0	1.6
Composite Value	100		4.6

(4) Insert the amount from Block 20 of the DD Form 1547. Block 20 is total contract costs, excluding facilities capital cost of money.

(5) Multiply (3) by (4).

(c) *Values: Normal and designated ranges.*

	Normal value percent	Designated range percent
Standard	5	3 to 7
Technology incentive	9	7 to 11

(1) *Standard.* The standard designated range should apply to most contracts.

(2) *Technology incentive.* For the technical factor only, contracting officers may use the technology incentive range for acquisitions that include development, production, or application of innovative new technologies. The technology incentive range does not apply to efforts restricted to studies, analyses, or demonstrations that have a technical report as their primary deliverable.

(d) *Evaluation criteria for technical.*

(1) Review the contract requirements and focus on the critical performance elements in the statement of work or specifications. Factors to consider include—

(i) Technology being applied or developed by the contractor;

(ii) Technical complexity;

(iii) Program maturity;

(iv) Performance specifications and tolerances;

(v) Delivery schedule; and

(vi) Extent of a warranty or guarantee.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value in those cases where there is a substantial technical risk. Indicators are—

(A) Items are being manufactured using specifications with stringent tolerance limits;

(B) The efforts require highly skilled personnel or require the use of state-of-the-art machinery;

(C) The services and analytical efforts are extremely important to the Government and must be performed to exacting standards;

(D) The contractor's independent development and investment has reduced the Government's risk or cost;

(E) The contractor has accepted an accelerated delivery schedule to meet DoD requirements; or

(F) The contractor has assumed additional risk through warranty provisions.

(ii) Extremely complex, vital efforts to overcome difficult technical obstacles that require personnel with exceptional abilities, experience, and professional credentials may justify a value significantly above normal.

(iii) The following may justify a maximum value—

(A) Development or initial production of a new item, particularly if performance or quality specifications are tight; or

(B) A high degree of development or production concurrency.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value in those cases where the technical risk is low. Indicators are—

(A) Requirements are relatively simple;

(B) Technology is not complex;

(C) Efforts do not require highly skilled personnel;

(D) Efforts are routine;

(E) Programs are mature; or

(F) Acquisition is a follow-on effort or a repetitive type acquisition.

(ii) The contracting officer may assign a value significantly below normal for—

(A) Routine services;

(B) Production of simple items;

(C) Rote entry or routine integration of Government-furnished information; or

(D) Simple operations with Government-furnished property.

(4) *Technology incentive range.*

(i) The contracting officer may assign values within the technology incentive range when contract performance includes the introduction of new, significant technological innovation. Use the technology incentive range only for the most innovative contract efforts. Innovation may be in the form of—

(A) Development or application of new technology that fundamentally changes the characteristics of an existing product or system and that results in increased technical performance, improved reliability, or reduced costs; or

(B) New products or systems that contain significant technological advances over the products or systems they are replacing.

(ii) When selecting a value within the technology incentive range, the contracting officer should consider the relative value of the proposed innovation to the acquisition as a whole. When the innovation represents a minor benefit, the contracting officer should consider using values less than the norm. For innovative efforts that will have a major positive impact on the product or program, the contracting officer may use values above the norm.

(e) *Evaluation criteria for management/cost control.*

(1) The contracting officer should evaluate—

(i) The contractor's management and internal control systems using contracting office information and reviews made by field contract administration offices or other DoD field offices;

(ii) The management involvement expected on the prospective contract action;

(iii) The degree of cost mix as an indication of the types of resources applied and value added by the contractor;

(iv) The contractor's support of Federal socioeconomic programs;

(v) The expected reliability of the contractor's cost estimates (including the contractor's cost estimating system);

(vi) The adequacy of the contractor's management approach to controlling cost and schedule; and

(vii) Any other factors that affect the contractor's ability to meet the cost targets (e.g., foreign currency exchange rates and inflation rates).

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value when there is a high degree of management effort. Indicators of this are—

(A) The contractor's value added is both considerable and reasonably difficult;

(B) The effort involves a high degree of integration or coordination;

(C) The contractor has a good record of past performance;

(D) The contractor has a substantial record of active participation in Federal socioeconomic programs;

(E) The contractor provides fully documented and reliable cost estimates;

(F) The contractor makes appropriate make-or-buy decisions; or

(G) The contractor has a proven record of cost tracking and control.

(ii) The contracting officer may justify a maximum value when the effort—

(A) Requires large scale integration of the most complex nature;

(B) Involves major international activities with significant management coordination (e.g., offsets with foreign vendors); or

(C) Has critically important milestones.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value when the management effort is minimal. Indicators of this are—

(A) The program is mature and many end item deliveries have been made;

(B) The contractor adds minimal value to an item;

(C) The efforts are routine and require minimal supervision;

(D) The contractor provides poor quality, untimely proposals;

(E) The contractor fails to provide an adequate analysis of subcontractor costs;

(F) The contractor does not cooperate in the evaluation and negotiation of the proposal;

(G) The contractor's cost estimating system is marginal;

(H) The contractor has made minimal effort to initiate cost reduction programs;

(I) The contractor's cost proposal is inadequate;

(J) The contractor has a record of cost overruns or another indication of unreliable cost estimates and lack of cost control; or

(K) The contractor has a poor record of past performance.

(ii) The following may justify a value significantly below normal—

(A) Reviews performed by the field contract administration offices disclose unsatisfactory management and internal control systems (e.g., quality assurance, property control, safety, security); or

(B) The effort requires an unusually low degree of management involvement.

4. Section 215.404–71–3 is amended as follows:

a. In paragraph (b), in the table, by removing the heading "Base (Item 18)" and adding in its place "Base (Item 20)"; and

b. By revising paragraph (b)(2) and the introductory text of paragraph (e)(2) to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(b) * * *

(2) Insert the amount from Block 20, i.e., the total allowable costs excluding facilities capital cost of money.

* * * * *

(e) * * *

(2) Total costs equal Block 20 (*i.e.*, all allowable costs excluding facilities capital cost of money), reduced as appropriate when—

* * * * *

5. Section 215.404–71–4 is amended as follows:

a. In paragraph (a), in the first sentence, by removing the word "aggressive";

b. In paragraph (b)(2)(ii), in the first and last sentences, by removing "Block 18" and adding in its place "Block 20"; and

c. By revising paragraphs (c) and (d) to read as follows:

215.404–71–4 Facilities capital employed.

* * * * *

(c) *Values: Normal and designated ranges.* These are the normal values and ranges. They apply to all situations.

Asset type	Normal value percent	Designated range
Land	0	N/A
Buildings	0	N/A

Asset type	Normal value percent	Designated range
Equipment	17.5	10% to 25%

(d) *Evaluation criteria.*

(1) In evaluating facilities capital employed, the contracting officer—

(i) Should relate the usefulness of the facilities capital to the goods or services being acquired under the prospective contract;

(ii) Should analyze the productivity improvements and other anticipated industrial base enhancing benefits resulting from the facilities capital investment, including—

(A) The economic value of the facilities capital, such as physical age, undepreciated value, idleness, and expected contribution to future defense needs; and

(B) The contractor's level of investment in defense related facilities as compared with the portion of the contractor's total business that is derived from DoD; and

(iii) Should consider any contractual provisions that reduce the contractor's risk of investment recovery, such as termination protection clauses and capital investment indemnification.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value if the facilities capital investment has direct, identifiable, and exceptional benefits. Indicators are—

(A) New investments in state-of-the-art technology that reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries; or

(B) Investments in new equipment for research and development applications.

(ii) The contracting officer may assign a value significantly above normal when there are direct and measurable benefits in efficiency and significantly reduced acquisition costs on the effort being priced. Maximum values apply only to those cases where the benefits of the facilities capital investment are substantially above normal.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value if the facilities capital investment has little benefit to DoD. Indicators are—

(A) Allocations of capital apply predominantly to commercial item lines;

(B) Investments are for such things as furniture and fixtures, home or group level administrative offices, corporate aircraft and hangars, gymnasiums; or

(C) Facilities are old or extensively idle.

(ii) The contracting officer may assign a value significantly below normal when a significant portion of defense manufacturing is done in an environment characterized by outdated, inefficient, and labor-intensive capital equipment.

6. Section 215.404–71–5 is added to read as follows:

215.404–71–5 Cost efficiency factor.

(a) This special factor provides an incentive for contractors to reduce costs. To the extent that the contractor can demonstrate cost reduction efforts that benefit the pending contract, the contracting officer may increase the prenegotiation profit objective by an amount not to exceed 4 percent of total objective cost (Block 20 of the DD Form 1547) to recognize these efforts.

(b) To determine if using this factor is appropriate, the contracting officer must consider criteria, such as the following, to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract:

(1) The contractor's participation in Single Process Initiative improvements;

(2) Actual cost reductions achieved on prior contracts;

(3) Reduction or elimination of excess or idle facilities;

(4) The contractor's cost reduction initiatives (e.g., competition advocacy programs, technical insertion programs, obsolete parts control programs, spare parts pricing reform, value engineering, the use of metrics to drive down key costs);

(5) The contractor's adoption of process improvements to reduce costs;

(6) Subcontractor cost reduction efforts; or

(7) The contractor's effective incorporation of commercial items and processes.

(c) When selecting the percentage to use for this special factor, the contracting officer has maximum flexibility in determining the best way to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract. However, the contracting officer must consider the impact that quantity differences, learning, changes in scope, and economic factors such as inflation and deflation will have on cost reduction.

215.404–72 [Amended]

7. Section 215.404–72 is amended as follows:

a. In paragraph (b)(1)(i), in the first sentence, by removing "Block 18" and adding in its place "Block 20";

b. By removing paragraph (b)(1)(ii); and

c. By redesignating paragraph (b)(1)(iii) as paragraph (b)(1)(ii).

8. Section 215.404–73 is amended by revising paragraph (b) introductory text and the first sentence of paragraph (b)(2)(i) to read as follows:

215.404–73 Alternate structured approaches.

* * * * *

(b) The contracting officer may design the structure of the alternate, but it must include—

* * * * *

(2) * * *

(i) The contracting officer must reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money. * * *

* * * * *

9. Section 215.404–74 is amended by revising the introductory text and paragraph (c) to read as follows:

215.404–74 Fee requirements for cost-plus-award-fee contracts.

In developing a fee objective for cost-plus-award-fee contracts, the contracting officer must—

* * * * *

(c) Apply the offset policy in 215.404–73(b)(2) for facilities capital cost of money, i.e., reduce the base fee by the amount of facilities capital cost of money; and

* * * * *

[FR Doc. 01–23690 Filed 9–20–01; 8:45 am]

BILLING CODE 5000–04–U

DEPARTMENT OF DEFENSE

48 CFR Part 252

[DFARS Case 2000–D027]

Defense Federal Acquisition Regulation Supplement; Tax Exemptions (Italy)

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update requirements pertaining to tax exemptions for DoD contracts performed in Italy.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before November 20, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil*. Please cite DFARS Case 2000–D027 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan Schneider, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2000–D027.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DoD uses the contract clause at DFARS 252.229–7003, Tax Exemptions (Italy), when contract performance will be in Italy. This rule proposes amendments to the clause at DFARS 252.229–7003 to update the information pertaining to tax exemptions that contractors must include on their invoices.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule makes minor changes in invoicing requirements that apply only to DoD contracts performed in Italy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D027.

C. Paperwork Reduction Act

The rule does not add any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 252 as follows:

1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 252.229–7003 is revised to read as follows:

252.229–7003 Tax exemptions (Italy).

As prescribed in 229.402–70(c), use the following clause:

Tax Exemptions (Italy) (XXX 2001)

(a) The Contractor represents that the contract price, including the prices in subcontracts awarded under this contract, does not include taxes from which the United States Government is exempt.

(b) The United States Government is exempt from payment of Imposta Valore Aggiunto (IVA) tax in accordance with Article 72 of the IVA implementing decree on all supplies and services sold to United States Military Commands in Italy.

(1) The Contractor shall include the following information on invoices submitted to the United States Government:

(i) The contract number.

(ii) The IVA tax exemption claimed pursuant to Article 72 of Decree Law 633, dated October 26, 1972.

(iii) The following fiscal code(s): *[Contracting Officer must insert the applicable fiscal code(s) for military activities within Italy: 80028250241 for Army, 80156020630 for Navy, or 91000190933 for Air Force].*

(2)(i) Upon receipt of the invoice, the paying office will include the following certification on one copy of the invoice: "I certify that this invoice is true and correct and reflects expenditures made in Italy for the Common Defense by the United States Government pursuant to international agreements. The amount to be paid does not include the IVA tax, because this transaction is not subject to the tax in accordance with Article 72 of Decree Law 633, dated October 26, 1972." An authorized United States Government official will sign the copy of the invoice containing this certification.

(ii) The paying office will return the certified copy together with payment to the Contractor. The payment will not include the amount of the IVA tax.

(iii) The Contractor shall retain the certified copy to substantiate non-payment of the IVA tax.

(3) The Contractor may address questions regarding the IVA tax to the Ministry of Finance, IVA office, Rome (06) 520741.

(c) In addition to the IVA tax, purchases by the United States Forces in Italy are exempt from the following taxes:

(1) Imposta di Fabbricazione (Production Tax for Petroleum Products).

(2) Imposta di Consumo (Consumption Tax for Electrical Power).

(3) Dazi Doganali (Customs Duties).

(4) Tassa di Sbarco e d'Imbarco sulle Merci Transportate per Via Aerea e per Via Maritima (Port Fees).

(5) Tassa de Circolazione sui Veicoli (Vehicle Circulation Tax).

(6) Imposta di Registro (Registration Tax).

(7) Imposta di Bollo (Stamp Tax). (End of clause)

[FR Doc. 01–23689 Filed 9–20–01; 8:45 am]

BILLING CODE 5000–04–U

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Notices

Federal Register
Vol. 66, No. 184
Friday, September 21, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: October 17, 2001 (9:00 a.m. to 5:00 p.m.)

Location: Marriott at Metro Center, 775 12th Street, NW., Washington, DC.

This meeting will feature discussion of USAID's strategies for conflict prevention, procurement reform, and HIV/AIDS. Participants will have an opportunity to ask questions of the speakers and to discuss the issues in more depth in small groups.

The meeting is free and open to the public. Persons wishing to attend the meeting can fax or e-mail their name to Noreen O'Meara, 202–216–3041, *nomeara@usaid.gov*.

Dated: September 14, 2001.

Noreen O'Meara,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 01–23663 Filed 9–20–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–01–07]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are: October 15, 2001, 8:00 a.m. to 5:00 p.m.; October 16, 2001, 8:30 a.m. to 5:30 p.m.; and, October 17, 2001, 8:00 a.m. to 3:30 p.m. Requests from individuals and organizations wishing to make an oral presentation at the meeting are due by the close of business on October 5, 2001.

ADDRESSES: The meeting will take place at the U.S. Department of Agriculture, Rear of the South Building Cafeteria, 1400 Independence Ave., S.W., Washington, D.C. 20250-0200. Requests for copies of the NOSB meeting agenda and requests to make an oral presentation at the meeting may be sent to Kathérine Benham at USDA–AMS–TMD–NOP, 1400 Independence Avenue, SW., Room 2945–So., Ag Stop 0268, Washington, DC 20250–0200. Requests to make an oral presentation at the meeting may also be sent electronically to *Katherine Benham at katherine.benham@usda.gov*.

FOR FURTHER INFORMATION CONTACT: Richard Mathews, Program Manager, National Organic Program, (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. Section 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on other aspects of the implementation of OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has five committees working on various aspects of the organic program. The committees are: Accreditation, Crops, Livestock, Materials, and Processing.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 30 addenda to its recommendations and reviewed more than 196 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on June 6–7, 2001, in La Crosse, Wisconsin.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

The principal purposes of the meeting are to provide an opportunity for the NOSB to: receive an update from the USDA/NOP; receive various committee reports; hear a presentation from the Environmental Protection Agency (EPA) on inert ingredients and pesticide product labeling; hear a presentation from the Foreign Agricultural Service, USDA, on trade issues; receive updates from the Aquatic Task Force Working Group and the Task Force on Outreach to Producers; review materials to determine if they should be included on the National List of Approved and Prohibited Substances; and conduct the annual election of Chairperson and Vice-Chairperson.

The Livestock Committee will present for NOSB consideration its recommendations on "access to pasture," antibiotics in vaccines and semen, apiculture, and aquatic species. This committee will also discuss Pet Food labeling. The Materials Committee will explain the materials petition process and timelines, and the decision process for reviewing/approving a material for possible inclusion on the National List of Allowed and Prohibited Substances. The Materials Committee will report on new petitions received for the review of materials and the Technical Advisory Panel review process. Finally, the Materials Committee will present 13 materials for possible inclusion on the National List of Allowed and Prohibited Substances. The Processing Committee will discuss guidelines for determining what processing technologies are appropriate for organic handling, such as ion exchange and activated carbon filtration. The Crops Committee will present for NOSB consideration its recommendations for Mushroom and Greenhouse production standards. The Crops Committee will also discuss the status of its work on composting; compost tea and vermiculture; and heated, pathogen free manure products. Further, the Crops Committee will discuss recommendations for certification of transitional operations and the labeling of transitional products. The Accreditation Committee will present for NOSB consideration its recommendation on principles of organic production and handling. The Accreditation Committee will present for NOSB consideration its recommendations regarding exemptions of small producers, exclusion of handlers, and certification of private label products. The Accreditation Committee will also report on continued certifying agent outreach and provide an analysis of the NOP Frequently Asked Questions web page.

Materials to be reviewed at the meeting by the NOSB are as follows: for Crop Production: Monocalcium Phosphate, Calcium Chloride, Copper Sulfate; for Livestock Production: DL-Methionine (including, DL-Methionine Hydroxy Analog and Hydroxy Analog Calcium); for Processing: Ammonium Hydroxide, Cyclohexlamine, Diethylaminoethanol, Morpholine, Octadecylamine, Postassium Hydroxide, Sodium Phosphates, Cellulose, and Glycerol Monooleate.

For further information see http://www.ams.usda.gov/nop. Copies of the NOSB meeting agenda can be requested from Ms. Katherine Benham by telephone at (202) 720-3252; or by accessing the NOP website at *http://www.ams.usda.gov/nop*.

The meeting is open to the public. The NOSB has scheduled time for public input on Monday, October 15, 2001, from 8:00 a.m. until 10:00 a.m.; and Wednesday, October 17, from 8:00 a.m. until 10:00 a.m., at the USDA, rear of the South Building Main Cafeteria. Individuals and organizations wishing to make an oral presentation at the meeting may forward their request by facsimile to Ms. Katherine Benham at (202) 690–3924. While persons wishing to make a presentation may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation. Written comments may be submitted to Ms. Benham at the above address prior to or after the meeting. Written comments may also be submitted at the meeting.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23649 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–078–1]

User Fees; Agricultural Quarantine and Inspection Services and Import- and Export-Related Veterinary Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for agricultural quarantine and inspection services we provide in connection with commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States, and to import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. The purpose of this notice is to remind the public of the user fees for fiscal year 2002 (October 1, 2001, throughSeptember 30, 2002).

FOR FURTHER INFORMATION CONTACT: For information concerning AQI program operations, contact Mr. Colonel Locklear, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8372.

For information concerning VS program operations, contact Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1236; (301) 734–8364.

For information concerning user fee development, contact Ms. Donna Ford, User Fees Section Head, FSSB, FMD, MRP–BS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 354.3 (referred to below as the regulations) contain provisions for the collection of user fees for agricultural quarantine and inspection (AQI) services provided by the Animal and Plant Health Inspection Service (APHIS). These services include, among other things, inspecting commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States. (The Customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

These user fees are authorized by 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a). This statute, known as the Farm Bill, was amended by 504 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127, 110 Stat. 888) on April 4, 1996.

On July 24, 1997, we published in the **Federal Register** (62 FR 39747–39755, Docket No. 96–038–3) a final rule that amended the regulations by adjusting our user fees for servicing commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States and by setting user fees for these services for fiscal years 1997 through 2002 and beyond. Additionally, on November 16, 1999, we published in the **Federal Register** (64 FR 62089–62096, Docket No. 98–073–2) another final rule that amended the regulations by updating some of the user fees. When we established the user fees for fiscal years 1997 through 2002 and beyond, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2002 (October 1, 2001, through September 30, 2002).

Agricultural Quarantine and Inspection Services

We inspect commercial vessels of 100 net tons or more.[1] As specified in § 354.3(b)(1), our user fee for inspecting commercial vessels will be $480.50 during fiscal year 2002.

We inspect commercial trucks[2] entering the Customs territory of the United States. Commercial trucks may pay the APHIS user fee each time they enter the Customs territory of the United

[1] Those commercial vessels subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(b)(2).

[2] Those commercial trucks subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(c)(2).

States from Mexico [3] or purchase a prepaid APHIS permit for a calendar year. Since commercial trucks are also subject to Customs user fees, our regulations provide that commercial trucks must prepay the APHIS user fee if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival and is valid for an unlimited number of entries during the calendar year (see § 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year. As specified in § 354.3(c)(1), our user fee for inspecting commercial trucks will be $4.75 for individual arrivals and, as specified in § 354.3(c)(3)(i), $95 for a calendar year 2002 decal.

We inspect commercial railroad cars[4] entering the Customs territory of the United States. These user fees may be paid per inspection or prepaid. Prepaid user fees cover 1 calendar year's worth of AQI inspections. As specified in § 354.3(d)(1), the user fee for this service will be $7.00 per loaded commercial railroad car for each arrival or, if user fees are prepaid, $140 (20 times the individual arrival fee) for each loaded railcar during fiscal year 2002.

We also inspect international commercial aircraft[5] arriving at ports in the Customs territory of the United States. As specified in § 354.3(e)(1), the user fee will be $65.25 during fiscal year 2002.

We also inspect international airline passengers[6] arriving at ports in the Customs territory of the United States. As specified in § 354.3(f)(1), the international airline passenger user fee will be $3.10 during fiscal year 2002.

In addition to the user fees described above, APHIS also charges user fees for import- and export-related veterinary services. The regulations in 9 CFR part 130 list user fees for import- and export-related services provided by APHIS for animals, animal products, birds, germ plasm, organisms, and vectors.

These user fees are authorized by 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

On August 28, 2000, we published in the **Federal Register** (62 FR 51997–52010, Docket No. 97–058–2) a final rule that amended the regulations in 9 CFR part 130 by adjusting our user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors and by setting user fees for these services for fiscal years 2001 through 2004 and beyond. Additionally, on August 1, 2001, we published in the **Federal Register** (66 FR 39628–39632, Docket No. 99–060–2) another final rule that amended the regulations by updating some of the user fees. When we established the user fees for fiscal years 2001 through 2004 and beyond, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2002 (October 1, 2001, through September 30, 2002).

Import- and Export-Related Veterinary Services

We provide standard and nonstandard housing, care, feed, and handling for individual animals and certain birds[7] quarantined in APHIS-owned or -operated animal quarantine facilities, including APHIS Animal Import Centers. As specified in § 130.2(a), the daily user fee for each animal or bird quarantined in APHIS-owned or -operated animal quarantine facilities receiving standard housing, care, feed, and handling for fiscal year 2002 will be as follows:

Animal or bird	User Fee—Oct. 1, 2001–Sept. 30, 2002
Birds (excluding ratites and pet birds imported in accordance with 9 CFR part 93):	
0–250 grams	$1.50
251–1,000 grams	5.25
Over 1,000 grams	13.00
Domestic or zoo animals (except equines, birds, and poultry):	
Bison, bulls, camels, cattle, or zoo animals	97.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine	26.00
Equines (including zoo equines, but excluding miniature horses):	
1st through 3rd day (fee per day)	257.00
4th through 7th day (fee per day)	186.00
8th and subsequent days (fee per day)	158.00
Miniature horses	58.00
Poultry (including zoo poultry):	
Doves, pigeons, quail	3.25
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	6.00
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys	14.00
Ratites:	
Chicks (less than 3 months old)	9.00
Juveniles (3 months through 10 months old)	13.00
Adults (11 months old and older)	26.00

[3] Section 354.3(c)(2)(i) of the regulations states that commercial trucks entering the Customs territory of the United States from Canada are exempt from paying an APHIS user fee.

[4] Those commercial railroad cares subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(d)(2).

[5] Those commercial aircraft subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(e)(2).

[6] Those international airline passengers subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(f)(2).

[7] Those animals and birds subject to quarantine are specified in 9 CFR, chapter I, subchapter D of the regulations.

Certain conditions or traits, such as pregnancy or aggression, may necessitate special requirements for certain birds or poultry. Birds and poultry receiving nonstandard housing, care, feed, or handling to meet special requirements may receive those services while quarantined in an APHIS-owned or -operated quarantine facility at the request of an importer or as required by an APHIS representative. As specified in § 130.2(b), the daily user fee for each bird or poultry receiving nonstandard housing, care, or handling while quarantined in an APHIS-owned or -operated animal quarantine facility for fiscal year 2002 is $5.25 for birds weighing 250 grams or less, and doves, pigeons, and quail; $13.00 for birds weighing 251–1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants; and $24.00 for birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys. As specified in § 130.2(c), importers of animals or birds that require a diet other than standard feed must either provide feed or pay APHIS for feed on an actual cost basis, including the cost of delivery to the APHIS-owned or -operated Animal Import Center or quarantine facility.

We accept requests from importers to exclusively occupy a space at an APHIS Animal Import Center. As specified in § 130.3(a)(1), the monthly user fee for exclusive use of space at APHIS Animal Import Center in Newburgh, NY, for fiscal year 2002 is $56,054 to occupy a space 5,396 square feet in size, $92,484 for a space 8,903 square feet in size, and $9,401 for a space 905 square feet in size. The fees listed in § 130.3(a)(1) cover all costs of quarantine [8] except feed. The importer either provides the feed or pays for it on an actual cost basis, including the cost of delivery.

We process applications for permits to import and transport certain animal products, organisms, vectors, and germ plasm.[9] As specified in § 130.4, the user fees for processing import permit applications for certain animals and animal products during fiscal year 2002 will be as follows:

Service	Unit	User fee—Oct. 1, 2001–Sept. 30, 2002
Import compliance assistance:		
Simple (2 hours or less)	Per release	$66.00
Complicated (more than 2 hours)	Per release	169.00
Processing an application for a permit to import live animals, animal products or byproducts, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors [1]:		
Initial permit	Per application	94.00
Amended permit	Per amended application	47.00
Renewed permit [2]	Per application	61.00
Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application	322.00

[1] Using Veterinary Services Form 16–3 "Application for Permit to Import or Transport Controlled Material or Organisms or Vectors," or Form 17–129, "Application for Import or In Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs)."
[2] Permits to import germ plasm and live animals are not renewable.

We inspect live animals presented for importation into or entry into the United States through a land border port along the United States-Mexico border. As specified in § 130.6(a), the user fees for inspection of live animals at land border ports along the United States-Mexico border for fiscal year 2002 will be as listed in the following table:

Type of live animal	Per head user fee			
	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
Any ruminants (including breeder ruminants) not covered below	$8.25	$8.50	$8.75	$9.00
Feeder	2.25	2.25	2.50	2.50
Horses, other than slaughter	41.00	42.00	43.00	44.00
In-bond or in-transit	5.25	5.50	5.50	5.75
Slaughter	3.50	3.50	3.75	3.75

We also inspect live animals presented for importation into or entry into the United States through a land border port along the United States-Canada border. As specified in § 130.7(a), user fees for import or entry services for live animals at land border ports along the United States-Canada border for fiscal year 2002 will be as follows:

Type of live animal	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Animals being imported into the United States:		
Breeding animals (grade animals, except horses):		
Sheep and goats	Per head	$0.50
Swine	Per head	0.75
All others	Per head	3.25
Feeder animals:		
Cattle (not including calves)	Per head	1.50

[8] Section 130.3(a)(2) and 130.3(c) specifies that additional user fees will be charged to importers for occupancy of space for more than 30 days or nonstandard handling or care of animals or birds.

[9] Those animal products,organisms, vectors, and germ plasm that require permits for importation into the United States are specified in 9 CFR, chapter I, subchapter D of the regulations.

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Type of live animal	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Sheep and calves	Per head	0.50
Swine	Per head	0.25
Horses (including registered horses), other than slaughter and in-transit	Per head	27.00
Poultry (including eggs), imported for any purpose	Per load	47.00
Registered animals (except horses)	Per head	5.50
Slaughter animals (except poultry)	Per load	24.00
Animals transiting [1] the United States:		
Cattle	Per head	1.50
Sheep and goats	Per head	0.25
Swine	Per head	0.25
Horses and all other animals	Per head	6.50

[1] The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

We provide a variety of other services related to the importation into or exportation from the United States of animals, animal products, birds, germ plasm, organisms, and vectors. As specified in § 130.8(a), user fees for those import- or export-related services during fiscal year 2002 are as follows:

Service	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Germ plasm being exported: [1]		
Embryo: Up to 5 donor pairs	Per certificate	$79.00
Each additional group of donor pairs, up to 5 pairs per group, on the same certificate	Per group of donor pairs	35.00
Semen	Per certificate	48.00
Release from export agricultural hold:		
Simple (2 hours or less)	Per release	66.00
Complicated (more than 2 hours)	Per release	169.00

[1] This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the hourly user fee in § 130.30 will apply.

We inspect lots of pet birds [10] of United States origin returning to the United States. As specified in § 130.10(a), user fees for the inspection of pet birds of U.S. origin returning to the United States, except pet birds of U.S. origin returning to Canada, during fiscal year 2002 are $102.00 per lot of birds which have been out of the United States for 60 days or less, and $243.00 per lot of pet birds which have been out of the United States for more than 60 days.

We also provide housing, care, feed, and handling for pet birds quarantined in APHIS-owned or -supervised quarantine facilities. The daily user fee to quarantine pet birds applies per isolette and varies based on the number of pet birds determined by an APHIS representative to be appropriate per isolette. All the birds quarantined in one isolette are covered by one fee, which is assessed daily for the duration of the quarantine. As specified in § 130.10(b), the daily user fee for each pet bird quarantined in an APHIS-owned or supervised quarantine facility for fiscal year 2002 is $8.75 for one pet bird quarantined in one isolette, $11.00 for two pet birds quarantined in one isolette, $13.00 for three pet birds quarantined in one isolette, $15.00 for four pet birds quarantined in one isolette, and $17.00 for five pet birds quarantined in one isolette.

We inspect and approve various import and export facilities and establishments.[11] As specified in § 130.11, the user fees for inspecting and approving import and export facilities and establishments during fiscal year 2002 will be as listed in the following table:

Service	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year	$358.00
Inspection for approval of biosecurity level three laboratories (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection	977.00
Inspection for approval of pet food manufacturing, rendering, blending, or digest facilities:		
Initial approval	For all inspections required during the year.	404.75
Renewal	For all inspections required during the year.	289.00
Inspection for approval of pet food spraying and drying facilities:		
Initial approval	For all inspections required during the year.	275.00

[10] Provisions for the importation of pet birds into the United Sates are specified in 9 CFR chapter I, subschpater D of the regulations.

[11] Requirements for the inspection and approval of various quarantine facilities are specified in 9 CFR, chapter I, subchapter D of the regulations.

Service	Unit	User Fee—Oct. 1, 2001–Sept. 30, 2002
Renewal	For all inspections required during the year.	162.00
Inspection for approval of slaughter establishment:		
Initial approval (all inspections)	Per year	352.00
Renewal (all inspections)	Per year	305.00
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:		
Approval (compliance agreement) (all inspections for first year of 3-year approval)	Per year	375.00
Renewed approval (all inspections for second and third years of 3-year approval)	Per year	217.00

We endorse export health certificates for animals, birds, or animal products.[12] As specified in § 130.20(a), the user fees for each export health certificate endorsed for each type of animal, bird, or animal product, regardless of the number of animals, birds, or animal products covered by the certificate, will be $30.00 for animal and nonanimal products, $28.00 for hatching eggs, $28.00 for poultry, including slaughter poultry, $33.00 for slaughter animals (except poultry) moving to Canada or Mexico, and $22.00 for other endorsements or certifications during fiscal year 2002.

We also endorse export health certificates for animals, birds, or animal products that require verification of tests or vaccinations. The user fees for these certificates apply to each export health certificate endorsed for animals and birds, depending on the number of animals or birds covered by the certificate and the number of tests or vaccinations required. As specified in § 130.20(b), the user fees for each export health certificate endorsed for animals and birds for fiscal year 2002 is as follows:

Number of tests or vaccinations and number of animals or birds on the certificate	User fee			
	Oct. 1, 2000–Sept. 30, 2001	Oct. 1, 2001–Sept. 30, 2002	Oct. 1, 2002–Sept. 30, 2003	Beginning Oct. 1, 2003
1–2 tests or vaccinations				
Nonslaughter horses to Canada:				
First animal	$35.00	$36.00	$37.00	$38.00
Each additional animal	4.00	4.00	4.25	4.25
Other animals or birds:				
First animal	70.00	72.00	74.00	76.00
Each additional animal	4.00	4.00	4.25	4.25
3–6 tests or vaccinations				
First animal	86.00	88.00	91.00	94.00
Each additional animal	6.75	7.00	7.00	7.25
7 or more tests or vaccinations				
First animal	100.00	103.00	106.00	109.00
Each additional animal	8.00	8.25	8.25	8.50

We provide certain import- or export-related veterinary services at hourly rates[13] that may be performed during and outside of regularly established hours of service. As specified in § 130.30(a), the user fees for import- or export-related hourly veterinary services performed during regularly established hours of service, except those services covered by flat rate user fees, will be $80.00 per hour or $20.00 per quarter hour for each APHIS employee for fiscal year 2002. The minimum per service fee for import- or export-related veterinary services is $24.00 during fiscal year 2002.

We also provide certain import- or export-related veterinary services at hourly rates outside of an APHIS employee's normal tour of duty. As specified in § 130.30(b), user fees for hourly veterinary services provided at any time outside an employee's normal tour of dutyMonday through Saturday and on holidays will be $92.00 per hour or $23.00 per quarter hour for each APHIS employee during fiscal year 2002. User fees for hourly veterinary services provided on a Sunday will be of $104.00 per hour or $26.00 per quarter hour for each APHIS employee during fiscal year 2002.

Done in Washington, DC, this 14th day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–23658 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–34–P

[12] Those animals, birds, or animal products that require export health certificates are specified in 9 CFR, chapter I, subchapter D of the regulations.

[13] Section 130.30(a)(1) through (a)(13) lists import- or export-related veterinary services that are calculated at hourly rates for each APHIS employee required to perform the service.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Changes in Price Support Differentials for Flue-Cured Tobacco

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

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SUMMARY: The Commodity Credit Corporation (CCC) is announcing a change in price support differentials for flue-cured tobacco beginning with the 2002 crop. The change in differentials is being implemented because of concern relating to marketability of flue-cured tobacco cured in barns with direct heat sources; for such tobacco, CCC will provide a price support rate that is one-half the normal price support rate for tobacco that has been cured in a barn with an indirect heat source. In order that tobacco can be duly valued for price support purposes, farmers will be required to certify whether their barns have an indirect heat source.

EFFECTIVE DATE: This change is effective immediately September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Deputy Director, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW, STOP 0514, Washington, DC 20250–0514, telephone 202–720–0156 or FAX 202–418–4270.

SUPPLEMENTARY INFORMATION: Quotas for tobacco production are administered under the Agricultural Adjustment Act of 1938, 7 USC 128 *et seq.* (1938 Act) Where quotas for a kind of tobacco have been approved by producers of that kind of tobacco, price support is made available for that tobacco under the terms and conditions of Section 106 the Agricultural Act of 1949, 7 USC 1421, *et seq.* (1949 Act). Flue-cured tobacco is one of the kinds of tobacco for which quotas have been approved. Regulations governing price support and quotas for tobacco are found at 7 CFR parts 723 and 1464.

Price support is made available through non-recourse loans to farmers through a designated producer-member association, which in the case of flue-cured tobacco is the Flue-Cured Tobacco Stabilization Corporation (Stabilization). As such, the loans do not have to be repaid, but rather the tobacco is placed in Stabilization's inventory and Stabilization then attempts to sell the tobacco for the highest price. Losses on inventory tobacco are covered by assessments levied under the No Net Cost Tobacco Program Act of 1982, against all producers (and buyers) of flue-cured tobacco, irrespective of, in the case of producers, whether the individual producer placed any tobacco under a price support loan.

The average loan rate for the tobacco is set for each crop year under a formula which is set out in section 106 of the 1949 Act, but, in making those loans, variations for location and other factors are made in the loan amount which is available for an individual lot of tobacco. Such variations in the price support level are known as "differentials". They are provided for explicitly in section 403 of the 1949 Act, which is found at 7 U.S.C. 1423. That section was suspended for commodities other than tobacco for the 1996–2000 crops by section 171 of the Agricultural Market Transition Act, Public Law 104–127, but remains in force for tobacco. Under the provisions of section 403 of the 1949 Act, the Secretary of Agriculture may (and the Secretary has done so consistently for many years) make appropriate adjustments in the support price for differences in grade, type, quality, location and other factors. The adjustments must, insofar as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors, be equal to the national average level of support determined in accordance with Section 106 of the 1949 Act. Using this authority, differentials are established each crop year for quota tobacco, by kind.

A notice of proposed change in price support differentials for flue-cured tobacco and an invitation to comment was published in the **Federal Register** on December 12, 2000, (65 FR 77555). A number of both positive and negative responses were received. Those favoring the proposal were concerned about the following: the need to maintain the high integrity of U.S. tobacco; the need to be competitive with world markets, as the tobacco of competitors of U.S.-grown flue-cured tobacco is grown in indirect heated barns; the need to prevent a large increase in loan inventories of questionable value which would create a burden on CCC; and, the need to prevent a large increase in No-Net Cost assessments due to increased inventories. Also, the largest customers of US flue-cured have stated they are planning to begin acquiring tobacco with low specific nitrosamines. Those responding negatively to the proposal argued the following: there is no need for a change because they do not believe there is a problem, that it is only a marketing ploy; they need more time to convert their barns, and cannot get the barns converted for 2001; there is not enough scientific evidence to support the barn conversion; and, they cannot afford the cost of conversion on such short notice due to economic stress. After careful consideration of these responses, it was decided to make the proposed change, but to delay implementation of this change until the 2002 flue-cured marketing year; proceeding in this manner will address market and consumer concerns regarding the integrity of U.S.-grown flue-cured tobacco, while giving producers the time they need to convert to indirect-heated barns.

Beginning with the 2002 crop year, this notice changes the flue-cured tobacco price support differentials to provide for differing valuations of tobacco based on the heat source of the barn in which the tobacco is cured. The price support differentials for 2002 crop year tobacco that is cured in a barn with a direct heat source and marketed in calendar year 2002 and beyond will be set at one-half of the normal price support for flue-cured tobacco.

Setting the differential at half the normal price reflects that there may still be some market value associated with tobacco this is not cured in a barn with an indirect heat source and while it is difficult to determine what the lowered price might actually bin the market, it was determined that setting the price at the 50% level was a fair compromise which will be reassessed for future market years as changes in the marketing of tobacco become better understood and apparent. This is, on further consideration, setting a zero or near zero price for the tobacco appears too drastic at this time. As for the delay in the crop year implementation of the change in the differentials, it appears at this time that the association does not object to the delay, and that there has been general understanding in the industry that material changes in buying habits, as they involve this issue, have been modified accordingly. For these reasons, it appears that the revised disposition of this issue, is fair resolution for all concerned in this program which is a "no net cost program" in which all costs, other than the normal administrative costs associated with all support programs subject to producer assessments. As for the actual determination of the differentials, while this notice indicates the determination made with respect to the issues at hand at this time, final determinations for all differentials are made at the time that the body of differentials is announced for the crop year (that is, all the grade loan rates and premiums and discounts).

The plan with respect to the heat source issue would be that, beginning with 2002 crop, producers will have to certify whether their tobacco has or has not been produced in improved barns, i.e., whether or not the tobacco was cured by an indirect heat source. For these purposes, an improved barn will be any barn which has been retrofitted under the association's program or which otherwise have been built with, or improved to include, the technology that produces the market-preferred tobacco. The certification program will be administered by Stabilization. County FSA offices will be requested to cooperate by marking the producer's marketing card (MQ–76) with the notation "NO CERTIFICATION" for any farm failing to provide a certification to Stabilization. Individual lots of tobacco will be stamped "NO CERTIFICATION" at the auction warehouse. All tobacco with a "NO CERTIFICATION" designation will receive the lower price support loan value. Further announcements will be made as needed to implement this change. It is expected that several announcements would be made by press release or other less formal means of communications. To repeat: this value will not be based on either a positive or negative determination regarding indirect heating but a market value determination as part of the government's function of setting price support differentials. It should also be understood that if the market value of the tobacco is indeed reduced but no change was made in the differentials, not only would there be loan losses but also, because of those losses, if would be necessary to increase tobacco assessments to cover such losses, as required by the 1949 Act. Such assessments could be considerable.

Signed at Washington, DC., on September 17, 2001.

James R. Little,

Acting Administrator Farm Service Agency and, Acting Executive Vice President Commodity Credit Corporation.

[FR Doc. 01–23659 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–05–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 22, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each commodity or service will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodity and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Cabinet, Fitting Kit
4730–01–112–3240
NPA: Opportunity Center Easter Seal Rehabilitation Facility, Anniston, Alabama
Government Agency: Defense Supply Center Columbus

Services

Administrative Services
U.S. Customs Service Academy, Glynco, Georgia
NPA: CCAR Services, Inc., Green Cove Springs, Florida
Government Agency: U.S. Customs Service

Grounds Maintenance
U.S. Coast Guard, Training Center—Two Rocks, Petaluma, California
NPA: North Bay Rehabilitation Services, Inc., Rohnert Park, California
Government Agency: U.S. Coast Guard

Janitorial/Custodial
Willow Grove Air Reserve Station, Willow Grove, Pennsylvania
NPA: The Chimes, Inc., Baltimore, Maryland
Government Agency: Willow Grove Air Reserve Station

Janitorial/Custodial
Whidbey Island Naval Air Station, Buildings 65, 117 and 2679, Oak Harbor, Washington
NPA: New Leaf, Inc., Oak Harbor, Washington
Government Agency: Whidbey Island Naval Air Station

Laundry Service
R.E. Bush Naval Hospital, Twentynine Palms, CA
NPA: Job Options, Inc., San Diego, California
Government Agency: U.S. Naval Hospital

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Tablecloth, Disposable
7210–01–395–7912A
7210–01–395–7912B
7210–01–395–7914A
7210–01–395–7914B
7210–01–395–7915A
7210–01–395–7915B
7210–01–395–7916A
7210–01–395–7916B
7210–01–395–7917A
7210–01–395–7917B

7210–01–395–9192A
7210–01–395–9192B
Short-Run. Printing
7690–00–NSH–0024
7690–00–NSH–0025

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 01–23664 Filed 9–20–01; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 22, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 13, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 36741) of proposed addition to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.
2. The action will not have a severe economic impact on current contractors for the commodity.
3. The action will result in authorizing small entities to furnish the commodity to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is added to the Procurement List:

Commodity
Mop, Flat, w/Scrubber
M.R. 1045

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 01–23665 Filed 9–20–01; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Waquoit Bay National Estuarine Research Reserve: Notice of Approval and Availability on Revised Management Plan

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability of the Final Revised Management Plan for the Waquiot Bay National Eustraine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division (ERD), Office of Ocean and Coastal Resource Management, has approved the revised management plan for the Waquoit Bay National Estuarine Research Reserve (WBNERR). The WBNERR was designated in 1989 and has been operating under a management plan approved in 1989. Pursuant to section 921.33(c) of the National Estuarine Research System implementing regulations, a state must revise its management plan at least every five years, or more often if necessary.

The revisions to the WBNERR management plan include:

- The renovation of the headquarters site and its structures to provide a support base for the administrative, research and education activities of the Reserve;
- The significant increase in staff and the concomitant increase in activities undertaken under the auspices of the Reserve;
- The proposed acquisition boundary which describes the Reserve's plans to expand its boundary. It also describes lands that may be acquired for incorporation into the Reserve boundary. The approval of this management plan officially incorporates the Quashent River parcel and the Great Flat Pond into the Reserve boundary. The proposed acquisition boundary describes the Reserve's plans to pursue for acquisition approximately 1,250 acres of unprotected areas in the Waquoit Bay watershed that coincides with the Mashpee National Wildlife Refuge's acquisition boundary.
- The incorporation of the Massachusetts Department of Environmental Management's Guidelines for Operations and Land Stewardship (GOALS);
- The exhibits at the visitor center, which significantly increases visitation to the Reserve; and
- Modifications to the Reserve's advisory committee structure that reflect the maturation of the Reserve and its needs at this stage of operations.

The revised management plan demonstrates continued strong support from the Massachusetts Department of Environmental Management (DEM) and NOAA for research, monitoring and education programs. A long-term research plan focuses on understanding the structure and function of key habitats, such as the Reserve's five major marsh systems. A comparative ecology approach provides the basis for research project design and priority setting. Collaborative studies with Federal, state, and institutional researchers are encouraged. An associated long-term monitoring program will characterize the environmental quality and the occurrence and abundance of living resources. Monitoring is designed to determine baseline status and trends in habitat quality and the health of important resource species.

FOR FURTHER INFORMATION CONTACT: Doris Grimm, OCRM, Esturarine Reserves Division, 1305 East-West Highway, 11th Floor (N/ORM5), Silver Spring, Maryland 20910, (301) 713–3155, Extension 107.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone management) Research Reserves.

Dated: September 17, 2001.
Jamison S. Hawkins,
Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.
[FR Doc. 01–23675 Filed 9–20–01; 8:45 am]
BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091701F]

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Comprehensive Management Committee will hold a public meeting.

DATES: The meeting will be held on Thursday, October 4, 2001, from 10 a.m. until 5 p.m.

ADDRESSES: This meeting will be held at the Marriott BWI Hotel, 1743 West Nursery Road, Baltimore, MD 21240; telephone: 410–859–8300.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to receive an orientation from NMFS Northeast Regional Office's Grants Office officials regarding: the technical review of proposals received in response to the Council's quota set-aside Request for Proposal (RFP); the review process to be used to rate accepted proposals; and the schedule of events regarding the rating phase, up to the award of quota set-asides. Initial individual reviews of applications will be conducted for demonstration and other purposes, as appropriate.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 17, 2001.
Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 01–23681 Filed 9–20–01; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082701F]

Marine Mammals; File No. 881–1443–04

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that The Alaska SeaLife Center, P.O. Box 1329, Seward, Alaska 99664 (Dr. Shannon Atkinson, Principal Investigator), has requested an amendment to scientific research Permit No. 881–1443–04.

DATES: Written or telefaxed comments must be received on or before October 22, 2001.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7221; fax (907)586–7249.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 881-1443, issued on March 27, 1998 (59 FR 14905), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 881–1443–04 authorizes the permit holder to maintain Steller sea lions (Eumetopias jubatus) and harbor seals (*Phoca vitulina*) for purposes of scientific research, which includes studies on nutritional and reproductive physiology, metabolic development, and clinical health. Incidental to research activities, animals are on public display as part of an education program.

The permit holder requests authorization to modify existing research protocols as well as add new research projects. Modifications to existing protocols include: (1) increasing frequency of blubber biopsies taken from Steller sea lions from 3 to 6 times per year for fatty acid and organochlorine testing; (2) increasing mass of blubber biopsies taken from harbor seals from 50 to 500 mg for organochlorine testing; (3) collecting saliva from Steller sea lions and harbor seals for deuterium, steroid, and hormone analyses; (4) analyzing vaginal and preputial swabs for cell cytology in Steller sea lions and harbor seals; and (5) administering stable isotopes to Steller sea lions for nutritional studies.

New projects proposed include: (1) hormone stimulation studies and collection of feces for assessment of stress or well-being in relation to diet in Steller sea lions; (2) bioenergetic studies of Steller sea lions involving determination of metabolic rates using flow respirometry and metabolic chambers, and dietary marker administration and dry holding for collection of urine and feces; (3)

collection of skin and mucosal swabs

Dated: September 13, 2001.

B. Annual Reporting Burden

to two minutes each and must be

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collection of skin and mucosal swabs from harbor seals and Steller sea lions for development of cell lines and microbiological analyses; (4) administration of deuterium labeled vitamin E and a vitamin A analog and increased frequency of blood sampling to determine metabolic requirements of these vitamins; and (5) photographic studies to determine pelage pattern consistency of harbor seals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

September 18, 2001.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–23680 Filed 9–20–01; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Notice of Meeting

AGENCY: U.S. Consumer Product Safety Commission.

Time and Date: Thursday, September 20, 2001 2:00 p.m.

Location: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

Status: Closed to the Public—Pursuant to 5 U.S.C. 552b(f)(1) and 16 CFR 1013.4(b)(3)(7)(9) and (10) and submitted to the **Federal Register** pursuant to 5 U.S.C. 552b(e)(3).

Matter to be Considered:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 13, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–23558 Filed 9–20–01; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

Time and Date: Friday, September 21, 2001, 10 a.m.

Location: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

Status: Open to the Public.

Matter To Be Considered:

Mattresses/Bedding

The staff will brief the Commission and the Commission will consider options addressing open flame ignition of mattresses/bedding and issues related to Petitions FP 00–1 through FP 00–4, submitted by Whitney A. Davis, Director of Children's Coalition for Fire-Safe Mattresses, requesting various actions concerning mattress flammability.

For a recorded message containing the latest agenda information, call (301) 504–0709.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: September 17, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–23559 Filed 9–20–01; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0136]

Federal Acquisition Regulation; Proposed Collection; Commercial Item Acquisitions

AGENCIES: Department of Defense (DOD), General ServicesAdministration (GSA), and National Aeronautics and SpaceAdministration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0136).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the clauses and provisions required for use in commercial item acquisitions.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before November 20, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Acquisition Policy Division, GSA (202) 501–4764.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Acquisition Streamlining Act of 1994 included Title VIII, entitled Commercial Items. The title made numerous additions and revisions to both the civilian agency and Armed Service acquisition statutes to encourage and facilitate the acquisition of commercial items and services by Federal Government agencies.

To implement these changes, DoD, NASA, and GSA amended the Federal Acquisition Regulation (FAR) to include several streamlined and simplified clauses and provisions to be used in place of existing clauses and provisions. They were designed to simplify solicitations and contracts for commercial items.

Information is used by Federal agencies to facilitate the acquisition of commercial items and services.

B. Annual Reporting Burden

Respondents: 118,000.
Responses Per Respondent: 12.1.
Total Responses: 1,427,800.
Hours Per Response: .312.
Total Burden Hours: 445,450.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0136 regarding Commercial Item Acquisitions in all correspondence.

Dated: September 14, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–23540 Filed 9–20–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: September 24, 2001.

ADDRESSES: RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Mail written presentations and requests to register to attend the open public session to: Nancy Rizor, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its web site at *http://www.rand.org/organization/nsrd/terrpanel.* RAND can also be reached at (703) 413–1100, extension 5321.

SUPPLEMENTARY INFORMATION:

Proposed Schedule and Agenda

Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 9 a.m. until 4 p.m. on September 24, 2001. Time will be allocated for public comments by individuals or organizations. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: September 18, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–23720 Filed 9–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of forthcoming meetings of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS). The purpose of these meetings is to conduct a comprehensive and independent review of the NCCS positive measures to assure authorized use of nuclear weapons when directed by the President while assuring against unauthorized or inadvertent use. This meeting will be closed to the public.

DATES: October 3, 2001.

ADDRESSES: Room 3C912, Pentagon, Washington, DC.

FOR FUTHER INFORMATION CONTACT: Mr. William L. Jones, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041, (703) 681–8681.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–23768 Filed 9–20–01; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposal To Reissue and Modify Nationwide Permits; Notice

AGENCY: Army Corps of Engineers, DoD.

ACTION: Extension of comment period.

SUMMARY: In the August 9, 2001, issue of the **Federal Register** (66 FR 42070) the Corps of Engineers (Corps) announced that it was soliciting comments for the reissuance of the proposed Nationwide Permits (NWPs), General Conditions, and definitions with some modifications. The notice announced that comments must be received by September 24, 2001. We have received several requests to extend the comment period, which ends September 24, 2001. To ensure ample opportunity to review the proposed NWPs and to provide meaningful comments, we are extending the comment period 15 days to October 9, 2001.

DATES: Comments must be received by October 9, 2001.

ADDRESSES: Send comments to HQUSACE, ATTN: CECW–OR, 441 "G" Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Rich White at (202) 761–4599 or access the U.S. Army Corps of Engineers Regulatory Home Page at: *http//:www.usace.army.mil/inet/functions/cw/cecwo/reg/.*

SUPPLEMENTARY INFORMATION: The Nationwide Permits (NWPs) expire on February 11, 2002, except the NWPs issued in 2000 which expire on June 7, 2005. We are extending the comment period to allow additional time to submit comments on the NWPs, due to the recent tragic events in New York and Washington. This extension would reduce an already tight schedule to develop the final NWPs. Therefore, we have determined that it is necessary to return to the 60 day time period for the states to complete their decisions on issuance of 401 water quality certifications pursuant to the Clean Water Act, and their decisions to agree or disagree with our decisions regarding compliance with the state Coastal Zone Management Plans pursuant to the Coastal Zone Management Act. This time period is from the date of the publication of the final NWPs until the date the NWPs become effective. Historically, this time period has been 60 days, except for the 401/CZM decision processes for the 2000 replacement NWPs, when we provided a 90-day time period. Due to the major changes involved in the 2000 replacement NWPs, we believed that the extra time was warranted in that instance. We had hoped to continue with the 90 day time period; however, the development of the proposed modifications to the NWPs took longer than expected. Further, the current proposal has very few changes to the existing NWPs; therefore, the states should be able to accomplish their review in a 60-day time period. For these reasons, along with the extension

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of the comment period, we need to return to the standard 60 day time period for the states' decision on the currently proposed NWPs. For those states that are unable to complete their 401/CZM decisions by the effective date of the NWPs, they may issue 401 certification or agree with our CZM position on an interim basis followed by a final decision in a reasonable period of time. This process was initiated in 1991 and may be used again by the states, if necessary.

In the August 9, 2001, issue of the **Federal Register** (66 FR 42070) the Corps also announced that a public hearing for the proposed NWPs would be held on September 12, 2001. Due to the attack on the World Trade Center and the Pentagon on September 11, 2001, the hearing was postponed to September 26, 2001. Updated information regarding the public hearing was published in the September 18, 2001, **Federal Register**.

Dated: September 19, 2001.

Lawrence A. Lang,

Deputy, Operations Division, Directorate of Civil Works.

[FR Doc. 01–23757 Filed 9–20–01; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 20, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: Common Core of Data (CCD) Surveys.
Frequency: Annually.
Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 284.
Burden Hours: 11,004.
Abstract: The CCD surveys collect data annually from state education agencies about student enrollments, graduation, education staff, school and agency characteristics, and revenues and expenditures for public elementary and secondary education.

Requests for copies of the proposed information collection request may be accessed from http://edicsweb.ed.gov, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23550 Filed 9–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 22, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Karen_F._Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Bilingual Education and Minority Language Affairs

Type of Review: New.
Title: Descriptive Study of Services to Limited English Proficient (LEP) Students.
Frequency: One time.
Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 30,564.
Burden Hours: 13,554.
Abstract: The study will provide data on the number and characteristics of LEP students, including LEP students with disabilities, and the instructional services they receive in public schools across the U.S. The findings will be used by federal, state, and local policy makers to inform decision-making concerning programs for LEP students and LEP students with disabilities. Data will be collected from public school district administrators and school staff.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila.Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23551 Filed 9–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 22, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Karen_F._Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Intergovernmental and Interagency Affairs

Type of Review: Extension.
Title: Sign-on Form for Partnership for Family Involvement in Education.
Frequency: One time.
Affected Public: Not-for-profit institutions; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 800.
Burden Hours: 67.
Abstract: The Partnership for Family Involvement in Education (PFIE) offers a vehicle for schools, community organizations, employers, and faith organizations to commit to promoting children's learning through development of family-school partnerships.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie.Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23549 Filed 9–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–528–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

September 17, 2001.

Take notice that on August 31, 2001, Garden Banks Gas Pipeline, LLC (Garden Banks) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed below, to become effective October 1, 2001.

Third Revised Sheet No. 306
First Revised Sheet No. 309
First Revised Sheet No. 318
First Revised Sheet No. 319

As more fully set forth in Garden Banks' filing, its purpose is to update the Form of NGL Bank Agreement in Garden Banks' tariff, to reflect the current fee structure, and to provide that the monthly allocations account for the phase changes attributable to both retrograde condensate and any condensate injected into Garden Banks' system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23544 Filed 9–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–22–002]

North Baja Pipeline LLC; Notice of Amendment

September 17, 2001.

Take notice that on September 6, 2001, North Baja Pipeline, LLC (North Baja) filed in Docket No. CP00–68–001, an amendment to its initial application filed in Docket No. CP00–68–000, requesting authority to modify pipe wall thickness and compressor horsepower, all as more fully set forth in the application. North Baja is not proposing any change to the initial system design or capacity. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Any questions regarding this application should be directed to Mr. John A. Roscher, Director, Rates and Regulatory Affairs, North Baja Pipeline LLC, 1400 SW Fifth Avenue, Suite 900, Portland, Oregon 97201, at (503) 833–4254.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 9, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–23542 Filed 9–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–475–000]

Trunkline Gas Company; Notice of Technical Conference

September 17, 2001.

On August 15, 2000, Trunkline Gas Company (Trunkline) filed in Docket No. RP00–475–000 to comply with Order No. 637.

Take notice that the technical conference to discuss the various issues raised by Trunkline's filing that was scheduled for September 19, 2001, is canceled. The technical conference is rescheduled to be held on Wednesday, October 3, 2001, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Persons protesting any aspects of Trunkline's filing should be prepared to defend their positions as well as discuss alternatives.

The issues to be discussed will include but are not limited to
Segmentation
Flexible Point Rights
Discount Provisions
Imbalance Services
Penalties
Operational Flow Orders

The above schedule may be changed as circumstances warrant.

David P. Boergers,

Secretary.

[FR Doc. 01–23543 Filed 9–20–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6622–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements.

Filed September 10, 2001 Through September 14, 2001.

Pursuant to 40 CFR 1506.9.

EIS No. 010348, Draft EIS, BLM, NV, Nevada Test and Training Range Resource Management Plan, (formerly known as the Nellis Air Force Range (NAFR), Implementation, Clark, Nye and Lincoln Counties, NV, Comment Period Ends: December 20, 2001, Contact: Jeffy G. Steinmetz (702) 647–5097.

EIS No. 010349, Draft EIS, NOA, MI, Indiana Lake Michigan Coastal Program Document, Federal Approval and Implementation, Coastal Zone Management, Lake, Porter and LaPorte Counties, MI, Comment Period Ends: November 05, 2001, Contact: Diana Olinger (301) 713–3155.

EIS No. 010350, Draft EIS, NOA, Dolphin and Wahoo Fishery Management Plan, Establishing Fishery Management Units, Stock Status Determination and Harvesting Restrictions, Initial Regulatory Flexibility Analysis, South Atlantic, Caribbean, and Gulf of Mexico, Comment Period Ends: November 05, 2001, Contact: Joseph E. Powers (727) 570–5301. This document is available on the Internet at: DEQ: http://www.deq.state.mt.us/eis.asp and KNF: http://www.fs.fed.us/r1/kootenai.

EIS No. 010351, Draft EIS, FHW, IL, Lake County Transportation Improvement Project, To Identify a System of Strategic Roadway, Rail, and Bus Improvements, Transportation Management Strategies, Lake County, IN, Comment Period Ends: November 05, 2001, Contact: Norman R. Stoner (217) 492–4640.

EIS No. 010352, Final EIS, BLM, NM, San Felipe Pueblo Land Exchange, Involves Exchanges Federal Lands to Private Lands, Acquisition, Sandoval and Santa Fe Cos. NM, Wait Period Ends: October 22, 2001, Contact: Debby Lucero (505) 761–8787.

Amended Notices

EIS No. 010319, Draft EIS, DOE, AZ, Umatilla Generating Project, Construction and Operation, Gas-Fired Combined Cycle Electric Power Generation Plant, Nominal Generation Capacity of 550 megawatts (MW) Connection to the Regional Grid at McNary Substation, Umatilla County, AZ, Due: October 15, 2001, Contact: Inez Graetzer (503) 230–3786. Published FR 08–24–01 Correction to the State Coded from OR to AZ.

EIS No. 010327, Final EIS, FHW, NB, Antelope Valley Study, Implementation of Stormwater Management, Transportation Improvements and Community Revitalization, Major Investment Study, City of Lincoln, Lancaster County, NB, Due: October 01, 2001, Contact: Edward Kosola (402) 437–3973. Published FR–08–31–01—Correction to Documents status from Draft to Final which changes the comment period from 45 to 30 wait period.

Dated: September 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–23641 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6621–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (97 FR 27647).

Draft EISs

ERP No. D–FHW–D40313–MD Rating EC2, MD–210 (Indian Head Highway) Multi-Modal Study, MD–210 Improvements between I–95/I–495 (Capitol Beltway) and MD–228 Funding and US COE Section 404 Permit Issuance, Prince George's County, MD.

Summary: EPA is concerned with the potential impacts to streams, Chesapeake Bay Critical areas, historic resources, residential, business/commercial, and church/school properties. EPA has also requested additional information regarding the environmental justice evaluation. In general, EPA supports the concept of improving the functioning of an existing transportation facility through the addition of grade-separated interchanges, overpasses, and High Occupancy Vehicle (HOV) lanes.

ERP No. D–FHW–E40786–FL Rating EC2, I–4 Corridor Improvements, Upgrading the Safety and Mobility of the existing I–4, from west of FL–528 (Bee Line Expressway) interchange in Orange County to east of FL–472 interchange in Volusia County, Funding, COE Section 10 and 404 Permits, NPDES Permit, Orange, Seminole, and Volusia Counties, FL.

Summary: EPA is concerned that mobility will not be improved unless the project is integrated better with plans for mass transit and, accordingly, requested additional information. The assessment of cumulative impacts and mitigation both require additional analysis. EPA is also concerned about potential impacts to ground water resources from proposed storm water ponds.

ERP No. D–FHW–E40787–AL Rating EC2, Memphis to Atlanta Corridor Study (DPS–A002(002), Proposal to Build Highway from the Mississippi/Alabama State Line to Interstate 65, Funding and COE Section 404 Permit, Colbert, Franklin, Lauderdale, Lawrence, Limestone and Morgan Counties, AL.

Summary: EPA expressed concern for and additional information regarding: wetlands mitigation; secondary and cumulative impacts to aquatic resources; noise; and impacts to minority and low-income individuals.

ERP No. D–FHW–E40788–AL Rating EO2, Memphis to Atlanta Corridor, To Construct from I65 in North Central Alabama Eastward to the Georgia State

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Line, COE Section 404, US Coast Guard and NPDES Permits, Limestone, Morgan, Madison, Jackson, Marshall, Dekalb and Cherokee Counties, AL.

Summary: EPA expressed objections to alternatives 3 and 4 because of extensive potential impacts to wetlands and numerous stream crossings. EPA expressed concerns for the other four alternatives and requested additional information regarding wetlands; stream crossings; and secondary and cumulative impacts.

ERP No. D–FHW–H40172–MO Rating LO, U.S. Route 67 Corridor Project, Improvements from South of Fredericktown to the South of Neelyville, Madison, Wayne and Butler Counties, MO.

Summary: EPA lacks objections to the project as described and only offered comments to assist the lead agency in enhancing the final EIS.

ERP No. D–NRC–E06021–FL Rating EC2, Generic EIS—License Renewal of Nuclear Power Plants, Supplement 5 Turkey Point Units 3 and 4 (NUREG–1437), Operating License Renewal, Biscayne Bay, Miami-Dade County, FL.

Summary: EPA has environmental concerns about the project, and more information is needed to fully assess the impacts. In particular, clarification of impacts from cooling ponds, and information on compliance with 40 CFR part 112 warrant further discussion in the Final GSEIS.

ERP No. DA–NOA–E91007–00 Rating LO, South Atlantic Region Shrimp Fishery Management Plan, Amendment 5, Additional Information concerning Rock Shrimp in the Exclusive Economic Zone (EEZ), NC, SC, FL and GA.

Summary: EPA had no objections to proposed Amendment 5. EPA believes that the amendment will benefit the rock shrimp fishery and generally agrees with the proposed management actions and/or an action option. EPA requested that the NMFS/South Atlantic Fisheries Management Council ensure that the managed fishery yield (OY/MSY) be optimal from an ecological aspect.

ERP No. DS–FHW–E40780–NC Rating EC2, US–1 Transportation Improvements, Updated Information, From Sandhill Road (NC 1971) to just North of Fox Road (NC 1606) to Marston Road (NC 1001) Associated with this Extension, Funding, and COE Section 404 Permit, City of Rockingham, Richmond County, NC.

Summary: Analysis of the NC–177 Alternative addresses EPA's earlier concerns. Additional work is needed to define the location and configuration of interchanges in order to minimize wetland impacts.

Final EISs

ERP No. F–BPA–L08054–OR, Condon Wind Project, To Execute One or More Power Purchase and Transmission Services Agreements To Acquire and Transmit up to the Full Electrical Output, NPDES Permits and Right-of-Way Permit for Public Land, Gilliam County, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–D40268–VA, VA–37 Highway Transportation Improvement, Construction from VA–37/I–81/US–11 (south) to VA–37/US–11 (north), Funding and COE Section 404 Permit. City of Winchester, Frederick County, VA.

Summary: While many of EPA's comments on an earlier draft were incorporated, EPA continues to express concerns regarding potential secondary and cumulative impacts from the preferred alternative to the natural and cultural environment including two National Register Historic Districts and one Civil War battlefield.

ERP No. F–FHW–F40384–MI, Boardman River Crossing Mobility Study, Improve the East-West Mobility across the Boardman River, COE Permit. Traverse City and Grand Traverse County, MI.

Summary: EPA concurs with the selected alternative provided that all feasible mitigation measures are implemented. EPA retains concerns regarding storm water, habitat, and wetlands.

ERP No. F–FHW–F40391–IL, Illinois Route 3 (FAP–14) Relocation, Improved Transportation from Sauget to Venice, Funding, NPDES Permit and COE Section 404 Permit, Madison and St. Clair Counties, IL.

Summary: EPA's concerns at the draft stage have been adequately addressed in the Final EIS.

ERP No. F–FHW–F40463–IN, IN–145 New Road Construction, Funding, IN–37 and the existing I–64 Interchange near St. Croix in Perry County to the east junction of IN–64 and IN–145 in Crawford County, IN.

Summary: EPA retains its environmental objections because the FEIS: (1) does not present adequate substantiation for the stated Purpose and Need, (2) does not provide a full and equal evaluation of Alternative 4, (3) does not provide adequate mitigation for the loss of 61.21 acres of forested upland habitat, and (4) lacks a wetland mitigation plan.

ERP No. F–FHW–K40230–CA, CA–58 Transportation Corridor, Route Adoption and Purchases Right-of-Way Acquisition Project, between CA–99 in the Bakerfield Metropolitan Area and Interstate 5 in Kern County, Funding and COE Section 404 Permit, Kern County, CA.

Summary: EPA's review found that, while the majority of the issues raised earlier by EPA were addressed in the FEIS, EPA has continuing concerns regarding the indirect impacts and cumulative impacts analyses. EPA recommended that EPA, FHWA, and Caltrans work closely together on the development of these analyses for Tier II of the project.

ERP No. F–FTA–K40209–CA, Mid-Coast Corridor Mass Transit Improvement Project, Funding, San Diego County, CA.

Summary: EPA's review found that the document adequately addresses the issues raised in our previous comment letter.

ERP No. F–TVA–E65057–00, Guntersville Reservoir Land Management Plan, Implementation, Proposal to Update a 1983 Land Allocation Plan, Jackson and Marshall Counties, AL and Marion County, TN.

Summary: EPA is concerned that some of the proposed development projects allowed by TVA's proposed Blended Alternative (B3) could impact Guntersville Reservoir and would result in less conservation areas.

Dated: September 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–23642 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6621–8)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/ocea/ofa.

Weekly receipt of Environmental Impact Statements

Filed September 3, 2001 Through September 7, 2001

Pursuant to 40 CFR 1506.9.

Because of our nation's tragedy, the Environmental Protection Agency Notice of Availability of Environmental Impact Statements for the week of September 3 through September 7, 2001, which should have appeared in the **Federal Register** on September 14, 2001, is being published in the September 21, 2001 **Federal Register**. All Comment and Wait Periods for EISs filed during the week of September 3 through September 7 are calculated from 09/14/2001, unless otherwise indicated.

EIS No. 010337, FINAL EIS, AFS, ID, Spruce Moose and Moose Lake Right-of-Way Analysis Area, Implementation, Timber Harvesting, Road Construction, Reforestation and Watershed Restoration, Clearwater National Forest, Lochsa Ranger District, Idaho County, ID , Wait Period Ends: October 09, 2001, Contact: Cynthia A. Lane (208) 926–4275. This FEIS should have appeared in the **Federal Register** on 09/07/2001. The 30-Day Wait Period is Calculated from 09/07/2001.

EIS No. 010338, FINAL EIS, FHW, TX, Tyler Loop 49 West, Construction from the TX–155 Highway to I–20 Highway, Funding, NPDES and COE Section 404 Permits, Smith County, TX , Wait Period Ends: October 15, 2001, Contact: Paul Clutts (512) 536–5968.

EIS No. 010339, FINAL EIS, AFS, MT, Asarco Rock Creek Copper and Silver Mining Construction and Operation Project, Plan of Operations Approval, Special Use Permit(s), Road Use Permit, Mineral Material Permit, Timber Sale Contract and COE Section 404 Permit Issuance, Kootenai National Forest, Sanders County, MT, Wait Period Ends: October 15, 2001, Contact: John McKay (406) 293–6211. This document is available on the Internet at: DEQ: http://www.deq.state.mt.us/eis.asp and KNF: http://www.fs.fed.us/r1/kootenai.

EIS No. 010340, FINAL EIS, NPS, OK, Washita Battlefield National Historic Site, General Management Plan, Implementation, Roger Mill County, OK, Wait Period Ends: October 15, 2001, Contact: Sarah Craighead (580) 497–2742.

EIS No. 010341, DRAFT EIS, AFS, OR, Shore 'Nuf Timber Sale, a proposal for Harvesting Timber on the Detroit Ranger District, Willamette National Forest, Linn and Marion Counties, OR, Comment Period Ends: October 29, 2001, Contact: Jim Romero (503) 854–4212.

EIS No. 010342, FINAL EIS, BLM, NV, Reno Clay Plant Project, Construct and Operate an Open-Pit Clay Mine and Ore Processing Facility, Plan-of-Operations, Oil-Dri Corporation of Nevada, Hungry Valley, Washoe County, NV, Wait Period Ends: October 15, 2001, Contact: Terri Knutson (775) 885–6156. This document is available on the Internet at: *www.nv.blm.gov/carson.*

EIS No. 010343, Final Supplemental, FHW, IL, FAP Route 340 Transportation Project, Construction from I–55 to I–80, Funding, US Coast Guard Permit and COE Section 404 Permit, Cook, Dupage and Will Counties, IL, Wait Period Ends: October 15, 2001, Contact: Norman R. Stoner (217) 492–4640.

EIS No. 010344, Final EIS, AFS, AK, Woodpecker Project Area, Timber Harvesting, Dispered Recreation Opportunities and Watershed Improvements, Implementation, Tongass National Forest, Petersburg Ranger District, Mitkof Islands, Petersburg, AK, Wait Period Ends: October 15, 2001, Contact: Cynthia Sever (907) 772–3871. This document is available on the Internet at: *www.fs.fed.us/r10/Tongass.*

EIS No. 010345, Final Supplemental, COE, NC, Manteo (Shallowbay) Bay Project, Enlarging andDeepening Basin at Wanchese, Dare County, NC,Wait Period Ends: October 22, 2001, Contact:Glenda Ashford (404) 562–5222.

EIS No. 010346, Draft Supplemental, COE, CA, American River Watershed Long-Term Study, UpdatedInformation, To Provide Flood Damage Reduction and Ecosystem Restoration, between Folsom Dam and the Sacramento River, Sacramento, Placer andSutter Counties, CA, Comment Period Ends: October 29, 2001,Contact: Veronica Petrovsky (916) 557–7245.

*EIS No. 010347, Draft EIS, COE, Programmatic EIS*Nationwide Permits Procedures Review and Examination,US Army Corps of Engineers Section 10 and 404 Permit Issuance,Comment Period Ends: October 29, 2001,Contact: Dr. Bob Brumbaugh (703) 428–7069.

Dated: September 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–23643 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–7]

Notice of Request for Proposals for Projects To Be Funded From the FY 02 Wetland ProgramDevelopment Cooperative Agreement Allocation

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA Region 6 is soliciting proposals from State agencies, local governments, and Tribes interested in applying for Federal assistance for the State/Tribal/Local Government Wetlands Protection Development Grant Program under the Clean Water Act section 104(b)(3), 33 U.S.C. 1254(b)(3) in the states of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. EPA Region 6 estimates $1.2 million will be awarded to eligible applicants through assistance agreements. The State, Tribe or local government must provide a 25 percent (25%) match of the total costs of the project. 15 percent (15%) of the funding allocation will be targeted to support local and tribal initiatives.

DATES: EPA Region 6 will consider all proposals post marked by November 30, 2001. Proposals received after the due date will not be considered for funding, (no exceptions will be made). Once the proposal is approved for further funding consideration, applicants will be notified to submit a formal application.

ADDRESSES: Send proposals along with the cover sheet included in this notice to: Sondra McDonald (6WQ–AT), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Sondra McDonald by telephone at 214–665–7187 or by E-mail at *Mcdonald.sondra@epa.gov*. This solicitation notice can also be found at the Assistance Program Branch, State/Tribal Programs Section web site: *www.epa.gov/earth1r6/6wq/at/sttribal.htm*. Or please refer to the National guidelines for the Wetlands Program Development Grants which are published in the September 5, 2001 **Federal Register** or can be viewed at the following web site: *http://www.epa.gov/owow/wetlands/initiative/#financial.*

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Request for Proposals?

The purpose of Wetland Development Grants is to assist States, Tribes, and LocalGovernments with developing new wetland programs or refining existing wetland programs, andNOT for operational support of wetland programs. Reviewers will pay special attention to the project's longevity and self-sustaining ability. Additional points may be given to implementation projects that actually demonstrate protection, restoration or enhancement of wetlands. If a proposal does not meet EPA Headquarters or Region 6 priorities, the proposal will not be ranked. The following types of projects will be considered for funding:

Project Implementation

• *Clean Water Action Plan (CWAP):* Projects relating to meeting wetland goals set forth within the plan, namely a net increase of 100,000 acres per year by the year 2005.

Preference will be given to projects that seek to develop self-sustaining, naturally functioning wetland systems. (web page: www.cleanwater.gov)

• *Watershed Projects:*

a. Wetland components of established watershed plans

b. Coastal wetland protection/restoration especially within estuaries areas

• Targeted (but not limited) Wetland Types: projects relating to the protection/restoration of riparian areas, sea grasses, and bottomland hardwoods.

• *Stream Management:*

a. Alternatives to traditional engineering (i.e., such as development of natural stream patterned profiles instead of trapezoidal channels; use of vegetated natural materials for bank stabilization instead of harder structures like rip rap or concrete)

b. Utilizing alternative techniques such as applied fluvial geomorphology

c. Stream management education to include such activities as training and planning in urban/suburban areas

d. Formation of stream team (interagency workgroups designed to evaluate stream modification projects during planning phase) to work with local planning officials to protect/restore streams and wetlands by the use of demonstration projects

• *Continued Development and Implementation of Wetland Protection Programs:* Specifically projects that seek to develop and/or implement statewide/tribal-nationwide programs to assess and monitor overall wetland health and for programs that protect or restore wetlands with the active involvement of local communities. Also, State/Tribal development of wetland assessment/monitoring tools to be utilized in a formal program to assess and monitor overall wetland health

Education/Outreach

Recognizing the importance of public education in wetland protection and management,Region 6 has sought to help S/T/LG improve the public's access to, and education about wetland information. WPDG projects can be used to develop outreach programs, and can also be used to create innovative educational tools for the public. The production of outreach materials alone is not eligible for funding.

a. Programs which are designed to increase awareness and the importance of wetlands to local governments, general public, landowners, and private sector through the use of partnerships, training and/or seminars.

b. Programs which promote wetland education in schools, universities, and youth organizations.

c. Examples of past outreach/education projects funded through the WPDG include:

—conducting outreach and education efforts aimed at improving public understanding of wetland protection and regulatory efforts

—development of outreach programs to inform owners of potential wetland restoration sites of governmental assistance programs

—creating public education programs which promote wetland informatin for American Wetlands month

—creating programs for use of the internet and other technologies for educating the public about wetlands

Partnership Restoration Projects

a. Projects must involve diverse partnerships of ideally five organizations (private sector government, or non-government), that contribute funding, land, technical assistance workforce support, and/or other in-kind services.

b. Projects may be a discrete part of a larger restoration effort.

c. Preference will be given to projects that are part of a larger watershed or community stewardship effort; include specific provisions for long-term management and projection; and demonstrate the value of innovative, collaborative approaches to restoring the nation's waters.

d. Projects must include a strong on-the-ground wetland or riparian component, and should also include education, outreach and community stewardship.

e. Projects must demonstrate measurable ecological, educational, social and/or economic benefits resulting from the completion of the project.

f. Projects that are part of a mitigation requirement are NOT eligible for funding.

Schedule of Activites

September 7, 2001—Target Date for Region 6 to distribute grant solicitation notice.

August 20, 2001—October 1, 2001—Region 6 staff has set-aside this time to assist applicants in preparing more competitive proposals. Contact Donna Mullins 214–665–7576.

November 30, 2001—Proposals must be POSTMARKED by this date, or they will not be accepted. Certified mail is recommended, and keep documentation.

December 10, 2001—January 28, 2002—Review Committee evaluates proposals.

February 8, 2002—Letters are sent requesting formal applications from selected proposals.

March 15, 2002—Formal applications must be POSTMARKED by this date, or they will not be accepted. Certified mail is recommended and keep documentation.

March–July 2002—Awarding of grants and Congressional notification to recipients.

Proposal Format and Contents

A proposal is different from a work plan. To help clarify what constitutes a good proposal, below are the basics your proposal should include. In addition, Region 6 staff has set-aside August 20, 2001 through October 1, 2001 to assist applicants in preparing a more competitive proposal. Please contact Ms. Donna Mullins at 214–665–7576 to arrange for a pre-proposal meeting/review. If you are unsure of any section or criteria, please call Region 6 BEFORE you submit your package. Keep in mind this is a competitive process, and adherence to the proposal guidelines is part of the selection criteria. As a front cover for the proposal, please use the form below. The cover does not count as a page. The proposal should contain the following information, with a maximum of five (5) one sided pages:

1. Title;

2. Introduction with brief background, goals, and objectives;

3. Overview of project, listing each task and deliverable. Give specific information concerning the task, explaining how it will be accomplished, how it relates to the overall project, and how the progress will be monitored;

4. A site map (this will not count as one of the five pages);

5. Any use of contractors must be included and explained. Guidance precludes greater than a 50% pass through to contractors, and specifies significant involvement of grant recipient.

6. Proposed costs, broken down by task, including contractor's costs by task;

7. Identify measures of success, including clear milestones with expected dates. Include the number of wetland acres affected by project;

8. Include a public participation element (40 CFR part 25) in the proposal which reflects how public participation will be provided, encouraged, and assisted. Include a full description of its interagency and public participation process. This process should go beyond the input stage and include information and methods of sharing throughout the project period;

9. There should be concrete demonstration of coordination/partnership among various agencies. This can be accomplished in various ways, including a written agreement with agencies outlining responsibilities and commitment to the project; and,

10. Region 6 requires a 25% match of the total project cost. The proposal needs to show the Federal assistance amount you are requesting from EPA, 25% minimum agency match, and the total amount for the project. Use the following formula: requested EPA amount divided by 75% equals the total amount for the project. Subtract the EPA amount from the total, and that is the minimum, required match. Your match may exceed 25%. (*Example:* EPA amount $50,000; project total is $66,667; required 25% match is $16,667).

11. Explain if your agency has a Quality Management Plan (QMP) approved by the EPA WaterQuality Protection Division. It must be updated and approved at the beginning of each Fiscal Year. If the project involves sampling or data collection, a Quality Assurance Project Plan (QAPP) will be required, and the QMP must be approved before money can be awarded.

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Use this form as a cover for your proposal

FY 2002 Proposal Cover Sheet for Federal Assistance with Wetlands Protection, State/Tribal/Local Government Agencies ***Please be certain you are a State/Tribal/Local Govt Agency. If you are unsure, research Code of Federal Regulations, Part 40, §31.3 and call before you submit your proposal.**	**For EPA Region 6 use only** **Postmark Date:** **Proposal Number:**
Applicant's Legal Name and Address	Name, Telephone No., Fax No., and E-Mail Address (if available) of Contact Person for the Proposal (name): (phone): (fax): (e-mail):
Title of Proposal	Which one, or more, of the Regional priorities does this project fulfill? If none, is there justification for project?
Estimated Funding Requested:	

a. Federal (what you request from EPA)	$	Type of Applicant: Circle one. A. State Agency B. Local Govt Agency (includes county, municipal, township, Interstate, Intermunicipal, special district) C. Indian Tribe
b. Applicant	$	
c. State	$	
d. Local	$	
e. Other	$	
f. Program Income	$	
g. TOTAL (match must be 25% of this total for project)	$	

BILLING CODE 6560-50-CP

How the Proposals Are Reviewed and Ranked

The Selection Committee reviews each proposal with the following criteria in mind. Each area has a numerical value, with an opportunity for a narrative response. The points of each reviewer for each proposal are totaled, comments are added, then each proposal is given an average. The Committee meets to discuss each proposal and review the results of scoring. The proposals with the highest ranking, up to the estimated amount of funding, are selected. Upon approval of management, formal applications are then requested from the selected applicants.

Proposal Evaluation Criteria

- 1. Does the project meet one or more of the Regional priorities? If not, has the applicant justified the need for the project?
- 2. Does the project have transferability to other State/Tribes/Local governments?
- 3. Did applicant follow proposal guidelines? Did it address all components?
- 4. What is the applicant's past performance, if applicable?
- 5. Is the budget reasonable and appropriate?
- 6. What are the potential environmental results? Does it result in physical, natural restoration? Are the environmental results immediate or long term? How many acres of wetlands are enhanced, restored, created?
- 7. What is the outreach/educational value of the project?
- 8. What is the likelihood of success? Can the project be realistically accomplished?
- 9. Does the project have durable and sustainable characteristics; in other words, will it outlive the project period?
- 10. Is the project part of an approved State Wetlands Conservation Plan?

Jayne Fontenot,

Acting Director, Water Quality Protection Division.

[FR Doc. 01-23600 Filed 9-20-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34239; FRL-6804-5]

Technical Briefing on Background, Methods, and Data Proposed for Use in the Organophosphate Pesticide Cumulative Exposure Assessment for Drinking Water; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing a public technical briefing for October 3, 2001, to further the public discussion on the methods and data proposed for use in the organophosphate pesticide cumulative exposure assessment for drinking water. The briefing will update stakeholders on the probabilistic method proposed for use in the drinking water assessment, the methods for estimating exposures to be used in the probabilistic assessment, and the data required by those methods. The Agency will provide preliminary data on usage and use patterns for stakeholder review.

DATES: The technical briefing will be held on Wednesday, October 3, 2001, from 9 a.m. to 5 p.m. On Thursday, October 4, 2001, from 9 a.m. to noon, EPA and USDA will hold a public meeting of the CARAT Workgroup on Cumulative Risk Assessment/Public Participation Process to discuss issues and questions regarding drinking water as a follow-up to the technical briefing.

ADDRESSES: Both the technical briefing and the follow-up meeting will be held at the National Rural Electric Cooperative Association Conference Center, 4301 Wilson Boulevard, Arlington, VA (across from the Ballston Metro Stop).

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Terria Northern, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-7093; fax number: (703) 308-8005; e-mail address: northern.terria&epa.gov.

For technical information contact: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5776; fax number: (703) 308-8005; e-mail address: parsons.laura&epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are concerned about implementation of the Food Quality Protection Act (FQPA). Passed in 1996, this law strengthens the nation's system for regulating pesticides on food. Participants may include environmental/public interest and consumer groups; industry and trade associations; pesticide user and grower groups; Federal, State, and local governments; food processors; academia; general public; etc. Since others may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about the cumulative process, go directly to the Home Page for the Office of Pesticides at http://www.epa.gov/pesticides/cumulative.

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP-34239. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to the cumulative risk assessment of organophosphate pesticides. This administrative record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB),

Rm.119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Do I Participate in this Meeting?

This meeting is open to the public. Outside statements by observers are welcome. Oral statements will be limited to 3 to 5 minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement may do so before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed in Unit II.

List of Subjects

Environmental protection, Agriculture, Chemicals, Drinking water, Organophosphate pesticides, Pesticides and pests.

Dated: September 10, 2001.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 01–23481 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–3]

Good Neighbor Environmental Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Good Neighbor Environmental Board, a federal advisory committee that reports to the President and Congress on environmental and infrastructure projects along the U.S. border with Mexico, will take place in Laredo, Texas, on October 10–11, 2001. It is open to the public.

DATES: On October 10, the meeting will begin at 8:30 a.m. and end at 5:30 p.m. On October 11, it will begin at 8 a.m. and end by 5 p.m.

ADDRESSES: The meeting site will be La Posada Hotel, 1000 Zaragoza St., Laredo, Texas. For directions to the site, call (956) 722–1701.

FOR FURTHER INFORMATION CONTACT: Elaine M. Koerner, Designated Federal Officer for the Good Neighbor Environmental Board, Office of Cooperative Environmental Management, Office of the Administrator, USEPA, MC1601A, 1200 Pennsylvania Ave, NW, Washington, DC 20004, (202) 564–1484, *koerner.elaine@epa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda: On October 10, guest speakers from the government, private sector, and public sectors will address two topics as they relate to the U.S.-Mexico border region: rural issues and transportation issues. At 3:15 p.m. that afternoon, there will be a public comment session. During this session, attendees will be encouraged to speak briefly about their own concerns and priorities for their communities as well as the wider border region. Afterwards, Board members will report out on developments taking place within their organizations and networks. The first day of the meeting will end at 5:30 p.m.

On the morning of October 11, the Board will hold a business meeting, which will end at noon. Following lunch, the Board will meet with representatives from a Mexican counterpart advisory group. This discussion will end by 5 p.m., when the meeting will close.

Public Attendance: The public is welcome to attend all portions of the meeting. Members of the public who plan to file written statements and/or make brief (suggested 5-minute limit) oral statements at the public comment session on the afternoon of October 10 are encouraged to contact the Designated Federal Officer for the Board prior to the meeting.

Background: The Good Neighbor Environmental Board meets three times each calendar year at different locations along the U.S.-Mexico border. It was created by the Enterprise for the Americans Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The U.S. Environmental Protection Agency gives notice of this meeting of the Good Neighbor Environmental Board pursuant to the Federal Advisory Committee Act (Public Law 92–463).

Elaine M. Koerner,

Designated Federal Officer.

[FR Doc. 01–23603 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–4]

Long Term 2 Enhanced Surface Water Treatment Rule Data System Development Stakeholder Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA), Office of Ground Water and Drinking Water is holding a public meeting on October 17, 2001, at the Old Town Holiday Inn Select, 480 King Street, Alexandria, VA, 22314, for the purpose of information exchange with stakeholders on issues related to data that would potentially be collected under a future Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR). As part of this meeting, EPA plans to discuss with stakeholders approaches for electronically collecting and maintaining source water monitoring data during implementation of the LT2ESWTR.

DATES: The meeting will be held on Wednesday, October 17, 2001 from 8:30 a.m. until 5:30 p.m.

ADDRESSES: Old Town Holiday Inn Select, 480 King Street, Alexandria, VA, 22314.

FOR FURTHER INFORMATION CONTACT: For more information on the location and times of these meetings or to request an agenda for this meeting please contact Crystal Rodgers of EPA's Office of Ground Water and Drinking Water at (202) 260–0676 or by e-mail at *rodgers.crystal@epa.gov.*

Dated: September 17, 2001.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–23601 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–2]

National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC).

The National and Governmental Advisory Committees advise the Administrator of the EPA in her capacity as the U.S. Representative to the Council of the North American Commission on Environmental Cooperation. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), North American Free Trade Agreement Implementation Act, Public Law 103–182 and as directed by Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation." The Committees are responsible for providing advice to the U.S. Representative on a wide range of strategic, scientific, technological, regulatory and economic issues related to implementation and further elaboration of the NAAEC. The National Advisory Committee consists of 12 representatives of environmental groups and non-profit entities, business and industry, and educational institutions. The Governmental Advisory Committee consists of 12 representatives from state, local and tribal governments.

The Committees are meeting to discuss the proposed 2002–2004 Program Plan and Budget for the North American Commission for Environmental Cooperation.

DATES: The Committees will meet on Thursday, October 4, 2001 from 9:00 a.m. to 5:00 p.m., and on Friday, October 5, 2001 from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Radisson Barcelo Hotel, 2121 P Street, NW., Washington, DC. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, at (202) 564–9802.

Dated: September 12, 2001.

Mark N. Joyce,

Designated Federal Officer.

[FR Doc. 01–23602 Filed 9–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–1043; FRL–6798–3]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1043, must be received on or before October 22, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1043 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Driss Benmhend, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9525; e-mail address: benmhend.driss@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1043. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m.,

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Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1043 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1043. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 7, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Platte Chemical Company Petition Summary

PP 1F6338

EPA has received a pesticide petition [PP 1F6338] from Platte Chemical Company, 419 18th Street, Greely, CO 80632, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180, to establish an exemption from the requirement of a tolerance for the biochemical pesticide 2,6-diisopropylnaphthalene (2,6-DIPN) in or on raw agricultural commodities.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Platte Chemical Company has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Platte Chemical Company and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

In the **Federal Register** of September 22, 1999 (64 FR 51245) (FRL–6381–7), EPA issued a rule pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104-170) establishing a temporary exemption from the requirement of a tolerance for residues of 2,6-DIPN. This request for temporary exemption from the requirement of a tolerance was associated with an experimental use permit (EUP) (EUP No. 34704 EUP–13). At this time, Platte Chemical Company is seeking a full registration of 2,6-DIPN as a potato sprout inhibitor and is petitioning for a tolerance exemption.

A. Product Name and Proposed Use Practices

2,6-Diisopropylnaphthalene (2,6-DIPN) will be applied at a rate of 1 pound active ingredient per 600 cwt (1 cut weight equals approximately 100 pounds) of potatoes. All applications to potatoes will be made indoors in potato storage facilities.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* 2,6-Diisopropylnaphthalene (2,6-DIPN), CAS Number 24157–81–1.

2. *Magnitude of residue at the time of harvest and method used to determine the residue*—i. *2,6-DIPN magnitude of residues in/on potatoes, post harvest storage.* Platte conducted studies to determine 2,6-DIPN residues in whole potatoes and peels at various times, up to 180 days, following one to three treatments at the maximum application rate. A liquid chromatograph (HPLC) method was used to measure residues of 2,6-DIPN. Potatoes were treated using a small chamber system that attempted to reproduce a commercial operation on a small-scale. Use of the small chamber system produces worst-case residue values compared to a full-scale commercial operation characterized by use conditions and practices that would tend to reduce residues to a greater extent than the chamber system. When treated once during storage at a rate of 1.2 pounds active ingredient per 600 cwt. of potatoes, and sampled 30 days after treatment (DAT), residues for whole potatoes were 0.22 ppm, 0.28 ppm, and 0.41 ppm (average 0.30 ppm). Under these same conditions, residues in/on the peel were 1.01 ppm, 2.59 ppm, and 2.77 ppm (average 2.12 ppm).

ii. *2,6-DIPN magnitude of residues in/on processing potatoes.* A magnitude of the residue study was conducted to determine the effect of processing (i.e., baking, boiling, and frying) on whole red and russet potatoes. Use of the small chamber system produces worst-case residue values compared to a full-scale commercial operation characterized by use conditions and practices that would tend to reduce residues to a greater extent than the chamber system. Potatoes were treated with a thermal fog of 2,6-DIPN, in accordance with standard agronomic practices. Two application scenarios were studied: One 20 ppm active ingredient application and three applications of 20 ppm active ingredient (at 2–hour intervals), totaling 60 ppm active ingredient. A liquid chromatograph (HPLC) method was used to analyze residues of 2,6-DIPN in/on the potatoes at 0 and 72 hours post-treatment.

2,6-DIPN residues for washed whole potatoes were as follows: Whole potatoes treated once (20 ppm) at 0 DAT had residues of 0.17 ppm, 0.26 ppm, 0.27 ppm, 0.15 ppm, 0.21 ppm, and 0.14 ppm. Potatoes treated once (20 ppm) at 3 DAT had residues of 0.14 ppm, 0.08 ppm, 0.18 ppm, 0.09 ppm, 0.25 ppm, and 0.14 ppm. Potatoes treated three times (60 ppm) at 0 DAT had residues of 0.97 ppm, 1.14 ppm, 0.59 ppm, 1.70 ppm, 2.10 ppm, and 1.44 ppm. Potatoes treated three times (60 ppm) at 3 DAT had residues of 0.58 ppm, 0.72 ppm, 0.75 ppm, 1.13 ppm, 0.57 ppm, and 0.48 ppm.

For whole potatoes (3 DAT) baked in aluminum foil, 2,6-DIPN residues were as follows: Potatoes treated once (20 ppm) had residues of 0.08 ppm, 0.08 ppm, and <0.02 ppm. Potatoes treated three times (60 ppm) had residues of 0.50 ppm, 0.07 ppm, and 0.24 ppm.

For whole potatoes (3 DAT) baked without aluminum foil, 2,6-DIPN residues were as follows: Potatoes treated once (20 ppm) had residues of 0.32 ppm, 0.26 ppm, and 0.13 ppm. Potatoes treated three times (60 ppm) had residues of 0.73 ppm, <0.02 ppm, and 0.46 ppm.

For potatoes (3 DAT) french fried, 2,6-DIPN residues were as follows: Potatoes treated once (20 ppm) had residues of 0.07 ppm, 0.04 ppm, and 0.03 ppm. Potatoes treated three times (60 ppm) had residues of 0.11 ppm, 0.06 ppm, and 0.11 ppm.

iii. *2,6-DIPN Determination of residues in/on whole potatoes and potato fractions (flesh and peel).* A study was conducted to determine the residues in/on whole potatoes and the potato fractions (flesh and peel). Use of the small chamber system produces worst-case residue values compared to a full-scale commercial operation characterized by use conditions and practices that would tend to reduce residues to a greater extent than the chamber system. A liquid chromatograph (HPLC) method was used to analyze residues of 2,6-DIPN.

2,6-DIPN residues for whole potatoes were as follows: Whole potatoes treated once (20 ppm) at 0 DAT had residues of 0.12 ppm, 0.16 ppm, and 0.11 ppm. Potato peels treated once (20 ppm) at 0 DAT had residues of 1.76 ppm, 1.56 ppm, and 1.46 ppm. Potato flesh samples treated once (20 ppm) at 0 DAT had no detectable residues above the limit of quantification (LOQ) of 0.02 ppm. Peeled potato samples from 0, 30, and 90 DAT were analyzed for residues; however, no residues above the LOQ of 0.02 ppm were detected.

iv. Platte Chemical conducted research on 2,6-DIPN applied to potatoes in storage sheds under an Experimental Use Permit (EUP) during the 1999–2000 use season. This report is a brief summary of the residue data that were collected as part of this research.

2,6-DIPN (Amplify® Sprout Inhibitor; Amplify®) was applied to potatoes in commercial sheds using commercial application equipment at 14 locations during the 1999–2000 use season. The application rates and the days post-treatment (number of days that the potatoes were held prior to release from the shed) varied. The application rates ranged from 11 ppm to 20 ppm, while the days post-treatment ranged from 0 to 215 days. Of the 14 locations examined under the EUP, only one location studied potatoes released 30 days post-treatment. The 30–day holding period is the requirement on the label for the section 3 registration of Amplify®. However, 30 days is quite short for a holding period and would likely only be used if growing conditions were unusual, such as a particularly wet growing season. Hence, most locations studied under the EUP used longer holding periods.

The potatoes at the one location that examined the 30–day holding period were treated at 11.0 ppm. These residue data have been adjusted so that they were on the basis as the application rate used in the magnitude of the residue study. The average residue in whole potatoes as tested under the EUP were 0.032 ppm (at 11 ppm) and 0.058 ppm (adjusted to 20 ppm).

v. *Summary.* Residues on whole potatoes, especially peeled potatoes, are expected to be quite low. Further, residues are expected to decline from the time potatoes are removed from storage to the time of consumption. In addition, processing studies demonstrate that washing and cooking substantially reduce residues. Results from peeling studies show that quantifiable residues are not expected in the potato flesh. Because of the relatively low residues observed and the impact of processing, dietary exposure to 2,6-DIPN is expected to be minimal.

3. *Analytical method.* An analytical method for residues is not applicable, as this petition proposes an exemption from the requirement of a tolerance for 2,6-DIPN based on the submitted residue data.

C. Mammalian Toxicological Profile

1. *Acute toxicity.* Technical 2,6-DIPN exhibits low acute toxicity and is classified as toxicity category IV. The rat oral LD_{50} is greater than 5,000 milligrams/kilograms (mg/kg) (toxicity category IV), the rabbit dermal LD_{50} is greater than 5,000 mg/kg (toxicity category IV), and the rat inhalation LC_{50} is greater than 2.60 mg/L (maximum attainable concentration) (toxicity category IV). In addition, 2,6-DIPN is not a skin sensitizer in guinea pigs, shows slight dermal irritation with reversal at 48 hours in rabbits (toxicity

category IV), and minimal ocular irritation (either redness, discharge or both) clearing by 48 hours (toxicity category IV) in rabbits. The end use formulation is the same as the technical formulation, it contains no intentionally added inert ingredients.

2. *Genotoxicity.* Short-term assays for genotoxicity consisting of a bacterial reverse mutation assay (Ames test), an *in vivo/in vitro* unscheduled DNA synthesis in rat primary hepatocytes at two time points, and an *in vivo* mouse micronucleus assay were conducted with 2,6-DIPN and were negative. A mouse lymphoma study conducted with 2,6-DIPN was weakly positive in the absence of metabolic activation and equivocal in the presence of metabolic activation, in both cases at concentrations showing marked cytotoxicity. Based on a weight of evidence evaluation of mutagenicity data for 2,6-DIPN there is not any concern for genotoxicity of 2,6-DIPN.

3. *90–Day subchronic toxicity study in rats.* 2,6-DIPN was administered in the diet to rats (10 animals/sex/group) at doses of 0, 750, 1,500, or 3,000 ppm (or approximately 0, 53.9, 104, and 208 mg/kg/day for males and 0, 61.8, 121, and 245 mg/kg/day for females) for 13 weeks. The no observed adverse effect level (NOAEL) for this study was 1,500 ppm (104 and 121 mg/kg/day for males and females, respectively) in male and female rats and was based on decreased body weight gains and food consumption, and adrenal and kidney toxicity at the lowest observed adverse effect level (LOAEL) of 3,000 ppm (208 and 245 mg/kg/day for males and females, respectively).

4. *Developmental toxicity in rats.* 2,6-DIPN was administered by gavage to pregnant rats at doses of 0, 50, 150, and 500 mg/kg/day from days 6–19 of gestation. The maternal toxicity NOAEL was 50 mg/kg/day based on decreased body weight and feed consumption at the maternal LOAEL of 150 mg/kg/day. The NOAEL for prenatal developmental toxicity was 150 mg/kg/day based on decreased fetal body weight and a possible treatment–related cartilage anomaly at the developmental LOAEL of 500 mg/kg/day. There is no evidence of teratogenicity or of increased fetal susceptibility to 2,6-DIPN.

5. *Metabolism.* The metabolism of 2,6-DIPN and di-isopropylnaphthalenes have been investigated, and several references to this work have been found in the published literature. In one study, rats were given a single dose or a daily oral dose for 1 month of 0.1 g/kg bwt. Tissues were evaluated from animals sacrificed 0, 2, 4, 24, and 48 hours following the single dose, and 2, 4, 24 hours, and 7 and 30 days following the repeated dose administration. DIPNs were found predominantly in body fat and subcutaneous fat 2 hours after the dose, with amounts increasing to 24 hours after the dose, and only slightly dropping at 48 hours. Significant distribution of DIPNs to liver, heart, kidney, and brain were seen at 2 hours; material in these compartments was eliminated by 48 hours following the single dose. Following repeated doses, the amount of DIPNs distributed in tissues 2 hours after the last dose was lower than or equivalent to that seen following a single dose. The amount in body and subcutaneous fat 2 hours following the last dose, although approximately two-fold higher than that seen following a single dose, diminished markedly by 30 days post-exposure. The half-life in fat was approximately 7 days. Thus, DIPNs showed a relatively low potential for persistent bioaccumulation.

Another study investigated the urinary metabolites of 2,6-DIPN following a single oral dose. Approximately 23% of the dose was excreted in the urine by 24 hours post-dosing.

6. *Other tests.* Naphthalene is associated with pulmonary necrosis (following intraperitoneal administration) and carcinogenesis in mice. A study has been reported in the public literature that compared the potential of napthalene, 2-methylnapthalene, 2-isopropylnaphthalene, and 2,6-DIPN to produce pulmonary damage in mice. The study's data suggest that 2,6-DIPN is very unlikely to share either the pulmonary toxicity or the carcinogenicity potential characteristic of napthalene.

No data have been found in the literature that would indicate 2,6-DIPN has any adverse effect on mammalian endocrine or immune systems. No incidents of hypersensitivity or any other adverse effects have been observed in individuals handling the material.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food*—a. *Acute dietary exposure.* Exposure to chemicals that have the potential to elicit a toxic response after a relatively short period of exposure (acute toxicant) is calculated using a distribution of exposure estimated from the entire consumption data base. The exposure algorithm uses the basic relationship, that exposure is the product of the amount of food consumed and the magnitude of the residue in/on that food.

Residues that are observed in/on crops are found to occur as a distribution. Likewise, food consumption patterns are best described by a consumption distribution. The most realistic calculation of acute dietary exposure, therefore, is to multiply the distribution of residues and the distribution of consumption using the Monte Carlo approach.

For the acute analysis presented here, the Monte Carlo approach was used to estimate dietary exposure from potential residues of 2,6-DIPN in all potatoes. In the Monte Carlo model, the distribution of the residue data for whole raw unwashed potatoes (0.22 ppm to 0.41 ppm) was used in conjunction with individual consumption data for each food. The residue distribution was multiplied by the processing factors (PF) determined from 2,6-DIPN processing studies on baked (PF = 0.10), boiled (PF = 0.078), fried (PF = 0.032), and washed potatoes (PF = 0.15). In addition, it was assumed that 100% of the potatoes consumed would be treated with 2,6-DIPN at the proposed label use rate. That is, no adjustments were made for the percentage of all potatoes that would be stored and treated with 2,6-DIPN, nor potatoes intended for fresh versus processing markets.

The acute exposure estimate at the 99.9th percentile of exposure for the overall U.S. population is 0.000465 mg/kg bw/day. When compared to a maternal toxicity NOAEL of 50 mg/kg bw/day from a developmental toxicity study in rats, the Margin of Exposure (MOE) at the 99.9th percentile of exposure is 107437. For women of child-bearing age, the acute exposure estimate at the 99.9th percentile of exposure was 0.000142 mg/kg bw/day (MOE = 351939). The population subgroup with the highest predicted level of acute exposure was children 1 to 6 years of age. Acute exposures for children 1 to 6 years of age were 0.000682 mg/kg bw/day (MOE = 73309). Because the predicted exposures, expressed as MOEs, are well above 100, there is reasonable certainty that no acute effects would result from dietary exposure to 2,6-DIPN.

b. *Chronic dietary exposure.* Chronic exposure estimates were calculated for potential residues of 2,6-DIPN in/on all potatoes, including those destined for processing (e.g., frozen, canned). Generally, exposure to chemicals that have the potential to elicit a toxic response after an extended period of exposure (chronic toxicant) is calculated using per-capita mean consumption estimates and an average residue value. As a conservative estimate of potential long-term dietary exposure, it was assumed that 100% of the potatoes consumed would contain 2,6-DIPN residues at 0.30 ppm (average residue). This residue value was multiplied by the processing factors (PF) determined from 2,6-DIPN processing studies on baked (PF = 0.10), boiled (PF = 0.078), fried (PF = 0.032), and washed potatoes (PF = 0.15).

A risk assessment was performed for 2,6-DIPN using the subchronic toxicity study in rats NOAEL of 104 or 121 mg/kg/day (males and females, respectively). Although the developmental toxicity study indicates a lower NOAEL for the same toxicity (reduced body weight, weight gain, and food consumption), the maternal LOAEL of 150 mg/kg/day is between the subchronic NOAEL of 104–121 mg/kg/day and the LOAEL of 208–245 mg/kg/day. However, the maternal toxicity NOAEL of 50 mg/kg/day is appropriate for use in characterization of risks for the subpopulation of women of childbearing age.

Because of its status as a biopesticide, chronic toxicity studies would not normally be required for 2,6-DIPN; however, a reference dose (RfD) of 1 mg/kg/day can be established for purposes of chronic dietary risk assessment if necessary. The RfD value is based on the NOAEL from the subchronic rat study and use of a 100-fold uncertainty factor (10X for interspecies extrapolation and 10X for intraspecies variability, RfD = 104/100 = 1 mg/kg/day). Retention of an FQPA safety factor is not necessary for 2,6-DIPN. Developmental data in rats showed no unique susceptibility to DIPN.

For the overall U.S. population, chronic exposure was estimated to be 0.000033 mg/kg bwt/day or <0.1 % of the RfD. Chronic exposure also was calculated for women of child-bearing age. Exposure estimates were 0.000019 mg/kg bwt/dw (<0.1 % of the RfD). For the most highly exposed population subgroup, children 1 to 6 years of age, chronic exposure was estimated to be 0.000119 mg/kg bw/day or <0.1 % of the RfD.

ii. *Drinking water.* There is no established maximum concentration level for 2,6-DIPN in water. Based on the low use rate and an indoor use pattern that is not widespread, residues of 2,6-DIPN in drinking water and exposure from this route is unlikely.

2. *Non-dietary exposure.* 2,6-DIPN is not registered for any use that could result in non-occupational, non-dietary exposure to the general population.

E. Cumulative Exposure

There is no evidence to indicate or suggest that 2,6-DIPN shares any mechanism of toxicity in common with those of any other pesticides. Therefore, cumulative exposure concerns are not anticipated.

F. Safety Determination

1. *U.S. population.* The acute exposure estimate at the 99.9th percentile of exposure for the overall U.S. population was 0.000465 mg/kg bwt/day. When compared to a maternal toxicity NOAEL of 50 mg/kg bwt/day from a developmental toxicity study in rats, the MOE at the 99.9th percentile of exposure is 107437. For women of child-bearing age, the acute exposure estimate at the 99.9th percentile of exposure was 0.000142 mg/kg bwt/day (MOE = 351939). For the overall U.S. population, chronic exposure was estimated to be 0.000033 mg/kg bwt/day or <0.1% of the RfD. Chronic exposure also was calculated for women of child-bearing age. Exposure estimates were 0.000019 mg/kg bwt/day (<0.1% of the RfD) for women of child-bearing age.

2. *Infants and children.* Acute exposures for infants and children 1 to 6 years of age were 0.000682 mg/kg bwt/day (MOE = 73309). For the most highly exposed population subgroup, children 1 to 6 years of age, chronic exposure was estimated to be 0.000119 mg/kg bwt/day or <0.1% of the RfD.

G. Effects on the Immune and Endocrine Systems

Platte has no information to suggest that 2,6-DIPN will adversely affect the immune or endocrine systems. The Agency is not requiring information on endocrine effects of this biochemical pesticide at this time.

H. Existing Tolerances

No codex maximum residue levels are established for residues of 2,6-DIPN in/on any food or feed crop.

[FR Doc. 01–23482 File 9–20–01; 8:45 am]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 19, 2001, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

New Business—Other

—FY 2002 Revised Budget and FY 2003 Proposed Budget

Dated: September 17, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–23561 Filed 9–18–01; 5:02 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council Meeting Postponed

AGENCY: Federal Communications Commission.

ACTION: Notice of cancellation of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, Public Law 92–463, as amended, this notice advises interested persons that the meeting of the Technological Advisory Council scheduled for September 20, 2001 has been cancelled and will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Robert Kimball@fcc.gov or 202–418–2339.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23595 Filed 9–20–01; 8:45 am]

BILLING CODE 6712–01–P

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1391–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1391–DR) dated September 11, 2001, and related determinations.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 11, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from fires and explosions on September 11, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5204c (the Stafford Act).

I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas, Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Theodore A. Monette of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, and Richmond Counties for Individual and Public Assistance.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23651 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1390–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1390-DR), dated August 27, 2001, and related determinations.

EFFECTIVE DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 27, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and flooding on July 17–18, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5204c (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert Colangelo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster: Brown, Butler, Clermont, and Hamilton Counties for Public Assistance.

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23691 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3168–EM]

Virginia; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the Commonwealth of Virginia (FEMA–3168–EM), dated September 12, 2001, and related determinations.

EFFECTIVE DATE: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 12, 2001, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act), as follows:

I have determined that the emergency conditions in certain areas of the Commonwealth of Virginia, resulting from fires and explosions on September 11, 2001, is of sufficient severity and magnitude to warrant an emergency declaration under subsection 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5204c (the Stafford Act). My decision to make this declaration pursuant to subsection 501(b) of the Stafford Act is based upon the fact that the explosion occurred at a Federally-owned facility. I, therefore, declare that such an emergency exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to coordinate and direct other Federal agencies and fund activities not authorized under other Federal statutes and allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Pursuant to this emergency declaration, you are authorized to provide emergency assistance as you deem appropriate under Title V of the Stafford Act at 100 percent Federal funding.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Thomas Davies of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area of the Commonwealth of Virginia to have been affected adversely by this declared emergency:

Arlington County for emergency assistance under Section 502 of the Stafford Act as deemed necessary by the Federal Coordinating Officer.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 01–23650 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Preparedness Coordinating Committee Meeting

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Notice.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) advises the public that the FRPCC will meet on October 4, 2001 in Washington, DC.

DATES: The meeting will be held on October 4, 2001, at 9:00 a.m.

ADDRESSES: The meeting will be held at the Federal Emergency Management Agency Room 331, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Pat Tenorio, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–2870; fax (202) 646–3508; or e-mail *pat.tenorio@fema.gov*.

SUPPLEMENTARY INFORMATION: The role and functions of the FRPCC are described in 44 CFR §§ 351.10(a) and 351.11(a). The Agenda for the upcoming FRPCC meeting is expected to include: (1) Introductions, (2) reports from FRPCC subcommittees, (3) old and new business, and (4) business from the floor.

The meeting is open to the public, subject to the availability of space. Reasonable provision will be made, if time permits, for oral statements from the public not more than five minutes in length. Any member of the public who wishes to make an oral statement at the October 4, 2001, FRPCC meeting should request time in writing from Russell Salter, FRPCC Chair, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472. The request should be received at least five business days before the meeting. Any member of the public who wishes to file a written statement with the FRPCC should mail the statement to: Federal Radiological Preparedness Coordinating Committee, c/o Pat Tenorio, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Russell Salter,

Director, Technological Hazards Division, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Chair, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 01–23692 Filed 9–20–01; 8:45 am]

BILLING CODE 6718–06–P

FEDERAL HOUSING FINANCE BOARD

Announcing an Open Meeting of the Board

TIME AND DATE: 10 A.M., Wednesday, September 26, 2001.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Final Rule: Affordable Housing Program
- Final Rule: Amendment of Community Investment Cash Advance Programs Regulation
- Waiver of Compliance with Sections 932.8 and 932.9 of the Federal Housing Finance Board's Regulations (Unsecured Credit Limits and Minimum Liquidity Requirements) until January 28, 2002
- Solicitation of Public Comment: Multi-District Member Operations

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

James L. Bothwell,

Managing Director.

[FR Doc. 01–23786 Filed 9–19–01; 1:29 pm]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal

Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 9, 2001

A. Federal Reserve Bank of Kansas City(Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Larry Ross Cox, Henderson, Nebraska; to acquire voting shares of Cedar Rapids State Company, Cedar Rapids, Nebraska, and thereby indirectly acquire voting shares of Cedar Rapids State Bank, Cedar Rapids, Nebraska.

Board of Governors of the Federal Reserve System, September 18, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23676 Filed 9–20–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 18, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Catawba Valley Bancshares, Inc., Hickory, North Carolina; to acquire 100 percent of the voting shares of First Gaston Bank of North Carolina, Gastonia, North Carolina.

Board of Governors of the Federal Reserve System, September 18, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23677 Filed 9–20–00; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions and Delegations of Authority

Program Support Center

Part P (Program Support Center) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS), (60 FR 51480, October 2, 1995 as amended most recently at 66 FR 35981 dated July 10, 2001) is amended to reflect changes in Chapter PA within Part P, Program Support Center (PSC), HHS. The PSC is renaming the Office of Marketing to reflect program priorities.

Program Support Center

Under *Part P, Section P–20, Functions*, change the following:

Under *Chapter PA, Office of the Director (PA)*, delete the title and functional statement for the *Office of Marketing (PAC)* and substitute the following:

Office of Customer Relations (PAC)

(1) Provides an overall customer relations program for the PSC to advocate, cultivate and evaluate the delivery of products and services on a fee-for-service basis to current and potential customers within and external to HHS; (2) develops resources to support and enhance the communications and promotion of PSC services including presentations, brochures, videos, etc., and detailed technical descriptions of our products and services; (3) develops, directs and evaluates strategic promotional plans to add to the overall customer base and enhance the visibility, credibility and utility of the PSC; (4) designs and conducts customer satisfaction surveys and research projects to determine customer attitudes and determine if PSC services and products are meeting customer requirements and expectations; (5) coordinates and implements HHS policies and procedures regarding the Privacy Act of 1974 and the Paperwork Reduction Act of 1995 for the PSC; (6) coordinates the PSC-wide policy and procedures system utilizing the PSC Intranet; and (7) operates and monitors the PSC Internet and Intranet Web sites.

Dated: September 14, 2001.

Curtis L. Coy,

Director, Program Support Center.

[FR Doc. 01–23697 Filed 9–20–01; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: "Voluntary Customer Surveys of "Partners" for the Agency for Healthcare Research and Quality." In accordance with the Paperwork Reduction Act as amended (see in particular 44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection request to allow AHRQ to conduct these customer satisfaction surveys.

DATES: Comments on this notice must be received by November 20, 2001.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Surveys of "Partners" of the Agency for Healthcare Research and Quality

In response to Executive Order 12862, the Agency for Healthcare Research and Quality (AHRQ) plans to conduct voluntary customer surveys of "partners" to identify how well AHRQ is performing its functions with its partners and to use this information to determine the kind and quality of services they like and expect, their level of satisfaction with existing services, and to implement improvements where feasible and practical.

AHRQ partners are typically health care payers, plans, practioners and providers, researchers, professional associations, AHRQ data suppliers, and State and local governments, as well as persons or entities that provide service to the public for AHRQ, *e.g.*, dissemination of AHRQ publications by a "middle man" such as a professional society.

Partner surveys to be conducted by AHRQ may include, for example, surveys of research grantees to measure satisfaction with technical assistance received from AHRQ. Results of these surveys will be used to assess and redirect resources and efforts needed to improve services. For example, the AHRQ's Office of Research Review, Education, and Policy (ORREP) provides grant funds for training of health services researchers. AHRQ would like to survey scholars whose training it has supported regarding their experience with respect to the AHRQ grant support they received.

In addition, the Office of Health Care Information (OHCI) is proposing to survey one component of their customers: researchers. This proposed survey will be undertaken by a contractor to determine how AHRQ could better serve the research community. Questions asked may include a need for extended hours to answer inquiries on grant application—related matters or the development of a comprehensive manual on submission of grant applications.

Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are:

- Mail and telephone surveys;
- Electronic technologies; and
- Focus groups.

The estimated annual hour burden is as follows:

Type of survey	No. of respondents	Average burden/response in minutes	Total hours of burden
Mail/Telephone Surveys/Electronic Technologies	9,400	20	3,133.3
Focus Groups	700	97.7	1140
Totals	10,100	25.4	4,273.3

Request for Comments

Comments are invited on: (a) The necessity of the proposed collections; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Copies of these proposed collection plans and instruments can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: September 14, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–23548 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Workshop on Best Practices in Workplace

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Workshop on Best Practices in Workplace.

Times and Dates: 1 pm–4:30 pm, November 7, 2001;8 am–5:30 pm, November 8, 2001; 8 am–12 pm, November 9, 2001.

Location: Kingsgate Marriott Conference Center at the, University of Cincinnati, Cincinnati, OH 45219. Phone: 1–513–487–3800.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: To identify successful workplace surveillance programs conducted in the private and public sectors, to learn from them, and to share their tools and effective prevention activities.

Matters to be Discussed: The workshop emphasizes practical approaches to workplace surveillance. Participants will discuss current practices, describing both the difficulties encountered, and practical examples of success and impacts that can be replicated by others. The workshop format will include an introductory plenary session the afternoon of the 1st day; followed the 2nd day by multiple parallel breakout sessions with brief oral presentations, and discussion among the participants; the morning of the 3rd day includes a plenary session with National Occupational ResearchAgenda (NORA) partners reporting on workshop highlights, including identified surveillance opportunities.

Contact Person for Additional Information: John P. Sestito, J.D., M.S., Division of Surveillance, Hazard Evaluations and Field Studies, NIOSH, CDC, M/S R–12, 4676 Columbia Parkway, Cincinnati, OH 45226. Telephone (513) 841–4208, E-mail *Jsestito@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for ToxicSubstances and Disease Registry.

Dated: September 13, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23593 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Council meeting.

Name: Advisory Council for the Elimination of Tuberculosis(ACET).

Times and Dates: 8:30 a.m.–5 p.m., October 10, 2001; 8:30 a.m.–12 p.m., October 11, 2001.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: The Council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters To Be Discussed: Agenda items include issues pertaining to tuberculosis laboratory issues, improving TB efforts in the Southeast, and other TB related topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for ToxicSubstances and Disease Registry.

Dated: September 13, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23594 Filed 9–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–185]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and of State Exemption Under State Laboratory Programs and Supporting Regulations in 42 CFR 493.551–493.557; *Form No.:* CMS–R–185 (OMB# 0938–0686); *Use:* The information required is necessary to determine whether a private accreditation organization's or State licensure program's standards and accreditation/licensure process is equal to or more stringent than those of CLIA; *Frequency:* Other: Initial application/as needed; *Affected Public:* Not-for-profit institutions, Business or other for-profit, State, local or tribal government; *Number of Respondents:* 8; *Total Annual Responses:* 76; *Total Annual Hours:* 768.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, Attn. CMS–R–185, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 11, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–23576 Filed 9–20–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–306]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Restraint and Seclusion Standards for Psychiatric Residential Treatment Facilities; *Form No.:* CMS–R–306 (OMB# 0938–0833); *Use:* Psychiatric residential treatment facilities are required to report deaths, serious injuries and attempted suicides to State Medicaid Agency and Protection and Advocacy Organization. They are also required to provide residents restraint and seclusion policy in writing and to document resident record of all activities involving use of restraint and seclusion; *Frequency:* On occasion; *Affected Public:* Business or other for-profit, Not for profit institutions; *Number of Respondents:* 500; *Total Annual Responses:* 2,600,000; *Total Annual Hours:* 877,750. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 11, 2001.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–23577 Filed 9–20–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Annual Report (ACF–700).

OMB No.: 0980–0241.

Description: The Child Care and Development Fund (CCDF) report requests annual tribal aggregate information on services provided through the CCDF which is required by the Child Care and Development Block Grant (CCDBG) Final Rule (45 CFR parts 98 and 99). Tribes are required to submit annual aggregate data appropriate to tribal programs on children and families receiving CCDF-funds or CCDBG funded child care services. The CCDBG statute and regulations also require Tribal Lead Agencies to submit a supplemental narrative as part of the ACF–700 report. This narrative describes general child care activities and actions in the Tribal Lead Agency's service area and is not restricted to CCDF-funded child care activities. Instead this description is intended to address all child care available in the Tribal Lead Agency's service area. The ACF–700 and supplemental narrative report will be included in the Secretary's report to Congress, as appropriate, and will be shared with all Tribal Lead Agencies to inform them of CCDF or CCDBG-funded activities in other tribal programs.

Respondents: Tribal CCDF Programs (257 in total).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CCDF Annual report	257	1	35	8,995
Estimated Total Annual Burden Hours				8,995

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: September 17, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–23646 Filed 9–20–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0089]

Determination of Regulatory Review Period for Purposes of Patent Extension; Kaletra

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Kaletra and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*..

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug

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product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Kaletra (lopinavir). Kaletra is indicated in combination with other antiretroviral agents for the treatment of HIV–1 infections in adults and pediatric patients age 6 months and older. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Kaletra (U.S. Patent No. 5,886,036) from Abbott Laboratories, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 11, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Kaletra represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Kaletra is 1,397 days. Of this time, 1,290 days occurred during the testing phase of the regulatory review period, while 107 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: November 20, 1996. The applicant claims November 18, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 20, 1996, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: June 1, 2000. FDA has verified the applicant's claim that the new drug application (NDA) for Kaletra (NDA 21–226) was initially submitted on June 1, 2000.

3. *The date the application was approved*: September 15, 2000. FDA has verified the applicant's claim that NDA 21–226 was approved on September 15, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 324 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by November 20, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 20, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23700 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1251]

Determination of Regulatory Review Period for Purposes of Patent Extension; Synercid

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Synercid and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Synercid (quinupristin and dalfopristin). Synercid is indicated for the treatment of patients with serious or life threatening infections associated with vancomycin-resistant Enterococcus faecium (VREF) bacteremia. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Synercid (U.S. Patent No. 4,668,669) from Rhone Poulenc Rorer S.A., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 26, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Synercid represented the first permitted commercial marketing or use of the product. Subsequently, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Synercid is 1,919 days. Of this time, 1,172 days occurred during the testing phase of the regulatory review period, while 747 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: June 22, 1994. The applicant claims June 23, 1994, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 22, 1994, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: September 5, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Synercid (NDA 50–747) was initially submitted on September 5, 1997.

3. *The date the application was approved*: September 21, 1999. FDA has verified the applicant's claim that NDA 50–747 was approved on September 21, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,333 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before November 20, 2001, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before March 20, 2002, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23701 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0092]

Determination of Regulatory Review Period for Purposes of Patent Extension; Rescula

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Rescula and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.*.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration,5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Rescula (unoprostone isopropyl ester). Rescula is indicated for the lowering of intraocular pressure in patients with open-angle glaucoma or ocular hypertension who are intolerant of other intraocular pressure lowering medications or insufficiently responsive (failed to achieve target IOP determined after multiple measurements over time) to another intraocular pressure lowering

medication. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Rescula (U.S. Patent No. 5,221,763) from R-Tech Veno, Ltd./ Novartis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 3, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Rescula represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Rescula is 1,347 days. Of this time, 1,186 days occurred during the testing phase of the regulatory review period, while 161 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: November 27, 1996. The applicant claims October 25, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 27, 1996, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: February 25, 2000. The applicant claims February 14, 2000, as the date the new drug application (NDA) for Rescula (NDA 21–214) was initially submitted. However, FDA records indicate that NDA 21–214 was submitted on February 25, 2000.

3. *The date the application was approved*: August 3, 2000. FDA has verified the applicant's claim that NDA 21–214 was approved on August 3, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 774 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by November 20, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 20, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23702 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–1250]

Determination of Regulatory Review Period for Purposes of Patent Extension; Synercid

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Synercid and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Synercid (quinupristin and dalfopristin). Synercid is indicated for the treatment of patients with complicated skin and skin structure infections caused by Staphylococcus aureus (methicillin susceptible) or Streptococcus pyogenes. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Synercid (U.S. Patent No. 4,798,827) from Rhone Poulenc Rorer S.A., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 26, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Synercid represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Synercid is 2,793 days. Of this time, 2,046 days occurred during the testing phase of the regulatory review period, while 747 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: January 30, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 30, 1992.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: September 5, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Synercid (NDA 50–748) was initially submitted on September 5, 1997.

3. *The date the application was approved*: September 21, 1999. FDA has verified the applicant's claim that NDA 50–748 was approved on September 21, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,770 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written comments and ask for a redetermination by November 20, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 20, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except thatindividuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23703 Filed 9–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of October 2001.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: October 11, 2001; 3 p.m.—5:30 p.m., October 12, 2001; 8:30 a.m.—5 p.m., October 13, 2001; 9 a.m. to 5 p.m., October 14, 2001; 8 a.m.—11 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852, Phone: (301) 468–1100.

The meeting is open to the public.

Agenda: The agenda will focus on meeting with the management team from the Agency and the Bureau of Health Professions regarding the Administration's vision and goals for the National Health Service Corps and the designation of health professional shortage areas.

For further information, call Ms. Eve Morrow, Division of National Health Service Corps, at (301) 594–4144.

Agenda items and times are subject to change as priorities dictate.

Dated: September 17, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–23611 Filed 9–20–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act(Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of October 2001.

Name: Advisory Committee on Training in Primary Care Medicine and Dentistry.

Date and Time: October 29, 2001; 8:30 a.m.–5:00 p.m., October 30, 2001; 8:30 a.m.–4:00 p.m.

Place: The Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting is open to the public.

Purpose: The Advisory Committee shall (1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning activities under section 747 of the Public Health Service Act; and (2) prepare and submit to the Secretary, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report describing the activities of the Advisory Committee, including findings and recommendations made by the Committee concerning the activities under section 747 of the PHS Act. The Advisory Committee will meet twice each year and submit its first report to the Secretary and the Congress by November 2001.

Agenda: Policy and program development issues will be discussed and recommendations for the future will be addressed.

Anyone interested in obtaining a roster of members or other relevant information should write or contact Crystal L. Clark, M.D., M.P.H., Acting Deputy Executive Secretary, Advisory Committee on Training in Primary Care Medicine and Dentistry, Parklawn Building, Room 9A–21, 5600 Fishers Lane, Rockville, Maryland 20857, phone (301) 443–6326, e-mail *cclark@hrsa.gov*. The web address for the Advisory Committee is *http://www.bhpr.hrsa.gov/dm/actpcmd.htm*.

Dated: September 17, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–23612 Filed 9–20–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: August 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of August 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any

business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALBERTY, GLENDA FAYE IDABEL, OK	09/20/2001
AMERICAN FAMILY HOME CARE, INC N KINGSTOWN, RI	09/20/2001
ANASTASIO, ANDREW S NEW HAVEN, CT	09/20/2001
ANDREOZZI, ROCCO J JR WARWICK, RI	09/20/2001
ARWAS, RAPHAEL AVENTURA, FL	09/20/2001
ASONYE, IBEABUCHI ONEYEMA FLOSSMOOR, IL	09/20/2001
BENNETT, WILLIAM LEON DETROIT, MI	09/20/2001
BENTLEY, FRANK R TOPEKA, KS	09/20/2001
BILANI, SAMI SUHEIL DEARBORN HGTS, MI	09/20/2001
BOEHM, GREGORY X SHAKER HGTS, OH	09/20/2001
BONNER, LILLIE MAE RENO, NV	09/20/2001
BOONE TAYLOR PHARMACY AHOSKIE, NC	09/20/2001
CARTER, JASON MICHAEL MEMPHIS, TN	09/20/2001
CARTER-BROWN, DINAH L ALBION, IN	09/20/2001
CARVELLI, LINDA HALLETSVILLE, TX	09/20/2001
CESTARI, JOSEPH LAWRENCE, NY	09/20/2001
CESTARI PHARMACY, INC INWOOD, NY	09/20/2001
CHAMPION, DAVID M DECATUR, GA	09/20/2001
CLARK, SHERRON CRYSTAL SPRINGS, MS	09/20/2001
CLEARWATER CLINICAL LAB, INC CLEARWATER, FL	09/20/2001
COMMUNITY CLINICAL LAB, INC CLEARWATER, FL	09/20/2001
COMPREHENSIVE CLINICAL CTR E GREENBUSH, NY	09/20/2001
D'ANJOU, THOMAS ATLANTA, GA	09/20/2001
DANIELS, JERRY G ANACONDA, MT	09/20/2001
DEBOSE, BURREL MICHAEL JR KENT, WA	09/20/2001
DIAZ, LACARO MIAMI, FL	09/20/2001
DOMINGUEZ, RAMON MIAMI, FL	09/20/2001
DOMINGUEZ, RAMON MIAMI, FL	09/20/2001
DYEVICH, KEVIN J MILLTOWN, NJ	05/01/1996
EDWARDS, SONYA Z MILWAUKEE, WI	09/20/2001
FABRIKANT, JAY NEW YORK, NY	09/20/2001
FINGAL, JOHN JOSEPH MITCHELLVILLE, MD	09/20/2001
FIRST CARE HAMTRAMCK DENTAL HAMTRAMCK, MI	09/20/2001
FORTIN, JEFFREY A DEVENS, MA	09/20/2001
GAINES, WILLIAM P JR BAKER, LA	09/20/2001
GATES, BONNIE BELLE WATERLOO, IA	09/20/2001
GEPP, VINCENT PALM HARBOR, FL	09/20/2001
GOMEZ-MARTINEZ, YOLANDA SAN LORENZO, PR	09/20/2001
GOODWIN, GARY L LEXINGTON, KY	09/20/2001
GRANDIDGE, WAYNE B N KINGSTOWN, RI	09/20/2001
GRAU, JOSE E SPRINGHILL, FL	09/20/2001
GRIFFIN JENNINGS, SHERRILL P LAFAYETTE, LA	09/20/2001
GUTMAN, ALBERTO MIAMI, FL	09/20/2001
HARRY, JACLYNN A VANCOUVER, WA	09/20/2001
HEART TRACE OF NASHUA, INC DEVENS, MA	09/20/2001
HERNANDEZ, JOSE MIAMI, FL	09/20/2001
HERRERA, ALFREDO J ELLICOTT CITY, MD	09/20/2001
HILDRETH, DANA E MACON, MO	09/20/2001
HOLCOMB, RONALD D GAINESVILLE, GA	09/20/2001
HULBERT, DEBORAH ANN FT MYERS, FL	09/20/2001
HULIN, MICKIE COLLEGE PARK, GA	09/20/2001
HUNTER, SAUNDRA MARIE DETROIT, MI	09/20/2001
HURST, PATRICK J LOMPOR, CA	09/20/2001
IMANSEPAHI, REZA DENVER, CO	09/20/2001
JOHNSON, WILLIAM STONE MOUNTAIN, GA	09/20/2001
JOHNSON, LANNES NEIL TULSA, OK	09/20/2001
JOSSELYN, REBECCA L MANCHESTER, NH	09/20/2001
KAZMA, ROBERT M FERNDALE, MI	09/20/2001
KILGORE, SAMUEL E UNION POINT, GA	09/20/2001
LILLEY, GALE BROWNLOW ELDON, MO	09/20/2001
LOUDERMILK, NADEANE WITCHITA, KS	09/20/2001
LTC PHARMACY, INC MINONK, IL	09/28/2000
MAISONET, CARLOS TOA ALTA, PR	09/20/2001
MARIN, RITA F ATLANTA, GA	09/20/2001
MARTI-AGOSTO, MARTA BAYAMON, PR	09/20/2001
MARTINEZ, SOPHIE CANJILON, NM	09/20/2001
MAYER, JAN A NASHVILLE, TN	09/20/2001
MAZAL, BENJAMIN C ENGLEWOOD, OH	09/20/2001
MCCAUSLAND, JOHN M JR ERLANGER, KY	09/20/2001
MCCORMICK, THOMAS L GRAND BLANC, MI	09/20/2001
MCCOY, PAUL CHICAGO, IL	09/20/2001
MCDONALD, JOHN PATRICK WOODLAND PARK, CO	09/20/2001
MCKEOWN, JAMES L SR CLEARWATER, FL	09/20/2001
MELKONYAN, ARSEN M N HOLLYWOOD, CA	09/20/2001
MERCADO, ZENAIDA CORAL GABLES, FL	09/20/2001
MUNOZ, JOSE A WHITESTONE, NY	09/20/2001
MURPHY, SHARON KAY GRAND SALINE, TX	09/20/2001
NAGAPETYAN, OGANES M ELMONTE, CA	09/20/2001
NAPOLITANO, THOMAS HOWARD BEACH, NY	09/20/2001
NEAL, CONNIE LYNN NEW ULM, MN	09/20/2001
NEW ERA ALTERNATIVE TREATMENT HIGHLAND PARK, MI	09/20/2001
NORMAN, BRIGID RIVERDALE, GA	09/20/2001
NWANKWO, FESTUS UNION, NJ	09/20/2001
OPTIMUMCARE MEDICAL CTR, L L C GAITHERSBURG, MD	09/20/2001
OUDIN, MADELYN ALEXIS EL CENTRO, CA	09/20/2001
PALMER, VERLYNNE G SALT LAKE CITY, UT	09/20/2001
PEREZ, DULCE M MIAMI, FL	09/20/2001
PINKARD, DWAYNE LAMAR DETROIT, MI	09/20/2001
POTTS, ELENA THERESA PALM DESERT, CA	09/20/2001
PUKAS, BRENDA WESTERLY, RI	09/20/2001
RAMOS, DOMINGO MIAMI, FL	09/20/2001
REED, BRENDA MARIE DETROIT, MI	09/20/2001
REEVES, MICHAEL LITHONIA, GA	09/20/2001
REVELS, ROBERT STEVEN ROCK HILL, SC	09/20/2001
RILEY, JAMES E GUILFORD, CT	09/20/2001
ROBERTSON, LAWRENCE MARSHALL DENVER, CO	06/18/2001
ROBLES, NORA LYDIA TUCSON, AZ	09/20/2001
RONALD Q SHERMER, D M D, P A COLUMBIA, SC	09/20/2001
ROWE, MICHAEL H HURRICANE, UT	09/20/2001
SALAZAR, JAMES ALBERT THE WOODLANDS, TX	09/20/2001
SALAZAR, HERNAN EFRAIN THE WOODLANDS, TX	09/20/2001
SAMI BILANI, D D S, P C DEARBORN, MI	09/20/2001
SAVERY, FRANCOIS L LAS VEGAS, NV	09/20/2001
SCHMOOKLER, NAZILYA BROOKLYN, NY	09/20/2001
SCOTT, DAVID JR MUSKEGON, MI	09/20/2001
SCOTT, TRACY LYNN HAWORTH, OK	09/20/2001
SCOW, RACHELLE EVA PARACHUTE, CO	09/20/2001
SHAH, BHUPENDRA N OLD BROOKVILLE, NY	09/20/2001
SHROUT, WILLIAM J FAIRTON, NJ	09/20/2001
SHUMAN, VINCENT MICHAEL N LAS VEGAS, NV	09/20/2001
SMITH, LINDA M WESTBURY, NY	09/20/2001
SOLTERO, SUSAN C MIAMI, FL	09/20/2001
SPRAGUE, TERI JO CRESTON, IA	09/20/2001
STONE HILL HEALTH SVCS, INC WESTERLY, RI	09/20/2001
TAMRAZYAN, GAGIK M ELMONTE, CA	09/20/2001
THIELEN, TANYA LEE ALBANY, MN	09/20/2001
TUNICK, EDWIN FT LAUDERDALE, FL	09/20/2001
TURNBOUGH, FELICIA JONESBORO, GA	09/20/2001
TYSON, RICHARD PARKLAND, FL	09/20/2001
VANDERSLUIS, MICHAEL ALBERT DE MOTTE, IN	06/16/1999
WANG, JOE CHENG TEMPLE CITY, CA	09/20/2001
WILLIAMS, DOTTIE MARIE TUCSON, AZ	09/20/2001
FELONY CONVICTION FOR HEALTH CARE FRAUD	
BRANHAM, BRADLEY WILLIS COLDWATER, MI	09/20/2001
CARLSON, ERIC DOUGLAS SIERRA MADRE, CA	09/20/2001
CASSON, RONALD JULIAN JR SAN DIEGO, CA	09/20/2001
DURAND CLINIC, P C DURAND, MI	09/20/2001
FROSOLONE, CAMILLE GUILFORD, CT	09/20/2001
HOLLADY, JASON LYNN LAKE ANGELUS, MI	09/20/2001
RAVENSCRAFT, SYLVESTER DALE LYNCHBURG, OH	09/20/2001
SINGH, MARIA CORAZON C WESLEY HILLS, NY	09/20/2001
STEFFEN, H PAUL PAULSBORO, NJ	09/20/2001
FELONY CONTROL SUBSTANCE CONVICTION	
BETTS-WALKER, CAROLYN RENEE CARLISLE, AR	09/20/2001
BLAIR, KATHERINE MARIE CANTON, OH	09/20/2001
CARR, GEORGE AUSTIN E ELMHURST, NY	09/20/2001
CHAMPLAIN, JANENNE VIAN, OK	09/20/2001
EMERY, WILLIAM L BOISE, ID	09/20/2001
GLAZE, PENNY L WESTPORT, IN	09/20/2001
OEXMANN, RICHARD BUSSE TULSA, OK	09/20/2001
ROBERTS, HANDEL JAY CANTON, OH	09/20/2001
RODRIGUEZ, JAMES J SELMER, TN	09/20/2001
THEDE, TARA FT WORTH, TX	09/20/2001
PATIENT ABUSE/NEGLECT CONVICTIONS	
BALOURDAS, GREGORY MICHAEL SAN DIEGO, CA	09/20/2001
BURGESS, RAYMOND ODELL JR TUCSON, AZ	09/20/2001
BURTON, DIANE DONNA LOUISE OKLAHOMA CITY, OK	09/20/2001
CAIN, PATRICIA ELLA LAS VEGAS, NV	09/20/2001
CLACKLEY, MACK O DELMONT, NJ	09/20/2001
COCKRELL, JACK SALEM, OR	09/20/2001
COMPASSIONATE HOME CARE, INC MINNEAPOLIS, MN	09/20/2001
DERBY, SANDRA BLOOMFIELD, NY	09/20/2001
DONNER, JEFFREY S WESTON, FL	09/20/2001
DOWD, CLAIRE BROOKSVILLE, MS	09/20/2001
GANN, TINA CAROL LAWTON, OK	09/20/2001
GRAHAM, TIMOTHY SHAWN DILLON, MT	09/20/2001
HILL, MARK ANTHONY TAFT, OK	09/20/2001
ILAIYAN, KATHERINE E HYDE PARK, NY	09/20/2001
JONES, WALTER COLUMBUS FT WORTH, TX	09/20/2001
KLAUSNER, ELIAH STEVEN DENVER, CO	09/20/2001
LACY, TYSON SHEROD COLUMBIA, TN	09/20/2001
LIGGETT, EDITH RENIA MESA, AZ	09/20/2001
LISKEY, GLORIA JEAN BRIDGEWATER, VA	09/20/2001
LOCKETT, JOVON MARIE COMMERCE, OK	09/20/2001
LYNCH, CHRIS JOHN CALIPATRIA, CA	09/20/2001
MARTINO, DONNA MARIE NEMO, TX	09/20/2001
MCDOUGALL, DEBBIE K BOUNTIFUL, UT	09/20/2001
MENDEZ, LUCELLE ADA OKLAHOMA CITY, OK	09/20/2001
MILLER, DAVID W MARCY, NY	09/20/2001
MOOREHEAD, WINSTON YONKERS, NY	09/20/2001
PACKER, FRANCINE BARTON PETERSBURG, VA	09/20/2001
PIERRE, AVIOLLE ELMONT, NY	09/20/2001
POINTER, BRENDA DENISE BALTIMORE, MD	09/20/2001
RUCKER, DELWIN JON ENID, OK	09/20/2001
SANDOVAL, SAMUEL CARMEN DAVID LAKEVILLE, OH	09/20/2001
SIMMONS, ANTOWANE BUFFALO, NY	09/20/2001
SMELIK, STEVEN F FORT ANN, NY	09/20/2001
THOFIELD, PEARLENE GULFPORT VALLEY, MS	09/20/2001
VALDIVIA, RODOLFO CARLOS EL PASO, TX	09/20/2001
WELCH, JEFFREY PENN YAN, NY	09/20/2001
WILSON, WILLIAM FRANK MONROE, CA	09/20/2001
YOUSUFZAI, BASHIR A DU BOIS, PA	09/20/2001
CONTROLLED SUBSTANCE CONVICTIONS	
HODSON, BRUCE A ATTICA, IN	09/20/2001
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
ANAND, VIKRAMJIT S ITHACA, NY	09/20/2001
ANDERSON, DAVID P SAN DIEGO, CA	09/20/2001
ANDERSON, DEBORAH A MIDDLEBURY, VT	09/20/2001
BALEN, MICHELLE LACOUR MALVERN, PA	09/20/2001
BARAD, DAVID CLOSTER, NJ	09/20/2001
BARTON, SCOTT D CLINTON, CT	09/20/2001
BASS, RONALD LETHRIE SARALAND, AL	09/20/2001
BEATLEY, GINGER SHORT ROCK HILL, SC	09/20/2001

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Subject, city, state	Effective date
STEPHENS CITY, VA	
BEATTY, SCOTT ALLEN	09/20/2001
ELWOOD, IN	
BEDFORD, CHRISTINE L	09/20/2001
WOONSOCKET, RI	
BELTS, RICHARD PAUL	09/20/2001
STEILACOOM, WA	
BENSON, MARSHA LYNN	09/20/2001
FERGUS FALLS, MN	
BEZNER, WANDA MARIE	09/20/2001
WICHITA FALLS, TX	
BIZER, DAWN ROSE	09/20/2001
VENICE, FL	
BLACKSTONE, QUENTIN M	09/20/2001
SACO, ME	
BODKIN, DANNA KAY	09/20/2001
WICHITA FALLS, TX	
BODNAR, MARY F	09/20/2001
W MIFFLIN, PA	
BOLING, GINA R	09/20/2001
CROWDER, MS	
BONNELL, JOHN N	09/20/2001
APPLETON, WI	
BOOTH, SALLY ANN	09/20/2001
ZOINSVILLE, IN	
BOURBEAU, VERONICA M	09/20/2001
SALEM, MA	
BOWLES, LAURIE H	09/20/2001
CHARLOTTSVILLE, VA	
BRASHER, TRACEY CAROL	09/20/2001
HAMILTON, AL	
BRENNAMAN, BRUCE HOWARD	09/20/2001
COLUMBUS, GA	
BYRD, JOHN ELVIS	09/20/2001
MANILA, AR	
CANAMORE, MELVIN DANIEL	09/20/2001
PARAGOULD, AR	
CARAGINE, PAUL J JR	09/20/2001
KINNELON, NJ	
CARTER, JUDITH A	09/20/2001
NICHOLASVILLE, KY	
CHAMBERLAIN, ALEXANDER	09/20/2001
TUCSON, AZ	
CHENOWETH, CHERYL LYNN	09/20/2001
LUBBOCK, TX	
CHESSON, JAN M	09/20/2001
LAWRENCE, MA	
CLARK, CHRISTINE DIANA	09/20/2001
LEAGUE CITY, TX	
CLARK, KATHLEEN M	09/20/2001
CUMBERLAND, RI	
COBURN, MELANIE	09/20/2001
WARWICK, RI	
CODY, KATHLEEN RENEE	09/20/2001
BATESVILLE, AR	
CONTRERAS, KELLY RAE	09/20/2001
LODI, CA	
COOK, TYRONE	09/20/2001
PHILADELPHIA, PA	
CUNNINGHAM, ROXANNE L	09/20/2001
NORTHGLENN, CO	
DAFFRON, BONNIE BARBARA	09/20/2001
WAYCROSS, GA	
DANIEL, KEITH BRIAN	09/20/2001
VIDOR, TX	
DAVIS, TERRY B	09/20/2001
MEMPHIS, TN	
DAVIS, JAMES E	09/20/2001
BURLINGTON, VT	
DEUPREE, WILLIAM DWIGHT	09/20/2001
SHELBYVILLE, IN	
DILLS, RICHARD AARON	09/20/2001
BIG SPRING, TX	
DILORENZO, DIANE M	09/20/2001
PROVIDENCE, RI	
DILUCA, CHRISTINE DECECCO	09/20/2001
MCKEESPORT, PA	
DOUGLAS, TAMMY JO	09/20/2001
TERRE HAUTE, IN	
EDMONDS, KARLA JO	09/20/2001
GUNTER, TX	
ERGIN, NEVIT O	09/20/2001
SANTA CRUZ, CA	
ERNST, ANNE KENNEDY	09/20/2001
ORANGE, TX	
FAFINSKI, CAROL ANN KNABB	09/20/2001
CLINTON, MD	
FARRIS, JOEL	09/20/2001
NEPTUNE, NJ	
FAULKNER, PATRICIA T	09/20/2001
WHITEHALL, OH	
FORD, DEBORAH MICHELLE	09/20/2001
DALEVILLE, AL	
FORMAN, TOD F	09/20/2001
MARSHFIELD, MA	
FOWLER, THANA	09/20/2001
SAN ANGELO, TX	
FRICKS, JAEMS	09/20/2001
TOMS RIVER, NJ	
GARVEY, LAURA J	09/20/2001
SAN ANGELO, TX	
GAUSE, JANEIL	09/20/2001
LEHI, UT	
GILLENWATER, DAVID RAY	09/20/2001
SUWANEE, GA	
GOLDENBERG, JACOB EMMANUEL	09/20/2001
FORT BRAGG, CA	
HEADLEY, IKESHIA M	09/20/2001
FALL RIVER, MA	
HENDERSON, LACHELLE	09/20/2001
KILMARNOCK, VA	
HENRIKSON, NANCEE J	09/20/2001
GLEN ELLYN, IL	
HEREDIA, CORRINA	09/20/2001
SURPRISE, AZ	
HERICKHOFF, JEFFREY JOSEPH	09/20/2001
ST PAUL, MN	
HIGGINS, SHARON	09/20/2001
SCHUYLKILL HAVEN, PA	
HIGMAN, KAREN E	09/20/2001
WEBB CITY, MO	
HILL, JOAN MELIN	09/20/2001
RALEIGH, NC	
HODGES, REBECCA CAROL	09/20/2001
SAN ANGELO, TX	
HOWELL, MARK STEVEN	09/20/2001
HALTOM CITY, TX	
ILAGAN, CORAZON S	09/20/2001
NEW BRITAIN, CT	
JACKSON, PEARL A	09/20/2001
SHAWNEETOWN, IL	
JESSER, MARY E	09/20/2001
CRANSTON, RI	
JOHNSON, ARIA MARIE	09/20/2001
DALLAS, TX	
JOHNSON, SHILOH E	09/20/2001
CHARLESTOWN, RI	
JOHNSON, MANDI MICHELE	09/20/2001
EL RENO, OK	
JONES, SHERRY L	09/20/2001
ST ALBANS, VT	
JULIAN, ALEXANDER M	09/20/2001
SAN FRANCISCO, CA	
KASPER, RICHARD G	09/20/2001
WILLMAR, MN	
KAY, GARY S II	09/20/2001
TUCSON, AZ	
KIM, RONALD RIN	09/20/2001
IRVINE, CA	
LACQUEMENT, CHESTER LOUIS III	09/20/2001
OKLAHOMA CITY, OK	
LAGRANGE, MATTHEW	09/20/2001
INDIANAPOLIS, IN	
LANGLOIS, SHERRI L	09/20/2001
BURLINGTON, VT	
LAPORTE, DIANE MARIE	09/20/2001
BEACH PARK, IL	
LEE, YUNG M	09/20/2001
GLEN ARM, MD	
LINDEMANN, ALAN R	09/20/2001
FARGO, ND	
LITT, LAWRENCE L	09/20/2001
SCHERTZ, TX	
LOBRUTTO, JOSEPH	09/20/2001
MADISONVILLE, KY	
LOFTON, JODY DENIS	09/20/2001
LEBANON, IN	
LOOPER, KERRI LYNN	09/20/2001
DENTON, TX	
LOVOI, SUSAN JANE	09/20/2001
TULSA, OK	
LUCK, GREGORY C	09/20/2001
YARMOUTH, ME	
MAISONNEUVE, LOUIS PHILIPPE	09/20/2001
S OZONE PARK, NY	
MAJENTY, NADINE M	09/20/2001
PHOENIX, AZ	
MAJOR, CAROL A	09/20/2001
RIVERSIDE, RI	
MARLETTE, WAYNE LEE	09/20/2001
PEKIN, IL	
MARSH, ARTHUR C	09/20/2001
ST SIMONS ISLAND, GA	
MCEWEN, AERICA	09/20/2001
PHOENIX, AZ	
MCGEE, BRIDGETTE	09/20/2001
GOREVILLE, IL	
MERRITT, JANETTA MICHELLE	09/20/2001
JOINER, AR	
MERSHON, PAUL DUGAN	09/20/2001
LOUISVILLE, KY	
MOORE, SHARON D	09/20/2001
PROVIDENCE, RI	
MORGENROTH, DEBRA KAREN	09/20/2001
PORTLAND, TX	
MOSHER, TIFFANY LEE	09/20/2001
SPENCER, IA	
MULLAN, PAUL A	09/20/2001
BALTIMORE, MD	
NAPPA, THOMAS P	09/20/2001
GREENE, RI	
NASHAD, ALI	09/20/2001
RUTLAND, VT	
NEALS, SHERRY	09/20/2001
JERSEY CITY, NJ	
NEELEY, SANDRA A	09/20/2001
GREENVILLE, SC	
NEVINS, JULIE ANNE	09/20/2001
OTTAWA, IL	
PEERY, LISA MICHELLE	09/20/2001
ARDMORE, OK	
PERRY, MARY ANN	09/20/2001

Subject, city, state	Effective date
PROVIDENCE, RI	
PHILLIPS, SUSAN	09/20/2001
FORT WORTH, TX	
PHILLIPS, DAVID BAKER	09/20/2001
INDIANAPOLIS, IN	
PIERCY, SHARON KAY	09/20/2001
CHRISTOPHER, IL	
PINHAS, SIMON J	09/20/2001
BEVERLY HILLS, CA	
POTTS, LINDSAY A	09/20/2001
NEWPORT, RI	
PREMER, ELAINE GAIL	09/20/2001
LOS ANGELES, CA	
PRUITT, MICHAEL DAVID	09/20/2001
MISSION VIEJO, CA	
RALSTON, PATRICIA MARIE	09/20/2001
VALLEJO, CA	
RAMIREZ, TERESA F	09/20/2001
MESA, AZ	
RAMIREZ, THERESA MAY	09/20/2001
CHOCHILLA, CA	
RATHBUN, RENEA SUE	09/20/2001
PENNVILLE, IN	
REYES, RONALD E	09/20/2001
YUMA, AZ	
RICHEY, TERRI RENEE	09/20/2001
SCOTTSBURG, IN	
ROBINSON, BERNICE LAROSE	09/20/2001
CICERO, IL	
ROGERS, TAMRA M	09/20/2001
CHICAGO, IL	
ROONEY, MICHAEL JOHN	09/20/2001
IONE, CA	
ROSE, LEESIA MARIE	09/20/2001
DAYTON, TX	
ROWE, RUTH S	09/20/2001
GLOUCESTER, MA	
RUNNER, ROCHELLE LEIGH	09/20/2001
CHARLESTON, IL	
RUSSELL, JAMES W	09/20/2001
NASHVILLE, TN	
RUTHERFORD, ANGELA RENEE	09/20/2001
EVA, AL	
RYAN, BARBARA JEAN	09/20/2001
MOORE, OK	
SADDLER, TAMMY WILLMAN	09/20/2001
ATLANTA, IL	
SANDERS, JEAN	09/20/2001
BALDWINSVILLE, NY	
SCHAUERHAMER, ROBERT ALAN	09/20/2001
APPLE VALLEY, MN	
SCHELL, CHRISTINE	09/20/2001
NEWPORT, RI	
SCOTT, TRAVIS DEAN	09/20/2001
RIVERTON, UT	
SEAGERS, RAPHEAL SCOTT	09/20/2001
ROWLETT, TX	
SERENO, PATRICIA	09/20/2001
HOWELL, NJ	
SHAFFER, JEFFERY ALLAN	09/20/2001
FEDERAL WAY, WA	
SIEPMANN, LAURA M	09/20/2001
ORIENT, ME	
SLAY, JERRY L	09/20/2001
BRENTWOOD, TN	
SMITH, CHAD M	09/20/2001
FOUNTAIN HILLS, AZ	
SORK, ROY ALLEN	09/20/2001
EL PASO, TX	
SPENCE, STEFANIE ANNE	09/20/2001
DOTHAN, AL	
ST GERMAIN, GAIL M	09/20/2001
WOONSOCKET, RI	
STARK, CHRISTIE L	09/20/2001
MANCHESTER, NH	
THOMPSON, JOY R	09/20/2001
STANLEY, NY	
TOMARCHIO, JANET L	09/20/2001
PORTLAND, ME	
TRUJILLO, CHRISTINE A	09/20/2001
ASHLAND CITY, TN	
TURNER, TERRI LYNN	08/20/2001
GEARY, OK	
VALENZUELA, GUADALUPE	09/01/2001
PHOENIX, AZ	
VANCE, MARJORIE LOU	09/20/2001
HOUSTON, TX	
WALLACE, LINDA J	09/20/2001
AGAWAM, MA	
WARNER, RENE JR	09/20/2001
LOGANSPORT, IN	
WELCH, SUSAN M	09/20/2001
PROVIDENCE, RI	
WELCH, BRENDA KAYE	09/20/2001
WHITEWRIGHT, TX	
WELLS, WEETONIA ANN	09/20/2001
BOONEVILLE, AR	
WILLIAMS, MARITZA T	09/20/2001
SUNBURY, PA	
WOODERSON, PHILLIP CLYDE	09/20/2001
INDIANOLA, IA	
WRIGHT, KATHE L	09/20/2001
WILLIAMSPORT, PA	
YAN, MICHELLE LIU	09/20/2001
WALNUT, CA	
ZILKA, EZECKIEL	09/20/2001
LOS ANGELES, CA	

FEDERAL/STATE EXCLUSION/ SUSPENSION

AUSTRIACO, JOSE D	09/20/2001
MAYWOOD, IL	
CHEN, CHENG TAI	09/20/2001
CHICAGO, IL	
GORDON, BARBARA	09/20/2001
S PLAINFIELD, NJ	
JAIN, KANAKMAL	09/20/2001
HANOVER PARK, IL	
ROBERTI, SUZANNE CAROLYN	09/20/2001
PORTLAND, OR	
ROBERTI, JOHN	09/20/2001
PORTLAND, OR	

QUALITY OF CARE VIOLATIONS

STRINE, WALTER M JR	07/11/2001
MEDIA, PA	

FRAUD/KICKBACKS

ADULT & ADOLESCENT PSYCHIATRY	09/24/1998
WEST HAVEN, CT	
BALISTOCKY, MARVIN H	02/21/2001
PLYMOUTH MEETING, PA	
COLORADO NEUROSURGERY, P C	06/18/2001
DENVER, CO	
DOMINGUEZ, RAMON	11/15/1999
MIAMI, FL	
HERTZ, BRADLEY	03/23/2001
MIAMI, FL	
INTERIM HEALTHCARE OF HOLLYWOO	03/23/2001
MIAMI, FL	
MACLEOD, JOHN A	08/26/2001
CRANSTON, RI	
MOORE, D WAYNE	11/27/2000
E BOOTHBAY, ME	
O'CALLAGHAN, MARY STEWART	06/20/2001
TRABUCO CANYON, CA	
SARPONG, GODFRIED OWUSU	09/20/2001
HOUSTON, TX	
VANDERSLUIS, MICHAEL ALBERT	06/16/1999
DE MOTTE, IN	

OWNED/CONTROLLED BY CONVICTED

ALSI CARE SERVICES, INC	09/20/2001
MIAMI, FL	
ALSI MEDICAL EQUIPMENT, INC	09/20/2001
MIAMI, FL	
AMBULATORY HEALTH ASSOC, INC	09/20/2001
ORLANDO, FL	
ARMITAGE CHIROPRACTIC	09/20/2001
EDGELEY, ND	
ASSEM H ADMAD, D C	09/20/2001
SAN JOSE, CA	
BODY ENERGETICS, INC	09/20/2001
ELLICOTT CITY, MD	
C & P NURSING SERVICES, INC	09/20/2001
MIAMI, FL	
CHARITY HOME HEALTH CARE, INC	09/20/2001
MIAMI, FL	
FLORIDA CHIROPRACTIC CENTER	09/20/2001
PALM HARBOR, FL	
GOLD RIVER HEALTHCARE SALES	09/20/2001
SACRAMENTO, CA	
GOOD NURSING SERVICES, INC	09/20/2001
MIAMI, FL	
OXY MED SERVICES, INC	09/20/2001
OYSTER BAY COVE, NY	
PEACH STATE SONOGRAPHERS, INC	09/20/2001
TUCKER, GA	
PSYCHOLOGICAL CONNECTIONS, INC	09/20/2001
CHEVY CHASE, MD	
PURE CARE NURSING SVCES, INC	09/20/2001
MIAMI, FL	
RITE AID NURSING HOME HEALTH	09/20/2001
MIAMI, FL	
TEXOMA CHIROPRACTIC CLINIC	09/20/2001
SHERMAN, TX	

DEFAULT ON HEAL LOAN

ADLER, JANE M	09/20/2001
POTOMAC, MD	
AGUIAR, CARLOS R	09/20/2001
QUINCY, MA	
ALLEN, KENNETH W	09/20/2001

Subject, city, state	Effective date
SUTTON, MA	
ASHKINAZY, ALAN C ..... COOPER CITY, FL	09/20/2001
BERLOW, RUSTIN R ..... SAN DIEGO, CA	09/20/2001
BETHEL-MURRAY, KIMBERLY F ..... DAYTON, OH	09/20/2001
BEVERLEIGH, HOWARD K ..... SAN JOSE, CA	09/20/2001
BRICKER, DANIEL SHAWN .... LAJOLLA, CA	09/20/2001
BROUSSARD, LINDA CATHERINE ..... LOS ANGELES, CA	09/20/2001
BROWN, JEFFREY TODD ..... TRABUCO CANYON, CA	09/20/2001
BROWN, SHERRY L ..... PANAMA CITY, FL	09/20/2001
CAFFERTY, RANDALL J ..... PUYALLUP, WA	09/20/2001
CAPILLI, MICHAEL A ..... LONG BRANCH, NJ	07/30/2001
CRAIG, EUGENE SLOAN JR .. BALTIMORE, MD	09/20/2001
DAS, BRAJENDRA CHAND .... DES MOINES, IA	09/20/2001
DEHGHAN, AMIR ASAD ..... CLAYTON, CA	09/20/2001
DORIAN, SARO S ..... GLENDALE, CA	09/20/2001
EADS, TRACIE J ..... BOWLING GREEN, KY	09/20/2001
EASTMAN, LISA L ..... MANHATTAN, KS	09/20/2001
EITEMILLER, TODD O ..... CHADRON, NE	09/20/2001
FOWLER, WAYNE A ..... ANDOVER, MA	09/20/2001
GALLIHER, JACK THOMAS .... BREA, CA	09/20/2001
GAYDOS, RICHARD F JR ..... FONTANA, CA	09/20/2001
GULLA, KEVIN M ..... W CHESTER, OH	09/20/2001
GUTIERREZ, JAIME JAVIER .. DEL RIO, TX	09/20/2001
GUYER, LARRY GENE ..... SEBASTOPOL, CA	09/20/2001
HALL, PATRICIA M ..... BRIGHTON, MA	09/20/2001
HALL, ANTHONY P ..... DAYTON, OH	09/20/2001
HARRISON, ALLEN JEFFREY ENGLEWOOD, CO	09/20/2001
HARVEY, ALEXIS HUTTON .... FELTON, CA	09/20/2001
HOFFMAN, THOMAS BRETT VISTA, CA	09/20/2001
HOWELL, RALPH GREGORY CLOVIS, CA	09/20/2001
HUFFMAN, SHARON LEA ..... METAIRIE, LA	09/20/2001
HUNTER, DONALD E ..... FAIRBORN, OH	09/20/2001
JENSEN, CLAUDIA JANE ..... VENTURA, CA	09/20/2001
JERUZAL, FRANCIS X ..... OSHKOSH, WI	09/20/2001
KAHANEK, CAROL A ..... SANTA CRUZ, CA	09/20/2001
KILLIAN, JAMES KEITH ..... OKLAHOMA CITY, OK	09/20/2001
LARA, ADRIENNE E ..... CHESTNUT HILL, MA	09/20/2001
LENARD, ALEXANDER N ..... MIAMI BEACH, FL	09/20/2001
LY, HUNG THIEN ..... SAVANNAH, GA	09/20/2001
MACK, OLLIE R JR ..... SACRAMENTO, CA	09/20/2001
MALIN, MAUREEN A ..... MILTON, MA	09/20/2001
MELNAR, RANDALL K ..... N LITTLE ROCK, AR	09/20/2001
MILLER, JENNIFER K ..... BOZEMAN, MT	09/20/2001
MORAN, JOSEPH E ..... WILKES BARRE, PA	09/20/2001
MURPHY, MONICA J ..... BAKERSFIELD, CA	09/20/2001
MUSTO, JAMES J ..... FORTY FORT, PA	09/20/2001
MYERS, TERESA L ..... MURPHYSBORO, IL	09/20/2001
NYMAN, DAVID WILLIAM ..... TUCSON, AZ	09/20/2001
OLIVERA, PABLO R ..... NEWARK, NJ	09/20/2001
PHILLIPS, GUY E JR ..... CINCINNATI, OH	09/20/2001
PIZARRO, MARINA P ..... ORLANDO, FL	09/20/2001
PRITCHARD, DOYLE P ..... EL CENTRO, CA	09/20/2001
RAFFERTY, DIANNA L ..... UNIONTOWN, PA	09/20/2001
RODAK, RANDALL RAYMOND SALIDA, CO	09/20/2001
SEDOVSKY, JEFFREY R ..... WALTHAM, MA	09/20/2001
SHIENVOLD, FRANCES L ..... ORLANDO, FL	09/20/2001
SIMON, CATHY L ..... ALISO VEJO, CA	09/20/2001
STERMETZ, CHARLES K ..... CHANDLER, AZ	09/20/2001
STYCHNO, CHRISTOPHER P WARREN, OH	09/20/2001
TEAGUE, JENETTE ..... LOS ANGELES, CA	09/20/2001
VAN WHY, KENT JOHN ..... DAVENPORT, IA	09/20/2001
VERRILLA, RONALD G ..... PENN HILLS, PA	09/20/2001
WHEELER, TREV D ..... NYSSA, OR	07/23/2001
WIELAND, DAVID M ..... LARGO, FL	09/20/2001
WITT, RODNEY PAUL ..... NIXA, MO	09/20/2001
YORK, LISA ROBIN ..... TULSA, OK	09/20/2001

Dated: September 6, 2001.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 01–23560 Filed 9–20–01; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: September 17, 2001.

Time: 12 p.m. to 2 p.m.

Agenda: To discuss the upcoming October 2001 Fall meeting, to give updates on CARRA and the working groups.

Place: 6116 Executive Boulevard, Room 306A, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Elaine Lee, Acting Executive Secretary, Office of Liaison Activities, National Institutes of Health, National Cancer Institute, 6116 Executive Boulevard, Suite 300 C, Bethesda, MD 20892, 301/594–3194.

This notice is being published less than 15 days prior to meeting due to scheduling conflicts.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's homepage: *deainfo.nci.nih.gov/advisory/dclg/delg.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23581 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Spore in Gastrointestinal and Prostate Cancer.

Date: October 9–11, 2001.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Brian E. Wojcik, Phd., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8019, Bethesda, MD 20892, 301/402–2785.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interest person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395. Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Supports; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23590 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Clinical Trials Review Committee.

Date: October 28–29, 2001.

Time: 6 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joyce A. Hunter, PhD., Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892–7924, 301/435–0277.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23585 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 18–19, 2001.

Open: October 18, 2001, 8:30 a.m. to 5 p.m.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: October 19, 2001, 8 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Edward M Donohue, Acting Director, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 7100, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

Information is also available on the Institute's/Center's home page: www.nhlbi.nih.gov/meetings/index.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23586 Filed 9–20–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Health Services Research Review Subcommittee.

Date: October 11, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, *etaylor@niaaa.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group Clinical and Treatment Subcommittee.

Date: October 26, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Bethesda, MD 20814.

Contact Person: Elsie Taylor, MS, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, *etaylor@niaaa.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23582 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: October 18, 2001.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: L Tony Beck, PhD., Scientific Review Administrator, National Institutes on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0913, lbeck@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23583 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: September 26, 2001.

Time: 9 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yen Li, PhD., Scientific Review Administrator, Scientific Review Programs, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, yli@niaid.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 13, 2001.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23584 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Program Project.

Date: October 1, 2001.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Khursheed Asghar, PhD., Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Initial Review Group Health Services Research Subcommittee.

Date: October 10–11, 2001.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Raddison Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.

Contact Person: Marina L. Volkov, PhD., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1433.

Name of Committee: National Institute on Drug Abuse Initial Review Group Treatment Research Subcommittee.

Date: October 10–11, 2001.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Raddison Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1432.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Treatment Research.

Date: October 11, 2001.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Raddison Barcelo Hotel, 2121 P Street NW., Washington, DC 20037.

Contact Person: Mark R. Green, PhD., Chief, CEASRB, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Suite 3158, 6001 Executive Boulevard, Bethesda, MD 20892–9547, (301) 435–1431.

Name of Committee: National Institute on Drug Abuse Initial Review Group Training and Career Development Subcommittee.

Date: October 23–25, 2001.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Mark Swieter, PhD., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel.

Date: October 25, 2001.

Time: 1 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Khursheed Asghar, PhD., Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group Medication Development Research Subcommittee.

Date: November 1, 2001.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Khursheed Asghar, PhD., Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel.

Date: November 13–14, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Empress Hotel of La Jolla, 7766 Fay Avenue, La Jolla, CA 92037.

Contact Person: Rita Liu, PhD., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23587 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group Surgery and Bioengineering Study Section.

Date: October 1–2, 2001.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Teresa Nesbitt, DVM, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda MD 20892, (301) 435–1172, nesbitt@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 2, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@csr.nih.gov.

Name of Committee: Oncological Sciences Integrated Review Group, Pathology B Study Section.

Date: October 3–5, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Martin L. Padarathsingh, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 4, 2001.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Debora L. Hamernik, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, Bethesda, MD 20892, 301–435–4511, hamernid@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 5, 2001.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Debora L. Hamernik, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, Bethesda, MD 20892, 301–435–4511, hamernid@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878m 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23588 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(c) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 19, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeanne N. Ketley, PhD., Scientific Review Administrator, Center for Scientific Review, National Institute of Heath, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (303) 435–1789.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.937–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–23589 Filed 9–20–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–38]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 14, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–23406 Filed 9–20–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection to be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act of 1995 (PRA)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: New Information Collection—State Certification of Expenditures.

SUMMARY: The U.S. Fish and Wildlife Service (Service) plans to submit the information collection requirement described below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (PRA). The Service is soliciting comment and suggestions on the requirement as described below.

DATES: Interested parties must submit comments on or before November 20, 2001.

ADDRESSES: Interested parties should send comments and suggestions on the requirement to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203 or *Rebecca_Mullin@fws.gov* e-mail.

FOR FURTHER INFORMATION CONTACT: Tim Hess, (703) 358–1849, fax (703) 358–1837, or *Tim_Hess@fws.gov* e-mail.

SUPPLEMENTARY INFORMATION: *Title of Forms:* Certification of Spending.

Service Form Number: 3–2197a.

This form currently has no OMB Control Number. The Service may not condcut or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

Description and Use: The Service administers grant programs authorized by the Federal Aid in Wildlife and Sport Fish Restoration Acts. The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 requires that States certify annually in writing that their expenditures of these Federal grant funds was in accordance with the appropriate Act.

The Service must forward these certifications to Congress annually by December 31st each year.

The Service plans to submit the following information collection requirements to OMB for review and extension approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Frequency: Annually.

Description of Respondents: States and the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and American Samoa.

BILLING CODE 4310–55–C

OMB Control No. 1018-xxxx
Approval Expires xx/xx/xxxx

UNITED STATES
DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service

STATE CERTIFICATION OF SPENDING

for the Wildlife and Sport Fish Restoration Programs

for the Period October 1, ____, through September 30, ____

_____
(State)

_____
(Agency)

Pursuant to the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Public Law 106-408), subsection 133(d)(1),

I CERTIFY that:

Amounts apportioned under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.) were expended by the State in accordance with each of those Acts.

_____ _____
(Certifying Official's Signature) (Date)

_____
(Typed Name and Title)

Instructions
1. Fill in your State and Agency names at the top of the form.
2. Complete the Certification Period if it is blank or incorrect as it appears on the form.
3. Type the name and title of the Certifying Official on the designated line.
4. Sign and date the form.
5. Mail the completed form no later than November 29 each year to your appropriate Service Regional Office.

Notes:
1. The *Certifying Official* is the Director of the State agency receiving the apportioned funds, or the person to whom the Director reports.
2. A *State*, as defined in 50 CFR 80.1(b), is any state of the United States; the territorial areas of Guam, the U.S. Virgin Islands, and American Samoa; the Commonwealth of Puerto Rico; the District of Columbia; and the Commonwealth of the Northern Mariana Islands.

FWS Form No 3-2197a
9/2001

Paperwork Reduction Act and the Privacy Act – Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

1. The gathering of information on fish and wildlife restoration expenditures is authorized by:
   – Pub. L. 106-408, Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Section 133(d)(1)).

2. Submission of requested information is required and authorized under the above authority. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.

3. There will be no routine annual publication of certification forms in the Federal Register under this program. However, the Fish and Wildlife Service may make the form available on its Federal Aid Web site.

4. Routine use disclosures may also be made:
   (a) to the U.S. Department of Justice when related to litigation or anticipated litigation,
   (b) as information indicating a violation or potential violation of a statute, regulation, rule, policy, or Court order to appropriate Federal, State, or local agency responsible for investigation or prosecuting such violation, or for enforcing or implementing the statute, regulation, rule, policy, or order,
   (c) in response to a request from a congressional office, or
   (d) in conjunction with audit of State records.

5. No personal information such as home address and telephone number, financial data, and personal identifiers (Social Security Number, birth date, etc.) are part of this certification form.

6. The public reporting burden for this information collection is 30 minutes. This burden estimate includes time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street N.W., Washington, D.C. 20240.

Freedom of Information Act - Notice

There is no confidential information collected on this form. All information on this form may be made available to the public under FOIA [43 CFR 2].

Certification Processing Fee

There is no certification form processing fee.

Completion Time and Annual Response Estimate:

Form name	Completion time per form	Annual response	Annual burden
State Certification of Expenditures	½ Hour	60 Forms	30 Hours

Dated: September 6, 2001.
Rebecca Mullin,
U.S. Fish and Wildlife Service, Information Collection Clearance Officer.
[FR Doc. 01–23662 Filed 9–20–01; 8:45 am]
BILLING CODE 4310–55–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Jonathan Winthrop, Beverly Hills, CA, PRT–047727

The applicant requests a permit to import the sport-hunted trophies of two male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Arthur N. Rowland, Boyertown, PA, PRT–043621

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The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: September 7, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Office of Management Authority.

[FR Doc. 01–23660 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On July 3, 2001, a notice was published in the **Federal Register** (66 FR 35265), that an application had been filed with the Fish and Wildlife Service by Charles W. Helscel for a permit (PRT–044695) to import one polar bear (*Ursus maritimus*), taken from the Northern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on August 20, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 7, 2001, a notice was published in the **Federal Register** (66 FR 41260), that an application had been filed with the Fish and Wildlife Service by Fish and Wildlife Service/Marine Mammal Management, Anchorage, AK for a permit (PRT–046081) to take (harass) polar bear (*Ursus maritimus*), for the purpose of scientific research while conducting aerial population surveys.

Notice is hereby given that on August 21, 2001 as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein. This permit was issued prior to the close of the formal comment period, as authorized by 16 U.S.C. 1374 Section 104 (c)(3)(A), after it was determined that a delay in issuing the permit could result in the loss of unique research opportunities.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: September 7, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–23661 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Alpha DVD, LLC for the development of DVD formats relating to earth science topics.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact Jerry McFaul, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 918, Reston, Virginia, 20192, telephone (703) 648–7126.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 01–23575 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) will MarketPoint, Inc. for the development of regionalized Resource Analysis and Economic Models based on various USGS energy data bases.

Inquiries; If any other parties are interested in similar activities with the USGS, please contact Donald Gautier, U.S. Geological Survey, Bldg. 15 McKelvey Bldg—MS 975., 345 Middlefield Rd., Menlo Park, CA 94025, telephone (650) 329–4909.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 01–23573 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with the Northwest Geophysical Associates to develop Northern Alaska Geophysical Models.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact Richard W. Saltus, U.S. Geological Survey, Energy Resources Team, MS 939 Box 25046 Denver Federal Center, telephone (303) 236–1647.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associated Director for Geology, U.S. Geological Survey.

[FR Doc. 01–23574 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–990–5101–ER–FL07]

Notice of Rescheduled Scoping Meetings for the Environmental Impact Statement (EIS) for Renewal of the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPS).

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of rescheduled Scoping Meetings for the Environmental Impact Statement (EIS) for Renewal of the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPS).

SUMMARY: The BLM is rescheduling scoping meetings originally scheduled to occur on September 12, 2001, in Barrow, Alaska and September 13, 2001, in Fairbanks, Alaska, and is extending the scoping period. The Notice of Intent establishing the original scoping period and notifying the public of meeting times was published in the **Federal Register** on July 31, 2001 (Vol. 66, No. 147, p. 39529). The tragic events of September 11, 2001 and the resultant disruption of air traffic made the postponement and extension necessary.

The BLM will hold rescheduled public scoping meetings for the EIS in these communities as listed below (specific meeting times and places will be announced through local media, project web site, and by e-mail):

Fairbanks, Alaska: Wednesday, October 10, 2001

Barrow, Alaska: Friday, October 12, 2001

The public scoping period, originally scheduled to end on September 29, is extended to October 19.

DATES: The BLM will accept written comments on the EIS scope postmarked by October 19, 2001; and electronic, faxed, and voice comments received by October 19, 2001. Written comments may also be hand-delivered to the Joint Pipeline Office in Anchorage, Alaska, by 4 p.m. on October 19, 2001.

ADDRESSES: Written comments should be mailed to BLM TAPS Renewal Scoping, Argonne National Laboratory EAD/900, 9700 S. Cass Avenue, Argonne, IL 60439. As an alternative, written comments can be hand-delivered to BLM TAPS Renewal Scoping, 411 W. 4th Avenue, Suite 2, Anchorage, AK. (Do not mail them to this address.) Comments also can be e-mailed to tapseis@anl.gov, submitted through the "Public Comment Form" feature on the TAPS Renewal EIS Web site at http://tapseis.anl.gov, by fax toll free to 866–386–7350, or by voice message toll free at 866–386–7331.

FOR FURTHER INFORMATION, CONTACT: Rob McWhorter, 907–271–3664, Joint Pipeline Office, 411 W 4th Avenue, Suite 2, Anchorage, AK 99501, rmcwhort@jpo.doi.gov, or visit the TAPS Right-of-Way Renewal Web site at http://www.tapsrenewal.jpo.doi.gov or the TAPS Renewal EIS Web site at http://tapseis.anl.gov.

Withholding of Personal Information: It is the BLM's practice to make comments, including names and addresses of commenters, available for public review during regular business hours. Individual commenters may request that we withhold their home address from the scoping record, and we will honor such requests to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: September 13, 2001.

Francis R. Cherry, Jr.,

Stote Director, Alaska.

[FR Doc. 01–23735 Filed 9–20–01; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service; Proposed Information Collection Request Submitted for Public Comment and Recommendations; Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veteran's Preference (USERRA/VP)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with The Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506 C (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Veterans' Employment and Training Service (VETS) is soliciting comments concerning the proposed information collection request for the VETS USERRA/VP Form 1010.

DATE: Comments are to be submitted by November 20, 2001.

ADDRESSES: Comments are to be submitted to the Veterans' Employment and Training Service, U.S. Department of Labor, Room S–1316, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 693–4711. Written comments limited to 10 pages or fewer may also be transmitted by facsimile to (202) 693–4755. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693–4711.

FOR FURTHER INFORMATION: Contact Charles N. Dawson, Office of Compliance, Veterans' Employment and Training Service, U.S. Department of Labor, Room S–1316, 200 Constitution Ave., NW, Washington, DC 20210, telephone: (202) 693–4711 (Voice) or (800) 670–7008 (TTY/TDD). Copies of the referenced information collection request are available for inspection and copying through VETS and will be mailed to persons who request copies by telephoning Mr. Charles N. Dawson at (202) 693–4711.

SUPPLEMENTARY INFORMATION:

I. Background

The purposes of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and this information collection requirement include: protect and facilitate the prompt reemployment of members of the uniformed services (to include National Guard and Reserves); to minimize disruption to the lives of persons who perform service in the

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uniformed services and their employers; and to encourage individuals to participate in non-career uniformed service. Also, to prohibit discrimination in employment and acts of reprisal against persons because of their obligations in the uniformed services, prior service, intention to join the uniformed services, filing of a USERRA claim, seeking assistance concerning an alleged violation, testifying in a proceeding, or otherwise assisting in an investigation. The purposes of Veteran's Preference laws and regulations and this information collection requirement include: to provide preference for certain veterans (preference eligibles) over others in Federal hiring from competitive lists of applicants; and to provide preference eligibles with preference over others in retention during reductions in force in Federal agencies. The VETS/USERRA/VP Form 1010 is used to file complaints with the Department of Labor's Veterans' Employment and Training Service (VETS) under either the Uniformed Services Employment and Reemployment Rights Act (USERRA) or laws/regulations related to veteran's'1 preference (VP) in Federal employment.

II. Desired Focus of Comments

Currently VETS is soliciting comments concerning the proposed information collection request for the VETS/USERRA/VP Form 1010. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

This notice requests an extension of the current Office of Management and Budget approval of the paperwork requirements for VETS/USERRA/VP Form 1010.

Type of Review: Extension.
Agency: Veterans' Employment and Training Service.
Title: VETS/USERRA/VP Form 1010.
OMB Number: 1293–0002.
Affected Public: Individuals or households.
Total Respondents: Approximately 1,500.
Average Time per Response: 15 minutes.
Total Burden Hours: 375 hours.
Total Annualized Capital/Startup costs: $0.
Total Initial Annual Costs: $0.

Comments submitted in response to this notice will be summarized and included in the request for the Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Dated: September 12, 2001.

Charles S. Ciccolella,

Special Assistant to the Secretary for Veterans' Employment and Training Service.

[FR Doc. 01–23555 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August and September, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,378; Flextronics Enclosures, Chambersburg, PA
TA–W–39,553; National Textiles LLC, Gaffney, SC
TA–W–39,215; Georgia-Pacific Corp., Plywood Div., Louisville, MS
TA–W–39,595; RHO Industries, Buffalo, NY
TA–W–39,530; Facemate Corp., Collierville, TN
TA–W–39,450; Northwestern Steel and Wire Co., Sterling, IL
TA–W–39,460; Johnson Controls, Automotive Systems Group, Taylor, MI
TA–W–39,131; Wilmot Printing Co., El Paso, TX
TA–W–38,618; Belding Housman, Inc., Bogor City, NC
TA–W–39,311; T and K Timber, Inc., La Pine, OR

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,434; Condor DC Power Supplies, Inc., Todd Products Group, Brentwood, NY
TA–W–39,172; Celanese AG, Celanese Acetate Div., Rock Hill, SC
TA–W–39,576; The Serco Co., Buffalo, NY
TA–W–39,158; ACS Group, Inc., Plastics Automation Engineering, Windsor, CT
TA–W–39,301; APV Crepaco, Inc., APV Americas, Inc., Lake Mills, WI

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–39,483; Franklin Industries, Franklin, PA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–39,535 & A,B; Computer Sciences Corp., Charleston, SC, Wilmington, NC and Kingston, NC
TA–W–39,555; Wilson Freight Associates, Inc., Buren, AR

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,214; Bridgestone/Firestone Off-Road Tires, Bloomington, IL April 25, 2000.
TA–W–39,561; 411 Warehouse Corp., Madisonville, TN: June 21, 2000.
TA–W–39,363; Pratt and Whitney HAC, Grand Prairie, TX: May 29, 2000.
TA–W–39,545; Invensys Systems, Inc., Systems Manufacturing, Foxboro, MA: June 4, 2000.
TA–W–39,181; Southwire Co,— Arkansas Plant, Osceola, AR: April 12, 2000.
TA–W–39,726; Act Manufacturing, Corinth, MS: July 12, 2000.
TA–W–39,581; Ross Allen Design, Bean Station, TN: June 21, 2000.
TA–W–39,765; Rugged Sportswear, LLC, LaGrange, NC: July 18, 2000.
TA–W–39,516; Woods Industries, Loogootee Manufacturing, Loogootee, IN; June 5, 2000.
TA–W–39,636; Angelica Corp., Angelica Image Apparel, Mountain View, MO: June 28, 2000.
TA–W–39,597; Adaptec, Inc., Orlando, FL: June 21, 2000.
TA–W–39,223; Old Forge Lamp & Shade, Div. of Woodstock Wire Works, Inc., Old Forge, PA: April 10, 2000.
TA–W–39,481; Elder Manufacturing Co., Inc., Dexter, MO: June 4, 2000.
TA–W–39,766; Yazoo Uniforms, Yazoo City, MS: June 23, 2000.
TA–W–39,696; Hunt Forest Products, Inc., Castor, LA: July 13, 2000.
TA–W–39,053; SGL Carbon Corp., Carbon and Graphite Unit, Niagara Falls, NY: March 29, 2000.
TA–W–39,265; McGinley Mills, Inc., Easton, PA: April 26, 2000.
TA–W–39,240; FCI USA, Inc., Electrical Connectors, Hanover, PA: April 26, 2000.
TA–W–39,240A; JFC Temporary Works of FCI USA, Inc., Electrical Connectors, Clearfield, PA: May 7, 2000.
TA–W–39,627; Timkin, Columbus Railroad Bearing Plant, Columbus, OH: June 19, 2000.
TA–W–39,649; Nazareth/Century Mills, Inc., Quitman, MS: August 24, 2001.
TA–W–38,990; AMI Candle, Inc., Fall River, MA: March 24, 2000.
TA–W–29,772; Manitowoc Boom Trucks, Inc., York, PA: July 27, 2000.
TA–W–39,157 & A; Butwin Division, Rennoc Corp., St. Paul, MN and Litchfield, MN: April 16, 2000.
TA–W–39,459 & A; The Lane Co., Altavista, VA and Rocky Mount, VA: June 6, 2000.
TA–W–39,814; Tingley Rubber Corp., South Plainfield, NJ
TA–W–39,692 & A; AM Communications, Quakertown, PA and NeSTronix, Inc., Quakertown, PA: July 11, 2000.
TA–W–39,492; APW, Ltd, Erie, PA: June 6, 2000.
TA–W–39,714; American Drillbox Co., Caruthersville, MO: July 18, 2000.
TA–W–39,319; Stanley Works Hardware Div., New Britain, CT: June 11, 2001.
TA–W–39,699; Sterling Lebanon Packaging Corp., Jeannette, PA: July 13, 2000.
TA–W–39,622; UCAR Carbon Co., Inc. Clarksville Plant, Clarksville, TN: July 2, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August and September, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada or articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05172; Admiral Marine Construction, Inc, Port Angeles, WA
NAFTA–TAA–04850; APV Crepaco, Inc., APV Americas, Lake Mills, WI
NAFTA–TAA–04756 & A,B; Butwin Division of Rennoc Corp., St. Paul, MN and Litchfield, MN
NAFTA–TAA–04706; Form Tech Enterprises, Inc., Orwigsburg, PA
NAFTA–TAA–05064; Timkin, Columbus Railroad Bearing Plant, Columbus, OH
NAFTA–TAA–04829; SGL Carbon Corp., Carbon and Graphite Unit, Niagara Falls, NY
NAFTA–TAA–05117; Besser Lithibar, Holland, MI
NAFTA–TAA–05032; National Textiles, LLC, Gaffney, SC
NAFTA–TAA–04979; Johnson Controls, Automotive Systems Group, Taylor, MI

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05096; Sterling Lebanon Packaging Corp., Jeanette, PA: July 13, 2000.
NAFTA–TAA–05052; UCAR Carbon Co., Inc., Clarksville, TN: July 5, 2000.
NAFTA–TAA–04818; McGinley Mills, In., Easton, PA: April 26, 2000.
NAFTA–TAA–05007; Sola Optical USA, Petaluma, CA: March 30, 2000.
NAFTA–TAA–04837; FCI USA, Inc., Electrical Connectors, Hanover, PA: April 24, 2000
NAFTA–TAA–04837A; JFC Temporary Workers of FCI USA, Inc., Electrical Connectors, Clearfield, PA: May 7, 2000
NAFTA–TAA–04951; Celanese AG, Celanese Acetate Div., Rock Hill, SC: June 1, 2000.
NAFTA–TAA–04994; Invensys Systems, Inc., Systems Manufacturing, Foxboro, MA: June 4, 2000.
NAFTA–TAA–04815; Penridge Manufacturing, Inc., Freeland, PA: April 27, 2000.
NAFTA–TAA–04819; Old Forge Lamp and Shade, Div. Of Woodstock Wire Works, Inc., Old Forge, PA: April 10, 2000.
NAFTA–TAA–04886; Crowntex, Inc., Wrightsville, GA: May 8, 2000.
NAFTA–TAA–04995; Elder Manufacturing Co., Inc., Dextger, MO: June 14, 2001

NAFTA–TAA–05086; Hunt Forest Products, Inc., Castor, LA: July 13, 2000.

NAFTA–TAA–05063; Angelicia Corp., Angelica Image Apparel, Mounting View, MO: July 17, 2000.

NAFTA–TAA–05093; A.O. Smith Corp., Electrical Products Co., Mebane, NC: July 23, 2000.

NAFTA–TAA–04707; Wabash Alloys, LLC, Oak Creek, WI: March 29, 2000.

NAFTA–TAA–05030; Ross Allen Design, Bean Station, TN: June 28, 2000.

NAFTA–TAA–04749; Hammond and Associates, Inc., Lexington, AL: April 4, 2000.

NAFTA–TAA–04824; Mother Parker's Tea and Coffee, Inc., Amherst, NY: April 10, 2000.

NAFTA–TAA–05047; Graphic Controls, Cherry Hill Facility, Cherry Hill, NJ: June 26, 2000.

I hereby certify that the aforementioned determinations were issued during the month of August and September, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 14, 2001

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23531 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) Washington, DC provided such request if filed in writing with the Director of DTAA not later than October 1, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than October 1, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Kimlor Mills (Wkrs)	Orangeburg, SC	07/09/2001	NAFTA–5,044	apparel.
Micron Electronics (Wkrs)	Nampa, ID	05/24/2001	NAFTA–5,045	computer systems.
Harvard Industries, Inc. (UAW)	Stowe, PA	06/29/2001	NAFTA–5,046	Stators, caps & covers—Automotive Use.
Graphic Controls (Co.)	Cherry Hill, NJ	07/03/2001	NAFTA–5,047	cables and leadwires.
Cott Manufacturing (Co.)	West Mifflin, PA	07/05/2001	NAFTA–5,048	warning signs.
John Crane (Co.)	Crystal Lake, IL	07/09/2001	NAFTA–5,049	carbon & silicon carbide sealing.
Laco Sportwear (Co.)	Chattanooga, TN	07/02/2001	NAFTA–5,050	knit tops.
Quality Fabricating (Wkrs)	N. Huntington, PA	07/05/2001	NAFTA–5,051	sheet metal parts.
UCAR Carbon (Co.)	Clarksville, TN	07/05/2001	NAFTA–5,052	graplit electrodes.
Greg Stout Logging (Co.)	Gold Hill, OR	07/03/2001	NAFTA–5,053	lumber, plywood and wood chips.
Spectrum Control (Wkrs)	Elizabethtown, PA	06/26/2001	NAFTA–5,054	microwave resonator products.
Alpha Industries (Wkrs)	Knoxville, TN	07/09/2001	NAFTA–5,055	military jackets.
Bike Athletic (Co.)	Mountain City, TN	07/09/2001	NAFTA–5,056	men's and ladies shorts.
Gamco Manufacturing (Co.)	Jamestown, TN	07/09/2001	NAFTA–5,057	ladies sportswear and uniforms.
Tower Automotive (PACE)	Sebewaing, MI	07/10/2001	NAFTA–5,058	auto supplier metal stamping.
JPS Apparel Fabrics (Co.)	Greenville, SC	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
JPS Apparel Fabrics (Co.)	South Boston, VA	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
JPS Apparel Fabrics (Co.)	New York, NY	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
JPS Apparel Fabrics (Co.)	Laurens, SC	07/09/2001	NAFTA–5,059	spun & filament greige woven fabric.
ABC NACO (IBM)	Superior, WI	07/10/2001	NAFTA–5,060	trackwork products for railroads.
Great Lakes Stitchery, Inc. (Comp.).	Manistee, MI	07/17/2001	NAFTA–5,061	Ladies' and Men's Apparel.

APPENDIX—Continued

[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
M and S Manufacturing (Wkrs)	Hudson, MI	07/17/2001	NAFTA–5,062	Screw Machine Products.
Angelica Corp. (Wrks.)	Mountain View, MO	07/17/2001	NAFTA–5,063	Service Apparel.
Timken (USWA)	Columbus, OH	07/16/2001	NAFTA–5,064	Bearing Reconditioning.
Harsco Corp (USWA)	Mechanicsburg, PA	07/10/2001	NAFTA–5,065	Compressed Air Cylinders.
Carol Ann Fashions, Inc. (Wrks)	Hastings, PA	07/13/2001	NAFTA–5,066	Ladies' Apparel.
Lamb-Grays Harbor Co (Comp)	Hoquiam, WA	07/10/2001	NAFTA–5,067	Equipment for Pulp and Paper.
Rosti (Minden) (Co.)	Coushatta, LA	07/09/2001	NAFTA–5,068	phone kits.
Cooper Bussmann (Co.)	Black Mountain, NC	07/11/2001	NAFTA–5,069	electrical fuses.
Owens-BrigGam Medical (Co.)	Fletcher, NC	07/05/2001	NAFTA–5,070	disposable medical supplies.
Modine Aftermarket Holdings (Wrks).	Merced, CA	07/05/2001	NAFTA–5,071	accounting.
Endar Corp (Comp)	Temecula, CA	07/11/2001	NAFTA–5,072	Potpourri.
DV and P, Inc. (Wrks)	New York, NY	07/02/2001	NAFTA–5,073	ladies' suits, pants, blouses, skirts.
Plaid Clothing (Co.)	Somerset, KY	07/13/2001	NAFTA–5,074	men's suits, jackets and pants.
Wilcox Forging (USWA)	Mechanisburg, PA	07/10/2001	NAFTA–5,075	Steel Castings.
N. Oritsky (UNITE)	Reading, PA	07/05/2001	NAFTA–5,076	men's suits and slacks.
Carter Industries, Inc (Wrks)	Brooklyn, NY	07/16/2001	NAFTA–5,077	Jackets, Uniforms, Coveralls.
Bourn (Comp)	Ogden, UT	07/16/2001	NAFTA–5,078	Optical Encoders.
Neles Automation USA (Co.)	Houston, TX	07/16/2001	NAFTA–5,079	Industrial Control Valves.
Great Western International (Wrks).	Portland, OR	07/13/2001	NAFTA–5,080	Industrial Chemicals.
Sparten International, Inc (Comp)	Spartanburg, SC	07/16/2001	NAFTA–5,081	Woven Fabrics.
Yale Hoist (USWA)	Forest City, AR	07/16/2001	NAFTA–5,082	Hoists.
Benmer Manufacturing, Inc (Wrks).	Rochester, NY	07/12/2001	NAFTA–5,083	Fabricated Sheet Metal Products.
Guilford Mills (Wrks)	Greensboro, NC	07/13/2001	NAFTA–5,084	ladies' swim wear and intimate apparel.
Dessor Lithibar (Wrks)	Holland, MI	07/13/2001	NAFTA–5,085	Block and Brick Cutters & Splitters.
Hunt Forest Products, Inc (Comp)	Castor, LA	07/17/2001	NAFTA–5,086	Pine Lumber.
RHI America (USWA)	Farber, MO	07/17/2001	NAFTA–5,087	Fire Clay and Refractories Products.
RHI America (USWA)	Mexico, MO	07/17/2001	NAFTA–5,088	Fire Brick & Specialities.
Malbon (Co.)	Hiram, GA	07/18/2001	NAFTA–5,089	pants, slack, dresses, shirts & uniforms.
Square D (Wrks)	Huntington, IN	07/18/2001	NAFTA–5,090	electric transformers.
TechnoTrim (Co.)	Maysville, KY	07/18/2001	NAFTA–5,091	automobile seat covers.
Parker Hannifin (Co.)	Wake Forest, NC	07/23/2001	NAFTA–5,092	air control devices.
A.O. Smith Electrical Products (Co.).	Mebane, NC	07/23/2001	NAFTA–5,093	franctional.
Contempora Fabrics (Co.)	Lumberton, NC	07/18/2001	NAFTA–5,094	circular knitted fabric.
Rexnord Corp.—Roller Chain (USWA).	Indianapolis, IN	07/19/2001	NAFTA–5,095	industrial roller chains.
Sterling Packaging (Wkrs)	Jeannette, PA	07/17/2001	NAFTA–5,096	paperboard boxes.
NYCO Minerals (Wkrs)	Willshoro, NY	07/17/2001	NAFTA–5,097	fine grind stone.
Ogden Manufacturing (Co.)	Albany, WI	07/17/2001	NAFTA–5,098	industrial electric heating elements.
Merry Maid Novelties (UNITE)	Bangor, PA	07/17/2001	NAFTA–5,099	slacks, skirts and ladies' sportswear.
Merry Maid Novelties (UNITE)	Tatamy, PA	07/17/2001	NAFTA–5,099	slacks, skirts and shirts—ladies'.
International Components Technology (Co.).	San Jose, CA	07/13/2001	NAFTA–5,100	automotive safety products.
Nabisco Falls Bakery (IAMAW)	Niagara Falls, NY	07/18/2001	NAFTA–5,101	triscuit line of shredded wheat.
General Mills (Wkrs)	Carlisle, PA	07/18/2001	NAFTA–5,102	single serve fruit juice beverage.
PEC of American (Co.)	San Diego, CA	07/17/2001	NAFTA–5,103	precision metal stamping parts.
Ceres Candles and Gifts (Wkrs)	Hayward, CA	07/16/2001	NAFTA–5,104	botanical candles.
Ademco Group (Wkrs)	Syosset, NY	07/18/2001	NAFTA–5,105	alarm system.
L.E. Smith Glass (Wkrs)	Mt. Pleasant, PA	07/20/2001	NAFTA–5,106	lighting shades, glassware.
Michigan Bag (Co.)	Grand Haven, MI	07/23/2001	NAFTA–5,107	men's and women's apparel.
Ryan Engineering and Design (Co.).	Pellston, MI	07/18/2001	NAFTA–5,108	castings.
Safari Motor Coach (Wkrs)	Hines, OR	07/16/2001	NAFTA–5,109	motor homes.
O'Bryan Brothers (Co.)	Leon, IA	07/19/2001	NAFTA–5,110	ladies' underwear and day wear.
SMTC Mfg. Corp. of Wisconsin (Wkrs).	Appleton, WI	07/19/2001	NAFTA–5,111	circuit boards.
Minnesota Twist (Wkrs)	Chisholm, MN	07/19/2001	NAFTA–5,112	high speed drill bite.
C.T. Gamble Acquisition (Wkrs)	Delanco, NJ	07/18/2001	NAFTA–5,113	electrical resistors.

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Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Morgan Machine (USWA)	Fulton, MO	07/17/2001	NAFTA–5,114	machined parts and brick products.
Hunt Forest Products (Co.)	Castor, LA	07/17/2001	NAFTA–5,115	pine lumber used in buildings.
3Com Corporation (Wkrs)	Santa Clara, CA	07/17/2001	NAFTA–5,116	network interface cards.
Besser Lithibar (Wkrs)	Holland, MI	07/13/2001	NAFTA–5,117	block and brick cutters & splitters.
AMI Semiconductor (Wkrs)	Poatello, ID	06/21/2001	NAFTA–5,118	integrated circuits.
Rebel Screeners (Co.)	Sharon, TN	07/23/2001	NAFTA–5,119	screen prints sleepwear.
Arvin Meritor (Co.)	Pulaski, TN	07/23/2001	NAFTA–5,120	shock absorber.
Thermo King (Wkrs)	Bloomington, MN	07/19/2001	NAFTA–5,121	machining, tube bending/brazing castings.
Maxxim Medical (Wkrs)	Eaton, OH	06/22/2001	NAFTA–5,122	pvc medical exam gloves.
Atlas Bag (Co.)	Houston, TX	07/24/2001	NAFTA–5,123	bulk bags.
Superior Electric (Co.)	Bristol, CT	06/13/2001	NAFTA–5,124	electrical components.
Sola Optical USA (Co.)	Eldon, MO	07/24/2001	NAFTA–5,125	glass ophthalmic lenses and moulds.
AMI Doduco (Co.)	Cedar Knolls, NJ	07/25/2001	NAFTA–5,126	electrical contact parts.
Evenflo Company (Wkrs)	Jasper, AL	07/24/2001	NAFTA–5,127	car seat pads.
Ambler Industries (Co.)	Orangeburg, SC	07/24/2001	NAFTA–5,128	men's and boy's suits.
Rugged Sportswear (Co.)	LaGrange, NC	07/24/2001	NAFTA–5,129	t-shirts, fleece sweatshirts & sweatpants.
Delta Apparel (Co.)	Washington, GA	07/25/2001	NAFTA–5,130	t-shirts.
Lincoln Automotive (Co.)	Jonesboro, AR	07/25/2001	NAFTA–5,131	service jacks.
Gentron Corporation (Co.)	Clarksville, TN	07/25/2001	NAFTA–5,132	refrigerator shelving.
Grover Industries (Co.)	Grover, NC	07/25/2001	NAFTA–5,133	spun yarns.
Precision Flame (Co.)	Bourbonnais, IL	07/25/2001	NAFTA–5,134	parts for tractors & mining equipment.
House Glass (AFGWU)	Point Marion, PA	07/26/2001	NAFTA–5,135	silkscreened coffee mugs and glassware.
Federal Mogul (UAW)	St. Johns, MI	07/26/2001	NAFTA–5,136	aluminum, copper or lead bushings.
Kemet Electronics (Co.)	Greenville, SC	07/26/2001	NAFTA–5,137	capacitors.
Power One (Co.)	Allston, MA	07/20/2001	NAFTA–5,138	power devices.
Garan (Co.)	Starkville, MS	07/25/2001	NAFTA–5,139	knit and woven apparel.
Dyersburg Fabrics (Co.)	Dyersburg, TN	07/25/2001	NAFTA–5,140	fleece, active wear.
Russell Corporation (Co.)	Lafayette, AL	07/24/2001	NAFTA–5,141	knit apparel.
Russell Corporation (Co.)	Alexander City, AL	07/24/2001	NAFTA–5,141	knit apparel.
Russell Corporation (Co.)	Sylacauga, AL	07/24/2001	NAFTA–5,141	knit apparel.
Russell Corporation (Co.)	Alexander City, AL	07/24/2001	NAFTA–5,141	knit apparel.
Agrium U.S. (Co.)	Kennewick, WA	07/27/2001	NAFTA–5,142	ammonia.
Howes Leather (Co.)	Curwensville, PA	07/27/2001	NAFTA–5,143	upholstery leather.
Manitowoc Boom Trucks (Wkrs)	York, PA	07/28/2001	NAFTA–5,144	pedestals, turrets.
KMA Manufacturing (Co.)	Livingston, TN	07/27/2001	NAFTA–5,145	men's and ladies' shirts.
Atchison Products (Wkrs)	Boonville, MO	07/27/2001	NAFTA–5,146	sports bags, tote bags, briefcases.
Square D (Wkrs)	Cedar Rapids, IA	07/23/2001	NAFTA–5,147	circuit breakers.
PlasticSource (Co.)	El Paso, TX	07/30/2001	NAFTA–5,148	headlamp parts.
Oshkosh B'Gosh (Co.)	Albanky, KY	07/30/2001	NAFTA–5,149	children's knit tops & bottoms.
Niedfeldt Trucking Services (IBT)	Lacrosse, WI	07/26/2001	NAFTA–5,150	hauling brewery products.
Piskars Consumer Products (Wkrs).	Wausau, WI	07/26/2001	NAFTA–5,151	scissors.
GKN Sinter Metals (Wkrs)	St. Marys, PA	07/30/2001	NAFTA–5,152	powdered metal parts.
Philips ETG (Wkrs)	So. Plainfield, NJ	07/20/2001	NAFTA–5,153	automated machines.
Barko Hydraulics (Wkrs)	Superior, WI	08/02/2001	NAFTA–5,154	hydraulic knuckleboom loaders.
Con Agra Flour Milling (BCTW)	N. Kansas City, MO	08/03/2001	NAFTA–5,155	wheat flour.
Con Agra Maple Leaf Milling (BCTGM).	Buffalo, NY	08/03/2001	NAFTA–5,156	flour and flour by products.
Centennial Tool and Mfg. (Co.)	Meadville, PA	08/03/2001	NAFTA–5,157	tooling for electronics.
Valeo Engine Cooling (IAMAW)	Jamestown, NY	08/02/2001	NAFTA–5,158	engine cooling products.
Colorgraphic Web Offset (Wkrs)	Lancaster, NY	07/17/2001	NAFTA–5,159	printed periodicals.
Alltrista Zinc Products (Co.)	Greeneville, TN	08/02/2001	NAFTA–5,160	drawn zinc battery shells.
Gundeson, Inc. (Wkrs)	Portland, OR	07/31/2001	NAFTA–5,161	rail cars .
MACCO Materials Handling Group (ILTBU).	Danville. IL	08/01/2001	NAFTA–5,162	overhead guards.
Tcyo Electronics (Co.)	Glen Rock, PA	08/02/2001	NAFTA–5,163	fiber optics.
Kysor Panel Systems—Enadis Corp. (WCIW).	Portland, OR	08/01/2001	NAFTA–5,164	walk-in freezers.
Elcom, Inc. (Wkrs)	El Paso, TX	08/02/2001	NAFTA–5,165	wire harness and plastic.
TNT Logistics (Wkrs)	Bloomington, IN	08/01/2001	NAFTA–5,166	logistics provider.

APPENDIX—Continued
[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Coats North America (Co.)	Thomasville, GA	07/30/2001	NAFTA–5,167	industrial thread.
CMI Industries (Co.)	Clarkesville, GA	07/24/2001	NAFTA–5,168	polyester and ploy/nylon blend.
A.O. Smith (Wkrs)	Owosso, MI	08/01/2001	NAFTA–5,169	metal stampings.
Briggs and Stratton (PACE)	Milwaukee, WI	07/31/2001	NAFTA–5,170	cranks, cam and flywheels.
Huntsman Polymers (Wkrs)	Odessa, TX	07/31/2001	NAFTA–5,171	styrene monomer.
Admiral Marine Construction (Wkrs).	Port Angeles, WA	07/31/2001	NAFTA–5,172	components.
Albany Chicago (Wkrs)	Pleasant Prairie, WI	07/30/2001	NAFTA–5,173	custom die cast.
Engel Machinery (Wkrs)	York, PA	08/06/2001	NAFTA–5,174	injection molding machines.
Paxar Fabric Label (Wkrs)	Canton, NC	07/30/2001	NAFTA–5,175	labels.
Greenwood Mills (UNITE)	Lindale, GA	08/06/2001	NAFTA–5,176	denim cloth.
Shermag (Wkrs)	North Anson, ME	08/06/2001	NAFTA–5,177	miter box, construction tools.
Tingley Rubber (Co.)	S. Plainfield, NJ	07/31/2001	NAFTA–5,178	rubber and protection footwear.
Pennzoil Quaker State (Wkrs)	Shreveport, LA	08/13/2001	NAFTA–5,179	bulk oil products.
US Label Artistic (Wkrs)	Liberty, KY	08/08/2001	NAFTA–5,180	handtags and care label.
Clifton Walls Industrial (Co.)	Clifton, TX	08/07/2001	NAFTA–5,181	insulated clothing.
Sweetwater Walls Industrial (Co.)	Sweetwater, TX	08/07/2001	NAFTA–5,182	insulated clothing.
Cognis Corporation (Wkrs)	Lock Haven, PA	08/09/2001	NAFTA–5,183	dye intermediates.
Wisne Automation and Engineering (Wkrs).	Novi, MI	08/08/2001	NAFTA–5,184	automated welding & assembly tooling.
Conveyco Manufacturing (Wkrs)	Clackamas, OR	08/08/2001	NAFTA–5,185	wood conveying chain.
Lancer Partnership (Wkrs)	San Antonio, TX	08/09/2001	NAFTA–5,186	beverage fittings.
McMichal (Co.)	Parump, NV	08/08/2001	NAFTA–5,187	molds and tooling.
Cooper Standard Automotive (Co.).	Rocky Mount, NC	08/08/2001	NAFTA–5,188	extruded rubber automotive parts.
Tyco Electronics (Wkrs)	East Berlin, PA	08/09/2001	NAFTA–5,189	electrical connectors.
Men's Apparel Group (Wkrs)	Athensga, GA	08/13/2001	NAFTA–5,190	men's tuxedos and suits.
Chiquita Processed Foods (Co.)	Eugene, OR	08/09/2001	NAFTA–5,191	canned vegetables.
Warner Electric Brake (Wkrs)	Roscoe, IL	08/01/2001	NAFTA–5,192	Industrial brakes and clutches.
Micro Motion (Co.)	Boulder, CO	08/09/2001	NAFTA–5,193	mass flow meters.
Robert Bosch (UAW)	Ashland, OH	08/06/2001	NAFTA–5,194	light truck braking systems.
Sweetheart Cup (IBEW)	Springfield, MO	08/13/2001	NAFTA–5,195	plastic disposable food & drink products.
Phelps Dodge Magnet Wire (UAW).	Coral Gables, FL	08/13/2001	NAFTA–5,196	magnet wire.
Alcatel USA (Wkrs)	Raleigh, NC	08/13/2001	NAFTA–5,197	board assemble.
Sheftex (Wkrs)	St. Johnsbury, VT	08/14/2001	NAFTA–5,198	comforters, draperies, cushions.
Plymouth Garment (Co.)	Plymouth, NC	08/13/2001	NAFTA–5,199	children's pants.
Greensboro Printing (Wkrs)	Greensboro, NC	08/13/2001	NAFTA–5,200	gang tags, lables for garments.
AC Enterprises Construction and Fab (Co.).	North Fargo, ND	08/14/2001	NAFTA–5,201	grain drill products.
General Cable (EESMW)	Montroursville, PA	08/14/2001	NAFTA–5,202	extension cords.
Consolidated Steel Services (Wkrs).	Fallentimber, PA	08/14/2001	NAFTA–5,203	Railcar Parts.
Baker Enterprises (USWA)	Alpena, MI	08/14/2001	NAFTA–5,204	Cement Block Machines.
Signet Armorlite, Inc. (Comp)	San Marcos, CA	08/01/2001	NAFTA–5,205	Packaging of Ophtlamic Lenses.
Burlington Industries (Wkrs)	Johnson City, TN	08/14/2001	NAFTA–5,206	Greige Cloth.
Bonifay Manufacturing, Inc. (Comp).	Bonifay, FL	08/15/2001	NAFTA–5,207	Knit Shirts.
Dunlap Sales (Comp)	Hopkinsville, KY	08/15/2001	NAFTA–5,208	Supply Equipment.
Layne Christensen (Comp)	Sal Lake City, UT	08/08/2001	NAFTA–5,209	Down Hole Tools and Drill Rigs.
Elastic Corporation of America (Comp).	Haminquay, SC	08/15/2001	NAFTA–5,210	Elastic for Clothing.
New Holland North America (Comp).	Belleville, PA	08/15/2001	NAFTA–5,211	Component Parts and Welding.
Yarway Corp (IBT)	Blue Bell, PA	08/15/2001	NAFTA–5,212	Values, Steam Traps.
Evergreen Sewing, Inc. (Comp)	Seattle	08/15/2001	NAFTA–5,213	Fleece Clothing.
Horton, Inc. (Wrks)	Britton, SD	08/14/2001	NAFTA–5,214	Parts, Assembly & Finished Parts.
APW (IAMAW)	Mayville, WI	08/14/2001	NAFTA–5,215	Cabinet and Steel Frames.
Bard Access Systems (Comp)	Salt Lake City, UT	08/15/2001	NAFTA–5,216	Medical Device Products.
Amphenol/Sine Systems (Wrks)	Mt. Clements, MI	08/16/2001	NAFTA–5,217	Molded Cables and Adapters.
Chipman Union (UNITE)	Union Point, GA	08/16/2001	NAFTA–5,218	Socks.
Henry Manufacturing Co (Wrks)	Los Angeles, CA	08/10/2001	NAFTA–5,219	Girl's Garments.
Trico Products Corp (UAW)	Buffalo, NY	08/14/2001	NAFTA–5,220	Windshield Wiper Systems.
Alcoa Fujikura Ltd (Comp)	San Antonio, TX	08/20/2001	NAFTA–5,221	Automotive Products.
Cutler Hammer (Co.)	Pittsburgh, PA	08/23/2001	NAFTA–5,222	Power Management Products.
Eaton Corp.—Cutler Hammer (Co.).	Moon Twp., PA	08/20/2001	NAFTA–5,223	Power Management Products.

APPENDIX—Continued
[09/04/2001]

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Eaton Corp.—Cutler Hammer (Co.).	Pittsburgh, PA	08/20/2001	NAFTA–5,224	Power Management Products.
Illbruck Automotive (Co.)	Howell, MI	08/16/2001	NAFTA–5,225	Door Water Shields.
Finet Technologies (Wkrs)	Dunmore, PA	08/20/2001	NAFTA–5,226	Fibre Optic Communications.
Union Apparel (Wkrs)	Norvelt, PA	08/17/2001	NAFTA–5,227	Men's and Ladies Blazers.
Realco Diversfield (Wkrs)	Meadville, PA	08/17/2001	NAFTA–5,228	Mold Bases.
Edinboro Molding (Co.)	Edinboro, PA	08/17/2001	NAFTA–5,229	Electronic Components.
Aquatech—Greenwood Mills (Co.)	Cookeville, TN	08/21/2001	NAFTA–5,230	Finishing of Denim Products.
Allen Edmonds—Main Shoe (Wkrs).	Whiton, ME	08/20/2001	NAFTA–5,231	Men's Handsewn.
Asarco (Wkrs)	El Paso, TX	08/14/2001	NAFTA–5,232	Cooper.
Springs (Wkrs)	Portland, OR	08/21/2001	NAFTA–5,233	Dresses.
WKS Motion Picture and Video Laboratory (Wkrs).	Pittsburgh, PA	08/03/2001	NAFTA–5,234	Video Tape Stock, Video Shells.
Hassell Fabrication (Wkrs)	Ashland, OR	08/03/2001	NAFTA–5,235 NAFTA–5,236	Trailer Chassis.
J and J Tool (Wkrs)	Guys Mills, PA	08/29/2001	NAFTA–5,236	Steel Parts.
Versatile Mold and Design (Wkrs)	Rutledge, GA	08/30/2001	NAFTA–5,237	plastic molds.
Sanmina Corporation (Wkrs)	Pleasant Prairie, WI	08/29/2001	NAFTA–5,238	circuit boards.
Rundel Products (Co.)	Portland, OR	08/24/2001	NAFTA–5,239	vinyl binders.
Valley Machining (Co.)	Rock Valley, IA	08/27/2001	NAFTA–5,240	lincoln jacks and lubricating equipment.
Gillette Company—Oral B Laboratories (IBT).	Iowa City, IA	08/27/2001	NAFTA–5,241	toothbrushes.
Rexam Beverage Can (USWA)	Houston, TX	08/28/2001	NAFTA–5,242	cans.
Maxell Corporation of America (Co.).	Conyers, GA	08/29/2001	NAFTA–5,243	video cassettes.
Hecla Mining—Luck Friday Unit (USWA).	Mullan, ID	08/21/2001	NAFTA–5,244	silver, lead, zine, concentrates.
Eagle Pitcher Industries (IUOE)	Lubbock, TX	08/27/2001	NAFTA–5,245	construction equipment.
Ieccor Electronics—Invensys (Wkrs).	Irving, TX	08/24/2001	NAFTA–5,246	chip test.
Fedders Corporation (Wkrs)	Columbia, TN	08/20/2001	NAFTA–5,247	room air conditioners.
Dillowtex Macon Distribution Center (Wkrs).	Macon, GA	08/17/2001	NAFTA–5,248	towels, hand towels, washcloth.
Anvil International (Wkrs)	Statesboro, GA	08/17/2001	NAFTA–5,249	butter fly valve.
Motorola—AOFC (Co.)	Suwanee, GA	08/21/2001	NAFTA–5,250	battery packs, cell phones.
Willamette Industries (Co.)	Bend, OR	08/20/2001	NAFTA–5,251	particle board.
Auto Body Connection (Wkrs)	Erie, PA	08/23/2001	NAFTA–5,252	after market auto body parts.
Matco East Distribution Center (Wkrs).	Verona, VA	08/13/2001	NAFTA–5,253	monitor.
Fashion Works (Co.)	Dallas, TX	08/23/2001	NAFTA–5,254	ladies apparel.
Interroll Corporation (Co.)	Wilmington, NC	08/21/2001	NAFTA–5,255	carton and pallet flow storage.
Blue Water Fiber Limited Partnership (Wkrs).	Port Huron, MI	08/27/2001	NAFTA–5,256	recycled paper pulp.
FCI Electronics (Wkrs)	Clearfield, PA	05/14/2001	NAFTA–5,257	computer parts.
Metal USA (Wkrs)	Youngtown, OH	08/24/2001	NAFTA–5,258	steel sheets and blanks.
Speciality Coating of Virginia (Wkrs).	Ridgeway, VA	08/24/2001	NAFTA–5,259	coated wallpaper.
Cliffs Mining Services (Wkrs)	Hibbing, MN	08/21/2001	NAFTA–5,260	taconite mining research.
Hein Werner—Snap On (Co.)	Baraboo, WI	08/24/2001	NAFTA–5,261	collision repair equipment.
Lamtech (Co.)	Hartsville, TN	08/24/2001	NAFTA–5,262	apparel.
VF Imagewear (Co.)	Harriman, TN	08/27/2001	NAFTA–5,263	garments.
Pliant Corporation (Co.)	Palmer, MA	08/27/2001	NAFTA–5,264	plastic film.
Cleveland Caroknit—Spartan Int'l (Wkrs).	Lawndale, NC	08/20/2001	NAFTA–5,265	knit apparel.
Unifirst Corporation (Wkrs)	Wilburton, OR	08/24/2001	NAFTA–5,266	denim jeans, uniform jackets.
Jackson Percision Diecast (UAW)	Jackson, MI	08/31/2001	NAFTA–5,267	transmission bushings dies.
Summit Circuits (RWDSU)	Fort Wayne, IN	08/30/2001	NAFTA–5,268	printed circuit boards.
Trailmobile Trailer (Wkrs)	Liberal, KS	08/30/2001	NAFTA–5,269	dry freight & refrigerated trailes.
Gerber Childrenswear (Co.)	Pelzer, SC	08/22/2001	NAFTA–5,270	children's bed and bath goods.

[FR Doc. 01–23526 Filed 9–20–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,260]

Allegheny Ludlum Steel, Leechburg, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 13, 2001, applicable to workers of Allegheny Ludlum Steel, Leechburg, Pennsylvania. The notice was published in the **Federal Register** on August 6, 2001 (FR 66 41053).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of cold rolled grain oriented electrical steel.

New findings show that there was a previous certification, TA–W–34,929, issued on October 13, 1998, for workers of Allegheny Ludlum Steel, Leechburg, Pennsylvania who are engaged in employment related to the production of cold rolled grain oriented electrical steel. That certification expired October 13, 2000. To avoid an overlap in worker group coverage, this certification is being amended to change the impact date from April 26, 2000 to October 14, 2000, for workers of the subject firm.

The amended notice applicable to TA–W–39,260 is hereby issued as follows:

All workers of Allegheny Ludlum Steel, Leechburg, Pennsylvania who became totally or partially separated from employment on or after October 14, 2000, through July 13, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23527 Filed 9–20–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,615]

Allegheny Ludlum Steel, Brackenridge, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 16, 2001, applicable to workers of Allegheny Ludlum Steel, Brackenridge, Pennsylvania. The notice was published in the **Federal Register** on August 6, 2001 (FR 66 41053).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of cold rolled grain oriented electrical steel.

New findings show that there was a previous certification, TA–W–35,185, issued on November 20, 1998, for workers of Allegheny Ludlum Steel, Brackenridge, Pennsylvania who were engaged in employment related to the production of cold rolled grain oriented electrical steel. That certification expired November 20, 2000. To avoid an overlap in worker group coverage, this certification is being amended to change the impact date from July 16, 2000 to November 21, 2000, for workers of the subject firm.

The amended notice applicable to TA–W–39,615 is hereby issued as follows:

All workers of Allegheny Ludlum Steel, Brackenridge, Pennsylvania who became totally or partially separated from employment on or after November 21, 2000, through July 16, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23528 Filed 9–20–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,247]

Arc Mills Corporation, New York, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 14, 2001, in response to a petition which was filed by the company on behalf of workers at Arc Mills Corporation, New York, New York.

The subject firm requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 13th day of September 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–23539 Filed 9–20–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38, 681]

Arrow Industries/Conagra Carrollton, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 12, 2001, in response to a worker petition which was filed on behalf of workers at Arrow Industries/Conagra, Carrollton, Texas.

During the full period of this investigation, no knowledgeable company official was located and no information became available regarding the potential eligibility of this worker group. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 5th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23537 Filed 9–20–01; 8:45 am]
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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,313]

Lynn Electronics, Feasterville, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated August 1, 2001, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on July 9, 2001, and published in the **Federal Register** on July 26, 2001 (66 FR 39055).

Petitioner provides evidence that further survey is warranted regarding customer purchases of communications wire products.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 5th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-23525 Filed 9-20-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,055]

Newport Steel Corporation, Newport, KY; Notice of Negative Determination Regarding Application for Reconsideration

By applications dated June 12, 2001, and June 17, 2001, the United Steelworkers of America, District 8, Local 1970 (USWA) and a former employee of the plant, requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed May 8, 2001, and was published in the **Federal Register** on May 23, 2001 (66 FR 28553).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The denial of TAA for workers engaged in activities related to the production of steel pipe at Newport Steel Corporation, Newport, Kentucky, was based on the finding that the "contributed importantly" criterion of the group eligibility requirements of Section 222 of the Trade Act of 1974 was not met. Layoffs at the subject firm were related to outsourcing the raw material (steel coils) from domestic suppliers used to produce the steel pipe produced at the plant.

The USWA states that the subject firm was producing as much steel coil as possible for use in their pipe mill and only purchased steel coils from outside sources when supplies could not meet demand from the pipe mill. In 1999, Newport Steel installed a "super furnace" to boost production and lower costs. The USWA states that currently it costs less for the subject firm to purchase steel coils from outside vendors than to produce on-site. The USWA adds that the illegal dumping of steel caused the loss of over 200 jobs in the Newport, Kentucky plant. Also attached to the request for reconsideration were documents from the American Iron and Steel Institute, which included March 2001 trade data for steel mill products and a June 12, 2001, press release regarding April 2001 U.S. shipments of steel.

Review of the investigation record shows that during 1999, 2000, and in January through March 2001, Newport Steel Corporation, did not purchase from any foreign sources articles like or directly competitive with those produced at the Newport, Kentucky plant. Furthermore, as to steel dumping and aggregate steel mill products data, the Department of Labor's worker petition investigation is conducted with respect to articles like or directly competitive with those produced at the workers' firm, not on aggregate products company-wide or industry-wide that are not like or directly competitive with the product of the subject firm.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC this 5th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-23529 Filed 9-20-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,485]

Senior Automotive, Bartlett, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 25, 2001 in response to a worker petition filed by a company official on behalf of workers at Senior Automotive, Bartlett, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 31st day of August, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-23532 Filed 9-20-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can

be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of collection of information for the Quantum Opportunity Program. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before November 20, 2001.

ADDRESSES: Eileen Pederson, U.S. Department of Labor, Employment and Training Administration/Office of Policy and Research, Rm. N-5637, 200 Constitution Avenue, NW., Washington, DC 20210, 202/693-3647 (this is not a toll-free number), *epederson@doleta.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Quantum Opportunity Program (QOP) Demonstration was jointly sponsored by the Ford Foundation and the Department of Labor, with support from the Department of Justice, to test a promising program to help academically at-risk youth prepare for long-term, stable employment. The demonstration targeted academically at-risk youth in schools with significant dropout rates in seven urban and rural cities. The youth enrolled in high school in 1995 (youth in one site enrolled in 1996) and were randomly assigned to either the control group or the treatment group, with the youth in the latter group able to participate in the program throughout high school. The primary focus of the program was to keep them in school through high school graduation and help them take the necessary steps for more advanced training or education. Specific services included intensive educational, life skills, and community services activities and support from an adult mentor.

ETA awarded a contract to Mathematica Policy Research, Inc. to conduct a net impact evaluation of the program. The evaluation currently will measure high school performance and completion, post-secondary enrollment and criminal and anti-social behavior up to five months after scheduled high school graduation. The evaluation will also analyze the benefits to society compared to the program's cost. This information collection was approved under OMB No. 1205-0397, which is due to expire on November 30, 2001. This request is for an extension of the previously granted OMB clearance to collect data beyond the current expiration date of the clearance. The extension is necessary to collect data approximately 72 months after random assignment of the youth.

The data will be used to examine the effects of this program on participants' outcomes six years after random assignment into QOP. Mathematica will also assess the subsequent outcomes of comparable youth randomly assigned to the control group. This additional data collection will offer supporting evidence in ETA's quest to "ensure that our youth workforce training programs have a strong educational component, since income and opportunities increase exponentially with education credentials."

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

This is a request for OMB approval of an extension of an existing information collection for the QOP Demonstration funded by the Department of Labor with support from the Department of Justice. Information in the form of the previously approved follow-up phone or in-person survey will be collected from all youth in the research sample approximately 72 months following their initial assignment to the program or control groups. The survey data will be utilized to analyze the impact of the QOP on participants' outcomes including education and training, employment, earnings, public assistance participation, childbearing, and other behaviors and activities.

The findings will be directly relevant for the future development of employment and training policy for youth.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Quantum Opportunity Program Demonstration Follow-up Survey.

OMB Number: 1205-0397.

Affected Public: Individuals.

Cite/Reference/Form/etc.: Quantum Opportunity Program Demonstration Evaluation follow-up survey.

Total Respondents: 1,074.

Frequency: Once (during period of extension, total of 2 times).

Total Responses: 860 (during period of extension).

Average Time per Response: 20 minutes (during extension).

Estimated Total Burden Hours: 287 hours (during extension).

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 14, 2001.

Gerard F. Fiala,

Administrator.

[FR Doc. 01-23557 Filed 9-20-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-4902]

American Lumber Company; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on May 18, 2001 in response to a petition filed by a company official on behalf of workers at American Lumber Company, Union City and Williamsport, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently,

further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of September 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–23538 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05206]

Burlington Industries, Johnson City, TN; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on August 14, 2001 in response to a petition filed on behalf of workers at Burlington Industries, Johnson City, Tennessee.

The petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 10th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–23534 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4848]

Newport Steel Corporation, Newport, KY; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 17, 2001, a former employee requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on May 14, 2001, and was published in the **Federal Register** on May 25, 2001 (66 FR 28928).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The denial of NAFTA–TAA for workers engaged in activities related to the production of steel pipe at Newport Steel Corporation, Newport, Kentucky, was based on the finding that criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. There were no company imports of steel pipe from Mexico or Canada, nor did Newport Steel Corporation shift production from Newport, Kentucky to Mexico or Canada. Layoffs at the subject firm were related to outsourcing the raw material (steel coils) from domestic suppliers used to produce the steel pipe produced at the plant.

The petitioner claims that layoffs occurred in the melt shop, which made the steel that was used in the production of steel pipe at the plant. The petition further adds that Newport Steel Corporation is purchasing steel coils from domestic and foreign suppliers.

The petitioner attached documents from the American Iron and Steel Institute, which were March 2001 trade data for steel mill products and a June 12, 2001, press release regarding April 2001 U.S. shipments of steel.

Review of the investigation record shows that during 1999, 2000, and in January through March 2001, Newport Steel Corporation did not purchase any imports of articles from Mexico or Canada like or directly competitive with those produced at the Newport, Kentucky plant. Furthermore, as to steel industry data, the NAFTA–TAA petition investigation is conducted with respect to articles like or directly competitive with those produced at the workers' firm, not on a company-wide or industry-wide basis.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC this 5th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23530 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05149]

OBG Manufacturing/Distribution Company, Oshkosh B'Gosh, Inc., Albany, KY; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 30, 2001, in response to a petition filed on behalf of workers at OBG Manufacturing/Distribution Company, OshKosh B'Gosh, Inc., Albany, Kentucky.

An active certification covering the partitioning group of workers is already in effect (NAFTA–04468A, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23535 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04468 and NAFTA–04468A]

OBG Manufacturing/Distribution Company, Oshkosh B'Gosh, Inc., Liberty KY; OBG Manufacturing/Distribution Company; Oshkosh B'Gosh, Inc., Albany, KY; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on April 3, 2001, applicable to workers of OBG Manufacturing Company, OshKosh B'Gosh, Inc., Liberty, Kentucky. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22008).

At the request of the company, the Department reviewed the certification for workers of the subject firm.

New information shows that worker separations occurred at the Albany, Kentucky facility of OBG Manufacturing Company, OshKosh B'Gosh, Inc. The workers are engaged in employment related to the production of children's apparel.

Accordingly, the Department is amending the certification to cover workers of OBG Manufacturing Company, OshKosh B'Gosh, Inc., Albany, Kentucky.

The intent of the Department's certification is to include all workers of OGB Manufacturing Company, OshKosh B'Gosh, Inc. adversely affected by increased imports of children's apparel from Mexico.

The amended notice applicable to NAFTA–04468 is hereby issued as follows:

All workers of OBG Manufacturing Company, OshKosh B'Gosh, Inc., Liberty, Kentucky (NAFTA–04468) and Albany, Kentucky (NAFTA–04468A) who became totally or partially separated from employment on or after January 12, 2000, through April 3, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23536 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5196]

Phelps Dodge Magnet Wire Company, Hopkinsville, KY; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 13, 2001 in response to a petition filed on behalf of workers at Phelps Dodge Magnet Wire Company, Hopkinsville, Kentucky.

An active certification (NAFTA 3292), valid until August 13, 2001, remained in effect throughout the period of possible coverage for the petitioners and the entire workforce at Phelps Dodge Magnet Wire Company. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 10th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–23533 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration,

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Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and States:

Volume IV

Michigan
MI010106 (Sept. 21, 2001)

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI010001 (Mar. 2, 2001)

Volume II

Pennsylvania
PA010014 (Mar. 2, 2001)

Volume III

Tennessee
TN010002 (Mar. 2, 2001)
TN010018 (Mar. 2, 2001)
TN010038 (Mar. 2, 2001)
TN010039 (Mar. 2, 2001)

Volume IV

Michigan
MI010004 (Mar. 2, 2001)
MI010007 (Mar. 2, 2001)
MI010050 (Mar. 2, 2001)
MI010062 (Mar. 2, 2001)
MI010076 (Mar. 2, 2001)
MI010085 (Mar. 2, 2001)
MI010088 (Mar. 2, 2001)

Volume V

None

Volume VI

None

Volume VII

California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010009 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010029 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
CA010031 (Mar. 2, 2001)
CA010032 (Mar. 2, 2001)
CA010033 (Mar. 2, 2001)
CA010034 (Mar. 2, 2001)
CA010035 (Mar. 2, 2001)
CA010036 (Mar. 2, 2001)
CA010037 (Mar. 2, 2001)
CA010038 (Mar. 2, 2001)
CA010039 (Mar. 2, 2001)
CA010040 (Mar. 2, 2001)
CA010041 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (http://davisbacon.fedworld.gov) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 13th day of September 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–23296 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Legal Identity

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before November 20, 2001.

ADDRESSES: Send comments to Lynnette M. Haywood, Deputy Director, Administration and Management, 4015 Wilson Boulevard, Room 611, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to 1haywood@msha.gov, along with an original printed copy. Ms. Haywood can be reached at (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Lynnette M. Haywood, Deputy Director, Administration and Management, U.S. Department of Labor, Mine Safety and Health Administration, Room 611, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Haywood can be reached at 1haywood@msha. gov (Internet E-mail), (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR part 41 has implemented this requirement and provides for the mandatory use of MSHA From 2000–7, Legal Identity Report, for notifying MSHA of the legal identity of the mien operator. The legal identity for a mien operator is fundamental to enable the Secretary to properly ascertain the identity of persons charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership and statutory considerations regarding penalty assessment, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Federal Mine Safety and Health Act of 1977 (the Act).

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Notification of Legal Identity. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting "Statutory and Regulatory Information" then "Paperwork Reduction Act Submissions (*http://www.msha.gov/regspwork.htm*)", or by contracting the employee listed above in the *For Further Information Contact* section of this notice for a hard copy.

III. Current Actions

MSHA uses the information to properly ascertain the identity of persons chargeable with violations of mandatory safety and health standards and in the assessment of civil penalties. The Office of the Solicitor uses the information to expedite service of documents upon the mine operator.

Type of Review: Extension and Revision of Form.

Agency: Mine Safety and Health Administration.

Title: Notification of Legal Identity.

OMB Number: 1219–0008.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Recordkeeping: Life of Mine Ownership.

Cite/Reference/Form/etc.: 30 CFR 41.20.

Total Respondents: 6,625.

Total Responses: 6,625.

Average Time per Response: .2618 minutes.

Estimated Total Burden Hours: 1,735.

Total Capital/Startup Costs: 0.

Total Operating and Maintenance Costs: $1,693.20.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 14, 2001.

Lynnette M. Haywood,

Deputy Director, Administration and Management.

[FR Doc. 01–23556 Filed 9–20–01; 8:45 am]

BILLING CODE 4510–43–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Information pertaining to the requirement to be submitted:

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR 35.32 and 35.33 "Quality Management Program and Misadministrations".

3. *The form number if applicable:* None.

4. *How often the collection is required:* For quality management program (QMP): *Reporting:* New applicants for medical use licenses, who plan to use byproduct material in limited diagnostic and therapy quantities under Part 35, must develop a written QMP and submit a copy of it to NRC. When a new modality involving therapeutic quantities of byproduct material is added to an existing license, current licensees must submit QMP modifications. This ICR burden estimate is inflated by the one-time cost for the development and submission of QMPs for approximately 2000 Agreement States licensees in the ten Agreement States who have not adopted the rule and are not required to. *Recordkeeping:* Records of written directives, administered dose or dosage, annual review, and recordable events, for 3 years.

For Misadministrations: Reporting: Whenever a misadministration occurs. *Recordkeeping:* Records of misadministrations for 5 years.

5. *Who is required or asked to report:* NRC Part 35 licensees who use byproduct material in limited diagnostic and therapeutic ranges and similar type of licensees regulated by Agreement States.

6. *An estimate of the number of responses:* 6300 (for both reporting and recordkeeping).

7. *The number of annual respondents:* 6300 (for both reporting and recordkeeping).

8. *The number of hours needed annually to complete the requirement or request:* 34,743 hours for applicable licensees (Reporting: 24,400 Hrs/yr, and Recordkeeping: 10,343 Hrs/yr, or an average of 5.5 hrs per licensee).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* In the medical use of byproduct material, there have been instances where byproduct material was not administered as intended or was administered to a wrong individual, which resulted in unnecessary exposures or inadequate diagnostic or therapeutic procedures. The most frequent causes of these incidents were: insufficient supervision, deficient procedures, failure to follow procedures, and inattention to detail. In an effort to reduce the frequency of such events, the NRC requires licensees to implement a quality management program (§ 35.32) to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by an

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authorized user physician. Collection of this information enables the NRC to ascertain whether misadministrations (§ 35.33) are investigated by the licensee and that corrective action is taken. Additionally, NRC has a responsibility to inform the medical community of generic issues identified in the NRC review of misadministrations.

Revisions to 10 CFR 35.32 and 35.33 are being made as part of a complete revision of 10 CFR part 35 to incorporate specific improvements in NRC's regulations governing the medical use of byproduct material. A final rule revising part 35 was affirmed by the Commission on October 23, 2000 and was submitted, along with its associated clearance package, to the Office of Management and Budget (OMB). A notice was published in the **Federal Register** on March 16, 2001, announcing a 30-day public comment period on the submittal. It is anticipated that the effective date of the final rule revising part 35, including the revisions to sections 35.32 and 35.33, will be March 2002, and the OMB clearance for sections 35.32 and 35.33 will be then included under the OMB clearance for part 35 (3150–0010).

Currently, the OMB clearances for sections 35.32 and 35.33 are due to expire October 31, 2001. In view of the fact that these parts will shortly thereafter be covered under OMB clearance 3150–0010, the Commission is seeking a 1-year clearance extension for the information collection requirements in these sections to allow sufficient time for OMB to complete its review of the NRC clearance package for the revision to part 35, for NRC to publish the final rule, and for the rule to become effective. Because the final part 35 and its OMB clearance will be in place in a short time period, the burden hour estimates in this extension package are not being revised from those contained in the previous OMB approval for sections 35.32 and 35.33 under 3150–0171.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 22, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0171), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 17th day of September 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23613 Filed 9–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–29]

Yankee Atomic Electric Company, Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from 10 CFR part 73.55(d)(5) for Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Company (YAEC, or the licensee), for operation of the Yankee Nuclear Power Station (YNPS), located in Franklin County, Massachusetts. As required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the YNPS Independent Spent Fuel Storage Installation (ISFSI) from some requirements of 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage." Specifically, YAEC would be granted an exemption from 10 CFR 73.55(d)(5) related to access requirements. The proposed action is in accordance with the licensee's application dated September 28, 2000, as supplemented by letters dated October 12, 2000, April 18, 2001, May 29, 2001, and June 28, 2001.

The Need for the Proposed Action

YNPS was shut down in October 1991. On February 27, 1992, the licensee informed the Commission that it had decided to permanently cease operations at YNPS and that all fuel had been permanently removed from the reactor. The NRC, in a license amendment dated August 5, 1992, modified License No. DPR–3 to a Possession Only License (POL). The license is conditioned so that YAEC is not authorized to operate the reactor and fuel may not be placed in the reactor vessel, thus formalizing the YAEC commitment to permanently cease power operations. The YNPS spent nuclear fuel is currently being stored in the spent fuel pool, which is protected by a physical protection system meeting the requirements of 10 CFR 73.55, with exemptions as previously issued by the NRC. To complete the plant site decommissioning process, the spent fuel will be removed from the spent fuel pool and transferred to an onsite ISFSI for interim storage. Under the provisions of 10 CFR Part 72, Subpart K, General License for Storage of Spent Fuel at Power Reactor Sites, YAEC is required to meet the physical protection requirements of 10 CFR 73.55 for an ISFSI at a reactor site. YAEC proposed alternative approaches to meet the provisions of portions of 10 CFR 73.55 related to the security organization, physical barriers, access requirements, detection aids, communications, and response requirements. However, the staff determined that, with regard to the requirements of 10 CFR 73.55(d)(5), the measures proposed by YAEC did not meet the criteria of 10 CFR 73.55(a) to be authorized as alternative measures. However, the staff also concluded that pursuant to 10 CFR 72.7 and 10 CFR 73.5, the proposed alternatives to the requirements of 10 CFR 73.55(d)(5) that YAEC requested could be granted as an exemption.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that granting an exemption from the requirements of 10 CFR 73.55 would not have a significant impact on the environment.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in previous reviews for the Yankee Nuclear Power Station. The plant was licensed prior to the requirement for issuance of a Final Environmental Statement.

Agencies and Persons Consulted

On August 21, 2001, the staff consulted with the Massachusetts State official, Jim Muckerheide of the Massachusetts Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action may be found in the licensee's letter dated September 28, 2000, as supplemented by letters dated October 12, 2000, April 18, 2001, May 29, 2001, and June 28, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 17th day of September 2001.

For the Nuclear Regulatory Commission.

Stephen Dembek,

Chief, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23614 Filed 9–20–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Postal Data Systems Briefing

AGENCY: Postal Rate Commission.

ACTION: Notice of official briefing.

SUMMARY: In a letter of August 7, 2001, the Postal Service notified the Commission of planned changes in the Revenue, Pieces and Weight (RPW) reporting system. The new approach, referred to as Characteristics RPW (CRPW), will rely on mailpiece characteristics rather than data collectors' knowledge for assigning the mailpiece to a rate category. This change, which is to be implemented beginning in Postal Quarter 1, FY 2002, appears designed to rectify nonsampling errors associated with the current system. The Service will provide a technical briefing on the change on Friday, September 21, 2001, at 11 a.m., in the Commission's hearing room, 1333 H, Street NW., Washington, DC. This briefing is open to the public.

DATES: Friday, September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

Steven W. Williams,

Acting Secretary.

[FR Doc. 01–23541 Filed 9–20–01; 8:45 am]

BILLING CODE 7710–FW–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax of Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 2001, shall be at the rate of 26 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 2001, 38.7 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 61.3 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: September 14, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–23578 Filed 9–20–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 25156]

Investment Company Act of 1940; Order Under Sections 6(c), 17(b) and 38(a) of the Investment Company Act of 1940 Granting Exemptions From Certain Provisions of the Act and Certain Rules Thereunder

September 14, 2001.

In light of the recent events affecting the financial markets, the Commission finds that the exemptions set forth below:

Are necessary and appropriate to the exercise of the powers conferred on it by the Act;

Are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; and

Permit transactions the terms of which, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

The necessity for immediate action of the Commission does not permit prior notice of the Commission's action. Accordingly,

It Is Ordered:

I. In-Person Meetings and Voting of Directors Required by the Investment Company Act

For 30 calendar days beginning on September 14, 2001, a registered management investment company and any investment adviser of or principal

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underwriter for such registered investment company is exempt from the requirements imposed under sections 15(c) and 32(a) of the Investment Company Act and rules 12b–1(b)(2) and 15a–4(b)(2)(ii) under the Investment Company Act with respect to the renewal of any existing contract, plan or arrangement, that votes of the registered investment company's Board of Directors be cast in person, provided that:

(i) The votes required to be cast at an in-person meeting are instead cast at a meeting in which Directors may participate by any means of communication that allows all Directors participating to communicate with each other simultaneously during the meeting;

(ii) The action does not result in any material change to the existing contract, plan or arrangement under consideration; and

(iii) The Board of Directors, including a majority of the Directors who are not interested persons of the investment company, ratifies the action taken pursuant to this exemption by vote cast at an in-person meeting within 90 calendar days of the date that the action is taken.

II. Ability of a Registered Open-End Investment Company or Insurance Company Separate Account To Borrow From an Affiliated Person

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, a registered open-end investment company or an insurance company separate account registered as a unit investment trust is exempt from sections 12(d)(3) and 17(a) to the extent necessary to permit it to borrow money from any affiliated person that is not itself a registered investment company if the Board of Directors of the registered open-end investment company, including a majority of the Directors who are not interested persons of the investment company, or the insurance company on behalf of the separate account, reasonably determines in the exercise of its judgment that such borrowing is in the best interests of the registered investment company and its shareholders or unitholders.

III. Ability of a Registered Open-End Investment Company To Borrow From Entities Other Than Banks

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, a registered open-end investment company is exempt from section 18(f)(1) of the Investment Company Act to the extent necessary to permit it to borrow money from an entity other than a bank, provided that the Board of Directors of the registered open-end investment company, including a majority of the Directors who are not interested persons of the investment company, reasonably determines in the exercise of its judgment that such borrowing is in the best interests of the investment company and its shareholders.

IV. Interfund Lending Arrangements

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, any registered investment company currently able to rely on a Commission order permitting an interfund lending and borrowing facility ("Order") may make loans through the facility in an aggregate amount that does not exceed 25 percent of its current net assets at the time of the loan notwithstanding any lower limitation in the Order, as long as the loan otherwise is made in accordance with the terms and conditions of the Order.

V. Ability of a Registered Open-End Investment Company To Deviate From Its Fundamental Policy With Respect to Borrowing

For five business days beginning on the date of the first reopening of trading on the U.S. equities and options markets after September 11, 2001, a registered open-end investment company is exempt from sections 13(a)(2) and 13(a)(3) of the Investment Company Act to the extent necessary to permit it to enter into borrowing transactions that deviate from any relevant policy recited in its registration statement without prior shareholder approval, provided that:

(i) The Board of Directors of the registered open-end investment company, including a majority of the Directors who are not interested persons of the investment company, reasonably determines in the exercise of its judgment that each such transaction is in the best interests of the registered open-end investment company and its shareholders; and

(ii) The registered open-end investment company promptly notifies its shareholders of the deviation.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23617 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 35–27439)

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

September 17, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statement of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 12, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 12, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

FirstEnergy Corp. (70–9941)

FirstEnergy Corp. ("FirstEnergy"), 76 South Main Street, Akron, Ohio, 44308, an Ohio holding company claiming exemption from registration under the Act under rule 2 ("Applicant") has filed an application under sections 3(a)(1), 9(a), and 10 of the Act.[1]

FirstEnergy directly owns all of the issued and outstanding voting securities of Ohio Edison Company ("Ohio Edison"), American Transmission Systems, Incorporated ("ATSI"), The Cleveland Electric Illuminating Company ("Cleveland Electric"), and The Toledo Edison Company ("Toledo Edison"), and indirectly owns all of the issued and outstanding voting securities of Pennsylvania Power Company ("Penn Power"), and Northeast Ohio Natural Gas Corp. ("NONGC"). Ohio Edison, Cleveland Electric, Toledo Edison and Penn Power, collectively comprise the "FirstEnergy Operating Companies." Ohio Edison directly owns 16.5% of the issued and oustanding voting securities of Ohio Valley Electric Corporation ("OVEC"), and OVEC owns all of the issued and outstanding voting securities of Indiana-Kentucky Electric Corporation ("IKEC"). The FirstEnergy Operatomg Companies, ATSI, NONGC, OVEC, and IKEC, are all public utility companies as defined in the Act. For the twelve months ending December 31, 2000, FirstEnergy had told revenue of $7,028,961,000 and net income of $598,970,000. FirstEnergy had total assets of $17,941,294,000, as of December 31, 2000.

In addition to its public utility holdings, FirstEnergy owns directly and indirectly multiple nonutility subsidiaries. MARBEL Energy Corporation ("MARBEL"), a direct nonutility subsidiary of FirstEnergy, is the parent company of NONGC, a natural gas pipeline company, and Marbel Holdco, Inc. ("Marbel Holdco"). Marbel Holdco holds FirstEnergy's 50% ownership in Great Lakes Partners, LLC ("Great Lakes"). Great Lakes is an oil and gas exploration and production company in a 50/50 joint venture with Range Resources Corporation ("Range Resources"), a publicly traded, nonutility oil and gas exploration and production company. Great Lakes holds a majority of its assets in the Appalachian Basin. Those assets include more than 7,700 oil and natural gas wells, drilling rights, proven resources of 450 billion cubic feet equivalent of natural gas and oil, and 5,000 miles of pipeline. Great Lakes also owns intrastate gas pipelines and a small interstate pipeline between Ohio and West Virginia.

NONGC provides gas distribution and transportation service to approximately 5,000 customers located in ten counties in central and northeast Ohio, and NONGC owns and operates approximately 420 miles of distribution and transportation pipeline. NONGC receives its gas supplies from local gas producers as well as from interstate pipeline companies. For the twelve months ending December 31, 2000, NONGC had total revenue of $6,074,120 and net income of $112,985; operating revenues were principally derived from the distribution and transportation of natural gas. NONGC had total assets of $18,374,761 and $25,319,652 as of December 31, 2001, and June 30, 2001, respectively.

Effective June 4, 1998, FirstEnergy acquired all of the outstanding shares of MARBEL (the "MARBEL Acquisition"). The MARBEL Acquisition expanded FirstEnergy's products and services to include the exploration, production, distribution, transmission, and marketing of natural gas and oil. Prior to the closing of the MARBEL Acquisition, an internal reorganization took place within the MARBEL system, as a result of which NONGC—the only company in the MARBEL system that was a public utility company under the Act—was merged into a sister company: Gas Transport, Inc. ("Gas Transport").[2]

On May 24, 2000, the assets of the local gas distribution division of Gas Transport ("LDC") were transferred to the Northeast Ohio Operating Companies, Inc. ("NOOCI"), an affiliated nonutility which was the parent company of NONGC and several other operating companies. On May 25, 2000, Gas Transport, which at the time only owned and operated transmission pipelines, merged into Great Lakes Transport, LLC ("GLGT"), a wholly owned subsidiary of NOOCI. On May 30, 2000, all of the membership units of GLGT were transferred to Great Lakes. This post-clearing transfer of GLGT to Great Lakes comprises the "Great Lakes Transaction."[3] The Great Lakes Transaction was part of a corporate reorganization and no intercompany consideration was paid. The LDC assets were transferred at the book value assigned to these assets at the time of the MARBEL Acquisition.

On July 1, 2000, NOOCI transferred the assets of LDC to NEO Construction Company ("NEO Construction"), a wholly owned subsidiary of NOOCI (the "LDC Transaction"). Upon the asset transfer to NEO Construction, NEO Construction became a gas utility company under the Act. On July 7, 2000, NEO Construction changed its name to "Northeast Ohio Natural Gas Corp."[4] On March 30, 2001, NOOCI was merged into its parent, MARBEL (the "MARBELL Merger"). Consequently, the assets of NOOCI, which include all of the issued and outstanding stock of NONGC, are now owned by MARBEL.

In this application, Applicant requests that the Commission authorize the acquisition of all of the issued and outstanding voting securities of NONGC by First Energy. NONGC is held indirectly by FirstEnergy through MARBEL.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23616 Filed 9–20–01; 8:45 am]

BILLING CODE 8010–01–M

[1] See FirstEnergy Form U–3A–2, "Statement by Holding Company Claiming Exemption Under Rule U–2 from the Provisions of the Public Utility Holding Company Act of 1935," dated February 28, 2001 (File No. 69–00423). FirstEnergy will register as a holding company under the Act following the completion of its proposed merger with GPU, Inc., which is the subject of a separate application-declaration (Holding Co. Act Release No. 27435] (File No. 70–9793).

[2] Applicant maintains that as a result of the application of rule 7(a) under the Act, Gas Transport, as the time of the MARBEL Acquisition, was not a gas utility company, and, therefore, the MARBEL Acquisition did not require prior approval of the Commission under section (a) of the Act.

[3] Applicants state that the Great Lakes Transaction was part of a larger transaction that had occurred in 1999. Effective September 30, 1999, FirstEnergy and Range Resources formed Great Lakes, a 50/50 joint venture primarily designed to consolidate and integrate both companies' gas and oil exploration operations in the Appalachian Basin, including properties in Ohio, Pennsylvania, West Virginia, Kentucky, and Tennessee. The joint venture was created to reduce operating costs associated with exploration of reserves and servicing the oil and gas properties. Applicants state that the Great Lakes Transaction was structured in the manner described above for tax reasons and in order to allow sufficient time to secure approval from the FERC for the merger of Gas Transport into GLGT. Therefore, the utility operations of LDC remained within the FirstEnergy system.

[4] NONGC has interconnections with and receives some gas from Ohio Interstate Gas Transmission Company ("OIGTC"), a nonutility which is regulated by Public Utilities Commission of Ohio and engages solely in the transportation of natural gas. OIGTC was one of the companies contributed by MARBEL to form Great Lakes on September 30, 1999. In addition, NONGC receives gas from direct interconnects with gathering pipelines owned by Great Lakes.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44802, File Nos. SR-Amex 2001–80; SR–Phlx–2001–86]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes Filed by the American Stock Exchange LLC ("Amex") and the Philadelphia Stock Exchange, Inc. ("Phlx") Relating to Temporary Trading of Amex Options on the Phlx To Respond to Market Developments

September 17, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 16, 2001, the American Stock Exchange LLC ("Amex") and the Philadelphia Stock Exchange Inc. ("Phlx") (collectively referred to as "Exchanges") submitted to the Securities and Exchange Commission ("SEC" or "Commission") proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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changes. The Amex and Phlx descriptions of their respective proposed rule changes are set forth in Items I and II below. The Commission is publishing this notice to solicit comments on the proposed rule changes form interested persons and to grant accelerated approval to the proposed rule changes.

I. Self-Regulatory Organization's Statements of the Terms of Substance of the Proposed Rule Changes

As a result of the attacks on the World Trade Center in New York City on September 11, 2001, the building housing the trading facilities of the Amex suffered physical damage. In addition, the area surrounding the Amex has remained largely inaccessible to all but the most essential emergency and rescue personnel and many basic services, such as electricity, water and communication lines, have not been re-established as a result of the collapse of several buildings and ensuring fires. The Exchanges, therefore, propose to permit Amex members to trade Amex options on the floor of the Phlx on a temporary basis until the Amex facility is operational. The proposals are intended to enable Amex option products to resume trading when the U.S. markets open, as well as to accommodate Amex members.

Amex

The Amex, pursuant to Rule 19b–4 of the Act, as amended, requests emergency authorization to allow certain options traded at the Amex to be traded on the Phlx, and for Amex specialists, registered options traders ("ROTs") and floor brokers to trade on the floor of the Phlx.

Phlx

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to temporarily permit qualified Amex members who are registered at the Amex as floor brokers, registered option traders ("ROTs") or specialists ("Amex Temporary Access Persons" or "TAPs") to access the Phlx options trading floor on a temporary basis to trade the following options on the terms specified below: (i) Phase 1—non-Phlx Amex options, which include, as of the close of trading on September 10, 2001, (a) equity options traded only on the Amex; (b) equity options traded on the Amex and another options exchange, but not the Phlx; and (c) index options traded only on the Amex; and (ii) Phase 2—equity options that are traded on both the Phlx and Amex ("Phlx/Amex options") as of the close of trading on September 10, 2001.

The proposal includes two categories of Amex members trading as Phlx ROTs or specialists: Amex ROTs and Amex specialists. The proposal may also include enabling Amex floor brokers to act as Phlx floor in Phlx/Amex options and non-Phlx Amex options (but not Phlx options not traded on Amex). The Phlx anticipates Phase 1 to begin on Monday, September 17, 2001, and Phase 2 thereafter, possibly on the same day.[3]

In addition, only Amex TAPs will be permitted to trade non-Phlx Amex options that trade on the Phlx under this proposal, unless deemed necessary by the Phlx for Phlx members to act as ROTs or floor brokers, in the interest of fair and orderly markets. However, Phlx specialist units may be allocated non-Phlx Amex options if the current Amex specialist is not affiliated with a Phlx specialist unit, as described further below.

At this time, the Phlx is proposing that Amex TAPs be permitted to act as Phlx members for purposes of temporary access on the options trading floors. As such, Amex TAPs will be subject to the Phlx trading rules that would apply today to a Phlx member in the course of trading Phlx options.[4] Further, like members, with respect to the liability provisions of Phlx By-Law Article XII, Section 12–11, Use of Facilities of Exchange (Phlx), the Phlx's liability to Amex TAPs would be limited.[5]

However, Amex TAPs will not be eligible to vote, serve on committees or otherwise participate in Phlx governance, apply for specialist privileges,[6] nor act as floor officials.[7]

For purposes of Phlx Rule 104, which provides, in pertinent part, that no member shall, while on the floor, make a transaction with any non-member, Amex TAPs shall not be considered "non-members." Amex TAPs will not have access to, or the ability to act as, members respecting Phlx options that are not Phlx/Amex options. Lastly, Amex TAPs' physical access to the Phlx facilities will be limited to the Phlx options trading floor crowds where they have been granted access to trade by this proposal and any other areas designated by the Phlx.

With respect to qualification of and jurisdiction over Amex TAPs, the Phlx intends to require submission of a form containing an acknowledgement to abide by Phlx rules and submit to Phlx jurisdiction, as well as other provisions relating to Phlx floor activity and responsibility. The Acknowledgement may also include the Phlx's ability to terminate Amex TAPs access and status, or to impose conditions on such access or status.

Further, this form will contain a certification by both the Amex TAP and the Amex as to the qualification of that Amex member to trade on the Amex. Thus, qualified Amex TAPs, with approval from an appropriate Amex official, will be deemed to have satisfied, and the Phlx will waive specific compliance with, rules governing or applying to the maintenance of a person's or a firm's status as a Phlx member, including the 600 series of Phlx rules. In that regard, Amex procedures respecting the admission and qualification of members to trade on the Amex, for example, will be deemed to satisfy Phlx Rules 901 and 1014(b) regarding registration of ROTs.[8] Notwithstanding the above, the Phlx may determine to impose or waive certain training requirements, including the use of Phlx technology or equipment and Phlx rules, such as those contained in the Phlx Rule 620. The Phlx also proposes that Amex TAPs who sigh the form thereby bind their member organization to Phlx requirements and jurisdiction as well; consistent with fundamental principles of agency law. Amex TAPs must also de-register when discontinuing their Amex TAP status using the appropriate form.[9] Lastly, on this form, Amex TAPs shall designate an OCC-member clearing firm. The Phlx is also proposing that clearing firms that are not Phlx members will be deemed to have satisfied, and the Phlx will waive specific compliance with, in respect of accounts of Amex TAPs trading on the Phlx, rules governing or applying to clearing firms.[10]

[3] The Phlx intends to trade all non-Phlx Amex and Phlx/Amex options, but may not, taking into account space, safety, licensing, operational and technological considerations.

[4] These include, but are not limited to, Phlx Rule 104, 1000, *et seq.*

[5] Specifically, that provision states that the Phlx shall not be liable for any damages sustained by a member or a member organization arising out of the use or eojoyment by such member or member organization of the facilities afforded by Phlx to members for the conduct of their business.

[6] The extent to which Amex specialists currently acting as specialists in non-Phlx Amex options that are traded on the Phlx under Phase 1 will continue to act as specialists is discussed below.

[7] Amex TAPs would, however, be subject to the rulings of Phlx floor officials pursuant to Phlx rules, including Phlx Rule 124 and appeals therefrom.

[8] The Phlx believes that this is consistent with prior Commission-approved practices respecting members on one exchange trading on the facilities of another exchange. *See* Securities Exchange Act Release No. 40088 (June 12, 1998), 63 FR 33426 (June 18, 1998) (SR–Phlx–98–25).

[9] The Phlx has determined that de-registration may be by any written submission to the Phlx's Membership Services Department.

[10] *See, e.g.*, Phlx Rule 1000(A)(3). The Phlx is also seeking agreements from non-Phlx member clearing firms whereby the clearing firm agrees and undertakes to comply with all applicable Phlx rules in respect of Phlx/Amex options and/or non-Phlx Amex options for the account of Amex TAPs as if the clearing firm were a member of the Phlx.

[11] The Phlx notes that Amex TAP trades shall be deemed Phlx trades, including for purposes of trade reporting, clearing and the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").

[12] Amex will enter into an agreement with Phlx concerning the Exchanges' respective obligations under the proposal; Amex will, *inter alia*, agree to be responsible for maintenance studies and maintaining listing standards on all Non-Phlx Amex options.

[13] The Phlx intends to bill Amex TAPs through their clearing firms.

[14] *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (SR–Phlx–2001–49).

Because Amex TAPs would be trading on the Phlx options floor using Phlx technology in the regular Phlx trading crowd pursuant to Phlx rules, the rules (including by-laws, Certificate of Incorporation, floor procedure advices, policies and practices, all as supplemented and modified by this proposed rule change) of the Phlx would govern such activity.[11] For instance, the trading rules applicable to Phlx ROTs would apply to Amex TAPs acting as ROTs on the Phlx, including the two-sided market making obligations of Phlx Rule 1014. The Phlx intends to surveil the Phlx trading activity of Amex TAPs trading on the Phlx under this proposal, as it surveils other Phlx options trading. To the extent that Amex TAPs request the installation of equipment or communication lines, for purposes of Phlx Rule 606, the Phlx staff (in lieu of The Options Committee) must approve such.

Non-Phlx Amex options would be deemed eligible for listing on the Phlx, subject to the written representation by a designated, authorized Amex official that each non-Phlx Amex option proposed to be listed and traded on the Phlx meets Amex listing and maintenance standards. The Phlx hereby requests approval, as of September 14, 2001, for a temporary listing standard whereby options listed on Amex (and not the Phlx) as of September 10, 2001 shall be eligible for listing on the Phlx. Non-Phlx Amex options will be deemed to have satisfied, and the Phlx will waive specific compliance with, any other applicable Phlx rules governing options listing and maintenance.[12] Non-Phlx Amex options subject to delisting (and thus, ineligible for the addition of new strike prices and new expirations) at the time they are listed on the Phlx, would be deemed eligible for listing, subject to closing transactions only in those series with open interest.

Phlx/Amex options will be traded by the Phlx specialist unit assigned to that option. With respect to how specialists will be assigned to trade non-Phlx Amex options, the following agreements have been reached between the Phlx and the Amex and are proposed herein: (i) Non-Phlx Amex options normally traded by Amex specialist units whose firms or affiliates have a Phlx specialist unit will be traded by the same firm's Phlx specialist unit; (ii) non-Phlx Amex options normally traded by Amex specialist units whose firms or affiliates have no Phlx specialist unit will be traded by the Phlx specialist unit designated by that Amex specialist; and (iii) non-Phlx Amex options normally traded by Amex specialist units whose firms or affiliates have no Phlx specialist units, and are not designated by that Amex specialist, will be allocated, as of September 14, 2001, to Phlx specialist units in accordance with Phlx Rules 500–526. Further, non-Phlx Amex options will be deemed to have been duly allocated to qualified specialists, subject to the written representation by a designated, authorized Amex official that each non-Phlx Amex option has been allocated on the Amex in compliance with Amex rules governing qualifications of specialists and allocation of options to Amex specialist units. Accordingly, Amex specialists will be deemed to have satisfied, and the Phlx will waive specific compliance with, Phlx rules governing qualification of specialists.

With respect to fees, the Phlx intends to impose its options transaction charges, both equity option and index option, where applicable, on trades by Amex TAPs. For instance, Amex TAPs trading as ROTs would be subject to the option transaction/comparison charges applicable to Phlx ROTs under this proposal.[13] Amex TAPs acting as floor brokers will be charged with Phlx fees applicable to floor brokers (floor brokerage assessment) respecting all trades. Phlx members and member organizations may not apply fees paid by Amex TAPs who are associated with Phlx member organizations to their $1,000 monthly credit.[14] The Phlx has determined not to impose its dues, technology fee and facilities related fees (*e.g.*, post/booth space) due to the emergency and temporary nature of the situation.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Exchange included statements concerning the purpose of and the basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item III below. The Exchanges have prepared summaries set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for the Proposed Rule Changes

1. Amex

The purpose of the Amex's proposed rule change is to permit Amex members, on a temporary basis, to trade Amex options at the Phlx. As proposed, Amex members who are duly qualified as specialists, ROTs and floor brokers will be temporary members of the Phlx known as "Temporary Access Persons" or "TAPs." The arrangement for trading Amex options by Amex TAPs at the Phlx would be limited to those options traded on the Amex as of the close of business on September 10, 2001, which are the following: (1) Multiply-traded options that are traded on both the Amex and Phlx; (2) multiply-traded options traded on the Amex but not currently traded on the Phlx; (3) equity options solely traded on the Amex; and (4) index options only traded on the Amex.

With respect to all of the options indicated above, Amex specialists and ROTs that expect to trade on the Phlx will serve as Phlx ROTs in the trading crowd on the floor of the Phlx. Amex specialists that are dual members of both the Amex and Phlx will continue to trade as specialists in their assigned options through their affiliated specialist unit at the Phlx. Moreover, it is expected that Amex floor brokers will be permitted to act as floor brokers on the Phlx for those options traded on the Amex as of the close of business on September 10, 2001 and that will now trade on the Phlx. The Phlx will provide trade reporting, quote reporting and surveillance in connection with the trading of options by Amex TAPs on the Phlx as would otherwise be the case for options trading of Phlx options.

The Phlx proposes to impose transaction-based fee charges on all options transactions of Amex TAPs. Amex floor brokers trading on the Phlx as TAPs will be charged the fees by the Phlx applicable to current Phlx floor brokers.

For purposes of this temporary access to the Phlx options trading floor, Amex members will be Phlx members identified as TAPs, and, therefore,

subject to Phlx rules and regulations, including all options trading rules. However, Amex TAPs will not be permitted to participate in the corporate governance of the Phlx, including, but not limited to, the right to vote or serve as floor officials.

As detailed in the Phlx proposed rule change, Amex TAPs who execute the acknowledgement form and conduct business at the Phlx will be subject to the jurisdiction of the Phlx as well as the Amex. Therefore, Amex members will be qualified members of both the Amex and the Phlx, although, primary jurisdiction for trading on the options floor of the Phlx will reside with the Phlx. However, the Amex has not completely relinquished jurisdiction over its own members. For example, the Phlx may prefer that the Amex investigate and bring an enforcement action against an Amex member for violations of Phlx rules in connection with options trading at the Phlx.

For these reasons, the Amex believes that its proposed rule change is consistent with Section 6 of the Act,[15] in general, and with Section 6(b)(5) of the Act,[16] specifically, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the pubic interest and promote just and equitable principles of trade by members.

2. Phlx

The purpose of the Phlx proposed rule change is to accommodate Amex TAPs and to accommodate trading in non-Phlx Amex options, particularly those options traded only on the Amex that would otherwise temporarily have no trading facility, on a temporary basis, during a crisis in the nation's financial markets. The proposal is intended to provide access to certain options products previously traded by these Amex members on the Amex, pending restoration of the Amex's facility.

The Phlx's proposal is tailored to permit access to Amex TAPs seeking to continue their livelihood and make markets, as well as provide a marketplace for options that trade only on the Amex. It is with respect to these options, in particular, that this proposal is intended to perfect the mechanism of a free and open market and a national market system. Because the Phlx trading facility is being utilized, the Phlx technology and trading rules would apply to both Phlx/Amex options and non-Phlx Amex options, including minimum trading increments, strike price, position and exercise limits, and firm quote and Auto-X guarantees. The method of submission of orders to the Phlx trading floor continues to be the use of the AUTOM System (through a Phlx member) or a floor broker, although the floor broker could be an Amex floor broker/TAP.[17] The Phlx also anticipates that Amex TAPs may require support staff, such as trading floor clerks, who would be permitted under specified terms. Clerks would be required to register (and de-register) [18] on a similar form, identifying the responsible Amex market makers and Amex member organization.[19]

Operationally, the Phlx intends to handle Amex market maker quotes and trades like other Phlx quotes and trades, including quote and trade reporting and dissemination via OPRA. The Phlx intends to establish appropriate account number processing for Amex TAP trades. The Phlx will provide general notice as well as an educational session for Amex TAPs. Respecting Phlx/Amex options, Amex TAPs will trade with Phlx ROTs and other Phlx members in the respective Phlx options trading crowds.

With respect to other regulatory aspects of the proposals, in addition to surveillance, the Phlx intends to exercise enforcement jurisdiction over Amex TAPs trading options on the Phlx. However, the Phlx and the Amex have agreed that the Phlx may request the Amex to assume enforcement jurisdiction upon request by Phlx, as well as incremental costs associated with surveillance, investigations and enforcement, under this proposal. The Amex has also agreed to cooperate with the Phlx by providing information to the Phlx respecting Amex TAPs. Because Amex TAPs will continue to be Amex members and subject to Amex rules respecting such membership, Amex financial responsibility rules, including margin provisions, will continue to apply.[20] Accordingly, the Amex has agreed to retain examination jurisdiction over Amex TAPs, including the daily net capital review. With respect to arbitration jurisdiction, Phlx arbitration rules will apply.

The Phlx is requesting immediate accelerated approval of the proposal in order to promptly enable Amex TAPs to begin trading on the Phlx, which is anticipated to be a 9:30 A.M. on Monday, September 17, 2001. In addition to the immediacy of the situation, the Phlx believes that Amex TAP access would only remain in effect until the Amex facility is restored and resumes such options trading, which is anticipated to be several days, although it is difficult to predict the timing of the resolution of the situation in New York described above.

For these reasons, the Phlx believes that the proposed rule change is consistent with Section 6 of the Act,[21] in general, and in particular, with section 6(b)(5) of the Act,[22] because it would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, by providing an options facility for Amex members.

B. Self-Regulatory Organizations' Statements on Burden on Competition

The Exchanges do not believe that the proposed rule changes will impose any inappropriate burden on competition.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

No comments were either solicited or received by Amex or Phlx.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Persons making written submissions should file fix copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filings will also be available for inspection and copying at the principal offices of Amex and Phlx, respectively. All submissions should refer to File Nos. SR–Amex-2001–80 and SR–Phlx-2001–86 and should be October 12, 2001.

IV. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Changes

The Commission notes that the proposed rule changes were submitted in response to the emergency situation that resulted from the September 11, 2001 attacks on the World Trade Center in New York City. On September 11, 2001, the U.S. equities and options markets determined not to open in light of the attacks that morning. The U.S. equities and options markets remained closed throughout the remainder of that week. As a result of the attacks, the Amex facilities were damaged and, at this time, cannot be reopened. The Amex and Phlx have worked to accommodate the opening of trading of Amex options and to accommodate trading by Amex members.[23]

The Commission notes that Amex TAPS that are granted temporary access to the Phlx will only be permitted to trade on the Phlx those securities that the TAP traded on the Amex, and to act in those capacities that are authorized by Phlx and that are comparable to capacities that the TAP has been authorized to act on the Amex.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] Specifically, the Commission finds that the proposed rule changes are consistent with section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the arrangements between the Amex and Phlx to permit the trading of Amex products on the Phlx by Amex members will ensure that all Amex options products will be available for trading by market participants when trading resumes in the U.S. markets. The Commission also believes that the arrangements allowing Amex specialists and Amex ROTs to make markets on the Phlx in the options for which they made markets on Amex should ensure that Amex options have a similar level of liquidity as was the case on September 10, 2001. Further, the Commission believes that permitting Amex floor brokers to act as floor brokers in the options for which they acted as floor brokers on Amex should ensure that the orders directed to Phlx for Amex options are handled efficiently. The Commission considers to be appropriate the arrangement whereby the Phlx will be responsible for ensuring compliance of Amex members trading on the Phlx floor with Phlx trading rules, while Amex will be responsible for ensuring that its members comply with member qualification and financial responsibility rules. In this regard, the Commission notes that it is important that the Amex and the Phlx continue to closely coordinate and cooperate to ensure that Amex members temporarily trading on the Phlx are adequately surveilled and that their financial condition is monitored.

The Commission is satisfied that the arrangements worked out between Amex and Phlx will enable continuous, liquid markets to be maintained for :Amex options in an exchange environment while maintaining the usual investor protection safeguards. This is especially important in light of the upcoming options expiration on September 21, 2001.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the notice of filing in the **Federal Register**. The Commission believes that it is necessary to approve the proposed rule changes on an accelerated basis to provide a trading venue for Amex options, which market participants would otherwise not be able to trade until Amex's New York facilities are reopened, and to provide a higher level of liquidity in those products than would be available without permitting Amex members temporary access to the Phlx.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[26] that the proposed rule changes (SR–Amex–2001–80 and SR–Phlx–2001–86) are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23524 Filed 9–20–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[(Release No. 34–44807; File No. SR–Amex–2001–67)]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC to Codify Current Audit Trail and Trade Comparison Requirements and to Make Other Technical Amendments to the Exchange's Audit Trail Rules

September 17, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 28, 2001, the American Stock exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 719: (1) To codify current audit trail and trade comparison requirements, (2) to clarify that Amex Rule 719 applies to all Amex securities, and (3) to delete rule language to the implementation of T+1 comparison.

The text of the proposed rule change appears below. New text is in *italics*; deletions are in brackets.

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[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

[17] If the Phlx permits an Amex TAP to act as a floor broker on the Phlx, the Phlx is not obligated to provide trading floor or other physical space, or technology, including floor broker order entry terminals, to such floor brokers.

[18] The Phlx has determined the de-registration may be by any written submission to the Phlx's Membership Services Department.

[19] The Phlx, in its sole discretion, may limit the number of clerks and Amex TAPs granted access to the Phlx options floor due to space and safety concerns.

[20] As stated above and in the certification form, Amex membership-related rules would apply, because Phlx is waiving its rules governing status as a Phlx member. Admissions procedures is another example of such a rule.

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

[23] The Commission notes that the Phlx and the Amex have, of necessity, had discussions, understandings and agreements concerning the listing of non-Phlx Amex options on the Phlx in order to facilitate the establishmen: of the arrangements described in this Order outside the framework permitted by the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This Order approves such discussions, understandings, and agreements.

[24] In approving these proposals, the Commission has considered their impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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[Next Day] Comparison of Exchange Transactions

Rule 719

(a) Notwithstanding any other rule to the contrary, [on and after February 26, 1990,] each transaction effected on the Exchange shall be compared or otherwise closed out by the close of business on the Exchange on the business day following the day of the contract.

(b) The provisions of paragraph (a) above shall apply regardless of whether the transaction has been submitted to a registered clearing agency for comparison or settlement, but such provisions shall apply only to contracts for "regular way", "next day" and "seller's option", settlement on alternative delivery periods, and settlement in *Options Clearing Corporation issued securities*, stocks, rights, warrants, "when issued" and "when distributed" securities, *bonds, and other securities admitted to dealings.* [The provisions of paragraph (a) shall apply to contracts in listed bonds on and after October 21, 1994.]

(c) To facilitate [next day] comparison of transactions effected on the Exchange as provided for in paragraph (a) above, by such time following any such transaction as the Exchange may prescribe *(but in no event more than two hours after execution)*, each member or member organization which is a party to the contract shall submit, or cause to be submitted, such trade data as may be required by the Exchange or the registered clearing agency it selects in such form as the Exchange or the registered clearing agency shall prescribe, to:

(i) The registered clearing agency it selects; or

(ii) Such facility as the Exchange may develop and implement to facilitate comparison of transactions effected on the Exchange; and,

(iii) In the case where the registered clearing agency will not be used to compare or settle the transactions, to the party or parties on the other side of the trade.

(d) No change

* * * Commentary

.01 For purposes of paragraph (b) of this Rule 719, the term "registered clearing agency" shall have the same meaning as set forth in Rule 700, provided further that a clearing agency shall be deemed a "registered clearing agency" only if it has established rules and procedures to facilitate [next day] comparison of transactions as provided for in paragraph (a) of this Rule 719.

.02 Regardless of whether or not a registered clearing agency is being used for comparison and/or settlement, each clearing member organization shall submit the following trade data and audit trail information with respect to contracts for securities entered into on the Exchange to a registered clearing agency in such form and within such time periods as may be described by the registered clearing agency or the Exchange:

(1) Name or identifying symbol of the security,

(2) The clearing firm's number of alpha symbol as may be used from time to time, in regard to its side of the contract,

(3) The executing broker's badge number or alpha symbol as may be used from time to time, in regard to its side of the contract,

(4) Trade date,

(5) The time the trade was executed,

(6) Number of shares or quantity of security,

(7) Transaction price,

(8) The clearing firm's number or alpha symbol as may be used from time to time, in regard to the contra side of the contract,

(9) The executing broker badge number or alpha symbol as may be used from time to time, in regard to the contra side of the contract,

(10) The terms of settlement,

(11) Specialist, registered trader, and market maker acronyms in regards to options transactions,

(12) Account type code—equities only. The current account type codes for equity transactions are as follows. Members should use the most restrictive account type code available. Thus, for example, members only should use the "A" account type code for an agency transaction when no other account type code accurately describes the trade. These codes may be changed from time to time as the Exchange may determine:

S—Specialist principal transaction in a specialty security (regardless of the account or clearing member)

G—Registered Trader market maker transaction regardless of the clearing member

V—Amex Option Specialist or Market Maker transaction in an Amex "paired security" (regardless of the clearing member)

O—Proprietary transactions cleared for a competing market maker that is affiliated with the clearing member

T—Transactions cleared for the account of an unaffiliated member's competing market maker

R—Transactions cleared for the account of a non-member competing market maker

I—Transactions cleared for the account of an individual investor

E—Short exempt transactions cleared for the proprietary account of a clearing member organization or affiliated member/member organization

F—Short exempt transactions cleared for the proprietary account of an unaffiliated member/member organization

H—Short exempt transactions cleared for an individual customer account

B—Short exempt transactions cleared for all agency customer accounts

L—Short exempt transaction cleared for a competing market maker that is affiliated with the clearing member

X—Short exempt transaction cleared for the account of an unaffiliated member competing market maker

Z—Short exempt transaction cleared for the account of a non-member competing market maker

W—Proprietary transactions not specified above and cleared for the account of an unaffiliated member/member organization

A—Transactions cleared for all agency customer accounts

P—Transactions not specified above and cleared for the proprietary account of a clearing member organization or affiliated member/member organization New York Stock Exchange program trade audit trail account type codes as used from time to time also are acceptable.

(13) Account type code—options only. The current account type codes for option transactions are as follows. Members should use the most restrictive account type code available. These codes may be changed from time to time as the Exchange may determine:

S—Specialist principal transaction in a specialty security (regardless of the account or clearing member)

C—Transactions cleared for the account of an individual investor

F—Transactions cleared for the account of a broker-dealer that is not a registered market maker in the security

P—Registered trader market maker transaction regardless of the clearing member

N—Transactions cleared for the account of a non-member market maker

(14) Such other information as the Exchange may from time to time require. Clearing members may not "summarize" multiple trades in the same security, executed at the same price with the same contra clearing firm as this results in degradation of the audit trail.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex's requirements regarding the timely and accurate reporting of clearance and audit trail information into the comparison system currently are embodied in Information Circulars and are not codified in the Exchange's rules. The Exchange, accordingly, is proposing to amend Amex Rule 719 to codify both the time frame in which information must be submitted to comparison (within two hours of execution) and the specifics of the trade data and audit trail information to be submitted.

Amex believes that the prompt submission of trades to comparison reduces the financial risk to investors and broker-dealers of uncompared transactions. Amex further believes that the provision of detailed audit trail information by the parties to Amex transactions allows the Exchange to better perform its market oversight functions.

The Exchange also is proposing to amend Amex Rule 719 to clarify that it applies to all Amex securities admitted to dealings. This will ensure that the rule applies to the new securities that the Exchange lists. The Exchange also is proposing to delete obsolete language in Amex Rule 719 related to the implementation of T+1 comparison in the early 1990s.

Amex has represented that the proposed rule change would not alter the Exchange's substantive requirements and would make these requirements more readily accessible to members.

2. Statutory Basis

Amex believes that the proposed rule change is consistent with Section 6(b) of the Act [3] in general and furthers the objectives of Section 6(b)(5) [4] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex believes that the proposed rule change would impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–67 and should be submitted by October 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23619 Filed 9–20–01; 8:45 am]

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[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44808; File No. SR–CBOE–2001–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Adopt Certain Intermarket Trading System-Related Terms and Conditions Regarding the Temporary Use by the American Stock Exchange LLC of the Facilities of the New York Stock Exchange, Inc.

September 17, 2001.

Pursuant to Section 19(b)(1) of the Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 17, 2001, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) [4] thereunder, which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has asked the Commission to waive the five-day filing notice requirement and the 30-day operational delay, pursuant to Rule 19b–4(f)(6). 17 CFR 240.19b–4(f)(6). *See* September 17, 2001 letter from Angelo Evangelou, Attorney, Legal Division, CBOE to Belinda Blaine, Associated Director, Division of Market Regulation, SEC, and attachments.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to adopt the terms and conditions related to the Intermarket Trading System ("ITS") that were set forth in an American Stock Exchange ("Amex") proposed rule change (SR–Amex–2001–78), regarding the temporary use by the Amex of the facilities of the New York Exchange, Inc. The text of the proposed rule change is available at the CBOE and at the Commission.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE proposes to adopt all of the terms and conditions set forth in Securities Exchange Act Release No. 44803 (September 17, 2001) with respect to the ITS Plan and ITS Participants (as defined in Securities Exchange Act Release No. 44803).

2. Statutory Basis

The CBOE believes the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[6] in general, and Section 6(b)(5)[7] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[6] 15 U.S.C. 78f(b).
[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) imposes any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission waive the five-day pre-filing notice requirement and accelerate the operative date. The Commission finds good cause to designate the proposal to become operative upon filing with the Commission because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow CBOE to adopt the terms and conditions set forth in Securities Exchange Act Release No. 44803 without unnecessary delay. For these reasons, the Commission finds good cause to waive the pre-filing notice requirement and to designate that the proposal is both effective and operative upon filing with the Commission.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2001–50 and should be submitted by October 12, 2001.

[8] 15 U.S.C. 78s(b)(3)(A).
[9] 17 CFR 240.19b–4(f)(6).
[10] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23618 Filed 9–20–01; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12)

DEPARTMENT OF STATE

[Public Notice 3778]

Office of the Procurement Executive; 30-Day Notice of Proposed Information Collection: Department of State Acquisition Regulation (DOSAR); OMB Control Number 1405–0050

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice. The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Originating Office: Bureau of Administration, Office of the Procurement Executive (A/OPE).

Title of Information Collection: Department of State Acquisition Regulation (DOSAR).

Frequency: On occasion.

Form Number: N/A.

Respondents: Any business, other for-profit, individual, not-for-profit, or household organizations wishing to receive Department of State contracts.

Estimated Number of Respondents: 2,790.

Average Hours Per Response: Varies.

Total Estimated Burden: 225,503 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Gladys Gines, Procurement Analyst, Office of the Procurement Executive, U.S. Department of State, Washington, DC 20520; telephone (703) 516–1691; e-mail address: *ginesgg@state.gov*. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB),Washington, DC 20530, who may be reached at (202) 395–3897.

Dated: July 13, 2001.

Lloyd W. Pratsch,

Procurement Executive, Bureau of Administration, U.S. Department of State.

[FR Doc. 01–23666 Filed 9–20–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 3788]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: July 16 and August 3, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202–663–2700).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: September 11, 2001.

William J. Lowell,

Director, Office of Defense Trade Controls, Department of State.

United States Department of State,

July 16, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of the EchoStar VII commercial communications satellite for launch on a Proton rocket from Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 049–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

United States Department of State,

August 3, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of the Echostar VIII commercial communication satellite, ground support and secure communication equipment to Baikonur, Kazakhstan for launch on a Proton rocket.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 087–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

United States Department of State,

August 3, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of oneIntelsat IX commercial communications satellite to Baikonur, Kazakhstan for launch on a Proton and four Intelsat IX commercial communications satellites to Korou, FrenchGuiana for launch on an Ariane. Upon orbit, the satellites will be operated by Intelsat, a U.S. entity.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 090–01.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

United States Department of State,

August 3, 2001.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of a DirecTV commercial communications satellite to Baikonur, Kazakhstan for launch on a Proton launch vehicle. Upon orbit, the satellite will be operated by a U.S. entity.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

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Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.
Enclosure: Transmittal No. DTC 098–01.
The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

[FR Doc. 01–23668 Filed 9–20–01; 8:45 am]
BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3787]

Notice of Receipt of Cultural Property Request From the Government of the Republic of Honduras

AGENCY: Department of State.
ACTION: Notice.

The Government of the Republic of Honduras, concerned that its cultural heritage is in jeopardy from pillage, made a request to the Government of the United States under Article 9 of the 1970 UNESCO Convention. The request was received on August 22, 2001, by the United States Department of State. It seeks U.S. import restrictions on Pre-Columbian archaeological material that includes certain categories of ceramic, stone, metal, shell, and bone artifacts.

In accordance with provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*), the request will be submitted for review by the Cultural Property Advisory Committee that will report on its findings and recommendations.

A Public Summary of the Honduras Request and information about the Act and U.S. implementation of the 1970 UNESCO Convention can be found at http://exchanges.state.gov/education/culprop.

Dated: September 17, 2001.

Helena Kane Finn,
Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–23667 Filed 9–20–01; 8:45 am]
BILLING CODE 4710–11–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Cancellation of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.
ACTION: Notice of meeting cancellation.

SUMMARY: A notice was published in the **Federal Register** dated September 7, 2001, Volume number 66, Notice 174, page 46860, announcing a meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14), scheduled for September 24, 2001, from 9 a.m. to 4 p.m. The meeting was to be open to the public from 9 a.m. to 10 a.m. and again from 10:45 a.m. to 4 p.m. and closed to the public from 10 a.m. to 10:45 a.m. However, the meeting has been cancelled.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg or Pam Wilbur, of the Department of Commerce, (202) 482–4792.

Elizabeth A. Gianini,
Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–23615 Filed 9–20–01; 8:45 am]
BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance Houlton International Airport, Houlton, ME

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Request for public comments. Notice of intent of waiver with respect to land.

SUMMARY: The FAA is requesting public comment on the Town of Houlton's request to dispose of a portion of airport property (approximately 1.66 acres known as 42 Airport Road, Houlton, Maine) no longer needed for aeronautical use, as shown on the Airport Layout Plan. The property requested for disposition is currently vacant and will be sold to an abutter for use in expansion of an ongoing business. There appear to be no impacts to the airport by allowing the disposal of the property. The land was transferred from the federal government as Surplus Property by Quitclaim Deed dated under July 14, 1947 and Supplemental Quitclaim Deed dated July 31, 1948.

Proceeds from the sale of the airport property will be used for Airport purposes.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Documents are available for review by appointment by contacting Charles Upton, Director of Community Development at 21 Water Street, Houlton, Maine, Telephone 207–532–7113 and by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on September 10, 2001.

Vincent A. Scarano,
Manager, Airports Division, New England Region.

[FR Doc. 01–23566 Filed 9–20–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance, Houlton International Airport, Houlton, ME

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Request for Public Comments. Notice of intent of waiver with respect to land.

SUMMARY: The FAA is requesting public comment on the Town of Houlton's request to dispose of a portion of airport property (two parcels consisting of 2 acres each known as 108 and 136 White Settlement Road, Houlton, Maine) no longer needed for aeronautical use, as shown on the Airport Layout Plan. The properties requested for disposition are each improved with privately owned residences. The airport leases the underlying land to the homeowners. There appear to be no impacts to the airport by allowing the disposal of the property. The land was transferred from the federal government as Surplus Property by Quitclaim Deed dated under July 14, 1947 and Supplemental Quitclaim Deed dated July 31, 1948.

Proceeds from the sale of the airport property will be used for Airport purposes.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Documents are available for review by appointment by contacting Charles Upton, Director of Community Development at 21 Water Street, Houlton, Maine, Telephone 207–532–7113 and by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on September 10, 2001.

Vincent A. Scarano,
Manager, Airports Division, New England Region.

[FR Doc. 01–23567 Filed 9–20–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Niagara Fall International Airport, Niagara Falls, New York

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of the proposed release of approximately 4.9 acres of land located directly across Niagara Falls Boulevard from the terminal building at Niagara Falls International Airport, to allow its sale for non-aviation development. The parcel was part of the airport land deeded to the City of Niagara Falls under a quit claim conveyance from the United States. When the airport property was conveyed to the Niagara Frontier Transportation Authority (NFTA), this parcel was not transferred, and remains under the ownership of the city of Niagara Falls. The City of Niagara Falls proposes to sell the land to a developer who will it develop it as a car dealership or another similar use.

FAA's action is to release the land from a deed provision requiring aeronautical use of the property. The NFTA has stated that it has no aeronautical use for the parcel now or in the near future according to the Niagara Falls Intl. Airport Layout Plan. The Fair Market Value of the land will be paid to the NFTA for the maintenance, operation and capital development of the Niagara Falls International Airport.

Any comments the agency receives will be considered as a part of the decision.

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Philip Brito, Manager, FAA New York Airports District Office, 600 Old Country Road, Suite 446 Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas M. O'Donnell, Deputy Corporation Counsel, City of Niagara Falls, at the following address: Mr. Thomas M. O'Donnell, Deputy Corporation Counsel, City of Niagara Falls, P.O. Box 69, Niagara Falls, New York 14302–0069.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530; telephone (516) 227–3803; FAX (516) 227–3813; E-Mail *Philip.Brito@faa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Garden City, New York on September 3, 2001.

Philip Brito,
Manager, New York Airports District Office, Eastern Region.

[FR Doc. 01–23693 Filed 9–20–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.
ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of the date change for the third meeting of the FAA Aircraft Repair and Maintenance Advisory Committee. The purpose of the meeting is for the Committee to continue working towards accomplishing the goals and objectives pursuant to its congressional mandate.

DATES: The meeting will now be held Tuesday, September 25, 2001, 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 13873 Park Center Road, Suite 160, Herndon, Virginia 20171.

FOR FURTHER INFORMATION CONTACT: Ellen Bowie, Federal Aviation Administration (AFS–300), 800 Independence Avenue, SW, Washington, DC 20591; phone (202) 267–9952; fax (202) 267–5115; e-mail Ellen *Bowie@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the FAA Aircraft Repair and Maintenance Advisory Committee to be held on September 25, at the Federal Aviation Administration, 13873 Park Center Road, Suite 160, Herndon, Virginia 20171.

The agenda will include:

- Introduction of any new designated alternate members
- Committee administration
- Reading and approval of minutes
- Review of open/additional action items
- Working group status review
- Statements of members of the public
- Review of Committee workscope vs. mandate
- Plan/discuss next steps/agenda and timeline
- Closing remarks and adjournment

Attendance is open to the public but will be limited to the availability of meeting room space. Persons desiring to present a verbal statement must provide a written summary of remarks. Please focus your remarks on the tasks, specific activities, projects or goals of the Advisory Committee, and benefits to the aviation public. Speakers will be limited to 5-minute presentations. Please contact Ms. Ellen Bowie at the number listed above if you plan to attend the meeting or to present a verbal statement.

Individuals making verbal presentations at the meeting should bring 25 copies to give to the Committee's Executive Director. These copies may be provided to the audience at the discretion of the submitter.

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Issued in Washington, DC, on September 17, 2001.

James J. Ballough,

Acting Manager, Continuous Airworthiness Maintenance Division.

[FR Doc. 01–23696 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cincinnati/Northern Kentucky International Airport, Covington, Kentucky

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Holscher, Director of Aviation of the Kenton County Airport Board at the following address: PO Box 752000, Cincinnati, Ohio 45275–2000.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kenton County Airport Board under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Program Manager, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841, (901) 544–3495, Extension 21. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cincinnati/Northern Kentucky International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 12, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Kenton County Airport Board was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 26, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–07–C–00–CVG.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: March 1, 2003.

Total estimated net PFC revenue: $27,638,000.

Brief description of proposed project(s): (1) Concourse C Improvements—(a) South Infill Expansion and (b) North Infill Expansion and Entry and Canopy Renovation; (2) Deicing System Enhancements—(a) Instream Treatment System Engineering and Design and (b) Glycol Processing and Recycling Facility; (3) Runway 27 Safety Zone Improvements—(a) Realign Taxiway "M" and Relocate Taxiway "M4" and (b) Displace Runway 27 Threshold; (4) Taxiway "M" Extension and Connecting Taxiways; (5) Taxiway "N" extension; (6) Aircraft Rescue and Fire Fighting Building (Phase 1); and (7) Planning Study Updates—(a) Airport Master Plan Update (2002) and (b) part 150 Study Update (2003).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: (1) FAR part 121 supplemental operators which operate at the Airport without an operating agreement with the Board and enplane less than 1,500 passengers per year and (2) part 135 on-demand air taxis, both fixed wing and rotary.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kenton County Airport Board.

Issued in Memphis, Tennessee on September 12, 2001.

LaVerne F. Reid,

Manager, Memphis Airports District Office South Region.

[FR Doc. 01–23569 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Quad City International Airport, Moline, Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Quad City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA, Great Lakes Region, Chicago Airports District Office, 2300 East Devon Avenue, Room 320, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce E. Carter, Director of Aviation of the Metropolitan Airport Authority of Rock Island County at the following address: Metropolitan Airport Authority of Rock Island County, Quad City International Airport, P.O. Box 9009, Moline, Illinois 61265.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Metropolitan Airport Authority of Rock Island County under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Richard A. Pur, Airports Engineer, FAA, Great Lakes Region, Chicago Airports District Office, 2300 East Devon Avenue, Room 320, Des Plaines, Illinois 60018, 847–294–7527. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Quad City International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 29, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Metropolitan Airport Authority of Rock Island County was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 26, 2001.

The following is a brief overview of the application.

PFC application number: 01–04–C–00–MLI.

Level of the proposed PFC: $4.50.

Proposed charge effective date: July 1, 2016.

Proposed charge expiration date: July 1, 2017.

Total estimated PFC revenue: $1,520,320.00.

Brief description of proposed projects: Purchase of Aircraft Rescue and Fire Fighting Equipment, Purchase of two Regional Jet Boarding Bridges.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Metropolitan Airport Authority of Rock Island County.

Issued in Des Plaines, Illinois on September 5, 2001.

Gary E. Nielsen,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–23694 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (01–03–I–00–TEX) to Impose a Passenger Facility Charge (PFC) at Telluride Regional Airport, Submitted by the County of San Miguel, Colorado and the Telluride Regional Airport Authority

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at the Telluride Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Richard W. Nuttall, Airport Manager, at the following address: Telluride Regional Airport, P.O. Box 1807, Telluride, Colorado 81435.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Telluride Regional Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (01–03–I–00–TEX) to impose a PFC at Telluride Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 7, 2001, the FAA determined that the application to impose a PFC submitted by San Miguel County, Colorado, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 5, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: April 1, 2002.

Proposed charge expiration date: December 31, 2007.

Total requested for impose only approval: $430,000.

Brief description of proposed projects: Acquire land, engineering design services for future runway and runway safety area upgrades.

Class or classes of air carriers that the public agency has requested not be required to collect PFC's: Non-scheduled/On Demand air carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Telluride Regional Airport.

Issued in Renton, Washington on September 7, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–23568 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–04–C–00–ALO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waterloo Municipal Airport, Waterloo, Iowa

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of

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1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or be received on or before October 22, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Kim Bakker, Assistant Director of Aviation, Waterloo Municipal Airport, at the following address: 2790 Livingston lane, Waterloo, Iowa 50703.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Waterloo Municipal Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 901 Locust, Kansas City, MO 64106, (816) 329–2641. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 29, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Waterloo Municipal Airport was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 28, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: February, 2002.

Proposed charge expiration date: July, 2004.

Total estimated use revenue: $801,800.

Total estimated impose revenue: $291,800.

Brief description of proposed project(s): Terminal Building Modernization—Construction; Runway 12/30 Rejuvenation; Runway 18/36 Rejuvenation; Reconstruct Taxiway E; Reconstruct Taxiway A.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Waterloo Municipal Airport.

Issued in Kansas City, Missouri on August 29, 2001.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 01–23695 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2001–9270]

Wabtec Railway Electronics; Public Hearing

On April 6, 2001, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** (66 FR 18351) announcing Wabtec Railway Electronic's (Wabtec) request to obtain a permanent waiver of compliance from certain provisions of the Power Brakes and Drawbars regulations, 49 CFR part 232, regarding two-way end-of-train devices. Specifically, § 232.23(f)(2), which requires: "The rear unit batteries shall be sufficiently charged at the initial terminal or other point where the device is installed and throughout the train's trip to ensure that the end-of-train-device will remain operative until the train reaches its destination." Due to an administrative error on the part of the agency, an incomplete copy of Wabtec's petition was filed in the public docket. That error was corrected and FRA extended the comment period by thirty days with a notice in the **Federal Register** (66 FR 31274).

As a result of the comments received by FRA concerning this waiver petition, FRA has determined that a public hearing is necessary before a final decision is made on this petition. Accordingly, a public hearing is hearby set for 10 a.m. on October 18, 2001, in Conference Room #1 on the seventh floor, at the FRA Headquarters Building, 1120 Vermont Avenue NW., Washington, DC 20005. Interested parties are invited to present oral statements at this hearing. The hearing will be informal and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25) by a representative designated by the FRA. The FRA representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition, without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, DC, on September 12, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23547 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number. FRA–2001–10217

Applicants:

Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer C&S Engineering, 99 Spring Street, S.W., Atlanta, Georgia 30303.

West Tennessee Railroad, Mr. Bruce Hohorst, President, One Depot Street,Trenton, Tennessee 38382.

Norfolk Southern Corporation (NS) and the West Tennessee Railroad jointly seek approval of the proposed discontinuance and removal of the automatic block signal system on the Alabama Division, Jackson District, between Fulton Junction, milepost IC–406.2, near Fulton, Kentucky and Ruslor Junction, milepost IC–526.0, near Corinth, Mississippi, a distance of approximately 120 miles. The proposed changes include the removal of all automatic block signals, conversion of the spring switches to hand operation, and retention of the interlocking signals at Milan, Tennessee, where the NS single main track crosses at grade the single main track of CSX Transportation, Incorporated.

The reason given for the proposed changes is that present and anticipated traffic density and train movements do not warrant retention of the signal system.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on September 12, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23546 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition to open a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted by Mr. John E. Ballow, dated July 20, 2000, to NHTSA under 49 U.S.C. 30162, which requested the agency to commence a proceeding to determine the existence of a defect related to motor vehicle safety in certain General Motors (GM) vehicles equipped with flex fans (part number 336032). After reviewing the petition and other information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues raised by the petition does not appear to be warranted. The agency accordingly denies the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Borris, Safety Defects Engineer, Vehicle Integrity Division, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–5202.

SUPPLEMENTARY INFORMATION: In a letter dated July 20, 2000, John E. Ballow, an attorney in Buffalo, New York, petitioned NHTSA to conduct an investigation of a certain GM flexible blade engine cooling fan and, if later warranted, all flexible radiator fans offered as original equipment in GM vehicles, particularly light duty trucks. The petitioner specifically identified GM Part No. 336032 and alleged that additional injuries have been caused by this component since NHTSA last considered this issue in 1996. Enclosed with the petitioner's letter were opinions and analyses from four independent experts in fan engineering, failure analysis, engine design, and human factors engineering. As an enclosure to a supplementary letter dated September 26, 2000, the petitioner provided numerous photographs depicting the severity of injuries allegedly resulting from separated flex fan blades. NHTSA's Office of Defects Investigation (ODI) conducted a Petition Analysis to determine whether to grant the petition.

The subject fan is a 7-blade, flexible blade engine cooling fan commonly referred to as a "flex fan," which was used on approximately 2.6 million GM vehicles that were produced *without* air conditioning and *with* heavy duty cooling systems. The model years and models in which the fans were used are model year (MY) 1973 through 1979 Chevrolet and GMC C/K 10, 20, and 30 series light duty trucks and the MY 1975 Chevrolet and GMC "G" van (subject vehicles). The flex fan concept was used by many vehicle manufacturers as a way to improve fuel efficiency. Like all flex fans, the subject fan has flexible metal blades, which are attached to the fan hub or "spider" by rivets, and are designed to flex or "flatten out" as the engine speed is increased, thus reducing the load on the engine. However, the subject fans may be susceptible to fatigue failure of the blade resulting from uncontrolled flexing (bending) due to a resonant condition.

Prior to this petition, NHTSA analyzed failures of the 336032 flex fan in response to a similar petition, DP96–007. In a letter dated May 17, 1996, Mary Walsh-Dempsey, an attorney in Scranton, Pennsylvania, petitioned NHTSA to initiate a defect investigation regarding MY 1976 Chevrolet C10 trucks concerning blade separation of the same engine cooling fan (Part No. 336032). On December 3, 1996, NHTSA denied the Walsh-Dempsey petition based on evidence showing a low failure rate, along with some consideration of the subject vehicles' age and remaining useful life.

After receiving the Ballow petition, NHTSA requested certain information from GM, requested additional information from the Petitioner, searched its database for reports of fan blade separations, and reviewed the experts' reports and credentials.

The subject fan was originally produced for GM by Canadian Fram,[1] which ceased production in approximately 1993. It was at this time that GM made a one-time purchase to maintain an inventory for future service parts. New replacements of the subject fan are available only from GM dealerships, although used units may still be available from automotive salvage businesses. At the time of this writing, GM estimates its inventory to be approximately 500 units. Part sales of the subject fan from GM dealers over the last four calendar years (1997–2000) averaged 211 units per year.

NHTSA has identified four reports of alleged failure of the subject fan since December 3, 1996, when DP96–007 was denied. Each report alleges an injury. These incidents occurred between January 1998 and September 2000. Reports on two of these incidents were provided by GM with the remaining two coming from NHTSA's database and the petitioner. One of the GM reports includes color photographs indicating the owner was struck in the neck and shoulder, requiring hospitalization.

GM's response also included two reports prepared by Canadian Fram for Chevrolet Engineering following its analysis of failed subject fans. Each of the reports, dated June 1978 and February 1979 respectively, documents findings that:

[1] Canadian Fram, Ltd., was acquired by Bendix Engine Components, Ltd., which was acquired by Allied Signal, Inc., which was acquired by Siemans Automotive, Ltd.

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- The failure was due to fatigue cracking;
- The crack initiated near the third rivet on the concave (engine side) of the blade under the deflection limiting cap (below the visible surface); and
- There was no evidence of prior mechanical damage.

The author of each report concluded that the failure resulted from "a resonant condition in the particular vehicle." Experts working on behalf of the Petitioner offered similar findings after examining failed subject fans. One of the experts, a recognized authority in the fan industry and author/editor of the 6th, 7th, and 8th editions of *Fan Engineering*, examined the remains of three failed subject fans. The expert reported the same findings as Canadian Fram, differing only in his belief that the resonant condition is inherent in *all* 336032 flex fans.

ODI reviewed documents submitted by GM which clearly indicate that fatigue failure was an issue of concern to GM engineers. Numerous tests were performed on the subject flex fan by Canadian Fram and GM Engineering between 1973 and 1979 to both validate fan performance and to measure strains imparted to the fan assembly. However, the testing methods employed by and for GM were questionable. For example, in order to measure strain on the fan blade, GM engineers instrumented the fan blades with strain gauges while rotating the subject fan on an apparatus to simulate the rotational inputs of the engine. The location of the strain gauges was determined by coating the visible surface of the subject fan blade with stresscoat [2] and observing the location and magnitude of cracks in the stresscoat resulting from rotating the fan at various speeds. However, as mentioned earlier, field experience has shown cracks in the subject fan blades tend to develop at a location on the blade below the visible surface. According to documents submitted by GM, all strain measurements with respect to the blade were taken only on the visible blade surface. Moreover, there is no indication that GM test engineers disassembled test specimens to inspect for the presence of cracks below the cap.

The subject fan is not the only flexible blade fan installed as original equipment by GM. In fact, it is one of a total of 38 unique part numbers for flexible blade fans representing more than 7,100,000 fans in addition to the 2,600,000 subject fans. However, the subject fan is over-represented with respect to the number of lawsuits brought against GM. ODI requested information from GM describing all lawsuits, out-of-court settlements, and offers of goodwill where GM is a party and which pertain to the performance of any GM fan, including fixed-pitch fans. GM's response includes information on 55 lawsuits alleging separation of a fan blade. Of this number, at least 49 (89%) identify the subject fan, two are unidentified, and four are other GM flex fans. None of the lawsuits, or any reports submitted by GM, allege a fan blade separation of a fixed-pitch fan.

In its response to ODI, GM attributed fan blade separation to the following:

- Reuse of fans with bent or broken blades;
- Preexisting, collision-induced damage;
- Interference with other engine compartment components;
- Water pump malfunctions; and
- Misapplication of the fan with drive train components not intended by GM.

As mentioned above, there have been four injury reports related to blade separation in the subject fan since December 3, 1996, when DP96–007 was denied. The estimated exposure based on the *registered* vehicle population of the subject vehicles for calendar years 1997 through May 2001 is 2.8 million vehicle years, yielding a failure rate of 0.14 per one hundred thousand vehicle years of exposure. It should be noted that this number does not represent the rate of flex fan blade separation but only the rate of reports.

Due to the potential for fatal or debilitating injuries associated with flex fan blade separation, ODI decided to enter into discussions with GM in which it urged GM to provide vehicle owners and mechanics with a warning about the safety risks. As a result of those discussions, GM agreed that it would send notification letters to owners of vehicles with the subject flex fan warning them of the potential for serious or fatal injuries resulting from flex fan blade separation and suggesting that they obtain a replacement fan.

Beginning the week of April 16, 2001, GM began mailing letters to affected owners warning of the potential for injury if failure were to occur and urging them to replace the fan regardless of its condition. The letter includes a picture and detailed description of the subject fan and reiterates that initial fatigue cracks may not be visible. In order to provide owners with some options for fan replacement, GM initiated production of a 4-blade, fixed-pitch fan (GM part number 461317) for distribution to GM dealerships and also suggested that owners consider purchasing such fans from after-market suppliers. GM also agreed to notify its dealers to stop sale of the subject fan and return any remaining inventory to GM.

In order to further minimize the potential for future injuries related to the subject fan, ODI contacted the Governmental and Industry Relations Office of the American Recyclers Association (ARA) to increase awareness of this issue and request their assistance in informing their membership. The ARA represents approximately 2,000 member companies through direct membership and over 3,000 other companies through 52 affiliated chapters. In response to ODI's request, the ARA notified its membership via electronic mail of GM's efforts with respect to the subject flex fan and suggested that they also stop the sale of the subject flex fan. Although the GM action is not a formal safety recall, it will help to make owners aware of the potential safety problem and encourage them to replace this fan.

After reviewing the petition and its supporting materials, as well as information furnished by GM and information within the agency's possession from previous investigations and other related actions, NHTSA has concluded that further investigation of the subject vehicles concerning the alleged fan failure is not likely to lead to a decision that the vehicles contain a safety defect. This is primarily based on the very large number of exposure years and the low failure rate, the age of the vehicles (22 to 28 years old), and the actions taken by GM and ARA.

For the foregoing reasons, further expenditure of the agency's investigative resources on the allegation in the petition does not appear to be warranted. Therefore, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at 49 CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–23686 Filed 9–20–01; 8:45 am]

BILLING CODE 4910–59–P

[2] Also known as brittle lacquer, stresscoat is a liquid coating applied to a test surface and allowed to harden. As the surface is stressed during operation, cracks form in the stresscoat indicating areas of deformation (strain).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34072]

Southwestern Railroad Company, Inc.—Acquisition, Lease, and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Southwestern Railroad Company, Inc. (SWRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 5.7 miles of rail line and to lease and operate approximately 54 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company. The line being acquired is located between milepost 5+3763 feet, near Peruhill, NM, and milepost 0.0, at Deming, NM. The line being leased is located between milepost 1134, at Deming, and milepost 1080, at Rincon, NM.[1]

The transaction was expected to be consummated on or shortly after September 7, 2001, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34072, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Ball Janik, LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: September 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23499 Filed 9–20–01; 8:45 am]

BILLING CODE 4915–00–M

[1] SWRR certifies that its projected revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

DEPARTMENT OF THE TREASURY

Customs Service

Fees for Customs Services at User Fee Airports

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document advises the public of an increase in the fees charged by Customs to user fee airports for providing Customs services at these designated facilities. The fees are based on the actual costs incurred by Customs in purchasing equipment and providing training and one Customs inspector on a full-time basis, and, thus, merely represent reimbursement to Customs for services rendered. The fees to be increased are the initial fee charged for a user fee airport's first year after it signs a Memorandum of Agreement with Customs to become a user fee airport, and the annual fee subsequently charged user fee airports.

EFFECTIVE DATE: The new fees will be effective October 1, 2001, and will be reflected in quarterly, user fee airport billings issued on or after that date.

FOR FURTHER INFORMATION CONTACT: Cynthia Sargent, Budget Division, Office of Finance, (202) 927–0609.

SUPPLEMENTARY INFORMATION

Background

Section 236 of the Trade and Tariff Act of 1984 (Pub. L. 98–573, 98 Stat. 2992) (codified at 19 U.S.C. 58b), as amended, authorizes the Secretary of the Treasury to make Customs services available at certain specified airports and at any other airport, seaport, or other facility designated by the Secretary pursuant to specified criteria, and to charge a fee for providing such services. (The list of user fee airports is found at § 122.15 of the Customs Regulations (19 CFR 122.15).) The fee that is charged is in an amount equal to the expenses incurred by the Secretary in providing Customs services at the designated facility, which includes purchasing equipment and providing training and inspectional services, i.e., the salary and expenses of individuals employed by the Secretary to provide the Customs services, and, thus, merely represents reimbursement to Customs for services rendered. The fees being raised are the initial fee charged a user fee airport after it signs a Memorandum of Agreement with Customs so that it can begin operations (currently set at $117,600), and the annual fee subsequently charged so that user fee airports can continue to offer Customs services at their facilities (currently set at $84,500). The notice announcing the current user fee rates was published in the **Federal Register** on September 13, 2000 (65 FR 55327).The user fees charged a user fee airport are typically set forth in a Memorandum of Agreement between the user fee facility and Customs. While the amount of these fees are agreed to be at flat rates, they are periodically adjusted, as costs and circumstances change.

Adjustment of User Fee Airport Fees

Customs has determined that, in order for the user fee charged to actually reimburse Customs for expenses incurred in providing requested services, the initial fee must be increased from $117,600 to $118,000, and the recurring annual fee subsequently charged must be increased from $84,500 to $88,500. The new fees will be effective October 1, 2001, and will be reflected in quarterly, user fee airport billings issued on or after that date.

Dated: September 17, 2001.

Wayne Hamilton,

Assistant Commissioner, Office of Finance.

[FR Doc. 01–23579 Filed 9–20–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–67; Customs Delegation Order No. 01–006]

Customs Succession and Performance of Essential Functions in the Event of a National Security Emergency

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Delegation order.

SUMMARY: This document sets forth Customs Delegation Order No. 01–006, signed by the Acting Commissioner of Customs on August 7, 2001, providing the order of succession of officers of the Customs Service to act as Commissioner of Customs in the event of a national emergency and delegating to various field officers the authority to perform essential functions in the event of a national security emergency.

EFFECTIVE DATE: August 7, 2001.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2001, Acting Commissioner of Customs Charles W. Winwood issued Customs Delegation Order Number 01–006, effective on that date, entitled "Customs Succession and Performance of Essential Functions in

the Event of a National Security Emergency."

The sources of the authority being delegated are Treasury Order 165 and Executive Order 12656, dated November 18, 1988.

Delegation Order 65, dated September 28, 1982, is superseded by Delegation Order Number 01–006.

The text of the delegation order is set forth below.

Dated: September 17, 2001.

Douglas M. Browning,

Acting Assistant Commissioner, Office of Regulations and Rulings.

Customs Succession and Performance of Essential Functions in the Event of a National Security Emergency

1. Order of Commissioner of Customs Succession

Under the authority of Treasury Department Order No. 165, and in compliance with Executive Order 12656, dated November 18, 1988, it is hereby ordered that the following officers of the U.S. Customs Service, in the order of succession enumerated, shall act as Commissioner, in the event of a national security emergency, which is defined as any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States, or during the absence or disability of the Commissioner, or when there is a vacancy in such office. The order of succession is as follows:

The Deputy Commissioner of Customs
The Assistant Commissioner, Field Operations
The Assistant Commissioner, Investigations
The Assistant Commissioner, Finance
The Assistant Commissioner, Information and Technology
The Assistant Commissioner, Strategic Trade
The Assistant Commissioner, International Affairs
The Assistant Commissioner, Regulations and Rulings
The Assistant Commissioner, Internal Affairs
The Assistant Commissioner, Human Resources Management
The Assistant Commissioner, Training and Development
The Assistant Commissioner, Public Affairs
The Assistant Commissioner, Congressional Affairs
The Trade Ombudsman
The Director, Field Operations, New York Customs Management Center
The Director, Field Operations, South Florida Customs Management Center

2. Authority To Continue To Perform Essential Localized Functions

By virtue of the authority vested in the Commissioner by Treasury Department Order No. 165, and in compliance with Executive Order 12656, dated November 18, 1988, it is hereby delegated to the Directors of Field Operations; Port Directors; and Special Agents-in-Charge, the authority to perform any function of the Commissioner of Customs which is necessary to ensure continuous performance of essential local functions otherwise assigned to such officers, thereby assuring the continuity of the Federal Government in a national security emergency, as defined in (1) above. This delegation of authority will remain in effect until notice has been received from proper authority that it has been terminated.

Additional guidance may be found under Federal Preparedness Circular FPC–61 dated August 2, 1991 (Appendix K).

Charles W. Winwood,

Acting Commissioner of Customs.

[FR Doc. 01–23580 Filed 9–20–01; 8:45 am]
BILLING CODE 4820–02–P

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Federal Register

Friday,
September 21, 2001

Part II

National Credit Union Administration

12 CFR Parts 703 and 704
Investment and Deposit Activities; Corporate Credit Unions; Proposed Rule

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 703 and 704

Investment and Deposit Activities; Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA is issuing proposed revisions to the rule governing corporate credit unions (corporates). The rule was completely revised in 1997. The proposed amendments are based on NCUA's three-year experience with the rule and two advance notices of proposed rulemaking. The major revisions to the rule are in the areas of capital and credit concentration limits, with an emphasis on making these provisions more comparable to those of the other financial regulators while still taking into account the unique nature of corporates. The major changes to these two areas necessitate some substantive changes to other provisions of the rule. Several other minor revisions are generally either a clarification or a modernization of the existing rule.

DATES: Comments must be received on or before December 20, 2001.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to *regcomments@ncua.gov. Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Kent Buckham, Deputy Director, Office of Corporate Credit Unions, at the above address or telephone (703) 518-6640; or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

On July 28, 1999, NCUA issued an advance notice of proposed rulemaking that requested comment on several issues the Board identified as areas of the corporate rule it was interested in clarifying or revising. 64 FR 40787, July 28, 1999. In addition, the Board welcomed comment on other sections of part 704 not addressed in the advanced notice. *Id.* As a result of those comments, the Board identified additional areas of part 704 it was interested in revising or clarifying and issued a second advance notice of proposed rulemaking. 65 FR 70319, November 22, 2000. The comments to both advance notices have greatly assisted the Board in drafting the proposed rule and will be discussed in the relevant section of the section-by-section analysis of the proposal.

B. Section-by-Section Analysis

Capital Section 704.3, Section 703.100

The Board requested comment on amending the various capital definitions so that they are more analogous to those used by other financial regulators.

Additionally, the Board sought specific comment on changes that would result in one measure of capital. Currently, the regulation provides two capital measures. One measure includes all the various components of capital. The second measure, which is utilized for credit concentration limits, is based on specific capital components. 12 CFR 704.6(c).

Sixteen of the 23 commenters that responded on this issue supported aligning capital requirements with other financial regulators but stressed the alignment must take into account the uniqueness of corporates. Only two commenters supported an alignment as proposed and five objected to any alignment.

The sixteen qualified commenters, as well as the negative commenters, emphasized there are currently no safety and soundness problems in the corporate system, corporates have significantly lower risk than commercial banks, and corporates are unique in their mission, ownership, and structure. The majority of assets owned by commercial banks are loans made to businesses or individuals. Corporates' assets are generally investment-grade quality investments. In addition, the assets of a corporate generally mature much sooner than the assets of a bank. For these reasons, the commenters noted corporates have significantly lower risk than banks.

The sixteen commenters, although not wanting identical capital requirements, note that some form of comparability would be helpful in promoting a clearer understanding of corporates by other regulators and Congress.

Several of these commenters noted that other financial regulators are looking at different, simplified capital requirements for smaller, non-complex institutions. A determination that an institution is non-complex would be based on structure, size, and complexity of operations. These commenters contended that corporates are most like the Federal Home Loan Bank System. The Federal Home Loan Bank System has new leverage and risk-based capital requirements. 12 CFR part 932.

Those opposed to any revision noted that nothing has changed since the last rewrite of the corporate rule to warrant a change and, while it is a worthwhile goal to have comparable capital requirements, the issues of which regulator to align with and how to take into account a corporate's reduced risk outweigh the benefits of changing the capital requirements.

The National Association of State Credit Union Supervisors (NASCUS) and the American Bankers Association (ABA) supported the proposed change. NASCUS stated that the proposed change would assist the 38 out of 48 state-chartered credit union supervisory authorities that also regulate banks. The ABA states the proposed changes would bring credit unions closer to banks, but did not go far enough.

The majority of those that responded to the issue of membership capital (MC) and paid-in-capital (PIC) strenuously objected to adding additional requirements to these accounts in order for them to qualify as capital. The proposal counted as capital only PIC that qualified as capital under generally accepted accounting principles (GAAP), that being, non-cumulative dividend, perpetual maturity PIC. The proposal would have changed the minimum withdrawal period for MC from three years to five years. The proposal was intended to make MCs more analogous to Tier 2 capital utilized by other financial institution regulators. The practical effect of the change would be that corporates could only count 60 percent of every dollar of three year MC in the net economic value (NEV) calculation. Some of the reasons for opposing this change were that: it isn't warranted because MC is at 100 percent risk until maturity; it could send the wrong message to the industry, namely, that corporates are in trouble; based on a change to NCUA's regulations, corporates just four years ago asked their members to extend their MC accounts from one year to three years; and it would make corporates less competitive with other financial institutions that don't require a capital commitment.

The commenters generally supported treating all MC, PIC, and reserves and undivided earnings (RUDE) as capital throughout the regulation.

The Board recognizes the unique nature of the credit union system and the vital role that corporates play. The risks inherent in corporates are different than found in most other financial institutions. However, the Board is also cognizant that the regulation must provide a sound capital structure that

helps maintain the confidence of members, the public, and Congress.

The Board is not proposing to change the current definitions of MC and PIC to require those accounts to follow GAAP in order to qualify as capital. The Board recognizes the high credit quality and liquidity of most corporate assets provide reasonable assurance that MC and PIC will be available to absorb losses.

The Board concurs that the various components of capital in the regulation should all be included in the definition of capital. The Board has eliminated the separate limitations based on "the sum of reserves and undivided earnings and paid-in capital" existing in the current regulation. 12 CFR 704.6, 704.7, 704.8 and 12 CFR part 704, Appendix B. In the proposed regulation, all references to capital include membership capital, paid-in capital, and RUDE.

The Board believes a corporate should have the regulatory flexibility to use the alternatives best fitting its specific needs in building a strong capital position. The current regulation limits the amount of PIC a corporate may issue to no more than the total of RUDE. The existing limitation was adopted as a means of building RUDE and due to the lack of any historical experience on the part of corporates in issuing PIC. Since the revised part 704 became effective in 1998, corporates have been successful in building RUDE and their PIC offerings. 62 FR 12929, March 19, 1997. Therefore, the Board is no longer requiring PIC to be no greater than total RUDE.

Additionally, the Board is changing the requirement that all nonmember PIC be approved by NCUA to provide regulatory relief. Nonmember PIC having terms and conditions identical to member PIC will not require prior NCUA approval. Nonmember PIC with different terms and conditions than member PIC will continue to require prior NCUA approval.

NCUA asked for comment on whether the rule should require the measure for adjusted balance MC accounts be based on a 12-month average, rather than the current practice of basing the measure on a particular point in time. The current rule is silent on this issue.

Seventeen of the 18 commenters responding to this issue objected to a 12-month average. Some of the reasons given in opposition to a 12-month average were that: it would be difficult operationally because members only prepare these figures quarterly or semi-annually; a corporate shouldn't be requiring more information from its members than the regulator; it would be a huge burden on small credit unions; some credit unions may leave the system because of the added burden; and the method and frequency of the adjustment should be left to the discretion of the corporate not the regulator.

The Board concurs with the commenters that tracking a 12-month average adjusted balance measure could place additional burden on corporates and on small natural person credit unions. However, the Board believes clarification of the requirements of adjusted balance accounts is necessary. Although not specifically stated in § 704.2, it was intended that the adjustment period would be annual and the adjustment measure would be a natural person credit union's assets. The Board is wary of an adjustment measure that could fluctuate rapidly, resulting in an outflow of MC if the measure declines. In a scenario where investments in a corporate are the measure and the adjustment period is monthly, a member credit union could potentially withdraw its investments and be refunded its entire MC balance within a matter of days. The Board's overriding goal is that MC has a level of "permanence" while allowing corporates the latitude to structure the accounts to best suit their needs, as well as the needs of their members. To that end, the Board is proposing the adjustment period may be no more frequent than once every six months. In addition, if a corporate uses a measure other than a member's assets, it must address the measure's permanence in its capital plan.

NCUA requested comment on whether there should be a minimum RUDE ratio of two percent for all corporates. RUDE ratio is defined as RUDE divided by moving daily average net assets (DANA).

Fifteen of the 21 commenters commenting on this issue objected to a minimum RUDE ratio of two percent. Those in opposition stated that there was no evidence it would have any impact on ensuring the stability of a corporate's capital. Those commenters stated it is not useful and the total capital ratio, coupled with minimum risk-based capital and NEV ratios, is a more appropriate way of determining capital adequacy. Several commenters questioned why it is necessary.

Some of the comments in support of this requirement stated it provides a meaningful measure to compare corporates to other financial institutions because most other regulators have similar minimum core capital requirements.

The Board remains convinced that a minimum RUDE ratio of two percent is useful in the overall determination of capital adequacy. Given the proposal to use one capital measure including all capital components, use the broader definition of capital for credit concentration limits, and lower the minimum credit rating requirements, the Board is convinced a minimum RUDE ratio of two percent will be beneficial. A minimum RUDE ratio requirement will provide a core capital level comparable to other financial institutions and ensure a level of protection to the holders of MC and PIC.

The Board believes the introduction of a minimum RUDE ratio negates the need for a minimum reserve ratio or the need for mandated reserve transfer levels. Corporates will be required to maintain a minimum RUDE ratio on an ongoing basis and make operational adjustments as necessary to meet that goal. As such, the proposed regulation eliminates the reserve ratio and reserve transfer requirements.

NCUA requested comment on whether there should be a credit-risk weighted capital requirement since corporates have capital in relation to risk that is comparable to the risked-based total capital of other financial institutions. This comparability may not be evident because of current definitions and the lack of a required measurement. The majority of commenters responding to this issue did not object to a requirement.

Although the Board gave strong consideration to adopting a credit-risk weighted capital requirement for corporates to enhance comparability with other financial institutions, the proposed rule does not have this requirement. The Board believes the adoption of a credit-risk weighted capital requirement is not warranted because of the high credit quality of corporates' assets. In addition, it would significantly increase the size of the existing rule and add a regulatory burden. Comparability with other financial institutions can be attainted through some of the other proposed capital revisions. The Board notes corporates may voluntarily choose to calculate and monitor credit-risk weighted capital.

A number of corporates responding to the issue of a credit-risk weighted capital requirement suggested reducing the qualifying portion of MC by 33⅓ percent each year after notice is given or before the term expires. Additionally, they recommended that PIC be reduced by 33⅓ percent each year of its last three years to maturity. The commenters indicated that these adjustments would make the capital ratio more comparable to that used by other financial institutions. The Board is desirous of a

periodic, rather than annual reduction in qualifying MC and PIC, once notice is given or the last three years to maturity is reached. As such, the Board proposes MC placed on notice, term MC that is three years from expiring, or PIC with three years to maturity be amortized on a monthly basis with no portion of the balance counting as qualifying capital during the last 12 months. To achieve that result, the Board proposes an amortization of those accounts of 1/24th per month so that the amount is fully amortized 12 months before the scheduled release of the funds.

The Board is also adding wording to the definition of PIC that was inadvertently left out of the current regulation. Specifically, the revision states PIC cannot be pledged against borrowings. This provision currently exists for MC. The provision is equally important for PIC as it absorbs losses before MC.

The proposal also clarifies that funds in MC and PIC accounts are not automatically releasable due to the merger, charter conversion, or liquidation of the natural person credit union member account holder. Further, in the event of the merger of the corporate, the MC and PIC accounts transfer to the continuing corporate.

Finally, the Board proposes taking the requirements for MC and PIC out of the definitions in § 704.2 and moving them to the capital requirements provision in § 704.3(b) and (c). Section 704.2 still has definitions of MC and PIC. The definitions of "member PIC" and "nonmember PIC" have been deleted from the definition section and the requirements for each are now included in proposed § 704.3(c).

The Board requested comment on amending § 703.100(c) to increase the limit of the aggregate purchase of member PIC and MC in one corporate from one percent to two percent. Additionally, the Board sought comment on adding an aggregate limit of PIC and MC in all corporates of four percent. Fifteen commenters supported both proposals, one commenter only supported the increase to two percent aggregate in one corporate, and one commenter objected to both proposals.

The NCUA Board believes the ability of natural person credit unions to purchase the capital instruments of corporates has been a positive force in bringing about capital redistribution within the credit union system. Many natural person credit unions rely heavily on corporates for liquidity, investment products, and other financial services. Historically, while capital in natural person credit unions has been very strong, corporate capital was not considered to be at desired levels. Since 1992, many natural person credit unions have committed their funds to build capital in the corporate credit union system.

The Board is persuaded both the corporate and the natural person credit unions receive a benefit if a greater level of capital acquisition in one corporate is allowed. However, the Board is also cognizant that any excessive concentration of natural person credit union funds in corporate credit union capital offers the potential for additional risk in the system. Currently, the regulation does not place a limit on the number of corporates from which a natural person credit union may purchase MC or member PIC. As such, a natural person credit union could theoretically purchase up to one percent of its assets in the MC or member PIC of more than 30 corporates. The Board believes there is a need to balance the ability of natural person credit unions to purchase higher levels of capital in the one or two corporates in which they primarily obtain services with the need to place a reasonable limitation on the total corporate capital one natural person credit union can acquire.

The existing regulation only limits "member" PIC. However, as a natural person credit union may acquire PIC of a corporate in which it is not a member, the regulation has been revised to set limitations on PIC as a whole.

The Board proposes raising the limitation on the aggregate purchase of MC and PIC in one corporate from one percent to two percent of assets. Further, the Board proposes adding a limitation on the aggregate purchase of MC and PIC in all corporates to four percent of assets.

The Board believes there is a need to clarify the existing wording on the limitations in § 703.100. Purchases of MC and PIC are limited to a percentage of the assets of the natural person credit union. As assets are a fluid rather than a static measure, a natural person credit union could be deemed in compliance with the regulatory limitation on one day, and out of compliance the next as assets grow and contract. Therefore, the Board is proposing to clarify the limitation is a percentage of the natural person credit union's assets measured at the time of purchase.

Board Responsibilities Section 704.4

This section of the regulation requires a corporate's board to approve and maintain comprehensive written strategic plans and operating policies and ensure senior management carries them out. One commenter expressed concern that use of the term "operating policies" may be construed to require a corporate board to develop operational policies or procedures. This is not the Board's intent. To clarify this, the Board proposes changing the term "operating policies" to "policies" throughout this section of the rule.

This commenter also expressed concern that using the word "procedures" in subsection (c) could be interpreted to require a corporate's board to approve operational procedures. This section was not intended to turn directors into operating managers. To clarify this, the Board proposes changing the title of this section to "Other requirements."

Investments Section 704.5

The Board proposes several changes to the investment related definitions in § 704.2. The Board proposes deleting the definitions of: Commercial mortgage related security; Market price; Mortgage servicing; Non secured obligation; Prepayment model; and Real Estate Mortgage Investment Conduit (REMIC). These terms are no longer used in the regulation.

The Board proposes amending the definitions of:

Asset-backed security (ABS). The Board proposes eliminating the overlap between the definitions of mortgage related securities and ABS and conforming the definition to the current instructions for the 5310 Call Report. The proposal excludes only mortgage related securities from the definition of ABS, rather than all mortgage backed securities.

Collateralized mortgage obligation (CMO). Currently, the definition of a CMO includes all multi-class bonds collateralized by mortgages or mortgage-backed securities. The Board proposes to narrow this definition to a multi-class mortgage related security. This conforms to the amended definition of an ABS.

Forward settlement. The Board proposes replacing "settlement on a date other than the trade date" with "settlement on a date later than regular-way settlement." This change conforms the definition of forward settlement to the usage in § 704.5(g).

Quoted market price. The Board proposes defining a quoted market price as a recent sales price or a price based on current bid and asked quotations. This definition replaces the definition of market price, which is defined as the price at which a security can be bought or sold. Because market price is used to refer to the value of more than just securities, the Board proposes to omit the reference to a security. The proposed definition is consistent with the definition of a quoted market price in accounting standards. Statement of Financial Accounting Standards No. 133, as amended and interpreted (FASB Statement No. 133).

Mortgage related security. The Board proposes replacing the phrase "*i.e.*" with the phrase "*e.g.*" The Board did not intend to limit the definition to the one stated example, privately-issued securities. This change makes the definition consistent with the definition in the Securities Exchange Act of 1934.

Regular-way settlement. The current definition refers to the specific number of days established for a type of security. The Board proposes to clarify this refers to the time frame the securities industry has established for immediate delivery. This change is consistent with the definition in § 703.100(a) and FASB Statement No. 133. The Board proposes examples of regular-way delivery to further clarify its intent.

Repurchase transaction. The current definition refers to resale of a security "at a later date." The proposed definition refers to resale of a security "at a specified future date and at a specified price." This is a non-substantive clarification that is consistent with the definition in § 703.100(i).

Residual interest. This proposed change deletes the reference to REMIC, which is redundant with CMO, and includes ABS residuals within the definition.

In conjunction with the changes to the investment definitions in § 704.2, the Board is proposing several changes to the investment provision of the rule. 12 CFR 704.5.

Policies section 704.5(a). The Board proposes combining the policy requirements in this section and deleting "if any" from § 704.5(a)(1) to clarify that a corporate must have "appropriate tests and criteria" to evaluate the investments it makes on an ongoing basis, as well as new types of investments.

Section 704.5(a)(2). Since the marketing of liabilities to members is not an investment or investment transaction, the Board proposes deleting that provision from the investment policy requirements. The Board proposes requiring a corporate's investment policy to address reasonable concentration limits for limited liquidity investments. To ensure safety and soundness prior to purchase, a corporate must identify characteristics of an investment that may place restrictions on the sale of an investment (such as privately placed securities) or limit the appeal of an investment to other potential investors. A corporate's board must assess its liquidity position and establish appropriate aggregate limits on such limited liquidity investments.

Authorized Activities

Section 704.5(c)(5). The Board proposes clarifying that ABS must be domestically issued. The Office of Corporate Credit Unions (OCCU) issued a guidance letter to all corporates dated May 19, 2000, noting many domestically issued ABS have some type of foreign exposure. As stated in that letter, the Board notes that any undue concentrations or safety and soundness issues arising from investments in domestically-issued ABS with foreign exposure will be addressed as a supervision issue. Examiners will evaluate the ability of corporate staff to analyze ABS structures containing significant foreign exposure. The degree of foreign credit analysis expertise required at a corporate will depend on the extent of foreign exposure. For example, if a corporate relies on a domestic mono-line insurance wrap of foreign receivables, examiners will review a corporate's credit analysis of the insurance company and determine whether credit concentration limits to the insurance company are appropriate.

Section 704.5(c)(6). This provision specifically authorizes investments in CMOs. Several corporates have noted CMOs are either within the meaning of mortgage related security or asset-backed security. Accordingly, the Board proposes to delete this provision. Investments in CMOs, as the Board proposes to amend that term, would continue to be authorized under § 704.5(c)(1), the mortgage related security provisions of 12 U.S.C. 1757(15). Investments in other real-estate related securities would continue to be authorized under § 704.5(c)(5), domestically-issued asset-backed securities.

Repurchase Agreements section 704.5(d). The Board proposes several changes to the requirements for repurchase agreements. The first amendment clarifies that a corporate must obtain a perfected first priority security interest in repurchase securities, either directly or through its agent. This change is consistent with the provisions in § 704.5(e), for economically similar securities lending transactions. The second amendment deletes the requirement to sell a security in the event of a default. This change conforms to cash market practice and provisions of the Bond Market Association's Master Repurchase Agreement that permit a corporate to retain the securities. The third amendment clarifies a corporate may obtain daily assessment of the market value of the repurchase securities either directly or through its agent. This change conforms to the cash market practices of a third-party custodian acting as agent in a tri-party agreement between the corporate, the repurchase counterparty, and the safekeeping agent. Fourth, the Board proposes deleting the phrase "including a market quote or dealer bid indication and any accrued interest" because the cash market practice is to use "market value" as defined in the Bond Market Association's Master Repurchase Agreement. Fifth, the rule clarifies a corporate must ensure compliance with the contract terms. The Board notes a corporate using an agent must ensure its agent adequately ensures compliance. Finally, the rule deletes the requirement to have sufficient market relationships established in advance to timely execute the disposition of repurchase securities. This regulatory provision is unnecessary, as the prevailing cash market practice requires sale or deemed sale in a commercially reasonable manner.

Securities Lending section 704.5(e). The Board proposes several changes to the requirements for securities lending transactions. The proposed rule clarifies that a corporate may act directly or through its agent. The requirement to assess collateral is currently based on a "market quote or dealer bid indication." The Board proposes deleting the phrase "including a market quote or dealer bid indication and any accrued interest" because the cash market practice is to use "market value" as defined in the Bond Market Association's Master Securities Loan Agreement. The proposal requires a written contract with all agents and requires the corporate or its agent to ensure compliance with the loan and security agreements. The Board proposes to delete as redundant the requirements to approve any form of agreement attached to the written loan and security agreement and the right to approve any material modification to such agreement. These proposed changes are consistent with the proposed changes for repurchase transactions.

Investment companies Section 704.5(f). The Board proposes to clarify in § 704.5(f) that the prospectus is the document restricting the portfolio of an investment company. This change is non-substantive and is consistent with the provisions of § 703.100(d).

Prohibitions Section 704.5(h). This section prohibits pair-off transactions,

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when-issued trading, adjusted trading, and short sales. These prohibitions restrict a corporate from effectively engaging in trading securities. Accordingly, the Board proposes adding "trading securities" to the list of prohibited activities. Trading securities means buying and selling "securities that are bought and held principally for the purpose of selling them in the near term (thus held for only a short period of time)." FASB Statement No. 115.

The Board proposes retaining the prohibition on investments in residual interests in CMOs, adding a prohibition on investment in residual interests in ABS, including real-estate related ABS, and eliminating the redundant prohibition on investments in REMICs. The purpose of these revisions is to continue the prohibition on residual interests in multi-class bond issues collateralized by mortgages or mortgage-backed securities that are not within the revised definition of CMO. The prohibition on investments in the residual interests in ABS is being added for safety and soundness reasons.

The Board proposes deleting the prohibition against commercial mortgage related securities. The market for privately-issued commercial mortgage related securities is established. There does not appear to be undue risk relative to other debt obligations if a corporate can reasonably determine the value and price sensitivity of a commercial mortgage related security. The Board notes corporates currently may purchase certain commercial mortgage related securities, such as those issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association.

The prohibition against the purchase of mortgage servicing rights is being moved from the investment section, to the retitled Permissible Services section, because their classification as a service is more appropriate.

Credit Risk Management Section 704.6

The Board proposes adding a definition of "obligor" to the § 704.2 definition section to clarify the meaning of the term. The Board proposes to define "obligor" as the primary party obligated to repay an investment. The definition clarifies obligor does not include the originator of receivables underlying an asset-backed security, the servicer of such receivables, or an insurer of an investment.

Policies section 704.6(a). The Board proposes amending the policy requirements in this section to comply with the proposed new requirement in § 704.6(c) that credit limits be based on capital.

Section 704.6(a)(3). The Board proposes deleting the requirement that the credit risk management policy address loan credit limits, since these are addressed in the lending section.

Section 704.6(a)(4). The Board proposes adding to the examples of concentrations of credit risk an "originator of receivables" and an "insurer." An "originator of receivables" includes a seller/servicer of receivables and an "insurer" includes a monoline insurance company.

Exemption Section 704.6(b). The Board proposes removing investments in subordinated debt of government sponsored enterprises from the exemption section. The issuance of subordinated debt is a recent market initiative. Subordinated debt ranks lower in payout priority than other debt issued or insured by a government sponsored enterprise. The Board believes minimum credit rating requirements and credit concentration limits should apply to lower ranking debt.

Concentration limits section 704.6(c). The Board proposes setting concentration limits in relation to capital. Twenty of the 21 commenters were in favor of setting credit concentration limits as a percentage of capital. Currently, credit concentration limits are based on percentages of RUDE and PIC, rather than the broader measure of capital. The only negative commenter in response to the Board's request for comment was the ABA. Most of the positive commenters qualified their support with the caveat that the definition of capital must give full credit to three-year MC and 20-year PIC. The Board's proposal adopts those comments.

NCUA requested comment on whether credit concentration limits should vary depending upon the credit rating of an investment, in other words, the lower the credit rating, the more restrictive the credit concentration limit. Although the majority of commenters agree there should be limits in relation to risk, they believe a corporate should determine the limits, rather than being controlled by the limits specified in regulations according to ratings of a nationally recognized statistical rating organization (NRSRO or rating agency). They state that a corporate's concentration limits should be a supervisory issue and not a regulatory one. Some commenters noted that NCUA in the past has admonished corporates not to rely solely on ratings from a ratings agency. One commenter stated there is no need for a regulation because, through a combination of expanded authorities, a risk-based capital requirement, and a maximum individual credit exposure limit to any one issuer, there are sufficient safeguards.

NCUA requested comment on establishing a limit for the aggregate credit exposure to a single obligor that has issued debt obligations across multiple rating categories. The majority of commenters responding to this issue believed there should be aggregate limits, but not as proposed. Most of these commenters suggested that the limit be a multiple of total capital, rather than tied to debt obligations across multiple rating categories. Many commenters gave examples of how, under the proposal, their ability to invest in AAA rated securities would be significantly curtailed, some as much as 80 percent. Those commenters noted that they would be forced to invest more heavily in U.S. Central Corporate Credit Union and United States government investments because they are exempt from the restrictions. This, they contend, could create additional risk problems for the whole corporate system. Several commenters noted that the proposal would severely limit their ability to invest in relatively safe, low risk repurchase agreements.

The credit exposure limit suggested by several commenters is one times capital and, for repurchase agreements, two times capital.

The Board is abandoning its proposal to set concentration limits depending upon an NRSRO's credit rating of an investment. The Board proposes to reorganize and streamline requirements for concentration limits, and to establish limits for the aggregate credit exposure to a single obligor.

First, in § 704.6(c)(1) the Board proposes a general concentration limit of 50 percent of capital or a *de minimis* limit of $5 million for the aggregate of all investments in any single obligor, whichever is greater. The 50 percent limit provides corporates with substantial flexibility in comparison to other depository institutions. The Board believes this limit is the most credit exposure a corporate should prudently take in investment-grade quality investments. NCUA requested comment on whether there should be a *de minimis* exemption from the general credit concentration limits, and if so, what amount. Fifteen of the 16 commenters that responded to this question supported a *de minimis* exemption, and most of those commenters suggested $5 million as an appropriate amount. The one negative commenter was the ABA. Accordingly, and to permit smaller corporates to engage in block size transactions, investments in a single obligor may exceed 50 percent of capital up to a *de minimis* limit of $5 million.

This general concentration limitation is applicable to all investments and investment transactions. The current rule is divided into categories of investments and has different limitations, depending on the category. Certain classes of marketable debt obligations of domestic corporations were inadvertently omitted from the categories. These are now covered under the general limitation that includes all investments. The current rule allows a higher limit for mortgage back securities and ABS than for nonsecured obligations of any single domestic issuer. The Board sees no basis for this distinction since there can be substantial credit risk in privately issued mortgage-backed and asset-backed securities.

Second, in § 704.6(c)(2) the Board proposes exceptions to the general rule for repurchase and securities lending transactions, investments in corporate CUSOs, and investments in other corporates. The Board adopts the commenters suggestion to set the limit for repurchase and securities lending transactions at 200 percent of capital. This limit generally reflects the lower credit risk in these short-term, secured transactions. The inclusion of an exception for investments in corporate CUSOs is a clarification that those investments are subject to the limitations in § 704.11. NCUA requested comment on whether corporates should be exempt from credit concentration limits when investing in other corporates. Ten of the 15 commenters that responded to this question said they should not. These negative commenters believe that it would increase systemic risk and is, therefore, unjustifiable. Several commenters suggested that corporates should maintain a credit risk file for investments greater than $100,000 in any other corporate. To allow additional alternatives for moving liquidity within the corporate system and, therefore, the credit union movement, the Board proposes to remove the regulatory concentration limits on investments in any corporate. The Board believes the requirements for capital and RUDE for the receiving corporate will serve to limit the amount of investments any corporate may place in another corporate. The Board notes a corporate's credit risk management policy must address the risks of investments in corporates that are not fully insured by the National Credit Union Share Insurance Fund.

As stated above, the Board proposes basing credit concentration limits on capital. Currently, they are based on RUDE and PIC and a reduction in the sum of RUDE and PIC after the purchase of an investment triggers a suspension of additional transactions. The Board proposes amending this provision to apply the divestiture requirements in § 704.10 when a reduction in capital after the purchase of an investment results in a credit concentration that is higher than permitted by the regulation. The Board's intent is that a corporate consider the permanence of its MCs when evaluating its investment opportunities.

Credit ratings section 704.6(d). The Board proposes to clarify each investment must have an applicable credit rating. For example, a corporate must ensure investments in commercial paper are from an issuer that has received an acceptable commercial paper program rating. Similarly, a financial strength rating for deposits may be appropriate for uninsured deposits or the sale of federal funds. Investments in a corporate or corporate CUSO are exempt from this requirement.

The Board proposes lowering the minimum applicable rating for a long-term investment (including asset-backed securities) from AAA and AA to AA– (or equivalent). The market for asset-backed securities has matured since this rule was last amended. The Board is retaining the A–1 requirement for short-term investments and intends that this category include short-term ABS. The current rule inadvertently excludes them.

There has been some confusion regarding multiple credit ratings and the conditions for triggering the divesture requirements of § 704.10. The Board does not want to discourage a corporate from using multiple credit ratings in meeting the requirements of the regulation. Accordingly, the Board proposes the divestiture requirements of § 704.10 apply only if at least two ratings were downgraded when a corporate has relied on more than one rating to meet the minimum credit rating requirements at the time of purchase. This requirement is consistent with the guidance issued by OCCU in a letter dated October 5, 1999, to all corporates.

Reporting and documentation Section 704.6(e). The requirements for annual approval are clarified to apply to each credit limit with each obligor or transaction counterparty, rather than the undefined "each credit line."

Lending Section 704.7

Section 704.7(c)(1) and (2). These sections establish the maximum aggregates for secured and unsecured loans to one member. Currently, the aggregate limits are based on the higher of a percentage of capital or a percentage of RUDE and PIC. As with other provisions of the proposed rule, the Board proposes basing loan limits on capital. The proposed rule eliminates the option of basing secured and unsecured loan limits on a percentage of RUDE and PIC. In conjunction with this change, the Board proposes clarifying in these provisions and in § 704.7(d) that the aggregate limits are based on both revocable and irrevocable lines of credit. Currently, the rule only states "irrevocable lines of credit." 12 CFR 704.7(c) and (d). The Board proposes deleting the modifier "irrevocable" from these sections to clarify this.

Section 704.7(d). This section addresses loans to members, but excludes member credit unions and corporate CUSOs. This provision provides a partial exemption from part 723. A number of commenters suggested the criteria for exemption be expanded. The Board agrees that there are other situations where a loan is guaranteed that are appropriate to include as part of the exemption. The Board proposes expanding the language in this provision to include not only loans guaranteed by credit unions but also loans fully secured by US Treasury or agency securities. This expansion will reduce the burden for corporates providing loans to members that are not credit unions. The rule is also being clarified to address the fact that the aggregate limits of § 723.16 are statutory and a corporate is not exempt from those unless it is a loan to a member credit union.

Section 704.7(g). The Board proposes revising the provision governing loan participations, to include a requirement that a corporate execute a master participation loan agreement prior to the purchase or the sale of a participation loan. This requirement mirrors the requirement in the natural person loan participation rule and is appropriate to ensure the interests of a corporate engaging in this activity are adequately protected. 12 CFR 701.22(b)(2). Although the Board believes corporates presently engaging in this activity are voluntarily executing a master participation loan agreement, the Board believes use of this agreement must be mandatory due to safety and soundness concerns.

The Board is deleting the language that a participation loan agreement may

be executed at any time prior to, during, or after the disbursement. The Board believes it is unnecessary to state this because this language could be confused with the requirements of a master participation loan agreement prior to the purchase or sale of a participation loan interest.

Several commenters suggested corporates be permitted to participate with natural person credit unions in making loans to natural person members. They urged NCUA to permit participation lending with and without recourse. Some of these commenters specifically stated this activity should be permissible without expanded authority. Another commenter believed participation lending should be allowed only as an expanded authority because a corporate must be able to demonstrate an appropriate level of infrastructure and financial capacity to engage in this activity.

The NCUA Board asked the OCCU to address the issue of permitting corporates to participate with natural person credit unions in making loans to natural person members. 62 FR 12929, 12934 (March 19, 1997). Based on OCCU's recommendation, the Board is proposing that corporates participate in loans with member natural person credit unions only as an expanded authority. This position is based on the need for corporates to demonstrate they have the ability to identify, measure, monitor, and control the risks associated with participation lending. Since a number of corporates do not exhibit a level of infrastructure commensurate with the risks associated with this activity, the Board will require corporates to apply for this authority through Appendix B, proposed Part V.

Finally, the Board is reorganizing this section. Subsection (c) is retitled "Loans to members." Within this subsection are subsections: (1) The aggregate limits for loans to credit unions; (2) the aggregate limits for loans to CUSOs by reference to § 704.11; and (3) the aggregate limits for loans to other members. Subsection (d) is retitled "Loans to nonmembers" and sets forth the requirements for loans to nonmember credit unions. Within this subsection are subsections: (1) The requirements for loans to nonmember credit unions; and (2) the requirements for loans to nonmember CUSOs by referencing § 704.11.

To avoid confusion about the applicability of the member business loan rule to corporates, the Board is clarifying in the proposal that the statutory aggregate limits on member business loans apply to all corporate loans, except the statutorily excluded loans to credit union members. 12 U.S.C. 1757a and 12 CFR 723.16. Subsection (e) is retitled "Member business loan rule" and explains in subsection: (1) That part 723 does not apply to loans to member credit unions; (2) that the aggregate loan limits and some of the due diligence requirements of part 723 apply to corporate CUSOs as stated in § 704.11; and (3) that part 723 applies to loans to other members, unless it falls within the exception discussed above, and then it must comply with the aggregate loan limits but is exempt from the other requirements of part 723.

The Board proposes deleting subsection (f) "Loans to corporate CUSOs" because these loans are now addressed in proposed subsections (c), (d) and (e). Current subsections (g) and (h), with the changes to subsection (g) discussed above, are redesignated subsections (f) and (g).

Asset and Liability Management Section 704.8

In conjunction with several proposed amendments to the asset and liability management section, the Board proposes deleting from the § 704.2 definition section, the term "Net interest income" because it is no longer used in the regulation. The Board proposes amending the definition of "Net economic value (NEV)" and "Fair Value." NEV means the fair value of assets minus the fair value of liabilities. Currently, the definition of NEV treats MC as a liability, and excludes PIC from liabilities, for purposes of the NEV calculation. The Board requested comment on amending the definition of NEV to exclude from liabilities both MC and PIC that are included in capital. All 22 commenters that responded to this issue supported a change to the definition of NEV. Most of those commenters believed that three-year MC and 20-year PIC should be part of the exclusion.

The Board proposes amending the definition of NEV to state that PIC and MC not qualifying as capital are included as liabilities for purposes of the NEV calculation. Therefore, PIC and MC qualifying as capital are excluded from liabilities for purposes of the NEV calculation.

The proposed change to the definition of NEV will have the effect of increasing the base case NEV ratio. For the quarters ending June 2000 through March 2001, corporates reported base case NEV ratios ranging from 1.98 percent to 7.89 percent, with a simple average ratio of 4.24 percent. For the same quarters the base NEV ratios under the proposed rule, which eliminates MCs from liabilities, would have ranged from 3.76 percent to 18.17 percent, with a simple average ratio of 8.87 percent.

The Board also proposes to delete from the definition of NEV the reference to off-balance sheet derivatives, since accounting standards now require material financial derivatives to be reported on the balance sheet.

Fair value. The Board proposes a number of changes to the current definition of fair value. The reference to a financial instrument is deleted. The phrase "forced liquidation sale" is clarified by stating a "forced or liquidation sale." "Market price" is replaced with "quoted market price." An estimate of fair value based on a valuation technique is required to be reasonable and supportable. An estimate of fair value may also be based on a quoted market price in an active market for a similar instrument or a current appraised value. The definition is amended to clarify examples of valuation techniques. Valuation techniques are required to incorporate assumptions that market participants would use in their estimates of values, future revenues, and futures expenses. These proposed changes more closely reflect the definition of fair value in accounting standards. FASB Statement No. 133, Appendix F.

The Board proposes the following amendment to § 704.8:

Policies. Section 704.8(a)(2). Several corporates requested that NCUA eliminate redundancies between the policy requirements of this section and § 704.5(a). Since appropriate tests and criteria for evaluating investment and investment transactions are required under investment policies, the Board is deleting that requirement but clarifying in proposed § 704.8(a)(6) that the asset and liability management policy provisions must address the test used to evaluate the impact of investments on the percentage decline in NEV, compared to the base case NEV. The Board proposes changing the term "current NEV" to "base case NEV." This change provides uniform usage throughout the regulation.

Section 704.8(a)(5). The Board proposes to delete the requirement for a policy limit on decline in net income. It may be beneficial for a corporate to measure and establish limits on earnings exposures, such as projections of potential decline in net income in alternative interest rate scenarios. However, because the balance sheet of a corporate frequently is highly liquid and short term, earnings forecasts may necessitate many assumptions. These assumptions may limit the utility of earnings exposure measures for regulatory purposes.

Penalty for early withdrawals section 704.8(c). Currently, this section requires a corporate to impose a market-based penalty for early withdrawal, if early withdrawal is permitted. The Board proposes to limit such penalty to the estimated replacement cost of the certificate/share redeemed that is reasonably related to current offering rates of that corporate. This would permit a corporate to impose reasonable fees to cover the cost of the redemption, but would protect a withdrawing credit union from excessive penalties. In response to suggestions to provide flexibility to avoid market-based penalties, the Board notes a market-based penalty for early withdrawal is a critical factor in the confidence it places in the accuracy of the measurement of NEV. As an alternative to early withdrawal, corporates may consider providing share secured loans to members needing liquidity in advance of share maturity.

Interest rate sensitivity analysis section 704.8(d). The Board proposes deleting the requirement to conduct periodic net interest income simulations. As noted above, while earnings exposure measurements may be beneficial, the balance sheet of a corporate frequently is highly liquid and short term, necessitating many assumptions for an earnings forecast. These assumptions may limit the utility of earnings exposure measures.

NCUA requested comment on whether the minimum, base case NEV ratio that triggers monthly interest rate sensitivity analysis testing should be increased from two percent to three percent. Twelve of the 15 commenters supported the increase. The majority of those commenters premised their support on the exclusion of three-year MC from liabilities. As noted above, the proposed change to the definition of NEV will have the effect of increasing the base case NEV ratio. In light of the estimated increases in the base case NEV ratios discussed above, the Board proposes to set the minimum, base case ratio that triggers monthly testing at a level of three percent.

NCUA also requested comment on increasing the minimum NEV ratio from one to two percent. Eighteen of the 21 commenters that responded to this question approved of this change, but the majority of those commenters only support it if three-year MC is excluded from liabilities. One of the positive commenters believes the same limitations should apply to wholesale corporates. The negative commenters believe the change will drive deposits from the corporate system. Again, in light of the estimated increases in the base case NEV ratios, the Board proposes increasing the minimum NEV ratio to two percent.

The Board proposes explicitly stating in the rule that a corporate must limit its risk exposure to minimum NEV ratio levels based on a base case NEV ratio or any NEV ratio resulting from the tests set forth in § 704.8(d)(1)(i). This will eliminate confusion about the applicability of the minimum NEV ratio.

The current NEV decline limit for a base corporate (a corporate with no expanded authorities) is 18 percent of the base case NEV ratio. In conjunction with the proposed change to the definition of NEV, the Board proposes decreasing that limit to 10 percent. Base corporates reported base case NEV ratios ranging from 2.32 percent to 7.89 percent, with a simple average ratio of 4.34 percent, for the quarters ending June 2000 through March 2001. For the same quarters, the base case NEV ratios under the proposed rule would have ranged from 4.75 percent to 18.17 percent, with a simple average ratio of 9.58 percent.

The Board estimates the proposed NEV decline limits would have resulted in an average permissible NEV decline of 0.96 percent (9.58 percent × 10 percent, expressed as a percentage of the fair value of total assets) for the quarters ending June 2000 through March 2001. This is larger than the average permissible decline of 0.78 percent (4.34 percent × 18 percent) for the same period under the current rule. All base corporates reflected NEV decline limits under adverse rate shocks within the proposed NEV decline limits. Summary information from the analysis is presented in Table 1.

TABLE 1.—ANALYSIS OF PROPOSED PERMISSIBLE DECLINES IN NEV FOR BASE CORPORATES FOR THE QUARTERS ENDING JUNE 2000 THROUGH MARCH 2001

	Current base case NEV ratio for all corporates (in percent)	Permitted decline (as percent of fair value of assets)	Base case NEV ratio under the proposal	Proposed permitted decline (as percent of fair value of assets)
Simple average over 4 quarters	4.34	0.78	9.58	0.96
Minimum of all quarters	2.32	0.42	4.75	0.47
Maximum of all quarters	7.89	1.42	18.17	1.82

The Board proposes moving the base-plus expanded authorities requirements to Appendix B, so that all expanded authorities are in one place. In conjunction with that change, all references to base-plus in § 704.8 are deleted.

The Board proposes requiring all corporates to assess annually whether it is appropriate to conduct periodic, additional, interest rate risk tests. The amendment deletes the requirement to conduct tests based on unmatched embedded options. The tracking of unmatched embedded options may not be cost effective for credit unions that adhere strictly to a matched book of business approach.

The Board believes all corporates should assess whether there are indications of material risks, including interest rate risk and credit risk that may not be related to unmatched embedded options. For example, a corporate may not adhere to a matched book of business approach requiring a significant match between the maturity of assets and liabilities. In that case, measures of the NEV may have a significant exposure to changes in the shape of the Treasury yield curve. In contrast, another corporate may not hold material amounts of mortgage-backed securities and, therefore, may reasonably assert its NEV measures would be relatively insensitive to changes in prepayment projections. In both cases, there may be a significant exposure to widening spreads due to the credit risk inherent in the investment portfolios.

Regulatory Violations and Policy Violations section 704.8(e) and (f). The Board proposes non-substantive grammatical amendments to the provisions for regulatory and policy violations.

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Corporate Credit Union Service Organizations (Corporate CUSOs) Section 704.11

The Board requested comment on amending the definition of a corporate CUSO to require that a CUSO be considered a corporate CUSO only if any corporate owns a minimum of 25 percent interest or the aggregate interest by all corporates exceeds 50 percent. 65 FR at 70322. Currently, the rule requires partial ownership by a corporate but does not specify a minimum ownership requirement. 12 CFR 704.11(a)(1).

Fifteen of the 17 commenters that responded objected to the proposed change. Some of the reasons given in opposition were that: the proposal will have the unintended effect of limiting a corporate's role as a liquidity provider in the credit union system; it will jeopardize the exemption in § 704.7(d) from portions of the business loan rule for loans made to corporate CUSOs; and, if the reason for the proposed change is that corporates are not doing due diligence in loans to corporate CUSOs, this should be handled as a supervisory issue, not as a regulation.

The Board agrees with the commenters' concern that a minimum investment requirement could have a negative impact on a corporate's role as a liquidity provider in the credit union system and, therefore, the Board will not impose a minimum investment requirement. But, because of safety and soundness concerns associated with a high concentration of loans with one borrower, the Board is adding some due diligence requirements to the corporate CUSO lending provision.

These due diligence requirements, taken from the member business loan rule, require that the corporate establish a specific loan policy that addresses loans to corporate CUSOs and review it annually. 12 CFR 723.5. The proposed rule will also require that the policy address, at a minimum, the applicable factors listed in the member business loan rule. 12 CFR 723.6(f)–(l). Loans that are fully secured by shares in the corporate making the loan or in other financial institutions are exempt from these requirements.

The Board has added a provision to clarify that the statutory limits on member business loans, as stated in § 723.16 of the member business loan rule, apply to corporate CUSOs. 12 U.S.C. 1757a.

The Board has also added a provision to clarify that GAAP is to be used in accounting for a corporate's investments in and loans to a CUSO for the regulatory limitations under § 704.11(b). By using the equity GAAP method, a situation could develop in which a corporate's initial investment is within the regulatory limitation but, as the CUSO operates with continued profitability and the corporate absorbs its proportionate share of the profits through no additional cash outlay, the corporate could exceed its regulatory limitation. Because divestiture at this point could be contrary to prudent business practice, the Board will require the corporate to account for the investment according to GAAP, but it will not require divestiture or prohibit future investments if the regulatory limit is exceeded under the equity GAAP method without any additional cash outlay. This change mirrors a change made to the natural person CUSO rule. 64 FR 33184, June 22, 1999.

The Board proposes some cosmetic changes to this section, so that it is easier to read. Proposed subsection (b) will only address the investment and loan limitations. The rest of current subsection (b), as well as the new due diligence requirements, are now in proposed subsections (c) through (e). Subsection (c) addresses due diligence; subsection (d) addresses separate structures; and subsection (e) addresses prohibited activities. Prior subsections (c) through (e) are redesignated (f) through (h).

Permissible Services Section 704.12

The Board requested comment on eliminating this provision currently titled "Services." 64 FR 40788. This section states that a corporate: may provide services to its members; may provide services through a correspondent services agreement to nonmember natural person credit union branch offices operating in the corporate's geographic field of membership; and may not perform services for nonmember natural person credit unions through agreements with other corporates or pursuant to § 701.26 of NCUA's rules except with the permission of NCUA. Fourteen of the 16 commenters that responded to this issue suggested eliminating this provision because, in practice, the geographic area defined in a corporate's charter is likely to be a national one. One of the commenters that opposed eliminating the section identified itself as a small corporate and stated that the current process of requiring corporates to apply for expanded fields of membership should be preserved in order to ascertain that the applicant has the ability and structure to serve a larger geographic area.

The Board agrees that, based on current national fields of membership for most corporates, the rationale for limiting a corporate's authority to provide correspondent services no longer exists. The Board proposes eliminating this limitation on correspondent services.

Before 1998, services were defined to include investments, liquidity management, payment systems and correspondent services. 53 FR 20122, June 2, 1986. The current rule and its preamble do not define services, but the preamble to the proposed rule indicated that the Board intended to limit services. The proposal stated that the prior list of services had been interpreted too broadly and that the intent was that services be limited to "traditional loan, deposit and payment services." 61 FR 28085, 28096 (June 4, 1996).

Upon further reflection, the Board believes that limiting services to "traditional loan, deposit and payment services" is too restrictive. As stated in the preamble to a prior corporate rule, "[t]he purpose of this section is to grant [c]orporate [f]ederal credit unions the power to offer innovative programs and services to their members in the areas of investments, liquidity management, payment systems and correspondent services subject to applicable provisions of law, regulation, bylaws and any orders of the NCUA Board." 53 FR 20122, 20123.

The Board proposes retitling this section "Permissible Services" and permitting eight broad categories of financial services. The four broad categories of financial services included in the prior rule's definition will be reinstated as permissible financial services. The Board is adding to the 1986 definition four additional categories of financial services. They are: asset and liability management; electronic financial services; sale or lease of excess physical or information system capacity; and operational services associated with administering or providing financial products or services. Again, as in 1986, the Board will not issue a specifically authorized list of activities, but rather a list of broad categories, because "technology, regulation and various financial groupings and networks are all changing rapidly." *Id.* With this approach, "the staff believes corporates can be most responsive in a dynamic environment." *Id.*

The list of permissible financial services is intended to establish broad categories of permissible financial services. If a corporate believes a financial service falls within a broad category it is not required to seek an opinion from NCUA. The test a corporate should use to determine if a financial service falls within one of the specifically authorized broad categories is whether it is the functional equivalent or logical outgrowth of a broad category and whether the financial service involves risks similar in nature to those already assumed as part of the business of corporates. An opinion from NCUA is recommended if there is doubt as to whether a specific financial service falls within one of the broad categories.

The Board also asked for comment on clarifying the definition of correspondent services. 12 CFR 704.2. Currently, correspondent services are defined as "services provided by one financial institution to another and includes check clearing, credit and investment services, and any other banking services." *Id.* Thirteen of the fourteen commenters that commented opposed changing the definition. The reasons given were that, if the services are listed, they may become outdated and limiting and that the existing definition provides the appropriate balance of flexibility and guidance. The Board proposes defining correspondent services in the provision governing permissible financial services to members and allowing the same types of services to nonmembers through a correspondent services agreement as are permitted to members.

In addition to the issue of permissible financial services offered under a correspondent services agreement, the definition needs to clarify that a correspondent agreement is an agreement between two corporates for one of the corporates to provide services to the members of the other. Usually, the reason for the agreement is because the recipient corporate does not provide the services or the member's geographic location makes it impractical to do so.

Finally, the proposal moves the current prohibition on the purchase of mortgage servicing rights from the investment section of the rule to this section because servicing rights are more closely aligned with services than investments. In addition, the term "mortgage servicing rights" is replaced with "loan servicing rights" to reflect the intent behind the prohibition that the purchase of all loan servicing rights is prohibited.

Fixed Assets Section 704.13

The Board recognizes the ongoing need to evaluate the significance and relevance of existing rules. The current fixed asset requirement for corporates does not appear to offer any added value to the safety and soundness of corporates. None of the corporates have fixed assets at levels that approach the existing regulatory limit of 15 percent of capital.

Corporates operate on a very small net margin. An excessive investment in fixed assets will have a noticeable impact on earnings. The Board believes monitoring of fixed assets in corporates is best accomplished through ongoing supervision rather than through regulation. As such, the Board proposes eliminating this section.

Representation Section 704.14

The Board intended the definition of a credit union trade association to include its affiliates. The preamble to the final rule explains that "'[c]redit union trade association' includes but is not necessarily limited to, state credit union leagues and league service corporations, national credit union trade associations and their affiliates and service organizations, and local, state, and national special interest credit union associations and organizations." 59 FR 59357, 59358, November 17, 1994 (emphasis added). There is some confusion because § 704.14(a)(3) includes the term "affiliates" in limiting directors' ties to the same credit union trade association but § 704.14(a)(2) does not include the term "affiliates" in its prohibition of the chair of the board serving as an officer, director or employee of a credit union trade association. Although the definition of credit union trade association includes affiliates, it is necessary to include the term in § 704.14(a)(3) because for purposes of that provision, the trade association and its affiliate are considered one and the same.

To eliminate the confusion, the Board proposes deleting the definition of "trade association" from the definition's section of the rule and replacing it with the definition of a "credit union trade association" since this is the only way the term is used. The Board proposes using the definition in the 1994 preamble to the final rule quoted above. 59 FR 59358.

In addition, the Board is amending the requirement in § 704.14(a) that both federal and state-chartered corporates comply with the federal corporate bylaws governing election procedures. The intent behind this requirement is that all corporates' election procedures comply with § 704.14(a), not that state-chartered corporates must adopt the Federal Corporate Bylaws. The rule is being amended to reflect this.

Wholesale Corporate Credit Unions Section 704.19

The Board requested comment on whether the need for separate wholesale corporate regulatory requirements still exists and, if so, the appropriateness of the existing wholesale corporate regulatory requirements. Currently, separate wholesale corporate rules apply for minimum capital ratio, calculation of reserve transfers, minimum NEV ratio, maximum NEV volatility, and validation of the asset and liability management modeling system. 12 CFR 704.19(b) and (c).

Nine of the 13 commenters supported separate regulatory requirements for wholesale corporates. Some of the reasons in support were: their size; their unique role in the corporate credit union system; risks inherent in their portfolios; and scope of services offered. Most of the supporting commenters believed the existing rules are adequate. Some of the commenters suggested revising the rules to provide wholesale corporates more flexibility.

Commenters opposing separate wholesale corporate regulatory requirements noted the risks are similar regardless of whether or not the corporate is designated as a wholesale corporate. They questioned both the appropriateness and the need to differentiate between the two.

Although the Board agrees with the commenters that risks inherent in corporate balance sheets are similar regardless of whether or not the corporate is a wholesale corporate, there is one area, RUDE ratio, where the Board believes a separate rule is necessary. Providing a lower minimum RUDE ratio for wholesale corporates recognizes their unique position in the two tier corporate system. Wholesale corporate credit union members provide one level of RUDE. The Board does not believe a second level of RUDE, at the same level as corporate members, is warranted for wholesale corporates. The lower RUDE ratio is also justified because wholesale corporates have a greater ability to raise other forms of capital, including from non-credit union sources, if needed. Accordingly, the Board is establishing a 1 percent minimum RUDE ratio requirement for wholesale corporates, as opposed to the 2 percent minimum RUDE ratio requirement for other corporates.

As explained below, in all other areas, the Board sees no basis for maintaining different regulatory requirements for wholesale corporates. Capital should be commensurate with the risks taken. The Board proposes eliminating the requirement that wholesale corporates must maintain a minimum capital ratio of 5 percent. 12 CFR 704.19(b)(1). The Board proposes requiring wholesale corporates to maintain the same 4 percent minimum capital ratio as other corporates.

As with other corporates, the Board is eliminating the reserve ratio and reserve transfer requirements for wholesale corporates. 12 CFR 704.19(b)(2).

The Board believes exposures associated with interest rate risk are the same regardless of the type of corporate. Therefore, the Board proposes eliminating separate regulatory requirements for the minimum base case NEV ratio and the maximum decline in NEV for wholesale corporates. The existing rule for wholesale corporates establishes .75 percent as the minimum base case NEV ratio and limits the decline in NEV to no more than 35 percent when conducting the interest rate sensitivity analysis in § 704.8(d)(1)(i). 12 CFR 704.19(c). For the reasons cited for other corporates, the Board proposes requiring the same minimum base case NEV ratio of 2 percent for wholesale corporates. The Board also proposes establishing the same rules limiting the maximum decline in NEV to no more than 10 percent or as approved under Appendix B of this part.

The Board proposes eliminating the requirement that wholesale corporates must obtain an annual third-party review of their asset and liability management modeling system. 12 CFR 704.19(c)(2). The issue of whether a third-party review is required should not be based upon whether the corporate is a wholesale corporate, but rather, review should be undertaken by all corporates periodically, in accordance with industry standards, or when changes are made to their modeling system. The Board believes § 704.4(c)(5) and (7) adequately address audits and reviews of systems and that asset and liability management system review is best left as a supervision issue.

Appendix A to Part 704—Model Forms

The Board proposes additional wording to the model disclosure forms for MC and PIC accounts. The purpose of the disclosure forms is to establish the minimum terms and conditions. The Board desires that corporates have flexibility in designing capital accounts that best suit their needs and the needs of their members. Additional disclosure may be required based on the specific characteristics of a corporate's capital accounts. As such, the form no longer states corporates that utilize the minimum standard wording will be in compliance with the regulation. Any additional material terms and conditions must be disclosed.

The additional wording in the proposal clarifies that funds in MC and PIC accounts are not automatically releasable due to the merger, charter conversion or liquidation of the natural person credit union member account holder. Further, in the event of the merger of the corporate, the MC and PIC accounts transfer to the continuing corporate. The sample disclosure forms have also been revised to require disclosure on whether MC is a term certificate or an adjusted balance account. In the case of an adjusted balance account, the adjustment period and adjustment measure must be disclosed. In the case of PIC, the disclosure must note if the account is either term or perpetual.

Appendix B to Part 704—Expanded Authorities and Requirements

Currently, Appendix B provides corporates with incrementally greater authorities if additional infrastructure and capital requirements are met. The Board proposes introducing a more flexible approach to expanded authorities. The proposed changes to this section: move all expanded authorities to Appendix B; expand permissible credit ratings on investments; provide more options for the use of expanded powers; and allow more corporates the opportunity to participate in risk reducing derivative activities.

In addition, the proposed rule establishes minimum standards for any corporate participating in expanded authorities. The minimum standards require monthly NEV modeling and an annual updating of the self-assessment plan. NEV modeling is currently required for all expanded authority parts and so, including this as a minimum requirement is not a substantive change. The addition of the requirement to update the self-assessment plan annually is being proposed to ensure corporates operating with expanded authorities maintain the systems, controls and policies in place on an ongoing basis. This requirement is being incorporated into Appendix B, since the annual review requirements currently in § 704.4(a) have been interpreted as not applying to the expanded authorities self-assessment plan.

As part of its overall change to expanded authorities, the Board proposes tying mandatory capital levels to NEV volatility. The more volatile the NEV measure during instantaneous, permanent, and parallel shocks of the Treasury yield curve, the greater the risk. Recognizing that all corporates do not operate at the same levels of risk, the Board is proposing to reduce mandatory capital levels if NEV volatility is maintained at lower levels. As volatility increases, additional capital levels will be required.

Several commenters suggested changing the expanded authorities provision of the rule to a menu-driven approach, rather than bundling several activities under one category. Often, the corporate only wants to engage in one activity but it must get approval for all the activities in a given category. The commenters advocated the menu approach would reduce burden on corporates and the NCUA. The Board agrees with the commenters and proposes a modified, menu-driven approach, as explained below.

The current NEV decline limit for a base-plus corporate is 25 percent of the base case NEV ratio. The current NEV decline limits for Part I and II corporates are 35 percent and 50 percent, respectively.

The Board proposes decreasing the NEV decline limit for a base-plus corporate to 15 percent, as illustrated in Table 2. The Board also proposes a menu-driven approach for NEV decline limits for corporates requesting Part I or Part II Expanded Authorities. A corporate seeking Part I approval could request one of two NEV decline limits: 15 percent; or 20 percent, provided the corporate maintains a minimum capital ratio of 5 percent. A corporate seeking Part II approval could request one of three NEV decline limits: 15 percent; 20 percent, provided the corporate maintains a minimum capital ratio of 5 percent; or 30 percent, provided the corporate maintains a minimum capital ratio of 6 percent.

TABLE 2.—PROPOSED NEV DECLINE LIMITS

Current level of expanded authorities	Current NEV decline limit	Proposed level of expanded authorities	Proposed minimum capital requirement	Proposed NEV decline limit
Base plus	25	Base plus	4	15
Part I	35	Part I NEV 15	4	15
		Part I NEV 20	5	20
Part II	50	Part II NEV 15	4	15
		Part II NEV 20	5	20
		Part II NEV 30	6	30

TABLE 2.—PROPOSED NEV DECLINE LIMITS—Continued

The Board's analysis of the effect of the proposed NEV decline limits on corporates with expanded authorities is summarized in Table 3. Although the proposed permissible NEV declines are smaller for some corporates with expanded authorities, no corporate's reported NEV declines under adverse rate shocks would violate the proposed NEV decline limits.

TABLE 3.—ANALYSIS OF PROPOSED PERMISSIBLE NEV DECLINES FOR BASE-PLUS, PART I, AND PART II CORPORATE CREDIT UNIONS SIMPLE AVERAGES FOR THE QUARTERS ENDING JUNE 2000 THROUGH MARCH 2001

[Percent]

	NEV ratio	NEV decline limit	Permitted decline as % of FV of assets
Base plus:			
Current rule	4.23	25	1.06
Proposed rule	9.24	15	1.39
Part I:			
Current rule	3.62	35	1.27
Proposed rule	8.44	20	1.69
Part II:			
Current rule	3.53	50	1.76
Proposed rule	6.51	30	1.95

The Board proposes permitting any corporate currently approved for Part I or Part II Expanded Authorities to request to lower its NEV decline limit in conjunction with a request to lower its minimum capital requirement from 5 percent or 6 percent, respectively.

The Board proposes moving Base-Plus Expanded Authorities from § 704.8(e) to Appendix B to include all expanded authorities in Appendix B. As previously discussed, the NEV testing requirements are being moved to the Minimum Requirements section of the proposed rule. The remaining authority relating to maximum NEV decline remains under the applicable expanded authority. The current NEV decline limit for a Base-Plus corporate is 25 percent of the base case NEV ratio. In light of the proposed change to the definition of NEV, the Board proposes to decrease that limit to 15 percent.

As discussed above in § 704.6 Credit Risk Management analysis, the Board proposes to establish limits for the aggregate credit exposure to a single obligor at 50 percent of capital. This limit provides corporates with substantial flexibility in comparison to other depository institutions. The Board believes that this limit is the most credit exposure a corporate should prudently take in investment-grade quality investments. This 50 percent limit would apply to all corporates.

Proposed § 704.6(c)(2)(i) increases the 50 percent limit to 200 percent for base and base-plus corporates for repurchase and securities lending transactions. The Board proposes expanding this increase for Part I and II corporates. Due to the increased infrastructure requirements for Parts I and II corporates, the Board proposes establishing a 300 percent limit for Part I corporates, and a 400 percent limit for Part II corporates.

Currently, corporates with Part I authority may purchase long-term investments rated no lower than AA–. The Board proposes lowering the minimum rating requirement for a long-term investment (including asset-backed securities) to A–. Currently, corporates may purchase a short-term investment rated no lower than A–1. For Part I corporates, the Board proposes lowering the minimum rating requirement for a short-term investment (including asset-backed securities) to A–2, provided that the issuer has a long-term rating no lower than A–. The Board believes these changes in permissible ratings represent reasonable increases in risk given the additional infrastructure requirements of a Part I corporate.

The Board proposes deleting the authority for Part I corporates to enter into repurchase transactions where the collateral securities are rated no lower than A (or equivalent). This authority is no longer necessary because the Board proposes permitting Part I corporates to purchase long-term investments rated no lower than A– (or equivalent).

The current rule permits Part I and II corporates to engage in when issued trading, when accounted for on a trade date basis. The Board proposes amending this provision to also permit pair-off transactions, when accounted for on a trade date basis. Although not specifically stated, the current rule by its absence of a prohibition, impliedly permits trading securities. The Board proposes prohibiting trading securities for base and base-plus corporates. Due to the increased infrastructure requirements for Part I and II corporates, the Board proposes permitting them to engage in this activity but will require trade date accounting to ensure all transactions are reflected in the accounting records of the corporate. This requirement parallels the requirement in § 703.100(l).

In both Part I and II, the Board proposes clarifying that the aggregate loan limits apply to both revocable and irrevocable lines of credit. Currently, the rule only states "irrevocable lines of credit." The Board proposes deleting the modifier "irrevocable" to clarify this.

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Currently, corporates with Part II authority may purchase long-term investments rated no lower than A– (or equivalent). The Board proposes lowering the minimum rating requirement for a long-term investment (including asset-backed securities) to BBB (flat). Currently, corporates may purchase a short-term investment rated no lower than A–1 (or equivalent). For Part II corporates, the Board proposes lowering the minimum rating requirement for a short-term investment (including asset-backed securities) to A–2 (or equivalent), provided that the issuer has a long-term rating no lower than BBB (flat). The Board believes these changes in permissible ratings represent reasonable increases in risk given the additional infrastructure requirements of a Part II corporate.

Currently, corporates with Part II authority must establish limits for secured and unsecured loans as a percentage of their capital plus pledged shares. The Board proposes limiting unsecured loans to 100 percent of capital. This proposed unsecured loan limit is the same as the current and proposed limit for a Part I corporate. The Board does not believe it is appropriate for any corporate to risk more than 100 percent of its capital to any one member credit union on an unsecured basis.

The Board proposes a number of changes to Part III expanded authorities. The Board proposes relaxing the long-term investment rating from AA – (or equivalent) to AA – (or equivalent). This change represents only a minor increase in risk, and provides Part III corporates with additional investment alternatives.

Currently, Part III requires for foreign investments, that the foreign country be rated no lower than AA (or equivalent) for political and economic stability. The Board proposes replacing this requirement with a requirement for a long-term foreign currency (non-local currency) debt rating no lower than AA – (or equivalent). The long-term foreign currency rating is based on a broader analysis than that of the political and economic stability rating. The Board believes this is a more appropriate rating for US dollar denominated investments.

The Board proposes relaxing the bank issuer/guarantor rating from AA (or equivalent) to AA – (or equivalent). This change represents only a minor increase in risk, and provides Part III corporates with additional investment alternatives.

The current rule limits non-secured obligations of any single foreign issuer to 150 percent of RUDE and PIC. The Board proposes to limit all obligations of any single foreign issuer/guarantor to 50 percent of capital. The Board believes that the limits for foreign issuers/guarantors should be parallel to those of domestic obligors and based on capital rather than RUDE and PIC.

The current rule limits non-secured obligations of any single foreign country to 500 percent of RUDE and PIC. The Board proposes to limit all obligations of any single foreign country to 250 percent of capital. This change equates the existing limit based on RUDE and PIC to a limit using the new definition of capital. The Board notes that sovereign risk is present in foreign debt obligations, whether secured or unsecured.

The Board proposes restructuring Part IV expanded authorities to provide more flexibility for corporates to use the authorities to reduce risk. The current rule requires corporates to have either Part I or II expanded authorities to qualify for Part IV. The proposal removes this requirement. The Board believes that all corporates demonstrating and possessing the resources, knowledge, systems, and procedures necessary to measure, monitor, and control the risks associated with derivative transactions should be permitted to use these powers. As with all expanded authorities, a corporate in its application must detail the specific types of activities it may utilize. The Board believes that, used properly, derivative activities can reduce risk to the institution and its members. For this reason, the Board is proposing this change.

The current rule states that a corporate may use derivatives only for "creating structured instruments and hedging its own balance sheet and the balance sheets of its members." 12 CFR part 704, Appendix B, Part IV. The proposed rule restates those requirements, but in slightly different terms, to clarify the Board's intent. The Board believes corporates should be allowed to use derivatives to manage their own balance sheets, which may at times add risk, but that the use of derivatives for their members is still limited to hedging their members' balance sheets, which should only reduce risk.

The current rule is silent as to counterparty rating for derivative transactions with foreign and domestic counterparties. The Board proposes adding language to Part IV to clarify its intent that the rating requirements for counterparties be comparable to the ratings for the corporate's other parallel permissible activities.

As discussed in the lending section, new Part V gives corporates the authority to enter into loan participations with their member natural person credit unions. The Board proposes limiting the maximum aggregate amount of participation loans with one member credit union to 25 percent of capital and the maximum aggregate amount of participation loans with all member credit unions to 100 percent of capital. A corporate is not required to have any other expanded authority to qualify for Part V.

The proposed requirements for Part V that will be included in the *Guidelines for Submission of Requests for Expanded Authority* will require a corporate to submit: (1) An economic viability assessment of the participation lending program; (2) Proposed staffing, revised organizational charts and positions descriptions, and the qualifications and experience of participating staff; (3) Discussion of the inherent risks associated with the proposed program and how the corporate will identify, measure, monitor, and control these risks; (4) Proposed participation lending policies and procedures addressing limits on the aggregate amount of credit limits for participation loans purchased from any one credit union, an aggregate limit of participation lending based on capital (with a maximum up to 100 percent of capital), due diligence (off- and on-site) reviews to be performed by the corporate or its authorized agent, and practices relating to loan underwriting, loan documentation, collateral performance, loan servicing, and loan loss reserving; (5) Plans for a periodic independent review of the corporate's participation loan program; and (6) Due diligence requirements the corporate will follow prior to engaging in the sale or transfer of participation loan pools to third parties including: accounting issues, risk management, and legal issues.

Request for Comment

The Board is interested in receiving comment on all of the issues raised in this proposal, as well as any other issues the commenters believe will assist the Board in issuing its final rule.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (those under $1 million in assets). The rule only applies to corporates, all of which have assets well in excess of $1 million. The proposed amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The executive order states that: "National action limiting the policymaking discretion of the states shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance." The risk of loss to federally insured credit unions and the NCUSIF caused by actions of corporates are concerns of national scope. The proposed rule, if adopted, will help assure that proper safeguards are in place to ensure the safety and soundness of corporates.

The proposed rule, if adopted, applies to all corporates that accept funds from federally insured credit unions. NCUA believes that the protection of such credit unions, and ultimately the NCUSIF, warrants application of the proposed rule to all corporates, including nonfederally insured. The proposed rule does not impose additional costs or burdens on the states or affect the states' ability to discharge traditional state government functions. NCUA has determined that this proposal may have an occasional direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, the potential risk to the NCUSIF without the proposed changes justifies them.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Part 703

Credit unions, Investments.

12 CFR Part 704

Credit unions, Reporting and record keeping requirements, Surety bonds.

By the National Credit Union Administration Board on September 13, 2001.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 703 and 704 as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

1. The authority citation for part 703 will continue to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), and 1757(15).

2. Amend § 703.100 paragraph (c) by revising the second and third sentences and adding a fourth sentence to read as follows:

§ 703.100 What investments and investment activities are permissible for me?

* * * * *

(c) * * * Your aggregate purchase of paid-in capital and membership capital in one corporate credit union is limited to two percent of your assets measured at the time of purchase. Your aggregate purchase of paid-in capital and membership capital in all corporate credit unions is limited to four percent of your assets measured at the time of purchase. Paid-in capital and membership capital are defined in part 704 of this chapter.

* * * * *

PART 704—CORPORATE CREDIT UNIONS

3. The authority citation for part 704 will continue to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

4. Amend § 704.2 as follows:

a. Remove the definition of *"commercial mortgage related security"*, *"correspondent services"*, *"market price"*, *"member paid-in capital"*, *"mortgage servicing"*, *"net interest income"*, *"non member paid-in capital"*, *"non secured obligation"*, *"prepayment model"*, *"real estate mortgage investment conduit (REMIC)"*, *"reserve ratio"*, and *"trade association"*;

b. Revise the definitions of *"collateralized mortgage obligation (CMO)"*, *"fair value"*, *"forward settlement"*, *"membership capital"*, *"mortgage related security"*, *"paid-in capital"*, *"regular-way settlement"*, *"repurchase transaction"*, and *"residual interest"*;

c. Amend the definitions of *"asset-backed security"* by revising the last sentence, and *"net economic value (NEV)"* by revising the second and third sentences; and

d. Add new definitions for *"obligor"*, *"quoted market price"* and *"RUDE ratio"*.

§ 704.2 Definitions.

* * * * *

Asset-backed security * * * This definition excludes mortgage related securities.

* * * * *

Collateralized mortgage obligation (CMO) means a multi-class mortgage related security.

* * * * *

Fair value means the amount at which an instrument could be exchanged in a current, arms-length transaction between willing parties, other than in a forced or liquidation sale. Quoted market prices in active markets are the best evidence of fair value. If a quoted market price in an active market is not available, fair value may be estimated using a valuation technique that is reasonable and supportable, a quoted market price in an active market for a similar instrument, or a current appraised value. Examples of valuation techniques include the present value of estimated future cash flows, option-pricing models, and option-adjusted spread models. Valuation techniques should incorporate assumptions that market participants would use in their estimates of values, future revenues, and future expenses, including assumptions about interest rates, default, prepayment, and volatility.

* * * * *

Forward settlement of a transaction means settlement on a date later than regular-way settlement.

* * * * *

Membership capital means funds contributed by members that: are adjustable balance with a minimum withdrawal notice of 3 years or are term

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certificates with a minimum term of 3 years; are available to cover losses that exceed reserves and undivided earnings and paid-in capital; are not insured by the NCUSIF or other deposit insurers; and cannot be used to pledge against borrowings.

Mortgage related security means a security as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)), *e.g.*, a privately-issued security backed by mortgages secured by real estate upon which is located a dwelling, mixed residential and commercial structure, residential manufactured home, or commercial structure.

* * * * *

Net economic value (NEV) * * * All fair value calculations must include the value of forward settlements and embedded options. Membership capital not qualifying as capital and paid-in capital not qualifying as capital are treated as liabilities for purposes of this calculation. * * *

Obligor means the primary party obligated to repay an investment, *e.g.*, the issuer of a security, the taker of a deposit, or the borrower of funds in a Federal funds transaction. Obligor does not include an originator of receivables underlying an asset-backed security, the servicer of such receivables, or an insurer of an investment.

* * * * *

Paid-in capital means accounts or other interests of a corporate credit union that: have an initial maturity of at least 20 years; are available to cover losses that exceed reserves and undivided earnings; are not insured by the NCUSIF or other share or deposit insurers; and cannot be used to pledge against borrowings.

* * * * *

Quoted market price means a recent sales price or a price based on current bid and asked quotations.

Regular-way settlement means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for immediate delivery of that type of security. For example, regular-way settlement of a Treasury security includes settlement on the trade date ("cash"), the business day following the trade date ("regular way"), and the second business day following the trade date ("skip day").

Repurchase transaction means a transaction in which a corporate credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a specified future date and at a specified price.

* * * * *

Residual interest means the remainder cash flows from a CMO or ABS transaction after payments due bondholders and trust administrative expenses have been satisfied.

RUDE ratio means the corporate credit union's reserves and undivided earnings divided by its moving daily average net assets.

* * * * *

5. Amend § 704.3 as follows:

a. Redesignate paragraphs (d) through (g) as paragraphs (f) through (i) and paragraph (b) as paragraph (d);

b. Remove paragraph (c);

c. Add paragraphs (b), (c), and (e); and

d. Revise redesignated paragraphs (f) heading, (f)(1) introductory text, (f)(2) and (f)(3)(iii), (g), (h)(1), (h)(2) introductory text, (h)(2)(i) through (h)(2)(iii), (i)(1) and (i)(2)(i)(A).

§ 704.3 Corporate credit union capital.

* * * * *

(b) *Requirements for membership capital*—(1) *Form.* Membership capital funds may be in the form of a term certificate or an adjusted balance account.

(2) *Disclosure.* The terms and conditions of a membership capital account must be disclosed to the recorded owner of the account at the time the account is opened and at least annually thereafter.

(3) *Three-year remaining maturity.* When a membership capital account has been placed on notice or has a remaining maturity of three years, the amount of the account that can be considered membership capital is reduced by a constant monthly amortization that ensures membership capital is fully amortized one year before the date of maturity or the end of the notice period. The full balance of a membership capital account that is being amortized, not just the remaining non-amortized portion, is available to absorb losses in excess of the sum of reserves and undivided earnings and paid-in capital until the funds are released by the corporate credit union at the time of maturity or the conclusion of the notice period.

(4) *Release.* Membership capital may not be released due solely to the merger, charter conversion or liquidation of a member credit union. In the event of a merger, the membership capital transfers to the continuing credit union. In the event of a charter conversion, the membership capital transfers to the new institution. In the event of a liquidation, the membership capital may be released to facilitate the payout of shares with the prior written approval of NCUA.

(5) *Sale.* A member may sell its membership capital to a credit union in the corporate credit union's field of membership, subject to the corporate credit union's approval.

(6) *Liquidation.* In the event of liquidation of a corporate credit union, membership capital is payable only after satisfaction of all liabilities of the liquidation estate, including uninsured share obligations to shareholders and the National Credit Union Share Insurance Fund (NCUSIF), but excluding paid-in capital.

(7) *Merger.* In the event of a merger of a corporate credit union, membership capital shall transfer to the continuing corporate credit union. The three-year notice period for withdrawal of membership capital shall remain in effect.

(8) Adjusted balance accounts:

(i) May be adjusted no more frequently than once every six months; and

(ii) Must be adjusted in relation to a measure (*e.g.*, one percent of a member credit union's assets) established and disclosed at the time the account is opened without regard to any minimum withdrawal period. If the measure is other than assets, the corporate credit union must address the measure's permanency characteristics in the capital plan.

(iii) *Notice of Withdrawal.* Upon three years written notice of intent to withdraw membership capital, the balance of the account will be frozen (no further adjustments) until the conclusion of the notice period.

(c) *Requirements for Paid-in capital*—(1) *Disclosure.* The terms and conditions of any paid-in capital instrument must be disclosed to the recorded owner of the instrument at the time the instrument is created.

(2) *Three-year remaining maturity.* When a paid-in capital instrument has a remaining maturity of 3 years, the amount of the instrument that may be considered paid-in capital for this part is reduced by a constant monthly amortization that ensures the paid-in capital is fully amortized 1 year before the date of maturity. The full balance of a paid-in capital instrument that is being amortized, not just the remaining non-amortized portion, is available to absorb losses in excess of the sum of reserves and undivided earnings until the funds are released by the corporate credit union at maturity.

(3) *Release.* Paid-in capital may not be released due solely to the merger, charter conversion or liquidation of a member credit union. In the event of a merger, the paid-in capital transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital transfers to the new institution.

In the event of a liquidation, the paid-in capital may be released to facilitate the payout of shares with the prior written approval of NCUA.

(4) *Callability.* Paid-in capital accounts are callable on a pro-rata basis across an issuance class only at the option of the corporate credit union and only if the corporate credit union meets its minimum level of required capital and NEV ratios after the funds are called.

(5) *Liquidation.* In the event of liquidation of the corporate credit union, paid-in capital is payable only after satisfaction of all liabilities of the liquidation estate, including uninsured share obligations to shareholders, the NCUSIF, and membership capital holders.

(6) *Merger.* In the event of a merger of a corporate credit union, paid-in capital shall transfer to the continuing corporate credit union.

(7) Paid-in capital includes both member and nonmember paid-in capital.

(i) Member paid-in capital means paid-in capital that is held by the corporate credit union's members. A corporate credit union may not condition membership, services, or prices for services on a credit union's ownership of paid-in capital.

(ii) Nonmember paid-in capital means paid-in capital that is not held by the corporate credit union's members. Nonmember paid-in capital does not require NCUA approval if all terms and conditions are identical to member paid-in capital. Nonmember paid-in capital with unlike terms and conditions requires NCUA approval. In determining whether or not to approve a nonmember paid-in capital instrument, NCUA will consider features such as maturity, capital amortization schedule, participation, voting, acceleration, redemption, or other rights of the holder. NCUA will also consider the purpose and financial impact of the proposed paid-in capital issuance and the corporate credit union's financial condition and management capabilities.

* * * * *

(e) *RUDE ratio.* A corporate credit union will maintain a minimum RUDE ratio of 2 percent. A corporate credit union must calculate its RUDE ratio monthly.

(f) *Individual capital ratio requirement.* (1) When significant circumstances or events warrant, NCUA may require a different minimum capital ratio for an individual corporate credit union based on its circumstances. Factors that may warrant a different minimum capital ratio include, but are not limited to, for example:

* * * * *

(2) When NCUA determines that a different minimum capital ratio is necessary or appropriate for a particular corporate credit union, NCUA will notify the corporate credit union in writing of the proposed capital ratio and, if applicable, the date by which the capital ratio should be reached. NCUA also will provide an explanation of why the proposed capital ratio is considered necessary or appropriate for the corporate credit union.

(3) * * *

(iii) After the close of the corporate credit union's response period, NCUA will decide, based on a review of the corporate credit union's response and other information concerning the corporate credit union, whether a different minimum capital ratio should be established for the corporate credit union and, if so, the capital ratio and the date the requirement will become effective. The corporate credit union will be notified of the decision in writing. The notice will include an explanation of the decision, except for a decision not to establish a different minimum capital ratio for the corporate credit union.

(g) *Failure to maintain minimum capital ratio, RUDE ratio requirement.* When either a corporate credit union's capital ratio or RUDE ratio falls below the minimum required by paragraphs (d), (e), or (f) of this section, or appendix B to this part, as applicable, operating management of the corporate credit union must notify its board of directors, supervisory committee, and NCUA within 10 calendar days.

(h) *Capital restoration plan.* (1) A corporate credit union must submit a plan to restore and maintain its capital ratio or its RUDE ratio at the minimum requirement if either of the following conditions exists:

(i) The capital ratio or RUDE ratio falls below the minimum requirement and is not restored to the minimum requirement by the next month end; or

(ii) Regardless of whether the capital ratio or RUDE ratio is restored by the next month end, the capital ratio or RUDE ratio falls below the minimum requirement for three months in any 12-month period.

(2) The capital restoration plan must include the following, at a minimum:

(i) Reasons why the capital ratio or RUDE ratio fell below the minimum requirement;

(ii) Descriptions of steps to be taken to restore the capital ratio or RUDE ratio to the minimum requirement within specific time frames;

(iii) Actions to be taken to maintain the capital ratio or RUDE ratio at the minimum required level and increase it thereafter;

* * * * *

(i) * * *

(1) If a corporate credit union fails to submit a capital restoration plan; or the plan submitted is not deemed adequate to either restore capital and/or RUDE or restore capital and/or RUDE within a reasonable time; or the credit union fails to implement its approved capital restoration plan, NCUA may issue a capital directive.

(2) * * *

(i) * * *

(A) Increase the amount of capital and/or RUDE to specific levels:

* * * * *

6. Amend § 704.4 by removing the word "operating" wherever it appears in paragraphs (a) and (b) and revising paragraph (c) introductory text to read as follows:

§ 704.4 Board responsibilities.

* * * * *

(c) *Other requirements.* The board of directors of a corporate credit union must ensure:

* * * * *

7. Amend § 704.5 as follows:

a. Revise paragraphs (a)(1) and (2), (c)(5), (d)(1), (e)(1), (3) and (4), (f), and (h)(2) and (3);

b. Remove paragraphs (c)(6), (d)(3) and (d)(6);

c. Redesignate paragraphs (d)(4) and (d)(5) as paragraphs (d)(3) and (d)(4); and

d. Revise redesignated paragraphs (d)(3) and (4).

§ 704.5 Investments.

(a) * * *

(1) Appropriate tests and criteria for evaluating investments and investment transactions prior to purchase; and

(2) Reasonable concentration limits for limited liquidity investments (*e.g.*, private placements and funding agreements).

* * * * *

(c) * * *

(5) Domestically-issued asset-backed securities.

(d) * * *

(1) The corporate credit union, directly or through its agent, receives written confirmation of the transaction, obtains a perfected first priority security interest in the repurchase securities and either takes physical possession or control of the repurchase securities or is recorded as owner of the repurchase securities through the Federal Reserve Book-Entry Securities Transfer System;

* * * * *

(3) The corporate credit union, directly or through its agent, receives daily assessment of the market value of the repurchase securities and maintains adequate margin that reflects a risk assessment of the repurchase securities and the term of the transaction; and

(4) The corporate credit union has entered into signed contracts with all approved counterparties and agents, and ensures compliance with the contracts.

* * * * *

(e) * * *

(1) The corporate credit union, directly or through its agent, receives written confirmation of the loan, obtains a perfected first priority security interest in the collateral and either takes physical possession or control of the collateral or is recorded as owner of the collateral through the Federal Reserve Book-Entry Securities Transfer System;

(2) * * *

(3) The corporate credit union, directly or through its agent, receives daily assessment of the market value of collateral and maintains adequate margin that reflects a risk assessment of the collateral and terms of the loan; and

(4) The corporate credit union has entered into signed contracts with all agents and, directly or through its agent, has executed a written loan and security agreement with the borrower. The corporate or its agent ensures compliance with the agreements.

(f) *Investment companies.* A corporate credit union may invest in an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a), provided that the prospectus of the company restricts the investment portfolio to investments and investment transactions that are permissible for that corporate credit union.

* * * * *

(h) * * *

(2) Engaging in pair-off transactions or trading securities, including when-issued trading, adjusted trading, or short sales; and

(3) Purchasing stripped mortgage-backed securities, small business related securities, or residual interests in CMOs or asset-backed securities.

* * * * *

8. Amend § 704.6 by revising paragraphs (a) introductory text and paragraphs (a)(3), (a)(4), and (6) through (e) to read as follows:

§ 704.6 Credit risk management.

(a) *Policies.* A corporate credit union must operate according to a credit risk management policy that is commensurate with the investment risks and activities it undertakes. The policy must address at a minimum:

* * * * *

(3) Maximum credit limits with each obligor and transaction counterparty, set as a percentage of capital. In addition to addressing deposits and securities, limits with transaction counterparties must address aggregate exposures of all transactions, including, but not necessarily limited to, repurchase agreements, securities lending, and forward settlement of purchases or sales of investments; and

(4) Concentrations of credit risk (*e.g.*, originator of receivables, insurer, industry type, sector type, and geographic).

(b) *Exemption.* The requirements of this section do not apply to investments that are issued or fully guaranteed as to principal and interest by the U.S. government or its agencies or enterprises (excluding subordinated debt) or are fully insured (including accumulated interest) by the National Credit Union Share Insurance Fund or Federal Deposit Insurance Corporation.

(c) *Concentration limits*—(1) *General rule.* The aggregate of all investments in any single obligor is limited to 50 percent of capital or $5 million, whichever is greater.

(2) *Exceptions.* Exceptions to the general rule are:

(i) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 200 percent of capital;

(ii) Investments in corporate CUSOs are subject to the limitations of § 704.11; and

(iii) Aggregate investments in corporate credit unions are not subject to the limitations of paragraph (c)(1) of this section.

(3) For purposes of measurement, each new credit transaction must be evaluated in terms of the corporate credit union's capital at the time of the transaction. A subsequent reduction in capital that results in noncompliance with this section will require compliance with § 704.10.

(d) *Credit ratings.* (1) All investments, other than in a corporate credit union or CUSO, must have an applicable credit rating from at least one nationally recognized statistical rating organization (NRSRO).

(2) At the time of purchase, long-term investments must be rated no lower than AA- (or equivalent) and short-term investments must be rated no lower than A–1 (or equivalent).

(3) Any rating(s) relied upon to meet the requirements of this part must be identified at the time of purchase and must be monitored for as long as the corporate owns the investment.

(4) Any rating relied upon to meet the requirements of this part at the time of purchase that is downgraded below the minimum rating requirements of this part must be reviewed by the board or an appropriate committee within 30 calendar days of the downgrade.

(5) Investments are subject to the requirements of § 704.10 if:

(i) One rating was relied upon to meet the requirements of this part and that rating is downgraded below the minimum rating requirements of this part; or

(ii) Two or more ratings were relied upon to meet the requirements of this part and at least two of those ratings are downgraded below the minimum rating requirements of this part.

(e) *Reporting and documentation.* (1) A written evaluation of each credit limit with each obligor or transaction counterparty must be prepared at least annually and formally approved by the board or an appropriate committee. At least monthly, the board or an appropriate committee must receive a watch list of existing and/or potential credit problems and summary credit exposure reports, which demonstrate compliance with the corporate credit union's risk management policies.

(2) At a minimum, the corporate credit union must maintain:

(i) A justification for each approved credit limit;

(ii) Disclosure documents, if any, for all instruments held in portfolio.

Documents for an instrument that has been sold must be retained until completion of the next NCUA examination; and

(iii) The latest available financial reports, industry analyses, internal and external analyst evaluations, and rating agency information sufficient to support each approved credit limit.

9. Amend § 704.7 by removing paragraphs (c) through (g), adding paragraphs (c) through (f) and redesignating paragraph (h) as paragraph (g) to read as follows:

§ 704.7 Lending.

* * * * *

(c) *Loans to members*—(1) *Credit unions.* (i) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of capital. (ii) The maximum aggregate amount in secured loans and lines of credit to any one member credit union, excluding those secured by shares or marketable securities and member reverse repurchase transactions, must not exceed 100 percent of capital.

(2) *Corporate CUSOs.* Any loan or line of credit must comply with § 704.11.

(3) *Other members.* The maximum aggregate amount of loans and lines of credit to any other members must not exceed 15 percent of the corporate credit union's capital plus pledged shares.

(d) *Loans to nonmembers*—(1) *Credit unions.* A loan to a nonmember credit union, other than through a loan participation with another corporate credit union, is only permissible if the loan is for an overdraft related to the providing of correspondent services pursuant to § 704.12. Generally, such a loan will have a maturity of one business day.

(2) *Corporate CUSOs.* Any loan or line of credit must comply with § 704.11.

(e) *Member business loan rule.* Loans or lines of credit to:

(1) Member credit unions are exempt from part 723 of this chapter;

(2) Corporate CUSOs must comply with § 704.11; and

(3) Other members must comply with part 723 of this chapter unless the loan or line of credit is fully guaranteed by a credit union or fully secured by US Treasury or agency securities. Those guaranteed and secured loans must comply with the aggregate limits of § 723.16 but are exempt from the other requirements of part 723.

(f) *Participation loans with other corporate credit unions.* A corporate credit union is permitted to participate in a loan with another corporate credit union provided the corporate retains an interest of at least 5 percent of the face amount of the loan and a master participation loan agreement is in place before the purchase or the sale of a participation. A participating corporate credit union must exercise the same due diligence as if it were the originating corporate credit union.

* * * * *

10. Amend § 704.8 as follows:

a. Remove paragraphs (a)(2), (a)(5) and (e);

b. Redesignate (a)(3) and (a)(4) as (a)(2) and (a)(3), (a)(6) and (a)(7) as (a)(4) and (a)(5), and (f) and (g) as (e) and (f);

c. Add paragraph (a)(6);

d. Revise redesignated paragraphs (a)(2), (e) and (f); and

e. Revise paragraphs (c), (d)(1)(i) through (iii) and (d)(2) introductory text.

§ 704.8 Asset and liability management.

(a) * * *

(2) The maximum allowable percentage decline in net economic value (NEV), compared to base case NEV;

* * * * *

(6) The tests that will be used, prior to purchase, to evaluate the impact of investments on the percentage decline in NEV, compared to base case NEV.

* * * * *

(c) *Penalty for early withdrawals.* A corporate credit union that permits early certificate/share withdrawals must assess a market-based penalty equal to the estimated replacement cost of the certificate/share redeemed. The market-based penalty must be reasonably related to current offering rates of that corporate credit union.

(d) * * *

(1) * * *

(i) Evaluate the risk in its balance sheet by measuring, at least quarterly, the impact of an instantaneous, permanent, and parallel shock in the Treasury yield curve of plus and minus 100, 200, and 300 basis points on its NEV, and NEV ratio. If the base case NEV ratio falls below 3 percent at the last testing date, these tests must be calculated at least monthly until the base case NEV ratio again exceeds 3 percent;

(ii) Limit its risk exposure to levels that do not result in a base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section below 2 percent; and

(iii) Limit its risk exposures to levels that do not result in a decline in NEV of more than 10 percent.

(2) A corporate credit union must assess annually if it should conduct periodic additional tests to address market factors that potentially can materially impact that corporate credit union's NEV. These factors should include, but are not limited to, the following:

* * * * *

(e) *Regulatory violations.* If a corporate credit union's decline in NEV, base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section violates the limits established by this rule and is not brought into compliance within 10 calendar days, operating management of the corporate credit union must immediately report the information to the board of directors, supervisory committee, and NCUA. If any violation persists for 30 calendar days, the corporate credit union must submit a detailed, written action plan to NCUA that sets forth the time needed and means by which it intends to correct the violation. If NCUA determines that the plan is unacceptable, the corporate credit union must immediately restructure the balance sheet to bring the exposures back within compliance or adhere to an alternative course of action determined by NCUA.

(f) *Policy violations.* If a corporate credit union's decline in NEV, base case NEV ratio, or any NEV ratio resulting from the tests set forth in paragraph (d)(1)(i) of this section violates the limits established by its board, it must determine how it will bring the exposure within policy limits. The disclosure to the board of the violation must occur no later than its next regularly scheduled board meeting.

11. Amend § 704.11 by revising paragraph (b), redesignating paragraphs (c) through (e) as paragraphs (f) through (h) and adding paragraphs (c), (d) and (e) to read as follows:

§ 704.11 Corporate Credit Union Service Organizations (Corporate CUSOs).

* * * * *

(b) *Investment and loan limitations.* (1) The aggregate of all investments in and loans to member and nonmember corporate CUSOs must not exceed 15 percent of a corporate credit union's capital. A corporate credit union may loan to member and nonmember corporate CUSOs an additional 15 percent of capital if the loan is collateralized by assets in which the corporate has a perfected security interest under state law.

(2) If the limitations in paragraph (b)(1) of this section are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method without an additional cash outlay by the corporate, divestiture is not required. A corporate credit union may continue to invest up to the regulatory limit without regard to the increase in the GAAP valuation resulting from the corporate CUSO's profitability.

(3) The aggregate of all loans to corporate CUSOs must comply with the aggregate limits of § 723.16 of this chapter.

(c) *Due diligence.* A corporate credit union must comply with the due diligence requirements of §§ 723.5 and 723.6(f) through (l) of this chapter for all loans to corporate CUSOs. This requirement does not apply to loans fully secured by shares in the corporate credit union making the extension of credit or in other financial institutions.

(d) *Separate entity.* (1) A corporate CUSO must be operated as an entity separate from a corporate credit union.

(2) The corporate credit union investing in or lending to a corporate CUSO must obtain a written legal

opinion that the corporate CUSO is organized and operated in a manner that the corporate credit union will not reasonably be held liable for the obligations of the corporate CUSO. This opinion must address factors that have led courts to "pierce the corporate veil" such as inadequate capitalization, lack of corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records.

(e) *Prohibited activities.* A corporate credit union may not use this authority to acquire control, directly or indirectly, of another financial institution, or to invest in shares, stocks, or obligations of another financial institution, insurance company, trade association, liquidity facility, or similar organization.

* * * * *

12. Revise § 704.12 to read as follows:

§ 704.12 Permissible services.

(a) A corporate credit union may provide the following financial services to its members: credit and investment services; liquidity and asset and liability management; payment systems; electronic financial services; sale or lease of excess physical or information system capacity; and operational services associated with administering or providing financial products or services.

(b) A corporate credit union may only provide financial services to nonmembers through a correspondent services agreement. A correspondent services agreement is an agreement between two corporate credit unions, whereby one of the corporate credit unions agrees to provide services to a member of the other corporate credit union.

(c) A corporate credit union is prohibited from purchasing loan servicing rights.

§ 704.13 [Removed and Reserved]

13. Remove and reserve § 703.13.

14. Amend § 704.14 by revising paragraph (a) introductory text, redesignating paragraphs (b) through (d) as (c) through (e), and adding a new paragraph (b) to read as follows:

§ 704.14 Representation.

(a) *Board representation.* The board will be determined as stipulated in its bylaws governing election procedures, provided that:

* * * * *

(b) *Credit union trade association.* As used in this section, it includes but is not limited to, state credit union leagues and league service corporations, national credit union trade associations and their affiliates and service organizations, and local, state, and national special interest credit union associations and organizations.

* * * * *

15. Amend § 704.19 by revising paragraph (b) and removing paragraph (c) as follows:

§ 704.19 Wholesale corporate credit unions.

* * * * *

(b) *Capital.* A wholesale corporate credit union will maintain a minimum RUDE ratio of 1 percent.

16. Revise appendix A to part 704 as follows:

Appendix A to Part 704—Model Forms

This appendix contains sample forms intended for use by corporate credit unions to aid in compliance with the membership capital account and paid-in capital disclosure requirements of § 704.2.

SAMPLE FORM 1

Terms and Conditions of Membership Capital Account

(1) A membership capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A membership capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the membership capital account transfers to the continuing credit union. In the event of a charter conversion, the membership capital account transfers to the new institution. In the event of liquidation, the membership capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) A member credit union may withdraw membership capital with three years' notice.

(4) Membership capital cannot be used to pledge borrowings.

(5) Membership capital is available to cover losses that exceed reserves and undivided earnings and paid-in capital.

(6) Where the corporate credit union is liquidated, membership capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

(7) Where the corporate credit union is merged into another corporate credit union the membership capital account shall transfer to the continuing corporate credit union. The three-year notice period for withdrawal of the membership capital account will remain in effect.

(8) {**If an adjusted balance account**}: The membership capital balance will be adjusted __(1 or 2)__ time(s) annually in relation to the member credit union's ____(assets or other measure)____ as of __(date(s))____. {**If a term certificate**}: The membership capital account is a term certificate that will mature on __(date)__.

When an account is opened, the notice must also contain the following statement:

I have read the above terms and conditions and I understand them.

I further agree to maintain in the credit union's files the annual notice of terms and conditions of the membership capital account.

The notice form must be signed by either all of the directors of the member credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

The annual disclosure notice form must be signed by the chair of the corporate credit union. The chair must then sign a statement that certifies that the notice has been sent to member credit unions with membership capital accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

SAMPLE FORM 2

Terms and Conditions of Paid-In Capital

(1) A paid-in capital account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A paid-in capital account is not releasable due solely to the merger, charter conversion or liquidation of the member credit union. In the event of a merger, the paid-in capital account transfers to the continuing credit union. In the event of a charter conversion, the paid-in capital account transfers to the new institution. In the event of liquidation, the paid-in capital account may be released to facilitate the payout of shares with the prior written approval of NCUA.

(3) The funds are callable only at the option of the corporate credit union and only if the corporate credit union meets its minimum required capital and NEV ratios after the funds are called.

(4) Paid-in capital cannot be used to pledge borrowings.

(5) Paid-in capital is available to cover losses that exceed reserves and undivided earnings.

(6) Where the corporate credit union is liquidated, paid-in capital accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF, and membership capital holders.

(7) Where the corporate credit union is merged into another corporate credit union the paid-in capital account shall transfer to the continuing corporate credit union.

(8) Paid-in capital is perpetual maturity {**or**} Paid-in capital is a term account with a maturity of ___(at least 20)___ years.

When a paid-in capital instrument is created, the notice must also contain the following statement:

I have read the above terms and conditions and I understand them.

I further agree to maintain in the credit union's files the annual notice of terms and conditions of the paid-in capital instrument.

The notice form must be signed by either all of the directors of the credit union or, if authorized by board resolution, the chair and secretary of the board of the credit union.

The annual disclosure notice form must be signed by the chair of the corporate credit union. The chair must then sign a statement that certifies that the form has been sent to credit unions with paid-in capital accounts. The certification must be maintained in the corporate credit union's files and be available for examiner review.

17. Revise appendix B to part 704 as follows:

Appendix B to Part 704—Expanded Authorities and Requirements

A corporate credit union may obtain all or part of the expanded authorities contained in this section if it meets all of the requirements of this part 704, fulfills additional management, infrastructure, and asset and liability requirements, and receives NCUA's written approval. The additional requirements and authorities are set forth in this Appendix and in the NCUA publication *Guidelines for Submission of Requests for Expanded Authority.*

A corporate credit union seeking expanded authorities must submit to NCUA a self-assessment plan supporting its request. A corporate credit union may adopt expanded authorities when NCUA has provided final approval. If NCUA denies a request for expanded authorities, it will advise the corporate of the reasons for the denial and what it must do to resubmit its request. NCUA may revoke these expanded authorities at any time if an analysis indicates a significant deficiency. NCUA will notify the corporate credit union in writing of the identified deficiency. A corporate credit union may request, in writing, reinstatement of the revoked authorities by providing a self-assessment plan detailing how it has corrected the deficiencies.

Minimum Requirements

In order to participate in any of the authorities set forth in Base-Plus, Part I, Part II, Part III, Part IV, and Part V of this Appendix, a corporate credit union must:

(a) Evaluate monthly the changes in NEV and the NEV ratio for the tests set forth in § 704.8(d)(1)(i); and

(b) Update its self-assessment plan for approved expanded authorities annually.

Base-plus

A corporate which has met the minimum requirements for this Base-plus may in performing the rate stress tests set forth in § 704.8(d)(1)(i), allow its NEV to decline as much as 15 percent.

Part I

(a) A corporate credit union which has met the minimum requirements for this Part I may:

(1) Purchase long-term investments rated no lower than A– (or equivalent);

(2) Purchase short-term investments rated no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than A– (or equivalent);

(3) Engage in short sales of permissible investments to reduce interest rate risk;

(4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk;

(5) Enter into a dollar roll transaction; and

(6) Engage in trading securities including pair-off transactions and when-issued trading, when accounted for on a trade date basis.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 300 percent of capital.

(c) In performing the rate stress tests set forth in § 704.8(d)(1)(i), the NEV of a corporate credit union which has met the requirements of this Part I may decline as much as:

(1) 15 percent; or

(2) 20 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors will establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

Part II

(a) A corporate credit union, which has met the minimum requirements for this Part II, may:

(1) Purchase long-term investments rated no lower than BBB (flat) (or equivalent);

(2) Purchase short-term investments rated no lower than A–2 (or equivalent), provided that the issuer has a long-term rating no lower than BBB (flat) (or equivalent);

(3) Engage in short sales of permissible investments to reduce interest rate risk;

(4) Purchase principal only (PO) stripped mortgage-backed securities to reduce interest rate risk;

(5) Enter into a dollar roll transaction; and

(6) Engage in trading securities including pair-off transactions and when-issued trading, when accounted for on a trade date basis.

(b) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 400 percent of capital.

(c) In performing the rate stress tests set forth in § 704.8(d)(1)(i), the NEV of a corporate credit union, which has met the requirements of this Part II, may decline as much as:

(1) 15 percent;

(2) 20 percent if the corporate credit union has a 5 percent minimum capital ratio and is specifically approved by NCUA; and

(3) 30 percent if the corporate credit union has a 6 percent minimum capital ratio and is specifically approved by NCUA.

(d) The maximum aggregate amount in unsecured loans and lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 100 percent of the corporate credit union's capital. The board of directors must establish the limit, as a percent of the corporate credit union's capital plus pledged shares, for secured loans and lines of credit.

Part III

(a) A corporate credit union, which has met the minimum requirements of either Part I or Part II of this Appendix and the additional requirements for Part III, may invest in:

(1) Debt obligations of a foreign country; and

(2) Deposits in, the sale of federal funds to, and debt obligations of foreign banks or obligations guaranteed by these banks.

(b) All foreign investments are subject to the following requirements:

(1) Short-term investments must be rated no lower than A–1 (or equivalent);

(2) Long-term investments must be rated no lower than AA– (or equivalent);

(3) A sovereign issuer, and/or the country in which a bank issuer/guarantor is organized, must have a long-term foreign currency (non-local currency) debt rating no lower than AA– (or equivalent);

(4) A bank issuer/guarantor must be rated no lower than AA–;

(5) For each approved foreign bank line, the corporate credit union must identify the specific banking centers and branches to which it will lend funds;

(6) Obligations of any single foreign issuer/guarantor may not exceed 50 percent of capital; and

(7) Obligations in any single foreign country may not exceed 250 percent of capital.

Part IV

(a) A corporate credit union, which has met the requirements for this Part IV, may enter into derivative transactions specifically approved by NCUA to:

(1) Create structured products;

(2) Manage its own balance sheet; and

(3) Hedge the balance sheet of its credit union members.

(b) All derivative transactions are subject to the following requirements:

(1) If the counterparty is domestic, the counterparty rating can be no lower than the minimum rating for comparable term permissible investments.

(2) If the counterparty is foreign, the counterparty rating can be no lower than the minimum rating for comparable term permissible investments under Part III Authority.

Part V

A corporate credit union, which has met the requirements for this Part V, may participate in loans with member natural person credit unions as approved by NCUA and subject to the following limitations:

(a) The maximum aggregate amount of participation loans with any one member credit union shall not exceed 25 percent of capital; and

(b) The maximum aggregate amount of participation loans with all member credit unions shall not exceed 100 percent of capital.

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Lamb Promotion, Research, and Information Order; Proposed Rule

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS–01–12]

RIN 0581–AC06

Lamb Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is seeking comments regarding the establishment of an industry-funded promotion, research, and information program for lamb and lamb products including pelts but excluding wool and wool products. In response to an invitation published in the **Federal Register** to submit proposals for a Lamb Promotion, Research, and Information Order (Order), the AMS received an entire industry proposal as well as two other partial proposals. With modifications, the full industry proposal and two partial proposals are set forth below for public comment. All comments will be considered before we issue a final rule establishing an Order.

Under the proposed program lamb producers, seedstock producers, feeders, and exporters would pay an assessment of one-half cent ($.005) per pound when live lambs are sold. The first handler, primarily packers, would pay an additional 30 cents per head of lambs purchased by the first handler for slaughter. The first handler would remit the total amount of assessment due to the proposed Lamb Promotion, Research, and Information Board (Board). The proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 and would apply to all sales of sheep and lambs.

DATES: Comments must be received by November 20, 2001.

ADDRESSES: Send a copy of your comments to Ralph Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251. Comments will be submitted and made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: *Ralph.tapp@usda.gov* or by fax at 202/720–1125. All comments should reference the docket number (LS–01–12), the date, and the page number of this issue of the **Federal Register**.

Pursuant to the Paperwork Reduction Act (PRA), send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection under the PRA also should be sent to the Desk Officer for Agriculture; Office of Information and Regulatory Affairs; Office of Management and Budget (OMB); Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch; telephone 202/720–1115, fax 202/720–1125, or e-mail at *Ralph.Tapp@usda.gov*.

SUPPLEMENTARY INFORMATION: This proposed Order is issued pursuant to the Commodity Promotion, Research, and Information Act of 1996, 7 U.S.C. 7401–7425; Public Law 104–127, enacted April 4, 1996, hereinafter referred to as the Act.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within 2 years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary of Agriculture (Secretary) will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or carries on business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Executive Order 12866

This proposed rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

The Act authorizes generic programs of promotion, research, and information for agricultural commodities. Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs.

This Order is intended to develop and finance an effective and coordinated program of promotion, research, and information to maintain and expand the markets for lamb and lamb products. In response to invitations to submit proposals published in the **Federal Register** November 23, 1999 (64 FR 65665) and January 12, 2000 (65 FR 1825), a proposed Order developed by the Lamb Industry Checkoff Exploration Team was submitted by the American Sheep Industry Association (ASI) (Proponent I). Proponent I proposed a program assessing lamb producers, feeders, first handlers, and seedstock producers.

While the proposed Order would impose certain recordkeeping and reporting requirements on persons subject to the Order, the information required under the proposed Order could be compiled from records currently maintained. First handlers and exporters would collect and remit the assessments on lambs to the Board. Their responsibilities would include accurate recordkeeping and accounting of the number of lambs purchased, the names of the producers, seedstock producers, and feeders, and the purchase date. Required reporting forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such records and reports shall be retained for at least 2 years beyond the fiscal year of their applicability. These requirements are already being

conducted as a normal business practice. In addition, a person who is a market agency; *i.e.* commission merchant, auction market, or livestock market in the business of receiving lambs for sale on commission for or on behalf of a producer, seedstock producer, or feeder would be required to collect an assessment and pass the collected assessments on to the subsequent purchaser. There would be a minimal burden on persons who are market agencies. It is not anticipated that they would be required to submit records of their transactions involving lamb purchases and the required assessment collection to the Board. Information on such transactions could be obtained through an audit of the market agencies' records. Such records are already being maintained as a normal business practice. This would include such records or documents that evidence payment of an assessment pursuant to the requirements in § 1280.225(b).

In addition, first handlers of lambs who seek nomination to serve on the Board would be required to complete a nomination form that would be submitted to the Secretary.

The added burden to first handlers and exporters for a lamb promotion, research, and information program is therefore minimal.

There is also a minimal burden on producers, seedstock producers, and feeders. The burden relates to those producers, seedstock producers, and feeders who would seek nomination to serve on the Board, request a refund of assessments paid, and vote in referenda. In addition, the proposed Order would require producers, seedstock producers, and feeders to provide information to the Board or the Secretary when requested and to keep records to qualify for a refund. However, it is not anticipated that producers, seedstock producers, and feeders would be required to regularly submit assessment forms to the Board. In some instances, as part of the Board's compliance operation, the information would be obtained through an audit of producer's, seedstock producer's, or feeder's records to confirm information provided by a first handler or if a first handler did not file the required reports. When seeking nomination to serve on the Board, producers, seedstock producers, feeders, and first handlers would be required to complete one form that would be submitted to the Secretary by a certified organization to make nominations.

The estimated annual cost of providing the required information to the Board by an estimated 71,039 respondents (51,800 producers, 15,000 seedstock producers, 3,318 market agencies, 571 first handlers, 100 feeders, and 15 exporters) would be $993,388 or $13.98 per respondent.

If the program is implemented, the Department would oversee program operations and conduct a referendum not later than 3 years after assessments first begin under this part. Subsequent referenda would be conducted (1) not later than 7 years after assessments first begin to determine whether lamb producers, seedstock producers, feeders, first handlers, and exporters support continuation of the program, (2) at the request of the Board established under the Order, or (3) at the request of 10 percent or more of the number of persons eligible to vote in referenda. Additionally, the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by those eligible to vote in the referendum.

There are approximately 51,800 producers, 15,000 seedstock producers, 100 feeders, 571 first handlers, and 15 exporters of lamb who would be subject to the program. Most of the lamb producers, seedstock producers, feeders, and exporters would be classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201). Most first handlers would not be classified as small businesses. SBA defines small agricultural handlers as those whose annual receipts are less than $5 million and small agricultural producers are defined as those having annual receipts of less than $750,000 annually.

To compete against rising foreign imports and flat domestic demand, the domestic lamb industry has proposed a promotion and research checkoff program to improve production efficiency and promote consumption.

The domestic lamb industry is composed of two groups: lamb producers and lamb packers and processors. Domestic lamb producers can be further divided into three groups: (1) breeders of purebred sheep and lambs used for breeding purposes, (2) commercial market producers who maintain sheep flocks to produce lambs for feeding and slaughter, and (3) commercial feed lot operators who feed lambs until ready for slaughter. The groups overlap and firms often perform two or more operations. Although many sheep production operations are located in the east, the majority of sheep are concentrated in the western and corn belt States. In the west and southwest, sheep production can be the most productive use of the land in some areas.

Packers and processors are the second component of the domestic lamb industry. Lamb packers are companies that slaughter lambs. Most packers also slaughter one or more other types of livestock. This part of the industry includes eight federally inspected firms accounting for 96 percent of the domestically slaughtered sheep and lambs. Processors, along with some packers, break lamb carcasses in to different cuts. There are less than 10 major processing firms and, like the packers, only a small portion of their operations are devoted to processing lamb.

Domestic lamb producers have been competing with surging foreign lamb imports. Between 1993 and 1997, lamb imports increased by 49.3 percent from 56.5 million pounds to 84.4 million pounds. The greatest increase in imports occurred during the period 1996 through 1997, when imports rose by 18.5 percent. Imports in 1998 were 30 percent above those in 1997, and imports in the first quarter of 1999 were 10 percent above those in the first quarter of 1998. As measured by quantity, imports captured 23.3 percent of the domestic market in January through September 1998, up from 11.2 percent in 1993. The loss of market share is magnified by the fact that domestic per capita lamb meat consumption dropped from 1.3 pounds in 1993 to 1.1 pounds in 1995 where it remained through 1997.

Increasingly, imports have shifted away from frozen, unprocessed carcasses to value-added product categories. In 1993, fresh or chilled lamb meat accounted for only 20 percent of imports. By 1997, the figure had doubled to 40 percent. Processed lamb, particularly boneless cuts, have replaced lamb carcasses. Carcasses represented only 3 percent of 1997 imports whereas bone-in and boneless boxed lamb cuts accounted for 66.8 percent and 30.2 percent, respectively, of the carcass-equivalent volume of imported lamb meat. Between January 1993 and June 1998, prices on imported Australian and New Zealand lamb, which account for virtually all imported lamb, were anywhere from 9.4 percent to 70.3 percent less expensive than domestic products.

With the increase in lamb imports, the domestic production, packing and processing of lamb has dropped significantly. Domestic lamb meat production declined by 26 percent from 326.7 million pounds in 1993 to 243 million pounds in 1999. Production was down 3 percent in May of 2000

compared to the same period in 1999. Domestic producers share of the net sales value on lamb has also declined with imports representing 30.7 percent in January through September 1998, up from 11.2 percent in 1993. The number of domestic lamb producers has decreased from 93,280 in 1993 to 74,710 in 1997, a 20 percent decline. With an estimated 2.2 workers per operation, the decline in lamb producers translates into a drop in workers from 205,216 in 1993 to 164,362 in 1997. Federally inspected sheep and lamb slaughtering plants have declined from 711 to 571. Only 9 plants can slaughter more than 100,000 sheep and lambs annually. One was closed in 1995 and another was closed in 1998.

Imports have also affected prices and sales. Direct prices for slaughter lambs dropped by 25 percent between the first quarter of 1997 and the first quarter of 1998. During the second quarter of 1998, direct prices were 17.6 percent lower than prices during the same period in 1997. Similarly, for the same periods, auction prices fell by 20.5 percent and 14.9 percent, respectively. For packers, prices on carcasses dropped 30.8 percent between September 1997 and April 1998.

In response to the surge in imports, domestic producers along with packers and processors filed a petition with the International Trade Commission (ITC) seeking import relief. ITC conducted an investigation (Investigation No. TA 201–68) and found that imports have depressed prices and sales of domestic lamb causing serious harm to domestic producers' financial conditions (ITC Publication 3176, April 1999). It also found that although there is evidence that U.S. consumers prefer domestically produced lamb, domestic producers engage in little or no promotion. In recommending relief, a majority of the commissioners stressed the need for an industry marketing program supported by checkoff funds to improve production and efficiency and increase demand.

Because of the decline in the domestic lamb industry caused by imports and flat demand, domestic producers are seeking ways to reverse this trend. A checkoff program to promote and market domestic lamb products is one way this could be accomplished. A coordinated promotion and marketing effort would help domestic producers compete more effectively against imports while increasing demand for lamb. It would also permit domestic producers to fund projects to develop more effective and efficient production processes. More efficient production along with increased demand would lead to higher, more stable prices for producers, packers, and processors.

The proposed Order would authorize a fixed assessment paid by producers, seedstock producers, exporters, and feeders at a rate of one-half cent ($.005) per pound of live lamb sold. In addition to the $.005 per pound assessment on live lambs, first handlers would remit to the Board $.30 per head on all slaughter lambs.

At the proposed rate of assessment of one-half cent ($.005) per pound of live lamb sold and the additional $.30 paid by packers on slaughter lambs, the Board would collect approximately $3 million annually. It is expected that the assessment would represent less than 1 percent of producers' average return.

The program would be administered by a Lamb Promotion, Research, and Information Board appointed by the Secretary from industry nominations. The Secretary would certify industry organizations that would nominate producers, seedstock producers, feeders, and first-handlers to serve as members on the Board. The Board would recommend the assessment rate, programs and projects, budgets, and any rules and regulations that might be necessary for the administration of the program.

The Board would consist of 12 members: six producer representatives (three from each of the two regions), three feeder representatives, two first handlers, and one seedstock producer. The members primarily would be nominated by eligible regional, State, and national organizations within the respective regions that are certified by the Secretary.

Proposed recordkeeping and reporting requirements for the lamb promotion, research, and information program would be designed to ensure compliance and generate the data necessary for the effective conduct of the program.

The estimated annual cost of providing information to the Board by an estimated 71,039 respondents (51,800 producers, 15,000 seedstock producers, 3,318 market agencies, 571 first handlers, 100 feeders, and 15 exporters) would be $993,388 or $13.98 per respondent.

With regard to alternatives to this proposed rule, the Act itself provides authority to tailor a program according to the individual needs of an industry. Section 514 of the Act provides for orders applicable to producers, first handlers, and other persons in the marketing chain as appropriate. Provision is made for permissive terms in an order in § 516 of the Act and authorizes an Order to provide for coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for assessing imports; provision for reserve funds; and provision for credits for generic and branded activities. In addition, § 518 of the Act provides for a referendum to ascertain approval of an Order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the Order. An Order also may provide for its approval in a referendum to be based upon (1) a majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Section 515 of the Act provides for establishment of a board from among producers, first handlers, feeders, and others in the marketing chain as appropriated.

This proposal includes provisions for domestic expansion and improvement, reserve funds, and a delayed referendum. Approval would be based upon the majority of those persons voting for approval who also represent a majority of the volume of lambs produced, slaughtered, or exported during the representative period established by the Secretary.

We have not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with this rule. While we have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed Order on small entities, in order to obtain all the data necessary for a comprehensive analysis, we invite comments concerning potential effects of the proposed Order. In particular, we are seeking information on the number of first handlers, producers, seedstock producers, feeders, and exporters that would be covered by the program. In addition, we are interested in more information on the number and kind of small entities that may incur benefits or costs from implementation of the proposed Order and information on expected benefits or cost.

Paperwork Reduction Act

In accordance with OMB regulation (5 CFR part 1320) that implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that may be imposed by this Order have been submitted to OMB for approval.

Title: Lamb Promotion, Research and Information Order.

OMB Number for Background Form (Number 1 Below): 0505–0001.

Expiration Date of Approval: July 31, 2002.

OMB Number for Other Information Collections: New collection.

Expiration Date of Approval: 3 years from date of approval.

Type of Request: Approval of new information collection.

Abstract: The information collection requirements in the request are essential to carry out the intent of the Act.

Under the proposed program, first handlers and exporters would be required to collect assessments from producers and submit the required reports and remit assessments to the Board. Persons who are market agencies would be required to collect an assessment and pass the collected assessments on to the subsequent purchaser. It is not anticipated that they would be required to submit records of their transactions involving lamb purchases and the required assessment collection to the Board. While the proposed Order would impose certain recordkeeping requirements on persons subject to the Order, information required under the proposed Order could be compiled from records currently maintained. Such records would be retained for at least 2 years beyond the fiscal year of their applicability. The estimated annual cost of providing the information to the Board by an estimated 71,039 respondents (51,800 producers, 15,000 seedstock producers, 3,318 market agencies, 571 first handlers, 100 feeders, and 15 exporters) would be $993,388 or $13.98 per respondent. Each first handler and exporter responsible for the collection of assessments and remittance of the assessments to the Board, would do so by the 15th day of the month following the month in which lambs were purchased for slaughter, exported, or lambs or lamb products were marketed directly to a consumer. It is anticipated that the bulk of assessments would be submitted to the Board by first handlers who purchased lambs for slaughter. A person such as a producer or feeder is considered a first handler when that person markets lamb or lamb products of their own production directly to a consumer.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements.

The proposed forms would require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual producers and first handlers who are subject to the provisions of the Act.

Therefore, there is no practical method for collecting the required information without the use of these forms.

Information collection requirements that are included in this proposal include:

(1) *Background Information Form.*

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hours per response for each producer, feeder, seedstock producer, and first handler nominated to serve on the Board.

Respondents: Producers, seedstock producers, feeders, and first handlers.

Estimated number of Respondents: 8 (24 for initial nominations to the Board, 8 in the second year, and 8 in the third year).

Estimated number of Responses per Respondent: 1 every 3 years.

Estimated Total Annual Burden on Respondents: 12 hours for the initial nominations to the Board and 4 hours annually thereafter.

Total Cost: $240 initial, $80 thereafter.

(2) *Requirement To Maintain Records Sufficient to Verify Reports and Requests for Refunds Submitted Under the Order.*

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.6 hours per record keeper maintaining such records.

Recordkeepers: Producers, seedstock producers, feeders, market agencies, first handlers, and exporters.

Estimated number of Recordkeepers: 71,039.

Estimated Total Recordkeeping Hours: 42,623.4 hours.

Total Cost: $852,468.

(3) *Monthly Remittance Report Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per first handler and exporter.

Respondents: First handlers and exporters.

Estimated Number of Respondents: 586.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 7,032 hours.

Total Cost: $140,640.

(4) *Application for Refund Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Producers, seedstock producers, first handlers, feeders, and exporters.

Estimated number of Respondents: 67,486.

Estimated Total Annual Burden: 16,871.5 hours.

Total Cost: $337,430.

(5) *Application for Certification of Organization Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: National, State, or regional lamb associations or organizations.

Estimated number of Respondents: 20.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden: 10 hours.

Total Cost: $200.

(6) *Nomination for Appointment to the Lamb Board Form.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: National, State, or regional lamb associations and organizations.

Estimated number of Respondents: 20.

Estimated number of Responses per Respondent: 1 per year.

Estimated Total Annual Burden: 10 hours.

Total Cost: $200.

(7) *Statement of Certification (Lamb Promotion, Research, and Information Order) (LS–83).*

Estimate of Burden: The Deputy Administrator or designee of AMS' Livestock and Seed Program will sign this form certifying eligible organizations to make nominations to

the Board. Because only AMS employees will complete this form, the estimated average reporting burden would not apply to the public.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Order and the Department's oversight of the program, including whether the information will have practical utility; (b) the accuracy of Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments concerning the information collection requirements contained in this action should reference the Docket Number LS–01–12, together with the date and page number of this issue of the **Federal Register**. Comments should be sent to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627-S; Livestock and Seed Program, AMS, USDA; STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250–0251; by fax at 202/720–1125, or by e-mail at *Ralph.Tapp@usda.gov*. Comments should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503. All comments received will be available for public inspection during regular business hours, 8 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, at the same address.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 days and 60 days after publication. Therefore, a comment to OMB is best assured of being considered if OMB receives it within 30 days after publication.

Background

The Act authorizes the Secretary to establish agricultural commodity research and promotion orders. The Act provides for the submission of proposals for a lamb promotion, research, and information order by industry organizations or any other interested persons affected by the Act. Section 516 of the Act provides permissive terms for orders, and other sections provide for alternatives. For example, § 514 of the Act provides for orders applicable to (1) Producers, (2) first handlers, (3) feeders and others in the marketing chain as appropriate. Section 516 authorizes an order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, § 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the order. The Act authorizes three different voting methods for approving an order in a referendum. Section 515 provides for establishment of a board from among producers, seedstock producers, first handlers, feeders, and others in the marketing chain as appropriate.

This proposed Order includes provisions for both domestic and foreign market expansion and improvement, reserve funds, and a delayed referendum to be conducted within 3 years after assessments begin. The Order would be continued if approved the referendum by a majority of those persons voting who also represent a majority of the volume of lambs represented in the referendum.

Proponent I has requested the establishment of a national Lamb Promotion, Research, and Information Order pursuant to the Act. The Act authorizes the establishment and operation of generic promotion programs that may include a combination of promotion, research, and information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. This proposal would provide for the development and financing of an effective and coordinated program of research, promotion, and information for lamb and lamb products. The purpose of the program would be to strengthen the position of lamb and lamb products in domestic and foreign markets, and to develop, maintain, and expand markets for lamb and lamb products. The program would become effective following issuance of a final order with continuance subject to its approval in a delayed referendum conducted by the Department. Section 518 of the Act provides for the Department (1) to conduct a required referendum, preceding a proposed Order's effective date, among persons who would be subject to assessments under the program or (2) to implement a proposed Order, pending the conduct of a referendum, among persons subject to assessments, within 3 years after assessments first begin. In accordance with § 518(e) of the Act, an Order may provide for its approval in a referendum based upon (1) a majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Proponent I has recommended that a delayed referendum be conducted using the third approval option. Thus, the Secretary would conduct a referendum within 3 years after assessments first begin, in which approval of the Order would be determined by a majority of persons voting for approval who also represent a majority of the volume of lamb production represented in the referendum. The Act also requires the Secretary to conduct subsequent referenda: (1) Not later than 7 years after assessments first begin under the Order; (2) at the request of the Board established under the Order; or (3) at the request of 10 percent or more of the number of persons eligible to vote. In addition to these criteria, the Act provides that the Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the Order or a provision of the Order is favored by persons eligible to vote.

The proposed Order also contains provisions that would allow persons to request a refund of assessments paid during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum. The refunds would be paid from an escrow account established by the Board as provided for in § 1280.214(c). Persons who filed a request for refunds during the specified time period would be entitled to a refund of assessments paid from the effective date of the Order until the Secretary announces the results of the referendum. If the amount in the escrow fund is less than the total refunds demanded, persons entitled to a refund would receive a pro rata share.

A national research and promotion program for lamb would help the industry to address the many market problems it currently faces. Domestic lamb producers have been competing with surging foreign lamb imports, competition from other meat and poultry, and changing consumer meat buying preferences. Between 1993 and 1997, lamb imports increased by 49.3 percent from 56.5 million pounds to 84.4 million pounds. Imports in 1996 through 1997, which had the largest increase, rose by 18.5 percent. Imports in 1998 were 30 percent above those in 1997, and imports in the first quarter of 1999 were 10 percent above those in the first quarter of 1998. As measured by quantity, imports captured 23.3 percent of the domestic market in January through September 1998, up from 11.2 percent in 1993. The loss of market share is magnified by the fact that domestic per capita lamb meat consumption dropped from 1.3 pounds in 1993 to 1.1 pounds in 1995 where it remained through 1997.

Increased funding would allow the industry to expand its current consumer, food service, and food manufacturer promotion efforts. Also it would allow for increased participation in the Department's Market Access Program and the opportunity to develop stronger markets overseas. In addition, such a program would create the opportunity to explore tie-in promotional activities with nationally branded food products that would help the lamb industry gain advertising and in-store exposure.

The assessment levied on domestically-produced lamb would be used to pay for promotion, research, and information as well as administration, maintenance, and functioning of the Board. Expenses incurred by the Secretary in implementing and administering the Order, including referenda costs, also would be paid from assessments.

Sections 516(e)(1) and (2) of the Act states that the Secretary may provide credits of assessments for generic and branded activities. The proponents have elected not to propose credits for generic or branded activities. Therefore, the terms generic activities and branded activities are not defined in the Order.

First handlers and exporters would be responsible for the collection of assessments and remittance of assessments to the Board. First handlers and exporters would be required to maintain records of lambs purchased from each producer, seedstock producer, and feeder, by the first handler or exporter, including lambs produced or fed by the first handler or exporter. First handlers and exporters would be required to file reports regarding the collection, payment, and remittance of the assessments. In addition, a person who is a market agency; i.e. commission merchant, auction market, or livestock market in the business of receiving lambs for sale on commission for or on behalf of a producer, seedstock producer, or feeder would be required to collect the assessment and pass the collected assessments on to the subsequent purchaser.

All information obtained from persons subject to this Order as a result of recordkeeping and reporting requirements would be kept confidential by all officers, employees, and agents of the Department and of the Board. This information may be disclosed only if the Secretary considers the information relevant, and the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person, or the publication, by direction of the Secretary, of the name of any person violating the Order, and a statement of the particular provisions of the Order violated by the person.

The Act requires that a proposed Order provide for the establishment of a board to administer the program under Department supervision. Proponent I's proposal provided for a 12-member Board to ensure fair and equitable representation of the lamb industry on the Board. The Act requires membership on the Board to reflect the geographical distribution of the production of lamb and lamb products. To that end, the proposed Order would divide the United States into two geographic regions with three lamb producers on the Board from each region. There would be three lamb feeder members on the Board. One feeder would feed less than 5,000 lambs annually and two would feed more than 5,000 lambs annually. Two first handlers and one seedstock producer would be appointed as members of the Board. Members would serve for 3-year terms, except that the members appointed to the initial Board would serve proportionately for 1, 2, and 3 years. No member would serve more than two consecutive 3-year terms.

Upon implementation of the Order and pursuant to the Act, the Board would at least once in each 5-year period, but not more frequently than once in each 3-year period, review the geographical distribution of lamb in the United States and make a recommendation to the Secretary after considering the results of its review and other information it deems relevant regarding the reapportionment of the Board.

In response to the invitation to submit proposals, Proponent I submitted a proposed Order. In addition, two partial proposals were submitted—one partial proposal from the National Lamb Feeders Association and one from the U.S. Seedstock Alliance.

Proponent I submitted a comprehensive Order. It contains sections embodying the provisions discussed above as well as provisions required by the statute and administrative provisions similar to those found appropriate or necessary under other promotion or marketing orders.

Proposal 1

The proposed Order submitted by the American Sheep Industry Association is summarized as follows: Sections 1280.101 through 1280.129 of the proposed Order define certain terms such as lamb, producer and first handler, which are used in the proposed Order.

Sections 1280.201 through 1280.211 include provisions relating to the Board. These provisions cover establishment and membership, nominations, nominee's agreement to serve, appointment, vacancies, certification of organizations, term of office, compensation, removal, prohibited activities, and powers and duties of the Board, which is the governing body authorized to administer the Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about lamb and lamb products, subject to oversight of the Secretary.

Sections 1280.212 through 1280.216 cover budget and expenses; require the Board to submit a budget for the fiscal year covering anticipated expenses and disbursements, investment of funds, escrow accounts, refunds, and procedures for obtaining a refund.

Sections 1280.217 through 1280.221 cover lamb purchases and authorize the collection of assessments; specify limitations on the use of funds; and specify who pays the assessment and how.

Sections 1280.222 through 1280.227 cover maintaining books and records, accounting for the receipt and disbursement of all funds; reports from each first handler to the Board including the number of lambs purchased and amount remitted, and use and confidentiality of information. Also, every 5 years, the Board funds an independent evaluation of the program.

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Sections 1280.228 through 1280.236 discuss the rights of the Secretary; personal liability; separability; patents, copyrights, inventions, product formulations, and publications; amendments; referenda, which would be delayed (required referenda); suspension or termination; proceedings after termination; and effects of termination or amendment.

The Department has modified the proposal in order to (1) make it consistent with the Act and other similar national research and promotion programs supervised by the Department, (2) simplify the language and format of some provisions, and (3) add certain sections necessary for proper administration of the Order by the Department.

A definition of lamb products was added for clarity and consistency with other similar programs. Definitions for Order, Suspend and Terminate were added to maintain consistency with the Act. A definition of conflict of interest was added for clarity. The definition for collecting person was deleted as it was not necessary given the specificity in other provisions of the order. In the definition for "Promotion" some minor adjustments were made for clarity.

Section 1280.201 Establishment and membership, has an additional subsection (c), "Adjustment of membership," which provides for reapportionment of the Board.

Section 1280.202 "Nominations" was edited to mirror the language in the Act, for consistency with other national research and promotion programs, and for clarity.

Section 1280.205, "Initially established Board," from the proposed Order was deleted and combined with § 1280.202 "Nominations" in the modified proposed Order.

Section 1280.208 "Term of office," from the submitted proposed Order was modified to conform to language in the Act.

Section 1280.210 "Powers and duties of the board" was edited, organized, and modified to be more consistent with other national research promotion programs and the Act.

In the table of contents and the regulatory text, "Assessments" was included as the undesignated center heading for § 1280.217 through § 1280.221. "Expenses" was included as the undesignated center heading for § 1280.212 through § 1280.216.

Section 1280.215, from the proposed Order, "Use of assessments" was deleted because it is covered in "Powers and duties of the Board."

Section 1280.216 "Refund Escrow Accounts" from the proposed Order was divided into two sections to enhance and clarify the escrow requirements in § 1280.214 "Refund escrow accounts" and the refund requirements in § 1280.215 "Refunds." The refund requirements were adjusted to provide consistency in the payment of refunds whether the Order is approved or defeated in the referendum.

Section 1280.217 "Lamb purchases" was revised by adding paragraph (b) to exclude from assessment those persons who facilitate the transfer of ownership of lambs from the seller to a third party.

Section 1280.211 "Prohibited activities" was added to be consistent with the Act.

Section 1280.212 "Budget and expenses" was substituted for the separate sections "Budgets" and "Expenses" from the proposed Order for clarity and consistency with the Act.

Section 1280.222 "Books and records of the board" was added prior to "Reports" to be more consistent with the Act.

Section 1280.227 "Confidentiality," was revised to be more consistent with other national research and promotion programs.

Proposal II

The National Lamb Feeders Association (NLFA) proposed definitions for feeder, producer, and seedstock producer. We have accepted this proposal for comment and identified it in § 1280.107, § 1280.116, and § 1280.122 in the regulatory section under Proposal II.

NLFA proposed that further explanation of certified organizations be incorporated to bring clarity to the process through which the Secretary certifies various organizations as qualified to make nominations to the Lamb Board. We have not accepted this proposal because Proposal I adequately addresses the process through which the Secretary would certify such organizations.

NLFA proposed that eligibility to vote in a referendum include proof of participation via an assessment deduction within the prior 12 months. We have not accepted this proposal because the Act gives the Secretary flexibility in determining the length of the representative period and eligibility to vote applies to the production or handling of the agricultural commodity covered by the order or the importation of the agricultural commodity.

NLFA proposed that under the establishment and membership of the Board, the Secretary be authorized to appoint only one feeder representative who annually feeds 5,000 or more head of lambs and to appoint two feeders who annually feed less than 5,000 head of lamb. We have accepted this proposal for comment and identified it in § 1280.201(a)(2)(i) and (ii) in the regulatory section under Proposal II.

NLFA proposed language that the collecting person would report the name of any person refusing to allow assessments to be collected and that the collecting person shall not be liable for the assessment. We have not accepted this proposal because § 517(a)(1) of the Act requires the first handler to remit assessments and this section does not provide for relieving first handlers of their responsibility to pay assessments.

NLFA proposed that to ensure adequate diversity and breadth of representation, the Secretary should not appoint more than four members nominated by a single organization. We did not accept this proposal because this could unduly restrict the Secretary from making appointments of Board members.

NLFA proposed that a subsequent referenda be held no later than 7 years after assessment begin and every 5th year thereafter. We have not accepted this proposal because the Act contains sufficient provisions for additional referenda. After the initial referendum, the Act allows for subsequent referenda at the request of the Board, at the request of 10 percent or more of the number of persons eligible to vote, or as the Secretary may direct.

Proposal III

The U.S. Sheep Seedstock Alliance proposed that the Order be approved in a referendum by a majority of those persons voting. We have accepted this proposal for comment and identified it in § 1280.233(a)(2) in the regulatory section under Proposal III.

The Department has also received letters from other interested parties. The Department did not consider these letters to be proposals because they primarily addressed information relating to sections already established under the Act. Copies of these letters, the three proposals, and the comments received in response to this proposed Order, will be available for public inspection.

On June 25, 2001, the United States Supreme Court issued a decision in the case of *United States* v. *United Foods, Inc.* (*United Foods*), that held that the imposition of mandatory assessments to fund generic mushroom advertising violated the First Amendment insofar as it required the mushroom industry to subsidize commercial speech with which they disagreed. The Court expressly declined to reach the question whether the generic advertising conducted under the mushroom program constitutes government speech.

The Department will analyze all written views received to date as well as written comments on the three proposals published below before issuing a final Order.

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Lamb and Lamb product, Consumer information, Marketing agreements, Reporting and recordkeeping requirements.

The full proposal and two partial proposals set forth below have not received the approval of the Secretary.

For the reasons set forth in the preamble, it is proposed that Title 7 of Chapter XI of the Code of Federal Regulations be amended as follows:

PART 1280—LAMB PROMOTION, RESEARCH, AND INFORMATION ORDER

Proposal I

Subpart A—Lamb Promotion, Research, and Information Order

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Subpart D—[RESERVED]

Subpart E—[RESERVED]

Authority: 7 U.S.C. 7401–7425.

Subpart A—Lamb Promotion, Research, and Information Order

Definitions

§ 1280.101 Act.

Act means the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7401–7425; Pub. L. 104–127; 110 Stat. 1029, as amended), or any amendments thereto.

§ 1280.102 Board.

Board means the Lamb Promotion, Research, and Information Board established pursuant to § 1280.201.

§ 1280.103 Certified organization.

The term *certified organization* means any organization which has been certified by the Secretary pursuant to this part as being eligible to submit nominations for membership on the Board.

§ 1280.104 Conflict of interest.

The term *conflict of interest* means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

§ 1280.105 Department.

Department means the United States Department of Agriculture.

§ 1280.106 Exporter.

The term *exporter* means any person who exports domestic live lambs from the United States.

§ 1280.107 Feeder.

The term *feeder* means any person who acquires ownership of lambs and feeds such lambs in the U.S. until they reach slaughter weight.

§ 1280.108 First handler.

First handler means the packer or other person who buys or takes possession of lambs from a producer or feeder for slaughter, including custom slaughter. If a producer or feeder markets lamb products directly to consumers, the producer or feeder shall be considered to be a first handler with respect to such lambs produced by the producer or feeder.

§ 1280.109 Fiscal period and marketing year.

Fiscal period and marketing year means the 12-month period ending on December 31 or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.

§ 1280.110 Information.

Information means information and programs that are designed to increase efficiency in producing lambs, to maintain and expand existing markets, and to develop new markets, marketing strategies, increased market efficiency, and activities that are designed to enhance the image of lamb and lamb products on a national or international basis. These include: (a) Consumer information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, and nutritional attributes of lamb and lamb products; and (b) Industry information, which means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the lamb industry, and activities to enhance the image of lamb.

§ 1280.111 Lamb.

For purposes of this part, the term *lamb* means ovine animals of any age, including ewes and rams.

§ 1280.112 Lamb products.

The term *lamb products* means products produced in whole or in part from lamb, including pelts, and excluding wool and wool products.

§ 1280.113 Order.

Order means an order issued by the Secretary under § 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1280.114 Part and subpart.

Part means the Lamb Promotion, Research, and Information Order and all rules and regulations issued pursuant to the Act and the Order. The Order shall be a *subpart* of the Part.

§ 1280.115 Person.

The term *person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1280.116 Producer.

The term *producer* means any person who owns and produces lambs in the United States for sale.

§ 1280.117 Producer information.

The term *producer information* means activities designed to provide producers, feeders, and first handlers with information relating to production or marketing efficiencies, development of new markets, program activities, or other information that would facilitate an increase in the demand for lambs or lamb products.

§ 1280.118 Promotion.

Promotion means any action, including paid advertising and the dissemination of culinary and nutritional information and public relations with emphasis on new marketing strategies, to present a favorable image of U.S. lamb products to the public for the purpose of improving the competitive position of U.S. lamb and lamb products in the marketplace and to stimulate sales.

§ 1280.119 Referendum.

Referendum means a referendum to be conducted by the Secretary pursuant to the Act whereby producers, feeders, first handlers, and exporters shall be given the opportunity to vote to determine whether the continuance of this subpart is favored by a majority of eligible persons voting and a majority of volume voting.

§ 1280.120 Research.

Research means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of lamb or lamb products.

§ 1280.121 Secretary.

Secretary means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1280.122 Seedstock producer.

Seedstock producer means any lamb producer in the U.S. who engages in the production and sale of breeding replacement lambs or semen or embryos.

§ 1280.123 State.

The term *State* means each of the 50 States and the District of Columbia.

§ 1280.124 Suspend.

Suspend means to issue a rule under § 553 of title 5, U.S.C., to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1280.125 Terminate.

Terminate means to issue a rule under § 553 of title 5, U.S.C., to cancel permanently the operation of an order or part thereof beginning on a date certain specified in the rule.

§ 1280.126 Unit.

The term *unit* means each State, group of States or class designation (producers, feeders, first handlers, or seedstock producers) which is represented on the Board.

§ 1280.127 United States.

The term *United States* means collectively the 50 States and the District of Columbia.

§ 1280.128 Wool.

The term *wool* means fiber from the fleece of a lamb.

§ 1280.129 Wool Products.

The term *wool products* means products produced, in whole or in part, from wool and products containing wool fiber, excluding pelts.

Lamb Promotion, Research, and Information Board

§ 1280.201 Establishment and membership.

(a) There is hereby established a Lamb Promotion, Research and Information Board of 12 members. Members of the Board shall be appointed by the Secretary from nominations submitted in accordance with this subpart. The seats shall be apportioned as follows:

(1) *Producers.* For purposes of nominating and appointing producers to the Board, the United States as defined within this subpart shall be divided into two regions. Region 1 shall include the geographic area east of the Mississippi River, which includes the following States: Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Pennsylvania, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Michigan, Illinois and Wisconsin. Region 2 shall consist of all States west of the Mississippi River, which includes the following states: Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, Hawaii and Alaska. With regard to appointments to the Board, the Secretary shall ensure that the representation for producers on the Board shall meet the following criteria:

(i) Two producers appointed to the Board shall own annually 100 or less head of lambs;

(ii) One producer shall own annually between 101 and 500 head of lambs; and

(iii) Three producers shall own more than 500 head of lambs annually.

(iv) Each region must be represented by three producers.

(2) *Feeders.* There shall be three feeder representatives on the Board appointed by the Secretary from nominations submitted pursuant to this subpart. The Secretary in appointing feeder representatives to the Board shall ensure that such representatives meet the following criteria:

(i) One of the feeders appointed to the Board shall feed less than 5,000 head of lambs annually.

(ii) Two of the feeders appointed to the Board shall feed 5,000 or more head of lambs annually.

(iii) The Secretary shall ensure that the feeders appointed to the Board are not all located in one geographic region established for the nomination and appointment of producers pursuant to paragraph (a)(1) of this section.

(3) *First handlers.* There shall be two first handler representatives appointed to the Board by the Secretary from nominations submitted pursuant to this subpart.

(4) *Seedstock producers.* There shall be one seedstock producer appointed to the Board by the Secretary from nominations submitted pursuant to this subpart.

(b) In soliciting nominations for the Board, the Secretary will request those nominating to identify specific categories in which nominees will qualify.

(c) *Adjustment of membership.* At least once every 5 years, the Board will review the geographical distribution of the United States production of lambs. The review will be conducted using the National Agricultural Statistics Service inventory figures and the Board's annual assessment receipts. If warranted, the Board will recommend to the Secretary that the membership on the Board be adjusted to reflect changes in geographical distribution of domestic lamb production.

§ 1280.202 Nominations.

All nominations authorized under this section shall be made in the following manner:

(a) Nominations shall be obtained by the Secretary from eligible organizations certified under § 1280.206. Certified eligible organizations representing producers, feeders, first handlers, or seedstock producers shall submit to the Secretary at least two nominees for each seat on the Board. If the Secretary determines that a unit is not represented by a certified eligible organization, then the Secretary may solicit nominations from other organizations or other persons residing in the unit.

(b) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nomination for subsequent Board members shall be submitted to the Secretary not less than 60 days prior to the expiration of the terms of the members whose terms are expiring, in the manner as described in this section. In the case of vacancies due to reasons other than the expiration of a term of office, successor Board members shall be appointed pursuant to § 1280.205.

(c) When there is more than one certified eligible organization representing the unit or when the Secretary solicits nominations from organizations and persons residing in that unit, they may caucus and jointly nominate, two qualified persons for each position representing that unit on the Board for which a member is to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary two nominees for each appointment to be made to represent that unit.

§ 1280.203 Nominee's agreement to serve.

Any producer, feeder, first handler, or seedstock producer nominated to serve on the Board shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed;

(b) Disclose any relationship with any lamb promotion entity or with any organization that has or is being considered for a contractual relationship with the Board; and

(c) Withdraw from participation in deliberations, decision-making, or voting on matters that concern the relationship disclosed under paragraph (b) of this section.

§ 1280.204 Appointment.

From the nominations made pursuant to § 1280.202, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1280.201.

§ 1280.205 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall appoint a successor from the most recent list of nominations for the position or the Secretary shall request nominations for a successor pursuant to § 1280.202 and such successor shall be appointed pursuant to § 1280.204.

§ 1280.206 Certification of organizations.

(a) *In General.* The eligibility of state, regional, or national organizations to represent producers, seedstock producers, feeders, and first handlers and to participate in the making of nominations under this subpart shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established under paragraphs (b) and (c) of this section. An eligibility determination by the Secretary shall be final.

(b) *Basis for Certification.* Certification shall be based upon, in addition to other available information, a factual report submitted by the organization that shall contain information considered relevant and specified by the Secretary, including:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the number of active producers, seedstock producers, feeders, or first handlers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organization are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the purpose and objectives of the Act.

(c) *Primary Considerations.* The primary considerations in determining the eligibility of an organization under this paragraph shall be whether:

(1) The membership of the organization consists primarily of producers, seedstock producers, feeders, or first handlers who market or handle a substantial quantity of lamb or lamb products; and

(2) A primary purpose of the organization is in the production or marketing of lamb or lamb products.

§ 1280.207 Term of office.

(a) The members of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve proportionately for terms of 1-year, 2-years, and 3-years.

(b) No member may serve more than two consecutive 3-year terms.

(c) Each member shall continue to serve until a successor is appointed by the Secretary and has accepted the position.

§ 1280.208 Compensation.

Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

§ 1280.209 Removal.

If the Secretary determines that any person appointed under this part fails or refuses to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. A person appointed under this part or any employee of the Board may be removed by the Secretary if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

§ 1280.210 Powers and duties of the Board.

The Board shall have the following powers and duties:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

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(c) To meet not less than annually, organize, and select from among the members of the Board a Chairperson, Vice Chairperson, Secretary/Treasurer, other officers, and committees and subcommittees, as the Board determines to be appropriate;

(d) To prepare and submit for the approval of the Secretary, fiscal year budgets in accordance with § 1280.212.

(e) To employ persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(f) To develop and submit plans and projects to the Secretary for the Secretary's approval, and to enter into contracts or agreements, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs or projects of research, information (including producer information), or promotion, and the payment of costs thereof with funds collected pursuant to this subpart. Each contract or agreement shall provide that any person who enters into a contract or agreement with the Board shall develop and submit to the Board a proposed activity; keep accurate records of all of its transactions relating to the contract or agreement; account for funds received and expended in connection with the contract or agreement; make periodic reports to the Board of activities conducted under the contract or agreement; and make such other reports available as the Board or the Secretary considers relevant. Any contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and,

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor.

(g) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(h) To recommend to the Secretary such amendments to the Order as the Board considers appropriate;

(i) To maintain such records and books and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(j) To cause its books to be audited by a competent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(k) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(l) To furnish to the Secretary any information or records that the Secretary may request;

(m) To work to achieve an effective, continuous, and coordinated program of promotion, research, and information (including producer information), designed to strengthen the lamb industry's position in the marketplace; maintain and expand existing markets and uses for lamb and lamb products; and to carry out programs, plans, and projects designed to provide maximum benefits to the lamb industry;

(n) To provide not less than annually a report to producers, feeders and first handlers, accounting for the funds expended by the Board, and describing programs implemented under the Act; and to make such report available to the public upon request;

(o) To invest funds in accordance with § 1280.213.

§ 1280.211 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the lamb industry from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, State, national, and foreign governments, other than recommending to the Secretary amendments to the Order; and

(c) Any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or disparaging to another agricultural commodity.

Expenses

§ 1280.212 Budget and expenses.

(a) The Board shall prepare and submit to the Secretary a budget for the fiscal year covering its anticipated expenses and disbursements in administering, this subpart. The budget shall be submitted before the beginning of each fiscal year, and as frequently as may be necessary thereafter.

(b) Subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program, plan, or project to another.

(c) The Board is authorized to incur such expenses, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(d) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first year of operation of the Board.

(e) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(f) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, and supervision of the Order, including all referendum costs in connection with the Order.

(g) The Board may not expend for administration, maintenance, and functioning of the Board in any fiscal year an amount that exceeds 10 percent of the assessments and other income received by the Board for that fiscal year, except for the initial fiscal year. Reimbursements to the Secretary required under paragraph (f) of this section are excluded from this limitation on spending.

§ 1280.213 Investment of funds.

The Board may invest, pending disbursement, funds it receives under this subpart, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a financial institution that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used for any purpose for which the invested funds may be used.

§ 1280.214 Refund escrow accounts.

(a) The Board shall establish an interest bearing escrow account with a financial institution which is a member of the Federal Reserve System and will deposit into such account an amount equal to the product obtained by multiplying:

(1) The total amount of assessments collected by the Board during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum; by

(2) Ten percent (10 percent).

(b) The Board shall pay refunds of assessments to eligible persons requesting refunds during the period beginning on the effective date of the Order and ending on the date the Secretary announces the results of the required referendum in the manner specified in paragraph (c) of this section.

(c) If the amount deposited in the escrow account is less than the amount of refunds requested, the Board shall prorate the amount deposited in such account among all eligible persons who request a refund of assessments paid no later than the date the required referendum results are announced by the Secretary.

§ 1280.215 Refunds.

Any producer, seedstock producer, feeder, first handler, or exporter from whom an assessment is collected and remitted to the Board, or who pays an assessment directly to the Board, under authority of the Act and this subpart through the announcement of the results of the required referendum, and who is not in favor of supporting the promotion and research program as provided for in this subpart, shall have the right to receive from the Board a refund of such assessment, or a pro rata share thereof, upon submission of proof satisfactory to the Board that the producer, seedstock producer, feeder, first handler, or exporter paid the assessment for which refund is sought. Any such demand shall be made by such producer, seedstock producer, feeder, first handler, or exporter in accordance with the provisions of this subpart and in a manner consistent with regulations prescribed by the Board and approved by the Secretary.

§ 1280.216 Procedure for obtaining a refund.

Each producer, seedstock producer, feeder, first handler, or exporter who pays an assessment pursuant to the Act and this subpart during the period beginning on the effective date of the Order and ending on the date the required referendum results are announced may obtain a refund of such assessment only by following the procedures prescribed in this section and any regulations prescribed by the Board and approved by the Secretary.

(a) *Application form.* A producer, seedstock producer, feeder, first handler, or exporter shall obtain a Board-approved refund application form from the Board. Such form may be obtained by written request to the Board and the request shall bear the producer's, seedstock producer's, feeder's, first handler's, or exporter's signature or properly witnessed mark.

(b) *Submission of refund application to Board.* Any producer, seedstock producer, feeder, first handler, or exporter requesting a refund shall mail an application on the prescribed form to the Board within 60 days from the date the assessments were paid by such producer, seedstock producer, feeder, first handler, or exporter but no later than the date the results of the required referendum are announced by the Secretary. The refund application shall show (1) the producer's, seedstock producer's, feeder's, first handler's, or exporter's name and address; (2) name and address of the person who collected applicant's assessment; (3) number of head of lambs, weight of lambs, or its equivalent, on which a refund is requested; (4) total amount of refund requested; (5) date or inclusive dates on which assessments were paid; (6) certification that the producer, seedstock producer, feeder, first handler, or exporter did not collect the assessment from another producer, seedstock producer, feeder, first handler; or exporter or documentation of assessments collected from others; and (7) the producer's, seedstock producer's, feeder's, first handler's, or exporter's signature or properly witnessed mark.

(c) *Proof of payment of assessments.* The documentation provided pursuant to § 1280.225(b) to the producer, seedstock producer, feeder, first handler, or exporter by the person responsible for collecting an assessment pursuant to this subpart, or a copy thereof, or such other evidence deemed satisfactory to the Board, shall accompany the producer's, seedstock producer's, feeder's, first handler's, or exporter's refund application.

(d) *Payment of refunds.* The Board shall initiate payment of refund requests, or pay a pro rata share thereof, within 90 days of the date the results of the required referendum are released by the Secretary. Refunds shall be paid in a manner consistent with § 1280.214.

Assessments

§ 1280.217 Lamb purchases.

(a) Except as prescribed by regulations approved by the Secretary, each first handler or exporter making payment to a producer, seedstock producer, or feeder for lambs purchased from such producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder; Each producer, seedstock producer, or feeder shall pay such assessment to the first handler or exporter, at the rate of one-half cent ($.005) per pound of live lambs sold.

(b) Except as otherwise specified in this subpart, a person shall not be considered a producer, seedstock producer, or feeder within the meaning of this subpart if:

(1) The person's only share in the proceeds of a sale of lambs is a sales commission, handling fee, or other service fee; or

(2) The person (i) acquired ownership of the lambs to facilitate the transfer of ownership of such lambs from the seller to a third party, (ii) resold such lambs no later than 10 days from the date on which the person acquired ownership, and (iii) certified, as required by regulations prescribed by the Board and approved by the Secretary, that the requirements of this provision have been satisfied.

(c) Each person processing or causing to be processed lambs or lamb products of that person's own production and marketing such lambs or lamb products, shall pay an assessment on such lambs or lamb products at the time of sale at a rate equivalent to the rate established in paragraph (e) of this section and shall remit such assessment to the Board.

(d) A person who is a market agency; i.e. commission merchant, auction market, or livestock market in the business of receiving lambs for sale or commission for or on behalf of a producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder and shall pass the collected assessments on to the subsequent purchaser pursuant to this subpart and regulations

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prescribed by the Board and approved by the Secretary.

(e) *Rate.* Except as otherwise provided, the rate of assessment shall be one-half of a cent ($.005 per pound) per pound on all live lambs sold. The rate of assessment may be raised or lowered no more than twenty-hundredths of a cent ($.002) in any 1 year following opportunity for comment by interested parties.

(f) The collection of assessments pursuant to § 1280.217, § 1280.218, and § 1280.219 shall begin with respect to lambs purchased, or lambs or lamb products marketed on and after the effective date of this section and shall continue until terminated or suspended by the Secretary.

(g) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall have the authority to receive assessments and invest them on behalf of the Board, and shall pay such assessments and any interest earned to the Board when it is formed. The Secretary shall have the authority to promulgate rules and regulations concerning assessments and the collection of assessments if the Board is not in place or is otherwise unable to develop such rules and regulations.

(h) Payment remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable to the Board. Such remittances and the reports specified in § 1280.223 and § 1280.225 shall be mailed to the location designated by the Board.

§ 1280.218 Exporter.

Each person exporting live lambs shall remit to the Board an assessment on such lambs at the time of export at the rate established in § 1280.217(e). An exporter directly exporting his or her own lambs shall remit an assessment to the Board at the rate established in § 1280.217(e).

§ 1280.219 First handlers.

Each first handler, in addition to remitting the assessment collected pursuant to § 1280.217, shall pay an assessment equal to thirty cents ($.30) per head of lambs purchased by the first handler for slaughter or slaughtered by such first handler pursuant to a custom slaughter arrangement. The rates of assessment for first handlers shall be increased or decreased proportionately if the assessment paid by producers and feeders is increased or decreased. Such assessment shall be remitted with the assessments collected pursuant to § 1280.217.

§ 1280.220 Collections.

(a) Each first handler and each exporter responsible for the collection of assessments under this subpart shall remit assessments to the Board by the 15th day of the month following the month in which the lambs were purchased for slaughter or export; or

(b) If a first handler marketed lambs or lamb products directly to consumers, assessments shall be remitted to the Board by the 15th day of the month following the month in which the lambs or lamb products were marketed, unless the Board, with the approval of the Secretary, has provided otherwise.

(c) *Late Payment Charges.* Any unpaid assessments due to the Board pursuant to § 1280.217 shall be increased 2 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this paragraph, any assessment determined at a date later than the date prescribed by this subpart, because of a person's failure to timely submit a report to the Board, shall be considered to have been payable by the date it would have been due if the report had been timely filed. The timeliness of a payment to the Board shall be based on the applicable postmark date or the date actually received by the Board, whichever is earlier.

(d) Persons failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

§ 1280.221 Prohibition on use of funds.

No funds collected by the Board under this subpart shall be used to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national and foreign governments, other than recommending to the Secretary amendments to this subpart.

A plan or project conducted pursuant to this title shall not make false or misleading claims on behalf of lamb or lamb products or against a competing product.

Reports, Books, and Records

§ 1280.222 Books and Records of Board.

The Board shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit, as the Secretary may prescribe,

(b) Prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and

(c) Account for the receipt and disbursement of all funds entrusted to it. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

§ 1280.223 Reports.

Each first handler required to remit assessments to the Board for live lambs pursuant to § 1280.217, each first handler marketing lamb products of that person's own production, and each exporter of lambs, shall report to the Board information pursuant to regulations prescribed by the Board and approved by the Secretary. Such information may include but is not limited to the following:

(a) The number of lambs purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, the total weight in pounds, and the dates of such transactions;

(b) The number of lambs exported; the total weight in pounds of lambs exported;

(c) The amount of assessment remitted;

(d) The basis; if necessary, to show why the remittance is less than the total weight in pounds of lamb multiplied by the assessment rate;

(e) The date any assessment was paid.

§ 1280.224 Periodic evaluation.

Pursuant to the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401), the Board shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1280.225 Books and records of persons.

(a) Each first handler, exporter of lambs, and market agency shall maintain and make available for inspection such books and records as may be required by regulations prescribed by the Board and approved by the Secretary, including records necessary to verify any required reports. Such records shall be maintained for at least 2 years beyond the fiscal period of their applicability.

(b) *Document Evidencing Payment of Assessments.* Each person, including first handlers, exporters and market agencies, responsible for collecting an assessment paid pursuant to this subpart is required to give the person from whom the assessment was collected, written evidence of payment of the assessments paid pursuant to this subpart. Such written evidence serving as a receipt shall include, but not be limited to, the following information:

(1) Name and address of the collecting person.

(2) Name of person who paid assessment.

(3) Number of head of lamb sold.

(4) Total weight in pounds of lamb sold.

(5) Total assessments paid by the producer, seedstock producer, or feeder.

(6) Date of sale.

(7) Such other information as the board, with the approval of the Secretary, may require.

§ 1280.226 Use of information.

Information from records or reports required pursuant to this subpart shall be made available to the Secretary as is appropriate to the administration or enforcement of the Act, subpart or any regulation issued under the Act. In addition, the Secretary shall authorize the use, under this part, of information regarding persons paying producers, seedstock producers, feeders, first handlers or exporters that is accumulated under laws or regulation other than the Act or regulations issued under the Act.

§ 1280.227 Confidentiality.

All information obtained from books, records, or reports under the Act, this subpart, and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members, producers, seedstock producers, feeders, exporters, or first handlers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a judicial proceeding or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party. Nothing in this section shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(2) The publication, by direction of the Secretary, of the name of any person violating this subpart, together with a statement of the particular provisions of this subpart violated by such person.

Miscellaneous

§ 1280.228 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1280.229 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1280.230 Separability.

If any provision of the subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1280.231 Patents, copyrights, inventions, product formulations, and publications.

(a) Any patents copyrights, inventions or publications developed through the use of funds collected by the Board under the provisions of this subpart shall be the property of the U.S. Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale leasing, franchising, or other uses of such patents, copyrights, inventions, or publication, inure to the benefit of the Board. Upon termination of this subpart, § 1280.235 shall apply to determine the disposition of all such property.

(b) Should patents, copyrights, inventions or publications be developed through the use of funds collected by the Board under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions or publications shall be determined by agreement between the Board and the party contributing funds towards the development of such patent, copyright, invention or publication in a manner consistent with paragraph (a) of this section.

§ 1280.232 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by any interested persons affected by the provisions of the Act, including the Secretary.

§ 1280.233 Referenda.

(a) *Required Referendum.* For the purpose of ascertaining whether the persons subject to this part favor the continuation, suspension, or termination of this part, the Secretary shall conduct a referendum among persons subject to assessments under § 1280.217, § 1280.218, and § 1280.219 who, during a representative period determined by the Secretary, have engaged in the production, feeding, handling, or slaughter of lamb; or the exportation of lamb.

(1) *Time for Referendum.* The referendum shall be conducted not later than 3 years after assessments first begin under this part.

(2) *Approval of Part.* This part may be approved in a referendum by a majority of those persons voting for approval who also represent a majority of the volume of lamb produced, fed, slaughtered, handled, and exported.

(b) *Subsequent Referenda.* The Secretary shall conduct a subsequent referendum:

(1) Not later than 7 years after assessments first begin under this part;

(2) At the request of the Board established pursuant to § 1280.201; or

(3) At the request of 10 percent or more of the lamb producers, seedstock producers, feeders, first handlers, and exporters eligible to vote to determine if the persons favor the continuation, suspension, or termination of this part.

(c) *Other Referenda.* The Secretary may conduct a referendum at any time to determine whether the continuation, suspension or termination of this part or a provision of this part is favored by lamb producers, seedstock producers, feeders, first handlers, and exporters eligible to vote.

(d) *Costs of Referendo.* The Board shall reimburse the Secretary for any expenses incurred by the Secretary to conduct referenda.

(e) *Manner of Conducting Referenda.* A referendum conducted under this section with respect to this part shall be conducted in the manner determined by the Secretary to be appropriate.

(1) *Voting.* Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(2) *Notice.* Not later than 30 days before a referendum is conducted under

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this section with respect to this part, the Secretary shall notify the eligible voters, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this part.

§ 1280.234 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that this part, subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act.

(b) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1280.235 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property owned, in possession of or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to this subpart;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(4) Upon the direction of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the same obligations as imposed upon the Board and the trustees.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations as imposed upon the Board and the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or if not practicable, shall be turned over to the Department to be utilized, to the extent practicable, in the interest of continuing one or more of the lamb research or information programs hitherto authorized.

§ 1280.236 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any such rule or regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or of this subpart or of any rule or regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, the Secretary or of any person, with respect to any such violation.

§ 1280.237 Rules and Regulations.

The Secretary may prescribe such rules and regulations as may be necessary to effectively carry out the provisions of this subpart.

§ 1280.238 OMB Control Numbers.

The control number for the information requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 has not yet been assigned, except that the OMB control number for the nominee Background form is 0505–0001.

Proposal II

§ 1280.108 Feeder.

The term *feeder* means any person who is engaged in the purchasing of lambs for feeding to a market or slaughter weight.

§ 1280.116 Producer.

The term producer means any person who is engaged in the annual lambing of ewes in the U.S. for sale to another person or who retains ownership of lambs until such lambs reach a market or slaughter weight.

§ 1280.122 Seedstock producer.

Seedstock producer means any lamb producer actively engaged in the production and sale of breeding replacement ewes, rams, or semen or embryos.

§ 1280.201 Establishment and membership.

(a)(2)(i) Two lamb feeders appointed to the Board shall feed less than 5,000 head of lambs annually.

(ii) One lamb feeder appointed to the Board shall feed 5,000 or more head of lambs annually.

Proposal III

§ 1280.233 Referenda.

(a)(2) *Approval of Part.* This part may be approved in a referendum by a majority of those persons voting for approval.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23647 Filed 9–20–01; 8:45 am]

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Friday,
September 21, 2001

Part IV

Department of Transportation

Coast Guard

33 CFR Part 165

Protection of Naval Vessels; Temporary Final Rules

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[LANT AREA–01–001]

RIN 2115–AG23

Protection of Naval Vessels

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Following terrorist attacks in New York and Washington, DC., the Coast Guard is establishing temporary regulations for the safety or security of U.S. naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. Naval Vessel Protection Zones will provide for the regulation of vessel traffic in the vicinity of U.S. naval vessels in the navigable waters of the United States.

DATES: This rule is effective from September 14, 2001 to June 15, 2002.

ADDRESSES: You may mail comments and related material to Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704–5004. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket LANT AREA 01–001 and are available for inspection or copying at 431 Crawford Street, Portsmouth, VA, room 416 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Chris Doane, Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704–5004; telephone number (757) 398–6372.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In order to protect the interests of national security, the Coast Guard is promulgating temporary regulations to provide for the safety and security of U.S. naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of naval vessel protection zones is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Also, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective immediately. This temporary regulation of short duration is necessary to provide for the immediate security and safety of U.S. naval vessels following the terrorist attacks in New York City and Washington, DC. To delay the effective date would be impracticable and contrary to the public interest.

Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91.

Discussion of Rule

This rule, for safety and security concerns, controls vessel movement in a regulated area surrounding U.S. naval vessels. U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or a unified commander. All vessels within 500 yards of a U.S. naval vessel shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol (a Coast Guard commissioned, warrant or petty officer; or the Commanding Officer of a U.S. naval vessel or his or her designee). No vessel is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol. Vessels requesting to pass within 100 yards of a U.S. naval vessel shall contact the official patrol on VHF–FM channel 16. The official patrol may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing naval vessels.

Violations of these regulations are punishable as a class D felony (imprisonment for not more than 6 years and a fine of not more than $250,000) and in rem liability against the vessel.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) Individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under ADDRESSES.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard's preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lC. The environmental analysis and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary naval vessel protection zone, and will be available in the docket. This temporary rule ensures the safety and security of U.S. naval vessels. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Protection of naval vessels, Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 subpart G reads as follows:

Authority: 14 U.S.C. 91 and 633; 49 CFR 1.45.

2. Subpart G is added to part 165 to read as follows:

Subpart G—Protection of Naval Vessels

Sec.

165.2000 Purpose.
165.2015 Definitions.
165.2020 Enforcement authority.
165.2025 Atlantic area.

Subpart G—Protection of Naval Vessels

§ 165.2000 Purpose.

This subpart establishes the geographic parameters of naval vessel protection zones surrounding U.S. naval vessels in the navigable waters of the United States. This subpart also establishes when the U.S. Navy will take enforcement action in accordance with the statutory guidelines of 14 U.S.C. 91. Nothing in the rules and regulations contained in this subpart shall relieve any vessel, including U.S. naval vessels, from the observance of the Navigation Rules. The rules and regulations contained in this subpart supplement, but do not replace or supersede, any other regulation pertaining to the safety or security of U.S. naval vessels.

§ 165.2015 Definitions.

The following definitions apply to this subpart:

Atlantic Area means that area described in 33 CFR 3.04–1 Atlantic Area.

Naval defensive sea area means those areas described in 32 CFR part 761.

Naval vessel protection zone is a 500-yard regulated area of water surrounding U.S. naval vessels, which is necessary to provide for the safety or security of U.S. naval vessels.

Navigable waters of the United States means those waters as defined in 33 CFR 2.05–25.

Navigation rules means the Navigation Rules, International-Inland.

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Official patrol means a Coast Guard commissioned, warrant or petty officer; or the Commanding Officer of a U.S. naval vessel or his or her designee.

Pacific Area means that area described in 33 CFR 3.04–3 Pacific Area.

Restricted area means those areas set out in 33 CFR part 334.

U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or a unified commander.

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

§ 165.2020 Enforcement authority.

(a) *Coast Guard.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules and regulations contained in this subpart.

(b) *Senior naval officer present in command.* In the navigable waters of the United States, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of United States naval vessels, the senior naval officer present in command is responsible for the enforcement of the rules and regulations contained in this subpart to ensure the safety and security of his or her command.

Note to paragraph (b): The senior naval officer present in command will normally be the Commanding Officer of a U.S. naval vessel.

§ 165.2025 Atlantic area.

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Atlantic Area, which includes the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts.

Note to paragraph (a): The boundaries of the U.S. Coast Guard Atlantic Area and the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels at all times in the navigable waters of the United States, whether the U.S. naval vessel is underway, anchored, or moored, except when the naval vessel is moored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone all vessels shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol. No vessel or person is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol.

(e) To request authorization to operate within 100 yards of a U.S. naval vessel, contact the official patrol on VHF–FM channel 16.

(f) When conditions permit, the official patrol may:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of passing naval vessels.

Dated: September 14, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Atlantic Area.

[FR Doc. 01–23705 Filed 9–19–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[PAC AREA–01–001]

RIN 2115–AG23

Protection of Naval Vessels

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Following terrorist attacks in New York and Washington, DC, the Coast Guard is establishing temporary regulations for the safety or security of U.S. naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. Naval Vessel Protection Zones will provide for the regulation of vessel traffic in the vicinity of U.S. naval vessels in the navigable waters of the United States.

DATES: This temporary rule is effective from September 14, 2001, to June 15, 2002.

ADDRESSES: You may mail comments and related material to Commander (Poft/Pmt), Coast Guard Pacific Area, Coast Guard Island, Alameda, CA 94501. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket PAC AREA 01–001 and are available for inspection or copying at Commander (Poft/Pmt), Coast Guard Island, Alameda, CA, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Joe Billy, Commander (Poft), or CDR Steve Danscuk, Commander (Pmt), Coast Guard Pacific Area, Coast Guard Island, Alameda, CA 94501; telephone numbers (510) 437–3505 and (510) 437–2943 respectively.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In order to protect the interests of national security, the Coast Guard is promulgating temporary regulations to provide for the safety and security of U.S. naval vessels in the navigable waters of the United States. As a result, the establishment and enforcement of naval vessel protection zones is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

Also, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective immediately. This temporary regulation of short duration is necessary to provide for the immediate security and safety of U.S. naval vessels following the terrorist attacks in New York City and Washington, DC. To delay the effective date would be impracticable and contrary to the public interest.

Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. The zones established by these regulations control the movement and anchorage of vessels near U.S. naval vessels, and are intended to prevent an attack on a U.S. naval vessel, like what happened to USS COLE in Aden, Yemen on October 12, 2000.

Discussion of Rule

This rule, for safety and security concerns, controls vessel movement in a regulated area surrounding U.S. naval vessels. U.S. naval vessel means any vessel owned, operated, chartered, or leased by the U.S. Navy; and any vessel under the operational control of the U.S. Navy or a unified commander. All vessels within 500 yards of a U.S. naval vessel shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol (a Coast Guard commissioned, warrant or petty officer; or the Commanding Officer of a U.S. naval vessel or his or her designee). No vessel is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol. Vessels requesting to pass within 100 yards of a U.S. naval vessel shall contact the official patrol on VHF–FM channel 16. The official patrol may permit vessels that can only operate safely in a navigable channel to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of passing naval vessels.

Violations of these regulations are punishable as a class D felony (imprisonment for not more than 6 years and a fine of not more than $250,000) and in rem liability against the vessel. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) individual naval vessel protection zones are limited in size; (ii) The official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

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with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard's preliminary review indicates this temporary rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lD. As an emergency action, the environmental analysis, requisite regulatory consultations, and Categorical Exclusion Determination will be prepared and submitted after establishment of this temporary naval vessel protection zone, and will be available in the docket. This temporary rule ensures the safety and security of U.S. naval vessels. All standard environmental measures remain in effect. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Protection of naval vessels, Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

Subpart G—Protection of Naval Vessels

1. The authority citation for part 165 subpart G continues to read as follows:

Authority: 14 U.S.C. 91 and 633; 49 CFR 1.45.

2. Add § 165.2030 to read as follows:

§ 165.2030 Pacific Area.

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Pacific Area, which includes the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts.

Note to paragraph (a): The boundaries of the U.S. Coast Guard Pacific Area and the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels at all times in the navigable waters of the United States, whether the U.S. naval vessel is underway, anchored, or moored, except when the naval vessel is moored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone all vessels shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the official patrol. No vessel or person is allowed within 100 yards of a U.S. naval vessel, unless authorized by the official patrol.

(e) To request authorization to operate within 100 yards of a U.S. naval vessel, contact the official patrol on VHF–FM channel 16.

(f) When conditions permit, the official patrol may:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of passing naval vessels.

Dated: September 14, 2001.

E. R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Pacific Area.

[FR Doc. 01–23706 Filed 9–19–01; 8:45 am]

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H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
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H.R. 1183/P.L. 107–34
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To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–00–304]

Oranges and Grapefruit (Texas and States Other Than Florida, California and Arizona); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the United States Standards for Grades of Oranges (Texas and States other than Florida, California and Arizona) and the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona). The revisions change the requirements for standard pack and standard sizing for oranges and the requirements for standard pack for grapefruit. The purpose of these revisions is to reflect current cultural and marketing practices and to give industry greater flexibility in marketing and packaging using developing technologies. The Agricultural Marketing Service (AMS), in cooperation with industry and other interested parties, develops and improves standards of quality, condition, quantity, grade and packaging in order to facilitate commerce by providing buyers, sellers and quality assurance personnel with uniform language and criteria for describing various levels of quality and condition as valued in the marketplace.

DATES: This rule is effective September 25, 2001. Comments must be received by November 23, 2001.

ADDRESSES: Interested parties are invited to submit written comments concerning this 1 interim final rule. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 2065 South Building, Stop 0240, Washington, DC 20250; Fax (202) 720–8871, E-mail *FPBDocket_clerk@usda.gov*. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: David L. Priester, at the above address or call (202) 720–2185; E-mail *David.Priester@usda.gov*.

Executive Order 12988 and 12866

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

Background

The United States Standards for Grades of Oranges (Texas and States other than Florida, California and Arizona), and the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona) were last revised in October 1969. Members of the Texas industry have requested that the standards be revised for the next season in order to bring them into conformity with current packaging and marketing practices and technologies and with similar provisions in the Texas Marketing Order for oranges and grapefruit (7 CFR part 906).

The main purpose of the revision is to achieve closer conformity with current marketing practices used in the industry. The major changes requested include revising the standard pack sections of the orange and grapefruit standards, and the standard sizing section of the orange standard by redefining the requirements in each section. In addition, the standards have been reviewed for need, clarity and effectiveness as part of a periodic review. Accordingly, this rule will revise the standards as discussed below.

As a result of the industry request, the following changes are being made to the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) and to the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona). Section 51.691 paragraph (a), is revised by changing the statement "Fruit shall be fairly uniform in size, unless specified as uniform in size, and shall be place packed in boxes or cartons and arranged according to the approved and recognized methods" to "Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods." New packing technologies, such as mechanical filling of containers, are utilizing containers other than boxes and cartons. Reusable plastic containers are now being used throughout the industry.

Section 51.691, paragraph (b) states "All containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising because of overfilled containers. When oranges are packed in wire-bound boxes or cartons, each container shall be at least level full at time of packing." is removed. Since the preceding paragraph states that the fruit shall be packed and arranged according to approved and recognized methods, paragraph (b) is not necessary. There is no definition for "excessive or unnecessary bruising" and since injury by bruising is addressed in the defects portion of the standards there is no need for a reference to this defect in the pack section. Also, with the advent of new packaging technologies, wire-bound crates are not commonplace in the orange industry so there is no need for reference to this type of package.

Section 51.630, paragraph (b) of the grapefruit standards contains basically the same requirements as the orange standards and is being removed for the same reasons.

Section 51.691, Table III, currently includes the size and count of oranges when packed in 1⅔ or ⅞ bushel containers. Because the industry no longer packs oranges in 1⅔ bushel containers, the table will be revised to

include size and count of oranges packed in 7/10 bushel containers only. In addition, the sizes will be revised to update the current sizes now being used in the orange industry and consistent with the provisions in the regulations in the Texas marketing order. The following tables show the changes.

Table III currently reads:

TABLE III

[When packed in 1 2/5 bushel or 7/10 bushel containers]

Size and count in 1 2/5 bushel	Count in 7/10 bushel	Diameter in inches	
		Minimum	Maximum
100's	48 or 50	3 7/16	3 13/16
125's	64	3 3/16	3 9/16
163's	80	2 15/16	3 5/16
200's	100	2 11/16	3 1/16
252's	125	2 7/16	2 12/16
288's	144	2 4/16	2 9/16
324's	162	2 3/16	2 6/16

Table III will be revised to read:

TABLE III.—7/10 BUSHEL CARTON

Pack size/number of oranges	Diameter in inches	
	Minimum	Maximum
24	3 12/16	5 1/16
32	3 9/16	4 9/16
36	3 4/16	4 5/16
40	3 2/16	4 4/16
48	2 15/16	4
56	2 13/16	3 13/16
64	2 11/16	3 10/16
72	2 9/16	3 6/16
88	2 6/16	3 4/16
113	2 7/16	3
138	2 6/16	2 12/16

Section 51.691, paragraph (d) which states, "Uniform in size means that not more than the number of fruits permitted in 51.689, Tables I and II, vary more than the following amounts: (1) 163 size or smaller-not more than four-sixteenths inch in diameter; and (2) 125 size or larger-not more than five-sixteenths inch in diameter." is removed since the term "uniform in size" is no longer being used.

Technology has advanced to the point where it is no longer customary to "shake down" the contents of the container to become level full. The use of automated or mechanical filling operations have made this practice obsolete. Section 51.692, paragraph (a), will be revised, deleting the last sentence, which reads, "*And provided further,* that when packed in boxes or cartons the contents have been properly shaken down and the container is at least level full at time of packing."

Section 51.630, paragraph (b) which states "All packages shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising because of overfilled packages. When grapefruit are packed in cartons or in wirebound boxes, each container shall be at least level full at time of packing" will be removed. Since the preceding paragraph already states that the fruit shall be packed and arranged according to approved and recognized methods, paragraph (b) is not necessary. In addition, with the advent of new packaging technologies, wire-bound crates are not commonplace in the grapefruit industry.

Section 51.630, Table III, currently includes the size and count of grapefruit when packed in 1 2/5 bushel containers. Because the industry no longer packs grapefruit in 1 2/5 bushel containers, the table will be revised to include size and count of grapefruit packed in 7/10 bushel containers only. In addition, the sizes will be revised to update the current sizes now being used in the grapefruit industry and consistent with the provisions in the regulations in the Texas marketing order. The following tables show the changes.

Table III currently reads:

TABLE III.—1 2/5 BUSHEL BOX

[Diameter in inches]

Pack size	Minimum	Maximum
46's	4 5/16	5
54's or 56's	4 2/16	4 12/16
64's	3 15/16	4 5/16
70's or 72's	3 13/16	4 5/16
80's	3 10/16	4 2/16
96's	3 6/16	3 14/16

TABLE III.—1 2/5 BUSHEL BOX—Continued

[Diameter in inches]

Pack size	Minimum	Maximum
112's or 113's	3 2/16	3 10/16
125's or 126's	3	3 6/16

Table III will be revised to read:

TABLE III.—7/10 BUSHEL CARTON

Pack size/number of grapefruit	Diameter in inches	
	Minimum	Maximum
18	4 15/16	5 9/16
23	4 5/16	5
27	4 2/16	4 12/16
32	3 15/16	4 9/16
36	3 13/16	4 5/16
40	3 10/16	4 2/16
48	3 6/16	3 14/16
56	3 5/16	3 10/16

Since Table III will be revised to reflect the current packing methods being used throughout the grapefruit industry, § 51.630, paragraph (d) which is new paragraph (c) will be revised by changing the statement for "(1) 64 size and smaller-not more than six-sixteenths inch in diameter" to "(1) 32 size and smaller-not more than six-sixteenths inch in diameter" and by changing the statement for "(2) 54 size and larger-not more than nine-sixteenths inch in diameter" to "(2) 27 size and larger-not more than nine-sixteenths inch in diameter." This change is necessary because the carton sizes are being reduced from 1 2/5 bushel to 7/10 bushel. In order to maintain consistency with the current practices, because the carton size has been reduced in volume by 50 percent, the number of fruit will also be reduced 50 percent, in order to preserve the equivalent sizes. The smaller number of fruit will now be reflected in the smaller sized carton.

The Regulatory Flexibility Act and Effects on Small Business

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared this initial regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of this action on small entities.

There are approximately 315 producers of oranges and grapefruit in the production area and 16 handlers who would be affected by this amendment. Starting August 6, 2001, small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $750,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Under this definition, the majority of orange and grapefruit producers and handlers using the grade standards in this regulation may be classified as small entities.

Using an average f.o.b. price of $8.00 per carton, 11 handlers (69 percent) could be considered small businesses. Of the approximately 315 producers within the production area, few have sufficient acreage to generate sales in excess of $750,000; therefore, a majority of producers of oranges and grapefruit who will be affected by this rule may be classified as small entities.

This rule for the revision of U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) and U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary.

Pursuant to a request by the Texas fruit and vegetable industry, this rule will revise the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California and Arizona), and the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California and Arizona) that were issued under the Agricultural Marketing Act of 1946. The main purpose for the request was to bring the standards into conformity with current packaging and marketing practices and technologies. This rule specifically revises the standard pack sections of the orange and grapefruit standards and the standard size section of the orange standard by redefining the requirements.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The alternative option to this rule would be to leave the standards in part 51 unchanged. This is not a viable alternative because this amendment reflects current industry practices and is consistent with the regulations under the Texas orange and grapefruit marketing order (7 CFR part 906).

This rule contains no new information or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Department has not identified any relevant Federal rules

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that duplicate, overlap, or conflict with this rule.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 60 days after publication in the **Federal Register** because: (1) This rule will make the standards reflect current cultural and marketing practices and give industry greater flexibility in marketing and packaging using developing technologies; (2) this change to the standard should be in effect for the next season (beginning September, 2001); and, (3) this rule provides a 60-day comment period and any comments will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and record keeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.630 is revised to read as follows:

§ 51.630 Standard Pack.

(a) Fruits shall be fairly uniform in size, unless specified as uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) "Fairly uniform in size" means that not more than the number of fruit permitted in § 51.628, Tables I and II, are outside the ranges of diameters given in Table III.

TABLE III.—7/10 BUSHEL CARTON

Pack size/number of grapefruit	Diameter in inches	
	Minimum	Maximum
18	4 15/16	5 9/16
23	4 5/16	5
27	4 2/16	4 12/16
32	3 15/16	4 8/16
36	3 13/16	4 5/16
40	3 10/16	4 2/16
48	3 9/16	3 14/16
56	3 5/16	3 10/16

(c) "Uniform in size" means that not more than the number of fruit permitted in § 51.628, Tables I and II, vary more than the following amounts:

(1) 32 size and smaller—not more than six-sixteenths inch in diameter; and

(2) 27 size and larger—not more than nine-sixteenths inch in diameter.

(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

3. Section 51.691 is revised to read as follows:

§ 51.691 Standard pack for oranges except Temple variety.

(a) Fruit shall be fairly uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) "Fairly uniform in size" means that not more than the number of fruit permitted in § 51.689, Tables I and II, are outside the ranges of diameters given in Table III:

TABLE III.—7/10 BUSHEL CARTON

Pack size/number of oranges	Diameter in inches	
	Minimum	Maximum
24	3 12/16	5 1/16
32	3 6/16	4 9/16
36	3 4/16	4 6/16
40	3 2/16	4 4/16
48	2 15/16	4
56	2 13/16	3 13/16
64	2 11/16	3 10/16
72	2 9/16	3 8/16
88	2 8/16	3 4/16
113	2 7/16	3
138	2 6/16	2 12/16

(c) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

4. In § 51.692, paragraph (a) is revised to read as follows:

§ 51.692 Standard Sizing.

(a) Boxes, cartons, bag packs, or bulk loads in which oranges are not packed according to a definite pattern do not meet the requirements of standard pack, but may be certified as meeting the requirements of standard sizing:

Provided, that the ranges are fairly uniform in size as defined in § 51.691.

* * * * *

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23654 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–21–AD; Amendment 39–12441; AD 2001–19–02]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF34–3A1, –3B, and –3B1 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to GE CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens part numbers (P/N's) 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system. This action requires initial and repetitive visual inspections and cleaning of the B-sump scavenge screens. This amendment is prompted by five reports of B-sump oil scavenge system failure causing engine in-flight shutdowns. The actions specified in this AD are intended to prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure.

DATES: Effective October 9, 2001. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 9, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–21–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from GE Aircraft Engines, 1,000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Caulfield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7146; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA recently received reports of five in-flight shutdowns of CF34–3A1, –3B, and –3B1 engines, due to inadequate B-sump oil scavenging and subsequent oil release from the B-sump into the secondary air system. Four of these engines experienced internal fire due to oil ignition in the secondary air system; two of these engines experienced fan drive shaft separation due to heat distress; and one engine experienced an uncontained engine failure. The manufacturer has determined that the cause of inadequate B-sump oil scavenging in B-sump scavenge screen blockage due to deposits of coke. The manufacturers believes that the coke build up on the screens is the result of hot soak-back temperatures in the B-sump after each engine shutdown. Coke build up is causing scavenge screen blockage which can prevent the lube and scavenge oil pump fro effectively scavenging the oil from the B-sump during engine operation. Unscavanged oil accumulates in the B-sump, escapes across the carbon seal, and ignites in the secondary air system. This condition, if not corrected, could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Aircraft Engines (GEAE) Alert Service Bulletins (ASB's) CF34–AL, 79–A0014, Revision 1, dated August 23, 2001, and ASB CF34–BJ 79–A0015, Revision 1, dated August 23, 2001, that describe procedures for initial and repetitive visual inspections and cleaning of the B-sump scavenge screens.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other GE CF34–3A1, –3B, and –3B1 turbofan engines of the same type design, this AD is being issued to prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure. This AD requires initial and repetitive visual inspections and cleaning of scavenge screens P/N's 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped

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postcard on which the following statement is made: "Comments to Docket Number 2001–NE–21–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–19–02–AD General Electric Company: Amendment 39–12441. Docket 2001–NE–21–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens part numbers (P/N's) 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system. These engines are installed on, but not limited to, Bombardier Inc. (Canadair) Model CL–600–2A12, CL–600–2B16, and CL–600–2B19 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph(d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the requests should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure, do the following:

Initial Inspection and Cleaning of B-Sump Screens

(a) Perform an initial visual inspection and cleaning of scavenge screens, P/N's 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system, in accordance with Accomplishment Instructions Paragraphs 3A through 3B of GE Aircraft Engines (GEAE) Alert Service Bulletins (ASB's) CF34–AL 79–A0014, Revision 1, dated August 23, 2001, and ASB CF34–BJ 79–A0015, Revision 1, dated August 23, 2001 and the following table:

INITIAL INSPECTION AND CLEANING SCHEDULE

Engine hours time-since-new (TSN)	Inspect and clean
(1) Fewer than 4,000 hours time-since-new (TSN) or time-since-last-shop-visit (TSLSV).	Before 4,000 hours TSN or TSLSV.
(2) 4,000 to 8,000 hours TSN or TSLSV.	Within 500 hours time-in-service (TIS) after the effective date of this AD.
(3) 8,000 hours or greater TSN or TSLSV.	Within 100 hours TIS after the effective date of this AD.

Definition

(b) For the purposes of this Ad, a shop visit is defined as a shop visit during which the B-sump scavenge screens were cleaned, and the B-sump was removed from the engine and cleaned.

Repetitive Inspections and Cleaning

(c) Perform repetitive visual inspections and cleaning for scavenge screens, P/N's 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system, in accordance with Accomplishment Instructions Paragraph 3A through 3B of GE Aircraft Engines (GEAE) Alert Service Bulletins (ASB's) CF34–AL 79–A0014, Revision 1, dated August 23, 2001, and ASB CF34–BJ 79–A0015, Revision 1, dated August 23, 2001, and the following:

(1) At intervals not to exceed 500 hours TIS if no coke is found in screens during initial or repetitive inspections, and

(2) At intervals not to exceed 100 hours TIS if coke is found in screens during initial or repetitive inspections.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manger, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Documents That Have Been Incorporated by Reference

(f) The inspections must be done in accordance with the following GE Aircraft Engines Alert Service Bulletins (ASB's):

Document No.	Pages	Revision	Date
ASB CF34–AL S/B 79–A0014 ..... Total pages: 9	All	1	August 23, 2001.

Document No.	Pages	Revision	Date
ASB CF34–BJ S/B 79–A0015 ..... Total pages: 9	All	1	August 23, 2001.

This incorporation by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date of This AD

(g) This amendment becomes effective on October 9, 2001.

Issued in Burlington, Massachusetts, on September 10, 2001.

Donald E. Plouffe,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–23323 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–41–AD; Amendment 39–12442; AD 2001–19–03]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) Model AE 3007A and AE 3007C Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with a certain part number high pressure turbine (HPT) 1st to 2nd stage turbine spacer installed. This amendment requires removal and replacement of that HPT 1st to 2nd stage turbine spacer before it reaches its new reduced engine cycle life limit.This amendment is prompted by the results of a detailed component analysis that indicates that the HPT 1st to 2nd stage turbine spacer stresses are higher than predicted.The actions specified by this AD are intended to prevent HPT 1st to 2nd stage turbine spacer failure which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective date October 29, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7870, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with HPT 1st to 2nd stage turbine spacer part number (P/N) 23058369 installed was published in the **Federal Register** on February 22, 2001 (66 FR 11126). That action proposed to require removal and replacement of the HPT 1st to 2nd stage turbine spacer P/N 23058369 before it reaches its new reduced engine cycle life limit.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Impact

There are approximately 378 engines of the affected design in the worldwide fleet. The FAA estimates that 300 engines installed on 150 airplanes of U.S. registry would be affected by this proposed AD. It will take approximately 13 work hours per engine to accomplish the removal and replacement of the affected HPT 1st to 2nd stage spacer. The 13 work hours cited include teardown and reassembly from the module level, but not engine removal. Engines are rarely scheduled off-wing solely for the purpose of replacement of time-expired components.The average labor rate is $60 per work hour. Required parts will cost approximately $10,012 per engine. Based on these figures, the FAA estimates the total cost impact of the proposed AD on U.S. operators, to be $3,237,600. Because most of the fleet field parts are below the new value, special scheduling should not be required.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended adding a new airworthiness directive to read as follows:

2001–19–03 Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with high pressure turbine (HPT) 1st to 2nd stage turbine spacer part number (P/N) 23058369 installed.

Amendment 39–12442. Docket 2000–NE–41–AD.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) Model AE 3007A and AE 3007C turbofan engines with HPT 1st to 2nd stage turbine spacer P/N 23058369 installed. These engines are installed on, but not limited to Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–145, and Cessna 750 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent HPT 1st to 2nd stage turbine spacer failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

New Reduced Engine Cycle Life Limit

(a) For all Rolls-Royce Corporation Model AE 3007A and AE 3007C turbofan engines with HPT 1st to 2nd stage turbine spacer, P/N 23058369 installed, remove spacer before reaching the new reduced engine cycle life limit of 9,400 cycles and replace with a serviceable part.

(b) Revise the airworthiness limitations section of the Instruction for Continued Airworthiness, as follows: P/N 23058369=9,400 cycles.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office (ACO).

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on October 29, 2001.

Issued in Burlington, Massachusetts, on September 17, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–23730 Filed 9–21–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 29334; Amendment No. 71–33]

Airspace Designations; Incorporation By Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends 14 CFR part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9J, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points incorporated by reference.

EFFECTIVE DATE: These regulations are effective September 16, 2001. The incorporation by reference of FAA Order 7400.9J is approved by the Director of the Federal Register as of September 16, 2001, through September 15, 2002.

FOR FURTHER INFORMATION CONTACT: Brenda Brown, Janet Glivings, or Christine Graves, Airspace and Rules Division (ATA–400), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

FAA Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, listed Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations section 71.1 (14 CFR 71.1). The Director of the Federal Register approved the incorporation by reference of FAA Order 7400.9H in section 71.1, effective September 16, 2000, through September 15, 2001. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9H in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of Airspace Designations and Reporting Points, Order 7400.9J. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9J in section 71.1, as of September 16, 2001, through September 15, 2002. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9J.

The Rule

This action amends part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9J, effective September 16, 2001, through September 15, 2002. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9J in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

The FAA has determined that this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action will continue to update the changes to the airspace designations, which are depicted on aeronautical charts, and to avoid any unnecessary pilot confusion, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

2. Section 71.1 is added to read as follows:

§ 71.1 Applicability.

The complete listing for all Class A, Class B, Class C, Class D, and Class E airspace areas and for all reporting points can be found in FAA Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9J is effective September 16, 2001, through September 15, 2002. During the incorporation by reference period, proposed changes to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9J may be obtained from the Airspace and Rules Division, ATA–400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–8783. Copies of FAA Order 7400.9J may be inspected in Docket No. 29334 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–200, Room 915G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5:00 p.m., or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This section is effective September 16, 2001, through September 15, 2002.

§ 71.5 [Amended]

3. Section 71.5 is amended by removing the words "FAA Order 7400.9H" [1] and adding, in their place, the words "FAA Order 7400.9J."

§ 71.31 [Amended]

4. Section 71.31 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.33 [Amended]

5. Paragraph (c) of Section 71.33 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.41 [Amended]

6. Section 71.41 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.51 [Amended]

7. Section 71.51 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.61 [Amended]

8. Section 71.61 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.71 [Amended]

9. Paragraphs (b), (c), (d), (e), and (f) of Section 71.71 are amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.79 [Amended]

10. Section 71.79 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

§ 71.901 [Amended]

11. Paragraph (a) of Section 71.901 is amended by removing the words "FAA Order 7400.9H" and adding, in their place, the words "FAA Order 7400.9J."

Issued in Washington, DC, September 10, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–23303 Filed 9–19–01; 3:45 pm]

BILLING CODE 4910–13–P

[1] Editorial note: The amended text in §§ 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 expired as of September 15, 2001 (See 66 FR 56466, September 19, 2000).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ACE–6]

Amendment to Class E Airspace; Mosby, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Mosby, MO.

EFFECTIVE DATE: 0901 UTC, November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarter Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on June 18, 2001 (66 FR 32733). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on November 1, 2001. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 7, 2001.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 01–23779 Filed 9–21–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ACE–7]

Amendment to Class E Airspace; Ankeny, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Ankeny, IA. The FAA has developed Instrument Landing System (ILS) Runway (RWY) 36 ORIGINAL Standard Instrument Approach Procedure (SIAP), Area Navigation (RNAV) Global Positioning System (GPS) RWY 18 ORIGINAL SIAP and RNAV (GPS) RWY 22 ORIGINAL SIAP to serve Ankeny Regional Airport at Ankeny, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs and for other Instrument Flight Rules (IFR) operations at this airport.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, December 27, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 1, 2001.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Operations and Airspace Branch, Air Traffic Division, ACE–530, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 01–ACE–7, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Operations & Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA has developed ILS RWY 36 ORIGINAL, RNAV (GPS) RWY 18 ORIGINAL, and RNAV (GPS) RWY 22 ORIGINAL SIAPs to serve Ankeny Regional Airport, Ankeny, IA. The amendment to Class E airspace at Ankeny, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 01–ACE–7." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Ankeny, IA

Ankeny Regional Airport, IA
(Lat. 41°41′29″ N., long. 93°33′59″ W.)
COSED Waypoint
(Lat. 41°46′40″ N., long. 93°33′59″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Ankeny Regional Airport, and within 2 miles each side of the 045° bearing from the airport extending from the 7-mile radius to 8.9 miles northeast of the airport, and within 2 miles each side of the 015° bearing from COSED waypoint to 5.8 miles northeast of the waypoint, excluding that portion within the Des Moines, IA Class C and E airspace areas.

* * * * *

Issued in Kansas City, MO, on September 7, 2001.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 01–23780 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–129]

RIN 2115–AA97

Security Zone; Selfridge Air National Guard Base, MI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone. The security zone has been implemented in Lake St. Clair in the vicinity of Selfridge Air National Guard Base in Michigan. The zone extends one half mile from shore, between the Hall Road launch ramp and the entrance to Mac and Rays Marina, where Coast Guard vessels will be patrolling. The security zone is needed to protect the Selfridge area from terrorist threats.

DATES: This final rule becomes effective at 2 p.m. on September 11, 2001.

ADDRESSES: You may mail comments to the Captain of the Port, Detroit, Michigan, or deliver them to the Coast Guard Marine Safety Office, 110 Mt. Elliott Ave, Detroit, Michigan. The telephone number is (313) 568–9580. Marine Safety Office, Detroit maintains the public docket. Comments and documents as indicated in this preamble will be available for inspection or copying between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: ENS Brandon Sullivan, U.S. Coast Guard Marine Safety Office, 110 Mt. Elliott Ave, Detroit, Michigan 48207. The telephone number is (313) 568–9580.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to ensure the public safety from terrorist activity.

Background and Purpose

Due to recent terrorist attacks the Captain of the Port Detroit has deemed this security zone appropriate to ensure public safety. Entry into, transit through or anchoring within this security zone is prohibited unless authorized by the Captain of the Port, Detroit or his on scene representative which may be contacted on VHF Channel 16.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has exempted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) the Coast Guard considered whether this rule will have a significant impact on a substantial number of small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. For the same reasons set forth in the above regulatory evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C.1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; and 49 CFR 1.46.

2. A new § 165.T09–998 is added to read as follows:

§ 165.T09–998 Security Zone: Selfridge Army National Guard Base, Michigan.

(a) *Location.* The following area is a Security Zone: The waters off Selfridge Army National Guard Base in Michigan one half mile from shore between the Hall Road Launch Ramp and the entrance to Mac and Rays Marina.

(b) *Effective dates.* This section becomes effective at 2 p.m. September 11, 2001.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed. Coast Guard Auxiliary and local or state officials may be present to inform vessel operators of this regulation and other applicable laws.

(3) Commercial vessels may request permission to transit the safety zone from the Captain of the Port Detroit. Approval in such cases will be case by case. Request must be made in advance to and approved by the Captain of the Port before such transits will be authorized.

Dated: September 11, 2001.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 01–23712 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–104–1–7401a; FRL–7063–2]

Approval and Promulgation of Implementation Plans; Texas; Revisions to General Rules and Regulations for Control of Air Pollution by Permits for New Sources and Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve revisions of the Texas State Implementation Plan (SIP). Specifically, EPA is approving revisions to regulations of the Texas Natural Resource Conservation Commission (TNRCC) which relate to definitions in Texas' general rules and to regulations relating to the permitting of new sources and modifications. The revisions that EPA is approving in this action are to recodify several provisions of the existing SIP without substantive changes and approve provisions for permit alterations which will strengthen the SIP as it pertains to the permitting of new and modified sources. Approval of these revisions will bring the federally approved SIP, which pertains to the permitting of new and modified sources more closely in line with the Texas' existing program. This action will better serve the State, the public, and the regulated community by making the approved SIP more closely match the rules that Texas currently implements. The approval of these revisions is independent of, and will not adversely affect, other SIP actions that EPA and TNRCC are currently undertaking to ensure the attainment and maintenance of air quality in the Dallas-Fort Worth, Houston-Galveston, and Beaumont-Port Arthur regions of Texas. Except where otherwise noted, EPA is approving revisions which Texas submitted in 1998 to the extent that they are equivalent to revisions that Texas previously submitted in 1993. Where noted, EPA is acting on provisions which Texas submitted in 1993. Finally, EPA is taking no action on certain provisions which relate to emissions reduction credits and offsets, permit exemptions, permit renewals, and emergency orders, which are not in the current SIP and for reasons discussed in the Supplementary Information.

DATES: This rule is effective on November 23, 2001 without further notice, unless EPA receives adverse comment by October 24, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Please address written comments on this action to Ms. Jole C. Luehrs, Chief, Air Permits Section, Attention: Stanley M. Spruiell, at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

EPA, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Dallas, Texas 75202–2733

TNRCC, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell of the Air Permits Section at (214) 665–7212, or at *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" means EPA. Please note that if we receive adverse comment(s) on an amendment, paragraph, or section of this rule and if that provision is independent of the remainder of the rule, we may adopt those provisions of the rule that are not the subject to the adverse comment.

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I. What Action Are We Taking?

In today's action, we are approving into the SIP revisions of 30 Texas Administrative Code (TAC), Chapter 101, "General Rules" and Chapter 116, "Control of Air Pollution by Permits for New Construction or Modification." The Governor of Texas submitted the following revisions to Chapters 101 and 116 to the Administrator of EPA after adequate notice and public hearing:

A. On August 31, 1993 (the "1993 submittal"). The 1993 submittal includes revisions adopted by Texas on August 16, 1993. It revises Chapters 101 and 116. Specifically, the 1993 submittal includes the following:

- Revisions to the General Rules in 30 TAC Chapter 101, section 101.1—Definitions.
- Revisions to and recodification of Chapter 116. The 1993 submittal serves as the base regulation for subsequent revisions that TNRCC has adopted, or will adopt.

B. July 22, 1998 (the "1998 submittal"). This submittal includes revisions adopted by TNRCC on June 17, 1998. It includes the following:

- Provisions for implementing section 112(g) of the Act, and includes a new section 116.15—section 112(g) definitions, and a new subchapter C—Hazardous Air Pollutants: Regulations Governing Construction or Reconstruction Major Sources (Federal Clean Air Act (FCAA), section 112(g), 40 CFR part 63). We are taking no action on subchapter C.
- Changes which TNRCC made under its regulatory reform to simplify and clarify its rules. These changes which do not involve substantive changes include: (1) Using shorter sentences, (2) limiting each citation to one main concept, (3) reordering requirements into a more logical sequence, and (4) using more commonplace terminology.[1]

In today's action, we are approving the revisions to Chapter 116 as revisions to the Texas SIP as described herein.

We have prepared a Technical Support Document (TSD) which contains a detailed analysis of our evaluation of this action. The TSD is included as part of the public docket and is available at the addresses listed above.

II. What Actions Are We Taking on Chapter 101?

The 1993 submittal included revisions to Chapter 101, section 101.1 (Definitions). Texas revised the definition of the term "nonattainment area." Texas also removed several terms which relate to permitting major sources and major modifications in nonattainment areas, and simultaneously recodified those definitions into section 116.12.[2]

Table 1 below summarizes our evaluation of each definition in section 101.1 that we are approving in today's action.

TABLE 1.—SUMMARY OF EVALUATION OF THE DEFINITIONS IN SECTION 101.1

Regulation	Title/(subject)	Comments
101.1	General Definitions (Introductory paragraph)	a
101.1	—Nonattainment area	b
101.1	—De minimis impact	c

a—No substantive changes to approved provision. This provision continues to meet the Act.
b—Revised definition. We have determined that the revised definition is consistent with the Act.
c—Reinstatement of definition inadvertently deleted from the approved SIP on August 19, 1997 (62 **Federal Register** 44083).

The submitted definition of "nonattainment area" is different from the definition submitted May 13, 1992, which EPA approved September 27, 1995 (60 FR 49781). The TNRCC reworded the definition to avoid using the defined word "nonattainment" within the definition. As submitted, TNRCC now defines "nonattainment area" as a region within the State which EPA has designated, under section 107(d) of the Clean Air Act (the "Act"),

[1] The 1998 submittal also includes provisions which TNRCC adopted subsequent to the 1993 submittal but not yet approved by EPA. Except where otherwise indicated, we are taking no action on revisions made after the 1993 submittal which are not substantially equivalent to the 1993 submittal until we complete our review of these subsequent revisions.

[2] We approved the nonattainment definitions in section 116.12 and the removal of such terms from section 101.1 in a separate action at 65 FR 43986 (July 17, 2000).

as failing to meet a national ambient air quality standard for a pollutant for which a standard exists. The revised definition continues to be substantially equivalent to the definition of "nonattainment area" as defined in section 171(2) of the Act.

The 1993 submittal also includes the definition of "*de minimis* impact" in section 116.10. Texas repealed the definition from section 116.10 in the 1998 submittal. In a separate action, we approved this definition in section 116.10 as submitted in 1993 at 62 FR 44083 (August 19, 1997). In that action, we inadvertently removed the same definition from section 101.1. Subsequently, we discovered that Texas had retained the term "*de minimis* impact" in section 101.1. By this action, we are reinstating the definition of "de minimis impact" into section 101.1 as approved at 56 FR 46117 (September 10, 1991) and approving the repeal of the same definition from section 116.10 which Texas submitted in the 1998 submittal.

III. Why Are We Approving the Revisions to Chapter 116?

Approval of these revisions to Chapter 116 will bring the federally approved SIP for Chapter 116 more closely in line with the Chapter as it currently exists in the State's program. Our approval of these revisions will also facilitate future revisions to Chapter 116, by enabling us to approve them into the current organizational structure. This approval also better serves the State, the public, and the regulated community by making the approved SIP more closely match the rules that Texas currently implements.

As revised August 16, 1993, and June 17, 1998, Chapter 116 is organized as indicated in Table 2 below:

TABLE 2.—ORGANIZATION OF CHAPTER 116[a]

Citation	Title
Subchapter A	Definitions.
Subchapter B	New Source Review Permits.
Division 1	Permit Application.
Division 2	Compliance History.
Division 3	Public Notification and Comment Procedures.
Division 4	Permit Fees.
Division 5	Nonattainment Review.
Division 6	Prevention of Significant Deterioration Review.
Division 7	Emission Reductions: Offsets.
Subchapter C[b]	Permit Exemptions.
Subchapter D[b]	Permit Renewals.
Subchapter E[b]	Emergency Orders.

[a] This organization of Chapter 116 is the organization that Texas has submitted. As will be discussed herein, we are not acting on all provisions that Texas has submitted.
[b] The EPA is taking no action on subchapters C and E in today's action.

IV. Have We Approved Any Portions of the 1993 Submittal Prior to Today's Action?

We previously approved portions of the 1993 submittal in separate actions as indicated in Table 3 below.

TABLE 3.—PROVISIONS OF AUGUST 31, 1993, SUBMITTAL OF CHAPTER 116, PREVIOUSLY APPROVED BY EPA

State citation	Title	Federal Register (FR) publication date and page No.
Subchapter A—Definitions		
Section 116.10	General Definitions	62 FR 44083 (August 19, 1997)
Section 116.12	Nonattainment Review Definitions	60 FR 49781 (September 27, 1995) and 65 FR 43986 (July 17, 2000).
Subchapter B—New Source Review Permits Division 4—Permit Fees		
Section 116.141, Subsections (a), and (c)–(e) ..	Determination of Fees	62 FR 44083 (August 19, 1997).
Division 5—Nonattainment Review		
Section 116.150	New Major Source or Major Modification in Ozone Nonattainment Area.	65 FR 43986 (July 17, 2000).
Section 116.151	New Major Source or Modification in Nonattainment Area Other than Ozone.	65 FR 43986 (July 17, 2000).
Division 6—Prevention of Significant Deterioration Review		
Section 116.160	Prevention of Significant Deterioration Review Requirements.	62 FR 44083 (August 19, 1997).
Section 116.161	Source Located in an Attainment Area with Greater than De Minimis Impact.	62 FR 44083 (August 19, 1997).
Section 116.162	Evaluation of Air Quality Impacts	62 FR 44083 (August 19, 1997).
Section 116.163	Prevention of Significant Deterioration Permits Fees.	62 FR 44083 (August 19, 1997).

TABLE 3.—PROVISIONS OF AUGUST 31, 1993, SUBMITTAL OF CHAPTER 116, PREVIOUSLY APPROVED BY EPA—Continued

State citation	Title	Federal Register (FR) publication date and page No.
Division 7—Emission reduction: Offsets		
Section 116.170, and Subsections (1) and (3) ..	Applicability of Reduction Credits	65 FR 43986 (July 17, 2000).

With respect to the sections identified in Table 3 above, today's action approves the codification of these provisions into the organization structure adopted in 1998 submittal and any nonsubstantive changes to the previously approved provisions.

V. Are We Approving All Provisions of Chapter 116?

No. We are taking no action on the provisions of Chapter 116 identified in Table 4 below.

TABLE 4.—PROVISIONS OF CHAPTER 116 FOR WHICH EPA IS TAKING NO ACTION

Citation of Chapter 116[a]	Title/subject	Reason for taking no action
Subchapter A—Definitions		
Section 116.10 (1993 submittal)	General Definitions Definitions of "de minimis impact" and "emissions unit"	b
Section 116.10(1)	Definition of "actual emissions"	c
Section 116.10(2)	Definition of "allowable emissions"	c
Section 116.10(3)	Definition of "best available control technology"	c
Section 116.10(4)	Definition of "facility"	c
Section 116.10(6)	Definition of "grandfathered facility"	c
Section 116.10(8)	Definition of "maximum allowable emission rate table (MAERT)"	c
Section 116.10(9)	Definition of "modification of existing facility"	c
Section 116.10(10)	Definition of "new facility"	c
Section 116.10(14)	Definition of "qualified facility"	c
Section 116.13	Flexible Permit Definitions	c
Section 116.14	Standard Permit Definitions	c
Section 116.15	Section 112(g) Definitions	d
Subchapter B—New Source Review Permits Division 1—Permit Application		
Section 116.110(a)(2)	New Source Review (NSR) permit not required if source satisfies condition for standard permit.	c
Section 116.110(a)(3)	(NSR) permit not required if source satisfies condition for flexible permit	c
Section 116.110(b) (1993 submittal)	Operations Certificate (repealed from Section 116.110 in 1998 submittal)	b
Section 116.110(c)	Exclusions from permitting	c
Section 116.111(2)(K)	Hazardous Air Pollutants	d
Section 116.115(b)	General Conditions	c
Section 116.115(c)(2)(A)(i)	Special conditions for sources subject to standard permits	c
Section 116.115(c)(2)(B)(ii)(I)	Special conditions for sources subject to Subchapter C (Hazardous Air Pollutants)	d
Section 116.116(b)(3)	Changes at Section 112(g) facilities	d
Section 116.116(e)	Changes to qualified facilities	c
Section 116.116(f)	Use of credits	c
Section 116.117	Documentation and Notification of Changes to Qualified Facilities	c
Section 116.118	Pre-Change Qualification	c
Division 3—Public Notice		
Section 116.130(c)	Applications subject to the requirements of Subchapter C of Chapter 116 (relating to Hazardous Air Pollutants).	d
Section 116.132(c)	Additional alternate language public notice	c
Section 116.132(d)	Exemptions from alternate language notification	c
Section 116.133(f)	Alternate language sign posting	c
Section 116.133(g)	Exemptions from alternate language sign posting	c
Section 136	Public Comment Procedures	c
Division 7—Emission Reductions: Offsets		
Section 116.170(2)	Applicability for Reduction Credits	e
Section 116.174	Determination by the Executive Director to Authorize Reductions	e
Section 116.175	Recordkeeping	e
Subchapter C—Permit Exemptions (1993 submittal)		f
Subchapter C—Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, section 112(g), 40 CFR part 63).		d

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Subchapter D—Permit Renewals	g
Subchapter E—Emergency Orders	h
Subchapter F—Standard Permits	c
Subchapter G—Flexible Permits	c

a Except where otherwise noted, this refers to a provision contained in the 1998 submittal.
b Provisions repealed from Chapter 116 in the 1998 submittal.
c Not equivalent to 1993 submittal. See discussion in section VI.A of this preamble.
d Implementation of section 112(g) is carried out separately from the SIP activities. See discussion in section VI.B of this preamble.
e As described in section VI.C of this preamble.
f As described in section VI.D of this preamble.
g As described in section VI.E of this preamble.
h As described in section VI.F of this preamble.

VI. Why Are We Taking No Action on the Provisions Identified Above?

A. General Comments

As mentioned above, we are approving the 1998 submittal to the extent that it is equivalent to the 1993 submittal. The 1998 submittal includes new provisions as well as numerous changes that the TNRCC adopted subsequent to the 1993 submittal and carried forward into the 1998 submittal. We are still reviewing the new provisions and the provisions carried forward from rulemaking actions adopted subsequent to the 1993 submittal. However, if we wait until we complete our review and evaluation of these provisions, we would have to delay action on the portions of the 1998 submittal that we consider to be approvable. As stated above, we believe that it is important to act on the provisions of the 1998 submittal that are consistent with the 1993 submittal to ensure that the approved SIP more closely matches the rules that the TNRCC administers and enforces.

Accordingly, today's action approves the 1998 submittal to the extent that the 1998 submittal is equivalent to the provisions of the 1993 submittal that we are approving. We are taking no action on the provisions of the 1998 submittal that are not equivalent to the 1993 submittal, except where otherwise indicated.[3]

We are reviewing the provisions which we are not acting upon today. When we complete our review, we will take appropriate action on these provision in separate **Federal Register** actions. The TSD contains a detailed evaluation which documents why we are taking no action on these provisions.

[3] In some cases provisions of the 1998 submittal are readily recognized to be consistent with the Act and have the effect of strengthening the SIP even though they are not equivalent to the 1993 submittal. These provisions are identified in the TSD and where identified are being approved in today's action.

B. Provisions Implementing Section 112(g) of the Act Concerning Constructed or Reconstructed Major Sources of Hazardous Air Pollutants (HAP)

We are taking no action on subchapter C of Chapter 116—Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, section 112(g), 40 CFR part 63), as submitted with the 1998 submittal. The program for reviewing and permitting constructed and reconstructed major sources of HAP is regulated under section 112 of the Act and under 40 CFR part 63, subpart B. Under these provisions, States establish case-by-case determinations of maximum achievable control technology for new and reconstructed major sources of HAP. The process for these provisions is carried out separately from the SIP activities. We are thus taking no action on subchapter C of Chapter 116 in today's action.

C. Emission Reductions: Offsets

In letters to TNRCC dated August 3, 1999, and September 27, 2000, we informed TNRCC that we had concerns relating to the approval of sections 116.170(2), 116.174, and 116.175.

On the basis of subsequent discussions with TNRCC on August 15, 2000, EPA and TNRCC have agreed that it is appropriate to take no action on sections 116.170(2), 116.174, and 116.175 in today's direct final approval. Our letter to TNRCC on September 27, 2000, confirmed this understanding. We will act on these provisions in a separate action after TNRCC resolves the outstanding concerns to our satisfaction. Additional information regarding our concerns with these provisions is contained in the TSD.

D. Permit Exemptions

On December 29, 1998, TNRCC requested that we delay action on approving subchapter C—Permit Exemptions as submitted in 1993. In a subsequent letter dated April 26, 1999, TNRCC provided its reason for requesting us to delay approval of subchapter C. Texas requested the delay because of several bills that were before the Texas Legislature which, if passed and signed into law, would affect the new source permitting structure, including the exemptions from permitting. These bills were passed and signed into law. The TNRCC is currently in the process of developing regulations to implement the new permitting structure which includes changes to the exemptions from permitting. Because we anticipate that Texas will significantly revise and restructure its provisions for exemptions from permitting and subsequently submit the changes to us as SIP revisions, we will delay action on subchapter C (as submitted in 1993) pending the submission of these SIP revisions.

Because we are taking no action on subchapter C as submitted in 1993, the following TNRCC regulation remains in the Texas SIP: section 116.6 (Exemptions) as approved by EPA on August 13, 1982 (47 FR 35193).

E. Permit Renewals

The governor submitted subchapter D (Permit Renewals) of Chapter 116 in the 1993 submittal. However, the 1998 submittal incorporates revisions that Texas adopted after the 1993 submittal and which we have not approved. The changes significantly revise subchapter D to the extent that it is not equivalent to subchapter D as submitted in the 1993 submittal. We have not completed our review of these changes and are therefore taking no action on subchapter D in today's action. We will act on subchapter D in a separate action following our review of the changes adopted subsequent to the 1993 submittal.

F. Emergency Orders

The Governor submitted subchapter E (Emergency Orders) as part of the 1993 submittal. An emergency order authorizes the immediate action for the addition, replacement, or repair of facilities or control equipment, and authorizes the associated emissions of air contaminants, whenever a catastrophic event necessitates such construction. An applicant that qualifies for an emergency order would need to submit an application under the requirements of section 116.411.

On December 10, 1998, the Governor of Texas submitted SIP revisions pertaining to Emergency Orders. In that submittal, Texas recodified and revised the provisions pertaining to Emergency Orders into 30 TAC chapter 35. We are still reviewing the December 10, 1998, SIP revisions. We will act on the provisions relating to Emergency Orders in a separate action.

In letters to TNRCC dated August 3, 1999, and September 27, 2000, we identified concerns related to subchapter E, submitted August 31, 1993, and with the revisions submitted December 10, 1998.

To date, TNRCC has not addressed our concerns. On the basis of subsequent discussions with TNRCC on August 15, 2000, the EPA and TNRCC have agreed that it is appropriate to take no action on subchapter E, submitted August 31, 1993, and the SIP revisions submitted December 10, 1998, in today's direct final approval. Our letter to TNRCC on September 27, 2000, confirmed this understanding. We will act on these provisions in a separate action after TNRCC resolves the outstanding concerns to our satisfaction. Additional information regarding our concerns with these provisions is contained in the TSD.

VII. Are We Approving Provisions That Did Not Exist in the Former SIP?

We are approving subsection (e) in section 116.116. This subsection sets forth provisions for permit alterations. This subsection defines a permit alteration as a variation to a representation in a permit application or in a general or special condition of a permit that decreases the allowable emissions or does not change the character or method of control of emissions. The TNRCC must approve any request for permit alteration which may result in an increase in off-property concentrations of air contaminants, may involve a change in permit conditions, or may affect facility or control equipment performance. Changes subject to permit alterations are non-substantive and involve no emissions increase. Alterations only apply to nonsubstantive changes to a permitted emission unit. Like kind replacement of emissions units and new emission units are not allowed under the permit alteration provisions. Permit alterations are not granted for changes which qualify for permit amendments under section 116.116(b). Such permit amendment is required for any change which involves an increase in emissions or a change in the method of control. Examples of changes eligible for permit alterations include: (1) Changes to a special condition in a permit to add an annual production rate for a unit that was inadvertently left out, (2) revising an emission point to show fugitive emissions and emissions from a newly installed control device as two separate emission points, and (3) changes to a special condition to reflect that primary seals for external floating roof tanks may be liquid-mounted primary seals or mechanical shoes. The use of alterations is limited only to changes which involve no increase in emissions and no changes in the method of control. Accordingly, such changes will not result in a violation of the applicable portion of the control strategy[4] or interfere with attainment or maintenance of a national standard, thus meeting the requirements of 40 CFR 51.160.[5] Subsection (c) as submitted in 1998 is equivalent to the 1993 submittal.

VIII. What Is the Effect of Today's Action?

This action approves the recodification of several provisions of Texas regulations for permitting new and modified sources as submitted August 31, 1993. Today's action replaces several outdated Sections of the former SIP and with new Sections under the current numbering system used for Chapter 116. By approving these revisions, the SIP-approved version of Chapter 116 more closely correlates with the numbering system currently used by Texas.

IX. What Texas SIP Regulations Are Being Replaced by This Action?

Table 5 below cross-references the provisions that we are approving to the corresponding provisions in the former SIP. Table 5 identifies the new SIP citation, the former SIP citation, the adoption date of the section that we are approving, the title of the Section, and any explanatory notes. Where noted, the "explanation" column may identify the portions of the "New SIP Citation" which we are not approving in today's action. The reasons for not approving such provisions, as identified in the "explanation" column, are provided in section VI of this preamble.

TABLE 5.—PROVISIONS OF 30 TAC THAT WE ARE APPROVING INTO TEXAS' SIP

New SIP citation	Former SIP citation	Dated adopted by State	Title	Explanation
Chapter 101—General Rules				
Section 101.1	Same	08/16/93	Definitions	This action approves the revised definition of "nonattainment area" and reinstates the definition of "*de minimis* impact."
Chapter 116—Control of Air Pollution by Permits for New Construction or Modification Subchapter A—Definitions				
Section 116.10	Sections 101.1, 116.3(a)(1)(B), and 116.14(a)(7).	06/17/98	General Definitions	The New SIP Citation does not include Sections 116.10(1), (2), (3), (4), (6), (8), (9), (10), and (14).

[4] The term "control strategy" is defined in 40 CFR 51.100(n) as a combination of measures designated to achieve the aggregate emission reductions necessary for attainment and maintenance of national ambient air quality standards.

[5] 40 CFR 51.160 requires each SIP to contain legally enforceable measures that enable the State to determine whether the construction or modification of a facility, building, structure, or installation, or combination thereof will result in: (1) A violation of applicable portions of the control strategy; or (2) interference with attainment of maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State.

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TABLE 5.—PROVISIONS OF 30 TAC THAT WE ARE APPROVING INTO TEXAS' SIP—Continued

New SIP citation	Former SIP citation	Dated adopted by State	Title	Explanation
Section 116.11	Section 116.14(a)(1)(6)	06/17/98	Compliance History Definitions.	
Subchapter B—New Source Review Permits Division 1—Permit Application				
Section 116.110	Sections 116.1(a)–(c), 116.2, and 116.3(b).	06/17/98	Applicability	The New SIP Citation does not include Sections 116.110(a)(2), (a)(3), and (c).
Section 116.111	Section 116.3(a)	06/17/98	General Application	The New SIP Citation does not include Section 116.111(2)(K).
Section 116.112	Sections 116.3(a)(1)(B) and 116.3(a)(13).	06/17/98	Distance Limitations.	
Section 116.114	Sections 116.3(f), 116.5, 116.10(a)(1), and 116.10(e).	06/17/98	Application Review Schedule.	
Section 116.115	Section 116.4	06/17/98	Special Provisions	The New SIP Citation does not include Sections 116.115(b), (c)(2)(A)(i), and (c)(2)(B)(ii)(I).
Section 116.116	Section 116.5	06/17/98	Changes to Facilities	The New SIP Citation does not include Sections 116.116(b)(3), (e), and (f).
Division 2—Compliance History				
Section 116.120	Section 116.14(b)	06/17/98	Applicability.	
Section 116.121	Section 116.14(c)	06/17/98	Exemptions.	
Section 116.122	Section 116.14(d)	06/17/98	Contents of Compliance History.	
Section 116.123	Section 116.14(e)	06/17/98	Effective Dates.	
Section 116.124	Section 116.14(f)	06/17/98	Public Notice of Compliance History.	
Section 116.125	Section 116.14(g)	06/17/98	Preservation of Existing Rights and Procedures.	
Section 116.126	Section 116.14(h)	06/17/98	Voidance of Permit Applications.	
Division 3—Public Notice				
Section 116.130	Section 116.10(a)(7)	06/17/98	Applicability	The New SIP Citation does not include Section 116.130(c).
Section 116.131	Section 116.10(a)(1) and (2)	06/17/98	Public Notification.	
Section 116.132	Section 116.10(a)(3) and (4)	06/17/98	Public Notice Format	The New SIP Citation does not include Sections 116.132(c) and (d).
Section 116.133	Did not exist	06/17/98	Sign Posting Requirements	The New SIP Citation does not include Sections 116.134(f) and (g).
Section 116.134	Section 116.10(a)(5)	06/17/98	Notification of Affected Agencies.	
Section 116.136	Section 116.10(b)	08/16/93	Public Comment Procedures.	
Section 116.137	Section 116.10(c)	06/16/93	Notification of Final Action by the Commission.	
Division 4—Permit Fees				
Section 116.140	Section 116.11(a) and (e)	06/17/98	Applicabilfty.	
Section 116.141	Section 116.11(b)	06/17/98	Determination of Fees	Sections 116.141(a), (c)–(e) previously approved. Today's action approves Section 116.143(b) and changes to Section 116.141 of the 1998 submittal.
Section 116.143	Section 116.11(c)–(f)	06/17/98	Payment of Fees.	

TABLE 5.—PROVISIONS OF 30 TAC THAT WE ARE APPROVING INTO TEXAS' SIP—Continued

New SIP citation	Former SIP citation	Dated adopted by State	Title	Explanation
Division 5—Nonattainment Review				
Section 116.150	Section 116.150	02/24/99	New Major Source or Major Modification in Ozone Nonattainment Area.	Previously approved. No changes in 1998 submittal. Today's action approves incorporation into Division 5.
Section 116.151	Section 116.151	03/18/98	New Major Source or Major Modification in Nonattainment Area Other than Ozone.	
Division 6—Prevention of Significant Deterioration Review				
Section 116.160	Section 116.160	06/17/98	Prevention of Significant Deterioration Requirements.	Previously approved. Today's action approves changes in Sections 116.160 and 116.161 of the 1998 submital.
Section 116.161	Section 116.161	06/17/98	Sources Located in an Attainment Area with a Greater than *de Minimis* Impact.	
Section 116.162	Section 116.162	08/16/93	Evaluation of Air Quality Impacts.	Previously approved. No changes in 1998 submittal. Today's action approves incorporation into Division 6.
Section 116.163	Section 116.163	08/16/93	Prevention of Significant Deterioration Permits Fees.	
Division 7—Emission Reduction: Offsets				
Section 116.170	Section 116.170	06/17/98	Applicability of Reduction Credits.	Previously approved. Today's action approves changes in 1998 submitted. The New SIP Citation does not include Section 116.170(2).

X. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

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Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 12, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

2. In § 52.2270 the table in paragraph (c) is amended as follows:

a. Under Chapter 101, revising the entry for Section 101.1;

b. Under Chapter 116, deleting all existing entries and replacing with new entries as shown below:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State submittal/approval date	EPA approval date	Explanation
Chapter 101—General Rules				
Section 101.1	Definitions	06/29/2000	9/24/01	Ref 52.2299(c)(102). Notes: 1. On 7/17/2000 EPA approved removal of Nonattainment review definitions from 101.1 and addition to Chapter 116, Section 116.12; 2. On 11/28/2000 EPA approved definitions of "Reportable Quantity" and "Reportable Upset;" 3. Last action EPA approved revised definition of "nonattainment area" and reinstatement of definition of "*de minimis* impact."
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
Section 116.6	Exemptions	03/27/75	08/13/82, 47 FR 35194.	
Subchapter A—Definitions				
Section 116.10	General Definitions	06/17/98	9/24/01	The SIP does not include Sections 116.10(1), (2), (3), (4), (6), (8), (9), (10), and (14).
Section 116.11	Compliance History Definitions.	06/17/98	9/24/01.	
Section 116.12	Nonattainment Review Definitions.	02/24/99	07/17/00, 65 FR 43994.	
Subchapter B—New Source Review Permits Division 1: Permit Application				
Section 116.110	Applicability	06/17/98	9/24/01	The SIP 116.110 does not include Sections 116.110(a)(2), (a)(3), and (c).
Section 116.111	General Application	06/17/98	9/24/01	The SIP does not include Section 116.111(2)(K).
Section 116.112	Distance Limitations	06/17/98	9/24/01.	
Section 116.114	Application Review Schedule.	06/17/98	9/24/01.	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State submittal/approval date	EPA approval date	Explanation
Schedule 116.115	Special Provisions	06/17/98	9/24/01	The SIP does not include Sections 116.115(b), (c)(2)(A)(i), and (c)(2)(B)(ii)(I).
Section 116.116	Amendments and Alterations.	06/17/98	9/24/01	The SIP does not include Sections 116.115(b)(3), number] (e), and (f).
Division 2: Compliance History				
Section 116.120	Applicability	06/17/98	9/24/01.	
Section 116.121	Exemptions	06/17/98	9/24/01.	
Section 116.122	Contents of Compliance History.	06/17/98	9/24/01.	
Section 116.123	Effective Dates	06/17/98	9/24/01.	
Section 116.124	Public Notice of Compliance History.	06/17/98	9/24/01.	
Section 116.125	Preservation of Existing Rights and Procedures.	06/17/98	9/24/01.	
Section 116.126	Voidance of Permit Applications.	06/17/98	9/24/01.	
Division 3: Public Notice				
Section 116.130	Applicability	06/17/98	9/24/01	The SIP does not include Section 116.130(c).
Section 116.131	Public Notification Requirements.	06/17/98	9/24/01.	
Section 116.132	Public Notice Format	06/17/98	9/24/01	The SIP does not include Sections 116.132(c) and (d).
Section 116.133	Sign Posting Requirements	06/17/98	9/24/01	The SIP does not include Sections 116.133(f) and (g).
Section 116.134	Notification of Affected Agencies.	06/17/98	9/24/01.	
Section 116.136	Public Comment Procedures.	08/16/93	9/24/01.	
Section 116.137	Notification of Final Action by the Commission.	08/16/93	9/24/01.	
Division 4: Permit Fees				
Section 116.140	Applicability	06/17/98	9/24/01.	
Section 116.141	Determination of Fees	06/17/98	9/24/01.	
Section 116.143	Payment of Fees	06/17/98	9/24/01.	
Division 5: Nonattainment Review				
Section 116.150	New Major Source or Major Modification in Ozone Nonattainment Area.	02/24/99	07/17/00, 65 FR 43986.	
Section 116.151	New Major Source or Major Modification in Nonattainment Area Other than Ozone.	03/18/98	07/17/00, 65 FR 43986.	
Division 6: Prevention of Significant Deterioration Review				
Section 116.160	Prevention of Significant Deterioration Review Requirements.	06/17/98	9/24/01.	
Section 116.161	Source Located in an Attainment Area with Greater than De Minimis Impact.	06/17/98	9/24/01.	
Section 116.162	Evaluation of Air Quality Impacts.	08/16/93	08/19/97, 62 FR 44083.	
Section 116.163	Prevention of Significant Deterioration Permit Fees.	08/16/93	08/19/97, 62 FR 44083.	

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EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State submittal/approval date	EPA approval date	Explanation
Division 7: Emission Reductions: Offsets				
Section 116.170	Applicability of Reduction Credits.	06/17/98	9/24/01	The SIP does not include Section 116.170(2).

[FR Doc. 01–23624 Filed 9–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4127a; FRL–7060–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 13, 2001 (66 FR 42418), EPA stated that if it received adverse comment by September 12, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 13, 2001 (66 FR 42487). EPA will not institute a second comment period on this action.

DATES: The Direct final rule is withdrawn as of September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(164) is withdrawn as of September 24, 2001.

[FR Doc. 01–23759 Filed 9–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4137a; FRL–7060–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Two Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for two major sources of volatile organic compounds (VOC) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 13, 2001 (66 FR 42415), EPA stated that if it received adverse comment by September 12, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 13, 2001 (66 FR 42487). EPA will not institute a second comment period on this action.

DATES: The Direct final rule is withdrawn as of September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

Accordingly, the addition of § 52.2020(c)(171) is withdrawn as of September 24, 2001.

[FR Doc. 01–23760 Filed 9–21–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7064–1]

Clean Air Act Final Approval of Operating Permits Program; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking final action to fully approve the Clean Air Act Operating Permits Program of the State of New Hampshire for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources of air pollution, and to certain other sources. EPA granted interim approval to New Hampshire's operating permit program on October 2, 1996.

DATES: This direct final rule is effective on November 23, 2001 without further notice, unless EPA receives relevant adverse comment by October 24, 2001. If EPA receives relevant adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal, and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, (617) 918–1653.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What Is the operating permit program?
How has New Hampshire addressed EPA's interim approval issue?
What is involved in this final action?

What Is the Operating Permits Program?

The Clean Air Act Amendments (CAA) of 1990 required all state and local permitting authorities to develop operating permit programs that meet certain Federal criteria. 42 U.S.C. 7661–7661e. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance and enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how to determine compliance with those requirements.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. See 40 CFR § 70.3. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include: those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM 10); those that emit 10 tons per year of any single hazardous air pollutant specifically listed under the CAA (HAP); or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," such as parts of southern New Hampshire, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

How Has New Hampshire Addressed EPA's Interim Approval Issue?

Where an operating permit program substantially, but not fully, meets the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA may grant the program interim approval. Because New Hampshire's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 2, 1996 (61 FR 51370). In order for EPA to grant full approval to New Hampshire's operating permits program, they had to amend their regulations to provide for "section 502(b)(10) changes" at a Title V source. On May 14, 2001, New Hampshire submitted a revision to its operating permits program incorporating the relevant sections of 40 CFR § 70.4(b)(12) governing "section 502(b)(10) changes." The State regulations implementing the necessary changes are Env–A 609.08(c)(3) and 612.02.

What Is Involved in This Final Action?

The State of New Hampshire's program now addresses the interim approval issue EPA identified under Part 70. Therefore, EPA is taking final action to fully approve the State's operating permit program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval should relevant adverse comments be filed. This action will be effective November 23, 2001 unless the Agency receives adverse comments by October 24, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this action will be effective on November 23, 2001.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply,

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Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (b) in the entry for New Hampshire to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

New Hampshire

* * * * *

(b) The New Hampshire Department of Environmental Services submitted program revisions on May 14, 2001. EPA is hereby granting New Hampshire full approval effective on November 23, 2001.

* * * * *

[FR Doc. 01–23763 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket #: WA–01–001; FRL–7064–3]

Clean Air Act Finding of Attainment; Spokane, Washington Particulate Matter (PM–10) Nonattainment Area

AGENCY: Environmental Protection Agency (EPA or we).

ACTION: Final rule.

SUMMARY: EPA has determined that the Spokane nonattainment area has attained the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter of less than or equal to 10 microns by the attainment date of December 31, 1997, as required by the Clean Air Act.

EFFECTIVE DATE: October 24, 2001.

ADDRESSES: Copies of all information supporting this action are available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Pacific Standard Time at EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Steven Body, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–0782.

SUPPLEMENTARY INFORMATION

I. Background

On May 16, 2001, we solicited public comment on a proposal to find that the Spokane nonattainment area has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM–10) by the attainment date of December 31, 1997, as required by the Clean Air Act. In the proposal, we stated that EPA would accept public comments on the proposed finding until June 15, 2001. *See* 66 FR 27055 (May 16, 2001).

During the public comment period that ended on June 15, 2001, we received written comments from two commenters. The Washington State Department of Ecology (Ecology or State) supported EPA's proposed determination. Earthjustice, on behalf of the Sierra Club, submitted adverse comments.

II. Major Issues Raised by Commenters

The following is a summary of the issues raised in the comments on the proposal, along with EPA's response to those issues.

A. Attainment Date for the Area

Earthjustice stated that EPA's proposal wrongly assumed that the attainment date for the Spokane PM–10 nonattainment area was December 31, 1997, and that, pursuant to section 188(c)(1) of the CAA, the attainment date for the area is December 31, 1994. According to Earthjustice, EPA's temporary waiver of the attainment date was void from the outset and that, in any event, it did not purport to

permanently extend the original attainment date. The commenter further asserted that the temporary waiver was conditional on Ecology submitting a showing meeting the requirements of section 188(f), which includes a showing that nonanthropogenic sources contribute significantly to violation of PM–10 standards in the area and that anthropogenic sources do not contribute significantly to PM–10 violations in the area. Because Ecology never made this showing, and EPA has never made either of these determinations with respect to Spokane, Earthjustice asserts, the temporary waiver of the attainment date was nullified, even assuming EPA had authority to grant a "temporary" waiver of the attainment date in the first place. Moreover, according to Earthjustice, the temporary waiver applied only where windblown dust was an important contributor to the exceedances and EPA has not proposed to find that windblown dust was an important contributor to the exceedances that occurred as of December 31, 1994. Therefore, according to the commenter, the attainment date for the Spokane area is December 31, 1994 and, based on the data in the EPA Aerometric Information Retrieval System (AIRS), the Spokane PM–10 nonattainment area was not in attainment of the PM–10 standards as of that date.

EPA disagrees with the commenter's assertions that EPA's temporary waiver of the attainment date for the Spokane area was invalid at the outset and that the temporary waiver was in any event nullified because the conditions for the temporary waiver were not met. As discussed in the proposed finding of attainment, the Spokane PM–10 nonattainment area was an "initial" PM–10 nonattainment area with an attainment date of December 31, 1994. *See* 66 FR 27056; *see also* CAA section 188(a) and (c)(1). Section 188(f) of the CAA provides EPA with the authority to waive a specific date for attainment of the standard under certain circumstances based on the relative contribution of anthropogenic and nonanthropogenic sources of PM–10 to violation of the PM–10 standards in the area. *See* "State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990," 59 FR 41998, 42003 (April 16, 1994) (Serious Area Guidance).

In the moderate area State Implementation Plan (SIP) submitted by Ecology for the Spokane area in the early 1990s, Ecology included information indicating that nonanthropogenic sources may be significant in the Spokane PM–10 nonattainment area during windblown dust events. Based on our review of the State's submissions, we approved Spokane's moderate area SIP for all sources except for windblown dust and, under section 188(f) of the CAA and consistent with EPA's Serious Area Guidance interpreting that provision, granted a temporary waiver to extend the attainment date for the Spokane area to December 31, 1997. *See* 62 FR 3800 (January 27, 1997) (final action); 61 FR 35998 (July 9, 1996) (proposed action). The temporary waiver was intended to provide Ecology time to evaluate further the Spokane nonattainment area and to determine the significance of the anthropogenic and nonanthropogenic sources impacting the area. EPA stated that, once these activities were complete or the temporary waiver expired, EPA would make a decision on whether the area was eligible for a permanent waiver under section 188(f) of the CAA or whether the area had attained the standards by the extended attainment date. *See* 62 FR 3802.

Earthjustice asserts that EPA's temporary waiver of the attainment date for the Spokane area was invalid from the outset. However, neither Earthjustice, the Sierra Club, nor any other commenter commented on EPA's authority to grant the Spokane area a temporary waiver of the attainment date when EPA proposed the temporary waiver in 1996. *See* 62 FR 3801. In addition, no petitions for review were filed in response to EPA's final action to grant the temporary waiver to the Spokane area. Any concerns regarding EPA's authority to grant a temporary waiver of the attainment date under CAA section 188(f) were required to be raised when EPA took final action to grant the temporary waiver and, coming more than four years after EPA's action to grant the Spokane area a temporary waiver of the attainment date, are untimely in the context of this rulemaking to determine whether the Spokane area attained the PM–10 standards by the attainment date. *See* CAA section 307(b)(1)(a petition for review must be filed within 60 days from the date of notice of final agency action).

EPA also disagrees that the temporary waiver of the attainment date for the Spokane area was nullified because Ecology did not establish, and EPA did not find, that the Spokane area met the requirements of CAA section 188(f) for a permanent waiver of the attainment date. There is nothing in the proposal or the final action for the temporary waiver to suggest that the temporary waiver of the attainment date to December 31, 1997 was conditioned on Ecology ultimately being successful in obtaining a permanent waiver of the attainment date. The clear purpose of the temporary waiver was to "allow[] Ecology and EPA to evaluate further the windblown dust PM–10 problems in the Spokane PM–10 nonattainment area." 62 FR 3802 (final action granting temporary waiver); *see also* 61 FR 35999 (proposal for temporary waiver). Both the final action and the proposal state that "once that evaluation is completed, and/or the temporary waiver expires, EPA will make final determinations on the designations and other requirements." 62 FR 3802 (final action granting temporary waiver); *see also* 61 FR 35999 (proposal for temporary waiver). The fact that the notices state that EPA would make the attainment determination "after the temporary waiver expires" is completely inconsistent with the notion that the temporary waiver would be retroactively nullified if the Spokane area did not qualify for a permanent waiver of the attainment date.

Earthjustice cites the Serious Area Guidance (59 FR 42008) in support of its position that EPA guidance precludes a waiver unless EPA also finds that anthropogenic sources do not contribute significantly to PM–10 violations. In fact, the Serious Guidance makes clear that the purpose of a temporary waiver of the moderate area attainment date for up to three years is "to allow further evaluation" of whether nonanthropogenic sources contribute significantly to violations and anthropogenic sources contribute insignificantly to violations of the PM–10 standards. Although the Serious Area Guidance does state, as the commenter points out, that "the need for reinstating a specific attainment date and/or previously waived serious area requirements should be reconsidered periodically," 59 FR 42006, that statement is made in the context of discussing the need to evaluate whether the conditions for a permanent waiver continue to exist. There is no indication in the Serious Area Guidance that the reference to "reinstating a specific attainment date" contemplated the retroactive reinstatement of an attainment date that had already passed in time.[1]

[1] As an example of a situation where an attainment date could be reinstated, consider the case of a serious PM–10 nonattainment area with an attainment date of December 31, 2006. Assume that, in 2000, based on the information available at

Continued

Earthjustice is correct that the temporary waiver for Spokane is conditioned on windblown dust (both anthropogenic and nonanthropogenic) being an important contributor to the exceedances. EPA included this condition when it granted the temporary waiver to ensure it could reclassify the area to serious before December 31, 1997 if PM–10 exceedances in the Spokane area were caused by sources other than windblown dust. *See* 61 FR 36003 ("If any of the non-wind blown dust sources cause any exceedances of the PM–10 24-hour standard the area could be reclassified to serious."). The relevant question, however, is whether windblown dust was an important contributor to exceedances that occurred during the life of the temporary waiver (between January 1, 1995 and December 31, 1997), and not, as Earthjustice asserts, whether windblown dust was an important contributor to exceedances that occurred prior to December 31, 1994.

The preamble language discussing the temporary waiver for the Spokane area is ambiguous regarding whether the temporary waiver could be nullified by a single exceedance attributable to non-windblown dust sources or whether the temporary waiver would be nullified only if the area continued to be in nonattainment because of exceedances caused by non-windblown dust sources. The memorandum of agreement between EPA and Ecology addressing the temporary waiver, which is quoted in the proposed and final action for the temporary waiver, states that "The Spokane and Wallula nonattainment areas will retain the classification of a moderate PM–10 nonattainment area until 12/31/97 unless PM–10 air quality data indicates that the area has failed to attain the 24-hour standard because of exceedances that cannot be primarily attributable to windblown dust." *See* 62 FR 3802 (final action); 61 FR 3599 (proposed action). In several other places in EPA's proposal to grant the temporary waiver, the preamble states that the temporary waiver would apply to "PM–10 exceedances caused by windblown dust." *See* 61 FR 3599 and 3603. Because the relevant inquiry under the CAA is whether an area is in attainment of the NAAQS, not whether the area has a single exceedance of the NAAQS, EPA's intent in granting the temporary waiver was that it would apply unless the Spokane area continued to violate the 24-hour PM–10 NAAQS because of exceedances that could not be primarily attributable to windblown dust.

As discussed in the proposed finding of attainment, a review of the air quality data in AIRS for the three-year period from January 1, 1995 through December 31, 1997 shows that there was only one recorded exceedance of the 24-hour PM–10 standard in the Spokane PM–10 nonattainment area: a concentration of 186 ug/m3 reported at the Crown Zellerbach site on August 30, 1996. 66 FR 27056. As also discussed in the proposal, even if the August 30, 1996 exceedance is included in determining the attainment status of the Spokane area, the data for the period from January 1, 1995 through December 31, 1997 would still show attainment of the 24-hour PM–10 standard.[2] 66 FR 27057.

In addition, the State has claimed and submitted information to show that the August 30, 1996 exceedance was due to emissions of soils caused by high winds and thus qualified as a natural event under EPA guidance. *See* Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled "Areas Affected by Natural Events," dated May 30, 1996 (Natural Events Policy). A copy of the documentation submitted by Ecology is in the docket. Based on the information provided by Ecology, EPA believes that windblown dust (both anthropogenic and nonanthropogenic) was an important contributor to the exceedance that occurred on August 30, 1996. There is no evidence to show that non-wind blown dust sources were the main cause of this exceedance. Moreover, as discussed above, this one exceedance does not represent a violation of the 24-hour PM–10 NAAQS. Thus, EPA concludes that this August 30, 1996 exceedance does not nullify the temporary waiver and that the attainment date for the Spokane PM–10 nonattainment area is December 31, 1997.

Earthjustice comments that EPA must seek notice and public comment on any determination that windblown dust was an important contributor to the exceedances before we can conclude that the temporary waiver remained in effect until December 31, 1997. EPA disagrees. This finding is implicit in our statements in the proposal that the attainment date for the Spokane PM–10 nonattainment area is December 31, 1997. The information supporting EPA's position on this issue has been in the docket since the proposal for this action was published and was available for review and comment by interested parties. In any event, the intent of EPA in granting the temporary waiver was that it would apply unless the Spokane area continued to violate the 24-hour PM–10 NAAQS because of exceedances that could not be primarily attributable to windblown dust. The single exceedance that occurred in August 1996, even if it is not deemed primarily attributable to windblown dust, does not represent a violation of the 24-hour PM–10 NAAQS.

B. Application of Natural Events Policy

Earthjustice commented that EPA's proposal to exclude consideration of the August 30, 1996 exceedance at the Crown Zellerbach monitor is not defensible because the State did not have a Natural Event Action Plan (NEAP) for the area at the time of the exceedance and the State did not document that best available control measures (BACM) were required for sources of windblown dust in the Spokane area at the time of the exceedance. As discussed in the proposal for this action, even if the exceedance recorded at the Crown Zellerbach monitoring site on August 30, 1996 is not excluded as a natural event and is considered in the attainment determination, the expected exceedance rate for the Spokane area averaged over the three-year period of 1995, 1996 and 1997 would be 0.34. This is less than the expected exceedance rate of 1.0 that would represent a violation of the 24-hour PM–10 standard. Therefore, even if the commenter were correct in its assertions, the data would still support a finding that the Spokane PM–10 nonattainment area attained the 24-hour PM–10 standard as of the attainment date of December 31, 1997.

C. Clarification of Factual Issues

Ecology submitted a letter supporting EPA's proposed finding that the Spokane PM–10 nonattainment area attained the PM–10 standards by the attainment date of December 31, 1997.

that time, the area requested and EPA granted a permanent waiver of the serious area attainment date. The Serious Area Guidance states that an area that receives a waiver should review the status of anthropogenic and nonanthropogenic source contributions in the area every three years. 59 FR 42006. If, in 2003, the available information shows that nonanthropogenic sources no longer contribute significantly to the exceedances in the area, the serious area attainment date of December 31, 2006 should be reinstated.

[2] Even if air quality data for the three-year calendar period preceding and including the August 30, 1996 exceedance is considered and it is assumed that the August 30, 1996 exceedance was due to non-windblown dust sources, that exceedance would still not nullify the temporary waiver because it would not indicate the Spokane area "failed to attain the 24-hour health standard because of exceedances that cannot be primarily attributable to windblown dust. There were no exceedances of the 24-hour PM–10 standard in the Spokane area in 1994 or 1995. Thus, the area was in attainment of the 24-hour standard as of December 31, 1996 even if the August 30, 1996, exceedance is considered.

Ecology also noted three areas where it believed EPA should clarify factual issues in the final determination. First, Ecology stated that EPA should clarify that EPA has fully approved the moderate area SIP for the Spokane PM–10 nonattainment area except as it relates to windblown dust. EPA acknowledges that it has approved the emission inventory, control measures, attainment demonstration, quantitative milestones/reasonable further progress, and contingency measures in the Spokane PM–10 SIP for all sources except for sources of windblown dust and has also granted the area the exclusion from the control requirements for PM–10 precursors. *See* 62 FR 3802 (final action); 61 FR 36000–36003 (proposed action).

Ecology also requested that EPA clarify that we have acknowledged in AIRS that the exceedance that occurred on September 25, 1999 was due to a natural event. In the proposed finding of attainment for the Spokane area, EPA stated that it was still reviewing the documentation to support the State's determination that this exceedance was due to a natural event and had not yet confirmed the State's claim for this exceedance. Just after publication of the proposed finding of attainment, EPA discovered this error and, before expiration of the public comment period, notified Ecology, the local air authority for Spokane County, and Earthjustice of this error. EPA also provided to Earthjustice a copy of EPA's September 20, 2000 letter to Ecology acknowledging the September 25, 1999 exceedance was attributable to a natural event.

Ecology also stated in its comments that there were five monitoring sites in the Spokane PM–10 nonattainment area during the period of 1995 through 1997, not six as stated in EPA's proposed finding of attainment for the Spokane area. It is true that there are in fact only five monitoring sites operating in the Spokane PM–10 nonattainment area during this time, although there is a sixth monitor located in Spokane County outside of the nonattainment area which EPA did consider in making this attainment determination. However, neither this clarification, nor any of the other clarifications requested by Ecology affect EPA's determination that the Spokane PM–10 nonattainment area attained the PM–10 standards by the attainment date.

III. Implications of Today's Action

As discussed above, EPA finds that the Spokane PM–10 nonattainment area attained the PM–10 NAAQS by December 31, 1997, the attainment date for the area. This finding of attainment should not be confused, however, with a redesignation to attainment under CAA section 107(d) because the State has not, for the Spokane area, submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for the Spokane PM–10 nonattainment area until such time as Washington meets the CAA requirements for redesignations to attainment.

IV. Administrative Requirements

Under Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use" (66 FR 28355, May 22, 2001). Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities because it merely makes a determination based on air quality data and does not impose any requirements. In addition, this action does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it does not impose any enforceable duties.

This action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The action merely makes a determination based on air quality data and does not impose any requirements and therefore does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act.

This action also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under Executive Order 12866.

This action does not involve technical standards. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. In addition, this action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 13, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01–23765 Filed 9–21–01; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Parts 102–117 and 102–118

[FMR Amendment D–1]

RIN 3090–AH43

Transportation Management and Transportation Payment and Audit

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is extending the retirement date of Optional Forms 1103, U.S. Government Bill of Lading (GBL), and 1203, U.S. Government Bill of Lading—Privately Owned Personal Property (PPGBL), until March 31, 2002. A GSA review indicated that instead of transitioning to standard business practices, agencies were creating a new form to replace the GBL. Extending the retirement date for six months will give agencies more time to enhance electronic transportation systems currently in place and transition to the use commercial practices.

DATES: Effective September 21, 2001.

FOR FURTHER INFORMATION CONTACT: Elizabeth Allison, Program Analyst, Transportation Management Policy Program, Office of Governmentwide Policy, General Services Administration, by phone at 202–219–1729 or by e-mail at *elizabeth.allison@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

GSA published Federal Management Regulation (FMR) part 102–117 (41 CFR part 102–117), Transportation Management in the **Federal Register** on October 6, 2000 (65 FR 60059), and FMR part 102–118 (41 CFR part 102–118), Transportation Payment and Audit, in the **Federal Register** on April 26, 2000 (65 FR 24568). These final rules provided for the retirement of Optional Forms 1103 and 1203, the BGL and PPGBL, respectfully for domestic use.

B. Substantive Changes

This rule extends the retirement date for Optional Forms 1103 and 1203, to March 31, 2002. Although both the GBL and the PPGBL are being retired for domestic shipments, both forms will remain available for international and domestic overseas shipments.

The government will need to transmit some type of shipping order to the transportation service provider (TSP), but not a bill of lading. The transmittal (preferably electronic) must include all information necessary for booking a shipment. In practicality these actions eliminate two government forms and transition agencies to the use of standard industry practice and electronic commerce.

C. Executive Order 12866

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to internal agency management and will not have a significant effect on the public.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose recordkeeping or information collection requirements, or the collection of information from contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 501–517.

F. Small Business Regulatory Enforcement Fairness Act

This rule is exempt from Congressional review under 5 U.S.C. 901 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 102–117 and 102–118

Freight, Government property management, Moving of household goods, Transportation.

For the reasons set forth in the preamble, 41 CFR chapter 102 is amended as follows:

PART 102–117—TRANSPORTATION MANAGEMENT

1. The authority citation for part 102–117 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 481, *et seq.*

§ 102–117.90 [Amended]

2. Section 102–117.90 is amended by removing the date "September 30, 2001" wherever it appears and adding the date "March 31, 2002" in its place.

PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

3. The authority citation for part 102–118 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 481, *et seq.*

§§ 102–118.40, 102–118.95, 102–118.115, and 102–118.175 [Amended]

4. Remove the date "September 30, 2001" wherever it appears and add the date "March 31, 2002" in its place in the following sections:

§ 102–118.40
§ 102–118.95
§ 102–118.115
§ 102–118.175

Dated: September 10, 2001.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 01–23725 Filed 9–21–01; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 010710169–1226–02; I.D. 060401B]

RIN 0648–AP31

Atlantic Highly Migratory Species; Longline Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Revision to an emergency rule; request for comments.

SUMMARY: NMFS revises the emergency regulations governing the Atlantic highly migratory species (HMS) fisheries that require all vessels issued an Atlantic HMS permit to post in their wheelhouses NMFS-supplied sea turtle handling and release guidelines for pelagic longline gear to require that only such vessels fishing for Atlantic HMS that have pelagic or bottom longline gear on board post the guidelines. This revision is needed to make the regulations consistent with an August 31, 2001 revision to a term and condition of the reasonable and prudent measure identified in the incidental take statement accompanying the June 14,2001 Biological Opinion on the Atlantic HMS Fishery Management Plan and its associated fisheries. The intent of this revision is to remove the requirement that non-longline vessels post sea turtle handling and release guidelines that are specific to longline gear.

DATES: Effective September 15, 2001, through January 9, 2002. Comments must be received by November 8, 2001.

ADDRESSES: Written comments may be sent to Christopher Rogers, Acting Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301–713–1917. Comments will not be accepted if submitted via e-mail or the Internet. Copies of the Biological Opinion that requires this action may also be obtained from this address.

FOR FURTHER INFORMATION CONTACT: Tyson Kade or Karyl Brewster-Geisz at 301–713–2347 or via fax at 301–713–1917.

SUPPLEMENTARY INFORMATION: On June 8, 2001, (revised June 14, 2001) NMFS published a Biological Opinion (BiOp) that found that the Atlantic pelagic longline fishery is jeopardizing the continued existence of loggerhead and leatherback sea turtles. The BiOp estimated that a 55-percent reduction in bycatch mortality from the pelagic longline fishery is necessary to allow for the recovery of these two species. To achieve the necessary reduction, the BiOp required the implementation of a reasonable and prudent alternative that was composed of several elements. On July 13, 2001, NMFS issued an emergency rule (66 FR 36711) that closed the northeast distant statistical reporting area, required specific gear deployment modifications, and required that the safe handling and release guidelines for sea turtles caught in pelagic longline gear be posted aboard all vessels permitted for HMS fisheries. The emergency rule is effective until January 9, 2002.

On August 31, 2001, the June 14, 2001 BiOp was further revised with respect to a term and condition of the reasonable and prudent measure identified in the accompanying incidental take statement to limit the requirement to post the sea turtle handling and release guidelines to vessels using longline gear. The safe handling guidelines are specific to longline interactions and would not be applicable to vessels using other gear such as seines or gillnets. The costs to the government of printing and distributing guidelines to non-longline HMS vessels, and the burden on such vessels of posting those guidelines is not justified. Accordingly, NMFS is revising the regulation to apply only to permitted vessels having pelagic and bottom longline on board.

Classification

The Assistant Administrator for Fisheries (AA), under 5 U.S.C. 553(b)(3), finds that providing prior notice and opportunity for public comment on this revision would be contrary to the public interest. Without this revision, HMS vessels that do not display the sea turtle safe handling and release guidelines would be in violation of the regulations. While NMFS has supplied sea turtle safe handling and release guidelines to all longline vessels, NMFS has not supplied, and does not intend to supply, the guidelines to non-longline vessels. In order that non-longline vessels not be in technical violation, it is necessary to make this revision without prior notice and an opportunity for public comment. Because this rule relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date. The requirement for longline vessels to post the guidelines remains effective from September 15, 2001 through January 9, 2002.

Because prior notice and opportunity for public comment are not required for this final rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

This action is not significant under the meaning of Executive Order 12866.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: September 18, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 635.21, paragraph (a)(3) is suspended and a new paragraph (a)(4) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(a) * * *

(4) Effective September 15, 2001, through January 9, 2002, operators of all vessels that have pelagic or bottom longline gear on board and that have been issued, or required to have, a limited access swordfish, shark, or tuna longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

* * * * *

[FR Doc. 01–23795 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010228052–1211–02; I.D. 010301D]

RIN 0648–AL95

Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule that implements Amendment 60 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 58 to the FMP for Groundfish of the Gulf of Alaska, and Amendment 10 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and the Aleutian Islands. This rule is necessary to implement changes to the License Limitation Program (LLP) made by these amendments and are intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the three FMPs.

DATES: Effective October 24, 2001, except for § 679.4(k)(3)(i) and (k)(3)(iv)(A), and § 679.7(i)(9) which will be effective January 1, 2002.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) and the final regulatory flexibility analysis (FRFA) are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or hand pick-up at Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The North Pacific Fishery Management Council (Council)

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recommended, and NMFS approved, the LLP to address concerns of excess capital and capacity in the groundfish and crab fisheries in and off Alaska. The LLP is one stage of a multi-staged process to reduce capacity and capital in the affected fisheries. The LLP replaced the Vessel Moratorium Program (VMP), a program implemented by NMFS to impose a temporary moratorium on the entry of new capacity in the groundfish and crab fisheries in and off Alaska and to help define the class of entities that would be eligible for licenses under the LLP. The VMP expired on December 31, 1999, and fishing under the LLP began on January 1, 2000. More information on the background and development of the LLP can be found in the preamble to the final rule implementing the LLP at 63 FR 52642 (October 1, 1998).

In October 1998, the Council recommended several changes to the LLP through Amendments 60, 58, and 10. A notice of availability for these amendments was published January 17, 2001 (66 FR 3976), which initiated a 60-day public comment period on the approval of these amendments by NMFS. All public comments received during that period were in favor of approval. NMFS approved Amendments 60, 58, and 10 on April 18, 2001. The following section outlines the changes made to the LLP by Amendments 60, 58, and 10. More information regarding these changes, including the Council's rationale for recommending them, can be found in the preamble to the proposed rule for this action at 66 FR 17397 (March 30, 2001).

Changes to the LLP Qualifying Criteria

1. A recent participation requirement has been added to the eligibility for a crab species license.

The qualification criteria to receive a permanent crab species license has been changed to require participation during the period beginning January 1, 1996, through February 7, 1998. Under the original provisions of the LLP, a person only needed to demonstrate that documented harvests were made from a qualifying vessel during two periods for a crab species license. These two periods are the general qualification period (GQP), which began January 1, 1988, through June 27, 1992, and the endorsement qualification period (EQP), which varied according to the particular area/species endorsements included on the license.

A third period, the recent participation period (RPP), has been added to the documented harvest requirements for crab. Under the RPP, a person must demonstrate that at least one documented harvest of any amount of crab species was made from a qualifying vessel during the period beginning January 1, 1996, through February 7, 1998. The additional eligibility requirement of the RPP is designed to reduce the number of crab species licenses that might otherwise be issued to persons who have been inactive in the crab fishery since 1995. If permanent licenses were issued to inactive fishermen, they could transfer those licenses to persons who would become active in the fishery. This result would be contrary to the purpose of the LLP because it would likely increase fishing effort above the current levels in the crab fisheries.

Several exemptions from the RRP requirement are provided based on public testimony before the Council and in consideration of the impacts the RPP could have on small fishing operations. This final rule in response to public comments adds a hardship exemption (unavoidable circumstances), similar to that provided for the EQP. The following exemptions are included in this final rule.

Exemption 1: A person who only qualifies for a Norton Sound red king crab and Norton Sound blue king crab endorsement does not have to meet the documented harvest requirements of the RPP.

Exemption 2: A person whose qualifying vessel is less than 60 ft (18.3 m) length overall (LOA) does not have to meet the documented harvest requirements of the RPP.

Exemption 3: A person whose qualifying vessel was unable to meet the documented harvest requirements of the RPP because it was lost or destroyed, but from which a documented harvest of crab species was made during the period beginning after the vessel was lost or destroyed through January 1, 2000, does not have to meet the documented harvest requirements of the RPP.

Exemption 4: A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period beginning January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the GQP and the EQP, or enters into a contract to obtain the fishing history of a vessel that meets the GQP and the EQP, by 8:36 am Pacific standard time on October 10, 1998, does not have to meet the requirement of having a complete fishing history on the same qualifying vessel for qualification.

Exemption 5: A person who can demonstrate that he or she had a specific intent to participate in the crab fisheries during the RPP but was prevented from participating by circumstances that were unavoidable, unique, and unforeseen and unforeseeable, does not need to meet the documented harvest requirements of the RPP.

2. A transfer of groundfish LLP licenses that was earned from a vessel that did not have a Federal Fisheries Permit (FFP) is restricted.

This final rule restricts the transfer of a groundfish LLP license that was earned based on documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998. Under this transfer restriction, the groundfish LLP license and the vessel from which the license was earned must be transferred together. In other words, this type of groundfish LLP license cannot be transferred separately and used on a vessel other than the original qualifying vessel.

This transfer restriction has two exceptions. First, if the fishing history of a vessel that did not have an FFP was transferred before February 7, 1998, the qualifying vessel did not have to accompany the license. However, subsequent transfers will require the license to be "coupled" with the existing vessel (i.e., the license cannot be transferred separately from the vessel named on the license). Second, a vessel that is subject to this provision but that is lost or destroyed can be replaced under the general vessel replacement provisions of the LLP.

Concerns of excess capacity in the affected fisheries influenced the Council to recommend this transfer restriction. This transfer restriction is based on the fact that an FFP was required for any vessel that participated in a Federal groundfish fishery off Alaska. If a vessel participated in a Federal groundfish fishery off Alaska without an FFP, it did so illegally. If a vessel did not participate in a Federal groundfish fishery off Alaska, its qualifying documented harvests must have occurred in waters of the State of Alaska (State waters) or other waters shoreward of the exclusive economic zone (EEZ) off Alaska. Groundfish fisheries in State waters or other waters shoreward of the EEZ off Alaska will not be managed under the LLP; therefore, the fishing behavior of these operations should not be affected.

3. A gear designation is added to groundfish licenses.

Adding a gear designation to groundfish licenses is intended to prevent movement between the trawl sector and the non-trawl sector. This action will effectively limit participation within a gear sector's fishery to those who are historically dependent on that fishery. Under this provision, a license will be issued a "trawl," "non-trawl," or "trawl/non-trawl" gear designation based on gear participation before June 17, 1995. If, for example, a person used trawl gear and longline gear before June 17, 1995, the license issued to that person will have a trawl/non-trawl gear designation. This designation will mean that the license holder could use trawl gear and non-trawl gear. However, if a person used only trawl gear before June 17, 1995, the license issued to that person will have a trawl gear designation. This designation will mean that the license holder can only use trawl gear.

The general rule on gear designations has two exceptions. First, a person can exercise a one-time option to switch gear designations if that person used a different gear type between June 18, 1995, and February 7, 1998, than was used previously. For example, a person used only trawl gear before June 17, 1995, but in 1997 used pot gear to catch Pacific cod. The use of this non-trawl gear type in 1997 would allow the person to exercise a one-time option to change the gear designation from trawl gear to non-trawl gear. A person cannot qualify for a trawl/non-trawl gear designation by use of this exception.

Second, a person can request a gear designation change based on a significant financial investment. To qualify under the second exception a person will have to (1) demonstrate that a significant financial investment was made in converting a vessel and/or purchasing fishing gear on or before February 7, 1998, and (2) demonstrate that a documented harvest was made from the qualifying vessel with the new gear type on or before December 31, 1998. What is meant by a significant financial investment was defined by the Council based on industry testimony during the development of this action. Industry testimony indicated that spending at least $100,000 toward vessel conversion and/or gear to change from a non-trawl to a trawl fishery, or having acquired groundline, hooks or pots, and hauling equipment to change from a trawl to a non-trawl fishery, should be considered sufficient to justify a gear designation change.

4. The Community Development Quota (CDQ) vessel exemption is limited to a specific time period.

An exemption to LLP licensing requirements for specific CDQ vessels is included in the LLP regulations at 50 CFR 679.4(k)(2)(iv). This exemption was intended to facilitate the ability of CDQ organizations to enter and prosecute groundfish fisheries with newly constructed vessels that did not qualify under the LLP. However, concerns over excess capacity in the groundfish fisheries, and recognition that CDQ organizations are integrating into the existing fishing industry at a reasonable pace, induced the Council to recommend a limit to this exemption. The Council recommended that the exemption be limited to vessels that met the CDQ vessel exemption criteria between November 18, 1992, and October 9, 1998, the latter of which is the date the Council recommended the limitation. Allowing CDQ vessels to qualify for this exemption through that date would protect the investment-backed expectations of any CDQ organization that decided to use this exemption before the Council's decision to limit the provision.

5. The use of a groundfish or crab LLP license is limited to the vessel named on the license.

Under this final rule, effective January 1, 2002, a groundfish or crab LLP license may only be used on the vessel named on the license. This restriction was recommended by the Council to address concerns about the movement of license holders among vessels contributing to excess capacity in the fisheries. Currently, an LLP license is not directly linked to a particular vessel and a license holder is able to use any vessel to fish for license limitation groundfish or crab species if that vessel complies with vessel length restrictions.

For licenses issued after the effective date of this final rule, NMFS will specify the name of the vessel on the license. A license holder will be authorized to use only the vessel designated on the license. A change to the vessel designated on the license will require agency action and will count toward the limit of one transfer per license in each calendar year.

6. Limited processing ability is authorized for a person who holds a license with a catcher vessel designation.

Currently, LLP licenses are separated into two distinct processing designations: A catcher vessel designation, which means that the license holder cannot process fish; and a catcher/processor designation, which means that the license holder can catch and process fish on the same vessel. The Council, through public testimony, was presented with two reasons why some relief should be granted under these strict category distinctions.

First, public testimony indicated that an opportunity should be provided for entry into processing. Second, public testimony indicated that if limited processing opportunities were allowed, some catcher vessels would be able to take advantage of "niche markets." Niche markets are small, specialized markets, such as a local grocery store or restaurant. Fishermen can sell directly to these markets and provide a specialty product to consumers in an expedited manner. For these reasons, the Council recommended a limited processing exception. This exception will allow an LLP license holder with a catcher vessel designation to process one metric ton of round fish per day if it is harvested on a vessel that is less than 60 ft (18.3 m) LOA, and if the license holder complies with other requirements (e.g., proper designation on the FFP and recordkeeping and reporting requirements for processing).

Other Changes Included in This Rule and Small Entities Compliance Guide

Several portions of the LLP regulations are revised to eliminate the word "State" when referring to waters shoreward of the EEZ off Alaska. The word "State" was eliminated because including it excluded from the LLP several areas shoreward of the EEZ off Alaska that are not State waters. These areas include the waters adjacent to the Metlakatla Indian Reservation and Federal areas reserved off Kodiak Island and Nunivak Island.

A prohibition is added specifying that a person cannot use a vessel, or allow a vessel to be used, to fish for license limitation groundfish or crab species, other than the vessel named on the license. This prohibition gives effect to the requirement in this action that a specific vessel must be named on the license.

The format for the eligibility criteria for the LLP is changed from regulatory text to several tables. The table format is intended make the eligibility requirements more accessible and understandable and serves as a Small Entities Compliance Guide to the LLP. It does not change any of the substantive requirements for eligibility. Instructions for using the tables to determine eligibility are as follows: (a) For each table, begin at the cell at column 1, row 1. This cell contains the beginning of a statement that, when completed, indicates whether you are eligible; (b) scan the various cells (row 2 through last row) in column 1 to find the second portion of the statement that began in the cell at column 1, row 1 and that applies to your particular case; and (c) once the appropriate row has been located, alternate between that row and row 1 sequentially through the columns to complete the statement.

For example, to determine whether you are eligible for a Bering Sea area

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endorsement for your groundfish license, begin at the cell at column 1, row 1 in the table located at 50 CFR 679.4(k)(4)(ii). This cell contains the statement "A groundfish license will be assigned . . . ." Next, locate the cell in column 1 that corresponds with the endorsement for which you would like to determine eligibility. This can be found at column 1, row 3. Next, alternate between row 3 and row 1 sequentially through the columns to determine your eligibility. The completed statement would appear as follows: *A groundfish license will be assigned . . .* (from column 1, row 1) *a Bering Sea area endorsement* (from column 1, row 3) if . . . (from column 2, row 1) *at least one documented harvest of any amount of license limitation groundfish was made* (from column 2, row 3) *during the period . . .* (from column 3, row 1) *beginning January 1, 1992, through June 17, 1995* (from column 3, row 3) *in . . .* (from column 4, row 1) *the Bering Sea Subarea or in waters shoreward of that area* (from column 4, row 3) *from a vessel in vessel length category . . .* (from column 5, row 1) *"A", "B", or "C"* (from column 5, row 3) *and that meets the requirement for a . . .* (from column 6, row 1) *catcher/processor designation or a catcher vessel designation* (from column 6, row 3). Although the completed sentence is long, it provides sufficient information to determine eligibility. The same process can be used for other eligibility determinations.

Changes in the Final Rule

Several changes were made to this final rule: First, the proposed period for the lost vessel exemption will not be limited to January 1, 1996, through February 7, 1998. Instead, no period is specified. To qualify for this exemption, a person must (1) satisfy the documented harvest requirements of the GQP and the EQP; (2) demonstrate that the vessel used to meet the documented harvest requirements of the GQP and the EQP was lost or destroyed; and (3) document a harvest of any amount of crab species after the vessel was lost or destroyed but on or before January 1, 2000.

Second, the lost vessel exemption is revised so that a person other than the owner of the vessel can benefit from the exemption. This revision would allow any person who owns the fishing history of the lost or destroyed vessel to use that fishing history toward eligibility.

Third, a hardship exemption (unavoidable circumstances) has been added for the RPP. Adding an unavoidable circumstances provision to the RPP is consistent with the original provisions of the LLP (i.e., the EQP has an unavoidable circumstances provision). Also, adding an unavoidable circumstances provision will allow persons to qualify for a license who are dependent on the crab fishery but who failed to meet the documented harvest requirements of the RPP because of circumstances beyond their control.

Finally, the proposed revision of the definition of "Person" is withdrawn. That revision would not have made a substantive change to the definition of "Person."

Response to Public Comments

Eight sets of comments were received on Amendments 60, 58, and 10, and the proposed rule implementing those amendments. Six sets of comments urged the approval of Amendment 10 and do not justify a specific response. The other two sets of comments addressed specific provisions of the proposed rule and are summarized below.

Comment 1: The lost or destroyed vessel exemption was unnecessarily narrowed. First, the time period was made concurrent with the RPP period (from January 1, 1996, through February 7, 1998). This would preclude a person from using this exemption if a vessel was lost or destroyed after it was used to meet the documented harvest requirements of the EQP but before January 1, 1996. Second, only the vessel owner could benefit from this provision, rather any person who obtained the fishing history of the lost or destroyed vessel. This is inconsistent with the Council's policy to recognize the written transfer or retention of a fishing history. Also, NMFS should clarify that the transfer or retention of a vessel's fishing history will be analyzed for substance rather than formal terminology when it is reviewed for eligibility.

Response: NMFS agrees. The final rule is revised to extend the time period for the lost or destroyed vessel exemption and to allow someone other than the vessel owner to use the exemption if the fishing history of that vessel was properly transferred.

The preamble to the proposed rule implementing Amendments 60, 58, and 10 (66 FR 17397, March 30, 2001) addressed how NMFS would treat the transfer or retention of a fishing history and should be reviewed for details on fishing history transfer evaluations. NMFS intends to review the substance of transfers and retentions to respect the investment-backed expectations of persons and to preserve the overall policies of the LLP.

Comment 2: The RPP should have an unavoidable circumstances provision similar to the one provided for the EQP. Not providing an unavoidable circumstances provision for the RPP may unfairly preclude a person from eligibility and is inconsistent with the overall LLP.

Response: NMFS agrees. The final rule is revised to include an unavoidable circumstances provision for the RPP that is similar to the one provided for the EQP.

License Re-issuance

NMFS will notify each LLP license holder of the status of his or her license based on the changes made by Amendments 60, 58, and 10. A license holder will have 60 days to respond to NMFS regarding the status of his or her license and to designate the vessel which is to be named on the license, if allowed that option. After the 60 days has expired and a determination has been issued by NMFS, license holders will have the right to appeal to the Office of Administrative Appeals, Alaska Region, NMFS.

Classification

The Council prepared an environmental assessment for FMP Amendments 60, 58, and 10 that discusses the impact on the environment as a result of this rule. The analysis indicates that the individual impacts of the changes, and the cumulative impacts of all the changes, could have a negligible affect on the quality of the human environment. Most of the changes in this rule either limit participants, or their participation, as compared to the status quo. Allowing limited processing by catcher vessels is not expected to impact the fisheries stock, the physical environment, or non-target species. A copy of the environmental assessment is available from NMFS (see **ADDRESSES**).

An FRFA was prepared that describes the impact this final rule would have on small entities. The analysis concludes that most persons affected by the actions are small entities, given that their expected annual gross revenues are less that $3 million, or are assumed to be small entities because of insufficient annual receipts data. Nevertheless, NMFS finds that the small entities involved in this analysis are small businesses (fishing operations). Impacts to small organizations and small governmental jurisdictions are negligible. An estimated 447 groundfish license recipients could be affected by limiting the transfer of licenses earned on vessels that never held a Federal fisheries permit. Each of these 447 are considered small entities because of insufficient annual receipts data.

All of the estimated 2,435 groundfish license recipients could be affected by adding gear endorsements to the license. Of these 2,435 license recipients, 2,272 are catcher vessels and 163 are catcher/processors. All 2,272 catcher vessels are assumed to be small entities because of insufficient annual receipts data. Of the 163 catcher/processors, some may be small entities for purposes of the RFA; however, due to an absence of ownership, partnership, and affiliation information it is not possible to report the number of each category with certainty. The estimated 2,435 groundfish license recipients are owners of catcher vessels and catcher-processor vessels that participated in the groundfish fisheries between January 1, 1988, and June17, 1995.

All six CDQ organizations, which are considered small entities, have the potential to be affected by the rescission of the CDQ vessel exemption, although none is expected to be impacted. NMFS expects this result because no CDQ organizations, to date, have sought to use this exemption, new management and affiliation relationships have developed with CDQ organizations that make the exemption unnecessary, and the Council provided a "grandfather" provision that protects any existing CDQ organization from being disadvantaged by this action.

An estimated 93 crab license recipients could be affected by the addition of a recent participation requirement for eligibility for a crab LLP license. Of these 93 crab license recipients, all are assumed to be small entities because of insufficient annual receipts data. The addition of a recent participation period (January 1, 1996, through February 7, 1998), which requires at least one documented harvest of crab during that time period, will reduce the number of crab license recipients from approximately 365 to 272.

An estimated 1,902 license recipients could be affected by allowing limited processing by catcher vessels under 60 feet. Of these 1,902 license recipients, all are assumed to be small entities because of insufficient annual receipts data.

The Council considered and adopted several measures to reduce the impact of the final rule. As originally proposed, limiting the transfer of licenses earned on vessels that never held a Federal Fisheries Permit would have disqualified license recipients who did not have a Federal Fisheries Permit for their vessels. After reviewing the impact disqualification would have on license recipients, primarily small entities, the Council recommended that licenses with limited transferability be issued to such recipients. The Council recommended that a provision be added to allow a license recipient to designate a gear type different from the one for which that license recipient qualified if certain criteria were met. In addition, the Council reviewed several alternatives for adding a recent participation period for crab license eligibility, including alternatives that would have required more participation than one documented harvest during the period from January 1, 1996, through February 7, 1998. The Council concluded that the measures outlined in the final rule provided the most benefits in meeting the goals of the LLP program while imposing the least harm to affected license recipients.

NMFS received eight sets of comments regarding this action. Six sets of comments urged approval of this action. Two sets of comments addressed specific aspects of the action and are summarized below.

One comment indicated that the time period established for lost or destroyed vessels was too short and would preclude persons who depended on the fishery from using the exemption. NMFS agreed with this comment and extended the time period to include all time between original eligibility time period under the LLP and January 1, 2000.

One comment indicated that the recent participation period for crab licenses did not have an unavoidable circumstances provision and that one should be added. The comment suggested a provision similar to the one provided for the endorsement qualification period under the original provisions of the LLP. NMFS agreed with this comment and added an unavoidable circumstances provision. This addition will make the recent participation period more consistent with the other provisions of the LLP and will provide a greater opportunity for persons who may be dependent on the fishery to qualify for a license.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 13, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

2. In § 679.4, paragraphs (k)(2)(iv), (k)(3)(i), (k)(4)(i) through (k)(4)(v), (k)(5), (k)(5)(i)introductory text, (k)(5)(ii), and (k)(6)(iv)(D) are revised and paragraphs (k)(3)(ii)(D), (k)(3)(iv), (k)(5)(iii) through (k)(5)(vi), and (k)(7)(ix) are added to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(2) * * *

(iv) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and during the period after November 18, 1992, through October 9, 1998, was specifically constructed for and used exclusively in accordance with a CDP approved by NMFS, and is designed and equipped to meet specific needs that are described in the CDP, is exempted from the requirement to have a LLP groundfish license to conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area and a crab species license to fish for crab species in the Bering Sea and Aleutian Islands Area.

(3) *Vessel and gear designations and vessel length categories*–(i) *General.* A license may be used only on a vessel named on the license, a vessel that complies with the vessel designation and gear designation specified on the license, and a vessel that has an LOA less than or equal to the MLOA specified on the license.

(ii) * * *

(D) *Limited processing by catcher vessels.* Up to 1 mt of round weight equivalent of license limitation groundfish or crab species may be processed per day on a vessel less than or equal to 60 ft (18.3 m) LOA that is authorized to fish with an LLP license with a catcher vessel designation.

* * * * *

(iv) *Gear designations for groundfish licenses*–(A) *General.* A vessel may only

use gear consistent with the gear designation on the LLP license authorizing the use of that vessel to fish for license limitation groundfish or crab species.

(B) *Trawl/non-trawl.* A license will be assigned a trawl/non-trawl gear designation if trawl and non-trawl gear were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(C) *Trawl.* A license will be assigned a trawl gear designation if only trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(D) *Non-trawl.* A license will be assigned a non-trawl gear designation if only non-trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(E) *Changing a gear designation.* (*1*) An applicant may request a change of gear designation based on gear used from the vessel during the period beginning June 18, 1995, through February 7, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(*2*) An applicant may request a change of gear designation based on a significant financial investment in converting a vessel or purchasing fishing gear on or before February 7, 1998, and making a documented harvest with that gear on or before December 31, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(F) *Definitions of non-trawl gear and significant financial investment.* (*1*) For purposes of paragraph (k)(3)(iv) of this section, non-trawl gear means any legal gear, other than trawl, used to harvest license limitation groundfish.

(*2*) For purposes of paragraph (k)(3)(iv)(E)(2) of this section, "significant financial investment" means having spent at least $100,000 toward vessel conversion and/or gear to change to trawl gear from non-trawl gear, or having acquired groundline, hooks, pots, jig machines, or hauling equipment to change to non-trawl gear from trawl gear.

(*4*) * * *

(i) *General qualification periods (GQP).* This table provides the GQP documented harvest requirements for LLP groundfish licenses:

A GROUNDFISH LICENSE WILL BE ASSIGNED...	IF THE REQUIREMENTS FOUND IN THE TABLE AT § 679.4(k)(4)(ii) ARE MET FOR THE AREA ENDORSEMENT AND AT LEAST ONE DOCUMENTED HARVEST OF LICENSE LIMITATION GROUNDFISH WAS CAUGHT AND RETAINED IN...	DURING THE PERIOD...
(A) One or more area endorsements in the table at § 679.4(k)(4)(ii)(A) or (B)	the BSAI or waters shoreward of the BSAI	(*1*) Beginning January 1, 1988, through June 27, 1992; or (*2*) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (*3*) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.
(B) One or more area endorsements in the table at § 679.4(k)(4)(ii)(C) through (O)	the GOA or in waters shoreward of the GOA	(*1*) Beginning January 1, 1988, through June 27, 1992; or (*2*) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (*3*) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest landing of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.

(ii) *Endorsement qualification periods (EQP).* This table provides the documented harvest requirements for LLP groundfish license area endorsements:

A GROUNDFISH LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...	FROM A VESSEL IN VESSEL LENGTH CATEGORY...	AND THAT MEETS THE REQUIREMENTS FOR A...
(A) An Aleutian Island area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Aleutian Islands Subarea or in waters shoreward of that area.	"A", "B", or "C"	catcher/ processor designation or a catcher vessel designation.
(B) A Bering Sea area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Bering Sea Subarea or in waters shoreward of that area.	"A", "B", or "C"	catcher/ processor designation or a catcher vessel designation.
(C) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"A"	catcher/ processor designation or a catcher vessel designation; or
(D) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"B"	catcher vessel designation; or
(E) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"B"	catcher/processor vessel designation; or
(F) A Western Gulf area endorsement	at least four documented harvest of any amount of license limitation groundfish were made.	beginning January 1, 1995, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"B"	catcher/processor vessel designation; or
(G) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"C"	catcher/processor designation or a catcher vessel designation.
(H) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"A"	catcher/processor designation or a catcher vessel designation; or
(I) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or

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A GROUNDFISH LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...	FROM A VESSEL IN VESSEL LENGTH CATEGORY...	AND THAT MEETS THE REQUIREMENTS FOR A...
(J) A Central Gulf area endorsement	at least four documented harvest of any amount of license limitation groundfish were made.	beginning January 1, 1995, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(K) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"C"	catcher/processor designation or a catcher vessel designation.
(L) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"A"	catcher/processor designation or a catcher vessel designation; or
(M) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(N) A Southeast Outside area endorsement	at least four documented harvest of any amount of license limitation groundfish were made.	beginning January 1, 1995, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(O) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"C"	catcher/processor designation or a catcher vessel designation.

(iii) An eligible applicant that is issued a groundfish license based on a vessel's qualifications in the table at paragraphs (k)(4)(i)(A)(2) or (k)(4)(i)(B)(2) of this section must choose only one area endorsement for that groundfish license even if documented harvests qualifies the eligible applicant for more than one area endorsement.

(iv) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, NMFS will issue a groundfish license with the appropriate area endorsements to an eligible applicant whose vessel meets the requirements in the table at paragraph (k)(4)(i)(A) of this section, and the requirements in the table at any of the paragraphs (k)(4)(ii)(C) through (O) of this section, except:

(A) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1992, through June 17, 1995.

(v) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, a groundfish license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements in the tables at paragraphs (k)(4)(i) and (k)(4)(ii) and (A) or (B) of this section, except:

(A) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1992, through June 17, 1995.

(5) *Qualification for a crab species license.* A crab species license will be issued to an eligible applicant who owned a vessel that meets the criteria in paragraphs (k)(5)(i), (k)(5)(ii), and (k)(5)(iii) of this section, except that vessels are exempt from the requirements in paragraph (k)(5)(i) of this section for area/species endorsements at paragraphs (A) and (G) in the table at paragraph (k)(5)(ii) of this section.

(i) *General qualification period (GQP).* To qualify for one or more of the area/species endorsements in the table at paragraph (k)(5)(ii) of this section, the requirements of paragraph (k)(5)(iii) of this section must be met and: * * *

* * * * *

(ii) *Area/species endorsements.* This table provides the documented harvest requirements for LLP crab license area/species endorsements:

A CRAB SPECIES LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...
(A) A Pribilof red king and Pribilof blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1993, through December 31, 1994.	the area described in the definition for a Pribilof red king and Pribilof blue king area/species endorsement at § 679.2.
(B) A Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* area/species endorsement	at least three documented harvests of *C. opilio* and *C. bairdi* were made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for a Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* area/species endorsement at § 679.2.
(C) A St. Matthew blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for a St. Matthew blue king area/species endorsement at § 679.2.
(D) An Aleutian Islands brown king area/species endorsement	at least three documented harvests of brown king crab were made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for an Aleutian Islands brown king area/species endorsement at § 679.2.
(E) An Aleutian Islands red king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for an Aleutian Islands red king area/species endorsement at § 679.2.
(F) A Bristol Bay red king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1991, through December 31, 1994.	the area described in the definition for a Bristol Bay red king area/species endorsement at § 679.2.
(G) A Norton Sound red king and blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1993, through December 31, 1994.	the area described in the definition for a Norton Sound red king and blue king area/species endorsement at § 679.2.

(iii) *Recent participation period (RPP).* (A) A person must have made at least one documented harvest of any amount of crab species from a qualifying vessel during the period from January 1, 1996, through February 7, 1998, to qualify for one or more of the area/species endorsements specified at § 679.2.

(B) *Exceptions to the RPP.* A person does not need to meet the documented harvest requirements in paragraph (k)(5)(iii)(A) of this section if he or she deployed a vessel that met the documented harvest requirements in paragraph (k)(5)(i) of this section, if applicable, paragraph (k)(5)(ii) of this section, and:

(*1*) Only qualifies area/species endorsement at paragraph (G) in the table at paragraph (k)(5)(ii).

(*2*) Those documented harvests were made from a vessel that meets the requirements for vessel length category "C".

(3) The vessel used to meet the document harvest requirements in paragraphs (k) (5) (i) and (k) (5) (ii) of this section was lost or destroyed, and he or she made a documented harvest of crab species any time during the period beginning after the vessel was lost or destroyed but before January 1, 2000.

(iv) *Exception to the complete fishing history earned on one vessel.* A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period from January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section, or who entered into a contract to obtain the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section by 8:36 am Pacific standard time on October 10, 1998, is exempted from the requirement of having a complete fishing history earned on one vessel.

(v) A qualified person who owned a vessel on June 17, 1995, that met the requirements in paragraphs (k)(5)(i) and (ii) of this section, but whose vessel was unable to meet requirements of paragraph (k)(5)(iii) of this section because of unavoidable circumstances (i.e., the vessel was lost damaged, or otherwise unable to participate in the license limitation crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct fishing for license limitation crab species with that vessel during a specific time period in a specific area;

(B) The specific intent to conduct directed fishing for license limitation crab species was thwarted by a circumstance that was:

(*1*) Unavoidable;

(*2*) Unique to the owner of that vessel, or unique to that vessel; and

(*3*) Unforeseen and reasonably unforeseeable to the owner of the vessel;

(C) The circumstance that prevented the owner from conducting directed fishing for license limitation crab species actually occurred;

(D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstances that prevented the owner from conducting directed fishing for license limitation crab species; and

(E) Any amount of license limitation crab species was harvested on the vessel after the vessel was prevented from participating but before January 1, 2000.

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(vi) A groundfish license or crab species license may be used on a vessel that is named on the license, that complies with the vessel designation, and that does not exceed the MLOA on the license.

(6) * * *

(iv) * * *

(D) *Unavoidable circumstances.* If a person is claiming that unavoidable circumstances prevented him or her from meeting certain eligibility requirements for a license under paragraph (k) of this section, he or she must provide the information required in the particular paragraph of this section authorizing such a claim, and include valid evidence of the date the vessel was lost, damaged, or otherwise unable to participate in the fishery, and the date a documented harvest was made after the vessel was unable to participate in the fishery by the unavoidable circumstance.

* * * * *

(7) * * *

(ix) *Other transfer restrictions.* The transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, must be accompanied by the vessel from which the documented harvests were made or its replacement vessel, or if the LLP license and vessel were separated by transfer prior to February 7, 1998, then by the vessel that is currently being deployed by the license holder. The Regional Administrator will deny a transfer application that requests the transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, if the appropriate vessel is not being transferred as part of the same transaction. A license holder of an LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, may replace the vessel from which the documented harvests were made with another vessel that meets the vessel designation and MLOA requirements specified on the LLP license if the original qualifying vessel is lost or destroyed.

* * * * *

3. In § 679.7, paragraph (i)(6) is revised and paragraph (i)(9) is added to read as follows:

§ 679.7 Prohibitions.

(i) * * *

(6) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, that has an LOA that exceeds the MLOA specified on the license that authorizes fishing for LLP groundfish or crab species.

* * * * *

(9) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, other than the vessel named on the license that authorizes fishing for LLP groundfish or crab species.

* * * * *

[FR Doc. 01–23467 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 091801A]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure and notice of opening.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of Atka mackerel. NMFS is also opening fishing with trawl gear in Steller sea lion critical habitat in the Central Aleutian District for species for which directed fisheries are open.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 18, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and at 50 CFR part 679.

The 2001 Atka mackerel TAC in the Central Aleutian District of the BSAI is 31,080 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 Atka mackerel TAC in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 30,880 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

On September 9, 2001, NMFS prohibited trawling within Steller sea lion critical habitat in the Central Aleutian District because the allowable harvest of Atka mackerel in the Steller Sea lion protection areas in the Central Aleutian District had been reached (66 FR 47418, September 12, 2001). Regulations at 679.22(a)(12)(iii)(C) authorize opening Steller sea lion critical habitat in the Central Aleutian District to fishing with trawl gear after NMFS closes Atka mackerel to directed fishing within that district. Therefore, NMFS is opening critical habitat in the Central Aleutian District to fishing with trawl gear for species open to directed fishing.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the 2001 Atka mackerel TAC in the Central Aleutian District of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. In addition, this action relieves a restriction by opening critical habitat in the Central Aleutian District to fishing with trawl gear for species open to directed fishing. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by §§ 679.20 and 679.22 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 18, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23704 Filed 9–18–01; 4:18 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 091901A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of Pacific ocean perch in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the 2001 total allowable catch (TAC) of Pacific ocean perch in this area has been achieved.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 19, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 2001 TAC of Pacific ocean perch in the Central Aleutian District of the BSAI was established as 2,368 metric tons by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the 2001 TAC for Pacific ocean perch in the Central Aleutian District of the BSAI has been achieved. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Central Aleutian District of the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds the need to immediately implement this action because the amount of the 2001 TAC for Pacific ocean perch in the Central Aleutian District of the BSAI has been achieved constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the amount of the 2001 TAC for Pacific ocean perch in the Central Aleutian District of the BSAI has been achieved constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 19, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23798 Filed 9–19–01; 4:32 pm]

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Proposed Rules

Federal Register
Vol. 66, No. 185
Monday, September 24, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2608

RIN 3209–AA23

Testimony by OGE Employees and Production of Official Records in Legal Proceedings

AGENCY: U.S. Office of Government Ethics (OGE).

ACTION: Proposed rule.

SUMMARY: The Office of Government Ethics seeks public comment on a proposed rule that would set forth procedures that requesters would have to follow when making demands or requests to an OGE employee to produce official records and information, and provide testimony relating to official information, in connection with a legal proceeding in which OGE is not a party. As proposed, this rule would establish procedures to respond to such demands and requests in an orderly and consistent manner. The proposed rule, among other benefits, will promote uniformity in decisions, protect confidential information, provide guidance to requesters, and reduce the potential for both inappropriate disclosures of official information and wasteful allocation of agency resources.

DATES: Comments must be received on or before November 23, 2001.

ADDRESSES: Send comments to William E. Gressman, Senior Associate General Counsel, Office of General Counsel & Legal Policy, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, telephone: 202–208–8000; TDD: 202–208–8025; FAX: 202–208–8037; Internet E-mail address: usoge@oge.gov. For E-mail messages, the subject line should include the following reference: Proposed Rule on Testimony by OGE Employees and Production of Official Records in Legal Proceedings.

SUPPLEMENTARY INFORMATION:

Background

The Office of Government Ethics occasionally receives subpoenas and requests for OGE employees to provide evidence in litigation in which OGE is not a party. Typically, these subpoenas and requests are for OGE records that are not available to the public under the Freedom of Information Act. Also, OGE sometimes receives subpoenas and requests for OGE employees to appear as witnesses in litigation in conjunction with a request for nonpublic records. Requesters have sought information, for example, on a particular filer of a financial disclosure report, a particular nominee or incumbent or former employee and for any ethics advice that OGE may have given to that individual, or concerning the nature of ethical advice that OGE gave to another agency and how OGE arrived at that advice.

Responding to such demands and requests sometimes results in a significant disruption in an OGE employee's work schedule. The result is that employees may be diverted from performing their official duties in order to respond to requests from parties in litigation. In order to address this problem, many agencies over the years have issued *"Touhy"* regulations that are similar to this proposed regulation, governing the circumstances and manner in which an employee may respond to demands for testimony or for the production of documents. Such a regulation was upheld by the United States Supreme Court in *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

In *Touhy,* the Supreme Court held that a Department of Justice (DOJ) official, acting on order of the Attorney General, could not be held in contempt for declining to produce records in response to a subpoena. The employee's refusal was based upon a DOJ regulation that prohibited disclosure of agency files, documents, records, or information without the express approval of the Attorney General. The Court upheld the validity of the DOJ regulation, reasoning that it was appropriate for the Attorney General to prescribe regulations not inconsistent with law for the custody, use, and preservation of records, papers, and property pertaining to the Department of Justice.

Briefly summarized, the proposed rule would prohibit disclosure of nonpublic official records or testimony by OGE employees unless there is compliance with the rule (§§ 2608.201 and 2608.203). The proposed rule identifies the factors that OGE will consider in making determinations in response to such requests and what information requesters must provide (§§ 2608.202 and 2608.203). The proposed rule also specifies when the request should be submitted (§ 2608.203), the time period for review (§ 2608.205), potential fees (§ 2608.301), and, if a request is granted, any restrictions that may be placed on the disclosure of records or the appearance of an OGE employee as a witness (§§ 2608.207 and 2608.208). The proposed charges for witnesses are the same as those provided by the Federal courts; and the fees related to production of records are the same as those charged under FOIA. The proposed charges for time spent by an employee to prepare for testimony and for certification of records by OGE are authorized under 31 U.S.C. 9701, which permits an agency to charge for services or things of value that are provided by the agency.

The proposed rule applies to a broad range of matters in any legal proceeding in which OGE is not a named party. It also applies to former and current OGE employees (as well as OGE consultants and advisers). Former employees are prohibited from testifying about specific matters for which they had responsibility during their active employment unless permitted to testify as provided in the proposed rule. They would not be barred from appearing to testify about general matters unconnected with the specific matters for which they had responsibility.

The proposed regulation will ensure a more efficient use of OGE resources, minimize the possibility of involving OGE in issues unrelated to its responsibilities, promote uniformity in responding to such requests and subpoenas, and maintain the impartiality of OGE in matters that are in dispute between other parties. It also would serve OGE's interest in protecting sensitive, confidential, and privileged information and records that are generated in response to the requirements in the ethics laws and regulations.

The proposed OGE rule is internal (not branchwide), and is essentially procedural, not substantive. It would not create a right to obtain official records or the testimony of an OGE employee nor would it create any additional right or privilege not already available to OGE to deny any demand or request therefor. However, failure to comply with the procedures in the proposed rule would be a basis for denying a demand or request submitted to OGE.

Matters of Regulatory Procedure

Administrative Procedure Act

This proposed rulemaking is in compliance with the Administrative Procedure Act (5 U.S.C. 553) and allows for a 60-day comment period. Interested persons are invited to submit written comments to OGE on this proposed regulation, to be received on or before November 23, 2001. The Office of Government Ethics will review all comments received and consider any modifications to this proposal which appear warranted in issuing its final rule.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6), the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule addresses only the procedures to be followed in the production or disclosure of OGE materials and information in litigation where OGE is not a party. Accordingly, OGE has determined that a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), the proposed rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation).

Executive Order 12866

In issuing this proposed regulation, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This proposed rule has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this proposed regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this proposed regulation does not contain information collection requirements that require approval by the Office of Management and Budget. The Office of Government Ethics expects the collection of information that is called for by the proposed regulation would involve fewer than ten persons each year.

Congressional Review Act

The Office of Government Ethics has determined that this proposed rulemaking involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will, before the future final rule takes effect, provide a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law.

List of Subjects in 5 CFR Part 2608

Administrative practice and procedure, Conflict of interests, Courts, Government employees, Records, Subpoenas, Testimony.

Approved: September 18, 2001.

Amy L. Comstock,

Director, Office of Government Ethics,

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics proposes to add a new part 2608 to 5 CFR to read as follows:

PART 2608—TESTIMONY BY OGE EMPLOYEES AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

Subpart A—General Provisions

Sec.
2608.101 Scope and purpose.
2608.102 Applicability.
2608.103 Definitions.

Subpart B—Requests for Testimony and Production of Documents

2608.201 General prohibition.
2608.202 Factors OGE will consider.
2608.203 Filing requirements for demands or requests for documents or testimony.
2608.204 Service of subpoenas or requests.
2608.205 Processing demands or requests.
2608.206 Final determination.
2608.207 Restrictions that apply to testimony.
2608.208 Restrictions that apply to released records.
2608.209 Procedure when a decision is not made prior to the time a response is required.
2608.210 Procedure in the event of an adverse ruling.

Subpart C—Schedule of Fees

2608.301 Fees.

Subpart D—Penalties

2608.401 Penalties.

Authority: 5 U.S.C. App. (Sec. 401, Ethics in Government Act of 1978); 44 U.S.C. 3101–3107, 3301–3303a, 3308–3314.

Subpart A—General Provisions

§ 2608.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Office of Government Ethics (OGE) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Office of Government Ethics intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OGE in controversial issues not related to our functions;

(3) Maintain OGE's impartiality among private litigants where OGE is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of OGE.

(c) In providing for these requirements, OGE does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of OGE. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 2608.102 Applicability.

This part applies to demands and requests to employees for factual or expert testimony relating to official information, or for production of official records or information, in legal proceedings in which OGE is not a named party. However, it does not apply to:

(a) Demands upon or requests for an OGE employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of OGE;

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(b) Demands upon or requests for a former OGE employee to testify as to matters in which the former employee was not directly or materially involved while at the OGE;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(d) Congressional demands and requests for testimony or records.

§ 2608.103 Definitions.

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of an OGE employee that is issued in a legal proceeding.

General Counsel means the General Counsel of OGE or a person to whom the General Counsel has delegated authority under this part.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

OGE means the U.S. Office of Government Ethics.

OGE employee or employee means:

(1) Any current or former officer or employee of OGE;

(2) Any other individual hired through contractual agreement by or on behalf of the OGE or who has performed or is performing services under such an agreement for OGE; and

(3) Any individual who served or is serving in any consulting or advisory capacity to OGE, whether formal or informal.

(4) Provided, that this definition does not include persons who are no longer employed by OGE and who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with OGE.

Records or official records and information mean:

(1) All documents and materials which are OGE agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in OGE files; and

(3) All other information or materials acquired by an OGE employee in the performance of his or her official duties or because of his or her official status.

Request means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, recorded interviews, and statements made by an individual in connection with a legal proceeding.

Subpart B—Requests for Testimony and Production of Documents

§ 2608.201 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the General Counsel.

§ 2608.202 Factors OGE will consider.

The General Counsel, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the General Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) OGE has an interest in the decision that may be rendered in the legal proceeding;

(d) Allowing such testimony or production of records would assist or hinder OGE in performing its statutory duties or use OGE resources where responding to the request will interfere with the ability of OGE employees to do their work;

(e) Allowing such testimony or production of records would be in the best interest of OGE or the United States;

(f) The records or testimony can be obtained from other sources;

(g) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;

(h) Disclosure would violate a statute, Executive order or regulation;

(i) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, or would otherwise be inappropriate for release;

(j) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceedings, or compromise constitutional rights;

(k) Disclosure would result in OGE appearing to favor one litigant over another;

(l) Disclosure relates to documents that were produced by another agency;

(m) A substantial Government interest is implicated;

(n) The demand or request is within the authority of the party making it; and

(o) The demand or request is sufficiently specific to be answered.

§ 2608.203 Filing requirements for demands or requests for documents or testimony.

You must comply with the following requirements whenever you issue demands or requests to an OGE employee for official records and information or testimony.

(a) Your request must be in writing and must be submitted to the General Counsel. If you serve a subpoena on OGE or an OGE employee before submitting a written request and receiving a final determination, OGE will oppose the subpoena on grounds that your request was not submitted in accordance with this subpart.

(b) Your written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on OGE to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than an OGE employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require with each OGE employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The Office of Government Ethics reserves the right to require additional information to complete your request where appropriate.

(d) Your request should be submitted at least 45 days before the date that records or testimony is required. Requests submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your request.

§ 2608.204 Service of subpoenas or requests.

Subpoenas or requests for official records or information or testimony must be served on the General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917.

§ 2608.205 Processing demands or requests.

(a) After service of a demand or request to testify, the General Counsel will review the demand or request and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official records and information.

(b) The Office of Government Ethics will process requests in the order in which they are received. Absent exigent or unusual circumstances, OGE will respond within 45 days from the date that we receive it. The time for response will depend upon the scope of the request.

(c) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of OGE or the United States or for other good cause.

§ 2608.206 Final determination.

The General Counsel makes the final determination on demands and requests to employees for production of official records and information or testimony. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and the court or other authority of the final determination, the reasons for the grant or denial of the demand or request, and any conditions that the General Counsel may impose on the release of records or information, or on the testimony of an OGE employee.

§ 2608.207 Restrictions that apply to testimony.

(a) The General Counsel may impose conditions or restrictions on the testimony of OGE employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The Office of Government Ethics may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose confidential or privileged information;

(2) Testify as to facts when the General Counsel determines such testimony would not be in the best interest of OGE or the United States; or

(3) For a current OGE employee, testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of OGE unless testimony is being given on behalf of the United States (see also § 2635.805 of this chapter).

§ 2608.208 Restrictions that apply to released records.

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, OGE may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original OGE records may be presented for examination in response to a demand or request, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official OGE records, nor are they to be marked or altered. In lieu of the original records, certified copies will be presented for evidentiary purposes (see 28 U.S.C. 1733).

§ 2608.209 Procedure when a decision is not made prior to the time a response is required.

If a response to a demand or request is required before the General Counsel can make the determination referred to in § 2608.201, the General Counsel will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the demand or request is being reviewed, and seek a stay of the demand or request pending a final determination.

§ 2608.210 Procedure in the event of an adverse ruling.

If the court or other competent authority fails to stay the demand, the employee upon whom the demand is made will appear at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). A written response may be offered to a request, or to a demand, if permitted by the court or other competent authority.

Subpart C—Schedule of Fees

§ 2608.301 Fees.

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to OGE.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by OGE in its Freedom of Information Act and Ethics in Government Act fee regulations at 5 CFR part 2604 (subparts E and G).

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses,

and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) *Payment of fees.* You must pay witness fees for current OGE employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former OGE employees, you must pay applicable fees directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(d) *Certification (authentication) of copies of records.* The Office of Government Ethics may certify that records are true copies in order to facilitate their use as evidence. If you seek certification, you must request certified copies from OGE at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of $15.00 for each document certified.

(e) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(f) *De minimis fees.* Fees will not be assessed if the total charge would be $10.00 or less.

Subpart D—Penalties

§ 2608.401 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by OGE or as ordered by a Federal court after OGE has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former OGE employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current OGE employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action.

[FR Doc. 01–23771 Filed 9–21–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, 51, and 52

[Docket No. PRM–52–2]

Nuclear Energy Institute; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated July 18, 2001, which was filed with the Commission by the Nuclear Energy Institute (NEI). The petition was docketed by the NRC on July 24, 2001, and has been assigned Docket No. PRM–52–2. The petition requests that the NRC eliminate the requirement that an early site permit applicant evaluate, and that the NRC review, alternative sites, and remove provisions regarding the siting, construction, and operation of nuclear power plants which require applicants and licensees to analyze, and the NRC to evaluate, alternative sites, alternative energy sources, and the need for power.

DATES: Submit comments by November 8, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website at http://ruleforum.llnl.gov. This site allows you to upload comments as files in any format, if your web browser supports the function. The petition and any public comments received are available on the site. For information about the interactive rulemaking website, contact Carol Gallagher at (301) 415–5905 or via e-mail at *cag@nrc.gov.*

The petition and copies of comments received may be inspected, and copied for a fee, at the NRC Public Document Room, (first floor) 11555 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7163 or Toll-free: 1–800–368–5642. E-mail: *MTL@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking dated Juiy 18, 2001, submitted by the Nuclear Energy Institute (the petitioner). The petition was docketed by the NRC on July 24, 2001, and has been assigned Docket No. PRM–52–2.

The Petitioner

The petitioner (the Nuclear Energy Institute or NEI) claims representational responsibility for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and regulatory aspects of generic operational and technical issues affecting the nuclear power industry.

The Petitioner's Request

The petitioner believes that the NRC, in implementing the National Environmental Policy Act of 1969 (NEPA), has imposed requirements on the content of environmental impact reviews that are unnecessary under the statute, unduly burdensome to both industry and the NRC, and outside the scope of the agency's mission. Specifically, the petitioner requests that the NRC amend part 52, subpart A, *Early Site Permits,* §§ 52.17(a)(2) and 52.18, to remove provisions that the petitioner believes are more appropriately dealt with through the application of 10 CFR part 51, *National Environmental Policy Act—Regulations Implementing Sec. 102(2).* The petitioner further requests that the NRC amend 10 CFR part 51 and revise associated NRC regulations and guidance regarding the siting, construction, operation, and license renewal of nuclear power plants (*e.g.*, 10 CFR part 51, appendix A to subpart A) to remove the requirement for applicants and licensees to conduct an analysis of and for the NRC to evaluate alternative sites, alternative sources of energy, and the need for power. The petitioner emphasizes that its proposed amendments would not affect any other required reviews of matters pertinent to the NRC's responsibilities (*e.g.*, seismology, hydrology, meteorology, endangered species, water use, thermal discharges).

The petitioner contends that although NEPA requires consideration of "alternatives" to proposed actions, it does not specifically require alternative site reviews. The petitioner cites several NRC regulations that specify that an alternative site review must be conducted, including 10 CFR 2.101(a)(3)(ii), 2.101(a-1)(1), 2.603(b)(1), 2.605(b)(1), 52.17(a)(2), and 52.18; 10 CFR Part 50, Appendix Q.2 and 7; 10 CFR Part 52, Appendix Q.2 and 7. Similarly, the petitioner claims that NEPA does not specifically require an analysis of alternative sources of energy or of the need for power. However, the NRC's implementing regulations in 10 CFR part 51 currently require that those matters be addressed. General guidance on how environmental reviews are to be conducted is provided in Regulatory Guide 4.2, "Preparation of Environmental Reports for Nuclear Power Plants" (July 1976), and in NUREG–1555, "Environmental Standard Review Plan" (March 2000), which, the petitioner notes, also call for a review of alternative sites, alternative energy sources, and need for power.

The petitioner contends that the NRC has the statutory authority to revise its regulations to eliminate the NRC's review of such issues. The petitioner also cites a February 28, 2001, letter from NRC Chairman Meserve to Senator Domenici, Chairman of the U.S. Senate Committee on Appropriations Subcommittee on Energy and Water Development, which states that the evaluation of alternative sites, alternative sources of power, and the need for generating capacity are matters "that are distant from NRC's mission." The petitioner argues that the Commission can and should conclude that, because of the fundamental changes that have occurred in the electricity market, these reviews are no longer required in the NRC's implementation of NEPA.

Justification for the Petition

NEPA Requirements

The petitioner begins by reviewing the provisions of NEPA and their application in NRC proceedings concerning the siting, construction, and operation of nuclear power plants. The petitioner notes that Section 102(2)(C) of NEPA requires Federal agencies, as part of the decision-making process, to prepare an analysis weighing the environmental costs and benefits of all "major Federal actions significantly affecting the quality of the human environment." The "detailed statement" that the agency is required to prepare and publicly disclose must evaluate: the environmental impacts of the proposed action; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity; and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were to be implemented.

The petitioner further notes that the environmental report submitted with an application requesting NRC action serves as the basis for the NRC's evaluation of the environmental impacts of major agency decisions—*e.g.*, to issue or deny a permit or license as applied for, or to impose terms or conditions upon a permit or license in light of the NEPA review.

The Role of State and Local Governments

The petitioner then addresses the relative jurisdictions of the NRC and State and local governments with respect to the location, construction, and operation of electric power plants. The petitioner points out that the NRC's licensing process does not change the division of authority between the Federal Government and the States over the siting of electric generating facilities. The petitioner argues that an NRC license or permit constitutes approval of a site or plant only under the Federal statutes and regulations administered by the NRC, not under other applicable laws. By way of example, the petitioner notes that individual State laws may require a State determination of the need for power and an evaluation of alternative energy sources, or may require the issuance of a certificate of public convenience and necessity, as well as various environmental permits. The petitioner further notes that local zoning laws may control how a potential site is used.

Legal and Regulatory Basis of State Primacy. The petitioner claims that Section 271 of the Atomic Energy Act explicitly preserves State authority over the generation, sale, and transmission of electric power produced by nuclear plants (42 U.S.C. sec. 2018). The petitioner says that, based on this provision and clear Congressional intent, the Supreme Court has held that States have jurisdiction over "the need for additional generating capacity, the type of generating capacity to be licensed, land use, ratemaking, and the like" (*Pacific Gas & Electric Co.* v. *State Energy Resources Conservation and Development Comm.*, 461 U.S. 190, 1983).

According to the petitioner, the NRC itself explicitly recognized the limited extent of its authority in the evaluation of alternatives in Footnote 4 to 10 CFR 51.71(e), *Preliminary Recommendation,* which reads: "The consideration of reasonable alternatives to a proposed action involving nuclear power reactors (*e.g.*, alternative energy sources) is intended to assist the NRC in meeting its NEPA obligations and does not preclude any State authority from making separate determinations with respect to these alternatives and in no way preempts, displaces, or affects the authority of States or other Federal agencies to address these issues."

Persistent State Concerns about the License Renewal Process. The petitioner claims that many States nonetheless expressed concern that the NRC's findings in license renewal proceedings, even though not legally dispositive, would establish an official Federal position that would be difficult to rebut in State proceedings. Specifically, the States expressed concern that the NRC's consideration of the need for power and alternative energy sources in the license renewal Generic Environmental Impact Statement (NUREG 1437, Chapters 8 and 9), and associated proposed amendments to part 51, would infringe on State jurisdiction over economic regulation of electric utilities.

The NRC's Response to State Concerns. The petitioner states that the NRC issued a supplement to its proposed license renewal rule in order to address the States' concerns and respond to questions raised by the U.S. Environmental Protection Agency and the Council for Environmental Quality. The petitioner says that this supplement addressed whether, under NEPA, the NRC could and should remove from its consideration issues over which States have primary jurisdiction. The petitioner claims that in the supplement the NRC, having reconsidered its NEPA responsibilities with respect to license renewal, correctly (1) recognized the primacy of State regulatory decisions regarding future energy options, (2) acknowledged that the choice of energy options will be made by the electricity generating company, and (3) stated that the purpose of the major Federal action in license renewal proceedings is "* * * to preserve the option of continued operation of the nuclear power plant for State regulatory and utility officials in their future energy planning decisions."

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The Major Federal Action in License Renewal Proceedings. The petitioner emphasizes that the NRC concluded in this supplement that the proposed major Federal action in license renewal proceedings does not involve deciding whether the plant seeking license renewal is at the best possible site or whether there is or will be a need for the power generated by the plant. The petitioner says that the NRC's definition of the proposed Federal action in the supplement accurately reflects what is really at issue in license renewal proceedings, namely, the establishment of a stable and predictable regulatory approach to determining whether the option of nuclear power as a source of generating capacity at a given site can be considered in future State energy planning decisions. The petitioner concludes that the NRC can reasonably consider only two basic alternatives in such proceedings: the agency may either renew the license and preserve the nuclear option at that particular site, or decline to renew the license (59 FR 37725; July 25, 1994).

The petitioner concedes that the NRC decided to examine alternative sources of future generating capacity as part of its NEPA review in the license renewal context. The petitioner believes that the NRC should reconsider that decision on the grounds that it is fundamentally inconsistent with related NRC decisions.

Application of NEPA to the Siting, Construction, and Operation of Nuclear Power Plants

The petitioner believes that future plants will be licensed under Part 52, but stresses that the elimination of NRC requirements concerning need for power, alternative sources and alternative sites is appropriate regardless of whether plants are licensed under Part 52 or Part 50, and asks that its analysis be read accordingly.

The Role of Early Site Permits. The provisions of Subpart A of 10 CFR part 52 apply to applicants seeking an early site permit (ESP) separate from an application for a construction permit or a combined license for a nuclear power plant. According to the petitioner, the basic purpose of Subpart A, consistent with all of Part 52, is to resolve all site suitability issues in a licensing proceeding as early as possible, before large commitments of resources are made. The petitioner states that the importance of raising and resolving all environmental issues as part of the ESP proceeding is recognized in 10 CFR 52.39(a)(2), *Finality of early site permit determinations*, which reads in part: "In making the findings required for the issuance of a construction permit, operating license, or combined license, or the findings required by § 52.103 of this part, if the application for the construction permit, operating license, or combined license references an early site permit, *the Commission shall treat as resolved those matters resolved in a proceeding on the application for issuance or renewal of an early site permit* * * *" (emphasis added by the petitioner).

NEPA Review in 10 CFR Part 52. The petitioner states that, at the time Part 52 was promulgated, the NRC staff felt it was necessary to include language that further refined its interpretation of the scope of the agency's NEPA review. The petitioner says that the first change clarified that a need-for-power analysis need not be included in the environmental report that is part of the early site permit (ESP) application, but could be deferred until the combined license (COL) stage. The second change related to performing an alternative site analysis. According to the petitioner, because early site permitting is a siting decision, the NRC revised Part 52 to state explicitly that an alternative site analysis was necessary at the ESP stage to determine if there is an "obviously superior" (§ 52.18) alternative to the site proposed. As a result, 10 CFR 52.17(a)(2) and 52.18 provide that the environmental report for an ESP need not include an assessment of the need for power, but must include an evaluation of alternative sites.

The petitioner contends that the provisions of Part 52 relative to alternative site reviews are based on an interpretation of NEPA that is neither necessary, nor desirable, nor reflective of the evolving electricity marketplace.

Definition of the Major Federal Action in ESP and COL Proceedings. The petitioner notes that, in the context of an ESP, the proposed "major Federal action" is the granting of a permit for a site for one or more nuclear power plants. To actually build and operate one or more nuclear plants on that site, an applicant must also obtain a combined license (COL). In a COL proceeding, the petitioner says, the proposed "major Federal action" is the approval to build and subsequently operate a particular nuclear plant at a specified site. If the COL references an ESP, the site approval is already established, and the site suitability issue reduces to whether the proposed nuclear power plant(s) fit within the ESP's environmental envelope. The petitioner claims that, if the COL applicant does not reference an ESP, the "major Federal action" with respect to approving the specified site is the same as for an ESP. The petitioner emphasizes that in *none* of these cases (i.e., ESP or COL with or without a referenced ESP) is the proposed action a matter of deciding whether there is a need for power, whether an applicant should select a different site, or which of various possible sources of electric generating capacity best meets the State's or the region's needs, provides the most economic electricity to ratepayers, or is environmentally most benign.

The Applicant's Goal. The petitioner contends that its proposal to eliminate consideration of such alternatives by the NRC is based on a fundamental principle of NEPA law, namely, that an agency need only consider alternatives that will accomplish the applicant's goal. The petitioner says that the ESP applicant's goal is to determine whether the proposed site satisfies statutory and NRC regulatory requirements as a suitable location for a nuclear power plant. Similarly, the petitioner says, the goal of a COL applicant is to determine whether the proposed plant satisfies applicable safety and environmental requirements, including the criteria established in any referenced ESP. The petitioner therefore concludes that the only site suitability issue before the NRC in either an ESP or COL proceeding is whether that site is suitable for one or more nuclear facilities. Thus, alternative sites are not "reasonable alternatives" under NEPA and need not be addressed in ESP and COL applications.

Under NEPA, the NRC must consider the no-action alternative and any actions that could mitigate the environmental impact of the proposed plant. The petitioner argues that, beyond this, the NRC must consider only those alternatives that serve the purpose for which an applicant is seeking approval, and, according to the petitioner, there are none. ESP and COL applicants, the petitioner reiterates, seek to obtain a determination on whether the proposed site and facilities meet all applicable NRC requirements, not a decision as to whether one or more nuclear facilities should, or will, be built, nor how or how much or where electricity should be generated in the future. In the petitioner's view it is unnecessary and inappropriate both for the NRC to require applicants to conduct a NEPA analysis of such issues, and for the agency to expend its own limited resources to evaluate possible alternative sources of electricity, alternative sites, or the need for power.

Agency Discretion under NEPA. The petitioner maintains that each Federal agency considering a major proposed action is charged with determining what alternatives are reasonable and should be considered under NEPA. According to the petitioner, the fact that the NRC modified the scope of its NEPA review in license renewal proceedings is evidence that the agency also has the authority to determine what matters are pertinent to NEPA evaluation of applications to site and build new nuclear power plants.

Limits of NRC's Authority. The petitioner further claims that, if the NRC were to deny an application for reasons related to alternative sites or alternative energy sources, the applicant would not be required to use either the alternative site or the alternative energy source recommended by the agency. In fact, the petitioner says, the applicant would be free to develop a different alternative energy source at another site, which might result in a greater environmental impact than the nuclear power plant originally proposed. In such a case, the petitioner argues, the NRC's denial of the permit or license would, in the name of protecting the environment, actually defeat the purpose of NEPA review.

Summary. In summary, the petitioner maintains that the NRC, as part of its NEPA analysis, is not legally obligated, and thus should not attempt, to reach any conclusions related to alternative sites, alternative sources of power, or the need for power. The petitioner believes that the NRC demonstrated the proper use of its discretion when it altered its understanding of the "major Federal action" in the license renewal context, with a consequent, appropriate change in NRC's requirements for NEPA analyses. The petitioner argues that the NRC should similarly exercise that discretion to circumscribe its NEPA analysis requirements in Parts 50 and 52.

Changes in the Electricity Marketplace Since the 1970's

The petitioner maintains that, while NEPA has never required these analyses, the electric utility structure in the 1970's was such that a typical environmental review associated with the siting, construction and operation of a nuclear power plant included an evaluation of the need for additional generating capacity, alternative sites, and alternative sources of energy. The petitioner notes that, in the 1970's, the typical applicant for a nuclear power plant was an electric utility that was regulated by a State public utility commission. As a regulated electric utility, the applicant also had the legal authority to exercise the power of eminent domain to build generating facilities and any necessary supporting infrastructure. In the petitioner's view, many licensing decisions and judicial determinations based on the NRC's interpretation of its responsibilities under NEPA, and corresponding NRC regulations and practices, were adopted in response to this particular historical context.

Effects of Deregulation. The petitioner notes that dramatic changes have occurred in the electric power industry over the past thirty years, most notably resulting from the passage of the Energy Policy Act of 1992 and resultant actions by the Federal Energy Regulatory Commission imposing open access transmission requirements on electricity transmission providers. Today, the petitioner contends, any new nuclear power plant is likely to be constructed and operated by an unregulated merchant generator operating in a competitive marketplace. The petitioner believes that a merchant generator will not build and operate a plant unless there is a need for the proposed additional generating capacity or the proposed facility will generate electricity at a lower cost than its competitors. The petitioner contends that a merchant generator will not build and operate a nuclear power plant if there is a superior alternative source of energy. According to the petitioner, in States where utilities are still subject to regulation, the situation described relative to license renewal will be directly applicable. The petitioner argues that, given all of these factors, it is not reasonable to believe that a nuclear power plant will be built in today's environment absent a need for power or some other benefit.

The petitioner further maintains that it is not reasonable to assume that the NRC would be able to identify an alternative site or alternative energy source that is both feasible and preferable to the choices made by a merchant generator. Because the consideration of alternatives under NEPA is subject to a rule of reason, the petitioner believes that NEPA does not compel the NRC to consider these factors in today's environment. The petitioner maintains that deregulation at the State level has fundamentally altered both the marketplace for electricity and the makeup of electricity generating companies, and argues that the NRC's regulatory framework for implementing NEPA should be revised accordingly.

The Petitioner's Conclusion

The petitioner concludes that, given the dramatic effect of State deregulation on electricity markets and generators, the NRC should reevaluate its implementation of NEPA. The petitioner maintains that the "major Federal action" in NRC proceedings should be described solely in terms of evaluating the suitability of siting, constructing or operating one or more nuclear power plants at a proposed site in accordance with the NRC's responsibilities under the Atomic Energy Act. The "reasonable alternatives" that must be considered under NEPA should, in turn, be defined by reference to this circumscribed understanding of the major Federal action at issue. The petitioner further argues that limited NRC, industry and other stakeholder resources should not be expended on matters that are more appropriately and effectively dealt with by State and local regulators. Given the dictates of NEPA as they apply to the decisions to be made under 10 CFR parts 50 and 52, the petitioner believes that the NRC need not, and therefore as a matter of policy should not, conduct any evaluation of alternative sites, alternative energy sources, or need for power.

The petitioner contends that the foregoing reasons support its request to eliminate the Part 52 requirements for applicants to submit, and for NRC to review, information on alternative sites. The petitioner maintains that 10 CFR parts 2, 50 and 51 should be similarly modified to eliminate provisions which require applicants requesting NRC approval to site, build and operate nuclear power plants to submit, and the NRC to review, information concerning the need for power, alternative sources and alternative sites.

The petitioner sets out a detailed series of proposed amendments. These amendments are presented verbatim in appendix A to this notice of receipt.

Dated at Rockville, Maryland, this 18th day of September, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Appendix A to This Notice of Receipt—The Nuclear Energy Institute's Proposed Amendments to 10 CFR Part 52 and 10 CFR Parts 2, 50, and 51

Proposed Modifications to 10 CFR Part 52

1. *10 CFR 52.17(a)(2) should be amended as follows:* A complete environmental report as required by 10 CFR 51.45 and 51.50 must be included in the application, provided, however, that such environmental report must focus on the environmental effects of construction and operation of a reactor.

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2. *10 CFR 52.18 should be amended as follows:* Applications filed under this subpart will be reviewed according to the applicable standards set out in 10 CFR part 50 and its appendices and part 100 as they apply to applications for construction permits for nuclear power plants. In particular, the Commission shall prepare an environmental impact statement during a review of the application, in accordance with applicable provisions of 10 CFR part 51, provided, however, that the draft and final environmental impact statements prepared by the Commission focus on the environmental effects of construction and operation of a reactor, or reactors, which have characteristics that fall within the postulated site parameters. The Commission shall determine, after consultation with the Federal Emergency Management Agency, whether the information required of the applicant by § 52.17(b)(1) shows that there is no significant impediment to the development of emergency plans, whether any major features of emergency plan submitted by the applicant under § 52.17(b)(2)(i) are acceptable, and whether any emergency plans submitted by the applicant under Section 52.17(b)(2)(ii) provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

Proposed Modifications to 10 CFR Parts 2, 50 and 51

1. *10 CFR 2.101(a–1)(1) should be amended as follows:* Part one shall include or be accompanied by any information required by §§ 50.34(a)(1) and 50.30(f) of this chapter which relates to the issue(s) of site suitability for which an early review, hearing and partial decision are sought, except that information with respect to operation of the facility at the projected initial power level need not be supplied, and shall include the information required by §§ 50.33 (a) through (e) and 50.37 of this chapter. The information submitted shall also include: (i) Proposed findings on the issues of site suitability on which the applicant has requested review and a statement of the bases or the reasons for those findings, and (ii) a range of postulated facility design and operation parameters that is sufficient to enable the Commission to perform the requested review of site suitability issues under the applicable provisions of parts 50, 51 and 100.

2. *10 CFR 2.603(b)(1) should be amended as follows:* The Director of Nuclear Reactor Regulation will accept for docketing an application for a construction permit for a utilization facility which is subject to § 51.20(b) of this chapter and is of the type specified in § 50.21(b)(2) or (3) or § 50.22 or is a testing facility where part one of the application as described in § 2.101(a–1) is complete. Part one of any application will not be considered complete unless it contains proposed findings as required by § 2.101(a–1)(1)(i). Upon assignment of a docket number, the procedures in § 2.101(a)(3) and (4) relating to formal docketing and the submission and distribution of additional copies of the application shall be followed.

3. 10 CFR 2.605(b)(1) should be deleted in its entirety.

4. *10 CFR Part 50, Appendix Q.2 and 10 CFR Part 52, Appendix Q.2 (which are essentially identical) should be amended as follows:* The submittal for early review of site suitability issue(s) must be made in the same manner and in the same number of copies as provided in §§ 50.4 and 50.30 for license applications. The submittal must include sufficient information concerning a range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal must contain suggested conclusions on the issues of site suitability submitted for review and must be accompanied by a statement of the bases or the reasons for those conclusions.

5. 10 CFR Part 50, Appendix Q.7(a) and 10 CFR Part 52, Appendix Q.7(a) (which are identical) should be deleted in their entirety.

6. *The following sentence should be added to the end of 10 CFR 51.45(c):* No discussion of need for power, alternative energy sources, or alternative sites for the facility is required in this report.

7. *10 CFR 51.53(c)(2) should be amended as follows:* * * * In addition, the applicant shall discuss in this report the environmental impacts of alternatives and any other matters described in § 51.45. The report is not required to include discussion of alternative sites, alternative energy sources, or need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such costs and benefits are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation * * *.

8. *The following sentence should be added after the first sentence of 10 CFR 51.71(d):* No discussion of need for power, or of alternative energy sources, or of alternative sites for the facility will be included in the draft environmental impact statement.

9. *10 CFR 51.95(c)(2) should be amended as follows:* The supplemental environmental impact statement for license renewal is not required to include discussion of alternative sites, alternative energy sources, or need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. . . .

10. *10 CFR Part 51, Appendix A.4 should be amended as follows: Purpose of and need for action.* The statement will briefly describe and specify the need for the proposed action. The alternative of no action will be discussed.

11. *The following sentence should be added to the end of 10 CFR part 51, appendix A.5:* The consideration of alternatives will not include an analysis of alternative sites or alternative energy sources.

12. Additionally, conforming changes should be made in 10 CFR 2.101(a)(3)(ii) and 10 CFR 51.71 footnote 4.

13. Finally, NRC Regulatory Guide 4.2 and NUREG–1555 should be modified to reflect the Commission's determination that alternative sites, alternative sources of energy, and need for power are not to be evaluated under 10 CFR part 51 provisions pertaining to the siting, construction and operation of new nuclear power plants.

[FR Doc. 01–23791 Filed 9–21–01; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 52

[Docket No. PRM–52–1]

Nuclear Energy Institute; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute. The petition has been docketed by the NRC and has been assigned Docket No. PRM–52–1. The petitioner is requesting that the NRC

regulations governing early site permits and combined license applications at existing reactor sites be amended to improve the efficiency of the application and review process for companies seeking early site permits or combined licenses at licensed facilities. The petitioner believes that its proposed amendments would enhance the focus and efficiency of the early site permit and combined license process. The petitioner proposes to eliminate the need for what it believes is duplicate applicant production and NRC review of existing information relating to a licensed facility that has been previously approved by the NRC and subject to a public hearing.

DATES: Submit comments by November 8, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (*http://ruleforum.llnl.gov*). At this site, you may view the petition for rulemaking, this **Federal Register** notice of receipt, and any comments received by the NRC in response to this notice of receipt. Additionally, you may upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: *CAG@nrc.gov*).

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Documents related to this action are available for public inspection at the NRC Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll-Free: 1–800–368–5642 or e-mail: *MTL@NRC.Gov.*

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking dated July 18, 2001, submitted by the Nuclear Energy Institute (petitioner). The petitioner is requesting that the regulations in 10 CFR part 52 governing early site permits and combined license applications at existing reactor sites be amended. Specifically, the petitioner requests that the NRC amend 10 CFR part 52, subpart A, Early Site Permits, to add proposed § 52.16 and amend 10 CFR part 52, subpart C, Combined Licenses, to add proposed § 52.80.

The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition has been docketed as PRM–52–1. The NRC is soliciting public comment on the petition for rulemaking.

Discussion of the Petition

The petitioner expects that new power reactors will be ordered by existing licensees in the near future and that the new reactors will use many of the programs currently being used by those licensees. Additionally, the petitioner anticipates that many of the new reactors will be located on existing reactor sites. The petitioner believes that, to avoid needless expenditure of NRC and licensee resources, proposed §§ 52.16 and 52.80 would use existing information as a baseline and would provide for NRC review and an opportunity for a hearing to account for changed circumstances, such as new regulations and significant new information.

The petitioner notes that subpart A to part 52 contains provisions governing issuance of early site permits (ESPs). The petitioner proposes that a new § 52.16 be added to subpart A to allow an ESP applicant to incorporate by reference all or portions of the current licensing basis for an existing reactor site to the extent that they are valid and applicable to one or more additional nuclear power plants that fit within the ESP environmental envelope. Proposed § 52.16 would also require that any information incorporated by reference be augmented to include:

- Significant new safety or environmental information that materially affects the ability of the site to support the proposed additional nuclear facility
- Information regarding the cumulative radiological and environmental impacts of the existing facility and the facility as described in the ESP application
- An analysis of the potential safety impacts of the existing facility on the suitability of the site for the facility as described in the ESP application
- An analysis of the potential safety impacts on the existing facility from the facility as described in the ESP application
- Information that addresses regulations applicable to siting issues that became effective after licensing of the current facility, to the extent that these regulations are not addressed in the current licensing basis

The petitioner states that under proposed § 52.16, the NRC would treat as resolved those matters incorporated by reference, except to the extent that those matters are subject to augmentation with new information described above. The petitioner also states that proposed § 52.16 would allow the NRC to impose a change in the application with respect to the information incorporated by reference to the extent that the change satisfies the principles underlying 10 CFR 50.109, Backfitting. The petitioner believes that in preparing the environmental impact statement for the early site permit, the NRC would adopt the applicable portions of the existing environmental impact statement associated with the site, modified or supplemented as necessary to reflect the NRC's review of the new environmental information described above.

The petitioner notes that subpart C to part 52 contains provisions governing issuance of combined construction permits and operating licenses (COLs). The petitioner states that proposed § 52.80 would be added to subpart C and would contain provisions similar to those proposed in § 52.16. The petitioner also states that proposed § 52.80 would allow a COL applicant to incorporate by reference programmatic information identified in the current licensing basis of an existing licensed facility located at the same site or owned or operated by the same licensee. Proposed § 52.80 would require this programmatic information to be augmented to include information that addresses applicable regulations that became effective after the existing facility was licensed, to the extent that these regulations are not addressed by the current licensing basis for the existing facility. The petitioner states that under proposed § 52.80, the NRC would treat as resolved those matters incorporated by reference from the existing facility, except to the extent that those matters are subject to new information as identified above. The petitioner believes that the NRC could direct that a change be made in the COL application with respect to the information incorporated by reference,

to the extent that the change satisfies the principles underlying 10 CFR 50.109.

The petitioner proposes that 10 CFR part 52 be amended to add §§ 52.16 and 52.80 as follows:

Section 52.16 Eorly site permits for licensed sites.

(a) If an application for an early site permit is filed for a site for which a license or construction permit has been issued, the application may incorporate by reference all or part of the current licensing basis for the site to the extent that it pertains to the siting issues specified in § 52.17.

(b) Information incorporated by reference shall be supplemented to include, to the extent applicable:

(1) Significant new information that materially affects the ability of the site to support the additional nuclear facility as described in the early site permit application;

(2) Information regarding the cumulative radiological impacts of the existing facility and the facility as described in the early site permit application;

(3) An analysis of the potential safety impacts of the existing facility on the suitability of the site for the facility as described in the early site permit application;

(4) An analysis of the potential safety impacts on the existing facility from the facility as described in the early site permit application; and

(5) Information that addresses regulations applicable to siting issues that became effective after licensing of the existing facility, to the extent that such regulations are not addressed by the current licensing basis.

(c) Environmental information incorporated by reference shall be supplemented to include, to the extent applicable:

(1) Significant new information relevant to environmental concerns bearing on the ability of the site to support the additional nuclear facility as described in the early site permit application; and

(2) Information regarding the cumulative environmental impacts of the existing facility and the facility as described in the early site permit application.

(d) The Commission shall treat as resolved the environmental information incorporated by reference under paragraph (a) of this section, except to the extent that those matters are subject to new information under paragraph (b) of this section. In addition, the Commission may impose changes with respect to the information incorporated by reference pursuant to paragraph (a) of this section to the extent that each such change satisfies the criteria in 10 CFR 50.109.

(e) The Commission also shall treat as resolved the environmental information incorporated by reference under paragraph (a) of this section, except to the extent that those matters are subject to new information under paragraph (c) of this section. In preparing its environmental impact statement for the early site permit, the Commission will adopt the applicable portions of the existing environmental impact statement associated with the site (including any supplements), modified or supplemented as necessary to reflect the Commission's review of the new information identified under paragraph (c) of this section.

* * * * *

Section 52.80 Combined licenses for sites with existing licensed facilities or for applicants holding licenses for other facilities.

(a) If an application is filed for a combined license for a facility located at a site with an existing licensed facility or by an applicant that holds a license for an existing facility at another site, the application may incorporate by reference the type of information described in § 52.16, subject to the requirements of that section.

(b) The application may also incorporate by reference all or part of the type of information identified in 10 CFR 50.33(g); 50.34(b)(6)(i), (ii), (iv), and (v); 50.34(c); 50.34(d); 50.34(f)(2)(ii); and 50.34(f)(3)(i), (ii), and (vii), to the extent such information is contained in the current licensing basis of an existing facility located at the same site or at a site owned or operated by the same licensee or an affiliate of that licensee. The information incorporated by reference shall be supplemented to include:

(1) Information that addresses regulations applicable to the incorporated information that became effective after licensing of the existing facility, to the extent that such regulations are not addressed by the current licensing basis for the existing facility.

(c) The Commission shall treat as resolved those matters incorporated by reference under paragraph (a) of this section, except to the extent that those matters are subject to new information under paragraph (b) of this section. In addition, the commission may direct that changes be made with respect to the information incorporated by reference pursuant to paragraph (a) of this section to the extent that each such change satisfies the criteria in 10 CFR 50.109.

The petitioner believes that proposed §§ 52.16 and 52.80 are consistent with and promote the NRC's performance goals to: Maintain safety; protection of the environment, and the common defense and security; increase public confidence; make NRC activities and decisions more effective, efficient, and realistic; and reduce unnecessary burden on stakeholders. The petitioner states that the proposed amendments not only are consistent with NRC's mission to ensure adequate protection of the public health and safety, the common defense and security, and the environment; but also, would focus NRC reviews on new information and what the petitioner believes would be an incremental impact of an additional unit at an existing site. The petitioner states that even in the absence of new information, the proposed regulations would provide the NRC with the authority to impose new requirements on previously approved information if required to ensure adequate protection of the public health and safety and the environment.

The petitioner states that the proposed amendments would serve to enhance the efficiency of the regulatory process by eliminating duplicate reviews of matters resolved in previous proceedings by focusing agency resources on new and material information and the impact of potential new units on the site. The petitioner also states that proposed §§ 52.16 and 52.80 would ensure that the public has an opportunity for a hearing on all material issues, including significant new information that would warrant further NRC review. The petitioner believes that proposed §§ 52.16 and 52.80 would reduce regulatory burden by focusing attention on matters that have not been previously decided in other proceedings.

The petitioner notes that 10 CFR 51.29(a)(3) provides that the NRC may exclude issues that have been subject to a previous environmental review. The petitioner believes that its proposed amendments support NRC initiatives to place emphasis on the early identification of regulatory issues and process improvements to handle new license applications. The petitioner states that because the costs of a new facility are affected by application preparation expenses, responding to requests for additional information (RAIs), and possible hearing expenses, ensuring that costs are predictable and commensurate with the safety significance of issues associated with ESP and COL applications and reducing the time for a new facility to be available will be determining factors in business decisions on whether to proceed with new nuclear projects.

The petitioner acknowledges that the NRC has the authority and discretion to adopt new regulations under the Atomic Energy Act of 1954, as amended (AEA), and the Administrative Procedure Act (APA) by either rulemaking or adjudication. The petitioner cites *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.*, 435 U.S. 519 (1978) in which the Supreme Court held that the NRC is free to promulgate rules of procedure and methods for making factual findings if they satisfy APA requirements. The petitioner believes that nothing in the AEA or APA would preclude adoption of proposed §§ 52.16 and 52.80 or prohibit the NRC from promulgating a rule that would treat information the NRC reviewed and approved in a previous licensing proceeding as resolved. The petitioner emphasizes that proposed §§ 52.16 and 52.80 would require NRC consideration of new information that has not been previously reviewed or subject to a hearing.

The petitioner notes that §§ 52.39(a)(2), 52.63(a)(4), and 52.103 treat information the NRC has reviewed and approved in previous proceedings as resolved and that the courts have held that these provisions do not deprive individuals of rights to a hearing under § 189 of the AEA. The petitioner also notes that § 52.73 allows a COL application to reference a design certification and that in the COL proceeding, § 52.63(a)(4) requires the NRC to treat matters relating to issuance of the design certification as resolved, even if the design certification proceeding was a different proceeding that may have taken place 15 or more years earlier and probably did not involve the parties in the COL hearing. (See also, §§ 52.55 and 52.61.)

The petitioner indicates that § 52.73 also allows a COL application to reference an ESP and that § 52.39(a)(2) requires the NRC to treat matters resolved in the ESP proceeding as final, even though the ESP decision was a different matter that may have taken place at least 20 years earlier and may not have involved the same COL hearing parties. (See also, §§ 52.27 and 52.33.) In *Nuclear Information & Resource Service* v. *NRC*, 918 F.2d 189, 196–97 n. 14 (D.C. Cir. 1990), aff'd on rehearing 969 F.2d 1169, 1172 (D.C. Cir. 1992), the petitioner notes that the court rejected a challenge to the NRC's decision to treat matters approved in the ESP and design certification proceedings as resolved in a COL hearing in stating "that the Commission has wide latitude in structuring the scope and timing of its hearings." The petitioner notes further that this decision found that § 189 of the AEA does not contain specific instruction on how the hearing is to be conducted or if the NRC must rehear issues already settled earlier in the licensing process. The petitioner believes that the scope and timing of ESP and COL hearings contemplated in proposed §§ 52.16 and 52.80 are fully consistent with existing provisions and court decisions.

The petitioner also believes that limitations on the scope of issues contained in proposed §§ 52.16 and 52.80 are consistent with NRC practice in other areas such as, license renewal and amendments, environmental effects associated with the nuclear fuel cycle, spent fuel storage casks, quality assurance (QA) programs, and the facility and procedure change process. The petitioner notes that the scope of issues appropriate for review in operating license renewal proceedings is limited under 10 CFR parts 51 and 54 that eliminate matters previously considered in prior licensing proceedings or rulemaking actions. The petitioner cites Vermont Yankee Nuclear Power Corp. (Vermont Yankee nuclear Power Station), ALAB–235, 8 AEC 873, 875 (1974) and Georgia Power Co. (Vogtle Nuclear Plant, Units 1 and 2) ALAB–291, 2 NRC 404, 415 (1975) in stating that the right to intervene and raise contentions in license amendment proceedings is limited to issues that directly relate to the proposed change and that it is inappropriate to revisit issues considered in initial licensing that are not affected by the amendment.

The petitioner also cites *Baltimore Gas and Electric Corp.* v. *NRDC*, 462 U.S. 87 (1983) in which the Supreme Court upheld the NRC's approach in the Table S–3 rulemaking proceeding in stating that the generic disposition of environmental issues is proper and precludes unnecessary and repetitive litigation. The petitioner notes that 10 CFR 72.46(e) prohibits review of spent fuel storage cask design issues during licensing hearings for a site-specific independent fuel storage installation (ISFSI) and when a cask was approved in a generic proceeding. The petitioner also notes that 10 CFR 72.210 and 72.212 allow use of generically approved storage casks without providing any opportunity for a plant-specific hearing. The petitioner cites *Kelly* v. *Selin*, 42 F.3d 1501 (6th Cir. 1995), cert. denied 515 U.S. 1159 (1995) in which the courts have held that this process does not deprive individuals of any hearing rights under § 189 of the AEA.

The petitioner states that 10 CFR 50.54(a) has been recently revised to eliminate the need for prior NRC review and changes to a QA program description when the change involves a QA alternative or exception previously approved in an NRC safety evaluation for another plant. The petitioner also states that 10 CFR 50.59(a)(2)(ii) and NRC Regulatory Guide 1.187 permit licensees to adopt evaluation methods approved by the NRC for use by other licensees if the method has been approved for the intended application and the licensee satisfies the applicable terms and conditions for its use. The petitioner believes that proposed §§ 52.16 and 52.80 are fully consistent with precedents in which the NRC has treated prior decisions made in rulemaking or licensing proceedings as resolved and has not permitted further review and litigation of those issues in subsequent proceedings.

The petitioner notes that § 102 of the National Environmental Policy Act of 1969 (NEPA) requires an environmental impact statement (EIS) for major Federal actions that significantly affect the quality of the environment and that 10 CFR 52.18 and 52.89 require an EIS for an ESP and a COL. However, NEPA does not require the NRC to reconsider previously settled issues to assess the environmental impacts of approving a license application to locate an additional reactor at an existing site. The petitioner cites the Council on Environmental Quality (CEQ) regulations that became effective in 1979 to standardize the NEPA process to reduce delays and eliminate duplication of governmental efforts. These regulations allow agencies to use previous environmental analyses when drafting a new EIS or to supplement an EIS if an agency makes substantive changes in a proposed action or when new circumstances or information arise that affect the environment. The petitioner acknowledges that the NRC incorporated these regulations into 10 CFR Part 51 but cites *Deukmejian* v. *NRC*, 751 F.2d 1287 (D.C. Cir. 1984) in noting that although the NRC gives substantial deference to the CEQ's regulations, it is not bound by them.

The petitioner states that 10 CFR 51.29(a)(3) permits the NRC to exclude issues that have been covered by a previous environmental review and that an EIS may provide a reference to a prior document that settled a particular environmental issue. The petitioner believes that although the NRC's regulations specifically refer to adoption of an EIS prepared by another Federal agency, nothing prevents the NRC from using a previous NRC EIS. The petitioner also believes that proposed §§ 52.16 and 52.80 are consistent with NRC and CEQ guidance on referencing and adopting previous EISs.

The Petitioner's Conclusions

The petitioner has concluded that the NRC requirements governing early site permits and the combined license process in 10 CFR Part 52 should be amended to permit the NRC to treat applicable information approved in previous licensing proceedings as resolved. The petitioner also has concluded that proposed §§ 52.16 and 52.80 would accomplish this objective and ensure consideration of significant new information that could materially affect the NRC's findings. The petitioner has also concluded that the proposed amendments are consistent with § 189 of the AEA and NRC and court decisions that authorize the NRC to limit the scope of licensing proceedings to avoid additional review and litigation of previously settled issues. Lastly, the

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petitioner has concluded that the proposed amendments would conserve NRC resources and streamline the agency's administrative processes to eliminate what it believes are unnecessary costs and burdens on applicants for new licenses.

Dated at Rockville, Maryland, this 18th day of September, 2001.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–23790 Filed 9–21–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM195; Notice No. 25–01–04–SC]

Special Conditions: Boeing Model 777–200 Series Airplanes; Overhead Crew Rest Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Boeing Model 777–200 series airplanes, modified by the Boeing Commercial Airplane Group, Wichita. The proposed modification consists of the installation of an overhead flightcrew rest (OFCR) and an overhead attendant rest (OAR). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before October 24, 2001.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM195, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM195. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this action may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to NM195." The postcard will be date stamped and returned to the commenter.

Background

On September 18, 2000, the Boeing Commercial Airplane Group (BCAG)—Wichita Division Designated Alteration Station (DAS) applied for a Supplemental Type Certificate (STC) from the Wichita Aircraft Certification Office (ACO). The STC is to install an overhead flightcrew rest (OFCR) and an overhead attendant rest (OAR) on Boeing Model 777–200 series airplanes. The OFCR compartment adjacent to door one will include a maximum of two private berths and two seats. Occupancy of the OFCR will be limited to a maximum of four occupants. The OAR compartment, adjacent to door three, will include a combination of private berths and seats for a maximum of twelve occupants. Occupancy of the OAR will be limited to a maximum of twelve occupants. Follow-on designs may locate the OAR at either door three, or door four depending on the Model 777–200 airplane and option(s) selected by the customer.

Both crew rests, OFCR and OAR, will be accessed from the main deck by stairs. In addition, an emergency hatch which opens directly into the cabin area will be provided for each compartment. A smoke detection system, an oxygen system, and occupant amenities will also be provided. These compartments will only be occupied in flight, not during taxi, takeoff, or landing.

The Boeing Model 777–200 series airplanes are large twin engine airplanes with various passenger capacities and ranges depending upon airplane configuration, and currently do not incorporate OFCR and OAR compartments in production. While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each crew rest compartment has unique features based on design, location, and use on the airplane. Crew rest compartments have been installed and certified in the main passenger area, above the main passenger area and below the passenger cabin area within the cargo compartment of the Boeing Model 777–200/–300 series airplanes. Also, overhead crew rest compartments have been installed on the Boeing Model 747 series airplanes.

The FAA has previously issued special conditions, which contain the additional safety standards that must be met for the overhead crew rests on Boeing Model 747 series airplanes. The FAA certified the lower lobe attendant rest on the Boeing Model 777–200 series airplanes by equivalent level of safety finding to the requirements of 25.819. In addition, the FAA recently issued Special Conditions No. 25–169–SC, dated December 1, 2000, for 777–200 series airplanes for overhead crew rest to support a STC for Flight Structures Inc (FSI) of Arlington, Washington. The Flight Structures, Inc. (FSI) Special Conditions No. 25–169–SC were amended on May 2, 2001.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Certification requirements for pilot "sleeping quarters" per the requirements of 121.485 are not addressed in these special conditions. The applicant must work directly with the Aircraft Evaluation Group (AEG) with regard to the adequacy of onboard sleeping quarters/facilities for compliance with 121.485(a), 121.523(b) and 135.269(b)(5). The AEG is responsible for making this finding.

Type Certification Basis

Under the provisions of 21.101, Boeing must show that the Model 777–200 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. T00001SE for the Boeing Model 777–200 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–82. The U.S. type certification basis for the Boeing Model 777–200 series airplanes is established in accordance with 14 CFR 21.17 and 21.29 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with § 11.19, after public notice, as required by § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each compartment design has unique features by virtue of its design, location, and use on the airplane. Previously, crew rest compartments have been evaluated that are installed within the main passenger compartment area of the Boeing Model 777–200 and Model 777–300 series airplanes and the overhead area of the passenger compartment of the 777–200. Other crew rest compartments have been installed below the passenger cabin area, adjacent to the cargo compartment. Similar overhead crew rest compartments have also been installed on the Boeing Model 747 airplane. The interfaces of the modification are evaluated within the interior and assessed in accordance with the certification basis of the airplane. However, part 25 does not provide all the requirements for crew rest compartments within the overhead area of the passenger compartment. Further, these special conditions do not negate the need to address other applicable part 25 regulations.

Due to the novel or unusual features associated with the installation of this crew rest compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate.

Discussion of the Proposed Special Conditions

In general, the requirements listed in these proposed special conditions are similar to those previously approved in earlier certification programs, such as for the Boeing Model 777–200 series airplanes and Boeing Model 747 overhead crew rest compartments. These proposed special conditions establish seating, communication, lighting, personal safety, and evacuation requirements for the overhead crew rest compartment. In addition, passenger information signs, supplemental oxygen, and a seat or berth for each occupant of the crew rest compartment would be required. These items are necessary because of turbulence and/or decompression. When applicable, the proposed requirements parallel the existing requirements for a lower deck service compartment and provide an equivalent level of safety to that provided for main deck occupants.

Proposed Special Condition No. 1

Seats and berths must be certified to the maximum flight loads. Due to the location and configuration of the crew rest compartment, it is proposed that occupancy during taxi, takeoff, and landing would be prohibited, and occupancy limited to crewmembers during flight. Occupancy would be limited to four in the overhead flightcrew rest (OFCR) or the combined total of approved seats and berths in the OFCR, whichever is less. Occupancy would be limited to twelve in the overhead attendant rest (OAR), or the combined total of approved seats and berths in the OAR, whichever is less.

Appropriate placards are proposed to prohibit passenger access, access by crewmembers not trained in evacuation procedures, smoking and hazardous quantities of flammable fluids, explosives or other dangerous cargo. Of special note is the intended meaning of the phrase "hazardous quantities" used above. The intent of this term is to continue to accept a practice that permits trained crewmembers to carry baggage containing minute quantities of flammable fluids (e.g., finger nail polish) that would pose no threat to the airplane or its occupants. This wording is consistent with the existing wording of §§ 25.831(d), 25.855 (h)(2), 25.857 (b)(2), (c)(3) & (e)(4) and 25.1353(c)(3). Requirements for door access and locking and the installation of ashtrays are proposed.

Proposed Special Condition No. 2

To preclude occupants from being trapped in the crew rest compartment in the event of an emergency there must be at least two emergency evacuation routes which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin. These two routes must be sufficiently separated to minimize the possibility of an event rendering both routes inoperative. The main entry route meeting the appropriate requirements may be utilized as one of the emergency evacuation routes or alternatively two other emergency routes must be provided. The previous special conditions allowed only one of the evacuation routes to terminate in a main aisle, cross aisle or galley complex. The idea was to ensure that one of the two routes would be clear of moving occupants under most foreseeable circumstances.

The following provides clarification in the intent of special condition 2b concerning the utility of the egress routes. There are three issues that should be considered. First, occupied passenger seats are not considered an impediment to the use of an egress route, (e.g., egress route drops into one row of seats via a hatch), provided that the seated occupants do not inhibit the opening of the egress route (*e.g.*, hatch).

The second issue is that the proposed special conditions would allow a second route to utilize areas where normal movement of passengers occurs if it is demonstrated that the passengers would not impede egress to the main deck. If the egress means (hatch in this design) opens into a main aisle, cross aisle, or galley complex to an extent that it contacts a standing 95th percentile male, the contact should only momentarily interrupt the opening of

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the egress hatch. The interruption to the egress means can be considered momentary if the egress means will continue to open normally once the person has moved out of the way.

The third consideration is with respect to a passenger in the cabin re-closing the escape hatch, effectively preventing the occupants of the crew rest area from using the escape route. The escape hatch should be provided with a means to prevent it from being inadvertently re-closed by a passenger on the main deck, but allow the escape hatch to be restowed by the crew prior to landing.

Training requirements for the occupants of the crew rest area are included in the proposal.

Proposed Special Condition No. 3

It is proposed that each evacuation route must be designed and procedures specified to allow for removal of an incapacitated person from the crew rest compartment to the main deck. Words have been added for clarification for evacuation routes having stairways. Additional assistants to evacuate an incapacitated person may ascend up to one half the elevation change from the main deck to the overhead compartment, or to the first landing, whichever is lower. The revised FSI special conditions did provide guidance information regarding limiting the number of assistants but did not provide their position and/or stance on the stairs or landing. The proposal also allows that a single row of seats may be emptied for the purposes of demonstrating evacuation of an incapacitated person, where the escape route is over seats.

Proposed Special Condition No. 4

Exit signs, placards for evacuation routes, illumination for signs, placards and door handles are proposed. The proposal allows for exit signs with a reduced background area to be used. These reduced background area signs have been allowed under previous equivalent levels of safety for small transport executive jets. A proviso has been proposed that would limit the material surrounding the sign to be light in color to more closely match and enhance the illuminated background of the sign that has been reduced in area (letter size stays the same).

Proposed Special Condition No. 5

To prevent the occupants from being isolated in a dark area due to loss of the crew rest compartment lighting, an emergency lighting system, which is activated under the same conditions as the main deck emergency lighting system, is proposed.

Proposed Special Condition No. 6

It is proposed that a two-way voice communications and public address speaker(s) would be required to alert the occupants to an in-flight emergency. Also, a system to alert the occupants of the crew rest compartment in the event of decompression and to don oxygen masks is proposed.

Proposed Special Condition No. 7

Emergency alarm means or use of the public address system or crew interphone system to inform occupants of the OFCR or OAR of an emergency situation is proposed. Power duration to the emergency alarm after certain failures is proposed.

Proposed Special Condition No. 8

Proposed Special Condition No. 8 requires a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. The requirement for visibility of the sign by standing occupants may be met by a general area sign that is visible to occupants standing in the main floor area or corridor of the crew rest area. It would not be essential that the sign be visible from every possible location in the crew rest area; however, the sign should not be remotely located or located where it may be easily obscured.

Proposed Special Condition No. 9

Since the overhead crew rest compartment is remotely located from the passenger cabin, a hand-held fire extinguisher, protective breathing equipment and a flashlight are proposed tools specified to fight a fire should a fire occur.

Proposed Special Condition No. 10

Since the overhead crew rest compartment is remotely located from the main passenger cabin and will not always be occupied, a smoke detection system and appropriate warnings are proposed. The smoke detection system must be capable of detecting a fire in each area of the compartment created by the installation of a curtain or door.

Proposed Special Condition No. 11

It is proposed that the crew rest compartment be designed such that fires within the compartment can be controlled without having to enter the compartment; or, the design of the access provisions must allow crew equipped for fire fighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the crew rest compartment to become smoke filled, making it difficult to locate the fire source.

Proposed Special Condition No. 12

This proposed special condition requirement concerning fires within the compartment was developed for, and applied to, Boeing Model 777–200 and Model 777–300 series airplanes lower lobe crew rest compartments. It was not applied to the overhead crew rest compartment in earlier certification programs such as the Boeing Model 747. The Model 747 special conditions were issued before the new flammability requirements were developed. This requirement originated from a concern that a fire in an unoccupied crew rest compartment could spread into the passenger compartment, or affect other vital systems, before it could be extinguished. The proposed special conditions would require either the installation of a manually activated fire containment system that is accessible from outside the crew rest compartment, or a demonstration that the crew could satisfactorily perform the function of extinguishing a fire under the prescribed conditions. A manually activated built-in fire extinguishing system would be required only if a crewmember could not successfully locate and extinguish the fire during a demonstration where the crewmember is responding to the alarm.

The crew rest compartment smoke or fire detection and fire suppression systems (including airflow management features which prevent hazardous quantities of smoke or fire extinguishing agent from entering any other compartment occupied by crewmembers or passengers) is considered complex in terms of paragraph 6d of Advisory Circular (AC) 25.1309–1A, "System Design and Analysis." In addition, the FAA considers failure of the crew rest compartment fire protection system (i.e., smoke or fire detection and fire suppression systems) in conjunction with a crew rest fire to be a catastrophic event. Based on the "Depth of Analysis Flowchart" shown in Figure 2 of AC 25.1309–1A, the depth of analysis should include both qualitative and quantitative assessments (reference paragraphs 8d, 9, and 10 of AC 25.1309–1A). In addition, it should be noted that hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from being carried in the crew rest area, a prohibition addressed in proposed Special Condition No. 1(a)(5).

The requirements to enable crewmember(s) quick entry to the crew rest compartment and to locate a fire source inherently places limits on the amount of baggage that may be carried and the size of the crew rest area. The crew rest area is limited to stowage of crew personal luggage and it is not intended to be used for the stowage of cargo or passenger baggage. The design of such a system to include cargo or passenger baggage would require additional requirements to ensure safe operation.

Proposed Special Condition No. 13

Oxygen equipment and a supplemental oxygen deployment warning are proposed.

Proposed Special Condition No. 14

For a divided crew rest compartment, requirements are proposed to address supplemental oxygen equipment and deployment means, signs, placards, curtains, doors, emergency illumination, alarms, seat belt fasten signals, and evacuation routes.

Proposed Special Condition No. 15

Alleviations to the requirements above for lavatories or other small areas within a crew rest area are proposed.

Proposed Special Condition No. 16

When waste disposal receptacle are installed, fire extinguishers are proposed.

Proposed Special Condition No. 17

The materials in the crew rest compartment must meet the flammability requirements of § 25.853(a), and the mattresses must meet the fire blocking requirements of § 25.853(c).

These proposed special conditions provide the regulatory requirements necessary for certification of this modification. Other special conditions may be developed, as needed, based on further FAA review and discussions with the applicant, manufacturer, and civil aviation authorities.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 777–200 series airplanes. Should Boeing Commercial Airplane Group, Wichita Division Designated Alternation Station, apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Certification of the Boeing Model 777–200 series airplanes, modified by Boeing Commercial Airplane Group, Wichita Division Designated Alternation Station, is currently scheduled for mid-November 2001. The substance of these special conditions has been subject to the notice and public comment procedure previously. For this reason, and because a delay would significantly affect the applicant's installation of the system and certification of the airplane, the public comment period is being shortened to 30 days.

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 777–200 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 777–200 series airplanes, as modified by Boeing Commercial Airplane Group, Wichita Division Designated Alteration Station, with overhead crew rest compartments, OFCR and/or OAR compartments.

1. Occupancy of the overhead crew rest compartment is limited to the total number of installed bunks and seats in each compartment. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment. The maximum occupancy is four in the OFCR and 12 for the OAR.

(a) There must be appropriate placards, inside and outside to indicate:

(1) The maximum number of occupants allowed,

(2) That occupancy is restricted to crewmembers that are trained in the evacuation procedures for the overhead crew rest compartment,

(3) That occupancy is prohibited during taxi, take-off and landing, and

(4) That smoking is prohibited in the crew rest compartment.

(5) That hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from the crew rest compartment.

(b) There must be at least one ashtray on the inside and outside of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin. In addition—

(a) The routes must be located with sufficient separation within the compartment, and between the evacuation routes, to minimize the possibility of an event rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing below or against the escape route. One of two evacuation routes should not be located where, during times in which occupancy is allowed, normal movement by passengers occurs (i.e. main aisle, cross aisle or galley complex) that would impede egress of the crew rest compartment. If an evacuation route utilizes an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If there is low headroom at or near the evacuation route, provisions must be made to prevent or to protect occupants (of the crew rest area) from head injury. The use of evacuation routes must not be dependent on any powered device. If the evacuation path is over an area where there are passenger seats, a maximum of one row of passengers may be displaced from their seats temporarily during the evacuation process. If the evacuation procedure involves the evacuee stepping on seats, the seats must not be damaged to the extent that they would not be acceptable

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for occupancy during an emergency landing.

(c) Emergency evacuation procedures and the emergency evacuation of incapacitated occupant procedures must be established and transmitted to the operator for incorporation into their training programs and appropriate operational manuals. If the evacuation path is over an area where there are passenger seats, a maximum of one row of passengers may be displaced from their seats temporarily during the evacuation process.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor.

(a) The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. These additional assistants must be standing on the floor while providing assistance, except that for evacuation routes having stairways, the additional assistants may ascend up to one half the elevation change from the main deck to the overhead compartment, or to the first landing, whichever is lower.

(b) Procedures for the evacuation of an incapacitated person from the crew rest compartment must be established.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i), except that a sign of reduced background area with no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (*e.g.* white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one inch wide background border around the letters would also be acceptable.

(b) An appropriate placard defining the location and the operating instructions for each evacuation route.

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions.

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the airplane's main power system, or of the normal crew rest compartment lighting system, for emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

6. There must be means for two-way voice communications between the crewmembers on the flight deck and the occupants of the crew rest compartment. There must also be two-way communications between the occupants of the crew rest compartment and each flight attendant station required to have a public address system microphone per § 25.1423(g) in the passenger cabin.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a public address or crew interphone system would be acceptable, providing an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for a period of at least ten minutes.

8. There must be a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. In the event there are no seats, at least one means must be provided to cover anticipated turbulence. Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. The following equipment must be provided in the crew rest compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) One protective breathing equipment device approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting; and

(c) One flashlight.

10. A smoke detection system (or systems) must be provided that monitors each area within the crew rest including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crewmembers or passengers. The means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers must dissipate within five minutes after closing the access to the crew rest compartment. Flight tests must be conducted to show compliance with this requirement.

If a built-in fire extinguishing system is used in lieu of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew; the system must have adequate capacity to suppress any fire occurring in the crew rest compartment, considering the fire threat, volume of the compartment and the ventilation rate.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide an aural and visual warning to warn the occupants of the crew rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously until a reset push button in the crew rest compartment is depressed.

14. The following requirements apply to a crew rest compartment that is divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. A minimum of two supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the overhead crew rest compartment into small sections. The placard must require that the curtain(s) remain open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private area and, therefore, does not require a placard.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Emergency alarm system (Special Condition No. 7),

(4) Seat belt fasten signal (Special Condition No. 8), and

(5) The smoke or fire detection system (Special Condition No. 10).

(d) Overhead crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of 25.812(b)(1)(i).

(e) Sections within an overhead crew rest compartment that are created by the installation of a rigid partition with a door physically separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of 25.812(b)(1)(i) that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(f) For each smaller section within the main crew rest compartment created by the installation of a partition with a door, the following requirements of these special conditions must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Two-way voice communication (Special Condition No. 6),

(4) Emergency alarm system (Special Condition No. 7),

(5) Seat belt fasten signal (Special Condition No. 8),

(6) Emergency fire fighting and protective equipment (Special Condition No. 9), and

(7) Smoke or fire detection system (Special Condition No. 10).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of 25.853(a), as amended by Amendment 25–83. Mattresses must comply with the flammability requirements of 25.853(c), as amended by Amendment 25–83.

Issued in Renton, Washington on September 17, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23785 Filed 9–21–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[SPATS No. IA–012–FOR]

Iowa Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Iowa proposes revisions to its April 1999 revegetation success guidelines concerning normal husbandry practices; minimum planting arrangements and tree and shrub stocking requirements for recreational, wildlife, and forested lands; and criteria for dry weight determinations for corn, soybean, oat, and wheat crops. Iowa intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Iowa program and the proposed amendment to that program are available for public inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., October 24, 2001. If requested, we will hold a public hearing on the amendment on October 19, 2001. We will accept

requests to speak at the hearing until 4 p.m., c.d.t. on October 9, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to John W. Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Iowa program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

John W. Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463–6460.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa 50319, Telephone: (515) 281–6147.

FOR FURTHER INFORMATION CONTACT: John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463–6460. Internet: jcoleman@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the Iowa program on January 21, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

II. Description of the Proposed Amendment

By letter dated August 17, 2001 (Administrative Record No. IA–446), Iowa sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Iowa sent the amendment in response to required program amendments at 30 CFR 915.16(b), (d), and (e). Iowa is proposing changes to its April 1999 revegetation success guidelines, entitled "Revegetation Success Standards and Statistically Valid Sampling Techniques." Below is a summary of the changes proposed by Iowa. The full text of the Iowa program amendment is available for public inspection at the locations listed above under **ADDRESSES**.

A. Normal Husbandry Practices

Section III, Part H of Iowa's April 1999 revegetation success guidelines describes normal husbandry practices that can be used by the permittee in the repair of rills and gullies without restarting the responsibility period. It includes requirements for terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing and interseeding. In our final rule dated November 26, 1999, we did not approve Section III, Part H because Iowa did not submit documentation that demonstrated that the proposed normal husbandry practices were the usual or expected state, form, amount, or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resources on similar unmined lands in the State (64 FR 66388–66389). We required Iowa to either remove its guidelines for normal husbandry practices at Section III, Part H or submit documentation that support the proposed normal husbandry practices. We codified this requirement at 30 CFR 915.16(b).

In response to the required program amendment at 30 CFR 915.16(b), Iowa proposed changes to Section III, Part H of its April 1999 revegetation success guidelines and included documentation for support of the proposed normal husbandry practices. The documentation included copies of four publications: (1) Iowa Natural Resources Conservation Service (NRCS) Conservation Practice Standard 466, Land Smoothing; (2) Iowa NRCS Conservation Practice Standard 590, Nutrient Management; (3) Iowa NRCS Conservation Practice Standard 600, Terraces; and (4) Iowa State University Extension Service Publication Pm-1097, Interseeding and No-till Pasture Renovation.

Iowa is proposing the following substantive changes to Section III, Part H:

1. Iowa is revising Section III, Part H, Step 1 concerning terrace repair and maintenance by removing Item (e). Item (e) allows the extension of a terrace to intercept additional drainage area when the extension is no greater than 25 percent of the original terrace length. Items (f) and (g) were relettered as (e) and (f), respectively.

2. Iowa is revising Section III, Part H, Step 2 concerning riprap repair and maintenance by removing Item (b). Item (b) allows the extension of an undersized ditch when the extension is no more than a 25 percent increase in the length of the ditch. Items (c) and (d) were relettered as (b) and (c), respectively.

3. Iowa is revising Section III, Part H, Step 4(a) concerning lime applications. The revised provision reads as follows:

(a) Lime Applications: Lime applications may be made based on soil test recommendations for the appropriate crop or vegetation. These maintenance applications should follow the guidelines of Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management (Acre), Code 590. Prior to any lime applications the Permittee shall be required to submit, to the Division, the original copies of the soil test recommendations and a map of the permit area indicating where each soil sample was taken. Under no circumstances will lime applications greater than the soil test recommendations for that crop or vegetative cover be permitted. If subsequent submittals of lime weight tickets show any lime applications in a significant excess of the soil test recommendations, it shall be grounds for the Division to restart the responsibility period.

4. Iowa is revising Section III, Part H, Step 4(b) concerning fertilizer applications. The revised provision reads as follows:

(b) Fertilizer Applications: Fertilizer applications may be made based on soil test recommendations for the appropriate crop or vegetation. These maintenance applications should follow the guidelines of Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management (Acre), Code 590. Prior to any fertilizer applications the Permittee shall be required to submit, to the Division, the original copies of the soil test recommendations and a map of the permit area indicating where each soil sample was taken. Under no circumstances will the fertilizer applications be greater than the soil test recommendations for that crop (at a realistic median crop yield) or vegetative cover be permitted. If subsequent submittals of fertilizer weight tickets prove that any fertilizer applications were in significant excess of the soil test recommendations, that shall be grounds for the Division to restart the responsibility period.

5. Iowa is revising the introductory paragraph of Section III, Part H, Step 4(c) concerning interseeding by adding the following sentence to the end of the paragraph:

Any species to be interseeded must be approved by the Division before the seed is planted.

6. Iowa is revising Section III, Part H, Step 4(c)(ii) to read as follows:

(ii) Interseeding of a single species in the permit approved seeding mixture, or interseeding of a replacement species, that has been approved by the Division, to improve the vegetative cover when unfavorable weather conditions adversely affect the germination success of the original revegetation effort.

7. Finally Iowa is deleting the existing provisions at Section III, Part H, Step 4(c)(iv) and (v).

B. Recreational, Wildlife, and Forested Lands

Section IV, Part E of Iowa's April 1999 revegetation success guidelines contains the revegetation success standards for recreational areas, wildlife areas, and forested lands. In our final rule dated November 26, 1999, we approved Section IV, Part E with two exceptions (64 FR 66388). First, Iowa's guidelines did not contain any planting arrangement provisions for these land uses as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Second, Iowa did not submit any documentation to prove that the State agencies responsible for the administration of forestry and wildlife programs approved its minimum stocking provisions as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We required Iowa to either add planting arrangement provisions for recreational, wildlife, and forested land to its guidelines and obtain program-wide concurrence from the State agencies responsible for the administration of forestry and wildlife programs or add a provision to its guidelines that requires permit-specific concurrence for planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs. We also required Iowa to either obtain program-wide concurrence for its minimum stocking provisions or add a provision to its guidelines that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs. We codified these requirements at 30 CFR 915.16(d)(1) and (2).

Iowa is proposing the following changes to Section IV, Part E to address our required program amendments at 30 CFR 915.16(d)(1) and (2).

1. Iowa is adding the following new provision to the beginning of the second paragraph of Section IV, Part E:

The wildlife and recreational lands have site specific vegetation. Each permit with these types of post-mining land use have been approved by the Division in concurrence with the Iowa Department of Natural Resources.

2. Iowa is adding the following new provision to Section IV, Part E, Step 2:

2. Tree and Shrub Stocking Requirements: The tree and shrub planting shall be spaced such that there are a minimum of five hundred (500) seedlings per acre. Acceptable tree and shrub spacing, which will meet or exceed the minimum number of seedlings per acre, are listed below. Narrower spacing is used for timber production. Wider spacing and planting in groups or clumps is used for wildlife and recreational tree and shrub plantings. These group or clump plantings should consist of a minimum of five (5) or more trees, and fifteen (15) or more shrubs per group.

TREE AND SHRUB SPACING FOR PLANTING

Spacing in feet	Number of seedlings per acre
5 x 5	1,742
5 x 10	871
6 x 6	1,210
6 x 10	726
7 x 7	889
7 x 10	622
8 x 8	681
8 x 10	545

3. The existing provisions in Section IV, Part E, Step 2 were renumbered to Step 3.

C. Corn, Soybean, Oat, and Wheat Crops

Section V of Iowa's April 1999 revegetation success guidelines contains sampling procedures and techniques to determine productivity for corn, soybeans, oats, wheat, and forage crops; to determine ground cover percentage; and to determine if trees and shrubs meet minimum density standards. In our final rule dated November 26, 1999, we approved Section V of Iowa's April 1999 revegetation success guidelines with one exception (64 FR 66388). We did not fully approve Section V, Part A, Item 2, which contains the grain sampling techniques for test plot harvesting, because it did not specify how the permittee is to obtain the dry weight of the test plot grain samples. The dry weight is used in a calculation to determine the moisture percentage for each test plot sample. We required Iowa to revise its April 1999 revegetation success guidelines at Section V, Part A, Step 2 by adding a provision that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples. We codified this requirement at 30 CFR 915.16(e).

In response to the required amendment at 30 CFR 915.16(e), Iowa is adding the following new provision to the beginning of Step 2(l):

(l) The grain samples collected and labeled in Step 2.g. above must be oven dried until a constant dry weight is obtained. Weighing will be performed immediately after oven drying to avoid absorption of water from humid air. This dry weight will equal zero percent (0%) moisture. All samples will be adjusted to the appropriate percent moisture for that grain.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Iowa program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. IA–012–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Mid-Continent Regional Coordinating Center at (618) 463–6460.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Mid-Continent Regional Coordinating Center (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We

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will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 9, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 30, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–23732 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK23

Renouncement of Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulation concerning the renouncement of benefits. A substantive change in the effective date of a renouncement is proposed. The intended effect of this amendment is to present the existing regulation in plain language so that it is easier to understand and to establish a rule for the effective date of a renouncement of benefits when the award is in suspense.

DATES: Comments must be received on or before November 23, 2001.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC, 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov*. Comments should indicate that they are submitted in response to "RIN 2900-AK23." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC, 20420. Telephone: (202) 273–7228 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA proposes to rewrite 38 CFR 3.106 in plain language. This regulation concerns the renouncement of VA pension, compensation, or dependency and indemnity compensation (DIC) benefits. It explains who has the right to renounce benefits, how to renounce benefits, and what renouncement will mean to a beneficiary. There is also a discussion about the right to reapply for benefits that have been renounced, as well as effective dates for the termination of renounced benefits. The current regulation is located in Subpart A of Part 3. We propose to create new § 3.2145 to restate the current regulation and to amend the effective date portion of it. The new section would be located in Subpart D—Universal Adjudication Rules that Apply to Benefit Claims Governed by part 3 of this title.

Paragraph (a)(1) of proposed new § 3.2145 informs readers that only primary beneficiaries have the right to renounce VA pension, compensation, or DIC benefits, and the term "primary beneficiary" is defined as anyone who is entitled to receive benefits in his or her own right. It explains that when a primary beneficiary decides to renounce his or her benefits, the entire benefit is renounced, not just a portion of it. The renouncement must be in writing and be signed by the primary beneficiary or his or her fiduciary. This language was added to clarify that fiduciaries may sign renouncements on behalf of minors and incompetents. The effective date of the renouncement will be the last day of the month in which VA receives it or, if the award is in suspense, the date of last payment. This is a restatement of § 3.106(a), except for the last sentence. The last sentence incorporates our proposed effective date change to the regulation by adding "or, if payments have been suspended, the date of last payment."

Prior to January 21, 1992, the effective date for renouncement under 38 CFR 3.106 was the date of last payment. The date of last payment is the last date that VA sent a beneficiary his or her regular monthly benefit payment. However, using the date of last payment created a problem due to workload differences among regional offices, as well as fluctuations within the same office. This often resulted in the termination of two beneficiaries' benefit payments on different dates even though VA had received both beneficiaries' renouncements on the same date. For example, VA receives two renouncements from two beneficiaries on April 19th. Both beneficiaries were last paid on April 1. One renouncement gets processed immediately. That beneficiary's benefits are renounced effective April 1st, the date of last payment, and no more payments are made. The other renouncement isn't processed for two weeks. That beneficiary's May 1st benefit payment has already been issued. Now the date of last payment is May 1st and that is when the renouncement becomes effective. The result is an additional payment sent to a beneficiary who wanted to terminate benefits immediately.

On January 21, 1992, the effective date for a renouncement was changed from the date of last payment to the last day of the month in which the renouncement was received. This eliminated the problem illustrated by the example in the preceding paragraph. However, it did not take into account beneficiaries whose awards were already in suspense when their renouncements were received.

VA proposes to add "or, if payments have been suspended, the date of last payment" to the existing regulation to avoid sending additional payments to a beneficiary who wants to terminate his or her benefits immediately, but currently has an award in suspended status. If a beneficiary has an award that has been suspended, it means that he or she has not received any benefit payments for some length of time. Under normal circumstances when VA is able to resume a beneficiary's suspended award, those payments that are due but not yet paid would be released to the beneficiary. In the case of renouncement, however, releasing those payments to a beneficiary seeking to terminate benefits would be inconsistent with the expressed desire of the beneficiary to stop receiving benefits. The proposed wording for paragraph (a) of § 3.2145 would make sure that beneficiaries who renounce their rights to receive VA benefits are not sent any additional benefit payments.

Paragraph (a)(2) of proposed § 3.2145 has been added to clearly state that apportionees and dependents on the awards of other persons are not primary beneficiaries and may not renounce benefits.

Paragraph (b) of proposed § 3.2145 explains that a primary beneficiary who renounces the right to receive VA benefits may reapply for the same benefit at any time. VA will treat the new application as the first claim for that benefit, and no payments may be made for any period prior to its receipt (except as noted in paragraph (c) of this section). This is a restatement of § 3.106(b).

Paragraph (c) of proposed § 3.2145 states the exception to paragraph (b), which concerns reapplication for pension or parents' DIC benefits. When an application for one of these benefits

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is received within one year from the date a renouncement of the same benefit was received, it will not be considered a new application. VA will determine entitlement as if the renouncement had never been received. This is a restatement of § 3.106(c).

Paragraph (d) of proposed § 3.2145 clarifies that renouncement by a primary beneficiary does not increase benefits or create independent entitlement to benefits in any other person. While current § 3.106(d) and (e) address this issue with respect to DIC only, the proposed paragraph (d) makes clear that renouncement has the same affect on compensation and pension as well.

This rulemaking reflects VA's goal of making government more responsive, accessible, and comprehensible to the public. The Plain Language Regulations Project was developed as a long-term comprehensive project to reorganize and rewrite in plain language the adjudication regulations in Part 3 of Title 38, Code of Federal Regulations. This proposed rule is part of a series of proposed revisions to those regulations.

Unfunded Mandates

The Unfunded Mandates Reform Act, Public Law 104–4, March 22, 1995, requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This proposed rule would have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule does not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers for this proposal are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability Benefits, Health care, Pensions, Veterans, Vietnam.

Approved: March 26, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR Part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for Part 3, Subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.106 [Removed]

2. Section 3.106 is removed.

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

3. The authority citation for part 3, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

4. New § 3.2145 is added under the undesignated center heading GENERAL to read as follows:

§ 3.2145 Can I voluntarily give up my VA benefits?

(a)(1) Only a primary beneficiary may renounce (give up) the right to receive VA pension, compensation, or dependency and indemnity compensation (DIC) benefits. A primary beneficiary is anyone who is entitled to receive benefits in his or her own right. The renouncement of the right to receive benefits must be in writing and must be signed by the primary beneficiary or his or her fiduciary. No specific form is required to do so. Any renouncement must be for the entire benefit, not just a portion of it. VA will stop the renounced benefit payments effective the last day of the month in which the renouncement is received or, if payments have been suspended, the date of last payment.

(2) Apportionees and dependents on a primary beneficiary's award may not renounce benefits.

(b) A primary beneficiary who renounces the right to receive a VA benefit may reapply for the same benefit at any time. Except as provided in paragraph (c) of this section, VA will treat the new application as an original claim for that benefit. No payments may be made for any period prior to the receipt of the new application.

(c) If a former primary beneficiary reapplies for pension or parents' DIC within one year of renouncing the same benefit, then VA will determine entitlement as if the renouncement had never been received.

(d) The renouncement of benefits by a primary beneficiary does not increase benefits or create independent entitlement to benefits for any other person.

(Authority: 38 U.S.C. 5306)

[FR Doc. 01–23801 Filed 9–21–01; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Production, Distribution, and Use of Postage Meters (Postage Evidencing Systems) and Postal Security Devices

AGENCY: Postal Service.

ACTION: Extension of comment period.

SUMMARY: The Postal Service published a proposed rule for public comment in the **Federal Register** (66 FR 42820–42831) on August 15, 2001. Comments were due September 14, 2001. The comment period is hereby extended until September 25, 2001.

DATES: The Postal Service must receive your comments on or before September 25, 2001. No additional extensions on the comment period will be granted.

ADDRESSES: Mail or deliver written comments to the Manager, Postage Technology Management, 1735 N Lynn Street, Room 5011, Arlington, VA 22209–6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James Luff, 703–292–3693.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–23800 Filed 9–19–01; 4:46 pm]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ48–229, FRL–7057–7]

Approval and Promulgation of Implementation Plans; New Jersey Reasonably Available Control Measure Analysis and Additional Ozone Control Measures

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a June 18, 2001 New Jersey State Implementation Plan (SIP) revision involving the State's one-hour Ozone Plan which is intended to meet two requirements: an analysis of Reasonably Available Control Measures and the need for additional emission reductions in order to attain the one-hour national ambient air quality standard for ozone. The SIP revision applies to the New Jersey portions of two severe ozone nonattainment areas—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. The intended effect of this action is to propose approval of programs required by the Clean Air Act.

DATES: Comments must be received on or before October 24, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New Jersey submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan of the Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. Overview
A. What action is EPA taking today?
B. What did New Jersey submit?
II. Reasonably Available Control Measure (RACM) Analysis
A. What are the requirements for RACM Technology?
B. How does the State analysis address the RACM requirement?
1. Consideration and Implementation of Transportation Control Measures (TCMs).
2. Consideration and Implementation of Stationary Source, Area Source, and other non-TCM Measures.
3. Results of RACM Analysis.
III. Additional Ozone Control Measures
A. Why additional emission reductions are needed?
B. What control measures will New Jersey propose?
C. What other efforts is New Jersey pursuing?
IV. Conclusions
V. Administrative Requirements

I. Overview

A. What Action Is EPA Taking Today?

EPA is proposing approval of a June 18, 2001 New Jersey SIP submittal which includes: an analysis of Reasonably Available Control Measures (RACM) and the identification of the additional emission reductions needed to attain the one-hour national ambient air quality standard for ozone. After reviewing the SIP revision and considering it in light of EPA policy and guidance, EPA concludes that the emission reductions from the potential RACM measures will not advance the one-hour ozone attainment date and thus there are no additional potential RACM measures that can be considered RACM for New Jersey's two severe one-hour ozone nonattainment areas.

With respect to additional control measures designed to meet the one-hour ozone standard, New Jersey has identified the regional model rules developed by the Ozone Transport Commission as those which the State will be pursuing rulemaking for and which should result in sufficient emission reductions to achieve the reductions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) needed to attain the one-hour ozone standard. New Jersey will be taking actions to adopt these measures separately from this SIP revision.

The submittal also includes an assessment of the progress New Jersey has made in attaining the one-hour ozone standard. The assessment shows a continued downward trend in both the number of violations of the standard and the measured ozone concentrations. While New Jersey submitted this SIP revision to fulfill its commitment to provide a mid-course review of its attainment status, EPA has determined that several more years of monitored data and implementation of the Regional NO_X Program are needed before a true mid-course review of the attainment demonstration can be made. Therefore, EPA is not acting on the mid-course review at this time and expects New Jersey to supplement the existing analysis after further emission reductions have accrued.

B. What Did New Jersey Submit?

On June 18, 2001, New Jersey submitted the proposed revision to the SIP entitled "Update to Meeting the Requirements of the Alternate Ozone Attainment Demonstration Policy: Additional Emission Reductions, Reasonably Available Control Measures (RACM) Analysis, and Mid-Course Review," and requested that EPA process the SIP revision in parallel with its administrative process. New Jersey held a public hearing on July 26, 2001 and is evaluating the comments that were received.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New Jersey and submitted formally to EPA for incorporation into the SIP.

This submittal applies to the New Jersey portions of two severe ozone nonattainment areas—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For purposes of this action these areas will be referred to, respectively, as the Northern New Jersey ozone nonattainment area (NAA) and the Trenton ozone NAA. The counties located within the Northern New Jersey NAA are: Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, and Union. The counties within the Trenton NAA are: Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem.

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II. Reasonably Available Control Measure (RACM) Analysis

A. What Are the Requirements for RACM Technology?

Section 172(c)(1) of the Act requires SIPs to contain RACM as necessary to provide for attainment as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). See the "General Preamble for Implementation of Title I of the CAAA of 1990" (General Preamble), 57 FR 13498, 13560. In that preamble, EPA stated that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA also indicated in the General Preamble that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, the General Preamble indicates that states should provide in the SIP submittals a discussion of whether the measures considered are reasonably available or not. If the measures are reasonably available, they must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM either because they would not advance the attainment date or would cause substantial widespread and long-term adverse impacts. States could also consider local conditions, such as economics or implementation concerns, in rejecting potential RACM. On November 30, 1999, John S. Seitz, Director, Office of Air Quality Planning and Standards, issued a memorandum on this topic, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas' which reiterated the CAA RACM requirements and elaborated on the General Preamble.

B. How Does the State Analysis Address the RACM Requirement?

New Jersey performed a RACM analysis which included an evaluation of potential transportation control measures (TCMs) for onroad mobile sources, potential control measures for point, area and offroad sources, and other non-TCM onroad control measures. New Jersey ranked the source categories by emission level to identify source categories with the greatest potential for additional control measure benefits. Individual measures were then evaluated with regard to their technical feasibility, economic feasibility and the speed at which they could be implemented. Finally, the sums of the estimated emissions benefits from the potentially implementable measures were then compared to the emission reductions required to advance the attainment dates for each nonattainment area. This analysis was performed for the New Jersey portions of the two severe nonattainment areas, the Trenton NAA and the Northern New Jersey NAA.

1. Consideration and Implementation of Transportation Control Measures (TCMs)

The New Jersey Department of Environmental Protection (NJDEP) examined 15 prospective mobile source measures to determine if any of these TCMs could be considered reasonably available control measures. The measures considered for this RACM analysis were identified by the New Jersey Department of Transportation in consultation with NJDEP. New Jersey initially screened the candidate measures to determine if they were available for potential implementation, and then each measure analyzed for its potential emissions reduction benefit, economic impact, practicability and potential adverse impact. New Jersey analyzed each prospective emission control measure for each nonattainment area.

The mobile source measures the State analyzed can be grouped into the following five categories; Travel Demand Management and Commuter Choice, Transportation Pricing Strategies and Scenarios, Traffic Flow Improvements, Transit Projects and Transit Oriented Design and Vehicle Fuel and Technology. The State also examined two non-mobile source land use related measures which have the potential to reduce vehicle miles traveled and vehicle emissions.

The State's analysis found that none of the TCM's, singularly or in combination, will yield emissions benefits sufficient to advance the attainment dates for the respective New Jersey ozone nonattainment areas. The range of combined emissions benefits from VOC and NO_X was 0.0 tons/day to 2.054 tons/day in the New Jersey portion of the Northern New Jersey NAA and from 0.0 tons/day to 1.10 tons/day in the New Jersey portion of the Trenton NAA. In addition, the State also found that implementing certain measures is not cost effective. These TCMs are not reasonably available at this time, nor may they be able to generate significant emission reductions by the attainment date. However, over a longer period some of them may prove to be reasonable, particularly with respect to an eight-hour ozone standard with an attainment date further into the future.

Two land use measures were also reviewed and evaluated for their potential impact to reduce vehicle miles traveled and emissions. The measures were developed to achieve other State goals and include the statewide programs: Open Space Preservation Program in which the State commits to preserving 1,000,000 acres of open space over a ten-year period, and New Development and Redevelopment Plan which is based on "smart growth" principles.

The estimated emissions benefits in 2006 for the Open Space Preservation Program are approximately 0.11 tons per/day of VOCs and NO_X with an estimated cost per ton of $1.78 million. However, it is important to note that this program would provide many other environmental and public benefits and costs should not be judged on air quality alone. This 10 year program can not be phased in faster and fully implemented by the attainment date for the two NAAs. Thus, it is not anticipated to advance the attainment dates in the New Jersey NAAs.

The estimated emissions benefits in 2006 for the State Development and Redevelopment Plan are approximately 0.452 ton per/day of VOCs and NO_X. The cost per ton was not quantifiable in the scope of this analysis. In addition, the State plan is a voluntary plan and has no force of law under municipal home rule. This limits EPA's ability to enforce such a program as part of a SIP. Like the Open Space Preservation Program, this program would provide many other environmental and public benefits and costs should not be judged on air quality alone. Furthermore, long lead times would be required before this measure could be effective on a regional scale and it is not anticipated to advance the attainment dates in the New Jersey nonattainment areas.

2. Consideration and Implementation of Stationary Source, Area Source, and Other Non-TCM Measures

The NJDEP sorted the projected attainment year VOC and NO_X emission inventories (2005 for the Trenton NAA and 2007 for the Northern New Jersey NAA) by size of each source category for each nonattainment area. Considering VOC and NO_X emissions separately, New Jersey examined all source categories with emissions of 5 tons per day or greater for potential application of new control measures. NJDEP evaluated 29 VOC source categories and 25 NO_X source categories. The analysis for feasibility of potential controls for each source category included evaluation of the potential emissions reduction benefit, technical and economic feasibility, and analysis of whether the measure could be implemented in time to advance the attainment date. New Jersey analyzed the prospective emission control measures for each nonattainment area.

3. Results of RACM Analysis

New Jersey identified six potentially implementable control measures which have a combined potential emission reduction benefit of 2.2 tons per day of VOC and 0.4 tons per day of NO_X in 2004 for the Trenton NAA and 7.3 tons per day of VOC and 3.3 tons per day of NO_X in 2006 for the Northern New Jersey NAA. In order to assess whether these emission reductions would advance the attainment date for each area, New Jersey compared these potential emission reductions to the emission reductions which are projected to occur in New Jersey in the year before the attainment year from the adopted control measures and the additional control measures identified in this SIP revision, (i.e, compare these reductions to the reductions projected for 2004 for the Trenton NAA and reductions projected for 2006 for the Northern New Jersey NAA). For both nonattainment areas, the combined benefit from all the potential control measures is less than the emission reductions which will be occurring in the year before the attainment year. Therefore, no TCM or other measure, either singularly or combined, has been identified which could advance the attainment dates of either area and be considered RACM.

EPA has reviewed the RACM analysis and finds that the documentation New Jersey provided supports the State's conclusions. New Jersey evaluated all source categories that could contribute meaningful emission reductions. An extensive list of potential control measures was identified and reviewed. The State considered the time needed to implement these measures as a further screen of their reasonableness and availability. However, EPA believes that some of these control measures may offer some benefits in the future for purposes of an eight-hour ozone standard, and recommends that New Jersey and other states in the OTR revisit these controls in the context of any future planning obligations.

Therefore, EPA is proposing to approve New Jersey's RACM analysis and to determine that there are no individual or combined measures that are technically and economically feasible and that would advance the one-hour ozone attainment dates for the two severe nonattainment areas in New Jersey.

III. Additional Ozone Control Measures

A. Why Additional Emission Reductions Are Needed?

When EPA evaluated New Jersey's one-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the two severe nonattainment areas in order to attain the one-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). The table below identifies the additional emission reductions needed for the two nonattainment areas.

TABLE 1.—EPA IDENTIFIED ADDITIONAL EMISSION REDUCTIONS

Nonattainment area	Additional required emission reductions (tons per day)	
	VOC	NO_X
Philadelphia, Wilmington, Trenton	62	3
New York, Northern New Jersey, Long Island	85	7

EPA provided that the States in the OTR could achieve these emission reductions through regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort. New Jersey has been an active participant in the OTC's process of developing regional control strategies that would achieve the necessary additional reductions to attain the one-hour ozone standard.

B. What Control Measures Will New Jersey Propose?

New Jersey has decided to proceed with State rulemaking efforts for the source categories for which the OTC developed model rules. This includes the following source categories:

VOC Control Measures

Commercial and consumer products,
Architectural and industrial maintenance coatings,
Solvent cleaning operations,
Mobile equipment repair and refinishing operations, and
Portable fuel containers.

NO_X Control Measures

Industrial boilers,
Stationary combustion turbines, and
Stationary internal combustion engines.

New Jersey will be proposing rules for these source categories in separate rulemakings and taking public comment on the actual regulations and the basis and background which support the regulations. The purpose of this portion of the SIP submittal is to provide information in advance of New Jersey's rulemaking as to which source categories will be proposed and to provide a projection of the emission benefits from these proposed control measures. The State also provided evidence that the cumulative benefit from these measures will be sufficient to meet the additional emission reductions EPA identified as being needed to insure attainment of the one-hour ozone standard in the multi-state nonattainment areas. EPA will evaluate whether the adopted measures meet the shortfall at the time it evaluates the submitted measures as SIP revisions.

Applying OTC model rule's projected emission reductions to the VOC and NO_X inventories, the State has determined and EPA agrees that the entire New York, Northern New Jersey, Long Island Area NAA will have sufficient emission reductions in both VOC and NO_X to attain the one-hour ozone standard. In the Philadelphia, Wilmington, Trenton NAA, excess NO_X emission reductions will need to be substituted for VOC reductions in order to achieve the VOC emission reduction target. Implementation of the OTC measures statewide will result in additional emission reductions that will be beneficial towards attaining the ozone standard in the Philadelphia, Wilmington, Trenton NAA. See Table 2 for estimated emission reductions and required additional emission reductions for the entire nonattainment area.

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TABLE 2.—ESTIMATED EMISSION REDUCTIONS FROM THE PROPOSED CONTROL MEASURES

Control measure	Philadelphia, Wilmington, Trenton NAA		New York, Northern New Jersey, Long Island Area NAA	
	VOC (tpd)	NO_x	VOC (tpd)	NO_x (tpd)
Commercial and Consumer Products	9	.....	26	.....
Architectural and Industrial Maintenance Coatings	19	.....	42	.....
Solvent Cleaning Operations	20	.....	7	.....
Mobile Equipment Repair and Refinishing Operations	6	.....	20	.....
Portable Fuel Containers	5	.....	25	.....
Selected Stationary Sources of NO_x Reductions	.....	6	.....	22
Total Projected Reductions	59	6	120	22
Needed Reductions	62	3	85	7

C. What Other Efforts Is New Jersey Pursuing?

New Jersey is pursuing three additional strategies: applying the OTC model rules to the three attaining counties in New Jersey, heavy duty diesel engine compliance assurance requirements, and more stringent requirements for gasoline transfer operations.

IV. Conclusions

EPA is proposing to approve New Jersey's RACM analysis along with it's conclusions that there are no additional control measures available that are technically or economically feasible and that whose emission reductions would advance the attainment dates of 2005 for the Trenton NAA or 2007 for the Northern New Jersey NAA. EPA finds that the additional control measures that New Jersey will be proposing, coupled with those to be implemented by other states in the nonattainment area, should result in sufficient additional emission reductions to attain the one-hour ozone standard by 2005 for the Trenton NAA and 2007 for the Northern New Jersey NAA. However, EPA will evaluate the measures and associated emission reductions at the time they are submitted as a SIP revision.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves State law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 10, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–23220 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–104–1–7401b; FRL–7063–3]

Approval and Promulgation of Implementation Plans; Texas; Revisions to General Rules and Regulations for Control of Air Pollution by Permits for New Sources and Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to take direct final action to approve revisions of the Texas State Implementation Plan (SIP). Specifically, EPA is approving revisions to regulations of the Texas Natural Resource Conservation Commission (TNRCC) which relate to definitions in Texas' general rules and to regulations relating to the permitting of new sources and modifications. The revisions that EPA is approving in this action are to recodify several provisions of the existing SIP without substantive changes and approve provisions for permit alterations which will strengthen the SIP as it pertains to the permitting of new and modified sources. Approval of these revisions will bring the federally-approved SIP which pertains to the permitting of new and modified sources more closely in line with Texas' existing program. This action will better serve the State, the public, and the regulated community by making the approved SIP more closely match the rules that Texas currently implements. The approval of these revisions is independent of, and will not adversely affect, other SIP actions that EPA and TNRCC are currently undertaking to ensure the attainment and maintenance of air quality in the Dallas-Fort Worth, Houston-Galveston, and Beaumont-Port Arthur regions of Texas. The EPA is approving revisions which Texas submitted in 1998 to the extent that they are equivalent to revisions that Texas previously submitted in 1993. The EPA is taking no action on certain provisions which relate to emissions reduction credits and offsets, permit exemptions, permit renewals, and emergency orders, which are not in the current SIP and for reasons discussed in the direct final action.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by October 24, 2001.

ADDRESSES: Please address written comments on this action to Ms. Jole C. Luehrs, Chief, Air Permits Section, Attention: Stanley M. Spruiell, at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

EPA, Region 6, Air Permits Section (6PD-R), 1445 Ross Avenue, Dallas, Texas 75202–2733.

TNRCC, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell of the Air Permits Section at (214) 665–7212, or at *spruiell.stanley@epa.gov*.

SUPPLEMENTARY INFORMATION: This document concerns revisions to regulations of TNRCC which relate to definitions in Texas' general rules and to regulations relating to the permitting of new sources and modifications. For further information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 12, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–23625 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7064–2]

Clean Air Act Final Approval of Operating Permits Program; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes full approval of the Clean Air Act operating permit program submitted by the State of New Hampshire. In the Final Rules Section of this **Federal Register**, EPA is approving the New Hampshire Operating Permit Program as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments in response to this action, we contemplate no further activity. If EPA receives relevant adverse comments, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATE: Comments must be received on or before October 24, 2001.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal, and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, (617) 918–1653.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: September 14, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 01–23764 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2161, MM Docket No. 01–245 , RM–10235]

Digital Television Broadcast Service; Lufkin, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Civic License Holding Company, Inc., licensee of station KTRE(TV), NTSC channel 9, Lufkin, Texas, proposing the substitution of DTV channel 11 for DTV channel 43 at Lufkin. DTV Channel 11 can be allotted to Lufkin, Texas, in compliance with the principle community coverage requirements of

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Section 73.625(a) at reference coordinates (31–25–09 N. and 94–48–03 W.). As requested, we propose to allot DTV Channel 11 to Lufkin with a power of 9.25 and a height above average terrain (HAAT) of 204 meters.

DATES: Comments must be filed on or before November 13, 2001, and reply comments on or before November 28, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, NW, Suite 800, Washington, DC 20036–6802 (Counsel for Civic License Holding Company, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–245, adopted September 14, 2001, and released September 19, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 43 and adding DTV Channel 11 at Lufkin.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23710 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2160, MM Docket No. 01–244, RM–10234]

Digital Television Broadcast Service; Tyler, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Civic License Holding Company, Inc., licensee of station KLTV(TV), NTSC channel 7, Tyler, Texas, requesting the substitution of DTV channel 10 for DTV channel 38. DTV Channel 10 can be allotted to Tyler, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (32–32–23 N. and 95–13–12 W.). As requested, we propose to allot DTV Channel 10 to Tyler with a power of 7.0 and a height above average terrain (HAAT) of 302 meters.

DATES: Comments must be filed on or before November 13, 2001, and reply comments on or before November 28, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Washington, DC 20036–6802 (Counsel for Civic License Holding Company, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–244, adopted September 14, 2001, and released September 19, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 38 and adding DTV Channel 10 at Tyler.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–23709 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1111

[STB Ex Parte No. 586]

Arbitration—Various Matters Relating to Its Use as an Effective Means of Resolving Disputes That Are Subject to the Board's Jurisdiction

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is instituting this proceeding to address various matters relating to arbitration of disputes in lieu of Board adjudication. The Board is proposing to: Update the Board's files regarding qualified arbitrators that are available to handle the types of disputes that could be brought to arbitration under the Board's existing rules at 49 CFR 1108; establish a requirement that a formal complaint include a statement that the complainant has considered arbitration but either decided against it or could not obtain the agreement of the other parties to the dispute; and solicit public comments, in order to assist Congress, by providing a record on whether binding arbitration should be legislatively prescribed for small rate disputes.

DATES: An original and 10 copies of written comments are due by November 23, 2001, and an original and 10 copies of replies are due December 24, 2001. In addition, parties must submit to the Board, on 3.5-inch IBM-compatible floppy diskettes (in, or convertible by and into, Word Perfect 9.0 format) an electronic copy of their comments, including any graphics. The diskettes shall be clearly labeled with the filer's name and the docket number, STB Ex Parte No. 586. Any party may seek a waiver from the electronic submission requirements.[1]

Additionally, all interested qualified persons (those experienced in rail transportation or economic issues similar to those arising before the Board) who wish to be placed on a roster of arbitrators available to arbitrate disputes pursuant to 49 CFR 1108 (including those who previously submitted their names and qualifications in 1997, if they remain available) should submit (or, as relevant, resubmit) an original and 3 copies of their names and qualifications by November 8, 2001.

ADDRESSES: All pleadings, referring to STB Ex Parte No. 586, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. Copies of the written comments and replies will be available from the Board's contractor, Dā-2-Dā Legal, 1925 K Street, NW., Room 405, Washington, DC 20423–0001, phone (202) 293–7776. The comments and replies will also be available for viewing and self-copying in the Board's Microfilm unit, Room 755, and posted on the Board's Web site (*www.stb.dot.gov*).

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. (TDD for the hearing impaired: 1–800–877–8339).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the decision, write to, call, or pick up in person from Dā-2-Dā Legal. The decision is also posted on the Board's Web site at *www.stb.dot.gov*.

List of Subjects in 49 CFR Part 1111

Administrative practice and procedure.

Authority: 49 U.S.C. 721(a).

Decided: September 18, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1111 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 1111—[AMENDED]

1. The authority citation for 1111 continues to read as follows: 49 U.S.C. 721, 10704, and 11701.

2. In § 1111.1(a), paragraph (11) is added to read as follows:

§ 1111.1 Content of formal complaints; joinder.

* * * * *

(a) * * *

(11) For matters for which voluntary, binding arbitration is available pursuant to 49 CFR part 1108, the complaint shall state that arbitration was considered, but rejected, as a means of resolving the dispute.

* * * * *

[FR Doc. 01–23769 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

[1] Documents transmitted by facsimile (FAX) or electronic mail (e-mail) will not be accepted.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[I.D. 091701B]

American Lobster; Intent To Prepare an Environmental Impact Statement

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

SUMMARY: NMFS announces its intent to prepare an EIS to assess the impact on the human environment of potential management measures for the American lobster fishery in the U.S. Exclusive Economic Zone (EEZ). This NOI requests public input in the form of written comments regarding issues that NMFS should address in the EIS relative to Addendum II to Amendment 3 of the Interstate Fishery Management Plan for American lobster (ISFMP).

DATES: Written comments on the intent to prepare the EIS must be received no later than 5 p.m. Eastern Standard Time on or before October 24, 2001.

ADDRESSES: Written Comments should be sent to Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281–9117. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Peter Burns, (978) 281–9144, fax (978) 281–9117, e-mail *peter.burns@noaagov*.

SUPPLEMENTARY INFORMATION: The fishery for American lobster takes place from North Carolina to Maine. More than 50 percent of American lobsters harvested are landed in Maine, with the balance landed mostly in or from Massachusetts, Rhode Island, Long Island Sound, and Georges Bank. Over 80 percent of the lobster harvest occurs in state waters, which extend from the coast to 3 nautical miles (5.56 km) from shore. The lobster fishery occurs year-round in the United States, including the summer and fall months when the lobsters are molting. Approximately 97 percent of lobsters are taken in lobster traps. The rest are taken in trawls, gillnets, dredges, and by divers.

Prior to December 1999, the American lobster resource was managed in state waters by the Atlantic States Marine

Fisheries Commission (ASMFC), and in Federal waters by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Acknowledging that approximately 80 percent of the American lobster harvest occurs in state waters, and in an effort to establish a more effective lobster management regime by enhancing interjurisdictional cooperation, NMFS issued a final rule in December 1999 (64 FR 68228) for the American lobster fishery. This action transferred authority for the management of the lobster resource in the EEZ from the Magnuson-Stevens Act to the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Consequently, NMFS has the authority under the ACFCMA to implement regulations in Federal waters that are compatible with the effective implementation of the ISFMP and consistent with the national standards of the Magnuson-Stevens Act. Such Federal regulations are promulgated pursuant to ACFCMA at 50 CFR part 697.

Amendment 3 of the ISFMP was approved by the ASMFC in December 1997 to achieve a healthy American lobster resource and to develop a management regime that provides for sustained harvest, maintains opportunities for participation, and provides for the cooperative development of conservation measures by all stakeholders. Following the May 2000 release of an updated peer-reviewed lobster stock assessment (ASMFC Stock Assessment Peer Review Report No. 00-01), which revised lobster egg production estimates and confirmed that overfishing of lobster stocks is occurring throughout the species range, the ASMFC developed Addendum II to Amendment 3 for implementing additional measures needed to rebuild American lobster stocks. Addendum II, approved in February 2001, establishes a revised egg production schedule to restore egg production in each lobster conservation management area (LCMA) to greater than the overfishing definition by the end of 2008. Measures under the addendum to help achieve this goal include a series of minimum gauge size increases and an increase in the minimum escape vent size of lobster trap gear fished in state and Federal waters of LCMA 2 (inshore Southern New England), LCMA 3 (offshore waters), LCMA 4 (inshore Northern Mid-Atlantic), LCMA 5 (inshore Southern Mid-Atlantic), and the Outer Cape Management Area, but not of LCMA 1 (Gulf of Maine) and LCMA 6 (Long Island Sound). The addendum also calls for a revised timeline for LCMA 3 lobster trap reductions, previously approved by the ASMFC under Addendum I. By approving Addendum II, the States have agreed to implement the first annual LCMA-specific gauge increases by December 31, 2001, and to implement the escape vent increase by 2003. In a letter dated February 13, 2001, the ASMFC recommended that NMFS implement complementary Federal measures for Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as of LCMA 3 (comprising entirely Federal waters).

Specifically, the minimum allowable harvest size of American lobster in state waters of LCMAs 2, 4, 5 and the Outer Cape is scheduled to increase from 3 1/4 inches (in) (8.26 cm) to 3 9/32 in (8.33 cm) in 2001, and to be increasing 1/32 in (0.08 cm) annually until 2004 to an ultimate minimum size of 3 3/8 in (8.57 cm). The ASMFC recommends that the gauge increases in Federal waters of LCMAs 2, 4, 5, and the Outer Cape, as well as of LCMA 3, follow this same schedule. If the egg production targets of the ISFMP have not been reached by 2004, ASMFC further recommends additional annual increases in LCMA 3 of 1/32 in (0.08 cm), until 2008, to an ultimate minimum size of 3 1/2 in (8.89 cm). The current minimum allowable harvest size for American lobster in all Federal waters is 3 1/4 in (8.26 cm).

Under Addendum II, states will require all lobster traps to have at least one rectangular escape vent measuring 2 in (5.08 cm) by 5 3/4 in (14.61 cm) per trap, or at least two circular escape vents per trap, measuring 2 1/2 in (6.35 cm) in diameter. The ASMFC recommends that Federal regulations implement these new lobster trap escape vent size requirements in Federal waters. At the current time, Federal regulations require that all lobster trap gear have a rectangular portal with an unobstructed opening not less than 1 15/16 in (4.92 cm) by 5 3/4 in (14.61 cm); or two circular portals with unobstructed openings not less than 2 7/16 in (6.19 cm) in diameter.

Also, Addendum II recommends that the lobster trap reduction schedule previously adopted by the ASMFC for LCMA 3 under Addendum I of Amendment 3 to the ISFMP be updated to account for the elapsed time between the two addenda. The updated LCMA 3 trap reduction schedule requires that each LCMA 3 trap allocation of greater than 1,200 lobster traps be reduced on a sliding scale basis over 4 years, not to fall below 1,200 lobster traps. LCMA 3 allocations of less than 1,200 lobster traps would remain at their initial qualifying level and not increase from that baseline number. No allocation would exceed 2,656 lobster traps during the first year of implementation. At the end of the fourth year, the maximum number of lobster traps allowed for any vessel would be 2,267. Under current Federal regulations, lobster trap fishing effort in LCMA 3 is restricted to a fixed maximum limit of 1,800 lobster traps per vessel. Implementation of the updated lobster trap reduction schedule for LCMA 3 is contingent upon Federal rulemaking procedures currently underway to address historical participation in the lobster trap fishery as recommended by the ASMFC in Addendum I.

Addendum II, furthermore, recommends that NMFS require LCMA 3 lobstermen to maintain vessel logs to record lobster harvest. Current Federal regulations do not require vessel logs. Another component of the addendum includes a review of management measures in all LCMAs, by June 2001, to determine whether other measures are needed to achieve ISFMP stock rebuilding objectives. Any adjustments would be adopted by ASMFC as a separate addendum by January 2002, at which time ASMFC may recommend further changes to Federal regulations.

NMFS published an advance notice of proposed rulemaking (ANPR) in the Federal Register on May 24, 2001, (66 FR 28727) to seek public comment on whether NMFS, under the ACFCMA, should implement Addendum II's revised egg production schedule in all EEZ areas throughout the range of the lobster resource and implement the associated management measures (gauge increases, modifications to lobster trap gear requirements and LCMA 3 lobster trap reduction schedule, and vessel log reporting requirement) in the Federal waters of the applicable LCMAs.

A total of 16 comments were received on or before the deadline in response to the ANPR, submitted by 15 individual lobster trap fishermen and 1 representative of a lobster fishermen's organization. Fifteen comments were received in favor of the recommended minimum gauge and escape vent size increases, one of which favored Area 3 gauge increases only up to a limit of 3 3/8". One commenter was opposed to any minimum gauge or escape vent size increases. Eleven commented that they support the implementation of an accelerated lobster trap reduction schedule for Area 3, but three fishermen supported the current 1,800 trap cap in Area 3, while still allowing only vessels that qualify under a historical participation effort reduction program to participate in the Area 3 trap fishery. Several of the comments emphasized

that the implementation of the Area 3 lobster trap reduction schedule is necessary in order to benefit the lobster resource, minimize gear conflicts, and decrease the chance of interactions between lobster gear and marine mammals. Fourteen of the comments received support the implementation of a mandatory logbook requirement in Area 3. Federal lobster permit holders will be affected by actions resulting from the subsequent EIS if regulations that restrict further the minimum legal size of lobster, implement a revised lobster trap reduction schedule for LCMA 3, increase the escape vent size, and require logbooks are promulgated. Accordingly, NMFS requests public input on these issues to assist in conducting a comprehensive assessment of the impacts of these and other associated measures to the human and natural environment in the EIS.

Authority: 16 U.S.C 5101 *et seq.*

Dated: September 18, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23793 Filed 9–21–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 185
Monday, September 24, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resources Management Plans for Angeles, Cleveland, Los Padres, and San Bernardino National Forests, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) in conjunction with the revision of the Land and Resources Management Plans (hereinafter referred to as Forest Plans) for the Angeles, Cleveland, Los Padres, and San Bernardino National Forests.

This notice describes the specific portions of the current Forest Plans to be revised, environmental topics to be considered in the revision, estimate dates for filing the environmental impact statement, information concerning public participation, and the names and addresses of the agency officials who can provide additional information.

The Forest Service intends to update Forest Plans that will describe how the four southern California National Forests will be managed. This coordinated process will achieve consistent management direction in a consistent format across the four Forests. There is a great deal of commonality among the four Forests in terms of the ecosystem types and management challenges. One Environmental Impact Statement (EIS) will be prepared with one Record of Decision (ROD) signed by the responsible official, the Regional Forester, Brad Powell.

BACKGROUND: In 1999, the Forest Supervisors determined that Forest Plan revisions were needed because significant changes had occurred in conditions and demands. For example, in 1989, there were seventeen species listed as threatened or endangered on the four southern California Forests. In 1999, there were fifty-nine listed species. At present, there are sixty-two listed species and one proposed for listing as threatened or endangered.

Between 1995 and 1999, the four southern California Forests initiated a large scale analysis of ongoing activities and their effects on species and habitat. In 1999 a comprehensive habitat conservation assessment, the Southern California Mountains and Foothills Assessment (SCFMA) was published. An interdisciplinary team, drawn from the four southern California National Forests and the Pacific Southwest Research Station, used the SCMFA and other forest documents to review how well the Forest Plans met the needs of threatened, endangered and sensitive (TES) species. The team's analysis, called the Province Forest Plan Monitoring and Evaluation Report (M&E Report), identified a number of areas where existing Forest Plans do not adequately protect TES species or provide direction necessary to sustain particular ecological communities. The M&E Report recommends revision of the Forest Plans and identifies some of the specific portions of the Forest Plans that need to be revised.

SUPPLEMENTARY INFORMATION:

Planning Regulations

A USDA Forest Service review of the November 9, 2000, planning rule identified concerns with the implementability of several provisions of the 2000 rule. There are also currently several lawsuits challenging the 2000 rule that may affect its implementation.

To address these problems, the Chief of the Forest Service started a process to revise the planning rule, with an anticipated schedule for the rule to be finalized in the spring of 2002. Meanwhile, an interim final rule was published in the **Federal Register** May 17, 2001. The May 17, 2001 interim rule allows Forest Plan revisions or amendments initiated prior to May 9, 2002, to be completed under either the 1982 rule or the 2000 rule. We will proceed under the 1982 rule.

Relationship to the Center for Biological Diversity Lawsuit Settlement

In September of 1998, the Southwest Center for Biological Diversity (now the Center for Biological Diversity) filed a lawsuit seeking to prohibit a wide range of management activities on the southern California National Forests until the Forest Plans were brought into compliance with the Endangered Species Act (ESA). A settlement agreement was signed by the Court on March 1, 2000. Under the terms of the settlement, a draft Environmental Impact Statement (EIS) to support revised Forest Plans is anticipated to be released in 2002.

DATES: Public collaboration regarding the Forest Plan revision analysis began in January 2001. Comments concerning the proposed action should be received in writing by December 31, 2001. Comments or suggestions regarding the development of alternatives should be received by February 15, 2002. Any comments received after February 15, 2002 will be accepted; but may not be reflected in the draft EIS. They may be reflected in the final EIS. The agency expects to file a Draft Environmental Impact Statement (DEIS) with the Environmental Protection Agency (EPA) and make it available for public, agency, and tribal government comment in the fall of 2002. A Final Environmental Impact Statement (FEIS) is currently expected in the fall of 2003.

ADDRESSES: Send written comments to Forest Planning Team, 10845 Rancho Bernardo Road, Suite 200, San Diego, CA 92127–2107 or electronically to *socalforests@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Skippy Willis, Planning Team Public Affairs Officer, (858) 524–0140. Or call the Forest Plan update toll free recording at 1–866–252–8846 for information regarding time line, public workshops, and meetings and other pertinent information or the web site *www.r5.fs.fed.us/sccs.*

Responsible Official: Brad Powell, Regional Forester, Pacific Southwest Region. 1323 Club Drive, Vallejo, CA 94592.

Decision Made in a Forest Plan: Forest Plans describe the intended management of National Forests. The following types of decisions are made in Forest Plans:

1. Establishment of forest-wide objectives, with a description of the desired condition;
2. Establishment of forest-wide management standards;
3. Establishment of management areas and management prescriptions;
4. Establishment of lands suitable for the production of timber;
5. Establishment of monitoring and evaluation requirements; and
6. Recommendations to Congress of areas eligible for wilderness or wild and scenic river designation.

Forest Plans do not make any decisions regarding site-specific project proposals for implementing the plan. Project level environmental analysis would still need to be completed and the project must be consistent with the Forest Plan.

The Need for Change: This revision focuses on the most compelling needs for change in Forest Plan management direction. The USDA Forest Service expects this revision to include updated management direction for species and habitat protection; roads, trails, and access; recreational conflict resolution; special areas (Wild and Scenic Rivers, Research Natural Areas, and Special Interest Areas); roadless areas and potential wilderness recommendations; rangeland suitability; wildfire and prescribed fire management; suitable timber lands; recreation residences, and additional new direction regarding shooting; land ownership adjustments; communication sites; and possible other resource concerns identified through the scoping process.

Purpose and Need: The purpose and need of this proposed action is:

a. To establish new or revised management direction for all activities and uses of these forests based on the most current science and the findings of the Southern California Mountains and Foothills Assessment, the Province Forest wide Monitoring and Evaluation Report, and recent consultations with the Department of Interior Fish and Wildlife Service and Department of Commerce National Marine Fisheries Service;

b. To address conditions that have changed since original plans for these four Forest were approved (1986–89) and to provide consistent management direction (as appropriate) across the four Forests;

c. To meet the National Forest Management Act requirement for all Forests to revise their Forest Plans every 10–15 years;

d. To bring management direction up-to-date with increased population, increased demand for recreation, and corresponding resource and recreational use conflicts;

e. To more adequately protect plant and animal species and their habitat;

f. To more clearly emphasize and direct the use of prescribed fire to restore ecosystem function and integrate the National Fire Plan Direction; and

g. To incorporate other new scientific information that has been recently become available into current management direction and revise and update the monitoring plans.

Public Participation: In February 2000, the USDA Forest Service published the Southern California Mountains and Foothills Assessment, and sponsored a symposium for over 300 scientists and members of the public. Since then, the Forest Service has conducted numerous meetings with tribal governments, and those meetings are currently ongoing on each Forest.

From January through March, 2001, the USDA Forest Service held public workshops across southern California to develop a list of values and visions for the National Forests in southern California.

On March 15, 2001, public notice was given regarding beginning the Forest Plan revision process in the Los Angeles Times, San Diego Union Tribune, Sacramento Bee, and Santa Barbara New Press. On March 16, 2001, public notice was given regarding beginning the revision process in the San Bernardino Sun.

During the period of March 15, 2001–May 7, 2001, the agency made available for public review the following information: preliminary issues, the Southern California Mountains and Foothills Assessment, an evaluation of effectiveness of current Plans in complying with the Endangered Species Act, proposals for special areas such as key or core habitat areas, potential Wild and Scenic Rivers, watersheds in need of protection or restoration, lands classified as unsuitable for timber production, evaluations of inventoried roadless and unroaded areas, and estimated outcomes of continued management under current Forest Plans. Al of the information was available on the website through July 15, 2001. Comments received after May 7th were accepted.

Preliminary concerns surfaced during these initial, informal stages of public involvement can be summarized as follows: conflicts between different types of recreation, desire for continued or improved access, desire for additional special area designations, concerns regarding species and habitat protection and others.

The next phase of public involvement for this proposed Forest Plan revision will consist of workshops and public meetings to be announced during the scoping period for this proposal. Currently scheduled meetings are as follows:

Angeles National Forest
- October 25, 2001, 6:00–9:00 pm, Glendora Public Library, 140 S. Glendora Avenue, Glendora, CA.
- November 13, 2001, 6:00–9:00 pm, Pasadena Conference Center, 300 E. Green Street, Pasadena, CA.
- November 19, 2001, 6:00–9:00 pm, Lake View Terrace Recreation Center, 11075 Foothill Boulevard, Lake View Terrace, CA.
- November 27, 2001, 7:30–9:30 pm, Wrightwood Community Center, 1275 Highway 2, Wrightwood, CA.
- December 4, 2001, 6:00–9:00 pm, California State University, Los Angeles, Student Union, 5154 State University Drive, Los Angeles, CA.

Cleveland National Forest
- October 24, 2001, 6:00 pm, Alpine Community Center, 1830 Alpine Blvd., Alpine CA
- November 3, 2001, 9:30 am, Nydegger Building, 31421 La Matanza, San Juan Capistrano, CA
- November 7, 2001, 6:00 pm, East Valley Community Center, 2245 East Valley Parkway, Escondido, CA
- November 10, 2001, 9:30 am, Ramona Community Center, 434 Aqua Lane, Ramona
- November 17, 2001, 12:30 pm, Chula Vista Library, Literacy Team Center, 389 Orange Ave., Chula Vista, CA

Los Padres National Forest
- October 25, 2001, 6:00–9:00 pm South County Regional Center, 800 West Branch Street, Arroyo Grande, CA.
- October 30, 2001, 6:00–9:00 pm Goleta Valley Community Center, 5679 Hollister Avenue, Goleta, CA.
- November 1, 2001, 6:00–9:00 pm Salinas Community Center, Santa Lucia Meeting, 940 N. Main Street, Salinas, CA.
- November 7, 2001, 6:00–9:00 pm Rancho del Ray Conference Center, 655f Burnham Road, Oak View, CA.
- November 8, 2001, 6:00–9:00 pm Community Hall, 300 Park Drive, Frazier Park, CA.

San Bernardino National Forest
- October 30, 2001, 6:00–9:00 pm Houston Senior Community Center, 2929 Running Springs School Road, Running Springs, CA
- November 1, 2001, 6:30–9:30 pm Bonnie Oehl Elementary School, 2525 Palm Avenue, Highland, CA.
- November 8, 2001, 6:00–9:00 pm

Garner Valley Commons, 61600 Devil's Ladder Road, Garner Valley, CA

Additional meetings may be scheduled and notices will be available through the local Forest website or Forest contact, the Forest Plan website, toll-free telephone number, or mailings. During the scoping period, the agency will seek information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations interested in or affected by the proposed action. This input will be used to prepare the Draft Environmental Impact Statement. The scoping process includes:

1. Determining the scope and the potential significant issues to be analyzed in depth in the environmental impact statement.

2. Identifying and eliminating from detailed study the issues which are not significant or which have been covered by prior environmental review, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

3. Exploring alternatives that address one or more significant issues while meeting the purpose and need for this proposal.

4. Verifying and updating scenery management data for use in the revision process.

Related Environment Analyses: Additional public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement include: the Oil and Gas EIS on the Los Padres National Forest, the joint Bureau of Land Management and Forest Service Santa Rosa/San Jacinto National Monument Management Plan EIS, the Bureau of Land Management Off-shore Monument EIS, and the National Oceanic and Atmospheric Agency Monteray Bay Marine Sanctuary EIS.

The Department of the Interior Fish and Wildlife Service, and the Department of Commerce National Marine Fisheries Service, will be invited to participate as cooperating agencies to evaluate potential impacts on threatened and endangered species habitat.

Alternatives: A range of alternatives for revising these four Forest Plans and providing programmatic direction over the next 10–15 years will be developed in response to significant issues identified during scoping. One of these alternatives is the purposed action, which is the current Forest Plan direction as modified by the recent consultations with the Fish and Wildlife Service and National Marine Fisheries Service and additional direction as recommended by an internal agency review and early public input regarding changes that are needed in the existing Forest Plans. The additional direction specifically addresses shooting, recreation residences, land adjustment plans, communication sites, and fire management. The details of this proposal can be viewed on the website listed above.

Release and Review of the EIS; The Forest Service anticipates filing a Draft EIS with the Environment Protection Agency (EPA) and making that DEIS available for comment in fall 2002. At that time, EPA will publish a notice of availability (NOA) for the DEIS in the **Federal Register.** The comment period on the DEIS will be 90 days from the date the EPA publishes the NOA in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions; *Vermont Yankee Nuclear Power Corp.* v. *NRDC.* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the Final EIS may be waived or dismissed by the courts; *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate throughout the process, so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the proposed action. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, the agency will analyze, consider, and respond to comments in preparing the Final EIS. The FEIS is anticipated to be completed in the fall of 2003. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making decisions regarding these revisions. The responsible official will document the decision for each of the four Forests and reasons for each decision in one Record of Decision.

The decision will be subject to appeal in accordance with 36 CFR 217.

Dated: September 14, 2001.

Bernard Weingardt,

Deputy Regional Forester.

[FR Doc. 01–23731 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the Fourth Quarter of 2001

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the fourth quarter of 2001.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the fourth calendar quarter of 2001.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning October 1, 2001, and ending December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, Office of the Assistant Administrator, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, Room 4024–S, Stop 1560, 1400 Independence Avenue, SW, Washington, DC 20250–1560. Telephone: 202–205–3660. FAX: 202–690–0717. E-mail: *GSalgado@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the fourth calendar quarter of 2001 for municipal rate electric loans. RUS regulations at § 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to § 1714.5, the interest rates on these advances are based on indexes published in the "Bond Buyer" for the four weeks prior to the fourth Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in § 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of "Municipal Market Data—General Obligation Yields" or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 2001 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under § 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.000 percent.

In accordance with § 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the fourth calendar quarter of 2001.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2022 or later	5.000
2021	5.000
2020	4.875
2019	4.875
2018	4.750
2017	4.750
2016	4.750
2015	4.625
2014	4.500
2013	4.375
2012	4.250
2011	4.125
2010	4.000
2009	3.875
2008	3.750
2007	3.625
2006	3.500
2005	3.250
2004	3.000
2003	2.750
2002	2.500

Dated: August 18, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–23770 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091401A]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The 78th meeting of the Western Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will convene October 9 through 11, 2001, in Honolulu, Hawaii.

DATES: The SSC meeting will be held from 9 a.m. to 5 p.m. on October 9 and from 8:30 a.m. to 5 p.m. on October 10-11, 2001.

ADDRESSES: The 78th SSC meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, Hawaii; telephone: 808–522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION: The SSC will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

Agenda A (1st hearing)

Tuesday, October 9, 2001, 9 a.m.

A. Crustaceans fisheries - Northwestern Hawaiian Islands (NWHI) lobsters

1. NMFS tagging research 2000 and 2001
2. 1999 Annual Report
3. Public comment (Hearing if Draft Environmental Impact Statement is out for comment)

B. Bottomfish fisheries

1. NWHI framework action: removal of NWHI landing requirements
2. Marine Protected Area (MPA) effects on calculating Spawning potential ratios (SPR), catch per unit effort (CPUE), etc.
3. Status of Hawaiian monk seal biological opinion and litigation
4. Status of bottomfish observer program and data collection
5. Status of Digital Video Observer Pilot project
6. Public comment (Hearing if Draft Environmental Impact Statement is out for comment)

C. Hawaiian monk seals

1. Quarterly report on activities of the Marine Mammal Research Program
2. Report on NWHI shark activities
   a. Great white shark
   b. Culling

Wednesday, October 10, 2001, 8:30 a.m.

D. Pelagic fisheries

1. 2nd quarter 2001 Hawaii and American Samoa longline reports
2. Annual Report
3. Distribution and abundance of billfish larvae off Kona
4. American Samoa
   a. Longline fishery expansion in 2001 and management needs (limited entry program)
   b. Pilot Observer program
5. Turtle conservation and management
   a. Litigation
   b. Status of turtle recovery plans
   c. Workshop
   d. Turtle research (progress since May 2001)
   e. Tagging
   1. Validating tag performance
   2. Other (modeling, population assessments, etc.)
   3. Status of Section 10 fishing experiment
   4. FMP regulatory amendment for turtle mitigation
5. Seabird conservation and management
   a. Litigation
   b. U.S. Fish and Wildlife Service STAL Handling Guidelines
   c. 2nd International Fishers Forum
   d. Underwater setting chute deployment in Hawaii longline fishery
   e. Exemption of basket gear from mitigation regulations
   f. Marine Mammal Protection Act List Of Fisheries
6. Impacts of closure of Suisan auction in Hilo
7. Report on the 2001 Protected Species Workshops
8. International meetings (14th Standing Committee on Tuna and Billfish, 3rd Billfish Symposium)

F. Precious Corals Fisheries

1. Precious coral framework action
2. Public hearing on framework action

The Council proposes to restructure the management regime for the exploratory area to be based on current knowledge of the resource and industry practices. This will permit increased landings as well as reduce pressure on the known beds. The proposed measure removes the 1,000 kg annual quota, and incorporates site-specific restrictions which will allow harvest of a sustainable percentage based on the size

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of the resource in a given area. Compliance will be monitored through mandatory harvesting videotapes.

Thursday, October 11, 2001, 8:30 a.m.

G. Ecosystem and Habitat

1. NOAA habitat mapping initiatives
2. Proposed invasive species mitigation measures
3. Council MPAs policy development

H. Summary of recommendations to Council

I. Schedule for 2002 SSC meetings

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Dated: September 17, 2001.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23797 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

National Medal of Technology Nomination Evaluation Committee; Notice of Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for November 7, 2001.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary is responsible for recommending to the President prospective recipients of the National Medal of Technology. The committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have twelve members.

Time and Place: The meeting will begin at 10 a.m. and end at 4 p.m. on November 7, 2001. The meeting will be held in Room 4813 at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230. For further information contact: Mildred S. Porter, Director National Medal of Technology, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Herbert C. Hoover Building, Room 4226, Washington, DC 20230, Phone: (202–482–1424).

If a member of the public would like to submit written comments concerning the committee's affairs at any time before and after the meeting, written comments should be addressed to the Director of the National Medal of Technology as indicated above.

SUPPLEMENTARY INFORMATION: The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal. Public disclosure of this information would be likely to significantly frustrate implementation of the National Medal of Technology program because premature publicity about candidates under consideration for the Medal, who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the November 7, 2001, meeting may be closed to the public in accordance with Section 552b (c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency action.

Due to closure of the meeting, copies of the minutes of the meeting will not be available, however a copy of the Notice of determination will be available for public inspection and copying in the office of Mildred Porter, Director, National Medal of Technology, 1401 Constitution Avenue, NW., Herbert Hoover Building, Room 4226, Washington, DC 20230, (Phone: 202–482–1424).

Dated: August 10, 2001.

Bruce P. Mehlman,

Assistant Secretary for Technology Policy.

[FR Doc. 01–23743 Filed 9–21–01; 8:45 am]

BILLING CODE 3510–18–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before October 24, 2001.

FOR FURTHER INFORMATION OR A COPY CONTACT: Barbara W. Black at CFTC, (202) 418–5130; FAX: (202) 418–5541; email: *bblack@cftc.gov* and refer to OMB Control No. 3038–0022.

SUPPLEMENTARY INFORMATION

Title: Rules Pertaining to Contract Markets and Their Members (OMB Control No. 3038–0022). This is a request for extension of a currently approved information collection.

Abstract: Section 5c(c) of the Commodity Exchange Act, 7 U.S.C. 7a–2(c), establishes procedures for registered entities (designated contract markets, registered derivatives transaction execution facilities and registered derivatives clearing organizations) to implement new rules and rule amendments by either seeking prior approval or (for most rules) certifying to the Commission that such rules or rule amendments do not violate the Act or Commission regulations. Rules 40.4, 40.5 and 40.6 implement these statutory provisions.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 15, 2001 (66 FR 42846).

Burden statement: The respondent burden for this collection is estimated to average 2.52 hours per response. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 12,284.

Estimated number of responses: 305,371.

Estimated total annual burden on respondents: 770,506 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0022 in any correspondence.

Barbara W. Black, Office of the Executive Director, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: September 18, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–23729 Filed 9–21–01; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, October 5, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–23902 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, October 12, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–23903 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, October 19, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–23904 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, October 26, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–23905 Filed 9–20–01; 12:05 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Construction and Operation of a Marine Corps Heritage Center at Marine Corps Base Quantico, VA

AGENCY: Department of the Navy, DOD.

ACTION: Notice of record of decision.

SUMMARY: The Department of the Navy, pursuant to section 102(2)(c) of the National Environmental Policy Act and the regulations (40 CFR parts 1500–1508), announces its decision to construct and operate the Marine Corps Heritage Center on the Locust Shade Park site.

ADDRESSES: A copy of the Environmental Impact Statement (EIS) addressing this decision may be obtained from Engineering Field Activity Chesapeake, Naval Facilities Engineering Command, 1314 Harwood Street, SE, Building 212, Washington Navy Yard, DC 20374–5018.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Reik, telephone (202) 685–3064.

SUPPLEMENTARY INFORMATION: The Marine Corps History and Museum Division is responsible for the collection, preservation and presentation of information and material used in the study and development of military doctrine, tactics, weapons and equipment for the Marine Corps. Most of the Division's collections are located within various facilities at Marine Corps Base (MCB) Quantico (including the Marine Corps Air Ground Museum) while their administrative offices are located in the Washington Navy Yard, Washington, DC. The Division has acquired existing spaces over the years to house its collections, which has resulted in collections being stored in 11 different sites. To enhance protection of its historical collections, improve access to historical information, and foster public education and appreciation through exhibits, displays, outdoor ceremonies and demonstrations, the Marine Corps intends to promote the development of a Marine Corps Heritage Center at MCB Quantico.

The Heritage Center would consist of various buildings, outside exhibits, a parade field, demonstration areas and associated infrastructure on a 135-acre site. Less than half of the site would be developed, the rest would remain in its natural state. Buildings would be used for administrative offices, curatorial spaces, exhibits, public presentation facilities, record storage and restoration workshops. Development of the complex would be funded primarily through private donations. Construction is expected to occur in phases beginning in 2003.

The Marine Corps prepared an EIS to evaluate the anticipated effects of developing a Marine Corps Heritage Center and selecting a site for the facility. A Final EIS was distributed to the public on June 15, 2001. In response, five comment letters were received. All were supportive of the

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project at the preferred site. The Virginia Department of Environmental Quality requested a separate Consistency Determination be forwarded per regulations governing compliance with the Coastal Zone Management Act. A consistency determination was forwarded in response to the request. The Virginia Department of Environmental Quality concurred telephonically in this determination.

Alternatives evaluated in the EIS included three on-base sites, one off-base site, and no action. Siting criteria for the project included proximity to MCB Quantico to facilitate the relationship with on-base education programs and support functions, ready access to Interstate 95, and suitable size (about 100 acres) and setting appropriate for development of the complex. The preferred alternative, Locust Shade Park, is off-base. Prince William County will convey the property to the Department of the Navy for constructing and operating the Marine Corps Heritage Center.

The preferred alternative, Locust Shade Park, is also the environmentally preferred alternative. An erosion and sediment control plan and storm water management plan would be developed and implemented for the facility to control movement of soils and minimize potential effects to wetlands and water quality. The project will also comply, to the maximum extent practicable, with requirements identified in the Virginia Coastal Resources Management Program. A small wetland that exists near the northwest corner of the site will be avoided in siting project related components. No federally protected species occur on the site. The site does not contain cultural resources listed or eligible for listing on the National Register of Historic Places. A small cemetery is located in the northeast corner of the site. This cemetery will be avoided during construction activities. Construction and operation of the complex will result in an increase of air emissions; however, these emissions are below de minimus levels as identified in the Conformity regulations of the Clean Air Act. Traffic associated with the operation of the Heritage Center would be predominantly attributed to visitors and typically occur outside peak commuter periods. Although significant increases in traffic are projected to occur regardless of whether the Heritage Center is constructed, the addition of related vehicles from operation of the Heritage Center will not significantly add to these increases. All practicable means to avoid or minimize environmental harm from implementing construction and operation of the Heritage Center have been considered.

After considering the requirements of the Marine Corps, the potential environmental impacts of this action, social and economic concerns, and all comments received during the EIS process, I have determined that the Locust Shade Park site best meets the requirements of the proposed action and select that site as the location for the Marine Corps Heritage Center.

Dated: September 18, 2001.

Duncan Holaday,

Deputy Assistant Secretary of the Navy (Installations and Facilities).

[FR Doc. 01–23794 Filed 9–21–01; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 24, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 18, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Pre-Elementary Education Longitudinal Study (PEELS).

Frequency: Varies.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 16,411.

Burden Hours: 7,652.

Abstract: PEELS will provide the first national picture of experiences and outcomes of three to five year old children in early childhood special education. The study will inform special education policy development and support Government Performance and Results Act (GPRA) measurement and Individuals with Disabilities Education Act (IDEA) reauthorization with data from parents, service providers, and teachers.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to CAREY at (202) 708–6287. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–23727 Filed 9–21–01; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of postponement of committee meeting.

SUMMARY: This notice announces the postponement of the Alternative Technologies to Incineration Committee (ATIC).

DATES: Meeting date: Tuesday, September 25, 2001—8:30 a.m.–5 p.m.; Wednesday, September 26, 2001—8:30 a.m.–4 p.m.

ADDRESSES: Meeting location: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW. (Room 1E–245), Washington, DC 20585,

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Director of the Environmental Management Advisory Board (EM–10), 1000 Independence Avenue SW. (Room 5B–171), Washington, DC 20585; telephone (202) 586–4400; e-mail *james.melillo@em.doe.gov.*

Issued at Washington, DC, on September 19, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–23792 Filed 9–21–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Certification of the Radiological Condition of the New Brunswick Site in New Brunswick, New Jersey, 1996

AGENCY: Office of Environmental Management, Oak Ridge Operations (ORO), Department of Energy (DOE).

ACTION: Notice of certification.

SUMMARY: The Department of Energy (DOE) has completed remedial actions to decontaminate the New Brunswick site (former New Brunswick Laboratory) in New Brunswick, New Jersey. The property formerly was found to contain quantities of residual radioactive material associated with laboratory operations of the United States Atomic Energy Commission. Based on the analysis of all data collected, DOE has concluded that any residual radiological contamination remaining onsite at the conclusion of DOE's remedial action falls within radiological guidelines in effect at the conclusion of such remedial action.

ADDRESSES: The certification docket is available at the following locations:

U.S. Department of Energy, Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, Public Document Room, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, Tennessee 27830

New Brunswick Free Public Library, 60 Livingston Avenue, New Brunswick, New Jersey 08901

FOR FURTHER INFORMATION CONTACT: Robert G. Atkin, Project Engineer, Office of Assistant Manager of Environmental Management, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, Tennessee 37830, Phone: (865) 576–1826, Fax: (865) 574–4724.

SUPPLEMENTARY INFORMATION: The DOE, ORO Office of Environmental Management, has conducted remedial action at the New Brunswick site in New Brunswick, New Jersey, under the Formerly Utilized Sites Remedial Action Program (FUSRAP). The objective of the program is to identify and remediate or otherwise control sites where residual radioactive contamination remains from activities carried out under contract to the Manhattan Engineer District/Atomic Energy Commission during the early years of the nation's atomic energy program.

In October 1997, the U.S. Congress assigned responsibility for management of the program to the U.S. Army Corps of Engineers (USACE). Completion of the certification process was delayed pending preparation of a Memorandum of Understanding between DOE and USACE with regard to completed, remediated sites such as the New Brunswick property. The Memorandum of Understanding between the U.S. DOE and the U.S. Army Corps of Engineers Regarding Program Administration and Execution of the Formerly Utilized Sites Remedial Action Program was signed by the parties in March 1999. Funding to proceed with the completion of DOE closure documentation for several FUSRAP sites, including the New Brunswick site, was obtained from USACE in late 2000.

From 1948 to 1977, the New Brunswick site was used as a general nuclear chemistry laboratory for work related to government reactor and weapons programs. Site structures included a main laboratory building, plutonium laboratory complex containing a hot cell for handling radioactive materials, and nine other support buildings.

During 29 years of operation, the New Brunswick site provided a variety of services using nuclear materials such as thorium and uranium ores, high-purity plutonium, americium, and enriched uranium. In 1960, soil contaminated with residues from pitchblende (a radium-bearing ore) was moved to the site from the Middlesex Municipal Landfill, located in the Borough of Middlesex. The material was mixed with clean soil and used to fill an unused rail spur that entered the eastern side of the property. In 1977, the New Brunswick facility was closed, and laboratory operations and personnel were relocated. In 1990, NBS was formally placed in FUSRAP.

The site was partially remediated in two phases during the late 2970s and early 1980s. Phase 1, completed in 1978, consisted of removing contaminated accessible plumbing, equipment, and portions of floors, walls, and ceilings. Phase 2, conducted from 1981 through 1983, included removal of all aboveground structures, including contaminated concrete foundations and onsite drain lines and radioactively contaminated soil on the front two-thirds of the property. The waste materials were disposed of at the Nevada Test Site.

After Phases 1 and 2 were completed, verification surveys and sampling identified localized areas that were contaminated with uranium, radium, and thorium. Limited sampling and surveying in 1992 indicated that radioactively contaminated soils were present only within the filled railroad spur and a localized spot midway along the southern fenceline. The last phase of remediation, the excavation of the remaining contaminated soil, was completed in 1996.

Post-remedial action surreys conducted in 1996 have demonstrated, and DOE has certified, that the subject property is in compliance with the Department's radiological decontamination criteria and standards in effect at the conclusion of the remedial action. These standards are established to protect members of the general public and occupants of the site and to ensure that future use of the site will result in no radiological exposure above applicable guidelines. These findings are supported by the Department's Certification Docket for the Remedial Action Performed at the New Brunswick Site, in New Brunswick, New Jersey. DOE makes no representation regarding the condition of the site as a result of activities conducted subsequent to DOE's post-remedial action surveys.

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The certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays), in the DOE Public Reading Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. Copies of the certification docket also will be available in the DOE Public Document Room, U.S. Department of Energy, Oak Ridge Operations Office, 200 Administration Road, Oak Ridge, Tennessee, and the New Brunswick Free Public Library, 60 Livingston Avenue, New Brunswick, New Jersey.

DOE, through the Oak Ridge Operations Office of Environmental Management, Oak Ridge Reservation Remediation Management Group, has issued the following statement:

Statement of Certification: New Brunswick Site in New Brunswick, New Jersey

The U.S. Department of Energy (DOE) Oak Ridge Operations (ORO) Office of Environmental Management, Oak Ridge Reservation (ORR) Remediation Management Group, has reviewed and analyzed the radiological data obtained following remedial action at the property identified as Block 598, Lot 6, and Sheet 80 of the Tax Map of the City of New Brunswick, Middlesex County, New Jersey. Based on analysis of all data collected, including post-remedial action surveys, DOE certifies that any residual contamination remaining onsite at the time remedial actions were completed falls within the guidelines, in effect at the conclusion of remedial action, for use of the site without radiological restrictions. This certification of compliance provides assurance that reasonably foreseeable future use of the site will result in no radiological exposure above radiological guidelines, in effect at the conclusion of the remedial action, for protecting members of the general public as well as occupants of the site.

Property owned by: United States of America, 986 Jersey Avenue, New Brunswick, New Jersey 08903.

Issued in Oak Ridge, Tennessee on September 6, 2001.

William M. Seay,

Group Leader, ORR Remediotion Management Group.

[FR Doc. 01–23740 Filed 9–21–01; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–32–000]

Kansas Pipeline Company Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

September 18, 2001.

Take notice that on September 12, 2001, Kansas Pipeline Company (Kansas Pipeline) and Enbridge Pipelines (KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 to reflect a corporate name change to become effective on October 1, 2001. A complete listing of the tariff sheets filed are shown on Appendix A, attached to the filing.

Kansas Pipeline and KPC state that copies of its transmittal letter and appendices have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23812 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–50–000]

KeySpan-Ravenswood, Inc., Complainant v. New York Independent System Operator, Inc., Respondent; Notice of Amendment to Complaint

September 18, 2001.

Take notice that on September 7, 2001, KeySpan-Ravenswood, Inc., tendered for filing an amendment to its March 8, 2001 complaint to adopt the netting of station power in the wholesale power market administered by the New York Independent System Operator.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before September 25, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before September 25, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23808 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–113–000]

Mid-Tex G&T Electric Cooperative, Inc., Big Country Electric Cooperative, Inc., Coleman County Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Golden Spread Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., and Taylor Electric Cooperative, Inc. Complainants, v. West Texas Utilities Company Respondent; Notice of Complaint

September 18, 2001.

Take notice that on September 14, 2001, Mid-Tex G&T Electric Cooperative, Inc. (Mid-Tex) and its member cooperatives filed a Complaint against West Texas Utilities Company (WTU) pursuant to Section 206 of the Federal Power Act. Mid-Tex and its member cooperatives claim that the rates charged under the WTU Wholesale Power Choice Tariff, FERC Electric Tariff Second Revised Volume No. 9 are unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

WTU has been served a copy of the Complaint.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before October 16, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before October 16, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23811 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–342–002]

MIGC, Inc.; Notice of Compliance Filing

September 18, 2001.

Take notice that on September 12, 2001, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following pro forma tariff sheets, to become effective upon further order of the Commission.

First Revised Sheet No. 30
First Revised Sheet No. 31
First Revised Sheet No. 32
Third Revised Sheet No. 33
Original Sheet No. 33A
Original Sheet No. 52B
Fourth Revised Sheet No. 60
Original Sheet No. 60A
Third Revised Sheet No. 61
Third Revised Sheet No. 69
Third Revised Sheet No. 70
Fourth Revised Sheet No. 85
First Revised Sheet No. 118
First Revised Sheet No. 119

MIGC asserts that the purpose of this filing is to comply with the Commission's order issued July 11, 2001, in Docket No. RP00–342–000, to file actual tariff sheets reflecting certain revisions to its June 15, 2000 filing in compliance with Order No. 637.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with the Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23815 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–600–000]

Canyon Creek Compression Company; Notice of Tariff Filing and Annual Charge Adjustment

September 18, 2001.

Take notice that on September 12, 2001, Canyon Creek Compression Company (Canyon) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventh Revised Sheet No. 6 to be effective October 1, 2001.

Canyon states that the purpose of this filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed to Canyon by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. Canyon states that its new ACA factor will be $0.0021 per Dth.

Canyon states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 25, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

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instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23816 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–601–000]

Natural Gas Pipeline Company of America; Notice of Tariff Filing and Annual Charge Adjustment

September 18, 2001.

Take notice that on September 11, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Tenth Revised Sheet No. 26, to be effective October 1, 2001.

Natural states that the purpose of this filing is to implement the Annual Charges Adjustment (ACA) surcharge necessary for Natural to recover from its customers annual charges assessed to it by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. Natural states that its new ACA factor will be $0.0021 per Dth.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 25, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23817 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2145–041 Washington]

Public Utility District No. 1 of Chelan County; Notice of Availability of Environmental Assessment

September 18, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Energy Projects has reviewed Public Utility District No.1 of Chelan County's application for license amendment to temporarily increase, by one foot, the normal operating level of the reservoir at the Rocky Reach Hydroelectric Project, located on the Columbia River in Chelan and Douglas Counties, Washington, and has prepared an Environmental Assessment (EA). The project occupies lands managed by the Bureau of Land Management and the U.S. Forest Service.

The EA contains the staff's analysis of the potential environmental impacts of the proposed amendment and concludes that approval of the proposed amendment with staff's modifications would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA is attached to a Commission order issued on September 13, 2001 for the above application. Copies of the EA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. The EA may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

For further information, contact Vince Yearick at (202) 219–3073.

David P. Boergers,

Secretary.

[FR Doc. 01–23813 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Motion for Declaratory Order, and Soliciting Comments, Motions to Intervene, and Protests

September 18, 2001.

a. *Type of Filing:* Petition for Declaratory Order to find that certain transmission lines are no longer jurisdictional and no longer require licensing

b. *Project No:* 2150–022.

c. *Date Filed:* June 1, 2001.

d. *Applicant:* Puget Sound Energy, Inc.

e. *Name of Project:* Baker River Project.

f. *Location:* The Project is located on the Baker River in Skagit and Whatcom Counties, Washington.

g. *Filed Pursuant to:* Federal Energy Regulatory Commission Regulation, 18 CFR 385.207.

h. *Applicant Contact:* Pamela W. Krueger, Perkins Coie, LLP, One Bellevue Center, Suite 1800, 411 108th Ave. Northeast, Bellevue, WA 98004–5584.

i. *FERC Contact:* William Guey-Lee, (202) 219–2808, or william.gueylee@ferc.fed.us.

j. *Deadline for filing comments, motions to intervene or protests:* (October 19, 2001)

All documents (original and eight copies) should be filed with: David Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The applicant proposes that, upon license expiration, the following exhibits be revised to delete certain primary transmission lines currently part of the project works: Exhibit J–1 (2150–50) revised; Exhibit J–2 (2150–7) delete; Exhibit J&K (2150–64) delete; Exhibit Supplementary K–1 (2150–65) revised; Exhibit Supp. K–1A (2150–66) revised; Exhibit Supp. K–2 (2150–9) revised; Exhibit Supp. K–3 (2150–10) revised; Exhibit Supp. K–4 (2150–11) revised; Exhibit Supp. K–5 (2150–49); and Exhibit Supp. K–6 through K–14 (2150–30 through 38) delete. The four transmission lines affected by this action are (1) the two 22.6-mile lines connecting Sedro-Wooley transmission station with Baker River switching station, (2) the 8.5-mile line connecting Shannon switching station with Baker River switching station, and (3) the 0.2-mile connecting Shannon switching station with Upper Baker generating station.

l. *Location of the Filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–23814 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–2–002, et al.]

PJM Interconnection, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

September 17, 2001.

Take notice that the following filings have been made with the Commission:

1. PJM Interconnection, L.L.C.

[Docket No. RT01–2–002]

Take notice that on September 10, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission), proposed amendments to the PJM Open Access Transmission Tariff, to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., and to the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area. PJM states that the proposed amendments are submitted to comply with the Commission's order in this proceeding dated July 12, 2001.

Copies of this filing have been served on all parties, as well as on all PJM Members and the state electric regulatory commissions in the PJM control area.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Maclaren Energy, Inc.

[Docket No. ER01–2104–002]

Take notice that on September 12, 2001, Maclaren Energy, Inc. submitted for filing with the Federal Energy Regulatory Commission (Commission) revised Rate Schedule FERC No. 1, under its FERC Electric Tariff Volume No.1 in compliance with the Commission's Order of August 27, 2001.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Cinergy Services, Inc.

[Docket No. ER01–2910–001]

Take notice that on September 4, 2001, Cinergy Services, Inc. tendered for filing with the Federal Energy Regulatory Commission, (Commission) a Notice of Name Change from First Energy Trading & Marketing Inc. to First Energy Services Corp.

Cinergy requests that the Commission make the requested tariff changes effective as of the date of the Notice of Name Change, January 1, 2001.

Comment date: September 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Virginia Electric and Power Company

[Docket No. ER01–2989–001]

Take notice that on September 12, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing two revised pages to the Cost Support for the Monthly Facility Charge attached to the executed Generator Interconnection and Operating Agreement (Interconnection Agreement) between Dominion Virginia Power and Industrial Power Generating Corporation (Ingenco) filed in the above referenced docket on August 31, 2001. The revised pages are being submitted to correct a clerical error.

Dominion Virginia Power respectfully requests that the Commission accept this filing to allow the Interconnection Agreement to become effective as of August 24, 2001, the date requested in its August 31, 2001 filing.

Copies are being served upon Industrial Power Generating Corporation and the Virginia State Corporation Commission.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. American Electric Power Service Corporation

[Docket No. ER01–3033–000]

Take notice that on September 11, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Point-to-Point Transmission (PTP) Service Agreements for Split Rock Energy LLC and a Firm PTP Service Agreement for PSEG Energy Resources & Trade LLC. AEPSC also filed Network

Integration Transmission Service (NTS) Agreements for energy suppliers in retail supplier choice programs, *i.e.*, AES NewEnergy, Inc. and MidAmerican Energy Company (MECR), and NTS Agreement Supplements for Wabash Valley Power Association, Inc. (WVPA), and for American Electric Power Service Corporation—Wholesale Power Merchant Organization (AEPM). All of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit the NTS Service Agreement Supplement for WVPA to be made effective for service billed on and after May 16, 2001, and the NTS Service Agreement Supplement for AEPM to be made effective for service billed on and after August 1, 2001. An effective date of September 1, 2001 is requested for all other agreements filed herewith.

AEPSC also requests termination on August 8, 2001, of firm and non-firm service agreements executed April 1, 1998, by El Paso Merchant Energy, L.P., formerly Engage Energy US, L.P., under AEP Companies' FERC Electric Tariff Original Volume No. 4.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER01–3040–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for a contract modification to add an area of load entitled North Madison load area on KU's Fawkes-Higby Mill 69 kV transmission line. The amendment requires EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 13.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Kentucky Utilities Company

[Docket No. ER01–3041–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for a contract modification to add an area of load entitled North Floyd load area on KU's Somerset North-Lancaster 69 kV transmission line. The amendment required EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 17.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Kentucky Utilities Company

[Docket No. ER01–3042–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for an addition of a free flowing interconnection point at the EKPC Baker Lane substation. The interconnection will be on KU's Brown North-Higby Mill 138/69 69 kV transmission line. The amendment requires EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 14.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Kentucky Utilities Company

[Docket No. ER01–3043–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for the right of each party, in an emergency, to operate and repair the other party's facilities that affect load areas. It also provides for the right to inspect the other party's facilities that affect service to load areas. This amendment is Number 16.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Kentucky Utilities Company

[Docket No. ER01–3044–000]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Amendment to the interconnection agreement between (KU) and East Kentucky Power Cooperative, Inc. (EKPC). The amendment provides for an addition of a free flowing interconnection point at the EKPC Lake Reba Tap substation. The interconnection will be on KU's Lake Reba Tap substation. The amendment requires EKPC to reimburse KU for all costs associated with the construction of the tap structure. This amendment is Number 15.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Mid-Continent Area Power Pool

[Docket No. ER01–3045–000]

Take notice that on September 12, 2001, the Mid-Continent Area Power Pool (MAPP), filed with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d, and part 35 of the Commission's regulations, 18 CFR part 35, the Mid-Continent Area Power Pool Power and Energy Market Rate Tariff (Exhibit E to MAPP's FERC Electric Tariff, Original Volume No. 2). The Power and Energy Market Rate Tariff, modeled largely on the Master Purchase and Sale Agreement developed by the Edison Electric Institute and the National Energy Marketers Association, permits members of MAPP with market-based rate authority to engage in sales for resale of electric energy at negotiated rates.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER01–3046–000]

Take notice that on September 12, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Williams Energy Marketing & Trading Company.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER01–3047–000]

Take notice that on September 12, 2001, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) the ISO's Summer 2001 Demand Relief Program.

The ISO requests that the program be made effective as of June 1, 2001, the beginning date for the Summer 2001 Demand Relief Program. The ISO also submitted, for informational purposes, Summer 2001 Demand Relief Agreements and revisions to some of those Demand Relief Agreements.

The ISO states that this filing has been served upon the California Public Utilities Commission, the California Energy Commission, the California Electricity Oversight Board, all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff, and parties with which the ISO has agreed to Summer 2001 Demand Relief Agreements.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER01–3049–000]

Take notice that on September 12, 2001, Deseret Generation & Transmission Co-operative, Inc. submitted an informational filing, providing the exact amount paid as a 2000 Rate Rebate to each of its six member cooperatives under Service Agreement Nos. 1 through 6 of FERC Electric Tariff, Original Volume No. 1.

Comment date: October 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. PJM Interconnection, L.L.C.

[Docket No. ER01–3050–000]

Take notice that on September 13, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing a request to amend the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) to authorize holding the election to fill the two seats on PJM's Board of Managers (PJM Board) for which an election is required at the meeting of the PJM Members Committee on August 30, 2001, rather than at PJM's 2001 Annual Meeting. PJM states that, after the Commission, by order dated April 11, 2001, in Docket No. ER01–1286–000, rejected a proposed amendment to the Operating Agreement that would have eliminated the requirement to involve an independent consultant in the process of placing before the members at the Annual Meeting a slate of candidates for seats available on the PJM Board in 2001, it was unable to hold the election for the available Board seats at the 2001 Annual Meeting on April 26, 2001. PJM further states that the PJM Members Committee unanimously approved the amendment proposed in this filing. PJM requests that its filing become effective on August 30, 2001.

Copies of this filing were served upon all PJM members and all electric utility regulatory commissions in the PJM control area.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23810 Filed 9–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–147–000, et al.]

Rock River I, LLC, et al.; Electric Rate and Corporate Regulation Filings

September 14 2001.

Take notice that the following filings have been made with the Commission:

1. Rock River I, LLC and SeaWest WindPower, Inc. and Shell WindEnergy, Inc.

[Docket No. EC01–147–000]

Take notice that on September 4, 2001, Rock River I, LLC (Rock River), SeaWest WindPower, Inc. (SeaWest), and ShellWindEnergy Inc. (Shell WindEnergy) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Shell WindEnergy will acquire 100% of the membership interests in Rock River. Rock River is constructing a 50 MW wind power generating plant ("Project") located in Carbon County, Wyoming, and estimated to begin producing test power for sale in September 2001. Rock River is currently wholly-owned by SeaWest. Pursuant to an acquisition agreement, the Transaction would be consummated after the Project commences commercial operation, which is expected to occur by October 15, 2001. The Transaction is expected to result in the disposition of Commission jurisdictional facilities consisting of Rock River's market-based rate tariff and minor interconnection facilities connecting the Project to the transmission facilities of PacifiCorp. Applicants have requested privileged treatment for the Acquisition Agreement between SeaWest and Shell WindEnergy.

A copy of this Application was served upon the Wyoming Public Service Commission and PacifiCorp.

Comment date: September 24 2001, in accordance with Standard Paragraph E at the end of this notice.

2. RockGen Energy LLC, Broad River Energy LLC

[Docket No. EC01–148–000]

Take notice that on September 5, 2001, RockGen Energy LLC and Broad River Energy LLC filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with the sale

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and leveraged lease financing of the RockGen Energy Center, a 525–MW natural gas-fired, combined cycle generating facility in Christiana, Wisconsin and the Broad River Energy Center, a 850–MW natural gas-fired, combined cycle generating facility in Cherokee County, South Carolina. The jurisdictional facilities being transferred include transmission interconnection facilities at each of the foregoing facilities. The application includes a request for privileged treatment of information.

Comment date: September 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PPL Generation, LLC, PPL Generation I Investments, LLC, PPL Brunner Island, LLC, PPL Martins Creek, LLC, PPL Holtwood, LLC, PPL Montour, LLC and PPL Southwest Generation Holdings, LLC

[Docket No. EC01–149–000]

Take notice that on September 7, 2001, PPL Generation, LLC, PPL Generation Investments, LLC, PPL Brunner Island, LLC, PPL Martins Creek, LLC, PPL Holtwood, LLC, PPL Montour, LLC and PPL Southwest Generation Holdings, LLC (collectively Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for approval of an intra-corporate restructuring. Applicants assert that the restructuring will have no effect on jurisdictional facilities, rates or services and will be consistent with the public interest as it does not involve a change in control or operation of jurisdictional facilities.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Allegheny Energy, Inc., Allegheny Energy Supply Hunlock Creek, LLC, Allegheny Energy Supply Conemaugh, LLC, Allegheny Generating Company, Green Valley Hydro, LLC, Allegheny Energy Global Markets, LLC, Monongahela Power Company, and Allegheny Energy Supply Company, LLC

[Docket No. EC01–150–000]

Take notice that on September 10, 2001, Allegheny Energy Inc., Allegheny Energy Supply Hunlock Creek, LLC, Allegheny Energy Supply Conemaugh, LLC, Allegheny Generating Company, Green Valley Hydro, LLC, Allegheny Energy Global Markets, LLC, Monongahela Power Company, and Allegheny Energy Supply Company, LLC, filed with the Federal Energy Regulatory Commission an application pursuant to Section 203 of the Federal Power Act for authorization for the divestiture of AE Supply and other subsidiaries by Allegheny Energy and related transactions.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Otter Tail Power Company.

[Docket No. EC01–151–000]

Take notice that on September 10, 2001, Otter Tail Power Company, a division of Otter Tail Corporation, tendered for filing, an Application to Transfer Operational Control Over Transmission Facilities to the Midwest Independent Transmission System Operator. Inc. under Section 203 of the Federal Power Act.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy Seward, LLC, Reliant Energy Hunterstown, LLC

[Docket No. EC01–152–000]

Take notice that on September 10, 2001, Reliant Energy Mid-Atlantic Power Holdings, LLC (REMA), Reliant Energy Seward, LLC (Reliant Energy Seward) and Reliant Energy Hunterstown, LLC (Reliant Energy Hunterstown) (collectively, the Applicants) submitted an application pursuant to Section 203 of the Federal Power Act, seeking authorization for a proposed transfer of jurisdictional facilities.

The Applicants state that REMA proposes to sell its existing 198–MW Seward generating facility and existing 71–MW Hunterstown generating facility to Reliant Energy Seward and Reliant Energy Hunterstown, respectively. The generating facilities include certain associated jurisdictional transmission facilities. The Applicants further state that the proposed transaction will have no effect on competition, rates or regulation, and is in the public interest. Applicants have requested privileged treatment under 18 CFR 388.112 for certain materials submitted in this Application.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. TECO EnergySource, Inc.

[Docket No. ER96–1563–017]

Take notice that on September 10, 2001 TECO EnergySource, Inc. (TES) tendered for filing with the Federal Energy Regulatory Commission (Commission), an updated market power study in accordance with Commission policies governing parties authorized to sell power at market based rates.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. EWO Marketing, L.P.

[Docket No. ER01–666–002]

Take notice that on September 7, 2001, EWO Marketing, L.P. tendered for filing with the Federal Energy Regulatory Commission (Commission), a notice of change in status in accordance with a commitment it made in its filing in Docket No. ER01–2456–000.

Comment date: September 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Kentucky Utilities Company

[Docket No. ER01–1288–002]

Take notice that on September 11, 2001, Kentucky Utilities Company (KU) tendered for filing with the Federal Energy Regulatory Commission (Commission), an amendment to its filing in Docket No. ER01–1288–000. In the original filing KU inadvertently omitted several pages of the interconnection agreement between Kentucky Utilities Company and East Kentucky Power Cooperative, Inc. The omitted pages have been filed.

Comment date: October 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Energy Corporation

[Docket No. ER01–1616–004]

Take notice that on September 10, 2001, Duke Energy Corporation (Duke) filed a revised compliance filing with the Federal Energy Regulatory Commission (Commission), submitting revisions to its OATT and an unexecuted Interconnection and Operating Agreement with Carolina Power & Light Company in the above-captioned docket.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Rochester Gas and Electric Corporation

[Docket Nos. ER01–2053–002; and ER01–1735–002]

Take notice that on September 10, 2001, Rochester Gas and Electric Corporation (RG&E) submitted a compliance filing with the Federal Energy Regulatory Commission (Commission), pursuant to the Commission's letter order issued on August 10, 2001 (August 10 Order) in Docket No. ER01–2053–000. RG&E's compliance filing includes a Statement of Policy and Code of Conduct as required in the August 10 Order. This filing also contains a proposal to redesignate the tariff sheets of RG&E's market-based rate tariff.

Comment date: October 1, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–23809 Filed 9–21–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

September 19, 2001.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: September 26, 2001, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

774th Meeting September 26, 2001; Regular Meeting 10 a.m.

Administrative

A–1.
Docket# AD01–1, 000, Strategic and 2002 Business Plans

A–2.
Docket# AD01–2, 000, Infrastructure Adequacy

A–3.
Docket# AD01–3, 000, California Infrastructure Update

A–4.
Docket# AD01–4, 000, Building Update

A–5.
Docket# AD01–5, 000, Delegations of Authority

Miscellaneous Agenda

M–1.
Docket# RM01–10, 000, Standards of Conduct for Transmission Providers

M–2.
Docket# RM01–11, 000, Electronic Service of Documents

Markets, Toriffs ond Rates—Electric

E–1.
Docket# EX01–1, 000, Discussion on Provision of Adequate Electrical Capacity

E–2.
Docket# EX01–2, 000, Significant National Transmission Constraints Discussion

E–3.
Docket# EX01–3, 000, Discussion of RTO Progress

E–4.
Docket# EX01–4, 000, Discussion of Market-Based Rate Reviews

E–5.
Omitted

E–6.
Docket# ER01–2735, 000, PJM Interconnection, L.L.C.

E–7.
Omitted

E–8.
Docket# ER01–2822, 000, Southern Power Company
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001; Southern Company Services, Inc.
ER01–2824, 000, Southern Power Company

E–9.
Docket# ER01–2736; 000 Niagara Mohawk Power Corporation
Other#s ER01–2803, 000, Niagara Mohawk Power Corporation

E–10.
Docket# EC01–130, 000, American Electric Power Service Corporation
Other#s ER01–2668, 000, American Electric Power Company, Inc.

E–11.
Docket# EF00–2012, 000, United States Department of Energy—Bonneville Power Administration
Other#s EF00–2012, 001, United States Department of Energy—Bonneville Power Administration

E–12.
Docket# ER01–2732, 000, Perryville Energy Partners, L.L.C.
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.

E–13.
Docket# EC01–97, 000, Energy East Corporation and RGS Energy Group, Inc.

E–14.
Docket# EC01–101, 000, Potomac Electric Power Company

E–15.
Docket# TX96–4, 000, Suffolk County Electrical Agency

E–16.
Docket# TX95–5, 000, Southern Company Services, Inc.

E–17.
Omitted

E–18.
Omitted

E–19.
Docket# ER01–2099, 001, Neptune Regional Tranmission System, LLC

E–20.
Omitted

E–21.
Docket# ER01–770, 003, Arizona Public Service Company
Other#s ER01–917, 003, Arizona Public Service Company

E–22.
Docket# ER00–864, 001, New York Independent System Operator, Inc.

E–23.
Docket# ER00–1969, 002, New York Independent System Operator, Inc.
Other#s EL00–57, 001, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–57, 002, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–60, 001, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–60, 002, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–63, 001, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
EL00–63, 002, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.

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EL00–64, 000, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.
EL00–64, 002, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.
ER00–1969, 003, New York Independent System Operator, Inc.
E–24.
Docket# EL00–62, 004, ISO New England Inc.
Other#s EL00–62, 005. ISO New England Inc.
EL00–62, 006, ISO New England Inc.
E–25.
Docket# ER00–3038, 001, New York Independent System Operator, Inc.
Other#s EL00–70, 002, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
E–26.
Docket# TX00–1, 001, United States Department of Energy—Western Area Power Administration, Colorado River Storage Project Management Center
Other#s ER00–896, 001 Public Service Company of New Mexico
E–27.
Docket# EL99–14, 002, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.
E–28.
Omitted
E–29.
Docket# EL01–45, 004, Consolidated Edison Company of New York
Other#s ER01–1385, 002, Consolidated Edison Company of New York
E–30.
Omitted
E–31.
Omitted
E–32.
Omitted
E–33.
Docket# EL01–3, 000, Morgan Stanley Capital Group, Inc. v. PJM Interconnection, L.L.C.
E–34.
Docket# EL01–89, 000, Morgan Stanley Capital Group, Inc. v. California Independent System Operator Corporation
E–35.
Docket# EL00–62, 028, ISO New England, Inc.
E–36.
Omitted
E–37.
Docket# ER01–2784, 000, Calpine Construction Finance Company, L.P.
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–38.
Docket# EL01–74, 000, Western Systems Coordinating Council, Western Regional Transmission Association and Southwest Regional Transmission Association
Other#s ER01–2058, 000, Western Systems Coordinating Council, Western Regional Transmission Association and Southwest Regional Transmission Association

Markets, Tariffs and Rates—Gas

G–1.
Docket# RP01–521, 000, Trailblazer Pipeline Company
G–2.
Docket# RP01–561, 000, Egan Hub Partners, L.P.
G–3.
Docket# RP01–510, 000, Columbia Gas Transmission Corporation
G–4.
Docket# RP01–563, 000, Northern Border Pipeline Company
G–5.
Docket# RP01–536, 000, Florida Gas Transmission Company
G–6.
Docket# RP01–350, 000, Colorado Interstate Gas Company
Other#s RP01–200, 002, Colorado Interstate Gas Company
RP01–350, 001, Colorado Interstate Gas Company
G–7.
Omitted
G–8.
Omitted
G–9.
Docket# RP01–570, 000, Colorado Interstate Gas Company
G–10.
Docket# PR01–13, 000, DeSoto Pipeline Company, Inc.
Other#s PR01–13, 001, DeSoto Pipeline Company, Inc.
G–11.
Docket# PR01–14, 000, Enogex, Inc.
G–12.
Docket# RP01–298, 000, Williams Gas Pipelines Central, Inc.
G–13.
Omitted
G–14.
Omitted
G–15.
Omitted
G–16.
Omitted
G–17.
Docket# PR00–9, 000, EPGT Texas Pipeline, L.P.
G–18.
Docket# IS01–292, 000, SFPP, L.P.
G–19.
Docket# RP00–601, 003, Dominion Transmission, Inc.
G–20.
Docket# RP01–292, 004, Mississippi River Transmission Corporation
Other#s RP01–292, 003, Mississippi River Transmission Corporation
G–21.
Omitted
G–22.
Omitted
G–23.
Omitted
G–24.
Docket# MG01–22, 000, Iroquois Gas Transmission System, L.P.
G–25.
Docket# RM96–1, 015, Standards for Business Practices of Interstate Natural Gas Pipelines
G–26.
Docket# RM96–1, 019, Standards for Business Practices of Interstate Natural Gas Pipelines
Other#s RM98–12, 008, Regulation of Interstate Natural Gas Transportation Services
RM98–10, 008, Regulation of Short-Term Natural Gas Transportation Services
G–27.
Omitted
G–28.
Docket# RP01–433, 000, Summit Power NW, LLC v. Portland General Electric Company
G–29.
Omitted
G–30.
Docket# RP01–236, 001, Transcontinental Gas Pipe Line Corporation
Other#s RP00–481, 001, Transcontinental Gas Pipe Line Corporation
RP00–553, 004, Transcontinental Gas Pipe Line Corporation
G–31.
Docket# RP01–245, 003, Transcontinental Gas Pipe Line Corporation
G–32.
Docket# IS01–291, 000, Calnev Pipe Line, L.L.C.
G–33.
Docket# GX01–1, 000, Discussion of Gas Pipeline Operational Flow Orders
G–34.
Docket# GX01–2, 000, Discussion of Efficient and Effective Collection of Data

Energy Projects—Hydro

H–1.
Docket# P–2114, 096, Public Utility District No. 2 of Grant County, Washington
Other#s P–2114, 097, Public Utility District No. 2 of Grant County, Washington
H–2.
Docket# P–2413, 040, Georgia Power Company
H–3.
Omitted

Energy Projects—Certificates

C–1.
Docket# CP00–36, 002, Guardian Pipeline, L.L.C.
Other#s CP01–401, 000, Northern Natural Gas Company
C–2.
Docket# CP01–153, 000, Tuscarora Gas Transmission Company
Other#s CP01–153, 001, Tuscarora Gas Transmission Company
C–3.
Omitted
C–4.
Docket# CP01–17, 001, Algonquin Gas Transmission Company
Other#s CP01–17, 002, Algonquin Gas Transmission Company
C–5.
Docket# CP95–516, 002, Enron Gulf Coast Gathering, L.P.
Other#s CP95–519, 002, Northern Natural Gas Company
C–6.
Docket# CP01–90, 001, El Paso Natural Gas Company
Other#s RP00–336, 004, El Paso Natural Gas Company
C–7.
Docket# CP01–157, 001, Georgia-Pacific Corporation

David P. Boergers,

Secretary.

[FR Doc. 01–23910 Filed 9–20–01; 2:07 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

September 19, 2001.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: September 26, 2001 (Following Regular Commission Meeting).

Place: Room 2C, 888 First Street, NE., Washington, DC 20426.

Status: Closed.

Matters to be Considered: (1) The Possible Initiation of an Administrative Proceeding. (2) A Report on Pending Investigations.

Contact Person for More Information: David P. Boergers, Secretary Telephone (202) 208–0400.

David P. Boergers,

Secretary.

[FR Doc. 01–23911 Filed 9–20–01; 2:08 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7062–6]

EPA Fellowships for Graduate and Undergraduate Environmental Study: Request for Pre-Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for pre-applications.

SUMMARY: This notice provides information on the availability of fiscal year 2002 Fellowships for Graduate Environmental Study, Minority Academic Institutions (MAI) Fellowships for Graduate Environmental Study, and Minority Academic Institutions (MAI) Undergraduate Student Fellowships, in which the areas of interest in academic disciplines relating to environmental research, description of fellowship awards, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Fellowships will be competitively awarded following peer review.

DATES: The deadline for pre-applications is 4 PM, EST, on November 19, 2001.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research (8703R), 1200 Pennsylvania Avenue, NW, Washington DC 20460, telephone (800) 490–9194. The complete announcements can be accessed on the Internet from the EPA homepage: *http://www.epa.gov/ncerqa* under "announcements."

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency, as part of its Science to Achieve Results (STAR) program, is offering, in environmentally related fields of study: (1) Graduate Fellowships for master's and doctoral level students, (2) MAI Graduate Fellowships for master's and doctoral level students, and (3) MAI Undergraduate Fellowships for bachelor level students. The purpose of the fellowship programs is to encourage promising students to obtain undergraduate and graduate degrees and pursue careers in environmentally related fields. Subject to availability of funding, EPA plans to award approximately 100 Fellowships for Graduate Environmental Study, 25 MAI Fellowships for Graduate Environmental Study, and 20 MAI Undergraduate Student Fellowships. The announcements for the fellowship programs provide relevant background information, describe the fellowship awards, and outline the pre-application and review process. Top ranked applicants following the peer review will be required to submit a brief formal application.

Contact person for the Fellowships for Graduate Environmental Study and the MAI Fellowships for Graduate Environmental Study is Virginia Broadway *(broadway.virginia@epa.gov)*, telephone 202–564–6923. Contact person for the MAI Undergraduate Student Fellowships is Georgette Boddie *(boddie.georgette@epa.gov)*, telephone 202–564–6926.

Ann Akland,

Acting Assistant Administrator for Research and Development.

[FR Doc. 01–23751 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL –7063–6]

National Wastewater Management Excellence Awards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice: announcement of EPA's 2001 National Wastewater Management Excellence Awards Presentation at the Water Environment Federation's Technical Conference (WEFTEC).

SUMMARY: The Environmental Protection Agency will recognize municipalities and industries for outstanding and innovative technological achievements in wastewater treatment and pollution abatement programs at the annual National Wastewater Management Excellence Awards ceremony during the Water Environment Federation's Technical Conference (WEFTEC) in Atlanta, Georgia. We are recognizing programs and projects in operations and maintenance, biosolids management, pretreatment and combined sewer overflow controls. This action also announces the 2001 national awards winners.

DATES: Monday, October 15, 2001, 11:30 am to 1 pm.

ADDRESSES: The national awards presentation ceremony will be held at the Georgia World Congress Center, 285 International Boulevard, NW, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Marie E. Campbell at the U.S. Environmental Protection Agency, Office of Wastewater Management, Municipal Assistance Branch, 1200 Pennsylvania Avenue NW., (4204–M), Ariel Rios Building, Washington, DC 20460, (202) 564–0628, or *campbell.maria@epa.gov.*

SUPPLEMENTARY INFORMATION: The National Wastewater Management Excellence Awards program is authorized under section 501 (a) and (e) of the Clean Water Act. The awards. program provides national recognition and heightens overall public support of programs developed to protect the public's health and safety and the nation's water quality. State water pollution control agencies and EPA regional offices make recommendations to headquarters for the national awards. Programs being recognized are in compliance with applicable water quality requirements and have a satisfactory record with respect to environmental quality. Municipalities and industries are recognized for their

demonstrated achievements through the following:

(1) Outstanding operations and maintenance practices at publicly owned wastewater treatment facilities;

(2) Exemplary biosolids operating projects, and special biosolids management achievements;

(3) Municipal implementation and enforcement of local pretreatment programs; and,

(4) Combined sewer overflow control programs. Winners and categories for the EPA's 2001 National Wastewater Management Excellence Awards program are as follows:

Category

Operations and Maintenance Awards

First Place

Littleton/Englewood Wastewater Treatment Plant, Englewood, Colorado—Large Advanced Category

Metropolitan Council Stillwater Wastewater Treatment Plant, Oak Park Heights, Minnesota—Medium Advanced Category (tie)

City of Rutland Wastewater Treatment Facility, Rutland, Vermont—Medium Advanced Category (tie)

Denver S.E. Suburban Water & Sewer District (Pinery Water Reclamation Plant), Parker, Colorado Small—Advanced Category

Lebanon Wastewater Treatment Facility, City of Lebanon, New Hampshire—Medium Secondary Category

Troy/Jay Wastewater Treatment Facility, Troy, Vermont—Small Secondary Category

South Tahoe Public Utility District, South Lake Tahoe, California—Large Non-discharging Category

Pickaway Correctional Institution Wastewater Treatment Plant, Orient, Ohio—Most Improved Plant

Ohio EPA Compliance Assistance Unit—Section 104(g) Trainer for the Pickaway Correctional Institution Wastewater Treatment Plant

Second Place

Central Regional Wastewater System, Grande Prairie, Texas—Large Advanced Category

Fairmont Wastewater Treatment Plant-Fairmont Sanitary Sewer Board, Fairmont, West Virginia—Medium Advanced Category

County of Berks Welfare Tract Sewage Treatment Plant, Bern Township, Pennsylvania—Small Advanced Category

Elk River Wastewater Treatment Plant, Elk River, Minnesota—Medium Secondary Category

Isle Royale National Park, Rock Harbor Wastewater Treatment Facility, Houghton, Michigan—Small Secondary Category

Orange County South Water Reclamation Facility, Orlando, Florida—Large Non-discharging Category

Bancroft Wastewater Treatment Facility Village of Bancroft, Nebraska—Most Improved Plant

Russell Irwin, Nebraska Department of Environmental Quality—Section 104(g) Trainer for the Village of Bancroft Wastewater Treatment Facility

Exemplary Biosolids Management Awards

First Place

Anne Arundel County, Maryland Department of Public Works, Annapolis, Maryland—Large Operating Projects

City of Gresham Wastewater Treatment Plant, Gresham, Oregon—Small Operating Projects

Second Place

San Jose/Santa Clara Water Pollution Control Plant, San Jose/Santa Clara, California—Large Operating Projects

Special Award

Climax Molybdenum Company, and the resort communities of Breckenridge, Frisco, Dillon, and Silverthorne, Colorado—For outstanding use of biosolids to help rehabilitate a large-scale high altitude mine site.

Hawk Ridge Compost Facility, Unity, Maine—Private public partnership for biosolids and other organic by-product composting.

Pretreatment Awards

First Place

Central Contra Costa Sanitary District, Martinez, California—0–25 Significant Industrial Users (SIUs)

Clean Water Services, Hillsboro, Oregon 26–100 SIUs

Second Place

Goleta Sanitary District, Goleta, California—0–25 SIUs

Camden County Municipal Utilities Authority, Camden, New Jersey—26–100 SIUs

Combined Sewer Overflow Controls Awards

First Place

Columbus Water Works, Columbus, Georgia—Municipal

Second Place

City of Brewer, Brewer, Maine—Municipal

Dated: September 14, 2001.

Alfred Lindsey,

Acting Director, Office of Wastewater Management.

[FR Doc. 01–23752 Filed 9–21–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

September 17, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

Federal Communications Commission

OMB Control No.: 3060–0813.

Expiration Date: 07/31/04.

Title: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems.

Form No.: N/A.

Respondents: Business and Government Entities.

Responses: 42,031.

Estimated Time Per Response: Between 1 hour and 5 hours.

Estimated Total Annual Burden: 195,100 hours.

Total Annual Cost: 0.

Description: The notification burden on Public Safety Answering Points (PSAPs) will be used by the carriers to verify that wireless 911 calls are referred to PSAPs who have the technical capability to use the data to the caller's benefit. TTY and dispatch notification requirements will be used to avoid consumer confusion as to the capabilities of their handsets in reaching help in emergency situations, thus minimizing the possibility of critical delays in response time. The annual TTY reports will be used to monitor the progress of TTY technology and thus compatibility. Consultations on the

specific meaning assigned to pseudo-ANI are appropriate to ensure that all parties are working with the same information. Coordination between carriers and State and local entities to determine the appropriate PSAPs to receive and respond to E911 calls is necessary because of the difficulty in assigning PSAPs based on the location of the wireless caller. The deployment schedule that must be submitted by carriers seeking a waiver of the E911 Phase I or Phase II deployment schedule will be used by the Commission to guarantee that the rules adopted in this proceeding are enforced in as timely a manner as possible within technological constraints.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23708 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 01–2195]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On September 20, 2001, the Commission released a public notice announcing the September 25, 2001 conference call meeting and agenda of the North American Numbering Council (NANC). The conference bridge number for domestic participants is 1–888–869–0374 (toll free). The call in number for international participants is (904) 779–4767 (caller pays). Due to limited port space, NANC members and Commission staff will have first priority on the call. Members of the public may join the call as remaining port space permits or may attend in person at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Room 8–C245, Washington, DC 20554. The intended effect of this action is to make the public aware of the NANC's conference call meeting and agenda scheduled for September 25, 2001. This notice of the September 25, 2001, NANC conference call meeting is being published in the **Federal Register** less than 15 calendar days prior to the meeting due to the necessity of canceling the September 11–12, 2001 NANC meeting and NANC's need to discuss a time sensitive issue before the next scheduled meeting. This statement complies with the General Services Administration Management regulations implementing the Federal Advisory Committee Act. See 41 CFR 101–6.1015(b)(2).

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–2320 or *dblue@fcc.gov*. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received one business day before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Requests to make an oral statement must be received one business day before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda

1. Discussion and development of NANC recommendation to the Federal Communications Commission regarding the NANPA Contract Technical Requirements.

Dated: September 20, 2001.

Federal Communications Commission.

Diane Griffin Harmon,

Acting Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 01–23974 Filed 9–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. *FirstCity Bancorp, Inc.*, Gibson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of FirstCity Bank (formerly Bank of Gibson), Gibson, Georgia.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *South Plains Financial, Inc.*, Lubbock, Texas; and South Plains Delaware Financial Corporation, Dover, Delaware; to acquire 100 percent of the voting shares of Zia Financial Corporation, Ruidoso, New Mexico, and thereby indirectly acquire City Bank New Mexico, Ruidoso, New Mexico, a de novo bank.

In connection with this application, Zia Financial Corporation, Ruidoso, New Mexico has applied to become a bank holding company by acquiring 100 percent of the voting shares of City Bank New Mexico, Ruidoso, New Mexico.

Board of Governors of the Federal Reserve System, September 19, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23803 Filed 9–21–00; 8:45 am]

BILLING CODE 6210–01–S

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GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of an Optional Form by the Department of State

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Department of State cancelled the following Optional Form: OF 156K, Nonimmigrant Fiance(e) Visa Application.

This form is now a State Department form (DS Form 2052). You can request copies of the new form from: Department of State, A/RPS/DIR, SA–22, 18th and G Streets, NW; Suite 2400, Washington, DC 20520–2201, 202.312.9605.

DATES: Effective September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Cunningham, Department of State, 202.312.9605.

Dated: September 17, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–23758 Filed 9–21–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates:

8:30 a.m.–6:15 p.m., October 17, 2001.
8 a.m.–4:15 p.m., October 18, 2001.

Place: Atlanta Marriott Century Center, 2000 Century Boulevard, NE, Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The agenda will include a discussion on rotavirus vaccine and intussusception; live attenuated influenza vaccine and potential pediatric influenza vaccine recommendations; update on 2001–2002 influenza vaccine supply; hepatitis B recommendation; update on varicella disease and varicella vaccine in the United States: vaccine coverage, vaccine safety and effectiveness, status of child care and school requirements, and decline in varicella disease from active and passive surveillance data; pneumococcal conjugate vaccine: effect of the vaccine on invasive disease during 2000 and on vaccine supply; Institute of Medicine recommendations on thimerosal; updates from the National Immunization Program, Food and Drug Administration, Vaccine Injury Compensation Program, National Institutes of Health, National Vaccine Program, and the National Center for Infectious Diseases; recommended childhood immunization schedule; use of oral polio virus to control outbreaks of poliomyelitis; adult harmonized schedule; receipt of rubella vaccine before pregnancy; Occupational Safety and Health Administration requirement for using safety engineered needles and implications for childhood immunization delivery; adaptation of vaccine formulary selection algorithm to web-accessible tool; and hepatitis A vaccine.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Program Analyst, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, m/s E61, Atlanta, Georgia 30333. Telephone 404/639–8096.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 18, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office.

[FR Doc. 01–23747 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Study Team for the Los Alamos Historical Document Retrieval and Assessment Project

The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting: Cancelled.

Name: Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

Time and Date: 5 p.m.–7 p.m., September 25, 2001.

Place: Radisson Santa Fe Hotel (Board Room), 750 N. St. Francis Drive, Santa Fe, New Mexico 87501, telephone 505–992–5800.

Status: Meeting Cancelled. Published in the **Federal Register:** August 31, 2001 (Volume 66, Number 170) [Notices] [Page 46014] From the **Federal Register** Online via GPO Access (*wais.access.gpo.gov*) [DOCID: fr31au01–57]

Contact Persons for Additional Information: Paul G. Renard, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, Building 6, Room T–027, Executive Park Drive (E–39), Atlanta, GA 30329, telephone 404–498–1817, fax 404–498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23748 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates: 8:30 a.m.–4:45 p.m., September 20, 2001. 8:30 a.m.–12 noon, September 21, 2001.

Place: Radisson Hotel Charleston, 170 Lockwood Drive, Charleston, South Carolina 29403, telephone (843) 723–3000, fax (843) 723–0276.

Status: Meeting cancelled. Published in the **Federal Register:** August 30, 2001 (Volume 66, Number 169) [Notices] [Page 45859–78860] From the **Federal Register** Online via GPO Access (*wais.access.gpo.gov*) [DOCID: fr30au01–64]

Contact Person for More Information: Paul G. Renard, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE (E–39), Atlanta, GA 30333, telephone 404/498–1800, fax 404/498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office.

[FR Doc. 01–23744 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES) Meeting: Cancelled

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee (INEELHES) meeting Cancelled.

Times and Dates: 8:30 a.m.–4:45 p.m., October 16, 2001. 8:30 a.m.–3:45 p.m., October 17, 2001.

Place: WestCoast Pocatello Hotel, 1555 Pocatello Creek Road, Pocatello, Idaho 83201, telephone, (208)233–2200, fax (208)234–4524.

Status: Meeting Cancelled. Published in the **Federal Register:** September 18, 2001 (Volume 66, Number 181) [Notices] [Page 48147] From the **Federal Register** Online via GPO Access [*wais.access.gpo.gov*] [DOCID:fr18se01–45]

Contact Person for More Information: Paul G. Renard, Executive Secretary, INEELHES, NCEH, CDC, 1600 Clifton Road, NE. (E–39), Atlanta, GA 30333, telephone (404)498–1800, fax (404)498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–23746 Filed 9–21–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Announcement of Financial Assistance To Expand Head Start Enrollment to Unserved Communities

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Notice.

SUMMARY: The Head Start Bureau of the Administration on Children, Youth and Families announces that competing applications will be accepted to fund new Head Start services in:

(1) Counties (or sub-county areas) not currently served by Head Start (see Appendix A);

(2) Federally-recognized American Indian reservations and Alaska Native villages not currently served by Head Start and;

(3) States where Head Start services are not available for the children of migrant farmworkers (Connecticut, Iowa, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Montana, Oklahoma, Nevada, New Mexico, and the State of Louisiana outside the Parishes of Tangipahoa, St. Helena, and St. Tammany.

It is expected that a total of approximately $4,000,000 will be awarded under this Announcement Program. These funds were appropriated in fiscal year 2001 with authority to expend them in fiscal year 2002.

The Head Start program is authorized by the Head Start Act, 42 U.S.C. 9831 *et seq.*, as amended.

DATES: The closing date for receipt of applications is January 14, 2002.

ADDRESSES: Address applications to: Head Start Unserved Communities Competition, ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Phone # 1–800–351–2293.

Copies of the program announcement and necessary application forms can be downloaded from the Head Start Web site at: *www.acf.dhhs.gov/programs/hsb.*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, VA 22209, or telephone: 1–800–351–2293 or email to: *ehs@lcgnet.com.*

Evaluation Criteria

Applications will be reviewed and evaluated on the following criteria:

1. Objectives and Need for Assistance (20 Points)

The extent to which the application provides current data on the needs of young children, families, and communities for expanded Head Start services, including analyses of changes in poverty and family mobility, employment opportunities and welfare reform, and any special unserved or underserved populations or groups.

The extent to which the application provides convincing evidence of the involvement and support of other organizations serving low-income families in assessing family and community needs and resources, developing proposed plans and strategies, and in active partnerships to implement the proposed expansion.

2. Results or Benefits Expected (10 Points)

The extent to which the applicant identifies the results and benefits to be derived from the project and links these to the stated objectives.

The extent to which the applicant describes the kinds of data to be collected and how they will be utilized to measure progress towards the stated results or benefits.

3. Approach (25 Points)

The extent to which the application includes a detailed, well-organized, and credible plan of action to carry out the proposed expansion of Head Start services, including plans for recruitment and selection of children, arrangements for transportation and facilities and plans for start-up of the new services.

The extent to which the application includes clear plans and a demonstrated commitment to implement the Head Start Program Performance Standards, including involvement of parents and families in program design and decision making.

The extent to which the application proposes, where possible, to collaborate with other community providers to deliver a high quality, cost-effective Head Start program.

The extent to which the application provides sound, cost-effective staffing, organizational and management strategies, including staff training and development to ensure that the expansion provides high quality and responsive services.

The extent to which the application demonstrates a sound strategy for facilitating the transition of Head Start children from the Head Start program to the local school system by coordinating with the local education agency and the local schools who will be enrolling Head Start children.

4. Organizational Capacity & Experience (20 Points)

The extent of the demonstrated capacity of the applicant organization, key leaders and managers and, where appropriate, proposed partnering organizations in:

Providing high quality, responsive services to young children and families, including evidence of the capability to meet the Head Start Program Performance Standards; Managing expansion of program services in an effective and timely manner; and

Managing successful partnerships to serve young children and their families that involve sharing resources, staffing and facilities.

5. Cost Effectiveness and Budget Appropriateness (25 Points)

The extent to which the proposed budget is reasonable, appropriate and cost effective in view of the proposed services, strategies and anticipated outcomes.

The extent to which the applicant has mobilized significant additional resources to complement Head Start expansion funds.

Executive Order 12372—Notification Process

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need not take action regarding Executive Order 12372.

Applicants for projects to be administered by Federally recognized Indian tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, Head Start Bureau, Grants Officer, Room 2220, 330 C Street, SW., Washington, DC 20447, Attn: Head Start Unserved Communities Competition.

A list of Single Points of Contact for each State and territory can be found at the following web site: *www.whitehouse.gov/omb/grants/spoc.html.*

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 19, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

Appendix A

COUNTIES UNSERVED BY HEAD START
[8/31/01]

State	County
California	Alpine County
Colorado	Baca County
	Cheyenne County
	Custer County
	Dolores County
	Douglas County
	Grand County
	Gunnison County
	Hinsdale County
	Jackson County
	Kiowa County
	Kit Carson County
	Mineral County
	Ouray County
	Phillips County
	Pitkin County
	Rio Blanco County
	Routt County
	San Juan County
	San Miguel County
	Sedgwick County
	Summit County
	Teller County
Georgia	Chattahoochee County
	Echols County
	Taliaferro County
Idaho	Butte County
	Clark County
	Custer County
	Southern Bannock County
	Fremont County
	Jefferson County
	Lemhi County
	Madison County
Iowa	Adair County
Kansas	Barber County
	Chase County
	Chautauqua County
	Clark County
	Comanche County
	Edwards County
	Elk County
	Greeley County
	Greenwood County
	Hamilton County
	Harper County
	Hodgeman County
	Kiowa County
	Lane County
	Lincoln County
	Meade County
	Mitchell County
	Morris County
	Morton County
	Ness County
	Osbourne County
	Osage County
	Rooks County
Minnesota	Cook County
Montana	Big Horn County
	Carbon County
	Carter County
	Chouteau County
	Daniels County
	Fallon County
	Lake County
	McCone County
	Powder River County
	Prairie County
	Roosevelt County
	Rosebud County
	Sheridan County
	Stillwater County
	Sweet Grass County
	Treasure County
	Yellowstone National Park County
Nebraska	Arthur County
	Banner County
	Blaine County
	Boyd County
	Dixon County
	Dundy County
	Gosper County
	Grant County
	Hayes County
	Hooker County
	Johnson County
	Keya Paha County
	Logan County
	Loup County
	McPherson County
	Perkins County
	Pierce County
	Rock County
	Sioux County
	Thomas County
	Washington County
	Wheeler County
Nevada	Douglas County
	Esmeralda County
	Eureka County
	Lander County
	Lincoln County
	Nye County
	Pershing County
	Storey County
New Mexico	Harding County
	Los Alamos County
North Carolina	Polk County
North Dakota	Burke County
	Divide County
	Grant County
	McKenzie County
	Mercer County
	Mountrail County
	Oliver County
	Renville County
	Rolette County
	Sioux County
	Dewey County
	Todd County
	Ziebach County
Oklahoma	Dewey County
Texas	Armstrong County
	Borden County
	Briscoe County
	Carson County
	Cochran County
	Culberson County
	Franklin County
	Dickens County
	Hansford County
	Hartley County
	Hemphill County
	Jack County
	Jeff Davis County
	Kennedy County
	Kent County
	King County
	Lipscomb County
	Loving County
	McMullen County
Texas	Motley County
	Oldham County
	Presidio County
	Rains County
	Roberts County
	Sherman County
	Stonewall County
	Terrell County
	Throckmorton County
	Wheeler County
	Winkler County
Utah	Daggett County
	Sanpete County
Virginia	Prince George County
	Colonial Heights County
Washington State.	Columbia County
	Garfield County
	Lincoln County
Wisconsin	Ozaukee County
Wyoming	Teton County

[FR Doc. 01–23767 Filed 9–21–01; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Notice No. ACF/ACYF/RHYP 2002–01]

Notice of Availability of Financial Assistance and Request for Applications for the National Communication System for Runaway and Homeless Youth Grant

AGENCY: Family and Youth Services Bureau, Administration on Children, Youth and Families, ACF, HHS.

ACTION: This notice announces the availability of financial assistance and request for applications for the Fiscal Year 2002 National Communication System for Runaway and Homeless Youth.

This notice announces the availability of the full official fiscal year 2002 Program Announcement for the National Communication System for Runaway and Homeless Youth. The full official announcement must be used to apply for grant funding under the competitive grant area and is available by calling or writing the ACYF Operations Center (address below) or by downloading the announcement from the FYSB Web site at *http://www.acf.dhhs.gov/programs/fysb/fund-anncmt.htm*

Legislative Authority: The Runaway and Homeless Youth Act (RHY Act) as amended Pub. L. 106–71 authorizes a grant for the National Communication System for Runaway and Homeless Youth.

Deadlines: The deadline for RECEIPT of applications for a new grant under this announcement is:

CFDA#	Programs	Deadline dates	Deadline times
93.623 ..	National Communication System for Runaway and Homeless Youth.	November 30, 2001.	4:30 p.m. (EDT)

Mailing and Delivery Instructions: Applications must be in hard copy. Mailed applications and applications hand delivered by applicants, applicant couriers, overnight/express mail couriers or any other method of hand delivery shall be considered as meeting an announced deadline if they are received on or before the deadline, at the following address: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Telephone: 1–800–351–2293, Email: FYSB@lcgnet.com.

Applications may be hand delivered to the above address between the hours of 8 a.m. and 4:30 p.m. (EDT), Monday through Friday (excluding Federal Holidays).

Applicants are responsible for mailing and delivering applications well in advance of deadlines to ensure that the applications are received on time. Applications received after 4:30 p.m. (EDT) on the deadline date will be classified as late. Postmarks and other similar documents do not establish receipt of an application.

ACF will not accept applications delivered by fax or e-mail regardless of date or time of submission and receipt.

Late Applications: Applications which do not meet the criteria stated above and are not received by the deadline date and time are considered late applications. The Administration for Children and Families (ACF) will notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline. ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mail service, or for other disruptions of services, such as a prolonged blackout, that affect the public at large. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

SUPPLEMENTARY INFORMATION: Grant award for FY 2002 funds will be made by September 30, 2002, for the National Communications System for Runaway and Homeless Youth.

The estimated funds available that may be awarded under this program announcement in $1,000,000.

Competitive Grant Area and Summary of Evaluation Criteria

Part I: Competitive Area: National Communication System for Runaway and Homeless Youth (CFDA#93.623)

Program Purpose, Goals and Objectives: The Administration on Children, Youth and Families will award one new competitive grant for approximately $1,000,000 to operate the Runaway and Homeless Youth National Communication System (NCS). The overall purpose of the NCS is to link youth with a family member or guardian and/or an available resource that can provide and/or assist the youth in acquiring needed services. To fulfill this purpose, the system's goals must include the provision of information, referral services, crisis intervention and communication services to runaway and homeless youth and their families.

To fulfill the objectives of the legislation, the National Communication System must provide a neutral and confidential channel of communication that is available on a 24-hours per day, seven days per week basis throughout the United States, and through which runaway and homeless youth may re-establish contact with their parents or guardians. The system must be able to identify resources for runaway and homeless youth in the area in which the youth are located; provide pre-runaway prevention counseling and identify local resources to assist young people who are contemplating running away and who contact the communication system before they run; provide crisis intervention to clients, when appropriate, to address problems and/or issues surfaced during telephone contact; address reunification when feasible and provide access to transportation services for this purpose; allow families/guardians to leave messages or have conference calls with runaway youth and provide familes/guardians with advice and referrals to agencies which might assist them.

Eligible Applicants: Any State, unit of local government, combination of units of local government, public or private agency, organization, institution, or other non-profit entity is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply. Non-Federally recognized Indian tribes and urban Indian organizations are also eligible to apply for grants as private, non-private agencies.

Federal Share of Project Costs: $1,000,000 per year. The maximum Federal share for a 5-year project period is $5,000,000.

Applicant Share of Project Costs: Applicants must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a five-year project costing $5,000,000 Federal funds (based on an award of $1,000,000 per 12-month budget period) must provide a match of at least $500,000 ($100,000 per budget period). Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal match.

Duration of Project: This announcement solicits applications for one new grant for a National Communication System for up to five years (60–month project period). The intital grant award, made on a competitive basis, will cover a one-year (12-month) budget period. Applications for continuation grants beyond the first budget period, but within the 60-month project period, will be considered in subsequent years on a non-competitive-basis, subject to the availability of funds, satisfactory performance of the grantee and determination that continued funding would be in the best interest of the government.

Project Summary/Abstract: Applicant must provide a one page (or less) summary of the project description with reference to the funding request.

Full Project Description: Applicant must describe the project clearly in 40 pages or less based on the outline and guidelines provided in the full official program announcement.

Part II. Uniform Project Description Requirements and Evaluation Criteria

Note that each criterion is preceded by the ACF Uniform Project Description (UPD) generic project description requirement as approved by the Office of Management and Budget (OMB), Control Number 0970–0139, Expiration Date 12/31/2003. The UPD requirement is followed by the evaluation criteria specific to the Runaway and Homeless Youth program.

(a.) UPD Requirement for Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Evaluation Criterion for Objectives and Need for Assistance (15 point)

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified above.

2. Applicant must discuss the need for assistance by describing the conditions of youth and families to be served, emphasizing the incidence and characteristics of runaway and homeless youth and their families nationwide. The discussion must address major issues and problems related to the use of youth hotline services by runaway youth, their families and youth serving agencies.

3. Applicant must provide descriptive information on the availability of information, referral, crisis intervention and youth hotline services to runaway and homeless youth across the nation and how the applicant would coordinate with such agencies and organizations to help ensure that callers receive the assistance they need to avoid service duplication.

(b.) UPD Requirement for Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to serve adolescents and their families, describe who will receive services, where and how these services will be provided, and how the services will benefit the youth, their families and the community.

Evaluation Criterion for Results or Benefits Expected (20 points)

1. Applicant must indicate the number of runaway and homeless youth callers and their families to be assisted annually through each component of the proposed services, e.g.: crisis intervention counseling, referrals, conference calling, message delivery services, etc.

2. Applicant must discuss the anticipated impact and benefit of these services upon runaway and homeless youth, their families and upon the existing network of national and local runaway and homeless youth service providers.

3. Applicant must discuss the anticipated results of proposed activities that promote awareness of the NCS among youth, service providers and the general community.

4. Applicant must describe the criteria to be used to evaluate the results and success of the project, including a description of the types of data that will be collected on callers and services provided.

(c.) UPD Requirement for Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by acitivity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any collection of information that is conducted or sponsored by ACF.

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Evaluation Criterion for Approach (35 points)

1. Applicant must describe its youth development approach or philosophy and how it underlies and integrates all proposed activities, including provision of services to runaway and homeless youth and involvement of the youth's parents or legal guardians and/or youth service providers. Specific information must be provided on how youth will be involved in the design, operation and evaluation of the project.

2. Applicant must describe the approach and method that would be used to ensure that the NCS is a neutral and confidential telephone information, referral and crisis intervention service available to runaway and homeless youth and their families. Applicant must describe the procedures to be put in place to ensure that adequate telephone coverage is provided across the United States, that the communication system will be available 24 hours per day, seven days per week, and that paid qualified staff will supervise these operations.

3. Applicant must describe how it would establish and maintain service linkages with other youth-serving agencies, including other youth hotline services and how it would work with such agencies to deliver more effective services. This would include explaining the applicant's technical capacity to create and maintain a listing of resources for youth and its ability to facilitate communication among youth service providers.

4. Applicant must describe the approach for recruiting, training, supervising and using paid staff and volunteers who would receive calls and provide crisis intervention counseling.

5. Applicant must describe its plans for conducting outreach and public education activities throughout the United States to increase awareness and visibility of the NCS and its services.

6. Applicant must discuss potential approaches and plans for minimizing problems such as crank/obscene calls and busy signals.

7. Applicant must thoroughly describe the capabilities of the telephone and computer systems to be used to handle the calls from throughout the United States each year. Information such as the number of incoming and outgoing lines, conference call capabilities and service integration with computers must be described. Problems or issues that's related to these systems should also be addressed, as well as the time needed to get these systems up and running.

8. Applicant must identify the location of the place, from which services are to be provided and provide a plan of the physical facility, focusing on location of telephone stations, computer terminals and other equipment.

9. Applicant must describe general procedures for maintaining confidentiality of records on the youth and families served and specifically address the issue of confidentiality as it relates to the use of computer and communications technology. Procedures must strictly prohibit the disclosure or transfer of records containing the identity of individual youths to any person or to any public or private agency without the consent of the individual youth, parent or legal guardian. Disclosures without consent can be made to another agency compiling statistical records if individual identities are not provided or to a government agency involved in the disposition of criminal charges against an individual runaway or homeless youth.

10. Applicant must agree to cooperate with any research, data collection or evaluation efforts sponsored by the Administration for Children and Families.

11. Applicant must describe specific plans for accomplishing program phase-out during the last six months of the project period in the event the applicant does not receive a new Federal award.

(d.) UPD Requirement for Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Evaluation Criterion for Staff and Position Data (10 points)

1. Applicant must include a description of current and proposed staff skills and knowledge regarding runaway and homeless youth and indicate how staff would be utilized in

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achieving the goals and objectives of the program. Brief resumes of current and proposed staff, as well as position descriptions, should be included. Position descriptions must specifically describe the job as it relates to the proposed project.

2. Applicant must describe the staffing pattern that would be used to ensure that well-trained personnel would be assigned to each shift during the 24 hours per day, seven days per week operating period.

(e.) UPD Requirement for Organizational Profile

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information.

Any nonprofit organization submitting an application must submit proof of its nonprofit status in its application at the time of submission. The nonprofit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Evaluation Criteria for Organizational Profile (10 points)

1. Applicant must discuss staff and organizational experience in working with runaway and homeless youth populations. As required by the RHY Act, priority for funding will be given to organizations with experience in providing national telephone hotline services to runaway and homeless youth in a manner that is in concert with the evaluation criteria for the NCS competitive grant program. Applicant must document the services it provides to this specific target population and the length of time that the applicant has been involved in the provision of these services.

2. Applicant must provide a short description of the applicant agency's organization, the experience of the organization with youth development, youth issues and youth and family services, and the role of any other offices or organizations that will be directly involved in this effort. Organizational charts may be provided.

(f.) UPD Requirement for Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Evaluation Criterion for Budget and Budget Justification (10 Points)

1. Applicant must show that costs of the proposed project are reasonable and justified in terms of numbers of youth and families to be served, types and quantities of services to be provided and the anticipated results and benefits. Discussion should refer to the budget information presented on Standard Forms 424 and 424A and in the applicant's budget justification.

2. Applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received under this program announcement.

3. Applicant must describe its plan for maximizing the non-Federal share through private sector resources that will enhance the overall program.

Required Notification of the Single Point of Contact

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." The order was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs and designate an entity to perform this function. The official list of those entities can be found at *http://www.whitehouse.gov/omb/grants/spoc.html* or by calling the ACYF Operations Center at 1–800–351–2293.

Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCS are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule. When comments are submitted directly to ACYF, they must be addressed to: Department of Health and Human Services, Administration on Children, Youth and Families, Family and Youth Services Bureau, Room 2038, Mary Switzer Building, 330 C Street, SW., Washington, DC 20447, Attention: Dorothy Pittard.

Dated: September 17, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–23766 Filed 9–21–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0029]

Determination of Regulatory Review Period for Purposes of Patent Extension; Trileptal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Trileptal and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov.dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration,5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Trileptal (oxcarbazepine). Trileptal is indicated for use as monotherapy or adjunctive therapy in the treatment of partial seizures in adults with epilepsy, and as adjunctive therapy in the treatment of partial seizures in children ages 4 through 16 with epilepsy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Trileptal (U.S. Patent No. 4,559,174) from Novartis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 11, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Trileptal represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Trileptal is 2,523 days. Of this time, 2,046 days occurred during the testing phase of the regulatory review period, while 477 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: February 18, 1993. The applicant claims February 4, 1992, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was February 18, 1993, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: September 25, 1998. FDA has verified the applicant's claim that the new drug application (NDA) for Trileptal (NDA 21–014) was initially submitted on September 25, 1998.

3. *The date the application was approved*: January 14, 2000. FDA has verified the applicant's claim that NDA 21–014 was approved on January 14, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,690 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written or electronic comments and ask for a redetermination, by November 23, 2001. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period, by March, 24, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 5, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 01–23750 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Current Good Manufacturing Practice for Active Pharmaceutical Ingredients; Public Workshops

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshops.

SUMMARY: The Food and Drug Administration (FDA) is announcing a series of workshops to discuss the application of the International Conference on Harmonisation (ICH) guidance for industry entitled "Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients," which will be announced in a future issue of the **Federal Register**. The workshops, which will be held in collaboration with the Parenteral Drug Association, the Pharmaceutical Research and Manufacturers of America, and the Generic Pharmaceutical Association, are intended to provide a regulatory perspective on current good manufacturing practices (CGMPs) for active pharmaceutical ingredients (APIs). The workshops are being scheduled to help ensure that all APIs meet the standards for quality and purity they purport or are represented to possess.

DATES: See table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: See table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Erik N. Henrikson, Center for Drug

Evaluation and Research (HFD–320), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–827–0072, FAX 301–594–2202;

Leslie Zeck, Parenteral Drug Association, 7500 Old Georgetown Rd., suite 620, Bethesda, MD 20814, 301–986–0293, FAX 301–986–0296, e-mail: http://www.pda.org;

Alice E. Till, Pharmaceutical Research and Manufacturers of America, 1100 15th St. NW., Washington, DC 20005, 202–835–3400, FAX 202–835–3597, e-mail: http://www.phrma.org; or

Steve Bende, Generic Pharmaceutical Association, 1620 I St. NW., suite 800, Washington, DC 20006, 202–833–9070, FAX 202–833–9612, e-mail: http://www.genericaccess.com.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Who Should Attend?

This announcement is directed towards professionals involved in the manufacture, control, and regulation of APIs who will benefit from this training, including: Process/production engineers, quality assurance/quality control and regulatory affairs professionals, auditors, agents, brokers, traders, distributors, repackers and relabelers of APIs, consultants, regulatory investigators and GMP compliance officials, and reviewing chemists. Other entities or individuals may also be interested in attending.

B. Where and When Will These Workshops Be Held?

TABLE 1.—WORKSHOP LOCATIONS AND DATES

Workshop Address	Date and Local Time
Illinois: The Allerton Crowne Plaza, 701 North Michigan Ave., Chicago, IL	October 22 to 24, 2001, from 9 a.m. to 5 p.m.
New Jersey: Hyatt Regency Princeton, 102 Carnegie Center, Princeton, NJ	November 7 to 9, 2001, from 9 a.m. to 5 p.m.
California: The Sutton Place Hotel, 4500 MacArthur Blvd., Newport Beach, CA	February 25 to 27, 2002, from 9 a.m. to 5 p.m.
Puerto Rico: Caribe Hilton San Juan, Los Rosales St., San Geronimo Ground,San Juan, PR	April 8 to 10, 2002, from 9 a.m. to 5 p.m.

C. How Can I Participate?

You can participate in person. Anyone interested in the API workshops can register through any of the information contacts (addresses above).

D. Is There a Registration Fee for This Workshop?

Yes, a registration fee of $995 is required for this workshop. This registration fee includes workshop reference materials, lunch on each day, and a networking reception on day 1. Government employees qualify for a discounted rate of $395.

E. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

Submit written requests for single copies of the Q7A guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist the office in processing your requests. Once the notice of availability is announced in a future issue of the **Federal Register**, those with electronic access will be able to obtain electronic copies of the guidance document on the Internet at three locations: http://www.fda.gov/cder/guidance/index.htm; http://www.emea.eu.int/pdfs/human/ich/410600en.pdf; or http://www.ifpma.org/ich5q.html#gmp. The notice of participation form, information about the workshops, and other related documents are available from any of the information contacts (addresses above) or from the Internet at http://www.fda.gov/cder/calendar.

II. Background Information

A. Why is FDA Cosponsoring These Workshops?

FDA is cosponsoring these 3-day workshops to provide training of FDA personnel alongside industry participants on the ICH Q7A CGMP guidance for APIs. This is the first CGMP guidance developed jointly by regulators and industry and is intended for use worldwide. It affects manufacturers who manufacturer in, or intend to supply into, the ICH regions (United States, Europe, Japan).

B. What Will Be Covered?

FDA participation in these workshops will provide a regulatory perspective on the critical topic of the ICH guidance "Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients." Attendees will hear about the intent of the Expert Working Group that developed the Q7A guidance and learn how to interpret and apply the Q7A guidance, including special sections on APIs manufactured by cell culture/fermentation, and APIs for use in clinical trials.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23804 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 11, 2001, from 9 a.m. to 5 p.m.

Location: National Institutes of Health, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

Contact: Joan C. Standaert, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, Woodmont II Bldg., 1451 Rockville Pike, Rockville, MD 20752, 419–259–6211, or John Treacy or Jayne E. Peterson , 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug applications (NDA) 20–665 (capsules) and NDA 21–283 (tablets) Diovan® (valsartan), Novartis Pharmaceuticals Corp., for the treatment of patients with heart failure.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 5, 2001. Oral presentations from the public will be scheduled between approximately 9 a.m. and 10 a.m. on October 11, 2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 5, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 18, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–23749 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0397]

Transportation Safety and Potentially Sedating or Impairing Medications; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting to gather data on the potential public health consequences related to sedating or impairing medications. This meeting will be jointly sponsored with the National Transportation Safety Board (NTSB). The meeting will be held to determine what data are available to define the role of sedating or impairing medications in accidents and related injuries, how the potential for medications to cause impairment might be best assessed, and how this risk would be most effectively communicated to the public.

DATES: The meeting will be held on November 14, 2001, from 8 a.m. to 5 p.m. and November 15, 2001, from 8 a.m. to 4 p.m. Persons desiring to make oral presentations during the meeting must register by October 17, 2001. Submit written or electronic comments by December 17, 2001.

ADDRESSES: The public meeting will be held at the National Transportation Safety Board (NTSB) Board Room, 429 L'Enfant Plaza, SW., Washington, DC 20594. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

Registration: Submit registration information by close of business on October 17, 2001, electronically at http://www.accessdata.fda.gov/scripts/oc/dockets/meetings/meetingdocket.cfm. Once on this Internet site, select Docket No. 01N–0397 and follow the directions. Submit registration information by mail to Dockets Management Branch (address above).

FOR FURTHER INFORMATION CONTACT: Lee Lemley or Anne M Food and Drug Administration,. Henig, Center for Drug Evaluation and Research (HFD–006), Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857, 301–594–6779, e-mail: lemleyl@cder.fda.gov or heniga@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

Why is FDA/NTSB holding this meeting?

FDA/NTSB is holding this joint meeting in response to NTSB Safety Recommendation I–00–5, requesting that FDA (1) Establish a clear, consistent, easily recognizable warning label for all prescription and over-the-counter medications that may interfere with an individual's ability to operate a vehicle and (2) require that the label be prominently displayed on all packaging of such medications.

On what issues does FDA seek comment?

- What data are available to show that sedating or impairing medications contribute to accidents?
- If data are available, can the public health impact of any such effect be delineated? What type of testing would best define the potential for a medication to contribute to accidents? Are there validated test methods for assessing the degree of risk associated with the use of medications that are sedating or impairing?
- What would be the most effective manner of communicating the risk of performance impairment (e.g., labeling, pictogram, educational programs, or other manner of communication)?
- What is the experience of other institutions (local, national, and international; public and private) in assessing, communicating, and preventing the risk of sedating or impairing medications in vehicle operators? How are currently applicable laws and regulations enforced?

II. Registration and Requests to Make Oral Presentations

If you would like to make an oral presentation during the meeting, you must register by close of business on October 17, 2001, either electronically or by mail (information above). There is no registration fee, but you must register. You must provide your name, title, business affiliation (if applicable), address, telephone number, fax number, e-mail address, and the type of organization you represent (e.g., industry, consumer organization). Registered persons should check in before the meeting. Persons requiring a sign language interpreter or other special accommodations should notify Lee Lemley or Anne M. Henig at 301–594–6779 by October 31, 2001.

If you are making an oral presentation during the meeting, you must indicate this on your registration form and submit: (1) A brief written statement of the general nature of the views you wish to present and (2) the names and addresses of all persons who will participate in the presentation.

Depending on the number of people who register to make presentations, we will limit the time allotted for each presentation (from 3 to 5 minutes). It is anticipated that, during the meeting, persons attending the meeting will have the opportunity to ask questions through question cards that will be handed out.

III. Comments

Interested persons may submit to the Dockets Management Branch (addresses above) written or electronic comments regarding the topics addressed at the public meeting by December 17, 2001. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Transcripts

You may access a copy of the transcript on the FDA Internet site at http://www.fda.gov, request a transcript of the meeting from the Freedom of Information Office (HFI–35), Food and

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Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 20 working days after the meeting, at a cost of 10 cents per page, or examine a transcript of the meeting after December 17, 2001, at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23805 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1538]

Draft Guidance for Industry; Electronic Records; Electronic Signatures, Validation; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Validation." The draft guidance describes the agency's current thinking on issues pertaining to validating computer systems subject to part 11 (21 CFR part 11) requirements, to ensure that electronic records and electronic signatures are trustworthy, reliable, and compatible with FDA's public health responsibilities. Such validation is a requirement of part 11 of title 21 of the Code of Federal Regulations.

DATES: Submit written or electronic comments on the draft guidance by Decmeber 24, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Compliance Information and Quality Assurance (HFC–240), Office of Enforcement, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, room 1060, Rockville, MD 20852. Submit electronic comments to *http://www.FDA.gov/dockets/ecomments.* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Paul J. Motise, Office of Enforcement (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0383, e-mail: *pmotise@ora.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Validation." In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a regulation providing criteria under which the agency considers electronic records and electronic signatures to be trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper ("part 11"). The preamble to part 11 stated that the agency anticipated issuing supplemental guidance documents and would afford all interested parties the opportunity to comment on draft guidance documents. Therefore, FDA is making this draft guidance available for public comment.

The draft guidance addresses issues pertaining to the validation of computer systems used to create, modify, maintain, archive, retrieve, or transmit electronic records and electronic signatures subject to part 11. Part 11 requires such validation, and the guidance is intended to assist people who must meet this requirement; it may also assist FDA staff who apply part 11 to persons subject to the regulation.

The draft guidance provides specific information on key validation principles, and it addresses some frequently asked questions. However, it is not intended to cover everything that computer systems validation should encompass in the context of electronic record/signature systems. In addition to addressing key validation principles, the draft document discusses considerations regarding off the shelf software and the Internet.

By direct reference, this draft guidance incorporates definitions of terms contained in a companion draft guidance, "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms." Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of that companion draft document, and is offering the opportunity to comment on it, as well.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking on validating computerized systems subject to part 11. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ora/compliance_ref/Part11.*

Dated: August 23, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23698 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1543]

Draft Guidance for Industry; Electronic Records; Electronic Signatures, Glossary of Terms; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms." The draft guidance defines terms that will be used in FDA's guidances that describe the agency's current thinking on principles and procedures for creating, modifying, maintaining, archiving, retrieving, and transmitting electronic records and electronic signatures in order to ensure that electronic records and electronic signatures are trustworthy, reliable, and compatible with FDA's public health responsibilities.

DATES: Submit written or electronic comments on the draft guidance by December 24, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms" to the Division of Compliance Information and Quality Assurance (HFC–240), Office of Enforcement, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Paul J. Motise, Office of Enforcement (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0383, e-mail: *pmotise@ora.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Glossary of Terms." In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published a regulation providing criteria under which the agency considers electronic records and electronic signatures to be trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper ("part 11" (21 CFR part 11)). The preamble to part 11 stated that the agency anticipated issuing supplemental guidance documents and would afford all interested parties the opportunity to comment on draft guidance documents. Therefore, FDA is making this draft guidance available for public comment.

The draft guidance defines terms that will be used in other FDA guidance documents about part 11. FDA believes that rather than repeat definitions in multiple guidances it would be more efficient to consolidate them in one common document. The glossary of terms is intended to assist people who must meet part 11 requirements; it may also assist FDA staff who apply part 11 to persons subject to the regulation.

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a companion draft document entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Validation" and is offering the opportunity to comment on it, as well. By direct reference, the companion draft document incorporates definitions contained in the draft glossary of terms.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking on terms and their definitions as used in guidance documents about electronic records and electronic signatures in the context of part 11. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ora/compliance_ref/Part11.*

Dated: August 23, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23699 Filed 9–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; extension of comment period.

SUMMARY: We are extending the period for the submission of comments on two documents related to the Sacramento River National Wildlife Refuge. This action will provide the public with additional time to participate in the planning process of developing these documents.

DATES: Comments must be received by October 19, 2001.

ADDRESSES: Send written comments to the following address: Planning Team Leader—Sacramento River NWR, California/Nevada Refuge Planning Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, W–1916, Sacramento, California, 95825. Written comments may also be sent by facsimile to (916) 414–6512.

FOR FURTHER INFORMATION CONTACT: Mr. Miki Fujitsubo, Planning Team Leader, (916) 414–6507.

SUPPLEMENTARY INFORMATION: We published a notice in June 11, 2001, **Federal Register** (66 FR 31247) announcing that the Service is preparing a Comprehensive Conservation Plan (CCP) and National Environmental Policy Act document for the Sacramento River National Wildlife Refuge. The Refuge is located in Butte, Glenn, and Tehama Counties, California. As discussed in the notice, we are preparing the CCP to comply with the National Wildlife Refuge System Administration Act of 1966. The notice stated that comments should be received by July 11, 2001. We have decided to allow the public additional time to submit comments and have extended the public comment period to October 19, 2001.

Authority: The authority for this action is Notice of Intent (66 FR 31247).

Dated: September 17, 2001.

Daniel S. Walsworth,

Acting Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 01–23724 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU–78576]

Recreation and Public Purposes, Classification and Termination; UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On October 4, 2000, 80 acres of public land were classified and segregated for Recreation and Public Purposes (R&PP) purposes (UTU–78576). Subsequently it was determined that a fifty acre portion of this classification contained resource values which should remain in public ownership. Therefore, the classification on these fifty acres of public land in Garfield County is being terminated. In place of this 50 acre parcel, an additional thirty acres which have been determined to not contain these values are hereby classified for disposal under the Recreation and Public Purposes Amendment Act of 1988 (Pub. L. 100–648).

FOR FURTHER INFORMATION CONTACT: Frank Olsen, 318 North 100 East, Kanab, UT 84741.

SUPPLEMENTARY INFORMATION:

Classification Termination: The description of the land on which the classification is terminated is: Salt Lake Meridian, Utah, T. 35 South, R. 5 West, Section 5, SW¼SE¼SW¼; Section 9, N½NE¼NW¼; N½NW¼NW¼, containing 50 acres more or less.

Effective September 24, 2001 the Recreation and Public Purposes classification for the parcel of land described above, is hereby terminated. At 8 a.m. September 24, 2001, the land described above will be opened to the operation of the public land laws generally, including location and entry under the United States mining laws, subject to valid existing rights, other segregations of record, and the requirements of applicable law.

New Classification: The following public land in Garfield County, Utah has been examined and found suitable for classification for conveyance under the provisions of the R&PP Amendment Act of 1988 (Pub. L. 100–648): Salt Lake Meridian, Utah, T. 35 South, R. 5 West, Section 8, N½NW¼NE¼, NE¼NE¼NW¼, containing 30 acres. Garfield County intends to use the land in conjunction with the adjacent land previously classified under this Act for a public shooting range. The land is not needed for a Federal purpose. Conveyance is consistent with current Bureau of Land Management land use planning and would be in the public interest. The land is hereby segregated from appropriation under any other public land law, including locations under the mining laws.

DATES: On or before November 8, 2001, interested parties may submit comments regarding the proposed classification. In the absence of adverse comments, the classification will become effective November 23, 2001.

Rex Smart,

Acting Field Office Manager.

[FR Doc. 01–23734 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–680–01–ES–4130; CACA 41804]

California Desert District, Notice of Realty Action, Public Use Classification; Classification of Public Lands for Recreation and Public Purposes, Serial Number Caca 41804, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action CACA 41804, Classification of Public Land as Suitable for Lease/Conveyance for Recreation and Public Purposes.

SUMMARY: The following described public land in San Bernardino County, California has been examined and found suitable for classification for lease or conveyance to the San Bernardino County Consolidated Fire District, County Service Area (CSA) 70 under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*):

San Bernardino Meridian, California

T. 14N., R. 9E.
Sec. 30, W½NW¼SE¼NE¼;
Containing 5.00 acres.

The San Bernardino County Consolidated Fire District, CSA 70, a County government agency governed by the San Bernardino County Board of Supervisors, has filed an application to lease with the option for conveyance of the above described public land. The San Bernardino County Consolidated Fire District proposes to use the land for establishment of a fire station facility. The public land will be leased during the development stages. Upon substantial compliance with approved plans of development and management, the land will be conveyed.

The land is not needed for Federal purposes. Lease or conveyance under the Recreation and Public Purposes Act is in the public interest and consistent with the California Desert Conservation Area Plan, as amended. The land is located approximately 65 miles northeast of Barstow, CA, in the small unincorporated community of Baker, CA, which is situated adjacent to Interstate 15. The site is physically suitable for the proposed use.

The terms and conditions applicable to a lease conveyance are:

A. Reservations to the United States.

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. The United States will reserve all mineral deposits in the land together with the right to prospect for, mine and remove such mineral deposits under applicable laws.

B. The public land will be leased or conveyed subject to the following:

1. Those rights for construction, operation and maintenance of the 100 foot wide telegraph and telephone line granted to Pacific Telephone and Telegraph Company (now Pacific Bell), its successors or assigns, by right-of-way Serial No. CALA 0153023, pursuant to the Act of March 4, 1911, as amended (36 Stat. 1253; 43 U.S.C. 961).

Upon publication of this notice in the **Federal Register**, the public land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments, regarding the proposed lease/conveyance of the lands, to the Field Manager, Barstow Field Office, 2601 Barstow Road, Barstow, CA 92311, (760) 252–6023. Any adverse comments will be reviewed by the District Manager, California Desert District. In the absence of any adverse comments, this classification will become effective 60 days from the date of publication of this notice.

Dated: August 20, 2001.

Timothy Read,

Barstow Field Office Manager.

[FR Doc. 01–23737 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–01–1420–BJ]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plat of the following described land is scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Principal Meridian, Montana

T. 18 N., Rs. 56 and 57 E.

The plat, representing the dependent resurvey of portions of the 14th Auxiliary Meridian East, through Township 18 North, the subdivisional lines and the adjusted original meanders of the left bank of the Yellowstone River, downstream, through sections 25 and 30, the survey of a medial line of two relicted channels, a certain partition line and certain meanders of the present left bank of the Yellowstone River, in Township 18 North, Ranges 56 and 57 East, of the Principal Meridian, in the State of Montana, was accepted July 27, 2001.

The survey was requested by the Miles City Field Office and was necessary to identify accretions and delineate federal interest lands in sections 25 and 30 of the subject townships.

A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

This particular plat will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: August 3, 2001.

Steven G. Schey,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 01–23738 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–BJ: GP01–0301]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, October 24, 2001.

Willamette Meridian

Oregon
T. 7 S., R. 7 W., accepted June 28, 2001
T. 10 S., R. 2 E., accepted July 9, 2001
T. 31 S., R. 6 W., accepted July 9, 2001
T. 9 S., R. 2 E., accepted July 9, 2001
T. 14 S., R. 1 W., accepted August 3, 2001

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plats(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: August 21, 2001.

Robert D. DeViney, Jr.,

Branch of Realty and Records Services.

[FR Doc. 01–23733 Filed 9–21–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM 91063]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw approximately 2,173 acres of National Forest System lands to protect the lands during completion of reclamation activities. This notice closes the lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to all activities currently consistent with applicable Forest plans and those related to exercise of valid existing rights.

DATES: Comments and requests for a public meeting must be received by December 24, 2001.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, Montana 59725–3572.

FOR FURTHER INFORMATION CONTACT: Dan Avery, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, Montana 59725–3572, 406–494–0269.

SUPPLEMENTARY INFORMATION: On July 17, 2001, the Forest Service filed an application to withdraw the following-described National Forest System lands from location and entry under the United States mining laws, but not the mineral leasing laws, subject to valid existing rights:

Principal Meridian, Montana

Beaverhead-Deerlodge National Forest

Basin Creek Mine (approximately 1,456 acres)—
T. 8 N., R. 5 W.,
Sec. 19, lots 7, 10, 12, and 15;
Sec. 30, lots 7 and 17.
T. 8 N., R. 6 W.,
Sec. 24, lot 11;
Sec. 25, lots 1 to 7, inclusive;
Sec. 26, lots 4, 5, and 7, SE¼SW¼, and SW¼SE¼;
Sec. 35, lots 1, 4, 5, and 6;
Sec. 36, lots 3 and 4.

Beal Mountain Mine (716.59 acres)—
T. 2 N., R. 10 W.,
Sec. 5, N½NE¼ and W½, excluding Patent Nos. 532788, 4955, 562258, and 535541;
Sec. 6, E½, E½NW¼, and NE¼SW¼, excluding Patent Nos. 433087, 535541, 562258, and 881285.
T. 3 N., R. 10 W.,
Sec. 31, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 32, W½NE¼, W½, and SE¼, excluding Patent No. 532788.

The areas described aggregate approximately 2,173 acres in Silver Bow, Jefferson, Powell, and Lewis and Clark Counties, Montana.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Beaverhead-

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Deerlodge National Forest, at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Forest Supervisor at the address indicated above within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include all activities currently consistent with applicable Forest plans and those related to exercise of valid existing rights.

Dated: July 31, 2001.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 01–23736 Filed 9–21–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 245–2001]

Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following system of records previously published December 16, 1999 (64 FR 70290):

Worksite Enforcement Records, JUSTICE/INS–025

INS proposes: (1) To revise the title of the system to accurately convey the records within the system; (2) to reflect that the system is now located in all district offices and sub-offices instead of just specific field offices; (3) to add an additional category of individuals covered by the system; (4) to clarify records within the system; (5) revise the "Purpose" to emphasize the inspection function of the system; (6) add two routine use disclosures (J and K); (7) modify the "Retention and Disposal" section to include a disposition for verification records; and (8) to make minor changes and edits.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on the modifications to the system and the new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities review of the system. Therefore, please submit any comments by (30 days from the publication date of this notice). The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: September 18, 2001.

Janis A. Sposato,

Acting Assistont Attorney General for Administration.

Justice/INS–025

SYSTEM NAME:

Worksite Enforcement Records.

SYSTEM LOCATION:

Immigration and Naturalization Service (INS) Headquarters, Regional, district, and sub-offices as detailed in Justice/INS–999, last published April 13, 1999 (64 FR18052). Currently, only the district and sub-offices maintain the hard copy case files for this system. Automated indices are maintained at INS Headquarters, regional and district offices, and sub-offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records maintained in this system of records concern the following:

(a) Individuals who are or have been the subject of inquiries or investigations conducted by the INS related to the enforcement of the employment control provisions of the Immigration and Nationality Act (INA) and related criminal statutes. The records primarily involve those individuals who are being investigated or have been investigated to determine whether their employment-related activities (e.g., hiring, recruiting, and/or referring for a fee) are in violation of the employment control provisions of the INA and/or related criminal statutes. These records also include individuals who employ others in their individual capacity whether related to a business activity or not; (b) individuals who are witnesses, complainants, and parties who have been identified by the INS or by other government agencies or parties to an investigation related to worksite enforcement activities; and (c) individuals who have submitted completed Form I–9 (Employment Eligibility Verification Form) and other documentation to establish identity and work eligibility/authorization under the employment control provisions of the INA. In addition, the system will include information necessary to verify the information attested to on I–9 forms.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to investigative actions including: letters; memoranda; reports of investigations with related exhibits, statements, affidavits, or records obtained during investigations (i.e., including employment verification records); prior criminal or non-criminal records of individuals as they relate to the investigations; reports to or from other law enforcement bodies; information obtained from informants; information on the nature of allegations made against suspects and identifying data concerning such suspects; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

* * * * *

PURPOSE(S):

The purpose of the system(s) is to enable the INS to meet its obligations and responsibilities in administering and enforcing the employment control provisions of the INA and related criminal statutes. Records in this system are used in the course of INS investigations of entities or individuals (e.g., employers, employees, independent contractors, sub-contractors) suspected of having committee illegal acts and in the course of conducting related civil proceedings, criminal prosecutions, or administrative actions. The records are also used to facilitate INS' inspection authority to monitor and evaluate the information contained on all I–9 forms under inspection, regardless of whether suspicion of wrongdoing exists on the part of the person who executed the Form I–9. Finally, records are also maintained for statistical purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USE:

* * * * *

C. To the General Services Administration (GSA) and National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

* * * * *

J. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

K. Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: Responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

* * * * *

RETENTION AND DISPOSAL:

Records concerning fines and/or prosecutions are retained for up to 25 years after the case is closed and then destroyed. Administrative cases involving compliance and warning notices are retained for up to seven years and then destroyed. Lastly, records involving a verification of information only are retained for up to three years and then are destroyed. This additional retention disposition is pending approval by NARA.

* * * * *

[FR Doc. 01–23726 Filed 9–21–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Extension of a currently approved collection. Prison Population Reports Midyear Counts; and Prison Population Report Advance Year-end Counts—National Prisoner Statistics.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (OJP/BJS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (Volume 66, Number 106, Pages 29836–29837) on June 1, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 24, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated pubic burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimizes the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the Form/Collection: Prison Population Reports Midyear Counts; and Prison Population Report Advance Year-end Counts—National Prisoner Statistics.

(3) The agency form number and the applicable component of the Department sponsoring the collection. Form: NPS–1A; And NPS–1B. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: State Departments of Corrections. Others: The Federal Bureau of Prisons. For the NPS–1A form, 52 central reports (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) As of June 30, the number of male and female inmates under their jurisdiction with maximum sentences of more than one year, one year or less; and unsentenced inmates; and (b) As of June 30, the number of male and female inmates in their custody with maximum sentences of more than one year, or year or less; and unsentenced inmates; and (c) As of June 30, the number of male and female inmates under their jurisdiction housed in privately-operated facility, either in state or out of state; and (d) As of June 30, number of male and female inmates in their custody by race and Hispanic origin.

For the NPS–1B form, 52 central reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) As of December 31, the number of male and female inmates under their jurisdiction with maximum sentences or more than one year, one year or less; and unsentenced inmates; and (b) The number of inmates housed in county or other local authority correctional facilities, or in other state or Federal facilities on December 31, solely to ease prison crowding; and (c) As of the direct result of state prison crowding during 2001, the number of inmates released via court order, administrative procedure or statute, accelerated release, sentence reduction, emergency release, or other expedited release; and (d) The aggregate rated, operational, and design capacities, by sex, of each State's correctional facilities at year-end.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and other interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to

respond: 52 respondents each taking an average 3.0 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: 156 annual burden hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street, NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20004.

Dated: September 18, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–23719 Filed 9–21–01; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Preservation; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2) and implementing regulation 41 CFR 101–6, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on Preservation. NARA uses the Committee's recommendations on NARA's implementation of strategies for preserving the permanently valuable records of the Federal Government.

DATES: November 8, 2001, from 10 a.m. to 5 p.m. and November 9, 2001, from 9 a.m. to noon.

ADDRESSES: National Archives and Records Administration, 8601 Adelphi Road, lecture rooms B & C, College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Alan Calmes, Preservation Archivist, 301–713–7403.

SUPPLEMENTARY INFORMATION:

1. The agenda for this meeting is a review of the NARA preservation program.

2. Discussion of the application of state-of-the-art technology for the preservation of paper, film, audio, and video Federal records.

This meeting will be open to the public, but seating may be limited.

Dated: September 17, 2001.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 01–23711 Filed 9–21–01; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Exelon Generation Company, LLC, PSEG Nuclear, LLC, Atlantic City Electric Company; Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Exelon Generation Company, LLC (Exelon) has submitted an application for renewal of Operating Licenses Nos. DRP–44 and DRP–56 for an additional 20 years of operation at the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3. PBAPS is located partly in York County and partly in Lancaster County, Pennsylvania. The application for renewal was submitted by letter dated July 2, 2001, pursuant to 10 CFR part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on July 25, 2001 (66 FR 38753). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on August 31, 2001 (66 FR 46036). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), Exelon submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is available for public inspection at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records component of NRC's document system (ADAMS). ADAMS is accessible at *http://www.nrc.gov/NRC/ADAMS/index.html*, (the NRC Public Electronic Reading Room (PERR)). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov*. In addition, the Whiteford Branch Library, located at 2407 Whiteford Road, Whiteford, MD and the Collinsville Community Library, located at 2632 Delta Road, Brogue, PA, have each been provided a reference copy of the ER and have agreed to make it available for public inspection.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's "Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants," (NUREG–1437) in support of the review of the application for renewal of the PBAPS operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS, to the NRC, and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Exelon Generation Company, LLC.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

a. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the PBAPS license renewal supplement to the GEIS. The scoping meetings will be held at the Peach Bottom Inn, 6085 Delta Road, Delta, PA on Wednesday, November 7, 2001. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m. Both sessions will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by Exelon of the proposed action, PBAPS license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the Peach Bottom Inn. No comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meetings on the NEPA scoping process by contacting Mr. Duke Wheeler by telephone at (800) 368–5642, extension 1444, or by Internet to the NRC at *dxw@nrc.gov* no later than November 1, 2001. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Wheeler's attention no later than November 1, 2001, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to:

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by November 26, 2001. Electronic comments may be sent by the Internet to the NRC at *Peach_Bottom_EIS@nrc.gov*. Electronic submissions should be sent no later than November 26, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determinations and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Wheeler at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 17th day of September 2001.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Chief, Risk Informed Initiatives, Environmental, Decommissioning and Rulemaking Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23789 Filed 9–21–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: 10:30 a.m., September 17, 2001.

PLACE: 1333 H Steet NW., Suite 300, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel issues.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC, 202–789–7820.

Dated: September 19, 2001.

Steven W. Williams,

Acting Secretary.

[FR Doc. 01–23916 Filed 9–20–01; 2:07 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25161; 812–12586]

The Victory Portfolios, et al.; Notice of Application

September 19, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

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ACTION: Notice of application under section 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(a) of the Act.

Summary of Application: Applicants request an order to permit the proposed reorganization of the following series of the Victory Portfolios: U.S. Government Obligations Fund ("U.S. Government") with and into Gradison Government Reserves Fund ("Gradison"); and Investment Quality Bond Fund ("Investment Quality") with and into Intermediate Income Fund ("Intermediate Income"). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: The Victory Portfolios ("Trust") and Victory Capital Management Inc. ("Adviser").

Filing Dates: The application was filed on July 24, 2001. Applicant have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants c/o S. Elliot Cohan, Esq., Kramer Levin Naftalis & Frankel LLP, 919 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: John L. Sullivan, Senior Counsel, at (202) 942–0681, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company and currently offers 30 series, including Gradison, U.S. Government, Intermediate Government, and Investment Quality (each, a "Fund."). The Adviser, a New York corporation and wholly owned subsidiary of KeyCorp, is registered under the Investment Advisers Act of 1940 and is the investment adviser to the Funds. Each of McDonald & Co. Securities, Inc. and SNBOC and Company, each a wholly owned subsidiary of KeyCorp, owns of records, and may under certain circumstances have the power to vote, more than 5% of the outstanding voting securities of each Fund.

2. On May 23, 2001, the board of trustees of the Funds ("Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), approved two separate Agreements and Plans of Reorganization and Termination (each, a "Plan"), under which U.S. Government will reorganize into Gradison, and Investment Quality will reorganize into Intermediate Income (Gradison and Intermediate Income are "Acquiring Funds," and U.S. Government and Investment Quality are "Acquired Funds"). Under the Plans, each Acquiring Fund will acquire all of the assets and substantially all of the liabilities of the corresponding Acquired Fund in exchange for shares of the Acquring Fund (each, a "Reorganization"). The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined as of the close of business on the business day preceding the closing date of the Reorganizations ("Closing Date"), which is currently anticipated to occur on October 12, 2001. On the Closing Date, each Acquired Fund will liquidate and distribute pro rata the classes of shares of the Acquiring Fund received in the Reoganization to the shareholders of the Acquired Fund. The value of the assets of the Funds will be determined in the manner set forth in the Funds' then-current prospectus and statement of additional information.

3. Applicants state that the investment objectives and policies of each Acquiring Fund are similar to those of the corresponding Acquired Fund. U.S. Government offers two classes of shares, and Gradison currently offers only one class of shares. In connection with the Reorganizations, Gradison will introduce a new class, and shareholders of U.S. Government will receive shares of Gradison subject to the same sales charges and distribution fees as their current shares. Investment Quality and Intermediate Income both offer two classes of shares. Shareholders of Investment Quality will receive shares of intermediate Income subject to the same sales charges, distribution fees and shareholder servicing fees as their current shares.[1] No sales charge will be imposed in connection with the Reorganizations. The Funds will be responsible for paying pro rata one-half of the expenses incurred in connection with the Reorganizations, and the Adviser will be responsible for paying the other one-half of the expenses.

4. The Board, including a majority of the Independent Trustees, determined that the Reorganizations are in the best interests of the Funds and their shareholders and that the interests of the existing shareholders would not be diluted by the Reorganizations. In approving the Reorganizations, the Board considered various factors, including: (a) The investment objectives, policies and limitations of the Acquiring and Acquired Funds: (b) the terms and conditions of the Reorganizations; (c) the tax-free nature of the Reorganizations; (d) the expenses of the Acquiring and Acquired Funds; and (e) the economies of scale that are likely to result from the larger asset base of the combined Funds.

5. The Reorganizations are subject to a number of conditions, including that: (a) the shareholders of each Acquired Fund approve the respective Plan; (b) the Acquiring and Acquired Funds receive opinions of counsel that the Reorganizations will be tax-free for the Funds, and (c) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganizations. Either Plan may be terminated by the mutual consent of the Acquiring and Acquired Fund or by either Fund in the case of a breach of the Plan. Applicants agree not to make any material changes to either Plan without prior approval of the Commission or its staff.

6. The mailing of the combined prospectus and proxy statement to shareholders of the Acquired Funds began on July 24, 2001, and definitive proxy materials were filed with the Commission on July 24, 2001. The shareholders of Investment Quality approved the Reorganization at a meeting held on September 13, 2001. The meeting of shareholders of U.S. Government is scheduled for September 27, 2001.

[1] A deferred sales charge may be imposed on certain redemptions of one class of shares of Intermediate Income and the corresponding class of shares of Investment Quality. Following the Closing Date, shareholders of Investment Quality, who purchased shares that would have been subject to the deferred sales charge upon redeeming their shares had the Reorganization not occurred, can redeem their shares of Intermediate Income received in the Reorganization without the imposition of a deferred sales charge.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, among others: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganizations because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors/trustees, and/or common officers. Each of McDonald & Co. Securities, Inc. and SNBOC and Company owns of record, and may under certain circumstances have the power to vote, more than 5% of the outstanding voting securities of both Acquiring Funds and Acquired Funds. Accordingly, each Acquiring Fund may be deemed an affiliated person of a affiliated person of its corresponding Acquired Funds for a reason other than having a common investment adviser, common directors/trustees and/or common officers.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b). Applicants state that the Reorganizations will be based on the relative net asset values of the Acquiring and Acquired Funds' shares. Applicants also state that the investment objectives and policies of the Funds are similar. Applicants state that the board, including the Independent Trustees, has made the requisite determinations that the participation of the Acquiring and Acquired Funds in the Reorganizations is in the best interests of each Fund and that such participation will not dilute the interests of the existing shareholders of each Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23741 Filed 9–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 24, 2001: an open meeting will be held on Tuesday, September 25, 2001, in Room 1C30, the William O. Douglas Room, at 1 p.m., and closed meetings will be held on Wednesday, September 26, 2001 and Friday, September 28, 2001, at 10 a.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

The subject matters of the open meeting scheduled for Tuesday, September 25, 20001, will be:

1. The Commission will consider a recommendation to propose rules and form amendments that would require foreign private issuers and foreign governments to file their securities documents electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. Currently the Commission's rules only permit, but do not require, foreign issuers to file their securities documents on EDGAR.

For further information, please contact Elliot B. Staffin, Special Counsel, Office of International Corporate Finance, Division of Corporation Finance at (202) 942–2990.

2. The Commission will consider proposed rules regarding margin requirements for security futures. The Commission would propose these rules jointly with the Commodity Futures Trading Commission pursuant to authority delegated by the Board of Governors of the Federal Reserve System.

For further information, please contact Lisa Jones, Attorney, Division of Market Regulation at (202) 942–0063.

3. The Commission will consider whether to amend Securities Exchange Act of 1934 Rules 15c3–3, 17a–3, 17a–4, 17a–5, 17a–7, 17a–11, and 17a–13. These amendments are designed to eliminate duplicative or conflicting regulations applicable to firms that are fully-registered with the CFTC as an FCM and fully-registered with the SEC as a broker-dealer relating to the treatment of customer funds, securities or property, maintenance of books and records, financial reporting or other financial responsibility rules involving security futures products ("SFPs"), as directed by the Commodity Futures Modernization Act of 2000. The amendments are also designed to eliminate certain conflicting or duplicative recordkeeping, reporting, telegraphic notice, and quarterly count requirements involving SFPs for firms that are "notice" registered with the Commission under Exchange Act Section 15(b)(11)(A). These amendments were developed in consultation with the CFTC.

For further information, please contact Michael Macchiaroli, Associate Director, Division of Market Regulation at (202) 942–0132, Thomas McGowan, Assistant Director, Division of Market Regulation at (202) 942–4886, or Bonnie Gauch, Attorney, Division of Market Regulation at (202) 942–0765.

4. The Commission will consider extending the compliance date of Rule 11Ac1–7 under the Securities Exchange Act of 1934. Rule 11Ac1–7 requires a broker-dealer to disclose to its customer when the customer's order for listed options is executed at a price inferior to a better published quote, and to disclose the better published quote available at that time, unless the broker-dealer effects the transaction on an exchange

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that participates in an approved linkage plan.

For further information, please contact Jennifer Colihan, Attorney, Division of Market Regulation at (202) 942–0735.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meetings scheduled for Wednesday, September 26, 2001, and Friday, September 28, 2001 will be: institution and settlement of injunctive actions; institution and settlement of administrative proceedings of an enforcement nature; and a formal order.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 19, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–23838 Filed 9–19–01; 4:50 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44813; File No. SR–NASD–2001–57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Conform NASD Regulation, Inc.'s By-Laws to the NASD By-Laws, and Increase the Maximum Size of the NASD Regulation Board

September 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Association filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(3) thereunder[4] as being concerned solely with the administration of the self-regulatory organization, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend the By-Laws of its subsidiary, NASD Regulation, Inc. ("NASD Regulation"). The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

BY-LAWS OF NASD REGULATION, INC.

ARTICLE I

DEFINITIONS

* * * * *

(i) "Director" means a member of the Board[, excluding the Chief Executive Officer of the NASD];

* * * * *

(q) "Industry Director" or "Industry member" means a Director (excluding the President *of NASD Regulation and the Chief Executive Officer of NASD*) or a National Adjudicatory Council or committee member who (1) Iis or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, Nasdaq, NASD Dispute Resolution, or Amex (and any predecessor), or has had any such relationship or provided any such services at any time within the prior three years;

* * * * *

(y) "Non-Industry Director" or "Non-Industry member" means a Director (excluding the President *of NASD Regulation and the Chief Executive Officer of NASD*) or a National Adjudicatory Council or committee member who is (1) a Public Director or Public member; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Director or Industry member;

* * * * *

Number of Directors

Sec. 4.2 The Board shall consist of no fewer than five and no more than [ten]*fifteen* Directors, the exact number to be determined by resolution adopted by the stockholder of NASD Regulation from time to time. Any new Director position created as a result of an increase in the size of the Board shall be filled pursuant to Section 4.4.

Qualifications

Sec. 4.3(a) Directors need not be stockholders of NASD Regulation. Only Governors of the NASD Board shall be eligible for election to the Board. The number of Non-Industry Directors shall equal or exceed the number of Industry Directors [plus the President]. The Board shall include the President and the National Adjudicatory Council Chair, representatives of an issuer of investment company shares or an affiliate of such an issuer, and an insurance company or an affiliated NASD member. If the Board consists of 5–7 Directors, it shall include at least one Public Director. If the Board consists of eight *to nine* Directors, at least two Directors shall be Public Directors.[and I] *If* the Board consists of ten *to twelve* Directors, at least three *Directors* shall be Public Directors, *and if the Board consists of thirteen to fifteen Directors, at least four shall be Public Directors.* The Chief Executive Officer of the NASD shall be an ex-officio non-voting member of the Board.

* * * * *

Committees

Sec. 4.13(f) The Board may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware law and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of NASD Regulation between meetings of the Board, and which may authorize the seal of NASD Regulation to be affixed to all papers that may require it. The Executive Committee shall consist of three or four Directors, including at least one Public Director. The President of NASD Regulation shall be a member of the Executive Committee. The number of Non-Industry committee members shall equal or exceed the number of Industry committee members [plus the President]. An Executive Committee member shall hold office for a term of one year. At all meetings of the Executive Committee, a quorum for the transaction of business shall consist of a majority of the Executive Committee, including not less than 50 percent of the Non-Industry committee members. In the absence of a quorum, a majority of the committee members present may adjourn the meeting until a quorum is present.

* * * * *

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Association has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 8, 2001, the Commission approved certain amendments to the NASD By-Laws.[5] The NASD By-Laws were amended to reclassify the NASD Chief Executive Officer and President of NASD Regulation Governor positions as neutral Governors; that is, neither Industry nor Non-Industry Governors. The reclassification of those Governor positions was consistent with the neutrality classification other self-regulatory organizations assign to their staff Board members and allow the two Industry seats the staff occupied before the reclassification to be available to Industry candidates elected by the NASD membership. The proposed conforming changes to the NASD Regulation By-Laws will similarly reclassify the NASD Chief Executive Officer and President of NASD Regulation Director positions as neutral Director positions.

Additionally, the proposed NASD Regulation By-Law amendment increasing the maximum size of the Board will allow the NASD more flexibility in determining the size of the NASD Regulation Board.

2. Statutory Basis

The NASD believes the proposed rule change is consistent with Section 15A(b)(4) of the Act,[6] which requires, among other things, that the Association's rules be designed to assure a fair representation of its members in the administration of its affairs. The NASD believes that the proposed rule change enhances the Association's ability to assure fair representation on the NASD Regulation Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[5] See Securities Exchange Act Release No. 44280 (May 8, 2001), 66 FR 26892 (May 15, 2001) SR–NASD–2001–06).

[6] 15 U.S.C. 78o–3(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(3) of Rule 19b–4 thereunder,[8] because it is concerned solely with the administration of the Association. At any time within 60 days of the filing of proposed rule change, the Commission nat summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR–NASD–2001–57 and should be submitted by October 15, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23742 Filed 9–21–01; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(3).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

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ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before October 24, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Applications for Business Loans.

No's: 4, 4SCH.A, 4–L, 4–SHORT, 4I.

Frequency: On occasion.

Description of Respondents: Applicants applying for a SBA Business Loan.

Responses: 60,000.

Annual Burden: 1,200,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–23728 Filed 9–21–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–121]

Notice of Rescheduling in the Section 302 Investigation of the Intellectual Property Laws and Practices of the Government of Ukraine

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The public hearing in the investigation of the Intellectual Property Laws and Practices of the Government of Ukraine is rescheduled for 10 am on September 25, 2001. Rebuttal comments are due by September 28, 2001.

ADDRESSES: Rebuttal comments should be submitted to Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–121, Office of the United States Trade Representative, 1724 F Street, NW., Room 217, Washington, DC 20508. The public hearing will be held at the Office of the United States Trade Representative, 1724 F Street, NW., Rooms 1 and 2, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419; or William Busis, Office of the General Counsel, Office of the United States Trade Representative, (202) 395–3150.

SUPPLEMENTARY INFORMATION: On August 10, 2001, the Office of the United States Trade Representative published a notice entitled Determination of Action To Suspend GSP Benefits Under Section 301(b); Further Proposed Action and Publication of Preliminary Product List; and Request for Public Comment: Intellectual Property Laws and Practices of the Government of Ukraine (66 FR 42246). As indicated above, the date for the public hearing and the due date for rebuttal comments have been rescheduled.

William Busis,

Chairman, Section 301 Committee.

[FR Doc. 01–23802 Filed 9–21–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–01–033]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: LMRWSAC will meet on Tuesday, October 16, 2001, from 9 a.m. to 12 noon. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before October 5, 2001. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 50 copies to the Committee Administrator at the location indicated under Addresses no later than October 5, 2001.

ADDRESSES: LMRWSAC will meet in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Send written material and requests to make oral presentations to LT(jg) Zeita Merchant, Committee Administrator, c/o Commanding Officer, Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA 70112.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact LT(jg) Zeita Merchant, Committee Administrator, telephone (504) 589–4222, Fax (504) 589–4241.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). The agenda includes the following:

(1) Introduction of committee members
(2) Remarks by RADM R. Casto, Committee Sponsor
(3) Approval of the April 19, 2001 minutes
(4) Old Business:
  COTP Update report
  VTS Update report
(5) New Business
(6) Next meeting
(7) Adjournment

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Committee Administrator no later than October 5, 2001. Written material for distribution at the meeting should reach the Coast Guard no later than October 5, 2001. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 50 copies to the Committee Administrator at the location indicated under Addresses no later than October 5, 2001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the Committee Administrator at the location indicated under Addresses as soon as possible.

Dated: September 12, 2001.

J.R. Whitehead,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 01–23713 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Lee Gilmer Memorial Airport, Gainesville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the City of Gainesville to waive the requirement that a 0.75-acre parcel of surplus property, located at the Lee Gilmer Memorial Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before October 24, 2001.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. J. Carlyle Cox, City Manager, City of Gainesville at the following address: Post Office Box 2496, Gainesville, Georgia 30503–2496.

FOR FURTHER INFORMATION CONTACT: E.C. Hunnicutt, Program Manager, Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, 404/305–7145. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the City of Gainesville, Georgia to release 0.75 acres of surplus property at the Lee Gilmer Memorial Airport. The property will be purchased by Mr. Carl T. Whitehead for access to a warehouse facility. The property is located on Short Street approximately 1000 feet south of Ridge Road near the intersection of Queen City Parkway. The net proceeds from the sale of this property will be used for airport purposes.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Gainesville City Manager's Office.

Issued in Atlanta, Georgia, September 4, 2001.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 01–23783 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Pueblo Memorial Airport, Pueblo, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at Pueblo Memorial Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before October 20, 2001.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Alan Wiechmann, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, Colorado, 80249. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John B. O'Neal, Director of Aviation, Pueblo Memorial Airport, 31201 Bryon Circle, Pueblo, Colorado 81001.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Romero, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, Colorado 80249. The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Pueblo Memorial Airport under the provisions of the AIR 21. On September 4, 2001, the FAA determined that the request to release property at Pueblo Memorial Airport submitted by the city met the procedural requirements of the Federal Aviation Regulations, Part 155 (14 CFR part 155). The FAA may approve the request, in whole or in part, no later than November 5, 2001.

The following is a brief overview of the request:

The Pueblo Memorial Airport requests the release of .86 acres of non-aeronautical airport property to the City of Pueblo, Colorado. The purpose of this release is to allow the City of Pueblo to sell the subject land to Utilicorp United, Inc. The sale of this parcel will provide funds for airport improvements.

Any person may inspect the request by appointment at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, inspect the application, notice and other documents germane to the application in person at Pueblo Memorial Airport, 31201 Bryan Circle, Pueblo, Colorado 81001. Issued in Denver, Colorado on September 5, 2001.

Alan Wiechmann,

Manager, Seattle Airports District Office.

[FR Doc. 01–23781 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Four Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on four current public information collections, which will be submitted to OMB for renewal.

DATES: Comments must be submitted on or before November 23, 2001.

ADDRESSES: Comments may be mailed or delivered to FAA, at the following address: Ms. Judy Street, Room 612, Federal Aviation Administration, Standards and Information Division, APF–100, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Street, at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current

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collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of collection. Also note, that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Following are short synopses of the four information collection activities that will be submitted to OMB for requests for renewal:

1. 2120–005, General Operating and Flight rules—FAR 91. Part A of Subtitle VII of the revised Title 49 U.S.C. authorizes the issuance of regulations governing the use of navigable airspace. The reporting and recordkeeping requirements of 14 CFR part 91 prescribe rules governing the operation of aircraft (other than moored balloons, kites, rockets and unmanned free balloons) within the United States. The reporting and recordkeeping requirements prescribed by various sections of Part 91 are necessary for FAA to ensure compliance with these provisions. The respondents are individual airmen, state or local governments, and businesses. The current estimated annual burden is 230,000 hours.

2. 2120–0517, Airport Noise Compatibility Planning 14 CFR part 150. FAA approval makes airport operators' noise compatibility programs eligible for a 10 percent set-aside of discretionary grant funds under the FAA Airport Improvement Program. The respondents are an estimated 17 state and local governments (airport operators). The current estimated annual burden is 54, 9000 hours.

3. 2120–0638, Security Programs for Foreign Air Carriers, 14 CFR part 129. The security programs identify the procedures to be used by air carriers in carrying out their responsibilities under the law to protect persons and property on an aircraft operating in air transportation, intrastate air transportation, and flights to/from the United States against acts of criminal violence and aircraft piracy. The respondents are foreign air carriers. The current estimated annual burden is 5,200 hours.

4. 2120–0669, Flight Data Recorder Resolution Requirements. The information will be used by the FAA to track compliance with the underlying regulation, 14 CFR 121.344 *et al*, and to determine who will be affected by any subsequent FAA action to resolve the problems described by the manufacturer. The respondents are an estimated 50 aircraft operators, and the current estimated annual burden is 67 hours.

Issued in Washington, DC on September 18, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–23782 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–73]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 15, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *hhtp://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on September 18, 2001.

Richard McCurdy,

Acting, Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–1004.
Petitioner: America West Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 93.123.
Description of Relief Sought: To permit America West to operate four flights (two arrivals and two departures) at Ronald Regan Washington National Airport.

Docket No.: FAA–2001–9501.
Petitioner: U.S. Air Force.
Section of 14 CFR Affected: 14 CFR 91.209(a)(1) and (b).
Description of Relight Sought: To permit the USAF to conduct certain night flight military training operations in various aircraft without lighted aircraft position lights.

Docket No.: FAA–2001–9225.
Petitioner: Astral Aviation, Inc. dba Skyway Airlines.
Section of 14 CFR Affected: 14 CFR part 121.
Description of Relight Sought: To permit Astral to conduct all pilot in command and second in command training and checking for the Fairchild Dornier 328–300 jet airplane in a Level C simulator.

[FR Doc. 01–23773 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–72]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

Richard McCurdy,

Acting, Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9708.
Petitioner: Frontier Flying Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit FFS to operate 3 Beech 1900C airplanes (Serial Nos. UC–83, UC–95, and UC–136) without those airplanes meeting the digital flight data recorder requirements of that section. *Grant, 08/17/2001, Exemption No. 7606.*

Docket No.: FAA–2001–9426.
Petitioner: Trans States Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Trans States to operate five Avions de Transport Regional ATR 42 and three ATR 72 airplanes without those airplanes having the capability to record data in accordance with the following paragraphs of § 121.344(a), as applicable: (9) Thrust/power of each engine—primary flight crew reference;; (10) Autopilot engagement status; (12) Pitch control input; (13) Lateral control input; (14) Rudder pedal input; (15) Primary pitch control surface position; (16) Primary lateral control surface position; (30) Master warning; (31) Air/ground sensor (primary airplane system reference nose or main gear); (32) Angle of attack (when an information source is installed); (34) Ground speed (when an information source is installed). *Grant, 08/17/2001, Exemption No. 7597.*

Docket No.: FAA–2001–9439.
Petitioner: Carson Helicopter Services, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/ Disposition: To permit Carson to operate its 5 Sikorsky S61N helicopters (Registration Nos. N612RM, N7011M, N4503E, N116AZ, and N4263A; and Serial Nos. 61–744, 61–216, 61–220, 61–242, and 61–551, respectively) without those helicopters being equipped with an approved digital flight data recorder. *Grant, 08/23/2001, Exemption No. 7611.*

Docket No.: FAA–2001–9458.
Petitioner: Boeing Commercial Airplane Group.
Section of 14 CFR Affected: 14 CFR 25.785(h)(2), 25.807(f)(4), 25.813(e), 25.853(d).
Description of Relief Sought/ Description: (1) To permit Boeing to install flight attendant seats that do not provide direct view of the cabin; (2) to allow for exit distances greater than sixty feet; (3) to permit Boeing to install interior doors between passenger compartments; and (4) to permit Boeing to install interior materials that do not comply with heat release and smoke emission requirements, on the Boeing Model 737–800 airplane. *Grant, 08/17/2001, Exemption No. 7609.*

Docket No.: FAA–2001–9285.
Petitioner: Mesaba Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Mesaba to operate 18 British Aerospace BAe RJ85 Avroliner airplanes without installing the required approved digital flight data recorder capable of recording all required parameters. *Grant, 08/23/2001, Exemption No. 7600A.*

Docket No.: FAA–2001–9462.
Petitioner: Trans States Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Trans States to operate five Avions de Transport Regional ATR 42 and three ATR 72 airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.344(a). *Grant, 08/23/2001, Exemption No. 7597A.*

Docket No.: FAA–2001–8883.
Petitioner: Atlantic Southeast Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(d)(1).
Description of Relief Sought/ Disposition: To permit ASA to operate 19 Avions de Transport Regional ATR airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.344(a). *Grant, 08/23/2001, Exemption No. 7601A.*

Docket No.: FAA–2001–9740.
Petitioner: American Eagle Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.344(c)(1) and (d)(1).
Description of Relief Sought/ Disposition: To permit AME to operate certain Avions de Transport Regional ATR 42 and ATR 72 airplanes without those airplanes having the capability to record data in accordance with certain paragraph of § 121.344(a). *Grant, 08/23/2001, Exemption No. 7599A.*

Docket No.: FAA–2001–9875.
Petitioner: Continental Express Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(c) and (d).
Description of Relief Sought/ Disposition: To permit Continental Express to operate certain Avions de Transport Regional ATR 42 airplanes without those airplanes having the capability to record data in accordance with certain paragraphs of § 121.3449a). *Grant, 08/23/2001, Exemption No. 7602A.*

Docket No.: FAA–2001–8943.
Petitioner: Avianca S.A.
Section of 14 CFR Affected: 14 CFR 121.344(d).
Description of Relief Sought/ Disposition: To permit Avianca to operate a Boeing 757 airplane (Registration No. N321LF, serial No. 26269) without that airplane being able to record data in accordance with § 121.344(a)(14) and (17). *Grant, 08/23/2001, Exemption No. 7607A.*

[FR Doc. 01–23774 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–71]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of

dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

Richard McCurdy,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9371 (previously Docket No. 29658).
Petitioner: Sunrise Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.345(c)(2) and 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Sunrise to operate certain aircraft under part 121 or part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7061A.*

Docket No.: FAA–2001–9862 (previously Docket No. 29687).
Petitioner: Bright Star Aviation.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To change the name of the exemption holder from R&M Aviation to Bright Star and to permit Bright Star to operate its Agusta A–109E helicopter (registration No. N97CH; serial NO. 11012) under part 135 without a TSAO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/30/2001, Exemption No. 7078A.*

Docket No.: FAA–2001–10058.
Petitioner: Rhoades Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Rhoades to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7614.*

Docket No.: FAA–2001–9598 (previously Docket No. 29728).
Petitioner: Air Wilmington.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Air Wilmington to operate its Beechcraft King Air A90 (Registration No. N198BC, Serial No. LJ–147) under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7060A.*

Docket No.: FAA–2001–9494 (previously Docket No. 28918).
Petitioner: Cherry-Air, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Cherry-Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in those aircraft. *Grant, 08/29/2001, Exemption No. 7036A.*

Docket No.: FAA–2001–8806.
Petitioner: America West Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 93.123.
Description of Relief Sought/ Disposition: To permit Mesa Airlines, Inc., or any regional air carrier flying as America West Express, to conduct operations using any or all of America West's slots, allocated under the exemption for America West Express flights between Ronald Reagan Washington National Airport and Port Columbus International Airport. *Grant, 08/30/2001, Exemption No. 5113J.*

Docket No.: FAA–2001–10136.
Petitioner: EADS Airbus GmbH.
Section of 14 CFR Affected: 14 CFR 25.785(d), 25.813(b), 25.857(e), 25.1447(c)(1) and 35.1447(c)(2)(ii).
Description of Relief Sought/ Disposition: To permit type certification of the Airbus Model A300B4–600/–600R series airplanes, with provisions for the carriage of supernumeraries when the airplane is equipped with two floor level exists with escape slides, within the occupied area. *Grant, 08/30/2001, Exemption No. 7616.*

Docket No.: FAA–2001–9410.
Petitioner: U.S. Air Force.
Section of 14 CFR Affected: 14 CFR 91.159.
Description of Relief Sought/ Disposition: To permit the USAF to conduct nontraining photographic reconnaissance missions that require flying a series of tracks at a constant altitude under visual flight rules, without maintaining the appropriate cruising altitude required under § 91.159. *Grant, 09/06/2001, Exemption No. 134J.*

Docket No.: FAA–2001–9409.
Petitioner: U.S. Air Force.
Section of 14 CFR Affected: 14 CFR 91.159(c).
Description of Relief Sought/ Disposition: To permit the USAF to operate certain aircraft under visual flight rules at or above flight level 600 without maintaining the appropriate cruising altitude as required under § 91.159(c). *Grant, 09/06/2001, Exemption No. 103E.*

[FR Doc. 01–23775 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–70]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of disposition of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

Richard McCurdy,

Acting, Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10263.
Petitioner: Wisconsin Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Wisconsin Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 08/21/2001, Exemption No. 7612.*

Docket No.: FAA–2001–9727 (previously Docket No. 27441).
Petitioner: Department of the Army.
Section of 14 CFR Affected: 14 CFR 45.29(b)(3).
Description of Relief Sought/ Disposition: To permit the Army to use 9-inch aircraft nationality and registration markings in lieu of 12-inch markings on its Bell Model 206B3 rotorcraft. *Grant, 08/21/2001, Exemption No. 5761C.*

Docket No.: FAA–2001–9793.
Petitioner: Taunton Airport Association, Inc.
Section of 14 CFR Affected: 14 CFR 135.251, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To permit TAA to conduct local sightseeing flights at the Taunton Municipal Airport for its annual TAA charity fundraising event during October 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/04/2001, Exemption No. 7617.*

Docket No.: FAA–2001–9195 (previously Docket No. 27491).
Petitioner: Helicopter Association International and the Association of Air Medical Services.
Section of 14 CFR Affected: 14 CFR 135.213(a).
Description of Relief Sought/ Disposition: To permit HAI and AAMS members who are part 135 certificate holders that conduct helicopter emergency medical service (EMS) operations to conduct EMS departures under instrument flight rules in weather that is at or above visual flight rules minimums from airports or helicopters at which a weather report is not available from the U.S. National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator. *Grant, 08/23/2001, Exemption No. 6175C.*

Docket No.: FAA–2001–9367 (previously Docket No. 26919).
Petitioner: Kalamazoo Aviation History Museum.
Section of 14 CFR Affected: 14 CFR 45.25 and 45.29.
Description of Relief Sought/ Disposition: To permit the Museum to operate its Ford Tri-motor, Model No. 5–AT–C aircraft (Registration No. N8149; Serial No. 58) with 3-inch-high nationality and registration marks located on each side of the fuselage under the leading edge of the horizontal stabilizer. *Grant, 09/04/2001, Exemption No. 5519D.*

Docket No.: FAA–2001–10075 (previously Docket No. 28559).
Petitioner: Rockwell Collins, Inc.
Section of 14 CFR Affected: 14 CFR 21.327(a).
Description of Relief Sought/ Disposition: To permit Rockwell to use a printout from its Order Management System for a Class II product instead of the Application for Export Certificate of Airworthiness (Form 8130–1.) *Grant, 08/31/2001, Exemption No. 6604C.*

Docket No.: FAA–2001–9352 (previously Docket No. 18881).
Petitioner: International Aerobatic Club, a division of the Experimental Aircraft Association.
Section of 14 CAR Affected: 14 CAR 91.151(a)(1).
Description of Relief Sought/ Disposition: To permit the MAC and MAC members participating in MAC-sponsored and/or -sanctioned Aerobatic competitions conducted in accordance with MAC Official Contest Rules, to begin flight in an airplane, considering local conditions affecting fuel consumption, when there is enough fuel aboard the aircraft to take off, complete the planned flight maneuvers, and land at the same airport with enough fuel to fly for an additional 10 minutes at normal cruising speed. *Grant, 08/31/2001, Exemption No. 5745D.*

Docket No.: FAA–2001–10266.
Petitioner: Piedmont Southern Air Freight, Inc.
Section of 14 CAR Affected: 14 CAR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Piedmont to operate certain aircraft under part 135 without a TAO–C112 (Mode S) transponder installed in the aircraft. *Grant, 08/29/2001, Exemption No. 7615.*

[FR Doc. 01–23776 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–69]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on September 18, 2001.

Richard McCurdy,

Acting, Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10203.
Petitioner: Hageland Aviation Services, Inc.
Section of 14 CFR Affected: 14 CFR #43.3(g).
Description of Relief Sought/ Disposition: To permit Hageland's pilots to update KLN 89B, 90B, and GX 60 global positioning system (GPS) equipment in its aircraft operating under 14 CFR part 135. *Denial, 08/27/2001, Exemption No. 7613.*

Docket No.: FAA–2001–9774 (previous Docket No. 28708).
Petitioner: Empire Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 43.9 and 121.709(b)(3).
Description of Relief Sought/ Disposition: To permit Empire to use electronic signatures in lieu of physical signatures to satisfy airworthiness release or aircraft log entry signature requirements of § 43.9 for operation conducted under 14 CFR part 135 and § 121.709(b)(3) for operations conducted under part 121. *Grant, 08/30/2001, Exemption No. 6668B.*

Docket No.: FAA–2001–9896.
Petitioner: Midwest Express Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To allow Midwest Express to place copies of its Inspection Procedures Manual (IPM) in a central location and assign copies of the IPM to certain individuals rather than giving a copy to each of its supervisory and inspection personnel. *Grant, 08/20/2001, Exemption No. 7610.*

Docket No.: FAA–2001–10436.

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Petitioner: Angel Flight of Georgia.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/Disposition: To permit Angel Flight to conduct local sightseeing flights at the Dekalb Peachtree Airport for the annual Angel flight Fly Around Town fundraiser during September 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/07/2001, Exemption No. 7619.*

Docket No.: FAA–2001–10277.
Petitioner: Denmark Volunteer Fire Department (DVFD).
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/Disposition: To permit DVFD to conduct local sightseeing flights at Eastern Slopes Regional Airport, Fryeburg, Maine, for their annual event during September 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/10/2001, Exemption No. 7618.*

Docket No.: FAA–2001–9435 (previously Docket No. 29756).
Petitioner: ExecuJet Charter Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit ExecuJet to operate its Hawker Model DH 125–400A aircraft (registration No. N810HS, serial No. 25271) under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 08/29/2001, Exemption No. 7064A.*

[FR Doc. 01–23777 Filed 9–21–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (01–04–C–00–HDN) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Yampa Valley Regional Airport, Submitted by the County of Routt, CO

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Yampa Valley Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before October 24, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Weichmann, Manager; Denver Airports District Office, DEN–ADO; Federal Administration; 2605 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James C. Parker, Director or Aviation, at the following address: Yampa Valley Regional Airport, P.O. Box N, Hayden, Colorado 81639.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Yampa Valley Regional Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (01–04–C–00–HDN) to impose and use PFC revenue at Yampa Valley Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 12, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Routt County, Colorado, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 18, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.
Proposed charge effective date: June 1, 2002.
Total Requested for impose and use approval: $150,833,00.
Brief description of proposed projects: Runway 10/28 distance to go signs, snow removal equipment, air carrier apron drainage (glycol containment), master plan update, and Taxiway A rehabilitation and lighting improvements.
Class or classes of air carriers that the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yampa Valley Regional Airport.

Issued in Renton, Washington on September 12, 2001.

David A. Field,

Manager, Planning Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–23784 Filed 9–21–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2001–10651]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before November 23, 2001.

FOR FURTHER INFORMATION CONTACT: Evelyn Harley, Maritime Administration, (MAR 560), 400 7th Street, SW., Washington, DC 20590, TEL 202–366–5867 or FAX 202–366–9580. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Uniform Financial Reporting Requirements.
Type of Request: Extension of currently approved information collection.
OMB Control Number: 2133–0005.
Form Numbers: MA–172.
Expiration Date of Approval: April 30, 2002.
Summary of Collection of Information: The Uniform Financial Reporting Requirements are used as a basis for preparing and filing semiannual and annual financial statements with the Maritime Administration. Regulations requiring financial reports to the Maritime Administration are authorized by Section 801, Merchant Marine Act, 1936, as amended.
Need and Use of the Information: The collected information is necessary for MARAD to determine compliance with regulatory and contractual requirements.
Description of Respondents: Vessel owners acquiring ships from MARAD on credit, companies chartering ships from MARAD, and companies having Title XI guarantee obligations.
Annual Responses: 198.
Annual Burden: 1881 hours.
Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

Dated: September 18, 2001.
By order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 01–23807 Filed 9–21–01; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.
ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published in **Federal Register** 66, 35826 on July 9, 2001. No comments were received.

DATES: Comments must be submitted on or before October 24, 2001.

FOR FURTHER INFORMATION CONTACT: Joe Strassburg, Office of Insurance and Shipping Analysis, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–4156 or FAX 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).
Title: War Risk Insurance.
OMB Control Number: OMB 2133–0011.
Type of Request: Extension of currently approved collection.
Affected Public: Vessel owners or charterers interested in participation in MARAD's war risk insurance program.
Forms: MA 355; MA 528; MA 742; MA 828; and MA 942.
Abstract: As authorized by Section 1202, Title XII, Merchant Marine Act, 1936, as amended, the Secretary of the U.S. Department of Transportation may provide war risk insurance adequate for the needs of the waterborne commerce of the United States if such insurance cannot be obtained on reasonable terms from qualified insurance companies operating in the United States. This collection is required for the program.
Annual Estimated Burden Hours: 626 hours.
Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.
Comments Are Invited On: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on September 18, 2001.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23806 Filed 9–21–01; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10526]

Notice of Receipt of Petition for Decision That Nonconforming 1999 Ferrari F355 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.
ACTION: Notice of receipt of petition for decision that nonconforming 1999 Ferrari F355 Passenger Cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999 Ferrari F355 Passenger Cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 24, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm).

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation

into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("J.K.") (Registered Importer 90–006) has petitioned NHTSA to decide whether 1999 Ferrari F355 Passenger Cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1999 Ferrari F355 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1999 Ferrari F355 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1999 Ferrari F355 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999 Ferrari F355 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*, as well as 49 CFR 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of the word "Brake" for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamps and front sidemarker lamps, (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps, and (c) installation of U.S.-model high-mounted stop light assembly, if necessary.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems*: installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection*: (a) installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

Standard No. 214 *Side Impact Protection*: Inspect doors for installation of door bars. Install door bars, if necessary.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 19, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–23756 Filed 9–21–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–32 (Sub–No. 92)]

Boston and Maine Corporation—Abandonment—in Suffolk County, MA

On September 4, 2001, the Boston and Maine Corporation (B&M) filed with the Surface Transportation Board (Board) an application under 49 U.S.C. 10903 to abandon and discontinue service on its line of railroad known as the Mystic Wharf Branch, extending between milepost 0.00 and milepost 1.45, a distance of 1.45 miles, in Charlestown, Suffolk County, MA. The line includes no stations and traverses U.S. Postal Service ZIP Code 02129.

The line does not contain federally granted rights-of-way. Any documentation in B&M's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment was filed with the application.

This line of railroad has appeared on B&M's system diagram map or has been included in its narrative in category 1 since January 1999.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment or protests (including the protestant's entire opposition case) by October 19, 2001. All interested persons should be aware that, following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by October 19, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). Applicant's reply to any opposition statements and its response to trail use requests must be filed by November 2, 2001. A final decision will be issued by December 21, 2001. *See* 49 CFR 1152.26(a).

Persons opposing the proposed abandonment that wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide:

(i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner);

(ii) Recommended provisions for protection of the interests of employees;

(iii) A request for a public use condition under 49 U.S.C. 10905; and

(iv) A statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB–32 (Sub-No. 92) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Robert B. Culliford, Law Department, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is set forth above.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: September 17, 2001.

By the Board, David M. Konschnik, Director Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23679 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–592 (Sub–No. 1X)

Fredonia Valley Railroad, Inc.—Abandonment Exemption—in Caldwell County, KY

Fredonia Valley Railroad, Inc. (FVRR) has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a segment of railroad line between milepost 90.00 and the end of the line at milepost 87.60, near Fredonia, a distance of approximately 2.40 miles in Caldwell County, KY (line).[1] The line traverses United States Postal Service Zip Code 42411.

Applicant has certified that: (1) No local or overhead traffic has moved over the line in more than 2 years' time; (2) any overhead traffic that might have moved on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d)

[1] FVRR acquired an approximate 9.65-mile rail line in *Fredonia Valley Railroad, Inc.—Acquisition and Operation—in Caldwell County, KY*, STB Finance Docket No. 33695 (STB served Jan. 6, 1999). FVRR states that the tracks and ties of the line proposed for abandonment are not intended to be removed; rather, following its abandonment, the line simply will change from a common carrier line to a proprietary line serving the one potential shipper situated on it. Counsel for FVRR has certified that a copy of the verified notice of exemption was served on the shipper on the line

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must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on October 24, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2001, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Fritz R. Kahn, Esq., 1920 N Street, NW (8th floor), Washington, DC 20036–1601. If the verified notices contain false or misleading information, the exemptions are void *ab initio*.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 1, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), FVRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by FVRR's filing of a notice of consummation by September 24, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: September 12, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23500 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–586 (Sub–No. 1X)]

North Central Railway Association, Inc.—Abandonment Exemption—in Franklin County, IA

North Central Railway Association, Inc. (NCRA) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 6.25-mile line of railroad between milepost 184.75 near Hampton and milepost 191.0 near Geneva, in Franklin County, IA. The line traverses United States Postal Service Zip Codes 50441 and 50633.

NCRA has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past two years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 24, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: T. Scott Bannister, 1300 Des Moines Building, 405—Sixth Avenue, Des Moines, IA 50309.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NCRA has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NCRA shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NCRA's filing of a notice of consummation by September 24, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: September 14, 2001.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23678 Filed 9–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 17, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 24, 2001 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0547.
Form Number: ATF F 2931.1.
Type of Review: Extension.
Title: Race and National Origin Identification.
Description: This form on its own and when combined with other Bureau tracking forms will allow the Bureau to determine its applicant/employee pool, and thereby, enhance its recruitment plan. It will also allow the Bureau to determine how its diversity/ EEO efforts are progressing and to determine adverse impact on the employee selection process.
Respondents: Individuals or households.
Estimated Number of Respondents: 10,000.
Estimated Burden Hours Per Respondent: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 500 hours.
Clearance Officer: Frank Bowers (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–23721 Filed 9–21–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 17, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 24, 2001 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–1324.
Regulation Project Number: CO–88–90 Final.
Type of Review: Extension.
Title: Limitation on Net Operating Loss Carryforwards and Certain Built-in Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.
Description: This information serves as evidence of an election to apply section 382(l)(6) in lieu of section 382(l)(5) and an election to apply the provisions of the regulations retroactively. It is required by the Internal Revenue Service to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 3,250.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 813 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–23722 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 17, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 24, 2001 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–1345.
Regulation Project Number: CO–99–91 Final.
Type of Review: Extension.
Title: Limitations on Corporate Net Operating Loss.
Description: This regulation modifies the application of segregation rules under section 382 in the case of certain issuance of stock by a loss corporation. This regulation provides that the segregation rules do not apply to small issuances of stock, as defined, and apply only in part to certain other issuances of stock.
Respondents: Business or other for-profit, Farms.
Estimated Number of Respondents: 10.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 10 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

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Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–23723 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the General Counsel

Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Acting Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Judith C. Dunn, Deputy Chief Counsel (Operations).
2. George B. Wolfe, Deputy General Counsel.
3. Kevin Brown, Division Counsel (Small Business/Self-Employed).
4. Linda Burke, Division Counsel (Large & Mid-Size Business).
5. Mark Kaizen, Associate Chief Counsel (General Legal Services).
6. John Staples, Associate Chief Counsel (International).

This publication is required by 5 U.S.C. 4314(c)(4).

Dated: September 11, 2001.

Richard Skillman,

Acting Chief Counsel, Internal Revenue Service.

[FR Doc. 01–23787 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–3–95]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–3–95 (TD 8687), Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction (§§ 1.863–1 and 1.863–3).

DATES: Written comments should be received on or before November 23, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction.

OMB Number: 1545–1476.

Regulation Project Number: INTL–3–95.

Abstract: This regulation provides rules for allocating and apportioning income from sales of natural resources or other inventory produced in the United States and sold outside the United States or produced outside the United States and sold in the United States. The information provided is used by the IRS to determine on audit whether the taxpayer has properly determined the source of its income from export sales.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 425.

Estimated Time Per Respondent: 2 hours, 36 minutes.

Estimated Total Annual Burden Hours: 1,125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–23714 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–251520–96]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–251520–96 (TD 8785), Classification of Certain Transactions Involving Computer Programs (§ 1.861–18(k)).

DATES: Written comments should be received on or before November 23, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Classification of Certain Transactions Involving Computer Programs.

OMB Number: 1545–1594.

Regulation Project Number: REG–251520–96.

Abstract: Section 1.861–18 of this regulation provides rules for classifying transactions involving the transfer of computer programs. The regulation grants the taxpayer consent to change its method of accounting for such transactions by filing Form 3115 with its original return for the year of change.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

The burden for the collection of information in this regulation is reflected in the burden of Form 3115.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–23715 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209619–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–209619–93, Escrow Funds and Other Similar Funds.

DATES: Written comments should be received on or before November 23, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Escrow Funds and Other Similar Funds.

OMB Number: 1545–1631.

Regulation Project Number: REG–209619–93.

Abstract: These regulations would amend the final regulations for qualified settlement funds (QFSs) and would provide new rules for qualified escrows and qualified trusts used in deferred section 1031 exchanges; pre-closing escrows; contingent at-closing escrows; and disputed ownership funds.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions and Federal, state, local or tribal governments.

Estimated Number of Respondents: 9,300.

Estimated Time Per Respondent: .50 hr.

Estimated Total Annual Burden Hours: 4,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–23788 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending June 30, 2001.

Last name	First name	Middle name
Aiyasami	Balachander.	
Annaratone	Marco.	
Anthony	Jessica	B.
Atkinson	Paul.	
Barnett	Michael	W.
Berz	Heide	D.
Bissky	Ann	Merice.
Bligh	Thomas	Percival.
Bligh	Marjory	Nigel.
Boelsterli	Daniel	Martin.
Borkowsky	Jeffrey	James.
Bowers	Angela	Cynthia.
Bradburn	George	Arther.
Bradshaw	Philippe	Richard Serge.
Brouwer	Jolanda	C.
Buechner	Linda	L.
Canellopoulos	Takis	P.
Cha	Laura	M.
Cheung	David	Kwokwai.
Cheung	Yollanda.	
Cleary	John	Michael.
Coates	Phillip	Mathew.
Cogswell	Nancy	Jean Mackenzie.
Compagnon	Marc	Robert.
Costa	Paulo	EDU.
Del Solar	Ines	Z.
Eadie	Robert.	
Eadie	Andrew	Septimus.
Eadie	Robert.	
Everling	Friedrich	Gustav.
Felder	Fiona	Catherine.
Fenner	Manuela	Claire.
Fredericks	Eric	Michael.
Frisk	Alan	Eugene.
Froehlich	Margarete.	
Frohner	John	Edward.
Getty	Christopher	Ronald.
Gibbons	Barry	John.
Gibbons	Judith	Pamela.
Gwerder	Donald	Joseph.
Harley	Olivia	Millicent.
Hendrickson	Donna	Elaine.
Holland	John	Graham Foster.
Hoomani	Michael.	
Hu	Sheng	Cheng.
Jabban	Mazen.	
Janeen	Siegfried	Carl.
Jaquet	Phillipe	Emanuel.
Jones	Allen	S.
Juraifani	khalid	Hamad.
Kaat	Dean	Ronald.
Kaercher	Herman	Paul.
Kelly	Reginald	Scott.
Kelly Jr	Charles	George Edward.
Killin	Margaret	Ruth.
Kobayashi	Toshiaki.	
Krause	Gisela	Bertha Hedwig.
Kuan	Roy.	
Lam	Hiep	M.
Langbroek	Johnpaul	Honore.
Lawrenz	Lisa	Jean.
Lin	Ching	Hsia.
Lin	Syaru	Shirley.

Last name	First name	Middle name
Lincoln	Thomas	Newton.
Lindgren	Isabell	Herger.
Lo	Grace.	
Lo	Henry	Hoinai.
Maeland	Arne.	
Manthos	Elias	Anthony.
McCreight	Pamela	Alecia.
McMahan	Robert	Thomas.
Morin	Elaine.	
Morton	Paulene.	
Murdoch	Robert	W.
Murdoch	Nadya.	
Nah	Clarissa	Mayyen.
Nair	Jon	Nathaniel.
Nair	Madhu	Soodanan.
Nakano	Hiroyasu.	
Ng	Michael	Chi Man.
O'Brien	Roger	Allen.
Ochoa	Mario	Henry .
Panchaud	Thomas	Christopher.
Parsons	Timothy.	
Plummer	Doreen	Marie.
Quaiser	Nicholas	Klaus Juergen.
Raudales	David	Alberto.
Reeder Jr	Homer	Thomas.
Reiss	Jonathan	Frederic.
Ricardi Jr	John	Robert.
Robinson	Allan	Hoben.
Robisch	Joseph	A.
Ruesch	Peter.	
Salim	Rizwan.	
Salviati	Martha	Guicciardini Corsi.
Sandmeier	Daniel	Marc.
Sands	John	Everette.
Schrade	Anna	Maria.
Schwegmann	Bobby.	
Serrano	Alejandra	Catalina.
Shemesh	Dalia	Fisher.
Siemer	Thomas	Francis.
Simon	Hans	Erik.
Smith	George	Malcolm.
Staruch	Roslana	Olena.
Swift	Robert	Z.
Thistlewayte	Melissa	Strange.
Thorgevsky	Tamara.	
Tyler	David	A.
Uhrich	Ervin	Edward.
Upton	Robert.	
Upton	Carol.	
Wadsworth	George.	
Wang	Nancy	Mingfeng.
Wang	Chien	Nan.
Weissmahr	Joseph	A.
Whiddon	Roy	L.
Wilnai	Yael.	
Wixom	Mi	Son.
Wright	Maurice	Lynn.
Wright	Ian	G.
Yu	James	Shawwu.

Dated: July 12, 2001.

Susan Caruso,

Compliance, Corr Exam, Section III, Phila. Compliance Service Center.

[FR Doc. 01–23716 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received

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information during the quarter ending December 31, 2000.

Last name	First name	Middle name
Adderley	Cameron	Edward.
Alharthy	Sanad	Hussein.
Allard	Alexander	Ludovic.
Bacardi Nee Folk	Leslie	Lee.
Bakanauskas	Jeffrey	Arthur.
Bamler	Petja	Richard.
Bard	Philip	Jeremy.
Bauman	John	Ronald.
Beaumont	Celine	Regina.
Bender	John	Felix.
Boersma	Frederick	Lister.
Butt	George	Franklin.
Campbell	Christian	Tyler.
Chartouni	Cameron	Oliver.
Chesterton	Glenn	Everest.
Cirrea	Juan	C.
De Camp	Dominic	Daniel.
De Selliers De Moranvil	Carlos	Philippe.
Elie	Florence	Georges.
Erhardt	Peter	Martin.
Farkash	Marina.	
Felicio	Ernesto	J.
Fondas	Rose	Aline.
Good	Pauline	Virginia.
Gordon	Lloyd	Grant.
Gottlieb	Marina	Georgette.
Granic	Marc	Michael.
Green	George	Garlan.
Guenther	Karin	Elisabeth.
Hoi	Daniel.	
Ibarguen	Carlos	Javier.
Jackson	Sidney	Patrick.
Jakobsen, Nee Jepsen	Jyette	Johanne.
Kaercher	Sarita	Yasmine.
Kitchen	Douglas	Alan.
Lesko	Karina	Maria.
Lui	Alexander	Yiu-Nah.
Maas	Daniel	Benjamin.
Mankarios	Jamileh	Mina.
Mann	Susan	W.
McNamer	John	Mark.
Nagy-Kiszelly	Anthony	George.
Ngwal	Ngirataoch	Nick.
Nolder	Gerlinde	Theresia.
Nottage Nee Clepper	Lillian	Opal.
Pelech	Lois	Ellen.
Petersen, Nee Williams	Karen	Eunice.
Pluppins	Shirley	Joanne.
Rashad El Houssy	Bahaa	M.
Roberts	David	J.
Rosales	Christina	L.
Rossy-Quinones	Nicolas.	
Sands	Robert	Dallen.
Savitsky	Renate	Siglinde.
Schmid-De Gruneck	Sophie	Gabrielle.
Schmidt	Lajos.	
Sepulveda-Urrejola	Linda	Jane.
Shahmoon	Edmund	Ronnie.
Shahmoon	Ephraim.	
Siqueland	Erik	Herman.
Spalding	Edward	Sommers.
Tolstoy	Paul.	
Trott	Nathaniel	Reeve.
Wang	Vincent	Antonio.
Wasile	Elyse	Remsen.
Winz	Anita	Ellen.
Wyatt III	Oscar	Sherman.
Zeev	Nissim	Mordechai.
Zuill	Virginia	Graham.

Approved: February 10, 2001.

Doug Rogers,

Compliance Area 15, Small Business/Self Employed, Territory 3 (Support).

[FR Doc. 01–23717 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 2001.

Last name	First name	Middle name
Achini	Christoph	Clarence.
Adamson	Vincent	Roy.
Adda	Gavin	Jacques Elie.
Alfoldi	Claudia	Wilma.
Allard	Emogan.	
Ankeny	Eugene	Elliot.
Arnold	Wade.	
Baerz (Kaser)	Helga	Paula.
Balayan	Aram	Walter.
Barbey	Lila.	
Barry IV	Richard	Francis.
Battig	Marie.	
Becsey	Lorand	Steven.
Beguin-Austin	Margaret.	
Bekkelund	Elin.	
Benz	Hanspeter.	
Beswick	Anthony	J.
Bigos	Hannelore	Luzia.
Bohn-Klingerhoeller	Monique	Rita.
Bollinger	Heidi.	
Brandt Jr	Berkeley.	
Braun	Evelyn	Susan Kem.
Brown Tarin	Silvestre	Gustavo.
Browne	Chedmond	Ralford Ian.
Callahan	Brain	Tobey.
Callahan	Mikell	Kathryn.
Carter	Shannon	Renee.
Cha	Laura	May Lung.
Chambers	Russell	C.
Chan	Grace	Ling.
Clements	Janice	Alberta.
Coleman	Harriet	Suzanne.
Cota Moreno	Federico.	
Dahl	Eleanor	Alice.
Dansereau	Blanche.	
DeSelliers DeMoran	Virginie..	
De Tymoeski	Jean-Paul.	
De Tymowski	Paulette Andree..	
Del Solar	Carlos.	
Demarsico	Michelle.	
Dennig	Gerald	Froemke.
Diaz	Arjuna.	
Draper	Lois	Ellen.
Draper	Richard	Paul.
Eaton-Clarke	Naomi.	
Eckert	Jan	Grafton.
El Yassir	Saado	Mahmoud.
Elliott	Takayo	Narazaki
Esteve Jr	Joachim	Jose
Estrada	Teresita	de Jesus Peru.
Everard	Marcus.	
Fall	Delmar	Alexandra.
Farfan	Mirna	D.
Fatzer	Philippe	Marc.
Faulkner	Sheryl	Anne.
Feezell	Michael	Lee.
Feldmann	Anick.	
Fernandez Almada	Luis	Simeon.
Fisher	David.	
Fleig	Randall	Stephen.
Frei	Katharina	Barbara.

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Last name	First name	Middle name
Furman	Emily	Hanna.
Gaitan-Palacios	Gladys.	
Gandy	Mary.	
Garnett	Clark	Gordon.
Gaum	Kurt	Rudolf.
George	David	Charles.
Gillery	Scott	Murray.
Gottschalk	Carl.	
Grauke	Michael	Joey.
Grauke	Jutta	Christina.
Green	Alan.	
Green	Alexandra	Ellen.
Grond	Adrian	Stuart
Guillen	Mike	Mario.
Harley	Olivia	Millicent.
Harris	Haruko.	
Havardstun	Rachel	Renee.
Heinze	Wendy.	
Hill	Colin.	
Hilscher	Kurt	Frederick.
Hite	Shere.	
Hoffenberg	Jennings.	
Honjo	Masahiro.	
Houry	Nada	M
Hsu	Kenneth	Jinghwa.
Hu	Wendell	K.
Hudson	Fraklin	N.
Huebner	Anthony.	
Isler	Mark	C.
Isler	Jacques	Armand Rudolf.
Janson	Nicolas	Xavier.
Janson	Perrine	Anne.
Jensen	Peter	Albert.
Jolles	Alexander	Pau.
Josselson	Diana.	
Kaegi	Kathrin	Suzanne.
Keiser	Emma.	
Ketterer	Edward.	
King	James	Nicholas.
Kohn	Sandra	Mirriam.
Kooger	Howard	Jan.
Krasner	Alexander.	
Kronau	Sandra	Patricia.
Kuprecht	Andrea	Caroline.
Kwok	Peter	Viem.
Ladd	Karen.	
Lambelet	John	C.
Langlois	Patrick.	
Laukhardt	Helma	Katharina.
Lee	Siew	Lian.
Lergessner (Gillery)	Jennifer	Lynn.
Leuthold	Kristian	Oliver.
Levine	Abbey	Barbara.
Lezama	Daniel	Alberto.
Li	Ming	Lun.
Li	Shinyi	Alice.
Liem	Kathleen	C.
Lind	Gary.	
Lo	Fu-Chen.	
Lo	Benjamin	Man-Chuen.
Loh	Walter.	
Loughlin	John	Joseph.
MacLeod	Laila.	
Manzano	Irma	Patricia.
Mattille	Patricia	Stella Lela.
Mc Adam	Agnes	Wray.
Mc Dermott	Terance	Stephen.
McVie	Anne	Christine.
Meisterhans	Tatiana	Christina.
Meyer	Daina	Brigitte.
Miescher	Nicole	Karen.
Mikton	Barbara	Kaethy.
Miller	Marie-Louise.	
Mobius	Joseph	Benhard Mark.

Last name	First name	Middle name
Mortimer	Lois	Helen Jean.
Murphy	James	Schofield.
Nam (Cruz)	Hae	Suk.
Narlock de Madiedo	Susan	Marie.
Narlock de Madiedo	Susan	Marie.
Neiman	Dorothy	Edna.
Ng	Shelly.	
Noon	Ruxana.	
Nordin	Brit-Inger.	
Ojjeh	Kathleen	Marie.
Okawara	Kiyomi.	
Okawara	Shige-Hisa.	
Ong	Freda	Yen Leng.
Ottman	Richard	Walter.
Owen	Philip.	
Paglieri	Diego.	
Pardo De Leygonier	Daine	Carmela.
Pardo de Leygonier	Christiane	Helen.
Peabody	Terrence	Elmore.
Pereyra	Laura	Estela.
Peterson	Thomas	Emery.
Phillips	Helen	Marie.
Pluer	Margrit	F.
Poedjosoedarmo	Gloria	Risser.
Prashker	Joseph	N.
Price	Debra	Gail.
Pua	My	Linh Nguyen.
Randall	Gabriella	Maria.
Rarey	Daniel	John.
Ratte	Robin.	
Raudales	Marco	Antonio.
Roberts	Linda	R.
Robinson	Patricia	Juanita.
Rountree	Patrick	Robert.
Rudolph	Michael	Urs.
Said	Dalia.	
Sapp	Leander	John Rene.
Sauvageot	Liselotte	Marie.
Sauvageot	Gerard	Albert.
Sawyer	Melvyn	Lloyd.
Scheele	Irmela	Mariette.
Schein	Eva	Elisabeth.
Schmid	Peter	Hans.
Schoch	Lorenz	Robert.
Scotoni	Ralph	Tertius.
Seltzer	Michael	Rogers.
Shank Jr	James	Martin.
Shin	Young	Mi.
Shuang	Linn	Chun.
Sicre	Penn	Lussier.
Sigg	Wilma.	
Sim	Richard	Guild.
Smith-Vaughan	Arthur	Henry.
So	Madeleine	Jane Adamos.
Sommerfeld	Ligia.	
Sommerfeld	Norberto.	
Sonrier	Jill	Renee.
Soon	Benjamin	Teng Tze.
Spindler	Annelore.	
Spindler	Manfred.	
Stearns Hermann	Dorothee	E.
Stewart	Calvin	Mark.
Stewart	Karless	Nels.
Stokes	Virgil	Pierce.
Streit	Ernst	Ehrenfried.
Stronks	Terry	Richard.
Szegedi	Irmgard	Melinda.
Tatlow	Harry	Lloyd.
Thorbecke	Andreas	Heinrich.
Timmons	Philip	Ray.
Tolstoy	Paul.	
Toraason	John	Duxbury.
Tschudin	Marie-France.	
Uiehla	Ladislav.	

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Last name	First name	Middle name
Valfells	Jon.	
Vazquez	Ma. Victori	Madrigal.
Vernhes-Rappaz	Sonia	Martine.
Von Susani	Odorico	Nikolaus.
Vourecas-Petalas	Isabella.	
Wadsworth	George.	
Waibel	Stephanie.	
Walsh	Frances.	
Wang	Soo	Yun
West	Charlotte.	
White	Peter	Benjamin.
Wilmanns	Johan.	
Winther	Boy	Johannes Ferdinand.
Work	William	Randall.
Wu	Michael	Wei-Kuo.
Yau	David	Tak Cheung.

Dated: April 12, 2001.

Doug Rogers,

Compliance Area 15, Small Business/Self-Employed, Territory 3 (Support).

[FR Doc. 01–23718 Filed 9–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

VA Claims Processing Task Force; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that an open meeting of the VA Claims Processing Task Force will take place on Wednesday, October 3, 2001. The meeting will take place in Room 230 at the VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The purpose of the Task Force is to provide the Secretary of Veterans Affairs with recommendations to reduce claims processing time and shrink the claims backlog without compromising either the accuracy of decisions or service to veterans.

The October 3, 2001, meeting will convene at 8 a.m. and adjourn after the Task Force has completed discussion on potential recommendations that may improve VA's ability to process claims. The meeting is open to the public and interested persons are advised that there will be no time made available for public comment.

Persons who wish to provide written comment to the Task Force should ensure that their remarks are delivered to Mr. John O'Hara, Designated Federal Official, VA Claims Processing Task Force, c/o VA Office of Policy and Planning, Department of Veterans Affairs, 810 Vermont Avenue, NW. (008), Washington, DC 20420 not later than close of business, Tuesday, October 2, 2001.

Dated: September 17, 2001.

By direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–23799 Filed 9–21–01; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
September 24, 2001

Part II

Department of the Treasury

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Programs: Core and Intermediary Components; Small and Emerging CDFI Assistance (SECA) Component; Native American CDFI Technical Assistance (NACTA) Component; and Bank Enterprise Award Program; Notices

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Core and Intermediary Components

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the core and intermediary components of the Community Development Financial Institutions Program.

SUMMARY: The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the "Act") authorizes the Community Development Financial Institutions Fund (the "Fund") of the U.S. Department of the Treasury to select and provide financial and technical assistance to eligible applicants under the Community Development Financial Institutions ("CDFI") Program. The interim rule (12 CFR part 1805), most recently published in the **Federal Register** on August 14, 2000 (65 FR 49642), provides guidance on the contents of the necessary application materials, evaluation criteria and other program requirements. More detailed application content requirements are found in the application packet related to this NOFA. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet.

This NOFA is issued in connection with the Core and Intermediary Components of the CDFI Program. The Core Component provides financial assistance and technical assistance ("TA") to CDFIs that serve their target markets through loans, investments, financial services and other activities. The Intermediary Component provides financial assistance and TA to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs. For Fiscal Year 2002, the Fund is combining the Core and Intermediary Component NOFAs into one funding round.

Published elsewhere in this issue of the **Federal Register** are (i) The Fund's NOFA for the Small and Emerging CDFI Assistance ("SECA") Component of the CDFI Program, through which CDFIs may apply for TA awards and Small and Emerging CDFIs, as hereafter defined, may apply directly to the Fund for financial assistance and TA awards, (ii) the Fund's NOFA for the Native American CDFI Technical Assistance ("NACTA") Component of the CDFI Program, through which organizations that serve or wish to serve Native American communities through the provision of loans, investments and financial services, may apply directly to the Fund for TA awards; and (iii) the Fund's NOFA for the Bank Enterprise Award ("BEA") Program, through which the Fund offers financial incentives to insured depository institutions for the purpose of promoting investments in, or other support to, CDFIs and facilitating increased lending and provision of financial and other services in economically distressed communities. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability ("NOAA") for the New Markets Tax Credit ("NMTC") Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

Although an applicant may apply for an award through the Core/Intermediary Component and the SECA Component, it may only receive an award under one of those two Components. If an applicant applies for an award through the Core/Intermediary Component and the SECA Component, the Fund reserves the right to decide, in its sole discretion, under which Component, if any, an award may be made. While an applicant may receive only one award under either the Core/Intermediary Component or the SECA Component, an applicant, its subsidiaries or Affiliates may apply for and receive both a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component or the SECA Component.

An entity that is a NACTA Component Category 1 entity (as that term is defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component, but may only receive an award under one of those three Components. An applicant that is a NACTA Component Category 2 or Category 3 entity (as those terms are defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component and may receive an award under the NACTA Component and either the Core/Intermediary Component or the SECA Component, provided that the respective applications propose and seek funding for different activities. While a NACTA Component Category 1 entity may receive only one award under the Core/Intermediary Component, the SECA Component, or the NACTA Component, said entity, its subsidiaries or Affiliates also may apply for and receive a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component, the SECA Component, or the NACTA Component.

Subject to funding availability, the Fund expects that it may award approximately $36.9 million in appropriated funds under this Core and Intermediary Components NOFA. The Fund reserves the right to award in excess of $36.9 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

DATES: Applications may be submitted at any time, commencing September 24, 2001. The deadline for an application is 5 p.m. EST on December 11, 2001. Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An application mailed via the United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight December 10, 2001. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit with an overnight/express delivery service by no later than December 10, 2001. An application that is hand carried will be considered as having met the application deadline if it is received in the specific BPD office designated below by 5 p.m. EST on December 11, 2001. In each case, it is advisable to obtain documentation from the carrier showing the date and time the application was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an application has met the deadline requirements set forth above.

Applications sent by facsimile will not be accepted; applications sent electronically or by e-mail will be accepted only as set forth below.

Demonstration Project: Electronic Submission of Applications: For purposes of this NOFA only, applicants are invited to participate in a pilot demonstration project to test the efficiency and efficacy of the Fund's new electronic application form. For this demonstration project, a limited number of applicants will be asked to complete and submit both a paper and an electronic application, in the formats prescribed by the Fund. If your organization is interested in learning more about this demonstration project, please (i) Visit *www.treas.gov/cdfi* for more information and (ii) e-mail the Fund at *cdfihelp@cdfi.treas.gov* (with the subject line: "electronic application") within 30 days of this NOFA to submit your organization's name (and a point of contact) as a prospective demonstration project participant, whereupon the Fund will contact you to inform you whether your organization has been selected to participate in the demonstration project. Participation in the demonstration project is in no way indicative of the likelihood of an applicant's success in being selected for an award under this NOFA. The Fund will accept electronic submission of applications only as described in this Section.

ADDRESSES: Applications shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted at the Fund's offices.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's CDFI Program Manager. If you wish to request an application package or have questions regarding application procedures, contact the Fund's Awards Manager. The CDFI Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *www.treas.gov/cdfi*.

SUPPLEMENTARY INFORMATION:

I. Background

Credit and investment capital are essential ingredients for developing affordable housing, starting or expanding businesses, meeting unmet market needs, and stimulating economic growth. Access to financial services is critical to helping bring more Americans into the economic mainstream. The CDFI Program funds and supports financial institutions around the country that are specifically dedicated to financing and supporting community development activities. This strategy builds strong institutions that make loans and investments and provide financial services to markets (including economically distressed investment areas and disadvantaged targeted populations) whose needs for loans, investments, and financial services have not been fully met by traditional financial institutions.

This NOFA covers the Fiscal Year 2002 round of the Core and Intermediary Components of the CDFI Program and invites CDFIs and CDFI Intermediaries to submit applications for financial assistance and TA awards for the purpose of serving their target markets through the provision of loans, investments and financial services.

The Core Component provides assistance to CDFIs that directly serve their target markets through loans, investments and other activities, not including the financing of other CDFIs.

The Intermediary Component provides financial assistance and TA to CDFIs that provide financing primarily to other CDFIs and/or to support the formation of CDFIs. The Fund believes that providing financial assistance and/or TA to such intermediaries can be an effective way to enhance its support of the CDFI industry by reaching CDFIs that the Fund itself cannot reach as effectively under the Core Component. In particular, the Fund wishes to support the activities of those CDFI Intermediaries that provide financing, Development Services, and other support to Small and Emerging CDFIs and other CDFIs or CDFIs in formation that have not received assistance from the CDFI Fund. With respect to an entity that is not a depository institution holding company or an insured depository institution, a Small and Emerging CDFI is one that (i) possesses total assets of $5 million or less as of the last day of its most recent fiscal year that ended prior to January 1, 2002, and (ii) prior to the date of the application by the CDFI Intermediary under this NOFA or the date of the application of the Small and Emerging CDFI under the SECA NOFA, has never been selected to receive financial assistance under the CDFI Program. With respect to an applicant that is a depository institution holding company or an insured depository institution, a Small and Emerging CDFI is one that (i) prior to the date of the application by the CDFI Intermediary under this NOFA or the date of application of the Small and Emerging CDFI under the SECA NOFA, has never been selected to receive financial assistance under the CDFI Program, and (ii) received its original charter from the appropriate regulatory agency no more than three years prior to the date of this NOFA. This NOFA is not intended and should not be construed to allow an applicant to file a joint application on behalf of a group of other CDFIs, but rather to provide financial assistance and TA to intermediaries that provide financing, in arms-length transactions, to other CDFIs and/or support the formation of CDFIs.

Under this NOFA, the Fund anticipates a maximum award amount of $2.0 million per applicant. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of the anticipated maximum award amount if the Fund deems it appropriate.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that: (1) The Fund is generally prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during a three-year period (further guidance on the calculation of the $5 million cap is available on the Fund's website at *www.treas.gov/cdfi*); or (2) an applicant that is a previous Fund awardee under any other Fund program or component of the CDFI Program has failed to meet its reporting requirements, performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance or award agreement(s). Moreover, the Fund may, in its sole discretion, withhold or suspend making disbursements to an applicant, selected to receive an award under this NOFA, that either is a previous Fund awardee or whose Affiliate(s) is a previous Fund awardee under any other Fund program or component of the CDFI Program, if the applicant or its Affiliate(s) has failed to comply with any term, agreement, covenant or condition contained in or

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referenced in any previous Fund assistance or award agreement. The Fund generally will commence or resume making disbursements to such applicant upon the applicant's or its Affiliate's subsequent compliance.

II. Eligibility

The Act and the interim rule specify the eligibility requirements that each applicant must meet in order to be eligible to apply for assistance under this NOFA. At the time an entity submits its application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. An entity must meet, or propose to meet, the Fund's CDFI certification requirements, as set forth in the Act and the interim rule. In general, an applicant, individually and collectively with its Affiliates, must have a primary mission of promoting community development. In addition, the applicant must: Be an insured depository institution, a depository institution holding company or an insured credit union; provide lending or equity investments; serve an investment area or a targeted population; provide development services; maintain community accountability; and be a non-government entity. If an applicant is a depository institution holding company or an Affiliate of a depository institution holding company, the applicant individually and collectively with its Affiliates must meet all of the aforementioned requirements.

For purposes of determining whether or not an applicant is serving an eligible Investment Area, the Fund will continue to use 1990 Census data, as 2000 Census data will not be available in sufficient detail for use under this NOFA.

As explained in the application packet, applicants seeking to designate an "Other Targeted Population" must provide a brief analytical narrative with information demonstrating that the designated group of individuals in the applicant's service area lacks adequate access to loans, Equity Investments or Financial Services. This narrative requirement does not apply to applicants serving an Other Targeted Population composed of Blacks or African Americans, Native Americans or American Indians, or Hispanics or Latinos, on a national service level. In addition, for purposes of this NOFA, the Fund has determined that credible evidence exists that Alaska Natives residing in Alaska and Native Hawaiians or Other Pacific Islanders residing in Hawaii or other Pacific Islands lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant is serving such population(s), it is not required to provide the analytical narrative describing these populations' unmet loan, Equity Investment or Financial Services needs.

For purposes of this NOFA, the Fund will use the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997):

(a) American Indian, Native American or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment;

(b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as "Haitian" or "Negro" can be used in addition to "Black or African American");

(c) Hispanic or Latino: a person of Cuban, Mexican, or Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race (the term "Spanish origin" can be used in addition to "Hispanic or Latino"); and

(d) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

For further detail, please visit the Fund's website at *www.treas.gov/cdfi*, under Certification/Supplemental Information.

In the case of a CDFI Intermediary applicant whose total activities are principally directed toward serving certified CDFIs, the Fund will assume that the applicant principally serves eligible Target Markets. Such an applicant need only specify the service area in which its certified CDFI clients are located (e.g., names of cities, counties, states, or national). In the case of an applicant whose total activities are not principally directed toward serving certified CDFIs, the applicant must provide information on how it determines that its total activities are principally directed toward organizations principally serving eligible Target Markets, such as requiring a minimum level of activity within Target Markets, or other means.

If the applicant does not meet the CDFI certification requirements, the application shall include a realistic plan for the applicant to meet the certification criteria by December 31, 2003. In no event will the Fund disburse financial assistance and/or TA to the applicant until the applicant is certified as a CDFI. Further details regarding certification, eligibility and other program requirements are found in the application packet.

III. Types of Assistance

An applicant may submit an application for financial assistance, TA, or both, under this NOFA. Financial assistance may be provided through an equity investment (including, in the case of certain insured credit unions, secondary capital accounts), a grant, loan, deposit, credit union shares, or any combination thereof. Applicants for financial assistance shall indicate the dollar amount, form, and terms and conditions of the assistance requested. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact.

IV. Application Packet

An applicant under this NOFA, whether applying for financial assistance, TA, or both, must submit the materials described in the application packet.

V. Matching Funds

Applicants responding to this NOFA must obtain matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of financial assistance provided by the Fund (matching funds are not required for TA). Matching funds must be at least comparable in form and value to the financial assistance provided by the Fund. Non-Federal funds obtained or legally committed on or after January 1, 2001, and before December 31, 2003, may be considered when determining matching funds availability. The Fund reserves the right to recapture and reprogram funds if an applicant fails to raise the required matching funds by December 31, 2003, or to grant an extension of such matching funds deadline for specific applicants selected for assistance, if the Fund deems it appropriate. Funds used by an applicant as matching funds for a previous award under the CDFI Program or under another Federal grant or award program cannot be used to satisfy the matching funds requirement. If an applicant seeks to use as matching funds monies received from an organization that was a previous awardee under the CDFI Program, the Fund will deem such funds to be Federal funds, unless the funding entity establishes to the reasonable satisfaction of the Fund, that such funds do not consist, in whole or in part, of CDFI Program funds or other Federal funds.

VI. Evaluation

All applications will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate each application and assign numeric scores related to:

(1) The applicant s ability to carry out its Comprehensive Business Plan and create community development impact (the Ability Criterion);

(2) The quality of the applicant s strategy for carrying out its Comprehensive Business Plan and for creating community development impact (the Strategy Criterion); and

(3) The extent to which an award to the applicant will maximize the effective use of the Fund's resources (the Effective Use Criterion).

In addition, the Fund may consider the institutional and geographic diversity of applicants in making its funding determinations.

Phase One

In Phase One of the substantive review, each Fund reader(s) will evaluate applications using a 100 point scale, as follows:

(a) The Ability Criterion (the applicant's ability to carry out its Comprehensive Business Plan and create community development impact): 50 point maximum, with a minimum score of 25 points required to be passed on for Phase Two review. The score of the Ability Criterion is based on a composite assessment of an applicant's organizational strengths and weaknesses under the four sub-criteria listed below. Such scoring reflects different weighting of the sub-criteria depending on whether an applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation two years or less as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after September 24, 1999).

Under the Ability Criterion, the Fund will evaluate the following four sub-criteria:

(1) Community development track record, including (for CDFI Intermediary applicants) activities and impacts relating to both Small and Emerging CDFIs and CDFIs that have not received assistance from the Fund: 12 point maximum (established organizations), 5 point maximum (start-ups);

(2) Operational capacity and risk mitigation strategies: 12 point maximum (established organizations), 15 point maximum (start-ups);

(3) Financial track record and strength: 12 point maximum (established organizations), 5 point maximum (start-ups); and

(4) Capacity, skills and experience of the management team: 14 point maximum (established organizations), 25 point maximum (start-ups).

(b) The Strategy Criterion (the quality of the strategy for carrying out the Comprehensive Business Plan and for creating community development impact): 40 point maximum with a minimum of 20 points required to be passed on for Phase Two review. Under the Strategy Criterion, the Fund will evaluate the following four sub-criteria:

(1) The applicant's understanding of its market: 10 point maximum;

(2) Program design and implementation plan: 10 point maximum;

(3) Projections for financial performance and raising needed resources: 10 point maximum; and

(4) Projections for generating, measuring and evaluating community development impact: 10 point maximum.

In the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider whether the applicant will expand its operations into a new target market, offer more products or services, and/or increase the volume of its activities.

(c) The Effective Use Criterion (maximizing effective use of Fund resources): 10 point maximum, with a minimum of 5 points required to be passed on for Phase Two review. The Fund will consider:

(1) The extent to which the applicant needs the Fund's assistance to carry out its Comprehensive Business Plan, including its track record in deploying existing resources;

(2) The extent to which assistance from the Fund will help the applicant attract new or additional resources in support of its community development activities;

(3) The extent of economic distress in the applicant's target market;

(4) Other positive impacts that the Fund's assistance will enable, including development of innovative products and services that would benefit the applicant's Target Market specifically, and underserved markets generally; and

(5) For CDFI Intermediary applicants, the extent to which the applicant's assistance to CDFIs and CDFIs in formation provides additional benefits, especially to Small and Emerging CDFIs, that are not provided by the Fund.

In addition, in the case of an applicant that has previously received assistance from the Fund under the CDFI Program, the Fund will consider:

(1) The applicant's level of success and extent of compliance in meeting its performance goals, financial soundness covenants (if applicable) and other requirements contained in the assistance agreement(s) with the Fund;

(2) The benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance; and

(3) The extent and effectiveness to which the applicant has used previous assistance from the Fund.

Phase Two

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the recommendations and scores (standardized if deemed appropriate) received during Phase One review and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants will be required to submit additional information, as set forth in detail in the application packet. After conducting such site visits/telephone interview(s), the Fund reviewers will evaluate applications based on all the elements outlined in the application, and prepare recommendation memoranda containing recommendations on the type and amount of assistance, if any, that should be provided to each applicant.

A final review panel comprised of senior Fund staff will consider the Fund reviewers' recommendation memoranda and make final recommendations to the Fund's selecting official. In making its recommendations, the final review panel also may consider the institutional diversity and geographic diversity of applicants (*e.g.*, recommending a CDFI from a state in which the Fund has not previously made an award over a CDFI in a state in which the Fund has already made numerous awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, Phase One and Phase Two reviewer(s) recommendations and the panel's recommendation, the amount of funds

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available, and for a prior awardee, the status of its compliance and award disbursements to date. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies. The Fund's selecting official reserves the right to reject any application in the case of a previous Fund awardee that has failed to comply with the terms and conditions of its previous assistance or award agreement(s).

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

VII. Information Sessions

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, through October 31, 2001, in the following cities: Anchorage, AK; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Philadelphia, PA; Seattle, WA; and Washington, DC.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1:00 p.m. to 4:00 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY; Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi*. If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

Catalog of Federal Domestic Assistance: 21.021.

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Tony Brown,

Director, Community Development Financial Institutions Fund.

[FR Doc. 01–23670 Filed 9–21–01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Small and Emerging CDFI Assistance (SECA) Component

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the SECA component of the Community Development Financial Institution Program.

SUMMARY: The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) (the "Act") authorizes the Community Development Financial Institutions Fund (the "Fund") of the U.S. Department of the Treasury to select and provide financial and technical assistance to eligible applicants under the Community Development Financial Institutions ("CDFI") Program. The interim rule (12 CFR part 1805), most recently published in the **Federal Register** on August 14, 2000 (65 FR 49642), provides guidance on the contents of the necessary application materials, evaluation criteria, and other program requirements. More detailed application content requirements are found in the application packet related to this NOFA. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet.

This NOFA is issued in connection with the SECA Component of the CDFI Program. The SECA Component provides financial assistance ("FA") and technical assistance ("TA") to CDFIs and entities that propose to become CDFIs in order to enhance their capacity to serve their respective target markets, through loans, investments, financial services and other activities. An applicant under the SECA Component also may use TA to build the capacity of an Affiliate if the provision of such TA will directly benefit the primary mission of the applicant and the objectives of its Comprehensive Business Plan.

Published elsewhere in this issue of the **Federal Register** are (i) the Fund's NOFA for the combined Core and Intermediary Components of the CDFI Program, through which CDFIs may apply directly to the Fund for FA and/or TA awards, (ii) the Fund's NOFA for the Native American CDFI Technical Assistance ("NACTA") Component of the CDFI Program, through which organizations that serve or wish to serve Native American communities through the provision of loans, investments and financial services, may apply directly to the Fund for TA awards; and (iii) the Fund's NOFA for the Bank Enterprise Award ("BEA") Program, through which the Fund offers financial incentives to insured depository institutions for the purpose of promoting investments in or other support to CDFIs and facilitating increased lending and provision of financial and other services in economically distressed communities. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability ("NOAA") for the New Markets Tax Credit ("NMTC") Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

Although an applicant may apply for an award through the Core/Intermediary Component and the SECA Component, it may only receive an award under one of those two Components. If an applicant applies for an award through the Core/Intermediary Component and the SECA Component, the Fund reserves the right to decide, in its sole discretion, under which Component, if any, an award may be made. While an applicant may receive only one award under either the Core/Intermediary Component or the SECA Component, an applicant, its subsidiaries or Affiliates may apply for and receive both a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component or the SECA Component.

An entity that is a NACTA Component Category 1 entity (as that term is defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component, but may only receive an award under one of those three Components. An applicant that is a NACTA Component Category 2 or Category 3 entity (as those terms are defined in the NACTA NOFA) may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component and may receive an award under the NACTA Component and either the Core/Intermediary Component or the SECA Component, provided that the respective applications propose and seek funding for different activities. While a NACTA Component Category 1 entity may receive only one award under the Core/Intermediary Component, the SECA Component, or the NACTA Component, said entity, its subsidiaries or Affiliates also may apply for and receive a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component, the SECA Component, or the NACTA Component.

Subject to funding availability, the Fund expects that it may award approximately $5.6 million in appropriated funds under this SECA Component NOFA. The Fund reserves the right to award in excess of $5.6 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

DATES: Applications may be submitted at any time, commencing September 24, 2001. The deadline for an application is 5:00 p.m. EST on January 24, 2002. Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An application mailed via United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight January 23, 2002. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit with an overnight/express delivery service by no later than January 23, 2002. An application that is hand-carried will be considered as having met the application deadline if it is received in the specific BPD office designated below by 5:00 pm EST on January 24, 2002. In each case, it is advisable to obtain documentation from the carrier showing the date and time the application was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an application has met the deadline requirements set forth above. Applications sent by facsimile will not be accepted; applications sent electronically or by e-mail will be accepted only as set forth below.

Demonstration Project: Electronic Submission of Applications: For purposes of this NOFA only, applicants are invited to participate in a pilot demonstration project to test the efficiency and efficacy of the Fund's new electronic application form. For this demonstration project, a limited number of applicants will be asked to complete and submit both a paper and an electronic application, in the formats prescribed by the Fund. If your organization is interested in learning more about this demonstration project, please (i) visit *www.treas.gov/cdfi* for more information and (ii) email the Fund at *cdfihelp@cdfi.treas.gov* (with the subject line: "electronic application") within 30 days of this NOFA to submit your organization's name (and point of contact) as a prospective demonstration project participant, whereupon the Fund will contact you to inform you whether your organization has been selected to participate in the demonstration project. Participation in the demonstration project is in no way indicative of the likelihood of an applicant's success in being selected for an award under this NOFA. The Fund will accept electronic submission of applications only as described in this Section.

ADDRESSES: Applications shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted in the Fund's offices.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's SECA Component Program Manager. If you wish to request an application package or have questions regarding application procedures, contact the Fund's Awards Manager. The SECA Component Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *www.treas.gov/cdfi*.

SUPPLEMENTARY INFORMATION

I. Background

Credit and investment capital are essential ingredients for developing affordable housing, starting or expanding businesses, meeting unmet market needs, and stimulating economic growth. Access to financial services is critical to help bring more Americans into the economic mainstream. The CDFI Program funds and supports financial institutions around the country that are specifically dedicated to financing and supporting community development activities. This strategy builds strong institutions that make loans and investments and provide services to markets (including economically distressed investment areas and disadvantaged targeted populations) whose needs for loans, investments, and financial services have not been met by traditional financial institutions.

This NOFA covers the Fiscal Year 2002 round of the SECA Component of the CDFI Program and invites CDFIs and Small and Emerging CDFIs to submit applications for TA or for Small and Emerging CDFIs to apply for a combination of TA and FA for the

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purpose of serving their target markets through the provision of loans, investments, and financial services.

Under this NOFA, the Fund anticipates making a maximum TA award in the amount of $50,000 to any one applicant seeking TA only. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of the anticipated maximum amount of TA if the Fund deems it appropriate. Also, under this NOFA, the Fund anticipates making a maximum FA award in the amount of $150,000. The maximum award available to any one applicant seeking FA and TA under this NOFA will be $200,000. Under the SECA Component, applicants seeking FA must also request TA. Previous awardees of FA under any Component of the CDFI Program are eligible to apply only for TA under this NOFA.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that: (1) The Fund generally is prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during a three-year period (further guidance on the calculation of the $5 million cap is available on the Fund's website at *www.treas.gov/cdfi*); or (2) an applicant that is a previous Fund awardee under any other Fund program or component of the CDFI Program has failed to meet its reporting requirements, performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance or award agreement(s). Moreover, the Fund may, in its sole discretion, withhold or suspend making disbursements to an applicant, selected to receive an award under this NOFA, that either is a previous Fund awardee or whose Affiliate(s) is a previous Fund awardee under any other Fund program or component of the CDFI Program, if the applicant or its Affiliate(s) has failed to comply with any term, agreement, covenant or condition contained in or referenced in any previous Fund assistance or award agreement. The Fund will generally commence or resume making disbursements to such applicant upon the applicant's or its Affiliate's subsequent compliance.

II. Eligibility

The Act and the interim rule specify the eligibility requirements that each applicant must meet in order to be eligible to apply for assistance under this NOFA. At the time an entity submits its application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. Also, an entity must meet, or propose to meet, the Fund's CDFI certification eligibility requirements.

If the applicant does not meet the CDFI certification eligibility requirements, the application shall include a realistic plan for the applicant to meet the CDFI certification criteria by January 24, 2004 (the deadline may be extended at the sole discretion of the Fund). In no event will the Fund disburse FA to the applicant until the applicant is certified as a CDFI. The Fund, in its sole discretion, may disburse TA to an applicant prior to its certification as a CDFI in circumstances when, in the judgment of the Fund, said TA will help the applicant meet a certification requirement(s). Further details regarding eligibility and other program requirements are found in the application packet related to this NOFA.

In general, to be certified as a CDFI, an applicant, individually and collectively with its affiliates, must have a primary mission of promoting community development. In addition, the applicant must: be an insured depository institution, a depository institution holding company or an insured credit union; provide loans or equity investments; serve an investment area or a targeted population; provide development services; maintain community accountability; and be a non-governmental entity. If an applicant is a depository institution holding company or an affiliate of a depository institution holding company, the applicant individually and collectively with its affiliates, must meet all of the aforementioned requirements.

For purposes of determining whether or not the applicant is serving an eligible Investment Area, the Fund will continue to use 1990 Census data, since the 2000 Census data will not be available in sufficient detail for use under this NOFA.

As explained in the application packet, applicants seeking to designate an "Other Targeted Population" must provide a brief analytical narrative with information demonstrating that the designated group of individuals in the applicant's service area lacks adequate access to loans, Equity Investments or Financial Services. This narrative requirement does not apply to applicants serving an Other Targeted Population composed of Blacks or African Americans, Native Americans or American Indians, or Hispanics or Latinos, on a national service level. In addition, for purposes of this NOFA, the Fund has determined that credible evidence exists that Alaska Natives residing in Alaska and Native Hawaiians or Other Pacific Islanders residing in Hawaii or other Pacific Islands lack adequate access to loans, Equity Investments or Financial Services. To the extent that an applicant is serving such population(s), it is not required to provide the analytical narrative describing these populations' unmet loan, Equity Investment or Financial Services needs.

For purposes of this NOFA, the Fund will use the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997):

(a) American Indian, Native American or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment;

(b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as "Haitian" or "Negro" can be used in addition to "Black or African American");

(c) Hispanic or Latino: a person of Cuban, Mexican, or Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race (the term "Spanish origin" can be used in addition to "Hispanic or Latino"); and

(d) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

For further detail, please visit the Fund's website at *www.treas.gov/cdfi*, under Certification/Supplemental Information.

In addition to the above criteria, there are other eligibility factors for applicants seeking FA and TA under the SECA Component. Applicants for FA and TA (as opposed to TA only under the SECA Component) must be "Small and Emerging" entities. With respect to an entity that is not a depository institution holding company or an insured depository institution, a Small and Emerging entity is one that (i) possesses total assets of $5 million or less as of the last day of its most recent fiscal year that ended prior to January 1, 2002, and (ii) prior to the date of application under this NOFA, has never been selected to receive FA under the CDFI Program. With respect to an applicant that is a depository institution holding company or an insured depository institution, a Small and Emerging entity is one that (i) prior to the date of application under this NOFA, has never been selected to receive FA under the CDFI Program, and (ii) received its original charter from the appropriate regulatory agency no more than three years prior to the date of this NOFA.

III. Types of Assistance

An applicant under this NOFA may submit an application for a TA grant or for both FA and TA. FA may be provided in the form of an equity investment (including, in the case of certain insured credit unions, secondary capital accounts), a grant, loan, deposit, credit union shares, or any combination thereof. Applicants for FA shall indicate the dollar amount, form, and terms and conditions of the assistance requested. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact.

IV. Application Packet

An applicant under this NOFA, whether applying for TA or both FA and TA, must submit the materials described in the application packet.

V. Matching Funds

Applicants seeking FA under this NOFA must obtain matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of FA provided by the Fund (matching funds are not required for TA). Matching funds must be at least comparable in form and value to the FA provided by the Fund. Non-Federal funds obtained or legally committed on or after January 1, 2000, and before December 31, 2003, may be considered when determining matching funds availability. The Fund reserves the right to recapture and reprogram funds if an applicant fails to raise the required matching funds by December 31, 2003, or to grant an extension of such matching funds deadline for specific applicants selected for assistance, if the Fund deems it appropriate. Funds used by an applicant as matching funds for a previous award under the CDFI Program or under another Federal grant or award program cannot be used to satisfy the aforementioned matching funds requirement. If an applicant seeks to use as Matching Funds monies received from an organization that was a previous awardee under the CDFI Program, the Fund will deem such funds to be Federal funds, unless the funding entity establishes to the reasonable satisfaction of the Fund, that such funds do not consist, in whole or in part, of CDFI Program funds or other Federal funds.

VI. Evaluation

Applications received will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate applications according to the criteria, and use the procedure described, in this NOFA. In conducting its substantive review, the Fund will evaluate each application and assign numeric scores related to the applicant's Comprehensive Business Plan and Technical Assistance Proposal.

In addition, the Fund may consider the institutional and geographic diversity of applicants in making its funding determinations.

Phase One

In Phase One of the substantive review, each Fund reader will evaluate applications on a 100-point scale, using the following criteria and allocation of points:

(a) *Comprehensive Business Plan:* 60 point maximum; with a minimum score of 30 points required to advance to Phase Two review (TA only applicants); or 70 point maximum, with a minimum score of 35 points required to advance to Phase Two review (applicants seeking TA and FA combined). The score for the Comprehensive Business Plan is based on a composite assessment of an applicant's strength and weaknesses under five sub-criteria for TA only applicants and six sub-criteria for those applicants seeking TA and FA. Scoring of the sub-criteria is weighted to reflect whether the applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation three years or less, as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after September 24, 1998).

In reviewing the Comprehensive Business Plan, the Fund will evaluate the following sub-criteria:

(1) Community development track record (established organizations only): 10 point maximum;

(2) Financial and operational capacity: 10 point maximum (established organizations); 4 point maximum (start-ups);

(3) Market analysis, program design and implementation plan, and funding sources: 14 point maximum;

(4) Capacity, skills and experience of the management team: 14-point maximum (established organizations); and 30 point maximum (start-ups);

(5) Projected activities and community development impact: 12 point maximum; and

(6) Financial projections and resources: 10 point maximum (TA only applicants will not be evaluated under this sub-criterion).

In the case of an applicant that has previously received TA from the Fund under the CDFI Program, the Fund will consider whether the applicant will expand its operations into a new target market, offer more products or services, improve the quality of its products and services, and/or increase the volume of its activities. The Fund will consider the applicant's level of success in meeting its reporting requirements, performance goals, financial soundness agreements, and other requirements contained in its existing assistance or award agreement(s) with the Fund, and the benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance.

(b) *Technical Assistance Proposal (TAP):* 40 point maximum; with a minimum score of 20 points to advance to Phase Two review (TA only applicants); or 30 point maximum with a 15 point minimum to advance to Phase Two review (applicants seeking FA and TA combined). The TAP provides the applicant with an opportunity to address the organizational improvements needed to achieve the objectives of its comprehensive business plan. Such assessment is accompanied by a budget and a TA award request. In the TAP, the applicant should describe how improving its organization will translate to community development impact, particularly within its Target Market. The budget and accompanying narrative will be evaluated for the eligibility of proposed uses of the TA award. Eligible types of TA award uses include, but are not limited to, the following: (1) Acquiring consulting services; (2) paying staff salary for the limited purposes of completing tasks and/or fulfilling functions that are otherwise eligible TA award uses under this NOFA; (3) acquiring/enhancing

technology items; and (4) acquiring training for staff or management. The Fund will not consider requests under this NOFA for expenses that, in the determination of the Fund, are deemed to be ongoing operating expenses rather than non-recurring expenses.

The Fund will consider requests for use of TA to pay for staff salary only when the applicant demonstrates and represents that: the proposed staff time to be paid for by the TA will be used for a non-recurring activity that will build the applicant's capacity to achieve its objectives as set forth in its Comprehensive Business Plan; the proposed capacity-building activity would otherwise be contracted to a consultant or not be undertaken; and the staff person assigned to the proposed task has the competence to successfully complete the activity. This limited use of TA may cover only that portion of a staff person's salary that represents the time that staff person(s) spends on the identified capacity-building activities, but must not exceed 50 percent of said annual salary in a 12-month period, and for a total period not to exceed 24 months. For example, it may be an eligible use of a TA grant to pay the salary of staff assigned the task of updating a market analysis or designing underwriting criteria for a new loan product, when that market analysis or loan product is critical to achieving the objectives of the Comprehensive Business Plan. A TA award may not be used for the cost of employee benefits or overhead expenses or to assist an awardee to prepare an application for funding to the Fund or any other source.

Phase Two

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the recommendations and scores (standardized if deemed appropriate) received during Phase One review and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants may be required to submit additional clarifying information about their application in order to assist the Fund with its final evaluation. After conducting such site visit and/or telephone interview(s), Fund reviewers will evaluate applications based on all the elements outlined in the application, and prepare recommendation memoranda containing the type, uses and amount of assistance, if any, that should be provided to each applicant.

The Fund reserves the right, in its sole discretion, to use a review panel comprised of Fund staff to consider each Fund reviewer's recommendation memorandum and make a final recommendation to the Fund's selecting official. The Fund's selecting official will consider the panel's recommendation, if applicable, and the reviewer's recommendation memorandum in order to make the final funding decision. In making the funding decision, the Fund's selecting official also may consider the institutional diversity and geographic diversity of applicants (e.g., selecting a CDFI from a state in which the Fund has not previously made an award over a CDFI in a state in which the Fund has already made several awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, recommendations of the Phase One and Phase Two reviewers' recommendations and the panel's recommendations, if applicable, the amount of funds available, and, for a prior awardee, the status of its compliance and award disbursements to date. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies. In the case of recommendations for TA awards over $50,000, the Fund will seek to ensure that there is a likelihood of significant community development impact resulting from such awards. The Fund's selecting official reserves the right to reject any application in the case of a previous Fund awardee that has failed to comply with the terms and conditions of its previous assistance or award agreement(s).

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

V. Waiver

The CDFI Program Regulations at 12 C.F.R. §§ 1805.504(d)(4)(i)(A) and 1805.504(d)(4)(i)(B) provide that an applicant that is an Insured Credit Union proposing to meet all or a portion of its matching funds requirements by using retained earnings that have been accumulated since its inception must increase its member and/or non-member shares by an amount that is at least equal to four times the amount of retained earnings that is committed as matching funds within 24 months from September 30 of the calendar year in which the applicable application deadline falls. For purposes of this NOFA, the Fund is waiving said four-fold requirement and will instead require that such an Insured Credit Union applicant must increase its member and/or non-member shares by an amount that is at least equal to *two* times the amount of retained earnings that is being used as matching funds by September 30, 2004. The Fund believes that changing this requirement, for purposes of this SECA Component NOFA, from a four-fold to a two-fold requirement is an appropriate accommodation for Small and Emerging entities.

VII. Information Sessions

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, during the period from September 26 through October 31, 2001, in the following cities: Albuquerque, NM; Anchorage, AK; Atlanta, GA; Billings, MT; Boston, MA; Charleston, WV; Chicago, IL; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Oklahoma City, OK; Philadelphia, PA; San Antonio, TX; and Seattle, WA.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1:00 p.m. to 4:00 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY; Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi*. If you do not have Internet access, you may register by calling the Fund at (202) 622–8662. Catalog of Federal Domestic Assistance: 21.021

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Tony Brown,

Director, Community Development Financial Institutions Fund.

[FR Doc. 01–23669 Filed 9–21–01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions Program—Native American CDFI Technical Assistance (NACTA) Component

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the NACTA component of the Community Development Financial Institutions Program.

SUMMARY: The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. §§ 4701 *et seq.*) (the "1994 Act") authorizes the Community Development Financial Institutions Fund (the "Fund") of the U.S. Department of the Treasury to select and provide technical assistance ("TA") to eligible applicants under the Community Development Financial Institutions ("CDFI") Program. Further, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (P.L. 106–377) authorizes the Fund to provide TA to promote economic development in Native American and Alaska Native communities by creating new CDFIs or building the capacity of existing CDFIs that serve Native American or Alaska Native communities. This NOFA and the interim rule (12 CFR part 1805), most recently revised and published in the **Federal Register** on August 14, 2000 (65 FR 49642), provide guidance on the contents of necessary application materials, evaluation criteria, and other program requirements. More detailed application content requirements are found in the application packet related to this NOFA. While the Fund encourages applicants to review the interim rule, all of the application content requirements and the evaluation criteria contained in the interim rule are also contained in the application packet.

This NOFA is issued in connection with the NACTA Component of the CDFI Program. The NACTA Component provides TA to three categories of entities that propose to build the capacity of or establish a new CDFI(s) that will serve a Native American or Alaska Native population(s):

(i) *Category 1:* CDFIs That Primarily Serve Native American or Alaska Native Populations: Fund-certified CDFIs or other entities that propose to become Fund-certified CDFIs (i.e., qualified community development lenders, for purposes of this NOFA) that primarily serve Native American or Alaska Native communities;

(ii) *Category 2:* Tribes, Tribal Entities, or Non-Profit Organizations That Primarily Serve Native American or Alaska Native Populations: (a) Tribes, Tribal entities, Alaska Native Villages, Village Corporations, Regional Corporations, Non-Profit Regional Corporations/Associations, or Inter-Tribal or Inter-Village organizations; or (b) non-profit community organizations engaged in related activities, including but not limited to: community development corporations (CDCs), training or educational organizations, Tribally-Controlled Community Colleges, Chambers of Commerce, or Urban Indian Centers that serve primarily a Native American or Alaska Native community; and

(iii) *Category 3:* TA Providers or Other Suitable Providers: (a) TA Providers including firms that provide training or TA in community development finance or that specialize in economic development in Native American or Alaska Native communities, or (b) other suitable providers, as defined by the Fund, that include, but are not limited to: CDCs, certified CDFIs, organizations with experience and expertise in banking and lending in Native American or Alaska Native communities.

Published elsewhere in this issue of the **Federal Register** are (i) the Fund's NOFA for the combined Core and Intermediary Components of the CDFI Program, through which CDFIs may apply directly to the Fund for Financial Assistance (FA) and/or TA awards; (ii) the Fund's NOFA for the Small and Emerging CDFI Assistance ("SECA") Component of the CDFI Program, through which Small and Emerging CDFIs, as therein defined, may apply directly to the Fund for FA and/or TA awards; and (iii) the Fund's NOFA for the Bank Enterprise Award ("BEA") Program, through which the Fund offers financial incentives to insured depository institutions for the purpose of promoting investments in or other support to CDFIs and facilitating increased lending and provision of financial and other services in economically distressed communities. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability ("NOAA") for the New Markets Tax Credit ("NMTC") Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

An entity that is a NACTA Component Category 1 entity may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component, but may only receive an award under one of those three Components. An applicant that is a NACTA Component Category 2 or Category 3 entity may apply for an award through the Core/Intermediary Component, the SECA Component, and the NACTA Component and may receive an award under the NACTA Component and either the Core/Intermediary Component or the SECA Component, provided that the respective applications propose and seek funding for different activities. While a NACTA Component Category 1 entity may receive only one award

under the Core/Intermediary Component, the SECA Component, or the NACTA Component, said entity, its subsidiaries or Affiliates also may apply for and receive a tax credit allocation through the NMTC Program and an award through the Core/Intermediary Component, the SECA Component, or the NACTA Component.

Subject to funding availability, the Fund expects that it may award up to $43.5 million in appropriated funds under this NACTA Component NOFA. The Fund reserves the right to award in excess of $3.5 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. The Fund reserves the right to fund, in whole or in part any, all or none of the applications submitted in response to this NOFA.

DATES: Applications may be submitted at any time, commencing September 24, 2001. The deadline for an application is 5 p.m. EST on January 24, 2002. Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An application mailed via United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight January 23, 2002. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit with an overnight/express delivery service by no later than January 23, 2002. An application that is hand-carried will be considered as having met the application deadline if it is received in the specific BPD office designated below by 5 p.m. EST on January 24, 2002. In each case, it is advisable to obtain documentation from the carrier showing the date and time the application was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an application has met the deadline requirements set forth above. Applications sent by facsimile will not be accepted; applications sent electronically or by e-mail will be accepted only as set forth below.

Demonstration Project: Electronic Submission of Applications: For purposes of this NOFA only, applicants are invited to participate in a pilot demonstration project to test the efficiency and efficacy of the Fund's new electronic application form. For this demonstration project, a limited number of applicants will be asked to complete and submit both a paper and an electronic application, in the formats prescribed by the Fund. If your organization is interested in learning more about this demonstration project, please (i) visit *www.treas.gov/cdfi* for more information and (ii) email the Fund at *cdfihelp@cdfi.treas.gov* (with the subject line: "electronic application") within 30 days of this NOFA to submit your organization's name (and point of contact) as a prospective demonstration project participant, whereupon the Fund will contact you to inform you whether your organization has been selected to participate in the demonstration project. Participation in the demonstration project is in no way indicative of the likelihood of an applicant's success in being selected for an award under this NOFA. The Fund will accept electronic submission of applications only as described in this Section.

ADDRESSES: Applications shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted at the Fund's offices.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements for this program, contact the Fund's NACTA Component Program Manager. If you wish to request an application package or if you have questions regarding application procedures, contact the Fund's Awards Manager. The NACTA Component Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov* by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *www.treas.gov/cdfi.*

SUPPLEMENTARY INFORMATION:

I. Background

Credit and investment capital are essential ingredients for developing affordable housing, starting or expanding businesses, meeting unmet market needs, and stimulating economic growth. Access to financial services is critical to help bring more Americans into the economic mainstream. The CDFI Program funds and supports financial institutions around the country that are specifically dedicated to financing and supporting community development activities. This strategy builds strong institutions that make loans and investments and provide services to markets (including economically distressed investment areas and disadvantaged targeted populations) whose needs for loans, investments, and financial services have not been met by traditional financial institutions.

Pursuant to the Act, the Fund has completed the research for the Native American Lending Study ("the Study"), which identifies significant barriers to lending and investment in Native American and Alaska Native communities and strategies for overcoming those barriers. One of the barriers identified by the Study is the small number of CDFIs and other financial institutions in Native American and Alaska Native communities. Since CDFIs are an important tool for developing self-sustaining economies in many underserved communities, the Fund, through the NACTA Component, seeks to assist Native American and Alaska Native communities to create and develop a network of CDFIs that will promote economic development in such communities.

This NOFA covers the Fiscal Year 2002 round of the NACTA Component of the CDFI Program and invites eligible entities to submit applications for TA for the purpose of promoting economic development activities in Native American and Alaska Native communities.

Under this NOFA, the Fund anticipates making a TA award of up to $100,000 to any one applicant. However, the Fund, in its sole discretion, reserves the right to award amounts in excess of this amount if the Fund deems it appropriate.

Previous awardees under the CDFI Program are eligible to apply under this NOFA, but such applicants must be aware that success in a previous round should not be considered indicative of success under this NOFA. In addition, organizations will not be penalized for having received awards in previous funding rounds, except to the extent that: (i) The Fund is generally prohibited from obligating more than $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during a three-year period (further guidance on the calculation of the $5 million cap is available on the Fund's website at *http://www.treas.gov/cdfi*); or (ii) an applicant that is a previous Fund awardee under any other Fund program or component of the CDFI Program has failed to meet its reporting requirements, performance goals, financial soundness covenants (if applicable) and/or other requirements contained in the previously executed assistance or award agreement(s). Moreover, the Fund may, in its sole discretion, withhold or suspend making disbursements to an applicant, selected to receive an award under this NOFA, that either is a previous Fund awardee or whose Affiliate(s) is a previous Fund awardee under any other Fund program or component of the CDFI Program, if the applicant or its Affiliate(s) has failed to comply with any term, agreement, covenant or condition contained in or referenced in any previous Fund assistance or award agreement. The Fund will generally commence or resume making disbursements to such applicant upon the applicant's or its Affiliate's subsequent compliance.

II. Eligibility

At the time an entity submits its application under this NOFA, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. There are three categories of eligible applicants under this NOFA. Eligible entities include:

(i) *Category 1:* CDFIs That Primarily Serve Native American or Alaska Native Populations: Fund-certified CDFIs or other entities that propose to become Fund-certified CDFIs (i.e., qualified community development lenders, for purposes of this NOFA) by January 24, 2004, that primarily serve Native American or Alaska Native communities;

(ii) *Category 2:* Tribes, Tribal Entities, Or Non-Profit Organizations That Primarily Serve Native American or Alaska Native Populations: Generally, applicants in Category 2 are accountable to a specific Tribe or group of Tribes, Alaska Native Village or group of Villages, or Native American or Alaska Native population that resides in a specific geographic region such as a city, county, state, or states, such as: (a) Tribes, Tribal entities, Alaska Native Villages (also known as Village Governments), Village Corporations, Regional Corporations, Non-Profit Regional Corporations/Associations, or Inter-Tribal or Inter-Village organizations; or (b) non-profit community organizations engaged in related activities, including but not limited to: community development corporations (CDCs), training and educational organizations, Tribally-Controlled Community Colleges, Chambers of Commerce, or Urban Indian Centers that have a mission and practice of serving primarily a Native American or Alaska Native community (applicants in this category must establish entities that will become Fund-certified CDFIs by January 24, 2005); or

(iii) *Category 3:* TA Providers or Other Suitable Providers: (a) TA Providers, including firms that provide training or TA in community development finance or that specialize in economic development in Native American or Alaska Native communities, or (b) other suitable providers, as defined by the Fund, that include, but are not limited to: CDCs, certified CDFIs, organizations with experience and expertise in banking and lending in Native American or Alaska Native communities (applicants in this category must establish entities that will become Fund-certified CDFIs by January 24, 2005). Applicants applying under Category 3 must have a NACTA Eligible Partner. Generally, entities that are not accountable to a specific Tribe or group of Tribes, Alaska Native Village or group of Villages, or Native American or Alaska Native population that resides in a specific geographic region such as a city, county, state, or states, even though they may be owned or managed by an individual or group of individuals who are of Native American or Alaska Native ancestry, will be considered to be a Category 3 applicant. For example, a consulting firm owned by and serving Native Americans, or a Non-Native CDFI, will be considered a Category 3 applicant and will need a NACTA Eligible Partner. The Fund, in its sole discretion, reserves the right to waive this requirement.

For the purposes of this NOFA, to be certified as a CDFI by the Fund, an applicant, individually and collectively with its affiliates, must have a primary mission of promoting community development. In addition, the applicant must: be an insured depository institution, a depository institution holding company or an insured credit union; or if not a regulated financial institution, provide loans or equity investments as its predominant business activity; serve an eligible Target Market, which may consist of an Investment Area(s) or a targeted population; provide development services; maintain community accountability; and not be controlled by an instrumentality or division of the United States Government. If an applicant is a depository institution holding company or an affiliate of a depository institution holding company, the applicant individually and collectively with its affiliates, must meet all of the aforementioned requirements.

NACTA Component applicants, including CDFIs, that do not serve primarily a Native American or Alaska Native population must identify a NACTA Eligible Partner(s) that serves primarily a Native American or Alaska Native population and that the applicant will work with to establish a CDFI in the NACTA Eligible Partner's community or service area that will serve primarily a Native American or Alaska Native population.

For purposes of this NOFA, the Fund will use the following definition, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997): American Indian, Native American or Alaska Native means a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Further details regarding eligibility and other program requirements are found in the application packet related to this NOFA.

For purposes of determining whether or not the applicant is serving an eligible Investment Area, the Fund will continue to use 1990 Census data, as 2000 Census data will not be available in sufficient detail for use under this NOFA.

III. Types of Assistance

An applicant under this NOFA may submit an application for a TA grant. Applicants for TA under this NOFA shall describe the type(s) of TA requested, when the TA will be acquired, the provider(s) of the TA, the cost of the TA, and a narrative explanation of how the TA will enhance their community development impact. The role of NACTA Eligible Partner, if applicable, must also be described.

IV. Application Packet

An applicant under this NOFA must submit the materials described in the application form.

V. Evaluation

Applications received will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by the Fund on a competitive basis in accordance with the criteria described in this NOFA. In conducting its substantive review, the Fund will evaluate applications according to the criteria, and use the procedure described, in this NOFA. In conducting its substantive review, the Fund will evaluate each application and

assign numeric scores related to the applicant's Comprehensive CDFI Development Plan.

Phase One

In Phase One of the substantive review, each Fund reader will evaluate applications on a 100-point scale, using the following criteria and allocation of points:

(1) *Comprehensive CDFI Development Plan:* 60 points maximum; with a minimum score of 30 points required to advance to Phase Two review. The score for the CDFI Development Plan is based on a composite assessment of an applicant's strength and weaknesses under several sub-criteria. The number and scoring of the sub-criteria will be different for each of the applicant categories described under Eligibility (above), as follows:

(i) *Category 1:* CDFIs that Primarily Serve Native American or Alaska Native Populations: Scoring of the sub-criteria is weighted to reflect whether the applicant is a start-up organization or an established organization. The Fund defines a start-up organization as an entity that has been in operation three years or less, as of the date of this NOFA (meaning, for purposes of this NOFA, having incurred initial operating expenses on or after September 24, 1998). The sub-criteria are:

(a) Community development track record (established organizations only): 10 point maximum;

(b) Financial track record or condition (established organizations only); 10 point maximum;

(c) Capacity, skills and experience of the management team: 10-point maximum (established organizations); and 30 point maximum (start-ups);

(d) Market analysis, program implementation, and impact: Projected activities and community development impact (the plan to establish or strengthen a CDFI and how that entity will have a positive impact in the community that it [will] serves): 30 point maximum.

(ii) *Category 2:* Tribes, Tribal Entities, or Non-Profit Organizations that Primarily Serve Native American or Alaska Native Populations:

(a) Community development track record—economic development, community development, and training (such as financial literacy, small business finance, homebuyer education): 10 point maximum for Tribal and Village Governments; 5 point maximum for all other applicants in this category;

(b) Financial track record—of lending operations, if applicable, and financial condition of the applicant: 5 point maximum (although Tribal and Village Governments will not be scored under this sub-criteria, if they have a housing or business lending operation, they must submit the information requested for that operation only, which will be considered during Phase Two of the Fund's review process);

(c) Capacity, skills and experience of the management team (i.e., the individuals that will be developing the CDFI being established relevant to this application): 20 point maximum;

(d) Market analysis, program implementation, and impact: Projected activities and community development impact (the plan to establish or strengthen a CDFI and how that entity will have a positive impact in the community that it [will] serves): 30 point maximum.

(iii) *Category 3:* TA Providers or Other Suitable Providers:

(a) Community development track record " experience and track record of financing activities, building capacity of a CDFI or other community development organization, or training and technical assistance activities, including program design, program evaluation, and staff or institutional skill-building in general and in Native American and Alaska Native communities; 10 point maximum total (5 points for general track record; 5 points for track record in Native American or Alaska Native communities);

(b) Financial condition of applicant; 5 point maximum;

(c) Capacity, skills and experience of the management team (i.e., consulting team and the NACTA Eligible Partner): 15 point maximum;

(d) Market analysis, program implementation and impact: Projected activities and community development impact (the plan to establish or strengthen a CDFI and how that entity will have a positive impact in the community that it [will] serves): 30 point maximum.

In the case of an applicant that has previously received an award from the Fund, the Fund will consider the applicant's level of success in meeting its performance goals, financial soundness covenants (if applicable), and other requirements contained in its existing assistance or award agreement(s) with the Fund, and the benefits that will be created with new Fund assistance over and above benefits created by previous Fund assistance.

(2) *Technical Assistance Proposal (TAP):* 40 point maximum; with a minimum score of 20 points required to advance to Phase Two review. The TAP provides the applicant with an opportunity to address the organizational improvements needed to strengthen or establish a CDFI that will serve a Native American or Alaska Native population as defined in the plan above. Such assessment is accompanied by an itemized budget with written justification for each item. In the TAP, the applicant should describe: (i) the entity that will be the beneficiary of the TA requested (the applicant, the partner, or the entity to be formed) and (ii) how this assistance will translate to community development impact, particularly within the Target Market; and (iii) why NACTA resources are needed to carry out this plan. The budget, budget justification and accompanying narrative will be evaluated for the eligibility of proposed uses of the TA funds. Eligible types of TA award uses will be different for each of the groups of eligible applicants as follows:

(i) *Category 1:* CDFIs that Primarily Serve Native American or Alaska Native Populations:

(a) Acquiring consulting services;

(b) Paying staff salary connected with the limited purposes of completing tasks and/or fulfilling functions that are otherwise eligible TA award uses under this NOFA;

(c) Acquiring training for staff, management, or board members; and

(d) Acquiring/enhancing technology items, for the purposes of building internal capacity to increase community development impact.

(ii) Category 2: Tribes, Tribal Entities, or Non-Profit Organizations that Primarily Serve Native American or Alaska Native Populations:

(a) Acquiring consulting services and

(b) Acquiring training for staff, management, or board members.

(iii) *TA Providers or Other Suitable Providers:*

(a) Acquiring consulting services, and

(b) Paying staff salary connected with the limited purposes of completing tasks and/or fulfilling functions that are otherwise eligible TA award uses under this NOFA (i.e., to provide consulting services to establish a CDFI that will serve a Native American or Alaska Native population).

The Fund will not consider requests under this NOFA for expenses that, in the determination of the Fund, are deemed to be ongoing operating expenses rather than non-recurring expenses (for example, the cost of designing a marketing plan for a loan product through a consulting contract is a non-recurring expense, but the cost of producing or distributing printed marketing materials is an ongoing expense; generally, except as described below, salary expenses for staff are ongoing, but the cost of a consulting contract for a discrete scope of services is a non-recurring expense).

TA funds may be used to engage consultants to perform tasks related to implementing the proposed Comprehensive CDFI Development Plan or TAP, such as: development of plans and strategies (for example: market analysis; financial product development plan; financial product marketing plan; or capitalization strategy identifying financial objectives); development of lending policies and procedures; and other tasks related to the development or strengthening of a CDFI.

The Fund will consider requests for use of TA to cover staff salary only when the applicant demonstrates and represents that: the proposed staff time to be covered by the TA will be used for, generally speaking, a non-recurring activity that will build the capacity of the applicant (for Category 1 applicants) or the proposed entity (for Category 2 applicants) to achieve its objectives of the CDFI Development Plan and Technical Assistance Proposal; and the staff person assigned to the proposed task has the competence to successfully complete the activity.

Applicants in eligibility Category 1 (meaning, current or start-up CDFIs that propose to build their own capacity) must show that the proposed capacity building activity would otherwise be contracted to a consultant or not be undertaken and the staff time devoted to this capacity-building activity would not otherwise harm other operations. Additionally, TA may only be used to cover that portion of a staff person(s) salary that represents the time that staff person(s) spends on the identified capacity-building activities, but not to exceed the equivalent of 50 percent of said employee's annual salary within one year; staff salary use of TA may be spread over a period of up to 24 months. For example, it may be an eligible use of a TA grant to pay the salary of staff assigned the task of creating or updating a market analysis or designing underwriting criteria for a new loan or investment product when that market analysis or loan product is critical to achieving the objectives of the Comprehensive CDFI Development Plan and Technical Assistance Proposal. NACTA award funds may not be used to cover employee fringe benefits, space allocation, or administrative overhead.

Applicants in eligibility Category 3 (meaning, TA providers and other suitable providers that propose to start a CDFI) may request TA for staff salary to implement a reasonable scope of work at rates that are consistent with the provider's previous market experience or rates of pay.

NACTA Component funds may not be used to assist an awardee to prepare an application for funding to the Fund or any other source.

Phase Two

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for funding based on the recommendations and scores (standardized if deemed appropriate) received during Phase one review and the amount of funds available. Applicants that advance to Phase Two may receive a site visit and/or telephone interview(s) conducted by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants may be required to submit additional clarifying information about their application in order to assist the Fund with its final evaluation. After conducting such site visit and/or telephone interview(s), Fund reviewers will evaluate applications based on all the elements outlined in the application, and prepare recommendation memoranda containing the type, uses and amount of assistance, if any, that should be provided to each applicant.

The Fund reserves the right, in its sole discretion, to use a review panel comprised of Fund staff to consider each Fund reviewer's recommendation memorandum and make a final recommendation to the Fund's selecting official. The Fund's selecting official will consider the panel's recommendation, if applicable, and the reviewer's recommendation memorandum in order to make the final funding decision. In making the funding decision, the Fund's selecting official also may consider the institutional diversity and geographic diversity of applicants (e.g., selecting a CDFI from a state in which the Fund has not previously made an award over a CDFI in a state in which the Fund has already made several awards).

The Fund's selecting official will make a final funding determination based on the applicant's file, including, without limitation, recommendations of the Phase One and Phase Two reviewers recommendations and the panel's recommendations, if applicable, the amount of funds available, and, for prior awardees, the status of its compliance and award disbursements to date. In the case of regulated CDFIs, the selecting official will also take into consideration the views of the appropriate Federal banking agencies. In the case of recommendations for TA awards over $100,000, the Fund will seek to ensure that there is a likelihood of significant community development impact resulting from such awards. The Fund's selecting official reserves the right to reject any application in the case of a pervious Fund awardee that has failed to comply with the terms and conditions of its previous assistance or award agreement(s).

The Fund reserves the right to change these evaluation procedures if the Fund deems it appropriate.

VI. Information Sessions

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, through October 31, 2001, in the following cities: Anchorage, AK; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Philadelphia, PA; Seattle, WA; and Washington, DC.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1:00 p.m. to 4:00 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY; Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little

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Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi*. If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

Catalog of Federal Domestic Assistance: 21.021.

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; P.L. 106–377; 12 CFR part 1806.

Tony Brown,

Director, Community Development Financial Institutions Fund.

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Bank Enterprise Award Program

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of funds availability (NOFA) inviting applications for the FY 2002 funding round of the Bank Enterprise Award Program.

SUMMARY: The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) authorizes the Community Development Financial Institutions Fund (hereafter referred to as "the Fund") to provide incentives, through the Bank Enterprise Award ("BEA") Program, to Insured Depository Institutions for the purposes of promoting investments in or other support to Community Development Financial Institutions ("CDFIs") and facilitating increased lending and provision of financial and other services in economically distressed communities. Insured depository institutions and CDFIs are defined terms in 12 CFR part 1805 and part 1806, the regulations that govern the CDFI Program (the "CDFI Program Regulations") and the BEA Program (the "BEA Program Regulations"), respectively.

This NOFA is issued in connection with the Fiscal Year 2002 funding round of the BEA Program. Subject to funding availability, the Fund expects that it may award approximately $16.5 million in appropriated funds under this BEA Program NOFA. The Fund reserves the right to award in excess of $16.5 million in appropriated funds under this NOFA provided that the funds are available and the Fund deems it appropriate. Under this NOFA, the Fund anticipates a maximum award amount of $2.0 million per applicant. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA and the right to award amounts in excess of the anticipated maximum award amount, if the Fund deems it appropriate.

Published elsewhere in this issue of the **Federal Register** are (i) The Fund's NOFA for the combined Core and Intermediary Components of the CDFI Program, through which CDFIs may apply directly to the Fund for financial assistance and/or technical assistance awards, (ii) the Fund's NOFA for the Small and Emerging CDFI Assistance ("SECA") Component of the CDFI Program, through which CDFIs may apply directly to the Fund for technical assistance awards and Small and Emerging CDFIs, as defined therein, may apply directly to the Fund for financial assistance and technical assistance awards, and (iii) the Fund's NOFA for the Native American CDFI Technical Assistance ("NACTA") Component of the CDFI Program, through which organizations that serve or wish to serve Native American communities through the provision of loans, investments and financial services, may apply directly to the Fund for TA awards. In addition, the Fund expects to issue, at a later date, a Notice of Allocation Availability ("NOAA") for the New Markets Tax Credit ("NMTC") Program, inviting applications from eligible entities for allocations of tax credits. As set forth in the Fund's Guidance, published in the **Federal Register** on May 1, 2001 at 66 FR 21846, the NMTC Program will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities.

DATES: The BEA Program has a two-part application. For the FY 2002 funding round, Part One (the "Initial Application") may be submitted at any time, commencing September 24, 2001. The deadline for the Initial Application is 5:00 p.m. EST on November 13, 2001. Initial Applications received in the specific Bureau of the Public Debt—Franchise Services (BPD) office designated below after that date and time will be rejected and returned to the sender, except as follows. An Initial Application mailed via United States Postal Service will be considered as having met the deadline if it is clearly postmarked on or before midnight November 12, 2001. An Initial Application sent by overnight/express delivery will be considered as having met the deadline if it is placed in transit with an overnight/express delivery service by no later than November 12, 2001. An Initial Application that is hand-carried will be considered as having met the deadline if it is received in the specific BPD office designated below by 5:00 pm EST on November 13, 2001.

The deadline for Part Two of the Application (the "Final Report") is 5:00 p.m. EST on August 1, 2002. Final Reports received in the specific BPD office designated below after that date and time will be rejected and returned to the sender, except as follows. A Final Report mailed via United States Postal Service will be considered as having met the deadline if it is clearly postmarked on or before midnight July 31, 2002. A Final Report sent by overnight/express delivery will be considered as having met the deadline if it is placed in transit with an overnight/express delivery service by no later than July 31, 2002. A Final Report that is hand-carried will be considered as having met the deadline if it is received in the specific BPD office designated below by 5:00 pm EST on August 1, 2002.

In each case, it is advisable to obtain documentation from the carrier showing the date and time the Initial Application or the Final Report was placed in transit or hand-delivered, as the case may be. A single, clear date and time stamp will help in determining whether the delivery of an Initial Application or a Final Report has met the applicable deadline requirements set forth above.

Initial Applications or Final Reports sent by facsimile will not be accepted. Final Reports (but not Initial Applications) may be submitted electronically through the Fund's website at *www.treas.gov/cdfi*.

Any entity seeking certification as a CDFI (as described in 12 CFR 1805.200) for the purpose of the BEA Program (either as an Applicant or a CDFI Partner) is strongly encouraged to submit the Application Form for Certification (the contents of which are described in 12 CFR 1805.201(b)(1) through (7)), by Tuesday, November 20, 2001. If an entity fails to submit such application by this deadline, the Fund may not have sufficient time to timely complete a certification review for the purpose of the current funding round of the BEA Program. With respect to all requests for certification, the Fund reserves the right to request clarifying or technical information after reviewing materials submitted as described in 12 CFR 1805.201(b)(1) through (7). If the entity seeking certification does not respond to such requests in a timely manner, the Fund may not have sufficient time to complete a certification review for the purposes of the current funding round of the BEA Program.

ADDRESSES: Both the Initial Application and the Final Report shall be sent to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Initial Applications and Final Reports will not be accepted in the Fund's offices.

FOR FURTHER INFORMATION CONTACT: If you have any questions about the programmatic requirements of the BEA Program, contact the BEA Program Manager. Should you wish to request an application package or have questions regarding application procedures, contact the Awards Manager. The BEA Program Manager and the Awards Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–8662, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005. These are not toll free numbers. Allow at least one to two weeks from the date the Fund receives a request for receipt of the application package. Applications and other information regarding the Fund and its programs may be downloaded from the Fund's web site at *http://www.treas.gov/cdfi*.

SUPPLEMENTARY INFORMATION:

I. Background

As part of a national strategy to facilitate revitalization and increase the availability of credit, investment capital and financial services in distressed communities, the Community Development Banking and Financial Institutions Act of 1994 ("Act") authorizes a portion of funds appropriated to the Fund to be made available for distribution through the BEA Program. The BEA Program is largely based on the Bank Enterprise Act of 1991, although Congress significantly amended the program to facilitate greater coordination with other activities of the Fund. The BEA Program and the CDFI Program are complementary initiatives that support a wide range of community development activities and facilitate partnerships between traditional lenders and CDFIs. This NOFA invites applications from Insured Depository Institutions for the purpose of promoting community development activities and revitalization.

II. Eligibility

The Act specifies that eligible Applicants for the BEA Program must be Insured Depository Institutions, as defined in 12 U.S.C. 1813(c)(2). An Applicant must be FDIC-insured by the deadline for submission of the Initial Application (i.e., November 13, 2001) to be eligible for consideration for a BEA Program award under this NOFA.

III. Designation of Distressed Community

In accordance with 12 CFR 1806.200(d), in the case of Applicants carrying out Qualified Activities requiring the designation of a Distressed Community (as said terms are defined in 12 CFR 1806.103(r)), the Fund will provide Applicants with data and other information to help identify areas that are eligible to be designated as Distressed Communities. Specifically, the Fund will provide such information through the CDFI Fund Help Desk website (the "Help Desk"). The Help Desk is found at *www.treas.gov/cdfi*. The Fund requires all Applicants to use the Help Desk to produce the Distressed Community worksheets and corresponding maps. The Help Desk provides step-by-step instructions on how to designate a Distressed Community and allows an Applicant to create and print instantly a Distressed Community designation worksheet(s) and corresponding map(s). For purposes of determining whether an Applicant is serving an eligible Distressed Community, the Fund will continue to use 1990 Census data, as 2000 Census data will not be available in sufficient detail for use under this NOFA.

IV. Designation Factors

The BEA Program Regulations describe the Fund's processes for rating and selecting Applicants to receive assistance and for determining award amounts. Award amounts will be calculated by the Fund based on increases in Qualified Activities that occur during a 6-month Assessment Period in excess of activities that occurred during a 6-month Baseline Period. In general, award amount for Applicants making Equity Investments in CDFIs will be equal to 15 percent of the increase in such activities. An Applicant may choose to accept less than the maximum amount of 15 percent (but no less that 12 percent) in order to increase the ranking of its Application within the Equity Investment category. Award amounts for CDFI Applicants carrying out CDFI Support Activities will be equal to 33 percent of the increase in such activities. Award amounts for non-CDFI Applicants for carrying out CDFI Support Activities will be equal to 11 percent of the increase in such activities.

For Applicants pursuing Development and Service Activities, a multiple step procedure is outlined in the BEA Program Regulations that will be used to calculate the estimated award amounts. In general, if an Applicant is a CDFI, such estimated award amount will be equal to 15 percent of the total score calculated in the multiple step procedure. If an Applicant is not a CDFI, such estimated award amount will be equal to 5 percent of the total score calculated in the multiple step procedure.

If the amount of funds available during a funding round is insufficient for all estimated award amounts, awardees will be selected based on the process described at 12 CFR 1806.204. This process gives priority to Applicants in the following order: (1) Equity Investments in CDFIs serving Distressed Communities; (2) Equity Investments in CDFIs not serving Distressed Communities; (3) CDFI Support Activities; and (4) Development and Service Activities (as defined in 12 CFR 1806.103). Beginning with this NOFA, in addition to ranking Applicants within the Development and Service Activity category by the ratio of the total score to the asset size of the Applicant, the Fund will give Applicants that are certified CDFIs first priority within the Development and Service Activity category.

The Fund, in its sole discretion: (1) May adjust the estimated award amount that an Applicant may receive; (2) may establish a maximum amount that may be awarded to an Applicant; and (3) reserves the right to limit the amount of

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an award to any Applicant if the Fund deems it appropriate.

V. Baseline Period and Assessment Period Dates

As part of its Initial Application, an Applicant shall report the Qualified Activities that it actually carried out during the 6-month Baseline Period beginning January 1, 2001 and ending June 30, 2001. An Applicant shall also project the Qualified Activities that it expects to carry out during the 6-month Assessment Period beginning January 1, 2002 and ending June 30, 2002. Applicants participating in the BEA Program must submit to the Fund a Final Report (Part II of the Application) of Qualified Activities actually carried out during the Assessment Period. The Fund will evaluate the performance of Applicants in carrying out projected activities to determine actual award amounts. The Fund may request clarifying or technical information after receiving an Applicant's Final Report.

VI. Compliance With Other CDFI Fund Awards

In the event that an FY 2002 BEA Program Awardee or its subsidiary or affiliate is not in compliance with the terms and conditions of any other award under any component of the CDFI Program, the Fund may, in its sole discretion, withhold disbursement (either initial or subsequent) on the FY 2002 BEA Program award. Moreover, noncompliance with any other award shall be considered an event of default under the FY 2002 BEA Program award. This policy will take effect with regard to compliance issues arising in calendar year 2002.

VII. Certification Status

For purposes of determining BEA Program awards, the BEA Program Regulations define a CDFI as " an entity whose certification under § 1805.201 of this chapter is in effect as of the end of the applicable Assessment Period * * *" 12 CFR 1806.103(m). Accordingly, in order for a BEA Program Applicant to receive credit for CDFI Related Activities, the CDFI partner(s) that receives financial or technical assistance must be certified as a CDFI by the Fund as of the end of the Assessment Period for the particular BEA Program funding round. Moreover, the CDFI partner's certification must not have lapsed (i.e., expired without the prior submission to the Fund of a recertification Application). If a BEA Program Applicant provides assistance to an organization that is not certified as a CDFI as of the end of the Assessment Period, then the transaction shall not be considered assistance to a CDFI and shall not be a Qualified Activity. Such activity would not be eligible to count toward a BEA Program award.

If the BEA Program Applicant is considering providing assistance to an organization that the Fund has not yet certified, the activity will qualify—provided the organization is certified by the Fund by the end of the Assessment Period. However, Applicants should be advised that the Fund cannot guarantee certification before the end of the Assessment Period of those organizations that have submitted certification Applications after the Initial Application Due date (November 13, 2001 for the FY 2002 funding round).

If the CDFI partner submits its recertification Application by no later than the certification expiration date evidencing that it can be recertified, then the Fund will deem the CDFI's certification to be continued on an interim basis until the Fund makes its final determination. In the interim, any assistance by a BEA Program Applicant to a CDFI that submitted a recertification Application by its expiration date would be considered a CDFI Qualified Activity (provided the activity meets all other applicable requirements).

If an Applicant is itself seeking certification as a CDFI, then it must be certified as a CDFI by the Fund as of the end of the Assessment Period for the particular BEA Program funding round in order to be eligible for the higher award percentage and ranking priority afforded CDFIs. If an Applicant is not certified as a CDFI by the end of the applicable Assessment Period, then it shall not be treated as a CDFI for purposes of determining award amounts. In addition, if the Applicant's certification is due to expire on or before the end of the Assessment Period (June 30, 2002 for the FY 2002 fund round of the BEA Program Round)—and allows its certification to lapse—the Applicant will not be treated as a CDFI for purposes of determining award amounts and ranking. If the CDFI Applicant submits a recertification Application evidencing that it can be recertified—by no later than the certification expiration date—then the Fund will deem the CDFI Applicant's certification to be continued on an interim basis until the Fund makes its final determination. A CDFI that submitted a recertification Application by its expiration date would be treated as a CDFI for purposes of calculating an award amounts and ranking.

Information on the certification status and certification expiration date of each CDFI can be found on the Fund's list of certified CDFIs, which may be obtained on the Fund's website: *www.treas.gov/cdfi.*

VIII. Loan Participations

On January 31, 2001, the Fund issued policy guidance clarifying the types of transactions it will consider to be eligible Participation Loans for the purpose of calculating BEA Program awards. Specifically, the guidance stated that a Participation Loan may qualify as either a CDFI Support Activity or a Development Activity like any other loan under the BEA Program. In order for a participation loan to be considered a CDFI Support Activity, the borrower must be a CDFI, and the monies drawn must be used to support the CDFI's activities. In order for a participation loan to be considered a Development Activity, the borrower or activity financed must be located within or integrally involved in a designated Distressed Community.

The January 31, 2001 guidance further clarified that, as with other loans, for a participation loan to be considered a Qualified Activity under the BEA Program, the loan must be closed and an initial disbursement made during the applicable Assessment Period. While a participation agreement among lenders may be executed prior to an applicable Assessment Period, a BEA Program Applicant shall receive an award only for a loan funding a particular Qualified Activity that is closed during the Assessment Period. In the case of a participation loan that involves one of the lenders serving as a "lead lender" or "agent" for this group, the disbursement of funds to the "lead lender" or "agent" to fund loans to third parties does not necessarily constitute a loan by one or more participating lenders to the lead lender or agent. In particular, if such lead lender or agent is a CDFI, the above-described disbursement may not constitute a loan to a CDFI for purposes of calculating a BEA Program Award.

IX. Lines of Credit

Given current demand for the BEA Program's resources, concerns have been raised about the current method of calculating BEA Program awards applicable to lines of credit (i.e., based upon the maximum amount of the line). Specifically, with large lines of credit (e.g., $10 million and above), the borrower often does not fully draw down the entire line of credit within the three-year period. A BEA Program award based on the full amount of the line may require the Fund to obligate more funds than the Awardee will disburse.

As provided in the BEA Program Regulations at 12 CFR 1806.205(d), the Fund has the discretion to limit the amount of an award for any reason. Given the strong demand for BEA Program resources, beginning with the FY 2002 round of the BEA Program, the Fund will limit the amount of resources it will obligate toward Lines of Credit. In the case of lines of credit for commercial real estate loans that are secured by real estate and which have a permanent take out source, Applicants may count the full amount of the line (consistent with current practices). For all other lines of credit, Applicant may only count the amount of monies expected to be disbursed on the line within 12 months of closing, but in no event shall the amount obligated exceed the greater of: (a) The face amount of the line, or (b) $2 million in the case of CDFI Support Activities and $1 million in the case of Development and Service Activities.

X. Equity Like Loans

For purposes of calculating BEA Program awards, the Fund will treat certain loans, "made on such terms that they have characteristics of equity," to be Equity Investments. The Fund refers to such loans as Equity-Like Loans. Prior to the FY 2001 funding round of the BEA Program, the Fund stated (in general guidance) that an Equity-Like Loan must meet all three of the following criteria to be considered a Qualified Activity: (1) The loan must have a "soft," flexible maturity (i.e., a rolling maturity such as when the maturity date is extended annually by one year, or a maturity in which repayment is required only when the CDFI borrower has resources available to make the payment); (2) payment of interest and/or principal may only be made out of the CDFI borrower's available cash flow and non-payment of principal or interest will not automatically trigger a default; and (3) the loan must be subordinate to all other debt of the CDFI borrower.

In recent years, BEA Program Applicants have developed new loan and investment instruments and the use of Equity-Like Loans has become more common in the financial services industry. In response to these trends, the Fund issued guidance updating and clarifying its policy on the types of instruments it will consider to be Equity-Like Loans for the purpose of calculating BEA Program awards.

Specifically, the January 2001 guidance states that, beginning with the FY 2001 funding round of the BEA Program, the Fund will require an instrument to have each of the following characteristics in order to be considered an Equity-Like Loan:

(1) The initial term of the loan at the time of origination must be a minimum of ten years.

(2) The maturity date at the end of the initial ten year term must be a "soft" or indefinite, rolling maturity that is extended, subject to the following sentence, in annual increments after the initial maturity date so long as the CDFI borrower continues to be financially sound and carry out a community development mission. The period of the extended rolling maturity must be a minimum of five years after the initial ten-year term. In other words, as long as the CDFI borrower remains fiscally sound and pursues a community development mission, the effective term of the loan must be at least 15 years.

(3) There shall be no periodic payments of principal during the initial term of the loan. The CDFI borrower may pay principal, in whole or in part, during the extended term of the loan or at maturity. Any such payment shall be made in accordance with the provisions of this policy.

(4) Any payment of principal and/or interest on the loan (except at maturity) shall be required to be made only out of the CDFI borrower's available cash flow after satisfying all other obligations, including all other non-subordinated and non-equity-like debt, and operating expenses. Furthermore, failure to make payment of principal and/or interest shall not automatically result in a default. However, nothing in the foregoing shall be construed as a requirement to forego any right to any payment of principal or interest.

(5) The loan must be subordinate to all other debt of the CDFI borrower except for other Equity-Like Loans.

Notwithstanding the foregoing, the Fund reserves the right to determine, on a case-by-case basis, if an instrument evidences an Equity-Like Loan.

As specified in the January 2001 guidance, the Fund requests that Applicants submit to the Fund for review, not later than 45 days prior to the end of the Assessment Period, all documents evidencing loans that they wish to be considered Equity-Like Loans. The purpose for this request is to enhance the Fund's ability to provide feedback to Applicants as to whether a transaction meets the Equity-Like Loan requirements prior to the end of the applicable Assessment Period. Such information will allow Applicants, if they so choose, to modify the instruments to conform to the requirements prior to the end of the Assessment Period. This process is intended to prevent circumstances in which an Applicant executes loan documents without review by the Fund only to learn after the close of the Assessment Period that the transaction is ineligible. The Fund cannot guarantee timely feedback to Applicants that submit the aforementioned documentation less than 45 days prior to the end of the applicable Assessment Period.

XI. Deposits in CDFIs

As provided in the BEA Program Regulations at 12 CFR 1806.205(d), the Fund has the discretion to limit the amount of an award for any reason. Given the strong demand for BEA Program resources and concerns about over-subscription, the Fund has decided to cap the maximum applicable award for deposits in certified CDFIs. Specifically, effective with the FY 2002 funding round of the BEA Program, for the purposes of determining the award amount attributed to deposits in CDFIs, the Fund will count only the first $1,000,000 deposited in certified CDFIs. Furthermore, the Fund will only count a deposit in a CDFI if the CDFI receiving the deposit has not made a corresponding deposit in the Applicant making the deposit.

The Fund also wishes to clarify how Applicants should calculate a "Materially Below Market" interest rate on a Certificate of Deposit. The BEA Program Regulations state that any Certificate of Deposit placed by an Applicant in a CDFI that is bank, thrift, or credit union must be: (1) Uninsured; or (2) insured if it earns a rate of interest that is determined by the Fund to be Materially Below Market. The Fund has interpreted a "Materially Below Market" interest rate to be an Annual Percentage Rate that does not exceed 80 percent of the rate on a U.S. Treasury bill of comparable maturity as of the date the deposit is placed. For a three-year deposit, use the three-year rate posted for U.S. Government securities, Treasury Constant Maturity on the Federal Reserve website at *www.federalreserve.gov/releases/H15/update.* The rate on the website is updated daily at approximately 4:00 p.m. Eastern Time. Certificates of Deposit closed prior to that time may use the rate posted for the previous day. The Fund also wishes to clarify that the Annual Percentage Rate on a Certificate of Deposit should be compounded quarterly, semi-annually, or annually. In addition, the Fund wishes to clarify that Applicants should determine whether a Certificate of Deposit is insured based on the total amount the Applicant has on deposit on the day the Certificate of Deposit is placed. For example, if an

Applicant purchased a $100,000 Certificate of Deposit from a CDFI in April, 2000 and purchases another $100,000 Certificate of Deposit from the same CDFI in May, 2002, then the second Certificate of Deposit should be treated as uninsured for purposes of calculating the Annual Percentage Rate. The Applicant must make note of this in its BEA Program Application.

XII. Waivers

First, for the purpose of streamlining the Application process and reducing burdens on Applicants, and pursuant to the BEA Program Regulations at 12 CFR 1806.104, the Fund hereby waives the regulatory requirement that Applicants submit the items described at 12 CFR 1806.206(b)(1), (4) and (7). Specifically, for the purpose of this NOFA, an Applicant is not required to submit: (1) Copies of its certificate of insurance issued by the Federal Deposit Insurance Corporation, articles of incorporation, Federal or state-issued bank or thrift charter, by-laws and other establishing documents for the purpose of establishing eligibility for an award; (2) a copy of its most recent Report of Condition or Thrift Financial Report; or (3) a copy of its most recent annual report. The Fund has waived the requirement that these items be submitted with the Application because the Federal Deposit Insurance Corporation will conduct a verification of eligibility for the Fund based on information it has collected from insured depository institutions. Further, each Applicant's total asset size will be obtained by the Fund through other publicly available data sources (specifically, the Fund will use data reported through the Federal Deposit Insurance Corporation's website).

Second, for the purpose of this NOFA and the NOFA published in the **Federal Register** on September 1, 1999 (64 FR 48062), the Fund is waiving two of the requirements set forth in 12 CFR 1806.103(m) of the BEA Program Regulations. Section 1806.103(m) provides that an Applicant may receive an award under the BEA Program for assistance provided to an uncertified CDFI that, at the time of the Qualified Activity, does not meet the CDFI eligibility requirements if: (1) The Applicant requires the uncertified CDFI to refrain from using the assistance provided until the entity is certified; (2) the uncertified CDFI is certified by the end of the applicable Assessment Period; and (3) the Applicant retains the option of recapturing said assistance in the event the uncertified CDFI is not certified by the end of the applicable Assessment Period.

The Fund believes that waiving the first requirement will further the purposes of the Act. Specifically, the Conference Report underlying the Act provides that Congress intended the BEA Program to affect immediately economically distressed communities through infusion of private dollars as loans, services, and technical assistance to, and equity investments in, CDFIs. The Fund believes the requirement that an uncertified CDFI refrain from using the assistance would defeat the purposes of the Act by delaying the uncertified CDFI's ability to use such capital for projects that are intended to catalyze urban and rural economic revitalization.

The Fund also believes that there is good cause to waive the third requirement. Requiring an Applicant to retain the option of recapturing assistance in the event the uncertified CDFI is not certified by the end of the applicable Assessment Period is a matter of business judgment best left to the Applicants themselves. This requirement also potentially imposes added paperwork burdens on Applicants that use standardized loan or investment agreements.

As a result, if an Applicant provides assistance to an uncertified CDFI during the applicable Assessment Period, such assistance may be eligible for an award under the BEA Program if the Fund certifies the entity by the end of the applicable Assessment Period.

Third, as provided in § 1806.200 (a) of the BEA Program Regulations, if an Applicant proposes to carry out CDFI Support Activities or Development and Service Activities, the Applicant shall designate one or more Distressed Communities in which it proposes to carry out those activities. For those Applicants proposing to carry out CDFI Support Activities only (or CDFI Support Activities and Equity Investments in CDFIs) the Fund hereby waives the requirement that an Applicant designate one or more Distressed Communities in which it proposes to carry out the CDFI Support Activities. Instead, the Applicant must sign and submit with its Initial Application, a certification (included in the Initial Application) that it is designating the same Distressed Community as its CDFI partner.

XIII. Information Sessions

In connection with the Fiscal Year 2002 funding rounds of its programs, the Fund will conduct In-Person Information Sessions to disseminate information to organizations contemplating applying to, and other organizations interested in learning about, the Core, Intermediary, SECA and NACTA Components of the CDFI Program, and the BEA Program. Registration is required, as the In-Person Information Sessions will be held in secured federal facilities. The Fund anticipates conducting up to 17 In-Person Information Sessions, through October 31, 2001, in the following cities: Anchorage, AK; Boston, MA; Chicago, IL; Dallas, TX; Denver, CO; Honolulu, HI; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Philadelphia, PA; Seattle, WA; and Washington, DC.

In addition to the In-Person Information Sessions listed above, the Fund will broadcast a Televideo Information Session, using interactive video-teleconferencing technology, on November 8, 2001 (tentative date), 1 p.m. to 4 p.m. EST. Registration is required, as the Televideo Information Session will be held in secured federal facilities. The Televideo Information Session will be produced in Washington, DC, and will be downlinked via satellite to the local Department of Housing and Urban Development (HUD) offices located in the following 81 cities: Albany, NY; Albuquerque, NM; Anchorage, AK; Atlanta, GA; Baltimore, MD; Bangor, ME; Birmingham, AL; Boise, ID; Boston, MA; Buffalo, NY; Burlington, VT; Camden, NJ; Casper, WY; Charleston, WV; Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbia, SC; Columbus, OH; Dallas, TX; Denver, CO; Des Moines, IA; Detroit, MI; Fargo, ND; Flint, MI; Fort Worth, TX; Fresno, CA; Grand Rapids, MI; Greensboro, NC; Hartford, CT; Helena, MT; Honolulu, HI; Houston, TX; Indianapolis, IN; Jackson, MS; Jacksonville, FL; Kansas City, KS; Knoxville, TN; Las Vegas, NV; Little Rock, AR; Los Angeles, CA; Louisville, KY; Lubbock, TX; Manchester, NH; Memphis, TN; Miami, FL; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Newark, NJ; Oklahoma City, OK; Omaha, NE; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Providence, RI; Reno, NV; Richmond, VA; Sacramento, CA; St. Louis, MO; Salt Lake City, UT; San Antonio, TX; San Diego, CA; San Francisco, CA; San Juan, PR; Santa Ana, CA; Seattle, WA; Shreveport, LA; Sioux Falls, SD; Spokane, WA; Springfield, IL; Syracuse, NY; Tampa, FL; Tucson, AZ; Tulsa, OK; Washington, DC; and Wilmington, DE.

For further information on the Fund's Information Sessions, dates and locations, or to register online for an Information Session, please visit the Fund's website at *www.treas.gov/cdfi*. If you do not have Internet access, you may register by calling the Fund at (202) 622–8662.

Catalog of Federal Domestic Assistance: 21.021

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Jeffrey C. Berg,
Acting Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.

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Federal Register

Monday,
September 24, 2001

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91
Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2001–10664; SFAR 90]

RIN 2120

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action prohibits flight operations within the territory and airspace of Afghanistan by all United States air carriers, U.S. commercial operators, and by all persons exercising the privileges of an airman certificate issued by the FAA unless that airman is a foreign national engaged in the operation of a U.S-registered aircraft for a foreign carrier. This action is deemed necessary to prevent a potential hazard to persons and aircraft engaged in such flight operations for the reasons set forth below.

DATES: This action is effective September 19, 2001, and shall remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–3732 or 267–8166.

SUPPLEMENTARY INFORMATION:

Availability of This Action

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service ((703) 321–3339) or the Government Printing Office's (GPO) electronic bulletin board service ((202) 512–1661). Internet users may reach the FAA's web page at *http://www.faa.gov/ovr/arm/nprm/nprm.htm* or the GPO Web page at *http://www.access.gpo.gov/nara* for access to recently published rulemaking documents.

Any person may obtain a paper copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave, SW, Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the docket number of this action.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information advice about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquiries to the following Internet address: *9 AWA SBREFA@faa.gov*.

Background

The FAA is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operators throughout the world. Additionally, the FAA is responsible for issuing rules affecting the safety of air commerce and national security. Title 49 United States Code (U.S.C.) Section 40101(d)(1) provides that the Administrator shall consider the following, among others, as being in the public interest: assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Title 49 U.S.C. Section 44701(a) provides the FAA with broad authority to prescribe regulations governing the practices, methods, and procedures necessary for safety in air commerce and national security.

The United States has aviation safety and national security interests in not having the flights or the individuals affected by this SFAR overfly Afghanistan or land anywhere in Afghanistan for any reason (e.g., an aircraft mechanical problem or fuel problem). Recent unrest in Kabul, coupled with a heightened alert by military forces controlled by the Taliban, may exacerbate coordination and communication problems between military air defense and civil air traffic authorities that could result in an inadvertent attack on civil aviation.

Consequently, the Federal Aviation Administration has determined that it is not safe to overfly Afghan territory and it is not in the national security interests of the United States for those covered by this SFAR to fly within the territory and airspace of Afghanistan. The FAA had previously issued a flight prohibition for Afghanistan in SFAR 67, which expired in May 2000.

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce and to issue aviation rules in the national security interests of the United States, I have determined that action by the FAA is necessary to prevent the injury to U.S. operators or the loss of certain U.S.-registered aircraft conducting flights in the territory and airspace of Afghanistan. Accordingly, I am ordering a prohibition on all flight operations within the territory and airspace of Afghanistan by all United States air carriers, U.S. commercial operators, and all persons exercising the privileges of an airman certificate issued by the FAA unless that person is a foreign national engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. This prohibition also applies to the operation of U.S.-registered aircraft in the territory and airspace of Afghanistan except where the operator is a foreign air carrier. This action is necessary to prevent an undue hazard to aircraft and to protect persons and property on board those aircraft. This SFAR will remain in effect until further notice.

Because the circumstances described herein warrant immediate action by the FAA, I find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further I find that good cause exists under 5 U.S.C. 553(d) for making this rule effective immediately upon issuance. I also find that this action is fully consistent with the obligations under Title 49 U.S.C. Section 40105 to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

Regulatory Analyses

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(d) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies the rule. The FAA certifies that this rule will not have a substantial impact on a substantial number of small entities as defined in the Regulatory Flexibility Act

of 1980, as amended. It also will have no impact on international trade and creates no unfunded mandate for any entity.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Afghanistan.

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends 14 CFR Part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531; Articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

2. Special Federal Aviation Regulation (SFAR) No. 90 is added to read as follows:

Special Federal Aviation Regulation No. 90—Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

1. *Applicability.* This Special Federal Aviation Regulation (SFAR) No. 90 applies to all U.S. carriers, all U.S. commercial operators and all persons exercising the privileges of an airman certificate issued by the FAA, unless those airmen are foreign nationals engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. This SFAR also applies to all operators using aircraft registered in the United States except where the operator of such aircraft is a foreign air carrier.

2. *Flight prohibition.* Except as provided in paragraph 3 and 4 of this SFAR, no person described in paragraph 1 may conduct flight operations within the territory and airspace of Afghanistan.

3. *Permitted operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Afghanistan where such operations are authorized either by exemption issued by the Administrator or by an authorization issued by another agency of the United States Government with the approval of the FAA.

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of Title 14 CFR 121.557, 121.559, or 135.19, each person who deviates from this rule shall, within ten (10) days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the nearest FAA Flight Standards District Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons therefor.

5. *Expiration.* This Special Federal Aviation Regulation shall remain in effect until further notice.

Issued in Washington, DC, on September 19, 2001.

Jane F. Garvey,

Administrator.

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Part IV

The President

Proclamation 7468—To Modify Duty-Free Treatment Under the Generalized System of Preferences

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 7468 of September 19, 2001

To Modify Duty-Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Section 503(c)(2)(C) of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2463(c)(2)(C)), provides that a country that is no longer treated as a beneficiary developing country with respect to an eligible article for purposes of the Generalized System of Preferences (GSP) because imports of the article from that country exceeded the competitive need limitations in section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)) may be redesignated as a beneficiary developing country with respect to the article if imports of the article from that country did not exceed those limitations during the preceding calendar year.

2. Pursuant to section 503(c)(2)(C) of the 1974 Act, I have determined that Indonesia should be redesignated as a beneficiary developing country with respect to certain eligible articles that previously had been imported in quantities exceeding the competitive need limitations of section 503(c)(2)(A).

3. Section 604 of the 1974 Act (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide that Indonesia, which has not been treated as a beneficiary developing country with respect to certain eligible articles, should be redesignated as a beneficiary developing country with respect to those articles for purposes of the GSP:

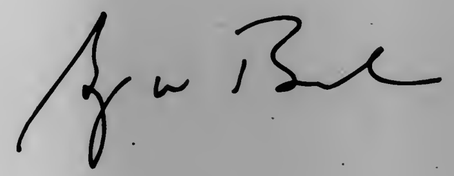
(a) general note 4(d) to the HTS is modified as provided in paragraph (1) of the Annex to this proclamation; and

(b) the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in paragraph (2) of the Annex to this proclamation is modified as provided in such paragraph.

(2) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(3) The modifications made by the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



Billing code 3195–01–P

Annex

Modifications to the Harmonized Tariff Schedule of the United States (HTS)

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of publication of this proclamation in the *Federal Register*.

(1). General note 4(d) to the HTS is modified by:

(a). deleting the following subheadings and Indonesia set out opposite such subheading:

1301.90.40	4602.10.23
1605.90.55	9001.30.00
4412.13.25	

(b). deleting Indonesia set out opposite the following subheadings:

1604.14.50	4412.14.30
2603.00.00	4412.14.55
3824.60.00	4412.92.50

(2). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof.

1301.90.40	4602.10.23
1605.90.55	9001.30.00
4412.13.25	

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H.R. 2882/P.L. 107–37
To provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001. (Sept. 18, 2001; 115 Stat. 219)

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H.R. 2888/P.L. 107–38

2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Sept. 18, 2001; 115 Stat. 220)

S.J. Res. 22/P.L. 107–39

Expressing the sense of the Senate and House of Representatives regarding the terrorist attacks launched against the United States on September 11, 2001. (Sept. 18, 2001; 115 Stat. 222)

S.J. Res. 23/P.L. 107–40

Authorization for Use of Military Force (Sept. 18, 2001; 115 Stat. 224)

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To establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education. (Sept. 18, 2001; 115 Stat. 226)

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1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869-044-00002-4)	36.00	[1]Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1-699	(869-044-00004-1)	53.00	Jan. 1, 2001
700-1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200-End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
7 Parts:			
1-26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27-52	(869-044-00008-3)	45.00	Jan. 1, 2001
53-209	(869-044-00009-1)	34.00	Jan. 1, 2001
210-299	(869-044-00010-5)	56.00	Jan. 1, 2001
300-399	(869-044-00011-3)	38.00	Jan. 1, 2001
400-699	(869-044-00012-1)	53.00	Jan. 1, 2001
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1000-1199	(869-044-00015-6)	24.00	Jan. 1, 2001
1200-1599	(869-044-00016-4)	55.00	Jan. 1, 2001
1600-1899	(869-044-00017-2)	57.00	Jan. 1, 2001
1900-1939	(869-044-00018-1)	21.00	[4]Jan. 1, 2001
1940-1949	(869-044-00019-9)	37.00	[4]Jan. 1, 2001
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8	(869-044-00022-9)	54.00	Jan. 1, 2001
9 Parts:			
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10 Parts:			
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200-219	(869-044-00031-8)	32.00	Jan. 1, 2001
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141-199	(869-044-00054-7)	53.00	Apr. 1, 2001
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21 Parts:			
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700–End	(869–044–00111–7)	53.00	July 1, 2001
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1–190	(869–044–00114–4)	51.00	6July 1, 2001
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*700–799	(869–044–00118–7)	42.00	July 1, 2001
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125–199	(869–042–00121–4)	45.00	July 1, 2000
*200–End	(869–044–00122–5)	45.00	July 1, 2001
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300–399	(869–042–00124–9)	28.00	July 1, 2000
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35	(869–042–00126–5)	10.00	July 1, 2000
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*1–199	(869–044–00127–6)	34.00	July 1, 2001
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..

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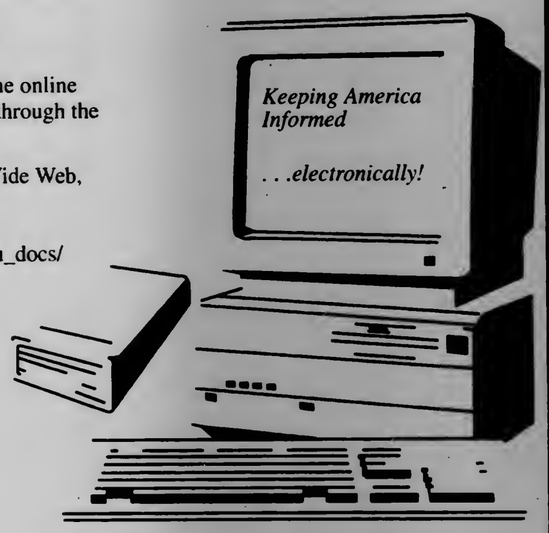
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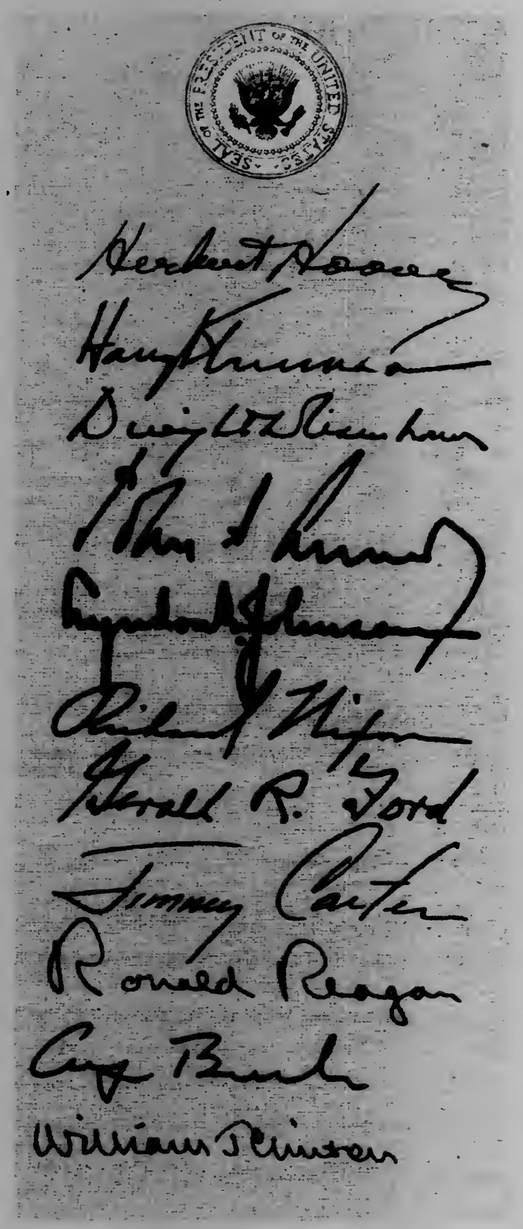
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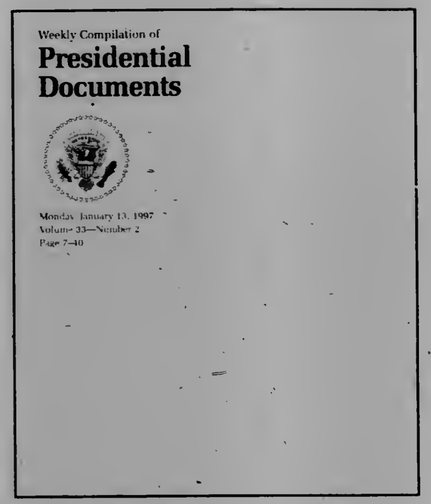
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Presidential Documents

Title 3—

The President

Proclamation 7469 of September 21, 2001

National POW/MIA Recognition Day, 2001

By the President of the United States of America

A Proclamation

The noble ideals that became our Nation's constitutional foundation were formed over two centuries ago in the hearts of courageous patriots who risked their lives in the name of liberty and justice. Throughout our history, American patriots have risen to answer the call when the enemies of freedom have jeopardized our liberties. Our military history is replete with heroes who put love of country above their own well-being. In answering the call to defend our ideals, generations of brave Americans have left home and family to protect our great Nation, some never to return.

National POW/MIA Recognition Day is notably significant for many American families. It reminds us of the men and women who withstood great hardship while imprisoned by our Nation's enemies; and it reminds us of those still missing, loved ones lost at war but whose fate is not yet fully known. We will not forget these patriots who were willing to give their all to preserve and protect our freedoms.

Nearly 50,000 former POWs live among us, including those held captive during World War II, the Korean War, the Vietnam War, throughout the Cold War era, and during Operation Desert Storm. We owe an incalculable debt of gratitude to these quiet heroes who displayed great honor and indomitable wills and who sacrificed so much for our Nation.

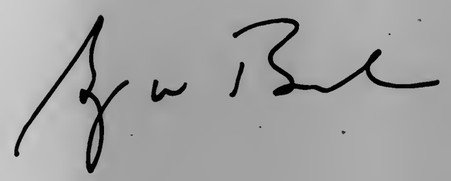
To the families of those who are still missing, we renew our unwavering commitment and determination to obtain the fullest possible accounting for them, including their recovery or repatriation and the identification of the remains of those who have died.

On September 21, 2001, the flag of the National League of Families of American Prisoners and Missing in Southeast Asia will be flown over the White House, the Capitol, the Departments of State, Defense, and Veterans Affairs, the Selective Service System Headquarters, the National Vietnam Veterans Memorial, the Korean War Veterans Memorial, U.S. Military installations, national cemeteries, and other locations across our country. This observance will serve as a powerful reminder to all Americans that we will always keep faith with those who served our Nation with honor, integrity, and great sacrifice, remembering those still missing and honoring those who were imprisoned during war.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 21, 2001, as National POW/MIA Recognition Day. I call upon all Americans to join me in honoring former American prisoners of war who suffered the hardships of enemy captivity and in renewing our commitment to those still missing in action. I call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord two thousand one, and of the

Independence of the United States of America the two hundred and twenty-sixth.



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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV01–948–2 IFR]

Irish Potatoes Grown in Colorado; Suspension of Continuing Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule suspends the continuing assessment rate established for the Colorado Potato Administrative Committee, Area III (Committee) for the 2001–02 and subsequent fiscal periods. The Committee, which locally administers the marketing order regulating the handling of potatoes grown in Northern Colorado, made this recommendation for the purpose of lowering the monetary reserve to a level consistent with program requirements. The fiscal period began July 1 and ends June 30. The assessment rate will remain suspended until an appropriate rate is reinstated.

EFFECTIVE DATES: September 26, 2001. Comments received by November 26, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 3267440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive order 12988, Civil Justice Reform. Under the order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. For the 1999–00 fiscal period, an assessment rate of $0.02 per hundredweight of potatoes handled was fixed by the Secretary to continue in effect indefinitely unless modified, suspended, or terminated. This action suspends the assessment rate for the 2001–02 fiscal period, which began on July 1, 2001, and will continue in effect until reinstated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administration proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule suspends § 948.215 of the order's rules and regulations. Section 948.215 established an assessment rate of $0.02 per hundredweight of potatoes handled for 1999–00 and subsequent fiscal periods. Continuous assessment rates remain in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary. This rule suspends the $0.02 assessment rate for 2001–02 and will remain in effect during subsequent fiscal periods until reinstated by the Secretary upon recommendation of the Committee.

Sections 948.75–948.77 of the Colorado potato order provide authority for the Committee, with the approval of the Secretary, to formulate an annual budget of expenses and to collect assessments from handlers to administer the program. In addition, § 948.78 of the order authorizes the use of monetary reserve funds to cover program expenses. The members of the Committee are producers and handlers of Colorado Area III potatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. Recommendations concerning the budget and assessment rate are formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

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The Committee met on May 10, 2001, to discuss the proposed 2001–02 budget and assessment rate and to take appropriate action. However, with only three out of nine voting members in attendance at the meeting, the quorum necessary for the Committee to take action was not present. To ensure that the Committee would have a recommendation for the 2001–02 fiscal period budget, the Committee's manager subsequently polled all Committee members by U.S. mail, as provided for in § 948.61 of the order. The resultant unanimous recommendation by all nine members favored the establishment of a budget with expenditures of $18,200 and an assessment rate of $0.005 (½ cent) per hundredweight of potatoes handled during the 2001–02 fiscal period.

However, section 948.78(a)(2) of the order specifies that the Committee, with the approval of the Secretary, may carry over excess funds into subsequent fiscal periods as a reserve, provided that funds already in the reserve are less than approximately two fiscal periods' expenses. After reviewing the Committee's initial recommendation for a $0.005 rate of assessment, the Department requested that the Committee consider suspension of the assessment rate until the reserve is lowered to a level consistent with the order. Consequently, at its meeting of July 19, 2001, the Committee unanimously recommended suspension of the continuing assessment rate of $0.02 for the 2001–02 and subsequent fiscal periods. The Committee concluded that an assessment rate will not be necessary for operation during the 2001–02 fiscal period as funds in the reserve, combined with interest and rental income, are adequate to meet expenses.

As of July 1, 2001, the Committee had $59,579 in its reserve fund. With the 2001–02 budget set at $18,200, the current maximum reserve permitted by the order is approximately $36,400 (approximately two fiscal periods' expenses). To meet its 2001–02 expenses the Committee plans on drawing approximately $14,700 from its reserve, and may additionally earn approximately $3,500 from interest and other income. Thus, with a suspended assessment rate, the Committee's reserve at the end of the 2001–02 fiscal period could be reduced to approximately $44,879. Projecting a similar level of expenses in 2002–03 and continuation of the assessment rate suspension, the Committee's reserve on July 1, 2003, could be about $30,179. This amount would be consistent with the order's requirements.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $7,000 for salary, $6,300 for office expense (which includes equipment, telephone, and utilities), and $3,000 for rent. Minor expenses total $1,900. Budgeted expenses for these items in the 2000–01 fiscal period were $4,250, $6,800, and $3,000, respectively. Minor expenses totaled $3,600 that year.

Although the Committee foresees a need for the suspension of the continuing assessment rate established in this rule to continue in effect for approximately two fiscal periods, it will remain suspended until reinstated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Since the suspension of the assessment rate will continue for such subsequent fiscal periods as necessary to ensure that the monetary reserve is lowered to a level consistent with the order, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for reinstatement of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information such as the level of the budget and the monetary reserve to determine whether assessment rate reinstatement is needed, and at what level. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget has been reviewed and approved by the Department and budgets for subsequent fiscal periods will also be reviewed and, as appropriate, approved by the Department.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 26 producers of Colorado Area III potatoes in the production area and approximately 11 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Information for the most recent season in which statistics are available, as reported by the National Agricultural Statistics Service, was considered in determining the number of large and small producers by acreage, production, and producer prices. According to the information provided, the average yield per acre was 340 hundredweight, the average farm size was 53 acres, and the season average producer price was $5.95 per hundredweight. This equates to average gross receipts to producers of approximately $107,200. Furthermore, based upon information provided by the Committee, all handlers of Area III potatoes have shipped under $5,000,000 worth of potatoes during the most recent season for which numbers are available. Based on the foregoing, it can be concluded that a majority of producers and handlers of Area III potatoes may be classified as small entities, excluding receipts from other sources.

This rule suspends § 948.215 of the order's rules and regulations, which established an assessment rate of $0.02 per hundredweight of potatoes handled beginning with the 1999–00 fiscal period. This suspension will be in effect for the 2001–02 fiscal period and will remain in effect until reinstated.

Without assessment income to offset its 2001–02 budget of $18,200, the Committee plans on drawing approximately $14,700 from its reserve, and may additionally earn approximately $3,500 from interest and other income.

The major expenditures recommended by the Committee in the 2001–02 fiscal period budget include $7,000 for salary, $6,300 for office expenses, and $3,000 for rent. Minor expenses total $1,900. In comparison, the Committee's 2000–01 fiscal period budget of $17,650 included major expenses of $4,250, $6,800, and $3,000, respectively. Minor expenses totaled $3,600.

The Committee recommended that assessment collection be suspended until such time as the monetary reserve reaches a level consistent with the order requirement of less than approximately two fiscal periods' expenses. The Committee believes that by suspending the assessment rate for at least the next two fiscal periods, the operating reserve should be lowered to an amount consistent with the program. Based on Committee projections, the current reserve of $59,579 will be reduced to about $44,879 by the end of the 2001–02 fiscal period, and to about $30,179 by the end of the 2002–03 fiscal period.

Prior to recommending the suspension of the continuing assessment rate, the Committee discussed alternatives, including its earlier recommended assessment rate of $0.005 per hundredweight. However, the Committee concurred with the Department's position that a suspension of the assessment rate is viable since it could rely on its reserve and other income to meet budgeted expenses, and that such a suspension would expedite the reduction of the reserve. Another alternative considered by the Committee was to refund the portion of the reserve that is over that permitted by the order directly to handlers of record. Because many of the handlers assessed in prior years are no longer in business, the Committee concluded this would not be equitable.

This action will reduce handler costs by almost $9,000 (448,750 hundredweight of assessable potatoes × the current rate of assessment of $0.02) during the 2001–02 fiscal period, as no assessment will be collected. Suspension of the assessment rate will reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meetings were widely publicized throughout the Colorado Area III potato industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 10 and July 19, 2001, meetings were open to the public and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Colorado Area III potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that the continuing assessment rate established at 64 FR 48081 no longer tends to effectuate the declared policy of the Act. The suspension shall continue in effect until an assessment rate is reinstated by the Secretary, upon recommendation and information submitted by the Committee, or other available information.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action relieves restrictions on handlers by suspending the assessment rate beginning with the 2001–02 fiscal period; (2) the 2001–02 fiscal period began on July 1, 2001, and this action should be effective as soon as possible; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 948.215 [Suspended]

2. In Part 948, § 948.215 is suspended in its entirety.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23655 Filed 9–24–01; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AEA–15]

Amendment to Class E Airspace, Seneca Falls, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a final rule that was published in the **Federal Register** on April 13, 2001, Airspace Docket No. 00–AEA–15. The final rule established Class E airspace at Seneca Falls, NY.

EFFECTIVE DATE: September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 01–7420, Airspace Docket No. 00–AEA–15, published on April 13, 2001 (66 FR 19082), established Class E airspace at Seneca Falls, NY. An error was discovered in the geographic coordinates for the Finger Lakes Regional Airport. This action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Seneca Lake Regional Airport as published in the **Federal Register** on April 13, 2001 (66 FR 19082) are corrected as follows:

§ 71.1 [Amended]

On page 19083, column 2, in the airspace designation for Seneca Falls, NY, third line, correct "(lat. 42°52′38.58 N/long. 76°46.54′ W)" to read "(lat. 42°52′59″ N/long. 76°46′54″ W)"

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Issued in Jamaica, New York on September 10, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–23944 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–058]

RIN 2115–AE46

Special Local Regulations for Marine Events; Sunset Lake, Wildwood Crest, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations during the Sunset Lake Hydrofest to be held on the waters of Sunset Lake near Wildwood Crest, New Jersey. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Sunset Lake during the event.

DATES: This rule is effective from 8 a.m. eastern time on October 6, 2001 until 6:30 p.m. eastern time on October 7, 2001.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–058 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Geoffrey Pagels, Marine Events Coordinator, Commander, Coast Guard Group Atlantic City, telephone number (609) 677–2228.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The high-speed power boat races will take place on October 6 and 7, 2001. The special local regulations are necessary to provide for the safety of event participants, support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

Under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective in less than 30 days. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, the Coast Guard has experience delays in the mails due to the terrorist attack in Washington, D.C., making it impossible to get this document to the **Federal Register** 30 days prior to the event.

Background and Purpose

On October 6 and 7, 2001, the Sunset Lake Hydrofest Association will sponsor the Sunset Lake Hydrofest on the waters of Sunset Lake, near Wildwood Crest, New Jersey. The event will consist of approximately 80 inboard hydroplanes, Jersey Speed Skiffs and flat-bottom Ski boats racing in heats counter-clockwise around an oval racecourse. A fleet of 50 to 100 spectator vessels is anticipated. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of spectators, participants and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Sunset Lake. The temporary special local regulations will be in enforced from 8 a.m. to 6:30 p.m. eastern time on October 6 and 7, 2001, and will restrict general navigation in the regulated area during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Although this regulation prevents traffic from transiting a portion of Sunset Lake during the event, the effect of this regulation will not be significant due to the limited duration of the regulation and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of Sunset Lake during the event.

Although this regulation prevents traffic from transiting or anchoring in a portion of Sunset Lake during the event, the effect of this regulation will not be significant because of its limited duration and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State law or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a marine event are specifically excluded from further analysis and documentation under that section. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add a temporary section, § 100.35–T05–058 to read as follows:

§ 100.35–T05–058 Sunset Lake, Wildwood Crest, New Jersey.

(a) *Definitions:*

(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(2) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Group Atlantic City with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant.* Includes all vessels participating in the Sunset Lake Hydrofest under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Group Atlantic City.

(4) *Regulated Area.* Includes all waters of Sunset Lake, from shoreline to shoreline, south of latitude 38°58′32″ N. All coordinates reference Datum: NAD 1983.

(b) *Special Local Regulations:*

(1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(iii) Unless otherwise directed by the official patrol, operate at a minimum wake speed not to exceed six (6) knots.

(c) *Effective Dates:* This section is in effect from 8 a.m. eastern time on October 6, 2001 until 6:30 p.m. eastern time on October 7, 2001.

(d) *Enforcement Times:* This section will be enforced from 8 a.m. to 6:30 p.m. eastern time on October 6 and 7, 2001.

Dated: September 4, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–23819 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–034]

Drawbridge Operating Regulation; Lake Pontchartrain, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a

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temporary deviation from the regulation governing the operation of the bascule spans of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain between Metairie, Jefferson Parish and Mandeville, St. Tammany Parish, Louisiana. This deviation allows the draws of the bridges to remain closed to navigation from 6 a.m. on Monday, October 15, 2001 until 6 a.m. on Wednesday, October 17, 2001. Presently, the draws are required to open on signal if at least three hours notice is given. This temporary deviation is requested to allow for the connection of new submarine cables to operate the draw spans of the bridges.

DATES: This deviation is effective from 6 a.m. on Monday, October 15, 2001 until 6 a.m. on Wednesday, October 17, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: During the closure period, the bridges will not be able to open for vessels to transit through the bascule spans of the bridge. The bridges have a vertical clearance of 42 feet above mean high water in the closed-to-navigation position. Navigation on the waterway consists of small tugs with tows, fishing vessels, sailing vessels, and other recreational craft. In case of an emergency, the bridge owner will be able to hand crank the draws of the bridges to the open to navigation position. As an alternate route, the south channel fixed spans of the dual bridges provides a vertical clearance of 50 feet above mean high water.

The Greater New Orleans Expressway Commission requested a temporary deviation from the normal operation of the drawbridge in order to allow for the connection of new submarine cables to operate the draw spans of the bridges.

This deviation allows the draws of the bridges of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain to remain closed to navigation from 6 a.m. on Monday, October 15, 2001 until 6 a.m. on Wednesday, October 17, 2001.

Dated: September 10, 2001.

J.R. Whitehead,

Captain, U.S. Coast Guard Commander, 8th Coast Guard Dist. Acting.

[FR Doc. 01–23824 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Charleston–01–096]

RIN 2115–AA97

Security Zone; Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: A temporary security zone is being established in the vicinity of the U.S. Coast Guard Group Charleston Facility Base on the Ashley River in Charleston, South Carolina. This temporary security zone is being established to protect U.S. Coast Guard assets. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from 6:30 a.m. (EDT) on September 11, 2001 through 6:30 a.m. (EDT) on October 15, 2001.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of [COTP Charleston 1–096] and are available for inspection or copying at Marine Safety Office Charleston, 196 Tradd Street, Charleston, SC 29401 between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT James Mahney, Coast Guard Marine Safety Office Charleston, at (843) 724–7686.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and making these regulations effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying the effective date would be contrary to national security interests since immediate action is needed to safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other cause of a similar nature.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the U.S. Coast Guard Group Charleston Facility Base. This security zone will encompass a portion of the Ashley River near this Coast Guard facility. The zone encompasses waters 200 yards up river and 700 yards down river from the Coast Guard pier, from the facility to the centerline of the channel. Buoys, at approximate positions 32°46′45″ N, 79°56′91″ W, and 32°46′13″ N, 079°56′42″ W, mark the length zone. The Coast Guard will issue a broadcast notice to mariners regarding this security zone and Coast Guard vessels will be on scene strictly enforcing the zone.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic effect upon a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as it will only be in effect for a limited time and vessels will be able to transit around the zone.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the Issuance of Federal Regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–096 is added to read as follows:

§ 165.T07–096 Security Zone; U.S. Coast Guard Group Charleston Facility, Charleston, South Carolina.

(a) *Location.* This security zone will include the area around the U.S. Coast Guard Group Charleston Facility. The zone encompasses waters of the Ashley River 200 yards up river and 700 yards down river from the Coast Guard pier, from the Charleston Facility to the centerline of the channel. Buoys, at approximate positions 32°46′45″ N, 79°56′ 91″ W, and 32°46′13″ N, 79°56′42″ W, mark the length of the zone. The Coast Guard will issue a broadcast notice to mariners and Coast Guard vessels will be on scene strictly enforcing this security zone.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into and movement within this zone is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF FM Marine Band Radio, Channel 13 or 16.

(c) *Dates.* This section is effective from 6:30 a.m. (EDT) on September 11, 2001 through 4 p.m. (EDT) on October 15, 2001.

Dated: September 11, 2001.

G.W. Merrick,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 01–23822 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY53–230a, FRL–7057–5]

Approval and Promulgation of Implementation Plans; New York Ozone State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the New York State Implementation Plan (SIP) related to the control of oxides of nitrogen (NO_X) and volatile organic compounds (VOC) from stationary sources. The SIP revision consists of amendments to New York's Code of Rules and Regulations (NYCRR) Part 212, "General Process Emission Sources." The revision was submitted to comply with the Clean Air Act reasonably available control technology (RACT) requirements for major sources of VOC and NO_X not covered by Control Techniques Guidelines.

EPA is also taking this opportunity to announce that it is accepting the State's determination that there are no emission sources in the New York portion of the New York-Northern New Jersey-Long Island ozone nonattainment area (New York Metropolitan Area) from facilities that would be regulated by NYCRR Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants." With this approval, New York has met the Clean Air Act Section 182 requirements for RACT on stationary sources in the New York Metropolitan Area.

DATES: This direct final rule is effective on November 26, 2001 without further notice, unless EPA receives adverse comment by October 25, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

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I. What Are the Clean Air Act Requirements?

A. What Are the Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) Requirements?

The Clean Air Act (the Act) as amended in 1990 sets forth a number of requirements that states with areas designated as nonattainment for ozone must satisfy and a timetable for satisfying these requirements. The specific requirements vary depending upon the severity of the ozone problem. One of the requirements, and the subject of this proposed rulemaking, requires states to adopt RACT rules for various VOC source categories. EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979).

Section 182 of the Act sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the Act, and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the Act was amended in 1990. The second requirement, set forth in section 182(b)(2) of the Act, applies to moderate (or worse) ozone nonattainment areas as well as to ozone transport regions. The goal of this latter requirement is to ensure that areas not required previously to adopt RACT for some or all of the major stationary sources, adopt rules and "catch-up" to those areas subject to more stringent RACT requirements.

EPA issued three sets of Control Techniques Guideline (CTG) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG are referred to as non-CTG sources. Section 182(b)(2) of the Act requires states with ozone nonattainment areas classified as moderate or worse to develop RACT for all pre-enactment CTG source categories, for all sources subject to post-enactment CTGs and for all non-CTG major sources in those areas. Under the pre-1990 Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions.

New York has previously addressed most of these requirements and EPA has approved these revisions into the New York State Implementation Plan (SIP).

B. What Are the Oxides of Nitrogen (NO_X) RACT Requirements?

The air quality planning requirements for the reduction of NO_X emissions using RACT are set out in section 182(f) of the Act. EPA further defines the section 182(f) requirements in a notice, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620). Refer to the November 25, 1992 notice for detailed information on the NO_X requirements. Also refer to additional guidance memoranda that EPA released subsequent to the NO_X Supplement. The additional guidance includes: EPA publication EPA–452/R–96–005 (March 1996) entitled "NO_X Policy Documents for The Clean Air Act of 1990"; EPA's policy memorandum on the approval options for generic RACT rules submitted by states entitled "Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements" (November 7, 1996); EPA's draft system-wide averaging trading guidance (December 1993); EPA's publications of "Alternative Control Technique Documents" which are technical documents identifying alternative controls for most categories of stationary sources of NO_X; and other related EPA policy and guidance documents.

The Act requires that states establish requirements, where practicable, for major stationary sources to include NO_X RACT controls by May 31, 1995.

II. What Did New York Include in Its Submittals?

On July 8, 1994, New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a request to revise its SIP. The revisions consisted of amendments to New York's Code of Rules and Regulations (NYCRR) Part 212 "General Process Emission Sources." Part 212 was adopted by the State on July 8, 1994 and became effective on September 22, 1994. This regulation is intended to address, at least in part, the requirements of the Act explained in Section I of this notice. It should be noted that because the specific requirements of the Act which New York must address vary relative to the severity of the ozone problem in a specific metropolitan area, the applicability of New York's Part 212 regulations also vary accordingly. A summary of EPA's review and findings concerning the revisions to Part 212 follows. The July 8, 1994 submittal also included revisions to NYCRR Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants." However, EPA is not acting on these regulations as a SIP revision at this time. For the purpose of the 1-hour Ozone Attainment SIP for the New York Metropolitan Area, on July 11, 2001, New York submitted a "negative declaration" affirming that there are no emission sources in the New York Metropolitan Area from facilities that would be regulated by Parts 214, 216 and 220. The July 11, 2001 submittal also indicates that the attainment demonstration for the New York Metropolitan Area is not dependent upon emission reductions from Part 214, 216 and 220 sources in other parts of the State.

III. What Are the Requirements of Part 212, "General Process Emission Sources"?

The State of New York has established specific air pollution control requirements for numerous industrial and commercial sources of air pollution. Part 212 provides for control of air pollution sources that are not covered by industry-specific regulations. Part 212 provides for control of such sources throughout the State but also establishes deadlines for compliance with the existing requirements for RACT in the New York City Metropolitan Area which is composed of New York City and the counties of Nassau, Suffolk, Westchester and Rockland and seven municipalities in Orange County—Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury.

Facilities subject to Part 212 must either review their applicable NO_X and VOC emission points to implement RACT, or limit the facility's potential to emit these contaminants below threshold applicability levels. In either case, a compliance plan was required by October 20, 1994. Facilities that could exceed these levels only if they increased production (i.e., their actual hours of operation increased and they became "potential" major facilities), did not need to conduct the RACT analysis if they requested enforceable operating limits before May 31, 1995.

A. What Are Generic Provisions and Does Part 212 Contain Generic RACT Provisions?

Generic provisions are those portions of a regulation which require the application of RACT to an emission point, but the degree of control is not specified in the rule and is to be determined on a case-by-case basis taking technological and economic factors into consideration. Under the Act, these individually determined RACT limits would then need to be submitted by a state as a SIP revision for EPA approval. On November 7, 1996, EPA issued a policy memorandum providing additional guidance for approving regulations which contain these "generic provisions." (Sally Shaver, Director, Air Quality Strategies and Standards Division, memorandum to EPA Division Directors, "Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements").

EPA policy allows for the full approval of state generic RACT rules prior to actual EPA approval of SIP revisions establishing RACT for each individual major source. However, to allow this, the state must provide an analysis that concludes that the remaining source RACT determinations involve a de minimis level of emissions. Such an approval does not exempt the remaining sources from RACT; but does provide an opportunity for EPA to make a determination that the state has met a non-CTG requirement prior to taking action on all of the individual case-by-case RACT determinations. Provisions within Part 212 establish a procedure for a case-by-case determination of what represents RACT for an item of equipment, process or source.

B. What Other RACT Provisions Does Part 212 Contain and Are They Federally Approvable?

Section 212.10 provides that owners and/or operators of major sources may petition for an exemption from NO_X RACT if it can be demonstrated that net ozone air quality benefits are greater in the absence of NO_X reductions from a facility. EPA interprets this provision as consistent with the NO_X RACT exemption available in section 182(f) of the Act. New York's provision is consistent with EPA guidance and therefore approvable.

Pursuant to 40 CFR part 51 subpart I and 40 CFR parts 60 and 61, state requirements, such as subdivision 212.10(d), that provide for "capping out," must be federally enforceable. Under section 212.10 a facility with federally and state enforceable conditions in Certificates to Operate which limits its annual potential to emit NO_X and VOCs below the applicability levels of section 212.10 by May 31, 1995 is exempt from the RACT analysis and implementation requirements of section 212.10. In addition, records must be maintained which verify the facility's annual actual emissions and any exceedances of its annual potential to emit conditions must be reported to the State.

EPA has determined that the subsection 212.10(d) requirements are federally enforceable because the section provides for the incorporation of compliance measures and schedules into operating permits which are issued and/or altered in conformance with Part 201 ("Permits and Certificates"). Part 201 has been previously incorporated into the New York SIP and, therefore, is already federally enforceable. While subsection 212.10(d) does not explicitly define federally enforceable, the provision refers to limitations that would be incorporated into a federally enforceable operating permit, adopted pursuant to the procedures provided in Part 201.

Facilities which conduct a RACT analysis are required to review control device technologies and capture efficiencies of these controls for VOC sources, keeping in mind the reasonable economics of RACT. Pursuant to subsection 212.10(c)(4), the following source categories are considered equipped with RACT: VOC emission points which are equipped with a capture system and control device with an overall removal efficiency of at least 81 percent or surface coating processes that use coatings not exceeding 3.5 pounds VOC per gallon as applied (minus water and excluded VOC). Through these provisions, New York has established a presumptive RACT requirement for VOC consistent with the EPA guidance on generic regulations.

Facilities that are subject to Part 212 and have very small emission points (i.e., NO_X and VOC emission rate potentials which are both less than three pounds per hour and in the absence of control equipment less than fifteen pounds per day) do not have to perform a RACT analysis for those very small emission points.

For those sources not subject to specific NO_X and VOC emission limitations or work practice standards, subsection 212.10(c) provides a schedule for submission of and requirements for a compliance plan which must be followed in order to comply with Part 212. Should a source not comply with these requirements it would constitute a violation of Part 212 which may subject the source owner or operator to civil and applicable criminal penalties. EPA has determined that this is sufficient to insure that sources comply and should EPA need to take enforcement action, it could use the same provisions to require compliance. The process specific RACT demonstrations are required to be submitted to EPA for approval as SIP revisions. The deadline for implementation of RACT was May 31, 1995. These revisions to Part 212 are consistent with EPA guidance, therefore, EPA is approving Part 212.

C. How Has New York Addressed the Case-by-Case RACT Determinations?

In a letter dated August 31, 2001, New York provided sufficient data for EPA to evaluate the de minimis level of NO_X emissions from generic sources in the State. Given the State's data, EPA has determined that 1.55 percent of the NO_X emissions subject to RACT controls have either not yet been submitted to EPA as SIP revisions or, if submitted, have not yet been approved by EPA.[1] EPA has determined this amount to be de minimis. The 1.55 percent de minimis level includes emissions from seven facilities for which New York is required to submit single source SIP revisions containing RACT requirements. Therefore, EPA has determined that New York's NO_X RACT regulation conforms with EPA's policy regarding the approval of generic RACT provisions or rules, thereby allowing EPA to approve Part 212. Subsection 212.10(c) requires New York to submit the remaining case-by-case RACT determinations for the NO_X sources to EPA for approval as SIP revisions.

New York has also informed EPA that the permits, pursuant to Title V of the Act, "Operating Permits," are being processed for the NO_X sources controlled by Part 212. Upon the completion of the Title V process for these sources, the State will prepare and submit to EPA source specific SIP revisions for these facilities.

[1] EPA guidance provides that where the non-approved RACT requirements concern sources whose emissions represent less than 5% of the 1990 stationary source NO_X inventory, excluding utility boilers, it may be appropriate to issue a full approval of the generic RACT regulation.

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IV. Are New York's Non-CTG RACT Requirements Consistent With EPA's Proposal of the 1-Hour Ozone Attainment Demonstration?

On December 16, 1999 (64 FR 70364), EPA proposed approval of New York's 1-hour Ozone Attainment SIP for the New York Metropolitan Area. EPA must take final action approving all measures relied on for attainment, including the measures associated with the VOC and NO_X RACT requirements for major non-CTG sources, before EPA can issue a final full approval of the 1-hour Ozone Attainment SIP for the New York Metropolitan Area.

New York has submitted adopted regulations for all CTG and non-CTG major sources of VOC and NO_X. EPA has approved the majority of these in past **Federal Register** actions. The remaining New York regulations with provisions relating to RACT applicable to the New York Metropolitan Area are Parts 212, "General Process Emission Sources," 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants."

On July 11, 2001, New York submitted a "negative declaration" affirming that no sources affected by the provisions of Parts 214, 216 and 220 exist in the Urban Airshed Model modeling domain for the New York Metropolitan Area and that New York does not rely on emission reductions from Parts 214, 216 or 220 to demonstrate attainment in that area. EPA has determined that with this certification and today's approval of Part 212, New York has fulfilled the Section 182(b)(2) and 182(f) of the Act requirements for major non-CTG VOC and NO_X RACT sources in the New York Metropolitan Area.

V. Conclusion

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA is approving Part 212, "General Process Emission Sources" of New York's regulations as meeting the VOC and NO_X RACT "catch-up" requirements of sections 182(b)(2) and 182(f) of the Act for major non-CTG sources. EPA is also approving the State's negative declaration that there are no sources regulated by Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants" in, or relied on in the attainment demonstration for, the New York portion of the New York-Northern New Jersey-Long Island severe 1-hour ozone nonattainment area. EPA also finds that New York has SIP approved regulations for all CTG and non-CTG major sources of VOC and NO_X for the New York Metropolitan Area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 26, 2001 without further notice unless the Agency receives adverse comments by October 25, 2001.

If the EPA receives adverse comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule.

The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act.

Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective November 26, 2001 unless EPA receives adverse written comments by October 25, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 10, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart HH—New York

2. Section 52.1670 is amended by adding new paragraph (c)(101) to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

(101) Revisions to the State Implementation Plan submitted on July 8, 1994 by the New York State Department of Environmental Conservation that establishes VOC and NO_X Reasonably Available Control Technology requirements statewide for general process emission sources.

(i) Incorporation by reference:

(A) Regulation Part 212 of Title 6 of the New York Code of Rules and Regulations, entitled "General Process Emission Sources" filed on August 23, 1994 and effective on September 22, 1994.

(ii) Additional information.

(A) Letter from the New York State Department of Environmental Conservation dated July 8, 1994, submitting the Part 212 Regulation and amendments as revisions to the New York State Implementation Plan for ozone.

(B) Letter from the New York State Department of Environmental Department Conservation dated August 31, 2001 submitting an analysis of mass NO_X emissions from generic sources throughout the State.

(C) Letter from the New York State Department of Environmental Conservation dated July 11, 2001 affirming that there are no sources regulated by Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants" in, or considered in the attainment demonstration for, the New York portion of the New York-Northern New Jersey-Long Island severe 1-hour ozone nonattainment area.

3. In section 52.1679, the table is amended by revising the entry for Part 212 to read as follows:

§ 52.1679 EPA—approved New York State regulations

New York State regulation	State effective date	Latest EPA approval date	Comments
. . . . .			
Part 212, General Process Emission Sources	9/22/94	September 25, 2001, 66 FR 48961.	
. . . . .			

[FR Doc. 01–23762 Filed 9–24–01; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301177; FRL–6802–9]

[RIN 2070–AB78]

Spinosad; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of spinosad in or on asparagus at 0.020 part per million (ppm), bushberry subgroup (crop subgroup 13B) at 0.250 ppm, cranberry at 0.01 ppm, foliage of legume vegetable group (crop group 7) at 8.0 ppm, garden beet roots at 0.10 ppm, globe artichoke at 0.30 ppm, juneberry at 0.250 ppm, leaves of root and tuber vegetable group (crop group 2) at 10.0 ppm, lingonberry at 0.250 ppm, okra at 0.40 ppm, pistachio at 0.020 ppm, pome fruit group (crop group 11) at 0.20 ppm, salal at 0.250 ppm, strawberry at 1.0 ppm, sugar beet roots at 0.10 ppm, and the tree nut group (crop group 14) at 0.020 ppm. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This final rule establishes permanent tolerances for spinosad and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for spinosad were established after August 2, 1996. Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 25, 2001. Objections and requests for hearings, identified by docket control number OPP–301177, must be received by EPA on or before November 26, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301177 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection

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Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301177. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 6, 2001 (66 FR 30463) (FRL–6785–1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) for tolerances by IR-4, 681 U.S. Highway #1, South, North Brunswick, NJ 08902–3390. This notice included a summary of the petitions prepared by Dow Agrosciences, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.495 be amended by establishing tolerances for residues of the insecticide spinosad, in or on food commodities, as follows:

1. PP 0E6173 proposed the establishment of tolerances for the pome fruit group at 0.2 ppm and foliage of legume vegetable group at 8.0 ppm.

2. PP 0E6217 proposed the establishment of a tolerance for asparagus at 0.02 ppm.

3. PP 1E6230 proposed the establishment of tolerances for the tree nut group, and pistachio at 0.02 ppm.

4. PP 1E6236 proposed the establishment of a tolerance for okra at 0.4 ppm.

5. 1E6245 proposed the establishment of tolerances for garden beet roots and sugar beet roots at 0.1 ppm, cranberry at 0.01 ppm, and the leaves of root and tuber vegetable group at 10 ppm.

6. PP 1E6255 proposed the establishment of tolerances for the bushberry subgroup, juneberry, lingonberry, and salal at 0.25 ppm.

7. PP 1E6256 proposed the establishment of a tolerance for globe artichoke at 0.3 ppm.

8. PP 1E6260 proposed the establishment of a tolerance for strawberry at 0.75 ppm. The petition was subsequently amended to propose a tolerance for strawberry at 1.0 ppm.

Spinosad is a fermentation product of *Saccharopolyspora spinosa*. The product consists of two related active ingredients: Spinosyn A (Factor A; CAS #131929–60–7) or 2-[(6-deoxy-2,3,4-tri-*O*-methyl-α-*L*-manno-pyranosyl)oxy]-13-[[5-(dimethylamino)-tetrahydro-6-methyl-2*H*-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-14-methyl-1*H*-as-Indaceno[3,2-d]oxacyclododecin-7,15-dione; and Spinosyn D (Factor D; CAS #131929–63–0) or 2-[(6-deoxy-2,3,4-tri-*O*-methyl-α-*L*-manno-pyranosyl)oxy]-13-[[5-(dimethyl-amino)-tetrahydro-6-methyl-2*H*-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-4,14-methyl-1*H*-as-Indaceno[3,2-d]oxacyclododecin-7,15-dione. Typically, the two factors are present at an 85:15 (A:D) ratio.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of spinosad on asparagus at 0.020 part per million (ppm), bushberry subgroup (crop subgroup 13B) at 0.250 ppm, cranberry at 0.01 ppm, foliage of legume vegetable group (crop group 7) at 8.0 ppm, garden beet roots at 0.10 ppm, globe artichoke at 0.30 ppm, juneberry at 0.250 ppm, leaves of root and tuber vegetable group (crop group 2) at 10.0 ppm, lingonberry at 0.250 ppm, okra at 0.40 ppm, pistachio at 0.020 ppm, pome fruit group (crop group 11) at 0.20 ppm, salal at 0.250 ppm, strawberry at 1.0 ppm, sugar beet roots at 0.10 ppm, and the tree nut group (crop group 14) at 0.020 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by spinosad are discussed in Unit III.A. of the **Federal Register** of September 23, 1999 (64 FR 51451) (FRL–6381–9),

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A·Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for spinosad used for human risk assessment is shown in the following Table 1:

TABLE 1.— SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SPINOSAD FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary	Not applicable	Not applicable	No appropriate endpoint available. There were no effects observed in oral toxicity studies including oral developmental toxicity studies in rats and rabbits that could be attributable to a single dose (exposure). Therefore, a dose and endpoint were not selected for this risk assessment.
Chronic dietary (all populations)	NOAEL= 2.68 mg/kg/day UF = 100 Chronic RfD = 0.027 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD/FQPA SF = 0.027 mg/kg/day	Chronic feeding study in dogs LOAEL = 8.46 mg/kg/day based on the occurrence of vacuolation in glandular cells (parathyroid) and lymphatic tissues, arteritis, and increases in serum enzymes such as alanine aminotranferase, and aspartate aminotransferase, and triglyceride levels in dogs fed spinosad in the diet at dose levels of 1.44, 2.7, 8.46 mg/kg/day for 52 weeks.
Dermal (short-and intermediate-term) (residential)	Not applicable	Not applicable	No appropriate endpoint available. No toxicity at 2,000 mg/kg/day in a 21-day dermal toxicity study in rats. No dermal absorption expected based on molecular structure and size.

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TABLE 1.— SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR SPINOSAD FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Long-term dermal (several months to lifetime) (residential)	Not applicable	Not applicable	No appropriate endpoint available. Long-term exposure is not expected from registered use patterns.
Inhalation (any time period) (residential)	Not applicable	Not applicable	Low toxicity, use pattern and application rate does not indicate a need for risk assessment via inhalation.
Cancer (oral, dermal, inhalation)	Not applicable	Not applicable	Spinosad is classified as a "Not Likely" carcinogen.

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.495) for residues of spinosad, in or on a variety of raw agricultural commodities. Spinosad is registered for use on a large number of agricultural commodities. Due to a section 18 use for control of Mediterranean fruit fly, tolerances for residues of spinosad have been established for all agricultural commodities not covered by other registrations. Risk assessments were conducted by EPA to assess dietary exposures from spinosad in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An endpoint was not identified for acute dietary exposure and risk assessment because no effects were observed in oral toxicity studies including developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, an acute dietary exposure assessment was not performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1999 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments:

The chronic dietary analysis used residue values at the established and recommended tolerance levels for all commodities having spinosad tolerances with the exception of meat (all non-poultry sources) and milk. Anticipated residues were used for meat and milk from beef and dairy cattle as follows: Muscle at 0.09 ppm, fat at 2.54 ppm, kidney at 0.19 ppm, liver at 0.48, whole milk at 0.19 ppm, cream at 0.74 ppm, skim milk at 0.037 ppm. The chronic dietary analysis also assumed that 100 percent crop treatment for registered uses and the proposed uses.

iii. *Cancer.* Spinosad has been classified as "not likely to be carcinogenic in humans" based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, a cancer risk assessment was not performed.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a Data Call-In for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

2. *Dietary exposure from drinking water.* Available data on spinosad show that the compound is not mobile or persistent, and therefore has little potential to leach to ground water. Spinosad may however contaminate surface water upon the release of water from flooded fields to the environment.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for spinosad in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of spinosad.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use EECs from these models to quantify drinking water exposure and risk as a percent of the reference dose (%RfD) or percent of the population adjusted dose (%PAD). Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to spinosad, they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS model, the EECs of spinosad for chronic exposures are estimated to be 0.092 parts per billion (ppb) for surface water. The chronic surface water EEC value for spinosad is based on application of the insecticide to cole crops at 0.13 lb active ingredient per acre per application with a maximum of 0.45 lb active ingredient/acre/season.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Registered residential uses for spinosad currently include Conserve SC Turf and Ornamental (EPA Reg. No. 62719–291) and Conserve Fire Ant Bait (EPA Reg. No. 62719–291). Both products are registered for outdoor use only. The risk assessment was conducted using the following residential exposure assumptions: The turf/ornamental and fire ant bait uses may result in non-dietary ingestion of spinosad-treated plant material or soil by children. Half-life estimates for spinosyn A on various plant foliage ranges from 1.6 to 16 days and generally is dependent on the amount of sunlight received on the plant surfaces. To calculate a quantitative risk from a potential ingestion of grass (in the absence of acute-, short-, or intermediate-term oral endpoints), EPA would need to default to the chronic dietary endpoint. This scenario would represent a child eating grass for > 6 months continuously. Based on the low application rate for spinosad on turf (0.41 lb/a.i./acre), its non-systemic nature, its short half-life (especially in sunlight), and the rapid incorporation of spinosad metabolites into the general carbon pool, EPA believes that residues of spinosad on turf/ornamentals and soil after application would be low and decrease rapidly over time. EPA believes that it is inappropriate to perform a quantitative dietary risk representing a chronic scenario from children ingesting spinosad-treated plants or soil. Qualitatively, the risk from children's ingestion of plant or soil as a result of turf/ornamental and fire ant bait uses does not exceed EPA's level of concern.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether spinosad has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, spinosad does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that spinosad has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There is no indication of increased susceptibility of rat or rabbit fetuses to *in utero* and/or postnatal exposure.

3. *Conclusion.* There is a complete toxicity data base for spinosad and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. This recommendation is based on (1) the completeness of the toxicological data base, (2) no indication of increased susceptibility of rat or rabbit fetuses to *in utero* and/or postnatal exposure, and (3) no requirement for a developmental neurotoxicity study.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water EECs. DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

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1. *Acute risk.* Acute aggregate risk consists of the combined dietary exposures from food and drinking water sources. The total exposure is compared to the acute RfD. An acute RfD was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose. Therefore, the Agency concludes that there is a reasonable certainty of no harm from acute aggregate exposure to spinosad.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to spinosad from food will utilize 29% of the cPAD for the U.S. population, 26% of the cPAD for infants, and 57% of the cPAD for children 1 to 6 years old, the subpopulation at greatest risk. Based on the use pattern, spinosad's short half-life and non-systemic nature, and the rapid incorporation of spinosad metabolites into the general carbon pool, chronic residential exposure to residues of spinosad is not expected. In addition, there is potential for chronic dietary exposure to spinosad in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SPINOSAD

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.027	29	0.092	670
All infants	0.027	26	0.092	200
Children (1 to 6 years)	0.027	57	0.092	120
Children (7 to 12 years)	0.027	40	0.092	160

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposures takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Though residential exposure could occur with the use of spinosad, no toxicological effects have been identified for short- or intermediate-term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population.* Spinosad has been classified as "not likely to be carcinogenic in humans" based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, spinosad is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to spinosad residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (HPLC/UV is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

No Codex, Canadian, or Mexican maximum residue limits have been established for residues of spinosad on any crops.

V. Conclusion

Therefore, the tolerances are established for residues of spinosad in or on asparagus at 0.020 ppm, bushberry subgroup (crop subgroup 13B) at 0.250 ppm, cranberry at 0.01 ppm, foliage of legume vegetable group (crop group 7) at 8.0 ppm, garden beet roots at 0.10 ppm, globe artichoke at 0.30 ppm, juneberry at 0.250 ppm, leaves of root and tuber vegetable group (crop group 2) at 10.0 ppm, lingonberry at 0.250 ppm, okra 0.40 ppm, pistachio at 0.020 ppm, pome fruit group (crop group 11) at 0.20 ppm, salal at 0.250 ppm, strawberry at 1.0 ppm, sugar beet roots at 0.10 ppm, and tree nut group (crop group 14) at 0.020 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301177 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 26, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301177, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and

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responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.495 is amended by deleting the entries for almonds, apple, and turnip greens; revising the entry for pistachio; and by alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

§ 180.495 Spinosad; tolerances for residues.

(a)* * *

Commodity	Parts per million	Expiration/ Revocation Date
* *	*	*
Artichoke, globe	0.30	None
Asparagus	0.020	None
* *	*	*
Beet, garden, roots	0.10	None
Beet, sugar, roots	0.10	None
* *	*	*
Bushberry subgroup	0.250	None
* *	*	*
Cranberry	0.01	None
* *	*	*
Fruit, pome, group	0.20	None
* *	*	*
Juneberry	0.250	None
* *	*	*
Lingonberry	0.250	None
* *	*	*
Nut, tree, group	0.020	None
* *	*	*
Okra	0.40	None
* *	*	*
Pistachio	0.020	None
* *	*	*
Salal	0.250	None
* *	*	*
Strawberry	1.0	None
* *	*	*
Vegetable, foliage of legume, group	8.0	None
Vegetable, leaves of root and tuber, group	10.0	None
* *	*	*

* * * * *

[FR Doc. 01–23609 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7062–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Final deletion of the Shenandoah Stables Superfund site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Shenandoah Stables site in Lincoln County, Missouri, from the NPL. The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA and the State of Missouri have determined that the site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Feild, Remedial Project Manager, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Shenandoah Stables site, Lincoln County, Missouri.

A Notice of Intent to Delete for this site was published in the **Federal Register** on August 7, 2001 (66 FR 41177). The closing date for comments on the Notice of Intent to Delete was September 6, 2001. No comments were received; therefore, EPA has not prepared a Responsiveness Summary.

The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 12, 2001.

William W. Rice,

Acting Regional Administrator.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended under Missouri by removing the entry for the "Shenandoah Stables site in "Moscow Mills".

[FR Doc. 01–23599 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7062–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Final deletion of the Times Beach Superfund site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Times Beach site in St. Louis County, Missouri, from the NPL. The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA and the State of Missouri have determined that the site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Feild, Remedial Project Manager, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Times Beach site, St. Louis County, Missouri.

A Notice of Intent to Delete for this site was published in the **Federal Register** on August 7, 2001 (66 FR 41179). The closing date for comments on the Notice of Intent to Delete was September 6, 2001. Attached is the Responsiveness Summary addressing comments received from the public.

The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

Response to Comments: A comment was received by EPA expressing opposition to the deletion of Times Beach from the NPL due to concerns about future flooding of the Meramec River that could uncover more contaminants.

Prior to the removal of contaminated materials from the Times Beach site, the EPA did recognize a concern for erosion of surface soils that could potentially occur during flooding of the Meramec River. In response to this concern, a series of spur levees were constructed by the U.S. Army Corps of Engineers at Times Beach to reduce water velocities across the site during Meramec River flood events. These spur levees were completed in 1987 and remain in place to limit the potential for scour and erosion of soils at the Times Beach site caused by flooding of the Meramec River. These spur levees further assure that future use of the Times Beach site will remain protective of human health.

The Times Beach site was extensively sampled prior to taking any response action to characterize the areal and vertical extent of contamination. This sampling guided the excavation of contaminated soils at the site. Following excavation and treatment of contaminated soils, verification sampling was performed to confirm that soils and other materials remaining at the site were safe for unrestricted human exposure. The EPA believes that the extensive sampling effort conducted at the Times Beach site successfully identified contaminated materials requiring removal, and verified that site conditions will remain safe for use by the public.

The deletion of the Times Beach site from the NPL does not affect EPA's ability to take appropriate actions to respond to the presence of hazardous substances at the site. The NCP (40 CFR 300.425(e)(3)) provides that Times Beach will remain eligible for fund-financed remedial actions following deletion from the NPL. In the event that a significant release of a hazardous substance is identified at the site, the NCP specifies that Times Beach shall be restored to the NPL without application of the Hazard Ranking System.

The EPA believes that these measures assure that conditions at Times Beach will remain protective for future use of the site, and that hazardous response capability will continue to be available. The deletion process will not be altered as a result of this comment.

List of Subjects in 40 CFR Part 300

Environmental protection, air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 12, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended under Missouri by removing the entry for the "Times Beach site" in "Times Beach."

[FR Doc. 01–23598 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1000

RIN 0970–AC08

Office of Community Services; Individual Development Accounts

AGENCY: Office of Community Services, ACF, HHS.

ACTION: Final rule.

SUMMARY: This regulation implements a statutory requirement in the Assets for Independence Act under title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998. The Act provides competitive demonstration grants for projects to establish, support, and evaluate individual development accounts for low income individuals and families. The purpose of the five-year Assets for Independence Program is to encourage low-income individuals to accumulate assets by matching an individual's savings with Federal and private funds in order to determine the effects of asset accumulation incentives on the well-being, savings behavior, and stability of low-income families and their communities.

The statute requires the Secretary of Health and Human Services to prescribe regulations that grantees must follow in accounting for amounts grantees deposit in the reserve fund. This final rule implements that provision of the legislation, and includes two changes from the Interim Final Rule published on February 25, 2000. Other factors in the legislation have been, or will be, addressed administratively, through other administrative policy issuances.

DATES: These regulations are effective September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Sheldon Shalit, Office of Community Services, (202) 401–4807, or Richard Saul, Office of Community Services, (202) 401–9341. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800–877–8339 between 8:00 a.m. and 7:00 p.m. eastern time.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Authority

These rules implement section 407(b)(2) of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (Pub. L. 105–285). Under this provision, the Secretary of Health and Human Services is to prescribe by regulation the rules grantees must follow in accounting for monies in reserve funds, established under the Act, which are used for depositing grant funds; the non-Federal matching funds required for establishing individual development accounts; and the proceeds from any investment of such funds.

II. Background

The Assets for Independence Act (the Act), or title IV of Pub. L. 105–285, provides for the establishment of Individual Development Account (IDA) demonstration projects to determine how effective IDAs and "asset-building" strategies are in helping low-income people save earned income, acquire productive assets, and achieve economic self-sufficiency. The Act authorizes the Department of Health and Human Services to conduct a five-year Individual Development Account demonstration, through which grants are made to non-profit organizations on a competitive basis.

The statute provides specific and detailed requirements for establishing such programs and authorizes grants for projects to be awarded within 10 months of enactment of the Act (August 27, 1999). For these reasons, coupled with the Department's commitment to reduce regulatory burden, we have decided to limit regulating to the one area where the statute indicates regulations are required. Specifically, section 407(b)(2) of the Act requires grantees to maintain a reserve fund in accordance with accounting regulations prescribed by the Secretary. Responding to this legislative provision, these rules stipulate which Departmental uniform administrative requirements must be met in maintaining IDA reserve funds.

The statute requires that amounts in the reserve funds be used as matching contributions to individual development accounts for project participants; for expenses related to collecting and reporting project data and information required for the evaluation; for administration of the project including skill training necessary to achieve economic self-sufficiency; and for other project related expenses. Federal funds can only be drawn down after the match funds have been deposited.

With respect to provisions of the Act other than accounting for the amounts in the reserve fund, on January 27, 1999, the Department issued a Program Announcement in the **Federal Register**, "Program Announcement No. OCS–99–04" (64 FR 4258), announcing the availability of funds and requesting competitive applications. This Program Announcement, and subsequent guidance, addressed other requirements of the legislation. On March 29, 1999, the Department published guidance, "Clarification of Program Announcement No. OCS 99–04" (64 FR 14923), in the **Federal Register** to assist interested applicants in understanding the law and the requirements for eligibility. Also, on July 2, 1999, a Second Round of Applications was published, "Program Announcement No. OCS–99–04" (64 FR 36184). Further information is made available to the grantees as part of Terms and Conditions at the time of the grant award.

An interim final rule was published in the **Federal Register** on February 25, 2000 (65 FR 10027). One set of comments was received. We have made a clarification in the final regulation after consideration of these comments.

Additionally, on December 21, 2000, the Assets for Independence Act Amendments of 2000 were signed into law which included an expanded definition of "qualified entities" that may receive a grant from the Department. The expanded definition adds credit unions designated as low-income credit unions by the National Credit Union Administration, and organizations designated as community development financial institutions by the Secretary of the Treasury (or the Community Development Financial Institutions Fund) that collaborate with a local community-based organization. Because the amendments were enacted after the interim final rule was issued, we have revised the definition of "qualified entity" in the final rule so that the definition is expanded consistent with the amendments. Since this revision is necessary in order that the rule is consistent with the amendment, a new interim final rule will not be issued. Rather, this regulation will proceed to final rule, incorporating the expanded definition, and applying the provisions of the rule to accounting amounts for all qualified entities as defined in the legislation. By proceeding with a final rule instead of a re-issuance of an interim final rule, we also are ensuring that current grantees will be bound by the final rule without further delay.

III. Description of Regulatory Provisions

We are adding a new Part 1000 in title 45 of the Code of Federal Regulations.

New Part 1000 of Chapter X, Title 45 of the CFR—Individual Development Account—Reserve Funds Established Pursuant to Grants for Assets for Independence

We are establishing requirements under new 45 CFR part 1000 regarding reserve funds established pursuant to the Assets for Independence Program. We are confirming that Departmental administrative requirements found in 45 CFR part 74 are applicable to reserve funds established by grantees that are not-for-profit organizations as defined by section 501(c)(3) of the Internal Revenue Code of 1986. We are also confirming that the Departmental administrative requirements found in 45 CFR part 92 are applicable to reserve funds established by State or local government agencies or tribal governments.

New § 1000.1 provides that this part applies to the Community Services Assets for Independence Program.

We are adding a definition of Individual Development Account at § 1000.2(a) to read:

Individual Development Account means a trust or custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, as defined in section 404(2) of Pub. L. 105–285, or enabling the eligible individual to make an emergency withdrawal, as prescribed in section 404(3) of Pub. L. 105–285. The written governing instrument creating the trust or custodial account must meet the requirements of Section 404(5) of Pub. L. 105–285, (section 404(5)(A)) and of the Project Eligibility Requirements set forth in the Program Announcement No. OCS–99–04 and any future announcements that may be issued.

We are adding a definition of qualified entity (which reflects the expanded definition of the Assets for Independence Act Amendments enacted on Dec. 15, 2000) at § 1000.2(b) to read:

Qualified Entity means one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or a State or local government agency; or a tribal government which has submitted an application under section 405 of Pub. L. 105–285 jointly with a 501(c)(3) organization that is exempt from taxation under 501(a) of the Internal Revenue Code of 1986; or an entity that is a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA), or an organization designated as a community development financial institution by the Secretary of the Treasury (or Community Development Financial Institutions Fund), and can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

We are adding a definition of reserve fund at § 1000.2(c) to read:

(c) *Reserve Fund* means a fund, established by a qualified entity, that shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in accordance with section 407 of Pub. L. 105–285. At least 90.5% of the Federal grant funds in the Reserve Fund must be used as matching contributions for Individual Development Accounts.

In the last sentence of the definition, we have added the words "Federal grant" in response to a comment asking that we clarify the definition regarding the administrative cap and the use of funds.

Under § 1000.3(a), we are confirming that Reserve Funds under the Assets for Independence Program established by qualified entities, other than State or local government agencies or tribal governments, are subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR Part 74.

Under § 1000.3(b), we are confirming which requirements are applicable to Reserve Funds by a qualified entity that is a State or local government agency or tribal government. While these entities are not required to establish reserve funds, reserve funds that are established by these entities are subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 92.

IV. Comments Received on the Proposal

The comment period for the February 25, 2000 interim final rule expired on April 21, 2000. HHS received two comments from a State government commission addressing this proposal. Both comments addressed the definition of Reserve Fund. Below are the comments and our responses:

1. Comment: In order to be consistent with the Act, the definition of Reserve Fund should provide that the 9.5% limit on funds that can be used for purposes other than matching contributions, as specified in section 407(c)(3), applies to Federal grant funds only.

• Response: We agree that this revision is necessary in order for the definition to be consistent with section 407(c)(3). Therefore, the regulation is being revised to read, "At least 90.5 percent of the Federal grant funds deposited in the Reserve Fund must be used as matching contributions for Individual Development Accounts."

2. Comment: Revise the definition of the Reserve Fund to include only the Federal grant funds and the required non-Federal matching contributions for individuals' accounts.

• Response: We disagree that the Reserve Fund is limited to the Federal Grant funds and non-Federal matching contributions for individuals' accounts. The statute states that the Reserve Fund is to include all Federal and non-Federal funds in connection with the demonstration project (section 407(b)(1)(A) of the Act) and any investment proceeds (407(b)(1)(B) of the Act). Therefore, we are not amending the regulation to address this comment.

VI. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation does not result in a significant impact on a substantial number of small entities. The primary impact is on a limited number of grantees and the impact is not significant.

VII. Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The rule implements the statutory provisions by specifying applicable rules grantees are subject to in meeting accounting requirements for reserve funds established for purposes of carrying out demonstration projects under the Assets for Independence Act. This rule has been reviewed by the Office of Management and Budget.

VIII. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most

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cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this rule does not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirements inherent in a rule. This rule requires no new reporting or record keeping requirements.

X. Congressional Review

This rule is not a major rule as defined in 5 U.S.C., Chapter 8.

XI. Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may affect family well-being. If the agency's conclusion is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations do not have an impact on family well-being as defined in the legislation.

List of Subjects in 45 CFR Part 1000

Grant Programs/Social Programs.

(Catalog of Federal Domestic Assistance Programs No. 93.602, Individual Development Account/Assets for Independence)

Dated: May 9, 2001.

Diann Dawson,

Acting Principal Deputy, Assistant Secretary for Children and Families.

Approved: June 28, 2001.

Tommy Thompson,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we are amending Chapter X of title 45 of the Code of Federal Regulations by revising part 1000 to read as follows:

PART 1000—INDIVIDUAL DEVELOPMENT ACCOUNT RESERVE FUNDS ESTABLISHED PURSUANT TO GRANTS FOR ASSETS FOR INDEPENDENCE

Sec.
1000.1 Scope.
1000.2 Definitions.
1000.3 Requirements.

Authority: 42 U.S.C. 604 nt.

§ 1000.1 Scope.

This part applies to the Office of Community Services' Assets for Independence Program.

§ 1000.2 Definitions.

Individual Development Account means a trust or custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, as defined in section 404(2) of Pub. L. 105–285, or enabling the eligible individual to make an emergency withdrawal as defined in section 404(3) of Pub. L. 105–385. The written governing instrument creating the trust or custodial account must meet the requirements of Section 404(5) of Pub. L. 105–285, and of the Project Eligibility Requirements set forth in Program Announcements.

Qualified Entity means one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or a State or local government agency; or a tribal government which has submitted an application under section 405 of Pub. L. 105–285 jointly with a 501(c)(3) organization that is exempt from taxation under 501(a) of the Internal Revenue Code of 1986; or an entity that is a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA), or an organization designated as a community development financial institution by the Secretary of the Treasury (or Community Development Financial Institutions Fund), and can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

Reserve Fund means a fund, established by a qualified entity, that shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in accordance with section 407 of Pub. L. 105–285. At least 90.5% of the Federal grant funds in the Reserve Fund must be used as matching contributions for Individual Development Accounts.

§ 1000.3 Requirements.

(a) A qualified entity, other than a State or local government agency or tribal government, shall establish a Reserve Fund for use in the Assets for Independence program. Each reserve fund established by a qualified entity, other than a State or local government agency or tribal government, is subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 74.

(b) Any reserve fund established by a qualified entity that is a State or local government agency or tribal government is subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 92.

[FR Doc. 01–23892 Filed 9–24–01; 8:45 am]
BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 01–2091]

List of Office of Management and Budget Approved Information Collection Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's list of Office of Management and Budget (OMB) approved public information collection requirements with their associated OMB expiration dates. This list will provide the public with a current list of public information collection requirements approved by OMB and their associated control numbers and expiration dates as of July 31, 2001.

DATES: Effective September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Office of the Managing Director, (202) 418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: This document adopted on September 10, 2001 and released on September 18, 2001 by the Managing Director in DA 01–2091 revised 47 CFR 0.408 in its entirety.

1. Section 3507(a)(3) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(3), requires agencies to display a current control number assigned by the Director, Office of Management and Budget ("OMB") for each agency information collection requirement.

2. Section 0.408 of the Commission's rules displays the OMB control numbers assigned to the Commission's public information collection requirements that have been reviewed and approved by OMB.

3. Authority for this action is contained in Section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and section 0.231(b) of the Commission's Rules. Since this amendment is a matter of agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. See 5 U.S.C. 553(b)(A)(d).

4. Accordingly, *It is Ordered, That* section 0.408 of the rules is *Revised* as set forth in the revised text, effective on September 25, 2001.

5. Persons having questions on this matter should contact Judy Boley at (202) 418–0214 or via the Internet to jboley@fcc.gov.

List of Subjects in 47 CFR Part 0

Reporting and recordkeeping requirements.

Federal Communications Commission.
Dated:

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as revised; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 0.408 is revised to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.

(a) *Purpose.* This section displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget ("OMB") pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies display current control numbers and expiration dates assigned by the Director, OMB, for each approved information collection requirement. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, ("AMD–PERM"), Federal Communications Commission, Washington, DC 20554.

(b) *Display*

OMB Control No.	FCC Form Number or 47 CFR section or part, docket No. or title identifying the collection	OMB Expiration date
3060–0004	Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93–62.	(1)
3060–0009	FCC 316	10/31/02
3060–0010	FCC 323	11/30/02
3060–0012	FCC 701	07/31/03
3060–0016	FCC 346	01/31/04
3060–0017	FCC 347	02/28/03
3060–0020	FCC 406	05/31/02
3060–0021	FCC 480	12/31/03
3060–0024	Sec. 76.29	(1)
3060–0025	FCC 755	08/31/03
3060–0027	FCC 301	08/31/03
3060–0029	FCC 302–TV	06/30/04
3060–0031	FCC 314	05/31/04
3060–0032	FCC 315	05/31/04
3060–0034	FCC 340	02/29/04
3060–0049	FCC 753	08/31/03
3060–0053	FCC 703	10/31/02
3060–0054	FCC 820	12/31/01
3060–0055	FCC 327	04/30/03
3060–0056	FCC 730	09/30/01
3060–0057	FCC 731 and Secs. 2.911, 2.960, and 2.1033(a)	06/30/03
3060–0059	FCC 740	08/31/03
3060–0061	FCC 325	07/31/02
3060–0062	FCC 330	03/31/02
3060–0065	FCC 442	02/28/02
3060–0066	FCC 330–R	07/31/03
3060–0069	FCC 756	09/30/02
3060–0072	FCC 409	11/30/01
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3060–0084	FCC 323–E	07/31/02
3060–0089	FCC 503	10/30/01
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3060–0095	FCC 395–A	04/30/03
3060–0105	FCC 430	11/30/03
3060–0106	Sec. 43.61	12/31/02
3060–0110	FCC 303–S	07/31/04
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3060–0120	FCC 396–A	04/30/03

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3060–0126	Sec. 73.1820	10/31/02
3060–0127	FCC 1046	03/31/03
3060–0132	FCC 1068–A	01/31/04
3060–0139	FCC 854/854–R/854ULS	08/31/02
3060–0147	Sec. 64.804	02/28/03
3060–0149	Part 63, Section 214, Secs. 63.01–63.601	11/30/01
3060–0157	Sec. 73.99	05/31/03
3060–0160	Sec. 73.158	01/31/02
3060–0161	Sec. 73.61	12/31/02
3060–0166	Part 42	09/30/01
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3060–0169	Secs. 43.51 and 43.53	04/30/02
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3060–0175	Sec. 73.1250	10/31/02
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3060–0184	Sec. 73.1740	12/31/01
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3060–0187	Sec. 73.3594	02/29/04
3060–0188	FCC 380	08/31/04
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3060–0192	Sec. 87.103	01/31/04
3060–0194	Sec. 74.21	12/31/01
3060–0202	Sec. 87.37	10/31/03
3060–0204	Sec. 90.20(a)(2)(v)	07/31/02
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3060–0211	Sec. 73.1943	(1)
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3060–0259	Sec. 90.263	10/31/03
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3060–0288	Sec. 78.33	03/31/03
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3060–0290	Sec. 90.517	05/31/02

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3060–0297	Sec. 80.503	10/31/03
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3060–0307	Amendment of part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band.	06/30/03
3060–0308	Sec. 90.505	04/30/04
3060–0309	Sec. 74.1281	10/31/02
3060–0310	Sec. 76.1801	03/31/03
3060–0311	Sec. 76.54	09/30/02
3060–0313	Sec. 76.1701	Pending OMB Approval(1)
3060–0315	Sec. 76.1615	09/30/02
3060–0316	Sec. 76.1700	(1)
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3060–0321	Sec. 73.68	01/31/02
3060–0325	Sec. 80.605	06/30/02
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3060–0329	Sec. 2.955	09/30/02
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3060–0340	Sec. 73.51	10/31/03
3060–0341	Sec. 73.1680	08/31/03
3060–0342	Sec. 74.1284	07/31/03
3060–0346	Sec. 78.27	03/31/04
3060–0347	Sec. 97.311	02/28/03
3060–0349	Secs. 76.73, 76.75, 76.79, and 76.1702	04/30/03
3060–0355	FCC 492 and FCC 492A	07/31/04
3060–0357	Sec. 63.701	11/31/01
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3060–0362	Inspection of Radio Installation on Large Cargo and Small Passenger Ships	02/28/03
3060–0364	Secs. 80.409(d) and (e)	08/31/04
3060–0368	Sec. 97.523	06/30/03
3060–0370	Part 32	06/30/03
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3060–0419	Secs. 76.94, 76.95, 76.155, 76.156, 76.157, 76.159 and 76.1609	10/31/01
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3060–0433	FCC 320	03/31/02
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3060–0481	FCC 452R	08/31/03
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3060–0484	Sec. 63.100	01/31/02
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3060–0502	Sec. 73.1942	(1)
3060–0506	FCC 302–FM	12/31/02
3060–0508	Rewrite of Part 22	08/31/04
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3060–0531	Local Multipoint Distribution Service (LMDS)	10/31/03
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3060–0584	FCC 44 and FCC 45	12/31/02
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3060–0610	Sec. 76.1606	07/31/04
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3060–0613	Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141, Transport Phase II.	08/31/03
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3060–0633	Secs. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265	08/31/04
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3060–0649	Secs. 76.1601, 76.1607, 76.1617, and 76.1708	12/31/01
3060–0652	Secs. 76.309, 76.1602, 76.1603, and 76.1619	10/31/01
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3060–0678	FCC 312, FCC 312–EZ, FCC 312–R, FCC 312–M, and FCC–312 Schedules	02/29/04
3060–0681	Toll-Free Service Access Codes, Part 52, Subpart D, Secs. 52.101—52.111	09/30/03
3060–0683	Direct Broadcast Satellite Service, Part 100	10/31/03
3060–0684	Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95–157.	01/31/04
3060–0685	FCC 1240	08/31/04
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3060–0702	Amendment to Parts 20 and 24 of the Commission's Rules, Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap.	03/31/04
3060–0703	FCC 1205	11/30/02
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3060–0707	Over-the Air Reception Devices	05/31/02
3060–0710	Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Docket No. 96–98.	08/31/03
3060–0711	Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by the Telecommunications Act of 1996, Secs. 1.5001 through 1.5007.	12/31/03
3060–0713	Alternative Broadcast Inspection Program (ABIP) Compliance Notification	08/31/02
3060–0714	Antenna Registration Number Required as Supplement to Application Forms	11/30/02
3060–0715	Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information—CC Docket No. 96–115.	(1)
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3060–0717	Billed Party Preference for InterLATA Calls, Secs. 64.703(a), 64.709, and 64.710	07/31/04

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3060–0719	Quarterly Report of IntraLATA Carriers Listing Pay Phone Automatic Number Identifications (ANIs).	10/31/03
3060–0723	Public Disclosure of Network Information by Bell Operating Companies	09/30/03
3060–0725	Annual Filing of Nondiscrimination Reports (on Quality of Service, Installation, and Maintenance) by Bell Operating Companies (BOC's).	08/31/03
3060–0726	Quarterly Report of Interexchange Carriers Listing the Number of Dial-Around Calls for Which Compensation is Being Paid to Pay Phone Owners.	08/31/03
3060–0727	Sec. 73.213	11/30/03
3060–0728	Supplemental Information Requesting FCC Registration Number (FRN) for Debt Collection	08/31/03
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3060–0734	Accounting Safeguards, 47 U.S.C. Sections 260, 271–276, and 47 CFR Secs. 53.209, 53.211 and 53.213, SEC Form 10–K.	06/30/03
3060–0736	Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended—CC Docket No. 96–149.	(1)
3060–0737	Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.	03/31/03
3060–0739	Amendment of the Commission's Rules to Establish Competitive Safeguards for Local Exchange Carrier Provisions of Commercial Mobile Radio Services.	01/31/02
3060–0740	Sec. 95.1015	11/30/02
3060–0741	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–98.	04/30/04
3060–0742	Telephone Number Portability, Part 52, Subpart C, Secs. 52.21—52.33	09/30/03
3060–0743	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996—CC Docket No. 96–128.	10/31/03
3060–0745	Implementation of the Local Exchange Carrier Tariff Streamlining Provisions, CC Docket No. 96–187.	12/31/03
3060–0748	Disclosure Requirements for Information Services Provided through Toll-Free Numbers, Sec. 64.1504.	07/31/03
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3060–0750	Sec. 73.673	05/31/03
3060–0751	Reports Concerning International Private Lines Interconnected to the U.S. Public Switched Network.	05/31/03
3060–0752	Billing Disclosure Requirements for Pay-Per-Call and Other Information Services, Sec. 64.1510	07/31/03
3060–0754	FCC 398	06/30/04
3060–0755	Infrastructure Sharing, Secs. 59.1—59.4	05/31/03
3060–0756	Procedural Requirements and Policies for Commission Processing of Bell Operating Company (BOC) Applications for the Provision of In-Region, InterLATA Services under Section 271 of the Telecommunications Act of 1996.	10/31/01
3060–0757	FCC Auctions Customer Survey	01/31/04
3060–0758	Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations, ET Docket No. 96–256.	06/30/03
3060–0760	Access Charge Reform—CC Docket No. 96–262	10/31/02
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3060–0767	Auction Forms and License Transfer Disclosures—Supplement for the 2nd R&O, Order on Reconsideration, and 5th NPRM in CC Docket No. 92–297.	04/30/04
3060–0768	28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5—29.5 GHz Frequency Band, to Reallocate the 29.5—30.0 GHz Frequency Band, and to Establish Rules and Policies for Local Multipoint Distribution Services and for the Fixed Satellite Service.	06/30/03
3060–0769	Aeronautical Services Transition Plan	06/30/03
3060–0770	Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1 (New Services).	10/31/02
3060–0771	Sec. 5.61, Procedure for Obtaining a Special Temporary Authorization in the Experimental Radio Service.	12/21/03
3060–0773	Sec. 2.803, Marketing of RF Devices Prior to Equipment Authorization	09/30/03
3060–0774	Federal-State Joint Board on Universal Service—CC Docket No. 96–45, Secs. 36.611 and 36.612 and 47 CFR Part 54.	06/30/04
3060–0775	Secs. 64.1901—64.1903	09/30/03
3060–0779	Amendment to Part 90 of the Commission's Rules to Provide for Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89–552.	04/30/04
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3060–0782	Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations.	01/31/04
3060–0783	Coordination Notification Requirements on Frequencies Below 512 MHz, Sec. 90.176	01/31/04
3060–0786	Petitions for LATA Association Changes by Independent Telephone Companies	01/31/04
3060–0787	Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance, FCC 478.	(1)

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3060–0788	DTV Showings/Interference Agreements	08/31/01?
3060–0789	Modified Alternative Plan, CC Docket No. 90–571	05/31/04
3060–0790	Availability of Inside Wiring Information, Sec. 68.110(c)	11/30/03
3060–0791	Accounting for Judgments and Other Costs Associated with Litigation, CC Docket No. 93–240	11/30/03
3060–0793	Procedures for States Regarding Lifeline Consent, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.	08/31/02
3060–0795	ULS TIN Registration and FCC 606	08/31/02
3060–0798	FCC 601	03/31/04
3060–0799	FCC 602	02/28/02
3060–0800	FCC 603	01/31/02
3060–0801	Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97–82.	08/31/02
3060–0802	Message Intercept Requirement	11/30/01
3060–0804	Health Care Providers Universal Service Program—FCC 465, FCC 466, FCC 466–A, FCC 467, and FCC 468.	(1)
3060–0805	Sec. 90.527	12/31/01
3060–0806	Universal Service, Schools and Libraries Program, FCC 470 and 471	03/31/04
3060–0807	47 CFR 51.803 and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended.	04/30/04
3060–0809	Communications Assistance for Law Enforcement Act (CALEA)	04/30/03
3060–0810	Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended.	03/31/04
3060–0812	Assessment and Collection of Regulatory Fees	08/31/02
3060–0813	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems	07/31/04
3060–0814	Local Switching Support and Local Switching Support Data Collection Form and Instructions, Sec. 54.301.	09/30/01
3060–0816	Local Competition and Broadband Reporting, CC Docket No. 99–301	11/30/03
3060–0817	Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95–20.	08/31/03
3060–0819	Lifeline Assistance (Lifeline) Connection Assistance (Link Up) Reporting Worksheet and Instructions, 47 CFR 54.400—54.417, FCC 497.	05/31/04
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3060–0824	FCC 498	(1)
3060–0827	Request for Radio Station License Update	09/30/01
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3060–0835	Ship Inspection Certificates, FCC 806, FCC 824, FCC 827 and FCC 829	03/31/02
3060–0837	FCC 302–DTV	05/31/03
3060–0840	Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation—CC Docket No. 98–77.	09/30/01
3060–0841	Public Notice, Additional Processing Guidelines for DTV	04/30/02
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3060–0848	Deployment of Wireline Services Offering Advanced Telecommunications Capability—CC Docket No. 98–147.	05/31/04
3060–0849	Commercial Availability of Navigation Devices	10/31/01
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3060–0852	FCC 306	12/31/01
3060–0853	FCC 486, FCC 500, and FCC 479	12/31/01
3060–0854	Truth-in-Billing Format, CC Docket No. 98–170	03/31/04
3060–0855	FCC 499, FCC 499–Q	07/31/04
3060–0856	FCC 472, FCC 473, FCC 474	05/31/02
3060–0857	Annual Reporting Requirement for Blanket Licensing of Ka-band Satellite Earth Station	12/31/01
3060–0858	State Public Safety Plan Requirements and Year 2000 Readiness	01/31/02
3060–0859	Suggested Guidelines for Petitions for Ruling under Section 253 of the Communications Act	04/30/03
3060–0862	Handling Confidential Information	05/31/02
3060–0863	Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act.	07/31/02
3060–0864	Data to Determine Percentage of Interstate Telecommunications Revenues from Wireless Carriers and Submission of Data to Determine Eligibility.	02/28/02
3060–0865	Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third-Party Disclosure Requirements.	10/31/03
3060–0867	Request for Waiver of Section 20.18(c) of the Commission's Rules Regarding Compatibility with Enhanced 911 Emergency Calling Systems.	07/31/02
3060–0874	FCC 475	(1)
3060–0876	USAC Board of Directors Nomination Process, Sec. 54.703 and Review of Administrator's Decision, Secs. 54.719—54.725.	04/30/03
3060–0878	Wireless E911 Rule Waivers for Handset-Based Approaches to Phase II ALI Requirements	08/31/02
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3060–0892	Direct Broadcast Satellite Public Interest Obligations	07/31/02
3060–0893	Universal Licensing Service (ULS) Pre-Auction Database Corrections	09/30/03
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3060–0900	Compatibility of Wireless Services with Enhanced 911—CC Docket No. 94–102	12/31/02
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3060–0906	FCC 317	08/31/03
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3060–0912	Cable Attribution Rules	04/30/03
3060–0914	Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or in the Alternative, for a Declaratory Ruling.	04/30/04
3060–0915	Public Notice—Information on Medical Telemetry Equipment Operating in the 450–460 MHz Band.	03/31/03
3060–0916	406 MHz Personal Locator Beacons (PLB's)	04/30/03
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3060–0921	Petitions for LATA Boundary Modification for the Deployment of Advanced Services	08/31/03
3060–0922	FCC 397	04/30/03
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3060–0927	Auditor's Annual Independence and Objectivity Certification	05/31/03
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3060–0931	Maritime Mobile Service Indentity (MMSI)	06/30/03
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3060–0934	FCC 731–TC	01/31/04
3060–0935	Cable Industry Survey on Channel Capacity and Retransmission Consent	2/31/03
3060–0936	Sec. 95.1215, Disclosure Policies; Sec. 95.1217, Labeling Requirements	07/31/03
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3060–0939	E911, Second Memorandum Opinion and Order	05/31/04
3060–0940	Amendment of Part 95 of the Commission's Rulesto Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 98–169.	07/31/03
3060–0942	Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Join Board on Universal Service.	01/31/04
3060–0943	Sec. 54.809	12/31/03
3060–0944	Review of Commission Consideration of Applications Under the Cable Landing License Act	08/31/03
3060–0945	Sec. 79.2	08/31/03
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3060–0948	Noncommercial Educational Applicants	01/31/04
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3060–0951	Service of Petitions for Preemption, 47 CFR Sec. 1.1204(b) Note, and Sec. 1.1206(a) Note 1	01/31/04
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3060–0961	2000 Biennial Regulatory Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers; Phase 2 and Phase 3, CC Docket No. 00–199.	01/31/04
3060–0962	Redesignation of the 18 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the Ka-Band, and the Allocation of Additional Spectrum for Broadcast Satellite Service Use.	01/31/04
3060–0963	Sec. 101.527, Construction Requirements for 24 GHz Operations; Sec. 101.529, Renewal Expectancy Criteria for 24 GHz Licensees.	02/29/04

OMB Control No.	FCC Form Number or 47 CFR section or part, docket No. or title identifying the collection	OMB Expiration date
3060–0966	Secs. 80.385, 80.475, and 97.303, Automated Marine Telecommunications Service (AMTS)	02/29/04
3060–0967	Sec. 79.2	02/29/04
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3060–0969	Availability to INTELSAT Space Segment Capacity to Users and Providers Seeking to Access INTELSAT Directly.	02/29/04
3060–0970	Sec. 90.621(e)(2)	06/30/04
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3060–0972	Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.	03/31/04
3060–0973	Sec. 64.1120(e)	11/30/01
3060–0974	Proposed Requirements for Secondary Market Transactions, CC Docket No. 99–200	04/30/04
3060–0975	Promotion of Competitive Networks in Local Telecommunications Markets Multiple Environments (47 CFR Parts 1, 64 and 68).	05/31/04
3060–0977	Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934.	06/30/04
3060–0978	Compatibility with E911 Emergency Calling Systems; Fourth Report and Order	06/30/04
3060–0979	Spectrum Audit Letter	10/31/01
3060–0980	Implementation of the Satellite Home Viewer Improvement Act (SHVIA), Broadcast Signal Carriage Issues, Retransmission Consent Issues.	06/30/04
3060–0981	1998 Biennial Review: Streamlining of Cable Television Services, Part 76, Public File and Notice Requirements.	06/30/04
3060–0982	Implementation of Low Power Television (LPTV) Digital Data Services Pilot Project	10/31/01
3060–0983	Standards for Co-Channel and Adjacent Channel Interference in the Land Mobile Radio Service	07/31/04
3060–0984	Secs. 90.35(b)(2) and 90.175(b)(1)	07/31/04
3060–0985	Public Safety, State Interoperability Channels	07/31/04
3060–0986	Federal-State Joint Board on Universal Service, Plan for Reforming the Rural Universal Support Mechanism.	12/31/01
3060–0988	Election to Freeze part 36 Categories and Allocations	12/31/01
3060–0989	Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission Lines Acquired Through Corporate Control.	12/31/01
3060–0991	AM Measurement Data	01/31/02
3060–0992	Request for Extension of the Implementation Deadline for Non-Recurring Services, CC Docket No. 96–45 and Sec. 54.507(d)(1)–(4).	01/31/02
3060–0993	Establishment of a Class A Television Service	02/28/02

[1] Pending OMB approval.

[FR Doc. 01–23826 Filed 9–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–120, CS Docket No. 00–96; CS Docket No. 00–2, FCC 01–22]

Carriage of Digital Television Broadcast Signals

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the Commission's broadcast signal carriage rules, 47 CFR 76.5(b), 76.56(e), 76.57, 76.62, 76.64, 76.922, and 76.1603(c) which were amended to require that a digital-only television station may assert its right to mandatory carriage. Specifically, new television stations that transmit only digital signals, and current television stations that return their analog spectrum allocation and convert to digital operations, must be carried on cable systems. Certain sections of these rules contained information collection requirements that required the approval of the Office of Management and Budget ("OMB") before they could become effective. These sections of the broadcast signal carriage rules have been approved by OMB and become effective on September 25, 2001.

DATES: The amendments to 47 CFR 76.5(b), 76.56(e), 76.57, 76.62, 76.64, 76.922, and 76.1603(c), published at 66 FR 16533 (March 26, 2001), become effective on September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Eloise Gore of the Consumer Protection and Competition Division, Cable Services Bureau at (202) 418–7200, TTY (202) 418–7172, or via Internet at *egore@fcc.gov*.

SUPPLEMENTARY INFORMATION: On January 18, 2001, the Commission adopted a Report and Order amending its rules to require cable systems to carry the digital signals of local television broadcast stations under the circumstances described in the Report and Order. A summary of the Report and Order was published in the **Federal Register** at 66 FR 16533 (March 26, 2001). The Order adopted amendments to 47 CFR 76.5(b), 76.56(e), 76.57, 76.62, 76.64, 76.922, and 76.1603(c) to implement the new requirements for carriage and retransmission consent. The rules cover a wide range of topics including: carriage obligations and definitions, channel positioning, retransmission consent, cable rates, and notice to customers. The rule sections contained information collection requirements that required OMB approval before they could become effective. OMB approved the information collection requirements on September 14, 2001. *See* OMB No. 3060–0844. Accordingly, amendments to sections 76.5(b), 76.56(e), 76.57, 76.62, 76.64, 76.922, and 76.1603(c) of the rules, become effective on September 25, 2001. This document constitutes publication of the effective date of those sections.

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List of Subjects in 47 CFR Part 76

Cable television, Carriage, Digital television, Mandatory carriage, Television broadcast stations.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.
[FR Doc. 01–23971 Filed 9–24–01; 8:45 am]
BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 186
Tuesday, September 25, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 01–20]

RIN 1557–AC00

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend 12 CFR 8.2(a), which sets forth the formula for the semiannual assessment the OCC charges each national bank. The amendment would revise the formula to establish a minimum base amount for the semiannual assessment for the first assessment bracket ($0–$2 million) of the assessment schedule. This change will enable the OCC to modestly adjust its assessments to better align with its costs of supervision.

DATES: Comments must be received October 25, 2001.

ADDRESSES: Comments should be directed to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1–5, Washington, DC 20219, Attention: Docket No. 01–20. In addition, comments may be sent via facsimile to (202) 874–4448 or via Internet at *regs.comment@occ.treas.gov*. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Michele Meyer, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; or David Nebhut, Director, Policy Analysis, (202) 874–5220.

SUPPLEMENTARY INFORMATION:

I. Background

The OCC charters, regulates, and supervises approximately 2,200 national banks and 58 Federal branches and agencies of foreign banks in the United States, accounting for approximately 55 percent of the nation's banking assets. Our mission is to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States.

The OCC funds the activities it undertakes to carry out this mission through assessments on institutions regulated by the OCC. The National Bank Act authorizes the OCC to collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the Office. 12 U.S.C. 482 (Supp. 2000). The statute requires that our charges be set to meet the Comptroller's expenses in carrying out authorized activities. *Id.* Pursuant to part 8 of its regulations, the OCC currently assesses national banks and Federal branches and agencies according to the following formula, set forth in the table at § 8.2(a):

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—Base Amount	Plus—Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
$0	$2	$0	Y1	$0
2	20	X1	Y2	2
20	100	X2	Y3	20
100	200	X3	Y4	100
200	1,000	X4	Y5	200
1,000	2,000	X5	Y6	1,000
2,000	6,000	X6	Y7	2,000
6,000	20,000	X7	Y8	6,000
20,000	40,000	X8	Y9	20,000
40,000		X9	Y10	40,000

Under this formula, the OCC assesses a national bank according to the amount of assets the bank reports on its Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) ("Call Report") filed for the quarter preceding the semiannual assessment period. A bank calculates the book-asset component of its assessment by first identifying which of 10 asset categories it fits within. If the bank fits within the smallest category (*i.e.*, $0 to $2 million), it multiplies all of its assets by a marginal rate that is provided each year by the OCC in the Notice of the Comptroller of the Currency Fees (Notice of Fees). Under this system, a national bank with $2 million in assets currently pays approximately $3,211 ($2 million multiplied by the 0.0016057180 marginal rate currently in effect) semiannually for the cost of its supervision by the OCC.

If the bank fits within any of the other nine asset categories, the bank pays a base amount provided in the Notice of Fees for that category (which equals the assessment on the largest bank in the next smallest asset category), plus an amount determined by multiplying a marginal rate (also provided in the Notice of Fees) by the amount of its assets that exceed the low end-point of its category. Thus, for example, a bank with $10 million in assets would fall into the second asset category ($2 million to $20 million) and would pay an assessment equal to $3,211, which is

the current base amount for its category, plus $1605, which is the product of the current marginal rate for that category (0.0002007170), multiplied by $8 million (the amount of its assets that exceeds the $2 million low-end point for its category).[1]

II. Proposed Rule

The OCC proposes to revise the table at § 8.2(a) to establish a minimum base amount for the semiannual assessment for the first assessment bracket of the assessment schedule. This would be accomplished by deleting the figure of $0 as the base amount in Column C for the first asset bracket and replacing it with a variable (X1), and deleting the variable Y1 in Column D and replacing it with $0. The proposed revised table at § 8.2(a) would look as follows:

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—Base Amount	Plus—Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
$0	$2	X1	$0	
2	20	X2	Y1	2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000		X10	Y9	40,000

As amended, the OCC's assessment formula would require national banks to pay an assessment equal to the base amount (X1) for assets subject to the first asset bracket. The OCC anticipates that the December 1, 2001, Notice of Fees will include a base amount in the range of $5,000. For example, if this base amount were applied to the smallest asset bracket, this would result in a minimum semiannual assessment charge for these banks of $5,000, or an increase of $1,789 for a bank with balance sheet assets of $2 million. The base amount for each of the larger categories (X2–X10) would increase by the same dollar amount, because the base amount for any category is the maximum that a bank in the immediately preceding asset category would pay.

This modest increase is necessary and appropriate under 12 U.S.C. 482 to carry out the OCC's supervisory responsibilities, particularly in regard to the smallest banks it supervises. The adjustment will help to provide that the assessments received from national banks are better aligned with the banks' fair share of the expenses of the OCC.

III. Comment Solicitation

The OCC requests comment on all aspects of this proposal, as well as on alternatives to the proposal. We also ask for comment on the impact of this proposal on small banks and on community banks. The OCC recognizes that these banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC requests comment on the impact of the proposal on small banks' and community banks' current resources, and whether the goals of the proposal could be achieved, for these banks, through an alternative approach.

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12. 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the proposed regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

IV. Regulatory Flexibility Act

An agency must prepare a Regulatory Flexibility Analysis if a rule it proposes will have a "significant economic impact" on a "substantial number of small entities." 5 U.S.C. 603, 605. If, after an analysis of a rule, an agency determines that the rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify.

The OCC has reviewed the impact this proposed rule will have on small national banks. For purposes of this Regulatory Flexibility Analysis and proposed regulation, the OCC defines "small national banks" to be those banks with less than $100 million in total assets. Based on that review, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is that the minimum semiannual assessment for these banks will increase by only approximately $1,789. The OCC does not believe this to be a significant economic impact.

V. Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

[1] This simple calculation assumes no adjustments would be made to the assessment to reflect, for instance, a bank's status as a non-lead bank or a composite supervisory rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System or ROCA rating (which rates risk management, operational controls, compliance, and asset quality), as appropriate. *See* 12 CFR 8.2(a)(6) and (7).

VI. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this rulemaking requires no further analysis under the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 8

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend part 8 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 8—ASSESSMENT OF FEES

1. The authority citation for Part 8 continues to read as follows:

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 781; and 26 D.C. Code 102.

2. In § 8.2, paragraph (a) is revised to read as follows:

§ 8.2 Semiannual assessment.

(a) Each national bank and each District of Columbia bank shall pay to the Comptroller of the Currency a semiannual assessment fee, due by January 31 and July 31 of each year, for the six-month period beginning 30 days before each payment date. The amount of the semiannual assessment paid by each bank is computed as follows:

If the banks' total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—Base Amount	Plus—Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
$0	$2	X1	$0	
2	20	X2	Y1	2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000		X10	Y9	40,000

* * * * *

Dated: September 17, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–23844 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–372–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This proposed AD would require replacing certain flight warning computers (FWCs) with improved FWCs. This proposed AD is prompted by mandatory continuing airworthiness information issued by a foreign civil airworthiness authority. The actions specified in this proposed AD are intended to ensure that radioaltimeter malfunctions are annunciated to the flightcrew, and to prevent consequent erroneous autopilot behavior during approach and landing. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–372–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–372–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

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Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–372–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–372–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes. The DGAC advises that radio altimeter software anomalies could lead to erroneous position data with no alarm detection on airplanes equipped with a flight warning computer (FWC) at a standard below E2. Failure of the FWC to annunciate radioaltimeter malfunctions to the flightcrew could result in erroneous autopilot behavior during approach and landing.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999, which describes procedures for replacing both FWCs E1 standard with FWCs modified to the E2 standard. The modification to the FWC involves modifying four cards in the FWCs and either replacing or reprogramming the on-board replaceable modules (OBRMs) in the FWCs. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2000–320–147(B), dated July 26, 2000, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require actions specified in Airbus Service Bulletin A320–31–1106, described previously.

Difference Between Proposed AD and French Airworthiness Directive

The DGAC classified Airbus Service Bulletin A320–31–1141, dated March 6, 2000, as an alternative method of compliance with the requirements of the French airworthiness directive. The FAA finds it unnecessary to refer to that service bulletin, which specifies the prior or concurrent accomplishment of Airbus Service Bulletin A320–31–1106 (the cited source of service information for the actions in this proposed AD).

Cost Impact

Approximately 352 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 3 work hours per airplane to do the proposed actions, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost of the proposed AD on U.S. operators is estimated to be $63,360, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet done any of the actions of this proposed AD, and that no operator would do those actions in the future unless this proposed AD is adopted. The cost figures discussed in AD's represent only the time necessary to do the specific actions required by an AD. These figures typically do not include incidental costs, such as time for access and close, or time for planning and other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2000–NM–372–AD.

Applicability: Model A319, A320, and A321 series airplanes without Airbus Modification 26017; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that radioaltimeter malfunctions are annunciated to the flightcrew, and to prevent consequent erroneous autopilot behavior during approach and landing, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD, replace the flight warning computers (FWCs) in accordance with Airbus Service Bulletin A320–31–1106, Revision 04, dated December 21, 1999.

Note 2: FWC replacement accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–31–1106, dated January 3, 1997; Revision 01, dated April 16, 1997; Revision 02, dated January 20, 1998; or Revision 03, dated July 9, 1999, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Spare Parts

(b) As of the effective date of this AD, no person may install an FWC, part number 350E017251414, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permit

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directive 2000–320–147(B), dated July 26, 2000.

Issued in Renton, Washington, on September 18, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23827 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–151–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. This proposal would require a functional test of the shortening mechanism of the nose landing gear for free movement of the capsule in the upper and lower bearings, and corrective action, if necessary. This action is necessary to prevent damage to the capsule, which could result in inability to extend the nose landing gear in normal or emergency situations, and consequent injury to passengers and flight crew. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–151–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–151–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic,

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environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–151–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–151–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports that previously issued service information provided inadequate procedures for the installation of corrosion resistant replacement bearings in the nose landing gear on BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. If the bearings are not installed correctly, they can restrict free movement of the capsule in the shortening mechanism of the nose landing gear. This condition, if not corrected, could result in damage to the capsule, inability to extend the nose landing gear in normal or emergency situations, and consequent injury to passengers and flight crew.

Explanation of Relevant Service Information

The manufacturer has issued BAE Systems (Operations) Limited (Jetstream) Service Bulletin J41–32–075, dated April 18, 2001, which references APPH Precision Hydraulics Service Bulletin AIR83586–32–16, dated February 2001, for accomplishment of an initial functional test of the shortening mechanism of the nose landing gear for free movement of the capsule in the upper and lower bearings; and rework of the nose landing gear if the capsule does not move freely.

The BAE Systems (Operations) Limited (Jetstream) service bulletin describes procedures for corrective actions for failure of the functional test specified above. The corrective actions include a full functional test of the extension/retraction system of the nose landing gear and repeating those tests at a certain interval if the landing gear extends/retracts correctly. If the landing gear does not extend/retract, the service bulletin specifies immediate replacement of the landing gear with new landing gear. The Civil Aviation Authority, which is the airworthiness authority for the United Kingdom, classified this service bulletin as mandatory.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

U.S. Type Certification of the Airplane

This airplane model is manufactured in United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed functional test, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the functional test proposed by this AD on U.S. operators is estimated to be $7,080, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket 2001–NM–151–AD.

Applicability: Model Jetstream 4101 airplanes, as listed in BAE Systems (Operations) Limited (Jetstream) Service Bulletin J41–32–075, dated April 18, 2001, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the capsule in the upper and lower bearings of the shortening mechanism of the nose landing gear, which could result in inability to extend the nose landing gear in normal or emergency situations, and consequent injury to passengers and flight crew, accomplish the following:

Functional Test/Corrective Action

(a) Within 300 flight hours or 60 days after the effective date of this AD, whichever comes first: Do a functional test of the shortening mechanism of the nose landing gear for free movement of the capsule in the upper and lower bearings, according to APPH Precision Hydraulics Service Bulletin AIR83586–32–16, dated February 2001. If the capsule does not move freely, before further flight, do the actions specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. If the capsule moves freely no further action is required by this paragraph.

(1) Rework according to APPH Precision Hydraulics Service Bulletin AIR83586–32–16, dated February 2001.

(2) If the rework is not done, before further flight, do a full functional test of the extension/retraction system of the nose landing gear according to BAE Systems (Operations) Limited (Jetstream) Service Bulletin J41–32–075, dated April 18, 2001; and do the actions specified in paragraph (a)(1)(i) or (a)(2)(ii) of this AD, as applicable.

(i) If the nose landing gear extends and retracts correctly, repeat the full functional test every 50 flight hours according to the service bulletin. Within 300 flight hours after the initial test, do the requirements in paragraph (a)(1) of this AD, which ends the repetitive testing specified in this paragraph.

(ii) If the nose landing gear does not extend and retract correctly, before further flight, replace the nose landing gear with new landing gear according to the service bulletin.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 18, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23828 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–185–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 and –300 series airplanes. This proposal would require testing of the left- and right-hand potentiometer levers of the aileron flight control system, and follow-on or corrective action, as applicable. This action is necessary to prevent detachment of an aileron potentiometer lever, which could result in jamming of the elevator and/or aileron flight control systems and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–185–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–185–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 and –300 series airplanes. The LBA advises that a potentiometer lever without a safety lock function (because of insufficient spline engagement) was found on a manufacturer-owned test airplane. This condition, if not corrected, could cause detachment of an aileron potentiometer lever, which could result in jamming of the elevator and/or aileron flight control systems and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Dornier Service Bulletin SB–328–27–359, dated March 29, 2001 (for Model 328–100 series airplanes), and Dornier Service Bulletin SB–328J–27–064, Revision 1, dated April 12, 2001 (for Model 328–300 series airplanes), which describe procedures for testing of the potentiometer levers for security of attachment to the splined shaft and follow-on or corrective actions, as applicable. (Follow-on and corrective actions include replacing the loose lever with a new one if available, or temporarily reassembling the existing lever with loctite until a new one is available). Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The LBA classified these service bulletins as mandatory and issued German airworthiness directives 2001–167/2, dated June 28, 2001, and 2001–168, dated June 14, 2001, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

These airplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule, Foreign Airworthiness Directives, and Service Bulletins

The parallel German airworthiness directives require testing of the potentiometer levers of the aileron, elevator, and rudder flight control systems, but the proposed AD would only require testing of the potentiometer levers of the aileron flight control system. The FAA has determined that detachment of a potentiometer lever of the aileron flight control system could result in jamming of the aileron and/or elevator control systems. But detachment of a potentiometer lever of the rudder or elevator flight control systems will not introduce an unsafe condition. The German airworthiness directives and Dornier Service Bulletins SB–328–27–359, dated March 29, 2001; and SB–328J–27–064, Revision 1, dated April 12, 2001, included testing of the potentiometer levers of the rudder and elevator control systems for economic reasons, because it takes considerably more time to access the testing area than it does to perform the testing and it is cost-efficient to test the remaining areas once they have been accessed. Because detachment of the potentiometer levers of the rudder and elevator flight control systems will not cause an unsafe condition, however, the proposed AD will not require their testing.

Operators should note that, while no compliance date for replacement of defective levers is specified in German airworthiness directives 2001–167/2, dated June 28, 2001, and 2001–168, dated June 14, 2001, this proposed AD would require, within 30 days after the effective date of the AD, replacement of any defective lever, in accordance with Dornier Service Bulletin SB–328–27–359, dated March 29, 2001; or Dornier Service Bulletin SB–328J–27–064, Revision 1, dated April 12, 2001. If replacement levers are needed but unavailable, this proposed AD would require interim corrective measures and then, within 4,000 flight hours or 24 months from the effective date of the AD, whichever comes first, replacement of any defective lever in a manner approved by the FAA or the LBA (or its delegated agent).

Operators should note that, although Dornier Service Bulletin SB–328–27–359, dated March 29, 2001, specifies that for airplanes on which Dornier Service Bulletin SB–328–27–319 has not been accomplished, testing be performed on the installed nose wheel steering potentiometer, the proposed rule does not require that. The FAA has determined that the unsafe condition does not exist for those airplanes on which Dornier Service Bulletin SB–328–27–319 has not been accomplished.

Operators should also note that, although Dornier Service Bulletin SB–328–27–359, dated March 29, 2001; and Dornier Service Bulletin SB–328J–27–064, Revision 1, dated April 12, 2001, specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished per a method approved by either the FAA or the LBA (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the LBA would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 89 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed test, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $10,680, or $120 per airplane, per test cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GMBH: Docket 2001–NM–185–AD.

Applicability: Model 328–100 airplanes, serial numbers 3005 through 3119, inclusive, on which Dornier Service Bulletin SB–328–27–319, dated June 26, 2000, or Revision 1, dated September 27, 2000, has been accomplished; and Model 328–300 series airplanes, serial numbers 3105 through 3184, inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent detachment of the aileron potentiometer lever, which could result in jamming of the elevator and/or aileron flight control systems and reduced controllability of the airplane, accomplish the following:

Testing and Corrective Action

(a) Within 30 days after the effective date of this AD, test the left- and right-hand potentiometer levers of the aileron flight control system to determine whether, with the bolt in position and the clamping force across the splines relaxed, the levers can be pulled off the splined shaft, in accordance with the Dornier service bulletin listed in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Dornier Model 328–100 series airplanes: Accomplishment Instructions, "Aileron System," of Dornier Service Bulletin SB–328–27–359, dated March 29, 2001.

(2) For Dornier Model 328–300 series airplanes: Accomplishment Instructions, "Aileron System," of Dornier Service Bulletin SB–328J–27–064, Revision 1, dated April 12, 2001.

(b) If, as a result of the test required by paragraph (a) of this AD, any lever cannot be removed, before further flight, retighten the nut and bolt and replace the split pin, in accordance with the Dornier service bulletin listed in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(c) If, as a result of the test required by paragraph (a) of this AD, any lever can be detached from the splined shaft, perform the actions specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) If a new lever is available from stock or from the airplane manufacturer, before further flight, replace the defective lever with a new lever, in accordance with the Dornier service bulletin listed in paragraph (a)(1) or (a)(2) of this AD, as applicable and, after the installation of the new lever and before further flight, test the new lever as required in paragraph (a) of this AD.

(2) If a new lever is not available from stock or from the airplane manufacturer, before further flight, reassemble the existing lever with loctite, in accordance with the Dornier service bulletin listed in paragraph (a)(1) or (a)(2) of this AD, as applicable and, within 4,000 flight hours or 24 months after the effective date of this AD, whichever comes first, replace the lever with a new lever in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Luftfahrt-Bundesamt (LBA) (or its delegated agent).

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directive 2001–167/2, dated June 28, 2001, and German airworthiness directive 2001–168, dated June 14, 2001.

Issued in Renton, Washington, on September 18, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23841 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–241–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes. This proposal would require replacement of the observer's seat latch assembly with a new, approved seat latch assembly. This action is necessary to prevent the observer's seat separating from its attachment points in the event of an accident or emergency landing due to an understrength seat latch assembly. This action is intended to address the identified unsafe condition.

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DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–241–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–241–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–241–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–241–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 airplanes. TCCA advises that the observer's seat latch assembly in the flight compartment and its attachment to the cockpit door frame have been found to be understrength on airplanes equipped with Hunting interiors. This condition, if not corrected, could result in the observer's seat separating from its attachment in the event of an accident or emergency landing.

Explanation of Relevant Service Information

Bombardier has issued Service Bulletin 8–25–307, dated November 13, 2000, which describes procedures for replacing the observer's seat latch components with new approved seat latch components in Hunting interior airplanes. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2001–18, dated May 4, 2001, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,372 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $56,420, or $1,612 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 2001–NM–241–AD.

Applicability: Model DHC–8–102, –103, –106, –201, –202, –301, –311, –314, and –315 airplanes, certificated in any category, serial numbers 408, 413, 434 through 507 inclusive, excluding serial numbers 452, 464, 490, and 506.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the observer's seat separating from its attachment points in the event of an accident or emergency landing, accomplish the following:

Replacement

(a) Within 12 months after the effective date of this AD, replace the observer's seat latch assembly by incorporating ModSum 8Q100890 (including removing and discarding existing latch and installing serrated plate, shim, and new latch assembly), in accordance with Bombardier Service Bulletin 8–25–307, dated November 13, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–18, dated May 4, 2001.

Issued in Renton, Washington, on September 18, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23842 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–255–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This proposal would require replacement of the low-pressure solenoid valve for the crew oxygen supply with a modified valve. This action is necessary to prevent faulty operation of the low-pressure solenoid valve for the crew oxygen supply, which could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–255–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001–NM–255–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be

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considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–255–AD." The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–255–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes. The DGAC advises that the low-pressure solenoid valve for the crew oxygen supply may not operate correctly. In one reported incident, the oxygen supply for the airplane crew was found to be inoperative following an in-flight test. Analysis of certain valves revealed a discrepancy between the position of the valve and the switch for the crew oxygen supply. In some conditions, the solenoid valve would not change position (i.e., open or close) when the push-button switch on the cockpit overhead panel was pressed. Such faulty operation of the low-pressure solenoid valve for the crew oxygen supply, if not corrected, could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A320–35–1003, Revision 1, dated January 28, 1993; and A320–35–1016, dated July 31, 1996. Both service bulletins describe procedures for replacement of the existing low-pressure solenoid valve for the crew oxygen supply with a modified valve. The modified valves incorporate a new electronic card. Airbus Service Bulletin A320–35–1003, Revision 1, refers to EROS Service Bulletin DVE90–35–40, dated September 10, 1991, and Airbus Service Bulletin A320–35–1016 refers to EROS Service Bulletin DVE90–35–49, dated January 31, 1995, as the appropriate sources of service information for accomplishment of the modification of the valve.

Accomplishment of the actions specified in Airbus Service Bulletins A320–35–1003, Revision 1, and A320–35–1016 is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 2001–237(B) R1, dated July 25, 2001, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the applicable Airbus service bulletins described previously.

Cost Impact

The FAA estimates that 111 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be provided at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,660, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2001–NM–255–AD.

Applicability: Model A319, A320, and A321 series airplanes; on which Modification 21946 (Airbus Service Bulletin A320–35–1003) or 21999 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent faulty operation of the low-pressure solenoid valve for the oxygen supply, which could prevent oxygen from being supplied to the airplane crew when needed, such as in the event of smoke in the cabin or rapid depressurization of the airplane, accomplish the following:

Replacement

(a) Within 16 months after the effective date of this AD, replace the low-pressure solenoid valve, part number (P/N) DVE90–04, for the crew oxygen supply with a modified valve, P/N DVE90–05 or DVE90–06, as applicable. Do the replacement according to Airbus Service Bulletins A320–35–1003, Revision 1, dated January 28, 1993; or A320–35–1016, dated July 31, 1996; as applicable.

Note 2: Airbus Service Bulletin A320–35–1003, Revision 1, refers to EROS Service Bulletin DVE90–35–40, dated September 10, 1991, as the appropriate source of service information for modifying the low-pressure solenoid valve for the crew oxygen supply.

Note 3: Airbus Service Bulletin A320–35–1016 refers to EROS Service Bulletin DVE90–35–49, dated January 31, 1995, as the appropriate source of service information for modifying the low-pressure solenoid valve for the oxygen supply.

Spares

(b) As of the effective date of this AD, no person shall install a low-pressure oxygen valve, part number DVE90–04, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 5: The subject of this AD is addressed in French airworthiness directive 2001–237(B) R1, dated July 25, 2001.

Issued in Renton, Washington, on September 18, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–23843 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY53–230b; FRL–7057–6]

Approval and Promulgation of Implementation Plans; New York Ozone State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of New York related to development of reasonably available control technologies for source categories of volatile organic compounds and oxides of nitrogen for which EPA has not issued a control techniques guideline. Specifically, EPA is proposing approval of amendments to New York's Code of Rules and Regulations Part 212, "General Process Emission Sources." In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before October 25, 2001.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007–1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–3381.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: September 10, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–23761 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 082901A]

Fisheries of the Northeastern United States; Supplemental Environmental Impact Statements (SEISs) for the Essential Fish Habitat (EFH) Components of the Monkfish, Atlantic Herring, and Atlantic Salmon Fishery Management Plans (FMPs); Change of Date Time, and Location for Public Scoping Meeting and Extension of Public Comment Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Change in date, time, and location of public scoping meeting and extension of public comment period.

SUMMARY: NMFS recently announced its intent to prepare SEISs in accordance with the National Environmental Policy Act of 1969 (NEPA) for the EFH components of the Monkfish, Atlantic Herring, and Atlantic Salmon FMPs. NMFS will hold a public scoping meeting and accept written comments to determine the range of management alternatives to be addressed in the SEISs to describe and identify EFH for these fisheries, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH. NMFS is changing the date, time and location of the public scoping meeting and extending the public comment period.

DATES: NMFS will accept written comments through November 21, 2001. The public scoping meeting will be held on November 7, 2001, at 7 p.m.

ADDRESSES: Written comments on the intent to prepare the SEISs and requests for the scoping document or other information should be directed to the National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, Attn: Louis A. Chiarella. Comments may also be sent via facsimile (fax) to (978) 281–9301. NMFS will not accept unsigned faxes or comments by e-mail. The public scoping meeting will be held at the Friend Room, Sawyer Free Library, 2 Dale Ave., Gloucester, MA.

FOR FURTHER INFORMATION CONTACT: Louis A. Chiarella, Essential Fish Habitat Coordinator, 978–281–9277, fax 978–281–9301, e-mail Lou.Chiarella@noaa.gov.

SUPPLEMENTARY INFORMATION: On September 10, 2001 (66 FR 46979), NMFS published notification of its intention to prepare SEISs for the EFH components of the Monkfish, Atlantic Herring, and Atlantic Salmon FMPs. See the September 10, 2001, **Federal Register** notification for background and scoping information related to the development of these SEISs. NMFS is changing the time and date of the public scoping meeting as detailed below. The meeting is being postponed because the original schedule conflicted with a New England Fishery Management Council meeting. The comment period is being extended to allow sufficient time for the public to develop written comments after the postponed scoping meeting is held.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Louis A. Chiarella (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 18, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23796 Filed 9–21–01; 1:49 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 091701D]

Mid-Atlantic Fishery Management Council; Public Meetings and a Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meetings and a public hearing.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Ecosystem Management Committee and Executive Committee will hold public meetings and a public hearing.

DATES: The meetings will be held on Tuesday, October 9, to Thursday, October 11, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the New Bern Riverfront Convention Center, New Bern, NC; telephone: 252–637–1551.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302-674-2331, ext. 19.

SUPPLEMENTARY INFORMATION:

Meeting Dates

Tuesday, October 9, 2001, from 10 a.m. to 11 a.m. New Member Orientation.

Tuesday, October 9, 2001, from 11 a.m. to 11:30 a.m. Council convenes for the purpose of swearing in new and reappointed Council members and the election of officers.

Tuesday, October 9,.2001, from 12:30 p.m. to 3 p.m. The Ecosystem Management Committee will meet.

Tuesday, October 9, 2001, from 3 p.m. to 4 p.m. A presentation on Atlantic Coast Bottlenose Dolphin Take Reduction Team activities will take place.

Wednesday, October 10, 2001, from 8 a.m. to 4:30 p.m. Council will meet.

Thursday, October 11, 2001, from 8 a.m. to 10 a.m. The Executive Committee will meet.

Thursday, October 11, 2001, from 10 a.m. to noon. A public hearing will be convened by the Council at NMFS request to take public comment on a regulatory amendment for the FMP for Summer Flounder, Scup, and Black Sea Bass.

Thursday, October 11, 2001, from 10 a.m. to 4 p.m. Council will meet.

Agenda items for the committees and Council meeting(s), as appropriate, are: Review status of Magnuson-Stevens Act reauthorization, especially as regards inclusion of statutory provisions requiring Councils to adopt ecosystem management planning as part of Councils' charters, discuss and develop committee actions necessary to provide guidance and direction to Council for development of potential ecosystem management approaches in Mid-Atlantic area (Ecosystem Management Committee); overview of Marine Mammal Protection Act, status of Atlantic Bottlenose Dolphin (BND) stocks along the Atlantic Coast including estimates of abundance and potential biological removal levels, BND/fishery interactions including estimates of mortality and identification of problem fisheries (gears/areas/seasons), BND Take Reduction Plan development under the Marine Mammal Protection Act; review and discuss Monkfish Committee's recommendations on monkfish management measures for 2002/2003 fishing year, approve management measures for 2002/2003 fishing year; review and discuss Dogfish Committee's actions regarding Amendment 1 to the Spiny Dogfish Fishery Management Plan, review and discuss Dogfish Committee's recommendations on dogfish management measures for 2002/03 fishing year, adopt management measures for 2002/03 fishing year; Information and Education Program on marine protected areas (MPAs); review annual work plan for 2002, review status of FY2001 budget, and review status of FY2002 grant application (Executive Committee); hear organizational and committee reports including the New England Council's report where the Council may address possible actions on herring, groundfish, monkfish, red crab, scallops, skates, and whiting.

On Thursday, October 11, the Council will convene a public hearing to take public comment on a proposed regulatory amendment to the Fishery Management Plan for Summer Flounder, Scup and Black Sea Bass Fisheries (FMP). The FMP requires NMFS to compile all landings information and compare annual landings to the quotas allocated. Landings in excess of a quote are required to be deducted from the quota allocations in the following fishing year. Because the fishing year does not end until December 31 in any year, it is impossible to have a final accounting of annual landings at the time the specifications are published for the fishing year that begins on January 1. NMFS will review several alternatives under consideration that would allow the annual landings to be tabulated in sufficient time to make the overage deductions in the annual specifications. Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final actions to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 20, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–23975 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–22–S

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Notices

Federal Register
Vol. 66, No. 186
Tuesday, September 25, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Draft Supplemental to the Food for Peace Monetization Field Manual

Pursuant to the Agriculture Market and Transition Act of 1996 (Pub. L. 480, as amended), notice is hereby given that the Draft Supplemental to the Food for Peace Monetization Field Manual—Policy on the Use of Non—fat Dry Milk for Monetization is available to interested parties for the required thirty (30) days comment period.

Individuals who wish to receive a copy of these draft guidelines may download them from the USAID website at: *http://www.usaid.gov/hum_response/ffp/* or contact: Office of Food for Peace, Agency for International Development, RRB 7.06–120, 1300 Pennsylvania Avenue, Washington, DC 20523–0809.

Contact person: Jean Capps, (202) 712–0086. Individuals who have questions or comments on this draft addendum should contact Richard Newberg at (202) 712–1828.

The thirty day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: September 17, 2001.

William T. Oliver,

Director, Office of Food for Peace, Bureau for Humanitarian Response.

[FR Doc. 01–23949 Filed 9–24–01; 8:45 am]

BILLING CODE 6116–01–M

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission which was to have convened at 1:00 p.m. and adjourned at 5:00 p.m. on Wednesday, September 26, 2001, at the Hyatt Regency Hotel, 350 North High Street, Columbus, Ohio, has been canceled.

The original notice for the meeting was announced in the **Federal Register** on September 5, 2001, FR Doc. 01–22212, Vol. 66, No. 172, Page 46432.

Persons desiring additional information should contact Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362).

Dated at Washington, DC, September 19, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23992 Filed 9–20–01; 5:01 pm]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission which was to have convened at 12:30 p.m. and adjourned at 4:30 p.m. on Friday, September 28, 2001, at the Philadelphia Convention Center, Conference Room B, 12th and Arch Streets, Philadelphia, has been canceled.

The original notice for the meeting was announced in the **Federal Register** on September 5, 2001, FR Doc. 01–22210, Vol. 66, No. 172, Page 46432.

Persons desiring additional information should contact Marc Pentino of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116).

Dated at Washington, DC, September 20, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23993 Filed 9–20–01; 5:01 pm]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission which was to have convened at 10:45 a.m. and adjourned at 2:45 p.m. on Friday, September 21, 2001, at the Hamilton Room-One Flight Up Resturant, Burlington International Airport, 1200 Airport Drive, South Burlington, Vermont, has been canceled.

The original notice for the meeting was announced in the **Federal Register** on September 5, 2001, FR Doc. 01–22211, Vol. 66, No. 172, Page 46432.

Persons desiring additional information should contact Marc Pentino of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116).

Dated at Washington, DC, September 20, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23994 Filed 9–20–01; 5:01 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson

In the Matters of: Thane-Coat, Inc. 12725 Royal Drive Stafford, Texas 77477, Jerry Vernon Ford President Thane-Coat, Inc. 12725 Royal Drive Stafford, Texas 77477 and with an address at 58 East Guada Coma New Braunfels, Texas 78130, and Preston John Engebretson Vice-President Thane-Coat, Inc. 12725 Royal Drive Stafford, Texas 77477 and with an address at 8903 Bonhomme Road Houston, Texas 77074, Respondents

Decision and Order on Renewal of Temporary Denial Order

On March 20, 2001, then Acting Assistant Secretary for Export Enforcement Lisa A. Prager issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days, in a "non-standard" format, a May 5, 1997 Order naming, inter alia, Thane-Coat, Inc.; Jerry Vernon Ford, President, Thane-Coat, Inc.; and Preston John Engebretson, Vice-President, Thane-Coat, Inc. (hereinafter referred to collectively as the "Respondents", as persons temporarily denied all U.S. export privileges. 66 FR 17147–17149 (March 29, 2001). Unless renewed, the Order will expire on September 16, 2001.

On August 24, 2001, pursuant to § 766.24 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2001)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. secs. 2401–2420 (1994 & Supp. IV 1998)) (hereinafter the "Act"), the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that I renew the Order against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson for 180 days in a "non-standard" format, consistent with the terms agreed to by and between the parties in April 1998.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, TIC Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.[1] Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated companies employed a scheme to export U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the regulations. The approximate value of the 100 shipments at issue is stated to be $35 million. In addition, the Respondents and the affiliated companies undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained in that investigation support renewal of the TDO issued against the Respondents as the evidence shows that Respondents engaged in a significant, deliberate, and covert scheme to violate U.S. export control laws, including the regulations, over a period of years and are likely to commit future violations without the renewal of the TDO. The Respondents' pattern of extensive, repeated and clandestine shipments combined with the Respondents' business knowledge and practice (e.g., setting up shell companies, both foreign and domestic) and repeated inquiries with foreign entities to acquire contracts to conduct business in Libya and Iran demonstrate a likelihood that Respondents may commit further violations.

In April 1998, BXA and the Respondents reached an agreement, whereby BXA sought a renewal of the TDO, but changing the "standard" format to a "non-standard" format, denying all of the Respondents' U.S. export privileges to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, North Korea, Iran, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority pending resolution of the criminal charges against Respondents. In return, the Respondents agreed that, among other conditions, at least 14 days in advance of any export that any of the Respondents intends to make of any item from the United States to any destination world-wide, the Respondents will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder. BXA has sought renewal of the TDO in a "non-standard" format comparable to the terms of the March 20, 2001 TDO; respondents have hereto not opposed renewal of the TDO in a "non-standard" format.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying the export privileges of Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson in a "non-standard" format, incorporating the terms agreed to by and between the parties in April 1998 with 2 revisions: deleting North Korea from the list of countries to which Respondents' export privileges are denied as North Korea is no longer subject to a general trade embargo and adding Sudan to the list as Sudan is now subject to a general trade embargo. I find that such renewal is necessary in the public interest to prevent imminent violations of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology subject to the regulations and exported or to be exported to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, Sudan, and any other country or countries that may be made subject in the future to a general trade embargo by proper legal authority, or in any other activity subject to the regulations with respect to these specific countries.

Accordingly, it is therefore ordered:

First, that Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf; Jerry Vernon Ford, President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477, and 58 East Guada Coma, New Braunfels, Texas 78130, and all of his successors or assigns, representatives, agents and employees when acting on his behalf; and Preston John Engebretson, Vice-President, Thane-Coat, Inc., 12725 Royal Drive, Stafford, Texas 77477 and 8903 Bonhomme Road, Houston, Texas 77074, and all of his successors or assigns, representatives, agents, and employees when acting on his behalf (all of the foregoing parties hereinafter collectively referred to as the "denied persons"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") subject to the Export Administration Regulations (hereinafter the ("Regulations") and exported or to be exported from the United States to the United Kingdom, the Bahamas, Libya, Cuba, Iraq, Iran, or Sudan or to any other country or countries that may be made subject in the future to a general trade embargo pursuant to proper legal authority (hereinafter the "Covered Countries"), or in any activity subject to the regulations with respect to the Covered Countries, including but not limited to:

[1] BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cyclinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item that is subject to the Regulations and that is exported or to be exported from the United States to any of the Covered Countries, or in any other activity subject to the regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States to any of the Covered Countries that is subject to the Regulations, or in any other activity subject to the regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of any of the denied persons any item subject to the Regulations to any of the Covered Countries;

B. Take any action that facilitates the acquisition, or attempted acquisition by any of the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, including financing or other support activities related to a transaction whereby any of the denied persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any of the denied persons of any item subject to the regulations that has been exported from the United States to any of the Covered Countries;

D. Obtain from any of the denied persons in the United states any item subject to the regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any of the Covered Countries; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any of the Covered Countries, and which is owned, possessed or controlled by any of the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by any of the denied persons if such service involves the use of any item subject to the regulations that has been or will be exported from the United States to any of the Covered Countries. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that at least 14 days in advance of any export that any of the denied persons intends to make of any item from the United States to any destination world-wide, the denied person will provide to BXA's Dallas Field Office (i) notice of the intended export, (ii) copies of all documents reasonably related to the subject transaction, including, but not limited to, the commercial invoice and bill of lading, and (iii) the opportunity, during the 14-day notice period, to inspect physically the item at issue to ensure that the intended shipment is in compliance with the Export Administration Act, the Export Administration Regulations, or any order issued thereunder.

Fourth, that, without limiting the provisions of the First Ordering Paragraph on page 5, after notice and opportunity for comment, as provided in § 766.23 of the regulations, any persons, firm, corporation, or business organization related to any of the denied persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

Fifth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the regulations are the foreign-produced direct product of U.S.-origin technology.

Sixth, that, in accordance with the provisions of § 766.24(e) of the regulations, Thane-Coat, Ford, or Engebretson may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

Seventh, that this Order is effective immediately and shall remain in effect for 180 days.

Eighth, that, in accordance with the provisions of § 766.24(d) of the regulations, BXA may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on each Respondent and shall be published in the **Federal Register**.

Entered this 14th day of September, 2001.

Michael I. Farcia,

Assistant Secretary for Export Enforcement.

[FR Doc. 01–23948 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 01–00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Sun Valley Rice Co., LLC. ("Sun Valley"), Arbuckle, California, effective September 19, 2001. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131 (this is not a toll-free number) or by E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001 *et seq.*) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2000).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

DESCRIPTION OF CERTIFIED CONDUCT

I. Export Trade

1. Products

California rice and rice products (rough rice, brown rice, milled, under milled, or unpolished rice, coated rice, oiled rice, enriched rice, rice bran, rice polish, head rice, broken rice, second head rice, brewers rice, screenings, rice flour, rice hulls).

2. Services

All services related to the export of Products.

3. Technology Rights

All intellectual property rights associated with Products or Services, including, but not limited to: patents, trademarks, services marks, trade names, copyrights, neighboring (related) rights, trade secrets, know-how, and sui-generis forms of protection for databases and computer programs.

4. Export Trade Facilitation Services (as They Relate to the Export of Products)

Export Trade Facilitation Services, including, but not limited to: Consulting and trade strategy, arranging and coordinating delivery of Products to port of export; arranging for inland and/or ocean transportation; allocating Products to vessel; arranging for storage space at port; arranging for warehousing, stevedoring, wharfage, handling, inspection, fumigation, freight forwarding; insurance and financing; documentation and services related to compliance with customs' requirements; sales and marketing; export brokerage; foreign marketing and analysis; foreign market development; overseas advertising and promotion; Products research and design based upon foreign buyer and consumer preferences; inspection and quality control; shipping and export management; export licensing; provisions of overseas sales and distribution facilities and overseas sales staff; legal; accounting and tax assistance; development and application of management information systems; trade show exhibitions; professional services in the area of government relations and assistance with federal and state export assistance programs (*e.g.*, Export Enhancement and Market Promotion programs); joint ventures; invoicing(billing) foreign buyers; collecting (letters of credit and other financial instruments) payment for Products; and arranging for payment of applicable commissions and fees.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, The Sun Valley Rice Company, LLC, on a transaction-by-transaction basis, may:

1. Exchange information with Suppliers or other entities individually regarding availability of and prices for Products for export, and inventories and near-term production and delivery schedules for purposes of determining the availability of Products for purchase and export and coordinating export of Products with its distributors and customers in the Export Markets;

2. Confer with Suppliers, on a one-to-one basis, about the possibility of offers to and purchases by Sun Valley for a specific export sales opportunity;

3. Solicit Suppliers to offer/sell Products through the certified activities of Sun Valley Rice Company, LLC;

4. Solicit orders from potential foreign distributors and purchasers for sale of Products in Export Markets;

5. Prepare and submit offers of Products to potential foreign distributors, purchasers, and other entities for sale in Export Markets;

6. Establish the price and quantity of Products for sale in Export Markets and set other terms for any export sale;

7. Negotiate and enter into agreements for sale of products in Export Markets;

8. Enter into agreements to purchase Products from one or more Suppliers to fulfill specific sale obligations, which may include agreements whereby Suppliers agree to deal exclusively with Sun Valley Rice Company, LLC, for sale of the Products in a particular Export Market or Markets and/or whereby Sun Valley Rice Company, LLC, agrees to purchase exclusively any particular Supplier's (or Suppliers') Products for resale in the Export Market;

9. Assign sales of Products to, and/or divide export orders among, Suppliers or other persons based on orders, export markets, territories, customers, or any other basis Sun Valley Rice Company, LLC deems fit;

10. Broker and take title to the Products;

11. Enter into agreements with one or more Export Trade Intermediaries or export trade purchasers for the purchase of Products, which may be agreements whereby Sun Valley Rice Company, LLC, agrees to deal exclusively with an entity or customer in a particular Export Market, and/or by which that customer or intermediary agrees to deal exclusively with Sun Valley Rice Company, LLC and/or agrees not to purchase from Sun Valley Rice Company, LLC's, competitors in any Export Market, unless so authorized;

12. Apply for and utilize government export assistance and incentive programs:

13. Participate in the bidding process and award of tender proceeds under "The Association for the Administration of Rice Quotas, Inc." (part of the US/EU Enlargement Agreement) as may be amended or succeeded providing for EU rice tarriff-rate quotas signed on July 22, 1996;

14. Refuse to purchase Products or provide information regarding export sales of Products to any Supplier(s) or other entities for any reason Sun Valley Rice Company, LLC, deems fit;

15. Refuse to sell Products, to quote prices of Products, to provide information regarding Products, or to market or to sell Products to any customers or distributors in the Export Markets, or in any countries or geographic areas in the Export Markets; and

16. Meet with Suppliers or other entities periodically to discuss general matters specific to the activities approved in this certificate (not related to price and supply arrangements between Applicant and the individual Suppliers) such as relevant facts concerning the Export Markets (e.g., demand conditions, transportation costs and prices in the export markets), or the possibility of joint marketing, bidding or selling arrangements in the Export Markets.

IV. Definitions

"Supplier" means a person that produces, provides, or sells Products and/or Services.

"Export Intermediary" means a person who acts as distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions including or arranging for the provision of Export Trade Facilitation Services.

V. Terms and Conditions of Certificate

1. In engaging in the above Export Trade Activities and Methods of Operation, The Sun Valley Rice Company, LLC, shall not intentionally disclose, directly or indirectly, to any Supplier, any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. The Sun Valley Rice Company, LLC, will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade and/or the Export Trade Activities and Methods of

Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

VI. Protection Provided by Certificate

This Certificate protects The Sun Valley Rice Company, LLC, its directors, officers, and employees acting on its behalf, from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions. A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 20, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–23965 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether an amended Certificate should be issued.

If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 87–16A04."

The Association for Manufacturing Technology's ("AMT") original Certificate was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and last amended on March 6, 2001 (66 FR 15841, March 21, 2001).

A summary of the application for an amendment follows.

Summary of the Application

Applicant: AMT—The Association for Manufacturing Technology, 7901 Westpark Drive, McLean, Virginia, 22102–4269.

Contact: Karin L. Kizer, Attorney, Telephone: (202) 662–5303.

Application No.: 87–16A04.

Date Deemed Submitted: September 11, 2001.

Proposed Amendment: AMT seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of § 325.2(1) of the regulations (15 CFR 325.2(1)): The Beckwood Corporation, Fenton, Missouri; Ultra Tech Machinery, Inc., Cuyahoga Falls, Ohio; ATS Michigan, Brighton, Michigan; ATS Southwest, Tucson, Arizona; ATS Carolina, Rock Hill, South Carolina; Advanced Machine & Engineering Co., Rockford, Illinois; The Gem City Engineering Company, Dayton, Ohio; ATS Oregon, Carvallis, Oregon; and DeVlieg Bullard II, Inc., Rockford, Illinois.

2. Delete the following companies as "Members" of the Certificate: American Pfauter Limited Partnership; Anorad Corporation; Automatic Design Concepts; Belden Inc.; Benchmaster Products, Inc.; Boston Digital Corporation; Buffalo Machine Tools of Niagara, Inc.; Clearing Niagara; Columbus McKinnon for the activities of its CM Positech Division; D&H Machinery, Inc.; Davenport Machine—A Dover Industries Company; Elox Corporation; Esterline Technologies; GEC Alsthom Cyril Bath Company; Harper Surface Finishing System, Inc.; Hayes-Lemmerz Process Control Automation, Inc.; Jesse Engineering Co.; Jewett Automation; Lumonics Corporation; MG Industries; Machine Tool Research, Inc.; MHI Machine Tool USA, Inc.; New Monarch Machine Tool Company; Olofsson Corporation; O.S. Walker Company, Inc.; PMC Industries; P.R. Hoffman Machine Products; Pacific Roller Die Co., Inc.; Parker-Majestic Inc.; The Producto Machine Company; RD & D Corporation; Rendas Tool & Die, Inc.; R. Howard Strasbaugh, Inc.; Teledyne; Themac, Inc.; Tree Machine Tool Co., Inc.; Tyler Machinery Co.; U.S. Amada, Ltd.; Unison Corporation; Utilase Systems, Inc.; Vermont—USA Machine Tool Group; Versa-Mil Inc./Phillips Corporation; Weldun Flexible Assembly Company; W.J. Savage Company, Inc.; and Wisconsin Automated Machinery.

3. Change the listing of two existing Members as follows: "Kleer-Flo Industries" to "Kleer-Flo Company" and "LeBlond Makino Machine Tool Company" to "Makino Inc."

Dated: September 19, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading, Company Affairs.

[FR Doc. 01–23966 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend Certificate.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration by phone at (202) 482–5131 (this is not a toll-free number) or E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice in writing to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230, or transmitted by E-mail to oetca@ita.doc.gov. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 92–6A001."

The Aerospace Industries Association of America, Inc. ("AIA") original Certificate was issued on April 10, 1992 (57 FR 13707, April 17, 1992) and last amended on November 12, 1998 (63 FR 64061, November 18, 1998). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Aerospace Industries Association of America, Inc. ("AIA"), 1250 Eye Street, N.W., Washington, DC 20005.

Contact: Matthew F. Hall, Telephone: (202) 862–9700.

Application No.: 92–6A001.

Date Deemed Submitted: September 11, 2001.

Proposed Amendment: AIA seeks to amend its Certificate to:

1. Add the following companies as new "Members" of the Certificate within the meaning of § 325.2(1) of the regulations (15 CFR 325.2(1)): Groen Brothers Aviation, Inc., Salt Lake City, UT; i2 Technologies, Washington, D.C.; Martin-Baker America, Incorporated, Arlington, VA (Controlling Entity: Martin-Baker Aircraft Company Ltd., Denham, Buckinghamshire, UK); MatrixOne, Inc., Chelmsford, MA; MD Helicopters, Inc., Mesa, AZ; The NORDAM Group, Tulsa, OK; Omega Air, Inc., Alexandria, VA; Space Access, LLC, Palmdale, CA; Spectrum Astro, Inc., Gilbert, AZ; Stellex Aerostructures, Inc., Woodland Hills, CA (Controlling Entity: Stellex Technologies, Inc., Woodland Hills, CA); Swales Aerospace, LLC, Beltsville, MD; Vought Aircraft Industries, Inc., Dallas, TX; W.L. Gore & Associates, Inc., Newark, DE; BAE Systems North America, Inc., Rockville, MD; GenCorp, Sacramento, CA; Smiths Aerospace Actuation Systems, Los Angeles, CA, Duarte, CA; Triumph Group, Inc.; Wayne, PA; Alcoa Industrial Components; Salt Lake City, UT (Controlling Entity: Alcoa, Pittsburgh, PA); Analytical Graphics, Inc., Malvern, PA; Atlantic Research Corporation, Gainesville, VA (Controlling Entity: Sequa Corporation, New York, NY); Aviall, Inc., Dallas TX; Ball Aerospace & Technologies Corporation, Boulder, CO; Cubic Corporation, San Diego, CA; Curtiss-Wright Corporation, Lyndhurst, NJ; Dassault Falcon Jet Corporation, South Hackensack, NJ (Controlling Entity: Dassault Aviation, France); Davis Tool, Inc., Hillsboro, OR; DRS Technologies, Inc., Parsippany, NJ; Embraer Aircraft Corporation, Brazil; Exostar, LLC, Herndon, VA; Fairchild Dormier Corporation, Wessling, Germany; Fairchild Fasteners, Dulles, VA (Controlling Entity: The Fairchild Corporation, Dulles, VA); General Atomics Aeronautical Systems, Inc., San Diego, CA (Controlling Entity: General Atomics, San Diego, CA); Genuity Solutions, Inc., Woburn, MA; GKN Aerospace, Inc., Reston, VA (Controlling Entity: GKN Westland Aerospace division of GKN, PLC, Worcestershire, UK); ITT Industries, Inc., McLean, VA.

2. Delete the following companies as "Members" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Aerojet-General Corporation, Sacremento, CA; Allied Signal Inc., Morristown, NJ; Hughes Electronic Corporation, El Segundo, CA; CMS, Inc., Tampa, FL; Coltech Industries, Inc., New York, NY; Digital Equipment Corporation, Maynard, MA; Cordant Technologies, Inc., Ogden, UT; Dowty Decoto, Inc., Duarte, CA; Dynamic Engineering Incorporated, Newport News, VA; Gulfstream Aerospace Corporation, Savannah, GA; Interturbine Corporation, Peabody, MA; ITT Defense and Electronics Inc., McLean, VA; Litton Industries, Inc., Woodland Hills, CA; Lucas Industries, Inc., Reston, VA; Marconi North America Inc., Wayne, NJ; Pacific Scientific Company, Duarte, CA; Sundstrand Corporation, Rockford, IL; Triumph Controls, Inc., North Wales, PA; Veridian Corporation, Alexandria, VA.

3. Change the listings of the current Members as follows: "BF Goodrich; Akron, OH" to "Goodrich Corporation, Charlotte, NC;" "HEICO Corporation, Hollywood, FL" to "HEICO Corporation; Miami, FL;" "B.H. Aircraft Company, Incorporated, Farmingdale, NY" to "B.H. Aircraft Company, Incorporated, Rokonkoma, NY."

Dated: September 19, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–23967 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091701C]

Nominations for a Federal Advisory Committee on Marine Protected Areas

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a reopening of an application deadline.

SUMMARY: The Department of Commerce is establishing a Federal Advisory Committee on Marine Protected Areas (Committee) pursuant to Executive Order 13158 and is seeking nominations for membership on this Committee.

DATES: Nominations must be postmarked on or before September 30, 2001.

ADDRESSES: Nominations should be sent to the Office of Ocean and Coastal Resource Management, NOAA, 1315 East-West Highway, Silver Spring, MD 20910, Attn: Federal Advisory Committee on Marine Protected Areas.

FOR FURTHER INFORMATION CONTACT: Roger Griffis, NOAA, (301) 713–3155, extension 104. E-mail: Roger.B.Griffis@noaa.gov.

SUPPLEMENTARY INFORMATION: On August 10, 2001, (66 FR 42204), NOAA published a notice requesting nominations for the Committee. Additional details about the Committee and the nomination process are provided in the notice and not repeated here. NOAA is re-opening the application deadline until September 30, 2001.

Nominations should be sent to (see **ADDRESSES**) and must be postmarked on or before September 30, 2001.

Dated: September 18, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 01–23976 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Malaysia

September 20, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit.

EFFECTIVE DATE: September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 345 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69914, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 20, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 25, 2001, you are directed to increase the current limit for Category 345 to 227,168 dozen[1], as provided for under the Uruguay Round Agreement on Textiles and Clothing:

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–23995 Filed 9–20–01; 4:48 pm]

BILLING CODE 3510–DR–S

[1] The limit has not been adjusted to account for any imports exported after December 31, 2000.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

September 19, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 666-P is being increased for special shift from Category 666-S, reducing the limit for Category 666-S to account for the special shift being applied to Category 666-P.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66972, published on November 8, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 19, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on, September 25, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit[1]
Specific limits	
666–P[2]	1,181,955 kilograms.
666–S[3]	5,037,443 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[3] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–23846 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Provisions for Delays of Textile Visas or Exempt Certificates Due to the Recent National Emergency

September 19, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs making provisions for delays in textile visas or exempt certificates due to the recent national emergency

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brian F. Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In light of the recent national emergency, some textile visas or exempt certificates may be delayed in reaching their destination; visas are often delivered by courier services that have been disrupted by these events. As a result, CITA has determined that copies of visas and exempt certificates shall be accepted for conditional release of merchandise for a limited period of time.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, with respect to all textiles and textile product subject to visa requirements entered on or after September 11, 2001 but prior to September 29, 2001, to accept copies of textile visas or exempt certificates for the conditional release of merchandise. The original textile visa or exempt certificate must be presented to the U.S. Customs Service upon receipt and no later than October 12, 2001. Effective for textiles and textile products entered on or after September 29, 2001, original textile visas will be required. U.S. Customs should continue to require an Electronic Visa Information System (ELVIS) transmission for all shipments for which an ELVIS transmission is required.

Absent submission of the original textile visa or exempt certificate on or before October 12, 2001, the goods will be deemed inadmissible.

D. Michael Hutchinson,

Acting Chairman, Committee for Implementation of Textile Agreements

Committee for the Implementation of Textile Agreements

September 19, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.
Charles W. Winwood
Acting Commissioner
U.S. Customs Service
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Dear Mr. Commissioner:

In light of the recent national emergency, some textile visas or exempt certificates may be delayed in reaching their destination; visas are often delivered by courier services that have been disrupted by these events. As a result, CITA has determined that copies of visas and exempt certificates shall be accepted for conditional release of merchandise for a limited period of time.

CITA directs that, with respect to all textiles and textile product subject to visa requirements entered on or after September 11, 2001 but prior to September 29, 2001, the United States Customs Service shall accept copies of textile visas or exempt certificates for the conditional release of merchandise. The original textile visa or exempt certificate must be presented to the U.S. Customs Service upon receipt and no later than October 12, 2001. Effective for textiles and textile products entered on or after September 29, 2001, original textile visas will be required. U.S. Customs should continue to require an Electronic Visa Information System (ELVIS) transmission for all shipments for which an ELVIS transmission is required.

Absent submission of the original textile visa or exempt certificate on or before October 12, 2001, the goods will be deemed inadmissible.

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for Implementation of Textile Agreements.

[FR Doc. 01–23847 Filed 9–20–01; 9:57 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designations Under the Textile and Apparel Short Supply Provisions of the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA)

September 20, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination

EFFECTIVE DATE: September 24, 2001.

SUMMARY: The Committee for the Implementation of Textile Agreements (Committee) has determined, under the AGOA, that certain fabrics, for use in blouses and nightwear, cannot be supplied by the domestic industry in commercial quantities in a timely manner, and, under the CBTPA, that 100 percent polyester crushed panne velour fabric of circular knit construction for use in apparel cannot be supplied by the domestic industry in commercial quantities in a timely manner. The Committee hereby designates certain apparel articles that are both cut and sewn or otherwise assembled in an eligible country, from these fabrics, as eligible for quota-free and duty-free treatment under the textile and apparel short supply provisions of the AGOA and the CBTPA, and eligible under Harmonized Tariff Schedule of the United States subheadings 9819.11.24 or 9820.11.27, to enter free of quotas and duties.

FOR FURTHER INFORMATION CONTACT: Philip J. Martello, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA and Section 211 of the CBTPA, amending Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act (CBERA); Presidential Proclamations 7350

and 7351 of October 2, 2000; Executive Order No. 13191 of January 17, 2001.

Background

The short supply provision of the AGOA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and certain procedural requirements have been met. In Presidential Proclamation 7350, the President proclaimed that this treatment would apply to such apparel articles of fabrics or yarns designated by the appropriate U.S. government authority in the Federal Register. In Executive Order 13191, the President authorized the Committee to determine whether particular yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA.

Similarly, the short supply provision of the CBTPA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States or a beneficiary CBTPA country if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and certain procedural requirements have been met. In Presidential Proclamation 7351, the President proclaimed that this treatment would apply to such apparel articles of fabrics or yarns designated by the appropriate U.S. government authority in the Federal Register. In Executive Order 13191, the President authorized the Committee to determine whether particular yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner.

On March 1, 2001, the Committee received a petition alleging that certain fabrics, set forth in Annex I, for use in blouses and nightwear, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that such apparel articles of such fabrics be eligible for preferential treatment under the AGOA. On March 8, 2001, the Committee requested public comment on the petition (66 FR 13912). On April 10, 2001, the Committee and the U.S. Trade Representative (USTR) sought the advice of the Industry Sector Advisory Committee for Wholesaling and Retailing and the Industry Sector Advisory Committee for Textiles and Apparel (collectively, the ISACs). On April 10, 2001, the Committee and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). On April 16, 2001, the U.S. International Trade Commission (USITC) provided advice on the petition. Based on the information and advice received and its understanding of the industry, the Committee determined that the fabrics set forth in the petition cannot be supplied by the domestic industry in commercial quantities in a timely manner. On April 30, 2001, the Committee and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and the advice obtained from the ISACs and the USITC. A period of 60 calendar days since this report was submitted has expired, as required by the AGOA.

On March 6, 2001, the Committee received a petition alleging that 100 percent polyester crushed panne velour fabric of circular knit construction, classified in subheading 6001.92.00 and reported under statistical reporting number 6001.92.0030 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that apparel articles of such fabrics be eligible for preferential treatment under the CBTPA. On March 12, 2001, the Committee requested public comment on the petition (66 FR 14357). On April 11, 2001, the Committee and USTR sought the advice of the ISACs and offered to hold consultations with the Congressional Committees. On April 23, 2001, the USITC provided advice on the petition. Based on the information and advice received and its understanding of the industry, the Committee determined that the fabric set forth in the petition cannot be supplied by the domestic industry in commercial quantities in a timely manner. On May 3, 2001, the Committee and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and the advice obtained from the ISACs and the USITC. A period of 60 calendar days since this report was submitted has expired, as required by the CBTPA.

CITA hereby designates as eligible for preferential treatment under subheading 9819.11.24 of the HTSUS, for purposes of the AGOA, blouses and nightwear that are both cut and sewn or otherwise assembled in one or more eligible beneficiary sub-Saharan African countries, provided the fabric of the outer shell is of a fabric set forth in Annex I and that all other fabrics are wholly formed in the United States from yarns wholly formed in the United States, imported directly into the customs territory of the United States from an eligible beneficiary sub-Saharan African country. An "eligible beneficiary sub-Saharan African country" means a country which the President has designated as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a) and which has been the subject of a finding, published in the Federal Register, that the country has satisfied the requirements of section 113 of the AGOA (19 U.S.C. 3722) and resulting in the enumeration of such country in U.S. note 1 to subchapter XIX of chapter 98 of the HTSUS.

CITA hereby designates as eligible for preferential treatment under subheading 9820.11.27 of the HTSUS, for purposes of the CBTPA, apparel articles that are both cut and sewn or otherwise assembled in one or more eligible CBTPA beneficiary countries, provided the fabric of the outer shell is of crushed panne velour fabric wholly of polyester, of circular knit construction, classified in subheading 6001.92.00 (statistical reporting number 6001.92.0030) of the HTSUS and that all other fabrics are wholly formed in the United States from yarns wholly formed in the United States, that are imported directly into the customs territory of the United States from an eligible CBTPA beneficiary country. An "eligible CBTPA beneficiary country" means a country which the President has designated as a CBTPA beneficiary country under section 213(b)(5)(B) of the CBERA (19 U.S.C. 2703(b)(5)(B)) and which has been the subject of a finding, published in the Federal Register, that the country has satisfied the requirements of section 213(b)(4)(A)(ii) of the CBERA (19 U.S.C. 2703(b)(4)(A)(ii)) and resulting in the enumeration of such country in U.S. note 1 to subchapter XX of chapter 98 of the HTSUS.

ANNEX I

(a) Fabrics of subheadings 5208.21, 5208.22, 5208.29, 5208.31, 5208.32, 5208.39, 5208.41, 5208.42, 5208.49, 5208.51, 5208.52 or 5208.59, of average yarn number exceeding 135 metric;

(b) Fabrics of subheading 5513.11 or 5513.21, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric;

(c) Fabrics of subheadings 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric;

(d) Fabrics of subheadings 5208.22 or 5208.32, not of square construction, containing more than 75 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric;

(e) Fabrics of subheadings 5407.81, 5407.82 or 5407.83, weighing less than 170 grams per square meter, having a dobby weave created by a dobby attachment, of average yarn number exceeding 135 metric;

(f) Fabrics of subheadings 5208.42 or 5208.49, not of square construction, containing more than 85 warp ends and filling picks per square centimeter, of average yarn number exceeding 85 metric, or exceeding 135 metric if the fabric is of oxford construction (a modified basket weave with a large filling yarn having no twist woven under and over two single, twisted warp yarns);

(g) Fabrics of subheading 5208.51, of square construction, containing more than 75 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number 95 or greater metric;

(h) Fabrics of subheading 5208.41, of square construction, with a gingham pattern, containing more than 85 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number 135 or greater metric, and characterized by a check effect produced by the variation in color of the yarns in the warp and filling;

(i) Fabrics of subheading 5208.41, with the warp colored with vegetable dyes, and the filling yarns white or colored with vegetable dyes, of average yarn number greater than 65 metric.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01-24071 Filed 9-24-01; 8:45 am]

BILLING CODE 3510-DR-S

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Advisory Committee on Student Financial Assistance. Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services assistive listening devices and/or materials in alternative format) should notify Ms. Hope M. Gray at 202–708–7439 or via e-mail at hope.gray@ed.gov no later than 2:00 p.m. on Tuesday, September 25, 2001. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accomodation. The meeting site is accessible to individuals with disabilities. This notice also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

Note: Due to the circumstances surrounding cancellation of the Advisory Committee's meeting scheduled for September 13–14, 2001, it is necessary to hold a teleconference before September 30 to address the Committee's plans for fiscal year 2002 and other business. Therefore, we were unable to publish this notice 15 days in advance of the scheduled teleconference as required under section10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: Wednesday, September 26, 2001, beginning at 3 p.m. and ending at approximately 4:30 p.m.

ADDRESSES: The Portals Building, 1250 Maryland Avenue, SW., Courtyard Level, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, SW., Suite 601, Washington, DC 20202–7582, (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the Committee has been charged with providing technical expertise with regard to systems of need analysis and application forms, making recommendations that result in the maintenance of access to postsecondary education for low- and middle-income students; conducting a study of institutional lending in the Stafford Student Loan Program; assisting with activities related in 1992 reauthorization of the Higher Education Act of 1965; conducting a third-year evaluation of the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP) under the Omnibus Budget Reconciliation Act (OBRA) of 1993; and assisting Congress with the 1998 reauthorization of the Higher Education Act.

The recongressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act. The Committee traditionally approaches its work from a set of fundamental goals: promoting program integrity, eliminating or avoiding program complexity, integrating delivery across the Title IV programs, and minimizing burden on students and institutions.

Reauthorization of the Higher Education Act has provided the Advisory Committee with a significantly expanded agenda in six major areas, such as Performance-based Organization (PBO); Modernization; Technology; Simplification of Law and Regulation; Distance Education; and Early Information and Needs Assessment. In each of these areas, Congress has asked the Committee to: monitor progress toward implementing the Amendments of 1998; conduct independent, objective assessments; and make recommendations for improvement to the Congress and the Secretary. Each of these responsibilities flows logically from and effectively implements one or more of the Committee's original statutory functions and purposes.

The proposed agenda includes: (a) approval of the Committee's fiscal year 2002 plans; and (b) elections. Space is limited and you are encouraged to contact the Advisory Committee staff through the Internet at *ADV.COMSFA@ed.gov* no later than Tuesday, September 25, 2001, if you wish to participate. Also, you may contact the Advisory Committee staff at (202) 708–7439.

The Advisory Committee will meet in Washington, DC via teleconference on Wednesday, September 26, 2001, from 3 p.m. until approximately 4:30 p.m.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, SW., Suite 601, Washington, DC from the hours of 9 a.m. to 5:30 p.m. weekdays, except Federal holidays.

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Dated: September 19, 2001.
Brian K. Fitzerald,
Staff Director, Advisory Committee on Student Financial Assistance.
[FR Doc. 01–23899 Filed 9–24–01; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.
ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, October 3, 2001, 6 p.m.–9 p.m.

ADDRESSES: Great Basin Room, National Nuclear Security Administration Nevada Operations Office, 232 Energy Way, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197, fax: 702–295–5300.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to the Department of Energy and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Training and educational updates on the Underground Test Area (UGTA) and transportation issues.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC on September 19, 2001.
Belinda G. Hood,
Acting Deputy Advisory Committee Management Officer.
[FR Doc. 01–23900 Filed 9–24–01; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.
ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, October 4, 2001—6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 1175 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to the Department of Energy and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Quarterly update by representative from the Defense Nuclear Facilities Safety Board.
2. Part Five: Board recommendation development and ongoing educational discussion regarding the Radionuclide Soil Action Level Review.
3. Approve Board's work plan and budget for 2002.
4. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on September 19, 2001.
Belinda G. Hood,
Acting Deputy Advisory Committee Management Officer.
[FR Doc. 01–23901 Filed 9–24–01; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–602–000]

Dominion Transmission, Inc.; Notice of Conversion to Part 284 Service and Non-Conforming Service Agreements

September 19, 2001.

Take notice that on September 14, 2001, Dominion Transmission, Inc. (DTI) filed pursuant to Sections 4 and 7 of the Natural Gas Act and the Commission's regulations to convert individually certificated transportation and storage services it provides to Doswell Limited Partnership and Virginia Power Services Energy Corporation, Inc. to open access services under Part 284 of the Commission regulations. DTI requests the Commission's permission and approval to abandon the individually certificated services and provide Part 284 service. Because the converted service agreements under Rate Schedules FTNN and GSS differ in some material aspects as DTI's pro forma agreements, DTI submitted copies of the service agreements. DTI requests that the Commission find that the deviations from the pro forma agreements are not unjust, unreasonable or unduly discriminatory, and asks the Commission to approve the filed service agreements.

As part of its filing, DTI tendered pro forma Fifth Revised Sheet No. 1300 of the Third Revised Volume No. 1 of DTI's tariff, which lists non-conforming agreements. DTI explains that the effective date of the conversions to Part 284 service, and of the tariff sheet, cannot be known at this time because of a series of conditions precedent provided in the agreements. DTI states that it will submit an actual tariff sheet with the effective date in a filing in compliance with a Commission order approving its filing. DTI requests that the Commission act on its filing within sixty days.

DTI states that copies of this filing have been mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23833 Filed 9–24–01; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–605–000]

Enbridge Pipelines (Midla) Inc.; Notice of Filing and Annual Charge Adjustment

September 19, 2001.

Take notice that on September 14, 2001, Enbridge Pipelines (Midla) Inc., formerly Mid Louisiana Gas Company, (Midla) filed the following tariff sheets to amend its FERC Gas Tariff, Fourth Revised Volume No. 1 to be made effective October 1, 2001.

First Revised Sheet No. 4
First Revised Sheet No. 4A

Midla states that the purpose of the filing is to reflect a $0.0001 per dekatherm decrease in Midla's rates under its Annual Charge Adjustment (ACA) clause that results from a corresponding decrease in the annual charge assessed Midla by the FERC.

Midla further states that because of confusion resulting from FERC's July 27, 2001 billing and given that its filing results in a decrease of $0.0001 in Midla's FERC approved rate, Midla believed that good cause exists and therefore requested a waiver of the requirements of 154.207 of the Commission's regulations, and any other waiver that may be required, to permit the proposed tariff sheets to be made effective on October 1, 2001.

Midla states that copies of filing have been mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–23830 Filed 9–24–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–604–000]

Enbridge Pipelines (KPC); Notice of Tariff Filing and Annual Charge Adjustment

September 19, 2001.

Take notice that on September 14, 2001, Enbridge Pipelines (KPC), formerly Kansas Pipeline Company (KPC) filed the following tariff sheets to amend its FERC Gas Tariff, First Revised Volume No. 1 to be made effective October 1, 2001.

First Revised Sheet No. 16
First Revised Sheet No. 22
First Revised Sheet No. 27
First Revised Sheet No. 29
First Revised Sheet No. 31

KPC states that the purpose of the filing is to reflect a $0.0001 per dekatherm decrease in KPC's rates under its Annual Charge Adjustment ("ACA") clause that results from a corresponding decrease in the annual charge assessed KPC by the FERC.

KPC further states that because of confusion resulting from FERC's July 27, 2001 billing and given that its filing results in a decrease of $0.0001 in KPC's Commission approved rate, KPC believed that good cause exists and therefore requested a waiver of the requirements of 154.207 of the Commission's regulations, and any other waiver that may be required, to permit the proposed tariff sheets to be made effective on October 1, 2001.

KPC states that copies of the filing have been mailed to customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the

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Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23831 Filed 9–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–603–000]

Enbridge Pipelines (AlaTenn) Inc.; Notice of Tariff Filing and Annual Charge Adjustment

September 19, 2001.

Take notice that on September 14, Enbridge Pipelines (Ala Tenn) Inc., formerly Midcoast Interstate Transmission, Inc., (AlaTenn) filed the following tariff sheets to amend its FERC Gas Tariff, Third Revised Volume No. 1 to be made effective October 1, 2001.

First Revised Sheet No. 4

AlaTenn states that the purpose of the filing is to reflect a $0.0001 per dekatherm decrease in AlaTenn's rates under its Annual Charge Adjustment (ACA) clause that results from a corresponding decrease in the annual charge assessed AlaTenn by the FERC.

AlaTenn further states that because of confusion resulting from FERC's July 27, 2001 billing and given that its filing results in a decrease of $0.0001 in AlaTenn's FERC approved rate, AlaTenn believed that good cause exists and therefore requested a waiver of the requirements of Section 154.207 of the Commission's regulations, and any other waiver that may be required, to permit the proposed tariff sheets to be made effective on October 1, 2001.

AlaTenn states that copies of the filing have been mailed to customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23832 Filed 9–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–437–000]

Northern Natural Gas Company; Notice of an Application

September 19, 2001.

Take notice that on August 29, 2001 Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP01–437–000, a request pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), requesting permission and approval to abandon service under an individually certificated agreement, all as more fully set forth in the application which is on file with the Commission, and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Specifically, Northern proposes to abandon service to Williams Gas Pipeline Central, Inc. (Williams) under Rate Schedule T–54, contained in its FERC Gas Tariff, Original Volume No. 2. Northern further states that the underlying contract has not provided service for several years and has been terminated in accordance with the contract terms.

Any questions regarding this application should be directed to Keith L. Petersen, Director, Certificates and Reporting for Northern, 111 South 103rd Street, Omaha, Nebraska 68124, at (402) 398–7421.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the commission's Rules and Regulations. All such protests must be filed on or before October 10, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23834 Filed 9–24–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–98–002]

PJM Interconnection, L.L.C.; Notice of Filing

September 19, 2001.

Take notice that on September 10, 2001, PJM Interconnection, L.L.C. (PJM) and Allegheny Power (Allegheny) tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed amendments to the PJM Open Access Transmission Tariff, to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. and to the PJM West Reliability Assurance Agreement PJM. Allegheny states that the proposed amendments are submitted to comply with the Commission's order in this proceeding dated July 12, 2001.

Copies of this filing have been served on all parties, as well as on all PJM Members and the state electric regulatory commissions in the PJM control area and in the PJM West Region.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 1, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23829 Filed 9–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–314–000, et al.]

Ameren Energy Generating Company, et al.; Electric Rate and Corporate Regulation Filings

September 19, 2001.

Take notice that the following filings have been made with the Commission:

1. Ameren Energy Generating Company

[Docket No. EG01–314–000]

Take notice that on September 17, 2001, Ameren Energy Generating Company (AEG), One Ameren Plaza, 1901 Chouteau Plaza, P.O. Box 66149, St. Louis, Missouri, 63166–6149, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of continuing exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

AEG states that it acquired the following units, as further detailed in the application: Pinckneyville, Illinois Unit No. 8 and Columbia, Missouri Unit No. 1. Both units are 36 MW gas-fired combustion turbine units, with a commercial operation date of July 28, 2001. AEG states that all of the electric energy from these facilities will be sold at wholesale.

Comment date: October 10, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Ameren Services Company

[Docket No. ER01–3057–000]

Take notice that on September 14, 2001, Ameren Services Company (ASC) tendered for filing a Transmission System Interconnection Agreement and Parallel Operating Agreement between ASC and Holland Energy, LLC. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Holland Energy, LLC pursuant to Ameren's Open Access Transmission Tariff.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Services Corporation

[Docket No. ER01–3058–000]

Take notice that on September 14, 2001, American Electric Power Services Corporation (AEPSC), as agent for Appalachian Power Company, Central Power and Light Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Wheeling Power Company, submitted for filing a revised, integrated network operating agreement and network service agreement (the Agreement) between the AEP Operating Companies and Northeast Texas Electric Cooperative, Inc. (NTEC).

AEPSC requests and effective date of October 1, 2000 for the revised Agreement.

AEPSC states that a copy of the filing has been served on NTEC, Upshur Rural Electric Cooperative Corporation and the Public Utility Commission of Texas.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Doswell Limited Partnership

[Docket No. ER01–3059–000]

Take notice that on September 14, 2001, Doswell Limited Partnership (Doswell) filed with the Federal Energy Regulatory Commission (the Commission) the Second Amended and Restated Power Purchase Agreement between Doswell and Virginia Electric and Power Company, designated as Second Revised Service Agreement No. 1 under Doswell's existing market-based rate schedule (FERC Electric Tariff No. 1).

A copy of this filing was served upon Virginia Electric and Power Company.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Doswell Limited Partnership

[Docket No. ER01–3060–000]

Take notice that on September 14, 2001, Doswell Limited Partnership (Doswell) filed with the Federal Energy Regulatory Commission (the Commission) the Third Amended and Restated Power Purchase Agreement between Doswell and Virginia Electric and Power Company, designated as Original Service Agreement No. 2 under Doswell's existing market-based rate schedule (FERC Electric Tariff No. 1).

A copy of this filing was served upon Virginia Electric and Power Company.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

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6. South Carolina Electric & Gas Company

[Docket No. ER01–3061–000]

Take notice that on September 14, 2001, South Carolina Electric & Gas Company (SCE&G) filed a Network Integration Transmission Service Agreement and a Network Operating Agreement between SCE&G Electric Transmission and SCE&G Merchant Function (Agreement), under which SCE&G Merchant Function will take transmission service pursuant to SCE&G Electric Transmission's Open Access Transmission Service Tariff in order to provide the transmission service necessary to allow SCE&G to provide power and energy to the City of Orangeburg, South Carolina (Orangeburg) pursuant to an agreement with Orangeburg under SCE&G's Negotiated Market Sales Tariff.

SCE&G has requested an effective date for this Agreement of May 1, 2001.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Electric and Power Company

[Docket No. ER01–3062–000]

Take notice that on September 14, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing Notice of Termination of Service Agreement with Coastal Electric Services Company designated as First Revised Service No. 24 under FERC Electric Tariff, Original Volume No. 4.

Dominion Virginia Power respectfully requests a waiver of the Commission's regulations to permit an effective date of October 20, 2001, as requested by the customer.

Copies of the filing were served upon El Paso Merchant Energy, L.P., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Indiana Gas & Electric Company

[Docket No. ER01–3063–000]

Take notice that on September 14, 2001, Southern Indiana Gas & Electric Company (SIGECO) tendered for filing a Notice of Cancellation of Rate Schedule FPC No. 29, which is a contract between SIGECO and Alcoa Power Generating Inc. (APGI). In conformity with Order No. 614 SIGECO also tendered a canceled rate schedule sheet.

SIGECO respectfully requests that the Commission accept its filing and allow the cancellation to become effective as of November 15, 2001.

Copies of the filing were served upon APGI and the Indiana Utility Regulatory Commission.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Hardee Power Partners Limited

[Docket No. ER01–3064–000]

Take notice that on September 14, 2001, Hardee Power Partners Limited (HPP) submitted an abbreviated rate filing in connection with amendments (Fifth Amendments) to two power sales agreements providing for the sale of electric capacity and associated energy to Seminole Electric Cooperative, Inc. (Seminole) and Tampa Electric Company (Tampa Electric), the rates under which were previously accepted by the Commission.

HPP requests waiver of the Commission's sixty (60) day notice requirements and an effective date of February 1, 2001.

HPP has served copies of the filing on Seminole, Tampa Electric and the Florida Public Service Commission.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Colton Power, L.P.

[Docket No. ER01–3068–000]

Take notice that on September 14, 2001, Colton Power, L.P. (Colton) tendered for filing with the Federal Energy Regulatory Commission (Commission), in compliance with Section 205(c) of the Federal Power Act (FPA) and Section 35.1(a) of the Commission's Regulations, the Master Power Purchase and Sale Agreement, dated April 23, 2001 between the California Department of Water Resources (CDWR) and the Applicant's predecessor, Alliance Colton LLC (Alliance-Colton)

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket# " and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23839 Filed 9–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–313–000, et al.]

Eagle Point Cogeneration Partnership, et al.; Electric Rate and Corporate Regulation Filings

September 18, 2001.

Take notice that the following filings have been made with the Commission:

1. Eagle Point Cogeneration Partnership

[Docket No. EG01–313–000]

Take notice that on September 14, 2001, Eagle Point Cogeneration Partnership (Eagle Point), a New Jersey general partnership with its principal place of business in Houston, Texas, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Eagle Point owns and operates an approximate 225 MW natural gas-fired, combined-cycle, independent power production facility in Westville, County of West Deptford, New Jersey (the Facility). Electric energy produced by the Facility will be sold by Eagle Point to the wholesale power market in the PJM.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Cambridge Electric Light Company

[Docket Nos. ER94–1409–005 and EL94–88–005]

Take notice that, on September 13, 2001, Cambridge Electric Light Company (Cambridge) filed an Interim Refund Report in the referenced dockets.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, and Southern California Edison Company

[Docket No. ER00–3752–001]

Take notice that on September 14, 2001, Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, and Southern California Edison Company tendered for filing the First Addendum to the Funding Agreement for the Development of a Satellite Switchyard to the ANPP High Voltage Switchyard Between Participating Interconnectors and Salt River Project Agricultural Improvement and Power District.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket Nos. ER01–1592–002, ER01–1598–002 and ER01–1706–002]

Take notice that on September 14, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, filed with the Federal Energy Regulatory Commission (Commission) service agreement designations as required by the Commission's Order No. 614 and the Letter Order issued on August 22, 2001 in these dockets.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER01–2292–000]

Take notice that on September 13, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a request to withdraw PacifiCorp's filing under FERC Docket No. ER01–2292–000 and to terminate all future actions under this docket.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. PJM Interconnection, L.L.C.

[Docket No. ER01–3051–000]

Take notice that on September 13, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing an amendment to section 15.2 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement). The proposed amendment clarifies that PJM Members that pay a Weighed Interest assessment shall be creditors of the defaulting PJM Member causing the assessment. Additionally, the proposal establishes a mechanism for the PJM Members to appoint PJM as their agent for collection.

PJM requests that the amendments be made effective on September 14, 2001.

Copies of this filing were served upon all PJM members, each state electric utility regulatory commission and each State Consumer Advocate in the PJM control area.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Western Resources, Inc.

[Docket No. ER01–3052–000]

Take notice that on September 13, 2001, Western Resources, Inc. (WR) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between WR and Wisconsin Public Service Corp. (WPSC) and a Service Agreement between WR and the American Municipal Power—Ohio (AMP). WR states that the purpose of these agreements is to permit WPSC and AMP to take service under WR's Market Based Power Sales Tariff on file with the Commission.

These agreements are proposed to be effective August 13, 2001.

Copies of the filing were served upon WPSC, AMP and the Kansas Corporation Commission.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER01–3053–000]

Take notice that on September 13, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing its Generator Interconnection Procedures and Agreement as Attachment R to the Midwest ISO Open Access Transmission Tariff.

The Midwest ISO requests that the amendments become effective November 13, 2001.

Copies of this filing were electronically served upon Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region.

Comment date: October 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Company Services, Inc.

[Docket No. ER01–3054–000]

Take notice that on September 14, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), filed the following service agreements under the Open Access Transmission Tariff (Tariff) of Southern Company (FERC Electric Tariff, Fourth Revised Volume No. 5): (I) one (1) long-term firm point-to-point transmission service agreement between SCS, as agent for Southern Company, and Southern Company Generation and Energy Marketing (OASIS Requests 178070, 178071, 178072, 178073); (II) two (2) short-term firm point-to-point transmission service agreements between SCS, as agent for Southern Company, and the following entities: (i) Entergy-Koch Trading, LP and (ii) Topaz Energy Associates, LLC; and (III) two (2) non-firm point-to-point transmission service agreements between SCS, as agent for Southern Company and the following entities: (i) Entergy-Koch Trading, LP and (ii) Topaz Energy Associates, LLC.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Eagle Point Cogeneration Partnership

[Docket No. ER01–3055–000]

Take notice that on September 14, 2001, Eagle Point Cogeneration Partnership (Eagle Point), filed with the Federal Energy Regulatory Commission (Commission) an application for approval of its initial rate schedule (FERC Electric Tariff Original Volume No. 1), and for blanket approval for market-based rates pursuant to Part 35 of the Commission's regulations.

Eagle Point is a partnership that owns and operates a 225-MW generating plant

located in Westville, Town of West Deptford, New Jersey.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Cedar Brakes III, L.L.C.

[Docket No. ER01–3056–000]

Take notice that on September 14, 2001, Cedar Brakes III, L.L.C. (CBIII), filed with the Federal Energy Regulatory Commission (Commission) an application for approval of its initial rate schedule (FERC Electric Tariff Original Volume No. 1), and for blanket approval for market-based rates pursuant to Part 35 of the Commission's regulations.

CBIII is a limited liability company formed under the laws of Delaware. CBIII does not own any generating facilities.

Comment date: October 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23840 Filed 9–24–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7064–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Reporting and Recordkeeping Requirements for Universal Waste Handlers and Destination Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Reporting and Recordkeeping Requirements for Universal Waste Handlers and Destination Facilities, ICR Number 1597.04, OMB Control Number 2050–0145, expiration date September 30, 2001. This ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1597.04 and OMB Control No. 2050–0145, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.Sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1597.04. For technical questions about the ICR contact Tab Tesnau by phone at (703) 605–0636 or by E-mail at tesnau.tab@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping Requirements for Universal Waste Handlers and Destination Facilities (OMB Control Number 2050–0145; ICR Number 1597.04) expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: The universal waste regulations at 40 CFR part 273 were promulgated by EPA under the authority of Subtitle C in Resource Conservation and Recovery Act (RCRA). This information collection targets the collection of information for the following reporting or recordkeeping requirements: notification, labeling and marking, storage time limitations, off-site shipments, tracking of universal waste shipments, and petitions to include other waste categories at the federal level. It is necessary for EPA to collect universal waste information to ensure that universal waste is collected and managed in a manner that is protective of human health and the environment. EPA requires, among other things, Large Quantity Handlers of Universal Waste (LQHUW) to notify the Agency of their universal waste management activities so that EPA can obtain general information on these handlers, and to facilitate enforcement of the regulations at part 273. In addition, EPA requires universal waste handlers to record the date on which they begin storing universal waste on-site to ensure that such accumulation is performed responsibly. EPA also requires certain universal waste handlers to track receipt of universal waste shipments as well as shipments sent off-site to ensure that universal waste is properly treated, recycled, and disposed. Finally, the submission of petitions in support of regulating other wastes or waste categories under part 273 helps EPA (1) to compile information on these wastes, and (2) to determine whether regulation as a universal waste is appropriate. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 27, 2001 (66 FR 16672); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information in hours per response is estimated to average 1 hour for Small Quantity Handlers of Universal Waste (SQHUW), 3 hours for Large Quantity Handlers of Universal Waste (LQHUW), and 201 hours for destination facilities. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: SQHUWs, LQHUWs, and Destination Facilities.

Estimated Number of Respondents: 129,839.

Frequency of Response: As needed.

Estimated Total Annual Hour Burden: 218,168 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $3,317.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1597.04 and OMB Control No. 2050–0145 in any correspondence.

Dated: September 13, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23914 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7064–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, New Source Performance Standards for Portland Cement Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standards for Portland Cement Plants, OMB Control Number 2060–0025, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1051.08 and OMB Control No. 2060–0025, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by email at *auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1051.08. For technical questions about the ICR contact Gregory Fried at EPA at (202) 564–7016.

SUPPLEMENTARY INFORMATION:

Title: New Source Performance Standards for Portland Cement Plants, OMB Control No. 2060–0025; EPA ICR No. 1051.08; expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Entities potentially affected by this action are portland cement plants with the following facilities: Kilns, clinker coolers, raw mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems. The Administrator has judged that PM emissions from portland cement plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Owners/operators of portland cement plants must notify EPA of construction, modification, startups, shut downs, date and results of initial performance test and excess emissions. In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 1, 2001 (66 FR 8588). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 18 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Portland Cement Plants.

Estimated Number of Respondents: 113.

Frequency of Response: Initial and semiannual.

Estimated Total Annual Hour Burden: 7,968 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $986,700.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1051.08 and OMB Control No. 2060–0025 in any correspondence.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23915 Filed 9–24–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7065–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses, OMB Control Number 2060–0302, expiration September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1702.03 and OMB Control No. 2060–0302 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, D.C. 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.Susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1702.03. For technical questions about the ICR contact Anthony Erb, tel: (202) 564–9259; fax: (202) 565–2957 ; or email: *erb.anthony @epa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; OMB Control No.2060–0302; EPA ICR No. 1702.03; expiration September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Section 219 (d) of the Clean Air Act (CAA), as amended in 1990, required that the EPA promulgate regulations for urban buses that: (a) operate in Metropolitan Statistical Areas (MSA) or consolidated MSA's with a 1980 population of 750,000 or more (the program could be expanded in the future to MSA's of less than 750,000, under section 219(c) of the CAA); (b) are not subject to the 1994 or later urban bus standards; and (c) have their engines replaced or rebuilt after January 1, 1995. The CAA Amendments require the subject urban buses be retrofitted to comply with an emission standard that reflects the best retrofit technology and maintenance practices reasonably achievable. Under these provisions, EPA has set requirements for pre-1994 model year urban buses that are effective after January 1, 1995, when urban bus engines are rebuilt or replaced. The program requires that the particulate emissions level of the urban bus engines be reduced to a level below the engines' original particulate level through the use of retrofit/rebuild equipment that is certified by EPA. The program will phase itself out as pre-1994 are mandatory. All the information required by this collection is needed for the implementation and the activities of various EPA programs. The information is collected by the Engine Programs Group, Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation. Specific certification information submitted by manufacturers is held as confidential. Confidentiality of proprietary information is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on May 8, 2001 (66 FR 23254); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 20 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers of retrofit equipment and urban bus fleet operators.

Estimated Number of Respondents: 159.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 3,709.

Estimated Total Annualized Capital, O&M Cost Burden: $105,700.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1702.03 and OMB Control No. 2060–0302 in any correspondence.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23918 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7064–9]

Agency Information Collection Activities; Submission to OMB; Comment Request; Partial Updating of TSCA Inventory Data Base, Production and Site Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Partial Updating of TSCA Inventory Data Base, Production and Site Reports (EPA ICR No. 1011.05; OMB Control No. 2070–0070). The ICR, which is abstracted below, describes the nature of the information collection and its estimated cost and burden. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on April 3, 2001 (66 FR 17704). EPA received a number of comments on this ICR during the comment period, which are addressed in the ICR.

DATES: Additional comments may be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1011.05 and OMB Control No. 2070–0070, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code: 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone on (202) 260–2740, by e-mail: *farmer.sandy@epamail.epa.gov*, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1011.05 and/or OMB Control No. 2070–0070.

SUPPLEMENTARY INFORMATION:

Title: Partial Updating of TSCA Inventory Data Base, Production and Site Reports (EPA ICR No. 1011.05; OMB Control No. 2070–0070). This is a request for extension of an existing approved collection that is currently scheduled to expire on September 30, 2001. Under 5 CFR 1320.10(e)(2), the Agency may continue to conduct or sponsor the collection of information while the submission is pending at OMB.

Abstract: Section 8(b) of TSCA requires EPA to compile and keep current a complete list of chemical substances manufactured or processed in the United States. EPA uses the Inventory of Chemical Substances in Commerce to comply with TSCA section 8(b). This inventory, commonly referred to as the TSCA Inventory, is a listing of chemical substances manufactured, imported and processed for commercial purposes in the United States. EPA updates this inventory of chemicals every four years by requiring manufacturers, processors and importers to provide production volume, plant site information and site-limited status information on about 8,900 of the more than 75,000 chemicals on the TSCA Inventory. This information allows EPA to identify what chemicals are or are not currently in commerce and to take appropriate regulatory action as necessary. EPA also uses the information for screening chemicals for risks to human health or the environment, for priority-setting efforts, and for exposure estimates.

Responses to the collection of information are mandatory. The TSCA Inventory Update Rule requires the submission of information on mostly organic chemicals produced or imported in volumes greater than 10,000 pounds per year (see 40 CFR part 710). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The total public reporting burden for this collection of information is estimated to average about 22 hours per response. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The ICR provides a detailed explanation of the information collection activity and the corresponding burden estimate, which is only briefly summarized here.

Respondents/Affected Entities: Manufacturers, processors or importers of chemical substances, mixtures or categories.

Frequency of Collection: Once every four years.

Estimated No. of Respondents: 3,000.

Estimated Total Burden on Respondents: 65,640 hours.

Estimated Total Annual Costs: $1,140,000.

Changes in Burden Estimates: The total burden associated with this ICR has increased from 34,500 hours in the previous ICR to 65,640 hours for this ICR. This adjustment in burden reflects a reassessment of the burden associated with complying with this regulation.

According to the procedures prescribed in 5 CFR 1320.12, EPA has submitted this ICR to OMB for review and approval. Any comments related to the renewal of this ICR should be submitted within 30 days of this notice, as described above.

Dated: September 13, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23919 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7064–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Vinyl Chloride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Vinyl Chloride, OMB Control Number 2060–0071, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 0186.09 and OMB Control No. 2060–0071, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby

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at EPA by phone at (202) 260–4901, by email at Auby.sausan@epamail.epa.gov, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0186.09. For technical questions about the ICR contact Gregory Fried at EPA at (202) 564–7016.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Vinyl Chloride Subpart F, OMB Control Number 2060–0071, EPA ICR Number 0186.09 expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Vinyl Chloride (VC) were proposed on December 24, 1975, promulgated on October 21, 1976, and amended on June 7, 1977, September 30, 1986, September 23, 1988 and December 23, 1992. These standards apply to exhaust gases and oxychlorination vents at ethylene dichloride (EDC) plants; exhaust gases at vinyl chloride monomer (VCM) plants; and exhaust gases, reactors opening losses, manual vent valves, and stripping residuals at polyvinyl chloride (PVC) plants. The standards also apply to relief valves and fugitive emission sources at all three types of plants. In the Administrator's judgement, vinyl chloride emissions from polyvinyl chloride (PVC), ethylene dichloride (EDC), and vinyl chloride monomer (VCM) plants cause or contribute to air pollution that may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapaciting reversible illness. Vinyl chloride is a known human carcinogen which causes a rare cancer of the liver. There is no reason to believe that operators of plants affected by this NESHAP would maintain low emissions without regulations under the Clean Air Act. In order to ensure compliance with the standard, adequate record keeping and reporting is necessary. This information enables the Agency to: (1) Ensure that facilities affected continue to operate the control equipment and use proper work practices to achieve compliance; (2) notification of startup indicates to enforcement personnel when a new facility has been constructed and is thus subject to the standards; and (3) provides a means for ensuring compliance. The standards require daily measurements from the continuous monitoring system and of the reactor pressure and temperature. Establishment of a continuous monitoring program is a high priority of the Agency. The continuous monitoring system monitors VC emissions from the stack to judge compliance with the numerical limits in the standards. The parameters are used to judge the operation of the reactor so that the source and EPA will be aware of improper operation and maintenance. The standards implicitly require the initial reports required by the General Provisions of 40 CFR 61.7 and 61.9. These initial reports include application for approval of construction or modification, and notification of startup. The standards also require quarterly reporting of vinyl chloride emissions from stripping, reactor openings, and exhausts. Reports must be submitted within 10 days of each valve discharge and manual vent valve discharge. All reports are sent to the delegated State authority. In the event that there is no such delegated State authority, the reports are sent directly to the EPA Regional Office. The owner/operator must make the following one-time-only reports; application for approval of construction or modification; notification of startup; application of waiver of testing (if desired by source); and an initial report. The initial report includes a list of the equipment installed for compliance, a description of the physical and functional characteristics off each piece of equipment, a description of the methods which have been incorporated into the standard operation procedures for measuring or calculating emissions, and a statement that equipment and procedures are in place and are being used. Generally, the one-time only reports are required of all sources subject to NESHAP.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting, comments on this collection of information was published on February 1, 2001. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 52 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers of Ethylene Dichloride, Vinyl Chloride Monomer, or Polyvinyl Chloride.

Estimated Number of Respondents: 308.

Frequency of Response: Quarterly and on occasion.

Estimated Total Annual Hour Burden: 16,159 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $1,980,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the above addresses. Please refer to EPA ICR No. 0186.09 and OMB Control No. 2060–0071 in any correspondence.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23920 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7065–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Continuous Release Reporting Regulations (CRRR) Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Continuous Release Reporting Regulations (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), OMB Control No. 2050–0086, expiring September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1445.05 and OMB Control No. 2050–0086, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.Sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1445.05. For technical questions about the ICR contact Lynn Beasley on 703–603–9086 or E-mail address *Beasley.Lynn@epa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Continuous Release Reporting Regulation (CRRR) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), OMB Control No. 2050–0086, EPA ICR Number 1445.05, expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: Section 103(a) of CERCLA, as amended, requires the person in charge of a facility to immediately notify the National Response Center (NRC) of a hazardous substance release into the environment if the amount of the release equals or exceeds the substance's reportable quantity (RQ). The RQ of every hazardous substance can be found in Table 302.4 of 40 CFR 302.4. Section 103(f)(2) of CERCLA provides facilities relief from this per-occurrence notification requirement if the hazardous substance release at or above the RQ is continuous and stable in quantity and rate. Under the CRRR, to report such a release as a continuous release you must make an initial telephone call to the NRC, an initial written report to the EPA Region, and if the source and chemical composition of the continuous release does not change and the level of the continuous release does not significantly increase, a follow-up written report to the EPA Region one year after submission of the initial written report. If the source or chemical composition of the previously reported continuous release changes, notifying the NRC and EPA Region of a change in the source or composition of the release is required. Further, a significant increase in the level of the previously reported continuous release must be reported immediately to the NRC according to section 103(a) of CERCLA. Finally, any change in information submitted in support of a continuous release notification must be reported to the EPA Region. The continuous release of hazardous substance information collected under CERCLA section 103(f)(2) is also available to EPA program offices and other Federal agencies who use the information to evaluate the potential need for additional regulations, new permitting requirements for specific substances or sources, or improved emergency response planning. State and local government authorities and facilities subject to the CRRR use release information for purposes of local emergency response planning. Members of the public, who have access to release information through the Freedom of Information Act, may request release information for purposes of maintaining an awareness of what types of releases are occurring in different localities and what actions, if any, are being taken to protect public health and welfare and the environment. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 28, 2001 (66 FR 16910). One question was received through electronic mail; no additional comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 92 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are facilities that manufacture, process, or otherwise use certain specified hazardous substances.

Estimated Number of Respondents: 2,712.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 249,451.

Estimated Total Annualized Capital, O&M Cost Burden: $76,496.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1445.05 and OMB Control No. 2050–0086 in any correspondence.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23921 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7065–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Identification, Listing and Rulemaking Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Identification, Listing and Rulemaking Petitions, OMB Control Number 2050–0053, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1189.09 and OMB Control No. 2050–0053, to the following addressees: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.Sandy@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No.1189.09. For technical questions about the ICR contact James Michael, Hazardous Waste Identification Division, Office of Solid Waste at (703) 308–8610, by E-mail at Michael.James @epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Identification, Listing and Rulemaking Petitions (OMB Control No. 2050–0053; EPA ICR No.1189.09) expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: This ICR provides a discussion of all the information collection requirements associated with developing and reviewing rulemaking petitions, solid waste and boiler variances, hazardous waste exclusions, and hazardous waste listing exemptions under 40 CFR parts 260 and 261. It includes a detailed description of data items and respondent activities associated with each activity. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 3, 2001 (66 FR 17702); no comments were submitted.

Burden Statement: The annual public reporting and record keeping burden for this collection of information varies depending on the type of petition or demonstration. For example, it is estimated that the average reporting burden per respondent ranges from less than 1 hour (equipment cleaning and replacement) to 748 hours (preparation of a delisting petition). The average recordkeeping burden per respondent ranges from 63 hours (equipment cleaning and replacement) to 2 hours (delisting petition). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Business or other for Profit Institutions.

Estimated Number of Respondents: 126.

Frequency of Response: On occasion.

Estimated Totcl Annual Hour Burden: 20,802 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $886,315.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1189.09 and OMB Control No. 2050–0053 in any correspondence.

Dated: September 18, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23922 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7065–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS for Asphalt Processing and Asphalt Roofing Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart UU: Asphalt Processing and Asphalt Roofing Manufacture; OMB Control Number 2060–0002; expiring September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 0661.07 and OMB Control No. 2060–0002, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–2740, by email at *auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0661.07. For technical questions about the ICR contact Gregory Fried at EPA at (202) 564–7016.

SUPPLEMENTARY INFORMATION:

Title: NSPS Asphalt Processing and Asphalt Roofing Manufacture; OMB Control Number 2060–0002; EPA ICR No. 0661.07, expiring September 30, 2001. This is a request for extension of a currently approved collection.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR Part 60, New Source Performance Standards (NSPS), Subpart UU. The respondents of the recordkeeping and reporting requirements are asphalt processing and roofing manufacturers (SIC Codes 2911, 2951, and 2952) which commenced construction, modification, or reconstruction after November 18, 1980, or May 26, 1981 as appropriate. The control of emissions of particulate matter from asphalt processing and asphalt roof manufacturing requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Particulate matter emissions from asphalt processing and asphalt roof manufacturing are the result of materials handling, fuel combustion, and storage. These standards rely on the reduction of particulate matter emissions by pollution control devices such as electrostatic precipitators, high velocity air filters, or afterburners. In order to ensure compliance with these standards, adequate recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. The standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions. The standards also require reports on initial performance tests. Under the standard, the data collected by the affected industry is retained at the facility for a minimum of two (2) years and available for inspection by the Administrator.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required by 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 1, 2001. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,509 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Asphalt Processing and Asphalt Roofing Manufacturers.

Estimated Number of Respondents: 83.

Frequency of Response: Initial start-up.

Estimated Total Annual Hour Burden: 15,089 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $3,105,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR Number 0661.07 and OMB Control Number 2060–0002, in any correspondence.

Dated: September 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–23923 Filed 9–24–01; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Executive Office of the President; Paperwork Reduction Act; Notice of Proposed Information Collection; Comment Request

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: Submission for OMB review; Comment request.

SUMMARY: The ONDCP has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for proposes to collect information to test the awareness, attitudes and willingness of adults 18 years and older to participate in community anti-drug coalitions.

SUPPLEMENTARY INFORMATION:

I. Background

The National Youth Anti-Drug Media Campaign is a component within the ONDCP that is partnering with the Advertising Council to create a public service campaign that will generate awareness and involvement in local community anti-drug coalitions that mobilize communities to engage in drug prevention measures. To assist the development of the public service campaign, ONDCP proposes to obtain information to sample the awareness, attitudes and willingness of adults 18 years of age and older in order to participate in community anti-drug coalitions. The information will be used to establish a baseline for measuring changes in attitudes and awareness as a result of the public service campaign, and provide data for formative and qualitative evaluation activities. It will assess the public's exposure to and recall of advertising (within a donated media model), and measure change in attitudes about drug prevention and community anti-drug coalitions.

II. Special Issues for Comment

The agency has particular interest in comments on the following issues:

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the proposed collection of information; methods to enhance quality, utility and clarity of the information to be collected; and, the means to minimize the burden of the collection of information on respondents, including the use of automated collection techniques.

III. For Additional Information

To request more information on the proposed projects or to obtain a copy of the information collection plans, please contact Terry Zobeck at (202) 395–5503. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Lauren Wittenberg, OMB Desk Officer, Room 10235, New Executive Office Building, Washington, DC 20503.

IV. Authority and Signature

Alan Levitt, Director for the National Youth Anti-Drug Media Campaign, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506).

Signed at Washington, DC on September 6, 2001.

Alan Levitt,

Director, National Youth Anti-Drug Media Campaign.

[FR Doc. 01–23848 Filed 9–24–01; 8:45 am]

BILLING CODE 3180–02–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

September 19, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that

does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 26, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0291.

Title: Interconnected Systems.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 12,405.

Estimated Time Per Response: .25 hours.

Frequency of Response: On occasion and annual reporting requirements, and recordkeeping requirement.

Total Annual Burden: 3,101 hours.

Needs and Uses: This rule section allows commercial and private land mobile radio licensees to use common point telephone interconnection with telephone service costs distributed on a non-profit cost sharing basis. Records of such arrangements must be placed in the licensee's station file and made available to participants in the sharing arrangement and the Commission upon request.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23972 Filed 9–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 96–262; 94–1; DA 01–2163]

Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document provides notice of the initiation of a cost review proceeding for residential and single-line business subscriber line charge (SLC) caps. Price cap local exchange carriers are directed to file, and parties may provide comment on, cost information so the Commission can determine the appropriate SLC cap.

DATES: Cost submissions due October 17, 2001.

Comments due November 14, 2001.

Reply comments due November 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: On May 31, 2000, the Commission released an order that adopted an integrated interstate access reform and universal service proposal put forth by the members of the Coalition for Affordable Local and Long Distance Service (CALLS). *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96–262 and 94–1, Report and Order in CC Docket No. 99–249, Eleventh Report and Order in CC Docket No. 96–45, 65 FR 38684, June 21, 2000 (*CALLS Order*). In that order, the Commission raised the cap for the primary residential and single-line business subscriber line charge (SLC) to $4.35 on July 1, 2000, and to $5.00 on July 1, 2001. Further scheduled increases were also set forth over the next two years, not to begin until the July 1, 2002 annual access tariff filings, and subject to the following Commission review in regard to the primary residential and single-line business SLC:

> [W]e shall review any increases to residential and single-line business SLC caps above $5.00 to verify that any such increases are appropriate and reflect higher costs where they are to be applied. We will initiate and complete a cost review proceeding prior to any scheduled increases above this cap taking effect to determine the appropriate SLC cap. For this proceeding, the price cap [local exchange carriers (LECs)] have agreed to provide, and we will examine, forward-looking cost information associated with the provision of retail voice grade access to the public switched telephone network. We will address in that proceeding whether an increase in the SLC cap above $5.00 is warranted and, if not, whether a decrease in common line charges is warranted.

See CALLS Order, 65 FR 38684, June 21, 2000. We now initiate the proceeding described at paragraph 83 of the *CALLS Order*. We direct price cap LECs to submit the cost information described in that paragraph, and invite interested parties to comment on the cost submissions.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. *See* 47 CFR 1.1200 and 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

Price cap LECs shall file their cost information no later than October 17, 2001. Interested parties may file comments no later than November 14, 2001. Reply comments may be filed no later than November 28, 2001. When filing cost information and comments, please reference CC Docket Nos. 96–262 and 94–1.

An original and four copies of all cost information, comments and reply comments must be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A225, Washington, DC 20554. In addition, one copy of each submission must be filed with Qualex International, the Commission's duplicating contractor, at its office at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, and one copy with the Chief, Competitive Pricing Division, 445 12th Street, SW., Room 5–A225, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23973 Filed 9–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:13 a.m. on Friday, September 21, 2001, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and receivership activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director John M. Reich (Appointive), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (C)(9)(B), and (c)(10).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: September 21, 2001.

Federal Deposit Insurance Corporation

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–24131 Filed 9–21–01; 3:47 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 22, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. State Bankshares, Inc., Fargo, North Dakota; to acquire 100 percent of the voting shares of State Bank of Moorhead, Moorhead, Minnesota.

Board of Governors of the Federal Reserve System, September 20, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23946 Filed 9–24–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 2001.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Camden National Corporation, Camden, Maine; to acquire Trust Company of Maine, Inc., Bangor, Maine, and thereby engage in trust company activities, pursuant to section 225.28(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, September 20, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–23947 Filed 9–24–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, October 1, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

Contact Person for More Information: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an

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electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: September 21, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–24079 Filed 9–21–01; 1:29 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interstate Quarantine; Delegation of Authority

Notice is hereby given that I have delegated to the Director, Centers for Disease Control and Prevention, with authority to redelegate, the authorities vested in the Surgeon General of the Public Health Service under 42 CFR part 70—Interstate Quarantine.

This delegation shall be exercised under the Department of Health and Human Service's existing delegation of authority and policy on regulations.

This delegation became effective upon date of signature. In addition, I have affirmed and ratified any actions taken by the Director, Centers for Disease Control and Prevention, or his subordinates which involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: August 31, 2001.

David Satcher,

Surgeon General.

[FR Doc. 01–23881 Filed 9–24–01; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0393]

Agency Information Collection Activities; Proposed Collection; Comment Request; Prescription Drug Product Labeling; Medication Guide Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on regulations requiring the distribution of patient labeling, called Medication Guides, for certain products that pose a serious and significant public health concern requiring distribution of FDA-approved patient medication.

DATES: Submit written or electronic comments on the collection of information by November 26, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Prescription Drug Product Labeling; Medication Guide Requirements (OMB Control Number 0910–0393)—Extension

FDA regulations require the distribution of patient labeling, called Medication Guides, for certain prescription human drug and biological products used primarily on an outpatient basis that pose a serious and significant public health concern requiring distribution of FDA-approved patient medication information. These Medication Guides inform patients about the most important information they should know about these products in order to use them safely and effectively. Included are information such as the drug's approved uses, contraindications, adverse drug reactions, and cautions for specific populations, with a focus on why the particular product requires a Medication Guide. These regulations are intended to improve the public health by providing information necessary for patients to use certain medication safely and effectively.

The regulations contain the following reporting requirements that are subject to the PRA. The estimates for the burden hours imposed by the following regulations are listed in table 1 of this document:

21 CFR 208.20—Applicants must submit draft Medication Guides for FDA approval according to the prescribed content and format.

21 CFR 314.70(b)(3)(ii) and 601.12(f)—Application holders must submit changes to Medication Guides to FDA for prior approval as supplements to their applications.

21 CFR 208.24(e)—Each authorized dispenser of a prescription drug product for which a Medication Guide is required, when dispensing the product to a patient or to a patient's agent, must provide a Medication Guide directly to each patient unless an exemption applies under § 208.26 (21 CFR 208.26).

Section 208.26(a)—Requests may be submitted for exemption or deferral from particular Medication Guide content or format requirements.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
208.20	8	1	8	242	1,936
314.70(b)(3)(ii) and 601.12(f)	3	1	3	24	72
208.24(e)	55,000	8.3	460,000	.0014	644
208.26(a)	1	1	1	4	4
Total					2,656

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23885 Filed 9–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0205]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for FDA Approval to Market a New Drug

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by October 25, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Applications for FDA Approval to Market a New Drug—Part 314 (21 CFR Part 314) (OMB Control Number 0910–0001)—Extension

Under section 505(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(a)), a new drug may not be commercially marketed in the United States, imported, or exported from the United States, unless an approval of an application filed with FDA under section 505(b) or 505(j) of the act is effective with respect to such drug. Section 505(b) and 505(j) of the act requires a sponsor to submit to FDA a new drug application (NDA) containing, among other things, full reports of investigations that show whether or not the drug is safe and effective for use, a full list of articles used as components in the drug, a full description of manufacturing methods, samples of the drugs required, specimens of the labeling proposed to be used, and certain patent information as applicable. Under the act, it is the sponsor's responsibility to provide the information needed by FDA to make a scientific and technical determination that the product is safe and effective.

This information collection approval request is for all information requirements under part 314 that are imposed on sponsors who apply for approval of a new drug application in order to market or to continue to market a drug.

Section 314.50(a) requires that an application form (Form FDA 356h) be submitted that includes introductory information about the drug as well as a checklist of enclosures.

Section 314.50(b) requires that an index is submitted with the archival copy of the application and that it references certain sections of the application.

Section 314.50(c) requires that a summary of the application be submitted that presents a good general synopsis of all the technical sections and other information in the application.

Section 314.50(d) requires that the NDA contain the following technical sections about the new drug: Chemistry, manufacturing, and controls; nonclinical pharmacology and toxicology; human pharmacokinetics and bioavailability; microbiology; clinical data; and statistical.

Section 314.50(e) requires the applicant to submit samples of the drug if requested by FDA. In addition, the archival copy of the application must include copies of the label and all labeling for the drug.

Section 314.50(f) requires that case report forms and tabulations be submitted with the archival copy.

Section 314.50(h) requires that patent information, as described under § 314.53, be submitted with the application.

Section 314.50(i) requires that patent certification information be submitted in section 505(b)(2) of the act applications for patents claiming the drug, drug product, method of use, or method of manufacturing.

Section 314.50(j) requires that applicants that request a period of marketing exclusivity submit certain information with the application.

Section 314.50(k) requires that an archival, review, and field copy of the application be submitted.

Section 314.52 requires that notice of certification of invalidity or noninfringement of a patent to patent holders and NDA holders be sent by section 505(b)(2) of the act applicants.

Section 314.54 sets forth the content requirements for applications filed under section 505(b)(2) of the act.

Section 314.60 sets forth reporting requirements for sponsors who amend an unapproved application.

Section 314.65 states that the sponsor must notify FDA when withdrawing an unapproved application.

Sections 314.70 and 314.71 require that supplements be submitted to FDA

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for certain changes to an approved application.

Section 314.72 requires sponsors to report to FDA any transfer of ownership of an application.

Section 314.80(c)(1) and (c)(2) sets forth requirements for expedited adverse drug experience postmarketing reports and followup reports, as well as for periodic adverse drug experience postmarketing reports (Form FDA 3500A). (The burden hours for § 314.80(c)(1) and (c)(2) are already approved by OMB under control numbers 0910–0230 and 0910–0291 and are not included in the hour burden estimates in table 1 of this document).

Section 314.80(i) establishes recordkeeping requirements for reports of postmarketing adverse drug experiences. (The burden hours for § 314.80(i) are already approved by OMB under control numbers 0910–0230 and 0910–0291 and are not included in the hour burden estimates in table 1 of this document).

Section 314.81(b)(1) requires that field alert reports be submitted to FDA (Form FDA 3331).

Section 314.81(b)(2) requires that annual reports be submitted to FDA (Form FDA 2252).

Section 314.81(b)(3)(i) requires that drug advertisements and promotional labeling be submitted to FDA (Form FDA 2253).

Section 314.81(b)(3)(iii) sets forth reporting requirements for sponsors who withdraw an approved drug product from sale. (The burden hours for § 314.81(b)(3)(iii) are already approved by OMB under control number 0910–0045 and are not included in the hour burden estimates in table 1 of this document).

Section 314.90 sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.50 through 314.81. (The information collection hour burden estimate for NDA waiver requests is included in table 1 of this document under estimates for §§ 314.50, 314.60, 314.70, and 314.71).

Section 314.93 sets forth requirements for submitting a suitability petition in accordance with 21 CFR 10.20 and 10.30. (The burden hours for § 314.93 are already approved by OMB under control number 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.94(a) and (d) requires that an abbreviated new drug application (ANDA) contain the following information: Application form; table of contents; basis for ANDA submission; conditions of use; active ingredients; route of administration, dosage form, and strength; bioequivalence; labeling; chemistry, manufacturing, and controls; samples; and patent certification.

Section 314.95 requires that notice of certification of invalidity or noninfringement of a patent to patent holders and NDA holders be sent by ANDA applicants.

Section 314.96 sets forth requirements for amendments to an unapproved ANDA.

Section 314.97 sets forth requirements for submitting supplements to an approved ANDA for changes that require FDA approval.

Section 314.98(a) sets forth postmarketing adverse drug experience reporting and recordkeeping requirements for ANDAs. (The burden hours for § 314.98(a) are already approved by OMB under control numbers 0910–0230 and 0910–0291 and are not included in the hour burden estimates in table 1 of this document).

Section 314.98(c) requires other postmarketing reports for ANDAs: Field alert reports (Form FDA 3331), annual reports (Form FDA 2252), and advertisements and promotional labeling (Form FDA 2253). (The information collection hour burden estimate for field alert reports is included in table 1 of this document under § 314.81(b)(1); the estimate for annual reports is included under § 314.81(b)(2); the estimate for advertisements and promotional labeling is included under § 314.81(b)(3)(i)).

Section 314.99(a) requires that sponsors comply with certain reporting requirements for withdrawing an unapproved ANDA and for a change in ownership of an ANDA.

Section 314.99(b) sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.92 through 314.99. (The information collection hour burden estimate for ANDA waiver requests is included in table 1 of this document under estimates for §§ 314.94(a) and (d), 314.96, and 314.97).

Section 314.101(a) states that if FDA refuses to file an application, the applicant may request an informal conference with FDA and request that the application be filed over protest.

Section 314.107(c)(4) requires notice to FDA by ANDA or section 505(b)(2) of the act application holders of any legal action concerning patent infringement.

Section 314.107(e)(2)(iv) requires that an applicant submit a copy of the entry of the order or judgment to FDA within 10 working days of a final judgment.

Section 314.107(f) requires that ANDA or section 505(b)(2) of the act applicants notify FDA of the filing of any legal action filed within 45 days of receipt of the notice of certification. A patent owner may also notify FDA of the filing of any legal action for patent infringement. The patent owner or approved application holder who is an exclusive patent licensee must submit to FDA a waiver that waives the opportunity to file a legal action for patent infringement.

Section 314.110(a)(3) and (a)(4) states that, after receipt of an FDA approvable letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.110(a)(3) and (a)(4) are included under parts 10 through 16 (21 CFR parts 10 through 16) hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.110(a)(5) states that, after receipt of an approvable letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.110(b) states that, after receipt of an approvable letter, an ANDA applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.110(b) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.120(a)(3) states that, after receipt of a not approvable letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.120(a)(3) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.120(a)(5) states that, after receipt of a not approvable letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.122(a) requires that an ANDA or a suitability petition that relies on a listed drug that has been voluntarily withdrawn from sale must be accompanied by a petition seeking a determination whether the drug was withdrawn for safety or effectiveness reasons. (The burden hours for § 314.122(a) are already approved by OMB under control number 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.122(d) sets forth requirements for relisting petitions for unlisted discontinued products. (The burden hours for § 314.122(d) are already approved by OMB under control number 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.126(c) sets forth requirements for a petition to waive criteria for adequate and well-controlled studies. (The burden hours for § 314.126(c) are already approved by OMB under control number 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.151(a) and (b) sets forth requirements for the withdrawal of approval of an ANDA and the applicant's opportunity for a hearing and submission of comments. (The burden hours for § 314.151(a) and (b) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.151(c) sets forth the requirements for withdrawal of approval of an ANDA and the applicant's opportunity to submit written objections and participate in a limited oral hearing. (The burden hours for § 314.151(c) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.152(b) sets forth the requirements for suspension of an ANDA when the listed drug is voluntarily withdrawn for safety and effectiveness reasons, and the applicant's opportunity to present comments and participate in a limited oral hearing. (The burden hours for § 314.152(b) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.161(b) and (e) sets forth the requirements for submitting a petition to determine whether a listed drug was voluntarily withdrawn from sale for safety or effectiveness reasons. (The burden hours for § 314.161(b) and (e) are already approved by OMB under control number 0910–0183 and are not included in the hour burden estimates in table 1 of this document).

Section 314.200(c), (d), and (e) requires that applicants or others subject to a notice of opportunity for a hearing who wish to participate in a hearing file a written notice of participation and request for a hearing as well as the studies, data, and so forth, relied on. Other interested persons may also submit comments on the notice. This section also sets forth the content and format requirements for the applicants' submission in response to notice of opportunity for hearing. (The burden hours for § 314.200(c), (d), and (e) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.200(f) states that participants in a hearing may make a motion to the presiding officer for the inclusion of certain issues in the hearing. (The burden hours for § 314.200(f) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.200(g) states that a person who responds to a proposed order from FDA denying a request for a hearing provide sufficient data, information, and analysis to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing. (The burden hours for § 314.200(g) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document.)

Section 314.420 states that an applicant may submit to FDA a drug master file in support of an application, in accordance with certain content and format requirements.

Section 314.430 states that data and information in an application are disclosable under certain conditions, unless the applicant shows that extraordinary circumstances exist. (The burden hours for § 314.430 are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.530(c) and (e) states that, if FDA withdraws approval of a drug approved under the accelerated approval procedures, the applicant has the opportunity to request a hearing and submit data and information. (The burden hours for § 314.530(c) and (e) are included under the parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the hour burden estimates in table 1 of this document).

Section 314.530(f) requires that an applicant first submit a petition for stay of action before requesting an order from a court for a stay of action pending review. (The burden hours for § 314.530(f) are already approved by OMB under control number 0910–0194 and are not included in the hour burden estimates in table 1 of this document).

Respondents to this collection of information are all persons who submit an application or abbreviated application or an amendment or supplement to FDA under part 314 to obtain approval of a new drug, and any person who owns an approved application or abbreviated application.

In the **Federal Register** of May 29, 2001 (66 FR 29143), the agency requested comments on the proposed collections of information. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section; [Form Number]	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
314.50(a), (b), (c), (d), (e), (f), (h), and (k)	71	1.55	110	1,666	183,260
314.50(i) and 314.94(a)(12)	97	3.4	331	2	662
314.50(j)	92	2.7	250	2	500
314.52 and 314.95	37	2	75	16	1,200
314.54	11	1	11	300	3,300
314.60	125	19.92	2,490	80	199,200
314.65	29	1.24	36	2	72
314.70 and 314.71	204	11.54	2,354	300	706,200
314.72	70	2.90	205	2	410
314.81(b)(1) [3331]	82	3.43	281	8	2,248
314.81(b)(2) [2252]	600	12.66	7,597	40	303,880

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section; [Form Number]	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
314.81(b)(3)(i) [2253]	196	2.42	475	2	950
314.94(a) and (d)	125	2.92	365	480	175,200
314.96	225	7.25	1,631	80	130,480
314.97	175	17.44	3,052	80	244,160
314.99(a)	45	8.88	400	2	800
314.101(a)	6	1	6	.50	3
314.107(c)(4), (e)(2)(iv), and (f)	34	2	71	1	71
314.110(a)(5)	50	1.66	83	.50	41.5
314.120(a)(5)	22	1.04	23	.50	11.5
314.420	462	1.1	514	61	31,354
Total					1,984,003

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23886 Filed 9–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1418]

International Conference on Harmonisation; Guidance on Good Manufacturing Practice for Active Pharmaceutical Ingredients; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled "Q7A Good Manufacturing Practice Guidance for Active Pharmaceutical Ingredients." The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance describes current good manufacturing practice (CGMP) for manufacturing of active pharmaceutical ingredients (APIs). The guidance is intended to help ensure that all APIs meet the standards for quality and purity they purport or are represented to possess.

DATES: The guidance is effective September 25, 2001. Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Requests and comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Edwin Rivera, Center for Drug Evaluation and Research (HFD–320), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–594–0095, Rivera@cder.fda.gov, or John A. Eltermann, Center for Biologics Evaluation and Research (HFM–670), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3031, Eltermann@cber.fda.gov.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA). The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In accordance with the agency's good guidance practices (GGPs) regulation (21 CFR 10.115), this document is being called a guidance, rather than a guideline.

To facilitate the process of making ICH guidances available to the public, the agency has changed its procedures for publishing ICH guidances. As of April 2000, FDA no longer includes the text of ICH guidances in the **Federal Register**. Instead, the agency publishes a notice in the **Federal Register** announcing the availability of an ICH guidance. The ICH guidance is placed in the docket and can be obtained through regular agency sources (see the **ADDRESSES** section). Draft ICH guidances are left in the original ICH format. Final guidances are reformatted to conform to the GGP style before publication.

In the **Federal Register** of August 1, 2000 (65 FR 46936), FDA published a notice announcing the availability of the draft guidance entitled "Q7A ICH Good Manufacturing Practice Guide for Active Pharmaceutical Ingredients." The notice gave interested persons an opportunity to submit comments by October 2, 2000.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in November 2000.

The guidance describes CGMPs for the manufacturing of APIs. The guidance is intended to help ensure that all APIs meet the standards for quality and purity they purport or are represented to possess. The guidance is not intended to define registration or filing requirements or modify pharmacopeial requirements.

In the guidance, "manufacturing" includes all operations, and related controls, of receipt of materials, production, packaging, repackaging, labeling, relabeling, quality control, release, storage, and distribution of APIs. The guidance applies to the manufacture of APIs for use in human drug products, including sterile APIs up to the point immediately before the API is rendered sterile. The sterilization and aseptic processing of sterile APIs are not covered by this guidance. CGMP's described in the guidance should be applied to the API manufacturing process beginning with the use of API starting materials.

The guidance applies to APIs that are manufactured by chemical synthesis, extraction, cell culture/fermentation, recovery from natural sources, or any combination of these processes. APIs manufactured using blood or plasma as raw materials are also covered.

The guidance does not apply to vaccines, whole cells, whole blood and plasma, blood and plasma derivatives (plasma fractionation), and gene therapy APIs. The guidance does not apply to cell substrates, medical gases, bulk-packaged drug products, and manufacturing/control aspects specific to radiopharmaceuticals.

This guidance represents the agency's current thinking on CGMPs for manufacturing APIs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the guidance at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/publications.htm.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23980 Filed 9–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0361]

International Conference on Harmonisation; Draft Guidance on ICH Q1D Bracketing and Matrixing Designs for Stability Testing of Drug Substances and Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled "Q1D Bracketing and Matrixing Designs for Stability Testing of Drug Substances and Drug Products." The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). This draft guidance is an annex to an ICH draft guidance entitled "Q1A(R) Stability Testing of New Drug Substances and Products," that published in the **Federal Register** of April 21, 2000 (65 FR 21446). ICH Q1D is intended to provide guidance on the application of reduced designs (i.e., bracketing and matrixing) for stability studies conducted in accordance with the principles outlined in ICH Q1A(R).

DATES: Submit written or electronic comments on the draft guidance by November 26, 2001.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Chi-wan Chen, Center for Drug Evaluation and Research (HFD–830), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2001, or Andrew Shrake, Center for Biologics Evaluation and Research (HFM–345), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–402–4635.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to

seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA). The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In accordance with FDA's good guidance practices (GGPs) regulation (21 CFR 10.115), this document is being called a guidance, rather than a guideline.

To facilitate the process of making ICH guidances available to the public, the agency has changed its procedure for publishing ICH guidances. As of April 2000, FDA no longer includes the text of ICH guidances in the **Federal Register**. Instead, the agency publishes a notice in the **Federal Register** announcing the availability of an ICH guidance. The ICH guidance will be placed in the docket and can be obtained through regular agency sources (see the **ADDRESSES** section). Draft guidances will be left in the original ICH format. The final guidance will be reformatted to conform to the GGP style before publication.

In November 2000, the ICH Steering Committee agreed that an ICH draft guidance entitled "Q1D Bracketing and Matrixing Designs for Stability Testing of New Drug Substances and Drug Products" should be made available for public comment. The draft guidance is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group.

ICH Q1A(R) notes that, if justified, the use of two types of reduced stability study designs (i.e., bracketing and matrixing) can be applied to the testing of new drug substances and products, but ICH Q1A(R) provides no further guidance on the subject. This draft guidance (ICH Q1D) describes the principles for applying bracketing or matrixing in situations where further justification is or is not important. Design factors and other considerations are presented, and potential risks of using reduced designs are discussed. Sample designs are provided as illustrations.

This draft guidance represents the agency's current thinking on reduced stability testing of new drug substances and products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance by November 26, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/publications.htm.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–23981 Filed 9–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0418]

Solvay Pharmaceuticals, Inc.; Withdrawal of Approval of Two New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new drug applications (NDAs) held by Solvay Pharmaceuticals, Inc., 901 Sawyer Rd., Marietta, GA 30062. In 1997, the agency informed Solvay of its intention to assess the validity of data and information in all of Solvay's pending and approved applications. However, Solvay does not intend to conduct validity assessments of the two NDAs named in this notice because the products are no longer marketed. Solvay has agreed to permit FDA to withdraw approval of the applications, thereby waiving its opportunity for a hearing.

DATES: Effective September 25, 2001.

FOR FURTHER INFORMATION CONTACT: David Read, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: Recently, FDA determined that Solvay submitted untrue statements of material fact in several applications filed with the agency. These findings, along with other information submitted to the agency by Solvay, provided sufficient justification to question the reliability of data in all of Solvay's applications filed with the agency. Solvay was notified in writing of the agency's determinations and its intention to assess the validity of the data and information in all of Solvay's pending and approved applications. The agency offered Solvay the opportunity to permit FDA to withdraw approval, under § 314.150(d) (21 CFR 314.150(d)), of any application not undergoing a validity assessment.

Subsequently, in letters dated February 29, 2000, Solvay requested withdrawal under § 314.150(d) of the following NDAs held by Solvay:

NDA 16–782; Lithonate (lithium carbonate tablets USP) 300 milligrams (mg); and

NDA 16–980; Lithotabs (lithium carbonate tablets USP) 300 mg.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDAs listed above, and all amendments and supplements thereto, is withdrawn effective September 25, 2001. Distribution of these products in interstate commerce without an approved application is illegal and subject to regulatory action.

Dated: September 17, 2001.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 01–23979 Filed 9–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Assessment of the National Leadership Institute Program and Services

—(OMB No. 0930–0203, Revision)— The Substance Abuse and Mental Health Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) is conducting an assessment of its National Leadership Institute (NLI). The goal underlying the technical assistance and training opportunities provided through the NLI is to strengthen the competitive position of nonprofit community-based organizations (CBOs) which are essential components of local substance abuse services for the uninsured and under-insured.

Both a process and an impact assessment are being conducted. The process assessment describes the needs faced by CBOs, the types of training and technical assistance that CBOs receive through the NLI, and CBO satisfaction with services. The impact assessment focuses on specific changes made by CBOs in response to NLI recommendations, and improvements in self-rated organizational performance and several organization status measures.

The assessment design for technical assistance is a pre-post-post design that collects identical information from the TA recipient organizations at initiation of NLI contact and again after 12 and 24 months. These time frames are necessary to allow CBOs the opportunity to address NLI technical assistance recommendations and to plan and implement their changes. In addition, the assessment collects satisfaction measures from the TA recipient organization after each technical assistance event and at 12 and 24 months after the initial TA event.

The training component of NLI is also a pre-post-post design. Participants complete a brief questionnaire prior to receiving either onsite or online training, as well as immediately upon completion of the training. Training participants are also sent a 30-day follow-up questionnaire in the mail. With the introduction of online training, the 30-day follow-up may be submitted via e-mail, as well.

Most of the evaluation forms for both TA and training are undergoing minor revisions. The Organizational Self-Assessment and the 12-Month Follow-Up Organizational Self-Assessment will be revised to eliminate some of the items that were confusing to respondents and to capture some key indicators that will be more useful to TA providers and for evaluation purposes. The Activity Summary will be revised to better capture GPRA data and to better record the nature of the recommendations an agency receives from a TA provider. There will not be substantial changes to any of the TA-related satisfaction forms.

The training forms are undergoing minor revisions that include rewording and the addition and/or deletion of questions to tailor the instrument to persons who participate in NLI's online training.

This request is also to extend OMB clearance to 2005 to allow for a continued assessment of the NLI's services. NLI anticipates receiving inquiries from 80 CBOs per year over the next three years, for a total of 240 programs. NLI anticipates receiving requests for technical assistance from 70 CBOs per year over the next three years, for a total of 210 programs. Data collection burden is borne primarily by directors of the CBOs who provide initial contact information (3 minutes), pre- and post-test versions of organizational self-assessments (75 minutes each), satisfaction forms (5 minutes each for 2 types of questionnaires), and activity summaries/telephone interviews (20 minutes). Finally, an estimated 500 individuals will attend NLI onsite training events and/or complete an online training course per year, for a total of 1,500 individuals. These individuals will receive a brief questionnaire prior to the training and satisfaction questionnaires immediately after the training, as well as 30 days after the training (5 minutes each).

The chart below summarizes the estimated total three-year burden and annual average burden.

Form	Number of respondents	Responses per respondent	Hours per response	Total hours
Technical Assistance Recipients				
Initial Contact Form	240	1	.10	24
Organization Self-Assessment	210	[1]3 (pre-TA and 12 and 24 months post)	1.25	786
Technical Assistance Event Satisfaction	210	2	.08	34

Form	Number of respondents	Responses per respondent	Hours per response	Total hours
Activity Summary	210	[2] 2 (at 12 and 24 months)	.33	139
Comprehensive NLI Satisfaction	210	1	.16	34
Training Participants (includes onsite and online trainings)				
Training Participant Information Form (pre- and post-training)	1,500	2	.08	240
Training Participant 30 day follow-up	1,500	1	.08	120
Total	1,740			1,411
Annual average	580			470

[1] Pre-TA and 12 and 24 months post.
[2] At 12 and 24 months.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 19, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–23882 Filed 9–24–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a closed meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in September 2001.

The agenda of the meeting will include the review, discussion, and evaluation of individual grant applications. Therefore this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, 10(d). If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

A roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II building, Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8455. Substantive program information may be obtained from the contact person listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Date: Monday, September 24, 2001.

Place: 5515 Security Lane, Rockwall II Building, Suite 1075, Rockville, Maryland 20857, Telephone: (301) 443–8455.

Closed: Monday, September 24, 2001, 2–3 p.m.

Contact: Yuth Nimit, Ph.D., 5515 Security Lane, Rockwall II Building, Suite 901, Rockville, Maryland 20852, Telephone: (301) 443–8455.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: September 19, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–23982 Filed 9–24–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Amendment of Meeting Notice

Public notice was given in the **Federal Register** on August 29, 2001, Volume 66, Number 168, page 45689 that the CSAT National Advisory Council would be meeting September 12–13, 2001 at the Bethesda Hyatt Hotel, One Bethesda Metro, Bethesda, Maryland. Due to the emergency situation in the Nation, the meeting was cancelled.

Information regarding the next meeting of the Council may be obtained from:

FOR FURTHER INFORMATION CONTACT: Cynthia Graham, 5600 Fishers Lane, RW II, Ste 618, Rockville, MD 20857, Telephone: (301) 443–8923; FAX: (301) 480–6077. E-mail: cgraham@samhsa.gov.

Dated: September 19, 2001.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–23983 Filed 9–24–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4663–N–04]

Notice of Extension of Application Due Dates for Third Round Designation of Seven Urban Empowerment Zones and Designation of Forty Renewal Communities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Extension of application due dates.

SUMMARY: This notice extends by 15 business days the application due date for the designation of seven Round III Empowerment Zones (EZs), from September 28, 2001, to October 22, 2001. This notice also extends the application due date for the designation of 40 Renewal Communities (RCs) by 15 business days, from October 12, 2001, to November 2, 2001.

APPLICATION DUE DATE FOR ROUND III EZ DESIGNATION: Completed applications (one original and 2 copies) for Round III EZ designation must be submitted no later than October 22, 2001. See below for specific procedures governing the form of application submission (*e.g.*, mailed application or hand delivery). No facsimile (FAX) applications will be accepted for consideration by HUD.

Delivered Applications. Completed applications (one original and two copies) for Round III EZ designation must be submitted no later than 5:00 p.m. eastern time, on October 22, 2001. Up until 5:00 p.m. on the deadline date, completed applications will be accepted at the address and room number specified below.

Mailed Applications. Applications for Round III EZ designation will be considered timely if received on or before October 22, 2001.

Applications Sent by Overnight Delivery. Overnight delivery items for Round III EZ designation will be considered filed on time if received on or before October 22, 2001.

Electronic Submission of Application Information

Information submitted electronically for Round III EZ designation using the RC/EZ On-Line Application System must be submitted not later than 5:00 PM, Eastern Time on October 22, 2001. This is done by hitting the "Submit" button at each appropriate location in the software. The system will not be available after the deadline.

APPLICATION DUE DATE FOR RC DESIGNATION: Completed applications (one original and 2 copies) for RC designation must be submitted no later than November 2, 2001. See below for specific procedures governing the form of application submission (e.g., mailed application or hand delivery). No facsimile (FAX) applications will be accepted for consideration by HUD.

Delivered Applications. Complete applications (one original and two copies) for RC designation must be received no later than 5:00 PM eastern time, on November 2, 2001. Up until 5:00 PM on the deadline date, completed applications will be accepted at the address and room number specified below.

Mailed Applications. Applications for RC designation will be considered timely if received on or before November 2, 2001.

Applications Sent by Overnight Delivery. Overnight delivery items for RC designation will be considered filed on time if received on or before November 2, 2001.

Electronic Submission of Application Information

Information submitted electronically for RC designation using the RC/EZ On-line Application System must be submitted not later than 5:00 PM, Eastern Time on November 2, 2001. This is done by hitting the "Submit" button at the appropriate location in the software. The system will not be available after the deadline.

ADDRESSES: Address for submitting all applications. Completed paper applications (one original and two copies) for either Round III EZ designation or RC designation must be submitted to: Department of Housing and Urban Development, Office of Community Planning and Development, c/o Processing and Control Unit, Room 7255, 451 7th Street, SW, Washington, DC 20410, by mail or hand delivery.

For Round III EZ Application and Other Materials. For a copy of the EZ Round III Application Guidebook, which includes the Nomination Forms and the EZ Round III rule at 24 CFR part 598 (which also implemented EZ Round II), please call the Community Connections Information Clearinghouse at (800) 998–9999. Round III publications are also available on the HUD web site at: *http://www.hud.gov/offices/cpd/ezec.* Requests for application materials should be made immediately to insure sufficient time for application preparation. Hearing- or speech-impaired persons should use the Federal Information Relay Service telephone number, (800) 877–8339, to obtain application materials.

The Round III EZ designation publications consist of:

- The Notice Inviting Applications for Round III EZ designation published on July 19, 2001 (66 FR 37878);
- Urban Application Guide for Empowerment Zones Round III (Application Guide and Nomination forms);
- The Round II and Round III Rule at 24 CFR part 598;
- Tax Incentive Guide for Businesses in Renewal Communities, Empowerment Zones and Enterprise Communities; and
- Federal Programs Guide.

For RC Application and Other Materials. For a copy of all RC publications, including the Application Guide, Nomination Forms, and the interim rule (24 CFR part 599, published July 9, 2001, 66 FR 35850), please call the Community Connections Information Clearinghouse at (800) 998–9999. The RC publications are also available from HUD's web site at: *http://www.hud.gov/offices/cpd/ezec.* Requests for application materials should be made immediately to allow sufficient time for application preparation. Hearing- or speech-impaired persons should use the Federal Information Relay Service telephone number, (800) 877–8339, to obtain application materials.

The Renewal Community publications consist of:

- The Notice Inviting Applications for RC designation published on August 7, 2001 (66 FR 41432);
- The Renewal Communities Interim Rule (24 CFR part 599);
- Renewal Communities Application Guide, 2001 (RC Application Guide); and
- Tax Incentive Guide for Businesses in the Renewal Communities, Empowerment Zones, and Enterprise Communities.

FOR FURTHER INFORMATION CONTACT: For technical questions relating to Round III EZ designation, contact Lisa Hill, Empowerment Zone/Enterprise Community Initiative; for technical questions relating to RC designation, contact John Haines, Renewal Community Initiative; both with the Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7130, Washington, DC 20410, (202) 708–6339. Hearing- or speech-impaired individuals may call (800) 877–8339 (the Federal Information Relay Service—TTY).

SUPPLEMENTARY INFORMATION: The Community Renewal Tax Relief Act of 2000 (CRTR Act) authorizes HUD to designate up to 40 Renewal Communities within which special tax incentives would be available. The CRTR Act also authorizes the designation of nine Round III Empowerment Zones (EZs). Seven of the Round III EZs are to be designated in urban areas by the Secretary of HUD. The remaining two Round III EZs are to be designated in rural areas by the Secretary of Agriculture.

On July 19, 2001, at 66 FR 37878, HUD published a Notice Inviting Applications for Round III EZ designation, with an application due date of September 28, 2001. A Notice Inviting Applications for RC designation was published on August 7, 2001 (66 FR 41432), with an application due date of October 26, 2001. Because of the widespread disruptions resulting from recent tragic events, HUD in this Notice is extending by 15 business days the application due dates for both the Round III EZ designations, to October 22, 2001, and the RC designations, to November 2, 2001.

While these extended due dates are available to all communities applying for RC or Round III EZ designations, many applicants may still be able to keep their schedules in meeting the original due dates and, to the extent feasible, HUD encourages them to do so.

Dated: September 19, 2001.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development

[FR Doc. 01–23845 Filed 9–24–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Request for nominations for the Invasive Species Advisory Committee.

SUMMARY: Pursuant to Executive Order 13112, the U.S. Department of the Interior, on behalf of the interdepartmental National Invasive Species Council, proposes to appoint new members to the Invasive Species Advisory Committee (ISAC). The Secretary of the Interior, acting as administrative lead, is requesting nominations for qualified persons to serve as members of the ISAC.

DATES: November 9, 2001.

ADDRESSES: Nominations should be sent to Lori Williams, Executive Director, National Invasive Species Council, 1951 Constitution Ave, NW, Room 320, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Kelsey Passé, Program Analyst, at (202) 208–6336, fax (202) 208–1526 or e-mail *Kelsey_Passe@ios.doi.gov.*

SUPPLEMENTARY INFORMATION

Advisory Committee Scope and Objectives

The purpose and role of the ISAC is to provide advice to the Invasive Species Council (Council), as authorized by Executive Order 13112, on a broad array of issues including preventing the introduction of invasive species, providing for their control, and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is Co-chaired by the Secretaries of the Interior, Agriculture, and Commerce. The duty of the Council is to provide national leadership regarding invasive species issues. Pursuant to the Executive Order, the Council developed a National Invasive Species Management Plan. The Plan is available on the web at *www.invasivespecies.gov.* The Council is responsible for effective implementation of the Plan. The Council coordinates Federal agency activities concerning invasive species; prepares, revises and issues the National Invasive Species Management Plan; encourages planning and action at local, tribal, State, regional and ecosystem-based levels; develops recommendations for international cooperation in addressing invasive species; facilitates the development of a coordinated network to document, evaluate, and monitor impacts from invasive species; and facilitates establishment of an information-sharing system on invasive species that utilizes, to the greatest extent practicable, the Internet.

The role of ISAC is to maintain an intensive and regular dialogue regarding the aforementioned issues. The ISAC provides advice in cooperation with stakeholders and existing organizations addressing invasive species. The ISAC meets up to four (4) times per year.

Terms for current members of the ISAC expire at the end of 2001. Current members of the ISAC are eligible for reappointment. The Secretary of the Interior will appoint members to the ISAC in consultation with the Secretaries of Agriculture and Commerce. The Secretary of Interior actively solicits new nominees to the ISAC. Members of the ISAC should be knowledgeable in and represent one or more of the following communities of interests: weed science; fisheries science; rangeland management; forest science; entomology; nematology; plant pathology; veterinary medicine; the broad range of farming or agricultural practices; biodiversity issues; applicable laws and regulations relevant to invasive species policy; risk assessment; biological control of invasive species; public health/epidemiology; industry activities, structure, and international trade; environmental education; ecosystem monitoring; natural resource database design and integration; internet-based management of conservation issues.

Members should also have practical experience in one or more of the following areas: representing sectors of the national economy that are significantly threatened by biological invasions (*e.g.* agriculture, fisheries, public utilities, recreational users, tourism, etc.); representing sectors of the national economy whose routine operations may pose risks of new or expanded biological invasions (*e.g.* shipping, forestry, horticulture, aquaculture, pet trade, etc.); developing natural resource management plans on regional or ecosystem-level scales; addressing invasive species issues, including prevention, control and monitoring, in multiple ecosystems and on multiple scales; integrating science and the human dimension in order to create effective solutions to complex conservation issues including education, outreach, and public relations experts; coordinating diverse groups of stakeholders to resolve complex environmental issues and conflicts; and complying with NEPA and other federal requirements for public involvement in major conservation plans. Members will be selected in order to achieve a balanced representation of viewpoints, so to effectively address invasive species issues under consideration. No member may serve on the ISAC for more than three (3) consecutive terms of two years. Reappointment terms will be staggered within stakeholder groups (2 or 3 years) to minimize turnover.

Members of the ISAC and its subcommittees serve without pay. However, while away from their homes or regular places of business in the performance of services of the ISAC, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service, as authorized by section 5703 of Title 5, United States Code.

Submitting Nominations

Nominations should be typed and should include the following:

1. A brief summary of no more than two (2) pages explaining the nominee's suitability to serve on the ISAC.
2. A resume or curriculum vitae.
3. Three (3) letters of reference.

Current members of the ISAC need only to submit a letter of support from the organization they are representing to be reconsidered for the next ISAC.

Nominations should be sent no later than forty-five days after the **Federal Register** notice, to Lori Williams, National Invasive Species Council, 1951 Constitution Ave, NW, Room 320, Washington, DC, 20240.

To ensure that recommendations of the ISAC take into account the needs of the diverse groups served, the Department of the Interior is actively soliciting nominations of qualified minorities, women, persons with disabilities and members of low income populations.

Dated: September 14, 2001.

James Tate, Jr.,

Science Advisor to the Secretary of the Interior.

[FR Doc. 01–23907 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit; Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

PRT–047984

Applicant: Philadelphia Zoological Garden, Philadelphia, PA.

The applicant requests a permit to import a female captive-bred giant otter (*Pteronura brasiliensis*) from the Brasilia Zoo, Brazil, for the purpose of enhancing the propagation of the species.

PRT–048151

Applicant: Michael Follett, Dallas, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–047054

Applicant: Douglas E. Snell, Brandywine, MD.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

PRT–048095

Applicant: Clayton L. Green, Jr., Lawton, OK.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: September 14, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Office of Management Authority.

[FR Doc. 01–23929 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Supplement and Amendment to the Sonoran Pronghorn Recovery Plan—Recovery Criteria and Estimates of Time for Recovery Actions—for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a Draft Supplement and Amendment to the 1998 Final Sonoran pronghorn (*Antilocapra americana sonoriensis*) Recovery Plan. The species is currently known to occur on federal lands in Maricopa, Pima, and Yuma counties in southwestern Arizona. The Service solicits review and comment from the public on this Draft Supplement and Amendment.

DATES: Comments on the Draft Supplement and Amendment to the 1998 Final Sonoran Pronghorn Recovery Plan must be received on or before November 26, 2001 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the Draft Supplement and Amendment to the 1998 Final Sonoran Pronghorn Recovery Plan may obtain a copy by accessing the Service's Arizona Ecological Service Field Office internet web page at *Arizonaes.fws.gov* or contacting John Morgart, Cabeza Prieta National Wildlife Refuge, U.S. Fish and Wildlife Service, 1611 North Second Avenue, Ajo, Arizona, 85321 (520/387–4989 Direct; 520/387–6483 Refuge Office; 520/387–5359 Fax; john_morgart@fws.gov e-mail). Written comments and materials regarding the supplement and amendment to the plan should be addressed to the Refuge Manager, Don Tiller, at this same address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Morgart (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant species to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

In a recent court decision (Civil Action No. 99–927 [ESH]), the judge ruled that the 1998 Final Sonoran Pronghorn Recovery Plan "* * * fails to establish (1) objective measurable criteria which, when met, would result in a determination that the pronghorn may be removed from the list of endangered species or, if such criteria are not practicable, an explanation of that conclusion and (2) estimates of the time required to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal where practicable, or, if such estimates are not practicable, an explanation of that conclusion." The Court has ordered the Service to reconsider these portions of the 1998 Final Sonoran Pronghorn Recovery Plan. Deadline for completion of this task is November 30, 2001.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and

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comment be provided during recovery plan development. Public review and comment is also sought for this supplement and amendment to an existing recovery plan. The Service will consider all information presented during a public comment period prior to approval of the supplement and amendment to the 1998 Final Sonoran Pronghorn Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing recovery activities.

The Draft Supplement and Amendment to the 1998 Final Sonoran Pronghorn Recovery Plan updates selected biological sections of the Recovery Plan, addresses the five listing factors mandated by Section 4(a)(1) of the Endangered Species Act of 1973, reassesses recovery criteria presented in the Final Recovery Plan, and where practicable, provides estimates of time necessary to carry out measures needed to effect recovery of Sonoran pronghorn as articulated in the Final Recovery Plan. The Draft Supplement and Amendment to the 1998 Final Recovery Plan was developed by the Service in coordination with an appointed Recovery Team that includes a group of scientists and agency biologists with expertise in the ecology of the Sonoran pronghorn. The Draft Supplement and Amendment to the Recovery Plan has undergone peer review by scientists, conservation biologists, range experts, and others experienced in reviewing recovery plans. This Draft Supplement and Amendment to the Recovery Plan incorporates their comments where applicable.

Public Comments Solicited

We solicit written comments on the Draft Supplement and Amendment to the 1998 Final Sonoran Pronghorn Recovery Plan. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 13, 2001.

Geoffrey L. Haskett,

Acting Regional Director.

[FR Doc. 01–23825 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On June 15, 2001, a notice was published in the **Federal Register** (66 FR 32635), that an application had been filed with the Fish and Wildlife Service by James A. Cummings for a permit (PRT–043611) to import one polar bear (Ursus maritimus), taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on August 28, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On June 14, 2001 a notice was published in the **Federal Register** (66 FR 32371), that an application had been filed with the Fish and Wildlife Service by Brian Olson for a permit (PRT–043984) to import one polar bear (*Ursus maritimus*) trophy taken from the Norwegian Bay population, Canada for personal use.

Notice is hereby given that on August 30, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: September 14, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–23930 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) has submitted for renewal the information collection for the Housing Assistance Application (1076–0084) to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act. This program and the process of obtaining benefits are codified at 25 CFR Part 256. On May 10, 2001, the BIA published a notice in the **Federal Register** requesting comments on the proposed information collection. The comment period ended on July 10, 2001. The BIA received no comments from the public in response to the notice.

DATES: Submit comments on or before October 25, 2001.

ADDRESSES: Your comments and suggestions on the requirements should be made directly to the Office of Information and Regulatory Affairs, Attn: Desk Officer for Department of the Interior, Office of Management and Budget; 725 17th Street, NW, Washington, D.C. 20503. Please provide a copy of your comments to June Henkel, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, MS–4660–MIB, Washington, D.C., 20240. Telephone: (202) 208–3667.

FOR FURTHER INFORMATION CONTACT: Copies of the renewal of collection of information and related self-explanatory form may be obtained by contacting June Henkel, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS–4660–MIB, Washington, D.C. 20240. E-mail: *JuneHenkel@bia.gov.* Fax: (202) 208–2648. Telephone: (202) 208–3667. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Abstract

The information is needed to establish whether an applicant is eligible to receive services under the HIP and to establish the priority order in which eligible applicants may receive services under the program. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on May 10, 2001 (66 FR 23948). OMB is required to respond to this request between 30–60 days after publication of this notice in the **Federal Register**. For maximum consideration, your comments should be submitted to OMB within 30 days of publication.

II. Request for Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

2. The accuracy of the BIA's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and,

4. How to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of information technology.

III. Data

Title of the Collection of Information: Department of the Interior, Bureau of Indian Affairs, Housing Assistance Application.

OMB Number: 1076–0084.

Affected Entities: Individual members of Indian tribes who are living on or near a tribal service area, as defined by law or defined by the tribe and approved by the BIA.

Frequency of Response: Annually or less frequently, depending on length of waiting list, funding availability and dynamics of service population.

Estimated Number of Annual Responses: 3,500.

Estimated Time per Application: ½ hour.

Estimated Total Annual Burden Hours: 1,750 hours.

Dated: August 3, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–23877 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Rate Adjustment, Colorado River Irrigation Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Irrigation Operation and Maintenance Rate Adjustment.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to adjust the excess water rates assessed to customers of the Colorado River Irrigation Project for the 2001 irrigation season and subsequent years. We request your comments on the proposed rate adjustment.

DATES: Interested parties may submit comments on the proposed rate adjustment. Comments must be submitted on or before November 26, 2001.

ADDRESSES: All comments concerning the proposed rate adjustment must be in writing and addressed to: Director, Office of Trust Responsibilities, Attn.: Irrigation and Power, MS–3061–MIB, Code 210, 1849 C Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Hikins, Bureau of Indian Affairs, Colorado River Agency, Rt. 1, Box 9–C, Parker, AZ 85334. Phone Number: (520) 669–7111.

SUPPLEMENTARY INFORMATION:

Where Can Information on the Regulatory and Legal Citations in This Notice Be Obtained?

You can contact the Colorado River Irrigation Project office at the location stated above or you can use the internet site for the Government Printing Office at *http://www.gpo.gov.*

What Is the Purpose of This Notice?

This notice is to notify you that we propose to adjust the irrigation assessment rates for one of our irrigation projects. We are publishing the notice in accordance with the BIA's regulations governing its operation and maintenance of irrigation projects, specifically, sections 171.1(e) and 171.1(f) of part 171, subchapter H, chapter I of title 25 of the Code of Federal Regulations. These sections provide for the fixing and announcing of the rates for annual operation and maintenance assessments and related information for BIA irrigation projects.

What Authorizes Us To Issue This Notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs in accordance with part 209 of the Department of the Interior's Departmental Manual, Chapter 8.1A and a memorandum dated January 25, 1994, from the Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

How Do We Calculate Our Irrigation Rate?

We calculate the assessment rate in accordance with section 171(f), subchapter H, chapter I of title 25 of the Code of Federal Regulations by estimating the cost of normal operation and maintenance at our irrigation project for which you receive service. Normal operation and maintenance means the expenses we incur to provide direct support or benefit for the irrigation project's activities for administration, operation, maintenance, and rehabilitation. These costs are then applied as stated in the rate table in this notice.

What Kinds of Expenses Are Included in Determining Our Estimated Cost of Normal Operation and Maintenance?

We include the following expenses:

(a) Personnel salary and benefits for the project engineer/manager and project employees under their management control;

(b) Materials and supplies;

(c) Major and minor vehicle and equipment repairs;

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(e) Capitalization expenses;

(f) Acquisition expenses;

(g) Maintenance of a reserve fund available for contingencies or emergency expenses for, and insuring, reliable operation of the irrigation system; and

(h) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

When Should You Pay Your Irrigation Assessment?

We will mail you a bill for your irrigation assessment. You should pay your bill no later than the due date stated on the bill. The due date is normally based on locally established payment requirements at each of our projects.

What Information Must You Provide Us for Billing Purposes?

We must obtain certain information from you to ensure we can properly process, bill for, and collect monies owed the United States. At a minimum, this information is:

(a) Full legal name of person or entity responsible for paying the bill;

(b) Adequate and correct address for mailing or hand delivering our bill; and

(c) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

Why Are We Collecting This Information?

We need to collect enough information to properly bill the responsible party and service the account. We are also required to collect

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the taxpayer identification number or social security number under the authority of, and as prescribed, in the Debt Collection Improvement Act of 1996, Public Law 104–134.

What Can Happen if You Do Not Provide the Information We Require for Billing Purposes?

We can refuse to provide you service as prescribed in section 171.17(a), subchapter H, chapter I of title 25 of the Code of Federal Regulations.

What Can Happen if You Don't Pay Your Bill by the Due Date and Could This Affect Your Water Delivery?

If you do not pay your bill by the due date, you will receive a past due notice no less than 30 days after the due date. We have the right to refuse water delivery to any of your irrigated project land that the bill is past due. We can continue to refuse water delivery until you pay your bill or make payment arrangements that we agree to. Your bill will have additional information concerning your rights. Our authority to demand payment of your past due bill is the Code of Federal Regulations, Title 31, Part 901.2, "Demand for payment."

Are There Any Additional Charges if You Are Late Paying Your Bill?

Yes. We will use the value of funds to the United States Treasury to calculate the interest you will be assessed beginning 30 days after the due date on your bill. Also, you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill; and, should your bill become over 90 days past due, you will be assessed a penalty charge of 6 percent per year and it will accrue from the date your bill initially became past due. Our authority to assess interest, penalties, and administration fees on past due bills is prescribed in the Code of Federal Regulations, Title 31, part 901.9, "Interest penalties, and administration costs."

What Else Can Happen to Your Past Due Bill?

If you do not pay your bill or make payment arrangements that we agree to, we are required to forwarded your past due bill to the United States Treasury (Treasury) for further action. We must forward your bill to Treasury no later than 180 days after the original due date of your irrigation assessment bill. The requirement for us to do this is in Code of Federal Regulations, Title 31, part 901.1, "Aggressive agency collection activity."

What Irrigation Assessments or Charges Are Proposed for Adjustment by This Notice?

The excess water assessment rates for the 2001 irrigation season and subsequent years is proposed to be decreased retroactively to July 1, 2001, for the current irrigation season. A review of the excess water collections indicates the rate can be reduced to better reflect the financial needs of the project. The first 0.5 acre-foot of excess water above the basic per acre allotment of 5.0 acre-feet of water per acre is proposed to be reduced to $7.40 per acre assessed. The assessment for additional excess water over the initial 0.5 acre-foot per acre is unchanged at $17.00 per acre-foot per acre. Consultations with the project water users and the Colorado River Indian Tribes (Tribes) have resulted in the proposed rate adjustment. We are not proposing to adjust the basic assessment charge which includes up to 5.0 acre-feet per acre at this time.

The following table illustrates the proposed rate adjustment:

Water delivered per acre	Present 2001 irrigation season	Proposed 2001 irrigation season
Up to 5.0 acre-feet	$37.00	Unchanged
5.0 to 5.5 acre-feet	17.00	$7.40
Above 5.5 acre-feet	17.00	Unchanged

Consultation and Coordination With Tribal Governments (Executive Order 13175)

The proposed rate adjustment was developed in consultation between the irrigators, the BIA and the Tribal Irrigation Committee (Committee). The Committee was established by the Tribes and maintains a membership appointed by the Tribal Council. During the March 2001, committee meeting, a budget subcommittee was appointed and tasked to specifically review the excess water rate and make recommendations to the Committee for proposed adjustments. The subcommittee developed a method and rate which would maintain an excess water rate consistent with the previously developed budget. The proposed rate was reviewed and approved by the Committee during their May 2001 meeting. On June 19, 2001, a meeting was held between the Tribes and the BIA. During the meeting the Tribes were informed of the proposed rate adjustment and the impacts associated with this adjustment. The Tribes agreed to the proposed adjustment to the excess water rate and a verifying letter was sent to the Tribes on July 3, 2001.

Throughout the process of reviewing the excess water rate the BIA has relied upon input and consultation with the Tribes through their Irrigation Committee and Water Resource Program activity, to develop an equitable rate for farmers, maximize water conservation and maintain sufficient funds for operation and maintenance of the project.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

This is a notice for a rate adjustment at a BIA owned and operated irrigation project. This rate adjustment will have no significant adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustment be implemented.

Regulatory Planning and Review (Executive Order 12866)

This rate adjustment is not a significant regulatory action and does not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rate making is not a rule for the purposes of the Regulatory Flexibility Act because it is "a rule of particular applicability relating to rates." 5 U.S.C. Section 601(2).

Unfunded Mandates Act of 1995

This rate adjustment imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Takings (Executive Order 12630)

The Department has determined that this rate adjustment does not have significant "takings" implications. The rate adjustment does not deprive the public, state, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that this rate adjustment does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

This rate adjustment does not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expires November 30, 2002.

National Environmental Policy Act

The Department has determined that this rate adjustment does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Dated: September 4, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–23931 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-State compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for the Coushatta Tribe of Louisiana and the State of Louisiana, which was executed on July 20, 2001.

DATES: This action is effective September 25, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4066.

Dated: September 4, 2001.

Neal McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–23969 Filed 9–24–01; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–090–01–9922–EK]

Supplemental Rule Restricting Recreational and Sport Shooting To Protect Human Health and Safety in the Vicinity of the BLM Lands in Potter County, TX

AGENCY: Bureau of Land Management, Department of the Interior, Amarillo Field Office, Amarillo, Texas.

ACTION: Public Lands Restrictions.

SUMMARY: In accordance with Title 43, Code of Federal Regulations Section 8365.1–6, the State Director may establish supplementary rules in order to provide for the protection of persons, property and public lands and resources. Failure to comply with this supplementary rule will be punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months. The environmental effects of the proposed rule have been analyzed separately by Environmental Assessment 090–2001–002.

DATES: The supplemental rule will take effect with the publication of this Notice.

SUPPLEMENTARY INFORMATION: This supplemental rule was proposed to create a safer environment for the public utilizing the area in and around the public lands in Potter County, Texas. Uncontrolled shooting on the subject public lands in Potter County, Texas, creates a public health and safety hazard by firing solid projectile firearms, that have a long range, into and about a populated rural area. Portions of the area of concern receive heavy use by ranchers, oil and gas development personnel and BLM employees. This supplemental rule will prohibit the firing of any firearm. On those public lands administered by the BLM in Potter County, Texas, (Sections 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, and 48 in Block 5 of G. M. Survey; Sections 1, 3 and 4 in Block 4 of G.M. Survey; Sections 19, 21, 27, 29 and 35 of Block 21–W of G.C.&S.F.R.R. Survey) it is prohibited to fire any handgun, shotgun or rifle. Archery hunting (bow and arrow) will be allowed pursuant to State of Texas, Parks and Wildlife regulations. By prohibiting all gunfire a safer environment on both public and private lands will be created. During a thirty-day comment period on the proposal of this rule, no suggestions or comments were received. This rule only affects public lands administered by BLM. This special rule is in addition to existing rules and regulations previously established under Title 43 Code of Federal Regulations as well as other Federal laws applicable to the use of public lands.

FOR FURTHER INFORMATION CONTACT: Paul Tanner, Natural Resource Specialist, BLM Amarillo Field Office, 801 S. Fillmore Street, Suite 500, Amarillo, Texas 79101–3545, telephone (806) 324–2641.

Dated: August 13, 2001.

M. J. Chavez,

State Director.

[FR Doc. 01–23883 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT–FES–01–29]

Keechelus Dam Safety of Dams Modification, Yakima Project, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability for the Keechelus Dam Safety of Dams Modification, Yakima Project, Washington, Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation), has prepared a final environmental impact statement (FEIS) examining the impacts of structural and nonstructural alternatives to correct safety deficiencies identified at Keechelus Dam.

The impacts of four alternatives that would correct safety deficiencies at Keechelus Dam, as well as the No Action Alternative are evaluated in this FEIS. The alternatives include: Modify Existing Dam (Preferred Alternative); Replace Existing Dam on New Alignment; Dam Breach; and Permanent Reservoir Restriction. The No Action Alternative is considered to be continued operation at the interim restriction to 2510 feet (7 feet below full pool), implemented in November 1998 to protect public safety. The impacts of the other alternatives were compared to the No Action Alternative.

The preferred alternative of modifying the dam would provide for the safe operation of Keechelus Dam and also maintain benefits from Keechelus Lake that include meeting existing contractual commitments for storage space for irrigators within the Yakima Project and controlling seasonal downstream flooding.

The FEIS includes all comment letters received on the DEIS and Reclamation's responses to those comments, as well as a summary of the comments from the public hearings. It also includes minor revisions and additions to the analysis as a result of review comments.

A Record of Decision (ROD) will be completed no sooner than 30 days after the publication of the Environmental Protection Agency's Notice of Availability of the FEIS in the **Federal Register**. The ROD will state the alternative that will be implemented and will discuss all factors leading to the decision. It is scheduled for issuance in October 2001. However, consultations under section 7 of the Endangered Species Act with the United States Fish and Wildlife Service and National Marine Fisheries Service are continuing and the ROD will not be signed until they are completed.

ADDRESSES: Copies of the FEIS are available for public inspection and review at the following locations:

- Bureau of Reclamation, U.S. Department of the Interior, Room 7455, 18th and C Streets NW, Washington, DC 20240.
- Bureau of Reclamation, Denver Office Library, Denver Federal Center, Building 67, Room 167, Denver, Colorado 80225.
- Bureau of Reclamation, Pacific Northwest Regional Office, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234.
- Bureau of Reclamation, Upper Columbia Area Office, 1917 Marsh Road, Yakima, Washington 98901.

Libraries

Carpenter Memorial Library, 302 N Pennsylvania Ave., Cle Elum, WA 98922; (509) 674–2313.

Central Washington University Library, 700 E 8th Ave., Ellensburg WA 98926; (509) 963–1777.

Ellensburg Public Library, 209 N Ruby, Ellensburg WA 98926; (509) 962–7250.

Yakima Valley Regional Library, 102 N 3rd St, Yakima WA 98901; (509) 452–8541.

University of Washington Campus, Suzzallo Library, Government Publications Division, Seattle WA 98195; (206) 543–1937.

Internet

The FEIS is also available on the Internet at: *http://www.pn.usbr.gov/*.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Kaumheimer at (509) 575–5848, extension 232. Those wishing to obtain a copy of the FEIS in the form of a printed document or on compact disk (CD–ROM with reader included) or a Summary of the FEIS may contact Mr. Kaumheimer.

SUPPLEMENTARY INFORMATION: Keechelus Dam was completed in 1917 as part of Reclamation's Yakima Project, storing Yakima River water in central Washington for irrigation of part of 443,400 acres of prime farmland and for flood control. Recent investigations have shown that the wooden railroad trestle, used to deliver earth material and rocks while constructing the dam, has deteriorated, forming vertical paths where earthen materials within the dam can move, leaving voids in the dam. Examination of the seepage problems indicates the material is internally unstable and is subject to failure, with an associated potential for loss of life and property downstream. Because of the deficiencies identified, Keechelus Lake has been operated at a restricted pool elevation 7 feet below the normal full pool elevation of 2517 feet since November 1998, with increased monitoring and surveillance at the dam. This was identified as the No Action Alternative in the FEIS, and elevation 2510 was used in comparing impacts of the other alternatives.

The Safety of Dams Act of 1978 (Public Law 95–578) and amendments of 1984 (Public Law 98–404) authorize the Secretary of the Interior to analyze existing Reclamation dams for changes in the state-of-the-art criteria and additional hydrologic and seismic data developed since the dams were constructed. For dams where a safety concern exists, the Secretary is authorized to modify the structure to ensure its continued safety. Section 3 of the Safety of Dams Act states that construction authorized by the Act shall be for dam safety and not for specific purposes of providing additfonal conservation storage capacity or developing benefits over and above those provided by the original dams and reservoirs.

The major issue identified during the review of the DEIS was that fish passage is not provided as part of any of the alternatives. Reclamation indicated during scoping that this was outside the scope of the project which is to correct safety deficiencies in order to protect life and property. In addition, neither authority or funding for fish passage is provided under the Safety of Dams Act. None of the alternatives preclude addition of fish passage in the future and this will be pursued under a separate planning action. An appendix discussing fish passage concerns has been added to the FEIS.

Dated: August 30, 2001.

Kenneth R. Pedde,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 01–23887 Filed 9–24–01; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–739 (Review)]

Clad Steel Plate From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on clad steel plate from Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subpart A through E (19 CFR part 201), and part 207, subpart A, D, E, and F (19 CFR part 207).

EFFECTIVE DATES: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's ADD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 4, 2001, the Commission determined that the domestic interested party group response to its notice of institution (66 FR 29829, June 1, 2001) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on October 1, 2001, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written Submissions.

As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before October 4, 2001, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by October 4, 2001. However, should Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: September 20, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23978 Filed 9–24–01; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[2] The Commission has found the response submitted by Bethlehem Likens Plete to be individually adequate. Comments from other interested parties will not be accepted (see 19 CAR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy codified at 28 CFR 50.7 and Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622, 42 U.S.C. 9622, notice is hereby given that on September 7, 2001, a proposed consent decree in *United States* v. *Dayton Power & Light Co., et al.*, No. C–3–98–451, was lodged with the United States District Court for the Southern District of Ohio. The proposed consent decree would settle the United States' claims against five Settling Defendants under CERCLA 107, 42 U.S.C. 9607, for the recovery of response costs incurred or to be incurred by the United States in connection with the Sanitary Landfill (IWD) Superfund Site ("Site") in Moraine, Ohio. The proposed consent decree would also resolve the United States' claim under CERCLA Section 104(e), 42 U.S.C. 9604(e), for civil penalties against defendant Lee E. Snyder. Each of the Settling Defendants is an owner and/or operator of the Site, which was operated as a licensed landfill from 1971 to 1980. The U.S. Environmental Protection Agency ("EPA") incurred costs of approximately $1.2 million in responding to the release or threatened release of hazardous substances at the Site.

Under the terms of the consent decree, the Settling Defendants agree to pay a total of $110,000 ($45,000 for the claim under CERCLA Section 104(e), and $65,000 for the claims under CERCLA Section 107) with thirty (30) days of entry of the consent decree. In consideration for these payments, the Settling Defendants will receive a covenant not to sue for Site response costs and for the CERCLA Section 104(e) violations alleged in the United States' complaint. The Settling Defendants will also receive contribution protection for Site response costs.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments related to the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530, and should refer to United States v. Dayton Power & Light Co., et al., Civil Action No. C–3–98–451; D.J. Ref. No. 90–11–2–1113A.

The consent decree may be examined at the Office of the United States Attorney, 602 Federal Building, 200 West 2nd Street, Dayton, Ohio 45402, and at the U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $5.50 (22 pages at 25 cents per page reproduction cost).

William Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23951 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–15–M

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to The Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Harsco Corporation*, No. 01–166 (E.D. Ky) was lodged on August 29, 2001, with the United States District Court for the Eastern District of Kentucky. The consent decree settles claims for civil penalties and injunctive relief against Harsco Corporation ("Harsco") pursuant to Section 113(b) of the Clean Air Act ("the Act"), 42 U.S.C. 7413(b), based on violations of Kentucky's State Implementation Plan promulgated under the Act. 401 KAR 63:010(3)(1), (2). The consent decree requires Harsco to construct a partial enclosure with spraying equipment to control dust emissions from its slag recycling operations. The consent decree also requires Harsco to pay a civil penalty of $175,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Dep0artment of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Harsco Corporation*, DOJ Ref.# 90–5–2–1–2115/1.

The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Kentucky, 110 West Vine Street, Suite 400 Lexington, Kentucky (859) 233–2661 and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, S.W. Atlanta, Georgia 30303. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23952 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree between the Surfrider Foundation and the United States Section of the International Boundary and Water Commission was lodged with the United States District Court for the Southern District of California on September 12, 2001. The proposed Consent Decree concerns alleged violations of Section 402 of the Clean Water Act, 33 U.S.C. 1342, at the South Bay International Wastewater Treatment Plant, located at 2415 Dairy Mart Road, San Diego County, San Diego, California. The proposed Consent Decree would require the performance of certain environmental studies and evaluations relating to discharges of wastewater from the Plant.

The United States Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to S. Randall Humm, Trial Attorney, United States Department of Justice, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986, with copies provided to William A. Wilcox, Jr., International Boundary and Water Commission, Office of the Staff Counsel, 4171 No. Mesa Street; Suite C–310, El Paso, TX 79902, and should reference *Surfrider Foundation* v. *Ramirez*, No. 99–CV–2441–BTM–JFS (S.D. Cal.); consolidated with *California* v. *Ramirez*, No. 01–CV–0270–BTM–JFS (S.D. Cal.).

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Southern District of California, 4290 Edward J. Schwartz Federal Building, 880 Front Street, San Diego, California.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 01–23950 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Biotechnology Research and Development Corporation ("BRDC")

Notice is hereby given that, on August 1, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Biotechnology Research and Development Corporation ("BRDC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cargill Dow LLC, Minnetonka, MN has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BRDC intends to file additional written notification disclosing all changes in membership.

On April 13, 1988, BRDC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 1988 (53 FR 16919).

The last notification was filed with the Department on November 27, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 29, 2001 (66 FR 17201).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23960 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on August 20, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adlink Technologies, Chungho City, Taipei, TAIWAN; and Integrated Production and Test Engineering, Genk, BELGIUM have been added as parties to this venture. Also, A&T Engineering, Mystic, CT; ATEME, Velizy, FRANCE; BittWare Research

Systems, Concord, NH; Boulder Instruments, Longmont, CO; and Pentair Electronic Packaging, Warwick, RI have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notification disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on May 17, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 27, 2001 (66 FR 39204).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23954 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—GE Corporate Research and Development: Bulk Gallium Nitride & Homoepitaxial Device Manufacturing

Notice is hereby given that, on June 27, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), GE Corporate Research & Development: Bulk Gallium Nitride & Homoepitaxial Device Manufacturing has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Sanders, formerly a division of Lockheed Martin Corporation, Nashua, NH has been acquired by BAE Systems North America, Rockville, MD and is now known as BAE Information and Electronic Systems Integration, Inc.

No other changes have been made in either the membership or planned activity of the group research project.

On August 6, 1999, General Electric Corporate Research and Development: Bulk Gallium Nitride and Homoepitaxial Device Manufacturing filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 2, 1999 (64 FR 67589).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23961 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Management Service Providers Association, Inc.

Notice is hereby given that on August 16, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Management Service Providers Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Integris, Billerica, MA; ISManaged, Inc., Plano, TX; Kinetica Pty.Ltd., Pymble, NSW, AUSTRALIA; Loudcloud, Sunnyvale, CA; Motorola, Mansfield, MA; Netvein, Inc., Menlo Park, CA; NextNOC, Inc., Irving, TX; NOXENT, Brossard, Quebec, CANADA; RedKlay Web Solutions, Athens, AL; and Telecom Italia Lab, Torino, ITALY have been added as parties to this venture. Also, Manage.Com, San Jose, CA; InsynQ, Inc., Takoma, WA; iSharp, Inc., Redwood City, CA; ManageIT, Houston, TX; UP 7/24, San Diego, CA; Servail, Fairfax, VA; and Tivoli Systems, Inc., Austin, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Management Service Providers Association, Inc. intends to file additional written notification disclosing all changes in membership.

On October 20, 2000, Management Service Providers Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 24, 2000 (65 FR 70613).

The last notification was filed with the Department on May 15, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 19, 2001 (66 FR 37708).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23957 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mobile Wireless Internet Forum

Notice is hereby given that, on August 16, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Mobile Wireless Internet Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ArrayComm, San Jose, CA; Brand Communications, Huntingdon, Cambridgeshire, UNITED KINGDOM; inOvate Communication Group, San Ramon, CA; NetMotion Wireless, Seattle, WA; and Skytel Communications, Jackson, MS have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Mobile Wireless Internet Forum intends to file additional written notification disclosing all changes in membership.

On May 25, 2000, Mobile Wireless Internet Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 11, 2000 (65 FR 49264).

The last notification was filed with the Department on June 13, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 27, 2001 (66 FR 39204).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23958 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Biotechnology Research and Development Corporation ("BRDC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cargill Dow LLC, Minnetonka, MN has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BRDC intends to file additional written notification disclosing all changes in membership.

On April 13, 1988, BRDC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 1988 (53 FR 16919).

The last notification was filed with the Department on November 27, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 29, 2001 (66 FR 17201).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23960 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on August 20, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adlink Technologies, Chungho City, Taipei, TAIWAN; and Integrated Production and Test Engineering, Genk, BELGIUM have been added as parties to this venture. Also, A&T Engineering, Mystic, CT; ATEME, Velizy, FRANCE; BittWare Research

circumstances. Pursuant to Section 6(b)

Attn: Stuart Shapiro, OMB Desk Officer

OMB Number: 1218–0093.

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on August 22, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Industrial Technology Center, Winnipeg, Manitoba, CANADA; PricewaterhouseCoopers AUTOFACTS, Detroit, MI; and SeeBeyond Technology Corporation, Redwood City, CA have been added as parties to this venture.

Also, Focused Research, Inc., Santa Clara, CA; Gougeon Brothers, Inc., Bay City, MI; H.R. Krueger Machine Tool, Inc., Farmington, MI; Kingsbury Corporation, Keene, NH, MAPAL, Inc., Piscataway, NJ; OMNEX Engineering & Management, Ann Arbor, MI; Six Sigma Qualtec, Tempe, AZ; Texas Instruments, Inc., Dallas, TX; and Winco, Inc., LeCenter, MN have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences, Inc. intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, National Center for Manufacturing Sciences, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on May 15, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23956 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on July 25, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("Act"), Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Slag Cement Association, Wayne, PA has been added as an Affiliate Member of this venture; Dacota Cement, Rapid City, SD is now known as GCC Dacotah; and Holderbank Engineering Canada Ltd., Mississauga, Ontario, CANADA is now known as Holcim Group Support (Canada) Ltd. Also, Loesche GmbH, Dusseldorf, GERMANY has transferred its membership to its subsidiary, Loesche America, Inc., Miami, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intend to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on April 18, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 23, 2001 (66 FR 28548).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23953 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; The SNP Consortium Ltd.

Notice is hereby given that, on March 23, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The SNP Consortium ("TSC") filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature of objective of the venture. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, two parties to this venture, Glaxo Wellcome Inc., Research Triangle Park, NC, and SmithKline Beecham Corporation, Philadelphia, PA have merged their membership into a single membership held by Glaxo Wellcome, Inc., Research Triangle Park, NC. In addition, another party to this venture, Amersham Pharmacia Biotech Inc., Piscataway, NJ, has become a voting member in this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TSC intends to file additional written notification disclosing all changes in membership.

On April 20, 1999, TSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published, a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 7, 1999 (64 FR 54645).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23955 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute: Naturally Aspirated Tier III

Notice is hereby given that, on August 6, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute: Naturally Aspirated Tier III has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified

circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Caterpillar, Inc., Peoria, IL; Denso Corporation, Kariya-City, JAPAN; European Engine Alliance, Maidenhead, Berks, UNITED KINGDOM; Kubota Corporation, Sakai-City, JAPAN; Lombardini S.R.L., Via Cav. A. Lombardini, ITALY; Robert Bosch GmbH, Gerlingen-Schillerhöhe, GERMANY; and Yanmar Diesel Engine Co., Ltd., Maibara Sakata, JAPAN. The nature and objectives of the venture are to develop emissions reduction technology for nonroad, naturally-aspirated diesel engines, <75 kW only, as well as to demonstrate compliance with regulated emissions standards. The emission goals will simultaneously address the proposed United States Environmental Protection Agency (US EPA) Tier 3 emissions standards and anticipated European and Japanese emissions regulations. The Naturally Aspirated Tier III Program will try to achieve the emission goals with the fuel economy, CO_2 and specific engine power comparable to US EPA Tier 2 compliant naturally-aspirated engines. The emissions are to be achieved over test cycles, including, but not limited to, the ISO 8178 C1, ISO 8178 D2, and ISO 8178 G2 steady-state cycles.

Membership in this research group remains open, and the participants intend to file additional written notifications disclosing all changes in membership or planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–23959 Filed 9–24–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 30, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Cranes and Derricks Standard for Construction: Recording Tests for Toxic Gases and Oxygen-Deficient Atmospheres in Enclosed Spaces.

OMB Number: 1218–0054.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Frequency: On occasion.

Number of Respondents: 50.

Number of Annual Responses: 2,900.

Estimated Time Per Response: 2 minutes.

Total Burden Hours: 97.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $9,000.

Description: 29 CFR 1926.550(a)(11) requires that oxygen and toxic gas test be conducted whenever internal combustion engines of construction cranes or derricks exhaust into enclosed workspaces.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Construction Standards on Posting Emergency Telephone Numbers and Floor Load Limits.

OMB Number: 1218–0093.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Third-party disclosure.

Frequency: On occasion.

Number of Respondents: 140,325.

Number of Annual Responses: 140,325.

Estimated Time Per Response: 2 minutes to post an emergency phone number and 5 minutes to post floor load limits.

Total Burden Hours: 5,726.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 29 CFR 1926.50(f) requires employers to post emergency telephone numbers at the worksite if the 911 emergency telephone service is not available. 29 CFR 1926.250(a)(2) requires that employers post the maximum safe load limits of floors located in storage areas inside buildings or other structures, unless the floors are on a grade.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Cranes and Derricks Standards for Construction: Notification of Operational Specification and Hand Signals.

OMB Number: 1218–0115.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal government.

Type of Response: Recordkeeping and third-party disclosure.

Frequency: On occasion.

Number of Respondents: 67,751.

Number of Annual Responses: 67,773.

Estimated Time Per Response: 5 minutes.

Total Burden Hours: 5,416.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $431,158.

Description: 29 CFR 1926.550 (a)(1), (a)(2), (a)(4), and (a)(16) require employers to provide notification of specified operating characteristics pertaining to cranes and derricks using documentation, posting or revising maintenance-instruction plates, tags or decals, and to notify employees of hand signals used to communicate with equipment operations by posting and illustration applicable signals at the

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worksite in order to prevent injury to workers.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Cranes and Derricks Standard for Construction: Posting Weight and Load Capacity of Personnel Platforms.

OMB Number: 1218–0151.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Third-party disclosure.

Frequency: On occasion.

Number of Respondents: 2,750.

Number of Annual Responses: 2,750.

Estimated Time Per Response: 5 minutes.

Total Burden Hours: 229.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 29 CFR 1926.550(g)(4)(ii)(I) requires employers to post conspicuously with a plate or other permanent marking the weight and related-load capacity or maximum intended load of each platform used to raise and lower employees to a worksite using a crane or derrick. This requirement helps employers to avoid exceeding the lifting capacity and prevents crane or derrick collapses thus avoiding serious injuring or death to employees.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. 01–23879 Filed 9–24–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 18, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: New collection.

Title: Resource Justification Model (RJM).

OMB Number: 1205–ONEW.

Affected Public: State, Local, or tribal Government.

Frequency: Annually.

Type of Response: Reporting.

Number of Respondents: 53.

Cite/reference	Number of respondents	Average time per response (hours)	Estimated burden hours
RJM 1 ser	53	41	2,173
RJM 2 ser	53	30	1,590
RJM 3 ser	53	6	318
RJM 4 ser	53	12	636
RJM 5 ser	53	12	636
RJM 6 ser	53	7	371
Narrative	53	11	583
Performance and Capital Improvement Request	53	114	6,042
Total	424		12,349

Total Annualized Capital/Startup Costs: $500,000.

Total Annual Costs (operating/maintaining systems or purchasing services): $375,000.

Description: The Secretary of Labor has legal responsibility under the Social Security Act (SSA) Title III, Section 303(a)(1) for providing state agencies the necessary cost of proper and efficient administration of state unemployment insurance (UI) laws. Accordingly, the Secretary must establish a means of measuring state agencies' "proper and efficient administration" of UI programs. The RJM would replace the current methodologies for budget formulation and grant allocation to the states for UI programs.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 01–23880 Filed 9–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation for Grant Applications (SGA); Young Offender Initiative: Reentry Grant Program; Demonstration Grant Program

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of extension of closing date.

SUMMARY: The Employment and Training Administration is extending the closing date of the availability to fund demonstration grants to provide services aimed at youth who are or have been under criminal justice supervision or involved in gangs.

FOR FURTHER INFORMATION CONTACT: B. Jai Johnson, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879.

Date Extension

In the **Federal Register** at 66 FR 30754 (June 7, 2001) column changes the "Dates" caption to read:

DATES: "The closing date for receipt of the application is Tuesday, October 23, 2001 at 4:00 p.m. (Eastern Time) at the address listed."

Signed at Washington, DC., this 19th day of September, 2001.

Laura Cesario,

Grant Officer.

[FR Doc. 01–23968 Filed 9–24–01; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–113]

U.S. Centennial of Flight Commission

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting Location Change.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a change of location for the meeting of the U.S. Centennial of Flight Commission, Notice Number 01–110.

DATES: Thursday, October 4, 2001, 1 pm to 5 pm.

Previously Announced Location: National Aeronautics and Space Administration, Room 9H40, Program Review Center (PRC), 300 E Street, SW, Washington, DC.

Change in the Meeting: The meeting will now be held at the Smithsonian National Air and Space Museum, 7th and Independence Avenue, SW., Director's Conference Room, 3rd Floor, Washington, DC 20560. Attendees must check in at the Information Desk to be cleared to the 3rd floor.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Farmarco, Code IW, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1903.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–23977 Filed 9–24–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Submission for OMB Review

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** on page 38326 in the Monday, July 23, 2001 [Vol. 66, No. 141] issue and one comment was received. NSF is forwarding the proposed renewal submission to OMB for clearance simultaneously with the publication of this second notice.

DATES: Written comments should be received by October 25, 2001, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Industrial Research and Development.

OMB Control No.: 3145–0027.

Expiration Date of Approval: December 31, 2001.

1. Abstract

The proposed continuing information collection involves the estimation of the expenditures on research and development performed within the United States by industrial firms. A mail survey, the Survey of industrial Research and Development, has been conducted annually since 1953. Industry accounts for over 70 percent of total U.S. R&D each year and since its inception, the survey has provided continuity of statistics on R&D expenditures by major industry groups and by source of funds. The survey is the industrial component of the NSF statistical programs that seeks to "* * * to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal government." as mandated in the National Science Foundation Act of 1950. Statistics from the survey are published in NSF's annual publication series Research and Development in Industry. The proposed collection will continue the survey for three years.

2. Expected Respondents

The survey will be mailed to a statistical sample of approximately 24,200 companies to collect information on the amount and sources of funds for and character of R&D performed and contracted out by industrial firms, and information on sales and employment of the firms themselves.

3. Burden on the Public

To minimize burden, over 90-percent of the companies selected for the Survey of Industrial Research and Development are asked to respond to the Form RD–1A, the abbreviated version of the basic survey questionnaire, Form RD–1. Further, only companies with five paid employees or more are asked to participate in the survey and extensive use is made of the descriptive codes and information on the establishment list that is the source of the survey sample to avoid sampling firms in industries that traditionally do not perform R&D. NSF, with input from the Bureau of the Census, the collection and compiling agent for the survey, estimates that the average annual reporting and record keeping burden on each Form RD–1A respondent will be 1 hour and on Form RD–1 respondents will be 18 hours. The annual burden is estimated at 51,400 hours, calculated as follows:

RD–1A respondents: 22,600 respondents × 1 response × 1 burden hour = 22,600 hours/year.

RD–1 respondents: 1,600 respondents × 1 response × 18 burden hours = 28,800 hours/year.

All respondents: 51,400 burden hours hours/year during CY 2002, 2003, and 2004.

Dated: September 18, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–23893 Filed 9–24–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* New.

2. *The title of the information collection:* 10 CFR part 63—Disposal of High-Level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain, Nevada.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* One time.

5. *Who will be required or asked to report:* The State of Nevada, local governments, or Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of the potential high-level waste geologic repository site, or wishing to participate in a license application review for the potential geologic repository.

6. *An estimate of the number of responses:* 9

7. *The estimated number of annual respondents:* 3

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* An average of 40 hours per response for consultation requests, 80 hours per response for license application review participation proposals, and one hour per response for statements of representative authority. The total burden for all responses is estimated to be 363 hours annually.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Applicable.

10. *Abstract:* 10 CFR part 63 requires the State of Nevada, local governments, or Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of the potential repository site, or wish to participate in a license application review for the potential repository. Representatives of the State of Nevada, local governments, or Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the State, local governments, and Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts.

A copy of the supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance packages are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by October 25, 2001:

Byron Allen, Office of Information and Regulatory Affairs (3150–), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 20th day of September, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23928 Filed 9–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370]

Duke Energy Corporation McGuire Nuclear Station, Unit Nos. 1 and 2; Notice of Consideration of Approval of Transfer of Operating Authority Under Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of operating authority under Facility Operating Licenses Nos. NPF–9 and NPF–17 for McGuire Nuclear Station, Unit Nos. 1 and 2, (McGuire) currently held by Duke Energy Corporation (DEC), which is the owner of McGuire. DEC would continue to own McGuire. The transfer of authority to operate McGuire would be to a new limited liability company, Duke Energy Nuclear, LLC (DEN LLC). DEN LLC will be a subsidiary of DEC, as a result of a corporate restructuring of DEC. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer. If authorized to operate the facility, DEN LLC will also become a general licensee for the Independent Spent Fuel Storage Installation at McGuire, pursuant to 10 CFR 72.210. The facility is located in Mecklenburg County, North Carolina.

According to an application for approval filed by DEC, DEC's ownership of McGuire would be unchanged and DEC would continue to be responsible for the costs associated with operating and maintaining McGuire and for decommissioning funding assurance. DEN LLC would become a licensee, authorized to operate the units. No physical changes to the facility or operational changes are being proposed in the application.

The proposed amendments would replace references to DEC in the licenses as the operator of McGuire with references to DEN LLC.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By October 15, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon: Lisa F. Vaughn, Legal Department, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *OGCLT@NRC.gov*); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by October 25, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated July 10, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site (*http://www.nrc.gov/ADAMS/index.html*) If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 19th day of September 2001.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Section Chief, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23926 Filed 9–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, 50–287, and 72–004]

Duke Energy Corporation, Oconee Nuclear Station, Unit Nos. 1, 2 and 3, Oconee Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Transfer of Operating Authority Under Renewed Facility Operating Licenses and Materials License and Conforming Amendments and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the transfer of operating authority under Renewed Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55 for Oconee Nuclear Station, Unit Nos. 1, 2 and 3 (Oconee), and Materials License No. SNM–2503 for the Oconee Independent Spent Fuel Storage Installation (ISFSI), currently held by Duke Energy Corporation (DEC), which is the owner of the facilities. DEC would continue to own Oconee and the ISFSI. The transfer of authority to operate Oconee and the ISFSI would be to a new limited liability company, Duke Energy Nuclear, LLC (DEN LLC). DEN LLC will be a subsidiary of DEC, as a result of a corporate restructuring of DEC. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer. If authorized to operate Oconee, DEN LLC, will also become a general ISFSI licensee pursuant to 10 CFR 72.210. Oconee and the ISFSI are located in Oconee County, South Carolina.

According to an application for approval filed by DEC, DEC's ownership of Oconee and the ISFSI would be unchanged and DEC would continue to be responsible for the costs associated with operating and maintaining Oconee and the ISFSI and for decommissioning funding assurance. DEN LLC would become a licensee, authorized to operate Oconee and the ISFSI. No physical changes to Oconee or the ISFSI or operational changes are being proposed in the application.

The proposed amendments would replace references to DEC in the licenses as the operator of Oconee and the ISFSI with references to DEN LLC.

Pursuant to 10 CFR 50.80 and 72.50, no license, or any right thereunder, or any part, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The

Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an ISFSI which does no more than conform the license to reflect the transfer action involves, respectively, no significant hazards consideration or no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By October 15, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon: Lisa F. Vaughn, Legal Department, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by October 25, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated July 10, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site (http://www.nrc.gov/ADAMS/index.html). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 19th day of September 2001.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Section Chief, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23927 Filed 9–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Energy Corporation, North Carolina Electric Membership Corporation, Saluda River Electric Cooperative, Inc., North Carolina Municipal Power Agency No. 1, Piedmont Municipal Power Agency, Catawba Nuclear Station, Unit Nos. 1 and 2; Notice of Consideration of Approval of Transfer of Operating Authority Under Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of operating authority under Facility Operating Licenses Nos. NPF–35 and NPF–52 for Catawba Nuclear Station, Unit Nos. 1 and 2 (Catawba). The Facility Operating License for Catawba Unit 1 is currently held by Duke Energy Corporation (DEC), as a 25% owner and the exclusive licensed operator, and by the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. as co-owners. The Facility Operating License for Catawba Unit 2 is currently held by DEC as the exclusive licensed operator, and by North Carolina Municipal Power Agency No. 1 and the Piedmont Municipal Power Agency as the co-owners. The transfer of authority to operate Catawba Unit Nos. 1 and 2 would be to a new limited liability company, Duke Energy Nuclear, LLC (DEN LLC). DEN LLC will be a subsidiary of DEC, as a result of a corporate restructuring of DEC. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer. The facility is located in York County, South Carolina.

According to an application for approval filed by DEC, the proposed transfers do not involve any change in ownership of the nuclear units. DEC will retain its current 25% ownership interest in Catawba Unit 1. The ownership shares of the Catawba Units not held by DEC will be unaffected by the DEC restructuring and change in operator. No physical changes to the facility or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By October 15, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon: Lisa F. Vaughn, Legal Department, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *OGCLT@NRC.gov);* and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by October 25, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated July 10, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site *(http://www.nrc.gov/ADAMS/index.html).* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 19th day of September 2001.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Section Chief, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23925 Filed 9–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of September 24, October 1, 8, 15, 22, 29, 2001.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 24, 2001

Friday, September 28, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607)

Week of October 1, 2001—Tentative

Thursday, October 4, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

Week of October 8, 2001—Tentative

There are no meetings scheduled for the Week of October 8, 2001.

Week of October 15, 2001—Tentative

Thursday, October 18, 2001

9:00 a.m. Meeting with NRC Stakeholders—Progress of Regulatory Reform (Public Meeting) (Location—Two White Flint North Auditorium)

Week of October 22, 2001—Tentative

There are no meetings scheduled for the Week of October 22, 2001.

Week of October 29, 2001—Tentative

There are no meetings scheduled for the Week of October 29, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: By a vote of 4–0 on September 19, the Commission

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determined pursuant to U.S.C.; 552b(e) and § 9.107(a) of the Commission's rules that "Briefing on Threat Environmental Assessment (Closed—Ex. 1)" be held on September 20, and on less than one week's notice to the public. This meeting was originally scheduled for September 28.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: September 20, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–24044 Filed 9–21–01; 11:40 am]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 10:30 a.m., Monday, October 1, 2001; 8:30 a.m., Tuesday, October 2, 2001.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: October 1 (Closed); October 2 (Open).

MATTERS TO BE CONSIDERED:

Monday, October 1—10:30 a.m. (Closed)

1. Financial Performance.
2. Update on Workforce Planning and Development.
3. Notes to the Financial Statements.
4. Personnel Matters and Compensation Issues.

Tuesday, October 2—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, September 10–11, 2001.
2. Remarks of the Postmaster General and CEO.
3. Board of Governors Calendar Year 2002 Meeting Schedule.
4. Office of the Governors Fiscal Year 2002 Budget.
5. Fiscal Year 2002 Annual Performance Plan—Government Performance and Results Act.
6. Borrowing Resolution.
7. Capital Investments.
   a. Wide Area Barcode Reader Replacement.
   b. Mail Evaluation, Readability & Lookup Instrument (MERLIN)—Phase 2.
   c. Point of Service (POS) ONE—Stage 3.
8. Tentative Agenda for the November 5–6–7, 2001, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–24077 Filed 9–21–01; 1:17 pm]

BILLING CODE 7710–12–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

DATE OF MEETING: September 10, 2001.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 66 FR 45066, August 27, 2001.

ADDITIONS:

1. Extension of Experimental Ride Along Case.
2. Filing of Experimental Case for Delivery Confirmation.

At its meeting on September 10, 2001, the Board of Governors of the United States Postal Service voted unanimously to add these items to the agenda of its closed meeting and that no earlier announcement was possible. The General Counsel of the United States Postal Service certified that in her opinion discussion of this term could be properly closed to public observation.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC.

David G. Hunter,

Secretary.

[FR Doc. 01–24078 Filed 9–21–01; 1:17 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published Monday, September 24, 2001.

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC

TIME AND DATE OF PREVIOUSLY ANNOUNCED MEETING: September 25, 2001 at 1 p.m.

CHANGE IN THE MEETING: Additional Items.

The following items have been added to the open meeting scheduled for Tuesday, September 25, 2001, in Room 1C30, the William O. Douglas Room, at 1 p.m.:

(1) The Commission will consider extending the comment period for the Concept Release on the Effects of Decimal Trading in Subpennies. The Concept Release, which was published in the **Federal Register** on July 24, 2001, solicited the views of a wide range of commenters concerning the impact of subpenny price increments for quotations, orders, and trading stocks in a decimals environment. The original deadline for submitting public comment established by the Concept Release is September 24, 2001. Following the market disruption caused by the attacks of September 11, 2001, we have received requests to extend the original deadline.

For further information, please contact Kevin Campion, Special Counsel, Division of Market Regulations at (202) 942–0744.

(2) The Commission will consider extending the deadline for the Exchanges and the National Association of Securities Dealers, Inc. (collectively the "Participants") to submit rule filings concerning the implementation of decimal pricing in equity securities and options pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934. The Commission's Order of May 22, 2001 required the Participants to submit rule filings to establish the minimum price variation in each market for quoting equity securities and options by November 5, 2001, we believe that it may be necessary and appropriate to extend the original deadline. Such an extension would give the Participants adequate time to thoroughly analyze the important investor protection and market integrity issues that need to be addressed in order to preserve the benefits of decimalization. Extending the deadline would also allow the Commission to fully consider the comments submitted in response to the Concept Release on the Effects of Decimal Trading in Subpennies.

For further information, please contact Alton Harvey, Office Head, Office of MarketWatch, Division of Market Regulation at (202) 942–4167 or Kevin Campion, Special Counsel, Division of Market Regulation at (202) 942–0744.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: September 21, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24050 Filed 9–21–01; 12:14 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44810; File No. SR–Amex–2001–73]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Amending Exchange Rule 220 Relating to Floor Broker Acceptance of Orders at the Specialist's Post

September 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on September 6, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 220 to allow floor brokers to accept orders over telephones at or near the specialist's post.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Section 6. Floor Wires

Rule 220 Communications to and on the Floor

No member shall establish or maintain any telephonic or electronic communication between the Floor and any other location, or between locations on the Floor, without the prior written approval of the Exchange.

Commentary

.01 With the approval of the Exchange, a member or member organization may establish and maintain a telephone line which permits a non-member located off the Floor to communicate with such member or member organization on the Floor. *Except as provided in Commentary .03 below,* [T]the Exchange will not approve the use of a portable telephone or other portable communication device on the Floor which would permit direct voice communication between members and non-members.

.02 No change.

.03 With the approval of the Exchange, floor brokers may use wireless telephone devices to receive off-floor orders from any source (i.e., members, broker-dealers, non-broker-dealers, or public customers) at the specialist's post where the security is traded. The following requirements and conditions shall apply to the floor broker's use of telephone services at the specialist's post:

(1) *Only those quotations that have been publicly disseminated pursuant to SEC Rule 11Ac1–1 may be provided over telephones at or near the specialist's post.*

(2) *Floor Brokers may only receive orders over the telephone lines at the specialist post or the wireless telephone device during outgoing telephone calls initiated by the floor brokers.*

(3) *Only those floor brokers properly qualified in accordance with applicable rules and regulations may accept orders from public customers pursuant to this Commentary.*

.04 [.03] No change.

.05 [.04] No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange rules and policies currently prohibit floor brokers from taking orders from off-floor at the specialist's post and require off-floor orders to be received at the floor broker's booth. The Exchange believes that this prohibition, at times, impacts the fast and efficient routing and execution of orders at the Exchange. Therefore, the Exchange is now proposing to amend Exchange Rule 220 regarding communications to and on the floor to allow floor brokers to use telephones at or near the specialist's post or Exchange-provided wireless telephone devices to receive off-floor orders from any source (*i.e.*, members, broker-dealers, non-broker-dealers or public customers). However, such orders would only be permitted to be received during outgoing conversations initiated by the floor broker. The Exchange notes that the wireless telephone devices currently in use by the Exchange would need to be reconfigured to allow outgoing phone calls to be made. Members and their employees would continue to be prohibited from using personal wireless voice communication devices on the trading floor.

In addition, the following requirements and conditions would apply to the floor brokers' use of telephone services at or near the specialist's post: (i) only those quotations that have been publicly disseminated pursuant to SEC Rule 11Ac1–1 may be provided over telephones at or near the specialist's post; (ii) floor brokers may only receive orders over the telephones during outgoing telephone calls that they have initiated; and (iii) only those floor brokers properly qualified in accordance with applicable rules and regulations may accept orders from public customers.[3] The Exchange's policy regarding the use of time clocks at the specialist post would also be amended to allow floor brokers receiving orders over the telephone at or near a specialist post to use the time clock to stamp such order.

The Exchange intends to police compliance with the conditions applicable to use of telephones by floor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For example, floor brokers accepting orders from public customers are required to be qualified pursuant to Exchange Rule 341. Any floor broker accepting an order from a public customer is required to be Series 7 qualified and registered with the Exchange by a member organization approved to cooduct non-member customer business.

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brokers for the receipt of orders at the specialist's post through oversight and review of complaints from members at the trading posts as well as observations of floor officials and Exchange personnel.

The Exchange believes that the use of the telephones by floor brokers to receive off-floor orders would provide more efficient order routing and execution, increase the speed of execution, and satisfy member and non-member customers in an increasingly competitive environment.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[4] in general and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange also believes that the proposed rule change is consistent with Section 6(c)(3)(B) of the Act.[6] Under this Section, it is the Exchange's responsibility to prescribe standards for training, experience and competence for persons associated with Exchange members and member organizations. The Exchange believes that this proposed rule change will establish an additional mechanism for the administration of the education program, which will enable registered persons to satisfy their continuing education obligations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4[8] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–73 and should be submitted by October 16, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23835 Filed 9–24–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).
[5] 15 U.S.C. 78f(b)(5).
[6] 15 U.S.C. 78f(c)(3)(B).
[7] 15 U.S.C. 78s(b)(3)(A).
[8] 17 CFR 240.19b–4(f)(6).
[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44811; File No SR–NYSE–2001–31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending Exchange Rule 387 To Apply to Member or Member Organizations

September 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 21, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment to NYSE Rule 387 ("COD Orders") would clarify the Rule's application to all "member[s]" and "member organization[s]."

The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

Currently, NYSE Rule 387 enumerates the procedures for transactions conducted on a COD ("Collection on Delivery") or POD ("Payment on Delivery") basis and specifies requirements for the confirmation, affirmation and book entry settlement of all depository eligible transactions.

NYSE Rule 387, in its present form, refers to "member" and "member organization" only once in the same paragraph (NYSE Rule 387(a)(1)) and thereafter omits reference to "member" throughout the other paragraphs of the Rule. The proposed amendment to NYSE Rule 387 would clarify the Rule's application to all "member[s]" and "Member organization[s]." Specifically, the amendments insert "member" in paragraphs: detailing overall applicability of the Rule (NYSE Rule 387(a)); requiring confirmation (NYSE Rule 387(a)(3)); and affirmation (NYSE Rule 387(a)(4)) of COD/POD transactions.

(2) Statutory Basis

The Exchange believes the basis for the proposed rule change is the requirement under Section 6(b)(5) of the Act[3] that the rules of the Exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not the necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the commission will:

A. by order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–2001–31 and should be submitted by October 16, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23836 Filed 9–24–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–44812; File No. SR–PCX–2001–28)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Composition of the Nominating Committee

September 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, and amended such proposed rule change on September 6, 2001,[3] as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify its interpretation of the PCX Constitution to eliminate the restriction that only public Governors may serve on the Nominating Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in the sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 16, 2000, the Commission approved the Exchange's Constitutional change that required at least one public representative serve on the Nominating Committee ("Committee") and permitted the service of Governors on the Committee.[4] That filing stated that the Exchange interpreted the rule proposal to mean that the only Governors permitted on the Committee were public Governors. Upon further consideration and review, the PCX has determined that this interpretation is too narrow.

The composition of the Committee is governed by Article III, Sections 4(a) and 4(b) of the PCX Constitution. Section 4(a) provides: "At each annual meeting there shall be elected by the membership, by ballot, for a term of one

[4] 17 CFR 200.30–3(a)(12).
[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the PCX clarified its interpretation of Article III, Sections 4(a) and 4(b) of the PCX Constitution to eliminate the restriction that only public Governors may serve on the Nominating Committee. See letter from Cindy L. Sink, Senior Attorney, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulations, SEC, dated September 5, 2001 ("Amendment No. 1").

[4] See Securities Exchange Act Release No. 43576 (November 16, 2000), 65 FR 71185 (November 29, 2000) (Order approving File No. SR–PCX–00–09).

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year, a Nominating Committee of nine persons, one of whom shall be nominated as Chair and one of whom shall be nominated as Vice Chair who are eligible for election in accordance with Section 4(b) of this Article III, none of whom shall be an officer of the Exchange. The Nominating Committee shall assume duties as provided in Section 4(d) of this Article III." Section 4(b) provides: "The nine members of the Nominating Committee eligible to be elected at each annual meeting shall be as follows: At least one Committee member shall be a representative of the public. At least seven Committee members shall be members or office members or office allied members, Equity Trading Permit Holders, Equity ASAP Holders or Allied Persons of an ETP firm or an Equity ASAP Holder." Therefore, eligible PCX governors are not restricted from serving on the Committee. The Constitution also permits a public Governor to serve as a representative of the public.

Permitting Governors to serve on the Committee is consistent with the PCX Constitutional language, and the basic composition is not affected. There must always be at least one public representative on the Committee, and there may be up to two. The Exchange maintains the flexibility it needs to meet its obligation to have a fair representation of Exchange members. Therefore, the Exchange submits this clarification to its interpretation of Article III, Section 4(b) of the PCX Constitution to eliminate the restriction that only public Governors may serve on the Committee.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5)[6] in particular, in that it is designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule change, as amended, furthers the objectives of Section 6(b)(3) of the Act,[7] in that it is designed to assure a fair representation of Exchange members in the selection of the Exchange's Governors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[8] and subparagraph (f)(1) of Rule 19b–4 thereunder[9] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of such proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–28 and should be submitted by October 16, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23837 Filed 9–24–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44809; File No. SR–Phlx–2001–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc., Relating to the Definition of a Controlled Account

September 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 16, 2001, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend the definition of controlled accounts under Phlx Rule 1014(g)(i) and Option Floor Procedure Advice ("Advice") B–6 to include non-member broker-dealers. The Exchange also proposes to make a corresponding amendment to the portion of Phlx Rule 1014(g)(i) and Advice B–6 that currently requires order tickets to have the "yield" field circled.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Phlx Rule 1014(g)(i) to expand the definition of the term "controlled account" to include non-member broker-dealers. Currently, a controlled account is defined as any account controlled by or under common control with a member broker-dealer. This includes specialist, Registered Options Trader ("ROT") and other "firm proprietary" accounts (if for the account of a member broker-dealer). Under the current rule, all other accounts, including non-member broker-dealer accounts, are customer accounts. Thus, the yielding requirements of this rule currently do not apply to non-member broker-dealer accounts, with the result that ROTs must yield priority to these accounts to the same extent as they must yield to "true" customers.

Specifically, with respect to yielding requirements, the rule currently provides that orders of controlled accounts are required to yield priority to customer orders when competing at the same price. Specialists, however, are not subject to the yielding requirements placed upon controlled accounts. Orders of controlled accounts must yield priority to customer orders, except that ROTs closing in-person are not required to yield priority to orders of customer accounts.

The rule further provides that orders of controlled accounts are not required to yield priority to other controlled account orders, except that when both an order of a ROT closing in-person and some other order of a controlled account are established in the crowd at the same price, and then a customer order is established at that price, the order of the controlled account must yield to the customer order while the order of a ROT closing in-person does not have to so yield.

This means that, in most circumstances, an order of a non-member broker-dealer at a given price takes priority over a same-priced order of a ROT, and is on parity with a public customer order. The effect of the proposed rule change is to require a non-member broker-dealer order to yield priority to a public customer order, and to eliminate the requirements that a ROT yields priority to a non-member broker-dealer. For instance, under the current rule, where a non-member broker-dealer bids for 100 contracts at the same time as a ROT bids for 100 contracts at the same price, the non-member broker-dealer has priority over the ROT and is entitled to the entire execution of an incoming sell order for 100 contracts at that price. Under the proposal, the ROT and the non-member broker-dealer would each be entitled to 50 contracts. Thus, non-member broker-dealer orders would no longer be treated like customer orders for parity/priority purposes and the yielding requirements of this Rule.

A further result of the proposal is that non-member broker-dealers would be required to yield to customer accounts. Thus, the proposal creates an advantage for customer accounts, which would receive more preferential treatment in order execution under Phlx Rule 1014 than non-member broker-dealer accounts. Specifically, customers would no longer share parity status with non-member broker-dealers, such that, depending upon the specific circumstances, customers would be more likely to receive more prompt and full executions. For instance, currently, where both a customer and a non-member broker-dealer order bid for 100 contracts at the same time and at the same price, the customer and the non-member broker-dealer would each be entitled to 50 contracts of an incoming order to sell 100 contracts. Under the proposal, the customer's bid would have priority over the non-member broker-dealer and would receive the entire execution of an incoming sell order for 100 contracts at that price. Thus, "true" customers, the intended beneficiaries of priority rule in general, would benefit.

The Exchange believes that changing the status of non-member broker-dealers for purposes of controlled account definition is consistent with many other instances in Exchange rules where non-member broker-dealers are not treated like customers. For instance, non-member broker-dealers are not treated like customers for purposes of the minimum guarantees of Phlx Rules 1015 and 1033; thus, a non-member broker-dealer order must be identified (marked and announced) as "BD" and would not be entitled to the ten-up (or larger) minimum guarantee.[4] Non-member broker-dealer orders are also not treated like customers for purposes of Phlx Rule 1080—accessing the AUTOM and AUTO—Z systems.[5] Access to systems such as AUTOM has long been limited to members representing orders of true customers. Non-member broker-dealers are also not treated like customers for purposes of Exchange fees, which are generally waived for customer options transactions, but not for broker-dealer orders.[6] Thus, the Exchange believes it is also appropriate to consider non-member broker-dealers as controlled accounts for purposes of parity/priority rules.[7]

As a consequence of re-defining the term "controlled account," the Exchange proposed to change an order ticket marking requirements to reflect actual custom and usage. Phlx Rule 1014(g)(i) (and the corollary provision in Advice B–6) would no longer require

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[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(3).

[8] 15 U.S.C. 78s(b)(3)(A)(i).

[9] 17 CFR 240.19–4(f)(1).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Senior Special Counsel, Division of Market Regulation, Commission, dated August 15, 2001 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified why the proposal is properly filed in response to the Order Instituting Public Administrative Proceeding Pursuant to Section 19(h)(1) of the Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10262 (the "Order"). The Exchange explained that in accordance with Section IV.B.j of the Order, the proposal would codify a market maker practice pertaining to the allocation of orders. Specifically, the proposal is intended to codify the practice whereby the term "controlled account," as used in Phlx Rule 1014, has been interpreted to yield the priority of non-member broker-dealer orders to customer orders, and treat non-member broker dealer orders on par with specialists, Registered Options Traders and other "firm proprietary" accounts.

[4] *See* Securities Exchange Act Release No. 44145 (April 2, 2001), 66 FR 18662 (April 10, 2001) (Notice of, and order granting partial accelerated temporary approval to, File No. SR–Phlx–2001–37 for a Sixty-Day Pilot Program Relating to the Application of the Quote Rule to Options Trading). The notice and order adopted new Phlx Rule 1082 and amended various other Exchange rules and advices (including Phlx Rules 1015 and 1033 as well as Advices A–11 and F–7) to conform with Rule 11Ac1–1 under the Act. Under the proposal the Exchange proposed to remove the ten-up guarantee, and replace the guarantee with new rules that provide for differing firm quote requirements for customer orders and broker-dealer orders, as permitted by Rule 11Ac1–1(d) of the Act, the amended Quote Rule. Subsequently, that portion of the proposal was approved on a permanent basis. *See* Securities Exchange Act Release No. 44383 (June 1, 2001), 66 FR 30959 (June 8, 2001).

[5] AUTOM is the Exchange's electronic order routing and delivery system for option orders. AUTO–X is the automatic execution feature of AUTOM, which provides customers with automatic executions of eligible option orders at displayed markets. Securities Exchange Act Release No. 38792 (June 30, 1997), 62 FR 36602 (July 8, 1997) (Order approving File No. SR–Phlx–97–24 adopting an AUTOM Rule).

[6] *See* Securities Exchange Act Release No. 43558 (Nov. 14, 2000) 65 FR 69984 (Nov. 21, 2000) (Notice of File No. SR–Phlz–00–85 relating to equity transaction charges for broker-dealers and firms).

[7] Pursuant to Section 11(a) under the Act, a member broker-dealer, if entering an order from on the floor of the Exchange for its own account in reliance upon the exception for "G" order contained in Section 11(a)(1)(G) may, notwithstanding the operation of the Phlx yield requirements, be required to yield to non-member broker-dealers.

that market maker order tickets have the "yield" field circled, because the tickets used for orders by ROTs and other exchanges' market makers (due to the processing needs of clearing firms), do not have such a category, as do customer order tickets. This change merely corresponds to expanding the definition of controlled account to include non-member broker-dealers, such as market makers from other exchanges. Other controlled accounts would still be required to circle the yield field. Currently, specialists and ROTs market making in person are not required to circle the yield field; the requirement would not change.

Broker-dealers are not treated the same as members for all purposes under the Exchange's rules. Certain functions and entitlements are unique to membership status. For example, only members may transact business on the Exchange trading floor.[8] Nevertheless, the proposal would generally place non-member broker-dealers at parity with member broker-dealers for purposes of Phlx Rule 1014(g), except that certain yielding provisions differ with respect to ROTs and specialists, as explained above, due to their unique market making obligations, which non-member broker-dealers do not have. Therefore, the Exchange does not believe that the proposal is unfairly discriminatory against non-member broker-dealers. Parity with certain other broker-dealers is fair and consistent with other exchange rules, as described above.

For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest, and promote just and equitable principles of trade by equalizing all broker-dealers in terms of how their orders are treated in Exchange rules, regardless of whether they are members of the Exchange, as well as by providing a benefit to customer accounts in terms of execution priority. The Exchange also believes that the proposal is consistent with the provisions in Section 6(b)(5)[11] that provides that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[8] *See* Phlx Rules 104 and 109 regarding the role of members.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2001–38 and should be submitted on or before October 16, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23906 Filed 9–24–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3365]

State of California

Butte County and the contiguous counties of Colusa, Glenn, Plumas, Sutter, Tehama and Yuba in the State of California constitute a disaster area as a result of damages caused by severe wildfires that occurred on September 6, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 19, 2001 and for economic injury until the close of business on June 18, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.750
Homeowners Without Credit Available Elsewhere	3.375
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336505 and for economic damage is 9M7500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 18, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–23884 Filed 9–24–01; 8:45 am]

BILLING CODE 8025–01–P

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Inspector General

[Public Notice 3789]

State Department Performance Review Board Members (Office of Inspector General)

In accordance with section 4314 (c) (4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Office of Inspector General of the Department of State has appointed the following individuals to its Performance Review Board register.

William E. Todd, Executive Director, Office of the Executive Director, Office of the Chief Financial Officer, Department of State

Thomas D. Roslewicz, Deputy Inspector General for Audits, Department of Health and Human Services

Sanders Gersen, Deputy Assistant Inspector General for Audits, Office of Personnel Management

Dated: September 18, 2001.

Clark Kent Ervin,

Inspector General, U.S. Department of State.

[FR Doc. 01–23908 Filed 9–24–01; 8:45 am]

BILLING CODE 4710–42–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

African Growth and Opportunity Act Implementation Subcommittee of the Trade Policy Staff Committee; Public Comments on Annual Review of Country Eligibility for Benefits Under the African Growth and Opportunity Act, Title I of the Trade and Development Act of 2000

ACTION: Notice and request for comments.

SUMMARY: The African Growth and Opportunity Act Implementation Subcommittee of the Trade Policy Staff Committee (the "Subcommittee") is requesting written public comments for the annual review of the eligibility of sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). This notice identifies the eligibility criteria that must be considered under the AGOA, lists the sub-Saharan African countries that are currently eligible for AGOA, and the sub-Saharan African countries that are currently ineligible for the AGOA. The Subcommittee will consider any such comments in developing recommendations on country eligibility for the President. Comments received related to the child labor criteria may also be considered by the Secretary of Labor in making the findings required under section 504 of the Trade Act of 1974, as amended.

DATES: The deadline for comments is October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Office of African Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Room 501, Washington, DC 20508. Telephone (202) 395–9514.

SUPPLEMENTARY INFORMATION: The AGOA amends Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (the "Trade Act") to authorize the President to designate sub-Saharan African countries as eligible for duty-free tariff treatment for certain products under the Generalized System of Preferences program. The AGOA also provides preferential treatment for certain textile and apparel articles of beneficiary sub-Saharan African countries that meet certain statutory requirements intended to prevent unlawful transshipment of such articles.

The President may designate a country as a beneficiary sub-Saharan African country if he determines that the country meets the eligibility criteria set forth in: (1) Section 104 of the AGOA; and (2) section 502 of the Trade Act. To date, 35 countries have been designated as beneficiary sub-Saharan African countries. These countries, as well as the 14 currently ineligible countries, are listed below. Section 506A of the Trade Act provides that the President shall monitor, review, and report to Congress annually on the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country. The President's determinations are to be included in an annual report submitted to Congress.

The Subcommittee is seeking public comments in connection with the annual review of the eligibility of sub-Saharan African countries for the AGOA's benefits. The Subcommittee will consider any such comments in developing recommendations on country eligibility for the President. Comments related to the child labor criteria may also be considered by the Secretary of Labor in making the findings required under section 504 of the Trade Act.

Beneficiary Sub-Saharan African Countries

The following have been designated as beneficiary sub-Saharan African countries:

Republic of Benin
Republic of Botswana
Republic of Cameroon
Republic of Cape Verde
Central African Republic
Republic of Chad
Republic of the Congo
Republic of Djibouti
State of Eritrea
Ethiopia
Gabonese Republic
Republic of Ghana
Republic of Guinea
Republic of Guinea-Bissau
Republic of Kenya
Kingdom of Lesotho
Republic of Madagascar
Republic of Malawi
Republic of Mali
Islamic Republic of Mauritania
Republic of Mauritius
Republic of Mozambique
Republic of Namibia
Republic of Niger
Federal Republic of Nigeria
Republic of Rwanda
Democratic Republic of São Tomé and Principe
Republic of Senegal
Republic of Seychelles
Republic of Sierra Leone
Republic of South Africa
Kingdom of Swaziland
United Republic of Tanzania
Republic of Uganda
Republic of Zambia

Non-Beneficiary Sub-Saharan African Countries

The following have not been designated as beneficiary sub-Saharan African countries:

Republic of Angola
Burkina Faso
Republic of Burundi
Democratic Republic of Congo
Federal Islamic Republic of the Comoros
Republic of Côte d'Ivoire
Republic of Equatorial Guinea
Republic of The Gambia
Republic of Liberia
Somalia
Republic of Togo
Republic of Sudan
Republic Zimbabwe

Submission of Written Comments

Interested parties are invited to submit comments regarding the continued eligibility of countries and the potential designation as beneficiaries of countries currently not eligible for AGOA benefits. All

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submissions must include an original and twenty (20) copies, in English. All submissions should clearly identify on the cover page of the submission the country or countries discussed within the submission and include the name of the person and/or organization submitting the written comments. Comments must be submitted by October 10, 2001, to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 1724 F Street NW., Washington, DC 20508.

Public versions of all documents relating to this review will be available for inspection by appointment in the USTR public reading room (for appointments call (202) 395–6186). Submissions that are granted "business confidential" status and other information submitted in confidence will not be available for public inspection. Submissions that include Business Confidential information are subject to the requirements of 15 CFR 2003.6. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. If a document contains such business confidential information, an original and twenty (20) copies of the business confidential versions of the document along with an original and twenty (20) copies of a public version must be submitted. The document that contains business confidential information should be clearly marked "business confidential" at the top of each page. The public version should also be clearly marked at the top of each page (either "public version" of "non-confidential").

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–23909 Filed 9–24–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Agreements Filed; Weekly Receipts

Aviation Proceedings, Agreements filed during week ending September 7, 2001. The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10600.

Date Filed: September 7, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC1 0193 dated 21 August 2001; TC1 Areawide Resolutions, r1–r4; PTC1 0195 dated 21 August 2001; TC1 Longhaul (except between USA and Chile) Resolutions, r5–r52; Minutes—PTC1 0198 dated 31 August 2001; Tables—PTC1 Fares 0065 dated 24 August 2001; TC1 Longhaul (except between USA and Chile) Specified Fares Tables; Intended effective date: 1 January 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–23818 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD17–01–004]

Application for Recertification of Cook Inlet Regional Citizen's Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of Availability; request for comments.

SUMMARY: The Coast Guard announces the availability of and seeks comments on the application for recertification submitted by the Cook Inlet Regional Citizen's Advisory Council (CIRCAC) for September 1, 2001 through August 31, 2002. Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group in lieu of a Regional Citizen's Advisory Council for Cook Inlet.

DATES: Comments must reach the Seventeenth Coast Guard District on or before October 25, 2001.

ADDRESSES: You may mail your comments to the Seventeenth Coast Guard District (mor), PO Box 25517, Juneau, AK, 99802–5517. You may also deliver them to the Juneau Federal Building, room 753, 709 W 9th St, Juneau, AK between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The Seventeenth Coast Guard District maintains the public docket for this recertification process. Comments regarding recertification will become part of this docket and will be available for inspection or copying at the Juneau Federal Building, room 753, 709 W 9th St.

A copy of the application is also available for inspection at the Cook Inlet Regional Citizen's Advisory Council Offices at 910 Highland Avenue, Kenai, AK 99611–8033 between the hours of 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (907) 283–7222 in Kenai, Alaska.

FOR FURTHER INFORMATION CONTACT: For questions on viewing or submitting material to the docket contact LT Michael Patterson, Seventeenth Coast Guard District (mor), (907) 463–2807.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments. It solicits comments from interested groups including oil terminal facility owners and operators, owners and operators of crude oil tankers calling at terminal facilities, Alaska Native Tribes, fishing, aquacultural, recreational and environmental citizens groups, concerning the recertification application of CIRCAC. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD17–01–04) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (m), Seventeenth Coast Guard District, PO Box 25517, Juneau, AK, 99802–5517. The request should include reasons why a hearing would be beneficial. If there is sufficient evidence to determine that oral presentations will aid this recertification process, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard published guidelines on December 31, 1992 (57 FR 626000), to assist groups seeking recertification under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act). The Coast Guard issued a policy statement on July 7, 1993 (58 FR 36505), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act. Most recently, on December 28, 2000 (65 FR 82451) the Coast Guard published a proposal and request for comments to streamline the RCAC certification process. The comments received on that proposal are under review prior to implementing changes to the certification process.

The Coast Guard has received an application for recertification of CIRCAC, the currently certified advisory group for the Cook Inlet region. In accordance with the review and certification process contained in the policy statement, the Coast Guard announces the availability of that application.

At the conclusion of the comment period, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies, which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of 33 U.S.C. 2732.

The Coast Guard will notify CIRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: September 6, 2001.

T.J. Barrett,

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 01–23823 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The National Park Service (NPS) and Federal Aviation Administration (FAA) in accordance with the National Parks Air Tour Management Act of 2000, established the National Parks Overflights Advisory Group (NPOAG). The NPOAG was formed to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks. This notice informs the public of the desire to expand the advisory group and delineates the nomination procedures.

FOR FURTHER INFORMATION CONTACT: Howard Nesbitt, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, telephone: (202) 493–4981, or Marvin Jensen, Soundscapes Office, National Park Service, 1201 Oak Ridge Drive, Suite 200, Ft. Collins, Colorado 80525, telephone: (970) 225–3563. Persons interested in serving on the advisory group should contact Mr. Nesbitt or Mr. Jensen on or before October 16, 2001.

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181. The Act required the establishment of the advisory group within 1 year after its enactment. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator and the Director (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group. The Administrator's representative will serve the first term, which will terminate at the end of the calendar year following the year in which the advisory group is established.

The advisory group provides "advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title [the Act] and the amendments made by this title;

(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) at the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands."

Members of the advisory group may be allowed certain travel expenses as authorized by section 5703 of title 5, United States Code, for intermittent Government service.

An initial assignment was made to the group of seven members representing aviation, environmental and Native American cultural interests. At the first meeting of the group, on August 28, 2001, the group decided that the addition of three new members would achieve a better balance of interests representing the group. The additional members would represent fixed wing air tour operators, environmental interests and Native American cultural interests.

Public Participation in the Advisory Group

The FAA and NPS invite members of the public from the desired areas, who are interested in serving on the advisory group, to contact the person listed under **FOR FURTHER INFORMATION CONTACT.** Requests to participate should be made in writing and postmarked on or before October 16, 2001. The request should indicate whether or not they are a member or an official of a particular interest group. The request should also state whether they are proposing to represent fixed wing air tours, environmental, or Native American cultural interests and what expertise they would bring to either of these interest areas while serving on the group. Those individuals or groups previously submitting nominations need not resubmit. The term of service of advisory group members will be three years.

Issued in Washington, DC on September 19, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

[FR Doc. 01–23945 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2001–10649]

Agency Information Collection Activities; Request for Comments; Clearance of a New Information Collection; Customer Satisfaction Surveys

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection that involves generic customer satisfaction surveys. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

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DATES: Please submit comments by November 26, 2001.

ADDRESSES: You may mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590; telefax comments to 202/493–2251; or submit electronically at *http://dmses.dot.gov/submit*. All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you desire a receipt you must include a self-addressed stamped envelope or postcard or, if you submit your comments electronically, you may print the acknowledgment page.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Marshall, 202–366–9393, Corporate Management, Federal Highway Administration, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Customer Satisfaction Surveys.

OMB Control No: 2125-New.

Background: Executive Order 12862, "Setting Customer Service Standards" requires that Federal agencies provide the highest quality service to our customers by identifying them and determining what they think about our services and products. The surveys covered in this request for a generic clearance will provide the FHWA a means to gather this data directly from our customers. The information obtained from the surveys will be used to assist in evaluating service delivery and processes. The responses to the surveys will be voluntary and will not involve information that is required by regulations. There will be no direct costs to the respondents other than their time. The FHWA plans to provide an electronic means for responding to the majority of the surveys via the World Wide Web.

Respondents: State and local governments, highway industry organizations, general public.

Frequency: Generally, annually.

Estimated Total Annual Burden Hours: The burden hours per response will vary with each survey; however, we estimate an average burden of 20 minutes for each survey. We estimate that FHWA will survey an average of 15,000 respondents annually. Therefore, the total annual estimate is 5,000 burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register's** home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara*.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 19, 2001.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 01–23932 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Lahaina, Kaanapali & Pacific Railroad

[Docket Number FRA–2001–10516]

The Lahaina, Kaanapali & Pacific Railroad (LKP) requests a waiver of compliance with certain provisions of the 49 CFR part 230, *Inspection and Maintenance Standards for Steam Locomotives*. The specific part of the regulations for which waiver is sought is CFR 230.25, which requires that the maximum allowable stress per square inch (psi) of the net cross sectional area of fire box and combustion chamber stays shall be 7,500 psi. LKP seeks this waiver to allow the stay bolt stress to be increased to 12,600 psi, which meets the requirements of the 1983 ASME code, for two steam locomotives named Anaka and Myrtle. The railroad feels that their method of attachment (welding) provides greater strength than threaded attachment of the stays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2001–10516) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl–401, 400 Seventh Street, S.W., Washington, DC. 20590–0001. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on September 19, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23934 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2001–9486]

Trinity Industries, Incorporated; Public Hearing

On July 11, 2001, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** (66 FR 36363) announcing Trinity Industries Incorporated (TII) request to obtain a permanent waiver of compliance from certain provisions of Railroad Safety Appliance Standards, 49 CFR part 231, for a new design, 100-Ton Seven Unit Articulated Intermodal Ramp Car (Ramp Car). Relief is requested from the requirements provided in title 49 CFR part 231 as follows:

49 CFR 231.18—*Cars of special construction*, which states: "Cars of construction not covered specifically in the foregoing sections in this part, relative to handholds, sill steps, ladders, hand brakes and running boards may be considered as of special construction, but shall have, as nearly as possible, the same complement of handholds, sill steps, ladders, hand brakes, and running boards as are required for cars of the nearest approximate type." The nearest approximate type of car for this new design Ramp Car is described in 49 CFR 231.6—Flat cars. Specifically, TII is seeking relief of four (4) requirements described below:

Hand Brakes Location: 49 CFR 231.6 (a)(3)(ii) requires that "the brake shaft shall be located on the end of car to the left of center, or on side of car not more than 36 inches from right-hand end thereof."

Sill Steps Location: 49 CFR 231.1(d)(3)(i) requires that "one near each end of each side of car, so that there shall be not more than 18 inches from end of car to center of tread of sill step."

Side Handholds Location: 49 CFR 231.6(c)(3)(i) requires that "horizontal, one on face of each side sill near each end. Clearance of outer end of handhold shall be not more than 12 inches from end of car."

End Handholds Location: 49 CFR 231.6(d)(3)(i) requires that "horizontal, one near each side of each end of car on face of end sill. Clearance of outer end of handhold shall be not more than 16 inches from side of car."

Due to the uniqueness of the car design, special construction considerations, operation, and comments received by FRA concerning this waiver petition, FRA has determined that a public hearing is necessary before a final decision is made on this petition. Accordingly, a public hearing is hearby set for 1:30 p.m. on October 18, 2001, in Conference Room #1 on the seventh floor, at the FRA Headquarters Building, 1120 Vermont Avene, N.W., Washington, D.C. 20005. Interested parties are invited to present oral statements at this hearing. The hearing will be informal and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25) by a representative designated by the FRA. The FRA representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition, without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, DC on September 19, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23933 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

[Docket Number FRA–2001–10235]

Union Pacific Railroad Company (UP), a Class I railroad, requests a waiver of compliance with certain provisions of 49 CFR part 214, *Railroad Workplace Safety*. The specific sections of the rule for which waiver is sought are 49 CFR 214.329, *Train approach warning provided by watchmen/lookouts*, and 49 CFR 214.337, *On-track safety procedures for lone workers*.

UP requests relief that will permit the use of a system described by UP as the automatic train approach warning system (TAWS). UP proposes that roadway work groups be permitted to substitute TAWS for watchmen/lookouts as the method of train approach warning when fouling a track within equipped interlockings and controlled points. UP also proposes that lone workers be permitted to use TAWS as a method of train approach warning within the limits of those interlockings and controlled points without a requirement to establish working limits.

On December 16, 1996, the FRA published a final rule amending 49 CFR part 214 with the addition to it of the Roadway Worker Protection Standards, which became effective on January 15, 1997. The regulation mandates clearly defined methods of protection against moving trains and railroad equipment for railroad employees who perform certain maintenance and inspection duties on and near railroad tracks. UP previously filed a petition for waiver of certain provisions of that rule to permit the use of TAWS in place of watchmen/lookouts (Docket Number FRA 2000–7912). On December 13, 2000, UP withdrew this petition.

In its new petition, Docket Number 2001–10235, UP states that TAWS will exceed the minimum requirements for warning roadway workers of the approach of trains and will be used at selected control points on the railroad. UP also states that this system will be an integral part of the signal and train control system which includes, incorporating the same level of reliability and principles of a fail-safe design.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request. All communications concerning these proceedings should identify the appropriate docket number (Docket Number FRA–2001–10235) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza level) 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business

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hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket, including UP's detailed waiver request, are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on September 19, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–23935 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10668]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LADY J.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 25, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10668. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: LADY J. *Owner:* John E. Wilkins, Jr. and Connie J. Wilkins.

(2) Size, capacity and tonnage of vessel. *According to the applicant: Size:* 37 feet; *Capacity:* 8 passengers; *Tonnage:* 8 tons.

(3) Intended use for vessel, including geographic region of intended operation and trade. *According to the applicant:* "The vessel will be used for Chapter 4's Disabled American Veteran outreach and R & R program. * * * This program is operated in Southeast Alaska because there is no road system. There is no other vessel that operates in this area that helps the Disabled Veterans."

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction:* 1984. *Place of construction:* Taiwan. "Rebuilding took place at: Juneau Marine and De Harts Marine, Juneau, AK".

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. *According to the applicant:* "The Disabled Veterans Outreach program is a non-profit operation that gives veterans and there family's information on veteran affairs program offered by the government and recreational opportunities that they other wise could not afford. We are the only vessel in this area that makes this possible. There will be no impact on commercial vessels in this area."

(6) A statement on the impact this waiver will have on U.S. shipyards. *According to the applicant:* "I can see no impact on U.S. shipyards because of our outreach program because we are not involved with any shipyards."

Dated: September 20, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–23894 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2001–4)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, Department of Transportation

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the fourth quarter 2001 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter 2001 RCAF (Unadjusted) is 1.078. The fourth quarter 2001 RCAF (Adjusted) is 0.581. The fourth quarter 2001 RCAF–5 is 0.556.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DA.2.DA LEGAL, Suite 405, 1925 K Street, NW., Washington, DC 20423–0001, telephone (202) 293–7776. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: September 19, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23962 Filed 9–24–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Annual Report of Concentrate Manufacturers and Usual Customary Business Records—Volatile Fruit-Flavor Concentrate Plants.

DATES: Written comments should be received on or before November 26, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Annual Report of Concentrate Manufacturers and Usual and Customary Business Records—Volatile Fruit-Flavor Concentrate Plants.

OMB Number: 1512–0098.

Form Number: ATF F 5520.2.

Abstract: Manufacturers of volatile fruit-flavor concentrate must provide reports as necessary to insure the protection of the revenue. The report accounts for all concentrates manufactured, removed, or treated so as to be unfit for beverage use. The information is required to verify that alcohol is not being diverted thereby jeopardizing tax revenues. Records and reports will be retained by the proprietor for 3 years from the date they were prepared, or 3 years from the date of the last entry, whichever is later.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 91.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 30.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 17, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23888 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Consignment of Tobacco Products and Cigarette Papers and Tubes Export Shipments.

DATES: Written comments should be received on or before November 26, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Thomas Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Consignment of Tobacco Products and Cigarette Papers and Tubes Export Shipments.

OMB Number: 1512–0531.

Recordkeeping Requirement ID Number: ATF REC 5210/1.

Abstract: Tobacco products have historically been a major source of excise tax revenues for the Federal Government. In order to safeguard these taxes, members of the regulated tobacco industry are required to maintain a system of records designed to establish accountability over the tobacco products manufactured. The recordkeeping requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 314.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 21,195.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper

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performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 17, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–23889 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: List of Data (A) and List of Data (B)

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form "List of Data (A) and List of Data (B)."

DATES: Written comments should be received on or before November 26, 2001.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Program Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dorothy Martin, Surety Bond Branch, 3700 East West Highway, Room 608A, Hyattsville, MD 20782, (202) 874–6775.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: List of Data (A) and List of Data (B).

OMB Number: 1510–0047.

Form Number: TFS 2211.

Abstract: This information is collected from insurance companies to assist Treasury Department in determining acceptability of the companies applying for a Certificate of Authority to write or reinsure Federal surety bonds.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 30.

Estimated Time Per Respondent: 18 hours.

Estimated Total Annual Burden Hours: 540.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 19, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 01–23895 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Schedule of Excess Risks

AGENCY: Financial Management Service, Fiscal Service; Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form "Schedule of Excess Risks."

DATES: Written comments should be received on or before November 26, 2001.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dorothy Martin, Surety Bond Branch, 3700 East West Highway, Room 608A, Hyattsville, MD 20782, (202) 874–6775.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Schedule of Excess Risks.

OMB Number: 1510–0004.

Form Number: FMS 285–A.

Abstract: This information is collected to assist the Treasury Department in determining whether a certified or applicant company is solvent and able to carry out is contracts, and whether the company is in compliance with Treasury excess risk regulations for writing Federal surety bonds.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,308.

Estimated Time Per Respondent: 20 hours.

Estimated Total Annual Burden Hours: 7,140.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance and purchase of services to provide information.

Dated: September 19, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 01–23896 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Assignment Form

AGENCY: Financial Management Service, Fiscal Service Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form "Assignment Form."

DATES: Written comments should be received on or before November 26, 2001.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Wanda Rogers, Financial Accounting and Services Division, 3700 East West Highway, Room 620D, Hyattsville, MD, (202) 874–8380.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Assignment Form.

OMB Number: 1510–0035.

Form Number: None.

Abstract: This form is used when an awardholder wants to assign or transfer all or part of his/her award to another person. When this occurs, the awardholder forfeits all future rights to the portion assigned.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 150.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 75.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 19, 2001.

Judith R. Tillman,

Assistance Commissioner, Financial Operations.

[FR Doc. 01–23897 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Application for Payment of a Deceased Depositor's Postal Savings Account

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form "Application for Payment of a Deceased Depositor's Postal Savings Account."

DATES: Written comments should be received on or before November 26, 2001.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Wanda Rogers, Financial Accounting and Services Division, 3700 East West Highway, Room 620D, Hyattsville, MD 20782, (202) 874–8380.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Application for Payment of a Deceased Depositor's Postal Savings Account.

OMB Number: 1510–0027.

Form Number: POD 1681.

Abstract: This form is used when an application is submitted for payment of a deceased Postal Savings depositor's account. Information furnished on the form is used to determine if the applicant is entitled to the proceeds of the account.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 25.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology;

and (e) estimates of capital or start-up

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and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: September 19, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations.

[FR Doc. 01–23898 Filed 9–24–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0105]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine if a claimant's accidental injury was the result of the claimant's misconduct.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 26, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–0105" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501 " 3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Witness to Accident, VA Form Letter 21–806.

OMB Control Number: 2900–0105.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used to gather information to support veterans' claims for disability benefits based on disability(ies) which is/are the result of an accident. The information given by a witness to the accident is used as a source to gather specific data regarding the accident and to obtain from the witness opinions as well as facts based on his or her knowledge and beliefs regarding the accident. Benefits may be paid if a disability is incurred in the line of duty and is not the result of the veteran's own willful misconduct.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,400 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 13,200.

Dated: September 10, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–23890 Filed 9–24–01; 8:45 am]

BILLING CODE 8320–01–P



Federal Register

Tuesday,
September 25, 2001

Part II

Department of Labor

Bureau of International Labor Affairs

Request for Information on Efforts by Certain Countries To Eliminate the Worst Forms of Child Labor; Notice

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DEPARTMENT OF LABOR

Bureau of International Labor Affairs

Request for Information on Efforts by Certain Countries To Eliminate the Worst Forms of Child Labor

AGENCY: The Bureau of International Labor Affairs, Labor.

ACTION: Request for information on efforts by certain countries to eliminate the worst forms of child labor.

SUMMARY: This notice is a request for information for use in Department of Labor research regarding the implementation of international commitments to eliminate the worst forms of child labor by countries seeking benefits under the Generalized System of Preferences (GSP), and/or eligibility for additional benefits provided for in the Caribbean Basin Trade Partnership Act (CBTPA) or the African Growth and Development Act (AGOA). The recently passed Trade and Development Act of 2000 (TDA) establishes a new eligibility criterion, concerning efforts to eliminate the worst forms of child labor, for receipt of these trade benefits. The TDA requires the Secretary of Labor to make findings with respect to beneficiary countries' implementation of their international commitments to eliminate the worst forms of child labor.

DATES: Submitters of information are requested to provide two (2) copies of their written submission to the International Child Labor Program at the address below by 5 p.m., October 25, 2001.

ADDRESSES: Written submissions should be addressed to Chris Camillo at the International Child Labor Program, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5307, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Chris Camillo, International Child Labor Program, Bureau of International Labor Affairs at (202) 693–4839; fax (202) 693–4830. The Department of Labor's reports on international child labor can be accessed on the Internet at *http://www.dol.gov/dol/ilab/public/programs/iclp/* or can be obtained from the International Child Labor Program.

SUPPLEMENTARY INFORMATION: The Trade and Development Act of 2000 (Pub. L. 106–200), signed into law on May 18, 2000, establishes a new eligibility criterion concerning efforts to eliminate the worst forms of child labor for receipt of trade benefits under the GSP, CBTPA, and AGOA programs. The TDA amends the GSP reporting requirements of the Trade Act of 1974 (Section 504) (19 U.S.C. 2464) to require that the annual report include "findings by the Secretary of Labor with respect to the beneficiary country's implementation of its international commitments to eliminate the worst forms of child labor."

Title II of the TDA includes as a criteria for receiving benefits under the CBTPA "whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974." The TDA Conference Report (Joint Explanatory Statement of the Committee of Conference, 106th Cong. 2d. sess. (2000)) indicates that "the conferees intend that the GSP standard, including the provision with respect to implementation of obligations to eliminate the worst forms of child labor, apply to eligibility for those additional benefits" (provided for in the AGOA.)

Scope of Report

Countries presently eligible under the GSP are: Albania, Angola, Antigua and Barbuda, Argentina, Armenia, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Cote d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Gabon, the Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kyrgyzstan, Latvia, Lebanon, Lesotho, Lithuania, Macedonia (former Yugoslav Republic of), Madagascar, Malawi, Mali, Mauritania, Mauritius, Moldova, Mongolia, Morocco, Mozambique, Namibia, Nepal, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Russia, Rwanda, Saint Kitts-Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Slovakia, Solomon Islands, Somalia, South Africa, Sri Lanka, Suriname, Swaziland, Tanzania, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Uruguay, Uzbekistan, Vanuatu, Venezuela, Republic of Yemen, Zambia, and Zimbabwe.

Countries potentially eligible for additional benefits under the AGOA are: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Republic of the Congo, Cote d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, the Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, and Zimbabwe.

Countries potentially eligible for additional benefits under the CBTPA are: Anguilla, Antigua and Barbuda, Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cayman Islands, Montserrat, Netherlands Antilles, Saint Kitts-Nevis, Turks and Caicos and the British Virgin Islands.

Information Sought

The Department invites written information relevant to the findings to be made by the Department of Labor under the TDA from all interested parties. Information provided through public submission will be considered by the Department of Labor in preparing its findings. Materials submitted should be confined to the specific topic of the study. In particular, the Department's Bureau of International Labor Affairs is seeking written submissions on the following topics as stipulated in the TDA Conference Report:

1. Whether the country has adequate laws and regulations proscribing the worst forms of child labor;
2. Whether the country has adequate laws and regulations for the implementation and enforcement of such measures;
3. Whether the country has established formal institutional mechanisms to investigate and address complaints relating to allegations of the worst forms of child labor;
4. Whether social programs exist in the country to prevent the engagement of children in the worst forms of child labor, and assist in the removal of children engaged in the worst forms of child labor;
5. Whether the country has a comprehensive policy for the elimination of the worst forms of child labor;

6. Whether the country is making continual progress toward eliminating the worst forms of child labor.

Information relating to the nature and extent of child labor in the country is also sought.

Definition of "Worst Forms of Child Labor"

As stated in the TDA Conference Report, use of the term "Worst Forms of Child Labor" in the TDA follows International Labor Organization (ILO) Convention No. 182, which defines child as all persons under the age of 18, and the worst forms of child labor as comprising all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in relevant international treaties; or any work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The TDA Conference Report noted that the phrase, * * * work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children * * * is to be defined as in Article II of Recommendation No. 190, which accompanies ILO Convention No. 182. This includes work that exposes children to physical, psychological, or sexual abuse; work underground, under water, at dangerous heights or in confined spaces; work with dangerous machinery, equipment or tools, or work under circumstances which involve the manual handling or transport of heavy loads; work in an unhealthy environment that exposes children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and work under particularly difficult conditions such as for long hours, during the night or under conditions where children are unreasonably confined to the premises of the employer.

The TDA Conference Report further indicated that the phrase, * * * work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children * * * be interpreted in a manner consistent with the intent of Article 4 of ILO Convention No. 182, which states that such work shall be determined by national laws or regulations or by the competent authority in the country involved.

This notice is a general solicitation of comments from the public.

Signed at Washington, DC this 19th day of September, 2001.

Jorge Perez-Lopez,

Associate Deputy Under Secretary for International Labor Affairs.

[FR Doc. 01–23878 Filed 9–24–01; 8:45 am]

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Federal Register

Tuesday,
September 25, 2001

Part III

The President

Presidential Determination No. 01–29 of September 23, 2001—Provision of Aviation Insurance Coverage for Commercial Air Carrier Service in Domestic and International Operations

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Federal Register
Vol. 66, No. 186
Tuesday, September 25, 2001

Presidential Documents

Title 3—

The President

Presidential Determination No. 01–29 of September 23, 2001

Provision of Aviation Insurance Coverage for Commercial Air Carrier Service in Domestic and International Operations

Memorandum for the Secretary of Transportation

By virtue of the authority vested in me by 49 U.S.C. 44302, *et seq.*, I hereby:

(1) determine that continuation of U.S.-flag commercial air service is necessary in the interest of air commerce, national security, and the foreign policy of the United States;

(2) approve provision by the Secretary of Transportation of insurance to U.S.-flag air carriers against loss or damage arising out of any risk from the operation of an aircraft, and/or reimbursement of insurance cost increases, in the manner and to the extent provided in Chapter 443 of 49 U.S.C., whenever he determines that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to conduct an insurance business in a State of the United States; and

(3) delegate to the Secretary of Transportation the authority, vested in me by 49 U.S.C. 44306(b), to extend this determination for additional 60-day periods, when he finds that the continued operation of aircraft to be insured or reinsured is necessary in the interest of air commerce or the national security, or to carry out the foreign policy of the United States Government.

You are directed to bring this determination immediately to the attention of all air carriers within the meaning of 49 U.S.C. 40102(2), and to arrange for its publication in the **Federal Register**.

THE WHITE HOUSE,
Washington, September 23, 2001

[FR Doc. 01–24179
Filed 9–24–01; 12:01 pm]
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Federal Register

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September 25, 2001

Part IV

The President

Executive Order 13224—Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism

Notice of September 24, 2001—Continuation of Emergency With Respect to UNITA

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Presidential Documents

Title 3—

The President

Executive Order 13224 of September 23, 2001

Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*)(IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 1214 of December 8, 1998, UNSCR 1267 of October 15, 1999, UNSCR 1333 of December 19, 2000, and the multilateral sanctions contained therein, and UNSCR 1363 of July 30, 2001, establishing a mechanism to monitor the implementation of UNSCR 1333,

I, GEORGE W. BUSH, President of the United States of America, find that grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, Pennsylvania, and the Pentagon committed on September 11, 2001, acts recognized and condemned in UNSCR 1368 of September 12, 2001, and UNSCR 1269 of October 19, 1999, and the continuing and immediate threat of further attacks on United States nationals or the United States constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and in furtherance of my proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks, hereby declare a national emergency to deal with that threat. I also find that because of the pervasiveness and expansiveness of the financial foundation of foreign terrorists, financial sanctions may be appropriate for those foreign persons that support or otherwise associate with these foreign terrorists. I also find that a need exists for further consultation and cooperation with, and sharing of information by, United States and foreign financial institutions as an additional tool to enable the United States to combat the financing of terrorism.

I hereby order:

Section 1. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States or that hereafter come within the United States, or that hereafter come within the possession or control of United States persons are blocked:

(a) foreign persons listed in the Annex to this order;

(b) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States;

(c) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order;

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(d) except as provided in section 5 of this order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General;

(i) to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to this order or determined to be subject to this order; or

(ii) to be otherwise associated with those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order.

Sec. 2. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to this order is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the Annex to this order or determined to be subject to this order;

(b) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited; and

(c) any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "terrorism" means an activity that—

(i) involves a violent act or an act dangerous to human life, property, or infrastructure; and

(ii) appears to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

Sec. 4. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by United States persons to persons determined to be subject to this order would seriously impair my ability to deal with the national emergency declared in this order, and would endanger Armed Forces of the United States that are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances, and hereby prohibit such donations as provided by section 1 of this order. Furthermore, I hereby determine that the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106–387) shall not affect the imposition or the continuation of the imposition of any unilateral agricultural sanction or unilateral medical sanction on

any person determined to be subject to this order because imminent involvement of the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

Sec. 5. With respect to those persons designated pursuant to subsection 1(d) of this order, the Secretary of the Treasury, in the exercise of his discretion and in consultation with the Secretary of State and the Attorney General, may take such other actions than the complete blocking of property or interests in property as the President is authorized to take under IEEPA and UNPA if the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, deems such other actions to be consistent with the national interests of the United States, considering such factors as he deems appropriate.

Sec. 6. The Secretary of State, the Secretary of the Treasury, and other appropriate agencies shall make all relevant efforts to cooperate and coordinate with other countries, including through technical assistance, as well as bilateral and multilateral agreements and arrangements, to achieve the objectives of this order, including the prevention and suppression of acts of terrorism, the denial of financing and financial services to terrorists and terrorist organizations, and the sharing of intelligence about funding activities in support of terrorism.

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 8. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

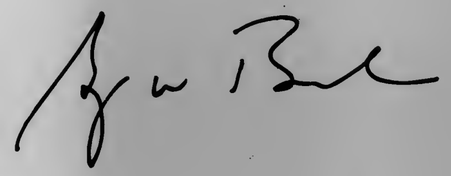
Sec. 9. Nothing contained in this order is intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees or any other person.

Sec. 10. For those persons listed in the Annex to this order or determined to be subject to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 11. (a) This order is effective at 12:01 a.m. eastern daylight time on September 24, 2001.

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(b) This order shall be transmitted to the Congress and published in the **Federal Register**.



THE WHITE HOUSE,
September 23, 2001.

Billing code 3195–01–P

ANNEX

Al Qaida/Islamic Army

Abu Sayyaf Group

Armed Islamic Group (GIA)

Harakat ul-Mujahidin (HUM)

Al-Jihad (Egyptian Islamic Jihad)

Islamic Movement of Uzbekistan (IMU)

Asbat al-Ansar

Salafist Group for Call and Combat (GSPC)

Libyan Islamic Fighting Group

Al-Itihaad al-Islamiya (AIAI)

Islamic Army of Aden

Usama bin Laden

Muhammad Atif (aka, Subhi Abu Sitta,
Abu Hafs Al Masri)

Sayf al-Adl

Shaykh Sai'id (aka, Mustafa Muhammad Ahmad)

Abu Hafs the Mauritanian (aka, Mahfouz Ould al-Walid, Khalid Al-Shanqiti)

Ibn Al-Shaykh al-Libi

Abu Zubaydah (aka, Zayn al-Abidin Muhammad Husayn, Tariq)

Abd al-Hadi al-Iraqi (aka, Abu Abdallah)

Ayman al-Zawahiri

Thirwat Salah Shihata

Tariq Anwar al-Sayyid Ahmad (aka, Fathi, Amr al-Fatih)

Muhammad Salah (aka, Nasr Fahmi Nasr Hasanayn)

Makhtab Al-Khidamat/Al Kifah

Wafa Humanitarian Organization

Al Rashid Trust

Mamoun Darkazanli Import-Export Company

[FR Doc. 01–24205
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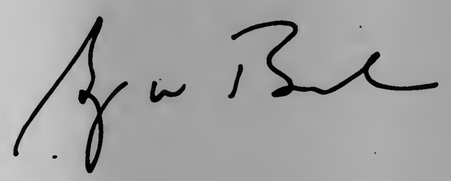
Continuation of Emergency With Respect to UNITA

In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared by President Clinton on September 26, 1993, by Executive Order 12865, to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of the National Union for the Total Independence of Angola (UNITA). The order prohibits the sale or supply by United States persons or from the United States, or using U.S. registered vessels or aircraft, of arms, related materiel of all types, petroleum, and petroleum products to the territory of Angola, other than through designated points of entry. The order also prohibits the sale or supply of such commodities to UNITA.

President Clinton took additional measures with respect to the national emergency declared in Executive Order 12865 by issuing Executive Orders 13069 and 13098 on December 12, 1997, and August 18, 1998, respectively. Those orders close all UNITA offices in the United States, block all property and interests in property of UNITA and designated UNITA officials and adult members of their immediate families, prohibit the importation of certain diamonds exported from Angola, and impose additional sanctions with respect to the provision of mining and transportation equipment and services.

Because of our continuing international obligations and the prejudicial effect that discontinuation of the sanctions would have on prospects for peace in Angola, the national emergency declared on September 26, 1993, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond September 26, 2001. Therefore, I am continuing the national emergency with respect to UNITA.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
September 24, 2001.

[FR Doc. 01-24206
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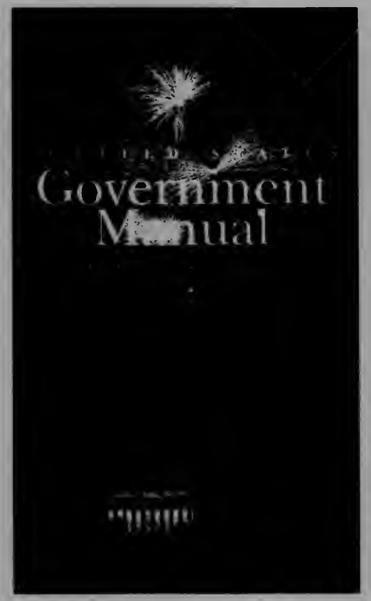
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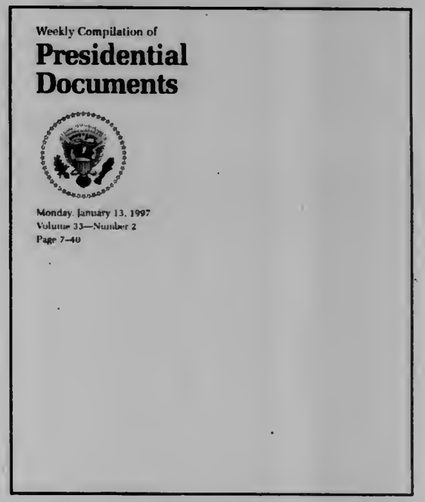
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Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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Rules and Regulations

Federal Register
Vol. 66, No. 187
Wednesday, September 26, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AJ16

Pretax Allotments for Health Insurance Premiums

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations dealing with the use of OPM's allotment authority to allow for Federal Employees Health Benefits (FEHB) employee premium payments to be deducted on a pretax basis under section 125 of the Internal Revenue Code. The allotment regulations work in tandem with related FEHB regulations dealing with this premium conversion.

EFFECTIVE DATE: October 26, 2001.

FOR FURTHER INFORMATION CONTACT: Bryce Baker, (202) 606–2858, FAX: (202) 606–0824, or e-mail: *payleave@opm.gov*.

SUPPLEMENTARY INFORMATION: On July 19, 2000, the Office of Personnel Management (OPM) published interim regulations (65 FR 44643) that allowed employees to pay their Federal Employees Health Benefits (FEHB) premiums through an allotment from the employee's pay to the employing agency. Use of this allotment mechanism allows FEHB premiums to be paid with pretax dollars, as permitted under section 125 of the Internal Revenue Code. The amendments to the allotment regulations were accompanied by a separate interim rule making necessary changes in the FEHB regulations (65 FR 44644) to allow this premium conversion.

OPM received comments from one agency representative and two individual employees on the changes in the allotment regulations.

The agency comment noted that a part of the allotment regulations not amended in the interim rule contained a reference to an obsolete Treasury regulation. It recommended that this be corrected in the final regulations.

Section 550.311(a)(5) of title 5, Code of Federal Regulations, specifies that agencies must allow employees to have "up to two allotments for savings under Department of the Treasury regulations as codified at part 209 of title 31, Code of Federal Regulations." However, the Treasury Department removed part 209 from its title 31 regulations effective on January 27, 1997. (*See* 61 FR 68155, December 27, 1996.) Part 209 dealt with certain wage, salary, annuity, and allotment payments for credit to the accounts of Federal employees and beneficiaries generally made by paper check. These payments are now made by electronic funds transfer and are regulated by part 210. Part 210 does not impose a limit on the number of allotments for savings. Instead, it leaves the matter to the paying agency.

We are revising § 550.311(a)(5) to remove the obsolete reference to part 209 of title 31. The revised language provides that an agency must allow an employee to have "at least two allotments for savings." Thus, the OPM regulations continue to require that agencies allow employees to have a minimum of two savings allotments, but there are no restrictions on the maximum number of savings allotment that may be permitted under an agency's discretionary authority in § 550.311(b).

An individual commenter questioned why only health insurance premium payments under the FEHB Program could be deducted on a pretax basis. The commenter is a civilian employee who is covered by certain health insurance programs established for retired military members. At the President's direction, the allotment regulations were amended to provide specifically that FEHB premiums may be deducted on a pretax basis. Section 550.311(b) provides that pretax allotments are permitted only when there is an authority (*i.e.*, statute, Executive order, Presidential directive, or OPM regulations) specific to Federal employees. For example, certain transportation fringe benefit allotments may be made on a pretax basis as allowed by 5 U.S.C. 7905(b) and Executive Order 13150, April 21, 2000.

Another commenter expressed concern about whether Federal employees would be provided with information on the impact that pretax FEHB premium allotments would have on Social Security benefits, so that they could make an informed decision on whether to waive participation in premium conversion. In fact, prior to implementation of premium conversion, OPM provided agencies with extensive information about the premium conversion program to share with employees. That information included a sample employee handout with a section highlighting the Social Security benefit issue and a financial worksheet with a section on estimating the impact on a person's Social Security benefits. (*See* Benefits Administration Letter 00–215 issued by OPM's Retirement and Insurance Service on August 24, 2000.) This information also was made available on OPM's website.

These final regulations adopt the interim regulations without any changes to the amendments contained in the interim regulations. However, as described above, we are making a correction dealing with the obsolete reference to a withdrawn Treasury regulation.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Education, Government employees, Wages.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the interim rule amending part 550 of title 5 of the Code of Federal Regulations, which was published at 65 FR 44643, is adopted as a final rule with the following change:

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PART 550—PAY ADMINISTRATION (GENERAL)

Subpart C—Allotments and Assignments from Federal Employees

1. The authority citation for subpart C of part 550 continues to read as follows:

Authority: 5 U.S.C. 5527; E.O. 10982, 3 CFR 1959–1963 Comp., p. 502.

2. In § 550.311, paragraph (a)(5) is revised to read as follows:

§ 550.311 Authority of agency.

(a) * * *

(5) At least two allotments for savings;

* * * * *

[FR Doc. 01–24103 Filed 9–25–01; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN: 3206–AJ36

Suspension of TRICARE-Eligible's Enrollment in the Federal Employees Health Benefits (FEHB) Program

AGENCY: Office of Personnel Management.

ACTION: Interim Rule.

SUMMARY: The Office of Personnel Management is issuing an interim rule to allow TRICARE-eligible FEHB Program annuitants and former spouses to suspend their FEHB enrollments, and then return to the FEHB Program during the Open Season, or return to FEHB coverage immediately, if they involuntarily lose TRICARE coverage. The intent of this rule is to allow TRICARE-eligible beneficiaries to avoid the expense of continuing to pay FEHB Program premiums while they are using TRICARE coverage, without endangering their ability to return to the FEHB Program in the future.

DATES: Effective September 26, 2001. Comments received on or before November 26, 2001.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, Policy Analyst, Insurance Policy and Information Division, OPM, Room 3425, 1900 E Street, NW., Washington, DC 20415–0001. He can also be reached at (202) 606–0004 or by electronic mail (e-mail) at: *mwkaszyn@opm.gov*.

SUPPLEMENTARY INFORMATION: Effective October 1, 2001, the National Defense Authorization Act for 2001 will reinstate TRICARE coverage for Medicare-eligible uniformed services retirees, their survivors and eligible dependents. TRICARE coverage will be advantageous to many Medicare-eligible military system beneficiaries who now are covered under the FEHB Program as Federal civilian retirees, family members, or former spouses.

Under current FEHB regulations, however, an annuitant or former spouse who cancels his or her FEHB coverage to use TRICARE coverage would not be allowed to return to FEHB coverage. Therefore, OPM is issuing these interim regulations, with a request for comments, to allow these FEHB participants to suspend, rather than cancel, their FEHB coverage when they begin TRICARE coverage. Under this rule, they would be allowed to return to FEHB coverage immediately if they involuntarily lose TRICARE coverage or, if not, during the next annual FEHB Open Season.

We are also amending our regulations to clarify a similar situation involving FEHB-covered annuitants and former spouses. The regulations allow an individual who drops FEHB coverage when he or she enrolls in a Medicare-sponsored plan, or in Medicaid or a similar State-sponsored program of medical assistance for the needy, to return to FEHB coverage during the annual Open Season or immediately upon being involuntarily disenrolled from the non-FEHB coverage.

Waiver of Notice of Proposed Rule Making

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, I find that good cause exists for waiving the general notice of proposed rule making. The notice is being waived so that FEHB enrollees who are eligible for the new TRICARE benefits can suspend their FEHB coverage and use their new benefits at their first opportunity.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect health insurance carriers under the Federal Employees Health Benefits Program.

Executive Order 12866, Regulatory Review

This regulation has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Reporting and record keeping requirements, Retirement.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

For the reasons set forth in the preamble, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

2. In § 890.304, paragraph (d)(2) is revised to read as follows:

§ 890.304 Termination of enrollment.

* * * * *

(d) * * *

(2) An annuitant may suspend enrollment in FEHB for the purpose of enrolling in a Medicare-sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to enroll in the Medicaid program or a similar State-sponsored program of medical assistance for the needy, or for the purpose of using TRICARE coverage (including coverage provided by the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB coverage. To suspend FEHB coverage, documentation must be submitted to the employing office or retirement system within the period beginning 31 days before and ending 31 days after the effective date of the enrollment in the Medicare-sponsored plan, or the Medicaid or similar program, or the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage. The suspension becomes effective on the day before the effective date of the enrollment in the Medicare-sponsored plan, or Medicaid or a similar program, or the day before the day designated by the annuitant as the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage.

* * * * *

3. In § 890.306 paragraphs (f)(1)(ii) and (f)(1)(iii) are revised, paragraph (f)(1)(iv) is added and paragraphs (h) and (i) are revised to read as follows:

§ 890.306 Opportunities for annuitants to change enrollment or to reenroll; effective dates.

* * * * *

(f) * * *

(1) * * *

(ii) An annuitant who suspended enrollment under this part for the purpose of enrolling in a Medicare-sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, may reenroll.

(iii)An annuitant who suspended the enrollment under this part because he or she furnished proof of eligibility for coverage under the Medicaid program or similar State-sponsored program of medical assistance for the needy, may reenroll.

(iv) An annuitant who suspended enrollment under this part for the purpose of using TRICARE (including the Uniformed Services Family Health Plan) coverage instead of FEHB coverage, may reenroll.

* * * * *

(h) *Reenrollment of annuitants who suspended enrollment to enroll in a Medicare-sponsored plan or to use TRICARE (including the Uniformed Services Family Health Plan) coverage under title 10 U.S.C. instead of FEHB coverage.*

(1) An annuitant who had been enrolled (or was otherwise eligible to enroll) for coverage under this part and suspended the enrollment for the purpose of enrolling in a Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to use the TRICARE program (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of the FEHB Program (as provided by § 890.304(d)), and who is subsequently involuntarily disenrolled from the Medicare sponsored plan or the TRICARE program (including the Uniformed Services Family Health Plan), may immediately reenroll in any available plan under this part at any time beginning 31 days before and ending 60 days after the disenrollment. A reenrollment under this paragraph (h) of this section takes effect on the date following the effective date of the disenrollment as shown on the documentation from the Medicare sponsored plan or the TRICARE program (including the Uniformed Services Family Health Plan).

(2) An annuitant who voluntarily suspended enrollment in the FEHB Program to enroll in a Medicare sponsored plan or to use TRICARE (including the Uniformed Services Family Health Plan), but now wants to reenroll in the FEHB Program for any reason other than an involuntary loss of coverage, may do so during the next available Open Season (as provided by paragraph (f) of this section).

(i) *Reenrollment of annuitants who suspended enrollment because of eligibility under Medicaid or a similar State-sponsored program of medical assistance for the needy.*

(1) An annuitant who had been enrolled (or was otherwise eligible to enroll) for coverage under this part and suspended the enrollment because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy (as provided by § 890.304(d)), and who involuntarily loses that coverage, may reenroll in any available plan under this part at any time beginning 31 days before and ending 60 days after the loss of Medicaid or similar State-sponsored coverage. A reenrollment under this paragraph (i)(1) takes effect on the date following the date of loss of Medicaid or similar State-sponsored coverage.

(2) An annuitant who suspended his or her enrollment because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, and who wishes to reenroll in a plan under this part for any reason, may do so during the next available Open Season as provided by paragraph (f) of this section.

4. In § 890.806 paragraphs (f)(1)(ii) and (f)(1)(iii) are revised and (f)(1)(iv) is added and paragraphs (h) and (i) are revised to read as follows:

§ 890.806 Opportunities for former spouses to enroll and change enrollment; effective dates of enrollment.

* * * * *

(f) * * *

(1) * * *

(ii) A former spouse who suspended the enrollment under this part for the purpose of enrolling in a Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, may reenroll.

(iii) A former spouse who suspended the enrollment under this part because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, may reenroll.

(iv) A former spouse who suspended enrollment under this part for the purpose of using TRICARE coverage (including the Uniformed Services Family Health Plan) instead of FEHB coverage, may reenroll.

* * * * *

(h) *Reenrollment of former spouses who suspended enrollment to enroll in a Medicare sponsored plan or to use TRICARE coverage (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB coverage.*

(1) A former spouse who had been enrolled for coverage under this part and suspended enrollment for the purpose of enrolling in a Medicare sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to use the TRICARE program (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB (as provided in § 890.807(e)), or who meets the eligibility requirements of § 890.803 and the application time limitation requirements of § 890.805, but postponed enrollment for this purpose, and who is subsequently involuntarily disenrolled from the Medicare sponsored plan or the TRICARE program (including the Uniformed Services Family Health Plan), may immediately reenroll in any available plan under this part at any time beginning 31 days before and ending 60 days after the disenrollment. A reenrollment under this paragraph (h) of this section takes effect on the date following the effective date of the disenrollment as shown on the documentation from the Medicare sponsored plan or TRICARE program (including the Uniformed Services Family Health Plan).

(2) A former spouse who suspended coverage in the FEHB Program to enroll in a Medicare sponsored plan, or to use TRICARE (including the Uniformed Services Family Health Plan), but now wants to reenroll in the FEHB Program for any reason other than an involuntary loss of coverage, may do so during the next available Open Season (as provided by paragraph (f) of this section).

(i) *Reenrollment of former spouses who suspended enrollment because of eligibility under Medicaid or a similar State-sponsored program of medical assistance for the needy.*

(1) A former spouse who had been enrolled for coverage under this part and suspended the enrollment because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy (as provided in § 890.807(e)), or who meets the eligibility requirements of § 890.803, but postponed enrollment for this reason, and who involuntarily loses that coverage, may reenroll in any available plan under this part at any time

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beginning 31 days before and ending 60 days after the loss of Medicaid or similar State-sponsored coverage. A reenrollment under this paragraph (i)(1) of this section takes effect on the date following the date of loss of Medicaid or similar State-sponsored coverage.

(2) A former spouse who suspended enrollment in the FEHB Program because he or she furnished proof of eligibility for coverage under the Medicaid program or a similar State-sponsored program of medical assistance for the needy, and who wishes to reenroll in a plan under this part for reasons other than an involuntary loss of that coverage, may do so during the next available Open Season as provided by paragraph (f) of this section.

5. In § 890.807 paragraphs (e)(2) and (e)(4) are revised to read as follows:

§ 890.807 Termination of enrollment.

* * * * *

(e) * * *

(2) A former spouse may suspend enrollment in FEHB for the purpose of enrolling in Medicare-sponsored plan under sections 1833, 1876, or 1851 of the Social Security Act, or to enroll in the Medicaid program or a similar State-sponsored program of medical assistance for the needy, or for the purpose of using TRICARE coverage (including the Uniformed Services Family Health Plan) under title 10 U.S.C. instead of FEHB coverage. To suspend FEHB coverage, documentation must be submitted to the employing office or retirement system within the period beginning 31 days before and ending 31 days after the effective date of the enrollment in the Medicare sponsored plan, or the Medicaid or similar program, or the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage. The suspension becomes effective on the day before the effective date of the enrollment in the Medicare sponsored plan, or the Medicaid or similar program, or the day before the day designated by the former spouse as the first day of using TRICARE (including the Uniformed Services Family Health Plan) instead of FEHB coverage.

* * * * *

(4) A former spouse who cancels his or her enrollment for any reason may not later reenroll in the FEHB Program.

[FR Doc. 01-24108 Filed 9-25-01; 8:45 am]
BILLING CODE 6325-50-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV01-905-1 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule limits the volume of small red seedless grapefruit entering the fresh market under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. The marketing order is administered locally by the Citrus Administrative Committee (Committee). This rule limits the volume of sizes 48 and 56 red seedless grapefruit shipped during the first 11 weeks of the 2001-2002 season. This rule establishes the weekly base percentages for each of the 11 weeks beginning in September. This limitation supplies enough small red seedless grapefruit, without saturating all markets with these small sizes. This rule should help stabilize the market and improve grower returns.

DATES: Effective September 17, 2001; comments received by October 9, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-8938, or e-mail: *moab.docketclerk@usda.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-8938, or e-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order provides for the establishment of grade and size requirements for Florida citrus, with the concurrence of the Secretary. These requirements are designed to provide fresh markets with citrus of acceptable quality and size, to increase returns to Florida citrus growers. This helps create buyer confidence and contributes to stable marketing conditions and is in the interest of growers, handlers, and consumers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1, and the minimum size requirement is size 56 (at least 3 5/16 inches in diameter).

This rule invites comments on limiting the volume of sizes 48 (at least 3 9/16 inches in diameter) and 56 (at least 3 5/16 inches in diameter) red seedless grapefruit shipped during the first 11 weeks of the 2001-2002 season beginning September 17, 2001. This rule establishes the weekly base percentages for these small sizes at 45 percent for the first two weeks, 35 percent for week 3, 30 percent for weeks 4 through 10, and 40 percent for week 11. This rule supplies enough small-sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This rule will help stabilize the market and improve grower returns.

Section 905.52 of the order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size that a handler may ship during a particular week is established as a percentage of the total shipments of such variety shipped by a handler in a prior period, established by the Committee and approved by the Secretary.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. The procedures specify that the Committee may recommend that only a certain percentage of sizes 48 and 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. The regulation period is 11 weeks long and begins the third Monday in September. Under such a limitation, the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

This rule limits the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market by setting weekly percentages of 45 percent for the first two weeks, 35 percent for week 3, 30 percent for weeks 4 through 10, and 40 percent for week 11. This is a change from the percentages originally recommended by the Committee.

On May 22, 2001, the Committee unanimously voted to establish a weekly percentage of 45 percent for the first 2 weeks, 35 percent for week 3, and 25 percent for weeks 4 through 11. The Committee's initial recommendation was issued as a proposed rule published in the **Federal Register** on July 31, 2001 (66 FR 39459). No comments were received during the comment period, which expired August 10, 2001. The Committee subsequently met on August 29, 2001, and unanimously recommended adjusting the proposed percentages.

In the past four seasons, the initial recommendation from the Committee was to set the weekly percentages at 25 percent for each of the 11 weeks. Then, as more information on the crop became available, the Committee would meet and adjust its recommendations as needed. In each of the past seasons of regulation the Committee has recommended relaxing its initial recommendation of 25 percent for each week. Actual weekly percentages established for the 11-week period during the 2000-01 season were 45 percent for the first three weeks, 40 percent for the next four weeks, and 35 percent for the last four weeks.

Drawing on this experience, this season the Committee decided to make its initial recommendation for the first three weeks at levels higher than 25 percent. Based on shipments from the past four seasons, under a 25 percent restriction available allotment would have exceeded actual shipments of sizes 48 and 56 for each of the first three weeks regulated under this rule. The Committee believed that by setting weekly percentages at 45 percent for the first two weeks and 35 percent for the third week, handlers would have extra allotment available, providing individual handlers with greater flexibility and reducing the number of loans and transfers needed to use the available allotment.

For the remainder of the 11 weeks, the Committee believed that the weekly percentages needed to be set at 25 percent. The Committee thought it was best to recommend regulation at these levels, given the limited information available so early in the growing year, and then reexamine the percentages using information available closer to the start of the season.

The Committee met on August 29, 2001, and revisited the weekly percentage issue and reviewed information it had acquired since its May meeting. The Committee recognizes the need for and the benefits of the weekly percentage regulation. Members believe that the problems associated with an uncontrolled volume of small sizes entering the market early in the season will recur without such action. However, the Committee believes based on information now available that the initial recommendation was too restrictive, and recommended raising the established base percentages from 25 percent to 30 percent for weeks 4 through 10 and 40 percent for week 11 of the regulated period.

In its discussion, the Committee reviewed the initial weekly percentages recommended and the current state of the crop. The Committee also reexamined shipping information from past seasons, looking particularly at volume across the 11 weeks. At the time of the May meeting, grapefruit had not yet begun to size, giving little indication as to the distribution of sizes. Only the most preliminary of crop estimates was available, with the official estimate not to be issued until October.

The Committee considered the percentages set last year as a basis for discussing this year's percentages. Committee members believed relaxing last season's percentages from the initial 25 percent level had worked well, providing some restriction while affording volume for those markets that prefer small sizes.

Early indications were that conditions this year would be similar to those of last season with the production area dealing with the effects of a prolonged drought. The insufficient rainfall early this season could have affected the sizing of the crop, producing a larger volume of small red seedless grapefruit, further exacerbating the problem with small sizes. However, current information indicates that the 2001-2002 season crop seems to be sizing well. Due to increased rainfall in most growing areas the last two months, the industry may see a higher percentage of larger sizes than in the last four seasons. Hence, the Committee thought establishing the weekly percentages at 25 percent for weeks 4 through 11 may be too restrictive.

Ongoing problems affecting the European and Asian markets also continue to be a factor. These markets have historically shown a strong demand for small red seedless grapefruit. However, in the past few years there has been a reduction from the demand levels of previous seasons. This is expected to continue during the upcoming season. This could result in a

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greater amount of small sizes for remaining markets to absorb, further supporting the need for some restrictions to prevent the volume of small sizes from disrupting all markets.

The Committee also considered the reduction in the overall available weekly industry base due to industry consolidation, reduced shipments, and packinghouse closings. The available weekly industry base is the sum of each individual handler's weekly base. The overall available industry base per week was 875,688 cartons last season. For the 2001–2002 season, the base calculates to 813,191 cartons.

Considering the actual percentages established during past seasons, the available sizing information, and the reduction in total industry base the Committee recommended establishing the weekly percentages at levels higher than 25 percent for the last 8 weeks of the regulated period. The Committee agreed that the percentage recommended for the first two weeks of 45 percent was still appropriate, as was 35 percent for week three. However, the Committee recommended that weeks 4 through 10 should be established at 30 percent, and that week 11 should be established at 40 percent. The Committee recommended setting the percentage for week 11 at a higher level because that week marks the start of the holiday season and a large volume of small sizes are used for gift fruit shipments and fundraisers. These percentages when compared to last season's percentages represent a 10 percent decrease for weeks three through seven, a 5 percent decrease for weeks eight through ten, and a 5 percent increase for week 11.

The Committee could meet again during the regulation period, as needed, when additional information is available, and determine whether the set percentage levels are appropriate. Changing the weekly percentages established by this rule would require additional rulemaking and the approval of the Secretary.

For the seasons 1994–95, 1995–96, and 1996–97, returns for red seedless grapefruit had been declining, often not returning the cost of production. On-tree prices for red seedless grapefruit had fallen steadily from $9.60 per carton (⅘ bushel) during the 1989–90 season, to $3.45 per carton during the 1994–95 season, to $1.41 per carton during the 1996–97 season.

The Committee determined that one problem contributing to the market's condition was the excessive number of small-sized grapefruit shipped early in the marketing season. In the 1994–95, 1995–96, and 1996–97 seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11-week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. This contrasted with sizes 48 and 56 representing only 26 percent of total shipments for the remainder of the season.

While there is a market for early grapefruit, shipping large quantities of small red seedless grapefruit in a short period oversupplies the fresh market for these sizes and negatively impacts the market for all sizes. For the majority of the season, larger sizes return higher prices than smaller sizes. However, there is a push to get fruit into the market early to take advantage of high prices available at the beginning of the season. The early season crop tends to have a greater percentage of small sizes. This creates a glut of smaller, lower-priced fruit on the market, driving down the price for all sizes.

At the start of the season, larger-sized fruit command a premium price. In some cases, the f.o.b. price is $4 to $10 more a carton than for the smaller sizes. In October, the f.o.b. price for a size 27 averages around $14.00 per carton. This compares to an average f.o.b. price of $6.00 per carton for size 56. In the three years before the issuance of a percentage size regulation, the f.o.b. price for large sizes dropped to within $1 or $2 of the f.o.b. price for small sizes by the end of the 11-week period covered in this rule.

In the three seasons prior to 1997–98, prices of red seedless grapefruit fell from a weighted average f.o.b. price of $7.80 per carton to an average f.o.b. price of $5.50 per carton during the period covered by this rule. Later in the season the crop sized to naturally limit the amount of smaller sizes available for shipment. However, the price structure in the market had already been negatively affected. The market never recovered, and the f.o.b. price for all sizes fell to around $5.00 to $6.00 per carton for most of the rest of the season.

An economic study done by the University of Florida—Institute of Food and Agricultural Sciences (UF–IFAS) in May 1997, found that on-tree prices had fallen from a high near $7.00 per carton in 1991–92 to around $1.50 per carton for the 1996–97 season. The study projected that if the industry elected to make no changes, the on-tree price would remain around $1.50 per carton. The study also indicated that increasing minimum size restrictions could help raise returns.

The Committee believes the over shipment of smaller sized red seedless grapefruit contributes to poor returns for growers and lower on-tree values. To address this issue, the Committee successfully used the provisions of § 905.153, and recommended weekly percentage of size regulation during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, and 2000–01 seasons. Under regulation, f.o.b. and on-tree prices have increased and movement has stabilized.

Average f.o.b. prices have been higher during regulation than for the three years prior to regulation. The average price for red seedless grapefruit in late October was $8.46 for the last four years compared to $7.22 for the same period for the three years prior to regulation. Prices also remained at a higher level, with a weighted average price of $7.29 in mid-December during regulation compared to $6.02 for the three years prior to regulation. The average season price was also higher, with the past four seasons averaging $7.15 compared to $5.83 for the three prior years.

The on-tree prices per box for red seedless grapefruit for the fresh market have also improved during the past three years of regulation, providing better returns to growers. The on-tree price increased from $3.26 in 1996–97 to $3.42 in 1997–98, to $5.04 in 1998–99, to $5.62 for the 1999–2000 season.

Another benefit of regulation has been in maintaining higher prices for the larger-sized fruit. Larger fruit commands a premium price early in the season. However, the glut of smaller, lower-priced fruit on the early market was driving down the prices for all sizes. During the three years before regulation, the average differential between the f.o.b. carton price for a size 27 and a size 56 was $3.47 at the end of October. However, by mid-December the price for the larger size had dropped to within $1.68 of the price for the smaller-size fruit.

In the four years of regulation, the average differential between the f.o.b. carton price for a size 27 and a size 56 was $5.38 at the end of October and remained at $3.42 in mid-December. In fact, the average f.o.b. prices for each size were higher during the four years with regulation than for the three years prior to regulation. The average prices for size 27, size 32, size 36, and size 40 during the 11-week period for the last four years were $9.41, $8.12, $7.26, and $6.68, respectively. This compares to the average prices for the same sizes during the same period for the three years prior to regulation of $6.48, $5.63, $5.59, and $5.34, respectively.

The percentage size regulation has also helped stabilize the volume of small sizes entering the fresh market early in the season. During the three years prior to regulation, small sizes accounted for over 34 percent of the total shipments of red seedless grapefruit during the 11-week period covered in the rule. This compares to 31 percent for the same period for the last four years of regulation. There has also been a 43 percent reduction in the volume of small sizes entering the fresh market during the 11-week regulatory period from 1995–96 to 2000–01.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, found that the weekly percentage regulation had been effective. The study stated that part of the strength in early season pricing appeared to be due to the use of the weekly percentage rule to limit the volume of sizes 48 and 56. It said that prices were generally higher across the size spectrum with sizes 48 and 56 having the largest gains, and larger-sized grapefruit registering modest improvements. The rule shifted the size distribution toward the higher-priced, larger-sized grapefruit, which helped raise weekly average f.o.b. prices. It further stated that sizes 48 and 56 grapefruit accounted for around 27 percent of domestic shipments during the same 11 weeks during the 1996–97 season. Comparatively, sizes 48 and 56 accounted for only 17 percent of domestic shipments during the same period in 1997–98, as small sizes were used to supply export customers with preferences for small-sized grapefruit.

During deliberations in past seasons, the Committee considered how shipments had affected the market. Based on available statistical information, the Committee members concluded that once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee believed that if shipments of small sizes could be maintained at around or below 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

Last season, the weekly shipments of sizes 48 and 56 red seedless grapefruit remained below 250,000 cartons for 10 of the 11 regulated weeks. This may have contributed to the success of the regulation.

In setting the weekly percentages at 45 percent for the first two weeks and 35 percent for week 3, the total available allotment would be slightly more than 250,000 cartons in the first three weeks. However, in the last four seasons, shipments of sizes 48 and 56 have never exceeded 250,000 cartons during the first three weeks. Also, setting the weekly percentages at 25 percent for the 2001–2002 season would have provided a total available allotment of approximated 203,300 cartons (25 percent of the total industry base of 813,191 cartons). Consequently, there is room to increase the percentages while holding weekly shipments of sizes 48 and 56 close to the 250,000-carton mark, as was done last season.

Therefore, this rule establishes the weekly percentages at 45 percent for the first two weeks, 35 percent for week 3, 30 percent for weeks 4 through 10, and 40 percent for week 11 for this season. The Committee plans to meet as needed during the 11-week period to ensure the weekly percentages are at the appropriate levels.

Under § 905.153, the quantity of sizes 48 and 56 red seedless grapefruit a handler may ship during a regulated week is calculated using the recommended percentage. By taking the weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

The Committee calculates an average week for each handler. To calculate an average week, the total red seedless grapefruit shipments by a handler during the 33 week period beginning the third Monday in September and ending the first Sunday in May from the previous five seasons are added together, then divided by five to establish an average season. This average season is divided by the 33 weeks to derive the average week. This average week is the base for each handler for each of the 11 weeks of the regulatory period.

The weekly percentage is multiplied by a handler's average week. The product is that handler's total allotment of sizes 48 and 56 red seedless grapefruit for the given week. Handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments is within the established limits. The Committee staff performs the specified calculations and provides them to each handler.

The average week for handlers with less than five previous seasons of shipments is calculated by averaging the total shipments for the seasons they did ship red seedless grapefruit during the previous five years and dividing that average by 33. New handlers with no record of shipments have no prior period on which to base their average week. Therefore, a new handler can ship small sizes equal to 45 percent of their total volume of shipments during their first shipping week. Once a new handler has established shipments, their average week is calculated as an average of the weeks they have shipped during the current season.

The regulatory period begins the third Monday in September, September 17, 2001. Each regulation week begins Monday at 12 a.m. and ends at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday as the beginning of the workweek.

The rules and regulations governing percentage size regulation contain a variety of provisions designed to provide handlers with some marketing flexibility. Section 905.153(d) provides allowances for overshipments, loans, and transfers of allotment. These provisions should allow handlers the opportunity to supply their markets while limiting the impact of small sizes.

The Committee can also act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan is at the discretion of the handlers party to the loan. The Committee informs each handler of the quantity of sizes 48 and 56 red seedless grapefruit they can handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule does not affect the provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

At its May 22 meeting, the Committee also recommended changing the percentage size procedures in § 905.153 to authorize percentage size regulation for an additional 11 weeks, or the first 22 weeks of the season. A proposed rule to revise § 905.153 to implement this recommendation will be published in a separate issue of the **Federal Register**. If the authority to establish percentages for the additional 11 weeks is implemented, the Committee would be able to implement, with Department approval, marketing percentages to limit the shipment of small-sized red seedless grapefruit for that additional time period, if warranted.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum

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grade and size requirements under the order, only the percentages of sizes 48 and 56 red grapefruit that may be handled. Therefore, no change is necessary in the grapefruit import regulations as a result of this action.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 grapefruit handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida red seedless grapefruit during the 2000–01 season was approximately $7.20 per 4/5 bushel carton, and total fresh shipments for the 2000–01 season are estimated at 24.7 million cartons of red grapefruit. Approximately 25 percent of all handlers handled 70 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 69 percent of grapefruit handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida grapefruit handlers may be classified as small entities. The majority of Florida grapefruit producers may also be classified as small entities.

The over shipment of small-sized red seedless grapefruit early in the season has contributed to poor returns for growers and lower on tree values. This rule limits the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market during the first 11 weeks of the 2001–02 season, beginning September 17, 2001, by setting weekly percentages governing the volume of small sizes that may be shipped. This rule sets the weekly percentages at 45 percent for the first two weeks, 35 percent for week 3, 30 percent for weeks 4 through 10, and 40 percent for week 11. This is a change from the Committee's original recommendation of 45 percent for the first two weeks, 35 percent for week 3, and 25 percent for the remaining 8 weeks. The quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the recommended percentage for that week. This rule uses the provisions of § 905.153. Authority for this action is provided in § 905.52 of the order.

While this rule may necessitate spot picking, which could entail slightly higher harvesting costs, many in the industry are already using the practice. In addition, because this regulation is only in effect for part of the season, the overall effect on costs is minimal. This rule is not expected to appreciably increase costs to producers.

If a 25 percent restriction on small sizes had been applied during the 11-week period for the three seasons prior to the 1997–98 season, an average of 4.2 percent of overall shipments during that period would have been constrained by regulation. A large percentage of this volume most likely could have been replaced by larger sizes for which there are no volume restrictions. Under regulation, larger sizes have been substituted for smaller sizes with a nominal effect on overall shipments.

In addition, handlers can transfer, borrow or loan allotment based on their needs in a given week. Handlers also have the option of over shipping their allotment by 10 percent in a week, provided the overshipment is deducted from the following week's shipments. Approximately 120 loans and transfers were utilized last season. Statistics for 2000–01 show that in none of the regulated weeks was the total available allotment used. Therefore, the overall impact of this regulation on total shipments should be minimal.

Handlers and producers have received higher returns under percentage size regulation. In late October, during the four years with regulation, the average f.o.b. price for red seedless grapefruit was $7.99 compared to $7.22 for the three years prior to regulation. F.o.b. prices have also remained higher, with an average price of $7.29 in mid-December during regulation compared to $6.02 for the three years prior to regulation. The average season price has also been higher under regulation averaging $7.14 compared to $5.83 for the three years prior.

On-tree earnings per box of red seedless grapefruit for the fresh market improved under regulation, providing better returns to growers. The on-tree price increased from $3.26 in 1996–97, to $3.42 for 1997–98, to $5.04 for 1998–99, to $5.62 for the 1999–2000 season. These increased returns when coupled with the overall volume of red seedless grapefruit should offset any additional costs associated with this regulation.

The purpose of this rule is to help stabilize the market and improve grower returns by limiting the volume of small sizes marketed early in the season. This rule provides a supply of small-sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. The benefits of this rule are expected to be available to all red seedless grapefruit handlers and growers regardless of their size of operation.

This action is expected to stabilize the supply of small sizes entering the marketplace. It also is expected to encourage growers to leave the grapefruit on the tree longer, which improves size and maturity. Improved size and maturity provides greater consumer satisfaction and promotes repeat purchases. In addition, this action is not expected to decrease the overall consumption of red seedless grapefruit.

The Committee considered alternatives to taking this action. One alternative was to leave the established weekly percentages at 25 percent for weeks 4 through 11. The Committee thought this was too restrictive and wanted to provide individual handlers more flexibility in weeks 4 through 11; therefore this option was rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

The Committee's meetings were widely publicized throughout the citrus industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 22, 2001, and the August 29, 2001, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A proposed rule concerning this action was published in the **Federal Register** on July 31, 2001 (66 FR 39459). Copies of the rule were mailed or sent via facsimile to all Committee members and to grapefruit growers and handlers. The Office of the Federal Register, the Department, and the Committee also made this rule available through the Internet.

A 10-day comment period was provided to allow interested persons to respond to the proposal. The comment period ended August 10, 2001. No comments were received.

As previously stated, subsequent to the issuance of the proposed rule, the Committee met and recommended modifying its original recommendation. The Committee recommended that the weekly percentages remain at 45 percent for the first two weeks (September 17 through September 30) and 35 percent for week three (October 1 through October 7), and that the percentages be changed from 25 percent to 30 percent for weeks 4 through 10 (October 1 through November 25), and to 40 percent for week 11 (November 26 through December 2). Because of this recommendation, the Department has determined that interested parties should be provided the opportunity to comment on the changes to the original recommendation. However, the Department has further determined that extending the comment period with no percentages in effect limiting the shipment of small red seedless grapefruit when the period of regulation begins would be detrimental to the industry. Therefore, the Department is instituting the regulations on small red seedless grapefruit through this interim final rule that allows 10 additional days to comment.

Ten days is deemed appropriate because the regulation period begins September 17, 2001, and continues for 11 weeks. Adequate time will be necessary so that any changes made to the regulations based on comments filed could be made effective during the 11 week period. All comments received will be considered before a final determination is made on this matter.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee, and other information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule needs to be in place when the regulatory period begins September 17, 2001, and handlers begin shipping grapefruit. This issue has been widely discussed at various industry and association meetings, and the Committee has kept the industry well informed. Interested persons have had time to determine and express their positions. Further, handlers are aware of this rule, which was recommended at public meetings. Also, a 10-day comment period was provided for in the proposed rule and a 10-day comment period is provided in this rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.350 is revised to read as follows:

§ 905.350 Red seedless grapefruit regulation.

This section establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. Handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. The weekly percentages for size 48 (3 9/16 inches minimum diameter) and size 56 (3 5/16 inches minimum diameter) red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly Percentage
(a) 9/17/01 through 9/23/01	45
(b) 9/24/01 through 9/30/01	45
(c) 10/1/01 through 10/7/01	35
(d) 10/8/01 through 10/14/01	30
(e) 10/15/01 through 10/21/01	30
(f) 10/22/01 through 10/28/01	30
(g) 10/29/01 through 11/4/01	30
(h) 11/5/01 through 11/11/01	30
(i) 11/12/01 through 11/18/01	30
(j) 11/19/01 through 11/25/01	30
(k) 11/26/01 through 12/2/01	40

Dated: September 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–24061 Filed 9–21–01; 2:00 pm]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 28

[Docket No. 01–21]

RIN 1557–AB92

Operating Subsidiaries of Federal Branches and Agencies

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: Consistent with the principle of national treatment for foreign banks operating in the United States established by the International Banking Act of 1978, the Office of the Comptroller of the Currency (OCC) is amending its regulations to provide that a Federal branch or agency may establish, acquire, or maintain an operating subsidiary in generally the same manner that a national bank may acquire or establish an operating subsidiary.

EFFECTIVE DATE: October 26, 2001.

FOR FURTHER INFORMATION CONTACT: Martha Clarke, Counsel, or Heidi M. Thomas, Counsel, Legislative and Regulatory Activities Division, 202–874–5090; or Carlos Hernandez, International Advisor, International

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Banking and Finance Division, 202–874–4730.

SUPPLEMENTARY INFORMATION:

The Proposal

On December 5, 2000, the OCC published a notice of proposed rulemaking in the **Federal Register** (65 FR 75870) requesting comments on a proposal to clarify that a Federal branch or agency may establish and maintain an operating subsidiary in accordance with the procedures and requirements of 12 CFR 5.34.

12 CFR 5.34 sets forth application or notice procedures for national banks engaging in activities through an operating subsidiary. The procedures vary according to the condition of the bank and the character of the activities conducted through the operating subsidiary. Specifically, § 5.34(e)(5)(iv) provides that a national bank that is well capitalized and well managed may acquire or establish an operating subsidiary, or perform a new activity in an existing operating subsidiary, by filing a notice with the OCC within 10 days after acquiring or establishing the subsidiary, or commencing the activity, if the activities are listed in § 5.34(e)(5)(v). National banks that do not meet the well capitalized and well managed criteria also may acquire or establish an operating subsidiary by filing an application with, and receiving approval from, the OCC. 12 CFR 5.34(e)(5)(i). Finally, § 5.34(e)(5)(vi) provides that a national bank may acquire or establish an operating subsidiary without filing an application or providing notice to the OCC if certain conditions are satisfied. These conditions are that: (1) The bank must be at least adequately capitalized; (2) the activities of the new subsidiary must be limited to those previously reported by the bank in connection with a prior operating subsidiary; (3) the activities must continue to be legally permissible; and (4) the activities of the new subsidiary must be conducted in accordance with any conditions imposed by the OCC when it approved the activities for the prior subsidiary.

The proposal specifically provided that § 5.34 applies to a Federal branch or agency that seeks to establish or maintain any subsidiary that a national bank would be authorized to acquire or establish under § 5.34. However, the procedures of § 5.34 would apply to the Federal branch or agency with certain modifications to reflect the differences in the relationship between a Federal branch or agency and a subsidiary of the foreign bank as compared with a national bank and its operating subsidiary. Unlike a national bank, a Federal branch or agency is not a separate corporate entity but rather is an office of the parent foreign bank, separately recognized for regulatory purposes. Although a Federal branch or agency cannot directly own stock in the same manner as a national bank, the Federal branch or agency can book the stock as an asset and manage and operate the subsidiary.

However, as we noted in the proposal, the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) (the IBA) applies the national treatment principle to the regulation of foreign bank activities in the United States. Under the national treatment principle, the operations of a foreign bank conducted through a Federal branch or agency generally are conducted with the same rights, privileges, conditions, and limitations that apply to a national bank operating at the same location, subject to the OCC's regulations or orders.[1] 12 U.S.C. 3102(b). Thus, the IBA currently provides authority for Federal branches and agencies to take advantage of powers authorized for national banks, including the power to establish an operating subsidiary.

A branch or agency may obtain various legal, business or tax advantages by conducting certain activities or holding investments through an operating subsidiary. For example, a special purpose vehicle may be useful to engage in some asset-securitization transactions. In addition, legal restrictions, including the "securities push-out" provisions of the Gramm-Leach-Bliley Act, may make conduct of certain activities through a subsidiary necessary or advantageous for a branch or agency of a foreign bank.[2]

Description of Comments Received and Final Rule

The OCC received seven comments on the proposal. These comments include three from Federal branches or foreign banks with Federal branches; two from banking trade associations; one from a law firm; and one from the Board of Governors of the Federal Reserve System (Federal Reserve Board or Board). We are adopting the rule as proposed but with several clarifications to address differences in how the standards apply to Federal branches and agencies versus domestic banks.

A majority of the commenters strongly endorsed amending 12 CFR 5.34 to permit Federal branches and agencies to establish or maintain operating subsidiaries to the same extent as national banks. Most commenters also thought that amending the IBA is not necessary to accomplish this goal. A majority of commenters also stated that the establishment and maintenance of these operating subsidiaries should be subject only to regulation by the OCC, as are subsidiaries of national banks, unless they are subject to functional regulation by the Securities and Exchange Commission, Commodity Futures Trading Commission, or state insurance commissioners. *See* 12 U.S.C. 1831v.

The Federal Reserve Board stated that it strongly supports the principle of national treatment for both foreign and domestic banking organizations. The Board said, however, that, in its view, an investment by a Federal branch or agency in an operating subsidiary is a direct investment by the foreign bank itself and is, therefore, subject to the Bank Holding Company Act (BHC Act). The Board recommended clarifying that a foreign bank that is establishing a nonbanking subsidiary in the United States must comply with section 4 of the BHC Act, including any requirement to file a prior notice with the Board under section 4(c)(8) of the BHC Act.

The Federal Reserve Board is the agency charged with the administration and interpretation of the BHC Act. Our proposal does not relieve a foreign bank that operates a Federal branch or agency from complying with laws administered by any other regulators, including the Federal Reserve Board, that might be applicable to the establishment or operation of a nonbanking subsidiary in the United States.[3]

[1] See *Conference of State Bank Supervisors* v. *Conover*, 715 F.2d 604, 615 (D.C. Cir. 1983), cert. denied, 466 U.S. 927 (1984) (confirming that Congress' overriding objective in enacting the IBA was to accord national treatment to foreign banks so that foreign banks are treated as competitive equals with their domestic counterparts).

[2] For similar reasons, the State of New York Banking Department authorized branches and agencies to establish subsidiaries to offer flexibility to foreign banking organizations to structure their businesses to attain efficiency and functionality. See State of New York Banking Department, Foreign Branches and Agencies Establishing Operating Subsidiaries—Guidance Letter (June 4, 2001). *http://www.banking.state.ny.us/lt010604.htm.*

[3] We note, however, the Board's procedures are similar to the OCC's in that the applicable requirements depend both on the condition of the bank and the nature of the activities to be conducted. As the Federal Reserve Board commented, under its regulations, a well capitalized and well managed foreign bank that satisfies the eligibility requirements that apply to financial holding companies is not required to file any prior notice with, or receive prior approval from, the Federal Reserve Board before investing in a nonbanking subsidiary that engages in activities that are financial in nature or incidental to a financial activity as identified in 12 CFR 225.86. This list includes many activities that could be conducted by an operating subsidiary of a national bank or Federal branch or agency. In addition, foreign banks that are not financial holding companies but that satisfy the Federal Reserve Board's criteria may engage in certain nonbanking activities and acquisitions either subject to expedited notice procedures or without obtaining the Board's prior approval. *See* 12 CFR 225, Subpart C.

Qualification Criteria

Under the proposal, a Federal branch or agency would be considered well capitalized if it meets the definition of "well capitalized" that the OCC uses when authorizing an extended examination cycle for certain Federal branches and agencies. *See* 12 CFR 4.7(b)(1)(iii).[4] Section 4.7(b)(1)(iii) requires that a foreign bank's most recently reported capital adequacy position consists of, or is equivalent to, Tier 1 and total risk-based capital ratios of at least 6 percent and 10 percent, respectively, on a consolidated basis; or the Federal branch or agency has maintained on a daily basis, over the past three quarters, eligible assets in an amount not less than 108 percent of the preceding quarter's average third party liabilities (determined consistently with applicable Federal and state law), and sufficient liquidity is currently available to meet obligations to third parties.

In addition, the proposal provided that a Federal branch or agency would be well managed if the Federal branch or agency had a composite Risk Management, Operational Controls, Compliance, and Asset Quality (ROCA) supervisory rating of 1 or 2 at its most recent examination; or in the case of a Federal branch or agency that has not been examined, the Federal branch or agency has and uses managerial resources that the OCC determines are satisfactory.

The Federal Reserve Board commented that the proposal might provide certain foreign banks with an advantage over U.S. banking organizations because it would allow a foreign bank to establish a subsidiary based solely on capital and managerial considerations at the local branch. The Board expressed a concern that this potentially would allow a foreign bank to expand its U.S. operations in a manner that a similarly situated national bank or bank holding company might not. It also stated that this differs from treatment under the BHC Act, which requires a foreign bank's capital and management factors to be evaluated on a consolidated basis. A number of other commenters strongly supported the proposed use of the composite ROCA rating to determine whether a Federal branch or agency is well managed, however, and at least one commenter supported the use of the rating as consistent with national treatment.

On balance we have concluded that the proposed qualification criteria are appropriate. The definition of "well capitalized" is consistent with the definition of that term that is applied for purposes of Prompt Corrective Action by the OCC to insured Federal branches and by the Federal Deposit Insurance Corporation (FDIC) to insured branches of foreign banks. See 12 CFR 6.5(c)(1) (OCC), 325.103(c)(1) (FDIC). As explained previously, it is the same definition used by all the Federal banking agencies for purposes of determining which branches and agencies of foreign banks are eligible for an extended examination cycle. See 12 CFR 4.7(b)(1)(iii); 211.26(c)(2)(i)(C), 347.214(b)(iii). We also note that the New York State Banking Department, which charters the largest number of state branches and agencies of foreign banks, permits state branches and agencies of foreign banks to establish operating subsidiaries. It has adopted the same definition of "well capitalized" as set forth in our proposal.[5] In addition, the definition only determines whether a notice or application procedure applies. Thus, any perceived advantage for foreign banks would be minimal. For these reasons, we are adopting the definition of "well capitalized" as proposed.

In addition, we do not believe that the proposal's definition of "well-managed" gives a competitive advantage to foreign banks. First, the definition does reflect the management of the foreign bank as a whole, because the composite ROCA supervisory rating currently takes into account the management of the foreign bank. In addition, the proposed definition is consistent with national treatment because it uses the same test as is used in 12 CFR 5.34(e)(5)(iv) for national banks acquiring or establishing an operating subsidiary or performing a new activity in an existing operating subsidiary subject to a 10-day after-the-fact notice requirement. Therefore, the final rule retains the proposal's definition of "well-managed."

Two commenters thought that the proposal should calculate Tier 1 and total risk-based capital ratios according to the home country standard for those international banks whose home country supervisors have adopted risk-based capital standards consistent with the Basel Capital Accord. The proposal's definition of "well-capitalized" is derived from the definition in 12 CFR 4.7(b)(1)(iii), which, as noted, is the standard that the Board, the FDIC, and the OCC adopted in a joint rulemaking extending the examination cycle for well-capitalized and well-managed branches and agencies of foreign banks that satisfy certain other criteria. *See* 64 FR 56949–53 (October 22, 1999). Thus, foreign banks are familiar with the standard. Moreover, in our view, it is preferable for purposes of eligibility to have an operating subsidiary, to use a standard that can be applied consistently to Federal branches and agencies rather than a standard that could vary depending on the details of implementation of the Basel Accord in different countries. We note, however, that in the examination-cycle rulemaking, the agencies stated that, in implementing the well-capitalized standard in individual cases, the home country supervisor's capital standards may be considered if those standards are in all respects consistent with the Basel Capital Accord. Id. at 56950 (preamble discussion). Similarly, for purposes of determining whether a foreign bank's consolidated capital position consists of, or is equivalent to, Tier 1 and total risk-based capital ratios of at least 6% and 10%, respectively, we may consider the capital standards of the home country supervisor if they are in all respects consistent with the Basel Accord.

Under § 5.34, an adequately capitalized national bank may acquire or establish an operating subsidiary without filing an application or notice under certain circumstances.[6] One commenter pointed out that the proposed rule does not specify how the "adequately capitalized" standard would be applied to foreign banks and suggests that an international bank is adequately capitalized for purposes of § 5.34 if its Tier 1 and total risk-based capital ratios, calculated under

[4] 12 CFR 4.7 generally provides that the OCC may conduct a full-scope, on-site examination of certain well capitalized and well managed Federal branches and agencies at least once during each 18-month period, rather than each 12-month period. The FRB applies the same capital and management requirements when determining whether a State branch or agency will be subject to the 18-month examination schedule. 12 CFR 211.26(c)(2).

[5] See State of New York Banking Department, Foreign Branches and Agencies Establishing Operating Subsidiaries—Guidance Letter (June 4, 2001). *http://www.banking.state.ny.us/lt010604.htm.*

[6] To acquire or establish an operating subsidiary without filing an application or providing notice, a national bank must be at least adequately capitalized and must meet the following requirements: (A) activities of the new subsidiary must be limited to those activities previously reported by the bank in connection with the establishment or acquisition of a prior operating subsidiary; (B) activities in which the new subsidiary will engage must continue to be legally permissible for the subsidiary; and (C) activities of the new subsidiary must be conducted in accordance with any conditions imposed by the OCC in approving the conduct of these activities for any prior operating subsidiary of the bank. 12 CFR 5.34(e)(5)(vi).

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applicable home country standards, are at least 4% and 8%, respectively. No OCC regulation currently defines "adequately capitalized" for foreign banks, nor do the Federal Reserve Board's regulations include such a definition. The OCC's regulations contain a definition of "adequately capitalized" that applies to insured Federal branches for purposes of Prompt Corrective Action but could not be applied to uninsured Federal branches. See 12 CFR 6.4(c)(2). Because this definition could not be applied to all of the Federal branches or agencies that may wish to have operating subsidiaries, the OCC will determine what "adequately capitalized" means for a Federal branch or agency in the context of acquiring, establishing, or maintaining an operating subsidiary on a case-by-case basis. Therefore, we have decided not to amend the proposal to include this definition.

Calculation of Capital Equivalency Deposit

In addition, one commenter thought that the final rule should state expressly that the OCC would not take into account the liabilities of an operating subsidiary in determining the amount of the capital equivalency deposit (CED) that must be pledged to the OCC. The commenter supported its request by stating that the operating subsidiary would have a separate corporate existence from the branch, and the branch would not be liable for the obligations of the operating subsidiary. Consequently, in the commenter's view, no purpose would be served by subjecting an operating subsidiary of a Federal branch to a CED requirement.

We disagree with this commenter that the CED should never reflect the liabilities of the Federal branch or agency's operating subsidiary. Consolidation of the Federal branch or agency with the operating subsidiary may increase risk under certain circumstances. For example, the Federal branch or agency could use the consolidated assets of the branch or agency and the operating subsidiary as the basis to increase a loan made to the branch or agency from a third party above the level for which it would qualify on an unconsolidated basis, or the operating subsidiary could increase its liabilities to fund operations of the Federal branch or agency as a way to avoid increasing the CED of the branch or agency.[7] In these situations, the CED may appropriately include the liabilities of the operating subsidiary. As a result, we have amended the CED provisions of 12 CFR 28.15 to permit the CED to be adjusted to include the liabilities of the operating subsidiary, if warranted for prudential or supervisory reasons. This action is consistent with national treatment since, for regulatory purposes, the capital level of a national bank is determined on a consolidated basis with its operating subsidiaries.

Clarification of How § 5.34 Would Apply to Federal Branches and Agencies

The proposal said that the OCC would apply other relevant regulatory standards to Federal branches and agencies that establish or maintain operating subsidiaries as appropriate in light of the differences in corporate structure between national banks and Federal branches and agencies. We have amended § 5.34 to further clarify how the regulation will apply to Federal branches and agencies.

For example, current § 5.34(e)(4) requires that pertinent book figures of the parent national bank and its operating subsidiary be combined for the purpose of applying statutory limitations when combination is needed to effect the intent of the statute, *e.g.*, for purposes of the statutory dividend restrictions, lending limits, or investments in bank premises. *See* 12 U.S.C. 56, 60, 84, and 371d. However, under the IBA, any limitation or restriction based on the capital of a national bank (e.g., the lending limit at 12 U.S.C. 84) would refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital of the foreign bank. If the foreign bank has more than one Federal branch or agency, the business transacted by all of the branches and agencies is aggregated for purposes of determining compliance with the limitation. See 12 U.S.C. 3102(b). By regulation, the OCC and the Federal Reserve Board require that the transactions of *all* of a foreign bank's Federal branches and agencies and State branches and agencies be aggregated to determine compliance with the lending limits. See 12 CFR 28.14 (OCC), 211.28 (Federal Reserve Board). As a result, the final rule provides that, for purposes of the capital limitations and restrictions as applied to Federal branches and agencies under the IBA and 12 CFR 28.14, the business conducted by a foreign bank's Federal branches or agencies and its State branches and agencies, and their operating subsidiary, will be combined.

We have also clarified that the requirements in §§ 5.34(e)(2) and (e)(5)(i)(B) that expressly require that a parent national bank must have a specific ownership interest in an operating subsidiary apply to the parent foreign bank and not to the Federal branch or agency.

Finally, a commenter suggested that we clarify that the authority of a Federal branch or agency regarding operating subsidiaries, like that of a national bank extends not only to their establishment and maintenance, but also to their acquisition. The final rule reflects this suggestion.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), the regulatory flexibility analysis otherwise required under section 603 of the RFA, 5 U.S.C. 603, is not required if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes such a certification and a statement explaining the factual basis for such certification in the **Federal Register** along with its final rule.

On the basis of the information currently available, the OCC is of the opinion that this final rule will not have a significant impact on a substantial number of small entities within the meaning of those terms as used in the RFA. The final regulation requires Federal branches and agencies that would like to acquire, establish, or maintain an operating subsidiary to file a notice or application with the OCC. However, the OCC does not believe that this requirement will have a significant impact on a substantial number of small entities. Fewer than 20 Federal branches and agencies could be considered small entities, and only some of these would acquire, establish, or maintain an operating subsidiary. Accordingly, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. However, an agency is not required to assess the effects of its regulatory actions on the private sector to the extent that such regulations incorporate requirements specifically set forth in law. 2 U.S.C. 1531.

The OCC has determined that this final rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Executive Order 12866 Determination

The Comptroller of the Currency has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

Paperwork Reduction Act

The OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

OMB has reviewed and approved the collection of information requirements contained in this rule under control number 1557–0215, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB clearance will expire on January 31, 2004.

The OCC sought comment on all aspects of the burden estimates for the information collection contained in the proposed rule. The OCC received no comments.

The collections of information are contained in 12 CFR 5.34. Section 5.34 requires that Federal branches and agencies of foreign banks obtain OCC approval prior to establishing or maintaining any subsidiary that a national bank is authorized to establish or control under section 5.34.

The respondents are Federal branches and agencies of foreign banks.

Estimated number of respondents: 20.
Estimated number of responses: 20.
Estimated burden hours per response: 1 hour.
Frequency of response: On occasion.
Estimated total annual burden: 20 hours.

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments, at any time, regarding any aspects of these collections of information. Comments may be sent to Jessie Dunaway, Clearance Officer, Office of the Comptroller of the Currency, 250 E Street, SW, Mailstop 8–4, Washington, DC 20219.

Effective Date

This rule is effective on October 26, 2001. The Administrative Procedure Act (APA) generally requires that a final rule take effect 30 days after date of publication in the **Federal Register**, 5 U.S.C. 553(d). In addition, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act) generally requires that a final rule issued by a Federal banking agency that imposes additional reporting, disclosures, or other new requirements on insured depository institutions must take effect on the first day of a calendar quarter after the date of publication of the final rule. The OCC has determined that this rule may become effective in accordance with the APA requirement and that section 302 of the CDRI Act is not applicable. This final rule provides clarification of how existing procedures will be applied to Federal branches and agencies that choose to acquire, establish, or maintain an operating subsidiary and does not impose additional reporting, disclosure, or other new requirements.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends parts 5 and 28 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for part 5 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24(a), 24 (Seventh), 93a, and 3101 *et seq.*

2. In § 5.34, revise paragraphs (a), (c), (d)(2), (d)(3), and (e)(4) to read as follows:

§ 5.34 Operating subsidiaries.

(a) *Authority.* 12 U.S.C. 24 (Seventh), 24a, 93a, 3101 *et seq.*

* * * * *

(c) *Scope.* This section sets forth authorized activities and application or notice procedures for national banks engaging in activities through an operating subsidiary. The procedures in this section do not apply to financial subsidiaries authorized under § 5.39. Unless provided otherwise, this section applies to a Federal branch or agency that acquires, establishes, or maintains any subsidiary that a national bank is authorized to acquire or establish under this section in the same manner and to the same extent as if the Federal branch or agency were a national bank, except that the ownership interest required in paragraphs (e)(2) and (e)(5)(i)(B) of this section shall apply to the parent foreign bank of the Federal branch or agency and not to the Federal branch or agency.

(d) * * *

(2) *Well capitalized* means the capital level described in 12 CFR 6.4(b)(1) or, in the case of a Federal branch or agency, the capital level described in by 12 CFR 4.7(b)(1)(iii).

(3) *Well managed* means, unless otherwise determined in writing by the OCC:

(i) In the case of a national bank:

(A) The national bank has received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System in connection with its most recent examination; or

(B) In the case of any national bank that has not been examined, the existence and use of managerial resources that the OCC determines are satisfactory.

(ii) In the case of a Federal branch or AGENCY:

(A) The Federal branch or agency has received a composite ROCA supervisory rating (which rates risk management, operational controls, compliance, and asset quality) of 1 or 2 at its most recent examination; or

(B) In the case of a Federal branch or agency that has not been examined, the existence and use of managerial resources that the OCC determines are satisfactory.

(e) * * *

(4) *Consolidation of figures*—(i) *National banks.* Pertinent book figures of the parent national bank and its operating subsidiary shall be combined for the purpose of applying statutory or regulatory limitations when combination is needed to effect the intent of the statute or regulation, e.g., for purposes of 12 U.S.C. 56, 60, 84, and 371d.

(ii) *Federal branch or agencies.* Transactions conducted by all of a foreign bank's Federal branches and agencies and State branches and agencies, and their operating subsidiaries, shall be combined for the

[7] The statute states that "amounts due and other liabilities to offices, branches, agencies, and subsidiaries" of the foreign bank are excluded from calculations of the minimum amount of the CED, which is based on five percent of the total liabilities of the branch or agency. See 12 U.S.C. 3102(g)(2)(B).

purpose of applying any limitation or restriction as provided in 12 CFR 28.14.

PART 28—INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

2. In § 28.15, revise paragraph (b) to read as follows:

§ 28.15 Capital equivalency deposits

* * * * *

(b) *Increase in capital equivalency deposits.* For prudential or supervisory reasons, the OCC may require, in individual cases or otherwise, that a foreign bank increase its CED above the minimum amount. For example, the OCC may require an increase if a Federal branch or agency of the foreign bank increases its leverage through the establishment, acquisition, or maintenance of an operating subsidiary.

Dated: September 18, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–24005 Filed 9–25–01; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective September 17, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202) 452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, *et al.*, of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 3.00 percent to 2.5 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 50-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors stated that the Federal Reserve will continue to supply unusually large volumes of liquidity to the financial markets, as needed, until more normal market functioning is restored. As a consequence, the FOMC recognizes that the actual federal funds rate may be below its target on occasion in these unusual circumstances.

Even before the tragic events of last week, employment, production, and business spending remained weak, and last week's events have the potential to damp spending further. Nonetheless, the long-term prospects for productivity growth and the economy remain favorable and should become evident once the unusual forces restraining demand abate. For the foreseeable future, the Board and the FOMC continue to believe that against the background of their long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, Banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	2.5	September 17, 2001.
New York	2.5	September 17, 2001.
Philadelphia	2.5	September 17, 2001.
Cleveland	2.5	September 17, 2001.
Richmond	2.5	September 17, 2001.
Atlanta	2.5	September 17, 2001.
Chicago	2.5	September 17, 2001.
St. Louis	2.5	September 18, 2001.

Federal Reserve Bank	Rate	Effective
Minneapolis	2.5	September 17, 2001.
Kansas City	2.5	September 17, 2001.
Dallas	2.5	September 17, 2001.
San Francisco	2.5	September 17, 2001.

By order of the Board of Governors of the Federal Reserve System, September 20, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–24000 Filed 9–25–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–22–AD; Amendment 39–12445; AD 2001–19–05]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc. RB211 535 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce plc. (RR) models RB211–535C–37, RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines, with radial drive steady bearing, part number (P/N) LK76084. This action requires the replacement of certain radial drive steady bearings, installed in the high speed gearbox drive. This amendment is prompted by five reports of radial drive steady bearing failures. The actions specified in this AD are intended to reduce the risk of engine in-flight shutdown, due to failure at low life of radial drive steady bearings.

DATES: Effective October 11, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 26, 2001.

ADDRESSES: Information regarding this action may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA,. or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the FAA that an unsafe condition may exist on Rolls-Royce plc. models (RR) RB211–535C–37, RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines. The CAA advises that five reports of failure of the radial drive steady bearing have occurred, causing three in-flight shutdowns. Investigation has concluded that a number of radial drive steady bearings have been found with evidence of loose rivets after a short period in service and have a potential for low life failure as a result. This condition can lead to the eventual failure of the radial drive steady bearing and an in-flight shutdown.

Manufacturer's Service Information

Rolls-Royce plc has issued mandatory service bulletin (MSB) RB.211–72–D176, dated September 19, 2000, that specifies procedures for ensuring that all airplanes having engines with the affected bearing design installed, will meet the following criteria:

- Both radial drive steady bearings installed will have more than 600 flight hours accumulated on each engine, or
- At least one radial drive steady bearing installed will have more than 1,500 flight hours accumulated on one engine if the other engine has less than 600 accumulated flight hours, or
- One or both engines replace radial drive steady bearings of the affected design with new design bearings as specified in service bulletin (SB) RB.211–72–C925.

The CAA has classified this service bulletin as mandatory and issued AD 004–09–2000, dated September 19, 2000, in order to assure the airworthiness of these RR engines in the UK.

Bilateral Airworthiness Agreement

This engine model is manufactured in the UK, and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce plc. (RR) models RB211–535C–37, RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines of the same type design, this AD is being issued to reduce the risk of engine in-flight shutdown, due to failure at low life of radial drive steady bearings. This AD requires the replacement of certain radial drive steady bearings, based on their accumulated flight time.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to

Special Flight Permits

EFFECTIVE DATE: 0901 UTC, November 1,

and public procedure before adopting

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Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–22–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–19–05 Rolls-Royce plc. Amendment 39–12445. Docket 2001–NE–22–AD.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce plc. (RR) models RB211–535C–37, RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines, with radial drive steady bearings, part number (P/N) LK76084, installed on, but not limited to Boeing 757 and Tupolev Tu204 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To reduce the risk of engine in-flight shutdown due to low life failure of radial drive steady bearings, do the following:

(a) If one or more engines in an airplane have a part number radial drive steady bearing installed other than P/N LK76084, no further action is required.

(b) If all engines in an airplane have a radial drive steady bearing P/N LK76084 installed, replace bearings within 100 flight hours after the effective date of this AD, as specified in Table 1 as follows:

TABLE 1.—RADIAL DRIVE STEADY BEARING REPLACEMENT CONDITIONS

If	Then
(1) Both engines have a radial drive steady bearing P/N LK76084 with fewer than 600 hours-since-new (HSN).	Replace the lowest life bearing with a bearing P/N FB222165 or, a bearing P/N LK76084 that has greater than 1,500 HSN.

TABLE 1.—RADIAL DRIVE STEADY BEARING REPLACEMENT CONDITIONS—Continued

If	Then
(2) One engine has a radial drive steady bearing P/N LK76084 with fewer than 600 HSN, and the other engine has a bearing P/N LK76084 with more than 600 HSN but fewer than 1,500 HSN.	Replace the lowest life bearing with a bearing with a bearing P/N FB222165 or, a bearing P/N LK 76084 that has greater than 600 HSN.
(3) One engine has a radial drive steady bearing P/N FK76084 with fewer than 600 HSN, and the other engine has a bearing P/N FK76084 with more than 1,500 HSN.	No action required.
(4) Both engines have a radial drive steady bearing P/N FK76084 with 600 or more HSN.	No action required.

(c) Whenever an engine is newly installed in an airplane, repeat paragraphs (a) through (b) of this AD. For information on installing radial drive steady bearing P/N FB222165, see Rolls-Royce plc. Service Bulletin RB.211–72–C925, Revision 2, dated March 23, 2001.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Civil Airworthiness Authority airworthiness directive AD 004–09–2000, dated September 19, 2000.

Effective Date of this AD

(f) This amendment becomes effective on October 11, 2001.

Issued in Burlington, Massachusetts, on September 18, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–24023 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30271; Amdt. No. 431]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monorey Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on September 21, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC,

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 431, Effective Date: November 1, 2001]

From	To	MEA
§ 95.6001 VICTOR ROUTES–U.S.		
§ 95.6010 VOR Federal Airway 10 Is Amended To Read in Part		
Youngstown, OH VORTAC	Volan, PA FIX	3000
Volan, PA FIX	Talls, PA FIX	*4000
*3100–MOCA		
Talls, PA FIX	Revloc, PA VOR/DME	4000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued
[Amendment 431, Effective Date: November 1, 2001]

From	To	MEA
§ 95.6015 VOR Federal Airway 15 Is Amended To Read in Part		
Hobby, TX VOR/DME	Navasota, TX VORTAC	2100
§ 95.6020 VOR Federal Airway 20 Is Amended To Read in Part		
Palacios, TX VORTAC	Keeds, TX INT	1700
Keeds, TX INT	Hobby, TX VOR/DME	2500
Hobby, TX VOR/DME	Beaumont, TX VOR/DME	1800
§ 95.6035 VOR Federal Airway 35 Is Amended To Read in Part		
Ended, FL FIX *1500–MOCA	Cross City, FL VORTAC	*3000
§ 95.6066 VOR Federal Airway 66 Is Amended To Read in Part		
Pecos, TX VOR/DME	Midland, TX VORTAC	5000
§ 95.6093 VOR Federal Airway 93 Is Amended To Read in Part		
Vinny, PA FIX *2600–MOCA	Lancaster, PA VORTAC	*4500
§ 95.6157 VOR Federal Airway 157 Is Amended To Read in Part		
Ocala, FL VORTAC	Taylor, FL VORTAC	2000
§ 95.6161 VOR Federal Airway 161 Is Amended To Read in Part		
Llano, TX VORTAC *6000–MRA **2800–MOCA	*Built, TX FIX	**6000
§ 95.6194 VOR Federal Airway 194 Is Amended To Read in Part		
Hobby, TX VOR/DME	Stros, TX INT	2000
Stros, TX INT	Sabine Pass, TX VOR/DME	3000
§ 95.6198 VOR Federal Airway 198 Is Amended To Read in Part		
Eagle Lake, TX VOR/DME *1500–MOCA	Blums, TX INT	*2100
Blums, TX INT	Hobby, TX VOR/DME	2400
Hobby, TX VOR/DME	Stros, TX INT	2000
Stros, TX INT	Sabine Pass, TX VOR/DME	3000
§ 95.6210 VOR Federal Airway 210 Is Amended To Read in Part		
Volan, PA FIX *3100–MOCA	Talls, PA FIX	*4000
Talls, PA FIX	Revloc, PA VOR/DME	4000
§ 95.6297 VOR Federal Airway 297 Is Amended To Read in Part		
Talls, PA FIX *3100–MOCA	Volan, PA FIX	*4000
§ 95.6320 VOR Federal Airway 320 Is Amended To Read in Part		
Traverse City, MI VORTAC *3000–MOCA	Mt. Pleasant, MI VOR/DME	*5000
§ 95.6358 VOR Federal Airway 358 Is Amended To Read in Part		
Lampasas, TX VORTAC	Sonet, TX FIX	3000
Sonet, TX FIX	Waco, TX VORTAC	2700
§ 95.6437 VOR Federal Airway 437 Is Amended To Read in Part		
Ormond Beach, FL VORTAC	*Cokes, FL FIX	**2000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued
[Amendment 431, Effective Date: November 1, 2001]

From	To	MEA
*3000–MRA **1400–MOCA		
§ 95.6441 VOR Federal Airway 441 Is Amended To Read in Part		
Baypo, FL FIX *3000–MRA **1700–MOCA	*Nitts, FL FIX	**4000
Nitts, FL FIX	Ocala, FL VORTAC	2000
Ocala, FL VORTAC	Gators, FL VORTAC	2000
Gators, FL VORTAC *1800–MOCA	Brunswick, GA VORTAC	*3000
§ 95.6457 VOR Federal Airway 457 Is Amended To Read in Part		
Lancaster, PA VORTAC **2600–MOCA	Vinny, PA FIX	*4500
§ 95.6537 VOR Federal Airway 537 Is Amended To Read in Part		
Ocala, FL VORTAC	Gators, FL VORTAC	2000
Gators, FL VORTAC *2000–MOCA	Alvin, FL FIX	*3000
Alvin, FL FIX	Greenville, FL VORTAC	2000
§ 95.6558 VOR Federal Airway 558 Is Amended To Read in Part		
Eagle Lake, TX VOR/DME *1500–MOCA	Blums, TX INT	*2100
Blums, TX INT	Hobby, TX VOR/DME	2400
§ 95.6579 VOR Federal Airway 579 Is Amended To Read in Part		
Baypo, FL FIX *3000–MRA **1700–MOCA	*Nitts, FL FIX	**4000
Nitts, FL FIX *2000–MOCA	Gators, FL VORTAC	*3000
Gators, FL VORTAC	Cross City, FL VORTAC	2000

From	To	MEA	MAA
§ 95.7001 JET ROUTES			
§ 95.7030 Jet Route No. 30 Is Amended To Read in Part			
Bucko, WV FIX	Kessel, WV VOR/DME	18000	#45000
§ 95.7034 Jet Route No. 34 Is Amended To Read in Part			
Bucko, WV FIX	Kessel, WV VOR/DME	18000	45000
§ 95.7055 Jet Route No. 55 Is Amended To Read in Part			
Dolphin, FL VORTAC	Llake, FL FIX	18000	45000
Llake, FL FIX	Inpin, FL FIX	23000	45000
Inpin, FL FIX	Craig, FL VORTAC	18000	45000
§ 95.7058 Jet Route No. 58 Is Amended To Read in Part			
Harvey, LA VORTAC	Sarasota, FL VORTAC	18000	
Sarasota, FL VORTAC	Lee County, FL VORTAC	18000	45000
§ 95.7084 Jet Route No. 84 Is Amended To Read in Part			
Sidney, NE VORTAC	Wolbach, NE VORTAC	18000	45000
#MEA Is Established With a Gap in Navigational Coverage			
§ 95.7085 Jet Route No. 85 Is Amended To Read in Part			
Dolphin, FL VORTAC	Llake, FL FIX	18000	45000

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From	To	MEA	MAA
Llake, FL FIX	Inpin, FL FIX	23000	45000
Inpin, FL, FIX	Gators, FL VORTAC	18000	45000
§ 95.7086 Jet Route No. 86 Is Amended To Read in Part			
Humble, TX VORTAC	Sarasota, FL VORTAC	18000	45000
Sarasota, FL VORTAC	La Belle, FL VORTAC	23000	45000
§ 95.7100 Jet Route No. 100 Is Amended To Read in Part			
Sidney, NE VORTAC #MEA Is Established With a Gap in Navigational Coverage	Wolbach, NE VORTAC	#18000	45000
Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points V–10 is Amended To Add Changeover Point			
Youngstown, OH VORTAC	Revloc, PA VOR/DME	37	Youngs-town.
V–210 Is Amended To Add Changeover Point			
Volan, PA FIX #COP Measured From Youngstown, OH VORTAC	Revloc, PA VOR/DME	#37	Volan.
V–297 Is Amended To Add Changeover Point			
Talls, PA FIX #COP Measured From Revloc, PA VOR/DME	Youngstown, OH VORTAC	#62	Talls.

[FR Doc. 01–24093 Filed 9–25–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Jacksonville–01–095]

RIN 2115–AA97

Security Zones; Port of Jacksonville and Port Canaveral, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing moving and fixed security zones 100 yards around all tank vessels, passenger vessels and military pre-positioned ships when these vessels enter, are moored in, or depart the Ports of Jacksonville or Canaveral. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Jacksonville, Florida or his designated representative.

DATES: This regulation becomes effective at 12 noon on September 12, 2001 and will terminate at 11:59 p.m. on October 3, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Jacksonville 01–095] and are available for inspection or copying at Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 p.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT(jg) Brian G. Knapp, Coast Guard Marine Safety Office Jacksonville, at (904) 232–2957.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Ports of Jacksonville or Canaveral, Florida, against tank vessels, cruise ships and military pre-positioned vessels entering, departing and moored within these ports. These temporary security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30°23′35″ N, 81°19′08″ W, when entering the Port of Jacksonville, or pass either Port Canaveral Channel Entrance Buoys #3 or #4, at respective approximate positions 28°22.7′ N, 80°31.8′ W, and 28°23.7 N, 80°29.2 W, when entering Port Canaveral. The zone for a vessel is deactivated when the vessel passes these buoys on its departure from port.

Military pre-positioned ships are U.S. commercial ships on long-term charter to the Military Sealift Command. They are utilized to transport military equipment and cargo. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered. There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Jacksonville, Florida.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a "significant energy action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add a new temporary § 165.T–07–095 to read as follows:

§ 165.T–07–095 Security Zone; Ports of Jacksonville and Canaveral, Florida.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all tank vessels, passenger vessels and military pre-positioned ships during transits entering or departing the ports of Jacksonville and Canaveral, Florida. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30°23′35″ N, 81°19′08″ W, when entering the Port of Jacksonville, or pass

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either Port Canaveral Channel Entrance Buoys #3 or #4, at respective approximate positions 28°22.7′ N, 80°31.8′ W, and 28°23.7 N, 80°29.2 W, when entering Port Canaveral. Temporary fixed security zones are established 100 yards around all tank vessels, passenger vessels and military pre-positioned ships docked in the Ports of Jacksonville and Canaveral, Florida.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

(c) *Dates.* This section becomes effective at 12 noon on September 12, 2001, and will terminate at 11:59 p.m. on October 3, 2001.

Dated: September 12, 2001.

M.M. Rosecrans,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 01–24111 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–163]

RIN 2115–AA97

Safety and Security Zones; Coast Guard Force Protection Station Portsmouth Harbor, Portsmouth, New Hampshire; Coast Guard Base Portland, South Portland, Maine; and Station Boothbay Harbor, Boothbay Harbor Maine

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three safety and security zones to close the waters near the federal properties of the following Coast Guard facilities: Portsmouth, New Hampshire; Station Portland, Maine; and Station Boothbay, Maine. These security and safety zones are needed to safeguard Coast Guard facilities, vessels and personnel from potential sabotage or other subversive acts, accidents or other causes of a similar nature. Entry or movement within these zones by any vessel of any description whatsoever, without the express authority of the Captain of the Port, Portland, or his authorized patrol representative, is strictly prohibited.

DATES: This section is effective from 6 p.m. September 14, 2001 through 6 p.m. March 12, 2002.

Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) W. W. Gough, Chief, Ports and Waterways Safety Branch, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. Due to the catastrophic nature and extent of damage realized from the aircraft crashes into the World Trade Center towers, this rulemaking is urgently necessary to protect the national security interests of the United States against future potential terrorist strikes against governmental targets. A similar attack was conducted on the Pentagon on the same day. Any delay in the establishment and enforcement of this regulation's effective date would be unnecessary and contrary to public interest and national security since immediate action is needed to protect the Group Portland Base, South Portland Maine, Coast Guard Station Portsmouth Harbor, Portsmouth, New Hampshire, and Coast Guard Station Boothbay Harbor, Boothbay Harbor, Maine, facilities, vessels and personnel, as well as the public and maritime community, from potential terrorist attacks. The public will be kept appraised of the safety and security zones and respective changes via Broadcast Notice to Mariners.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center, New York City, New York, were destroyed as a result of two commercial airliner crashes, an act that can only be explained as resulting from terrorist attacks. This regulation establishes three safety and security zones: (1) All waters of Portland Harbor, Maine in a 100-yard radius from the point at 43°38.742′ N, 70°14.865′ W; (2) All waters of Portsmouth Harbor, New Hampshire in a 50-yard radius from the point at 43°04.292′ N, 70°42.632′ W; and (3) All waters of Boothbay Harbor, Maine in a 50-yard radius from the point at 43°50.606′ N, 69°38.571′ W.

The safety and security zones have identical boundaries, and restrict entry into or movement within the waters of Portland Harbor, Portsmouth Harbor, and Boothbay Harbor. The safety and security zones are necessary to protect Coast Guard personnel, facilities, the public and the surrounding area from sabotage or other subversive acts, accidents, or events of a similar nature. All persons other than those approved by the Captain of the Port or his authorized patrol representative are prohibited from entering into or moving within the zones without the prior approval of the Captain of the Port. In addition to this publication in the **Federal Register,** the public will be made aware of the existence of these safety and security zones, their exact locations within these boundaries, and the restrictions involved, via Broadcast Notice to Mariners.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: these safety and security zones encompass only a portion of Portsmouth, Portland, and Boothbay Harbors, allowing vessels to safely navigate around the zones without delay and maritime advisories will be made to advise the maritime community of these safety and security zones.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and have determined that this rule does not have sufficient federalism implications for Federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an Unfunded Mandate.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Energy Effects

The Coast Guard has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–163 to read as follows:

§ 165.T01–163 Safety and Security Zones; Coast Guard Force Protection for Coast Guard Group Portland, South Portland, Maine, Station Portsmouth Harbor, New Hampshire, and Station Boothbay Harbor, Maine.

(a) *Location.* The following are safety and security zones: (1) All waters of Portland Harbor, Maine in a 100-yard radius from the point at 43°38.742′ N, 70°14.865′ W; (2) All waters of Portsmouth Harbor, New Hampshire in a 50-yard radius from the point at 43°04.292′ N, 70°42.632′ W; and (3) All waters of Boothbay Harbor, Maine in a 50-yard radius from the point at 43°50.606′ N, 69°38.571′ W.

(b) *Effective dates.* This section is effective from 6 p.m. September 14, 2001, through 6 p.m. March 12, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within this zone is prohibited unless previously authorized by the Captain of the Port (COTP) Portland.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board.

(3) No person may swim upon or below the surface of the water within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Portland or his authorized patrol representative.

Dated: September 14, 2001.

M.P. O'Malley,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–24110 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4116a; FRL–7060–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eighteen Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for 18 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 20, 2001 (66 FR 43502), we stated that if we received adverse comment by September 19, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent

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final action based upon the proposed action also published on August 20, 2001 (66 FR 43551). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(156) is withdrawn as of September 26, 2001.

[FR Doc. 01–23626 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4128a; FRL–7060–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Five Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for five major sources of volatile organic compounds (VOC) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 20, 2001 (66 FR 43497), EPA stated that if it received adverse comment by September 19, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 20, 2001. EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(165) is withdrawn as of September 26, 2001.

[FR Doc. 01–23627 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–147/177–4126a; FRL–7060–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_X RACT Determinations for Four Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for four major sources of oxides of nitrogen (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 15, 2001 (66 FR 42756), EPA stated that if it received adverse comment by September 14, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 15, 2001 (66 FR 42831). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.

James W. Newson,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(163) is withdrawn as of September 26, 2001.

[FR Doc. 01–23629 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD057/71/98/115–3082; FRL–7066–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Rate of Progress Plans and Contingency Measures for the Baltimore Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish the three percent per year emission reduction rate-of-progress (ROP) requirement for the period from 1996 through 2005 for the Baltimore severe ozone nonattainment area. EPA is also approving contingency measures for failure to meet ROP for the Baltimore nonattainment area. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on October 26, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 814–2092. Or by e-mail at *gaffney.kristeen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 6, 2001 (66 FR 40947), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the post 1996 ROP plans for milestone years 1999, 2002 and 2005 for the Baltimore ozone nonattainment area submitted by the State of Maryland on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000. The NPR also proposed approval of the contingency plan for failure to meet ROP for the Baltimore nonattainment area. Other specific requirements of Maryland's SIP revisions for the ROP plans and contingency plans for Baltimore and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Actions

Final Action: EPA is approving the post 1996 ROP plans for milestone years 1999, 2002 and 2005 for the Baltimore ozone nonattainment area submitted on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

Final Action: EPA is approving the contingency plans for failure to meet ROP for the Baltimore ozone nonattainment area submitted on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

III. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the post 1996 ROP plans and contingency plans for the Baltimore ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone.

Dated: September 18, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

2. Section 52.1076 is amended by adding and reserving paragraphs (h) and (i) and adding paragraph (j) to read as follows:

§ 52.1076 Control strategy and rate-of-progress plan: ozone.

* * * * *

(j)(1) EPA approves revisions to the Maryland State Implementation Plan for post 1996 rate of progress plans for milestone years 1999, 2002 and 2005 for the Baltimore severe ozone nonattainment area. These revisions were submitted by the Secretary of the Maryland Department of the Environment on December 24, 1997, as

revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

(2) EPA approves the contingency plans for failure to meet rate of progress in the Baltimore severe ozone nonattainment area for milestone years 1999, 2002 and 2005. These plans were submitted by the Secretary of the Maryland Department of the Environment on December 24, 1997, as revised on April 24 and August 18, 1998, December 21, 1999 and December 28, 2000.

[FR Doc. 01–24067 Filed 9–25–01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301176; FRL–6803–7]

RIN 2070–AB78

Zoxamide 3,5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of zoxamide and its metabolites 3,5-dichloro-1,4-benzenedicarboxylic acid (RH-1455 and RH-141455) and 3,5-dichloro-4-hydroxymethylbenzoic acid (RH-1452 and RH-141452 in or on tomato and cucurbit vegetables group. Rohm and Haas Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 26, 2001. Objections and requests for hearings, identified by docket control number OPP–301176, must be received by EPA on or before November 26, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI.. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301176 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305-7740; and e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301176. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 24, 2000, 65 FR 51612 (FRL–6739–1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 9F5058) for tolerance by Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19108-2399. This notice included a summary of the petition prepared by Rohm and Haas, the registrant. There were no comments received in response to the notice of filing. A correction to the notice of filing was published in the **Federal Register** on December 15, 2000, 65 FR 78490 (FRL–6756–3).

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for combined residues of the fungicide zoxamide 3,5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide, and its metabolites, in or on tomatoes and cucurbit vegetables group at 2.0 part per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that" there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of zoxamide and its metabolites 2,4-dichloro-1,4-benzenedicarboxylic acid (RH-1455 and RH-141455) and 3,5-dichloro-4-hydroxymethylbenzoic acid (RH-1452 and RH-141452) on tomatoes at 2.0 ppm and cucurbit vegetables group at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by zoxamide are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1. ACUTE TOXICITY OF ZOXAMIDE - TECHNICAL (RH-117,281)

Guideline No.	Study Type	Results	Toxicity Category
870.1100	Acute Oral-Rat	LD_{50} > 5,000 mg/kg (males and females, combined)	IV
870.1100	Acute-Oral-Mouse	LD_{50} > 5,000 mg/kg (males and females, combined)	IV
870.1200	Acute Dermal-Rat	LD_{50} > 2,000 mg/kg (males and females, combined)	III
870.1300	Acute Inhalation-Rat	LC_{50} > 5.3 mg/L (males and females, combined)	IV
870.2400	Primary Eye Irritation-Rabbit	Moderate irritant; Corneal opacity on 6/6 rabbits with resolution by day 7. Iritis on 1/6 rabbits at 24 hours with resolution by 48 hours. Conjunctivitis on all rabbits at one hour with resolution by day 7.	III
870.2500	Primary Skin Irritation-Rabbit	Not an irritant	IV
870.2600	Dermal Sensitization: Maximization-Guinea pig	Strong sensitizer. Maximization Test: 100% treated showed erythema.	NA
870.2600	Dermal Sensitization: Buehler's Method-Guinea pig	Strong sensitizer. Buehler's Test: 80–90% treated showed erythema, grade 3 out of possible 4, appearing at 3rd induction phase and challenge phase.	NA

The primary target organ for oral exposure is the liver. In chronic and subchronic dog studies, liver and thyroid weights were increased along with liver histopathological changes and increases in alkaline phosphatase in the chronic study. There was no evidence of developmental or reproductive toxicity. The data demonstrate no increase sensitivity of rats or rabbits to *in utero* or early postnatal exposure to zoxamide. Carcinogenicity studies in rats and mice did not show increased incidence of spontaneous tumor formation. Zoxamide is classified as "not likely" human carcinogen. There was no evidence of neurotoxicity in the acute or subchronic neurotoxicity studies or in any other study in the data base. The toxicity data base for zoxamide is complete. See the following Table 2 for a discussion EPA's findings.

TABLE 2.—TOXICITY PROFILE OF ZOXAMIDE TECHNICAL

Guideline No.	Study Type (All Studies Acceptable)	Results
870.3100	90–Day oral toxicity rodents-mouse	NOAEL = 1,666 mg/kg/day; LOAEL not established

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TABLE 2.—TOXICITY PROFILE OF ZOXAMIDE TECHNICAL—Continued

Guideline No.	Study Type (All Studies Acceptable)	Results
870.3150	90–Day oral toxicity in nonrodents-dog	NOAEL = 62 mg/kg/day in females, 281 mg/kg/day in males. LOAEL = 322 mg/kg/day in females and 1,139 mg/kg/day in males based on increased liver weights, hepatocellular hypertrophy (males), decrease in albumin and albumin/golbulin ratios (males).
870.3200	28-Day dermal toxicity-rat	Systemic: NOAEL ≥1,000 mg/kg, LOAEL not established; Dermal: NOAEL not established LOAEL < 150 mg/kg/day based on dermal scabbing increase with dosage in males and females, and epidermis of treated skin sites showed hyperplasia, hyperkeratosis, and inflammation.
870.3700a	Prenatal developmental in rodents-rat	Maternal NOAEL = 1,000 mg/kg/day; LOAEL > 1,000 mg/kg/day. Developmental NOAEL = 1,000 mg/kg/day LOAEL > 1,000 mg/kg/day.
870.3700b	Prenatal developmental in nonrodents-rabbit	Maternal NOAEL = 1,000 mg/kg/day; LOAEL > 1,000 mg/kg/day. Developmental NOAEL = 1,000 mg/kg/day; LOAEL > 1,000 mg/kg/day.
870.3800	Reproduction and fertility effects-rat	Parental/Systemic NOAEL = 409 mg/kg/day in females, 1,474 mg/kg/day in males; LOAEL = 1,624 mg/kg/day based on female decreased body weight and body weight gains. Reproductive NOAEL ≥ 2,091 mg/kg/day in males, 2,239 mg/kg/day in females; LOAEL = not established. Offspring NOAEL ≥ 2,091 mg/kg/day in males, 2,239 mg/kg/day in females; LOAEL = not established.
870.4100b	Chronic toxicity dogs	NOAEL = 50 mg/kg/day in males, 48 mg/kg/day in females; LOAEL = 255 mg/kg/day in males, 278 mg/kg/day in females based on decreased body weights, increased liver and thyroid weights, and increased alkaline phosphatase.
870.4300	Chronic/Carcinogenicity rats	NOAEL = 1,058 mg/kg/day; LOAEL = not established. No evidence of carcinogenicity
870.4300	Carcinogenicity mice	NOAEL = 1,021 mg/kg/day in males, 1,289 mg/kg/day in females; LOAEL = not established. No evidence of carcinogenicity
870.5265	Gene Mutation	Non-mutagenic when tested up to 5,000 µg/plate, in presence and absence of activation, in *S. typhimurium*.
870.5300	Cytogenetics	Non-mutagenic at the HGPRT locus in CHO cells tested up to 65 µg/mL, in presence and absence of activation.
870.5375	Chromosome aberration	Did not induce structural chromosome aberration up to limit of toxicity (100 µg/mL), but did induce increased levels of numerical aberrations, in presence and absence of activation.
870.5395	Micronucleus	Non-mutagenic in mouse bone marrow micronucleus assay up to 2,000 mg/kg.
870.6200a	Acute neurotoxicity screening battery-rat	NOAEL = 2,000 mg/kg/day; LOAEL = not established.
870.6200b	Subchronic neurotoxicity screening battery-rat	NOAEL = 1,509 mg/kg/day in males, 1,622 mg/kg/day in females; LOAEL = not established.
870.7485	Metabolism and pharmacokinetics - rat	120 hours post-dosing, 96–102% recovered from the low and high single-dose groups. Fecal excretion was the primary route of elimination. Parent compound was the principal component excreted, a total of 36 metabolites were detected in the urine and feces.
870.7600	Dermal penetration-rat	Total dermal absorption rate after 10–hour is 8.8% (includes amount on skin after wash).

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10x to account for interspecies differences and 10x for intra species differences. The Agency evaluated the available hazard and exposure data for zoxamide and made the recommendation for the FQPA safety factor to be used in human health risk assessments (as required by the FQPA of August 3, 1996). The Agency concluded that the FQPA safety factor could be removed (i.e., reduced to 1x) in assessing the risk posed by this chemical because: (1) There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; (2) A development neurotoxicity study conducted with zoxamide is not required; and (3) The dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children. Additionally, there are currently no residential uses.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10x to account for interspecies differences and 10x for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for zoxamide used for human risk assessment is shown in the following Table 3:

TABLE 3.— SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR ZOXAMIDE FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (general population including infants and children)	None	None	No appropriate endpoint was identified by the HIARC on 11/18/99 for acute dietary exposure. Did not identify hazard.
Chronic Dietary (all populations)	NOAEL= 48 mg/kg/day UF = 100 Chronic RfD = 0.48 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD/FQPA SF = 0.48 mg/kg/day	Chronic Toxicity Study - Dog LOAEL in males/females = 255/277 mg/kg/day based on body weight changes, increases in liver and thyroid weights, and increases in alkaline phosphatase.
Short-, Intermediate-, and Long-Term Dermal (Occupational/Residential)	none	No systemic toxicity was seen at the limit dose (1000 mg/kg/day). Did not identify hazard.	28-Day Repeated Dose Dermal - Rat
Any time period Inhalation (Occupational/Residential)	oral NOAEL= 48 mg/kg/day Use route-to-route extrapolation (inhalation absorption rate = 100%)	LOC for MOE = 100 (Occupational/Residential)	Chronic Toxicity Study - Dog LOAEL in males/females = 255/277 mg/kg/day based on body weight changes, increases in liver and thyroid weights, and increases in alkaline phosphatase.

* UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowestobserved adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, MOE = margin ofexposure, LOC = level of concern. The reference to the FQPA Safety Factor refers to any additional safety factorretained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR part 180) for the combined residues of zoxamide and its metabolites 3,5-dichloro-1,4-benzenedicarboxylic acid (RH-1455 and RH141455) and (3,5-(dichloro-1,4-hydromethylbenzoic acid (RH-1452 and RH-141452, in or on potatoes and Zoxamide on grapes. Risk assessments were conducted by EPA to assess dietary exposures from zoxamide in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. Based on available data, a suitable endpoint for acute dietary risk assessment was not identified since no effects were observed in oral toxicity studies (including developmental studies) which could be attributed to a single-dose exposure. Therefore, an acute dietary risk assessment was not performed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. Chronic assessments use an average of the reported consumption values for each food form of a commodity multiplied by the residue concentration value, in this case a tolerance value, to estimate chronic dietary exposure.

The Tier I chronic analysis for zoxamide is a conservative estimate of the dietary exposure using tolerance-level residues of 100% crop-treated for all commodities. The chronic analysis was performed assuming tolerance level

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residues for tomatoes and curcurbit vegetables at 2.0 and 1.0 ppm, respectively and 100% crop treated was assumed for all other commodites. The tolerance level residues for processed commodities were based on the actual processing data, the DEEM default concentration factors for tomato paste and puree were set to 1x. Residues did not concentrate in tomato processed fractions in this study. The highest resulting dietary estimate was 1.7% of the cPAD for children. 1-6 years old. For chronic dietary risk estimates the level of concern is >100% CPAD. Even without refinements, the estimated risk from chronic dietary exposure to zoxamide, as represented by the % cPAD, is below the level of concern for the population and all population subgroups.

TABLE 4.—CHRONIC DIETARY EXPOSURE ESTIMATES

Population subgroup[1]	Exposure, mg/kg/day	%cPAD[2]
U.S. population	0.0031	<1
All infants <1 year)	0.0018	<1
Children 1-6 yrs[3]	0.0084	1.7
Females 13-50 yrs	0.0024	<1
Males 13-19 yrs	0.0026	<1

[1] The subgroups listed are: (1) The U.S. Population (total); (2) those for infants and children; and, (3) the most highly exposed of the adult females and males subgroups (in this case, Females, ≤13 years, nursing)

[2] Percent Chronic PAD = (Exposure + Chronic PAD) x 100%.

[3] There are no other subgroups, with the exception of Children, 1 to 6 years old, for which the percentage of the Chronic PAD occupied is greater than that occupied by the subgroup U. S. Population (total).

iii. *Cancer.* Zoxamide is not mutagenic in Ames assays, in CHO cells assay at the Hypoxonthine guanine phosphoribosyle transferase (HGPRT) locus, and in the mouse bone marrow micronucleus assay. Zoxamide did not induce structural chromosome aberrations in cultured CHO cells treated up to the limit of toxicity, but did induce increased levels of numerical aberrations. Carcinogenicity studies in rat and mice did not show increased incidence of spontaneous tumor formation. The Agency classified zoxamide as not likely to be a human carcinogen. Thus a cancer risk assessment is not required for zoxamide.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for zoxamide in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of zoxamide.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

The SCI-GROW model is used to predict pesticide concentrations in shallow groundwater. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/ EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water: DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to zoxamide they are further discussed in the aggregate risk sections below.

Based on the GENEEC, and PRZM/ EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of zoxamide for acute and chronic exposures are as follows:

A drinking water risk assessment was not performed as the proposed use rates do not exceed those already assessed. Therefore new dietary risk estimates from drinking water sources were not performed. Drinking water monitoring data are not available for zoxamide. No new EECs were provided for cucurbits and tomatoes because the application rates for these new uses approaches the maximum rate for grapes.

Tier I (GENEEC) modeling estimates that zoxamide residues (zoxamide + degradation products) in surface water, from aerial and ground application, are not likely to exceed 48.3 and 45.1 µg/ L for the 56 day average concentration (chronic) for grape and potato uses, respectively. However, it is the Agency's policy to divide chronic Tier 1 GENEEC EECs by a factor of 3 for comparison to DWLOCs. Therefore, the chronic surface water EECs based on GENEEC are 16.1 and 15 µg/L for grape and potato uses, respectively.

Tier II (PRZM/EXAMS) surface water modeling for zoxamide residues (zoxamide + degradation products), using the index reservoir with the percent cropped area, predicts the 1 in 10 year annual average (non-cancer chronic) concentration of zoxamide residues from grapes is not likely to exceed 21.8 µg/L and from potatoes is not likely to exceed 6.2 µg/L.

The SCI-GROW predicted concentration of zoxamide residues (zoxamide + degradation products) in shallow ground water is not expected to exceed 2.07 µg/L.]

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Zoxamide is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether zoxamide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, zoxamide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that zoxamide 3,5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Conclusion.* There is a complete toxicity data base for zoxamide and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10x safety factor to protect infants and children should be removed. The FQPA factor is removed because:

i. There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure;

ii. A developmental neurotoxicity study conducted with zoxamide is not required; and

iii. The dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children. Additionally, there are currently no residential uses.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* Based on the data, EPA concluded that zoxamide does not pose an acute risk.

2. *Chronic risk.* The resulting dietary food exposures, from cucurbits and tomatoes, occupy <1% of the Chronic PAD for all population subgroups included in the analysis, except for children (1 to 6 years old) which is the highest exposed subgroup. The exposure for children (1 to 6 years old) utilizes 1.7% of the cPAD. The results of this dietary exposure analysis should be viewed as very conservative (health protective). Refinements such as use of percent crop-treated information and/or anticipated residue values would yield even lower estimates of chronic dietary exposure.

The EECs provided by the Agency for assessing chronic aggregate dietary risk are 2.07 µg/L (for ground water, based on SCI-GROW) and 21.8 µg/Lin surface water, based on PRZM/EXAMS modeling, 1 in 10 year annual average). The back-calculated DWLOCs for cucurbits and tomatoes (Table 5) for assessing chronic aggregate dietary risk range from 4800 µg/L for the population subgroup with the highest food exposure (Children, 1 to 6 years old) to 16,800 µg/L for the U.S. population (total) and Males 13-19 years.

The SCI-GROW and PRZM/EXAMS chronic EECs are less than the Agency's level of comparison (the DWLOC value for each population subgroup) for zoxamide residues in drinking water as a contribution to chronic aggregate exposure. Thus, the Agency concludes with reasonable certainty that residues of zoxamide in drinking water will not contribute significantly to the aggregate chronic human health risk and that the chronic aggregate exposure from zoxamide residues in food and drinking water will not exceed the Agency's level of concern (100% of the Chronic PAD) for chronic dietary aggregate exposure by any population subgroup. EPA generally has no concern for exposures below 100% of the Chronic PAD, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, very conservative, and very protective of human health. There are no residential uses for zoxamide that result in chronic residential exposure to zoxamide.

TABLE 5.—CHRONIC DWLOC CALCULATIONS

Population Subgroup[1]	Chronic Scenario					
	cPAD (mg/ kg/day)	Food Exposure (mg/kg/ day)	Maximum Water Exposure (mg/kg/ day)[2]	EEC Groundwater (µg/ L)[3]	EEC Surface-water (µg/L)[4]	Chronic DWLOC (µg/L)[5]
U.S. population	0.48	0.0031	0.48	2.07	21.8	16,800
Children 1-6 yrs	0.48	0.0018	0.48	2.07	21.8	4,800
Females 13-50	0.48	0.0084	0.48	2.07	21.8	14,400
Males 13-19	0.48	0.0026	0.48	2.07	21.8	16,800

[1] The exposure for the highest representative population subgroup was reported. Body weights varied by subgroup: 70 kg for an adult male; 60 kg for an adult female; 10 kg for a child.

[2] Maximum Water Exposure (mg/kg/day) = cPAD (mg/kg/day) - Dietary Exposure from DEEM (mg/kg/day)

[3] The value from the model and crop producing the highest level was used (i.e. SCI-GROW value).

[4] The value from the model and crop producing the highest level was used (i.e. PRZM/EXAMS value for grapes).

[5] DWLOC(µg/L) = [maximum water exposure (mg/kg/day) x body weight (kg)]/[water consumption (L) x 10^{-3} mg/µg]

3. *Short-term risk.* The Agency did not identify a short-term dermal endpoint for zoxamide. There are no residential uses proposed for this fungicide, short term aggregate risk assessments based on exposure from

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oral, inhalation, and dermal routes. For these reasons, no short term risk is expected.

4. *Intermediate-term risk.* The Agency did not identify an intermediate -term dermal endpoint for zoxamide. There are no residential uses proposed for this fungicide, intermediate-term aggregate risk assessments based on exposure from oral, inhalation and dermal routes. For these reasons, no intermediate-term risk is expected.

5. *Aggregate cancer risk for U.S. population.* The Agency classified zoxamide as not likely to be a human carcinogen. Therefore, no cancer risk is expected.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to zoxamide residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The petitioner proposes a GC/ECD method, with LOD and validated LOQ of 0.003 and 0.01 ppm respectively, for the enforcement of tolerances on cucurbits and tomatoes. A GC/MSD method is proposed as a confirmatory method. Method validation recoveries indicate that the GC/ECD method adequately recovers residues of zoxamide from cucurbits, tomatoes, and tomato processed commodities. Adequate confirmatory method validation, radiovalidation, and independent method validation have been submitted for this method. The submitted GC/ECD method is similar to the enforcement method proposed for grapes and potatoes under PP 9F05058 which has been forwarded to ACB/BEAD for a petition method validation . A petition method validation was also requested for the GC/ECD enforcement method proposed for tomatoes and cucurbits (PP 0F06093).

The methods were successfully validated for tomatoes and cucurbits in one trial by the independent laboratory. A slight modification was made but only with the instrumental parameters. For tomatoes, the head pressure in the oven ramp was lowered from 13 to 7.5 psi because hydrogen was substituted as the carrier gas and the total detector flow was set at 15 mL/min of N_2 instead of 60 mL/min. For cucumber, the detection temperature was set at 315°C instead of 300 °C and the total detector flow was set at 12 mL/min instead of 60mL/min.). The changes were found necessary to optimize sensitivity of the Varian 3500 ECD and allow detection of zoxamide at the LOQ of 0.01 ppm. Apparent residues of zoxamide were nondetectable (<0.01 ppm) in/on two control samples each of cucumbers and tomatoes. The recoveries were between 70 - 120% with an RSD below 15% which were within the acceptable limits. Extraction of 6 samples took about 6-8 hours and analysis of samples and standards took about 5-6 hours.

Plant commodity samples collected from the field, processing, and storage stability studies were analyzed for residues of zoxamide using either the GC/ECD or GC/MSD method. The concurrent method recoveries indicate that both methods are adequate for data collection for cucurbits and tomatoes.

The methods are adequate for a conditional registration pending successful validation results and comments from ACB/BEAD.

The Residue Analytical Method - Plant Commodities are adequate for a conditional registration pending successful validation results and comments from The Analytical Chemistry Branch Laboratories, BEAD (7503C), Office of Pesticides Programs. Upon successful completion of the EPA validation and the granting of this registration, the method will be forwarded to FDA for publication in a future revision of the Pesticide Analytical Manual, Vol. II (PAM-II). Prior to publication and upon request , the validation will be available the Analytical Chemistry Branch (ACB), BEAD (7503C) Environmental Science Center, 701 Mapes Road, Ft. George C. Meade, MD 29755-5350. Contact Francis D. Griffith, Jr., telephone (410) 305-2905, e-mail: griffith.francis@epa.gov. The analytical standards are also available from the EPA National Pesticide Standard Repository at the same location.

The MRMs are adequate for enforcement of the proposed tolerances for zoxamide in/on cucurbits and tomatoes. The submission has been forwarded to FDA for complete evaluation in conjunction with the earlier petition.

B. International Residue Limits

There are currently no established Codex, Canadian, or Mexican maximum residue limits (MRLs) or tolerances for residues of zoxamide in/on tomatoes and cucurbits. Therefore, no compatibility issues exist with regard to the proposed U.S. tolerances discussed in this petition review.

C. Conditions

Additional storage stability data are required for residues of zoxamide in/on cucurbit vegetables stored 15.6 months, tomato fruit stored 15.2 months and tomato paste and puree stored 11.5 months. The additional storage stability data for tomatoes, tomato paste and puree and cucumber is a condition for the registration of zoxamide for use on tomatoes and cucurbits.

V. Conclusion

Therefore, the tolerance is established for combined residues of zoxamide and its metabolites 3,5-dichloro-1,4-benzenedicarboxylic acid (RH-1455 and RH-141455) and 3,5-dichloro-4-hydroxymethlbenzoic acid (RH-1452 and RH-141452), in or on tomatoes at 2.0 ppm and cucurbit vegetable group at 1.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301176 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 26, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in

connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301176, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the

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Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 13, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.567 is amended by alphabetically adding commodities to the table in paragraph (a)(2) to read as follows:

§ 180.567 Zoxamide;tolerance for residues.

(a) * * *

(2)* * *

Commodity	Parts per million
Cucurbit vegetable group	1.0
Tomato	2.0

* * * * *

[FR Doc. 01–23640 Filed 9–25–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7065–7]

California: Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination on application of California for Final Authorization of Revisions to State Hazardous Waste Management Program.

SUMMARY: California has applied for final authorization of certain revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed California's application and has reached a final determination that the revisions to California's hazardous waste program satisfy all of the requirements necessary to qualify for final authorization. Thus, with respect to these revisions, EPA is granting final authorization to the State to operate its program subject to the limitations on its authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for the revisions to California's hazardous waste management program shall be effective at 1 p.m. on September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Rebecca Smith, WST–3, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco 94105–3901, (415) 744–2152.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

California initially received final authorization on July 23, 1992, effective August 1, 1992 (57 FR 32726), to implement the RCRA hazardous waste management program. This "base program authorization" authorized California's RCRA program based on California statutory and regulatory provisions enacted and adopted prior to December 20, 1991, the date of California's authorization application. On January 31, 2000, California submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21.

B. What Were the Comments and Responses to EPA's Proposal?

On June 20, 2001, EPA published a tentative determination announcing its intent to grant California final authorization for the revisions to its base program. Further background on the tentative decision to grant authorization appears at Vol. 66, No. 119, June 20, 2001 at pages 33037–33046.

Along with the tentative determination, EPA announced the availability of the application for public comment. EPA received four sets of written comments during the public comment period. One of the four commenters submitted relatively lengthy comments regarding EPA's tentative determination (22 pages total). The other three commenters submitted relatively brief comments (1–2 pages total, each), which generally endorsed the comments submitted by the first commenter. The first commenter also submitted an 8 page supplement to its comments well after the close of the public comment period. These comments were received by EPA on September 4, 2001, although the public comment period closed on July 20, 2001. The significant issues raised by the commenters and EPA's responses are summarized below. EPA has included a response to the supplemental comments as well, (*see* Response to Comment #3, below).

Comment #1: The commenters asserted that California's exclusion of secondary lead smelter furnaces from the boilers and industrial furnaces (BIFs) conditional exemption found in the Federal regulation at 40 CFR 266.100(d) (formerly 266.100(c)) is neither consistent with nor equivalent to the provisions of the Federal program. They further stated that excluding industrial furnaces from the conditional exemption afforded under the Federal BIF program and regulating such units as miscellaneous units under California's program is inconsistent with RCRA's goals. The commenters maintained that California failed to provide a rational basis for departing from the Federal-regulatory scheme in which air emissions from certain industrial furnaces are regulated under the Clean Air Act in lieu of RCRA and that California's exclusion of secondary lead smelters from the conditional exemption of Title 22 California Code of Regulations 66266.100(c) may lead to duplicative and inconsistent regulation of secondary lead smelters.

Response to Comment #1: States may be authorized to administer a hazardous waste program unless EPA determines that: (1) The state program is not equivalent to the Federal RCRA program; (2) the state program is not consistent with the Federal or state programs applicable in other states; or (3) the state program does not provide adequate enforcement of compliance with RCRA. RCRA Section 3006(b), 42 U.S.C. 6926(b).

EPA's regulations provide specific factors to consider in determining whether a state program is consistent with the Federal program and other authorized state programs. 40 CFR 271.4. In general, a state program may be deemed inconsistent if it unreasonably restricts the free movement of hazardous waste across state borders, if it has no basis in human health or environmental protection and acts as a prohibition on the treatment, storage or disposal of hazardous waste, or if the state's manifest system does not meet the requirements of 40 CFR Part 271. 40 CFR 271.4(a)–(c).

Although state programs must be consistent with the Federal program and other authorized state programs, RCRA expressly allows state and local governments to adopt requirements that are more stringent than the Federal RCRA requirements. RCRA Section 3009, 42 U.S.C. 6929. EPA has also indicated that states are free to operate programs "with a greater scope of coverage" than the Federal program but that "the additional coverage is not part of the Federally approved program." 40 CFR 271.1(i)(2). In determining whether a state program that differs from the Federal program is broader in scope than the Federal program, as opposed to being more stringent, EPA will generally consider: (1) whether the imposition of the state requirement increases the size of the regulated community beyond that of the Federal program; and (2) whether the state's requirement has a direct counterpart in the Federal regulatory program. *See, e.g.*, OSWER Directive No. 9541.1984(04), Determining Whether State Hazardous Waste Management Requirements are Broader in Scope or More Stringent than the Federal RCRA Program, May 21, 1984.

In June of 1997, California submitted its application for authorization of changes to its program relating to the burning of hazardous waste in BIFs. Title 22 of the California Code of Regulations (C.C.R.) at Sections 66266.100(c) and (f) tracked the Federal analogous provisions at 40 CFR 266.100(d) and (g), respectively. The Federal provisions conditionally exclude certain BIFs from regulation under RCRA. However, the State also added the following language to both 22 C.C.R. Sections 66266.100(c) and (f): "Additionally, industrial furnaces exempted by this subsection are subject to regulation as miscellaneous units." California also amended its definition of the term "miscellaneous unit" at 22 C.C.R. Section 66260.10 to conform that definition to the language it had added to 22 C.C.R. Sections 66266.100(c) and (f).

In June of 1997, the language in 22 C.C.R. Sections 66260.10, 66266.100(c) and 66266.100(f) that differs from the Federal regulatory language was included in California's regulations on an emergency basis only. These provisions were not finally adopted on a permanent basis by the State until May of 1998. Neither the checklists nor the Attorney General's statement, which were submitted with California's application for authorization of revisions to its BIF program, identified the differences between the State and Federal regulatory language. EPA has now confirmed with the State that the inclusion of the different language in the regulations submitted with California's BIF revisions application was an unintentional oversight.

However, even if California had sought authorization of the language in the provisions at 22 C.C.R. Sections 66260.10, 66266.100(c) and 66266.100(f) that differs from the Federal language, EPA has determined that the State's language increases the size of the universe of units which are required to have permits as miscellaneous units. Thus, these provisions make the State's permit program broader in scope than the Federal program in this respect. Since EPA does not authorize state requirements which are broader in scope than the Federal RCRA program, the language in these provisions that is different from the Federal program is not and will not be included in California's authorized hazardous waste program.

For the purposes of today's rule, it is not necessary for EPA to opine on whether or not the subject State provisions are preempted by RCRA. Since EPA has determined that these provisions are broader in scope than the Federal program, EPA is not authorizing these provisions. Thus, the question of whether or not the State's regulation of the Federally conditionally exempt units is or is not consistent with RCRA or its policies is not relevant in the context of this decision to authorize certain other revisions to California's RCRA program. However, EPA does not regard California's statutory requirements that resource recovery facilities obtain hazardous waste facilities permits as fundamentally inconsistent with RCRA or its policies (*see* California Health and Safety Code Sections 25200 and 25201). Regulation of emissions (or other releases) from hazardous waste recycling units is not inherently inconsistent with RCRA provisions or purposes. *See, e.g.*, RCRA Section 3004 (q), commanding regulation of air emissions from some classes of hazardous waste recyclers. This lends further support to EPA's determination that the regulation by the State of conditionally exempt BIFs as miscellaneous units—albeit broader in scope than the Federal program—does not warrant a decision not to authorize the other California provisions which are being authorized today.

Comment #2: The commenters asked EPA to ensure that it is reviewing the most recent version of the California BIF and miscellaneous unit regulations in assessing whether authorization should be granted to the State.

Response to Comment #2: In reviewing California's application regarding revisions to its BIF program, EPA did not look to the most recent State provisions in effect at the time EPA promulgated its tentative decision to authorize those revisions. Rather, EPA looked to the requirements in effect on a non-emergency basis in the State as of the date that portion of California's application was submitted. In this case, EPA looked to the non-emergency regulations in effect as of June of 1997.

In reviewing these requirements, EPA ensured that the State's requirements

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continued to be in effect, but EPA is not authorizing any revisions or amendments to California's BIF requirements which may have gone into effect after the date of the submittal of the BIF portion of the application for authorization. Nor is EPA authorizing any BIF requirements which existed on an emergency basis only in June of 1997, even if such requirements were adopted at a later date on a permanent basis.

Comment #3: One of the commenters asserted that California's regulations at 22 C.C.R. Sections 66261.24(a)(2)(A)(i) and (B)(i), which regulate as characteristic, toxic wastes certain inorganic and organic substances as persistent, bioaccumulative and toxic, are neither consistent with nor equivalent to the Federal program. The commenter argued that these provisions should not be authorized.

Response to Comment #3: The regulations to which these comments are aimed were submitted as part of California's base program authorization application in December of 1991. As explained above, states are free to operate programs "with a greater scope of coverage" than the Federal program but "the additional coverage is not part of the Federally approved program." 40 CFR 271.1(i)(2). Additionally, in determining whether a state program that differs from the Federal program is broader in scope than the Federal program, EPA will consider: (1) Whether the imposition of the state requirement increases the size of the regulated community beyond that of the Federal program; and (2) whether the state's requirement has a direct counterpart in the Federal regulatory program. *See, e.g.*, OSWER Directive No. 9541.1984(04), Determining Whether State Hazardous Waste Management Requirements are Broader in Scope or More Stringent than the Federal RCRA Program, May 21, 1984.

Since 22 C.C.R. Sections 66261.24(a)(2)(A)(i) and (B)(i) do not have any direct Federal counterparts, and increase the size of the universe of regulated hazardous wastes, EPA, in making its base program authorization decision for the State of California's hazardous waste program, determined that these provisions were broader in scope than the Federal program. Thus, these provisions were not included in the scope of the authorized base program. The revisions to the base program, which are the subject of today's rule, do not affect that determination.

Since EPA has not authorized the provisions which are the subject of this comment, the question of whether or not the State's regulation of such wastes is or is not consistent with RCRA or its policies is not relevant in the context of this decision to authorize certain other revisions to California's RCRA program. Even so, EPA does not regard California's regulation of these wastes as non-RCRA hazardous waste as fundamentally inconsistent with RCRA or its policies.

C. What Decisions Have We Made in This Rule?

EPA has made the final determination that California's application for authorization of the subject revisions meets all of the statutory and regulatory requirements established by RCRA. Therefore, with respect to the revisions, we are granting California final authorization to operate its hazardous waste program as described in the revisions authorization application. California will continue to have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before such states are authorized for the requirements. Thus, for revisions to the Federal program for which California has not yet sought authorization, EPA will continue to implement those HSWA requirements and prohibitions in California, including issuing permits, until the State is granted authorization to do so.

D. What Is the Effect of Today's Action?

A facility in California subject to RCRA must comply with the authorized State requirements in lieu of the corresponding Federal requirements in order to comply with RCRA. Additionally, such persons must comply with any applicable Federally-issued requirements, such as, for example, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized state-issued requirements. California continues to have enforcement responsibilities under its State law to pursue violations of its hazardous waste management program. EPA continues to have independent authority under RCRA Sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports,
- Enforce RCRA requirements (including State-issued statutes and regulations that are authorized by EPA and any applicable Federally-issued statutes and regulations) and suspend or revoke permits, and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action approving the subject revisions does not impose additional requirements on the regulated community because the regulations for which California is being authorized are already effective under State law and are not changed by the act of authorization.

EPA cannot delegate the Federal requirements at 40 CFR part 262, subparts E and H. Although California has adopted these requirements verbatim from the Federal regulations in Title 22 of the California Code of Regulations, Sections 66260–66262, EPA will continue to implement those requirements.

E. What Rules Are We Authorizing With Today's Action?

California initially received final authorization on July 23, 1992, effective August 1, 1992 (57 FR 32726), to implement the RCRA hazardous waste management program. This "base program authorization" authorized California's RCRA program based on California statutory and regulatory provisions in effect as of December of 1990. On January 31, 2000, California submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21.

California has applied for many of the Federal changes to the RCRA program since it was authorized for the base program. The earliest of these Federal changes goes back to 1989. However, there are several changes to the Federal program which have been made since California's base program was authorized for which California has not yet applied for authorization. The major areas of changes for which California has not yet applied for authorization are: the used oil regulations; consolidated liability requirements; military munitions; phases three and four of the land disposal restrictions; and universal waste.

Since authorization of California's base program in 1992, California has submitted numerous packages to EPA relating to its efforts to seek authorization for updates to its program based on revisions to the Federal program. EPA has published a series of

checklists to aid California and the other states in such efforts, (*see* EPA's RCRA State Authorization web page at www.epa.gov/epaoswer/hazwaste/state/index.htm). Each checklist generally reflects changes made to the Federal regulations pursuant to a particular **Federal Register** notice. California's submittals have been grouped into general categories (*e.g.*, Air Emissions Standards, Boilers and Industrial Furnaces, etc.). Each submittal may have reflected changes based on one or more **Federal Register** notices and would have thus referenced one or more corresponding checklists.

What follows is a summary, for each general category identified by California in its submittals, of the specific subjects of changes to the Federal program for that category. Although the changes to the Federal program are identified in the summary, California did not necessarily make revisions to its program as a result of each Federal revision noted. For example, certain revisions to the Federal program may have resulted in less stringent regulation than that which previously existed. Since states may maintain programs which are more stringent than the Federal program, states have the option whether or not to adopt such revisions.

1. Changes California Identified as Relating to Air Emissions Standards

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following areas: Organic air emission standards for process vents and equipment leaks; and organic air emissions standards for tanks, surface impoundments and containers.

2. Changes California Identified as Relating to the Toxicity Characteristic

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following areas: Interim status standards for down-gradient ground-water monitoring well locations; hydrocarbon recovery operations; chlorofluorocarbon refrigerants; the mining waste exclusion; the recycled coke by-product exclusion; the toxicity characteristic leaching procedure; the mixture and derived-from rules; the removal of strontium sulfide from the list of hazardous wastes; the adoption of an administrative stay for K069 listing (emission control dust/sludge from secondary lead smelting); the adoption of certain technical corrections to the 1990 toxicity characteristic rule; the listing of chlorinated toluene production waste (K149, K150, K151); the standards for treating liquids in landfills; the references which specify testing requirements and monitoring activities; the listing of hazardous constituents from the use of chlorophenolic formulations in wood surface protection; the reference relating to wood surface protection; the listing of beryllium powder (P015); and provisions to be met for excluding as a hazardous waste certain wastewaters from the production of carbamates and carbamoyl oximes (K157).

3. Changes California Identified as Relating to Corrective Action Management

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following areas: Corrective action management units and temporary units.

These changes include final authorization of California for the February 16, 1993 Corrective Action Management Unit (CAMU) rule. Since California is now authorized for the rule, the State will be eligible for interim authorization-by-rule for the proposed amendments to the CAMU rule, which also proposed the interim authorization-by-rule process (*see* August 22, 2000, 65 FR 51080, 51115). California will also be eligible for conditional authorization if that alternative is chosen by EPA in the final CAMU amendments rule.

4. Changes California Identified as Relating to Boilers and Industrial Furnaces

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following areas: Burning of hazardous waste in boilers and industrial furnaces; an administrative stay for coke ovens; the recycled coke by-products exclusion; certain coke by-products listings; guidelines for air quality modeling and screening for boilers and industrial furnaces burning hazardous waste; the adoption of an administrative stay and interim standards for Bevill residues; and certain technical amendments to record keeping instructions.

5. Changes California Identified as Relating to Wood and Sludge

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following areas: Wood preserving listings; and petroleum refinery primary and secondary oil/water/solids separation sludge listings.

We also find that California did not need to adopt a Federal administrative stay for the requirement that existing drip pads be impermeable because the stay expired on October 30, 1992.

6. Changes California Identified as Relating to Liners and Leak Detection

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: Liners and leak detection systems for hazardous waste land disposal units.

7. Changes California Identified as Relating to Recyclable Materials Used in a Manner Constituting Disposal

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: The removal of the conditional exemption for certain slag residues.

8. Changes California Identified as Relating to Recovered Oil

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: The recovered oil exclusion.

9. Changes California Identified as Relating to Delay of Closure

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: The delay of closure period for hazardous waste management facilities.

10. Changes California Identified as Relating to Public Participation

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: Expanded public participation.

11. Changes California Identified as Relating to Used Oil Filters

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: The used oil filter exclusion.

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12. Changes California Identified as Relating to Land Disposal Restrictions (LDR)

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following areas: LDR third scheduled wastes; electric arc furnace dust (K061); LDRs for newly listed wastes and hazardous debris; LDRs for ignitable and corrosive characteristic wastes whose treatment standards were vacated; case-by-case capacity variances for hazardous debris; case-by-case capacity variances for lead-bearing hazardous materials; case-by-case capacity variances for hazardous soil; and universal treatment standards and treatment standards for organic characteristic wastes and newly listed wastes.

13. Changes California Identified as Relating to Exports

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program in the following area: The identification of the U.S. EPA office to which the notification of export activities and annual export reports must be sent. California has also adopted the Federal regulations implementing a graduated system of procedural and substantive controls for hazardous wastes as they move across national borders within the Organization for Economic Cooperation and Development (OECD) for recovery. The requirements for regulating exports, Subparts E and H of 40 CFR Part 262, will be administered by the U.S. EPA instead of California because the exercise of foreign relations and international commerce powers is delegated to the Federal government under the Constitution. California has adopted these export rules into Title 22 California Code of Regulations for the convenience of the regulated community.

14. Miscellaneous Changes

We are granting California final authorization for all revisions that it has made to its program due to certain changes to the Federal program which removed certain legally obsolete rules.

EPA published a table in its notice of its tentative decision to authorize the foregoing revisions to California's hazardous waste management program, which shows the Federal and analogous State provisions involved in this decision and the relevant corresponding checklists. *See* 66 FR 33037, at pages 33039–33044 (June 20, 2001).

F. Where Are the State Rules Different From the Federal Rules?

State requirements that go beyond the scope of the Federal program are not part of the authorized program and EPA cannot enforce them. Although persons must comply with these requirements in accordance with California law, they are not RCRA requirements. EPA considers that the following State requirements, which pertain to the revisions involved in this decision, go beyond the scope of the Federal program.

The following analysis differs in some ways from the areas which California identified as being broader in scope than the Federal program in its application.

1. The definition of "remediation waste" at 22 C.C.R. Section 66260.10 is broader in scope than the Federal definition at 40 CFR 260.10 only to the extent California's definition includes hazardous substances which are neither "hazardous wastes" nor "solid wastes."

2. 22 C.C.R. Section 66264.552(e)(4)(A)(2) is broader in scope than 40 CFR 264.552(e)(4)(i)(B) only to the extent the California provision controls the escape of "hazardous substances" which are not "hazardous waste," "hazardous constituents," "leachate," "contaminated runoff" or "hazardous waste decomposition products."

3. California's program is broader in scope than the Federal program to the extent it regulates spent wood preserving solutions that have been used and are reclaimed and reused for their original intended purpose and wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood. These materials are excluded from the Federal definition of solid waste by virtue of 40 CFR 261.4(a)(9)(i) and (ii), respectively.

4. HSC Section 25144(c) is broader in scope than 40 CFR 261.4(a)(12) since the California provision exempts oil recovery process units and associated storage units from regulation, rather than exempting recovered oil from the definition of solid waste, which is what the Federal provision does. Thus, the State program is broader in scope than the Federal program to the extent California regulates recovered oil not contained in such recovery process units or associated storage units.

5. HSC Section 25143.2(c)(1) was broader in scope than was former section 40 CFR 261.6(a)(3)(vi) (renumbered as 261.6(a)(3)(v) in 1995 [60 FR 25492] [1]), which exempted from regulation petroleum coke produced from petroleum refinery hazardous waste containing oil produced by the same person who generated the waste unless the resulting coke product was characteristically hazardous. HSC Section 25143.2(c)(1), which was part of the authorized program, was not amended to conform to the changes made to 40 CFR 261.6(a)(3)(vi) in 1994. At that time, the Federal exemption was expanded to include petroleum coke produced *by the same person* who generated the petroleum hazardous waste containing oil, rather than being limited to petroleum coke produced *at the same facility* at which such wastes were generated. The State's exemption retains the "at the same facility" language and, to this extent, is broader than the Federal requirement.[2]

6. California does not have the Federal exclusion found at 40 CFR 261.4(b)(13), which excludes from the definition of hazardous waste non-terne plated used oil filters that are not mixed with hazardous wastes if those filters are gravity hot drained in accordance with specified procedures. To the extent California regulates such oil filters, its program is broader in scope than the Federal program.

7. California has not adopted the Federal exclusion found at 40 CFR 261.4(a)(10). This provision excludes from the definition of solid waste K060, K070, K087, K141, K142, K143, K145, K147, K148, and those coke by-product residues that are hazardous only because they exhibit the toxicity characteristic when, subsequent to generation, these wastes are recycled by being returned to coke ovens, to the tar recovery process as a feedstock to produce coal tar or mixed with coal tar. The Federal exclusion is conditioned on there being no land disposal of the waste from the point of generation to the point of recycling. Thus, the absence of this exemption makes the California program broader than the Federal program in this respect.

8. California has not adopted the Federal provision at 40 CFR 266.100(b)(3), which exempts from regulation the burning of wastes produced by conditionally exempt small quantity generators (*see also* 40 CFR 261.5). Thus, California's program is broader in scope than the Federal program in this respect.

9. California has not adopted the Federal provision at 40 CFR

[1] 40 CFR 261.6(a)(3)(v) was superceded by 261.4(a)(12) in 1998 (63 FR 42110).

[2] The 1998 revision to 261.4(a)(12) changed the Federal requirement again to limit the exemption to materials which are inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery. Thus the State's exemption remains narrower than the Federal exemption in this respect.

266.100(b)(4), which excludes from regulation coke ovens if the only hazardous waste burned is K087, decanter tank tar sludge from coking operations. The Federal provision was a necessary corollary to EPA's removal of the coke and coal tar exemption (formerly 40 CFR 261.6(a)(3)(vii)) due to the reclassification of coke and coal tar as products under 40 CFR 261.4(a)(10) in 1991. California had not adopted the exemption as part of the base program, nor did it adopt the 1991 exemption at 40 CFR 261.4(a)(10). Thus, the California program is broader in scope than the Federal program to the extent California regulates coke ovens that solely burn K087.

10. The California provision at 22 C.C.R. Section 66266.100(b)(3) excludes from regulation in BIFs those materials which are exempted from regulation at 22 C.C.R. Section 66261.4. This provision tracks the Federal provision at 40 CFR 266.100(b)(3), which excludes from regulation in BIFs those materials which are exempted from regulation at 40 CFR 261.4. The Federal provision at 40 CFR 261.4 includes more exemptions than the State provision at 22 C.C.R. Section 66266.4 and, therefore, California's BIF program is broader in scope than the Federal program in this respect.

11. 40 CFR 261.4(a)(11) excludes from the definition of solid waste, non-wastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units provided it is shipped in drums (if shipped) and is not land disposed before recovery. California has not adopted this exclusion and its program is thus broader in scope than the Federal program in this respect.

12. California's program is broader in scope than the Federal program with respect to the regulation of secondary materials that are recycled back into secondary production processes from which they were generated. 40 CFR 261.2(e)(1)(iii) exempts such materials, so long as the materials are managed such that there is no placement on the land. HSC 25143.2(b)(3), as restricted by HSC Sections 25143.2(e) and 25143.9, which is the State's analogue to 40 CFR 261.2(e)(1)(iii), excludes only recyclable materials that are returned to a primary process.

13. The language contained in the provisions of 22 C.C.R. Sections 66260.10, 66266.100(c) and 66266.100(f), which is discussed in the response to comments in Section B of this preamble, above, make certain units that are conditionally exempt from the Federal and State BIF regulations regulated as miscellaneous units under California regulations. To this extent, 22 C.C.R. Sections 66260.10, 66266.100(c) and 66266.100(f) are broader in scope than the Federal program and the corresponding Federal regulations at 40 CFR Sections 260.10, 266.100(d) [3] and 266.100(g).[4]

G. Who Handles Permits After This Authorization Takes Effect?

California will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA prior to California being authorized for these revisions will continue in force until the effective date of the State's issuance or denial of a State RCRA permit, or the permit otherwise expires or is revoked. California will administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until such time as California has issued a corresponding State permit. EPA will not issue any more new permits or new portions of permits for provisions for which California is authorized after the effective date of this authorization. EPA will retain responsibility to issue permits for HSWA requirements for which California is not yet authorized.

H. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in California?

California is not authorized to carry out its hazardous waste program in Indian country within the State. A map of Indian Country in California can be found on the world wide web at *www.epa.gov/region09/cross_pr/indian/maps.html*. A list of Indian Tribes in California can be found on the web at *www.doi.gov/bureau-indian-affairs;* it is complete except for two newly listed tribes, Graton and Lower Lake Rancherias. Therefore, this action has no effect on the Indian country so described, including Graton and Lower Lake Rancherias. EPA will continue to implement and administer the RCRA program in Indian country within the State.

I. What Is Codification and Is EPA Codifying California's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, subpart F for codification of California's program at a later date.

[3] Formerly, 40 CFR 266.100(c).

[4] Formerly, 40 CFR 266.100(f).

J. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. Furthermore, this rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action does not include environmental justice related issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

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Under RCRA 3006(b), EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this action in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the Executive Order. This action will not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a major rule as defined by 5 U.S.C. 804(2). This action will be effective September 26, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements.

Authority: This proposed action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 12, 2001.

Mike Schulz,

Acting Deputy Regional Administrator, Region 9.

[FR Doc. 01–24066 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 00–96; FCC 01–249]

Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of certain aspects of the *Report and Order* (FCC 00–417) previously issued in this proceeding. The *Report and Order*, a summary of which is published in the **Federal Register** at 66 FR 7410 (January 23, 2001), implemented section 338 of the Communications Act of 1934, as amended by the Satellite Home Viewer Improvement Act of 1999 ("SHVIA"). Specifically, the *Report and Order* implemented regulations regarding the carriage of local television stations in markets where satellite carriers offer local television service to their subscribers. As described, the Commission, in the *Order on Reconsideration*, denies the petitions and, on its own motion, clarifies and, where necessary, amends some of the requirements set forth in the *Report and Order* and the satellite broadcast signal carriage rule, 47 CFR 76.66.

DATES: Effective October 26, 2001.

FOR FURTHER INFORMATION CONTACT: Eloise Gore or Ben Bartolome, Cable Services Bureau, (202) 418–7200, TTY (202) 418–7172, or via Internet at *egore@fcc.gov* or *bbartolo@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Order on Reconsideration*, FCC 01–249, in CS Docket No. 00–96, adopted on September 4, 2001, and released on September 5, 2001. The full text of this *Order on Reconsideration* is available for public inspection and copying during normal business hours at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *qualexint@aol.com*. The full text may also be reviewed and downloaded from the FCC Cable Services Bureau's website at *http://www.fcc.gov/csb/*. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

Synopsis of the Order on Reconsideration

I. Introduction

1. The *Order on Reconsideration* addresses eight distinct issues raised in two petitions for reconsideration of the Commission's *Report and Order* in *Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues; Retransmission Consent Issues*, which implements section 338 of the Communications Act of 1934 (the "Act"), as amended by the Satellite Home Viewer Improvement Act of 1999 ("SHVIA"). The *Report and Order* adopted broadcast signal carriage requirements for satellite carriers in order to implement section 338 of the Act. Section 338 requires satellite carriers, by January 1, 2002, to carry upon request all local television broadcast stations' signals in local markets in which the satellite carriers carry at least one television broadcast station signal pursuant to the statutory copyright license, subject to the other carriage provisions contained in the Act. As noted in the *Report and Order*, this transition period is intended to provide the satellite industry with time to begin providing local television signals into local markets, otherwise known as "local-into-local" satellite service. The Commission's carriage rules in many respects mirror the broadcast signal carriage rules applicable to cable operators, but with key distinctions made in recognition of the statutory and practical constraints that result from differences in satellite and cable technologies.

2. DIRECTV, Inc. ("DIRECTV") and the Association of Local Television Stations, Inc. ("ALTV") separately filed petitions for reconsideration of the *Report and Order*, raising different issues. Several parties separately filed oppositions or comments in response to DIRECTV's petition: ALTV; National Association of Broadcasters ("NAB"); Network Affiliated Stations Alliance ("NASA"); Paxson Communications Corporation ("Paxson"); and a joint opposition by the Association of America's Public Television Stations, the Public Broadcasting Service, and the Corporation for Public Broadcasting (collectively "Public Television Stations"). DIRECTV, in turn, filed a reply. In response to ALTV's petition, DIRECTV filed an opposition and NAB submitted comments in support. Both ALTV and NAB filed separate replies to DIRECTV's opposition.

3. Our response to the petitions are governed by the Communications Act and our own rules. Reconsideration of a Commission decision is warranted only if the petitioner cites a material error of fact or law, or presents additional facts and circumstances which raise substantial or material questions of fact that were not considered and that otherwise warrant Commission review of its prior action. The Commission will not reconsider arguments that have already been considered. For the reasons stated herein, we affirm our decisions in the *Report and Order* and deny both DIRECTV's and ALTV's petition. We also take this opportunity to clarify and, where necessary, amend some of the requirements set forth in the *Report and Order* and the rule.

II. Order on Reconsideration

4. As explained below, after careful consideration of all the arguments and facts presented, we decline to revise the satellite broadcast signal carriage requirements adopted in the *Report and Order*, except to provide additional clarification to some of those rules. Consistent with the requirements of the SHVIA, the Commission's satellite broadcast signal carriage rules generally attempt to place satellite carriers on an equal footing with cable operators regarding the provision of local broadcast programming, in order to give consumers more competitive options in selecting a multichannel video program distributor ("MVPD"). In the legislative history to section 338, Congress made clear that "[t]he procedural provisions applicable to section 338 (concerning costs, avoidance of duplication, channel positioning, compensation for carriage, and complaints by broadcast stations) are generally parallel to those applicable to cable systems." As the legislative history of the SHVIA indicates, Congress was concerned that, "without must carry obligations, satellite carriers would simply choose to carry only certain stations which would effectively prevent many other local broadcasters from reaching potential viewers in their service areas." Our satellite carriage rules also reflect Congress's desire to provide satellite subscribers with local television service in as many markets as possible, but also take into account, to the extent possible, the inherent nature of satellite technology and constraints on the use of satellite spectrum in the delivery of must carry signals. Against this backdrop, we address the six issues raised by DIRECTV in its petition, then the two issues raised by ALTV in its petition, and, on our own motion, provide clarification and amendment to several of the rules governing procedures consistent with the legislative intent of section 338(g).

A. DIRECTV's Petition

1. Carriage of Local NCE Stations

5. The Commission denies DIRECTV's request that the Commission modify its noncommercial educational ("NCE") carriage rule by limiting a satellite carrier's carriage obligation to only one qualified NCE station per designated market area ("DMA"), with additional NCE stations carried on a voluntary basis. We affirm the current rule requiring satellite carriers to carry all non-duplicative NCE stations in markets where they provide local-into-local service. Contrary to DIRECTV's contention, the Commission's rule is consistent with the plain language of section 338(c)(2) as it requires, "[t]o the extent possible, * * * the same degree of carriage by satellite carriers * * * as is provided by cable systems." It also promotes parity between DBS and cable by assuring that consumers receive via satellite essentially the same local channels they would receive if they subscribed to cable.

6. Contrary to DIRECTV's assertion, the standard we developed for the NCE carriage obligation also took into consideration the technical limitations, as well as the national character, of satellite systems, in addition to other factors that differentiate the satellite industry from the cable industry. Under our rules, a cable system with more than 36 channels must carry all of the first three local NCEs in its market, even when the stations transmit substantially the same programming at the same time. The limitation on mandatory carriage of NCEs that duplicate only applies to additional NCEs when there are more than three local NCEs in the cable system's market. Satellite carriers, on the other hand, need not carry any simultaneously duplicative signals. Satellite carriers are required to carry up to three local NCEs that do not duplicate programming—with duplication defined as more than 50 percent of prime time programming and more than 50 percent of programming outside of prime time broadcast on a simultaneous basis. Once the carrier provides three local noncommercial stations, the duplication test becomes the same as for cable—whether more than 50 percent of prime time programming and more than 50 percent of programming outside of prime time is duplicative on a simultaneous or non-simultaneous basis. Given this standard, our rule does address the capacity concerns that DIRECTV raises because the foregoing standard prevents satellite capacity from being wasted on repetitive programming while ensuring carriage of nonduplicating, diverse public stations that respond to the different audiences and distinct needs of each community. In this regard, we agree with Public Television Stations and Paxson that the NCE carriage formulation proposed by DIRECTV (*i.e.*, that we require satellite carriers to carry only one qualified NCE station per DMA, with additional NCE stations carried on a voluntary basis) would deprive satellite subscribers of access to local noncommercial television stations in those markets where local-into-local is offered.

2. Public Interest Set-Aside

7. In 1998, the Commission, in *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, Direct Broadcast Satellite Public Interest Obligations* ("*DBS Public Interest Report and Order*"), adopted rules implementing section 335 of the Act, as amended by the Cable Television Consumer Protection Act of 1992 ("1992 Cable Act"). The rules require DBS providers to reserve four percent (4%) of their channel capacity exclusively for use by qualified programmers for noncommercial programming of an educational or informational nature. DIRECTV, in its petition, asks the Commission to permit satellite carriers to include NCE stations in the calculation of public interest programming required to be set aside by satellite carriers under section 335 of the Act. DIRECTV argues that Congress knew of the existence of section 335 in crafting the satellite must carry regime of section 338, and that "nothing in the text of this latter provision suggests that NCE stations should not be counted towards the 4% set-aside."

8. The Commission denies DIRECTV's request for reconsideration of this issue. We find that DIRECTV's request that we permit satellite carriers to include local NCE stations, carried pursuant to section 338, in the calculation of public interest programming required to be set aside under section 335 would not result in compliance with section 335 because carriage of certain stations in a

limited number of markets does not provide the national scope intended by section 335. Section 338 is not a national but rather a market-by-market requirement. Significantly, the public interest set-aside requirement under the 1992 Cable Act focuses on educational or informational public interest programming available to all subscribers nationally. SHVIA, in contrast, is intended to provide satellite subscribers with their local noncommercial educational stations. Allowing satellite carriers to count towards the national set aside individual local NCE stations provided only in their respective local markets would violate section 335's requirement that a direct broadcast satellite service meet the set aside requirement "by making channel capacity available to *national* educational programming suppliers." (emphasis added). In applying this requirement, we have made it clear that eligible public interest programming must therefore be available to all subscribers. We also note that DIRECTV is seeking reconsideration of an issue that has already been addressed in the *Report and Order*, and that DIRECTV has not presented any new arguments that would warrant reconsideration of this issue.

9. Alternatively, DIRECTV, in its petition, states that, "[a]t a minimum, the Commission should clarify that NCE stations that are distributed on a national basis should be included in the 4% DBS public interest set-aside calculation." We note that the Commission has generally addressed DIRECTV's alternative request for clarification (on the issue of whether, in the abstract, a local NCE station can be counted as a programmer for section 335 purposes) in the *DBS Public Interest Report and Order* (concluding "that we should interpret the term 'national' broadly so as to include local, regional, or national domestic nonprofit entities that qualify under the definitions listed above and produce noncommercial programming designed for a national audience")), but we decline at this point to go beyond what we said in the *DBS Public Interest Report and Order* about this matter without having a concrete set of facts before us.

3. Programming in the Vertical Blanking Interval

10. In its petition, DIRECTV contends that carriage of "additional" VBI material is not "technically feasible" for existing, deployed satellite systems. It states that, "[a]part from primary video and audio signals and Line 21 closed caption transmissions, it is not technically feasible for DIRECTV's DBS system to reliably pass through additional material in a usable form from other portions of the VBI." It asserts that the Commission's requirement on this issue "could require the replacement of DIRECTV equipment for as many as ten million households, resulting in a cost of more than 2.8 billion dollars." DIRECTV asks the Commission to reconsider its findings with respect to the ability of existing satellite carriers to carry additional VBI material, "at least insofar as it applies to satellite systems that are already in operation." The broadcast interests generally agree that DIRECTV should not have to replace all the set-top boxes currently being used by subscribers if it is technically infeasible or prohibitively expensive for DIRECTV to do so, but they maintain that DIRECTV should be required to comply with the VBI carriage requirement on a going-forward basis.

11. Section 338(g) of the Act states that, "[t]he regulations prescribed [under section 338] shall include requirements on satellite carriers that are comparable to the requirements on cable operators under [s]ections 614(b)(3) * * * and 615(g)(1)." Section 614(b)(3) states that, "[a] cable operator shall carry in its entirety * * * the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers." Section 615(g)(1) applies a similar requirement to the contents of noncommercial educational stations. In the cable context, with regard to the "technical feasibility" of the carriage of program-related material in the VBI or on subcarriers, the Commission stated in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Broadcast Signal Carriage Issues* ("*Cable Must Carry Report and Order*") that such carriage should be considered "technically feasible" if only nominal costs, additions or changes of equipment are necessary in order to carry such material. In the *Report and Order* the Commission expressed its view that, based on the record presented, it was technically feasible for satellite carriers to carry the program-related material currently carried in a television station's VBI. The *Report and Order* declined to rule on new kinds of program-related data in the VBI or on subcarriers indicating that these issues would be addressed in the future on a case-by-case basis. DIRECTV's petition addresses the carriage of such additional VBI material and does not dispute the feasibility of carrying the data in line 21. We conclude, for the reasons set forth, that it is unnecessary to revise the rule requiring satellite carriers to carry in its entirety the primary video, accompanying audio, and closed-caption data contained in line 21 of the VBI and, to the extent technically feasible, program-related material carried in the VBI or on subcarriers.

12. We find no reason to reconsider these decisions since it was not the Commission's intention to require satellite carriers to carry program-related material in the VBI if it is not "technically feasible" for satellite carriers to do so. DIRECTV indicates that its system is able to carry line 21 closed captioning, closed text, XDS, V-chip information, "TSID" data and extended service packets on line 21. Neither DIRECTV nor the broadcast parties commenting on this issue have been specific as to what additional information that, if made the subject of a carriage request, would be jeopardized by the current system limitations described by DIRECTV. In these circumstances, we believe it is generally appropriate to apply the "technically feasible" standard as previously articulated in the cable context, but that it is not appropriate to attempt to rule on any additional or future VBI service without more specific information. We note, however, that most of the costs that DIRECTV claims it would have to bear as the consequence of any additional carriage obligation, totaling some $2.8 billion, relate to replacing the integrated receiver/decoders that are currently used to receive DIRECTV service. In the future, any claim of technical infeasibility should address separately the technical issues involved with the transmission of the material in question as opposed to its reception and management in the receiver/decoder and the extent to which each set of issues is under the control of the satellite provider.

13. On a different, but related point, DIRECTV argues that satellite carriers should not be required to carry programming material of a "must carry" station if inclusion of such type of material is not covered by the retransmission consent agreements reached by that carrier with other stations in the local market in question. We find no authority in section 338, and DIRECTV has not presented any, to support DIRECTV's request. The terms negotiated by retransmission consent stations for the carriage of program-related material cannot be used to undermine Congress's directive that the Commission adopt satellite carriage requirements that are comparable to the cable carriage requirements, which explicitly mandate the carriage of program-related material. We therefore reject DIRECTV's request that we establish separate VBI requirements for must carry and retransmission consent stations.

4. Good Quality Signal Standard

14. Section 338(b)(1) of the Act requires a television broadcast station asserting its right to carriage to bear the costs associated with delivering a "good quality signal" to the satellite carrier's receive facility. In the cable context, Congress defined a signal strength standard that would equate to a good quality signal. In the satellite context, however, Congress did not define specific signal levels that local stations must deliver to satellite carriers, and apparently left that determination to the Commission. In determining what constitutes a "good quality signal," as that term is used in section 338, the Commission, in the *Report and Order*, found that the signal quality parameters under section 614 of the Act and section 76.55 of the Commission's cable regulations were appropriate in the satellite carriage context. The Commission noted that, under the current cable carriage regime, television broadcast stations must deliver either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, to be considered eligible for carriage. The Commission determined that application of the same standard to the satellite carriage context was appropriate, given that the standards that have been applied to cable operators "have functioned well since the inception of the statutory carriage requirements seven years ago." Additionally, the Commission did not find evidence in the record to suggest that the cable signal quality standard will not prove equally satisfactory in the satellite context. In providing a good quality signal, the Commission concluded that television stations may use any delivery method (*e.g.*, microwave transmission, fiber optic cable, or telephone lines) to improve the quality of their signals to the satellite carrier as long as they pay for the costs of such delivery mechanisms.

15. In its petition for reconsideration, DIRECTV asks the Commission to change its signal quality standard and "compel any station seeking carriage to provide a signal that meets the requirements of GR–388 CORE, TV1 for <20 route miles." DIRECTV asserts that the cable standard the Commission adopted will not allow satellite carriers to make efficient use of their allocated bandwidth and that it will increase the likelihood of signal degradation. It argues that the adoption of the cable signal quality standard in the satellite context is based on "unsupported speculation that a higher standard may prove "prohibitively expensive" for small television stations to meet." DIRECTV also argues that there are no statutory limits on broadcasters' costs for providing a good quality signal. Furthermore, DIRECTV insists that the record contained "ample evidence" that satellite carriers must receive a TV–1 quality signal. According to DIRECTV, requiring a TV–1 quality signal is "critical" to differentiating DBS from cable television. DIRECTV maintains that it markets its services on the basis of providing a higher quality signal than cable, and that, without having a higher standard for what constitutes a good quality signal in the satellite context, its marketing advantage will be severely undercut. DIRECTV asserts that the use of compression systems based on the Moving Pictures Experts Group ("MPEG–2") standard requires signals that meet the requirements of GR–338 CORE, TV1 for <20 route miles. It further asserts that all of the local stations that are currently carried by DIRECTV meet the TV–1 quality standard and are delivered to DIRECTV's local receive facilities using a dedicated fiber circuit. DIRECTV insists that any station seeking carriage should be required to meet the same standard, thus ensuring a "good quality" satellite signal.

16. The Commission declines to revise the "good quality signal" standard adopted in the *Report in the Order*, as urged by DIRECTV. As noted by ALTV and Paxson, DIRECTV made the same request in its initial comments in the proceeding which the Commission reviewed and rejected. As reflected in the *Report and Order*, the Commission has already considered DIRECTV's request that the Commission define "good quality signal" as one that will facilitate efficient MPEG compression of all channels, and that the signal must meet the requirements of GR–388 CORE, TV1 for <20 route miles. The Commission, however, declined to adopt DIRECTV's good quality signal proposals for the following reasons:

> First, we believe that the TV1 standard is too rigid a construct. Specifically, a signal-to-noise ratio of +67 dB cannot be easily implemented by most television broadcast stations. Broadcasters do not have to meet such exacting ratios and levels when delivering signals to a cable operator's headend to qualify for carriage. Moreover, as NAB points out, satellite carriers, such as EchoStar, have been retransmitting local television signals that they have received over-the-air * * *. We also note that it would be prohibitively expensive for a small television station to lease a dedicated TV1 circuit from a telecommunications carrier. It is not our intention to impose inordinate costs on small television stations that would prevent them from being carried by a satellite carrier.

17. In reviewing DIRECTV's petition, we find that DIRECTV has not presented new evidence that warrants changing the good quality signal standard already adopted to a TV–1 quality signal, which NAB and ALTV refer to as an "essentially perfect signal." DIRECTV, in an ex parte letter, suggests that "a number of" TV stations "can come close" to achieving a 67 dB S/N ratio. By "coming close," DIRECTV means a S/N ratio of "approximately 66 dB," and says that even achieving that S/N ratio with an over-the-air signal will, in many cases, require the purchase of additional noise reduction equipment. While lower than the 67 dB S/N ratio that DIRECTV initially requested, we agree with NAB and ALTV that "a 60 dB signal-to-noise [ratio] would still force stations to deliver to DBS firms a virtually perfect signal, rather than the good quality signal that the SHVIA requires stations to provide to satellite carriers and that the Cable Act requires stations to provide to cable systems (including cable systems that provide digital service)." Moreover, we note that DIRECTV proposes requiring a S/N ratio of 60 dB but does not clarify what signal strength level would satisfy the "strong, high quality broadcast signal" or whether the intention is to combine the −49dBm for VHF signals and −45dBm for UHF signals with a 60 dB S/N ratio. Additionally, DIRECTV does not define the "as-received" S/N ratio that a broadcast station must deliver, but rather proposes that stations must achieve the desired 60 dB S/N through use of noise reduction equipment. Furthermore, DIRECTV acknowledges that stations with "weaker off-air signals at the local receive facility may not be able to meet the TV–1 (or 60 dB) standard via off-air transmission" and recommends that broadcasters can pay $14,000 per year to lease a TV–1 line to accommodate the standard proposed. As the Commission previously stated, however, "[i]t is not our intention to impose inordinate costs on small television stations that would prevent them from being carried by a satellite carrier."

18. With respect to DIRECTV's claims about the potential for diminished

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capacity under the current good quality signal standard, we are unable to make a meaningful evaluation of this claim based on the record. DIRECTV, in its June 25, 2001 Ex Parte Letter, explains that if each video frame is similar to the next, then only "a small amount of "difference" information is required for the second frame" and states that "noise is the enemy of compression." DIRECTV further explains that, in a compression system, it is difficult to differentiate between intended activity and undesirable background noise. It states that such excessive background noise will "consume valuable transmission capacity thus causing the desired picture to be degraded." On this point, we note that DIRECTV, however, did not establish the amount of picture degradation that could result. DIRECTV asserts that tests conducted in its lab "show that one channel with a 50 dB weighted signal-to-noise ratio will consume 25% more bandwidth than the same program with a 67 dB signal-to-noise ratio." DIRECTV, however, did not submit information as to how these tests were conducted and how capacity would be affected if we retain the signal strength standard established in the *Report and Order* versus adopting its proposed 60 dB S/N standard. Further, we see merit in NAB's and ALTV's response on this issue that a "DBS firm can set a cap on the number of bits that will be allocated to any one channel, thus ensuring that there will be no effect on any other channel through the statistical multiplexing process."

19. Although DIRECTV clarifies, in its reply, that microwave transmissions may be used in lieu of fiber optic cable to achieve a TV–1 quality signal, it appears to expect that microwave spectrum is available everywhere. Moreover, DIRECTV provided no standard or cost analysis for such an alternative.

20. DIRECTV has not provided sufficient evidence to demonstrate that the good quality signal standard used in the cable context is inadequate or inappropriate in the satellite context. As NAB and ALTV point out, "many cable systems (like DBS firms) now provide digital service, but that has *not* resulted in any change in the quality of the signal that stations are required to provide to cable headends. As before, stations are still required to provide cable systems with a "good quality," but not a flawless, signal to cable systems." The good quality signal standard—in either the cable or satellite context—ensures that a signal available to over-the-air viewers will receive carriage. We continue to believe that the standard used for cable is appropriate in the satellite context as well. The signal standard must be one that can be measured and can be satisfied by over-the-air delivery. We believe that the goal of preserving over-the-air local television, which underlies the carriage requirements in the Communications Act, would be disserved by a signal quality standard that cannot be satisfied by over-the-air delivery. Furthermore, as indicated in the *Report and Order*, the Commission was compelled to reject the TV–1 standard because, among other reasons, many television broadcast stations would have difficulty implementing the standard. We believe that imposing an exacting standard that exceeds the level necessary would inhibit many local stations' ability to qualify for carriage with a satellite carrier, when the same stations can qualify for carriage with a cable operator. If we adopted DIRECTV's proposal to require broadcasters to meet a 60 dB signal-to-noise ratio, we would be creating disparate schemes for satellite and cable. Moreover, to the extent that cable operators have upgraded their systems and equipment since the 1992 Cable Act, they have been bearing the costs of improving some broadcasters' signal quality to meet the cable system's higher standards and subscribers' higher expectations. Because the good quality signal standard is statutory for cable systems, we cannot revise it. Creating such a disparity for cable versus satellite subscribers, as well as for broadcast stations, is not what Congress contemplated in section 338.

5. Relocation of Local Receive Facilities Mid-Cycle

21. In the *Report and Order*, the Commission concluded that, as a general matter, a satellite carrier may relocate the designated local receive facility at the beginning of an election cycle (*i.e.*, at the time broadcast stations must elect either must carry or retransmission consent). The Commission stated that satellite carriers should have the flexibility to change their designated local receive facility or alternative facility, and required satellite carriers to provide 60 days advance notice to all local stations of such a change. In affording satellite carriers this flexibility, however, the Commission was concerned that the relocation of a local receive facility, if done mid-cycle, may make it more difficult for some television stations to pay the unanticipated costs of delivering a good quality signal. Accordingly, the Commission determined that if a satellite carrier decides to relocate its local receive facility in the middle of an election cycle (*i.e.*, after the time for electing must carry or retransmission consent during an election cycle has expired), it should pay the television stations' costs to deliver a good quality signal to the new location. In its petition, DIRECTV seeks reconsideration of this issue, contending that the costs of delivering a good quality signal in the context of the relocation of local receive facilities mid-cycle by satellite carriers should be borne by broadcasters, not satellite carriers.

22. The Commission denies DIRECTV's request for reconsideration of this issue. The Commission's prior interpretation of the statute is reasonable and consistent with the purpose of the SHVIA. It is within the Commission's discretion to interpret "designated" facility, as that term appears in section 338(b), as the facility for which the carrier gives a station notice before the station makes its carriage election. The carrier thus cannot change the "designated" facility to which the broadcaster can be held responsible for delivering its good quality signal until it comes time to make a carriage election for the next election cycle. If the satellite carrier, however, does make such a change mid-cycle, even as a result of unforeseen events, it is only reasonable to require it to bear any new capital costs and incremental ongoing expenses required for the delivery of a good quality broadcast signal, because the new receive facility was not the one initially "designated" and anticipated by local stations. We agree with Public Television Stations that this limited burden on carriers protects a broadcast station's reasonable expectations of the signal delivery costs it will incur if it elects satellite carriage.

6. Extra Equipment for Some Local Signals

23. In the *Report and Order*, the Commission interpreted the nondiscrimination provision of section 338(d) of the Act to prohibit satellite carriers from requiring subscribers to purchase additional equipment (*e.g.*, a satellite dish) to gain access only to some, but not all of the local signals in a market. This determination was made in response to concerns over the possible discriminatory treatment that television stations electing mandatory carriage might receive; that is, a concern that a satellite carrier may place mandatory carriage stations on a satellite that would require a subscriber to purchase another dish and/or other equipment to receive such signals, which would effectively inhibit the ability of local stations to reach potential viewers. In addressing this issue, the Commission found that "the language of [s]ection 338(d) covers the additional equipment concerns raised by the parties and bars satellite carriers from requiring subscribers to purchase additional equipment when television stations from one market are segregated and carried on separate satellites." As the Commission explained, this interpretation does not prohibit a satellite carrier from requiring a subscriber to pay for additional equipment in order to receive all television stations from a single market. To illustrate the application of the rule, the Commission noted: "For example, DIRECTV may require an additional dish to receive all television stations from the Baltimore market, but it may not require subscribers to purchase the same to receive some Baltimore stations where the others are available using existing equipment."

24. In its petition, DIRECTV asks the Commission to reconsider its interpretation of the nondiscrimination provision of section 338(d) of the Act, contending that section 338(d) does not unduly restrict satellite carriers from offering local-into-local service through the use of different orbital positions, with multiple dishes if necessary. DIRECTV further asserts that Congress considered this precise question and decided to delete draft statutory language that would have imposed the very restriction that the Commission found in the statute.

25. The Commission declines to reconsider this issue. DIRECTV's arguments were squarely before us when we made our determination that section 338(d)'s nondiscrimination provision bars satellite carriers from discriminating against some broadcast stations by requiring subscribers to purchase additional receiving equipment in order to access some, but not all, local signals. DIRECTV has not presented any new facts or arguments to convince us to change our interpretation of section 338(d) as it concerns this issue. Indeed, as reflected in the *Report and Order*, the Commission considered the very same line of legislative argument that DIRECTV now makes, which EchoStar previously made:

> EchoStar comments that one of the obligations advocated by the NAB—that local stations be available from the same orbital location—is tantamount to a provision that had been included in draft legislation prior to the passage of SHVIA. EchoStar states that such provision, which was dropped from the final version of [s]ection 338, would have barred satellite carriers from transmitting local stations in a manner that would require additional reception equipment. EchoStar argues that the Commission cannot implement a rule similar to this provision when Congress decided not to include such a requirement in the SHVIA.

In response, the Commission held "that the language of [s]ection 338(d) covers the additional equipment concerns raised by the parties and bars satellite carriers from requiring subscribers to purchase additional equipment when television stations from one market are segregated and carried on separate satellites." The Commission's rule on this issue is intended to prohibit satellite carriers from placing mandatory carriage television stations on a satellite if that would require a subscriber to purchase equipment additional to what is needed to receive other local stations in the same market, and, at the same time, placing retransmission consent stations on another satellite that does not require subscribers to purchase any additional equipment.

26. We agree with Public Television Stations that DIRECTV, in any event, misinterprets the legislative history of SHVIA in arguing that it should be permitted to require subscribers to use two separate dishes to receive the full package of local channels. When Congress adopted the SHVIA, it rejected language that said subscribers could not be required to install an additional dish to receive any local signals. The legislative drafting change cited by DIRECTV involved a deletion of a much broader limitation on satellite carriers than what the Commission adopted under the general anti-discrimination language that survived. The legislative drafting change, at most, indicated that Congress did not want to prohibit satellite carriers from requiring additional dishes generally, but the change does not imply that Congress wanted to allow satellite carriers to require additional dishes if such a requirement created discriminatory effects. We believe that a limited prohibition on requiring subscribers to obtain a separate dish to receive some local signals when other local signals are available without the separate dish is necessary to give full effect to local station carriage requirements. Otherwise, as Public Television Stations argue, satellite carriers could structure local station packages and separate dish requirements to discourage consumers from subscribing to certain local stations, including local noncommercial stations. For the foregoing reasons, we affirm our rule prohibiting satellite carriers from requiring subscribers to purchase additional equipment to gain access only to some, but not all of the local signals in a market.

B. ALTV's Petition

1. A La Carte Sales of Local Signals

27. In the *Report and Order*, the Commission held that section 338 does not require satellite carriers to sell all local television stations as one package to subscribers, as broadcast interests had urged in their comments. The Commission found that Congress did not intend to establish a basic service tier-type requirement for satellite carriers when it implemented section 338, and that Congress did not explicitly prohibit the sale of local television station signals on an a la carte basis. The Commission determined that, instead, section 338's anti-discrimination language prohibits satellite carriers from implementing pricing schemes that effectively deter subscribers from purchasing some, but not all, local television station signals. Thus, the Commission stated, "a satellite carrier must offer local television signals, as a package or a la carte, at comparable rates."

28. ALTV seeks reconsideration of this issue. NAB, NASA, Paxson, and Public Television Stations submitted arguments, similar to those that ALTV makes, in support of reconsideration. ALTV and other parties contend that the Commission's decision to allow a la carte pricing of local stations could result in discrimination against local stations and run counter to the SHVIA's anti-discrimination requirements. They ask the Commission to require all local signals to be included in a single package in order to ensure that consumers have access to all local stations. ALTV insists that this change to the Commission's rule is needed because of its concern that a satellite carrier, through its packaging and pricing decision, could influence the availability of, and access to, local channels. NAB states that "allowing satellite carriers to adopt differential pricing policies for 'favored' and 'disfavored' local channels directly contravenes the statutory prohibition on discriminatory pricing." Further, NAB asserts that authorizing a la carte pricing for local stations "would allow satellite carriers to demote some local stations to second-class status in a manner that cable systems could never dream of—namely, selling a handful of stations in a market as a package, while offering the smaller stations in the market only on an a la carte basis, which predictably will be purchased by far fewer subscribers."

29. The Commission denies ALTV's request for reconsideration of this issue. As reflected in the *Report and Order*, the Commission considered and rejected

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the precise argument that ALTV is asking us to reconsider. Neither ALTV nor the parties that support ALTV on this issue has submitted new arguments or facts to warrant reconsideration of our decision that satellite carriers should not be required to offer local stations only as a single package. We find nothing in the statute that prohibits satellite carriers from offering local stations on an individual a la carte basis to the extent the carrier is not using this method of packaging to discriminate against local stations. As DIRECTV points out, and we agree, Congress could have created a requirement that satellite carriers must sell local stations to its subscribers as a single package, but it did not do so. The relevant part of section 338 requires only that a satellite carrier provide access to a local television station's signal "at a nondiscriminatory price" and access "in a nondiscriminatory manner on any navigational device, on-screen program guide, or menu." Neither of these requirements prohibits satellite carriers from offering local television signals to consumers on an a la carte basis, and we believe that allowing a satellite carrier the flexibility to offer local television station signals to its subscribers on an a la carte basis promotes consumer choice.

30. ALTV faults our decision to implement the statutory prohibition on discriminatory pricing by requiring that satellite carriers offer broadcast stations at "comparable rates." ALTV argues that the discriminatory pricing prohibition must translate to a prohibition of a la carte offerings and a requirement for a single package of local signals. We used the term "comparable" in the *Report and Order* to explain that "non-discriminatory" need not mean identical. That is, although the charges need not be the same, they should be within a nondiscriminatory range. The pricing should be based on relevant economic factors applied in a nondiscriminatory fashion that does not result in discriminatory treatment of any station or stations, such as pricing so as to effectively deter subscribers from purchasing some, but not all, local television station signals. We recognize that comparable pricing may require further clarification on a case-by-case basis, and that in most cases local stations should be offered to subscribers at the same or nearly identical prices. We are, however, unwilling at this time to require identical pricing for each local station carried and will evaluate on a case-by-case basis any complaints alleging discrimination prohibited by section 338.

31. We clarify here that although the statute does not prohibit satellite carriers from offering stations on an a la carte basis at comparable rates, we believe that a prohibited discriminatory effect would result if carriers created a mix of one or more packages for some stations while offering other stations only individually (*e.g.*, creating a package of six local stations and offering other local stations only on an individual a la carte basis, or creating two separate packages of different local stations). Allowing satellite carriers to offer some stations as a package and others on an a la carte basis could operate as a deterrent to the purchase of certain local stations without furthering consumer choice. We believe that this is one of the very discriminatory results that section 338 sought to prohibit. In contrast, we do not believe it would be discriminatory for a satellite carrier to offer either each local station individually or a package containing all local stations for a price less than or equal to the sum of subscribing to each station individually (*e.g.*, each of twelve local stations for $1 or all twelve stations for $10). Thus, if subscribers choose to forego a package of local stations that a satellite carrier is offering and instead subscribe, for example, to only three of the twelve stations that may be offered on an a la carte basis, that is an exercise of consumer choice. At the same time, other subscribers may choose to select a package that may be cheaper than the sum of individual stations.

2. Station Eligibility To Vote on Alternative Receive Facility

32. Section 338(b)(1) of the Act requires a television station asserting its "right to carriage" under section 338(a) to bear the costs associated with the delivery of a good quality signal to the satellite carrier's designated local receive facility or to "another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market." In the *Report and Order*, the Commission interpreted the phrase "that is acceptable to at least one-half the stations asserting the right to carriage in the local market" to mean that a satellite carrier may establish an alternative receive facility if "50% or more" of those stations in a particular market consent to such a site. The Commission determined that calculation of the "50% or more" stations should be based on the majority of stations entitled to carriage in each affected market. The Commission reasoned: "Since the 'right to carriage' under [s]ection 338 extends, at least initially, to all local television broadcasters, the calculation includes *all stations*, whether they elect mandatory carriage or retransmission consent."

33. ALTV asks the Commission to revise its rule concerning this issue. ALTV contends that the calculation of the 50% threshold should be based on the number of local stations actually electing mandatory carriage, and that it should not include those stations that elect to proceed via retransmission consent. ALTV asserts that, if stations that elect retransmission consent are allowed to approve an alternative receive facility, "stations 'asserting their right' to be carried under the signal carriage rules will be harmed," because of the costs associated with having to transport their signals to a distant location.

34. We decline to revise our rule on this issue. As an initial observation, we note that the Commission already has considered and rejected similar arguments voiced in the initial rulemaking. In the *Report and Order*, the Commission stated:

> We disagree * * * with ALTV, which asserts that a non-local receive facility may be established if half the local stations electing mandatory carriage, rather than retransmission consent, agree to the alternate site. Just as we decide that a satellite carrier should include both retransmission consent and mandatory carriage local stations on the same designated local receive facility, we do not distinguish between retransmission consent and mandatory carriage in the determination of an acceptable alternative receive facility * * *. All stations "asserting a right to carriage," either through retransmission consent or mandatory carriage, may participate in the consideration of whether an alternative receive facility is acceptable.

35. We recognize that ALTV wishes to ensure that stations electing retransmission consent are not permitted to vote in an election process that ALTV views as a protection only for must carry stations. We disagree, however, that this is the only or the best reading of the statute. The relevant language in section 338(b)(1) ("asserting the right to carriage") is not the same as the language in section 338(a)(1), which requires carriage of those local stations that "request" carriage. Nothing in this language suggests that a station seeking to participate in the selection of an alternative reception site in order to determine its rights under the law could not assert that it has a right to carriage in a market but thereafter opt to be carried pursuant to retransmission consent. In this, as in many other areas, asserting the existence of a right need not be the same as proceeding to exercise that right. As the process

contemplated by the statue commences (and as it plays out in subsequent years) there is a set of stations that can assert a right to carriage consisting basically of all stations in the market. As the process proceeds, this group of stations is divided through the carriage election process into stations that request carriage and those that proceed under the retransmission consent provisions of the law. The assertion of the right and the request for carriage pursuant to that right are separate acts. Moreover, since the location of the receive facility may inform the station's decision to elect must carry or retransmission consent (*e.g.*, if the receive site is in a location to which the station is confident of delivering a good quality signal, it may encourage a mandatory carriage election), a logical reading of the phrase in section 338(b)(1) of "asserting the right to carriage" would permit a vote by all must carry eligibles (including those ultimately choosing retransmission consent at the election for the upcoming cycle) prior to the election. In addition, since a station's status as a "must carry" or "retransmission consent" station may change from election cycle to election cycle, and since there may be only one opportunity to vote on the alternative receive facility, the best reading of the phrase "asserting the right to carriage" would cover those stations asserting that they have such a right at the vote, which they may then exercise at the upcoming election cycle, or in future election cycles.

36. We note also that there are practical problems associated with the ALTV suggested rule. It is not known at the inception of the satellite broadcast carriage requirements, when or even if satellite carriers will attempt to use alternative receive facilities. If a satellite carrier proposes an alternative receive facility after the local stations in the affected market have submitted their carriage elections but before the carriage cycle commences (*e.g.*, between July 1 and December 31, 2001), it could be possible to identify stations that have elected mandatory carriage and that satellite carriers have agreed to carry. However, if the alternative receive facility is proposed at any other time, it is not possible to identify which stations have requested mandatory carriage for the relevant cycle. We believe the statute neither contemplates nor dictates station eligibility requirements that vary according to the timing of the satellite carrier's proposal of an alternative receive facility. We believe the statute provides us with the flexibility to adopt rules that will best address the factual circumstances we anticipate and, if warranted, to amend these rules if actions and events in practice prove otherwise.

C. Issues for Clarification

37. Below, we clarify and modify several requirements adopted in the *Report and Order*. We take these actions partly *sua sponte* and partly in response to informal telephonic requests for clarification of our rules from the public.

1. Refusals To Carry

38. The *Report and Order* implemented the terms of section 338 with respect to bases for refusing a local broadcast station's request for mandatory carriage. To the extent the statutory language in section 338 is similar to the language of section 614, we patterned the rules for satellite carriers on the cable must carry rules. Where possible, we endeavored to leave the details of compliance to the affected parties and the marketplace. We expected that the parties would act reasonably and not refuse carriage without a good-faith basis for doing so. As the parties have commenced acting on the carriage procedures set forth in the rules, however, we have seen indications that more specific instruction and parameters may be necessary. We take the opportunity afforded by this *Order on Reconsideration* to clarify our intent and expectations more fully. We continue to hope that specific rule amendments will not be necessary.

39. The rules we adopted to implement section 338 govern carriage elections and describe the information a station must include in its carriage request "to ensure that a satellite carrier has the base information it needs to commence the carriage of local television stations." The rules also require satellite carriers to respond to must carry elections by accepting or denying carriage and providing reasons for denial. We noted, by way of example, that a valid reason for not commencing carriage is "poor quality television signal." In addition, with respect to substantial duplication, we noted that a satellite carrier is not required to carry stations that broadcast programming that duplicates another station carried in the market. However, a broadcast station requesting mandatory carriage is not required to provide evidence with its request to prove that it does not duplicate. Indeed, it would be difficult or impossible for a station to do so because it does not know which other stations in the market have requested carriage. Rather, if the satellite carrier has a reasonable basis for asserting that the station substantially duplicates another station carried in the market, the carrier should describe its basis in sufficient detail to afford the station an opportunity to respond.

40. In the context of carriage elections, we did not require broadcast stations to provide information about signal quality nor did we require each station electing must carry to first prove to the satellite carrier that its signal is of good quality. Rather, we left it to the satellite carrier, in its response to a request for mandatory carriage, to notify the station if the request is rejected and the reason for refusal is a poor quality signal. If a satellite carrier has a reasonable, good-faith basis for believing that a station is not delivering a good quality signal to the designated receive facility, then it may describe its basis for this belief in its response to the station's request for mandatory carriage. We do not require in the satellite context, as we did in the cable context, that satellite carriers must conduct tests or present specific measurements to broadcasters in response to requests for mandatory carriage. However, the absence of this express requirement should not be taken to imply that the satellite carrier is not required to have a reasonable basis for a denial of carriage and to convey that information to the broadcast station affected. With respect to the issue of signal quality, a station should not be rejected for carriage unless, based on a knowledge of the facts and circumstances involved, there are engineering reasons for doubting that a good quality signal is likely to be available. Our expectation was that carriers would generally be able to readily determine whether the signal of a station requesting carriage is being received by the facility's reception equipment. It is implicit in the notification requirement, and indeed it is explicit in the statute itself, that stations are entitled to carriage if they qualify based on the applicable statutory and regulatory provisions. Carriage is not to be avoided by denials where there is no legitimate controversy as to the station's qualifications.

41. In discussing "disputed" signal quality, the *Report and Order* concluded that a satellite carrier is not required to carry a station "until" the station provides or pays the costs for a good quality signal. We required that "the signal testing practices in the cable carriage context should be generally applied in the satellite carriage context." In the event of a dispute over signal quality, we advised parties to look to cable precedent for guidance,

and we concluded that the broadcast station should pay the cost of signal tests if necessary to prove that the signal is of good quality. If, however, the satellite carrier has no reasonable basis for contending that the broadcast station does not provide a good quality signal, then no test is required. When a carrier has a reasonable basis for asserting that the station is not providing a good quality signal, the station has the opportunity to improve its over-the-air signal or arrange alternative means of delivery. In that case, or if the station responds with a promise to provide or pay to provide a good quality signal in the future, we encourage the parties to arrange a reasonable time frame within which the good quality signal will be provided to avoid long-term uncertainty that ties up the carrier's capacity.

42. We further clarify that rejection of a request for carriage based on a broadcast station's "failure" to prove in its initial request for carriage that it delivers a good quality signal to the receive facility is not a valid ground for refusing carriage. Specifically, it has been reported to us that at least one satellite carrier has utilized a form letter that rejected carriage requests solely on the basis of "failure to prove signal meets legal standard of quality necessary for mandatory carriage." This is not a valid reason for rejecting a request for mandatory carriage. Additionally, we are informed that the same carrier's form letter also attempts to shift the burden to the station requesting carriage to prove that it does not substantially duplicate another station that has requested carriage. Such attempts to shift the burden to the station requesting carriage do not comply with the rule or the *Report and Order*. We believe that stations that have received such form letters may appropriately respond by notifying the satellite carrier pursuant to section 76.66(m)(1) that it has failed to meet its obligations under the rules. Such notification by the broadcast station should specify how the satellite carrier's response failed to comply. For example, in response to a carrier's assertion that the station has failed to prove its signal quality, a station could provide information that the receive facility is within the station's Grade A service contours or that the Individual Location Longley-Rice computer model predicts that the station delivers a good quality signal to the receive facility. The satellite carrier would have 30 days to respond, pursuant to section 76.66(m)(2). The carrier could use the response to rescind its initial rejection and agree to carry the station or to provide specific information as to its basis for asserting that the station is not entitled to carriage. This response must state either that the station will be carried (*e.g.*, as of January 1, 2002 for the first election cycle), or provide reasons, including the reasonable basis therefor, for not carrying the station as requested.

43. We also clarify that the 60 days within which a complaint must be filed with the Commission pursuant to section 76.66(m)(6) will commence after the satellite carrier submits a final rejection of a broadcast station's carriage request, as clarified in this *Order on Reconsideration*. If a satellite carrier provides no response to a must carry election, the 60 days commences after the time for responding as required by the rule has elapsed. Or, in the case of a carrier's failure to provide the second response, as described above, the 60 days commences after the 30 days for response pursuant to section 76.66(m)(2) has elapsed. As in the cable context, if the parties are negotiating to resolve carriage disputes (*e.g.*, a station and carrier are planning to conduct a signal quality test or to determine alternative means for signal delivery), the 60 days does not begin to run until resolution efforts have failed, and the satellite carrier has notified the station in writing that it will not be carried. We continue to hope that parties will work together to resolve disputes or to determine that disputes cannot be resolved by negotiation and that Commission action is required. We note, however, that a station that has received an initial rejection letter may file a complaint with the Commission within 60 days of receipt if it believes that the carrier's apparent resolution efforts are not in good faith and are intended primarily to delay or derail legitimate carriage.

44. To summarize, as a general and guiding principle, we take this opportunity to note that the Act requires satellite carriers to carry stations upon request in those markets in which the carrier uses the statutory copyright license to retransmit one or more local stations. If the satellite carrier has a good faith, reasonable basis for refusing carriage, the carrier has the initial responsibility to specify that basis and to provide the station with adequate information and justification for its refusal. This principle applies to any refusal to carry, not only to refusals based upon signal quality. It is not consistent with the SHVIA or our rules to attempt to place the burden on the broadcast station to prove why it is entitled to carriage in the absence of a legitimate reason for questioning its eligibility. It is also inconsistent with the Act and rules to refuse to provide broadcast stations with reasonable and readily available access to the local receive facility to conduct signal strength tests as necessary. As in the cable context, a satellite carrier that fails to comply with the Act and rules, for example by using the notification procedures to frustrate the process or delay carriage without justification is not acting in the public interest and may be subject to further actions. In addition, in the satellite context, a local broadcast station may file a civil action under section 501(f) of the copyright provisions in title 17 to the extent the satellite carrier's actions result in a failure to carry a station entitled to carriage.

2. Consistent Carriage Elections

45. As indicated in the *Report and Order*, television broadcast stations are not required to have the same election requirement—*i.e.*, of either retransmission consent or must carry—between a satellite carrier and a cable operator. This decision was based in part on the lack of statutory language requiring television stations to make consistent retransmission consent/must carry elections for the two types of MVPDs, but also on the service area differences between satellite carriers and cable operators. In this *Order on Reconsideration*, we further clarify that where there is more than one satellite carrier in a local market area, a television station can elect retransmission consent for one satellite carrier and elect must carry for another satellite carrier. We believe that allowing broadcast stations to elect independently is consistent with our goal of promoting competition in the MVPD market.

3. Retransmission Consent Agreements

46. Under our rules, a television station must, during the first election cycle, notify a satellite carrier by July 1, 2001 of its carriage intention if it is located in a market where local-into-local service is provided. Beyond the first election cycle, our rules require television stations to make their retransmission consent-mandatory carriage election by October 1st of the year preceding the new cycle for all election cycles after the first election cycle. Commercial television stations are required to choose between retransmission consent and mandatory carriage by the prescribed date; NCE stations, on the other hand, must simply request carriage. A satellite carrier, in turn, must respond to a television station's carriage request within 30 days of receiving notice (*e.g.*, for the first election cycle, by August 1, 2001), and state whether it accepts or denies the carriage request. If the satellite carrier denies the request, it must state the reasons why. We clarify that, absent an agreement by the parties to the contrary, if a broadcast station has a retransmission agreement that extends into and terminates during an election cycle, the station—at the end of its contract term with the carrier—will not be entitled to demand must carry if it has not elected must carry by the required date (*i.e.*, by July 1, 2001 for the first election cycle, by October 1, 2005 for the next election cycle, etc.). We believe that this clarification is consistent with the requirements of the statute that, in the absence of a specific request for carriage by the relevant election deadline, a broadcaster is deemed to have elected retransmission consent and cannot assert a demand for carriage until the next election cycle.

4. Amendment of Carriage Request Provisions

47. On our own motion, we take this opportunity to clarify and amend the rule provisions concerning carriage election provisions that apply to satellite carriers. As described in the *Report and Order*, under section 338, satellite carriers are required to carry broadcast stations only "upon request." The *Report and Order* further explains that if an existing station fails to request carriage by the election deadline, it is not entitled to demand carriage for the duration of that cycle. The request for carriage is manifested by the station's election of must carry by the specified deadline. Section 76.66(d)(1)(i) provides that "a retransmission consent-mandatory carriage election made by a television broadcast station shall be treated as a request for carriage for purposes of this section." We are concerned that, as written, this provision could be misconstrued to mean that an election for retransmission consent constitutes a request for carriage that necessitates mandatory carriage under the statute. To avoid confusion or misinterpretation of this language, we revise section 76.66(d)(1)(i), as follows: "An election for mandatory carriage made by a television broadcast station shall be treated as a request for carriage. For purposes of this subsection concerning carriage procedures, the term "election request" includes an election of retransmission consent or mandatory carriage." We will also change the reference from "carriage request" to "election request" in section 76.66(d)(1)(ii) to conform to the revision in section 76.66(d)(1)(i).

48. In addition, on our own motion, we clarify and amend section 76.66(d)(2)(ii), which provides for carriage elections by television broadcast stations in new local-into-local markets. This provision requires local stations to make elections and requests for carriage "in writing, no more than 30 days after receipt of the satellite carrier's notice." We note that this provision does not contain the same requirements that apply to carriage elections for existing local-into-local markets. We believe that certified mail, return receipt requested is the preferred method to ensure that broadcast stations are able to demonstrate that they submitted their elections by the required deadline, and that they were received by the satellite carrier. Therefore, we will amend section 76.66(d)(2)(ii) as follows: "A local television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, no more than 30 days after the station's receipt of the satellite carrier's notice of intent to provide local-into-local service in a new television market. This written notification shall include the information required by Section 76.66(d)(1)(iii)."

49. We will also amend section 76.66(d)(3)(ii), which provides for elections and carriage requests for new television stations to be consistent with sections 76.66(d)(1) and (2), as amended. The amended language is as follows: "A new television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. This written notification shall include the information required by Section 76.66(d)(1)(iii)."

50. For similar reasons of consistency, we amend sections 76.66(d)(2)(iv) and (3)(iv), that set forth the procedures for new local-into-local service and new television stations, respectively. These amendments clarify the requirement that satellite carriers respond to elections for mandatory carriage within 30 days with notification of either agreement to carry or not to carry, along with reasons for the latter decision. These amendments track the requirement in section 76.66(d)(1)(iv). Accordingly, section 76.66(d)(2)(iv) is amended as follows: "Within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing: (1) those local television stations it will not carry, along with the reasons for such decision; and (2) those local television stations it intends to carry." Also, section 76.66(d)(3)(iv) is amended as follows: "Within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station."

51. In this respect we also note that if a satellite carrier provides notification of intent to provide local-into-local service in a new market, pursuant to section 76.66(d)(2)(i), the satellite carrier must respond to an election of mandatory carriage, requested pursuant to section 76.66(d)(2)(ii), as required by section 76.66(d)(2)(iv), notwithstanding that it has not yet commenced local-into-local service in that market. We clarify that the satellite carrier is not required to carry a local television station that elects mandatory carriage in the new local-into-local market until the satellite carrier has commenced such service. We amend section 76.66(d)(2)(iii) accordingly, as follows: "A satellite carrier shall commence carriage of a local station by the later of 90 days from receipt of an election of mandatory carriage or upon commencing local-into-local service in the new television market."

52. We further clarify that, with respect to determining the satellite carrier's principal place of business for purposes of submitting an election or carriage request, we believe it would be appropriate for a local television station to use a satellite carrier's letterhead address or other readily available principal address. If the satellite carrier wishes to designate a particular name or address for purposes of receipt of election notices, the carrier bears the obligation of providing that information to the local television stations no later than 30 days prior to the deadline for election and carriage requests. In addition, as in the cable context, the local television station's election or request for carriage may be signed by any person authorized to make and submit such election on behalf of the station.

53. In response to numerous telephone inquiries, we clarify that election requests must be sent by the relevant election deadline. In the cable context, section 76.64(h) provides that "on or before each must carry/retransmission consent deadline, each television broadcast station shall * * * send via certified mail to each cable system in the station's defined market a copy of the station's election statement with respect to that operator." The rules

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implementing satellite carriage requirements do not contain the same language, and we received no comments on this specific question during the rulemaking proceeding. In light of our general goal of making the satellite carriage rules comparable and parallel to the cable carriage rules, and in the absence of arguments demonstrating why the procedures for election notifications should differ, we clarify our intent that the election request should be sent by certified mail, return receipt by the election date to be effective. We hereby amend section 76.66(d) of our rules to clarify this intent, as follows: "(4) Television broadcast stations must send election requests as provided in Sections 76.66(d)(1), (2), and (3) on or before the relevant deadline."

5. Allocation of Costs for Reception Equipment at Receive Facility

54. DIRECTV in an ex parte meeting and submission requested a clarification that it would be permissible for a satellite carrier to "pass through to broadcasters the costs incurred on the broadcaster side of the demarcation point at the local receive facility." DIRECTV asserts that section 76.66(g)(2) requires the broadcaster to provide a good quality signal "at the input terminals of the signal processing equipment." DIRECTV contends that, in the satellite context, "this would mean the input to any signal preamplifiers in the antenna downlead. Thus, the demarcation point for a station to hand off a 'good quality signal' must be at the preamplifier input, which in [DIRECTV's] case is a junction box at the point where the downleads enter the building." DIRECTV wants to pass through to broadcasters on a pro rata basis the costs of providing the rooftop equipment and other costs related to signal reception up to the junction box, which DIRECTV refers to as the "demarcation point." DIRECTV further explains that the "non-recurring costs" for negotiating roof rights, obtaining local permits, mounting antenna masts and installing conduit range from $1,000 to $45,000 and average $15,000. DIRECTV estimates average monthly costs for maintaining roof rights would be $2,500. DIRECTV proposes to pass these costs on to the broadcasters in the market, both those carried pursuant to retransmission consent and mandatory carriage. In the average case, and assuming ten stations in the market, DIRECTV estimates charging each station "a one-time, non-recurring charge of $1,500, and a recurring charge of $250 per month."

55. In response to DIRECTV's views on this issue, NAB and ALTV, in a joint ex parte letter, contend that a station's obligation under the Act is only to deliver a good quality signal, "and not to build (or rent) a local receive facility for a DBS operator." NAB and ALTV assert that "the roof space on which DIRECTV has erected (or plans to erect) antennas is the relevant part of its local receive facility; and all that a station is required to do is deliver a good quality signal to that location." Thus, they argue, DIRECTV's demand that stations pay for DIRECTV's own real estate costs for creation of a local receive facility is "inconsistent with the division of responsibility established by Congress in the SHVIA."

56. DIRECTV's proposal and request for clarification raise an issue not mentioned in the original proceeding nor in the Petitions for Reconsideration. We do not have in the record information that would warrant a decision that could potentially impose unexpected expense on broadcast stations. We note that, in the cable context, upon which the satellite carriage rules generally are based, the cable system headends typically include antennas and other receiving and processing equipment necessary to receive a broadcaster's good quality signal. We have required cable operators to employ good engineering practices with respect to receiving and processing the broadcast station's signal. In the *Cable Must Carry Report and Order*, we noted that the television station has the obligation to bear the costs associated with delivering a good quality signal to the system's principal headend. In this context we offered by way of example, "improved antennas, increased tower height, microwave relay equipment, amplification equipment and tests that may be needed to determine whether the station's signal complies with the signal strength requirements, especially if the cable system's over-the-air reception equipment is already in place and operating properly." Cable operators are not, however, required to bear the burden of improving a broadcast station's signal.

57. In the Order clarifying the *Cable Must Carry Report and Order*, the Commission was asked to address whether the broadcaster or the cable system should pay for the purchase, installation, and maintenance of a special antenna if necessary to receive adequate signal strength. The Commission concluded that the statute specifies that a broadcast station must deliver a good quality signal to the principal headend of the cable system in order to be entitled to mandatory carriage, and, for broadcast stations received at the principal headend and carried on the system, the signal quality measurements should be made using the existing equipment at the headend. For stations that were not carried by the cable system prior to the implementation of the carriage rules, the Commission concluded that cable operators should measure the signal quality using "generally accepted equipment that is currently used to receive signals of similar frequency range, type or distance from the principal headend" but need not "employ extraordinary measures or specialized equipment" for stations not currently carried. The Commission also reiterated what was said in the *Cable Must Carry Report and Order* that broadcasters may provide "improved antennas" to deliver a good quality signal, that the cable operator may not refuse to allow the broadcaster to provide such types of equipment, either for measurements or delivery of signals, and that broadcasters "shall be responsible for the cost of such specialized antennas or equipment. However, cable operators may not shift the costs of *routine reception of broadcast signals to those stations seeking must-carry status*." (emphasis added). The Commission concluded: "Accordingly, we believe that it is appropriate to require a broadcast station to pay only for antennas, equipment and other needed improvements that are directly related to the delivery of its signal and not to contribute to the general maintenance of the cable system's facilities."

58. We believe that for satellite carriers, like cable operators, it is reasonable to require that the local receive facility include, for example, the roof rights, antennas, towers, and processing equipment necessary to receive and process over-the-air good quality signals from local broadcasters. We do not believe, therefore, that it is consistent with our rules or with the statute to require broadcasters to pay for the basic equipment and property negotiations necessary to operate a receive facility. However, as in the cable context, if a broadcaster would require special or additional equipment so that its signal can be received at the established level of good quality at the receive facility, then the broadcaster is responsible for these additional costs.

III. Paperwork Reduction Act of 1995 Analysis

59. This *Order on Reconsideration* has been analyzed with respect to the Paperwork Reduction Act of 1995 and has been found to contain no new or modified information collection requirements on the public. The rule revisions we adopt on our own motion are included in the approval we obtained from the Office of Management and Budget ("OMB"). *See* OMB Notice of Action (OMB No. 3060–0980) (June 7, 2001). No further OMB approval is required.

IV. Ordering Clauses

60. *It is ordered*, pursuant to section 405(a) of the Communications Act of 1934, 47 U.S.C. 405(a), and section 1.429 of the Commission's rules, 47 CFR 1.429, that DIRECTV's Petition for Reconsideration and the Association of Local Television Stations' Petition for Reconsideration *are denied*.

61. *It is further ordered*, pursuant to sections 4(i), 4(j), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303, that the amendments to rule 47 CFR 76.66 discussed in this *Order on Reconsideration* and set forth in Appendix A, and the clarifications of that rule discussed in this *Order on Reconsideration, are adopted*, and shall become effective October 26, 2001.

List of Subjects in 47 CFR Part 76

Cable television, Multichannel video and cable television service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.66 is amended by revising paragraph 3(d)(1)(i), (d)(2)(ii), (iii), (iv), (d)(3)(ii), (iv), and (d)(4) to read as follows:

§ 76.66 Satellite broadcast signal carriage.

* * * * *

(d) *Carriage procedures.* (1) *Carriage requests.* (i) An election for mandatory carriage made by a television broadcast station shall be treated as a request for carriage. For purposes of this paragraph concerning carriage procedures, the term election request includes an election of retransmission consent or mandatory carriage.

(ii) An election request made by a television station must be in writing and sent to the satellite carrier's principal place of business, by certified mail, return receipt requested.

* * * * *

(2) * * *

(i) * * *

(ii) A local television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, no more than 30 days after the station's receipt of the satellite carrier's notice of intent to provide local-into-local service in a new television market. This written notification shall include the information required by paragraph (d)(1)(iii) of this section.

(iii) A satellite carrier shall commence carriage of a local station by the later of 90 days from receipt of an election of mandatory carriage or upon commencing local-into-local service in the new television market.

(iv) Within 30 days of receiving a local television station's election of mandatory carriage in a new television market, a satellite carrier shall notify in writing: Those local television stations it will not carry, along with the reasons for such decision, and those local television stations it intends to carry.

(3) * * *

(i) * * *

(ii) A new television station shall make its election request, in writing, sent to the satellite carrier's principal place of business by certified mail, return receipt requested, between 60 days prior to commencing broadcasting and 30 days after commencing broadcasting. This written notification shall include the information required by paragraph (d)(1)(iii) of this section.

* * * * *

(iv) Within 30 days of receiving a new television station's election of mandatory carriage, a satellite carrier shall notify the station in writing that it will not carry the station, along with the reasons for such decision, or that it intends to carry the station.

(4) Television broadcast stations must send election requests as provided in paragraphs (d)(1), (2), and (3) of this section on or before the relevant deadline.

* * * * *

[FR Doc. 01–23970 Filed 9–25–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

CFR Correction

In title 50 of the Code of Federal Regulations, part 600 to end, revised as of October 1, 2000, part 640 is corrected by adding Figure 1 as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

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Figures—Part 640

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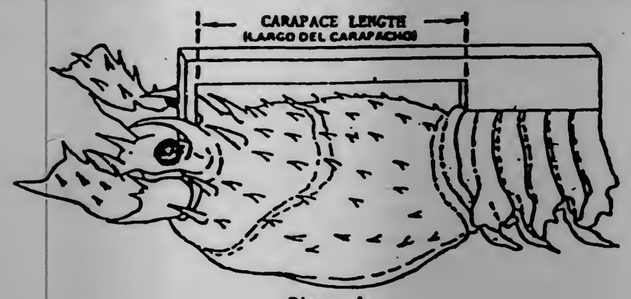


Figure 1

[FR Doc. 01–55529 Filed 9–25–01; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075–1217–02; I.D. 011101A]

RIN 0648–AF87

Fisheries of the Northeastern United States; Fishery Management Plan for Tilefish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS announces the approval of the Fishery Management Plan for Tilefish (FMP) and issues a final rule to implement that FMP. The final rule is designed to eliminate overfishing, as defined in that FMP, and to rebuild the tilefish stock in the northwest Atlantic Ocean by implementing: A stock rebuilding strategy; a limited entry program; a tiered commercial quota; permit and reporting requirements for commercial vessels, operators, and dealers; a prohibition on the use of gear other than longline gear by limited-access tilefish vessels; and an annual specification and framework adjustment process.

DATES: This final rule is effective November 1, 2001.

ADDRESSES: Copies of the FMP, its Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and the Final Environmental Impact Statement (FEIS) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Management Specialist, voice 978–281–9244; fax 978–281–9135; e-mail Bonnie.L.Vanpelt@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

A Notice of Availability (NOA) of the FMP was published in the **Federal Register** on February 12, 2001 (66 FR 9814), with a comment period ending April 13, 2001. A proposed rule to implement the FMP was published in the **Federal Register** on April 3, 2001 (66 FR 17673), with a comment period ending May 18, 2001. The FMP was approved by NMFS on behalf of the Secretary of Commerce (Secretary) on May 10, 2001.

This final rule is designed to eliminate overfishing as defined in the FMP and to rebuild the tilefish stock in the Northwest Atlantic Ocean by implementing: (1) A stock rebuilding strategy; (2) a limited entry program; (3) tiered commercial quota allocations or total allowable landings (TAL) for limited access and open access permit categories; (4) a prohibition on the use of gear other than longline gear for limited access tilefish vessels; (5) permit and reporting requirements for commercial vessels, operators, and dealers; and (6) an annual specification and framework adjustment process. These items form the basis for management of the stock. Discussions and details pertaining to these items and the justification for the development of the FMP are found in the preamble to the proposed rule and the NOA and are not repeated here.

The annual quota setting process implemented by this final rule differs from that set forth in the FMP in order to incorporate the provisions of the Council's omnibus framework, Framework 1 (covering most of the Council's FMPs), which allow the Council to set aside up to 3 percent of a species' TAL to be used to compensate for research. Framework 1 established the ability to modify quotas through the annual specification process. The background of the framework and the quota modification process are discussed in the preamble to the final rule implementing Framework 1, published August 10, 2001 (66 FR 42156), for other Mid-Atlantic fisheries.

This final rule differs from the proposed rule by providing for an up to 3-percent research set-aside for tilefish and by revising the vessel reporting requirements for the tilefish Interactive Voice Response System (IVR) by requiring that vessel owners/operators report on a trip-by-trip basis, rather than on a weekly basis. Since the average tilefish trip is 10 days, this change from weekly to per trip reporting better reflects fishing practices. Paperwork Reduction Act (PRA) burden estimates for individual vessel reporting through the IVR over the entire fishing year decrease due to this change.

Comments and Responses

NMFS received 306 written comments on the FMP and the proposed rule. Five commenters favored the approval of the FMP and the implementing measures. The remaining commenters were opposed to one or more portions of the FMP and/or its implementing regulations. Comments focused on the gear impacts portion of the Essential Fish Habitat (EFH) description, the stock rebuilding strategy, the limited access program and related ancillary economic impacts, implementation of the conservation recommendations described in the FEIS, and endangered species interactions.

Comment 1. Numerous commenters stated that the gear impacts portion of the EFH designation should be disapproved since it does not list bottom-tending mobile gear (trawls and dredges) as gear capable of destroying tilefish burrows. One commenter indicated that a conservative approach would have listed bottom-tending gear as having an adverse impact on EFH and supported a prohibition of bottom-tending gear in the Habitat Area of Particular Concern (HAPC).

Response. While bottom-tending mobile gear could potentially impact tilefish habitat by causing, for example, the filling or closing off of tilefish burrow openings, there is no scientific evidence showing that bottom-tending mobile gear adversely affects tilefish habitat. Tilefish burrows are subterranean and, as such, may not be susceptible to impacts from mobile gear as epibenthic (i.e., above the bottom) structures. Based on the adverse economic effects that a prohibition on the use of bottom-tending mobile gear in tilefish HAPC would have upon several other fisheries and on the lack of scientific evidence showing identifiable adverse effects caused by such gear on tilefish EFH and HAPC, the Council did not propose gear prohibitions in the HAPC on other than limited access tilefish vessels. The Council's discussion and rationale supporting its actions satisfy the requirements of 50 CFR 600.815(a)(3) to minimize, to the extent practicable, the adverse effects of fishing on EFH.

Tilefish are harvested primarily (approximately 97 percent) by longline gear; impacts on habitat from this type of gear are not detectable and, if they occur, are probably minimal and temporary. This final rule prohibits limited access tilefish vessels from using gear other than longline gear.

Comment 2. One commenter stated that the issues surrounding the effects of bottom trawling (long and short-term) on tilefish EFH should be resolved, and that the Council and NMFS have an obligation to prevent, mitigate, or minimize adverse effects of fishing on tilefish EFH to the extent practicable, if there is evidence that a fishing practice is having an identifiable adverse effect on EFH.

Response. Initially, the Council determined that bottom trawls adversely impacted EFH by destroying tilefish burrows. The determination was made by inference, using scientific reports on habitat damage caused by trawling. The adverse impact determination was included in the Council's draft Draft Environmental Impact Statement (DEIS) on which the Council held public hearings. A large number of commenters (vessel owners, fish buyers and processors) disagreed with this determination because of the lack of specific scientific evidence to support it. The Council, in response, convened a workshop comprised of tilefish experts to determine whether there was adequate information to make a determination of adverse impacts. Participants in the workshop concluded that nothing is definitively known about tilefish habitat and mobile fishing gear interactions. Based on this, the Council changed its determination in the FEIS/FMP for bottom trawls to "bottom trawl gear is not adequately identified as having an adverse effect on tilefish EFH." NMFS agrees with this determination. NMFS supports mitigative measures to prevent adverse impacts to tilefish EFH to the extent that they are practicable. NMFS and the Council support a cooperative research program to further investigate this issue. In the meantime, in the absence of any specific evidence showing there is an adverse impact on tilefish EFH from trawling, the Council chose not to propose any management measures to address the effects of trawl fishing on tilefish EFH. This final rule implements a framework mechanism to allow for the development and implementation of management measures to minimize impacts from gear on tilefish EFH should they be shown to exist.

Comment 3. One commenter stated that the Council's proposed rebuilding strategy, which has a 50-percent probability of rebuilding the stock within 10 years, should be replaced with a rebuilding program where stocks would have 75-percent probability of being rebuilt in 8 years.

Response. Section 304(e)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires, for a fishery that is overfished, that an FMP specify a time period for ending overfishing and rebuilding the fishery that is as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish with the marine ecosystem, and does not exceed 10 years except in cases where the biology of the stock of fish, or other environmental conditions, or management measures under an international agreement in which the United States participates, dictate otherwise. Based on the factors required by the Magnuson-Stevens Act to be considered and upon the record before the Council, NMFS agrees with the Council that, for the tilefish fishery, a stock rebuilding plan with a 50-percent probability of rebuilding the stock within 10 years is appropriate.

Comment 4. One commenter alleged that a constant-harvest strategy allows overfishing to occur in the near term, which is inconsistent with the requirements of the Sustainable Fisheries Act (SFA) amendments to the Magnuson-Stevens Act.

Response. Although a constant-harvest strategy would allow overfishing to continue in the start-up years of the FMP, this is permissible under the SFA. Section 304(e) of the Magnuson-Stevens Act contemplates Regional Fishery Management Councils to take action to end overfishing. Such action initiates rebuilding of an overfished stock. Section 304(e)(4)(A)(i) of the Magnuson-Stevens Act requires that a Council consider, among other factors, the needs of fishing communities, in specifying a time period for ending overfishing and rebuilding the fishery. Ending overfishing in a fishery that is severely overfished cannot be accomplished in the first few years without severe economic and social impacts on the participants and fishing communities. Such drastic action is not required in this instance. Furthermore, the Council projected potential economic benefits of a constant-harvest strategy, such as ease in quota management and a constant long-term economic planning horizon for industry participants.

Comment 5. One commenter stated that there should be a precautionary backstop in the event that stock recovery does not progress according to the rebuilding schedule, such that NMFS could adopt a reference point at 1/4 Bmsy that, if reached, would trigger the closure of the fishery.

Response. The regulations provide a backstop mechanism. The FMP Monitoring Committee, which is required to meet after the completion of each stock assessment, or at the request of the Council Chairman, reviews landings information and any other relevant available data to determine whether the annual quota requires modification to respond to any changes to the stock's biological reference points

or to insure that the rebuilding schedule is maintained.

Comment 6. Numerous commenters alleged that limited entry Option 2 should not be approved since it is not fair and equitable to all participants in the fishery.

Response. Limited entry Option 2 was not the option adopted by the Council and approved in the FMP. The Council adopted limited entry Option 6, which was approved by NMFS. Option 6 was recommended to the Council by present and historical industry participants in the tilefish fishery. It incorporates Option 2 for full-time vessels and allows for an expansion of the qualifying time frame for part-time vessels. Option 6 also contemplates an amendment to the limited entry program in the FMP at the end of the 10-year rebuilding period, or when the fishery is rebuilt, whichever comes first, to formalize the qualifying period for entry into the tilefish fishery from 1984 though 1998.

Comment 7. Several commenters stated that the tilefish limited access program does not meet the objectives of the FMP.

Response. The objectives of the FMP are to be accomplished through the suite of measures contained therein. It is not necessary that each management measure in an FMP accomplishes every one of the FMP's objectives. In the case of the tilefish limited access program, it will not only reduce overcapitalization, consistent with Objective 2 of the FMP, but it also will prevent overfishing and contribute to the rebuilding of the stock by limiting fishing effort and maintaining the integrity of the annual quota, which meets Objective 1. Further, the data collected through the reporting requirements applied to vessels in the limited access program fulfills the requirements of Objective 4. The identification and description of EFH in Objective 3 are accomplished through other components of the FMP.

Comment 8. Several commenters alleged that the FMP is devoid of discussion on how allocation alternatives further the goals of the FMP.

Response. NMFS disagrees. The overall goal of the FMP is to rebuild tilefish so that Optimum Yield can be obtained. To help achieve this, this rule implements a limited access system with specified amounts of TAL allocated to the various permit categories. Once the allocation or quota for a given limited access permit category is harvested, the Administrator, Northeast Region, NMFS (Regional Administrator) will close the EEZ to fishing for tilefish for that permit category for the remainder of the year. The limitation of fishing effort represented by the limited access categories and these closures will ensure the integrity of the annual quota and facilitate rebuilding of the stock. Specific discussions of the environmental and economic impacts of these alternatives can be found in sections 3.1 and 4.7 of the FMP.

Comment 9. One commenter alleged that Option 6 was brokered between two factions of the industry without regard to Constitutional due process and was not considered by the Tilefish Committee. The commenter asserted that two industry groups, competitors of a current participant in the fishery, came to a compromise that was then adopted by the Council as Option 6, without analysis. The commenter believed the Council's Option 3 was reasonable and would have qualified the present participant concerned into the limited access program.

Response. Option 6 incorporates the same requirements as Option 2 for full-time vessels. In addition, Option 6 expands the time frame for qualifying for the part-time category by allowing for consideration of landings of at least 28,000 lb (12,701 kg) of tilefish in any 1 year from 1984 to 1993, at least one pound of which was landed prior to June 15, 1993, as a qualifying criterion. This alternative was supported by the differing factions in the tilefish fishery. The industry made a presentation to the Council regarding this alternative. After due deliberation, the Council adopted this alternative as Option 6. This alternative was thoroughly analyzed by the Tilefish Technical Committee prior to the Council adoption of the final version of the FMP. The inclusion in Option 6 of historical participants who fished as far back as 1984 was reasonable in the view of the Council, given the factors it has to consider under section 303(b)(6) of the Magnuson-Stevens Act. Option 6 was adopted during a full and open Council process; all interested parties had the opportunity to provide input and comments prior to its adoption. NMFS published a NOA and a proposed rule for further public comment. This is all part of the process of preparation, approval, and implementation of the FMP. NMFS agrees that limited access Option 3, the preferred option in the DEIS, is reasonable. However, no commenters, including the participant that the commenter is referring to, favored Option 3. The Council believed that a rejection of its preferred option of that magnitude by the industry required it to choose an alternative limited access option that would achieve the same conservation goals.

Comment 10. One commenter alleged that the justification for adopting Option 6 was that the Council did not have to conduct any analysis; the Council could simply adopt the agreement reached by the select group who participated in a closed meeting. The commenter also stated that a present participant's landings were not considered in the decision to adopt Option 6 and that the vessel in question will likely be unable to qualify for a full-time tier 1 category permit.

Response. The Council's Tilefish Technical Committee conducted an analysis of Option 6, as summarized in Table 79 in the FMP. Further, the Council's decision to adopt Option 6 was detailed in an open public forum, in which the industry participated. All data considered in analyzing the various options were contained in NMFS' official database. In addition, the Council considered additional data from vessels, which it solicited from the states (only landings from the State of New York were submitted), for the period 1988 through 1998.

Since the limited access tilefish fishery has not yet been implemented, there is no basis to determine specifically which vessels would qualify for the different limited access permit categories. Once these final regulations become effective, vessel owners will have an opportunity to apply for a particular limited access permit category and produce supporting landings information. The Council used a blind analysis, in which vessels were identified only by a random number, to ascertain the number of vessels that would qualify for the different permit categories under the different options. The Council had no information to conclude whether a specific named vessel would qualify for a particular limited access permit category.

Comment 11. One commenter stated that Option 6 was created for the sole purpose of restructuring the top tier of eligible fishers and that there was no biological or ecological basis to exclude a current participant from the fishery. The commenter believed Option 6 was chosen based on economic allocation as its sole purpose, which would be a violation of national standard 5.

Response. Option 6 did not change the tier 1 qualification criteria. It incorporated the criteria from Option 2, without modification, thereby leaving the qualifying criteria for full-time tier 1 category as follows: 250,000 lb (113,398 kg) per year for 3 years between 1993 and 1998. All the management measures are designed to work in concert to meet the overall FMP goals and objectives. It is up to the Council to exercise discretion in arriving at options to address stock rebuilding and to minimize adverse economic impacts. The Council did not consider economic impacts on individually named vessels in its deliberations; all of the analyses it conducted were done on a blind basis. The tilefish fishery is a very small fishery. The tilefish resource is sensitive to additional fishing effort that could slow or even prevent its rebuilding, depending on the level of effort involved. The annual quota under the constant harvest strategy is 1.995 million lb (904.9 mt). The four vessels that qualify for the tier 1 permit category have the capacity to harvest in excess of this amount. These vessels harvested 2.635 million lb (1195 mt) in 1997. Limiting the number of vessels participating in this fishery will help to decrease fishing mortality and to maintain the integrity of the annual quota. Since there is a biological basis limit entry into the tilefish fishery, the commenter's allegation that such limitation violates national standard 5 is without merit.

Comment 12. One commenter stated that Options 5 and 6 violate national standard 4.

Response. Option 5 was not adopted by the Council or approved by NMFS. Thus, whether it satisfies national standard 4 is irrelevant. The FMP is designed to prevent further overcapitalization by establishing a limited entry scheme. The allegations relating to national standard 4 are that the industry groups set the qualifying criteria for the full-time tier 1 to exclude a current participant from the fishery. However, the industry compromise did not propose to modify the qualifying criteria for tier 1. Indeed, those criteria were adopted by the Council prior to its consideration of Option 6 after much discussion, much of which involved industry input. The category qualifying criteria are simply performance criteria relating to levels of landings during a certain time period to differentiate between vessels that are heavily involved in the fishery (those that landed at least 250,000 lb (113,398 kg) per year for 3 years between 1993–1998) and those that are not (those vessels that landed 90,000 lb (408,233 kg) or less during the same or earlier expanded time frame). These criteria apply evenly across the fishery to all participants and represent a reasonable means to distinguish varying levels of participation in the tilefish fishery.

Comment 13. One commenter alleged that the FMP fails to consider the best data available in establishing the limited access system for tilefish and, therefore, violates national standard 2.

Response. NMFS disagrees. Limited access programs are designed to consider past and present participation and relative degrees of dependence on a fishery. All data used in developing the limited access permit and TAL allocations were based on the best and most recent information contained in the NMFS data base. These data constitute the best scientific information available.

Comment 14. One commenter stated that the tier 1 full-time qualified vessels catch small fish of which a significant majority are juveniles and sexually immature. Because of this, the commenter alleges it will be impossible for the tilefish stock to rebuild without a minimum fish size provision.

Response. It is possible that present participants are currently landing large numbers of small fish. However, there is evidence that, as the stock biomass decreases, a disproportionate number of smaller fish occur in the population. As the stock rebuilds and the age structure of the stock expands, the tendency to harvest small fish will decrease. A minimum fish size and gear restrictions are listed in the FMP as measures the Council could implement in the future through framework adjustment provisions, should data become available demonstrating such measures to be necessary and appropriate.

Comment 15. Several commenters indicated that the regulations and the FMP are not consistent with national standard 1.

Response. The FMP implements a rebuilding program that will prevent overfishing and attain Maximum Sustainable Yield (MSY) through a constant harvest strategy (within a reasonable time). The rebuilding strategy chosen is based on analyses conducted by the NMFS Northeast Fisheries Science Center (NEFSC) and has a 50-percent probability of rebuilding tilefish to the biomass that will support the MSY level within 10 years. The Council considered 13 rebuilding schedules that were either based on constant harvest levels or fishing mortality reduction levels, all of which were designed to rebuild to the biomass that will support MSY. The critical choices that the Council made were the selection of the time frame of 10 years for rebuilding and of the probability of rebuilding within that time frame of 50-percent. In addition, a benchmark stock assessment will be conducted every 3 years through the NEFSC Stock Assessment Review Committee (SARC)/Stock Assessment Workshop (SAW) process, the results of which will be evaluated by the Tilefish FMP Monitoring Committee. The Council will consider any recommendations of the Monitoring Committee and can adjust the annual harvest level in order to assure that the tilefish stock will be rebuilt within 10 years. This management strategy is consistent with national standard 1.

Comment 16. One commenter alleged that the preamble of the proposed regulations is inaccurate with respect to the discussion of the economic impacts of the FMP. The commenter stated that numbers clearly qualify a current vessel participant for a full-time tier 2 permit, yet the vessel is not included in the analysis.

Response. All of the analyses performed by the Council were blind. No individual vessels were identified in these analyses. The analyses employed the best and most recent data available in the NMFS database. The FMP has yet to be implemented. Once these regulations become effective, the participant concerned can apply for the full-time tier 2 category permit by submitting supporting landings information. If the participant's application is denied, the participant has the right to appeal the denial. The FMP and its implementing regulations include a provision for appeal, and individuals will be given an opportunity to document any landings they believe are inaccurate after the FMP is implemented.

Comment 17. One commenter believed that the FMP does not comply with national standard 1, and, notwithstanding data before the Secretary, the Secretary, in violation of national standard 2, failed to consider all the relevant economic impacts, and to use the best scientific and commercial information in approving the FMP.

Response. See the response to Comment 4 related to national standard 1. All data used in developing the FMP and its management measures were based on the best and most recent information contained in the NMFS database. These data constitute the best scientific information available. Thus, the FMP does not violate national standard 2.

Comment 18. One commenter stated that the Magnuson-Stevens Act requires that all the fishery management plans be consistent with other applicable laws. The commenter believes other applicable laws include the antitrust laws, which the commenter believes were violated during the FMP development process.

Response. Under the Noerr-Pennington doctrine, antitrust law does

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not prohibit two or more persons from associating together to petition a government body to take a particular action with respect to a law that would produce a restraint of trade or monopoly. Thus, the industry's presentation to the Council of a further option it favored to manage the tilefish fishery did not violate antitrust law.

Comment 19. One commenter suggested that workable, protective measures to protect endangered species are preferable to cooperation between enforcement agencies and tilefish fishermen, as advocated in the FMP, to ensure compliance with the Endangered Species Act (ESA).

Response. NMFS conducted a formal section 7 consultation for the FMP, consistent with ESA guidelines. The biological opinion accompanying the consultation concluded that the tilefish fishery may take a small number of loggerhead and leatherback sea turtles. This small take is not expected to result in jeopardy to either sea turtle species or to other endangered and/or threatened species under NMFS' jurisdiction, including right whales and their critical habitat. Thus, protection measures for these species are not necessary at this time.

Comment 20. Several commenters, including a bait dealer, three crew members, a wharf owner, and a tackle dealer, claimed that the implementation of a limited access program and the commensurate reduction in potential harvest for a particular vessel would have significant negative economic impacts on their businesses and livelihoods.

Response. NMFS recognizes that there may be ancillary economic impacts on small entities, other than dealers and vessels, from actions that reduce fishing activity. Since the number of present participants in the fishery is small (from a total of 215 vessels that landed any tilefish in 1998, the FMP identified 4 full-time tier 1; 4 full-time tier 2; and 42 part-time vessels), it would seem unlikely that they would provide a major share of revenues to dockside businesses. Crew members are not considered to be small businesses under the Regulatory Flexibility Act. Because the limited entry scheme is based in large part on recent participation in the fishery, it is highly likely that tilefish vessels currently patronizing these businesses will continue to do so, possibly in conjunction with participation in other fisheries. Further, the constant harvest strategy adopted in the FMP should provide for a steadier fishery and income for all concerned. However, NMFS recognizes that limited access could yield negative economic impacts for all entities affected by the final rule. Economic impacts on communities affected by the tilefish fishery were considered by the Council and are addressed in the FMP.

Changes From the Proposed Rule

In § 648.2, a definition of the tilefish management unit is added to distinguish management of the northern portion of the tilefish stock under the FMP, from management of the southern portion of the tilefish stock under the NMFS Southeast Region Snapper/Grouper fisheries.

In § 648.4, paragraph (a)(12) is revised to clarify that tilefish fished for, possessed, or landed in or from the EEZ means tilefish in or from the tilefish management unit.

In § 648.4, paragraph (a)(12)(i) is revised to clarify that the vessel must have landed the specified amounts of tilefish under paragraph (a)(12)(i)(A) within the tilefish management unit to qualify for a limited access tilefish permit.

In § 648.4, paragraph (a)(12)(ii), the title and paragraph (a)(12)(ii)(A) are removed, the subsequent paragraphs (a)(12)(ii)(B) through (M) are redesignated as paragraphs (a)(12)(i)(B) through (M),and the removed title and paragraph language are added to the newly redesignated paragraph (a)(12)(i)(I) (previously reserved).

In § 648.4, the newly redesignated paragraph (a)(12)(i)(M)(*3*)(*ii*) is redesignated paragraph (a)(12)(ii) and revised to clarify the description of eligibility and conditions for issuance of tilefish incidental catch permits and to indicate that vessels with tilefish incidental catch permits may only possess or land tilefish in or from the tilefish management unit.

In § 648.4, the newly redesignated paragraph (a)(12)(i)(M)(*3*)(*i*) is redesignated as the text of paragraph (a)(12)(i)(M)(*3*).

In § 648.4, paragraph (b) is revised to clarify that any vessel owner whose vessel is permitted to fish in the tilefish management unit for the species managed under the FMP must comply with the more restrictive of either state, local or Federal regulations.

In § 648.5, paragraph (a) is revised to clarify that any vessel operators who are fishing for or possessing tilefish taken from the tilefish management unit must have a valid operator permit.

In § 648.7, paragraph (a)(2)(i) is corrected to include tilefish as a species of fish that is not required to be reported by federally permitted dealers through the IVR system.

In § 648.7, paragraph (b)(1)(iv) is corrected by removing paragraphs (b)(1)(iv)(A) and (B), and by revising paragraph (b)(1)(iv) to state that IVR reports must be submitted on a per- trip basis, rather than on a weekly basis.

In § 648.12, the introductory text is corrected to show that tilefish has been redesignated from subpart M to subpart N of 50 CFR part 648. Subpart M has been assigned to the Atlantic Deep-Sea Red Crab Fishery; therefore "Management Measures for the Tilefish Fishery" will appear as subpart N.

In § 648.14, paragraphs (x)(11) and (cc)(1), (2), (3), (8); and (9) are modified to clarify that the prohibitions apply to activities dealing with tilefish harvested in or from the tilefish management unit.

In § 648.14, the introductory text of paragraph (cc) is modified to exempt vessels participating in a research activity, as described in § 648.290 (previously § 648.250), from the general prohibitions specified at § 600.725.

In § 648.14, paragraph (cc)(4) is removed because there is no processor permit. Subsequent paragraphs in paragraph (cc) have been renumbered and the comments that follow refer to the renumbered paragraphs.

In § 648.14, paragraph (cc)(6) is revised to include the gear restriction related to other than longline gear.

In § 648.14, paragraphs (cc)(7) and (8) are revised to update the reference.

In § 648.14, paragraph (cc)(9) is added to specify that the landing of tilefish harvested by vessels fishing in U.S. waters in excess of the incidental catch limit is prohibited in the tilefish management unit, unless the vessel holds a limited access tilefish permit.

In subpart N, §§ 648.250 through 648.254 have been redesignated as §§ 648.290 through 648.294, respectively, for consecutive numbering.

In § 648.290 (previously § 648.250), paragraphs (b) and (d) are revised and paragraph (e) is added to allow for the set-aside of up to 3-percent of the tilefish TAL for purposes of compensation for research, consistent with Framework 1.

Section 648.294 (previously § 648.254) has been revised to specify the gear stowage requirements for gear other than longline gear.

Classification

NMFS has determined that the FMP that this rule implements is necessary for the conservation and management of the tilefish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared a FEIS for this FMP; a notice of availability was published on February 12, 2001 (66 FR 9814). NMFS determined, upon review of the FMP/FEIS and public comments, that approval and implementation of the FMP is preferable to the status quo and other considered alternatives. The FMP contains management measures capable of preventing overfishing; providing economic and social benefits to the fishing industry in the long term; and contributing to enhancement of the ecosystem through a rebuilt tilefish resource.

NMFS prepared a final regulatory flexibility analysis (FRFA) for this action, which complies with Section 604 of the Regulatory Flexibility Act. The FRFA includes the IRFA, comments on the IRFA, responses to those comments as contained in this preamble, and a summary of the analyses done in support of this final rule. The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here. A summary of the FRFA follows:

A description of the reasons why action by the agency is being considered and the objectives of the action are explained in the preamble to the proposed rule and are not repeated here. This action contains reporting and recordkeeping requirements that were analyzed in the IRFA. It will not duplicate, overlap, or conflict with any other Federal rules. This action is taken under authority of the Magnuson-Stevens Act and regulations at 50 CFR part 648.

Public Comments

Three hundred and six comments were submitted during the comment periods on the FMP and proposed rule. The majority of comments were not specifically on the IRFA, but several were related to economic impacts on small entities. The comments and responses are contained in the Comments and Responses section of the preamble of this final rule and are not repeated here. Comments 6, 9, 10, 11, 12, 13, 16, and 17 were specifically directed at the economic consequences of the FMP and, particularly, at the limited entry program and its potential impacts on individual vessels, all of which are small entities.

Number of Small Entities

All of the businesses (fishing vessels, dealers and processors) affected by this final rule are considered small entities. In 1998, 215 different vessels landed tilefish along the Atlantic coast. In 1998, 83 federally permitted seafood dealers handled tilefish. Fewer than three permitted processors reported processing tilefish in 1998 for the Northeast and Southeast Regions combined. Tilefish constituted a very small percentage of their total volume and value of processed products.

Cost of Compliance

It is estimated that, in 1998, 215 different vessels landed tilefish along the Atlantic coast. Under this final rule, any vessel fishing commercially for tilefish must obtain a Federal vessel tilefish permit in order to fish for tilefish in the EEZ. From January 1, 1988, to June 15, 1993, 312 vessels landed at least 1 lb (0.45 kg) of tilefish. Assuming that all these vessels would be eligible for a tilefish permit and that they would all apply, there would be 312 permit applications as a result of this final rule. Overhead costs herein are based on an estimated $15.00 per hour. Annual initial costs for vessel permits are estimated to be $106 ($0.34 per vessel x 312 vessels) for postage and $2,340 ($7.50 per vessel x 312 vessels) for clerical costs. Annual initial costs for dealer permits are estimated to be $3.40 ($0.34 x 10 dealers) for postage and $12.50 ($1.25 per dealer x 10 dealers) for clerical costs. It is estimated that 85 of the vessels expected to apply for an initial vessel permit do not presently possess a Northeast fisheries permit; therefore, for operator permits, an annual cost of $29 ($0.34 per operator x 85 vessels) for postage is expected and an annual cost of $1750 ($15.00 per operator x 85 vessels)for clerical costs is expected. Also, a cost of $850 ($10 per vessel x 85 vessels) is expected for obtaining and displaying vessel identification numbers. About 5 percent of the vessels (5 vessels) applying for the initial vessel permit may also incur additional costs associated with Confirmation of permit history, replacement and upgrades, and permit vessel appeals as follows: $1.70 (0.34 per vessel x 5 vessels) for postage, and $225 ($45.00 x 5 vessels) for clerical costs. Eighty-five vessels currently do not report under the system in place for Northeast permit holders; therefore, annual costs of submitting vessel logbooks are expected to be $347 ($4.08 x 85 vessels) for postage and $1,275 ($15.00 per vessel x 85 vessels) for clerical costs. Annual costs of submitting dealer reports are expected to be $177 ($17.70 per dealer x 10 dealers) for postage and $260 ($26.0 x 10 dealers) for clerical costs.

Minimizing Economic Impacts on Small Entities

The 10-year constant harvest rebuilding strategy using a 50-percent probability of meeting the rebuilding target of 10 years will allow greater landings during the initial years of the FMP implementation than any alternative strategy considered by the Council. For example, the highest constant F strategy (F=.168) would have allowed only 1.299 million lb (589.2 mt) to be landed in fishing year 2001, compared to 1.995 million lb (904.9 mt) resulting from the preferred strategy. Landing levels under status quo for 2001 were projected to be 2.3 million lb (1043 mt) for all permit categories, or 305,000 lb (138 mt) more than the quota under the preferred management option. However, the long-term benefits of the preferred management strategy will likely outweigh the short-term negative economic impacts to all vessels, dealers, and other segments of the industry. At an ex-vessel price of $2.00 per lb ($0.90 per kg) revenues of approximately $600,000 will be foregone in 2001 under the preferred management strategy, though the effects will be disproportionately distributed among the limited access permit categories, due to their different quota allocations. Vessels in the tier 1 full-time category (66 percent), assuming equal landings among vessels within the category, have the potential to be affected the most, followed by part-time vessels (19 percent), tier 2 full-time category vessels (15 percent), and vessels in the incidental catch category (5 percent).

Because tilefish are overfished, the Council determined that it was necessary to limit access into the fishery, not only due to the condition of the stock, but the rate at which the present fishery was harvesting tilefish. The Council further recognized that short-term economic losses for the aggregate of vessels and dealers would result from implementation of severe constraints on harvest. Unfortunately, there is no mechanism to mitigate entirely the aggregate negative short-term impacts of these measures on vessels participating in a limited access fishery.

The FMP maintains present participation in the tilefish fishery, while recognizing that not all vessels will qualify for limited access permits. The FMP allows vessel owners who apply for an individual permit category, to furnish proof of landings, and to appeal if a limited access permit application is denied by NMFS. This allows vessels that did not pre-qualify for permits to apply and qualify for a limited access permit category. Vessels that landed tilefish in the 1980s have an opportunity to participate in the fishery under the part-time permit category if they have the requisite level of landings,

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even though they did not appear in the NMFS database.

This final rule contains new collection-of-information requirements and also subjects persons to collection-of-information requirements not contained in the rule. For example, persons obtaining vessel permits under this rule automatically become subject to vessel trip reporting requirements, although the later are not mentioned in this rule. Both types of requirements are subject to the PRA and were approved by the Office of Management and Budget (OMB). The OMB control numbers and the estimated time for a response are as follows:

Tilefish vessel permits, OMB control number 0648–0202 (30 minutes/response).

Tilefish vessel permits renewal, OMB control number 0648–0202 (15 minutes/response).

Tilefish vessel permit appeals, OMB control number 0648–0202 (180 minutes/response).

Tilefish vessel confirmations of permit history, OMB control number 0648–0202 (30 minutes/response).

Tilefish vessel replacements or upgrades, OMB control number 0648–0202 (180 minutes/response).

Operator permits, OMB control number 0648–0202 (60 minutes/response).

Dealer permits, OMB control number 0648–0202 (5 minutes/response).

Annual processor reports, OMB control number 0648–0018 (30 minutes/response).

Vessel trip reports, OMB control number 0648–0212 (5 minutes/response).

IVR system vessel reports, OMB control number 0648–0212 (4 minutes/response).

IVR system dealer reports, OMB control number 0648–0229 (4 minutes/response).

Dealer logbook reports, OMB control number 0648–0229 (2 minutes/response).

Vessel Identification, OMB control number 0648–0350 (45 minutes/response).

The aforementioned response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping Requirements.

Dated: September 19, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.1, the first sentence of paragraph (a) is revised to read as follows:

§ 648.1 Purpose and scope.

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, squid, and butterfish fisheries (Atlantic Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surf clam and ocean quahog fisheries (Atlantic Surf Clam and Ocean Quahog FMP); the Northeast multispecies fishery (Multispecies FMP); the monkfish fishery (Monkfish FMP); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic herring fishery (Atlantic Herring FMP); and the tilefish fishery (Tilefish FMP). * * *

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3. In § 648.2, the definition of "Council" is revised and new definitions for "Tilefish FMP Monitoring Committee" and "Tilefish Management Unit" are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Council means the New England Fishery Management Council (NEFMC) for the Atlantic herring, Atlantic sea scallop, monkfish, and NE multispecies fisheries; or the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, squid, and butterfish; Atlantic surf clam and ocean quahog; summer flounder, scup, and black sea bass; spiny dogfish; Atlantic bluefish; and tilefish fisheries.

* * * * *

Tilefish FMP Monitoring Committee means a committee made up of staff representatives of the MAFMC, the NMFS Northeast Regional Office, the Northeast Fisheries Science Center, up to three state representatives (the New England states having one representative and the Mid-Atlantic states having a maximum of two representatives) and one non-voting industry member. The MAFMC Executive Director or his designee chairs the committee.

*Tilefish Management Unit*means an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36′ N. Lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone and northward to the United States-Canada border in which the United States exercises exclusive jurisdiction over all golden tilefish (*Lopholatilus chamaeleonticeps*) fished for, possessed, caught or retained in or from such area.

* * * * *

4. In § 648.4, paragraph (a)(12) is added and paragraph (b) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(12) Tilefish vessels. Any vessel of the United States must have been issued and carry on board a valid tilefish vessel permit to fish for, possess, or land tilefish in or from the tilefish management unit.

(i)*Limited access tilefish permits*—(A) *Eligibility.* A vessel may be issued a limited access tilefish permit if it meets any of the following limited access tilefish permit criteria, provided that the vessel landed the specified amounts of tilefish to meet such criteria within the tilefish management unit:

(*1*) *Full-time tier 1 category.* The vessel landed at least 250,000 lb (113,430 kg) of tilefish per year for any 3 years between 1993 and 1998, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(*2*) *Full-time tier 2 category.* The vessel landed at least 30,000 lb (13,612 kg) per year for any of 3 years between 1993 and 1998, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(*3*) *Part-time category.* The vessel landed 10,000 lb (4,537 kg) of tilefish in any 1 year between 1988 and 1993 and 10,000 lb (4,537 kg) in any 1 year between 1994 and 1998, or landed 28,000 lb (12,904 kg) of tilefish in any 1 year between 1984 and 1993, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(B) *Application/renewal restriction*—(*1*) *Initial application.* A vessel owner must apply for an initial limited access tilefish permit before November 1, 2002, one year from the effective date of the regulations.

(*2*) For fishing years beyond the initial application year, the provisions of paragraph (a)(1)(i)(B) of this section apply.

(C) *Qualification restrictions.* The provisions of paragraph (a)(1)(i)(C) of this section apply.

(D) *Change in ownership.* The provisions of paragraph (a)(1)(i)(D) of this section apply.

(E) *Replacement vessels.* The provisions of paragraph (a)(1)(i)(E) of this section apply.

(F) *Upgraded vessel.* The provisions of paragraph (a)(1)(i)(F) of this section apply.

(G) *Consolidation restriction.* The provisions of paragraph (a)(1)(i)(G) of this section apply.

(H) *Vessel baseline specifications.* The provisions of paragraph (a)(1)(i)(H) of this section apply.

(I) *Limited access permit restrictions.* (*1*) A vessel may be issued a limited access tilefish permit for only one category during a fishing year.

(*2*) A vessel issued a limited access tilefish permit may not be issued an incidental catch tilefish permit during a fishing year.

(J) *Confirmation of permit history.* The provisions of paragraph (a)(1)(i)(J) of this section apply.

(K) Abandonment or voluntary relinquishment of permits. The provisions of paragraph (a)(1)(i)(K) of this section apply.

(L) *Restriction on permit splitting.* The provisions of paragraph (a)(1)(i)(L) of this section apply.

(M) *Appeal of denial of a permit.* (*1*) Any applicant denied a tilefish limited access permit may appeal to the Regional Administrator within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the criteria in paragraphs (a)(12)(i)(A)(*1*),(*2*), or (*3*) of this section. The appeal must set forth the basis for the applicant's belief that the decision of the Regional Administrator was made in error.

(*2*) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Administrator. The hearing officer shall make a recommendation to the Regional Administrator. The decision on the appeal by the Regional Administrator is the final decision of the Department of Commerce.

(*3*) Status of vessels pending appeal. A vessel denied a limited access tilefish permit may fish, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish. The Regional Administrator will issue such a letter for the pendency of any appeal. The decision on the appeal is the final administrative action of the Department of Commerce. The letter of authorization must be carried on board the vessel. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the authorizing letter shall become invalid 5 days after receipt of the notice of denial.

(ii) *Tilefish incidental catch permit.* A vessel of the United States that is subject to these regulations and that has not been issued a limited access tilefish permit is eligible for and may be issued a tilefish incidental catch permit to possess or land tilefish in or from the tilefish management unit. Such vessel is subject to the restrictions in § 648.252.

(b) *Permit conditions.* Any person who applies for a fishing permit under this section must agree, as a condition of the permit, that the vessel and the vessel's fishing activity, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ; and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part, unless exempted from such requirements under this part. All such fishing activities, catch, and gear will remain subject to all applicable state requirements. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ, any vessel owner permitted to fish in the EEZ for any species except tilefish managed under this part must comply with the more restrictive requirement. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ, any vessel owner permitted to fish in the tilefish management unit for tilefish managed under this part must comply with the more restrictive requirement. Owners and operators of vessels fishing under the terms of a summer flounder moratorium, scup moratorium, or black sea bass moratorium or a spiny dogfish, or bluefish commercial vessel permit must also agree not to land summer flounder, scup, black sea bass, spiny dogfish, or bluefish, respectively, in any state after NMFS has published a notification in the Federal Register stating that the commercial quota for that state or period has been harvested and that no commercial quota is available for the respective species. A state not receiving an allocation of summer flounder, scup, black sea bass, or bluefish, either directly or through a coast-wide allocation, is deemed to have no commercial quota available. Owners and operators of vessels fishing under the terms of the tilefish limited access permit must agree not to land tilefish after NMFS has published a notification in the Federal Register stating that the quota for the tilefish limited access category under which a vessel is fishing, has been harvested. Owners or operators fishing for surf clams and ocean quahogs within waters under the jurisdiction of any state that requires cage tags are not subject to any conflicting Federal minimum size or tagging requirements. If a surf clam and ocean quahog requirement of this part differs from a surf clam and ocean quahog management measure required by a state that does not require cage tagging, any vessel owners or operators permitted to fish in the EEZ for surf clams and ocean quahogs must comply with the more restrictive requirement while fishing in state waters. However, surrender of a surf clam and ocean quahog vessel permit by the owner by certified mail addressed to the Regional Administrator allows an individual to comply with the less restrictive state minimum size requirement, as long as fishing is conducted exclusively within state waters. If the commercial black sea bass quota for a period is harvested and the coast is closed to the possession of black sea bass north of 35°15.3′ N. lat., any vessel owners who hold valid commercial permits for both the black sea bass and the NMFS Southeast Region Snapper-Grouper fisheries may surrender their moratorium black sea bass permit by certified mail addressed to the Regional Administrator and fish pursuant to their snapper-grouper permit, as long as fishing is conducted exclusively in waters, and landings are made, south of 35°15.3′ N. lat. A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered will be reissued upon receipt of the vessel owner's written request after a minimum period of 6 months from the date of cancellation.

* * * * *

5. In § 648.5, the first sentence in paragraph (a) is revised to read as follows:

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§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing Atlantic sea scallops in excess of 40 lb (18.1 kg), NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, black sea bass, or bluefish harvested in or from the EEZ, or tilefish harvested in or from the tilefish management unit, or issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. * * *

* * * * *

6. In § 648.6, paragraph (a)(1) is revised to read as follows:

§ 648.6 Dealer/processor permits.

(a) *General.* (1) All dealers of NE multispecies, monkfish, Atlantic herring, Atlantic sea scallop, spiny dogfish, summer flounder, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, bluefish, tilefish, and black sea bass; Atlantic surf clam and ocean quahog processors; and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species. A person who meets the requirements of both the dealer and processor definitions of any of the aforementioned species' fishery regulations may need to obtain both a dealer and a processor permit, consistent with the requirements of that particular species' fishery regulations. Persons aboard vessels receiving small-mesh multispecies and/or Atlantic herring at sea for their own use exclusively as bait are deemed not to be dealers, and are not required to possess a valid dealer permit under this section, for purposes of receiving such small-mesh multispecies and/or Atlantic herring, provided the vessel complies with the provisions of § 648.13.

* * * * *

7. In 648.7, the first sentence of paragraph (a)(2)(i) is revised and paragraph (b)(1)(iv) is added to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) * * *

(2) * * *

(i) Federally permitted dealers, other than Atlantic herring and tilefish dealers, purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species, other than Atlantic herring and tilefish; reporting week in which species were purchased; and state of landing for each species purchased. * * *

* * * * *

(b) * * *

(1) * * *

(iv) The owner or operator of any vessel issued a limited access permit for tilefish must submit a tilefish catch report via the IVR system within 24 hours after returning to port and offloading as required by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, trip during which species are caught, and pounds landed. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of § 648.7.

* * * * *

8. In § 648.11, the first sentence of paragraph (a) and paragraph (e) are revised to read as follows:

§ 648.11 At-sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish; or a moratorium permit for summer flounder; to carry a NMFS-approved sea sampler/observer. * * *

* * * * *

(e) The owner or operator of a vessel issued a summer flounder moratorium permit, a scup moratorium permit, a black sea bass moratorium permit, a bluefish permit, a spiny dogfish permit, an Atlantic herring permit, or a tilefish permit, if requested by the sea sampler/observer, also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, or other specimens taken by the vessel.

* * * * *

9. In § 648.12, the introductory text is revised to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General Provisions), B (Atlantic mackerel, squid, and butterfish), D (sea scallop), E (surf clam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (bluefish), K (Atlantic herring), L (spiny dogfish), M (deep-sea red crab), and N (tilefish) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the MAFMC regarding such exemptions for the Atlantic mackerel, squid, butterfish, summer flounder, scup, black sea bass, spiny dogfish, bluefish, and tilefish fisheries.

* * * * *

10. In § 648.14, paragraphs (x)(11) and (cc) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(x) * * *

(11) *Tilefish.* All tilefish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested in or from the tilefish management unit, unless the preponderance of all submitted evidence demonstrates that such tilefish were harvested by a vessel fishing exclusively in state waters.

* * * * *

(cc) In addition to the general prohibitions specified in § 600.725 of this chapter, unless participating in a research activity as described in § 648.290(e), it is unlawful for any person owning or operating a vessel to do any of the following:

(1) Fish for, possess, retain or land tilefish, unless:

(i) The tilefish are being fished for or were harvested in or from the tilefish management unit by a vessel holding a valid tilefish permit under this part, and the operator on board such vessel has been issued an operator permit that is on board the vessel; or

(ii) The tilefish were harvested by a vessel not issued a tilefish permit that was fishing exclusively in state waters; or

(iii) The tilefish were harvested in or from the tilefish management unit by a vessel engaged in recreational fishing.

(2) Operate, or act as an operator of, a vessel with a tilefish permit, or a vessel fishing for or possessing tilefish in or from the tilefish management unit, unless the operator has been issued, and is in possession of, a valid operator permit.

(3) Purchase, possess, receive, or attempt to purchase, possess, or receive, as a dealer, or in the capacity of a dealer, tilefish that were harvested in or from the tilefish management unit, without having been issued, and in possession of, a valid tilefish dealer permit.

(4) Sell, barter, trade, or otherwise transfer, or attempt to sell, barter, trade, or otherwise transfer, for a commercial purpose, any tilefish, unless the vessel has been issued a tilefish permit, or unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(5) Purchase, possess, or receive, for a commercial purpose, or attempt to purchase, possess, or receive, for a commercial purpose, tilefish caught by a vessel without a tilefish permit, unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(6) Fish for tilefish, with any other than longline gear, while in possession of a limited access permit, as specified in § 648.294.

(7) Possess tilefish harvested in or from the tilefish management unit in excess of the trip limit, pursuant to § 648.292, unless issued a limited access tilefish permit.

(8) Land tilefish harvested in or from the tilefish management unit for sale after the effective date of the notification in the **Federal Register**, pursuant to § 648.291, which notifies permit holders in a limited access category that the quota for that category is no longer available.

(9) Land tilefish in or from the tilefish management unit, in excess of the trip limit pursuant to § 648.292, unless the vessel holds a valid limited access tilefish permit.

11: In 50 CFR part 648, subpart N is added to read as follows:

Subpart N—Management Measures for the Tilefish Fishery

Sec.

648.290 Catch quotas and other restrictions.
648.291 Closures.
648.292 Tilefish trip limits.
648.293 Framework specifications.
648.294 Gear restrictions.

Subpart N—Management Measures for the Tilefish Fishery

§ 648.290 Catch quotas and other restrictions.

The fishing year is the 12-month period beginning with November 1, 2001.

(a) *Total allowable landings (TAL).* The TAL for each fishing year will be 1.995 million lb (905,172 kg) unless modified pursuant to paragraph (d) of this section.

(b) *TAL allocation.* For each fishing year, up to 3 percent of the TAL may be set aside for the purpose of funding research. Once a research TAC, if any, is set aside, the TAL will first be reduced by 5 percent to adjust for the incidental catch. The remaining TAL will be allocated as follows: Full-time tier Category 1, 66 percent; Full-time tier Category 2, 15 percent; and Part-time, 19 percent.

(c) *Adjustments to the quota.* Any overages of the quota for any limited access category that occur in a given fishing year will be subtracted from the quota for that category in the following fishing year. If incidental harvest exceeds 5 percent of the TAL for a given fishing year, the trip limit of 300 lb (138 kg) for the incidental category may be reduced in the following year. If an adjustment is required, a notification of adjustment of the quota will be published in the **Federal Register**.

(d) *Annual specification process.* The Tilefish FMP Monitoring Committee (Monitoring Committee) will meet after the completion of each stock assessment or at the request of the Council Chairman. The Monitoring Committee shall review tilefish landings information and any other relevant available data to determine if the annual quota requires modification to respond to any changes to the stock's biological reference points or to ensure that the rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the TAL will not be exceeded. Based on that review, the Monitoring Committee will provide a recommendation to the Tilefish Committee of the Council. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the Council the appropriate quota and management measures for the next fishing year. The Council shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate TAL for the next fishing year, the percentage of TAL allocated to research quota, and any management measures to assure that the TAL will not be exceeded. The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations, and after such review, NMFS will publish a proposed rule in the **Federal Register** specifying the annual TAL and any management measures to assure that the TAL will not be exceeded. After considering public comments, NMFS will publish a final rule in the **Federal Register** to implement a TAL and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (e) of this section. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

(e) *Research quota.* See § 648.21(g).

§ 648.291 Closures.

(a) *EEZ closure.* If the Regional Administrator determines that the quota for a certain limited access category will be exceeded, the Regional Administrator will close the EEZ to fishing for tilefish by those vessels in that category for the remainder of the fishing year and publish notification in the **Federal Register**.

(b) [Reserved]

§ 648.292 Tilefish trip limits.

Any U.S. fishing vessel fishing under a tilefish incidental catch category permit is prohibited from possessing more than 300 lb (138 kg) of tilefish per trip.

§ 648.293 Framework specifications.

(a) *Within-season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Tilefish FMP.

(1) *Specific management measures.* The following specific management measures may be implemented or adjusted at any time through the framework process:

(i) Minimum fish size,

(ii) Minimum hook size,

(iii) Closed seasons,

(iv) Closed areas,

(v) Gear restrictions or prohibitions,

(vi) Permitting restrictions,

(vii) Gear limits,

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(viii) Trip limits,
(ix) Overfishing definition and related thresholds and targets,
(x) Annual specification quota setting process,
(xi) Tilefish FMP Monitoring Committee composition and process,
(xii) Description and identification of EFH,
(xiii) Fishing gear management measures that impact EFH,
(xiv) Habitat areas of particular concern, and
(xv) Set-aside quotas for scientific research.

(2) *Adjustment process.* If the Council determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it will recommend, develop, and analyze appropriate management actions over the span of at least two Council meetings. The Council will provide the public with advance notice of the availability of the recommendation, appropriate justifications and economic and biological analyses, and opportunity to comment on the proposed adjustments prior to and at the second Council meeting on that framework action. After developing management actions and receiving public comment, the Council will submit the recommendation to the Regional Administrator; the recommendation must include supporting rationale, an analysis of impacts, and a recommendation on whether to publish the management measures as a final rule.

(3) *Council recommendation.* After developing management actions and receiving public testimony, the Council will make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(4) *Regional Administrator action.* If the Council's recommendation includes adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

(i) If the Regional Administrator concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (b)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If the Regional Administrator concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Administrator concurs with the Council's recommendation, the measures will be issued as a final rule in the **Federal Register**.

(iii) If the Regional Administrator does not concur with the Council's recommendation, the Council will be notified in writing of the reasons for the non-concurrence.

(b) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

§ 648.294 Gear restrictions.

A vessel issued a limited access tilefish permit issued under § 648.4(a)(12)(i) cannot fish for tilefish with any gear other than longline, or possess gear other than longline gear unless properly stowed in accordance with § 648.23.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 091701A]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reallocation.

SUMMARY: NMFS is reallocating projected unused amounts of Bering Sea subarea (BS) pollock from the incidental catch account to the directed fisheries. This action is necessary to allow the 2001 total allowable catch (TAC) of pollock to be harvested.

DATES: Effective September 20, 2001 until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(C)(*1*) and the American Fisheries Act (AFA) (Public Law 105-277, Division C, Title II), NMFS specified a pollock incidental catch allowance equal to 4 percent of the pollock TAC after subtraction of the 10 percent Community Development Quota reserve in the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001,and 66 FR 37167, July 17, 2001).

As of August 25, 2001, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that approximately 24,910 metric tons (mt) of pollock remain in the incidental catch account. Based on projected harvest rates of other groundfish species and the expected bycatch of pollock in those fisheries, the Regional Administrator has determined that 12,000 mt of pollock specified in the incidental catch account will not be necessary as incidental catch. Therefore, NMFS is apportioning the projected unused amount, 12,000 mt, of pollock from the incidental catch account to the directed fishing allowances established at § 679.20(a)(5)(i)(C)(*2*). This transfer will increase the allocation to catcher vessels harvesting pollock for processing by the inshore component by 6,000 mt, to catcher/processors and catcher vessels harvesting pollock for processing by catcher processors in the offshore component by 4,800 mt and to catcher vessels harvesting pollock for processing by motherships in the offshore component by 1,200 mt. Pursuant to § 679.20(a)(5)(i)(C)(*2*)(*ii*), no less than 8.5 percent of the 4,800 mt allocated to catcher processors in the offshore component, 408 mt, will be available for harvest only by eligible catcher vessels delivering to listed catcher processors.

Pursuant to § 679.20(a)(5)(i)(C)(*3*), Table 1 revises the final 2001 BS subarea allocations to include the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS for the 2001 fishing year consistent with this reallocation.

TABLE 1. BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

Cooperative name and member vessels	Sum of member vessel's official catch histories[1]	Percentage of inshore sector allocation	Annual co-op allocation
Akutan Catcher Vessel Association ALDEBARAN, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, DONA MARTITA, EXODUS, GLADIATOR, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGIE JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	249,800	28.682%	175,187
Arctic Enterprise Association ARCTIC EXPLORER, BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	51,022	5.858%	35,782
Northern Victor Fleet Cooperative ANITA J, NORDIC FURY, PACIFIC FURY, GOLDRUSH, EXCALIBUR II, HALF MOON BAY, SUNSET BAY, COMMODORE, STORM PETREL, POSEIDON, ROYAL ATLANTIC, MISS BERDIE	72,517	8.326%	50,857
Peter Pan Fleet Cooperative AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEANIC, OCEAN LEADER, TOPAZ, WALTER N, PROVIDIAN	15,347	1.762%	10,763
Unalaska Cooperative ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.255%	74,856
UniSea Fleet Cooperative ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE, STARWARD	212,608	24.411%	149,104
Westward Fleet Cooperative A.J., ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, HICKORY WIND, FIERCE ALLEGIANCE, OCEAN HOPE 3, PACIFIC CHALLENGER, PACIFIC KNIGHT, PACIFIC PRINCE, VIKING, WESTWARD I	160,257	18.400%	112,390
Open access AFA vessels	2,652	0.304%	1,861
Total inshore allocation	870,941	100%	610,800

[1]Under § 679.62(e)(1) the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action in order to allow full utilization of the pollock TAC constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion in order to allow full utilization of the pollock TAC constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is taken under 50 CFR 679.20, and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 20, 2001.

Bruce C. Morehead,

Acting Director, office of Sustainable Fisheries, Nationa Marine Fisheries Service.

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–85–AD]

RIN 2120–AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Models EA–300, EA–300L, and EA–300S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain EXTRA Flugzeugbau GmbH (EXTRA) Models EA–300, EA–300L, and EA–300S airplanes. The proposed AD would require (for all affected airplanes) an inspection of the upper longeron at the horizontal stabilizer attachment for cracks using a fluorescent dye check penetrant method, repair of any cracks found, and modification of the horizontal stabilizer. The proposed AD would require a limit on operation to the Normal category until accomplishment of the initial inspection and modification on airplanes with less than 200 hours time-in-service (TIS). The proposed AD is the result of reports of fatigue cracks at the horizontal stabilizer attachment on the affected airplanes. The actions specified by the proposed AD are intended to detect and correct cracks in the horizontal stabilizer attachment, which could result in structural failure of the aft fuselage with consequent loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 31, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–85–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D–46569 Hünxe, Federal Republic of Germany; telephone: (0 28 58) 91 37–00; facsimile: (0 28 58) 91 37–30. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 99–CE–85–AD." We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

On October 17, 1997, FAA issued a Special Airworthiness Information Bulletin (SAIB) to recommend an inspection of the horizontal stabilizer attachment on EXTRA Models EA–300, EA–300L, and EA–300S airplanes. The SAIB recommended compliance with EXTRA Service Bulletin SB–300–2–95.

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, did not consider the actions of the service bulletin mandatory and consequently did not issue an AD against airplanes on the German register. The FAA also did not issue an AD at this time because the service history did not warrant such action.

Since that time, FAA has received information that indicates fatigue cracks at the horizontal stabilizer attachment are occurring on the above-referenced airplanes. These airplanes are utilized in aerobatic maneuvers and the stress in the area of the horizontal stabilizer can lead to cracks in this area, as well as in the upper longerons and diagonal braces.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not corrected, could lead to structural failure of the aft fuselage with consequent loss of control of the airplane.

Is There Service Information That Applies to This Subject?

As indicated above, EXTRA Service Bulletin SB–300–2–95 pertains to this subject. EXTRA has since revised Service Bulletin No. 300–2–95 (pages 2–6 at Issue: C, dated July 15, 1998; and pages 1 and 7 through 11 at Issue: D, dated January 30, 2001).

What Action Did LBA Take?

As of the issue date of this NPRM, LBA has not taken AD action on this subject.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other EXTRA Models EA–300, EA–300L, and EA–300S airplanes of the same type design registered in the United States; and

—AD action should be taken in order to detect and correct cracks in the horizontal stabilizer attachment, which could result in structural failure of the aft fuselage with consequent loss of control of the airplane.

What Would the Proposed AD Require?

This proposed AD would require:

—For all affected airplanes: an inspection of the upper longeron at the horizontal stabilizer attachment for cracks using a fluorescent dye check penetrant method, repair of any cracks found, and modification of the horizontal stabilizer; and

—On airplanes with less than 200 hours time-in-service (TIS) as of the effective date of the proposed AD: a limit on operation to the Normal category until accomplishment of the initial inspection and modification.

Accomplishment of the actions specified in the proposed AD would be in accordance with the instructions included in the proposed AD and as specified in the applicable service manual.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects 55 airplanes in the U.S. registry.

What Would Be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
24 workhours × $60 per hour = $1,440	Not Applicable	$1,440 per airplane	$1,440 × 55 airplanes = $79,200.

We estimate the following costs to accomplish the proposed modification:

20 workhours × $60 per hour = $1,200	Provided at no cost	$1,200 per airplane	$1,200 × 55 airplanes = $66,000.

We estimate the following costs to accomplish any necessary repair or replacement that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such repair or replacement:

Labor cost	Parts cost	Total cost per airplane
40 workhours × $60 per hour = $2,400	Parts provided at no cost	$2,400 per airplane.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

EXTRA Flugzeugbau GMBH: Docket No. 99–CE–85–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
EA–300	1 through 62
EA–300L	1 through 5
EA–300S	1 through 29

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the horizontal stabilizer attachment, which could result in structural failure of the aft fuselage with consequent loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all affected airplanes, inspect, using a fluorescent dye penetrant method, the upper longeron at the horizontal stabilizer attachment for cracks in the areas depicted in Figure 1 of this AD.	Upon accumulating 250 hours time-in-service (TIS) or within the next 50 hours TIS after the effective date of this AD, whichever occurs later.	In accordance with Part I of Extra Service Bulletin No. 300–2–95 (pages 2–6 at Issue: C, dated July 15, 1998; and pages 1 and 7 through 11 at Issue: D, dated January 30, 2001). No further action is required by this paragraph if the modification is already accomplished in accordance with Part II of Extra Service Bulletin No. 300–2–95 (all pages at Issue: C, dated July 15, 1998).
(2) For all affected air planes, if no crack(s) is(are) found during the inspection required by this AD, modify the upper longeron at the horizontal stabilizer attachment.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	In accordance with Part II of Extra Service Bulletin No. 300–2–95 (pages 2–6 at Issue: C, dated July 15, 1998; and pages 1 and 7 through 11 at Issue: D, dated January 30, 2001). No further action is required by this paragraph if already accomplished in accordance with Part II of Extra Service Bulletin No. 300–2–95 (all pages at Issue: C, dated July 15, 1998).
(3) For all affected airplanes, if any crack is found during the inspection required by this AD and the crack(s) is(are) in Area A or Area B as depicted in Figure 1 of this AD, accomplish the following: (i) Repair and modify the upper longeron at the horizontal stabilizer attachment; and (ii) Weld the cracks tight during repair.	Prior to further flight after the inspection where any crack is found in Area A or Area B as depicted in Figure 1 of this Ad.	In accordance with Part II of Extra Service Bulletin No. 300–2–95, Issue: D, dated January 30, 2001. No further action is required by this paragraph if already accomplished in accordance with Part II of Extra Service Bulletin No. 300–2–95 (all pages at Issue: C, dated July 15, 1998).
(4) For all affected airplanes, if any crack is found during the inspection and the crack(s) is(are) in Area C as depicted in Figure 1 of this AD, accomplish the following: (i) Obtain a repair scheme from the manufacturer; (ii) Incorporate this repair scheme; and (iii) Accomplish any follow-up actions as directed by the FAA.	Prior to further flight after the inspection where any crack is found.	In accordance with a repair scheme obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D–46569 Hünxe, Federal Republic of Germany; telephone: (0 28 58) 91 37–00; facsimile: (0 28 58) 91 37–30. Obtain this repair scheme through FAA at the address specified in paragraph (f) of this and AD.
(5) For airplanes with less than 200 hours TIS as of the effective date of this AD, limit operation to the Normal category by accomplishing the following: (i) Fabricate two placards using letters of at least 1/10-inch in height consisting of the following words: "OPERATIONS LIMITED TO NORMAL CATEGORY"; (ii) Install these placards on the airplane instrument panels (one on the front panel and one on the rear panel) next to the airspeed indicators within the pilot's clear view; and (iii) Insert a copy of this AD into the Limitations Section of the Airplane Flight Manual (AFM).	Within the next 50 hours TIS after the effective date of this AD until the inspection and the modification required by this AD are accomplished.	Not applicable.
(6) The Owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may fabricate and install the placard as required by paragraphs (d)(5)(i) and (d)(5)(ii) of this AD and insert this AD into the Limitations Section of the AFM as required by paragraph (d)(5)(iii) of this AD.	Within the next 50 hours TIS after the effective date of this AD until the first inspection and the modification required by this AD are accomplished.	Make an entry into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR and the 43.9).
(7) For all affected Model EA–300S airplanes, modify the fuselage frame underneath the stabilizer attachment.	Within the next 200 hours TIS after the effective date of this AD.	In accordance with Part III of Extra Service Bulletin No. 300–2–95 (pages 2–6 at Issue: C, dated July 15, 1998; and pages 1 and 7 through 11 at Issue: D, dated January 30, 2001).

Actions	Compliance	Procedures
(8) For all affected airplanes with less than 200 hours TIS as of the effective date of this AD, the inspection, modification, and repair, as necessary, (as specified in paragraphs (d)(1) through (d0(4) of this AD) may be accomplished instead of the operational limitations of paragraph (d)(5) of this AD.	Upon accumulating 250 hours TIS or within the next 50 hours TIS after the effective date of this AD, whichever occurs later.	Inspect in accordance with Figure 1 of this AD and Part I of Extra Service Bulletin No. 300–2–95 (pages 2–6 at Issue: C, dated July 15, 1998; and pages 1 and 7 through 11 at Issue: D, dated January 30, 2001). Modify in accordance with Part II of the service bulletin. Repair in accordance with the service bulletin or a repair scheme obtained from the manufacturer, as applicable.

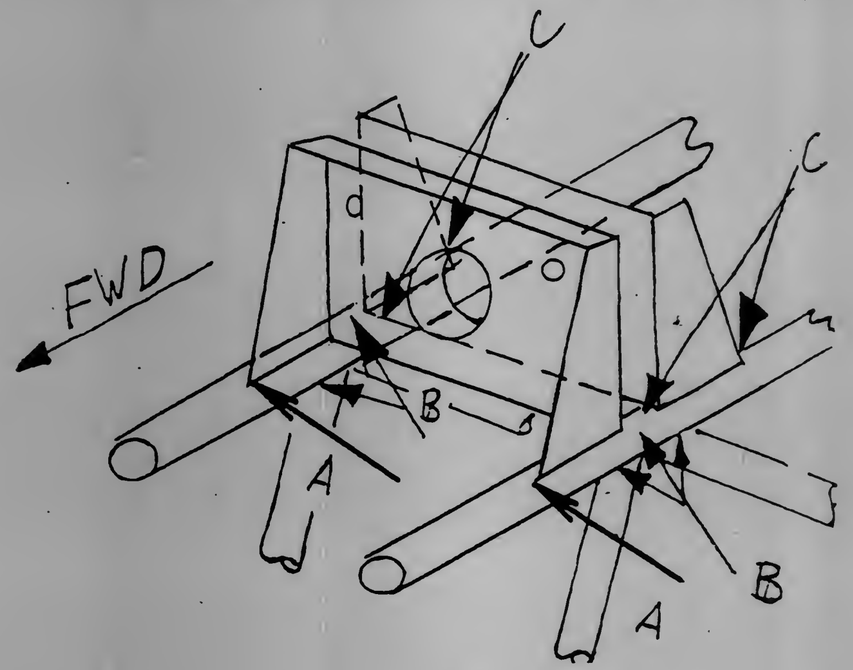


Figure 1

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* Direct questions or technical information related to Extra Service Bulletin No. 300–2–95 (pages 2–6 at Issue: C, dated July 15, 1998; and pages 1 and 7 through 11 at Issue: D, dated January 30, 2001) to EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D–46569 Hünxe, Federal Republic of Germany; telephone: (0 28 58) 91 37–00; facsimile: (0 28 58) 91 37–30. You may view this service information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

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Issued in Kansas City, Missouri, on September 18, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–24024 Filed 9–25–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. FHWA–2001–9182]

RIN 2125–AE75

Highway Bridge Replacement and Rehabilitation Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: The FHWA is seeking comments regarding improvements that can be made to its regulation outlining the highway bridge replacement and rehabilitation program (HBRRP). In addition, the FHWA is considering the inclusion and/or modification of existing policies so that the States and local governments can better manage their bridge assets. Over the years, the FHWA has established policies in many areas for the proper use of bridge funds. The FHWA may need to eliminate some of these policies and incorporate others into the regulation. The FHWA seeks comments from the public, State and local governments, and other Federal agencies on the best means to improve the program.

DATES: Comments must be received on or before December 26, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at http://dmses.dot.gov/submit. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond McCormick, Office of Bridge Technology, HIBT–30, (202) 366–4675; or Mr. Robert Black, Office of the Chief Counsel, HCC–31, (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: http://dmses.dot.gov/submit. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's web page at: http://www.access.gpo.gov/nara.

Background

The Highway Bridge Replacement and Rehabilitation Program (HBRRP) was established in accordance with section 124 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689, 2702). It was established to assist the States in the replacement and rehabilitation of bridges declared unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. The FHWA published regulations to provide guidance and establish procedures for administering the HBRRP at 44 FR 15665 on March 15, 1979. The regulation for administering the HBRRP is contained in 23 CFR part 650, subpart D. Over the years, the FHWA has incorporated many policy and administrative changes into the HBRRP. In addition, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914) and the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107 (1998)) provided considerable flexibility to the States with regards to the Federal-aid program. In recognition of these facts, the FHWA is seeking input into the revision of the regulations so that they better meet the needs of the State and local governments while, at the same time, meeting the national goals of improving the condition of the Nation's bridges.

In the National Bridge Inventory (NBI) (see 23 CFR 650.311) there are approximately 587,598 bridges nationwide, of which 170,130 are classified as being either structurally deficient or functionally obsolete. The HBRRP funding is available for replacement or rehabilitation of these deficient structures, with the terms "replacement" and "rehabilitation" as defined under 23 CFR 650.405(b), and summarized below. There remain an additional 417,468 bridges that would benefit from increased service life with sufficient maintenance and preservation work. The current regulations do not address the use of the HBRRP funds for system preservation activities that would extend the service life of the structures. The status of the Nation's infrastructure is changing. In the past, there was a greater need to construct new bridges on new alignments. In the present, perhaps a more cost-effective approach would be to systematically extend the service life of our structures using data from the bridge management system.

Currently, a bridge is eligible for HBRRP funding if it is undergoing major reconstruction. "Major reconstruction" is interpreted to mean rehabilitation or replacement under 23 CFR 650.405(b). To summarize:

1. Rehabilitation

Conduct of major work to restore the structural integrity of a bridge as well as work necessary to correct major safety defects. The bridge needing rehabilitation, both on and off the Federal-aid system, must conform to the provisions of 23 CFR part 625, Design Standards for Federal-aid Highways for the class of highway on which the bridge is a part. The standards that apply for a bridge on the National Highway System (NHS) would be the American Association of State Highway and Transportation Officials (AASHTO) standards, and for a Federal-aid bridge off the NHS, the States' standards.

2. Replacement

Conduct of work to replace a structurally deficient or functionally obsolete bridge with a new facility constructed in the same general traffic corridor. The new structure must meet the current geometric, construction, and structural standards required for the type and volume of projected traffic on the facility over its design life.

In our effort to facilitate review of the Highway Bridge Replacement and Rehabilitation Program regulations, the FHWA seeks comments on the following questions:

1. A bridge is eligible for HBRRP funding if it is undergoing major reconstruction as defined under § 650.405. Is the current definition for major reconstruction adequate? If not, how should it be modified?

2. Section 309 of National Highway System Designation Act of 1995 (NHS Act) (Pub. L. 104–59, 109 Stat 634, November 28, 1995) added subsection (d) to section 116 of title 23. Subsection (d) now includes preventive maintenance as an activity that shall be eligible for Federal assistance if the State demonstrates that the activity is a cost-effective means of extending the useful life of a Federal-aid highway. In light of the changes made to title 23 by the NHS Act, should the definition of what constitutes rehabilitation be expanded? Work on a bridge that would protect the structural integrity and/or extend its useful service life might be included in the definition of rehabilitation.

3. The FHWA intends to make the HBRRP an effective program, which provides funds for upgrading the Nation's bridges to provide for increasingly safe structures for the traveling public. What flexibility should be provided in this program in order to reach this goal?

4. The standards that govern eligibility for rehabilitation and replacement are the AASHTO or the States' standards depending on the classification of the highway system. Should there be consistency nationwide on the appropriate standard(s) to be followed on all bridges that are insensitive to highway classification? The FHWA requests ideas on how to achieve this and manage it on a national level.

5. The following examples of work are not considered major reconstruction, and are therefore not eligible for HBRRP funds.

- Safety feature replacement or upgrading (bridge rail, approach rail or impact attenuators).
- Overlay of bridge deck if part of a larger highway-surfacing project.
- Utility work.
- Emergency repair to restore structural integrity to the previous status following an accident.
- Retrofitting to correct a deficiency, which does not substantially alter physical geometry or increase the load-carrying capacity.
- Work performed to keep a bridge operational while plans for complete rehabilitation or replacement are under preparation.
- Cost of long approach fills, causeways, connecting roadways, interchanges, ramps and other extensive earth structures, when constructed beyond the attainable touchdown point. (A nominal amount of approach work, sufficient to connect the new facility to the existing roadway or to return the grade line to an attainable touchdown point in accordance with good design practice is eligible).

Should the definition of major reconstruction project include some or all of these types of projects? Should these types of projects be eligible for HBRRP funds?

7. The FHWA uses the sufficiency rating as a basis for establishing eligibility and priority for HBRRP funding. Through this process a list of eligible bridges is established. The States then may choose any bridge project on this list for replacement or rehabilitation. Should this process be changed? If so, what method would be most effective in eliminating deficient bridges?

8. The apportionment factors are based on bridge construction unit costs sent annually by the States to the FHWA. The FHWA uses 3-year averages of these costs as replacement costs. The FHWA is seeking comments on this process and on improving the accuracy of the cost data received.

9. Section 650.411 sets procedures for bridge replacement and rehabilitation projects for submission and approval. Should any of this be modified? If so, how? *Related Rulemakings and Notices:* The FHWA is also in the process of reviewing 23 CFR part 650, subpart C, National Bridge Inspection Standards. The FHWA will soon publish an advanced notice of proposed rulemaking for this program. Additionally, the FHWA will soon publish a notice of proposed rulemaking for 23 CFR part 650, subpart G, Discretionary Bridge Candidate Rating Factor.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. An NPRM may be issued at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that the contemplated rule would not be a significant regulatory action within the meaning of Executive Order 12866 and would not be significant within the meaning of U. S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this action would be minimal. Changes to the HBRRP would increase the number of bridges eligible under the program. However, if the total amount of funding for the program remains the same, the impact on the economy would be minimal. Further, if the FHWA extends eligibility to include maintenance and preservation in the long run this would have a positive impact by increasing the service life of existing bridges, and therefore would offset any initial increase in the number of eligible bridges. Any proposed changes should not likely interfere with any action taken or planned by another agency.

Based upon the information received in response to this ANPRM, the FHWA intends to carefully consider the costs and benefits associated with this rulemaking. Accordingly, comments, information, and data are solicited on the economic impact of any proposed recommendation for changes to the HBRRP.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 60 l-612), and based upon the information received in response to this ANPRM, the FHWA will evaluate the effects of any action proposed on small entities. The FHWA anticipates that any action proposed would not have a significant economic impact on a substantial number of small entities. The FHWA encourages commenters to evaluate any options addressed here with regard to the potential for impact, and to formulate their comments accordingly.

Unfunded Mandates Reform Act of 1995

The actions being considered under this ANPRM would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Public. Law. 104–4, March 22, 1995,

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109 Stat. 48). The actions being considered under this ANPRM would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of thc proceeding to assess the affects on State, local, and tribal governments and the private sector.

Executive Order 13132 (Federalism)

Any action that might be proposed in subsequent stages of this proceeding will be analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA anticipates that any action contemplated will not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA also anticipates that any action taken will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. We encourage commenters to consider these issues, however, as well as matters concerning any costs or burdens that might be imposed on the States as a result of actions considered here.

Executive Order 13175 (Tribal Consultation)

Any action that might be proposed in subsequent stages of this proceeding will be analyzed under Executive Order 13175, dated November 6, 2000. The FHWA believes that any proposal will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, the FHWA anticipates that a tribal summary impact statement will not be required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this ANPRM does not contain a collection of information requirement for purposes of the PRA.

National Environmental Policy Act

The agency also will analyze any action that might be proposed for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to assess whether there would be any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads.

Authority: 23 U.S.C. 144 and 315; 49 CFR 1.48.

Issued on: September 19, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

[FR Doc. 01–24091 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. FHWA–2001–8954]

RIN 2125–AE86

National Bridge Inspection Standards

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: The FHWA is soliciting comments on whether to revise its regulation on National Bridge Inspection Standards (NBIS) to incorporate current, state-of-the-art bridge inspection practices that public authorities may be using. It has been 14 years since the NBIS regulations were updated. The experience, material, and technology changes over time dictate that the FHWA take a fresh look at these regulations. The FHWA has received some unsolicited comments from engineers, inspectors, transportation planners, and others recommending a number of changes to the FHWA's NBIS regulations. In revising these regulations the FHWA is considering incorporating a number of the FHWA policy memorandums and technical advisories into the regulation. In this ANPRM, the FHWA is soliciting comments on whether to amend its NBIS regulations to incorporate changes in technology and enforcement mechanisms. Additionally, the FHWA intends to update the rule to comply with current state-of-the-art bridge inspection techniques.

DATES: Comments must be received on or before December 26, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit*. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Wade F. Casey, P.E., Federal Lands Highway, HFPD–9, (202) 366–9486, or Mr. Robert Black, Office of the Chief Counsel, HHC–30, (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: http://dmses.dot.gov/submit. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara*.

Background

The FHWA bridge inspection program regulations were developed as a result of the Federal-Aid Highway Act of 1968 (sec. 26, Pub. L. 90–495, 82 Stat. 815, at 829) that required the Secretary of Transportation to establish national bridge inspection standards (NBIS). The NBIS was authorized after the 1967 collapse of the Silver Bridge, at Point Pleasant, West Virginia, that resulted in the death of 46 people. The primary purpose of the NBIS is to locate, evaluate, and act on existing bridge deficiencies to ensure the safety of the traveling public (23 U.S.C. 151).

The 1968 Federal-Aid Highway Act directed the States to maintain an inventory of Federal-aid highway system bridges. The Federal-Aid Highway Act of 1970 (sec. 204, Pub. L. 91–605, 84 Stat. 1713, at 1741) limited the NBIS to bridges on the Federal-aid highway system. In the Surface Transportation Assistance Act of 1978 (STAA) (sec. 124, Pub. L. 95–599, 92 Stat. 2689, at 2702), NBIS requirements were extended to bridges greater than 20 feet on all public roads. The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURRA) (sec.125, Pub. L. 100–17, 101 Stat. 132, at 166) expanded bridge inspection programs to include special inspection procedures for fracture critical members and underwater inspection.

The condition of our nation's bridges is of paramount importance to the FHWA. In revising the NBIS regulations, the FHWA will ensure the "proper safety inspection and evaluation of all highway bridges" for the safety of the traveling public. Highway bridges play an important role in achieving the FHWA's strategic goals of safety, mobility, productivity, human and natural environment as well as national security.

Application of Standards

The current FHWA regulation requires that the American Association of State Highway Transportation Officials (AASHTO) definition of a bridge be used when determining which structures are to be inspected and reported. Should the FHWA develop its own definition of a bridge for the purpose of inspection and reporting? Should the FHWA definition change the way the bridge length is determined or what the minimum bridge length should be for reporting purposes? Current AASHTO policy measures bridges from undercopings of the abutments or spring lines of arches, or between extreme ends of openings for multiple boxes. The span opening then must be greater than 20 feet for reporting. What impact will the possible inclusion of more bridges be (1) on public authorities complying with this as an NBIS requirement, (2) or on the FHWA which maintains the inventory, (3) or on the HBRRP funds? A public authority means a Federal, State, county, town, or township, Indian tribe, municipal or other local government instrumentality with the authority to finance, build, operate, or maintain toll or toll-free facilities.

Inspection Procedures

The current FHWA regulation includes the following:

- The AASHTO "Manual for Maintenance Inspection of Bridges" [1] will be used for determining load ratings for each bridge;
- If the States' maximum legal load exceeds the load permitted under the operating rating then the bridge must be posted;
- A listing of bridges with fracture critical members along with information on location, description and inspection frequency must be maintained;
- Underwater members must be identified and special inspection performed no longer than every 5 years; and
- Bridges with other unique features must be identified and special safety inspections performed.

The results of underwater inspection of bridge piers since 1978 reveal that both construction materials used and the environment where the bridge is located impact inspection frequency. Also, the results of underwater inspections of bridge pier piling in concrete lined irrigation channels suggest that little, if any, deterioration occurs in the 5 years between inspections. Bridge engineers have commented that it may be more economical to increase the time between inspections, while not impacting safety. Based on comments from bridge engineers, the FHWA is considering changing the 5 year underwater inspection intervals and developing intervals which are tied to pile or foundation materials as well as the environment where the bridge is located. What impact will changing the underwater inspection intervals have on public authorities complying with this as an NBIS requirement?

Scour, the leading cause of bridge failure in the United States, is not addressed directly in the current NBIS regulations, but is covered in a FHWA technical advisory.[2] The FHWA is considering providing guidance within the regulations to address this. Also, the FHWA is seeking comment on whether it should provide guidance for what public authorities should do after major storm events. These storm events can, in some cases, severely undermine bridge piers that may have lost bearing capacity because of localized scour. The FHWA is considering inclusion of the FHWA Technical Advisory T 5140.23 within the NBIS regulations. What, if any, would be the impact on public authorities complying with evaluation of scour at bridges criteria within the NBIS regulation?

[1] The AASHTO Manual referred to in this part as the Manual for Maintenance Inspection of Bridges 1983 has been updated and is now entitled Manual for Condition Evaluation of Bridges, 1994 Second Edition and is available through AASHTO, 444 North Capitol Street, N.W. Suite 249, Washington, DC 20001.

[2] FHWA Technical Advisory T 5140.23, October 28, 1991, "Evaluating Scour at Bridges," is available at web site: *http://www.fhwo.dot.gov/legsregs/directives*. Also, it is available from the docket file for this document at: *http://dms.dot.gov*. Internal directives are available for inspection and copying as provided in 49 CFR part 7.

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Frequency of Inspections

The current FHWA regulation requires that bridges be inspected every 2 years. The maximum interval can be increased to 4 years with FHWA approval after meeting certain conditions. Should the 4-year interval be increased so that more bridges would be eligible for the extended inspection cycle? What would be a reasonable interval? What impact would this have on the safety of bridges?

Qualification of Personnel

The current FHWA regulation requires that the individual in charge of the inspection and reporting be a registered professional engineer (PE); or be qualified for registration as a PE; or have a minimum of 10 years experience in bridge inspection in a responsible capacity and have completed certain training requirements. The individual in charge of the inspection team shall either meet the above qualifications or have a minimum of 5 years experience in bridge inspection assignments in a responsible capacity and have completed certain training requirements. Should the individual in charge of the inspection and reporting who is a PE be required to have the same training as bridge inspectors and have additional experience in bridge inspection?

In the current regulations, the registered professional engineer is not required to have specific bridge inspection training. Also, the discipline of the registered professional engineer is not specified. The FHWA is considering requiring that bridge inspections be performed by either a civil or structural engineer who is also a licensed professional engineer. Currently, the regulation permits professional engineers within other engineering disciplines to inspect highway bridges. Experience shows that only those engineers specifically trained to provide bridge inspection services are best equipped to conduct bridge inspections. Should the NBIS regulation be more specific as to the discipline of the professional engineer responsible for these bridge inspections and what impact would this change have on public authorities complying with this?

Bridge engineers have indicated that inspection programs need to include an engineer in training (EIT) component. Bridge engineers feel that a graduate EIT engineer should qualify as a field team leader with appropriate bridge inspector's training and a minimum of 2 years bridge design, inspection or construction experience.

According to the NBIS, a bridge inspector must have a minimum of 10 years experience in bridge inspection assignments in a responsible capacity. Bridge engineers would like clarification of the phrase "in a responsible capacity."

Section 151 of title 23, U.S. Code, indicates that a training program for bridge inspectors shall be revised from time to time to take into account new and improved techniques. Bridge engineers have indicated that qualifications for inspectors should be modified to provide more training or experience in proportion to the complexity of the structure being inspected. The FHWA is considering requiring certification training in proportion to the complexity of the bridge structure being inspected, and making this a part of a requirement for inspectors under the national bridge inspection program. What impact would this change have on public authorities complying with this as an NBIS requirement?

Bridge engineers have indicated that the NBIS does not adequately address qualification requirements for those performing underwater inspections. Should those performing underwater inspections be qualified licensed professional engineers? Current regulations do not stipulate that the inspector in the water must also be an engineer. What impact would these proposed changes have on public authorities complying with this?

Inspection Report

The current FHWA regulation states that AASHTO's "Manual for Maintenance Inspection of Bridges" be used (see footnote 1). This manual describes the guidelines for organizing the reports, written report requirements, and documentation of defects using photos and sketches.

Bridge inspectors have indicated that those in management have made changes to their reports without having been in the field to view, first hand, the conditions of a particular bridge. The FHWA does not support this practice and believes any change to an inspection report should be made by the inspector who was out in the field. This procedure should be clearly covered in the NBIS. What if any would the impact be on public authorities complying with only allowing the inspector who was out in the field to change the inspection report as an NBIS requirement?

Inventory

The current FHWA regulation requires each State to maintain an inventory of all bridges in its State and submit the inventory to the FHWA annually. The data to be collected is outlined in the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."[3] Requirements for entering new or updated data into the State's inventory or placing load restriction signs is set to 90 days for bridges under the States jurisdiction and 180 days for all other bridges.

The FHWA believes that the procedures for bridge inventory are adequately written and require no modification. Should the reporting requirements for the NBIS be changed and what, if any, would the impact be on public authorities complying with this?

Additional General Questions

In our effort to facilitate review of this NBIS regulation, the FHWA seeks comments on the following additional questions:

1. Does the current regulation at 23 CFR part 650, subpart C, correctly address the requirements of 23 U.S.C. 151, national bridge inspection program?
2. What improvements would you recommend to the bridge inspection procedures?
3. What specific procedures would you recommend to enhance the NBIS regulations?

Related Rulemakings and Notices

The FHWA is also in the process of reviewing 23 CFR part 650, subpart D, Highway Bridge Replacement and Rehabilitation Program (HBRRP). The FHWA will soon publish an advanced notice of proposed rulemaking for the HBRRP. Additionally, the FHWA will soon publish a notice of proposed rulemaking, for 23 CFR part 650, subpart G, Discretionary Bridge Candidate Rating Factor.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A notice of proposed rulemaking may be issued at any time after close of the comment period.

[3] "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges." December 1995, FHWA, Report No. FHWA–PD–96–001, is available at URL: *http://www.fhwa.dot.gov/////bridge/mtguide.pdf* and may be inspected and copied as prescribed at 49 CFR part 7.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedure

The FHWA has preliminarily determined that this action would be a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of the U.S. Department of Transportation regulatory policies and procedures because the proposed action concerns a matter on which there is substantial public interest. The Office of Management and Budget (OMB) designated this proposed regulation as a significant regulatory action and has reviewed it under E.O. 12866. Because of the preliminary nature of this document and lack of necessary information on costs as well as benefits, the FHWA is unable to evaluate the impact of potential changes to the NBIS.

Based upon the information received in response to this notice, the FHWA intends to carefully consider the costs and benefits associated with this rulemaking. Accordingly, comments, information, and data are solicited on the economic impact of any proposed recommendation for change to the NBIS.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), and based upon the information received in response to this ANPRM, the FHWA will evaluate the effects on small entities of any action proposed. This action merely seeks information regarding potential changes to the NBIS. Therefore, the FHWA is unable to certify at this time whether or not any proposed changes to the NBIS will have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

Because of the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable to evaluate the effects of the potential regulatory changes in regards to imposing a Federal mandate involving expenditure by State, local and Indian tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). Nevertheless, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of this rulemaking to assess the affects on State, local, and Indian tribal governments and the private sector.

Executive Order 12988 (Civil Justice Reform)

The FHWA will evaluate any action that may be proposed in response to comments received to ensure that such action meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA will evaluate any rule that may be proposed in response to comments received under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We do not, however, anticipate that any such rule would be economically significant or would present an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The FHWA will evaluate any rule that may be proposed in response to comments received to ensure that any such rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

Any action that might be proposed in subsequent stages of this proceeding will be analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA anticipates that any action contemplated will not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA will consult extensively with public authorities regarding any changes to the NBIS regulations. The FHWA also anticipates that any action taken will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. We encourage commenters to consider these issues.

Executive Order 13175 (Tribal Consultation)

The FHWA will analyze any proposal under Executive Order 13175, dated November 6, 2000. The FHWA preliminarily believes that any proposal will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement may not be required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The currently-approved information collection entitled Structure Inventory and Appraisal (SI&A) sheet is covered by OMB Approval Number 2125–0501. The current expiration date is April 30, 2004. The SI&A sheets are used by the States to provide the FHWA required information on bridge inspections. The FHWA estimates that a total of 540,000 burden hours are utilized by all of the States to fulfill their current reporting obligations. Any action that might be contemplated in subsequent phases of this proceeding will be analyzed for the purpose of the PRA for its impact to this current information collection. The FHWA would be required to submit any proposed collections of information to OMB for review and approval at the time the NPRM is issued and, accordingly, seeks public comments. Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) Whether the collection of information would be necessary for the performance of the functions of the FHWA, including whether the information would have practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collection of information; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

National Environmental Policy Act

The agency will analyze any action that might be proposed for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to assess whether there would be any effect on the quality of the environment.

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Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements.

Authority: 23 U.S.C. 151 and 315; 49 CFR 1.48.

Issued on: September 19, 2001.

Vincent F. Schimmoller,

Deputy Executive Director.

[FR Doc. 01–24092 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH40

Endangered and Threatened Wildlife and Plants; Notice of a Public Hearing and Extension of Comment Period for Proposed Endangered Status for the Sacramento Mountains Checkerspot Butterfly and Proposed Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), give notice that we are holding a public hearing for the proposed rule to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as endangered with critical habitat under the authority of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). We also give notice of the extension of the comment period for the proposed rule for the Sacramento Mountains checkerspot butterfly. The extension of the comment period will be for 30 additional days (until December 5, 2001). We invite all interested parties to submit comments on this proposal. The extension of the comment period will allow all interested parties to submit written comments on the proposal. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: We will hold a public hearing at the Alamogordo Civic Center, 800 East First Street, Alamogordo, New Mexico, from 6 to 8 p.m. on Thursday, October 18, 2001, to solicit comments on the proposed rule to list the Sacramento Mountains checkerspot butterfly as endangered with critical habitat. The comment period for this proposal now closes on December 5, 2001. Comments must be received by the closing date. We will consider all comments received at the public hearing or those submitted in writing by December 5, 2001, the closing date of the comment period on this proposal.

ADDRESSES: You may submit written comments and materials concerning the proposal at the hearing or send them directly to Joy Nicholopoulos, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico, 87113. Written comments may also be sent by facsimile to (505) 346–2542 or through the Internet to *R2FWE_AL@fws.gov*. All comments, including names and addresses, will become part of the administrative record and may be released. You may also hand-deliver written comments to our New Mexico Ecological Services Field Office, at the above address. Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8:00 a.m. to 4:30 p.m., at the above address. You may obtain copies of the proposed rule from the above address, by calling 505/346–2525, ext. 135, or from our website at *http://ifw2es.fws.gov/Library/*.

FOR FURTHER INFORMATION CONTACT: Eric Hein, Endangered Species Biologist, New Mexico Ecological Services Field Office, at the above address (telephone 505/346–2525, ext. 135; facsimile 505/346–2542) or visit our website at *http://ifw2es.fws.gov/*.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1999, we published a substantial 90-day finding indicating that listing the Sacramento Mountains checkerspot butterfly may be warranted and initiated a status review for the required 12-month finding (64 FR 72300). On September 6, 2001, we published a proposed rule to list the butterfly as endangered with critical habitat under the Endangered Species Act of 1973, as amended (Act) (66 FR 46575). The proposed rule constitutes our 12-month administrative finding. The 60-day public comment period on the proposed rule is extended and now closes on December 5, 2001. In the proposed rule, we determined that much of the remaining suitable habitat, and the long term persistence of the subspecies, is threatened by the direct and indirect effects, or some combination thereof, of commercial and private development, Forest Service projects (*e.g.*, campground reconstruction, powerline construction, road maintenance), fire suppression activities, highway reconstruction, off-highway vehicle use, trampling, and overgrazed range conditions (66 FR 46575). The butterfly is also threatened by encroachment of conifers and non-native vegetation into non-forested openings, over collection, and, due to its limited range, vulnerability to local extirpations from extreme weather events or catastrophic wildfire. We concluded that the extent of known localities and the non-forested suitable habitat, and the quality of the remaining suitable habitat are threatened. We expect the significant amount of habitat conversion from commercial and private development, which has occurred over the last several decades, will increase and continue to further degrade or eliminate the quality and quantity of Sacramento Mountains checkerspot butterfly habitat, placing the animal in danger of extinction throughout all or a significant portion of its range. The butterfly is vulnerable because of its limited range, over collection, and habitat degradation.

If the proposed rule is finalized, section 7(a)(2) of the Act would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to result in the "destruction or adverse modification" of critical habitat. Section 4 of the Act requires us to consider economic and other relevant impacts that could arise from specifying any particular area as critical habitat. We request data and comments from the public and all interested parties on all aspects of the proposal, including data on economic and other impacts of the proposed designation.

We stated in the proposed rule that should a public hearing be requested, then we would announce the date, time, and place for the hearing in the **Federal Register** and local newspapers at least 15 days prior to the hearing. This notice provides information regarding that hearing and extends the comment period an additional 30 days.

Public hearings are designed to gather relevant information that the public may have that we should consider in our rule-making. During the hearing, we will present information about the proposed action. We invite the public to submit information and comments either at the hearings or in writing. This notice and public hearing will allow all interested parties to submit comments on the proposed rule and proposed designation. We are seeking comments or suggestions from the public, other concerned governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning the proposal.

We may have to limit the time allotted for oral statements, if the number of people who wish to comment necessitates such a limitation. We encourage persons wishing to comment at the hearings to provide a written copy of their statement at the start of the hearing. There is no limit on the length of written comments. Persons may send written comments to our office (see **ADDRESSES** section) at any time during the open comment period, which is extended and now closes on December 5, 2001. We will give equal consideration to oral and written comments. We are publishing legal notices announcing the date, time, and location of the hearing in newspapers, concurrently with this **Federal Register** notice.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the National Environmental Policy Act (NEPA) in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as that of the Sacramento Mountains checkerspot butterfly, pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for the critical habitat designation. We will notify the public of the availability of the draft NEPA document for this proposal so that interested and affected parties may participate and contribute to a final decision. The draft NEPA document will be sent out for a minimum 45-day public comment period, during which comments will be solicited.

In addition, we will conduct a robust economic analysis on the effects of the proposed critical habitat designation prior to a final determination. We will conduct an analysis that complies with the ruling by the Tenth Circuit Court of Appeals in *New Mexico Cattle Growers Association, et. al.* v. *U.S. Fish and Wildlife Service*. When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**, and we will reopen the comment period at that time to accept comments on the draft economic analysis, draft NEPA document, or further comment on the proposed rule. We will also transmit the draft documents to all who commented on the proposed rule, and send the documents to anyone who requests a copy. We are particularly interested in comments or suggestions on reasons why any particular area should or should not be designated as critical habitat, information on the distribution and quality of habitat for the Sacramento Mountains checkerspot butterfly, land use practices and current or planned activities in areas that may be affected by a designation of critical habitat, and any other pertinent issues of concern.

Author: The primary author of this notice is Eric Hein (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 17, 2001.

Nancy M. Kaufman,

Regional Director, Region 2.

[FR Doc. 01–24037 Filed 9–25–01; 8:45 am]

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Notices

Federal Register
Vol. 66, No. 187
Wednesday, September 26, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–066–1]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of a currently approved information collection in support of its imported fire ant regulations.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 26, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–066–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–066–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on the imported fire ant regulations, contact Mr. Charles L. Brown, Staff Officer, Invasive Species and Pest Management, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–4838. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Imported Fire Ant.

OMB Number: 0579–0102.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is responsible for preventing the interstate spread of injurious plant pests, such as the imported fire ant, from infested areas of the United States to noninfested areas. Implementing this responsibility requires the use of domestic quarantines to restrict the interstate movement of regulated articles that could carry the plant pest. The Plant Protection Act authorizes the Department to carry out this mission.

Nursery owners who elect to enter our Imported Fire Ant-Free Nursery Program visually inspect their premises for the presence of imported fire ants, record the results in a notebook or log sheet, and record any treatments they perform if fire ants are discovered.

State plant protection officials collect this information by interviewing the nursery owner, reviewing the owner's inspection and treatment records, and inspecting the nursery site. The information obtained is used for issuing the various certificates, permits, and other documents that enable the nursery owner to move regulated items (such as potted nursery plants, sod, or other products) across State lines to markets outside the area under quarantine for imported fire ant.

Without this information collection, we would be unable to collect the information we need to effectively implement our imported fire ant quarantine. Persons who grow, handle, or move regulated nursery articles interstate may also enter into a compliance agreement with APHIS. Compliance agreement candidates must meet all applicable State training and certification standards regarding pesticide application. Any person who enters into a compliance agreement with APHIS must agree to comply with all provisions of the Imported Fire Ant Quarantine and Regulations in 7 CFR 301.81 through 301.81–10.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Agency functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.42371 hours per response.

Respondents: U.S. nursery owners, shippers, and State and county plant health protection authorities.

Estimated annual number of respondents: 4,024.

Estimated annual number of responses per respondent: 2.93836.

Estimated annual number of responses: 11,824.

Estimated total annual burden on respondents: 5,010 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 20th day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–24054 Filed 9–25–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–070–1]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations regarding the issuance of phytosanitary certificates for plants or plant products being shipped to foreign countries.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 26, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–070–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–070–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information regarding phytosanitary export certification, contact Mrs. Parul Patel, Senior Export Specialist, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236, (301) 734–5491. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Phytosanitary Export Certification.

OMB Number: 0579–0052.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS), among other things, provides export certification services to assure other countries that the plants and plant products they are receiving from the United States are free of plant pests specified by the receiving country.

It should be noted that our regulations do not require that we engage in export certification activities. We perform this work as a service to exporters who are shipping plants or plant products to countries that require phytosanitary certification as a condition of entry.

To request that we perform a phytosanitary inspection, an exporter must complete and submit an Application for Phytosanitary Inspection and Certification (PPQ Form 572).

After assessing the condition of the plants or plant products intended for export (i.e., after conducting a phytosanitary inspection), an inspector (who may be an APHIS employee or a State or county plant regulatory official) will issue an internationally recognized phytosanitary certificate (PPQ Form 557), a phytosanitary certificate for reexport (PPQ Form 579), or an export certificate for processed plant products (PPQ Form 578).

These forms are critical to our ability to certify plants and plant products for export. Without them, we would be unable to conduct an export certification program.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.7095995 hours per response.

Respondents: U.S. growers, shippers, and exporters; State and county plant health protection authorities.

Estimated annual number of respondents: 14,375.

Estimated annual number of responses per respondent: 52.869.

Estimated annual number of responses: 759,992.

Estimated total annual burden on respondents: 539,290 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 20th day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–24055 Filed 9–25–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 38–2001]

Foreign-Trade Zone 72, Indianapolis, IN, Application for Subzone, Rolls Royce Corporation (Gas Turbine Engines), Indianapolis, IN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Indianapolis Airport Authority, grantee of FTZ 72, requesting special-purpose subzone status for the gas turbine engine manufacturing plant of Rolls Royce Corporation in Indianapolis, Indiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 18, 2001.

The engine manufacturing facilities of Rolls Royce in Indianapolis included in

this application consist of three sites covering 415 acres with four million square feet of plant space: *Site 1* (203 acres: 2.7 million sq. ft.)—"Plant 5," 2355 South Tibbs Ave., Indianapolis; *Site 2* (211 acres; 1 million sq. ft.)—"Plant 8," 2001 South Tibbs Ave., Indianapolis; *Site 3* (0.7 acres; 32,000 sq. ft.)—"Single Crystal Site," 5601 Fortune Circle South, Indianapolis. The facilities (5,000 employees) produce gas turbine engines and engine parts. The engines are used for aircraft, marine and industrial applications. Foreign-sourced materials account for approximately 17 percent of material value, and include parts of turbojets, parts of turbo-propellers, parts of other gas turbines, cast iron parts for turbojets, fuel/lubrication/cooling pumps, bearings, aircraft parts, fasteners, containers, and paints.

Zone procedures would exempt Rolls Royce from Customs duty payments on foreign materials used in production for export. On domestic sales, the company would be able to choose the duty rates that apply to the finished products (duty-free to 2.5 %) rather than the duty rates that would otherwise apply to the foreign-sourced materials noted above (duty-free to 9 %). The application indicates that the savings from zone procedures will help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is November 26, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to December 11, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 11405 North Pennsylvania Street, Suite 106, Carmel, IN 46032.

Dated: September 19, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–24081 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 39–2001]

Foreign-Trade Zone 7—Mayaguez, Puerto Rico, Request for Manufacturing Authority, IPR Pharmaceuticals, Inc. (Pharmaceuticals)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Industrial Development Corporation (PRIDCO), grantee of FTZ 7, on behalf of IPR Pharmaceuticals (IPR), requesting authority to manufacture pharmaceutical products under FTZ procedures within FTZ 7—Site L–164–0–63, in Canovanas, Puerto Rico. The application was formally filed on September 18, 2001.

The application requests authority on behalf of IPR to manufacture pharmaceutical products and their intermediates under zone procedures within FTZ 7—Site L–164–0–63. The IPR facility (up to 800 employees) is located at Carr 188, San Isidro Industrial Park, Canovanas, Puerto Rico (5 bldgs., 209,944 sq. ft., on 25.4 acres).

The facility is currently used for the manufacture of pharmaceutical products and their intermediates. The application requests a scope of authority for manufacturing activity conducted under FTZ procedures at the zone site to include general categories of inputs that have recently been approved by the Board for other pharmaceutical plants. They include chemically pure sugars, empty capsules for pharmaceutical use, protein concentrates, natural magnesium phosphates and carbonates, gypsum, anhydrite and plasters, petroleum jelly, paraffin and waxes, sulfuric acid, other inorganic acids or compounds of nonmetals, ammonia, zinc oxide, titanium oxides, fluorides, chlorates, sulfates, salts of oxometallic acids, radioactive chemical elements, compounds of rare earth metals, acyclic hydrocarbons, derivatives of phenols or peroxides, acetals and hemiacetals, phosphoric esters and their salts, diazo-compounds, glands for therapeutic uses, wadding, gauze and bandages, pharmaceutical glaze, hair preparations, lubricating preparations, albumins, prepared glues and adhesives, catalytic preparations, diagnostic or laboratory reagents, prepared binders, acrylic polymers, self-adhesive plates and sheets, other articles of vulcanized rubber, plastic cases, cartons, boxes, printed books, brochures and similar printed matter, carboys, bottles, and flasks, stoppers, caps, and lids, aluminum foil, tin plates and sheets, taps, cocks and valves, and medical instruments and appliances. Materials sourced from abroad represent some 50%–65% of finished product value.

Zone procedures would exempt IPR from Customs duty payments on foreign materials used in production for export. Some 30–40 percent of the plant's shipments are exported. On domestic shipments, the company would be able to defer Customs duty payments on foreign materials, and to choose the duty rate that applies to finished products (duty free-14.2%) instead of the rates otherwise applicable to the foreign input materials (duty free-20%) (noted above). IPR would also exempt duty payments on foreign merchandise that becomes scrap or waste resulting from the production process. FTZ procedures will also help IPR implement a more efficient and cost-effective system for handling Customs requirements because of direct delivery. The application indicates that the savings from zone procedures would help improve IPR's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is November 13, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 5-day period (to November 19, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 525 F.D. Roosevelt Ave., Suite 905, San Juan, PR 00918.

Dated: September 19, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–24080 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 40–2001]

Foreign-Trade Zone 199, Texas City, TX: Expansion of Manufacturing Authority; Subzone 199C, Valero Refining Company—Texas, Texas City, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Texas City Foreign-Trade Zone Corporation, grantee of FTZ 199, requesting authority on behalf of the Valero Refining Company—Texas (Valero), to expand the scope of manufacturing activity conducted under zone procedures within Subzone 199C at the Valero oil refinery complex in Texas City, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 19, 2001.

Subzone 199C (310 acres, 415 employees) was approved by the Board in 1996 and is located at 1301 Loop 197 South, Texas City, Texas. Authority was granted for the manufacture of fuel products and certain petrochemical feedstocks and refinery by-products (Board Order 863, 62 FR 1316, 1/9/97).

The refinery (160,000 barrels per day) is used to produce fuels and petrochemical feedstocks. The expansion request involves several modified and upgraded crude distillation units. Valero has been expanding and modifying three crude units to allow for the processing of high sulfur crude within the existing Site 1. The new facilities will increase the overall capacity of the refinery to 223,000 BPD. The feedstocks used and product slate will remain unchanged. The crude oil will be sourced from abroad.

Zone procedures would exempt the new refinery facilities from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates for certain petrochemical feedstocks (duty-free) by admitting foreign crude oil in non-privileged foreign status. The application indicates that the additional savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is November 26, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 11, 2001.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 500 Dallas, Suite 1160, Houston, TX 77002.

Dated: September 19, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–24086 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Case Number: A–570–803]

Heavy Forged Hand Tools From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen at (202) 482–4195 and Esther Chen at (202) 482–0989, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

TIME LIMITS:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On March 16, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on heavy forged hand tools from the People's Republic of China, covering the period February 1, 2000 through January 31, 2001 (66 FR 16037). The preliminary results are currently due no later than October 31, 2001.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the preliminary results until no later than February 28, 2002. *See* Decision Memorandum from Holly Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

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Dated: September 20, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Import Administration, Group II.

[FR Doc. 01–24084 Filed 9–24–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–559–801]

Spherical Plain Bearings and Parts Thereof From France and Ball Bearings and Parts Thereof From Singapore: Rescission of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative reviews.

SUMMARY: On June 19, 2001, the Department of Commerce initiated administrative reviews of the antidumping duty order on ball bearings and parts thereof from Singapore for one manufacturer/exporter of the subject merchandise, NMB Singapore Ltd., Pelmec Industries (Pte.) Ltd., and NMB Technologies Corporation, and the antidumping duty order on spherical plain bearings and parts thereof from France, produced and exported by SKF France S.A., for the period May 1, 2000, through April 30, 2001. The Department is rescinding these reviews after receiving timely withdrawals from the parties requesting these reviews.

EFFECTIVE DATE: September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Dunyako Ahmadu or Richard Rimlinger, AD/CVD Enforcement, Office 3, Import Administration International Trade Administration, U.S Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0198 or (202) 482–4477, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions in effect as of January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR part 351 (2001).

Background

On May 31, 1001, NMB Singapore Ltd., Pelmec Industries (Pte) Ltd., and NMB Technologies Corporation (collectively "NMB/Pelmec") requested that the Department conduct an administrative review of its shipments of ball bearings for the period May 1, 2000, through April 30, 2001, and SKF USA Inc., SKF France, and Sarma (collectively "SKF") also requested that the Department conduct an administrative review of its shipments of spherical plain bearings during the period May 1, 2000, through April 30, 2001. On June 19, 2001, the Department published in the **Federal Register** a notice of initiation of these administrative reviews with respect to NMB/Pelmec and SKF, both for the period of May 1, 2000, through April 30, 2001. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 66 FR 32934–32936 (June 19, 2001).

On August 28, 2001, NMB/Pelmec withdrew its request for a review. Similarly, on September 7, 2001, SKF withdrew its request for a review. Furthermore, both NMB/Pelmec and SKF asked the Department to rescind the administrative reviews.

Rescission of Reviews

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Because NMB/Pelmec and SKF submitted their requests for rescission within the 90-day time limit and there were no requests for review from other interested parties, we are rescinding these reviews. As such, we will issue appropriate appraisement instructions directly to the Customs Service. This notice is an accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: September 19, 2001.

Richard W. Moreland,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–24082 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–601]

Top-of-the-Stove Stainless Steel Cooking Ware From Korea: Extension of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Paige Rivas at (202) 482–0651, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

TIME LIMITS:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On February 28, 2001 the Department published a notice of initiation of administrative review of the antidumping duty order on Top-of-the-Stove Stainless Steel Cooking Ware from Korea, covering the period January 1, 2000 through December 31, 2000 (65 FR 12758). The preliminary results are currently due no later than October 3, 2000.

Extension of Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, we are extending the time limit for completion of the preliminary results until no later than

january 30, 2002. *See* Decision Memorandum from Senior Office Director Holly Kuga to Deputy Assistant Secretary Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce Building. We intend to issue the final determination no later than 120 days after the publication of the preliminary results of review notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: September 20, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–24083 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The Research Foundation of State University of New York: Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5 P.M. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, D.C.

Docket Number: 01–015. Applicant: The Research Foundation of State University of New York, Albany, NY 12201–0009. Instrument: XY Shifting Table and Accessories. Manufacturer: Luigs & Neumann, Germany. Intended Use: See notice at 66 FR 39490, July 31, 2001.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) Direct approach of the micropipette to the cell, (2) adjustable advancement speed (from 0.04 to 6 mm/sec.), (3) a temperature controlled bath and (4) a stage customized for use with an Olympus microscope. A university research laboratory advised August 21, 2001 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–24085 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071101A]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of Pacific harbor seals and possibly California sea lions, by harassment, incidental to seismic retrofit construction of the Richmond-San Rafael Bridge (the Bridge), San Francisco Bay, (the Bay) CA.

DATES: This authorization is effective from September 19, 2001, through September 18, 2002.

ADDRESSES: A copy of the application may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055, ext 128, or Christina Fahy, Southwest Regional Office, NMFS, (562) 980-4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review and comment.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On June 8, 2001, NMFS received a letter from CALTRANS, requesting reauthorization of an IHA that was first issued to it on December 16, 1997 (62 FR 6704, December 23, 1997), and renewed on January 8, 2000 (65 FR 2375, January 14, 2000), with an effective date for the IHA beginning on September 1, 2000, and expired on August 31, 2001. The renewed authorization would be for the harassment of small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly California sea lions (*Zalophus*

californianus), incidental to seismic retrofit construction of the Bridge.

The Bridge is being seismically retrofitted to withstand a future severe earthquake. Construction is scheduled to extend until the year 2005. A detailed description of the work planned is contained in the Final Natural Environmental Study/Biological Assessment for the Richmond-San Rafael Bridge Seismic Retrofit Project (CALTRANS, 1996). Among other things, seismic retrofit work will include excavation around pier bases, hydro-jet cleaning, installation of steel casings around the piers with a crane, installation of micro-piles, and installation of precast concrete jackets. Foundation construction will require approximately 2 months per pier, with construction occurring on more than one pier at a time. In addition to pier retrofit, superstructure construction and tower retrofit work will also be carried out. Because seismic retrofit construction between piers 52 and 57 has the potential to disturb harbor seals hauled out on Castro Rocks, an IHA is warranted. The duration for the seismic retrofit of foundation and towers on piers 52 through 57, which has not taken place as of this date, will take approximately 7 to 8 months to complete.

Comments and Responses

A notice of receipt of the application and proposed authorization was published on July 23, 2001 (66 FR 38258), and a 30-day public comment period was provided on the application and proposed authorization. Comments were received only from the Marine Mammal Commission (MMC). The MMC concurs with NMFS' preliminary determination that the short-term impact of conducting the proposed seismic retrofit construction activities will result, at most, in a temporary modification in behavior by harbor seals, and, potentially, California sea lions. The MMC also concurs that the monitoring and mitigation measures proposed by CALTRANS appear to be adequate to ensure that the planned activities will not result in the mortality or serious injury of any marine mammal. As a result, the MMC recommends that the requested IHA be issued, provided NMFS is satisfied that the monitoring and mitigation programs will be carried out as described in the application.

Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected San Francisco Bay ecosystem and its associated marine mammals can be found in the proposed authorization document (July 23, 2001, 66 FR 38258), and in the references provided therein. Additional information can be found in the earlier notice of IHA issuance (62 FR 67045, December 23, 1997). Please refer to these documents for further information.

Potential Effects on Marine Mammals

The impact to the harbor seals and California sea lions is expected to be disturbance by the presence of workers, construction noise, and construction vessel traffic. Disturbance from these activities is expected to have a short-term negligible impact to a small number of harbor seals and sea lions. These disturbances will be reduced to the lowest level practicable by implementation of the proposed work restrictions and mitigation measures (see Mitigation).

During the work period, the incidental harassment of harbor seals and, on rare occasions, California sea lions is expected to occur on a daily basis upon initiation of the retrofit work. If harbor seals no longer perceive construction noise and activity as being threatening, they are likely to resume their regular haulout behavior. The number of seals disturbed will vary daily depending upon tidal elevations. It is expected that disturbance to harbor seals during peak periods of abundance will not occur since construction activities will not take place within the restricted work area during the peak period (see Mitigation).

Whether California sea lions will react to construction noise and move away from the rocks during construction activities is unknown. Sea lions are generally thought to be more tolerant of human activities than harbor seals and are, therefore, less likely to be affected.

Potential Effects on Habitat

Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the Castro Rocks haul-out site while work is in progress or until seals acclimate to the disturbance. This will not likely result in any permanent reduction in the number of seals at Castro Rocks. The abandonment of Castro Rocks as a harbor seal haul-out and rookery is not anticipated since existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf used for off-loading crude oil, and considerable recreational boating and commercial shipping that currently occur within the area have not caused long-term abandonment. In addition, mitigation measures and proposed work restrictions are designed to preclude abandonment. Therefore, as described in detail in CALTRANS (1996), other than the potential short-term abandonment by harbor seals of part or all of Castro Rocks during retrofit construction, no impact on the habitat or food sources of marine mammals are likely from this construction project.

Mitigation

Several mitigation measures to reduce the potential for general noise will be implemented by CALTRANS as part of their activity. General restrictions include: no piles will be driven (i.e., no repetitive pounding of piles) on the Bridge between 9 p.m. and 7 a.m. with the exception of the Concrete Trestle Section; a noise limit of 86 dBA at 50 ft (15 m) between 9 p.m. and 7 a.m. for construction; and a limitation on construction noise levels for 24 hrs/day in the vicinity of Castro Rocks during the pupping/molting restriction period (February 15 through July 31).

To minimize potential harassment of marine mammals, NMFS is requiring CALTRANS to comply with the following mitigation measures: (1) Restriction on work in the water south of the Bridge center line and retrofit work on the Bridge substructure, towers, superstructure, piers, and pilings from piers 52 through 57 from February 15 through July 31 ; (2) no watercraft will be deployed by CALTRANS employees or contractors, during the year within the exclusion zone located between piers 52 and 57, except for when construction equipment is required for seismic retrofitting of piers 52 through 57; and (3) minimize vessel traffic to the greatest extent practicable in the exclusion zone when conducting construction activities between piers 52 and 57. The boundary of the exclusion zone is rectangular in shape (1700 ft (518 m) by 800 ft (244 m)) and completely encloses Castro Rocks and piers 52 through 57, inclusive. The northern boundary of the exclusion zone will be located 300 ft (91 m) from the most northern tip of Castro Rocks, and the southern boundary will be located 300 ft (91 m) from the most southern tip of Castro Rocks. The eastern boundary will be located 300 ft (91 m) from the most eastern tip of Castro Rocks, and the western boundary will be located 300 ft (91 m) from the most western tip of Castro Rocks. This exclusion zone will be restricted as a controlled access area and will be marked off with buoys and warning signs for the entire year.

Monitoring

NMFS will require CALTRANS to monitor the impact of seismic retrofit construction activities on harbor seals at Castro Rocks. Monitoring will be conducted by one or more NMFS-approved monitors. CALTRANS is to monitor at least one additional harbor seal haul-out within San Francisco Bay to evaluate whether harbor seals use alternative haulout areas as a result of seismic retrofit disturbance at Castro Rocks.

The monitoring protocol will be divided into the Work Period Phase (August 1 through February 14) and the Closure Period Phase (February 15 through July 31). During the Work Period Phase and Closure Period Phase, the monitor(s) will conduct observations of seal behavior at least 3 days/week for approximately one tidal cycle each day at Castro Rocks. The following data will be recorded: (1) Number of seals and sea lions on site; (2) date; (3) time; (4) tidal height; (5) number of adults, subadults, and pups; (6) number of individuals with red pelage; (7) number of females and males; (8) number of molting seals; and (9) details of any observed disturbances. Concurrently, the monitor(s) will record general construction activity, location, duration, and noise levels. At least 2 nights/week, the monitor will conduct a harbor seal census after midnight at Castro Rocks. In addition, during the Work Period Phase and prior to any construction between piers 52 and 57, inclusive, the monitor(s) will conduct baseline observations of seal behavior at Castro Rocks and at the alternative site(s) once a day for a period of 5 consecutive days immediately before the initiation of construction in the area to establish pre-construction behavioral patterns. During the Work Period and Closure Period Phases, the monitor(s) will conduct observations of seal behavior, and collect appropriate data, at the alternative Bay harbor seal haul-out at least 3 days/week (Work Period) and 2 days/week (Closure Period), during a low tide.

In addition, NMFS will require that immediately following the completion of the seismic retrofit construction of the Bridge, the monitor(s) will conduct observations of seal behavior at Castro Rocks at least 5 days/week for approximately 1 tidal cycle (high tide to high tide) each day and for 1 week/month during the months of April, July, October, and January. At least 2 nights/week during this same period, the monitor will conduct an additional harbor seal census after midnight.

Reporting

CALTRANS will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of harbor seals that may have been disturbed as a result of seismic retrofit construction activities. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults, sub-adults and pups, number of females/males, number of harbor seals with a red pelage, and any observed disturbances. A description of retrofit activities at the time of observation and any sound pressure levels measurements made at the haulout will also be provided. A draft interim report must be submitted to NMFS by April 30, 2002.

Because seismic retrofit activities are expected to continue beyond the date of expiration of this IHA (presumably under a new IHA), a draft final report must be submitted to the Regional Administrator within 90 days after the expiration of this IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from the Regional Administrator on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

CALTRANS will provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haul-out patterns are similar to the pre-retrofit haul-out patterns at Castro Rocks.

National Environmental Policy Act

NMFS prepared an Environmental Assessment (EA) in 1997 that concluded that the impacts of CALTRANS' seismic retrofit construction of the Bridge will not have a significant impact on the human environment. A copy of that EA, which includes the Finding of No Significant Impact, is available upon request (see **ADDRESSES**).

Conclusions

NMFS has determined that the short-term impact of the seismic retrofit construction of the Bridge, as described in this document, should result, at worst, in the temporary modification in behavior by harbor seals and, possibly, by some California sea lions. While behavioral modifications, including temporarily vacating the haulout, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Authorization

For the above reasons, NMFS has issued an IHA for a 1-year period effective September 19, 2001, for the incidental harassment of harbor seals and California sea lions by the seismic retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA, provided the above mentioned mitigation, monitoring and reporting requirements are incorporated.

Dated: September 19, 2001.

Wanda Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–24116 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091701E]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 8:30 a.m. on Wednesday, October 10, 2001, and will conclude at 4 p.m. on Friday, October 12, 2001.

ADDRESSES: The meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813–877–6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

A copy of the agenda can be obtained by calling 813–228–2815.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SEP will convene to review available social and economic information on gag, vermilion snapper, and gray triggerfish and to determine the social and economic implications of the levels of acceptable biological catch (ABC) recommended by the Council's Reef

Fish Stock Assessment Panel (RFSAP). The SEP may recommend to the Council total allowable catch (TAC) levels for the 2002 fishing year and certain management measures associated with achieving the TACs. The SEP will also review a charterboat/headboat study and hear presentation on recently completed study on fishing communities.

Composing the SEP membership are economists, sociologists, and anthropologists from various universities and state fishery agencies throughout the Gulf. They advise the Council on the social and economic implications of certain fishery management measures.

Although other non-emergency issues not on the agendas may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the SEP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

The meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office by October 3, 2001.

Dated: September 21, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–24115 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091901B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Social Sciences Advisory Committee in October, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on October 10, 2001, at 10 a.m.

ADDRESSES: The meeting will be held at the New England Fishery Management Council Office, 50 Water Street, Mill #2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION: The committee will review and identify social and economic issues associated with scallop management alternatives.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 21, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–24114 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

September 20, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 604 is being increased for swing and carryover, reducing the limit for the Fabric Group to account for the swing being applied to Category 604.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66730, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 20, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on September 26, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Fabric Group 219, 313–O [2], 314–O [3], 315–O [4], 317–O [5], 326–O [6], 617, 625/626/627/628/629, as a group.	203,639,329 square meters of which not more than 51,611,668 square meters shall be in Category 219; not more than 63,080,926 square meters shall be in Category 313–O; not more than 36,701,630 square meters shall be in Category 314–O; not more than 49,317,818 square meters shall be in Category 315–O; not more than 51,611,668 square meters shall be in Category 317–O; not more than 5,734,628 square meters shall be in Category 326–O, and not more than 34,407,781 square meters shall be in Category 617.
Limits not in a Group 604	3,223,232 kilograms

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–24004 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Duty and Quota Free Imports of Apparel Articles Assembled From Regional and Other Fabric for Beneficiary Sub-Saharan African Countries

September 21, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the Second 12-Month Cap on Duty and Quota Free Benefits

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Philip J. Martello, Director, Trade and Data Division, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Title I, Section 112(b)(3) of the Trade and Development Act of 2000, Presidential Proclamation 7350 of October 4, 2000 (65 FR 59321).

Title I of the Trade and Development Act of 2000 provides for duty and quota-free treatment for certain textile and apparel articles imported from designated beneficiary sub-Saharan African countries. Section 112(b)(3) of that Act provides duty and quota-free treatment for certain apparel articles assembled in beneficiary sub-Saharan African countries from fabric formed in one or more beneficiary countries. More specifically, this treatment is for apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary countries from yarn originating in the U.S. or one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 and 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in one or more beneficiary country).

Moreover, this preferential treatment is also available for apparel articles wholly assembled in one or more lesser-developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric used to make such articles. This preferential treatment for lesser-developed countries applies through September 30, 2004.

This preferential tariff treatment is limited to imports of qualifying apparel articles in an amount not to exceed a specified percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. For the purpose of this notice, the 12-month period for which data are available is the 12-month period ended July 31, 2001. In Presidential Proclamation 7350 (published in the Federal Register on October 4, 2000, 65 FR 59321), the President directed CITA to publish the aggregate quantity of imports allowed during each 12-month period in the Federal Register.

For the one-year period, beginning on October 1, 2001, and extending through September 30, 2002, the aggregate quantity of imports eligible for preferential tariff treatment under these provisions is 313,303,986 square meters equivalents. This quantity will be recalculated for each subsequent year, under Section 112(b)(3)(A). Apparel articles entered in excess of this quantity shall be subject to otherwise applicable tariffs.

The quantity is calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized Tariff Schedule (HTS) lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–24070 Filed 9–25–01; 8:45 am]

BILLING CODE 3510–DR–S

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Senior Executive Service (SES) Performance Review Board

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of membership.

SUMMARY: This notice is issued to announce the membership of the Defense Nuclear Facilities Safety Board (DNFSB) Senior Executive Service (SES) Performance Review Board and the DNFSB SES members available for service on SES performance review boards for other small, independent Federal commissions, committees and boards.

FOR FURTHER INFORMATION CONTACT: Laureen Manning, Deputy Director, Human Resources, 625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004–2901, (202) 694–7000.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c)(1) through (5) requires each

agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive. The board also shall make recommendations as to whether the career executive should be re-certified, conditionally re-certified, or not re-certified. The DNFSB is a small, independent Federal agency; therefore, these newly designated members of the DNFSB SES Performance Review Board are being drawn from the SES ranks of other agencies.

The following persons comprise a standing roster to serve as members of the Defense Nuclear Facilities Safety Board SES Performance Review Board:

Arctic Research Commission, Garrett W. Brass, Executive Director
National Mediation Board, Stephen Crable, Chief of Staff
Japan-United States Friendship Commission, Eric J. Gangloff, Executive Director
U.S. Chemical Safety and Hazard Investigation Board, Christopher W. Warner, General Counsel
Committee for Purchase From People Who Are Blind or Severely Disabled, Leon A. Wilson, Jr., Executive Director

The following DNFSB SES members comprise a standing roster to serve on performance review boards for other small, independent Federal commissions, committees and boards:

Richard A. Azzaro, General Counsel
J. Kent Fortenberry, Technical Director
James J. McConnell, Technical Lead for Nuclear Weapons Programs
Joseph R. Neubeiser, Deputy General Manager
Kenneth M. Pusateri, General Manager
Richard E. Tontodonato, Technical Lead for Materials Processing & Environmental Restoration Programs

EFFECTIVE DATE: September 26, 2001.

Dated: September 20, 2001.

Kenneth M. Pusateri,

Chairman, Executive Resources Board.

[FR Doc. 01–23987 Filed 9–25–01; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 26, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 20, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.
Title: National Evaluation of Upward Bound and Upward Bound Math Science.
Frequency: On Occasion.
Affected Public: Individuals or households.
Reporting and Recordkeeping Hour Burden:
Responses: 4,728.
Burden Hours: 1,686.

Abstract: This request is continuation of the fourth follow-up study and conducting the fifth follow-up of the regular Upward Bound study. It is also for the continuation of the first follow-up and conducting the second follow-up to the Math Science Upward Bound study. These data collections are part of the National Evaluation of Upward Bound that has been on-going since 1992. The studies are following a sample of 4,728 participants and control group students through high school and into young adulthood. The study is looking at academic achievement, college participation rates, and employment patterns.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie.Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–24025 Filed 9–25–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–721–001, FERC–721]

Public Information Collection Approved by the Office of Management and Budget

September 20, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the requirements of Section 3507(j)(1)of the Paperwork Reduction Act of 1995 (Pub. L. No.104–13), and 5 CFR 1320.13 of OMB's regulations. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: Jack Silverman, Office of the General Counsel, (legal), (202)208–2078; Joseph Cholka, Office of Markets Tariffs and Rates, (technical), (202)208–2414; Michael Miller, Office of the Chief Information Officer, (information policy), (202)208–1415; Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

OMB Control No.: 1902–0187.
Expiration Date: 01/31/2002.
Title: Reporting of Natural Gas Sales to California.
Respondents: Businesses or other for-profit.
Estimated annual burden: 89 Respondents; 208 hours per response (avg.); 534 responses; 19,847 total hours.
Estimated Annual Reporting and/or Recordkeeping cost: $2,2334,570.
Frequency of Response: Monthly.
Obligation to Respond: Mandatory.

SUPPLEMENTARY INFORMATION: On July 25, 2001, (66 FR 40245–81, August 2, 2001) the Commission issued an Order in Docket No. RM01–09–000 imposing reporting requirements for natural gas sales to and in the California market. The reporting requirements are being implemented as a result of comments in response to an earlier order of May 18, 2001 (66 FR29121–24, May 29, 2001) issued after the filing of several complaints with the Commission on the price increases of natural gas in California. The prices in California rose dramatically and exceeded the increases in other markets. FERC–721 is intended to provide the Commission with the necessary information to determine what action if any, it should take within its jurisdiction, with respect to the price of natural gas sold in the California market. The Commission intends to collect information on the volumes, and prices of sales to the California market including transportation rates, the daily operational capacity of pipelines to, and in the California market, and the actual volumes flowing to, and in California, plus gas sales and transportation requirements of local distribution companies.

The information is to assist the Commission in carrying out its regulatory responsibilities. First, it will help the Commission determine what part of the problem, if any, is within the scope of its jurisdiction. The information proposed to be collected will give the Commission an accurate picture of overall average gas costs being incurred by all purchasers of natural gas moving into the California market. The information to be collected will also enable the Commission to determine the extent to which the cost of interstate transportation, which is subject to the Commission's jurisdiction, affects the price for the gas commodity at the California border.

Accordingly, because the Commission requires the information as soon as possible, the Commission will require submission of the information on a monthly basis, to be submitted 30 days after the end of each month, for the six months commencing August 1, 2001 and ending January 31, 2002. The first report will be due October 1, 2001.

As indicated in both the July 25 order and in its request for emergency processing and OMB approval, the Commission stated that it would undertake a separate action to request OMB approval to extend the reporting period to September 30, 2002, to coincide with the termination of the Commission's June 19, 2001 California electric power mitigation order. In its approval of the Commission's request for emergency processing, OMB stated several conditions that would have to be met before a submission was made to extend the reporting requirements. These conditions have been listed below to inform the public. They are as follows:

Terms of Clearance

The FERC Information Collection Request, titled "Reporting of Natural Gas Sales to the California Market," is approved through 1/31/02. Should FERC decide to resubmit the ICR for renewal, it must address the practical utility and burden issues described below. FERC should include an explicit discussion of the way in which it addresses these issues as part of its supporting statement.

(1) Practical Utility: The order requires detailed transaction information on gas sales to California—that is, a daily reporting of price and quantity for each component of gas sold to the California market. Several commenters have reported that they do not maintain the data in a way that allows them to disaggregate price/quantity information in this way. Based on the comments, we are concerned that this data collection would require significant data manipulation by the industry in order to respond to the request. The resulting disaggregation is likely to be artificial—and therefore not reliable for individual transactions—and respondents are likely to vary in their choice of method for disaggregating transactions * * * Given the potential data quality problems associated with disaggregated reporting and the questionable need for the disaggregated data, we are concerned that such data may have little practical utility. Should FERC decide to resubmit the ICR for renewal, it should justify its decision to continue to require reporting at a disaggregated level.

(2) Burden: Commenters also believe FERC has significantly underestimated the burden. In particular, the commenters indicated that they would likely have to hire additional staff in order to respond to the data request because of the significant manipulation required to provide data in the format FERC is requesting. After consulting with respondents, FERC should evaluate its burden estimates for reporting and recordkeeping requirements. FERC should provide a list of the names, affiliations, and phone numbers of the respondents it contacted.

Document Availability

The data templates for FERC–721 are available as Excel spreadsheets on the Commission's website under "Bulk Power Markets", "Order Imposing Reporting Requirements on Natural Gas Sales to California Market, RM01–9, issued 7/25/01", *http://www.ferc.gov/electric/bulkpower.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–24016 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–460–002]

Canyon Creek Compression Company; Notice of Compliance Filing

September 20, 2001.

Take notice that on September 17, 2001, Canyon Creek Compression Company (Canyon) tendered for filing certain tariff sheets to be part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), to be effective July 23, 2001.

Canyon states that the purpose of this filing is to comply with the Commission's Letter Order in Docket No. RP01–460–001 issued on September 7, 2001.

Canyon requests waiver of the Commission's Regulations to the extent

necessary to permit the tariff sheets submitted to become effective July 23, 2001.

Canyon further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24010 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–031]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

September 20, 2001.

Take notice that on September 14, 2001, Columbia Gulf Transmission Company ("Columbia Gulf") tendered for filing to the Federal Energy Regulatory Commission ("Commission") the following contracts for disclosure of recently negotiated rate transactions:

FTS–1 Service Agreement No. 71031 between Columbia Gulf Transmission Company and EnergyUSA–TPC Corp. dated August 20, 2001
and
FTS–1 Service Agreement No. 71206 between Columbia Gulf Transmission Company and Reliant Energy Services, Inc. dated August 28, 2001

Transportation service is to commence November 1, 2001 under the Agreements.

Columbia Gulf states that copies of the filing are being made available for public inspection during regular business hours in Columbia Gulf's offices in Houston, Texas and Washington, DC, and that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docketı" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24013 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2656–000]

Credit Suisse First Boston International; Notice of Issuance of Order

September 20, 2001.

Credit Suisse First Boston International (Credit Suisse) submitted for filing a rate schedule under which Credit Suisse will engage in wholesale electric power and energy transactions at market-based rates. Credit Suisse also requested waiver of various Commission regulations. In particular, Credit Suisse requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Credit Suisse.

On September 18, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Credit Suisse should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Credit Suisse is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Credit Suisse and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Credit Suisse's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 18, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24018 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–340–002]

Gulf South Pipeline Company, LP; Notice of Tariff Filing

September 20, 2001.

Take notice that on September 14, 2001, Gulf South Pipeline Company, LP ("Gulf South") tendered for filing the pro forma tariff sheets listed on Attachment A.

Sixth Revised Volume No. 1
See Attachment

In compliance with Order No. 637, Gulf South is submitting pro forma tariff sheets that, when approved, will implement segmentation on its system. Gulf South, with this filing and the pro forma tariff sheets filed on February 1, 2001, is in full compliance with the requirements of Order No. 637.

The parties have agreed that initial comments to Gulf South's segmentation proposal are due on September 28, 2001. Parties filing comments on the 28th have agreed to provide copies of those comments to Gulf South either electronically or by other means so that they are received by Gulf South on that date. Reply comments are due on October 10, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24012 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–606–000]

KO Transmission Company; Notice of Tariff Failing and Annual Charge Adjustment

September 20, 2001.

Take notice that on September 17, 2001, KO Transmission Company (KOT) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, bearing a proposed effective date of October 1, 2001:

Tenth Revised Sheet No. 10

KOT states that the purpose of the filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2001 of $0.0021 per dekatherm KOT states that copies of its filing will be mailed to all of its firm and interruptible transportation customers.

KOT states that copies of its filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 27, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24008 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–402–002]

Paiute Pipeline Company; Notice of Correction Filing

September 20, 2001.

Take notice that on September 17, 2001, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets:

Substitute First Revised Sheet No. 80
Substitute Second Revised Sheet No. 113A
Substitute First Revised Sheet No. 126

Paiute indicates that the purpose of the filing is to correct certain tariff sheets submitted with its September 10, 2001, compliance filing in Docket No. RP00–402–001.

Paiute states that copies of the filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24011 Filed 9–25–01; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–607–000]

Questar Pipeline Company; Notice of Tariff Filing

September 20, 2001.

Take notice that on September 17, 2001, pursuant to 18 CFR 154.7, Questar Pipeline Company (Questar) tendered for filing and acceptance, to be effective October 15, 2001, Third Revised Sheet No. 202 and Second Revised Sheet No. 203 to First Revised Volume No. 1 of its FERC Gas Tariff (Questar's tariff).

Questar's Questline Access Agreement form in its FERC Gas Tariff, that provides access to Questar's interactive web site, contains outdated language that applied to transportation contracts before they were converted to open-access contracts. Those contracts were converted to open-access contracts in compliance with the Commission's Order No. 636. This filing deletes the outdated language, which comprises Section 15 and related language on Attachment A in Questar's Questline Access Agreement.

Questar states that a copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24009 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–33–000]

Transcontinental Gas Pipe Line Corporation; Notice of Overrun Penalty Refund Report

September 20, 2001.

Take notice that on September 14, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report showing that on August 15, 2001, Transco submitted overrun penalty refunds to the affected shippers. The total refund amount, including interest, was $118,345.82.

In accordance with the provisions of Section 154.2(d) of the Commission's regulations, copies of this filing are available for public inspection, during regular business hours in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 27, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24017 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–316–000, et al.]

Panda Tallmadge Power, L.P., et al.; Electric Rate and Corporate Regulation Filings

September 20, 2001.

Take notice that the following filings have been made with the Commission:

1. Panda Tallmadge Power, L.P.

[Docket No. EG01–316–000]

Take notice that on September 18, 2001, Panda Tallmadge Power, L.P. (Panda), with its principal offices at 4100 Spring Valley Road, Suite 1001, Dallas, Texas 75244, filed with the Federal Energy Regulatory Commission, an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and Part 365 of the Commission's regulations.

Panda is a Delaware limited partnership, which will construct, own and operate a nominal 1100 MW natural gas-fired generating facility within the region governed by the Mid-American Interconnected Network, Inc. ("MAIN") and sell electricity at wholesale.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Wisconsin Electric Power Company

[Docket No. ER01–3065–000]

Take notice that on September 17, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, Second Revised Volume No. 2) between Wisconsin Electric and Southern Illinois Power Cooperative (SIPC).

Wisconsin Electric respectfully requests an effective date August 17, 2001.

Copies of the filing have been served on SIPC, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Power Company

[Docket No. ER01–3066–000]

Take notice that on September 17, 2001, Southern Power Company (Southern Power) tendered for filing a market-based Purchased Power Agreement by and between Georgia Power Company (Georgia Power) and Southern Power, dated July 26, 2001, (the Agreement). The Agreement (Rate Schedule No. 4) provides the general terms and conditions for capacity and associated energy sales from Southern Power to Georgia Power commencing June 1, 2002.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Power Company

[Docket No. ER01–3067–000]

Take notice that on September 17, 2001, Southern Power Company (Southern Power) tendered for filing a market-based Purchased Power Agreement by and between Savannah Electric and Power Company (Savannah Electric) and Southern Power, dated July 26, 2001, (the Agreement). The Agreement (Rate Schedule No. 5) provides the general terms and conditions for capacity and associated energy sales from Southern Power to Savannah Electric commencing June 1, 2002.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER01–3069–000]

Take notice that on September 17, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a fully executed Confirmation Agreement (Agreement) executed August 13, 2001 between Bonneville Power Administration (Bonneville) and PacifiCorp.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Tampa Electric Company

[Docket No. ER01–3070–000]

Take notice that on September 18, 2001, Tampa Electric Company (Tampa Electric) tendered for filing notices of cancellation of its contracts for the purchase and sale of power and energy with Florida Power & Light Company, South Carolina Electric & Gas Company, The Energy Authority, Inc., LG&E Energy Marketing Inc., Exelon Generation Company, LLC, Entergy-Koch Trading, LP, Tennessee Valley Authority, Mirant Americas Energy Marketing, LP, Tenaska Power Services Co., and Virginia Electric and Power Company.

Tampa Electric proposes that the cancellations be made effective on October 29, 2001.

Copies of the filing have been served on the parties to the affected contracts and the Florida Public Service Commission.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER01–3071–000]

Take notice that on September 17, 2001, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission), in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a Letter Agreement dated July 20, 2001 between Flathead Electric Cooperative and PacifiCorp.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power Corporation

[Docket No. ER01–3072–000]

Take notice that on September 18, 2001, Florida Power Corporation (FPC) tendered for filing with the Federal Energy Regulatory Commission (Commission) netting agreements between FPC and American Electric Power Service Corporation; Electric Clearinghouse, Inc.; and El Paso Merchant Energy L.P. (collectively the Netting Agreements).

Copies of the filing were served upon FPC's counterparties to the Netting Agreements.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Power and Light Company

[Docket No. ER01–3073–000]

Take notice that on September 18, 2001, Carolina Power and Light Company (CP&L) tendered for filing netting agreements with the following counterparties: Allegheny Energy Supply Company, L.L.C.; American Electric Power Service Corporation; Avista Energy, Inc.; AYP Energy, Inc.; Cargill-Alliant, L.L.C.; Cinergy Services, Inc.; Columbia Energy Services Corporation; Coral Power, L.L.C.; Engage Energy US, L.P.; Dayton Power & Light Company; DTE Energy Trading; Duke Energy Trading and Marketing, L.L.C.; Electric Clearinghouse, Inc.; Citizens Power Sales; El Paso Merchant Energy L.P.; The Energy Authority, Inc., Enron Power Marketing, Inc.; Koch Energy Trading, Inc.; LG&E Marketing, Inc.; Louisville Gas and Electric Company/Kentucky Utilities Company; Merchant Energy Group of the Americas, Inc.; Southern Company Energy Marketing, L.P.; Morgan Stanley Capital Group Inc.; NGE Generation, Inc.; Northern Indiana Public Service Company; OGE Energy Resources, Inc.; PG&E Energy Trading-Power, L.P.; PP&L., Inc.; Rainbow Energy marketing Corporation; NorAm Energy Services, Inc.; Sempra Energy Trading Corp.; Statoil Energy Trading, Inc.; Tenaska Power Service Co.; Virginia Electric and Power Company; Tractebel Energy Marketing, Inc.; and Vitol Gas & Electric LLC (collectively the Netting Agreements).

Copies of the filing were served upon CP&L's counterparties to the Netting Agreements.

Comment date: October 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

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instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–24041 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2661–012]

Pacific Gas and Electric Company; Notice of Availability of Final Environmental Assessment

September 20, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations; 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects staff has reviewed the application for new license for the Hat Creek Hydroelectric Project located on Hat Creek, near the town of Cassel, in Shasta County, California, and has prepared a final Environmental Assessment (EA) for the project. About 6.57 acres of the project occupy federal lands, managed by the U.S. Forest Service as part of the Shasta National Forest. In the final EA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

On August 29, 2000, the Commission staff issued a draft EA for the project, and requested that comments be filed with the Commission within 45 days. Comments were filed by seven entities and are addressed in this final EA for this project.

Copies of the draft and final EA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, NE., Washington, DC, 20426, or by calling 202–208–1371. Copies of the EA are on file with the Commission and are available for public inspection. The EA may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–24015 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Regulatory Energy Commission

[Project Nos. 2942–005, 2931–002, 2941–002, 2932–003, and 2897–003]

S.D. Warren Company; Notice of Public Meeting To Discuss the Draft Environmental Impact Statement for the Proposed Relicensing of the Constructed and Operating Presumpscot River Projects in Cumberland County, ME

September 20, 2001.

a. *Date and time of meeting:* Thursday, October 25, 2001, from 7 p.m. to 10 p.m.

b. *Place:* Main cafeteria at Windham High School, 406 Gray Road, Windham, ME.

c. *Purpose of the meeting:* (1) To enable Commission staff to summarize the findings, conclusions, and recommendations of its Draft Environmental Impact Statement (DEIS) for the five Presumpscot River projects, and to answer questions concerning that document; and (2) to obtain public comments (oral and written) on the DEIS.

All interested individuals, organizations, agencies, and tribes are invited to attend the meeting, which will be recorded by a court reporter; consequently, all meeting statements (oral and written) will become part of the Commission's public record of this proceeding. Further, individuals presenting statements for the public record will be required to sign in before the meeting starts and to identify themselves for the record.

Please note that the time that each speaker is allowed will depend upon the number of persons who indicate their intention to provide oral comments; consequently, persons with extensive comments are encouraged to provide their detailed information in writing to the court reporter and to develop an oral summary of five minutes or less.

d. Comment deadline: Interested parties who are unable to attend the public meeting or to prepare comments for that meeting may subsequently file written comments with the Commission. Any comments should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20246. The first page of all filings should indicate "Presumpscot River Projects, Nos. 2942–005, 2931–002, 2941–002, 2932–003, and 2897–003" at the top of the page. To enable Commission staff to consider such comments in its Final Environmental Impact Statement for the Presumpscot River Projects, any correspondence concerning the subject DEIS must be received by the Commission on or before December 4, 2001. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Participants in this proceeding are reminded that, if they file comments with the Commission, they should serve a copy of their filing on all parties included in the Commission's service list for the Presumpscot River projects.

e. FERC contact: James Haimes (202) 219–27780; e-mail at *james.haimes@ferc.fed.us*

David P. Boergers,

Secretary.

[FR Doc. 01–24014 Filed 9–25–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7065–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Reporting Requirements for BEACH Grants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Reporting Requirements for BEACH Act Grants EPA ICR No. 2048.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 26, 2001.

ADDRESSES: Interested persons may obtain a copy of the ICR without charge by contacting EPA staff listed in the section below. Please send comments concerning this notice to the Standards and Health Protection Division (4305), 1200 Pennsylvania Ave. NW., Washington DC, 20460. Please submit electronic comments to kovatch.charles@epa.gov. Overnight delivery or hand delivery should be delivered to the Standards and Health Protection Division at 401 M Street, SW; Room 509 West Tower; Washington, DC, 20460. Please see **SUPPLEMENTARY INFORMATION** for other information about comments.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Kovtach at EPA, telephone 202–260–3754; email *kovatch.charles@epa.gov*; facsimile 202–260–3754.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those coastal and Great Lakes state, local, and tribal governments which are eligible for BEACH Act grants. These are governments that develop and implement programs for monitoring and notification of coastal (marine and Great Lakes) recreation waters adjacent to beaches or similar points of access that are used by the public.

Title: Reporting Requirements for BEACH Act Grants, EPA ICR No. 2048.01.

Abstract: Congress passed the Beaches Environmental Assessment and Coastal Health (BEACH) Act October 2000, to amend the Clean Water Act in part by adding section 406 "Coastal Recreation Water Monitoring and Notification." Section 406(b) requires EPA to make grants to States and local governments to develop and implement programs for monitoring and public notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public, if the State or local government satisfies the requirements of the BEACH Act.

Several of these requirements require a grant awardee to collect and submit information to EPA as a condition for receiving the grant. Section 406(b) requires a grant awardee to provide the factors that the awardees use to prioritize funds and a list of waters for which the grant funds will be used. Section 406(b) also requires that a grant awardee's program is consistent with the performance requirements set by EPA under section 406(a); EPA needs information from the grant awardee to determine if the monitoring and notification programs are consistent with these criteria. On July 31, 2001, EPA published the draft performance criteria for BEACH Act grants (66 FR 39510, July 31, 2001). Section 406(b) also requires that a grant awardee submit a report to EPA that describes the data collected as part of a monitoring and notification program and the actions taken to notify the public when water quality standards are exceeded. Section 406(c) requires a grant awardee to identify lists of coastal recreation waters, processes for States to delegate to local governments the responsibility for implementing a monitoring and notification program, and the content of the monitoring and notification program.

The information covered by this draft ICR is required of States and local governments that seek to obtain BEACH Act funding. It allows EPA to properly review State and local governments' monitoring and notification programs to determine if they are eligible for BEACH Act grant funding. This information also enables EPA to fulfill its obligations to make this information available to the public as required by sections 406(e) and (g).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 408 hours per response for the first year of the implementation grant program, 281 hours per response in the second year, and 274 hours in the third year. This burden represents a report that is submitted once each year. For the first year of the grant program, 34 States and territories will be eligible for the grants. In subsequent years, authorized tribes will become eligible and local governments may become eligible if their State monitoring and notification programs are not consistent with the section 406(a) performance criteria.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Comments: You may submit comments by mail, e-mail, or delivered by hand to the addresses shown in the **ADDRESSES** section of this notice. EPA will not accept facsimiles (faxes). If you mail or hand deliver comments, please send an original and three copies of your comments and enclosures (including references). If you want receipt of your comments acknowledged, you must include a self-addressed, stamped envelope. You may also submit your comments by sending an e-mail to *kovatch.charles@epa.gov* or by disk. If you do, you must submit electronic comments as an ASCII file, or a WordPerfect 5.1, WordPerfect 6.1, or WordPerfect 8 file avoiding the use of special characters and any form on encryption, and identify these comments by the ICR No. 2048.01 on the subject line. You may file electronic comments on this notice at many Federal Depository Libraries. You should not send confidential business information by e-mail.

Dated: September 17, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 01–24063 Filed 9–25–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7065–6]

Notice of Prevention of Significant Deterioration Final Determination for Chehalis Generating Facility

AGENCY: Environmental Protection Agency ("EPA")

ACTION: Notice of Final Action

SUMMARY: This document announces that on August 20, 2001, the Environmental Appeals Board ("EAB") of EPA denied a petition for review of a permit issued for the Chehalis Generating Facility by EPA, Region 10 and the State of Washington's Energy Facility Site Evaluation Council ("EFSEC") pursuant to EPA's Prevention of Significant Deterioration of Air Quality ("PSD") regulations, under 40 CFR 52.21.

DATES: The effective date for the EAB's decision is August 20, 2001. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act ("CAA"), may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of September 26, 2001.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address: EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. To arrange viewing of these documents, call Daniel Meyer at (206) 553–4150.

FOR FURTHER INFORMATION CONTACT: Daniel Meyer, EPA, Region 10, 1200 Sixth Avenue (OAQ–107), Seattle, Washington, 98101.

SUPPLEMENTARY INFORMATION: This supplemental information is organized as follows:

A. What Action is EPA Taking?
B. What is the Background Information?
C. What did the EAB Decide?

A. What Action Is EPA Taking?

We are notifying the public of a final decision by EPA's EAB on a permit issued by EPA Region 10 and EFSEC ("permitting authorities") pursuant to the PSD regulations found at 40 CFR 52.21.

B. What Is the Background Information?

In 1997, the permitting authorities jointly issued a PSD permit pursuant to Section 165 of the CAA, 42 U.S.C. 7475, 40 CFR 52.21, and the terms and conditions of EFSEC's delegation of authority from EPA Region 10 under 40 CFR 52.21(u), for what ultimately will be a 520-megawatt electric power generation facility. The facility is subject to PSD for nitrogen oxides ("NO_X"), carbon monoxide ("CO"), volatile organic compounds ("VOC"), and particulate matter ("PM"). The original PSD permit required installation of Best Available Control Technology ("BACT") which was determined to be advanced dry-low NO_X combuster technology and included a short-term emission limit for NO_X of 9.9 parts per million dry volume ("ppmdv"). In November, 1998, the permitting authorities jointly extended the original PSD permit. The extension authorized Chehalis Power to commence construction by no later than June 18, 2000. On May 18, 2000, EFSEC published a notice informing the public of a proposed permit amendment for the Chehalis Generating Facility. In March, 2001, EPA Region 10 and Chehalis Power signed an administrative order on consent that required Chehalis Power to request additional revisions to its PSD permit, including the installation of select catalytic reduction ("SCR") to control NO_X emissions, as well as a reduction in both annual and short-term NO_X emissions. The permitting authorities approved an amended PSD permit in April, 2001, reflecting these changes. Subsequent to issuance of the PSD permit amendment, REBOUND ("Petitioner"), which represents the Seattle/King County Building & Construction Trades Council, filed a petition challenging the PSD permit amendment.

C. What Did the EAB Decide?

On August 20, 2001, the EAB denied review of the petition because Petitioner failed to show clear error or other reason for the EAB to grant review with respect to: (1) the permitting authorities' determination that no new BACT analysis was required for NO_X, CO, VOC, or PM, in light of Chehalis Power's agreement to install SCR and to reduce its short-term emission limit for NO_X from 9.9 to 3 ppmdv with 10ppmdv ammonia slip; (2) the permitting authorities' decision not to reopen the public comment period in order to allow for comment on changes made to the amended PSD permit relating to startup and shutdown NO_X emissions and ammonia emissions, because Petitioner had previously commented on startup and shutdown NO_X emissions and ammonia emissions; and (3) EFSEC's failure to include a description of appeal rights in the amended PSD permit as mandated by the 1992 delegation of authority from EPA Region 10 to EFSEC, because Petitioner did not properly preserve this issue for review. The EAB did not address the merits of Petitioner's claim that Chehalis Power had not commenced construction within 18 months of receiving its PSD permit extension because Petitioner did not address any of the specific factors discussed in EFSEC's response to comments explaining its commencement of construction determination.

Pursuant to 40 CFR 124.19(f)(1), for purposes of judicial review, final Agency action occurs when a final PSD permit is issued and Agency review procedures are exhausted. This notice is being published pursuant to 40 CFR 124.19(f)(2), which requires notice of any final agency action regarding a permit to be published in the **Federal Register**. This notice being published today in the **Federal Register** constitutes notice of the final Agency action denying review of the PSD permit and, consequently, notice of the permitting authorities' issuance of an amended PSD permit No. EFSEC/95–02 Amendment 1 to Chehalis Power. If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the Ninth Circuit, within 60 days from the date on which this notice is published in the **Federal Register**. Under section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: September 17, 2001.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 01–24062 Filed 9–25–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7063–4]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet three times annually. This is an open meeting. The theme will be "The Energy Plan" and will include presentations from EPA and other outside organizations. The preliminary agenda for this meeting will be available on the Subcommittee's website in early October. Draft minutes from the previous meetings are available on the Subcommittee's website now at: www.epa.gov/oar/caaac/mobile_sources-caaac.html

DATES: Wednesday, October 24 from 9 am. to 3:30 pm. Registration begins at 8:30 am.

ADDRESSES: The meeting will be held at the Holiday Inn Fairlane-Dearborn, 5801 Southfield Service Drive, Detroit, MI 48228.

FOR FURTHER INFORMATION CONTACT:

For technical information: Ms. Cheryl L. Hogan, Alternate Designated Federal Officer, Certification and Compliance Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4402, FAX: 734/214–4053, email: hogan.cheryl@epa.gov.

For logistical and administrative information: Ms. Mary F. Green, FACA Management Officer, U.S. EPA 2000 Traverwood Drive, Ann Arbor, Michigan, Ph: 734/214–4411, Fax: 734/214–4053, email: green.mary@epa.gov.

Background on the work of the Subcommittee is available at: http://transaq.ce.gatech.edu/epatac.

For more current information: www.epa.gov/oar/caaac/mobile_sources-caaac.html.

Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Hogan at the address above by October 10, 2001. The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During this meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

Dated: September 17, 2001.

Lori Stewart,

Acting Director, Office of Transportation and Air Quality.

[FR Doc. 01–23639 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00744; FRL–6804–6]

Forum on State and Tribal Toxics Action (FOSTTA); Open Meetings; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Chemical Information and Management, Pollution Prevention, Tribal Affairs, and Toxics Release Inventory Projects, components of the Forum on State and Tribal Toxics Action (FOSTTA), will hold meetings October 22–23, 2001. This notice announces the location and times for the meetings and sets forth some tentative agenda topics. The National Conference of State Legislatures (NCSL) and the Environmental Protection Agency's (EPA) Office of Pollution Prevention and Toxics (OPPT) are co-sponsoring the meetings. As part of a cooperative agreement, NCSL facilitates ongoing efforts of the states and tribes to identify, discuss, and address toxics-related issues, and to continue the dialogue on how federal environmental programs can best be implemented.

DATES: The four components will meet concurrently October 22, 2001, from 8 a.m. to 5 p.m. and October 23, 2001, from 8 a.m. to noon. A plenary session is being planned for all the participants on Monday, October 22, 2001, from 8 a.m. to 9:30 a.m. The topic of the session has not been determined.

ADDRESSES: The meetings will be held at the Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC. The hotel is about two blocks from Union Station.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 260–1761.

For technical information contact: George Hagevik, National Conference of State Legislatures, 1560 Broadway, Suite 700, Denver, CO 80202; telephone: (303) 839–0273 and FAX: (303) 863–8003; e-mail: george.hagevik@ncsl.org or Darlene Harrod, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (202) 564–8814 and FAX: (202) 564–8813; e-mail: harrod.darlene@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in FOSTTA and hearing more about the perspectives of the States and Tribes on EPA programs and the information exchange regarding important issues related to human health and environmental exposure to toxics. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. However, in the interest of time and efficiency, the meetings are structured to provide maximum opportunity for state, tribal, and EPA participants to discuss items on the predetermined agenda. At the discretion of the chair, an effort will be made to accommodate participation by observers attending the proceedings. If you have any questions regarding the applicability of this action to a particular entity, consult the technical people listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA Internet Home Page. Go to http://www.epa.gov/fedrgstr/nfs_comm.htm, select "Laws and Regulations," and then look up the entry for this document under "**Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** at http://www.access.gpo.gov/su_docs/aces/aces140.html. You can obtain certain other related documents that might be available electronically, from the NCSL Web site at http://www.ncsl.org/programs/esnr/fostta/fostta.htm.

2. *Facsimile.* Notify the contacts listed under **FOR FURTHER INFORMATION CONTACT** above if you would like any of the documents sent to you via fax.

III. Purpose of Meeting

As part of FOSTTA, the Chemical Information and Management Project focuses on EPA's Chemical Right-to-Know Program and works to develop a more coordinated effort involving federal, state, and tribal agencies. The Pollution Prevention Project promotes the prevention ethic across society, helping companies incorporate P2 approaches and techniques and integrating P2 into mainstream environmental activities at both the

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federal level and among the states. The Tribal Affairs Project concentrates on chemical and prevention issues that are most relevant to the tribes, including lead control and abatement, subsistence lifestyle, and hazard communications and outreach. Under the Emergency Planning and Community Right-to-Know Act, EPA, the states, and tribes share responsibility for handling toxic chemical release information and making it available to the public through the Toxics Release Inventory. Through the Toxics Release Inventory Project, EPA and the state TRI program staff have an opportunity to discuss what works and what does not in their respective programs and to share ideas for the future evolution of the program.

IV. Purpose of Meeting

This unit provides the tentative agenda items identified by NCSL, the states, and the tribes:

1. Update on the High Production Volume Challenge Program and the Voluntary Children's Chemical Evaluation Program (Chemical Information and Management Project)

2. Pollution Prevention Integration Opportunities (Pollution Prevention Project)

3. Lead Workshops/Guidance Documents (Toxics Release Inventory Project)

4. Tribal Risk Assessment and Subsistence Summit (Tribal Affairs Project)

5. Other topics as appropriate.

V. How Can I Participate in This Meeting?

You may submit a request to participate in this meeting in the mail or electronically to the names under the **FOR FURTHER INFORMATION CONTACT.** Do not submit any information in your request that is considered Confidential Business Information. Your request must be received by EPA on or before October 19, 2001.

List of Subjects

Environmental protection.

Dated: September 18, 2001.

Barbara Cunningham,

Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–24059 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34237A; FRL–6782–6]

Atrazine; Availability of Preliminary Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of EPA's pilot public participation process for making reregistration eligibility decisions for the organophosphate and certain other, non-organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the preliminary ecological fate and effects risk assessment and related documents for atrazine. This notice also starts a 60–day public comment period for the preliminary risk assessment. Comments are to be limited to issues directly associated with atrazine and raised by the risk assessment or other documents placed in the docket. By allowing access and opportunity for comment on the preliminary risk assessment, EPA is seeking to strengthen stakeholder involvement and help ensure that our decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that risk assessments at this stage are preliminary only and that further refinements of the risk assessment may be appropriate for this pesticide. This document reflects only the work and analysis conducted as of the time it was produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions it contains may change. Concurrent with the Office of Pesticide Programs' release of the preliminary ecological fate and effects risk assessment for atrazine announced in this notice, EPA's Office of Water is publishing its draft aquatic life criteria document for atrazine elsewhere in this issue of the **Federal Register**.

DATES: Comments, identified by the docket control number OPP–34237A for atrazine, must be received on or before November 26, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify the docket control number for atrazine in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kimberly Lowe, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8059; e-mail address: lowe.kimberly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the FFDCA, or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the preliminary risk assessments for atrazine may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34237A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify the docket control number for atrazine, OPP–34237A, in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34237A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

EPA is making available a preliminary risk assessment that has been developed as part of EPA's process for making reregistration eligibility decisions for the organophosphate and other pesticides and for tolerance reassessments consistent with the FFDCA, as amended by the FQPA. The Agency's preliminary ecological fate and effects risk assessment and other related documents for atrazine are available in the individual pesticide dockets. Earlier, on February 14, 2001 (66 FR 10287) (FRL–6765–3), EPA released the preliminary human health risk assessment and related documents for atrazine through the docket. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for atrazine.

The Agency cautions that the atrazine risk assessment is preliminary only and that further refinements may be appropriate. This document reflects only the work and analysis conducted as of the time it was produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions it contains may change.

Concurrent with the Office of Pesticide Programs release of the preliminary ecological fate and effects risk assessment for atrazine announced in this notice, EPA's Office of Water is publishing its draft aquatic life criteria document for atrazine, elsewhere in this issue of the **Federal Register**. The Offices of Water and Pesticide Programs currently are consulting on their respective ecological risk assessment methodologies. Although there are similarities in the two offices' approaches, differences remain. When the consultation is completed, revisions to the atrazine ecological fate and effects preliminary risk assessment may be necessary. While the consultation is underway, both offices are making their respective ecological risk assessments for atrazine available to the public and requesting comment on their respective methodologies. It would be helpful if comments regarding the methodology that are made to one office are also made to the other.

The Agency is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the preliminary risk assessment for the chemical specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessment, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific chemical. Comments should be limited to issues raised within the preliminary risk assessment and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the pesticide tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by November 26, 2001 using

the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**. Comments will become part of the Agency record for atrazine.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: September 18, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–23924 Filed 9–25–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00742; FRL–6805–5]

Ethion; Receipt of Request for Registration Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by Cheminova AGRO A/S, FMC Corporation and Micro-Flo Corporation to cancel the registrations for all of their products containing O,O,O,O-tetaethyl S,S-methylene bis(phosphorodithioate) (ethion). EPA will decide whether to approve the request after consideration of public comment.

DATES: Comments on the requested cancellation of product and use registrations must be submitted to the address provided below by October 26, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Dumas, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8015; fax number: (703) 308–8041; e-mail address: dumas.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00742. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00742 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00742. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking

This notice announces receipt by EPA of requests from Cheminova A/S, FMC Corporation, and Micro-Flo Corporation to cancel five pesticide products registered under section 3 of FIFRA. These registrations are listed in Table 1.

A. Background Information

Ethion is an organophosphate insecticide registered for use on citrus in Florida and Texas, and cattle in eartags.

On August 24, August 29, and August 31, 2001, Micro-Flo Corporation, FMC Corporation, and Cheminova A/S, respectively, signed a Memorandum of Agreement with EPA requesting voluntary cancellation pursuant of 6(f) of FIFRA of all their registrations for products containing ethion. The effective cancellation dates are intended to be no earlier than October 1, 2003, for manufacturing use products and December 31, 2003, for end-use products.

B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant has requested that EPA waive the 180–day comment period. EPA is granting the registrants' request to waive the 180–day comment period. EPA anticipates granting the cancellation request shortly after considering the comments recieved during the 30–day comment period for this notice. The registrations for which cancellations were requested are identified in Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Company	Registration Number	Product
Cheminova A/S	4787–10	Cheminova Ethion Technical
FMC Corporation	279–2280	Ethion Technical Insecticide
	279–1254	Ethion 4 Miscible
Micro-Flo Corporation	51036–89	Ethion 4 EC
	51036–90	Ethion 8 EC

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA section 6(f)(1) further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, make reasonable efforts to inform persons who rely on the pesticide for minor agricultural uses, and provide a 30–day period in which the public may comment. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. A withdrawal shall have no effect on any cancellation that has already been ordered; the effective date of such cancellation and all other provisions of any earlier cancellation action shall remain in effect. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The Agency intends to prohibit the sale and distribution of existing stocks of ethion manufacturing products on October 1, 2003, and to prohibit the use of manufacturing use products on December 31, 2003. The Agency intends to prohibit the sale and distribution of end-use product on October 1, 2004, and to prohibit the use of end-use product on December 31, 2004. This is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions will be made if EPA determines that a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

VI. Future Tolerance Revocations

EPA anticipates drafting a future **Federal Register** notice proposing revocation of tolerances on commodities on which there has been no registered uses of ethion. With this present proposal, EPA seeks comment as to whether any individuals or groups want to support continuation of these tolerances.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 17, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office ofPesticide Programs.

[FR Doc. 01–24060 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66294; FRL–6802–1]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by, March 25, 2002, unless indicated otherwise, orders will be issued canceling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail address: Rm. 232, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail address: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register** —Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* Contact James A. Hollins at 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 224, Arlington, VA, telephone number (703) 305–5761. Available from 7:30 a.m. to 4:45 p.m., Monday thru Friday, excluding legal holidays.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel some 33 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100 WA–94–0020	Supracide 25WP Insecticide-Miticide	*O,O*-Dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-
000241–00328	Pursuit/Dual Herbicide	2-Chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylphenyl)acetamide (9CI)
		(+/-)-2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imadazol-2-
000264–00464	Mocap Plus 4–2 EC Nematicide - Insecticide	*O,O*-Diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate
		O-Ethyl *S,S*-dipropyl phosphorodithioate
000264–00475	Mocap Pcnb 3–10 Granular Nematicide - Insecticide	*O*-Ethyl *S,S*-dipropyl phosphorodithioate
		Pentachloronitrobenzene
000264–00521	Holdem Brand Granular Nematicide Insecticide	*O*-Ethyl *S,S*-dipropyl phosphorodithioate
		O,O-Diethyl *S*-((ethylthio)methyl) phosphorodithioate
000264–00541	Mocap Gel Nematicide-Insecticide	*O*-Ethyl *S,S*-dipropyl phosphorodithioate
000279 LA–98–0010	Firstline GT Plus Termite Bait Station	1-Octanesulfonamide, *N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-
000279 WA–90–0023	Thiodan 3 E.C.	6,7,8,9,10-Hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
000499–00460	Pro-Control Roach Bait	1-Octanesulfonamide, *N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-
000572–00224	Rockland Residual Fly Spray D	*O,O*-Dimethyl *S*-((methylcarbamoyl)methyl) phosphorodithioate
000769–00874	Pratt Benomyl 50W Systemic Fungicide	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000769–00921	Science Benomyl 50W Systemic Fungicide	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000802–00352	Lilly/Miller Granular Noxall Vegetation Killer	Sodium metaborate (NaB_{O2})
		3-(3,4-Dichlorophenyl)-1,1-dimethylurea
		Sodium chlorate
001812–00284	Griffin Fluometuron Technical	1,1-Dimethyl-3-(α,α,α-trifluoro-m-tolyl)urea (Note: α=alpha)
001812–00327	GX–071 Technical	1-Octanesulfonamide, *N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-
004822–00355	Raid Max Roach Bait	1-Octanesulfonamide, *N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptad cafluoro-

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
004822–00457	Sulfotine	Lithium (perfluorooctane)sulfonate
004822–00458	Raid TVK	Lithium (perfluorooctane)sulfonate
008660–00022	Vertagreen Crabgrass Preventer	Dimethyl tetrachloroterephthalate
008660–00033	Vertagreen Professional Use with Dacthal	Dimethyl tetrachloroterephthalate
008660–00035	Concentrated Ronstar for Turf	2-tert-Butyl-4-(2,4-dichloro-5-isopropoxyphenyl-delta2-1,3,4-oxadiazoline-5-one
008660–00062	Garden Weed Preventer (Contains Dacthal)	Dimethyl tetrachloroterephthalate
008660–00098	Turf Pro Dacthal 5G	Dimethyl tetrachloroterephthalate
008660–00100	Turf Pro Dacthal 5G Plus	Dimethyl tetrachloroterephthalate
008660–00189	Holiday Crabgrass Preventer Pre-Emergence	Dimethyl tetrachloroterephthalate
009086–00009	Revenge Bug Strip	2,2-Dichlorovinyl dimethyl phosphate
009086–00011	Roxide DDVP Technical	2,2-Dichlorovinyl dimethyl phosphate
009367–00050	Residual Insecticide	*o*-Isopropoxyphenyl methylcarbamate
051036 ND–98–0006	Chlorpyrifos 4E-Wheat	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
062719–00082	Tandem	2-(3,5-Dichlorophenyl)-2-(2,2,2-trichloroethyl)oxirane
062719 FL–92–0010	Lorsban 50W Insecticide In Water Soluble Packets	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
063935 FL–91–0003	Ortho Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
064864–00036	Last-Bite Snail & Slug Killer Pellets	2,4,6,8-Tetramethyl-1,3,5,7-tetroxocane

Unless a request is withdrawn by the registrant within 180 days (unless indicated otherwise) of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant during this comment period. Registrations 009086–00011, Roxide Technical DDVP and 009086–00009, Roxide Revenge Bug Strip are registrations for which the items and conditions for cancellation and disposition of existing stocks were previously agreed to between EPA and Roxide International, Inc., in the May 31, 2001, Consent Agreement and Final Order (Docket No. FIFRA–HQ–2001–0003). Thus, EPA intends to grant Roxide's request for voluntary cancellation of these registrations 30 days after publication of this notice. After the registrations are cancelled EPA will permit Roxide to sell and distribute their products until December 31, 2001.

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Syngenta Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000241	BASF Corp., Box 400, Princeton, NJ 08543.
000264	Aventis Cropscience USA LP, 2 T.W. Alexander Drive, Box 12014, Research Triangle Park, NC 27709.
000279	FMC Corp., Agricultural Products Group, 1735 Market St, Philadelphia, PA 19103.
000499	Whitmire Micro-Gen Research Laboratories Inc., 3568 Tree Ct Industrial Blvd, St Louis, MO 63122.
000572	Rockland Corp., 686 Passaic Ave., Box 809, West Caldwell, NJ 07007.
000769	The Platinum Group, Agent For: Verdant Brands, Inc., 9855 W. 78th St, Eden Prairie, MN 55344.
000802	Lilly Miller Brands, Agent For: Central Garden & Pet, 16201 SE 98th, Clackamas, OR 97015.
001812	Griffin L.L.C., Box 1847, Valdosta, GA 31603.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
008660	Pursell Industries, Inc., 1500 Urban Center Parkway, Suite 520, Birmingham, AL 35242.
009086	Roxide International Inc., Box 249, New Rochelle, NY 10802.
009367	Theochem Laboratories, Inc., 7373 Rowlett Park Drive, Tampa, FL 33610.
051036	Micro-Flo Co., LLC, Box 772099, Memphis, TN 38117.
062719	Dow Agrosciences LLC, 9330 Zionsville Rd., 308/2E225, Indianapolis, IN 46268.
063935	Third Party Registrations, Inc., Box 140097, Orlando, FL 32814.
064864	Pace International LLC, 1011 Western Ave., Suite 505, Seattle, WA 98104.

EPA has requested a 30–day comment period for registration 008660–00035.

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III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Loss of Active Ingredients

Unless the requests for cancellations are withdrawn, two pesticide active ingredients will no longer appear in any registered products. Those who are concerned about the potential loss of these active ingredients for pesticidal use are encouraged to work directly with the registrant(s) to explore the possibility of their withdrawing the request for cancellation. The active ingredients are listed in the following Table 3, with the EPA company and CAS number.

TABLE 3. — ACTIVE INGREDIENT DISAPPEARING AS A RESULT OF REGISTRANTS' REQUEST TO CANCEL

CAS No.	Chemical Name	EPA Company No.
29457–72–5	Lithium (Perfluorooctane sulfonate)	004822
58138–08–2	Dichlorophenyl-2-(2,2,2-trichloroethy-l)oxirane	062719

V. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before March 25, 2002, unless indicated otherwise. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

VI. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received by the Agency. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exception to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: September 10, 2001.

Richard D. Schmitt,

Associate Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–24058 Filed 9–25–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–OW–7063–7]

Notice of Availability of Draft Aquatic Life Criteria Document for Atrazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft aquatic life criteria document for atrazine.

SUMMARY: Section 304(a)(1) of the Clean Water Act (CWA) requires the Environmental Protection Agency (EPA) to develop and publish, and from time to time revise, criteria for water accurately reflecting the latest scientific knowledge. These criteria provide EPA's recommendations to states and authorized tribes as guidance in establishing their water quality standards as state or tribal law or regulation. Today, EPA is notifying the public about the availability of the draft aquatic life criteria document for atrazine.

EPA is notifying the public about the availability of this draft document in accordance with the Agency's process for developing or revising criteria (63 FR 68354, December 10, 1998). As indicated in the December 10, 1998 FR notice, the Agency believes it is important to provide the public with an opportunity to submit scientific information on draft criteria. EPA is soliciting views from the public on issues of science pertaining to the information used in deriving the draft criteria. EPA is also soliciting input from the public on harmonizing risk assesssment methods used by the Office of Water (OW) in its draft aquatic life criteria document for atrazine and by the Office of Pesticide Programs (OPP) in its Preliminary Ecological Fate and Effects Risk Assessment for Atrazine, published elsewhere in this issue of the **Federal Register**.

DATES: All significant scientific information must be submitted to the Agency under docket number W–01–10. All significant scientific information submissions are requested to be submitted within 60 days after publication of this notice. The Administrative Record supporting this draft guidance document is available at the Water Docket, Room EB 57, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 on Monday through Friday, excluding Federal holidays, between 9 a.m. and 4 p.m. For access to docket materials call (202) 260–3027 for an appointment. A reasonable fee will be charged for photocopies.

ADDRESSES: Send an original and three copies of any written significant scientific information to W–01–10 Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Information may be hand-delivered to the Water Docket, USEPA, Room EB 57, 401 M Street, SW, Washington, D.C. 20460. Information may also be submitted electronically to *OW-Docket@epa.gov*. Information should be submitted as a WP5.1, 6.1 and/or 8.0 or an ASCII file with no form of encryption.

Copies of the criteria document entitled, Ambient Aquatic Life Water Quality Criteria for Atrazine may be obtained from EPA's Water Resource Center by phone at (202) 260–7786, or by e-mail to *center.water-resource@epa.gov* or by conventional mail to EPA Water Resource Center, RC–4100, 1200 Pennsylvania Ave., Washington, DC 20460. Alternatively, consult *www.epa.gov/OST/standards* for download availability.

FOR FURTHER INFORMATION CONTACT: Frank Gostomski, Health and Ecological Criteria Division (4304), US EPA, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460; (202) 260–1321; *gostomski.frank@epa.gov*

SUPPLEMENTARY INFORMATION:

What Are Recommended Water Quality Criteria?

Recommended water quality criteria are the concentrations of a chemical in water at or below which aquatic life are protected from acute and chronic adverse effects of the chemical. Section 304(a)(1) of the Clean Water Act requires EPA to develop and publish, and from time to time revise, criteria for water accurately reflecting the latest scientific knowledge. Water quality criteria developed under section 304(a) are based solely on data and scientific judgments. They do not consider economic impacts or the technological feasibility of meeting the criteria in ambient water. Section 304(a) criteria provide guidance to States and Tribes in adopting water quality standards and provide a scientific basis for them to develop controls of discharges or releases of pollutants. The criteria also provide a scientific basis for EPA to develop Federally promulgated water quality standards under section 303(c).

What Is Atrazine and Why Are We Concerned About It?

Atrazine is an organic chemical used as an herbicide throughout the U.S. for control of weeds in agricultural crops. Environmental exposure occurs mainly from its application as an herbicide but may also occur from industrial manufacture, distribution releases, precipitation, field runoff, and drift. Atrazine is moderately volatile and soluble in water, and resistant to natural degradation in water. Because of atrazine's chemical properties and widespread use as an herbicide, concerns have been raised over the potential risks posed by exposure of aquatic organisms to it. For these reasons, EPA has developed the following water quality criteria:

Freshwater

Aquatic life should not be affected unacceptably if the:

One-hour average concentration of atrazine does not exceed 350 ug/l more than once every three years on the average (Acute Criterion); and

Four-day average concentration of atrazine does not exceed 12 ug/l more than once every three years on the average (Chronic Criterion).

Saltwater

Aquatic life should not be affected unacceptably if the:

One hour average concentration of atrazine does not exceed 760 ug/l more than once every three years on the average (Acute Criterion); and

Four-day average concentration of atrazine does not exceed 26 ug/l more than once every three years on the average (Chronic Criterion).

Definitions of Criteria Terminology

One hour average: the average of all samples taken during a one hour period by either continuous sampling or periodic grab samples.

Four day average: the average of all samples taken during four consecutive days by either continuous sampling or periodic grab samples. Also known as a 96-hour average.

Acute Criterion: A chemical concentration protective of aquatic organisms from short term exposure to fast acting chemicals or spikes in concentrations. For example exposure of a fish moving through an area for foraging but not residing in the area.

Chronic Criterion: A chemical concentration protective of aquatic organisms from longer term exposure to slower acting chemicals or relatively steady concentrations. For example, exposure of a fish that resides in an area.

How Has EPA Coordinated Development of Ecological Risk Assessments on Atrazine Between the Office of Water (OW) and the Office of Pesticide Programs (OPP)?

Concurrent with OW's release of the Draft Aquatic Life Criteria Document for Atrazine, OPP is releasing its Preliminary Ecological Fate and Effects Risk Assessment for Atrazine. Both offices shared their aquatic toxicity data bases for atrazine in the development of their risk assessment documents. OW and OPP are currently consulting on their respective ecological risk assessment methodologies. Although there are similarities in the approaches, differences remain. When the consultation is completed, there may be revisions to this assessment. While the consultation is underway, both offices are making their respective ecological risk assessments for atrazine available to the public and requesting comment on their respective methodologies. It would be helpful if comments regarding a methodology that are made to one office are also made available to the other. OW and OPP will share comments received on their respective risk assessment methodologies and will coordinate review of those comments.

Why Is EPA Notifying the Public About the Draft Atrazine Criteria Document?

Today, EPA is notifying the public about the availability of the draft aquatic life criteria document for atrazine to expand the public's involvement in the criteria development process. EPA notified the public of its intent to develop aquatic life criteria for atrazine in the **Federal Register** on October 29, 1999 (64 FR 58409). At that time EPA made available to the public all references identified by a recent literature review and solicited any additional pertinent data or scientific views that would be useful in developing the aquatic life criteria for atrazine. EPA is now making the draft aquatic life criteria document for atrazine available for public review.

As indicated in the December 10, 1998 FR notice, the Agency believes it is important to provide the public with an opportunity to submit scientific information on draft criteria. EPA is soliciting views from the public on issues of science pertaining to the information used to derive the draft criteria. EPA will review and consider significant scientific information submitted by the public that might not have otherwise been identified during development of these criteria.

Where Can I Find More Information on EPA's Revised Process for Developing New or Revised Criteria?

The Agency published detailed information about its revised process for developing and revising criteria in the **Federal Register** on December 10, 1998 (63 FR 68354) and in the EPA document entitled, National Recommended Water Quality—Correction (EPA 822–Z–99–001, April 1999). The purpose of the revised process is to provide expanded opportunities for public input, and to make the criteria development process more efficient.

Dated: August 8, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 01–23753 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 27, 2001, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

New Business—Other

—FY 2002 Revised Budget and FY 2003 Proposed Budget

Dated: September 24, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–24259 Filed 9–24–01; 2:55 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 01–138; FCC 01–269]

Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., Pursuant to Section 271 of the Telecommunications Act of 1996, for Authorization To Provide In-Region, InterLATA Services in Pennsylvania

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Federal Communications Commission grants the section 271 application of Verizon Pennsylvania Inc., *et al.* (Verizon) for authority to enter the interLATA telecommunications market in the state of Pennsylvania. The Commission grants Verizon's application based on our conclusion that Verizon has satisfied all of the statutory requirements for entry, and opened its local exchange markets to full competition.

DATES: Effective date September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Tanner, Attorney-Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order* in CC Docket No. 01–138, FCC 01–269, released September 19, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. It is also available on the Commission's website at *http://www.fcc.gov/ccb/ppp/2001ord.html.*

Synopsis of the Order

1. On June 21, 2001, Verizon filed an application, pursuant to section 271 of the Communications Act of 1934, as amended, for authority to provide in-region, interLATA service in the state of Pennsylvania.

2. *The State Commission's Evaluation.* The Pennsylvania Public Utilities Commission (Pennsylvania Commission) advised the Commission, following months of extensive review, that Verizon met the checklist requirements of section 271(c) and has taken the statutorily required steps to open its local markets to competition. Consequently, the Pennsylvania Commission recommended that the Commission approve Verizon's in-region, interLATA entry in its June 25, 2001 evaluation of the application.

3. *The Department of Justice's Evaluation.* The Department of Justice does not oppose Verizon's section 271 application for Pennsylvania, but states that it is unable fully to endorse it due to concerns about Verizon's wholesale billing systems. The Department of Justice also states, however, that local markets in Pennsylvania show a substantial amount of competitive entry, and does not foreclose the possibility that the Commission may be able to approve Verizon's application.

Primary Issues in Dispute

4. *Checklist Item 2—Unbundled Network Elements.* Based on the record, the Commission finds that Verizon has provided "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)" of the Act in compliance with checklist item 2. The Commission addresses herein those aspects of this checklist item that raised significant issues concerning whether Verizon's performance demonstrated compliance with the Act: (1) Operations Support Systems (OSS), particularly billing; (2) UNE pricing; and (3) provisioning of UNE combinations.

5. *Access to Operations Support Systems (OSS).* The Commission concludes that Verizon provides nondiscriminatory access to its OSS. Our decision focuses only on issues of controversy, particularly Verizon's wholesale billing functions. The Commission finds that, despite some historical problems in producing a readable, auditable and accurate wholesale bill, Verizon provides a wholesale bill that gives competitive LECs a meaningful opportunity to compete. Verizon demonstrates that recent data show significantly improved performance in delivering timely and accurate bills. Similarly, performance data indicate that any delay associated with BOS BDT bills was temporary, associated with on-going improvements to the billing process and not indicative of a larger, systemic problem with delivering timely bills. In addition, the Commission finds that third-party studies of Verizon's billing systems, processes and performance support Verizon's recent commercial data both for retail-formatted bills and BOS BDT formatted bills. The Commission therefore ultimately finds that Verizon's billing performance is minimally sufficient to demonstrate checklist compliance, especially in light of the showing Verizon has made for providing timely and accurate service usage information to competitive LECs.

6. *Checklist Item 4—Unbundled Local Loops.* Verizon has adequately demonstrated that it provides unbundled local loops in accordance with the requirements of section 271 and our rules. This conclusion is based on review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cuts, xDSL-capable loops, digital loops, and high capacity loops, and our review of Verizon's processes for line sharing and line splitting. Upon review, the Commission finds that Verizon provides nondiscriminatory access to all loop types. It also finds that Verizon has demonstrated that it adequately provisions line-sharing and line-splitting. Furthermore, the Commission finds that Verizon provides access to loop makeup information in compliance with our rules.

7. *Checklist Item 14—Resale.* Section 271(c)(2)(B)(xiv) of the Act requires that a BOC make "telecommunications services * * * available for resale in accordance with the requirements of section 251(c)(4) and section 252 (d)(3)." Based on the record in this proceeding, the Commission concludes that Verizon satisfies the requirements of this checklist item in Pennsylvania. Verizon has a concrete and specific legal obligation in its interconnection agreements and tariffs to make its retail services available for resale to competing carriers at wholesale rates. Also, Verizon demonstrates current compliance with the checklist requirements with regard to DSL resale.

Other Checklist Items

8. *Checklist Item 1—Interconnection.* Section 271(c)(2)(B)(i) requires the BOC to provide equal-in-quality interconnection on terms and conditions that are just, reasonable and nondiscriminatory in accordance with the requirements of sections 251 and 252. Based on evidence in the record, the Commission concludes that Verizon demonstrates that it is in compliance with the requirements of this checklist item. The Commission also notes that the Pennsylvania Commission found that Verizon satisfied this checklist item and that no commenters raised any issues concerning Verizon's performance for the provisioning of interconnection.

9. *Pricing.* The Commission's pricing rules require, among other things, that in order to comply with its collocation obligations, an incumbent LEC provide collocation based on TELRIC. Based on the record, the Commission finds that Verizon offers interconnection in Pennsylvania to other telecommunications carriers at just, reasonable and nondiscriminatory rates and is therefore in compliance with checklist item

10. *Checklist Item 8—White Pages Directory Listings.* Section 271(c)(2)(B)(viii) of the competitive checklist requires a BOC to provide "[w]hite page directory listings for customers of the other carrier's telephone exchange service." Based on the evidence in the record, we conclude that Verizon satisfies the requirements of checklist item 8.

11. *Checklist Item 13—Reciprocal Compensation.* Section 271(c)(2)(B)(xiii) of the Act requires that a BOC enter into "[r]eciprocal compensation arrangements in accordance with the requirements of section 252(d)(2)." In turn, section 252(d)(2)(A) specifies when a state commission may consider the terms and conditions for reciprocal compensation to be just and reasonable. Based on the record, we conclude that Verizon demonstrates that it provides reciprocal compensation as required by checklist item 13.

12. *Remaining Checklist Items (3, 6, 7, and 9–12).* An applicant under section 271 must demonstrate that it complies with checklist item 3 (access to poles, ducts, and conduits), item 6 (unbundled local switching), item 7 (911/E911 access and directory assistance/operator services), item 9 (numbering administration), item 10 (databases and associated signaling), item 11 (number portability), and item 12 (local dialing parity). Based on the evidence in the record, the Commission concludes that Verizon demonstrates that it is in compliance with checklist items 3, 6, 7, 9, 10, 11, and 12 in Pennsylvania. The Commission also notes that the Pennsylvania Commission concluded that Verizon complies with the requirements of each of these checklist items.

13. *Compliance with Section 271(c)(1)(A).* In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B). To qualify for Track A, a BOC must have interconnection agreements with one or more competing providers of "telephone exchange service * * * to residential and business subscribers." We conclude, as the Pennsylvania Commission did, that Verizon demonstrates that it satisfies the requirements of Track A based on the interconnection agreements it has implemented with competing carriers in Pennsylvania.

14. *Section 272 Compliance.* Based on the record, the Commission concludes that Verizon has demonstrated that it will comply with the requirements of section 272. Significantly, Verizon provides evidence that it maintains the same structural separation and nondiscrimination safeguards in Pennsylvania, as it does in Connecticut, New York and Massachusetts, states in which Verizon has already received section 271 authority.

15. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. From extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, we find that barriers to competitive entry in the local exchange markets have been removed and the local exchange markets today are open to competition. The Commission further finds that the record confirms our view, as noted in prior section 271 orders, that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist. The Commission also finds that the existing performance assurance plan ("PAP") currently in place for Pennsylvania, in combination with other factors, provides assurance that the local market will remain open after Verizon receives section 271 authorization.

16. *Section 271(d)(6) Enforcement Authority.* The Commission has a responsibility not only to ensure that Verizon is in compliance with section 271 today, but also that it remains in compliance in the future. Working with the Pennsylvania Commission, the Commission intends to monitor closely post-entry compliance and to enforce the provisions of section 271 using the various enforcement tools Congress provided us in the Communications Act.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–24042 Filed 9–25–01; 8:45 am]

BILLING CODE 6712–01–P

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FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010776–120

Title: Asia North America Eastbound Rate Agreement.

Parties:

A.P. Moller-Maersk Sealand
Hapag-Lloyd Container Linie GmbH
American President Lines, Ltd:
Mitsui O.S.K. Lines, Ltd.
Orient Overseas Container Line Limited
P&O Nedlloyd Limited
Kawasaki Kisen Kaisha, Ltd.
Nippon Yusen Kaisha
P&O Nedlloyd B.V.
APL Co. Pte Ltd.

Synopsis: The proposed agreement modification extends the current suspension of the conference for an additional six months, through May 1, 2002.

Agreement No.: 011745–002.

Title: Evergreen Lloyd Triestino Alliance Agreement.

Parties:

Evergreen Marine Corporation
Lloyd Triestino Di Navigazione S.P.A.

Synopsis: The proposed modification would allow the parties to charter space from each other on all vessels owned or controlled by the parties or on affiliates or subsidiaries of the parties when the party in question has been allocated space on its affiliate, the charter to be charged against that allocation. It also modifies the vessel commitment of each party to the arrangement. Expedited review has been requested.

Dated: September 21, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–24105 Filed 9–25–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicant

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicant: Al G. Wichterich dba Worldwide Express, 9327 Tranquil Park Dr., Spring, TX 77379, Officers: Albert G. Wichterich, Jr., President, (Qualifying Individual), Kathleen D. Wichterich, Secretary.

Dated: September 21, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–24107 Filed 9–25–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 10 a.m. (EDT), October 9, 2001.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the September 10, 2001, Board member meeting.
2. Thrift Savings plan activity report by the Executive Director.
3. Review of KPMG LLP audit reports:

(a) Backup, Recovery, and Contingency Planning of the Thrift Savings Plan at the U.S. Department of Agriculture, National Finance Center.

(b) Computer Access Controls and Security of the Thrift Savings Plan at the U.S. Department of Agriculture, National Finance Center.

(c) Systems Infrastructure Controls of the Thrift Savings Plan at the U.S. Department of Agriculture, National Finance Center.

Contact Person for More Information: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: September 24, 2001.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 01–24252 Filed 9–24–01; 2:47 pm]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–62]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: HIV Prevention Capacity-Building Assistance Information Collection—Reporting Forms—To be used from 2001 to 2005—New—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). The purpose of this request is to obtain OMB clearance to collect information to monitor the capacity-building activities and training of capacity-building assistance (CBA) providers funded by the Centers for Disease Control and Prevention NCHSTP to support community-based

organizations (CBOs) to deliver HIV prevention services.

In FY 1999, the Department of Health and Human Services announced a special initiative to reduce the disproportionate impact of HIV/AIDS on African Americans and other communities of color. The CDC announced the availability of funds for cooperative agreements for HIV prevention CBA to develop and implement regionally structured, integrated capacity-building systems. Thirty CBA provider organizations were funded to implement this strategy. These grantees provide HIV prevention CBA services to CBOs serving racial/ethnic minority populations at risk for HIV. The CBA program has expanded from $9 million to approximately $25 million in FY 2001.

CDC is responsible for monitoring and evaluating HIV prevention activities conducted under the CBA cooperative agreements. Enhancing and assuring quality programming requires that CDC have current information regarding the progress of CBA activities and services supported through the cooperative agreements. Therefore, forms such as the CBA Notification Form, CBA Completion Form, and CBA Progress Report are considered critical components of the monitoring and evaluation process. Because this program encompasses 30 CBA provider organizations, there is a need for a standardized system for reporting individual instances of CBA delivered by all CBA provider grantees.

As a steward of government funds, CDC needs information to monitor CBA and accurately document CBA activities that occur among CBA provider grantees. The information collected from the CBA Notification and CBA Completion forms, and CBA Progress Report will allow CDC to further identify problems and address technical assistance needs of CBOs in a timely fashion and subsequently improve the effectiveness of CBA program activities and progress toward national goals of HIV prevention. The forms would also assist CDC, in the aggregate, by discerning and refining national goals and objectives in the prevention of HIV. This information collection process will be a potentially valuable management tool for grantees to routinely examine CBA program performance by assessing strengths and weaknesses with the CBA program and national objectives.

To effectively track and monitor all requests for CBA assistance, CBA providers will be required to complete three reporting forms. The first is the CBA Notification Form (form A) that will require CBA providers to submit after each contact with a non-CDC funded CBO or HIV prevention stakeholder for CBA services. The purpose of this form is to track all requests for services from non-CDC funded CBOs and stakeholders. CBA requests from these CBOs and stakeholders are received by CBA providers on an on-going basis. CBA providers will be required to submit a CBA Completion Form (form B) following each episode of CBA service delivered to all CBOs and stakeholders. The purpose of this form is to provide feedback and follow-up information to CDC Project Officers on the types and quality of CBA services delivered to all CBOs by CBA providers. CBA Requests from these CBOs are received by CBA providers on an on-going basis. Information collection will be on-going throughout the duration of the cooperative agreements. CBA providers will be required to submit a third form, CBA Progress Reports (form C) on a quarterly basis to CDC. The purpose of this report is to describe the HIV prevention activities conducted during the last quarter. The CBA Progress Report will include information on the program successes and barriers, collaborative and cooperative activities with other organizations, and plans for future activities.

It is estimated that Form A (CBA Notification Form) will require 15 minutes of preparation by the respondent, Form B (CBA Completion Form) will require 30 minutes of preparation by the respondent, and Form C (CBA Progress Report) will require 2 hours of preparation by the respondent. In aggregate, report preparation requires approximately 990 burden hours by each respondent. There are no costs to respondents.

Respondents	Number of respondents	Number of responses/respondents	Average burden/response (in hours)	Response burden in hours
Form A: CBA Notification	30	50	15/60	375
Form B: CBA Completion	30	25	30/60	375
Form C: CBA Progress Report	30	4	2	240
Total				990

Dated: September 17, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–24021 Filed 9–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–63]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the

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use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Statement in Support of Application For Waiver of Inadmissibility OMB No. 0920–0006—Extension—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC).

Section 212(a)(1) of the Immigration and Nationality Act states that aliens with specific health-related conditions are ineligible to receive visas and ineligible for admission into the United States. The Attorney General may waive application of this inadmissibility on health-related grounds if an application for waiver is filed and approved by the consular office considering the application for a visa. The Division of Migration and Quarantine, NCID uses this application primarily to collect information to establish and maintain records of waiver applicants in order to notify the Immigration and Naturalization Service when terms, conditions and controls imposed by waiver are not met. NCID is requesting the extension of this data for 3 years. There are no costs to respondents.

Respondents	Number of respondents	Number of responses/respondents	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Businesses or organizations	200	1	10/60	33
Total				33

Dated: September 18, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–24022 Filed 9–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–49–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Hazardous Substances Emergency Events Surveillance—Extension—OMB No. 0923–0008 Agency for Toxic Substances and Disease Registry (ATSDR). ATSDR is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and its 1986 Amendments, The Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into the environment. The primary purpose of this activity, which ATSDR has supported since 1992, is to develop, implement, and maintain a state-based surveillance system for hazardous substances emergency events which can be used to (1) describe the distribution of the hazardous substances releases; (2) describe the public health consequences (morbidity, mortality, and evacuations) associated with the events; (3) identify risk factors associated with the public health consequences; and (4) develop strategies to reduce future public health consequences. The study population will consist of all hazardous substance non-permitted acute releases within the 16 states (Alabama, Colorado, Iowa, Louisiana, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Oregon, Rhode Island, Texas, Utah, Washington, and Wisconsin) participating in the surveillance system.

Until this system was developed and implemented, there was no national public health-based surveillance system to coordinate the collation, analysis, and distribution of hazardous substances emergency release data to public health practitioners. It was necessary to establish this national surveillance system which describes the public health impact of hazardous substances emergencies on the health of the population of the United States. The data collection form will be completed by the state health department Hazardous Substances Emergency Events Surveillance (HSEES) coordinator using a variety of sources including written and oral reports from environmental protection agencies, police, firefighters, emergency response personnel; or researched by the HSEES coordinator using census data, material safety data sheets, and chemical handbooks. The total estimated annualized burden is 7,356 hours.

Respondents	Number of respondents	Number of responses/respondents	Avg. burden/response (in hrs.)
State Health Deparatments	16	613	45/60

Dated: September 17, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–24019 Filed 9–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–48–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

The National Death Index (NDI)—Extension—OMB No. 0920–213 National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The National Death Index (NDI) is a service of the National Center for Health Statistics that assists health and medical researchers determine the vital status of their study subjects. The NDI is a national data base containing identifying death record information submitted annually to NCHS by all the state vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the states and dates of death and the death certificate numbers of deceased study subjects. With the recent implementation of the NDI Plus service, researchers now have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the states. The NDI Plus option currently provides the ICD codes for the underlying and multiple causes of death for the years 1979–1999. The five administrative forms are completed by health researchers in government, universities, and private industry in order to apply for NDI services and to submit records of study subjects for computer matching against the NDI file. The total burdens for this data collection is 227 hours.

Form	Number of respondents	Number of responses/respondents	Avg. burden/response (in hrs.)
Form A	50	1	2 30/60
Form B	70	1	18/60
Form C	120	1	18/60
Form D	10	50	3/60
Form E	40	1	30/60

Dated: September 17, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–24020 Filed 9–25–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01P–0245]

Determination That Disulfiram Tablets, 250 and 500 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that disulfiram (Antabuse) 250- and 500-milligram (mg) tablets, formerly marketed by Wyeth Ayerst Pharmaceuticals (Wyeth Ayerst), were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) for disulfiram drug products, and it will allow FDA to continue to approve ANDAs for disulfiram 250- and 500-mg tablets.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (the 1984 amendments) (Public Law 98–417), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a drug selected by the agency as the reference standard for bioequivalence testing. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug to which the ANDA refers.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(2) (21 CFR 314.161(a)(2)), the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness if ANDAs that refer to the drug that was withdrawn are approved. Section 314.161(d) provides that if FDA determines that the listed drug was removed from sale for safety or effectiveness reasons, the agency will

begin proceedings to withdraw approval of the ANDAs that refer to the drug that was withdrawn from sale.

On May 4, 2001, Sidmak Laboratories, Inc. (Sidmak), submitted a citizen petition (Docket No. 01P–0245/CP1) under 21 CFR 10.25(a) and 10.30 to FDA. Sidmak requested that the agency determine whether disulfiram tablets were withdrawn from the market for reasons other than safety or effectiveness. Disulfiram 250- and 500-mg tablets are the subject of approved NDA 7–883, formerly held by Wyeth Ayerst under the tradename Antabuse. In its petition, Sidmak stated that it acquired all rights to NDA 7–883 from Wyeth Ayerst in December 2000 and that "concurrent with negotiations for this sale, Wyeth Ayerst discontinued the marketing of its disulfiram product."

FDA has reviewed its records and, under § 314.161, has determined that disulfiram 250- and 500-mg tablets approved under NDA 7–883 were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will maintain the listing for these products in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. The approval status of the approved ANDAs that refer to disulfiram 250- and 500-mg tablets is unaffected. Additional ANDAs for dilsulfiram 250- and 500-mg tablets may also be approved by the agency.

Dated: September 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–24039 Filed 9–25–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Agricultural Health Study–A Prospective Cohort Study of Cancer and Other Diseases Among Men and Women in Agriculture

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 12, 2001, page 31679 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: *Title:* Agricultural Health Study—A Prospective Cohort Study of Cancer and Other Diseases Among Men and Women in Agriculture. *Type of Information Collection Request:* Revision (OMB 0925–0406, expiration 11/30/01). *Need and Use of Information Collection:* The Agricultural Health Study is in its third year of follow-up data collection on a prospective cohort of 89,189 farmers, their spouses, and commercial applicators of pesticides from Iowa and North Carolina. Follow-up is not yet complete; an additional two years of follow-up is being requested. *Frequency of Response:* One time. *Affected Public:* Individuals or households, Farms. *Type of Respondents:* Private pesticide applicators and their spouses. The annual reporting burden is as follows: Estimated Number of Respondents: 11,000; *Estimated Number of Responses per Respondent:* 2.2; *Average Burden Hours Per Response:* 1,196; and *Estimated Total Annual Burden Hours Requested:* 13,156. The annualized cost to respondents is estimated at $131, 554. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Michael C.R. Alavanja, Dr. P.H., Division of Epidemiology and Genetics, National Cancer Institute, Executive Plaza South, Suite 8000, 6120 Executive Boulevard, Rockville, MD 20852, or call non-toll free (301)435–4720, or E-mail your request, including your address to *alavanjam@mail.nih.gov*

COMMENTS DUE DATE: GComments regarding this information collection are best assured of having their full effect if received on or before October 26, 2001.

Dated: September 14, 2001.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 01–24033 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Fogarty International Center Advisory Board, September 18, 2001, 8:30 am to September 18, 2001, 5 pm, Lawton Chiles International House, 16 Center Drive, (Building 16), Bethesda, MD, 20892 which was published in the **Federal Register** on September 11, 2001, 66 FR 47234.

The meeting will be held via teleconference on September 18, 2001 at 12 p.m. The meeting is closed to the public.

Dated: September 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24029 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 19(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, SCOR Molecular Medicine and Atherosclerosis.

Date: October 24–26, 2001.

Time: 7 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Contact Person: William J. Johnson, PhD, NIH/NHLBI/DEA/Review Branch, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–9692, 301–435–0277.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24030 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Scientist Development Award.

Date: October 4–5, 2001.

Time: 7:30 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Contact Person: Roy L. White, PhD, Review Branch, NIH, NHLBI, Rockledge Building II, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program, Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: September 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24031 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Digestive Diseases and Nutrition C Subcommittee.

Date: October 18–19, 2001.

Closed: October 18, 2001, 1 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Open: October 18, 2001, 5:30 pm to 7 pm.

Agenda: To review procedure and discuss policies.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Closed: October 19, 2001, 8 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Carolyn Miles, PhD, Scientific Research Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301)594–7791.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: October 18–19, 2001.

Open: October 18, 2001, 5:30 pm to 7 pm.

Agenda: To review procedures and discuss policies.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Closed: October 19, 2001, 8 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Neal A. Musto, Phd, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301)594–7798, muston@extra.niddk.nih.gov

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: October 18–19, 2001.

Open: October 18, 2001, 5:30 pm to 7 pm.

Agenda: To review procedures and discuss policies.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

October 19, 2001, 8 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Michele L. Barnard, PhD, Scientific Review Administrator, Scientific

Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 657, 6707 Democracy Boulevard, Bethesda, MD 20892, 301/594–889.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 17, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24028 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: October 18, 2001.

Time: 7:30 am to 8:30 am.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: L. Tony Beck, Phd. Scientific Review Administrator, National Institute of Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0913, *lbeck@mail.nih.gov.*

Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.272, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 18, 2001.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–24032 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Amended Notice of Meeting

Notice is hereby given of the cancellation of the meeting of the National Toxicology Program (NTP) Advisory Committee on Alternative Toxicological Methods. The meeting was originally scheduled for September 25, 2001, 9 am to adjournment, in the Rodbell Auditorium, Rall Building, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, North Carolina. A notice of this meeting was published in the **Federal Register** (August 31, 2001: Vol. 66, No. 170, pages 46020–46021). Further inquiry can be directed to the NTP Executive Secretary, Dr. Mary S. Wolfe (NTP, P.O. Box 12233, 111 T.W. Alexander Drive, A3–07, NIEHS, Research Triangle Park, North Carolina 27709, telephone: 919–541–3971 and FAX: 919–541–0295).

Dated: September 18, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 01–24034 Filed 9–25–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a Teleconference Meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in September 2001.

The meeting will include the review, discussion and evaluation of grant applications reviewed by the IRG. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Substantive program information, a summary of the meeting and roster of Council members may be obtained from the contact listed below.

If special accommodations are needed for persons with disabilities, please notify the Contact listed below.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Date: September 21, 2001.

Place: Center for Substance Abuse Treatment, 5515 Security Lane, 6th Floor Conference Room, Suite 615, Rockville, MD 20852.

Type: Closed: September 21, 2001—10–11 a.m.

Contact: Cynthia Graham, 5600 Fishers Lane, RW II, Ste 618, Rockville, MD 20857, Telephone: (301) 443–8923; FAX: (301) 480–6077. E-mail: *cgraham@samhsa.gov*

This notice is being published less than fifteen days prior to the meeting date, due to urgent needs to meet the timing limitation imposed by the review and funding cycle.

Dated: September 20, 2001.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–24036 Filed 9–25–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–22]

Notice of Proposed Information Collection: Comment Request; Housing Counseling Program

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 26, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Meg Burns, Director, Program Support Division, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–0317 x3989 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed information collection will serve as an appropriate measure of the activities and the performance of housing counseling agencies; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Department is especially interested in learning whether the proposed information collection changes are sufficient to determine and measure performance in the Housing Counseling Program.

This Notice also lists the following information:

Title of Proposal: Housing Counseling Program.

OMB Control Number, if applicable: 2502–0261.

Description of the need for the information and proposed use: Section 106 of the Housing and Community Development Act of 1974 authorizes HUD to contract with organizations to provide counseling to tenants and homeowners to assist them in improving their housing conditions and in meeting the responsibilities of tenancy and home ownership. Counseling agencies are required to submit their qualifications to provide such services. HUD-approved agencies can compete for program funds. Successful grant applicants are required to submit performance data to enable HUD to evaluate the effectiveness of the program.

Agency form numbers, if applicable: HUD–9900, HUD–9902, and HUD–9908.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The total number of responses is 2,675. Frequency of reporting is annual for each of the three forms. Total response hours are 1,940: HUD–9900, 8 hours; HUD–9902, 1 hour; and HUD–9908, 10 minutes. The HUD–9900 consolidates and replaces the HUD–9900–A, HUD–9900–B, and HUD–9900–C. Two forms approved under the previous information collection request, HUD–9903 and HUD–9921, are deleted.

Status of the proposed information collection: Revision of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 19, 2001.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

[FR Doc. 01–24006 Filed 9–25–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of receipt of application for endangered species permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to *victoria—davis@fws.gov*. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: Written data or comments on these applications must be received, at the address given below, by October 26, 2001.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist). Telephone: 404/679–4176; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: Victoria Davis, Telephone: 404/679–4176; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION: *Applicant:* Jack Kilgore, U.S. Army Corps of Engineers, Vicksburg, Mississippi, TE045109–0

The applicant requests authorization to take (capture, hold temporarily, identify, anesthetize, take the two most anterior pectoral fin rays and associated tissue, floy tag, PIT tag, and stomach flush) the pallid sturgeon (*Scaphirhynchus albus*) from the Lower Mississippi River (from the mouth of the Missouri River to the mouth of the Mississippi River). Little information exists on pallid sturgeons in the Lower Mississippi River, which hampers recovery efforts and river management decisions. Consequently, a multi-year field study in the Lower Mississippi River is being developed by the Corps of Engineers, in cooperation with the U.S. Fish and Wildlife Service, to quantify habitat preferences and life history characteristics of the pallid sturgeon. The objectives of the study are to evaluate habitat preferences by life stage and season; quantify mortality, density, age, and growth; and to evaluate diet and food preferences.

Applicant: Heather Garland, The Nature Conservancy of Tennessee, TE045107–0

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The applicant requests authorization to take (survey, capture, identify, measure, and release) gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) to survey and determine significant summer bat roost caves, to survey protected summer roost sites in order to determine population numbers as well as confirm colony type (maternity or bachelor, in the case of the gray bat), and to survey forested areas and bottomland hardwood areas for bat species usage. The proposed activities will take place at cave sites and forests across Tennessee and in bottomland hardwood forests around the Hatchie River.

Applicant: James E. Pilgreen, Carrollton, Mississippi, TE047127–0

The applicant requests authorization to take (survey, capture, band nestlings, mark nests) the Alabama beach mouse (*Peromyscus polionotus ammobates*) and the Perdido Key beach mouse (*Peromyscus polionotus trissylepsis*) to conduct surveys to determine the presence of beach mice on areas with existing incidental take permits. The activities will take place in Baldwin County, Alabama.

Applicant: Michelle Caviness, Ozark National Forest Service, Boston Mountain District, Fayetteville, Arkansas, TE047123–0

The applicant requests authorization to take (survey, capture, identify, measure, band, and release) the gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*) to determine the presence and the diversity of the population. The proposed activities will take place over water sources on the Ozark-Saint Francis National Forests and the Ouachita National Forest in Arkansas.

Applicant: Rex Roberg, Roberg Environmental Consulting Services, Inc., Cabot, Arkansas, TE047483–0

The applicant requests authorization to take (survey, capture, clip elytron, relocate, and release) the American burying beetle (*Nicrophorus americanus*) to determine presence and to relocate any found during the construction phase of the municipal Class I Solid Waste Landfill facilities for the City of Fort Smith. The proposed activities will take place in Crawford and Sebastian Counties, Arkansas.

Dated: September 13, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–24038 Filed 9–25–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Ruffe Control Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force Ruffe Control Committee. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Ruffe Control Committee will meet from 1 p.m. to 5 p.m., Tuesday, October 16, 2001, and from 8 a.m. to noon, Wednesday, October 17, 2001.

ADDRESSES: The Ruffe Control Committee Meeting will be held in the Days Inn, 2403 U.S. Highway 41, Marquette, Michigan.

FOR FURTHER INFORMATION CONTACT: Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–2308 or by e-mail at sharon_gross@fws.gov or Mark Dryer, Ruffe Control Committee Chair, at 715–682–6185 ext. 201.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force Ruffe Control Committee. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the Ruffe Control Committee meeting include: an update of the current status of ruffe based on recent field investigations; a discussion to implement the Ruffe Control Program; and a review of actions for the upcoming year.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 810, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: September 14, 2001.

Everett Wilson,

Acting Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries and Habitat Restoration.

[FR Doc. 01–24056 Filed 9–25–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Paperwork Reduction Act Requests, Submission to OMB

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Requests for the Bureau of Indian Affairs Higher Education Grant Program Annual Report Form, OMB No. 1076–0106, and the Higher Education Grant Program Application, OMB No. 1076–0101 require reinstatement. The information collection requirements, with no appreciable changes, described below are being submitted to the Office of Management and Budget (OMB) for review as required by the Paperwork Reduction Act of 1995.

DATES: Submit your comments and suggestions on or before October 26, 2001.

ADDRESSES: Written comments should be sent directly to Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for Department of the Interior. Please submit copies of any comments to Garry R. Martin, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240–0001, or hand deliver to Room 3526–MIB at the above address.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Garry R. Martin, 202–208–3478. Comments can be reviewed at the location listed in the **ADDRESSES** section between the hours of 8 a.m. to 4:30 p.m. Monday through Friday.

SUPPLEMENTARY INFORMATION:

Abstract

The information collection is necessary to request applications for this program and to assess the need for this program as required by 25 CFR 40. One comment was received during the comment period for the 60-day **Federal Register** notice (66 FR 21174). The commenter believes that this documentation is critical to support their future requests for increased funding of student grants.

Comments

Comments are invited on:

(a) Whether these information collections are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of the information on the respondents, including through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Each proposed information collection contains the following: Type of Review requested, e.g., new, revision, extension, reinstatement, existing; Title; Summary of collection; Description of the need for, and proposed use of, the information; respondents and frequency of collection; Reporting and/or Recordkeeping burden.

Type of Review: Reinstatement.

Title: Higher Education Grant Program Annual Report Form.

This is a compilation of data from tribes, tribal organizations that participate in the Bureau of Indian Affairs Higher Education Grant Program. The information is used to account for the funds appropriated for this program.

OMB approval number: 1076–0106.

Frequency: Annually.

Description of respondents: Tribes, Tribal Organizations.

Estimated completion time: 3 hours.

Number of Annual responses: 125.

Annual Burden hours: 375 hours.

Type of Review: Reinstatement.

Title: Higher Education Grant Program Application.

The information is used by the tribe or tribal organization to determine the eligibility of the respondents for this program.

OMB approval number: 1076–0101.

Frequency: Annually.

Description of respondents: Eligible American Indian and Alaska Native students.

Estimated completion time: 1 hour.

Number of Annual responses: 14,000.

Annual Burden hours: 14,000 total hours.

Dated: September 4, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–24035 Filed 9–25–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with 28 CFR 50.7 and Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622, the Department of Justice gives notice that a proposed consent decree in *United States* v. *Norrell Dearing, et al.* v. *First Nationwide Financial Corp., et al.*, Civil No. 4:89–CV–2002 (N.D. Ohio), was lodged with the United States District Court for the Northern District of Ohio on September 14, 2001, pertaining to the Old Mill Superfund Site (the "Site"), located in the Village of Rock Creek, Ashtabula County, Ohio. The proposed consent decree would resolve the United States' civil claims under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and Section 7003 of the Solid Waste Disposal Act, as amended ("RCRA"), 42 U.S.C. 6973, against seven defendants, and claims asserted against four third-party defendants, named in this action.

Under the proposed consent decree, five Settling Performing Parties (Lord Corp., Meritor Automotive, Inc., Molded Fiberglass Cos., Premix, Inc., and The Stackpole Corp.) would be obligated to finance and perform certain changes to the remedy, and operation and maintenance ("O&M") of the remedial action, at the Site as specified in the U.S. Environmental Protection Agency's ("EPA's") Record of Decision ("ROD"), issued August 7, 1985, at an estimated net present value cost of $1.8 million. the Settling Performing Parties would be required to reimburse the Superfund $7.325 million toward the United States' past costs at the Site. The Settling Performing Parties would also be required to reimburse the State of Ohio (the "State") $0.76 million toward the State's past costs at the Site. In addition, the Settling Performing Parties would be required to reimburse EPA's and the State's future response costs at the Site, as well as document O&M costs incurred by the State after August 1, 2001, through the date of assumption of the O&M by the Settling Performing Parties. The remaining six Settling Non-Performing Parties (Aardvark Associates, Inc.; Combustion Engineering, Inc.; First Nationwide National Bank; Formica Corporation; Jack Webb; and Millenium Holdings, Inc.) will make payments to the Settling Performing Parties to help finance the Settling Performing Parties' obligations under the proposed consent decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Norell Dearing, et al.* v. *First Nationwide Financial Corp., et al.*, Civil No. 4:89–CV–2002 (N.D. Ohio), and DOJ Reference No. 90–11–2–63A. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The proposed consent decree may be examined at: (1) the Office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114–2600 (216–622–3600); and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact: Nola M. Hicks (312–886–7949)). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of $29.00 for the consent decree only (116 pages, at 25 cents per page reproduction costs), or $45.75 for the consent decree and all appendices (183 pages), made payable to the Consent Decree Library.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 01–23998 Filed 9–25–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 14, 2001 a proposed Consent Decree ("Decree") in *United States* v. *RSO, Inc.*, Civil Action No. 01–WM–1801, was lodged with the United States District Court for the District of Colorado. The United States filed this action pursuant to Section 107(a)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607(a)(4),

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for costs EPA incurred in responding to the release or threatened release of hazardous substances at or from the RAMP Industries Site in Denver, Colorado. Under the terms of the Decree RSO, Inc. will pay the United States $200,000. This payment amount is based on an analysis of defendant's financial resources.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *RSO, Inc.*, D.J. Ref. 90–11–2–1290/3.

The Decree may be examined at the offices of EPA Region VIII, 999 18th Street, Suite 500 South Tower, Denver, Colorado. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611. In requesting a copy of the Decree, please enclose a check payable to the Consent Decree Library for $4.25 for a complete copy of the decree (25 cents per page reproduction cost).

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23997 Filed 9–25–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. 3D Systems Corporation and DTM Corporation; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *3D Systems Corporation and DTM Corporation*, Civil Action No. No. 1:01CV01237. On June 6, 2001, the United States filed a Complaint alleging that 3D Systems Corporation's proposed acquisition of DTM Corporation would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. The proposed Final Judgment, filed on August 16, 2001, requires the defendants to license their rapid prototyping patents to a company that will compete in the U.S. market. Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Room 215, 325 Seventh Street, NW., and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC, 20530, (telephone: (202) 307–0924).

Mary Jean Moltenbrey,

Director of Civil Nonmerger Enforcement.

In The United States District Court for the District of Columbia

[Civil No: 1.01CV01237 (GK)]

United States of America, Plaintiff, v. 3D Systems Corporation and DTM Corporation, Defendants

Filed: August 16, 2001.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and, for purposes of this case only, over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States of America (hereinafter "United States") has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the parties and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(4) Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Stipulation and Order.

(5) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(6) In the event (a) the United States has withdrawn its consent, as provided in paragraph (2) above, or (b) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(7) The defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that the defendants will later raise no claims of mistake, hardship or difficulty of noncompliance as grounds for asking the Court to modify any of the divestiture or termination provisions contained therein.

(8) The parties stipulate that Appendices IIA. and IV of the proposed Final Judgment, relating to defendants' patent applications, shall be filed under seal.

For plaintiff United States of America.
Dando B. Cellini, Esq.
Paul A. Moore III, Esq.
U.S. Department of Justice, Antitrust Division, Litigation II, 1401 H Street, NW, Suite 4000, Washington, DC 20005, (202) 307–0829.

For defendant DTM Corporation.
Charles F. Rule, Esq. (#370818)
Fried Frank Harris Shriver and Jacobson, 1001 Pennsylvania Ave, N.W., Suite 800, Washington, D.C. 20004, (202) 639–7300

For defendant 3D Systems Corporation.
John A. Herfort, Esq.
Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166, (212) 351–3832.

For defendant 3D Systems Corporation.
Charles E. Biggio, Esq.
Akin, Gump, Strauss, Hauer & Feld LLP, 590 Madison Avenue, New York, NY 10022, (212) 872–1010.

For defendant 3D Systems Corporation.
David Donohoe, Esq. (#3426);
Akin, Gump, Strauss, Hauer & Feld LLP, 1333 New Hampshire Avenue, NW, Washington, DC 20036, (202) 887–4000.

Order

It is so ordered by the Court, this 16th day of August, 2001.

In the United States District Court for the District of Columbia

[Civil No: 1:01CV01237 (GK)]

United States of America, Plaintiff, v. 3D Systems Corporation and DTM Corporation, Defendants.

Filed: August 16, 2001.

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on June 6, 2001, plaintiff and defendants, 3D Systems Corporation ("3D") and DTM Corporation ("DTM"), by their respective attorneys, have consented to tne entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And Whereas, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the defendants to assure that competition is not substantially lessened;

And Whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is Ordered, Adjudged and Decreed:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and, for purposes of this case only, each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means the entity to whom defendants divest the Divestiture Assets.

B. "3D" means defendant 3D Systems Corporation, a Delaware corporation with its headquarters in Valencia, California, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including 3D Systems, Inc., and their directors, officers, managers, agents, and employees.

C. "DTM" means defendant DTM Corporation, a Texas corporation with its headquarters in Austin, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Defendants" means, collectively or individually as the context requires, DTM and/or 3D.

E. "Divestiture Assets" means (1) a perpetual, assignable, transferable, fully paid-up (except as permitted by Section IV(E) below), non-exclusive license (without the right to sublicense, except for establishing distribution and contracting out manufacturing) under the RP Patents to develop, test, produce, market, sell, or distribute, or to supply any support or maintenance services for, products for use only in the field of either (but not both) the SL Technology or the LS Technology, which technology shall be the technology currently used by the Acquirer to manufacture RP Industrial Equipment (the "Selected Technology"); and (2) the RP Assets.

F. "North America" means Canada, Mexico and the United States.

G. "RP Assets" means (1) a list of all North American purchasers of RP Industrial Equipment from 3D, if the Selected Technology is SL Technology, or from DTM, if the Selected Technology is LS Technology; (2) all software copyright licenses needed by Acquirer to purchase and resell both defendants' used RP Industrial Equipment in North America; and (3) at the option of the Acquirer, DTM's plant located at 1611 Headway Circle, Bldg. 1, Austin, Texas ("Plant").

H. "RP Patents" means all North American patents owned by or licensed to defendants (including patents relating to materials and software), as of the date of filing of this Final Judgment, including all subsequent continuations, continuation-in-part, divisions, reexaminations or reissues thereof, if any, as well as any patents that have been applied for as of the date of filing of this Final Judgment but have not been issued covering technology marketed by defendants as of the date of filing of this Final Judgment, specifically including but not limited to the parents listed in Appendix I and applied for parents listed in Appendix IIA. annexed hereto, but specifically excluding those Inkjet Technology patents listed in Appendix III and applied for Inkjet Technology patents listed in Appendix IV annexed hereto and those licenses granted to 3D and DTM listed in Appendix V annexed hereto.

I. "LS Technology" means technology (other than Inkjet Technology) that uses data to form, by heat, a three-dimensional object, layer-by-layer, from a sinterable powder material.

J. "SL Technology" means technology (other than Inkjet Technology) that uses data to form, by radiation, a three-dimensional object, layer-by-layer, from a liquid, photocurable material.

K. "Inkjet Technology" shall mean and include equipment, systems, supplies, software, processess or other technology utilized in the fabrication of three-dimensional objects from jettable materials.

L. "RP Industrial Equipment" means products or processes incorporating LS Technology or SL Technology, but not the other, and not Inkjet Technology.

M. "Selected Technology" means whichever one of the LS Technology or the SL Technology is currently used by the Acquirer to manufacture RP Industrial Equipment.

III. Applicability

A. This Final Judgment applies to 3D and DTM, as defined above, and all other persons in active concert or participation with either of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, that the purchaser of the Divestiture Assets agrees to be bound by the provisions of this Final Judgment, provided, however, that defendants need not obtain such an agreement from the Acquirer.

IV. Divestitures

A. Defendants are ordered and directed, within one hundred twenty (120) calendar days after the filing of this Final Judgment, or five (5) days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole discretion. The United States, in its sole discretion, may agree to extensions of this time period of up to sixty (60) days, and shall

notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. Defendants shall provide Acquirer with all software copyright licenses needed by Acquirer to purchase and resell defendants' used RP Industrial Equipment in North America, which licenses shall be on terms no less favorable than defendants offer to other purchased and resellers of their used RP Industrial Equipment.

C. The Acquirer shall be a firm that currently manufactures RP Industrial Equipment in the Selected Technology, and shall be approved by plaintiff in its sole discretion. If plaintiff does not approve a purchaser of the Divestiture Assets under this Final Judgment, any grant by defendants of a license to that purchaser shall not satisfy the requirements of this Judgment.

D. Defendants warrant that they have the authority to convey all intellectual property included in the Divestiture Assets free and clear of any encumbrances, contractual commitments or obligations, except for the licenses granted to 3D and DTM which are identified in Appendix V annexed hereto.

E. To the extent that any rights to the RP Patents require defendants to sublicense rights from a third party to the Acquirer, such sublicense(s) must either be fully paid-up or granted on terms no less favorable than the terms applicable to defendants. Any sublicense granted pursuant to this Final Judgment must include provisions acceptable to plaintiff that will guard against the monitoring of the Acquirer's sales or production by defendants.

F. Nothing in this Final Judgment shall be construed to require the Acquirer, as a condition of any license granted by defendants pursuant to Sections IV(A) or (B), to extend to the defendants the right to use the Acquirer's improvements to any of the Divestiture Assets.

G. Defendants shall not assert against Acquirer any claims (1) for patent or copyright infringement in North America for products made, sold or used pursuant to the licenses granted in accordance with Section IV(A) and (B) of this Final Judgment; (2) for patent infringement in North America of the patents listed in Appendix V; or (3) that any equipment, systems, supplies, software, processes, or other technology sold by the Acquirer outside of North America prior to filing of this Final Judgment infringes in North America any patent or copyright issued or licensed to defendants in North America prior to the date of filing of this Final Judgment.

H. In accomplishing the divestiture ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any eligible person making inquiry regarding a possible license or purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment except those parts filed under seal. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client or work-product privileges and except customer lists and information regarding patent applications. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

I. Defendants shall waive any non-compete clause(s) in any employment agreement(s), whether written or oral with any of defendants' present or former employees that are currently in effect, and shall not include non-compete clauses in any future employment agreements with respect to such present or former employees for a period of two (2) years from the date of filing of this Final Judgment. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the sales, marketing and manufacturing of RP Industrial Equipment in the Selected Technology to enable the Acquirer to make offers of employment, which does not preclude defendants from seeking to retain such personnel as employees. Defendants will not interfere with any negotiations by the Acquirer to employ any of defendants' present or former employees for a period of two (2) years from the date of filing of this Final Judgment.

J. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the Divestiture Assets, other than customer lists or patent applications; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

K. Defendants shall warrant to the Acquirer of the Divestiture Assets that each tangible asset will be operational on the date of sale.

L. Defendants shall not take any action that will impede, jeopardize, or delay in any way the permitting, operation, or divestiture of any of the Divestiture Assets.

M. Defendants shall warrant to the Acquirer of the Divestiture Assets that there are no material defects in the environmental, zoning or other permits pertaining to the operation of any tangible asset, and that following the sale of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of any of the tangible Divestiture Assets.

N. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed to Section V, of this Final Judgment, shall include the entire Divestiture Assets and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing commercial enterprise engaged in the sale of RP Industrial Equipment in North America, and that the divestiture will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) Shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of servicing and selling RP Industrial Equipment in the United States; and

(2) Shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Sales Trustee

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V (D) of this Final Judgment, the trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the plaintiff approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information, customer lists and information relating to patent applications. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential or that would be deemed confidential under Section V(E), such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contracted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished such divestiture within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the require divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustees deems confidential or that would be deemed confidential under Section V(E), such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such reports to the plaintiff who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV of V of this Final Judgment.

VIII. Preservation of Assets

Until the divestiture required by this Final Judgment has been accomplished:

A. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the Plant as an economically viable facility.

B. Defendants shall not, except as part of a divestiture approved by the United Stases, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Divestiture Assets.

C. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture to

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an Acquirer acceptable to the United States.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the proposed Final Judgment in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the proposed Final Judgment in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) Access during defendants' office hours to inspect and copy, or at plaintiff's option, to require defendants to provide copies of, all books, ledgers, accounts, records and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section or Section IX shall be divulged by the United States of any person other than an authorized representative of the executive branch of the United States, except as required by this Court, or in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

Appendix I

UNITED STATES PATENTS ISSUED, ASSIGNED OR LICENSED TO 3D SYSTEMS

Patent No.	Patent title
4,469,654	EDM Electrodes.
4,491,558	Austenitic Manganese Steel-Containing Composite Article.
4,575,330	Apparatus for production of three-dimensional objects by stereolithography.
4,929,402	Method for production of three-dimensional objects by stereolithography.
4,961,154	Three dimensional modelling apparatus.
4,996,010	Methods and apparatus for production of three-dimensional objects by stereolithography.
4,999,143	Methods and apparatus for production of three-dimensional objects by stereolithography.
5,015,424	Methods and apparatus for production of three-dimensional objects by stereolithography.
5,058,988	Apparatus and method for profiling a beam.
5,059,021	Apparatus and method for correcting for drift in production of objects by stereolithography.
5,059,359	Methods and apparatus for production of three-dimensional objects by stereolithography.

UNITED STATES PATENTS ISSUED, ASSIGNED OR LICENSED TO 3D SYSTEMS—Continued

Patent No.	Patent title
5,071,337	Apparatus for forming a solid three-dimensional object from a liquid medium.
5,076,974	Methods of curing partially polymerized parts.
5,096,530	Resin film recoating method and apparatus.
5,104,592	Method of and apparatus for production of three-dimensional objects by stereolithography with reduced curl.
5,123,734	Apparatus and method for calibrating and normalizing a stereolithography apparatus.
5,130,064	Method of making a three dimensional object by stereolithography.
5,137,662	Methods and apparatus for production of three-dimensional objects by stereolithography.
5,143,663	Stereolithography method and apparatus.
5,164,128	Methods for curing partially polymerized parts.
5,174,931	Method of and apparatus for making a three-dimensional product by stereolithography.
5,182,055	Method of making a three dimensional object by stereolithography.
5,182,056	Stereolithography method and apparatus employing various penetration depths.
5,182,715	Rapid and Accurate production of stereolithographic parts.
5,184,307	Method and apparatus for production of high resolution three-dimensional objects by stereolithography.
5,192,469	Simultaneous multiple layer curing in stereolithography.
5,192,559	Apparatus for building three-dimensional objects with sheets.
5,209,878	Surface resolution in three-dimensional objects by inclusion of thin fill layers.
5,234,636	Method of coating stereolithographic parts.
5,236,637	Method of and apparatus for production of three-dimensional objects by stereolithography.
5,238,639	Method and apparatus for stereolithographic curl balancing.
5,248,456	Method and apparatus for cleaning stereolithographically produced objects.
5,256,340	Method of making a three-dimensional object by stereolithography.
5,258,146	Method of and apparatus for measuring and controlling fluid level in stereolithography.
5,267,013	Apparatus and Method of profiling a beam.
5,273,691	Stereolithographic curl reduction.
5,321,622	Boolean layer comparison slice.
5,345,391	Method and apparatus for production of high resolution three-dimensional objects by stereolithography.
5,358,673	Applicator device and method for dispensing a liquid medium in a laser modeling machine.
5,447,822	Apparatus and related method for forming a substantially flat stereolithographic working surface.
5,460,758	Method and apparatus for production of a three-dimensional object.
5,481,470	Boolean layer comparison slice.
5,495,328	Apparatus and method for calibrating and normalizing a stereolithographic apparatus.
5,534,104	Method and apparatus for production of three-dimensional objects.
5,536,467	Method and apparatus for producing a three-dimensional object.
5,554,336	Method and apparatus for production of three-dimensional objects by stereolithography.
5,569,431	Method and apparatus for production of three-dimensional objects by stereolithography.
5,571,471	Method of production of three-dimensional objects by stereolithography.
5,573,722	Method and apparatus for production of three-dimensional objects by stereolithography.
5,582,876	Stereographic apparatus and method.
5,597,520	Simultaneous multiple layer curing in stereolithography.
5,609,812	Method of making a three-dimensional object by stereolithography.
5,609,813	Method of making a three-dimensional object by stereolithography.
5,810,824	Rapid and accurate production of stereolithographic parts.
5,630,981	Method for production of three-dimensional objects by stereolithography.
5,637,169	Method of building three-dimensional objects with sheets.
5,651,934	Recoating of stereolithographic layers.
5,665,401	Apparatus for producing an object using stereolithography.
5,667,820	Apparatus for making solid three-dimensional article from a liquid medium.
5,688,464	Vibrationally enhanced stereolithographic recoating.
5,693,144	Vibrationally enhanced stereolithographic recoating.
5,711,911	Methods and apparatus for making a three-dimensional object by stereolithography.
5,745,834	Free Form Fabrication of Metallic Components.
5,753,171	Method and apparatus for producing a three-dimensional object.
5,762,856	Method for production of three-dimensional objects by stereolithography.
5,772,947	Stereolithographic curl reduction.
5,779,967	Method and apparatus for production of three-dimensional objects by stereolithography.
5,785,918	Method and apparatus for production of three-dimensional objects by stereolithography.
5,814,265	Method and apparatus for production of three-dimensional objects by stereolithography.
5,832,415	Method and apparatus for calibrating a control apparatus for deflecting a laser beam.
5,840,239	Apparatus and method for forming three-dimensional objects in stereolithography utilizing a laser exposure system having a diode pumped frequency quadrupled solid state laser.
5,854,748	Boolean layer comparison slice.
5,855,718	Method and apparatus for making partially solidified three-dimensional objects on a layer-by-layer basis from a solidifiable medium.
5,870,307	Method and apparatus for production of high resolution three-dimensional objects by stereolithography.
5,885,511	Method of making a solid three-dimensional article from a liquid medium.
5,891,382	Recoating of stereolithographic layers.

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UNITED STATES PATENTS ISSUED, ASSIGNED OR LICENSED TO 3D SYSTEMS—Continued

Patent No.	Patent title
5,897,825	Method for producing a three-dimensional object.
5,902,537	Rapid recoating of three-dimensional objects formed on a cross-sectional basis.
5,902,538	Simplified stereolithographic object formation methods of overcoming minimum recoating depth limitations.
5,904,89	Apparatus and method for producing an object using stereolithography.
5,932,055	Direct Metal fabrication Using a Carbon Precursor to Bind the "Green Form" Part and Catalyze a Eutectic Reducing Element in a Supersolidus Liquid Phase Sintering Process.
5,932,059	Method for producing a three-dimensional object.
5,940,890	Apparatus and method for producing three-dimensional objects.
5,945,058	Method and apparatus for identifying surface features associated with selected lamina of a three-dimensional object being stereographically formed.
5,965,079	Method and apparatus for making a three-dimensional object by stereolithography.
5,989,476	Process of making a molded refractory article.
5,999,184	Simultaneous multiple layer curing in stereolithography.
6,001,297	Method for controlling exposure of a solidifiable medium using a pulsed radiation source in building a three-dimensional object using stereolithography.
6,027,324	Apparatus for production of three-dimensional objects by stereolithography.
6,029,096	Method and apparatus for identifying surface features associated with selected lamina of a three-dimensional object being stereolithographically formed.
6,036,911	Method of making a three-dimensional object by stereolithography.
6,048,188	Stereolithographic curl reduction.
6,048,487	Recoating stereolithographic layers.
6,084,980	Method of and apparatus for deriving data intermediate to cross-sectional data descriptive of a three-dimensional object.
6,103,176	Stereolithographic method and apparatus for production of three dimensional objects using recoating parameters for groups of layers.
6,110,409	Rapid prototyping process and apparatus.
6,110,602	Method of making a three-dimensional object.
6,126,884	Stereolithographic method and apparatus with enhanced control of prescribed stimulation production and application.
6,129,884	Stereolithographic method and apparatus with enhanced control of prescribed stimulation production and application.
6,132,667	Stereolithographic method and apparatus with enhanced control of prescribed stimulation production and application.
6,153,142	Stereolithographic method and apparatus for production of three dimensional objects with enhanced control of the build environment.
6,157,663	Laser with optimized coupling of pump light to gain medium in a side-pumped geometry.
6,159,411	Rapid prototyping method and apparatus with simplified build preparation for production of three dimensional objects.
6,172,996	Apparatus and method for forming three-dimensional objects in stereolithography utilizing a laser exposure system with a diode pumped frequency-multiplied solid state laser.
6,179,601	Simplified stereolithographic object formation methods of overcoming minimum recoating depth limitations.
6,215,095	Apparatus and method for controlling exposure of a solidifiable medium using a pulsed radiation source in building a three-dimensional object using stereolithography.
6,224,816	Molding method, apparatus and device including use of powder metal technology for forming a molding tool with thermal control elements.
6,241,934	Stereolithographic method and apparatus with enhanced control of prescribed stimulation production and application.
6,261,077	Rapid prototyping apparatus with enhanced thermal and/or vibrational stability for production of three dimensional objects
6,261,506	Method of making a three dimensional object,
6,261,507	Method of and apparatus for making a three dimensional object by stereolithography.
6,264,873	Method of making a three-dimensional object by stereolithograph.

CANADIAN PATENTS ISSUED TO 3D SYSTEMS

Serial No.	Topic	Patent No.
596827	Curl Reduction	1339750
596825	Slice	1338521
596826	Beam Profiling	1334052
596838	Off-Peak Post Cure	1338954
596850	Stress Reliefs	1338628
596847	Supports	1339751
612990	Doctor Blade/Liquid Leveling	1337955
616962	Beam Profiling Div	1340501
617113	SL Beam Profiling	1341214
617087	SL Curl Reduction	1340890

MEXICAN PATENTS ISSUED TO 3D SYSTEMS

Serial No.	Topic	Patent No.
975844	Rapid Recoating	195669

UNITED STATES PATENTS ISSUED, ASSIGNED OR LICENSED TO DTM CORPORATION

Patent No.	Patent title
4,863,538	Method and apparatus for producing parts by selective sintering.
4,938,816	Selective laser sintering with assisted powder handling.
4,944,817	Multiple material systems for selective beam sintering.
5,017,753	Method and apparatus for producing parts by selective sintering (Deckard).
5,076,869	Multiple material systems for selective beam sintering.
5,132,143	Method for producing parts (Deckard).
5,147,587	Method of producing parts and molds using composite ceramic powders.
5,155,321	Radiant heating apparatus for providing uniform surface temperature useful in selective laser sintering.
5,156,697	Selective laser sintering of parts by compound formation of precursor powders.
5,252,264	Apparatus and method for producing parts with multi-directional powder delivery.
5,296,062	Multiple material systems for selective beam sintering.
5,304,329	Method of recovering recyclable unsintered powder from the part bed of selective laser sintering machine.
5,316,580	Method and apparatus for producing parts by selective sintering.
5,342,919	Sinterable Semi-Crystalline Powder and Near-Fully Dense Article Formed Therewith.
5,352,405	Thermal control of selective laser sintering via control of the laser scan.
5,382,308	Multiple material systems for selective beam sintering.
5,527,887	Sinterable semi-crystalline power and near-fully dense article formed therewith.
5,597,589	Apparatus for producing parts by selective sintering.
5,616,294	Method for producing parts by infiltration of porous intermediate parts.
5,639,070	Method for producing parts by selective sintering.
5,640,667	Laser-directed fabrication of full-density metal articles using hot isostatic processing.
5,648,450	Sinterable semi-crystalline powder and near-fully dense article formed therein.
5,733,497	Selective laser sintering with composite plastic material.
5,749,041	Method of forming three-dimensional articles using thermosetting materials.
5,817,206	Selective laser sintering of polymer powder of controlled particle size distribution.
5,990,268	Sinterable semi-crystalline powder and near fully dense article formed therewith.
6,085,122	End-of-vector laser power control in a selective laser sintering system.
6,136,948	Sinterable semi-crystalline powder and near-fully dense article formed therewith.
6,151,345	Laser power control with stretched initial pulses.

Appendix II

A. Filed Under Seal Pursuant to Court Order

Appendix II

B. Canadian Patents Applied for by 3D Systems

Serial No.	Topic
2072136	Skintinuous/Weave.
2095225	Layer Comparison.
2186613	SMLC/Quickcast.

Appendix III

3D SYSTEMS' UNITED STATES INKJET PATENTS

Patent No.	Title
4,992,806	Method of jetting phase change ink.
5,141,680	Thermal Stereolithography.
5,174,943	Method for production of three-dimensional objects by stereolithography.
5,313,232	Method of jetting phase change ink.
5,344,298	Apparatus for making three-dimensional objects by stereolithography.
5,501,824	Thermal stereolithography.
5,569,349	Thermal stereolithography.
5,672,312	Thermal stereolithography.
5,676,904	Thermal stereolithography.

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3D SYSTEMS' UNITED STATES INKJET PATENTS—Continued

Patent No.	Title
5,695,707	Thermal stereolithography.
5,776,409	Thermal stereolithography using slice techniques.
5,855,836	Method for selective deposition modeling.
5,943,235	Rapid prototyping system and method with support region data processing.
5,997,291	Hot-melt material for heating plate.
6,027,682	Thermal stereolithograph using slice techniques.
6,132,665	Compositions and methods for selective deposition modeling.
6,133,353	Phase change solid imaging material.
6,133,355	Selective deposition modeling materials and method.
6,136,252	Apparatus for electro-chemical deposition with thermal anneal chamber.
6,162,378	Method and apparatus for variably controlling the temperature in a selective deposition modeling environment.
6,193,923	Selective deposition modeling method and apparatus for forming three-dimensional objects and supports.
6,270,335	Selective Deposition Modeling Method and Apparatus for Forming Three-Dimensional Objects and Supports.
Des. 420,371	Rapid prototype machine.
Des. 422,609	Container for material loading.
Des. 423,023	Rapid prototype machine.

Appendix IV

Filed Under Seal Pursuant to Court Order

Appendix V

PATENTS LICENSED TO 3D SYSTEMS WITH NO RIGHT TO SUBLICENSE

Patent No.	Assignee
4,704,503	Patlex Corporation.
4,746,201	Patlex Corporation.
5,253,177	NTT Data/CMET Inc.
5,415,820	NTT Data/CMET Inc.

PATENTS LICENSED TO DTM CORPORATION WITH NO RIGHT TO SUBLICENSE

Patent No.	Assignee
5,745,834	Rockwell Science.
5,932,055	Rockwell Science.

In The United States District Court for the District of Columbia

[Civil No.: 1:01CV01237 (GK)]

United States of America, Plaintiff, v. 3D Systems Corporation and DTM Corporation, Defendants

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APFA"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on June 6, 2001, alleging that the proposed acquisition of DTM Corporation ("DTM") by 3D Systems Corporation ("3D") would substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The Complaint alleges that 3D and DTM are two of only three firms that produce industrial rapid prototyping ("RP") systems in the United States. Both 3D and DTM hold extensive patent portfolio related to RP systems production. These patents have limited the number of firms in the U.S. market by preventing firms that sell RP systems abroad from competing in the United States. The Complaint alleges that the transaction will substantially lessen competition in the development, production and sale of industrial RP systems sold in the United States, thereby harming consumers. Accordingly, the Complaint asks the Court to issue (1) a judgment that the proposed acquisition of DTM by 3D would violate of Section 7 of the Clayton Act, 15 U.S.C. 18; and (2) permanent injunctive relief that would prevent defendants from carrying out the acquisition or otherwise combining their operations.

After this suit was filed, the United States and defendants reached a proposed settlement that permits 3D to complete its acquisition of DTM, while preserving competition in the market for industrial RP systems by requiring defendants to license their RP-related patent portfolios. A Stipulation and proposed Final Judgment embodying the settlement were filed with the Court on August 17, 2001.

The proposed Final Judgment orders 3D and DTM to grant a license to develop manufacture and sell, and to supply any support or maintenance services for, products under the defendants' RP patent portfolios within a limited field of use matching either 3D's or DTM's technology. The licensee, to be approved by the United States, must be a firm that currently manufacturers industrial RP systems. The defendants must complete the divestiture within one hundred twenty (120) calendar days after the filing of the proposed Final Judgment, or five (5) days after notice of entry of the Final Judgment by the Court, whichever is later. The United States may extend the time period for divestiture for up to sixty (60) days. If the defendants do not complete the divestiture within the prescribed period, the Court will appoint a trustee to achieve the divestiture.

The United States and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment, and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation of the Antitrust Laws

A. The Defendants

Defendant 3D is a Delaware corporation with its principal place of business in Valencia, California. 3D is a manufacturer and supplier of RP systems and related equipment, proprietary materials used in RP systems, and associated services. For the year ending December 31, 2000, 3D reported sales of $110 million.

Defendant DTM is a Texas Corporation with its principal place of business in Austin, Texas. DTM designs, manufactures, markets and supports RP systems and related materials used in RP systems. For the year ending December 31, 2000, DTM reported sales of $40 million.

B. The Proposed Acquisition

On April 2, 2001, 3D and DTM entered into an agreement and plan of merger, pursuant to which 3D intended to acquire DTM in a cash tender offer. The defendants valued the transaction at an estimated $45 million. This proposed transaction, which would have reduced the number of competitors in the U.S. industrial RP systems market from three to two, precipitated the United States' antitrust suit on June 6, 2001. Following the filing of the suit, the defendants postponed closing the proposed transaction pending the outcome of settlement negotiations. On August 16, 2001, the Stipulation and proposed Final Judgment to resolve the suit were filed with the Court.

C. The Competitive Effects of the Acquisition

1. Industrial RP Systems. Rapid prototyping is a process by which a machine transforms a computer design into a three-dimensional prototype or model. Rapid prototyping is significantly faster and less expensive than traditional methods of creating a prototype, such as machining, milling or grinding. Competing technologies are used in industrial RP systems to create prototypes. Stereolithography ("SL") technology, utilized by 3D, forms a three-dimensional object through radiation from a liquid, photocurable material. DTM's RP systems use laser sintering ("LS") technology to heat and form a sinterable powder into a three-dimensional form.

There are two types of RP systems: industrial and professional. Industrial RP systems are large, cost hundreds of thousands of dollars and are able to create functional prototypes, tooling inserts, and low volume production quantities of parts. Professional RP systems are smaller and less expensive, use "inkjet" printing technology, and are geared toward the creation of concept models in an office setting. Sales of industrial RP systems and associated materials represent the largest and most profitable segment of the U.S. RP industry, accounting for approximately 85% of the total RP-related sales last year. Because of limited capabilities, professional RP systems are not good substitutes for industrial RP systems.

There is a broad range of uses for the technology employed in an industrial RP system. Industrial RP systems can be used to create prototypes, running the gamut from a non-functional model of a hand-held calculator, used for visual inspection in early design phases, to a sophisticated exhaust manifold for an automobile, which can be bolted in place and tested. The Complaint alleges that the development, manufacture and sale of industrial RP systems is a line of commerce or relevant product market within the meaning of Section 7 of the Clayton Act. In other words, in the event of a small but significant increase in the price of industrial RP systems, customers would not switch to less capable professional RP systems or to traditional technologies, such as machining, milling or grinding.

The Complaint alleges that the relevant geographic market within the meaning of Section 7 of the Clayton Act is the United States. There are no imports of industrial RP systems into the United States. Although there are producers of industrial RP systems in other countries, such as Japan and Germany, patents that cover the technology owned by 3D and DTM have prevented importation and sale in the United States. Accordingly, U.S. customers are unable to turn to foreign producers of industrial RP systems. Therefore, a small but significant price increase of industrial RP systems would not cause any purchasers to switch to industrial RP systems manufactured outside the United States, let alone a sufficient number to make the price increase unprofitable.

2. Anticompetitive Consequences of the Proposed Transaction. 3D and DTM are two of only three suppliers of industrial RP systems in the United States. In this highly concentrated market, 3D has approximately a 60% market share and DTM has approximately a 20% market share. Currently, 3D and DTM offer the most sophisticated systems in the industry and compete directly against each other in the development, manufacture and sale of industrial RP systems. Competition for innovations and improvements is evidenced by the many RP-related patents obtained by the defendants. This competition has been the driving force behind the development of innovative industrial RP system technology, which has enabled the industry to develop a less costly method of creating prototypes.

The proposed acquisition would substantially increase concentration in an already highly concentrated market. The proposed acquisition would raise the combined firm's share of industry sales to the level where it would have the ability profitably to raise prices. 3D and DTM's customers would not switch to the one remaining industrial RP systems producer in sufficient numbers to make unprofitable a significant price increase imposed by the combined firm.

Entry into the industrial RP systems market is difficult, time consuming, and expensive and would not deter the exercise of market power caused by 3D's acquisition of DTM. It would take well over two years, and substantial costs, for a new entrant to create the sophisticated and advanced technological capabilities needed to develop and manufacture industrial RP systems.

3D and DTM each hold an extensive array of patents to the prevailing technology used in industrial RP systems. The patent positions of 3D and DTM prevent other industrial RP systems producers from competing in the United States. In combination, the acquisition would enhance 3D's already strong patent portfolio.

The competition between 3D and DTM has benefitted users of industrial RP systems through lower prices for systems, lower prices for materials, and improved products. For these reasons, the United States concluded that 3D's acquisition of DTM, as originally structured, would substantially lessen competition in the development, manufacture and sale of industrial RP systems in violation of Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment is designed to ensure that competition that would have otherwise been eliminated as a result of the proposed acquisition will be preserved. To maintain competition in the industrial RP systems market, the proposed Final Judgment lifts the patent entry barriers for a firm that is currently prevented from selling its industrial RP systems in the United States. Licensing an acquirer that currently manufactures industrial RP systems and enabling it to compete in the U.S. market will restore the competition that would otherwise be lost by reason of the merger of 3D and DTM. Outside of the United States, defendants face vigorous competition from companies such as Electro Optical Systems, based in Germany, and Teijin Seiki, based in Japan. Under the proposed Final Judgment, defendants must grant a license to one such firm so that it will be able to compete in the U.S. market. Thus, after the merger, there will still be three competitors in the U.S. market for industrial RP systems.

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Specifically, the proposed Final Judgment requires defendants to grant the acquirer a perpetual, assignable, transferable, non-exclusive license to develop, test, product, market, sell, or distribute, and to supply any support or maintenance services for, products under both firms' RP patent portfolios. Defendants must license both 3D's and DTM's full industrial RP-related patent portfolios to ensure that the acquirer has the full range of necessary technology to produce and sell RP systems in the United States. This license will be limited to a specific field of RP technology to match the RP technology employed by the acquirer. The proposed Final Judgment also requires defendants to provide the acquirer with a list of all North American purchasers that utilize the acquirer's technology and field of use under the license. In addition, the acquirer will have the option to purchase DTM's assembly plant, located in Austin, Texas.

Under the proposed Final Judgment, defendants must provide the acquirer with all software copyright licenses needed to purchase and resell both defendants' used industrial RP systems in North America. The acquirer will therefore be able to offer to take the defendants' systems as "trade-ins" on its own equipment, and then resell defendants' systems as used equipment.

The proposed Final Judgment bars the defendants from asserting against the acquirer any claims for patent or copyright infringement in North America for products under the licenses granted, or any claims that any equipment, systems, supplies, software, processes or other technology currently sold by the acquirer outside of North America infringe any of defendants' patents or copyrights in North America. These provisions ensure that the acquirer will be able to import its current RP systems into the U.S. market, without the threat of patent or copyright litigation from the defendants.

In order to ensure a capable competitor, defendants must license their RP patents portfolios to a company that currently manufactures RP systems. The divestiture required by the proposed Final Judgment must be to an acquirer acceptable to the United States in its sole discretion. Specifically, in the United States' sole judgment, the acquirer must have the intent and capability of competing effectively in the business of servicing and selling industrial RP systems in the United States.

The defendants must use their best efforts to complete the divestiture required by the proposed Final Judgment as expeditiously as possible. Unless the United States grants an extension of time, the divestiture must be completed within one hundred twenty (120) calendar days after the filing of the proposed Final Judgment, or five (5) days after notice of entry of the Final Judgment by the Court, whichever is later. If the defendants fail to accomplish the divestiture within this time period, then the proposed Final Judgment calls for the Court, upon the United States' application, to appoint a trustee nominated by the United States to effect the divestiture. If a trustee is appointed, the defendants are to cooperate fully with the trustee and pay all costs and expenses of the trustee and any persons retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of the divestiture assets, and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished. After appointment, the trustee will file monthly reports with the United States, defendants and the Court, setting forth the trustee's efforts to accomplish the divestiture ordered under the proposed Final Judgment. If the trustee has not accomplished the divestiture within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. At the same time the trustee will furnish this report to the United States and defendants, who will each have the right to be heard and to make additional recommendations.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal district court to recover three times the damages the person has suffered, as well as the costs of bringing a lawsuit and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no effect as prima facie evidence in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by this Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon this Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with this Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. The United States is satisfied, however, that the removal of existing patent entry barriers through the required license to allow a firm that currently manufactures industrial RP systems to compete in the U.S. market, and other relief contained in the proposed Final Judgment, will establish, preserve and ensure a viable competitor in the development, manufacture and sale of industrial RP systems. Thus, the United States is convinced that the proposed Final Judgment, once implemented by the Court, will prevent 3D's acquisition of DTM from having adverse competitive effects.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment is "in the public interest." In making that determination, the court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."[1] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.[2]

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988), quoting *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also Microsoft, 56 F.3d at 1458. Precedent requires that

[t]he balancing of competing social and political interest affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting tot he decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[3]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. A "proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'"[4]

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States alleges in its Complaint, and does not authorize the court to "construct [its] own hypothetical case and then the decree against that case." Microsoft, 56 F.3d at 1459. Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that the court "is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States might have but did not pursue. Id.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: September 4, 2001. Washington DC. Respectfully submitted.

Dando B. Cellini,

Stephen A. Harris,

U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, NW, Suite 3000, Washington, DC 20530, 202–307–0729.

Certificate of Service

I hereby certify that I caused a copy of the foregoing Competitive Impact Statement to be served on all parties to this proceeding, by facsimile transmission or by mail, on this 4th day of September 2001.

Stephen A. Harris,

[FR Doc. 01–23999 Filed 9–25–01; 8:45 am]
BILLING CODE 4410–11–M

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[1] 119 Cong. Rec. 24,598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, those procedures are discretionary (15 U.S.C. 16(f)). A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. No. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), reprinted in 1974 U.S.C.C.A.N. 6535, 6538.

[2] *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977); *see also United States* v. *Loew's Inc.*, 783 F. Supp. 21, 214 (S.D.N.Y. 1992); *United States* v. *Columbia Artists Mgmt., Inc.*, 662 F. Supp. 865, 870 (S.D.N.Y. 1987).

[3] *United States* v. *Bechtel Corp.*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983), cert. denied, 465 U.S. 1101 (1984).

[4] *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (quoting Gillette, 406 F. Supp. at 716), aff'd sub nom. *Maryland* v. *United States*, 460 U.S. 1001 (1983); *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985); *United States* v. *Carrols Dev. Corp.*, 454 F. Supp. 1215, 1222 (N.D.N.Y. 1978).

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL1–88]

MET Laboratories, Inc., Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the application of MET Laboratories, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL). MET's expansion covers the use of additional standards.

EFFECTIVE DATE: The expansion becomes effective on September 26, 2001 and continues in effect while OSHA recognizes MET as an NRTL under 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue,

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NW., Room N3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of MET Laboratories, Inc., (MET) as a Nationally Recognized Testing Laboratory (NRTL). MET's expansion covers the use of additional test standards. The NRTL's current scope of recognition may be found in OSHA's informational web page for the NRTL (http://www.osha-slc.gov/dts/otpca/nrtl/met.html).

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products "properly certified" by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope.

MET submitted a request, dated January 16, 2001 (see Exhibit 24), to expand its recognition as an NRTL to include 32 additional test standards. OSHA published the required notice in the **Federal Register** on July 11, 2001 (66 FR 36333), to announce MET's expansion request. This notice included a preliminary finding that MET could meet the requirements in 29 CFR 1910.7 for expansion of its recognition and invited public comment by July 26, 2001. OSHA received no comments concerning this notice.

In processing this request, OSHA did not perform an on-site review of MET's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and, in a memo dated February 28, 2001 (see Exhibit 25), recommended the expansion of MET's recognition to include the additional test standards listed below.

The most recent notices published by OSHA for MET's recognition, prior to the July 11 preliminary notice, covered an expansion of recognition, which OSHA announced on November 10, 1998 (63 FR 63085), and granted on March 9, 1999 (64 FR 11502).

You may obtain or review copies of all public documents pertaining to the MET application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N2625, Washington, DC 20210. You should refer to Docket No. NRTL1–88, the permanent record of public information on the MET recognition.

The current address of the MET testing facilities already recognized by OSHA is: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230.

Final Decision and Order

The NRTL Program staff has examined the application, the assessor's memo, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that MET Laboratories, Inc., has met the requirements of 29 CFR 1910.7 for expansion of its NRTL recognition. The expansion covers the test standards listed below, and it is subject to the limitations and conditions, also listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of MET, subject to these limitations and conditions.

Limitations

OSHA limits the expansion of recognition of MET to testing and certification of products for demonstration of conformance to the following 32 additional test standards. OSHA has determined that each standard meets the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c). The NRTL Program staff makes such determinations in processing applications from any NRTL.

UL 45 Portable Electric Tools
UL 506 Specialty Transformers
UL 745–1 Portable Electric Tools
UL 745–2–1 Particular Requirements of Drills
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches
UL 745–2–3 Particular Requirements for Grinders, Polishers, and Disk-Type Sanders
UL 745–2–4 Particular Requirements for Sanders
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives
UL 745–2–6 Particular Requirements for Hammers
UL 745–2–8 Particular Requirements for Shears and Nibblers
UL 745–2–9 Particular Requirements for Tappers
UL 745–2–11 Particular Requirements for Reciprocating Saws
UL 745–2–12 Particular Requirements for Concrete Vibrators
UL 745–2–14 Particular Requirements for Planers
UL 745–2–17 Particular Requirements for Routers and Trimmers
UL 745–2–30 Particular Requirements for Staplers
UL 745–2–31 Particular Requirements for Diamond Core Drills
UL 745–2–32 Particular Requirements for Magnetic Drill Presses
UL 745–2–33 Particular Requirements for Portable Bandsaws
UL 745–2–34 Particular Requirements for Strapping Tools
UL 745–2–35 Particular Requirements for Drain Cleaners
UL 745–2–36 Particular Requirements for Hand Motor Tools
UL 745–2–37 Particular Requirements for Plate Jointers
UL 935 Fluorescent-Lamp Ballasts
UL 1026 Electric Household Cooking and Food Serving Appliances
UL 1028 Hair Clipping and Shaving Appliances
UL 1083 Household Electric Skillets and Frying-Type Appliances
UL 1236 Battery Chargers for Charging Engine-Starter Batteries
UL 1431 Personal Hygiene and Health Care Appliances
UL 1585 Class 2 and Class 3 Transformers
UL 1786 Nightlights
UL 1993 Self-Ballasted Lamps and Lamp Adapters

The designations and titles of the above test standards were current at the time of the preparation of the notice of the preliminary finding.

Many of the test standards listed above are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we show the designation of the standards developing organization (e.g., UL 1028) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1028). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of which version appears in the list of test standards found in OSHA's informational web page for the NRTL. Contact ANSI or the ANSI web site (*www.ansi.org*) and click "NSSN" to find out whether or not a standard is currently ANSI-approved.

Conditions

MET Laboratories, Inc., must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to the MET facility and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If MET has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the organization that developed the test standard of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

MET must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, MET agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

MET will continue to meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

MET will continue to meet the requirements for recognition in all areas where it has been recognized.

Signed at Washington, DC this 18th day of September, 2001.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 01–24026 Filed 9–25–01; 8:45 am]

BILLING CODE 4510–26–P

MERIT SYSTEMS PROTECTION BOARD

Variation From Normal Procedures—Effects of Attacks on World Trade Center and Pentagon

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of variations from the Board's normal case processing procedures as a result of the September 11, 2001, attacks on the World Trade Center in New York and the Pentagon.

DATES: September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, 1615 M Street, NW., Washington, DC 20419; telephone (202) 653–7200; facsimile (202) 653–7130; e-mail to mspb@mspb.gov.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board is providing notice of the variations in its normal case processing procedures that have been placed into effect as a result of the September 11, 2001, attacks on the World Trade Center in New York and the Pentagon.

The Board's adjudicatory regulations contain numerous time limits for filing documents in Federal employee appeals of agency personnel actions and other matters within the Board's jurisdiction. In addition, MSPB judges issue various orders in the course of an adjudicatory proceeding that set a time limit for responses by the parties. The Board's regulations permit four methods of filing and serving documents—regular mail, commercial overnight delivery, facsimile, and personal delivery to the appropriate MSPB office. The date of filing by regular mail is determined by the postmark date. For filing by commercial overnight delivery, it is the date the document is delivered to the commercial overnight delivery service. For filing by facsimile, it is the date recorded on the facsimile transmission. For filing by personal delivery, it is the date the MSPB office receives the document.

At the time of the attacks on September 11, 2001, there were approximately 1,800 cases pending in MSPB regional and field offices and almost 800 cases pending at the Board's headquarters in Washington (data as of August 31, 2001). It is reasonable to assume, therefore, that a number of filings due to a MSPB office on September 11, 2001, could not be made on that date. An unknown number of filings of new cases subject to a filing deadline of September 11, 2001, also may have been affected by the events of that date.

The following circumstances may have affected filings due on September 11, 2001:

- The Board's New York Field Office, located in the vicinity of the World Trade Center, was evacuated following the attack there and remains closed until further notice.
- The Board's Washington, DC, headquarters office and its Washington Regional Office in Alexandria, Virginia, closed shortly after the attack on the Pentagon.
- Other MSPB regional and field offices throughout the country closed early on September 11, 2001.
- U.S. post offices closed throughout the country following the attacks, and many scheduled mail pickups on September 11, 2001, were not made. Certain scheduled mail pickups on September 12, 2001, also may not have been made.
- Facsimile transmissions to the New York Field Office could not be received because of communications failures in the area.
- Facsimile transmissions to the Board's headquarters may have been unable to get through because of the overload of telephone circuits in the Washington, DC, area.

In addition to the effect of the attacks on the ability of parties to make timely filings that were due on September 11, 2001, MSPB case files of Federal agencies located in the World Trade Center were destroyed in the attacks. Case files in the Pentagon may have been destroyed as well.

Accordingly, the Board has placed into effect the following variations from its normal case processing procedures:

1. Until further notice, filings due to the New York Field Office are to be made with the Northeastern Regional Office. The address, telephone and facsimile numbers, and e-mail address of the Northeastern Regional Office are: U.S. Customhouse, Room 501, Second & Chestnut Streets, Philadelphia, PA 19106; telephone (215) 597–9960; facsimile (215) 597–3456; e-mail to philadelphia@mspb.gov. Questions regarding cases in the New York Field Office should be directed to the Northeastern Regional Office.

2. In MSPB regional and field offices, judges will exercise discretion in accepting filings due on September 11, 2001, that were made (by any filing method) after that date.

3. At Board headquarters, the Clerk of the Board will exercise discretion in accepting filings due on September 11, 2001, that were sent by regular mail and postmarked after that date. Normally, a show cause order is issued when a late filing is received, but the Clerk of the Board may accept certain filings, particularly from the New York City area, without issuing a show cause order.

4. At Board headquarters, the Clerk of the Board will accept as timely filings

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due on September 11, 2001, that were sent by facsimile if the date recorded on the facsimile transmission is September 12, 2001.

5. Where MSPB case files of parties located in the World Trade Center or the Pentagon were destroyed by the attacks, MSPB judges may grant appropriate continuances until the case files can be reconstructed or dismiss cases without prejudice to their later refiling. MSPB offices will also assist the parties in reconstructing case files.

The Board and its employees throughout the country intend to accommodate parties to MSPB cases whose ability to pursue those cases was affected by the attacks on September 11, 2001. Where the variations from normal case processing procedures set forth above do not cover the circumstances in an individual case, the individual circumstances will be considered on a case-by-case basis. The Board and MSPB judges may waive any Board regulation the application of which is not required by law.

Dated: September 20, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–23986 Filed 9–25–01; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

National Historical Publications and Records Commission; Services for Persons With Limited English Proficiency; Comment Request

AGENCY: National Archives and Records Administration.

ACTION: Notice.

SUMMARY: The National Archives and Records Administration (NARA) is publishing policy guidance on Title VI's prohibition against national origin discrimination under any program or activity that receives NARA financial assistance through the National Historical Publication and Records Commission (NHPRC) as such policy affects persons with limited English proficiency (LEP). The public is invited to comment on NHPRC-assisted programs and activities available to persons with LEP and on steps that NHPRC could take to ensure that persons with LEP have meaningful access to such services. NHPRC will use the information gathered from this notice and other outreach efforts to improve its plan to improve access to these programs and activities by eligible LEP persons.

DATES: This guidance is effective immediately. Written comments must be submitted on or before November 26, 2001. NARA will review all comments and determine whether modifications to the policy guidance are necessary.

ADDRESSES: Interested persons should submit written comments to: Comments on Services for Persons with Limited English Proficiency, ATTN: Diane Dimkoff (NWCC), Room 2400, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001; or faxed to 301–713–7482. You may also comment via the Internet to [*comments@nara.gov*]. Please submit Internet comments within the body of your email message or attach comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: Limited English Proficiency" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Diane Dimkoff at 301–713–6107.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Diane Dimkoff by telephone, or by fax at 301–713–7482. Arrangements to receive the policy in an alternative format may be made by contacting the named individual.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* and its implementing regulations provide that no person shall, on the basis of race, color, or national origin, be denied the benefits of, be excluded from participation in, or be subject to discrimination under any program or activity that receives federal financial assistance.

The purposes of this policy guidance are to clarify the responsibilities of recipients of federal financial assistance from NARA's National Historical Publications and Records Commission, and to assist them in fulfilling their responsibilities to persons with limited English proficiency, pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulations.

Dated: September 18, 2001.

John W. Carlin,

Archivist of the United States.

Guidance to Recipients of the National Historical Publications and Records Commission Federal Financial Assistance: Providing Meaningful Access to Individuals With Limited English Proficiency ("LEP Guidance For NHPRC Recipients")

I. Introduction

This guidance is based on Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*, and regulations that implement Title VI. Title VI was intended to eliminate barriers based on race, color, and national origin in Federally-assisted programs or activities. In certain circumstances, failing to ensure that persons with LEP can effectively participate in or benefit from Federally-assisted programs and activities or imposing additional burdens on persons with LEP constitutes national origin discrimination.

In August, 2000, the President signed Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency. Under that Executive Order, every Federal agency that provides financial assistance to non-Federal entities must issue guidance on how their recipients can, consistent with long-standing obligations under Title VI and their fundamental mission, provide reasonable, yet meaningful access to persons with LEP.

The essence of the meaningful access requirement is "reasonableness." In some circumstances, a NHPRC recipient directly serving significant numbers of LEP persons may be obligated to provide language assistance services, including, as appropriate, written translations of documents, procedures and/or forms critical to accessing NHPRC-supported archives. In many other circumstances, however, NHPRC recipients will have little or no obligation to provide language services beyond those many already provide.

This does not mean, however, that the four-factor analysis set out in this Guidance should be read as limiting recipient discretion to provide language assistance services in an effort to broaden its services to the communities it serves. Recipients are encouraged to exercise their flexibility under this Guidance to beyond mere minimal compliance and to create model programs for LEP access.

As required under Executive Order 13166 and the companion DOJ LEP Guidance issued in August, 2000,

recipients should apply a four-factor test to decide what steps are necessary and reasonable to provide meaningful access to their programs and activities for persons with LEP. Once the recipient has identified what language services, if any, are reasonable, the recipient should prepare a written policy on language assistance for persons with LEP (an "LEP policy"). This plan need not be intricate. It may be as simple as being prepared to use one of the commercially available language lines to obtain interpreter services.

II. The Four-Factor Analysis

"Reasonable steps to ensure meaningful access" will vary depending on a number of factors. NHPRC recipients should apply the following four factors to the various contacts that they have with the public to decide what reasonable steps they should take to ensure meaningful access for persons with LEP. This balancing test preserves recipient management discretion and flexibility in determining how to best address the language needs of the LEP communities when deciding what documents to translate, and when oral translation is necessary.

A. The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population

One factor in determining what language services recipients should provide is the number or proportion of persons with LEP eligible to be served or encountered by the recipient in carrying out its operations. *The greater the number or proportion of persons with LEP, the more likely language services are needed.*

B. The Frequency With Which LEP Individuals Come in Contact With the Program

Recipients should assess, in some fashion, the frequency with which they have contact with LEP language groups. The more frequent the contact, the more likely that language services are needed. The steps that are reasonable for a recipient that serves one person with LEP a year may be very different from those expected from a recipient that serves several persons with LEP each day. For instance, a NHPRC-supported project to arrange and describe a collection consisting primarily of documents originally created in the Spanish language could provide finding aids that are linguistically accessible for Spanish persons with LEP.

C. The Nature and Importance of the Program, Activity, or Service Provided by the Program

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. A recipient should determine if a denial or delay of access to services or information could have serious implications for the LEP individual. This factor weighs heavily in favor of providing language services in situations where the failure to provide such services could have an adverse effect on health, safety, economic security, and other critical areas. Typically, recipients of NHPRC funds provide significant cultural and societal services but such services do not rise to the same level of importance as do the previously mentioned critical areas. In such circumstances, the resources available to the recipient and the cost of providing the services will weigh more heavily in considering what, if any, language services to provide to frequently encountered LEP language groups.

D. The Resources Available to the Recipient

A recipient's level of resources may have an impact on the nature of the steps it should take. Smaller recipient entities with more limited budgets are not expected to provide the same level of language services as larger recipient entities with larger budgets. However, such small recipients should still consider what language services are needed and what they are able to provide. Resource issues can sometimes be minimized by technological advances and sharing of resources and translations.

III. Application of the Four Factors to NHPRC Recipients

NHPRC recipients include, but are not limited to state, county, and local historical societies and archives; universities; colleges; and libraries. All aspects of a program or activity that receives NHPRC assistance are covered by Title VI. Thus, recipient activities vary widely and the results of the application of the four factors varies as well.

NHPRC recipients' Title VI obligations in many cases will be satisfied by making available oral language assistance or commissioning translations on an as-needed basis. There are many circumstances where, after an application and balancing of the four factors noted above, Title VI would not require translation at all. For instance, based on a typical application of the nature and importance of the activity to persons with LEP and the resources available, Title VI does not require an archivist to translate archived collections, but it does require the implementation of appropriate language assistance measures to permit a person with LEP to have access to publicly accessible archives.

IV. Legal Background

Further legal background for this guidance can be found in the Department of Justice Policy Guidance document, titled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency Policy Guidance", reprinted at 65 FR 50123 (August 16, 2000).

[FR Doc. 01–23991 Filed 9–25–01; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[IA–01–021]

In the Matter of Mr. Virgil J. Hood, Sr.; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Virgil J. Hood, Sr. was the President and Radiation Safety Officer (RSO) of Moisture Protection Systems Analysts, Inc. (MPSA or the Licensee) formerly located at 1350 Beverly Road, Suite 223, McLean, Virginia 22101. The Licensee was the holder of Byproduct Materials License No. 45–24851–02 (the license), which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on June 19, 1986 and renewed on January 30, 1992. The license authorized MPSA to possess byproduct material, i.e., a Seaman Nuclear Corporation Model R–50 portable roofing gauge containing a nominal 40 millicuries (mCi) of Americium-241, for use in measuring moisture density of roof surfaces in accordance with the conditions specified in the license. On April 20, 1998, the Licensee's license was revoked.

II

Between December 31, 1997 and January 31, 2001, the NRC Office of Investigations (OI) conducted an investigation to determine the location of a moisture density gauge containing licensed material after the Licensee failed to pay the NRC annual license fee

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for fiscal year 1996, and had vacated the premises listed on its license without prior notice to the NRC. These actions by the Licensee had resulted in the NRC issuing an Order Suspending License (Effective Immediately) to MPSA (Order Suspending License) on May 15, 1997. The Order Suspending License imposed certain requirements upon the Licensee and required a response from the Licensee. Subsequently, after the Licensee failed to submit the required answer to the Order Suspending License, a Notice of Violation and Proposed Imposition of Civil Penalty—$5,500, and Order Modifying Order Suspending License (Effective Immediately) and Order Revoking License (Order Revoking License) were issued to MPSA revoking its license on April 20, 1998. The Order Revoking License required that the Licensee maintain licensed material in safe storage, immediately notify the NRC of its current business location and status of licensed material, test the gauge for leak tightness, and transfer all licensed material to an authorized recipient within 30 days of the Order Revoking License. To date, the Licensee has failed to respond to the Order Revoking License. On May 5, 2000, the NRC was notified that a portable moisture density gauge containing licensed material had been received at a landfill. The gauge was a Seaman Nuclear Corporation Model No. R–50 portable moisture density gauge, and was labeled as belonging to MPSA.

The Licensee's license dated June 19, 1986, provides that the Licensee shall conduct its program in accordance with the statements, representations, and procedures contained in its application dated June 10, 1986. Mr. Virgil J. Hood, Sr. is identified as the MPSA President and as being chiefly responsible for the Radiation Safety Program in the MPSA Application for Material License dated June 10, 1986. As President and the individual responsible for the Radiation Safety Program, Mr. Hood was responsible for the safe handling of licensed material and for ensuring that licensed activities were conducted in accordance with NRC requirements. In addition, in signing as the Certifying Officer on the 1986 application and the application for license renewal dated January 23, 1992, Mr. Hood attested that the moisture density gauge would be stored at one location (1350 Beverly Road, Suite 223, McLean VA 22101 in the renewal), that he was responsible for the radiation safety program, that the gauge was being stored in a locked enclosure that does not allow access by unauthorized persons, that leak tests would be performed, and, if there was need to dispose of the meter, that it would be returned to Seaman Nuclear Corporation. In signing the application for license, Mr. Hood certified that the MPSA program would conform with 10 CFR parts 30, 32, 33, 34, 35, 40, and all information in the application.

The Orders described above were sent to Mr. Virgil J. Hood, Sr. as President of MPSA. As President and the only user of the gauge identified in the application and license, Mr. Hood was required to respond to the Orders. This response should have included immediately notifying the NRC of its current business location and the status of the licensed material, submitting the results of testing the gauge for leak tightness, and confirming the transfer of all licensed material to an authorized recipient.

The NRC's investigation and review of this matter has determined that Mr. Hood engaged in deliberate misconduct that caused MPSA to be in violation of the Order Revoking License dated April 28, 1998, and 10 CFR 20.2201(a)(1)(i). Specifically, 10 CFR 30.34(a) requires, in part, that each license issued pursuant to the regulations in this part shall be subject to all the provisions of the Atomic Energy Act, now or hereafter in effect, and to all valid rules, regulations and orders of the Commission. As President and RSO for the Licensee, Mr. Hood did not respond in any manner to, or comply with, the requirements of the Order Revoking License to maintain the licensed material in safe storage, immediately notify the NRC of the Licensee's current business location and the status of the licensed material, test the sealed source for leak tightness, transfer the licensed material to an authorized recipient within 30 days of the date of the Order Revoking License, or respond to the violations outlined in the Notice.

Although during the investigation, numerous additional attempts were made to contact Mr. Hood, including the issuance of two subpoenas for compelled interviews at NRC headquarters on September 16, 1998, and December 3, 1999, Mr. Hood failed to appear for the interviews and did not attempt to communicate with the NRC or respond to the Order Suspending License or Order Revoking License.

In addition, 10 CFR 20.2201(a)(1)(i) requires, in part, that each licensee report by telephone immediately after its occurrence becomes known to the licensee, any lost, stolen, or missing licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C to part 20 under such circumstances that it appears to the licensee that an exposure could result to persons in unrestricted areas. The NRC concluded that Mr. Hood's activities caused the Licensee to be in violation of 10 CFR 20.2201(a)(1)(i) in that, since May 10, 2000, as President and RSO, Mr. Hood failed to report by telephone that 40 mCi of Americium-241, a quantity greater than 1,000 times the quantity specified in Appendix C to 10 CFR Part 20, contained in a Seaman Nuclear Corporation Model No. R–50 portable moisture density gauge, Serial Number 8064, was lost, stolen, or missing. In May 2000, a Seaman Nuclear Corporation Model No. R–50 portable moisture density gauge, bearing Serial Number 8064, was found in a landfill.

In addition, the Licensee vacated the premises listed on the license (1350 Beverly Road, Suite 223, McLean, Virginia 22101) without prior notice in mid-December 1996, and a forwarding address was provided by one of the Licensee's clients as Atlas Contractors, Inc., 2811 12th Street, NE., Washington, DC 20017–2402. The most recent business address for Atlas Contractors, Inc., is 6224 Georgia Ave NW, Washington, DC 20011–5112. As described above, the NRC has made numerous attempts to contact Mr. Hood at each of these addresses and issued two subpoenas for him to appear at compelled interviews at NRC headquarters. Most recently, on March 23, 2001, the NRC attempted to contact Mr. Hood, by certified mail to provide him with results of the investigation and review of this matter, and to provide him an opportunity to respond to the apparent violation and/or request a predecisional enforcement conference. The NRC's March 23, 2001, letter was sent to MPSA, care of Atlas Contractors, Inc., 6224 Georgia Avenue, NW, Washington, DC 20011 and was returned unopened. On May 18, 2001, the NRC re-sent this letter to Mr. Hood, at 1715 Leighton Wood Lane, Silver Spring, MD, and it was not returned, indicating that the letter was received.

III

Based on the above, the NRC has concluded that Mr. Hood, President and RSO of the Licensee, engaged in deliberate misconduct that has caused the Licensee to be in violation of the Order Suspending License, Order Revoking License, and 10 CFR 20.2201(a)(1)(i). These actions constitute a violation of 10 CFR 30.10, which prohibits an individual from engaging in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order or any term, condition or limitation of any license issued by the Commission. As defined by 10 CFR 30.10(c)(2), deliberate misconduct means an intentional act or omission that the person knows constitutes a violation of a requirement, procedure, or instruction of a licensee.

Mr. Hood's action in causing the Licensee to violate the Order Revoking License, and 10 CFR 20.2201(a)(1)(i), and his unresponsiveness to the NRC, have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Hood were permitted at this time to be involved in NRC licensed activities. Therefore, the public health, safety and interest require that Mr. Hood be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Mr. Hood is required to notify the NRC of his first employment in NRC-licensed activities at any time following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the deliberate nature of Mr. Virgil J. Hood Sr.'s conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered, effective immediately, that:

1. Mr. Virgil J. Hood, Sr. is prohibited for five years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Virgil J. Hood, Sr. is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. At any time after the five year period of prohibition has expired, Mr. Virgil J. Hood, Sr. shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Virgil J. Hood, Sr. shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Virgil J. Hood, Sr. of good cause.

V

In accordance with 10 CFR 2.202, Mr. Virgil J. Hood, Sr. must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Virgil J. Hood, Sr. or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region II, 61 Forsyth St. SW, Suite 23T85, Atlanta, GA 30303–8931, and to Mr. Virgil J. Hood, Sr. if the answer or hearing request is by a person other than Mr. Virgil J. Hood, Sr. If a person other than Mr. Virgil J. Hood, Sr. requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Virgil J. Hood, Sr. or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An Answer or a Request for Hearing Shall Not Stay the Immediate Effectiveness of This Order.

Dated this 12th day of September 2001.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Deputy Executive Director for Materials, Research and State Programs.

[FR Doc. 01–24048 Filed 9–25–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220 and 50–410, License Nos. DPR–63 and NPF–69]

In the Matter of Niagara Mohawk Power Corporation, et al., Nine Mile Point Nuclear Station, Unit Nos. 1 and 2; Correction of Order Approving Transfer of Licenses and Conforming Amendments

I

On June 29, 2001 (66 FR 34723), the NRC staff published an Order approving the direct transfer of Facility Operating Licenses Nos. DPR–63 and NPF–69, for the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP1 and NMP2), to Nine Mile Point Nuclear Station, LLC (NMP LLC), indirect transfers pertaining to the associated corporate structure changes of NMP LLC's corporate parent, and conforming amendments. Subsequently, the NRC staff noted that the Order contains an inadvertent error, in that the wording "as required under 10 CFR 50.75(f)(1), unless otherwise approved by the NRC" should not have been included in condition (2). Accordingly, the staff has corrected this error. The corrected condition (2) now reads: "On the closing date of the transfer of NMP1 and NMP2 to it, NMP LLC shall: (1) obtain from the transferors all of their accumulated

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decommissioning trust funds for NMP1 and NMP2, respectively, and (2) receive [a] parent company guarantee[s] pursuant to 10 CFR 50.75(e)(1)(iii)(B) (to be updated annually) in a form acceptable to the NRC and in [an] amount[s] which, when combined with the decommissioning trust funds for NMP1 and NMP2, equals or exceeds the total amounts required for NMP1 and NMP2, respectively, pursuant to 10 CFR 50.75(b) and (c)."

For further details with respect to this Order, see the initial application dated February 1, 2001, the supplemental submittals dated March 1, March 16, March 29, April 5, April 27, May 30 and June 7, 2001, and the safety evaluation dated June 22, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland this 18th day of September 2001.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24049 Filed 9–25–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC, Quad Cities Nuclear Power Station, Units 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of revocation of exemptions from 10 CFR part 50, Appendix R, for Facility Operating License Nos. DPR–29 and DPR–30, issued to Exelon Generation Company, LLC (ECG, or the licensee), for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, IL. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption revocations would remove (1) an exemption which allows fuse pulling to preclude operation of the reactor relief valves; (2) an exemption which allows for a lack of emergency lighting for suppression pool level instrumentation; (3) an exemption which allows a lack of suppression in the vicinity of electrical equipment; (4) an exemption which allows a lack of 3-hour fire barriers in fire zones 1.1.1.1 (Unit 1) and 1.1.2.1 (Unit 2); (5) an exemption which allows a lack of 3-hour fire barriers between redundant residual heat removal trains in the reactor building and turbine building (Units 1 and 2); (6) an exemption which allows for a lack of 3-hour fire barriers between equivalent fire area 23–1 (8.2.8.D) and the northern and central zone groups; (7) an exemption which allows for a lack of 3-hour fire barriers for certain 4-kV bus duct penetrations; (8) an exemption which allows a lack of 3-hour-rated dampers in certain standby gas treatment and reactor building ventilation ducts; and (9) an exemption which allows a lack of complete detection and suppression throughout the reactor building (Units 1 and 2).

The proposed action is in accordance with the licensee's applications dated June 2 and August 3, 2000, as supplemented by letter dated September 18, 2001. Additional information was provided by letter dated May 23, 2001. The original applications were submitted by the Commonwealth Edison Company (ComEd), which merged to form EGC. By letter dated February 7, 2001, EGC assumed responsibility for all pending NRC actions that were requested by ComEd.

The Need for the Proposed Action

The proposed action will eliminate unnecessary exemptions to Appendix R of 10 CFR part 50.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed revocation of exemptions is appropriate. The revocation of the exemptions reflects analyses performed by the licensee to bring plant configuration into compliance with Appendix R, thereby climinating the need for the subject exemptions.

With regard to potential non-radiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Agencies and Persons Consulted

On September 17, 2001, the staff consulted with the Illinois State official, Frank Niziolek of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated June 2, 2000, August 3, 2000, May 23, 2001 and September 18, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of September 2001.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24046 Filed 9–25–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–73]

General Electric Company; The General Electric Nuclear Test Reactor Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment for Facility Operating License No. R–33, issued to the General Electric Company (the licensee), for operation of the General Electric Nuclear Test Reactor, located in Sunol, California. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would correct typographical errors in section numbers referenced in the Technical Specifications.

The proposed action is in accordance with the licensee's application dated July 3, 2001.

Need for the Proposed Action

The proposed action would make the Technical Specifications accurate.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action is administrative in nature and will have no significant environmental impacts.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Environmental Assessment for the General Electric Nuclear Test Reactor dated April 13, 2001.

Agencies and Persons Consulted

On August 10, 2001, the staff consulted with the California Department of Health official, Steve Hsu, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 3, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 18th day of September, 2001.

For the Nuclear Regulatory Commission.

Patrick M. Madden,

Chief, Non-Power Reactors Section, Operational Experience and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24047 Filed 9–25–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Public Availability of Year 2001 Agency Inventories Under the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270) ("FAIR Act")

AGENCY: Office of Management and Budget Executive Office of the President.

ACTION: Notice of public availability of Agency Inventories of Activities that are not Inherently Governmental.

SUMMARY: Agency Inventories of Activities that are not Inherently Governmental are now available to the public from the agencies listed below, in accordance with the "Federal Activities Inventory Reform Act of 1998" (Public Law 105–270) ("FAIR Act"). This is the first release of the 2001 FAIR Act inventories. In addition, the Office of Federal Procurement Policy has prepared and has made available a summary FAIR Act User's Guide through its Internet site: *http://www.whitehouse.gov/OMB/procurement/index.html*. This User's Guide will help interested parties review 2001 FAIR Act inventories, and will also include the web-site addresses to access agency inventories.

The FAIR Act requires that OMB publish an announcement of public availability of agency Inventories of Activities that are not Inherently Governmental upon completion of OMB's review and consultation process concerning the content of the agencies' inventory submissions. OMB has now completed this process for the year 2001.

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The attached Inventories of Activities that are not Inherently Governmental are now available.

Mitchell E. Daniels, Jr.,
Director.
Attachment

ATTACHMENT

Agency	Contact
Advisory Council on Historic Preservation	Carol McLain, 202–606–8511 Website: *www.achp.gov/fairact.html*
African Development Foundation	Tom Coogan, 202–673–3916 Website: *www.adf.gov*
American Battle Monuments Commission	Anthony Corea, 703–696–6898 Website: *www.usabmc.com*
Appalachian Regional Commission	Richard Kodl, 202–884–7666 Website: *www.arc.gov/infopubs/infomain.html*
Architectural and Transportation Barriers Compliance Board	Lawrence W. Roffee, 202–272–5434, ext. 113, Website: *www.access-board.gov*
Arlington National Cemetery	Rory Smith, 703–614–5060 Website: *www.arlingtoncemetery.org/*
Broadcasting Board of Governors	Dennis Sokol, 202–619–3988 Website: *www.ibb.gov/fairact*
Commission on Fine Arts	Jeff Carson, 202–504–2200 Website: *www.whitehouse.gov/OMB/procurement*
Defense Nuclear Facilities Safety Board	Andrew Thibadeau, 202–694–7000 Website: *www.dnfsb.gov*
Defense (Office of Inspector General)	Wayne Berry, 703–604–8789 Website: *www.dodig.osd.mil*
Energy	Mark R. Hively, 202–586–5655 Website: *www.pr.doe.gov/a76.html*
Federal Housing Finance Board	John Waters, 202–408–2860 Website: *www.fhfb.gov*
Federal Election Commission	John O'Brien, 202–694–1215 Website: *www.fec.gov*
Federal Trade Commission	Elliott Davis, 202–326–2022 Website: *www.ftc.gov*
Federal Mediation and Conciliation Service	George Buckingham, 202–606–8100 Website: *www.fmcs.gov*
Federal Communications Commission (Office of Inspector General)	Charles Willoughby, 202–418–0472 Website: *www.fcc.gov*
Federal Housing Enterprise Oversight	Jill Weide, 202–414–3813 Website: *www.ofheo.gov*
Federal Emergency Management Agency	Margaret Chan, 202–646–2988 Website: *www.fema.gov*
Harry S. Truman Scholarship Foundation	Louis H. Blair, 202–395–4831 Website: *www.truman.gov*
Holocaust Museum	Jay Gaglione, 202–314–0336 Website: *www.ushmm.org*
Housing and Urban Development (Office of Inspector General)	Stanley McLeod, 202–708–3444, ext. 156 Website: *www.hud.gov/oig/oigir.dex.html*
Institute of Museum and Library Services	Linda Bell, 202–606–8637 Website: *www.imls.gov*
Inter-American Foundation	Carolyn Karr, 703–306–4350 Website: *www.iaf.gov*
International Trade Commission	Judith Gwynn, 202–205–2202 Website: *www.usitc.gov*
James Madison Memorial Fellowship Foundation	Steve Weiss, 202–653–6109 Website: *www.jamesmadison.com*
Kennedy Center	Jared Barlage, 202–416–8721 Website: *www.kennedy-center.org*
Merit Systems Protection Board	Douglas Wade, 202–653–6772 ext. 1118 Website: *www.mspb.gov*
National Gallery of Art	Bill Roache, 202–842–6329 Website: *www.nga.gov*
Office of Navaho and Hopi Indian Relocation	Michael J. McAlister, 520–779–2721 Website: *www.whitehouse.gov/OMB/procurement*
National Credit Union Administration	Michael McNeill, 703–518–6574 Website: *www.ncua.gov*
National Council on Disability	Ethel D. Briggs, 202–272–2004 Website: *www.ncd.gov*
National Archives and Records Administration (Office of Inspector General).	James Springs, 301–713–7300, ext. 224 Website: *www.nara.gov*
National Archives and Records Administration	Lori Lisowski, 301–713–7360, ext. 257 Website: *www.nara.gov*
National Endowment for the Humanities	Barry Maynes, 202–606–8233 Website: *www.neh.gov*
National Aeronautics and Space Administration	Timothy Sullivan, 202–358–2215 Website: *www.HQ.NASA.gov/fair*
National Transportation Safety Board	Pamela Pearson, 202–314–6231 Website: *www.ntsb.gov*
National Science Foundation	Gary Scavongelli, 703–292–8102 Website: *www.nsf.gov*
National Labor Relations Board	Harding Darden, 202–273–3970 Website: *www.nlrb.gov*
Nuclear Regulatory Commission (Office of Inspector General)	David Lee, 301–415–5930 Website: *www.nrc.gov*
Nuclear Regulatory Commission	Ronald Thompson, 301–415–6732 Website: *www.nrc.gov*
Nuclear Waste Technical Review Board	Dr. William Barnard, 703–235–4473 Website: *www.nwtrb.gov*
Occupational Safety and Health Review Commission	Ledia Bernal, 202–606–5390 Website: *www.oshrc.gov*
Office of Management and Budget	Trish Haney, 202–395–7250 Website: *www.whitehouse.gov/OMB/procurement*
Office of National Drug Control Policy	Tilman Dean, 202–395–6722 Website: *www.whitehousedrugpolicy.org*
Office of the Special Counsel	Jane McFarland, 202–653–9001 Website: *www.osc.gov*
Office of the US Trade Representative	John Hopkins, 202–395–5799 Website: *www.ustr.gov*
Peace Corps	Susan Hancks, 202–692–1612 Website: *www.peacecorps.gov*
Selective Service System	Calvin Montgomery, 703–605–4038 Website: *www.sss.gov*
Small Business Administration	Tom Dumaresq, 202–205–6630 Website: *www.sba.gov*
Small Business Administration (Office of Inspector General)	Bridget Bean, 202–205–6580 Website: *www.sba.gov/ig*
State	Robert McFadden, 202–647–7780 Website: *www.state.gov/www/dept/fmp/related_sites*
Transportation (Office of Inspector General)	Sam Davis, 202–366–1444 Website: *www.oig.dot.gov*
US Chemical Safety Board	Christopher Warner, 202–261–7624 Website: *www.csb.gov*
US Agency for International Development (Office of Inspector General)	Deborah Lewis, 202–712–0936 Website: *www.usaid.gov/procurement_bus_opp*
US Trade and Development Agency	Steven Berry, 703–875–5016 Website: *www.tda.gov*

ATTACHMENT—Continued

Agency	Contact
Veterans Affairs	Curtis Marshall, 202–273–7522 Website: *www.va.gov*

[FR Doc. 01–23990 Filed 9–25–01; 8:45 am]
BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review: Comment Request for Clearance of a New Information Collection; Standard Form 86 Certification (SF 86C)

AGENCY: Office of Personnel Management.
ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995) and 5 CFR 1320.5(a)(1)(iv), this notice announces that the U.S. Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for clearance of a new information collection.

The Standard Form 86, Questionnaire for National Security Positions, is completed by persons performing or seeking to perform national security duties for the Federal government. That form is used by OPM and by other Federal agencies to initiate the background investigation required to determine placement in national security positions in accordance with 42 U.S.C. 2165, 22 U.S.C. 2585, E.O. 10450, Security Requirements for Government Employment, issued April 27, 1953, and E.O. 12968, Access to Classified Information, issued August 2, 1995.

There are many situations where individuals are required to fill out an SF 86 when the sole purpose is to determine if any information on a previously executed SF 86 has changed. This requires extensive execution even if nothing has changed.

The information collection being proposed is a certification device (tentatively numbered SF 86C) that allows reporting of changes in previously reported information on the SF 86. Certification will be in lieu of executing a new SF 86, and will allow the individual to indicate that there have been no changes in the data provided on the most recently filed SF 86, or, where there are changes, to provide the new changed information. No investigation will be initiated based solely on the execution of this form. However, information provided on this form may provide cause to require execution of a new SF 86 in order for an investigation to be scheduled. This is no different than if an SF 86 had been used in the first place to "update" information. This certification device will ask for nothing more or less than is asked for on the current SF 86.

OPM published a request for comments on this information device in the **Federal Register** on November 19, 1999 (Vol. 64, No. 223, Page 63349). A total of 51 responses were received; 42 from private citizens and 9 from Federal agencies. Although a few were neutral (e.g., made a suggestion), the vast majority were very supportive of this form. Many citizen responses were from individuals in private industry who have to undergo periodic screening for security clearances at their job. Some were from Facility Security Officers in industry who spoke on behalf of their employer in supporting the form. We have considered all the comments and revised the form accordingly.

It was estimated that upwards of one and one-quarter (1.25) hours would be saved by individuals filling out this form versus executing a complete Standard Form 86. Representatives of private industry who are very involved in working on classified projects were asked to comment on the number of individuals who would be favorably affected by using this form. Industry estimated that over 10,000 people would benefit from this form. We opine that that estimate is conservative. Federal employees and employers would benefit equally, and the number would be greater than the estimate of private industry. OPM estimates at least 50,000 respondents would complete only the SF 86C, taking 15 minutes to do so, involving an annual burden of 12,500 hours, but saving 62,500 hours of burden for those who no longer need to complete a SF 86.

For copies of this request, please contact Mary Beth Smith-Toomey at (202) 606–8358, FAX (202) 418–3251 or by E-Mail at *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received no later than October 26, 2001.

ADDRESSES: Send or deliver written comments to:

Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, Room 5416, 1900 E Street, NW., Washington, DC 20415–4000

or

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, 17th Street and Pennsylvania Avenue, NW., Washington, DC 20503.

FOR FURTHER INFORMATION, CONTACT: John H. Crandell, Chief, Oversight and Technical Assistance Division, Investigations Service, OPM, (202) 606–2084 or fax (202) 606–2390.

Office of Personnel Management.
Kay Coles James,
Director.
[FR Doc. 01–24102 Filed 9–25–01; 8:45 am]
BILLING CODE 3206–40–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.
ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 2001, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Office of Employment Policy, Staffing and Restructuring Policy Division, Room 6500, Office of Personnel

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Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 606–0960.

The following exceptions were current on June 30, 2001:

Schedule A

Section 213.3102 Entire Executive Civil Service

(a) Positions of Chaplain and Chaplain's Assistant.

(b) (Reserved).

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his or her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS–3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Reserved.

(i) Temporary and less-than-full time positions for which examining is impracticable. These are:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside of the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment to positions involving related duties and requiring the same qualifications for more than 1,040 working hours in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring needs exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

(j) Positions filled by current or former Federal employees eligible for placement under special statutory provisions. Appointments under this authority are subject to the following conditions:

(1) *Eligible employees.* (i) Persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are entitled to placement under § 353.110 of this chapter, or who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) or 5 U.S.C. 8456 by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment;

(ii) Executive branch employees (other than employees of intelligence agencies) who are entitled to placement under § 353.110 but who are not eligible for reinstatement or noncompetitive appointment under the provisions of part 315 of this chapter.

(iii) Legislative and judicial branch employees and employees of the intelligence agencies defined in 5 U.S.C. 2302(a)(2)(C)(ii) who are entitled to placement assistance under § 353.110.

(2) *Employees excluded.* Employees who were last employed in Schedule C or under a statutory authority that specified the employee served at the discretion, will, or pleasure of the agency are not eligible for appointment under this authority.

(3) *Position to which appointed.* Employees who are entitled to placement under § 353.110 will be appointed to a position that OPM determines is equivalent in pay and grade to the one the individual left, unless the individual elects to be placed in a position of lower grade or pay. National Guard Technicians whose eligibility is based upon a disability may be appointed at the same grade, or equivalent, as their National Guard Technician position or at any lower grade for which they are available.

(4) *Conditions of appointment.* (i) Individuals whose placement eligibility is based on an appointment without time limit will receive appointments without time limit under this authority. These appointees may be reassigned, promoted, or demoted to any position within the same agency for which they qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.

(m) (Reserved).

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p)–(q) (Reserved).

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointment under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

(t) Positions when filled by mentally retarded persons in accordance with the guidance in Federal Personnel Manual chapter 306. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v)–(w) (Reserved).

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) (Reserved).

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except when the authority is specifically included in a delegated examining agreement with OPM.

(cc)–(ee) (Reserved).

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg) Positions when filled by persons with psychiatric disabilities who have demonstrated their ability to perform satisfactorily under a temporary appointment [such as one authorized in 213.3102(i)(3)] or who are certified as likely to be able to perform the essential functions of the job, with or without reasonable accommodation, by a State vocational rehabilitation counselor, a U.S. Department of Veterans Affairs, Veterans Benefits Administration, or Veterans Health Administration psychologist, vocational rehabilitation counselor, or psychiatrist. Upon completion of 2 years of satisfactory service under this authority, the employee can be converted, at the discretion of the agency, to competitive status under the provisions of Executive Order 12125 as amended by Executive Order 13124.

(hh) (Reserved).

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to 1 additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj)–(kk) (Reserved).

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 15 positions at grades GS–5/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved).

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) *Office of National Drug Control Policy.* (1) Not to exceed 15 positions. GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms. No new appointments may be made after February 28, 1997.

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c)–(f) (Reserved).

(g) *Bureau of Population, Refugees, and Migration.* (1) Not to exceed 10

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positions at grades GS–5 through 11 on the staff of the Bureau.

(h) *Bureau of Administration.* (1) One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

Section 213.3105 Department of the Treasury

Office of the Secretary. (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(3) Not to exceed 20 positions in the Office of the Under Secretary (Enforcement). Employment under this authority may not exceed 4 years, and no new appointments may be made after July 31, 2001.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2)–(5) (Reserved).

(6) Three hundred positions of Criminal Investigator for special assignments and 10 positions for oversight policy and direction of sensitive law enforcement activities.

(7)–(8) (Reserved).

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) (Reserved).

(d) *Office of Thrift Supervision.* (1) All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) (Reserved).

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1)–(5) (Reserved).

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: *Provided*, that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(c) (Reserved).

(d) *General.* (1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.* (1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

(h) *Defense Systems Management College, Fort Belvoir, Va.* (1) The Provost and professors in grades GS–13 through 15.

(i) *George C. Marshall European Center for Security Studies, Garmisch, Germany.* (1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) *Asia-Pacific Center for Security Studies, Honolulu, Hawaii.* (1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

Section 213.3107 Department of the Army

(a)–(c) (Reserved).

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved).

(g) *Defense Language Institute.* (1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or a knowledge of foreign language teaching methods.

(h) *Army War College, Carlisle Barracks, PA.* (1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved).

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head, and Instructor.

(k) *U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.* (1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter.

Section 213.3108 Department of the Navy

(a) *General.* (1)–(14) (Reserved).

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) *Pacific Missile Range Facility, Barking Sands, Hawaii.* (1) All positions. This authority applies only to positions that must be filled pending final decision on contracting of Facility operations. No new appointments may be made under this authority after July 29, 1988.

(f) (Reserved).

(g) *Office of Naval Research.* (1) Scientific and technical positions, GS/GM–13/15, in the Office of Naval Research Asian Office in Tokyo, Japan, which covers East Asia, New Zealand and Australia. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

Section 213.3109 Department of the Air Force

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Ninety-five positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) (Reserved).

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved).

(f) *Air Force Office of Special Investigations.* (1) Not to exceed 350 positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15.

(g) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama.* (1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio.* (1) Civilian deans and professors.

(j) *Air Force Logistics Command.* (1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics

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Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

Section 213.3110 Department of Justice

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(4) Positions at GS–15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved).

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended for an additional period not to exceed 2 years.

(b) *Immigration and Naturalization Service.* (1) (Reserved).

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

(3) Not to exceed 25 positions, GS–15 and below, with proficiency in speaking, reading, and writing the Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

(c) *Drug Enforcement Administration.* (1) (Reserved).

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) *National Drug Intelligence Center.* All positions.

Section 213.3112 Department of the Interior

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved).

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) (Reserved).

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) (Reserved).

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved).

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1) (Reserved).

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved).

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessicnal services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of § 213.3102 or positions within the Forest Service.

(6) (Reserved).

(7) Not to exceed 34 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b)–(c) (Reserved).

(d) *Farm Service Agency.* (1) (Reserved).

(2) Members of State Committees: *Provided*, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Rural Development.* (1) (Reserved).

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM be further extended for additional periods not to exceed 1 year each.

(4)–(5) (served).

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved).

(l) *Food Safety and Inspection Service.* (1)-(2) (Reserved).

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) *Alternative Agricultural Research and Commercialization Corporation.* (1) Executive Director.

Section 213.3114 Department of Commerce

(a) *General.* (1)–(2) (Reserved).

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved).

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved).

(i) *Office of the Under Secretary for International Trade.* (1) Fifteen

positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved).

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration.* (1)–(2) (Reserved).

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved).

(l) *National Telecommunication and Information Administration.* (1) Seventeen professional positions in grades GS–13 through GS–15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary.* (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved).

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) *General.* (1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) *Public Health Service.* (1) (Reserved).

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved).

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved).

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) (Reserved).

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(14) (Reserved).

(15) Not to exceed 200 staff positions, GS–15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

(c)–(e) (Reserved).

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Department of Veterans Affairs

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) *Board of Veterans' Appeals.* (1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

Section 213.3133 Federal Deposit Insurance Corporation

(a)–(b) (Reserved).

(c) Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. New appointments may be made under this authority only during the 60 days immediately following the institution's closing date. Such appointments may not exceed 1 year, but may be extended for not to exceed 1 additional year.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Positions when filled by member-residents of the Home.

Section 213.3138 Federal Communications Commission

(a) Fifteen positions of Telecommunications Policy Analyst, GS–301–13/14/15. Initial appointment to these positions will be for a period of not to exceed 2 years with provision for two 1-year extensions. No new appointments may be made under this authority after May 31, 1998.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System

(a) State Directors.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

Section 213.3155 Social Security Administration

(a) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

Section 213.3162 The President's Crime Prevention Council

(a) Up to 7 positions established in the President's Crime Prevention Council office created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after March 31, 1998.

Section 213.3165 Chemical Safety and Hazard Investigation Board

(a) Up to 37 positions established to create the Chemical Safety and Hazard Investigation Board. No new appointments may be made under this authority after December 31, 2000.

Section 213.3166 Court Services and Offender Supervision Agency of the District of Columbia

(a) All positions, except for the Director, established to create the Court Services and Offender Supervision Agency of the District of Columbia. No new appointments may be made under this authority after September 30, 2001.

Section 213.3174 Smithsonian Institution

(a) (Reserved).

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) Positions at GS–15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

Section 213.3175 Woodrow Wilson International Center for Scholars

(a) One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, one Environmental Change & Security Studies Program Administrator, one United States Studies Program Administrator, and two Social Science Program Administrators.

Section 213.3178 Community Development Financial Institutions Fund

(a) All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 23, 1998.

Section 213.3180 Utah Reclamation and Conservation Commission

(a) Executive Director.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.* (1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

Section 213.3190 African Development Foundation

(a) One Enterprise Development Fund Manager. Appointment authority is limited to four years unless extended by the Office.

Section 213.3191 Office of Personnel Management

(a)–(c) (Reserved).

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) (Reserved).

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(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

(b)–(d) (Reserved).

(c) *Maritime Administration.* (1)–(2) (Reserved).

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved).

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Section 213.3199 Temporary Organizations

(a) Positions on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire Executive Civil Service

(a) *Student Educational Employment Program—Student Temporary Employment Program.* (1) Students may be appointed to the Student Temporary Employment Program if they are pursuing any of the following educational programs:

(i) High School Diploma or General Equivalency Diploma (GED);

(ii) Vocational/Technical certificate;

(iii) Associate degree;

(iv) Baccalaureate degree;

(v) Graduate degree; or

(vi) Professional degree

* * * * *

[The remaining text of provisions pertaining to the Student Temporary Employment Program can be found in 5 CFR 213.3202(a).]

(b) *Student Educational Employment Program—Student Career Experience Program.* (1)(i) Students may be appointed to the Student Career Experience Program if they are pursuing any of the following educational programs:

(A) High school diploma or General Equivalency Diploma (GED);

(B) Vocational/Technical certificate;

(C) Associate degree;

(D) Baccalaureate degree;

(E) Graduate degree; or

(F) Professional degree.

(ii) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93–842 are eligible for appointments under the Student Career Experience Program.

[The remaining text of provisions pertaining to the Student Career Experience Program can be found in 5 CFR 213.3202(b).]

* * * * *

(c)–(i) (Reserved).

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k)–(l) (Reserved).

(m) Positions when filled under any of the following conditions: (1) Appointment at grades GS–15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who:

(i) Has completed the SES probationary period;

(ii) Has been removed from the SES because of less than fully successful executive performance or a reduction in force; and

(iii) Is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

(2) Appointment in a different agency without a break in service of an individual originally appointed under paragraph (m)(1).

(3) Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

(n) Positions when filled by preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of continuous active service and who, in accordance with 5 U.S.C. 3304(f) (Pub. L. 105–339), applied for these positions under merit promotion procedures when applications were being accepted by the agency from individuals outside its own workforce. These veterans may be promoted, demoted, or reassigned, as appropriate, to other positions within the agency but would remain employed under this excepted authority as long as there is no break in service. No new appointments may be made under this authority after November 30, 1999.

(o) *The Federal Career Intern Program* (1) *Appointments.* Appointments made under the Federal Career Intern Program may not exceed 2 years, except as described in paragraph (o)(2) of this section. Initial appointments shall be made to a position at the grades GS–5, 7, or 9 (and equivalent) or other trainee levels appropriate for the program. Agencies must request OPM approval to cover additional grades to meet unique or specialized needs. Agencies will use part 302 of this chapter when making appointments under this Program.

(2) Extensions. (i) Agencies must request, in writing, OPM approval to extend internships for up to 1 additional year beyond the authorized 2 years for additional training and/or developmental activities.

(ii) Agencies are delegated the authority to extend, without prior OPM approval, 2-year internships for up to an additional 120 days to cover rare or unusual circumstances, and where agencies have established criteria for approving extensions.

* * * * *

[The remaining text of provisions pertaining to The Federal Career Intern Program can be found in 5 CFR 213.3202(o).]

Section 213.3203 Executive Office of the President

(a) (Reserved).

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State

(a)–(c) (Reserved).

(d) Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved).

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved).

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever comes first.

(e) Positions, grades GS–5 through 12, of Treasury Enforcement Agent in the Bureau of Alcohol, Tobacco, and Firearms; and Treasury Enforcement Agent, Pilot, Marine Enforcement Officer, and Aviation Enforcement Officer in the U.S. Customs Service. Service under this authority may not exceed 3 years and 120 days.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) (Reserved).

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved).

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Six positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) *National Defense University.* (1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS–1811–5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM–15.

(g) *Defense Security Assistance Agency.* All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

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(d) All civilian professor positions at the Marine Corps Command and Staff College.

(e) One position of Staff Assistant, GS–301–15, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) One position of Housing Management Specialist, GM–1173–14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

Section 213.3209 Department of the Air Force

(a) Not to exceed six interdisciplinary positions for the Airpower Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b)–(c) (Reserved).

(d) Positions of Instructor or professional academic staff at the Air University, associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) One position of Director of Development and Alumni Programs, GS–301–13, with the U.S. Air Force Academy, Colorado.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved).

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved).

(e) Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

Section 213.3213 Department of Agriculture

(a) *Foreign Agricultural Service.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Personnel Officer, Agricultural Research Service, or the Personnel Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) (Reserved).

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(3) Not to exceed 300 Community Awareness Specialist positions at the equivalent of GS–7 through GS–12. Employment under this authority may not exceed December 31, 1992. (b)–(c) (Reserved).

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Chairman, two Members, and one Alternate Member, Administrative Review Board.

(b) (Reserved).

(c) *Bureau of International Labor Affairs.* (1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3227 Department of Veterans Affairs

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

Section 213.3236 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

Section 213.3240 National Archives and Records Administration

(a) Executive Director, National Historical Publications and Records Commission.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3274 Smithsonian Institution

(a) (Reserved).

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3275 Armed Forces Retirement Home

(a) *Naval Home, Gulfport, Mississippi.* (1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) (Reserved).

(b) *National Endowment for the Humanities.* (1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require indepth knowledge of a discipline of the humanities.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Schedule C

Section 213.3303 Executive Office of the President

Council of Economic Advisers

CEA 1 Confidential Assistant to the Chairman
CEA 4 Confidential Assistant to the Chairman
CEA 5 Administrative Operations Assistant to a Member
CEA 6 Administrative Operations Assistant to a Member

Office of Management and Budget

OMB 139 Confidential Assistant to the Executive Associate Director
OMB 140 Deputy to the Associate Director for Legislative Affairs (House)
OMB 143 Public Affairs Specialist to the Associate Director for Communications
OMB 147 Executive Assistant to the Director, Office of Management and Budget

Office of National Drug Control Policy

ONDCP 83 Chief, Press Relations to the Director, Office of National Drug Control Policy
ONDCP 87 Confidential Administrative Assistant to the Deputy Director, Office of National Drug Control Policy

Office of the United States Trade Representative

USTR 70 Deputy Assistant U.S. Trade Representative for Congressional Affairs to the Assistant U.S. Trade Representative
USTR 72 Confidential Assistant to the U.S. Trade Representative
USTR 74 Special Assistant to the U.S. Trade Representative

Official Residence of the Vice President

ORVP 1 Residence Manager and Social Secretary to the Assistant to the Vice President and Chief of Staff to Mrs. Cheney

Section 213.3304 Department of State

ST 104 Special Assistant to the Under Secretary (Director)
ST 115 Staff Director, Fulbright Foreign Scholarship Fund to the Assistant Secretary, Education and Cultural Affairs
ST 399 Confidential Assistant to the Secretary of State
ST 516 Foreign Affairs Officer to the Deputy Director

Section 213.3305 Department of the Treasury

TREA 250 Director, Public Affairs to the Deputy Assistant Secretary (Public Affairs)
TREA 317 Public Affairs Specialist to the Director, Public Affairs
TREA 380 Deputy to the Assistant Secretary, Legislative Affairs
TREA 391 Deputy Director to the Director of Scheduling
TREA 411 Special Assistant to the Assistant Secretary for Public Affairs
TREA 423 Special Assistant to the Director of Scheduling
TREA 428 Deputy Assistant Secretary (Public Liaison) to the Assistant Secretary (Public Affairs)

Section 213.3306 Department of Defense

DOD 22 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DOD 33 Personal Secretary to the Deputy Secretary of Defense
DOD 271 Private Secretary to the Assistant Secretary of Defense (Reserve Affairs)
DOD 279 Personal and Confidential Assistant to the Director Operational Test and Evaluation
DOD 300 Confidential Assistant to the Under Secretary (Acquisition and Technology)
DOD 312 Director, Cooperative Threat Reduction to the Assistant Secretary of Defense (Strategy and Threat Reduction)
DOD 319 Confidential Assistant to the Secretary of Defense
DOD 332 Personal and Confidential Assistant to the Assistant Secretary of Defense (Regional Security)
DOD 368 Personal and Confidential Assistant to the Assistant Secretary of Defense for Legislative Affairs
DOD 459 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
DOD 473 Personal and Confidential Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
DOD 480 Executive Assistant to the Assistant Secretary of Defense (Strategy Requirements and Resources)
DOD 488 Personal and Confidential Assistant to the Under Secretary of Defense (Comptroller)
DOD 519 Private Secretary to the Assistant Secretary of Defense (Regional Security Affairs)
DOD 578 Personal and Confidential Assistant to the Under Secretary of Defense (Policy)
DOD 609 Private Secretary to the Deputy Secretary of Defense
DOD 611 Personal and Confidential Assistant to the Secretary of Defense
DOD 613 Staff Assistant to the Secretary of Defense

DOD 636 Civilian Executive Assistant to the Chairman, Joint Chiefs of Staff
DOD 649 Confidential Assistant to the Assistant Secretary of Defense for Health Affairs
DOD 663 Public Affairs Specialist to the Deputy Assistant Secretary for Communications
DOD 671 Confidential Assistant to the Director, Defense Research and Engineering
DOD 680 Confidential Assistant to the Deputy Secretary of Defense
DOD 682 Confidential Assistant to the Assistant Secretary of Defense for Public Affairs

Section 213.3307 Department of the Army (DOD)

ARMY 1 Executive Staff Assistant to the Secretary
ARMY 17 Secretary (Office Automation) to the Assistant Secretary of the Army (Civil Works)
ARMY 21 Secretary (Office Automation) to the General Counsel of the Army
ARMY 55 Secretary (Office Automation) to the Assistant Secretary of the Army (Financial Management)
ARMY 77 Secretary (Office Automation) to the Assistant Secretary of the Army for Research and Development and Acquisition

Section 213.3308 Department of the Navy (DOD)

NAV 56 Staff Assistant to the Assistant Secretary of the Navy (Financial Management)
NAV 69 Staff Assistant to the Under Secretary of the Navy
NAV 71 Special Assistant to the Secretary of the Navy

Section 213.3309 Department of the Air Force (DOD)

AF 6 Secretary (Steno) to the Assistant Secretary (Manpower and Reserve Affairs, Installation and Environment)
AF 8 Secretary (Steno/OA) to the General Counsel of the Air Force

Section 213.3310 Department of Justice

JUS 144 Special Assistant to the Solicitor General
JUS 184 Special Assistant to the Deputy Attorney General
JUS 190 Counsel to the Assistant Attorney General, Office of Policy Development
JUS 211 Secretary (Office Automation) to the United States Attorney, Nevada
JUS 217 Attorney Advisor to the Assistant Attorney General, Office of Justice Programs
JUS 242 Attorney Advisor to the Assistant Attorney General, Civil Division
JUS 277 Assistant for Scheduling to the Attorney General
JUS 282 Policy Advisor to the Assistant Attorney General, Office of Policy Development
JUS 343 Assistant to the Attorney General to the Attorney General
JUS 367 Confidential Assistant to the Attorney General
JUS 418 Secretary (OA) to the U.S. Attorney, District of Nebraska
JUS 448 Secretary (OA) to the U.S. Attorney, Oklahoma City

Section 213.3312 Department of the Interior

INT 375 Special Assistant to the Assistant Secretary for Fish, Wildlife and Parks
INT 467 Special Assistant to the Director, Office of External Affairs
INT 479 Special Assistant to the Director of Minerals Management Service
INT 490 Special Assistant (Advance) to the Deputy Chief of Staff
INT 538 Special Executive Assistant to the Secretary of the Interior
INT 547 Press Secretary to the Director of Communications
INT 549 Special Assistant to the Deputy Chief of Staff
INT 551 Special Assistant for Scheduling and Advance to the Deputy Chief of Staff
INT 553 Special Assistant to the Director, Intergovernmental Affairs
INT 557 Director of Scheduling and Advance to the Deputy Chief of Staff
INT 559 Special Assistant for Scheduling and Advance to the Deputy Chief of Staff
INT 560 Associate Director to the Deputy Chief of Staff
INT 561 Special Assistant to the Secretary for Alaska to the Chief of Staff
INT 565 White House Liaison to the Deputy Chief of Staff

Section 213.3313 Department of Agriculture

AGR 100 Special Assistant to the Under Secretary for Natural Resources and Environment
AGR 103 Special Assistant to the Under Secretary for Farm and Foreign Agricultural Service
AGR 275 Confidential Assistant to the Assistant Secretary for Congressional Relations
AGR 285 Confidential Assistant to the Under Secretary for Food, Nutrition and Consumer Services
AGR 313 Special Assistant to the Administrator, Rural Housing Service
AGR 427 Confidential Assistant to the Deputy Secretary
AGR 556 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
AGR 564 Confidential Assistant to the Under Secretary for Research, Education and Economics
AGR 566 Confidential Assistant to the Director, Legislative Affairs and Public Affairs Staff

Section 213.3314 Department of Commerce

COM 5 Special Assistant to the Director, Office of White House Liaison
COM 289 Intergovernmental Affairs Specialist to the Deputy Assistant Secretary for Intergovernmental Affairs
COM 393 Legislative Specialist for Technology and Telecommunications to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 394 Deputy Director, to the Director, Office of Public Affairs
COM 443 Director, Office of External Affairs to the Secretary of Commerce
COM 490 Director of Scheduling to the Director, Office of External Affairs
COM 550 Legislative Specialist for National Oceanic and Atmospheric Administration and Environment to the Assistant Secretary for Legislative and Intergovernmental Affairs
COM 648 Press Secretary to the Director of Public Affairs
COM 662 Special Assistant to the Under Secretary for International Trade Administration
COM 664 Special Assistant to the Assistant Secretary of Commerce, Director General of the U.S. and Foreign Commercial Service

Section 213.3315 Department of Labor

LAB 55 Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 93 Special Assistant for Scheduling to the Chief of Staff
LAB 94 Special Assistant to the Director of Scheduling
LAB 150 Staff Assistant to the Secretary of Labor
LAB 160 Director of Scheduling and Advance to the Secretary of Labor
LAB 170 Confidential Assistant to the Executive Secretariat

LAB 174 Staff Assistant to the Secretary of Labor
LAB 177 Special Assistant to the Director of Faith Based and Community Initiatives
LAB 182 Special Assistant to the Deputy Secretary of Labor
LAB 205 Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 211 Staff Assistant to the Executive Secretary
LAB 218 Staff Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs
LAB 222 Staff Assistant to the White House Liaison
LAB 230 Special Assistant to the Secretary of Labor
LAB 231 Staff Assistant to the Chief of Staff
LAB 239 White House Liaison to the Secretary of Labor
LAB 241 Special Assistant to the Assistant Secretary for Public Affairs
LAB 247 Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
LAB 248 Special Assistant to the Director of Scheduling and Advance
LAB 252 Speech Writer to the Assistant Secretary for Public Affairs
LAB 253 Deputy Chief of Staff to the Chief of Staff
LAB 260 Special Assistant to the Director of Scheduling and Advance

Section 213.3316 Department of Health and Human Services

HHS 315 Special Assistant to the Director, Office of Intergovernmental Affairs
HHS 320 Special Assistant to the Assistant Secretary for Planning and Education
HHS 419 Special Assistant to the Secretary of Health and Human Services
HHS 527 Confidential Assistant (Scheduling) to the Director of Scheduling
HHS 534 Confidential Assistant to the Executive Secretary
HHS 632 Special Outreach Coordinator to the Deputy Assistant Secretary for Public Affair (Policy and Strategy)

Section 213.3317 Department of Education

EDU 1 Confidential Assistant to the Chief of Staff
EDU 2 Deputy Assistant Secretary to the Assistant Secretary, Office of Legislation and Congressional Affairs
EDU 3 Special Assistant (White House Liaison) to the Chief of Staff
EDU 4 Confidential Assistant to the Special Assistant (White House Liaison)
EDU 5 Special Assistant to the Chief of Staff
EDU 6 Confidential Assistant to the Chief of Staff
EDU 7 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 9 Confidential Assistant to the Director, Office of Public Affairs
EDU 10 Staff Assistant to the Director, Office of Public Affairs
EDU 11 Steward to the Chief of Staff
EDU 12 Confidential Assistant to the Director, Scheduling and Briefing Staff
EDU 14 Special Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs
EDU 15 Confidential Assistant to the Director, Office of Public Affairs
EDU 16 Confidential Assistant to the Chief of Staff

Section 213.3318 Environmental Protection Agency

EPA 5 Director, Office of Communications to the Associate Administrator for Communications, Education and Media Relations
EPA 10 Special Assistant to the Associate Administrator for Communications, Education and Media Relations
EPA 14 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Relations
EPA 18 Special Assistant to the Administrator
EPA 19 Special Assistant to the Administrator

Section 213.3323 Federal Communications Commission

FCC 1 Chief, Consumer Information Bureau to the Chairman, Federal Communications Commission

Section 213.3325 United States Tax Court

TCOUS 42 Secretary and Confidential Assistant to a Judge
TCOUS 43 Secretary and Confidential Assistant to a Judge
TCOUS 44 Secretary and Confidential Assistant to a Judge
TCOUS 45 Secretary and Confidential Assistant to a Judge
TCOUS 46 Secretary and Confidential Assistant to a Judge
TCOUS 47 Secretary and Confidential Assistant to a Judge
TCOUS 49 Secretary and Confidential Assistant to a Judge
TCOUS 50 Secretary and Confidential Assistant to a Judge
TCOUS 51 Secretary and Confidential Assistant to a Judge
TCOUS 52 Secretary and Confidential Assistant to a Judge
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TCOUS 64 Secretary and Confidential Assistant to a Judge
TCOUS 65 Secretary and Confidential Assistant to a Judge
TCOUS 66 Trial Clerk to a Judge
TCOUS 67 Trial Clerk to a Judge
TCOUS 69 Trial Clerk to a Judge
TCOUS 71 Trial Clerk to a Judge
TCOUS 72 Trial Clerk to a Judge
TCOUS 73 Trial Clerk to a Judge
TCOUS 74 Trial Clerk to a Judge
TCOUS 75 Trial Clerk to a Judge
TCOUS 78 Trial Clerk to a Judge
TCOUS 79 Trial Clerk to a Judge
TCOUS 82 Secretary and Confidential Assistant to a Judge

Section 213.3327 Department of Veterans Affairs

VA 5 Special Assistant to the Secretary of Veterans Affairs
VA 8 Special Assistant to the Dean, Veterans Affairs Learning University
VA 106 Special Assistant to the Assistant Secretary for Congressional and Legislative Affairs

Section 213.3328 Broadcasting Board of Governors

BBG 1 Staff Director to the Chairman, Advisory Board for Cuba Broadcasting
BBG 3 Confidential Assistant to the Director, Office of Cuba Broadcasting
BBG 4 Public Affairs Officer to the Director, Voice of America
BBG 7 Confidential Assistant to the Director, Voice of America

Section 213.3330 Securities and Exchange Commission

SEC 2 Confidential Assistant to a Commissioner

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SEC 3 Confidential Assistant to a Commissioner
SEC 4 Confidential Assistant to the Chief of Staff
SEC 5 Confidential Assistant to a Commissioner
SEC 8 Secretary (OA) to the Chief Accountant
SEC 9 Secretary to the General Counsel
SEC 11 Confidential Assistant to the Chairman
SEC 14 Secretary to the Director, Market Regulation
SEC 16 Secretary to the Director of Enforcement Division
SEC 18 Secretary to the Director, Division of Investment Management
SEC 19 Secretary to the Director, Corporation Finance
SEC 28 Confidential Assistant to the Chairman of the Securities and Exchange Commission
SEC 29 Secretary to the Deputy Director of Market Regulation
SEC 31 Special Assistant to the Director, Office of Investor Education and Assistance

Section 213.3331 Department of Energy

DOE 87 Staff Assistant to the Secretary of Energy
DOE 95 Staff Assistant to the Director, Office of Scheduling and Advance
DOE 102 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 103 Special Assistant to the Director, Civilian Radioactive Waste Management
DOE 104 Special Assistant to the Director, Office of Public Affairs
DOE 106 Special Assistant to the Director, Office of Scheduling and Advance
DOE 107 Special Assistant to the General Counsel
DOE 108 Special Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs
DOE 109 Special Assistant to the Director, Office of Scheduling and Advance
DOE 110 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 111 Deputy Director, Scheduling and Advance to the Director, Office of Management and Administration
DOE 112 Special Assistant to the Deputy Assistant Secretary for Intergovernmental and External Affairs
DOE 114 Special Assistant to the Director, Office of Public Affairs
DOE 115 Special Advisor to the Chief of Staff
DOE 116 Special Assistant to the Administrator, Energy Information Administration
DOE 171 Special Assistant to the Director, Office of Worker and Community Transition
DOE 172 Special Assistant to the Assistant Secretary for Environment, Safety and Health
DOE 175 Senior Advisor to the Secretary of Energy
DOE 178 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DOE 179 Special Assistant to the Director of Scheduling and Advance
DOE 180 Deputy Director, Public Affairs to the Director, Office of Public Affairs

Federal Energy Regulatory Commission

FERC 2 Confidential Assistant to a Member
FERC 3 Confidential Assistant to a Member
FERC 13 Technical Advisor to a Member

Section 213.3333 Federal Deposit Insurance Corporation

FDIC 11 Secretary to the Chairman
FDIC 17 Special Assistant to the Deputy to the Chairman

Section 213.3334 Federal Trade Commission

FTC 1 Director, Office of Public Affairs to the Chairman
FTC 3 Secretary to the Director, Bureau of Competition
FTC 14 Congressional Liaison Specialist to the Director of Congressional Relations
FTC 23 Special Assistant to a Commissioner
FTC 26 Confidential Assistant to a Commissioner
FTC 27 Confidential Assistant to a Commissioner

Section 213.3337 General Services Administration

GSA 44 Senior Policy Advisor to the Administrator
GSA 94 Congressional Relations Officer to the Associate Administrator for Congressional and Intergovernmental Affairs

Section 213.3339 U.S. International Trade Commission

ITC 5 Executive Assistant to a Commissioner
ITC 6 Staff Assistant (Economics) to a Commissioner
ITC 15 Executive Assistant to a Commissioner
ITC 18 Staff Assistant (Legal) to a Commissioner
ITC 19 Staff Economist to a Commissioner
ITC 22 Staff Assistant to a Commissioner
ITC 25 Staff Assistant (Economics) to the Chairman
ITC 30 Confidential Assistant to a Commissioner
ITC 31 Executive Assistant to a Commissioner
ITC 36 Executive Assistant to a Commissioner

Section 213.3340 National Archives and Records Administration

NARA 3 Presidential Diarist to the Archivist of the United States

Section 213.3342 Export-Import Bank of the United States

EXIM 30 Administrative Assistant to the Director
EXIM 44 Personal and Confidential Assistant to the First Vice President and Vice Chairman
EXIM 45 Administrative Assistant to a Member, Bank Board of Directors
EXIM 46 Special Assistant to the First Vice President and Vice Chairman
EXIM 50 Special Assistant to the President and Chairman
EXIM 53 Special Assistant to the President and Chairman
EXIM 57 Special Assistant to the President and Chairman

Section 213.3343 Farm Credit Administration

FCA 4 Secretary to the Chairman and CEO
FCA 12 Congressional and Public Affairs Specialist to the Director, Office of Congressional and Public Affairs
FCA 13 Executive Assistant to a Board Member
FCA 15 Public Affairs Specialist to the Director, Office of Congressional and Public Affairs
FCA 16 Executive Assistant to the Chairman

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 2 Confidential Assistant to the Chairman
OSHRC 3 Confidential Assistant to a Member

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 17 Confidential Assistant to the Chairman
FM 26 Attorney-Advisor (General) to the Chairman
FM 29 Attorney-Advisor to a Commissioner
FM 30 Confidential Assistant to a Commissioner

Section 213.3356 Commission on Civil Rights

CCR 10 Special Assistant to the Staff Director
CCR 11 Special Assistant to a Commissioner
CCR 12 Special Assistant to a Commissioner
CCR 13 Special Assistant to a Commissioner
CCR 23 Special Assistant to a Commissioner
CCR 28 Assistant to a Commissioner
CCR 30 Special Assistant to a Commissioner
CCR 33 Special Assistant to a Commissioner

Section 213.3357 National Credit Union Administration

NCUA 21 Confidential Assistant to a Board Member
NCUA 26 Special Assistant to the Chairman

Section 213.3360 Consumer Product Safety Commission

CPSC 49 Special Assistant to a Commissioner
CPSC 50 Staff Assistant to a Commissioner
CPSC 53 Special Assistant to the Chairman
CPSC 55 Executive Assistant to the Chairman
CPSC 60 Special Assistant to the Chairman
CPSC 61 Staff Assistant to a Commissioner
CPSC 62 Special Assistant to a Commissioner
CPSC 63 Special Assistant to a Commissioner
CPSC 64 Special Assistant (Legal) to a Commissioner
CPSC 66 Supervisory Public Affairs Specialist to the Executive Director

Section 213.3365 U.S. Chemical Safety and Hazard Investigation Board

CSHIB 1 Special Assistant to a Board Member

Section 213.3367 Federal Maritime Commission

FMC 42 Counsel to a Commissioner
FMC 43 Counsel to a Commissioner
FMC 44 Special Assistant to a Commissioner
FMC 45 Counsel to a Commissioner

Section 213.3376 Appalachian Regional Commission

ARC 12 Senior Policy Advisor to the Federal Co-Chairman
ARC 13 Policy Advisor to the Federal Co-Chairman

Section 213.3377 Equal Employment Opportunity Commission

EEOC 2 Special Assistant to the Chairwoman
EEOC 10 Attorney-Advisor (Civil Rights) to the Chairwoman
EEOC 13 Assistant to the Chairwoman
EEOC 32 Senior Advisor to a Commissioner

Section 213.3379 Commodity Futures Trading Commission

CFTC 1 Administrative Assistant to the Chairman
CFTC 3 Administrative Assistant to a Commissioner
CFTC 5 Administrative Assistant to a Commissioner
CFTC 12 Special Assistant to a Commissioner
CFTC 31 Special Assistant to a Commissioner
CFTC 32 Special Assistant to a Commissioner

Section 213.3382 National Foundation on the Arts and Humanities

National Endowment for the Arts

NEA 79 Staff Assistant to the Chairman
NEA 80 Special Assistant to the Director, Office of Congressional and White House Liaison

National Endowment for the Humanities

NEH 72 Enterprise/Development Officer to the Chief of Staff
NEH 73 Director, Office of Public Affairs to the Chief of Staff

Section 213.3384 Department of Housing and Urban Development

HUD 2 Deputy Chief of Staff for Policy and Programs to the Chief of Staff
HUD 3 Deputy Chief of Staff for Operations and Intergovernmental Relations to the Chief of Staff
HUD 429 Staff Assistant to the Assistant Secretary for Public Affairs
HUD 436 Advance Coordinator to the Director of Executive Scheduling
HUD 555 Staff Assistant to the Assistant Secretary for Administration
HUD 558 Special Assistant to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations

Section 213.3389 National Mediation Board

NMB 53 Confidential Assistant to a Board Member
NMB 54 Confidential Assistant to a Board Member
NMB 56 Confidential Assistant to the Chairman

Section 213.3394 Department of Transportation

DOT 20 Congressional Liaison Officer to the Director, Office of Congressional Affairs
DOT 54 Congressional Liaison Officer to the Director, Office of Congressional Affairs
DOT 151 Special Assistant to the Secretary
DOT 324 Director for Scheduling and Advance to the Chief of Staff
DOT 358 Special Assistant for Scheduling and Advance to the Secretary

Section 213.3396 National Transportation Safety Board

NTSB 32 Special Assistant to a Member
NTSB 102 Special Assistant to a Member

Section 213.3397 Federal Housing Finance Board

FHFB 2 Special Assistant to the Chairman
FHFB 6 Counselor to the Chairman

Senior Pay Level Positions (Above GS–15)

Section 213.3333 Federal Deposit Insurance Corporation

Chief of Staff to the Chairman
General Counsel to the Chairman
Deputy to the Chairman
Special Assistant to a Member of the Board

Section 213.3343 Farm Credit Administration

Executive Assistant to the Chairman
Executive Assistant to a Member
Executive Assistant to a Member
Director, Congressional and Public Affairs to the Chairman
Chief Operating Officer to the Chairman
Director, Office of Policy and Analysis to the Chief Operating Officer

Section 213.3353 Merit Systems Protection Board

Attorney Advisor (General) to a Board Member

Section 213.3357 National Credit Union Administration

Executive Assistant to a Member

Section 213.3390 Export-Import Bank of the United States

Vice President—Office of Communications to the President and Chairman
Special Counselor to the President and Chairman

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General Counsel to the President and Chairman

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–24076 Filed 9–25–01; 8:45 am]

BILLING CODE 6325–38–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00742; FRL–6805–5]

Ethion; Receipt of Request for Registration Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by Cheminova AGRO A/S, FMC Corporation and Micro-Flo Corporation to cancel the registrations for all of their products containing O,O,O,O-tetaethyl S,S-methylene bis(phosphorodithioate) (ethion). EPA will decide whether to approve the request after consideration of public comment.

DATES: Comments on the requested cancellation of product and use registrations must be submitted to the address provided below by October 26, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Dumas, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460: telephone number: (703) 308–8015: fax number: (703) 308–8041; e-mail address: dumas.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00742. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00742 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00742. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking

This notice announces receipt by EPA of requests from Cheminova A/S, FMC Corporation, and Micro-Flo Corporation to cancel five pesticide products registered under section 3 of FIFRA. These registrations are listed in Table 1.

A. Background Information

Ethion is an organophosphate insecticide registered for use on citrus in Florida and Texas, and cattle in eartags.

On August 24, August 29, and August 31, 2001, Micro-Flo Corporation, FMC Corporation, and Cheminova A/S, respectively, signed a Memorandum of Agreement with EPA requesting voluntary cancellation pursuant of 6(f) of FIFRA of all their registrations for products containing ethion. The effective cancellation dates are intended to be no earlier than October 1, 2003, for manufacturing use products and December 31, 2003, for end-use products.

B. Requests for Voluntary Cancellation

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. The registrant has requested that EPA waive the 180–day comment period. EPA is granting the registrants' request to waive the 180–day comment period. EPA anticipates granting the cancellation request shortly after considering the comments recieved during the 30–day comment period for this notice. The registrations for which cancellations were requested are identified in Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Company	Registration Number	Product
Cheminova A/S	4787–10	Cheminova Ethion Technical
FMC Corporation	279–2280	Ethion Technical Insecticide
	279–1254	Ethion 4 Miscible
Micro-Flo Corporation	51036–89	Ethion 4 EC
	51036–90	Ethion 8 EC

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA section 6(f)(1) further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**, make reasonable efforts to inform persons who rely on the pesticide for minor agricultural uses, and provide a 30–day period in which the public may comment. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. A withdrawal shall have no effect on any cancellation that has already been ordered; the effective date of such cancellation and all other provisions of any earlier cancellation action shall remain in effect. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The Agency intends to prohibit the sale and distribution of existing stocks of ethion manufacturing products on October 1, 2003, and to prohibit the use of manufacturing use products on December 31, 2003. The Agency intends to prohibit the sale and distribution of end-use product on October 1, 2004, and to prohibit the use of end-use product on December 31, 2004. This is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions will be made if EPA determines that a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

VI. Future Tolerance Revocations

EPA anticipates drafting a future **Federal Register** notice proposing revocation of tolerances on commodities on which there has been no registered uses of ethion. With this present proposal, EPA seeks comment as to whether any individuals or groups want to support continuation of these tolerances.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 17, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–24060 Filed 9–25–01; 8:45 am]

BILLING CODE 6560–50–S

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OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program: Medically Underserved Areas for 2002

AGENCY: Office of Personnel Management.

ACTION: Notice of Medically Underserved Areas for 2002.

SUMMARY: The Office of Personnel Management (OPM) has completed its annual determination of the States that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 2002. This is necessary to comply with a provision of the FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Accordingly, for calendar year 2002, OPM's calculations show that the following states are Medically Underserved Areas under the FEHB Program: Alabama, Georgia, Idaho, Kentucky, Mississippi, Missouri, Montana, New Mexico, North Dakota, South Carolina, South Dakota, Texas, Utah, and Wyoming. We have removed Louisiana from the list for calendar year 2002 and added the states of Georgia, Montana, North Dakota, and Texas.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ingrid Burford, 202–606–0004.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. The FEHB law also requires that a State be designated as a Medically Underserved Area if 25 percent or more of the population lives in an area designated by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area. Such States are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires non-HMO FEHB plans to reimburse beneficiaries, subject to their contract terms, for covered services obtained from any licensed provider in these States.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the States that qualify as Medically Underserved Areas for the next calendar year by comparing the latest HHS State-by-State population counts on primary medical care manpower shortage areas with U.S. Census figures on State resident populations.

Office of Personnel Management.

Kay Cole James,

Director.

[FR Doc. 01–24104 Filed 9–25–01; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 66 FR 48493, September 20, 2001.

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW. Washington, DC.

TIME AND DATE OF PREVIOUSLY ANNOUNCED MEETING: September 21, 2001 at 10 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item has been added to the closed meeting scheduled for Friday, September 21, 2001: regulatory matters regarding financial institutions.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At the times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942—7070.

Dated: September 20, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24051 Filed 9–21–01; 12:14 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: [To be published Monday, September 24, 2001]

Status: Closed Meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Time and Date of Previously, Announced Meeting: September 26, 2001 at 10 a.m.

Change in the Meeting: Time change.

The closed meeting scheduled for Wednesday, September 26, 2001 at 10 a.m. has been changed to Monday, September 24, 2001 at 11:30 a.m.

Dated: September 24, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–24182 Filed 9–24–01; 11:57 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44818; File No. SR–Phlx–2001–81]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Extend a PACE Order Execution and Price Protection Pilot Program

September 19, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 29 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed this proposal under Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend through November 5, 2001 its Philadelphia Stock Exchange Automated Communication and Execution System("PACE")[5] price improvement pilot program ("pilot program"). The pilot program, which is found in Supplementary Material .05 and .07(c)(ii) to Phlx Rule 229, incorporates decimal pricing into two PACE provisions—immediate execution of certain market orders through the Public Order Exposure System ("POES") and mandatory double-up/double-down price protection for equities quoting in decimals. The pilot program has been in effect since August 25, 2000.[6]

The only substantive change the Phlx proposes at this time is to extend the pilot program through November 5, 2001.[7] The text of the proposed rule change is available at the Phlx and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The Phlx requested that the Commission waive the 5-day prefiling notice requirement, and the 30-day operative delay.

[5] PACE is the Exchange's automated order delivery, routing, execution and reporting system for equities.

[6] The pilot program was established in SR–Phlx–00–08. *See* Securities Exchange Act Release No. 43206 (August 25, 2000), 65 FR 35250 (September 1, 2000). The pilot program was extended through August 31, 2001 in SR–Phlx–2001–20). *See* Securities Exchange Act Release No. 41185 (April 16, 2001), 66 FR 20511 (April 23, 2001). The price improvement portion of the pilot program (Supplementary Material .07(c)(i) to Phlx Rule 229) has been replaced by a price improvement pilot program with an automatic price improvement feature based on percentage of the spread between the bid and the offer. *See* Securities Exchange Act Release Nos. 43901 (January 30, 2001), 66 FR 8988 (February 5, 2001) (SR–Phlx–2001–12) and 44672 (August 9 2001), 66 FR 43285 (August 17, 2001) (SR–Phlx–2001–12) and 44672 (August 9, 2001), 66 FR 43285 (August 17, 2001) (SR–Phlx–2001–67). The Phlx is not seeking to extend the pilot program as to Supplementary Material .07(c)(i) to Phlx Rule 229 at this time.

[7] The Phlx recognizes that all equities currently quote in decimals. The Phlx will file a proposed rule change in the future to remove references to fractional pricing from this and other Phlx rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements maybe examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to extend, through November 5, 2001, the Phlx's pilot program that incorporates immediate execution of certain orders and mandatory double-up/double-down price protection for equities quoting in decimals over PACE.

The order execution portion of the pilot program is found in Supplementary Material .05 to Phlx Rule 229, which establishes that market orders up to a specified number of shares will be "stopped" at the PACE quote at time of entry into the system and delayed up to 30 seconds to allow for price improvement. However, if the PACE quote at time of order entry reflects a point spread (the difference between the best bid and offer) of $.05 or less, that order will be executed immediately.

The double-up/double-down price protection portion of the pilot program is found in Supplementary Material .07(c)(ii) to Phlx Rule 229, which establishes that if a specialist chooses not to provide automatic price improvement to all customers and all eligible market orders in an equity quoting in decimals, the specialist must provide manual double-up/double-down price protection in any instance where the bid/ask of the PACE quote is $.05 or greater. Double-up/double-down is defined in Supplementary Material .07(c)(ii) as a trade that would be at least $.10 (up or down) from the last regular way sale on the primary market, or, $.10 from the regular way sale that was the previous intra-day change on the primary market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[8] in general, and in particular, with Section 6(b)(5),[9] in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and protect investors and the public interest by providing for automatic execution of certain market orders and mandatory double-up/double-down price protection for equities quoted in decimals.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement, and accelerate the operative date. The Commission finds good cause to waive the pre-filing notice requirement, and to designate the proposal to be both effective and operative upon filing because such designation is consistent with the protection of investors and the public interest. Waiver of these requirements will allow the pilot program to continue uninterrupted through November 5, 2001. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–Phlx–2001–81, and should be submitted by October 17, 2001.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-24002 Filed 9-25-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44819; File No. SR-PHLX-2001-74]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Phlx By-Law Article XII, Section 12-4 and Article XV, Sections 15-1 and 15-2

September 19, 2001.

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 7, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to: (i) amend Phlx By-Law Article XII, Section 12-4 and Article XV Sections 15-1 and 15-2 to reduce the current 14-day posting period for membership and foreign currency options participation transfers to seven days;[3] (ii) change the notice of posting from the Exchange bulletin board to the Phlx website while retaining publication in the Secretary's Weekly Bulletin; and (iii) allow the Chairman or his designate to reduce the posting period as deemed appropriate upon determination that such action is in the best interests of the Exchange. The following is the text of the proposed rule change. Additions are in italics and deletions are in brackets.

ARTICLE XII

Application

Sec. 12-4 Application

(a) No change.

(b) No change.

(c) No change.

(d) If the admissions Committee votes favorably upon the Candidate, his name shall be posted upon the [bulletin board] *website* of the Exchange for a period of [fourteen] *seven* days and shall also appear in the Secretary's Weekly Bulletin [mailed] to the membership. An objection by a member of the Exchange to the election of a candidate for membership or to the admission of a non-member as a foreign currency options participant shall be in writing addressed to the Admissions Committee[.] *and filed at any time with the Office of the Secretary.*

(e) If during the [fourteen] *seven*-day posting period no objection to the election of the applicant to membership or to the admission of the non-member as a foreign currency options participant has been received, his election to membership or his admission as a foreign currency options participant shall become effective upon the expiration of the posting period and upon his acquisition by transfer of an Exchange membership or of a foreign currency options participation, as the case may be.

(f) No change.

(g) If during the [fourteen] *seven*-day posting period an objection or objections to the election of the applicant to membership or to the applicant's admission as a foreign currency options participant have been received, the Committee shall reconsider its favorable vote on the candidate upon the expiration of such period. If the Committee reaffirms its favorable vote the applicant shall thereupon be elected to membership or be admitted as a foreign currency options participant upon his acquisition by transfer of an Exchange membership or of a foreign currency options participation, as the case may be. If the committee rescinds its favorable vote, changing it to unfavorable, the applicant shall have the rights of notice, hearing and review as provided in subsection (f) of this section. If, after hearing and review, unfavorable action on his application is reversed, his election to membership or his admission as a foreign currency options participant shall become effective in accordance with this subsection (g) and without the requirement of an additional posting period.

(h) No change.

(i) *The Chairman or his designate may in his discretion, reduce any membership and/or participation related notice and/or posting period requirements including, without limitation, any such requirements involving new members or participants and concerning transfers of memberships or foreign currency options participations, as the chairman may deem appropriate if the Chairman or his designate shall determine that such action is in the best interests of the Exchange.*

The Chairman or his designate may condition any reduction of the posting period upon receipt of an indemnification or other form of security which he or his designate deems adequate to protect the interests of the Exchange, members, member organizations, participants, participant organizations, investors and the public interest.

ARTICLE XV

Transfer of Membership

Transfer of Membership—Notice

SEC. 15-1. A transfer of membership shall be made upon submission of the name of the candidate to and the approval of the transfer by the Admissions Committee. Notice of the proposed transfer shall be sent to each member of the Exchange at least [fourteen] *seven* days prior to transfer, which notice shall specify the date on which the proposed transfer will become provisionally effective. The lease of legal title to a membership or reversion thereof shall be deemed to be a transfer of membership under this Article. The transfer of equitable title only shall not be deemed to be a transfer of membership under this Article.

Exceptions to Notice—No change

Transfer of Equitable Title

A transfer of equitable title only to a membership shall be made upon submission of the name of the candidate to the Admissions Committee. A transfer may not be effected pursuant to a lease agreement. Notice of this transfer shall be posted upon the [bulletin board] *website* of the Exchange and shall also appear in the Secretary's Weekly Bulletin mailed to the membership at least [fourteen] *seven* days in advance of the transfer's effective date. Notice of the proposed transfer shall specify the date on which the proposed transfer will become effective.

Lease of Membership—No change

Contracts of Transferor

SEC. 15-2. A member proposing to transfer his membership shall not, after the [fourteenth] *seventh* day of notice of the proposed transfer, make any contracts on the floor of the exchange facility pending the effective date of the proposed transfer unless the contract is expressly made on behalf of another member of the exchange or on behalf of a member firm which will continue to be a member firm notwithstanding the completion of such transfer or unless the member is also a foreign currency options participant and is proposing to transfer only his foreign currency options participation (in which case the member shall be prevented only from making any foreign currency option contracts on the floor of the exchange facility after the [fourteenth] *seventh* day of notice of the proposed transfer unless either of the exceptions set forth above applies).

No contract made by a member proposing to transfer his membership or by his firm after the said [fourteenth] *seventh* day shall if the transfer becomes effective, be the basis of a claim against the proceeds of the transfer thereof under subdivision Third of Section 15-3 of this Article, but may, if the transfer is to another partner in the member firm in which the transferring member is a partner, constitute the basis of a claim under said subdivision Third of Section 15-3, against the proceeds of the subsequent transfer of such membership by the partner to whom it is transferred.

On the [fourteenth] *seventh* day after notice of a proposed transfer of membership has been mailed to the membership, all exchange contracts of the member proposing to make the transfer and of his firm unless such firm will continue to be a member firm notwithstanding the completion of such transfer, shall mature and if not settled shall be closed out as in the case of an insolvency, unless the same are assumed or taken over by another member of this Exchange or member firm; provided, however, that, in the case of a member proposing to transfer only his foreign currency options participation, the provisions of this sentence shall apply only to the foreign currency option contracts of such member and of his firm (and shall not apply even to the latter contracts if such member's firm will continue to be a foreign currency options participant firm notwithstanding the completion of such transfer).

Effect of Involuntary Transfers—No Change

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would reduce the notice and posting period of a pending transfer of a membership or foreign currency options participation from 14 days to seven days.[4] The purpose of the posting period is to provide members with notice of the proposed transfer of the membership or participation. The posting sets forth the name of the applicant, or member, the affiliation with a particular member organization or participant organization, the character of the membership (regular membership or regular membership with options privileges), and the owner of the membership. The purpose of the posting period is to allow for submission of information concerning an applicant's qualification and fitness for membership. It should be noted that the Exchange's Office of the Secretary and Department of Membership Services has not received any submissions from members or others affiliated with member or participant organizations in response to postings over the past several years.

The Exchange is able to process transfers and applications for membership by utilizing modern communications facilities to have its agents conduct background investigation of potential new members, screen the records available from the Central Registration Depository and inquire of other self-regulatory organizations on the status of a candidate for admission while allowing reasonable notice to the membership. The Exchange, once it has received all appropriate application materials, is able to process the applications well before the expiration of the current 14-day posting period. It should also be noted that the vast majority of postings are changes in membership status due to transfer and termination of membership under lease. The present 14-day posting and notice of transfer requires applicants to wait for a period of time following the completion of the processing of their application for their new membership capacity to become effective. With respect to intra firm transfers or transfers due to a new lease arrangement, this delay results in inefficiencies in the conduct of business and inconveniences applicants and their affiliated broker-dealer entities.

The proposed amendment to By-Law Article XII Section 12-4 also provides that the Chairperson or his designate may, in his discretion, reduce any membership and/or participation related notice and/or posting period requirements as deemed appropriate if the Chairman or his designate determines that the reduction is in the best interests of the Exchange. This proposed change is designed to afford the Exchange some flexibility in circumstances where it may be necessary to speed the approval process for an applicant to assume responsibilities as an options specialist for an Exchange member organization when that firm does not have an inactive nominee available to assume such responsibilities and the firm's only qualified person is a member in good standing of another self-regulating organization that has never been a member of the Phlx. In such circumstances a further reduction in the posting period could be called for and implemented without compromising the Exchange's duty to give notice and to protect the interest of the Exchange, members, member organizations, participants, participant organizations, investors, and the public interest.

The notice period also allows for submissions of claims against the transfer under Phlx By-Law Article XV by providing the membership and others with notice of changes in membership status. The Exchange believes that a seven-day notice period is sufficient to provide information to the membership of a pending change in membership or participation status or affiliation with a particular member or participant organization. It should be noted that potential claims against a

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[13] 17 CFR 200.30-3(a)(12)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] As required by Exchange By-Law Article XXII, Section 22-2, the Exchange issued notice of the proposed By-Law amendments to Articles XII and XV to its membership on April 11, 2001 and July 10, 2001, respectively. The Exchange represents that it did not receive a request from 17 or more members for a special meeting of the Exchange to consider the proposed amendment. As a result, the Board approved the proposed amendment to By-Law Article XII on May 16, 2001, and approved the proposed amendment to By-Law Article XV on August 1, 2001. Telephone conversation between Murray L. Ross, Vice President and Secretary, Phlx, Florence Harmon, Senior Special Counsel, Division of Market Regulation ("Division") Commission, and Sonia Patton, Special Counsel, Division, Commission (September 13, 2001).

[4] This would also encompass inactive nominee notices. Telephone conversation between Murray L. Ross, Vice President and Secretary, Phlx, and Sonia Patton, Special Counsel, Division of Market Regulation, Commission, on September 4, 2001.

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particular member or member organization may be asserted even after the posting period has run under By-Law Article XV, Section 15–4. However, it is extraordinarily rare that claims against a membership transfer are submitted to the Exchange, as such matters are usually settled by the parties prior to the effectiveness of a transfer.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5)[6] in particular, because it is designed to perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and to protect investors and the public interest by providing a reduction of the posting period from 14 to seven days while retaining appropriate notice of applicants for membership and participation and transfers of memberships and preserving members' ability to submit information concerning the qualifications and fitness for membership of applicants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should fix six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR–Phlx–2001–74 and should be submitted by October 17, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary,

[FR Doc. 01–24003 Filed 9–25–01; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before November 26, 2001.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., Suite 8300, Washington DC 20416

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, (202) 205–7528 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Settlement Sheet.
Form No: 1050.
Description of Respondents: SBA Borrowers.
Annual Responses: 39,988.
Annual Burden: 19,994.
Title: Lender Transcript of Account.
Form No: 1149.
Description of Respondents: SBA Guaranty Lenders.
Annual Responses: 5,000.
Annual Burden: 5,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–24045 Filed 9–25–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, D.C. 20503.

(SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Modified Benefits Formula Questionnaire, Employer—0960–0477. Form SSA–58 is used by the Social Security Administration (SSA) to verify or disprove a claimant's allegation regarding a pension based on non-covered employment after 1956. It also shows whether that claimant was eligible for the pension before 1986. The respondents are persons who are eligible (after 1985) for both Social Security benefits and a pension from their employer, based on work not covered by SSA.

Number of Respondents: 30,000.
Frequency of Response: 1.
Average Burden Per Response: 20 minutes.
Estimated Annual Burden: 10,000 hours.

2. Application for Survivors Benefits—0960–0062. The information collected on Form SSA–24 is needed to satisfy the "Jointly Prescribed Application" of title 38 USC 5105. The provision requires that survivors who file with SSA or the VA shall be deemed to have filed with both agencies, and that each agency's forms must request information to constitute an application for both SSA and VA benefits. The respondents are survivors of military service veterans filing for Social Security benefits

Number of Respondents: 3,200.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 800 hours.

3. Medical Report (Individual With Childhood Impairment)—0960–0102. The information on Form SSA–3827–BK is needed to determine the claimant's physical and mental status prior to making a childhood disability determination. The respondents are medical sources.

Number of Respondents: 12,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 6,000 hours.

4. Work Activity Report (Self-Employed)—0960–0598. Form SSA–820–F4 is used to determine whether work an individual performs in self-employment is at the substantial gainful activity (SGA) level. An individual's entitlement to benefits ends if he/she demonstrates an ability to perform SGA. The respondents are social security disability beneficiaries and Supplemental Security Income recipients.

Number of Respondents: 100,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 50,000 hours.

5. Agreement to Sell Property—0960–0127. Form SSA–8060–U3 is used by SSA to document and ensure that individuals or couples who are otherwise eligible for Supplemental Security Income (SSI) payments, but who own in excess of the statutory limit, may receive conditional benefit payments if they agree to dispose of the excess resources and repay any overpayments with the proceeds of the disposition. The form is also used to ensure that the individuals understand their obligations under the agreement. The respondents are individuals (or couples) who are receiving (or will receive) conditional SSI payments.

Number of Respondents: 20,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 3,333 hours.

6. Reconsideration Disability Report-0960–0144. SSA uses the information collected on Form SSA–3441 to determine if the claimant's medical or vocational situation changed after the initial disability determination, when the claimant requests a reconsideration of a denied disability claim. The form also elicits additional sources of medical and vocational evidence that were not considered in the initial determination. The respondents are disability beneficiaries who request a reconsideration of their claim.

Number of Respondents: 400,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Average Burden: 200,000 hours.

7. Electronic Benefit Verification Information—0960–0595. SSA provides verification of benefits, when requested, to individuals receiving title II and/or title XVI benefits. In order to provide to the public an easy and convenient means of requesting benefit information, SSA has developed an electronic request form that will allow persons to request the information through the Internet. The information collected on the electronic screens will be used by SSA to process the request for a benefit verification statement. To ensure appropriate confidentiality, the statement will be mailed to the recipient/beneficiary address shown in SSA's records. The respondents are title II and XVI recipients/beneficiaries who request benefit verification information using the Internet.

Number of Respondents: 133,920.
Frequency of Response: 1.
Average Burden Per Response: ½ minute.
Estimated Average Burden: 1,116 hours.

8. Statement by School Official About Student's Attendance; Statement to U.S. Social Security Administration By School Outside the United States About Student's Attendance—0960–0090. The information collected on Forms SSA–1371 and SSA–1371–FC is used by SSA to verify a student's alleged full-time attendance at an educational institution, in order to determine the student's eligibility for Social Security student benefits. The respondents are school officials who provide the information on these forms.

Number of Respondents: 5,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Average Burden: 833 hours.

9. Report of Continuing Disability Interview—0960–0072. SSA periodically reviews the cases of individuals who receive Social Security benefits and Supplemental Security Income (SSI) to determine if disability continues. During a review, SSA uses Form SSA–454–BK to collect information on disability. The information on the form is used to update the record of the disabled individual on recent medical treatment, vocational and educational experiences, work activity, and evaluations of potential for return to work. Based on this information and other evidence, SSA makes a determination on whether disability continues or has ended, and if so, when disability ended. The respondents are individuals who receive Social Security or SSI disability benefits, or their representatives.

Number of Respondents: 852,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 426,000 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Request for Social Security Earnings Information—0960–0525. The Social Security Act provides that a wage earner, or someone authorized by a

wage earner, may request Social Security earnings information from the Social Security Administration, using form SSA–7050. SSA uses the information collected on the form to verify that the requestor is authorized to access the earnings record and to produce the earnings statement. The respondents are wage earners and organizations and legal representatives authorized by the wage earner.

Number of Respondents: 61,494.

Frequency of Response: 1.

Average Burden Per Response: 11 minutes.

Estimated Annual Burden: 11,274 hours.

2. Survey of Adults to Determine Public Understanding of Social Security Programs—0960–0612. As a result of the Government Performance and Results Act (GPRA), SSA must measure its progress in achieving Agency-level goals. One of SSA's strategic goals is to "Strengthen public understanding of Social Security programs." In order to measure its performance in meeting this strategic objective, SSA established the Public Understanding Measurement System (PUMS) which involves surveying the public about their knowledge of Social Security programs. The Gallup Organization has been conducting PUMS surveys, on behalf of SSA, since fiscal year 1999.

For the next series of surveys, SSA has made some modifications to the PUMS survey process to bring it into compliance with its most recent Agency Strategic Plan, *Mastering the Challenge*, and plans to conduct 22,000 surveys beginning this fall as shown below:

- 1,000 national surveys will be used to determine the FY 2001 performance level; *e.g.*, the percent of Americans knowledgeable about Social Security programs.
- 1,050 national surveys will be used to ensure that SSA has equal data for specific demographic groups (African Americans, Hispanic Americans, and Asian Americans) that have been underrepresented in previous national surveys. This data will be used to improve SSA's public education programs directed to these populations.
- 19,950 "area" surveys will provide area managers with statistically valid local GPRA performance data. This data will be used to measure local progress and to improve SSA public education programs in those areas. This will ensure that SSA's resources are used effectively and that it continues to make progress in meeting its strategic objective.

The respondents will be randomly selected adults residing in the United States.

	National surveys	Area surveys
Number of respondents	2,050	19,950.
Frequency of response	1	1.
Average burden per response	10.5 minutes	10.5 minutes.
Estimated annual burden	359 hours	3,491 hours.

Dated: September 20, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–24040 Filed 9–25–01; 8:45 am]

BILLING CODE 4191–02–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

2001–2002 Allocations of the Tariff-Rate Quotas for Raw Cane Sugar, Refined Sugar, and Sugar Containing Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the country-by-country allocations of the in-quota quantity of the tariff-rate quotas for imported raw cane sugar, refined sugar, and sugar containing products for the period that begins October 1, 2001 and ends September 30, 2002.

EFFECTIVE DATE: October 1, 2001.

ADDRESSES: Inquiries may be mailed or delivered to Sharon Sheffield, Director of Agricultural Trade Policy, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Sharon Sheffield, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains tariff-rate quotas for imports of raw cane and refined sugar. Pursuant to additional U.S. Note 8 to chapter 17 of the Harmonized Tariff Schedule, the United States also maintains a tariff-rate quota for certain sugar-containing products.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under paragraph (3) of Presidential Proclamation No. 6763 (60 FR 1007).

The in-quota quantity of the raw cane tariff-rate quota for the period October 1, 2001–September 30, 2002, has been established by the Secretary of Agriculture at 1,254,983 metric tons, raw value (1,383,382 short tons). This quantity includes 1,117,195 metric tons, raw value, the minimum to which the United States is committed under the Uruguay Round Agreement, and 137,788 metric tons, raw value, which is the additional amount that the United States is providing to Mexico under the North American Free Trade Agreement (NAFTA). The quantity of 1,117,195 metric tons, raw value is being allocated to the following countries:

Country	FY 2002 allocation
Argentina	45,281
Australia	87,402
Barbados	7,371
Belize	11,583
Bolivia	8,424
Brazil	152,691
Colombia	25,273
Congo	7,258
Cote d'Ivoire	7,258
Costa Rica	15,796
Dominican Republic	185,335
Ecuador	11,583
El Salvador	27,379
Fiji	9,477
Gabon	7,258
Guatemala	50,546
Guyana	12,636
Haiti	7,258
Honduras	10,530
India	8,424
Jamaica	11,583
Madagascar	7,258
Malawi	10,530
Mauritius	12,636
Mexico	7,258
Mozambique	13,690
Nicaragua	22,114
Panama	30,538
Papua New Guinea	7,258
Paraguay	7,258
Peru	43,175
Philippines	142,160
South Africa	24,220
St. Kitts & Nevis	7,258
Swaziland	16,849
Taiwan	12,636
Thailand	14,743
Trinidad-Tobago	7,371
Uruguay	7,258
Zimbabwe	12,636

These allocations are based on the countries' historical trade to the United States. The allocations of the raw sugar tariff-rate quota to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin.

This allocation includes the following minimum quota-holding countries: Congo, Cote d'Ivoire, Gabon, Haiti, Madagascar, Papua New Guinea, Paraguay, St. Kitts & Nevis, and Uruguay.

The in-quota quantity of the tariff-rate quota for refined sugar for the period October 1, 2001–September 30, 2002, has been established by the Secretary of Agriculture at 171,788 metric tons, raw value (189,364 short tons), of which the Secretary has reserved 13,656 metric tons (15,053 short tons) for specialty sugars. Of the quantity not reserved for specialty sugars, a total of 10,300 metric tons (11,354 short tons) is being allocated to Canada and 2,954 metric tons (3,256 short tons) is being allocated to Mexico. An additional 137,788 metric tons of this quantity is being allocated to Mexico to fulfill obligations pursuant to the NAFTA. This allocation is subject to NAFTA rules of origin and to the condition that the total imports of raw and refined sugar from Mexico, combined, may not exceed 137,788 metric tons raw value. The remaining 7,090 metric tons (7,815 short tons) of the in-quota quantity not reserved for specialty sugars may be supplied by any country on a first-come, first-served basis, subject to any other provision of law. The 13,656 metric tons (15,053 short tons) reserved for specialty sugars is also not being allocated among supplying countries and is available on a first-come, first-served basis, subject to any other provision of law.

With respect to the tariff-rate quota for certain sugar-containing products maintained pursuant to additional U.S. Note 8 to Chapter 17 of the Harmonized Tariff Schedule, 59,250 metric tons (65,312 short tons) of sugar containing products is being allocated to Canada. The remaining in-quota quantity for this tariff-rate quota is available to other countries on a first-come, first-served basis. Conversion factor: 1 metric ton = 1.10231125 short tons.

Allen F. Johnson,

Chief Agriculture Negotiator.

[FR Doc. 01–24113 Filed 9–25–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–1995–246]

North American Free Trade Agreement Conference

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice announces postponement of the North American Free Trade Agreement (NAFTA) information conference, which was to have taken place at the Hyatt Hotel in San Antonio, Texas, October 21–24, 2001.

Background: In anticipation of the United States moving forward with implementation of the land transportation provisions of the NAFTA, the Department of Transportation (DOT), in cooperation with Canada, Mexico, other federal agencies, and state and provincial representatives, announced a NAFTA information conference that would take place in San Antonio, Texas, October 21–24, 2001 to promote an understanding of the requirements for legal cross-border transport operations among the three NAFTA countries. The conference was announced in the **Federal Register** on July 13, 2001 (Vol. 66, No. 135; p. 36819).

Postponement: Due to the unforeseen events of September 11, 2001, the conference is postponed. A new date will be announced by DOT in the near future. More information can be obtained at the DOT website, which is located at *www.dot.gov/NAFTA*. Anyone who has registered for the conference may either receive a full refund of the registration fee or they may take no action and will be considered as registered for the conference at its future date. Those wishing to request a refund should contact the Free Trade Alliance San Antonio at 203 South St. Mary's Street, Suite 130, San Antonio, Texas 78205; by telephone at 210–229–9036, or by fax at 210–229–9724. To cancel reservations at the Hyatt Hotel, 123 Lasoya Street, San Antonio, Texas 78205, please telephone 210–222–1234 or send faxes to 210–227–4927. Those electing to remain registered for the conference will be contacted individually when a new date has been chosen. Additional information can be found on the Free Trade Alliance website at www.freetradealliance.org.

Address and Phone Numbers: For further information please contact Eddie Carazo, U.S. Department of Transportation, OST/X–20, Room 10300, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–2892, or fax (202) 366–7417.

Dated: September 19, 2001.

Bernestine Allen,

Director, Office of International, Transportation and Trade.

[FR Doc. 01–23989 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–9939]

Information Collections Under Review by the Office of Management and Budget (OMB): 2115–0637, 2115–0054, and 2115–0585

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded the three Information Collection Reports (ICRs) abstracted below to OMB for review and comment. Our ICRs describe the information we seek to collect from the public. Review and comment by OMB ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before October 26, 2001.

ADDRESSES: Please send comments to (1) the Docket Management System (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001; and (2) the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the USCG.

Copies of the complete ICRs are available for inspection and copying in public docket USCG 2001–9939 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–CIM–2), U.S. Coast Guard, room 6106, 2100 Second

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Street SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published [66 FR 34311 (June 27, 2001)] the 60-day notice required by OMB. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the Department's estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Numbers of all ICRs addressed. Comments to DMS must contain the docket number of this request, USCG 2001–9939. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

1. *Title:* Voyage-Planning for Tank-Barge Transits in the Northeast United States.

OMB Control Number: 2115–0637.

Type of Request: Extension of a currently approved collection.

Affected Public: Owners and operators of towing vessels.

Forms: This collection of information does not require the public to fill out Coast Guard forms, but does require the master of a towing vessel to prepare a voyage plan that is necessary for the safe operation of the vessel.

Abstract: The information collected for a voyage plan serves as a preventive measure and assists in ensuring the successful execution and completion of a voyage in the First Coast Guard District. This rule [33 CFR 165.100] applies primarily to towing vessels engaged in towing certain tank barges carrying petroleum oil in bulk as cargo.

Annual Estimated Burden Hours: The estimated burden is 439 hours a year.

2. *Title:* Welding and Hot-Work Permits; Posting of Warning Signs.

OMB Control Number: 2115–0054.

Type of Request: Extension of a currently approved collection.

Affected Public: Owners and operators of certain waterfront facilities and vessels.

Form: CG–4201.

Abstract: The information collected here helps ensure that waterfront facilities and vessels are in compliance with safety standards. A permit must be issued before welding or hot work on certain waterfront facilities; and the posting of warning signs is required on certain facilities.

Annual Estimated Burden Hours: The estimated burden is 226 hours a year.

3. *Title:* Approval of Alterations to Marine Portable Tanks; Approval of Non-Specification Portable Tanks.

OMB Control Number: 2115–0585.

Type of Request: Extension of a currently approved collection.

Affected Public: Owners of marine portable tanks and owners and designers of non-specification portable tanks.

Form: This collection of information does not require the public to fill out Coast Guard forms, but does require owners or manufacturers who want to alter marine portable tanks to request a written approval from the Coast Guard Marine Safety Center.

Abstract: The information helps us evaluate the safety of proposed alterations to marine portable tanks and to designs of such tanks used to transfer hazardous materials during offshore operations, such as those on drilling rigs. Respondents are those who wish to alter existing marine portable tanks or use non-specification portable tanks.

Annual Estimated Burden Hours: The estimated burden is 18 hours a year.

Dated: September 19, 2001.

V.S. Crea,

Director of Information and Technology.

[FR Doc. 01–24109 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Stafford Regional Airport, Stafford, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of proposed release of 6.11 acres of excess land at the Stafford Regional Airport, Stafford, Virginia. There are no impacts to the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. The excess surplus property is located in the approach for Runway 15 and will be used for the construction of the airport access road that will be built and maintained by Stafford County and the Virginia Department of Transportation. Appropriate restrictions will encumber the released property to ensure compatible land use.

DATES: Comments must be received on or before October 26, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William C. Shelly, Coordinator, Stafford Regional Airport Authority, at the following address: Mr. William C. Shelly, Coordinator, Stafford Regional Airport Authority, c/o County of Stafford—Planning Office, Stafford, Virginia 22554–0370.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166; telephone (703) 661–1354, fax (703) 661–1370, email Terry.Page@faa.gov.

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Chantilly, Virginia on September 12, 2001.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 01–24099 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 5, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR §§ 11.85 and 11.91.

Issued in Washington, D.C., on September 21, 2001.

Richard McCurdy,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2000–8185.
Petitioner: US Airways, Inc.
Section of 14 CFR Affected: 14 CFR 121.440.
Description of Relief Sought: To pursuant US Airways to meet the line check requirement of § 121.440 using an alternative line check program.

[FR Doc. 01–24094 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–75]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR §§ 11.85 and 11.91.

Issued in Washington, D.C., on September 21, 2001.

Richard McCurdy,

Acting, Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9928.
Petitioner: EAC Flight Corp.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/Disposition: To permit EAC to operate its Canadair Challenger 600 aircraft without a digital flight data recorder installed on the aircraft.
Denial, 09/14/2001, Exemption No. 7623

Docket No.: FAA–2001–10045.
Petitioner: Mountain Air Cargo, Inc.
Section of 14 CFR Affected: 14 CFR 91.203(a) and (b), 121.153(a)(1), and 135.25(a)(1).
Description of Relief Sought/Disposition: To permit MAC to temporarily operate U.S.-registered aircraft in domestic airline operations under part 121 or part 135 without the airworthiness or registration certificate onboard.
Denial, 09/10/2001, Exemption No. 7620

Docket No.: FAA–2001–9456.
Petitioner: ACM Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(i)(1).
Description of Relief Sought/Disposition: To permit ACM to operate one Dassault Falcon 900C aircraft (Registration No. N901SS, Serial No. 187) and one Dassault Falcon 900EX aircraft (Registration No. N910MW, Serial No. 85) under part 135 without recording the parameters listed in § 135.152(h)(1) through (h)(57) within the ranges, accuracies, resolutions, and recording intervals specified in appendix F to part 135.
Denial, 09/13/2001, Exemption No. 7624

Docket No.: FAA–2001–10264.
Petitioner: Learjet, Inc.
Section of 14 CFR Affected: 14 CFR 145.45(f).
Description of Relief Sought/Disposition: To permit Learjet to place and maintain its inspection procedures manual in a number of fixed locations within its facility and assign copies to key individuals in lieu of giving copies to each of its supervisory and inspection personnel.
Grant, 09/13/2001, Exemption No. 7098A

Docket No.: FAA–2001–10334.
Petitioner: Parker Hannifin Corporation .

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Section of 14 CFR Affected: 14 CFR 43.9(a)(4), 43.11(a)(3), appendix B to part 43, and § 145.57(a).

Description of Relief Sought/ Disposition: To permit Parket to use computer-generated electronic signatures in lieu of physical signatures to satisfy the signature requirements of FAA Form 8130–3, Airworthiness Approval Tag, when the form is used as approval for return to service.

Grant, 09/13/2001, Exemption No. 7096A

Docket No.: FAA–2001–10168.

Petitioner: Tennessee Technical Services, L.L.C.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit TTS to place and maintain its Inspection Procedures Manual (IPM) in a number of fixed locations within its facility and assign IPMs to key individuals rather than giving a copy of its IPM to each of its supervisory and inspection personnel.

Grant, 09/13/2001, Exemption No. 7092A

Docket No.: FAA–2001–10410.

Petitioner: Columbia Helicopters, Inc.

Section of 14 CFR Affected: 914 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit Columbia to make its Inspection Procedures Manual available either electronically or in paper format in fixed locations rather than giving a copy to each of its supervisory and inspection personnel.

Grant, 09/13/2001, Exemption No. 7622

Docket No.: FAA–2001–10162.

Petitioner: Triad International Maintenance Corporation.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit TIMCO to place and maintain its Inspection Procedures Manual (IPM) in technical libraries in its five facility locations and assign copies of the IPM to key individuals rather than giving a copy to each of its supervisory and inspection personnel.

Grant, 09/13/2001, Exemption No. 7621

[FR Doc. 01–24095 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Cancellation of User Input Meeting to the Aviation Weather Technology Transfer (AWTT) Board

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of cancellation of public meeting.

SUMMARY: The FAA had announced that it would hold an informal public meeting to seek aviation weather user input. The meeting was to be held in conjunction with the National Business Aviation Association (NBAA) conference in New Orleans, LA on September 18, 2001. The NBAA convention has been postponed. FAA is also postponing the meeting.

DATES: The meeting was to be held in Room 291 at the Ernest N. Morial Convention Center, 900 Convention Center Blvd., New Orleans, LA 70130 in conjunction with the National Business Aviation Association, Inc. (NBAA) annual convention. Times: 1–5 pm, on September 18, 2001. The meeting is now postponed and will be rescheduled. Notice of the rescheduled meeting will be published in the **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Debi Bacon, Aerospace Weather Policy Division, ARS–100, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number (202) 385–7705; Fax: (202) 385–7701; e-mail: *debi.bacon@faa.gov*. Internet address: *http://www.debi.bacon@faa.gov*.

SUPPLEMENTARY INFORMATION: None.

* * * * *

Issued in Washington, DC on September 19, 2001.

Frances Sherertz,

Deputy Director, Aerospace Weather Policy and Standards Staff.

[FR Doc. 01–24100 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 01–03–C–00–FOD To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Fort Dodge Regional Airport, Fort Dodge, IA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Fort Dodge Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 26, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Rhonda M. Chambers, Director of Aviation, at the following address: Fort Dodge Airport Commission, 1639 Nelson Avenue, Suite 2, Fort Dodge, Iowa 50501.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Fort Dodge Airport Commission, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 901 Locust, Kansas City, MO 64106, (816) 329–2641. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Fort Dodge Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 30, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Fort Dodge Airport Commission was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 4, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: January, 2002.

Proposed charge expiration date: April, 2008.

Total estimated PFC revenue: $284,903.

Brief description of proposed project(s): Construct Taxiways A and C; Land Acquisition and Relocation for the Runway Protection Zone.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Fort Dodge Regional Airport.

Issued in Kansas City, Missouri on August 30, 2001.

George A. Hendon,

Manager, Airports Division Central Region.

[FR Doc. 01–24098 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number PS–ACE100–2001–03]

Proposed Small Airplane Directorate Policy on Static Strength Substantiation of Composite Airplane Structure

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces a Federal Aviation Administration (FAA) proposed policy on static strength substantiation of composite airplane structure and reopens the comment period for the proposed policy. This notice advises the public, especially manufacturers of normal, utility, and acrobatic category airplanes, and commuter category airplanes used in non-scheduled service and their suppliers, that the FAA intends to adopt a new policy concerning static strength substantiation. This notice is necessary to advise the public of this FAA policy and give all interested persons an opportunity to present their views on it.

DATES: Send your comments by October 26, 2001.

DISCUSSION: On July 30, 2001, the Small Airplane Directorate issued a proposed policy statement. A notice concerning the proposed policy was published on August 7, 2001 (66 FR 41303). Unfortunately, the policy did not appear on the web site until September. We are reopening the comment period since the proposed policy statement is now available to the public and all manufacturers for their comments.

ADDRESSES: Copies of the proposed policy statement, PS–ACE100–2001–03, may be requested from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 901 Locust Street, Room 301, Kansas City, MO 64106. The proposed policy statement is also available on the Internet at the following address http://www.faa.gov/programs__rsvp2 /smart/faa__home__page /certification/aircraft/small__airplane__directorate__news _proposed.html. Send all comments on this policy statement to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Lester Cheng, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE–111, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone: (316) 946–4111; fax: 816–329–4090; e-mail: lester.cheng@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite your comments on this policy statement. Send any data or views as you may desire. Identify the Policy Statement Number PS–ACE100–2001–03 on your comments, and send two copies of any printed comments to the above address. The Sma'l Airplane Directorate will consider all communications received on or before the closing date for comments. We may change the proposal contained in this notice because of the comments received.

You may also send comments to the following Internet address: 9-ACE-SSSCAS-Policy@faa.gov. Comments sent by fax or the Internet must contain "Comments to proposed policy statement PS–ACE–100–2001–03" in the subject line. You do not need to send two copies if you fax your comments or send them through the Internet. If you send comments over the Internet as an attached electronic file, format it in either Microsoft Word 97 for Windows or ASCII text. State what specific change you are seeking to the proposed policy memorandum and include justification (for example, reasons or data) for each request.

Issued in Kansas City, Missouri on September 13, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–24096 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number PS–ACE100–2001–02]

Proposed Small Airplane Directorate Policy on Flammability Testing

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces a Federal Aviation Administration (FAA) proposed policy on flammability testing of materials used in small airplanes and reopens the comment period for the proposed policy. This notice advises the public, especially manufacturers of normal, utility, and acrobatic category airplanes, and commuter category airplanes used in non-scheduled service and their suppliers, that the FAA intends to adopt a new policy concerning flammability testing. This notice is necessary to advise the public of this FAA policy and give all interested persons an opportunity to present their views on it.

DATES: Send your comments by October 26, 2001.

DISCUSSION: On August 3, 2001, the Small Airplane Directorate issued a proposed policy statement. A notice was published asking for comments on the policy on August 14, 2001 (66 FR 42703). Unfortunately, the policy did not appear on the web site until September. We are reopening the comment period since the proposed policy statement is now available to the public and all manufacturers for their comments.

ADDRESSES: Copies of the proposed policy statement, PS–ACE100–2001–02, may be requested from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Office, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106. The proposed policy statement is also available on the Internet at the following address: http://www.faa.gov/programs _rsvp2/smart/faa_ home_page/certification/ aircraft/small_airplane _directorate_news_proposed.html. Send all comments on this policy statement to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Leslie B. Taylor, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–

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4134; fax: 816–329–4090; e-mail: leslie.b.taylor@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite your comments on this policy statement. Send any written data, views, or arguments as you may desire. Identify the Policy Statement Number PS–ACE100–2001–02 on your comments, and send two copies of any printed comments to the above address. The Small Airplane Directorate will consider all communications received on or before the closing date for comments. We may change the proposals contained in this notice because of the comments received.

You may also send comments to the following Internet address: 9–ACE–SADPFT–Policy@faa.gov. Comments sent by fax or the Internet must contain "Comments to proposed policy statement PS–ACE–100–2001–02" in the subject line. You do not need to send two copies if you fax your comments or send them through the Internet. Format in either Microsoft Word 97 for Windows or ASCII text any comments sent over the Internet as attached electronic files. State what specific change you are seeking to the proposed policy memorandum and include justification (for example, reasons or data) for each request.

Issued in Kansas City, Missouri on September 13, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–24097 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Highway Administration

Supplemental Draft Environmental Impact Statement on Transportation Improvements in the Primary Transportation Corridor of the City and County of Honolulu, HI

AGENCIES: Federal Transit Administration and Federal Highway Administration, DOT.

ACTION: Notice of intent to prepare a Supplemental Draft Environmental Impact Statement (SDEIS).

SUMMARY: The Federal Transit Administration (FTA) and Federal Highway Administration (FHWA), in cooperation with the City and County of Honolulu Department of Transportation Services (DTS), intend to prepare a supplemental draft environmental impact statement (SDEIS) in accordance with the National Environmental Policy Act (NEPA) for proposed transportation improvements in the Primary Transportation Corridor of the City and County of Honolulu. The SDEIS will address the following proposed changes to the Bus Rapid Transit (BRT) Alternative selected as the Locally Preferred Alternative (LPA) by the Honolulu City Council on November 29, 2000:

- Addition of an In-Town BRT branch to serve Aloha Tower Marketplace and Kakaako Makai
- Realignment of a section of the In-Town BRT alignment from Ward Avenue to Pensacola Street
- Change the location of the H–1 BRT ramp from the Kaonohi Street overpass to a section of the freeway near Aloha Stadium

FOR FURTHER INFORMATION CONTACT: Ms. Donna Turchie, Senior Transportation Representative, Office of Planning and Program Development, Federal Transit Administration, Region IX, (415) 744–3115, Dr. Laura Kong, Environmental Specialist, Federal Highway Administration, Hawaii Division, (808) 541–2700, or Ms. Cheryl D. Soon, Director, Department of Transportation Services, City and County of Honolulu, (808) 523–4125.

SUPPLEMENTARY INFORMATION:

I. Background

The DTS is proposing transportation improvements in Oahu's primary transportation corridor. The primary transportation corridor extends from Kapolei in the Ewa District, past Pearl Harbor, Honolulu International Airport, downtown Honolulu, and continues eastward to the University of Hawaii at Manoa and Waikiki. The proposed action is intended to address existing and future transportation demand and capacity needs, support socioeconomic growth, improve public transit services, facilitate land use development, and support current planning activities and policies.

In August 2000, the Primary Corridor Transportation Project Major Investment Study/Draft Environmental Impact Statement (MIS/DEIS) was distributed for public review and comment. It should be noted that the MIS/DEIS Notice of Intent was published in the April 27, 1999 **Federal Register** and the notice of the availability of the MIS/DEIS for review and comment was published in the September 8, 2000 **Federal Register**.

On November 29, 2000, the Honolulu City Council selected the BRT Alternative as the Locally Preferred Alternative (LPA).

II. Proposed Changes to the LPA

A supplemental DEIS is being prepared because substantial changes have occurred in the proposed action that are relevant to environmental concerns. In response to comments received on the MIS/DEIS and the project subsequent to the selection of the LPA, the DTS proposes to add an In-Town BRT branch to serve Aloha Tower Marketplace and Kakaako Makai, the area makai of Ala Moana Boulevard. The new branch would begin at the Iwilei Transit Center, travel Koko Head onto Iwilei Road, turn Koko Head on to North King Street, and proceed to the Hotel Street Transit Mall. It then proceeds in the makai direction on Bishop Street to Aloha Tower Drive. From Aloha Tower Drive, the branch continues in the Koko Head direction on Ala Moana Boulevard and then turns in the makai direction onto Channel Street. The branch then turns in the Koko Head direction onto Ilalo Street and then turns in the mauka direction onto Ward Avenue and proceeds until Auahi Street. From this point, the branch follows the LPA Kakaako/Waikiki branch routing to its terminus in Waikiki. In the reverse direction the Kakaako Makai branch travels Ewa from Waikiki following the LPA Kakaako/Waikiki branch until Auahi Street at Ward Avenue. From Auahi Street/Ward Avenue, the Kakaako Makai branch travels Ewa in reverse of the Koko Head direction; except that, at the intersection of Bishop Street/Nimitz Highway, the branch turns Koko Head onto Nimitz Highway, then mauka onto Richards Street, and then follows the LPA Kakaako/Waikiki branch to the Iwilei Transit Center, where the new branch ends. If the STREAM technology is selected for the BRT vehicles, a traction power supply station (TPSS) would be required along the Kakaako Makai Alignment. The TPSS is a structure that houses the electrical equipment used to power the STREAM BRT vehicles.

The second change that will be addressed in the SDEIS is the realignment of a short section of the In-Town BRT alignment from Ward Avenue and Kapiolani Boulevard to South King Street and Pensacola Street.

The LPA included an exclusive H–1 Freeway BRT ramp at the Kaonohi Street overpass and a transit center at the former Kamehameha Drive-in Theater. A reversible BRT ramp from the section of the H–1 Freeway near Aloha Stadium is being proposed instead of these two elements.

III. Probable Effects

The proposed changes are likely to have adverse and beneficial impacts on the environment. It is anticipated at this time that the following issues will be of concern:

- Transportation
- Noise and air quality impacts
- Land use
- Archaeological, historic and cultural resources
- Hazardous materials
- Parks and recreation areas
- Coastal zones

The SDEIS is not intended to repeat all the analyses contained in the project's MIS/DEIS. Most analyses would be limited to the immediate study area of the Kakaako Makai branch, Pensacola Street alignment change, and Aloha Stadium ramp. System-level impacts (i.e., impacts of the entire BRT Alternative) would be discussed in the SDEIS, if the proposed changes would alter the results of any analysis provided in the MIS/DEIS.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FTA, FHWA, or the DTS at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 20, 2001.

Leslie T. Rogers,

Regional Administrator.

[FR Doc. 01–24090 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10620]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before November 26, 2001.

Addresses: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Edward Jettner, NHTSA, 400 Seventh Street, SW., Room 5320, NPS–11, Washington, DC 20590. Mr. Jettner's telephone number is (202) 366–4917. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Phase-in Production Reporting Requirements for Advanced Air Bags.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals, households, business, other for-profit, not-for-profit, farms, Federal Government and State, Local or Tribal Government.

OMB Control Number: 2127–0599.

Abstract: 49 U.S.C. 30111,30112, and 30117 authorize the issuance of Federal Motor Vehicle Safety Standards (FMVSS) and the collection of data which support their implementation. Using this authority, the agency issued a modification to FMVSS 208, Occupant Crash Protection, to require advanced air bags in accordance with the Transportation Equity Act of the 21st Century (TEA 21) which was enacted by the United States Congress in 1998.

A two-stage phase-in is included in FMVSS 208 to allow for the introduction of advanced air bags. Manufacturers must equip a certain percentage of their new vehicle fleets with advanced air bags and report their production to NHTSA according to the following schedule, arranged to provide introduction of advanced air bags in two discrete phases:

	Percent
Phase 1 Production Reporting	
First year (model year 2004), beginning September 1, 2003	35
Second year (model year 2005) beginning September 1, 2004	65
Third year (model year 2006) beginning September 1, 2005.	
Phase 2 Production Reporting	100%
First year (model year 2008), beginning September 1, 2007	35
Second year (model year 2009) beginning September 1, 2008	65
Third year (model year 2010) beginning September 1, 2009	100

For each report, the manufacturer will provide, in addition to the identity, addresses, etc., several numerical items of information. The information

includes, but is not limited to, the following items.

Total number of vehicles manufactured for sale during the preceding production year; and

Total number of vehicles manufactured during the production year that are in compliance with the regulatory requirements.

Estimated Annual Burden: 1260 hours.

Number of Respondents: 21.

Issued on: September 20, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–23988 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6583; Notice 3]

Cancellation of Public Workshop

AGENCY: National Highway Traffic Safety Administration.

ACTION: Cancellation of public workshop.

SUMMARY: We are issuing this notice to inform the public of the cancellation of the public workshop for the New Car Assessment Program (NCAP) on Consumer Braking Information. The workshop, scheduled for September 26, 2001, in Washington, DC, will not be held. The agency strongly urges all interested parties to submit written comments to the subject docket by October 15, 2001. These comments, and any data that are submitted, will be used to assist in finalizing plans for a pilot program on brake testing of model year 2003 vehicles.

DATES: We are canceling the public workshop scheduled for September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Woods, Office of Safety Performance Standards, NPS–22, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590. Telephone: (202) 366–6206; Fax: (202) 366–4329, email: *jwoods@nhtsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2001, we published a **Federal Register** Notice (66 FR 37253) requesting comments on our consumer braking information program for light vehicles that are currently subjected to the NCAP program. We also announced a public workshop for September 26, 2001, to discuss technical issues of this program. On September 4, 2001, the agency published a second notice (66 FR 46305), providing more details of the meeting. The purpose of the meeting was to have an open discussion on issues including driver variability, test surface variability, and the consumer information format, prior to the public preparing their formal comments and submitting them to the docket.

A number of people who had planned to attend the meeting have contacted NHTSA to tell us that they cannot travel to Washington at this time. Therefore, NHTSA has decided to cancel the public meeting scheduled for September 26, 2001. We believe we can have an effective public dialogue on this subject using the normal notice and comment procedures.

As stated in our July 17, 2001, Request for Comments notice, the comment period will close on October 15, 2001. We will review all of the comments regarding technical aspects of our draft test protocol and suggestions for methods of reporting braking information to consumers, and consider what additional research or testing may be appropriate in the near term to address any concerns that are raised. We do not have plans to reschedule the public meeting at this time, but will consider the need to do so once we have reviewed the comments that are submitted. We anticipate that future **Federal Register** notices and submissions to the docket will keep the public informed of our progress on this program, such as finalizing the test protocol and the format for such consumer information.

Availability of Relevant Documents

The July 17, 2001, Request for Comments notice for the NCAP Braking program has been placed in the docket. To obtain that notice, you may either visit the docket in Washington, DC, or query the Department of Transportation docket website.

The docket is located at Room PL–401, 400 Seventh Street, SW, Washington, DC. Docket hours are 9 a.m. to 5 p.m., Monday through Friday. The Docket Management System website is *http://dms.dot.gov/.* You should search for Docket No. 6583.

Written Comments

We urge all interested parties to provide written comments on this program, especially those that will help to improve the quality of the program. Please submit them by the comment closing date of October 15, 2001. Comments must refer to the Docket and Notice numbers cited at the beginning of this notice and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, D.C. 20590. The Docket Section is open on weekdays from 9:00 AM to 5:00 PM. Alternatively, you may submit your comments electronically by logging onto the Docket Management System website at *http://dms.dot.gov.* Click on "Help & Information" or "Help/Info" to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number (6583) of this program.

Issued on: September 21, 2001.

Noble N. Bowie,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 01–24101 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–8459; Notice 2]

Continental General Tire, Inc.; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Continental General Tire, Inc., (Continental) has determined that approximately 22,500 P235/75R15 Grabber AT OWL passenger tires supplied to the replacement market do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Continental petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published, with a 30-day comment period, on January 2, 2001 in the **Federal Register** (66 FR 131). NHTSA received one comment on this application, which was submitted by Advocates for Highway and Auto Safety (Advocates).

FMVSS No. 109, paragraph S4.3 (e), requires that each tire shall have permanently molded into or onto both sidewalls the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

According to Continental, the noncompliance with S4.3 (e) relates to the mold numbers 33316 and 33317,

which ran for the production period of March 28, 1999 through August 25, 2000 with an incorrect sidewall stamping. The stamping at the rim line read: Tread 5 plies—2 Steel + 2 Polyester + 1 Nylon. It should have read: Tread 4 Plies—2 Steel + 2 Polyester. Continental stated that the sidewalls of the tires have all the proper markings, except the subject plies, per 49 CFR Section 571.109, and that in all applications the tire service information is correct and no unsafe conditions would be created due to the noncompliance. Continental further stated that the tire label attached to the tread surface provides accurate information concerning tire size and design.

Advocates indicated in its comments (Docket No. NHTSA–8549–2) that events of the past year involving tires and sport utility vehicles point out a need to focus on the quality and quantity of consumer information provided on tires. Advocates stated that Continental did not provide information to substantiate its claim that no unsafe conditions would be created by this noncompliance. According to Advocates, Continental should be required to establish that it has not engaged in marketing tires with more plies in the tread and sidewall as being superior to tires with fewer plies in the tread and sidewall construction. Advocates also suggested that Continental's record of submission of petitions for inconsequential noncompliance with regard to tire labeling issues be reviewed since that company also petitioned the agency in a similar matter several months prior to this petition. Advocates indicated that, in this case, the agency or the petitioner must establish that the tire construction (number of plies in the sidewall and tread and the cord material) information is not of safety-related importance to consumers or that few consumers consider the tire construction information when making a tire purchase.

Actions by the agency since November 2000, in response to Congressional requirements, have addressed most of the concerns raised by Advocates in its docket submission. The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act of November 2000 required, among other things, that the agency initiate rulemaking to improve tire label information. In response to Section 11 of the TREAD Act, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The agency received more than 20 comments addressing the ANPRM, which sought comments on the tire labeling information required by 49 CFR Sections 571.109 and 571.119, Part 567, Part 574, and Part 575. Most of the comments were from motor vehicle and tire manufacturers, although several private citizens and consumer interest organizations responded to the ANPRM. With regard to the tire construction labeling requirements of FMVSS 109, S4.3 (d) and (e), most commenters indicated that the information was of little or no safety value to consumers. However, the tire construction information is valuable to the tire re-treading, repair, and recycling industries, according to several trade groups representing tire manufacturing. The International Tire and Rubber Association, Inc. (ITRA) indicated that the tire construction information is used by tire technicians to determine the steel content of a tire and to select proper retread, repair, and recycling procedures.

To address Advocates' request for tire marketing information, Continental indicated that the company has not promoted tires with the construction characteristics mistakenly molded into the subject tires. According to Continental, the company does not build tires of that construction type for public consumption (Tread: 5 plies—2 plies steel + 2 plies Polyester + 1 ply Nylon). With regard to Advocates' suggestion that Continental's petition record be reviewed, Continental indicated that it petitioned the agency twice in the recent past for a determination of inconsequential noncompliance involving tire construction labeling issues. These include the petition associated with this Notice, dated October 16, 2000, and a petition dated August 15, 2000, which was granted on August 9, 2001 (66 FR 41930).

In addition to the written comments solicited by the tire labeling ANPRM, the agency conducted a series of focus groups, as required by TREAD, to examine consumer perceptions and understanding of tire labeling. It was determined that few of the focus group participants had knowledge of the information molded into the tire sidewall with the exception of the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we concur that it is likely that few consumers are influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when making a motor vehicle or tire purchase decision. However, the tire repair, retread, and recycling industries do use the tire construction information.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair, and recycling industries must also be considered. Although tire construction affects tire strength and durability, neither the agency nor the tire industry provides information relating the strength and durability of a tire to the number and types of plies in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, tread wear, temperature, and traction when assessing performance capabilities of various tires.

In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety. The agency believes the safety of the users of these tires as replacements will not be adversely affected by the noncompliance because most consumers do not base tire purchases or vehicle operation parameters on tire construction information. The agency reached the conclusion that the noncompliance will not have a significant effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries, according to ITRA. In this case, the steel used in the construction of the tires is properly labeled.

In consideration of the foregoing, NHTSA has decided that the burden of persuasion has been met and that the noncompliance is inconsequential to motor vehicle safety. Accordingly, Continental's application is granted and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: September 20, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–24089 Filed 9–25–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6271; Notice 2]

Safeline Corporation; Denial of Applications for Decision of Inconsequential Noncompliance

Safeline Corporation, of Denver, Colorado, has determined that a number of child restraint systems fail to comply with sections of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child Restraint Systems," and has filed appropriate reports pursuant to 49 CFR Part 573, "Defects and Noncompliance Reports." Safeline also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliances are inconsequential to safety.

Safeline has identified two noncompliances, and has filed separate applications for each of these conditions. Notice of receipt of the applications was published on October 7, 1999, in the **Federal Register** (64 FR 54727). We received one comment, from the Center for Auto Safety (CAS), which opposed granting the applications.

Condition No. 1: Omission of Air Bag Warning Label. FMVSS No. 213 has required rear-facing child restraints to be labeled with an air bag warning since August 1994 (59 FR 7643). Beginning on August 15, 1994, S5.5.2(k) of FMVSS No. 213 required all rear-facing child restraint systems to have a label warning the consumer not to place the rear-facing child restraint system in the front seat of a vehicle that has a passenger side air bag, and a statement describing the consequences of not following the warning. These statements were required to be on a red, orange, or yellow contrasting background, and placed on the side of the restraint designed to be adjacent to the front passenger door of a vehicle, visible to a person installing the rear-facing child restraint system in the front passenger seat.

This labeling requirement was revised in 1996 (61 FR 60206) to require an enhanced, larger, and much more prominent warning on a distinct label. In the case of each child restraint system that can be used in a rear-facing position and is manufactured on or after May 27, 1997, S5.5.2(k)(4) of FMVSS No. 213 requires this label to be permanently affixed to the outer surface of the cushion or padding in or adjacent to the area where a child's head would rest, so that the label is plainly visible and readable. The text portion of this label consists of a heading reading "WARNING", with the following messages under that heading:

DO NOT place rear-facing child seat on front seat with air bag.

DEATH OR SERIOUS INJURY can occur.

The back seat is the safest place for children 12 and under.

Opposite the text, the warning label has a pictogram showing an inflating air bag striking a rear-facing child seat, surrounded by a red circle with a slash across it. The label must also conform to size and color requirements specified in S5.5.2(k)(4)(i) through S5.5.2(k)(4)(iii).

Safeline has notified us that between June 14, 1997 and September 15, 1997, it sold between 750 and 900 Sit'n'Stroll Child Restraints, Model 3240, that do not have the revised air bag warning label required by S5.5.2(k)(4) of FMVSS No. 213. The noncompliance occurred because the seat cover assemblies for the affected units were manufactured prior to May 27, 1997, consistent with Safeline's normal production cycle and prior to the effective date of the new requirement. These work in progress seat cover assemblies were then used in final assembly subsequent to May 27, 1997.

Safeline supports its application for inconsequential noncompliance with the following:

> Because of the significant lapse in time since the noncompliance, the products are no longer being used in the rear facing seating configuration. The purpose of the air bag warning statement is to prevent children from being placed rear facing in the front seat of a vehicle equipped with a passenger side air bag. Since it is recommended children remain rear facing for at least 12 months, and it has been 24 months since the products have been sold, it is likely these units are no longer being used in the rear facing position.
>
> Seat cover subassemblies were manufactured prior to May 27, 1997.
>
> Quantity of units not complying with amended rule is small. Between 750 and 900 units were sold that do not comply with the requirements.
>
> Because existing warning statements are found on the labels of the product and in the instruction manual. While Safeline Corporation strongly concurs the new air bag warning statement is an effective enhancement in the proper usage of child restraint systems, the previously existing warnings clearly state the hazards of placing a rear facing child restraint in a seating position with an air bag. Additionally, the exposure provided by the widespread national media campaign has been effective in educating parents of the dangers regarding the placement of rear facing child restraint systems in vehicles with air bags.
>
> The probability of a second hand owner receiving information through a recall notification is unlikely. Thus, the likelihood is small that a second hand owner, using the product in the rear facing position, would actually receive the recall notification.

Discussion

We are denying Safeline's application for the following reasons:

In an issue critical to safety as air bags and infant seating, Safeline's failure to incorporate the air bag warning label required in S5.5.2(k) cannot be deemed as inconsequential to safety. The potential danger of passenger-side air bags and children restrained in rear-facing child restraints placed in the front seat of vehicles has been of utmost concern to the agency. To address this concern, in 1994 we amended both FMVSS No. 213 and FMVSS No. 208 to require manufacturers of child restraints and motor vehicles to warn owners against placing rear-facing child restraints in front seats of vehicles equipped with passenger-side air bags. The requirements addressing warning labels, printed instructions, and information in the vehicle owner's manual pertaining to air bags and child restraints are necessary to maximize the safety of infants and young children traveling in motor vehicles equipped with air bags. Each of these warnings was developed with care to ensure that the specific content and location of the labels and instructions clearly and concisely convey the hazards of placing rear-facing child restraints in air bag-equipped seating positions.[1]

We have also worked closely with both vehicle and child restraint manufacturers and others in the child passenger safety community to reduce the likelihood that a rear-facing infant restraint would be placed in a vehicle seating position that has an air bag. Through media advisories, consumer information fact sheets, and other means, the child passenger safety community has taken measures to educate the public regarding the detrimental effects of an air bag when it strikes the seat back of a rear-facing infant restraint.

Despite these concerted efforts, between 1995 and March 1, 2001, 19 children have been fatally injured in crashes where their rear-facing child restraints were installed in a seating position that was equipped with an air bag that had deployed. We are aware of another eight children who have sustained serious, but nonfatal, injuries. These numbers might have been even higher had an enhanced warning label not been provided We cannot excuse Safeline's acknowledged noncompliance of using seat pads without the required air bag warning label, given the grave potential consequences should a parent, failing to be warned mistakenly place a child in a rear-facing child restraint in a seating position equipped with an air bag that subsequently deploys in a crash.

While Safeline acknowledges that the noncompliance has the potential to reduce the likelihood of a parent correctly installing the product, and concurs that the new air bag warning statement is an effective enhancement in the proper usage of child restraint systems, it contends that "given the small number of units without the airbag warning statement, the redundancy of the warning on the product, the overall nationwide media campaign on child restraint/airbag interaction, and time elapsed since the product was first used by the consumer, this noncompliance does not create a significant risk or any potentially negative consequences to the public." Safeline's contention that the "small number" of noncomplying units supports granting its inconsequentiality petition is without merit. In ruling on inconsequentiality petitions, we consider the potential consequences of the noncompliance, rather than the number of vehicles or items of equipment that are affected. In the case of this noncompliance, the consequence of a parent not knowing of the dangers of placing a rear-facing child restraint at a seating position equipped with an air bag are potentially fatal. Thus, we do not accept the argument that this noncompliance is inconsequential for safety because of the relatively small number of units involved.

In its comments, the Center for Auto Safety (CAS) disagreed with Safeline's claim that "because of the significant lapse in time since the noncompliance, the products are no longer being used in the rear-facing seating configuration." CAS noted that:

> Safeline fails to take into account the fact that several families may have had subsequent births in the past twenty-four months and choose to use the Sit'n'Stroll for these infants. Nor does Safeline consider other real life scenarios, in which infants under the age of twelve months are potentially using the Sit'n'Stroll in its rear-facing configuration. For instance, persons who are child care providers may be using the Sit'n'Stroll to transport multiple infants. Also, several families using the Sit'n'Stroll may have sold the child safety seat or donated it to a state agency or organization for another family to use. Therefore, the fact that twenty-four months have elapsed since the distribution of the nonconforming child seats onto the market is an insignificant fact.

We believe that the points raised by CAS are valid. Accordingly, we are not convinced that Safeline's claim that the nonconforming Sit'n'Strolls "likely * * * are no longer being used in the rear facing position." For the aforementioned reasons, this aspect of the petition is denied.[2]

Condition No. 2: Certification of Child Restraint to 25 Pounds in Rear-Facing Position. S7.1(c) of FMVSS No. 213 states that:

> A child restraint that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 10 kg but not greater than 18 kg, or by children in a specified height range that includes any children whose height is greater than 850 mm but not greater than 1100 mm, is tested with a 9-month-old test dummy conforming to part 572 subpart J, and a 3-year-old test dummy conforming to part 572 subpart C and S7.2, provided, however, that the 9-month-old test dummy is not used to test a booster seat.

Safeline recommends use of its Sit'n'Stroll rear-facing for children weighing up to 25 lbs. In October 1998, we requested that Safeline identify the dummy that was utilized to evaluate the Sit'n'Stroll child restraint, and provide a copy of each test report and any engineering analysis that formed the basis of its certification of the Sit'n'Stroll to the performance requirements of FMVSS No. 213 for recommended usage greater than 22 pounds in the rear-facing seating configuration. In response, Safeline submitted test data from Calspan Corporation (now Veridian Engineering) and the University of Michigan which reflected failures of seat back angle requirements and/or structural integrity requirements in every instance where a 3-year-old dummy was positioned in the rear-facing position. However, passing test results were achieved for these requirements with a 20-pound TNO dummy weighted to 25 pounds and positioned in the rear-facing position. Safeline concluded that the Sit'n'Stroll child restraint model "could safely be used in the rear-facing position at a weight not to exceed 25 pounds."

In June 1999, we notified Safeline that the Sit'n'Stroll child restraint does not appear to meet the applicable requirements of FMVSS No. 213 with the 3-year-old dummy in the rear-facing position. All Sit'n'Stroll child restraints, model 3240, manufactured by Safeline between November 1996 and June 1999 have been recommended for use for up to 25 pounds in the rear-facing position. A total of 21,759 units are affected by this noncompliance.

Safeline supports its application for inconsequential noncompliance with the following:

> The Sit'n'Stroll meets all rear facing testing criteria using a 20-pound TNO dummy weighted to 25 pounds. Our testing has shown that an infant dummy weighted to 25 pounds had minimal additional affects on the seat back rotation angle results relative to the dummy specified in FMVSS No. 213. The maximum seat back rotation angle we have experienced in dynamic testing is significantly less than the allowable 70-degree maximum. These results provided the confidence to previously recommend the usage of the Sit'n'Stroll for children weighing no more than 25 pounds in the rear facing seating position. Safeline Corporation is aware of no incidents, claims, reports, injuries, fatalities or warranty issues of children 22 to 25 pounds being injured or harmed in any way by the extended use of the Sit'n'Stroll.
>
> The large surface area of the base of the Sit'n'Stroll reduces the protrusion of the child restraint into the automobile's seat. The Sit'n'Stroll's unique design—the wide, uninterrupted base surface area—relative to other convertible child restraints, produces seat back rotation angle results well below the maximum allowable criteria by more effectively distributing the dynamic forces.

Discussion

We are denying Safeline's application for the following reasons:

FMVSS No. 213 specifies performance requirements that a child restraint must meet when tested with dummies representing the range of children for which that child restraint is recommended. Under FMVSS No. 213's requirements, child restraints recommended for use by children weighing over 22 lb are tested with a test dummy representing a 3-year-old child. So tested, they must meet all performance requirements of the standard, including limits on how far they allow the rear-facing dummy's head to extend beyond and above the

[1] As noted above, FMVSS No. 213 has required rear-facing child restraints to be labeled with an air bag warning since August 1994 (59 FR 7643). The labeling requirement was revised in 1996 (61 FR 60206) to require an enhanced and much more prominent warning on a distinct label. The noncomplying units have labels that conform to the earlier requirements.

[2] Safeline also suggests that its petition should be granted because "[t]he probability of a second hand owner receiving information through a recall notification is unlikely. Thus, the likelihood is small that a second hand owner, using the product in a rear facing position, would actually receive the recall notification." We reject this argument. The argument implies that even the most egregious noncompliance or defect should be inconsequential if the item of equipment is owned "second hand." Such an argument has no merit and has no bearing on whether a noncompliance is inconsequential to safety. Further, Safeline can make careful effort to ensure that as many owners as possible receive notice of a recall. Safeline would be required to directly notify Sit'n'Stroll owners of the recall (even second hand owners) who have registered themselves with Safeline pursuant to the owner registration program which FMVSS No. 213 requires manufacturers to implement.

top of the child restraint in a 30-mph dynamic test. (This document refers to these limits as the head excursion limits.) The head excursion limits are set forth in S5.1.3.2 of FMVSS No. 213, as follows:

S5.1.3.2. Rear-facing child restraint systems. In the case of each rear-facing child restraint system, all portions of the test dummy's torso shall be retained within the system and neither of the target points on either side of the dummy's head and on the transverse axis passing through the center of mass of the dummy's head and perpendicular to the head's midsagittal plane, shall pass through the transverse orthogonal planes whose intersection contains the forward-most and top-most points on the child restraint system surfaces.

The standard permits manufacturers to recommend rear-facing child restraints for children weighing more than 10 kg (22 lb). However, in making its certification of compliance with the standard, a manufacturer must ensure that the restraint meets the requirements of FMVSS No. 213 when tested with the appropriate test dummy (i.e., in the case at hand, the 3-year-old dummy). The test procedure incorporating the dummy has been determined to be a reliable and repeatable method for objectively determining a system's performance in an actual crash. The test procedure meets the need for motor vehicle safety by ensuring that rear-facing child restraints are able to maintain structural integrity when restraining heavy infants and safely limit head excursion of the children in a crash.[3]

Safeline knew that its product had to meet FMVSS No. 213 when tested with the 3-year-old dummy. On August 18, 1992, in response to a letter from Safeline, the agency sent the manufacturer an interpretation of FMVSS No. 213 affirming that the 3-year-old test dummy must be used to test Safeline's rear-facing restraints. Other agency interpretation letters and **Federal Register** rulemaking documents issued before and after the August 1992 letter have also affirmed use of the 3-year-old test dummy to test child restraints designed for children weighing more than 22 lb (*e.g.*, April 22, 1992 letter to Century Products Company; April 29, 1999 denial of petition for rulemaking from SafetyBelt Safe USA (64 FR 23037)). NHTSA's 1992 letter to Safeline called Safeline's attention to the possibility that the restraint's seat back might be too low to enable the restraint to meet the head excursion limit when dynamically tested rear-facing with the 3-year-old dummy, and suggested that Safeline consider raising the height of the seat back to avoid any potential compliance problem with the excursion limit. Safeline's decision to forego testing with the 3-year-old dummy following our letter and the test failures led to its noncompliance.

As noted above, in October 1998 we requested that Safeline identify the dummy that was utilized to evaluate the Sit'n'Stroll child restraint and provide a copy of each test report and any engineering analysis that formed the basis of Safeline's certification of the Sit'n'Stroll for recommended usage greater than 22 pounds in the rear-facing configuration. Safeline provided copies of five test reports that documented a series of 12 tests performed at the Calspan Corporation and at the University of Michigan. During these tests, the Sit'n'Stroll was tested seven times in the rear-facing configuration with the 3-year-old dummy conforming to part 572 subpart C as prescribed in FMVSS No. 213. In each instance, there was a structural failure of the lap belt anchor tabs on the child restraint. Because the vehicle lap belt disengaged from the anchor tabs, there was excessive seat back rotation during the dynamic test. These results would have clearly constituted failure of the Sit'n'Stroll to meet the performance criteria of FMVSS No. 213 if they had been conducted as compliance tests.[4]

Given that meeting FMVSS No. 213 is based upon testing conducted with a 3-year-old dummy for child restraints recommended for use by children weighing more than 22 pounds but less than 40 pounds, and that Safeline provided test results showing that the Sit'n'Stroll failed to meet the performance requirements of FMVSS No. 213 in each of seven tests conducted with the Sit'n'Stroll positioned rear-facing, Safeline had a compelling basis upon which to decide that there was a noncompliance and to file a Part 573 report. There are unknown safety consequences at this time in using a weighted 20-pound test dummy to determine the suitability of a restraint for infants weighing up to 25 pounds. The consequences, should the Sit'n'Stroll fail structurally resulting in excessive seat back rotation as was shown in Safeline's own testing, are potentially serious. The noncompliance engenders concern as to whether the Sit'n'Stroll can maintain structural integrity or adequately limit the head excursion of children weighing up to 25 lb or otherwise protect them. For the aforementioned reasons, we cannot find the noncompliance to be inconsequential to safety.

In consideration of the foregoing, we have decided that the applicant has not met its burden of persuasion that the noncompliances it describes are inconsequential to safety. Accordingly, its applications are hereby denied. Further, Safeline must now fulfill its obligation to notify and remedy under 49 U.S.C. 30118(d) and 30120(h).

Authority: 49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8

Issued on: September 20, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–24088 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–59–P

[3] There are a number of rear-facing restraints on the market today that are recommended for children weighing 25 lb, and sometimes up to 30 lb. The 3-year-old dummy is used to test these restraints.

[4] The Sit'n'Stroll was tested only three times with a 9-month-old dummy weighted to 25–28 pounds (the 9-month-old dummy typically weighs 20 pounds), twice in the rear-facing configuration and once in the forward-facing configuration. In each of these three tests, the restraint performed acceptably when evaluated in accordance with the procedures of FMVSS No. 213.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Cooperative Agreement DTRS656–00–H–0004]

Quarterly Performance Review Meeting on The Cooperative Agreement "Better Understanding of Mechanical Damage in Pipelines"

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting cancellation.

As a result of the tragic events of last week, the uncertainty of air travel, and the travel restrictions many companies have placed on their employees, the quarterly performance review meeting to report on progress with research titled "Better Understanding of Mechanical Damage in Pipelines," scheduled for September 27, 2001, is canceled. This work is being managed by the Gas Research Institute (GTI) and performed by Battelle Memorial Institute along with the Southwest Research Institute. The meeting was previously announced in the **Federal Register** (66 FR 39392; July 30, 2001) and was to be held at the Sheraton Buckhead Hotel, 3405 Lenox Road, NE., Atlanta, GA beginning at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Agreement Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: *lloyd.ulrich@rspa.dot.gov*. You may also contact Dr. Keith Leewis, GTI, telephone: (847) 768–0890, e-mail: keith.leewis@gastechnology.org.

Issued in Washington, DC on September 19, 2001.

Jeffrey D. Wiese,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 01–24087 Filed 9–25–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0032]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to ensure loans that were closed on prior approval and automatic basis are in compliance with the law.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 26, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov*. Please refer to "OMB Control No. 2900–0032" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 350€(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report and Certification of Loan Disbursement, VA Form 26–1820.

OMB Control Number: 2900–0032.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1820 is completed by lenders closing VA guaranteed and insured loans under the automatic or prior approval procedures. Lenders are required to submit with the form, a copy of the loan application (showing income, assets, and obligations) which the lender requires the borrower to execute when applying for the loan; original employment and income verifications obtained from the borrower's place of employment; original verification of assets; and original credit report.

Affected Public: Individuals or households.

Estimated Annual Burden: 50,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 200,000.

Dated: September 11, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–24072 Filed 9–25–01; 8:45 am]

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Federal Register

Wednesday,
September 26, 2001

Part II

Department of Health and Human Services

42 CFR Part 124
Compliance Alternatives for Provision of Uncompensated Services; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 124

RIN 0906–AA52

Compliance Alternatives for Provision of Uncompensated Services

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: The rules below revise a compliance alternative applicable to health care facilities with Hill-Burton uncompensated services obligations. The revised compliance alternative provides a more flexible compliance standard for facilities that principally serve nonpaying patient populations by reducing the amount of time needed to qualify for certification under the alternative and by providing for a provisional certification, where a facility is unable to qualify for full certification. The rules below also provide a compliance alternative for obligated facilities with histories of uncompensated services deficits, to enable them to make up the deficits on a timely basis. These revisions have the effect of making it easier for facilities with uncompensated services obligations to meet those obligations, while still ensuring the availability of uncompensated services to persons unable to pay.

DATES: This rule is effective on September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Eulas Dortch, 301–443–5656.

SUPPLEMENTARY INFORMATION: On October 19, 2000, the Secretary of Health and Human Services published a Notice of Proposed Rulemaking (NPRM) proposing to revise certain requirements relating to the compliance by health care facilities that received assistance under Title VI or Title XVI of the Public Health Service Act, 42 U.S.C. 291. *et seq.*, and 42 U.S.C. 300q, *et seq.* with their assurance, given as a condition of such assistance, that they would provide a reasonable volume of services to persons unable to pay therefor. 65 FR 62976. The regulations establishing the requirements for complying with this assurance, which is commonly known as the "uncompensated services" assurance, are codified at 42 CFR part 124, subpart F. The NPRM proposed to revise one of several current compliance alternatives, to decrease the number of years needed to qualify for the alternative and to permit qualification on a provisional basis. The NPRM also proposed to add another compliance alternative, designed for compliant Title VI-assisted facilities that are in chronic deficit in meeting their uncompensated services obligations.

I. Background

The Hill-Burton uncompensated services regulations date, in their present form, back to 1979, when regulations containing the basic components of the present regulations were promulgated. 44 FR 29372 (May 18, 1979). The 1979 regulations for the first time established a purely quantitative measure of the statutory "reasonable volume of services"; this quantitative measure was a total obligation measured in dollars, broken down into annual compliance levels. They also provided that a facility that failed to provide in a given year uncompensated services in an amount sufficient to meet its annual compliance level would have a "deficit," which it would have to make up in subsequent years. If not made up, the deficit (along with any additional deficits in later years) would accumulate, and be adjusted by any increases in the medical Consumer Price Index (CPI). *See*, § 124.503(b)(3).

In the years since 1979, the regulations have been amended several times—in 1986, 1987, 1994, and 1995. Aside from the amendment of the basic regulatory structure effected by the 1987 amendment, the rest of the amendments were directed at creating various alternative methods by which facilities could comply with their obligation to provide a reasonable volume of uncompensated services to persons unable to pay. These various "compliance alternatives" appear at §§ 124.513—124.516 of subpart F. Although each of the compliance alternatives is addressed to different types of facilities, all of the facilities that qualify for the compliance alternatives share the same basic characteristics: They provide significant amounts of free or below cost care to persons unable to pay for that care, but, for various reasons, are unable to receive sufficient credit for the care they provide to meet their Hill-Burton uncompensated services obligations under the compliance standards codified at 42 CFR 124.501—124.512. As a consequence, prior to the adoption of the compliance alternatives set out at §§ 124.513—124.516, these types of facilities were generally running uncompensated services deficits, despite providing substantial services on a free or below-cost basis to poor individuals. The compliance alternatives were adopted to address this anomaly.

Over the years since 1979, the number of facilities with an outstanding Hill-Burton uncompensated services obligation has shrunk from approximately 5,000 in 1979 to approximately 650 as of December 31, 2000. Thus, approximately 4,350 Hill-Burton assisted facilities have fulfilled their obligation, provided as a condition of the federal assistance received, to provide a "reasonable volume of uncompensated services to persons unable to pay therefor." However, a number of the remaining Hill-Burton obligated facilities operate compliant, fully 3 expanded uncompensated services programs but fail to receive sufficient uncompensated services requests to satisfy their annual dollar obligation. ("Fully expanded" means that the facilities make available on request, all of their services at no charge to persons unable to pay up to the limit of double the poverty guidelines, Category B eligibility (for facilities other than nursing homes), or triple the poverty guidelines, Category C eligibility (for nursing homes).) Thus, they run Hill-Burton deficits on a chronic basis, and those deficits are adjusted upwards by the percentage change in the medical CPI, pursuant to § 124.503(b)(3). The Department believes that many of these facilities may never be able to make up their deficits under the present requirements.

A few statistics indicate the dimensions of the problem. As of the end of 1998, of the 424 Hill-Burton facilities in deficit, 226 had operated a fully expanded, compliant program for at least a year. Of these 226 facilities, 117 (52 percent, or 28 percent of the total number of facilities in deficit) had operated a fully expanded program for the last three years, and, despite providing over $73 million in uncompensated services in that period, saw their collective deficit increase from $178,724,130 to $180,748,408—an increase of one percent—in the same period. Of these 226 facilities, 64 facilities (28 percent, or 15 percent of the total in deficit) operated fully expanded programs for the last two years, and, despite providing over $36 million in uncompensated services in that period, saw their collective deficit decrease only $10.8 million, or 13 percent for that period, while in 33 of the 64 facilities, the deficits increased. Of the 226 facilities, 45 facilities (20 percent, or 11 percent of the total in deficit) operated fully expanded programs in the last year and, despite providing over $9.8 million in uncompensated services in that period, saw their collective deficit increase from $57,374,195 to $61,739,838—an increase of 7.6 percent—in that period. It is projected that, because of the increasing deficits a number of these facilities are experiencing, 81 facilities will have at least another 20 years under obligation, and 53 of these 81 will have obligations extending for at least 100 years.

II. Proposed Rules

The proposed rules shared the objective of the prior compliance alternatives. Like those compliance alternatives, the proposed rules had the goal of enabling facilities, which, by the nature of their operations have great difficulty or find it impossible to meet the dollar volume requirements of the general regulations but nonetheless provide significant uncompensated services to persons unable to pay, to comply with and complete their uncompensated services obligations. A corollary goal of this objective is the reduction or elimination of the uncompensated services deficits of such facilities.

In the case of the amendment to § 124.516, the so-called "charitable facility" compliance alternative, the proposed rule permitted a provisional certification, to make it easier for facilities to qualify for the alternative. Facilities could be provisionally certified, with credit toward their obligation earned during the period of provisional certification if they met the conditions of the provisional certification and with no credit earned if they failed to meet the conditions of the provisional certification. The proposed amendment to § 124.516 thus enabled facilities whose operations in fact qualify them for the charitable facility alternative to start earning credit under that alternative at the earliest possible date, instead of requiring a three-year track record, which was required under the alternative.

In the case of the new compliance alternative set out at § 124.517, the proposed rule provided a means by which facilities in deficit, which remain in deficit despite running procedurally compliant and fully expanded uncompensated services programs, could eliminate their deficits and complete their obligations in a reasonable time frame. The compliance alternative proposed at § 124.517 was to be available to facilities that did not restrict the availability of uncompensated services to their patient population in any way—*i.e.*, they did not restrict the type of services of the facility available on an uncompensated basis, and they did not restrict eligibility for those uncompensated services (for example, by limiting uncompensated services to Category A individuals only, or by charging Category B or, for nursing homes, Category C individuals). In addition, those facilities must comply with the procedural requirements of the standard regulations with respect to notice, eligibility determinations, recordkeeping requirements, and so on. Also, these facilities must provide broad notice of their program to provide services to the poor by:

1. Posting Federally supplied Hill-Burton signs, in prescribed locations, that describe the facilities' obligation to provide uncompensated services to the poor and specify where to file complaints;
2. Publishing notice of their Federal obligation in local newspapers, describing their allocation plan which includes all of their services to eligible persons requesting uncompensated services with incomes up to triple the poverty guidelines for nursing homes and up to twice the poverty guidelines for all other facilities;
3. Distributing, to each person coming to the facilities for services, specific written notification of the Hill-Burton obligation, including the allocation plan, income eligibility criteria, timeframes for facilities to make determinations of patients' Hill-Burton eligibility, and where to make application for Hill-Burton assistance.

Thus, it was clear that Hill-Burton facilities qualifying for the proposed alternative were unique from other facilities located in their areas. Although the non-Hill-Burton facilities may provide charity care, their programs tend not to be publically visible and often are mere writeoffs to charity after they have exhausted efforts to collect payments from the patients.

Where a facility fails to meet its annual compliance level despite the existence of an unrestricted program, the Secretary believes that there is clear evidence that there is insufficient demand for the uncompensated services offered and that the facility should not have to incur a deficit due to a failure of demand. The proposed compliance alternative addressed this issue. In addition, we believe that the compliance alternative will provide a mechanism that will facilitate the goal of making up large deficits. The sheer size of a number of deficits leads to a level of discouragement that can affect a facility's performance. Where this has happened, the existence of the deficit has the perverse effect of harming, rather than helping, the pool of eligible individuals such facilities serve. The compliance alternative should encourage facilities with chronic deficits to reopen their uncompensated services programs and complete their obligations. This expansion would result in more uncompensated services provided to persons unable to pay. For example, based on the most recent data available at the time the NPRM was developed, hospitals which began operating fully expanded programs in fiscal year 1997 provided an average of 22 percent more uncompensated services than in the previous year under a limited program. Despite the increase in services, their average Hill-Burton deficit increased by 6 percent due to the effect of the CPI adjustment applied to large deficits. Nursing homes which began operating fully expanded programs in fiscal year 1997 provided an average of 39 percent more uncompensated services than in the previous year. Despite the increase in services, their average Hill-Burton deficit increased by 16 percent, also because of the CPI adjustment.

Thus, it was thought that the proposed rule would likely result in more facilities operating fully expanded programs, and also that more uncompensated services would be provided during their periods of obligation. The immediate value to the community of the increase in the uncompensated care services provided to eligible individuals under a fully expanded program is greater than the value of deferred services provided at some indeterminable, unspecified future date. Moreover, the new alternative implements best the intent of the 1979 regulation which set a fixed period of 20 years to fulfill a facility's obligations. This rule gives facilities which operate fully expanded programs the option of obtaining a fixed period of obligation.

As of the time of writing the proposed rules, approximately 188 hospitals nationwide could qualify for the proposed alternative once they begin to implement compliant and fully expanded uncompensated services programs. Significant is the fact that only four States have more than eight potentially qualifying facilities: New York, 32; Pennsylvania, 22; Wisconsin, 13; and Michigan, 12. Within the State of New York, 21 of the 32 facilities are the sole hospital care provider within their municipality. In Pennsylvania, this is true for 13 of the 27 facilities; in Wisconsin, 12 of the 13 facilities; and in Michigan, 10 of the 12 facilities. This means that these facilities are not meeting their uncompensated services obligations because there are not enough Hill-Burton eligible people in their communities. They are not shifting the burden of caring for the poor to other facilities since in most cases the Hill-

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Burton obligated facilities are the only community providers. Further, where Hill-Burton obligated facilities are located with other providers in urban communities with large, low-income populations, in general, they have not met their obligations because: (1) Their Hill-Burton assistance was large resulting in very high annual compliance levels; (2) they sometimes implemented restricted programs; and (3) they sometimes failed to obtain eligibility documentation for uncompensated services provided to low-income persons. Most of these urban facilities would have to operate an additional 10 or more years under the alternative.

The alternative could impact as many as 121 nursing homes nationwide once they all begin to implement compliant and fully expanded uncompensated services programs. Significant is the fact that only two States, Michigan with 20 facilities and Ohio, with 15 facilities, have more than seven qualifying nursing homes. Thirty States have three or fewer facilities, with 15 of the States having no facilities. Further, the typical nursing home has 75–90 percent of its patients covered by Medicaid and Medicare, leaving few and sometimes no Hill-Burton eligible patients for credit against their obligations.

For these reasons, we conclude that where a Hill-Burton facility has a record of operating a visible, compliant, and fully expanded uncompensated services program, its uncompensated services deficit is due to a lack of community need.

In addition to the foregoing, various technical and conforming changes to the existing Subpart F were proposed. The NPRM also solicited comments on the proposed changes.

III. Public Comment and the Department's Responses

The Department received nine comments on the proposed rule. Thirty-five health care facilities are represented by the comments. Two commenters commended the proposed rules, expressing the opinion that the new compliance alternative will allow facilities currently in deficit to complete their Hill-Burton uncompensated services obligation in a realistic way. Two commenters expressed the opinion that the Hill-Burton program is archaic and should be terminated immediately. The remaining five commenters raised specific issues regarding the details of the proposed rules. Their comments and the Department's responses thereto are summarized below.

1. Criteria for Certification

Public Comment

A number of commenters questioned the requirement that, in order to qualify for full credit for past years under the new alternative, § 124.517, a facility must have been operating a fully expanded program. They felt that this requirement was unfair because the Department had never required expansion to a fully expanded program in order to be in compliance with the regulations.

Department's Response

Actually, the current regulation required facilities with deficits to take specific affirmative steps each year to make up deficits from previous years. See 42 CFR 124.503(b)(4). Thus, expansion from a limited allocation plan (limited services and/or limited financial criteria) up to and including a fully expanded plan was an option clearly available to all facilities throughout the program's history. The clear purpose of the affirmative action plan requirement was to increase the pool of eligible persons and medical services each facility offered in order for it to meet its obligation.

In some instances, facilities took no or only modest affirmative steps to address deficits. In others, they expanded their allocation plans to include the full range of services offered in the facility and considered income eligibility based on maximum financial criteria allowed under the regulation. Many of these facilities successfully completed their total obligation as a result of the expansion. Others did not, despite having implemented the broadest possible plan. The intent of the new rule is to recognize those facilities whose deficits continue in spite of having willingly implemented the broadest possible compliant program under the applicable rules. Thus, any deficit remaining clearly demonstrates a lack of community need and the facilities would be eligible for a year's credit for each year that they ran a fully expanded program.

Although those facilities with annual deficits which operated compliant but limited programs are ineligible to receive a year's credit, they do receive credit based on any actual uncompensated care provided. In addition, by expanding their allocation plans under the terms of the proposed rule now, they can establish a finite time for completion of the obligation, which, based on past performance, was not determinable.

Additionally, the Department has determined that for the first year that facilities were subject to the 1979 regulations (1980 for most facilities), any facility which operated a compliant Hill-Burton program will receive a year's credit under the new regulation, because only after completion of the first year was it possible to determine a facility's status in regard to excess/deficit. If a facility was in deficit status, then it became subject to the affirmative action plan requirement, which served as the catalyst for the facility to expand its Hill-Burton program.

According to the NPRM, a facility could receive a year's credit only where there was a fully expanded program for the entire fiscal year. Because many facilities expanded to a full program in the middle of their fiscal year, the Department has determined that a facility will receive a percentage of a year's credit for the first year in which it fully expanded its Hill-Burton program, depending on the effective date of the fully expanded program, as long as it continued its fully-expanded program in the subsequent years.

2. Formula Pertaining to the New Compliance Alternative

Public Comment

A number of commenters felt that the formula set forth in the Preamble was confusing, complex, and precluded the facilities from computing the dollars-to-years conversion.

Department's Response

The Department acknowledges that the formula may appear complex and that some facilities will require assistance to do the calculation. Therefore, the Department will provide each Title VI facility that is in deficit a preliminary calculation regarding the conversion of deficit dollars to years of obligation.

Some of the comments suggested a misapprehension about the intent of the formula. The idea behind the new compliance alternative, known as the unrestricted availability compliance alternative for Title VI-assisted facilities (§ 124.517), is to convert the Hill-Burton deficit of a facility operating a fully expanded Hill-Burton program from an amount of money to a number of years of obligation. The effect of this change is to establish an end-date for the Hill-Burton obligation to provide uncompensated services.

In order to make this conversion, the Department will first compute the number of years of obligation. The date required to do this differs from facility to facility, based on a 20-year period that began with the opening of a Hill-Burton-assisted facility. For example, a facility which as of the start of its fiscal year 1980 had 7 years remaining in its 20-year obligation period, would have a total obligation period equal to 7.0 years.

Next, the Department will subtract one year from that total for each year that the facility implemented a fully expanded Hill-Burton program. If the facility implemented a fully expanded program for 4 years, it would have a balance of 3 years of obligation remaining. Next, the Department will compute partial years' credit, through use of a formula, for years that the facility earned credit but did not have a fully expanded program. The facility will receive credit expressed in time proportionate to its total outstanding obligation, after allowing credit for whole years credited in the previous step. If the above facility was determined to have a maximum remaining deficit equal to $500,000 and was credited with providing $100,000 during non-fully expanded years, it would receive additional credit expressed in time equal to 20 percent of 3 years, or 7.2 months.

Once these computations have been made, each facility under the new compliance alternative will have a specified number of years remaining to provide Hill-Burton uncompensated services. As long as the facility continues to operate a fully expanded program, the years of obligation will decline until the end-date established by the computations described above.

One commenter expressed the opinion that the Department is considering the use of a formula different from the one that appeared in the NPRM. The Department is not considering any change to the formula originally published in the NPRM except as noted above.

3. Requirements of a Fully Expanded, Compliant Program

Public Comment

One commenter felt that, for future reference, the requirements of a compliant, fully expanded program should be a part of the regulations.

Department's Response

The requirements of a compliant, fully expanded program have been restated in the Preamble and are also included in the final rule at § 124.517(b).

In view of the fact that the rules below relieve restrictions on facilities that apply and are certified for either the provisional component of the charitable facility compliance alternative or the new unrestricted availability compliance alternative for Title VI-assisted facilities, and impose no additional duties or obligations on other facilities, delay in the effective date of these rules is not required under 5 U.S.C. 553. For the same reasons, the Secretary hereby finds that good cause exists for not delaying the effective date of the rules below. The rules are accordingly effective upon publication.

IV. Summary of Supporting Analyses

Executive Order 12866

Executive Order 12866 requires that all regulations reflect consideration of alternatives, costs, benefits, incentives, equity, and available information. Regulations must meet certain standards, such as avoiding unnecessary burden. Regulations which are "significant" because of cost, adverse effects on the economy, inconsistency with other agency actions, budgetary impact, or novel legal or policy issues require special analysis. The Department has determined that this rule will not have an annual effect on the economy of $100 million or more, and does not otherwise meet the definition of a "significant" rule under Executive Order 12866.

The Regulatory Flexibility Act

The Regulatory Flexibility Act requires that agencies analyze regulatory changes to determine whether they create a significant impact on a substantial number of small entities. As the total universe of facilities with outstanding Hill-Burton obligations is small (approximately 650 facilities) and a little over half of these are presently either without deficit or have elected to comply with their uncompensated services obligations through other compliance options, it is not anticipated that the final rule will affect a substantial number of small entities, within the meaning of the Act. Moreover, the impact of the rules should be positive, as they would lessen the burden of compliance on those facilities that would elect to utilize either of the compliance options. Accordingly, the Secretary certifies that the rules below would not create a significant impact on a substantial number of small entities.

Paperwork Reduction Act

The unrestricted availability compliance alternative for Title VI facilities does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1995. The amendment to the charitable facility compliance alternative rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The underlying purpose of this rule is to decrease recordkeeping, reporting, and notification burden for the charitable facilities not already certified under the alternative. New estimates for the reduction of burden have been determined. They were submitted and cleared by OMB. Facilities receiving prospective certification under the charitable facility compliance alternative will no longer be required to maintain extensive records on uncompensated services (§ 124.510(a)), but instead will have to maintain only records which document its eligibility for the compliance alternative (§ 124.510(b)). These documents are ordinarily retained by the facilities so the recordkeeping requirement imposes no additional burden. This change is expected to reduce the recordkeeping burden by 50 hours per facility per year.

Similarly, reporting burden will be reduced. Charitable facilities will be required to apply once for the certification (§ 124.516(d)), and thereafter will need only to certify their continued eligibility annually (§ 124.509(b)). Currently, facilities in deficit status under the general rule must file a report each year which documents the amount of uncompensated care provided (§ 124.509(a)). Facilities certified under the alternative will have their reporting burden reduced by 5 hours per facility in the first year, and by 10.5 hours per facility in subsequent years.

Finally, notification/disclosure burden will be eliminated, because the facilities will no longer be required to: (1) Publish a notice each year of the availability of uncompensated services (§ 124.504(a)); (2) provide individual written notices to each person seeking service in the facility (§ 124.504(c)); or (3) provide a determination of eligibility to each person applying for uncompensated service (§ 124.507). These changes are expected to reduce the notification burden by 45 hours per facility per year.

All sections of the regulations that contain reporting, recordkeeping, or notification/disclosure requirements previously have been approved by OMB under the Paperwork Reduction Act (OMB #0915–0077). The NPRM invited the public to provide comments on this information collection requirement so that the Department of Health and Human Services could:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the

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functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We received no public comments on the estimated public reporting burden.

Unfunded Mandates Reform Act

The final rule contains no Federal mandates for State, local, or tribal governments or the private sector.

Executive Order 13132

The final rule has no impact on federalism as set forth in Executive Order 13132, which became effective on November 8, 1999, replacing Executive Order 12612.

Environmental Impact Statement

The final rule has no impact on the quality of the human environment and, therefore, an Environmental Impact Statement is not required.

List of Subjects in 42 CFR Part 124

Grant programs—health, Health care, Health facilities, Loan programs—health, Low income persons.

Dated: April 12, 2001.

Elizabeth M. Duke,

Acting Administrator, Health Resources and Services Administration.

Approved: June 13, 2001.

Tommy G. Thompson,

Secretary.

For the reasons set out in the preamble, part 124, subpart F, of title 42 of the Code of Federal Regulations is amended to read as follows:

PART 124—MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

1. Revise the authority citation for part 124 to read as follows:

Authority: 42 U.S.C. 216, 300r, 300s, unless otherwise noted.

Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable To Pay

2. Revise the first sentence of § 124.503(c)(1) to read as follows:

§ 124.503 Compliance level.

* * * * *

(c) * * * (1) Except for facilities certified under § 124.513, § 124.514, § 124.515, § 124.516, or § 124.517, if a facility provides in a fiscal year uncompensated services in an amount exceeding its annual compliance level, it may apply the amount of excess to reduce its annual compliance level in any subsequent fiscal year. * * *

* * * * * *

3. Revise the heading and introductory text of paragraph (a) of § 124.508 to read as follows:

§ 124.508 Cessation of uncompensated services.

(a) *Facilities not certified under § 124.513, § 124.514, § 124.515, § 124.516, or § 124.517.* Where a facility, other than a facility certified under § 124.513, § 124.514, § 124.515, § 124.516, or § 124.517, has maintained the records required by § 124.510(a) and determines based thereon that it has met its annual compliance level for the fiscal year or the appropriate level for the period specified in its allocation plan, it may, for the remainder of that year or period:

* * * * *

4. Revise the heading of paragraph (a) and add paragraph (e) to § 124.509 to read as follows:

§ 124.509 Reporting requirements.

(a) *Facilities not certified under § 124.513, § 124.514, § 124.515, § 124.516, or § 124.517.* * * *

* * * * * *

(e) *Facilities certified under § 124.517.* If a facility certified under § 124.517 ceases to provide uncompensated services consistent with its certification under that section because of financial inability, it shall report such cessation to the Secretary within 90 days of the cessation and provide any documentation or information relating to the provision or cessation of uncompensated services that the Secretary may require.

5. Revise the heading of paragraph (a) and the heading and the first sentence of paragraph (b) of § 124.510 to read as follows:

§ 124.510 Record maintenance requirements.

(a) *Facilities not certified under § 124.513, § 124.514, § 124.515, § 124.516, or § 124.517.* * * *

* * * * * *

(b) *Facilities certified under § 124.513, § 124.514, § 124.516, or § 124.517.* A facility certified under § 124.513, § 124.514, § 124.516, or § 124.517 shall retain, make available for public inspection consistent with personal privacy, and provide to the Secretary on request any records necessary to document compliance with the applicable requirements of this subpart in any fiscal year, including those documents provided to the Secretary under § 124.513(c), § 124.514(c), § 124.516(c), or § 124.517(b), as applicable. * * *

* * * * * *

6. Revise the first sentence of paragraph (a)(3) and paragraph (b)(1)(iii)(C) of § 124.511 to read as follows:

§ 124.511 Investigation and determination of compliance.

(a) * * *

(3) When the Secretary investigates a facility, the facility, including a facility certified under § 124.513, § 124.514, § 124.515, § 124.516, or § 124.517, shall provide to the Secretary on request any documents, records and other information concerning its operation that relate to the requirements of this subpart. * * *

* * * * * *

(b) * * *

(1) * * *

(iii) * * *

(C) The facility had procedures in place that complied with the requirements of § 124.504(c), § 124.505, § 124.507, § 124.509, 125.510, § 124.513(b)(2), § 124.514(b)(2), § 124.515, § 124.516(b)(1) or (b)(2), as applicable, or § 124.517(b), and systematically and correctly followed such procedures.

* * * * *

7. Revise the introductory text of paragraph (b) and paragraph (c)(1) of § 124.512 to read as follows:

§ 124.512 Enforcement.

* * * * *

(b) A facility, including a facility certified under § 124.513, § 124.514, § 124.516, or § 124.517, that has denied uncompensated services to any person because it failed to comply with the requirements of this subpart will not be in compliance with its assurance until it takes whatever steps are necessary to remedy fully the noncompliance, including:

* * * * *

(c) * * *

(1) Have a system for providing notice to eligible persons as required by § 124.504(c), § 124.513(b)(2), § 124.514(b)(2), § 124.516 (b)(2)(ii)(A), or § 124.517(b)(2), as applicable;

* * * * *

8. Revise § 124.516 to read as follows:

§ 124.516 Charitable facility compliance alternative.

(a) *Effect of certification.* The Secretary may certify as a "charitable facility" a facility which meets the applicable requirements of this section. A facility which is certified or provisionally certified as a charitable facility is not required to comply with this subpart except as provided in this section.

(b) *Methods of qualification for certification or provisional certification.* (1) A facility may qualify for certification under this section if it meets the criteria of paragraph (c)(1) or paragraph (c)(2) of this section.

(2) A facility may qualify for a provisional certification under this section if it provides an assurance that meets the requirements of paragraph (d)(2) of this section.

(c) *Criteria for certification under paragraph (b)(1) of this section.* A facility may qualify for certification under paragraph (b)(1) of this section if it met the criteria of either paragraph (c)(1) or paragraph (c)(2) of this section for the fiscal year preceding the request for certification. A facility that seeks certification under paragraph (c)(2) of this section must also meet the requirements of paragraph (c)(2)(i) or paragraph (c)(2)(ii) of this section during each year of certification.

(1)(i) *For facilities that are nursing homes:* It received no monies directly from patients with incomes up to triple the current poverty line issued by the Secretary pursuant to 42 U.S.C. 9902, exclusive of amounts charged or received for purposes of claiming reimbursement under third party insurance or governmental programs, such as Medicaid or Medicare deductible or co-insurance amounts.

(ii) *For all other facilities.* It received no monies directly from patients with incomes up to double the current poverty line issued by the Secretary pursuant to 42 U.S.C. 9902, exclusive of amounts charged or received for purposes of claiming reimbursement under third party insurance or governmental programs, such as Medicaid or Medicare deductible or coinsurance amounts.

(2) It received at least 10 percent of its total operating revenue (net patient revenue plus other operating revenue, exclusive of any amounts received, or if not received, claimed, as reimbursement under Medicaid or Medicare) from philanthropic sources to cover operating deficits attributable to the provision of discounted services. Philanthropic sources include private trusts, foundations, churches, charitable organizations, state and/or local funding, and individual donors; and either—

(i) Provides health services without charge or at a substantially reduced rate (exclusive of amounts charged or received for purposes of claiming reimbursement under third party insurance or governmental programs, such as Medicaid or Medicare deductible or coinsurance amounts) to persons who are determined by the facility to qualify for such reduced charges under a program of discounted health services. A "program of discounted health services" must provide for financial and other objective eligibility criteria and procedures, including notice prior to nonemergency service, that assure effective opportunity for all persons to apply for and obtain a determination of eligibility for such services, including a determination prior to service where requested; or

(ii) Makes all services of the facility available to all persons at no more than a nominal charge, exclusive of amounts charged or received for purposes of claiming reimbursement under third party insurance or governmental programs, such as Medicaid or Medicare deductible or coinsurance amounts.

(d) *Procedures for certification*—(1) *Certification under paragraph (b)(1) of this section.* To be certified under paragraph (b)(1) of this section, a facility must submit to the Secretary, in addition to other materials that the Secretary may from time to time require, copies of the following:

(i) An audited financial statement for the fiscal year preceding the request or other documents prescribed by the Secretary, sufficient to show that the facility meets the criteria of paragraph (c)(1) or (c)(2) of this section, as applicable;

(ii) Where a facility claims qualification under paragraph (c)(2)(i) of this section, a complete description, and documentation where requested, of its program of discounted health services, including charging and collection policies of the facility, and eligibility criteria and notice and determination procedures used under its program(s) of discounted health services;

(iii) Where the facility claims qualification under paragraph (c)(1) or paragraph (c)(2)(ii) of this section, a complete description, and documentation where requested, of its admission, charging, and collection policies.

(2) *Provisional certification under paragraph (b)(2) of this section.* (i) In order to receive a provisional certification under paragraph (b)(2) of this section, prior to the beginning of the fiscal year for which provisional certification will be sought, the facility must submit to the Secretary an assurance, together with such documentation and in such form and manner as the Secretary may require, that it will operate during the fiscal year a program that qualifies for certification under paragraph (b)(1) of this section.

(ii) No later than 90 days following the end of the fiscal year in which a facility has operated a provisionally certified program, the facility must submit to the Secretary, the documentation required, as applicable, under paragraph (d)(1) of this section.

(e) *Period of effectiveness*—(1) *Certification under paragraph (b)(1) of this section.* A certification by the Secretary under paragraph (b)(1) of this section remains in effect until withdrawn. The Secretary may disallow credit under this subpart when the Secretary determines that there has been a material change in any factor upon which certification was based or substantial noncompliance with this section. The Secretary may withdraw certification where the change or noncompliance has not been, in the Secretary's judgment, adequately remedied or otherwise continues.

(2) *Provisional certification under paragraph (b)(2) of this section.* Where the Secretary is satisfied, based on the documentation submitted by the facility in accordance with paragraph (d)(2)(ii) of this section and any other information available to the Secretary, that the facility has complied with the terms of its provisional certification under paragraph (b)(2) of this section, the Secretary shall certify the facility under paragraph (b)(1) of this section. If the Secretary finds that the facility has not complied with the terms of its provisional certification under paragraph (b)(2) of this section, the facility will receive no credit towards its uncompensated services obligation during the fiscal year of provisional certification.

(f) *Deficits*—(1) *Title VI-assisted facilities*—(i) *Title VI-assisted facilities with assessed deficits.* Where a facility assisted under title VI of the Act has been assessed as having a deficit under

§ 124.503(b) that has not been made up prior to certification under paragraph (b)(1) of this section, the facility may make up that deficit by either—

(A) Demonstrating to the Secretary's satisfaction that it met the applicable requirements of paragraph (c) of this section for each year in which a deficit was assessed; or

(B) Providing an additional period of service under this section on the basis of one year (or portion of a year) of certification for each year (or portion of a year) of deficit assessed. The period of obligation applicable to the facility under § 124.501(b) shall be extended until the deficit is made up in accordance with the preceding sentence.

(ii) *Title VI-assisted facilities with unassessed deficits.* Where any period of compliance under this subpart of a facility assisted under title VI of the Act has not been assessed, the facility will be presumed to have no allowable credit for the unassessed period. The facility may either—

(A) Make up such deficit in accordance with paragraph (f)(1)(i) of this section; or

(B) Submit an independent certified audit, conducted in accordance with procedures specified by the Secretary, of the facility's records maintained pursuant to § 124.510. If the audit establishes to the Secretary's satisfaction that no, or a lesser, deficit exists for the period in question, the facility will receive credit for the period so justified. Any deficit which the Secretary determines still remains must be made up in accordance with paragraph (f)(1)(i)(B) of this section.

(2) *Title XVI-assisted facilities*—(i) *Title XVI-assisted facilities with assessed deficits.* A facility assisted under title XVI of the Act which has an assessed deficit which was not made up prior to certification under paragraph (b)(1) of this section shall make up that deficit in accordance with paragraph (f)(1)(i) of this section. If it cannot make the showing required by that paragraph, it shall make up the deficit when its certification under paragraph (b)(1) of this section is withdrawn.

(ii) *Title XVI-assisted facilities with unassessed deficits.* Where any period of compliance under this subpart of a facility assisted under title XVI of the Act has not been assessed, the facility will be presumed to have no allowable credit for the unassessed period. The facility may either—

(A) Make up such deficit in accordance with paragraph (f)(1)(i) of this section; or

(B) Submit an independent certified audit, conducted in accordance with procedures specified by the Secretary, of the facility's records maintained pursuant to § 124.510. If the audit establishes to the Secretary's satisfaction that no, or a lesser, deficit exists for the period in question, the facility will receive credit for the period so justified. Any deficit which the Secretary determines still remains must be made up in accordance with paragraph (f)(2)(i) of this section.

§ 124.517 [Redesignated as § 124.518]

9. Redesignate § 124.517 as § 124.518 of subpart F.

10. Add a new § 124.517 to read as follows:

§ 124.517 Unrestricted availability compliance alternative for Title VI-assisted facilities.

(a) *Effect of certification.* The Secretary may certify a Title VI-assisted facility which meets the requirements of paragraph (b) of this section and the applicable requirements of this subpart as an unrestricted availability facility. A facility which is so certified is not required to comply with the requirements of this subpart, except as provided in this section or elsewhere in this subpart.

(b) *Criteria for qualification.* A facility may qualify for certification under this section if, for any fiscal year for which certification is sought, it operates a compliant, fully expanded uncompensated services program. Such a program must meet the following criteria:

(1) It makes all services of the facility available without charge to all persons requesting uncompensated services from the facility who are eligible under § 124.505, including all persons coming within Category B and, if applicable, Category C.

(2) It complies with the notice and allocation plan requirements of §§ 124.504 and 124.506, except that all notices published or provided must describe an allocation plan and program consistent with paragraph (b)(1) of this section.

(3) It makes written determinations in accordance with § 124.507, except that all favorable determinations must indicate that the facility will provide uncompensated services at no charge.

(4) It provides uncompensated services consistent with the requirements of this section for the entire fiscal year for which certification is sought, except that a facility may

(i) Cease providing such services and still receive credit, calculated in accordance with paragraph (d) of this section, where—

(A) The facility has completed its total uncompensated services obligation, including making up any deficit; or

(B) The facility determines, and submits documentation which the Secretary finds, taking into account the factors identified in § 124.511(c), sufficient to establish that it is financially unable to continue to meet the requirements of this section for the remainder of the fiscal year; and

(ii) Receive a portion of a year's credit for the first partial year in which it began operating a fully expanded program, as long as it continued to operate the fully expanded program in subsequent years.

(c) *Period of effectiveness.* A certification by the Secretary under this section remains in effect until withdrawn. The Secretary may withdraw certification under this section where the Secretary determines the facility is in substantial noncompliance with the requirements of paragraph (b) of this section and has not adequately remedied or otherwise continues such noncompliance. Where the Secretary withdraws certification for part or all of a fiscal year or years, no credit may be granted for the period of unremedied substantial noncompliance.

(d) *Deficits.* (1) Where a Title VI-assisted facility has been assessed as having a deficit under § 124.503(b) that has not been made up prior to certification under this section, the facility may make up the deficit by providing uncompensated services in accordance with this section. The facility shall receive credit towards its deficit on the basis of one year, or part thereof, of credit towards each "deficit year" for each year, or part thereof, of operation in compliance with this section and the applicable requirements of this subpart.

(2) The number of "deficit years" of a facility shall be calculated as follows:

(i) Determine the number of years in the facility's total period of obligation pursuant to § 124.501;

(ii) Subtract the number of years in which the facility operated in compliance with this section and the applicable requirements of this subpart from the number of years derived under paragraph (d)(2)(i) of this section;

(iii) For all years in which the facility did not operate in compliance with this section, determine the ratio of the total compliance levels applicable under § 124.503(a) to the facility's total deficit under § 124.503(b);

(iv) Multiply the percentage derived under paragraph (d)(2)(iii) of this section by the number of years under obligation pursuant to § 124.501 but for which the facility did not operate in compliance with this section;

(v) Subtract the number derived under paragraph (d)(2)(iv) of this section from the number of years derived under paragraph (d)(2)(ii) of this section;

(vi) If the facility is still within the period described in § 124.501(b)(1), add the number of years derived under paragraph (d)(2)(v) of this section to the end of the period of obligation, or if the facility is beyond the period described in § 124.501(b)(1), add the number of years derived under paragraph (d)(2)(v) of this section to the last year the facility operated in compliance with this section.

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